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PROCEEDINGS AND DEBATES OF THE 102^{d} CONGRESS, FIRST SESSION

SENATE—*Tuesday, November 26, 1991*

(Legislative day of Saturday, November 23, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Because that, when they knew God, they glorified him not as God, neither were thankful; but became vain in their imaginations, and their foolish heart was darkened. Professing themselves to be wise, they became fools * * *—(Romans 1:21, 22).

Eternal God, Creator, Sustainer and Consummator of history, the Apostle Paul reminds us that to be ungrateful is to forget the blessings of God which come to us daily. In effect, we assume the plenty that surrounds us is the result of our own efforts and genius. Forgetting the resources which God alone gives, we fail to express our appreciation to Him. Give us grace this week to examine our lives in light of all the blessings of life and liberty which come to us with such common regularity. And forbid that familiarity with these blessings should make us indifferent to Your love, Your goodness, Your mercy.

"O beautiful for spacious skies,
"For amber waves of grain,
"For purple mountain majesties
"Above the fruited plain!
"America! America!
"God shed His grace on thee,
"And crown thy good with brotherhood
From sea to shining sea!"

("O Beautiful for Spacious Skies," Katharine L. Bates, 1893.)

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 26, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SCHEDULE

Mr. MITCHELL. This morning, following the period for morning business, which will continue until 10:30 a.m., under the order entered yesterday at 10:30, the Senate will proceed to the consideration of H.R. 3595, the Medicaid moratorium legislation. There is the likelihood of votes, if amendments are offered to the bill this morning; and as of late last evening, I anticipate that there will be some amendments. Under an order entered yesterday, I received the authority to proceed to the unemployment compensation conference report at any time today following consultation with the Republican leader.

It is my hope that we will be able to proceed to that bill today. And, under the order entered last evening, the Senate will be in recess from 12:30 p.m. until 2:15 p.m. to accommodate the party conferences.

As I indicated yesterday, and on each of the previous days, it is our hope to be able to complete the necessary action before the Senate in time to adjourn for the Thanksgiving Day recess. If we are to do so, I think we all know that it means a very long day today, possibly stretching into tomorrow, and so Senators should be aware of that in preparing their schedules for the next 24 hours. There could very well be votes throughout the day and the evening, today and tomorrow.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. MITCHELL addressed the chair.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The chair recognizes the majority leader.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be deemed approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Delaware, Senator ROTH.

'TWAS THE NIGHT BEFORE RECESS

Mr. ROTH. Mr. President, on this day, the day before we are expected to recess, I have authored a verse for my colleagues in both Chambers, as well as our friends at the other end of Pennsylvania Avenue. My poem is called, "'Twas the Night Before Recess."

'Twas the night before recess and all through the land
The economy was stagnate, employees were canned.
The Congress was wrapped up all tight in its words;
At home angry voices of voters were heard.

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

While lobbyists with smiles and special interests with grins
Went off to vacation to boast of their wins.
When out in the States there arose such a clatter;
People were sick of political chatter.
Polls all reported rebellion ahead;
For Congress the choice was be quick or be dead.
Tax cut talk flew both furious and fast,
While in hallowed chambers Members sat on their * * * chairs!
The White House was silent until the Union they would State,
Hoping by then the problem would abate.
When, what to my wondering eyes should appear,
But born-again taxcutters to allay voter fear.
More rapid than eagles the cutters they came,
Each whistling and shouting and calling his name:
Now Clinton, now Bradley, now Downey and Gore;
On Rosty, on Cuomo, on Moynihan, more.
From children's tax credits to rates that will fall
Now, cut away! Cut away! Cut away all.
Their voices were many, their attempts so sincere,
But the fact of the matter was recess grew near.
Congressional bags packed, plane engines they roared;
Off to their Thanksgiving turkey they soared.
So back to their districts the Congressmen flew
With bags full of goodies and porkbarrel, too.
While out in the heartland taxpayers were pinched;
Instead of receiving they felt rather grinched.
Despite all the rhetoric, it was more of the same:
The spending continued but no tax cut came.
The voters were weary, anger in mass,
They said give us relief or you're out on your * * * chair!
Perhaps this time their message will be heard
And Congress will come back to live up to its word.
It can be done, it's been done before,
Kemp-Roth brought recovery—jobs, growth and more.
I know I'm no poet, but my tax message is clear:
If we don't cut them now we must cut them next year.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. Senator BINGAMAN is recognized.

INDIAN ARTS AND CRAFTS ACT OF 1990

Mr. BINGAMAN. Mr. President, as we near the end of the 1st session of the 102d Congress, I would like to draw the attention of my colleagues to a bill we passed in the closing hours of the 101st Congress: the Indian Arts and Crafts Act of 1990. I would like to urge my colleagues to work with me, with the administration, and with American Indian tribal leaders, artists, and crafters to ensure that the rights of individual artists are not trampled in the effort to enforce this law.

Known today as Public Law 101-644, the Indian Arts and Crafts Act of 1990 was introduced and enacted with the best of intentions. Its purpose was clear and laudable: To prevent fraud in the Indian arts and crafts market and to preserve and foster traditional American Indian arts and crafts. I support these goals wholeheartedly, and I have worked since coming to the Senate in 1980 to enact legislation and gain enforcement of policies aimed at putting an end to the counterfeiting of American Indian arts and crafts. Because of this great concern, I am troubled by reports I have heard recently about the disruptive impact misapplication of this legislation is having in my home State of New Mexico and in art centers around the country.

After looking into these reports, observing the act in practice in New Mexico and other States, and discussing it with some of my Indian constituents, I have reached the conclusion that the Congress—and the American Indian community—should take a serious, in-depth look at this legislation. We should thoroughly discuss its provisions and explore all its potential effects on Indian artists and Indian tribes. Then we should make an educated decision about whether the act should be allowed to stand as is, or whether it should be amended or even repealed. During the upcoming recess, I will undertake such an examination. I will discuss this legislation with Indian leaders, Indian artists, and other concerned individuals and organizations in my State. Then I will decide whether I think we can find a more effective, less divisive way to protect both the consumers and the practitioners of traditional American Indian arts and crafts.

Mr. President, let me briefly explain this act: Public Law 101-644 makes it unlawful for anyone to sell or offer to sell any work of art as Indian made, or as an Indian product, or the product of a particular Indian or Indian tribe, unless the artist who produced it is an enrolled member of a federally or State-recognized Indian tribe or has a certificate from a tribe stating tribal affiliation. Severe criminal penalties—up to $250,000 and 5 years in jail for the first offense—are imposed for violations of the act. A civil cause of action is given to the attorney general and Indian tribes to be brought on behalf of a tribe, an individual tribal member, or a tribal arts and crafts organization.

Unfortunately, this seemingly innocuous statute has proved to be disruptive to Indian arts shows and galleries. The act's somewhat vague definitions and broad scope are beginning to polarize Indian artists, tribes, museums, and gallery owners; and by all indications, the situation will probably grow worse over the next few months as the Department of the Interior attempts to draft implementing regulations. Instead of helping to improve the economic status of American Indians, I believe the long-term effect of this act could be to significantly harm individual Indian artists and entire Indian tribes. If it is ever fully implemented as currently drafted, I believe this act could deprive tribes of some of their constitutionally guaranteed right to sovereignty and could rob many American Indian artists of their livelihood and their right to free speech, simply because they are unable or unwilling to produce, upon demand, a card documenting their ethnicity.

Already, a number of well-respected Indian artists with longstanding careers have been labled fake Indians because they do not have tribal enrollment cards, yet continue to truthfully discuss their ethnic and cultural heritage in connection with their art. In New Mexico, self-appointed art police are approaching gallery owners and operators of art shows implying that they will suffer grave legal consequences if they do not remove the work of the so-called fake Indians. In my view, the act as it currently exists could be setting the stage for battle: already, widely publicized disputes have erupted over the definitions of real "Indian art" and real "Indians." All of this is far removed from the original intent of the act, which was simply to prevent non-Indians from making products that appeared to be genuine, traditional Indian arts and crafts that deceive consumers and deprive legitimate Indian crafters of their rightful place in the market.

I am troubled, Mr. President, because I believe the act raises serious constitutional questions. Its current language is very broad and appears, to me, to limit freedom of speech. Under the act, even truthful comments about one's cultural heritage could be unlawful if the speaker—the artist—does not back his comments and work with an Indian census card or certificate. As every first year law student knows, when the Government acts to curtail speech, even in a commercial context, the regulation must be drafted as narrowly as possible to achieve the legitimate legislative goal. I fear, however, that the 1990 act may violate this fundamental principle because it clearly attempts to regulate both traditional Indian arts and crafts, such as Navajo rugs and Zuni jewelry, as well as non-Indian fine art, such as paintings and sculptures. These sculptures, oil paintings, water colors, and other types of European-influenced art forms have been widely adapted for artistic expression and sale by Indians and others, and they are included within the scope of the act. Yet, in my view, a clear, significant difference exists between fine art and traditional arts and crafts.

The fine arts market simply does not need the same type of protection needed in the market for traditional Indian crafts. In the latter market, a great deal of the inherent value of the work comes from its genuineness. People who travel to New Mexico to visit and purchase traditional Indian art, such as Navajo rugs or Acoma pottery, do so in some substantial part because their purchases represent the American Indians' unique contributions to our national culture. In addition to beauty, traditional Indian art represents a unique and irreplaceable way of life. Similar pieces made by non-Indians, or Indians of tribes for which the particular art has no inherent significance, would simply not be as valuable, no matter how skillful the imitation.

In fine art, however, the same criteria do not apply. The value of the works are more exclusively in their aesthetic appeal, or value as investments, rather than in the cultural identity of the artist. For example, there is no identifiable style of Acoma oil painting, as there is with Acoma pottery. People cannot readily be deceived into believing that they are purchasing genuine Acoma oil paintings in the same manner that they can be deceived into thinking they are purchasing genuine Acoma pottery.

Attempting to regulate fine art as we do traditional crafts has, in my initial view, merely injected Congress into the debate over who has the right to call himself or herself an Indian and whose style of painting or sculpture is more true to the Indian sensibility. I do not believe the Federal Government belongs I that debate. It is a debate left, under the Constitution, to the Indian tribes as sovereign entities. And to the extent the Indian Arts and Crafts Act of 1990 involves us in that debate, I believe it should be repealed or amended.

In addition to these problems, I believe the act, as it is now being implemented, has the appearance of creating categories based on racial characteristics. To the courts, all such categories are inherently suspect and subject to strict judicial scrutiny. Although I have not yet thoroughly examined every constitutional argument to the contrary, I am inclined to believe that the act may not survive such scrutiny when the inevitable legal challenge comes. If this is true, it would most definitely save time, expense, and a lot of heartache for all concerned, if we, in the Congress, began working to correct the mistakes of the 1990 act as soon as the second session of the 102d Congress convenes early next year.

Basically, the act creates a distinction between artists who can label their work "Indian" and those who cannot. The classification is predicated upon enrollment in, or certification by, a recognized Indian tribe. The purpose of the classification is to protect the Indian arts and crafts market from "non-Indian" counterfeits. However, and for several different reasons, the fact is that many American Indians are not enrolled in their respective tribes.

Historically, some Indians have been dissuaded from enrolling by officials who sought to keep enrollment numbers low. The nature of some reservations, where people often lead isolated lives, discourages registration and the documentation necessary to achieve it. Early on, many Indians were reluctant to enroll due to distrust, or fear, of white government. Also, philosophical, cultural, and political reasons have made some Indians reluctant to participate in registering themselves. It is offensive to some that they must be enrolled on a governmental list and assigned a number to claim their cultural and ethnic birthright. For an example of some of these reasons, and their effect, I respectfully request that an article from The Indian Trader, dated August 1991, be printed in the RECORD at the conclusion of my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1)

Mr. BINGAMAN. Mr. President, obviously, such nonenrollment has nothing to do with genuineness of the artists' relationship to their tribes or the Indianness of their artwork. Yet, in the absence of enrollment, these artists are totally barred from asserting their ethnic heritage as part of a discussion of their art. It is true that the act authorizes nonenrolled artists to seek certification of their standing as Indian artisans from their respective tribes. But the exact same reasons that militate against enrollment also militate against applying for certification. Certification provides no relief for artists who religiously or philosophically oppose having to join a group to assert heritage, nor does it remedy the situation of artists who lack the paper credentials to achieve certification. The act, therefore, could disenfranchise authentic Indian artists from asserting their heritage in the name of protecting the market from counterfeits. And in my view, it may not be sufficient to allow the act's language to stand and state, instead, in regulations or floor statements that nonenrolled Indians can go on with their art, so long as they refrain from talking about it in connection with their heritage. No other artist suffers this restriction.

My initial analysis has also led me to conclude—perhaps incorrectly and I would appreciate discussing this with my colleagues—that the act appears to create other forms of classification based on race, and that it may unconstitutionally delegate Congress' authority to recognize Indian tribes. Mr. President, I understand that under existing law a court could certify the act's classifications as political, rather than racial, and thus find them technically permissible. But when the effect of the classifications is so immensely harmful and their appearance so extreme, I believe the underlying act merits reexamination. In retrospect, the classifications may be deemed unnecessary or in need of amendment or clarification.

With respect to this act, I would like to discuss three classifications:

1. INDIAN AND NON-INDIAN ARTISTS AND CRAFTERS

Under my interpretation of the act, only nonenrolled, or noncertified, Indians are prohibited by law from discussing their heritage in connection with their art. Enrolled Indian artists, and all non-Indians, are allowed to freely express themselves about the relationship between their heritage and their art without fear of imprisonment or lawsuit. In my view, it simply is not sufficient or logical to say that nonenrolled Indians can continue with their art, so long as they refrain from talking about it in connection with their heritage. As I stated earlier, no other artists suffer this restriction. No law requires Americans of Irish descent who record Irish folk music to be certified as genuine Irish-Americans. Nor are African-Americans who market African design clothing required to carry papers showing that they are African-American. How can we, in good conscious, impose such a burden on Indians, who like the Mestizos of New Mexico can trace their heritage in this land to the 15th century and beyond, but because of centuries of mixed Spanish and Indian blood belong to no formally recognized Indian tribe? Yet, this is what we have done.

Unfortunately, the act appears to create the odious spectacle of requiring American citizens to carry paperwork establishing their racial or ethnic purity before they can fully practice their chosen profession. Only Indian artists are required to meet this burden. However laudable the underlying goal of the act, this classification is precisely the sort of intentional, insidious separate treatment based on the race that the Constitution, in all other cases, forbids.

2. DISCRIMINATION AGAINST ARTISTS OF CERTAIN TRIBES

The 1990 act requires enrollment, or certification, as a perquisite to adopting the label Indian artist; and, therefore, appears to discriminate against members of certain tribes who have chosen art as their profession. This is because each tribe sets its own standards for enrollment as an act of its inherent sovereignty. These standards vary widely. One tribe may require merely one sixty-fourth tribal ancestry—or blood quantum—for enrollment, and another tribe may require one-third, or, one-half, or whatever level it deems fit. Some tribes do not base enrollment on blood quantum; they base enrollment on treaty signatories or on parental lineage at key times in the tribe's history; thus having the effect on denying one tribal member an enrollment number, while granting a number to another tribal member with a blood quantum level equal to—or even less than—the denied member.

For political, cultural, and historical reasons, some tribes seek to encourage enrollment and others do not. Mr. President, I do not mean to diminish the tribes' right to make this type of decision. I fully respect and will always defend their sovereign right to do so; I am merely pointing out the application of these facts in the context of this act and an individual Indian's decision to pursue an artistic career.

I believe the act creates the very real possibility of one Indian artist being able to speak freely about his culture and his art, while another Indian artist of the same quantum of Indian ancestry, but from another tribe, could be jailed for doing so. The only difference between them is tribal affiliation. The solution to this dilemma, according to the Department of the Interior-Indian Arts and Crafts Board's "fact sheet" is to compel all Indian tribes to adopt the same criteria for tribal "certification." This is the goal the arts and crafts board has announced it will work toward in January. But in my view, it is a goal the Congress must reject and a solution the tribes should renounce because of the degree to which it infringes on each tribe's inherent sovereign right to set its own standards for membership.

3. DISCRIMINATION AGAINST INDIANS WHO CHOOSE ART AS A PROFESSION

Finally, Mr. President, I want to discuss the fact that only Indians who choose artistic careers are required by law to show proof of heritage before making reference to their identity in connection with their work. For example, in my home State of New Mexico, we have some law firms that represent themselves as specializing in Indian law and, in one instance, as "an Indian law firm." These attorneys are not required to certify their degree of Indian blood, nor must they carry any special paperwork to hold themselves out as Indian lawyers. Obviously, if such an attorney misrepresented himself, he would be subject to ethical sanctions and other legal action from those injured. But the sanctions would flow from the deceit, not from the attorney's heritage. Under the Indian Arts and Crafts Act, however, an Indian of the same blood quantum as the Indian attorney, but who lacks an enrollment card, is subject to punishment for honestly discussing his heritage.

Mr. President, I find myself wondering if any of these classifications are necessary to achieve the goal of eliminating fraud in the Indian arts and crafts market. Perhaps that goal can be achieved, as some have speculated, by more vigorously enforcing the prohibition against misrepresentation found in the original Indian Arts and Crafts Act. Certainly, this is something we need to look into, and if lax policies exist, we need to make changes. Additionally, since the House committee reports accompanying the 1990 act devote considerable attention to the problem of imported Indian arts and crafts imitations, perhaps we need to look into strengthening the Commerce Department's authority to regulate the importation of Indian-style crafts.

Between 1984 and 1988, I worked with my colleague from New Mexico, Senator DOMENICI, to ensure that the Commerce Department had the authority—and that it exercised that authority—to strictly regulate the importation of native American-style jewelry. Our amendment to the omnibus trade bill specifically directed the Department to promulgate regulations requiring the permanent marking of country-of-origin on imported Indian-style jewelry. Those much-needed and long-awaited regulations were just beginning to be implemented when the Indian Arts and Crafts Act of 1990 was introduced in the House.

Mr. President, I have talked long enough. The Congress is on the eve of adjournment for the balance of this year. I will conclude by pledging that during this recess, I will discuss this act with Indian leaders and Indian artists in my State and throughout the country. When we reconvene next January, I will work with the distinguished chairman and members of the Select Committee on Indian Affairs to ensure that we meet—and preserve—the original intent of the 1990 act. And as I have done in the past, I will continue to work toward the goal of protecting traditional Indian arts and crafts without abridging any individual's constitutionally protected freedoms. I urge my colleagues to join with me in the next session to cure the act's defects, clarify its objectives, and take positive action to protect all Indian artists and consumers of Indian arts and crafts from fraud and deception.

EXHIBIT 1

[From the Indian Trader, August 1991]

NEW INDIAN ARTS AND CRAFTS ACT BRINGS DISSENSION

OKLAHOMA CITY.—Bert Seabourn was an Indian first and then an artist. But because of a new federal law, he no longer can claim to be an Indian artist.

Throughout the United States, but primarily in the Southwest, dozens of Indian artists such as Seabourn are snared by a law that was designed to protect them from look-alike imitations, much of it from the Orient. Instead, they say, the law is hampering their efforts to earn a livelihood and is dividing Indian from Indian.

"It has caused a lot of confusion, a lot of bad will," said Shirley Wells, owner of an Indian art gallery at Sapulpa in northeast Oklahoma. "Some innocent people are being hurt and the law doesn't really help anyone."

The Indian Arts and Crafts Act of 1990 specifies that nothing can be claimed to be Indian-made unless the artist can prove Indian heritage. Both the artist and gallery can be fined for violations up to $10,000 in some instances.

Seabourn and the others do not have that documentation, the so-called "Indian card" that fits in a billfold and lists the degree of Indian blood. That card is the passport to the free benefits available under federal law.

Their ancestors, because of distrust of the white government, pressure or a lack of knowledge, never signed the government rolls. That signing was what started the documentation process that led, generation by generation, to holders of today's Indian cards.

"I don't know if my ancestors even knew about it," said Seabourn, whose work hangs in the Vatican's permanent collection. He said his Cherokee ancestors were farmers down in Texas, many days' ride from where the rolls were being signed in northeast Oklahoma.

PROVISION MADE FOR CURRENT ARTISTS

The law does make provision for established artists that do not have their documentation. It allows federal- or state-recognized tribes to decide whether someone can be called an artist from that tribe.

A special committee set up by the Cherokee Nation studied Seabourn's case and recommended unanimously that he be granted such recognition.

But some tribal members protested the ruling. They contended that the committee was deciding who could be a Cherokee and that certification decisions should be voted on by tribal members.

A week later, Principal Chief Wilma Mankiller vetoed the resolution and proposed instead that Seabourn be named a goodwill ambassador for the Cherokee Nation.

IN DANGER IF THEY TOLD

Seabourn, who through the years has donated supplies and works to the Cherokees and conducted art classes for them, said lack of knowledge wasn't the only reason the rolls weren't signed. He said other Indians at that time still remembered the tales told by relatives and friends of their forced removal from their homes in the Southeast and elsewhere.

"So many of the old people felt they were in danger if they wrote down where they were," added Woyneve Cassidy, a stained glass artist from Pagosa Springs, Colo. "I understand that."

But Ron English, a Chippewa painter and a former leader of the militant American Indian Movement, sees it differently. He says undocumented Indians were the result of "people who did not want to be identified as Indians when it wasn't a good idea to be Indian. Now they want back in" when much of that stigma has been erased.

A PROUD PEOPLE

"Indians are a proud people and know enough not to go where they are not wanted," English said. "If I am not wanted in a show, I will go away. I will not gripe. I have to live with myself. I have to be able to sleep at night."

One thing is certain. The law has made artists and galleries alike wary of what they say.

At this year's Red Earth celebration in Oklahoma City, billed as "America's largest Native American festival," prospective buyers were given a disclaimer stating that the art was not guaranteed to be "produced by, or products of, an 'Indian,' as that term is defined" in the law.

Similar disclaimers have been posted in many galleries, and some galleries have even gone to the extraordinary lengths of placing similar notices on individual shelves of "Indian" works.

Seabourn said he had taken the additional step of writing each gallery that handles his work, offering to remove it. In each case, he said, the galleries said they wanted to keep representing him.

Because of the new law, Red Earth this year decided originally to ban all artists who did not have their proper documentation. Festival planners later relented to the extent that they allowed those who had exhibited there previously to exhibit again this year, once the disclaimers were printed.

The change in mind did not come soon enough to allow Seabourn and several others to get back into Red Earth. They already had committed to an alternate showing several blocks up the street specifically for those without Indian documentation.

There is a lot at stake.

Indian art in the past 20 years has moved from tourist trinkets and road stand souvenirs to highly sought after—and expensive works ranging from the traditional to the most modernistic. It is not unusual to see paintings sell for $5,000 and up, prints starting at $100 and sculpture at $15,000 and above.

Artists work in all mediums, from oils and water colors to welded iron.

The popularity of Indian art has prompted some galleries and museums to open Indian wings, and the desire for Indian art has spread outside the continental boundaries. Doc Tate Nevaquaya, an Indian painter who lives in southern Oklahoma, has sold a painting to Queen Elizabeth II: Other Indian artists have had showings in Great Britain and the Orient.

Rep. Ben Nighthorse Campbell, D-Colo., the only Indian member of Congress and an artist, co-sponsored the Indian Arts and Crafts Act of 1990 in an attempt to make sure that only true Indians could mine this bonanza. The act, in reality, is just a strengthening of a law first passed in the 1930s.

"The act was designated to be as inclusive as possible and to protect the Indian artist," said Carol Knight, Campbell's press secretary. "It is a huge business. It's just simply not fair to a true Indian artist to have other people selling things they're claiming is Indian-made."

A CONSUMER PROTECTION BILL

As for changes in the law to take care of situations such as that of Seabourn, Ms. Knight said: "The Indian tribes are sovereign. They have sole control over their internal operations. Whenever you're dealing with Indian legislation, you have to deal with sovereignty. You can't pass a law in Washington to tell the tribes how to deal with this."

Some Indian artists dismissed the new law as only a "consumer protection bill" that did nothing to help them. Still others said it would devalue the works of artists who, like Seabourn, could no longer claim to be Indian artists.

"I don't think anyone buys Indian art because the artist is an Indian," Wells said. "They buy it because of the artist, the technical aspects of the painting. I don't think the value increases or decreases because the artist is an Indian or not."

Ms. Knight and several gallery owners said that, as might be expected from the state with the largest number of federally recognized Indian tribes and a large number of Indian residents, Oklahoma has generated the most protests to the new law.

"But I'm sure that there are artists out West who have been hurt that we don't know about," Ms Wells said.

SOME NOT HAPPY WITH THE NEW LAW

Even some of the Indian artists who have their card aren't happy with then new law.

It took artist Nick Brokeshoulder about two months to complete the paperwork needed to gain admittance to some art works. Brokeshoulder, a young Hopi from Arizona, carves traditional kachina dolls, the representatives of Hopi gods. "Why do I need to prove it when I know I'm an Indian? Black artists aren't asked to prove they're African-Americans."

Benjamin Harjo Jr. of Oklahoma City, the grand award art winner at the 1988 Red Earth, was even more outspoken.

"I think the government was concerned that the Indian people are making this money," Harjo said. "They came up with this law to further divide the Indian people."

Even state Sen. Enoch Kelly Haney, the only Indian artist in the Oklahoma Legislature and a supporter of the law, said he though some changes needed to be made. And he does not doubt that Seabourn is an Indian, despite the lack of documentation. Haney is a Creek-Seminole.

Indian people respect the words of their elders, and the last word may have come from George "Woogie" Watchataker, a 75-year-old Comanche painter.

"Anyone can go ahead and paint Indian if they want to," Watchetaker said.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 2056 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who seeks recognition?

The Chair recognizes the Senator from Idaho, Senator CRAIG.

ECONOMIC PROBLEMS

Mr. CRAIG. Mr. President, a lot of people are looking for a new idea to solve our Nation's economic problems.

Maybe we should try an old idea instead. Sometimes they work better. And when I say "old," I mean a really old idea—a couple of hundred years. In fact, it was only 10 years after our Constitution was written that Thomas Jefferson said:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of the Constitution; I mean an additional article taking from the federal government the power of borrowing.

The point of Jefferson's statement is far more profound than any of the statutory tinkering with the budget that we have seen in recent years. And it is certainly relevant to the challenges facing us today. No matter how complex we might make the relationships seem between modern economic forces, some basic premises are as true as they were 200 years ago: The impact of Federal fiscal policies is a matter of revenues and expenditures, and when we spend more than we have, we upset our Nation's economic system. It was true then. It is true now. It simply has not changed.

I might add, there are also certain political realities that have not changed. Without a spending limitation, Members of Congress can accommodate one spending interest and gain political capital without reducing other spending programs and facing political disadvantage that can result. The political costs of excessive spending are deferred, resulting in deficits and ultimately higher taxes—while the political benefits of the spending are immediately enjoyed by those affected by the program and the Members of Congress who supported it. Year after year we have fresh proof that, no matter how bad times get, politicians will never give up their right to attempt to purchase votes by borrowing dollars from the general economy.

Statutory reforms by themselves, whether in tax law or spending restraint, are not capable of exchanging the basic forces of Federal fiscal policy. These reform proposals are all embrace an underlying assumption that a new fiscal responsibility can result if we can simply control these forces. Looking for some lasting economic guarantees, to form a Federal Government that is politically driven to withstand spending impulses simply does not work. The motivation is never there, because, Mr. President, as we have seen in the past and as we are seeing now we can always pass go.

Mr. President, there is nothing more certain to keep the engine of American economic prosperity moving than the basic principles of individual free enterprise, and there is nothing more certain to provide for that than a return to the principles Jefferson spoke of. To do that, we need to enact an amendment that fundamentally changes the focus of the forces that shape Federal budgetary policy—an amendment endorsed by a majority of the American people and a majority in Congress—an amendment that is not a "new idea" but is nevertheless, in my opinion, a good idea.

What I mean, of course, is the balanced budget/tax limitation amendment to the U.S. Constitution. How simple; but frankly, Mr. President, very profound. This idea that the American people speak so often about and ask us to be responsible for, I have been working and promoting for nearly a decade. In that time, I have seen it grow from an academic concept to a nationwide grassroots movement. Together with my colleague in the other body, Representative CHARLIE STENHOLM of Texas, I helped build a bipartisan, bicameral congressional coalition that brought along sometimes reluctant cosponsors and pushed continually for a full debate and vote on this issue.

We have had some success. This amendment was considered in either, or both, the House of Representatives and the Senate in 1982, 1986, and just last year—and it passed every time. Although we have not always achieved the constitutionally required two-thirds majority, we are continuing to gain support.

Mr. President, had we enacted a balanced budget amendment even 5 years ago, this country would be the economic engine driving the entire world economy today. We would still be the home of the world's largest banks. We would not be the world's biggest debtor. We would not have to worry about extending unemployment benefits or caring for exploding numbers of homeless people.

That is why I believe that the American people will respond even more strongly now to the call for a true, balanced budget amendment. We have such an amendment pending in this Senate on our calendar and that is Senate Joint Resolution 18. And our distinguished ranking member of the Judiciary Committee, Senator THURMOND, has been pushing for a commitment to bring this matter to the floor for a vote. I heartily support his effort in that regard.

If we are successful in choking off Congress' ability to overspend, some Members of Congress may have to find another way to convince the voters, Mr. President, that they are actually governing. They might have to try a little bit of statesmanship.

Perhaps now, before the fact, is the time for us to start practicing that historic effort.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who seeks recognition?

Mr. HEFLIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Alabama, Senator HEFLIN.

Mr. HEFLIN. I thank the Chair.

(The remarks of Mr. HEFLIN pertaining to the introduction of S. 2051 and S. 2052 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. Does any Senator seek recognition?

If not, the Chair, in his capacity as a Senator from the State of Virginia, notes the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

The SEYMOUR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FEDERAL MANDATES

Mr. SEYMOUR. Mr. President, this morning I would like to speak about a problem that is having a greater and greater impact on my State of California. Very specifically, the problem is Federal mandates. That is, the Federal Government passing laws, setting up new social programs, sometimes promising funding for them and then pulling the rug and leaving the State in a lurch.

California is not alone in this problem. Certainly, in the 8 years I spent as a State senator in the California State Legislature, I saw plenty of times when the State government was mandating to local governments. So mandates at every level of government are not new.

As a matter of fact, I am reminded of the golden rule. The golden rule is: He or she who has the gold rules.

And so the Federal Government in this case sets up mandates and says, "We have the rules. We are going to tell you what to do and when to do it and how to do it." Then they pass the law and they start off keeping their promise and keeping their word. Then things get a little tight, and they start cutting. But they do not cut or reduce the Federal mandate. So a State such as mine, and many others, have no choice but to pick up the ball the Federal Government dropped when it broke its promise.

The bottom line in the State of California, Mr. President, as a result of Federal mandates, is $1.4 billion a year. No small sum. In fact, right now Congress is considering over 100 measures that would impose new or expanded Federal mandates on the States.

When I was a State senator, I was able to get State legislation through that says if you are going to mandate something, put up the money. And if you will not put up the money, then we do not have to do it. Maybe it is about time, Mr. President, that we in the Congress consider some fiscally responsible action in the same direction.

The social demographics of California are changing. California for years has been a very attractive State because of its climate, because of its robust economy, because of the environment, its mountains, its beaches. California is a dream. That dream is now in danger because people have been coming to California in ever increasing numbers.

Let me be specific. During the 1990's, California's population is projected to grow by 6.3 million people. Fifty-five percent of that growth will be internal, 44 percent will be from foreign immigration, and 1 percent from domestic migration.

Forty-four percent—that gets me to one of the Federal mandates in California. You will recall, Mr. President, that it was not long ago—as a matter of fact, 1986—that Congress passed the Immigration Reform and Control Act. A component of that was to say "We will grant amnesty to illegal aliens who may be residing in your State. But we are going to pay you for the services that they require, whether it be education, whether it be medical costs—those social costs to your State, we will reimburse." That was the bargain. That was the agreement.

Earlier this year, Mr. President, I argued right here on the floor that Congress was not putting one red cent into that program. They had reneged on their bargain.

To my State of California, what does that mean: $400 million from the State of California, already pushed to the wall, like we all are, because of the recession, already pushed to the wall because of ever-increasing numbers of illegal immigrants coming to the State. These refugees have every right to come to and reside in the State of California, but not being provided the Federal financial support that we had been promised—in the fiscal condition California is in—forces the State to make some very, very difficult decisions. Why? Because the Federal Government has not kept their promise. The check is in the mail. Sure, the check is in the mail.

I also spoke of refugee settlement. The bottom line on refugee settlement relative to a number of programs is twofold, where the Federal Government has broken their promise. The Federal Government started out by saying "We will provide you financial support, State of California, for helping the refugee families get settled." And they do need time to get settled. If we were transferred or moved to another State, we would need time to get settled. It is particularly hard on a refugee family.

So the Federal Government started off by saying "We will give you 36 months' support." That sounded reasonable; not too long a time, but time to get settled.

Do you know what it is today, Mr. President? Four months. How would any one of us like to pick up our roots, go to some foreign country, having language difficulties—move to a new country, a new State, expect to settle that family, find a new job, and be self-sufficient in 4 months? The Federal Government has broken its promise again.

Another area, Mr. President: aliens who commit crimes in California. Right now it is estimated that we have in our State prisons in California over 9,600 aliens who have been convicted of some felony. That is more than 6 percent of our total prison population in California.

In our California Youth Authority we house more than 750 minors who are designated as deportable. So what does that cost the State of California, because the Federal Government is unwilling to enforce our borders?

I argued here on the floor for an amendment and lost by 8 votes. That amendment was very simple. It said cut the overhead from the Department of Commerce and the Department of Justice by less than 1 percent. That will give us $40 million. That $40 million can be used to protect our border and restrict the numbers of illegal aliens, estimated to be 1,500 a day, coming across the border. Less than 1 percent—300 new border patrol officers—and it lost by 8 votes. Why? Because today California may be on the short end of the stick.

But the message I want to bring to my colleagues this morning is this: Tomorrow you are going to be on the short end of the stick, because this problem is not going to remain in California. It is spending. It is spreading to Illinois, it is spreading to Ohio, it is spreading to Pennsylvania, it is spreading to Texas, it is spreading to Florida.

So next year, when we return, I will be back here arguing that either we put our money up—as the Federal Government has promised—or we shut up and remove the mandate.

We cannot have it both ways. The fiscal crisis in our States is too great. Certainly the States cannot be expected to look to their taxpayers, their producers, and say, "Sorry, the Federal Government has withheld their promise. We are going to raise your taxes so you can pay for it." We cannot do that and we will not do that.

What we can do is work toward a policy that says if you are going to mandate a program to a State or a local government, then you put up the money. When you stop putting up the money, the mandate comes off.

It is time that we recognize that States, like my State of California, have in their Constitution a requirement to balance the budget. They do not have the spending luxury that we have here in Congress of just adding to the deficit. "Just add that to the deficit, that is a nice thing to do, just add it on, that is OK, add it to the mortgage."

Of course, I disagree with that policy. I think we ought to have a constitutional amendment requiring the federally balanced budget. But be that as it may, the States, and my State, do not have that privilege. They have to cough it up, and pay-as-you-go. It is about time that Congress, the Federal Government, start paying as we go.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ECONOMIC GROWTH AND FAMILY TAX FREEDOM ACT

Mr. KASTEN. Mr. President, right now, the economy is still weak—and the threat of unemployment is causing worry to thousands of working families in Wisconsin and millions across this Nation.

The worst part of our economic crisis is this: It does not have to be this way. This recession could—and should—have been avoided by the continuation of progrowth policies at the Federal level.

Last year, Congress imposed the largest tax increase in American history on the economy. As a result, our national economic pie got smaller. Budget deficits got bigger. And millions of working people lost their jobs.

The Washington establishment turned its back on the record of economic growth sparked by low taxes—and the economy stopped dead in its tracks.

I think it is time for us to enact the same kind of progrowth tax cuts advocated by statesmen as diverse as Presidents Calvin Coolidge, John F. Kennedy, and Ronald Reagan.

Representative VIN WEBER, Minnesota Republican, and I have introduced the Economic Growth and Family Tax Freedom Act of 1991, S. 1920 and H.R. 3744, that builds on the approach of former Presidents Coolidge, Kennedy, and Reagan.

Our legislation provides tax cuts for families with young children with a $1,000 tax credit for children under age 6, and tax incentives for growth including a cut in the capital gains tax, increased tax deductions for business investment, restored tax incentives for investors in real estate, and Federal enterprise zones.

With the U.S. economy mired in recession, there is now a consensus in Washington to cut taxes. But let us make sure that we enact a tax cut that not only provides relief to working families but promotes economic growth as well.

I ask unanimous consent that recent articles on the economic and budgetary impact of the Economic Growth and Family Tax Freedom Act by Daniel J. Mitchell of the Heritage Foundation and Lawrence Hunter of the U.S. Chamber of Commerce be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOW THE KASTEN-WEBER TAX CUT WILL SPUR ECONOMIC GROWTH

The deep and painful recession afflicting America is the result of seriously flawed economic polices supported by George Bush and Congress. Record tax increases, costly new regulatory burdens, and unprecedented increases in federal spending all have combined to discourage job creation and entrepreneurship. Even though the evidence is clear that the economy remains stagnant, Bush Administration economic advisors actively are opposing growth legislation. And Bush apparently is following their bad advice. Warned The Wall Street Journal this week in an editorial: "Even as lusty a beast as the U.S. economy can take only so much punishment from its political masters in Washington. The long and short of it is: The world's most important economy is in the grip of economic incompetents." As long as it remains in their grip, American workers and families will remain condemned to lower living standards and rising unemployment.

Yet the economy can grow again if policy makers remove the shackles placed on it last year by the tax and spending increase. To do so, lawmakers must reverse course and correct the mistakes that are causing the recession and adopt policies that encourage job creation and increase incentives to work, save, and invest.

A good start is the Economic Growth and Family Tax Freedom Act of 1991 (S. 1920, H.R. 3744) introduced by Senator Robert Kasten of Wisconsin and Representative Vin Weber of Minnesota, both Republicans. The Kasten-Weber growth package cuts the tax on savings and investment, technically known as the "capital gains tax," lowers taxes on business investment, expands Individual Retirement Accounts (IRAs), offers real estate tax relief, and establishes enterprise zones. Kasten-Weber also relieves the tax burden on families by granting a $1,000 non-refundable tax credit for children under age 6 and a similar credit of $300 for children age 6 to 18. The credit significantly would reverse the rising tax burden on families caused by inflation's erosion of the dependent exemption over the past four decades.

With the economy mired in recession, the portion of the Kasten-Weber package designed to promote economic growth is particularly critical. Its key features:

15 Percent Capital Gains Tax—Germany, Hong Kong, the Republic of China on Taiwan, and South Korea do not tax long-term capital gains, the difference between an asset's purchase and sale price. In Japan, the maximum tax on capital gains is a mere 5 percent. In the United States, by contrast, capital gains are subject to a 28 percent tax. To make matters worse, the tax code ignores the fact that much of the higher sales prices and profits on savings and investments are due to inflation. American investors cannot use indexing to ensure that taxes only are paid on actual gains rather than changes in asset value caused by inflation.

The Kasten-Weber proposal would cut to 15 percent the gains tax for savers and investors in the upper tax brackets and to 7.5 percent for those in the lower bracket. To prevent the unfair taxing of gains that reflect only inflation, the legislation also permits indexing. By calling for a lower rate and including indexation, the Kasten-Weber capital gains proposal goes well beyond the anemic proposal endorsed by the White House and would provide a much stronger stimulus to the economy.

Washington-based economists Gary Robbins and Aldona Robbins of Fiscal Associates, Inc., estimate that lowering the tax to 15 percent would create more than 900,000 new jobs over ten years and boost gross national product growth by an average of 0.36 percent for each year over the ten-year period. Other economists find similar impact from a capital gains tax cut. Allen Sinai, Chief Economist of The Boston Company, estimates that a 15 percent capital gains tax would boost employment by 600,000 within five years and increase the gross national product by 0.2 percent annually. Reducing the capital gains tax also would boost asset values, thus strengthening American banks and homeowners as well as reducing the cost of bailing out the federal government's savings and loan deposit insurance scheme.

Neutral Capital Cost Recovery—Kasten-Weber increases the amount of deductions businesses can take for investment expenses by adjusting "depreciation" schedules for inflation and the value of money. This reform substantially would boost capital formation by reducing the after-tax cost of investment. Under current tax law, businesses cannot deduct the cost of investments in the year when they are incurred. Instead these costs must be "depreciated" over time, up to 31 years. Eventually, of course, the business is permitted to deduct the entire nominal amount invested. But the true value of this deduction is eroded enormously by inflation.

The Kasten-Weber neutral capital cost recovery approach would address the tax code's bias against business investment. If a business originally was supposed to depreciate $10 million of an investment in the second year, for instance, Kasten-Weber might increase that depreciation to $10.8 million, with similar adjustments in following years so that the value of the deduction would keep pace with inflation and the cost of funds. Correctly structured, neutral capital cost recovery would provide the same incentive for increased investment as plans permitting immediate deductibility of business investment in the first year. This would remove some of the current penalty on productive investment.

IRA-Plus—Kasten-Weber expands upon current IRAs by giving all taxpayers the option to invest in Individual Retirement Accounts. Savers, moreover, would get the option of investing in IRAs that would allow for tax-free withdrawal of both principal and interest income upon retirement. Taxpayers taking advantage of this "back-ended" IRA, however, would not be able to deduct contributions in the year they are made. In addition to allowing tax-free withdrawals upon retirement, Kasten-Weber would permit 25 percent of the IRA to be withdrawn before retirement for initial home purchases, education, and medical emergencies.

Passive Loss Reform—As part of the 1986 Tax Reform Act, so-called passive investors in real estate, those defined as not principally engaged in the business, cannot use rental properties losses to offset other income. Many experts say that this provision has helped trigger the decline in American real estate values and thus has increased the cost of the savings and loan deposit insurance bailout. Kasten-Weber would reform passive loss rules for real estate so they more closely resemble guidelines for other business investments.

Enterprise Zones—To encourage economic growth in impoverished urban centers and other particularly depressed sectors of the country, Kasten-Weber would allow the creation of 50 enterprise zones. Employers opening operations in the zone would receive a tax credit for workers in the zone. No taxes would be levied on capital gains in the zone, and investments in zones could be immediately deducted from taxes in the year they are incurred. These zones especially would help create jobs in inner cities.

Bush Administration and congressional policies have made it unprofitable for businesses to hire new workers and for investors to put their money at risk. Excessive taxation and over regulation have ground the economy to a halt and pushed nearly two million additional Americans into unemployment lines. Meanwhile, Washington policy makers seek not answers, but how to assign blame elsewhere. Bush clumsily blames credit card issuers for high interest rates, while liberals in Congress think higher taxes on the "rich" will spur growth.

There is no mystery about how to restore growth: simply reduce or remove government penalties on job creation, savings, and investment. The Kasten-Weber bill will not solve every economic problem created by policy mistakes, but enactment of the pro-growth legislation would stimulate increased economic activity and reduce the tax burden on families.

DANIEL J. MITCHELL,
John M. Olin Senior Fellow.

[From the Washington Times, Nov. 21, 1991]

BACKED INTO A CORNER * * * AND HESITATING

(By Lawrence Hunter)

There is a famous old radio routine where a street thug approaches Jack Benny with two choices, "your money or your life." Apparently unable to decide which fate would be worse, the notoriously tightfisted Benny character says nothing.

The Democratic leadership in Congress has recently backed President Bush into a similar corner, saying, in effect, "abandon the budget agreement and pass a growth package or we will use your apparent lack of concern to murder you at the polls." Faced with what seems like an obvious choice, the president, like Jack Benny, is hesitating.

The budget agreement is the Bush administration's mantra, but it is also a political albatross; its corpse hangs around the necks of the American electorate. That legislation imposed five years of new and higher taxes and pushed federal spending to more than 25 percent of the gross national product, just as the economy was slipping into the dark waters of recession. President Bush personally defended this so-called "deficit-reduction" package, at great political cost, predicting that "if we fail to act, next year alone we will face a federal budget deficit of more than $300 billion, a deficit that could weaken our economy further and cost us thousands of precious jobs."

Nearly one year later, the economy lies listless, exhausted by recession. According to the Congress Budget Office, the deficit for the current fiscal year is expected to reach an unprecedented $362 billion. If you take into consideration the effect of discouraged workers on the overall unemployment rate, 3.24 million people have already been put out of work since the recession began. And with little to move it forward, the economy could well slip back into recession in the fourth quarter this year.

Ironically, the same ill wind that originally pushed us into the economic doldrums is now preventing us from drifting, let alone sailing, back out. The budget agreement's "pay as you go" enforcement rule, which in effect prevents taxes from being reduced, is keeping past government policy mistakes from being corrected. Mr. Bush, who seems willing to defend the budget agreement and "deficit reduction" at any cost, is caught in a fiscal Catch-22. Because he believes he cannot support tax reductions for fear of breaking the deal and increasing the deficit, he has no means of stimulating new economic growth and the higher tax revenues and lower deficits that inevitably would follow. Meanwhile, the economy sits, and deficit swells uncontrolled, and the American people continue to strangle under the weight of the budget agreement.

Alarmed by the state of the economy a number of legislators, both Democrats and Republicans, have proposed various legislation intended to provide middle class tax relief and encourage new economic growth. Sen. Lloyd Bentsen, Texas Democrat, for instance, has proposed a $300 tax credit for each child, and Individual Retirement Accounts for every American. According to Mr. Bentsen, "The tax credit would put money in the pockets of American consumers and help jump-start an economy that is dead in the water. The expanded IRA would encourage savings and investment needed to help sustain growth."

The objectives of any economic growth package must be to lift the heavy hand of taxation that stifles capital formation and frightens entrepreneurial spirits. It must also be broad-based, offering relief for families, workers, savers, investors and entrepreneurs. Building on the Bentsen plan, a package that meets these criteria is the "Economic Growth and Family Tax Freedom Act" proposed by Sen. Bob Kasten, Wisconsin Republican, and Rep. Vin Weber, Minnesota Republican. Its components include: family tax relief providing a $300 non-refundable tax credit for children between the ages of 6 and 18, and a $1,000 credit for children under the age of 6; a reduction in the capital gains tax to a top rate of 15 percent for individuals and corporations, and to 7.5 percent for lower bracket individuals; a Neutral Cost Recovery System; an IRA-Plus plan; repeal of the passive loss limitation for all active participants; and creation of enterprise zones.

The positive economic impact of such a package would be substantial. According to former Treasury economist Gary Robbins, such a combination of tax incentives would increase the GNP by an average of 1 percentage point per year over the next five years, while creating 1.4 million new jobs.

An additional boost to both job creation and middle class tax relief would result from a reduction in Social Security taxes. A 2 percentage point cut in the payroll tax (1 percent each for both workers and employers) has been proposed by in both houses as the Economic Growth and Jobs Creation Act (S. 381 and H.R. 960).

There are numerous other good ideas that might be added to such a package or substituted in place of one of the above ideas. Regardless of what the specific components are, the final package must be broadbased and it must be aimed at encouraging more productive activity, not just putting more money in everybody's pocket.

But how to pay for the package? The big obstacle to passing any tax cut this year is the administration's insistence, backed up by the Republican Congressional Leadership, that any tax package fit within the strictures of the budget agreement. "Pay as you go," remember, requires that tax cuts that result in static revenue losses be accompanied with either cuts in politically sensitive entitlements or higher taxes. But they seem to recognize that higher offsetting taxes are out of the question: The one lesson everyone should have learned from last year's disastrous budget agreement is that it is impossible to tax our way out of the deficit. Genuine deficit reduction can only be achieved through a combination of economic growth and spending restraint. The Reagan administration got the first half right but was unable, and the Congress unwilling, to control spending; the Bush administration thus far has failed to attain either.

On the spending side, Mr. Bentsen has suggested reducing defense outlays by approximately $55 billion over the next five years.

Sen. Jim Sasser, Tennessee Democrat, has suggested a 6 percent peace dividend that amounts to about $70 billion. In addition to such defense budget savings, an effective economic growth package would generate a permanent growth dividend.

The Kasten-Weber package, for instance, would increase GNP growth by an average of 1 percentage point per year over the next five years. Given the kinds of proposals currently being proposed on Capitol Hill, it would be possible to improve on this. (The 40-year growth trend is 3.0 percent a year and the recent trend, prior to the onset of the slowdown three years ago, is about 3.3 percent. The average rate of growth during the first year of recovery from a recession is about 5.5 percent. Based on these historical averages, an average annual growth rate of 4 percent a year over the next five years should be a reasonable expectation.) But to be conservative in our estimates, let's assume that we achieve no more than an increase in the annual rate of economic growth from the 2.5 percent average forecast by the Blue Chip Consensus to 3.5 percent. Such an objective is not unreasonable.

If we set as our objective a 1 percent increase in the rate of economic growth, the Congressional Budget Office estimates that the increased economic growth alone would reduce the deficit by $258 billion over five years. In other words, by CBO's own estimates, it should be possible to reduce taxes on average by $50 billion a year, spurring new growth and producing more new jobs without increasing the deficit. If we add a $70 billion peace dividend, that means it should be possible to reduce taxes by $328 billion over five years, or almost $66 billion a year with no adverse effect on the long-term deficit. A tax package along what is outlined above falls well within these limits. On a static revenue basis, the total cost of the Kasten-Weber package would be about $202 billion or $40 billion a year—well within the bounds of a modest peace-growth dividend, the remaining $123 billion might fund a scaled-down 1 percent cut in the Social Security tax, or other tax cuts.

An increase of 1.5 percentage points in the average annual growth rate, to 4 percent growth, could finance even larger tax cuts, without an increase in the deficit. Using CBO's rule of thumb, an increase of 1.5 percentage points on average annual growth rate would generate $387 billion in deficit reduction over five years. The full 2 percentage point FICA rollback would cost $263 billion over five years (again, on a static basis). If we succeed in increasing growth by an average of 1.5 percentage points a year, that additional economic growth dividend could be used to fund the full 2 percentage point reduction in Social Security taxes.

In 1961, a determined John F. Kennedy promised to place an American on the Moon and return him safely to Earth, all before the end of the decade. That President had a vision, and it was fulfilled. By comparison, it seems a rather modest goal to set out to reignite entrepreneurial spirits and launch the economy back to its postwar growth trend—boosting the average annual real growth rate to 4 percent, increasing productivity to 3 percent, bringing inflation down to earth at 2 percent, and lowering unemployment to 3 percent, returning Americans safely back to work.

In 1991, President Bush has a unique opportunity to foster sustainable economic growth without abandoning the spirit of deficit control intended, though never achieved, by the budget agreement. But to do so, the President must choose to reject the economics of austerity in favor of the low tax, middle class populism that embodied the best of the Reagan era. For now, he is hesitating—unwilling to decide, fearing failure.

If Mr. Bush's kinder, gentler economic malaise persists, voters may very well start questioning why, if a Democrat can put an American on the Moon, can't a Republican put a few Americans back to work?

WAR CRIMES SPEECH

Mr. REID. Mr. President, last winter I stood before this body as the first member of my party to speak in support of the President's proposed course of action in the Persian Gulf. As that time I said that we should "strike now, while the coalition stands firm and our convictions and morale are high."

I urged that we "achieve a clear cut victory, and get our troops out of the Middle East, before they become bogged down in interminable defensive or occupation duties."

Some days later, Mr. President, I again spoke to this body. At that time I set forth in considerable detail the awful litany of crimes against the laws of war which had been commited by the Government of Iraq and its military forces. I called upon our Government, as a permanent member of the Security Council: "to introduce a resolution creating an international tribunal empowered to investigate and prosecute those crimes committed by the Iraqi leadership, both civilian and military, as well as by those brutes who carried out their orders."

I noted that it was not a day too soon: "to put Saddam Hussein, his government, and the armed forces of Iraq on notice that the nations of the world will exact full justice and complete retribution for every misdeed."

Unfortunately, Mr. President, the Government failed to follow through on that suggestion. If the White House and the Cabinet had done so, the world might now be faced with one less major problem, and the White House might not now be bemoaning the public perception that it failed to take advantage of our Armed Forces' stunning victory in Iraq.

It was, with considerable interest, Mr. President, that I read in the Washington Post that President Bush and his advisers, due only to worries about those public perceptions, are considering covert actions to destabilize and overthrow the thugs who run Iraq. I would like to offer them another path to follow, one I feel is more in the interest of our Nation and of the world.

Let us forget, in this case, the language of covert operations. Instead, let us approach the problem of Saddam Hussein in the forthright fashion espoused by the President when he acted as the leader of a grand coalition against aggression. President Bush then spoke stirringly. If that is to mean anything, it should be a commitment to a rule of law, not one to secret agreements with people whose only recommendation is that they are the enemy of our enemy.

Mr. President, at the conclusion of combat in the gulf, the Congress mandated the preparation of certain reports. Among those was a report on the potential for prosecution of war crimes. I believe we asked what crimes had been committed and what proof we had of who had committed them.

Based on unclassified information, including the treatment of allied POW's, the devastation of Kuwait and the systematic looting by Iraqi forces of that unhappy nation, as well as the grossest sort of crimes against the environment and against world peace, it is clear to me that Saddam Hussein and his ministers are liable to indictment before an international tribunal. I also believe there is sufficient evidence to convict those men and to subject them to the punishments they so richly deserve.

Let America take the lead in convening such a court Mr. President. I believe that a fair and open trial requiring adequate evidence and the right of confrontation and crossexamination, would serve as a vastly better example to our newly democratic friends and our former foes tentatively emerging from totalitarianism, than any exercises in the forceful overthrow of the Iraqi regime.

President Bush proposed a new approach. I supported him in that nobel endeavor and whether or not he is still committed to it, I most definitely am. Let us stick to the rule of law, to what is right and just and fair. If we do Mr. President, we and all those throughout the world who have finally profited by our example, can only be the better for it.

MARGARET L.A. MACVICAR

Mr. KENNEDY. Mr. President, several weeks ago, the Nation lost one of its most distinguished educators and scientists when Margaret L.A. MacVicar of the Massachusetts Institute of Technology died of cancer. She was 47.

Margaret MacVicar was born in Canada and later moved to Flint, MI. She was in the seventh grade when the launch of sputnik in October 1957 triggered major changes in American science education. With her extraordinary intellect, she was soon taking college level science courses and worrying about the cost of college. Thanks to the generosity of a neighbor in Flint, she enrolled at MIT in the fall of 1961 and received a bachelor's degree in 1964, and a Ph.D, in 1967. After completion of her graduate studies, she was a postdoctoral fellow in the Cavendish Laboratory at Cambridge University.

Dr. MacVicar returned to MIT in 1969 as a physics instructor and was appointed to the faculty the next year. Professor MacVicar immediately distinguished herself as an educator and a scientist. The focus of her research was superconductivity. She was first to achieve electron tunneling into single crystals of several transition metal superconductors.

But Dr. MacVicar was much more than a scientist. She was that rare combination of a world class researcher who was deeply committed to undergraduate education. As MIT's first dean of undergraduate education, she guided the restructuring of the institute's undergraduate academic program.

In her quest to improve the undergraduate experience at MIT, Professor MacVicar established the Undergraduate Research Opportunities Program [UROP] in 1969. Before the establishment of UROP, there was little opportunity for undergraduates to do hands-on research. The UROP Program was designed to give undergraduates the chance to do research in collaboration with faculty members. Since its creation, the program has become an integral part of MIT's undergraduate curriculum and has been widely imitated. About three-quarters of the undergraduates at MIT have participated in UROP; many regard it as the most significant element of their undergraduate education.

Professor MacVicar was an educational innovator who believed that education should be structured to fit into the context of a student's life and should make students aware of their societal responsibilities. At MIT, she sought to increase the diversity of the undergraduate body by encouraging increased admission of women, minorities, and students with a variety of different interests and experiences.

Her dedication to increasing the access of all students to higher education was directly related to her personal experience. When she first entered MIT as a student in 1961, she was one of roughly 20 women. In the 30 years since she entered, MIT has been transformed; women now comprise 27 percent of the student body. Much of the credit for this reform must be given to the tenacity and drive of Margaret MacVicar.

When asked about the perception that she was driven to reform American Education, Dr. MacVicar replied:

> I have that reputation because I am persistent, energetic, and impatient. I think it's very, very rare that something can't be done, assuming that it's not illegal, and I am intently focused on the ball game. I do not think of my office as being in a stable operational mode. It's not. We are in a campaign mode, and the campaign is an academic ideas campaign.

Professor MacVicar's academic ideas campaign can be clearly seen in her work toward the improvement of science education in the public schools. Having benefited directly from the renewed emphasis on science education in the late 1950's, she was firmly committed to strengthening and expanding these programs for students today. She was instrumental in formulating MIT's national initiative for primary and secondary science education.

As her efforts on behalf of elementary and secondary schools illustrate, Margaret MacVicar's educational vision was not limited to higher education. In 1983, she was appointed vice president of the Carnegie Institution in Washington, DC. She was later cochair of Project 2061, a study designed to develop a completely new science curriculum for elementary and secondary education that was sponsored by the American Association for the Advancement of Science. She has recently served as chair of the advisory committee on education and human resources of the National Science Foundation. She was a member of the Corporations of the Charles Stark Draper Laboratory and of the Woods Hole Oceanographic Institution and a trustee of Radcliffe College and the Boston Museum of Science.

Many words come to mind in describing Margaret MacVicar. Ability, insight, energy and leadership are all appropriate for this woman who accomplished so many things. There is no question that the academic community at MIT has suffered a terrible loss. But neither is there any doubt that her contributions to education and science—both at MIT and across our Nation—will be long remembered.

TOXIC SUBSTANCES

Mr. REID. Mr. President, in October 1976, the Toxic Substance Control Act [TSCA] was enacted. It was to have been a powerful tool in restricting and controlling harmful chemicals from entering the marketplace and the environment. The concepts behind the legislation were sound. The Environmental Protection Agency [EPA] was required to establish an inventory of all chemical substances being manufactured or processed; manufacturers were to report to EPA before introducing new chemicals, and EPA was given the authority to require testing of chemicals, and to restrict, control or prohibit their use or distribution. EPA's Office of Toxic Substances was to have served as the primary gatekeeper for keeping toxic chemicals in check.

Fifteen years after the enactment of TSCA, however, few toxic chemicals have been controlled or prevented from entering the environment and a recent court ruling has made it clear that the act is so inherently flawed that it is unlikely that many chemicals will be regulated in the future. On October 18, 1991, the fifth Circuit Court of Appeals overturned EPA's regulation to ban most remaining uses of asbestos under the authorities of section 6 of TSCA. This was a landmark decision for several reasons.

Asbestos has long been known as a lethal substance to human health. Perhaps more evidence exists on the harmful effects of exposure to asbestos than any other substance in the environment. Unfortunately, much of that evidence is empirical. The shipyard workers of the 1940's were left with a sad legacy of lung cancer, and other diseases for their heroic efforts to equip the armed services during World War II. Today, the Government is spending hundreds of millions of dollars to abate asbestos materials in the Nation's schools since early exposure to asbestos may manifest in disease 20 to 30 years after the exposure occurs.

After a decade of work, EPA finally promulgated a rule in 1989 to bring the use of asbestos in brake linings, floor tile, and construction materials to a halt. Soon thereafter, the asbestos industry filed suit to block implementation of the ban. In issuing an opinion, the fifth Circuit Court of Appeals in no way attempted to refute the danger that asbestos pose to human health. It found, however, that EPA had failed to meet the strict dictates of TSCA and that the Agency's rulemaking methodology was flawed.

Mr. President, if EPA can't stop the use of asbestos under TSCA, it most assuredly won't be successful in restricting the use of lead or any other very toxic materials. Under the present circumstances, the agency can't be faulted if it does not even attempt further regulation of chemicals through TSCA. Congress, bears a good share of the burden for this turn of events. Since, enactment, we've essentially abdicated responsibility for TSCA despite abundant evidence that the statute wasn't working very well. Rather than trying to reform the law, we have legislated around it.

The only significant changes to TSCA in its 15-year history have been chemical specific provisions addressing the problems of radon exposure and asbestos abatement in schools. For the most part, we're managing toxics by establishing maximum levels for their presence in the air, water, and land, and by curtailing certain disposal practices. This is a remedial, very expensive, and backward approach to a problem that should be handled through prevention.

We've been hearing for a long time that problems with TSCA reside with its implementation, not with the act itself. The fifth Circuit Court of Appeals decision proves otherwise. We can no longer ignore the need for significant changes to TSCA. And that process is going to require a lot of time and effort.

As chairman of the Toxic Substances, Environmental Oversight, Research and Development Subcommittee, it is my intent to start the legislative process moving with hearings early next year. I harbor no illusions that we can enact a bill before the close of the 102d Congress. In my view, it would be pointless to try and move legislation either mandating an asbestos ban or making merely cosmetic changes to TSCA. The act needs to be reworked in a comprehensive, deliberate, and thoughtful manner and that will require time.

I speak today, to put my colleagues, the chemical industry and the public on notice that I am committed to meaningful reforms in the way we screen and regulate toxic substances. I encourage interested parties to come forward with constructive proposals to assist my subcommittee in meeting this objective.

THE CRISIS IN YUGOSLAVIA

Mr. KERRY. Mr. President, before we conclude this session of Congress, I want briefly to address certain aspects of the tragic crisis in Yugoslavia.

It is vital, first of all, to make it clear that although no side is blameless, the primary responsibility for the recent violence rests with the Republic of Serbia and the Serb-dominated federal army. Serbian leaders have consistently failed to comply with cease-fire agreements and they have undertaken aggressive and wholly illegitimate military actions, such as the shelling of Dubrovnik and the siege of Vukovar.

It has become more and more obvious, with each passing month, that the Army's goal is to seize and hold substantial amounts of Croatian territory no matter how many are killed, no matter how many are wounded, no matter how many are forced to leave their homes. It also has become more and more obvious, as cease-fire agreement after cease-fire agreement has been signed and ignored, that neither peace nor stability will return to Yugoslavia unless the Serbs are persuaded—or pressured—to forgo further military aggression.

It is clear—and truly tragic—that international efforts to bring the war in Yugoslavia to an end have thus far been frustrated. The economic sanctions recently imposed by the European Community [EC] are not likely to be effective, nor are they directed—as I believe they should be—solely at the Serbian side. The most recent cease-fire, negotiated by former Secretary of State Cy Vance, is fragile and may not hold.

Accordingly, I call upon President Bush to take the following actions:

First, I urge the President to speak out personally on this issue. It is not enough for second or third tier Officials at the State Department to express concern about the violence in Yugoslavia. The level of killing and the magnitude of suffering have reached the point where Presidential involvement is urgently required.

Second, the administration should admit the obvious, which is that Yugoslavia is no longer a single nation. We should be prepared to recognize formally the independence of Croatia, Slovenia, and other Yugoslav republics upon request and upon their demonstration of a capacity for self-government as required under international law.

Third, we should put the issue of violence in Yugoslavia before the Security Council of the United Nations. Economic sanctions against Serbia will be effective only if they are worldwide in nature. Further, it is growing clearer with every passing day that international peacekeeping forces are needed, and the sooner the better.

Fourth, we should work with the United Nations, the EC, and the leaders of Serbia and Croatia to negotiate a permanent settlement to the violence. Such a settlement must begin with a genuine cease-fire; it must include a recognition of the independence of the republics and an agreement on boundaries; and it requires an enforceable commitment on the part of all republics to respect minority rights. It would be naive to assume that such a settlement will come easily or quickly. It will inevitably be a step-by-step process. But the first step—an end to the killing—can and should be taken now.

Mr. President, the war in Yugoslavia has gone on too long. It is no longer possible for our country to look the other way. We cannot say this is simply a Yugoslav problem or a European problem. It has become a matter of worldwide humanitarian and political importance. We must do more. We must do everything we possibly can. And we must do it now.

RESTORING DEMOCRACY IN HAITI

Mr. KERRY. Mr. President, before we conclude this session of Congress, I would like to address the ongoing crisis in Haiti.

Since the September 30 coup against elected President Jean-Bertrand Aristide, Army leaders have established a reign of brutality and terror. Hundreds have been murdered; thousands have been beaten; hundreds of thousands have been threatened or intimidated into silence. The National Assembly, which should have led the fight to restore democracy, instead has acquiesced in the selection of an illegitimate puppet regime.

For the past 7 weeks, the Organization of American State [OAS] has been working to end the crisis through the imposition of tough economic sanctions and talks with military and political leaders. This past weekend, negotiations broke down because of the outrageous refusal of Assembly representatives to acknowledge Father Aristide's Presidency.

In recent days, the tragedy in Haiti has extended beyond the island to the sea. Terrorized by the Army and crushed by the burden of economic sanctions, thousands of Haitians have sought to flee their country by boat. Since September 30, more than 3,000 have been picked up by the Coast Guard. Last Saturday, an incredible 246 men, women, and children were found packed like human sardines into a single sailboat. The Bush administration has responded by asking democratic Caribbean governments to accept some of the refuges, while seeking to return others to Port-au-Prince.

Under the current circumstances, it is immoral for the administration to repatriate refugees by force to Haiti. We have an obligation to provide at least temporary sanctuary to those fleeing a repressive and undemocratic regime. The administration is right, however, to fear the possibility of a massive boatlift from Haiti if the current crisis is not resolved. Were that to occur, thousands more Haitians surely would drown.

It is essential, therefore, that we move beyond the debate over the treatment of refugees to a debate over how we alter the conditions that create refugees; Haiti must be made safe for Haitians once more. We must work with Haitian leaders in that country and in the exile community here in the United States to restore democracy and subsequently to provide emergency humanitarian assistance, encourage private investment, and institutionalize respect for human rights.

The economic sanctions imposed on Haiti as a result of the September 30 coup are necessary but cruel. They cannot be extended for long without bringing unbearable hardship upon the Haitian poor and causing permanent damage to the already weak Haitian economy. Nor, however, can the sanctions be lifted until democracy is restored and the results of the last Presidential election respected.

Father Aristide is the legitimate President of Haiti. He must be returned to office, through negotiations if possible, by force if that becomes absolutely necessary. The Organization of American States [OAS] has been attempting to negotiate his return for more than 7 weeks. Those negotiations are making progress, but resistance to Aristide's return remains strong within the army, among some political leaders, and within the small Haitian elite. That resistance must be overcome and overcome soon.

It is argued by the army and by some opposition politicians that President Aristide violated the Constitution and failed to respect human rights. The President has been justly criticized for some of the speeches he has made, and it is true that the human rights record of his administration was far from perfect. He has a responsibility to do better and he has promised to do so. But let's be clear. The Aristide administration has the best record of respect for human rights of any administration in Haiti during this half century. And the army leaders who seized power from him are responsible for murdering hundreds—perhaps thousands—of unarmed citizens in cold blood.

The situation in Haiti is grave and the potential for a new round of violence is real. There is no sure way to restore democracy and ensure peace. But the best hope lies in strong diplomacy founded on the proposition that the constitutional order in Haiti must and will be respected, whatever it takes.

I urge President Bush to speak out personally, urgently, and immediately on the Haitian crisis. I urge him to make it clear to the leaders of the Haitian Army that their future depends on choices they must make and make soon. We must make it clear that the international community will not lift economic sanctions until democracy is restored; but neither are we willing indefinitely to inflect economic hardships upon the Haitian people. Time is running out. The army must accept President Aristide's return; the army must accept democracy; the army must respect the Constitution; the army must back down; or the army's own future will be at risk.

Mr. President, the United States has a strong national interest in seeing that democracy in Haiti is restored. We have an urgent humanitarian interest in alleviating the suffering of the Haitian people. We have taken steps during the past 7 weeks to achieve both goals, but those steps have not been enough. We must reevaluate our options. We must take a harder line. We must act. And we must act soon.

HUMAN RIGHTS IN IRAN

Mr. PELL. Mr. President, in the past several years reports have surfaced periodically in the international press that Iran has embarked on a policy of improving its relationship with the West. In these reports, we hear that Iran wants to upgrade its economic and diplomatic ties with the United States, so that Iran might rehabilitate its economy—ravaged by nearly a decade of war with Iraq—and, presumably, emerge as a responsible and powerful force in the Persian Gulf and the Near East.

A wide range of evidence has been put forth in support of the contention that Iran is reaching out to the rest of the world. First, we are told that the Iranian President Ali Akbar Hashemi Rafsanjani's consolidation of power in Iran is indicative of the emergence of a more moderate Iranian leadership. Next, some contend that Iran's neutrality in the Persian Gulf war, coupled with its effort to be included in the postwar regional security arrangements, shows that Iran is willing to work with its neighbors to achieve stability in the gulf. Finally, the positive movement during the last year on the hostage issue in Lebanon has been attributed to an effort by Iran to shore up its international image.

In truth, Mr. President, in spite of the progress that may have been achieved in recent years, it is clear that many aspects of Iran's behavior remain cause for serious concern. Iran's involvement in international terrorism, its activities in nuclear and chemical weapons proliferation, and its role in opposing the Middle East peace talks are but a few examples of Iran's actions that remain worrisome to the international community.

Perhaps in no other area, however, has Iran's behavior been more troubling than in its blatant disregard for the human rights of its own citizens. In its 1990 "Country Reports on Human Rights Practices," the State Department notes that abuses included summary executions of political opponents—of the regime; widespread torture; repression of the freedoms of speech, press, assembly, and associations; arbitrary detentions; lack of fair trials; continuing repression of the Baha'i community; denial of citizens' right to change their government; and severe restrictions on women's and worker rights. In other words, by virtually every standard, the Government of Iran has been judged by the State Department to be "a major violator of human rights."

Mr. President, the United States has actively supported measures in the United Nations to promote respect for human rights in Iran. Last year, for the first time, Iran accepted a visit from a United Nations special rapporteur, who investigated the human rights situation and reported on his conclusions. That reported noted credible evidence that "* * * human rights violations occur frequently in the country and that Government action to prevent and remedy such violations has not been sufficient to put an end to them." This year, the United States is again supporting a visit by the special rapporteur and is working to see that a strong resolution concerning Iran is adopted in the U.N. General Assembly.

The U.S. Congress, too, has been an active participant in efforts to address the human rights problems in Iran. One area of particular concern has been Iran's treatment of its minority citizens. For instance, during the past 10 years, the Senate Foreign Relations Committee has approved several resolutions dealing with the persecution of adherents to the Baha'i faith in Iran.

By the tenets of their faith, the Baha'is are a peaceful and nonviolent community and pose no threat to the government of Iran. In the past, they have been subject to abuse, stripped of property, threatened with execution, and denied the ability to practice their faith. While there is some evidence that the oppression of the Baha'is has abated somewhat in recent years, the stark truth remains that the Baha'is are a persecuted minority. The brutal treatment of the Baha'is and other minorities in Iran continues in spite of Iran's professed adherence to the Universal Declaration of Human Rights.

Mr. President, surely my colleagues in the Senate recognize the importance of Iran in the affairs of the Persian Gulf, the Near East, and South Asia. The question remains, however, whether Iran can play a constructive role in the region. If we are to judge Iran, our standard must be its actions, and Iran's actions continue to be cause for concern. I therefore believe the United States administration and the Congress ought to continue their firm efforts to promote responsibility and respect for human rights in Iran.

TRIBUTE TO PEGGY NAGEL ON THE OCCASION OF HER RETIREMENT

Mr. BURDICK. Mr. President, I rise with sorrow and celebration to pay tribute to Peggy Nagel, a staff member of the Environment and Public Works Committee. Peggy will be retiring in December after having served the Environment and Public Works Committee for 21 years. Her service spanned three chairmen—Democrats as well as Republicans. Peggy started in 1970 as a secretary on the Subcommittee on Air and Water Pollution of the Public Works Committee under Chairman Jennings Randolph. In 1979 she was asked to take on the responsibility of financial clerk for the expanding Environment and Public Works Committee. Peggy has been balancing our books without flaw and managing our budget with precision and competence ever since.

The demands placed on a chief clerk of a large committee are many and burdensome. Peggy carried out her responsibility with fairness and firmness, managing to accomodate every Senator and staff member. I know that all of the Senators and committee staff share my feelings of sorrow and celebration as we say farewell to Peggy. We feel sorrow because we will be losing an energetic, fun loving, and talented staff member who performed her duties with grace and dedication even during times of awesome circumstance. Yet we know that no one else deserves this retirement more than Peggy and that she anticipates it with peace and exhilaration.

Good luck to you, Peggy, in the years to come. Our heartfelt thanks for an outstanding job.

A TRIBUTE TO MARGARET MURRAY SCHWENSEN

Mr. BURNS. In our daily hustle and bustle of doing the business of this Nation, we sometimes have to slow up and recognize what I think is a tragedy that will affect us all here on the Hill.

Mr. President, I rise today to pay tribute to Margaret Murray Schwensen, who passed away unexpectedly last Sunday. Margaret had represented the agricultural community, including the Independent Crop Insurers, rural telephones, and the sugar industry among other clients.

She was a valuable member of a small group of people who provide the expert advice that makes things go on the Hill. At a time when more and more Americans have no idea how much wheat is in a loaf of bread or where a gallon of milk comes from, Margaret provided that rural expertise.

Today, there are too few like Margaret, too few who take their responsibility to the American farmer as seriously as did Margaret, too few who know and understand agriculture and the myriad laws that govern it. Margaret knew, and did her job as an expert. She will be missed. Margaret leaves behind a loving husband, a young son, and hundreds of friends on and off the Hill.

Mr. SASSER. Mr. President, I hereby submit to the Senate the First Budget Scorekeeping Report for Fiscal Year 1992, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $15.2 billion in budget authority, but exceed the budget resolution by $3.2 billion in outlays. Current level is $2.6 billion above the revenue target in 1992 and $3.6 billion above the revenue target over the 5 years, 1992–96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $351.8 billion, $0.6 billion above the maximum deficit amount for 1992 of $351.6 billion.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 25, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report, my first for fiscal year 1992, shows the effects of Congressional action on the budget for fiscal year 1992 and is current through November 23, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Sincerely,
ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. AS OF NOV. 23, 1991

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level[1]	Current level + resolution
ON-BUDGET			
Budget authority	1,270.0	1,254.9	−15.2
Outlays	1,201.6	1,204.8	+3.2
Revenues:			
1992	850.4	853.0	+2.6
1992–1996	4,832.0	4,835.6	+3.6
Maximum deficit amount	351.2	351.8	+.6
Debt subject to limit	3,982.2	3,639.9	−342.3
OFF-BUDGET			
Social Security outlays:			
1992	246.8	246.8	
1992–1996	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–1996	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS NOV. 23, 1991

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			850,405
Permanent appropriations	784,740	723,462	
Outlays from prior year appropriations	0	234,906	
Offsetting receipts	(186,675)	(186,675)	
Total enacted in previous sessions	598,065	771,693	850,405
ENACTED THIS SESSION			
Appropriation legislation:			
Agriculture (Public Law 102–142)	51,219	36,382	
Commerce-Justice (102–140)	21,425	16,016	
Offsetting receipts	(119)	(119)	
District of Columbia (Public Law 102–111)	700	690	
Energy and Water (Public Law 102–104)	21,875	12,961	
Interior (Public Law 102–154)	12,253	7,949	
Legislative Branch (Public Law 102–90)	2,309	2,063	
Military Construction (Public Law 102–136)	8,563	2,931	
Transportation (Public Law 102–143)	14,302	12,217	
Treasury-Postal Service (Public Law 102–141)	19,695	17,027	
Offsetting receipts	(6,079)	(6,079)	
Veterans, HUD (Public Law 102–139)	80,941	42,469	
Emergency Supplemental for Humanitarian Assistance (Public Law 102–55)		(1)	
Dire Emergency Supplemental Appropriations, 1991 (Public Law 102–27)		511	
Other spending legislation:			
Extending IRS Deadline for Desert Storm Troops (Public Law 102–2)			(5)
Veterans' Education, Employment and Training Amendments (Public Law 102–16)	2	2	
Higher Education Technical Amendments (Public Law 102–26)	(56)	(56)	
Veterans' Health Care Personnel Act (Public Law 102–40)		(1)	
Veterans' Housing and Memorial Affairs (Public Law 102–54)		5	
Veterans' Benefits Improvement Act (Public Law 102–86)	3	3	
Intelligence Authorization Act, FY 1991 (Public Law 102–88)	(1)	(1)	(1)
Veterans' Educational Assistance Amendments (Public Law 102–127)		(1)	
Extend Most-Favored-Nation Status to Bulgaria (Public Law 102–158)			(2)
Unemployment Compensation (Public Law 102–164)	3,825	3,825	2,600
Discretionary estimating adjustment	(233)	(5,823)	
Total enacted this session	230,625	142,974	2,593
PENDING SIGNATURE			
Defense (H.R. 2521)	269,911	176,492	
Labor, HHS, Education (H.R. 3839)	182,964	146,777	
Offsetting receipts	(39,658)	(39,658)	
Defense Authorization Act (H.R. 2100)		(7)	
Intelligence Authorization Act, fiscal year 1992 (H.R. 2038)	(1)		
Total pending signature	413,217	283,604	
CONTINUING RESOLUTION AUTHORITY, PUBLIC LAW 102–163			
Foreign Operations (expires March 31, 1992)	14,034	5,496	
Offsetting receipts	(41)	(41)	
Total continuing resolution authority	13,992	5,454	
MANDATORY ADJUSTMENTS			
Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution	(1,041)	1,105	
Total current level	1,254,858	1,204,830	852,998
Total budget resolution	1,270,021	1,201,600	850,400
Amount remaining:			
Over budget resolution		3,230	2,598
Under budget resolution	15,163		

(1) Less than $500,000.

Note.—Numbers may not add due to rounding.

SEND US AN ADVOCATE

Mr. BUMPERS. Mr. President, the Senate receives a lot of criticism from the White House about the time we take to act on the President's nominees to various government posts. However, the Senate cannot give consent or advice if the President fails to nominate, as he has for almost 2 years now, for what is one of the most important posts in government in the eyes of millions of small business owners.

Once again, a full session of Congress has passed without President Bush having submitted a nominee for chief counsel for advocacy in the Small Business Administration. Last year about this time, I took to the Senate floor to urge that the President act promptly to send us his choice for this important post. A full year has passed, and nothing has happened. SBA has been without a chief counsel for advocacy for virtually the entire Bush administration.

As Senators may recall, we had a nominee for this job a couple of years ago. Without belaboring the history of that choice, suffice it to say that the nominee withdrew in February 1990. Since then, we have been patiently waiting for the President to send up another nominee.

In the last year, the Senate Small Business Committee has acted promptly on President's Bush's nominees for SBA Administrator, inspector general and Deputy Administrator. We recently went to extra trouble to waive Senate rules and confirm the Deputy Administrator, Mr. Cooksey, in time for him to attend an important SBA conference. That annual conference, incidentally, was sponsored by the Office of Chief Counsel for Advocacy, which remains unoccupied. To underscore the problem most dramatically, this year's conference was, for the third year in a row, hosted by an acting chief counsel.

Every poll of small business people and every statement by small business groups says that the chief counsel is the most needed job in SBA. The reason is simple. Under the statute establishing this office, which was written by Congress in the late 1970's, the chief counsel is the independent watchdog within the administration on behalf of the Nation's small business community. He is not beholden to OMB, he is not beholden to the administrator of SBA, and he is not beholden to Congress. He is charged under the law with speaking out and commenting on proposed regulations and legislation without regard to the official administration line. The chief counsel plays a crucial, constructive role in ensuring that small business owners' voices are heard above the noise of Washington. As Congress approaches difficult issues concerning economic development, tax policy and health care reform, the need for a small business advocate is crucial.

I have a recent Wall Street Journal article by Jeanne Saddler concerning small business views on the chief counsel post and the administration's performance generally which I will ask unanimous consent be included in the RECORD at the conclusion of my remarks.

Mr. President, I strongly urge the President to submit a nominee for this critical position. I pledge to expedite hearings and work with the administration so that the interests and concerns of American small business owners are fully represented at the SBA.

I ask unanimous consent that the article to which I referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 20, 1991]

SMALL-BUSINESS OWNERS FEEL THEY'VE BEEN BETRAYED

(By Jeanne Saddler)

If big-company chiefs are angry with President Bush and Congress these days, they have plenty of company among the country's millions of small-business owners. But the two groups have somewhat different reasons for their anger.

"We're ticked off: I feel let down," says David Pinkus, who owns North Haven Gardens, a Dallas, Texas, landscape-construction concern. He and many other business owners give the president and Congress low marks on handling the economy.

Asserting that President Bush lacks "backbone," Mr. Pinkus charges: "He caved in [to Congress] on the passage of a civil-rights bill that will create a lot of litigation, not jobs for minorities, and he caved in on controlling spending. It was all smoke and mirrors."

Many small-business owners are particularly concerned about the new civil-rights bill, which Mr. Bush has said he would sign. Among other things, it strengthens the prohibition against employment discrimination. Although the bill exempts very small companies (employing fewer than 15), many business owners fear that the legislation will lead to litigation that they—unlike big companies—can't afford.

At a small-business conference in San Antonio last week, the prevailing mood among both Republican and Democratic business owners was anger at politicians for failing to lead during an economic crisis. While the crisis is slashing profits at some big companies, it is putting thousands of small firms out of business entirely. Owners of small companies, who are often poorly capitalized, frequently feel the effects of a decline in confidence before it starts affecting the pocketbooks of big-company managers. Although most owners still blame Congress more than the Bush administration for the nation's economic woes, there is a fresh sense of disappointment aimed at the president.

Many owners charge that Mr. Bush is neglecting small business, which gave him considerable support in his presidential election. Owners are particularly annoyed that after two years the administration still hasn't filled the Small Business Administration job most important to them, chief counselor for advocacy. The holder of this post is supposed to speak independently of Congress and the White House on policy matters. Failure to fill the job makes critics ask whether the president is truly concerned about small business.

"I talked to George Bush in 1985 about the need to hook up with small business, says George Abbott, who heads two management-consulting firms in Omaha, Neb. "Historically, the advocate is a great liaison for the administration; [President Bush] missed a golden opportunity.

Susan Hager, a partner in a public-relations firm in Washington, D.C., and president of the advocacy group National Small Business United, says the vacant job shows that the administration officials "don't even do the public-relations end of it—[so we can forget] the substance."

Until lately at least, the small-business lobby generally has supported President Bush, while attacking the Democratic-controlled Congress for pressing changes, such as a higher minimum wage, that would increase small-business costs.

But now, "there's a different tone," says Ms. Hager. "Before, some Republicans bought the idea that a Democratic Congress was to blame; now people aren't any more enamored of the Republicans than of the Democrats." She says she gives both Mr. Bush and Congress a D on handling the economy.

Mr. Abbott, who heads the Nebraska consulting concerns, says he would give grades of C+ to the president and D to Congress. "Even though I'm a lifelong Republican, I can't accept the fact that he [President Bush] hasn't done anything for small business," he says.

Small-business owners say they want tax-policy changes to encourage investments that will lead to jobs. Many favor a cut in capital-gains taxes, and others want additional moves as well.

Revising the 1986 tax act to restore value to real estate is critical, argues Mr. Pinkus, the Texas business owner. Although one of the aims of the 1986 act—to shut down real-estate tax shelters—was a good idea, the act had highly adverse effects on many real-estate investments, he says. He also supports an income-tax cut to encourage consumers to spend again.

The lack of available credit for small and medium-sized concerns also is adding to business owners' irritation with Washington. William Pinkerton, president of Project Services International, a Pittsburgh, Pa., company that provides training and engineering services to the steel industry, says he had to close a new office in Corpus Christi, Texas, three months ago when his bank refused to extend his line of credit.

"I guess I'd blame [Congress and the administration] for not doing something sooner on the credit crunch," says Mr. Pinkerton. "Our revenues are down 50% from where they should be. Right now, we're down to one major project, and we should have four or five," he adds. He says the company has 27 employees and about $3 million in annual revenue.

Recently, Mr. Bush met with about a dozen small-business owners to discuss a broad range of issues, including a capital-gains tax cut, reform of the health-insurance market for small companies and the credit crunch. At a recent meeting with reporters, SBA Administrator Patricia Saiki said the use of SBA loan programs has risen significantly of late. The dollar value of the agency's loan guarantees rose 12% in the fiscal year ended Sept. 30 to $3.8 billion. Moreover, SBA loans to exporters more than doubled last fiscal year to $107 million from $42 million.

"I told our lenders to commit to as many loans as possible" and to let the SBA worry about increasing its guarantee authority, Mrs. Saiki said. She said she is telling colleagues in the administration that SBA programs should become the "economic toolbox" to ease the credit crunch.

But for some, help may arrive too late. Elizabeth Newlon, who owns a personnel-recruiting firm in Pittsburgh, says the slow economy is very likely to put her out of business.

But "I'll be kind; I'll give the president a D on the economy," she says. "I may need to go to him for a job."

TRIBUTE TO JUDGE STANLEY KANE

Mr. DURENBERGER. Mr. President, Stanley Kane died Sunday night of cancer. He spent 83 busy years on this planet, most of them with a woman who was so much a part of his life it's hard to imagine one without the other.

Stanley Kane was admired by everyone that knew him personally; his reputation is admired by those who did not have that privilege.

I knew him best not as a judge, but as a Eucharist Minister in our church in downtown Minneapolis.

I first became acquainted with him through his wife Betty. She was a DFL activist, and I am a life-long Republican. But in our State of Minnesota, party labels usually aren't barriers; partisans often come together in search of good public policy. Betty reflects Stanley's love for the law and his deep concern for the rights and responsibilities of people. And I'm sure much of what we admired in Stanley has its roots her life and values as well.

It is part of the history of this place that it was said about the great Senator New Hampshire: "No man could ever be as great as Daniel Webster looked." That was how Stanley Kane looked. And he "judged" better han he "looked."

He was that rare kind of individual that made you want to be a better person just being in his presence.

Mr. President, David Chanen has written a sensitive obituary of Stanley Kane for the Minneapolis Star Tribune, and I ask unanimous consent that it appear at this point in the Record.

Judge Stanley D. Kane, Dies; Noted for Courage and Unusual Sentences

(By David Chanen)

Lawyers enjoyed bringing their cases before Stanley D. Kane. Whether the case was civil or criminal, big or little, the Hennepin county District Court judge had a reputation for being fair in his decisions and taking a common-sense approach to the law.

During his 25 years on the bench, he wasn't afraid to be courageous in his decisions. In 1965 he decided that a long-standing Sunday-closing law, which permitted only specific types of businesses to open, was unconstitutional.

He also fashioned unusual sentences, such as the 1976 case in which he ordered a white man convicted of assaulting a black man to study minority history, take university courses on the subject and watch the television show "Roots."

He served until the mandatory retirement age of 70, but continued to work nearly full time as a judge until stepping down in 1988.

Kane died of lung cancer Sunday at his Minneapolis home. He was 83.

"He was student of the law and he made sure that his decisions were based upon law," said Rolf Fosseen, former chief justice of the Hennepin County District Court. "If he was unfamiliar with an issue, he'd go right to the books.

When he retired, Kane received a page from the county public defender's office, the first ever given to a judge. It read, "To Judge Kane, before whom all people are treated with dignity, fairness and compassion.

During his swearing in ceremony, Hennepin County District Court Judge Michael Davis said "he intended to model himself after Kane because 'he was a judge's judge, a lawyer's judge, a people's judge.'"

Kane was involved in his share of controversial cases. In 1966 he placed a Richfield dentist who admitted killing his wife on probation for 15 years. He gave him no prison time, explaining that the man would not be dangerous to himself or the community if allowed to continue living with his children and practicing his profession.

In 1972 Kane ruled that a driver whose car was caught for two hours in the old Metropolitan Stadium parking lot after a Vikings playoff game could sue for false imprisonment.

"He was extremely conscientious, legally and as a man," said Eugene Minenko a Hennepin County District Court judge. "I don't know anybody who he worked with in the court system that didn't like him.

Kane heard an early environmental lawsuit. In 1969 he refused Fry Roofing Co. an injunction to stop the city from tagging it for violating the city air-pollution ordinance, saying that the company's asphalt roofing plant in north Minneapolis had "literally been a stench in the nostrils of the community" for many years.

He reversed several controversial decisions by the Minneapolis City Council. He granted a permit for People Inc., a group home for epileptic youths, which had met with neighborhood opposition. In 1983 he declared a city ordinance requiring a $10 fee for newspaper racks unconstitutional.

"The tougher the case, the more he liked it," said Jack Provo, Hennepin County court administrator. "He might have to listen to 25 motions in a day, but that didn't bother him."

Kane grew up on the north side of Minneapolis. His father, a Minneapolis fire captain, died in a fire after rescuing nine people when Kane was an infant, Kane earned bachelor's and master's degrees in romance languages from the University of Minneapolis where he was editor of the student newspaper, the Minnesota Daily. He received a law degree from the old Minnesota College of Law now William Mitchell College of Law in St. Paul). and later became a faculty member.

From 1943 to 1947 he was an attorney for the National Labor Relations Board, he also was general counsel for the North Central Allied Association of Motion Picture Exhibitors before his appointment to the bench by Gov. Karl Rolvang in 1963.

His wife Betty, also has had a high-profile life. Who served for several years as Minnesota's DFL chairwoman, worked with the League of Woman Voters and was a legislative lobbyist.

Kane was a member of the board of trustees of the Hennepin County Law Library and was active with the Variety Club Heart Hospital. After he retired he took several history and art classes at the university.

Besides his wife he is survived by a daughter, Kathleen Kane, and a son, Daniel, both of Minneapolis.

Services will be held at 10:30 a.m. Wednesday at St. Olaf Church, S. 8th St. and 2nd Av., Minneapolis. Visitation will be held from 4 to 8 p.m. Tuesday at Thomson Brothers Funeral Home 2535 Park Av. at 26th St. Memorials are suggested to Variety Club Heart Hospital or St. Olaf Poor Fund.

U.S. COMMITTEE FOR REFUGEES ANNUAL WORLD REFUGEE SURVEY DESCRIBES PLIGHT OF UPROOTED CIVILIANS

Mr. PELL. Mr. President, I want to call attention to the 1991 World Refugee Survey—the U.S. Committee for Refugee's comprehensive annual analysis of the situation of the world's refugees and internally displaced people. The Survey is supported by religious bodies, foundations, voluntary agencies, refugees, and private citizens nationwide—bearing testimony to the respect USCR has won from those who work with uprooted people.

No other group does what USCR's energetic staff takes on each year, visiting dozens of refugee emergencies worldwide to document the protection and assistance needs of civilians who have fled conflict and persecution. There reports are a catalog of the world's most dangerous trouble spots: southern Sudan, Liberia, Sri Lanka, Burma, Somalia, Iran, Peru. Senators concerned about refugees know they can depend on USCR for constructive guidance in finding ways to respond to these most vulnerable human beings.

I ask that the thoughtful "Year in Review" by USCR's distinguished Director, Roger P. Winter, printed in this year's Survey, pages 2 to 6, be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Year in Review

(By Roger P. Winter)

The year 1990 was one of lost innocence, shedded naivete. As 1989 closed, for many of us there was boundless hope—essentially, knowledge—that with the demise of the Cold War, the world could look forward to a rosier future. There would be opportunity to focus on improving the quality of life for all, international cooperation that would make multilateralism work, usher in peace, and perhaps even give rise to peace dividends. We believed that "liberty and glasnost for all" had set in motion democratizing and peacemaking trends that would never be reversed.

A year later, the world has engaged in a major war in the Persian Gulf that even before the outbreak of hostilities in 1991 had displaced more than a million people. In the aftermath of that war, the world has been forced to confront the hopelessness and helplessness of refugees and displaced people in new, high profile ways, with thousands dying in the process. In the Soviet Union, the architect of glasnost has in the Baltics countenanced the rise of violent militarism as an instrument of domestic policy, the Union itself appears to be rushing toward collapse, and perhaps millions are poised to leave at the first opportunity. Despite the apparent end of the Cold War, the world's refugees had increased to nearly seventeen million by the end of 1990 and were significantly higher immediately thereafter. The reality of war and conflict for much of humankind remains unchanged, the prospects for much more—in the Soviet Union, Yugoslavia, the Middle East, India, Sudan, Burma—portend even higher numbers of refugees and displaced people. We remain in a well-weaponed world.

This spiritual and emotional rollercoaster has implications on the largest of scales. In the refugee field, they are all-defining. Geopolitics has consistently dominated the international refugee machinery. Many have conceived of refugees exclusively in Cold war terms. Although that should never have been the case, in truth, the Cold War, including the third world proxy battles it spawned, was the major producer of refugees in the post-

World War II era. We perceived its passing to mean that fewer refugees would be created and that millions who lost their homes and homelands would be able to return.

The past year has produced several developments, revelations, and trends that, at minimum, muddy the clarity of our earlier prognostications. For one, we are now aware of the post-cold war lag factor. It has been more than two years since the Soviets left Afghanistan, but there is no peace, and the refugees have not gone home. While small progress has been made in some other regional conflicts, such as Angola, Mozambique, Cambodia, in almost all the dying and suffering go on. Only in Namibia and, less securely, in Nicaragua, is peace actually "on line." Extricating the world from passing conflicts is not at all simple or quick.

For another, the absence of the Cold War framework, perhaps properly, undermines the certitude with which too many of us approached the world. Robert J. Samuelson recently wrote that the United States, "since the 1940s, communism has been the great simplifier . . . it made our foreign policy a great morality tale of good versus evil . . . now, [with] communism's collapse . . . we are less sure of our foreign interests." Freed from the Cold War framework, ethnic hatred, nationalism, and other forces raise their negative sides unbridled, without the discipline inherent in the old framework. While many share a feeling that there will be less (simplistic) clarity on why new populations of refugees and displaced people emerge, it is increasingly clear that the forces unleashed by the world's changes will in fact produce new displacement in significant numbers.

There is increasing evidence that the apparent demise of the Cold War and the fear of collapse in the Soviet Union have combined to cost most refugees and displaced people whatever strategic value they may once have had. Several observers have suggested with respect to refugees, and displaced people that, because the conceptual structure that defined "our interests" has changed, so too has our will to respond. It is increasingly clear that for many in the best-off nations of the world the humanitarian needs of the poorest of the poor, those of least strategic importance, are fading from the even miniscule view they were formerly afforded. For most of us, the plight of Africa's victims, for example, is just not an issue, just as the gassing of the Kurds was not when it first came to world attention in 1988. If anything, too much attention continues to be focused on walling others out so that they don't impinge on us. The UN High Commissioner for Refugees (UNHCR) respected Director of International Protection Michel Moussalli recently pointed out that "the budget of UNHCR for the 15 million refugees in the world amounted to roughly $500 million in 1989. The financial resources devoted by the administrations of the Western countries handling their asylum procedures amounted for the same period to roughly 5 billion dollars." With respect to UNHCR, the abrupt departure of High Commissioner Stoltenberg in October further unsettled the institution that has suffered immensely during the last few years. Bureaucratically, it may seem that the worst of UNHCR's budget crunch has passed. But that would be a shallow view indeed. It may be more comfortable in Geneva because the substantial deficit carried forward from 1989 to 1990 has been liquidated, and staff who were going to be let go are gone. But at what a price! Refugees worldwide—but especially in the less visible spots—have seen their actual level of care degraded, education of their children eliminated, their dependency deepened.

It is critically important for those interested in humanitarian concerns generally, and humanitarian concerns in the third and fourth worlds specifically, to fight back, to organize to ensure that whatever "new world order" emerges from today's confusion and change adequately responds to the vulnerable uprooted victims of human conflict.

In that regard, I suggest that a five-point common agenda be pursued during the next several years:

1. Strengthen the multilateral humanitarian institutions. The UN High Commissioner for Refugees, the International Committee of the Red Cross, and other international entities that deal with refugees and displaced people have emerged from the last few years in a weakened state. In terms of their mandates, capabilities, financial resources, and available diplomatic support, that trend needs immediate reversing. While it is important that the UN system generally works better now, with fewer East versus West blockages to its peacekeeping and conflict resolution capacities, it is also critically important that these particular UN and international agencies actually work well. They are the institutions charged with protecting and assisting those who are already victims.

2. Advance and institutionalize international protection and assistance for internally displaced people. States are legal entities that often have no inherent validation by the people who live within them. Glenn Frankel has written that most nation-states are "jury-rigged contraptions that owe their existence to the twentieth century collapse of the Ottoman, Hapsburg, British, and French empires. . . . More than 90 of the UN General Assembly's 159 member states were born after World War II." He quotes Francois Heisbourg, director of the International Institute for Strategic Studies: "Will nation-states fade away? I don't think so. Will state sovereignty fade? My answer is yes."

One area in which sovereignty should fade is where a government's abuse of its own citizens so onerous that it breaches some well-defined standard of international acceptability. We need a system that codifies an international interest in the people in such cases and legalizes an appropriate international protective response. To be politically feasible, such an approach would likely need to be limited to clearly aberrant or rogue governments and also limited in the responses that could be triggered. One example might be the provision of a legal umbrella for cross-border relief operations to civilians being starved out by their government in a civil war without that government's approval. Such victims would be of international concern and would be fed with international resources if they had been able to cross a border. Is it really logical to force them to do that to survive?

At the other end of the response continuum would be a mechanism that triggers UN Security Council consideration of a humanitarian disaster. When millions of a country's citizens are viciously abused by that country's government, Security Council consideration is justified and intervention may be warranted. Any "new world order" worth its salt would provide for this.

In any event, now is the time to move in the direction of institutionalizing improved international protection of internally displaced civilians; the tragedy of Kurdish and Shi'ite civilians in Iraq has shown for all to see the inadequacy of the world's current response to the internally displaced. The stage for improvement has been set. You can hear the possibilities in President Bush's own words:

"Some might argue that this decision [of April 16 to field military forces to protect internally displaced Kurds] is an intervention into the internal affairs of Iraq, but I think the humanitarian concern, the refugee concern is so overwhelming that there will be a lot of understanding about this."

3. Promote successful repatriation and reintegration of refugees and internally displaced people. The combined numbers of refugees and displaced people uprooted by some conflicts, such as in Afghanistan and Mozambique, are so great that they could overwhelm such countries if and when they do achieve some semblance of peace. Because most repatriation is spontaneous, "repatriation emergencies" could occur as large numbers and internally displaced people surge towards home areas that are entirely devastated. There is a universal vested interest in assisting such countries to reconcile and develop in the hope that peace is sustained. Today, the international community is not addressing this need at all well.

4. Ensure that victims of human conflict in the poorest, least strategically important countries of the world don't continue to be ignored. All the signs are already in place that they will be ignored unless NGOs and religious institutions collaborate to change the trend. One recent report indicated that charitable contributions in some European countries for humanitarian programs in Africa are down by more than 90 percent, while contributions to meet needs in the Soviet Union related to problems of food distribution there are flooding in. There will always be such strategic priorities that get a response, and not undeservedly so. However, religious bodies and NGOs are the natural constituency of those that have no other constituents. Recent developments indicate that many people will die or be permanently blighted if we are not up to the task. In the Horn of Africa, forty percent of the entire population are refugees or internally displaced people.

5. Fight the construction of Berlin Walls around the liberal, rich democracies of the West that attempt to cut themselves off from asylum seekers from the second and third world. As the West European nations move toward "harmonization" of their asylum policies and free movement among themselves, there is immense pressure to create barriers to prevent "nonmembers" from penetrating the "clubhouse" they are creating. But all too often, the consequences are a shirking of their responsibility to examine asylum claims and to protect deserving refugees. Instead, the tendency is to "pass the buck" to the frontline first asylum states, where protection is precarious and the resources are badly strained.

On the ground in 1990, the largest new population of refugees and displaced people in *Africa* was that of *Liberians*. In a hellacious blood-letting, 1.2 million people were uprooted. In the critical period, when massive numbers of refugees first arrived in poor, remote locations in Guinea, Cote d'Ivoire, and later Sierra Leone, the international community did not respond quickly or well to the refugees' needs. Without the generosity of local people, who opened their homes and shared their meagre resources with the refugees, there would certainly have been a major catastrophe. Months later, when the international community finally got its act together, those same local people found themselves frozen out of the assistance that arrived, even though they had depleted their own food reserves to assist the refugees.

Meanwhile, life remained horrific for those displaced inside Liberia. Some 125,000 people were trapped inside Monrovia, which turned into a battleground between government troops and various rebel and other armed forces. For months, there was no food or water. Killings and even massacres became commonplace. When a multi-national West African peace-keeping force restored some order, hundreds of thousands more displaced people flocked to the city in search of food and security. Once again, international response did not keep up with the explosion of need, and in December 1990, malnutrition and hunger were rife in the Liberian capital.

An uncannily similar scenario played out beginning in December in *Somalia's* capital, Mogadishu. There too government troops and rebels fought for control of the city. There too dead bodies lay on the street, and terror and mayhem ruled. As 1990 ended, Somali refugees—as well as Ethiopian refugees who had been living in Somalia—were fleeing to neighboring countries. Hundreds of thousands became internally displaced. And with the country still in chaos, help was nowhere on the horizon.

Besides these new emergencies, during 1990 there was substantial deterioration in already existing refugee and internal displacement situations in Africa. Most dramatic among those was in *Sudan*, where relief experts were forecasting that hundreds of thousands could begin to starve to death beginning in spring 1991. The government of Sudan's long-term denial that a large-scale famine was developing, its hindering of relief efforts by international and private organizations, and its undermining of Operation Lifeline Sudan, all contributed to the potential for large-scale starvation in 1991.

In *southern Africa*, an average of 6,000 *Mozambicans* per month continued to flee to *Malawi*, bringing the total number of refugees in that tiny country to more than 900,000. While the dismantling of many of the laws that shaped the apartheid system in *South Africa* kindled hope for a more equitable South African society and for the repatriation of more than 40,000 South African refugees, it did not help the 250,000 Mozambican refugees whom South African authorities still view as illegal migrants subject to deportation.

A small-scale repatriation program through which several thousand *Angolan* and *Zairean* refugees returned home in 1990 was suspended due to the poor security situation in Angola, where war and drought have also put large numbers at risk and have thwarted relief efforts. Although peace talks in both the *Angolan* and *Mozambican* conflicts move forward, albeit slowly, repatriation of refugees from those countries is not imminent

With the signing in June of the Schengen Supplementary Agreement by *France, Germany*, and the *Benelux* countries as well as the signing that same month the EC states of the Dublin Convention on the state responsible for examining an asylum request, the European Community has moved significantly closer to a harmonized policy on asylum and entry as part of its overall plan to abolish internal customs and passport controls within the EC by the end of 1992. The effect of this on asylum seekers in Europe in 1990 was of diminished opportunity to register asylum claims and of a continuing downward trend in the number of asylum cases decided favorably. Harmonization, all too often, has meant that nations once more generous than their neighbors, now are introducing restrictive measures so that they may stand shoulder to shoulder with those European states that have sought to deter the entry of asylum seekers.

Western Europe's restrictive turn, while motivated in large part by the presence of asylum seekers from the Middle East, Africa, South Asia, and Europe's own southeastern region, also reveals a concern about the prospect of a new, large wave of asylum seekers from the *Soviet Union*.

The disintegration of the Soviet Union picked up speed during 1990, as nearly all Soviet republics declared their sovereignty or independence. Outbreaks of ethnic or nationality-based violence during the past two years have caused more than half a million people to become displaced within the USSR, the majority of whom are Armenians. Azerbaijanis, Meskhtian Turks, Tatars, other Caucasian nationalities, and ethnic Russians living as minority groups in outlying republics have joined the ranks of the displaced as well. Many of the displaced are returning to areas from which they had been forcibly moved during the Stalin era, as each of the nationality patches that comprise the Soviet quilt becomes more ethnically homogeneous.

A resurgence in anti-semitism and fears of political and ethnic violence compelled more than 200,000 Jews to exit the Soviet Union during 1990, most to Israel, but thousands were generously received in the United States and Germany as well. This was the first year of direct resettlement processing of 50,000 Soviets to the United States, who were processed out of the American embassy in Moscow, instead of Vienna and Rome. The new system had glitches, particularly for hundreds of Christian Evangelical families who still had Israel listed as the country of destination on their passports, the well-understood ruse that had once enabled them to reach Vienna.

Despite the added security threats from the Gulf conflict, the migration of Soviet Jews to Israel continued at the highest rate in decades. Israel's housing and social services were severely strained by the admission of about 184,000 Soviet Jews in 1990, and double that number are expected in 1991.

While welcoming the largest influx of Jews in decades, Israel's housing and social services were severely strained by the admission of about 184,000 Soviet Jews during the year, and the prospect that this number could double in the year ahead. The influx of Soviet Jews was a cause of increasing wariness among Palestinians in the occupied territories, including more than 900,000 UNRWA-registered refugees.

The most dramatic event in the Middle East in 1990 occurred with the invasion of Kuwait. The invasion and subsequent occupation touched off an exodus of more than 300,000 Kuwaitis and caused more than a million nationals of other countries to vacate the area. This put a tremendous strain on Jordan, which—due to the presence of 929,000 Palestinian refugees—already had the highest ratio of refugees to native population of any country in the world before the conflict began.

New political and military developments in the region had little impact on the Afghan war and the more than six million Afghan refugees in Pakistan and Iran. Although Soviet troops have been out of Afghanistan for two years, a civil war chugs along delaying still longer the reconstruction of Afghanistan and the return of her people.

Important victories were won during the year on behalf of asylum seekers in the *United States*. After a decade of bickering, the Immigration and Naturalization Service published regulations to implement the asylum provisions of the Refugee Act of 1980. Under the new system, a specialized corps of asylum officers will hear asylum claims in a nonadversarial setting, supported by a documention center, open to information from nongovernmental agencies. Those denied asylum will still be able to have their asylum claims heard by an immigration judge in the course of a deportation or exclusion hearing. Congress also filled a gap in the 1980 refugee law by creating a category of temporary protected status, and designated an 18-month safe haven period for Salvadorans. Finally, the settlement of a class-action suit in December allows for new adjudications of up to a half million *Guatemalan* and *Salvadoran* asylum claims.

The United States also admitted more refugees from overseas in 1990 than in any year since 1981. Fully 75 percent of the 122,325 refugees who were admitted represented two nationalities. Soviets and Vietnamese.

In South Asia, at least one million people were internally displaced in *Sri Lanka* as a long-running civil war between the Sri Lankan government and Tamil separatists flared violently in June 1990. By the end of the year, about 125,000 Tamils had fled across the Palk Strait to seek refugee in southern *India*. The government in New Delhi has so far resisted efforts by UNHCR to provide assistance to the Tamils. India has more than 400,000 refugees—from Tibet, Bangladesh, Afghanistan, Burma, as well as Sri Lanka—most of whom receive no international aid or protection.

A new crackdown on Tibetan Buddhist monks and nuns compelled several thousand to cross the high mountain passes into *Nepal* in search of asylum or transit to India. In the last five months of 1990, Nepal involuntarily repatriated 167 Tibetan asylum seekers, some of whom were imprisoned by Chinese authorities.

Despite persistent entreaties from the United States, UNHCR and USCR, *Malaysia* has pushed back more than 9,000 Vietnamese boat people since May 1989. Not a single arrival has been counted since July 1990, testament either to the success of the interdiction or the despair of the refugees.

As the civil war in *Cambodia* escalated in scope and violence, more than 30,000 refugees arrived in Thailand, some bringing horror stories of rampant disease and hunger in the Khmer Rouge "liberated zones." More than 150,000 people have been internally displaced by the fighting.

The number of refugees in *Thailand* swelled to nearly 460,000, including 325,000 *Cambodians*, 70,000 *Laotians*, and 16,000 *Vietnamese*. Persecution and civil war in *Burma* has forced more than 45,000 Burmese students and ethnic minority peoples to flee into Thailand. The ethnic groups, principally the Karen and Mon, have clustered in camps and villages along the border, while most of the students have sought refuge in Bangkok.

Throughout the year, the boat people population in *Indonesia* hovered near 20,000, prompting concern of a backlash. But despite repeated reports of mistreatment of Vietnamese by Indonesian authorities on Kuku Island, the government's commitment to asylum remained unchanged.

The world remains confronted with a myriad of humanitarian and refugee situations. It is unfortunately the case that no government can be trusted to do the humanitarian thing at any particular time or in any specific situation. Governments always act according to their perception of their interests.

The litany of refugee tragedies in 1990—newly created or dragging on—has already unfortunately proven to be only a prelude to 1991's refugee tragedies. And this is the way it will continue unless people East and West, North and South demand of their governments a new world order, with new, more humane priorities, thus making it in governments' individual and collective interests to function on a higher, more moral plane. Upholding human rights, seriously confronting poverty, discrimination, and violence, eliminating crushing debt on the poorest of the world's countries, promoting sustainable, environmentally respectful development—these are all goals common people can appreciate; they are all in "the peoples'" interests.

So, too, are protecting and caring for refugees and displaced people.

MAKING USE OF A NATIONAL RESOURCE: MEMBERS LEAVING THE MILITARY SERVICES

Mr. NUNN. Mr. President, as the Department of Defense reduces the size of the military services over the next few years, many soldiers, sailors, marines, and airmen will be leaving active military service. It is my strong hope that these personnel reductions can be accomplished on a voluntary basis, and that the military services will not have to separate any member through involuntary reductions in force. It is also my strong hope that our Nation will be innovative in using the talent and leadership of our military personnel who will be leaving active service in private enterprise and public service.

With regard to avoiding involuntary reductions in force, we have included in the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993 authority for a program of incentives to encourage certain categories of military personnel to voluntarily separate. These incentives include lump sum or annuity payments for certain career personnel who face the possibility of being involuntarily separated, and who choose to separate voluntarily. I have described these incentives in a previous statement on the contents of the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993.

Mr. President, I think that it is very important for us to realize that military personnel who will be leaving active service over the next few years are a valuable resource of this country. These officers and noncommissioned officers have much to offer in the way of skills and leadership, not only in private enterprise, but in public service. We can help by being innovative, and by aggressively seeking out opportunities where arrangements can be established that are mutually beneficial to the military and our communities.

For example, we have asked the Department of Defense, in the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993, to propose a program that would permit the early retirement of certain military personnel who would volunteer to retire to accept a position in public service, such as teaching, or working in community service with our youth where the technical and leadership skills they have gained in the military can be put to effective use. In this regard, I believe a partnership arrangement could be modeled along the lines of the Junior ROTC Partnership Program where schools can hire a military retiree by paying the difference between the retirees retired pay and the regular teaching salary of the position to which the military retiree is hired. The compensation for such personnel could also include some form of further credit for military retired pay based on contributions to the military retirement fund by the employer, the employee, the Government or any combination of the three.

Mr. President, there are many officers and noncommissioned officers who will be subscribing to the program of voluntary separation incentives we have included in the conference report on the National Defense Authorization Act for fiscal year 1992 and 1993. I believe that it is very important that the Department of Defense act expeditiously to encourage these separating personnel seeking opportunities in public service, and to assist them in securing alternative, nontraditional job certification if necessary for their employment.

Mr. President, there is interest and support in our communities for innovative programs such as this. For example, Prof. Bill Hobby, a former Lieutenant Governor of Texas, who teaches at the Lyndon B. Johnson School of Public Affairs at the University of Texas, wrote an article in the November 24, 1991, issue of the Washington Post entitled "From the Armed Forces to the Classroom." In his article, Dr. Hobby proposes an innovative, "nontraditional" program for qualifying military personnel who are leaving active military service to teach in our schools. I ask unanimous consent that the article be included in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FROM THE ARMED FORCES TO THE CLASSROOM—MILITARY VETERANS ARE GOOD PROSPECTS FOR HIGH SCHOOL TEACHERS

(By Bill Hobby)

Within the next few years, hundreds of thousands of highly trained men and women will be mustered out of the armed forces.

Of the 750,000 soon-to-be veterans who will leave military service during the next five years, about 150,000 are commissioned, warrant and senior noncommissioned officers. They are trained in vital technical skills and are natural leaders.

Though well qualified, many will not be able to find jobs that use those skills. Typically, these veterans will have spent one-quarter of their military careers as students or instructors in their specialties. Many of them will be men, many of them minorities.

They are in their forties and fifties, with twenty-odd productive years ahead of them. The nation has invested hundreds of millions of dollars in their professional training. In short, they are fine prospective high school teachers.

With the proper incentives, 75,000 might become teachers.

That many new teachers would not only be readily absorbed in the next five years, but welcome into the classroom. About 90,000 potential new teachers a year now graduate from colleges of education. School districts hire more than 175,000 new teachers a year. The deficit is filled by the return of former teachers, teachers who have never taught despite being qualified to do so and new teachers from alternative certification programs.

More than 1 million new teachers will be needed in the next five years. Colleges of education will provide about half a million. Well-qualified veterans can help fill the gap.

With the growing dissatisfaction with the teachers profession and the pressure to find new sources of teachers. Texas and many other states have begun qualifying teachers in nontraditional ways.

These "nontraditional" teachers have done just as well as, or better than, education graduates on certification tests and on the job.

About 28 states now have such programs. These programs are an integral part of the President Bush's "America 2000" program for education. In his recent report to Congress, the president said: "The solution to the problem of attracting talented teachers is not to regulate the industry further but to open it up to the competitive process and to reduce certification requirements in ways that do not threaten but instead encourage excellence in teaching."

The inclusion of veterans in the president's solution for the teacher shortage makes sense.

Can people who have not graduated from college teach in high school? A college degree indicates maturity and knwoledge. So does 10 or so years of service in the armed forces. I have never known a chief petty officer who could not teach a high school class. For centuries, noncoms have spent most of their time educating adolescent boys.

Teacher programs don't have to take years. College graduates in the Teach America program enter inner-city classroom after three months of training. Could not mature veterans with 10 to 20 years of military service be trained in the same length of time? Of course. They could be teaching in the classroom in a matter of months.

The success of this program will be determined by the quality of the soon-to-be veterans willing to enter it. The qualify will be determined by the incentives offered, most logically through the military retirement system.

Veterans leaving the service have pension benefits ranging from none for those with fewer than 20 years service, to 50 percent to 75 percent of final pay for those with 20 to 30 years of service and 75 percent for those with more than 30 years of services. The pensions, of course, are in addition to medical benefits of enormous value.

Under this approach, a qualified veteran who becomes a teacher would earn military retirement credit in the classroom. The credit could be either on a year-for-year basis or proportional. The cost of the additional benefit would be deferred until retirement of the teacher-veteran, who would also earn credit

> in the individual state's teacher retirement system.
>
> A more costly alternative would be to offer the 15-year veteran a flat 40 percent pension (2.5 percent per year) for as long as the veteran teaches. The enhanced pension (50 percent) would be payable at the completion of five years in the classroom. This relatively small pension would compensate for the low entry-level pay of teachers.
>
> Fedeal, state and local efforts would be needed to coordinate the program. Specific actions would include: promotion of the program within the military, modification of the retirement system, creation of state programs of alternative certification, mobilization of the colleges and universities and involvement of school districts in need of trained personnel.
>
> Employing trained military personnel at or nearing retirement is a logical way to address several of our problems; the reduction of the armed forces, the need for more teachers and the stagnation of the economy present a unique opportunity for the nation.

Another group that is interested in tapping into the leadership and skill resource of military personnel who will be leaving active service is The Cities in Schools Program. The program is targeted at reclaiming youth who are drop outs from schools or who are potential drop outs. Separating military personnel returning to their communities can take local leadership positions in this worthwhile effort.

Mr. President, we have challenged the Defense Department to work with us to develop programs such as these in our conference report on the National Defense Authorization Act for fiscal years 1992 and 1993. I am pleased to note that the Army leadership has begun initiatives to develop programs such as these. I expect that such efforts will broaden to the other military services under the oversight of the Defense Department. Obviously, as Dr. Hobby noted in his article, these programs will require Federal, State, and local coordination to be effective. It is my hope that we will be successful in enacting such a coordinated program early next year.

ON PROMOTING FOREST LAND CONSERVATION AND FOREST-RELATED ECONOMIC DEVELOPMENT IN THE NORTHERN FOREST LANDS OF NEW ENGLAND

Mr. LEAHY. Mr. President, New Englanders are often characterized as proud, tough-minded, self-reliant and—above all—reserved. But when they have got something to say, those same Yankees get right to the point.

I was reminded of that this summer at a public hearing in Lyndonville, VT. Hundreds of New Englanders came to discuss the future of the northern forest lands—26 million acres of virtually continuous woods stretching from eastern New York, across Vermont and New Hampshire into northern Maine.

My goal at the hearing was to find out what people thought about a draft bill that Senator JEFFORDS and I crafted with the Senators from the other three States. The bill was designed to promote forest land conservation and forest-related economic development in the northern forest lands. This was not an idea hatched in Washington. It came from people in the four States who were concerned about the conversion of large tracts of working forest to nonforest uses.

In drafting the bill, we built on the recommendations in the Governors' task force report that was issued last year as a companion to the Forest Service's Northern Forest Lands Study. The task force, which was comprised of landowners, environmentalists, and State foresters, recommended the creation of a four-State council and a program to research, identify, and inventory the resources of the northern forest lands. The report was enthusiastically endorsed by the four State Governors.

Throughout this process, I have tried to be sure the legislation we drafted in Washington reflects the views of those who live and work in the northern forest lands. That is why we waited to introduce the draft bill until all interested parties reviewed it and had a chance to voice their concerns at hearings in Vermont and Maine. After all, there is no sense in introducing something that hurts the region it is designed to help.

We were not then—and I am not now—suggesting, even indirectly, that any property owners be forced to give up their land. To the contrary, we are developing State and Federal assistance programs to help landowners overcome financial and technical problems and keep their forests healthy and productive. We are also trying to find new ways to market forest products and make constructive changes in our State and Federal tax system to promote forest retention.

From the hearing testimony and the hundreds of letters I've received, it is clear that the vast majority of Vermonters are concerned about the future of their forests. People love the forests for the hiking, fishing, and hunting they offer. And people believe the northern forests should continue to provide New Englanders with jobs, forest products, and our unique quality of life.

While most Vermonters think the northern forest lands deserve our attention, not everyone agrees on the best way to proceed. It is no secret that a vocal faction opposes any effort to protect the northern forest lands. I respect the views of these people, but I am deeply troubled by the misinformation being spread to further their cause. Among other things, these people have suggested that our efforts will lead to the condemnation of houses and churches. Nothing could be further from the truth.

The reality is this: If we are serious about protecting the northern forests, we have to put aside the rhetoric and start taking substantial action. Senator RUDMAN and I worked hard again this year to secure funding to keep the northern Forest Lands Council intact and to continue its research, inventory, and resource identification programs. While I could continue to seek appropriations without legislation, taxpayer interests would be better served if legislation were enacted to authorize our efforts.

In the coming months, I will be proposing changes to the draft that I hope will resolve many of the issues raised during the hearings and public meetings this year. The many thoughtful suggestions we received will ensure that we proceed in a way that more accurately reflects the views of Vermonters and others throughout the region. Two suggestions I wholeheartedly support are local-interest representation on the Council from each of the four States and a provision specifying that the Council will not have any land acquisition or regulatory authority.

Thus, the Council would be comprised of 17 members. Each of the four Governors would appoint four members to represent the State's conservation agency, environmental community, private forest landowners, and local interests. A USDA Forest Service representative would also participate.

In the meantime, I believe the Council should move forward with the guidelines it recently adopted. In addition, the Council should proceed in the following manner:

The Council should: Develop and approve consistent standards and methodologies for resource inventory efforts by the States; identify opportunities for interstate cooperation; share relevant information among the four States; develop and recommend to the States and Congress a set of actions to further natural resource planning and land conservation within the northern forest lands; involve the public in further forest land deliberations; and report annually to Congress, the Secretary of Agriculture, and the Governors of the four States on the progress of northern forest lands programs.

A citizens advisory committee should be established with representatives from local government, consulting foresters, environmental organizations, the forest products industry, forest landowners, land-trust organizations, labor organizations, recreation organizations, and others deemed appropriate by the Council.

The Council should hold public meetings, publicize them well, and encourage comment on its actions.

The Council's research program should examine relevant forest land conservation topics, produce a research base, outline future research needs, and allocate research funds to public and private research organizations.

The Council should be sure its inventory work takes advantage of existing material and provides data consistent with standards and guidelines used in the northeastern States' inventories and by the Forest Service; State and Federal agencies and public and private research organizations should help gather and analyze the data.

The Forest Service should designate a northern forest lands liaison from its State and private forestry program to assist the Council and coordinate the research, resource inventory, and analysis program. The Forest Service should also coordinate the work of all Federal agencies that provide technical assistance to the Council.

I hope that most people would be able to support these principles. Unfortunately, it still will be difficult to allay the concerns of those who are convinced that this effort is merely a Federal land grab by outsiders. While I support Federal acquisition programs, that support is based on making land available on a willing seller, willing buyer basis.

Mr. President, the Senate's northern New England delegation has worked closely on this issue for the last 2 years. In fact, all four Governors and eight Senators in the four-State delegation supported northern forest lands appropriations requests. While some may see my comments today as a break with that coalition, they should know that I remain committed to passing a bill we can all support.

My action today reflects the sense of urgency I feel about protecting our northern forests. While the recession has lowered property values and taken away the immediate threat of land speculation in the region, the problem has not disappeared. So now that we have the chance, we should act. If we wait until the economy rebounds, we will not have a say. By then the fate of the northern forests will be determined for us—and not by us.

But if we work together—small landowner, conservationists, the forest products industry, and local, State, and Federal Government—we can keep our northern forests and forest-based economy healthy for future generations.

PROTECTING THE ANCIENT FORESTS AND RURAL COMMUNITIES OF THE PACIFIC NORTHWEST

Mr. LEAHY. Mr. President, a long-simmering crisis in the Pacific Northwest forests is reaching the boiling point. And if we do not do something about it—if we do not get this issue off Congress' back burner—then things are going to boil over sooner than later.

The sad reality is that this crisis, and the painful transition it has caused workers in the Pacific Northwest, could have been avoided.

But the Reagan and Bush administrations wouldn't turn off their saws long enough to hear the foresters who had long warned that ancient forests on the region's private lands were rapidly disappearing. As the private timber supply dwindled, pressure mounted to cut the oldest, biggest and most profitable trees in our national forests.

While national forests provide important timber for our use, most Americans want more from their national forests than two-by-fours. Americans go to national forests to fish, to hunt, to hike, to canoe, and to just get away from the rigors of their daily lives. Those are things we cannot generally do on private lands.

The Reagan administration, however, had a different view of ancient forests. When Fish and Wildlife Service biologists recommended that the northern spotted owl, which depends on the ancient forests, be listed as a threatened species, administration officials kept the report under wraps. It is a sad commentary that it took a U.S. district judge, William Dwyer, to make the administration acknowledge that it was breaking Federal forestry laws.

Despite a flurry of legal activity on this issue, it wasn't until 1991 that court decisions significantly reduced timber sale levels in the Pacific Northwest. Prior to that, starting in fiscal year 1985, Congress attached riders to the annual appropriations bills that limited citizen rights to question certain Pacific Northwest timber sales.

In the 1990 appropriations bill, Congress limited such judicial remedies for all of Washington, Oregon, and northern California. I decided not to fight that rider, but not before agreeing with my distinguished colleague from Oregon, Senator HATFIELD, that this rider would be the last "quick fix" to be attached to an appropriations bill.

Senator HATFIELD and I also agreed to work together on a long-term ancient forest solution that: First, ensured sustainable ecosystems; second, did not limit citizen access to the courts unless all parties agreed; and third, was worked out through the authorizing committees.

As promised, I directed my staff to talk with all interested parties about developing a long-term solution to protect our ancient forests. My staff met with environmentalists, labor and forest products industry representatives, officials from State, county, and local government, Pacific Northwest delegation members and others.

The forest products industry would not agree to proceed on a regional solution. The forest products industry said it would talk, but only if the legislation provides limitations to citizen access to administrative appeals and the courts on all national forest matters. Because I believe citizens in a democracy should always have a way to voice their opinions, that precondition was unacceptable.

So now here we are. The Nation is in the middle of a recession. The Forest Service's Region 6 harvest levels in Washington and Oregon have dropped from 5.4 billion board feet in 1988 to an estimated 3.1 billion board feet this year. Fortunately, there is still 5.3 billion board feet under contract that can be cut at any time. That means that the drop in the harvest level to 3.1 billion board feet is largely due to the recession—not the spotted owl, as some claim.

Still, the administration's failure to comply with the law has essentially shut down the region's timber sale program in 1991. That is a serious matter and one we must resolve.

To do so, we need to cut through the rhetoric and deal with the economic and ecologic realities. I realize that will not be easy. I know that jobs are hanging in the balance. I know that the future of our ancient forests, salmon runs and spotted owls are also threatened. But if we can set aside our differences long enough to find some common ground, I'm convinced we can develop a mutually satisfactory blueprint for the future of our national forests.

For starters, I will be drafting legislation with Senator ADAMS over the recess to provide a long-term solution to the ancient forest issue. I will work with Senator ADAMS because he is trying to protect both jobs and forest ecosystems without sacrificing basic constitutional rights.

In developing a long-term solution I will work to meet three principles: ancient forest sustainability, constitutional rights, and economic stability.

This effort will not be easy. We cannot save every job and we cannot save every ancient tree. We can, however, develop a program to bring Forest Service management into compliance with existing environmental laws, protect the region's forest products industries, and provide a smoother transition to those individuals and communities whose livelihoods are disrupted by timber harvest reductions.

PACIFIC NORTHWEST FOREST COMMUNITY RECOVERY AND ECOSYSTEM CONSERVATION

Mr. ADAMS. Mr. President, I am deeply pleased that Senator LEAHY has committed his leadership and expertise to resolving the forest management crisis in the Pacific Northwest. His work on behalf of rural communities is well known. His experience with forest management issues is widely respected. As chairman of the Agriculture, Nutrition, and Forestry Committee, he will help focus the Senate's efforts on developing a long-term solution to this extremely difficult problem.

The Congress has wrestled with this issue for several years. A final resolution has eluded us. We have tried all of the quick fixes. All of the political solutions have failed. The economic and environmental realities in the Pacific Northwest have now removed all other options.

If we are to restore economic and environmental stability to the region, we must have a legislative solution in this Congress.

We clearly cannot rely on the Bush administration for a solution. By avoiding the issue, the Reagan and Bush administrations created the crisis. They refused to heed the warnings sounded by professional foresters as long as 10 years ago. The foresters warned us the intensity of timber harvest was destroying the forests' ability to maintain other public values. If Reagan and Bush had listened, forest policy could have been adjusted to minimize economic impacts to our rural communities.

Instead, we must now make major adjustments to protect water quality. To protect recreation, fish and wildlife. And to protect other public values required by law on our national forests.

Over the last several months, Congress has received a wealth of information from forest scientists. They tell us that it is possible to maintain timber production without degrading other public values. This will require, however, that we amend our forest management objectives. They must be made more sensitive to the natural system of interrelationships among the trees, soil, water, plants, and animals.

There is no need to fear such a change. There are many excellent professionals in the Federal land management agencies who are capable of bringing about this change in a responsible manner. What we should fear are shortsighted, partisan political actions that would prevent such change.

I urge my colleagues to join with me and Senator LEAHY. Join us in giving careful consideration to an ecosystem-based approach to resolve this issue. This is the only viable approach to Federal forest management in the Pacific Northwest. It will provide a secure and solid base for sustainable production of timber and timber related jobs without threatening the other public values we expect from our public lands.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for morning business is closed.

Mr. SPECTER. I ask unanimous consent that I may speak as in morning business for a period of not to exceed 7 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator is recognized as in morning business for up to 7 minutes.

INCOME TAX CUTS FOR MIDDLE AMERICA

Mr. SPECTER. Mr. President, I have just come from a hearing of the Finance Committee which was considering income tax cuts for middle America, IRA legislation, and other means to stimulate consumer purchasing power. I think it is worthwhile to address this subject very briefly for my colleagues generally and for those who may be watching our proceedings.

The subject matter of the hearing was a proposal by the distinguished Senator from Texas, Senator BENTSEN, to reduce tax rates on middle-income Americans, a proposal that I heartily support. The hearing was also on proposals for IRA's. I testified before the Finance Committee, urging them to take action on legislation introduced last week by Senator DOMENICI and myself which would provide that taxpayers could withdraw from existing IRA's up to $10,000 now without any penalty or tax this year, the taxes to be paid in the next 4 years, providing those funds were used on certain consumer items.

This idea is an expansion of proposals which are now pending, where IRA's would be utilized on items like first-time home buying, medical expenses, and college tuition.

From that general position, which has wide acceptance, Senator DOMENICI and I offered an amendment last week which would allow middle-income taxpayers, individuals with earnings up to $75,000 or married couples with earnings up to $100,000, to use existing IRA's and other deferred-income plans. It is estimated that some $800 billion are in such accounts. Our amendment was not successful on the Senate floor last week, largely because the matter was initiated in the Senate as opposed to the House.

I argued then, Mr. President, and will repeat the argument now, that we ought to move beyond the jurisdictional considerations to these issues at the present time. We have a very serious economic problem in the United States of America. Whatever one may wish to call it—"a recession," "not quite as bad as a recession," "something worse than a recession"—there is absolutely no doubt that there is a very, very serious situation in the U.S. economy now.

Two weeks ago, Mr. President, I urged that the Senate not adjourn after Thanksgiving but that the Senate and the House should stay in session during the month of December to address these problems.

I raised that same issue this morning in the Finance Committee hearings, realizing full well that on this, what is scheduled to be the last day of the session, it is highly unlikely we will be staying in session.

When I moved outside and left the hearing room, I was asked a question by a reporter about Congress staying in session. One of the reporters informed me that Speaker of the House FOLEY had said that all it would take would be a telephone call from the President for the House to remain in session.

I was asked what I thought about that. I responded that I thought the Speaker of the House—I say this respectfully—ought to initiate the call himself. He has a telephone which calls out as well as one which receives incoming calls. We ought not to stand on protocol. The matter ought to be initiated by the legislative leaders in the House and in the Senate.

During the proceedings before the Finance Committee, I had said the proposal which Senator DOMENICI and I had suggested had been discussed broadly with the administration. We discussed it with Secretary of the Treasury Nicholas Brady. We discussed it with Chairman of the Federal Reserve Board, Alan Greenspan. We discussed it with the chairman of the President's Council of Economic Advisers, Michael Boskin. We discussed it with the Chief of Staff of the White House, Gov. John Sununu. As I said on the floor last week, there was a lot of interest, although not a commitment, by those officials.

During the course of my conversations with ranking officials in the administration, it has been noted—and this has been widely reported in the news media as well—that the administration's plan is to advance their economic proposals in the State of the Union speech.

I respect that judgment from the administration, but as a Senator, speaking only for myself, I have a differing point of view. My sense is that we ought to be acting now and that if the ideas are proposed in January or in early February, the Congress will take February and March and April and May and June and July and beyond, whatever time is available. But, if the ideas are advanced now, with the impending Christmas season upon us, there would be a good chance the Congress and the administration could come up with some solid proposals to stimulate a recovery.

The idea, again, which Senator DOMENICI and I had proposed is a very sound one. I have yet to hear anyone offer an argument on the merits against the idea, except perhaps it would deplete savings, and it would do that to a limited extent. With $800 billion in those savings I suspect that our proposal would not really make a serious encroachment on the savings in this country.

In any event, savings are for a rainy day. I suggest that there is a cloudburst outside. There is a cloudburst, Mr. President, in the form of a very serious economic situation in this country.

Mr. President, in testifying before the Finance Committee this morning on Senate bill 612, I noted that the bill was introduced on March 12 and that the bill had 74 cosponsors, with a generous representation from both political parties. This could be a starting point. Or the bill which Senator DOMENICI and I introduced could be a starting point. We need a starting point.

I know, Mr. President, when I travel through Pennsylvania—and in the course of the past several weeks I have been in all parts of my State: Erie, Scranton, Pittsburgh, Philadelphia, central Pennsylvania—there are a lot of Pennsylvanians who are hurting and there are a lot of Americans beyond my own State who are hurting.

I frankly do not want to return home. I do not want to go back to Pennsylvania and have my constituents say, "Why don't you men and women in the Congress do something constructive?" I think we ought to be here and in session making every possible effort to solve our economic problems.

In that vein, I wonder why we have not acted on S. 612, which, as I said, was introduced in March 12 and has garnered 74 cosponsors.

To repeat, when a reporter says to me that the Speaker of the House, Mr. FOLEY, suggested that all the President has to do is pick up the phone to keep Congress in session, I reply, respectfully, that Speaker FOLEY ought to pick up the phone. I do not think Congress ought to go out of session and fail to address these economic problems for want of having one party or another pick up the phone.

I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEDICAID MORATORIUM AMENDMENTS OF 1991

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3595, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3959) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Moratorium Amendments of 1991".

SEC. 2. MORATORIUM ON THE ISSUANCE OF FINAL REGULATIONS AND ON THE USE OF DONATIONS AND PROVIDER-SPECIFIC TAXES BY STATES TO RECEIVE FEDERAL MATCHING FUNDS UNDER MEDICAID.

(a) MORATORIUM ON ISSUANCE OF FINAL REGULATIONS.—

(1) DELAY IN CHANGES IN REGULATIONS CONCERNING DONATIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647) is amended by striking "December 31, 1991" and inserting "April 1, 1992".

(2) MAINTAINING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—Such section is further amended by—

(A) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(B) by adding at the end the following new subsection:

"(b) MAINTAINING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—The Secretary shall not issue any regulation prior to April 1, 1992, that changes the treatment (specified in section 433.45(a) of title 42, Code of Federal Regulations) of public lands as a source of State share of financial participation under title XIX of the Social Security Act, including the treatment of such funds as a source of State share of financial participation under such title notwithstanding the fact that the public agency contributing the funds provides services under the State plan under such title.".

(3) MORATORIUM ON CHANGES IN TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—Such section is further amended by adding at the end the following new subsection:

"(c) MORATORIUM ON CHANGES IN TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall not issue any regulation prior to April 1, 1992, regarding standards for qualification as a disproportionate share hospital or payment adjustments for such hospitals under title XIX of the Social Security Act.".

(b) FREEZE ON STATE DONATIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d) FREEZE ON STATE DONATIONS AND PROVIDER-SPECIFIC TAXES.—

"(1) DETERMINATIONS OF FEDERAL MATCHING PAYMENTS DURING MORATORIUM PERIOD.—

"(A) IN GENERAL.—For purposes of determining the amount to be paid to a State under section 1903(a)(1) of the Social Security Act for the period of January 1 through March 31, 1992, the total amount expended during such period as medical assistance under the State plan shall be reduced by the amount determined under subparagraph (B).

"(B) AMOUNTS SPECIFIED.—The amount determined under this subparagraph shall be such amount of revenues from provider-specific taxes and provider donations as exceeds the sum of—

"(i) the total amount of any revenues received by the State (and by any units of local government in the State) during such period from provider-specific taxes pursuant to State or local legislation as enacted or adopted on or before November 22, 1991; plus

"(ii) the total amount of any revenues received by the State (and by any units of local government in the State), from provider donations under donation programs in effect on September 30, 1991, that do not exceed 25 percent of such revenues received in Federal fiscal year 1991.

"(2) MORATORIUM ON STATE TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—For the period of January 1, 1992, through March 31, 1992, a State may not—

"(A) designate as a disproportionate share hospital any hospital that is not so designated pursuant to a State plan amendment that was submitted on or before September 30, 1991; or

"(B) change the formula or rates upon which Federal reimbursement is based for disproportionate share hospitals during such period.".

(c) RELATED PROVISIONS.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(e) RELATED PROVISIONS.—

"(1) MORATORIUM ON REVISIONS OF ESTIMATED AMOUNTS.—In estimating under section 1903(d)(1) of the Social Security Act the amount to which a State will be entitled for a quarter under subsections (a) and (b) of section 1903 of such Act for a quarter beginning on January 1, 1992, and ending on and including March 31, 1992, the Secretary may not withhold any amounts estimated to be expended during the quarter (or reduce any amount so estimated pursuant to section 1903(d)(2)(A) of such Act) solely because the amounts are attributable to provider donations, intergovernmental transfers, or provider-paid taxes.

"(2) PROHIBITION ON PENALTIES AND OTHER REGULATORY ACTIONS PERTAINING TO PERIOD OF MORATORIUM.—The Secretary may not assess a penalty or take any compliance, disallowance, or other regulatory action against a State under or pursuant to title XIX of the Social Security Act on the basis of the State's use of provider donations, intergovernmental transfers, or taxes (whether or not of general applicability) paid by, assessed against, or received from an individual or entity providing medical assistance under the State plan under such title to receive Federal matching funds under such title for quarters beginning on or after January 1, 1992, and ending on or before April 1, 1992.".

(d) DEFINITIONS.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (c), is further amended by adding at the following new subsection:

"(f) DEFINITIONS.—For purposes of this section—

"(1) 'donation' means any voluntary payment, in cash or in kind, including any gift, contribution, presentation, or award;

"(2) 'health care provider' means any individual or entity that furnishes health care items or services for which it receives remuneration;

"(3) 'provider' includes any—

"(A) health care provider;

"(B) corporation, partnership, association, or organization formed by or on behalf of health care providers;

"(C) person who has an ownership or control interest (as defined in section 1124(a)(3) of the Social Security Act) in a health care provider;

"(D) employee, spouse, parent, child, or sibling of an individual described in subparagraph (A) or (C); and

"(E) individual or entity that is a major customer or supplier of a health care provider;

"(4) 'provider donation' means a donation by or on behalf of a provider;

"(5) 'provider specific tax' means a tax assessed under State or local law whose applicability is limited to health care providers or health care services (a tax is limited to health care providers or health care services if no other entity, item, or activity is subject to the identical tax); and

"(6) 'tax' means any mandatory payment imposed by a State or unit of government subordinate to a State, including any assessment, fee, charge, or duty.".

(6) BUDGETARY TREATMENT.—

(1) NO SEQUESTRATION.—Notwithstanding any other provision of law, there shall be no sequestration under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 as a result of the provisions of (and amendments made by) this Act.

(2) NO ASSUMPTION WITH REGARD TO REGULATION.—The budget submitted pursuant to section 1105 of title 31, United States Code, shall be prepared in a manner that does not assume any effects (including potential effects) on Federal expenditures resulting from the issuance of any regulation that relates to—

(A) provider-specific taxes;

(B) provider donations;

(C) intergovernmental transfers; and

(D) standards for qualifying as a disproportionate hospital or payments for such hospitals under title XIX of the Social Security Act, and that is not a final regulation by the submission date of such budget.

Amend the title so as to read: "An Act to provide for a moratorium on the issuance of final regulations and on the use of donations and provider-specific taxes by States to receive Federal matching funds under medicaid."

Mr. GRASSLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, I think we face a very serious problem in the Medicaid Program. It is a problem which we can take a big step today toward solving. I hope we do solve this today, and solve it really once and for all.

Mr. President, not all of our colleagues have been as close to this problem as have members of the Committee on Finance. We have held in that committee two hearings on this subject, and we just had one earlier this week.

For the benefit of my colleagues, I would like to take a moment to outline what that problem is. As my colleagues know, the cost of the Medicaid Program is shared by Federal and State governments. The Federal Government contributes to the State, for use in its Medicaid Program, a percentage of the State government revenue the State chooses to allocate to the program. The amount that the Federal Government contributes varies with the per capita income of the State. In other words, under the current rules of the program, the poorer States get more from the Federal Government than the richer States.

The assumption is that the taxpayers in the richer States can afford to assume more of the costs of providing health care for the poor than can the taxpayers of the poorer States.

The problem that we are addressing today, Mr. President, is that a large number of States have devised creative ways and methods to draw down additional Federal matching money for their State Medicaid Program without even investing additional new State funds raised by broad-based taxes.

In fact, Mr. President, some of the States have found ways of getting more Federal money for their Medicaid Programs without investing any new money at all in the program. Some of these methods seem to me to be of questionable validity.

What can you say about any State that permits a foundation apparently created especially for the purpose to borrow from a financial institution, invest the borrowed money in the Medicaid Program, then use it to draw down the Federal match at not less than 50 cents on the dollar, and then repay the financial institution for the money already borrowed?

Let us call such arrangements what the inspector general of the Department of HHS called them, and that inspector general said they are a "scam." The general method used was pretty well described by Dr. Wilensky. She is the Administrator, as you know, of HCFA. This was made in testimony before the Committee on Finance earlier this week. I am following her description here very closely.

States borrow money from providers, and those providers usually are the hospitals from which the money is divided, through donation or tax programs. This money is then used as the States' share of Medicaid, and is matched by Federal money at least dollar for dollar.

In some States, as Dr. Wilensky describes this, the States reimburse providers for the donations or taxes that they have paid by increasing Medicaid payments to them. The States then use Federal matching funds to pay providers for Medicaid services.

Dr. Wilensky made it clear in her testimony that it is at least theoretically possible in these arrangements for the Federal Government to pay 100 percent of a State's Medicaid Program.

This is not just a problem of a few States. This started out as probably a very innocent proposition out there with a few States just a little over a year ago, I believe, maybe a little over a couple years ago. But there has been a tremendous growth in this practice. So we are not talking about a minor problem here.

These methods have spread very quickly among the States, and so has the money that the Federal Government has been spending as a consequence of these new approaches.

According to Dr. Wilensky's testimony, in 1986 only one State was using such methods. So I stand corrected in the sense that I said it was only a little short while ago. But let us say 5 years ago, only one State. By the middle of this year 38 States were using donations and tax programs.

In October 1990, the inspector general reported that $497 million in matching funds for donations and provider taxes were requested by nine States. In May 1991, 18 States will request $2.5 billion. By July 1991, 30 States had requested $3.8 billion in matching funds.

The Health Care Financing Administration is currently estimating that States will request at least $5.5 billion to match these donations and these tax programs in fiscal year 1992.

So, I hope what is a fact here, a fact that I just described, is readily seen as being no small matter. This is a tremendous consequence of this program. And the consequences are going to be greater if we do not solve this problem soon.

First, these arrangements are creating inequities among the States. States which do not engage in these methods like my own State of Iowa will not be getting their fair share of aggregate Federal contributions to the program.

My leading newspaper, the Des Moines Register, in an editorial entitled "Iowa's Honest, and Loses," said this:

> Thirty-seven States are cheating the Federal Treasury out of health-care money, aided and abetted by the U.S. Congress. Iowa is not one of the 37—and its honesty is costing its residents millions upon millions of dollars.

That is the end of the quote from the Des Moines Register.

So I want to stress the same point that the Register is making, Mr. President, because I know that we are going to hear lots of talk today about hurting poor moms, and babies, from the advocates of continuing these funding mechanisms, some of which have been described by the inspector general as a scam.

Nobody wants to hurt the poor, but in a very important sense that is not the issue here. The issue is because we have already decided to take care of people who qualify for Medicaid, who is going to pay for helping people who qualify? The issue is whether the States that engage in those funding arrangements are going to make the taxpayers of other States pay for things they do not want to ask their own taxpayers to pay for.

So why should the State of Iowa deal straightforwardly with its budget problems? We have laid off 1,200 State employees. We have absorbed 3½ percent across-the-board budget cuts, cutting deeply into other valuable State programs to try to solve our budget problems the very best way we know how without any help outside of our borders while other States are in the process of thinking up scams to take money from the Federal Treasury, kind of a ripoff fashion, and thus solve or at least reduce their own budget deficits.

Second, the nature of the Medicaid Program as a Federal-State cost-sharing program is being transformed. You cannot say it is being transformed by plan, because being a Federal program, that would have to be done here in the Congress of the United States. It is being done willy-nilly, without any systematic review or decision by this body or the other body. One of its basic principles—that is, one of the basic principles of the Medicaid Program which is now, I believe, 25 years old—is that the States will assume greater responsibility and care in the management of the program if they are paying for part of the cost. This basic premise is being subverted by the problem that we now face.

A related basic principle that the States, which have less ability to raise money because of their lower per capita income will receive greater Federal match money and vice versa, is also being destroyed, Mr. President.

There is obviously no necessary relationship between the wealth of a State and what it can get from the Federal taxpayers through the schemes that have been described here and that are well known. And particularly if these continue, it will exacerbate the problem. Although I have seen no evidence on this point, it could happen that the richer States could end up with more Federal money than poorer States if such schemes are allowed to continue.

Third, as is evident from the Federal spending increases I have just cited from Dr. Wilensky's testimony, these financing arrangements are, in effect, an open spigot in the Federal Treasury.

There is virtually no limit to the amount of money that the Federal Government may end up pouring into these programs.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. FOWLER. Mr. President, I rise today on behalf of the more than 800,000 citizens in the State of Georgia whose access to quality health care is dependent upon the continued financial stability of the Medicaid Program.

I speak today on behalf of my friend Zell Miller, the Governor of my home State of Georgia. Like many Governors across the Nation, Governor Miller fears that the proposed changes to Medicaid funding rules contained in the Durenberger amendment represent another lethal blow to state budgets that are already suffering from economic decline, rising health care costs, increasing federal mandates, and a lack of domestic concern by this administration.

Mr. President, I have been working on this issue for many months. I introduced legislation back in April myself to cap voluntary donations at 10 percent. I wrote to Gail Wilensky, Administrator of the Health Care Financing Administration, and Richard Darman, Director of the Office of Management and Budget, last July, and again this fall, expressing concern over the proposed rule changes and their potentially disastrous effect on disproportionate share hospitals.

Like a number of my colleagues on both sides of the aisle, I sought a sound, fair and well-considered restructuring of the system.

Today, as the Congress prepares to recess, the administration now comes hastily forth with what can only be described as a complete restructuring of the financing of the Medicaid Program.

Even at this late hour, this is a critical issue that deserves our attention, but the first question we must ask is: "What is the proposal?" If ever there was a moving target, this proposal is it.

My distinguished colleague from Minnesota now offers an amendment that is billed as a compromise between the National Governor's Association and the Office of Management and Budget. The Governor of my State and his Medicaid advisors barely know what is contained in the agreement. Certainly, they have not agreed to it. Senators did not have the benefit of seeing even a draft of this language until Saturday, and I understand it was being rewritten right up to the time of introduction. How can we even consider endorsing a proposal which acts more like a chameleon than it does a settlement agreement?

There are many questions about this so-called compromise, but perhaps the main point to be made today is that there is not time for the deliberative debate that needs to occur between the administration and the Congress and all the parties affected by this proposal. This is why I have said repeatedly that a moratorium on the October 31 regulations is needed, and why I have urged Senate passage of H.R. 3595, as passed by the House.

Many States, including Georgia, will be harmed if HCFA's regulations or the Durenberger amendment are enacted without major revision. Both move from State legislatures the authority to make their own taxing decisions, and both impose on the States constraints which are not in the interest of the States or the Medicaid recipients they cover. Despite the administration's statements that it supports federalism, the amendment centralizes more authority in HCFA.

The amendment omits the assurance contained in the original agreement that would permit States to commit tax revenues to reimburse Medicaid providers who paid the tax. In addition, it give HCFA broad discretion to disallow Federal matching if any such guarantee is made by a State to the providers being taxed. This omission leaves the States at HCFA's mercy and cannot be a simple oversight.

The original NGA agreement also contained provisions protecting the longstanding right of the States to use funds transferred to the Medicaid Program from other State agencies, counties, special purpose districts or other governmental entities, but the amendment contains so much provisions. Again, State Medicaid programs are left unprotected.

Mr. President, in 1990, the people of Georgia approved a constitutional amendment to initiate a program of provider donated funds. These funds are appropriated by the Georgia General Assembly and have been disbursed pursuant to Medicare State plan amendments approved by HCFA. The State of Georgia has used these funds to pay the perinatal case management, post partum care, family planning, physician payments for obstetrical care, and payments to the 70 disproportionate share hospitals, which serve the vast majority of our low-income residents. Two-thirds of these hospitals are rural, and without these payments, which HCFA proposes to artificially cap, many of these rural hospitals would close.

I am proud of the fact that Georgia was the first State to make disproportionate share hospital payments. I am proud of the fact that Georgia and its entire congressional delegation worked to eliminate HCFA's upper limit payment cap to these hospitals. And I want to express my grave concern today about the proposed caps on such payments included in this amendment. I also take pride in having our entire congressional delegation standing together again in opposition to this latest effort to hamper the States and do harm to Medicaid.

The American people deserve a full public debate on the need for health care reform. We cannot begin that debate by rushing through a proposal that pulls the rug out from under Medicaid and leaves us no foundation on which to build a better health delivery system.

Mr. President, let me make one final point. There are those that would have us believe the increase in Federal Medicaid expenditures is attributable to State financing scams. I resent the suggestion that Georgia's program—which was approved overwhelmingly by Georgia voters as an amendment to our State Constitution—is a scam. And I resent the notion that Georgia's Governor and legislature should come to HCFA hat in hand, to have HCFA tell Georgia how it should finance its Medicaid Program.

But what I resent most is the administration's ignorance as to what has really caused increased Medicaid expenditures, namely, the growth in recipients. In Georgia alone, the number of covered recipients is 23 percent higher this year than last. And this has nothing to do with our donated funds program. It has to do with an economy that is in recession, people who have no health care coverage, and mandates which have been placed on the States by HCFA and Congress.

Mr. President, Medicaid is a program that was developed to assist people who cannot afford health care coverage on their own. It does not take a rocket scientist to figure out that this administration has played a major role in driving up State Medicaid costs by abandoning its traditional partnership with the States, by failing to propose an economic policy that keeps Americans on the job and by ignoring the need for comprehensive health care reform.

Under this administration, real GNP growth is lower than at any point since Mr. Hoover occupied the White House, employment and income growth are at their lowest levels since World War II and the official poverty rate is the highest it has been since 1967—with the exception of 5 years during the previous administration. At the same time, health care spending is at the highest level of GNP ever recorded—an estimated $756 billion for this year alone. Surely President Bush, or whoever is in charge of domestic policy at the White House, understands the linkage between our current economic decline and the increase in the number of Americans who simply cannot afford health care.

If there are more poor people in America, there are more people who have no other choice than to rely on Medicaid to provide the health care services that they need and deserve.

Instead of chastising the States and their Medicaid programs, we should be commending them for addressing the immediate needs of the medically indigent in the best way they can. We do the States and the millions covered by Medicaid an injustice by even considering a proposal such as the one that is now before us.

As a member of both the Budget and Appropriations Committees, I understand the serious budget and fiscal implications of the existing Medicaid match system and the type of radical proposal on the table today. With so much at stake here, in terms of dollars and lives, I think we owe it to the American people to get the facts before we act. I ask my colleagues to oppose this amendment and to support a 9-month moratorium on HCFA rulemaking.

Thank you, Mr. President, and I ask unanimous consent that a copy of Gov. Zell Miller's letter to me outlining his opposition to the settlement proposal be printed in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF GEORGIA,
OFFICE OF THE GOVERNOR,
Atlanta, GA, November 22, 1991.

Hon. WYCHE FOWLER, Jr.,
Russell Senate Office Building,
Washington, DC.

DEAR WYCHE: I urge you to support an extended moratorium on the issues of Medicaid provider taxes, voluntary donations, and payments to disproportionate share hospitals and to oppose the plan recommended by the National Governors' Association.

I oppose the NGA plan for the following reasons:

1. It runs counter to basic principles of federalism by allowing, for the first time, the administration to tell states how they can raise their state match funds for Medicaid. It allows HCFA to micromanage state revenue programs, letting HCFA tell states what kinds and amounts of taxes they can and cannot impose.

2. In the past, Congress has specifically allowed the voluntary contribution and provider-specific tax programs that the administration and the NGA plan now would eliminate. Now, in the middle of a recession and at a time when the Pennsylvania election has shown that health care is a matter of great public concern, is not the time for the administration to change the rules of the game and force states to raise taxes, cut back on health care, and/or cut payments to marginally profitable hospitals and push them toward insolvency. After two straight sessions of budget cuts, Georgia cannot stand to have another $250 million in Medicaid money taken away at this time.

3. It puts an upper limit on payments that the state can make to hospitals that carry a heavy burden of indigent care. There has been no such limit up till now. The state should be able to reimburse hospitals for the costs of indigent care based upon how much they provide, not based upon an artificial upper limit. To do otherwise would fly in the face of congressional intent, which was to recognize the special needs of hospitals which perform this type of public service care.

I appreciate your vigorous efforts on behalf of Georgia in this area and want to assure you that we are all extremely grateful for your help.

With kindest personal regards, I remain
Sincerely,

ZELL MILLER.

Mr. GRASSLEY. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Oregon [Mr. HATFIELD].

AN EPIDEMIC OF HISTORICAL AMNESIA

Mr. HATFIELD. Mr. President, with those of us who are conferees in between our conference sessions, and with the pending business now being discussed and negotiated, I rise at this time to fill a void of the Senate procedure merely to call my colleagues' attention to what I view as an epidemic that now sweeps our Nation.

In this kind of epidemic, Mr. President, its victims include our children and our grandchildren, and its insidious impact affects our national well-being. This is not an epidemic affecting the body, like AIDS, or smallpox or cholera. It is, instead, an epidemic affecting the mind and the American spirit. I see it is an epidemic that erodes the way in which we view ourselves, our society, and our great Nation.

We are living now amid an epidemic of historical amnesia. It is an epidemic that has left generations of our citizens, young and old alike, with little real understanding of American history, with little reality based perspective on who we, as a nation, are and how America came to be what it is today. Worse yet, what little history we, as a society, claim to know is too often skewed by the storybook characterizations of the people and events that have shaped the American experience. What do our children and grandchildren really know of George Washington, beyond the unlikely notion that he never told a lie?

The sad fact is that, as we prepare to mark the 500th anniversary of the arrival of the Columbus expedition to this continent, we are confronted with the distressing findings of a recent survey of 17-year-old students that showed one-third—one-third of our students—thought Columbus reached the New World after 1750. Two-thirds could not correctly place the Civil War between 1850 and 1900. While 9 out of 10 knew George Washington was our first President, 4 out of 5 had no idea when Abraham Lincoln was President. Only 3 in 10 had even heard of the Magna Carta, and only 4 in 10 knew of Dred Scott.

A survey conducted here in Washington in 1989 by the Center for Science in the Public Interest asked 180 schoolchildren, ages 8 to 12, to name all the American Presidents they could. It also asked them to name all the alcoholic beverages they could. These kids could name an average of 5.2 alcoholic beverages, but just 4.8 Presidents of the United States. There was a 10-year-old girl who could rattle off 14 brands of beer and booze, but could name only four Presidents. There was a 7-year-old boy who knew 10 brands of beer and wine, but could list only "Aprilham Linchon" and "Ragon" as Presidents. Sobering statistics, indeed.

I raise this issue today as a plea to my colleagues in the political community, as we are, for their help in eradicating this epidemic of historical amnesia, and to encourage them not to exacerbate it. In our personal and professional lives as lawmakers, as public officials, as candidates, we find ourselves every day on the frontlines of current events. Let us here, today, commit ourselves to making history, not making up history.

As we immerse ourselves in the rhetoric of the upcoming election year, let us forsake the lure of tailoring the scared fabric of our Nation's history to suit our own partisan ambitions and goals. Let us make an effort to understand—and help our constituents to understand—the delicate weave of social, economic and political threads that comprise that fabric. Let us agree not to unravel and reweave those threads into superficial, political prattle that neither serves nor does justice to our country and our people and certainly does little to help restore public respect for the Senate, the Congress and the Presidency. And I speak of politics at all levels.

The myths are many. I fear we know them all too well: Democrats are the champions of the poor, while Republicans are the handmaidens of the bloated plutocrat. Democrats start the big wars, while Republicans handle dollars with sense, are but a few examples of the myths that I speak of.

And now, as we enter an election year in the midst of an uncertain economy, the myth-makers are busy exhuming and breathing new rhetorical life into the myths of the Great Depression. Critics of the President and his administration's handling of our economy scurry to resuscitate the myth-shrouded spectre of Herbert Hoover, the whipping boy of the Democrats ever since the first regrettable forays into dirty tricks campaigning in the late 1920's.

You remember Herbert Hoover: that short-sighted, cold-blooded, introvert. That do-nothing, one-term failure of a President who, according to a recent issue of U.S. News & World Reports, "passively presided over the start of the Great Depression in the 1930's." You remember Hoover: That unfeeling, uncaring millionaire who fed and helped rebuild Europe after World War I, but who, as President, sat back and let his own people go hungry and jobless. You remember Hoover: who promised—and be sure you put quotes around these statements—"a chicken in every pot:" and assured a devastated American public that "prosperity is just around the corner."

Such are the Depression myths that surround Herbert Hoover. Of course, none of them, not even the oft-quoted quotes, survives even casual scrutiny of the historical record. What history shows is a President whose diversity of interests and activities ranks with that of Thomas Jefferson. As a publisher of over 30 volumes of great works, and whose analytical and intellectual depths are perhaps unmatched by any President over the last two centuries of American history.

The Depression myths that surround this man hold him, alone, accountable for a global economic cataclysm that brought the world to its knees, all within just 7 months of his inauguration. History, however, takes a longer view. While the myths trace the Depression's origins to Wall Street and Black Thursday, history pre-dates its origins by 15 years to the killing fields of Belgium, where the first and last casualty of World War I was a fragile European economy.

The myth-makers would have us believe that callous indifference and political paralysis promoted Hoover to fiddle while the Nation was consumed by an economic firestorm. History, however, recalls Herbert Hoover as the first American President to use his political influence and the power of the Presidency to construct an interventionist fireline to confront an economic tailspin. His Reconstruction Finance Corporation kept the flames from licking at the banks, the insurance companies, the railroads, and other institutions that comprised the economic backbone of the ailing American economy. When farm prices plunged in the 1930's, this do-nothing President ordered the Federal Farm Board to create the Grain Stabilization Corporation which stemmed the tide of panic in farm prices. Rather than mythical indifference to the needs of the unemployed and homeless, Hoover worked tirelessly with industry and with State and local governments to both preserve and create public and private-sector jobs—jobs that would both preserve and create a sense of dignity and self-worth that a Federal dole could not. At the same time the National Council of Social Workers was condemning proposals to create a Federal welfare bureaucracy, Hoover was anonymously donating $10,000 a year to the San Francisco Board of Welfare and quietly raising hundreds of thousands more to provide relief to the families of unemployed miners.

The myth-makers paint a portrait of Hoover as a Machiavellian millionaire, more concerned with protecting the empires of rich New York bank owners than feeding the families of out-of-work banktellers. History recalls a President who, in the midst of the Depression, sacrificed considerable political capital by raising the maximum income tax on the wealthiest Americans from 24 to 55 percent.

The myth-makers would have us believe that today's economic backdrop is a precursor of a deja vu replay of 1929. History recalls America in 1929 as the last economic domino to drop, not one that, like today, teeters as the economies of Germany, Japan, Italy, and Great Britain stand firm.

Collectively, these Depression myths depict Herbert Hoover as a pariah. They invite derisive comparisons to contemporary political figures deemed deserving of ridicule, contempt, and scorn. Yet, history remembers the unsolicited wave of respect and admiration afforded Herbert Hoover even by those who were, if myth is to be perceived as fact, his sworn political adversaries.

Within hours of being sworn into office on that dark day in Dallas, President Lyndon Johnson phoned Herbert Hoover to seek his guidance in handling the difficult days ahead.

President John F. Kennedy—smitten by what First Lady Jacqueline Kennedy described as "a slight case of hero worship"—invited Herbert Hoover in March 1961 to head the advisory committee of an innovative new program called the Peace Corps.

When George McGovern was named director of Food for Peace, he, too, sought Herbert Hoover's advice.

When Robert Kennedy's namesake son was born, Ethel Kennedy wrote Herbert Hoover. Should her new son be named Robert Francis Benjamin Franklin Herbert Hoover Kennedy?, she asked, adding in a postscript "Do you think Bobby can get some of you by osmosis?"

No-nonsense Harry Truman, in helping to dedicate Hoover's Presidential Library, described Herbert Hoover as "one of my closest friends." And, as you recall, he invited him to head up the Reorganization Commission of the Federal Government known as the Hoover Commission.

Hoover, he then said, was "one of America's greatest men," adding that "I speak advisedly, because I know most of them, and he's one of them."

Even Hoover's nemesis, Franklin Delano Roosevelt, once saw greatness in this man. In a letter written in January 1920 to the U.S. Ambassador to Poland, a young FDR, then Assistant Secretary of the Navy, had this to say about Herbert Hoover:

> He is certainly a wonder, and I wish we could make him President of the United States. There could not be a better one.

Mr. President, I come not to praise Hoover, but to bury the myths that surround him, as but an example of historic amnesia. And I ask my colleagues in Congress to repudiate these and other myths disguised as historical facts in ways that shortchange and cheapen our collective understanding of America's rich history and undermine the legacies of the men and women who have distinguished themselves in service to America.

We cannot allow America's history to become a casualty of partisan political bickering. And we cannot condone through our silence the actions and words of colleagues who play fast and loose with our history. As Herbert Hoover once asked:

> Are we upholding the front of human decency when we permit untruth and dishonesty in government officials to go unchallenged, whether in our home town, our home state, or in Washington?

I, like Mr. Hoover, think not.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2057 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair regrets to interrupt the Senator. The hour of 12:30 has arrived, and the Senate is under a previous order.

Mr. ROTH. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank the Presiding Officer.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Cal. 391, Carolynn Reid-Wallace, to be Assistant Secretary for Postsecondary Education, Department of Labor.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the nomination was confirmed, as follows:

DEPARTMENT OF EDUCATION

Carolynn Reid-Wallace, of the District of Columbia, to be Assistant Secretary for Postsecondary Education. Department of Education.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

Is there a further request with respect to the standing order of the Senate?

EXTENSION OF MORNING BUSINESS

Mr. GRAHAM. Mr. President, I ask unanimous consent that morning business be extended until the hour of 12:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. GRAHAM. Mr. President, earlier today I heard comments regarding the proposition which is before the Senate, a proposition to either impose a moratorium on certain HCFA regulations on provider taxes and donations or to enact an NGA/administration compromise, the Durenberger amendment. The effect of implementing regulations without congressional action would be to restrict the ability of State to use innovative measures to raise some of the funds with which they match Federal Medicaid reimbursements.

Mr. President, in the past, I have heard statements that have disparaged State provider tax programs and, I believe, have done so indiscriminately and unfairly. Therefore, it is my purpose today to explain to the Senate the history, the rationale, and the performance of the provider tax program in the State of Florida.

We are considering a very serious issue, Mr. President, because, as I will indicate later, the consequences of adopting a policy that eliminates the State's ability to utilize these innovative forms of financing would be to deny health services to some of the most vulnerable members of our society.

I wish to explain the Florida provider tax program. In 1984, our State passed legislation creating the Public Medical Assistance Trust Fund [PMATF]. The fund was intended to provide Medicaid and other services for the medically indigent. The PMATF is funded through a 1.5-percent assessment on the net operating revenues of all acute care hospitals and through State general revenues. The program was implemented in 1985.

Some points about the program. Florida's tax is broad based. It applies to all acute care hospitals without any hold harmless or guaranteed reimbursements for participants.

The tax was a compromise agreed to by the State legislature, the hospital and insurance industry, and the business community—a unique demonstration of how all segments of the community can come together to achieve a common goal, a demonstration which I suggest is going to be necessary as we move to other areas of health care reform.

The State's assessment was created for several reasons: One was to level the playing field, the circumstance in our State as it had been prior to adoption of this program and which continues today, that relatively few hospitals, typically the urban public hospitals, are providing a disproportionate share of the State's indigent care.

Second, to allow the State Medicaid Program to improve and expand its available services.

Third, to respond to a directive of the Reagan administration, which asked the States to utilize innovative mechanisms for its State Medicaid match.

And, fourth, to finance optional indigent medical care beyond those mandated or financed through Medicaid and some mandated Medicaid Programs.

Mr. President, Florida's hospital assessment is based on all public and private acute care hospital revenues, is required regardless of whether the hospital participates in Medicaid and regardless of the extent of Medicaid participation, and it is not included as an allowable cost in the Medicaid cost report.

This year, Florida's tax will generate an estimated $174 million in revenues, which will be used in part for the State match for Medicaid. Last year, Florida spent most of the $147 million in revenues from the assessment on keeping up with just the few Federal mandates which had been imposed by Congress. Thirty million dollars in revenues from the tax are used for non-Medicaid indigent care purposes. About $20 million in the fund is generated from sources other than the hospital provider tax.

In response to the argument that all provider taxes maximize the Federal matching rate and, therefore, cause an undue burden on Federal revenues, in fiscal year 1985–86, the first year of the Florida program, Florida's provider tax represented 16.44 percent of the State Medicaid match. By fiscal year 1990–91, the tax was 9.9 percent of the State Medicaid match.

So, Mr. President, in the case of Florida, the charge cannot be made that this has been used as a means of expanding the State's drawdown of Federal funds because, in fact, the proportion of our Medicaid reimbursement represented by the hospital provider tax has been a declining percentage.

Mr. President, indeed, the administration has said repeatedly that Florida is the model provider tax program. According to a November 25 letter from Dr. Gail Wilensky, HCFA Administrator, Florida's tax is "exactly the type of tax that we believe would meet the spirit of this compromise legislation."

A July 15, 1991, Washington Post editorial characterized Florida in the following manner: "Some of these tax and contribution schemes are legitimate. Florida, for example, since 1984 has levied a modest tax on the net operating revenues of all its acute care hospitals. The effect is to spread the cost across the State and population through insurance. The proceeds help pay Medicaid's cost."

Mr. President, I have maintained for several years that Florida's program is a valid means for leveling the playing field, causing all our acute care hospitals to make some contribution toward indigent care and redistributing the burden providing that care.

That is why I introduced legislation in 1989 to protect provider taxes and donations. We are considering the implementation of that provision of OBRA 1990 today. It is my hope that ongoing negotiations result in an acceptable compromise and a compromise that this Senate, this Congress, can approve before we recess.

During these difficult economic times, the curtailment or elimination of the State's ability to use provider taxes would be devastating. In my State, as an example, if we were denied the right to use this means of financing a portion, last year less than 10 percent, of our Medicaid match, it would have some of the following effects:

In Florida the fund finances several important mandatory and optional Medicaid programs; the Medicaid coverage of pregnant women and infants up to 150 percent of poverty, for example, the congressionally mandated qualified Medicare beneficiary program under which States are required, through Medicaid funds, to pay the out-of-pocket costs for the elderly indigent's participation in Medicare. In Florida we go beyond that by supplementing those who are eligible for the qualified Medicare beneficiary programs with full Medicaid coverage. Last, Florida's provider tax helps fund an optional medical needy program for non-Medicaid-eligible persons with catastrophic expenses. All of those programs, Mr. President, would be in jeopardy if we did not act before this Congress recesses on protecting provider taxes.

Thank you, Mr. President.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. LIEBERMAN. Mr. President, today the Senate will be taking action on H.R. 3595, the moratorium on the HCFA regulations under Medicaid. I want to indicate to the Senate that this bill, as reported out of committee, would have done a grave injustice to the State of Connecticut because it contained a provision freezing classification and reimbursement rates for a disproportionate share of hospitals that was in effect as of September 30 of this year, 1991. That provision would have been manifestly unfair because States were given no notice that the rules of the game were going to change on September 30. In fact, they were given no warning that if they wanted to make changes related to this disproportionate share hospital provision, they had better get them approved by HCFA by September 30.

Mr. President, the language here is arcane but the effect on Connecticut is much more than merely technical. In fact, if these provisions were allowed to stand, it would have a devastating effect on my already recession-wracked State. It would deprive Connecticut of the possibility of $236 million in savings under two State planned amendments which have been filed but were filed after September 30. The State had no reason to believe that it needed to have these amendments approved prior to that date.

Mr. President, I understand the significance of the moratorium on the HCFA regulations and I have no problem with it, but I could not have supported legislation which so seriously and retroactively punished my State. Connecticut has been very hard hit by the current recession. Unemployment continues to rise, businesses are closing, and the State government itself has had to make extremely severe budget cuts while raising taxes at the same time. If Congress now came along and told the State that the planned amendments which it had submitted in compliance with the HCFA regulations after September 30, 1991, are not eligible for this possible $236 million of reimbursement because of purely arbitrary retroactive cutoff dates, it would have a truly devastating effect on Connecticut.

Mr. President, that is the bad news. I am pleased to say that the good news is that, once learning of the effect of this provision in this bill and speaking to the chairman of the Finance Committee, to the Senator from Minnesota [Mr. DURENBERGER], and to our friends in HCFA and OMB, I am very pleased and grateful to be able to say that I gather that language will be submitted as part of an amendment to this bill, H.R. 3595, that will protect the State of Connecticut from this arbitrary cutoff and an opportunity to bring some relief to our recession-wracked, overtaxed, and budget-pressured State of Connecticut.

I want to extend my heartfelt thanks to the people who have been so responsive to us: The Senator from Texas, Mr. BENTSEN; the Senator from Minnesota, Mr. DURENBERGER; Dr. Gail Wilensky, the Administrator of HCFA; Tom Scully of OMB; and particularly three Senate staff people; Alexander Polinsky, of Senator DURENBERGER'S office; and Marina Weiss and Janis Guerney of Senator BENTSEN'S office. Let me just say, in a very real and direct and tangible way, all of the people of Connecticut are grateful for this understanding and this response.

I thank the Chair and I yield the floor.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

The Chair would remind the Senator from Georgia that the time extended for morning business has expired.

Mr. FOWLER. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. FOWLER. Mr. President, I rise today on behalf of the more than 800,000 citizens in the State of Georgia whose access to quality health care is dependent upon the continued financial stability of the Medicaid Program.

I also speak today on behalf of my friend Zell Miller, the Governor of my home State of Georgia. Like many Governors across the Nation, Governor Miller fears that the proposed changes to Medicaid funding rules contained in the Durenberger amendment represent another lethal blow to State budgets that are already suffering from economic decline, rising health care costs, increasing Federal mandates, and a lack of domestic concern by this administration.

Mr. President, along with many others, I have been working on this issue for many months. Back in April, I introduced legislation to cap voluntary donations at 10 percent. I wrote to Gail Wilensky, Administrator of the Health Care Financing Administration, and Richard Darman, Director of the Office of Management and Budget, last July, and again this fall, expressing concern over the proposed rule changes and their potentially disastrous effect on disproportionate share hospitals.

Like a number of my colleagues on both sides of the aisle, I sought a sound, fair, and well-considered restructuring of the system.

Today, as the Congress prepares to recess, the administration now comes hastily forth with what can only be described as a complete restructuring of the financing of the Medicaid Program.

Even at this late hour, this is a critical issue that deserves our attention, but the first question we must ask is: What is the proposal? If ever there was a moving target, this proposal is it.

My distinguished colleague from Minnesota, I understand, will offer an amendment that is billed as a compromise between the National Governor's Association and the Office of Management and Budget. The Governor of my State and his Medicaid advisers barely know what is contained in the agreement. Certainly, they have not agreed to it. Senators did not have the benefit of seeing even a draft of this language until late on Saturday, and I understand now it was being rewritten right up to this time as I speak. How can we even consider endorsing a proposal which acts more like a brush fire than it does a settlement agreement?

It is my understanding that administration officials worked with Senators from many States last night in an attempt to address their concerns over this so-called OMB-National Governors Association agreement. Mr. President, despite my well-known interest in this matter, no one from the administration attempted to include me or my staff in these last minute negotiations. As a result, the agreement continues to present a significant threat to our State budget and, as I mentioned, more importantly, to the thousands of Georgians who rely on the Medicaid Program for their health and well-being.

There are many questions about this so-called compromise, but perhaps the main point to be made today is that there is not time for the deliberative debate that needs to occur between the administration and the Congress and all the parties affected by this proposal. That is why I have said repeatedly that a moratorium on the October 31 regulations is needed, and why I have urged Senate passage of H.R. 3595, as passed by the House of Representatives.

Many States, not just Georgia, will be harmed if HCFA's regulations or the Durenberger amendment are enacted without major revision. Both remove from State legislatures the authority to make their own taxing decisions, and both impose on the States constraints which are not in the interest of the States or the Medicaid recipients they cover. Despite the administration's statements that it supports federalism, the amendment centralize more authority in HCFA.

The amendment omits the assurance contained in the original agreement that would permit States to commit tax revenues to reimburse Medicaid providers who paid the tax. In addition, it gives HCFA broad discretion to disallow Federal matching if any such guarantee is made by a State to the providers being taxed. This omission leaves the states at the Health Care Financing Administration's mercy and cannot be a simple oversight.

The original National Governors' Association agreement also contained provisions protecting the longstanding right of the States to use funds transferred to the Medicaid Program from other State agencies, counties, special purpose districts or other governmental entities, but the amendment contains no such provisions. Again, State Medicaid programs are left unprotected.

Mr. President, in 1990, the people of Georgia approved a constitutional amendment to initiate a program of provider donated funds. These funds are appropriated by the Georgia General Assembly and have been disbursed pursuant to Medicare State plan amendments approved by HCFA. The State of Georgia has used these funds to pay the perinatal case management, postpartum care, family planning, physician payments for obstetrical care, and payments to the 70 disproportionate share hospitals, which serve the vast majority of our low-income residents. Two-thirds of these hospitals are rural, and without these payments which HCFA proposes to artifically cap, many of these rural hospitals would close.

I am proud of the fact that Georgia was the first State to make disproportionate share hospital payments. I am proud of the fact that Georgia and its entire congressional delegation worked to eliminate HCFA's upper limit payment cap to these hospitals. And I want to express my grave concern today about the proposed caps on such payments included in the proposed Durenberger amendment. I also take pride in having our entire congressional delegation standing together again in opposition to this latest effort to hamper the States and do harm to Medicaid.

The American people deserve a full public debate on the need for health care reform. We cannot begin that debate by rushing through a proposal that pulls the rug out from under Medicaid and leaves us no foundation on which to build a better health delivery system.

Mr. President, if I may make one final point. There are those who would have us believe that the increase in Federal Medicaid expenditures is attributable to State financing scams of some sort. I deeply resent the suggestion that Georgia's program—which was approved overwhelmingly by Georgia voters as an amendment to our State constitution—in any way falls into that category. And I resent the notion that Georgia's Governor and legislature should come to HCFA hat in hand, to have HCFA tell Georgia how it should finance its Medicaid Program.

But what I resent most is the administration's ignorance as to what has really caused increased Medicaid expenditures, namely, the growth in recipients. In Georgia alone, the number of covered recipients is 23 percent higher this year than last. And this has nothing to do with our donated funds program. It has to do with an economy that is in recession, people who have no health care coverage, and mandates which have been placed on the States by HCFA and the Congress.

Mr. President, Medicaid is a program that was developed to assist people who cannot afford health care coverage on their own. It does not take any kind of scientist, rocket or molecular, to figure out that this administration has played a major role in driving up State Medicaid costs by abandoning its traditional partnership with the States, by failing to propose an economic policy that keeps Americans on the job and by ignoring the need for comprehensive health care reform.

Under this administration, real GNP growth is lower than at any point since Mr. Hoover occupied the White House, employment and income growth are at their lowest levels since World War II and the official poverty rate is the highest it has been since 1967—with the exception of 5 years during the previous administration. At the same time, health care spending is at the highest level of gross national product ever recorded—an estimated $756 billion for this year alone. Surely President Bush, or whoever is in charge of domestic policy at the White House, understands the linkage between our current economic decline and the increase in the number of Americans who simply cannot afford health care.

If there are more poor people in America, there are more people who have no other choice than to rely on Medicaid to provide the health care services that they need and deserve.

Instead of chastising the States and their Medicaid Programs, we should be commending them for addressing the immediate needs of the medically indigent in the best way they can. We do the States and the millions covered by Medicaid an injustice by even considering a proposal such as the one that is now before us.

As a member of both the Budget and Appropriations Committees, I understand the serious budget and fiscal implications of the existing Medicaid match system and the type of radical proposal on the table today. With so much at stake here, in terms of dollars and lives, I think we owe it to the American people to get the facts before we act. I ask my colleagues to oppose this amendment and to support a nine month moratorium on HCFA rulemaking.

The **PRESIDING OFFICER.** The Senator from West Virginia is recognized. The Chair reminds the Senator that time has expired in morning business.

Mr. **ROCKEFELLER.** The Senator from West Virginia asks unanimous consent to speak for no more than 15 minutes.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

MEDICAID MORATORIUM

Mr. **ROCKEFELLER.** Mr. President, last year during negotiations of the Omnibus Reconciliation Act of 1991—in which I participated as a conferee—Congress agreed to, and the President signed a law that allowed States to assess taxes on hospitals, nursing homes, and certain intermediate care facilities to fund the State's share of Medicaid. Congress also extended a moratorium on the issuance of regulations that would prohibit the use of voluntary donations to fund a State's share of Medicaid.

On September 12 of this year, the Health Care Financing Administration [HCFA] issued final regulations implementing that legislation that went far beyond congressional intent, and a plain reading of the law. The regulations were ambiguous and confusing.

The Children's Defense Fund testified last Tuesday before the Finance Committee that since Medicaid's inception 25 years ago, it is hard to remember a more extraordinary rule, and that it "represented the complete undoing * * * of health service delivery arrangements that constitute the health care lifeline for millions of poor and medically underserved women and children * * *"

On October 31 of this year, HCFA issued regulations to clarify what was meant by their September 12 regulations. But the clarifying regulations only served to further muddy the waters. And, if that wasn't enough, HCFA added new regulations on disproportionate share payments.

Since HCFA's issuance of clarifying regulations, intense negotiations have been underway between the National Governors' Association and the administration to work out an agreement on: Medicaid voluntary donations, provider taxes, and disproportionate share payments.

My State has major concerns about this agreement—as do others. While I certainly am—in fact, have long been—a proponent and a major advocate of interested parties sitting down together to negotiate what is ultimately in everyone's best interests, I have deep concerns that the Congress is being asked to legislate on an agreement that was reached so late last week, and with so little time left in the legislative year. In fact, the Finance Committee had so little time to carefully review and consider this agreement at last Friday's finance markup, that we reported out the NGA/administration agreement without recommendations by voice vote. I voted no.

Speaking as the junior Senator from West Virginia, I would like to State, for the record, how West Virginia has dealt with a chronic funding shortfall in its Medicaid Program. In 1989, West Virginia ended its fiscal year owing its providers about $61 million and its Medicaid payments lagging about 2 to 4 months behind. In fiscal year 1990, West Virginia's Medicaid shortfall was about $43 million and, in fiscal year 1991 it was $37 million; with payments for services still significantly delayed.

West Virginia's Medicaid Program is now fiscally sound and claims are now paid on time. Even though West Virginia has complied with, and in some cases, exceeded Federal mandates to improve coverage for pregnant women, infants, and children.

In addition, to stem the growing tide of doctors who refused to provide prenatal care to pregnant women or see pediatric patients enrolled in Medicaid, West Virginia increased its reimbursement rates for selected services. Payments for obstetrical services were increased from $600 to $1,100. Reimbursement for pediatric offices visits were increased from $10 a visit to $21 to $50 per visits depending on what service visits were increased was in 1981, when the payments went up from $7 to $10.

How did West Virginia manage to turn around their Medicaid Program? They did it the hard way. They did it by raising taxes and setting priorities. They did not do it through what the administration calls scams or schemes.

West Virginia ranks 46th in family poverty. So it may not come as a surprise, to some of you, that over 40 percent of all babies born in West Virginia are covered by the Medicaid Program. But without West Virginia's commitment to expand and improve its Medicaid Program—beginning first with pregnant women and children—many, many of those babies would have been born uninsured. Also greatly increasing the likelihood that their mothers would have gone without prenatal care. West Virginia has saved the Federal Government a bundle by getting cost-effective prenatal care to them, rather than having to eventually pay for neonatal intensive care unit services for their children.

Last month, the West Virginia State Legislature enacted legislation to improve reimbursement rates from current Medicaid levels that are 23 percent of private insurance rates, on average, to 77 percent of private insurance rates. Until Medicaid reimbursement rates are adequate, Medicaid beneficiaries will not have access to mainstream medical care.

Medicaid beneficiaries whose States have adequate reimbursement rates receive their care in doctors' offices, while those in low fee States get care in costlier settings, such as emergency rooms or hospital outpatient departments. Again, West Virginia is working to improve the health of its citizens and encourage more cost-effective care in the long run.

West Virginia's provider tax program was developed after a careful reading of the legislative language in OBRA 1990. West Virginia's legislation is consistent with congressional intent. In fact, their provider tax program could be implemented under the regulations issued by HCFA, because it deals only with doctors, dentists, nurse practitioners, and other noninstitutional providers. As published, HCFA's regulations only apply to hospitals, nursing homes, and intermediate care facilities for the mentally retarded.

The NGA/administration agreement could seriously harm West Virginia's plan to improve access to health care for the over 145,000 children in West Virginia who rely on Medicaid. The NGA/administration agreement could seriously impair West Virginia's attempt to draw more doctors, nurses, physician assistants, and others to the 43 counties—out of 55 counties in West Virginia—that are designated health professional shortage areas.

Mr. President, I am not at all comfortable with enacting legislation that the Finance Committee has had so little time to carefully review. I am not pleased with moving forward on legislation that may have some very serious, currently unknown, consequences for millions of Americans—many of them children—who depend on the Medicaid Program for their health care.

The Children Defense Fund outlined a small sampling of State programs in jeopardy because of HCFA's rules last week before the Finance Committee:

In Utah, collaborative efforts between the Utah Health Department and Medicaid agencies resulted in expanding Medicaid eligibility to 133 percent of poverty for pregnant women; improved enrollment through the use of outstation workers; home visits; and a massive statewide outreach program. Result: a significant drop in infant mortality.

The Prenatal Care Assistance Program, New York's public maternity program, serves thousands of pregnant women and children eligible for Medicaid. An additional 70,000 low income pregnant women are served through a voluntary transfer of funds arrangement to the State Medicaid agency from the public maternity program.

In Mississipppi, about 2,400 extremely high risk, low income pregnant women are intensely monitored throughout their pregnancy to improve birth outcomes. This $2.5 million program saves millions by avoiding bad birth outcomes.

It's not clear to this Senator—nor do I think any of my colleagues can say with certainty—how these programs and other vital health programs will fare under the NGA/administration agreement. It's full ramifications are not known because of the haste in which the agreement was made.

That is why I personally would favor legislation that was favorably reported out of the Finance Committee last Friday.

That legislation would impose a two-way, short-term moratorium on HCFA issuing new regulations and prohibit States from setting up new programs until April 1, 1992. Giving us time early next year to more thoroughly review the NGA/administration agreement.

Although I would prefer a short-term moratorium, I am sympathetic to the many Governors who want a permanent solution now, so that they can adequately prepare for next year's legislative sessions and in developing their budgets.

Owing to health care inflation and to the recession which has increased the number of families eligible for Medicaid, States are seeing more and more of their dollars being eaten up by the Medicaid Program. Last year Medicaid accounted for about 14 percent of total State spending; after Medicaid spending increased by 18 percent from the previous year. By 1995, States will be spending up to 22 percent of their total budgets on Medicaid.

Mr. President, this issue is symbolic of a much bigger problem. Thirty-three million Americans—one-third of them children—lack basic health care coverage. Who is going to pay to make sure every American has basic health coverage? Who should have that responsibility? Individual families? Should businesses provide coverage to its workers, much like it provides a minimum wage? Or should Government pay for the care of all Americans? This country is currently engaged in a very dangerous game of hot potato—trying to shift costs from one payer to another. In reality, we all end up paying for those who forgo medical care because they can't afford it, or because they can't find a doctor who will see a Medicaid patient because of lousy reimbursement rates.

The Bush administration claims that allowing States to tax health care providers, or allowing hospitals to donate funds, fundamentally alters the traditional Federal-State matching formula under the Medicaid Program. I say that these are not traditional times.

I have heard Bush administration officials say that if the States want to fundamentally alter the formula used in calculating Federal matching payments or to fundamentally change the current Medicaid Program, then they ought to come in and sit down with the administration and discuss those types of reform. I hope that is an invitation for serious discussion of health care reform. In fact, I have a few ideas of my own for reform and would gladly sit down at that table.

In my view, the problems confronting States in financing their Medicaid programs are a cry for bold, major reform of our entire health care system.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 1:11 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ADAMS).

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

THE BOYS AND GIRLS CLUBS OF AMERICA

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 525 regarding the Boys and Girls Club of America; that the Senate proceed to its immediate consideration; that the bill be deemed read a third time, passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 525) to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Club of America.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The bill (H.R. 525) was deemed read a third time and passed.

WAIVING THE PERIOD FOR CONGRESSIONAL REVIEW FOR CERTAIN DISTRICT OF COLUMBIA ACTS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 3709, a bill to waive the period for congressional review for certain District of Columbia acts; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times and passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3709) to waive the period of congressional review for certain District of Columbia acts.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

The bill (H.R. 3709) was deemed read a third time and passed.

COMMENDING THE PARTICIPANTS IN THE MIDDLE EAST PEACE TALKS

Mr. BENTSEN. I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 226, commending the participants in the Middle East peace talks just received from the House; that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table and the preamble be agreed to.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 226) commending the participants in the Middle East peace conference convened in Madrid, and urging them to continue their pursuit of a just and lasting peace in the Middle East.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 226) was agreed to.

The preamble was agreed to.

MEASURE INDEFINITELY POSTPONED—S. 1987

Mr. BENTSEN. Mr. President, I ask unanimous consent that Calendar No. 329 S. 1987, a bill to amend the Arms Control Act to authorize the President to transfer battle tanks, artillery pieces, and armed combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK GEOGRAPHY AWARENESS WEEK' NATIONAL TRAUMA AWARENESS MONTH'

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of the following joint resolutions just received from the House: House Joint Resolutions 212, House Joint Resolutions 201, House Joint Resolutions 300; that the joint resolutions be deemed read three times, passed, and the motion to reconsider be laid upon the table, en bloc; and that the preambles be agreed to to; further, that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

So the joint resolution (H.J. Res. 212) to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week" was deemed read a third time, and passed.

The preamble was agreed to.

So the joint resolution (H.J. Res. 201) designating the week beginning December 1, 1991, and the week beginning November 15, 1992, each as "Geography Awareness Week" was deemed read a third time and passed.

The preamble was agreed to.

So the joint resolution (H.J. Res. 300) designating the month of May 1992, as "National Trauma Awareness Month" was deemed read a third time and passed.

The preamble was agreed to.

NATIONAL TRAUMA AWARENESS MONTH

Mr. BENTSEN. Mr. President, I now ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 229, the Senate companion to House Joint Resolution 300, and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read three times and passed, and the motion to reconsider be laid on the table, and the preamble be agreed to.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 229) designating the month of May 1992, as "National Trauma Awareness Month".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, I am pleased that the Senate is considering Senate Joint Resolution 229, a resolution to designate the month of May 1992 as "National Trauma Awareness Month." For the past 4 years, I have had the privilege of sponsoring this joint resolution, which the Senate has passed. I am pleased to sponsor this measure again this year.

It is important to focus the public's attention on ways to prevent trauma and on the improvement that can be made in trauma care. With the enactment of this resolution, the Trauma Society members can begin to mount their grassroot programs for 1992 to heighten the public's awareness of Trauma. Also, States can coordinate their various activities in conjunction with emergency medical centers.

As a nation, we spend $70 billion annually on traumatic care due to highway accidents. During the upcoming holiday season, everybody should remember the gravity of the traumatic-injury problem, since this is time when friends and families are traveling the highways. I think it most appropriate that we pass this resolution before we leave. I hope that the Senate will favorably act on the "National Trauma Awareness Month" resolution.

So the joint resolution (S.J. Res. 229) was deemed read a third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 229

Whereas more than 9,000,000 individuals in the United States suffer some type of traumatic injury each year;

Whereas traumatic injury is the leading cause of death of individuals less than 44 yeas of age in the United States;

Whereas every individual is a potential victim of traumatic injury;

Whereas traumatic injury frequently renders its victims incapable of caring for themselves;

Whereas past inattention to the causes and effects of trauma has made trauma among the most neglected medical conditions;

Whereas the people of the United States spend more than $148,500,000,000 on the problem of trauma;

Whereas the problem of trauma can be remedied only by prevention and treatment through the provision of emergency medical services and trauma systems; and

Whereas the people of the United States must be educated regarding the prevention and treatment of trauma and the proper and effective use of emergency medical services and systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May, 1992, is designated as "National Trauma Awareness Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

GWEN B. GILES POST OFFICE BUILDING

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 375, H.R. 3322, designating the Post Office Building in St. Louis, MO; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3322) to designate the building in St. Louis, Missouri, which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

So the bill (H.R. 3322) was deemed read a third time and passed.

ACTION VITIATED AND MEASURE PLACED ON CALENDAR—S. 754

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate action on Calendar No. 320, S. 754, a bill to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program, be vitiated, and placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

TORTURE VICTIMS PROTECTION ACT

Mr. MCCONNELL. Mr. President, I understand the Senate has received from the House, H.R. 2092, the Torture Victims Protection Act.

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCONNELL. On behalf of Senator SPECTER, I ask that that bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2092) to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing.

Mr. MCCONNELL. I now ask for its second reading.

Mr. BENTSEN. I object to the second reading, Mr. President.

The PRESIDING OFFICER. Objection has been raised to the second reading. The bill will be read a second time on the next legislative day.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO CERTAIN COUNTRIES, EXTENSION OF UNEMPLOYMENT BENEFITS, AND CHEMICAL AND BIOLOGICAL WEAPONS CONTROL—CONFERENCE REPORT

Mr. BENTSEN. Mr. President, I submit a report of the committee of conference on H.R. 1724 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferences.

The PRESIDING OFFICER. Without object, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, November 26, 1991.)

The PRESIDING OFFICER. Under the previous order, it is so ordered that the conference report will be brought up. There will be 30 minutes, equally divided, in the usual form.

The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BENTSEN. Mr. President, it is critical that we enact this conference report as promptly as possible. The conference report incorporates without change the unemployment compensation amendment passed by the Senate on November 8. It modifies the emergency unemployment bill already signed by the President, Public Law 102–164, to ensure that long-term unemployed workers who have exhausted their regular benefits will be eligible to receive up to 13 weeks of emergency benefits regardless of the State they live in. Under Public Law 102-164, 23 States are eligible to pay workers only 6 weeks of emergency benefits, rather than the 13 or 20 weeks of benefits that other States are able to pay.

The conference report also extends "reach back" benefits to workers in all States. This means that workers who exhausted their regular benefits on or after March 1, 1991, but before the start of the program on November 17, will be eligible for emergency benefits regardless of where they live. Under Public Law 102-164, workers in 18 States do not qualify for these benefits.

Because this bill will be enacted after the effective date of the program, there are certain requirements in present law relating to eligibility requirements for extended benefits that States will not be able to meet. I want to clarify that it is the expectation of the conferees that the Department of Labor will waive these requirements, in order that States will not be penalized for failure to take actions that, given the retroactive nature of this legislation, they cannot reasonably be expected to take.

We have every reason to believe that the President will sign this bill into law immediately. If he does, I am told that checks can begin to go out within the next few days. I believe the Congress shares with the administration the obligation to see that these benefits are in the hands of those who need them as quickly as possible.

This bill also includes a number of trade provisions that deserve mention.

Most important, it will provide permanent most-favored-nation [MFN] treatment to Estonia, Latvia, and Lithuania. We witnessed something this fall that I was not sure we would ever see—the three Baltic states regained their independence from the Soviet Union. This one event is probably the best illustration of the profound changes that are taking place in that part of the world.

In 1974, we adopted a set of procedures—in title IV of the 1974 Trade Act—for granting MFN to those countries that were not receiving it then. That included Estonia, Latvia, and Lithuania. In fact, these three countries were only swept into title IV because they were still controlled by the Soviet Union. Now that they have regained their independence, it is plain that they do not belong in title IV and should not be subject to its requirements. This legislation provides that the Baltic States will receive MFN unconditionally.

This bill also recognizes the profound changes that have occurred in Czechoslovakia and Hungary—the two countries in Eastern Europe that have led the way in adopting democratic reforms and moving toward market-based economic systems. This bill gives the President the authority to grant Czechoslovakia and Hungary MFN status on a permanent and unconditional basis. It would fully normalize our trade relations with these countries, and put them on the same footing as almost all of our other trading partners. I cannot help but remember my first visit to Czechoslovakia on the ground. I was there in the air, uninvited, a few times before. But I recall being there in 1971, and getting on an elevator in a hotel operated by a very old man. As I got on the elevator, he turned to me and said, in English, "You are an American, aren't you?"

I said "Yes."

He said, "Are you one of the Senators visiting?"

I said "Yes."

He said, "Senator, when will we be free?"

I rode all the way to the sixth floor without giving him much of an answer. I am not sure he ever saw freedom, but at least his country has it now. This conference agreement also fulfills a commitment made by the administration when they negotiated the trade agreement with the Soviet Union which was approved by the House last week, and which we approved yesterday. It repeals an outdated, unnecessary measure—a ban on imports of gold coins from the Soviet Union.

And it strengthens the bill that the Congress passed earlier this year on chemical and biological weapons. It adds import sanctions to the list of sanctions to be imposed against companies and countries that develop, use, or stockpile chemical and biological weapons in violation of international law or against their own citizens.

Finally, it extends trade benefits to the four Andean countries—Bolivia, Colombia, Ecuador, and Peru—that have been fighting an uphill battle against the powerful drug cartels. I have some reservations about the bill: I'm always concerned about the effects that one-way trade benefits might have on the workers in this country. But I decided not to oppose this provision in order to make sure that American workers would benefit as soon as possible from the unemployment bill included in this package.

Without question, the most important thing is that we approve this conference report as soon as possible so that jobless Americans in all 50 States will finally get the help they need to pay their mortgages, meet the payments on their cars, and feed and clothe their children.

I urge my colleagues to support the conference agreement.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas, the minority leader.

Mr. DOLE. Mr. President, let me indicate many of us made our statements last evening, including this Senator. I commend the chairman of the Finance Committee for his very strong statement and very positive statement in all aspects to this particular legislation.

I particularly agree with him in the statement with reference to the Baltic States, Estonia, Latvia, Lithuania, and also Czechoslovakia and Hungary. These are positive measures when we extended MFN on a permanent basis, and I am certain that all of our colleagues will support us in that effort.

I thank the chairman for his tireless efforts on behalf of America's unemployed, and I am pleased that we have reached this point.

It seems to me that there is no request for time on this side. I am going to yield back the remainder of the time on this side.

REGARDING UNEMPLOYMENT COMPENSATION BENEFITS

Mr. BROWN. Mr. President, I rise today to express my concern regarding the most recent unemployment compensation bill, H.R. 1724, which the Senate approved earlier today. The fact is that this bill adds $505 million to the Federal deficit in fiscal year 1992, according to the Congressional Budget Office [CBO]. This is in addition to the $1.225 billion increase in the federal deficit included in the Emergency Unemployment Compensation Act of 1991, H.R. 3757, which the Senate passed on November 15, 1991.

Taken together, the bills increase the fiscal year 1992 Federal budget deficit by $1.7 billion, including an $878 million tax on jobs which occurs by extending the 0.02 percent FUTA supplemental tax for one year. This tax increase discourages the creation of new jobs and could force the layoff of thousands of workers, exactly what we don't need.

I favor assistance for our unemployed and have supported several measures that provide assistance that don't violate the budget agreement. I have opposed the measures that break the budget. Ultimately, they will harm the unemployed by discouraging new jobs.

H.R. 3757 and H.R. 1724 both sidestep the pay-as-you-go requirement in last year's budget agreement. This has the very real result of increasing the deficit—estimated to be $362 billion in fiscal year 1992. Additional debt is not the answer. Inevitably, the Federal Government will be forced to raise revenue or borrow money to finance this additional debt.

Congress and the administration should instead be working to enact unemployment compensation legislation which pays for any additional benefits without increasing the budget deficit or discouraging the creation of jobs.

STATEMENT IN SUPPORT OF MFN FOR THE BALTIC STATES AND THE SOVIET UNION

Mr. LIEBERMAN. Mr. President, I rise in support of extending most-favored-nation [MFN] status to the Baltic States and the former Soviet Union. This is an appropriate action at this time, considering all the positive events that have taken place in that part of the world in the past few months.

The Baltic States after enormous struggle have won their freedom and deserve our support. The best way to truly assist them with the rebuilding of their economies is through trade and investment. There are real opportunities for American companies in doing business with the Baltic States. MFN status will help our companies realize those opportunities.

Changes in the former Soviet Union are dramatic as well. The question being debated throughout most of the republics is not whether to implement a program that will lead to a market based economy but what kind of program to implement. Emigration from the Soviet Union is no longer an issue, the real problem is whether or not the West can accommodate those who want to and can afford to leave.

The related question of whether we should extend MFN to the individual republics of the former Soviet Union must be addressed. As long as the republics meet the criteria set for granting MFN as a whole, such as compliance with the Jackson-Vanik amendment, then there is no reason that they should not be given MFN. They need trade and an economic relationship with the West if they are to succeed in building market economies.

Trade can benefit the United States as well. American manufactured exports to the various republics of the former Soviet Union are growing even without MFN. The Department of Commerce predicts that they will reach the level of $1 billion this year, an increase of nearly 30 percent from the same period of last year.

Exports of data processing equipment, for example, have increased at a fast rate, from about $2 million in 1988 to the present level of over $110 million annually. There is a vast untapped market in the Soviet Union. If we help our companies get involved in those markets now, by granting MFN, then we can ensure that our share of the future market will be substantial and our people will benefit proportionately.

We should show support for the Baltic States and the republics of the former Soviet Union by extending MFN status to them.

Mr. BENTSEN. Let me thank the minority leader for his cooperation not just on the trade questions, but for the long hours we put in working out the problems on the extension of unemployment benefits. This was a critical measure, and we took a bipartisan approach on it. I am appreciative of that. I also want to extend my thanks to the majority leader for his tireless work on behalf of the unemployed.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the conference report on H.R. 1724.

The conference report was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate now go into morning business for a period not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for a period of 15 minutes to proceed as though in morning business.

THE COLD WAR IS OVER

Mr. METZENBAUM. Mr. President, as we meet here today there is a reality that I am not sure the President of the United States is aware of. I think it is time that somebody tell the President that the cold war is over and that the Soviet Union is now a broken-down welfare case; that the Warsaw Pact no longer exists; and that we no longer need to spend $160 billion every year to defend Europe from a country that barely exists. I think it is time somebody tell the President that we no longer need to keep 280,000 U.S. combat troops in Europe at the taxpayer's expense.

I am not advocating that we bring home all of our troops, but I believe it is totally inappropriate that we continue to spend over half of the defense budget to maintain 280,000 troops over there.

The cold war is over. We won.

The only Soviet troops remaining in Central Europe are stationed in Eastern Germany as a favor to the Soviet Government. The Germans are actually paying for the Soviet troops stationed in East Germany.

The Soviets have such a serious housing shortage in their own country that they have no place to put their returning troops. So they stay in Germany—courtesy of the Germans.

Consider that irony. If that is not an unbelievable situation, I have never heard of one. We pay to defend Germany from the very Soviet troops that the Germans are supporting. We are providing dollars to protect against the Soviet troops to help defend Germany against Soviet troops that are stationed in East Germany and are being paid for by the Germans. That is unbelievable.

Historians will look back and say: "There is something we do not understand about that." And, frankly, I do not understand it, and I do not think the American people would understand it if they knew about it.

Mr. President, there has to be a stop to this unending waste of billions of dollars paying for our troops to be stationed in Europe against an enemy that no longer exists.

Continued excessive spending on troops in Europe is contributing to serious and severe problems here at home. Last year, we had a combined world trade deficit of $101 billion. Every week there is a story in the newspaper about a Japanese company or European company buying another American corporation. In the last 3 years, foreign companies spent $160 billion buying up U.S. corporations. Last year, we spent $160 billion for our NATO commitment.

Every dollar we spend on troops and tanks in Europe is a dollar the Europeans have to spend on themselves. It is a dollar that flows out from this country to Europe. What an unbelievable effort it requires of us to try to maintain a balance of trade. We look at the figures coming through on the TV screen or in the newspapers reporting on a $6 billion shortflow of dollars, more going out than came in.

But what about the billions we are sending overseas every single day of the week, every month, every year, to pay for our troops in Europe? If those troops were back in this country, or if they were phased out, those same dollars could be used to rebuild the infrastructure of this country. Those dollars could be used to make America a greater country, to build up our country. But instead, we are sending those dollars overseas for the European countries to use as they please.

Every dollar we spend overseas is a dollar we do not have for our industries. It is a dollar we do not have for health care, for education, to protect the environment, to build decent roads and bridges. The issue could not be more clear. The world has changed. Our economy is on the ropes. Growth is slower than at any time since World War II. Family disposable income is down; average wages are down 9 percent since 1979. Only a week ago Friday, the stock market dropped 120 points, the largest drop in 2 years.

People in this country are worried about crime; they are worried about drugs, and families starting out can no longer afford to buy their own home. They have to take out a mortgage to send their kids to college. Thirty million Americans have no health insurance, a number that increases with every job layoff. People are worried about education, about pollution.

It is time we recognize reality in this country. The Russians are not the greatest threat we face today; they are not a threat at all. The defense authorization conference report contains an amendment that I and the Senator from North Dakota offered expressing the sense of Congress that U.S. troop strength in Europe be reduced to 100,000 by 1995.

I am frank to say that is still too many troops. That is still too long a period of time. I know that we can bring them home faster, and those who are concerned as to whether we muster them out or do not muster them out, that is a separate issue. Bring them home. Use the dollars in this country, and let the decision be made by others as to whether we do or do not muster them out.

But I would sure prefer to see those dollars that are being paid to those soldiers over in Europe being spent in this country, whether they are in the military or out of the military, so they can be spent in the American economy. And if they can be spent in the American economy, we could be rebuilding so much of America. It is time we brought those troops home. It is time the Europeans paid their own way.

Mr. President, I yield the floor and I suggest the absence of a quorum.

Mr. SASSER. Mr. President, if the Senator will withhold.

Mr. METZENBAUM. I certainly withhold.

The PRESIDING OFFICER. The Senator has yielded the floor and the Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, are we still in morning business?

The PRESIDING OFFICER. The Senator from Ohio still has 8 minutes remaining in his morning business request. Does the Senator wish to renew that request?

Mr. SASSER. Mr. President, I ask unanimous consent to proceed as in morning business for a period not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized to proceed as in morning business for 10 minutes.

Mr. SASSER. I thank the Chair.

(The remarks of Mr. SASSER pertaining to the introduction of S. 2061 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SASSER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I thank the Chair.

(The remarks of Mr. KENNEDY pertaining to the introduction of S. 2062 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 2063 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MEDICAID MORATORIUM AMENDMENTS OF 1991

The Senate continued with the consideration of the bill.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The business before the Senate is H.R. 3595.

Mr. DODD. Mr. President, parliamentary inquiry. Is that the Medicaid legislation?

The PRESIDING OFFICER. That is correct.

Mr. DODD. I thank the Chair.

Mr. President, let me just, first of all, thank my colleague from Texas and also my colleague who is on the floor, the, I presume, ranking minority member or comanager of the legislation, Senator BENTSEN, of Texas, as well as Senator DURENBERGER, for their tremendous cooperation with my colleague from Connecticut, Senator LIEBERMAN, and me in putting together a modification of this legislation, which will be of tremendous assistance to approximately 410,000 people in the State of Connecticut. That is, in a State with a population or 3½ million people, as many as 420,000 people will be positively impacted as a result of the decision to allow a modest change of date here that will permit an application from the State to be submitted to the Health Care Financing Administration to assist in what was called the "disproportionate share formulations."

Let me explain, Mr. President, in these terms what it means to the people in the State. We have approximately 15 percent of our population in the State of Connecticut that has no health insurance at all. There is an additional 140,000 people that are underinsured and therefore are required, when they are afflicted with some kind of an illness or problem, to show up at public hospitals for treatment.

In the absence of providing any kind of assistance to these institutions which have a disproportionate share of the population showing up as compared to other public hospitals in the country, in the absence of providing some relief to these hospitals, the average taxpayer—who in many ways are those people who have health insurance—end up picking up the cost of these individuals who show up for care.

In the city of Stamford, CT, last year alone there were some $15 million that hospitals in that city had to find for uncompensated care; that is people without any health insurance or underinsured who showed up in the hospitals in that city, and because we have a benevolent country, we provide health care, but $15 million had to be found someplace.

You can guess where it was found: Increased premium costs for those people who have health insurance or increased cost of the care that was being provided in order to provide or pay for the care that was uncompensated.

I heard the other day—and he will certainly correct me when he comes to the floor—but the Senator from Texas, Senator BENTSEN, spoke about a hospital, I believe he said in Houston, where there was something in the neighborhood of $40 million or $45 million in uncompensated care I think last year. That is a phenomenal amount that a hospital would have to provide or come up with in order to deal with the people who show up without any ability to pay for the care they are receiving.

So, I thank our colleagues—both the chairman of the Finance Committee, Senator BENTSEN, as well as Senator DURENBERGER—for the assistance they provided us here and provided the people who need that care and provided those taxpayers and others who will receive some relief, we believe, as a result of this proposal.

Obviously, this is not the ultimate solution. We have a lot of other problems to deal with in order to try to correct this particular problem of the lack of health insurance, under-insured people, the ability to provide for quality care for people. That is a much larger issue than, hopefully, all of us believe must be addressed. But in the interim, the proposals we have offered here and were accepted by Senators DURENBERGER and BENTSEN in no small measure will make a great difference for as many as 400,000 people in the State of Connecticut directly and a great many more in an indirect way.

I will be happy to yield to my Senator from Minnesota if he cares to comment on this.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, I will take just a minute to comment on this. Speaking for my colleague, the chairman of the Finance Committee, let me first express our appreciation to the senior Senator from Connecticut for his comments.

But second—an important point to the rest of our colleagues—the agreement that has been hammered out here as of about 3:05 p.m., and hopefully will be on the floor very soon, was not one of those compromises where we took relatively illegitimate claims around everybody's scam and tried to make an agreement out of it.

It is true that some of the States in this country had concocted what some will believe are a scam or a scheme. But I must say with regard to Connecticut, probably no State has gotten more publicity over the cost of doing public business in that State as Connecticut. Certainly, our former colleague, who is now their Governor, has been in the middle of it all of the time.

In this particular case, Connecticut was in a situation where in order to help pay for Medicaid and I believe general medical assistance payment to hospitals throughout Connecticut—

Mr. DODD. That is right.

Mr. DURENBERGER. They used a definition of disproportionate share hospital which is in the proposed HCFA regulations. It is not in this agreement, unfortunately, because we could not get an agreement on it, but it was in the proposed HCFA regulations. They took that definition of disproportionate share and amended and put in an application to amend their State plan, but they did it, unfortunately, after September 30.

So here was a situation in which a State tried to follow the law as the Federal Government was laying it down, tried to play by the rules, but they got their application in after the deadline, which was incorporated both into the moratorium by the chairman of the Finance Committee and by the agreement.

So I am pleased with the work the two Senators from Connecticut have done. I am particularly pleased that when we are going to talk about the scams and schemes of some people around here that the one State that had the greatest pressure on it of all, Connecticut, has tried to follow the law as it relates to the appropriate partnership between the Federal and State Government in providing for the needs of low-income Americans.

I thank my colleagues for his comments and I thank him for bringing this matter to our attention and I am very pleased we could work it out.

Mr. DODD. Mr. President, I thank the Senator from Minnesota for those comments and his characterization of the State. It has been a difficult time for us, fiscally, with a significant deficit and a real struggle occurring as to how to deal with that deficit.

Despite the reputation of the State of Connecticut of being one of the most affluent States of the country—and that is true on a per capita income basis—it comes as a shock to many people that Hartford, New Haven, and Bridgeport rank in the top 10 of the poorest cities with populations over 100,000 in the United States. So amidst great affluence there was also poverty in a small State. This provision will make a great deal of difference to those people we are trying to serve who fall into that category.

I should have added as well that since 1980, our health care expenditures have increased by 150 percent in the State of Connecticut. It is a staggering increase. I think that is well above the national average. The national average has also been rather high, but this, I think, is substantially higher.

Mr. President, again my compliments and thanks to Senator BENTSEN, the chairman of the committee, as well as Senator DURENBERGER. They have provided the people of my State with a great deal of assistance and relief by their willingness to accept this change of date provision which could make a difference for people.

REGULATION OF CERTAIN INDIAN TRUST FUNDS

Mr. DIXON. Mr. President, on behalf of the majority leader I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 378, S. 754, that the bill be read a third time and passed, and that the motion to reconsider be laid on the table.

I believe that has been cleared with my distinguished friend from Minnesota.

Mr. DURENBERGER. There is no objection on this side of the aisle, Mr. President.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (S. 754) to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION.

Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended by—

(1) inserting immediately after "lands" a comma and the following: "and income including interest up to $4,000 per annum derived therefrom,"; and

(2) inserting immediately after "resource" the following: "or income".

Mr. DIXON. Mr. President, are we on morning business at this time?

The PRESIDING OFFICER. We are at this time on H.R. 3595.

Mr. DIXON. Mr. President, I ask unanimous consent to be permitted to proceed as in morning business briefly for the purpose of introducing two different bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 2065 and S. 2066 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. I yield the floor.

The PRESIDING OFFICER. The senior Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed for approximately 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 3062 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DURENBERGER. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICAID MORATORIUM AMENDMENTS OF 1991

The Senate continued with the consideration of the bill.

Mr. DURENBERGER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the committee substitute to H.R. 3595.

AMENDMENT NO. 1446

(Purpose: to substitute a permanent ban for the temporary moratorium)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk on behalf of myself and Senator RUDMAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mr. RUDMAN, proposes an amendment numbered 1446.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991".

SEC. 2. PROHIBITION ON USE OF VOLUNTARY CONTRIBUTIONS, AND LIMITATION ON THE USE OF PROVIDER-SPECIFIC TAXES TO OBTAIN FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

"(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

"(B) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

"(C)(i) Except as otherwise provided in clause (ii), subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

"(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

"(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

"(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(iii) In this subparagraph and subparagraph (E), the term 'impermissible tax' means a health care related tax for which a reduction may be made under clause (ii) or (iii) of subparagraph (A).

"(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

"(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

"(F) In this paragraph in the case of a State—

"(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

"(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

"(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

"(2)(A) In this subsection, the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (7)(B)),

"(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of subsection (a).

"(B) For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3)(A) In this subsection, the term 'health care related tax' means a tax (as defined in paragraph (7)(F)) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) In this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed of each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that violates the standards in subparagraph (E)(ii) (I) and (II) or paragraph (4).

"(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment may be made under a State plan under this title or title XVIII, or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title.

"(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraphs (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

"(ii) The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

"(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax is imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of subclause (II).

"(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

"(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

"(B)(i) In subparagraph (A), the term 'State base percentage' means, with respect to a State, an amount (expressed as a percentage) equal to—

"(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

"(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

"(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

"(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

"(6) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State-owned teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under this section.

"(7) For purposes of this subsection:

"(A) Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(E) The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(t) of such Act (42 U.S.C. 1396a(t)) is amended—

(A) by striking "Except as provided in section 1903(i), nothing" and inserting "Nothing", and

(B) by striking "taxes (whether or not of general applicability)" and inserting "taxes of general applicability".

(2) Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by striking paragraph (10) inserted by section 4701(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990.

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect January 1, 1992.

(2) Except as specifically provided in section 1903(w) of the Social Security Act and notwithstanding any other provision of such Act, the Secretary of Health and Human Services shall not, with respect to expenditures prior to the effective date specified in section 1903(w)(1)(F) of such Act, disallow any claim submitted by a State for, or otherwise withhold Federal financial participation with respect to, amounts expended for medical assistance under title XIX of the Social Security Act by reason of the fact that the source of the funds used to constitute the non-Federal share of such expenditures is a tax imposed on, or a donation received from, a health care provider, or on the ground that the amount of any donation or tax proceeds must be credited against the amount of the expenditure.

SEC. 3. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(a) REPEAL OF PROHIBITION OF UPPER PAYMENT LIMIT FOR DISPROPORTIONATE SHARE HOSPITALS.—Section 1902(h) of the Social Security Act (42 U.S.C. 1396a(h)) is amended by striking "to limit" the first place it appears and all that follows through "special needs or".

(b) LIMITATION ON AGGREGATE PAYMENT ADJUSTMENTS.—

(1) IN GENERAL.—Section 1923 of such Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(f) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR PAYMENTS IN EXCESS OF CERTAIN LIMITS.—

"(1) IN GENERAL.—

"(A) APPLICATION OF STATE-SPECIFIC LIMITS.—Payment under section 1903(a) shall not be made with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (4)(B)) for quarters—

"(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

"(I) the payment adjustments are made in accordance with the State plan in effect or submitted to the Secretary by September 30, 1991, or in accordance with the State plan in effect or submitted to the Secretary by November 26, 1991 or modification thereof, if the amendment designates only disproportionate share hospitals with a medicaid or low-income utilization percentage at or above the Statewide arithmetic mean, or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date, or

"(II) the payment adjustments are the minimum adjustments required in order to meet the requirements of subsection (c)(1); or

"(ii) in a subsequent fiscal year, to the extent that the total of such payment adjustments exceeds the State disproportionate share hospital (hereinafter referred to as 'DSH') allotment for the year (as specified in paragraph (2)).

"(B) NATIONAL DSH PAYMENT LIMIT.—The national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under State plans under this title for medical assistance during the fiscal year.

"(C) PUBLICATION OF STATE DSH ALLOTMENTS AND NATIONAL DSH PAYMENT LIMIT.—Before the beginning of each fiscal year (beginning with fiscal year 1993), the Secretary shall, consistent with section 1903(d), estimate and publish—

"(i) the national DSH payment limit for the fiscal year, and

"(ii) the State DSH allotment for each State for the year.

"(2) DETERMINATION OF STATE DSH ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year (or, for fiscal year 1993, the State base allotment as defined in paragraph (4)(C)), increased by—

"(i) the State growth factor (as defined in paragraph (4)(E)) for the fiscal year, and

"(ii) the State supplemental amount for the fiscal year (as determined under paragraph (3)).

"(B) EXCEPTIONS.—

"(i) LIMIT TO 12 PERCENT OR BASE ALLOTMENT.—A State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year, except that, in the case of a high DSH State (as defined in paragraph (4)(A)), the State DSH allotment shall equal the State base allotment.

"(ii) EXCEPTION FOR MINIMUM REQUIRED ADJUSTMENT.—No State DSH allotment shall be less than the minimum amount of payment adjustments the State is required to make in the fiscal year to meet the requirements of subsection (c)(1).

"(3) STATE SUPPLEMENTAL AMOUNTS.—The Secretary shall determine a supplemental amount for each State that is not a high DSH State for a fiscal year as follows:

"(A) DETERMINATION OF REDISTRIBUTION POOL.—The Secretary shall subtract from the national DSH payment limit (specified in paragraph (1)(B)) for the fiscal year the following:

"(i) the total of the State base allotments for high DSH States;

"(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fiscal year 1993, the total of State base allotments) for all States other than high DSH States;

"(iii) the total of the State growth amounts for all States other than high DSH States for the fiscal year; and

"(iv) the total additions to State DSH allotments the Secretary estimates will be attributable to paragraph (2)(B)(ii).

"(B) DISTRIBUTION OF POOL BASED ON TOTAL MEDICAID EXPENDITURES FOR MEDICAL ASSISTANCE.—The supplemental amount for a State for a fiscal year is equal to the lesser of—

"(i) the product of the amount determined under subparagraph (A) and the ratio of—

"(I) the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year, to

"(II) the total amount of expenditures made under the State plans under this title for medical assistance during the fiscal year for all States which are not high DSH States in the fiscal year, or

"(ii) the amount that would raise the State DSH allotment to the maximum permitted under paragraph (2)(B).

"(4) DEFINITIONS.—In this subsection:

"(A) HIGH DSH STATE.—The term 'high DSH State' means, for a fiscal year, a State for which the State base allotment exceeds 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year.

"(B) STATE.—The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(C) STATE BASE ALLOTMENT.—The term 'State base allotment' means, with respect to a State, the greater of—

"(i) the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1992 (excluding any such payment adjustments for which a reduction may be made under paragraph (1)(A)(i)), or

"(ii) $1,000,000.

The amount under clause (i) shall be determined by the Secretary and shall include only payment adjustments based on the State plan described in subparagraph (A)(i)(I), or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date.

"(D) STATE GROWTH AMOUNT.—The term 'State growth amount' means, with respect to a State for a fiscal year, the lesser of—

"(i) the product of the State growth factor and the State DSH payment limit for the previous fiscal year, or

"(ii) the amount by which 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year exceeds the State DSH allotment for the previous fiscal year.

"(E) STATE GROWTH FACTOR.—The term 'State growth factor' means, for a State for a fiscal year, the percentage by which the expenditures described in section 1903(a) in the State in the fiscal year exceed such expenditures in the previous fiscal year.".

(2) CONFORMING AMENDMENTS.—(A) Such section 1923 is further amended—

(i) in subsection (a)(2)(B), by striking "subsection (c)," and inserting "subsections (c) and (f),"; and

(ii) in subsection (c), by striking "In order" and inserting "Subject to subsection (f), in order".

(B) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "and section 1923(f)" after "of this section".

(c) PROHIBITING USE OF DSH PAYMENT ADJUSTMENT TO HOLD HOSPITALS HARMLESS FOR TAXES.—Subsection (c) of such section if further amended by adding at the end the following: "A payment adjustment that varies by type of hospital after the effective date specified in section 1903(w)(1)(F) is not consistent with this subsection if its purpose or effect is to reimburse providers for health care related taxes without regard to their low-income utilization rate or medicaid inpatient utilization rate (as such terms are defined in subsection (b)).".

(d) LIMITS ON AUTHORITY TO RESTRICT DSH DESIGNATIONS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(4) The Secretary may not restrict a State's authority to designate hospitals as disproportionate share hospitals under this section, except as provided in the last sentence of subsection (c).".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1992.

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

"(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

"(i) provider-related donations made to the State or units of local government during such fiscal year, and

"(ii) health care related taxes collected by the State or such units during such fiscal year.

"(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply fiscal years ending after the date of the enactment of this Act.

SEC. 5. INTERIM FINAL REGULATIONS.

The Secretary of Health and Human Services shall issue such regulations (on an interim final or other basis) as may be necessary to implement this Act and the amendments made by this Act. The Secretary of Health and Human Services shall consult with the States before issuing any regulations under this Act.

Mr. DURENBERGER. Mr. President, last evening I described a variety of State Medicaid financing plans that have in effect undermined the basic integrity of the Medicaid Program which has been in existence since 1965. Medicaid is under the jurisdiction of the Senate Finance Committee and before us is an effort on the part of the Senate Finance Committee to deal with those problems. H.R. 3595 was a bill passed by the House last week. It was reported out of the Finance Committee with a recommendation that a moratorium for 3 months be adopted. Along with that we reported out of the Finance Committee a framework agreement which at that point was being negotiated between the National Governors Association, various interests and the administration to deal with two problems. One, the abuses that were involved and, secondly, an effort by the administration through the Health Care Finance Administration to deal with those abuses by regulation, regulations which almost no one felt they could support.

That particular agreement was not reported out with any specific recommendation on purpose because at the time that it was reported out the parties were still negotiating.

Mr. President, I believe we now have an agreement, and I am pleased that the amendment before us is to incorporate that agreement. I am going to take a few minutes to describe it to my colleagues who for one reason or another, particularly because it is the end of the session, because it is a very complicated issue, I think are concerned about what they might be signing up for when they sign up for this agreement, which I hope they do.

I indicated at the time I spoke last evening that from what I know, a lot of State legislators and Governors—I can certainly speak for my own because I spoke to them when they enacted it in Minnesota—my Governor did not want to do this; the legislature did not want to do it. They know that these financing schemes are not appropriate public policy and the proof is in the fact that 90 percent of the moneys today collected from Federal taxpayers under these plans were not being collected a year ago.

Simply what happened, a couple people got hold of what they thought was a great idea and everybody else saw them doing it it. Since every State is in a big financial bind, and in order to try to make up for the inadequacies of their own payment system in Medicaid, they decided to buy into these programs.

Now, I think, Mr. President, in the form of the agreement we have, the Governors and the legislatures are trying to work as partners with us in the Federal system to rationalize this payment system.

The amendment that I am offering today is a fair compromise, and I will point out the areas with which I personally disagree. I do not disagree with anything in the agreement but with some of the underlying principles with which I might have some difficulty. But that is a debate with which to deal at another time.

I ask unanimous consent, Mr. President, at this point in the RECORD there be printed a letter from the National Governors Association signed by John Ashcroft of Missouri and Gov. Roy Romer of Colorado pledging the NGA support.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS ASSOCIATION,
November 21, 1991.

Hon. DAVE DURENBERGER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DURENBERGER: For the last month, Congress has urged the nation's Governors to work with the Administration to bring a package to the Hill that would permanently resolve the issues involved in Medicaid provider taxes and donations.

We have done that. The attached settlement proposal has the unanimous support of the NGA Executive Committee and the White House.

We urge you to pass the legislation. If necessary, we ask you to stay in session or reconvene to pass permanent legislation. No issue is more important to the states and to the people we all serve.

We pledge to you our firm commitment to work with every member of Congress to pass this legislation.

Sincerely,

JOHN ASHCROFT,
Governor.
ROY ROMER,
Governor.

Mr. DURENBERGER. Mr. President, I will describe the three basic components of the Governors Association-administration compromise embodied in this amendment.

In the first place, the administration has agreed to a very generous transition period to allow States to convert the financing of their Medicaid programs. States could continue to finance their Medicaid programs through provider-specific taxes and donation programs until October 1, 1992. The only caveat to the transition is that the tax program had to be in effect, or reflected in a State plan amendment, as of November 22, 1991.

Moreover, for those States with a fiscal year ending between July 1 and October 1 of next year, 1992, the States would continue using these programs until January 1, 1993. And for those States whose legislatures do not have regular sessions scheduled next year, in 1992, their programs could remain in effect until July 1, 1993.

Mr. President, these are extraordinary concessions by the administration. HCFA regulation is substantially different from the agreement and will not go into effect January 1, 1992, unless we act. The fact that the administration has been so willing to grant such a generous transition simply reflects the importance the administration attaches and the Congress should attach to finally getting legislation in place that ultimately stops the hemorrhaging of the Federal Treasury that is going on today.

After the transition period is completed, State voluntary contribution programs that are solely designed to increase the Federal share of Medicaid should be ended.

Mr. President, I am going to yield, if I may, to my colleague and the principal author of this effort to deal with this problem, the chairman of the Senate Finance Committee.

Mr. BENTSEN. Mr. President, I thank my distinguished colleague from Minnesota, who has been very much involved in the process of trying to resolve this issue. What I have done, as chairman of the committee was to report out a 4-month freeze, a freeze on the administration's putting into effect its interm regulation, and a freeze on State initiation of new programs.

The dispute has been about how States finance their share of Medicaid payments. There is strong disagreement by the administration with some of the State practices which they believe take inappropriate advantage of the Federal Government. Working out the agreement has not been easy, but I must say that Dr. Wilensky worked into the night last night with the various State representatives, the Senators, and responded to the requests of Governors to see if we could accommodate the differences in their views. And each State has unique problems, all 50 of them.

Last Friday, when the committee met, I proposed we move forward the administration-NGA plan in hopes that differences could be worked out between the Governors and the administration. Considerable progress has been made in that regard. I heard positive feedback from a number of Senators representing the various States.

But I must say I still have concerns about this agreement because of the haste with which it was crafted, because of the fact that the final language has not been fully reviewed by the affected parties, and so often the devil is in the details.

But after talking with my Governor about some of her concerns, most of which have been addressed, and in talking to my colleagues here, I am going to support the administration's proposal as presented by my distinguished friend from Minnesota.

But I am going to support it with some reservation. I want to put the administration on notice here today that I plan to monitor implementation of the agreement very carefully over the next months, to assess its impact on States, providers, and beneficiaries. I will be holding oversight hearings in the Finance Committee.

Neverthess, I agree with my friend from Minnesota that there are certain advantages to moving ahead now. First and foremost, enactment of this agreement will keep the administration's October 31, 1991, regulation from going into effect, a step that would be disastrous for many of the States. It would cost my own State something on the order of $600 to $800 million a year, or more, in additional costs. It would cause chaos in State medicaid programs. And that regulation will go into effect on January 1 if we do not resolve this situation now. For virtually every State that would pose a problem.

Furthermore, if Congress does not act this year, the cost of a resolution of this issue would rise substantially, due to OMB's and CBO's assumptions about the savings associated with its October 31 regulation. Thus, the ability of the Congress to craft a long-term solution would be substantially circumscribed. We would be in a situation in the Finance Committee where we would either have to propose deep cuts in other entitlement programs, such as Medicare and veterans benefits and guaranteed student loans or raise taxes substantially to offset costs projected by the administration.

Furthermore, Congress needs to protect the taxpayers from State financing practices that allow them to draw down more Federal funds inappropriately. The problem is real, and according to the inspector general of HHS abuses are occurring in a number of States.

The agreement of the National Governors Association with the administration will have the following benefits: States will be given guidance about what taxes are eligible for Federal Medicaid matching payments. States will have the time to make necessary changes in current laws or to initiate proper donation or tax programs. States will have generous transition time to convert to broad-based taxes. States will have until at least October 1, 1992, to come into compliance with the new donation and State tax requirements, protecting existing programs, and allowing States without tax programs to implement them.

The compromise addresses problems of timing unique to States with biennial legislative sessions and States with other special legislative circumstances by allowing a longer phase-in period. That was a deep concern for a number of Senators. Many of my colleagues talked to me about that issue.

Furthermore, the NGA-administration agreement really operates as a moratorium for 9 months. It allows all States to keep the Medicaid Program and policies that already were in effect until at least September 30, 1992, and allows other States transition periods until as late as June 30, 1993.

The major point is that no State will have to cut provider tax programs or disproportionate share payments, thus protecting State revenues and Medicaid recipients. The regulation would force some States to cut their Medicaid programs. And that will be unnecessary under this agreement.

The compromise will cap the amount a State can raise through provider-specific taxes, but States currently above the cap can continue at that level. The cap on the amount of funds raised through provider taxes will sunset after 3 years.

Furthermore, because the cap is based on total Medicaid spending in the State, the amount States can raise through taxes increases automatically as State Medicaid program expenditures increase.

The administration-NOA agreement also allows States to retain flexibility to designate which hospitals can receive disproprotionate share payments—this was a big concession by the administration, and many members worked hard to obtain that concession.

Under the agreement, States may spend no more than 12 percent of their Medicaid expenditures on disproportionate share payments. No State, however, is required to cut current spending, even if above the cap. States below the cap would be allowed to increase spending in proportion to growth in overall Medicaid payments.

The agreement constitutes long-term policy because it allows States to continue existing Medicaid programs under legitimate financing plans. Abuses in the use of hospital and health provider taxes are addressed. States are still allowed to use provider taxes to finance their Medicaid programs as long as there are no hold-harmless or kickback provisions to benefit the health provider. In other words, the case-sharing arrangements of the Federal-State program will be preserved.

Congress has until October 1992 to change any details in the administration-NGA compromise before its provisions take effect. That is a real safety valve for us and one of the reasons that, as chairman of the Finance Committee, I will monitor closely the implementation of these provisions through oversight hearings.

Finally, OMB estimates that, without action, the $5.5 billion in costs attributable to provider donations and taxes for 1992 will at least double to $10 billion, in 1993.

So. Mr. President, in spite of my concern about not being totally convinced that this agreement is the best possible policy, I will lend my support to the proposal of the distinguished Senators from Minnesota and from New Hampshire on behalf of the administration's and the Governors.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I note the presence on the floor of the distinguished Republican leader, as well as the chairman of the Finance Committee, and the Senator from Minnesota, who is managing this bill for the minority side.

I commend Senators BENTSEN and DURENBERGER for their efforts in trying to bring this to a satisfactory conclusion. This is very important legislation on which we must act and with respect to which there still has to be a reconciling of the Senate position with the House position. That will have to be done promptly.

So I encourage prompt action on this legislation, hopefully, without any amendments, and that will enable us to proceed to get this done, finally, before the Congress adjourns for the Thanksgiving recess.

I want also at this time to reiterate what I believe to be the importance of extending several provisions of the tax laws which will otherwise expire at the end of this year. The distinguished chairman of the Finance Committee, yesterday, led the effort in that committee to report it to the Senate floor unanimously, and I know the distinguished Republican leader and the Senator from Minnesota, as members of the committee, support that effort. There are several very important provisions of law which will expire by the end of this year, unless we act now to extend them.

They are important in and of themselves, but they are critical in this difficult economy. Failure to extend these provisions will cause a severe negative jolt to the economy which, in my judgment, would be the worst possible thing at the worst possible time.

We have received this from the House in the circumstances in which the Senate has only two choices: We can either extend these expiring provisions without amendment or change, or we can do nothing. I know that many Senators would like to make other changes in the tax law as well. I am one of them. I know the chairman is another, the Senator from Minnesota is another, and the Republican leader is another. But the reality which we face is that if anyone tries to add anything to this package, the only effect will be that nothing will occur.

I want to repeat that: As unfortunate as it is—and I particularly feel it is unfortunate—we can either extend these provisions for 6 months and do nothing else, or we can do nothing. There is no possibility, none whatsoever, that we can add 1, 2, 3, or 17, or any provisions to these and hope that somehow they will be pulled in along with these extenders. That is because we are late in the session, and the House has made it clear that is their position.

I am going to ask the distinguished Republican leader and the chairman of the Finance Committee to comment on this so as to make certain that I do not misstate the case in any way and that they are of the same view that I am.

Mr. President, I am shortly going to propound a unanimous-consent request, which will have the effect of passing through the Senate the extension of these expiring provisions with no other changes. And I hope that we are going to get that consent. I hope that no Senator will object.

I repeat and emphasize that if an objection is heard, it will not benefit any other provision of law. It will only cause these expiring provisions to expire, to not be extended, with what I believe will be very serious, adverse consequences for our Nation's economy, and for a whole host of provisions of law and those who rely upon them.

So I hope very much that we are going to be able to do this.

I will now yield to the distinguished Republican leader for any comments he may have, and then to the chairman of the Finance Committee, and I note Senator DANFORTH'S presence as well.

Mr. DOLE. If the majority leader will yield, he has accurately stated the case with reference to both pieces of legislation. The quicker we can move this Medicaid package to the House side, the better; it is going to take several hours to iron it out. I hope we have no amendments. I think we are down to one that we are trying to discourage. I hope that can be done on both sides, so there will be zero amendments.

Second, with reference to the extenders, the majority leader is correct. Either we are going to pass the extenders by unanimous consent, or they are not going to pass this year, unless we should be here next week or sometime in December.

So I urge my colleagues on this side to forego any amendments. I know there is a great temptation. This is must legislation, and it will be signed by the President. It is a great opportunity to kill the whole package—not to pass anything, but to kill the whole package. So we are waiting for two phone calls which hopefully will be very soon, and I will be in a position to give the majority leader that report.

Mr. MITCHELL. Mr. President, it is my intention to propound the request in any event——

Mr. DOLE. I would be constrained to object. I would rather not.

Mr. MITCHELL. I will do that after I hear from the distinguished Republican leader. I will now yield to the chairman of the Finance Committee for any comments.

Mr. BENTSEN. I thank the leaders for their efforts. There is no question that every member of the Finance Committee and every Member of the Senate has a particular tax provision that he thinks would help and has a constituency supporting that. We discussed that in the Finance Committee yesterday. But we have a strict understanding, a clear understanding with the House that if one amendment is added, it all goes down the tube.

We are talking about things like R&D, research and development. We are in international competition where we are trying to increase the productivity of our country insofar as its factories and production. R&D is necessary. But it stops. We are talking about low-income housing, and our housing starts are down. We are talking about high unemployment and an economy dead in the water. This would be a stimulant for the economy. We do not have it. We could go through the list. Targeted jobs tax credit. But we lose it all if we have one amendment.

So I hope very much that the membership will be in accord with the request of the majority leader, that we have a unanimous consent, and that we have no amendments offered in accordance with the request of the minority leader.

So we passed that out of the Finance Committee unanimously. Every member of that committee, with all of their concerns and interests for tax legislation, understood the enormity of that decision and the responsibility of trying to add an amendment to it.

Mr. MITCHELL. Mr. President, I yield to the distinguished Senator from Missouri, who has been very active in urging the extension of the expired provisions of law.

Mr. DANFORTH. Mr. President, it would be tragic to allow these provisions to expire, especially at a time of downturn in the economy. What is involved in these provisions is jobs, and those jobs can be computed—the research and development tax credit, targeted jobs tax credit, low-income housing tax credit. All of these are provisions that exist now in the Internal Revenue Code that provides real jobs for real people.

People say, what can we do to improve the Tax Code to create more jobs, to stimulate the economy?

Well, at least we can avoid doing something which is destructive; namely, to allow provisions that are now in the code to expire, and then, hopefully, reenact them next year after everybody has dismantled their programs.

So this is really important for the economy. The position that has been taken by the majority leader and by the chairman of the Finance Committee and by Senator DOLE has been recognized by a very strong majority of Members of the Senate.

Senator DODD and I circulated a letter, I guess it was about a week ago, 2 weeks ago, maybe, just on the floor during vote time. It was the easiest letter to circulate either of us have ever had. We got 79 signatures of Senators in a 4-hour period of time, as I recall; 79 Senators who said that as a practical matter the only way to bring this bill to the floor is to do so without amendments, and that we would support bringing it to the floor without amendments, and that we urged the majority leader to do so. He has done so.

Now it is my hope that at least those 79 Senators and 21 others will be true to their word and not prevent this bill from going forward. I appreciate what the majority leader has done and I appreciate the skillful way the chairman of the Finance Committee has handled it yesterday.

Mr. BENTSEN. Mr. President, I thank the Senator from Missouri and the Senator from Connecticut, because they helped push this on to get it started with the feeling we could actually accomplish this in a short period of time and help point out the enormity of the problem if they are not extended. So I enthusiastically support and appreciate his support.

The PRESIDING OFFICER. Has the majority leader yielded the floor?

Mr. MITCHELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, as I understand the situation, we have one, at least one matter of concern on the Republican side of the aisle which I trust will be worked out shortly. I know one of my colleagues has a brief colloquy on a Medicare amendment which he did not want to accept as part of the Medicaid reform, and until that can be worked out I would like to finish some of my comments, unless the majority leader had some other matter he would like to take up.

I would begin by thanking my colleague from Texas, my chairman on the Finance Committee, both for his comments with regard to the agreement, which endorsed the agreement, but with appropriate caution.

All of us are very uncomfortable when we begin legislating a deal that we have not negotiated every detail of ourselves.

I was particularly pleased with the chairman's comments about holding hearings on Medicaid in the committee, and I think the Governors and the legislators in this country and the people at the country and the local level are going to be very pleased to hear that also. Because I talked last night about this very excellent policy statement that the Governors presented to many of us about 3 or 4 weeks ago in which they said that the options—in effect, they said financing is the major obstacle to achieving consensus on the best long-term use of Medicaid resources. The options are for each side to try to shift the disproportionate burden to the others, as we do when we give Medicaid mandates and do not pay for them, or to work cooperatively to develop a way to achieve a rational system over time.

I think this agreement achieves that, and the commitment by the chairman of the Finance Committee to follow this agreement up with hearings on the subjects raised by the Governors here, particularly Medicaid and related commitments that we all make to provide health care and medical services to low-income Americans, is very appropriate.

I must also mention that my colleague, Senator BENTSEN, is the author and I am pleased to be the chief Republican sponsor on our side of an effort to deal with all the larger issues of health care reform in the form of S. 1872, which is, to the best of my knowledge, the best bipartisan, nonpartisan effort to help to make health care available to all Americans.

While I am at it, I might as well encourage my colleagues before they leave for holiday vacations to take one more look at S. 1872. If you want something to talk to your constituents with back home, this is probably the best approach to making health care and medical care available that you are going to find.

I would also like to express, while I have an opportunity, while I am waiting to find out if we worked out the problem, my particular appreciation to Dr. Marina Weiss, the genius of health care on the Senate Finance Committee, who worked the Finance Committee side of this; Alexander Polinsky, on my staff, who did the same for me; to Gail Wilensky of the Health Care Financing Administration for seeing the problem developing and putting together a set of regulations and managing the reaction to those regulations that came; particularly to the technical staff of HCFA, who worked I think this morning until 6 a.m. to try to work on both language and its application to the agreement; Tom Scully, who is Dick Darman's deputy at the Office of Management and Budget and a person who without whom this agreement probably would not be possible; and then Alicia Pelrine and Ray Scheppach who are the executive director and the health professional at the National Governors Association. They are the people who I think are principally responsible for taking 50 experts, i.e., the national Governors, and getting them to work out a consensus over time on a very excellent statement of the Federal-State partnership in meeting the health care needs of Americans and they, too, were key to putting this agreement together.

I indicated in the beginning of my statement that I had some disagreement, not with the agreement as an agreement, but with some of the presumptions about what public policy ought to be.

In effect, what we do is, in order to get the States out of these donation programs where some nursing home or hospital says "Here, I will give you a dollar; you go send it to the Feds and pick up another dollar with it and give me the dollar back," to get them out of that kind of a game we had to admit that it would be appropriate for States to pass broad-based provider taxes, that is taxes on nursing homes, hospitals, doctors, and so forth.

I want to go on record, Mr. President, saying that I believe that the Medicaid Program nor any other third party program in this country should be financed by taxes on hospitals, nursing homes, or medical services of any kind. These are simply taxes on sick people, and on the injured. I call them stealth taxes because they are hidden in the unwitting insurance plans which prevent protest by taxpayers.

They have no business in our public policy. They are simply taxes on the sick and the injured, and hopefully State legislatures are going to have a very hard time adopting them.

Some members of organized labor have already come out in opposition to expanded use of these provider-specific taxes. And while I hate to pass another buck back to the States, I think it is the kind of issue that we are going to need to deal with here in the coming year or so, as they deal with them at the State level.

Personally, Mr. President, I favor federalizing Medicaid. I do not think we ought to have the big debates: this State gets 50-50, this State gets 80-20, this State gets whatever it is, debating formulas and ripoffs and all the rest of the sort of thing.

Most people cannot help where they live. People who live in Mississippi, right next door to Texas, have about one-half the tax capacity to meet the needs that people who live in Texas here. I do not think it is fair to run a system on which people depend whether they are in Maine or New Mexico or Washington or Florida; I do not think it is fair to run that kind of system in this country, where you work or where you live determines whether or not you have access to health care.

So I, for one, believe we ought to skip all the provider taxes, skip all these battles here, and federalize our commitment to provide services for low-income persons. But that is a debate that hopefully we will have in the Finance Committee over the next year or so as we work this partnership.

I just wanted to be sure, Mr. President, that in no way did I want this agreement to be interpreted as an endorsement of State or local taxes on medical services. We here have the responsibility for helping our Nation's elderly, disabled, and low-income with their hospitals, nursing home, and medical expenditures. I do not think we want to be in a position of saying that people who are sick and injured in this country ought to pay the taxes that finance the other sick and injured.

We do not intend by this agreement to limit the authority of States to raise funds, to match Federal Medicaid dollars, except where that authority is exercised in a manner that has the effects of requiring the Federal Government to pay both the tax and the match. That is the difference.

So the reality is we cannot continue to allow sham transactions, provider-specific taxes that are effectively shifting in some of our States 100 percent of the cost of Medicaid to the Federal Government. We are going to make that decision, and I already said I believe we ought to make that decision; we ought to make that here and then live with the consequences in taxes and the budget. The hospitals and nursing home are merely intermediaries in these State programs, and these practices must come to an end.

If the State legislatures want to adopt such taxes to finance up to 25 percent of their Medicaid Program, that is their choice. But what this compromise says is that these must be real taxes, there can be no guarantees that the tax will be rebated directly or indirectly.

Finally, Mr. President, the compromise seeks to resolve a growing tension between the Federal Government and the States as to what type of hospital qualifies as a disproportionate share hospital that can receive a higher reimbursement rate. There are several States that have already classified all of their hospitals as so-called disproportionate share hospitals, and more are waiting to file plan amendments that broadens the number of hospitals that can qualify for such payments.

It is important for all Members to recognize that under Medicaid, Federal matching payments for disproportionate share hospitals are not subject to limitation. This has so far enabled many of the States to receive increasing large Federal matching payments under the guise of their provider tax programs.

Some would have preferred that the NGA agreement establish strict definitions for disproportionate share hospitals. Earlier I mentioned Connecticut. The Governors and the administration have forged a compromise that does two things: First, it repeals the current rule establishing no upper limit on Federal matching for Medicaid DSH payments; and second, it establishes a separate upper payment limit for Medicaid disproportionate share payments.

Under the agreement, the total of all DSH payments in fiscal year 1993 and in any future year cannot exceed 12 percent of total Medicaid Program expenditures in that year.

Any State whose DSH payments in fiscal year 1992 exceeded 12 percent of total Medicaid Program expenditures would be entitled in subsequent years to receive Federal matching for DSH payments up to the dollar amount of such payments in fiscal year 1992. This dollar limit would remain in effect until DSH payments in that State fell to 12 percent of Medicaid Program expenditures. Thereafter, the State would be entitled to increase DSH payments in proportion to total Medicaid Program growth.

Any State whose percentage of DSH payments in fiscal year 1992 is less than 12 percent of Medicaid Program expenditures will be entitled in subsequent years to Federal matching for additional DSH payments according to the following schedule:

First, the level of fiscal year 1992 payments will be increased by the same percentage as the increase in total Medicaid Program expenditures in the State compared with 1992;

Second, the State will receive an allocated share of the "DSH growth factor'' derived from those States whose DSH payments are limited because their DSH programs are currently over 12 percent of total Medicaid expenditures.

Mr. President, these rules attempt to restore meaning to the idea of a disproportionate share hospital. With no upper limit currently allowed for Federal matching for Medicaid DSH payments, we have witnessed numerous instances where States have classified every one of their hospitals as a DSH hospital. In so doing, the DSH classification has served as the engine driving the donations and tax schemes previously discussed. The NGA administration agreement puts an end to this abuse.

Mr. President, this is a complex agreement. It has taken weeks to work out. All sides have given something on this. But the critical thing to remember is that this agreement is the best way we can finally call a halt to the endless creative financing schemes that are destroying the Federal/State Medicaid program. I urge all of my colleagues to support this amendment.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I support the Durenberger amendment to H.R. 3595, as amended by the Senate Finance Committee. I want to assure that Maine is able to continue under its provider-tax plan at least through the State's 1992 fiscal year, which ends on June 30, 1992. It is important that Maine's Medicaid Program not be disrupted at least through this fiscal year.

I have been assured by the Office of Management and Budget that Maine will be protected through June 30, 1992.

I ask unanimous consent that a letter to me from the Associate Director for Human Resources, Veterans and Labor, of the Office of Management and Budget, dated November 25, 1991, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, November 25, 1991.

Hon. GEORGE J. MITCHELL,
Majority Leader,
U.S. Senate, Washington, DC

DEAR SENATOR MITCHELL: This morning I spoke with Governor McKernan regarding the effect of various Medicaid moratoria on the State of Maine. As a result of our discussion, I am certain that, either under Senator Bentsen's legislation of the HHS regulation, Maine will be reimbursed under its current Medicaid program through the end of its current fiscal year.

The HHS regulation allows for transitional exceptions for states to meet the terms of the regulation through June 30, 1992. The Governor and I are sure that Maine can successfully receive such an exception.

Thank you for your attention to this difficult issue.

Sincerely,

THOMAS A. SCULLY,
Associate Director for Human Resources, Veterans and Labor.

Mr. MITCHELL. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBB. Mr. President, it is my understanding that absolutely nothing in this legislation prevents States from taking advantage of the provisions of OBRA 1990 allowing the creation of separate classes of disproportionate share hospitals from among those hospitals already designated as such, as long as they are not using disproportionate share payments to hold providers harmless for the tax. By creating separate classes within the disproportionate hospital designation, States are permitted the flexibility of providing a different disproportionate payment rate for each class of hospital. Designated classes could, for example, be State teaching hospitals, sole community providers, rural hospitals, et cetera.

The Commonwealth of Virginia has submitted a State plan creating separate classes within the disproportionate hospital designation. This would require a Medicaid formula and rate adjustment. It is my understanding that both the reclassification and the formula and rate change for Virginia's Medicaid plan will be permitted under this legislation.

Mr. DURENBERGER. My colleague from Virginia is correct. Under this legislation, States would continue to be allowed to create separate classes within the disproportionate hospital designation and would be permitted to adjust the Medicaid rate and formula accordingly.

Mr. WARNER. I want to join my Virginia colleague, Senator ROBB, in seeking to assure that Virginia will not be penalized under this bill. This legislation ensures that Medicaid plans for disproportionate hospitals submitted prior to November 26 will not be affected by this bill. The Virginia General Assembly is due to take under consideration, in January, an amended Medicaid plan submitted to the Health Care Financing Administration [HCFA] on November 19. I am pleased that the administration has confirmed that this legislation will allow my State to proceed with its plans. We must assure that Medicaid funding of indigent care may continue to be provided to those hospitals most heavily burdened by this most pressing public health priority.

Mr. DURENBERGER. The application of this legislation as articulated above by my colleagues from Virginia is correct.

Mr. MOYNIHAN. I wonder if the senior Senator from Minnesota would yield to a question?

Mr. DURENBERGER. I would be glad to yield.

Mr. MOYNIHAN. Mr. President, paragraph (2)(E) of new subsection (w) of section 1903 authorizes the Secretary to grant a waiver from the uniformity requirement of the broad-based provider specific tax provisions if the State establishes that the tax is redistributive in nature and the waiver is not a backdoor way to hold the providers harmless for the tax.

New York has had a system of assessments of hospitals used to reimburse some of the costs of those hospitals that provide charity care. The assessments vary by region but are uniform within each region. These variations are of long standing. The system is still redistributive, and serves a strong public policy goal of spreading the cost of charity care among those able to bear that cost. Can the distinguished Senator confirm that this is the type of case which would probably be covered by the waiver provision?

Mr. DURENBERGER. Yes, in the case you describe, where the tax is redistributive in nature notwithstanding the regional variations, the Secretary might well be expected to grant a waiver from the uniformity requirement.

Mr. MOYNIHAN. I thank the Senator. Mr. President, I yield the floor.

Mr. DURENBERGER. Mr. President, I urge the adoption of the Durenberger-Rudman amendment.

Mr. BENTSEN. Mr. President, we have no request for amendments on this side. We are prepared to move on the pending legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 1446) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DURENBERGER. I move to lay that motion on the table.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

The question is on the motion to lay on the table the motion to reconsider.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider the substitute amendment.

Without question, the motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I am very pleased that the Senators from Texas and Minnesota have greed to include language extending the date for changes in disproportionate share hospitals proposed by Senator DODD and myself in the Medicaid moratorium legislation. It is my understanding that pursuant to this language those States which submitted State plan amendments to HCFA on or before November 26, 1991 will be able to change the designation of disproportionate share hospitals in their States to include all hospitals which have a Medicaid or low-income utilization percentge at or above the statewide arithmetic mean Medicaid or low-income utilization rate. It is further our understanding that States which have submitted plan amendments on or before November 26, 1991 will be allowed to modify those plans after November 26, 1991 to come into compliance with these criteria.

Mr. DODD. Mr. President, I want to reiterate what my friend from Connecticut has just said. The agreed upon language which we have proposed provides that the September 20, 1991 deadline does not apply to States that had submited plans on or before November 26, 1991 and/or that submit subsequent modifications to these plans if these plans change the designation for disproportionate share hospitals in their States to include any hospitals which have a utilization percentage for care of low-income or Medicaid patients at or above the statewise arithmetic mean Medicaid or low-income utilization rate.

Is this the understanding of the Senators form Minnesota and Texas?

Mr. DURENBERGER. Yes, that is correct. The language proposed by the Senators from Connecticut would change the effective date of the moratorium on changes in State treatment of disproporationate share hospitals for those States which have submitted plans to HCFA between September 30, 1991 through November 26, 1991 or which have submitted modifications to those plan amendments subsequent to November 26, 1991 which are otherwise approvable under the HFCA NPRM of October 31, 1991. Pursuant to this amendment these States would be allowed to designate additional disproportionate share hospitals of those institutions have a utilization percentage for care of low-income or Medicaid patients at or above the statewide arithmetic mean Medicaid or low-income utilization rate. I also understand that the administration has agreed to this language. Is that also the understanding of the distinguished chairman of the Finance Committee?

Mr. BENTSEN. Yes, that is my understanding also.

Mr. MCCONNELL. Mr. President, we are coming to the end of a long battle that has taken place mostly behind the scenes, and this is one of those outcomes that reminds me of the saying, "In legislating, there are no victories, only varying degrees of defeat."

This summer, the Health Care Financing Administration proposed new regulations that would essentially prohibit States from using health provider taxes to match Federal dollars under the Medicaid Program.

Needless to say, the response to these regulations has been deafening. Kentucky, and many other States, would be forced to choose between fiscal insolvency and simply closing the doors of the health care system to the poor.

Adding insult to injury, the administration explained the need for these regulations by saying that States were using revenue-raising scams to qualify for Federal matching funds. I can't speak for other States, but I can speak for Kentucky, in assuring the administration that Kentucky is not using any scams to fund its Medicaid Program.

Responding to this health care crisis, the House of Representatives passed H.R. 3595, a bill introduced by Congressman Waxman, which would provided for a 1-year moratorium on implementation of these extreme regulations. The bill passed the House by an overwhelming margin of 348 to 71.

Shortly thereafter, I introduced a companion bill to H.R. 3595 in the Senate. To me, 1 year seemed a fair amount of time to resolve a tough, complicated issue that involved the budgets and health care systems of 50 States and the Federal Government.

I was pleased that several of my Senate colleagues joined me in this endeavor, and we were well on the way to halting these regulations and allowing some breathing room to work out a more reasonable, acceptable middle-ground.

Our efforts toward a moratorium also put pressure on the administration to negotiate with the States on this critical issue, rather than try to dictate the rules of the game unilaterally.

These negotiations, between HCFA and the National Governors Association, have produced an eleventh-hour agreement that resolves many of the points in dispute about the original administration regulations.

Like any eleventh-hour agreement, this compromise leaves much to be desired, in the view of this Senator. States like Kentucky, where there are many more indigent patients than there are funds to provide for them, could end up paying a steep price under this agreement.

Nevertheless, the choice before us today is not between this problematic compromise and something better that is just around the corner.

The choice is between this package or the original regulations, which we know, without any doubt, would be devastating to Kentucky and many other States.

Further, because of a separate agreement that I secured with the Administrator of HCFA, this compromise has a moratorium built into it: None of the provisions or restrictions in the package will affect Kentucky for the entire year after the general assembly goes into legislative session in 1992. In other words, Kentucky will have until June 1993 to review the regulations and respond to them.

That delay is at least something to be for, because any extra time we can provide could quite literally save lives in Kentucky.

In addition, although we all approach this compromise in good faith, it is worth pointing out that the bill provides us adequate time to correct any problems that emerge as a result of its provisions over the coming year.

For example, I remain deeply concerned about the 25 percent cap on all provider payments and the 12 percent cap on disproportionate share hospital payments.

These caps are manifestly unfair—and maybe unworkable—for States like mine that must serve unusually high numbers of indigent patients. In Kentucky, the total percentage of indigent care-seekers is nearly 20 percent—or 1 in every 5. A 12-percent cap on DSH payments simply does not deal with that reality.

Such caps raise the serious question about what a hospital in Kentucky is going to do when the number of indigent care seekers coming through its doors exceeds the funds available to provide care.

Will that hospital be forced to close its doors to the poor? Or will the state simply try to assume these costs and end up going bankrupt?

These are troubling questions for any State that has a substantial indigent population, and these questions must be carefully analyzed and addressed over the coming year—not in some hastily-prepared, eleventh-hour compromise.

In saying this, I do not denigrate the hard work or honorable intentions of those who have put together this amendment. On the contrary, I have great respect for those who have labored over this proposal, and appreciate their efforts to stave off certain disaster, if the original regulations had gone into effect.

Therefore, although I continue to have serious concerns about the caps contained in the Durenberger amendment, I support this compromise as the best option available among a narrow field of bad options.

People all across the country—and here in this body—are calling for improved health care services in our country, but no one is willing to pay for it. We have directed the States over and over again to expand their Medicaid Programs, knowing full well that States do not possess the funds to pay for these expansions. Now we are trying to tell the States how they can or cannot come up with the money.

This is an urgent matter for the many States these regulations will affect. Federal matching funds are crucial to the Medicaid Programs in Kentucky and other States. If the availability of these matching funds are significantly limited, as they may end up being under this compromise, the poorest of our Nation's citizens could be placed at further risk of inadequate health care.

I hope that, after the present crisis passes, we can address ourselves to the larger problems affecting America's health care system, and achieve solutions that go beyond 11th-hour compromises and slap-dash solutions.

Mr. FORD. Mr. President, I rise to support H.R. 3595, legislation to impose a moratorium on the administration's Medicaid regulations.

As my colleagues may remember, on September 12, the day these regulations were issued, I came to the Senate floor to attempt to offer an amendment to extend the current moratorium on these regulations through September 30, 1991.

According to the nonpartisan Congressional Budget Office, my amendment had no cost. According to the administration's Office of Management and Budget, my amendment had a $1.5 billion cost. It is my understanding that OMB has now revised its estimate upward to a $5.8 billion cost.

Something is just not right about this. My State stands to lose over $500 million next year if these regulations are not stopped. With this money, we have been able to extend hospital coverage to 225,000 Kentuckians who had no access to care before that. We have been able to provide access to care for Kentucky mothers and infants, which has reduced our infant mortality rate to a record low.

We in Kentucky are attempting to deal with the problem of 37 million uninsured Americans—over 700,000 in Kentucky alone. Our plan was enacted consistent with last year's OBRA provisions, and is already producing results. But this administration, through its attempts to prohibit States, like Kentucky, from funding Medicaid services for our low-income families through provider-paid taxes, is once again turning its back on the uninsured.

These regulations go far beyond congressional intent, and are a blatant attempt to cap Medicaid spending in a way that Congress has consistently opposed. We should be helping our states meet the health care needs of our people, not forcing them into bankruptcy through arbitrary regulations.

The current moratorium on these regulations expires December 31, 1991. I would have preferred a simple extension of the current moratorium, but the compromise amendment, the so-called National Governors' Association [NGA] agreement contained in the Durenberger amendment, is the best solution that can be reached under the circumstances.

Under a change I sought in the original NGA compromise, the effective date of this agreement for Kentucky was extended to July 1, 1993. Because Kentucky is the only State which only meets biennially in even-numbered years, our effective date under the original agreement was October 1 of next year. As a former Governor, I was concerned that the October effective date would not have given Kentucky enough time to come into compliance.

I appreciate the willingness of the administration to consider and support this change for Kentucky. I commend the distinguished chairman of the Finance Committee, Senator BENTSEN, and his staff, for working to resolve this situation so that on January 1 of next year, 225,000 Kentuckians will not lose their access to health care.

Kentucky must have the flexibility to fund the health care needs of our people. The current Health Care Financing Administration regulations do not provide that flexibility. With the additional time available under the NGA agreement, hopefully, Kentucky will be able to continue our good progress in providing needed health care services for Kentuckians.

Mr. BYRD. Mr. President, I support the amendment offered by the Senator from Minnesota [Mr. DURENBERGER], to H.R. 3595, the Medicaid Moratorium Act. The Durenberger amendment sets forth the compromise reached between the National Governors Association [NGA] and the administration on voluntary donations, provider-specific taxes, and disproportionate share payments. The amendment also incorporates changes made to the compromise by Members of Congress and individual States.

On September 12, the Health Care Financing Administration [HCFA] issued an interim final rule that would ban States from using voluntary donation programs and institutional provider taxes to obtain Federal matching funds for States' Medicaid programs. This rule, scheduled to go into effect on January 1, 1992, would have a devastating effect on many States' abilities to fund their Medicaid programs. The citizens who depend upon Medicaid as their source of health-care insurance would subsequently suffer. HCFA's interim final rule violates the congressional intent of the Omnibus Budget Reconciliation Act of 1990, and States and the Congress have voiced strong opposition to this rule.

As my colleagues are well aware, Medicaid costs are soaring at both the State and Federal levels. It is expected that the Federal Government and States could pay an estimated $115 billion in fiscal year 1992 for Medicaid programs. Across the Nation, States are having great difficulty financing their share of the Medicaid Program, and my State, West Virginia, is no exception. West Virginia has taken the actions necessary, including raising taxes, to eliminate its Medicaid shortfall. Yet, West Virginia still faces a most difficult time financially dealing with its current caseload. I am sure other States face similar difficulties. These difficulties must be addressed if our Nation's most vulnerable citizens are to have access to health care.

I believe that this final compromise gives States the opportunity and the time to make the modifications necessary to comply with the guidelines set forth in this amendment. I hope that the Senate will support the Durenberger amendment and avoid the devastating effect that implementation of HCFA's interim final rule would have on States' Medicaid programs.

I commend my colleague from West Virginia [Mr. ROCKEFELLER], for his work on this measure. The issues addressed here are of the utmost importance to West Virginia, and Senator ROCKEFELLER deserves much credit for all of his efforts in this regard.

Mr. CHAFEE. Mr. President, for too long, we have postponed settling the issue of voluntary contributions and provider-specific taxes being used to draw down Medicaid funds by States. It is critical that we enact legislation to define reasonable guidelines for the use of provider taxes in financing State Medicaid programs as soon as possible, in order to give States the ability to do long-range planning.

This is especially important to States like my home State of Rhode Island, which have delayed enacting provider tax or donation programs until they had clear guidance from the Federal Government. I would not have my State, and the handful of others, further penalized by allowing those donation and provider tax programs in existence to continue, while prohibiting additional States from implementing their own programs.

The amendment before us, which is based upon an agreement reached by the administration and the National Governors' Association [NGA], is a good first step. Now that we have a compromise between two of the principals in this dispute, I would prefer not to enact yet another moratorium continuing the uncertainty. I am however, very concerned about provisions in the agreement that limit Federal matching funds for Medicaid disproportionate share payments, capping levels at 12 percent of total Medicaid expenditures in each State. I have suggested a 3-year sunset, but in any event, I am hopeful that we will be able to revisit this issue next year and find some other means of financing.

Given those reservations, the amendment sets forth definitive guidelines on what types of programs are acceptable. It also allows the States to establish programs within these parameters and begin long range planning. I urge my colleagues to join with me in supporting this amendment. Thank you Mr. President.

Mr. COATS. As the Senator from Texas knows, insulin serves as a lifeline for many Americans—for diabetics and other individuals with special medical needs, insulin makes the difference between life and death.

I would like to know if the Senate Finance committee is willing to examine the consequences of the OBRA 90 Medicaid drug rebate provisions on insulin?

Would the Chairman be prepared to review this aspect of OBRA 90 and take whatever steps are appropriate to resolve this issue as soon as possible early in 1992?

Mr. BENTSEN. It would be my intention to resolve this issue as soon as possible.

THE MEDICARE GEOGRAPHIC ADJUSTMENT AMENDMENT

Mr. WALLOP. Mr. President, usually at this time of year, we have a major debate on Medicare and Medicaid issues as Congress would push the annual budget reconciliation bill before adjournment. We would make major decisions on health issues with only perfunctory analysis. This process led to the enactment of Medicare's prospective payment system for hospitals, and more recently for physicians. The payment systems are designed to remedy health pricing problems which appear to occur with regularity in populous, urban areas.

In our zeal to respond to this urban abuse, we have cast out a net that has ensnared rural states. The legislated changes in Medicare are an acute problem for our sparsely populated Western States. A regulatory avalanche is descending on our doctors and hospitals pushing us back to frontier health conditions.

This year, our health care providers nearly received a respite. Because of that marvelous budget agreement last year—which becomes more tattered and irrelevant as the economy stutters—we supposedly have spending restraint this year. With the deficit near record levels, few will be celebrating the first anniversary of the budget agreement. At least, we do not have to enact a reconciliation bill this year, which has lately become an event for a tax increase.

We have not entirely escaped confronting health issues before adjournment. There is a proposal involving a funding issue for the States under the Medicaid Program. And, yesterday, the Health Care Financing Administration issued its long awaited regulations on Medicare's new fee schedule for physician services. The health professionals in Wyoming were eagerly awaiting the regulations. Finally, Medicare would reform reimbursement levels to eliminate the favorable treatment for urban areas.

The new system will utilize a national rate for each health procedure covered under Medicare. Not only would rates in rural areas be brought into alignment with urban rates, but the socalled "urban differential" which no one could ever explain would disappear. But, we all know that neither Congress nor the bureaucrats can resist turning a simple idea into a Rube Goldberg maze. The administration proposed a modification of the fee schedule because the bureaucrats feared that physicians would mysteriously increase services to bilk the program. They ignored the volume restraints previously included in the law.

Congress decided that physician fees are different for each region of the country. So, the law contains a requirement for a geographical adjustment factor. It was argued that the cost of living in rural areas was lower than urban areas, so the formula should adjust for locale. Oddly enough, medical equipment manufacturers do not discount their prices for rural areas. Drug companies do not have a rural price versus an urban price. And, the salary requirements for scarce nurses and technologists are not reduced because the employer is a rural hospital or physician.

Despite the contradictions in the assumptions supporting a geographical adjustment factor, those of us representing rural areas accepted the gaf as the price we must pay for the reform of physician fee schedules. However, reconciliation bills always contain surprises, and there is one in the geographic adjustment factor. Part of the calculation includes a skill differential. In other words, the law assumes that a physician practicing in rural areas has inferior skills to a doctor in an urban setting. It is an erroneous, insulting assumption about our rural physicians. To calculate the skill differential, the bureaucrats developed an opportunity cost scheme. They did not actually compare skills between rural and urban physicians. They simply compared salary levels for other professions in rural and urban areas. Any difference was used to calculate skill differentials for doctors. I would ask that the actual table be included in the RECORD at the conclusion of my remarks. Our rural areas, such as all of Wyoming, many parts of Texas, Oregon, and Kansas, all have a lower skill rating than more urban areas.

Last June, I wrote to Dr. Gail Wilensky, Administrator of the health care financing administration, about this and related fee schedule issues. I will ask to have the letter included in the record following the remarks of Senator BENTSON. I never received a response, but I have come up with my own response. We should repeal the language in the medicare law which requires a geographic skill differential. Since the law requires the formula to be neutral, the formula would be adjusted with this deletion. There would be no budget cost to the change.

While I would like to offer an amendment here today to correct this problem, perhaps this would be more appropriate when the Senate considers the Medicare technical corrections bill in the 2d session. I hope we can take a look at the problem at that time.

Mr. BENTSEN. I can assure the Senator from Wyoming that he will find a welcome reception for his views on geographic adjusters from many members of the Finance Committee. During its deliberations on Medicare physician payment reform legislation in 1989, the committee considered whether there should be any geographic adjustment factor, and, if so, what it should be.

The package developed by Senators ROCKEFELLER and DURENBERGER for the so-called overhead portion of the physician's fee, which compensates for office expenses such as rent, staffing, and supplies. The committee agreed to this because organizations like the Physician Payment Review Commission and the American Medical Association told us that fairness required a payment adjustment for practice costs that are beyond the individual physician's control.

The committee rejected an adjustment to the so-called work component of the fee, however, despite the fact that Health and Human Services Secretary Dr. Louis Sullivan and others argued that an adjustment for a physician's own personal cost of living was necessary in order to ensure an adequate supply of doctors in urban areas.

As I recall, some members of my committee were concerned that such an adjustment might be interpreted as a judgment by Congress that the work of urban practitioners was somehow worth more than that of their rural colleagues. Other Members felt that the choice of where to live is a personal one and, as such, shouldn't be recognized by the new payment system.

As my colleague points out, the bill that emerged from the Senate-House conference on payment reform did include a partial adjustment for variations in cost of living—but one that reflects only one-quarter of the measured variation. That means that if the cost of living in a rural area is 80 percent of the national average, payments for physician work will still equal 95 percent of the national average—rather than the 80 percent that would result if a pure cost of living adjustment were applied.

While many Finance Committee conferees would have preferred no cost-of-living adjustment at all, those representing urban practitioners argued forcefully—and successfully—that some adjustment was necessary.

I am committed, however, to ensuring that any geographic adjuster applied to physician payments under Medicare is based upon the best information available, so that it reflects area variations in costs as accurately as possible. That is essential if physicians are to regard the new payment system as fair and worthy of their support.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 24, 1991.

Dr. GAIL WILENSKY,
Administrator, Health Care Financing Administration Department of Health and Human Services, Baltimore, MD.

DEAR DR. WILENSKY: Recently, I had several meetings with physicians from Wyoming to discuss their problems with the Medicare reimbursement system. Since your office issued proposed regulations for the prospective payment system for physicians on June 5, I wanted to comment on current and potential problems with the Part B program.

One major problem is the method for determining reimbursement under the various procedure codes. I have enclosed one page of the reimbursement schedule for one doctor in Wyoming. He highlighted two similar procedures (23075 and 230760). The second procedure is more complicated than the first, and normal fees are about three times the easier procedure. However, the Medicare fee is less for the more complicated procedure. This makes no sense. And, we reviewed many other fee codes during his visit which reflected this same decision to pay a lower fee for a more complicated procedure. I would appreciate an explanation of why Part B utilizes such a dysfunctional reimbursement structure.

This problem has aroused much concern on my part about the prospective payment system being implemented by HCFA. While physicians are to be reimbursed at the same rate for the same procedure, there will be a regional differential. One of the past problems with geographic price differentials is the discrimination against rural areas. Past analysis of rural and urban differences in health costs have indicated that as much as 20% of the difference cannot be explained. I would urge that any regional variations be based only on documented differences in practice costs.

I understand that the regional differential will rate rural physician skills at a lower level than urban physician skills. There is no justification for such discrimination, and I would urge that physicians not be weighed differently simply because they practice in a rural area.

I appreciate your attention to these comments, and look forward to your response.

Sincerely,

MALCOLM WALLOP,
U.S. Senator.

Enclosure.

TABLE 1.—GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY

Carrier No.	Locality No.	Locality name	Work	Practice expense	Malpractice
510	5	Birmingham, AL	.981	0.913	0.824
510	4	Mobile, AL	.964	.911	.824
510	2	North Central AL	.970	.867	.824
510	1	Northwest Alabama	.985	.869	.824
510	6	Rest of AL	.975	.851	.824
510	3	Southeast AL	.972	869	.824
1020	1	Alaska	1.106	1.255	1.042
1030	5	Flagstaff, AZ	.983	1.016	1.255
1030	1	Phoenix, AZ	1.003	1.016	1.255
1030	7	Prescott, AZ	.983	.911	1.255
1030	99	Rest of Arizona	.987	.943	1.255
1030	2	Tucson, AZ	.987	.989	1.255
1030	8	Yuma, AZ	.983	.911	1.255
520	13	Arkansas	.960	.856	.302
2050	26	Anaheim-Santa Ana, CA	1.046	1.220	1.370
542	14	Bakersfield, CA	1.028	1.050	1.370
542	11	Fresno/Madera, CA	1.006	1.009	1.370
542	13	Kings/Tulare, CA	.999	1.001	1.370
2050	18	Los Angeles, (1st of 8)	1.060	1.196	1.370
2050	19	Los Angeles, CA (2d of 8)	1.060	1.196	1.370
2050	20	Los Angeles, CA (3d of 8)	1.060	1.196	1.370
2050	21	Los Angeles, CA (4th of 8)	1.060	1.196	1.370
2050	22	Los Angeles, CA (5th of 8)	1.060	1.196	1.370
2050	23	Los Angeles, CA (6th of 8)	1.060	1.196	1.370
2050	24	Los Angeles, CA (7th of 8)	1.060	1.196	1.370
2050	25	Los Angeles, CA (8th of 8)	1.060	1.196	1.370
542	3	Marin/Napa/Solano, CA	1.012	1.198	1.370
542	10	Merced/Surr. Cntys, CA	1.018	1.009	1.370
542	12	Monterey/ Santa Cruz, CA	1.023	1.108	1.370
542	1	N. Coastal Cntys, CA	1.003	1.072	1.370
542	2	Ne Rural CA	1.001	.990	1.370
542	7	Oakland-Berkeley, CA	1.028	1.258	1.370
542	27	Riverside, CA	1.026	1.080	1.370
542	4	Sacramento/Surr. Cntys, CA	1.026	1.088	1.370
542	15	San Bernardino/E. Cntrl CA	1.025	1.077	1.370
2050	28	San Diego/Imperial, CA	1.026	1.090	1.370
542	5	San Francisco, CA	1.038	1.303	1.370
542	6	San Mateo, CA	1.038	1.303	1.370
2050	16	Santa Barbara, CA	1.012	1.073	1.370
542	9	Santa Clara, CA	1.048	1.286	1.370
542	8	Stockton/Surr. Cntys, CA	1.019	1.027	1.370
2050	17	Ventura, CA	1.034	1.132	1.370
550	1	Colorado	.999	.988	.683
10230	4	Eastern Conn	.999	1.053	1.036
10230	1	NW and N. Central CT	1.002	1.071	1.025
10230	3	South Central CT	1.018	1.103	1.188
10230	2	Southwest CT	1.053	1.139	1.231
570	1	Delaware	1.026	1.018	.664
580	1	D.C. + MD/VA suburbs	1.059	1.168	.947
590	3	Fort Lauderdale, FL	.993	.981	1.376
590	4	Miami, FL	1.034	1.025	1.641
590	2	N/NC/Florida cities	.975	.932	1.108
590	1	Rest of Florida	.966	.871	1.108
1040	1	Atlanta, GA	.975	1.022	.752
1040	4	Rest of Georgia	.956	.841	.752
1040	2	Small Georgia cities 02	.962	.895	.752
1040	3	Small Georgia cities 03	.961	.869	.752
1120	1	Hawaii	1.003	1.094	1.025
5130	12	North Idaho	.965	.917	.889
5130	11	South Idaho	.967	.936	.889
621	10	Champaign-Urbana, IL	.965	.920	1.137
621	16	Chicago, IL	1.044	1.114	1.773
621	3	DeKalb, IL	.978	.925	1.137
621	11	Decatur, IL	.981	.927	1.137
621	12	East St. Louis, IL	.989	.958	1.579
621	6	Kankakee, IL	.972	.925	1.137
621	8	Normal, IL	.997	.968	1.137
621	1	Northwest, IL	.974	.896	1.137
632	5	Peoria, IL	1.009	1.031	1.137
621	7	Quincy, IL	.974	.896	1.137
621	4	Rock Island, IL	.995	.958	1.137
621	2	Rockford, IL	1.010	1.018	1.137
621	13	Southeast IL	.974	.896	1.137
621	14	Southern IL	.974	.896	1.137
621	9	Springfield, IL	.996	.966	1.137
621	15	Suburban Chicago, IL	1.020	1.097	1.137
630	1	Metropolitan IN	.998	.963	.547
630	3	Rest of Indiana	.979	.896	.516
630	2	Urban Indiana	.980	.905	.516
640	5	Des Moines (Polk/Warren), IA	.997	.966	.666
640	3	North Central, IA	.971	.916	.666
640	2	Northeast IA	.972	.918	.666
640	6	Northwest IA	.969	.890	.666
640	4	S. Cen. IA (excl. Des Moines)	.962	.881	.666
640	1	SE Iowa (Incl. Iowa City)	.976	.933	.666
640	7	Southwest IA	.968	.900	.666
740	5	Kansas City, KS	.978	.964	1.134
650	1	Rest of Kansas	.953	.893	1.134
740	4	Suburban Kansas City, KS	.978	.964	1.134
660	1	Lexington and Louisville, KY	.984	.917	.667
660	3	Rest of Kentucky	.974	.875	.667
660	2	SM cities (city limits) KY	.976	.898	.667
528	7	Alexandria, LA	.985	.889	.808
528	3	Baton Rouge, LA	.991	.966	.808
528	6	Lafayette, LA	.982	.982	.808
528	4	Lake Charles, LA	.975	.907	.808
528	5	Monroe, LA	.979	.880	.808
528	1	New Orleans, LA	.994	1.003	1.185
528	50	Rest of Louisiana	.972	.880	.824
528	2	Shreveport, LA	1.003	.940	.808
21200	2	Central Maine	.942	.903	.716
21200	1	Northern Maine	.947	.912	.716
21200	3	Southern Maine	.956	.980	.716
690	1	Baltimore/Surr. Cntys, MD	1.027	1.040	.927
690	3	South and E. Shore MD	1.011	1.010	.820
690	2	Western Maryland	1.006	1.013	.843
700	2	Mass. Suburbs/rural (cities)	.997	1.072	.855
700	1	Massachusetts urban	1.002	1.131	.855
710	1	Detroit, MI	1.059	1.091	1.736
710	2	Michigan, not Detroit	1.010	.971	1.196
720	00	Minnesota (Blue Shield)	.999	.971	.748
10240	00	Minnesota (Travelers)	.999	.971	.748
10250	1	Rest of Mississippi	.960	.838	.650
10250	2	Urban Missouri (city limits)	.966	.902	.650
740	3	K.C. (Jackson County), MO	.978	.964	1.179
740	2	N. K.C. (Clay/Platte), MO	.978	.964	1.179
11260	3	Rest of Missouri	.950	.847	1.179
740	6	Rural NW counties, MO	.953	.866	1.179
11260	2	Sm. E. Cities, MO	.954	.838	1.179
740	1	St. Joseph, MO	.950	.867	1.179
11260	1	St. Louis/lg. E. Cities, MO	.988	.964	1.352
751	1	Montana	.967	.926	.718
655	00	Nebraska	.960	.883	.435
1290	3	Elko & Ely (cities), NV	.984	1.026	1.144
1290	1	Las Vegas, et al (cities), NV	1.036	1.082	1.144
1290	2	Reno, et al (cities), NV	1.008	1.141	1.144
1290	99	Rest of Nevada	1.020	1.079	1.144
780	40	New Hampshire	.962	1.011	.602
860	2	Middle New Jersey	1.034	1.070	1.153
860	1	Northern New Jersey	1.040	1.131	1.153
860	3	Southern New Jersey	1.016	1.030	1.153
1360	5	New Mexico	.981	.925	.767
801	1	Buffalo/Surr. Cntys, NY	1.006	.942	.963
803	1	Manhattan, NY	1.059	1.255	1.647
801	3	N. Central Cities, NY	.997	.952	.963
803	2	NYC Suburbs/Long I., NY	1.060	1.229	1929
803	3	Poughkpsie/N.NYC Suburbs	1.004	1.018	1.325
14330	4	Queens, NY	1.059	1.255	1.861
801	2	Rochester/surr. cntys, NY	1.021	1.017	.963
801	4	Rest of New York	.988	.935	.963
5535	95	Rest of North Carolina	.963	.883	.378
5535	94	Urban (city limits) NC	.975	.926	.378
820	1	North Dakota	.965	.895	.688
16360	1	Akron,OH	.993	.944	.920
16360	2	Cincinnati, OH	.989	.956	.920
16360	3	Cleveland, OH	1.011	.968	.920
16360	4	Columbus, OH	.983	.956	.920
16360	5	Dayton, OH	.999	.935	.920
16360	9	E. Central (Steubenvl), OH	.974	.912	.920
16360	7	Mansfield, OH	.972	.906	.920
16360	13	Marion + surr. cntys, OH	.971	.911	.920
16360	6	Northwest (Lima) OH	.973	.919	.920
16360	14	Scioto Valley, OH	.977	.936	.920
16360	15	Southeast (Ohio Valley) OH	.973	.909	.920
16360	8	Springfield, OH	1.004	.940	.920
16360	10	Toledo (Lucas/Wood), OH	.991	.996	.920
16360	12	W. Centr (Lake Plains), OH	.969	.906	.920
16360	11	Youngstown, OH	.987	.937	.920
1370	00	Oklahoma	.969	.911	.516
1380	2	Eugene, et al (cities), OR	.968	1.008	.951
1380	1	Portland, et al (cities), OR	.993	1.033	.951
1380	99	Rest of Oregon	.979	.997	.951
1380	3	Salem, et al (cities), OR	.974	.990	.951
1380	12	SW OR. cities (city limits)	.974	.988	.951
865	2	Lg. Pennsylvania cities	1.008	1.001	1.440
865	1	Philly/Pitt med schs/hosps	1.014	1.014	1.552
865	4	Rest of Pennsylvania	.975	.929	.986
865	3	Small Pennsylvania cities	.984	.945	.986
973	20	Puerto Rico	.882	.763	.466
870	1	Rhode Island	1.009	.998	.734
880	1	South Carolina	.971	.874	.448
820	2	South Dakota	.951	.857	.688
5440	35	Tennessee	.969	.896	.407
900	29	Abiline, TX	.971	.888	.504
900	26	Amarillo, TX	.972	.900	.504
900	31	Austin, TX	.969	.968	.504
900	20	Beaumont, TX	.998	.955	.504
900	9	Brazoria, TX	1.025	.955	.504
900	10	Brownsville, TX	.980	.888	.504
900	24	Corpus Christi, TX	.976	.944	.504
900	11	Dallas, TX	.996	.971	.504
900	12	Denton, TX	.996	.971	.504
900	14	El Paso, TX	.995	.894	.504
900	28	Fort Worth, TX	.973	.936	.504
900	15	Galveston, TX	.982	.968	.504

TABLE 1.—GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY—Continued

Carrier No.	Locality No.	Locality name	Work	Practice expense	Malpractice
900	16	Grayson, TX	.964	.903	.504
900	18	Houston, TX	1.014	.982	.656
900	33	Laredo, TX	.968	.856	.504
900	17	Longview, TX	.968	.929	.504
900	21	Lubbock, TX	.950	.881	.504
900	19	McAllen, TX	.945	.873	.504
900	23	Midland, TX	1.032	.998	.504
900	2	Northeast rural Texas	.968	.883	.504
900	13	Odessa, TX	1.008	.971	.504
900	25	Orange, TX	.998	.955	.504
900	30	San Angelo, TX	.954	.902	.504
900	7	San Antonio, TX	.973	.929	.504
900	3	Southeast rural Texas	.973	.895	.504
900	6	Temple, TX	.969	.886	.504
900	8	Texarkana, TX	.953	.883	.504
900	27	Tyler, TX	.984	.931	.504
900	32	Victoria, TX	.976	.973	.504
900	22	Waco, TX	.981	.871	.504
900	4	Western rural Texas	.961	.852	.504
900	34	Wichita Falls, TX	.969	.896	.504
910	9	Utah	.993	.952	.739
780	50	Vermont	.942	.941	.533
10490	1	Richmond and Charlottesvl, VA	.975	.953	.462
10490	4	Rest of Virginia	.967	.888	.522
10490	3	Sm. town/industrial VA	.971	.892	.531
10490	2	Tidewater and N. Virginia counties	.989	.944	.703
973	50	Virgin Islands	1.000	1.000	1.000
932	4	E. Cen and NE WA (excl Spokane)	.991	.979	1.064
932	2	Seattle (King Cnty), WA	1.019	1.049	1.064
932	3	Spokane and Richland(cities), WA	.996	.995	1.064
932	1	W and SE WA (excl Seattle)	1.008	.992	1.064
16510	16	Charleston, WV	.987	.962	.688
16510	18	Eastern Valley, WV	.962	.881	.688
16510	19	Ohio River Valley, WV	.962	.881	.688
16510	20	Southern Valley, WV	.960	.876	.688
16510	17	Wheeling, WV	.975	.900	.688
951	13	Central Wisconsin	.960	.888	.762
951	40	Green Bay, WI(Northeast)	.979	.913	.762
951	54	Janesville, WI (S–Central)	.970	.905	.762
951	19	La Crosse, WI (W-Central)	.976	.919	.762
951	15	Madison, WI (Dane County)	.977	.979	.762
951	46	Milwaukee suburbs, WI (SE)	1.010	1.008	.762
951	4	Milwaukee, WI	1.008	1.009	.762
951	12	Northwest Wisconsin	.966	.898	.762
951	60	Oshkosh, WI (E-Central)	.974	.911	.762
951	14	Southwest Wisconsin	.960	.888	.762
951	36	Wausau, WI (N-Central)	.971	.898	.762
825	21	Wyoming	.988	.938	.641

Note: Work GPCI is the one-quarter work GPCI required by Public Law 101-239.

THE MEDICAID MORATORIUM AMENDMENT OF 1991

Mr. GRASSLEY. Mr. President, I am going to support the agreement so arduously negotiated between the Governors' Association and the Health Care Financing Administration.

As I understand it, the Governors firmly support the agreement. And I have kept in close touch with my own Governor's office and my State's Medicaid Program throughout this debate.

I have to say that I think it is unfortunate that the cutoff date for commencement of the provider tax funding mechanisms which would be accepted for Federal matching funds had to be moved forward to last week in order to gain the adherence of several States to the agreement being negotiated between the Governors and the Health Care Financing Administration.

However this is scored by the Office of Management and Budget for Budget act purposes, the need to get support for this agreement from States who started these funding mechanisms at the last minute, so to speak, is going to cost the Federal taxpayer more.

Nevertheless, at least this agreement enables us to impose some constraints on the future spending that would occur under these funding arrangements.

I also believe that it is unfortunate that we must change the basic nature of the Medicaid Program under these circumstances. I agree with other Senators who have said that the way we should transform the Medicaid Program, if that is what we want to do, is to fully debate it through the legislative process.

Instead, over a period of a week or two, if we pass this legislation, we have accepted the principle that the States, if they so choose, can impose taxes on health care providers as a way of funding the Medicaid Program. I am not particularly comfortable with this idea, Mr. President.

Nevertheless, this Governors' agreement will impose some regularity and standards on these unorthodox funding mechanisms, and is, in my view clearly preferable to a moratorium, however short we would like its ending date to be.

I have several problems with proceeding with a moratorium, even if it is a relatively short one like that which was reported from the Committee on Finance over my opposition.

To begin with, I do not believe that we will end up with a moratorium ending April 1. I do not doubt for a minute that the chairman of the Finance Committee will work hard to achieve such a concluding date for a moratorium.

What I do doubt is the willingness of the other body to go along. Their moratorium legislation has an ending date of September 30. I have heard that some of the Members of the other body, who will be on any conference committee, do not want to see these funding arrangements ended. Furthermore, there are even members of the Finance Committee who would like to see a later date for the conclusion of the moratorium.

Thus, we could easily end up with a concluding date for the moratorium in June or even later. By that time, we will be in the Presidential and Congressional election campaigns and it will become more and more difficult to get the issue resolved. We will then be tempted to postpone the issue until the next Congress. This certainly seems to me to be a likely an outcome as any.

Second, this moratorium is two-sided—the regulations would not be able to go forward, and all States would be frozen more or less where they are, even the ones which are not using these methods. States like Iowa, which do not engage in these methods, will continue to be treated differently than the other States.

If I am right in assuming that we will end up with a longterm moratorium, States like Iowa will be completely frozen out of using methods which we have legitimated for other States.

Although I have serious reservations about such funding methods, I cannot countenance different rules for different States. That just is not fair.

In summary, Mr. President, we need to get some control over this problem, and the only way we can hope to do that is to support the Governor's agreement. States now using these methods have some protection. States such as Iowa, which do not use these methods would at least be able to participate in the program on the same terms as the other States, if they so choose.

MEDICARE GRADUATE MEDICAL EDUCATION PROGRAM

Mr. SIMPSON. Mr. President, I would like to engage the distinguished chairman of the Finance Committee on a topic of some importance to the States of Wyoming and Missouri.

Earlier today I had planned to offer an amendment to the Medicaid legislation; however, rather than hold up such an important measure with an amendment that we did not have an opportunity to clear with the House, I agreed to withdraw the language and offer it instead as a freestanding bill.

As the chairman knows, Mr. President, there are hospital facilities in Wyoming and Missouri that were unintentionally left out of the Medicare Graduate Medical Education Program when Congress enacted changes to that statute in 1986. They were left out because the statutory language did not anticipate the circumstances that these facilities found themselves in at the time, of that they find themselves in now. As a result, without a technical change to the statutory wording, these hospitals cannot get back in.

This is a critical issue to Wyoming, which has just over 500 active physicians to serve 99,000 square miles. Though its complement of residents is modest, Wyoming's sole Medical Residency Program is a significant source of physician supply in the State.

Prior to 1988, Wyoming's Medical Residency Program was housed in, financed and administered by the State University. In 1988, the residency program spun off from the university to the hospital—probably appropriate—since we do not have a medical school at the university. The hospital now has full operational, financial and administrative responsibility for the program. However, the hospital does not now, nor has it ever, received a dime in Medicare direct graduate medical education reimbursement.

As the chairman knows, Mr. President, the Medicare Direct GME Program was established to compensate hospitals for approved graduate medical education costs in proportion to their Medicare patient load. That is fair policy.

Unfortunately, the Medicare statute denies Wyoming its fair share of these critical funds. The statute bases hospital GME reimbursement on 1984 cost reports. Since the Wyoming facility did not incur any costs until it assumed the residency program in 1989, it has a 1984 base-year cost of zero. Consequently, it is forever eligible for GME reimbursement in the amount of zero, even though it is now operating a top-flight rural residency training program and even though fully 80 percent of its patient base is either Medicare, Medicaid, or uninsured. Illogical as that is, there is just no way around it under the statute. That is why I am seeking a legislative remedy.

Mr. President, I know that as an architect of the 1986 statute, the distinguished chairman of the Finance Committee understands this problem and is committed to helping us resolve it.

Mr. BENTSEN. First I want to say that I appreciate the forbearance of the junior Senator from Wyoming earlier today. I know that he has been seeking to resolve the problem he just described for some time now, and I intend to help him do that. I also know that he fully appreciates the tremendous importance of the Medicaid bill we passed today, and the risk that any amendment would have posed to its final passage.

Mr. SIMPSON. Let me assure my friend from Texas that HCFA has been intimately involved in this issue. Gail Wilensky visited the Wyoming Residency Programs personally, and her office has been instrumental in helping us to prepare this legislation. The Office of Mangement and Budget is also very supportive of the merits of our case and of the remedy we here propose. Their concern, of course, is that any increased outlays in GME funds be offset, which we have also proposed a way to do. And at this point let me also say to my friend from Texas that we are not wedded to any particular financing mechanism. We include one in this legislation, we have others waiting in the wings if the chairman finds them more acceptable. Our sole concern is to assure Wyoming full and equal participation in a vital national program from which it is now, through no fault of its own, entirely excluded.

Mr. BENTSEN. I thank my colleague for calling this issue to the attention of the Finance Committee. Senator BURDICK has raised a similar problem in North Dakota. It was never intended that certain hospitals be excluded from receiving Medicare GME payments simply by virtue of the date on which they undertook to operate a residency program, indeed there is an exception in the statute to address precisely that issue, but I understand that in some circumstances, such as Wyoming's, hospitals fall outside that provision.

Let me assure my colleague that I understand the problem and I am sympathetic to it. I will ask that the Senate Finance Committee take the Senator's legislation under consideration and hope we can reach resolution of this problem in the near future.

Mr. BOND. Mr. President, I join the Senator from Wyoming, Senator SIMPSON, in expressing our concern about this unfortunate and unintended problem with payment for graduate medical education. I thank the chairman of the Finance Committee, Senator BENTSEN, for agreeing to work to resolve this problem early in 1992.

When Congress changed the rules for determining payment under Medicare to hospitals for their graduate medical education [GME] programs, an unforeseen and certainly unintended consequence of this change in payment policy occurred which affects a very small number of hospitals in this country. This glitch in the GME payment rules has caused Keller Memorial Hospital in Fayette, MO, to be left without the Federal Government shouldering the responsibility for it's share of these educational costs and in fact, Keller Hospital has been told by the Health Care Financing Administration that it must pay back funds already dispersed to this hospital.

The problem occurred because prior to 1986, Keller's medical education costs were paid through a Federal grant program: "Grants for Residency Training in Family Medicine," and not through Medicare. When this program was terminated, Keller was advised by Medicare that it would begin receiving this Federal assistance through the Medicare program and did so in 1986. Since that time, Medicare has reimbursed Keller Hospital approximately $334,000. The new GME payment rules passed by Congress, did not take into account situations like that of Keller Hospital which received zero in 1985 from Medicare for GME, and HCFA has determined based on this, that Keller therefore should continue to receive zero. Certainly, this is not what Congress intended when the new GME payment rules were enacted.

Keller Hospital is a struggling rural hospital which, like many rural hospitals, has seen some very tough times in recent years. Keller's medical residency program prepares physicians to practice in rural Missouri where they are desperately needed. Keller is also the largest employer in Fayette and it's painfully obvious how devastating it would be if Keller is forced to close because of a payment glitch that Congress created. But, until we act, HCFA is knocking on their door and demanding that they pay back up to $334,000 which they simply cannot afford to do. The administration has no other choice unless we enact legislation to amend the statutory GME payment rules.

Mr. President, I want to again thank the chairman of the Finance Committee, Senator BENTSEN, for agreeing to help us solve Keller hospital's problem and prevent an unnecessary and unfortunate tragedy from occurring. I look forward to working with him and Senator SIMPSON to get this problem resolved as soon as possible in 1992.

Mr. DIXON. Mr. President, today, this body will act on H.R. 3595, the Medicaid Moratorium Act, by adopting the National Governors' Association agreement as the solution to States' use of voluntary donations, provider-specific taxes, and intergovernmental transfers to generate Federal matching funds under the Medicaid Program.

As I have expressed to my colleagues in the past, the Medicaid regulations issued on September 12, 1991, by the Health Care Financing Administration [HCFA] would effectively undo all the work my State has done in its unanimous enactment of a plan to assess hospitals, nursing homes, facilities serving persons with developmental disabilities, and community mental health centers.

Many providers of health care in my State continue to have concern about the lack of flexibility regarding the nature of State taxes, and the imposition of limits on the amounts States may spend on their most vulnerable citizens.

My preference to address these and other concerns was to repeal the regulations outright. I cosponsored S. 1886, legislation to impose a temporary moratorium on HCFA's regulations until September 30, 1992, in order to at least temporarily prevent HCFA from going forward. In addition, I reserved the option to offer an amendment to extend the Finance Committee's substitute on the moratorium from April 1, 1992, to at least July 1, 1992. However, we are now running out of time. It, therefore, becomes imperative to resolve the Medicaid dilemma for States and the many health care providers. I, therefore, reluctantly support the measure before us to codify the National Governors' Association's Medicaid provider tax agreement.

Mr. President, this body has spoken and obviously will approve the Governors' agreement. I am pleased, however, that the chairman of the Senate Finance Committee, Senator BENTSEN, has expressed his intent to monitor the administration's implementation of the agreement.

I hope that Senator BENTSEN and the conferees will include report language which will prohibit HCFA from attempting to narrowly define classes of disproportionate share hospital providers.

Mr. President, I ask unanimous consent that such proposed language be included in the RECORD at the end of my remarks.

According to the information available to me on section 1923(c), the committee substitute amendment to H.R. 3595, does not include clarifying language sought by children's and other disproportionate share hospitals, and supported by the State of Illinois. I understand that HCFA has told the National Governors' Association that the agency will issue written assurance that the amendment to section 1923(c) precluding States from using the third option for payment adjustments to disproportionate share hospital providers does not otherwise change current law, as amended by OBRA '90.

I appeal to the conferees to make these clarifications which are so vital to providing health care for the most vulnerable individuals in our society—poor families, the elderly, and disabled.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CLARIFICATION OF INTENT OF SECTION 4703 OF OBRA '90

(Sec. 1923(c)(3) of the Social Security Act)

"The purpose of this third option is to allow a State to consider other factors determined by a State to be related to the care of Medicaid and low-income patients in its disproportionate share payment formula. Such other factors may include, but are not limited to: intensity of care; the provision of endangered services or services essential to the Medicaid and low-income patients of a State; the efficiency of hospitals as measured through occupancy rates or such other factors reasonably related to efficiency; Medicare, Medicaid, and/or low-income utilization levels; the types of services that are predominantly furnished by a hospital; geographic location; or any combination of such factors, so long as the factors apply equally to all hospitals of each type and result in an adjustment that is reasonably related to the costs, volume, or proportion of services provided to low-income patients.

Therefore, nothing in this section shall be construed in any way as limiting the ability of a State to define the types of hospitals for which payment adjustments may vary in accordance with methodologies established under Section 1928(c) of the Act."

Mr. MACK. First, I would like to thank the chairman of the Finance Committee. I concur with the comments made by my collegue, Senator BOB GRAHAM concerning a transitional period for those States whose legislatures might adjourn prior to a compromise being finalized. I appreciate the chairman's assurances that States, such as Florida, which fall into this category, will be given an acceptable period to come into compliance.

Second, I would like to take a few moments to talk about Florida's Medicaid Program. Florida acted in good faith when it established its matching mechanism for Federal Medicare funding in the 1980's. My colleague, Senator GRAHAM, was instrumental in creating Florida's provider specific tax program. Florida has received repeated assurances from the national level that its program is a model one.

This Medicaid issue is simple one of fair share. The National Association of State Budget Officers report that Medicaid is the second fastest growing item in State budgets. According to Dr. Wilensky's recent testimony before the Committee on Finance, Medicaid expenditures new represent over 16 percent of most State budgets.

My State has, and is continuing to be, pillaged by the Federal Government. It has been my experience that for every dollar in taxes Florida sends to Washington, it receives back far less in programmatic outlays. For too many years, we Floridians have not received back our fair share of Federal dollars. it is critical the hemorrhage of Florida dollars to Washington does not increase and I appreciate the many efforts that have been made to prevent this from happening.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3595), as amended, was passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to provide for a moratorium on the issuance of final regulations and on the use of donations and provider-specific taxes by States to receive Federal matching funds under medicaid.

Mr. DURENBERGER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GATT

Mr. PRESSLER. Mr. President, recently I introduced a resolution along with Senators LUGAR, GRASSLEY, and WALLOP expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in GATT negotiations. I did this after returning from Rome a few weeks ago when it became apparent to me that there was an assumption on the part of European diplomats that the United States would compromise on the agricultural subsidies part of the GATT Treaty.

Mr. President, all along our Government has insisted that Europe reduce its agricultural subsidies and reduce its export subsidies. Europe's insistence not to reduce its subsidy has held up conclusion of the Uruguay round negotiations.

Recently, there have been some indications that the United States is now moving toward a compromise. What has been revealed thus far is 25-year lower reduction in the EC's export subsidies, rather than a larger 10-year reduction. I am very fearful that our trade negotiators and the administration will compromise what many of us have been counting on. That is that Europe will significantly reduce its agricultural subsidies and its export subsidies as we have done. Our reform reduces and continues to reduce over a 5-year period agricultural subsidies.

My resolution has been endorsed by the American Farm Bureau Association, the National Farmers Union, the National Grain and Feed Association, the National Milk Producers Federation, the National Turkey Federation, the American Sugar Beet Growers Association, and the United Fresh Fruits and Vegetables Association.

My resolution expresses the sense of the Senate that the administration holds firm in its negotiations, to the announced demands for EC subsidy reductions.

Ms. MIKULSKI assumed the Chair.

Mr. PRESSLER. Madam President, I voted for the free-trade agreement between the United States and Canada. I am prepared to help out with the proposed free-trade agreement with Mexico. However, we should continue to insist that Europe lower its agricultural subsidies and its export subsidies. The fact that Europe has been increasing its subsidies has made trade in some commodities very unfair. For example, soybeans are about $12 to $13 a bushel in Europe, while they are between $5.60 and $5.75 a bushel in the United States. Our farmers have not been able to compete fairly in that market.

My resolution says that it is the sense of the Senate that any agreement regarding proposed changes to the GATT must: First, achieve the elimination or substantial reduction of export subsidies as a means of disposing of agricultural surpluses in the world market; second, achieve new and expanded farm market opportunities; third, ensure the European Community does not offset possible reductions in its agricultural export subsidies by adopting programs, such as variable levies or tariffs, which have the effect of substantially limiting United States agricultural exports to the European Community.

The purpose is to be sure that nontariff barriers are erected in place of tariff barriers. For example, we had reached an agreement on beef with Europe, and Europe then came up with an argument against the use of hormones that caused the United States to lose beef markets in Europe. The point is that the EC by raising this argument in effect introduced a nontariff barrier.

The EC raised another issue of cleanliness of our meat-packing plants. We have state-of-the-art meat packing plants in the United States, and problems identified are quickly solved.

The point is the adoption of new nontariff barriers on the part of the EC seem to be endless. This is not in good faith, in this Senator's judgment.

Madame President, the fourth point of my resolution would not limit the United States ability to exercise its rights under the GATT to eliminate unfair trade barriers in the future.

And, finally, five, achieve a sound agreement governing sanitary and phytosanitary regulations. This point addresses the issue of erecting nontariff barriers in animal and plant health and safety after a tariff agreement has been entered into.

Madam President, I ask unanimous consent to have printed in the RECORD a copy of the resolution, S. 227, along with a copy of a letter from the U.S. Trade Representative on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 227

Whereas in 1985, negotiations on an international agreement to reform the General Agreement on Tariffs and Trade (hereafter in this resolution referred to as "GATT") began in Punta del Este, Uruguay, with a targeted conclusion date of December 1990;

Whereas the United States and other major agricultural exporting nations insisted from the start on significant reductions in the subsidy programs operated by the European Community under its Common Agricultural Policy;

Whereas in December 1990, after the European Community decided against reducing the subsidy programs of its Common Agricultural Policy, no international agricultural subsidy reduction agreement was reached;

Whereas in November 1991, the European Community indicated some willingness to reduce its export subsidies during the GATT negotiations;

Whereas agriculture has a long tradition of supporting international efforts to achieve more open markets and fairer rules governing world agricultural trade;

Whereas the support of United States farmers and ranchers for multilateral and other trade negotiations depends on the success of the Uruguay Round GATT negotiations in achieving agricultural subsidy reductions in the European Community; and

Whereas any agreement under the GATT that is not supported by American farmers and ranchers would not be acceptable to the Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that any agreement regarding proposed changes to the GATT must—

(1) achieve the elimination or substantial reduction of export subsidies as a means of disposing of agricultural surpluses in the world market;

(2) achieve new and expanded foreign market opportunities for United States farm products;

(3) ensure the European Community does not offset possible reductions in its agricultural export subsidies by adopting programs, such as variable levies or tariffs, which have the effect of substantially limiting United States agricultural exports to the European Community;

(4) not limit the United States' ability to exercise its rights under the GATT to eliminate unfair trade barriers in the future; and

(5) achieve a sound agreement governing sanitary and phytosanitary regulations.

U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 22, 1991.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: This is in response to your telegram of November 11 which was prompted by reports you received from European diplomats that the United States was about to drop its demand that the European Community (EC) cease its agricultural protectionism.

Clearly, those reports were false. As you correctly pointed out in your message, worldwide agricultural policy reform is a critically important objective for U.S. farmers. For that reason, the Administration has not receded from, and will not back down on, its insistence that all countries participating in the Uruguay Round agree to binding commitments that will achieve the goal agreed upon by all participants—a substantial and progressive reduction in agricultural support and protection.

From a very practical standpoint, it makes no sense for us to reduce the pressure on the EC—or any of our other trading partners—to agree to subsidy reductions since the United States is already committed to a path that will produce substantial subsidy cuts for many of our major crops. On that point, we fully agree with you.

With regard to the status of the Uruguay Round agricultural negotiations, we recently began what appears to be a constructive dialogue with the EC. We hope these talks will ultimately lead to an acceptable agreement on agriculture. We will keep you and your colleagues fully informed as those difficult discussions proceed.

We appreciate your advice and support on this vital issue.

Sincerely,

CARLA A. HILLS.

Mr. PRESSLER. I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I request unanimous consent to proceed for about 5 minutes.

Mr. MITCHELL. Will the Senator withhold to permit me to present a unanimous-consent request regarding the extending of expiring tax provisions? I thank the Senator.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, as I earlier announced, it is my intention to present a unanimous-consent request that would permit prompt action to extend certain expiring provisions in the tax laws which are critical to our Nation's economy in any event and especially at this very difficult time of economic recession.

Under the circumstances which we face, there is no possibility of amending these provisions, much as I would like to, and much as I know many Senators would like to. I have discussed this matter with the distinguished Republican leader who has just previously and publicly supported the view which I have expressed, as does the chairman of the Finance Committee, and the Finance Committee unanimously yesterday supported this position.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3909

Mr. MITCHELL. Accordingly, Madam President, I ask unanimous consent that when the Senate receives from the House the bill to extend certain expiring tax provisions, H.R. 3909, that provided it is identical to the text of S. 2042, as reported by the Senate Finance Committee on November 25, it be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that all of the above occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. KASTEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Madam President, I reserve the right to object, first of all, to make the point to the majority leader and the Finance Committee chairman that I support permanent extension of the expiring tax provisions. I think they are important provisions, and I think they help create jobs and preserve jobs.

Frankly, if we are going to work to create and preserve jobs, which should be our top priority, I think we have to include in this package, and I hope we can, the repeal of the 10-percent excise tax on boats. That has to be, in my view, included in tax legislation ideally this year.

I know the Senator from Maine spoke in favor of the resolution which was a sense-of-the-Senate resolution before us only a few days ago. It passed with 82 Senators joining the Senator from Maine and myself saying that we have to repeal this tax. The excise tax on boats has backfired. It has put thousands of middle-class workers who build boats in the unemployment line.

I would like to ask the leader if he would amend his unanimous-consent request to allow the Senator from Wisconsin to offer one amendment. I am not talking about growth amendments. I am not talking about the debate on capital gains, or reincentivizing the economy or all the other debates we have had on this floor back and forth.

It would be one amendment, and the amendment would simply be to repeal the excise tax on boats. I am concerned about the whole excise tax, that whole category, and I would like to repeal all of it. But right this minute, and I believe that between now and next February or March when we may have a chance for another vehicle between this minute and then, in my judgment, we are going to see additional companies across this country and probably in the majority leader's State and mine and certainly workers across this country lose their jobs because of the combination of the recession and the excise tax on boats.

So I ask the leader if I could ask the right to amend his unanimous-consent request—and then I would not object—to offer one amendment for an up-or-down vote, and I am agreeable to a short time period, I would say 10 minutes equally divided because we had this debate on the floor of the Senate a day or two ago when 82 Senators supported it. Ten minutes, equally divided, on an up-or-down vote on repealing the excise tax on boats.

With that, I would have no objection to this request.

Mr. MITCHELL. Madam President, as the Senator form Wisconsin knows very well, I strongly support repeal of the luxury tax on boats. I am a cosponsor of the legislation to repeal that provision. I spoke in favor of and voted in favor of the resolution just a few days ago. No one would prefer more than I that we could right now vote to and in fact repeal that tax.

But the Senator from Wisconsin also knows full well that is not going to happen on this bill and he knows full well that I cannot agree to the request that he has made for two reasons: The first is that it has been made unmistakably clear by the House that if this bill is changed in any way—in any way whatsoever—it will not be accepted in the House and the only result of that effort will be to cause the expiring provisions to expire. This is not a case in which one change and one change alone can be made. The House has made clear that either we extend the expiring provisions and do that only or we do nothing.

The second reason I cannot agree to the Senator's request, as he full well knows, is that 98 other Senators have agreed to permit us to extend the expiring provisions without amendment. A very large number of them have stated to me personally that if anyone else gets a single amendment, he or she wants his or her amendment to be offered. So that much as I want to accept the Senator's offer, much as I want to repeal the luxury tax on boats, much as I would like to limit it to that one amendment, that is not going to happen and it cannot happen. Indeed, the distinguished Republican leader said to me that if boats is on there, there have to be other things on there. And the Senator from Wisconsin knows that.

So the reality is, Madam President, and members of the Senate, we have two choices, very painful and unpleasant choices for the Senate, and especially painful and unpleasant for me. We can either extend these expiring provisions, very important provisions, without any change, or we can do nothing.

I regret that. I find it very difficult to accept. But we are often, indeed we are regularly here confronted with difficult and unpleasant choices, personally and politically, as individuals and as an institution.

Therefore, I want to say to the Senator from Wisconsin that I am deeply commited to repeal of the luxury tax on boat. I believe that there will be a major tax bill enacted into law early next year, and I am going to do everything I can, all within my power as an individual Senator and as majority leader, to make certain that as part of that there is a repeal of the luxury tax on boats and that it is retroactive.

I believe that will happen, both for substantive and political reasons. I think substantively the tax clearly was a mistake. It is causing harm. It must be rectified. I wish it could be rectified now, but it is creating a false impression to create the impression that we can do so as part of this bill. We cannot.

We can cause this bill to go down. We can cause the expiring provisions not to be extended. We can end the research and development tax credit, the low-income housing tax credit, the mortgage revenue bond credit, and others, which I do not think we should do, and I hope we will not. But that is the very personal painful choice before us. And accordingly, as I would like to agree with—and I do agree with the position taken on the issue by the Senator from Wisconsin—the reality is that if this unanimous-consent request is not agreed to, the matter will simply be terminated.

If there are going to be any amendments, there are obviously going to be dozens, perhaps hundreds of amendments. Everyone here has been here long enough to know what happens when a tax bill comes to the Senate floor in the closing days and knows there cannot be one amendment. There are right now on the floor six other Senators, and I expect that if other Senators knew that we had a tax bill here with amendments available to it, we would have 96 Senators very quickly. It simply cannot be done.

So with the deepest of regret and with a great deal of personal anguish, because of the circumstances of the effect of the boat tax on my State, I cannot agree to the Senator's request and will simply withdraw the request if objection is made.

Mr. KASTEN. Madam President, very briefly, further reserving the right to object, evidently, if we are down to one person standing here and everyone else has agreed, I can count, and we can get to where the majority leader wants to get by outvoting me. I understand that. But I think it is a little bit unfair when we are at the end of the session with the tax bill when a number of us have prevented from acting because there has not been a tax vehicle all along the way over the past several weeks, indeed the past several months.

On this issue, my sense is the majority leader and I had others support repeal. The opposition is in the House, significant opposition in the House Ways and Means Committee at this time. If we had our way and we could originate tax legislation, and we had the consensus that seems to be developing here, we would be there. But that has not been the case.

As the majority leader knows, I have been looking for a vehicle, a proper vehicle. We have been told we needed a revenue offset. We now have that revenue offset. It is in diesel fuel for the marine industry. The point is that we cannot have legislation on other bills, so we have been prevented that way. And now the only tax legislation that comes along to which in fact this would be germane and would properly be attached, we are told we cannot have any amendments.

I understand that there are other amendments. I have other questions and amendments with regard to the tax package. But this one, in my view, is a crisis. This one, in my view, we can count the workers, the jobs we are losing in my State and in the Senator's.

I do not know what to do except to say that I am somewhat helped by the fact that the majority leader and I know the Senator from Texas, the chairman of the Finance Committee, in the committee said we can have this bill retroactive. My hope is that if it were passed—in other words, in March or May, early April, we could have the bill and it could be retroactive. I know we cannot promise a particular date, but at least until the beginning of the year, or ideally today. I know that discussion occurred in the Finance Committee, and I know we cannot at this time say to when it can be retroactive.

But I want to say to the majority leader, I join him in wanting this tax repeal, which will be repealed, to be retroactive, and that gives some help to some of the people who right now are continuing to risk their capital in a losing market. Going into the spring shows, making plans for the spring shows, maybe that helps somewhat.

But if this is the best we could do, it is the best we could do. I want to do differently, but I also am aware that at least at this moment I am the only person who is objecting, and therefore I will just yield the floor.

Mr. MITCHELL. Madam President, I renew my request.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

The majority leader's unanimous-consent request is agreed to, as there is no objection.

Mr. MITCHELL. Madam President, let me say to my friend and colleague from Wisconsin that when we entered the Senate we swore an oath to uphold and defend the Constitution. I believe that the American Constitution is the best statement of individual liberty—particularly when one includes the Bill of Rights which, of course, is an integral part of it—ever devised by men or women anywhere. But there are some parts of it that I wish were different, and one of the parts that poses the most difficulty for us here is the one to which the Senator from Wisconsin has referred: Tax legislation cannot under the American Constitution originate in the Senate; it can only originate in the House of Representatives. The Senate does not have any authority to initiate tax legislation. If we pass a tax bill here that originated in this body, it is a nullity. It is unconstitutional. It has no legal effect.

Now, that is a reality with which we must deal, and it bears directly on the circumstance in which we find ourselves. We have not had a tax bill for the simple reason that the House has not passed and sent us a tax bill. So, laboring under that handicap, we are confronted now with this situation when on the last day of the session the House does send us a tax bill and it is limited and it has with it the condition that if it is changed in any respect, it will be dead.

I find that extremely difficult to accept.

I find it personally painful, given that the Senator From Wisconsin knows my State is adversely affected by the tax. I want to repeal it more than any Member of this Senate. But we have to make clear to everyone that is not an option. That was not an option on this provision. The only thing we could do is either pass these expiring provisions, or do nothing.

We are regularly confronted here with very painful and unpleasant choices, not between good and bad and right and wrong, but between more painful and less painful, or more painful and most painful, in this case.

So I thank my colleague for the effort he has demonstrated in calling attention to this situation, and in getting the Senate to go strongly on record in favoring repeal of the tax. I look forward to working with him on repeal of this legislation retroactively, as far back as we can get it.

This is not going to undo all the damage that has been done, or repair all of the harm that has occurred. But it will be something. I look forward to working with him to do that as soon as possible; to get this tax repealed, and to repeal it retroactively. We are going to work just as hard as we can. It simply was not possible on this bill. That just was not available to us. I regret that.

Madam President, I thank my colleague from West Virginia very much for his courtesy in yielding. This colloquy went on longer than I know he intended, and I appreciate that very much.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

MEDICAID

Mr. ROCKEFELLER. Madam President, the majority leader has no reason to thank me, because the business that he was doing was extremely important and very fruitful for our country.

I rise only to comment on an agreement between the National Governors Association and the administration that we just passed by voice vote dealing with the Medicaid Program.

It strikes me as odd, Madam President, that we tend in this body and in this Congress to deal out tax shelters for wealthy people. We talk about all kinds of things, including what we have just been discussing, and that is the tax situation of luxury boats of $100,000 or $150,000, or over. We do that all rather easily.

But when it gets down to a question of Medicaid and providing health insurance for pregnant women, so they can get prenatal care, and for children, so they can have adequate preventive care and inoculations, it becomes an enormous public brouhaha.

Indeed, we are accusing States who are struggling to balance their budgets and adequately fund their Medicaid programs—accusing them of engaging in a scam, and of conspiracies to defraud the Federal Government.

As far as I know, most of this money goes to take care of low-income pregnant women and children, which is at the very foundation of proper health care policy and preventive health care policy.

Some would say that doctors and hospitals are trying to rip off the system. That is untrue. Take West Virginia, for example. Today in West Virginia, physicians are reimbursed at 3 percent, on average, of private health insurance rates for taking care of Medicaid beneficiaries.

Under legislation recently enacted in West Virginia, doctors will be reimbursed for up to 77 percent of what they normally would receive under private pay insurance. That is called making it possible for low-income children and pregnant women to obtain access to health care. Physicians become more willing to give that care because they are getting more adequately reimbursed. It's still not what they would receive under private insurance, but it is significantly improved. That's good public health policy.

My second point is we should not be here discussing Medicaid at all, Madam President. Medicaid is a national disgrace. It ought to be outlawed and replaced with a decent public plan, one variation of which is suggested in the Pepper Commission, and is reflected in the Democratic plan on comprehensive health reform.

We have structured in this country a welfare system for medical care. We call it Medicaid. It is meant to act as a safety net for low-income people.

Yet, only 42 percent of persons with incomes below the Federal poverty level are eligible for Medicaid. It is not a safety net. In this country, there are over 433,000 women this year who are pregnant and have no health insurance. These women have a much higher chance of delivering low birth weight babies, which then turns into an enormous public expense because of neonatal intensive care that is often needed. The Senator from Maryland, who is presiding, knows very well that situation. It's a tremendous waste of public money—$600 of prenatal care versus maybe $300,000 of intensive care.

The point I would conclude with is that this debate we have had over the past few days—most of which has taken place behind closed doors, should not have taken place at all. We should replace Medicaid with a program that has uniform eligibility, uniform benefits, and uniform reimbursement rates. There should be no Medicaid at all.

There should be a decent public program which reimburses physicians and hospitals, at least, under Medicare rules, so that they are able to reach out to people who do not have private health insurance. That is where health care public policy reform should start.

So I say to the Presiding Officer that I, along with Senator BENTSEN and others, are going to watch very carefully as this agreement is implemented to make sure it is implemented in the proper fashion. I regret that we have to go through this at all. I look forward to the day when there will not be a Medicaid Program, rather to the day we are debating comprehensive health care reform.

I thank the Presiding Officer. I yield the floor.

Mr. JEFFORDS addressed the Chair.

Mr. GRAHAM. Mr. President, today, the Senate considered the compromise negotiated between the National Governors Association [NGA] and the administration.

Included in this legislation is a definition of an acceptable provider-specific tax as one that is broad-based. In other words, it must be uniformly applied to all providers in a class-related business of providers.

Florida's Provider Tax Program has been in effect since the mid-1980's and has often been cited by the administration as a model tax. It is currently applied to all providers at a rate of 1.5 percent of net operating revenues. I believe this tax is truly redistributive and meets the test the administration would like to apply to provider tax programs.

However, the State is concerned that emphasis in this compromise legislation on gross revenues in its definition of an acceptable tax could result in the disallowance of Federal matching funds for Florida's tax on net operating revenues.

For this reason, the State of Florida requested that net operating revenues be included explicitly in the NGA/administration compromise legislation. It is my understanding that, on page 8 of the bill, line 16, the phrase "or net operating revenues" was included in recognition of Florida's tax as a permissible tax under this agreement.

It would be appropriate at this point to define a net operating revenue tax.

Chapter 395.101 of Florida Statutes clearly defies Florida's program. Subparagraph (e) defines "net operating revenue" as "gross revenues less deductions from revenue." Subparagraph (f) defines "deductions from revenue" as "reductions from gross revenue resulting from the inability to collect payment of charges. Such reductions include bad debts; contractual adjustments; uncompensated care; administrative courtesy and policy discounts and adjustments; and other such revenue deductions, but also includes the offset of restricted donations and grants for indigent care."

Mr. President, thank you for allowing me to define the term net operating revenues.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 2079 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

MAKING GOOD PROGRESS

Mr. DOLE. Madam President, I just wanted to take a moment to indicate my view that we are making good progress. We are down to now probably four or five pieces of major legislation, many of which are in the process of being resolved. Many of the problems with some of the bills are being resolved. I hope that we will complete our work sometime before midnight or sometime after midnight, but before morning, before dawn.

I know there is a great deal of frustration on the House side because of concerns about whether or not a growth package ought to be addressed—in this case, one offered by the House Republicans, before we adjourn. And it is particularly troublesome, because it is more or less linked to whether or not there will be any funding for the RTC. No House Republicans will vote for the RTC funding unless there is a vote on the growth package.

I have read some of the reports about the White House response to the growth package. I understand there was a meeting last evening with the President and the Republican leader, Congressman MICHEL, and the whip, Congressman GINGRICH, and there was discussion of the growth package. I understand that the Speaker, Speaker FOLEY, is obviously concerned, properly concerned, about how to proceed. Maybe we should not leave. If people do not want to leave for the holidays, maybe we should stay here and come to grips with this issue.

Having said that, let me indicate as far as I know there is no consultation with the Senate Republicans. This may be a House Republican growth package but it is not a Republican growth package that has been agreed to by Republicans in the Senate as well as Republicans in the House.

We have had no contact from Treasury, or the White House, or OMB, or any other agency of the administration that this in effect would be the Republican package.

I do not fault my Republican colleagues in the House for working on a growth package. In my view it is very important. There are a number of ideas that have already been expressed. Senator GRAMM from Texas has an idea. Senator DOMENICI has ideas. A number of us have been working almost on a daily basis. There are a number of ideas on the Democratic side. There are probably a dozen or more growth packages in existence, and many more in the works.

It just seems to me that we are not going to resolve anything by either staying here next week or coming back sometime in December. I do not believe we are going to resolve this very important issue this year. It is my understanding that the President will be working all the time Congress is gone on how to come to grips with the issue; how to turn the economy, get the economy moving. If the recession is over, how do you make certain, and how do you start getting a real recovery? The President has met with economists. He has met with Members of Congress. He has met with business people around the country. He understands that there is certainly a great deal to be done.

But I would hope in the process we examine all the options, and we consider all the options, and we do not rush to judgment on this package, that package, a House package, a Senate package, an administration package, until we have had hearings, until we can understand how they will affect certain parts of the economy. Will they create jobs? Will they create growth? And it just seems to me it would be a bit premature to say, well, we ought to vote on this package tonight. We ought to vote on it next week. Why not vote on a Republican Senate package, or another package, or an administration package?

So, I would suggest that there will be a Republican package. It may contain many of the provisions that are in the House Republican package. Hopefully it will contain some ideas that Senate Republicans have. Hopefully it will contain some ideas that the President may have, or Treasury may have, or others who advise the President. And hopefully many of the ideas our economic growth package contains will also be contained in some of the packages or ideas being offered by Members of the other party in the House and in the Senate.

So, I just say there has been no consultation on this side of Republican Senators. We have not met with the President. He has not insisted to us that we vote on a growth package before we adjourn. In fact, the message I get is to the contrary. I think the President would like Congress to complete its work and go, and so I hope that we do go. I hope we go between now and tomorrow morning.

Madam President, I yield the floor.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. MITCHELL. Madam President, I thank my distinguished colleague for his statement. It is my hope that we will be able to complete action on the important measures remaining prior to tomorrow and be able to leave for the Thanksgiving day recess.

We are awaiting action in the House on several of these important measures. One of them is the surface transportation bill, which is of great significance, it is must legislation before we can consider adjourning. It will not be taken up in the House for some time. But the distinguished Republican leader and I have discussed the matter and believe that since we are awaiting action on that and other measures in the House it would be appropriate for debate to commence on that measure here so that when we do get it we will not have to commence the debate at that time but there will have been an opportunity for every Senator to express himself or herself in as much detail as possible on that very important subject.

So, we are advised that the chairman of the subcommittee of jurisdiction, and the chairman of the Senate conferees, Senator MOYNIHAN, will as soon as he completes other important matters be present to begin that debate and discussion, and I think it will be helpful and useful.

So I encourage any Senator who wants to address that subject to be prepared to do so shortly, so as not to feel that a Senator does not have that opportunity later on tonight or tomorrow morning when the conference report actually arrives in the Senate.

Madam President, does the Senator seek recognition?

Mr. JEFFORDS. I was seeking recognition.

Mr. MITCHELL. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. MITCHELL. Madam President, would the Senator withhold?

MORNING BUSINESS

Mr. MITCHELL. Madam President, I ask unanimous consent that there now be a period for morning business during which Senators will be permitted to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 2081 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. MOYNIHAN. Mr. President, I have the great satisfaction of being able to inform the Chair that the 92 conferees on the Surface Transportation Efficiency Act of 1991 have reached unanimous agreement and that a little later in the evening the House will take up the measure. We fully expect they will send it to us directly, whereupon we will, as one of the concluding acts of the first session of the Congress, pass this epic measure, as we think it to be and, indeed, as many have already described it as being.

It would be 4 years ago that I was the manager of the Surface Transportation Act of 1987. It was held over a year owing to an inability of the House and Senate to agree.

On that occasion I said repeatedly that bill would be the last bill of the interstate highway era; that the next bill would bring us to a new period and a new program, and I think, Mr. President, that those expectations and that requirement have been met.

The interstate era is epic. It is one of the great stories of the 20th century. It was the beginning of the largest public works program in the history of the world. It began, as many things do, in the city of New York in 1939 at the World's Fair in Flushing Meadows, which was a great feat of Robert Moses, a planner of highest abilities. The great success of the fair was the General Motors futurama. It had the intriguing quality of a great plastic dome; you looked inside and you would see a countryside. The seats, the bench, moved around the dome, so you found yourself moving around your country and you saw a country spanned by highways that had no red lights, limited access, and permitted continuous movement up to speeds of 100 miles an hour. You could drive from New York to San Francisco without running into a red light.

That seemed a improbable event. You could cross the country by rail, but not by road. Not by paved road. You would run into dirt roads in the high plains and in many parts of the mountains.

In 1944, President Roosevelt, on the advice and at the suggestion of Robert Moses, proposed to Congress that we create such an interstate highway system after the war. It was expected that the war, when it ended, would be followed by a resumption of the depression and that public works would be very much in need and in order.

And this was done. In 1947, Congress began providing mileage, but nothing much happened because there was no Federal money—a small Federal aid highway program, but nothing of real consequence.

President Eisenhower came to the Presidency in 1953, and this for him was something more than an abstraction, something more than a wonderful visit to the World's Fair. I expect he did not visit the World's Fair. I did. He had other more important things to do.

But as it happened, the first command in his Army career had come in 1919. He was told to assume that enemy action had destroyed the railroads of the United States and that he had to take an Army truck convoy from Fort Meade, about 10 miles from here in Maryland, to San Francisco Bay.

Well, he got it done, but he did not get there in 5 days. He found it an epic enterprise to get those trucks across the plains, across the rivers, across the mountains. And when coming to the Presidency, he saw this opportunity, and he took it. He asked his great friend, Gen. Lucious Clay, to chair a committee-commission, it may have been—to propose what should be done.

They said build the roads; but in order to do it, you would have to have a source of funds. They discussed bonds, and that did not seem quite right; President Eisenhower was leery of indebtedness. And then the idea came forward. Jim Wright, former Speaker of the House, was a new Member then. He participated in the discussions that came up with the idea of a gasoline tax—the Federal Government did not have one then—deposited into a trust fund dedicated to this purpose; 3 cents at that time. And off we went.

The States had already been working in this direction. New York State, under Governor Dewey, designed the interstate highway when the war was over, and built it from Yonkers, just north of Manhattan, along the route of the Erie Canal, up to Albany, across the Buffalo, and then down to Pennsylvania.

The great civil engineer, Bertram Tallamy, who just recently passed away, came down from Albany to be Director of the Bureau of Public Roads, then in the Department of Commerce, now the Department of Transportation, to take over the building of this system.

It was an epic enterprise, and he did what he should have done. He started out by putting the New York State Thruway in the system. As the distinguished Presiding Officer knows, he put limited access highways in Connecticut, New Jersey, Pennsylvania, Ohio, Indiana, and Illinois.

It was specifically provided in the Clay Commission report that States which contributed segments would be reimbursed for this, and the statute in 1956 required that there be a report from the Bureau of Public Roads in 1958 on what was owed each State. Indeed, we have that. It was not just a few States. In the end, most States, the great majority, contributed rights of way, or whatever, and the reimbursement is now in order and is provided for in this bill to take whatever time it takes as the years go ahead.

But as would be the case with these enterprises, the original design contemplated 2,500 miles. It was meant to be constructed in 13 years. Well, it grew to 44,000 and took the better part of half a century, but it did get done. We have projects remaining: the Anderson Freeway in Los Angeles, named for Glen Anderson, former chairman of the House Committee of Public Works, has to be finished. You fly into Los Angeles International Airport, and you see it 50 percent completed, and right on schedule it would be done now.

There are some bits and pieces in Pennsylvania. There are bits and pieces here and there. There is a major project in Boston, the central artery, which has not yet been designed or agreed to, a third tunnel under the river has to be done.

That will take us, along with some reimbursements for projects traded in, which you were able to do in recent years—4 more years of payment on the Interstate System. Then it is done—done—the largest public works program in history, the largest engineered construction on Earth, bigger than the Great Wall of China, and visible, I cannot doubt, by astronauts as they fly around the Earth.

The project, the enterprise, was not without its inefficiencies. It is a pattern of these things that when a new mode of transportation comes in the initial routes tend to be very productive, profitable. And then you move on to more marginal enterprises.

In my State of New York, the Erie Canal was a spectacular success, moving east from Albany to Buffalo, opening up the Great Plains. It changed the history of the world. It changed our history. It changed the history of Europe. When grain from western New York started arriving in Britain, the British repealed their corn laws and became an industrial nation, as phrase has it. Just as when the grain from the railroads in the Great Plains began to reach Eastern Europe, it changed the entire social structure of that part of the world as well and led to immigration here.

Transportation does that. The Erie Canal was but complete, and they had to start building spurs north and south, and they never got anywhere. Railroads did much the same thing. There came a point where the great routes had been built and then spurs would go here and spurs would go there, rarely with much success, most now abandoned.

In the same way, the interstate, growing from 2,500 to 44,000 miles, began to take on the aspects of a consumption program rather than an investment program. The road began to be seen as free goods. Not enough attention was paid to maintenance.

States were required to maintain the systems themselves, and only received Federal money when they started to back down. So they tended to wait until they broke down.

Early on, it was clear that we did not know how to put one of these highways through a great city. They smashed through cities and the wreckage is there to be seen. They redistributed population within metropolitan areas. Most commuting today is from suburb to suburb, rather than the old pattern of suburb to inner city. They left groups isolated. They moved manufacturing away from cities.

People say steam concentrates and electricity diffuses. Well, nothing diffused like the interstate highway, and the trucking industry that grew up around it. It shifted the population.

In the 40 years of the New York State throughway and the interstate system, my State of New York will have lost one-third of its congressional delegation as the population moved west and south.

When the interstate was authorized in 1944 the United States was the world's largest exporter of oil, the only manufacturer of automobiles—there may have been some made in Canada, but they were not making them in Britain. We had far and away the technique of paved highways.

Fifty years go by, almost, and that is not so anymore. We now import two-thirds of our oil. Two-thirds of all oil consumption goes to automobiles and through internal combustion engines. The Japanese are the least-cost producers of automobiles. And to our great surprise, we learn that the Europeans have moved ahead of us in road construction technology.

A group led by Dr. Larson, head of the Federal Highway Administration, arranged to visit European Community countries last year and came back shocked. My God, they produce pavements much better than ours. They have different chemical compounds. Their bonding is better. They are warranteed. They last longer. That was a wake-up call.

Our legislation, which, of course, is surface transportation, involves transit, it involves roads, it involves harbors. It is called the Intermodal Surface Transportation Efficiency Act of 1991. It is our plan to move from system building to system performance, to get more out of our plant, to get more productivity. Now it is time to get the return on the investment.

My very able friend from the State of Idaho, Senator SYMMS, who I see is coming on the floor at this very moment, has been eloquent in this matter. He will not mind my saying that he is a businessman. He is involved in private enterprise. He does not seem to think there is anything the matter with that. He understands that investment is meant to have a return. It is to produce more moneys, more wealth than it involved in the first instance. That is why investment takes place.

If I could give a homely metaphor of what I am talking about: If you have ever been in a traffic jam—and if there is anybody in sight or sound who has not been in one, he lives a pretty closeted life—you see a transportation system that has performance problems.

What are these problems typically? They are not a lack of capacity. You cannot just have built the largest highway system on Earth, the largest man-made object on Earth, and found yourself in a traffic jam and say we do not have enough highways. No. You have to get more out of those highways.

Congestion reflects a pricing system. The price of using the highway is set too low so the demand is too high. It is like those clips you see from the Moscow food store with a line around the block, and when you get in, there is nothing to buy. The prices are set too low, so the supply does not come, and the demand is too high. The result is not a very successful system.

We think this way. We have congestion pricing in this bill. We have a provision that the Senator from Connecticut put in which provides that, if you get more miles out of a gallon of gasoline, you get rewarded for it. Up until now, this system has played very simple; the more gasoline you use, the more money you got. The money was Federal money, 90–10. So it looked like a free good. If you believe there is such a thing as a free lunch, you can believe there is such a thing as a freeway. There is not. The incentives have to produce more.

The Senator from Connecticut recalls my saying to him on the floor in June that one of the jewels of this legislation was his provision that says the more miles you get out of a gallon of gasoline, the more highway money you get because you are getting productivity in the system.

We have that in intellegent vehicles. The junior Senator from New Jersey, our good friend, has seen to it that we have a special provision for intelligent vehicles, intelligent highways.

I was thinking about this the other day. It happens that not only was I around for the World's Fair, ruined my teeth on the free candy they handed out in those days, I was also around for the opening of the Triborough Bridge. I thought that was the most wonderful thing in the world; counting cars. It was a grand bridge, a beautiful, beautiful bridge.

I would say now that about 54 years have passed. They still have men, now women as well, in those booths collecting the tolls when you come over. That is not productivity, Mr. President. In 54 years they have not speeded up the number of tolls a person collects. A half-century goes by and there is just as much labor to collect those tolls as when they started.

Twenty-five cents worth of electronics on a credit card would record that you had crossed the Triborough Bridge in 1 hour. If they had any sense, they would charge you 50 cents at midnight and $2.50 cents at 6 o'clock in the afternoon; maybe a quarter at 4 in the morning.

The price, you see, would help even out the flow. They would send you the bill, like the telephone company sends you a bill. If you do not pay it in 3 months, take your license away. Be up to date, learn productivity, think congestion pricing.

I happen to be on a board of an institute and was talking about this subject recently. James Tobin, the very most eminent Nobel laureate, an economist from Yale University had been in Bergen, Norway, lecturing. He said in Bergen they have sort of a circle, perhaps it was the old city wall. If you drive your car inside that circle, an electric meter starts to run. As long as you stay, you are paying to stay there. Everyone is quite happy. People for whom it is worthwhile to drive in. If people do not want to pay that price, they can take a bus or walk. And this creates revenues, and the market clears, as an economist would say. Do you not get more supply than there is demand or vice versa?

We have sought to set us in that direction. We have said we have no bias for or against highways, no bias for transit or against transit. If we have a firm conviction, it is that no State is alike, no metropolitan region is alike. The mix will be different for all. There are very few places where the density of population would support an efficient new transit rail system. Many places have HOV, high-occupancy-vehicle lanes where four people have to be in the car instead of one. These roads will do the work of four lanes of interstate highway, and do it better, and to the satisfaction of the cities. We have gone around the country, and we have seen this everywhere.

We have money for ferries in this legislation. Ferries are an efficient and attractive form of transportation, in cities such as Seattle, Portland, and in my own city of New York, and New Jersey. When I was a young boy, there were 15 ferries crossing the Hudson river to Weehawken. Almost none make that trip today. I will bet you there will be more, because they are efficient. The old Hudson goes flowing on and does not have to be paved or repainted. And you can move a lot of people on it.

Our idea is to permit innovation and to think of efficiency, to add capacity by improving performance. This is the largest transportation bill in history, $151 billion over 6 years. Half again as much as we have been spending. There are 2 million jobs in this bill. It has to pass. I would not want to think what would happen if it did not pass tonight, because we are going out tonight, and a number of people would lose their jobs. A million and a half men and women would lose their jobs by springtime, which is before we would get back to the subject, not counting the jobs that will be created.

Of all the bills we have dealt with in this Congress so far, this will have more effect on the lives of Americans than any other. Everything in life is toughed by transportation. Even if you never leave your house, transportation brings goods and services to your house.

We have made one very important decision, and that is that the first dollar out of the trust fund goes to maintenance of the Interstate system. We learned that up until now what a good manager would think of as maintenance does not qualify for Federal aid. If there is a crack down the middle of the road, you have to fix it yourself. If it opens up and becomes a trench, then you have rehabilitation and you can get 90–10 money. We are putting 90–10 money into maintaining that system.

Then we go to the National Highway System. It is important to the President, and I am happy to say—and I said this earlier—that he announced this afternoon he will sign this bill, and sign it with enthusiasm, which I think is warranted. We have heard that from the Department of Transportation.

The National Highway System will consist of roads picked from existing primary arterials. There are about 140,000 miles now, built by States. Some of these are new. Some of them are old.

They are going to have to cut these down, and in 2 years time we ask them to come back and tell us what you want. They will negotiate with the State departments and Governors.

Then we have a large new surface transportation program, and that is where the innovative congestion pricing experiments will be found. Intelligent vehicles will be given out from the Department of Transportation.

Fifty percent of the money in the National Highway Program, $21 billion, can be moved if the Governors think there is a better use for it in their system.

States are not the same. They do not want to be the same. I said on this floor, God created Montana 550 miles long. Well, that is not Rhode Island. They are going to have different needs.

We have a large transit bill, $32 billion. We have special provisions for bridges. And we have provisions for air quality and congestion mitigation. This is the first transportation bill which has as its purpose bringing environmental needs into sync with transportation needs.

We have been living as if one activity was not aware of the other.

We had a discussion in our hearing—in our conference, and I think I said, Mr. President—let me repeat. The 92 conferees from the House and Senate are unanimous on this bill—unanimous. We had a discussion of, well, countryside, cityside, and the old rural highway program.

Apart from the national road which was build in 1807 from out here in Maryland to Vandalia, IL, which was then the capital of Illinois, it cut across the country and got us to the Mississippi valley.

The Federal Government got back into the system late and really kind of farmed the market roads, as they were called. We wanted to continue that program, as they were trying to say how much should go here or there. We all said, stop, the States know; they know how much countryside they have and how much—how these roads are.

My State of New York, I live on a dirt road. We have, for the last quarter century, our home—for the last 27 years, our home has been in Delaware county in upstate New York. We moved there, and for the children that is home. Prosser Hollow—MacDougal Road—there in the sheep country settled by the Scots. MacDougall Road is a dirt road and fine by us. We are about 2 miles from Route 23 which is one of the original routes west from the Hudson River. It paralleled this country where the Conestoga wagons were built. We are about 8 miles from, as it happens, Route I–88, a part that goes from Albany down to Binghamton.

Aaron Burr's nephew built a tar roof on the top of the hill that MacDougall Road leads to. It was really wrenching up. You actually crossed the watershed from the Susquehanna to the Delaware and that road has been there since wagon days and it was a dirt then it is a dirt now. Route 23, was paved, I would say, 1925, or maybe 1915, by the time the Model T was moving around. Route I–88 was opened about 5 years ago. That is the mix, the same mix all over the Nation. People who live there know best what they need. Flexibility is the word and accountability and productivity is the object.

We are very pleased with the transit provisions, more money available for transit than we have ever had. We need it in terms of air quality.

In that discussion of rural roads, I often remark, you know, there are parts of this country where they define regions by parallels of latitude against town and country. In southern California the entire politic is one unit of government for purposes of air quality and the problems of air quality are overwhelmingly the problems of the automobile. The automobile liberates you and it also has its externalties, if I can use a word the economists use. It can poison the air and it can add an extra 3 hours to getting to work and back or getting anywhere you want to and back. So trying to experiment, learning from each other, we have university centers. We know very little about transportation, seriously.

When we began, Senator SYMMS and I, these deliberations, we asked, "Let us see, how is productivity doing? How is it getting along here?" Nobody seems to know.

So I called the very distinguished Chairman of the Council of Economic Advisers, Dr. Michael Boskin, and I said, "Mike, what do you fellows know about productivity in transportation?"

He said, "I am not sure we do know." He said, "I will get back to you."

And he did. And he told us—that I am sure it surprised him and dismayed him as much as us—for the last 15 years, productivity in transportation of the United States, in the estimate of the Chairman of the President's Council of Economic Advisers, has been growing at the rate of 0.01.

I see some young pages down there and they are good at arithemtic. I am sure they learned all these things and if any young page will tell me how many years it takes for 0.01 compounding to double, I will let you go home early tonight. I see a lot of minds twirling but no answer. The answer will surprise you. Listen and learn it because it teaches you something.

It takes 350 years for that rate of productivity to double. That is a medieval rate, about the rate Europe grew from the year 1000 to the Renaissance in 1350. We are the largest public works in history. We have a medieval rate of productivity growth, and we call it our infrastructure, meaning on the bottom. Manufacturing in United States is doing very well. Productivity in manufacturing goods is growing at 6, doubling about every decade. But it is operating on top of an infrastructure which is not growing at all.

So, pull up your socks. Learn from others. The Europeans make better roads. Find out what they are doing. It is not beyond us. But make it worthwhile. Maybe it costs a little more, but if it lasts 40 years, you get more out of it. These are not free goods. That is why in this bill we have a Bureau of Transportation Statistics. The first ever. We are going to find out what works, what it costs to do this, what it costs to do that, what is best.

The Departments of Commerce and Labor have been great help to American business and workers by what they have learned about productivity in the work force and the nature of markets. We have not had that in transportation.

I was very pleased the National Research Council is doing a general review of our transportation, and it said "By all means, grab that Bureau of Transportation Statistics."

I have been going on longer than I intended, Mr. President, and I certainly did not want to let an opportunity pass to hear from my friend, the Senator from Idaho. I do not know what he is going to say, but I hope he is going to talk about a very special provision in this bill which will take gasoline taxes that are collected for use in vehicles off highways and put them into a trust fund to provide recreational trails around the country for hikers, for backpackers if they want to be overnight hikers, for people who use snowmobiles in the winter, for all kinds of recreational uses. It is the unanimous and very happy judgment of the conferees that this section of the act should be known as the Symms Act and henceforth these to be known as Symms trails in acknowledgement of the extraorindary effort that Senator SYMMS has put into bringing it about.

As we know, we do not want to hurry it 1 minute, but he is not going to run for another term. His distinguished career in the House and the Senate is coming to a close. Other careers await him. But we are very grateful. Congress wants to acknowledge his work in so many other ways, but this way as well, and on this thing particularly close to him. As an old Marine, he loves to sleep out in the snow, the rain and the mud, and as a rancher from Idaho he was in the mud.

Mr. President, I see my friend has risen, and I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I thank my distinguished colleague from New York for those kind words and for his interest in this entire piece of legislation, not only the National Trails Act, which is a part of this legislation, which will provide us with an opportunity to guarantee that there be backpackers trails, and there will be some trails for motorized vehicles and some trails maybe for both, and that we will allow the States the flexibility to be able to see that that happens with the fund, which will be a very small amount of money to start out with.

Our cost estimates that were run earlier indicate that there is somewhere in the neighborhood of $75 million a year that goes into the trust fund. It is not used on our road system and it not refunded to the purchasers of that fuel. But we will only be putting $30 million a year in this 6-year period in that fund which will be directed by the Secretary of Transportation to the State committees on recreational trails, and the States will have great flexibility to do this with certain guarantees.

Our friend JOHN CHAFEE, the Senator from Rhode Island, played a role in this. And that was to guarantee that the backpackers have some trails built that do not have someone driving a motorized vehicle on them. So that is a small part of the bill. It is funded out of the funds of people who purchase fuel and do not ask for the refunds, as I said and I think it is an excellent program.

I thank my colleague from New York for his kindness and generosity and the recognition to me on that issue.

I say, Mr. President, that after having served in the Senate now—this is my 11th year—on two committees during this entire time, and at my outset here in the Senate I was on 3 committees with Senator MOYNIHAN: Environment and Public Works, the Finance Committee, and the Budget Committee. And he since got wise and got off the Budget Committee.

But I could not have said it better than George Will. George Will wrote a column here a few years ago. George Will is normally known as a Republican, and he made a statement in this column about our good friend, the senior Senator from New York, that he was in fact a national treasure.

I have to say, as an unreconstructed westerner, from a State that has very diverse interests from the State of New York, Senator MOYNIHAN is in fact a national treasure because he is a visionary and can see the importance of market decisions with respect to all aspects of our life.

This bill, the Intermodal Efficiency Transportation Act of 1991, is a monument to allowing the marketplace to start determing the allocation of these scarce resources into improving transportation, not necessarily by just pouring more cement or building more rail trains, but by utilizing those assets in a most efficent way, allowing market determination.

I thank my colleague from New York for his leadership on this bill, and I thank my other colleagues on the committee, and cetainly those of us on the conference who have been working night and day for the last 2 weeks, and our staffs. I know at some appropriate point in the RECORD the names of some of these staff people will be spread across the RECORD so those people will get some recognition, I hope, of what they have contributed to make this possible.

Later on tonight we will have before us the conference report for the measure, which will carry with it the Intermodal Surface Transportation Efficiency Act 1991, H.R. 2950. And the major points that it will have in it will be a funding of $119 billion for highway construction, repairs, magnetic levitation; $31.5 billion for mass transit construction and expansion. So we have a section coming here from the Banking Committee, the $31 billion part, and $119.5 in highway expenditures.

The Federal-State match of 80–20 for all programs except—and I think we all heard the good Senator from New York talk about the fact that the interstate highway projects, which do not add lane capacity, will remain at 90–10; in other words, maintenance, reconstruction, rebuilding.

I would just have to say a good example of this is the State of Montana. Montana has an enormous amount of interstate, a 700,000 population of people, one of the largest States in the Union. There are tremendous differences in temperatures from extremely cold to extremely hot weather, which makes it very difficult to maintain those roads.

This bill will provide a lot of money for the State of Montana, for example, to maintain that interstate from the original Interstate and Defense Highway System, now often referred to as the Eisenhower Interstate and Defense System.

It is true of all of our States. We will now continue to keep 90–10 flowing to those States for the maintenance of these primary arteries, the Interstate Highway System, which is about a 40,000-mile system.

But this will mark the end of new construction with interstate funding. There are two or three major projects left in the country. There is one huge, expensive project in this bill to complete the interstate in the State of Massachusetts. There is an expensive part left, the Ventura Freeway in Los Angeles that will be completed with this bill, and a couple of others in a few other States. But the bulk of the money that is in the bill will go for those States and a few other States. It is in the charts you will all have access to that will be made a part of the RECORD before the night is over.

There is an authorization of $7.2 billion for the completion of all these interstate projects. This has gone on, now, since 1956, and it has been a very successful program. It has made the Nation more unified. We have tied the country together with better transportation so the States in the outlying regions that produce so many of the products that people want in the cities have access to those cities via a good road system.

The President is very happy about the fact that in this bill there is an authorization of $38 billion for a 155,000-mile National Highway System consisting of interstate highways and major primary roads.

States may transfer 50 percent of their NHS money to other road programs or transit. Up to 100 percent of NHS funds may be transferred in States with Clean Air Act nonattainment areas if the Secretary of Transportation finds the transfer is in the public interest.

So, what I am saying is there is a lot of flexibility with those funds, but there is also a vision added to the same vision that was there in 1956, when the first Interstate Highway and Defense System passed. I think Senator MOYNIHAN pointed out they had started authorizing this earlier under the Roosevelt administration in a much smaller scale. But what really made the push was when President Eisenhower was elected and had that vision that we needed to have an Interstate and Defense Highway System that got the program started.

Of course, that experience he had in his life, most recently when he took office in 1952, of having the German Army move hundreds of divisions across Germany on the autobahns, he realized when they were surprised in Belgium at the Battle of the Bulge how many troops and how rapidly they had moved. It was a road system that made it possible. So he was sensitive to the defense needs of the country. He was also sensitive to the fact that as a young captain he had tried to take a group of about 140 trucks across the United States in the 1920's—I think it was in 1922 or so, we will have to check for the exact date of that, but it was shortly after—maybe it was shortly before World War I, if he was a captain, come to think of it.

Nevertheless, it was either in the teens or the 1920's. It was a tremendously difficult trip. They got out into Wyoming where Interstate 80 now goes and found themselves mired in the mud and then when it dried out they were mired in the dust and had an extremely difficult time getting across the country. He recognized it would be good for the country. Now we have finally brought legislation here which will complete that dream.

Federal-State match in the bill, as I said, is 80–20, except for those programs that remain at 90–10. There is a $24 billion flexible Surface Transportation Program, in which all funds may be transferred to transit at the discretion of State and local officials. And a lot of people, I think, have been concerned about that.

The States that I come from, the Western States, the big States with small population, large geography, like the bill because of the flexibility that they will have in the bill. I think in many cases, where people think some of these highway dollars may be spent on mass transit—it is possible that could happen in some major metropolitan areas if that seems to be the most efficient way to spend those moneys—it will be decided by the people who are responsible for transportation in those regions.

However, I point out to my colleagues that one of the most efficient transportation transit systems, if you will, works on a volunteer basis right here under the dome of the Nation's Capitol, practically. That is U.S. 95 HOV lanes that go one way coming in, coming north coming in the mornings, south in the afternoons during rush hour. Those HOV lanes on U.S. 95 coming out of northern Virginia into the Capital carry more people than any rail transit system in the country except for one line in New York City.

I think people should not be concerned. It may be that some of these flexible funds in the metropolitan planning areas—I think a great many of those dollars may be spent to make the system they have more efficient, using it for HOV lanes, by improving the ability to use their current system—maybe by resurfacing it, having some lanes that can only carry automobiles with three or four people in them, and buses, and get a lot more bang for the buck, so to speak, and get rid of some of that congestion that is so costly to the productivity of the country.

There is a $16 billion program to replace and rebuild the Nation's bridges. We establish a national commission to develop intermodal transportation ideas, to coordinate intermodal policies, to develop an intermodal transportation data base, a toll facilities program in which Federal funding will be allowed for the expansion of toll highways, bridges, or tunnels. The revenue generated might be considered for other transportation improvements. A $725 million program to construct an operating maglev prototype within 7 years; a $660 million Intelligent Vehicle Highway Systems Program—I might say that the Maglev Program is from our good friend from New York, Senator MOYNIHAN, who once again is looking into the next century of where this country wants to go.

This Senator believes that we will be building more high-speed trains in the United States, and I am speaking of state-of-the-art technology that is now available. There are now trains that are running in several countries, and we are hopeful that we will be building them in the United States very soon.

The first train of that type is proposed to be built in Texas, between Houston and Dallas and Austin, which would give us a prototype of how to do this. Senator MOYNIHAN is looking on to the next generation of maglev, which would be extremely efficient and extremely fast and at some point in time might be able to replace some of our current system and improve and help decongest airports, help decongest interstates.

There is one thing that we have to remember: This is a nation of trucks and truckers. The trucking industry employs 8 million people in the United States. It is very important to our economy. It is important that we have good roads for the trucks to run on. One of the ways to have that work efficiently with our current system is to have alternate ways for people to transport themselves so you do not continually have a conflict between the trucks and the automobiles on some of these roads.

(Mr. AKAKA assumed the chair.)

Mr. SYMMS. Mr. President, looking down the road, I can see that there can be some great benefit to the American people by moving ahead and making it possible for high-speed rail to become a reality in the United States. I do not know whether it will happen in this bill, but certainly when we have a revenue bill before the Senate, where there is time for the Senate to work on it, I hope that the Senate will see fit, and the House and the President, to lift the cap on revenue bonds so it will provide a mechanism for States and businesses, private sector groups, to develop highspeed train service in the United States.

That is one way we could do that—is to make available equity financing, to have some capital available from the sale of revenue bonds so we could build some high-speed trains. I believe if we can see some of these happen in some areas like from Pittsburgh to Philadelphia, from Houston to Dallas, from Boston to New York, and New York to Washington in the future, that it could be a great benefit for this country and improve our efficiency.

I think one thing that Senator MOYNIHAN has alluded to, and I want to repeat because I think it is worth repeating, not only for our colleagues but for people who are interested in this country, is why we think this is important legislation.

When you have legislation that is striving to maintain competitiveness with the Europeans, the Japanese, and our other trading partners, and we get up to capacity, there is one thing maybe we can do by improving our transportation: We make the whole system work more efficiently. I think it is very important that we remember that the flexibility that we tried to work into this bill will allow those decisions to be made so that we can improve the efficiency of our transportation dollars in this country and reduce the costs of getting the potatoes from Idaho to the restaurant in New York City, or in Milwaukee, as my friend from Wisconsin was acknowledging here. And those things are very important. I think we are trying to do that with this bill.

This bill, as I said, has a $660 million program, an Intelligence Vehicle Highway Systems Program, that Senator MOYNIHAN has talked about. That was the product of our friend from New Jersey, Senator LAUTENBERG. I think it shows great hope. In other words, to do systems and learn how to use the modern-age technology that we have developed, to direct the traffic to the places where there is not as much traffic; also, to make it simpler for people to put in the mechanism, the pricing mechanism, that if you are going to drive at certain hours of the day, there may be a counter like at the grocery store when you get the price marked, that checks your car. Pretty soon, at the end of the month, PAT MOYNIHAN gets a bill from DOT in his local community for the use of the road, depending on the time of day; he gets a bill for the use of the road.

I say to my colleagues, if they do not believe this works, I invite you to go out to Springfield on Franconia Road, west of Springfield, and there is a place out there where the cars drive in and people just get there; stand there. You do not have any bureaucracy. There are no licenses issued. There is no telling them how to do it. They stand there at the place, and cars drive up from about 6:30 or 7 in the morning, during the heavy rush-hour traffic. They pick up two passengers or three, get on the HOV lane, and whip into the District in 20 minutes, where it would take them 45 minutes in the other lane.

Likewise, down here at 14th Street, there is a place where people do the same thing. It does not take any regulation from the Government, except for the thing, and that is a sign that says: Three people per car on the HOV lanes. That is all it takes. They enforce the three-person occupancy rule, and the people manage to figure out how to get in the cars, and we do not have to worry about it. The mechanism works. When there is an incentive, people will react to that incentive.

I see my friend from New York nodding on that. We heard that this morning on another subject from our dear friend, Secretary of HUD Jack Kemp, about how incentives are what we want to continue to remember to put into the American system on the economic side. What we are saying is, it works in transportation, too. If there are incentives to improve efficiencies, we believe people will respond to that.

There are corridors of national significance in this bill that are needed to construct multi-State connectors. The States may work to those corridors of national significance to improve upon the bill, a greatly strengthened role for local officials to upgrade the metropolitan planning organizations; those are for population centers over 200,000. They will be able to receive funds that they request to use flexibly for choices of whether they want to build HOV lanes, whether they want to continue to build the current roads, maybe improve their rail system into the city, the transit system; they will have great flexibility to do that.

Another significant part that has been the single most controversial part of this legislation, Mr. President, is the money. I have found throughout this debate, from whom we had the bill on the floor last summer, throughout the hearing process, that most of our colleagues in the Senate, because of the political situation, the political climate we all live in in the political world, the one thing they are most concerned about is how much money will their State get.

I see the distinguished senior Senator from South Carolina on the floor, and he has expressed that concern to me. South Carolina, historically, has been a State that pays in more money than it gets back. We realized this. As the interstate started coming to an end back in 1982, we amended the act then, to put in what is called a minimum allocation in which we tried to start guiding the money, so we received up to 85 percent returned on the dollar for every State.

It is very difficult to run a national program and return everybody exactly the same amount of money they put in. Like I mentioned, for example, Montana has great needs, long distances, difficult terrain, difficult weather, and it is a bridge State; that if you are going to drive across the northern tier of the United States, you have to drive through Montana. And in order to have an Interstate and Defense Highway System, somebody had to help the Montanans build the road. There is not a big enough tax base.

In my State, for example, the Federal Government owns two-thirds of the land. Two-thirds of the land, Mr. President, is owned by the Federal Government. I find that rather interesting, when these people who are pushing perestroika in the Soviet Union today are saying that they want 60 percent of the land to be owned by the private citizens of the Soviet Union, and of the respective republics in which they live; and in my own State, only 33 percent of the land is privately owned.

In other States like Nevada, it is only 12 percent. In Alaska, 2 or 3 percent of the land is privately owned. In California, Oregon, Washington, there are great tracts of land—Wyoming, New Mexico, and those Western States—that are still owned by the Federal Government; those States have a more difficult time developing their resources and coming out with the ability to meet those highway demands. So that is why we have had this program.

But the minimum allocation is at 90 percent in this bill. There is no State that will receive less than 90 percent relative to its share of the Highway Trust Fund contributions. And we will probably have more to say about that later because there will be, I am sure, some of our colleagues who have expressed great concern.

I must say that those colleagues have worked hard for their States, and I believe with this bill—this is a bill that I like to refer to as a pay-before-you-go bill. This bill is not one of these bills where we come in and authorize money that has not yet been raised by the revenue collectors. This money is raised by the purchase of fuel on a daily basis by the American people and is in a trust fund.

So if we do not pass the bill, we are denying our States the opportunity to have the moneys that we are going to be releasing as soon as this bill is signed by the President. Dr. Tom Larson, from the Federal Highway Administration, who has played a great role in assisting the Congress with all kinds of technical assistance and advice and help, will be releasing dollars to our respective States.

I mentioned my good friend from South Carolina because those of us who know Senator THURMOND know he is not someone who can be taken lightly. He is very concerned about what happens in South Carolina. But it happens to be one of those States that has helped the rest of the country build the Interstate. It received in the last 5 years 87 cents for every dollar it put into the trust fund. In this program they are going to receive 93 cents for every dollar, so we are coming up, I say to the Senator, to where it will be helpful to the Senator and his constituents.

Furthermore, in the last 5 years, South Carolina, for example, received $926,781,000. In the next 6 years under this program, we will allocate, effective immediately upon the President's signature and the release of funds by Dr. Larson and the Federal Highway Administration, $1,633,054,146 to the State of South Carolina. So it will be the biggest Federal Aid Highway Program in history in that State. And that is true of all of our States.

I noticed the New York Times this morning talked about the jobs that are on the line with this bill. I think it is worth mentioning that when the Federal process is taking the tax dollars from the people, putting it in a trust fund to spend on highways, if we just hold it and do not spend it on highways, it is true, it makes the Federal deficit look better, but it is also true that we have taken that money from people and it is not spent on anything productive. That is a very negative factor in our economy. If we return it back to the States, dedicate it to transportation needs, there will be an enormous infusion of capital back into the system. Otherwise, it would be held in abeyance.

I have never made the argument—it is not worthy probably to go into it here for philosophical reasons—that a highway bill is necessarily a jobs bill, but I can tell you one thing, Mr. President, no passing a highway bill can be very antijobs because these dollars are dedicated for the building of our roads, for the improvement of our roads, the maintenance of our roads, and the construction industry infrastructure and the men and women who work in it are in place and working. If we do not successfully complete passage of this legislation, there is going to be an enormous cutoff of funds and you are going to hear the screams across the country. Fighting further to get a better, a more fair allocation would only, I think, delay unnecessarily needed projects, hurt the country enormously, and in the end I do not believe the conferees can do any better than we have to try to make this a fair program.

We have here available for all Senators, if they have not seen these charts, charts of how their respective States will come out, how much money they get, what percent of the program they will get, how much return their State gets. There are all kinds of reasons why one State looks like it did better. For example, if a small State had a big project in a State and then this time they do not have that big project in the State, it can make the numbers look much different even though the Federal aid funds will be continuing to flow into that State. So we just cannot have the first look at those numbers.

I think those of us on the committee will do what we can with our staffs to show any Senator who is interested exactly how their States come out. But I can only say that our conferees worked long and hard. I would say on our side Senators CHAFEE, myself, Senator DURENBERGER, Senator WARNER worked long and hard to try to see that everyone was treated fairly. It was a bipartisan conference. I just named the Republicans. Senators MOYNIHAN, REID, LAUTENBERG, BURDICK. We did our best in our conference, and we talked about our States. We went through it State by State. We ran these numbers over and over and over.

Chairman ROE, of the House, this afternoon I think, observed that this is the 29D run of numbers. When we reached 29D, Mr. President, we said that is as far as we are going; we cannot do any better; we are going to the floor with it. Our staffs have been diligently working to put this package together.

I believe we have a very fine bill. It is true, if somebody wants to pick at it, they can probably find something that is not entirely perfect. There are a few States that are extremely concerned. One of those coming to mind is Florida. Because Florida is growing fast, it has enormous transportation needs. Florida is to the point now where it has come from only being returned 77 cents on the dollar in the last 5 years to 92 cents. That in large part has been due to the diligent efforts of the two Senators from Florida. It was Senator GRAHAM who stood here and fought and argued with us for a week to make sure we understood he was tired of getting back 77 cents on the dollar.

Now, there is one other thing I would say to my colleagues. When they come to the floor and look at these charts, we have the highway dollars here. We have the highway dollars, Mr. President. There is $32 billion worth of transit projects, and some of the States that do not do quite as well on highways—coming to mind is Florida, Texas, California—do very well in transit. And so we think it will work itself out and they will feel pretty good when it is over, we hope.

There is one thing in the bill, Mr. President, I guess I should say, that I did not approve of, and I guess we might as well talk about those things we do not like. But I think most Senators in here are going to like this. There is a freeze as of June 1, 1991, to prevent expanded use of triple trailer trucks.

Now, I said earlier, Mr. President, I think it is important we lift the cap on revenue bonds either in this bill or some other bill, at some place soon, so that we can start the private investment into high-speed rail in this country to take some of the pressure off our interstate highways, which are heavily traveled by trucks. I know most people when driving down the road get worried about a truck, but I want to say one thing about triple trailers. It needs to be said. There have only been eight fatalities involving triple trailers, with all the millions of miles they have run.

We have capped the expansion of it in this bill. I would have preferred not to do that. As the Senator from New York said, I come from a produce ranch.

The trucking industry in this country employs 8 million people, and without a good, vital trucking industry we would find that everything we buy would cost more. The biggest users of railroads in the United States is the trucking industry. That is often overlooked.

Oftentimes we hear in the Senate that it is the truckers versus the railroads. This is an intermodal transportation bill. We are trying to look into the future and say we need high-speed rail. We need better, more efficient highways. In some places we need new highways. We need to have trucks.

I do not think that the solution to safety on the highways is going to be found just by saying you cannot use this truck, or you cannot use that truck. We need to work this thing out.

This bill speaks to that because it is becoming a problem for drivers and automobiles, and there are more people driving cars than there are trucks.

In politics, I am a realist. I know what happened in the committee when I opposed this. I did not win the votes. I did not win the votes because more of the Senators thought we ought to put a cap on this. It was called another Symms amendment with transportation that dealt with allowing States to grandfather-in the use of triple trailers. It went from 10 States to more and so forth.

So the Senate said, that it is. We are going to cap it here. That is in this bill. There is a lot of safety in this bill that should be good for the country which will save lives and keep our medical costs down.

But most of it is on a reward basis. It is not the club. Senator CHAFEE worked—I see he is here on the floor—a great deal on the seatbelts and motorcycle helmets. He has done this in a fashion to reward the States to get into a program and make a program that helps.

Eventually, it is going to prove to be in their best interests to do what is in the bill. But it is a carrot approach to improve safety.

I think the bill will save a lot of lives and improve the transportation in this country with a better road. It is a safer place to drive. It is going to be better all the way around for the country to have better roads and better alternatives when there is no room to build any more roads so the people can get to and from work in a very safe and successful manner.

Anyway, Mr. President, I think this is an excellent bill. I am very proud of the work that we have done on the bill. I think that there is a lot of credit to go around to a lot of our colleagues.

But I will just say to all of those colleagues who are very concerned that come from some of the donor States, Senator WARNER, Senator LAUTENBERG, some of the Members of the House, they put up a whale of an effort for them. We have come a long way from where we were just a few short years ago. In fact, we have come a long way from where we were a few months ago toward recognizing that we have to have a sense of equity so all the people are treated fairly.

I think it is a good conference report. I hope it will be passed yet tonight when it is completed. I look forward to seeing the benefits of what I think is a very monumental piece of legislation and probably one of the most important that I have worked on in my time here in the Senate.

I, for now, Mr. President, yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

THE FEDERAL BUREAU OF PRISONS' POSTRELEASE EMPLOYMENT PROJECT

Mr. THURMOND. Mr. President, I rise today to speak about an important and dramatic new research finding. This finding is the result of many years of dedicated research work conducted by the Federal Bureau of Prisons.

The Federal Bureau of Prisons has just completed an 8-year study that shows there are significant differences between inmates who have participated in vocational training and work in Federal Prison Industries versus those who remained idle. This study is entitled the "Post Release Employment Project"—referred to as PREP—and it compares groups of inmates with similar criminal histories.

These study results indicate that those who did participate in vocational training and Federal prison industry programs showed much better adjustment in the institution; were significantly less likely to become involved in new criminal behavior after their release; and even earned more money after release than inmates who had similar backgrounds but did not participate in these programs.

This is the largest and most comprehensive research study undertaken to date to evaluate the impact of these vocational training and Federal Prison Industry Programs on inmate post-release success. The significance of this research will be felt throughout the field of corrections.

The Bureau's study clearly shows the value of industrial work and vocational training in facilitating an inmate's successful adaptation to a productive life in the community after being released from prison. The study also demonstrates the contributions that Prison Industries and vocational training make to the management of safe institutions.

Preparation for this study began in 1983. Date collection on postrelease outcomes continued into early 1987, with more than 7,000 inmates involved. Unlike most studies of prison vocational training or work experience, PREP is a prospective, long-term study. Study inmates were identified by case management staff at the institution over a period of several years. Inmates were selected for the study group prior to their release, if they had participated for at least 6 months or had received vocational instruction. Based on a set of matching variables, comparison inmates were selected who were released in the same timeframe but who had not participated in either work or training.

The primary focus of PREP was a determination of the differences exhibited by the study and comparison groups once they were released to community supervision. Post release followup information was obtained on all inmates. The followup information included information on employment, wages, and retraining. Most of the study inmates and some comparison inmates were released though a halfway house prior to their eventual release to the community.

I believe that the Director of the Bureau of Prisons, Mr. J. Michael Quinlan, should be commended for his strong and able leadership at the Bureau. He and his dedicated staff have spent long hours of research in preparing this important study. This project will be a vital step toward the goals of better postrelease adjustment and a safer America.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

INTERMODAL TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. BURNS. Thank you very much, Mr. President.

Mr. President, I come to the floor to make a few comments on the final chapter we hope in the conference report on the highway transportation bill. It is called the Intermodal Surface Transportation Efficiency Act of 1991.

I want to congratulate a lot of the conferees that participated in this conference. When it all started out, in the House version to the Senate version, I do not think there were two pieces of legislation that were supposed to come together that were so far apart.

I would have to say that each and every person that participated in that conference had a lot of what we call T-R-Y about it. It had to be done. It was a long and arduous task, but in the end, I think, it was very, very fair.

I have seen these men and women work on these conferences, and a number of people that I think deserve praise on this bill. Senator MOYNIHAN, who has never lost his sense of humor in long hours of negotiations, even on long hours of trips sometimes.

Mr. SYMMS. If you would spend 6 weeks in conference on this issue, you might not necessarily always say that he has a great sense of humor.

Mr. BURNS. I would advise the Senator from Idaho that every time I approached him, his sense of humor was still intact. I know it is hard to keep your cool sometimes under those kinds of conditions.

Senator SYMMS from Idaho deserves special credit, especially from my State of Montana, understanding the problems that we face in the West, where we are sparsely populated, but we have thousands of miles of roads to maintain and to keep up. Senator BURDICK from North Dakota, Senator CHAFEE, who just spent hours upon hours on this task, people working with Senator SYMMS, such as Taylor Bowlden, Angela Plott, who have been so kind to my staff as we worked through the process.

Also, I thank the Governor of my State of Montana, Stan Stephens; his Director of Transportation, John Rothwell; and their Washington counsel, all for their advice and assistance to make sure that, yes, our States of the West were treated fairly in this bill.

You know when we talk about putting people to work, I think the study was, if my memory serves me right, that for every $1 billion in this massive transportation bill, we create 20,000 jobs over the next 6 years. We have heard great speeches about infrastructure. This Congress should be investing in that infrastructure.

As the Senator from Idaho spoke as well of the trucking industry, we have to remember that there is not a city in America that does not have fresh produce every day, fresh meats every day, which comes from vast distances. The folks who live in Maine eat lettuce and fresh vegetables from our Southern States and California, delivered fresh daily, all our produce. We are the most well-fed nation in the world.

It is one thing to produce it. The next thing is to process and distribute on a daily basis, so that our tables can be set. That is important. That is infrastructure. That is what it takes to make a nation hum, and this is where we should be making our investment of dollars collected by this Government, back into the infrastructure so the activities of commerce can be carried on in a timely fashion.

The final compromise also recognizes the need of rural States like Montana, with its vast miles and sparse people. We receive our money, and we are part of the National Highway System. We are a part of the whole system.

Yes, we are individual States, but we are all a part of this great country. Also, it gives us money so we can deal with our secondary roads and our arterials. It recognizes our farm-to-market system, requiring the State to consult with local officials to incorporate its system in rural priority roads and bridge networks. The number of bridges falling down in this country is phenomenal. This allows that work to begin.

The final compromise adopts the Senate's bill structure and its overall flexibility which allows for the innovation of our transportation infrastructures that it gives to every State in the Nation the ability to transfer funds to its areas of greatest need. It also provides an 80 percent Federal match so that States that are already facing budgetary constraints can afford a robust public works program.

So, Mr. President, I am very pleased that the conferees included my amendments to promote rural tourism and recreational travel. There are extra dollars around our national parks and our public lands, because we can have the greatest attraction for the enjoyment of America. But they are never enjoyed if you cannot get there.

My own State of Montana receives about $50 million over the next 6 years to spend in conjunction with Federal agencies inside Forest Services, BLM, national parks. Those funds can be spent on roads that enhance the recreational travel that makes the tourism related amenities such as signs, parking areas, scenic easements, and visitor centers eligible for Federal funding.

That is very important, because in my State, Montana, tourism is the second largest industry, and we get the biggest share of it in just 3 months. I sometimes wish we had a climate like that of the occupant of the chair, the Senator from Hawaii; maybe we could get more travel to those majestic mountains in Montana.

So I appreciate the work that the conferees have done. I appreciate their willingness to listen to the needs of all America, to make it fair, especially for my State of Montana. I congratulate them, and I thank them.

I yield the floor.

Mr. MOYHIHAN. Mr. President, on behalf of the conferees, Senator CHAFEE, Senator SYMMS, who are on the floor now, and myself, we would like to thank the very able Senator from Montana for his remarks and to say to him, we thank you, sir, for your amendment on rural tourism, which is an important part of this measure. It is a better bill because of the amendment you offered, and we thank you for it. I think a lot of Americans, not just Montanans, will be in your debt.

Mr. CHAFEE. Mr. President, first of all, I want to join in the thanks to our distinguished colleague from Montana for the kind comments he made and for the contributions he made to this legislation.

Second, it is very opportune that we have on the floor the two chief authors of this legislation, namely, the distinguished chairman of our committee dealing with this matter, and the ranking Republican, Chairman MOYNIHAN from New York and the ranking Republican, Senator STEVE SYMMS from Idaho. But for the perseverance and tenacity of these two gentlemen, we would not have this bill before us.

So I tip my hat to both of them, and I think the key thing—it is not getting a highway bill. No one seriously suggests that with all of this money piling up in the Highway Trust Fund, that it was not going to be spent. The key thing about this bill is that this truly sets a new direction, and the senior Senator from New York, many times, has pointed out that the 40-year program of building the Interstate Highway System is not all finished, but the program is finished.

Now we are looking toward the balance of this century into the next one, and the question before us is, do we keep going as we were before? We have money—in this case $119 billion—do we spend it on roads, bigger roads, wider roads, more roads? Or do we say, look, the objective of this money is a transportation system, how we can best move people and goods at the lowest cost, fastest manner and most efficient fashion in our country. That is what we have done. Anybody who studies this bill will be struck by the fact that there is tremendous discretion and flexibility. That is another word that is used. The ability to spend money, if you want, if the State works in conjunction with—we use the term metropolitan planning area—the larger urban centers.

Do they want to spend the money on more roads, or do they want to spend it on something else? Do they want to spend it on a high-speed rail system, for example? Or do they want to spend it in some new developments? Indeed there is some very interesting experimental work provided here, in a subject that the senior Senator from New York has been interested in for a long time, called magnetic levitation. That may be a flop and may not be worth anything. But when you are spending in the next 6 years $119 billion for transportation, it is worthwhile spending $725 million to construct a prototype of the magnetic levitation system. So that is a very interesting undertaking.

Now, Mr. President, again I just want to congratulate these two distinguished Senators for what they have done in connection with this legislation. I particularly want to single out Senator SYMMS because he comes from a very, very large State, a truly rural State—they do not have large centers of population—where the idea of mass transit is not as pertinent as it is in New York or New Jersey or in my home State of Rhode Island.

But he went along with these new trends, with these new possibilities. I think he has shown flexibility in his own approach. He comes from a State where triple trailers are important, where big trucks are important. In my State they are looked on as a menace. But Senator SYMMS showed a dedication, a willingness to compromise, a willingness to get on with the effort. I think we all owe a great debt of gratitude to him.

And I will say—and we will have an opportunity to say this plenty in the next 12 months—but having worked with him so many years on this committee, I am very, very sorry he is not running for reelection. It is a loss not only to this committee, it is a loss to the country. I just hope he will continue his active interest in public affairs when he returns to his home State. And we will miss him.

Now, Mr. President, a couple of points of specifics on this bill. First of all, I mentioned that there is $119 billion—even from somebody from Washington, $119 billion is a lot of money—that is going to be spent on this program over the next 6 years. In addition to that, $3½ billion for mass transit construction, dedicated to that, separate from the part that can be transferred under the flexibility of that previously mentioned out of the $119 billion.

Second, pursuant to the wise guidance of the senior Senator from New York, we decided that we have to keep up these roads, particularly the interstate, and so therefore, we encouraged maintenance, proper maintenance of the interstate through the 90–10 program, 90–10 being 90 cents from the Federal Government and only 10 cents from the local government.

On the new construction, that is at a rate of 80–20; namely, 80 cents from the Federal Government and 20 cents from the locals.

That formula is not one I am particularly fond of. We came in as Senators with 75–25. We wanted to discourage new construction. Every one of us look around, and what is the easy way to do things? Expand the roads, build another lane. Take a look at 495 out here. That is the solution with every problem, instead of having some innovative approaches to it.

But the conference—many things are a compromise in this world, particularly in conferences with the House—so we settle at 80–20; that is 80 percent being Federal funds and 20 percent local for expansion or construction of new roads.

Now, there is a national highway system involved here. That is something new. We have not dealt with that before. But what does that mean?

What it means is you have the Interstate Highway System, and then there will be selected other roads, primary roads in the Nation, that will combine with the Interstate Highway System, and will come to be known as the National Highway System.

I personally think there is going to be a lot of battles over how that is going to be determined, because if there is preferential funding for the National Highway System as there is in this bill, then different States are going to say, well we want ours in there, and we want more than you are saying we can have. That is perfectly logical. We all know how that is going to work out. So when they talk of a 155,000-mile National Highway System, some States are going to have very, very important roads left out of it. And there is where you are going to have trouble, I believe.

But that is part of making decisions. And who is going to make the decision is a little fuzzy, I think. It is going to be left up to the Federal Highway Administrator, but he will be under tremendous pressure.

We are going to rebuild our bridges with $16 billion. Now, more can be set aside for that, but certainly $16 billion has to be set aside.

I mentioned the Magnetic Levitation Program. We have $660 million which has been described as the intelligent vehicle highway system. What wonderful words, "intelligent vehicle highway system." Most of that is for research in our colleges and universities to figure how we can use these roads better.

What are some examples? I will give you an example. Certain automobiles that are going downtown during the rush hour will have a special tag on them. They will pay for that tag. Only those with the tag will be permitted to be downtown or headed into town between the hours of say 7:30 and 9:30. If you do not have that tag, you have to wait until later.

Now, is that harsh? I do not think so, because studies have shown that a lot of people head into town most at those crowded hours that could just as well go at a separate time. But swept up by habit, inertia, custom, they head in town at those specific hours when they could just as easily go at a separate time. The whole objective is how could we get more vehicles using the same roads in an uncrowded fashion.

Mr. President, the other portions of this have been described.

Again, I want to stress the capability to switch funds into mass transit. I do not think many people realize this, that 100 percent, every single dollar of some State's national highway system funds, can be transferred into mass transit if that State is not in attainment with the Clean Air Act and receives the approval of the Secretary of Transportation.

That is a very, very unusual feature. But it certainly is one that will say to those States that are not in attainment under the Clean Air Act, "Here is something you can do. You can put it all into mass transit."

I would just like to conclude. I see my distinguished colleague on his feet and I just want to conclude by saying that several things in here—like all of us, I have had some features I have been working on particularly. I am very pleased that we have some incentives to encourage the use of motorcycle helmets. There is no question there is an absolute direct correlation between motorcyclists suffering severe head injuries and severe trauma without helmets as opposed to those who wear their helmets.

In my little State, we have 17 individuals in our State institutions in comas—some have been there for as long as 17 years—as a result of motorcycle accidents, and carrying them at a cost of, per individual, something close to $200,000 a year. Those injuries might have been avoided and probably would have been avoided if those individual motorcyclists had helmets.

Likewise we have funds in here to encourage the use of seatbelts. There is a direct correlation between the use of seatbelts and the reduction of injuries in automobiles.

Finally, we have had long battles about billboards, and on this floor when the Senate considered the legislation the provision that I had in there to permit the States to amortize billboards was soundly defeated, regrettably, from my point of view. However, in this particular legislation we provide for the construction or the designation of scenic byways. The distinguished Presiding Officer, I am sure, has some lovely roads in his State which would qualify for being scenic byways, particularly charming sections of road that should be preserved and kept that way.

Under this legislation, we provide not only that no new billboards can be constructed on those scenic byways, but 10 percent of the scenic byway money can be used to purchase these billboards to get rid of them forever.

So I think in future generations people are going to ride in these scenic byways and say, "Thank goodness those individuals in the Congress did something to preserve these sections of road in 1991 when they passed that bill."

I look for an expansion of this program in future years, so motorists can take these trips on these lovely roads—I have some in my State; all of us have some in our State—without the offensive sight, visual pollution, that is provided by billboards.

I thank the Chair.

And some people say "Oh, well, how are you going to know where the next inn is? How are you going to know where there is a restaurant?"

We all know the answer to that is there are very discreet signs designating fuel, food, or lodging, and if need be, they can be a little more explicit than that. But certainly they do not have to be these monstrous billboards.

So I want to thank the Chair, and again congratulate the two real leaders in this situation.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, the Senator from Rhode Island has to be at another conference committee meeting right now. He will be leaving the floor. I do not want him to leave the floor with the vague statement that future generations will thank persons who provided, in this legislation, that there will be no new billboards on scenic highways, and that moneys will be available to take down billboards there now. It was not persons, plural, sir. It was JOHN CHAFEE, of Rhode Island. Captain CHAFEE, if you like.

You never saw a marine like him. He stormed into those billboards like they were a short Iwo Jima. He made it his personal concern, and he brought the conference unanimously to this view.

I do not know how we are going to work it out that people who do not see something are going to be aware of the something they do not see. But the history should be recorded, right here and now, that this is the Chafee amendment, worked out in conference, to his great credit, to the great enhancement of this bill, and to the enhancement of our country.

And we thank you, sir.

Mr. CHAFEE. I thank my colleague.

Mr. SYMMS. Mr. President, I want to add my thanks to Senator CHAFEE, who is the ranking member of this committee I am privileged to serve on. Rhode Island is not a donor State. JOHN CHAFEE was like a rock in that conference. Senator MOYNIHAN referred to him as Captain CHAFEE. We all know of his distinguished record as a marine in World War II, in Korea, in the infantry.

But he is like a rock. He stood there for the Senate's position, day after day after day, and gave a lot of strength to the rest of us a lot of times. We all felt that way. We had a good conference, a group of Senators who tried to work together, and we think that is the reason we got this bill.

JOHN CHAFEE had a lot to do with that, and I will be forever grateful for him and Senator MOYNIHAN and other members of the conference for their help on several issues I had.

I was disappointed we did not get the private property amendment. I might just say about my colleagues in the Senate on that issue, most of the colleagues we had in there, over half of them, had voted against my position on the floor. But it was not the Senate that cracked on this issue. The House simply refused to take the Symms private property takings amendment.

JOHN CHAFEE, though he may have had differing views, stood there, and that was at bay for a day or two or three. I had an alternative that the Senators thought they would be glad to go along with, but the House would not take it.

I am grateful to my friend from Rhode Island for the kind things he said about me. I am privileged to be with him in any kind of a fight. I would rather have JOHN CHAFEE on my side. Oftentimes, in the committee, we are not on the same side. But in this particular case, he was a great help, I think, to all of us to keep the Senate position in this bill.

The key to that is flexibility. A lot of my colleagues have been talking about transit here on the floor, and I appreciate what the Senator said. But the State of Idaho—I have talked to the Director of Transportation today. He is elated with this bill, because he has flexibility to try to make the road system better in Idaho and put the money where it is most needed, to improve our important roads in that State. He felt the Senate and the House did a great job coming up with this bill.

I thank the Senator for his help.

Mr. CHAFEE. I thank both of my colleagues for their very generous comments, and I appreciate it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak for up to 15 minutes for purposes of introduction of two bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, before I proceed to the statement to accompany the introduction of two important pieces of legislation, I would like to make some comments on the discussions which have been proceeding relative to the Surface Transportation Act.

It disappoints me, Mr. President, that we are at this point at almost 8 p.m. on the last day of the session, supposedly, before we recess for the year, without a copy of one of the most important bills we will be asked to vote upon; without the analytical tables that allow us to understand what the implications of that bill will be.

We have been asked to make comments at this time in preparation for the opportunity that we will be afforded when the conference report is before us. I wish to express that concern in hopes that those who have the greatest knowledge about this legislation will be prepared to respond in detail to the questions that those of us who are apprehensive have and, therefore, will give us the solace that we hope their words will be able to provide.

I will personally be focusing my questions on some very fundamental questions, such as: Is there a basic sense of fairness in this legislation? Are the needs of all of the 50 States properly taken into account in terms of their size, their growth, their special economic circumstances, their contribution toward the National Highway System, what their historic commitments have been, and what their future obligations to the public of America will be?

I am also going to be concerned, Mr. President, with some questions relative to the role of this legislation in economic stimulation. I have heard the President, I have heard leaders of Congress point to the highway bill, the Surface Transportation Act, which includes highways as well as mass transit, as being one of the most significant economic bills that the Congress will pass. I agree that it can be one of the most significant economic bills. It can be if it makes a positive contribution toward building America's infrastructure if it is targeted in a way that will put the maximum number of Americans to work immediately during this period of economic recession. Those are contributions that the bill can make.

Whether it does make those contributions we do not know because, with the exception of a small group of people who as recently as 2 hours ago were supposedly still in the process of making this brew, we do not know whether this bill, in fact, will stand up to those standards of analysis. I look forward to an opportunity to engage, at such time as the bill itself and the analytical tables are available, those who know more about this legislation on those issues.

To conclude these preliminary observations, Mr. President, I believe that the Congress is about to do a disservice to the American people if we adjourn tonight or tomorrow. This country is hurting. There are millions of families who have felt the pain of unemployment and economic distress and underemployment, who have felt the personal anxiety that accompanies that, the loss of sense of selfworth and respect. I do not believe that this Congress should be in recess while the Nation is staggering under such economic pain.

I heard earlier tonight on national television the President, in an informal interview, use the phrase that he enthusiastically supported a congressional growth plan which apparently was presented earlier today in the House of Representatives. To me, that is an indication that the President is now prepared to consider today, not at the time of the State of the Union in January or February, a growth plan, a plan to start the American economy. While we do not know the specifics of what he would support, we clearly know that if we are not in session, there will be no opportunity for us to engage the President in that dialog that might lead toward some constructive actions for America.

I believe that we should take this opportunity to join the President in a bipartisan spirit, recognizing our mutual responsibilities for the well-being of the people of this country, and stay here and do our work. I can assure you, Mr. President, that the American people are not going to focus their blame singularly on the White House if they see the Federal Government, if they see Washington stand passive and indifferent for a 2-month period of severe economic recession. They are going to hold all elements of the Federal Government, and specifically the Congress, accountable for what it did. I, for one, will urge my colleagues, as I have in the past, to stay in Washington and do our business and continue to search for those measures which the Federal Government can initiate that would contribute to a lessening of the economic pain for our Nation.

I hope, as I conclude again this preoration to my statement on introduction, that the highway bill can stand that test. I frankly doubt it, and if it cannot, then I believe we have yet another reason, a reason based on the failure of this highway bill to meet the test of contributing to the economic stimulation of America, to return this for further review, analysis, and prescription of a highway bill, mass transit bill that can make a positive contribution to America's economy.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2096 and S. 2097 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SYMMS. Mr. President, I would like to speak for 2 minutes as though in morning business.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 2095 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. SYMMS. Mr. President, I do not see any other Senator seeking recognition, so back to the bill at hand. I am particularly proud of sections 1301 through 1304 of the Surface Transportation Efficiency Act.

I said to Senator MOYNIHAN the other night at 2 a.m., after the conference had accepted the Senate provision which has the National Recreational Trails Trust Fund Act included in it, that now we have made it all the way so it really is a intermodal bill. We are going all the way from the backpacker to maglev and all points in between.

So it is an intermodal bill. And just so that my colleagues will know what is in it, sections 1301 through 1304 of the bill create a national recreational trails trust fund for nonrecreational fuel taxes for the purpose of maintaining and constructing Federal, State, and private recreational trails.

To clarify future congressional oversight and jurisdiction, while keeping responsibility for program administration consistent with budget functions and to use the most conservative estimate of revenue to be generated for the trust fund, two changes were made by the conference substitute to the Senate language. One change made by the conferees was that the fund was moved from the purview of the Secretary of the Interior. Instead, the conferees decided to put the administration of the fund under the purview of the Secretary of transportation in consultation with the Secretary of the Interior.

This happened primarily because we became embroiled in a jurisdictional fight in the other body, and we think this is a good compromise so that Interior will have consultation with this but the Secretary of Transportation will be responsible.

The other changes was that the conferees decided to take the lowest estimate of revenue under the fund and use this as a cap on obligations for the first 6-year period while this program gets on its feet. Obligations are limited to $30 million a year over 6 years. The conferees intend that as information relating to this revenue is available, it will be provided to the House Public Works and Transportation Committee and the Senate Environment and Public Works Committee, so that recommendations can be made relating to future appropriate obligation limitations.

The third change was the name change that Senators MOYNIHAN and WARNER suggested. I am deeply appreciative of them to name this act the "Symms National Recreational Trails Act."

In closing, I want to thank all of my Senate conferees and House conferees for their support on this section of the highway bill. But because of their interest and determination we have the legislation before us tonight that will send those fund dollars in the National Recreation Trails Act back to the folks at the State level on the ground using these trails where the money is needed and where it belongs.

Mr. President, I would like to have printed in the RECORD a report I prepared on The National Recreational Trails Fund Act provisions in this highway bill. This report outlines our intentions, and how the legal language in the bill should be interpreted and implemented.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT FOR THE CONFERENCE COMMITTEE ON THE HIGHWAY BILL

PART B, THE NATIONAL RECREATIONAL TRAILS FUND ACT

Summary

Section 1301 through 1304 establish a National Recreational Trails Trust Fund, drawn from the excise tax paid on nonhighway recreational fuels, which will provide states with funding for projects promoting safe and environmentally sensitive opportunities for use of recreational trails.

Discussion

Americans going to and from their places of recreation constitute eight percent of national highway usage.

Access to fishing, hunting, camping, climbing and a number of other forms of recreation is often provided by trails; but such trails can also be the source of recreation themselves for hikers, joggers, horseback riders, bicyclists, snowmobilers, trail bikers and others. Recognizing this, the President's Commission on Americans Outdoors in 1987 recommended the establishment of a dedicated trust fund financed by the fuel use taxes paid on "nonhighway recreational fuels," the balance of which would assist the states in providing and maintaining recreational trails. This concept is very similar to the Aquatic Resources (Wallop-Breaux) Trust Fund, which dedicates motorboat fuel taxes to the protection and enhancement of fisheries and boating facilities.

Part B follows the Commission's recommendation by establishing a National Recreational Trails Fund. The Fund is created out of "nonhighway recreational fuel taxes." By definition, this revenue source is not derived by any usage of highways, and under the "user-fee" concept of highway funding, should either be refunded or dedicated to a program more directly related to the activity being taxed. While the recreational fuel taxes paid by individuals are not practically refundable, the taxes paid by outfitters and guides, snowmobile excursion operators, motorcross racing establishments, ski lodge and snow trail groomers, and other commercial fuel users are currently refunded. Part B utilizes these unrefunded nonhighway recreational fuel taxes by dedicating this revenue source to a Fund that directly benefits recreation in general.

The Fund is distributed to the states, one-half equally divided and one-half divided based on a measure of recreational usage. Under this formula, those states which face the greatest recreational demands will receive a proportionately greater share of funds to address that demand.

Many states already dedicate taxes and fees on equipment and fuels for funding recreational programs. The provision of federal Trails Fund moneys should not reduce any state's financial commitment in this regard. In fact, after three years, states with certain trail-recreation-based revenue sources are required to make a reasonable estimation of such revenues available for recreational trail funding within that state.

The Fund provides assistance to state and local governments, since it is at this level that the goal of "closer-to-home" recreation can be best achieved. While trails on federal lands can be expected to benefit when the impacts of heavy usage are mitigated by the provision of more local trail opportunities, the Fund is not intended as a substitute, or supplement, to appropriations for trail programs on federal lands. To emphasize this, the bill does not authorize the use of Fund moneys for trail construction on federal lands, except to the extent that such construction furthers a specific objective of a State Comprehensive Outdoor Recreation Plan (SCORP).

Section 143(d) lists the authorized uses of Fund moneys. The various activities lettered (A) through (K) have been listed in order of suggested priority. It is well recognized among trail users that the need for construction of new trails is often not as immediate as the need for maintenance and repair of the existing trails system. Furthermore, education, enforcement and training activities are essential to prevent further erosion and damage to existing trails. These activities are therefore ranked when allocating Fund moneys.

The Recreational Trails Fund is designed so that, once a decision is made concerning a trail, states have access to funds that will improve the enjoyment, safety and environmental soundness of that trail. The Fund itself is not intended to alter public land management policies, dictate when or where a trail is to be built, or what kind of usage should occur on that trail. Rather, it is assumed that such decisions have already been made through public policy processes, such as state or local recreation plans. In conformance with this process, states should specify trail needs and priorities in statewide park and recreation plans or their supplements prior to commitment of Fund moneys.

In regard to administration and allocation of funds to states, it is recognized that institutions and processes for administering recreation and park grants already exist, including assistance for trails and trail-related projects. To avoid a proliferation of agencies and administrative burdens, the state and local activities benefitting from the Fund should, to the extent practicable, be administered in conjunction with the state grant program authorized by the Land and Water Conservation Fund Act, including the utilization of existing administration procedures and organization. For the purposes of Federal-State coordination, the Secretary of Transportation should encourage each Governor to appoint the entity currently administering the Land and Water Conservation Fund state assistance program to administer Trails Fund moneys.

The Fund is structured to encourage as much consensus between diverse trail users as possible. In order to remain eligible for Fund moneys after three years, a trail-user representative advisory committee must exist within each participating state. Many such committees already exist as provided under the National Trails System Act, and it is not anticipated that duplicate committee structures would be necessary to satisfy the eligibility requirement. These committees should reflect the diversity of trail use within each state.

Priority is given to those proposals which satisfy more than one recreational demand, i.e., hiking and bicycling, horseback riding and skiing, alternating and time-shared use proposals, and other combinations of differing uses. In no case, however, should this encouragement for diversified use of trails result in the placement of two or more incompatible or dangerous uses together on a trail.

The Fund also ensures that states take a "good faith look" at proposals which address different trail needs, including motorized and non-motorized use. A "minimum reservation" for each form of recreation affords all trail users an opportunity to advance sound proposals. In the absence of acceptable proposals, however, this reservation of funds may be dropped with the approval of the trail-user advisory committee in that state.

Further, given that some smaller states may lack a wide array of recreational trail use options, states with a total land area of less than 3,500,000 acres and that contribute less than one percent of total nonhighway recreational fuel use, may choose to be exempted from any consideration of a "minimum reservation" for expenditures relating to motorized or non-motorized recreation.

Part B establishes a National Recreational Trails Advisory Committee to advise the Secretary of Transportation on Fund administration. Further, final administrative decisions by the Secretary are made in consultation with the Secretary of Interior. It is anticipated that trail-user involvement will result in policies that reduce administrative overhead, promote volunteerism, and increase and improve trail experiences. As is required under the Federal Advisory Committees Act, the Secretary should select committee members who are most qualified and knowledgeable on the issues of importance to trail users.

The National Recreational Trails Trust fund is not meant to be the exclusive source of funding for recreational trails projects. Instead, the conferees intend that it compliment other private and public funding sources.

Mr. SYMMS. Mr. President, I want to add a few other things about some of the groups that support this bill, and the statements that go with them. Derrick Crandall, president of the American Recreation Coalition had this to say:

The prospect strikes us as one of the most logical and most important recreational initiatives underway. The fund offers a balanced, fair program which will draw all trail users together, just as the Wallop-Breaux fund has helped bond the Nation's anglers and boaters.

I ask unanimous consent that the entire document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTDOOR ENTHUSIASTS SUPPORT THE NATIONAL RECREATIONAL TRAILS FUND ACT

"The prospect strikes us as one of the most logical and most important recreation initiatives underway. [The Fund] offers a balanced, fair program which will draw all trail users together, just as the Wallop-Breaux Fund has helped bond the nation's anglers and boaters."—Derrick A. Crandall, President, American Recreation Coalition.

"The National Recreational Trails Fund Act would supply a stable and consistent source of funding that could be used to meet long term trail planning needs through a dedicated trust, rather than the fluctuating budget process."—Edwin E. Kibler, Legs Dir., National Campers and Hikers Association.

"Legislation such as this engenders a continued love affair between our great outdoors and America's people. [The] bill is a step in the right direction by protecting and enhancing the great outdoors and specifically the trails in our country."—Daniel N. Thomas, President, Great Lakes Sport Fishing Council.

"We have reviewed the bill and are pleased to see many positive ideas incorporated in the legislation. The recreational trail system has needed rehabilitation and upgrading for some time and it is good to see Sen. Symms' willingness to move forward on it."—Scott Sutherland, Dir. Fed. Relations, Ducks Unlimited, Inc.

"The American Horse Council believes that this legislation will expand our nation's available trails and ensure that riders will have an opportunity to participate in the use and development of new and existing trails."—R. Richards Rolapp, President, American Horse Council.

"Our members are well acquainted with the sad plight of recreation trails generally, and with the many contributing factors. [This] proposal to dedicate an ongoing source of funds for the benefit of recreation trails is timely and commendable."—Larry Cash, President, Fed. Of Western Outdoor Clubs, Pacific Crest Trail Conference.

"Our members believe that they will benefit both from the additional trails and from the development of trail-side and trail-head facilities that will be made possible by the Trails Fund Act."—Sue Bray, Vice President, The Good Sam Club.

"Cost sharing for both trail construction and maintenance with user participation has been effective and [this] Bill would encourage further progress. The Society for Range Management supports such measures and is happy to be listed among supporters of the National Recreational Trails Fund Act."—Stan Tixier, President, Society for Range Management.

"The Wildlife Legislative Fund of America is confident that the National Recreational Trails Fund Act will produce an abundance of opportunities for the many outdoors men of America."—William P. Horn, Dir., Nat. Affairs, Wildlife Legislative Fund of America.

"American Trails expresses it's full support for this legislation. This legislation encourages responsible trail development, and the protection of the environment in the design and development of new trail resources."—Charles A. Flink II, Chairman of the Board, American Trails.

Mr. SYMMS. I see my distinguished colleague from New York is on his feet.

Mr. President, I say to Senator MOYNIHAN that at 2 o'clock in the morning when this was accepted by the conference—Or was it Sunday afternoon? Those days start running together—I said to Senator MOYNIHAN, we have come full circle, my friend. We now have gone all the way from backpackers to maglev in this bill.

So it truly is an intermodal transportation bill. I sincerely thank Senator MOYNIHAN very much for his help that made this possible, and also Senator CHAFEE and others on the committee.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, my indefatigable friend from Idaho mentioned maglev which is a term for magnetic levitation. If no Senator is seeking recognition, it might be useful to expand a little bit on this matter because it goes to the whole question of innovation in transportation, a point with which Americans are familiar, and which shaped out country.

It was 1807, if I get it right, when the *Clermont*, the Fulton steamboat, made its trip from Manhattan up to Albany and steamboat transportation was born.

We took the steam engine which had come out of Britain and put it onto a boat. The next thing you know, we were free of the winds, free of the currents. Railroads were not an American invention but they certainly took a form and magnitude in this Nation that they had never experienced in Europe.

Then the automobile, I think an internal combustion engine was displayed in Vienna on the day that Grant took Richmond. But it was the U.S. production of automobiles in vast numbers that changed the nature of our society.

We were the first to fly at Kitty Hawk. Into our own time, we were the first to send a rocket to fly to the Moon.

We have been on the edge of transportation innovation. It is our intention that we should stay so and this bill embodies that purpose—the Lautenberg provisions—on intelligent vehicles on highways.

But maglev is a nice story of a country getting too set in its ways—which happens to countries. It is a nice story because of the way it came to be invented. The story goes back to the early 1960's.

There is a young nuclear engineer who was then working out of the Brookhaven National Laboratories in the eastern end of Long Island. He still is. His name is Dr. James Powell, Canadian by birth. He did his graduate work at MIT. He was on his way back to MIT one Friday evening, I think, for a beer party as young men will do. He got to the Bronx Whitestone Bridge which crosses Long Island Sound on the mainland. He got into that permanent traffic jam that awaits you before you get your toll ticket at the Bronx Whitestone Bridge. Between the time he slowed down and the time he got his ticket, he had thought up magnetic levitation.

Well, that is what it means to be a nuclear engineer in your late twenties. We recall that Leo Szilard, in 1933, was waiting for a traffic light to change in London and thought up fission. I suppose somebody else would have done it if he had not. But those are little moments of genius that come rarely and then change the world.

Dr. Powell was then rooming with Dr. Gordon Damby. They were bachelors, and they have since formed families of their own. They both are still at Brookhaven. In 1966, they published in a scientific paper their invention. It is a very simple idea, like most great ideas in physics, once you get it clear. Magnets attract and magnets repel.

They envisioned a pathway in which magnets are placed in the roadbed, to use that term from railroading, on which a car or series of cars also with magnetic implants would rise when the current was turned on in such a way as to repel, and then move forward also with magnets attracting.

Suddenly you had a form of locomotion unlike that has ever been conceived. All the energy of friction is eliminated, all the energy cost, and also, as in the case of flying, all the tremendous power that is required to get an airplane high enough to move in atmosphere where it is efficient to do so.

In the early 1970's the U.S. Department of Transportation experimented a bit with this work. Other very able engineers were involved. But then we dropped it. We had highways, we had automobiles, we had airplanes. What did we need with this new technology? We dropped it.

And, bang, the Japanese picked it up. Bang, the Germans picked it up. They could see something new. I visited the test track in northern Germany where about $1 billion has been invested already in trains that move without any contact with the earth at 220 miles an hour. They can move up to 300 miles per hour. Maximum efficient speed is about 220. The Japanese have put several billion dollars into this technology.

They have just now commenced their first commercial project. Senator CHAFEE said it may, in the end, not work; it may be that high-speed rail is a more efficient form. The French TGV is already in place, and I read in the Economist magazine, just this week's issue, I believe, that it has transformed the economy of France, connecting Paris with Lyon, and suddenly a country that is concentrated in one big city is diffuse. The Economist is a careful journal, and they would not casually say that something has transformed the economy of France. They said the TGV has transformed the economy of France.

Would maglev do the same? Well, it might. It has the great virtue of being able to move at very high speeds between cities, in situations such as we have here in the Eastern United States where air traffic is at its saturated limit. There is so much air space over the National Airport and LaGuardia, that a flight from New York to Washington takes an hour. Actual flight time is about 25 minutes, but the other time is spent circling, slowing down, and waiting.

The advantage of maglev, from our point of view, is that we have the rights-of-way in the interstate system; absent the rights-of-way, you would not think of putting in any new surface transportation system in this area. But we have that in this bill. We already started.

The Bureau of the Budget, under Mr. Darnan, has been very supportive of this idea. The Corps of Engineers is very interested. And the Department of Energy is very much so, in the possibility of linking up maglev with new modes of electrical transmission, which we are just now developing.

Again, we have much less cost of transmission over distances for electricity, and that gives you the possibility of something really new.

These are ideas that began here. I do not think we are willing to settle for a day when you have an extensive system of maglev here in the United States, and you pick up one of those trains and look at the bottom of one of those cars and it says, "Invented in the United States, made in Japan." If that happens, it will have been our choice.

Tonight, we are going back to where we would have been any time in the 19th century, where we ought to be in the 21st century. It is our idea. We are going to develop it, and find out how good it is. It is of particular interest to places like Florida.

One of the first opportunities we had to see how promising this was, or how necessary it was, was in Florida. That State began looking at the question of high-speed rail after a traffic study told them that by the year 2020, it would take 44 lanes of interstate highway to carry the traffic between Miami and Orlando—44 lanes, Mr. President.

Russell Baker, as only Russell Baker could do, picked this up and wrote a column, the heading of which was a takeoff on that terse BBC announcement from World War II. It simply said, "One of our States is missing, paved over." We can do better. Or if we cannot, we can surely try to do better. We cannot fault our nuclear engineers. We cannot fault our electrical engineers. They keep coming up with ideas that seize the imagination of the world, the great opportunities which the rest of the world seizes.

After all of those years of the cold war, after so much of our energies, innovation, and science and technology went into weaponry, here is an opportunity to do something for the folks at home.

This program will be run by the Department of Transportation with the cooperation of all of the agencies involved. It will be given out as an award to whatever consortium of States or private enterprises or municipalities comes in with the best bid. Before this decade is out, we are going to find out. And people may be coming from around the world to ride on our maglev, rather than us going around the world looking at theirs.

Mr. President, I see my learned, able friend from New Jersey on the floor. I am happy to yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I will not be long. I do want to take the opportunity to express the satisfaction that I derived from having been engaged in the process of developing, as a participant, this surface transportation bill, of having worked with colleagues who, through very serious and diligent efforts, made the whole thing come together, and at the same time representing various diverse interests around the country.

Mr. President, I think it is important to note that we were members on the Senate side, for the most part, of a Subcommittee on Infrastructure of the Environment and Public Works Committee. Senator MOYNIHAN is the distinguished chairman of that subcommittee, and it was through an exceptional show of patience, skill, and knowledge that he was able to produce a bill in an incredibly short period of time.

I want to remind my colleagues here that we were ready to start talking very seriously in June; that our friends in the House had some different ideas, and produced one bill that needed some changes, and it took them until October to get their bill ready. This is not, in any way, intended to be a criticism, because they came up with a wonderful bill, and they had lots more people to satisfy, by the very nature of the two bodies being considerably different, they with 435 Members, and we with 100.

But when you saw the group gathered around the table—and we had distinguished participants, like QUENTIN BURDICK, the chairman of the Environment and Public Works Committee from North Dakota; we had Senator HARRY REID from Nevada; Senator GEORGE MITCHELL, the majority leader, from Maine; I, from New Jersey; the distinguished chairman of the subcommittee, Senator MOYNIHAN from New York. On the other side, colleagues like Senator SYMMS, who did such an outstanding job in bringing the forces together, representing the State of Idaho, which is quite different in character and population and distances than New Jersey and New York. We had Senator CHAFEE, who comes from a State like mine, very densely populated, small, compact, with different interests in terms of its transportation needs. Yet, they all came together in the spirit of equanimity and fairness that continued almost from the start.

Then a meeting with our colleagues from the House chaired by my Congressman, and an old friend, BOB ROE from New Jersey;

And again, a variety of interests and attitudes about what transportation ought to represent.

Why do I mention this? First of all, I was privileged to work with Senator MOYNIHAN. His leadership is exemplary; his knowledge exceptional. President. I do not know how many books the Senator has written. I just know it is an awful lot. I have read a lot, but I would not want to put my reading up to his writing.

The fact is that Senator MOYNIHAN, when he was meeting to discuss transportation needs of the country, had written a review of Solzhenitsyn's book that appeared in the New York Times in the book review section. He has a breadth of talent and knowledge that all of us look to and listen to at times with wonderment.

But the fact is that Senator MOYNIHAN put his shoulder to the wheel and encouraged, cajoled, pushed, and pulled until we were able to assemble a relatively common opinion, and hammer out what I think is a distinguished piece of legislation that will be one of the hallmarks of the legislative agenda in this century.

Though this body is not unaccustomed to hyperbole, Mr. President, I would have to tell you that in the opinion of many, this transportation bill will be recorded as one of the high points in the legislative agenda of the Congress in this century.

It took a very bold stroke to stir us away from the conventional manner of travel, to put one's car on the highway, to sit in traffic, to bypass the cities, to exploit nature, to in time spoil our air, consume prodigious quantities of energy which we cannot supply within our own borders, and to say to people who are so dependent upon vehicular travel that we are going to find another way; we are going to right a wrong. And that is what happened.

And, without further embarrassing our distinguished colleague from New York, it took a bit of genius, in my view, to be able to say to people: we are going to satisfy your needs, your State, your congressional district needs, and at the same time, we are going to dramatically change the transportation policy of this country. And that is what happened.

Very often, numbers make policy; arithmetic creates direction. And that is the way it was done, very creatively, by saying: Here is a variety of choices that you have—flexibility. If I, in New Jersey, need more money invested in mass transit, the choice is there for me and my State.

And in the case of Senator SYMMS—and I must say on a personal note, Senator SYMMS and I spent a few moments together, as we have, I think, since we have been serving here, in kind of a fresh phase of friendship, able to discuss things—personal—some hilarious; some very sober.

But the fact is that Senator SYMMS, who got an ovation from all of the conferees, had to his, I think, somewhat embarrassment, a program named after him that relates to the trails, our nature trails, throughout our country. And it was a testimonial to Senator SYMMS, with whom we do not—at least I speak for myself—I do not always agree. But nevertheless, there is a sincerity, an honesty, a comradeship, a desire to get the job done that, frankly, obviated any differences in opinion or policy that we may have.

And STEVE SYMMS—I do not want to start the eulogies, by a long shot. But STEVE SYMMS is definitely going to be missed here, not only because he is a decent person, but because also he provokes us into thinking about what there is on the other side of our own opinion.

So I say that to note that during this conference, Senator SYMMS, from the sparsely populated State of Idaho, with its grand mountains and its beautiful terrain, with much different needs than New Jersey—although it has been said on a clear day, from one of the mountain tops in Idaho, one can see for miles. Why, we have days like that in New Jersey, sometimes. We see a mile or so.

But the fact is that we were able, at all times, to come back to the center and say: Listen. It may not be perfect for my State. And there are lots of people around here who are not only complaining that it is not perfect, they are almost saying on occasion: "It ain't even good." Well, it is good. This is a great bill. Let it not be misunderstood. We served the interests of virtually every State in this country and the territories. We took care of the rural and the urban. We took care of those who prefer automobile travel and those who prefer train or transit travel.

We did; we covered all of the bases. And when you have 535 participants, as we have in this Congress of ours, you get a variety of opinions that are often very, very different. But we merged them all because someone like STEVE SYMMS stood up and said: Yes; it is not what I would like, but it is what I am going to settle for in the interest of the many, versus the needs or the interests of the few.

So, Mr. President, when we look at what has taken place these very busy couple of weeks, that we negotiated in good faith at one moment—one of the Members on the House side had to spend a couple of hours in the hospital to recover his strength; one of the staff people who had been working 18, 20 hours a day was taken home ill; a big, strapping fellow, he had to get a respite; he had to get away from it. And the work continued to plow on.

So, Mr. President, I want to say that though perfection is a goal, it is not possible. It is not possible, with 50 States and 435 districts. It is not possible. And the worst thing in the world, in my view, would be for us in any way to lay this aside, continue to work on it at our leisure, if I might say.

This is not a new bill, Mr. President. This is a bill that had its origin 6 months ago, 5 months ago, and this is a bill that people out there are demanding. When the President of the United States, who voiced not only skepticism but sheer opposition to having this transportation bill, said today: I am going to sign that bill. And he did it; why? He did it because it is good for America. It is necessary.

We have people begging for work. We have to get this economy of ours started, and there are few ways better than getting an infrastructure investment like this one going.

So as much as it would be desirable to be able to stand here, continue refinements, continue looking for ways to improve it, they have been exhausted.

Mr. President, we even developed a colloquialism in the committee. We said: I send a formula to the computer and ask for its immediate consideration. I think we were up to version No. 50, or something of that nature. We massaged the numbers. We manipulated them. That sounds wrong, but we manipulated them in the most positive way. We skewed them; we touched them, we moved them. We did everything to satisfy all the participants. And again, while not perfect, there is not anyone in this body who can look at the result and say: I am not better off than I was last year; than I have been in the last few years. I am better off. I do not care what State is represented, Mr. President.

So I would urge us to get on with the work of the country. This is one positive way to do it. That is what brought all of us with disparate interests together. It is that we knew that we needed to say to the American people: We are going to try to put you back to work just as quickly as we can, and the cash will start to flow.

We already know States, Mr. President, where people have been laid off, where work has stopped.

There would be nothing more painful, in my view, than to see highway projects grind to a halt while people are begging to go to work while we are continuing to be noncompetitive because of congestion, where we are continuing to use more than our share of the energy supply of the world, while we are continuing to pollute the air.

This is the time for us to kind of join hands because it is Republicans and Democrats that fashioned this bill, join hands and put our shoulders to the wheel and let us get to work. That is what this bill is about. We are privileged, Mr. President, to have at this hour the opportunity to say yes to America, to put our energy and our resources into the rebuilding of this country. I hope that, though there is some concern—perhaps it can even be described as dissatisfaction, Mr. President—that we are going to say it is not quite everything that we want, but it is most of the things that we want and we should get on with it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, if you would like to know the spirit of this legislation, you could not have heard it better than from our beloved friend from New Jersey. He is saying, "Say yes to America. Say yes to 2 million people who will be put to work by this, and say it now, say it tonight." Which we will do.

I thank the Senator for his more than generous remarks which are embarrassing but treasured.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the Senator from New Jersey for his kind comments about this Senator. But I would also like to say, again, I hope that the Senators in our body will begin to have an opportunity to look at what he is talking about with intelligent-vehicle management. It is an opportunity, I think, to really make this a more efficient use of people, which is our most valuable resource in this country, so they do not spend all their time sitting in a traffic jam.

We thank Senator LAUTENBERG for it. I am one of those people who say we need more business people to come into the Congress. In that conference, which was a brutal, lengthy conference with great confrontations, particularly in the earlier days of it—and lasted through the latter days—FRANK LAUTENBERG was one person whose business experience came through because of the practical pragmatics in business, that you have to get the job done and you cannot just say no to everything because you do not like it. You have to go on. You have to run the company. You have to make a decision. He was a great help to see we got some of those decisions made, and I appreciate him for his role in this. It was a privilege to work with all of the conferees, but I thank my colleague and I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to join the previous speakers who have commented on the Surface Transportation Act conference report, which is about to be before us, and join them in urging its prompt passage.

I would like to begin, though, by paying my highest compliments to the chairman of the Transportation Subcommittee: our teacher, our leader, the former Ambassador to India, the former Ambassador to the United Nations, the senior Senator from the great State of New York. There are no other Senators in this body who are his peer, who equal his vision, his perspective, his sense of the future. He has more than ably led us to the brink of passage in a major leap forward in the development of national surface transportation policy.

This is not just another highway bill. As the Senator from New York often reminds us, it is not even close to another highway bill. This is a bill which addresses the future—intelligent vehicle highway systems, mass transportation—a whole host of innovative ideas to launch us into the next century.

I must say I think it is a good precent that this body could follow in many other areas, whether it is tax legislation, whether it is crime legislation—all the areas where America needs to be more competitive, where America must lead the world. We must cast away some of our old ways of thinking. We must look forward. This Surface Transportation Act is an example of the way Congress must lead this Nation forward.

I see other Senators on the floor who also merit the highest praise. The senior Senator from Idaho [Mr. SYMMS], whose unflagging, persistent efforts also helped make this moment tonight possible. He is terrific; a zealous advocate for the American West. I had all kind of reports from other Senators serving on the conference. The Senator from Idaho was in there working away, trying to find an accommodation, working with Senators to get a final bill passed. I thank the Senator from Idaho for all of his efforts. He has truly distinguished himself.

Mr. SYMMS. I thank my colleague.

Mr. BAUCUS. I see also on the floor, if I might say, another transportation guru, the chairman of the Appropriations Transportation Subcommittee Senator LAUTENBERG. Fortunately, he is also on the authorizing committee as a member of the conference so he was able to lend his expertise in transportation policy and development of what has turned out to be a truly superlative transportation bill. I want to thank the Senator from New Jersey for his expertise, his contributions, and efforts as well.

Mr. LAUTENBERG. I thank the Senator.

Mr. BAUCUS. I see also the Senator from Nevada, another member of the conference. In his quiet, no-nonsense way, the Senator from Nevada could not have been more effective or more helpful. This was not an easy matter.

I can think of few bills few programs, which are more difficult to put together. Obviously, that is because our country is so diverse.

For instance, a State as sparsely populated as Montana—with approximately four persons per square mile—must find accommodation with a State as densely populated as New Jersey—a State with approximately 1,000 people per square mile.

Not an easy task. But that is exactly what this highway bill does.

It is interesting to point out here, too, Mr. President, that our area, the area of the State of Montana, the State that I represent, is about the same as the area of the State of California. The population of my State of Montana, though, is only 800,000 people. But our population is only one thirty-seventh that of the State of California.

The point is that with our sparse population, great distances and limited tax base, Montana could not survive without the Federal Aid Highway Program.

For Montana, highways are not only the most important means of transportation, they are our only competitive means of transportation. We have no competitive rail freight service to speak of, limited passenger rail service. We have no bus service to speak of.

We have a minimal, at best, passenger air service in my State. We have no barges in Montana. Unlike our friends downstream on the Missouri River. We have no river transportation. We are not a seaport, we are not on the Great Lakes. Our highways are everything.

And I must say sometimes the weather in the winter gets a little bit severe. Blizzards come up, and it is very important we have a good, strong highway system so that we can survive.

Mr. SYMMS. Will my colleague yield on that point? I talked to the port manager of the Lewiston Port today, Lewiston, ID, which is the highest port—anyway, in our State—I think in the entire system, 700-feet elevation. They are thrilled about the extra funds that will be in for maintenance of the roads so the road between Lewiston, ID, and up to——

Mr. BAUCUS. Great Falls, Highway 200.

Mr. SYMMS. In Missoula, they are thinking of—the trucks come down the old Sacagawea Trail they took Lewis and Clark down, and they are very thrilled about the bill because the importance of grain trucks loading in Lewiston, ID, with the maintenance part, there are adequate roads there; we just need to fix them up. They have a terrible time keeping them maintained. I thank my colleague.

Mr. BAUCUS. I thank the Senator. Highway 200 is critical to both our States. As the conferees know much better than I, transporation is a cost of doing business.

The more there are transportation inefficiencies, whether they are traffic delays, traffic jams, a road in disrepair, the more that is an additional cost of doing business. So from a competitiveness point of view, if no other, the more we have an efficient transportation system, the more transportation costs are lowered to businesses and to Americans and the more competitive we are. The example the Senator just gave is right on point. When highways are up and running and maintained, farmers can get their grain to market—with greater efficiency and lower cost.

Mr. MOYNIHAN. Could I say the world market?

Mr. BAUCUS. An excellent point from the Senator from New York. As this loose grain goes from Idaho, barges on the river, terminals to the coast sent worldwide, to the Far East, to countries around the world. It is a matter of worldwide competitiveness and efficient transportation policy certainly helps America's competitive position in the world.

Essentially, Mr. President, I would like to just point out that I think this bill is very balanced. It helps and pays attention to Western sparesly populated States, it pays attention to densely Eastern urban populated States, and that is because of the vision of the Senator from New York, the chairman of the sub-committee, and other members of the committee as we crafted this bill.

I am reminded, Mr. President, of another issue that we in my State of Montana are now facing, and that is the attempted passage of a Montana wilderness bill. There is no issue in my State that is more contentious than the wilderness. Everyone in the State of Montana is an outdoors person. We hunt, we fish, we raise grain, we raise livestock, we harvest timber, we mine minerals, we are an outdoors recreation State. Each of us in the State of Montana knows how and has a very strongly held view as to how the out of doors, our public lands, if you will, should be managed. But I must say with 800,000 people not all views are coincident. There is plenty of room for disgreement under the big sky.

The same is true here. We have 50 States. Not all States are identical. Different populations, different climate, different conditions, but we all much work together to form the best amalgamation, if you will, the best combination, if you will, for the greater good.

Benjamin Franklin once said some 200 years ago, and is as true today: "Either we hang together or most assuredly we will hang separately." Our national moto, emblazoned over the Presiding Officer's chair, "el pluribus unum,"—one out of many. We are many States but we need a common single, unifying policy theme to bring us together for the greater good.

We cannot let perfection be the enemy of the good. This bill is not perfect. How many times have we heard that?

Some will say that is trite. Mr. President, often the most trite things are the most true. Perfection cannot be the enemy of the good.

Along with about a dozen other Western Senators Senator REID and I introduced a highway bill, which would have been much better from my State's point of view, and I wish the committee would have passed it; I wish the conference would have adopted it. But it did not.

While I believe the Reid-Baucus bill helped draw strong attention to the needs of the West. The committee recognized there are other competing interests. No Senator is perfectly happy with all provisions of this bill. Not one.

As the Senator from New Jersey said, on the other hand, every Senator can be proud and happy that there are provisions in this bill that will help his or her State, the sum total of this bill is much better than current law as it applies to every State in the Union.

I would like also to thank and praise my colleagues, Senator BURNS from Montana who worked with me, I also worked closely with our Republican Governor, Stan Stephens, and John Rothwell, the director of the Montana Department of Transportation. We pulled our resources together as well as resources of other States.

Again, teamwork is togetherness, which is the hallmark of this bill, balancing the needs of Western States along with the needs of Eastern and urban States have brought us toward passage of an excellent advance in transportation policy. When we all look back several years from now we will be very proud. We will look back and see that in November 1991, when we enacted a surface transportation act that looked toward the future, not just another highway bill.

I very much thank and commend the conferees for their diligent and statesmanlike efforts. I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from New York.

Mr. MOYNIHAN. Mr. President, praise from the Senator from Montana is praise indeed. He who put together the Clean Air Act of 1990 know what is required, his epic efforts in that regard. If I would say one thing about our bill, this bill, the bill out of our committee, it is that we for the first time link transportation with environmental issues with our provisions on congestion and clean air which we are very much in your debt, and I am beyond words.

Mr. SYMMS. I join the distinguished chairman in thanking my friend for those kind words. I might say I was one of those who wished he was not so effective when he was doing the Clean Air Act, but when we were in the throws of the conference and fighting with the House over the formula, when I invoked Senator BAUCUS's name that he would be ballistic over this issue—

Mr. MOYNIHAN. They shuttered.

Mr. SYMMS. They realized they had to come back and listen to us.

I thank the Senator. Although he is not a member of the conference, his name was invoked many times by this Senator because I hated to make it sound like it was just Idaho that was getting hurt. The Senator from Montana repeatedly talked to me, as did his colleague Senator BURNS. I appreciate working with him and I thank him.

Mr. BAUCUS. The Senator from Montana is most grateful in helping the Senator from Idaho. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

A GREAT PIECE OF WORK

Mr. REID. Mr. President, this is a time when we find around the country bashing the Congress, blaming Congress for this, blaming Congress for that. But I would like those people who are watching tonite to know that I believe that what has taken place during these past few weeks has been a fine moment for the people's body, the Congress.

It would be appropriate if people all across the country could have watched the workings of this conference: Two bodies that were established by our Founding Fathers, the House and the Senate, one that is a very huge body of 435 Members, another amaller with 100, meeting together in conference to work out the intricacies of a $150 billion bill.

That is what this legislation was. It involved over $150 billion. And after the two bodies passed bills that were certainly different, the conferees met and in a period of 2 weeks, spending literally hundreds of hours, were able to come up with a bill that there as unanimous agreement on, all conferees from the House and the Senate agreed that this bill is the best that could be done.

It did not make everyone happy. There are things, as I was a member of that conference, there are things in that bill that I do not especially like. But for this country, it is a great piece of work. It will supply jobs to million people.

If our constituents could also see the work of their dollars in looking at what the Senate and House staffs did, they work all night long on a number of occasions, slept on couches up in these offices, having things ready so that when we met again after having spent a long day and night of this we would have the information at hand so that we could again try to work out the multitude of differences in this legislation.

I have served in legislative bodies for a number of years. I have been back here 9 years, served in the Nevada State Legislature as the president of the senate and as a member of the assembly for 6 years. I think this is a great example of how a legislative body should work. This is something that should make the American people proud of what their representatives do.

Also, everyone should understand—I have had a number of people come to me and ask, "Well, this is just the authorization. You have to get the money appropriated now, don't you."

The way that Congress is established, there is a process where on most occasions there has to be authorizing legislation. For example, there has to be a bill authorizing what we are going to do for the defenses of this Nation, without military. Once the Armed Services Committee authorizes the legislation, then the Appropriations Committee has to come along and see if they are going to appropriate money for what was authorized.

That is not what happens here. In this instance, these moneys that we talk about will come to be. They will start immediately. This money is part of a trust fund. We are not out taxing the American public new dollars. These moneys have built up in a trust fund that has been established as a result of people paying money for every gallon of gasoline they purchase. The money goes into a trust fund, and those are the moneys now that will be spent. That is what we are talking about, the $150 billion. These are real dollars, dollars that will be put to work putting people's children to work, people's fathers to work, mothers, et cetera.

So this is a fine piece of legislation in many different ways.

The senior Senator from New York, I listened to him as he went through a historical narrative as to how this bill came about. I listened to him today. It was certainly something that was illuminating, but I think it was also important that his speech will culminate literally in this legislation becoming effective.

The bill has many good things in it. One thing that has not been talked about, at least I have not heard, is that there will now be air bags in vehicles that are sold in the United States, a safety device. There are many other safety provisions in this legislation, but this is one that we have not talked about. This bill contains so much good that it takes a lot of time to pull out the things that we have been working on for a couple of weeks.

One of the things that is important and is worth repeating, there is no question that the infrastructure in this country is deteriorating. No matter where you go, you see roads that are in bad shape.

If you take the freeway from Reno to Salt Lake City, the road is in bad shape. The freeway was built and it really has not been repaired very much. You take the freeway from Las Vegas to Salt Lake City—both of these roads are about 500 miles long—and it is also in bad shape. Why? Because formulas in the past have been set up not to give States incentives to repair, renovate roads.

This legislation will do that. Why? Because the matching figure gives incentives to States to repair roads. The match is 90–10 for repairing, whereas building new roads is 80–20.

I think it is important that we talk a little bit about the conference. I have done that. I think it is important to talk a little bit about the conferees.

The Western part of the United States does not have a lot of people, if you exclude California. As a result of that, I had the opportunity in this legislation to work extremely closely with the senior Senator from the State of Idaho, STEVE SYMMS. We have served on the committee together for 5 years. While I was in the House, I worked with hin on Western matters, but this is the closest I have worked with him on legislation during the time I have been in Washington. He did a great job of representing the Western part of the United States.

But as the Presiding Officer stated in his remarks earlier on this floor, I was impressed with Senator SYMMS because he not only cared about the Western part of the United States, as was evident in his advocacy in that conference committee, but he also publicly stated and gave up issues because he thought it would be for the common good of this country.

There has been a lot said about the senior Senator from New York, the chairman of this conference. As the history books are written, Senator MOYNIHAN will be one of those people who will be written about for years and years to come as being a great figure in the Senate, a person with great vision, who has been writing about these things. He has been prophesying about things that have come to pass. Things that he has talked about in this legislation will certainly be talked about in the years to come as a result of his vision.

I can remember when we first started talking about a highway bill earlier this year, he called us into his office. He talked about the importance of a highway bill and gave us one of his lectures as if we were students attending a university. He, in effect, told us what surface transportation was all about. I learned at that time, as I have learned through the entire process of this bill.

Mr. President, I express through the Chair to the senior Senator from the State of New York my admiration and respect which has cerntainly grown during this conference—great patience. All the bad news in the Senate we directed to him. All the good news, we took the pats on the back ourselves. The bad news, he got it all—and there was plenty of it, and there probably still will be a little talk here tonight about this bill not being perfect.

One of the people we have not spent enough time talking about—and we really should—is the chairman of the full committee, QUENTIN BURDICK. QUENTIN BURDICK is a man of great wisdom. He attended all of the conferences. He did not talk a lot but when he did talk, we listened. He is a man of great wisdom, and certainly his attending every one of those conferences added to the importance of what we were trying to accomplish.

Another person who has not been talked about, or at least I have not heard him talked about very much tonight, is the silent giant during this conference, DAVID DURENBERGER of Minnesota. I would have to say if a professor gave an examination to the students of this conference, the House and Senate conferees, and asked questions either in multiple choice or essay questions, I think Senator DURENBERGER of Minnesota would probably score as high as anyone, and I would bet a little money that he would probably get the best grade in the class. He, like Senator BURDICK, did not talk a lot, but when he talked, he had everything together. He knew the point he wanted to make and he made it and made it well. Again, I had not had the opportunity in the past to work with DAVID DURENBERGER. I am impressed with his contributions to this conference.

Mr. President. I was lieutenant governor in the State of Nevada and my Governor at that time was a man by the name of Michael Callahan, who taught me in high school. He taught me Government in high school and was my coach. He lost a leg in Korea. I was always fascinated with the Korean war because I had heard so many stories about the Korean war from my friend, Governor Callahan. Therefore, I was really interested, when I read a book review of the "Coldest War," written by James Brady, who is a writer for Newsweek. I read the book because I wanted to learn more about Michael Callahan, who was a Silver Star winner, had a rifle range named after him, a hero of the war.

I was anxious to read that book. I was so surprised when I read that book, surprised from a lack of knowledge that the hero of this book was Captain CHAFEE, a man who was really one of the heroes of the Korean war.

I, during the conference, joked with him because he is such a purist, such a man of high principle that if he believed in something it was tough to get him to vary a little bit, to compromise a litte bit. I referred to him during the conference as Captain CHAFEE; acted just as he did when he was a hero in the Korean war.

It was a great pleasure to work with JOHN CHAFEE and to find out what really a great advocate he is of the things he believes in.

The person I sat next to during the whole conference was the Presiding Officer, the acting President of the Senate.

As was said by Senator SYMMS, it is important that business people come to this body, a person who is without any question or debate whatsoever one of the most successful business people that we have in our country. He took a small business into an extremely large business and decided that he wanted to become involved in public service. That was this Nation's gain, the State of New Jersey's gain, and the business world's loss. He has done so much in Congress to give the business person's view of what we need to hear around here, a person who has been a success in business, and his ability to understand what the bottom line is in business helped us in this conference because he is somebody that was concerned with numbers. What is the bottom line?

I have great respect for Senator LAUTENBERG, as I had during this period to time.

Also, before closing my remarks about the conference, Mr. President, I would like to say that another person that added a great deal to the conference and to show the bipartisan nature of this conference is the fact that

I talked more about my Republican colleagues tonight than I have perhaps or as much about my Democratic colleagues. But JOHN WARNER was a person who added so much to this conference.

One of the other good things that we have not talked about in this legislation is the fact that as a result of the work that we did, after some debate, the construction of National and Dulles Airports will continue. As a result of a court decision construction would have come to a dead standstill. It would have stopped.

As a result of spending 3 or 4 hours one day during this conference we were able to work out a compromise so that construction at Dulles and National Airports will not miss a beat. It will not miss a beat and, in the process, save taxpayers' money so that there will not have to be the startup costs again.

That is virtually the work of Senator WARNER. I joined with Senator WARNER in that amendment which was sponsored by Senator WARNER.

This is typical of the work he did in the conference, looking at the overall picture of what this country needs and recognizing that a State like Virginia is a microcosm perhaps of this whole country. He has the area right around the District, the suburbs of the District of Columbia. He has a lot of rural areas that he had to be responsible for.

So Senator JOHN WARNER, the senior Senator from Virginia, was a great help in our being able to arrive at this settlement on the conference report that will be voted on later tonight.

As has been stated, it is imperfect legislation. All 50 States and the territories also included in this legislation are different. Each State has problems.

One of the things that I personally was extremely interested in is magnetic levitation. I have worked with the senior Senator from New York on magnetic levitation for several years now. One of the people that has been such an advocate of magnetic levitation is the Senator from Florida, Senator GRAHAM. It appears to me that, with his advocacy—"his" meaning the senior Senator from Florida, I think that Florida stands the chance—in fact, I am confident that Florida can have the first magnetic levitation system in this country. I hope we do something to get magnetic levitation going in this, and this bill will contribute some money to that.

But for some jurisdictional problems, and hopefully they can still be resolved before the night is not, but even if they are not, I am sure Florida will get its fair share or more of those magnetic levitation moneys that will be available in this country as a result of the work of Senator GRAHAM.

This legislation is, as has been stated on a number of occasions tonight, imperfect. But we could go back and start all over tomorrow, call the conferees back. We would not come up with any legislation that is any better than what we came up with today. Fifty States and the Territories, 435 Congressmen, each representing approximately half a million people, trying to satisfy each of them, and States as large as the 28 million that live in California, and the 400,000 that live in Wyoming—those disparate views had to be met in this legislation. We did the best we could possibly do.

Mr. MOYNIHAN. Mr. President, I know the Senator from Nevada has to be elsewhere. Before he goes, if you hear the gentle generosity, understanding of his remarks about others, you would have some sense of the grace that he brought to our deliberations. Without him—there was an element of the peacemaker that HARRY REID radiated a moments when it was needed—we would not be here without him.

I am very pleased that Senator REID called attention to the work Senator WARNER did, great, deft use of this vehicle for a very important and urgent purpose, which is to say the National and Dulles Airports; but the tenacity with which he represented those who did not leave the floor entirely happy in June. The bill came out of the Senate 91 to 7. But there were seven. He was of that view.

Then, of course, we would not be the committee we are—we think we are a pretty good committee—without QUENTIN BURDICK, who is our patriarch, and our conscience when matters required. If we ever get drowsy he picks us up just like that. There are moments we get drowsy. Not however, QUENTIN BURDICK. I thank him so much on behalf of his brothers, his colleagues. It was very generous of him, as he is very generous.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I have been on the floor for awhile. Might I say to the distinguished chairman who is here that I compliment the committee both for the product which I will discuss in a few moments, and for the obvious collegiality that arose in the committee with very different views and different interests.

After weeks of deliberations and effort, they came away from there rather united and unanimous, and united in their efforts and confident that they had produced a good bill for the United States. That is what the highway bill started out to be. That is why there were differences. We were trying to build a national system. Now we have just about built that system, and we are starting on another one, in another way, with a lot more flexibility.

I rise tonight to say to the committee that you will never please everyone. Someone will always have some notion of how they might have done better in this bill. But, frankly, let me suggest, if you re going to take the entrusted money, and if every State will get 100 percent, what do we need it for? I mean, it is a sham, because why take 100 percent from each State, and give them back 100? We had just as well quit it, and let the States collect their own and spend their own. They will have greater flexibility, no need of the Federal Government. So we cannot be exactly on 100 percent return.

But I think equity has been done, and we have a very good approach to getting a big bill passed with a lot of jobs and resources, and we are not going to go in the red to do it, which is interesting. We will have the money there as we spend it. It will be there, because those who use automobiles and use gasoline and related products are paying it in sufficient quantities to cover this bill

Having said that, let me thank the committee for another thing. My State, much like Montana and others, does not have a divesity of transportation modes. We are just beginning in mass transportation in a second city, which means we have only had it in one, so to speak. We have very little air service, outside of one large city. Frankly, we need roads. We are a large State with not too big a population. For those small populations, if there are not good roads, they are isolated and ruined.

Much like Montana and others, we appreciate the fact that we are going to be able to continue with a very good plan for State highways and for a national system within that State. But we also have an area that, when it comes to roads, is close to being a disaster area. That is one-third of the Navajo Indian reservation, and two other reservations of Indian people, and 17 pueblos, smaller groupings. The one thing that is absolutely obvious about them is that they have little or no roadway system.

I think almost as a direct consequence, as my friend from New York knows, there is no group of Americans with a lower standard of living than the Indian people on reservations. They have fewer jobs, fewer good paying jobs, fewer businesses, fewer factories, fewer of those things that people go to, day by day, to earn a living and share in the wealth produced by the economic system.

We think there is no miraculous cure to that, and we think there are a lot of reasons for it. One reason for it that stands out is that they do not have a highway or roadway system. You cannot exist and compete and grow and prosper with no roadway system on a reservation as large as the Navajo reservation. If you take the reservation in the four States, it is larger than many, many States, literally. Perhaps it is larger than seven States of the Union, just that piece of geography. The roads are minimal.

I thank you for putting in $190 million a year for the 6 years, if I read the bill right, or what I have been told about the bill. We have $200 million, and the House had much less. You got very close to ours. When you add the bridges and some other things, the Indian people came out fairly well, which means New Mexico gets an added highway system, albeit on the Indian reservations, to be run and managed by them. It will be part of an expanding roadway system for the State of New Mexico, becasuse while it is their territory, so as to speak, it is also New Mexico. They are New Mexicans. They must come and go, and we must come and go. Transportation and commerce flow. So you can add that to what we get as a State, and that is, over the next 6 years, going to be building more and more of the economic lifeblood of our State, which is the highway system.

Having said that, I surely have no reason to thank other members of the committee, as my good friend from Nevada has. That is his prerogative about the committee he is on. I served there for a long time, I say to my friend from Nevada. In fact, I was on the last conference. I know precisely how he resolved it. I know how we got the House to get serious. That was the first time we had one cent of our roadway tax for mass transit, and it turned out many of the House Members liked that.

We voted for that here on the Senate floor, and it was going down. Senator DOLE, Senate BUMPERS, and myself agreed to switch our votes so we would have the 1 cent moving over. So I reminded them if they were not willing to work out some things, we could kill the bill and start over. And I promised them there would be no mass transit money coming, and by the next day, we were negotiating nicely.

And then, as the Senator remembers, we finally settled on a formula by using the formula upon which the previous laws of our country were based, where we split the money with our cities, revenue sharing for our cities. I dream it up on day on the way to work, and found out it would work here also. That is what we used as the formula, and settled it in about 3 hours. It was not so complicated, because we did not have so many new projects.

I think this will be the last bill that our ranking Republican Senator SYMMS, will participate in. He will not be with us next year. He decided that he is going to go home and will not be here with us any longer, of his own volition. I say that it has been a great pleasure working with him, being a friend of his, and seeing the enthusiasm and vigor with which he approaches highway bills.

It just seems like this is something that STEVE SYMMS was born to like, born to kind of handle, highways and roadways, and the kinds of things that he sees as progress.

What a good job he did for his State and for those of us who live in similar States out there in the Rocky Mountains. We have a State much like his, with a lot of public domain, a lot of forest land. We have Indian real estate and property.

I thank him for all he did, and say to him that we will truly miss him in this endeavor. And let us hope that everyone knows, as we move through this bill, that STEVE SYMMS' fingerprints and ideas are all over the place. We thank him for it.

Mr. MOYNIHAN. Mr. President, I thank my friend from New Mexico. Steve's fingerprints are all over this, and his name is in it. The record should surely show that if we have responded to the need for Indian roads, it is at the insistent behest and persuasive advocacy of the very distinguished Senator from New Mexico.

We are all in his debt. I would like to acknowledge that.

Mr. DOMENICI. Mr. President, let me start by thanking the distinguished Senate members of the conference committee, who have toiled diligently to complete their work on this bill.

If we want to talk about jobs for this country, Mr. President, this conference report will provide significant employment opportunities for the people of this country.

Its passage is imperative before we adjourn for the year, and I commend the conferees for coming to agreement, despite the significant differences that existed between the Senate-passed and Housed-passed bills.

I will try to be brief in my comments because I know that there are many Members who wish to speak.

Because of the strong interest in this bill by residents of New Mexico, I began my review of the highway and transit programs 10 months ago. I was fortunate enough to gather the experts in my State together to serve on a Task Force to advise me on pending legislation and issues of greatest concern to my State.

As a result of their advice, I pursued a number of initiatives on the Senate floor.

One initiative on which I devoted a significant amount of time was to provide more funding for the Indian reservation roads program.

Mr. President, if you wish to see a system of substandard roads, I would encourage you to visit some of the Indian reservations of this country. The Indian people live in isolated areas, and that isolation has been magnified because of the difficulty of movement. Their road system has been rated by the Bureau of Indian Affairs, and the results are an embarrassment. Only 11 percent of the paved roads and none of the unpaved roads were rated as good. Conversely, 53 percent of the paved roads and a staggering 90 percent of the unpaved roads were rated as poor!

But this bill finally corrects this inequity.

As I understand what is contained in this bill, we are able to tell the Indian people of this country that we will provide, over the next 6 years, $1.1 billion. Averaged out over 6 years, that means we will be providing, out of the Highway Trust Fund, $190 million a year to finally begin the process of upgrading this system of roads. Mr. President, this action is long-overdue.

In addition, the Conferees accepted several provisions in the House bill to improve key aspects of Indian reservation roads. First of all, there is a one percent set-aside for bridges located on Indian reservations roads.

As well, because about one half of rural roads on Indian lands are not part of the Indian Reservation Roads system, this bill makes it clear that these reservation roads are eligible for funding under the State Rural Mobility System.

Finally, provisions have been included to provide highway training, Indian preference for projects constructed near reservations, transfer of road funds to tribally-controlled post-secondary vocational education institutions, and the use of up to two percent of funds available for Indian reservations roads for planning activities.

I would also like to take this opportunity to thank several of my colleagues on the Select Committee on Indian Affairs, who helped secure these provisions—Senators INOUYE, MCCAIN, DECONCINI, MURKOWSKI, DASCHLE, CONRAD, and SIMON.

Mr. BRADLEY. Mr. President, I am proud to join my colleague from New York, Mr. MOYNIHAN, and many other Senators in supporting the 1991 Surface Transportation Act.

Thirty years ago, we were spending approximately 2.3 percent of our GNP on capital investments in infrastructure. We were building the roads and bridges and airports that were both a backbone of America's postwar growth, and an engine of that growth.

Spending on infrastructure peaked in 1980. Since then, the Federal Government has taken a shortsighted and narrow-minded view of Federal spending, treating it as a burden to be shifted onto the state rather than an investment in the future. As a result of this neglect, we enter the 21st century with an infrastructure that is decaying before our eyes. Our roads and bridges are crumbling. According to the Department of Transportation, the poor condition of our highways meant an additional 722 million hours of vehicle delay in 1985, delays that waste gas, reduce productivity and lower our standard of living. Unless we take action now, DOT estimates that we will spend 3.98 billion hours in delays. Our cities' mass transit systems are aging and inadequate for their changing needs. Our airports are overcrowded and our railroads need modernization.

We must also begin planning for the next generation of infrastructure: smarter roads and mass transit, the high speed trains that are already in use in Germany and Japan, as well as telecommunications and fiber optics. We must begin today in order to be competitive in tomorrow's leading edge industries.

It is not by chance that the most competitive economies in the world are backed by the highest levels of infrastructure investment. The link between public spending and productivity is well-established, and yet we are spending less and less on our public infrastructure. The investments we will have to make are daunting, and I hope that this legislation marks the beginning of a national effort to rebuild our existing infrastructure.

CONCERNING THE HIGHWAY BILL

Mr. DANFORTH. Mr. President, the highway bill conference report that is before the Senate contains the most significant package of highway safety legislation since the creation of the U.S. Department of Transportation (DOT) and the National Highway Traffic Safety Administration (NHSTA) in 1966. The Senate Commerce Committee conferees, Chairman HOLLINGS, Senator EXON, Senator BRYAN, Senator GORTON, and myself, have negotiated provisions that improve vehicle safety, reduce impaired driving, and improve truck and bus safety.

THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT OF 1991

Each year, 45,000 Americans die in highway crashes. In my home State of Missouri, there were 1,096 highway deaths last year, a 4-percent increase over the previous year. According to DOT, highway crashes cost the U.S. economy $75 billion annually.

Congress has given NHTSA primary responsibility for solving highway safety problems. Despite the importance of NHTSA, no reauthorization has been enacted since 1982. In the last 9 years, the Senate has approved, without opposition, reauthorization bills on five occasions. The Senate and the House have been unable to reach agreement until this year, however. This NHTSA legislation is a comprehensive highway safety measure. It addresses air bags, issues raised in previous NHTSA bills, requires action on promising new safety technologies, and launches a new offensive against impaired driving.

AIRBAGS AT LAST

The single most important vehicle improvement we can make to reduce highway fatalities and injuries is to require air bags in all cars and light trucks, which include minivans, four-wheel drives, and pickups. Under DOT's passive restraint rule, a car or light truck must be equipped with either air bags or automatic seat belts. Although either option is available to manufacture, statistics prove that air bags provide superior protection. So-called automatic seat belts have not substantially increased belt use rates. These automatic belts can be either manually operated or, in some cases, may have motorized shoulder harnesses. A 1989 Insurance Institute for Highway Safety study on nonmotorized automatic belts found that the automatic feature had been disabled on one or more belts in 95 percent of the new cars it surveyed in dealer showrooms. Motorized automatic belts provide an automatic shoulder harness, but require the driver or passenger to buckle the lap belt. A University of North Carolina study found that less than 30 percent of the occupants of cars with motorized belts connected their lap belts.

Even when a seat belt is worn properly, it is not as effective as an air bag. A German study assessed the effectiveness of automatic belts on more than 600 passengers involved in frontal collisions. The study found that, even with automatic belts, 30.4 percent of the drivers suffered a head impact, and 10.6 percent suffered skull-brain trauma. The study also found that 28.6 percent of the drivers sustained chest injuries.

In light of this overwhelming evidence, safety experts agree that seat belts cannot provide the protection that air bags provide in a severe crash. Even the Automotive News, in an editorial entitled "Most 'Passive' Belts are Actively Foolish; Bring on the Bags," has recognized that:

> A not very funny thing happened on the way to getting air bags in cars: a new generation of ever-worse seat belts. * * * The long-term solution is air bags and normal three-point belts. Fortunately, buyers now want bags. * * * Everybody should hurry it up. The sham-passive belts will be a short-lived, unfortunate footnote in the history of car safety.

In contrast to automatic belts, air bags have been a great success. State Farm Insurance Company has been tracking the experience of its policyholders with air bag-equipped cars. In all but 18 out of 6,521 accidents in which the air bag deployed, the drivers survived. In Missouri alone, 278 State Farm policyholders have been saved from death or more serious injuries by air bags.

DOT has estimated that the general availability of air bags in passenger cars could prevent 8,000 fatalities annually. About 40 percent of all 1991 model cars will have driver-side air bags and a number of models will also have passenger-side air bags. Unfortunately, to date, very few small cars have been equipped with air bags. This omission means that the already existing difference in fatality rates between small and large cars will expand. Moreover, only a few light truck models have air bags.

The conference report eliminates these safety gaps. It requires 95 percent of all passenger cars manufactured on or after September 1, 1996, to have both driver- and passenger-side air bags. Beginning September 1, 1997, all manufacturers must have air bags in 100 percent of these passenger cars. In addition, 80 percent of family vehicles, such as minivans, four-wheel drives, and small pickups manufactured after September 1, 1997, must have driver-side and passenger side air bags, and 100 percent of those manufactured after September 1, 1998, must have both driver- and passenger-side air bags.

The American public has waited long enough for air bags in passenger cars, small trucks, and minivans. Finally, every new vehicle will have them.

OTHE NHTSA ISSUES

An important issue addressed in earlier bills is light truck safety. Light trucks, which include minivans, pickups, and four-wheel drive vehicles, currently account for about one-third of the light-duty vehicle market. In 1990, light truck sales increased to 5 million because these relatively inexpensive vehicles are being used as passenger cars. Although light trucks compete directly with passenger cars, NHTSA has exempted them from a number of passenger car safety standards. These exemptions have contributed to the annual toll of more than 8,500 light truck fatalities.

Recently, some of these exemptions have been eliminated. The conference report would complete the process by requiring NHTSA to conduct a rulemaking on extending the passenger car side impact standard to light trucks.

Another important safety issue is rollover. Many vehicles, particularly ones in the sport-utility class, have high centers of gravity, which can cause them to roll over. For example, NHTSA reports that 64 percent of all single-vehicle accidents of the discontinued Suzuki Samurai involve rollover. The rollover rate for full-sized sedans in single-vehicle crashes is only 8 percent. The conference report requires NHTSA to conduct a rulemaking on rollover prevention.

Another important piece of unfinished business is the need for a rulemaking on methods to reduce head injuries. Each year, between 400,000 and 500,000 Americans suffer head injuries in automobile crashes. The National Head Injury Foundation estimates that over 50,000 of these head injury victims are permanently disabled. An air bag can eliminate head injuries resulting from frontal crashes. Even if all cars are equipped with air bags, however, head injuries will still occur from rollover and side-impact crashes. This legislation requires NHTSA to issue a final rule to reduce head injuries. The rule would draw on NHTSA's research, which indicates that many of these head injuries can be prevented if additional padding is placed in the interior of the car where a crash victim's head is likely to hit.

The conference report also encourages new technologies to prevent accidents and relieve congestion. One such technology is a smart car/smart highway system. According to NHTSA, driver error contributes to more than 80 percent of all crashes. In advanced smart car/highway systems, automatic braking or steering is used to help overcome a driver's lapse in judgment or his inability to detect risks. These advanced systems will rely on computers and radio signals beamed up from the roadway to keep vehicles spaced safely and moving smoothly.

Less advanced systems might include safety improvements such as enhanced cruise control, which uses a radar technology to help maintain a safe following and leading distance. Another radar-related technology provides a driver with a warning if he attempts to switch lanes when there is a vehicle in his blind spot. The conference report would encourage DOT to develop a strategic plan to maximize the safety benefits of these systems.

Antilock brake systems are another promising safety technology. These brakes greatly increase the ability of a vehicle to stop in a short distance and in a straight line. They are especially effective in wet, snowy, or icy conditions. Currently, antilock brakes are available on some pickup trucks and luxury models. The conference report requires NHTSA to conduct a rulemaking on whether antilock brakes should be mandated for passenger cars.

PREVENTING DRUNK AND DRUGGED DRIVING

The conference report also addresses the leading cause of highway death—drunk and drugged driving—an issue on which Congress has played a leadership role during the last decade.

In 1982, according to NHTSA, 25,170 Americans were killed in alcohol-related crashes. Since that year, Congress has created State grant programs to encourage enactment and enforcement of tough drunk driving laws and the National Minimum Drinking Age Act. These efforts have made a small but measurable difference. NHTSA reports that there were 22,415 drunk driving fatalities in 1989. The percentage of fatal crashes that are alcohol-related has also dropped from 57.2 percent to 49. 2 percent.

The conference report creates an incentive grant program that will encourage states to take some promising impaired driving prevention initiatives. One of these initiatives involves increased use of sobriety checkpoints. These checkpoints have been endorsed as an effective tool to fight impaired driving by DOT Secretary Samuel K. Skinner and National Transportation Safety Board [NTSB] Chairman James Kolstad. In June 1989, the Supreme Court upheld the constitutionality of such checkpoints by a vote of 6 to 3.

Another requirement for receiving a grant under the new program involves efforts to videotape impaired drivers. Some local law enforcement officials are using video cameras to record the image of a weaving car and its incoherent driver. Aetna Life & Casualty and MADD have formed a partnership to purchase a limited number of video cameras for the police departments in cities such as Columbus, OH, and Kansas City, MO. Michael Creamer, a deputy sheriff in Columbus, explained the importance of the camera, "We'll show the judge, the jury and the courtroom how they really looked driving on the wrong side, falling down by the car, unable to walk or recite the alphabet." Creamer said all 17 drunk drivers that his department videotaped have pleaded guilty. Last May, the Supreme Court upheld the use of videotapeing drunk drivers by a 8 to 1 margin.

Two additional features of this new program merit discussion: First, the program endeavors to give States some flexibility by waiving one of the five basic criteria if they can show reduced alcohol-related fatalities over a 5-year period, and second, the program provides a supplemental grant to States that create an effective drugged driving prevention program. A 1988 DOT review of drugged driving indicates between 10, and 22 percent of crash-involved drivers tested positive for drugs.

MOTOR CARRIER ACT OF 1991

Mr. President, over the past decade, Congress has passed a variety of laws to ensure the safe operation of heavy trucks and buses on our Nation's highways. The conference report includes legislation that will further improve motor carrier safety.

Let me take a moment to summarize these efforts over the last decade. The Congressional effort on motor carries safety started in 1982 when we created the Motor Carrier Safety Assistance Program, which is known as MCSAP. This program provides funds to States to do roadside safety inspections of commercial drivers and vehicles and safety audits at the terminals of motor carriers. MCSAP has far exceeded even the high expectations of those of us who created it. In fiscal year 1990, MCSAP funded 1.6 million roadside inspections and 9,863 safety audits. In the State of Missouri alone, MCSAP funded 61,360 roadside inspections and 496 safety audits. Those safety inspections and audits have removed thousands of unsafe vehicles and drivers from the road.

Five years ago, the President signed into law the Commercial Motor Vehicle Safety Act of 1986, which prohibits drivers from spreading their bad driving records over numerous licenses and establishes minimum standards for licensing commercial drivers. Three years ago, we enacted the Truck and Bus Safety and Regulatory Reform Act of 1988, which eliminated a loophole allowing heavy trucks and buses to operate within vast urban commercial zones without obeying critical Federal safety regulations. Finally, last year, we passed the Motor Carrier Safety Act of 1990 which prohibited any trucking firm that receives a DOT unsatisfactory safety rating from hauling hazardous materials. It also prohibited bus companies with unsatisfactory safety ratings from transporting passengers.

Although these and other laws represent great progress, we have a long way to go. Medium and heavy truck and bus accidents account for almost 6,000 deaths in this country annually. Eight percent of those killed were not truck drivers, but rather occupants of passenger cars. Each year, motor carrier accidents also account for about 160,000 injuries. Many of these accidents not only involve loss of life and injuries, but also the loss of countless millions of dollars in the form of traffic delays and cleanup expenses. In April of last year, for example, a collision between two trucks on I–70 in St. Charles, MI, set off an explosion that killed one driver and closed this vital highway for 6 hours.

We must continue our efforts to prevent such tragedies. The majority of motor carriers and commercial drivers take their safety responsibilities seriously. The Motor Carrier Act of 1991, which is contained in the conference report, focuses on the few operators who disregard safety.

Anticipating MCSAP's reauthorization, the Commerce Committee commissioned an extensive study of the program by the Congressional Research Service [CRS]. CRS found that MCSAP could be strengthened significantly if it addressed driver-related factors, such as reckless driving behavior, drug and alcohol use, fatigue, and lack of adequate training. Similarly, a 1988 Office of Technology Assessment [OTA] study found that human error is the cause of over 60 percent of motor carrier accidents. In addition, a Federal Highway Administration-sponsored study found that 95 percent of preventable accidents are related to driver factors.

This bill would increase MCSAP's focus on commercial driver errors resulting from reckless driving behavior, such as excessive speeding, improper lane changes, and tailgating. This bill also expands MCSAP's role in drug interdiction, drugged and drunk driving enforcement, and roadside checks on the status of drivers' CDL's.

This legislation contains a number of other provisions that will enable trucks and buses to operate more safely. It requires DOT to conduct a rulemaking on whether brake performance improvements, such as anti-lock braking systems and better brake compatibility, are needed. These brakes were required on all European Economic Community registered commercial vehicles this fall and will shortly be required on large commercial vehicles in

Japan. In March 1987, DOT completed a congressionally ordered study, which determined that poor brake performance contributed to one-third of all truck accidents. Since that time, both the NTSB and OTA have concluded truck safety studies that find brake performance a leading factor in truck accidents.

Finally, this measure requires DOT to establish minimum training standards for drivers of long combination vehicles and to conduct a rulemaking on establishing such standards for all entry level commercial drivers.

CONCLUSION

This legislation will reduce impaired driving, make vehicles more crashworthy, help drivers avoid accidents and improve motor carrier safety. The driving public needs these protections as part of any highway bill.

Mr. GORTON. Mr. President, I am delighted to lend my support to the passage of the Surface Transportation Efficiency Act which provides funding for highway programs, highway safety programs, and mass transit programs for the next 6 years. I was especially pleased to be named a conferee to the Commerce Committee section of the bill which included the reauthorization of the National Highway Traffic Safety Administration [NHTSA].

Last summer, I was pleased to be asked to offer the Commerce Committee section of the bill during the debate of the underlying measure. It was my and the other members of the committee's hope that by including the NHTSA bill, which had passed the Senate five times, we would be able to force the House to discuss this important piece of legislation. I am delighted to report that this strategy worked and included in the bill is what may well be the single most important piece of legislation ever passed to increase safety on the Nation's highways.

As ranking Republican on the Consumer Subcommittee, I worked with the subcommittee's chairman, Senator RICHARD BRYAN, the full committee chairman, Senator FRITZ HOLLINGS and the ranking minority member of the full committee, Senator JACK DANFORTH on the NHTSA conference. I would like to commend each of them for their work, as well as the staff support provided by Linda Lance of the majority staff and Alan Maness of the minority staff. Each of these Senators are strong and longtime auto safety advocates. While each Senator was totally committed to the Senate position, we knew the conference would be a challenge. At this point, I would like to single out the work of one of the House conferees, Representative AL SWIFT, my colleague from Washington State. Representative SWIFT is the newly named chairman of the Transportation and Hazardous Materials Subcommittee, which has jurisdiction over NHTSA in the House. In my view, Representative SWIFT's involvement and willingness to forge a compromise on this important legislation was one of the key reasons we succeeded. I would like to take this opportunity to commend him and his staff person, Scott Cooper, for the valuable contribution they have made to auto safety.

The Advocates for Highway and Auto Safety have estimated that this bill will save an estimated 12,000 lives per year and thousands of serious injuries. Probably the single most important provision in this bill is one which will mandate airbags in all vehicles sold in the United States. specifically, the bill would require a phase-in, to 100 percent by September 1, 1997, of both driver's side and passenger side airbags on both domestic and imported cars; 100 percent of all light trucks and vans would also have to be equipped with dual airbags by September 1, 1998. The phase-in schedule for cars is 95 percent by 1996 and 80 percent for light trucks and vans by 1997.

The bill also directs NHTSA to undertake a number of high priority rulemakings. Specifically, NHTSA must initiate and complete specific rulemakings in a public forum and in a specified timeframe. Every effort was made to choose rulemakings that the conferees believed would have the greatest life-saving effect. It is my belief that the timeframes provided under the conference report are in some instances longer than what NHTSA will need. Lives can be needlessly lost by unwarranted delay and it is my hope that NHTSA will make every effort to beat the schedule laid out by the conferees whenever possible.

A final rule is required on the head injury caused in accidents in which the occupant hits the interior of the car's roof rails, pillars, and front headers. This type of head impact results in about 3,000 fatalities and 8,000 serious injuries a year. Preliminary research has shown that adding inexpensive padding to pillars and rails will result in greatly reduced occupant injury and death. The conference report also requires a separate study on all other aspects of occupant head injury prevention.

Another important rulemaking required in the bill concerns rollover protection. Due to their light weight, the width of their wheel base, and height, some light trucks, vans and sport utility vehicles are highly susceptible to rollovers. In 1989, approximately 9,600 fatalities were a result of vehicle rollovers. The conference report requires a rulemaking on rollover protection and the conferees included instructions to NHTSA to move quickly on this particular rulemaking due to its lifesaving effects.

The bill also requires a rulemaking on the extension of passenger car side impact protection to multipurpose passenger vehicles—light trucks, jeeps and minivans. Currently multipurpose passenger vehicles make up approximately one-third of all new sales of passenger vehicles. NHTSA has been slow in extending the same passenger protection requirements to these vehicles as it demands in automobiles.

NHTSA must also conduct a rulemaking on the safety of child booster seats. Child booster seats are used for children who are approximately 4 to 6 years old. NHTSA is required to issue a rulemaking on these seats to assess whether there needs to be any redesign of the seats to better position the child's body in relation to lap and shoulder seatbelts.

Another rulemaking is required on possible ways to improve the design for seatbelts. NHTSA will be required to look at the effectiveness and design of certain types of belts including automatic belts, spider web belts, and belts that attach to the door. Preliminary evidence shows consumers are often failing to attach their lap belts when wearing an automatic shoulder belt and often detach spider web belts altogether. Also, NHTSA should examine whether belts should be modified for children and short adults.

NHTSA will be required to consider the need to improve brake performance on automobiles including requiring antilock brake systems. Antilock brake systems have been shown to be very effective but are primarily found on more expensive passenger vehicles due to their cost. General Motors, however, has developed a new system which seems to be quite effective and is far less costly than other systems.

One section of the Senate bill which unfortunately was not included in the conference report would have required a 5 mi/h bumper standard and a label informing the consumer of the impact of a crash that the bumper can resist without damage. I pushed hard for these provisions because they would have saved the consumer a lot of money, time, and frustration by decreasing the damage caused in parking-lot type fender-benders. I think people who have been fortunate enough not to have recently experienced a mere 5 mi/h crash would be appalled to learn how expensive this minor damage costs to repair. The Insurance Institute for Highway Safety found that two moderately priced foreign cars sustained $3,300 damage in low-speed crash tests. Other similarly priced cars sustained far less damage in identical tests. Consumers deserve to have information about how various car's bumpers perform in minor crashes. The State of California has adopted legislation that will require a label disclosing this important information, but it is my belief that all U.S. citizens should have the benefit of this information. It is my hope that NHTSA will independently initiate a rulemaking on this subject.

Mr. President, I am proud to have played a part in enacting this important bill and I urge the Senate's approval.

Mr. DASCHLE. Mr. President, I rise in support of the conference report on the Surface Transportation Improvements Act.

The agreement pending before the Senate represents a true compromise, born of conflict between the diverse demands on highway and transit programs from urban and rural areas of this country, that will initiate much needed improvements in our Nation's infrastructure over the next 5 years. In addition, its passage before adjournment will contribute significantly to the effort to bring the country out of the depths of the current recession by putting Americans to work on important construction projects. The legislation takes us in the right direction by reinvesting in our highway system, strengthening our mobility as a nation, and reestablishing the importance of our transportation system to the national economy.

I commend the authors of the compromise and their staffs for shepherding this complex piece of legislation to the floor despite late efforts by some to derail it. The bill is desperately needed. It will generate substantial momentum for the improvement of the road and bridge systems that are the lifeline for businesses, recreation, international trade and for economic development in each and every State in the Nation, and this challenge should not be further delayed unnecessarily. Moreover, putting on hold the jobs that will be created by the bill would have been unforgivable, and I applaud the conferees for their firm stance on the compromise agreement and their determination to get on with the critical task of reducing the enormous backlog of highway and bridge contruction projects throughout the country.

Of course, as with most bills of this magnitude, there are some provisions in this legislation I would like to change. I am very disappointed that the conference report does not contain the Senate level of effort provisions, which provided bonuses to low-income States that continue to pay higher taxes per capita through State efforts. I would also like to reduce the amount of spending on mass transit and put that money back into highways, where rural States like South Dakota can use it. I would like to include some tangible recognition of the costs to Western States of extreme temperatures or the per capita efforts that rural States contribute to the highway fund.

Nevertheless, this bill represents the essence of a compromise, and, overall, it is a good bill for rural America. Over the last 5 years, for example, South Dakota received approximately $420 million from the Federal Highway Program. Under the compromise, the State's highway funding would increase to $793 million for 6 years, an increase of $48 million per year.

The conference report is a clear victory for rural States over the House proposal, which would have cut many rural States out of a large portion of the funding formulas. Thus, although the overall funding for the highway program would have increased under the House bill, South Dakota's percentage share of the funding, and those of other rural States, would have remained flat or even decreased given inflation and the size of the programs.

Ultimately, considering the inequities the Senate conferees were faced with in the House bill, this compromise represents a victory for equity and for the underlying integrity of the Federal Highway Aid Program. It recognizes that each State has vast highway and transportation needs and that the entire system is only as strong as its weakest link. Efforts to short-change our rural highways make no sense to the entire system and have no place in a national transportation plan.

I urge my colleagues to support this legislation.

RECOGNITION OF RICHARD L. HOWARD

Mr. President, I would like to call to the attention of my colleagues South Dakota's Secretary of Transportation, Richard L. Howard, who has been a key, behind-the-scenes player throughout the reauthorization process.

Through his tireless efforts to monitor the various legislative proposals that have been brought forth during the highway reauthorization debate and to rally his counterparts in other rural and Western States in a united front, Dick Howard has played a signficant role in navigating Congress to the point at which we find ourselves today. He has undertaken numerous trips to the Capitol from South Dakota to advocate on behalf of rural America. He has carried that message to at least two separate hearings and countless meetings with members and staff. And he has coordinated the initiatives of over a dozen State departments of transportation on various legislative proposals.

Dick Howard managed to bring together States as far apart as Maine and South Dakota, Alaska, and Nebraska, Montana and New Hampshire—all to work for a balanced highway bill that treats rural States equitably. With the help of his able staff, Dick has provided me with voluminous documentation, charts, and analysis that have been invaluable to my own efforts to ensure this legislation recognizes South Dakota's pressing infrastructure needs.

The journey to this point has been circuitous, and the road for rural States has been filled with impediments. At each turn in that road, Dick Howard has advised me and my staff how each of the various highway reauthorization proposals would affect South Dakota and other States. He has kept abreast of the fast-breaking changes in the legislation and served his colleagues in other States departments of transportation well.

Mr. President, on the occasion of final passage of this compromise conference report, it is appropriate that I take 1 minute to recognize Secretary Howard for his efforts and his outstanding contribution to this long, but fruitful legislative process.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding we are now in morning business?

The PRESIDING OFFICER. The Senator is correct.

EXECUTIVE SESSION

UNANIMOUS CONSENT ON TREATIES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following matters:

Ex. Cal. 14. Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific; and

Ex. Cal. 15. Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

I further ask unanimous consent that the treaties be considered as having been advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification, that the understandings recommended by the Committee on Foreign Relations to Ex. Cal. 14 be adopted; that no other amendments, understandings or reservations be in order; that any statements appear, as if read, in the RECORD, and that the Senate vote, en bloc, on the resolutions of ratification without intervening action or debate with one vote to count as two.

The PRESIDING OFFICER. Without objection, is is so ordered.

LONDON AMENDMENT TO THE MONTREAL PROTOCOL AND THE WELLINGTON CONVENTION ON LONG DRIFT NETS

Mr. PELL. Mr. President, today the Senate has before it for its consideration two treaties: an amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer and the Convention for the Prohibition of Fishing With Long Drift nets in the South Pacific. Both the amendment and the convention will significantly enhance protection of the global environment and I urge my colleagues to support them.

Let me first address the amendment to the Montreal Protocol. In broad strokes, the amendment adds new ozone depleting substances to be controlled pursuant to the Montreal Protocol on Substances That Deplete the Ozone Layer. Further, it establishes a financing mechanism to promote participation by developing countries in the control regime and makes technical changes to provisions within the protocol.

At the meeting at which the amendment was opened for signature, the parties also agreed to accelerate the phaseout schedule for substances already controlled under the protocol. This decision is not part of the amendment and does not require the advice and consent of the Senate, but is nonetheless important.

The amendment has taken on particular significance and urgency in light of findings contained in the recently released Executive Summary of the UNEP/WMO Scientific Assessment of Stratospheric Ozone: 1991 that shows that ozone depletion is taking place at more rapid rates, for longer periods, and over larger areas than previously thought.

There is no quick solution to this problem. I think this bears emphasis. It shows the limits on our ability to mitigate damage to the global environment once it has begun. It underscores that, whenever possible, we should concentrate our efforts on prevention rather than mitigation.

Even with the amendment in place, the loading of ozone-depleting substances in the atmosphere will continue to rise into the next decade. The level of stratospheric chlorine—the principal agent in ozone destruction—is expected to rise from its current level of 3.3 parts per billion by volume [ppbv] today to over 4.0 ppbv between 2000 and 2005; by contrast atmospheric chlorine concentrations in the late 1970's—prior to the onset of the Antarctic ozone hole—were about 2.0 ppbv.

The impacts on human health of this accelerated ozone depletion will be severe. The Environmental Protection Agency has estimated that it could cause an additional 11.5 million incidences of skin cancer and roughly 200,000 additional fatalities over the next 50 years in the United States alone, even with the limits in the amendment in place.

Clearly more needs to be done. The committee's report calls on the administration to support:

First, the phaseout as quickly as possible of long-lived chlorofluorocarbons, methylcholoroform, carbon tetrachloride and halons; second, the substitution of long-lived CFC's with hydrochlorofluorocarbons with the lowest possible ozone depleting potential—generally those with short lifetimes; third, the recycling of HCFC's to the maximum extent possible; fourth the not-in-kind substitution of CFC's wherever practical; and fifth, the acceleration and expansion of actions to facilitate the participation and earliest possible phaseout of CFC's by developing countries.

There are likely other steps that are possible and desirable. I think the results of the UNEP/WMO panel that I mentioned earlier underscore the need for ongoing scientific research into the causes, magnitude and effects of ozone depletion. This research can help identify those substances that should be phased out most quickly and thus, to the extent possible, minimize ozone depletion.

As an aside, on Tuesday, November 19, the Committee on Foreign Relations reported Senate Resolution 95, a resolution introduced by Senator GORE, of which I am a cosponsor. The resolution calls on the administration to take a series of steps to reduce emissions of ozone depleting substances in the United States and to work through the Montreal Protocol process to strengthen international efforts to protect the ozone layer. This resolution was reported by voice vote with no opposition. I am hopeful that the Senate will be able to take up that measure shortly.

In concluding my remarks on the amendment, I want to highlight the crucial role played by the United Nations Environment Programme in the establishment and the operation of the Montreal process. It was UNEP's Environmental Law and Institutions Unit [ELIU] under whose auspices the Vienna Convention for Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer was negotiated. It is the UNEP/WMO report cited earlier that focused international attention on the need to accelerate further the phaseout of ozone depleting chemicals.

Looking beyond the issue of ozone depletion, we find UNEP active in a number of areas, including: protection of the oceans, through its regional seas program; protection of endangered species, and promoting the adoption of environmental impact assessment procedures.

I believe these activities underscore the need for UNEP and the merit of strong U.S. support for that organization. As the world increasingly faces environmental problems that require global responses, UNEP is uniquely situated to address those problems.

The other item for the Senate's consideration is the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific and Protocol I to that convention. As its name states, the convention is designed to prohibit large-scale driftnet fishing in the South Pacific.

The convention obligates parties to prohibit nationals and vessels documented under their laws from engaging in driftnet activities in the convention area. It also provides that parties not assist or encourage the use of driftnets within the convention area, and take measures consistent with international law to prohibit the use of driftnets or the transshipment of driftnet catches in waters under their fisheries jurisdiction within the convention area. Article 3 further provides that parties may take measures consistent with international law to prohibit the landing and processing of driftnet catches within their territory, prohibit importation of driftnet-caught fish whether processed or not, restrict port access and port servicing facilities to driftnet vessels, and prohibit the possession of driftnets on board fishing vessels within their jurisdiction.

The protocol essentially duplicates the provisions of the convention, but applies these obligations to distant water fishing nations. Although eligible to become party to the convention by virtue of its exclusive economic zone falling within the convention area, the United States signed the protocol at the urging of the South Pacific nations to show support for the convention's principles and to encourage other distant water fishing nations to sign.

The convention reflects concern on the part of South Pacific nations on the impact of large-scale driftnet fishing on the stock of albacore tuna in the South Pacific. The mid and late 1980's saw a vast increase in the use of large-scale driftnets and the catch of albacore tuna in the region. This increase in driftnetting triggered substantial concern in the developing nations whose economies are highly dependent on albacore tuna. Although not conclusive, scientific data indicated that the continued high levels of driftnet fishing for albacore tuna threatened to destroy the fishery. To address this concern, a series of meetings was held in Wellington, New Zealand at which the text of this convention was finalized.

Mr. President, I strongly endorse ratification of this convention, but I believe it is only a partial response to the use of large-scale driftnets. The United States must continue to push for full implementation of U.N. General Assembly Resolutions 44/225 and 45/197 calling for worldwide moratoria on large-scale pelagic driftnet fishing to go into effect by June 30, 1992.

Mr. President, these are sound treaties, they deserve the Senate's advice and consent, and I urge my colleagues to support them.

WELLINGTON CONVENTION

Mr. ADAMS. Mr. President, the Senate's action today consenting to the ratification of the Convention for the Prohibition of Fishing With Long Driftnets in the South Pacific—known as the "Wellington Convention—is an important step. It takes us closer to ending a major threat to the environment and fish dependent economies of the South Pacific.

The convention calls upon signatory nations to take key measures, consistent with international law, to prohibit drift net fishing in the region. The measures include the following prohibitions: landing and processing of drift net fish; prohibiting the import of drift net catches; restricting access to ports and port servicing facilities of drift net vessels; and prohibiting the possession of drift nets onboard vessels within the jurisdiction of signatory states.

The convention is an important weapon in the war against the destructive and wasteful drift net fishery. The convention is a clear call to all the drift net fishing fleets to stay out of the South Pacific.

In the mid-1980's, the South Pacific became a major target of the drift net fleets of Japan, Korea and Taiwan. According to the Senate Foreign Relations Committee's report, the activity in albacore tuna fishing by drift nets in the region increased dramatically, from roughly 10 ships in 1983–84 to between 130 and 200 ships in the 1988–89 season. In the 1988–89 season, the catch of tuna caught by drift nets may have exceeded 49,000 tons. The drift net fishery clearly pushed the annual catch of albacore tuna way above the maximum sustainable level.

The Wellington Convention may offer a solution to the South Pacific fishery but it will only force foreign drift net fleets to seek out new locations to victimize and to target other species into oblivion. The mobility of the drift net fleet is the very reason why more action is necessary, including U.N. Resolutions 44/225 and 45/197, calling for worldwide moratoria on large-scale drift net fishing.

Time is running out for endangered fish and marine mammals. The National Marine Fisheries Service recently released the most detailed report to date on the devastating effects of the drift net fishery.

Look at the toll—the latest NMFS report, which covered only 10 percent of the Japanese squid fleet, documented a 1-year incidental catch of at least 1,758 dolphins, 22 whales, 545 northern fur seals, 303,464 sea birds, 3,300 salmon, 3 million pomfret and 27 leatherback turtles and a loggerhead turtle. Japan, Korea and Taiwan together allow more than 1,000 drift net fishing vessels to sail freely in the North Pacific Ocean and the rest of the world's seas. They are driven by commercial greed. They share a collective disregard for the protection of endangered species. In the face of such arrogance, the United States must adopt an aggressive position.

I am tired of hearing the same old excuses. These countries have used these excuses for stubbornly refusing to ban trade in endangered species. They have used the same excuses for continuing the commercial slaughter of whales. And I expect they will let their drift net fleets keep fishing up to and perhaps beyond the U.N. moratorium deadline. We simply will not tolerate such behavior any longer.

CONVENTION FOR THE PROHIBITION OF FISHING WITH LONG DRIFT NETS IN THE SOUTH PACIFIC

Mr. AKAKA. Mr. President, last year the Senate did the right thing and voted to ban the use of drift nets in U.S. waters or by U.S. vessels anywhere in the world. Today we are called upon yet again to do the right thing and approve the Convention on the Prohibition of Fishing With Long Drift Nets in the South Pacific.

I am pleased that the Committee on Foreign Relations strongly endorses ratification of the Convention. No one can doubt that drift nets are the scourge of the seas. They indiscriminately destroy marine life and rapidly deplete our oceanic resources. These curtains of death, which typically stretch from 30 to 40 miles and are several feet deep, literally strip-mine our oceans. Its victims include marine mammals such as the northern right whale, the Pacific white sided dolphin, dall's porpoise, and northern fur seal; sea birds such as the black-footed albatross and the sooty shearwater; the leather-backed sea turtle; and numerous other creatures whose only mistake was to become entangled in these wasteful and senseless nets.

Drift net fishing has resulted in the overharvest of tuna, marlin, swordfish, salmon, and other highly valued commerical fish, threatening the long-term viability of these fisheries. Fishermen from my home State of Hawaii report that as a result of drift net fishing, their catch of albacore tuna plunged from 20,000 metric tons per year in the 1970's to only 1,750 tons in 1989. In response, I joined Senator INOUYE in an amendment to the Magnuson Act which extends existing controls over commercial and sport fishing to include tuna fishing, in the hope of ensuring sufficient stocks of tuna for the future.

Mr. President, the Wellington Convention is a wholly appropriate response to curb the use of large-scale pelagic drift nets in the South Pacific Ocean. The many small island nations in the region are greatly dependent on albacore tuna, and the continued use of drift nets represents nothing less than an encircling noose which threatens to strangle their economies.

By ratifying the Convention, the United States expresses not only its solidarity with the nations of the South Pacific. Ratification also expresses our deep concern to protect our fragile oceanic ecosystems, defend our endangered species, and preserve sufficient stocks of fish for posterity.

Effective measures to limit drift net fishing are required now. But in the context of ensuring that there are sufficient stocks of fish and that endangered species are protected, we should also recognize that longline fishing by foreign nations and by some domestic fishers presents an equally grave challenge and danger to marine life. Longline fishing boats daily lay out lines as much as 35 miles long, each typically holding 450 to 700 baited hooks. Longline fishing is a cousin to drift net fishing in its indiscriminate nature and in the harm it inflicts upon other wildlife such as the endangered Hawaiian monk seal, the gooney bird, and other creatures.

Over 150 longline fishing vessels are now licensed in Hawaii. The fleet, much of which recently arrived in Hawaiian waters from former fishing sites in the Atlantic and the Gulf of Mexico, has soared from a manageable 45 vessels in 1987 to nearly four times as many today. Since the influx of the longline fishing fleet, longline catches have increased more than threefold from a total of 4 million pounds in 1987 to 13 million pounds in 1990. This has adversely affected traditional troll and handline fishing, where catches have decreased 16 percent during the same period. This has greatly reduced the income from the troll and handline fishing, whose fleet numbers about 2,400 vessels, consisting of full and part-time fishers.

The dominance of the longline fishers can be seen in the harvest of the highly valued blue marlin. Longlines have tripled their marlin catch in 2 years from 226,000 pounds in 1988 to 830,000 pounds in 1990. Not suprisingly, the troll/handline fishers experienced a threefold decrease in 1 year. They landed 1.7 million pounds in 1989, but only half-a-million pounds in 1990. Longline fishing is rapidly depleting Hawaii's tuna and billfish stock, threatening the survival of Hawaii's fishing industry.

Furthermore, endangered species like the Hawaiian monk seal as well as mammals such as dolphins, are threatened by longline fishing gear and techniques. The increasing number of monk seals with cut jaws and head wounds and the carcasses of drowned albatrosses—all a result of longline fishing—point to a serious problem in our waters. Troll/handline fishers face the prospect of severe economic problems and, like the monk seal, are being pushed to the limits of extinction. Hawaii's charter boat industry, which engages in recreational fishing of the blue marlin and other species, has reported a noticeable decline in catches because of the longline fishing activities. Hawaii's recreational fishing industry may soon have to be placed on the threatened or endangered species list.

The Western Pacific Regional Fishery Management Council [WESPAC], with the approval of Commerce Secretary Mosbacher, has established a moratorium which caps the number of longline vessels operating in Hawaiian waters. Another moratorium seeks to minimize gear conflicts between longline and troll/handline fishers by keeping longline fishers from 50 to 75 miles off shore.

Both driftnet and longline fishing are threats to sea life and our vital fishing industry. A comprehensive approach to these problems, with an effective and cooperative strategy to resolve outstanding issues with the longline fishing industry and those nations engaged in driftnet and longline fishing, can result in a lasting solution which will save our oceans and preserve an important aspect of our economy.

Mr. President, ratification of the Wellington Convention is an important, but not a final, step in eradicating large-scale driftnets from our seas. The Foreign Relations Committee said it best when it said, "The Convention is only a partial response to the ongoing threat to the world's fisheries and marine environment * * * the committee believes that this destructive fishing practice should be phased out entirely." I heartily agree.

LONDON AMENDMENT TO MONTREAL PROTOCOL

Mr. MITCHELL. Mr. President, the Senate ratifies the London amendments to the Montreal protocol on substances that deplete the ozone layer. The Montreal protocols provide for phaseout by the year 2000 of production of chlorofluorocarbons [CFC's], which deplete the earth's protective ozone layer. The London amendments add additional substances to be controlled and provides a financial assistance mechanism for developing countries so that they can more easily comply with the terms of the protocol.

The London amendment adds additional CFC's to the list of substances subject to the phaseout, as well as carbon tetrachloride and methyl chloroform. These substances are important ozone depleters.

The London amendments go into effect on January 1, 1992, if 20 signatory nations ratify by that date. The United States should be one of those 20, so I am particularly pleased that we are acting on this amendment today. Only seven other nations have ratified the amendment to date, but I am hopeful that a sufficient number will do so by next year.

While it is necessary that we ratify this amendment, it is already outdated.

A recent scientific assessment under the Montreal Protocol demonstrated that for the first time the ozone layer is depleted at midlatitudes during spring and summer months.

The total ozone mapping spectrometer [TOMS] data indicate that there is approximately a 3 percent depletion of the ozone layer over the last decade. This is of grave concern because human exposure—and the risk of skin cancer—is increased because many more people are outside during these months.

Even before this data on depletion of the ozone layer were released, scientists at the National Aeronautics and Space Administration released new information showing that there is a 4 to 5 percent depletion of the ozone layer over North America. Based on this data, EPA estimated that even under the London amendment there may be an additional 12 million cancers and 200,000 cancer-related deaths in the United States over the next 50 years due to ozone depletion.

We need to act more expeditiously to protect human health and the environment from depletion of the ozone layer. Fortunately, the 1990 amendments to the Clean Air Act provide the Administrator of the Environmental Protection Agency with authority to accelerate U.S. phaseout of CFC's and other substances that deplete the ozone layer. The science demonstrates that such acceleration is necessary.

And U.S. producers have demonstrated that acceleration is possible. For example, on October 22, 1991, the same day as the scientific assessment was released, the DuPont Co. announced its intention to cease production of CFC's by 1996 and 1994 for halons. Under the Montreal Protocol, production of such substances must end by the year 2000, and previous company policy was consistent with the Montreal Protocol.

Other developed nations have accelerated their production phaseout date. Germany is committed to a 1995 phaseout date; the European Community, Canada, Australia, and New Zealand will phaseout by 1997. This is 3 to 5 years faster than under the Montreal Protocol.

The United States should not remain isolated. We have an obligation to act quickly to protect the ozone layer. The environment will not respond overnight to actions we take in the United States. Even with accelerated phaseout, the hole in the ozone layer is unlikely to repair itself for another 50 to 100 years.

A faster phaseout need not be expensive. It is my understanding that a draft technology assessment report may suggest that phaseout by 1997, for example, can be done without excessive cost. Fortunately, the price of technology appears to be decreasing over time.

I support ratification of the London amendment, but I also urge the Administrator of the EPA, Bill Reilly, to use his authority to accelerate phaseout of substances that deplete the ozone layer.

I am also concerned that we may have excluded some chemicals of concern. I hope that EPA and other interested agencies are reviewing the role of methyl bromide in ozone depletion, the level of U.S. emissions, and the availability of alternatives. I am concerned that this substance may play an important role in ozone depletion and we should be sure to act quickly to ascertain the need and feasibility of a production phasedown.

I am pleased that we are ratifying the London amendment to the Montreal protocol. I urge the EPA Administrator and the administration to act quickly to protect the ozone layer and the public from greater risk.

LONDON AMENDMENTS TO THE MONTREAL PROTOCOL

Mr. BURDICK. Mr. President, I rise today to note the ratification of the London amendments to the Montreal protocol on substances that deplete the ozone layer. These amendments are vitally important to the protection of a critical global environmental resource—the stratospheric ozone layer. Without such actions, the erosion of the Earth's protective ozone shield will lead to greatly increased incidents of skin cancers and cataracts, suppression of the immune system, a significant reduction in agricultural crop yields, and damage to marine resources.

I commend my distinguished colleague from Rhode Island, Senator PELL, on his efforts to bring this important treaty to the Senate floor. By our vote here today, we will become the eighth Nation to ratify the London amendments. Ratification by 20 countries is needed to bring the treaty in force. Our actions will send an important signal to the rest of the world that there is still much we can do and must do to protect the ozone layer.

Mr. President, the Committee on Environment and Public Works has long recognized the importance of protecting and healing the ozone layer. The Clean Air Act Amendments of 1990 contain detailed provisions which require a phaseout in the production and use of ozone depleting chemicals on a schedule which roughly parallels that of the London amendments. They also require that the EPA Administrator speed up the phaseout if credible current scientific information determines a more stringent schedule is necessary to protect human health and the environment.

While I applaud the steps taken thus far to protect the ozone layer, our work is not yet done. Twice in the last 6 months, scientific assessments have shown that the ozone layer is degrading much more rapidly than had been thought. We now know that ozone depletion extends into the midlatitudes and into the summer months. Thus the impact on human health and the environment is more staggering than we estimated.

The United States must chart the course for further revision of the Montreal protocol. The United States should back an accelerated schedule for the phaseout of ozone depleting chemicals and the financial and technical aid to make this happen in both developed and developing countries. We can start by revising our schedule for eliminating ozone depleting chemicals here at home as mandated by the Clean Air Act.

Mr. LIEBERMAN. Mr. President, I rise today to urge ratification of the 1990 amendments to the Montreal Protocol of 1987, which requires the phaseout of chlorofluorocarbons [CFC's] and halons by the year 2000. These changes come into force on the international level as soon as 20 nations ratify the amendments. Our adoption of these revisions will be an encouraging sign to the entire world.

But adoption of these amendments, while a step in the right direction, is only the first of many steps we must take if we are to curtail and correct our current policy. The world community and the United States, unilaterally, must act to speed up the phaseout of ozone depleting substance.

A recent report, commissioned by the United Nations Environmental Programme [UNEP] and the World Meteorological Organization [WMO], contains alarming new scientific information about the extent of ozone depletion. The report found that ozone layer depletion is not limited to the Antarctic and the northern latitudes of the northern hemisphere in winter, but instead occurs in the middle and high latitudes of both hemispheres in spring, summer and winter. But the most frightening part of the report may well be the fact that ozone depletion is occurring at a rate 200 times faster than had ever previously been measured or predicted.

The immediate concern for all of us, and I mean literally the entire globe, is the increased incidences of skin cancer and immunological-deficiency problems in humans, as well as potential damage to crops such as soybeans, rice and timber due to increased ultraviolet [UV] radiation.

Health experts have testified before congressional committees that increased UV radiation poses a serious threat to humans, all over the globe, in the form of immune deficiency disorders. The increased UV radiation reduces the body's ability to protect itself from infectious disease. Higher incidences of lupus, Epstein-Barr, chronic fatigue syndrome, Graves' disease and herpes simplex are but a few of the threats posed to human health by ozone depletion, according to experts. Moreover, studies currently underway in the Antarctic indicate that phytoplankton, the most basic element of the food chain, is being affected by increased UV radiation due to ozone depletion.

I'd like to also remind my colleagues that the ozone question is not just one of health concerns for humans and plant life. It is also a concern for our businesses, our industries, the way we live. Our competitors in the automotive industry appeared to be 1, if not 2 years ahead of the United States in designing auto air-conditioning that no longer uses CFC's. Reports also indicate that commercial and residential refrigeration units are being designed outside the United States that are using CFC substitutes on a quicker schedule than our domestic producers.

I could go on with further examples, but I think the point is well made. The United States needs to take the lead in the systematic phase out of ozone-depleting chemicals.

The Clean Air Act Amendments of 1990 set a timetable for the phase out of CFC's, halons and HCFC's. But section 606 of the Clean Air Act requires the administration to take steps to accelerate the phase out, if and when new data indicates that there is a further threat to health and the environment. Mr. President, I think it is clear that the new evidence demands that the schedule be accelerated.

Many nations, especially in Europe, have timetables that are ahead of our own. When the next set of international talks begin next year, I hope that the President will have acted under the Clean Air Act and participants will take note that once, the United States is at the forefront of this issue, not lagging behind as we have in the past.

LONDON AMENDMENTS TO THE MONTREAL PROTOCOL

Mr. BAUCUS. Mr. President, today we will ratify the 1990 amendments to the Montreal protocol on substances that deplete the ozone layer. These amendments were adopted in London in June 1990, by the second meeting of the parties to the Montreal protocol.

The Montreal protocol, which the United States ratified in 1988, is an unprecedented effort by the nations of the world to protect a critical global environmental resource—the stratospheric ozone layer. It is a carefully constructed and periodically reviewed international effort to heal the Earth's badly frayed ozone layer.

The amendments to the Montreal protocol which we have pending before us today will, when implemented, constitute another major step forward in protecting public health and the environment from the adverse effects of stratospheric ozone depletion. In addition, by controlling the emissions of these chemicals we will also reduce the anthropogenic emissions of greenhouse gases.

The ozone layer is a natural shield that protects all living things from the sun's harmful ultraviolet radiation.

Thinning of the ozone layer allows more high energy ultraviolet radiation to strike the Earth's surface, increasing the incidence of skin cancers and cataracts, and potentially suppressing the immune system. Increased ultraviolet radiation has also been shown to damage crops and marine resources.

Destruction of the ozone layer is caused primarily by the release into the atmosphere of chlorofluorcarbons [CFC's], halons and other similar manufactured chemicals. These compounds are used primarily as refrigerants, fire extinguishers and solvents.

The London amendments significantly strengthen the Montreal protocol in several ways. They require that industrialized nations implement a number of specific actions to stop ozone depletion including:

First, a stepwise reduction in production and consumption of CFC's, leading to a complete phase-out by the year 2000;

Second, a step-wise reduction in production and consumption of halons, leading to a phaseout by the year 2000, except for essential uses; and

Third, a step-wise reduction, leading to the phaseout of carbon tetrachloride by the year 2000 and methyl chloroform by 2005.

So far only seven nations—Canada, New Zealand, China, Maldives, Sweden, Japan, and Mexico—have ratified the London amendments. I am here today to urge that the United States quickly become the next nation to do so.

Mr. President, the parties to the Montreal protocol must be commended for agreeing a year ago to phase out production of several onzone-destroying chemicals, especially carbon tetrachloride and methyl chloroform—substances that were not included in the original Montreal protocol.

Unfortunately, controls still dangerously lag behind the environmental damage these substances cause.

Under the London amendments, industry still has 9 to 14 more years to continue producing these destructive compounds. Over this period, chemical manufacturers will produce approximately 10 billion more pounds of CFC's and more than 50 percent of the total amount of halons produced to date.

Further, the London amendments fail to address, except on a voluntary basis, the production and consumption of hydrochlorofluorocarbons [HCFC's]. These chemicals are brought into the protocol as transitional substances whose production and consumption must be reported. Parties to the London amendments adopted a nonbinding resolution calling for HCFC's to be phased-out not later than 2040 and if possible, not later than 2020.

Unfortuantely, we may not have that much time.

This spring, we were given more bad news about the status of the ozone layer. Scientists at the National Aeronautics and Space Administration released new data which show that between 4 and 5 percent of the ozone layer over North America, Europe and the midlatitudes in both hemispheres has been destroyed in the last decade. This rate is twice as fast as believed earlier by NASA scientists.

The Environmental Protection Agency reported that as a result, some 12 million Americans would develop skin cancer, and more than 200,000 of them would die, over the next 50 years.

And Mr. President, just when things looked bad, we found they were really a lot worse. Last month, international ozone experts working with the United Nations released new data which showed that ozone depletion is not limited to the winter months. For the first time, scientists have found that in the summertime over all of our country, the ozone layer decreases by 2- to 3-percent.

We have substantially increased the risk of skin cancer and crop damage from ultraviolet radiation at precisely the time when schoolchildren are playing outdoors and crops begin to grow.

We and our children and our children's children will be forced to reevaluate our practices of going outside during the summertime months when our exposure to ultraviolet radiation is at a maximum.

In short, we have precipitated through our actions, a major environmental crisis that requires decisive action—both domestically and internationally. Ratification of the London amendments is the next in a series of steps necessary to preserve the ozone layer.

However, while tremendous important, the London amendments do not go far enough toward protecting the Earth's ozone layer. Other actions are needed.

The Clean Air Act Amendments of 1990 require the Administrator of the Environmental Protection Agency to accelerate the phaseout schedule of ozone depleting chemicals more rapidly than the year 2000 deadline, if scientific information suggests it is necessary to protect human health and the environemnt.

The new data showing the severity of the global ozone depletion demands action by the EPA Administrator.

Mr. President, the United States is far from being the world leader on its phaseout schedule.

All of the other industrialized countries, with the exception of the United States and Japan, have committed to an earlier phaseout of ozone depleting chemicals. Germany and Nordic countries have accelerated their phaseout date to 1995; the European Community, Canada, Australia, and New Zealand are committed to 1997. Interim deadlines would also be quickened. The United States should do no less.

For this reason I have written to President Bush urging more aggressive action. This letter was cosigned by 29 of my colleagues. I would like to submit a copy of this letter, dated April 24, 1991, for the RECORD.

In the letter I proposed that the United States adopt a four point plan to demonstrate our leadership in protecting the Earth's ozone layer. The plan proposes strengthening the Montreal protocol as follows:

First, the interim phaseout schedules and final phaseout dates for all of the ozone depleting chemicals currently covered by the protocol should be accelerated.

Second, recapture and recycling provisions should be added to the protocol. Venting or releasing any chemicals from refrigeration and air conditioning units into the atmosphere should be prohibited by a date certain with new provisions analogous to those in the Clean Air Act.

Third, while the current version of the protocol allows unlimited production and use of other ozone depleting chemicals, such as HCFC's, a strengthened protocol should place limits on the production and use of such chemicals.

Finally, the parties to the protocol need to continue financial aid and technical assistance to developing countries to accelerate their participation and compliance with the terms of the Montreal protocol.

For ourselves, our children, and our children's children, the United States must provide forceful leadership on this issue.

Mr. President, I ask unanious consent that a letter to President Bush, dated April 24, 1991, from various Senators be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON ENVIRONMENT AND
PUBLIC WORKS,
Washington, DC, April 24, 1991.

The Honorable GEORGE BUSH,
The White House.

DEAR MR. PRESIDENT: We are writing to urge that you adopt a four point plan to demonstrate United States leadership on the international environmental problem of protecting the Earth's ozone layer. The plan involves specific proposals to strengthen the Montreal Protocol as soon as possible.

As you know, the current version of the Montreal Protocol as modified by the June 1990 London agreement, requires that industrialized nations implement: 1) a step-wise reduction in production and consumption of chlorofluorocarbons (CFCs), leading to a complete phase-out by the year 2000; 2) a step-wise reduction in production and consumption halons, leading to a phaseout by the year 2000 (except for essential uses); and 3) a step-wise reduction, leading to a phase-out of carbon tetrachloride and methyl chloroform by the years 2000 and 2005, respectively. Our four-point plan includes a number of provisions to modify and strengthen the Protocol.

First, the interim phase-out schedules and the final phase-out dates for all of the ozone depleting chemicals currently covered by the Protocol should be accelerated. Simply moving the final phase-out dates to the year 1997 is not sufficient. The step-wise percentage reductions for the interim years should be increased.

Second, recapture and recycling provisions should be added to the Protocol. These will achieve significant reductions in the emissions of CFCs, halons, carbon tetrachloride, methyl chloroform, and substitute compounds, such as hydrochlorofluorocarbons (HCFCs), that are destroying the ozone layer or that have the potential to contribute to global climate change. The venting or releasing of any chemicals from refrigeration and air-conditioning units into the atmosphere by date certain, should also be prohibited with new provisions analogous to those in the Clean Air Act.

Third, while the current version of the Protocol will allow unlimited production and use of other ozone depleting chemicals such as HCFCs, a revise, strengthened Protocol should place limits on the production and use of such chemicals. The limits should be designed to discourage the production of HCFCs that have relatively long atmospheric lifetimes, high ozone depletion potentials, or high global warming potentials.

Finally, the Parties to the Protocol need to continue financial aid and technical assistance to developing coutries to accelerate their participation and compliance with the terms of the Montreal Protocol.

The ozone layer is under significant attack.

Scientists have already concluded that man-made chlorinated and brominated chemicals are largely responsible for the "antarctic Ozone Hole"—the large decrease in stratospheric ozone over Antarcica in springtime.

In 1989 scientists confirmed that the same ozone depleting chlorine species found in the Antarctic are also present in the Arctic stratosphere. Thus the Arctic is primed for an ozone depletion event similar to that in Antarctica. Whether or not any future Arctic ozone depletion occurs will depend on the particular meteorology of each Arctic winter.

Most recently, NASA scientists have shown that ozone depletion is not confined to the polar regions of the globe. In fact, there has been a world-wide depletion of the protective ozone column. Specifically, new data shows a significant downward trend of three to five percent in the ozone column over the past twelve years in the northern hemisphere. This actual, measured decease is larger by a factor of two to three than the decreases predicted by current theoretical models.

The ozone layer cannot tolerate more abuse.

Thinning of the ozone layer allows more high energy ultraviolet radiation to strike the earth's surface, increasing the incidence of skin cancers and cataracts, and potentially suppressing the immune system. Increased ultraviolet radiation has also been shown to damage crops and marine resources.

The new ozone losses measured by NASA raise serious questions about the adequacy of the control measures set forth in the Montreal Protocol to protect public health and the environment. For these reasons, we urge you to place the United States in a position of world leadership and to adopt our four-point plan for strengthening the Montreal Protocol.

We look forward to working with you on this important issue.

Sincerely,

John H. Chafee, Dave Durenberger, Richard G. Lugar, James M. Jeffords, Bob Packwood, Slade Gorton, Albert Gore, Jr., Max Baucus, Harry Reid, Joseph I.

Lieberman, Paul S. Sarbanes, Herb Kohl, Dale Bumpers, Patrick J. Leahy, Timothy E. Wirth, Bill Bradley, John F. Kerry, Barbara A. Mikulski, J. Robert Kerrey, Robert W. Kasten, Jr., Terry Sanford, George J. Mitchell, Clairborne Pell, Quentin N. Burdick, Paul Wellstone, Edward M. Kennedy, William S. Cohen, Thomas A. Daschle, Richard Bryan, Howard M. Metzenbaum.

RATIFICATION OF THE LONDON AMENDMENTS TO THE MONTREAL PROTOCOL

Mr. GORE. Mr. President, humankind has entered a new—and disturbing—relationship with planet Earth. Our industrial society—with its excessive consumption and unrelenting pollution of the land and sky—is colliding violently with the planet's delicate life sustaining processes. Our rivers and streams are often foul and lifeless; the air we breathe is thick with smog; our forests are disappearing and thousands of species are vanishing forever.

And yet, somehow we have failed to see and to feel the damage that we are inflicting. But if there is any one of our insults to the earth that has begun to open our eyes, it is the enormous hole that we have torn in the Earth's protective ozone shield. The hole is some four times larger than the size of the continental United States and it continues to grow and it now persists through all seasons of the year.

Just last month, an international team of scientists who have been monitoring and studying the ozone layer sounded a loud alarm. They discovered in April that the depletion is occurring at a rate that is 200 to 300 percent faster than had ever before been detected or predicted and that the depletion is ocurring over nearly every part of the globe. But in October they told us that, for the first time, they have found that the ozone layer is impaired not only in winter, but also in the spring and summer months when we are more likely to be out doors and when crops are at a crucial point in their growing season.

And the damage will continue to intensify. The chlorinated and brominated chemicals that we continue to pump into the atmosphere—even under the limited controls we now have in place—will destroy as much additional ozone as has already been destroyed over the last decade—so, by the turn of the century, we will experience total ozone depletion that is two times as large as that we see today.

In the near term, we may also experience particularly severe spikes in ozone loss because of the violent eruptions of Mount Pinatubo. I have been in close communication with scientists from NASA and NOAA who have been closely monitoring the impact of Pinatubo. Their preliminary findings indicate that Pinatubo may be the largest volcanic eruption this century—2 to 3 times larger than the El Chichon eruption in 1982. This is a tremendous problem because the scientists suspect that—just as the ice crystals in the polar stratospheric clouds catalyze ozone destruction over the Arctic and Antarctic—sulfur compounds that are emitted in volcanic eruptions catalyze ozone loss over the midlatitudes—that is, over our heads. Because we have continued to pump chlorine into the atmosphere, this means that losses of ozone of up to 30 percent may be experienced over the northern midlatitudes in the fall and winter.

And let us make no mistake—increased exposure to ultraviolet radiation as a consequence of depleted ozone poses a grave threat to human health. The Environmental Protection Agency estimated that the increased ozone loss that the scientists have detected will lead to some 200,000 deaths from skin cancer in the next 50 years in the United States alone. And the international team of experts expects an additional 1.6 million additional cases of cataracts as a result of the depletions.

Moreover, recent studies provide alarming evidence that increased ultraviolet radiation will, as has been suspected, wreak havoc on the human immune system—making us not only more susceptible to skin cancers, but to all infectious diseases. In recent tests, 40 percent of those who were exposed to ultraviolet radiation experienced a failure of their body's ability to fight off harmful substances. And, unlike our increased susceptibility to skin cancer, increased vulnerability to infectious disease affects all human beings—regardless of skin pigmentation.

We know too, that increased exposure to UV-B could disrupt entire ecosystems. Phytoplankton, for example, the small organisms at the base of the oceanic food chain are particularly vulnerable and again, the latest scientific results show that the ability of these organisms to grow is severely impacted by excess radiation. Should plankton populations fail, all other species that feed on plankton are in jeopardy, too.

Mr. President, I have argued that the consequences of ozone depletion require us to do all that we can to end the use of ozone destroying chemicals as quickly as possible. The London Amendments to the Montreal Protocol are an important step forward in that regard, and I urge my colleagues to vote for their immediate ratification.

But, the new scientific findings clearly indicate that phasing out chlorofluorocarbons by the year 2000 as provided for in the London Amendments simply is not fast enough. We must do more; we must move faster. Ozone loss is cumulative and the longer we wait, the more damage we inflict; the more cancers, cataracts and deaths we will suffer.

I therefore hope that, after ratifying the London Amendments, the Senate can move immediately to consideration and passage of S. Res. 95—a resolution that I introduced in April and that the Senate Foreign Relations Committee reported unanimously last week. That resolution calls on the Administrator of the Environmental Protection Agency to accelerate the phaseout of ozone destroying chemicals as he is required to do under section 606 of the Clean Air Act when there is evidence that the current schedule is not sufficient to protect human health and the environment. The resolution also urges the President to take a leadership role in the international community on this issue and to call on the parties to the Montreal Protocol to accelerate the phaseout that is required under that agreement.

Action on S. Res. 95 is required now. European countries are moving ahead on this and we need to, too. Industry also recognizes the urgency of this situation—in light of the new scientific findings, DuPont and other companies have announced their intention to stop producing these chemicals years before they otherwise would be required under domestic and international law.

I urge my colleagues to join me in calling for the immediate consideration and passage of this measure.

LONDON AMENDMENTS TO THE MONTREAL PROTOCOL IN THE UNITED STATES SENATE

Mr. CHAFEE. Mr. President, I am pleased that the Senate is acting to ratify the amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer which were adopted in London in June 1990.

I feel that the Senate can take great pride in this new step to protect the ozone layer. It was Senate action in January 1990 on the Clean Air Act amendments accelerating the phaseout of CFC's and other ozone depleting chemicals that paved the way for this new international commitment.

Chlorofluorcarbons—the CFC's—which are used in refrigeration, insulation and many other products can breakdown the ozone molecules high in the stratosphere above the Earth's surface. Although there is only a small amount of ozone in the stratosphere, it plays a very important role in shielding us from ultraviolet radiation. Too much ultraviolet radiation can increase cases of skin cancer and cataracts and may cause significant damage to plants and the ocean food chain.

In the 1970's the United States took the first action to reduce CFC emissions by banning the use of CFC's as propellants in aerosol products. In 1989, many nations of the world community joined together on the Montreal Protocol an agreement that would reduce production of CFC's by 50 percent by the year 1998. That action was spurred in large measure by the discovery of a massive hole in the ozone layer over the Southern Hemisphere in winter months.

Since the adoption of the Montreal Protocol, new and more troubling information had been gathered. Ozone levels over the midlatitudes have been depleted more rapidly than anyone expected. This new information formed the basis for the London amendments that we are considering now and for the provisions in the Clean Air Act that the Congress adopted to guide Unites States policy.

The London amendments follow the outline of the Clean Air Act in some respects. They provide for a virtual phaseout of CFC production by the year 2000. They also provide for a phaseout of two other chemicals, carbon tetrachloride and methyl chloroform, which also deplete the ozone layer because they add large amounts of chlorine to the atmosphere as they breakdown. U.S. production of these chemicals is banned under the 1990 Clean Air Act Amendments.

Another major provision of the London amendments would provide new financial mechanisms to encourage full participation by the developing countries in this international effort to protect the ozone layer. This is most important. As everyone understands, this is a problem that can only be solved if the whole world acts together. That the United States has consistently provided strong leadership to assure world cooperation to protect the ozone layer with such success is something every American can be proud of.

But we can do more. There are three areas I would mention in particular. First, we can move out of the CFC's even more rapidly. The Clean Air Act amendments and this London agreement set a deadline of 2000 on the production of CEF's. The most recent information suggests that we must not wait another 10 years. The Clean Air Act directs the Environmental Protection Agency to accelerate that schedule when scientific information such as the recent NASA reports warrants such action. EPA should take that step and the United States should once again urge the parties joined in the Montreal Protocol to follow our lead.

Second, the Clean Air Act provides for the recapture of CFC's that might otherwise be released during the maintenance or after the disposal of various products already in commerce. Rather than simply vent the freon to the atmoshpere when an auto air conditioner is repaired, the Clean Air Act requires that the spent freon be captured and destroyed or recycled. EPA needs to use its full authority here and again we should ask that the whole world join in amendments to the Montreal Protocol that would provide for recapture of CFC's in other nations.

Third, there are a group of chemicals called HCFC's that will be produced and used as substitutes for CFC's. They are not as damaging to the ozone layer. But they are not benign. Last year the Congress adopted a careful regulatory regime for these substances that will allow us to take full advantage of their properties as substitutes to make a quick exit from CFC's, but will at the same time prevent a permanent commitment to a large HCFC burden on the stratosphere. Again, we need to urge the world community to adopt similar standards for HCFC's.

In addition to these London amendments, the Senate will soon consider a resolution sponsored by the Senator from Tennessee [Mr. GORE] that would accomplish the additional steps that I have outlined. I was very pleased to be a principal cosponsor of that resolution and I urge my colleagues to support it when it comes to the floor of the Senate.

Thank you, Mr. President.

Mr. REID. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. The question is on agreeing to the resolutions of ratification.

A division is requested. Senators in favor of the motion will rise and stand until counted. [After a pause.] Those opposed will rise and stand until counted.

Two-thirds of those Senators voting having voted in the affirmative the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

CONVENTION FOR THE PROHIBITION OF FISHING WITH LONG DRIFTNETS IN THE SOUTH PACIFIC

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, done at Wellington on November 24, 1989 (the "Wellington Convention"), and Protocol I, done at Noumea on October 20, 1990, to the Wellington Convention, subject to the following understandings:

1. that the United States signed the Convention in its own name and on its own behalf because a portion of its exclusive economic zone is located within the Convention Area. It is the United States understanding that upon becoming a party to the Convention the United States will be obligated to prohibit driftnet fishing in all areas of its exclusive economic zone within the Convention Area, and to prohibit all United States nationals and vessels documented under United States laws from fishing with driftnets in the Convention Area.

2. that Article 3 provides for measures consistent with international law to restrict driftnet fishing activities by vessels within areas under a party's fisheries jurisdiction. It is the United States understanding that the measures in Article 3 will only be applied when consistent with navigation and other international transit rights under customary international law and as reflected in the 1982 United Nations Convention on the Law of the Sea.

AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of an Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted at London on June 29, 1990, by the Second Meeting of the Parties to the Montreal Protocol.

Mr. REID. Mr. President, I ask unanimous consent that the motion to reconsider the vote be tabled, that the President be notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

ALZHEIMER'S DISEASE RESEARCH, TRAINING, AND EDUCATION AMENDMENTS OF 1991

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 373, S. 1577, a bill to reauthorize the Alzheimer's Disease and Related Dementias Services Research Act of 1986; that the committee-reported substitute amendment be agreed to; that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 1577) to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the act, and for other purposes, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alzheimer's Disease Research, Training, and Education Amendments of 1991".

SEC. 2. SHORT TITLE OF ACT.

Section 901 of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 note) is amended by striking "Services Research Act of 1986" and inserting "Research Act of 1991".

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Alzheimer's Disease and Related Dementias Research Act of 1991 (42 U.S.C. 11201 et seq.).

SEC. 4. FINDINGS.

Section 902 (42 U.S.C. 11201) is amended—

(1) by redesignating paragraphs (7) through (12) as paragraphs (9) through (14);

(2) by striking paragraphs (4), (5), and (6); and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the cost of caring for individuals with Alzheimer's disease and related dementias is great, and conservative estimates range between $38,000,000,000 and $42,000,000,000 per year solely for direct costs;

"(5) progress in the neurosciences and behavioral sciences has demonstrated the interdependence and mutual reinforcement of basic science, clinical research, and services research for Alzheimer's disease and related dementias;

"(6) programs initiated as part of the Decade of the Brain are likely to provide significant progress in understanding the fundamental mechanisms underlying the causes of, and treatments for, Alzheimer's disease and related dementias;

"(7) although substantial progress has been made in recent years in identifying possible leads to the causes of Alzheimer's disease and related dementias, and more progress can be expected in the near future, there is little likelihood of a breakthrough in the immediate future that would eliminate or substantially reduce—

"(A) the number of individuals with the disease and dementias; or

"(B) the difficulties of caring for the individuals;

"(8) the responsibility for care of individuals with Alzheimer's disease and related dementias falls primarily on their families, and the care is financially and emotionally devastating;".

SEC. 5. COUNCIL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 911 (42 U.S.C. 11211) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and Communicative Diseases" and inserting "Disorders";

(B) by striking paragraphs (10), (11), and (12); and

(C) by adding at the end the following new paragraphs:

"(10) the Administrator of the Agency for Health Care Policy and Research;

"(11) the Administrator of the Health Resources and Services Administration;

"(12) the Director of the National Center for Nursing Research;

"(13) the Chief Medical Director of the Department of Veterans Affairs;

"(14) the Director of the National Center for Health Statistics; and

"(15) such additional members as the Secretary of Health and Human Services (hereinafter referred to as the 'Secretary') considers appropriate.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) The Assistant Secretary for Health shall serve as the Chairman of the Council."; and

(3) in subsection (d), by striking "twice" and inserting "once".

(b) FUNCTIONS.—Section 912 (42 U.S.C. 11212) is amended—

(1) in subsection (a)—

(A) by adding "and" at the end of paragraph (3);

(B) by striking "; and" at the end of paragraph (4) and inserting a period; and

(C) by striking paragraph (5); and

(2) by striking subsection (b) and inserting the following new subsection:

"(b)(1) The Chairman of the Council shall submit to the committees listed in paragraph (2) a report containing information on—

"(A) progress made by research, sponsored by the Federal Government, on Alzheimer's disease and related dementias; and

"(B) new directions that the Council considers potentially important in research on Alzheimer's disease and related dementias.

"(2) The Chairman of the Council shall submit the report described in paragraph (1) to—

"(A) the Committee on Energy and Commerce of the House of Representatives;

"(B) the Committee on Ways and Means of the House of Representatives;

"(C) the Committee on Veterans' Affairs of the House of Representatives;

"(D) the Committee on Appropriations of the House of Representatives;

"(E) the Committee on Labor and Human Resources of the Senate;

"(F) the Committee on Finance of the Senate;

"(G) the Committee on Veterans' Affairs of the Senate; and

"(H) the Committee on Appropriations of the Senate.".

SEC. 6. ADVISORY PANEL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 921 (42 U.S.C. 11221) is amended—

(1) in subsection (a)(2), by striking "the Director of the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Administrator of the Agency for Health Care Policy and Research";

(2) in subsection (d), to read as follows:

"(d)(1)(A) Except as provided in subparagraph (B), members of the Panel appointed under subsection (a)(1) shall each serve for a term of 3 years.

"(B) Of the members appointed under subsection (a)(1) that are serving on the Panel on the day before the date of the enactment of this subsection—

"(i) five shall serve for a term that expires on such date;

"(ii) five shall serve for a term that expires 1 year after such date; and

"(iii) five shall serve for a term that expires 2 years after such date.

"(2) A vacancy on the Panel shall be filled in the same manner as the original appointment was made, and not later than 90 days after the date on which the vacancy first arises. A vacancy on the Panel shall not affect the powers of the Panel.";

(3) in subsection (f), by striking "twice" and inserting "once";

(4) in subsection (h), by striking "of $100 per day" and inserting "at the daily equivalent of the maximum rate specified for GS-15 of the General Schedule under section 5332 of title 5, United States Code,"; and

(5) by adding at the end the following new subsection:

"(i) Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), on September 30, 1996, the Panel shall be abolished and all programs established under this part shall terminate.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 923 (42 U.S.C. 11223) is amended to read as follows:

"SEC. 923. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $150,000 for fiscal year 1992, $157,500 for fiscal year 1993, $165,500 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 7. RESEARCH RELATING TO SERVICES FOR INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DEMENTIAS AND FAMILIES OF THE INDIVIDUALS.

(a) RESPONSIBILITIES OF THE NATIONAL INSTITUTE OF MENTAL HEALTH.—

(1) GRANTS.—Section 931 (42 U.S.C. 11251) is amended—

(A) by striking subsections (b)(2) and (c);

(B) in subsection (a), by inserting "and specialized care" after "services"; and

(C) in subsection (b)(1)—

(i) by striking "Within 6 months" and all that follows through "plan shall" and inserting "The Director of the National Institute of Mental Health shall";

(ii) in subparagraph (A)—

(I) by striking "provide for" and inserting "ensure that the research conducted under subsection (a) includes";

(II) by striking clause (iii) and inserting the following new clause:

"(iii) the optimal range, types, and cost-effectiveness of services and specialized care for individuals with Alzheimer's disease and related dementias and for their families, in community and residential settings (including home care, day care, and respite care), and in institutional settings, particularly with respect to—

"(I) the design of the services and care;

"(II) appropriate staffing for the provision of the services and care;

"(III) the timing of the services and care during the progression of the disease or dementias; and

"(IV) the appropriate mix and coordination of the services and specialized care;";

(III) in clause (iv), by inserting "the evaluation of best practices for the development of" before "appropriate"; and

(IV) in clauses (v) and (vii), by striking "and nursing home services" and inserting "nursing home services, and other residential services and care"; and

(iii) in subparagraph (B), by striking "research carried out under the plan" and inserting "the research".

(2) CONFORMING AMENDMENTS.—Section 931(b) (42 U.S.C. 11251(b)) is amended—

(A) by striking "(1)";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated by subparagraph (B) of this paragraph), by redesignating clauses (i) through (vii) as subparagraphs (A) through (G), respectively.

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 933 (42 U.S.C. 11253) is amended to read as follows:

"SEC. 933. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(b) RESPONSIBILITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—

(1) RESEARCH PROGRAM AND PLAN.—Section 934 (42 U.S.C. 11261) is amended to read as follows:

"SEC. 934. RESEARCH PROGRAM.

"(a) GRANTS FOR RESEARCH.—The Administrator of the Agency for Health Care Policy and Research shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and for their families.

"(b) RESEARCH SUBJECTS.—The Administrator of the Agency for Health Care Policy and Research shall ensure that research conducted under subsection (a) shall include research—

"(1) concerning improving the organization, delivery, and financing of services for individuals with Alzheimer's disease and related dementias and for their families, including research on—

"(A) the design, staffing, and operation of special care units for the individuals in institutional settings, as well as individuals in home care, day care, and respite care; and

"(B) the exploration and enhancement of services such as home care, day care, and respite care that provide alternatives to institutional care;

"(2) concerning the costs incurred by individuals with Alzheimer's disease and related dementias and by their families in obtaining services, particularly services that are essential to the individuals and that are not generally required by other patients under long-term care programs;

"(3) concerning the costs, cost-effectiveness, and effectiveness of various interventions to provide services for individuals with Alzheimer's disease and related dementias and for their families;

"(4) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning the role of physicians in caring for persons with Alzheimer's disease and related dementias and for their families, including the role of a physician in connecting such persons with appropriate health care and supportive services, including those supported through State and area agencies on aging designated under section 305(a) (1) and (2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3025(a) (1) and (2)(A)); and

"(5) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning legal and ethical issues, including issues associated with special care units, facing individuals with Alzheimer's disease and related dementias and facing their families.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 936 (42 U.S.C. 11263) is amended to read as follows:

"SEC. 936. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $4,000,000 for fiscal year 1992, $5,000,000 for fiscal year 1993, $6,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 8. TRAINING AND EDUCATIONAL ACTIVITIES.

(a) ACTIVITIES.—Section 962 (42 U.S.C. 11292) is amended to read as follows:

"SEC. 962. EDUCATION OF THE PUBLIC, INDIVIDUALS WITH ALZHEIMER'S DISEASE AND THEIR FAMILIES, AND HEALTH AND LONG-TERM CARE PROVIDERS.

"(a) TRAINING AND CONTINUING EDUCATION GRANTS AND CONTRACTS.—

"(1) GRANTS AND CONTRACTS.—The Secretary, acting through the Director of the Bureau of Health Professions may make grants and enter into contracts to assist eligible entities in meeting the costs of projects—

"(A) to train the faculty of schools and graduate departments of medicine, nursing, osteopathic medicine, dentistry, public health, psychology, allied health, and clinical social work, and marriage and family therapists, to teach health care professionals, paraprofessionals, students, and family caregivers of patients with Alzheimer's disease and related dementias;

"(B) to improve the skills of health care professionals, paraprofessionals, and family care givers regarding the diagnosis, care, and treatment of Alzheimer's disease and related dementias; and

"(C) to develop and disseminate curricula relating to the care and treatment of individuals with Alzheimer's disease and related dementias.

"(2) AWARD OF GRANTS.—In awarding grants under this subsection, the Secretary shall—

"(A) award the grants on the basis of merit;

"(B) award the grants in a manner that will ensure access to the programs described in paragraph (1) by rural, minority, and underserved populations throughout the country;

"(C) ensure that the grants are distributed among the principal geographic regions of the United States; and

"(D) give preference to entities that demonstrate a multidisciplinary approach to training health professionals and paraprofessionals.

"(3) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require, including, at a minimum—

"(A) an assurance that the eligible entity will make the training programs and continuing education programs described in paragraph (1) available to—

"(i) health care professionals, including mental health professionals;

"(ii) health care paraprofessionals;

"(iii) personnel, including information and referral, case management, and in-home services personnel (including personnel receiving support under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)), providing supportive services to the elderly and to the families of the elderly; and

"(iv) family caregivers; and

"(B) an assurance that the entity will coordinate such training programs and continuing education programs with—

"(i) the Alzheimer's Disease Research Centers described in section 445(a) of the Public Health Service Act (42 U.S.C. 285e–(2)); and

"(ii) the State agency designated under section 305(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)), in the State in which the entity will provide such programs.

"(4) ELIGIBLE ENTITY.—To be eligible to receive grants under this subsection, an entity shall be—

"(A) an educational institution providing training and education in medicine, psychology, nursing, social work, gerontology, or health care administration;

"(B) an educational institution providing preparatory training and education of personnel for nursing homes, hospitals, and home or community settings;

"(C) an Alzheimer's Disease Research Center described in section 445(a) of the Public Health Service Act; or

"(D) any other public or not-for-profit sources of assistance to individuals with Alzheimer's disease or related disorders and the families of such individuals.

"(5) COORDINATION.—The Secretary shall coordinate the award of grants under this subsection with the heads of other appropriate agencies, including the Commissioner of the Administration on Aging.

"(b) NATIONAL INSTITUTE ON AGING GRANTS.—

"(1) TRAINING MODELS GRANTS.—

"(A) GRANTS.—The Director of the National Institute on Aging may award grants to eligible entities to assist the entities in developing and evaluating model training programs—

"(i) for—

"(I) health care professionals, including mental health professionals;

"(II) health care paraprofessionals;

"(III) personnel, including information and referral, case management, and in-home services personnel (including personnel receiving support under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)), providing supportive services to the elderly and the families of the elderly;

"(IV) family caregivers providing care and treatment for individuals with Alzheimer's disease and related disorders; and

"(V) personnel of local organizations (including community groups, business and labor groups, and religious, educational, and charitable organizations) that have traditionally not been involved in planning and developing long-term care services; and

"(ii) with attention to such variables as—

"(I) curricula development for training and continuing education programs;

"(II) care setting; and

"(III) intervention technique.

"(B) ELIGIBLE ENTITY.—To be eligible to receive a grant under this paragraph, an entity shall be an entity described in subparagraph (A), (B), or (C) of subsection (a)(4).

"(2) EDUCATIONAL GRANTS.—The Director of the National Institute on Aging is authorized to make grants to public and nonprofit private entities to assist such entities in establishing programs, for educating health care providers and the families of individuals with Alzheimer's disease or related disorders, regarding—

"(A) caring for individuals with such diseases or disorders; and

"(B) the availability in the community of public and private sources of assistance, including financial assistance, for caring for such individuals.

"(3) AWARD OF GRANTS.—The Director of the National Institute on Aging shall award grants under this subsection in accordance with the requirements specified in subparagraphs (A) through (C) of subsection (a)(2).

"(4) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Director of the National Institute on Aging at such time, in such manner, and containing or accompanied by such information, as the Director may reasonably require, including, at a minimum, an assurance that the entity will coordinate programs provided under this section with the State agency designated under section 305(a)(1) of the Older Americans Act of 1965, in the State in which the entity will provide such programs.

"(5) COORDINATION.—The Director of the National Institute on Aging shall coordinate the award of grants under this subsection with the heads of other appropriate agencies, including the Commissioner of the Administration on Aging.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 964 of such Act (42 U.S.C. 12294) is amended—

(1) by inserting "(a)" after "964.";

(2) in subsection (a), as designated by paragraph (1) of this section, by striking "this part" and inserting "sections 961 and 963"; and

(3) by adding at the end the following new subsections:

"(b) There are authorized to be appropriated $5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(a).

"(c) There are authorized to be appropriated $2,000,000 for fiscal year 1992, $2,000,000 for fiscal year 1993, $2,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(b)(1).

"(d) There are authorized to be appropriated $5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(b)(2).".

SEC. 9. ALZHEIMER'S DISEASE CENTERS.

Section 445 of the Public Health Service Act (42 U.S.C. 285e-2) is amended—

(1) in subsection (b), by striking paragraph (2) and inserting the following new paragraphs:

"(2) Notwithstanding section 496(b), Federal payments made under a cooperative agreement or grant under subsection (a) may be used for construction of the centers described in subsection (a).

"(3) As used in this subsection:

"(A) The term 'construction' does not include the acquisition of land.

"(B) The term 'training' does not include research training for which National Research Service Awards may be provided under section 487."; and

(2) by adding at the end the following new subsection:

"(d) There are authorized to be appropriated to carry out subsection (b)(2) such sums as may be necessary for fiscal year 1992 and each of the subsequent fiscal years.".

SEC. 10. GRANTS FOR PROMOTING INDEPENDENCE AND PREVENTING SECONDARY DISABILITIES IN PERSONS WITH ALZHEIMER'S DISEASE.

Section 445C of the Public Health Service Act (42 U.S.C. 285e-5) is amended by adding at the end the following new subsection:

"(d) The Director of the Institute shall develop, or make grants to develop—

"(1) model techniques to—

"(A) promote greater independence, including enhanced independence in performing activities of daily living and instrumental activities of daily living, for persons with Alzheimer's disease and related disorders; and

"(B) prevent or reduce the severity of secondary disabilities, including confusional episodes, falls, bladder and bowel incontinence, and adverse effects of prescription and over-the-counter medications, in such persons; and

"(2) model curricula for health care professionals, health care paraprofessionals, and family caregivers, for training and application in the use of such techniques.".

So the bill (S. 1577), as amended, was deemed read a third time and passed, as follows:

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

JAMES MADISON MEMORIAL FELLOWSHIP

Mr. REID. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 3932 relating to the James Madison Memorial Fellowship, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am pleased to join Senator HATCH in introducing legislation to make minor changes to the enabling statute for the James Madison Foundation.

This bill makes minor substantive changes to the Madison Foundation statute to enable the foundation to operate more effectively and efficiently.

The bill makes two changes to the foundation's enabling statute: First, it provides that a board member whose term has expired may serve a limited time beyond the expiration of his term until his successor takes office; second, it provides that the Madison Foundation may begin in the next academic year to award fellowships for graduate study to students who plan to become teachers.

I urge my colleagues to pass this measure expeditiously.

EXTENSION OF PROGRAMS FOR EDUCATION OF HEALTH PROFESSIONALS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 337, H.R. 3508, relating to the Public Health Service Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

The PRESIDING OFFICER. Is there objection to immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, I commend the distinguished chairman of Senate Labor and Human Resources Committee for his commitment to the education and training of health professionals through the reauthorization and expansion of the Public Health Service Act. This bill will go a long way toward encouraging access to health care in rural and other medically underserved areas.

In addition, I thank my colleague for his willingness to include a provision in H.R. 3508 to enable a smooth transition to occur due to the passage of the Nutritional Labeling and Education Act of 1990. The nutrition labeling bill is yet another example of the chairman's commitment to the good health of our Nation's citizens. Enacted last November, this bill will ensure clear and accurate food labeling so that American consumers are sure to have the information necessary to choose a healthful diet.

Because of the need to ensure continuity and consumer certainty in understanding the significance of particular kinds of labeling, the nutrition bill included a national uniformity in labeling provision. A separate provision was also included to allow States to petition the Secretary of Health and Human Services for an exemption to the uniformity requirement when the States had a concern about particular informational needs.

Unlike most of the provisions to assure uniformity in labeling, Federal preemption with respect to content requirements called standards of identity, became effective on date of enactment of the bill. The immediate effective date of this section, combined with the need to create a formal procedure for exemption petitions, has resulted in problems for purchasers of maple syrup in Vermont.

The Vermont law regarding the contents equirements for maple syrup assures consumers in Vermont that maple syrup is at optimum density and contains no salt or chemical preservatives. Unfortunately, Federal law allows for a more watery syrup, containing salt and other additives, to also be called maple syrup.

Section 301 of title III of H.R. 3508 will enable Vermont to continue its current policy regarding the purity and thickness of maple syrup until the Secretary is able to consider Vermont's petition for exemption from the weak Federal contents requirements for maple syrup. This will give Vermonters the security of knowing that the maple syrup they have used and enjoyed for years will continue to be the same superior product.

Vermont is also concerned about the potential impact of the Nutrition Labeling and Education Act on other portions of the Vermont Maple Program, such as the effect of the new law on grading standards. However, we are confident that the petition process provided for in the nutrition bill will enable Vermont's needs to be addressed by the Secretary of Health and Human Services in due course.

I commend the drafters of this legislation for their foresight preemption provisions and their solution in enabling the Secretary to grant exemptions to the national uniformity in food labeling requirements.

I look forward to working with the bill's sponsors toward ensuring that the goals of the Nutrition Labeling and Education Act are in fact achieved.

AMENDMENT NO. 1447

(Purpose: To provide for a substitute amendment)

Mr. REID. On behalf of Senator KENNEDY, I send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. KENNEDY, and Mr. HATCH) proposes an amendment numbered 1447.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I am extremely gratified by the Senate's expeditious passage of S. 1933, the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991. The fact that this legislation has been approved unanimously by the Senate reflects the broad support for this legislation that is intended to address the Nation's alarming shortage of primary care practitioners, nurses, public health, and allied health professionals.

The critical shortages among allied health and nursing fields have impeded the provision of quality care. They have already forced some hospitals to reduce services, close beds or units, and refer patients to other facilities.

Over the past 5 years, the proportion of graduates from medical schools planning to enter primary care specialties has decreased from 30 to 23 percent. Currently about 2,000 communities in this country are designated by the Federal Government as health professions shortage areas, with over 4,300 additional physicians required to provide needed primary care services. These figures mean that 30 million people are without access to primary and preventive care services.

A major source of primary care providers in underserved or rural communities comes from nonphysician providers, mainly nurse practitioners, certified nurse midwives, and physician assistants. There are over 20,000 nurse practitioners and 4,300 certified nurse midwives in practice, but for every additional of these nurses that graduates, there are at least four medically underserved communities requiring their services. Further, the percentage of physician assistants working in primary care has dropped from 74 to 55 percent between 1978 and 1989; and the percentage of physician assistants practicing in rural areas has been reduced by over half since 1981.

All of these problems are compounded by the rising cost of education in the health professions. Increasing numbers of students are dependent on the Federal Government for assistance to finance their education. In 1976, the Health Education Assistance Loan Program [HEAL] was created to provide financial assistance to graduate students in high-tuition health professions schools, and to help provide access to a health professions education. Since then, HEAL has insured more than 300,000 loans totaling over $2.6 billion in loan principal to students in 11 health professions. Unfortunately, problems exist in the HEAL Program that Congress must address. The rising costs of default has forced the Congress to appropriate $25 million in fiscal year 1991 and an estimated $61 million in fiscal year 1992. This bill, S. 1933, includes important improvements to the HEAL Program.

S. 1933 also reauthorizes programs and provides new opportunities to train additional health professionals in the following critical areas: First, midlevel primary care providers such as nurse practitioners, nurse midwives, nurse anesthetists, and physician assistants; second, primary care physicians such as in family medicine, general internal medicine and general pediatrics; and third, allied health professionals in shortage fields such as physical therapists, occupational therapists, respiratory therapists, dental hygienists, and clinical laboratory technologists.

S. 1933 provides important incentives to improve the geographic distribution of health professionals, and increase access to health care in medically underserved and rural communities, reversing recent trends that show that fewer physicians and other health care personnel are choosing to work in primary care fields and in medically underserved and rural communities.

S. 1933 was introduced on November 7, 1991, and was marked up in the committee on November 13, 1991, passing unanimously. The bill and the committee intent is described in detail in Senate Report 102-227 which accompanies this legislation.

S. 1933 is a bipartisan effort, a product of a great deal of thoughtful consideration concerning the Nation's future needs for health professionals in all fields and specialties. I commend Senator HATCH and other members of the Senate Labor and Human Resources Committee the other interested members of the Senate who helped to develop this comprehensive bill.

By the unanimous passage of S. 1933, the Senate is sending a clear message that we are committed to training an adequate supply of health professionals to meet the Nation's future needs. I look forward to working with my colleagues in the House toward early enactment of S. 1933.

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD.)

- Mr. HARKIN. Mr. President, I rise in strong support of H.R. 3508, the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991. I want to commend our chairman, Senator KENNEDY, for his leadership in crafting this important bill and bringing it forward today. Because of its many component parts, it is always a difficult and complex measure to put together. And, as usual, the chairman has done a fine job.

This legislation, Mr. President, is especially important in light of what I hope will be our imminent action on a national health plan for the American people. All of the debate on health care reform tends to focus on how we are going to pay for insurance to cover the health bills of Americans. While this is indeed a fundamental component of the issue, we too often overlook the need to assure that we have sufficient skilled and properly trained professionals to deliver health care services in the first place. In many areas of the country, particularly in rural America, people are denied decent access to health care because of a shortage of appropriately trained health professionals. So that to simply to provide people in these areas will not be sufficient to solve the serious health care problems they face. In addition, health care professionals generally are not adequately trained in the prevention of disease and disability and the promotion of good health.

The Health Professionals Training and Nurse Education programs play a vital role in improving Americans' access to quality health services. And the amendments to these programs contained in S. 1933 will further strengthen nurse education programs and allied health training programs and places a greater emphasis in all of the programs toward disease prevention and health promotion and to primary care for our Nation's many rural and medically underserved communities. This is exactly the direction we need to be moving in federally supported health professionals training programs.

I am very pleased, Mr. President, that this bill incorporates many of the provisions of S. 694, the Allied Professionals Promotion Act of 1991, legislation I introduced along with Senators DASCHLE, SIMON, ADAMS, INOUYE, and AKAKA. These provisions, which include an increase in the authorization for training programs, the creation of an Advisory Council on Allied Health Professionals and the establishment of a Division of Allied Health within the Department of Health and Human services, are designed to alleviate the severe national shortage of allied health professionals. These health professionals make up two-thirds of our Nation's health care work force, and they share important responsibilities for the delivery of health care services—from those related to the prevention, identification, and evaluation of diseases and disorders, to health promotion services, to rehabilitation and health systems management services. The lack of an adequate supply of these key health professionals is limiting many Americans' access to quality health care and is adversely affecting hospitals, nursing homes, home health agencies, clinical laboratories, rehabilitation facilities, school systems and other service providers. These shortages are particularly acute among rehabilitation professionals such as occupational therapists, physical therapists, speech-language pathologists, respiratory therapists and other whose skills and services are so important in the provision of care to older Americans, the chronically ill and children and adults with disabilities.

Information from a variety of sources indicates that the shortage of allied health professionals will steadily worsen in the years to come without a renewed Federal effort to train additional personnel. A recent study by the Institute of Medicine projected that by the year 2000, the demand for physical therapists will increase by 87 percent and the demand for occupational therapists will jump by over half—52 percent. A national survey of over 7,000 hospitals found that vacancy rates for

16.4 percent for physical therapists 13.6 percent for occupational therapists, and 9.9 percent for speech-language professionals are significant all over the nation and are forcing facilities to reduce services, close beds and divert patients to other hospitals.

Mr. President, the Department of Health and Human Services, in its seventh annual report to the President and Congress on the status of health personnel in the United States noted that "* * * the allied health field is faced with growing shortages of personnel in a number of critical professional categories, reductions in program enrollments, closures of training programs, underrepresentation of minorities and shortages in faculty and trained researchers." Additional studies, surveys and reports from diverse organizations and agencies such as the American Medical Association, the National Institute on Aging, the Department of Education, the Easter Seals Society and the Institute of Medicine all point to this significant and growing threat to our nation's ability to provide important health and rehabilitative services.

In my own State of Iowa, we face severe shortages of allied health professionals. The vacancy rate for occupational therapists is 21 percent, some 5 percent higher than the national average. Fully 56 counties in Iowa have no occupational therapist. Iowa's current statewide vacancy rate for physical therapists is approximately 10.6 percent and is significantly higher in many rural parts of the State. Over the next 5 years, rural hospitals estimate a need for 62 additional physical therapists. Each year, the University of Iowa physical therapy program is only able to accept 30 students of the 250 individuals who apply. Our State's 21 percent vacancy rate for respiratory therapists is well over double that of the national average. In addition, Iowa is suffering from shortages of laboratory technicians, emergency medical technicians, medical technologists and other allied health professionals.

Mr. President, the bill's emphasis on increasing the number of health professionals generally in rural and other medically underserved areas is a critical step forward. Nearly 2,000 communities, home to over 33 million Americans, face a shortage of health personnel and have been designated as shortage areas by the Federal Government. These communities, including at least 23 in my State of Iowa, are literally starving for access to basic medical care. Small town after small town have no doctor or other basic health care provider, such as a nurse practitioner, nurse midwife or physician assistant. Over 150 towns in Iowa are actively seeking family doctors and many more face similar problems as health care providers retire and replacements must be found.

S. 1933's focus on underserved communities builds on last year's enactment of the National Health Service Corps Revitalization Act. The Labor and Human Resources Committee took the lead in reworking that critical program and with this legislation, it is once again taking up the cause of Americans who live in these areas across the nation.

Mr. President, perhaps the most important component of S. 1933 is its emphasis on the prevention of disease and disability and the promotion of good health. The bill requires that priority be given to applicants for competitive grants that can demonstrate that their training programs have—or are making progress toward the development and integration of—effective approaches and educational strategies to promote health and prevent disease and disability. It also requires that the Council on Graduate Medical Education develop mechanisms to assure the inclusion of health promotion and disease and disability prevention as a part of graduate medical education. As you know, these provisions are similar to those contained in S. 506, legislation I introduced earlier in the year but not under the jurisdiction of this committee. My bill would have required graduate medical education programs to include training in disease prevention and health promotion in order to be eligible for Medicare reimbursement.

These provisions represent a crucial change in the direction of our health care system—a direction towards common sense principles of prevention. These changes, which I have been promoting as a key component of my "Prevention First" initiative, will both improve the quality of health enjoyed by Americans and significantly reduce its costs by producing health professionals who are trained to prevent as well as to treat.

As you know, in addition to my position as a member of the labor and Human Resources Committee, I have the privilege to serve as chairman of the Subcommittee on Labor, Health and Human Services, Education and Related Agencies of the Appropriations Committee. This subcommittee funds the programs authorized by S.1933. I am pleased to say that we were able to provide an increase of $34 million over last year's level. Even this modest increase was very difficult to achieve given the fact that our subcommittee had $1 billion less that would have been necessary to provide all its programs level outlays and the fact that, as has been the case for the past 11 years, the administration requested virtually no funding for these important health professions programs. I call upon the President to reconsider his longstanding opposition to these critical health programs and to provide for their adequate funding in his budget request for fiscal year 1993.

Mr. President, there are many other important provisions in this bill—too many to list here. But I again applaud your efforts to bring this health professions bill to us and urge that it be adopted and was moved to conference with the other body so that this bill might be sent to the President prior to our adjournment.●

Mr. COATS. Mr. President, thank you for the opportunity to speak in support of S. 1933. I preface my remarks today by saying that I am pleased to be a cosponsor to this important legislation.

I believe the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991 does a very good job of targeting needed dollars to mid-level primary care providers, primary care physicians, and allied health professionals. In my home State of Indiana, this means improved funding for programs that train and serve: Nurse practitioners, nurse midwives, nurse anesthetists, physician assistants, physical therapists, occupational therapists, clinical laboratory technologists, and primary care physicians for professionals serving in general pediatrics, family medicine, and general internal medicine. These are the professionals that deliver the babies in a small town like Paoli or prepare elderly senior citizens for surgery in cities like Elkhart to the north.

Why is this reauthorization so important? The 1990 report from the Health Resources and Services Administration on "states' assessment of health personnel shortages: Issues and concerns," listed severe manpower shortages in each of these areas. A few alarming statistics shine light on why this reauthorization is so important, especially to rural areas.

First, over the past 5 years, the proportion of graduates planning to enter the primary care specialties has decreased from 30 percent to 23 percent. In fact, data from the 1990 national registry matching program indicates only 55 percent of the available family practice residency positions were filled.

Second, graduates for nurse anesthetist programs dropped by 44 percent from 1980 to 1990. Several rural hospitals in Indiana rely solely on these professionals. Undoubtedly, these mid-level practitioners play a role in solving our access problem to health care.

Third, today over 20,000 nurse practitioners and over 4,300 certified nurse midwives serve in the United States. Unfortunately, for every nurse practitioner and nurse midwife serving today, there are at least four medically underserved areas needing their services.

Fourth, registered nurses provide the hands-on care that is essential to treatment in rural areas. In Indiana, projections show that about 8,330 licensed practical nurses and nearly

35,000 nursing assistants will be needed by the year 2000. This means financial assistance for Health Services Administration and student traineeships.

Mr. President I believe the strength of S. 1933 is that new incentives will motivate health professionals to serve in medically underserved areas. Additionally, the student loan repayment provisions in the Health Education Assistance Loan Program [HEAL] have been strengthened to enhance individual responsibility.

Mr. President, this bill sends a strong message that the U.S. Congress is willing to provide needed resources to help train the health professionals who meet the health needs of the United States. Today, I join several of my committee colleagues in strong support of S. 1933. My hope is that our colleagues on the Appropriations Committee will follow through with adequate funding for these important programs in the next few years.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1447) was agreed to.

The PRESIDING OFFICER. Are there further amendments? Is there further debate? If not, the bill is deemed read for the third time and passed.

So, the bill (H.R. 3508), as amended, was deemed read a third time and passed.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer (Mr. LAUTENBERG) appointed Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, Mr. HATCH, and Mrs. KASSEBAUM conferees on the part of the Senate.

NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 97, S. 367, a bill to amend the Job Training Partnership Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 367) to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. METZENBAUM. The President, the Nontraditional Employment for Women Act, S. 367, will create opportunities for thousands of women to obtain employment in fields with good wages, benefits, and job security. The evidence is clear that women participating in training programs under the Job Training Partnership Act have been clustered in programs for clerical, retail, and other traditionally female fields of work. Indeed, a recent General Accounting Office analysis on gender disparities in services provided by the JTPA indicates that many women receive classroom training for lower wage occupations. At the one service delivery area the GAO examined so far, 43 percent of the women who received classroom training were trained in clerical occupations.

It is no secret that technicians earn more than typists, and carpenters earn more than cashiers. Women deserve their fair share of the training available for the jobs with the best wages, benefits, and earning potential. The NEW Act will open the door to these jobs by increasing Federal efforts to prepare women for traditionally male fields of work.

The bill creates a 4-year, $6 million demonstration program to aid in the development and replication of programs to prepare women for careers in construction, electronics, and other traditionally male fields of work. The NEW Act is bipartisan legislation with impressive support from Wider Opportunities for Women and the National Women's Law Center, among other groups. I am pleased to be joined in this effort by Senators HATCH, KASSEBAUM, PACKWOOD, KENNEDY, PELL, ADAMS, SIMON, MIKULSKI, DODD, and HARKIN.

The NEW Act is a modest measure, but it will go a long way toward improving employment opportunities for women participating in programs under the JTPA. I thank my colleagues for their support in moving this legislation forward.

The PRESIDING OFFICER. Are there further amendments? Is there further debate? If not, without objection, the bill is deemed to be read the third time and passed.

So, the bill (S. 367) was deemed read a third time and passed, as follows:

S. 367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nontraditional Employment for Women Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of those families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act;

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the work force may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this Act are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

SEC. 3. DEFINITION.

Section 4 of the Job Training Partnership Act (hereinafter referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

"(30) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work."

SEC. 4. SERVICE DELIVERY AREA JOB TRAINING PLAN.

Section 104(b) of the Act is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), (9), (10), and (11) as paragraphs (6), (7), (8), (9), (10), (11), and (12), respectively;

(2) by inserting after paragraph (4) the following new paragraph:

"(5) goals for—

"(A) the training of women in nontraditional employment; and

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

and a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities;"; and

(3) in paragraph (12), as redesignated in paragraph (1) above, by—

(A) striking "and" at the end of subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) adding after subparagraph (C) the following new subparagraphs:

"(D) the extent to which the service delivery area has met its goals for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the participant's age;

"(iv) the participant's race; and

"(v) information on retention of the participant in nontraditional employment.".

SEC. 5. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) of the Act is amended by—

(1) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The plan shall include goals for—

"(A) the training of women in nontraditional employment through funds available under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, and other sources of Federal and State support;

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

"(C) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities; and

"(D) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to train and place women in nontraditional employment.".

(b) SPECIAL PROGRAMS.—Section 121(c) of the act is amended by—

(1) redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(2) inserting after paragraph (8) the following new paragraph:

"(9) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment;".

SEC. 6. STATE JOB TRAINING COORDINATING COUNCIL.

Section 122(b) of the Act is amended by—

(1) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (9), (10), (11), and (12), respectively; and

(2) inserting after paragraph (4) the following new paragraphs:

"(5) review the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(6) prepare a summary of the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(7) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(8) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational and Applied Technology Education Act, obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational and Applied Technology Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;".

SEC. 7. STATE EDUCATION COORDINATION AND GRANTS

(a) STATE EDUCATION COORDINATION AND GRANTS.—Section 123(a) of the Act is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(3) inserting the following new paragraph at the end thereof:

"(4) to provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

(b) USE OF FUNDS.—Section 123(c) is amended—

(1) in paragraph (2)(B) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)"; and

(2) in paragraph (3) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)".

SEC. 8. USE OF FUNDS.

Section 204 of the Act is amended by—

(1) redesignating paragraphs (27) and (28) as paragraphs (28) and (29), respectively; and

(2) inserting after paragraph (26) the following new paragraph:

"(27) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment,".

SEC. 9. DEMONSTRATION PROGRAMS.

Part D of title IV of the Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAMS

"SEC. 457. (a)(1) From funds available under this part for each of the fiscal years 1992, 1993, 1994, and 1995, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) The Secretary may award no more than 6 grants in each fiscal year.

"(b) In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between the Job Training Partnership Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under the Job Training Partnership Act;

"(3) the extent to which the initiatives proposed by a State supplement or build upon existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of such State's demonstration training programs.

"(c)(1) Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontradition employment.

"(2) Each State receiving financial assistance pursuant to subsection (c)(1)(A) may only award grants to—

"(A) community based organizations,

"(B) educational institutions, or

"(C) other service providers,

that have demonstrated success in occupational skills training.

"(3) Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Each State receiving financial assistance pursuant to subsection (c)(1)(B) or (c)(1)(C) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds under subsection (c)(1)(A).

"(d) In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs,

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment, or

"(3) provide technical assistance to service providers.

"(e) The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the demonstration programs' effectiveness in—

"(1) preparing women for nontraditional employment, and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

SEC. 10. REPORT AND RECOMMENDATIONS.

(a) REPORT.—The Secretary of Labor shall report to the Congress within 5 years of the date of enactment of this Act on—

(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(2) the effectiveness of the demonstration programs established by section 457 of the Job Training Partnership Act in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration programs authorized by section 457 of the Job Training Partnership Act.

(b) RECOMMENDATIONS.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 457 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

SEC. 11. DISCRIMINATION.

(a) For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(b) Nothing in this Act shall be construed to require, sanction or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief. Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age

SEC. 12. EFFECTIVE DATE

This Act and the amendments made by this Act shall take effect upon the date of enactment of this Act, except that the requirements imposed by sections 4, 5, and 6 of this Act shall apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1992.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JUDICIAL NATURALIZATION ACT OF 1991

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 3049, the Judicial Naturalization Act of 1991, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee is discharged. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1448

Mr. REID. On behalf of Senators KENNEDY and SIMPSON, I send a substitute amendment to the desk.

• The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KENNEDY (for himself and Mr. SIMPSON) proposes an amendment numbered 1448.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Are there further amendments?

Mr. SIMPSON. Mr. President, I rise to join my colleague, Senator KENNEDY—the chairman of the Immigration Subcommittee—to urge the adoption of H.R. 3049, the judicial naturalization bill.

This bill is the result of a compromise between those Members of Congress who wish to place the fewest impediments possible before aliens wishing to become citizens and the judges who work in our Federal and State courts. Before 1990, all immigrants were naturalized by Federal district or State courts. The Immigration Act of 1990 made that process swifter by allowing the Attorney General to naturalize aliens.

Some judges expressed disappointment that they no longer were able to preside at the happy occasion of administration of the oath of citizenship. In addition, many Members of Congress agreed that the courts added a necessary ceremonial aspect to this important step in an immigrant's life. Therefore, this bill strikes an intelligent compromise: It gives authority to administer the oath of citizenship back to the courts for 45 days after the alien becomes eligible. If the court fails to act within 45 days, then the Immigration Service may administer the oath of citizenship.

I salute my good friend from Kentucky, Congressman RON MAZZOLI, for this fair and responsible compromise bill, and I encourage my colleagues to support it.

Mr. President, Senator KENNEDY and I intend to offer two immigration bills to H.R. 3049, as amendments.

In amendment No. 1, we are attaching language which reflects the compromise agreement between organized labor and artist groups reflected in S. 1776 and H.R. 3048, regarding the admission of foreign artists, entertainers, and other similar specialty immigrants. This is essential legislation which will ensure that we will have a continued flow of international artists and cultural exchange into the United States, and from the United States to foreign countries.

I would like to make a few specific remarks to some portions of this amendment, which is title II in the amendment offered by Senator KENNEDY and myself:

Proposed section 214(c)(4)(B)(ii) enables the Attorney General, in consideration of special circumstances, to waive the international recognition requirement for P–1 groups and to rely instead on national recognition.

This provision is designed primarily to benefit entertainment groups from countries such as Canada and Australia that may find it difficult to demonstrate recognition in more than one country except through access to the United States, due to such factors, for example, as limited access to media or consequences of geography. In these types of special circumstances, the Attorney General may waive the international recognition requirement.

For individuals under section 101(a)(15)(O)(i), except for those in motion picture or television production, where there is both a labor organization and a peer group that is not a labor organization, an advisory opinion from one of them is all that is required to adjudicate the petition. However, if the advisory opinion is not from the labor organization, the Attorney General will forward the petition to the labor organization, as required by section 214(c)(6)(B).

Subsection (c) of section 206 deletes references to nation-to-nation exchanges in order to clarify that what is required for those seeking to enter the United States under section 101(a)(15)(P)(ii) is that they be part of an exchange program between organizations, not nations, that represents a fair balance over a reasonable period of time; numerical equivalency is not required. The consultations for P–2 petitions shall be on the issue of whether those for whom P–2 petitions are submitted are part of such an organization-to-organization exchange program; no substantive standards apply to the participants in such programs.

I would like to note that it is the sponsor's intention that new paragraph 214(c)(6)(C) of this bill, which state that the Attorney General is not required to consult on visa applications where the applicant successfully demonstrates there is no appropriate peer group, labor organization or other person or persons, applies to all O and P category applicants. Thus, regulations in this area should cover aliens seeking entry for a motion picture or television production.

In amendment No. 2, we are attaching a compromise version of the Immigration Technical Corrections Act of 1991 (S. 1620 and H.R. 3670). This amendment, which will be title III of the substitute amendment, would make certain technical changes to the Immigration Act of 1990. The 1990 act made sweeping changes in our immigration laws, and these technical changes are the inevitable fine-tunings that must be done whenever legislation this broad in scope is enacted. The technical changes in this package have been agreed to by Democrats and Republicans of both House and Senate Immigration Subcommittees.

Included in the changes are improvements in the H–1B visa program, which employers use to bring in skilled aliens for temporary employment. These improvements: First, clarify the wage rate that employers must pay to H–1B aliens and to their own workforce, and second, alter the standard for penalizing employers, so that employers who make good-faith efforts to pay the correct wage rate would not suffer any penalties if the wage rate they selected is later proven to have been inaccurate. I would like to thank representatives of the employer community and organized labor for their cooperation and assistance in drafting this language, which has been approved by all interested parties.

I would like to make just a few comments regarding the specific contents of title III:

First, this title clarifies that, when an employer seeks to hire an H-1B worker, the employer is not required to use any specific methodology to determine that the alien's wage complies with the wage requirements of the act and may utilize a State agency determination, such as SESA, an authoritative independent source, or other legitimate sources of wage information. Employers are known to use a variety of legitimate methods for determining appropriate wages, and we do not intend to mandate any specific change to these practices.

Second, in determining the actual wage level paid to other individuals with similar experience and qualifications for the specific employment in question, we intend the specific employment to mean the specific position held by the H-1B worker at the place of employment. By similar experience and qualifications, we intend factors that should be considered to include experience, qualifications, education, job responsibility and function, specialized knowledge, and other legitimate business factors.

Third, this title clarifies how complaints against employers of H-1B workers are to be handled and that the complaint process must differentiate between inadvertent or good faith failures or mistakes on the one hand and willful violations of employer obligations on the other. The system we envision works like this: If a complaint alleges that an employer has not provided the required wage of an H-1B worker, the employer is given the opportunity for a hearing and, if the allegation proves true, may be ordered to raise the worker's salary and to pay back wages. Other administrative remedies, including civil fines and debarment from the program, may be imposed on a wage complaint only if the Secretary finds a willful failure to meet a condition of subparagraphs (1)(A) (i) or (ii), by which we mean a knowing disregard for the requirements of these subparagraphs. If an employer establishes a good faith basis for its determinations, that will be a complete defense to a charge of willful failure to meet its obligations. Of course, if it is determined that the employer intentionally violated its other obligations in regard to the H-1B worker, administrative remedies may also be imposed, such as a one year bar on petitioning for alien workers.

Fourth, this title underscores that the H-1B program's labor condition application process is complaint-driven.

Mr. President, I urge the adoption of this legislation.

Mr. SEYMOUR. Mr. President, I am pleased to join today with the chairman and ranking member of the Immigration Subcommittee, Senators KENNEDY and SIMPSON, in support of their amendment to H.R. 3049, the Judicial Naturalization Amendments of 1991. I am particularly pleased that title II of this amendment contains the provisions from H.R. 3048. Passage of this legislation finally will bring to an end the controversy with respect to the admission of "O" and "P" nonimmigrant visas for performing artists, entertainers, and athletes.

The purpose of this legislation is to correct the flaws found in the Immigration Act of 1990. Though the proponents of the House-drafted provisions creating the "O" and "P" visas argued last year that these new categories would not represent a departure from the current H-1 visa category, it was clear after passage that this was not the case. In fact, after the Immigration and Naturalization Service published proposed regulations governing the "O" and "P" visas last July, it became strikingly clear that these provisions would have a significantly adverse affect on the ability of talented artists, entertainers and athletes from sharing their excellence and innovation in our country.

California is well-known throughout the world as a cultural mecca of creative motion pictures, music, and other unique forms of arts and entertainment. It thrives in this role because of the significant contributions and performances given by first-rate talent from every corner of the globe. Thus, it was no surprise when the leaders of the California arts and entertainment community first met with me and my staff to express their strong concerns that the "O" and "P" provisions and regulations would artificially restrict the cultural exchanges that are essential to their programs.

At the same time, I also heard from concerned Californians who rightly feared that any change in the 1990 act may undermine effective enforcement mechanisms and procedures that attempt to limit abuse of the nonimmigrant visa process. Abuse of this process has had a real and adverse affect on employment opportunities in this country to equally qualified Americans.

Furthermore, I was concerned that the provisions in the 1990 act, if left unchanged, would prompt other nations to retaliate and impose unnecessary travel and visa restrictions on American entertainers. Despite the fact that exporting American arts and entertainments this Nation's third largest generator of trade surplus, many countries currently have arbitrary restrictions on nonimmigrant visas for American artists and specialists. If we expect these nations to reduce their unfair barriers, then we must set the example and pursue fair nonimmigrant regulations and effective enforcement of those regulations. This balanced approach serves both goals of protecting American jobs and sharing the accomplishments of foreign and American artists and entertainers.

Fortunately, a balanced approach was achieved last September. With the assistance of my colleagues and their staffs of the Immigration Subcommittee, leaders of the arts community and organized labor worked diligently on compromise legislation. This legislation, S. 1776, of which I am a cosponsor, was introduced on September 30, and was largely incorporated in the House companion legislation, H.R. 3048, and in title II of the amendment to the legislation before us today, H.R. 3049.

We sought compromise. We got compromise. That is the reason we are able to take quick action on this legislation so that it may be sent to the President and signed into law before the end of this year.

Specifically, title II does the following: Repeals the 25,000 ceiling on "O" and "P" visas, and requires the General Accounting Office to conduct an investigation on the impact of the "O" and "P" visa procedures on the American labor force and the ability of American artists to obtain similar visas abroad; amends the arbitrary 1-year association requirement for P-1 applicants by exempting 25 percent of the performers and entertainers in the group seeking entry; eliminates the 3 month out-of-country rule for P-2 and P-3 nonimmigrants; clarifies the definition of "O" nonimmigrants with extraordinary ability in the arts to mean "distinction;" and amends the consultation requirement that gives labor organizations an opportunity to submit an advisory opinion on possible "O" and "P" applicants, but reaffirms that the Attorney General maintains full discretion to deny or accept a nonimmigrant application.

Mr. President, we cannot ignore the tremendous contributions made by the arts and entertainment industry to our national economy and cultural diversity. They must continue now and in the years ahead.

So I am pleased that with passage of this compromise legislation, all sides of this issue—international arts organizations, the American arts and entertainment community, and organized labor—can claim victory. They worked together to achieve this important compromise and in so doing, ensured that American audiences will be able to enjoy the best and most innovative artists and entertainers the world has to offer.

Finally, Mr. President, I want to take a moment to congratulate my distinguished chairman and the distinguished ranking member of the Immigration Subcommittee and their exemplary staff for their efforts to reach a fair and balanced resolution on this important matter. It is said that all the world's a stage. With this legislation, America can continue to be a stage for all the world.

Mr. KENNEDY. Mr. President, for the RECORD, and for the benefit of my colleagues, let me state what we are considering with this substitute amendment. We are making some technical corrections and clarifications to last year's major immigration reform legislation—the Immigration Act of 1990. They have been cleared on both sides, as well as with our counterparts on the House Judiciary Committee. They are noncontroversial, but they are necessary.

As our colleagues may remember, the opportunity to achieve final action, after a decade-long effort to secure immigration reform came only in the last days before the 101st Congress was scheduled to adjourn sine die. It came when the House completed action October 3, 1990, on a bill previously passed by the Senate the year before.

That gave conferees only a matter of days to resolve major differences between bills that were several hundred pages long. Inevitably, drafting errors and oversights occurred.

On August 1 of this year, the Senate adopted a technical corrections bill, S. 1620, which was introduced by Senator SIMPSON and myself. This Senate passed bill is reflected in title III of the pending substitute amendment. But there are two additional titles that amend and correct the Immigration Act of 1990.

TITLE I OF AMENDMENT

The first title relates to restoring court-administered naturalizations. Last year, we acted to provide for administrative naturalizations as a means of assuring that large backlogs would not grow in naturalization petitions—as was becoming the case in many districts. These backlogs were posing unnecessary and unfair impediments to those seeking to become U.S. citizens. Although the legislation provided that court-administered ceremonies should continue, the actual naturalization would be completed administratively.

Many judges subsequently expressed their concern that this unnecessarily denied the participation of courts where there was never a backlog problem, and denied the naturalization process of the solemnity of a court administered oath of citizenship.

In order to deal with these concerns, Congressman MAZZOLI, the House subcommittee chairman, and JACK BROOKS, chairman of the Judiciary Committee, hit upon a reasonable compromise—a compromise we probably should have considered during our conference on the legislation last year, had we had sufficient time.

It allows courts to have 45 days to administer naturalizations, but if they can not during that period of time, then an applicant may choose to have it completed administratively by INS. This assures that the courts have a role, but also that naturalization backlogs do not grow because of crowded court dockets.

Mr. President, this is a good compromise which I support. It has already passed the House of Representatives overwhelmingly. Our amendment adopts the House bill with some technical amendments on the fee structure to assure that naturalization fees administered by the courts do not become prohibitive or an impediment to citizenship.

Of all immigration related fees that should be kept to a minimum, I believe naturalization fees are first among them. We do not want a fee to become an obstacle for some with less means from accomplishing what our laws and policies encourage them to do—that is to become full participating citizens of the United States, with all the rights and responsibilities that implies.

TITLE II OF AMENDMENT

Mr. President, title II of our substitute amendment relates to revisions in the new O&P visa categories for the temporary admission of artists, entertainers and athletes. Later in the debate I will go into more detail on the revisions we make, and explain the intent of these changes. But title II basically reflects the bill Senator SIMPSON and I introduced (S. 1776), which has been favorably reported last week to House floor by the House Judiciary Committee.

In short, both the Senate and House Judiciary Committee have cleared title II of this amendment.

TITLE III OF AMENDMENT

Finally, as I indicated at the outset, the final title reflects the technical corrections bill (S. 1620) adopted by the Senate on August 1 and reported out of the House Judiciary Committee last week.

H-1B VISAS

Among the corrections contained within this legislation are changes to the so-called H-1B visa for certain aliens coming to work temporarily in the United States.

The corrections incorporated address problems raised by academic institutions and businesses. We would anticipate, with these corrections, that the H-1B visa will be more functional. However, we expect to review this visa category thoroughly in the coming year as we see how it is implemented.

The first problem which these corrections address is the rigid wage determination formula contained in the provisions of the Immigration Act of 1990. The corrections to section 101(a)(15)(H)(i) of the Immigration and Nationality Act, as amended by the Immigration Act of 1990, clarify that when an employer seeks to hire an H-1B worker, the employer is not required to use any specific methodology to determine that the alien's wage complies with the wage requirements of the Act and may utilize a state agency determination, such as a SESA, an authoritative independent source, or other legitimate sources of wage information.

Second, in determining the actual wage level paid to other individuals with similar experience and qualifications for the specific employment in question, we intend the specific employment to mean the the actual set of duties and responsibilities to be performed by the H-1B worker at the place of employment. By similar experience and qualifications, we intend factors that should be considered to include experience, qualifications, education, job responsibility and function, specialized knowledge, and other such legitimate factors.

Third, we clarify the standards by which complaints against employers of H-1B workers are to be handled and that the complaint process must differentiate between inadvertent or good faith failures or mistakes on the one hand and willful violations of employer obligations on the other.

We would envision the system to work as follows: If a complaint alleges that an employer has not provided the required wage to an H-1B, worker, the employer is given the opportunity for a hearing and, if the allegation proves true, may be ordered to raise the worker's salary and to pay back wages. Other administrative remedies, including civil fines and debarment, may be imposed on a wage complaint only if the Secretary of Labor finds a willful failure to meet a condition of subparagraphs (1)(A)(i) or (ii), by which we mean a knowing disregard for the requirements of these subparagraphs. If it is determined that the employer violated its other obligations in regard to the H-1B worker, administrative remedies may also be imposed with a one year bar on petitioning for alien workers.

Finally, the H-1B corrections underscore that enforcement of the program's labor condition application process is complaint driven and that the Department of Labor's responsibility is to check applications they receive "only for completeness and obvious inaccuracies." And it is furthermore our intention, in the corrections regarding the posting of the applications, that the documents which must accompany the posted application be only those which are necessary to support the application.

Another correction clarifies the authority of the Attorney General to release certain aliens from detention, pending their deportation hearings. In including this provision, which amends section 242(a)(2) of the Immigration and Nationality Act, we intend that aliens be permitted to exercise all rights to be a hearing, as allowed under section 242. Furthermore, we expect that should an abuse of the Attorney General's discretion occur, this abuse will be fully challengeable in court.

In conclusion, Mr. President, this substitute amendment providing for Immigration amendments and technical corrections has been carefully reviewed and drafted in a bipartisan fashion in consultation with the House Judiciary Committee, as well as with all the relevant departments of the executive branch.

It is noncontroversial, but it is extremely important that we make these corrections in a timely fashion as we begin the full implementation of the immigration act of 1990.

I urge the adoption of the substitute amendment.

O AND P VISA REVISIONS

Mr. KENNEDY. Mr. President, I would now like to take this opportunity to review in more detail the reforms this amendment brings to the O and P visa provisions on the temporary admission of artists, entertainers and athletes to the United States. As I indicated, this section reflects the provisions of the bill (S. 1776), which Senator SIMPSON and Senator SIMON joined me in introducing last September, and which has been reported favorably by both the House and Senate Judiciary Committees.

One of the more controversial provisions of the Immigration Act of 1990 has turned out to be the creation of these new O and P nonimmigrant visas for performing artists and athletes. In the final drafting of the conference report on this section of the bill, the terms governing the issuance of these visas went considerably beyond what was understood during our discussions at the time.

To correct this, Mr. President, we have met over the last several months with representatives of organized labor and those representing the fields of the arts, culture, entertainment; and athletics. The arts community had expressed alarm over the the new O and P visa provisions. They perceived last year's changes as being not only a major departure from current practice, but a serious threat to their artistic programs.

To provide remedial changes while we study this issue further, over the past several months, our subcommittee staff have undertaken lengthy consultations with all parties to reach a compromise. The bill we are offering today is that compromise, and it is supported by the following interested parties.

From organized labor, represented by the Department for Professional Employees, AFL-CIO, the following have been consulted: Actors' Equity Association; American Federation of Musicians; American Federation of Television and Radio Artists; American Guild of Musicial Artists; International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada; International Brotherhood of Electrical Workers; National Association of Broadcast Employees and Technicians; Screen Actors' Guild, and the Writers' Guild of America—East.

From the arts community, the following have agreed: the American Symphony Orchestra League; OPERA America; Dance/USA; American Arts Alliance; Association of Performing Arts Presenters; International Society of Performing Arts Administrators; National Association of Performing Arts Managers and Agents; Western Alliance of Arts Administrators; North American Folk Music and Dance Alliance; Columbia Artis Management Inc.; International Creative Management Inc. and subsidiaries; Shaw Concerts, Inc.; the Recording Industry Association of America; the League of American Theatres and Producers; Ringling Bros. and Barnum & Bailey Circus; and the Big Apple Circus.

To clarify the legislative history behind the changes being made by this amendment, let me review the principal revisions our bill makes to the new O and P visa categories:

First, we would repeal the proposed 25,000 ceiling on P-1 and P-3 individuals. We then require the General Accounting Office to undertake a 2½-year study and report to Congress. The GAO will be required to provide information on admissions under these and other categories, and on laws, regulations and practices elsewhere that affect the American labor force in the arts and entertainment field.

In undertaking this study, Mr. President, it is my intention to ask the GAO to review this issue in a very broad fashion. We are aware of the importance of encouraging the free and fair interchange of artists and cultural activity between nations. The new P-2 visa provision for reciprocal arrangements between organizations in this country and other lands underscores this interest. The purpose of these arrangements should be to open doors of opportunity for U.S. citizen and resident alien artists, entertainers and support personnel while welcoming such people from other countries. More should be done.

Therefore, to assist the Congress, the GAO will study the employment opportunities of U.S. citizen and resident alien artists, entertainers and support personnel both here and abroad, the extent of nonimmigrant alien employment in these occupations and the impact of practices by other governments that may inhibit the ability of U.S. citizens and resident aliens to obtain employment in the arts, entertainment, and supporting occupations, to have their art and skills embodied in audiovisual materials and sound recordings disseminated and enjoyed in other lands, and to earn fair compensation for their efforts abroad.

This will allow Congress to consider the GAO report, as well as to receive the first report of the new commission on immigration reform established in last year's bill. That commission is charged with reviewing all aspects of U.S. immigration law and policy, and the changes made by the 1990 Act, including the nonimmigrant O and P visas.

We believe this is a fair compromise between those who believe these nonimmigrant visas should be capped at some limit, and those who have argued that any ceiling is arbitrary and unnecessary.

Second, we significantly modify the requirement that P-1 visa applicants must have a 1-year association with the group with which he or she is entering. As rigidly drawn last year, this requirement and certain associated rules are unrealistic given the realities of the entertainment industry and the performing arts community. We also provide expressly for essential support personnel in this category.

Third, we clarify the consultation requirements for O, P-1 and P-3 petitions to assure that if the collective-bargaining representative or other appropriate union has not had the opportunity to provide an advisory opinion, that entity shall receive a copy of the petition and supporting documentation with an opportunity to comment before the attorney general adjudicates the petition. We have taken various steps to streamline the consultation process.

Fourth, we extend the requirement for the return transportation for dismissed employees, as is now done for other nonimmigrant visa categories. If an employee is dismissed before the end of the period of his authorized admission, then the employer should pay reasonable costs for return transportation home.

Fifth, in some of the other provisions of this legislation, we clarify the definition of extraordinary ability for O-1 applicants and drop the need for the attorney general to determine their prospective benefits to the country; eliminate the 3-month out-of-country rule for P applicants; return fashion modeling to the H-1b category, but not as a specialty occupation; clarify the nature and purpose of P-3 applicants seeking to enter to perform culturally unique programs; and require the attorney general to report certain statistics annually respecting the H and Q, as well as the O and P categories.

These are obviously technical immigration provisions, but they have enormous consequences for the performing arts community. We believe these revisions represent a fair and satisfactory compromise between the interests of organized labor and the foreign artists, performers and athletes who come each year to the United States, bringing their talents their art, their performances to share with American audiences.

Finally, Mr. President, let me state the intent behind some of the other statutory changes we are making.

The first relates to the new standards for classification of P-1 nonimmigrants in section (3) of our bill.

The P-1 visa category is for aliens who make an important contribution to the quality of a performance group that is recognized as being outstanding in more than one country, including the United States. Such international recognition is not earned easily; it reflects a consistently outstanding level of performance sustained over a substantial period during which time the group has been tested in a number of performances for varying material. Recognition for outstanding quality extends to the group itself and not to any particular entertainment, play, composition, or event the group may present.

The requirement that a group be together for a sustained and substantial period of time serves to ensure that its reputation is not ephemeral. The attorney general, in his discretion, shall determine the length of time necessary to serve this purpose. Most groups should be able to produce appropriate documentation, the foreign sale of sound and/or video recordings, and significant critical reviews to demonstrate that their reputation is international in scope.

However, in subsection (b), in what will become section 214(c)(4)(B)(ii) of the Immigration and Nationality Act, we recognize that despite being outstanding in their discipline for a sustained and substantial period of time, it may be difficult for entertainment groups to demonstrate recognition in more than one country, due to such factors, for example, as limited access to media—at home or abroad—or consequences of geography that make it difficult for entertainment groups in certain countries to establish an international reputation except through access to foreign markets. Canadian entertainment groups, for instance, often are unable to establish international recognition unless they establish themselves in the United States as well as in Canada. In these types of special circumstances, the attorney general shall consider other types of evidence, advisory opinions, and/or appropriate expert opinion to adjudicate the petition, and may waive this requirement.

Since the reputation of the group is paramount, the P-1 provision requires the integrity of the group as a cohesive unit to be maintained. Because the quality of the work for which the group has achieved recognition rests on the collective efforts of the individuals who comprise it, this provision requires that individual alien performers and entertainers—but not essential support personnel—seeking to enter the United States as part of an outstanding group must establish that they have had a substantial relationship with the group ordinarily for at least 1 year.

To accommodate the everyday business and artistic operations of various types and sizes of groups, subsection 214(c)(4)(B)(iii)(I) of the act will waive the requirement of 1-year's association for 25 percent of the performers or entertainers in a group. Subsection (B)(iii)(II) will also enable the attorney general to waive the 1-year association requirement for illness or other unanticipated and exigent circumstances, such as death, injury, discharge, or resignation of a member; unforeseen events such as natural disasters; unanticipated emergencies that require the substitution of long-term members by others; and the presentation of certain works which require that the group be augmented by additional personnel performing critical roles.

Subsection (B)(iv) will make special provision for alien circuses and circus personnel, in light of their unique needs, circumstances and traditions.

In implementing these provisions, the Attorney General should avoid requiring unnecessary paperwork and documentation. For instance, for purposes of applying under subsections (B)(iii) (I) or (II), petitioners should be required only to provide a brief statement listing the particular circumstances that being the alien within the exception. Further initial individual documentation should prove unnecessary, particularly because the key issue will be the reputation of the group itself. Also, of course, a consultation with a labor organization prior to adjudicating the petition will be required. If an issue arises respecting a particular group member, the petitioner will have an opportunity to supply additional evidence.

Second, section (4), which contains revised consultation requirements, has been restructured. Petitioners for O-1 aliens not involved in motion picture or television productions will have the flexibility to consult with a broad range of individuals, groups or other entities, including labor organizations, with expertise in the particular field. However, inasmuch as a purpose of the consultation requirement is to provide notice of the petition to the affected labor organization, when the petitioner does not directly contact an appropriate labor organization prior to filing, the Attorney General is obligated to notify the national office of the collective-bargaining representative, if any, or an otherwise appropriate labor organization, by forwarding a copy of the petition and supporting documents. Collective-bargaining representative means the labor organization with which an employer has a legal obligation to bargain.

As used in this legislation, we intend the term "advisory opinion" to mean a written opinion respecting the qualifications of the beneficiary or beneficiaries of the petition in relation to the requirements of sections 101(a)(15)(O), (P)(i) and (P)(iii). To avoid imposing undue burdens, in the case of labor organizations, the terms may also mean a written comment regarding any aspect of the proposed beneficiary's or beneficiaries' qualifications under the respective sections, or simply a letter of no objection. Provision of an advisory opinion fulfills the Attorney General's consultation obligation under these sections.

With regard to O-2 beneficiaries in the motion picture and television field, we have broadened the nature of the underlying activities on the basis of which accompanying O-2 aliens can request entry despite their lack of a preexisting working relationship with the principal O-1 alien. We also restore the original understanding between organized labor and that industry in that an O-2 consultation will now be required with an appropriate union and a management organization, except in cases where there is no labor organization or peer group for an applicant.

For all O, P-1, and P-3 petitions, where the petitioner establishes that no appropriate peer group—including a labor organization—exists, the attorney general will render a decision without further consultation. This does not preclude the Attorney General from obtaining the same from a closely related peer group, labor organization or other person or persons, nor does it obviate the need for an advisory opinion, letter of no objection, or comment upon the later establishment of such entity. To implement this provision, the Attorney General should establish and maintain a list of occupations for which no appropriate peer group or union exists. Upon request, the Attorney General should provide notice of the disposition of each petition to any person, persons, labor or other organization that has provided an advisory opinion or comment.

In administering these provisions, it is essential that processing times be kept to an absolute minimum so as not to interfere with normal industry operations. For instance, in addition to the times specified in the statute, where additional evidence is required or rebuttal evidence may be appropriate, the attorney general should ensure that the petitioner receives a request and a copy of any negative comments promptly, to enable the petitioner to respond without further delaying adjudication of the petition.

Out of concern to avoid unnecessary paperwork and undue burdens, we have made a number of additional changes. For instance, if an O-1 artist or entertainer seeks readmission to the United States under a new petition within 2 years of having undergone a consultation as required in section 214(c)(6)(A), no new consultation will be required, although organized labor will still receive notice of the petition. In addition, we have provided that the attorney general may short any relevant processing timeframes for emergency reasons. Similarly, the attorney general may set expedited consultation procedures for all O or P applicants where needed to accommodate exigencies or scheduling in relation to productions or events. We provide similar arrangements for athletes. It is our intention that, in establishing such emergency procedures, the attorney general incorporate the use of telecopiers, and even the telephone where appropriate, provided adequate written administrative record is created.

Third, regarding section (d), the definition of extraordinary ability for O nonimmigrants, we intend that the attorney general adopt specific criteria to establish distinction in the arts, including essentially the same regulatory standards for prominent aliens of distinguished merit and ability as in effect on September 30, 1991. Thus, an alien could qualify under this section by meeting a number of standards for distinction; alternatively, the alien could qualify by winning a major, nationally or internationally recognized competition that is generally regarded as a benchmark for oustanding achievement in the alien's field. When the competition is of such prestigious nature, the Attorney General may consider second or third place ranking as sufficient qualification. The concept of distinction in the arts encompasses not only performers, but all essential technical personnel. Thus, the term "arts" should include: fields of creative activity or endeavor such as, but not limited to, music, opera, dance, drama and theater, painting and sculpting, literature, photography and circus performances, and encompassing not only principal creators and performances but other essential persons such as, but not limited to, directors, set designers, lighting designers, sound designers, choreographers, choreologists, conductors, orchestrators, musical, language or other coaches, arrangers, musical supervisors, costume designers, makeup artists, fight masters, stage technicians, and animal trainers.

We recognize that most O-1 individuals will be able to produce appropriate documentation to fulfill the specified criteria. However, some individuals may be unable to produce the types of documentation normally relied upon to prove extraordinary ability; for example, certain circus performers or persons who reside in societies where there has not been a modern tradition of compensation based on market principles or where access to media has been limited. In these instances, the attorney general may consider other types of evidence combined with appropriate advisory opinions and other comment.

Fourth, in section 6(d), we recognize the special needs and potential of P-3 culturally unique performers or groups. In addition to enabling them to perform, we wish to encourage them to pass along their craft by teaching or coaching. We also acknowledge that without the ability to present, teach or coach, their unique cultural talent in commercial as well as noncommercial venues, culturally unique performers may be unable to afford U.S. tours; indeed, without access to the U.S. market, they may be unable to afford to continue their art altogether.

In conclusion, Mr. President, I believe these changes, although highly technical, are extremely important to both the arts community and in the interest of American labor.

Mr. SIMON. I wish to join my friend, Senator KENNEDY, the chairman of the Immigration and Refugee Affairs Subcommittee, in offering this substitute amendment.

The immigration-related amendments we offer today make a number of minor and technical changes to the Immigration Act of 1990, adjust the 1990 reforms in our naturalization procedures and address problems related to the O and P entertainer visa provisions.

These amendments are the product of separate Senate and House legislation and contain provisions that have been cleared by the subcommittees on each side and have the support of the parties most affected.

The Immigration Subcommittee in the Senate is the smallest subcommittee so it is easy to discern the intentions of the Senate sponsors. In addition to the points raised by Senator KENNEDY, I wish to especially reiterate my strong support for the naturalization provisions and the O and P visa adjustments.

The naturalization amendments revise current law to address valid concerns that have been expressed by members of the judiciary in Illinois and around the Nation. These amendments are also cognizant of the great necessity to eliminate all unnecessary barriers to naturalization. These amendments ensure that naturalization ceremonies can take place in Federal district courts which can best provide the proper decorum and seriousness of purpose as we welcome newcomers, as citizens, to the American family.

At the same time, in enacting this legislation we are mindful of the backlogs that do take place in the naturalization process. No extraordinary delays should be caused by this legislation. In those areas of the country that cannot readily schedule naturalization ceremonies at the district court, a prospective citizen should not be forced to wait. This legislation provides that flexibility.

This package of amendments also addresses another potential barrier to naturalization. Between December 1989 and April 1991, the Immigration and Naturalization Service [INS] raised naturalization fees from $50 to $160 and revenues exceeded expenses related to the naturalization process. Following action taken by Congress in the Immigration Act of 1990, the INS partially reduced fees to $90. The confusion around the amount of fees assessed for naturalization prompted various House Members to request the General Accounting Office [GAO] to conduct a study on the INS fee structure. GAO has not yet conducted this study and it is not expected that the report will be complete until some time next year.

In the meantime, there is substantial concern that fees may be raised once again. I am pleased, therefore, that the naturalization amendments require the Attorney General to consult with the Judiciary Committees of the House and Senate prior to raising naturalization fees and to report to Congress where the fees fit into its overall budget.

A tremendous amount of work has gone into the O and P provisions of the Immigration and Nationality Act. These provisions repeal the previous 25,000 visa annual cap for P-1 and P-3 nonimmigrants that was established by the 1990 Immigration Act. They also require the General Accounting Office to report to Congress by the end of fiscal year 1993 on the use of O and P visas by artists, entertainers, and athletes to determine how many visas are actually used. The report will enable Congress to better evaluate the impact these visas have on entertainer employment and earnings among American workers. The report will also provide information on the policies of other countries regarding Americans who seek this work abroad.

Another important change contained in these provisions relate to the peer group consultation requirement of section 207 of the Immigration Act of 1990. These provisions clarify that if there is a collective-bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization for purposes of the peer group consultation requirement. These provisions give the peer group 15 days in which to file its response or "no objection" letter. The Attorney General will then give the employer an opportunity to respond and adjudicate the application within 14 days.

Where no appropriate peer group or labor organization exists and the employer can establish this to the satisfaction of the Attorney General, no advisory opinion or comment is required. I simply echo Senator KENNEDY's statement of subcommittee intent that this provision applies to all O and P category applicants. Thus, regulations in this area should also cover aliens seeking entry for a motion picture or television production.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1448) was agreed to.

Mr. DIXON. Mr. President, I am pleased the Senate has passed H.R. 3049, the judicial naturalization ceremonies amendments. I introduced the Senate companion legislation, S. 1726, which attempted to provide a balance between the numbers of individuals ready to be sworn in as new citizens, and the number of people who could conduct the ceremony.

Prior to enactment of the Immigration Act of 1990, Federal judges had exclusive authority to administer the oath of allegiance. The Immigration Act eliminated the exclusivity and replaced it with a choice system. Individual applicants could choose to be sworn in by a judge in a formal ceremony, or by an employee of the Immigration and Naturalization Service. The purpose of the choice system was to cut back on the mounting backlog of individuals waiting to be sworn in as new citizens of the United States.

The choice system, while appealing, had an unintended negative effect. It lessened the significance of the swearing-in ceremony. It also effectively stripped the judges of their historic role of administering the oath of allegiance.

Clearly, the Immigration Act went too far in its attempt to address a very real problem: Too many people to be sworn in, and too few judges and ceremonies.

S. 1726, and H.R. 3049 attempted to achieve a balance of interests, and I believe the legislation enacted today has achieved that balance. The legislation provides a temporary exclusive authority for the judges, while also allowing for Immigration and Naturalization Service officials to conduct ceremonies in a number of situations.

Mr. President, the oath of allegiance culminates a multi-year process by which an immigrant seeking a new and better life is fully incorporated into the American citizenry. It is their idealism, their desire to fully contribute to the American dream, that continue to enrich our country.

H.R. 3049, as did my companion legislation, S. 1726, balanced the historic importance of a judicial ceremony with the realities of an overburdened system. I applaud the Senate for acting so swiftly on it, and I thank my distinguished colleagues, Senators BIDEN, KENNEDY, SIMPSON, and SIMON, for their leadership in shepherding this legislation through the Judiciary Committee to the Senate Floor.

I thank my colleagues.

The PRESIDING OFFICER. Without objection, the bill is considered read for the third time and passed.

So, the bill (H.R. 3049), as amended, was passed.

The title was amended.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 1776—INDEFINITELY POSTPONED

Mr. REID. I ask unanimous consent that Calendar No. 339, S. 1776, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGES IN THE COMPOSITION OF THE EASTERN AND WESTERN DISTRICTS OF VIRGINIA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 829, regarding changes in the composition of the eastern and western districts of Virginia, just received from the House; that the bill be deemed read three times, passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the bill (H.R. 829) was deemed read the third time and passed.

MYRTLE FOESTER WHITMIRE DIVISION OF THE ARKANSAS NATIONAL WILDLIFE REFUGE

Mr. REID. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 2105, designating the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge," and that the Senate then proceed to its immediate consideration, that the bill be deemed read a third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2105) was deemed read the third time and passed.

Mr. BENTSEN. Mr. President, this bill designates a section of the Arkansas National Wildlife Refuge as the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge" when the area is acquired by the U.S. Fish and Wildlife Service. This designation honors a family that has recognized the significance of their land and the value it has for Texas and the Nation. The approximately 5,000 acres of vital wetland habitat known as Rancho la Bahia has been in Myrtle Foester Whitmire's family for over 100 years. With the generous cooperation of the Whitmire family, this area will be preserved for the wildlife of the area and for the enjoyment of generations to come.

The area represents some of the finest remaining wetlands on the Texas midcoast. The wetland types occurring in the area have been identified in the national wetlands priority conservation plan as being rare in occurance and that this acquisition will ensure preservation of high quality waterfowl habitat.

The Whitmire family should be commended on their desire to preserve this land. I am encouraged to know that local support is high for naming the area after Mrs. Whitmire and that her name would bring about a positive response from the general public. The Arkansas National Wildlife Refuge is a part of preserving a significant area of the Texas coast.

APPOINTMENT OF ROBERT CURRY AS ADMINISTRATOR OF THE FAA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2098, a bill to provide for the appointment of Robert Curry as Administrator of the FAA, introduced earlier today by Senator FORD, that the bill be deemed read three times and passed and the motion to reconsider be laid upon the table; that any statements appear at an appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2098) deemed to have been read the third time and passed is as follows:

S. 2098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration. Major General Curry's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Army, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Major General Curry shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Army, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United

States Army, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Major General Curry shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Army.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

Mr. FORD. Mr. President, I am introducing legislation which would enable the appointment, notwithstanding that provision of current law, of Jerry R. Curry to the poisition of FAA Administrator without affecting the status, rank, and grade which he holds on the retired list of the U.S. Army. During the time in which he serves as Administrator, Mr. Curry will not receive any of his retired pay.

This legislation is necessary because the FAA statute requires that the Administrator be a civilian. This waiver applies only to Mr. Curry, and not to any future administrators, unless another waiver is passed for them.

I ask my colleagues to act promptly on this legislation, so that it may be sent to the House, and we may be prepared to confirm Mr. Curry soon.

ORDER TO PRINT HEARING RECORD OF POW-MIA INVESTIGATION POLICY AND PROCESS

Mr. REID. Mr. President, on behalf of Senator KERREY, the chairman of the Select Committee on POW-MIA Affairs, I ask unanimous consent to print the hearing record, POW-MIA Investigation Policy and Process, from November 5, 6, 7, and 15, 1991, during adjournment, and the printing of additional copies for a total of 2,000 copies.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABANDONED INFANTS ASSISTANCE ACT AMENDMENTS

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1532.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1532) entitled "An Act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Infants Assistance Act Amendments of 1991".

SEC. 2. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in paragraph (3), by striking "the vast majority" and inserting "an unacceptable number";

(2) in paragraph (6), by striking "the number of cases" and all that follows and inserting the following: "the number of infants and young children who are infected with the human immunodeficiency virus (which is believed to cause acquired immune deficiency syndrome and which is commonly known as HIV) or who have been perinatally exposed to the virus or to a dangerous drug;";

(3) in paragraph (7)—

(A) by striking "more than 80 percent of" and inserting "many such" before "infants"; and

(B) by striking "with acquired immune deficiency syndrome";

(4) in paragraph (8)—

(A) by inserting "such" before "infants"; and

(B) by striking "with acquired immune deficiency syndrome" and

(5)(A) in paragraph (9), by striking "and" at the end;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) by inserting after paragraph (9) the following new paragraph:

"(10) there is a need to support the families of such infants and young children through the provision of services that will prevent the abandonment of the infants and children; and".

SEC. 3. PROGRAM OF DEMONSTRATION PROJECTS REGARDING INFANTS AND YOUNG CHILDREN ABANDONED IN HOSPITALS.

(a) PRIORITY REGARDING CERTAIN INFANTS AND YOUNG CHILDREN.—

(1) IN GENERAL.—Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(A) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in carrying out the purpose described in subsection (a) (other than with respect to paragraph (6) of such subsection), the applicant will give priority to abandoned infants and young children—

"(1) who are infected with the human immunodeficiency virus or who have been perinatally exposed to the virus; or

"(2) who have been perinatally exposed to a dangerous drug.".

(2) CONFORMING AMENDMENTS.—Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(A) in subsection (a)—

(i) paragraph (6), by striking "with acquired immune deficiency syndrome" and inserting "described in subsection (b)";

(ii) in each of paragraphs (2), (4), (5), and (7), by striking ", particularly those with acquired immune deficiency syndrome"; and

(iii) in paragraph (3), by striking ", particularly those with acquired immune deficiency syndrome;"; and

(B) in subsection (d)(1) (as redesignated by paragraph (1)(A) of this subsection), by striking "(d)" and inserting "(e)".

(b) COMPREHENSIVE SERVICE CENTERS.—Section 101(a) of the Abandoned Infants Assistance Act of 1988, as amended by subsection (a) of this section, is amended—

(1) in paragraph (6), by striking "and" after the semicolon at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to prevent the abandonment of infants and young children, and to care for the infants and young children who have been abandoned, through model programs providing health, educational, and social services at a single site in a geographical area in which a significant number of infants and young children described in subsection (b) reside (with special consideration given to applications from entities that will provide the services of the project through community-based organizations).".

(c) OTHER REVISIONS REGARDING PURPOSE OF GRANTS.—Section 101(a) of the Abandoned Infants Assistance Act of 1988, as amended by subsections (a) and (b) of this section, is amended—

(1) in paragraph (1), by inserting before the semicolon the following: ", including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child"; and

(2) in paragraph (5), by inserting before the semicolon the following: "who are unable to reside with their families or to be placed in foster care".

(d) ADMINISTRATION OF GRANT.—Section 101(d) of the Abandoned Infants Assistance Act of 1988, as redesignated and amended by subsection (a) of this section, is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) in the matter preceding subparagraph (A) (as so redesignated), by striking "(d) ADMINISTRATION" and all that follows through "The Secretary" and inserting the following:

"(d) ADMINISTRATION OF GRANT.—

"(1) The Secretary";

(3) by moving each of subparagraphs (A) through (D) (as so redesignated) 2 ems to the right; and

(4) by adding at the end the following new paragraph:

"(2) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a grant under subsection (a) shall be for a period of 3 years, except that the Secretary—

"(A) may terminate the grant if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the grant; and

"(B) shall continue the grant for one additional year if the Secretary determines that the entity has satisfactorily complied with such agreements.".

SEC. 4. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—

"(1)(A) The Secretary may enter into contracts or cooperative agreements with public or nonprofit private entities for the development and operation of model projects to disseminate the information described in subparagraph (B) to individuals who are disproportionately at risk of dysfunctional behaviors that lead to the abandonment of infants or young children.

"(B) The information referred to in subparagraph (A) is information on the availability to individuals described in such subparagraph, and the families of the individuals, of financial assistance and services under Federal, State, local, and private programs providing health services, mental health services, educational services, housing services, social services, or other appropriate services.

"(2) The Secretary may not provide a contract or cooperative agreement under paragraph (1) to an entity unless—

"(A) the entity has demonstrated expertise in the functions with respect to which such financial assistance is to be provided; and

"(B) the entity agrees that in disseminating information on programs described in such paragraph, the entity will give priority—

"(i) to providing the information to individuals described in such paragraph who—

"(I) engage in the abuse of alcohol or drugs, who are infected with the human immunodeficiency virus, or who have limited proficiency in speaking the English language; or

"(II) have been historically underserved in the provision of the information; and

"(ii) to providing information on programs that are operated in the geographic area in which the individuals involved reside and that will assist in eliminating or reducing the extent of behaviors described in such paragraph.

"(3) In providing contracts and cooperative agreements under paragraph (1), the Secretary may not provide more than 1 such contract or agreement with respect to any geographic area.

"(4) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a contract or cooperative agreement under paragraph (1) shall be for a period of 3 years, except that the Secretary may terminate such financial assistance if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the assistance.".

(b) STUDY.—Section 102(c) of the Abandoned Infants Assistance Act of 1988, as amended by subsection (a) of this subsection, is amended—

(1) in paragraph (1)(A), by striking "infants who have acquired immune deficiency syndrome" and inserting "infants and young children who are infants and young children described in section 101(b)"; and

(2) in paragraph (2), by striking "The Secretary and all that follows through "Act," and inserting the following: "Not later than April 1, 1992, the Secretary shall".

SEC. 5. DEFINITIONS.

Section 103 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"SEC. 103. DEFINITIONS.

"For purposes of this title:

"(1) The terms 'abandoned' and 'abandonment', with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

"(2) The term 'dangerous drug' means a controlled substance, as defined in section 102 of the Controlled Substances Act.

"(3) The term 'natural family' shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation with respect to infants and young children covered under this Act.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "For the purpose" and all that follows and inserting the following:

"(a) IN GENERAL.—

"(1) For the purpose of carrying out this title (other than section 102(b)), there are authorized to be appropriated $20,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, $30,000,000 for fiscal year 1994, and $35,000,000 for fiscal year 1995.

"(2)(A) Of the amounts appropriated under paragraph (1) for any fiscal year in excess of the amount appropriated under this subsection for fiscal year 1991, as adjusted in accordance with subparagraph (B), the Secretary shall make available not less than 50 percent for grants under section 101(a) to carry out projects described in paragraph (8) of such section.

"(B) For purposes of subparagraph (A), the amount relating to fiscal year 1991 shall be adjusted for a fiscal year to a greater amount to the extent necessary to reflect the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.

"(3) Not more than 5 percent of the amounts appropriate under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).

"(b) DISSEMINATION OF INFORMATION FOR INDIVIDUALS WITH SPECIAL NEEDS.—For the purpose of carrying out section 102(b), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1995.

"(c) ADMINISTRATIVE EXPENSES.—

"(1) For the purpose of the administration of this title by the Secretary, there is authorized to be appropriated for each fiscal year specified in subsection (a)(1) an amount equal to 5 percent of the amount authorized in such subsection to be appropriated for the fiscal year. With respect to the amounts appropriated under such subsection, the preceding sentence may not be construed to prohibit the expenditure of the amounts for the purpose described in such sentence.

"(2) The Secretary may not obligate any of the amounts appropriated under paragraph (1) for a fiscal year unless, from the amounts appropriated under subsection (a)(1) for the fiscal year, the Secretary has obligated for the purpose described in such paragraph an amount equal to the amounts obligated by the Secretary for such purpose in fiscal year 1991.

"(d) AVAILABILITY OF FUNDS.—Amounts appropriated under this section shall remain available until expended.".

SEC. 7. CONFORMING AMENDMENT.

The heading for title I of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"TITLE I—PROJECTS REGARDING ABANDONMENT OF INFANTS AND YOUNG CHILDREN IN HOSPITALS".

SEC. 8. TERMINATION OF PROGRAM.

Section 105 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is repealed.

Amend the title so as to read: "An Act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988.".

Mr. LEVIN. Mr. President, it is my understanding that this amendment has been agreed to by the floor managers. This amendment was originally offered as part of the Older Americans Act earlier this month. It was agreed to on a voice vote.

It is further my understanding that it is now uncertain that the conference on the Older Americans Act will be completed prior to recess. So, I am offering this amendment to the current vehicle.

The purpose of this amendment is to make clear that the Older Workers Benefit Protection Act applies equally in terms of effective dates to collective bargaining agreements which have been negotiated between the United Automobile Workers and General Motors, Ford, and Chrysler. This amendment makes clear that the delay in the effective date in the Older Workers Benefit Protection Act which applies to the General Motors and Ford contracts also applies to the contract negotiated between the UAW and Chrysler during that 1990 timeframe.

AMENDMENT NO. 1449

Purpose: To make uniform the effective date for compliance with the Older Workers Benefit Protection Act

Mr. REID. I move that the Senate concur in the House amendments with an amendment on behalf of Senators LEVIN and KASTEN which I now send to the desk.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEVIN (for himself and Mr. KASTEN) proposes an amendment numbered 1449. In the appropriate place in the bill insert the following new section:

"SEC. . Amend Section 105 of the Older Workers Benefit Protection Act (PL 101-433) by striking the semicolon at the end of paragraph (b)(1) and inserting thereafter the following:"

"'; or that is a result of pattern collective bargaining in an industry where the agreement setting the pattern was ratified after September 20, 1990, but prior to the date of enactment, and the final agreement in the industry adhering to the pattern was ratified after the date of enactment, but not later than November 20, 1990;'"

The PRESIDING OFFICER. Without objection the motion is agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3029.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3029) entitled "An Act to make technical corrections to agricultural laws", with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food, Agriculture, Conservation, and Trade Act Amendments of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

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TITLE I—AGRICULTURAL COMMODITY PROGRAMS

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 102. CONSERVING USE ACRES.

(a) Rice.—Section 101B(c)(1)(E) (7 U.S.C. 1441–2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) Alternative crops.—The Secretary" and inserting the following:

"(E) Alternative crops.—

"(i) Industrial and other crops.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(ii) Sesame and crambe.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.".

(b) Cotton.—Section 103B(c)(1)(E) (7 U.S.C. 1444–2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) Alternative crops.—The Secretary" and inserting the following:

"(E) Alternative crops.—

"(i) Industrial and other crops.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(ii) Sesame and crambe.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.".

(c) Feed Grains.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

(d) Wheat.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

SEC. 103. DOUBLE CROPPING OF 0/92 ACRES.

(a) Feed Grains.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended by adding at the end the following new clause:

"(iii) Double cropping.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

(b) Wheat.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended by adding at the end the following new clause:

"(iii) Double cropping.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

SEC. 104. ANNOUNCEMENT OF ACREAGE REDUCTION PROGRAMS FOR RICE.

Section 101B(e)(1) (7 U.S.C. 1441–2(e)(1)) is amended by striking subparagraph (C) and inserting the following new subparagraph:

"(C) Announcements.—

"(i) Preliminary announcement.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than December 1 of the calendar year preceding the year in which the crop is harvested (or, for the 1992 crop, as soon as practicable after the date of enactment of this subparagraph). The preliminary announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

"(ii) Final announcement.—Not later than January 31 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop described in paragraph (2)(A).".

SEC. 105. CORN AND SORGHUM BASES.

Section 105B(e)(2) (7 U.S.C. 1444f(c)(2)) is amended by adding at the end the following new subparagraph:

"(H) Corn and sorghum bases.—Notwithstanding any other provision of this Act, with respect to each of the 1992 through 1995 crops of corn and grain sorghums—

"(i) the Secretary shall combine the permitted acreages established under subparagraph (D) for a farm for a crop year for corn and grain sorghums;

"(ii) for each crop year, the sum of the acreage planted and considered planted to corn and grain sorghum, as determined by the Secretary under this section and title V, shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year; and

"(iii) for each crop year, the sum of the corn and grain sorghum payment acres, as determined under subsection (c), shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn or grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum established for each crop year.".

SEC. 106. COVER CROPS ON REDUCED ACREAGE.

(a) Rice.—Clause (i) of section 101B(e)(4)(B) (7 U.S.C. 1441–2(e)(4)(B)(i)) is amended to read as follows:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(b) COTTON.—Clause (i) of section 103B(e)(4)(B) (7 U.S.C. 1444-2(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(c) FEED GRAINS.—Clause (i) of section 105B(e)(4)(B) (7 U.S.C. 1444f(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(d) WHEAT.—Clause (i) of section 107B(e)(4)(B) (7 U.S.C. 1445b-3a(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

SEC. 107. COTTON USER MARKETING CERTIFICATES.

(a) ISSUANCE.—Section 103B(a)(5)(E) (7 U.S.C. 1444-2(a)(5)(E)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) ISSUANCE.—Subject to clause (iv), during the period beginning August 1, 1991, and ending July 31, 1996, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

"(I) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), established under subparagraph (C), does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary.";

(2) in clause (ii), by striking "marketing certificates" and inserting "marketing certificates or cash payments"; and

(3) by adding at the end the following new clause:

"(iv) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under clause (i) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subparagraph, exceeds the Northern Europe price by more than 1.25 cents per pound.".

(b) PREVAILING WORLD MARKET PRICE.—Section 103B(a)(5)(C)(ii) (7 U.S.C. 1444-2(a)(5)(C)(ii)) is amended by striking "and (B)" and inserting ", (B), and (E)".

SEC. 108. MALTING BARLEY.

Section 105B (7 U.S.C. 1444f) is amended—

(1) in subsection (e)(2)(G), by adding at the end the following new sentence: "The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation

under this paragraph and shall announce such determination in the Federal Register."; and

(2) by striking subsection (p) and inserting the following new subsection:

"(p) MALTING BARLEY.—

"(1) ASSESSMENT REQUIRED.—In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on any producer of malting barley produced on a farm that is enrolled for the crop year in the production adjustment program under this section. The Secretary shall establish such assessment at not more than 5 percent of the value of the malting barley produced on program payment acres on the farm during each of the 1991 through 1995 crop years. The production per acre on which the assessment is based shall not be greater than the farm program payment yield.

"(2) VALUE OF MALTING BARLEY.—The Secretary may establish the value of such malting barley at the lesser of the State or national weighted average market price received by producers of malting barley for the first 5 months of the marketing year. In calculating the State or national weighted average market price, the Secretary may exclude the value of malting barley that is contracted for sale by producers prior to planting.

"(3) EXCEPTION TO ASSESSMENT.—In counties where malting barley is produced, participating barley producers may certify to the Secretary prior to computation of final deficiency payments that part or all of the producer's production was (or will be) sold or used for nonmalting purposes. The portion certified as sold or used for nonmalting purposes shall not be subject to the assessment. The Secretary may require producers to provide to the Secretary such documentation as the Secretary considers appropriate to carry out this paragraph.".

SEC. 109. DEFICIENCY PAYMENTS FOR WHEAT, BARLEY, AND OATS.

Section 114(c) (7 U.S.C. 1445j(c)) is amended—

(1) in the material preceding the paragraphs, by striking "sections" and inserting "section";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by striking paragraph (2) and inserting the following new paragraphs:

"(2) With respect to feed grains (excluding barley and oats), 75 percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

"(3) With respect to wheat, barley, and oats, the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year. Such projected payment shall be based on the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel with respect to wheat or 7 cents per bushel with respect to barley and oats.".

SEC. 110. MINOR OILSEED LOAN RATES.

Section 205(c) (7 U.S.C. 1446f(c)) is amended—

(1) in paragraph (2), by striking "flaxseed" and inserting "flaxseed, individually,";

(2) in paragraph (3), by striking "that, in the case of cottonseed, in no event less" and inserting "in no event shall the level for such oilseeds (other than cottonseed) be less"; and

(3) by adding after and below paragraph (3) the following new sentence:

"To ensure that producers have an equitable opportunity to produce an alternative crop in areas of limited crop options, the Secretary may limit, insofar as practicable, adjustments in the loan rate established under paragraph (2) applicable to a particular region, State, or county for the purpose of reflecting transportation differentials such that the regional, State, or county loan rate does not increase or decrease by more than 9 percent from the basic national loan rate.".

SEC. 111. SUGAR.

(a) SUGAR PRICE SUPPORT AND MARKETING ASSESSMENTS.—Section 206 (7 U.S.C. 1446g) is amended—

(1) in subsection (e), by striking "announce the loan rate" and inserting "announce the basic loan rates for beet sugar and cane sugar";

(2) in subsection (f), by striking "Loans" and inserting "Except as provided in subsection (g), loans";

(3) by striking subsection (g) and inserting the following new subsection:

"(g) SUPPLEMENTARY NONRECOURSE LOANS.—The Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in 9 months less the quantity of time that the first loan was in effect."; and

(4) in subsection (i)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) SUGARCANE.—Effective only for marketings of raw cane sugar during the 1992 through 1996 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(2) SUGAR BEETS.—Effective only for marketings of beet sugar during the 1992 through 1996 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

"(3) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable."; and

(B) in paragraph (4), by striking "collect or remit the reduction" and inserting "remit the assessment".

(b) SECURITY INTERESTS.—Subsection (b) of section 405 (7 U.S.C. 1425) is amended to read as follows:

"(b) SUGARCANE AND SUGAR BEETS.—The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 401(e)(2).".

(c) SUGAR INFORMATION REPORTING.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) DUTY OF PROCESSORS, REFINERS AND MANUFACTURERS TO REPORT.—

"(1) PROCESSORS AND REFINERS.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) MANUFACTURERS OF CRYSTALLINE FRUCTOSE.—All manufacturers of crystalline fructose from corn (hereafter in this part referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) DUTY OF PRODUCERS TO REPORT.—The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively."; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking "data on imports," and inserting "data on production, imports,"; and

(B) by inserting "composite data on distributions of" after "sugar and".

(d) MARKETING ALLOTMENTS FOR SUGAR AND CRYSTALLINE FRUCTOSE.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) SUGAR ESTIMATES.—

"(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

"(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

"(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

"(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

"(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

"(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) SUGAR ALLOTMENTS.—

"(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C), that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 359c for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

"(2) PRODUCTS.—The Secretary may include sugar products, whose majority content is sucrose or crystalline fructose for human consumption, derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part."; and

(3) in subsection (d)(4), by inserting after "the United States" the following: "(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)".

(e) ESTABLISHMENT OF MARKETING ALLOTMENTS.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in subsection (b)(1)—

(A) by striking "from the estimated sugar consumption" and inserting "from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)"; and

(B) in subparagraph (A), by striking "(representing minimum imports of sugar for consumption in the United States during the fiscal year)";

(2) in subsection (b)(2), by striking "prevent the accumulation of sugar acquired by" and inserting "avoid the forfeiture of sugar to";

(3) in subsection (f)—

(A) in the subsection heading, by striking "SUGARCANE ALLOTMENT" and inserting "CANE SUGAR ALLOTMENTS"; and

(B) by striking "allotted among the 5 States in the United States in which sugarcane is produced" and inserting "allotted, among the 5 States in the United States in which sugarcane is produced,";

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(2)—

"(A) adjust upward or downward marketing allotments established under subsections (a) through (f) in a fair and equitable manner;

"(B) establish marketing allotments for the fiscal year or any portion of such fiscal year; or

"(C) suspend the allotments,

as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.".

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) REDUCTIONS.—Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g), for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed."; and

(5) by striking subsection (h) and inserting the following new subsection:

"(h) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.".

(f) ALLOCATION OF MARKETING ALLOTMENTS.—Section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) is amended—

(1) in subsection (a)(2) by striking "after such hearing" both places it appears and inserting "after a hearing, if requested by interested parties,"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) FILLING CANE SUGAR ALLOTMENTS.—Except as otherwise provided in section 359e, a State cane sugar allotment established under section 359c(f) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.".

(g) REASSIGNMENTS OF DEFICITS.—Section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee) is amended to read as follows:

"SEC. 359e. REASSIGNMENT OF DEFICITS.

"(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

"(b) REASSIGNMENT OF DEFICITS.—

"(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

"(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors; and

"(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.".

(h) PROVISIONS APPLICABLE TO PRODUCERS.—Section 359f(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)) is amended—

(1) in paragraph (1)(A), by striking "250 producers in such State" and inserting "250 sugarcane producers in the State (other than Puerto Rico)";

(2) in paragraph (2), by striking "establish proportionate shares for the crop of sugarcane that is harvested during" and inserting "establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during"; and

(3) by striking paragraphs (3), (4), and (5) and inserting the following new paragraphs:

"(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

"(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

"(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

"(C) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

"(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

"(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

"(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

"(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

"(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

"(5) VIOLATION.—

"(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).".

(i) SPECIAL RULES.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

"(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share."; and

(2) in subsection (c)—

(A) by striking "hearing and"; and

(B) by inserting "required to be" after "proportionate share was".

(j) REGULATIONS.—Subsection (a) of section 359h of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359hh(a)) is amended to read as follows:

"(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part."; and

(k) APPEALS.—Paragraph (2) of section 359i(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii(b)(2)) is amended to read as follows:

"(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.".

SEC. 112. CROP ACREAGE BASE.

(a) ACREAGE CONSIDERED PLANTED.—Section 503(c) (7 U.S.C. 1463(c)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8) respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) acreage in an amount not to exceed 20 percent of the crop acreage base for a crop of feed grains or wheat if—

"(A) the acreage is planted to dry peas, (limited to Austrian peas, wrinkled, seed, green, yellow, and umatilla) and lentils; and

"(B) payments are not received by producers under sections 105B(c)(1)(E) and 107B(c)(1)(E), as the case may be;".

(b) ADJUSTMENT OF BASES.—Section 503(h) (7 U.S.C. 1463(h)) is amended—

(1) by striking "BASES.—The county" and inserting the following: "BASES.—

"(1) IN GENERAL.—The county"; and

(2) by adding at the end the following new paragraph:

"(2) RESTORATION OF CROP ACREAGE BASE.—

"(A) IN GENERAL.—For the 1992 through 1995 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2), above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

"(B) ELIGIBLE PRODUCER DEFINED.—For the purposes of this paragraph, the term 'eligible producer' means a producer of upland cotton or rice who, the appropriate county committee determines—

"(i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and

"(ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

"(C) REGULATIONS.—The Secretary shall issue regulations to carry out this paragraph.".

(c) PLANTING FLEXIBILITY.—Section 504(b)(1) (7 U.S.C. 1464(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) mung beans.".

SEC. 113. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is further amended—

(1) in section 101B(c)(1)(B) (7 U.S.C. 1441-2(c)(1)(B)), by redesignating the second clause (ii) as clause (iii);

(2) in section 103B(a) (7 U.S.C. 1444-2(a))—

(A) in paragraph (1)(B), by striking "upland cotton," and inserting "upland cotton),"; and

(B) in paragraph (3), by striking "the date of enactment of this Act" and inserting "November 28, 1990";

(3) in section 103B(n)(1)(D) (7 U.S.C. 1444-2(n)(1)(D)), by striking "effective date of the proclamation" and inserting "date the special quota is established by the Secretary";

(4) in section 105B(c)(1)(B)(iii)(IV)(bb) (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) by striking "(bb) BARLEY CALCULATIONS.—" and inserting "(bb) BARLEY CALCULATIONS.—";

(5) in section 105B(g) (7 U.S.C. 1444f(g))—

(A) in paragraph (1), by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in paragraph (6)(E), by striking "is" both places it appears and inserting "are";

(6) in section 107B(g)(1) (7 U.S.C. 1445b-3a(g)(1)), by striking "subsection (d)" and inserting "subsection (e)";

(7) in section 110 (7 U.S.C. 1445e)—

(A) in subsection (n), by striking "the date of enactment of this section" and inserting "November 28, 1990";

(B) by redesignating subsection (o) as subsection (p) and transferring such subsection to the end of the section; and

(C) in the second subsection (k)—

(i) by redesignating such subsection as subsection (o);

(ii) by striking "(o) In" and inserting "(o) REVIEW.—In"; and

(iii) by striking "subsection (e)(1)" and inserting "this section";

(8) in section 201 (7 U.S.C. 1446), by redesignating subsection (b) (as amended by section 1161(b)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3521)) as subsection (c);

(9) in section 202 (7 U.S.C. 1446a)—

(A) by striking "Administrator of Veterans' Affairs" each place it appears and inserting "Secretary of Veterans Affairs"; and

(B) by striking "Administrator" each place it appears and inserting "Secretary of Veterans Affairs";

(10) in section 204(h)(3) (7 U.S.C. 1446e(h)(3)), by adding at the end the following new sentence: "A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).";

(11) in section 406(b)(4) (7 U.S.C. 1426(b)(4)), by striking "the date of enactment of this subsection" and inserting "November 28, 1990,"; and

(12) in section 426 (7 U.S.C. 1433e)—

(A) in subsection (c)—

(i) by striking "division" in paragraphs (1) and (6) and inserting "Division"; and

(ii) by striking "subsection (e)" in paragraph (7) and inserting "subsection (f)";

(B) in subsection (f), by striking "county or State" and inserting "State or county";

(C) in subsection (g), by striking "County Committees" and inserting "county committees"; and

(D) in subsection (h), by striking "section 8(e)" and inserting "section 8(b)".

SEC. 114. MISCELLANEOUS AMENDMENTS RELATING TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) IN GENERAL.—The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359) is amended—

(1) in section 1124 (7 U.S.C. 1445e note; 104 Stat. 3506), by striking "warehouse" both places it appears and inserting "warehousemen";

(2) in section 1156 (7 U.S.C. 1421 note), by striking subsection (b) and inserting the following new subsection:

"(b) FUNDS.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Secretary, in the sole discretion of the Secretary, determines in advance that such funds shall be used for this purpose.";

(3) in section 1353 (7 U.S.C. 1622 note; 104 Stat. 3567), by striking "et seq" and inserting "et seq.";

(4) in section 2241 (7 U.S.C. 1421 note; 104 Stat. 3963)—

(A) in subsection (a)(4)(A), by inserting "extra long staple cotton," after "upland cotton," each place it appears;

(B) in subsection (b)(1), by inserting "extra long staple cotton," after "upland cotton,"; and

(C) in subsection (b)(4), by inserting "extra long staple cotton," after "upland cotton,";

(5) in section 2243(b)(2)(A) (7 U.S.C. 1421 note; 104 Stat. 3966), by striking "to harvest" and inserting "for harvest";

(6) in section 2249 (7 U.S.C. 1421 note; 104 Stat. 3972), by striking "chapter" and inserting "subchapter" each place it appears;

(7) in section 2250(b)(1) (7 U.S.C. 1421 note; 104 Stat. 3973), by striking "cotton" and inserting "upland cotton, extra long staple cotton";

(8) in section 2257 (7 U.S.C. 1421 note; 104 Stat. 3974), by striking "chapter" and inserting "subchapter" each place it appears;

(9) in section 2258 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(10) in section 2259 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(11) in section 2263 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter" each place it appears;

(12) in section 2265 (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "chapter" and inserting "subchapter";

(13) in section 2266(a) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter";

(14) in section 2267 (7 U.S.C. 1421 note; 104 Stat. 3976)—

(A) in subsection (a), by striking "subchapter" and inserting "chapter" each place it appears; and

(B) in subsection (b), by striking "chapter 1" and inserting "this chapter";

(15) in section 2268(b) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter"; and

(16) in section 2271 (7 U.S.C. 1421 note; 104 Stat. 3977), by striking "payment of" and inserting "payments or".

(b) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

(1) IN GENERAL.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(A) by redesignating subsection (q) as subsection (r); and

(B) by inserting after subsection (p) the following new subsection:

"(q) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

"(1) RECOURSE LOANS.—Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary (through the Commodity Credit Corporation) shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

"(A) normally harvest all or a portion of their crop of feed grains in a high moisture state, hereinafter in this subsection defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a);

"(B)(i) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

"(ii) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

"(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such high-moisture feed grain;

"(D) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

"(E) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

"(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—The loans shall be made on a quantity of feed grains of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

"(A) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

"(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such high moisture feed grain was obtained.".

(2) CONFORMING AMENDMENT.—Section 404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444f–1) is repealed.

SEC. 115. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in section 8b(b)(2) (7 U.S.C. 608b(b)(2)), by striking "(7 U.S.C. 1445c–2)" and inserting "(7 U.S.C. 1445c–3)"; and

(2) in section 8c(5)(B)(ii) (7 U.S.C. 608c(5)(B)(ii)), is amended by striking "and," before clause (f) and inserting ", and".

SEC. 116. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938.

The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(1) in section 319(1) (7 U.S.C. 1314e(1))—

(A) by inserting "in a State" after "one farm";

(B) by striking "of Tennessee"; and

(C) by adding at the end the following new sentence: "This subsection shall apply only to the States of Tennessee and Virginia.";

(2) in section 374(a) (7 U.S.C. 1374(a))—

(A) by inserting after "30 inch rows" the following: "(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)"; and

(B) by adding at the end the following new sentence: "For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops."; and

(3) in section 379(a) (7 U.S.C. 1379(a))—

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; or";

(C) by striking "; or" at the end of paragraph (6) and inserting a period; and

(D) by redesignating paragraph (7) as subsection (c), moving such subsection to appear after subsection (b), and conforming the left margin of such subsection to subsection (b).

SEC. 117. SECTION REDESIGNATION.

(a) SECTION REDESIGNATION.—Sections 359 and 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359 and 1359a) are redesignated as sections 358d and 358e, respectively.

(b) CONFORMING AMENDMENTS AS RESULT OF REDESIGNATIONS.—

(1) PRICE SUPPORT PROGRAM.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(A) in section 108A(3)(A) (7 U.S.C. 1445c–2(3)(A)), by striking "section 359" each place it appears and inserting "section 358d"; and

(B) in section 108B(c)(1) (7 U.S.C. 1445c–3(c)(1)), by striking "sections 359 and 359a" each place it appears and inserting "sections 358d and 358e".

(2) MARKETING QUOTAS.—The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(A) in section 358(v)(3) (7 U.S.C. 1358(v)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(B) in section 358–1(e)(3) (7 U.S.C. 1358–1(e)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(C) in section 358d (7 U.S.C. 1359), as redesignated by subsection (a)—

(i) by striking "section 359(a)" in subsection (b) and inserting "subsection (a)"; and

(ii) by striking "section 108B" each place it appears in subsections (m)(1)(C), (p)(1), and (r)(2)(A) and inserting "section 108A"; and

(D) in section 358e(b)(1) (7 U.S.C. 1359a(b)(1)), as redesignated by subsection (a), by striking "section 359(c)" and inserting "section 358d(c)".

SEC. 118. OTHER MISCELLANEOUS COMMODITY AMENDMENTS.

(a) MISSING LANGUAGE.—Section 5(i)(3) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking "(42 U.S.C. 1396d(5)))" and inserting "(42 U.S.C. 1396d(5))))".

(b) MISSING LANGUAGE.—Section 1001(2)(B)(iv) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)(iv)) is amended by inserting "section" before "107B(c)(1)".

(c) EXTRA LANGUAGE.—Section 1001A(a)(2) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)(2)) is amended by striking "0 to".

(d) AMENDMENT TO FOOD AND AGRICULTURE ACT OF 1962.—Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is amended by adding at the end the following sentences: "The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.".

(e) AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Section 102(b)(1)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e–1(b)(1)(B)) is amended by striking "Commodity Credit Corporation" and inserting "Secretary".

(f) CLARIFICATION OF AMENDMENT.—Section 704 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "**SEC.**" and all that follows through "If payments" in the first sentence of subsection (a) and inserting the following:

"SEC. 704. PAYMENT AS MEANS OF PRICE SUPPORT.

"(a) USE OF PAYMENTS.—If payments".

SEC. 119. SENSE OF CONGRESS REGARDING IMPORTED BARLEY AND OATS.

(a) FINDINGS.—Congress finds that—

(1) significant quantities of barley and oats are currently being imported into the United States from Norway, Sweden, and Finland origins, and there is reason to believe that such imports will continue in the future;

(2) such imported barley and oats are being purchased at a price artificially established at a level significantly below that of domestically produced barley and oats due to unfair and predatory export subsidies and schemes employed by the exporting countries of origin; and

(3) it is likely that the continued importation of such quantities of subsidized barley and oats will significantly and adversely affect producers of domestic barley and oats and impair the operations of existing farm commodity programs for barley and oats in the United States.

(b) SENSE OF CONGRESS.—Based on these findings, it is the sense of Congress that the Secretary of Agriculture and the President of the United States should immediately and aggressively employ all available options under existing laws, including those under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to prevent material damage to the producers of domestic barley and oats and to prevent material interference with the programs established pursuant to section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f).

SEC. 120. COTTON CLASSING FEES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended to read as follows: "Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.".

(b) FEES.—The first proviso in the second sentence of section 3a of such Act is amended—

(1) by striking clauses (1) and (2) and inserting the following new clauses: "(1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales;"; and

(2) by striking clause (7) and inserting the following new clause: "(7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies.".

(c) CLARIFICATION OF SERVICES.—The third sentence of section 3a of such Act is amended to read as follows: "Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence.".

(d) REPEAL OF STUDY ON PROCESSING CERTAIN COTTON GRADES.—Section 3 of the Uniform Cotton Classing Fees Act of 1987 (7 U.S.C. 473a note) is repealed.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (c), and the amendments by subsections (a), (b), and (c), shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 1996.

SEC. 121. SENSE OF CONGRESS REGARDING TARGETED OPTION PAYMENTS.

(a) FINDINGS.—Congress finds that—

(1) thousands of agricultural producers are facing extremely difficult economic times and low commodity prices;

(2) the conditions on each farm are unique and require a unique plan to meet the income, conservation, and soil and weather conditions of the farm; and

(3) agricultural producers need the maximum possible flexibility to tailor the agricultural price support and production adjustment program to their farms' individual needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should offer targeted option payments for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice as authorized by sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(e)(3), 1444f(e)(3), 1444–2(e)(3), and 1441–2(e)(3)), respectively.

SEC. 122. TRANSFER OF PEANUT QUOTA UNDERMARKETINGS.

Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(including any applicable undermarketings)" after "any part of the poundage quota"; and

(B) by inserting "(including any applicable undermarketings)" after "any such lease of poundage quota";

(2) in the first sentence of paragraph (2), by striking "for the farm" and inserting "(including any applicable undermarketings)"; and

(3) in paragraph (3), by inserting after "farm poundage quota" the following: "(including any applicable undermarketings)".

SEC. 123. COTTON FUTURES CONTRACTS.

Subsection (c)(1) of the United States Cotton Futures Act (7 U.S.C. 15b(c)(1)) is amended by inserting before the period at the end the following: ", except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and Act".

SEC. 124. LAMB PRICE AND SUPPLY REPORTING SERVICES REPORT AND SYSTEM.

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry. In preparing the report, the Secretary shall examine measures to improve information on—

(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

(A) California (including San Francisco);

(B) the East Coast region (including Washington, D.C.);

(C) the Midwest region (including Chicago, Illinois);

(D) Texas;

(E) the Rocky Mountain region; and

(F) Florida;

(2) sheep and lamb inventories, including on-feed reports;

(3) the price and supply relationships between retailers and breakers;

(4) the viability of voluntary or mandatory reporting for sheep prices; and

(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

(b) PRICE DISCOVERY AND REPORTING SYSTEM.—

(1) SYSTEM REQUIRED.—Based on the report required under subsection (a), the Secretary shall—

(A) develop a price discovery system formula for the lamb market, such as carcass equivalent pricing; and

(B) establish a price discovery and reporting system for the lamb market to assist lamb producers to better allocate their resources and make informed production and marketing decisions.

(2) IMPLEMENTATION.—The price discovery and reporting system for the lamb market shall be implemented by the Secretary not later than 180 days after the date of the submission of the report.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to develop and establish the system required under this subsection.

(c) CONSULTATION.—In preparing the report required under subsection (a) and establishing the price discovery and reporting system required under subsection (b), the Secretary shall consult with lamb producers and other persons in the national lamb industry.

SEC. 125. COTTON FIRST HANDLER MARKETING CERTIFICATES.

Section 103B(a)(5)(B) (7 U.S.C. 1444–2(a)(5)(B)) is amended—

(1) by inserting "or cash payments" after "marketing certificates" each place it appears in clauses (i) and (ii); and

(2) in clause (iii), by inserting "or cash payment" after "certificate".

SEC. 126. PRODUCTION OF BLACK-EYED PEAS FOR DONATION.

(a) 50/92 PROGRAM FOR COTTON.—Section 103B(c)(1)(D) (7 U.S.C. 1444–2(c)(1)(D)) is amended by adding at the end the following new clause:

"(ix) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, all or any part of the acreage required to be devoted to conservation uses as a condition for qualifying for payments under this subparagraph to be devoted to the production of black-eyed peas if—

"(I) the producer agrees to donate the harvested peas from the acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(II) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

(b) ACREAGE REDUCTION PROGRAM.—Section 103B(e)(2) of such Act (7 U.S.C. 1444–2(e)(2)) is amended by adding at the end the following new subparagraph:

"(G) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, producers on a farm to plant black-eyed peas on not more than one-half of the reduced acreage on the farm if—

"(i) the producer agrees to donate the harvested peas from such acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(ii) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

SEC. 127. MILK PRICE SUPPORT PROGRAM LIMITED TO 48 CONTIGUOUS STATES.

(a) IN GENERAL.—Section 204 (7 U.S.C. 1446e) is amended—

(1) in subsection (a), by inserting "produced in the 48 contiguous States" after "the price of milk";

(2) in subsection (c)(1), by inserting before the period the following: "produced in the 48 contiguous States";

(3) in subsection (d)(5)(B), by striking "United States" both places it appears and inserting "48 contiguous States and the District of Columbia"; and

(4) in subsections (g)(1) and (h)(1), by striking "United States" each place it appears and inserting "48 contiguous States".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as of January 1, 1991.

SEC. 128. MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM.

(a) CERTAIN TRANSFERS AUTHORIZED.—If the Secretary of Agriculture determines that a natural disaster renders unusable the land or milk production facilities of the producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to a farm idled under the milk production termination program established under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), without penalty, if the producers on the farm agree to comply with all terms and conditions of the program contract for the remainder of the contract period.

(b) APPLICATION.—This section shall apply with respect to any natural disaster occurring during the period beginning on October 1, 1990, and ending on February 1, 1991.

TITLE II—CONSERVATION

SEC. 201. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENTS TO SECTION 1451.—Section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822) is amended—

(1) in subsection (b)(1)(D), by striking "(e)" and inserting "(f)";

(2) in subsection (d), by inserting "each of" before "the calendar";

(3) in subsection (f)(5), by striking "assisting" and inserting "assist"; and

(4) in subsection (h)(7)(B)—

(A) in clause (i), by inserting before the period at the end of the first sentence the following: ", but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–1)"; and

(B) in clause (ii), by striking "under" and all that follows through "Agricultural" and inserting "under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E) of the Agricultural".

(b) AMENDMENTS TO SECTION 1466.—Section 1466 of such Act (7 U.S.C. 4201 note) is amended—

(1) in subsection (c), by striking "Funds" and inserting "funds"; and

(2) in each of subsections (e) and (f), by striking "section (b)" and inserting "subsection (b)".

(c) AMENDMENT TO SECTION 1468(a)(2).—Section 1468(a)(2) of such Act (7 U.S.C. 4201 note) is amended by striking "Funds" and inserting "funds".

(d) AMENDMENTS TO SECTION 1473(a).—Section 1473(a) of such Act (7 U.S.C. 5403(a)) is amended—

(1) in paragraph (1), by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(2) in paragraph (2), by striking "subparagraph (A)" " and inserting "paragraph (1)".

(e) AMENDMENT TO SECTION 1483(c).—Section 1483(c) of such Act (7 U.S.C. 5503(c)) is amended by inserting "and" after "Animal".

(f) AMENDMENT TO SECTION 1485.—Section 1485 of such Act (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "Administrator" both places it appears " and inserting "Director";

(2) in subsection (a)(3), by striking "Atmospheric Agency, the" " and inserting "Atmospheric Administration, the"; and

(3) in subsection (b)(3), by striking "subsection (a)" " and inserting "this subsection".

(g) AMENDMENTS TO SECTION 1499.—Section 1499 of such Act (7 U.S.C. 5506) is amended—

(1) in the 4th sentence of subsection (a)—

(A) by inserting "Agricultural" before "Environmental"; and

(B) by striking "1612" and inserting "1472";

(2) in subsection (b)—

(A) by striking "AFFECT" and inserting "EFFECT"; and

(B) by inserting "and section 1499A" after "subsection (a)"; and

(3) in subsection (c), by inserting "and" after "Animal".

(h) NEW SECTION.—

(1) EDUCATION PROGRAM.—Such Act is amended by inserting after section 1499 (7 U.S.C. 5506) the following new section:

"SEC. 1499A. EDUCATION PROGRAM REGARDING HANDLING OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

"Subject to the availability of funds appropriated in advance, the Secretary of Agriculture shall direct the Extension Service to operate a program in each State to catalogue the Federal, State, and local laws and regulations that govern the handling of unused or unwanted agricultural chemicals and agricultural chemical containers in the State. The program established under this section shall make available to producers of agricultural commodities and the general public, and provide on request, educational materials developed or collected by the program.".

(2) The table of contents in section 1(b) of such Act (104 Stat. 3363) is amended by inserting after the item relating to section 1499 the following new item:

"Sec. 1499A. Education program regarding handling of agricultural chemicals and agricultural chemical containers.".

SEC. 202. AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

The 14th sentence of the 5th undesignated paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by inserting ", except that, in the case of a person elected to be a national officer or State president of the National Association of Farmer Elected Committeemen, the limitation shall be four consecutive terms" before the period.

SEC. 203. FARMS FOR THE FUTURE.

(a) IN GENERAL.—Sections 1465 through 1469 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) are amended to read as follows:

"SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

"(a) SHORT TITLE.—This chapter may be cited as the 'Farms for the Future Act of 1990'.

"(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

"(c) DEFINITIONS.—As used in this chapter:

"(1) ALLOWABLE INTEREST RATE.—The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan (including the interest paid by the State trust fund, State, or State agency on bonds or other obligations described in paragraph (2)).

"(2) ELIGIBLE LOAN.—The term 'eligible loan' means each loan made by lending institutions to each State trust fund, or to the State acting in conjunction with the State trust fund, to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

"(3) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) the State of Vermont; and

"(B) at the option of the Secretary and subject to appropriations, any State that—

"(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

"(ii) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

"(4) LENDING INSTITUTION.—The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

"(5) PROGRAM.—The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(7) STATE.—The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

"(8) STATE TRUST FUND.—The term 'State trust fund' means any trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, where such eligible State is approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468.

"SEC. 1466. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—

"(1) PURPOSE.—The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for eligible loans described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds.

"(2) ASSISTANCE.—Under the program the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds and shall for each such 10-year period subsidize the interest on such eligible loans at the allowable interest rate for the first 5 years after the loan is made, or issued, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

"(b) MANDATORY ASSISTANCE TO EACH STATE TRUST FUND.—The Secretary shall—

"(1) fully guarantee with the full faith and credit of the United States each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund under procedures established by the Secretary;

"(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund during each of the first 5 years after the date on which each such loan was made or issued; and

"(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made to, or issued for the benefit of, the State trust fund, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each such loan made to, or issued for the benefit of, the State trust fund, as determined under procedures established by the Secretary.

"(c) FUNDING.—

"(1) ISSUANCE OF STOCK.—The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

"(2) PURCHASE OF STOCK.—The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the raising of funds to purchase stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of Treasury who shall promptly purchase the stock (within 60 days) being offered by the Secretary of Agriculture.

"(3) COMMODITY CREDIT CORPORATION.—If the Secretary of Agriculture fails to issue stock as required under this chapter, or if funding is otherwise not provided as set forth in this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

"(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall promptly purchase stock (within 60 days) offered by the Secretary under subsection (c) and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

"(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in subsection (b).

"(f) REGULATIONS.—Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

"(1) the application procedures for eligible States;

"(2) the factors to be used in approving applicants;

"(3) procedures for the prompt payment of the obligations of the Secretary under subsection (b);

"(4) recordkeeping requirements for approved State trust funds;

"(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

"(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

"(7) any other rules necessary and appropriate to carry out the program.

"(g) DURATION OF PROGRAM.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

"(h) ELIGIBLE USES FOR GUARANTEED LOAN FUNDS.—

"(1) IN GENERAL.—Funds from eligible loans (including proceeds from the sale of bonds or other obligations described in section 1465(c)(2)) guaranteed under this chapter, and any earnings of the State trust funds, may be used—

"(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or some lesser estate in land;

"(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

"(C) to pay the costs of enforcing easements or land use restrictions;

"(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

"(E) to generate earnings (including through investments not exceeding 10 years in duration for each eligible loan), to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any Federally insured State nonmember bank.

"(2) COLLATERAL FOR LOANS.—To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

"(i) STATE USE OF GUARANTEED LOAN FUNDS.—The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the eligible loans (described in section 1465(c)(2)) guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loans guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

"(j) SPECIAL RULES FOR THE PILOT PROJECT STATE.—Notwithstanding any other provisions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

"(1) Provision of Loan Guarantee and Interest Assistance Agreement.—Within 30 days of the date any State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

"(2) Approval of Application.—The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

"(3) Amount of Guarantees.—The Secretary shall calculate the total amount of guarantees to be provided for fiscal year 1992 in an amount equal to double the sum of—

"(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board regardless of whether the fund had been approved by the Secretary in fiscal year 1991), by the State described in section 1465(c)(3)(A), political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

"(B) the matching contribution calculated under section 1468(c) for fiscal year 1992 for the State.

"(k) Miscellaneous Provisions.—

"(1) Operation.—Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

"(2) Earnings.—Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

"SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

"(a) Accounts.—To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

"(b) Compliance.—If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

"SEC. 1468. APPLICATIONS AND ADMINISTRATION.

"(a) Applications.—In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

"(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

"(2) agree that the State trust fund will use any funds provided, or guaranteed, by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

"(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

"(b) Annual Applications.—Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.

"(c) Match and Maximum Amount.—

"(1) In general.—The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund (including matching funds described in paragraphs (2) through (4)) in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

"(2) Earnings.—Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

"(3) Obligations.—Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

"(4) Land.—The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

"(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

"(ii) the donation is consistent with the State farmland preservation plan,

except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

"(d) Clarification of Federal Law.—Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

"SEC. 1469. REPORT.

"Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.".

(b) Regulations.—Section 1470 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) is amended—

(1) by striking "This" and inserting "(a) In General.—This"; and

(2) by adding at the end the following new subsection:

"(b) Regulations.—Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.".

(c) Reports; Stock Issuance.—Such Act is amended by adding at the end the following new sections:

"SEC. 1470A. COMPTROLLER GENERAL REPORTS.

"On February 15 of 1992, and on December 1 of each of the years 1992 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

"SEC. 1470B. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

"The Secretary shall issue the stock required to be issued to the Secretary of Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.".

SEC. 204. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended—

(1) in section 1211 (16 U.S.C. 3811)—

(A) in paragraph (1)(D), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(B) in paragraph (3)(D), by inserting "of subtitle D" after "chapter 2"; and

(C) in paragraph (3)(E), by inserting "of subtitle D" after "chapter 3";

(2) in section 1212 (16 U.S.C. 3812)—

(A) in subsection (f)(4)(A), by striking "such violations" and inserting "such violation"; and

(B) in subsection (g)(2), by striking "XIII," and inserting "XIII";

(3) in section 1221(1)(D) (16 U.S.C. 3821(1)(D)), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(4) in section 1223 (16 U.S.C. 3823), by striking "and" at the end of paragraph (3);

(5) in section 1232(a) (16 U.S.C. 3832(a))—

(A) by striking the extra semicolon at the end of paragraph (6); and

(B) in paragraph (7)—

(i) by striking "fall and winter"; and

(ii) by striking "for an applicable reduction in rental payment" and inserting "and occurs during the 7-month period in which grazing of conserving use acreage is allowed in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or after the producer harvests the grain crop of the surrounding field for a reduction in rental payment commensurate with the limited economic value of such incidental grazing".

(6) in section 1237(d) (16 U.S.C. 3837(d)), by striking "subsection (d)" and inserting "subsection (c)";

(7) in section 1239(b)(1)(A) (16 U.S.C. 3839(b)(1)(A)), by striking "corridors," and inserting "corridors;"; and

(8) in section 1247(b) (16 U.S.C. 3847(b)), by striking "subsection 1234(b)" and inserting "section 1234(b)".

TITLE III—AGRICULTURAL TRADE

SEC. 301. SUPERFLUOUS PUNCTUATION IN FARMER TO FARMER PROVISIONS.

Section 501(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(a)(3)) is amended by striking the comma after "public".

SEC. 302. PUNCTUATION CORRECTION IN ENTERPRISE FOR THE AMERICAS INITIATIVE.

Section 603(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738b(a)(3)) is amended by inserting a hyphen between "Inter" and "American".

SEC. 303. SPELLING CORRECTION IN SECTION 604.

Section 604(a)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c(a)(2)) is amended by striking "AVALIABILITY" and inserting "AVAILABILITY".

SEC. 304. MISSING WORD IN SECTION 606.

Section 606(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738e(c)) is amended by inserting "accounts" after "Corporation".

SEC. 305. PUNCTUATION ERROR IN SECTION 607.

Section 607(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738f(a)) is amended by striking the quotation mark before "Fund" and inserting it after "Fund" the last place it appears.

SEC. 306. TYPOGRAPHICAL CORRECTION IN SECTION 612.

Section 612(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738k(a)(1)) is amended by striking "462), and—" and inserting "2281 et seq.);".

SEC. 307. ERRONEOUS QUOTATION.

Section 1515(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "title I and" and inserting "titles I and".

SEC. 308. PUNCTUATION CORRECTION.

Section 103(d)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5603(d)(2)) is amended by inserting a close parenthesis mark before the final period.

SEC. 309. DATE CORRECTION.

Section 203(g)(3) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(g)(3)) is amended by striking "the date of enactment of this Act" and inserting "November 28, 1990,".

SEC. 310. MISSING SUBTITLE HEADING CORRECTION.

Title II of the Agricultural Trade Act of 1978 is amended by inserting after the title heading the following:

"Subtitle A—Programs".

SEC. 311. REDESIGNATION OF SUBSECTION.

Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by redesignating subsection (g) as subsection (f).

SEC. 312. DATE CORRECTION TO SECTION 404.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is amended by striking out "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 313. DATE CORRECTION TO SECTION 416.

Section 416(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5676(e)) is amended by striking out "the effective date of this section" and inserting "November 28, 1990".

SEC. 314. REDESIGNATION OF SECTION.

The Agricultural Trade Act of 1978 is amended by redesignating section 506 (7 U.S.C. 5695) as section 505.

SEC. 315. CROSS REFERENCE CORRECTION.

Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is amended by striking "section 104" each place it appears and inserting "section 103".

SEC. 316. PLACEMENT CLARIFICATION.

Section 1532 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "thereof" and inserting "of title I".

SEC. 317. PUNCTUATION CORRECTION.

Section 108(b) of the Agricultural Act of 1954 (7 U.S.C. 1748) is amended by striking the period at the end of paragraph (1)(B) and inserting a semicolon.

SEC. 318. ELIMINATION OF OBSOLETE CROSS REFERENCE.

Section 108(b)(4) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(4)) is amended by striking "the trade assistance office" and all that follows through "section 201),".

SEC. 319. CROSS REFERENCE CORRECTION.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)) is amended by inserting "title I of" before "this Act" each place it appears in paragraphs (2)(B) and (3).

SEC. 320. CORRECTING CLERICAL ERRORS IN SECTION 204 OF THE AGRICULTURAL TRADE ACT OF 1978.

Section 204(d) of the Agricultural Trade Act of 1978 (7 U.S.C. 5624) is amended—

(1) by striking "AGENCY OR PRIVATE PARTIES" in the heading and inserting "AGENCIES"; and

(2) by striking "government" and inserting "Government".

SEC. 321. CAPITALIZATION CORRECTION.

Section 403(i)(2)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(i)(2)(C)) is amended by striking "Committees" and inserting "committees".

SEC. 322. CORRECTION OF ERROR IN DATE.

Section 409, 410(a), 410(b), 410(c), and 411(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c, 1736d(a), 1736d(b), 1736d(c), and 1736e(e)) are each amended by striking "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 323. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 406(b)(5)(D) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)(5)(D)) is amended by striking "items" and inserting "time".

SEC. 324. CROSS REFERENCE CORRECTION.

Section 407(c)(1)(A) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(A)) is amended by striking "this section" and inserting "title I".

SEC. 325. ELIMINATION OF SUPERFLUOUS WORD.

Section 407(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(C)) is amended by striking "other".

SEC. 326. CROSS REFERENCE CORRECTION.

Section 411(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e(a)) is amended by striking "this title" and inserting "title I".

SEC. 327. AMENDMENT TO SECTION 602.

Section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a)) is amended—

(1) in paragraph (1), by striking "designate as produced" and inserting "designate produced"; and

(2) in paragraph (2), by striking "in accordance with subsection (c)".

SEC. 328. SECTION 407 CORRECTIONS.

(a) SUBSECTION (c)(4).—Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended—

(1) by inserting "provides or" after "in which such person"; and

(2) by striking "if the person is" and inserting "of a person".

(b) ELIMINATION OF WORD.—Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking "other".

SEC. 329. SECTION 407(b) AMENDMENT.

Section 407(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(b)(1)) is amended by striking "or agricultural commodity donated".

SEC. 330. SUPPLEMENTAL VIEWS IN ANNUAL REPORT.

Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738m) is amended—

(1) by striking "Not later" and inserting "(a) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.".

SEC. 331. CONSULTATIONS WITH CONGRESS.

The Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after section 614 (7 U.S.C. 1738m) the following:

"SEC. 615. CONSULTATIONS WITH CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.".

SEC. 332. STATUTE DESIGNATION.

Section 407(d)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(d)(4)) is amended by striking "the Federal Property Act of 1949, as amended," and inserting "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)".

SEC. 333. CORRECTION OF PLACEMENT AND INDENTATION OF SUBPARAGRAPH.

Subparagraph (B) of section 1514(5) of the Food, Agriculture, Conservation, and Trade Act of 1990, 104 Stat. 3663) is amended to read as follows:

"(B) by inserting after subparagraph (E) the following new subparagraph:

" '(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.' ".

SEC. 334. EXPORT CREDIT GUARANTEE PROGRAM.

Section 202(i) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(i)) is amended by striking "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserting "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

SEC. 335. TECHNICAL AMENDMENTS TO THE FOOD FOR PROGRESS PROGRAM.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (1), by striking "September 30," where it appears immediately before "December 31";

(2) in subsection (m), by striking "this Act" each place it appears and inserting "this section"; and

(3) by redesignating subsections (l) and (m) (as amended by paragraphs (1) and (2)) as subsections (k) and (l), respectively.

SEC. 336. MISCELLANEOUS AMENDMENT TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The first sentence of section 411(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e) is amended by inserting before the period at the end the following: "at least 10 days prior to providing the debt relief".

SEC. 337. REPORTING REQUIREMENTS.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509(f)) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Exceptions.—The reporting and recordkeeping requirements of this section shall not apply with respect to cigars, cigar tobaccos, pipe tobacco, chewing tobacco in retail packaging, and snuff in retail packaging. In order to qualify for the exception under this subsection, the tobacco must have a certification that its end use is for cigars, cigar tobacco, pipe tobacco, chewing tobacco in retail packaging, or snuff in retail packaging.".

SEC. 338. SHARING UNITED STATES AGRICULTURAL EXPERTISE AND INFORMATION.

Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) by striking the subsection heading and inserting the following:

"(d) E (Kika) de la Garza Agricultural Fellowship Program.—The Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') shall establish a program, to be known as the 'E (Kika) de la Garza Agricultural Fellowship Program', to develop agricultural markets in emerging democracies and to promote cooperation and exchange of information between agricultural institutions and agribusinesses in the United States and the Soviet Union, as follows:

"(1) Development of agricultural systems.—";

(2) in paragraph (1), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(3) in paragraph (2), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(4) by indenting 2 ems the left margin of paragraphs (1) through (9) and redesignating such paragraphs as subparagraphs (A) through (I), respectively;

(5) by striking "subsection" each place it appears and inserting "paragraph";

(6) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(7) by striking "paragraph (2)(A)" each place it appears and inserting "subparagraph (B)";

(8) by striking "paragraph (2)(B)" each place it appears and inserting "subparagraph (B)";

(9) in paragraph (1)(B) (as so redesignated)—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end the following new clause:

"(iii) by providing for necessary subsistence expenses in emerging democracies and necessary transportation expenses of United States agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging democracies.";

(10) in paragraph (1)(I) (as so redesignated), by striking "$5,000,000" and inserting "$10,000,000"; and

(11) by adding at the end the following new paragraph:

"(2) Agricultural information program.—

"(A) Establishment of program.—The Secretary shall establish a program, administered to complement the emerging democracies export promotion program developed under this section, to initiate and develop collaboration between the United States Department of Agriculture, United States agribusinesses, and appropriate agricultural institutions in the Soviet Union in order to promote the exchange of information and resources that will make a long-term contribution to the establishment of a free market food production and distribution system in the Soviet Union and the enhancement of agricultural trade with the United States.

"(B) Implementation.—The Secretary shall draw on the Department of Agriculture's experience to design, implement, and evaluate, on a cost-sharing basis with cooperating agricultural institutions, a program to—

"(i) compile, through contacts with the Government of the Soviet Union and private sector officials in the Soviet Union, a list of their agricultural institutions, including the location, capabilities, and needs of the institutions;

"(ii) make such information available through an appropriate agency of the Department of Agriculture to agribusinesses and agricultural institutions in the United States and other agencies of the United States Government; and

"(iii) carry out a program—

"(I) to review available agricultural information resources, to determine which would be useful for the purposes of this program;

"(II) to arrange for the exchange of persons associated with such agricultural institutions and agribusinesses with experience or interest in the areas of need identified in clause (i); and

"(III) to help establish contacts between agricultural entrepreneurs and businesses in the United States and the Soviet Union, which may include individuals and entities participating in the program established under paragraph (1), to facilitate cooperation and joint enterprises.

"(C) Consultation and coordination.—The Secretary shall consult and coordinate with the Secretary of State and the Agency for International Development in the formulation and implementation of this program in conjunction with overall assistance to the Soviet Union.

"(D) Definition.—For the purposes of this subsection, the term 'Soviet Union' means the Soviet Union, its successor entities, or any of the individual republics of the Soviet Union.

"(E) Authorization for appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the program established under this paragraph.".

SEC. 339. CONFORMING AMENDMENT RELATING TO THE ENVIRONMENT FOR THE AMERICAS BOARD.

Section 610(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "five" and inserting "six"; and

(B) by inserting ", at least one of whom shall be a representative of the Department of Agriculture" after "Government"; and

(2) in subparagraph (B), by striking "four" and inserting "five".

TITLE IV—RESEARCH

SEC. 401. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

(a) Short Title.—Subsection (a) of section 2 of Public Law 89-106 (7 U.S.C. 450i) is amended—

(1) by inserting "(1)" before "In order"; and

(2) by adding at the end the following new paragraph:

"(2) Short Title.—This section may be cited as the 'Competitive, Special, and Facilities Research Grant Act'.".

(b) Other Amendments.—Such section is further amended—

(1) in subsection (b)(10), by striking "and" after "1993,";

(2) in subsection (e)—

(A) by striking "Record Keeping.—" and inserting "Inter-Regional Research Project Number 4.—";

(B) in paragraphs (1) and (7), by striking "this section" and inserting "this subsection";

(C) in paragraphs (2), (3), (4), (5)(C), and (6)(A), by striking "IR-4 program" and inserting "IR-4 Program";

(D) in paragraph (5)(B)—

(i) by striking "registration," and inserting "registrations,"; and

(ii) by inserting "and" at the end of the subparagraph; and

(E) in paragraph (6)—

(i) by striking "within one year of the date of the enactment of this paragraph" and inserting "not later than November 28, 1991,"; and

(ii) by inserting a comma after "reregistrations" in the first sentence;

(3) in subsection (f), by striking "Limits on Overhead Costs.—" and inserting "Record Keeping.—";

(4) in subsection (g), by striking "Authorization of Appropriations.—" and inserting "Limits on Overhead Costs.—";

(5) in subsection (h)—

(A) by striking "Rules.—" and inserting "Authorization of Appropriations.—";

(B) by striking "subsection (b) of this section" and inserting "subsections (b) and (e)"; and

(C) by striking "the provisions of";

(6) in subsection (i)—

(A) by striking "Application of Other Laws.—" and inserting "Rules.—";

(B) by striking "is authorized to" and inserting "may"; and

(C) by striking "the provisions of";

(7) in subsection (j) (as redesignated by section 1497(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3630)), by inserting "Application of Other Laws.—" after "(j)"; and

(8) by redesignating subsections (j), (k), and (l) (as inserted by section 1615(b) of such Act (104 Stat. 3731)) as subsections (k), (l), and (m), respectively.

SEC. 402. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended—

(1) in section 1407(e) (7 U.S.C. 3122(e)) by striking the semicolon at the end of paragraph (7) and inserting a period;

(2) in section 1408 (7 U.S.C. 3123)—

(A) in subsection (e), by striking "government" and inserting "Government"; and

(B) in subsection (g)(1), by striking "Federally" and inserting "federally";

(3) in sections 1404(18) and 1408A(a) (7 U.S.C. 3103(18) and 3123a(a)), by inserting "and" after "Science";

(4) in section 1408A(c)(2)(H) (7 U.S.C. 3123a(c)(2)(H)), by striking "farmerworkers" and inserting "farmworkers";

(5) in section 1412 (7 U.S.C. 3127), by striking "and Advisory Board" in subsections (b) and (c) and inserting ", Advisory Board, and Technology Board";

(6) in section 1417(i) (7 U.S.C. 3152(c)), by striking the second sentence;

(7) in section 1419(b) (7 U.S.C. 3154(b)), by striking "subsection (c)" and inserting "subsection (d)";

(8) in section 1432 (7 U.S.C. 3194), by striking "Sec. 1432. (a)";

(9) in section 1446(d)(2) (7 U.S.C. 3222a(d)(2), by striking "the needs identified" and inserting "the purposes identified";

(10) in section 1446(e) (7 U.S.C. 3222a(e)), by striking "objective or" and inserting "objective of";

(11) in section 1458(a) (7 U.S.C. 3291(a)), by striking the period at the end of paragraph (3) and inserting a semicolon;

(12) in section 1463(a) (7 U.S.C. 3311), by striking "subtitle H and";

(13) in section 1473 (7 U.S.C. 3319), by striking "subsection (c)(2)" and inserting "subsection (c)(1)(B)"; and

(14) by repealing section 1473E (7 U.S.C. 3319e).

SEC. 403. RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION.

(a) Programs Authorized.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended—

(1) in subsection (f)—

(A) by striking the subsection heading and inserting "Competitive Grants for Financially Stressed Farmers, Dislocated Farmers, and Rural Families.—"; and

(B) in paragraph (2), by striking "during the period beginning on the date of the enactment of this Act and ending on" and inserting "until"; and

(2) in the subsections following subsection (g)—

(A) by striking "(b) Rural Development Extension" and inserting "(h) Rural Development Extension";

(B) by striking "(h) Rural Health" and inserting "(i) Rural Health";

(C) by striking "(h) Research Grants.—" and inserting "(j) Research Grants.—"; and

(D) by arranging such subsections to appear in the proper order.

(b) Distribution of Funds.—Section 503(c)(1) of that Act (7 U.S.C. 2663(c)(1)) is amended—

(1) by striking "the provisions of section 502(e) of this title" and inserting "subsections (e) and (i) of section 502"; and

(2) by striking "objectives of section 502(e) of this title" and inserting "objectives of those subsections".

SEC. 404. NATIONAL GENETIC RESOURCES PROGRAM.

(a) In General.—Subtitle C of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3744) is amended—

(1) in the subtitle heading, by striking "**Genetics**" and inserting "**Genetic**"; and

(2) in section 1633(a) (7 U.S.C. 5842(a)), by striking "Resources program" and inserting "Resources Program".

(b) Table of Contents.—The item relating to such subtitle in section 1(b) of such Act (104 Stat. 3365) is amended to read as follows:

"Subtitle C—National Genetic Resources Program".

SEC. 405. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION.

(a) Punctuation Correction.—Section 1658(d) of the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5902(d)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting "; and"; and

(2) by striking "; and" at the end of paragraph (3) and inserting a period.

(b) Establishment of Regional Centers.—Section 1663(a)(2) of such Act (7 U.S.C. 5907(a)(2)) is amended by striking "A Regional Center may not be established or operated" and inserting "No Regional Centers may be established".

SEC. 406. DEER TICK RESEARCH.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in subsection (i), by striking "Agricultural Research Service" and inserting "Secretary of Agriculture, acting through the Cooperative State Research Service, to make competitive grants"; and

(2) in subsection (k)(1), by striking "Except for research funded under subsection (i), research" and inserting "Research".

SEC. 407. MISCELLANEOUS RESEARCH PROVISIONS.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3703) is amended—

(1) in section 1604(a) (Public Law 101–624; 104 Stat. 3706), by striking "(7 U.S.C. 3122(a))" and inserting "(7 U.S.C. 3122)".

(2) in section 1619(b)(8) (7 U.S.C. 5801(b)(8)), by striking "Marianas Islands" and inserting "Mariana Islands";

(3) in section 1628(c) (7 U.S.C. 5831(c)), by striking "education" and inserting "educational";

(4) in section 1629(c)(1) (7 U.S.C. 5832(c)(1)), by striking "insure" and inserting "ensure";

(5) in section 1634(l) (7 U.S.C. 5843(l)), by striking "committee established" and inserting "council established";

(6) in section 1638(b)(5) (7 U.S.C. 5852(b)(5)), by striking "National Sciences Foundation" and inserting "National Science Foundation";

(7) in section 1639(a) (7 U.S.C. 5853(a)), by striking "Act" and inserting "subtitle";

(8) in section 1652(b)(1) (7 U.S.C. 5883(b)(1)), by striking "pheremones" and inserting "pheromones";

(9) in section 1668(g)(2) (7 U.S.C. 5921(g)(2)), by striking "Witholdings" and inserting "Withholdings";

(10) in section 1670(d) (7 U.S.C. 5923(d)), by striking "acquaculture" and inserting "aquaculture";

(11) in section 1672(c) (7 U.S.C. 5925(c)), by redesignating paragraphs (A) through (I) as paragraphs (1) through (9), respectively;

(12) in section 1673(f) (7 U.S.C. 5926(f)), by striking "programs or" and inserting "programs of";

(13) in section 1674 (7 U.S.C. 5927)—

(A) in subsection (d)(3)(A), by striking "Schedules" and inserting "Schedule"; and

(B) in subsection (f), by striking "Committee" both places it appears and inserting "Committees";

(14) in section 1675(c) (7 U.S.C. 5928(c))—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) Establishment.—Notwithstanding subsection (g)(1), the Secretary shall establish not more than four centers."; and

(B) in paragraph (2), by striking "Periods and preferences.—Grants" and inserting the following: "Operating grants.—The Secretary shall make grants to operate the centers established under paragraph (1). Such grants shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (a). Such grants";

(15) in section 1677 (7 U.S.C. 5930)—

(A) by striking "Reservation" each place it appears in subsections (a), (b), and (e) and inserting "reservation";

(B) by striking "Reservations" both places it appears in subsection (a) and inserting "reservations"; and

(C) by striking "Tribal" in subsection (c) and inserting "tribal";

(16) in section 1678(d) (7 U.S.C. 5931(d)), by striking "Teaching, and Extension" and inserting "Extension, and Teaching"; and

(17) in section 1681(a)(2), (7 U.S.C. 5934(a)(2)), by striking "teacheal mite" and inserting "tracheal mite".

SEC. 408. SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

Section 1624 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5814) is amended by striking "and 1623" and inserting "and 1622".

TITLE V—CREDIT

SEC. 501. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) Amendments to Section 304.—Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsection (d) as subsection (a) and moving such subsection to appear before subsection (b).

(b) Amendment to Section 312(a).—Section 312(a) of such Act (7 U.S.C. 1942(a)) is amended by striking "systems." and all that follows and inserting "systems (for purposes of this subtitle, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 310D, and (13) borrower training under section 359.".

(c) Amendments to Section 331.—

(1) Direct amendments.—Section 331(b)(4) of such Act (7 U.S.C. 1981(b)(4)) is amended—

(A) by striking "this title"; and

(B) by striking "1949 from" and inserting "1949, from".

(2) Indirect amendments.—

(A) Clarification of repeal.—Section 1805 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3819) is amended by striking subsections (b) and (c) and inserting the following:

"(b) Payment of Accrued Interest.—Section 331 (7 U.S.C. 1981) is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.".

(B) Clarification of technical corrections.—Section 2388(d)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4052) is amended—

(i) by inserting ", as amended by section 1805(b) of this Act," before "is amended";

(ii) in clause (i) of subparagraph (A), by striking "(h), and (i)" and inserting "and (h)";

(iii) by striking clause (iv) and redesignating clauses (v), (vi), and (vii) of subparagraph (A) as clauses (iv), (v), and (vi), respectively;

(iv) in clause (iv) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph), by striking "(i)" and inserting "(h)"; and

(v) in clause (vi) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph)—

(I) by striking "(j)" and inserting "(i)"; and

(II) by striking "(10)" and inserting "(9)".

(d) AMENDMENTS TO SECTION 331E.—

(1) IN GENERAL.—Section 331E of such Act (7 U.S.C. 1981e) is amended—

(A) by striking "The" and inserting "(a) IN GENERAL.—The"; and

(B) by adding at the end the following new subsection:

"(b) CALCULATION OF YIELDS.—

"(1) IN GENERAL.—For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this title (except for loans under subtitle C), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

"(2) AFFECTED BY A DISASTER.—For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

"(3) APPLICATION OF SUBSECTION.—Paragraph (1) shall apply to all actions taken by the Secretary to carry out this title (except for loans under subtitle C) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.".

(2) REGULATIONS.—

(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) beginning in crop year 1992.

(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A).

(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act.

(e) AMENDMENTS TO SECTION 333(2)(A).—Section 333(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)) is amended by redesignating clauses (1), (2), and (3), as clauses (i), (ii), and (iii), respectively.

(f) AMENDMENTS TO SECTION 335(e)(1).—Section 335(e)(1) of such Act (7 U.S.C. 1985(e)(1)) is amended—

(1) in subparagraph (A)(i), by striking "the borrower" and all that follows through "the 'borrower-owner')" and inserting "borrower-owner (as defined in subparagraph (F)"; and

(2) by adding at the end the following new subparagraph:

"(F) As used in this paragraph, the term 'borrower-owner' means—

"(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this title; or

"(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(g) AMENDMENTS TO SECTION 352.—Section 352 of such Act (7 U.S.C. 2000) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'borrower-owner' means—

"(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1); or

"(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(2) by striking "borrower" each place it appears and inserting "borrower-owner".

(h) AMENDMENTS TO SECTION 353.—Section 353 of such Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)(6)(A)(ii), by striking "the date of enactment of this paragraph" and inserting "November 28, 1990"; and

(2) in subsection (m), by striking "335(e)(1)(A)" and inserting "335(e)(1)".

(i) AMENDMENTS TO SECTION 363.—Section 363 of such Act (7 U.S.C. 2006e) is amended—

(1) by striking "3801(a)(16))" and inserting "3801(a)(16)))"; and

(2) by striking "prior to the date of enactment of this section" and inserting "before November 28, 1990".

SEC. 502. AMENDMENTS TO THE FARM CREDIT ACT OF 1971.

(a) AMENDMENTS TO SECTION 1.11(a).—Section 1.11(a) of the Farm Credit Act of 1971 (12 U.S.C. 2019(a)) is amended—

(1) by striking "(a) Agricultural or Aquatic Purposes" and inserting the following:

"(a) AGRICULTURAL OR AQUATIC PURPOSES";

(2) by striking "(1) In general" and inserting the following:

"(1) IN GENERAL"; and

(3) by striking "(2) Limitation on loans for basic processing and marketing operations" and inserting the following:

"(2) LIMITATION ON LOANS FOR BASIC PROCESSING AND MARKETING OPERATIONS".

(b) AMENDMENT TO SECTION 2.0(b)(8).—Section 2.0(b)(8) of such Act (12 U.S.C. 2071(b)(8)) is amended by striking "charter to" and inserting "charter, to".

(c) AMENDMENT TO SECTION 2.1.—Section 2.1 of such Act (12 U.S.C. 2072) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(d) AMENDMENT TO SECTION 2.11.—Section 2.11 of such Act (12 U.S.C. 2092) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(e) AMENDMENT TO SECTION 3.7(b).—

(1) IN GENERAL.—Section 3.7(b) of such Act (12 U.S.C. 2128(b)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a domestic" and inserting "(A) a domestic";

(C) by inserting "or products thereof" after "commodities";

(D) by striking "(2) a domestic" and inserting "(B) a domestic"

(E) by striking "clause (1) of this subsection" and inserting "subparagraph (A)"; and

(F) by adding at the end the following new paragraphs:

"(2) A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, to any domestic or foreign entity that is eligible for a guarantee or insurance as described in subparagraphs (A) and (B) with respect to transactions involving the Soviet Union (its successor entities or any of the individual republics of the Soviet Union) or an emerging democracy (as defined in section 1542(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note)) for the export of agricultural commodities and products thereof from the United States, including (where applicable) the cost of freight, if in each case—

"(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

"(B) the guarantee or insurance—

"(i) covers at least 95 percent of the amount loaned for the purchase of the commodities or products; and

"(ii) is issued on or before September 30, 1995.

"(3) A bank for cooperatives is authorized to provide such services as may be customary and normal in maintaining relationships with domestic or foreign entities to facilitate the activities specified in paragraphs (1) and (2), consistent with this Act.".

(2) CONFORMING AMENDMENT.—Section 3.8(b)(1)(D) of such Act (12 U.S.C. 2129(b)(1)(D)) is amended by striking "section 3.7(f)" and inserting "subsection (b) or (f) of section 3.7".

(f) AMENDMENTS TO SECTION 3.8.—Section 3.8 of such Act (12 U.S.C. 2129) is amended—

(1) in subsection (a)(4), by striking "(4) A" and inserting "(4) a"; and

(2) in subsection (b)(1), by moving subparagraph (D) 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C).".

(g) AMENDMENT TO SECTION 4.28.—Section 4.28 of such Act (12 U.S.C. 2214) is amended by striking "2.17" and inserting "2.16".

(h) AMENDMENT TO SECTION 5.17(a)(8)(B)(ii).—Section 5.17(a)(8)(B)(ii) of such Act (12 U.S.C. 2252(a)(8)(B)(ii)) is amended by striking the last period.

(i) AMENDMENT TO SECTION 5.35(3).—Section 5.35(3) of such Act (12 U.S.C. 2271(3)) is amended by striking "D" and inserting "E".

(j) AMENDMENT TO SECTION 5.58(4)(B).—Section 5.58(4)(B) of such Act (12 U.S.C. 2277a-7(4)(B)) is amended by inserting after "and the Corporation," the following: "in any capacity,".

(k) AMENDMENTS TO SECTION 5.65.—Section 5.65(d)(1) of such Act (12 U.S.C. 2277a-14(d)(1)) is amended by striking "insured".

(l) AMENDMENTS TO SECTION 6.2(d).—Section 6.2(d) of such Act (12 U.S.C. 2278a-2(d)) is amended by striking "subchapter 1" each place such term appears and inserting "subchapter I".

(m) Amendments to Section 6.23.—Section 6.23 of such Act (12 U.S.C. 2278b–3) is amended by inserting before the period at the end the following: ", except in the event of a restructuring or liquidation to a successor System institution".

(n) Amendment to Section 7.11(a)(2).—Section 7.11(a)(2) of such Act (12 U.S.C. 2279e(a)(2)) is amended by striking "30 days" and inserting "60 days".

SEC. 503. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

(A) Supervision and Oversight.—Section 8.11 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–11 is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) Authority.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall have the authority to provide, acting through the Office of Secondary Market Oversight—

"(A) for the examination of the Corporation and its affiliates; and

"(B) for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this title, including through the use of the authorities granted to the Farm Credit Administration under—

"(i) part C of title V; and

"(ii) beginning 6 months after the date of enactment of this section, section 5.17(a)(9).";

(2) by adding at the end of subsection (a) the following new paragraph:

"(3) Office of Secondary Market Oversight.—

"(A) Not later than 180 days after the date of enactment of this paragraph, the Farm Credit Administration Board shall establish within the Farm Credit Administration the Office of Secondary Market Oversight

"(B) The Farm Credit Administration Board shall carry out the authority set forth in this section through the Office of Secondary Market Oversight.

"(C) The Office of Secondary Market Oversight shall be managed by a full-time Director who shall be selected by and report to the Farm Credit Administration Board.";

(3) by adding at the end thereof the following new subsection:

"(f) The Farm Credit Administration Board shall ensure that—

"(1) the Office of Secondary Market Oversight has access to a sufficient number of qualified and trained employees to adequately supervise the secondary market activities of the Corporation; and

"(2) the supervision of the powers, functions, and duties of the Corporation is performed, to the extent practicable, by personnel who are not responsible for the supervision of the banks and associations of the Farm Credit System.".

"(b) Regulation of Financial Safety and Soundness.—Title VIII of the Farm Credit Act of 1971 (12 U.S.C. 2279aa et seq.) is amended—

(1) by inserting after section 8.0 the following:

"Subtitle A—Establishment and Activities of Federal Agricultural Mortgage Corporation"; and

(2) by inserting after section 8.14 the following new subtitle:

"Subtitle B—Regulation of Financial Safety ad Soundness of Federal Agricultural Mortgage Corporation

"SEC. 8.31. DEFINITIONS.

"For purposes of this subtitle:

"(1) Compensation.—The term 'compensation' means any payment of money or the provision of any other thing of current or potential value in connection with employment.

"(2) Core capital.—The term 'core capital' means, with respect to the Corporation, the sum of the following (as determined in accordance with generally accepted accounting principles):

"(A) The par value of outstanding common stock.

"(B) The par value of outstanding preferred stock.

"(C) Paid-in capital.

"(D) Retained earnings.

"(3) Director.—The term 'Director' means the Director of the Office of Secondary Market Oversight of the Farm Credit Administration, selected under section 8.11(a)(3).

"(4) Office.—The term 'Office' means the Office of Secondary Market Oversight of the Farm Credit Administration, established in section 8.11(a).

"(5) Regulatory capital.—The term 'regulatory capital' means, with respect to the Corporation, the core capital of the Corporation plus an allowance for losses and guarantee claims, as determined in accordance with generally accepted accounting principles.

"(6) State.—The term 'State' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 8.32. RISK-BASED CAPITAL LEVELS.

"(a) Risk-Based Capital Test.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this section, the Director of the Office of Secondary Market Oversight shall, by regulate, establish a risk-based capital test under this section for the Corporation. When applied to the Corporation, the risk-based capital test shall determine the amount of regulatory capital for the Corporation that is sufficient for the Corporation to maintain positive capital during a 10-year period in which both of the following circumstances occur:

"(1) Credit risk.—With respect to securities representing an interest in, or obligations backed by, a pool of qualified loans owned or guaranteed by the Corporation and other obligations of the Corporation, losses on the underlying qualified loans occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing industry practice in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (as established by the Director), experienced the highest rates of default and severity of agricultural mortgage losses, in comparison with such rates of default and severity of agricultural mortgage losses in other such areas for any period of such duration, as determined by the Director.

"(2) Interest rate risk.—Interest rates on Treasury obligations of varying terms increase or decrease over the first 12 months of such 10-year period by not more than the lesser of (A) 50 percent (with respect to the average interest rates on such obligations during the 12-month period preceding the 10-year period), or (B) 600 basis points, and remain at such level for the remainder of the period. This paragraph may not be construed to require the Director to determine interest rate risk under this paragraph based on the interest rates for various long-term and short-term obligations all increasing or all decreasing concurrently.

"(b) Considerations.—

"(1) Establishment of test.—In establishing the risk-based capital test under subsection (a)—

"(A) the Director shall take into account appropriate distinctions based on various types of agricultural mortgage products, varying terms of Treasury obligations, and any other factors the Director considers appropriate;

"(B) the Director shall conform loan data used in determining credit risk to the minimum geographic and commodity diversification standards applicable to pools of qualified loans eligible for guarantee;

"(C) the Director shall take into account retained subordinated participating interests under section 8.6(b)(2);

"(D) the Director may take into account other methods or tests to determine credit risk developed by the Corporation before the date of the enactment of this section; and

"(E) the Director shall consider any other information submitted by the Corporation in writing during the 180-day period beginning on the date of the enactment of such Act.

"(2) Revising test.—Upon the expiration of the 5-year beginning on the date of the enactment of this section, the Director shall examine the risk-based capital test under subsection (a) and may revise the test. In making examinations and revisions under this paragraph, the Director shall take into account that, before the date of the enactment of this section the Corporation has not issued guarantees for pools of qualified loans. To the extent that the revision of the risk-based capital test causes a change in the classification of the Corporation within the enforcement levels established under section 8.35, the Director shall waive the applicability of any additional enforcement actions available because of such change for a reasonable period of time, to permit the Corporation to increase the amount of regulatory capital of the Corporation accordingly.

"(c) Risk-Based Capital Level.—For purposes of this subtitle, the risk-based capital level for the Corporation shall be equal to the sum of the following amounts:

"(1) Credit and interest rate risk.—The amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation, adjusted to account for foreign exchange risk.

"(2) Management and operations risk.—To provide for management and operations risk, 30 percent of the amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation.

"(d) Specified Contents.—The regulations establishing the risk-based capital test under this section shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to value ratios, taxes, yield curve slopes, default experience, prepayment rates, and performance of pools of qualified loans). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

"(e) Availability of Model.—The Director shall make copies of the statistical model or models used to implement the risk-based capital test under this section available for public acquisition and may charge a reasonable fee for such copies.

"SEC. 8.33. MINIMUM CAPITAL LEVEL.

"(a) IN GENERAL.—Except as provided in subsection (b), for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 2.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraphs (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.45 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(b) 18-MONTH TRANSITION.—during the 18-month period beginning upon the date of the enactment of this section, for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraphs (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.40 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(c) LINKED PORTFOLIO ASSETS.—The percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is referred to in subsections (a)(3) and (b)(3) of this section (and in section 8.34(3)(A)) shall be—

"(1) during the 5-year period beginning on the date of the enactment of this section—

"(A) 0.45 percent of any such assets not exceeding $1,000,000,000;

"(B) 0.75 percent of any such assets in excess of $1,000,000,000 but not exceeding $2,000,000,000;

"(C) 1.00 percent of any such assets in excess of $2,000,000,000 but not exceeding $3,000,000,000;

"(D) 1.25 percent of any such assets in excess of $3,000,000,000 but not exceeding $4,000,000,000;

"(E) 1.50 percent of any such assets in excess of $4,000,000,000 but not exceeding $5,000,000,000; and

"(F) 2.50 percent of any such assets in excess of $5,000,000,000.

"(2) after the expiration of such 5-year period, 2.50 percent of any such aggregate assets.

"SEC. 8.34. CRITICAL CAPITAL LEVEL.

For purposes of this subtitle, the critical capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.25 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.25 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) a percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g), which shall be—

"(A) during the 5-year period beginning on the date of the enactment of this section, one-half of the percentage that is determined under section 8.33(c)(1); and

"(B) after the expiration of such 5-year period, 1.25 percent of any such aggregate assets.

"SEC. 8.35. ENFORCEMENT LEVELS.

"(a) IN GENERAL.—The Director shall classify the Corporation, for purposes of this subtitle, according to the following enforcement levels:

"(1) LEVEL I.—The Corporation shall be classified as within level I if the Corporation—

"(A) maintains an amount of regulatory capital that is equal to or exceeds the risk-based capital level established under section 8.32; and

"(B) equals or exceeds the minimum capital level established under section 8.33.

"(2) LEVEL II.—The Corporation shall be classified as within level II if—

"(A) the Corporation—

"(i) maintains an amount of regulatory capital that is less than the risk-based capital level; and

"(ii) equals or exceeds the minimum capital level; or

"(B) the Corporation is otherwise classified as within level II under subsection (b) of this section.

"(3) LEVEL III.—The Corporation shall be classified as within level III if—

"(A) the Corporation—

"(i) does not equal or exceed the minimum capital level; and

"(ii) equals or exceeds the critical capital level established under section 8.34; or

"(B) the Corporation is otherwise classified as within level III under subsection (b) of this section.

"(4) LEVEL IV.—The Corporation shall be classified as within level IV if the Corporation—

"(A) does not equal or exceed the critical capital level; or

"(B) is otherwise classified as within level IV under subsection (b) of this section.

"(b) DESCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing (and provides written notification to the Corporation and the Farm Credit Administration) that the Corporation is taking any action not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages securitized by the Corporation or property underlying securities guaranteed by the Corporation, has decreased significantly, the Director may classify the Corporation—

"(1) as within level II, if the Corporation is otherwise within level I;

"(2) as within level III, if the Corporation is otherwise within level II; or

"(3) as within level IV, if the Corporation is otherwise within level III.

"(c) QUARTERLY DETERMINATION.—The Director shall determine the classification of the Corporation for purposes of this subtitle on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made for the quarter ending March 31, 1992.

"(d) NOTICE.—Upon determining under subsection (b) or (c) that the Corporation is within level II or III, the Director shall provide written notice to the Congress and to the Corporation—

"(1) that the Corporation is within such level;

"(2) that the Corporation is subject to the provisions of section 8.36 or 8.37, as applicable; and

"(3) stating the reasons for the classification of the Corporation within such level.

"(e) IMPLEMENTATION.—Notwithstanding paragraphs (1) and (2) of subsection (a), during the 30-month period beginning on the date of the enactment of this section, the Corporation shall be classified as within level I if the Corporation equals or exceeds the minimum capital level established under section 8.33.

"SEC. 8.36. MANDATORY ACTIONS APPLICABLE TO LEVEL II.

"(a) CAPITAL RESTORATION PLAN.—If the Corporation is classified as within level II, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

"(b) RESTRICTION ON DIVIDENDS.—If the Corporation is classified as within level II, the Corporation may not make any payment of dividends that would result in the Corporation being reclassified as within level II or IV.

"(c) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—The Director shall immediately reclassify the Corporation as within level III (and the Corporation shall be subject to the provisions of section 8.37), if—

"(1) the Corporation is within level II; and

"(2)(A) the Corporation does not submit a capital restoration plan that is approved by the Director; or

"(B) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(d) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 30-month period beginning on the date of the enactment of this section.

"SEC. 8.37. SUPERVISORY ACTIONS APPLICABLE TO LEVEL III.

"(a) MANDATORY SUPERVISORY ACTIONS.—

"(1) CAPITAL RESTORATION PLAN.—If the Corporation is classified as within level III, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

"(2) RESTRICTIONS ON DIVIDENDS.—

"(A) PRIOR APPROVAL.—If the Corporation is classified as within level III, the Corporation—

"(i) may not make any payment of dividends that would result in the Corporation being reclassified as within level IV; and

"(ii) may make any other payment of dividends only if the Director approves the payment before the payment.

"(B) STANDARD FOR APPROVAL.—If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

"(3) RECLASSIFICATION FROM LEVEL III TO LEVEL IV.—The Director shall immediately reclassify the Corporation as within level IV if—

"(A) the Corporation is classified as within level III; and

"(B)(i) the Corporation does not submit a capital restoration plan that is approved by the Director; or

"(ii) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(b) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

"(1) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.

"(2) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the Corporation or require contraction of the assets of the Corporation.

"(3) PROHIBITION ON DIVIDENDS.—Prohibit the Corporation from making any payment of dividends.

"(4) ACQUISITION OF NEW CAPITAL.—Require the Corporation to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Corporation as within level II.

"(5) RESTRICTION OF ACTIVITIES.—Require the Corporation to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Corporation.

"(6) CONSERVATORSHIP.—Appoint a conservator for the Corporation consistent with this Act.

"(c) EFFFECTIVE DATE.—This section shall take effect on January 1, 1992.

(c) AMENDMENT TO SECTION 8.3(c).—Section 8.3(c) of such Act (12 U.S.C. 2279aa–3(c)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) To establish, acquire, and maintain affiliates (as such term is defined in section 8.11(g)) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this title.".

(d) AMENDMENT TO SECTION 8.6.—Section 8.6 of such Act (12 U.S.C. 2279aa–6) is amended by adding at the end the following new subsection:

"(g) PURCHASE OF GUARANTEED SECURITIES.—

"(1) PURCHASE AUTHORITY.—The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

"(2) ISSUANCE OF DEBT OBLIGATIONS.—The Corporation (and affiliates) may issue debt obligations solely for the purpose of obtaining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 8.0(9)(B)), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

"(3) TERMS AND LIMITATIONS.—

"(A) TERMS.—The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

"(B) REQUIREMENT.—Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(C) AUTHORITY.—The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 8.13(a) remains outstanding.".

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

SEC. 601. FEDERAL CROP INSURANCE.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(1) in section 506(d) (7 U.S.C. 1506(d))—

(A) by striking "section 508(c)" and inserting "section 508(f)"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in section 506(m) (7 U.S.C. 1506(m))—

(A) by striking "wilfully" and inserting "willfully"; and

(B) by striking "to" after "exceed";

(3) in section 507(c)(2) (7 U.S.C. 1507(c)(2)), by inserting a comma after "private insurance companies";

(4) in section 508(a) (7 U.S.C. 1508(a)), by striking "(1)";

(5) in section 508 (7 U.S.C. 1508), by redesignating subsections (l), (m), and (n) as subsections (k), (l), and (m), respectively; and

(6) in section 518 (7 U.S.C. 1518) by striking "subsection (a) or (i)" and inserting "subsection (a) or (k)".

SEC. 602. DISASTER RELIEF.

(a) 1989 ACT.—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by inserting "(A)" after the paragraph heading.

(b) 1988 ACT.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) (as amended by section 1541 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in the subsection heading, by striking "SUNFLOWER SEED" and inserting "SUNFLOWERSEED"; and

(2) in paragraph (2)(A)—

(A) by inserting a comma after "(7 U.S.C. 612c)" in clause (i);

(B) by striking "such Act" in clause (i) and inserting "such section"; and

(C) by striking "sunflower seed" in clause (iv) and inserting "sunflowerseed".

(c) CLARIFICATION OF AMENDMENT.—Section 2232(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–510; 104 Stat. 3959) is amended—

(1) by striking "is amended to read:" and inserting "is amended by striking the material before the clauses and inserting the following:";

(2) by inserting open double quotes before "(A)"; and

(3) by moving the left margin of subparagraph (A) 2 ems to the right.

TITLE VII—RURAL DEVELOPMENT

SEC. 701. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 306(a).—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in paragraph (11)(B)(ii)—

(A) in subclause (I), by inserting "and" after the semicolon; and

(B) in subclause (II), by striking "; and" and inserting a period; and

(2) by striking paragraph (21).

(b) AMENDMENTS TO SECTION 306C(a)(2).—Subparagraphs (A) and (B) of section 306C(a)(2) of such Act (7 U.S.C. 1926c(a)(2)(A) and (B)) are each amended by moving the left margin of such subparagraphs 2 ems to the right.

(c) AMENDMENTS TO SECTION 310B.—Section 310B of such Act (7 U.S.C. 1932) is amended—

(1) in subsection (i)(2)(B)(iv), by striking "(ii) of this subsection" and inserting "(iii) of this subparagraph";

(2) in subsection (i)(5)(A), by striking "365(b)(3)," and inserting "365(b)(3)),";

(3) by transferring to the end of such section the provision added by section 2386 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4051);

(4) by redesignating the provision so transferred as subsection (j); and

(5) in subsection (j) (as so redesignated), by striking "The Secretary" and inserting "GRANTS TO BROADCASTING SYSTEMS.—The Secretary.

(d) AMENDMENTS TO SECTION 364(e).—Section 364(e) of such Act (7 U.S.C. 2006f(e)) is amended—

(1) in paragraph (2), by striking "the date of enactment of this section" and inserting "November 28, 1990"; and

(2) in paragraph (3), by striking "the date of enactment of this section" and inserting "November 28, 1990,".

(e) AMENDMENTS TO SECTION 365(b).—Section 365(b) of such Act (7 U.S.C. 2008(b)) is amended—

(1) in paragraph (4)(A), by striking "(3)(C)" and inserting "(3)(A)(iii)"; and

(2) in paragraph (5), by striking "(3)(B)" and inserting "(3)(A)(ii)".

(f) AMENDMENT TO SECTION 366(h).—Section 366(h) of such Act (7 U.S.C. 2008a(h)) is amended by striking "of such officer" and inserting "of such officer's".

(g) AMENDMENT TO SECTION 367(b)(1).—Section 367(b)(1) of such Act (7 U.S.C. 2008b(b)(1)) is amended by striking "365(b)(6)" and inserting "366(b)(6)".

(h) MISCELLANEOUS AMENDMENTS.—

(1) IDENTICAL AMENDMENTS.—Each of the following provisions of such Act is amended by striking "this Act" each place such term appears and inserting "this title":

(A) Section 306(a)(12)(D) (7 U.S.C. 1926(a)(12)(D)).

(B) Section 306(a)(20) (7 U.S.C. 1926(a)(20)).

(C) Section 310B(d)(5) (7 U.S.C. 1932(d)(5)).

(D) Section 310B(d)(7) (7 U.S.C. 1932(d)(7)).

(E) Section 331(b)(3) (7 U.S.C. 1981(b)(3)).

(F) Section 346(b)(3)(C) (7 U.S.C. 1994(b)(3)(C)).

(2) OTHER MISCELLANEOUS AMENDMENT.—Section 352(b)(3) of such Act (7 U.S.C. 2000(b)(3)) is amended by striking "be".

SEC. 702. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENT TO SECTION 2302(b)(1).—Section 2302(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f note) is amended by striking "the date of enactment of this section" and inserting "November 28, 1990".

(b) AMENDMENTS TO SECTION 2311.—Section 2311 of such Act (7 U.S.C. 2007a) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "4(b)" and inserting "4(e)";

(B) by striking "the section 4(c)" and inserting "section 4(l)"; and

(C) by striking "450b(c)))" and inserting "450b(l)))"; and

(2) in paragraph (4), by striking "this Act" and inserting "this chapter".

(c) Amendments to Section 2313.—Section 2313 of such Act (7 U.S.C. 2007c) is amended—

(1) in subsection (a)(2), by striking "Fund established under paragraph (1)" and inserting "Rural Business Investment Fund";

(2) in subsection (b)(1), by striking "fund established by subsection (a)" and inserting "Rural Business Investment Fund"; and

(3) in subsection (c)(6), by inserting "Business Investment" before "Fund".

(d) Amendment to Section 2314(a)(1)(A)(i).—Section 2314(a)(1)(A)(i) of such Act (7 U.S.C. 2007d(a)(1)(A)(i)) is amended by striking "from the Fund under this chapter" and inserting "under this chapter from the Rural Business Investment Fund".

(e) Amendment to Section 2315(d)(2).—Section 2315(d)(2) of such Act (7 U.S.C. 2007e(d)(2)) is amended by striking "engage in conduct, in".

(f) Amendments to Section 2322.—Section 2322 of such Act (7 U.S.C. 1926–1) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking "section 306(a)(9) and 306(a)(10)" and inserting "paragraphs (9) and (10) of section 306(a)"; and

(B) by striking "sections 306(a)(19)(A) and (B)" and inserting "subparagraphs (A) and (B) of section 306(a)(19)"; and

(2) in subsection (i)(1), by striking "and (3)".

(g) Amendment to Section 2332.—Section 2332 of such Act (7 U.S.C. 950aaa–1) is amended by striking "Federal government" and inserting "Federal Government".

(h) Amendments to Section 2388(h).—

(1) Amendments.—Section 2388(h) of such Act (104 Stat. 4053) is amended—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) Special rule.—The Consolidated Farm and Rural Development Act shall be applied and administered as if the amendment made by 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 had never been enacted.

(i) Repeal of Section 2388(i).—Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) is hereby repealed and the Consolidated Farm and Rural Development Act shall be applied and administered as if the amendments made by such subsection had never been enacted.

SEC. 703. AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.

(a) Amendment to Section 11A.—Section 11A(e) of the Rural Electrification Act of 1936 (7 U.S.C. 911a(e)) is amended by striking "1 percent" and inserting "2 percent".

(b) Repeal of Section 17.—Section 17 of such Act (7 U.S.C. 917) is repealed.

(c) Amendments to Section 501.—Section 501 of such Act (7 U.S.C. 950aa) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon;

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

(d) Amendment to Section 502.—Section 502(a)(2) of such Act (7 U.S.C. 950aa–1(a)(2)) is amended by striking "as defined in this Act".

SEC. 704. RURAL HEALTH LEADERSHIP DEVELOPMENT.

(a) In General.—Section 502(i)(1) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by adding at the end the following new subparagraph:

"(C) Rural health leadership development.—The Secretary, in consultation with the Office of Rural Health Policy of the Department of Health and Human Services, may make grants to academic medical centers or land grant colleges and universities, or any combination thereof, for the establishment of rural health leadership development education programs that shall assist rural communities in developing health care services and facilities that will provide the maximum benefit for the resources invested and assist community leaders and public officials in understanding their roles and responsibilities relative to rural health services and facilities, including—

"(i) community decisions regarding funding for and retention of rural hospitals;

"(ii) rural physician and allied health professionals recruitment and retention;

"(iii) the aging rural population and senior services required to care for the population;

"(iv) the establishment and maintenance of rural emergency medical services systems; and

"(v) the application of computer-assisted capital budgeting decision aids for rural health services and facilities.".

(b) Conforming Amendment.—The first sentence of section 502(i)(4) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by inserting after "to States" the following "or entities described in paragraph (1)(C)".

TITLE VIII—AGRICULTURAL PROMOTION

SEC. 801. SHORT TITLE.

Section 1901 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 note; 104 Stat. 3838) is amended by striking "This Act" and inserting "This title".

SEC. 802. PECANS.

Subtitle A of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 et seq., 104 Stat. 3838) is amended—

(1) in section 1907(22) (7 U.S.C. 6002(22)), by striking "inshell" and inserting "in-shell";

(2) in section 1910(b)(8)(G) (7 U.S.C. 6005(b)(8)(G))—

(A) by striking "paragraph 3(A), (B), and (C)," and inserting "subparagraphs (A), (B), and (C) of paragraph (3),"; and

(B) by striking "paragraph (3)(D) and (E)" and inserting "subparagraphs (D) and (E) of paragraph (3)"; and

(3) in section 1915(b)(2) (7 U.S.C. 6010(b)(2)), by striking "section" after "1913 or".

SEC. 803. MUSHROOMS.

Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6101 et seq.; 104 Stat. 3854) is amended—

(1) in section 1925(h) (7 U.S.C. 6104(h)), by striking "government" and inserting "governmental";

(2) in section 1928(d)(1)(A) (7 U.S.C. 6107(d)(1)(A)), by striking "United States district court" and inserting "United States District Court; and

(3) in section 1929(b)(2) (7 U.S.C. 6108(b)(2)), by striking "section" after "1927 or".

SEC. 804. POTATOES.

Section 310(a)(2) of the Potato Research and Promotion Act (7 U.S.C. 2619(a)(2)) is amended by striking "(2) when" and inserting "(2) When".

SEC. 805. LIMES.

Subtitle D of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6201 et seq.; 104 Stat. 3870) is amended—

(1) in section 1955(e)(1)(B) (7 U.S.C. 6204(e)(1)(B)), by striking "government employees" and inserting "Government employees";

(2) in section 1958(d)(1) (7 U.S.C. 6207(d)(1)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1959(b)(2) (7 U.S.C. 6208(b)(2)), by striking "section" after "1957 or".

SEC. 806. SOYBEANS.

Subtitle E of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6301 et seq.; 104 Stat. 3881) is amended—

(1) in section 1969 (7 U.S.C. 6304)—

(A) in subsection (g)(2)(A)(ii), by striking "Argricultural" and inserting "Agricultural";

(B) in subsection (l)(2)(F)(vii)(V), by striking "that requests" and inserting "that request"; and

(C) in subsection (q)(4)—

(i) by inserting a comma after "and"; and

(ii) by striking the semicolon after "Board";

(2) in section 1970(b)(3) (7 U.S.C. 6305(b)(3)), by striking "this Act" and inserting "this subtitle"; and

(3) in section 1974 (7 U.S.C. 6309)—

(A) in subsection (b)(3), by striking "section 1969(k)(4)" and inserting "section 1969(l)(4)"; and

(B) by redesignating the second subsection (b) as subsection (c).

SEC. 807. HONEY.

The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) is amended—

(1) in section 9(h) (7 U.S.C. 4608(h)), by inserting "to" before "an importer"; and

(2) in section 11A(b)(2) (7 U.S.C. 4610a(b)(2)), by striking "section" after "10 or".

SEC. 808. COTTON.

(a) Cotton Promotion Act.—The Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.) is amended—

(1) in section 7(e)(4) (7 U.S.C. 2106(e)(4)), by striking "title" and inserting "Act";

(2) in section 8(b)(2) (7 U.S.C. 2107(b)(2)), by striking "section 17C(2)" and inserting "section 17(c)(2)";

(3) in section 10(b) (7 U.S.C. 2109(b)), by striking "section 8(b) or 8(c)" and inserting "subsection (b) or (c) of section 8"; and

(4) in section 11(a) (7 U.S.C. 2110(a))—

(A) by inserting "of this Act" after "section"; and

(B) by striking "of this Act," after "subsection (b),".

(b) Reports.—Section 1998 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2101 note; 104 Stat. 3913) is amended by striking "title" each place it appears in subsections (a) and (b) and inserting "subtitle".

SEC. 809. FLUID MILK.

Section 1999L(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6411(b); 104 Stat. 3922) is amended by striking "this subsection" and inserting "this section".

SEC. 810. WOOL.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by inserting after the third sentence the following new sentence: "In any agreement entered into under this section, the Secretary shall prohibit the use of any funds made available through pro rata deductions from payments under section 704 of this title in any manner for the purpose of influencing legislation or government action or policy, except for the development or recommendation to the Secretary of amendments to the research and promotion program.".

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

SEC. 901. APPLICATION OF FOOD STAMP ACT OF 1977 TO DISABLED PERSONS.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by inserting after "title I, II, X, XIV, or XVI of the Social Security Act" both places it appears in subsections (g)(7) and (i) the following: ", or are individuals described in paragraphs (2) through (7) of subsection (r),".

SEC. 902. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF GENERAL ASSISTANCE.

The third sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "appropriate for categorical treatment" and inserting "based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month,".

SEC. 903. EXCLUSIONS FROM INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "to the extent" and all that follows through "involved)" and inserting "awarded to a household member enrolled"; and

(B) in subparagraph (B)—

(i) by inserting after "amount" the following: "used for or"; and

(ii) by striking "or program for" and inserting "program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved),";

(2) by striking "and" at the end of paragraph (14); and

(3) by inserting before the period at the end the following: ", and (16) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))".

SEC. 904. RESOURCES THAT CANNOT BE SOLD FOR A SIGNIFICANT RETURN.

Section 5(g)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(5)) is amended by adding at the end the following new sentences: "A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to require verification of the value of a resource to be excluded under this paragraph unless the State agency determines that the information provided by the household is questionable.".

SEC. 905. RESOURCE EXEMPTION FOR HOUSEHOLDS EXEMPT UNDER AFDC OR SSI.

Subsection (j) of section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) is amended to read as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g).".

SEC. 906. TECHNICAL AMENDMENT ON TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)(F)) is amended by inserting before the semicolon the following: ", if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases".

SEC. 907. PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) IN GENERAL.—Subparagraph (L) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(L)) is amended to read as follows:

"(L)(i) The Secretary shall establish performance standards and measures applicable to employment and training programs carried out under this paragraph that are based on employment outcomes, including increases in earnings.

"(ii) Final performance standards and measures referred to in clause (i) shall be published not later than 12 months after the date that the final outcome-based performance standards are published for job opportunities and basic skills training programs under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(iii) The standards shall encourage States to serve those individuals who have greater barriers to employment and shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph. The standards shall require participants to make levels of efforts comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.

"(iv) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the outcome-based performance standards described in this subparagraph.

"(v) A State agency shall be considered in compliance with applicable performance standards under subparagraph (K) if the State agency operates an employment and training program in a manner consistent with its approved plan and if the program requires participants to make levels of effort comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.".

(b) LIMITATION.—Section 6(d)(4)(K)(i) of such Act is amended—

(1) by striking "50 percent through September 30, 1989" and inserting "10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995"; and

(2) by adding at the end the following new sentence: "The Secretary shall not require the plan of a State agency to provide for the participation of a number of recipients greater than 10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995, of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).".

SEC. 908. SUSPENSION OF CERTAIN REQUIREMENTS, AND STUDY, OF FOOD STAMP PROGRAM ON INDIAN RESERVATIONS.

(a) SUSPENSION OF REQUIREMENTS.—

(1) STAGGERED ISSUANCE OF COUPONS.—No State agency shall be required to implement section 7(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(h)(1)), regarding the staggering of issuance of food stamp coupons, until April 1, 1993. The Secretary of Agriculture shall issue final regulations requiring the staggered issuance of coupons no later than December 1, 1992.

(2) EXEMPTION FROM MONTHLY REPORTING SYSTEMS.—No State agency shall be required to exempt households residing on Indian reservations from food stamp program monthly reporting systems until April 1, 1993. The Secretary shall issue final regulations requiring the exemption of households residing on Indian reservations from food stamp program monthly reporting systems no later than December 1, 1992.

(b) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall report to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the difficulties that residents of Indian reservations experience in obtaining food stamp benefits, in using food stamp benefits, and in purchasing food economically with food stamps.

(2) COMPONENTS.—In carrying out paragraph (1), the Comptroller General shall—

(A) examine whether monthly reporting requirements are a burden to food stamp households residing on Indian reservations;

(B) examine whether prices at food stores serving reservations are increased during the parts of months when food stamps are issued or are decreased during times of the month when most households have exhausted their food stamp allotments;

(C) examine whether eligible households residing on reservations would prefer that the households' food stamp issuances be—

(i) staggered throughout the month;

(ii) concentrated on the same day of each month; or

(iii) staggered during approximately the first 2 weeks of the month; and

(D) analyze problems associated with transportation difficulties in terms of food stamp program participation and any actions that could be taken at the Federal, State, or local level to remedy the problems.

(3) CONSULTATION.—In completing the report and recommendations, the Comptroller General shall consult with Indian tribes, State agencies, and other appropriate parties.

SEC. 909. VALUE OF ALLOTMENT.

Section 8(b) of the Food Stamp Act of 1977 (7 U.S.C. 2017(b)) is amended—

(1) by striking "the allotment provided any eligible household" and inserting "benefits that may be provided under this Act, whether through coupons, access devices, or otherwise"; and

(2) by striking "an allotment" and inserting "benefits".

SEC. 910. PRORATING WITHIN A CERTIFICATION PERIOD.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month."; and

(2) in paragraph (2)(B), by striking "previous participation in such program" and inserting "the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10)".

SEC. 911. RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.

The first sentence of section 13(b)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(2)(A)) is amended by inserting before the period the following: ", except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household's monthly allotment".

SEC. 912. DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT.

The Secretary of Agriculture shall solicit requests to participate in the demonstration projects required by section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) by May 1, 1992. The projects shall commence operations no later than January 1, 1993.

SEC. 913. DEFINITION OF RETAIL FOOD STORE.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99-570; 7 U.S.C. 2012 note) is amended by striking "and (b)" and inserting ", (b), and (c)".

Subtitle B—Commodity Distribution

SEC. 921. EXTENSION OF ELDERLY COMMODITY PROCESSING DEMONSTRATIONS.

Section 1114(a)(2)(D) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(D)) is amended by striking "1992 and 1993" and inserting "1992, 1993, and 1994".

SEC. 922. REDUCTION OF FEDERAL PAPERWORK FOR DISTRIBUTION OF COMMODITIES.

(a) HUNGER PREVENTION ACT.—Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(1) in paragraphs (1) and (2) of subsection (c), by inserting after "to needy persons" each place it appears the following: "and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy persons"; and

(2) by adding at the end the following new subsections:

"(j) PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.—

"(1) SOUP KITCHENS.—In distributing commodities under this section, the distributing agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

"(2) INSTITUTIONS THAT SERVE ONLY LOW-INCOME RECIPIENTS.—If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

"(3) OTHER INSTITUTIONS.—If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy persons.

"(k) SETTLEMENT AND ADJUSTMENT OF CLAIMS.—

"(1) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under this section; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of this section.

"(2) LITIGATION.—Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(b) EMERGENCY FOOD ASSISTANCE ACT.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end the following new section:

"SEC. 215. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

"(a) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

"(1) determine the amount of, settle, and adjust any claim arising under this Act; and

"(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this Act.

"(b) LITIGATION.—Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(c) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by adding at the end the following new subsection:

"(k)(1) The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under the commodity supplemental food program; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the program.

"(2) Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

Subtitle C—Indian Subsistence Farming Demonstration Grant

SEC. 931. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of subsistence farming programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian subsistence farming demonstration grant program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) have income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

SEC. 932. DEFINITIONS.

For the purposes of this subtitle:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is identified by the Secretary as having special dietary needs;

(B) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) has income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTER-TRIBAL CONSORTIUM.—The term "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any subsistence farming program funded or assisted under this subtitle.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 933. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may establish an Indian subsistence farming demonstration grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of subsistence farming operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the subsistence farming project proposed by the applicant;

(B) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(C) the number of Indians who are projected as eligible recipients of produce grown under the project.

SEC. 934. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service may conduct, with respect to the projects established under this title, site surveys, workshops, short courses, training, and technical assistance on such topics as nutrition food preservation and preparation techniques, spacing, depth of seed placement, soil types, and other aspects of subsistence farming operations.

SEC. 935. TRIBAL CONSULTATION.

An Indian tribe participating in any subsistence farming program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian subsistence farming project.

SEC. 936. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 937. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $50,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. 938. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 939. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $2,000,000 for each of the fiscal years 1993 through 1995.

Subtitle D—Technical Amendments

SEC. 941. TECHNICAL AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended—

(1) in section 3 (7 U.S.C. 2012)—

(A) in subsection (j), by striking "section 3(p) of this Act" and inserting "subsection (p)";

(B) in subsection (o)(6), by striking "per centun" and inserting "percent"; and

(C) by redesignating subsection (u) as subsection (t);

(2) in section 5 (7 U.S.C. 2014)—

(A) in subsection (d)(2), by striking "section 5(f) of this Act" and inserting "subsection (f)";

(B) in subsection (h)(1), by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(C) in subsection (k)(2), by moving the margin of subparagraph (E) to the left so as to align with the margin of subparagraph (D);

(3) in section 6 (7 U.S.C. 2015)—

(A) in subsection (c)(1)(A), by moving the margin of clause (ii) to the left so as to align with the margin of clause (i);

(B) in subsection (d)(1)(A)—

(i) by striking "who is physically" and inserting "who is a physically";

(ii) by striking "Secretary;" in clause (i) and all that follows through "refuses" in clause (ii) and inserting "Secretary; (ii) refuses"; and

(iii) by striking "two months" in clause (ii) and all that follows through "refuses" in clause (iii) and inserting "two months; or (iii) refuses";

(C) in subsection (d)(4)(B)(vii)—

(i) by striking "Secretary,," and inserting "Secretary,"; and

(ii) by striking "aimed an" and inserting "aimed at";

(D) in subsection (d)(4)(D)(iii), by striking "clauses (i) or (ii)" and inserting "clause (i) or (ii)"; and

(E) in subsection (d)(4)(I)(i)(II)—

(i) by striking "601 et seq.))" and inserting "601 et seq.)"; and

(ii) by striking ", but in" and inserting "), but in";

(4) in section 9(a)(1) (7 U.S.C. 2018(a)(1)), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(5) in section 11(e) (7 U.S.C. 2020(e))—

(A) in paragraph (2), by striking the period at the end and inserting a semicolon;

(B) in paragraph (3)—

(i) in subparagraph (D), by inserting a close parenthesis after "section 6"; and

(ii) in subparagraph (E), by striking "verified under this Act, and that the State agency shall provide the household" and inserting "verified under this Act,

and that the State agency shall provide the household"; and

(C) in paragraph (15), by striking the period at the end and inserting a semicolon;

(6) in section 11 (7 U.S.C. 2020), by redesignating subsection (p) as subsection (b) and transferring such subsection to the location after subsection (a);

(7) in section 16 (7 U.S.C. 2025)—

(A) in subsection (g), by inserting a comma after "1991"; and

(B) in subsection (h)(4), by striking "the Act" and inserting "this Act";

(8) in the first sentence of section 17(b)(3)(C) (7 U.S.C. 2026(b)(3)(C)), by striking "402(g)(1)(A)" and inserting "402(g)(1)(A))";

(9) in section 19(b)(1)(A)(i) (7 U.S.C. 2028(b)(1)(A)(i)), by striking "directly." and inserting "directly";

(10) in section 20(g)(2) (7 U.S.C. 2029(g)(2))—

(A) by moving the margins of subparagraphs (A) and (B) 2 ems to the left; and

(B) in subparagraph (B), by moving the margins of clauses (i) and (ii) 2 ems to the left; and

(11) in section 22 (7 U.S.C. 2031)—

(A) by inserting the following section heading above the section designation:

"FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN";

(B) in subsection (d)(2)(B), by striking "paragraph (b)(3)(D)(iii)" and inserting "subsection (b)(3)(D)(iii)"; and

(C) in subsection (h), by striking "subsection b(12)" and inserting "subsection (b)(12)".

SEC. 942. AMENDMENT RELATING TO THE HUNGER PREVENTION ACT OF 1988.

Section 1772(h)(5) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3809) is amended by striking "Relief" and inserting "Prevention".

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 1001. ORGANIC CERTIFICATION.

Title XXI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat 3935) is amended—

(1) in section 2105 (7 U.S.C. 6504), by striking the period at the end of paragraph (2) and inserting "; and";

(2) in section 2110 (7 U.S.C. 6509)—

(A) in subsection (d)(1)(B), by striking "paraciticides" and inserting "parasiticides"; and

(B) by redesignating subsection (h) as subsection (g);

(3) in section 2111(a)(1) (7 U.S.C. 6510(a)(1)), by striking "post harvest" and inserting "postharvest";

(4) in section 2112(b) (7 U.S.C. 6511(b)), by striking "PRE-HARVEST" and inserting "PREHARVEST";

(5) in section 2116(j)(2) (7 U.S.C. 6515(j)(2)), by striking "certifying such" and inserting "such certifying";

(6) in section 2118(c)(1)(B)(i) (7 U.S.C. 6517(c)(1)(B)(i)), by striking "paraciticides" and inserting "parasiticides"; and

(7) in section 2119(a) (7 U.S.C. 6518(a)), by striking "(to" and inserting "to";

(8) in section 2120(f) (7 U.S.C. 6519(f)), by inserting a comma after "et seq.)" the first place it appears; and

(9) in section 2121(b) (7 U.S.C. 6520(b)), by striking "District Court for the District" and inserting "district court for the district".

SEC. 1002. AGRICULTURAL FELLOWSHIPS.

Section 1543(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293; 104 Stat. 3694) is amended by striking "Program" and inserting "program".

SEC. 1003. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (a)(3), by striking "section" and inserting "subsection";

(2) in subsection (c)(1)(C), by inserting "program" after "agricultural"; and

(3) in subsection (d)(3), by striking "Not later than 1 year after the date of enactment of this Act," and inserting "Not later than November 28, 1991,".

SEC. 1004. PROTECTION OF PETS.

Section 28(b)(2)(F) of the Animal Welfare Act (7 U.S.C. 2158(b)(2)(F)) is amended by striking "subsection (b)" and inserting "subsection (a)".

SEC. 1005. CRITICAL AGRICULTURAL MATERIALS.

The Critical Agricultural Materials Act (7 U.S.C. 178 et seq.) is amended—

(1) in section 5(b)(9) (7 U.S.C. 178c(b)(9)), by striking the first comma after "industrial purposes"; and

(2) in section 11 (7 U.S.C. 178i), by striking "insure" both places it appears and inserting "ensure".

SEC. 1006. AMENDMENTS TO FIFRA AND RELATED PROVISIONS.

(a) IN GENERAL.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) in section 2(e)(1) (7 U.S.C. 136(e)(1))—

(A) by striking "section 4" and inserting "section 11";

(B) by striking "use" in the second sentence and inserting "uses"; and

(C) by striking "section 2(ee) of this Act" and inserting "subsection (ee)";

(2) in section 2(q)(2)(A)(i) (7 U.S.C. 136(q)(2)(A)(i)), by striking "size of form" and inserting "size or form";

(3) in section 3(c)(1) (7 U.S.C. 136a(c)(1))—

(A) by striking subparagraphs (E) and (F);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) the complete formula of the pesticide;

"(E) a request that the pesticide be classified for general use or for restricted use, or for both; and"; and

(D) in subparagraph (F) (as so redesignated)—

(i) by striking "(i) with" and inserting "(i) With";

(ii) by striking the semicolon at the end of clauses (i), (ii), and (iii) and inserting a period;

(iii) by striking "(ii) except" and inserting "(ii) Except"; and

(iv) by striking "(iii) after" and inserting "(iii) After";

(4) by conforming the left margin of paragraph (3) of section 4(f) (7 U.S.C. 136a-1(f)) to the left margin of the preceding paragraph;

(5) in section 6(f)(3)(B) (7 U.S.C. 136d(f)(3)(B)), by striking "an unreasonable adverse affect" and inserting "an unreasonable adverse effect";

(6) in section 11 (7 U.S.C. 136i)—

(A) in the section heading, by striking "**APPPLICATORS**" and inserting "**APPLICATORS**";

(B) in subsection (b), by striking "this paragraph" each place it appears and inserting "subsection (a)(2)"; and

(C) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsection (a)";

(7) in section 12(a)(2) (7 U.S.C. 136j(a)(2))—

(A) by striking "thereunder. It" in subparagraph (F) and inserting "thereunder, except that it";

(B) by striking "or" at the end of subparagraph (O); and

(C) by striking the period at the end of subparagraph (P) and inserting a semicolon;

(8) in section 14(a)(2) (7 U.S.C. 1361(a)(2))—

(A) by striking ": *Provided,* That" and inserting ", except that"; and

(B) by striking "use" and inserting "uses";

(9) in section 17(a) (7 U.S.C. 136o), by removing the last sentence from paragraph (2) and placing it as full measure sentence under such paragraph;

(10) in section 20(a) (7 U.S.C. 136r(a)), by striking "insure" and inserting "ensure"; and

(11) in section 26(c) (7 U.S.C. 136w-1(c)), by striking "use" and inserting "uses".

(b) GENDER.—

(1) Such Act is amended by striking "he" each place it appears in sections 3(c)(2)(A), 3(c)(5), 3(c)(6), 3(d)(1)(A), 3(d)(1)(B), 3(d)(1)(C), 3(d)(2), 5(b), 5(e), 5(f), 6(a)(1), 6(b), 6(c)(1), 6(c)(3), 7(b), 8(a), 9(c)(3), 10(c), 11(b), 16(b), 16(d), 18, 20(a), 21(b), 25(a)(3), 25(b), 25(c)(5), and 25(d) (7 U.S.C. 136a(c)(2)(A), 136a(c)(5), 136a(c)(6), 136a(d)(1)(A), 136a(d)(1)(B), 136a(d)(1)(C), 136a(d)(2), 136c(b), 136c(e), 136c(f), 136d(a)(1), 136d(b), 136d(c)(1), 136d(c)(3), 136e(b), 136f(a), 136g(c)(3), 136h(c), 136i(b), 136n(b), 136n(d), 136p, 136r(a), 136s(b), 136w(a)(3), 136w(b), 136w(c)(5), and 136w(d)) and inserting "the Administrator".

(2) Such Act is amended by striking "his" each place it appears in sections 3(c)(2)(A), 3(c)(3)(A), 3(c)(6), 6(b), 6(c)(1), 6(d), 10(b), 11(a)(2), 16(b), 17(c), 18, 21(b), and 25(c)(4) (7 U.S.C. 136a(c)(2)(A), 136a(c)(3)(A), 136a(c)(6), 136d(b), 136d(c)(1), 136d(d), 136h(b), 136i(a)(2), 136n(b), 136o(c), 136p, 136s(b), and 136w(c)(4)) and inserting "the Administrator's".

(3) Such Act is amended—

(A) in section 2(e)(2) (7 U.S.C. 136(e)(2)), by striking "him or his" and inserting "the applicator or the applicator's";

(B) in section 2(e)(3), by striking "he" and inserting "the applicator";

(C) in section 6(a)(2) (7 U.S.C. 136d(a)(2)), by striking "he" and inserting "the registrant";

(D) in section 6(c)(3), by striking "him" and inserting "the Administrator";

(E) in section 6(d), by striking "him" and inserting "the Administrator";

(F) in section 7(c)(1) (7 U.S.C. 136e(c)(1)), by striking "he" each place it appears and inserting "the producer";

(G) in section 7(c)(2)—

(i) by striking "him" and inserting "the Administrator"; and

(ii) by striking "he" and inserting "the producer";

(H) in the fourth sentence of section 9(a)(2) (7 U.S.C. 136g(a)(2)), by striking "he" and inserting "the officer or employee";

(I) in the third sentence of section 9(c)(1), by striking "his" and inserting "the person's";

(J) in section 10(a) (7 U.S.C. 136h(a)), by striking "his" and inserting "the applicant's";

(K) in section 11(a)(1) (7 U.S.C. 136i(a)(1))—

(i) in the ninth sentence, by striking "his" and inserting "the applicator"; and

(ii) in the last sentence, by striking "him" and inserting "the Administrator";

(L) in section 12(a)(2)(C) (7 U.S.C. 136j(a)(2)(C))—

(i) by striking "his" and inserting "the person's"; and

(ii) by striking "he" and inserting "the person";

(M) in section 12(a)(2)(D), by striking "his" and inserting "the person's";

(N) in section 12(b)(1)—

(i) by striking "he" and inserting "the person";

(ii) by striking "him" and inserting "the person";

(O) in section 12(b)(3), by striking "his official duties" and inserting "the official duties of the public official"; and

(P) in the second sentence of section 16(b) (7 U.S.C. 136n(b)), by striking "him" and inserting "the Administrator".

(c) UNEXECUTABLE AMENDMENT.—The phrase sought to be struck in section 102(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 (Public Law 100-532; 102 Stat 2667) shall be deemed to be "an end-use product".

(d) RECORDKEEPING.—Section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 136i-1) is amended—

(1) in subsection (a), by striking "(7 U.S.C. 136a(d)(1)(C))" and inserting "(7 U.S.C. 136a(d)(1)(C)))"; and

(2) in subsection (d)(1), by inserting "of" after "fine".

(e) MAINTENANCE FEE.—Paragraph (5) of section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)) is amended to read as follows:

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

"(i) $650 for the first registration; and

"(ii) $1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that **the fee would significantly reduce the availability of the pesticide for the use.**

"(C) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(D) The maximum annual fee payable under this paragraph by—

"(i) a registrant holding not more than 50 pesticide registrations shall be $55,000; and

"(ii) a registrant holding over 50 registrations shall be $95,000.

"(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

"(I) a registrant holding not more than 50 pesticide registrations shall be $38,500; and

"(II) a registrant holding over 50 pesticide registrations shall be $66,500.

"(ii) For purposes of clause (i), the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(F) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(G) The authority provided under this paragraph shall terminate on September 30, 1997.".

(f) REGISTRATION AND EXPEDITED PROCESSING FUND.—Section 4(k)(3)(A) of such Act (7 U.S.C. 136a-1(k)(3)(A)) is amended by striking "each fiscal year not more than $2,000,000 of the amounts in the fund" and inserting "for each of the fiscal years 1992, 1993, and 1994, 1/7th of the maintenance fees collected, up to $2 million each year".

SEC. 1007. GRAIN STANDARDS.

The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75), by striking "The" in subsections (i), (j), (k), (u), (v), (w), (x), (z), and (aa) and inserting "the";

(2) in section 16(a) (7 U.S.C. 87e(a)), by striking "Administrtor." in the second sentence and inserting "Administrator."; and

(3) in section 17B(a) (7 U.S.C. 87f-2(a))—

(A) by striking "The" and inserting "On December 1 of each year, the";

(B) by striking "committee on Agriculture" and inserting "Committee on Agriculture; and

(C) by striking "one year" and all that follows through "such committees".

SEC. 1008. PACKERS AND STOCKYARDS.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) is amended—

(1) in section 202(c) (7 U.S.C. 192(c)), by striking "dealer. any" and inserting "dealer, any"; and

(2) in section 406(b)(2) (7 U.S.C. 227(b)(2)), by striking the comma after "unmanufactured form,".

SEC. 1009. REDUNDANT LANGUAGE IN WAREHOUSE ACT.

Section 17(c)(1)(B) of the United States Warehouse Act (7 U.S.C. 259(c)(1)(B)) is amended by striking ", or to a specified person".

SEC. 1010. CLARIFICATION OF FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

Notwithstanding any other provision of law, the Secretary of Agriculture is directed immediately to implement the establishment within the Department of Agriculture of the Rural Development Administration established by subtitle A of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f et seq.) and the amendments made by such subtitle.

SEC. 1011. PERISHABLE AGRICULTURAL COMMODITIES.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.), is amended—

(1) in the first section (7 U.S.C. 499a)—

(A) by striking out "That when used in this Act—" and inserting the following:

"SECTION 1. SHORT TITLE AND DEFINITIONS.

"(a) Short Title.—This Act may be cited as the 'Perishable Agricultural Commodities Act, 1930'.

"(b) Definitions.—For purposes of this Act:"; and

(B) by striking the semicolon at the end of paragraphs (1), (2), (3), (4), (5), (6), and (9) and inserting a period;

(2) in section 4(a) (7 U.S.C. 499d(a)), by striking "anual" in the material before the first proviso and inserting "annual";

(3) in section 5(c)(2) (7 U.S.C. 499e(c)(2)), by striking "(as" and inserting ", as";

(4) in section 6 (7 U.S.C. 499f)—

(A) by adding a period at the end of subsection (c); and

(B) by striking the semicolon at the end of subsection (d) and inserting a period;

(5) in section 7 (7 U.S.C. 499g), by striking the semicolon at the end of subsections (a), (b), and (c) and inserting a period;

(6) in section 8(a) (7 U.S.C. 499h(a))—

(A) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(B) by striking the semicolon at the end of the subsection and inserting a period;

(7) in section 14(a) (7 U.S.C. 499n(a))—

(A) by striking "(7 U.S.C., Supp. 2, secs. 1 to 17 (a))" and inserting "(7 U.S.C. 1 et seq.)"; and

(B) by striking the semicolon at the end of the subsection and inserting a period; and

(8) by striking section 18 (7 U.S.C. 499r).

SEC. 1012. EGG PRODUCTS INSPECTION.

(a) Findings and Purposes.—

(1) Findings.—Congress finds that—

(A) food borne illness is a serious health problem;

(B) its incidence can be reduced through proper handling of food; and

(C) eggs are perishable and therefore are particularly susceptible to supporting microbial growth if proper temperature controls are not maintained.

(2) Purposes.—It is the purpose of this section to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect the health and welfare of consumers.

(b) Inspection of Egg Products.—Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer—

"(A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and

"(B) contain labeling that indicates that refrigeration is required.

"(2) In the case of a shell egg packer packing eggs for the ultimate consumer, the Secretary shall make an inspection in accordance with paragraph (1) at least once each calendar quarter.

"(3) The Secretary of Health and Human Services shall cause such inspections to be made as the Secretary considers appropriate to ensure compliance with the requirements of paragraph (1) at food manufacturing establishments, institutions, and restaurants, other than plants packing eggs.

"(4) The Secretary shall not make an inspection as provided in paragraph (1) on any egg handler with a flock of not more than 3,000 layers.

"(5) A representative of the Secretary and the Secretary of Health and Human Services shall be afforded access to a place of business referred to in this subsection, including a transport vehicle, for purposes of making an inspection required under this subsection.".

(c) Prohibited Acts.—Section 8 of such Act (21 U.S.C. 1037) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No egg handler shall possess any eggs after the eggs have been packed into a container that is destined for the ultimate consumer unless the eggs are stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as prescribed by rules and regulations promulgated by the Secretary.".

(d) Penalties.—Section 12 of such Act (21 U.S.C. 1041) is amended—

(1) in the first sentence of subsection (a), by striking "$1,000" and inserting "$5,000";

(2) by designating the last sentence of subsection (a) as subsection (d) and transferring such subsection to the end of the section;

(3) by redesignating subsection (b) as subsection (e) and transferring such subsection to the end of the section;

(4) by redesignating subsection (c) as subsection (b); and

(5) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as otherwise provided in this subsection, any person who violates any provision of this Act or any regulation issued under this Act, other than a violation for which a criminal penalty has been imposed under this Act, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation to which this subparagraph applies shall be considered a separate offense.

"(B) No penalty shall be assessed against any person under this subsection unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(C) The amount of the civil penalty imposed under this subsection—

"(i) shall be assessed by the Secretary, by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and

"(ii) may be reviewed only as provided in paragraph (2).

"(2)(A) The determination and order of the Secretary under this subsection shall be final and conclusive unless the person against whom such a violation is found under paragraph (1) files an application for judicial review within 30 days after service of the order in the United States court of appeals for the circuit in which the person has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit.

"(B) Judicial review of any such order shall be based on the record on which the determination and order are based.

"(C) If the court determines that additional evidence needs to be taken, the court shall order the hearing to be reopened for this purpose in such manner and on such terms and conditions as the court considers proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, on the basis of the additional evidence so taken.

"(3) If any person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General. The Attorney General shall institute a civil action to recover the amount assessed in an appropriate district court of the United States. In the collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

"(4) All penalties collected under this subsection shall be paid into the Treasury of the United States.

"(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

"(6) Paragraph (1) shall not apply to an official plant.".

(e) Reporting of Violation to United States Attorney for Institution of Criminal Proceedings.—The last sentence of section 13 of such Act (21 U.S.C. 1042) is amended by inserting before the period at the end the following: "or an action to assess civil penalties".

(f) Imports.—Section 17(a) of such Act (21 U.S.C. 1046(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (2), and (4), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) No eggs packed into a container that is destined for the ultimate consumer shall be imported into the United States unless the eggs are accompanied by a certification that the eggs have at all times after packaging been stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as required by sections 5(e) and 8(c).".

(g) Relation to Other Authorities.—The first sentence of section 23(b) of such Act (21 U.S.C. 1052(b)) is amended by striking "and (2)" and inserting the following: "(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, Federal requirements, and (3)".

(h) Effective Date.—This section and the amendments made by this section shall become effective 12 months after the Secretary of Agriculture promulgates final regulations implementing this section and the amendments.

SEC. 1013. PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM.

(a) In General.—The Secretary of Agriculture shall, to the extent practicable, take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

(b) Introduction Into Hawaii.—The Secretary shall initiate a program to prevent, to the extent practicable, the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

(c) AUTHORITY.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b).

(d) CONTROL OF BROWN TREE SNAKES.—The Act of March 2, 1931 (46 Stat. 1468, chapter 370; 7 U.S.C. 426) is amended by inserting "brown tree snakes," after "rabbits,".

(e) IMPORTATION OF BROWN TREE SNAKES.—The first sentence of section 42(a)(1) of title 18, United States Code, is amended by inserting "brown tree snakes," after "reptiles,".

SEC. 1014. GRANT TO PREVENT AND CONTROL POTATO DISEASES.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food, and Rural Resources for potato disease detection, control, prevention, eradication and related activities, including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine. Any unobligated balances of funds previously appropriated or allocated for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SEC. 1015. COLLECTION OF FEES FOR INSPECTION SERVICES.

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) QUARANTINE AND INSPECTION.—The Secretary" and inserting the following:

"(1) QUARANTINE AND INSPECTION.—

"(A) IN GENERAL.—The Secretary";

(B) by indenting 2 ems the left margin of paragraph (1); and

(C) by adding at the end the following new subparagraphs:

"(B) AIRPORT INSPECTION SERVICES.—For airport inspection services, the Secretary shall collect no more than $69,000,000 in fiscal year 1992 and $75,000,000 in fiscal year 1993 from international airline passengers and commercial aircraft operators.

"(C) COMMERCIAL TRUCK AND RAILROAD CAR INSPECTION SERVICES.—For commercial truck and railroad car inspection services, the Secretary shall collect no more than $3,667,000 in fiscal year 1992 and $3,890,000 in fiscal year 1993 from commercial truck and railroad car operators.

"(D) COSTS.—Fees, including fees from international airline passengers and commercial aircraft operators, may only be collected to the extent that the Secretary reasonably estimates that the amount of the fees are commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of such services with respect to passengers as a class includes the costs of related inspections of the aircraft.";

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following new clause:

"(ii) REIMBURSEMENT.—The Secretary of the Treasury shall use the Account to provide reimbursements to any appropriation accounts that incur the costs associated with the administration of this subsection and all other activities carried out by the Secretary at ports in the customs territory of the United States and at preclearance or preinspection sites outside the customs territory of the United States in connection with the enforcement of the animal quarantine laws. Any such reimbursement shall be subject to appropriations under clause (v)."; and

(3) in paragraph (4), by striking "The" and inserting "Subject to the limits set forth in paragraph (1), the".

SEC. 1016. EXEMPTION AND STUDY OF CERTAIN FOOD PRODUCTS.

(a) AMENDMENTS TO FEDERAL MEAT INSPECTION ACT.—Section 23 of the Federal Meat Inspection Act (21 U.S.C. 623) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under section 24 that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a meat food product from the inspection requirements of this Act if—

"(A) the meat food product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(b) AMENDMENTS TO POULTRY PRODUCTS INSPECTION ACT.—Section 15 of the Poultry Products Inspection Act (21 U.S.C. 464) is amended—

(1) by redesignating subsection (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (e) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under this section that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a poultry product from the inspection requirements of this Act if—

"(A) the poultry product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(c) REGULATIONS.—No later than August 1, 1992, the Secretary of Agriculture shall issue final rules, through prior notice and comment rulemaking procedures, to implement the exemption authorized by section 23(c) of the Federal Meat Inspection Act (as added by subsection (a)) and the exemption authorized by section 15(d) of the Poultry Products Inspection Act (as added by subsection (b)). Prior to the issuance of the final rules, the Secretary shall hold at least one public hearing examining the public health and food safety issues raised by the granting of each of the exemptions.

(d) STUDIES.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the National Academy of Sciences, shall conduct—

(A) a study to develop criteria for, and evaluate, present and future inspection exemptions for meat food products and poultry products under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), respectively, which shall examine the potential effect on consumers, on the affected industries, on public health and food safety, on the role of the Department of Agriculture, and the scientific basis for the exemptions; and

(B) a study of the appropriateness of granting an exemption from the requirements of the Federal Meat Inspection Act or the Poultry Products Inspection Act, as appropriate, for wholesale meat outlets selling to hotels, restaurants, or other similar institutional users provided that the processing of meat by the outlets is limited to cutting, slicing, grinding, or repackaging into smaller quantities.

(2) RESULTS.—On completion of each study required under paragraph (1), the Secretary shall provide the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1017. FEES FOR LABORATORY ACCREDITATION.

Section 1327 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 138f) is amended to read as follows:

"SEC. 1327. FEES.

"(a) IN GENERAL.—At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, subject to subsection (e), shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

"(b) AMOUNT OF FEE.—The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a).

"(c) REIMBURSEMENT OF EXPENSES.—Each laboratory that is accredited under a statutory authority set forth in subsection (a) or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

"(d) ADJUSTMENT OF FEES.—The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accreditation programs carried out under the statutory authorities set forth in subsection (a).

"(e) Appropriations Prerequisite.—No fees collected under this section may be used to offset the cost of laboratory accreditation without appropriations made under subsection (f).

"(f) Authorization of Appropriations.—There are authorized to be appropriated each fiscal year such sums as may be necessary for laboratory accreditation services under this section.".

SEC. 1018. STATE AND PRIVATE FORESTRY TECHNICAL AMENDMENTS.

(a) Cooperative Forestry Assistance.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended—

(1) in section 5(d) (16 U.S.C. 2103a(d)), by striking "State Foresters" each place it appears and inserting "State foresters";

(2) in section 7 (16 U.S.C. 2103c)—

(A) in subsection (d)(2), by striking "Not later than 1 year after the date of enactment of this section," and inserting "Not later than November 28, 1991,";

(B) in subsection (e), by striking "Within 1 year from the date of enactment of this section and in consultation with State Forest Stewardship Advisory Committees established under section 15(b)" and inserting "Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 19(b)"; and

(C) in subsection (f), by striking "subsection (d)" and inserting "subsection (e)";

(3) in section 9 (16 U.S.C. 2105)—

(A) in subsection (g)(1)(C), by striking "subsection (e)" and inserting "subsection (f)";

(B) in subsection (g)(3)(E), by striking "subsection (e)" and inserting "subsection (f)";

(C) in subsection (h)(1), by striking "subsection (f)" and inserting "subsection (g)"; and

(D) in subsection (h)(2), by striking "subsection (f)(3)" and inserting "subsection (g)(3)"; and

(4) in section 10(g)(2) (16 U.S.C. 2106(g)(2)), by striking "fire fighting organization" and inserting "firefighting organization".

(b) Commission on State and Private Forests.—Section 1245(g)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3549; 16 U.S.C. 1601 note) is amended by striking "the Director of the Office Technology Assessment may furnish".

(c) Forest Products Institute.—Section 1247(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3551; 16 U.S.C. 2112 note) is amended by striking "in this section" the second place it appears.

(d) Renewable Resources Extension.—Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of the first paragraph (9) (as added by section 1219(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3539) and inserting "; and"; and

(3) by redesignating the second paragraph (9) (as added by section 1251(b)(3) of such Act (104 Stat. 3552) as paragraph (10).

(e) America the Beautiful.—Section 1264(n)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3556; 16 U.S.C. 2101 note) is amended by striking "this Act" and inserting "this subtitle".

(f) Reforestation Assistance.—Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3558; 16 U.S.C. 2106a) is amended—

(1) by inserting "(16 U.S.C. 2101 et seq.)" after "1978"; and

(2) by striking "(16 U.S.C. 590h, 590l, or 590p)" and inserting "(16 U.S.C. 590p(b))".

Sec. 1019. Repealed Public Law 76–543. Public Law 76–543 (54 Stat. 231) is hereby repealed.

TITLE XI—EFFECTIVE DATES

SEC. 1101. EFFECTIVE DATES.

(a) In General.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Inclusion in Food, Agriculture, Conservation, and Trade Act of 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624) to which the amendment relates:

(1) Section 201 (other than section 201(h)).

(2) Section 307.

(3) Subsections (a) through (c), (e), (h), and (i) of section 501.

(4) Subsections (a), (b), (f) through (i), and (l) of section 502.

(5) Section 602(c).

(6) Section 701 (except as provided in subsection (c) of this section).

(7) Section 702.

(8) Section 703(c).

(c) Miscellaneous Amendments to Consolidated Farm and Rural Development Act.—The amendments made by section 701(h) of this Act to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

(d) Food and Nutrition Programs.—

(1) In general.—Except as otherwise provided in this subsection, title IX of this Act, and the amendments made by title IX of this Act, shall take effect and be implemented no later than February 1, 1992.

(2) PASS accounts exclusion.—

(A) In general.—The amendment made by section 903(3) of this Act shall take effect on the earlier of—

(i) the date of enactment of this Act;

(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(B) Limitation on application of section.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (as redesignated by section 941(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 903(3) of this Act applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (as added by section 903(3) of this Act) was raised with the State agency prior to the date of enactment of the Act.

(3) Performance standards for employment and training programs.—The amendments made by section 908 of this Act shall take effect on September 30, 1991.

(4) Recovery of claims caused by nonfraudulent household errors.—The amendment made by section 911 of this Act shall take effect on the date of enactment of this Act.

(5) Definition of retail food store.—The amendment made by section 913 of this Act shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.

Mr. LEAHY. Mr. President, our amendments to the Farms for the Future Act of 1990, make absolutely clear the intent of the farm bill language—that Vermont must receive funding from the Secretary of Agriculture to implement its own version of the Farms for the Future program.

Current law, without these amendments, already required this result. The Secretary of Agriculture refused to carry out that law. The Comptroller General of the United States ruled that:

> The words, the structure and history of the Farms for the Future Act support the conclusion that Congress intended to provide the Secretary of Agriculture with direct spending authority to establish a pilot project in Vermont. Furthermore, Congress intended for the Secretary of Treasury to provide the funding. Comp. Gen. Op. B–244093 (July 19, 1991).

I would like to note that the Conference Report accompanying the Food Agriculture, Conservation, and Trade Act of 1990, dated October 22, 1990, makes the above point clearly. It states that the conferees intended that a "mandatory pilot project is also established in Vermont." It further concludes that the final version makes "the pilot project State (Vermont) eligible for direct spending assistance and the other eligible states eligible for assistance subject to appropriations." House Report 101–916, 957. These points simply confirm what that law already required—which is why this provision has no cost. The changes reflect the original intent to provide Vermont with funding to operate its own Farms for the Future Program. I am very disappointed that the Department did not implement the law.

But the new language does more that just restate prior law requiring that financial assistance be provided to Vermont as the pilot project State. The Department recently issued proposed regulations that would have made it virtually impossible for any State to fully take advantage of the benefits of the original legislation. This amendment prevents the Department from instituting those impediments, which I believe were inconsistent with the intent, spirit and wording of the law and which would have prevented Vermont from gaining the benefits of the program.

The amendment, as with the prior version, makes clear that Vermont shall receive financial assistance, in the form or guarantees and interest subsidies, from USDA. The money is to be provided by the Treasury Department as clearly provided in the law. Further it is again clear that Vermont, and each of the trust funds in Vermont participating in the farmland protection program funds in Vermont participating in the farmland protection program, must be approved since Vermont is defined as an eligible State. Once Vermont is approved, and Vermont must be approved, each trust fund set up in Vermont to carry out the purposes of the act must be provided the appropriate assistance.

I appreciate the assistance of Jim Libby and Gus Seelig of the Vermont Housing and Conservation Board in working on this issue as well as the assistance of Ed Thompson of the American Farmland Trust.

Mr. WALLOP. Mr. President, as the primary cosponsor of S. 1935 which is now a part of H.R. 3029, technical corrections to the farm bill currently under consideration, I rise to reaffirm my support of provisions vital to the survival of a domestic sheep industry. This is one more step in ongoing efforts by myself and my friends and colleagues, Senators SIMPSON, BURNS, BAUCUS, HATCH, CRAIG, PRESSLER, GARN, DOMENICI, SEYMOUR, DASCHLE, GRASSLEY, and others in Congress, the American Sheep Industry Association, and the Wyoming Wool Growers to correct serious sheep market problems adversely affecting over 110,000 hardworking families nationwide.

Because Wyoming is the Nation's third largest sheep-producing State with 1,539 family operations, disparities in America's sheep market continue to deeply concern this Senator and my constituents who are directly and indirectly involved in the sheep industry. Between 1988 and 1991, approximately 3,000 family sheep operations nationwide, including over 200 in Wyoming, have been unfairly driven from their heritage and out of business. Most remaining operations are on the brink of unnecessary financial disaster. If the current situation is not resolved soon, at least half of Wyoming's 830,000 sheep and lambs will be gone in 2 to 3 years. For the sake of thousands of families and small communities in Wyoming and nationwide who depend on a fair sheep market for their livelihoods, this problem must be corrected soon. This legislation is essential to bringing back a fair and healthy domestic sheep industry.

It is deeply concerning and quite puzzling that while the retail price of lamb products has remained steady over the past few years, the wholesale price paid to our sheep producers has declined. There is something rotten in the marketplace—it is not working in a fair and equitable way. We must ensure that all players in the sheep industry have accurate and complete information about wholesale and retail prices and yield gradings. Gathering and distributing this information will ensure that market information will not remain the privilege of a few, and will perhaps help shrink the curious and unfair spread between wholesale and retail sheep prices. By opening the flow of information, the sheep industry will begin to operate like every other free agricultural market in this Nation. Congress and the Department of Agriculture must act at this critical time in this essential way to save America's sheep industry. I urge your affirmative vote. Thank you, Mr. President.

Mr. LUGAR. Mr. President, I strongly support enactment of the legislation before us, which makes technical changes to the 1990 farm bill. To call these provisions "technical" is not to minimize their importance, for they will benefit farmers, ranchers, and agribusinessmen throughout the country, as well as consumers and low-income Americans.

Despite the best of intentions, it is never possible to foresee every possible consequence of each individual provision in a bill as massive as the Food, Agriculture, Conservation, and Trade [FACT] Act of 1990. Moreover, legislation which saw final approval during the closing days of the last Congress was bound to contain clerical and other errors which must be corrected. Hence the need for the legislation before us: It answers questions left unresolved in the 1990 law, and corrects errors and omissions therein. It will have no material effect on budgetary outlays.

Among the many individual provisions of this legislation, I wish to single out a few that are especially significant. First, the authority to fund price support loans on high-moisture feed grains is restored, correcting an error in the farm bill. Second, farmers will once again have the same flexibility to substitute corn for grain sorghum, and vice versa, that they enjoyed under the 1985 farm bill. In addition, wheat producers will receive the final portion of their deficiency payments somewhat earlier, though still within the same fiscal year in order to avoid any budget problems. The Department of Agriculture will be required to improve price information and price discovery for lamb, addressing a growing concern in the sheep industry.

I am also most gratified, Mr. President, that a provision from my bill S. 1714 is included in this legislation. In that bill, I proposed to give the Secretary of Agriculture authority to pay the expenses of U.S. farmers and other agricultural experts who will live in the Soviet Union for extended periods of time in order to provide technical assistance, training, and advice to the Soviet food industry. The Secretary could expend up to $5 million a year for this purpose. Clearly, Mr. President, among the most pressing needs for the Soviet Union is an overhaul in its food production and distribution system: The development of sound production practices, infrastructure, marketing and distribution systems, and a radically increased emphasis on the profit motive and product quality. This provision will allow the United States to assist the Soviet people as they try to build democratic capitalism in their agricultural and food sector, which has great potential but has a very long way to go.

It needs to be said, Mr. President, that developing Soviet agriculture in this way is going to be good for America. I need not mention our manifest national interest in stability and peace within the Soviet Republics, to which end a healthy food sector is essential. But we must also understand that as economies mature and incomes increase, food consumption often outstrips production, creating markets for surplus food producers like ourselves. More specifically, rising per-capita meat consumption in the former Soviet Union will mean a greater demand for feed grains, oilseeds and protein meals, which we will be well-positioned to supply. Thus, it is my belief that although Soviet agriculture has great potential, this need not mean that U.S. exports to the Soviet Union will decline. Indeed, they can easily increase, particularly value-added exports.

The bill before us contains other important provisions, including necessary technical changes in USDA's food assistance programs and new authorities for the Federal Agricultural Mortgage Corporation [FAMC]. The administration supports passage and enactment of the bill, and has worked closely with me, with Chairman LEAHY and with our House counterparts to fashion bipartisan legislation that will both refine and improve the 1990 farm bill, whose basic parameters remain, quite properly, unchanged.

Mr. REID. Mr. President, I move that the Senate concur in the amendment of the House of the amendment of the Senate.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar numbers 324 and 334, en bloc; that committee substitute amendments and the committee amendments, where indicated, be agreed to, en bloc; that the several bills each be deemed read for the third time, passed, and the motion to reconsider the passage of each bill be laid upon that table en bloc; that consideration of each bill be included separately in the Record; and that statements with respect to passage of each bill be included in the Record where appropriate.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIMBRES CULTURE NATIONAL MONUMENT ESTABLISHMENT ACT

The Senate proceeded to consider the bill (S. 1528) to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, which had been reported from the Committee on Energy and Natural Resources: with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mimbres Culture National Monument Establishment Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) The prehistoric Mimbres tradition was the most significant expression of the Mogollon culture, and represents one of three great prehistoric civilizations of the American Southwest;

(2) the Mimbres and Gila River valleys, including the Silver City, New Mexico area, contain many Mimbres sites;

(3) some of the Mimbres pueblos in those valleys were build during the classic phase of that culture in the 11th century and are among the largest in the southwestern United States;

(4) the Mimbres people developed sophisticated canal irrigation technology prior to the Anasazi Culture;

(5) the Mimbres material culture is epitomized by distinctive and strikingly pointed black-on-white pottery that is recognized as the consummation of several formal, pictorial, and iconographic traditions in the American Southwest;

(6) Mimbres pottery is internationally known and is probably the single most famous prehistoric American art style;

(7) many Mimbres sites have been vandalized or destroyed, and remaining sites are threatened by further vandalism and illegal pot-hunting; and

(8) in recognition of the national significance of the Mimbres sites and the urgent need to protect the valuable Mimbres cultural resources from vandalism and destruction, it is appropriate that a national monument and a system of archeological protection sites be established in New Mexico.

(b) Purposes.—The purposes of this Act are—

(1) to recognize the nationally significant cultural resources associated with the prehistoric Mimbres tradition;

(2) to provide for the protection and interpretation of these resources for the benefit and enjoyment of present and future generations;

(3) to facilitate research activities; and

(4) to encourage government and private sector protection actions.

SEC. 3. ESTABLISHMENT OF THE MONUMENT.

(a) In General.—There is hereby established the Mimbres Culture National Monument (hereinafter referred to as the "monument") in the State of New Mexico as a unit of the National Park System, consisting of approximately 959 acres, including the Cameron Creek, Mattocks, TJ Ruin, and Woodrow Units, as generally depicted on a map entitled "Mimbres Culture National Monument", numbered 80,008–A and dated July, 1991. Such map shall be kept on file and available for public inspection in the office of the Director of the National Park Service and in appropriate offices of the National Park Service in the State of New Mexico.

(b) Acquisition of Lands.—(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands and interests in land within the boundaries of the monument by donation, purchase with donated or appropriated funds, or exchange: Provided, That no lands or interest therein owned by the State of New Mexico or a political subdivision thereof may be acquired except by donation or exchange.

(2) No lands or interests in land may be added to the monument after the date of enactment of this Act without specific authorization by Congress and the consent of the owner of such land or interest therein.

(3)(A) Subject to negotiated agreements to ensure cultural resource protection, an owner of improved residential property within the boundaries of the monument may, on the date of the acquisition of such property, retain for the owner and the owner's successors and assigns, a right of use and occupancy of the property for such residential purposes as existed before August 2, 1991, for a term, as the owner may elect—

(i) of not more than 25 years; or

(ii) ending at the death of the owner or the owner's spouse, whichever is later.

(B) The Secretary shall pay to the owner the difference between the fair market value of the property on the date of acquisition and the fair market value of the property on the date of the term retained by the owner.

(c) Visitor Center.—The Secretary shall establish a visitor center and administrative headquarters for the monument in Silver City, New Mexico. The Secretary is authorized to acquire, in accordance with subsection (b)(1) of this section, up to 3 acres of land in Silver City for the purpose of establishing the visitor center and administrative headquarters.

SEC. 4. ADMINISTRATION OF THE MONUMENT.

(a) In General.—The Secretary shall administer the monument in accordance with the provisions of this Act and laws generally applicable to the administration of units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) General Management Plan.—Not later than 3 years after the date funds are made available for this subsection, the Secretary shall, in consultation with appropriate Federal and State agencies, public and private entities, affected landowners, and American Indian groups, including the Zuni Tribe, prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a general management plan (hereinafter referred to as the "plan") for the monument consistent with the purposes of this Act. The plan shall include—

(1) a statement of the number of vistors and types of public use within the monument which can be accommodated in accordance with the protection of the monument's resources;

(2) a resource protection program, including resource inventories;

(3) a general interpretive program, which shall include dissemination of information on the Masau Trail;

(4) a general development plan for the monument, including a description of facilities needed to accommodate for public use and for resource protection, and the estimated costs thereof;

(5) a research plan to evaluate broad aspects of the Mimbres culture, developed in cooperation with other Federal and State agencies, and public and private entities;

(6) a feasibility analysis of the WS Ranch archeological site, including management options and the potential for public use and interpretation;

(7) details of proposed cooperative agreements; and

(8) a joint management plan for the Mimbres Culture Archeological Sites Protection System established pursuant to section 5 of this Act. Such plan shall include—

(A) resource protection measures and associated costs;

(B) research needs and plans;

(C) a general interpretive program for the system; and

(D) guidelines for cooperative agreements, proposed cooperative agreements, and associated costs.

(c) Cooperative Agreements.—(1) The Secretary may enter into cooperative agreements with appropriate local institutions of higher learning for the purpose of establishing a curatorial operation for the care and maintenance of Mimbres cultural artifacts. Such cooperative agreements may include an agreement to provide funding assistance, subject to appropriation, specifically for the curation of Mimbres cultural artifacts.

(2) The Secretary may enter into cooperative agreements with other Federal agencies, and other public plan referred to in subsection (b)(5).

(d) Research Site.—The Secretary shall administer the Woodrow Unit of the monument primarily as a research site. General public use facilities shall not be provided at the Woodrow Unit.

(e) Irrigation Ditch Management.—The Secretary shall not interfere with the continued use, maintenance, and operation of irrigation ditches located within the boundaries of the monument as of the date of enactment of this Act.

SEC. 5. MIMBRES CULTURE ARCHEOLOGICAL SITE PROTECTION SYSTEM.

(a) Establishment.—(1) In order to encourage the protection, interpretation, research, and integration of information about the Mimbres culture, there is hereby established the Mimbres Culture Archeological Site Protection System (hereinafter referred to as the "system") in the State of New Mexico, as generally depicted on a map entitled "Mimbres Culture Archeological Site Protection System", numbered 80,006—B and dated April, 1991.

(2) The system shall consist of the following eleven sites—Black Mountain; Cottonwood; Gatton Park; Lake Roberts; Old Town; Pony Hills; Pine Flat; Red Rock Cemetery; Red Rock Pithouse; WS Ranch; and Rio Vista.

(b) Additional Sites.—(1) The Secretary shall undertake research to locate additional Mimbres sites on Federal lands in New Mexico.

(2) The owner of a non-Federal site may nominate such site for inclusion in the system. Upon nomination of such site, the Secretary shall review the site to determine

whether the addition of the site is consistent with the purposes of the system. The Secretary shall include any recommendation with respect to the site in the report referred to in subsection (c).

(3) Addition of new sites or deletion of existing sites from the system may only be made by an Act of Congress.

(c) REPORT.—Not later than 3 years after the completion of the general management plan referred to in section 4(b), the Secretary shall prepare and transmit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives providing recommendations for additions to or deletions from the list of archeological protection sites set forth in subsection (a)(2).

(d) ADMINISTRATION.—(1) The Secretary, in consultation and cooperation with affected Federal and State agencies and landowners, shall administer the system in a manner that will provide for the protection, preservation, and interpretation of Mimbres cultural resources and to facilitate research activities associated with such resources.

(2) Non-Federal lands or interests therein may not be acquired for addition to the system.

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary or the Secretary of Agriculture, where appropriate, may enter into cooperative agreements with other Federal, State, and local agencies, public and private entities, private landowners, and other persons for the purposes of administration, management, protection, research, and interpretation of sites within the system.

(2) Federal funds may be expended, subject to appropriation, on non-Federal sites through cooperative agreements with, and the consent of, the owners of such sites.

(f) ADVISORY COMMITTEE.—The Secretary shall establish an Advisory Committee, composed of representatives of Federal and State government agencies, and other interested parties, to provide guidance in the preparation and implementation of the joint management plan required by section 4(b)(8).

SEC. 6 AUTHORIZATION OF APPROPRIATONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. BINGAMAN. Mr. President, I am pleased that the Senate has passed S. 1528, which will establish a Mimbres Culture National Monument and will establish a protection system for these valuable and threatened archeological sites.

For decades the striking black-on-white pottery produced by the Mimbres Culture, an ancient Southwestern culture, has been a double-edged sword for the archeological sites which contain it. The bold and beautiful, abstract and animal designs touch something in us across the centuries and make us want to know more about the people who made it; but actions taken to acquire this same pottery have inadvertently caused the wanton destruction of the Mimbres sites in which it rests. In their quest for the valuable pottery, pothunters loot with no regard for the sites they destroy. And the market is worldwide; the cultural properties associated with the Mimbres culture are of international artistic significance. As a result, there are almost 7,000 pieces of this pottery on exhibit in museums around the world. We are in danger of losing an irretrievable part of our country's heritage.

Despite this, before this bill, there was no unit of the National Park Service or any other agency which was dedicated to the preservation and interpretation of this culture. This bill initiates positive actions to preserve and protect what is left of the Mimbres culture.

There were three great cultures—the Anasazi, the Hohokam, and the Mogollon—which flourished in the Southwest region of our country; the most significant expression of the Mogollon culture was left by those who are known today as the Mimbres people. Their origin and demise as a culture is not fully understood. We do know, however, that the Mimbrenos lived between A.D. 200 and 1150. Over time, their way of life shifted from hunting and gathering to farming, utilizing a sophisticated system of stream diversion, and canal irrigation. They developed these systems centuries before the Anasazi. Their understanding of their environment was so complete that, for a time and even in an arid environment, they were able to raise enough food to support levels of population density unknown in other prehistoric Southwestern societies. Some of the pueblos built during the later Mimbres period of occupation are among the largest in the Southwest.

Pottery styles changed also, culminating in intriguing and beautifully executed black-on-white representational designs of plants, animals, humans, and mythological beings. The designs depict scenes of pottery-making, swimming, planting, hunting, gambling, food-gathering, and many other day-to-day activities.

There are scenes of humans and animals with mythological beings. There are bold, geomatric abstract designs. Mimbres art is a unique visual resource that gives us a tantalizing glimpse into the physical as well as the intellectual and spiritual world of the Mimbres people. But, without the context of the sites in which this art was created, it would remain just that for us—only a mystifying glimpse.

S. 1528 will recognize, preserve, and interpret a good cross-section of known examples of archaeological sites associated with the Mimbres culture of New Mexico. Not only does it set up a system of site protection for these sites, but it will also provide for the inclusion of additional sites for protection and study as they are discovered or reevaluated in the future.

The bill's enactment will also provide for a visitor center in Silver City, and for an administrative center which will be involved in an educational program about the Mimbres culture. It will direct the National Park Service to move forward to answer questions of research, interpretation, and protection of Mimbres sites. The Mimbres Culture Archaeological Site Protection System called for in the bill will bring together, voluntarily and in a spirit of cooperation, interested landowners—private, Indian, and Federal—to take actions to protect the vestiges of Mimbres culture remaining on their properties. The bill also calls for an advisory committee to work with the National Park Service to promote the protection of these resources and to provide for their further protection and research.

Through protection, interpretation, and education, visitors to the monument established by this bill will better comprehend the architectural, artistic, social, and economic achievements of the Mimbres culture and its close ties to the land which gave its people nourishment. The creation of this monument will recognize the international significance of the material artifacts associated with this culture, and will protect and interpret these resources for the benefit of present and future generations. There are always lessons to be learned from the past. The passage of this bill assures that there will be increased public understanding and increased protection of a precious part of this Nation's rich heritage.

So the bill (S. 1528) was deemed read the third time and passed.

PROVISIONS FOR ENTRY INTO STOCK RAISING HOMESTEAD ACT LANDS

The Senate proceeded to consider the bill (S. 1187) to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in black brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 1187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINERAL ENTRY UNDER STOCK RAISING HOMESTEAD ACT.

(a) MINERAL ENTRY UNDER THE STOCK RAISING HOMESTEAD ACT.—Section 9 of the Act of December 29, 1916 entitled "An Act to provide for stock-raising homesteads, and for other purposes" (39 Stat. 862; 43 U.S.C. 299) is amended by adding the following at the end thereof:

"(b) PROSPECTING; NOTICE OF INTENTION TO LOCATE; EXPLORATION, DEVELOPMENT, AND PRODUCTION").—

"(1) PROSPECTING; LOCATION OF CLAIMS.—Notwithstanding subsection (a), no person other than the surface owner may enter lands subject to this Act to prospect for minerals or to locate a claim under the mining laws of the United States on such lands without:

"(A) filing a notice of intention to locate a claim pursuant to paragraph (2); and

"(B) providing notice to the surface owner pursuant to paragraph (3).

Any person who has complied with paragraphs (2) and (3) with respect to any such lands may, during the authorized prospecting period, enter such lands to prospect for minerals, with minimal surface disruption, and to locate a mining claim on such lands. During such period no such person may construct any road, use any explosives, or use any mechanical earth moving equipment on such lands. With respect to any lands for which a notice is filed under paragraph (2), the term 'authorized prospecting period' means the period beginning ten days after notice is provided under paragraph (3) with respect to such lands and ending with the expiration of the sixty-day period, or the extension of such period, pursuant to paragraph (2).

"(2) NOTICE OF INTENTION TO LOCATE A CLAIM.—

"(A) any person seeking to prospect for minerals or to locate a mining claim on lands subject to this Act shall file with the Secretary of the Interior a notice of intention to locate a claim on the lands concerned. The notice shall be in such form as the Secretary of the interior shall prescribe. The notice shall contain the name and mailing address of the person filing the notice and a legal description of the lands to which the notice applies. The legal description shall be based on the public land survey or on such other description as is sufficient to permit the Secretary to record the notice on the Secretary's land status records. Whenever any person has filed a notice under this paragraph with respect to any lands, during the sixty-day period following the date of such filing, or any extension thereof pursuant to this paragraph, no other person (including the surface owner) may—

"[(A)] *(i)* file such a notice with respect to any portion of such lands;

"[(B)] *(ii)* prospect for minerals or locate a mining claim on any portion of such lands; or

"[(C)] *(iii)* file an application to acquire any interest in any portion of such lands pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719). If, within such sixty-day period, the person who filed a notice under this paragraph files a plan of operations with the Secretary pursuant to subsection (c) of this section, such sixty-day period shall be extended until the approval or disapproval of the plan of operations by the Secretary pursuant to subsection (c) of this section.

"(B) The Secretary may establish such fees as may be necessary to cover the administrative costs of processing notices filed under this paragraph.

"(3) NOTICE TO SURFACE OWNER.—Any person who has filed a notice of intention to locate a claim under paragraph (2) for any lands subject to this Act shall provide written notice by registered or certified mail to the surface owner (as evidenced by local tax records) of the lands covered by the notice under paragraph (2). The notice shall be provided at least ten days before entering such lands and shall contain each of the following—

"(A) A brief description of the proposed prospecting activities.

"(B) A map and legal description of the lands to be subject to prospecting.

"(C) The name, address, and phone number of the person managing such activities.

"(D) A statement of the dates on which such activities shall take place.

"(4) ACREAGE LIMITATIONS.—The total acreage covered at any time by notices of intention to locate a claim under paragraph (2) filed by any person and by affiliates of such person may not exceed six thousand four hundred acres of lands subject to this Act in any one State and one thousand two hundred and eighty acres of such lands for a single surface owner. For purposes of this paragraph, the term 'affiliate' means, with respect to any person, any other person which controls, is controlled by, or is under common control with, such person.

"(5) MINERALS COVERED.—This subsection applies only to minerals not subject to disposition under the Mineral Leasing Act (30 U.S.C. 181 and following), the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), or the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

"(c) MINERAL EXPLORATION, DEVELOPMENT AND PRODUCTION.—

"(1) IN GENERAL.—Notwithstanding subsection (a) of this section, except for prospecting in accordance with subsection (b) of this section, no person may conduct any mineral exploration, development, or production activities on lands subject to this Act without the written consent of the surface owner thereof unless the Secretary has authorized the conduct of such activities under paragraph (2).

"(2) AUTHORIZED MINING OPERATIONS.—The Secretary shall authorize, if the conditions of this paragraph are met, a person to conduct mineral exploration, development, and production activities on lands subject to this Act without the consent of the surface owner thereof. Such conditions for authorization are—

"[S] *(A)* BOND.—Before the Secretary may authorize any person to conduct mineral exploration, development, or production activities, the Secretary shall require such person to post a surety bond to be held by the United States, or to provide such other type of financial guarantee satisfactory to the Secretary to insure (i) reclamation of the surface *in accordance with the standards set forth in the last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)) and the regulations promulgated thereunder*, (ii) payment to the surface owner as compensation for any post-mining, permanent damages to crops and tangible improvements of the surface owner, and (iii) compensation for any postmining, permanent loss of income by the surface owner due to loss or impairment of grazing, or other uses of the land by the surface owner, to the extent that reclamation required by the plan of operations would not permit such uses to continue at the level existing prior to the mineral exploration, development, and production activities. In determining the bond amount to cover permanent loss of income, the Secretary shall consider, where appropriate, the potential loss of value due to the estimated permanent reduction in utilization of the land as expressed in Animal Unit Months.

"(B) PLAN OF OPERATIONS.—Before the Secretary may authorize any person to conduct mineral exploration, development, or production activities, the Secretary shall require such person to submit a plan of operations satisfactory to the Secretary and which complies with this subparagraph. The plan shall contain such terms and conditions as the Secretary determines necessary. The conditions shall include, at a minimum, procedures for (i) reclamation of the surface *in accordance with the standards set forth in the last sentence of Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)) and the regulations promulgated thereunder*, (ii) minimization of damages to crops and tangible improvements of the surface owner, and (iii) minimization of disrupting to grazing or other uses of the land by the surface owner. The plan shall provide for payment of a fee for the use of the surface lands during exploration, development, production and reclamation activities. The fee shall be paid to the surface owner by the person submitting the plan of operations. The fee shall be paid in advance of any mineral exploration, development, or production activities or at such other time or times as may be agreed to by the surface owner and the person conducting such activities. The Secretary shall establish the surface use fee, taking into account the acreage involved and the degree of potential disruption to existing surface uses (including loss of income to the surface owner due to the loss or impairment of existing surface uses for the duration of the mineral exploration, development, and production activities), but the surface use fee shall not exceed the fair market value for the surface of the land. Upon receipt of the plan, the Secretary shall provide a copy of the plan to the surface owner. The surface owner may submit comments and recommend plan modifications to the Secretary within thirty days of the surface owner's receipt of the plan. The Secretary shall, within sixty days if receipt of the plan, determine if the plan complies with the requirements of this subsection and approve or disapprove the plan. The sixty-day period may be extended: an additional sixty days if the Secretary determines such time is necessary to make the determination. *The Secretary shall within sixty days of receipt of the plan, approve such plan, if it complies with the requirements of this subparagraph or notify the person submitting the plan of any changes required to bring such plan into compliance with the requirements of this subparagraph. If the person submitting the plan agrees to the changes or to modifications acceptable to the Secretary, the Secretary shall approve the plan as changed. If no agreement can be reached on changes which, in the opinion of the Secretary, will bring the plan into compliance with the requirements of this subparagraph, then the Secretary shall disapprove the plan and notify both the surface owner and the person submitting the plan of the decision. The sixty-day period shall be extended where additional time is required to comply with other requirements of law.* The Secretary shall suspend or revoke the authorization under this paragraph whenever the Secretary determines, on the Secretary's own motion or on a motion made by the surface owner, that the person conducting mineral exploration, development, or production activities is in substantial noncompliance with the terms and conditions of the plan and failed to remedy the violation after notice from the Secretary within the time required by the Secretary.

"(3) DAMAGES FOR FAILURE TO COMPLY.—Whenever the surface owner of any land subject to this Act has suffered any damages of loss referred to in paragraph (2)(A), if such damages or loss [results.] *results—*

"(A) from any mineral exploration, development, or production activities undertaken without the consent of the surface owner under paragraph (1) or an authorization by the Secretary under paragraph (2), or

"(B) from the failure of the person conducting mineral exploration, development, or production activities to remedy to the satisfaction of the Secretary any substantial noncompliance with the terms and conditions of a plan under paragraph (2)(B) pursuant to a notice from the Secretary under the last sentence of paragraph (2), the surface owner may bring an action against the person conducting mineral exploration development, production or reclamation activities in the appropriate United States district court for, and the court may award, double damages plus costs for willful misconduct or gross negligence. Such damages shall be reduced by the amount of any compensation which the surface owner has received, or is eligible to receive, pursuant to the surety bond or other financial guarantee required under paragraph (2)(A). The surface owner of such lands may also bring an action in the appropriate United States district court for double damages plus costs for willful misconduct or gross negligence against any person undertaking any minerals prospecting activity on such lands in violation of any requirement of paragraph (1).

"(4) Payment of damages.—The surface owner of any land subject to this subsection may petition the Secretary for payment of all or any portion of a surety bond or other financial guarantee required under paragraph (2)(A) as compensation for damages and losses referred to in paragraph (2)(A). Pursuant to such a petition, the Secretary may use such bond or other guarantee to provide compensation to the surface owner for such damages and to insure reclamation as required by this subsection.

"(5) Bond release.—The Secretary shall release the surety bond or other financial guarantee required under paragraph (2)(A) upon the successful completion of all requirements pursuant to the plan approved under paragraph (2)(B) or at such earlier date as may be agreed to by the surface owner.

"(6) Minerals covered.—This subsection applies only to minerals not subject to disposition under the Mineral Leasing Act (30 U.S.C. 181 and following), the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), or the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).".

(b) Simplification of Procedures.—Within 180 days after the enactment of this Act, the Secretary shall determine what actions may be necessary to simplify the procedures established pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719) for conveyance of the mineral interest in such land owned by the United States. If the Secretary determines that no action is necessary, the Secretary shall notify the Committee on Energy and Natural Resources of the United States House of Representatives of such determination, along with the reasons for such determination.

(c) Technical Conforming Amendment.—Section 9 of the Act of December 29, 1916 entitled "An Act to provide for stock-raising homesteads, and for other purposes" (43 U.S.C. 299) is amended by inserting "(a) General Provisions.—" before the words "That all entries made".

(d) Regulations.—Within one year after the date of enactment of this Act, the Secretary of the Interior shall promulgate such regulations as may be necessary to implement this section.

So the bill (S. 1187) was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the Record.)

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Calendar Nos. 315, 316; that the committee amendments where indicated be agreed to en bloc; that the two bills be deemed read a third time and passed and the motion to reconsider passage of these items be laid upon the table en bloc; that any statements related to these calendar items appear at the appropriate place in the Record; and that the consideration of these items appear individually in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORT TOTTEN NATIONAL HISTORIC SITE ESTABLISHMENT ACT

The bill (S. 1707) to authorize the establishment of the Fort Totten National Historic Site, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Fort Totten National Historic Site Act".

FINDINGS

Sec. 2. The Congress hereby finds that—

(1) Fort Totten is one of the bet preserved military posts surviving from the Indian wars in the trans-Mississippi west;

(2) Fort Totten has played a significant role in American Indian history, first as an Indian agency for Indians coming to the area and then, from 1890 through 1960, as an Indian industrial school; and

(3) Fort Totten is in immediate need of major repairs and restoration work which are beyond the capabilities of the State of North Dakota and which would be best undertaken by the National Park Service.

ACQUISITION OF HISTORICAL SITE

Sec. 3. In order to preserve Fort Totten, the Secretary of the Interior is authorized to acquire by donation from the State of North Dakota, the real property described in section 4 for the establishment and administration of a national historic site.

DESCRIPTION OF SITE

Sec. 4. The real property referred to in section 3 is that real property known as the Fort Totten State Historic Site located approximately twelve miles southwest of the town of Devils Lake, North Dakota, on the south shore of Devils Lake on the Fort Totten Indian Reservation.

ADMINISTRATION OF SITE

Sec. 5. The property acquired under this Act shall be known as the "Fort Totten National Historic Site", and it shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (30 Stat. 535; 16 U.S.C. 1, 2 4) and the Act entitled "An Act to provide for the preservation of historic American sites buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

GENERAL MANAGEMENT PLAN

Sec. 6. Within two years after the date of the enactment of this Act, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives as general management plan for the use and development of the site consistent with the purposes of this section, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resources protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost thereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

AUTHORIZATION

Sec. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

ARKANSAS WILDERNESS ACT

The Senate proceeded to consider the bill (S. 1743) to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arkansas Wild and Scenic Rivers Act of 1991".

SEC. 2. WILD, SCENIC, AND RECREATIONAL RIVER DESIGNATIONS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraphs:

"(119) Big Piney Creek, Arkansas.—**[**The 41.3 mile segment from its origin in section 24, township 11 north, range 20 west,**]** *The 45.2-mile segment from its origin in section 27, township 13 north, range 23 west*, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture as a scenic river.

"(120) Buffalo River, Arkansas.—The 15.8-mile segment from its origin in section 22, township 14 north, range 24 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

"(A) the 6.4-mile segment from its origin in section 22, township 14 north, range 24 west, to the western boundary of the Upper Buffalo Wilderness, as a scenic river.

"(B) The 9.4-mile segment from the western boundary of the Upper Buffalo Wilderness to the Ozark National Forest boundary, as a wild river.

"(121) Cossatot River, Arkansas.—Segments of the main stem and certain tributaries, totaling 20.1 miles, to be administered as follows:

"(A) The 4.2-mile segment of the main stem from its confluence with Mine Creek to the Caney Creek Wilderness Boundary [in] *on the north section line of* section 13, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a recreational river.

"(B) The 6.9-mile segment of the main stem from the Caney Creek Wilderness Boundary [in] *on the north section line of* section 13, township 4 south, range 30 west, to the Forest Proclamation Boundary, to be administered by the Secretary of Agriculture as a scenic river.

"(C) The 4.4-mile segment of the Brushy Creek tributary from its origin [in] *in the southeast ¼ of* section 7, township 4 south, range 27 west, to the Forest Proclamation Boundary, to be administered by the Secretary of Agriculture as a scenic river.

"(D) The 4.6-mile segment of the main stem from the State Highway 4 bridge to Duchett's Ford, to be administered by the Secretary of the Army as a scenic river consistent with the operation of Gillham Dam (as authorized by section 203 of the Flood Control Act of 1958 (Public Law 85–500)).

"(122) Hurricane Creek, Arkansas.—The 15.5-mile segment from its origin in [section 21,] *section 1,* township 13 north, range 21 west, to its confluence with Big Piney Creek, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 11.8-mile segment from its origin in [section 21,] *section 1,* township 13 north, range 21 west, to the western boundary of the private land [inside] *bordering* Hurricane Creek Wilderness, as a scenic river.

"(B) The 2.4-mile segment from the western boundary of the private land [inside] *bordering* the Hurricane Creek Wilderness to the Hurricane Creek Wilderness boundary, as a wild river.

"(C) The 1.3-mile segment from the Hurricane Creek Wilderness boundary to its confluence with Big Piney Creek, as a scenic river.

"(123) Little Missouri River, Arkansas.—Segments totaling 15.7 miles, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 11.3-mile segment from its origin [in] *in the northwest ¼ of* section 32, township 3 south, range 28 west, to the west section line of section 22, township 4 south, range 27 west, as a scenic river.

"(B) The 4.4-mile segment from the southern property line between National Forest System lands and private lands [in] *in the southeast ¼ of* section 28, township 4 south, range 27 west, to the Forest Proclamation Boundary, as a wild river.

"(124) Mulberry River, Arkansas.—The 56.0-mile segment from its origin in section 32, township 13 north, range 23 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 36.6-mile segment from its origin in section 32, township 13 north, range 23 west, to Big Eddy Hollow in section 3, township 11 north, range 27 west, as a recreational river.

"(B) The 19.4-mile segment from Big Eddy Hollow in section 3, township 11 north, range 27 west, to the Ozark National Forest boundary, as a scenic river.

"(125) North Sylamore Creek, Arkansas.—The 14.5-mile segment from the Clifty Canyon Botanical Area boundary to its confluence with the White River, to be administered by the Secretary of Agriculture as a scenic river.

"(126) Richland Creek, Arkansas.—The 16.5-mile segment from its origin in [section 27, township 12] *section 36, township 13* north, range 20 west, to the northern boundary of section 32, township 14 north, range 18 west, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 7.8-mile segment from its origin in [section 27, township 12] *section 36, township 13* north, range 20 west, to the western boundary of the Richland Creek Wilderness, as a scenic river.

"(B) The 5.3-mile segment from the western boundary of the Richland Creek Wilderness to the eastern boundary of the Richland Creek Wilderness, as a wild river.

"(C) The 3.4-mile segment from the eastern boundary of the Richland Creek Wilderness to the northern boundary of section 32, township 14 north, range 18 west, as a scenic river.".

SEC. 3. FEDERAL PROTECTION FOR STATE DESIGNATED RIVERS.

(a) In General.—The river segments described in subsection (b) are designated as components of the National Wild and Scenic Rivers System to be managed by the State of Arkansas in accordance with the requirements for rivers included in the National Wild and Scenic Rivers System pursuant to section 2(a)(ii) of the Wild and Scenic Rivers Act (16 U.S.C. 1273(a)(ii)).

(b) River Segments.—The river segments referred to in subsection (a) are—

(1) the 10.4-mile segment of the Cossatot River from the Forest Proclamation Boundary to the intersection with State Highway 4; and

(2) the 0.3-mile segment of the Brushy Creek tributary from the Forest Proclamation Boundary to its confluence with the Cossatot River.

SEC. 4. SAVINGS PROVISION.

Nothing in this Act is intended to prohibit the Secretary of the Army from—

(1) operating Gillham Lake, including lake levels and releases, in a manner consistent with the Gillham project (as authorized by section 203 of the Flood Control Act of 1958 (Public Law 85–500)); or

(2) establishing a public use area for float trip termination at the confluence of the Cossatot River with Gillham Lake.

So the bill (S. 1743) as amended was deemed read the third time and passed.

(The text of the measure as passed by the Senate today will be printed in a future edition of the Record.)

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar Nos. 367 and 369 en bloc; that the several bills each be deemed read a third time, passed; that the motion to reconsider the passage of these items be laid upon the table en bloc; that the consideration of each bill be included separately in the Record and that statements with respect to the passage of each bill be included in the Record where appropriate.

The PRESIDING OFFICER. Without objection, it is so ordered.

LAMPREY RIVER STUDY ACT

The bill (H.R. 1099) to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

WHITE CLAY CREEK STUDY ACT

The bill (H.R. 3012) to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

MEASURES INDEFINITELY POSTPONED—S. 461 AND S. 1552

Mr. REID. I ask unanimous consent that Calendar Nos. 354 and 357 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

STONES RIVER NATIONAL BATTLEFIELD EXPANSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3881, relating to the Stones River Battlefield, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3881) to expand the boundaries of Stones River National Battlefield, TN, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

So, the bill (H.R. 3881) was deemed read the third time, and passed.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 356, 358, 359, 360, 361, 362, 363 en bloc; that the committee substitute amendments and the committee amendments where appropriate be agreed to en bloc; that the several bills and the joint resolution each be deemed read a third time, passed; and that the preamble where applicable be agreed to; that the motion to reconsider the passage of these items be laid upon the table en bloc; that the consideration of each bill be included separately in the RECORD; and that statements with respect to the passage of each bill be included in the RECORD where appropriate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALLEGHENY RIVER WILD AND SCENIC RIVERS ACT

The State proceeded to consider the bill (S. 606) to amend the Wild and Scenic Rivers Act by designing certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. DESIGNATION OF ALLEGHENY RIVER.

In order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, historic, and ecological values of the Allegheny River in the Commonwealth of Pennsylvania, and to assist in the protection, preservation, and enhancement of the fisheries resources associated with such river, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) ALLEGHENY PENNSYLVANIA.—The segment from Kinzua Dam downstream approximately 7 miles to the United States Route 6 Bridge, and the segment from Buckaloons Recreation Area at Irvine, Pennsylvania, downstream approximately 47 miles to the southern end of Alcorn Island at Oil City, to be administered by the Secretary of Agriculture as a recreational river in accordance with section 10(e) of this Act; and the segment from the sewage treatment plant at Franklin downstream approximately 31 miles to the refinery at Emlenton, Pennsylvania, to be administered by the Secretary of Agriculture as a recreational river in accordance with section 10(e) of this Act.".

SEC. 2. ADVISORY COUNCILS FOR THE ALLEGHENY RIVER.

(a) ESTABLISHMENT.—The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall establish within 120 days after the date of enactment of this Act two Advisory Councils to advise the Secretary on the establishment of final boundaries and the management of the river segments designated by section 1 of this Act (hereinafter referred to as the "Allegheny National Wild and Scenic River"), as follows:

(1) The Northern Advisory Council, to provide advice for the management of the segments of the Allegheny National Wild and Scenic River between Kinzua Dam and Alcorn Island.

(2) The Southern Advisory Council, to provide advice for the management of the segment of the Allegheny National Wild and Scenic River between Franklin and Emlenton.

(b) NORTHERN ADVISORY COUNCIL.—(1) The Northern Advisory Council shall be composed of 9 members appointed by the Secretary as follows:

(A) the Forest Supervisor of the Allegheny National Forest, or his or her designee, who shall serve as Chairman and who shall be a nonvoting member;

(B) the Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his or her designee;

(C) two members each from Warren, Forest, and Venango Counties, from recommendations submitted by the County Commissioners of such counties, of which no fewer than two such members shall be riparian property owners along the Allegheny National Wild and Scenic River between Kinzua Dam and Alcorn Island; and

(D) one member from a nonprofit conservation organization concerned with the protection of natural resources from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Northern Advisory Council shall serve without compensation and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out his or her responsibilities under this Act.

(4) The Northern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreation River.

(c) SOUTHERN ADVISORY COUNCIL.—(1) The Southern Advisory Council shall be composed of 7 members appointed by the Secretary as follows:

(A) the Forest Supervisor of the Allegheny National Forest, or his or her designee, who shall serve as a nonvoting member;

(B) the Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his or her designee, who shall serve as Chairman;

(C) four members from recommendations submitted by the County Commissioners of Venango County, of whom at least one shall be a riparian property owner along the Allegheny National Wild and Scenic River between Franklin and Emlenton; and

(D) one member from a nonprofit conservation organization concerned with the protection of natural resources, from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy of the county representatives on the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Southern Advisory Council shall serve without compensation and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out his or her responsibilities under this Act.

(4) The Southern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreation River.

SEC. 3. ADMINISTRATION OF ALLEGHENY NATIONAL WILD AND SCENIC RIVER.

(a) BOUNDARIES.—After consultation with the Commonwealth of Pennsylvania, the Northern and Southern Advisory Councils, local governments, and the public, and within 18 months after the date of enactment of this Act, the Secretary shall take such action with respect to the segments of the Allegheny River designated under section 1 of this Act as is required under section 3(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(b)).

(b) INTERIM MEASURES.—As soon as practicable after the date of enactment of this Act, the Secretary shall issue guidelines specifying standards for local zoning ordinances, pursuant to section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)), with the objective of protecting the outstandingly remarkable values of the Allegheny Wild and Scenic River, as defined by the Secretary.

(c) ADMINISTRATION OF CERTAIN SEGMENTS.—(1) Lands and interests therein acquired by the Secretary for the purpose of managing the Allegheny National Wild and Scenic River segments located between Kinzua Dam and Alcorn Island shall be added to and become part of the Allegheny National Forest.

(2) Lands and interests therein acquired by the Secretary for the purpose of managing the Allegheny National Wild and Scenic River segment located between Franklin and Emlenton may be managed under a cooperative agreement with the Commonwealth of Pennsylvania.

(d) LIMITATION ON LAND ACQUISITION AUTHORITY.—For the purposes of section 6(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(b)), the segments of the Allegheny River designated as components of the Wild and Scenic Rivers System by section 1 of this Act shall be deemed to be more than 50 per centum in public ownership.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

So the bill (S. 606) as amended, was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

CONVEYANCE TO BLACK HILLS WORKSHOP AND TRAINING CENTER

The Senate proceeded to consider the bill (S. 1770) to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment on page 1, line 9, strike "at a price to be mutually agreed on", and inserting in lieu thereof "at fair market value".

So as to make the bill read:

S. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE TO BLACK HILLS WORKSHOP AND TRAINING CENTER.

(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary of Agriculture shall convey to the Black Hills Workshop and Training Center, Inc., of Rapid City, South Dakota, at fair market value, certain surplus real property located in the Black Hills National Forest and described in subsection (b).

(b) Description.—The real property referred to in subsection (a) is located in Section 4, T.1N., R.7E, BHM, Rapid City, Pennington County, South Dakota, and consists of that portion of Lot 3 that has been declared surplus and one and one-half acres of Lot 2 from the southern boundary to a line 200 feet north of the southern boundary, as depicted on a map prepared by Fisk Engineering Inc. and approved by the Forest Service on October 2, 1990.

So the bill (S. 1770), as amended, was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the Record.)

CONSENT TO CERTAIN AMENDMENTS OF THE LEGISLATURE OF THE STATE OF HAWAII TO THE HAWAIIAN HOMES COMMISSION ACT, 1920

The Senate proceeded to consider the joint resolution (S.J. Res. 23) to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the resolving clause and inserting in lieu thereof the following:

That, as required by section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States hereby consents to the following amendments to the Hawaiian Homes Commission Act, 1920, as amended, adopted by the State of Hawaii in the manner required for State legislation:

Act 16 of Session Laws of Hawaii, 1986;
Act 85 of Session Laws of Hawaii, 1986;
Act 249 of Session Laws of Hawaii, 1986;
Act 36 of Session Laws of Hawaii, 1987;
Act 28 of Session Laws of Hawaii, 1989;
Act 265 of Session Laws of Hawaii, 1989;
Act 14 of Session Laws of Hawaii, 1990;
Act 24 of Session Laws of Hawaii, 1990;
Act 150 of Session Laws of Hawaii, 1990; and
Act 305 of Session Laws of Hawaii, 1990.

So the joint resolution (S.J. Res. 23), as amended, was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the Record.)

MANZANAR NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (H.R. 543) to establish the Manzanar National Historic Site in the State of California, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[TITLE I—MANZANAR NATIONAL HISTORIC SITE

[SEC. 101. ESTABLISHMENT.

[(a) In General.—In order to provide for the protection and interpretation of historical and cultural resources associated with the relocation of Japanese-Americans during World War II, there is hereby established the Manzanar National Historic Site (hereinafter in this title referred to as the "site").

[(b) Area Included.—The sites shall consist of the lands within the area generally depicted as Alternative 3 on map 3, as contained in the Study of Alternatives for Manzanar War Relocation Center, map number 80,002 and dated February 1989. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") may from time to time make minor revisions in the boundary of the site.

[SEC. 102. ADMINISTRATION.

[(a) In General.—The Secretary shall administer the site in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

[(b) Donations.—Notwithstanding any other provision of law, the Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this title.

[(c) Cooperative Agreements With State.—In administering the site, the Secretary is authorized to enter into cooperative agreements with public and private entities for management and interpretive programs within the site and with the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

[(d) Water.—The water rights of the city of Los Angeles shall not be affected by the conveyance of lands under section 103, except that the Secretary shall not acquire such lands until such time as the Secretary has entered into an agreement with the city of Los Angeles which includes provisions or provide water sufficient to fulfill the purposes of the site and to protect the cultural, visual, and natural resources of the site as these resources might be affected by the exercise of such rights.

[(e) Transport of Livestock.—Any person who holds a permit from the Department of Water and Power of the city of Los Angeles, California, to graze livestock on city lands located contiguous with the site may move livestock across the Federal lands managed by the Bureau of Land Management located contiguous with the site for the purpose of transporting such livestock from one each parcel to the other.

[SEC. 103. ACQUISITION OF LAND.

[(a) In General.—In order to carry out the purposes of this Act, the Secretary may acquire all lands referenced in section 101(b) through donation by or exchange with the city of Los Angeles.

[(b) Authority.—Notwithstanding any other provision of law, in event of exchange under this section, the Secretary shall utilize the Secretary's authority under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) to exchange public lands within Inyo County, California, identified as suitable for disposal by the Bureau of Land Management. Priority of such exchange shall be given to lands identified for disposal in the Bishop Resources Area Resource Management Plan and lands immediately adjacent to the site.

[(c) Facility.—The Secretary may contribute up to $1,100,000 in cash or services for the relocation and construction of a maintenance facility to replace the facility located on the land to be acquired under this section.

[SEC. 104. ADVISORY COMMISSION.

[(a) Establishment.—There is hereby established an 11-member advisory commission to be known as the Manzanar National Historic Site Advisory Commission (hereinafter in this title referred to as the "Advisory Commission shall be composed of former internees of the Manzanar relocation camp, local residents, representatives of Native American groups, and the general public appointed by the Secretary to serve for terms of 2 years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Advisory Commission shall designate one of its members as Chairman.

[(b) Management and Development Issues.—The Secretary, acting through the Director of the National Park Service, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development, management, and interpretation of the site, including the preparation of the general management plan.

[(c) Meetings.—The Advisory Commission shall meet on a regular basis, Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the site. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

[(d) Expenses.—Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this title on vouchers signed by the Chairman.

[(e) Charter.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to this Advisory Commission.

[(f) Termination.—The Advisory Commission shall terminate 10 years after the date of enactment of this title unless the Secretary determines that it is necessary to continue consulting with the Advisory Commission in carrying out the purposes of this Act.

[SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this title.]

TITLE I—MANZANAR NATIONAL HISTORIC SITE.

SECTION 101. ESTABLISHMENT.

(a) In General.—In order to provide for the protection and interpretation of the historical, cultural, and natural resources associated with

the relocation of Japanese-Americans during World War II, there is hereby established the Manzanar National Historic Site in the State of California.

(b) AREA INCLUDED.—The site shall consist of approximately 500 acres of land as generally depicted on a map entitled "Map 3—Alternative Plans—Manzanar Internment Camp" numbered 80,002 and dated February 1989. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior. The Secretary may from time to time make minor revisions in the site boundaries.

SEC. 102. DEFINITIONS.

As used in this title, the term—

(1) "Advisory Commission" means the Manzanar National Historic Site Advisory Commission established pursuant to section 105 of this title;

(2) "city" means the City of Los Angeles;

(3) "Secretary" means the Secretary of the Interior; and

(4) "site" means the Manzanar National Historic Site established pursuant to section 101 of this title.

SEC. 103. ACQUISITION OF LAND.

(a) IN GENERAL.—(1) Subject to the limitations set forth in paragraphs (2) and (3) of this subsection, the Secretary is authorized to acquire lands or interests therein within the boundaries of the site by donation, purchase with donated or appropriated funds, or by exchange.

(2) Lands or interests therein located within the boundaries of the site which are owned by the State of California, or a political subdivision thereof, may be acquired only by donation or exchange.

(3) The Secretary shall not acquire lands or interests therein located within the boundaries of the site which are owned by the city of Los Angeles until such time as the Secretary has entered into an agreement with the city to provide water sufficient to fufill the purposes of the site.

(b) MAINTENANCE FACILITY.—The Secretary is authorized to contribute up to $1,100,000 in cash or services for the relocation or construction of a maintenance facility for Inyo County, California.

SEC. 104. ADMINISTRATION OF SITE.

(a) IN GENERAL.—(1) The Secretary shall administer the site in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–67).

(2) Nothing in this title shall create, expand, or diminish any authority of the Secretary over lands or activities of the city of Los Angeles outside the boundaries of the site.

(b) DONATIONS.—The Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing such services and facilities as the Secretary deems consistent with the purposes of this title.

(c) GENERAL MANAGEMENT PLAN.—Within 3 years after the date funds are made available for this subsection, the Secretary shall, in consultation with the Advisory Commission, prepare a general management plan for the site. Such plan shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with—

(1) public and private entities for management and interpretive programs within the site; and

(2) the State of California, or a political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(e) WATER.—Except as provided in section 103(a)(3) of this title, nothing in this title shall affect the water rights of the city of Los Angeles.

(f) TRANSPORT OF LIVESTOCK.—Any person who holds a permit from the Department of Water and Power of the City of Los Angeles to graze livestock on city-owned lands contiguous with the site may move such livestock across those Federal lands administered by the Bureau of Land Management which are located contiguous with the site, for the purpose of transporting such livestock from one city-owned parcel to the other.

SEC. 105. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established an 11-member advisory commission to be known as the Manzanar National Historic Site Advisory Commission. The members of the Advisory Commission shall be appointed by the Secretary, and shall include former internees of the Manzanar relocation camp, local residents, representatives of Native American groups, and members of the general public.

(b) TERMS.—Members of the Advisory Commission shall serve for a term of 2 years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his or her term, until such time as a successor is appointed.

(c) CHAIRMAN.—The members of the Advisory Commission shall designate one of the members as Chairman.

(d) CONSULTATION.—The Secretary, or the Secretary's designee, shall from time to time, but at least semi-annually, meet and consult with the Advisory Commission with respect to the development, management, and interpretation of the site, including the preparation of a general management plan as required by section 104(c) of this title.

(e) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings shall be published in local newspapers. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(f) EXPENSES.—Members of the Advisory Commission shall serve without compensation, but while engaged in official business shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(g) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (86 Stat. 776) are hereby waived with respect to the Advisory Commission.

(h) TERMINATION.—The Advisory Commission shall terminate 10 years after the date of enactment of this title.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE II—JAPANESE AMERICAN NATIONAL HISTORIC LANDMARK THEME STUDY

SEC. 201. SHORT TITLE.

This title may be cited as the "Japanese American National Historic Landmark Theme Study Act".

SEC. 202. THEME STUDY.

(a) STUDY.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized and directed to prepare and transmit to the Congress no later than 2 years after the date [of enactment] *funds are made available for* of this title a National Historic Landmark Theme Study on Japanese American history (hereinafter in this title referred to as the "Theme Study"). The purpose of the Theme Study shall be to identify the key sites in Japanese American history that illustrate the period in American history when personal justice was denied Japanese Americans. The Theme Study shall identify, evaluate, and nominate as national historic landmarks those sites, buildings, and structures that best illustrate or commemorate the period in American history from 1941 to 1946 when Japanese Americans were ordered to be detained, relocated, or excluded pursuant to Executive Order Number 9066, and other actions. The study shall include (but not be limited to) the following sites:

[(1) Internment or concentration and temporary] *(1) Internment and temporary* detention camps where Japanese Americans were relocated, detained, and excluded pursuant to Executive Order Number 9066, issued on February 19, 1942. The internment camps include: Tule Lake, California; Rohwer, Arkansas; Gila River, Arizona; Poston, Arizona; Granada, Colorado; Jerome, Arkansas; Heart Mountain, Wyoming; Minidoka, Idaho; and Topaz, Utah. The temporary detention camps include: Pomona, California; Santa Anita, California; Fresno, California; Pinedale, California; Tanforan in San Bruno, California; Sacramento, California; Marysville, California; Mayer, Arizona; Salinas, California; Turlock, California; Merced, California; Stockton, California; Tulare, California; Puyallup, Washington; and Portland, Oregon.

(2) Angel Island, California, the port of entry for many Japanese Issei.

(3) Camp Shelby, Mississippi, the training ground for the 442nd Infantry Regimental Combat Team.

(4) Camp Savage and Fort Snelling, Minnesota, locations for the Military Intelligence Service Language School where Japanese Americans received Japanese language instruction, enabling the Japanese Americans to translate Japanese war plans into English.

(5) Camp McCoy, Wisconsin, where the 100th Infantry Battalion was trained.

(6) Terminal Island, California, the first location where Japanese Americans were forced to evacuate.

(7) Bainbridge Island, Washington, where Japanese Americans were evacuated pursuant to Exclusion Order Number 1.

(8) Immigration and Naturalization Service internment camps at Crystal City, Kennedy, and Seagoville, Texas; Missoula, Montana; and Bismarck, North Dakota.

(b) IDENTIFICATION AND LIST.—On the basis of the Theme Study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

SEC. 203. CONSULTATION.

In carrying out the study, the Secretary shall consult with Japanese American citizens groups, scholars of Japanese American history, and history preservationists. [The Secretary shall receive permission from Indian tribes to obtain access to Indian lands.] *In preparing the study, if the Secretary determines that it is necessary to have access to Indian lands, the Secretary shall request permission from the appropriate tribe.*

SEC. 204. COOPERATIVE AGREEMENTS.

The Secretary may enter into cooperative agreements with one or more Japanese

American citizens organizations knowledgeable of Japanese American history, especially the relocation and internment period during World War II, to prepare the Theme Study and ensure that the Theme Study meets current scholarly standards.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as are necessary to carry out this title.

So the bill (H.R. 543) as amended, was deemed read the third time and passed.

ACQUISITION OF MONOCACY NATIONAL BATTLEFIELD, MD

The bill (H.R 990) to authorize additional appropriations for land acquisition of Monocacy National Battlefield, MD, was considered, ordered to a third reading, read the third time, and passed.

Mr. SARBANES. Mr. President, I rise in strong support of this legislation to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD. I commend the distinguished chairman of the Public Lands, National Parks, and Forests Subcommittee, Senator BUMPERS, and the chairman of the Committee on Energy and Natural Resources, Senator JOHNSTON, for moving this bill to the floor so expeditiously. I also commend my colleague, Representative BEVERLY BYRON, who has been a tireless advocate for preserving this battlefield and who steered this bill through the House.

As a nation which looks to the future, we sometimes fail to remember our past. The enactment of this legislation will help to ensure that an important part of our Nation's heritage is preserved and remembered.

Monocacy National Battlefield Park in Frederick County, MD, is the site of a little-known but important Civil War battle referred to as the "battle that saved Washington." It was here on July 9, 1864, that Union soldiers blunted a bold Confederate thrust at the Nation's Capital. Although outnumbered by some 14,000 Confederates under Lt. Gen. Jubal Early, 6,000 Union troops under the command of Maj. Gen. Lew Wallace held off the advancing Confederate Forces for a day, enabling Gen. Ulysses S. Grant to strengthen Washington's defenses and warding off the Confederacy's last attempt to bring the war to the north.

Congress first recognized the importance of the Battle of Monocacy by establishing Monocacy National Military Park in 1934. But it wasn't until this year—57 years after the battlefield was first established—that the park was officially opened for public visitation. One of the principal reasons for this is that the Park Service is still in the process of completing the acquisition of property within the boundaries of the park. While some headway was made in the late 1970's under the leadership of the late Representative Goodloe Byron is preserving this site, the total amount authorized for acquisition has only been $3.5 million. Consequently, most of the battlefield is still in private ownership. Today, the Park Service owns in fee or has obtained scenic easements for approximately 1,000 acres, with an additional 600 acres within the authorized boundaries of the battlefield yet to be acquired.

Unfortunately, this remaining unacquired acreage is seriously threatened by encroaching development. The battlefield's superb location along an interstate highway corridor and within easy reach of major population concentrations in Washington, DC, Baltimore, and Frederick also provides the basis for the serious and growing threat to the park land. This is one of the fastest-growing areas in the State of Maryland. Secretary of the Interior Manuel Lujan has listed Monocacy as one of 25 most endangered American battlefields and the battlefield was the top land acquisition priority of the Park Service's National Capital Region.

Two major parcels of land in private ownership remain within the battlefield's authorized boundaries. These farms were the site of much of the fighting at the Battle of Monocacy and, despite the encroachments of recent years, remain much as they were in 1864. The owners of one of the parcels, the Trail Farm which encompasses approximately 300 acres and is zoned for industrial development, have indicated that family circumstances may force the sale of the property this year. Private developers have expressed an interest in acquiring the property, but the family would prefer to sell to the Park Service. However, the Park Service's authorized ceiling for acquisition of battlefield property is inadequate to purchase the tract.

The legislation before the Senate does not expand the boundaries of the battlefield; it simply provides the National Park Service with additional authority for this land acquisition by authorizing an additional $20 million to permit the acquisition of the remaining 600 acres within the battlefield boundary. This is the estimated cost of completing all authorized land acquisition.

Mr. President, this beautiful area—so important to the history of this country—must be protected before the opportunity to preserve and interpret this battlefield is lost forever. I urge my colleagues to join me in supporting this legislation.

STONES RIVER NATIONAL BATTLEFIELD

The Senate proceeded to consider the bill (H.R. 2370) to expand the boundaries of Stones River National Battlefield, TN, and or other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STONES RIVER NATIONAL BATTLEFIELD BOUNDARY CHANGE.

The Act entitled "An Act to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes", approved December 23, 1987 (101 Stat. 1433), is amended as follows:

(1) In the first sentence of section 1(a) strike "numbered 327/80,001, and dated March 1987" and insert **[**"numbered 327/80,004A, and dated September 1991"**]** *numbered 327/80,004B, and dated November 1991.*

(2) In section 1(b), insert "(1)" after "LANDS.—", and add at the end thereof the following:

["(2) Before acquiring any lands under this Act whose surface has been substantially disturbed or which are believed by the Secretary to contain hazardous wastes, the Secretary shall (A) prepare a report on the potential hazardous wastes or similar problems associated with such lands and the costs of restoring such lands, together with a plan of the remedial steps that must be taken to correct the situation in order to proceed with the acquisition in a timely manner, and (B) submit the report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.**]**

"(2)(A) Before acquiring any lands under this Act where the surface of such lands has been substantially disturbed or which are believed by the Secretary to contain hazardous substances, the Secretary shall prepare a report on the potential hazardous substances associated with such lands and the estimated cost of restoring such lands, together with a plan of the remedial measures necessary to allow acquisition of such lands to proceed in a timely manner, consistent with the requirements of subparagraph (B). The Secretary shall submit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(B) The Secretary shall not acquire any lands under this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)).

"(3)(A) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquistion by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed 25 years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever is later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisiton, less the fair market value of the term retained by the owner.

"(B) Any right of use and occupancy retained pursuant to this section may, during its existence, by conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

"(C) This paragraph applies only to owners who have reached the age of majority.

"(D) As used in this paragraph, the term 'improved property' means a detached, year-round noncommercial residential dwelling, the construction of which was begun before the date of enactment of this paragraph, together with so much of the land on which the dwelling is stituated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.".

(3) Section 2 is amended to read as follows:

"SEC. 2. AGREEMENT.

"The Secretary is authorized to enter into an agreement with the city of Murfreesboro, Tennessee, containing each of the following provisions—

"(1) If the city agrees to acquire sufficient interest in land to construct a trail linking the battlefield with Fortress Rosecrans, to construct such trail, and to operate and maintain the trail in accordance with standards approved by the Secretary, the Secretary shall (A) transfer to the city the funds available to the Secretary for the acquisition of such lands and for the construction of the trail, and (B) provide technical assistance to the city and to Rutherford County for the purpose of development and planning of the trail.

"(2) The Secretary shall agree to accept the transfer by donation from the city of the remnants of Fortress Rosecrans at Old Fort Park, and following such transfer, to preserve and interpret the fortress as part of the battlefield.

"(3) In administering the Fortress Rosecrans, the Secretary is authorized to enter a cooperative agreement with the city of Murfreesboro, Tennessee for the rendering, on a nonreimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

(4) Redesignate section 3 as section 4, and insert the following new section after section 2:

"SEC. 3. PLANNING.

"(a) PREPARATION OF PLAN FOR REDOUBT BRANNAN.—The Secretary shall, on or before February 1, 1992, prepare a plan for the preservation and interpretation of Redoubt Brannan.

"(b) UPDATE OF GENERAL MANAGEMENT PLAN.—The Secretary shall, on or before March 13, 1993, update the General Management Plan for the Stones River National Battlefield.

"(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance to the city and to Rutherford County in the development of zoning ordinances and other land use controls that would help preserve historically significant areas adjacent to the battlefield.

"(d) MINOR BOUNDARY REVISIONS.—If the planning activities conducted under subsections (a) and (b) of this section show a need for minor revisions of the boundaries indicated on the map referred to in section 1 of this Act, the Secretary may, following timely notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so and providing an opportunity for public comment, make such minor revisions by publication of a revised boundary map or other description in the Federal Register.".

So the bill (H.R. 2370), as amended, was deemed read the third time and passed.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION AUTHORIZATION ACT

The bill (H.R. 3387) to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 327, S. 452, authorizing jurisdiction transfer; that the committee amendments be adopted; that the bill be read a third time and passed; and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF ADMINISTRATIVE JURISDICTION OVER CERTAIN LAND

The Senate proceeded to consider the bill (S. 452) to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown italic.)

S. 452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. ADMINISTRATIVE TRANSFER TO THE SECRETARY OF THE INTERIOR.

[(a) AUTHORIZATION OF TRANSFER.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall transfer to the administrative jurisdiction of the Secretary of the Interior, without reimbursement, the approximately 840 acres of land located in Routt County, Colorado, described as the "Copper Spur Ranch portion to BLM", as generally depicted on the map entitled "Ekberg Copper Spur Ranch Land Exchange Proposed" dated September 1989, which lands shall be administered by the Bureau of Land Management in accordance with the law generally applicable to the public lands.

[(b) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall file with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a map and a legal description of the land transferred to the administrative jurisdiction of the Secretary of the Interior pursuant to subsection (a), and the map and description shall have the same force and effect as if they were included in this Act.

[(2) The Secretary of the Interior may correct clerical and typographical errors in the map and legal description filed pursuant to paragraph (1).

[(3) The map and legal description filed pursuant to paragraph (1) shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior.

[(c) RESERVATION OF EASEMENT.—The land transferred to the administrative jurisdiction of the Secretary of the Interior pursuant to subsection (a) shall be subject to the conservation easement granted to the State of Colorado (Division of Wildlife) by the United States, acting by and through the Secretary of Agriculture, dated April 27, 1988, and recorded in Routt County, Colorado (Reception Numbered 375283, Book 637, pages 1741–43), on October 6, 1988.**]**

[SEC. 2.] *SECTION 1.* EKBERG-COPPER SPUR LAND EXCHANGE.

(a) AUTHORIZATION OF EXCHANGE.—(1) As soon as practicable after receipt of an offer from the owner, the Secretary of Agriculture shall accept title to the approximately 427 acres of land located in Pennington County, South Dakota, described as "Tract A" and "Tract B", as generally depicted on a **[**map described in section 1(a),**]** *map entitled "Ekberg-Copper Spur Ranch Land Exchange—Proposed", dated September 1989*, which lands shall thereupon become part of the Black Hills National Forest and shall be administered by the Secretary of Agriculture in accordance with the **[**law**]** *laws* applicable to the National Forest System.

(2) Upon receipt of title to the land described in paragraph (1), the Secretary of Agriculture shall convey to the owner of that land all right, title, and interest of the United States in the approximately **[**720**]** *560* acres of land located in Routt County, Colorado, described as the "Copper Spur Ranch—portion to Ekberg", as generally depicted on the map described in section 1(a).

(b) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file with **[**the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee of Agriculture of the House of Representatives**]** *the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives* a map and a legal description of the land conveyed to the Secretary of Agriculture pursuant to subsection (a)(1), and the map and description shall have the same force and effect as if they were included in this Act.

(2) The Secretary of Agriculture may correct clerical and typographical errors in the map and legal description filed pursuant to paragraph (1).

(3) The map and legal description filed pursuant to paragraph (1) shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) RESERVATION OF EASEMENTS.—(1) The land conveyed into private ownership pursuant to subsection (a)(2) land shall be subject to the conservation easement granted to the State of Colorado (Division of Wildlife) by the United States, acting by and through the Secretary of Agriculture, dated April 27, 1988, and recorded in Routt County, Colorado (Reception Numbered 375283, Book 637, pages 1741–43), on October 6, 1988.

(2)(A) The land conveyed into private ownership pursuant to subsection (a)(2) shall be subject to easements for ingress and egress through such lands for the benefit of the United States and the public granted between agencies of the United States on May 10, 1989, and recorded in Routt County, Colorado (Reception Numbered 380443, Book 643, pages 0051–0055) and all other easements of record.

(B)(i) The Bureau of Land Management and the owner of the Copper Spur Ranch shall enter into a cooperative agreement to study the feasibility of constructing access routes as alternatives to those provided by the easements described in subparagraph (A).

(ii) Upon agreement by the Bureau of Land Management on alternative access routes, the construction of such access routes at the expenses of the owner of the Copper Spur Ranch, and the conveyance to the United States of easements for use of such access routes by the United States and the public, the Secretary shall execute and deliver to the owner of the Copper Spur Ranch a release or other appropriate form of instrument extinguishing the easements described in subparagraph (A).

(d) EQUALIZATION OF PAYMENT.—If the values of the lands exchanged pursuant to subsection (a) are not equal, they shall be equalized by the payment of cash as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)) without regard to the 25 percent limitation contained in that section.

(e) DATE OF EXCHANGE.—The exchange of lands authorized by subsection (a) shall be completed not later than 1 year after the date of enactment of this Act.

So the bill (S. 452) as amended was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

MARY MCLEOD BETHUNE COUNCIL HOUSE NATIONAL HISTORIC SITE

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 690.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 690) entitled "An Act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes.".

Mr. REID. I move the Senate recede from its amendment to H.R. 690.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion is agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3604, the Greer Spring Acquisition and Protection Act of 1991, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3604) to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 3604) was ordered to a third reading, was read the third time, and passed.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL LAW ENFORCEMENT TRAINING WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 191, designating "National Law Enforcement Training Week," and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read a third time and passed and the motion to reconsider laid upon the table, and the preamble agreed to; further, that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 100, the Senate companion, and the measure then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 191) was deemed read the third time and passed.

The preamble was agreed to.

HEALTH EDUCATION ASSISTANCE LOANS

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2050.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 2050) entitled "An Act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes", do pass with the following amendment: Strike out all after the enacting clause, and insert:

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of title VII of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.".

SEC. 2. PILOT PROGRAM IN CLINICAL PHARMACOLOGY.

(a) ESTABLISHMENT.—The Commissioner of Food and Drugs is authorized to award through a competitive bid process a grant for a pilot program for the training of individuals in clinical pharmacology at an appropriate medical school without such a program. Such grant shall be for the purpose of evaluating the extent to which such a program can contribute to an identifiable increase in the number of trained biomedical, scientific personnel in clinical pharmacology.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years 1992 through 1996 $750,000 for each fiscal year to carry out this section.

Mr. REID. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTING ENROLLMENT OF H.R. 1724

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 249, a concurrent resolution correcting a technical error in the enrollment of H.R. 1724, the MFN unemployment assistance bill; that it be agreed to; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 249) was agreed to.

RETIRED ENLISTED ASSOCIATION, INCORPROATED

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 338, S. 447, regarding recognition of the Retired Enlisted Association, Incorporated; that the bill be deemed read three times and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 447) was deemed read the third time and passed, as follows:

S. 447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER

The Retired Enlisted Association, Incorporated, a nonprofit corporation organized under the laws of the State of Colorado, is recognized as such and is granted a Federal charter.

SEC. 2. POWERS.

The Retired Enlisted Association, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the law of such State.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;

(3) assisting veterans and their dependents and survivors through a service program established for that purpose;

(4) improving conditions for retired enlisted service members, veterans and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

Except as provided in section 8, the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

Except as provided in section 8, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. NONDISCRIMINATION.

In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of the directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age or national origin.

SEC. 9. RESTRICTIONS.

(a) INCOME AND ASSETS.—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) SHARES OF STOCK.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) CONGRESSIONAL APPROVAL.—The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this Act.

SEC. 10. LIABILITY.

The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

SEC. 11. BOOKS AND RECORDS; INSPECTION.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspect by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 12. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"The Retired Enlisted Association, Incorporated.".

SEC. 13. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 12 of this Act. The report shall not be printed as a public document.

SEC. 14. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 15. DEFINITION OF "STATE".

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 16. TAX EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

SEC. 17. EXCLUSIVE RIGHTS TO NAMES.

The corporation shall have the sole and exclusive right to use the names "The Retired Enlisted Association, Incorporated", "The Retired Enlisted Association", "Retired Enlisted Association", and "TREA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with established or vested rights.

SEC. 18. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

EXPRESSIONS OF GRATITUDE

Mr. BYRD. Mr. President, I have listened to a number of my colleagues this evening as they have extolled the talents and the virtues and the excellent work of the able senior Senator from New York [Mr. MOYNIHAN], and so I rise at this time to add my modest expressions of gratitude and praise concerning this great Senator for the work that he has done in fashioning the highway bill.

Cato said that he would prefer that men ask why there was no statue built in his memory than for men to ask why a statue had been built for him. If I had my way about it, this bill would be named the Moynihan bill, in his memory. I would embellish the title a bit, for he is certainly deserving of such a eulogy as a deserved tribute to his skill and craftsmanship, his fairness and his patriotism.

I have had occasion to seek the work of others in the forming of this great body. Its roots came from our mother country, as we recall that the blood of Englishmen was shed for many of the rights that we have seen included in our own Constitution. And its roots likewise sprang from the Continental Congresses, the Congress under the Federation, and the Constitutional Convention. And as I have witnessed in my mind's eye those men who helped to shape this country, who helped to shape its governmental system, and as I have watched those illustrious Senators in the first Congress and in other Congresses down through the more than 20 decades of this institution's existence and this Republican form of Government, I have looked at PAT MOYNIHAN many times and thought that he is such a man as those great men who graced those early Congresses. He could well have served in any era and any age and any period of this Nation's history.

I count it a privilege to be his colleague. He is a man of extraordinary talents, extraordinary experience, and extraordinary vision, and he applies those talents, that experience and that vision in his work as a legislative craftsman. In short, he has class.

I saw them tearing a building down,
A group of men in a busy town;
With a ho-heave-ho, and a lusty yell,
They swung a beam and the sidewall fell.
I said to the foreman, "Are these men skilled,
The type you'd hire if you had to build?"
He laughed and then he said, "No, indeed;
Just common labor is all I need.
I can easily wreck in a day or two
That which takes builders years to do."
I said to myself as I walked away,
Which of these roles am I trying to play?
Am I a builder who works with care,
Building my life by the rule and square,
Am I shaping my deeds by a well-laid plan,
Patiently building the best I can?
Or am I a fellow who walks the town
Content with the labor of tearing down?

The Senator of whom I speak is a builder. We have witnessed his product as we have seen it shaped and molded to his will and to the will of those who have worked with him and beside him. He has produced a piece of legislation that is a milestone in this institution's legislative history. The bill has been crafted by the conference through round-the-clock meetings over a great many days and, without his ceaseless efforts, we would not be praising this work tonight, nor would we be poised to adopt the conference report thereof.

As recently as two days ago, some members of the conference and the administration questioned whether a bill could be produced in the time remaining in this session. They said the differences were too great, both between the House and the Senate, and between the Congress and the administration. Some advocated a simple extension of the current program. Some said that we should return in the second session and address the problem and try at that time to bring forth a transportation bill.

But the Senator from New York would have none of that. He moved with dispatch this past spring in bringing a bill to the Senate. My colleagues will recall that during that debate, the Senate adopted my amendment providing for a level of effort program which recognized the needs of those States that were already taxing their citizens at a higher-than-average rate for road improvements while having a less-than-average tax base to meet those needs.

While the final conference report does not retain that format in its exactitude, the Senator from New York has kept me apprised during the deliberations of the progress, of the problems, of the delays.

He saw to it that the final product protected States like mine and many others that will now have their unique status recognized. His State, like mine, is one of those States that are a part of Appalachia. Mine is the only State that is wholly within that unique region.

The bill takes tremendous strides toward meeting the infrastructure needs of all regions of the country. As many Members know, I spent a great many hours at the budget summit last year, at which I advocated the need to invest in our country's infrastructure, both human and physical. In the give and take of those summit negotiations, I believe that we were successful in obtaining some of the necessary spending authority to move forward in meeting our Nation's infrastructure needs. The legislation that Senator MOYNIHAN and his colleagues on his subcommittee and full committee have put together in concert with the Members of the other body goes a long way toward implementing the views that were expressed at that summit.

The legislation will contribute to the infrastructure of the country, and in so doing will contribute greatly to the country's strength. It will put men and women to work. It will stimulate the economy. And those men and women who work will be taxpayers rather than tax consumers.

The bill is an expression of faith in our country's future. We are living at a time when there are long unemployment lines of men and women who want to work but who cannot find work. We are living at a time when the infrastructure of the Nation is deteriorating—our bridges are falling down, our roads are caving in, our waterways need repairing, and other segments and elements of the infrastructure are also in serious need of repair.

This legislation promises over the next 6 years to do something about the needs of this great country in that respect.

DeTocqueville, who visited this country in 1840, referred to the "incredible American." He said that "the incredible American believes that if something has not yet been accomplished, it is because he", the incredible American, "has not yet attempted it." And since deTocqueville made that statement, this country fought the Mexican War, the Civil War, the Spanish American War, the First World War, the Second World War, the war in Korea, the war in Vietnam, the Persian Gulf war.

It has survived many recessions and panics—the Great Depression of the thirties—and has emerged in these recent years, of course, the greatest and strongest Nation on the face of the globe because the incredible American believes that he can accomplish whatever he attempts. Now the Nation will have another tool with which to build, to attempt and to accomplish.

I am reminded of the biblical parable of the sower. A sower went out to sow his seed, and some of it fell by the wayside. It was trodden down and the fowls of the air devoured it. Some of it fell upon a rock, and as soon as it sprang up, it withered away because it lacked moisture. Some fell among thorns, and the thorns sprang up with it and choked it. And others fell on good ground, and sprang up, and it brought forth fruit a hundredfold.

Senator MOYNIHAN has sown seed upon good ground, and it will bear fruit a hundredfold.

As a Senator from West Virginia, I thank Senator MOYNIHAN for the attention that he has given to States like mine. It is not easy. It takes a master craftsman to put together a bill like this. And one must not only put together the legislation itself, but he must also put together the votes with which to carry the legislation. In doing so, he has thought of the Nation. I daresay that he has thought on many occasions more about other States and their needs, perhaps, than his own, because he has put the Nation first. That is the only way to think and act when one writes legislation such as the highway bill.

I think of the words of Thomas Babington Macaulay. They are very appropriate here:

> Of all inventions, the alphabet and the printing press alone excepted, those inventions which abridge distance have done most for the civilization of our species. Every improvement of the means of locomotion benefits mankind morally and intellectually, as well as materially, and not only facilitates the interchange of the various productions of nature and art but tends to remove national and provincial antipathies and to bind together all the branches of the great human family.

I could say nothing that would more nearly express my own feelings than to say that Senator MOYNIHAN's work comports with the vision and thought expressed in the words of Macaulay.

Mr. President, a nation is made great not by its acres, but by the men who cultivate them; not by its minerals, but by the men and the women who mine them. America was a great country before Columbus discovered it. Men and women have made it a great nation.

Senator MOYNIHAN and his colleagues have worked to give to the men and women of this country something for their hands to do, something to challenge their spirits, and something that will result in a greater Nation and a happier people. Future generations will rise up to call him blessed.

Not gold, but only men can make a nation great and strong;
Men who for truth and honor's sake stand fast and labor long;
Real men who work while others sleep.
Who dare while others fly.
They build a nation's pillars deep
And lift them to the sky.

Such a man is Senator PAT MOYNIHAN.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I have no words at this moment that would be adequate to my sense of gratitude to our revered, our revered, President pro tempore. As he spoke about the Senator from New York, as he spoke he made very clear about all of my colleagues in this enterprise. It has been a bipartisan, bicameral effort.

But, oh, what nation on Earth is graced by the President of the Senate who can stand ex tempore and cite Cato, and quote de Tocqueville, and summon from all that vast ocean of writings what must be the only remark Thomas Babington Macaulay ever made about roads. Only he. And that is why we treasure him, and that is why he graces this Nation and our body. My deepest and heartfelt gratitude.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TAX CREDITS

Mr. DOMENICI. Mr. President, I understand we have a tax-extender measure. I have a statement that explains my position in support of them and why, and recommends in strong terms that we stop doing the tax extenders on such a short timeframe when, indeed, they are expected to be long timeframe oriented. Nonetheless, it is better that we do it now than next year when we would have to make them retroactive. We have done that on occasion, also.

Mr. President, in 1913, the U.S. Congress was given the power to tax according to the 16th amendment. Since that time the Congress has utilized this power not only to pay for the vital needs of our Nation, but to encourage and reward productive forms of behavior. Using the Tax Code as our tool, the Congress has established a history of tax policy initiatives that stimulate growth and create jobs and opportunity for Americans.

For instance, in 1978, the Congress created the employer education assistance tax credit. In 1980, the Congress created the mortgage revenue bond tax credit. In 1986, the Congress enacted the low-income housing tax credit. All of these, as well as nine other provisions before the Senate for extension today, were created out of a belief that an investment in capital and human resources should be rewarded.

I support the extension of these 12 tax credits, and I am especially pleased that a revenue source has been earmarked such that the extensions comply with the Budget Reconciliation Act of 1990.

It is unfortunate, however, that these measures have not had the opportunity to come before the Senate prior to the 11th hour, so that their merits might be debated freely, and lengthier extensions might be considered based on the merits and effectiveness of the tax credits individually.

In order for any tax policy to be an effective tool of democracy, individuals must have confidence that the credit is real. The action we are taking today to extend these credits for an additional 6 months is commendable in light of the alternative, to postpone and enact them retroactively. Yet, how can the Congress possibly expect these credits to be effective if their fate is questioned annually, or biannually?

The common bond among all of these 12 credits is that they reward long-term investment and planning. However, these credits will do little to encourage a long-term perspective if their availability poses a greater risk to investors than a return on the investment itself.

I have been a longtime supporter of many of the components of this legislation. In New Mexico, tax-exempt mortgage revenue bonds have enabled over 20,000 families to purchase a first home. Without the availability of these low-interest loans, backed by tax-exempt mortgage revenue bonds, 80 percent of those New Mexicans would not have been able to achieve the dream of home ownership.

Likewise each year in New Mexico, the low-income housing credit leverages approximately 25 million dollars' worth of low-income housing construction and creates over 800 jobs. Yet, many prudent investors that would undoubtedly take advantage of credit do not because each year the availability of the credit is again in doubt.

Research and development in our Nation's industries is vital to our international competitiveness and prosperity in years to come. In this regard, I am most hopeful that the research and tax credit along with the others will be considered for permanent extension before the close of the 102d Congress.

In conclusion, I urge my colleagues to view tax policy as a method for rewarding individual effort, constructive investment, and healthy risk. The most important thing we can do to help Americans is to help them help themselves. A capitalistic society requires the formation of capital, and employment requires the presence of employers. Thank you for your consideration of these thoughts.

IN SUPPORT LEGISLATION TO EXTEND CERTAIN EXPIRING TAX PROVISIONS

Mr. LIEBERMAN. Mr. President, I rise to strongly support this legislation to extend certain expiring tax credits which are so important to our economy and to jobs for our people. These tax credits include: First, exclusion for employer-provided educational assistance; second, exclusion for employer-provided group level services; tax exemption for qualified group legal services organizations; third, deduction for health insurance costs of self-employed individuals; fourth, qualified mortgage bonds and mortgage credit certificates; fifth, qualified small-issue manufacturing bonds; sixth, allocation and apportionment of research expenses; seventh, tax credit for qualified research expenditures; eighth, tax credit for low-income rental housing; ninth, targeted jobs tax credit; tenth, business energy tax credits for solar and geothermal property; eleventh, tax credit for orphan drug clinical testing expenses; and twelfth, minimum tax exception for gifts of appreciated tangible property.

Everyone gains with the extension of these soon to expire tax credits. Failing to enact this legislation would have dire effects on our already suffering economy.

For example, the mortgage revenue bonds are absolutely crucial for both low-income homebuyers and for the real estate industry. Connecticut homebuyers, realtors, and builders are all suffering as a result of our present recession. Extending the mortgage revenue bond tax exemption is the least we can do to assist them and their counterparts throughout the nation.

The R&D tax credit is the cornerstone of building a competitive manufacturing base in this country. R&D spending by American companies is slipping and, without this tax credit, will go into a freefall.

Yesterday, I introduced a bill that would extend an enhanced R&D tax credit for consortia. We need to do as much as we can to aid companies in the development of new products so they can compete in the international marketplace. While I realize that we cannot act on this legislation today, I believe the least we should do to help American firms develop new products and technologies is extend the existing R&D tax credit.

The targeted jobs tax credit is one of the most important and popular provisions in the package. The business community, particularly small businesses, rely on this to help them remain profitable. Not to renew it would place another burden at a time when they can least afford it.

Mr. President, we must act favorably on this bill. It is important to workers and businesses across the Nation.

Mr. BENTSEN. Mr. President, one dozen tax provisions are due to expire at the end of this year. These provisions, among other things, encourage research and development, promote the construction of low-income housing, improve the availability of mortgages, and help the employment prospects of those with special employment needs. It was to prevent the imminent expiration of these provisions that the Finance Committee yesterday unanimously reported a bill on an emergency basis. That bill, S. 2042, was filed yesterday.

These important provisions can provide a sorely needed economic stimulus, and assist in the economy's long-term growth through the encouragement of R&D, education, housing construction, and job creation. Moreover, extension of these provisions at this time avoids the disruption and uncertainty in the affairs of taxpayers that can occur if the provisions are allowed to expire only to be later extended retroactively.

Under the bill, the expiring provisions would be extended for 6 months, through June 30, 1992. The revenue loss from this action would be entirely financed by one provision, a provision that would require large corporations to pay their tax liabilities more currently during the course of the year. Specifically, the proposal would require large corporations—those with over $1 million in taxable income—to pay estimated taxes based on 95 percent of the current year's tax liability, instead of 90 percent as current law allows. This provision would be phased in gradually over 5 years and sunsetted after 1996.

Earlier today, the House passed a bill—H.R. 3909—identical to this bill, S. 2042. I am delighted that we were able to obtain unanimous consent in the Senate for adoption of this bill. The House action and the Senate's unanimous consent completes an agreement to have identical bills without amendments, dispensing with the need for a conference. At the Finance Committee's markup, the Treasury representative indicated that the President would sign this bill.

Adoption of this bill without amendments reflects an extraordinary cooperative effort on the part of both bodies, on both sides of the aisle, and of the administration. I would like to thank Chairman ROSTENKOWSKI and Senator PACKWOOD for their efforts on this bill. I would particularly like to thank Senators DANFORTH, CHAFEE, and DODD, whose efforts to get the agreement of 79 Senators to oppose amendments to this bill paved the way for its passage.

TAX CREDIT EXTENDERS

Mr. DODD. Mr. President, I understand either later today or at some other point, the majority leader, I think in conjunction with the minority leader, Senator DOLE, will propound a unanimous-consent request to be able to bring up some 12 extenders of tax credits, including the research and development tax credit, the low-income housing tax credit, an educational tax credit, targeted jobs tax credit. There are a number of others. I do not have the list in front of me.

As one who worked with the senior Senator from Missouri, Senator DANFORTH, in soliciting the signatures I think of some 75 or so of our colleagues on a letter to the leadership suggesting that if these tax extenders, credit extenders were brought up on the floor of the Senate, none of the undersigned would support or offer any additional amendments to such a proposal.

I thank Senator BENTSEN and other members of the Finance Committee, along with the leadership, for their willingness to at least make such a request if, in fact, it is made and strongly urge that our colleagues would agree to that unanimous-consent request and allow for that package to come forward.

I know there are a number of provisions that other Members would like to raise, including this Member, on such a tax proposal—one including the tax on boats which has been a devastating blow to the marine industry in my State and throughout the New England area and I realize in other parts of the country.

As tempting as it would be to offer some tax relief for that industry that has been hard hit, I, for one, will forbear and agree and support this package of tax credit extenders because all of those extenders will expire on the 31st of December. That could be a major blow to a State like mine that has effectively used those tax credits to educate people—employers have—who would otherwise not have received the higher education; there are some 100,000 jobs, not to mention the incubator businesses that use the R&D tax credits to either expand or start new businesses.

So I hope when that proposal is raised, there will be unanimous support for that matter coming forward without any amendments, that we will be able to support the extension despite the temptation that every single one of us would have to utilize that tax vehicle to bring up other proposals that would be of some significance to our States and our constituencies.

This is one proposal I believe can make a significant difference before our adjournment, in trying to help jump start an economy that is on its back.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

JIM SASSER TAX EXTENDER LEGISLATOR

Mr. SASSER. Mr. President I rise to urge my colleagues to vote for H.R. 3909, legislation which provides for a 6-month extension of a variety of tax laws which would otherwise expire in 1991.

This legislation, reported out unanimously by the Senate Finance Committee, must be passed before the Congress adjourns.

Some 12 tax provisions are extended, but I would like to devote my remarks to two of these expiring tax provisions.

The first is the Mortgage Revenue Bond Program. This tax provision permits qualified governmental units to issue mortgage revenue bonds, the proceeds of which are used to provide affordable housing to many citizens who otherwise could not own their own home.

In 1990, State housing finance agencies issued some $8.6 billion in mortgage revenue bonds which permitted the issuance of some 131,000 loans for affordable housing. In my State of Tennessee, the State Housing Development Agency issued loans which permitted some 4,700 families and individuals to own their own homes. The average income of the Tennessee home purchaser was about $27,000 and the average home purchase price was about $44,000 under the State's Mortgage Revenue Bond Program.

The mortgage revenue bond tax provision which has been in effect since 1981 has helped qualified State and local agencies create and finance affordable housing throughout the country. At a time when the income squeeze is putting more and more families out of the housing market, the Mortgage Revenue Bond Program helps bring back the dream of homeownership to thousands of American workers and their families.

Another provision which deserves mention is the low-income housing tax credit which was enacted as part of the Tax Reform Act of 1986.

This tax credit promotes the construction or substantial rehabilitation of low-income housing units. Again this tax credit is of key importance to our housing industry.

In 1989 and 1990 some $517 million in low-income tax credits were used to finance the construction and rehabilitation of nearly 200,000 low-income housing units. In Tennessee, this tax credit helped provide some 4,000 units of low-income housing.

During a time when we need to construct, and rehabilitate as many housing units as possible and make housing more affordable to our citizens, these two tax provisions deserve our support.

By passing H.R. 3909, these tax credits can help bolster an anemic housing market in Tennessee and the Nation.

EXTENSION OF EXPIRING TAX PROVISIONS, S. 1950

Mr. DURENBERGER. Mr. President I rise to express my support for the extension of a group of tax provisions which are due to expire at the end of 1991. While this legislation by no means represents all that could or should be done in the tax arena, I am pleased that the Senate is acting to ensure that there will not be undue disruption in the lives of the many Americans who rely on these expiring programs.

The mere fact that the Senate is considering this tax measure is due in large part to the efforts of the senior Senator from Missouri. Senator DANFORTH worked to ensure that the extension of these items did not get bogged down by unlimited amendments. I commend and thank my friend for his efforts.

This legislation is more than just another bill which the Congress is rushing to complete before adjournment. Consideration and, ultimately, extension of these expiring provisions represents a renewed commitment to the individuals who benefit, both directly and indirectly, from these important programs and to the problems which they seek to address.

I am particularly pleased that this legislative package calls for renewal of the 25-percent deduction for the health insurance costs of the self-employed. I would, of course, prefer that this modest benefit to America's farmers and small-business people be increased to a 100-percent deduction. I also believe that it should be made permanent to avoid this annual uncertainty. However, any extension or relief, particularly during a recession, is critical to ensure that self-employed individuals are not forced to cancel what insurance they do have.

Despite what I expect will be a partial victory today, I will continue to work for the permanent extension of the 25-percent deduction, as well as a 100-percent deduction, for these health insurance costs through passage of legislation which I introduced at the beginning of the 102d Congress.

This deduction provision is not perfect, but it is an essential element in enabling individuals to provide health insurance for themselves and their families. Because all corporations in America enjoy a complete deduction for their health insurance expenses, this is not only an issue of sound policy for the self-employed, it is one of basic fairness.

Mortgage revenue bonds are another program which has been of great value to families of modest incomes. It has permitted many Americans to achieve the dream of home ownership and has also been effective in creating jobs for many tens of thousands of Americans. As the country continues to work its way out of recession, the value of this program cannot be underestimated for stimulating the economy and for assuring continued access to home ownership.

More directly, the targeted jobs tax credit has been responsible for the employment of many Americans who are likely to have difficulty obtaining steady employment. This program aids targeted groups of people by making it competitive for businesses to hire them for steady employment. The workers benefit through their acquisition of valuable work experience at the same time that they make valuable contributions to businesses and to the Nation's work force.

Our work force is also enhanced by the program in this bill which excludes from an employee's income the value of employer-provided educational assistance. What this means is that workers are not discouraged from seeking further education because they will be taxed on its value. Anything less than what this provision tries to accomplish sends the wrong message to workers and to business about the value of education.

It is in the best interest of the Nation to help workers to improve themselves by offering them a chance to build on existing skills and to acquire new ones. This program is the embodiment of the long-term view, which is too often left out of the planning of both businesses and government.

Likewise, the research and development tax credit in this legislation is essential for helping U.S. businesses develop new technologies. Because the cost of research can be enormous, this program enables businesses to look beyond the financial pressures of short-term and purely commercial applications by providing a tax credit to offset new research spending. The result is that American businesses will continue to be leaders in industry and will not lose the battle of competitiveness with our foreign competitors.

While I am very pleased to see these programs go forward, my enthusiasm is not unqualified. Like many of my colleagues, this legislation is not all that I would like it to be. However, because of the importance of a few provisions in this bill, I have joined 78 of my colleagues in signing a letter pledging our commitment to opposing any amendments to this bill, no matter how attractive or important they might be. Like most legislation which passes through this body, this bill is not perfect. But I will support it.

I am disappointed that the Senate will not consider the repeal of the excise tax on boats, which I believe has been responsible for a dramatic downturn in the boat manufacturing industry in my State and throughout the Nation. My disappointment is tempered only by the commitment of the Finance Committee to address this issue, as well as all of the other so-called luxury excise taxes, at the earliest possible opportunity when the Senate reconvenes in 1992.

I likewise regret that the Senate has not made needed modifications within this list of expiring provisions itself. Since this extension is for just a 6-month period, however, I am confident that the tax-writing committees in the Congress will make necessary refinements in existing programs, as well as a new evaluation of all of these provisions in the first part of 1992.

Mr. President, I hope that the full Senate will join me in voting to extend the 12 expiring tax provisions so that great disruption can be avoided for the millions of people who rely on these expiring tax provisions.

REAL ESTATE TASK FORCE

Mr. DOMENICI. Mr. President, in late October, not too long ago, the Republican leader created a small task force, a Senate Republican task force on real estate, and asked seven of us—I was the chairman—to look into what had happened to real estate in the United States; why was it in some kind of a freefall: more important, what was that doing to the economy today, how much was it contributing?

Interestingly, enough, everyone should know that while we regularly look at the economy as if something as static as real estate was not really a part of the GNP or a significant part of our wealth, let me suggest that it is quite the opposite. The evidence is quite extensive that about 25 percent of our GNP annually is the result of transactions involving some kind of real estate or improved real estate, that 75 percent of the wealth or asset value of the Nation is as the sum total of real estate and real-estate-related transaction.

So it is obvious, when you have a huge portion of your real estate in a freefall, for whatever reason—we think some of it is from the Tax Code, we think some of it is for other reasons—clearly, it has a very, very big negative effect on the economy and a drag on growth and prosperity.

We are still going to continue to look at that and will not report it in depth until later on in the early part of the year, because Congress is in the midst of passing a banking bill, RTC bill, and a few other items that clearly can have a dramatic impact on whether the value of real estate stabilizes or continues to fall. We did report that to the leader in a letter dated November 25. I ask unanimous consent to make that a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE BUDGET,
Washington, DC.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR LEADER: The Republican Task Force on Real Estate has been meeting regularly since you created it in October. We have solicited and received analyses and recommendations from over 40 real estate and financial organizations. We have also met with the Chairmen of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Director of the Office of Thrift Supervision.

The one word that seems to dominate these discussions has been confidence. There is a current and dire need to restore confidence in the real estate market. We believe the real estate market is clearly undergoing significant economic stress, brought on in large part by a combination of inflation in the 1970's and selected tax policies of the 1980's. In part, because of this past history, the industry is also undergoing structural changes that will fundamentally change its future and the way we, as legislators, should think about policies that affect this industry.

The Task Force intends to continue during the recess and to provide you with a final report in December. That report will address both regulatory and legislative reforms that we believe could help restore confidence in the short term and stimulate longer term industry growth.

In these last days of this first session, however, we believe action can be taken both by the Congress and the Administration to restore some degree of confidence in the market. We would propose that the legislative items identified be included in any conference agreement on the banking bill or as amendments to the Resolution Trust Corporation (RTC) funding legislation or other relevant legislation. Some items can be done administratively and we encourage the President to act quickly on such items through existing regulatory authorities.

The Task Force's short term recommendations follow (details appear on the attachment to this letter):

1. Credit Availability Amendment. The House RTC funding bill includes language that would effectively prevent lenders from having to dump real estate assets onto an already depressed market. It accomplishes this by allowing the Director of the OTS to grant temporary and limited relief in meeting capital requirements against real estate held by thrifts. No such language exists in the Senate banking bill. We strongly endorse the House language.

2. Open Bank Assistance Amendment. Both the House and Senate Banking bills include language that as drafted would restrict beyond current law the ability of regulators to work out problem loans for weak banks. We believe the language must be modified or dropped completely to prevent additional bank failures so as to allow regulators the flexibility to deal with weak banks in the current real estate market.

3. Early Resolution Amendment. Troubled banks need to be assisted as early as possible through alternative work-out arrangements and mergers. We believe this would be the most cost effective approach for the American taxpayer.

The Senate banking bill included sense of the Senate language that regulators should facilitate the early resolution of troubled institutions. We believe this language should be retained in any conference agreement. House language for early resolution of failing banks requires that the directors be removed and shareholders' claims be repudiated. Such language should be removed from any conference agreement and the Administration should pursue the intent outlined in the Senate bill.

4. Real Estate Appraisal Amendment. This amendment was recently adopted on the Senate Banking bill and has been included in the House reported RTC funding bill. The Senate bill language should be adopted in any conference agreement or absent legislation the President should move to implement the intent of the Senate bill through existing authorities. Certified appraisals must be used on loans made after January 1. This provision should be relaxed given the current state of the real estate market.

5. Regulators have existing authority to reduce the capital weighting requirements for loans of nonspeculative residential properties to 50 percent. Current practice is to place this at 100 percent. The Administration should move rapidly to reduce this capital requirement through regulatory means without the need for legislation as included in the House banking bill. Such legislative action could jeopardize the carefully negotiated Basel Accord.

6. Extension of certain expiring housing tax provisions. Finally, the amendment should include an extension of two expiring housing tax provisions, one for low-income housing and a second for mortgage backed revenue bonds. If this creates a constitutional problem as it relates to the origination clause, a separate revenue measure should be identified.

We believe these Task Force recommendations are small but doable steps in providing some assurances to the real estate market now before Congress adjourns. We have identified these problems and are prepared to act quickly. Longer term recommendations will be sent to you later.

We look forward to assisting you in the adoption of your Task Force on Real Estate's recommendations.

Sincerely,

Pete V. Domenici, Chairman; Senator John Danforth, Senator John McCain, Senator John Seymour, Senator John Chafee, Senator Connie Mack, Senator Warren Rudman.

BACKGROUND TO REAL ESTATE TASK FORCE PROPOSALS

CREDIT AVAILABILITY

Current law requires thrifts to set aside an increasing amount of capital against their investments in and loans to subsidiaries that engage in certain real estate related activities. By 1994, thrifts will be required to hold dollar for dollar capital against these investments and loans. This has already resulted in thrifts being forced to sell these assets in deteriorating markets where there are no buyers.

This amendment gives regulators flexibility to grant temporary relief to thrifts by allowing them to restructure their real estate lending portfolio to better reflect sluggish real estate markets. This will stop the flooding of real estate related assets at firesale prices which further erodes the market. It also allows banks to use capital towards other lending which can ease the credit crunch and help stimulate the economy.

OPEN BANK ASSISTANCE AMENDMENT (EARLY RESOLUTION/ASSISTED MERGERS)

Early resolution/assisted mergers is a cost-effective alternative to closing institutions and adding to the government's liquidation burden. Given the current severe dislocation in commercial real estate markets, it is important to provide regulators with flexibility to arrange such assisted mergers to both lessen the cost of resolution and keep affected real estate in private sector management and ownership.

Early resolution/assisted mergers is a program for banks and thrifts which should substantially reduce the cost to potential failures. Experience has taught us that institutions, which are solvent but have severe asset problems, tend to deteriorate very rapidly. Thus, the costs of eventual resolution can sky rocket.

Early resolution/assisted mergers would involve open assistance for a troubled institution as part of a merger with a well-managed, well-capitalized institution. As a condition for receiving assistance, the troubled institution's existing shareholders and bondholders would make substantial concessions.

The objective of this program would be to effect the resolution of the troubled institution as early as possible to lessen the deterioration of the institution's deposit franchise and thus reduce the cost to the taxpayer. Additionally, a majority of the troubled institution's assets—in particular its commercial real estate—would remain in the private sector, under the control of the acquiring institution's management, who would have incentives to work out this real estate in the most efficient manner.

21The Task Force commends the inclusion of the Early resolution Provision in the Banking Bill that will encourage the Federal Banking agencies to facilitate early resolution of trouble depository institutions.

Accelerated Resolution Program

The Early Resolution/Assisted Mergers proposal has grown out of the OTS/RTC success with the Accelerated Resolution Program (ARP). In ARP, OTS markets failing thrift with RTC assistance prior to closing. At the point of sale the institution is in place into a pass-through receivership, wiping out existing shareholders and bondholders.

By selling failing thrifts while they are still open the government is able to keep the institution's deposit franchises intact and usually results in a better premium than that obtained through a conservatorship sale.

The OTS and RTC have used their authority in the ARP toresolve 26 institutions. Three resolutions were arranged at no cost to the taxpayer.

ARP has the added benefit of selling the bulk of the institution's assets, at the time of resolution. This keeps these assets out of the RTC and outside the already substantial government liquidation process.

The Task Force recommends using this approach as a model for resolving banks as well as thrifts.

EARLY INTERVENTION

Early intervention is part of "prompt corrective action" for banks or thrifts that are dommed to fail. Early intervention takes place before an institution's capital reaches zero and mandates government intervention once an institution's capital falls below 2 percent. While well intended, early intervention could prove to be a cost ineffective resolution mechanism for damage control.

Early intervention could force regulators to unnecessarily close several substantial institutions which have significant core earnings and are likely over the near term to recapitalize without any government assistance. With the current weak real estate markets the regulators Ned the flexibility to determine if a bank is doomed to fail.

The Task Force recommends that the Federal regulators be given sufficient administave flexiblity to determine if a bank is dommed to fail.

The Task Force recommends that the Federal regulators be given suficient adminstrative flexibility to better address declining real estate markets.

REAL ESTATE APPRAISAL AMENDMENT

Currently in many states thatre is a real estate appraiser shortage which has distorted real estate markets, added delays to closing real restage transactins, and added unnecessary costs to borrowers.

This amendment will increase the supply of real estate appraisers by extending the effective date to only use state licensed/certified appraisers and increases the loan amounts needed to be appraised. This will provide immediate economic relief to bans, help stimulate real estate markets, and send the right message to the markets the we are serious about banking reform.

CAPITAL FOR RESIDENTIAL PROPERTIES

Regulators have the authority to reduce the risk based capital for residential construction loans for per-sold homes from 100 percent to 50 percent., This will make credit mopre easily available for homebuilders and increase the support of home for first the time homebuyers.

The Task Force recommends expedition the implementation of the policy.

Mr. DOMENICI. Mr. President, there are about six or seven items that are recommended that can be done, none of them gigantic, but a number of them have to do with areas like not letting the RTC have only one approach to a banking or savings and loan institution that is insolvent. Because, if the only approach is close them down, liquidate, pay the depositors, we add spontaneously much more real estate in the market and we add it in a nonmarket-oriented manner.

We ought to provide options so that is not the only approach to the S&L or bank that is in trouble, but rather that they can be held alive for a while until they are merged and we never dump the real estate on the market. I think everyone understands that.

There is an appraisal request in here that says why not appraise things quicker rather than slowly? Some of the appraisal techniques and mandates, certification, of certified appraisers are causing the market to go slow rather than quickly as it relates to houses and commercial real estate.

We recommend that if we do not get this done in the law, as the President suggests to the three major organizations that handle banking-related institutions, that they change their regulations so that we will not have to use registered and certified appraisers in every instance, raise the threshold on residences to $100,000 and on real estate to $250,000 is thought by a group that I worked with to be a rather reasonable and plausible approach.

There were a number of others that had to do with getting more housing financing out there quicker.

Mr. President, in late October the Senate Republican leader created the Senate Republican Task Force on Real Estate.

Leader DOLE asked me to chair the group, which included myself, Senators CHAFEE, DANFORTH, MACK, MCCAIN, SEYMOUR, and RUDMAN.

Leader DOLE charged the task force to review the current state of our real estate industry, its impact on the banking industry, credit, and our national economy.

The task force solicited and received over 40 current reviews, analyses, studies, and recommendations from financial and real estate experts.

Further, the task force has met with and had in-depth discussions with Federal Reserve Chairman Greenspan, the FDIC Chairman, Bill Taylor, and the former FDIC Chairman, Bill Seidman, along with the current Office of Thrift Supervision Director, Tim Ryan.

During the month of December the task force will continue its work and meet directly with those in the States who work daily in this area.

Yesterday, the task force transmitted a series of short-term recommendations to the Republican leader. The group will complete its longer term recommendations in December.

I want to take just a moment to highlight our initial findings.

First and foremost we conclude that there is a dire and urgent need to restore some confidence in the real estate market.

We believe that the real estate market today is clearly undergoing economic stress. But the real estate market is not homogeneous. Clearly, the commercial real estate market is under more stress than is the residential market.

And recent new housing starts suggest that maybe declining interest rates are starting to strengthen that segment of the market.

Nonetheless, the stress being experienced today is in large part the result of a combination of factors, beginning with the high real estate inflation of the 1970's and early 1980's and selected tax policies of the 1980's.

The key then to long term growth in the real estate market is long term economic growth in the general economy. But as this first session of Congress comes to a conclusion the task force identified a number of items in both the banking bill and RTC funding bill that could help or in some cases distract from the goal of strengthening this market.

Those short-term recommendations are included in a letter sent yesterday to the Republican leader and which I ask unanimous consent to be printed in the RECORD at this point.

Let me say at this moment no one knows for sure what the final disposition of the banking bill or the RTC funding bill will be this evening.

Hopefully, some of our recommendations will be included in the final conference agreement on the banking bill. This would include such items as providing the Director of the OTC with some temporary and limited authority to grant relief to lenders so as not to result in these lenders having to dump additional real estate properties on an already depressed market.

We also have concluded that the pendulum may have swung too far in the direction of limiting regulators in their authority to resolve weak banks without forcing their liquidation right now. We are afraid, however, that some provisions in the House-passed banking bill may further restrict this needed flexibility to the regulators at this critical time in the industry's future.

The task force has also concluded that certain capital standards for residential construction loans for presold homes and appraisal regulations can be modified through existing authorities. We encourage the President to expedite a review of his authorities in this area and modify current regulations for the goal of stimulating the market at this time.

The task force also recommended the extension of two expiring housing tax provisions, which the Senate adopted earlier today.

The task force knows that these recommendations are not the entire answer. In fact, an honest assessment of the outlook of the real estate market is one of continued stress as it goes through some fundamental structural changes.

Nonetheless, these initial recommendations, we believe, would go a long way toward establishing some needed confidence in the market at this critical time.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

THE COMMITTEE ON APPROPRIATIONS

Mr. BYRD. Mr. President, now that the Senate has completed action on 12 of the 13 regular appropriations bills, in addition to four supplementals, and a continuing resolution which funds the foreign operations appropriations bill through March 31, 1992, I wanted to take this opportunity to thank all members of the Appropriations Committee for their splendid support throughout this difficult year. I also wanted to take this opportunity to express my concerns regarding the allocations for fiscal years 1993 through 1995.

Earlier this year, when the defense appropriations bill was being considered by the Senate, I supported an amendment by the distinguished chairman of the Budget Committee, Mr. SASSER, which would have cut spending on the B-2 stealth bomber by $15 billion for fiscal years 1992 through 1995 and would have cut SDI by $9.1 billion and the MX rail mobile missile by $370 million over the same period.

Had that amendment been agreed to, it would have resulted in reductions totaling over $24 billion from defense spending for fiscal years 1992 through 1995.

Senator SASSER and I pointed out that we need to start cutting defense now because if we wait until 1994 and 1995, it will be too late. At that point, we will be forced to make massive cuts in personnel in order to achieve the level of savings that will be necessary if we are to avoid deep cuts in domestic discretionary spending.

In order to understand the severity of the problem we are facing, let me go back and revisit the budget summit. At that summit, we succeeded in securing increases for domestic discretionary totaling $40 billion above the June 1990 baseline for fiscal years 1991–93. We wanted much more than that in order to reverse the drastic cuts that had been made to these critical domestic programs in the previous 10 years. The administration proposed further cuts of $40 billion below the June 1990 baseline. So, we moved the figure upward by $80 billion over the 1991–93 period—from the $40 billion below the June 1990 baseline proposed by the administration to the $40 billion above the June 1990 baseline contained in the Budget Enforcement Act.

I fought as hard as I know how to get these increases at the summit. I pointed out to the participants at the summit that we should take off our green eyeshades and recognize that we were, in fact, laying out a blueprint for the future of this Nation; and that a nation that does not adequately invest in its infrastructure—both physical and human—will decay from within and will become second-rate to other nations in the decades ahead.

In addition, there were other pluses for domestic discretionary spending contained in the summit agreement:

First, domestic discretionary is "held harmless" for economic and technical misestimates.

Prior to the summit agreement, discretionary spending—defense, international, and domestic—suffered sequesters because of these factors.

OMB's latest 1991–96 revenue forecast is down by $176.3 billion due to economic and technical misestimates.

Second, under the summit agreement, legislated growth in entitlement programs must be paid for by committees of jurisdiction; otherwise, entitlements will be sequestered. In the past, discretionary spending was sequestered for entitlement growth.

Third, for fiscal years 1991–93, we have three discretionary caps—one for domestic, one for defense, and one for international. If any one cap is exceeded, a sequester occurs on spending within that category only.

In the past, if international spending was above its allocation, a sequester was applied against domestic and defense programs, as well as international. Now, only the category that breaks its cap suffers the sequester.

Fourth, the agreement allows for "emergency" spending outside the caps, where the President and Congress agree. Emergencies should be (a) sudden, (b) unexpected, (c) temporary, and (d) for truly necessary spending. Examples are: Desert Shield/Storm, hurricanes, earthquakes, floods, droughts, tornadoes, and so forth.

So far, so good. But, also at the summit, we had major disagreements over the levels of funding that should be provided for domestic discretionary versus defense for fiscal years 1994 and 1995. When it became clear that we could not agree on separate caps for 1994 and 1995, we settled on one cap for all discretionary spending for 1994 and for 1995. Within that one cap, the Appropriations Committees, in their 602(b) allocations, will be able to set the level of funding for defense and for domestic and for international spending for 1994 and 1995. Everyone at that summit knew that there would be great difficulty in funding continued growth for domestic discretionary in 1994 and 1995 without making substantial cuts in defense.

Since the summit, as we all know, there have been dramatic changes throughout the world which have given us the opportunity as well as the responsibility to reexamine very carefully our defense needs in the years ahead.

It is clear that defense spending should be cut much deeper than we imagined that it could be at the time of the summit. In the coming months, we will be carefully examining the levels of defense spending that will be necessary in order to adequately provide for our own national security, as well as that of other nations upon whose security we depend.

There is little question that defense spending will be reduced. The questions are: "By how much?" and "What will be done with the savings?" I intend to make the case that these cuts are going to be needed for domestic discretionary programs. The Congressional Budget Office, in its August 1991 report entitled, "The Economic and Budget Outlook: An Update," makes it very clear that we cannot sustain the President's defense requests for 1994 and 1995 without major cuts in domestic discretionary spending in those years. On page 60 of the report, there is a table which sets out two scenarios. Scenario 1 assumes the President's budget request for defense for 1994 and for 1995. For 1994, the total assumed budget authority for all discretionary spending—that is, for defense, international, and domestic—is $518.1 billion. Of that amount, $295.5 billion would be provided for defense. That would be a reduction of $8.4 billion, or 2.7 percent, below baseline. In other words, defense would take a real cut below inflation of $8.4 billion in fiscal year 1994.

Under that scenario, however, both international and domestic discretionary would suffer greater cuts than defense. International would be cut $1.6 billion below baseline and domestic discretionary would have to be cut $14.9 billion below baseline—that is a 6.9-percent cut below inflation. Members are surely aware of the damage such cuts would do to our critical domestic discretionary needs. It would necessitate 6.9-percent reductions, across-the-board, for all domestic discretionary programs, such as law enforcement, education, water projects, research and development, highways, transit, VA medical care, and so forth. These cuts would come from the very same programs for which we have been able to provide increases in the past three fiscal years. We would be turning our backs on our commitment to invest in ourselves—in our people, in our highways and bridges, in our education programs, in research and development, in environmental cleanup, in health programs.

But, if 1994 looks bad, 1995 looks worse. For 1995, if the President's defense budget request of $298.5 billion is appropriated, that would equal a cut of $18.4 billion, or 5.8 percent, below baseline for defense. For domestic discretionary, the cut would be $21.9 billion, or 9.7 percent, below inflation. Real cuts of 9.7 percent would be required in 1995 for domestic discretionary if we wanted to provide the President's request for defense.

If we want to avoid these drastic cuts in domestic discretionary spending in 1994 and 1995, we will have to cut defense more than the President has proposed and apply the defense savings to domestic discretionary.

Under scenario 2, CBO shows what it will take in defense cuts in both 1994 and 1995 if we are to provide baseline levels for domestic discretionary for those years. In other words, if we want to just keep pace with inflation for domestic discretionary programs in 1994 and 1995, we will have to cut defense by $24.9 billion, or 8.2 percent, below inflation in 1994 and by $42.8 billion, or 13.5 percent, in 1995. That is a total cut of $67.7 billion below inflation for defense for the 2 years—1994 and 1995. Under this scenario, as CBO points out, "real defense spending would sink to 28 percent below 1990's level. Very large cuts in military operations—including personnel—and investments would be inevitable. A CBO analysis, in fact, concludes that there would be no orderly way to achieve the defense outlay targets under scenario 2 without starting before 1994—that is, appropriating less than the cap permits in 1993."

CBO goes on to state that "nondefense discretionary programs bore the brunt of budgetary cuts in the early 1980's, but have generally been boosted in recent years' appropriations. The caps in 1992 and 1993 permit these programs to keep pace with inflation." But, just keeping pace with inflation does not allow room for any real growth in 1993, 1994, or 1995, for infrastructure, for education, for environmental cleanup, or for other investments that should be increased.

It is not just ROBERT BYRD who believes this. There is a growing understanding by the American people that if we are to remain an economic superpower, we are going to have to substantially increase our investment in our own human and physical infrastructure. Otherwise, we will continue to lose ground to other nations of the world who are making such investments.

A recent article in the National Journal states that:

> At a recent conference hosted by the Washington-based Economic Policy Institute, the estimated annual cost of closing "the investment gap" was put at anywhere from $63 billion-$126 billion. Robert Heilbroner, professor emeritus at the New School for Social Research in New York City, said the nation eventually needed to invest an additional half-trillion dollars to put the United States on a par with its chief foreign competitors.

An article in the October 26 issue of Congressional Quarterly states that Robert Eisner, a Northwestern University economist:

> * * * thinks that government spending can be better targeted, especially on big-ticket items that private citizens wouldn't dream of financing. He favors spending on roads, bridges, airports, education, job training and health care. All would generate long-term benefits, he argues, and ought to be financed with borrowed money. In other words, the deficit can be a positive tool for investment: Individuals borrow to buy houses, local governments borrow to build schools or fire stations, and the federal government can and should borrow for its investments.

The Center on Budget and Policy Priorities, on October 25, issued an analysis of several tax reduction plans. Page 2 states:

> In short, under the budget agreement, large defense reductions are needed in FY 1994 and FY 1995 just to avoid major domestic and international cuts. If defense reductions in these years are used to finance tax cuts instead, it will be nearly impossible to stay within the caps without significant reductions in domestic and international discretionary programs.

An article by Jeff Faux in the Washington Post on October 27 entitled "A Tax Cut Could Really Wreck Things" contains the following quote:

> The problem lies in the deteriorating competitiveness of the economy itself, which has not been generating the level of income needed to maintain the living standards of the majority of working people. Unless we substantially raise investments in our people and our technological development, real wages and incomes for most American workers will continue to decline, regardless of what we do with the tax system.

A recent New York Times editorial entitled "The Law That Ate the Future" makes a very compelling case that last year's budget agreement must be changed. The concluding paragraph of which states:

> Preserving desperately needed public spending will require the entire peace dividend, and then some. To give it away in tax cuts borders on the unconscionable. Still deeper cuts in defense are needed; every cent of tax revenue is needed; the budget agreement is not.

A recent article in the Washington Post by Hobart Rowan states, in part:

> Here's what needs to be done to bust the budget: First, a meaningful extension of unemployment benefits. Bush ignores the human dimension: There are more than 8 million unemployed persons out there unimpressed by the categorization of this recession as "shallow." For them—and millions of others who have jobs but worry about the future—this downturn is plenty deep.
>
> Second, ignore those who say there is no peace dividend, or that it's already spent. Not true. Senate Budget Committee Chairman Jim Sasser. (D-Tenn.) shows that a modest 6 percent cut from Bush military spending requests would save $70 billion a year in outlays. (It could be cut even more.)
>
> Third, spend this money—and more—not on tax cuts but on public-sector projects such as roads and schools, and to finance genuine investment in carefully selected industrial projects aimed at increasing productivity. Provide a stimulus greater than the contraction resulting from lower defense spending.

Finally, an editorial in the November 11th issue of U.S. News and World Report, written by David Gergen, entitled "Let's Get Real" contains this statement:

> Over the short run, there are a few things Washington can and should do to alleviate public pain. It would help, for example, to take an additional chunk out of the defense budget and put people to work rebuilding our crumbling roads, bridges and airports. Public works programs may seem old-fashioned but they are effective—every $1 billion in spending is thought to create 41,000 jobs. And besides, America badly needs to modernize: Our investments in infrastructure have dwindled to less than 1 percent a year of gross national product, compared with 3 percent in Germany and 5 percent in Japan.

The point is, Mr. President, that the only way to avoid devastating cuts in domestic discretionary in fiscal year 1994 and fiscal year 1995 will be to cut defense and use those savings to prevent cuts in domestic discretionary. I repeat what I said earlier—everyone at the summit knew that in fiscal year 1994 and fiscal year 1995, we would have to cut defense in order to avoid cuts in domestic discretionary. What is new is that the level of cuts that are needed can be made in defense without harming our national security. So, to the extent there is a so-called peace dividend, it is already spoken for. The Budget Enforcement Act sets no level for defense spending for 1994 and 1995. Instead, the act allows Congress, through its budget resolutions and the Appropriations Committees, through their 602(b) allocations, to set the levels of defense spending for 1994 and 1995. It also allows the committees to use any savings from either defense or international spending to be applied to domestic discretionary programs. There are no separate caps on defense and international spending in those years. We will be free to use defense savings on domestic priorities. And, Mr. President, as I have pointed out here today, defense cuts should be made—in fact, must be made and applied to domestic discretionary programs—if we are to avoid devastating cuts in our investments in this country's pressing domestic needs.

We need to start this process of cutting defense in 1993 if it is to be accomplished without drastic personnel cuts. I am hopeful that the administration will work with the bipartisan leadership of Congress in connection with the 1993 budget resolution. I wanted to take this time today to make Senators aware of the problems we will face in funding our domestic programs in 1994 and 1995, and to point out that we will need to utilize defense savings, as is contemplated in the Budget Enforcement Act, to avoid cuts in domestic discretionary programs.

Mr. President, I ask unanimous consent to print in the Record a table titled meeting the discretionary budget authority caps in fiscal years 1994 and 1995.

MEETING THE DISCRETIONARY BUDGET AUTHORITY CAPS IN FISCAL YEARS 1994 AND 1995

[In billions of dollars]

Spending category	1993 cap	Scenario 1: Assume President's Defense request		Scenario 2: Assume nondefense at baseline	
		1994	1995	1994	1995
Defense:					
Assumed budget authority	291.5	295.5	298.5	279.0	274.1
Baseline		303.9	316.9	303.9	316.9
Cuts required:					
In dollars		−8.4	−18.4	−24.9	−42.8
As a percentage		−2.7	−5.8	−8.2	−13.5
International:					
Assumed budget authority	22.9	22.2	22.3	23.8	24.7
Baseline		23.8	24.7	23.8	24.7
Cuts required:					
In dollars		−1.6	−2.4		
As a percentage		−6.9	−9.7		
Domestic:					
Assumed budget authority	207.4	200.4	204.3	215.3	226.2
Baseline		215.3	226.2	215.3	226.2

MEETING THE DISCRETIONARY BUDGET AUTHORITY CAPS IN FISCAL YEARS 1994 AND 1995—Continued

[In billions of dollars]

Spending category	1993 cap	Scenario 1: Assume President's Defense request		Scenario 2: Assume nondefense at baseline	
		1994	1995	1994	1995
Cuts required:					
In dollars	....	−14.9	−21.9	....	....
As a percentage	....	−6.9	−9.7	....	....
Total discretionary:					
Assumed budget authority	521.7	518.1	525.0	518.1	525.0
Baseline		543.0	567.8	543.0	567.8
Cuts required:					
In dollars	....	−24.9	−42.8	−24.9	−42.8
As a percentage	....	−4.6	−7.5	−4.6	−7.5

Source: Congressional Budget Office, August 1991.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I make the inquiry of the Chair as to what period of the Senate agenda are we in now.

The PRESIDING OFFICER. The Senate is currently conducting morning business.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I am going to talk for a few minutes about the economy, but I would first, before the distinguished President pro tempore leaves the Senate floor, to extend my appreciation for the leadership that he so frequently provides and the eloquence with which he expresses himself. Very often on this floor, Senator ROBERT C. BYRD will make a statement that has many of us saying I wish I had said that. And tonight when he was so gracious in his acknowledgement of Senator MOYNIHAN's contribution and associating the unique qualities that Senator MOYNIHAN brings to this body with those of the early founders of the country, I thought was exceptional and deserved commentary.

Also, the President pro tempore never ceases, at least to me—and I am sure I could say "us" without challenge—with his depth of knowledge, and further and I said this on the floor of this Senate before, that if ever a person ought to be studied to find out how it is that not only how much detail he has acquired, how much information, but now how he can recall it.

I was in the computer business before I got here, one of the things we always prided ourselves in the computer business was how instantly we could access information, randomly, which means you do not have to go in sequence, you can touch any part of the data bank and pull up whatever it is you need. The only time I have seen some of the equipment dwarfed by a human being is on this floor when the distinguished chairman of the Senate Appropriations Committee ROBERT C. BYRD gets up and reciting either poetry, or prose, or chronology, or history, or the culture of the Senate, or the history of the country and that little poem that he recited tonight was so appropriate to the occasion in which he commended the good Senator from New York for his ability to build up.

I thought that it was an appropriate message for all of us in this late hour to be thinking about. Because that transportation bill, which we so arduously labored with, has come kind of aborning; we are still waiting for its first cry. It is reputed to be incubating over on the House side. But any moment now I hope that we will hear the beeps and be able to move ahead with that.

Mr. LEVIN. Will the Senator yield for just one minute?

Mr. LAUTENBERG. Yes.

Mr. LEVIN. I would like to add a thought about ROBERT C. BYRD to yours.

I listened to part of the remarks of the Senator from West Virginia in my office tonight. I must say that I am hoping that the country, the administration, and the Congress is listening to what the President pro tempore is saying about the Nation's priorities. Because what he is now saying and what he has been saying year after year after year is that we must tend to the infrastructure of this country, to our educational needs, to our health needs, to our other domestic needs. What he has been predicting for so long is coming true in spades. And I just hope the administration, who may not be up this late tonight, takes the opportunity to read what the Senator from West Virginia said again.

This has been a very pervasive theme of his career here in the Senate, at least as long as I have been here. And I know it is coming true. They should listen and heed the words of the Senator from West Virginia about the priorities of this budget next year, because they will come true.

We are going to have to make deeper cuts in defense and we are going to have to invest more in the infrastructure of our people. I think it is just certain that will happen. I just again hope the budget people and the administration and the President himself will listen and read what the Senator from West Virginia had to say tonight.

As to the Senator's poetry, I must say I have dazzled my three daughters with the fact that I can recite from memory about four poems. It is a bit embasrrassing when the Senator from West Virginia can recite from memory probably 100, and it may be more than that. I am afraid to ask. But I just hope that my daughters never find out just what kind of memory for poetry and other things, as my friend from New Jersey says, the Senator from West Virginia has, because he is truly amazing in his recall of history, poetry, and language and so many other things.

It has been a real pleasure to serve for now 12 years with our friend from West Virginia and I look forward to many, many more years of his service.

Mr. BYRD. Mr. President, if the Senator will yield.

Mr. LAUTENBERG. I am pleased to yield.

Mr. BYRD. Mr. President I thank the Senator from New Jersey, Mr. LAUTENBERG, and I thank the Senator from Michigan, Mr. LEVIN, for their very flattering words. I shall long treasure today's RECORD because in it I will be able to point to my grandchildren what some of my colleagues had so flatteringly said. I indeed appreciate it.

Mr. LAUTENBERG. Mr. President, I am reminded by the Senator from Michigan, when we start talking about recall and poetry, the only thing I could get through my mind was "Mary Had a Little Lamb," and I knew we had to go further than that to catch up with the vivid recollections that our distinguished colleague from West Virginia has. His words we have all heard and we have all marveled at. But if one looks at his history of the Senate, it borders on literature, with its history, its prose, its memory, and its analysis. It is quite a remarkable work and I treasure it.

THE ECONOMY

Mr. LAUTENBERG. Mr. President, I want to talk about the economy. The hour is late. We do not often have enough time to do these things. But I fear that we may get to see the Sun come up and so, while waiting, we will take this opportunity to deliver a message.

Mr. President, I am worried about the direction in which America is heading today. It is made worse by the lack of Presidential leadership on the economy. I fear that we are rapidly making the American dream of a better life more and more difficult to achieve for a large portion of working Americans. That means that the America we know and love—the America where opportunity abounds—is in serious danger.

I am the son of immigrants and I have lived the American dream. That is why I sought to serve in the U.S. Senate. I wanted to give something back to this country which has been so good to me, and to make sure it remained a beacon of opportunity for generations to come.

My father and mother were brought to this country by their parents from Russia and Poland in the early 1900's searching for a better life. Drawn by the stories of opportunity America promised, they believed that with hard work and determination, their children could have a better life than they did.

My father worked long, hard, hours in the silk mills of Paterson, NJ, and though he wanted it and though he had the ability and though he tried, he was never able to get to college. He died as a young man when I was 18 years of age. My mother never went to college. She worked behind the counter of a sandwich shop to put food on the table after my father died. They did whatever they could for my sister and me.

And, here I stand today, a former chief executive officer of one of America's most successful corporations that I helped build from a standing start. It pioneered an industry called the computing industry—one of America's most dynamic technology sectors. Here I stand now as a Member of the U.S. Senate. Only in America could the son of working class parents achieve such positions.

Our country's strength lies in the power of the American dream and the promise that the dream can be realized, if not in one's own life, then certainly for the next generation. Hard work, ability, and determination should be the only factors that count. The American dream must remain as a possibility for every citizen or else the promise of America is gone!.

Tragically, as our economy worsens, the American dream has become a nightmare for too many middle-income and poor Americans. As our economy slowed during the 1980's, the rich got richer, the poor got poorer, and the middle class got squeezed altogether. Today, middle-income American families are working harder—often requiring a second wage earner—for salaries that buy less and less.

Since 1980, the incomes of the richest 1 percent of households have grown by more than 100 percent—100 percent—while middle-class incomes have remained stagnant. Incomes of the poorest fifth of households have dropped 6 percent. Real hourly wages for nonsupervisory workers were lower in 1990 than in any year since 1964, and have fallen almost 4 percent since 1980, when President Reagan took office. Real disposable income is lower today than when President Bush took office in 1989.

The middle class is losing ground as the economy worsens, yet the President has repeatedly asserted that the economy is sound and there is no need for action. His only problem, he says, is convincing the public of that fact.

Mr. President, the American people are not satisfied that the economy is in good shape, or that the country is on track, because it's just not true. They are smarter than that. They just don't buy the public relations campaign. They know the average American's income and purchasing power has plummeted. They see it every day in supermarkets. They see it every month when they write out their checks for bills, and when they see what they have, if anything, left over at the end of the month.

They see that their tax burden has increased relative to the richest Americans. Since 1977, tax rates on the richest among us have gone down by 18 percent, while tax rates for the middle 20 percent of American families have increased.

It's a vicious cycle. Higher taxes and lower real wages reduce consumption. As the middle-class contracts, consumer demand goes down, inventories build up, people are laid off and the cycle continues.

To add to our economic woes, people are paying a larger share of their income for basic commodities like housing. In 1950, the average middle-aged, middle-class homeowner spent 14 percent of his gross income on mortgage payments. By 1983, that number had reached 44 percent. Is it any wonder that homeownership rates, which rose for six decades, has declined?

But numbers do not tell the whole story. They do not tell us how angry and disappointed people are with their inability to get ahead despite years of hard work and sacrifice. Middle-income Americans cannot afford college for their children and cannot afford to buy a home after saving for years. They cannot afford to buy a new car. They cannot afford to take a vacation. They cannot plan for an economically secure retirement. They cannot even afford health coverage for themselves and their families.

Public relations will not do it, Mr. President. It is all too real.

I hear the anguish of my constituents in New Jersey. I hear the fear and the anxiety, the disappointment, and disbelief that this could be happening in America. Why is not the President listening?

Does he not know that middle-income Americans have given up the hope of doing better than their parents and are fighting just to hold the line? Does he not know that they fear for their own and their children's future?

That is not the America in which I grew up. And it is not the America in which we all believe.

America was not always this way. We started the Reagan era with the highest wages in the world. Today we are 10th. We started the Reagan era as the world's largest creditor. Now we are the world's largest debtor.

While President Bush refuses to put forward a plan to get the economy going, he tells us everything is fine. But one economic indicator after another tells us the economic distress Americans feel is real and painful. Under the Bush administration, economic growth has slipped into reverse and Americans across the country are searching for answers.

While the average GNP per person, a measure of the average standard of living, has grown during the tenure of every other living, post-World War II President, GNP per person has fallen 0.6 percent a year since President Bush took office. During the Bush administration, nonfarm payroll employment has grown at a 0.55-percent rate—the worst rate of any administration since World War II.

During the Bush administration, housing starts have been the lowest for an administration since World War II. Real residential construction has fallen at an annual rate of 8.59 percent—the worst for any administration since World War II. And the Federal debt as a percent of GNP is 8.7 percent—the higest since World War II.

New claims for unemployment insurance have jumped to the highest level since last May. Hopes that the manufacturing sector would lead the recovery have now faded. Production is flat and new orders have fallen sharply for 2 consecutive months.

While our economy falters, President Bush blames the Democrats; he blames the budget agreement he engineered, which many believe has been disastrous; he blames everything but his own policies.

The average American family has been crying out for help while the American dream has been withering. The only forceful action we have seen by the administration is the wielding of the veto pen on economic rescue plans like the bill to extend jobless benefits.

To make the road to recovery easier for the average working American, we need to invest more in our own people and less to fight an enemy that no longer exists. The end of the cold war has given America one last chance to get its economic act together. The defense budget should be cut, and that money should be invested in education, research, infrastructure, and health care to revitalize our economy and recreate opportunity for the average American.

We must invest much more in education, because education has always been the way for Americans to climb the ladder of economic success and compete successfully in the world. A well educated, technologically literate work force is the key to America's economic success in the future.

And we must make sure that college loans and grants are there for those who need them. The President wants to tell middle-class Americans that they do not need help to send their children to college. Home ownership in New Jersey should not disqualify middle-class families from getting college loans, but they do. They need those loans. And they need tax incentives to save for college costs, tax incentives like new, expanded IRAs that can be used for tuition bills.

We need to invest in training and retraining for American workers throughout their careers. As we reduce defense spending, and we must, we will need programs to help move workers from defense industries to civilian industries. The President is the commander in chief. He led us ably in war in the Persian Gulf. I ask him now, where is the leadership for our economic stability here at home?

We should continue existing tax incentives for worker training and education. Because while American industry searches for skilled workers in Japan or Germany, we have legions of displaced, unemployed, dispirited workers right here at home, desperate for jobs.

In the years ahead, America's factory worker will need more than just a strong back and a will to work to succeed. In our ever changing and increasingly technological world, he or she will need training and retraining to remain competitive.

We need to find new ways to train and educate displaced workers and those who are the most disadvantaged—who threaten to become a burden instead of a productive force. We must experiment with new programs—like comprehensive education and employment centers that merge traditional education with on-the-job training. At the same time, we need to make sure that our tax dollars for schools and colleges are well spent.

We must invest more in infrastructure. There are few things more critical to a sound economy, to job creation, to a solid and growing middle class, and ultimately to our economic standing in the world, than investment in infrastructure and transportation.

Thus, we see the interest tonight that we have in getting this transportation, surface transportation bill done and out of here, and on the President's desk, because people recognize that it is such an essential part of a regrowth in our economy.

Investing in infrastructure goes beyond just building new roads and highways. It means higher output, higher productivity, fuel savings and greater economic growth throughout the country. It means building for our future

We are going to start the process by passing the surface transportation bill. That will be an economic shot in the arm of over $150 billion over the next 6 years. That will pump money into the economy to create jobs and get the economy back to work.

We must also work for a trading system that allows American business as much access to foreign markets as other countries have to ours. Otherwise, we could end up exporting our best jobs instead of our best products.

We must assure that while we trade, we provide strong and vigorous protection against theft or exploitation of American ideas. In the past, America has been the world's idea factory. Our ideas and inventions have been our competitive edge. But, too often, American ideas are exploited or stolen by others. I wrote legislation some time ago to toughen up our intellectual property laws and make it harder for foreigners to steal America's genius and we have to followup with rigorous enforcement.

And if we hope to compete successfully in today's world, we must set policies that not only protect but that stoke the fires of invention. We can do that by making permanent the tax credit for research and development, to spur industry to more and better discoveries. We can do it with continued support of our national laboratories and health science institutes.

And we can do it with an effective partnership between Government and business. Because the high costs of R&D often mean that private industry will not be able to bear the costs and risks alone. America leads in biotechnology, it leads in aerospace, it leads in communications satellites, in part because Government was a partner with industry.

We could make the road upward easier by enacting a tax cut targeted to the average American taxpayer. Since 1980, the wealthiest 1 percent among us saw their tax rates go down by 8 percent while the taxes of middle-income working Americans remained even. It has been a redistribution of wealth all right: Wealth to the rich.

Now the President, by advocating a cut in the capital gains tax, is saying that the problems of our country can be solved by giving another tax cut to a family whose income is $300,000 a year or more.

I do not agree. I favor a tax cut for the middle class to put more money into the hands of the average, hard-pressed, hardworking American.

And no American can climb the ladder of success if he lives with the constant fear that he cannot meet his families' medical needs.

Today, approximately 34 million Americans lack health insurance and about 60 million Americans are underinsured. Fully one-quarter of the uninsured are children, a majority of them are poor, and most have a job. Yet millions of Americans live in fear that a slight illness or a pink slip could mean financial ruin for themselves or their families. Many people are locked into jobs, afraid to leave because they do not want to take risks or pursue alternative careers for fear of losing their health coverage.

We need to make certain that in our America, every American can get health care. The President of the United States and the Vice President of the United States and their families enjoy the services of a private medical staff, courtesy of the American taxpayer. I do not think any American would begrudge that care for the President. But, what about the rest of the Nation? They are not asking for a doctor all their own, like the President. They are just asking for access to a doctor when they need it.

We must make the road to success easier by assuring that when people lose their job, they do not lose everything else also. We have 8.5 million Americans out of work, and more who have simply quit looking. Three million Americans will lose every source of income this year because they have exhausted their unemployment insurance and have been unable to find work. Their homes, their cars, and their futures will be at risk through no fault of their own.

Mr. President, virtually the moment the law extending unemployment benefits went into effect, the phones in unemployment offices in my State of New Jersey began ringing off the hook—120,000 New Jerseyans will apply for these benefits.

I have proposed legislation to allow those who are involuntarily unemployed to withdraw funds from IRA's and other retirement plans without the tax penalty that would otherwise apply. That is the least we can do for Americans hard hit by the recession, who cannot find jobs but have substantial savings.

Congress wanted to do more and do it sooner. But Congress had to force an extension of unemployment benefits down the President's throat. Although he had recognized emergencies for the Kurds, and the people of Turkey, he refused to recognize an emergency right here in America. And he blocked two bills that would have provided unemployment benefits months ago from funds collected for just that purpose.

We need to make it easier for the average American to buy a home if he or she saves for it.

The President the other day made an off-the-cuff suggestion to the American public, and that is they ought to go out and buy homes and buy cars to stimulate the economy. Mr. President, all you have to do is ask the question:

With what? Where are they going to get the money to buy those homes and to buy those case? Perhaps credit cards will suffice with the debate we had here about interest rates.

Between 1970 and 1990, the national price for a typical starter home rose 21 percent in real terms. Over the same time period, real income of potential first-time buyers decreased by 7 percent. Is it any wonder that the America dream of owning one's own home is farther out of reach for middle class Americans then ever before?

Mr. President, it is long past time to stop tend in going to foreign emergencies. We need to address our own very real needs at home. Americans have always been a generous people, who respond to catastrophes abroad. But, now they feel they are being left out in the cold. And they are right. The President has traveled all over the world, but ignored the growing economic disaster in his own back yard. It is time to take care of our people and invest in our future.

It is time to get our allies carrying their fair share of the defense burden. While we are paying the lion's share for the defense of Europe and Japan, they are beating our pants off in the marketplace. Saudi Arabia and Kuwait, whose lands we saved from marauding armies still owe us $3.5 billion that they pledged to pay during the Persian Gulf war.

I guess the promise made when danger was imminent was one that was easier to make when the pressure was on. Neither one of the controlling governments in these countries has any financial problems, and they still owe America $3.5 billion that they pledged to help allay the cost of the war.

The America of today can no longer afford to carry the burden of defense for the rest of the world.

Mr. President, we must rededicate ourselves to creating an America of opportunity. Where the average American can hope for a good education, a steady job, good wages, proper health care, and a home of his own if he saves.

A stable middle class, with a belief that opportunity and a secure and better future is still there for them and their children is the basis of a stable and healthy democracy. A belief that our Government cares about its citizens, and that officeholders know we are here to serve the public; to nurture a healthy economy and hope for the future. Because if the American dream dies, then the promise of America—America as our parents knew it, as many of us have known it—will eventually die with it.

Mr. President, in the last couple of days, we have seen polls that reflect the attitudes of the American people. What they are saying is, "Help us." What they are saying is, "Remember us." What they are saying is reflected in the polls that attest to the popularity of President Bush.

He was riding high for a long time. He deserved a lot of credit for his conduct of the Persian Gulf war. But when you look at the drop in the polls, those are messages that the American public is sending. They are saying, "Mr. President, if you don't start paying attention to us and our needs and the national economy, we are going to send you out of office." That is what the message says. I hope the President listens carefully because it is more important for America's economy to be on the right foot than it is to replace the person in the White House.

I yield the floor.

THE ECONOMY

Mr. KERRY. Mr. President, I listened carefully to the words of the distinguished Senator from New Jersey, Mr. LAUTENBERG, and I congratulate him on his assessment of where we find ourselves at this moment. There is not one of the observations of the Senator from New Jersey that is not important for us to consider.

As we are here late at night, on a night when the Congress is pressing to complete its business, I must comment on the amount of unfinished business that faces us, not just as a Congress but as a country.

Yesterday, I heard the distinguished Senator from South Carolina, Mr. HOLLINGS, open the morning business of the Senate with the discussion about the state of this country with respect to our national debt. I must say that as I listened to him, I was struck. I have mouthed the words. I, too, have talked about it. I think we all have. But what the Senator from South Carolina ably pointed out is the degree to which we are currently stealing, literally stealing, from the future.

As the Senator from Texas, Senator GRAMM, pointed out the other day in making an argument against legislating additional unemployment insurance benefits, the trust fund from which we were trying to pay those benefits does not have the money. While charts might be held up on the Senate floor and Senators might address the notion that the trust fund is there and American citizens have paid into the trust fund with an expectation that it will provide the benefits it is intended to provide, the fact is the money is not there. The Federal Government has borrowed it to cover part of the national debt.

The same thing, sadly, is true with respect to Social Security. People are currently paying into the Social Security trust fund with an expectation that when they retire they and this generation will have paid enough into the trust fund to cover their retirement benefits. But the reality, Mr. President, is that this administration and this Congress, this administration by proposal and this Congress by commission or assent, are permitting those trust funds to be depleted in order to pay for current expenses.

So 10, 15, 20 years from now when a new generation retires with the expectancy of receiving Social Security, we are going to discover we have borrowed billions of dollars from the trust fund. As a result of permitting the President of the United States to carry on the extraordinary charade of pretending to the American people that you can have everything but it does not cost anything, that you can continue to spend and pursue the most extraordinary period of Keynesian stimulus in the history of this Nation while denying it is spending because it is borrowed, we are going to have a head-on collision with reality, Mr. President. It is going to stun everybody in this Nation.

In fact, that is precisely what we are witnessing in our economy today. People are scared. There is a crisis of consumer confidence that grows out of the feeling that the job will not be there, the paycheck will not be there, the house might not be there, the education may not be there for my kids—a sense that what we have always called the American dream is about to collide with reality.

In the next few hours, Mr. President, we are going to be asked to OK the assumption of extraordinary amounts of additional debt. At some point we must confront reality.

Mr. President, as the father of 2 children and as someone who tries hard to measure what we do here against the standard of what will be helpful to future generations, as I think most of my colleagues do, I believe honesty with ourselves requires us to admit there really is a gap between the rhetoric and the reality. In the final analysis, there are two Americas. There is the American ideal that politicians talk about and pay tribute to, and then there is the America that we really are and are becoming. It is that latter America that is very troubling to me.

The reality is that on almost every level at which there is substantive confrontation, there is a gap between what is said and done in Washington and what people see and feel out in the rest of the country, whether it is in crime fighting or in housing, or whether it is in AIDS research or education.

All of this looms menacingly in these final moments, as the Congress is departing. The fact is, Mr. President, that the voodoo economics that we heard about in the early 1980's has been augmented in recent days by voodoo arithmetic. We have seen $4 billion of loans that suddently became $10 billion of bailouts, that became $30 billion of deficits and debt through inflation and interest payments and systematic incompetence.

Mr. President, for the first time in the history of the United States of America we are about to pay more in interest on the national debt than we have paid in recent years for the entire defense budget of this Nation. We are about to enter an era when debt service for this country is the next-to-largest and perhaps even the largest single component of the entire United States budget.

I do not know if others are as concerned about that as I am. I suspect they are. But if they are, then the question is: What are we going to do about it? What are we not doing about it? Because this debt is crowding out every other choice that we ought to be making and, frankly, it has come to drive all the business of the U.S. Senate and the Congress itself.

We have now created a situation in the U.S. Senate which requires a supermajority to act on matters that require new expenditures, and on other controversial matters. If you want to transfer money from one part of the budget to another, it takes 60 votes. If you want to waive the budget in order to make expenditures that you deem to be emergencies, it takes 60 votes. As we all know, if you want to end debate in the U.S. Senate, it takes 60 votes.

So effectively no longer do we govern in the U.S. Senate by majority; we govern by supermajority. That has changed the equation of government in ways that I think are extraordinarily significant and, in fact, detrimental.

Just over the past several months we have witnessed a truly remarkable and troubling situation. The administration said it is irresponsible to borrow $5 billion in order to provide unemployment insurance benefits that would put money into the pockets of working people who have been thrown out of work and could not find new work.

But that same administration that says it is irresponsible to borrow $5 billion to pay for those people to have the ability to put food on the table, pay the rent, pay for the heat, pay a mortgage, and maybe send a child to the doctor or to receive the medicine that they need, does not think twice about suggesting that we borrow $80 billion for the bailout of the commercial banks in order to replenish the bank insurance fund. Just yesterday the distinguished chairman of the Senate Banking Committee circulated a letter suggesting much if not all of this amount will not be returned to the Treasury and, therefore, will constitute a "bailout." And now we hear it also is not irresponsible to borrow another $80 billion for the RTC to use to bail out the savings and loans.

It simply amazes me, Mr. President, how it is possible for us to lose touch with the reality that our constituents are in touch with on a daily, hourly, minute-by-minute basis.

The pain out there is something that I have never previously seen in my public life—never. Never have I seen as many people across as many strata of American society affected by the fear that they feel today and by the sense of pessimism that they feel about the American economy, but most of all by the sense of frustration and confusion that they feel about the unwillingness or inability of this institution to respond with real help.

Does the administration require the same accountability of itself or of the process as it does for payment of money to kids who are needy, to the WIC program, to AIDS research, to crime fighting, to all the other priorities of the country? No. No.

When it comes to the savings and loans and the bailout, it is gold card all the way. Except that we do not qualify for the gold card anymore. We should not qualify for any card. The only reason we still have a card is that we conveniently are the issuer of the card. It is as if there is an automatic override to the delinquency process on our national credit card.

I believe that accompanying that reliance on the gold card is the piece-by-piece dismantling of the entire social contract of this Nation. Everything that we have built up over the years between citizen and Government is being shunted aside and dismantled by irresponsibly moving it onto somebody else's watch.

The operative philosophy seems to be that, "As long as the confrontation with reality does not happen on my watch, then I suppose it is all right." We appear to have some mystical faith that somehow everything will work out satisfactorily. But every one of us knows that is not true. That is simply not true.

When Ronald Reagan was running for President of the United States in 1980 against President Carter, he was warning how the Federal budget deficit, accumulated over the previous 190 years, since the term of George Washington, was threatening the future of this Nation. Back then the Federal debt had risen to the awesome sum of $909 billion—$909 billion, Mr. President. Ronald Reagan said we have to balance the budget or face calamity. What followed? We had eight successive years in which that President never once sent to the Congress a balanced budget; not once.

On the contrary, we had the exact opposite. We had the famous tax cut of 1981 which frankly brought on some of the most important parts of the crisis that we face today, the overbuilding of real estate among others, the extraordinary assumption of debt, the incredible trading in existing assets, and the cannibalizing of existing companies in order to sell those companies off and make the quick buck. We abandoned the tried and true formula that build this country in the first place, which was the creation of new wealth, the creation of new jobs.

At its current rate of growth, Mr. President, we are going to increase the Federal debt to $5 trillion by 1995, according to the Congressional Budget Office—$5 trillion. That is where we are headed in 3 short years. That is nearly $20,000 for every man, woman, and child in the United States of America, which is up from the figure of $6,000 per person we thought was so dramatic when we were quoting it about a year or so ago.

To put that into perspective, it means that the per capita share of our national debt equals 25 percent of the assets held by every American citizen, corporation, and interest in the entire United States.

Mr. President, that is an extraordinary amount of money—an extraordinary amount of indebtedness. And it seems to me that we are now on a course that is exponentially compounding our inability to decide and act to alter it. The fact is that we are, today, paying more to service the debt than for any program of the U.S. Government other than defense and Social Security, and debt service soon will surpass defense spending.

Let that reality sink in. Within a few years, the amount we pay for debt service will be larger than the $300 billion defense budget.

What is the Federal program for which we pay more than education, environmental protection, criminal justice, the war on drugs, transportation, science, aid to the cities and towns, medical research, agriculture, energy, and every other nondefense and non-Social-Security program of the U.S. Government? It is very simple. It is paying interest to ourselves. That is what we are doing with our precious Federal resources.

It is a fact unknown to an awful lot of Americans, because President Bush and this administration do not have the spine and the moral strength to stand up to the Nation and tell the American people the unpleasant truth. Instead, they promise services for which no one is willing to pay, and then watch those services degrade because we do not invest, as the Senator from West Virginia suggested we ought to.

Paying interest on the national debt, which is the No. 1 occupation of the United States of America, is crowding out every other choice we ought to be making.

I keep hearing people say: Well, what is your program? Here is the picture of disaster which some are fond of drawing. What is the alternative? Well, Mr. President, throughout the 1950's, 1960's, and 1970's, we were investing in ourselves. We were investing in our future. And we proved in most of this country that that pays off.

In Massachusetts, where money was significantly invested in the fifties in defense, MIT, Boston University, the medical industry, and others, people were told to go out and take risks, and they invested their money and themselves. Some started out in their garage, like Ed Land of Polaroid, or Ann Wang of the Wang Corp. They had an idea, and they could go out, find the capital, invest in their idea, and create jobs.

We had a population that was sufficiently educated to be able to perform those jobs. The fact is that over the last 6 years, the capital pool of this country, some $80 billion or so, has been reduced on an annual basis. And on that annual basis, as the capital pool has been reduced, so has the amount of money that has gone into seed startups.

So if you are today's Ann Wang or today's Ed Land, it is a lot harder to find the money. If you look at New England as it is today, it is particularly hard to find the money, where you have cuts in the defense industry, where you have an overhang in the real estate industry, where you have a slowdown in the computer industry, not because of government, but because of bad management decisions that were made; where you have a reduction in your State outlays because of a fiscal crisis, and where you have a national recession—five huge negatives all mounting at the same time, all of them confronting the normal lender with an extraordinarily bleak outlook, which suggests the lender may not get its money back.

The result is this downward cycle building on itself. Eroding consumer confidence follows.

Somehow, you have to break that psychology. Somehow, when people are increasingly without money in their pockets, somebody has to come along, like Franklin Roosevelt did, and suggest that there is a way to break the psychology of fear, to turn around that consumer crisis of confidence, to begin to create the kind of risk-taking that is necessary to create the next generation of products and economic advancement.

Mr. President, there is a next generation of products out there. It is in microelectronics, artificial intelligence, robotics, advanced environmental engineering. Some of the operations are likely to be described by terms I am sure we have not even heard of today.

The point is that, as a nation, we ought to be putting our investment energy not into more and massive long-term borrowing, but into the stirring of that economic energy and machine, into stimulating the kind of risk-taking and venture capital investment effort that will create the next generation of high value-added products that will allow the employees of the United States to earn the kind of income that they need to earn in order to raise the standard of living, not lower it, and at the same time be competitive with other countries in the world.

Well, Mr. President, that is not today's reality, not even close. So we must act to change the reality. Mr. President, I would like to see us have a targeted capital gains tax reduction, and I have advocated that for the years that I have been in the U.S. Senate. I would like to see us have the R&D tax credit made permanent and larger. I would like to see us create the capacity for people to go to school, rather than to jail, and to college, which is about one-third the cost of sending them to jail for 1 year, and begin to invest in this country through a teacher corps that would draw kids out of higher education and put them into the education system of this country.

There are many ways in which, on a daily basis, we could be involved in improving our public schools. One of the most fundamental problems in this Nation is that, in the inner cities of America, we have a total degradation of hope, a lack of opportunity, a lack of capacity for a huge number of Americans to enter into the work force or mainstream.

Our colleague, PATRICK MOYNIHAN, 25 years ago, wrote about the impact in America of minority communities that were then producing a 25-percent rate of illegitimacy of birth. He predicted chaos 25 years ago, and the consequence of his prediction was that he and his views were villified and the debate on what was happening in the inner city was set back for years.

Now 25 years later, my colleagues, the illegitimacy rate in the inner cities of the United States of America is 63 percent. If you thought you were going to have chaos 25 years ago, then look today at cities like New York where one kid will kill another in order to wear his clothing or jewelry. Those are kids without a role model, they are kids without family, they are kids without hope. And unless we begin to deal with that reality, we are kidding ourselves about working to achieve international competitiveness, we are kidding ourselves about improving the quality of life in the communities of this country, and we are kidding ourselves about investing in the future. That is as much a part of economic growth and development as anything else. When only 28 percent of the kids of this country who are eligible are able to participate in Head Start, which is considered to be perhaps the single most successful government human service program in history, then something is wrong. Something is wrong.

Head Start has demonstrated that its participants will be 50 percent more likely to hold a job, 50 percent more likely to go on to higher education, 40 percent less likely to have a teenage pregnancy, something like 50 percent less likely to go to jail. Those are extraordinary figures, figures worth drawing on and responding to in the U.S. Senate and in the Congress. But do we? No, Mr. President, it is much easier to engage in the charade, the shell game. So we move a little here, we move a little there, and we play the extraordinary game that the American people are fast catching onto and growing sick of.

Mr. President, there are a host of other things we could do for economic growth in this country. What happened to the dream of enterprise zones? What happened to the whole effort to say that we would attract business into those areas where they are least likely to go unless they have the capacity to get a bottom line that allows them to go there?

I think it is time for Democrats to shed the fear that we seem to have had about talking about economics in a practical and pragmatic way. The fact is, if capital does not get a sufficient return on investment, people will not invest. In 1981, it was demonstrated that capital can be drawn to build buildings, even if they are going to be empty after they are built because no one will rent them. We did that. That is the problem in America today. That is why a lot of the RTC holdings are sitting there with buildings that have no lessees? Why? Because the Tax Code made it attractive. So we know it works.

There is an artificiality in all of it, in a sense. What is not artificial is the consequent impact on the economy of those actions. Because the cycle downward builds off diminished appraisals and diminished values that have gone with it.

Mr. President, I have digressed, but I do not think I have strayed far from the essence of what will confront us tonight or tomorrow. We have to ask ourselves if it is responsible in this context to assume billions of dollars of increased debt rather than to confront the question of whether we are going to pay for the bank and S&L bailouts, and how we are going to pay for the bailouts, or whether we are simply going to shift the burden onto the next generations?

The cost of the S&L bailout has been something like $325 billion so far. Ultimately, $133 billion of the S&L cost will be interest payments, just interest. That is $133 billion that could go to deficit reduction, investments in infrastructure and education, and a host of other worthy purposes. Regretfully, Mr. President, it appears as though we are simply going to try to press that onto the next generation and to suggest that it can somehow be paid in the future.

Mr. President, I would call this no-fault banking bailed out by no-guts legislating.

It seems to me, Mr. President, that we have a responsibility to ask whether or not we are going to pay for it now, and whether or not we require the President of the United States to find the means of paying for it now.

You know it is very interesting. I was reading a magazine just the other day which had an article in it. It contained a very interesting paragraph:

> The Federal bank deposit insurance scheme has worked up to now simply and solely because there have been very few bank failures. The next time we have pestilence of them, it will come to grief quickly enough, and if the good banks escape ruin with the bad ones, it will only be because the taxpayer foots the bill.

H.L. Mencken wrote that in 1936, and, boy, has it come home to roost, Mr. President.

So the question is how are we going to pay for the bailout? Do we pay for it by increasing the debt, by speeding up the exponential increase of the impact of total debt service? Or do we act responsibly and say we ought to pay for it as we go. We have assumed the responsibility of bailing out the failed banks and S&L's, and no one would suggest that we should not fulfill that obligation. But the question is whether we ought to pay for that as we go along. There are ways, Mr. President, to do it.

A few days ago in the Washington Post there was a cartoon by Mark Alan Stamaty, in his "Washingtoon" series, and it addressed precisely this problem. There was a character in the cartoon, and the first question he asked to another character was, "How do you think we pay for the S&L bailout"? The second character turned to the first and said, "I do not know." The first replied, "We borrow." And then he explains the alternatives as follows. He says, "Some Congress offers a pay-as-we-go amendment saying we should fund the bailout with spending cuts or a tax hike because it will save us huge costs in future interests."

"Sounds responsible," says the second character. "But it isn't," says the first, "because according to proponents of the amendment, it is completely unrealistic because reaching a consensus in Congress right now in any specific combination of tax hikes and/or spending cuts is politically impossible."

So, the first one concludes, "The pay-as-we-go amendment would have the effect, they say, of halting the bailout altogether, thus costing us more money than the interest in borrowing."

"So the responsible thing to do is actually the irresponsible thing until we are able to reach a consensus?" the second character asks.

"That is right," says the first.

"So when will we do that?" asks the second.

"Maybe never," says the first.

"Where does that leave us?" the second character wants to know.

Responds the first, "All our answers lie in never-never land."

Never-never land. That is the trouble right now, Mr. President. That we have been living in never-never land, and we have allowed people the belief that you can continue to live in this never-never land where you do the irresponsible thing and somehow convince people it is the responsible thing to do. And yet the reality all along is that every American knows, because they face this issue on a daily basis, that you cannot keep borrowing more and more and more. You simply cannot do it. Eventually you have to pay for it one way or another.

I do not see how we can just continue the kind of shell game that this administration has been too willing to play. President Bush said, "Right now the Federal budget process is like a huge Rube Goldberg machine, out of control, producing noise, smoke, heat, and no light, sucking up more and more tax dollars on one end and turning them into spending programs without end."

President Bush last year rightly noted that we are facing government by gridlock in Washington, with spending skyrocketing out of control and a budget deficit looming over our children's children. Americans are fed up. But the President neglected to point out that he is a central part of that game. In fact, he bears a large portion of the responsibility because he has offered no real alternative for the people of this country, only veto threats and opposition to congressional initiatives.

Mr. President, it seems to me that we are running out of alternatives and options. A Congress that is about to go home, and a Congress that has the will to go home—and no one wants to go home more than I do—is a Congress that finds it very hard to confront these choices at the last moment.

But what I am frightened of is that even if we were not about to go home, or even when we return, there may continue to exist the extraordinary unwillingness to confront this reality. For the last few years, I voted against the budget agreement because I believe each was fraudulent the day it was made. And I believe my fears have been borne out, Mr. President.

I think, Mr. President, on the question on the S&L's and the RTC, we need to consider whether the confrontation we all know must come ought to come now. It may not come in these next few hours, but in my judgment it is a confrontation that must occur here in the U.S. Senate within the next few months because nothing less than our Nation's future depends on it.

Mr. President, I see that the leadership has returned to the Senate floor, so I will yield the floor at this time for whatever purposes they have returned for.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

SALUTE TO THE GOVERNMENT PRINTING OFFICE

Mr. FORD. Mr. President, hundreds of men and women support the Congress. The closing hours of a session test the skills and endurance of many of them. My appreciation of their support goes without saying, but let me tell each of you who may be listening now, or who may read these words later. I know of no Member of this institution who has not benefited by your efforts.

I would like particularly to salute the men and women at the Government Printing Office who have done yeomen duty in this past week. They have been working 12-hour shifts. Reporting to work at 4 in the morning. Some with hardly a break between shifts. As a result Congress has received much of the printed materials it needed—the CONGRESSIONAL RECORD, bills and committee reports—in time to complete the work that it had before it. The craftsmen at the Government Printing Office make up a remarkable collection of complimenting skills and in the closing hours of this session they have proven once again that when called on they go the extra mile.

AMBASSADOR JOSEPH VERNER REED

Mr. MOYNIHAN. Mr. President, as many here well know, Ambassador Joseph Verner Reed has enjoyed a long and distinguished record of foreign service. For some 30 years he has employed his singular talents in promoting the best interests of the United States abroad. Testament to Ambassador Reed's success are the countless decorations presented him for his diplomatic work. Among those he is no doubt most proud of is the Order of Pius IX, bestowed upon him by His Holiness Pope John Paul II during the Ambassador's tenure as Chief of Protocol of the United States. A splendid honor, and one I would like to make special note of. Mr. President, I ask that the exchange between Ambassador Reed and Pro-Nuncio Archbishop Agostino Cacciavillan on the occasion of this tribute be printed in the RECORD.

There being no objection, the exchange was ordered to be printed in the RECORD, as follows:

REMARKS BY AMBASSADOR JOSEPH VERNER REED UPON THE CONFERRAL OF THE PAPAL HONOR KNIGHT COMMANDER WITH STAR OF THE ORDER OF PIUS IX ON AMBASSADOR JOSEPH VERNER REED,

(Presented by His Excellency Agostino Cacciavillan) Apostolic Pro-Nuncio to the United States of America, Washington, D.C.

Apostolic Pro-Nuncio Cacciavillan, Archbishop Martino, the Holy See's Permanent

Observer to the United Nations, Dean of the Diplomatic Corps, Excellencies, Family and Friends, what a gathering!

As the solstice has passed us into the summer of 1991, I salute you, Archbishop Cacciavillan, for assembling this August group and I thank you for organizing this event on a milestone of a day in my life * * * a milestone in my diplomatic life and my life as a member of mankind. I wish only that my parents could have been with me today to witness this signal honor that His Holiness John Paul II has bestowed upon me with the Order of Pius IX.

Thank you Your Grace for this gesture and recognition of mutual cooperation during my tenure as an international civil servant at the United Nations. I would ask that this heartfelt expression of appreciation be extended to the Holy Father. You have made me proud!

This signal event also gives me an opportunity to salute you, Your Excellency, on your success on diplomatic row since your arrival in federal city. You are a star! Your predecessor Archbishop Pio Laghi was a colleague, confidant and friend; he was also and is a star!

I thrill in the Archbishop's elevation to Prince of the Roman Catholic Church. I will be with the Archbishop in heart and spirit at the consistory to be held tomorrow (Friday, June 28) in St. Peter's Square in Rome when His Holiness will bestow the Red Beretta on Archbishop Pio Laghi making him Cardinal of the Holy See. (Currently the head of the Vatican congregation for Catholic education.)

I also congratulate Archbishop Angelo Sodano, the Vatican's Secretary of State on his elevation to the church's highest rank. I share with you, friends, a thought expressed by the Secretary of State that has set, in my opinion, the tone for his tenure as "the prime minister" of the Holy See * * *" We all know that the Church of Christ is not European, nor African, nor Asian, nor American." The Cardinal-to-be stated a fortnight ago * * * the Bishops "should speak in a way most comprehensible to the modern mentality, without, however betraying anything of the integrity and originality of the christian message."

This message from the Secretary of State of the Vatican recalls to mind the immortal words of Jesus Christ in His sermon on the Mount as it appears in the Gospel of Matthew. "Blessed are the peace makers for they shall be called the children of God."

The Secretary of State's predecessor Augustino Cardinal Casaroli was and is my friend. He served 11 years in this position. We worked together at the Parliament of Man along with my friend and colleague Archbishop Renato Martino. The Holy See is an observer state at the United Nations and the Holy See involves itself in "active diplomacy of great scope and variety".

During one of the general assemblies of the mid-eighties I dined with Cardinal Casaroli at the great residence of the Holy See on 72nd Street. I recall how he talked about the United Nations and the work of House of Peace * * * the importance of meeting and working together towards "a just peace" that would enable the millions on our planet to achieve a better life.

The Cardinal told me that the semetic language in which Jesus Christ spoke the word for peace was a variant of the Hebrew "Shalom" or the Arabic version "Salaam". Indeed, peace is a universal aspiration in the soul of man.

While in recent years there was a vain attempt by the so-called socialist movement to appropriate the world peace, its older, more universal application is the one we see embodied today by the efforts of the United Nations to see that peace—with justice—is achieved by all peoples in all nations. And, this has been the extraordinary witness by His Holiness Pope John Paul II as he has crisscrossed our globe to 95 nations to deliver over and over that message—peace with justice.

It is for this reason that I am honored to bear the professional designation of "diplomat". For we have been given the unique privilege of being the front line warriors for peace.

Thus I am doubly honored to have received this Order of Pius IX from those, considered by many and rightly so the world's greatest diplomats: diplomats, moreover, in the service of a father and brother who want for all:

"That peace which surpasses all understanding".

Conferral of the Papal Honor Knight Commander with Star of the Order of Pius IX on Ambassador Joseph Verner Reed

(Commentary and remarks by Archbishop Agostino Cacciavillan) Apostolic Pro-Nuncio of the Holy See to the United States of America, Washington, DC.

The Apostolic Pro-Nuncio, Archbishop Agostino Cacciavillan, warmly welcomed government officials, especially the Secretary of the Treasury, and his wife, the Honorable and Mrs. Nicholas F. Brady, as well as the Dean of the Diplomatic Corps, Members of the Diplomatic Corps, other distinguished guests, and family and friends of Ambassador Reed.

Archbishop Cacciavillan noted that it was a Vatican meeting on Massachusetts Avenue, on the eve of a Consistory at Vatican City, for the creation by his Holiness, Pope John Paul II, of new Cardinals, among them, two Americans, Archbishop Anthony Bevilacqua of Philadelphia, and Archbishop Roger Mahony of Los Angeles, and also Archbishop Angelo Sodano and Archbishop Pio Laghi, both well-known to Ambassador Reed. So, there was an atmosphere of great joy in gathering to present Ambassador Reed with the Pontifical Honor, Knight Commander with Star of the Order of Pope Pius IX.

"This distinction," continued the Apostolic Pro-Nuncio, "is a sign of the appreciation the Holy Father has for Ambassador Reed, for the thoughtful and effective collaboration he has always extended the Holy See, especially when he served at the United Nations, as Under-Secretary-General for political and general assembly affairs. Cardinal Casaroli, former Secretary of State, and his successor, Archbishop Sodano, themselves experienced such consideration on various occasions, as has Archbishop Renato Martino, the representative of the Holy See to the United Nations, present at the nunciature to join in the presentation of the award to Ambassador Reed."

"We appreciate also," Archbishop Cacciavillan said, "what our friend Joseph, after his academic achievements as a student and then successful activities in the domain of economics, has accomplished in the international field, first as American Ambassador to Morocco. He demonstrated great professional interest in and genuine love for the peoples of Africa, which was certainly obvious again when, as United States representative to the Economic and Social Council at the United Nations, he performed an important role regarding a special session of the General Assembly on Africa in May, 1986."

"We think of him," the Apostolic Pro-Nuncio went on, "as one who contributes to promoting justice, human solidarity, peace, and a sense of universal fraternity, all values particularly dear to the Holy See and the Church because of her mission in and for the world."

Referring then to the work of Ambassador Reed as the Chief of Protocol, Archbishop Cacciavillan expresses "Deep appreciation and personal gratitude for the many attentions he has received from the honoree since his arrival in the United States in August 1990. No doubt these are common sentiments in the Diplomatic Corps of Washington, DC toward Ambassador Reed. To this important job Joseph brings indeed competence and experience regarding the substance of the matters dealt within diplomacy and, at the same time, special talents for human relationship, tact, openness, friendliness, and elegance." "I used to say," confessed the Apostolic Pro-Nuncio, "that Ambassador Reed is 'an artist of protocol'."

Archbishop Cacciavillan concluded by reading a message from Archbishop Pio Laghi, his immediate predecessor and Apostolic Pro-Nuncio to Washington, addressed to Ambassador Reed, congratulating him and extending to him "best wishes for continued good work on behalf of God and country".

COMMISSIONER FRANKLIN E. WHITE

Mr. MOYNIHAN. Mr. President, I would like to share with my colleagues news that a distinguished new Fellow has been named to the prestigious National Academy of Public Administration. He is New York's able State Transportation Commissioner, Franklin E. White.

The Academy, a private, nonprofit corporation chartered by the Congress, was established with the intent to improve the effectiveness of government at all levels, Federal, State and local. To this end, it makes available the collected experience and sage counsel of its 400 elected Fellows, all practitioners and students of government. They are chosen by their peers who include Cabinet Members, governors, members of Congress, and other prominent citizens who have served in the public life.

To be sure, the Academy has done well to include Commissioner White among its ranks. He has done a splendid job as head of one of the largest State transportation and public works organizations in the Nation. He enjoys a long and successful record of public service, and will no doubt greatly enhance the Academy's resources. Mr. President, at this point I ask that a brief biography of Commissioner White be printed in the Record.

There being no objection, the biography was ordered to be printed in the Record, as follows:

Franklin E. White—New York State Transportation Commissioner

On May 1, 1985, Governor Mario M. Cuomo appointed Franklin E. White, New York State Transportation Commissioner. After receiving a unanimous confirmation by the New York State Senate, Commissioner White assumed office on July 15, 1985.

Commissioner White, 49, was raised in and attended parochial schools in New York City. He is a graduate of Cardinal Hayes High School in the Bronx. In 1961, he received his bachelors degree, *cum laude*—in Accounting and Economics—from the City College of New York. He received his law degree, *cum laude*, from the Columbia University School of Law in 1965. Mr. White is married and has three children.

Before joining the Cuomo Administration, Commissioner White served as Virginia Secretary of Transportation and Public Safety during the Administration of Governor Charles S. Robb. Prior to that, Commissioner White was Associate Director for Justice, Domestic Policy Staff at the White House during the Administration of President Jimmy Carter. Mr. White served as Deputy Director of the New York State Division of the Budget from 1975–1978.

Since becoming New York State's Commissioner of Transportation, Mr. White has been an increasingly active advocate in national transportation forums for New York's "multi-modal" transportation policies and improved agency management initiatives. He is a member of the Executive and Policy Committees of the American Association of State Highway and Transportation Officials. He serves on the Executive Committee of the National Transportation Research Board and recently completed a one year term as President of the 11-state Northeast Association of State Highway and Transportation Officials.

Previously, Mr. White worked as an attorney with the Civil Rights Division of the U.S. Department of Justice and with the NAACP Legal Defense and Educational Fund. He was General Counsel to the New York City Commission on Human Rights and to the New York City Human Resources Administration. He was consultant to the Manpower Demonstration Research Corporation, a Ford Foundation affiliate.

Commissioner White serves as chief executive officer of the New York State Department of Transportation (DOT), one of the largest state transportation and public works organizations in the nation, employing 12,000 people with a budget of $4 billion. It is the oldest line agency in New York State government and has responsibility for or under its jurisdiction: highways, bridges, mass transit, rail, ports and aviation facilities.

THE CONDUCT OF PROCEEDINGS FOR THE SELECTION OF OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE

Mr. NUNN. Mr. President, the fair and impartial conduct of the selection process for promotion of officers in the armed forces has been a matter of great concern to the Armed Services Committee. In 1987, we conducted a detailed review of problems associated with the 1987 Marine Corps Major General Selection Board, and received assurances from Secretary Weinberger that regulatory guidance had been issued to preclude a recurrence of the actions that undermined the fairness of that board.

During the Committee's review of certain Air Force nominations during the 101st Congress, the Committee received information which indicated that the Air Force has not implemented the regulatory guidance directed by Secretary Weiberger. Detailed reviews of these matters during 1990 and 1991 by the Department of Defense and the Committee have revealed systemic deficiencies in the Air Force selection process. These deficiencies are described in a joint statement, issued by myself and Senator Warner, and in an analysis prepared by the staff of the Armed Services Committee.

The Conference Report on the National Defense Authorization Act for fiscal years 1992 and 1993, which we approved last week, establishes new statutory procedures that address the problems identified in the review of Air Force promotion practices. The Armed Services Committee will conduct oversight hearings early in the next session to review the implementation of this legislation and to examine the issue of accountability and responsibility for the deficiencies in the Air Force promotion selection process.

I ask unanimous consent that the joint statement and staff analysis be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[JOINT STATEMENT]

SENATOR SAM NUNN, CHAIRMAN, SENATE ARMED SERVICES COMMITTEE AND SENATOR JOHN WARNER, RANKING MINORITY MEMBER CONCERNING THE CONDUCT OF PROCEEDINGS FOR THE SELECTION OF OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE

The selection of officers for promotion in the armed forces through the grade of major general and rear admiral is governed by statutory procedures. The central feature of these procedures is the use of impartial boards of officers, known as selection boards, to recommend officers for promotion. The composition and conduct of these boards is carefully guided by laws and regulations designed to ensure the fairness and impartiality of board proceedings. The range of actions that may be taken by the senior leadership before, during, and after the board proceedings is likewise circumscribed to preclude improper interference with the integrity of the selection process.

The fair and impartial conduct of the selection process is a matter of great concern to the Committee. The integrity of the selection process is essential to the integrity of the officer corps. Adherence to established laws and regulations is necessary to ensure that the best qualified officers are selected for promotion, and that the officer corps has confidence in the integrity of the selection process.

During the Committee's review of certain Air Force nominations during the 101st Congress, the Committee received information which indicated the possibility of serious and systemic deficiencies in the procedures used by the Air Force to recommend officers for selection to general officer positions. The Committee brought these matters to the attention of the Department of Defense. The Deputy Secretary of Defense ordered an examination of officer selection procedures throughout the Department of Defense. The results of that review were provided to the Committee. The Committee also directed the Committee staff to review these matters. The results of these reviews are described in the attached staff analysis.

These reviews identified the following systemic deficiencies in the Air Force officer selection process:

(1) Failure to issue implementing regulations required by applicable statutes and Department of Defense Directives to ensure the fair operation of the selection board process.

(2) Use of a preselection process that improperly excluded ninety percent or more of the eligible officers from consideration by statutory selection boards.

(3) Improper communication to selection boards of "priority lists" prepared by senior officers.

(4) Improper communications between the Air Force leadership and selection board members.

In addition, these reviews identified deficiencies in specific cases that are described in the attached staff analysis.

As a result of the DoD review initiated by the Committee, the Air Force has taken corrective action by issuing a regulation governing general officer selection boards, eliminating the preselection process, eliminating the use of priority lists, and issuing regulatory restrictions on communications between the leadership and selection board members.

Section 504 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 establishes new statutory procedures for the conduct of selection boards. These procedures address the problems identified in the review of Air Force selection board practices. Section 504 requires prompt implementation by the Secretary of Defense. The Committee will conduct appropriate oversight hearings early in the Second Session of the 102d Congress to review the manner in which the legislation has been implemented. In addition, these hearings will examine the very important issue of accountability and responsibility for the deficiencies in the Air Force promotion selection process.

STAFF REPORT TO THE COMMITTEE ON ARMED SERVICES UNITED STATES SENATE

During 1990 and 1991, the Committee on Armed Services reviewed officer promotion selection processes in the U.S. Air Force. In July 1991, Senator Sam Nunn and Senator John Warner, Chairman and Ranking Minority Member, directed the staff to prepare a staff analysis of the results of the review. The staff presented the analysis to the Committee on November 19, 1991. The Committee determined that the analysis should be issued as a Committee document. The following is the staff report that was prepared at the direction of the Committee.

Part I of this report sets forth the statutory and regulatory background of the current promotion selection process. Part II describes the events resulting in the Committee's inquiries and a review by the Department of Defense. Part III analyzes the deficiencies in Air Force procedures disclosed as a result of the Committee's inquiries and the Department's review.

I. STATUTORY AND REGULATORY BACKGROUND

The promotion selection process

The promotion of military officers through the grade of major general and rear admiral relies on a merit-based system, the centerpiece of which is the selection board process. The sole exception involves officers nominated under the President's power under Article II of the Constitution to make nonstatutory nominations, an authority that is rarely invoked.

Under current law, 10 U.S.C. 612, each selection board must consist of at least five officers, all of whom must be serving in a grade higher than the officers under consideration by the board. To ensure that the selection process is not dominated by a small group of officers, the law provides that "[n]o officer may be a member of two successive selection boards . . . for the consideration of officers of the same competitive category and grade." 10 U.S.C. 612(b). To emphasize the solemnity of the board's responsibilities, a statute requires that each member "swear that he will perform his duties as a member of the board without prejudice or partiality and having in view both the special fitness of officers and the efficiency of his armed force." 10 U.S.C. 613.

To encourage candid discussions free from outside interference, the law prohibits disclosure of a board's deliberations "to any person not a member of the board," subject only to very limited exceptions. 10 U.S.C. 618(f).

The board must submit a written report, signed by each member, certifying that the board has "carefully considered the record of each officer" under consideration, and that those recommended by the board "are best qualified for promotion." 10 U.S.C. 617.

Prior to submission of the board's report to the President, it is reviewed by the Secretary of the Military Department concerned, the Chairman of the Joint Chiefs of Staff, and the Secretary of Defense. These individuals are not authorized to interfere with the legitimate exercise of discretion by the selection board or to make any changes in the recommendations of the board. The Service Secretary may return the report to the board for further consideration only if there has been a violation of law, regulations, or guidelines. Neither the Service Secretary, nor any other official who reviews the board's report, may add a name to, or delete a name from, the list recommended by the board. Only the President may remove a name from a list recommended by the board. 10 U.S.C. 618.

1987 investigation into improper communications with selection boards

In 1987, the Armed Services Committee conducted an inquiry into irregularities associated with the 1987 Marine Corps major general promotion list. One of the key problems arising out of the 1987 inquiry involved verbal communications by the Secretary of the Navy and the Commandant of the Marine Corps to the President of the selection board. The verbal communications resulted in two additional names being added to the board's original eight selections.

The Committee's report on the Marine Corps major general board (S. Exec. Rept. No. 3, 100th Cong., 1st Sess. (1987)) commented specifically on the relationship between oral communications and fairness of the selection process:

The Committee observes that if an officer's selection is influenced by actions or oral communications of senior officials occurring outside the authorized selection board process, then other officers under consideration, who must rely on the authorized board process, may be denied a fair and equitable opportunity to be selected.

The report outlined the proper procedure for communicating information to a selection board:

Opinions, in writing, by a Service Secretary or a Service Chief, with respect to personnel under their authority, can be made part of an officer's military records jacket at any time prior to a board covening and then can be given such consideration and accorded such weight as individual board members desire. That procedure maintains the spirit of fairness and objectivity which is so essential to the promotion selection process.

The Committee emphasized the importance of following such established procedures when dealing with the views of senior officials:

The exceptional weight that can be attributed to a Secretary's (or Chief's) view requires equally exceptional care in the manner those views are conveyed to board members.

Corrective action directed by the Secretary of Defense in response to the 1987 investigation

In a letter to the Committee dated July 7, 1987, Secretary of Defense Weinberger assured the Committee that he had taken vigorous action to prevent recurrence of the problems associated with the Marine Corps major general board:

As regards the Service Secretaries and other senior officials, we have . . . acted to prevent the problems in this case recurring in the future. After receiving the General Counsel's report of inquiry, I directed prompt issuance of guidance for the military departments to prevent a recurrence of the unfortunate confluence of events which necessitated review of the board proceedings in this case. . . .

This guidance . . . fully and systematically addresses the confusion which complicated these board proceedings, by providing that, in the future:

Service Secretaries may not add authorizations to a promotion board after it convenes without my approval;

Service Secretaries and other persons must communicate their views regarding individual officers to a promotion board, if at all, in writing through means which will assure that their views are neither misrepresented nor misunderstood; and

Each board member has a right to relief from board service if he or she believes that any person has acted to limit the board's discretion, and a duty to report that matter to appropriate Service or DoD officials.

These provisions provide clear guidance for the future to prevent any circumstance in which the independence or integrity of a board proceeding could be questioned. . . .

As a result of the Secretary's action, an amendment to DoD Directive 1320.12 was issued on June 3, 1987 to ensure the integrity of the promotion process by regulating the flow of information to a selection board. A key feature of the amended directive was the requirement that: "[a]ll communications intended to express the views of the Service Secretary, the senior uniformed member of the Service concerned, or other superior authority to the members of a selection board shall be put *in writing, furnished to each member, and made a part of the board record.*" (emphasis added).

The Committee's report on the Marine Corps major general board took special note of the Secretary's action:

[T]he Secretary of Defense [has] directed that guidance, uniformly applicable to all three military departments, be promulgated by the Department of Defense to ensure that in the future all communications between a Service Secretary or senior uniformed officers and a selection board be *in writing, be furnished to all members of the board, and be made a part of the official record*. . . . (emphasis added).

On June 3, 1987, the Deputy Secretary of Defense issued revised guidance to the military departments concerning the officer selection process, which embodied the directions of the Secretary of Defense and incorporated additional safeguards against attempts to manipulate or interfere with promotion selection board procedures. . . .

The June 3, 1987 amendments to DoD Directive 1320.12 included the following changes to ensure the integrity of the promotion process by regulating the flow of information to a selection board.

A requirement that the Service Secretary provide "written instructions to promotion selection boards."

A limitation requiring that "[a]ll communications intended to express the views of the Service Secretary, the senior uniformed member of the Service concerned, or other superior authority to the members of a selection board shall be put in writing, furnished to each member, and made a part of the board record."

A prohibition against providing favorable information or opinion regarding officers to be considered by the board except by means of a letter filed in the officer's official military records or a written communication provided to each member and made a part of the board record.

A prohibition against furnishing unfavorable information "except as expressly authorized under regulations prescribed by the Secretary concerned."

The Directive was further amended on November 29, 1989 to include:

Rules governing modification or withdrawal of instructions to a board.

A restriction providing that "[c]ommunications regarding particular officers are expressly forbidden, unless unusual circumstances exist that would preclude an officer's performance from being documented in the official record (i.e., sensitive classified mission, etc.)".

Procedures for receiving unsolicited favorable opinions.

A requirement for guidelines relating to the needs of the service for particular skills.

These amendments did not relax any of the restrictions imposed in June 1987.

Both the 1987 and 1989 amendments to DoD Directive 1320.12 required the Military Departments to provide the Office of the Secretary of Defense with implementing instructions within 120 days.

II. BACKGROUND TO COMMITTEE'S REVIEW OF AIR FORCE PROMOTION SELECTION PRACTICES

Development of information indicating irregularities in Air Force selection board procedures

In 1990, during the Committee's review of certain Air Force nominations for promotion to brigadier general, the Committee received indications that adverse information concerning certain nominees, which was not part of the nominees' military records, had been provided to one member of the selection board. However, this adverse information had not been communicated in writing to all members of the selection board as required by the amendments to DoD Directive 1320.12 that had been directed by the Secretary of Defense in response to the 1987 investigation of the Marine Corps major general board.

On June 28, 1990, the Committee asked the Department of Defense to determine the manner in which the information was handled with respect to the 1990 Air Force brigadier general selection board in light of the requirements of DoD Directive 1320.12.

The Secretary of the Air Force responded for the Department of Defense on August 3 1990. In response to the Committee's questions, the Secretary noted that certain adverse information relating to two nominees was provided to the President of the board but not to the other members of the board.

The Air Force response, and the Committee's review of applicable Air Force regulations, indicated that the Air Force had failed to implement both the 1987 and 1989 amendments to DoD Directive 1320.12. On September 28, 1990, the Committee asked the Secretary of Defense to review pending Air Force nominations to determine whether the nominees were selected in accordance with applicable DoD Directives, and to advise the Committee of the actions taken by the Air Force to implement DoD Directive 1320.12.

While the Committee's request was under consideration by the Department of Defense, the Committee discussed the Air Force promotion system with General Merrill P. McPeak during review of his nomination to be Air Force Chief of Staff. In testimony before the Committee on October 24, 1990, General McPeak provided a candid, forthright assessment of deficiencies in the system. In addition to describing the failure to implement applicable rules restricting provision of information to selection boards, General McPeak noted the following additional deficiencies in Air Force procedures:

(1) A preselection process not authorized by Air Force regulations which reduced the number of candidates that would be considered by a general officer selection board through the elimination of about 90 percent of the eligible officers prior to convening of the centralized selection board.

(2) Improper briefings of the Secretary and the Chief of Staff of the preliminary decisions of selection boards prior to final action by the boards.

On October 25, 1990, the Committee brought these matters to the attention of the Secretary of Defense.

Review of the officer promotion process by the Assistant Secretary of Defense (Force Management and Personnel)

Deputy Secretary of Defense Atwood, by memorandum dated November 7, 1990, directed Christopher Jehn, the Assistant Secretary of Defense (Force Management and Personnel), "to review the officer promotion programs and promotion board procedures in each of the Military Departments." The Atwood memorandum stated that the purpose of the review was to determine whether existing regulations and procedures—

1) are in compliance with statutory requirements,

2) foster a climate of fair and equitable consideration of officers eligible for promotion, and

3) ensure the independence and integrity of promotion boards.

The OSD review covered the 1987–90 time period, and focused on the fiscal year 1990 cycle of promotion boards. The review consisted of an examination of regulations and related documents, formal presentations by the Services, and interviews with randomly selected board members and support personnel. The review of the Air Force process, for example, included interviews of 10 officers. The purpose of the review was to identify systemic problems, and it was not designed to specifically address the validity of each board conducted within that period. Therefore, the deficiencies in Air Force procedures described in Part III of this report should be regarded as examples, and not as a comprehensive listing of all irregularities that may have occured during that period.

On March 15, 1991, Deputy Secretary Atwood forwarded the results of the OSD review to the Committee. Additional material was provided to the Committee on April 9 by Secretary of the Air Force Donald B. Rice and on April 25 by Assistant Secretary of Defense Jehn. The Committee submitted follow-up questions on May 20, and material was submitted to the Committee on June 19 by Assistant Secretary of Defense Jehn and on July 10 by Air Force Secretary Rice. References in this report to the "OSD Review" pertain to material contained in the March 15 letter from Deputy Secretary Atwood and the letters from Assistant Secretary Jehn dated April 25 and June 19, 1991.

III. ANALYSIS

Irregularities identified as a result of the Committee's inquiries concerning Air Force promotion practices

The information provided by the Department of Defense in response to the Committee's inquiries established that there were serious, significant deficiencies in Air Force promotion practices.

1. Failure to issue required implementing regulations

According to Deputy Secretary Atwood, the OSD review "revealed, in the case of general officer promotions, a failure on the part of the Air Force to ensure strict adherence to required procedures. " The OSD review noted that "the lack of a governing Air Force regulation may account for an insufficient awareness of the various provisions of DoD [Directive] 1320.12 which contributed to irregularities, both real and preceived, in general officer promotions."

The failure of the Air Force to implement the regulation was not the result of an administrative oversight with respect to a routine matter. The Air Force actively participated in the development of the 1987 changes to the DoD Directive, and specifically objected to coverage by the regulation of general officer selection boards. The Air Force also proposed striking out the language which included "the senior uniformed member of the service concerned [and] other superior military authorit[ies]" in the requirement that all communications from the leadership be in writing. The Air Force comments were not accepted by the Deputy Secretary of Defense when the 1987 changes were issued. After the amended Directive was issued, the Air Force: (1) failed to issue a regulation governing the conduct of general officer selection boards; (2) failed to incorporate the changes into the existing regulation governing field grade officer selection boards; and (3) failed to incorporate the limitations on communications into the Letters of Instructions provided to selection boards.

The failure of the Air Force to fully implement the DoD Directive persisted for years—even after the Committee brought the Directive to the attention of the Air Force on June 28, 1990. The Air Force issued a regulation governing general officer selections on February 1, 1991. The Air Force has still not revised its field grade selection board regulation to incorporate the 1987 or 1989 amendments to the DoD Directive.

As the Committee noted in its report on the National Defense Authorization Act for Fiscal Years 1992 and 1993 (S. Rept. 102–113):

The failure of a Military Department to implement a DOD Directive on a timely basis is inexcusable in any case. When it involves a directive that the Secretary has issued to address problems of abuse in the promotion selection process, the failire is intolerable.

The failure to implement the Directive meant that the Air Force provided no guidance to the officer corps in general, or selection boards in particular, as to the strict prohibitions set forth in the amendment DoD Directive.

2. Use of a preselection process to improperly exclude eligible officers from consideration by selection boards

When a selection board is convened, the board must consider each officer in and above the promotion zone for the grade and competitive category under consideration (10 U.S.C. 619(c)). There are a number of very limited exceptions, including authorization for the Service Secretary "by regulation" to "prescribe procedures to limit the officers to be considered . . .for promotion to the grade of brigadier general or rear admiral (lower half) . . . to those officers who are determined to be exceptionally well qualified for promotion . . . ."

According to the OSD review, the Air Force employed a preselection process without issuing the statutorily required regulation. The Air Force routinely used such unauthorized preselection boards to exclude eligible officers from consideration without prescribing the required procedures.

The OSD review determined that "[t]hese screening boards normally eliminated from consideration by the statutory board approximately 90 percent of those officers who would otherwise have been eligible for consideration by the statutory board."

The OSD review noted that "[n]o formal means were used to advise eligibles of the brigadier general pre-screening process." The effect was that thousands of officers who reasonably could have believed that their nonselection for promotion resulted from the decision of a statutory selection board had, in fact, been eliminated from consideration through unauthorized procedures before the statutory board ever met.

According to the OSD review, the Air Force used a three-tier preselection process to screen out candidates prior to convening statutory brigadier general selection boards. The first tier consisted of Initial Screening Boards established primarily at major command levels, which eliminated approximately 90 percent of the eligible officers from further consideration. The second tier involved a Central Screening Board, which eliminated about 50 percent of those recommended by the Initial Screening Boards. The final tier was the statutory selection board, which considered the remaining eligible officers.

The Initial Screening Boards were established at each of the major commands and at Headquarters, Air Force. As a result, eligible officers did not compete against their peers throughout the Air Force, as contemplated by the statutory centralized selection process. Instead, they were screened out through a procedure in which they unknowingly competed only against officers within their own command.

The Initial Screening Board at a major command consisted of general officers appointed by the major command commander. Thus, officers eligible for promotion who reasonably expected that they would be considered by a selection board convened by the Service Secretary, as required by law, were instead eliminated from consideration by screening boards appointed by commanders in the field.

An Initial Selection Board convened at a major command was allowed to forward no more than 15 percent of the eligible officers for centralized screening. The Headquarters Initial Selection Board was allowed to forward no more than 10 percent of the eligible officers for centralized screening.

The effect of the Initial Screening Board process was that at least 85 percent of the colonels assigned to the major commands, and at least 90 percent of the colonels assigned to Headquarters, Air Force, were improperly precluded from competing against their peers elsewhere in the Air Force before a central promotion board.

The balkanization of the Initial Screening Board process into separate boards for each major command, and a separate boards for the headquarters organizations, meant that an officer could be eliminated even though the officer was better qualified than an officer in another command who was selected. The potential for unfair treatment was magnified with respect to smaller commands, in which the 15 percent limitation meant that in absolute numbers, fewer officers in the smaller commands, as compared to larger commands, were eligible for selection. Thus, an officer at a smaller command who might rank well within the top 15 percent of Air Force colonels on a Service-wide basis, could be excluded from further consideration because of the limited number of selections available to that officer's command. In addition, officers in headquarters commands, which were subject to a 10 percent limitation, were at a disadvantage to their counterparts in major commands, which could forward 15 percent of their eligibles.

The second tier—the Central Screening Board—considered all eligible officers forwarded by the Initial Screening Boards. The Central Screening Board not only considered the military records of eligible officers, it also had access to a "closed" evaluation form—an evaluation that was not made available to the officer being evaluated. Although the closed form was authorized by regulation, the Central Screening Boards were not so authorized.

The Central Screening Board was composed of general officers from the major commands, the Air Force Secretariat, the Air Staff, and Joint Agencies. The president was appointed by the Secretary of the Air Force, and the members were appointed by the Chief of Staff of the Air Force. The Central Screening Board was permitted to forward up to half of the eligibles it considered to the Final (statutory) Selection Board.

The third tier, the Final (statutory) Selection Board, had access to the officer's military records, the "priority lists" submitted by major commanders and other selected officials, and the closed form evaluations.

According to the OSD review, the statutory selection board "considered all eligibles forwarded by the CSB [Central Selection Board], plus a small number of other eligibles identified by the commanders who did not score through the CSB." The "other eligibles" consisted of officers who were not forwarded by the Central Selection Board but who were identified on "priority lists" submitted by the commanders of major commands and other selected officials after they were notified of the results of the Central Selection Board. The priority list system served as a supplement to the screening process, and enabled those permitted to submit priority lists to ensure that favored candidates were not eliminated from consideration by the screening process. These "priority lists" are discussed in more detail in section 3, below.

Statutory screening boards, which are authorized to narrow the field, have a less stringent selection standard than regular (i.e., final) selection boards. Regular selection boards may recommend only those "best qualified" for promotion. The statutory standard for screening boards—"exceptionally well qualified"—permits the final board to select the "best qualified" from a wider field—those found by a screening board to be "exceptionally well qualifed." The Air Force, which did not have a regulation governing its screening boards, did not use the "exceptionally well qualified" standard. This was improper, because officers who might have been forwarded under an "exceptionally well qualified" standard were eliminated under the percentage quotas assigned to the screening boards.

The problems caused by failure to use the statutory criteria were compounded because the screening boards operated with virtually no written guidance, other than the limitation on the percentage that could be forwarded. As a result, the Initial Screening Boards could operate without regulations requiring the safeguards applicable to statutory selection boards, such as: (1) the requirement that no officer may be a member of two successive boards for the consideration of officers of the same competitive category and grade; (2) the requirement that eligible officers be provided with at least 30 days notice of the convening of a board and provided an opportunity to send a written communication to the board; (3) the requirement for Secretarial guidance, including guidance to ensure appropriate consideration of joint duty assignments; (4) the prohibitions against reviewing authorities adding to or deleting from the recommendations of selection boards; and (5) limitations on communications to selection boards. As a result, officers who reasonably believed that their records were considered in accordance with such safeguards were eliminated by screening boards in which such safeguards were not required to be observed.

In summary, instead of an authorized screening process with centralized selection using a statutory standard, the Air Force used an unauthorized process in which 90 percent or more of the eligible officers were eliminated through decentralized boards using an improper standard without regulations requiring the statutory safeguards applicable to regular selection boards.

3. Improper communication of "priority lists" to selection boards

The OSD review found that since the 1960's, the Air Force "allowed certain senior officers and civilian officials to provide to general officer promotion boards a list of eligible officers recommended for promotion. . . . These . . . Priority Lists . . . were the personal choices for promotion of the officials who prepared the lists, and proposed for promotion a small subset of the eligible officers."

The OSD review observed that the "use of these lists was not addressed in regulation and was not common knowledge outside the general officer management community." According to the OSD review, "[e]ligible officers were not made aware of the priority list system."

Officials permitted to submit a priority list were allowed to designate no more than 4 percent of the eligible officers in their command. Priority lists consisted of a rank ordering of certain candidates by the commander. There was no narrative information. Thus, the list did not provide selection boards with any information about the military record of an officer. The information communicated by the list—the presence or absence of a name, and the relative order of names on the list—was signficant, however, because the list communicated the views of the major commanders and other senior officials as to who should be selected.

As noted in the OSD review, use of such lists violated the 1989 amendments to DoD Directive 1320.12, which generally prohibited "communications regarding paticular officers" (subject to very limited exceptions). A March 6, 1991 Air Force memorandum, included as an enclosure to the OSD review, explained that the Deputy Chief of Staff for Personnel briefed the Secretary of the Air Force on the use of priority lists after the 1987 amendments to DoD Directive 1320.12. He did not brief the Secretary after the 1989 changes, which expressly prohibited communication of information such as priority lists to selection boards.

In addition to violating the 1989 changes to the DoD Directive, the use of priority lists compounded the problems noted in section 2, above, concerning the use of unauthorized screening procedures. The priority lists were prepared by the major commanders and other selected officials after they were notified of the results of the Central Screening Board. As a result, an officer who had not been selected by the Central Screening Board could nonetheless be considered by the final, statutory board if fortunate enough to be placed on a commander's priority list. Thus, even if the preselection process had been properly structured under 10 U.S.C. 619(c)(2) "to limit the officers to be considered by a selection board . . . to those officers who are determined to be exceptionally well qualifed for promotion," the statutory process would have been undermined by the use of priority lists to circumvent the statutory standard.

In summary, the use of priority lists improperly communicated the views of the senior leadership about particular officers to selection boards. In addition, the priority lists enabled the leadership to circumvent the preselection process. None of this was made known to eligible officers, who could reasonably believe that they were being considered for promotion on the basis of their official military records.

4. Improper communications between the Air Force leadership and selection board members

The OSD review noted that a board president had specific conversations with the Service Secretary and Chief of Staff during the 1989 brigadier general promotion board. According to the OSD review, these communications "did not comport with paragraph G.2. of DoD Directive 1320.12 in that these communications were not in writing, were not provided to each board member, and were not made part of the board record."

The review also noted that, as a general practice, "prior to the signing of the board report by promotion board members, the results of general officer promotion boards were routinely provided to both the Chief of Staff and the Service Secretary." These oral reports not only created the opportunity for improper verbal communications of the views of the Air Force leadership in violation of DoD Directive 1320.12, but also were contrary to 10 U.S.C. 617(a), which requires the board to provide the Secretary with a "written report, signed by each member of the board."

In response to a follow-up question by the Committee, the Air Force described the following incident, which illustrates the problems created by improper communications during a board's proceedings. A board was convened to select 32 officers for promotion to major general out of 102 eligibles. The board conducted a trial run, followed by a discussion, and "an initial review and scoring of the candidates." The board then adjourned for the evening.

When the board president reviewed the results, he found that Brigadier General

"XYZ" was not among the top 32 in the order of merit, despite the fact that he had scored well in the trial run. According to the Air Force report, "[t]here had been some discussion of this officer's performance among some of the members after the trial run."

That evening, the board president had a "courtesy visit" with the Chief of Staff, during which he asked whether the Chief of Staff was satisfied with the performance of Brigadier General "XYZ" and whether the Chief of Staff agreed with the Vice Chief's decision to place Brigadier General "XYZ" on the "priority list" that the Vice Chief had submitted to the selection board. The Chief of Staff noted his satisfaction with Brigadier General "XYZ's" performance and his agreement with the placement of Brigadier General "XYZ" on the Vice Chief's priority list.

The next day, the board president advised the board of his concern that there was an "anomaly or disconnect" in the scoring. He also advised the board that "the Chief agreed with the Vice Chief's placement of BG XYZ on the priority list and that the Chief was satisfied with the duty performance of BG XYZ." The board decided to rescore Brigadier General "XYZ's" record, and the result of the rescoring placed him in the top 32 officers selected for promotion. According to the Air Force report, two of the members of the board, who had not been present during the entire discussion of the rescoring process, "believed that the rescoring of BG XYZ was very unusual and that there was actual or implied pressure to select BG XYZ." The Air Force report added that another member of the board "suggested that 'influence' may have caused the board to rescore, but that no one directed the board to select BG XYZ." Other members of the board did not have a clear recollection of the matter. As noted in the Air Force report, "the circumstances under which this rescoring was accomplished must be viewed as a violation of paragraph G2 of DOD Directive 1320.12, because of the communication between the Chief of Staff and the board president."

This incident underscores the inherent unfairness of communications to the board by the senior leadership during the deliberative process. The selection board was limited to recommending 32 officers for promotion. In the scoring that took place before the conversation between the Chief of Staff and the board President, Brigadier General "XYZ" did not score among the top 32 eligibles. After the conversation, he was included—thereby displacing another officer who did not have the benefit of a discussion between the board President and the Chief of Staff. The issue is not whether the Chief of Staff "directed" the board to select Brigadier General "XYZ"; rather, it is the failure of the Air Force to conduct its selection board proceedings, as required by law, in a manner that insulated board members from any communication that could be viewed by board members as influencing them towards a particular selection.

This incident illustrates the manner in which the failure of the Air Force to implement the DoD Directive left the Service vulnerable to improper conduct.

The OSD review found that the Deputy Chief of Staff for Personnel, although not serving as a selection board member or on the administrative support staff, was afforded access to promotion board proceedings. According to the OSD review: "This created the opportunity for violation of the rules governing communications insofar as this officer could be perceived as informally expressing the views of the Service Secretary, Chief or Staff, or other superior authority." The OSD review also noted that "such access may be in conflict with [10 U.S.C. 618(f)] which provides that the proceedings of a selection board may not be disclosed to any person not a member of the board." To the extent that the Deputy Chief of Staff for Personnel was involved in communications beyond routine administrative assistance to the board, such activities were in violation of the regulations and the statute.

A March 6, 1991 Air Force memorandum, included as an enclosure to the OSD review, notes that the Deputy Chief of Staff for Personnel "did, on occasion, discuss eligible officers with a board president or member." According to the March 6 memorandum, "on occasion a board member would ask if the Chief or other senior officials felt strongly about a candidate who had been highly rated. If the question was asked, he answered it."

The OSD review provides further details: "The Air Force informs us that prior to the convening of a promotion board, neither the CSAF [Chief of Staff of the Air Force] nor other senior officials conveyed their views about individual officers to [the Deputy Chief of Staff for Personnel]. In the course of working general officer assignments and related personnel matters with the senior staff, [the Deputy Chief of Staff for Personnel] became aware of how the senior staff regarded some officers. *If asked for comment, [the Deputy Chief of Staff for Personnel] provided his assessment of how the officer was viewed by the CSAF or another senior officer.* If he did not know enough to form an opinion, he declined to offer one." (emphasis added).

The March 6 Air Force memorandum observes that on one occasion, the Deputy Chief of Staff for Personnel "spoke to a full board from his own personal knowledge about an officer he believed had an integrity problem. He believed he had a personal responsibility to inform the board that the officer under consideration had lied to him and therefore lacked integrity." The OSD review notes that although the Deputy Chief of Staff for Personnel had advised the officer's supervisor of his concern, he had taken no action before or after the selection board to document this concern in an official record that would be properly before a selection board. The DoD letter also notes that the particular officer was not selected for promotion. The officer was not aware of, nor did he have an opportunity to rebut, this adverse information.

An additional difficulty is presented by the role of the Deputy Chief of Staff for Personnel in the "scoring" process. A statutory selection board determines which officers are selected through the assignment by board members of numerical scores to each eligible officer. Those who score highest, up to the number of eligibles the board is authorized to recommend, are selected. In the Air Force, the Deputy Chief of Staff for Personnel assisted the board in the conduct of "trial scores". The purpose was to promote discussion about the attributes that would make an officer worthy of selection. The "trial" scoring involved use of selected records of eligible officers, not hypothetical candidates. The discussion that followed involved consideration of the merits of an officer's records. The participation of the Deputy Chief of Staff for Personnel in these discussions constituted improper communication of the views of a senior officer about a particular eligible candidate in violation of DoD Directive 1320.12.

According to the March 6, 1991 Air Force memorandum, the Deputy Chief of Staff for Personnel "had full access to all boards, and considered it part of his role as DCS/Personnel to be there." The memorandum notes that earlier in his career, as a board member, he had observed previous Deputy Chiefs of Staff for Personnel "in the [selection] board room" and believed that "this was expected of the DCS/Personnel as part of his job, and indeed, that it would have been noted and questioned by board members if he were not present for a board."

The OSD review did not address the issue of whether it was appropriate for the Deputy Chief of Staff for Personnel to personally provide administrative support to selection boards. Because he was viewed by other members of the board as a representative of the senior leadership, he should not have been placed in that position. Even if it had been proper for him to provide administrative support to the boards, it was essential that he perform such tasks in a manner consistent with applicable law and regulations. In communicating unfavorable information to the board about a specific officer, he acted contrary to the position of trust which had provided him with access to the board's deliberations.

5. Improper communications by board members during board proceedings

The March 6, 1991 Air Force memorandum, summarizing information provided by the Deputy Chief of Staff for Personnel, noted that "[b]oard presidents from time to time have contacted officials outside the board structure concerning an eligible officer." In one case, "a board president called a CINC to clarify the ranking of an eligible officer on the CINC's PL [priority list]." In another instance, "contact was made with a commander to ascertain the meaning of remarks on a closed form" (i.e., the evaluation form that was not provided to the eligible officer).

The OSD review notes:

> [T]he Air Force conducted general officer boards in a manner that afforded the board members—who were all general officers—a significant degree of autonomy. Although the board recorders and support personnel limited access to the boardroom area and attempted to monitor the use of the telephones in the board room area, the board members had the opportunity to initiate and receive communications about any subject including eligible officers.

In the absence of a regulation limiting communications, there was no express limitation on the manner in which board members, exercising their "autonomy," could communicate with outside officials during board deliberations. This created the opportunity for violations of the prohibitions against such communications.

6. Improper increase in the number of officers authorized to be selected for promotion

DoD Directive 1320.12 provides that after a board is convened, the Service Secretary may not increase the number of officers authorized to be selected without the written approval of the Secretary of Defense. The purpose of this provision is to prevent a recurrence of the action taken with respect to the 1987 Marine Corps major general board, when the number of authorized selections was increased, after the board had made its initial decisions, to facilitate the selection of a candidate who was not initially selected by the board.

The OSD review determined that in 1988, after a board convened, the Secretary of the Air Force authorized an increase in the number of selections without the approval of the Secretary of Defense. According to the March 6, 1991 Air Force memorandum, this occurred when the Secretary and Chief of Staff were briefed on the results of a board, before the board adjourned, by the President of the board and the Deputy Chief of Staff for Personnel. The briefing took place before the board itself was informed of the order of merit that resulted from the scores they gave the candidates. During the briefing, the leadership was informed that a particular officer was placed below the cutoff point during rescoring procedures used to break a tie for the last remaining position to be selected. The "cutoff point" is the position on the order of merit list that separates those officers selected for promotion (above the cutoff point) from those officers who are not selected (below the cutoff point).

After hearing the briefing, the Chief of Staff suggested, and the Secretary agreed, to increase the number of eligible selections in order to include the officer who otherwise would not have been selected. According to the Air Force memorandum, the Deputy Chief of Staff for Personnel was not aware that such an action was impermissible without approval by the Secretary of Defense, and no one on his staff raised an objection. Although this was in clear violation of the changes in DoD Directive 1320.12 issued in 1987 to prevent manipulation of selection board results by the leadership, the change was approved by the Air Force leadership and the officer was selected and promoted.

7. Manipulation of the scoring process

The Air Force general officer promotion process used a scoring system to rank in order the candidates under consideration. When there was not a clear break point at the selection cut off line (i.e., between those who would be selected and those who would not be selected), the Air Force used a procedure involving repetitive rescoring of those in the group just above and below the cut off line. The OSD review documented the manner in which this process could be manipulated to favor a particular officer. As noted above in the context of improper discussions between the leadership and board members, there was one incident in which a particular officer was scored below the group eligible for additional scoring. In that instance, the board President "expanded" the size of the group eligible for additional scoring, which resulted in an additional opportunity for that officer to be considered. That officer, who would not have been selected had the normal scoring process been followed, received a score upon rescoring that improved his position relative to other eligible officers, resulting in his selection.

The improvement in that officer's relative position upon rescoring necessarily resulted in a lowering of another officer's relative position. Since the board was given a fixed number of selections, manipulation of the scoring process not only resulted in the selection of an officer who would not have been selected under normal procedures, it also resulted in the nonselection of an officer who would have been selected had regular procedures been followed.

Such manipulated rescoring undermines the integrity of the promotion process because it provides discretion for the board's results to be altered to the advantage of a particular officer not initially selected and to the disadvantage of an officer initially selected. The Air Force has subsequently eliminated any rescoring that is not needed to break a tie at the cutoff point.

8. Selection of field grade officers

The OSD review did not find similar systemic problems with respect to selection for grades 0-6 and below:

> The review determined that the existence of governing regulations, the training and use of full-time recorders, and control of access to board areas made the field grade process less vulnerable to "ad hoc" action and inappropriate influences than was the case in general officer promotion boards.

The Committee notes that none of the information provided by OSD or the Air Force documents any incidents of inappropriate communications to a field grade selection board. The Committee also notes, however, that the OSD review was designed to identify systemic problems and involved the interview of only a handful of board members and support personnel. As a result, it did not serve as a comprehensive review of selection boards that have met since the 1987 amendments were issued to DoD Directive 1320.12. The continuing failure of the Air Force to implement the prohibitions on communications in its field grade regulation means that the Air Force continues to be unnecessarily vulnerable to violations in individual cases.

9. Failure of the Air Force to undertake timely review and corrective action

In response to the Committee's questions in the summer of 1990 about a secific selection board, the Air Force noted on August 3, 1990 that adverse information concerning two officers was provided to the President of the board but not to the other members of the board. The response, however, did not reflect that this procedure was in violation of the requirement in DoD Directive 1320.12 to provide such information to all board members. Instead, the response implied that the Secretary acted under statutory authority:

> Under Section 615(a) of Title 10 [of] the United States Code[,] the Secretaries of the Military Departments are responsible for determining the information to be provided to promotion selection boards and for establishing the procedures by which the boards are provided the information. This would include policies concerning information on providing potentially adverse information to selection boards about individuals considered for promotion.

This response fails to take into account the Air Force's own 1987 review of DoD Directive 1320.12, which concluded that the amended Directive established mandatory procedural requirements for the conduct of selection boards.

In response to the Committee's specific question as to the regulatory basis for providing a document to the board President that was not made available to each member of the board, the Air Force letter asserted that the Secretary had statutory authority for his action:

> In performing his statutory responsibilities under Section 615(a) of Title 10 the Secretary decided to show the material to the President of the Board and allow the President an input as to whether the information should or should not be provided to the members of the board.

This response fails to note that while the Secretary has general statutory authority to provide information to selection boards, he has no authority to disregard limitations established by his superior, the Secretary of Defense. Moreover, it is inconsistent with the Air Force's own 1987 review of the DoD Directive, which noted that it would be improper for the board President to screen adverse information for purposes of deciding what information should be provided to the board.

On February 7, 1990, the Air Force provided a report to the Secretary of Defense on matters related to the Air Force's selection board problems. The Air Force acknowledged that the Service had used a variety of unauthorized practices, such as nonregulatory preselection boards, briefings for the senior leadership before boards adjourned, improper access to the selection board by the Deputy Chief of Staff for Personnel while the board was in session, and submission to boards of priority lists from certain commanders. The Air Force acknowledged that these practices were inconsistent with the Defense Officer Personnel Management Act and the 1987 and 1989 amendments to DoD Directive 1320.12, but attempted to deflect criticism from the Air Force by stating:

> The Air Force, *like the other Services*, gave insufficient recognition to these changes and did not issue the implementing regulations required by DoD Directive 1320.12; until recently DoD took no steps to ensure that such regulations were issued. (emphasis added).

Subsequently, the Committee asked the Department of Defense whether the systemic deficiencies in the Air Force selection board system were present in the systems managed by any other Military Departemnts. DoD advised the Committee on June 19, 1991 that the OSD review had not encountered the problems exhibited by the Air Force in any of the other Services, and that the review "did not find systemic deficiencies in the implementation of DoDD 1320.12 by the other Services.

An additional problem with the Air Force response is the implication that the Air Force problems were somehow excused because "DoD took no steps to ensure that such regulations were issued." The Department of Defense necessarily and properly operates on the premise that orders will be obeyed. While OSD always retains ultimate responsibility for the performace of the mission, and should institute appropriate organizations, it is inappropriate for a Military Department to imply that OSD is responsible for the Military Department's failings when the Military Department has been given clear instructions to implement an important adminstrative matter.

In material provided to the Secrtary of Defense on March 6, 1991, the Air Force provided the following description of the Air Force's reaction to the changes proposed in the 1987 amendments to DoD Directive 1320.12:

> [The Deputy Chief of Staff for Personnel] recalls that when DoD Directive 1320.12 was changed in 1987, he believed it was intended to correct problems that the Navy had experienced with its promotion boards, and he did not believe that any of those problems existed with Air Force boards. He did not believe that any Air Force Secretary or Chief of Staff had ever interfered with the selection process or that they ever would. He and his staff disagreed with the general officer provisions of DoDD 1320.12 circulated in May 1987 on the basis that there was no need for them. In the Air Force's view, the system had worked effectively and fairly for over twenty years.

This explanation, however, is incomplete. As noted in Part II of this report, the Air Force actively participated in the development of DoD Directive 1320.12, opposed inclusion of general officers, reviewed the Directive in detail after it was issued, and nonetheless failed to issue appropriate implementing regulations.

After the OSD review documented the numerous deficiencies in Air Force practice, the Air Force provided additional views to the Committee. In a letter dated April 9, 1991, the Air Force acknowledged the failure to issue implementing regulations, but provided the following explanation:

> The Air Force did not issue the required implementing regulations, relying in part on the erroneous assumption that an expanded 1987 Secretarial Memorandum of Instruction to the Board would be sufficient. The sensitive "close-hold" aura that had traditionally surrounded general officer matters seems to have allowed the incorrect view to develop that regulations spelling out procedures were unnecessary.

The implication is that the Air Force was in technical noncompliance by not issuing a regulation, but that there was coverage in the "expanded" Secretarial Memorandum of Instruction. This response was incomplete. The Secretarial Memorandum of Instruction referred to the provisions of the DoD Directive concerning the duties of the board President, the general requirement for board members to act without prejudice, and the responsibility to report misconduct; but it made no reference whatsoever to the central provisions of the 1987 amendments—the restrictions on communications to the board concerning particular officers.

As noted above, the Air Force—for more than three years—failed to implement the 1987 amendments to the DoD Directive designed to address the potential for abuses in the promotion selection process. It has still not issued an implementing instruction for field grade promotions. These failures were harmful to the Air Force in general and to the officers eligible for promotion in particular. Thousands of officers were improperly excluded from consideration by statutory selection boards through use of an unauthorized selection process. Other officers were unfairly disadvantaged because they were not included on unauthorized "priority lists" used to communicate the preferences of selected leaders to promotion boards. The process was particularly unfair to those officers who—unbeknownst to them—were the object of particular communications or victims of manipulation of the scoring process.

In a large organization, such as the Air Force, there will be occasional failures to properly implement laws and regulations. The test of an organization's effectiveness is its willingness to promptly recognize such failures, take corrective action, and ensure that there is a thorough assessment of accountability and responsibility for the failures. In this case, the Air Force compounded the deficiencies in the promotion process by the failure to take timely action when the problems were brought to the attention of the civilian leadership.

IV. SUMMARY OF FINDINGS

The DoD review identified systemic deficiencies in the Air Force selection process. These deficiencies included the following:

(1) Failure to issue implementing regulations required by applicable statutes and Department of Defense Directives to ensure the fair operation of the selection board process.

(2) Use of a preselection process that improperly excluded 90 percent or more of the eligible officers from consideration by statutory selection boards.

(3) Improper communication to selection boards of "priority lists" prepared by senior officers.

(4) Improper communications between the Air Force leadership and selection board members.

In addition, the DoD review identified specific instances in which the following deficiencies occurred:

(1) Improper communications by board members with outside personnel during board proceedings.

(2) Improper increase in the number of officers authorized to be selected for promotion.

(3) Manipulation of the scoring process used by selection boards to determine which officers would be recommended for promotion.

V. OBSERVATIONS

The integrity of the selection board process

The integrity and fairness of the selection board process traditionally have been major concerns of the Committee on Armed Services. The Committee has acted through legislation, review of nominations, and oversight to ensure that the procedures used for selection boards are fair to the officer corps and are designed and conducted to select the best qualified officers for promotion.

The relationship between the integrity of the selection process and the integrity of the officer corps was underscored during recent Committee hearings. General Gordon R. Sullivan, Chief of Staff of the Army, noted that:

> There is a direct link between the integrity of the selection board process and the integrity of our officer corps. The link lies in the confidence our officer corps has in the objectivity and professional ethic of the board. Our selections must be fair, impartial, and based upon demonstrated potential instead of subjective criteria, and they must be seen as such by our officer corps.

General Carl E. Mundy, Jr., Commandant of the Marine Corps, similarly observed that:

> Integrity is the basis for the special trust and confidence reposed in the officer corps. . . . Any breach of integrity in the selection process jeopardizes this special trust and confidence.

The Air Force process for selection of general officers

The Air Force used a promotion selection system that did not properly implement the statutory and regulatory standards procedures established to ensure the integrity of the promotion selection process.

The starting point was an unauthorized preselection process in which 90 percent or more of the eligible officers were improperly excluded from consideration by statutory selection boards. The preselection process employed an improper standard, precluded officers from competing against their counterparts on a Service-wide basis, failed to provide regulatory guidance incorporating the safeguards applicable to statutory boards, provided major comannders and other senior officials with the means to circumvent the process through use of priority lists, and operated without the knowledge of the officers under consideration.

The 10 percent who were considered by statutory boards were considered under procedures involving unauthorized use of "priority lists" to improperly communicate the choices of selected leaders to the statutory boards. The procedures were further tainted by incidents involving improper communications to the boards by the Air Force leadership, unauthorized increase in the number of officers selected for promotion, and manipulation of the scoring process.

The process provided the commanders of major commands and other selected officials with multiple opportunities to directly communicate their preferences about specific individuals to selection boards. Rather than relying on the official records and evaluations of eligible officers, the Air Force used a system in which a commander of a major command could convene an Initial Screening Board at the command level, circumvent the screening board process through submission of a priority list, and signal specific preferences to the statutory board by the relative placement of officers on a priority list. Within the board, preferences could be further communicated through discussion with the Deputy Chief of Staff for Personnel about the views of the senior leadership, direct communications from board members to persons outside the board, and personal discussions between the board President and the Air Force leadership. The system was further subject to compromise through the addition of names after the board had made its initial selections and through the use of "rescoring" to include officers who otherwise would not have been selected and to exclude officers who had been selected.

These problems were compounded by the failure of the Air Force to make these procedures known to eligible officers. Thus, officers who reasonably believed they were reviewed under a statutory process were, reviewed by a separate process known only to insiders.

Legislative action

In response to the problems identified as a result of the Committee's inquiries and the OSD review, the Committee initiated legislation to better ensure the integrity of the promotion selection process, which is set forth in section 504 of the National Defense Authorization Act for Fiscal Years 1992 and 1993. The legislation: (1) requires the Secretary of Defense to prescribe uniform regulations governing information furnished to selection boards; (2) provides that any communication to a selection board, including any member of the board, must be in writing, furnished to all board members, and made a part of the selection board's record; (3) ensures that the information provided to boards about an officer consits only of material from the officer's official military personnel file, information provided to the board by the officer concerned, or other substantiated, relevant information, identified and forwarded under uniform procedures established by the Secretary of Defense that could reasonably and materially affect the deliberations of the selection board; (4) ensures that eligible officers receive notice of and an opportunity to respond to the information about them that will be considered by the board; (5) restricts disclosure of the board's results to anyone outside the board until the members have completed and signed their final report; (6) prohibits improper influence on the board; (7) precludes use of a reselection process except under carefully limited procedures; and (8) provides eligible officers with notice of and an opportunity to respond to any information that is transmitted by a Service Secretary as part of a recommendation that an officer be removed from a selection board list.

Administration action

As a result of the review initiated by the Committee, the Air Force has issued a regulation governing general officer selection boards. The Air Force no longer uses a preselection process for promotion to brigadier general, and has eliminated the use of priority lists. It has also eliminated the "closed form" evaluation process, thereby ensuring that eligible officers have an opportunity to review and comment on information about them that will be provided to selection boards. Although more than four years have passed since Secretary Weinberger promised that regulations would be issued to implement the corrective actions he directed in the wake of the Marine Corps major general board investigation, the Air Force still has not amended its field grade regulation to implement DoD Directive 1320.12.

Additional changes will be required as a result of the reforms mandated by section 504 of the National Defense Authorization Act for Fiscal Years 1992 and 1993. In view of the failure of the Air Force to implement the changes directed by Secretary Weinberger in 1987, the staff recommends that the Committee request the Assistant Secretary of Defense (Force Management and Personnel) to carefully monitor implementation of this legislation. The staff also recommends that the Committee conduct appropriate oversight hearings to review the manner in which the legislation has been implemented.

TRIBUTE TO JAMES F. ORR III

Mr. COHEN. Mr. President, in these difficult economic times it gives me great pleasure to call to the Senate's attention a financial success story and the man responsible for it.

The story involves a Maine-based company called UNUM, the largest long-term disability insurer in the United States, and the man at its helm, James F. Orr II.

Under Orr's leadership as chairman and chief executive officer, UNUM also has become a major provider of specialty risk insurance as well as one of the top-rated firms in the nation for its progressive workplace environment. At a time when many businesses are cutting back, UNUM is looking to expand globally.

A veteran of 20 years in business and finance, Orr came to UNUM five years ago at a time when the company had just converted from a mutual to a stock corporation and had money to invest. Relying on his financial expertise, intellect and commitment, he cut costs, shrunk the employee base and turned the company into a lean and aggressive business.

The result has been good for UNUM and good for Maine. The company, based in Portland, employs 3,400 workers in the state and paid them more than $115 million in salaries last year, which has provided a big boost for the southern Maine economy.

The company had $185 million in net income last year, and the last economic report shows the firm increasing profits by 14 percent in the third quarter.

And all of this has been accomplished while providing a comfortable and friendly work environment. The company operates its own child care center, provides employees three months paid leave for childbirth, adoptions and eldercare and has a wellness center for employees, among other benefits.

UNUM under Jim Orr's leadership is a true success story and one that can serve as an example for many other companies.

More details about the exceptional UNUM story are included in an article that appeared in a recent issue of the Maine Times. I would ask that the article be reprinted in the CONGRESSIONAL RECORD so all my colleagues can learn about this fine Maine company.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Maine Times, Nov. 1, 1991]

JIM ORR WANTS UNUM TO CONQUER THE WORLD

(By Phyllis Austin)

James F. Orr III, chairman and chief executive officer of UNUM, is not singing the blues these days, despite the hard times of the insurance industry. Instead, he is crowing about the Maine-based company's hypergrowth and looking across both oceans to expand globally.

Orr, a former Wall Streeter, had to make tough cost-cutting and restructuring decisions five years ago to position UNUM for its surge to a $10.3 billion-in-assets corporation. Now, lean and aggressive UNUM is the largest long-term disability insurer in the U.S. and the United Kingdom and a major provider of specialty risk coverage, such as travel accident, life and other customized products. Plus, under Orr's leadership, the company has become one of the top rated in the nation for its progressive workplace environment.

Orr, 48, is celebrated in the business world for his accomplishments, but in Maine, where the company has been headquartered for 110 years, not many people know who he is. He's away from Maine traveling much of the time, and when he's home, Orr prefers privacy, not showmanship.

From day one, Orr and UNUM were an easy fit. At 43, he was top-line veteran of 20-years in the financial services industry and aspired to be chief executive of a company on the rise. UNUM, fresh from converting from a mutual to a stock corporation, was flush with $727 million of new investment capital and looking for a new CEO of his age and experience.

"Without question," Orr says, "the moon and stars were in the right relationship" for his and UNUM's successes. Orr believes the company "would have done well regardless [of who was CEO]," given the situation.

His reluctance to take credit for UNUM's prosperity comes from Orr's self-effacing view of himself as a team player, as someone in the right place at the right time. But by all accounts, Orr had the perfect skills for the high-pressured job—intellect, initiative, financial savvy, concentration and commitment. He had to use them to deftly cut costs, shrink the employee base and eliminate divisions draining UNUM in the mid-'80s.

The Wall Street Transcript, which has given Orr the Gold Award in the insurance industry for the last three years praises him as a "foresightful strategist [whose] incisive leadership has brought to UNUM a strong sense of purpose and direction."

With net income last year of $185 million, or $5.38 per share, UNUM earned a 15.2 percent return on equity (including $12.8 million from the resolution of special tax issues). The third quarter report issued last week showed UNUM continuing to defy the general economic malaise by increasing profits 14 percent.

UNUM spokesperson Anne Brenton say Orr expects, by year's end, to reach the 15 percent return goal he has set for the company, regardless of the business cycle. How can Orr shoot for the sky? Because UNUM's targeted market of professional and white-collar workers in small to mid-size companies is underpenetrated.

Only 20 million of the 30 million or so of those workers eligible for UNUM policies are covered so far. And with 24 percent of all premiums in the long-term disability business already in the fold, UNUM is besting the competition.

"As I've said before, we're in the business of what's between our ears," says Orr. "What we know, and how we put that knowledge to work, is the difference between UNUM and the competition. And that difference is, indeed, great," Just ask Cigna, Standard of Oregon, Paul Revere or Monarch, UNUM's major competitors, who are trying to keep up with the trend-setter.

Orr likes to point out that one of the reasons UNUM is doing so well is it didn't chase high yields or buy "junk bonds" indiscriminately in the '80s, as did other insurers now scrambling to survive. When UNUM saw problems developing in the commercial real estate market, Orr led the company to reduce its mortgage commitments.

Now, only 23 percent of UNUM's invested assets are in real estate, down from 41 percent in 1985, and only 3 percent are delinquent mortgages, below the industry average. High yield junk bonds comprise just 2 percent of UNUM's invested assets, with the largest in Time Warner Inc. the publishing/entertainment conglomerate.

As UNUM has prospered, so has Maine. Figures provided by the company report 1990 expenditures in Maine totaled $154,488,000. Of that, $115,500,000 was in salaries to UNUM's 3,400 workers here. Purchases, including real estate and utilities, amounted to $35 million; charitable donations, $1,020,000; and taxes, $2,968,000.

Financial analysts say southern Maine's economy would be devastated if UNUM pulled out for a more internationally central location. But Orr says Mainers shouldn't worry. UNUM's home office is in Portland for good, although there are about 100 field offices elsewhere.

Frankly, Orr says, UNUM's presence in Maine says nothing positive about the state's business climate. In fact, almost all of UNUM's business is done outside the state in major metropolitan areas of the country.

UNUM put down its roots here in 1981 because of a friendlier regulatory situation than in Boston, where the company started 30 years earlier. "I'd say Maine's a great place to be. We're very happy to be in Maine," says Orr. "But in the classic sense, the business climate is not great. That's not to say that business shouldn't locate here, he says, although business studies rank Maine "quite low on their list * * * there is the quality of life and other factors that play into the decision. From a recruiting perspective, Maine "is a tremendous advantage, because it is such an attractive place to live."

A $1 MILLION A YEAR PAYCHECK

Although the marriage of Jim Orr and UNUM has been relatively short, it's already hard to separate the two. Orr will talk about the company all day, but he doesn't like to focus on himself.

Since he constantly travels outside Maine and isn't a regular among Portland's social elite, Orr is something of an enigma, even to neighbors and the local business community. But bits and pieces of Orr's life are in the public domain.

Business Week reported last May that Orr earned $1,026,000 in salary and bonus in 1990—a 6 percent increase over the previous year and in the ballpark with the CEO's of Zerox, Gillette, CBS and Dow Jones.

Records at the Falmouth tax assessor's office value Orr's two-acre waterfront property and home in Falmouth at $900,000; he pays $14,311 in taxes.

He and his wife, Ann, and daughters Brook, a student at Bates College, and Sage, a student at Waynflete, belong to the exclusive Woodlands Country Club. They take mini-vacations from time to time in England and the Rockies.

While Orr says he likes the "high quality lifestyle" in Maine, he doesn't appear to have ostentatious habits that his wealth would support. He prefers skiing at Sunday River resort in Bethel to Vail or other posh Western ski towns and sails off Falmouth rather than in the Caribbean.

The times he attends social functions in Portland—at the art museum or symphony—he's there more for business than for personal reasons, according to one patron. He doesn't booze or schmooz or go to local restaurants. There's nothing he likes better than reading a hefty political biography at home.

Orr travels half of his work life outside Maine to meet with managers at other UNUM offices, talk with investment analysts, brokers and clients. He is often asked about the impact of work on his family life. "I spend a lot of very, very high quality time with my kids. You have to deal with the [work and separation]. And I think we're dealing with it very comfortably."

Orr's sleek and crisp inner sanctum is on the seventh floor of Two Portland Square, with a spacious view of Portland harbor. While company headquarters is no more luxurious than leading law offices in the city, the atmosphere is tangibly different. UNUM feels like a global home office, and in the lobby has the different world capital clocks typical of an international headquarters. There's an intensity in the air, heightened when Orr's "manager" ushers him from meeting to meeting—on time.

At 48, Orr is as attractive a CEO as they come, tall and fit-looking in his well-tailored suits, with penetrating blue eyes and salt-and-pepper hair. A furrow on his forehead, laugh lines and a dimple in his chin are beginning to add "character" to his handsome face that could grace the pages of Esquire or Vogue. He prefers his jacket off as he glides around the office and drinks pineapple juice for a mid-morning energy boost.

While he seems to be a smiling, easy-going CEO, Orr is clearly focused on accomplishing the maximum moment to moment. If he's not a textbook workaholic, he's close, putting in at least 11-12 hours a day, attending two or three night meetings a week and rarely spending a full weekend "off".

But he believes in civic responsibility and serves as a trustee at Bates College, Maine Medical Center and Peoples Heritage Financial Group. He's chairman of the Maine Coalition for Excellence in Education and a director of the New England Colleges Fund, Nashua Corp., Grumman and the American Council of Life Insurers.

How much of value does he really contribute, given his travel schedule? "Very little," says Orr. Explaining himself, Orr says the board is "really there as a back-stop to fire the CEO, to represent the shareholders' interests, to assess management and to [weigh] the reasonableness of the strategic plan. The board is not there to run the operation."

"If I'm on a board, I attend the meetings . . . [but] I really do it because it's one of the few ways I have to talk to people outside, get input and a broader perspective on business and the economy," Orr says. "I get a lot of very good information that helps me in my role in this company. Someone in my role has very few people to talk to. It's hard to really have an indepth discussion and get challenged on things, and you're forced to think about things differently. A board is a vehicle that really helps with that."

While being a CEO may be lonely at times, it's a job Orr always knew he wanted. Raised in Minneapolis, Orr's father was in the electronic business and traveled around the world, and his mother was a writer and housewife. He couldn't think of any specific events that shaped his life. But he was obviously influenced by his father's work and "academic" interests, he says.

Orr is a graduate of Villanova University in 1965, where he majored in science and was a track star. He received a master's degree in business administration from Boston University in 1970. He began his career with a major Boston bank and subsequently spent several years in the securities industry in New York and Boston. He was a principal in a Boston-based, privately held investment firm from 1969 to 1975.

Orr spent over 10 years with Connecticut Bank & Trust (CB&T) as executive vice-president and treasurer in Hartford. He was a well regarded, top line officer but didn't show exceptional managerial talent, according to one source who knew him at the time.

But Orr made "a great move to leave a ship [CB&T] that was the Titanic," says Portland financial analyst Gerard Cassidy of Tucker Anthony Inc. by the time Orr departed, CB&T had become part of the Bank of New England, which collapsed last January.

Just before Orr was hired by UNUM, then-chairman Colin Hampton made a radical move in transforming the company from a mutual owned by policyholders to a publicly traded firm. But Orr was the one tapped to make demutualization work, in the wake of declining earnings and stock.

ORR'S BLIND SPOT

Price competition and skyrocketing costs had caused UNUM to post $70 million in losses for the group medical sector over two years. Orr moved quickly to slash about $25 million a year in expenses by cutting costs, eliminating 200 jobs at headquarters, and lopping off the medical sector and other programs draining UNUM. He redirected more money into sales and marketing to strengthen the core product, long-term disability.

Also, Orr began buying back UNUM stock, which benefited shareholders. Since 1988, UNUM has purchased 33 percent of its outstanding shares. "Frankly, investing in ourselves was one of the most attractive things we could do," he says. "We're presented opportunities every day to spend money. But there are very few out there that meet our strategy standards." He denied it was a move to thwart a potential takeover.

Analyst Steve Hirshon of Maine Securities Inc. gives Orr credit for "keeping employee morale intact" during the restructuring period.

Orr began by linking employees' earnings with the company's goals and performance. In other words, they take home cash bonuses when the company meets the target for earnings per share, as well as less tangible goals, such as improvements in customer services. After UNUM exceeded its 1990 goals, workers received 9 to 14 percent of their salary as a bonus, depending on seniority.

With so much success, it's easy to wonder if Orr has ever stumbled at UNUM. It's hard to pinpoint, he says. "If you look back, it's my not understanding somebody or missing an assessment of an individual. It's very important to me to understand how somebody's wired up. I've made some real blunders on what makes somebody tick and as a result trying to fit them in the right way and put the pieces together correctly."

He admits to increasing trust in his intuition about people and the company, the older he gets. "Maybe because I'm a deductive thinker, I always pooh-poohed intuitive thinking. But I must say more and more I rely on a more intuitive feel for things. Then I think it's coming to some wisdom in life. You have a reservoir down there that sits there, and you don't have to see it, feel it and touch it. But it's there, and I can rely on it. I do more and more of that."

HIGH-TECH TALK

UNUM employees give Orr high marks for UNUM's responsive working environment.

To start with, he encourages workers to use the electronic message system to talk to him. They can use their own desk terminals or sound off anonymously from computers in the lobby.

UNUM operates its own child care center and gives employees three months paid leave for childbirth, for adopting a child and for eldercare. Employees are reimbursed for child care costs when they're traveling, and workers who have school-aged children are allowed seven-and-a-half hours off from work for school-related activities as well as three "personal days" during the year for doctors' appointments and other personal matters. UNUM also has a wellness center for employees to exercise, provides access for the handicapped and keeps employees educated about AIDS.

Working Mother magazine's October issue included UNUM in its list of 85 "family friendly" companies, and a year earlier, *Good Housekeeping* named UNUM among its 69 companies for working mothers.

Although Orr graciously credits his staff for coming up with most of the new ideas around the office, he's the one who ultimately approves their implementation. Orr's concern about workers is also revealed in his approval of continuous employee education and retraining (a $3 million a year program) and his involvement in educational reform. Orr serves on a national board studying educational restructuring, as well as on the Maine Coalition for Excellence in Education.

The malfunctioning educational system has hit home at UNUM because the company recruits 75 percent of its employees in Cumberland County. UNUM has found in recent years that many high school graduates lack basic skills in math and communications. "The point is we can train our people to work as customer service reps, underwriters or managers," he says. "But we cannot teach the basic academic, reasoning and social skills they need to function in our training program. No business can."

To boost school improvement efforts, UNUM has contributed $1.1 million to fund a University of Southern Maine effort to improve teaching the $440,000 for the non-profit Maine Aspirations Foundation to raise personal, career and academic goals of students. UNUM also has contributed $60,500 to the Portland Partnership, an effort initially funded by UNUM in 1989 to encourage parent and community involvement in the city's public schools. The donations, spread over five years, also include contributions of time and technical assistance from UNUM employees.

TOWARD A GLOBAL FUTURE

With everything going so well, does Jim Orr sleep soundly at night? Certainly not every night. Many businesses that UNUM targets (the 50 to 1,000-employee firms) are reassessing their health care spending. And UNUM must continue to convince these employers, suffering from the current recession, that long-term disability is worth the average 2 percent of their payroll.

One way UNUM keeps clients and beats the competition is to invest about $3 million a year in "benefits management," a nice way of saying it tries to uncover malingerers and help claimants get on Social Security, thus lowering UNUM's payout and the client's premiums. The effort includes investing in rehabilitation programs to shorten the "long term" of the disability coverage. To compete with UNUM's expertise, competitors have cut their policy prices. Allstate slashed its up to 15 percent to lure away some of UNUM's business but gave up.

UNUM's secret weapon is a huge database with 38,000 group clients and about five million individuals. The volume helps UNUM price its risks better than competitors.

No crystal ball is needed to predict UNUM's future. It's a favorite topic of Orr's and must make the competition squirm. In two words, UNUM is on an acquisitions hunt.

"We're going to be sitting here in 1998, the 150th anniversary year, and the insurance industry will look very, very different," he says. "There's no question there will be more and more international competition, and we've got to prepare this institution for that."

The company recently acquired National Employers Life, the leader in permanent health insurance in the U.K., with about 40 percent of the group market. UNUM's position in Canada was greatly enhanced last year when it bought the individual disability business of Constellation Life of Toronto.

Orr is looking across both oceans because the Swiss and Japanese spend more per capita on insurance than any other nation. And only 20 of the 50 largest insurance companies— and only four of the top 10—are headquartered in the U.S. Orr likes to note that the largest insurers—in terms of premiums, revenues and total surplus—are the Japanese. The insurer with the highest stock market value is German. Most important, Orr says, European and Asian insurers are growing at a much faster rate than those in the U.S.

"We'd like to have a leadership presence in the world's three major trading blocs—North America, Europe and the Pacific Rim—in time for our 150th anniversary as a company in 1998. We want to be a major international player in this industry. And I believe we're well on the way toward that goal."

G.E. MEDICAL SYSTEMS OF FLORENCE: LEADING THE WAY FOR AMERICAN INDUSTRY

Mr. HOLLINGS. Mr. President, one of the striking qualities of the American free-enterprise economy is its ability to renew itself in response to the challenge of recession and foreign competition. We in South Carolina take tremendous pride in being on the cutting edge of that innovation. Time and again, South Carolina industries have been recognized for excellence and innovation. To cite just two recent examples, Milliken & Co. won the prestigious Baldrige Award in 1989, and earlier this year Greenville Machinery Corp. of Greer won the Commerce Department's "E" Award for excellence in exporting.

Mr. President, the elite ranks of American industry were joined this month by General Electric Medical Systems of Florence, SC, which was awarded the 1991 PEPI Showcase Award by the Positive Employee Practices Institute. Each year, the institute surveys plants and divisions of Fortune 500 companies to identify the unit which has achieved the most dramatic results by motivating and empowering its workforce.

Since 1988, G.E. Medical Systems has operated with a self-managing work force in which employees set their own priorities, schedule their own work, track their own production goals, and take corrective action to ensure high-quality products. The result at G.E.'s Florence plant has been a 50-percent reduction in labor and material costs, plus sharp productivity gains in each of the last 3 years.

Mr. President, since the plant set its new course in 1988, G.E. Medical Systems has been an outstanding case study in successful employee self-management. Thanks to this PEPI Showcase Award, G.E.'s example will now be studied nationally and internationally. I salute all the men and women of G.E. Medical Systems in Florence. They have done South Carolina proud. And they are leading the way for American industry.

THE REAUTHORIZATION OF THE HIGHER EDUCATION ACT

Mr. DODD. Mr. President, I would like to take this opportunity to commend my colleagues on the Labor and Human Resources Committee, especially Senator PELL and Chairman KENNEDY, for their leadership and success in moving the reauthorization of the Higher Education Act through the committee process.

I, along with the other members of the committee, have spent the last few months working to reauthorize this historic legislation.

This is a strong bill that works to expand access to higher education to every person, regardless of family income, gender or ethnicity.

Access has become increasingly more difficult over the last decade, as the percent of Federal aid to students in the form of grants has dropped dramatically from 76 percent to 29 percent.

In 1980, the average Pell Grant covered 41 percent of tuition costs. Currently, Pell grants only cover, on average, 26 percent of tuition costs. This has forced the most needy students to supplement their grant awards.

Can the families hit hardest by these reductions be asked to sacrifice even more? Not in these extremely difficult economic times. It will be a travesty if families are forced to deny their children a college education.

In my home State of Connecticut, as well as throughout the rest of the country, many families are struggling as it is. Their income levels are too high to be eligible for Federal grants but too low to afford a college education.

Skyrocketing tuition costs and reductions in Federal aid have made higher education unaffordable for some and a tremendous burden for many, preventing some from achieving what they were raised and taught to strive for—the American dream.

The reauthorization of the Higher Education Act works to make the American dream a reality for lower and middle-income families.

It will expand Pell grant eligibility and grant levels to help more families—at a time when they need help the most.

It increases availability of loans to more middle-income families and increases the amount of loans.

It simplifies the student aid application process.

It improves program integrity to reduce levels of default.

It assures the financial stability of intermediaries in the student aid process.

It works to increase the supply and availability of teachers as we will be faced with huge shortages in the very near future.

It provides help to rebuild college and university facilities.

These sweeping proposals will represent a renewed and bolstered Federal commitment to improving access to educational opportunities.

Mr. President, while we will not have time to complete action on this measure this year, we cannot allow the day to come when colleges and universities are only accessible to the very rich and to the very poor. The future of this nation rests in our hands and we must respond and respond quickly.

ADM. DENNIS MATTHEW BROOKS

Mr. SHELBY. Mr. President, I rise today to express my thanks and to congratulate Rear Adm. Dennis M. Brooks who will be retiring on January 1, 1992, after 34 years of active duty with the U.S. Navy.

Admiral Brooks and I grew up together in Alabama. While I went on to the University of Alabama, Dennis received a much deserved appointment to the U.S. Naval Academy. He was commissioned an ensign in 1957 and was designated a naval aviator in February 1959. Admiral Brooks has served in six fighter squadrons, commanded Fighter Squadron 51 and Fighter Squadron 121 *and* accumulated over 4,500 hours and 990 carrier arrest landings in F-8 and F-4 fighter aircraft. Admiral Brooks' major sea commands include the U.S.S. *Kansas City* and the U.S.S. *Constellation*.

Following the command of the *Constellation*, Admiral Brooks assumed various commands in the Pacific including command of San Diego-based Carrier Group 7, Battle Group Bravo in the Indian Ocean and Carrier Group 5/Carrier Strike Force 7th Fleet/Battle Force 7th Fleet, Homeported in Subic Bay, Philippines. In September 1987, Admiral Brooks assumed command of all U.S. armed forces in the Persian Gulf region as commander, Joint Task Force Middle East. Admiral Brooks, then served as the director of Warfare Systems Architecture and Engineering at the Space and Naval Warfare Systems Command from September 1988 until he assumed his present position as director, Defense Support Project Office and deputy director for Operations, J-3 National Systems Support, the Joint Chiefs of Staff in August 1990.

Admiral Brooks has received numerous medals and awards during his 34 years of active duty. This impressive list includes the Defense Superior Service Medal, The Legion of Merit with three gold stars in lieu of a fourth award, the Navy Commendation Medal and the Joint Meritorious Unit Award in the Persian Gulf.

Admiral Brooks is married to the former Delores Katherine Gober, of Birmingham, AL. Lorrie and Dennis have three children. Son, Mark is a 1985 Graduate of the U.S. Naval Academy and a naval aviator. Their daughters, Amy and Allison attend the University of West Florida.

Mr. President, Adm. Dennis Brooks has given his entire adult life to the service of our country. He is about to take a well-deserved retirement. He and his wife Lorrie are returning to our home State of Alabama and will be residing in the Pell City area. His leadership, expertise and good counsel will be missed and is deserving of our Nation's gratitude for his efforts in our behalf.

TRIBUTE TO UNITED STATES DISTRICT JUDGE BERT HALTOM

Mr. HEFLIN. Mr. President, I rise today to pay tribute to a close personal friend and a truly outstanding individual, E.B. "Bert" Haltom, Jr., who is assuming senior status as a U.S. District Judge for the northern district of Alabama effective January 1, 1992.

Bert was appointed to his lifetime Federal judicial office by President Jimmy Carter, and became a member of the U.S. District Court for the Northern District of Alabama on June 6, 1980. His official duty station since September 6, 1981, has been in Huntsville, AL, an area known for complex cases due to its high technology industry and space-related activity. Upon taking senior status, Bert will move his office to Florence, AL, his hometown.

Prior to taking office as a Federal district judge, Bert engaged in the private practice of law in Florence for over 30 years. His extensive practice as an attorney covered almost all areas—personal injury, labor law, civil rights, probate, banking, domestic relations, and so on. In the past, I tried cases with him and against him. He represented many indigent defendants as appointed counsel and demonstrated commitment to equal justice. He was one of the finest trial lawyers that Alabama has produced during my lifetime. His trial ability was honored by his selection to the fellowship of the American College of Trial Lawyers of the International Society of Barristers.

In 1948 Bert graduated from the University of Alabama School of Law, where we were classmates. He served 8 years as a member of the Alabama Legislature, including one 4-year term in the House of Representatives and another 4-year term in the Alabama Senate. He also served in World War II in the U.S. Air Force, Flying 35 combat missions in the European theater of operations as a ball turret gunner on a B-24 bomber.

Bert is a member of the American and Alabama Bar Associations. His service as a U.S. district judge was superb—he served on many committees and associations of Federal judges, and was recognized as one of the outstanding jurists of the Federal bench. He is married to the former Constance Boyd Morris and has one daughter and two grandchildren.

Judge Bert Haltom's outstanding legal abilities are only matched by a warm, friendly, compassionate personality. I salute him for his past service, and I wish him well in the coming years.

TRIBUTE TO RUTH OSBORNE

Mr. HEFLIN. Mr. President, Ruth Osborne will be retiring November 30 after 30 years as the chief clerk in the Franklin County, Alabama, probate judge's office. She has spent these many years running the office and cheerfully greeting people as they passed by her desk.

During her tenure in the probate office, Ruth Osborne has served with four judges: W.W. Weatherford, Jimmy Byars, Hal Kirby, and, most recently, Larry Jackson. She was hired by Judge Weatherford in 1961, and probably has met everyone in Franklin County on at least one occasion during her career.

What made her service so special was her ability to truly do it all. Her daily duties ranged from handling probate records to assisting in weddings. She dealt with virtually every conceivable situation, and always knew how to handle any problem or circumstance that arose. Ruth contributed a lot to Franklin County and its people, and meant a great deal to the probate office.

Although Ruth will be sorely missed by her coworkers and those who frequent the probate office, she is understandably looking forward to her well-deserved retirement. Mother of four and grandmother of nine, she is very active in several civic organizations, so she will have plenty to fill her time. She also plans to travel and work with different groups in her area.

Mr. President, I wish to congratulate Ruth on a long and distinguished career and extend to her my best for a happy and healthy retirement. I will share a word of caution, though: during any visits to the old office, don't let your former colleagues put you to work.

HUMAN RIGHTS AND SELF-DETERMINATION FOR KOSOVA

Mr. PRESSLER. Mr. President, while most of Serbia's tanks and troops have been ravaging lives and democracy in Croatia, other tanks and troops have been sent to wage war against the Albanian people of Kosova.

Serbian-controlled Federal troops have amassed a large arsenal of weapons to crack down on the people of Kosova. All universities have been closed by the authorities. The authorities have forbidden the use of the Albanian language. Military rule essentially dominates Kosova. Within the last few days alone, six Albanians have been killed. Many other Albanians have been forced to flee from their homes. In all, between 15 percent and 18 percent of the population has fled Kosova.

Most of those fleeing Kosova are young men under the age of 40, who are leaving to escape forced conscription into the Yugoslav Federal Army. Many Albanians in the Yugoslav army have defected. While many have escaped, others are presently being held hostage by the Federal authorities.

Mr. President, the right of these men to refuse to serve in the very army that is being used to kill innocent civilians in Croatia should be protected. Indeed, such protections are recognized under international law. According to the Geneva Convention of 1951, no one can be forced to serve in the ranks of an occupation army. Few can deny that the Yugoslav Army is a brutal occupying force in Kosova.

Hundreds of thousands of Yugoslavian refugees are now seeking political asylum in Europe—most in Switzerland and Hungary. Their plight demands a humanitarian solution. To turn them back would be an assignment to death. These refugees should be granted political asylum or some other temporary humanitarian status. Under no circumstances should they be deported.

Mr. President, I am horrified at the daily massacre of innocent civilians by Federal troops loyal to Serbia's Communist dictator—Slobodan Milosevic. Despite 14 cease-fire attempts by the

European Community and now the United Nations, the war wages on.

As an original cosponsor of a comprehensive sanctions bill, S. 1793, against the Serbian Government, it is obvious to me that the Serbian Government will not listen to diplomatic pleas. The recent step to initiate sanctions against Yugoslavia is not enough. These sanctions are not directed against the people of Serbia. They are aimed at their oppressors.

Mr. President, I am also an original cosponsor of a resolution with Senator D'AMATO expressing the sense of the Senate regarding recognition of, and establishment of diplomatic relations with Croatia, Slovenia, Bosnia-Hercegovina, Kosova, and Macedonia.

In a democratic referendum on September 26, 1991, the vast majority of the citizens of Kosova approved independence. This step was not a hasty one. The Government of Kosova has attempted for the last 2 years to reason with the Federal Government. In response, the Federal Government has stripped Kosova of its status as an independent republic.

Mr. President, I urge a world-wide humanitarian response to Kosova's plight. Serbia's war must stop before the current reign of terror claims any more lives.

SUPPORT FOR THE PEOPLE OF ARMENIA

Mr. PRESSLER. Mr. President, today I rise to express my concern over the situation in Soviet-occupied Armenia. The people of Armenia have embraced democracy and voted freely for a President. Yet today, perhaps because of their moves toward representative government, they are subject to repeated attacks by their neighbors—the Azerbaijanis.

Today, armed groups of Azeri militia sealed off Armenian-inhabited Nagorno-Karabakh and began shelling its capitol, Stepanankert. This unprovoked use of force follows a comprehensive blockade of gas to Armenia which began on November 4. The cutoff of gas supplies comes in the midst of winter. Shortages of many essential goods are rampant. Unfortunately, all major roads and the railroad pass through Azerbaijan before reaching Armenia—one of the many nightmares of Soviet central planning and distribution.

The current blockade is not the first time that the Azerbaijani Government has used its geographically favorable position against the Armenian people. Blockades of Armenia have been instituted before—before and even following the tragic earthquake in Armenia 2 years ago.

Mr. President, the government of Azerbijan is attempting to intimidate the Armenian people into ending its support of self-determination for the Armenians in Nagoro-Karabakh. Due to crackdowns by the Azerbaijan authorities, 300,000 Armenian refugees have been forced to flee for their lives. This has created a tragic human rights situation and has left many people homeless.

The situation between Armenia and Azerbaijan is often misrepresented as an ethnic dispute on a level playing field. This is just not true. The Azerbaijanis have been aided intermittently by the Soviet military. Specifically, the Soviet military and the Azeri militia have taken joint military actions to depopulate Armenian villages in Nagorno-Karabakh. In many instances, Soviet forces have stood by and watched while Azeri militia have attacked innocent civilians. The cause of peace in this area of the world would be greatly aided by the withdrawal of all Soviet and Azerbaijani military forces from Nagorno-Karabakh.

We cannot stand by silently and watch the starvation and brutalization of the Armenian people. The United States has a moral imperative to speak out against Azerbaijan's cruel blockade and other bullying tactics.

I support the conditioning of any technical assistance and/or food aid to Azerbaijan upon the immediate cessation of its economic blockade of Armenia, the end of violence in Nagorno-Karabakh, and Azerbaijani respect for self-determination for all Armenians.

In addition, I urge the President to use his good offices to urge the Azerbaijan Government to lift immediately the blockading of railroads into Armenia and end the shelling of Nagorno-Karabakh.

Mr. President, I yield the floor.

INTERNATIONAL MONETARY FUND REPORT

Mr. BROWN. Mr. President, I want to take a moment to bring to my colleagues' attention the upcoming release of a report on the International Monetary Fund, or IMF. The report's release takes on a special significance when you remember that Congress has yet to approve the administration's request for a $12 billion increase in the IMF's quota.

I am told by the Alexis de Tocqueville Institution, which sponsored the report, that it was conducted in a bipartisan manner to uncover the facts surrounding the IMF and their loan policies. Mr. Greg Fossedal, the institute's chairman, charged Joe Cobb, a noted economic analyst, to lead the analysis with the help of other noted economists on this tough project. We've needed a thorough, factual, outside look at the IMF for a long time. This report should be a start in that direction.

Treasury's report released in May of this year is filled with rhetoric, but provides little hard documentation on what the IMF's current assets are used for, whether IMF policies are successful or not, and how IMF programs are structured. For those of us here in the Congress who are being asked to increase the fund's capitalization for the second time in a decade by billions of dollars, rhetorical assurances should not be enough. We need cold, hard facts.

I am told the de Tocqueville Institute's several-hundred-page report will give us a good start at some of those facts. It will look at the detailed implications of IMF policies for countries receiving IMF loans. Specifically, the report attempts to look at exactly how IMF programs are structured and what is included in conditional IMF loan packages for borrowing countries.

I am certain this project was very difficult, especially getting specific data on the IMF from our Government or directly from the IMF. Frankly, Mr. President, when we're talking about $12 billion of U.S. taxpayer money, our citizens have the right to know exactly what's being done with our money. Getting clear information from our Treasury Department on IMF programs—the numbers for the conditional deals behind the rhetoric—should be easy, not nearly impossible.

The de Tocqueville Institute's preliminary estimates uncovered interesting facts. Between 1985 and 1988, 47 IMF-sponsored arrangements involving monetary policy were studied. Nine involved fixed exchange rates, 6 involved adjustable pegs, 10 provided for a real-exchange rate rule and 22 of them were a complete float. However, the institute's study has uncovered a greater willingness on the part of the IMF since 1989 to experiment with fixed currency rates as a means of ensuring a stable economy. Especially important are results from Argentina's attempt to link their currency directly to the dollar. In the last 6 months, with the two currencies linked, Argentina's inflation has remained below 4 percent and economic growth continues above 3 percent of real GNP without wild fluctuations characteristic of the Argentine economy only a short time ago.

I am told the report also looks at IMF claims about the importance of privitization. The fund has placed an increasing rhetorical emphasis on privitization, but preliminary analysis shows the Fund has actually given much less emphasis to it than to other areas—budget balancing, for instance. To assist a nation in improving its tax collection, the IMF has sent in dozens of tax specialists, but has nothing similar for privitization.

Mr. President, during the coming break, I hope my colleagues, their staffs, and the news media will take time to read the de Tocqueville Institution's report on the International Monetary Fund—especially before we vote to spend $12 billion to increase our investment in the IMF.

I thank my colleagues for their attention.

AUTOMATED TELEPHONE CONSUMER PROTECTION ACT

Mr. PRESSLER. Mr. President, I support Senate passage of S. 1462. This legislation is the result of a House and Senate conference on comprehensive telemarketing legislation. It incorporates legislation Congressman MARKEY introduced in the House of Representatives and I introduced earlier this year in the Senate, and legislation introduced by Senator HOLLINGS. S. 1462 contains the provisions I first suggested in S. 1410, which passed the Senate earlier this year. I introduced this legislation in response to the national outcry over the explosion of unsolicited telephone advertising. I want to thank Chairman HOLLINGS and Chairman MARKEY for their efforts both to forge an agreement on our three bills.

Mr. President, consumers in my home State of South Dakota are fed up with the annoyance of unwanted telephone solicitations. Unlike other communications media, the telephone commands our instant attention. Junk mail can be thrown away. Television commercials can be turned off. The telephone demands to be answered.

People are increasingly upset over this invasion of their privacy by unrestricted telemarketing. In fact, the consumer backlash that has arisen from the cost and the interference of unsolicited telemarketing calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. The complaints of consumers have been heard.

This past June, we held hearings in the Commerce, Science, and Transportation Committee on S. 1410. During these hearings, we received testimony from consumer advocates, private citizens, and representatives of the telemarketing industry. The testimony we received was clear. The Federal Government needs to act now on uniform legislation to protect consumers.

The primary purpose of this legislation is to develop the necessary ground rules for cost-effective protection of consumers from unwanted telephone solicitations. These rules should allow responsible telemarketers to reach consumers who are most responsive to this form of solicitation, while eliminating the cost and time of contacting those individuals who would be least responsive.

To accomplish this balanced approach, the substitute we have before us today directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider is the use of a telephone electronic database that would allow consumers to have their phone numbers protected from unsolicited advertising. This type of consumer protection has already been used with great success in the State of Florida. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange.

Some objected to the original legislation because of the extent to which it outlined the safeguards necessary for the creation of a national database. While I personally believe that an electronic database will give the most promising protection for consumers, we recognize that newer technologies could be used more effectively in the future. It is important to note that certain anti-competitive questions may arise as a result of the form of protection the FCC chooses. For this reason, it is important for the FCC to keep a close watch on the impact of its rulemaking on businesses that compete with larger monopolies.

We included in this substitute a provision that directs the FCC to examine whether local telephone solicitations by small businesses and second class mail permit holders should be subject to the same FCC regulations that would apply to all other telemarketers. Many small businesses conduct responsible telemarketing in the local areas they serve. Since their business depends upon their good standing in the community, they conduct their own telemarketing in a very respectable way.

We include in this bill an exemption for businesses that have an established business relationship with their customers. For example, if Citibank's credit card operation needed to inform customers about new services it intended to provide to their credit card customer, clearly this contact would be allowed.

The effect of this legislation will be to prohibit "cold calls" by any telemarketer to the telephone of a consumer who has no connection or affiliation with that business and who affirmatively has taken action to prevent such calls. Many responsible telemarketers have told me that this will save them both time and money by reaching only those people who are most likely to respond positively to their solicitations.

S. 1462 also addresses problems arising from computerized calls. Due to advances in auto-dialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers.

This results in calls to hospitals, emergency care providers, unlisted numbers, and paging and cellular equipment. There have been many instances of auto-dial machines hitting hospital switchboards and sequentially delivering a recorded message to all telephone lines. In some cases, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phones inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, the substitute requires auto-dialer machines to release the phone line automatically after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number or address of the person or business initiating the call.

This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising—the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. The substitute bill requires that autodial fax machines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

While our substitute will not end all unsolicited calls, it will give back to consumers the freedom to choose how their telephones are used. The balanced approach we take in the Pressler-Markey-Hollings legislation, will finally give consumers relief from modern door-to-door salesmen who now have the unrestricted ability to invade the privacy of our homes at any time.

Mr. President, I ask unanimous consent that several articles in support of this legislation be placed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Nov. 22, 1991]

PUTTING LIMITS ON AUTODIALERS

Ever had a pleasant dinner interrupted by a telephone call, only to hear a tape-recorded voice greet you with an offer of something to buy? Then you may think there is nothing but good in congressional efforts to put a stop to such annoyances.

That reaction is perfectly understandable but not entirely wise. Autodialers may not be to everyone's liking, but they have value to some buyers and sellers—otherwise, they would vanish on their own. Fortunately, there are ways to deal with the aggravations and abuses without barring the machines altogether.

Autodialers have grown in use because, as a New York Times story put it, "they don't eat, they don't sleep and their feelings never get hurt when people curse them or hang up on them. They just call and call and call—each one up to 1,500 times a day."

By one estimate, these gadgets make 20 million calls a day in the United States, flogging a wide variety of goods and services. Most consumers, no doubt, hang up within seconds, if not milliseconds, but enough stay on the line to listen—and buy—that many companies wouldn't think of doing business without them.

They create problems beyond the interrupted meal. They can tie up phone lines, even after victims hang up, overwhelm electronic paging services and inflict unwanted expenses on cellular phone owners, who pay for incoming as well as outgoing calls.

The Senate recently passed two measures dealing with autodialers—one good and one bad. The good one, sponsored by Larry Pressler (R–S.D.), directs the Federal Communications Commission to either let consumers shield themselves by registering their numbers or to put the autodialers all on one exchange, enabling consumers to block their calls. The bad one, offered by Ernest Hollings (D–S.C.), bans autodialers from calling either fax machines or homes.

Hollings' blunderbuss approach would not only penalize businesses and consumers that benefit from autodialers, but probably run afoul of the Constitution as well. The 1st Amendment protects the freedom to speak—even by phone and even by recording. If Congress can't outlaw indecent messages provided by "phone sex" services—as the Supreme Court has ruled—it presumably has to be careful with broad prohibitions on the delivery of messages by autodialer.

A better approach is to zero in on clear abuses. A House bill would ban calls to emergency lines of health care facilities, police and fire departments. It would put pagers and cellular phones off limits. And autodialers would be required to disconnect after the person called hangs up—something not all do now.

Lawmakers should keep in mind that while recorded solicitations may be annoying to most consumers, they perform a valued function for some. It isn't too much to ask that Congress, in trying to protect the former, should also accommodate the interests of the latter.

[From the New York Times, Nov. 8, 1991]

SENATE VOTES DIALER BAN

WASHINGTON, Nov. 7.—The Senate unanimously approved bills today that would virtually ban the use of automated dialing machines in telephone marketing and would make it easier to block unwanted calls by live sales representatives.

The first measure, sponsored by Senator Ernest F. Hollings, Democrat of South Carolina, would make it illegal to use machines that automatically call homes and play recorded sales pitches, unless a person has given specific written or spoken permission.

A second measure, sponsored by Senator Larry Pressler, Republican of South Dakota, would instruct the Federal Communications Commission to adopt rules to help people block both live- and computer-delivered sales calls.

[From the Washington Post, Nov. 19, 1991]

HOUSE VOTES TO RESTRICT CALLS BY TELEMARKETERS

(By Cindy Skrzycki)

The House of Representatives yesterday passed legislation to restrict telemarketers who dial some 38 million Americans every day with unsolicited commercial telephone calls, selling credit cards, aluminum siding, children's photographs and uncounted other products.

The bill, which passed by a voice vote, has to be reconciled with two initiatives approved by the Senate that also take aim parimarily at auto-dialers, which are computers that spew prerecorded messages. Differences in the bills should be ironed out by the end of the week, said a staff member on the House telecommunications and finance subcommittee.

Once a compromise reaches the White House, however, its fate is less certain. The Bush administration has raised objectoins to taking away or regulating one of business's most potent and economical marketing tools.

Nevertheless, the issue of blocking unsolicited sales calls generated by humans, computerized machines or facsimile machines isn't likely to go away as millions of Amercians find their dinner hours interrupted by telephone sales calls, sometimes from machines that refuse to free the line.

"When people get home from work, they deserve some peace and quiet," said Rep. Edward J. Markey (D-Mass.), sponsor of the House bill and chairman of the subcommittee on telecommunications and finance.

The House bill attempts to balance the privacy rights of individuals against the rights of businesses that may be using telemarketing not to solicit but to reach customers to warn of an electrical power test or a delinquent loan.

The Senate bill, sponsored by Sen. Ernest Hollings (D-S.C.), proposes to ban all computerized calls to the home unless the party consents to receiving them. In contrast, Markey's bill would charge the Federal Communications Commission with coming up with a way to protect consumers from commerical solicitations.

The House bill does allow businesses with established relationships to call even if a name shows up on an industry "do-not-call list." Contact would stop if the consumer objected again to being called.

The House bill prescribes additional restrictions for auto-dialers: The machines would have to identify themselves and hang up as soon as possible. They would not be allowed to call emergency phone lines, or mobile or cellular phones.

Also, the House bill requires faxes used for advertising to include the identity and telephone number of the faxer. It also asks the FCC to consider banning "junk faxes."

The Hollings bill places an outright ban on unsolicited faxes unless there has been some prior consent from the consumer.

Under the Markey bill, the FCC would have about a year to explore the best way to protect the privacy of residential telephone subscribers, an approach that is also suggested by Sen. Larry Pressler (R-S.D.) in a bill that passed the Senate earlier this month.

Some of the alternatives the FCC might consider include a national electronic database of people who do not want to be called, the use of new telephone technology to block such calls, or special markings such as an asterisk in the telephone book.

Studies done by telephone companies and other organizations show that automated telemarketing, which has grown into an industry that generates $435 billion in sales, is a growing irritant to Americans who feel the telephone is invading their privacy.

[From the Baltimore Sun, Nov. 19, 1991]

SENATE, HOUSE HANG UP ON TELEPHONE SOLICITORS; BOTH HOUSES PASSED SIMILAR LEGISLATION

(By David Hess)

WASHINGTON.—If you're being annoyed by telephone sales pitches from total strangers—or even worse, a computer—help may be on the way.

The House voted without dissent yesterday to short-circuit those nuisance phone solicitations. The Senate already has acted, and minor differences in the two bills are expected to be resolved quickly.

"The aim is not to eliminate the Brave New World of telemarketing," said Representative Edward J. Markey, D-Mass., "but rather to secure the individual's right to privacy."

According to Representative Markey, some 300,000 companies use the phones to make unsoliciated sales pitches to 18 million Americans every day.

Under Mr. Markey's bill, if you don't want to receive calls from the telemarketers, you could ask the Federal Communications Commission—or its designated agent—to put you on a "Don't Call" list. Any call after that would be illegal, and the caller would be subject to a fine of up to $1,500.

Because of the technical details, it would take about a year for the FCC to put the system in place.

In addition to barring unwelcome calls from sales agents, the bill would ban automatically dialed calls from computers. And it would vastly curb the use of "fax" machines to send unsolicited advertisements.

The bill exempts charitable organizations and political parties, as well as polling and market research firms.

It also would allow magazines, newspapers, cable TV and credit-card companies to call their current subscribers.

The Senate has approved similar bills, sponsored by Sen. Ernest F. Hollings, D–S.C., and Sen Larry Pressler, R–S.D. A final House-Senate version is expected to be enacted later this month.

The Bush administration opposes the legislation but took no action to derail it yesterday.

The President's Office of Management and Budget says that the proposal "would result in unnecessary regulation of commercial activities and could curtail technological innovation and eliminate legitimate business operations."

Congressional Republicans, however, generally support the bill, and several of them heartily endorsed it yesterday.

Marge Roukema, R–N.J., whose husband is a physician, said that her husband urged her to support the bill for health and safety reasons.

"He said a private line in his office, set aside for medical emergencies, has been tied up by these telemarketers and automatic dialing operations," she said.

[From the Indianapolis Star, November 11, 1991]

BILL WOULD OUTLAW SOME COMPUTER CALLS

The Senate has approved a bill that will outlaw computer phone solicitations unless consumers said they wanted to receive the calls. The legislation now goes to the House.

"It is time we liberated Americans from obnoxious telephone calls," said Sen. Larry Pressler, R-S.D., who sponsored the bill. "Consumers are fed up with the nuisance of unwanted telemarketing calls to their homes day and night."

The legislation also is designed to end other junk telephone calls. It prohibits:

Telephone solicitations to residential phone customers who choose not to receive the calls.

Use of automatic dialing machines or computer voice calls to emergency lines, cellular phones or pagers.

Unsolicited faxes.

The bill also allows consumers to recover damages for violation of the legislation.

Fraud by phone getting more common

Telephone fraud costs U.S. consumers about $1 billion a year. All too often, older people are a favorite target. That's because they are more likely to have money.

To combat the growing menace, the Federal Trade Commission has a free booklet called Fraud by Phone. To get a copy, write to Public Reference, FTC, Washington, D.C. 20580.

[From the Congressional Quarterly Weekly Report, November 9, 1991]

The Senate on Nov. 7 passed on voice votes two bills aimed at ensuring the privacy of telephone consumers from marketers. A bill (S1410), sponsored by Larry Pressler, R-S.D., would direct the Federal Communications Commission (FCC) to halt the intrusion of unsolicited marketing calls.

One option is an electronic database that would allow consumers to register their phone numbers and receive protection from unsolicited advertising. Another is to place all telemarketers on a single phone exchange, to allow consumers to block calls from that exchange.

The FCC also would have to examine whether small businesses and second-class mail permit holders should be subject to the same rules. The bill would not prohibit businesses from calling established customers.

The other measure (S1462), sponsored by Commerce Committee Chairman Ernest F. Hollings, D-S.C., would curb the use of automatic telephone dialing devices. Businesses would be banned from placing automatically dialed calls to either fax machines or homes. Consumers who receive such calls could sue in state courts.

The House Energy and Commerce Committee in July approved a companion bill (HR1304) that would call on the FCC to protect consumers from unwanted telemarketing calls and regulate—but not ban—computerized dialing to either fax machines or residences. It awaits floor action.

[From the San Diego Union and Tribune, November 8, 1991]

Phone Solicitation Curb Gains in Senate

WASHINGTON—The Senate yesterday approved a bill that will outlaw computer phone solicitations unless consumers said they wanted to receive the calls.

The legislation was passed on a voice vote without opposition and now goes to the House.

"It is time we liberated Americans from obnoxious telephone calls," said Sen. Larry Pressler, R-S.D., who sponsored the bill. "Consumers are fed up with the nuisance of unwanted telemarketing calls to their homes day and night."

The legislation also is designed to end other junk telephone calls.

Telephone solicitations to residential phone customers who choose not to receive the calls.

Use of automatic dialing machines or computer voice calls to emergency lines, cellular phones or pagers.

Unsolicited faxes to junk machines.

[From Gannett News Service, Nov. 7, 1991]

Senate Votes To Limit Telemarketing

(By Norm Brewer)

WASHINGTON—Legislation to limit unsolicited telemarketing—particularly the use of autodialing—passed the Senate Thursday without opposition.

The measure is needed to protect the privacy of consumers from solicitors who call more than 18 million Americans each day, said Sen. Larry Pressler, R-S.D., who wrote the initial bill restricting telemarketing.

"Consumers are fed up with the nuisance of unwanted telemarketing calls to their homes day and night," he said in a statement. "Junk mail can be thrown away. Television commercials can be turned off, but the telephone demands to be answered."

Pressler said the measure would not end telemarketing, which has skyrocketed in sales to more than $435 million last year.

But the Federal Communications Commission would have to consider options for banning telemarketers from calling residential consumers who do not want to be called. Options include a list of those consumers or putting them on exchanges that would be off-limits to telemarketers.

Use of automatic dialing machines would be restricted. The autodialer caller would have to be identified—including address and telephone number. If the consumer hung up, the autodialing machine would have to quickly hang up, too.

Now, some machines do not hang up until the recorded message has ended. That has created problems at hospitals and on emergency lines because it keeps the consumer's line tied up. The bill would allow hospitals, police and fire departments, and owners of paging and cellular equipment to block calls from autodialing machines.

So-called "junk" advertising using fax machines also would be prohibited.

More than 40 states—including South Dakota—already restrict telephone solicitations. However, telemarketers can operate nationally from states where laws are lax.

Pressler said the measure would "assist states in their attempts to regulate intrastate telemarketing abuse."

The House could consider a similar bill next week.

[From the Cincinnati Enquirer, Sept. 29, 1991]

Congress Considers Proposals To Limit Uninvited Phone Calls

Much of America is fed up with automatic, mechanized, privacy-invading phone calls. But nobody has figured out quite what to do about it, though members of Congress are trying.

Bills to regulate the calls, which have a habit of interrupting sleep, dining or entertaining, are making their way through the legislative process. One, by Rep. Edward J. Markey, D-Mass., would bar such calls to hospital emergency rooms and other public-safety numbers and to paging services and cellular phones.

Sen. Ernest F. Hollings, D-S.C., would prohibit unwanted calls to homes. His bill would also require auto-dialers to hang up within five seconds after a call recipient hangs up. Yet another bill, by Sen. Larry Pressler, R-S.D., embraces the Markey bans and adds another on unsolicited advertising sent by fax machine.

The Markey and Pressler bills also instruct the Federal Communications Commission to study ways to protect phone customers. All lines should remain open to pollsters and other researchers, even if their non-automatic calls are sometimes annoying. Nor should government, federal or state, silence those who seek with their own voice to market a product or service.

But phone customers who want it deserve protection from the tape-recorded, metallic voices of those who make up to 1,000 calls daily.

[From Newsday, Sept. 16, 1991]

Curb Tele-Junk

You're finally home from work, you've just sat down to dinner and the phone rings. What now? A disembodied voice that reminds you faintly of the paranoid computer HAL in "2000" wants to sell you something. And whether you want to buy or not—even if you hang up—the voice's taped sales spiel will tie up your phone until its course.

Junk mail is bad enough, but at least it doesn't keep you from getting the mail you want. But what can you do about endless junk phone solicitations—dialed automatically, to one number after another, without human intervention? Or about the plague of junk fax?

With some help from Congress, currently considering several bills to regulate telemarketing, you could do quite a lot.

At the least, as Sen. Ernest Holling (D-S.C) proposes, Congress should require an automatically dialed call to disconnect within five seconds after the targeted number hangs up, leaving the line free for emergency calls.

Unsolicited advertising by fax should be banned, as it would be under a bill offered by Sen. Larry Pressler (R-S.D.). Why should you provide paper and electricity for this?

Telemarketers should be required to compile a "don't-call" list of people who don't want to be bothered. If that fails, a national "don't-call" database may be necessary.

HAL, you'll recall, seized control from humans for a time. These bills would wrest it from machines and put it in human hands.

(By Thom Kupper Credit Newsday)

Bills Would Limit Recorded Telemarketing

[From the San Francisco Chronicle, Sept. 10, 1991]

Days after the 1989 Loma Prieta earthquake, a man whose house had been leveled was surprised to hear his phone ringing from under a pile of debris. He searched through the rubble and lifted the receiver to this ear, only to hear a recorded message trying to make a sale.

A Michigan family was unable to call an ambulance when their father was injured because an automatic dialing machine had called their house and would not hang up.

And at a college in Pennsylvania, a blind switchboard operator was besieged by an authomatic dialing machine that called her switchboard five times a minute for several days.

These are a few of the many stories told at a recent Senate hearing looking into the "automatic dialing-recorded message playing" machines that are under attack by consumer groups as public annoyances and occasional safety hazards. The machines, which can make their tape-recorded pitch to as many as 1,000 homes a day, have become the primary target of a flurry of pending legislation aimed at regulating the telemarketing industry.

Representative Edward J. Markey, D-Mass., who is sponsoring one of the bills, said the machines are turning home telephones into "receptacles of 'junk calls' in the same way that junk mail often inundates our mailboxes."

Even the Direct Marketing Association, which represents the telemarketers, concedes the need for regulation. Dick Barton, the group's vice president for government affairs, said the organization was ready to support many of the restrictions that would be imposed by bills sponsored by Markey and Senators Larry Pressler, R-S.D. and Ernest Hollings, D-S.C.

Markey's bill would ban any automated calls to public safety numbers, paging services or cellular phones. Pressler would ban those calls as well as any unsolicited advertising sent by fax machine.

Hollings goes furthest of all, outlawing any unwanted automatic calls to homes and requiring autodialers to hang up within five seconds after the call's receiver hangs up.

The bills all passed through committee with strong support, and its seems certain that some version will be passed by both houses of Congress.

[From Newsday, Sept. 5, 1991]

HOW TO HANG UP ON THOSE AUTOMATED PHONE CALLS

You're finally home from work, you've just sat down to dinner and the phone rings. What now? A disembodied voice that reminds you faintly of the paranoid computer HAL in "2001" wants to sell you something. And whether you want to buy or not—even if you hang up—the voice's tape sales spiel will tie up your phone until it's run its course.

Junk mail is bad enough, but at least it doesn't keep you from getting the mail you really want. But what can you do about endless junk phone solicitations—dialed automatically, to one number after another, without human intervention? Or about the growing plague of junk fax, which can occupy your machine with somebody's sales pitch just when you're expecting an important document that can't wait for overnight mail?

With some help from Congress, which is currently considering several bills to regulate telemarketing, you could do quite a lot.

At the least, as Sen. Ernest Hollings (D-S.C.) proposes, Congress should require an automatically dialed call to disconnect within five seconds after the targeted number hangs up, leaving the line free for emergency calls.

Unsolicited advertising by fax should be banned outright, as it would be under a bill offered by Sen. Larry Pressler (R-S.D.). Why should you provide paper and electricity for somebody's unwanted ad?

Every telemarketer should be required to compile a "don't-call" list of people who have indicated—perhaps quite vehemently—that they don't want to be bothered by future calls. (This newspaper deletes numbers from its computerized telemarketing list on request.) If that doesn't work, a national "don't-call" database may be necessary.

HAL, you'll recall, seized control from humans for a time. These bills would wrest it from machines and put it in human hands.

[From The Detroit News, July 25, 1991]

BILL AIMS TO HANG UP 'TELENUISANCE'

WASHINGTON—Congress is being asked to pull the plug on a national "telenuisance."

Tapping into an apparent wellspring of annoyance, the communications panel of the Senate Commerce Science and Transportation Committee Wednesday heard senators and witnesses recount a litany of complaints about computerized phone solicitations.

Labeling the practice everything from a "telenuisance" to "the modern form of telephone terrorism," the annoyed urged the panel to approve legislation by Sen. Ernest Hollings, D-S.C., that would ban computerized solicitations to residential phones, unless the user gives prior consent.

Hollings' bill is being considered by the subcommittee along with companion legislation, written by Sen. Larry Pressler, R-S.D., which also would curtail "junk fax" transmissions. The Pressler bill would direct the Federal Communications Commission to develop a national list of people who do not want solicitation calls.

Machine-generated telephone calls represent "the fastest growing category" of consumer complaints nationwide, according to Steven Hamm, South Carolina's consumer affairs director speaking for the National Association of Consumer Agency Administrators.

"Computer calls are now the modern form of telephone terrorism," Hamm said.

He urged the subcommittee to "put some teeth" into both the Hollings and Pressler proposals by imposing stiff penalties for violators.

Telemarketing industry representatives said they favored some regulation of computerized solicitations, but opposed an outright ban.

Direct Marketing Association Senior Vice-President Richard Barton said his industry group would favor prohibitions on "line seizure" by computer callers, as well as restricting calls to critical social services such as hospitals, both features of a House proposal.

"We are noting more than sources of revenue to an industry that has lost its moral compass," said Robert Bulmash.

"This out-of-control industry will summon us * * * by using our conditioned response to answer the phone as if we were nothing more than Pavlovian dogs with wallets," he said.

COMPUTER CALLS IRK LEGISLATORS

[From the Toronto Star, July 25, 1991]

WASHINGTON (REUTER) Automated telephone advertising calls are a growing nuisance and need federal regulation, several senators and witnesses told a hearing.

"Computerized message players are a nuisance and an invasion of an individual's right to privacy," Senate commerce committee chairman Ernest Hollings, said yesterday.

"They are not just a nuisance, they're plain dangerous," Sen. Larry Pressler added. He said the calls can tie up emergency telephone lines.

Hollings and Pressler have introduced bills to regulate the calls and to ban calls to emergency numbers.

Witnesses at the committee's hearing said telemarketing firms are using computer-operated telephone systems to make hundreds of calls a minute with recorded advertising messages. Because the computers call telephone numbers in sequence, they can reach unlisted numbers, telephone pagers and cellular telephones.

Holling's bill would prohibit unsolicited computerized telephone calls to homes, emergency numbers, pagers and cellular telephones. It would also ban unsolicited advertisements to facsimile machines.

[From Securities Week, Securities (SCR) July 22, 1991]

SENATE PANEL TO HOLD A HEARING ON BILL THAT WOULD RESTRICT COLD-CALLING

The Senate Communications Subcommittee will hold a hearing on a telemarketing bill this week, which if adopted, would have the unintentional effect of restricting cold-calling by brokers.

The "Telephone Advertising Consumer Rights Act," which was introduced by Sen. Larry Pressler (R-SD) in late June, is designed to give consumers a break from unsolicited telemarketing calls dialed by both humans and computers.

The bill requires the Federal Communications Commission to protect consumers from unwanted telemarketing calls in several ways. Consumers would be able to put their phone numbers on a "DO NOT CALL" list at the FCC, or, all telemarketers would be placed on a single exchange, which would allow consumers to block all calls from that exchange.

While the legislation is not aimed primarily at brokers, the bill's language is written in a way that would include cold-calling restrictions. The bill says that "telephone solicitation means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services."

Pressler's bill is similar to telemarketing legislation introduced in the House by Rep. Edward Markey (D-MA). Markey's bill has already cleared the House Telecommunications and Finance Subcommittee, and the legislation is waiting to be reviewed by the full Energy and Commerce Committee. That hearing is not likely to occur until after Congress returns from its August recess.

[From the Washington Times, July 25, 1991]

CONGRESS TRIES TO SHIELD PUBLIC FROM DELUGE OF TELEMARKETING

(By Jay Mallin)

The voice on the telephone line bubbled over with exciting news—a free trip to Hawaii, available just by calling a "900" number.

Being nothing but a mindless recording, however, the voice had no way of hearing the "click" as the recipient of the call hung up. And as the call was dialed by a computer that was probably picking phone numbers at random, no one knew that calling that particular phone number was probably a mistake.

The recipient of the call—perhaps the hundredth or thousandth such call placed by the computer that day—was Sen. Daniel K. Inouye. Being a Senator from Hawaii, he had no need of a free vacation in the islands, even if one was really available .

But as chairman of the Communications Subcommittee of the Senate's Commerce, Science and Transportation Committee, Mr. Inouye is likely to have considerable say on restrictions on telemarketing being considered by Congress.

The incident was just one of many that has everyone from consumer groups to the telemarketing industry association backing some kind of limit on telemarketing calls.

"Computerized calls are the scourge of modern civilization," Sen. Ernest Hollings, South Carolina Democrat, said recently on the Senate floor when he introduced a bill to limit the calls. "They wake us up in the morning, they interrupt our dinner at night, they force the sick and elderly out of bed, they hound us until we want to rip the telephone right out of the wall."

Several lawmakers have introduced bills to limit telemarketing calls. But the bills are still undergoing revision, and there is a range of choices Congress must make before it has a final version to consider—from whether to include non-profit organizations in any ban to exactly what kinds of calls should be prohibited.

Mr. Hollings' bill, for instance, would ban what everyone agrees are the most annoying calls—the ones that are placed by machines, often dialing random or sequential numbers, and that play pre-recorded messages with no involvement by a live person.

Stories about the disruptive effects of such machine calling abound. The "autodialers" have tied up cellular phone systems, rung every phone in a hospital, and once jammed the home phone line of a mother who was trying to call an ambulance for her sick child.

"They're not just a nuisance—they're just plain dangerous," said Sen. Larry Pressler, South Dakota Republican, during a hearing of Mr. Inouye's subcommittee yesterday.

A representative of the Direct Marketing Association, the industry trade group, agreed such calls should be stopped.

"We * * * agree with the major thrust of the [Hollings] bill," said Richard Barton, senior vice president for government affairs at the Direct Marketing Association, a trade association with 3,500 member companies.

The Hollings bill, however, would do nothing to limit telemarketing calls by live operators. Other bills would go further.

Mr. Pressler has introduced a bill—similar to one offered in the House by Massachusetts Democrat Rep. Edward Markey—that would ask the Federal Commuunications Commission to look into the possibility of creating a national "Do Not Call" list.

Consumers who do not want to receive telemarketing calls would ask to be placed on the list, and telemarketers would then be prohibited from calling them.

The concept has been adopted by one state, Florida. But state legislation can't limit interstate calling, and so supporters of the idea say a national law is required.

In yesterday's hearing, though, Mr. Pressler's bill was attacked—from opposite sides—by both consumer representatives and the industry.

Michael Jacobson, who says his Center for the Study of Commercialism wants to halt the "permeation of advertising" in everyday life, argued the Pressler bill puts the burden to stop telemarketers on consumers, who must sign up to be on the list.

At the other end of the issue, Mr. Barton said the Direct Marketing Association questions the workability of maintaining a national "Do Not Call" database.

He suggested another alternative, one he said that has been adopted by South Carolina. That state requires organizations to maintain internal "Do Not Call" lists, so that people who receive an unwanted call can instruct the organization not to call again.

Mr. Pressler and Mr. Hollings said yesterday they may try to combine their bills, and on the House side Mr. Markey's proposal has already gone through a number of revisions. But members of Congress said they know their constituents are angry about the calls.

"I have received numerous complaints from Hawaiians who complain they are being called at all hours of the night by persons and computers who are calling from the East Coast" and who don't realize there is a time difference, said Mr. Inouye.

"This is a very emotional issue," Steve Hamm, administrator of South Carolina's Department of Consumer Affairs, told the subcommittee. "And I want you to know that you have hit the pulse of America" by considering the problem.

HOW TO ESCAPE THOSE CALLS

Here are some ways you can avoid most telephone marketing pitches.

Write a letter.

The Direct Marketing Association, a trade group, keeps a list of people who do not want to be called and makes it available to member companies that agree to comply. This can stop about 80 percent of the pitches, but you have to renew your request every five years.

Telephone Preference Service, c/o the Direct Marketing Association, 11 West 42nd St., P.O. Box 3861, New York, N.Y. 10163-3861.

Tell them not to call again.

Believe it or not, this simple expedient actually works for awhile with some companies, whose officials figure it is better not to anger potential customers.

The national photographic portrait chain Olin Mills, for instance, says it keeps "Do Not Call" lists at each of its studios, but they might call again after two years.

Use their technology against them.

Many telemarketers now use "predictive autodialers." The machines dial the numbers and connect the call to a live operator only if someone picks up the phone and says "Hello."

If your "Hello" is followed by a long pause or a click or a beep, just hang up before the machine puts a live operator on the line.

THE NEED FOR A NATIONAL PROGRAM TO PREVENT BALLAST INTRODUCTIONS OF EXOTIC SPECIES

Mr. GLENN. Mr. President, I rise today to reiterate my support for a national program of ballast management to prevent infestations of nonindigenous organisms in all waters of the United States. Nonindigenous species, like the zebra mussel, are an acute problem in the Great Lakes. However, they threaten the aquatic ecology and the economy of all four of the Nation's coasts, as well as inland waters.

Last fall Congress enacted a version of S. 2244, a bill I authored and introduced earlier in the summer as cochair of the Senate Great Lakes Task Force. S. 2244 comprehensively addressed the problem of unintentional introductions of nonindigenous species, and stressed prevention. Because ballast tanks of merchant ships are the leading vector of introduction of nonindigenous species, the bill as introduced required a program of environmentally sound ballast management for ships destined for any U.S. port. The national scope of the program was important to me because it was more protective of the Great Lakes, an area of particular concern to my constituents, but also because the absence of such a requirement creates a major gap in our national environmental protection policies.

The Non-indigenous Aquatic Nuisance Prevention and Control Act as enacted established a ballast management program for ships destined for Great Lakes ports only. I was very gratified to see the probability of infestations by nonindigenous species in the Great Lakes dramatically reduced with the enact of the final version. However, I remain concerned that the limited scope of the prevention program will leave the Great Lakes vulnerable to organisms that may become established in contiguous waters, such as the Hudson or Mississippi Rivers. I am also concerned that the remainder of the Nation's marine and fresh water ecosystems continues to be vulnerable to degradation by invading species.

I cannot adequately stress the environmental protection value of a national program of ballast management. In Lake Erie, where the zebra mussel infestation is still raging, we have all but lost our native species of freshwater clams. Other ecological costs are still under study but could include disruption of the migratory patterns of water fowl, and the spawning activity of fish. The economic costs to raw water users are already in the millions of dollars.

A recent Congressional Alert Bulletin from the Coast Guard reported that high levels of human cholera were discovered in the ballast tanks of merchant vessels visiting Mobile Bay from South America. And a November 22, 1991 article in the Wall Street Journal reported increased outbreaks of red tide in U.S. marine waters, and cited ballast dumping as a means of transmission. These articles underscore the fact that non-indigenous organisms transported in ballast water can also create serious public health threats.

I urge the attention of my colleagues to the need for a national program of ballast management to protect all U.S. waters from the serious problem of biological pollution from nonindigenous organisms. I will certainly be working closely with the majority leader to reserve adequate time in the Senate schedule for the upcoming session of Congress to reconsider the need to change current ballast management practices. I seek unanimous consent to have the aforementioned articles printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Subj: FDA Ballast Water Sampling Program

1. Following the discovery of vibrio cholera in oysters in Mobile Bay in August of this year, the Food and Drug Administration [FDA] with Coast Guard support, has been conducting a vessel ballast water sampling program. Samples of ballast water, bilges, and MSD holding tanks were taken from deep draft vessels arriving in Mobile Bay from South America.

2. Two vessels arriving from South American Ports sampled on 6 and 7 November tested positive for vibrio cholera in a combination of ballast water, fire main water, bilge water and MSD holding tank samples. Both vessels have since sailed foreign.

3. Cholera is an acute, diarrheal illness caused by infection of the intestine by the bacterium vibrio cholera. The infection is often mild and self-limited or without symptoms. Nevertheless, the disease can sometimes be severe or fatal. Cholera is normally contracted by drinking water or eating food that is contaminated with the cholera bacterium.

4. Recognizing the potential and we stress "potential" for a significant health threat to the U.S. an emergency meeting was held in Washington, DC on 18 November with representatives from CG, EPA, FDA, NOAA, CDC and PHS to discuss the Mobile Bay situation. As a result of that meeting, the FDA is going to take the lead in a vessel sampling program that will take samples from a total of 65 vessels inbound from South American ports. By 28 November 1991 all 60 vessels will be sampled. The following ports have been selected for the sampling program: New

York, Baltimore, Philadelphia, Hampton Roads, Miami, Mobile, New Orleans, Houston, Galveston, LA/LB and San Francisco. Other ports may be added at a later time. COTPS shall assist in supporting the FDA sampling program. Full details of the FDA program will be passed on when finalized.

5. On 4 July 1991 IMO adopted international guidelines for preventing the introduction of unwanted aquatic organisms and pathogens from ships ballast water and sediment discharges. Copies of the resolution and IMO Guidelines are being provided to all shipping agents within the U.S. by COMDT G–M.

6. G–MEP intends to publish a Federal Register notice of national voluntary guidelines for ballast water exchange, using the IMO protocols as the base document, in the near term.

7. Separate Coast Guard policy is currently being developed to ensure appropriate actions are taken if a vessel tests positive for cholera in the FDA sampling program. It will be passed to the field as soon as it is completed.

8. G–KOM advises that no health threat exists to personnel conducting routine boardings on foreign vessels, provided that food and drink prepared or stored aboard is not consumed and good personal hygiene programs are observed.

[From the Wall Street Journal, November 22, 1991]

Toxic Red Tides Seem to Be on the Rise, Increasing the Risks of Eating Shellfish

(By David Stipp)

Alfonso Falon owes his life to bad cooking.

When the Galicia I, a New Bedford, Mass., fishing boat, landed some mussels last year, Mr. Falon and other crew members decided to eat them for supper. By the time the shellfish began boiling, though, the crew was busy catching cod. Ninety minutes later, the mussels were as tough as rubber bands, but Mr. Falon was ravenous and ate more than a dozen.

The mussels were caught near Georges Bank, a rich fishing area 150 miles off Massachusetts. Unknown to the Galicia's crew, state health officials had issued a warning two weeks earlier that a deadly nerve toxin had been found in the area's shellfish.

Mr. Falon's first symptom of the paralytic shellfish poisoning, or PSP, was numbness in his lips. Soon other crew members were similarly affected. Mr. Falon eventually lost all feeling below the neck, went into convulsions and passed out. Captain David Cabral, who had eaten a cheeseburger for supper, gunned the boat toward shore for help.

Analysis showed that eating just a few of the raw mussels could have been lethal. But lengthy cooking had leached out most of the poison, and Mr. Falon recovered.

The Galicia's crew would seem to have had little reason to worry about the mussels. Red tides, the "blooms" of algae that cause such toxic episodes, were thought to occur only near the shore. But to many red tide experts, PSP's spread to Georges Bank wasn't too surprising.

A world-wide "epidemic" of harmful algal blooms has developed during the past few years, says Theodore Smayda, a University of Rhode Island oceanography professor. Blooms are cropping up in new places, and formerly nontoxic algae are turning toxic. The pattern suggests red tides are becoming a "major plantetary trend," like acid rain and ozone-layer thinning. Common underlying causes may be at work—coastal pollution and possibly global warming—he adds.

The latest U.S. outbreak is on the west coast, where a red tide toxin called domoic acid has appeared for the first time—first in anchovies off California and last week in razor clams off Oregon and Washington. It has apparently killed only sea birds so far. Bu the outbreak "is very significant and disheartening," says Sandra Shumway, a red tide expert with the Maine Department of Marine Resources. In 1987, mussels laced with domoic acid poisoned 153 people on Canada's Prince Edward Island, leaving 10 with brain damage and killing three.

Despite such episodes, many scientists dispute that red tides have reached epidemic proportions. Better monitoring of toxic blooms with satellites and other high technology may account for much of the apparent rise in frequency, they say. Moreover, fallout from red tides may be growing more as a result of an increase in coastal shellfish farming than because of the spread of toxic algae, says Donald M. Anderson, researcher at Woods Hole Oceanographic Institution in Massachusetts

But researchers generally agree that red tides are on the rise, at least to some extent. Some shellfish operators now carry mice on their boats. If the rodents keel over when they're injected with extracts of freshly caught mollusks, red tide toxins are probably present and the boats move on, says Patricia Tester, a red tide expert with the National Maritime Fisheries Service in Beaufort, N.C.

Red tides are bursts of growth by different species of algae, or microscopic floating plants at the base of the ocean food chain. They usually aren't toxic and often aren't red—they can be brown, yellow or colorless. The poisons in toxic red tides are transmitted to people through "filter-feeding" shellfish—such as mussels, clams and oysters—which strain nutrients from sea water and concentrate toxins in their internal organs.

Saxitoxin, which sickened the Galicia's crew, is one of the most deadly poisons known. It's found in algae off the north Atlantic and Pacific coasts. In the Southern U.S., a common red tide poison is brevetoxin, found in algae that grow in the Gulf of Mexico. Less toxic than saxitoxin, it typically causes a nonfatal flu-like illness. But some coastal residents are so sensitive to it that they get "choky" from the tiny amounts misted off waves, says Richard Pierce, research director at Mote Maine Laboratory in Sarasota, Fla.

Red tides have been known for centuries. But during the past two decades, blooms have occurred with portentous regularity. In 1972, a massive red tide bloom first brought paralytic shellfish poisoning to New England's southern coast; PSP blooms have occurred there annually since. In 1983, the Philippines' first known PSP bloom killed 21 people who ate affected shellfish. In 1987, PSP brought disaster to Guatemala, killing 26. Less deadly blooms have also occurred frequently during the past few years, including dense "brown" tides that have devastated Long Island's scallops.

Scientists are only beginning to puzzle out root causes. Japanese ships have apparently transported harmful algae to Australia in ballast water, says Matt Murphy, a red tide expert on Ireland's Sherkin Island. The water is pumped out as ships get close to port to take on cargo.

Most red tide stories are more complicated, though. In 1987, for example, hundreds of dead and dying bottle-nosed dolphins mysteriously washed up on the shores between New Jersey and Florida. Many had pox-like blisters, suggesting a bacterial or viral culprit. Tissue analyses also showed high levels of toxic man-made chemicals in some. But researchers were baffled—the widespread dying didn't fit known patterns of disease or chemical dumping, Meanwhile, an estimated half of the East Coast dolphins were wiped out by early 1988.

In late, 1987, 14 humpback whales beached and died on Cape Cod, providing a critical clue. An analysis showed mackerel in their stomachs contained saxitoxin—the first time red tide had been linked to the mass death of marine mammals, says Joseph Geraci, a veterinarian at the University of Guelph in Ontario, Canada. Based on that finding, researchers eventually traced the dolphin deaths to an unprecedented Atlantic coast outbreak of brevetoxin.

The red tide poisons had apparently weakened the animals, making them easy prey for diseases and chemicals they normally could cope with. A contributing factor, says Dr. Geraci, could be a switch in the animals' diets to include more fish tainted with red tide toxins. The mammals' favored food is growing scarce under heavy fishing-industry pressure. And numbers of some legally protected mammals, such as humpback whales, may have risen in certain places to the "carrying capacity" of the habitat, perhaps causing them to expand their dietary horizons, Dr. Geraci says.

But the most common causal thread running through the red tide story is pollution. In "a good half-dozen places" around the world, long-term increases in the abundance of harmful algae have been correlated with rising levels of nutrients from sewers, fertilizer runoff and other sources, says the University of Rhode Island's Dr. Smaya. Woods Hole's Dr. Anderson says anti-pollution measures such as greater use of "phosphate-free" detergents may also contribute to red tides by changing chemical ratios in coastal waters in ways that favor toxic algae.

If pollution is promoting red tides, the blooms are likely to get much worse in coming years. The population along the U.S. coasts is expected to grow to 127 million by 2010 from 80 million in 1960, greatly increasing the amount of sewage and other pollutants spewed into the sea. The percentage of U.S. shellfish beds in which harvests are banned or limited because of high levels of fecal coliform bacterial is already rising fast—to 37% in 1990 from 31% in 1985, according to a recent report by the National Oceanic and Atmospheric Administration. There's "an almost inexorable trend that threatens to destroy the harvest of wild or natural shellfish" in U.S. waters, the report concludes.

AIDS AND SEXUAL BEHAVIOR STUDIES

Mr. MOYNIHAN. Mr. President, in recent weeks, while the Nation's attention has been riveted on Earvin "Magic" Johnson and his announcement that he tested positive for the AIDS virus, the cancellation of two studies of sexual behavior, representing our best hope in the fight against AIDS, has gone unnoticed.

I would like to say that this Nation's leaders have echoed Mr. Johnson's call for AIDS prevention through education. But that would be a lie. The fact is that neither the administration nor the Congress are willing to address what may be the most fearsome epidemic since the Bubonic plague. Both have given in to uninformed individuals who would have us turn our backs on this epidemic. And nothing illustrates this more clearly than the recent defeat of two scientific surveys of sexual behavior.

More than 195,000 people in this country alone have been diagnosed with AIDS since 1981, of whom 120,000 have died. 1,500 were children. And these are only the documented cases. As many as 1 million Americans may be infected with HIV. They too will die.

In the majority of cases, AIDS is transmitted sexually. And since there is no known cure for AIDS, modification of risky behaviors is currently the only way to prevent HIV infection. In its 1991 Report, "The AIDS Research Program of the National Institutes of Health," the Institute of Medicine noted that:

> Lack of knowledge regarding patterns and determinants of sexual and drug using behaviors in the general public as well as in groups at particular risk of HIV infection has hampered public health efforts to develop health education intervention efforts for the prevention of AIDS.

To design effective AIDS education and prevention programs, we need current data on sexual behavior. The embarrassing truth is that we have been waging the war against AIDS with data that was collected over 40 years ago.

From 1938 to 1953, Charles Alfred Kinsey conducted a survey of human sexual behavior. According to Wendy Baldwin of NICHD, it remains the only comprehensive source of data concerning sexual behavior in America. Kinsey study formed the basis of two books, "Sexual Behavior in the Human Male" (1948) and "Sexual Behavior in the Human Female" (1953), now known as "The Kinsey Report." There are numerous methodological problems with the Kinsey study. Yet for lack of more up-to-date comprehensive data, our knowledge about the prevalence of various sexual behaviors is still largely based on this source. This will not do.

Public health experts have long known that we need better and more recent data. Indeed, in 1987, the National Institutes for Child Health and Human Development [NICHD] contracted for a study of sexual behavior and attitudes. They awarded the grant to the University of Chicago's National Opinion Research Center [NORC]. I have met with Professor Gagnon and Edward Laumann of the NORC project. Both are respected leaders in their field.

Since the National Institutes of Health approved the NORC survey in 1988, it has undergone multiple reviews by the Office of Management and Budget, the NIH Director's Office, the Office of the Secretary of Health and Human Services, as well as the Office of the Assistant Secretary of Health. The revised study includes only those questions that bear some relationship to the transmission of HIV/AIDS. Notwithstanding, Secretary Sullivan has not permitted the survey to move forward. The American Teenage Survey has suffered a similar fate. In May 1991, the NICHD awarded a grant to Dr. Richard Udry of the Carolina Population Center and Dr. Ronald Rindfuss of the University of North Carolina to conduct a study of adolescent sexual behavior. Their application received high marks from its review panel. Secretary Sullivan canceled the project in July. I would not be surprised if this honorable member of the President's cabinet considered resigning over this matter.

This is an outrageous situation. The administration advocates behavior modification to prevent HIV infection. Yet how can we modify behavior when we know so little about it?

Despite the President's request for $3 million to implement the adult sexual behavior study, the administration has done little to advance this proposal and the Congress has done everything in its power to stop it.

Prof. Norman Birnbaum of the Georgetown University Law Center recently commented on the state of our society: "Social vision has failed; the public capacity to think has been degraded." His observation applies here. The administration and Congress has permitted fear and intimidation to blind them from their obligation to think and lead. Mr. President, research on human sexual behavior serves a public health need. I ask you, why has the administration not taken an active role in this matter?

In the Labor, Health and Human Services, and Education appropriations bill [H.R. 2707], Congress prohibited Federal funding of the adult and teen sexual surveys. But fear and silence will not slow this epidemic. Indeed, without scientific information concerning the behaviors that contribute to the transmission of AIDS, this disease will overtake us.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, the idea of a world ruled by law is as old, almost, as the idea of law itself. For more than 200 years this Nation has been committed to the idea that nations must act with law on their side and not simply indignation in their hearts.

Of late we have drifted away from this notion. But with the end of the cold war and the beginning of a new era of violent ethnic conflict, we need more than ever to adhere to the idea that rules are needed to restrain this cycle of violence.

We frequently say that the plight of the American hostages in Lebanon is outrageous. It is. But more to the point, it is illegal. The Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949, prohibits the taking of hostages at any time and in any place whatsoever. Yet this practice of holding innocent parties against their will with the hope of somehow effecting a change in the political order continues.

Yesterday, family and friends celebrated the return of former hostage, Tom Sutherland. I rejoice with them. But insist that we stand firm in our resolve to see all hostages everywhere released.

Mr. President, today marks the 2,446th day that Terry Anderson has been held captive in Lebanon. We have word through Terry Waite that Terry Anderson, Alann Steen, and Joseph Cicippio will be released before year's end. I call on their captors to fulfill this pledge.

Mr. LAUTENBERG. Mr. President, I rise in support of title V of H.R. 3704, the NOAA Authorization Act of 1991. Title V establishes a comprehensive monitoring program for our oceans and coastal waters.

Mr. President, we have made a great deal of progress in restoring the health of our marine waters. We no longer discharge raw sewage and dump sewage sludge and industrial waste into our coastal waters and ocean. We have begun to address nonpoint pollution—runoff—which threatens our waters. And fish are returning to our nation's estuaries.

But more remains to be done. According to EPA's latest national water quality inventory, in 1988 30 percent of our estuaries which have been assessed throughout the country either are failing to achieve water quality standards or are threatened with failing to achieve those standards. And 224 beach closures were reported in 18 States. These are remarkable figures nearly two decades after passage of the Clean Water Act.

I have joined Senator MITCHELL in introducing S. 1070, the Coastal Protection Act, to provide the programs we need to address the remaining coastal problems. This act is based on hearings held jointly in 1989 by the Subcommittee on Superfund, Ocean and Water Protection which I chair and the Subcommittee on Environmental Protection. We'll address most of the provisions of the Coastal Protection Act during the Senate's consideration of the Clean Water Act next year.

One essential element to restoring the health of our waters and one component of the Coastal Protection Act is to establish a comprehensive marine monitoring program. Title V establishes such a program. It is based on the monitoring program included in the Coastal Protection Act. And it includes provisions to establish a program to monitor garbage and other floatables along our shorelines, develop protocols for marine pollution monitoring and to disseminate information about marine pollution. These provisions were first included in the Comprehensive Ocean Assessment and Strategy Act which I introduced in 1989.

Title V will be an important part of our efforts to protect our coastal waters. I'm pleased that it is contained in this legislation.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. BURDICK. Mr. President, after many hours of difficult negotiations, I am very pleased with the final Intermodal Surface Transportation Efficiency Act of 1991. As the first reauthorization of the highway program in the post-Interstate era, this bill offers states new flexibility to meet their transportation needs.

In the short term, this bill creates jobs at a time when the nation desperately needs an economic boost. In the long term, this historic bill will improve our nation's roads and bridges and build a strong transportation infrastructure to carry us into the 21st century.

The final bill includes the flexibility that I consider essential to balance the needs of all 50 States. Urban States can put more dollars into mass transit and reducing pollution, while rural States can concentrate on needed road and bridge improvements. This bill increases Federal spending on highways and transit, providing more Federal funds to each of the 50 States.

As chairman of the Environment and Public Works Committee, I would like to commend everyone involved in drafting this historic bill. A special thanks to the subcommittee chairman, Senator MOYNIHAN, for his visionary leadership, and to Senator SYMMS, the ranking member of the subcommittee. I would also like to thank Senator CHAFEE, the ranking member of the full committee. The conference committee had 92 members, and I thank each Member of this body who contributed.

I cannot say enough about David Strauss, Mike Weiss, Kathy Ruffalo, and George Schoener on my committee staff who contributed many weekends and late nights to get this bill finalized before Thanksgiving. Roy Kienitz and Rob Connor on the majority staff and Jean Lauver on the minority staff also deserve special mention for their extraordinary efforts. I would like to offer my sincere thanks to all the staff who worked so hard in developing this bill.

This is historic legislation, and I call on all my colleagues to give it their full support. This bill will create hundreds of thousands of jobs to improve our economy while improving our transportation infrastructure.

PROTECTING THE MEDICAID PROGRAM

Mr. RIEGLE. Mr. President, this body must address an issue vitally important to this country's health care program for low-income individuals, the Medicaid Program, before Congress adjourns this year. We are presented with this problem due to a Health Care Financing Administration (HCFA) regulation published on September 12, that would severely restrict a state's ability to finance its portion of the Medicaid Program.

HCFA published interim regulations September 12, that would prohibit states from using any type of provider donation or tax to fund its portion of the Federal match. Not only was the regulation vague and contradictory in many places, but it also violated congressional intent regarding the use of provider taxes under Medicaid. I sent a letter in early October with other committee and subcommittee chairmen including Chairmen BENTSEN, DINGELL, SASSER, PANETTA, and WAXMAN asking for the withdrawal of the Medicaid regulations. I also held a hearing on July 26, about this issue in the Subcommittee on Health for Families and the Uninsured which I chair and which has jurisdiction over the Medicaid Program. The clarifying regulations that came out October 31, did not improve the situation. In fact, the administration added a new regulation, relating to Medicaid payments to "disproportionate share hospitals" which serve many low-income individuals, that hurts hospitals nationwide.

Mr. President, the short-term moratorium legislation that the Finance Committee recently reported out with favorable recommendation would have given us some time to reach agreement on a specific proposal with all interested parties, including States, the administration, Congress, providers and advocates. We also reported out a compromise proposal, without recommendation, that was developed in recent negotiations between the administration and the National Governors Association (NGA). We did this on Friday because committee members only saw a brief outline of the proposal late Thursday afternoon and the legislative language was still being drafted. Many Governors were concerned that the language being drafted did not accurately represent the proposal they had in fact agreed to.

I was very pleased that the Governors and the administration have been meeting to develop recommendations. What is very troubling about this process, however, is that the legislative language of the so-called NGA-administration compromise agreement continues to change by the hour as states continue to work with the administration to address their various concerns. My office did not even receive a draft of the language until Monday and I understand that such negotiations continued well into Tuesday.

Clearly, this is not the way to make important policy decisions regarding the Medicaid Program, one that serves millions of vulnerable families and children. I am also concerned that the Office of Management and Budget (OMB) is simply dictating policy in an arbitrary way. For example, on Friday, in the Finance Committee, we were told that if the moratorium is extended to April 1, 1992, then there would be no budget problems. When Senator MITCHELL wanted to extend the moratorium to July 1, suddenly there was a problem, but no rationale for the problem.

But Mr. President, Congress must act on this issue today, because the current proposed regulations would have a devastating impact on States' Medicaid programs and the people they are intended to serve and because the administration refuses to withdraw the HCFA regulations. We do need some limits in the area of financing Medicaid through provider donations and taxes, and ideally we need more time to fully consider the options and their implications. We are presented today, however, with the current regulations or proceeding with the NGA-administration proposal. Proceeding with the NGA-administration proposal may be the best approach given the circumstances, because under a short-term moratorium, it is not clear at all whether the administration would negotiate in good faith and some of the provisions in the current NGA proposal that would help Michigan, and other states, may be adopted.

Mr. President, a major problem with the NGA-administration compromise proposal continues to be its treatment of hospitals that treat a disproportionate share of low-income or Medicaid patients. The proposal would limit the total amount of Medicaid expenditures for disproportionate share payments available to states to 12 percent. Currently, there is no limitation or cap whatsoever on total payments. This is an unprecedented change that the administration is suggesting and let me emphasize again they just brought it up in a regulation issued October 31. I remain extremely concerned about this because Congress has not held hearings on this topic and we must carefully consider such an unprecedented change. As I understand it, however, the administration will not accept any proposal without such provisions related to disproportionate share so we would be stuck with the current regulations, a more unacceptable alternative to Michigan and other states.

In Michigan, over one-third of our hospitals are disproportionate share hospitals and receive special payments under Medicaid because they serve many low-income, Medicaid or uninsured patients. Part of Michigan's disproportionate share program has nothing to do with the State's voluntary donation program and so this part of our program is being unfairly affected by the NGA-administration proposal. Their proposal, thus, goes beyond the scope of the current problem. It's also important to note that Michigan's program clearly meets Congress's intent of providing enhanced payments only to hospitals that serve a disproportionate number of Medicaid and other low-income patients.

It's unclear to me why we must address the issue of Medicaid's disproportionate share hospitals in the NGA-administration plan when the real problem of taxes and donations have been addressed by requiring taxes to be broad-based and capping their level of use at 25 percent of a State's Medicaid expenditures.

Mr. President, because of recent budget cuts by Governor Engler in Michigan, our hospitals will be burdened with even more uninsured people and consequently, more uncompensated care costs. Close to 1,000,000 Michigan citizens now have no insurance coverage, including 300,000 children. Governor Engler has proposed a series of State cuts in health care benefits, effective October 1, that has increased the number of uninsured by close to 10 percent, about 83,000 single men and women. And in Wayne County alone, an additional 47,000 people will be without health care at the end of December because funding for its CountyCare program was cut by Governor Engler.

This is a tremendous burden on an already squeezed health care system. Hospitals, trauma centers, emergency units already have more than they can handle. Nationwide, 60 trauma care units have closed over the past 5 years due to uncompensated care and already low Medicaid payments. Michigan hospitals lost over $360 million in uncompensated care costs last year alone. The current NGA-administration proposal locks Michigan's total level of payments under disproportionate share to 12 percent at a time when they need the flexibility to give more money to disproportionate share hospitals.

Under the compromise, the only way Michigan could help hospitals that are especially over-burdened would be to take money from other hospitals. Hospitals have been calling my office and asking that we preserve the flexibility in the current disproportionate share hospital program to address the additional health care needs of Michigan citizens.

Mr. President, I will not block adoption of the NGA-Administration proposal despite these reservations because we need to move the process forward, but I will be working in the Senate-House Conference to ensure that disproportionate share hospitals programs under Medicaid can continue to operate to meet congressional intent of providing payments to hospitals that serve a disproportionate number of Medicaid and other low-income patients. My State needs flexibility both in the short-term, particularly in the Detroit area, and long-term to address urgent health care needs in Michigan.

MICKEY LELAND MEMORIAL DOMESTIC HUNGER RELIEF ACT

Mr. LEAHY. Mr. President. When we passed the Mickey Leland Memorial Domestic Hunger Relief Act as the nutrition title of last year's farm bill, we intended, quite simply, to relieve hunger. I was concerned when the Department proposed regulations that interpreted many provisions of that legislation in ways that will increase, rather than decrease, the prevalence of hunger in America.

By enacting these amendments to the farm bill, we intend to restore that original intent. Senators on both sides of the aisle were troubled by many of these proposed regulations. On the other hand, once our Committee began work on this legislation, the Department agreed to reformulate many of its objectionable proposed regulations.

Today, I will discuss only what seem to me the most troublesome provisions of the Department's proposed regulations.

I would like to commend the Members on both sides of the aisle and in the other body for the outstanding spirit of cooperation that made it possible to pass this legislation in such a relatively short time. It is a tribute to the outstanding track record of the Federal nutrition programs that they continue to enjoy such strong bipartisan support and that any threats to their well-being brings a prompt, firm response from Members of widely differing political philosophies.

Our intent in enacting the provision on simplifying resource and eligibility determinations was clear. We intended to exclude resources whose relative value was slight. As I stated in my remarks accompanying that legislation, no purpose is served when a household is denied because of a resource that could not be sold for any substantial amount of money to buy food.

In implementing this provision, however, the Department developed a troubling rule. The proposed rule has two requirements: The resource must have a sale price of $2,000 or less, and the cost of sale must be at least 75 percent of the sale price. This regulation will only continue to deny food stamps to households due to resources whose sale would yield little or no money for food.

In addition, the Department ignored the intent to simplify the resource determination and ease the paperwork burden on State agencies and households. By creating the two-pronged cost of sale and sale price test, the Department has complicated the process. The Department has created two mathematical formulas that caseworkers must figure out—and households must understand—before the household can be determined eligible. In light of the burden on already overworked and understaffed State agencies, the Department should not be adding to the workload.

Nonetheless, we added this specific provision of the legislation to ensure that resources that are not actually available to the household for food are not counted to the household. By imposing arbitrary standards to determine when a resource is inaccessible, the Department would have complicated the program.

This amendment is intended to address these concerns. A resource will be considered exempt if its disposition is unlikely to yield any significant amount of money to buy food for the household. No arbitrary sale-price or percent-of-value test may be imposed. States shall not be required to verify the value of a resource in order for it to be excluded by this provision.

No one deserves our sympathy and concern more than the homeless. It was to make the program more accessible to these people that we enacted the provision on estimates in lieu of verification of shelter costs. The Department's regulatory interpretation of this provision included some important positive elements but also sent States a message that could effectively destroy the provision's usefulness.

We were pleased that the Department opted to allow homeless households with low shelter costs to use the shelter standard, properly rejecting the notion of establishing some cumbersome standard for determining what is "low." At least in this instance, the Department upheld the spirit of the legislation to simplify the application process for all homeless households, as well as for State agencies. Shelter costs for the homeless are hard to anticipate and harder still to verify, but nonetheless consume a large part of homeless households' incomes.

Unfortunately, the Department set $93 as the shelter standard. The provision we passed last year required States to estimate the shelter expenses that homeless households were likely to have in a month. The Department's rule would discourage State agencies from developing their own standards based on local shelter costs and encourage them to substitute the $93 figure. However, the Department's $93 figure is unrelated to actual shelter costs and is simply too low. Formerly homeless households may well spend more than $93 if they pay for shelter for even 1 week in a month. All of these households will be forced to document their actual costs, which may be difficult or impossible. States will have to anticipate how much homeless households are likely to spend in the future. Our intent to reduce paperwork for the whole class of homeless households would be frustrated.

In promulgating its final rule, we now expect the Department to strike a better balance between the interests of reducing paperwork burdens for recipients and State agencies with the interest in providing guidance to State agencies. A single national number, if set at a level more reasonable than the Department's $93, could be a useful timesaver for States with low shelter costs. We expect the Department's final rule to make clear, however, as the law does, that States in which homeless people could realistically incur higher housing costs establish their own levels, which may be well above the national minimum chosen by the Department. Naturally, both the national and State or local numbers should be adjusted for inflation.

Recognizing that recipients of general assistance (GA) are the poorest of the poor, we intended that categorical eligibility streamline the procedure for processing GA households in the Food Stamp Program as it has for AFDC and SSI recipients. The Departments's overly restrictive interpretation would defeat this purpose by unnecessarily limiting the kinds of GA programs eligible for categorical treatment. Of course, categorical eligibility should only apply to households receiving needs-based assistance.

The Department, however, has proposed to restrict the criteria much farther, imposing absolute income and resource limitations. These limitations are far more stringent than Food Stamp Program criteria, which allow deviations from the income and resource guidelines for households in special circumstances.

Further, the Department's decision to restrict categorical treatment to recipients of GA programs with certification periods of 3 months or more will frustrate our intent to simplify the process. We understand that there are GA programs that have very stringent need standards but require new applications every month. The Department's interpretation would create undue burden for recipients and State agencies and would defeat the intent of this provision.

This amendment is intended to reduce the paperwork burden for applicant GA households, and to ensure that recipients of truly needs-based GA receive categorical treatment in the Food Stamp Program. Categorical eligibility would apply to households who receive GA under a program whose income criteria are comparable to, or more restrictive than, those in the Food Stamp Program. Recipients of one-time emergency assistance for transients and others whose need is manifestly limited to a single month would not be categorically eligible.

I was very troubled by the Department's approach to monthly reporting and retrospective budgeting. In particular, the changes made by the Department—neither required nor authorized by legislation—would cause needless hardship for recipients and increased the burden on State agencies. The provisions restricting notice to households and expanding the proration of benefits completely contravene our intent to relieve hunger since they make it even harder for eligible families to receive benefits.

The Departments's proposed rule combined the incomplete filing notice with the termination notice. We seriously doubt that recipients would receive adequate notice of their rights if this rule were not amended. When monthly reporting was first required, serious concerns were expressed as to whether households could realistically be expected to comply with the paperwork requirements. Because of such concerns, we restricted the scope of monthly reporting in 1985, 1988, and 1990.

It was thought that giving households two separate notices would at least partially address those concerns. The Department's proposal to combine the two forms would inevitably increase procedural terminations and caseload "churning" rather than simplification.

Fortunately, I have been informed that representatives of the Department agreed to abandon its proposal to combine the two forms. Instead, the Department will continue the requirement that households be given separate notice of both adverse actions. Households must receive separate notices of the late or incomplete filing and, if they refuse to comply then, of termination until the household complies with its reporting obligations. Nothing in this amendment is in any way intended to restrict households' right to retroactive food stamps once they file their late monthly reports.

In addition, the Department proposed to prorate the benefits of households submitting late monthly report forms. The Department failed to realize that these households are penalized already by having to wait to receive food stamps. Reducing the benefits the eligible household finally receives would compound the hardship and cause undue burden on households.

The Department's rule would increase the hardship on monthly reporting households—who are generally the working poor, and who already have more burdensome paperwork requirements than other households—by prorating their benefits within a certification period. This is not allowed for other households and should not be imposed on households who must make monthly reports. Further, proration of benefits for late reporters would increase the burden on State agencies, as caseworkers must calculate prorated amounts as well as the regular benefit amounts.

This package includes an amendment to override the Department's proposal and prevent State agencies from prorating the benefits of households who submit late monthly report forms. This legislation makes clear that proration of benefits is only allowed after the expiration of a certification period or the termination of a certified household that became ineligible under one of the act's substantive rules, such as the gross income test. Benefits may not be prorated where the household's certification period has not expired, even if the household has not participated at some point during that period due to being suspended for a monthly reporting or similar problem.

We intended in the head-of-household provision to ensure that the person who is chosen as the "head of household" is actually the person primarily responsible for making the household's key decisions. We weighed the recipients' interest in an unlimited right to select the head of household against the Department's interest in ensuring that Program goals are not undercut by artificial designations and struck a balance between the two to accommodate the real-life circumstances of food stamp households.

The Department's proposal is unfortunate. It would destroy the compromise we reached by imposing a primary wage earner test when younger people with wages move in with older persons who are not their parents and whose income comes from other sources. This rule creates a hardship for extended families sharing a home by penalizing all of the members when a younger wage-earner acts irresponsibly. The primary wage earner test not only is often inequitable, it also burdens State agencies.

The Department's proposal to recoup recipient claims through Federal income tax refund offset raises serious due process issues. Under this proposal, recipients are unlikely to receive adequate notice that their refunds are being intercepted. They are also unlikely, as a practical matter, to have a realistic chance to contest that action. Further, the provisions for appeal are inadequate, especially because the Department's proposal would allow offset to be used to reclaim overissuances—resulting from even inadvertent errors—that are 10 years old. It is difficult for anyone to give a detailed accounting of their activities 10 years earlier. Moreover, since States may be trying to collect overissuances in other ways, the danger of duplicate collection seems very high.

In light of the many hardships that the refund offset may cause, and its potential to undermine the incentives the earned income tax credit is intended to create, we believe that now is not the time to initiate this procedure. The Department should focus instead on more immediate goals: implementing the Leland Act, responding to the dramatic increase in caseloads caused by the recession, promoting simplicity and consistency in program administration, reforming the grossly ineffective employment and training program, and removing barriers to participation.

I am pleased that it appears that the Department now believes that no claims should be collected that are older than 6 years.

Last year's legislation dropped the requirement that 30 days must be given a household to elect a repayment method after that household was found to have committed fraud. As a matter of discretion, the Department should give at least 10 days to avoid the chaos that demanding instant action would bring.

Unauthorized by any legislation, the Department proposed to apply the shortened time frame to households who had not committed fraud, but had only made an inadvertent error. The Department's proposal would not only cause undue burden for households, it would increase the burden on State agencies as well.

I was alarmed to learn that over the past 3 decades AFDC benefits have declined in real terms, after adjustment for inflation, by an amount roughly equal to the benefits the Food Stamp Program provides. The cause of this decline is unclear, but it certainly seems possible that some States are seeing Federal food stamp dollars as a substitute for State-Federal AFDC moneys. If so, this is completely unacceptable. No one should be worse off in any other program because the Food Stamp Program exists. We expect the Department to work diligently to ensure that the Food Stamp Program's effectiveness is not undermined by having food stamps and other programs work at cross-purposes and reduce each other's benefits.

Last year's legislation required the Department to conduct enough demonstration projects to determine the effect on the program of excluding as a resource one vehicle per food stamp household. Unfortunately, the Department shows no sign of beginning to conduct these projects and has discouraged interested State agencies.

This legislation requires the Secretary to initiate those vehicle demonstration projects by January 1, 1993. Nonetheless, speaking as a Senator from one of America's most rural States, I hope that the Department initiates the projects well in advance of that deadline. In addition, I note the Arkansas State agency has requested some time ago that the Department conduct a demonstration project in that State, and I hope that the Department recognizes that State agency's interest and the work they have already done in thinking through how this demonstration would work when it selects sites.

To help disabled people regain their self-sufficiency, the Social Security Administration (SSA) has for some time encouraged recipients of Supplemental Security Income (SSI) benefits to develop "plans for achieving self-support" or PASS plans. A PASS plan might, for example, involve saving money to buy equipment the recipient needs to pursue a trade, or might call for the recipient to take some kind of specialized training to qualify for work that is within his or her functional capacity.

The farm bill excluded from food stamp resource determinations any assets of SSI recipients, including money saved under PASS plans, that SSI excludes from its resource calculations. The larger problem for PASS participants, however, is that current rules have been interpreted to require food stamp offices to count the SSDI benefits going into the PASS account as well as the SSI benefits that the participant is actually receiving as income. Although this practice has been found unlawful in the only court case decided to date, throughout most of the country disabled people working to regain their self-sufficiency are still being denied food stamps because of their PASS plans.

This legislation would provide that moneys SSA pays to a provider of training services or into a PASS account under the terms of a PASS plan would be treated as vendor payments—which in fact they are—and excluded from consideration as income. We do this because moneys set aside for the fulfillment of a PASS plan obviously are not reasonably available to meet the household's food needs.

The final bill makes a change in the language concerning the outcomebased performance standards the Secretary is required to establish for the Food Stamp Employment and Training Program. The final language removed the requirement that the performance standards be based on improvements in household members' educational levels. This change was made to give the Secretary more flexibility to develop performance standards that are compatible with the performance standards to be developed for the JOBS program authorized under Title IV-F of the Social Security Act.

This change is in no way indicative of a lessening of our intent that the performance standards reward States that provide educational services to their Food Stamp Employment and Training Program participants. We also expect that nothing in the performance standards developed for the Food Stamp Employment and Training Program will put States at a disadvantage for placing participants in longer-term educational programs.

Providing educational services is an essential component of any employment and training program because educational levels are more closely linked to an individual's ability to become self-sufficient than at any time in the past. University of Michigan researcher Sheldon Danziger has studied the relationship between educational attainment and earnings from 1949 to 1986. He found that the least educated individuals not only have the highest poverty rates, but have also experienced the greatest deterioration in their economic status over time.

The Commission on the Skills of the American Workforce found that in 1987 young male high school graduates with 1 to 5 years of work experience earned real weekly wages 20 percent lower than in 1979. The Economic Policy Institute reported that the earnings of men aged 24–34 with only a high school diploma declined 9 percent over the past decade, while the earnings of those without a high school diploma declined 12 percent.

MEAT AND POULTRY INSPECTION EXEMPTIONS

Mr. LEAHY. Mr. President. The Federal Meat Inspection Act [FMIA] and the Poultry Products Inspection Act [PPIA] are among the Nation's oldest statutes designed to protect the public health. These acts require the daily presence of a government inspector at facilities manufacturing meat and poultry products for resale.

If done correctly, such inspection ensures that exacting manufacturing and processing requirements result in wholesome and properly labeled meat and poultry products. In effect, these inspectors are the eyes of consumers, who cannot otherwise protect themselves against improper manufacturing or unsanitary plants.

This continuous inspection is necessary because products of animal origin can be carriers for disease and microbiological contaminants that could jeopardize the public. Accordingly, from the time of slaughter, through processing, until the consumer purchases a product at the supermarket, the meat or poultry is subject to continual inspection by officials of the U.S. Department of Agriculture [USDA] acting under the authority of the above statutes.

Visual inspection is required at the time of slaughter to eliminate the risks of disease. Inspection is also required at the time the meat or poultry is further processed—which can include being cooked or cured to ensure that microbiological-contaminants, such as listeria, salmonella, and E. Coli, are destroyed for ready-to-eat products. combined, these programs result in the safest meat and poultry supply in the world.

Furthermore, inspection is generally required of all further processing of the cured or cooked product when it is used in further processed products designated for resale. There are many reasons for such inspection. First, further processing of the meat may reintroduce old dangers or create new dangers, such as under processing a canned meat product. Second, a safe cooked or cured product may be recontaminated during processing or distribution.

Third, manufacture for resale may introduce new dangers of mishandling.

Notwithstanding the above, it is appropriate, from time to time, to review whether inspection is necessary in every instance. There may be limited situations when the risks discussed above are not present, or where there are protections available other than continuous Federal inspection. If such situations are identified, consideration should be given to exempting the processing of such products from inspection.

It must be emphasized, however, an exemption should not be granted to save money or for political expediency. The purpose of the inspection acts must never be compromised—the public health must be protected.

The American consumer enjoys the safest meat and poultry supply in the world, much of this due to inspection. Whenever such a protection is lowered or altered, it must be clearly established that consumers will not be placed at risk. Section 1015 does not abandon these principles nor, if properly implemented, does it lower public health protections.

Section 1015 of the technical corrections bill would require the Secretary of Agriculture to exempt the processing of pizzas in certain circumstances from the continuous and daily inspection requirements. It does not provide an exemption from the adulteration and misbranding requirements of he inspection acts. However, such exemptions may only be exercised in limited, well-defined circumstances where the risks discussed above would not be present.

Further, such exemptions would be granted only through a rulemaking that establishes ample protections to the public health. Finally, the legislation would begin the process of reviewing previously granted exemptions to ensure they are consistent with the public health.

The amendment requires the Secretary to exempt pizzas from inspection requirements of the inspection acts. However, this authority is limited both procedurally and substantively. Further, the section mandates the Secretary to conduct a study on the impact of products previously exempted under the historical exemption provisions of the acts.

Subsection (a), of section 1015, would amend section 23 of the FMIA to require the Secretary to exempt from inspection, by regulation, the processing of pizzas containing previously inspected and passed meat components in a cured or cooked form. In promulgating regulations to implement this provision, the Secretary shall prescribe whatever terms and conditions are necessary to ensure that no risk to food safety or public health arises.

These terms and conditions are to be issued under section 21 and 25 of the FMIA. Section 21 is the Secretary's general execution of the act. it is not expressly cited in the statute as the Secretary has the clear authority to adopt any and all needed conditions for the exemption.

Section 24 authorizes the establishment of storage and handling requirements for facilities not processing meats under continuous inspection. It is also expected that the Secretary will impose whatever additional requirements may be necessary to ensure that no risk to public health arises from this exemption. Thereby, the Secretary will ensure public safety in the absence of the daily inspection.

Subsection (b) makes parallel changes to section 15 of the Poultry Products Inspection Act. Under this subsection the Secretary is likewise required to impose conditions on the exemption consistent with sections 14(a) and (b).

Further, the exemption may be granted for the processing of pizzas which contain only cooked or cured meat and if the product will be distributed only to public or private non-profit institutions that operate under supervision that the Secretary determines will protect public health, such as the direct supervision of a registered dietician or the use of trained personnel. The Secretary has broad authority to refuse, withdraw or modify any exemption.

Subsection (c) requires the Secretary to implement subsections (a) and (b) through notice and comment rulemaking, which shall include at least one public hearing examining public health and food safety issues raised by the granting of this exemption. In such rulemaking, the Secretary is required to develop such terms and conditions as may be necessary to ensure food safety and protect the public health from any increased risk associated with granting of an exemption under subsections (a) and (b). This rulemaking should be completed by August 1, 1992.

Subsection (d) requires the Secretary, in consultation with the National Academy of Sciences, to conduct a study to evaluate and develop criteria for exemptions from inspection of meat food products. This study shall include current exemptions granted under section 1(j) of the FMIA and section 4(f) of the PPIA for products that have historically not been deemed by consumers to be products of the meat industry. In addition, the studies shall examine the appropriateness of granting exemption from the requirements of the FMIA for wholesale meat outlets engaged in minimal processing activities.

The legislation would provide a procedural and substantive framework for the Secretary to grant an exemption from inspection of pizzas.

As an initial matter, the new authority granted by this legislation would exempt the processing of pizzas from the requirement of daily inspection if certain conditions are met. The processing operation and products manufactured under such an exemption would still remain within the Secretary's authority and would be subject to the adulteration, misbranding, and other provisions of the FMIA or the PPIA, including storage, handling, processing and facility requirements.

The Secretary has broad authority to impose additional requirements upon an exemption as necessary to assure that the exemption gives rise to no risk to public health. Moreover, the Secretary has broad discretionary authority to withdraw or modify such exemptions to effectuate the purposes or provisions of the act.

The Secretary would have the authority to withdraw or modify any exemption in particular instances or at particular facilities, subject to appropriate due process protections. Further, the Secretary may indefinitely suspend a previously granted exemption and then reassess the exemption through a new rulemaking proceeding if there is basis to believe a risk to public health exists.

Subsections (a) and (b) would impose several procedural conditions on the grant of an exemption. The requirement to grant an exemption applies only where such an exemption gives rise to no risk to public health. Notice and comment rulemaking provides an appropriate structure for the Secretary to receive public input, and hence is required.

Such rulemaking, which includes a public hearing, shall focus on evaluating the public health implications of granting any proposed exemption. The notice and comment rulemaking is to identify any risk to public health that may arise through such an exemption, and to guarantee such risks must be eliminated through the terms and conditions the Secretary must adopt as a precondition of implementation of the exemption.

School children are likely consumers of these pizzas. Therefore, such terms and conditions must positively ensure food safety for these vulnerable populations, despite the absence of an inspector at that final processing stage.

The requirement for the Secretary to grant an exemption from inspection of pizzas must not be construed as a statutory mandate to lower food safety protections—it is not. Indeed, the mandate to ensure food safety and protect public health in the absence of continuous inspection should cause the Secretary to prescribe terms and conditions that are very exacting.

Even if the inspector is not present on a daily basis, equipment and facilities must adhere to high standards of cleanliness, and safe food handling must be assured through the terms and conditions. Only when the Secretary has developed such terms and conditions should the Secretary promulgate a final rule to implement subsections (a) and (b). If such terms and conditions cannot be established to the satisfaction of the Secretary, I do not believe that such regulations, to grant the exemption, should be published.

Earlier versions of this provision, passed by both the House and Senate, authorized, but did not require, the Secretary to grant exemptions. In this provision, the word "shall" replaces the word "may" to make clear that it is the firm intent of Congress that the Secretary must address this issue.

The new authority established herein in not mere discretionary authority for the Secretary to exercise to the extent, and at whatever time, the Secretary deems appropriate. The Secretary is obliged by this authority to prosecute a thorough and carefully considered rulemaking. However, this requirement does not relieve the Secretary of his public health protection duties.

The substantive requirements of the legislation have been designed to make certain that a product exemption will not be granted where there are substantial risks inherent in manufacturing the pizza for resale. To be eligible for exemption, the meat or poultry component of the pizza must have been previously inspected and passed by USDA in a cured or cooked form. Failure to start with such meat would clearly entail risk.

Furthermore, there are risks inherent in the storage, handling, and processing of meat or poultry. The legislation requires the Secretary to mandate requirements for facilities processing without daily inspection. Sanitary specifications for facilities, equipment and storage rules, as well as acceptable processing methods must be adopted to fully eliminate the risks of preparing meat food products. Finally, the pizza may only be distributed to public or non-profit private institutions. Such institutions may purchase such products for immediate consumption, thereby avoiding some food handling risks.

I expect that such institutions will be required to operate under supervision that assures that food handling and sanitation practices protect public health, such as the direct supervision of a register dietician or a staff trained in proper safe food handling techniques.

Admittedly, the Secretary bears a substantial burden to develop terms and conditions that are so effective as to ensure food safety when an inspector is not present on a daily basis.

In the evaluation of information from these sources, the Secretary would consider the history and nature of the product, whether a pattern of unsanitary conditions may exist in the industry, educational level and training of personnel, compliance with ingredient specifications and the health status and vulnerabilities of likely consumers, among others.

The Secretary retains broad discretion to refuse, withdraw, or modify such exemption to effectuate the purposes of the act. When this authority is exercised with respect to a particular facility, due process protections must, of course, be afforded. Regarding an exemption generally, in the event new evidence arises or the Secretary, in his or her discretion, otherwise determines that a risk to public health exists, such exemption should be suspended pending completion of a rulemaking to reevaluate the matters and promulgate such new terms and conditions as are required to ensure food safety and protect public health or eliminate the exemption.

In addition, the Secretary is expected to assure that manufacturers of exempt products comply with labeling requirements. Failure to require adherence to such labeling requirements would result in an unlevel playing field for competitors and institutional consumers who increasingly rely on product labeling.

The Secretary is expected to promptly exercise his or her discretionary authority to refuse or withdraw an exemption from inspection in any case where an exempt facility manufactures for resale products that fail to comply with relevant labeling requirements.

In the development of this legislation, concerns were expressed regarding current exemption provisions of the FMIA and PPIA. These provisions permit the Secretary to exempt totally from the act's coverage those products containing meat or poultry which historically have not been considered by consumers as products of the meat food [or poultry] industry. It is alleged that these provisions have resulted in a patchwork of inconsistent exemption decisions, not based on a public health standard.

Accordingly, subsection (d) of the legislation would require the Secretary to begin reviewing these exemptions by directing the Secretary undertake a study, in consultation with the National Academy of Sciences, to develop criteria for, and evaluate, present and future exemptions for meat and poultry products, as well as the effects of those exemptions would have on public health. Once that study is completed, within 24 months from the date of enactment, it is anticipated that the Secretary will work with the Congress to resolve the controversy and ensure public health protection.

The sponsors envision the fruit of this study to be a coherent policy for product exemptions consistent with the protection of public health.

FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT AMENDMENTS OF 1991

Mr. **WELLSTONE**. Mr. President, I would like to thank the chairman of the Agriculture Committee, the senior Senator from Vermont, for all of his work on the meat and poultry inspection provisions of this technical corrections bill. And I would like to commend him for the excellent explanation just delivered of the final language contained in the bill on that subject.

I fully suscribe to the principles of public health protection as the chairman put them forward. I fully agree with him regarding the importance of taking great care in setting meat and poultry inspection policy in order to uphold those principles. I believe strongly in maintaining food safety and protecting public health through the USDA inspection system. And although such a system could probably never function perfectly, we certainly owe much to our current one.

Important issues relating to the public policy process and to the protection of public health have been raised in recent months during consideration of the provisions of this bill regarding the sale to schools of meat-topped pizza. I would like to review some of those issues quickly and outline my concern about them.

The House passed the technical corrections bill during the summer with brief language on the subject of exemption from meat inspection requirements for some pizzas. The language, as I understand it, was adopted at the last minute, and had never been considered in subcommittee deliberations or in any hearing in the House. We in the Senate made what we feel were substantial improvements to that language before passing the overall bill last Friday. Now, following a staff conference on the bill, we have yet another version of it, containing new language on meat-topped pizza, which was passed by the House earlier today.

As the chairman knows, I have been following this issue with great concern. I was somewhat alarmed by the early House version of the bill because of what appeared to me to be an outright special-interest exemption from meat-inspection requirements for some products. I felt that particular restaurant interests were being accommodated through a process which inadequately considered public-health impacts and which did not allow sufficient public comment and input concerning the granting of exemptions.

The chairman and his staff, working with other members of the Agriculture

Committee, took particular care to address my concerns, which were widely shared. The version of the bill which the Senate Agriculture committee sent to the Senate last week, and which we passed, fully satisfied those concerns. It authorized the Secretary of Agriculture to grant certain exemptions from inspection, but only to the extent consistent with the protection of public health. It provided for fair and open administrative procedures.

The chairman knows that I would have preferred that language. Some consumer-nutrition advocates worry that the way we are authorizing an exemption form inspection in the bill before us appears to reverse longstanding practice regarding public health criteria. They say that it could be construed as shifting the burden of proof from those who will benefit from risk to those who will be subject to the risk.

In other words, this bill now instructs the Secretary that he shall grant an exemption, albeit under certain "terms and conditions." Then the Secretary may, of course, withdraw such an exemption if that is found to be necessary in order to ensure food safety and protect public health. I wonder if it is less clear than it was before that the Secretary and those who are seeking an exemption have a burden of proof to ensure that the exemption does not threaten public health before it is granted.

I am reassured by, and strongly agree with, the explanation offered by the chairman, of this current bill's language. The terms and conditions under which the Secretary is to exempt some products from meat inspection requirements must "ensure food safety and protect public health."

Therefore, to effect this exemption, the Secretary is required to establish such terms and conditions as may be necessary to be certain of food safety, even in the absence of daily inspection. Clearly, strong sanitation requirements will be imposed through the terms and conditions. I note that the chairman cites the sanitary requirements imposed on custom operations. And I note further that if regulations specifying terms and conditions cannot be promulgated, an exemption should not be granted.

I find comfort in the chairman's assurance that the Secretary's duty to protect the public health is, if anything, expanded in the case of an exemption from the requirements of daily inspection, as will be the case if this bill becomes law. Moreover, I understand that the Secretary would have broad authority to perform that duty.

As a member of the Senate Committee on Labor and Human Resources, I intend to observe carefully the rulemaking process for any exemption granted through this provision. I will pay particular attention to the terms and conditions promulgated by the Secretary as part of any exemption process to see that they do, in fact, ensure food safety and protect public health. Because it is my understanding that these provisions accomplish that end, I will not oppose their enactment, although I would have preferred those contained in the earlier, Senate-passed version of this bill.

EXTENSION OF EXPIRING TAX PROVISIONS

Mr. WOFFORD. Mr. President, I take this opportunity to commend the chairman of the Finance Committee, the Senator from Texas, for his leadership in bringing this legislation to the floor. Because this bill, which extends several expiring provisions of the tax code, is important in getting this country's economy moving again. In my mind, this legislation combines several of the types of initiatives that are vital to long term economic growth.

This bill provides incentives for capital investment. In particular, this legislation extends tax provisions that promote research and development. It would also extend small issue industrial development bonds, which stimulate private sector investment into long-lived physical plant and equipment, to increase productivity and to create permanent private sector jobs.

IDB's have been extremely successful in retaining and creating jobs in Pennsylvania. According to the Commonwealth's Department of Commerce, IDB's have financed 160 manufacturing and industrial projects in Pennsylvania, thereby retaining 13,359 jobs and creating 6,400 new jobs between 1987 and 1990.

This bill also promotes investment in the productive capacity of individuals. It will ensure that employees will be able to continue to receive up to $5,250 annually in tuition reimbursements or similar educational benefits from their employers on a tax-free basis. Since this deduction was first enacted in 1978, over 7 million working people have benefited. And these are middle-class working people—in 1986, over 70 percent of the benefits went to people earning less than $30,000.

In addition, this bill promotes housing opportunities through the extension of the mortgage revenue bonds and the low-income housing tax credit.

I am extremely concerned that the American dream of home ownership is fading. And I believe that the Federal Government has a role in reversing that trend. During the past 20 years, MRB's have financed more than 1.2 million mortgages totaling more than $75 billion. Since 1982, the MRB program has helped more than 35,000 families in Pennsylvania. The average price of houses financed in 1990 was $57,000 and the average family income of the participants was $27,100. Clearly, MRB's are important to first-time homebuyers.

The low-income housing tax credit is an important housing production program. It is a public-private partnership in the truest sense of that term. As a result of the productive relationships promoted by the tax credit, lower income families can obtain affordable housing.

Mr. President, this legislation is important during these economically troubled times. However, I am disappointed that the extension will only be for 6 months. Such a short-term extension creates uncertainty among those that utilize these tax provisions. Consequently, I will be working with my colleagues in the near future to at least make the most worthy of these provisions permanent.

CHAMPUS

Mr. WIRTH. Mr. President, on Saturday, the Senate debated the Department of Defense appropriations conference report and discussed many of the differences between the provisions of that report and the DOD authorization conference report. One of those differences relates to a provision of the authorization bill that I strongly supported involving the CHAMPUS Reform Initiative [CRI] contract now in effect in California and Hawaii. That provision instructs the Department to rebid the contract using competitive bidding procedures to determine the vendor that will perform services after the current contract terminates in January 1993. The appropriations conference report directs the Department to do precisely the opposite. That bill instructs the Department to extend the contract for 1 year until January 1994, keeping the current contractor in place without any competition whatever.

The President has just signed the DOD appropriations bill and will soon have the opportunity to sign the DOD authorization bill. As he considers his action on the authorization bill, I think it important to establish clearly the impact of that bill's CRI provision and, in particular, the effect of the enactment of that provision upon the conflicting language of the appropriations bill.

Mr. President, it should be clearly understood that enactment of the authorization bill will have the effect of rescinding the appropriations bill's language. The instructions to the Department relating to CRI that are contained in the two bills are in direct conflict and cannot both be followed. When Senator GLENN and other members of the Senate Armed Services Committee developed the authorization bill's CRI provision, our purpose was to counteract and supersede the instruction of the House Appropriations Committee' conflicting provision. The effect of the President's signature of the authorization bill will therefore require competitive bidding to determine the fate of the CRI contract in 1993, notwithstanding the appropriations bill's instructions to the Department to extend the contract until January 1994. Clearly, the President understands that to be among the consequences of his signature of the authorization bill. To my mind, it is one of the desirable consequences that will result from that action.

FCC REALLOCATING FREQUENCIES

Mr. HOLLINGS. Mr. President, I rise today to discuss proposals currently being examined by the Federal Communications Commission [FCC] that could have a significant impact on the telecommunications systems of the railroads, the power companies, and other users.

The FCC is considering the feasibility of reallocating frequencies around 2 gigahertz to new service providers. Some of these frequency bands are heavily used by the railroads' and power companies' microwave communications systems. The FCC also is considering the cost impact in addition to the technical feasibility of any possible reallocation that may affect these users. In fact, the FCC is reviewing suggestions that the new service providers might be required to pay the relocation expenses of the incumbent users of these frequencies, including the railroads and power companies.

The railroads and the power companies have substantial interests in this matter. The railroads, the power companies, and other basic U.S. industries and State and local governments depend on their frequency bands extensively for microwave communications. These users' investments in microwave systems are substantial. The cost of accommodating those microwave systems in other frequency bands could be very high, assuming alternative frequencies are available. These microwave facilities were installed to provide communications facilities which were not otherwise available or were not available with the necessary service reliability.

In this regard, railroads and power companies must have available to them secure and reliable communications systems. Relocating these microwave systems to other frequency bands could force these users to incur substantial costs.

As I have said before, Congress should not get involved in specific frequency allocation decisions before the FCC. The FCC is clearly the expert body when it comes to determining which service should receive which frequencies. These decisions require detailed engineering studies concerning power levels, interference, coverage areas, transmission modes, and other considerations, questions that the FCC was created to address.

As it addresses the issues related to spectrum allocations to accommodate newly proposed services, the FCC should exercise great care and prudence with regard to the microwave systems upon which railroads and power companies depend for the safe and efficient operation of trains and provision of public power.

THE SURFACE TRANSPORTATION ACT

Mr. JEFFORDS. Mr. President, I am pleased to support the conference report on the Intermodal Surface Transportation Efficiency Act of 1991, and I want to commend my colleagues for their efforts in reaching a compromise with the House of Representatives. While we did not get everything we wanted, I am glad to see that many of the Senate provisions remained in the final bill.

I would briefly like to highlight some of the aspects of this bill. Our countries' bridges are falling down. This bill provides $16 billion to help solve this problem. In my own State of Vermont, several bridges are in disrepair. In fact, I am pleased that this bill may result in repair being done on a key transportation link between rural Vermont and New Hampshire: The Maidstone bridge. I'll discuss this in more detail later.

This bill will result in the completion of the present interstate highway system. President Eisenhower had the foresight to see how important the interstate system could be to commerce in this country. Thirty-five years later we are on the brink of completing this system.

To reduce Americans' use of cars, billions will be invested in new rapid transit systems. Over $9 billion will be provided for new transit systems. Approximately $660 million will be spent for an intelligent highway system to reduce congestion. Studies have shown that tremendous volumes of oil are wasted by cars stuck in traffic. Air pollution is also increased by the idling cars.

Flexibility is also provided in this bill. This is very important to my home State of Vermont. We need the ability to transfer money between projects.

Money is dedicated to the creation of a national system of trails for backpackers. Too often we forget our original form of transportation: Walking. Vermont has many trails which are heavily used, and we are looking forward to expanding or trail network.

Scenic byways are also allowed under this act. Billboards can be prevented from being put up on these byways. Money can also be spent to remove these billboards. I wish we had kept the Senate language, but am pleased that some option exists for removing billboards. Some day we may be free of this pollution on a stick.

I would briefly like to discuss the implications of this bill for my home State. Over the 6-year life of this bill, we should get approximately $492 million. I am pleased that the conferees were able to get another $20 million to complete a very important project for Vermont: The Bennington bypass. Bennington, VT, suffers from traffic congestion. To alleviate this congestion, a road would have to be built in New York State as well as in Vermont. Recently, Vermont and New York negotiated an agreement to build this road. Now we have the funding. Soon, the Bennington bypass will be a reality.

Bennington is not the only city to profit from this bill. All of Vermont will benefit from this bill by the inflow of money into the State. Some other specific projects may also benefit. I have spoken with Vermont's Secretary of Transportation about the Bennington bypass. According to the Secretary, the additional Federal money we received will free up State money which can go to other projects. These projects could benefit from the release of State money from the Bennington project. The first is the Maidstone bridge I discussed earlier. The second is Route 7 near S. Wallingford, and the third is a project at the medical center in Burlington. I am glad the Secretary and I were able to work together to ensure additional funding for other important Vermont projects.

Mr. President, the hour is very late, so at this point I will conclude my remarks. I want to thank Senators CHAFFEE, MOYNIHAN, SYMMS, and my other colleagues on the Environment and Public Works Committee. Their staffs are to be commended as well.

INCLUSION OF AREA HEALTH EDUCATION CENTER PROVISIONS IN PUBLIC HEALTH TRAINING ACT

Mr. McCAIN. Mr. President, I rise to express my support for the Senate amendment to H.R. 3508, legislation to reauthorize public health training programs. Specifically, I would like to express my appreciation to the authors of the Senate amendment for including the concepts embodied in the Area Health Education Centers Reauthorization Act of 1911, which I introduced earlier this year with Senators GRAHAM and others.

This legislation, which has been over a year in the making, represents a consensus opinion of the Area Health Education Center community nationwide. It reauthorizes and restructures the critical Area Health Education Center Program, which is a critical component to meeting the health manpower shortage needs in rural and other underserved areas.

Again, Mr. President, I am pleased that the authors of the Senate amendment to H.R. 3508 included the concepts embodied in the Area Health Education Centers Reauthorization Act of 1991.

RELATING TO HCFA REGULATIONS BANNING PROVIDER-SPECIFIC TAXES AND VOLUNTARY CONTRIBUTIONS TO STATE MEDICAID PROGRAMS

Mr. NUNN. Mr. President, earlier today the Senate approved by voice vote H.R. 3595, legislation aimed at supplanting pending Federal regulations that would have immediately banned the use of voluntary contributions and provider-specific taxes by State Medicaid Programs.

I am very pleased that H.R. 3595, as adopted, incorporated an agreement reached this morning between Senator FOWLER and myself and representatives of the Health Care Financing Administration [HCFA]. This agreement is a great improvement over the pending HCFA regulations that would have gone into effect otherwise and avoids the immediate threat of a $250 million shortfall in the State's fiscal year 1992 budget.

This agreement was reached through the good offices of Senator BENTSEN, and was developed on the foundation of an earlier compromise worked out between HCFA and the National Governors' Association. I want to thank Senator BENTSEN, NGA, and Gov. Zell Miller of Georgia and the Georgia Department of Medical Assistance, for the roles they played in this timely agreement.

The Georgia-HCFA agreement includes three very important concessions by the administration.

First, the prohibition on voluntary contributions to State Medicaid funds will be delayed until October 1, 1992, which will give Georgia more time to plan and implement a new system for financing its indigent care fund. It also forestalls the aforementioned $250 million shortfall in Federal Medicaid match dollars in fiscal year 1992.

Second, HCFA has agreed to modify language in the bill that would have made it virtually impossible for the Georgia General Assembly to debate legislation creating the provider tax which will now be the sole legitimate method of financing Georgia's indigent care fund. This linkage language made any discussions between State officials and providers on the structure of a provider-based tax grounds for assuming the State was attempting to circumvent Federal rules and secure excessive Federal match dollars. Now such discussion can take place, a concession of considerable importance insofar as Georgia may have to adopt a constitutional amendment to establish a new indigent care financing system.

Third of all, the agreement assures Georgia officials that they can continue to utilize local government funds made available through intergovernmental transfers, without forfeiting the Federal match. This, too, will be an important component in any future state indigent care financing system.

Mr. President, these are extremely technical matters affecting the most complex elements of this enormous intergovernmental program. The agreement reached today, however, basically represents a successful effort to prevent abuses in financing of State Medicaid Programs without abusing States which are struggling to care for our most vulnerable families.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:00 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 848) entitled the "Little Bighorn Battlefield National Monument".

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 690) to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2092. An act to carry out the obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing;

H.R. 3048. An act to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes; and

H.R. 3670. An act to make certain technical corrections relating to the immigration laws.

At 11:02 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 829. An act to amend title 38, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia;

H.R. 2450. An act to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions;

H.R. 2549. An act to make technical corrections to chapter 5, of title 5, United States Code;

H.R. 2732. An act to amend title 17, United States Code, with respect to copyright renewal, to reauthorize the National Film Preservation Board, and for other purposes;

H.R. 3237. An act to extend the terms of office of members of the Foreign Claims Settlement Commission from 3 to 6 years;

H.R. 3379. An act to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference;

H.R. 3666. An act to amend title 28, United States Code, to provide for an additional place of holding court for the Eastern District of Texas; and

H.R. 3686. An act to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina.

At 3:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 78. A concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 291. An act to settle certain water rights claims of the San Carlos Apache Tribe; and

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1555. An act to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; and

H.R. 3282. An act to amend the Act commonly referred to as the Johnson Act, to give the same treatment to the repair, transportation, possession, or use of gambling devices on certain United States-flag vessels as is governing to that activity on foreign flag vessels.

At 7:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3029) to make technical corrections to agriculture laws; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3341. An act to amend the Ethics in Government Act of 1978 with respect to honoraria, and for other purposes.

At 9:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary.

The message also announced that the House has passed the bill (S. 2050) to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 249. A concurrent resolution correcting a technical error in the enrollment of the bill H.R. 1724.

At 11:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3576) to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas.

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 2929. An act to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes;

H.R. 3337. An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes;

H.R. 3932. An act to improve the operation efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month"; and

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day".

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 168. A concurrent resolution condemning Saddam Hussein for refusing to comply with United Nations Security Council resolutions 706 and 712 and urging the President under the auspices of the United Nations to provide humanitarian assistance to the vulnerable populations of Iraq.

MEASURES REFERRED

The following bills, previously received from the House of Representatives for concurrence, were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1555. An act to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; to the Committee on Finance.

H.R. 2549. An act to make technical corrections to chapter 5 of title 5, United States Code; to the Committee on the Judiciary.

H.R. 3282. An act to amend the act commonly referred to as the Johnson Act, to give the same treatment to the repair, transportation, possession, or use of gambling devices on certain United States-flag vessels as is given to that activity on foreign-flag vessels; to the Committee on Commerce, Science, and Transportation.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2092. An act to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 793. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes (Rept. No. 102–245).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 1056. A bill to provide for an architectural and engineering design competition for the construction, renovation, and repair of certain public buildings, and for other purposes (Rept. No. 102–246).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 652. A bill to protect the privacy of telephone users by amending section 3121 of title 18, United States Code (Rept. No. 102–247).

S. 474. A bill to prohibit sports gambling under State law (Rept. No. 102–248).

S. 313. A bill to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from a person who engages in torture or extra judicial killing (Rept. No. 102–249).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 168. A bill to implement certain recommendations of the Garrison Unit Joint Tribal Advisory Committee regarding the entitlement of the Three Affiliated Tribes and the Rock Sioux Tribe to additional financial compensation for the taking of reservation lands for the site of the Garrison Dam and Reservoir and the Oahe Dam and Reservoir, and for other purposes (Rept. No. 102–250).

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

H.R. 1426. A bill to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes (Rept. No. 102–251).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 757. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes (Rept. No. 102–252).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1696. A bill to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 353. A bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes (Rept. No. 102–253).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1581. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfer for works prepared under certain cooperative research and development (Rept. No. 102–254).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

William Carl, of Texas, to be a Member of the Board of the Panama Canal Commission;

John J. Danilovich, of California, to be a Member of the Board of the Panama Canal Commission;

John W. Crawford, Jr., of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1996; and

Leo P. Duffy, of Pennsylvania, to be an Assistant Secretary of Energy (Environmental Restoration and Waste Management).

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of October 31 and November 15, 1991 at the end of the Senate proceedings.)

*Brig. Gen. Nathaniel H. Robb, ARNG, to be major general (Reference No. 426)

**In the Navy there are 169 appointments to the grade of ensign (list begins with Thomas H. Adair) (Reference No. 743)

**In the Air Force there are 2 promotions to the grade of colonel (list begins with Daniel D. Clifton) (Reference No. 774)

**In the Air Force and Air Force Reserve there are 26 appointments to the grade of colonel and below (list begins with Hector A. Arroyo Scotoliff) (Reference No. 775)

**In the Air Force Reserve there are 21 promotions to the grade of lieutenant colonel (list begins with Michael T. Allen) (Reference No. 776)

**In the Army Reserve there are 23 promotions to the grade of colonel and below (list begins with Charles G. Abbott) (Reference No. 777)

**In the Army there are 4 appointments as permanent professors at the United States Military Academy (list begins with James D. Hallums) (Reference No. 778)

**In the Air Force there are 680 promotions to the grade of colonel (list begins with Ronald M. Adams) (Reference No. 779)

**In the Army Reserve there are 810 promotions to the grade of colonel (list begins with Bruce A. Adams) (Reference No. 780)

**In the Naval Reserve there are 1,610 appointments to the grade of ensign (list begins with Kevin T. Aanestad) (Reference No. 781)

Total: 3,346.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEFLIN:

S. 2051. A bill to amend the Internal Revenue Code of 1986 to restore the regular investment tax credit for property placed in service during a specified period, and for other purposes; to the Committee on Finance.

S. 2052. A bill to amend the Internal Revenue Code of 1986 to stimulate the economy by allowing a deduction for personal interest of consumers, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 2053. A bill to amend section 1977A of the Revised Statutes to modify the remedies available to victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2054. A bill to confer jurisdiction on the United States Claims Court with respect to land claims of the Pueblo of Isleta Indian Tribe; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. KENNEDY, and Mr. THURMOND):

S. 2055. A bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself, Mr. BRYAN, Mr. DASCHLE, and Mr. ROCKEFELLER):

S. 2056. A bill to assist States in developing export programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROTH:

S. 2057. A bill to amend title 10, United States Code, to provide for centralized acquisition of property and services for the Department of Defense, to modernize Department of Defense acquisition procedures, and for other purposes; to the Committee on Armed Services.

By Mr. LIEBERMAN (for himself and Mr. ROBB):

S. 2058. A bill to declare as the policy of the United States cooperation with Western Hemisphere countries on energy issues, and for other purposes; to the Committee on Foreign Relations.

By Mr. NUNN (for himself, Mr. BREAUX, and Mr. PRYOR):

S. 2059. A bill to establish youth apprenticeship demonstration programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. KASSEBAUM (for herself and Mr. METZENBAUM):

S. 2060. A bill to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SASSER:

S. 2061. A bill to amend the Internal Revenue Code of 1986 to provide middle income tax relief, to provide for long-term economic growth, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DURENBERGER, Ms. MIKULSKI, Mr. PACKWOOD, Mr. WIRTH, Mr. MCCONNELL, Mr. WELLSTONE, Mr. DECONCINI, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. COHEN, Mr. CRANSTON, Mr. GORE, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. ROBB, Mr. SARBANES, Mr. SIMON, Mr. WOFFORD, and Mr. DIXON):

S. 2062. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEAHY:

S. 2063. A bill to amend the Communications Act of 1934 to require cable television operators to provide notice and options to consumers regarding the use of converter boxes, remote control devices, and multiport technology; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD (for himself, Mr. MITCHELL, Mr. SIMON, Mr. JEFFORDS, Mr. DECONCINI, Mr. LEAHY, Mr. ADAMS, Mr. HARKIN, Mr. KENNEDY, and Mr. WELLSTONE):

S. 2064. A bill to impose a one-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period; to the Committee on Foreign Relations.

By Mr. DIXON (for himself and Mrs. KASSEBAUM):

S. 2065. A bill to federalize the crime of child molestation for repeat offenders; to the Committee on the Judiciary.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2066. A bill to amend title 10, United States Code, to require the Secretary of Defense to provide financial assistance to local educational agencies administering public school districts where military installations are located; to the Committee on Armed Services.

By Mr. MOYNIHAN:

S. 2067. A bill to provide for the elimination of the General Services Administration's Federal Building Fund; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 2068. A bill to provide for a biennial review and planning for a public buildings program; to the Committee on Environment and Public Works.

S. 2069. A bill to provide that the General Services Administration provide information concerning public buildings in a certain form for the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN (for himself and Mr. BURDICK):

S. 2070. A bill to provide for the Management of Judicial Space and Facilities; to the Committee on Environment and Public Works.

By Mr. KERRY:

S. 2071. A bill to suspend temporarily the duties on certain instant print cameras; to the Committee on Finance.

S. 2072. A bill to suspend temporarily the duties on certain chemicals; to the Committee on Finance.

By Mr. BREAUX (for himself and Mr. LOTT):

S. 2073. A bill to authorize appropriations for fiscal year 1992 for the Maritime Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself and Mr. RUDMAN):

S. 2074. A bill to amend section 6002, United States Code, respecting immunized testimony; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2075. A bill to facilitate and assist in the economic adjustment and industrial diversification of defense industries, defense-dependent communities, and defense workers that are adversely affected by the termination or reduction of defense spending or defense-related contracts; to the Committee on Finance.

By Mr. PELL (for himself and Mr. WOFFORD):

S. 2076. A bill to amend the Communications Act of 1934 and the Federal Election Campaign Act of 1971 to better inform the electorate in Senate elections; to the Committee on Rules and Administration.

By Mr. MOYNIHAN (for himself, Mr. DURENBERGER, Mr. PACKWOOD, Mr. ROTH, Mr. AKAKA and Mr. MCCAIN):

S. 2077. A bill to amend title XIX of the Social Security Act to provide for optional State coverage of coordinated care, and to improve Federal requirements with respect to the provision of coordinated care by health maintenance organizations in order to allow States to reduce costs and improve quality care in contracting for managed care services under the medicaid program; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. SHELBY, Mr. REID, Mr. DIXON and Mr. INOUYE):

S. 2078. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the purchase of a principal residence by a first-time homebuyer; to the Committee on Finance.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 2079. A bill to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself and Mr. DURENBERGER):

S. 2080. A bill to clarify the application of federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JEFFORDS:

S. 2081. A bill to sell agricultural commodities to the Union of Soviet Socialist Republics so as to promote local food distribution and production and the operations and privately owned agricultural enterprises; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2082. A bill relating to the taxation of certain disability benefits received by former police officers or firefighters; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2083. A bill to provide for an extension of regional referral center classifications, and for other purposes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2084. A bill to provide for a minimum medicare payment level of 90 percent for rural referral centers allowable capital-related costs; to the Committee on Finance.

By Mr. MITCHELL (for Mr. PRYOR (for himself, Mr. DOLE, Mr. COCHRAN, Mr. BOND, Mr. SHELBY and Mr. BOREN)):

S. 2085. A bill entitled the Federal-State Pesticide Regulation Partnership; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BRADLEY:

S. 2086. A bill to amend the Internal Revenue Code of 1986 to provide for individual development accounts, and for other purposes; to the Committee on Finance.

By Mr. SIMON:

S. 2087. A bill to prohibit certain use of the terms "Visiting Nurse Association", "Visiting Nurse Service", "VNA", and "VNS"; to the Committee on the Judiciary.

By Mr. PELL (by request):

S. 2088. A bill to authorize the establishment of a Beringian Heritage International Park; to the Committee on Foreign Relations.

By Mr. NICKLES (for himself, Mr. PACKWOOD and Ms. MIKULSKI):

S. 2089. A bill to repeal exemptions from civil rights and labor laws for Members of Congress; to the Committee on Governmental Affairs.

By Mr. AKAKA:

S. 2090. A bill to amend the Harmonized Tariff Schedule of the United States with respect to knit sweaters assembled in Guam; to the Committee on Finance.

By Mr. DECONCINI (for himself, Mr. KENNEDY, Mr. SIMON, Mr. D'AMATO, Mr. MOYNIHAN, Mr. BRADLEY, Mr. ADAMS, Mr. KOHL, Mr. CRANSTON, Mr. KERRY and Mr. INOUYE):

S. 2091. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 2092. A bill to minimize the impact of Federal acquisition of private lands on units of local government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRAMM (for himself and Mr. MCCAIN):

S. 2093. A bill to insure that any peace dividend is invested in America's families and deficit reduction; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SIMON (for himself, Mr. KENNEDY, Mr. PELL, and Mr. ADAMS):

S. 2094. A bill to repeal sections 601 and 604 of the Emergency Unemployment Compensation Act of 1991, relating to certain student loan provisions; to the Committee on Labor and Human Resources.

By Mr. SYMMS (for himself and Mr. CRAIG):

S. 2095. A bill to amend the Internal Revenue Code of 1986 to provide a refundable income tax credit for health insurance premiums, to provide for the creation of individual medical care savings accounts, to repeal certain tax benefits relating to medical expenses, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. DECONCINI, Mr. COATS, and Mr. CRANSTON):

S. 2096. A bill to establish a period of congressional review for proposed arms sales to countries other than NATO allies or major non-NATO allies; to the Committee on Foreign Relations.

S. 2097. A bill to require a report regarding proposed sales to countries of the Persian Gulf and the Arabian Peninsula of defense articles pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Foreign Relations.

By Mr. FORD:

S. 2098. A bill to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration; considered and passed.

By Mr. KENNEDY (for himself and Mr. SIMPSON):

S. 2099. A bill to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for the compensation of such judges; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. SIMON, Mr. WIRTH, Mr. REID and Mr. HATFIELD):

S. 2100. A bill to amend the Internal Revenue Code of 1986 to encourage the development of renewable energy and the conservation of energy, and for other purposes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2101. A bill to amend the Wild and Scenic Rivers Act by designating the Lower Salmon River in Idaho as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GARN (for himself and Mr. ROCKEFELLER):

S. 2102. A bill to amend the International Emergency Economic Powers Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself and Mr. MOYNIHAN):

S. 2103. A bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. MOYNIHAN):

S. 2104. A bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

By Mr. BENTSEN (for himself, Mr. FORD, Mr. LUGAR, Mr. SPECTER and Mr. WOFFORD):

S. 2105. A bill to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (for himself, Mr. SPECTER and Mr. GORTON):

S. 2106. A bill to grant a Federal charter to the Fleet Reserve Association; to the Committee on the Judiciary.

By Mr. DANFORTH (for himself, Mr. BOND and Mr. KENNEDY):

S. 2107. A bill to amend the Employment Retirement Income Security Act of 1974; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 2108. A bill to establish a national policy to encourage the proper collection, handling, treatment and disposal of medical waste materials; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. PACKWOOD and Mr. HATCH):

S. 2109. A bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years other than taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Finance.

By Mr. ADAMS (for himself and Mr. GORTON):

S. 2110. A bill to amend the Internal Revenue Code of 1986 to clarify that conservation expenditures by electric utilities are deductible for the year in which paid or incurred; to the Committee on Finance.

By Mr. CHAFEE:

S. 2111. A bill to amend the Internal Revenue Code of 1986 to increase the rollover period on principal residences for taxpayers whose assets are frozen in financial institutions; to the Committee on Finance.

By Mr. INOUYE:

S. 2112. A bill to amend the Communications Act of 1934 to encourage competition in the provision of electronic information services, to foster the continued diversity of information sources and services, to preserve the universal availability of basic telecommunictions services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH (for himself, Mr. CRAIG, Mr. SYMMS and Mr. HELMS):

S. 2113. A bill to restore the Second Amendment rights of all Americans; to the Committee on Governmental Affairs.

By Mr. PACKWOOD:

S. 2114. A bill to amend the Social Security Act to provide access to health care benefits for all Americans, and for other purposes; to the Committee on Finance.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2115. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; to the Committee on Finance.

By Mr. RIEGLE:

S. 2116. A bill to improve the health of children by increasing access to childhood immunizations, and for other purposes; to the Committee on Finance.

By Mr. SASSER (for himself, Mr. MOYNIHAN, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. PRYOR, Mr. HOLLINGS, Mr. SIMON, Mr. DECONCINI, Mr. GRAHAM, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. DODD, Mr. WIRTH, Mr. GLENN, Mr. ADAMS and Mr. METZENBAUM):

S. 2117. A bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

By Mr. DECONCINI (for himself and Ms. MIKULSKI):

S. 2118. A bill to create a Department of the Treasury Forfeiture Fund; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2119. A bill to amend title II of the Social Security Act to waive the twenty-four month waiting period for medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome (AIDS), and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S.J. Res. 236. A joint resolution designating the third week in September 1992 as "National Fragrance Week"; to the Committee on the Judiciary.

By Mr. DASCHLE:

S.J. Res. 237. A joint resolution proposing an amendment to the Constitution of the United States to set the compensation of services for Members of Congress, and for other purposes; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S.J. Res. 238. A joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BINGAMAN (for himself, Mr. EXON, Mr. GORE, Mr. GLENN, Mr. BRYAN, Mr. LIEBERMAN, Mr. ADAMS, Mr. HARKIN, Mr. FORD, Mr. DASCHLE, Mr. LEAHY, Mr. DODD, Mr. KERREY, Mr. WELLSTONE, Mr. HOLLINGS and Mr. ROCKEFELLER):

S. Res. 234. A resolution expressing the sense of the Senate on the sale of 40 percent of McDonnell Douglas' commercial aircraft division to the Taiwan Aerospace Corporation; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO:

S. Res. 235. A resolution expressing the sense of the Senate that the bloodshed must be stopped in Croatia; to the Committee on Foreign Relations.

By Mr. ADAMS (for himself, Mr. CRANSTON, Mr. AKAKA, Mr. INOUYE and Mr. WIRTH):

S. Res. 236. A resolution expressing the sense of the Senate that the President rescind Department of Defense Directive 1332.14, section H.1, which bans gay, lesbian, and bisexual Americans from serving in the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. GORE:

S. Res. 237. A resolution to bring an end to illegal logging practices in the Philippines and for other purposes; to the Committee on Foreign Relations.

By Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. KENNEDY and Mr. WOFFORD):

S. Con. Res. 80. A concurrent resolution concerning democratic changes in Zaire; to the Committee on Foreign Relations.

By Ms. MIKULSKI:

S. Con. Res. 81. A concurrent resolution expressing the sense of the Congress regarding visionary art as a national treasure and regarding the American Visionary Art Museum as a national repository and educational center for visionary art; to the Committee on the Judiciary.

By Mr. MACK (for himself, Mr. SIMON, Mr. MCCONNELL and Mr. LUGAR):

S. Con. Res. 82. Concurrent resolution urging greater progress toward democratization in Hong Kong; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN:

S. 2051. A bill to amend the Internal Revenue Code of 1986 to restore the regular investment tax credit for property placed in service during a specified period, and for other purposes; to the Committee on Finance.

REINSTATEMENT OF REGULAR INVESTMENT TAX CREDIT

Mr. HEFLIN. Mr. President, I rise today to introduce the Investment Tax Credit Act of 1991. This bill would allow businesses to recognize a tax credit on the tangible personal property which they purchase.

It is no secret that the economy is at a standstill. Our goal, as the body responsible for this Nation's laws, should be to provide some incentives to American businesses, in order to get the Nation's economy back on track. The investment tax credit, before its repeal in 1986, proved to be one of the most effective incentives to business.

For example, if credit is put in place a business considering buying new equipment or vehicles for its operations would see the new equipment as an investment with immediate as well as long range returns. Mr. President, it is only with this type of stimulation that I believe the American economy can experience a turn for the better in the next year.

Our fellow countrymen are looking toward Washington for leadership in the economy. We must turn away from the do nothing and hope policy, and look toward the real life figures. Many of the repeals of the 1986 Tax Reform Act have proven to be short-sighted although well intentioned. We must give Americans and American business a chance to get the economy back on its feet. I hope all of my colleagues will join me in support of this bill and in support of my belief that if you give Americans the freedom and incentive to operate their businesses they will be the true leaders to a better economy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF REGULAR INVESTMENT CREDIT.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment in certain depreciable property), as amended by section 2, is amended by adding at the end the following new section:

"SEC. 50. REINSTATEMENT OF REGULAR INVESTMENT CREDIT.

"(a) IN GENERAL.—With respect to any property placed in service during 1992, 1993, or 1994—

"(1) section 49 shall not apply, and

"(2) the regular percentage for purposes of this subpart shall be 10 percent.

"(b) SPECIAL RULES FOR REHABILITATION, ENERGY, AND REFORESTATION CREDITS.—Notwithstanding any other provision of law, the rehabilitation credit, energy credit, and reforestation credit shall be computed in the manner provided by this subpart as in effect on the day before the date of the enactment of this section.

"(c) PROJECTS ENTERED INTO BEFORE 1955.—For purposes of subsection (a), property placed in service after December 31, 1994, shall be treated as placed in service in 1994 if—

"(1) the construction, reconstruction, or erection of the property began during 1992, 1993, or 1994, or

"(2) the property is acquired by the taxpayer after December 31, 1994, and before January 1, 2000, pursuant to a contract which on such date, and at all times thereafter, was binding on the taxpayer.

Any credit allowable by reason of this subsection shall be allowed in the taxable year in which the property is placed in service (or in which qualified progress expenditures with respect to such property are made)."

(b) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 50. Reinstatement of regular investment credit."

SEC. 2. REINSTATEMENT OF TECHNICAL PROVISIONS NECESSARY TO ALLOW INVESTMENT CREDIT.

Section 11813 of the Revenue Reconciliation Act of 1990 (Public Law 101-508) is hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such section (and the amendments made by such section) had never been enacted.

By Mr. HEFLIN:

S. 2052. A bill to amend the Internal Revenue Code of 1986 to stimulate the economy by allowing a deduction for personal interest of consumers, and for other purposes; to the Committee on Finance.

DEDUCTION FOR CONSUMER INTEREST

Mr. HEFLIN. Mr. President, I rise today to introduce S. 2052, the Consumer Personal Interest Deduction Act of 1991. This legislation would allow the average American taxpayer to deduct personal interest payments from his or her Federal income tax.

The financial experts tell us that the outlook for the American economy is bleak and that consumers are simply not purchasing items such as new automobiles and appliances; the very items that spur our economy in innumerable ways. Before we can see some improvement in consumer spending, however, we must stop blaming middle America and start providing some incentives that will give the average American the desire and confidence to buy new products. It appears to me that the challenge before this Congress is to provide incentives that will prove to be wise over the long run as well as the short run. In my opinion, a change in the tax law that would again allow the taxpayer to deduct the personal interest he or she pays would meet both of these objectives.

Prior to the 1986 tax reform, all consumer interest was deductible. This deduction has been phased out over the past several years. It now seems apparent that this change in the Tax Code has not only phased out deductions, but has also phased out consumer spending. The time has come to reinstate this deduction and give Americans back their confidence to purchase.

Restoring this confidence will have far reaching positive effects on the economy as a whole. For in real terms, what this deduction means is that the family down the street which has been looking at that more up to date car but, has hesitated to borrow the money necessary to buy it, will now look at borrowing that money in a whole new light. The same scenario is true for most retail items of some significance. When we stop and consider that there are about 22 million people directly employed in the wholesale and retail industry, I hope we are able to see the importance of bringing middle America back to the marketplace.

Mr. President, I keep emphasizing middle America because my bill is aimed at the average taxpayer. This bill has a cap on the amount of personal interest that may be deducted. Thus, this bill does not provide a haven for the wealthy to avoid taxes; this bill simply provides a break to those who buy those items that are common to mainstream America. We must encourage Americans to return to the marketplace. I cannot think of a better way to do this than with an incentive that has proved to be effective in the past. Please join me in phasing back in the personal interest deduction and bringing back the American consumer to the American economy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION ALLOWED FOR CERTAIN PERSONAL INTEREST.

(a) IN GENERAL.—Paragraph (1) of section 163(h) of the Internal Revenue Code of 1986 (relating to disallowance of deduction for personal interest) is amended to read as follows:

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, no deduction shall be allowed under this chapter for personal interest paid or accrued during the taxable year to the extent that the amount of such interest exceeds the applicable limit."

(b) APPLICABLE LIMIT.—Paragraph (5) of section 163(h) (relating to the phase-in) is amended to read as follows:

"(5) APPLICABLE LIMIT.—For purposes of paragraph (1), the term 'applicable limit' means—

"(A) in the case of a taxpayer filing a joint return, $6,000,

"(B) in the case of a married individual filing a separate return, $3,000, and

"(C) in the case of any other taxpayer, $4,000."

(c) CONFORMING AMENDMENT.—The heading for section 163(h) of the Internal Revenue Code of 1986 is amended to read as follows:

"(h) LIMITATION ON DEDUCTION FOR PERSONAL INTEREST.—".

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to interest on any indebtedness which was incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to any indebtedness incurred on or after such date to the extent such indebtedness is to refinance indebtedness incurred before such date.

By Mr. HATCH:

S. 2053. A bill to amend section 1977A of the Revised Statutes to modify the remedies available to victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

EMPLOYEE EQUITY AND JOB PRESERVATION ACT OF 1991

• Mr. HATCH. Mr. President, I am today introducing a bill titled the "Employee Equity and Job Preservation Act of 1991." It is a simple and straightforward measure, amending the Civil Rights Act of 1991 that was signed into law by President Bush last week. That legislation, in my view, represented a major step forward in protecting women in this country from discrimination in the workplace by permitting them, for the first time, to seek compensatory and punitive damages in cases of intentional employment discrimination under a new section 1981A.

In contrast to racial and ethnic minorities, who have long been able to recover such damages under a Reconstruction-era statute, section 1981, women, persons with disabilities, and others covered by title VII of the Civil Rights Act of 1964 had previously only been able to recover backpay and other make-whole remedies. The need for such additional relief for intentional discrimination was most apparent in cases of sexual harassment. In many of these cases, the failure of a woman to prove any tangible loss of wages and other benefits precluded any relief for her as well as any effective deterrent against an offending employer.

As a number of my colleagues pointed out during the recent debate on the Civil Rights Act, the final product, while a major step forward for those covered by title VII, failed to achieve total parity between the damages available to them and the damages available to those covered under section 1981. The reason is that the new legislation's section 1981A caps damages under a four-tier system based on the size of the employer. The damage caps range from $50,000 for an employer with fewer than 101 employees to $300,000 for employers with more than 500 employees. These caps were included as part of the compromise package.

Mr. President, Congress urgently needs to review the extent to which litigation in this country, featuring unlimited damage awards, among other things, has inhibited our country's economic growth as well as the expeditious and informal resolution of complaints. For example, citizens in my own State of Utah, who fare better than citizens of many other States, must wait an average of 14 months to have their cases heard in Federal court. The United States reportedly has 30 times the number of lawsuits per person than Japan and 20 times the number of lawyers as Japan per 100,000 population. it has become increasingly clear that the only real beneficiary of our current system is the legal profession.

However, Mr. President, until Congress is willing and able to undertake much needed broader reform, we are given the system as it exists today. And, I have been troubled by the double standard that the existing system applies in terms of the relief available to different persons protected by title VII. Unfortunately, this is but one of the many double standards that women in this country confront daily.

The purpose of the bill that I am introducing today is to eliminate this double standard for women, persons with disabilities, and victims of religious discrimination by removing the caps on punitive and compensatory damages for intentional discrimination under title VII. Under this bill, the only exception would be for cases brought against small employers with fewer than 50 employees. Punitive and compensatory damages would be available for employees of these smallest employers, but they would not be unlimited.

Notably, this exception builds on the carveout for a more limited category of small employers with fewer than 15 employees that has always existed under title VII, but not under section 1981, and that no one that I am aware of has ever advocated eliminating. Further, it parallels other efforts by prior Congresses to provide a small employer exception under laws such as the Fair Labor Standards Act. More recently, in fact, it parallels the willingness of many Members of the 102d Congress not only to limit the damages awarded against employers with fewer than 50 employees, as I suggest here, but also to exempt them entirely from the Family and Medical Leave Act. This is an obvious recognition that small employers can be severely affected by Federal legislation.

Mr. President, my bill does not exempt small businesses with between 15 and 50 employees from the law. In fact, their employees would be eligible for backpay and additional make-whole relief as well as for up to $50,000 in damages. That is more than any person employed in any size firm was ever allowed to recover under title VII until just last week and similar to what is available under the new law.

What I have sought to do by retaining this much more limited cap on damage awards is to deal with a larger and compelling problem. That problem is the devastating impact that unlimited jury awards for each plaintiff, in each case, brought against small employers, might have on their growth and economic viability. The question is quite simple, Mr. President. Are the interests of women employed by small businesses served when a jury award for damages is so large that it could potentially force that employer out of business and cost all of its employees their jobs?

Let me conclude, Mr. President, by acknowledging what many women have mentioned to me. This or any other effort to lift the caps on punitive and compensatory damages for cases of sexual discrimination is by no stretch of the imagination the principal answer to the difficult challenges that women in today's work force face. Working to eradicate discrimination is a necessary part of the answer, as is the precise amount of damages one can receive in such cases, but it is only part of the answer.

All of the remedies in the world for such cases will not help all of the women who want and need to work but cannot find jobs either because the jobs are not there or because they lack suitable skills and training. Nor will these remedies help women who cannot work because they cannot find adequate child care for their children or because the opportunity to return to their old jobs may not exist if they have taken several years off to raise their children.

Mr. President, I have devoted much of my time in recent years to efforts to deal with these issues as well, and I intend to continue those efforts in the coming session of Congress.●

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2054. A bill to confer jurisdiction on the U.S. Claims Court with respect to land claims of the Pueblo of Isleta Indian Tribe; to the Committee on the Judiciary.

LAND CLAIMS OF THE PUEBLO OF ISLETA INDIAN TRIBE ACT OF 1991

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill which will give the Pueblo of Isleta an opportunity to have their claims regarding aboriginal land title heard before the U.S. Claims Court. I am pleased that my colleague, Senator DOMENICI, joins with me in cosponsoring this bill.

The Pueblo of Isleta received erroneous advice from the Bureau of Indian Affairs about their rights under the Indian Claims Commission Act concerning claims to aboriginal land. They were told that without documentation they would have no valid claim against the United States; this was at a time when they were completely dependent upon the Bureau of Indian Affairs for advice and assistance in the matter of claims to land. The Isleta leaders at the time were not organized to address this issue of claims; they dealt primarily in internal matters and rarely became involved in matters outside the reservation boundaries, and they had no employees or staff of their own or legal counsel. As a result, they filed a very limited claim under the Indian Claims Commission Act in 1951, seeking recompense only for the taking of lands involved in Spanish land grants which they believed to be adequately documented.

Pueblo leaders were informed—late, and hastily—by the Bureau of Indian Affairs, that the Indian Claims Commission Act of 1946 permitted a claim to lands only if it were supported with documented evidence. Pueblo spokesmen tell me also that earlier leaders were informed that the Pueblo was not even permitted to make a claim based on aboriginal use and occupancy of tribal lands. As a result, no claim based on aboriginal use and occupancy was ever filed on behalf of Isleta. In fact, aboriginal use and occupancy was the basis for many Indian tribal claims under the Indian Claims Commission Act of 1946, which, if proved, resulted in considerable monetary recovery for the tribes.

This bill promises nothing to the Pueblo of Isleta people but an opportunity to submit their claim based on aboriginal use and occupancy pursuant to the Indian Claims Commission Act to the U.S. Claims Court in the same manner the Pueblo of Isleta would have years ago, had tribal officials had a clearer understanding of the issue. If, as a result of the fair hearing this bill provides, the Pueblo of Isleta proves that indeed it has a credible claim of aboriginal land use and occupancy, then appropriate monetary compensation would be determined by the court. The people of the Pueblo of Isleta are entitled to their day in court and this bill gives them that.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JURISDICTION.

(a) IN GENERAL.—Notwithstanding sections 2401 and 2501 of title 28, United States Code, section 12 of the Act of August 13, 1946 (60 Stat. 1052), and any other law that would interpose or support a defense of untimeliness, jurisdiction is conferred upon the United States Claims Court to hear, determine, and render judgment on any claim by the Pueblo of Isleta Indian Tribe of New Mexico (hereafter in this Act referred to as the "Tribe") against the United States with respect to any lands or interests that the Tribe held by aboriginal title or otherwise and that were acquired from the Tribe without payment of adequate compensation by the United States.

(b) COMPENSATION.—The United States Claims Court, consistent with applicable law, may award interest at a rate of 5 percent per year to accrue from the date on which such lands or interests were acquired from the Tribe by the United States.

(c) LIMITATIONS.—Jurisdiction is conferred only with respect to claims that—

(1) accrued on or before August 13, 1946; and

(2) are filed within 3 years after the date of enactment of this Act.

(d) EXHAUSTION NOT REQUIRED.—Jurisdiction is conferred notwithstanding any failure of the Tribe to exhaust any available administrative remedy.

(e) COSTS OF SUIT AND ATTORNEY'S FEES.—

(1) IN GENERAL.—The United States Claims Court may award to any prevailing party,

other than the United States, in any action under this Act, the costs and reasonable attorney's fees incurred by the party prosecuting the claim. The United States Claims Court shall determine the amount of reasonable attorney's fees in accordance with paragraph (2) for all services rendered in prosecuting a claim, whether before the court or otherwise, unless the amount of the fees has been stipulated in an approved contract between the attorneys and the claimant.

(2) STANDARD.—The court shall fix an amount for the reasonable attorney's fees that is—

(A) comparable to reasonable attorney's fees for prosecuting similar contingent claims in courts of law; and

(B) adequate compensation for the services rendered and the results obtained;

plus all reasonable expenses incurred in the prosecution of the claim.

(3) LIMITATION.—The amount fixed by the court pursuant to paragraph (2), exclusive of reimbursements for reasonable expenses, shall not exceed 10 percent of the amount recovered in such case.

(f) CERTAIN DEFENSES NOT APPLICABLE.—Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before or after the date of the enactment of this Act, pursuant to any judgment of the Indian Claims Commission or any other authority, relating to lands that are subject of a claim submitted by the Tribe under subsection (a), shall not be considered a defense, estoppel, or set-off to a claim by the Tribe, and shall not affect the entitlement to, or amount of, any relief stemming from such claim.

Mr. DOMENICI. Mr. President, the Isleta Pueblo in New Mexico, like the Zuni Pueblo before them, was apparently misinformed about their right to file a claim for damages for the loss of their aboriginal lands. In May 1978, the President signed Public Law 95-280. This law enabled the Zuni Pueblo to be heard before the U.S. Court of Claims. In the Zuni case, the court ultimately awarded $25,000,000 in monetary damages for the taking of Zuni aboriginal lands by the United States without compensation.

By introducing this bill for the Isleta Pueblo, I do not believe we are drawing any conclusions about the final outcome of any U.S. Court of Claims action. We are simply acknowledging the facts as they have been presented to us. In summary, the Isleta leaders have told me that their case was not heard by the relevant court because of poor advice given to the tribe by the Bureau of Indian Affairs. This parallels the Zuni case.

If these facts prove to be true, then the Isleta case deserves to be heard on its own merits. Today, we are asking our colleagues to consider the circumstances surrounding the Isleta Pueblo's right to file a claim in the U.S. Claims Court pursuant to the Indian Claims Commission Act. Obviously, the time for filing such a claim has run, therefore the provisions of this bill allow the Pueblo to have access to the U.S. Claims Court if we in the Congress find that there is sufficient evidence to reopen the court for a new hearing on the merits.

Like the Zuni case, we will have to review the 1951 records for evidence that the Isleta Pueblo leaders were truly deprived of their rights under the relevant statutes. I look forward to the hearing process so that the Isleta Pueblo will be able to make its case before the Congress for again having access to the U.S. Court of Claims.

By Mr. SIMON (for himself, Mr. KENNEDY, and Mr. THURMOND):

S. 2055. A bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the act, and for other purposes; to the Committee on Labor and Human Resources.

JOB TRAINING AND BASIC SKILLS ACT

• Mr. SIMON. Mr. President, today I am introducing a bill to amend the Job Training Partnership Act [JTPA] to strengthen employment and training assistance programs and to improve the targeting of services to economically disadvantaged adults and youth. I want to thank my good friends and colleagues, Senators KENNEDY and THURMOND, for cosponsoring this bill and for their help in drafting its provisions. I also want to express my appreciation to Chairman FORD, of the House Education and Labor Committee, and Representatives PERKINS, GOODLING, and GUNDERSON who were instrumental in passing similar amendments in the House of Representatives. Those amendments, embodied in H.R. 3033, passed the House of Representatives on October 9, 1991, by a vote of 420 to 6.

We are introducing this bill because our Nation today is facing the one enemy no peacetime economy has defeated—unemployment. Achieving full employment is the next logical step for a humane society and a society that intends to squarely confront the issue of global competitiveness and productivity. We cannot be competitive or productive when millions of Americans are out of work. We must meet the challenge to put America back to work for a simple reason. As I have said in the past, we have two options—we can pay people to work, or we can pay them for doing nothing. Obviously, it makes a lot more sense to pay them to work.

America's economy is facing two human resource trend lines—the supply of unskilled, and often uneducated, labor is going up and the demand for unskilled labor is declining. As we move toward the 21st century, we know that employment in professional technical and managerial jobs will increase substantially relative to operative and laborer positions. We know this is the trend, yet our work force is woefully unprepared to meet this challenge. JTPA is our primary Federal Job Training Program, and we must do what we can to structure the program to meet the needs of our society.

The way JTPA is currently structured, it will not be able to meet the goal of providing a productive and skilled work force by the year 2000. A program that enrolls 37 percent of its participants in short-term training programs, and a majority of the rest of enrollees are in on-the-job training and job-service programs, will not be able to significantly improve the skilled labor shortage. Furthermore, the program will not succeed in training the hard-to-serve if there are no incentives to serve those participants most in need of training and to provide them more comprehensive training services.

JTPA's predecessor, the Comprehensive Employment and Training Act [CETA] was plagued with low placement rates and high costs per placement. In addition, CETA has weak private sector involvement in planning the local training activity. JTPA was designed to correct the concerns with CETA by providing greater decision-making power at the State and local level and increasing the role of the private sector.

JTPA has accomplished the goals of increased participation in the private sector, higher placement rates and lower costs per placement. Yet we continue to hear complaints about JTPA. Indeed, overemphasis on achieving some of the goals of the program has led to failure in other areas. For example, increased placement rates have been achieved, in part, by focusing training efforts on those who are easiest to place. Thus, to a certain extent, the effort to improve placement numbers resulted in a failure to provide training services to those most in need. In addition, while we sought to reduce the cost per placement, we have reduced the costs to levels so low that participants are often not provided with adequate training. The costs are well below what is needed to provide training in most trade and technical programs, and the training periods are increasingly shorter. Average training periods are currently less than 12 weeks, while under CETA it was 20 weeks.

These amendments are designed to address the criticisms of JTPA, while preserving the successful aspects of the program. The focus of the amendments is on targeting services to those most in need, and on improving the quality of services to those most in need, and on improving the quality of services provided to participants. The bill contains important programmatic changes that will improve services and address perception problems that have led to decreases in funding. We have provided for separate adult and youth programs, with targeting for those with multiple barriers, and out-of-school youth. We have retained the summer youth program that has provided much needed employment for impoverished young people. In addition, the bill provides for individual needs assessment and counseling for each participant, and emphasizes the need for training to provide for long-term employability, not just placement services. The bill also seeks to address concerns about discrimination in the program. Finally, we have included a program for high risk young—the Fair Chance Youth Opportunities Program and a program to encourage the training of women in nontraditional jobs—"Nontraditional Employment for Women." We intend to move this legislation as quickly as possible to ensure the program does not suffer from additional losses in funding.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Job Training and Basic Skills Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

TITLE I—ADULT AND YOUTH EMPLOYMENT AND TRAINING PROGRAMS

Subtitle A—Policy, Authorization of Appropriations, and Definitions

Sec. 101. Declaration of policy and statement of purpose.
Sec. 102. Authorization of appropriations.
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Subtitle B—Job Training Partnership

Sec. 111. Private industry councils.
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Sec. 113. Review and approval of plan.
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Sec. 116. Limitation on certain costs.
Sec. 117. Service delivery area transfer and agreement.
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Sec. 119. State education coordination and grants.
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Sec. 121. State labor market information programs.
Sec. 122. General program requirements.
Sec. 123. Advance payment.
Sec. 124. Fiscal controls.
Sec. 125. Reports, recordkeeping, and investigations.
Sec. 126. Discrimination.

Subtitle C—Training Services for the Disadvantaged

Sec. 131. Establishment of adult opportunity program.
Sec. 132. Establishment of summer youth opportunity program.
Sec. 133. Establishment of youth opportunity program.

Subtitle D—Special Programs

Sec. 141. Employment and training assistance for dislocated workers.

Subtitle E—National Programs

Sec. 151. Native American programs.
Sec. 152. Migrant and seasonal farmworker programs.
Sec. 153. Job Corps.
Sec. 154. National activities.
Sec. 155. Cooperative labor market information program.
Sec. 156. National occupational information coordinating committee.
Sec. 157. Replication of successful programs.
Sec. 158. Fair chance youth opportunities unlimited program.

Subtitle F—General Provisions

Sec. 161. Jobs for employable dependent individuals.
Sec. 162. Effective date; transition provisions.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCILS

Sec. 201. Definition.
Sec. 202. Establishment of State human resource investment councils.
Sec. 203. Conforming and technical amendments.
Sec. 204. Effective date.

TITLE III—NONTRADITIONAL EMPLOYMENT FOR WOMEN

Sec. 301. Short title.
Sec. 302. Findings and purposes.
Sec. 303. Definition.
Sec. 304. Service delivery area job training plan.
Sec. 305. Governor's coordination and special services plan.
Sec. 306. State job training coordinating council.
Sec. 307. State education coordination and grants.
Sec. 308. Use of funds.
Sec. 309. Demonstration programs.
Sec. 310. Report and recommendations.
Sec. 311. Discrimination.
Sec. 312. Effective date.

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

TITLE I—ADULT AND YOUTH EMPLOYMENT AND TRAINING PROGRAMS

Subtitle A—Policy, Authorization of Appropriations, and Definitions

SEC. 101. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

(a) DECLARATION OF POLICY.—In recognition of the training needs of low-income adults and youth, the Congress declares it to be the policy of the United States to—

(1) provide financial assistance to States and local service delivery areas to meet the training needs of such low-income adults and youth, and to assist such adults and youth in obtaining unsubsidized employment;

(2) increase the funds available for programs established under title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.) by not less than 10 percent of the baseline each fiscal year, to provide for growth in the percentage of eligible adults and youth served, beyond the 5 percent of the eligible population in need of the programs that is currently served, under the programs; and

(3) encourage the provision of longer, more comprehensive education, training, and employment services to the eligible population, which also requires increased funding in order to maintain current service levels.

(b) STATEMENT OF PURPOSE.—Section 2 (29 U.S.C. 1501) is amended to read as follows:

"SEC. 2. STATEMENT OF PURPOSE.

"It is the purpose of this Act to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency, thereby improving the quality of the work force and enhancing the productivity and competitiveness of the Nation.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 (29 U.S.C. 1502) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a)(1)(A) There are authorized to be appropriated to carry out parts A and C of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.

"(B) Of the sums appropriated to carry out parts A and C of title II for each fiscal year, not less than 40 percent shall be made available to carry out part C of such title.

"(2) There are authorized to be appropriated to carry out part B of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.";

(2) by redesignating subsection (c) as subsection (b);

(3) by inserting after such subsection (b) the following:

"(c)(1) There are authorized to be appropriated to carry out parts A, C, D, E, F, and G of title IV for fiscal year 1993 and each succeeding fiscal year an amount equal to 7 percent of the sum of the amounts appropriated for parts A and C of title II for such fiscal year.

"(2) The Secretary shall reserve from the amount appropriated under paragraph (1) for any fiscal year—

"(A) an amount equal to 7 percent of the amount appropriated under paragraph (1) to carry out part C of title IV; and

"(B) $2,000,000 to carry out part F of title IV.

"(3) There are authorized to be appropriated to carry out part H of title IV $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the subsequent fiscal years.

"(4) There are authorized to be appropriated to carry out part I of title IV $25,000,000 for fiscal year 1993 and $50,000,000 for each of the fiscal years 1994 through 1996."; and

(4) in subsection (e)—

(A) by striking "(e)(1) Subject to paragraph (2), there" and inserting "(e) There"; and

(B) by striking paragraphs (2) and (3).

(b) CONFORMING AMENDMENTS.—

(1) Subsections (a) and (e) of section 302, and section 326(h) (29 U.S.C. 1652 (a) and (e) and 1662e(h)) are amended by striking "3(c)" and inserting "3(b)".

(2) Section 326(h) (29 U.S.C. 1662e(h)) is amended by striking "3(c)" and inserting "3(b)".

SEC. 103. DEFINITIONS.

(a) IN GENERAL.—Section 4 (29 U.S.C. 1503) is amended—

(1) in paragraph (5), by inserting "Association of Farmworkers Opportunity Programs, literacy organizations, agencies or organizations serving older individuals," after "United Way of America,";

(2) in paragraph (8)—

(A) in subparagraph (B)(i), by striking "poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting "the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))"; and

(B) in subparagraph (D), by inserting "subsections (a) and (c) of" after "under"; and

(3) in paragraph (10), by striking "handicapped individual" and inserting "individual with a disability";

(4) in paragraph (22), by striking "and Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau";

(5) in the second sentence of paragraph (24), by—

(A) inserting "drug and alcohol abuse counseling and referral, individual and family counseling," after "health care,"; and

(B) striking "materials for the handicapped," and inserting "materials for individuals with disabilities, job coaches,";

(6) by striking paragraph (29) and inserting the following new paragraph:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (relating to the aid to families with dependent children program); or

"(ii) on the income of another family member but is no longer supported by that income; and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment."; and

(7) by adding at the end the following new paragraphs:

"(30) The term 'basic skills deficient' means English reading or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.

"(31) The term 'case management' means the provision, in the delivery of a service, of a client-centered approach designed to prepare and coordinate a comprehensive employment plan, such as a service strategy, for a participant to—

"(A) ensure access to a necessary training and support service; and

"(B) provide job and career counseling during program participation and after job placement.

"(32) The term 'educational agency' means—

"(A) a public local school authority having administrative control of elementary, middle, or secondary schools or providing adult education;

"(B) a public or private institution that provides alternative middle or high school education;

"(C) a public education institution or agency having administrative control of secondary or postsecondary vocational education programs;

"(D) a postsecondary institution; or

"(E) a postsecondary educational institution operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under the Act of April 16, 1934 (48 Stat. 596; chapter 147; 25 U.S.C. 452 et seq.).

"(33) The term 'family' means two or more persons living in a single residence, including—

"(A) a husband, wife, and dependent children;

"(B) a parent and dependent children; or

"(C) a husband and wife.

"(34) The term 'hard-to-serve individual' means an individual who is included in at least two of the following categories:

"(A) Long-term recipients.

"(B) School dropouts.

"(C) Individuals unemployed for 6 months or longer.

"(D) Individuals with a disability.

"(E) Offenders.

"(F) Displaced homemakers.

"(G) Homeless.

"(H) Older individuals.

"(35) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(36)(A) The term 'participant' means an individual who has been determined to be eligible to participate in and who is receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized and funded by this Act.

"(B) For purposes of determining whether an individual is a participant, participation shall be deemed to commence on the first day, following determination of eligibility, on which the participant begins receiving subsidized employment, training, or services funded under this Act.

"(37) The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(38) The term 'termination' means the separation of a participant who is no longer receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized and funded by this Act.".

(b) CONFORMING AMENDMENTS.—The Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4—

(A) in paragraph (5), by striking "the handicapped" and inserting "individuals with a disability"; and

(B) in paragraph (8)(F), by striking "adult handicapped individual" and inserting "individual with a disability";

(2) in the second section 172(b) (as added by Public Law 100-628) (29 U.S.C. 1583(b)), by striking "handicapped individuals" and inserting "individuals with a disability"; and

(3) in section 423(1) (29 U.S.C. 1693(1)), by striking "handicapped individual" and inserting "individual with a disability".

Subtitle B—Job Training Partnership

SEC. 111. PRIVATE INDUSTRY COUNCILS.

(a) COMPOSITION.—

(1) MEMBERSHIP.—Section 102(a) (29 U.S.C. 1512(a)) is amended—

(A) by striking "and" at the end of paragraph (1); and

(B) by striking paragraph (2) and inserting the following:

"(2) representatives of organized labor and community-based organizations, who shall constitute not less than 15 percent of the membership of the council; and

"(3) representatives of—

"(A) educational agencies (which agencies shall be representative of all educational agencies in the service delivery area);

"(B) vocational rehabilitation agencies;

"(C) public assistance agencies;

"(D) economic development agencies;

"(E) the public employment service; and

"(F) local welfare agencies.".

(2) NOMINATION.—Section 102(c)(2) (29 U.S.C. 1512(c)(2)) is amended to read as follows:

"(2) Education representatives on the council shall be selected from among individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education (including entities offering adult education) or general organizations of such schools and institutions, within the service delivery area.".

(3) RECOMMENDATIONS.—Section 102(c)(3) (29 U.S.C. 1512(c)(3)) is amended to read as follows:

"(3) The labor representatives on the council shall be selected from individuals recommended by recognized State and local labor organizations. If the State or local labor organization cannot adequately meet the labor representation on the private industry council, individual workers may be included on the council to complete the labor representation.".

(4) ADDITIONAL REPRESENTATIVES.—Section 102(c) (20 U.S.C. 1512(c)) is amended by adding at the end the following new paragraph:

"(4) The remaining members of the council shall include additional representatives from all sectors described in subsection (a)(3) and individuals recommended by interested organizations.".

(b) EFFECTIVE DATE.—No private industry council shall be considered to be in violation of the amendments made by subsection (a) of this section until the date 3 years after the date of enactment of this Act.

SEC. 112. JOB TRAINING PLAN.

(a) IN GENERAL.—Section 104(a) (29 U.S.C. 1514(a)) is amended by inserting "under title II" after "appropriated".

(b) CONTENTS.—Section 104(b) is amended to read as follows:

"(b) Each job training plan for the programs conducted under part A of title II (regarding adult programs) and under parts B and C of title II (regarding youth programs) shall contain—

"(1) information identifying the entity that will administer the program and be the grant recipient of funds from the State;

"(2) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of the service delivery area program with other programs and service providers in the labor market area, including—

"(A) assessments of needs and problems in the labor market that form the basis for program planning;

"(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

"(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

"(3) a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

"(4) a description of linkages, established in accordance with sections 205 and 265, designed to enhance the provision of services and avoid duplication, including—

"(A) agreements with educational agencies;

"(B) arrangements with other education, training, and employment programs serving the disadvantaged that are authorized by Federal law; and

"(C) efforts to ensure the effective delivery of services to participants in coordination with local welfare agencies, other local agencies, community-based organizations, volunteer groups, business and labor organizations, and other training, education, employment, and social service programs;

"(5) goals and objectives for the programs, including—

"(A) a description of the manner in which the program will contribute to the economic self-sufficiency of participants, and the productivity of the local area and the Nation; and

"(B) performance goals established in accordance with standards prescribed under section 106;

"(6) goals for the training and placement of targeted populations, and a description of efforts to be undertaken to accomplish such goals, including—

"(A) efforts to expand outreach to targeted populations who may be eligible for services under this Act;

"(B) efforts to expand awareness of training and placement opportunities for targeted populations; and

"(C) types of services to be provided to address the special needs of targeted populations;

"(7) adult and youth budgets for two program years and any proposed expenditures for the succeeding 2 program years, in such detail as is determined necessary, by the entity selected to administer the portion of the plan corresponding to the budgets in accordance with section 103(b)(1)(B), to meet the requirements of section 108;

"(8) procedures for identifying and selecting participants, procedures for determining eligibility, and methods used to verify eligibility;

"(9) a description of—

"(A) the assessment process that will identify the skill level and service needs of each participant;

"(B) the competency levels to be achieved by participants as a result of program participation;

"(C) the services to be provided, including the estimated duration of service and the estimated training cost per participant; and

"(D) the procedures for evaluating the progress of participants in achieving competencies;

"(10) a description of the procedures and methods used in carrying out title V, relating to incentive bonus payments for the placement of individuals eligible under such title;

"(11) fiscal control (including procurement, monitoring, and management information systems requirements), accounting, audit, and debt collection procedures, consistent with section 164, to assure the proper disbursal of, and accounting for, funds received under title II; and

"(12) procedures for the preparation and submission of an annual report to the Governor, which report shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants; and

"(C) the extent to which applicable performance standards have been met.".

SEC. 113. REVIEW AND APPROVAL OF PLAN.

Section 105(a)(1)(B)(ii) (29 U.S.C. 1515(a)(1)(B)(ii)) is amended by inserting "community-based organizations and" after "appropriate".

SEC. 114. PERFORMANCE STANDARDS.

(a) IN GENERAL.—Section 106 (29 U.S.C. 1516) is amended to read as follows:

"SEC. 106. PERFORMANCE STANDARDS.

"(a) CONGRESSIONAL FINDINGS.—Congress finds that—

"(1) job training is an investment in human capital and not an expense; and

"(2) in order to determine whether that investment has been productive—

"(A) it is essential that criteria for measuring the return on the investment be developed; and

"(B) the criteria should include basic measures of long-term economic self-sufficiency, including measures of increased educational attainment and occupational skills, increased employment and earnings, and reduced welfare dependency.

"(b) PERFORMANCE STANDARDS.—

"(1) ACHIEVEMENT OF BASIC MEASURES.—In order to determine whether the basic measures described in subsection (a)(2)(B) have been achieved by programs under parts A and C of title II, the Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall prescribe performance standards for the programs.

"(2) HARD-TO-SERVE INDIVIDUALS.—In prescribing performance standards for programs under parts A and C of title II, the Secretary shall ensure that States and service delivery areas will make efforts to increase services and positive outcomes for hard-to-serve individuals.

"(3) FACTORS FOR ADULT STANDARDS.—The Secretary shall base the performance standards for adult programs under part A of title II on appropriate factors, which may include—

"(A) placement in unsubsidized employment;

"(B) retention for more than 6 months in unsubsidized employment;

"(C) increase in earnings, including hourly wages;

"(D) reduction in welfare dependency; and

"(E)(i) acquisition of skills, including basic skills, required to promote continued employability in the local labor market (including attainment of the competency levels described in paragraph (5)), or acquisition of a high school diploma or the equivalent of the diploma; and

"(ii) one or more of the factors described in subparagraphs (A) through (D).

"(4) FACTORS FOR YOUTH STANDARDS.—

"(A) IN GENERAL.—The Secretary shall base the performance standards for youth programs under part C of title II on appropriate factors described in paragraph (3), and on factors including—

"(i) attainment of employment competencies (including attainment of the competency levels described in paragraph (5));

"(ii) dropout prevention and recovery;

"(iii) secondary and postsecondary school completion or the equivalent of such completion; and

"(iv) enrollment in other training programs, apprenticeships, or postsecondary education, or enlistment in the Armed Forces.

"(B) VARIATIONS.—The Secretary may prescribe variations in the standards described in subparagraph (A) to reflect the differences between in-school and out-of-school programs.

"(5) COMPETENCY LEVELS.—The private industry councils, in consultation with educational agencies, community-based organizations, and the private sector, shall establish youth and adult competency levels, based on such factors as attainment of entry skill levels and other hiring requirements.

"(6) REQUIREMENTS.—The performance standards described in paragraphs (3) through (5) shall include provisions governing—

"(A) the base period prior to program participation that will be used for measurement of the factors described in paragraphs (3) through (5), as appropriate;

"(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payment reductions; and

"(C) cost-effective methods for obtaining such data as is necessary to carry out this subsection, which methods—

"(i) notwithstanding any other provision of law, may include access to—

"(I) earnings records;

"(II) State employment security records;

"(III) records collected under the Federal Insurance Contributions Act, chapter 21 of the Internal Revenue Code of 1986;

"(IV) records regarding State aid to families with dependent children;

"(V) statistical sampling techniques; and

"(VI) records or techniques similar to the records and techniques described in subclauses (I) through (V); and

"(ii) shall include appropriate safeguards to protect the confidentiality of the data obtained.

"(7) GROSS PROGRAM EXPENDITURES.—The Secretary shall prescribe performance standards for programs under parts A and C of title II relating gross program expenditures to various performance measures. The Governors shall not take performance standards prescribed under this paragraph into consideration in awarding grants under paragraph (8).

"(8) INCENTIVE GRANTS.—From funds available under section 202(c)(2)(C), and under section 262(c)(1) for providing incentive grants under this paragraph, each Governor shall award incentive grants to service delivery areas conducting programs under parts A and C of title II that—

"(A)(i) meet the performance standards established by the Secretary under this subsection (except for the standards established pursuant to paragraph (7)) with respect to services to all participants;

"(ii) serve more than the minimum percentage of out-of-school youth required by section 263(f); and

"(iii) exceed the performance standards established by the Secretary under this subsection (except for the standards established under paragraph (7)) with respect to services to hard-to-serve populations, such as the target groups listed in sections 203(a)(2) and 263 (b) and (d);

"(B) place participants in employment that provides wages at placement that exceed the appropriate performance criteria;

"(C) meet the performance standards established by the Governor for programs under title II pursuant to subsection (e), except that not more than 25 percent of the incentive grants shall be awarded on performance standards established pursuant to subsection (e); and

"(D) establish effective linkages with other programs to avoid duplication and enhance the delivery of services.

"(c) EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.—

"(1) PERFORMANCE STANDARDS.—The Secretary shall prescribe performance standards for programs under title III based on participant placement and retention in unsubsidized employment.

"(2) NEEDS-RELATED PAYMENTS.—In prescribing performance standards under paragraph (1) for programs under title III, the Secretary shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).

"(d) VARIATIONS.—

"(1) AUTHORITY OF GOVERNORS.—Each Governor of a State participating in a program governed by standards issued under subsection (b) or (c) shall prescribe, within parameters established by the Secretary, variations in the standards for the State, based on—

"(A) specific economic, geographic, and demographic factors in the State and in service delivery areas and substate areas within the State;

"(B) the characteristics of the population to be served;

"(C) the demonstrated difficulties in serving the population; and

"(D) the type of services to be provided.

"(2) SECRETARY'S RESPONSIBILITIES.—The Secretary shall—

"(A) provide information and technical assistance on performance standards adjustments;

"(B) collect data that identifies hard-to-serve individuals and long-term welfare dependency;

"(C) provide guidance on setting performance goals at the service provider level that encourage increased service to hard-to-serve individuals, particularly long-term welfare recipients; and

"(D) review performance standards to ensure that such standards provide maximum incentive in serving hard-to-serve individuals, particularly long-term welfare recipients, including individuals receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (relating to the aid to families with dependent children program) and title XVI of such Act (42 U.S.C. 1381 et seq.) (relating to the supplemental security income programs).

"(e) ADDITIONAL PERFORMANCE STANDARDS BY GOVERNORS.—A Governor of a State participating in a program under title II or III may prescribe performance standards for the program in addition to standards established by the Secretary under subsections (b) and (c).

"(f) NATIVE AMERICAN AND JOB CORPS PROGRAMS.—The Secretary shall prescribe performance standards for programs under parts A and B of title IV, and for programs under title V.

"(g) SYSTEM FOR ADJUSTMENTS.—The Secretary shall prescribe a system for adjustments in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina theater between August 5, 1964, and May 7, 1975, offenders, and displaced homemakers, taking into account their special circumstances.

"(h) MODIFICATIONS.—

"(1) IN GENERAL.—The Secretary may modify the performance standards under this section not more often than once every 2 program years and such modifications shall not be retroactive.

"(2) JOB CORPS.—Notwithstanding paragraph (1), the Secretary may modify standards relating to programs under part B of title IV each program year.

"(i) NATIONAL COMMISSION ON EMPLOYMENT POLICY.—The National Commission on Employment Policy shall—

"(1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (d);

"(2) evaluate the usefulness of such standards as measures of desired performance; and

"(3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served in service delivery areas, what services are provided, and the costs of such services in service delivery areas.

"(j) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Governor of a State participating in a program governed by performance standards issued under this section shall provide technical assistance to service delivery areas and substate areas within the State that do not meet performance standards. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers, or make such other changes as the Governor determines to be necessary to improve performance. The Governor may also select an alternate administrative entity to administer the program for the service delivery area or substate area.

"(2) ALTERNATE ADMINISTRATIVE ENTITY.—The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area or substate area.

"(3) HEARING.—No change may be made under this subsection without providing to affected parties notice and an opportunity for a hearing before a hearing officer.

"(4) APPEAL.—The decision of the Governor may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.

"(k) CLARIFICATION OR REFERENCE.—For the purposes of this section, the term 'employment' means employment for more than 20 hours per week.".

(b) CONFORMING AMENDMENT.—Sections 311(a), 311(b)(8), and 322(a)(4) (29 U.S.C. 1661(a), 1661(b)(8), and 1662a(a)(4)) are each amended by striking "106(g)" and inserting "106(c)".

SEC. 115. SELECTION OF SERVICE PROVIDERS.

(a) CHILD CARE.—Section 107(a) (29 U.S.C. 1517(a)) is amended by adding at the end the following: "In addition, consideration shall be given to provision of appropriate supportive services, including child care.".

(b) SELECTION OF SERVICE PROVIDERS.—Section 107 is amended by adding at the end the following new subsection:

"(e) The selection of service providers shall be made on a competitive basis, to the extent practicable, and shall include—

"(1) a determination of the ability of the service provider to meet program design specifications established by the administrative entity that take into account the purpose of the Act and the goals established by the Governor in the Coordination and Special Services Plan; and

"(2) documentation of compliance with procurement standards established by the Governor pursuant to section 164, including the reasons for selection.".

SEC. 116. LIMITATION ON CERTAIN COSTS.

(a) APPLICATION OF COST LIMITATIONS.—Section 108(a) (29 U.S.C. 1518(a)) is amended to read as follows:

"(a) Except as provided in subparagraphs (A), (B), and (C) of section 141(d)(3), funds expended under this Act shall be charged to the appropriate cost categories.".

(b) COST CATEGORIES AND LIMITATIONS.—Section 108(b) is amended to read as follows:

"(b)(1) The cost limitations contained in this section shall apply separately to the funds allocated for programs under part A of title II, and to the funds allocated for programs under part C of such title.

"(2) Funds expended under parts A and C of title II shall be charged to one of the following categories:

"(A) Administration.

"(B) Training-related and supportive services.

"(C) Direct training services.

"(3) The Secretary shall, in accordance with sections 204(b) and 264(c), define by regulation the cost categories specified in paragraph (2).

"(4) Of the funds allocated to a service delivery area for any program year under part A or C of title II—

"(A) not more than 20 percent shall be expended for the costs of administration; and

"(B) not less than 50 percent shall be expended for direct training services.

"(5) Each service delivery area shall ensure that all contracts, grants, or other agreements with a service provider, for services provided to participants, shall include appropriate amounts necessary for administrative costs and supportive services.".

(c) REFERENCE TO TITLE III LIMITATIONS.—Section 108 is further amended—

(1) by striking subsection (c);

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(3) by adding at the end the following new subsection:

"(e) Funds available under title III shall be expended in accordance with the limitations specified in section 315.".

SEC. 117. SERVICE DELIVERY AREA TRANSFER AND AGREEMENT.

(a) IN GENERAL.—Part A of title I is amended (29 U.S.C. 1511 et seq.) by adding at the end the following new sections:

"SEC. 109. SERVICE DELIVERY AREA TRANSFER AND AGREEMENT.

"(a) IN GENERAL.—Any service delivery area may enter into an agreement with another service delivery area to share the cost of educating, training, and placing individuals participating in programs assisted under this Act, including the provision of supportive services. Such agreement shall be approved by an individual representing each private industry council providing guidance to the service delivery area.

"(b) APPLICATION OF APPROPRIATE PERFORMANCE STANDARDS.—Each service delivery area entering into a service delivery area agreement pursuant to this section shall be credited under the appropriate performance standards.

"SEC. 110. REALLOTMENT.

"(a) REALLOTMENT AUTHORIZED.—The Secretary may reallot among States any amounts allotted under parts A and C of title II to the extent that the Secretary determines that a State or one of the service delivery areas of a State will not be able to spend such amounts within a reasonable period of time.

"(b) ADVANCE NOTICE REQUIRED.—

"(1) IN GENERAL.—The Secretary shall provide 30 days advance notice of any reallotment under subsection (a) to the Governor of an affected State and to the general public. During such period comments may be submitted to the Secretary.

"(2) NOTIFICATION AND PUBLICATION.—After considering any comments submitted during such period, the Secretary shall notify the Governor of any decision to reallot funds, and shall publish such decision in the Federal Register.

"(3) PRIORITY.—In reallotting any funds the Secretary shall give priority to States and service delivery areas that have satisfactorily spent an allotment for the previous fiscal year and that have experienced high rates of unemployment for an extended period of time.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part A of title I is amended by adding after the item relating to section 108 the following:

"Sec. 109. Service delivery area transfer and agreement.

"Sec. 110. Reallotment.".

SEC. 118. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) (29 U.S.C. 1531(b)) is amended—

(1) in paragraph (1), by striking "Such criteria" and inserting: "The plan shall also include criteria for coordinating activities under this Act with programs and services provided by State and local agencies on aging, and programs operated under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.). The criteria described in each of the two preceding sentences";

(2) by amending paragraph (2) to read as follows:

"(2) The plan shall describe the measures taken by the State to ensure coordination and avoid duplication of programs between the State agencies administering the JOBS program and programs under title II in the planning and delivery of services. The plan shall describe the procedures developed by the State to ensure that the State JOBS plan is consistent with the coordination criteria specified in the plan and shall identify the procedures developed to provide for the review of the JOBS plan by the State job training coordinating council.";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively;

(4) by inserting the following new paragraph after paragraph (2):

"(3) The plan shall describe the projected use of resources, including oversight of program performance, program administration, program financial management, capacity building, priorities and criteria for State incentive grants, and performance goals for State-supported programs. The description of capacity building shall include the Governor's plans for research and demonstration projects, technical assistance for service delivery areas and service providers, interstate technical assistance and training arrangements, and other coordinated technical assistance arrangements for service delivery areas and service providers pursuant to the direction of the Secretary."; and

(5) in paragraph (4) (as redesignated in paragraph (2)) by—

(A) striking "and" at the end of subparagraph (A);

(B) striking the period at the end of subparagraph (B) and inserting a semicolon and "and"; and

(C) inserting at the end the following new subparagraph (C):

"(C) services to older workers, including plans for facilitating the provision of services across service delivery areas within the State, as provided in section 104(b)(2).".

(b) COORDINATION AND SPECIAL SERVICES ACTIVITIES.—Section 121(c) is amended—

(1) in paragraph (7), by inserting after the paragraph designation the following: "coordination of activities relating to part A of title II with";

(2) by striking "and" at the end of paragraph (9);

(3) by striking the period at the end of paragraph (10) and inserting a semicolon and "and"; and

(4) by adding at the end the following new paragraph:

"(11) initiatives undertaken pursuant to the State innovation and coordination program described in section 123.".

SEC. 119. STATE EDUCATION COORDINATION AND GRANTS.

Section 123 (29 U.S.C. 1533) is amended to read as follows:

"SEC. 123. STATE EDUCATION COORDINATION AND GRANTS.

"(a) ALLOTMENT.—

"(1) IN GENERAL.—The Secretary shall allot the funds made available to carry out this section under section 202(c)(2)(D) and under section 262(c)(1) to the Governors for allocation to State educational agencies to pay for the Federal share of carrying out the projects described in paragraph (2).

"(2) PROJECTS.—Funds allocated under paragraph (1) may be used to pay for the Federal share of carrying out projects (in accordance with agreements under subsection (b)) that—

"(A) provide school-to-work transition services of demonstrated effectiveness that increase the rate of graduation from high school, or completion of the recognized equivalent of such graduation, including services that increase the rate at which dropouts return to regular or alternative schooling and obtain a high school degree or equivalent;

"(B) provide literacy and lifelong learning opportunities and services of demonstrated effectiveness that—

"(i) enhance the knowledge and skills of educationally and economically disadvantaged individuals; and

"(ii) result in increasing the employment and earnings of such individuals; and

"(C) facilitate coordination of education and training services for eligible participants in projects described in subparagraphs (A) and (B), including activities pertaining to the establishment and operation of a State human resource investment council that meets the requirements of section 202 of the Job Training and Basic Skills Act of 1991.

"(3) ALLOCATION.—In allocating the funds described in subsection (a)(1) to a State educational agency, a Governor shall not establish requirements governing the distribution of the funds.

"(4) FEDERAL SHARE.—The Federal share of the cost of carrying out the projects described in paragraph (2) shall be 50 percent.

"(b) AGREEMENTS REQUIRED.—

"(1) PARTIES TO AGREEMENTS.—The projects described in subsection (a)(2) shall be conducted within a State in accordance with agreements between the State educational agency, administrative entities in service delivery areas in the State, and other entities such as other State agencies, local educational agencies, and alternative service providers (such as community-based and other nonprofit or for-profit organizations).

"(2) CONTENTS OF AGREEMENTS.—

"(A) CONTRIBUTION.—The agreements described in paragraph (1) shall provide for the contribution by the State, from funds other than the funds made available under this Act, of a total amount equal to the funds allotted under this section.

"(B) DIRECT COST OF SERVICES.—Such amount may include the direct cost of employment or training services—

"(i) provided by State or local programs or agencies; or

"(ii) provided by other Federal programs or agencies in accordance with applicable Federal law.

"(c) GOVERNOR'S PLAN REQUIREMENTS.—Any Governor receiving assistance under this section shall include in the Governor's coordination and special services plan, in accordance with section 121, a description developed by the State educational agency of—

"(1) the goals to be achieved and services to be provided by the school-to-work transition programs specified in subsection (a)(2)(A) that will receive the assistance, which description shall, at a minimum, include information regarding—

"(A) the activities and services that will result in increasing the number of youth staying in or returning to school and graduating from high school or the equivalent;

"(B) the work-based curriculum that will link classroom learning to worksite experience and address the practical and theoretical aspects of work;

"(C) the opportunities that will be made available to participants to obtain career-path employment and postsecondary education;

"(D) the integration to be achieved, where appropriate, in the delivery of services between State and local educational agencies and alternative service providers, such as community-based and nonprofit organizations; and

"(E) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) title II and part B of title IV of this Act;

"(ii) the Elementary and Secondary Education Act (20 U.S.C. 2701 et seq.);

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(iv) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(v) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(vi) the JOBS program; and

"(vii) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482);

"(2) the goals to be achieved and services to be provided by literacy and lifelong learning programs specified in subsection (a)(2)(B) that will receive the assistance, which description shall, at a minimum, include information regarding—

"(A) the activities and services that will increase the knowledge and skills of educationally and economically disadvantaged individuals, and result in increased employment and earnings for such individuals;

"(B) the integration to be achieved between projects assisted under this section and the 4-year State plan (and related needs assessment carried out for the plan) developed in accordance with section 342 of the Adult Education Act (20 U.S.C. 1206a);

"(C) the variety of settings, including workplace settings, in which literacy training and learning opportunities will be provided; and

"(D) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II and III of this Act;

"(ii) the Adult Education Act;

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(iv) the Stewart B. McKinney Homeless Assistance Act;

"(v) the JOBS program;

"(vi) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(vii) the National Literacy Act of 1991 (Public Law 102-73); and

"(viii) the Emergency Immigrant Education Act of 1984 (20 U.S.C. 3121 et seq.); and

"(3) the proportion of funds received under this section that will be used to carry out the program described in paragraph (1) and the proportion that will be used to carry out the program described in paragraph (2).

"(d) SERVICE REQUIREMENTS.—

"(1) PERMITTED SERVICES.—Services funded under this section to carry out the projects described in subsection (a)(2) may include education and training, vocational education services, and related services, provided to participants under title II. In addition, services funded under this section may include services for offenders, veterans, and other individuals who the Governor determines require special assistance.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) COORDINATION OF SERVICES.—Not more than 20 percent of the funds allocated under this section may be expended to pay for the Federal share of projects at the State and local levels described in subsection (a)(2)(C).

"(B) SCHOOL-TO-WORK SERVICES; LITERACY AND LIFELONG LEARNING SERVICES.—Not less than 80 percent of the funds allocated under this section shall be expended to pay for the Federal share of projects conducted in accordance with subparagraphs (A) and (B) of subsection (a)(2).

"(C) ECONOMICALLY DISADVANTAGED INDIVIDUALS.—Not less than 75 percent of the funds allocated for projects under subparagraphs (A) and (B) of subsection (a)(2) shall be expended for projects for economically disadvantaged individuals who experience other barriers to employment. Priority for funds not expended for the economically disadvantaged shall be given to title III participants and persons with other barriers to employment.

"(e) DISTRIBUTION OF FUNDS IN ABSENCE OF AGREEMENT.—If no agreement is reached in accordance with subsection (b) on the use of funds under this section, the Governor shall notify the Secretary and shall distribute the funds to service delivery areas in accordance with section 106(b)(8).

"(f) REPORTS AND RECORDS.—

"(1) REPORTS BY GOVERNORS.—The Governor shall prepare reports on the projects funded under this section, including such information as the Secretary may require to determine the extent to which the projects supported under this section result in achieving the goals specified in paragraphs (1) and (2) of subsection (c). The Governor shall submit the reports to the Secretary at such intervals as shall be determined by the Secretary.

"(2) RECORDS AND REPORTS OF RECIPIENTS.—Each direct or indirect recipient of funds under this section shall keep records that are sufficient to permit the preparation of reports. Each recipient shall submit such reports to the Secretary, at such intervals as shall be determined by the Secretary.".

SEC. 120. ADDITIONAL REQUIREMENTS.

(a) IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS.—Section 124 (29 U.S.C. 1534) is amended to read as follows:

"SEC. 124. IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS.

"If a State or service delivery area imposes a requirement, including a rule, regulation, policy, or performance standard, relating to the administration and operation of programs funded by this Act (including requirements based on State or service delivery area interpretation of any Federal law, regulation, or guideline) the State or area shall identify the requirement as a State- or service delivery area-imposed requirement.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part B of title I is amended by striking the item relating to section 124 and inserting the following:

"Sec. 124. Identification of additional imposed requirements.".

SEC. 121. STATE LABOR MARKET INFORMATION PROGRAMS.

Section 125(a) (29 U.S.C. 1535(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) provide training and technical assistance to support comprehensive career guidance and participant outcome activities for local programs assisted under this Act.".

SEC. 122. GENERAL PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Section 141(d)(3) (29 U.S.C. 1551(d)(3)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end the following new subparagraph:

"(B) Tuition charges for training or education provided by an institution of higher education or postsecondary institution that are not more than the charges for such training or education made available to the general public do not require a breakdown of cost components.

"(C) In the case of any service provider (with the exception of a State or local agency) receiving funds to provide services under part A or C of title II, which provider expends not less than 90 percent of such funds for direct training and training-related and supportive services for any fiscal year, the funds expended for the costs of administering such services shall not be subject to the limitation under section 108(b)(4)(A), if the service delivery area otherwise complies with the requirements of such section 108(b).".

(b) LIMITATION.—Section 141(g) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end the following new paragraphs:

"(2) On-the-job training authorized under this Act for a participant with respect to a position shall be limited in duration to a period not in excess of the period generally required for acquisition of skills needed for the position within a particular occupation. In no event shall the training exceed 6 months unless the total number of hours of such training is less than 500 hours. In determining the period generally required for acquisition of the skills, consideration shall be given to recognized reference material (such as the Dictionary of Occupational Titles), the content of the training of the participant, and the service strategy of the participant.

"(3)(A) Each on-the-job training contract shall—

"(i) specify the types and duration of on-the-job training to be developed and other services to be provided in sufficient detail to allow for a fair analysis of the reasonableness of proposed costs; and

"(ii) comply with the requirements of section 164.

"(B) Each on-the-job training contract that is not directly contracted by a service delivery area with an employer (but instead is contracted through an intermediary brokering contractor), shall, in addition to meeting the requirements of subparagraph (A), specify the outreach, recruitment, participant training, counseling, placement, monitoring, followup, and other services to be provided directly by the brokering contractor within the organization of the contractor, the services to be provided by the employers conducting the on-the-job training, and the services to be provided, with or without cost, by other agencies and subcontractors.

"(C) If a brokering contractor enters into a contract with a subcontractor to provide training or other services, the brokering contractor shall ensure, through on-site monitoring, compliance with subcontract terms prior to making payment to the subcontractor.".

(c) DISPOSAL OF ASSETS.—Section 141(k) is amended to read as follows:

"(k) The Federal requirements governing the title, use, and disposition of real property, equipment, and supplies purchased with funds provided under this Act shall be the Federal requirements generally applicable to Federal grants to States and local governments.".

(d) PROGRAM INCOME.—Section 141 is further amended by—

(1) striking subsection (m); and

(2) redesignating subsections (n), (o), and (p) as subsections (m), (n), and (o), respectively.

(e) PUBLIC SERVICE EMPLOYMENT.—Section 141(o) (as redesignated by subsection (d)(2) of this section) is further amended by striking "part B of this title or part A of".

SEC. 123. ADVANCE PAYMENT.

Section 162 is amended (29 U.S.C. 1572) by adding at the end the following new subsection:

"(f) When contracting with nonprofit organizations of demonstrated effectiveness, the Secretary, States, and service delivery areas may use advance payment method systems, except that such advance payments shall be based on financial need of such organizations and shall not exceed 20 percent of the total contract amount.".

SEC. 124. FISCAL CONTROLS.

(a) PROCUREMENT.—Section 164(a) (29 U.S.C. 1574(a)) is amended to read as follows:

"(a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. Such procedures shall ensure that all financial transactions are conducted and records maintained in accordance with generally accepted accounting principles.

"(2) The Governor shall prescribe and implement uniform procurement standards to ensure fiscal accountability and prevent fraud and abuse in programs administered under this Act. Such standards shall include provisions to ensure that, for the State, substate areas, and service delivery areas—

"(A) procurements shall be conducted in a manner providing full and open competition;

"(B) the use of sole source procurements shall be minimized to the extent practicable, but in every case shall be justified;

"(C) procurements shall include an analysis of the reasonableness of costs and prices;

"(D) procurements shall not provide excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities), and that appropriate factors shall be utilized in determining whether such income or profit is excessive, such as—

"(i) the complexity of the work to be performed;

"(ii) the risk borne by the contractor; and

"(iii) market conditions in the surrounding geographic area;

"(E) procurements shall clearly specify deliverables and the basis for payment;

"(F) written procedures shall be established for procurement transactions;

"(G) no grantee, contractor, subgrantee, or subcontractor shall engage in any conflict of interest, actual or apparent, in the selection, award and administration of a contract or grant under this Act; and

"(H) all grantees and subgrantees shall conduct oversight to ensure compliance with procurement standards.

"(3) The Governor shall annually conduct on-site monitoring of each service delivery area and substate area within the State to ensure compliance with the procurement standards established pursuant to paragraph (2).

"(4) If the Governor determines that a service delivery area or substate area is not in compliance with the procurement standards established pursuant to paragraph (2), the Governor shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions described in subsections (c) and (e) in the event of failure to take the required corrective action.

"(5) The Governor shall submit to the Secretary the procurement standards established pursuant to paragraph (2), and shall annually certify to the Secretary that—

"(A) the State procurement standards fully satisfy the requirements described in paragraph (2);

"(B) the State has monitored substate areas and service delivery areas to ensure compliance with the procurement standards established pursuant to paragraph (2); and

"(C) the State has taken appropriate action to secure compliance pursuant to paragraph (4).

"(6) The Secretary shall annually review the procurement standards established pursuant to paragraph (2) and shall annually notify the appropriate committees of the Congress whether the requirements contained in paragraph (5) have been satisfied.

"(7) If the Secretary determines that a Governor has not fulfilled the requirements of this subsection, the Secretary shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided pursuant to subsection (g) in the event of failure of the Governor to take the required corrective action.

"(8) The Secretary, in consultation with the Inspector General, shall review the implementation of this subsection and submit a report to the appropriate committees of the Congress, not later than October 1, 1992, evaluating the effectiveness of the subsection in ensuring fiscal accountability and containing such recommendations as the Secretary determines to be appropriate.".

(b) PROGRAM INCOME.—Section 164 is further amended by adding at the end the following new subsection:

"(i)(1) A public or private nonprofit entity administering a program under this Act may retain income under the program if the entity uses such income to continue to carry out such program, and may use the income for such purposes notwithstanding the expiration of financial assistance for such program.

"(2) Income subject to the requirements of paragraph (1) shall include—

"(A) receipts from goods or services provided as a result of activity funded under this Act; and

"(B) funds provided to a service provider under this Act that are in excess of the costs associated with the services provided.

"(3) For the purposes of this subsection, each public or private nonprofit entity receiving financial assistance under this Act shall maintain records sufficient to determine the amount of income received and the purposes for which such income is expended.".

SEC. 125. REPORTS, RECORDKEEPING, AND INVESTIGATIONS.

(a) RECORDS.—Section 165(a) (29 U.S.C. 1575(a)) is amended by adding at the end the following new paragraph:

"(3) In order to allow for the preparation of estimates necessary to meet the requirements of subsection (d), recipients shall maintain standardized records for all individual participants, and provide to the Secretary a sufficient number of such records to provide an adequate random sample.".

(b) AUDITS.—Section 165(b) is amended by adding at the end the following new paragraph:

"(3)(A) In carrying out any audit under this Act (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through a grant or contract, the Secretary, the Inspector General, or the Comptroller General shall furnish to the State, administrative entity, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not fewer than 14 days (or as soon as practicable) prior to the commencement of the audit.

"(B) If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

"(C) The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding.

"(D) Nothing contained in this Act shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General.".

(c) MONITORING.—Section 165(c) is amended by—

(1) striking ", and" at the end of paragraph (1), and inserting a semicolon;

(2) striking paragraph (2); and

(3) adding at the end the following new paragraphs:

"(2) prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 167; and

"(3) monitor the performance of service providers in complying with the terms of grants, contracts, or other agreements made pursuant to this Act.".

(d) RETENTION OF RECORDS.—Section 165 is further amended by inserting at the end the following new subsections:

"(d) Each Governor of a State participating in a program under this Act shall ensure that procedures are developed for retention of all records pertinent to all grants and agreements made pursuant to this Act, including financial, statistical, property and participant records and supporting documentation. For funds allotted to a State for any program year, records must be retained for 2 years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the Secretary. Records for nonexpendable property shall be retained for a period of 3 years after final disposition of the property.

"(e) The reports required in subsection (c) shall include information, in such form as to permit cross-tabulation, pertaining to—

"(1) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information about enrollees and participants;

"(2) the activities in which participants are enrolled, and the length of time that participants are engaged in such activities;

"(3) program outcomes, including occupations, for participants;

"(4) specified program costs; and

"(5) information necessary to prepare reports to comply with section 167 of this Act.

"(f) The Secretary shall ensure that all elements required for the reports described in subsection (d) are defined and reported uniformly.".

SEC. 126. DISCRIMINATION.

Section 167 (29 U.S.C. 1577) is amended by adding at the end the following new subsections:

"(e)(1) The head of the office of the Department of Labor referred to as the 'Directorate for Civil Rights' shall annually prepare a report on the administration and enforcement of this section.

"(2) The report required by paragraph (1) shall include—

"(A) an identification of the service delivery areas and States that have determined, during the preceding program year, not to be in compliance with this section;

"(B) for each such identification, the date on which the inquiry was begun and whether the inquiry was initiated on the basis of a complaint or at the initiative of the Department;

"(C) an identification of the service delivery areas and States awaiting findings by the Directorate;

"(D) the number of service delivery areas and States that, during the preceding year, were determined not to be in compliance with this section, and the number for which insufficient data prevented the making of such a determination, and information identifying the type of data that is missing or inadequate;

"(E) a statistical summary, broken down by race, sex, national origin, disability, or age, of the number of inquiries undertaken and the outcomes of the inquiries;

"(F) an identification of any service delivery area or State that has been determined, during the preceding year, to have failed to conduct objective assessments as required by sections 204 and 274 on a nondiscriminatory basis;

"(G)(i) the amount expended by the Department for the administration and enforcement by the Directorate of this section; and

"(ii) the number and percentage of full-time employees, and the full-time equivalent of the part-time employees, engaged in such administration and enforcement;

"(H) the number of onsite visits conducted each year, and whether the visits were initiated by the Department or by complaint;

"(I) the number of cases referred to the Attorney General, and for such cases—

"(i) the civil actions taken by the Attorney General on the cases;

"(ii) the use, by the Secretary, of the authority of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (29 U.S.C. 621 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

"(J) a description of any other actions taken by the Secretary under, or related to the administration and enforcement of, this section.

"(3) The report required by this subsection shall be submitted to the Congress as part of the annual report of the Secretary under section 169(d).

"(f) In addition to any other sums authorized to be appropriated, there are authorized to be appropriated for the operations and expenses of the Directorate such sums as may be necessary for the purpose of increasing the number of full-time equivalent personnel available to the Directorate in order to comply with the requirements of this section.".

Subtitle C—Training Services for the Disadvantaged

SEC. 131. ESTABLISHMENT OF ADULT OPPORTUNITY PROGRAM.

(a) IN GENERAL.—Part A of title II (29 U.S.C. 1601 et seq.) is amended to read as follows:

"PART A—ADULT OPPORTUNITY PROGRAM

"SEC. 201. STATEMENT OF PURPOSE.

"It is the purpose of this part to establish programs to prepare adults for participation in the labor force by increasing occupational and educational skills resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.

"SEC. 202. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

"(2) ALLOTMENT TO STATES.—

"(A) IN GENERAL.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the States in accordance with subparagraph (B) for allocation to service delivery areas within each State in accordance with subsections (b) and (c).

"(B) BASIS.—Subject to paragraph (3), of the remainder described in subparagraph (A) for each fiscal year—

"(i) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

"(ii) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States; and

"(iii)(I) except as provided in subclause (II), 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged individuals within each State as compared to the total number of economically disadvantaged individuals in all States; or

"(II) for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), 33⅓ percent shall be allotted on the basis of the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

"(3) LIMITATIONS ON ALLOTMENTS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amount available for allotment to the States under this subsection from the remainder described in paragraph (2)(A) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(C) MAXIMUM PERCENTAGE.—No State shall be allotted more than 130 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(D) ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For the purposes of this paragraph, the allotment percentage of a State shall be the percentage that the State received of all allotments pursuant to this subsection.

"(ii) FISCAL YEAR 1992.—For the purposes of this paragraph, for fiscal year 1992, the allotment percentage of a State shall be the percentage that the State received of all allotments pursuant to section 201 as in effect on the day before the date of the enactment of this section.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—

"(1) IN GENERAL.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year, the Governor shall allocate 77 percent in accordance with this subsection and 23 percent in accordance with subsection (c). Of such 77 percent—

"(A) 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total excess number of such unemployed individuals in all such areas of substantial unemployment in the State;

"(B) 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State; and

"(C)(i) except as provided in clause (ii), 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative number of economically disadvantaged individuals within each service delivery area as compared to the total number of economically disadvantaged individuals in the State; or

"(ii) for any service delivery area described in section 101(a)(4)(A)(iii), 33⅓ percent shall be allotted on the basis of the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

"(2) SPECIAL RULE.—The private industry council in each service delivery area may reserve not more than 10 percent of the funds received under this part for experimental programming for hard-to-serve individuals. The Comptroller General shall conduct a study to review and assess such experimental programs and postprogram results and shall submit the findings to the appropriate committees of Congress not later than September 30, 1994.

"(c) STATE ACTIVITIES.—

"(1) IN GENERAL.—The Governor shall allocate 23 percent of the amounts allotted to each State under subsection (a)(2)(B) for the activities described in paragraph (2).

"(2) USES.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year—

"(A)(i) except as provided in clause (ii), 5 percent shall be available for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122; and

"(ii) the Secretary shall ensure that the amount available to carry out the activities described in clause (i) is not less than $500,000 by—

"(I) ratably reducing, by an amount necessary to meet the requirement of subclause (II), the amounts available under clause (i) for the States that have amounts available in excess of $500,000; and

"(II) allotting the funds available pursuant to subclause (I) to the States that would otherwise have amounts available under clause (i) that are less than $500,000 in amounts necessary to ensure that such States have an amount equal to $500,000 to carry out the activities described in clause (i);

"(B) 2 percent shall be available for technical assistance and capacity building in developing the overall capability of the job training system within the State, including the development and training of State and local service delivery area staff, service provider staff, the development of information and exemplary program activities, and the conduct of research and other activities designed to improve the level, degree, and goals of programs conducted under this Act;

"(C) 3 percent shall be available to provide incentive grants authorized under section 106(b)(8);

"(D) 8 percent shall be available to carry out section 123; and

"(E) 5 percent shall be available to carry out section 204(d).

"(d) DEFINITIONS AND RULE.—

"(1) DEFINITIONS.—As used in this section:

"(A) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—The term 'economically disadvantaged individual' means an individual who is age 22 through 72 and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means—

"(i) the number that represents the number of unemployed individuals age 22 through 72 in excess of 4.5 percent of the civilian labor force in the State; or

"(ii) the number that represents the number of such unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practical, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged individuals.

"SEC. 203. ELIGIBILITY FOR SERVICES.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—An individual shall be eligible to participate in the program assisted under this part if such individual is—

"(A) 22 years of age or older; and

"(B) economically disadvantaged.

"(2) MINIMUM REQUIREMENT.—Not less than 65 percent of the participants in a program assisted under this part in each service delivery area shall be individuals who, in addition to meeting the requirements of paragraph (1), are included in one or more of the following categories:

"(A) Individuals who are basic skills deficient.

"(B) Individuals who are school dropouts.

"(C) Individuals who are recipients of aid to families with dependent children who either meet the requirements of section 403(l)(2)(B) of the Social Security Act (42 U.S.C. 603(l)(2)(B)) or have been provided an employability plan in accordance with section 482(b) of the Social Security Act (42 U.S.C. 682(b)).

"(D) Individuals with a disability.

"(E) Individuals who are homeless, as defined by subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

"(F) Individuals who are unemployed for the previous 6 months or longer.

"(G) Offenders.

"(H) Individuals who are limited-English proficient.

"(I) Individuals who are in a category established pursuant to subsection (b).

"(3) SPECIAL RULE.—Not more than 10 percent of all participants in a program assisted under this part in each service delivery area shall be individuals who are not economically disadvantaged if such individuals are age 22 or older and within 1 or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in paragraph (2), or categories such as displaced homemakers, older workers, veterans, alcoholics, or addicts.

"(b) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of individuals who face serious barriers to employment to the categories of eligible individuals described in subsection (a)(2) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the Governor approves the request submitted pursuant to paragraph (1) and transmits the request to the Secretary; and

"(3) the Secretary approves the request submitted pursuant to paragraph (2).

"(c) TRANSFER OF FUNDS.—A service delivery area may transfer not more than 10 percent of the funds provided under this part to carry out part B for youth programs if a description of such transfer is included in the job training plan pursuant to section 104 and the Governor approves the transfer pursuant to section 105.

"SEC. 204. PROGRAM DESIGN.

"(a) IN GENERAL.—

"(1) PROGRAM REQUIREMENTS.—Each program assisted under this part shall include—

"(A) an assessment, which shall comply with the requirements of section 167, of the skill levels and service needs of each participant, including such factors as basic skills, occupational skills, prior work experience, and supportive service needs, except that a new assessment of a participant is not required if the program determines that a recent assessment of the participant conducted pursuant to another education or training program, such as the JOBS program, is an appropriate assessment;

"(B) development of service strategies that shall identify the employment goal, the appropriate achievement objectives, and the appropriate sequence of services for participants, taking into account the assessments conducted pursuant to paragraph (1), except that a new service strategy is not required if the program determines a recent service strategy developed for the participant under another education or training program (such as the JOBS program) is an appropriate service strategy;

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) basic skills training and occupational skills training if the assessment and the service strategy indicate such training is appropriate.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS.—Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services available by the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and referrals to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made pursuant to clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(b) AUTHORIZED SERVICES.—Subject to the limitations contained in subsection (c), services that may be made available to each participant under this part may include—

"(1) direct training services, including—

"(A) basic skills training, including remedial education, literacy training, and English-as-a-second-language instruction;

"(B) institutional skills training;

"(C) on-the-job training;

"(D) assessment of the skill levels and service needs of participants;

"(E) counseling, such as job counseling and career counseling;

"(F) case management services;

"(G) education-to-work transition activities;

"(H) programs that combine workplace training with related instruction;

"(I) work experience;

"(J) programs of advanced career training that provide a formal combination of on-the-job and institutional training and internship assignments that prepare individuals for career employment;

"(K) training programs operated by the private sector, including programs operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;

"(L) skill upgrading and retraining;

"(M) bilingual training;

"(N) entrepreneurial training, such as training activities for microenterprises;

"(O) vocational exploration;

"(P) training programs to develop work habits to help individuals obtain and retain employment;

"(Q) attainment of certificates of high school equivalency;

"(R) preapprenticeship programs;

"(S) on-site, industry-specific training programs supportive of industrial and economic development;

"(T) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training; and

"(U) use of advanced learning technology for education, job preparation, and skills training; and

"(2) training-related and supportive services, including—

"(A) job search assistance;

"(B) outreach to make individuals aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for limited-English proficient individuals and individuals with disabilities;

"(C) specialized surveys not available through other labor market information sources;

"(D) dissemination of information on program activities to employers;

"(E) development of job openings;

"(F) programs coordinated with other Federal employment-related activities;

"(G) supportive services, necessary to enable individuals to participate in the program, and to assist the individuals, for a period not to exceed 12 months following completion of training, to retain employment;

"(H) needs-based payments necessary to participate in accordance with a locally developed formula or procedure;

"(I) followup services with participants placed in unsubsidized employment; and

"(J) services to obtain job placements for individual participants.

"(c) SPECIAL RULES.—

"(1) WORKPLACE CONTEXT AND INTEGRATION.—Basic skills training provided under this part shall, where appropriate, have a workplace context and be integrated with occupational skills training.

"(2) BASIC EDUCATION OR OCCUPATIONAL SKILLS.—

"(A) ADDITIONAL SERVICES.—Except as provided in subparagraph (B), job search, job search skills training, job clubs, and work experience provided under this part shall be accompanied by other services designed to increase the basic education or occupational skills of a participant.

"(B) LACK OF APPROPRIATENESS OR AVAILABILITY.—Each program assisted under this part may provide job search, job search skills training, and job clubs activities to a participant without the additional services described in subparagraph (A) if—

"(i) the assessment and service strategy of a participant indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant through the employment service or other public agencies.

"(3) NEEDS-BASED PAYMENTS.—Needs-based payments provided under this part shall be limited to payments necessary for participation in the program assisted under this part in accordance with a locally developed formula or procedure.

"(4) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services provided under this part may be provided to a participant for a period up to 1 year after the participant's completion of the program.

"(5) SERVICE STRATEGY.—The service strategy developed pursuant to subsection (a)(2) shall not be considered a contract.

"(d) TRAINING PROGRAMS FOR OLDER INDIVIDUALS.—

"(1) IN GENERAL.—The Governor is authorized to provide for job training programs that are developed in conjunction with service delivery areas within the State and that are consistent with the plan for the service delivery area prepared and submitted in accordance with the provisions in section 104, and designed to assure the training and placement of older individuals in employment opportunities with private business concerns.

"(2) AGREEMENTS.—In carrying out this subsection, the Governor shall, after consultation with appropriate private industry councils and chief elected officials, enter into agreements with public agencies, nonprofit private organizations, including veterans organizations, and private business concerns.

"(3) CONSIDERATIONS.—The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

"(4) COORDINATION.—In providing the services required by this subsection, the Governor shall make efforts to coordinate the delivery of such services with the delivery of services pursuant to title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

"(5) SERVICE PROVIDER SELECTION.—In the selection of service providers to serve older individuals under this subsection, the Governor shall give priority to national, State, and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals.

"(6) ELIGIBILITY.—An individual shall be eligible to participate in a job training program under this subsection only if the individual is economically disadvantaged and has attained 55 years of age.

"SEC. 205. LINKAGES.

"(a) IN GENERAL.—In conducting the program assisted under this part, the service delivery area shall establish appropriate linkages with other Federal programs. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(3) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(4) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

"(5) the employment program established pursuant to section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

"(6) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(7) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(8) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

"(9) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

"(10) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482).

"(b) OTHER APPROPRIATE LINKAGES.—In addition to the linkages required under subsection (a), each service delivery area receiving financial assistance under this part shall establish other appropriate cooperative arrangements to enhance the provision of services under this part. Such cooperative arrangements may be established with local educational agencies, local service agencies, public housing agencies, community-based organizations, literacy organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development, and social service programs.

"SEC. 206. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the programs under parts B and C if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.

"SEC. 207. STUDIES RELATING TO PLACEMENT AND TARGET POPULATIONS.

"The Comptroller General of the United States shall conduct a study to determine the number and percentage of adults assisted under this part that remain employed for at least 9 months after receiving assistance under this part. The Comptroller General shall submit a report containing the findings resulting from the study to the appropriate committees of Congress not later than 3 years after the date of enactment of this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part A of title II is amended to read as follows:

"Sec. 201. Statement of purpose.
"Sec. 202. Allotment and allocation.
"Sec. 203. Eligibility for services.
"Sec. 204. Program design.
"Sec. 205. Cooperative arrangements.
"Sec. 206. Transfer of funds.
"Sec. 207. Studies relating to placement and target populations.".

(c) CONFORMING AMENDMENTS.—

(1) Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by striking "section 204(5)" and inserting "section 204(b)(1)(C)".

(2) Section 122 (29 U.S.C. 1532) is amended—

(A) in subsection (a)(1), by striking "section 202(b)(4)" and "sections 202(c)(2)(A) and 262(c)(1)"; and

(B) in subsection (b)(2), by striking "section 202(a)" and inserting "section 202(b)".

(3) Section 125(a) (29 U.S.C. 1535(a)) is amended by striking "section 202(b)(4) and".

SEC. 132. ESTABLISHMENT OF SUMMER YOUTH OPPORTUNITY PROGRAM.

(a) IN GENERAL.—Part B of title II (29 U.S.C. 1631 et seq.) is amended to read as follows:

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 251. PURPOSE.

"It is the purpose of programs assisted under this part—

"(1) to enhance the basic educational skills of youth;

"(2) to encourage school completion, or enrollment in supplementary or alternative school programs; and

"(3) to provide eligible youth with exposure to the world of work.

"SEC. 252. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION.

"(a) TERRITORIAL AND NATIVE AMERICAN ALLOCATION.—From the funds appropriated under section 3(a)(2), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

"(b) USE OF PART C FORMULA FOR ALLOTMENT AND ALLOCATION.—The remainder of funds appropriated under section 3(a)(2) shall, for each fiscal year, be allotted among States on the basis of the formula specified in section 202(a)(2)(B) and allocated among service delivery areas on the basis of the formula specified in section 202(b)(1). For purposes of the application of the formulas under this subsection, the term "economically disadvantaged individual" means an economically disadvantaged youth, as defined in section 262(d)(1)(A).

"SEC. 253. USE OF FUNDS.

"(a) IN GENERAL.—Funds available under this part may be used for—

"(1) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, activities under programs described in section 265(b), and any other employment or job training activity designed to give employment to eligible individuals or prepare the individuals for, and place the individuals in, employment;

"(2) supportive services necessary to enable such individuals to participate in the program; and

"(3) administrative costs, not to exceed 15 percent of the funds available under this part.

"(b) BASIC AND REMEDIAL EDUCATION.—

"(1) IN GENERAL.—A service delivery area shall expend funds (available under this Act or otherwise available to the service delivery area) for basic and remedial education as described in the job training plan under section 104.

"(2) EDUCATION OR TRAINING.—The education authorized by paragraph (1) may be provided by—

"(A) the year-round program under this part;

"(B) the Job Corps;

"(C) the JOBS program;

"(D) alternative or secondary schools; or

"(E) other education and training programs.

"(c) ASSESSMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each participant under this part shall be provided with an objective assessment of the skill levels and service needs of the participant, which assessment may include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes, and supportive service needs.

"(2) RECENT ASSESSMENTS.—The assessment described in paragraph (1), or a factor of such assessment is not required under a program under this part if the program uses recent assessments conducted pursuant to another education or training program (such as the JOBS program).

"(3) SERVICE STRATEGY.—The service delivery area shall develop a service strategy for participants that may identify achievement objectives, appropriate employment goals, and appropriate services for participants, taking into account the assessments conducted under this subsection or under such other education or training program.

"(d) FOLLOWUP SERVICES.—Service delivery areas shall make followup services available for participants for whom a service strategy is developed in accordance with this section.

"SEC. 254. LIMITATIONS.

"(a) USE DURING SUMMER MONTHS OR EQUIVALENT VACATION PERIOD.—

"(1) SUMMER MONTHS.—Except as provided in paragraph (2), programs under this part shall be conducted during the summer months.

"(2) VACATION PERIOD.—A service delivery area may, within the jurisdiction of any local educational agency that operates schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation.

"(b) CONCURRENT ENROLLMENT.—

"(1) IN GENERAL.—An eligible individual participating in a program assisted under this part may concurrently be enrolled in programs under part C. Appropriate adjustment to the youth performance standards (regarding attainment of competencies) under section 106(b)(4)(A) (i) and (ii) and 106(b)(5) shall be made to reflect the limited period of participation.

"(2) CONCURRENT ENROLLMENT AND TRANSFERS.—Youth being served under this part or part C youth programs do not need to be terminated from participation in one program in order to enroll in the other. The Secretary shall provide guidance to service delivery areas on simplified procedures for concurrent enrollment and transfers for youth from one program to the other.

"SEC. 255. APPLICABLE PROVISIONS.

"(a) COMPARABLE FUNCTIONS OF AGENCIES AND OFFICIALS.—Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as the private industry councils, chief elected officials, State job training coordinating councils, and Governors have with respect to funds available under parts A and C of title II.

"(b) PROGRAM GOALS AND OBJECTIVES.—In accordance with subsection (a), each service delivery area shall establish written program goals and objectives that shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

"(1) improvement in school retention and completion;

"(2) improvement in academic performance, including mathematics and reading comprehension;

"(3) improvement in employability skills; and

"(4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol abuse prevention and treatment programs.

"SEC. 256. DEFINITION.

"As used in this part, the term 'youth' means an individual who is age 14 through 21.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part B of title II is amended to read as follows:

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"Sec. 251. Purpose.
"Sec. 252. Authorization of appropriations; allotment and allocation.
"Sec. 253. Use of funds.
"Sec. 254. Limitations.
"Sec. 255. Applicable provisions.
"Sec. 256. Definition.

SEC. 133. ESTABLISHMENT OF YOUTH OPPORTUNITY PROGRAM.

(a) IN GENERAL.—Title II (29 U.S.C. 1601 et seq.) is amended by adding at the end the following new part:

"PART C—YOUTH PROGRAM

"SEC. 261. STATEMENT OF PURPOSE.

"It is the purpose of the programs assisted under this part to—

"(1) improve the long-term employability of youth;

"(2) enhance the educational and occupational skills of youth;

"(3) encourage school completion or enrollment in alternative school programs;

"(4) increase the employment and earnings of youth;

"(5) reduce welfare dependency; and

"(6) assist youth in addressing problems that impair the ability of youth to make successful transitions from school to work, apprenticeship, the military, or postsecondary education and training.

"SEC. 262. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

"(2) ALLOTMENT TO STATES.—

"(A) IN GENERAL.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the States in accordance with subparagraph (B) for allocation to service delivery areas within each State in accordance with subsections (b) and (c).

"(B) BASIS.—Subject to paragraph (3), the remainder described in subparagraph (A) shall be allotted, for each fiscal year, on the basis of the formula specified in section 202(a)(2)(B). For purposes of the application of the formula under this subparagraph, the term 'economically disadvantaged individual' means an economically disadvantaged youth.

"(3) LIMITATION ON ALLOTMENTS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amount available for allotment to the States under this subsection from the remainder described in paragraph (2)(A) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(C) MAXIMUM PERCENTAGE.—No service delivery area shall be allotted more than 130 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(D) TOTAL ALLOTMENT.—Notwithstanding subparagraphs (A) through (C), the total allotment for all service delivery areas within any one State shall not be less than one-quarter of 1 percent of the total allotted to all service delivery areas in all States.

"(E) ALLOTMENT PERCENTAGE.—

"(i) For the purposes of this paragraph, the allotment percentage of a State shall be the percentage that the State received of all allotments pursuant to this subsection.

"(ii) FISCAL YEAR 1992.—For the purposes of this paragraph, the allotment percentage of a State for fiscal year 1992 shall be the percentage of the funds allocated for youth programs (as determined by the Secretary) under title II to the State during the preceding fiscal year.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year, the Governor shall allocate 82 percent on the basis of the formula specified in section 202(b)(1) and 18 percent in accordance with subsection (c). For purposes of the application of the formula under this subsection, the term 'economically disadvantaged individual' means an economically disadvantaged youth.

"(c) STATE ACTIVITIES.—

"(1) IN GENERAL.—The Governor shall allocate 18 percent of the amounts allotted to each State under subsection (a)(2)(B) for the activities described in subparagraphs (A), (B), (C), and (D) of section 202(c)(2).

"(2) INCENTIVE GRANT ALLOTMENT.—The amount reserved under paragraph (1) for the activities described in section 202(c)(2)(C) shall be used by the Governor to provide incentive grants under section 106(b)(8). The incentive grants made under this paragraph shall be distributed among not more than three-fourths of such eligible service delivery areas within the State in proportion to the extent to which the service delivery area fulfills the requirements of section 106(b)(8).

"(d) DEFINITIONS AND RULE.—

"(1) DEFINITIONS.—As used in this section:

"(A) ECONOMICALLY DISADVANTAGED YOUTH.—The term 'economically disadvantaged youth' means an individual who is age 16 through 21 and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means—

"(i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

"(ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged youth and the size of the youth population in a service delivery area.

"SEC. 263. ELIGIBILITY FOR SERVICES.

"(a) IN-SCHOOL YOUTH.—An individual who is in school shall be eligible to participate in the program under this part if such individual is—

"(1)(A) age 16 through 21; or

"(B) if provided in the job training plan, age 14 through 21; and

"(2) economically disadvantaged, or participates in a compensatory education program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(b) TARGETED GROUPS OF IN-SCHOOL YOUTH.—Not less than 70 percent of the in-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (a), are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals with educational attainment that is one or more grade levels below the grade level appropriate to the age of the individuals.

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Individuals exhibiting a pattern of disruptive behavior or disciplinary problems.

"(6) Individuals who are limited-English proficient.

"(7) Individuals who are homeless or runaway youth.

"(8) Offenders.

"(9) Individuals within a category established pursuant to subsection (h).

"(c) OUT-OF-SCHOOL YOUTH.—An individual who is out of school shall be eligible to participate in the program under this part if such individual is—

"(1) age 16 through 21; and

"(2) economically disadvantaged.

"(d) TARGETED GROUPS OF OUT-OF-SCHOOL YOUTH.—Not less than 70 percent of the out-of-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (c), are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals who are school dropouts (subject to the conditions described in section 264(d)(2)).

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Homeless or run-away youth.

"(6) Offenders.

"(7) Individuals who are limited-English proficient.

"(8) Individuals in a category established pursuant to subsection (h).

"(e) EXCEPTIONS.—Not more than 10 percent of participants in the program assisted under this part in each service delivery area shall be individuals who do not meet the requirements of subsection (a)(2) or (c)(2), if such individuals are within one or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in subsections (b) and (d), or categories such as individuals with limited-English language proficiency, alcoholics, or drug addicts.

"(f) RATIO OF OUT-OF-SCHOOL TO IN-SCHOOL YOUTH.—Not less than 50 percent of the participants in the program under this part in each service delivery area shall be out-of-school individuals who meet the requirements of subsection (c), (d), or (e).

"(g) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—

"(1) IN GENERAL.—In addition to the individuals described in subsection (e), an individual who does not meet the requirements of subsection (a)(2) may participate in the programs assisted under this part if such individual is enrolled in a public school—

"(A) that is located in a poverty area;

"(B) that is served by a local educational agency that is eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(C) in which not less than 75 percent of the students enrolled are included in the categories described in subsection (b); and

"(D) that conducts a program pursuant to a cooperative arrangement that meets the requirements of section 265(d).

"(2) DEFINITION.—For the purposes of paragraph (1), the term 'poverty area' means an urban census tract or a nonmetropolitan county with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

"(h) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (b) and one category to the categories of eligible individuals described in subsection (d) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the Governor approves the request submitted pursuant to paragraph (1) and transmits the request to the Secretary; and

"(3) the Secretary approves the request submitted pursuant to paragraph (2).

"SEC. 264. PROGRAM DESIGN.

"(a) YEAR-ROUND OPERATION.—The programs under this part shall be conducted on a year-round basis.

"(b) ESSENTIAL ELEMENTS.—

"(1) IN GENERAL.—The programs under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(B) development of service strategies that shall identify achievement objectives, appropriate employment goals (including, where appropriate, nontraditional employment) and appropriate services for participants, taking into account the assessments conducted pursuant to paragraph (1), except that a new service strategy is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) the following services, which shall be provided either directly or through arrangement with other programs to a participant if the assessment and service strategy indicate such services are appropriate:

"(i) Basic skills training.

"(ii) Occupational skills training.

"(iii) Preemployment and work maturity skills training.

"(iv) Work experience combined with skills training.

"(v) Supportive services.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS.—Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services available by the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made pursuant to clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(c) AUTHORIZED SERVICES.—Services which may be made available to youth with funds provided under this part may include—

"(1) the direct training services described in section 204(b)(1) in addition to—

"(A) tutoring and study skills training;

"(B) alternative high school services within programs that meet the requirements of section 141(n)(1);

"(C) instruction leading to high school completion or the equivalent;

"(D) mentoring;

"(E) case management services;

"(F) counseling, such as job counseling and career counseling;

"(G) limited internships in the private sector;

"(H) training or education that is combined with community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations;

"(I) entry employment experience programs;

"(J) school-to-work transition services;

"(K) school-to-postsecondary education transition services; and

"(L) school-to-apprenticeship transition services; and

"(2) the training-related and supportive services described in section 204(b)(2), in addition to—

"(A) drug and alcohol abuse counseling and referral;

"(B) needs-based payments;

"(C) services encouraging parental, spousal, and other significant adult involvement in the program of the participant; and

"(D) cash incentives and bonuses based on attendance and performance in a program.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) STRATEGIES AND SERVICES.—In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices.

"(2) SCHOOL DROPOUTS.—In order to participate in a program assisted under this part, an individual who is under the age of 18 and a school dropout shall—

"(A) reenroll in and attend school;

"(B) enroll in and attend an alternative high school;

"(C) enroll in and attend an alternative course of study approved by the local educational agency; or

"(D) enroll in and attend a high school equivalency program.

"(3) SKILLS TRAINING.—

"(A) PREEMPLOYMENT AND WORK MATURITY SKILLS TRAINING.—Preemployment and work maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase the basic educational or occupational skills of a participant. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(B) ADDITIONAL SERVICES.—Work experience, job search assistance, job search skills training, and job club activities authorized by this part shall be accompanied by additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(4) NEEDS-BASED PAYMENTS.—Needs-based payments authorized under this part shall be limited to payments necessary to permit participation in the program in accordance with a locally developed formula or procedure.

"(5) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services authorized under this part may be provided to a participant for a period of up to 1 year after termination from the program.

"(6) NONCONTRACT TREATMENT.—The service strategy developed pursuant to subsection (b)(1)(B) shall not be considered a contract.

"SEC. 265. LINKAGES.

"(a) EDUCATIONAL LINKAGES.—In conducting a program under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth; and

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems and needs, including, where appropriate, interim assessment results.

"(b) EDUCATION AND TRAINING PROGRAM LINKAGES.—In conducting the program under this part, the service delivery area shall establish appropriate linkages with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs authorized by—

"(1) part B of title IV (the Job Corps);

"(2) parts A through D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(3) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(4) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(5) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(6) part F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.);

"(7) the Food Stamp Act (7 U.S.C. 2011 et seq.);

"(8) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(9) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482); and

"(10) any provisions of this Act.

"(c) OTHER PROGRAMS.—In addition to the linkages required under subsections (a) and (b), service delivery areas receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local service agencies, public housing agencies, community-based organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under part A of title II.

"(d) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—In conducting a program serving individuals specified in section 263(g), the service delivery area shall establish a cooperative arrangement with the appropriate local educational agency that shall, in addition to the other requirements of this section, include—

"(1) a description of the ways in which the program will supplement the educational program of the school;

"(2) identification of measurable goals to be achieved by the program and provision for assessing the extent to which such goals are met;

"(3) a description of the ways in which the program will use resources provided under this part and resources provided under other education programs to achieve the goals identified in paragraph (2);

"(4) a description of the number of individuals to be served; and

"(5) assurances that the resources provided under this part shall be used to supplement and not supplant existing sources of funds.

"SEC. 266. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the program under part A if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.".

(b) TECHNICAL AMENDMENT.—The table of contents in title II is amended by adding after the item relating to section 256 the following:

"PART C—YOUTH PROGRAM

"Sec. 261. Statement of purpose.
"Sec. 262. Allotment and allocation.
"Sec. 263. Eligibility for services.
"Sec. 264. Program design.
"Sec. 265. Linkages.
"Sec. 266. Transfer of funds.".

Subtitle D—Special Programs

SEC. 141. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

Section 314(f) (29 U.S.C. 1661c(f)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) An eligible dislocated worker participating in training (except for on-the-job training) pursuant to this title shall be deemed to be in training with the approval of the State agency for purposes of section 3304(a)(8) of the Internal Revenue Code of 1986.".

Subtitle E—National Programs

SEC. 151. NATIVE AMERICAN PROGRAMS.

(a) IN GENERAL.—Section 401 (29 U.S.C. 1671) is amended—

(1) in subsection (a), by striking "Alaskan Native" and inserting "Alaska Native, American Samoan,";

(2) in subsection (b)(2)—

(A) by striking "and groups and" and "and groups,"; and

(B) by inserting ", and to American Samoans residing in the United States" after "descent";

(3) in subsection (c)(1)(B)—

(A) by striking "natives" and inserting "Natives and American Samoans residing in the United States";

(B) by inserting "and State agencies" after "organizations"; and

(C) by striking "their needs" and inserting "the needs of the Hawaiian Natives and American Samoans";

(4) in subsection (e)—

(A) by inserting "(1)" after the subsection designation;

(B) by inserting "and American Samoan" after "Native American"; and

(C) by adding at the end the following new paragraph:

"(2) Such procedures and machinery shall include—

"(A) the designation by the Secretary of a single organizational unit that shall have the principal responsibility for the development, coordination, and oversight of all policies (except audit, procurement and debt collection policies) under which the Secretary regulates or influences the operation of Native American Indian programs under this section; and

"(B) a special effort to recruit Indians, Alaska Natives, American Samoans, and Hawaiian Natives for employment in the organizational unit identified in subparagraph (A)"; and

(5) in subsection (h)—

(A) by striking "representatives of Indians and other Native Americans" and inserting "the Advisory Council on Native American Indian Job Training Programs";

(B) by inserting "Indian and American Samoan" after "Native American"; and

(C) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall establish an Advisory Council on Native American Indian Job Training Programs (referred to in this section as the 'Council'), which shall consist of not fewer than 15 Native American Indians, Alaska Natives, American Samoans, or Hawaiian Natives appointed by the Secretary from among individuals nominated by Native American Indian tribes or Native American Indian, Alaska Native, American Samoan, or Hawaiian Native organizations. The membership of the Council membership shall represent diverse geographic areas and include representatives of tribal governments and of nonreservation Native American Indian organizations.

"(B) Each Council member may serve for a term of 2 years, and may be reappointed.

"(C) The Council shall be chaired by a Native American Indian, Alaska Native, or Hawaiian Native Council member elected by a majority of the membership of the Council and shall meet not less than twice each program year.

"(D) The Council shall—

"(i) solicit the views of a wide variety of tribes and Native American Indian and American Samoan groups, including groups operating employment and training programs funded under this section, on issues affecting the operation and administration of such programs;

"(ii) advise the Secretary with respect to all matters concerning the implementation of programs under this section and other programs providing services to Native American Indian youth and adults under this Act;

"(iii) advise the Secretary with respect to the design of all aspects of the system of performance standards developed under this section;

"(iv) advise the Secretary with respect to services obtained by the Department of Labor through contracts or arrangements with non-Federal agencies or entities, which services involve the provision of technical assistance to, or evaluation of, the programs authorized by this section;

"(v) assess the effectiveness of Native American Indian job training programs and make recommendations with respect to the improvement of such programs;

"(vi) advise the Secretary with regard to the recruitment of, identification of, and selection criteria for, candidates for the position of chief of the organizational unit described in subsection (e)(2)(A) whenever a vacancy in such position occurs; and

"(vii) submit a report to the Congress not later than January 1 of each year on the progress of Native American Indian job training programs and recommendations for improving the effectiveness of the programs.

"(E) From amounts appropriated to carry out this section, the Secretary shall make available to the Council such sums as may be necessary to carry out the functions of the Council.".

(b) RESERVATION.—Section 401(j) is amended to read as follows:

"(j) For the purposes of carrying out this section, the Secretary shall reserve, from funds available for carrying out this title (other than part B) for the fiscal year, an amount not less than 3.1 percent of the total amount of funds appropriated to carry out parts A and C of title II of this Act for such fiscal year.".

(c) COMPETITION GRANTS.—Section 401 is amended by adding at the end the following new subsection:

"(k) The competition for grants under this section shall be conducted every 2 years, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement, the Secretary may waive the requirement for such competition on receipt from the grantee of a satisfactory 2-year program plan for the succeeding 2-year grant period.".

SEC. 152. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

(a) RESERVATION.—Section 402(f) (29 U.S.C. 1672(f)) is amended to read as follows:

"(f) For the purposes of carrying out this section, the Secretary shall reserve, from funds available for carrying out this title (other than part B) for any fiscal year, an amount not less than 2.76 percent of the total amount of funds appropriated to carry out parts A and C of title II of this Act for such fiscal year.".

(b) COMPETITION FOR GRANTS.—Section 402 is amended by adding at the end the following new subsection:

"(g) The competition for grants under this section shall be conducted every 2 years, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement, the Secretary may waive the requirement for such competition on receipt from the grantee of a satisfactory 2-year program plan for the succeeding 2-year grant period.".

SEC. 153. JOB CORPS.

Section 427(a)(2) (29 U.S.C. 1697(a)(2)) is amended—

(1) by striking "10 percent" and inserting "20 percent"; and

(2) by adding at the end the following new sentence: "The Secretary shall not reduce the number of residential participants in Job Corps programs under this part during any program year below the number of residential participants during program year 1989 in order to increase the number of individuals who are nonresidential participants in the Job Corps.".

SEC. 154. NATIONAL ACTIVITIES.

(a) IN GENERAL.—Part D of title IV (29 U.S.C. 1731 et seq.) is amended to read as follows:

"PART D—NATIONAL ACTIVITIES

"SEC. 451. TRAINING AND INFORMATION PROGRAMS.

"(a) STAFF TRAINING.—The Secretary, directly or through grants, contracts or other arrangements, shall—

"(1) develop curricula and provide appropriate training, technical assistance, staff development and other activities at the national, regional, State, and local levels that will—

"(A) enhance the skills, knowledge, and expertise of the personnel who staff employment and training and other closely related human service systems, including service providers;

"(B) improve the quality of services provided to individuals under this Act and other Federal employment and training programs and encourage integrated service delivery;

"(C) improve the planning, procurement, and contracting practices in accordance with this Act; and

"(D) provide broad human services policy and planning training to private industry council volunteers and members of State human investment coordinating councils;

"(2) prepare and disseminate training curricula and materials for employment and training professionals and support staff, which curricula and materials focus on enhancing staff competencies and professionalism, including instruction on the administrative requirements of this Act, such as procurement and contracting standards and regulations; and

"(3) disseminate innovative and successful models, materials, methods, and program information and provide training in the techniques learned from the sources to foster improved program quality and professional growth among managers, service delivery providers, and administrators, involved in the delivery of employment and training services.

"(b) CLEARINGHOUSE.—The Secretary is authorized to establish a clearinghouse to—

"(1) regularly identify, develop, and disseminate innovative materials that enhance the knowledge and quality of performance of employment and training personnel;

"(2) facilitate effective communications and coordination among employment and training personnel;

"(3) establish a computer communications network to share information among employment and training personnel and institutions; and

"(4) establish linkages with existing human resources clearinghouses, including the Education Research Information Centers and the National Network for Curriculum Coordination in Vocational and Technical Education.

"(c) CONSULTATION.—The Secretary shall consult with the Secretaries of Education and Health and Human Services, as appropriate, to coordinate activities under this section with other relevant institutes, centers, laboratories, clearinghouses, or dissemination networks.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part D of title IV is amended to read as follows:

"PART D—NATIONAL ACTIVITIES

"Sec. 451. Training and information programs.".

(c) CONFORMING AMENDMENTS.—

(1) Section 161(b)(2) (29 U.S.C. 1571(b)(2)) is amended by striking "452 through 455" and inserting "451 and 452".

(2) Section 433(c)(1) (29 U.S.C. 1703(c)(1)) is amended by striking "452 and 455" and inserting "451".

SEC. 155. COOPERATIVE LABOR MARKET INFORMATION PROGRAM.

Section 462 (29 U.S.C. 1752) is amended by adding at the end the following new subsection:

"(g)(1) The Secretary may engage in research, demonstration, or other activities, including activities that may be carried out by States, designed to determine the feasibility of various methods of organizing and making accessible nationwide information on the quarterly earnings for all individuals for whom such information is collected by the States.

"(2) The Secretary shall submit a report to Congress based on the findings resulting from the activities described in paragraph (1) concerning the costs and benefits of establishing and maintaining a national longitudinal data base utilizing unemployment insurance wage records. Such report shall also address the feasibility of establishing appropriate safeguards for maintaining the confidentiality of information and privacy of individuals.".

SEC. 156. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

Section 464(a)(1) (29 U.S.C. 1754(a)(1)) is amended by striking "not more than $5,000,000" and inserting "$6,000,000".

SEC. 157. REPLICATION OF SUCCESSFUL PROGRAMS.

(a) IN GENERAL.—Title IV (29 U.S.C. 1671 et seq.) is amended by adding at the end the following new part:

"PART H—REPLICATION OF SUCCESSFUL PROGRAMS

"SEC. 485. REPLICATION.

"(a) REPLICATION PROGRAM AUTHORIZED.—The Secretary shall make competitive grants to public or private nonprofit organizations for technical assistance, and to States and service delivery areas for planning and program development, associated with the replication of successful programs pursuant to the provisions of this part.

"(b) AWARDS.—

"(1) FACTORS.—In awarding grants for replication of successful programs to public or private nonprofit organizations, States, or service delivery areas under this part, the Secretary shall select programs that are likely to be successful in improving the employment prospects of economically disadvantaged youths and adults and are replicable on a large scale.

"(2) CONSIDERATIONS.—In selecting such programs the Secretary shall consider—

"(A) the size and scope of the program;

"(B) the length of time that the program has been operating;

"(C) the nature and reliability of measurable outcomes for the program;

"(D) the capacity of the sponsoring organization to provide the technical assistance necessary for States and service-delivery areas to replicate the program; and

"(E) the likelihood that the program will be successful in diverse economic, geographic, and cultural environments.

"(c) APPLICATIONS.—

"(1) NONPROFIT ORGANIZATION.—Any public or private nonprofit organization with the capacity to provide the technical assistance necessary for program replication may submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall describe the program proposed for replication and available evidence of the success of the program in improving the employment prospects of economically disadvantaged youths and adults.

"(2) STATE; SERVICE DELIVERY AREA.—Any State or service delivery area desiring a grant to participate in a replication effort shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(d) GRANT LIMITATIONS.—

"(1) LIMITATION.—In any 3-year period the Secretary shall not approve grants for the same replication activities in more than 10 States or communities. During this 3-year period, the results of such limited replication efforts shall be carefully evaluated and examined by the Secretary regarding the advisability of replicating the model program in more than 10 States or communities or for longer than 3 years.

"(2) WAIVER.—The Secretary may waive the limitation set forth in paragraph (1) for a program if immediate replication efforts on a larger scale are warranted by extensive evaluation of the program prior to designation as a model program pursuant to the provisions of this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to title IV is amended by adding after the item relating to section 481 the following:

"PART H—REPLICATION OF SUCCESSFUL
PROGRAMS

"Sec. 485. Replication.".

SEC. 158. FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM.

(a) IN GENERAL.—Title IV (29 U.S.C. 1671 et seq.) (as amended by section 157) is further amended by adding at the end the following new part:

"PART I—FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"SEC. 491. STATEMENT OF PURPOSE.

"The purposes of this part include—

"(1) enabling communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community; and

"(2) facilitating the coordination of comprehensive services to serve youth in such communities.

"SEC. 492. DEFINITIONS.

"As used in this part:

"(1) PARTICIPATING COMMUNITY.—The term 'participating community' means a city in a metropolitan statistical area, the contiguous nonmetropolitan counties in a rural area, or a Native American Indian reservation or Alaska Native village, participating in the Fair Chance Youth Opportunities Unlimited Program established under this part.

"(2) POVERTY AREA.—The term 'poverty area' means an urban census tract, a nonmetropolitan county, a Native American Indian reservation, or an Alaska Native village, with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

"(3) TARGET AREA.—The term 'target area' means a poverty area or set of contiguous poverty areas that will be the focus of the Fair Chance Youth Opportunities Unlimited Program in a participating community.

"SEC. 493. PROGRAM AUTHORIZED.

"(a) PROGRAM ESTABLISHED.—The Secretary may establish a national program to provide Fair Chance Youth Opportunities Unlimited grants to service delivery areas to pay for the Federal share of providing comprehensive services to youth living in poverty areas in the cities and rural areas of the Nation.

"(b) GRANTS.—

"(1) GRANT RECEIPTS.—The Secretary shall award grants under this part—

"(A) to the service delivery area (on behalf of the participating community) in which a target area is located; or

"(B) in the case of a grant and involving the target area located on a Native American Indian reservation or Alaska Native village, to the grantee designated under subsection (c) or (d) of section 401.

"(2) NUMBER.—

"(A) IN GENERAL.—The Secretary may award not more than 25 grants in the first fiscal year that the program assisted under this part is authorized, and may award not more than a total of 40 grants over the first 5 fiscal years that the program assisted under this part is authorized.

"(B) INDIAN RESERVATIONS AND ALASKA NATIVE VILLAGES.—In awarding grants under this part the Secretary shall award at least 1 grant, but not more than 3 grants, during the first 5 fiscal years that the program is assisted under this part to grantees designated under section 401 representing Native American Indian reservations and Alaska Native villages.

"(c) GRANT TERM.—

"(1) IN GENERAL.—Grants awarded under this part shall be for a 1-year period. Such a grant shall be renewable for each of the 2 succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(2) EXTENSION.—The Secretary may extend the renewal period set forth in paragraph (1) for an additional 2 fiscal years on reapplication.

"(d) AWARD CRITERIA.—

"(1) CONSIDERATION.—In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved by the project, the likelihood of the successful implementation of the project, and the extent of community support for the project.

"(2) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to participating communities with the highest rates of poverty.

"SEC. 494. APPLICATION.

"(a) ELIGIBILITY.—Participating communities that have the highest concentrations of poverty, as determined by the Secretary based on the latest census estimates, shall be eligible to apply for Fair Chance Youth Opportunities Unlimited grants.

"(b) APPLICATION.—

"(1) IN GENERAL.—Each participating community desiring a grant under this part shall, through the individuals described in subsection (c), submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—The application described in paragraph (1) shall—

"(A) include a comprehensive plan for a Fair Chance Youth Opportunities Unlimited Program designed to achieve identifiable goals for youth in the target area;

"(B) set forth measurable program goals, which may include increasing—

"(i) the proportion of youths completing high school;

"(ii) the proportion of youths entering into community colleges or other advanced training programs; or

"(iii) the proportion of youths placed in jobs;

"(C) include information on supporting goals for the target area, such as increasing security and safety, or reducing the number of drug-related arrests;

"(D) provide assurances that the applicant will comply with the terms of the agreement described in section 495;

"(E) provide an assurance that all youth in the target areas have access to a coordinated and comprehensive range of education and training opportunities that serve the broadest range of youth interests and needs and simultaneously mobilize the diverse range of education and training providers in the participating community;

"(F) include information demonstrating the manner in which the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(G) demonstrate how the participating community will make use of the resources, expertise, and commitment of such programs and service providers as—

"(i) community-based organizations providing vocational skills, literacy skills, remedial education, and general equivalency preparation, including community-based organizations serving youth with limited-English proficiency;

"(ii) youth conservation and human service corps;

"(iii) Job Corps centers;

"(iv) apprenticeship programs; and

"(v) other projects and programs funded under this Act;

"(H) include an estimate of the expected number of youth in the target area to be served;

"(I) include a description of the resources available in the participating community from private, local government, State, and Federal sources that will be used to achieve the goals of the program;

"(J) include an estimate of funds required to ensure access to appropriate education, training, and support services for all youth in the target area who seek such opportunities; and

"(K) provide evidence of support for accomplishing the stated goals of the participating community from—

"(i) local elected officials;

"(ii) the local school board;

"(iii) applicable private industry councils;

"(iv) local community leaders;

"(v) businesses;

"(vi) labor organizations; and

"(vii) other appropriate organizations.

"(c) APPLICATION LIMITATION.—The application described in subsection (b) may only be submitted to the Secretary on behalf of a participating community by—

"(1) in the case of a community comprised of a city in a metropolitan statistical area, the mayor, after the Governor of the State in which such city is located has had an opportunity to comment on the application;

"(2) in the case of a community comprised of contiguous nonmetropolitan counties in a rural area, the Governor of the State in which the counties are located; or

"(3) in the case of a community comprised of an Indian reservation or Alaska Native village, the grantee designated under section 401.

"SEC. 495. GRANT AGREEMENT.

"(a) In General.—Each service delivery area receiving a grant under this part on behalf of a participating community shall enter into an agreement with the Secretary.

"(b) Contents.—Each such agreement shall—

"(1) designate a target area that will be the focus of the program assisted under this part and shall have a population of not more than 25,000;

"(2) contain assurances that funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers;

"(B) alternative schools;

"(C) combined activities including—

"(i) summer remediation;

"(ii) work experience and work readiness training; and

"(iii) school-to-work, apprenticeship, or postsecondary education programs;

"(D) teen parent programs;

"(E) special programs run by community colleges;

"(F) youth centers;

"(G) initiatives aimed at increasing rural student enrollment in postsecondary institutions;

"(H) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(I) initiatives that combine community and youth service opportunities with education and training activities;

"(3) provide that only youth who are age 14 through 21 and reside in the target area shall be eligible to participate in the program;

"(4) contain assurances that the local educational agency and any other educational agency that operates secondary schools in the target area shall provide such activities and resources as are necessary to achieve the educational goals specified in the application;

"(5) contain assurances that the participating community will provide such activities and local resources as are necessary to achieve the goals specified in the application;

"(6) provide that the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population; and

"(7) provide assurances that funds provided under this part will be used only to pay the Federal share of the costs of programs and services not otherwise available in the target area and will supplement, and not supplant, funding from other local, State, and Federal sources available to youth in the target area.

"SEC. 496. PAYMENTS; FEDERAL SHARE.

"(a) Payments.—The Secretary shall pay to each service delivery area having an application approved under section 494 the Federal share of the costs of the activities described in the application.

"(b) Federal Share.—The Federal share of the costs shall be 50 percent for each fiscal year a service delivery area receives assistance under this part.

"(c) Limitation.—Each service delivery area may provide not more than 25 percent of the non-Federal share of the costs from Federal sources other than funds received pursuant to this part.

"SEC. 497. REPORTING.

"The Secretary is authorized to establish such reporting procedures as are necessary to carry out the purposes of this part.

"SEC. 498. FEDERAL RESPONSIBILITIES.

"(a) In General.—The Secretary shall provide assistance to participating communities in implementing the projects assisted under this part. The Secretary may reserve not more than 5 percent of the amounts appropriated for this part to carry out this subsection.

"(b) Independent Evaluation.—

"(1) In general.—The Secretary shall provide for a thorough, independent evaluation of the Fair Chance Youth Opportunities Unlimited Program to assess the outcomes of youth participating in programs assisted under this part.

"(2) Evaluation measures.—In conducting the evaluation described in paragraph (1) the Secretary may use measures including—

"(A) enrollment, retention, and completion rates;

"(B) high school graduation rates;

"(C) measures of avoidance of antisocial behavior and self-destructive behavior;

"(D) measures of subsequent employment;

"(E) measures of continued pursuit of advanced education and training;

"(F) measures of admission into four-year colleges and universities; or

"(G) measures of admission into the Armed Forces, and similar measures.

"(c) Report.—

"(1) In general.—The Secretary shall develop a report detailing the results of the independent evaluation described in subsection (b) and shall submit such report to the President and appropriate committees of Congress not later than December 31, 1994, along with an analysis of expenditures made, results achieved, and problems in the operations and coordination of programs assisted under this part.

"(2) Findings.—Such report shall summarize findings concerning—

"(A) the extent to which current programs are sufficient in number, variety, and quality to meet demand; and

"(B) the feasibility of extending access to comprehensive education, training, and support services and programs assisted under this part to all areas of the Nation, including possible approaches to the incremental extension of such access over time.".

(b) Technical Amendment.—The table of contents relating to title IV is amended by adding after the item relating to section 485 the following:

"Part I—Fair Chance Youth Opportunities
Unlimited Program
"Sec. 491. Statement of purpose.
"Sec. 492. Definitions.
"Sec. 493. Program authorized.
"Sec. 494. Application.
"Sec. 495. Grant agreement.
"Sec. 496. Payments; Federal share.
"Sec. 497. Reporting.
"Sec. 498. Federal responsibilities.".

Subtitle F—General Provisions

SEC. 161. JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS.

(a) In General.—Title V (29 U.S.C. 1791 et seq.) is amended to read as follows:

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

"SEC. 501. STATEMENT OF PURPOSE.

"It is the purpose of this title to provide incentives to reduce welfare dependency, promote self-sufficiency, increase child support payments, and increase employment and earnings of individuals by providing to each participating State a bonus for providing job training to—

"(1) absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), who subsequent to such training pay child support for their children; and

"(2) blind or disabled individuals receiving supplemental security income under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), who subsequent to such training are successfully placed in and retain employment.

"SEC. 502. PAYMENTS.

"(a) In General.—For each program year for which funds are appropriated to carry out this title, the Secretary shall pay to each participating State the amount that State is eligible to receive under this title.

"(b) Ratable Reductions.—If the amount so appropriated is not sufficient to pay each State the amount each State is eligible to receive, the Secretary shall ratably reduce the amount paid to each State.

"(c) Ratable Increases.—If any additional amount is made available for carrying out this title for any program year after the application of subsection (b), such additional amount shall be allocated among the States by increasing such payments in the same manner as they were reduced, except that no such State shall be paid an amount that exceeds the amount that the State is eligible to receive under this title.

"SEC. 503. AMOUNT OF INCENTIVE BONUS.

"The amount of the incentive bonus paid to each State shall be the sum of—

"(1) an amount equal to the total of the amounts of child support paid by each individual eligible pursuant to section 506(1), for up to 2 years after the termination of the individual from activities provided under this Act; and

"(2) an amount equal to the total reduction in the Federal contribution to the amounts received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) by each individual eligible pursuant to section 506(2), for up to 2 years after the termination of the individual from activities provided under this Act.

"SEC. 504. USE OF INCENTIVE BONUS FUNDS.

"(a) In General.—

"(1) Allocation.—

"(A) Administrative costs.—During any program year, the Governor may use an amount not to exceed 15 percent of the total bonus payments of a State for administrative costs incurred under this title, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses.

"(B) Distribution of payments.—The amount of incentive bonus payments that remain after the deduction of administrative costs under subparagraph (A) shall be distributed to service delivery areas and Job Corps centers within the State in accordance with an agreement between the Governor and representatives of such areas and centers. Such agreement shall reflect an equitable method of distribution that is based on the degree to which the efforts of such area or center contributed to the qualification of the State for an incentive bonus payment under this title.

"(2) Special rule.—Not more than 10 percent of the amounts received under this title in any program year by each service delivery area and Job Corps center may be used for the administrative costs of establishing and maintaining systems necessary for operation of programs under this title, including the costs of providing incentive payments described in subsection (b), technical assistance, data and information collection and compilation, management information systems, post-program followup activities, and research and evaluation activities. The balance of funds not so expended shall be used by each service delivery area for activities described in sections 204 and 264, and by each Job Corps center for activities authorized under part B of title IV.

"(b) Incentive Payments to Service Providers.—Each service delivery area or Job Corps center may make incentive payments to service providers, including participating State and local agencies, and community-based organizations, that demonstrate effectiveness in delivering employment and training services to individuals such as those described in section 506.

"(c) Application of Section Relating to Administrative Adjudications.—Section 166 (relating to administrative adjudication) shall apply to the distribution of incentive bonus payments under this section.

"SEC. 505. NOTICE AND APPLICATION.

"(a) Notice of Intent To Participate.—Any State seeking to participate in the incentive bonus program established under this title shall notify the Secretary of the intent of the State to participate not later than 30 days before the beginning of the first program year of participation.

"(b) Application.—

"(1) In general.—Any State seeking to receive an incentive bonus under this title shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in order to ensure compliance with this title.

"(2) Contents.—Each application shall contain, at a minimum—

"(A) a list of the eligible individuals in the State who satisfied the requirements of section 506 during the program year;

"(B) the amount of the incentive bonus attributable to each eligible individual and due the State pursuant to section 503; and

"(C) certification that documentation is available to verify the eligibility of participants and the amount of the incentive bonus claimed by the State.

"(c) Notice of Approval or Denial.—The Secretary shall promptly inform a State after receipt of the application as to whether or not the application of the State has been approved.

"SEC. 506. ELIGIBILITY FOR INCENTIVE BONUSES.

"An individual shall be eligible to participate in a program established under this title if—

"(1) the individual—

"(A) is an absent parent of any child receiving aid to families with dependent children under part A of title IV of the Social Security Act at the time such individual was determined to be eligible to participate in activities provided under this Act;

"(B) has participated in education, training or other activities (including the Job Corps) provided under this Act; and

"(C) pays child support for a child specified in subparagraph (A) following termination from activities provided under this Act; or

"(2) the individual—

"(A) is blind or disabled;

"(B) was receiving benefits pursuant to title XVI of the Social Security Act (relating to supplemental security income) at the time such individual was determined to be eligible to participate in activities under this Act;

"(C) has participated in education, training or other activities (including the Job Corps) provided under this Act; and

"(D) earns from employment a wage or income.

"SEC. 507. INFORMATION AND DATA COLLECTION.

"(a) Technical Assistance.—In order to facilitate the collection exchange, and compilation of data and information required by this title, the Secretary is authorized to provide technical assistance to the States. Such assistance may include cost-effective methods for using State and Federal records to which the Secretary has lawful access.

"(b) Joint Regulations.—

"(1) In general.—The Secretary and the Secretary of Health and Human Services, shall jointly issue regulations regarding the sharing among public agencies participating in the programs assisted under this title of the data and information necessary to fulfill the requirements of this title.

"(2) Subjects.—Such regulations shall ensure—

"(A) the availability of information necessary to verify the eligibility of participants and the amount of the incentive bonus payable; and

"(B) the maintenance of confidentiality of the information so shared in accordance with Federal and State privacy laws.

"SEC. 508. EVALUATION AND REPORT.

"(a) Evaluation.—

"(1) In general.—The Secretary shall conduct or provide for an evaluation of the incentive bonus program assisted under this title.

"(2) Considerations.—The Secretary shall consider—

"(A) whether the program results in increased service under this Act to absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act and to recipients of supplemental security income under title XVI of the Social Security Act;

"(B) whether the program results in increased child support payments;

"(C) whether the program is administratively feasible and cost effective;

"(D) whether the services provided to other eligible participants under part A of title II are affected by the implementation and operation of the incentive bonus program; and

"(E) such other factors as the Secretary determines to be appropriate.

"(b) Report to Congress.—Not later than January 1, 1997, the Secretary shall submit a report to the appropriate committees of the Congress on the effectiveness of the incentive bonus program assisted pursuant to this title. Such report shall include an analysis of the costs of such program and the results of program activities.

"SEC. 509. IMPLEMENTING REGULATIONS.

"The Secretary shall promulgate regulations implementing this title not later than June 1, 1993.".

(b) Technical Amendment.—The table of contents relating to title V is amended to read as follows:

"Sec. 501. Statement of purpose.
"Sec. 502. Payments.
"Sec. 503. Amount of incentive bonus.
"Sec. 504. Use of incentive bonus funds.
"Sec. 505. Notice and application.
"Sec. 506. Eligibility for incentive bonuses.
"Sec. 507. Information and data collection.
"Sec. 508. Evaluation and report.
"Sec. 509. Implementing regulations.".

SEC. 162. EFFECTIVE DATE; TRANSITION PROVISIONS.

(a) Effective Date.—The amendments made by this title shall take effect on December 1, 1992.

(b) Performance Standards.—The Secretary of Labor shall issue revised performance standards pursuant to the amendments made by section 161 as soon as the Secretary determines sufficient data are available, but not later than July 1, 1994.

(c) Guidance.—

(1) In general.—The Secretary shall provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A and B of title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).

(2) Special rule.—The guidance provided pursuant to paragraph (1), while maintaining program integrity, shall—

(A) limit the documentation burden to the minimum necessary to adequately verify eligibility; and

(B) ensure, to the extent practicable, that the documentation requirements shall not discourage the participation of eligible individuals.

(3) Date.—The Secretary shall provide the guidance described in paragraph (1) not later than July 1, 1992.

(d) Rules and Procedures.—The Secretary of Labor may establish such rules and procedures as may be necessary to provide for an orderly transition to programs established by, and implementation of, the amendments made by this title.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCILS

SEC. 201. DEFINITION.

For purposes of this title:

(1) Applicable program.—The term "applicable program" means any program under any of the following provisions of law:

(A) The Adult Education Act (20 U.S.C. 1201 et seq.).

(B) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(C) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(D) The Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(E) Subtitle F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.), to the extent provided under section 483 of such Act.

(2) Applicable program council.—The term "applicable program council" means—

(A) with respect to the Adult Education Act, the State advisory council on adult education established under section 332 of such Act (20 U.S.C. 1205a);

(B) with respect to the Carl D. Perkins Vocational and Applied Technology Education Act, the State council established under section 112 of such Act (20 U.S.C. 2322); and

(C) with respect to the Job Training Partnership Act, the State job training coordinating council established under section 122 of such Act (29 U.S.C. 1532).

SEC. 202. ESTABLISHMENT OF STATE HUMAN RESOURCE INVESTMENT COUNCILS.

(a) Council Established.—Each State receiving assistance under an applicable program shall establish a State human resource investment council (referred to in this title as the "State council") to—

(1) review the provision of services and the use of funds and resources under applicable programs and advise the Governor of the State on methods of coordinating such provision of services and use of funds and re-

sources consistent with the applicable programs;

(2) advise the Governor on the development and implementation of State and local standards and measures relating to applicable programs and coordination of such standards and measures; and

(3) work cooperatively with the directors of the designated State units administering the State vocational rehabilitation programs and the directors of the special education units of the State educational agencies to enhance employment and vocational education and training opportunities under applicable programs for individuals with disabilities.

(b) COMPOSITION.—Each State council established pursuant to subsection (a) shall be appointed by the Governor as follows:

(1) BUSINESS AND INDUSTRY.—Not less than 30 percent shall be appointed from representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils established under section 102 of the Job Training Partnership Act within the State.

(2) LABOR AND REPRESENTATIVES OF COMMUNITY-BASED ORGANIZATIONS.—Not less than 30 percent shall be appointed from representatives of organized labor and representatives of community-based organizations in the State.

(3) STATE ENTITIES.—Not less than 20 percent shall consist of—

(A) the chief administrative officer from each of the State agencies primarily responsible for administration of an applicable program;

(B) other members appointed from representatives of the State legislature and State agencies and organizations, such as the State educational agency, the State vocational education board, the State board of education (if not otherwise represented), the State public assistance agency, the State employment security agency, the special education unit of the State education agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, the State agency on aging, the State veterans' affairs agency (or an equivalent agency), State career guidance and counseling organizations, and any other agency the Governor determines to have a direct interest in the utilization of human resources within the State; and

(C) the chief administrative officer of the designated State unit that administers the State vocational rehabilitation program as authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(4) LOCAL ENTITIES.—Not more than 20 percent shall be appointed from—

(A) representatives of units of general local government or consortia of such units appointed from nominations made by the chief elected officials of such units or consortia;

(B) representatives of local educational agencies and postsecondary institutions, equitably distributed between such agencies and such institutions, from nominations made by local educational agencies and postsecondary institutions, respectively;

(C) representatives of local welfare agencies; and

(D) individuals who have special knowledge and qualifications with respect to the special education and career development needs of individuals who are members of special populations, women, and minorities, including one individual who is a representative of special education.

(c) BUDGET.—Each State council shall prepare a budget for the operation of the council and shall submit such budget to the Governor for approval.

(d) SERVICES.—Each State council may obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out the functions of the State council under this title and under any applicable program.

(e) CERTIFICATION.—Each State receiving financial assistance under an applicable program shall certify to the Secretary of Labor the establishment and membership of a State council not later than 90 days before the beginning of each period of 2 program years for which a job training plan is submitted under the Job Training Partnership Act.

(f) CONSOLIDATED COUNCIL.—A State that receives financial assistance under an applicable program with an applicable program council may establish a consolidated council, which shall have the authority, and perform the duties, of a State council and the applicable program council.

SEC. 203. CONFORMING AND TECHNICAL AMENDMENTS.

(a) ADULT EDUCATION ACT.—Section 342(a)(3)(A) of the Adult Education Act (20 U.S.C. 1206a(a)(3)(A)) is amended by striking clause (ii) and inserting "(ii) the State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991, and".

(b) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 626(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1425(a)) is amended by striking "(including" and all that follows through "to—" and inserting "(including State job training coordinating councils established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated councils established under section 202(e) of the Job Training and Basic Skills Act of 1991, and including service delivery area administrative entities established under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) to—".

(c) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—

(1) DEFINITION.—Section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471) is amended by adding at the end the following new paragraph:

"(43) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) CONFORMING AMENDMENT.—Section 112(a)(1)(A)(ii) (20 U.S.C. 2322(a)(1)(A)(ii)) is amended by striking "(established pursuant to section 122 of the Job Training Partnership Act)".

(d) EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.—Section 6107(11) of the Education and Training for a Competitive America Act of 1988 (20 U.S.C. 5097(11)) is amended by inserting before the period the following: "or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991".

(e) WAGNER-PEYSER ACT.—

(1) DEFINITION.—Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(6) the term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) CONFORMING AMENDMENT.—Section 8(b)(3) of the Wagner-Peyser Act (29 U.S.C. 49g(b)(3)) is amended by striking "(established under such Act)".

(f) JOB TRAINING PARTNERSHIP ACT.—

(1) CONFORMING AMENDMENT.—Section 4 (29 U.S.C. 1503) (as amended by section 103(a) of this Act) is amended by adding at the end the following new paragraph:

"(30) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) REPEALERS.—

(A) IN GENERAL.—Subsection (c) of section 161 and section 181 (29 U.S.C. 1571(c) and 1591) are repealed.

(B) TECHNICAL AMENDMENT.—The table of contents relating to part E of title I is amended by striking the item relating to section 181.

(g) DISPLACED HOMEMAKERS SELF-SUFFICIENCY ASSISTANCE ACT.—

(1) DEFINITION.—Section 3 of the Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2302)) is amended by adding at the end the following new paragraph:

"(9) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) CONFORMING AMENDMENTS.—Sections 5(a) and 8(b)(6) of the Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2304(a) and 2307(b)(6)) are amended by striking "State Job Training Coordinating Council" and inserting "State job training coordinating council".

(h) SOCIAL SECURITY ACT.—Section 481(b) of the Social Security Act (42 U.S.C. 681(b)) is amended—

(1) by inserting "(1)" before "Except to"; and

(2) by adding at the end the following new paragraph:

"(2) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(i) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Section 123(d)(5) of the National and Community Service Act of 1990 (42 U.S.C. 12543(d)(5)) is amended by striking "among programs" and all that follows and inserting the following: "among—

"(A) programs that receive assistance under this subtitle; and

"(B)(i) the appropriate State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532); or

"(ii) consolidated councils established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

SEC. 204. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on December 1, 1992.

TITLE III—NONTRADITIONAL EMPLOYMENT FOR WOMEN

SEC. 301. SHORT TITLE.

This title may be cited as the "Nontraditional Employment for Women Act".

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of the families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the work force may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this title are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

SEC. 303. DEFINITION.

Section 4 of the Job Training Partnership Act (29 U.S.C. 1503) (as amended by sections 103(a) and 204(e)(1) of this Act) is further amended by adding at the end the following new paragraph:

"(41) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work.".

SEC. 304. SERVICE DELIVERY AREA JOB TRAINING PLAN.

Section 104(b) (as amended by section 112(b) of this Act) (29 U.S.C. 1514(b)) is further amended—

(1) by striking "and" at the end of paragraph (11);

(2) in paragraph (12), by—

(A) striking "and" at the end of subparagraph (D);

(B) striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) adding at the end the following new subparagraphs:

"(F) a description of the extent to which the service delivery area has met the goals of the area for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(G) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the age of the participant;

"(iv) the race of the participant; and

"(v) information on retention of the participant in nontraditional employment; and"; and

(3) by adding at the end the following new paragraph:

"(13)(A) goals for—

"(i) the training of women in nontraditional employment; and

"(ii) the training-related placement of women in nontraditional employment and apprenticeships; and

"(B) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities.".

SEC. 305. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b)(2) (as amended by section 118(a)(2) of this Act) (29 U.S.C. 1531(b)) is further amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B) The plan shall include goals for—

"(i) the training of women in nontraditional employment through funds available under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and other sources of Federal and State support;

"(ii) the training-related placement of women in nontraditional employment and apprenticeships;

"(iii) a description of efforts to be undertaken to accomplish such training and placement, including efforts to increase awareness of such training and placement opportunities; and

"(iv) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to train and place women in nontraditional employment.".

(b) SPECIAL PROGRAMS.—Section 121(c) (as amended by section 118(b) of this Act) (29 U.S.C. 1532(b)) is further amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(12) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment.".

SEC. 306. STATE JOB TRAINING COORDINATING COUNCIL.

Section 122(b) (29 U.S.C. 1532(b)) is amended by—

(1) striking "and" at the end of paragraph (7);

(2) striking the period at the end of paragraph (8) and inserting "; and"; and

(3) inserting after paragraph (8) the following new paragraphs:

"(9) review the information reported pursuant to subparagraphs (D) and (E) of section 104(b)(13) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(10) prepare a summary of the information reported pursuant to subparagraphs (D) and (E) of section 104(b)(13) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and annually disseminate such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(11) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary; and

"(12) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)), obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational and Applied Technology Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary.".

SEC. 307. STATE EDUCATION COORDINATION AND GRANTS.

Section 123(a)(2) (as amended by section 119 of this Act) is amended by—

(1) striking "and" at the end of subparagraph (B);

(2) striking the period at the end of subparagraph (C) and inserting a semicolon and "and"; and

(3) inserting the following new subparagraph at the end:

"(D) provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

SEC. 308. USE OF FUNDS.

Section 204(b) (as amended by section 131(a) of this Act) (29 U.S.C. 1604(b)) is further amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(30) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment.".

SEC. 309. DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Part D of title IV (as amended by section 154(a) of this Act) (29 U.S.C. 1731 et seq.) is further amended by adding at the end the following new section:

"SEC. 452. DEMONSTRATION PROGRAMS.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From funds available under this part for each of the fiscal years 1992, 1993, 1994, and 1995, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) Number of grants.—The Secretary may award not more than six grants pursuant to paragraph (1) in each fiscal year.

"(b) Considerations.—In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between programs under this Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under this Act;

"(3) the extent to which the initiatives proposed by a State supplement or build on existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of the demonstration training programs of such State.

"(c) Use of Grants.—

"(1) In general.—Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontraditional employment.

"(2) Eligible recipients.—Each State receiving financial assistance for the purposes described in paragraph (1)(A) may only award grants to—

"(A) community-based organizations;

"(B) educational institutions; or

"(C) other service providers;

that have demonstrated success in occupational skills training.

"(3) Special rule.—Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Demonstrated ability or exceptional performance.—Each State receiving financial assistance for the purposes described in subparagraph (B) or (C) of paragraph (1) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds for the purposes described in paragraph (1)(A).

"(d) Administrative Expenses.—In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs;

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment; or

"(3) provide technical assistance to service providers.

"(e) Evaluation.—The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the effectiveness of the demonstration programs in—

"(1) preparing women for nontraditional employment; and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

(b) Table of Contents.—The table of contents relating to part D of title IV is amended by adding after the item relating to section 451 the following:

"Sec. 452. Demonstration programs.".

SEC. 310. REPORT AND RECOMMENDATIONS.

(a) Report.—The Secretary of Labor shall submit a report to the appropriate committees of the Congress not later than 5 years after the date of the enactment of this Act, containing information on—

(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(2) the effectiveness of the demonstration programs established by section 452 of the Job Training Partnership Act (as added by section 309 of this Act) in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration programs authorized by section 452 of the Job Training Partnership Act.

(b) Recommendations.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 452 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

SEC. 311. DISCRIMINATION.

(a) Comparable Worth.—For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(b) Civil Rights.—

(1) Construction.—Nothing in this Act shall be construed to require, sanction, or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

(2) Participation and benefits.—No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, handicap, age, political affiliation, or belief.

(3) Failure to meet goals.—Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

SEC. 312. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this title, except that the requirements imposed by sections 304, 305, and 306 shall apply to the plan or report filed or reviewed for program years beginning on or after December 1, 1992.•

Mr. THURMOND. Mr. President, as the ranking member of the Subcommittee on Employment and Productivity of the Labor and Human Resources Committee, I am pleased to rise today as an original cosponsor of legislation which strengthens the program of employment and training assistance provided under the Job Training Partnership Act [JTPA].

Since the enactment of the JTPA in 1982, the core program of job training services for the economically disadvantaged has remained basically unchanged. In its 9 years of existence, this law has helped many Americans develop needed skills for entering the work force as productive citizens. The bill introduced today builds upon that established foundation.

Mr. President, a brief discussion of the recent legislative history on this matter is instructive. In 1989, the administration submitted a JTPA proposal to the Congress. Many of the proposals set forth in that legislation were later incorporated into S. 543, a bipartisan bill reported from the Labor and Human Resources Committee in September 1989 by a vote of 15-1.

In October 1990, a variation of S. 543 passed the Senate as an amendment to the Department of Labor, Health and Human Services, and Education and Related Agencies appropriations bill. However, the JTPA measure was dropped during conference.

In June of this year, I was pleased to introduce on behalf of the administration, S. 1404, the Job Training Partnership Act Amendments of 1991. That bill is designed to improve the targeting of JTPA funds to those facing serious barriers to employment. It would also strengthen program accountability, enhance existing job training services, and promote the coordination of a broad range of programs and resources.

The measure introduced today incorporates several provisions or modifications of provisions contained in S. 1404. It is a result of bipartisan negotiations. We have had the benefit of the views of the Department of Labor, the National Governors Association, the National Association of Counties, private industry council members, members of State job training councils, and many others. It does not contain everything I would prefer to see in a bill, but I do believe it represents a consensus, and important step forward.

Some of the things this legislation would do include:

Target services to persons facing serious and multiple barriers to employment;

Enhance program quality through individual assessments and service strategies;

Increase program accountability by enhancing performance standards;

Develop a more comprehensive, and well-coordinated human resource system; and

Continue the public-private partnership and local flexibility that make up the foundation of the current JTPA program.

The House of Representatives passed their version of the JTPA amendments on October 9, 1991, by the overwhelming margin of 420-6. Now is the time to move in the Senate.

Mr. President, I urge my colleagues to consider this important legislation.

By Mr. BINGAMAN (for himself, Mr. BRYAN, Mr. DASCHLE, and Mr. ROCKEFELLER):

S. 2056. A bill to assist States in developing export programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATE EXPORT ASSISTANCE AND DEVELOPMENT

Mr. BINGAMAN. Mr. President, on a different issue for just a moment let me call to my colleagues' attention a bill that I am introducing today on behalf of myself, Mr. BRYAN, Mr. DASCHLE, and Mr. ROCKEFELLER, to assist States in developing export programs.

Very briefly, Mr. President, my impetus for doing this came from a trip that I had occasion to take to Japan over a year ago. During that trip I had the good fortune to visit with the head of the Japanese External Trade Organization [JETRO], which has a major responsibility at this stage. It was founded to promote exports from Japan. Today the major emphasis of its work is promoting exports to Japan to try to deal with the very large and chronic trade surplus that Japan has developed with this country in particular but with many countries in the world.

I became aware of a program that JETRO has to assist States and State economic development agencies in working with their local businesses to export products to Japan.

The head of JETRO, the director, informed me that they had put in place 15 JETRO employees working in the State office, economic development offices, to assist those States in promoting those exports to Japan.

My reaction at the time was that this was a commendable effort by JETRO, but unfortunately it is the kind of effort that our own Department of Commerce should be pursuing in a very vigorous fashion as well.

I think in some ways it is ironic to find a foreign government supporting individuals, working in State governments around this country, and trying to deal with a very major trade problem which we have.

Mr. President, I rise today to introduce legislation directing the Department of Commerce to assist States in their efforts to promote exports. Last week I spoke about this Nation's lack of commitment to strategic industries. As I stated at that time, our trade imbalances are partially due to the fact that we have no technology or manufacturing policy in this country. Until we correct this lack of policy and take an active role in rebuilding our industrial base, our educational system, and our Nation's infrastructure, we will not have an adequate supply of quality goods to export.

Unfortunately, however, our trade difficulties are not limited to a shortage of competitive goods to export. I believe that we can do a considerably better job of developing a trade policy to promote our exports abroad.

Although the Small Business Administration, the Department of Agriculture, an interagency Trade Promotion Coordinating Committee, and other agencies have a role, the Department of Commerce's International Trade Administration [ITA] has primary responsibility for our export efforts.

The ITA's efforts are focused on assisting individual businesses interested in exporting. In addition to country desks located in Washington, the ITA, through the U.S. and Foreign Commercial Service, has a small network of trade specialists in 68 U.S. cities and over 65 countries abroad.

It is my understanding that the U.S. and Foreign Commercial Service, where available, does a good job of helping businesses in their export efforts. Unfortunately, however, there is no formalized outreach in the Department of Commerce to other levels of government that are interested in promoting trade.

Many States, for example, have expressed a strong interest in developing export policies. Most States, Mr. President, have offices for this purpose located in various countries. About 40 States have offices located in Tokyo alone. Clearly, the States have expressed a strong interest in export policy. Yet the Department of Commerce seems to be doing little to support the States in their efforts to develop export policies.

To be fair, Mr. President, the U.S. and Foreign Commercial Foreign Service has in the past detailed a few specialists to States, including New Mexico, to work on trade issues. I am told by International Trade Administration officials, however, that these assignments were not part of a formal program, and that there are no plans to implement such a program.

What is truly ironic, Mr. President, is that, while our Department of Commerce is not helping our States engage in trade, the Japan External Trade Organization [JETRO] is. As you may know, JETRO was founded in 1958 by the Japanese Government to promote Japanese exports abroad. Japan's trade, manufacturing, and technology efforts have been so successful that JETRO's original mission is somewhat obsolete. JETRO now finds itself in the position of having to promote imports from nations like the United States to increase Japanese trade.

JETRO has recently begun an ambitious program to help States develop export policies. Currently, JETRO has about 15 specialists in various States, and plans to expand this program in the future. My State of New Mexico is one of the beneficiaries of this program. Earlier this year, Governor King and JETRO signed an agreement allowing JETRO to station a full-time specialist in New Mexico who will work closely with State officials in developing export strategies.

Mr. President, it is ironic that New Mexico cannot turn to its own Federal Government for this sort of assistance. I believe that the Department of Commerce should be prepared to make a commitment similar to JETRO's. The legislation I am introducing today will mandate the Department of Commerce to make such a commitment. Briefly, the legislation provides that States can apply to the Department of Commerce for assistance in developing export policy. The Department of Commerce can detail trade specialists to work with appropriate State agencies and provide written trade materials to the States. The Department of Commerce is also authorized to provide States assistance in developing their own export materials, trade missions, conferences, and other components of a successful export policy.

This is exactly the sort of assistance that JETRO is providing to New Mexico and other States. I think it is high time that our government begin to do the same.

By Mr. ROTH:

S. 2057. A bill to amend title 10, United States Code, to provide for centralized acquisition of property and services for the Department of Defense, to modernize Department of Defense acquisition procedures, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE ACQUISITION REORGANIZATION ACT OF 1991

Mr. ROTH. Mr. President, the Defense acquisition system is responsible for turning technology into the weapons used to defend America by our men and women in uniform. Developing and buying today's weaponry is important work. It is also expensive. Last week, Congress gave the Department of Defense $104 billion for researching, developing, and buying new weapons in fiscal year 1992. Several billion dollars more will be spent to pay hundreds of thousands of DOD employees who develop, buy, maintain, and upgrade weapon systems.

With the impressive display of U.S. weaponry in the Persian Gulf, it might be easy to accept the current defense acquisition system. However, a confluence of world events has caused Secretary Cheney to undertake a major—and I believe innovative—restructuring of the Department of Defense that will affect the Defense acquisition system.

In addition, defense procurement problems continue to haunt DOD acquisition programs. Taking these two conditions into account, I believe that there is both an opportunity and a need for reforming the Defense acquisition system.

Mr. President, while the system is able to produce good weapons, it is wasteful, inefficient, and takes too long to field needed technologies. The vast majority of weapon acquisition programs are experiencing serious cost and schedule problems. For example, the cost and schedule overruns on the A-12 Navy attack aircraft led Secretary Cheney to kill the program. The C-17 transport's cost and schedule overruns have seriously delayed its availability, while it now costs several times more than the C-5 transport.

After costing nearly $30 billion, the B-1 bomber's problems still kept it from being used in the Persian Gulf. According to cost data that DOD submitted to Congress in August, Army major weapon system program costs increased 23.8 percent over the last year, even after accounting for the effects of inflation and quantity.

Mr. President, I have given careful thought to this issue for many years. My colleagues may remember that I authored the legislation that created the Packard Commission and the bill that established the Under Secretary of Defense for Acquisition and implemented other Packard Commission recommendations. Over the years, my conclusion has not changed: There are many opportunities for improving defense acquisition. While many speak of down-sizing the DOD, I believe that we ought to focus on right-sizing the defense acquisition system. The organization needs right-sizing, the personnel system needs right-sizing, and the process needs right-sizing.

First, the defense acquisition system is too large. It is a large bureaucracy, with layer upon layer of management and dozens of buying commands and subcommands spread across the four military services. When the Packard Commission recommended streamlining this bureaucracy to three layers and a handful of commands, the military departments added the three-tier structure to their old organization structures. As a result, the American taxpayer is now paying for two bureaucracies in each of the three military departments. The Congressional Research Service reported that this system is clearly at odds with the principle of unity of command that was applied so successfully in Operation Desert Storm.

Second, Mr. President, the acquisition personnel system needs reform. The incentives are wrong. They reward program managers for increasing the size of their program and their budget. At a time when we are trying to reduce the number of people in DOD, the personnel system, with its perverse incentives, is telling defense acquisition managers: "Increase the number of people working for you and you'll get promoted." In addition, program management staff, with little or no acquisition training, are still being placed into positions that they are ill-equipped to handle.

Given the perverse incentive structure and the problems of high technology systems, it should be no surprise that costs and schedules grow.

Third, the defense acquisition process is too unwieldy and needs streamlining. To give you an idea of how inefficient the management practices are, a DOD program manager now has to follow 840 steps in order to get a weapon system concept into production.

This maze of standard operating procedures is clearly at odds with the modern management practices of internationally competitive high technology companies. Several recent defense acquisition studies have found that DOD has been increasing its timeline and spending ever larger amounts of money to field next generation systems, while the private sector has shrunk the time and money needed to develop comparable high technology products.

According to a Defense Sciences Board Task Force study, the time it takes to field a new weapon technology has increased 60 percent over the last four decades, and in defense acquisition, time is money. The study found that it now takes 16 years to field a new weapon, while high-technology commercial products take only 9 years.

Other elements of the acquisition process also need reform. For much of the last 15 years, studies have identified the problem of instability in the defense acquisition process.

Many blamed the instability on the Congress and I support multiyear budgeting to address this issue. But recent DOD studies have found that the majority of the problems come from within the Defense Department and from the instability of the global political situation. The studies highlight the disconnection between the annual budgeting systems of DOD and the five-milestone acquisition-decision process.

Without integration between the budgeting system and the acquisition system, a program manager must adjust his program at least twice each year—once for the budgeteers and once for the acquisition management chain. The instability is amplified by the multiple layers of the planning, programming, and budgeting system, referred to as the PPBS, and the layer-upon-layer of acquisition decisionmakers in each military department. When problems arise, as is inevitable in high-technology endeavors, each layer tries to offer its correction, and, of course, this results in cost and schedule growth.

The large bureaucracy, the personnel system, and the overwhelming set of procedures have had a bad effect. The recent Defense Sciences Board Acquisition Task Force study noted that, "Many systems take an extended time to field, [and] contain outdated technology when fielded * * *." The Defense Department's Institute for Defense Analysis also found that the technology is not available when needed.

In the post-cold war environment, the Institute stated: "Fundamental changes must be made in the weapons acquisition process. This process must move in the direction of what we and others are calling a fast acquisition process."

A recent Defense Department advisory group study revealed that DOD's acquisition system continues to experience cost and schedule problems despite the myriad reforms enacted over the last 10 years.

The DOD study found that reforms, such as the Carlucci initiatives and total quality management, have only a marginal impact. While the 1980's acquisition reforms had minimal success, the Goldwater-Nichols operational command reforms were tremendously important and led to successes in Panama and the Persian Gulf.

Mr. President, we need to fix the acquisition organization, as well as the procedural and personnel system. I have spent 7 months developing legislation to this end.

To fix the organizational problems, I propose that a single DOD-wide agency, the Defense Research, Development, and Acquisition Agency replace the dozens of acquisition headquarters organizations that exist today. To fix the personnel system problems, my legislation will remove the perverse bureaucratic incentives that plague our acquisition system by implementing a form of pay for performance incentives. To fix the acquisition process problems, my legislation streamlines procedures and reallocates responsibilities to those who can get the job done right.

In crafting this proposal I took great care to provide appropriate direction and discretion to the Secretary of Defense and the Under Secretary of Defense for Acquisition.

I want to take a moment to discuss the basis of my proposal. I have applied lessons learned from Operation Desert Storm and the product development innovations of globally competitive American companies. Companies, such as Xerox, have cut their product development cycle while reducing development costs and increasing customer satisfaction.

They have done this by reorganizing their product development bureaucracy into a single entity that researches and develops products. The streamlined organization is given clear goals to accomplish. They give their people performance-based incentives and the responsibility needed to achieve those goals. Similarly, both General Schwarzkopf and the Congressional Research Service state the principle of unity of command was a key factor in the success of Operation Desert Storm.

First, my proposal consolidates the DOD research, development, and acquisition bureaucracies into a single DOD-wide agency, the Defense Research, Development, and Acquisition Agency. The Agency will be responsible for conducting research on the process as well as the product. The current duplicative organization structures will be replaced with only one management structure; the Packard Commission three-tier organization structure.

Program Executive Officers [PEO's] will be organized on mission areas—such as antisubmarine warfare—rather than on product areas—such as aircraft. PEO's will be responsible for programs that affect their mission area regardless of the program's stage in the acquisition process, including programs that upgrade fielded systems. This allows resources to be allocated in the most cost-effective manner for meeting mission needs.

The Chairman of the Joint Chiefs of Staff will be responsible for defining procedures, in coordination with the Director of the new Agency, whereby the joint operational commanders will interface with the PEO's. The procedures will include having the joint operational commands perform acceptance testing of weapons.

Second, my proposal reforms the personnel system. It changes the incentives by applying pay-for-performance, rather than basing a manager's pay grade on the number of people working for him or the size of his budget. For example, program managers could be promoted up to the rank of two star general, or the equivalent civilian pay grade, based on the performance of their programs. They could also be demoted for not meeting program performance goals. In addition, my legislation will improve the quality of the work force by implementing training requirements.

Third, my bill streamlines the acquisition process and reallocates responsibilities. It directs DOD to redo the acquisition process regulations so that program managers focus on achieving goals. It removes the current unwieldy process that is referred to as the five decision milestones. Instead, my proposal contains just one decision milestone, at the end of the demonstration and validation of a weapon system concept, when a system has been tested and proven feasible.

It also reduces the major source of program instability by requiring the agency to define a phased acquisition process and fully funding each phase of a program. These reforms build on the Enterprise program legislation approved by the Congress in the mid-1980's.

Mr. President, my legislation is unique in that it sets performance goals for the agency and gives it the authority to achieve the goals. By the year 2000, the agency will have to meet 90 percent of its cost and schedule goals or get rid of programs that are taking too long. The agency will also have to cut in half the average time it takes to field new weapons, from 16 to 8 years.

Mr. President, the success of the Goldwater-Nichols reforms and the changes in the international security situation highlight the need for this legislation. General Schwarzkopf pointed out that by allowing the military services to maintain control over acquisition, weapons would be developed that do not meet the needs of joint operations that will dominate military operations in the future.

For example, General Schwarzkopf said that interoperability problems will not get solved—the most deadly interoperability problem in the gulf war was the inability of Air Force pilots to identify Marine and Army ground vehicles. Accordingly, the CRS report on the gulf war lessons learned indicated that a single buying agency would be better able to interact with the Joints Chiefs of Staffs' unified command structure, resulting in more cost-effective weapons.

Both General Schwarzkopf and CRS said that a unified buying organization would be more responsive to joint military command needs.

Finally, Mr. President, my proposal is good government. While recent acquisition work force reforms have made a big step toward reforms that I had recommended in the 1980's, many gains are lost without a single buying agency to integrate work force innovations. Moreover, a single buying agency would save money just by removing the expensive duplication of acquisition staff.

I anticipate that my approach will reduce acquisition management personnel by as much as 25 to 30 percent, through reductions in duplicative headquarters staffs. Still, the largest gains would come from reducing the cost and time currently wasted in converting new technology into weapons. Perhaps the most important justification is that creating a single buying agency would be more responsive to the needs of the unified and specified commanders.

In summary, Mr. President, there is both a need and an opportunity of reforming Defense acquisition. DOD programs continue to experience cost and schedule problems. Obsolete acquisition structures and procedures are inflating the time and funding needed to field technologies. Now that the Warsaw Pack has dissolved and the cold war appears to be over, the Defense Department is reorganizing and altering operational concepts.

This creates both a need and an opportunity to replace bureaucratic DOD acquisition institutions with a framework based on lessons learned from Operation Desert Storm and industry innovations.

Mr. President, I ask unanimous consent that a synopsis of the bill and a section-by-section analysis that I have prepared be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SYNOPSIS OF THE DEFENSE DEPARTMENT ACQUISITION REORGANIZATION ACT OF 1991

There is both a need and an opportunity for reforming Defense acquisition. DoD programs continue to experience cost and schedule problems. Obsolete acquisition structures and procedures are inflating the time and funding needed to field technologies. Now that the Warsaw Pact has dissolved and the Cold War appears to be over, the Defense Department is reorganizing and altering operational concepts. This creates both a need and an opportunity to replace bureaucratic DoD acquisition institutions with a framework based on lessons learned from Operation Desert Storm and industry innovations.

The new single DoD acquisition agency bill incorporates the principles of unity of command, lean organization, pay for performance, and a streamlined acquisition process. In general, the bill:

Establishes performance goals for the new agency;

Reorganizes the DoD research, development, and acquisition bureaucracies into a single DoD-wide agency organized by mission area;

Re-emphasizes the commitment of Congress to a professional acquisition workforce and reorients the incentive structure towards program performance, and away from size of a manager's budget;

Streamlines the acquisition process, by directing DoD to redo the acquisition process regulations so that program managers focus on achieving goals. It also reduces the major source of program instability by fully-funding phases of a program.

The bill is composed of three Titles. Title I deals with organization and processes. Title I creates the new Defense Research, Development, and Acquisition Agency, and transfers research, development, and acquisition authority from the Military Departments to the new agency. The new Agency will consist of three layers of management: The Under Secretary of Defense for Acquisition will be the Director, Program Executive Officers (PEOs), to be selected by the Director, will be organized by mission area or target class; Program Managers, to be selected by the Director and PEOs, will have day-to-day responsibility for program management. The Program Managers will report to the PEOs, and the PEOs will report to the Director. A Deputy Director for Concurrent Engineering, who will also report to the Director, will oversee the provision of state-of-the art functional analysts to the Agency.

Title I also directs the Secretary to revise acquisition process regulations and budgeting procedures. There will be a one milestone decision process, whereby the DoD would decide whether to commit to supporting a system through the production phase. This decision would be based on the demonstration and validation tests of the system concept. In addition, full funding would be authorized for each phase of a weapons acquisition cycle that will be defined by the Secretary, rather than continuing to allow annual funding decisions driving program instability. The

Agency will have responsibility for planning, programming, and budgeting of DoD research, development, and acquisition. Title I also directs the Chairman of the Joint Chiefs of Staff to formulate the means of interactions between operation commanders and PEOs, including a process for joint foreign product development and acquisition.

Title II states management policies, including performance goals for the Agency and a revised personnel incentive system. By January 1, 2000, DoD should achieve two specific goals:

Ninety percent (on average) of the cost and schedule goals established for research, development, and acquisition programs.

The average period necessary for DoD to convert an emerging technology into operational capability should not exceed 8 years.

DoD must report its progress in implementing policies within the Secretary's Annual Report to Congress. If the goals are not achieved, Title II directs DoD to identify and consider terminating programs that are not achieving cost and schedule goals, taking into account; the current needs of the DoD; the state of technologies relevant to the needs of DoD; the estimated costs and schedule projections for completion; and, any other pertinent information. DoD must also identify existing and potential substitute programs.

Title II also reiterates the Congresses support for DoD meeting acquisition workforce education and training standards contained in Chapter 87 of Title 10 U.S. Code. In addition, Title II directs the Secretary of Defense to review available incentives and adverse personnel actions and to establish an enhanced system for encouraging excellence in the acquisition workforce. This includes a change in the basis for determining the pay grades of the acquisition workforce. Title II enables DoD to pay PEOs up the grade of a three star flag officer, or equivalent civilian grade. It enables DoD to pay the Program Managers up to the grade of a two star flag officer, or equivalent civilian grade. The Secretary can set the position regardless of a person's grade in the military, the budget, or other current standards for setting position compensation.

Title III contains conforming amendments. These modify sections of Title 10 U.S. Code for consistency with the transfer of responsibility from the Military Departments to the Defense Research, Development, and Acquisition Agency.

SECTION-BY-SECTION ANALYSIS OF THE DEFENSE DEPARTMENT ACQUISITION REORGANIZATION ACT OF 1991

TITLE 1—REORGANIZATION AND REFORM OF THE DEFENSE ACQUISITION SYSTEM

Section 101. Centralization of acquisition authority

(a) The Under Secretary of Defense for Acquisition will gain the following responsibilities: prescribing policies for Department of Defenese research, development, and acquisition activities; planning, programming, and carrying-out research, development, and acquisition activities; and, in consultation with the DoD Comptroller, preparing, integrating, and executing budgets for defense research, development, and acquisition activities, including phases of the Planning, Programming, and Budgeting System (PPBS), with respect to research, development, and acquisition activities.

(b) Adds Chapter 136, comprised of the following 6 sub-sections, to Title 10 of the U.S. Code.

Section 2281 through 2283 of Title 10 will then charter the existence of the DoD Research, Development, and Acquisition Agency and the responsibilities of the Under Secretary of Defense for Acquisition (USD(A)) to match sub-paragraph (a). The Under Secretary of Defense for Acquisition is made the Director of the Agency and will conduct defense research, development, and acquisition activities through the Agency. He will also be responsible for ensuring realistic budgeting and program management. The Agency will conduct management, as well as weapons, research. There will be a Deputy Director for Concurrent Engineering.

Section 2284. Requires the USD(A) to select and evaluate Program Executive Officers (PEOs). The PEOs will be responsible for managing assigned weapons programs and related technical support. The PEOs will be organized by mission areas or target classes, but not both, and will report to the USD(A) in his role as Director of the Agency. The PEOs will have life cycle management responsibility over weapons; i.e. all research and development, procurement, product modifications.

The Chairman of the Joint Chiefs of Staff, in consultation with the Under Secretary of Defense for Acquisition, shall prescribe policies and procedures for interaction between unified and specified commanders and PEOs, including procedures for acceptance testing by operational commands.

Section 2285. Requires the USD(A) and PEOs to select and evaluate Program Managers (PMs). The PMs will be responsible for day to day management of programs. The PMs will report to the PEO for the relevant mission area or target class.

Section 2286. Requires the Deputy Director for Concurrent Engineering to provide state-of-the-art capabilities and select and evaluate Program Managers (PMs). The PMs will report to the PEO for the relevant mission area or target class.

(c) Terminates the procurement authority of the Military Departments.

Section 102. Phase funding and review of acquisition programs

Amends Chapter 131 of Title 10 U.S. Code by adding sections 2218 and 2219.

Section 2218 enables Congress to authorize full funding of programs for each phase of the acquisition program cycle. The Secretary of Defense shall define in regulations the phases of the acquisition program cycle, which may include Concept Definition, Concept Demonstration and Validation, Engineering and Manufacturing Development, Low-Rate Initial Production, and Full-Rate Production.

Section 2219. Requires the establishment of a one Milestone acquisition decision process. The USD(A) will review all programs at the end of demonstration and validation to determine whether they should proceed beyond demonstration and validation. This would make a commitment to support a program through full-rate production.

Section 103. Joint Foreign Products Development

Amends Section 153 of Title 10 U.S. Code by adding a new section that enables Unified and Specified Commanders to make recommendations to the USD(A) regarding the desirability of becoming involved in joint efforts for systems proposed or currently under development in other countries.

Section 121. Transfers

Transfers research, development, and acquisition functions of the Military Departments and Defense Agencies to the Defense Research, Development, and Acquisition Agency. Terminates the current defense acquisition organizations.

Section 122. Savings provisions

Continues in effect all decisions, rules, regulations, rights, etc. defined by existing DoD acquisition organizations until superseded or modified. States that provisions shall not affect proceedings, but allows modification or extension of proceedings to the extent that the same extent that could occur without implementation of this act.

TITLE II—SPECIFIC PROCUREMENT MANAGEMENT POLICIES

Section 201. Acquisition performance goals

It is the policy of the Congress that by January 1, 2000, DoD should achieve two specific goals. First, on average 90% of the cost and schedule goals established for research, development, and acquisition programs. Second, the average period necessary for DoD to convert an emerging technology into operational capability should not exceed 8 years.

If necessary, DoD must identify and consider terminating programs that are not achieving cost and schedule goals, taking into account: the current needs of the DoD; the state of technologies relevant to the needs of DoD; the estimated costs and schedule projections for completion; any other pertinent information. DoD must also identify existing and potential substitute programs.

DoD must report its progress in implementing policies within the Secretary's Annual Report to Congress.

Section 202. Implementation of Defense Acquisition Workforce Amendments

Reiterates Congressional support for acquisition workforce improvements and reemphasizes the importance of ensuring that the acquisition workforce is trained in accordance with the standards set-out in the Chapter 87 of Title 10 U.S. Code.

Section 203. Enhanced encouragement of excellence in the Defense Acquisition Workforce

Directs the Secretary of Defense to review available incentives and adverse personnel actions and to establish an enhanced system for encouraging excellence in the acquisition workforce. This includes establishing a pay band for PEOs and PMs by modifying Subchapter II of chapter 87 of Title 10 of the U.S. Code to insert the following:

Section 1736. Grade of Certain Acquisition Managers. Enables the Secretary of Defense to pay PEOs up the grade of a three star flag officer, or equivalent civilian grade. It enables the Secretary to pay the Program Managers up to the grade of a two star flag officer, or equivalent civilian grade. The Secretary can set the position regardless of a person's grade in the military, the budget, or other current standards for setting position compensation.

It also includes modifying Chapter 35 of Title 10 U.S. Code for the same purpose, by inserting §604 which contains similar language and allows those in the military to be permanently promoted while holding the position of a PEO or PM.

Section 204. Program management stability

Modifies language in section 1734 of Title 10 U.S. Code by replacing "major milestone" with "a phase in the acquisition program cycle." Changes language to conform with the creation of the Defense Research, Development, and Acquisition Agency.

TITLE III—CONFORMING AMENDMENTS

Modifies other sections of Title 10 U.S. Code for consistency with transfer of responsibility from the Military Departments to the Defense Research, Development, and Acquisition Agency.

By Mr. LIEBERMAN (for himself and Mr. ROBB):

S. 2058. A bill to declare as the policy of the United States cooperation with Western Hemisphere countries on energy issues, and for other purposes; to the Committee on Foreign Relations.

WESTERN HEMISPHERE ENERGY SECURITY PROMOTION ACT

Mr. LIEBERMAN. Mr. President, I am introducing today a bill for myself and Senator ROBB that would promote cooperation among the nations of this hemisphere on energy policy. This bill would require an annual report from the President on progress he has made in promoting a policy of hemispheric cooperation on oil and energy issues.

In Venezuela and in Mexico, we have two leading producers of oil. Just as important, both nations are beginning to open up to foreign investment in their energy sectors. This, in combination with a move to open up trading relations among the nations of the hemisphere, provides the United States with a unique opportunity to take advantage of the resources available to us in our own backyard.

As part of my statement on the introduction of this bill, I am attaching a recent article from Forbes magazine. The article, "A Saudi Arabia in Our Own Backyard?" describes the dramatic changes that have been made in the Venezuelan oil industry over the past few years. These changes could enhance Venezuela's role as a United States supplier. Diversification of energy supply leaves the United States much less vulnerable to political and economic disruptions in the Middle East.

Senator GLENN and I requested that the GAO do a study on the state of the Venezuelan oil industry earlier this year. We anticipate that study coming out in December or early next year. The study can serve as a basis for developing a strategy for greater cooperation among the Nations of the Americas to work together on an energy policy.

This bill is identical to legislation introduced in the other body by Representatives WISE and SYNAR.

I ask unanimous consent that a copy of the bill and the article mentioned earlier be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Western Hemisphere Energy Security Promotion Act".

SEC. DECLARATION OF POLICY AND REPORT.

(a) DECLARATION OF POLICY.—Recognizing that Western Hemisphere energy sources contribute to the energy security of the United States, and further recognizing the Western Hemisphere's increasing importance in energy related matters, it is declared to be the policy of the United States to work with countries of the Western Hemisphere to the maximum extent practicable in the development of their energy sources. In furtherance of this policy, consistent with sound environmental practices, due consideration shall be given to—

(1) focusing attention in trade negotiations and in bilateral and multilateral consultations relating to the Western Hemisphere on the desirability and benefits of investment policies that expand worldwide production capacity and diversity of oil suppliers;

(2) the preservation and enhancement of opportunities for other countries of the Western Hemisphere to supply petroleum to the United States;

(3) the continued development of higher petroleum production capability from other countries of the Western hemisphere, especially Mexico and Venezuela (including the Orinoco Belt); and

(4) programs pursuant to which United States technical assistance could be given to other countries of the Western Hemisphere to enhance their capability to increase production of petroleum that could be made available for sale in the United States.

(b) REPORT.—The President shall transmit to Congress by December 1, 1992, and yearly thereafter, a report on the state of the implementation of the policy declared in subsection (a). Such report shall include recommendations on ways in which this policy can be further implemented through specific programs.

[From Forbes, Oct. 28, 1991]

A SAUDI ARABIA IN OUR OWN BACKYARD?

(By James Cook)

So prevailing are the capitalist winds blowing across Latin America these days that even the Venezuelans are backing away from their longstanding hands-off-our-oil policy. In Caracas, a political consensus is growing that private capital—foreign as well as domestic—should be allowed to help develop the country's enormous energy potential. As Venezuela President Carlos Andres Perez explained it last month: "The oil industry is so capital-intensive that, regardless of our theory that it is a state industry, we thought it should be opened to the private sector."

Note the pragmatic tone in Andres Perez's remarks. Rich in hydrocarbon deposits, Venezuela is one of the half-dozen countries in the world capable of significantly expanding its oil production. But since nationalizing its oil industry in 1976, Venezuela has steadily lost market share and influence in the international oil business.

Between 1973 and 1987, for instance, its production of crude oil slid from 3.4 million to 1.6 million barrels a day. Production has since increased, to 2.1 million barrels in 1990, with 2.3 million a day so far this year. But even so, Venezuela has lost valuable share of the U.S. import market, and has watched its share of production by the Organization of Petroleum Exporting Countries drop by more than half. A founding member of OPEC, Venezuela has lately been relegated to the sidelines as decisions about oil production and quotas were set largely by the political and economic interests of the Middle East producers.

The fault does not lie with Venezuela's national oil company, Petroleos de Venezuela, S.A. In terms of management and efficiency, no nationalized oil enterprise has a better reputation than PDVSA—"Pay-duh-vay-suh," as it's known locally. Last year the company generated $23 billion in sales, paid $9.8 billion in taxes and still wound up with a $1.3 billion net profit for the year.

Unlike Mexico, say, Venezuela did not meld the 13 foreign oil companies it expropriated in 1976 into a conventional national oil company charged with providing jobs as well as producing oil. Rather, Exxon's Venezuelan operations were reconstituted as Lagoven. Shell's as Maraven, while 11 smaller companies were combined to form Corpoven. All three were rolled into PDVSA. But Venezuela's oil industry continued to be operated as a commercial and autonomous enterprise, with its three operating arms competing vigorously with one another. Interesting to note, their employees were specifically not civil servants, with the result that PDVSA generates roughly $450,000 in sales per employee. That's considerably less than Amoco's $585,000 per worker but miles ahead of Petroleos Mexicanos, which generates a mere $115,000 per worker.

Venezuela's relative decline among oil producers can be explained by two facts: (1) Much of its oil is heavy and costly to extract and refine; and (2) when prices were high, Venezuela cut back production to conserve its resources rather than maximize its revenues. But the collapse in oil prices in the early 1980s began changing that way of thinking.

Early last year the Venezuelan government approved a massive $48 billion, six-year program designed to increase production by 57%—to 3.3 million barrels a day by 1996 and between 4 million and 5 million bbl./day by 2000. Also in the plan is a fivefold increase in petrochemical refining; a $3 billion liquefied natural gas project (in partnership with Exxon, Shell and Mitsubishi); and a major push to commercialize its vast reserves of very heavy oil and bitumen in the Orinoco Basin.

Traditionally, the heavy and extraheavy crudes that are the principal source of Venezuela's expanded production have been difficult to make much money on. But PDVSA expects to demonstrate that, with new technology, Venezuela's heavy and extraheavy crudes can even be processed into light products like gasoline on an economic basis.

"These [heavy] crudes do not find markets that easily," says Andres Sosa Pietri, PDVSA's president, "so we have to refine more ourselves." But not just in Venezuela. PDVSA's foreign refineries, acquired over the last few years, now process only 64,000 barrels a day of heavy oil. By 1996, they'll be running about 350,000.

Venezuela has proven reserves of around 59 billion barrels, the sixth-largest oil reserve in the world. But the country's long-term energy future depends primarily on the commercialization of the 270 billion barrels of bitumen locked up in the north shore of the Orinoco River. One of the largest petroleum reserves in the world, on a par with Saudi Arabia's, the Orinoco Basin alone could supply the entire world with oil for ten years at current consumption rates—if PDVSA's researchers could figure out how to efficiently commercialize these tarlike bitumen reserves.

And PDVSA is finally beginning to do just that. By combining bitumen with water and a chemical, PDVSA has developed a new liquid fuel, trademarked "Orimulsion," that is designed to supplant coal in many utility markets. With markets opening up in Britain, Canada, Italy and Florida, PDVSA plans to increase production of Orimulsion from 30,000 bbl./day crude equivalent to 700,000 by 1996. It's only a first step, but one that may one day lead PDVSA into refining bitumen into light products like gasoline.

There is a catch. All this expansion costs money, and money is not something that Venezuela, which has just emerged from the worst financial crisis in its democractic history, has a great deal of. Hence the decision of the country's politicians to open the oil industry to private capital.

In an effort to finance PDVSA's ambitions, the Venezuelan congress has already opened petrochemicals and 55 marginal oilfields to private capital (though Venezuela retains nominal control over the oilfields). This fall the congress is expected to approve the $3 billion liquefied natural gas project PDVSA hopes to develop with Shell, Exxon and Mitsubishi off the northeast shore of Venezuela. And, having watched the impact of tax cuts on the U.S. in the 1980s, the government is even attempting to encourage foreign investment by cutting income taxes on jont ventures, from 67.7% to 30%, effective this fall.

PDVSA's Andres Sosa Pietri can envision $11 billion coming from various joint ventures in petrochemicals and natural gas. PDVSA itself can probably put up $30 billion out of retained earnings. But from where will the rest of the funding for the country's $48 billion expansion program come?

In Caracas these days one hears talk about pledging future production against new foreign loans, or offering supply contracts for conventional fuel if foreign oil companies commit themselves to heavy oil development. PDVSA executives talk about using project financing or even selling equity to the public. Whatever options are chosen it is clear that the government is serious about turning to the private sector for help in reinvigorating the industry. And well it should be serious: Venezuela's oil industry provides 24% of the country's GNP, 83 percent of its tax revenues and 86 percent of its export earnings.

Still, not everyone in the country sees things Andres Sosa Pietri's way. A month or so back, he found himself at loggerheads with Celestino Armas, boss of Venezuela's powerful Ministry of Energy & Mines, and the current president of OPEC. In a power grab, Armas asserted the right to review PDVSA's decisions on a wide range of operating matters. Sosa Pietri balked, and eventually Venezuela's president, Carlos Andres Perez, negotiated a truce between the two men. But Sosa Pietri will clearly have to proceed in his expansion plans with a wary eye out for Armas

Sosa Pietri must navigate another potentially treacherous conflict—between Venezuela's interests and those of OPEC. Like most other OPEC countries, Venezuela has been producing nearly all out since the Gulf war. But what happens next spring if a surplus of oil sends crude prices tumbling? Or a year or two from now when the 5 million barrels of lost Kuwaiti and Iraqi production begin moving into the market? Will OPEC impose quotas to sustain prices—and if it does, will Venezuela comply?

Andres Sosa Pietri responds to such questions cautiously. "Today," he says, "there is no conflict in aims between OPEC and what we want to do in Petroleos de Venezuela. Whatever OPEC decides, we must comply with."

In the past Venezuela has been less inclined than other OPEC producers to cheat on quotas. In recent years, however, PDVSA has moved downstream into refining and marketing on an international scale. It has accomplished this by making a series of small refinery acquisitions in Germany, Sweden and Belgium, and large ones in the U.S., where it has bought various refining and marketing operations, notably Citgo Petroleum Corp., the U.S.' ninth-largest gasoline marketer.

In short, PDVSA has become a vertically integrated oil company. It now refines more than 80 percent of its crude into higher-margined products (versus only 43% 15 years ago), thus capturing additional profit per barrel.

And therein lies a potential rub. With Venezuela now supplying 80 percent of its refineries' crude needs out of its own production, it is hard to imagine PDVSA bowing to orders from OPEC to curtail its output of crude, and buying some other producer's crude to feed its refineries.

All of this has important implications for U.S. energy policy in the decades ahead. The Gulf war has transformed OPEC. Backed by its special relationship with the U.S., Saudi Arabia is now calling the shots in OPEC, and doing so with uncommon arrogance. "Nobody's got to approve what Saudi Arabia produces," the kingdom's oil minister, Hisham Nazer, reportedly told his fellow OPEC oil ministers the other day. Nazer has made it abundantly clear that Saudi Arabia has no intention of cutting back production to make room for Iraq and Kuwait. It may prove equally intransigent in defending its dominant share of the U.S. import market—a position it assumed at Venezuela's expense in the Seventies.

Yet the bulk of PFVA's expanded output of crude and refined product is targeted at the U.S. markets. Only 4 days away by sea from the U.S.' Gulf Coast, versus 30 days from Saudi Arabia, Venezuela has always viewed the U.S. as the natural market for most of its output. U.S. producers, however, have previously viewed Venezuela as a low-cost competitor and have done their best to keep its crude out of the market.

U.S. politicians are now again talking about imposing oil import fees to protect the domestic industry. This would give Saudi Arabia, with its uncommonly low drilling and recovery costs, a considerable competitive advantage, and hurt higher-cost Venezuelan oil.

Is this intelligent policy? Henry Schuler, director of the energy security program at Washington's Center for Strategic & International Studies, doesn't think so. "Although Riyadh still appears to be willing to assert its unrivaled oil power in a way that accommodates Washington's economic and commercial interests," says Schuler, "it would be irresponsible to predict that will go on forever." Better, he thinks, to encourage relatively dependable Venezuelan supplies. Assuming Venezuela's politicians continue to open up their oil industry to private investors, wouldn't a relatively stable supplier in our own backyard make sense?

By Mr. NUNN (for himself, Mr. BREAUX, and Mr. PRYOR):

S. 2059. A bill to establish youth apprenticeship demonstration programs, and for other purposes; to the Committee on Labor and Human Resources.

YOUTH APPRENTICESHIP ACT OF 1991

Mr. NUNN. Mr. President, I rise today to reintroduce legislation first offered in the 101st Congress to authorize demonstration programs aimed at establishing a system of youth apprenticeships in the United States. I am joined by Senators BREAUX and PRYOR as original cosponsors, and I understand that Congressman DAVE MCCURDY is planning to introduce companion legislation in the House of Representatives.

We listened closely to comments from a wide variety of sources on last year's legislation, and have incorporated several constructive suggestions. For example, we have included language ensuring that demonstration programs authorized under this legislation do not conflict with existing private-sector apprenticeship opportunities, especially in the building trades. We have also fine-tuned the transition from academic courses to skills training for prospective apprentices, based on the practical experience of programs both in this country and in Europe.

Overall, however, this is the same legislation as last year's with the same basic rationale: Building a partnership between secondary and postsecondary schools and employers, to provide noncolleage bound youth real access to the jobs of the future by giving them the real-life skills they need to perform them.

I believe the case for a special effort in skills training in America is made every day by statistics that show we are not keeping up with the demands of our ever-changing workplaces. The General Accounting Office estimates that approximately 9 million of the Nation's 33 million youth aged 16 to 24 will not have the needed skills to meet employer requirements for entry-level positions.

Our task will not get any easier in the future, when even more skills will be necessary in our workplaces. A task force of the Center for Strategic International Studies found that the percentage of our jobs considered unskilled is steadily shrinking, from 60 percent in 1960, to 35 percent in 1990, to an estimated 15 percent in the year 2000. If we do not begin to catch up in skills training right now, we may find ourselves and our economy hopelessly off target in the very near future.

Through a well-designed, local job apprenticeship program, supervised work experience during high school could promote desirable work habits and workwise knowledge and skills. This approach was inspired by the impressive success of youth apprenticeship programs in Western Europe, especially Germany, England, Sweden, and Japan, and by the belief that their success substantially contributes to the relative strength of our European and Japanese friends in competing for international markets. I do not, however, suggest that we imitate or reduplicate any other country's program. Instead, we should adapt the principle of comprehensive work-based, competency-tested skills learning programs to our own culture, economy, and educational system, through a se-

ries of demonstration programs over the next 5 years.

If this legislation is enacted, these programs will be operated by a new Institute for Youth Apprenticeship, a public-private partnership managed by a broad of directors that includes representatives of educational institutions, business, labor, trade associations, and government. Aside from setting up demonstration projects, the institute's most important job will be to evaluate the results and make recommendations on how to create a nationwide apprenticeship system.

Each program will establish a partnership between secondary and postsecondary schools and employers. In the 10th grade, students will sign contracts with employers to begin apprenticeship programs in the 11th grade. These programs will last for 3 years, 1 year after graduation from high school. In the first 2 years, high school courses will be combined with training at worksites. The program is structured so that students gradually increase the time spent at worksites from 30 percent in the 11th grade to 50 percent in the 12th grade. In the third year, youth apprentices will supplement on-the-job training with academic courses at technical institutes or community colleges. Students will receive a high school diploma at the end of high school and a certificate upon completing apprenticeship training in recognition of their competency in the field in which they received their training.

Such a nationwide system would not be a new Federal program supplementing existing skills training efforts, but a basic reorientation of those efforts to tighten the links between the world of learning and the world of work, thereby improving the skills of our workers and their immediate and long-range ability to earn a decent living in the workplace of the future.

Mr. President, the economic impact of this legislation makes it especially timely. On the floor of the Senate, and indeed in every public and private forum in America, a debate is raging on the best means of reversing the squeeze on the real incomes of working Americans.

Some say we should give the middle-class a direct income boost through a tax cut. Others say we should stimulate capital investment and long-term economic growth, thereby creating a rising tide that will raise all boats.

There are elements of truth in both approaches. In the long run, however, the real key is to give working Americans the skills they need to increase their own incomes and to increase the productivity and competitiveness of our overall economy at same time. If we fail to do so, then all the tax breaks and investment incentives in the world will not keep our economy in pace with the global competition.

Reopening access to a high education for all Americans regardless of means is one-half of the skills training equation, and many Senators have offered constructive proposals toward that objection in recent years, including the national service concept which Senator ROBB and I have offered. The other half of the equation, for the forgotten half of American youth who do not go to college, is a youth apprenticeship system or something very much like it.

Our Nation's commitment to skills training must go far beyond Government programs. Educators, business leaders, and other opinion-makers must reinforce the importance of world-class skills for our workers. Our young people must believe, as I believe, that obtaining and practicing a skilled trade is just as important to our country's future as any other path in life they might choose.

Mr. President, this legislation is no more than the first step toward the kind of commitment we need to our young people's job skills. I urge the Senate to take the first step as soon as possible.

By Mrs. KASSEBAUM (for herself and Mr. METZENBAUM):

S. 2060. A bill to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act, and for other purposes; to the Committee on Labor and Human Resources.

ORPHAN DRUG AMENDMENTS OF 1991

Mrs. KASSEBAUM. Mr. President, I am introducing today the Orphan Drug Amendments of 1991. Senator METZENBAUM joins me in putting forward this measure. In addition to extending the authorization of the Orphan Drug Act for 3 years, this legislation makes several substantive changes in provisions of the act.

Ten years ago, I introduced the original Senate version of legislation dealing with the development of drugs for rare diseases after constituents representing the Committee to Combat Huntington's Disease visited my office and described the difficulties of individuals suffering from rare diseases and conditions in obtaining treatment. That legislation called for the establishment of an Office of Drugs of Limited Commercial Value.

In introducing the measure, I noted that one of the major problems was—

> * * * the understandable reluctance of profit-seeking drug companies to devote greater amounts of capital to development projects which are simply not economically justifiable. Most drugs for rare diseases, in fact, have sales of less than $3 to $5 million annually. The social responsibility for developing these drugs should not rest solely on the shoulders of the drug companies.

Subsequently, I introduced a second bill designed to address some of the impediments to the development of orphan drugs which were not covered in my original legislation. That measure, which was a companion to legislation introduced by Representative HENRY WAXMAN, was signed into law in 1983 as the Orphan Drug Act—Public Law 97-414.

Since that time, the Orphan Drug Act has been reauthorized and modified on several occasions. Perhaps one of the more significant changes made was the addition of language in 1984 of a patient population threshold of 200,000 to the definition of orphan disease or condition. This change was made in response to a request from the Food and Drug Administration's Orphan Products Development Office. Officials of the Office noted that an up-front cost analysis could not reasonably be provided by drug companies in the early stages of the development process, which is the point at which orphan drug designation is generally sought. In essence, the patient population figure was established as a proxy for the limited commercial viability standard included in the original law in order to address practical problems with its implementation.

In the early years of my work with the legislation, I found that many individuals were confused by the term "orphan drugs." In fact, I received one rather agitated call to my office asking why I was trying to take drugs away from orphans. As I explained at the time, "these drugs are commonly known as orphan drugs due to the fact that high development and drug approval costs coupled with a small market for their use give these drugs limited commercial value." Thus, pharmaceutical companies were reluctant to adopt them.

Enactment of the Orphan Drug Act sent a message of hope to the nearly 20 million Americans suffering from rare diseases or disorders. It told them that the same system which brought forward penicillin, the polio vaccine, and cancer therapies was working for them as well.

In nearly every respect, the act has been a success. To date, 469 drugs have received orphan designation and 59 of those have been approved for marketing. Approved drugs have included treatments for diseases or conditions such as blepharospasm—a condition which causes almost complete eye closure—and Paget's Disease—a bone disorder where normal bone formation is disrupted. In addition, the research grant program authorized by the act has supported 190 grants to assist with clinical testing of drugs with potential for treating rare diseases or conditions.

Unfortunately, the true success stories of the act are being overshadowed by instances in which the act has been used in ways never anticipated and for purposes never intended. Today, one searching for material about the Orphan Drug Act may be well advised to bypass the health press and head straight for the Wall Street Journal, Money magazine, and stock market analyses. The Orphan Drug Act has become big business. Although the number of drugs at the center of this controversy is small, the situation can no longer be ignored.

Essentially, what has happened is that some drug manufacturers—lacking patent protection for their products—have seized upon the 7-year exclusive marketing provisions of the Orphan Drug Act as a means of shielding themselves from competition. At this point, most attention has been focused on EPO, a drug approved for the treatment of anemia associated with chronic renal failure, and human growth hormone [HGH], a drug approved for the treatment of pituitary dwarfism. It is estimated that the Medicare program will spend nearly $400 million in the next year for EPO, which is used by renal dialysis patients. Patients requiring HGH spend anywhere from $10,000 to $30,000 per year for the drug.

Although the patient populations to be served by the indicated uses of these drugs fall below the 200,000 figure established in the law, the extremely high prices charged for these drugs have led to sales figures in the hundreds of millions of dollars. Many other companies are waiting in the wings, eager to bring these same drugs to the market—leading one rapidly to the conclusion that these are not drugs of limited commercial viability which needed the incentives offered by the Orphan Drug Act to assure their development.

Whether it is protocol assistance or tax credits or exclusive marketing, the Orphan Drug Act offers a public benefit in order to achieve a public policy purpose. Any company that takes advantage of that benefit has an obligation to honor the public responsibility it carriers. The failure to do so can easily undermine the credibility of the act, causing many to lose sight of the enormous good it has accomplished.

The primary purpose of the reauthorization bill I am introducing today is to restore the credibility of the Orphan Drug Act by making refinements which will better assure that its original intent is served.

The bill accomplishes this purpose in two ways:

First, it establishes a $200 million sales trigger. If cumulative net sales of an orphan drug exceed $200 million, marketing exclusivity will be withdrawn from the sponsor of the drug and other manufacturers will be permitted to enter the market.

The bill also includes an appeals mechanism, which allows a manufacturer to retain exclusivity if it can demonstrate either that cumulative net sales of the drug have not exceeded $200 million or that development costs of the drug were so high that they were not recouped through $200 million in sales.

I believe it is also important to emphasize what this provision does not do:

It does not prevent the original sponsor of the drug to continue marketing that drug; it merely introduces the possibility of competition.

It does not diminish in any way the drug approval requirements which other companies must meet in order to bring a competing product to the market; those companies must go through the full drug approval process.

It does not require the Secretary of Health and Human Services to make any determinations regarding the profitability of a drug; cumulative net sales—not profits—are the yardstick.

It does not require drug companies to open their books to the Secretary of Health and Human Services; only net sales and/or development cost data would be presented and then only when a company chooses to appeal the withdrawal of market exclusivity.

As a practical matter, the overwhelming majority of orphan drugs will never have sales even approaching $200 million over a 7-year period. The incentives of the act have proven effective in cases where there has been no expectation at all that sales would reach this level, and they will continue to be effective.

I want to address briefly one aspect of this proposal about which some questions have been raised. It has been argued that withdrawing exclusive marketing rights prior to the expiration of the 7-year period set in the law would be an unconstitutional taking of private property. Without going into all the intricacies of the various legal theories put forward in this regard, let me point out that the argument is based on just that—legal theories. As is the case with any constitutional question, it is always possible to speculate about any number of legal arguments which might be raised. This is particularly true in situations such as this one, where there are few legal precedents and no cases on point with respect to the specific subject at issue. The same arguments, in fact, were raised during congressional consideration of legislation dealing with drug patents. However, no suits raising the issue of a taking of property rights were filed subsequent to the enactment of that measure in 1984.

Second, the bill addresses another situation which was not anticipated at the time the original act was crafted, and that is the case where a patient population grows beyond the 200,000 figure in the law. The rare diseases and conditions discussed at the time were not contagious and had relatively stable patient populations. Consequently, the act contains no provisions addressing situations in which a rare disease or condition "outgrows" its original classification. Subsequently, the AIDS epidemic demonstrated that such a situation is possible.

The bill adds provisions to require that the determination of whether fewer than 200,000 persons are affected by a disease or condition be made on the basis of a 3-year projection and to provide for the withdrawal of exclusive marketing rights at the point where the patient population for the approved treatment exceeds 200,000.

Additional provisions of the bill extend the authorization of the research grant program and replace the existing Orphan Products Board with an Office of Orphan Products.

This proposal has been endorsed by the National Organization for Rare Disorders [NORD], a coalition of organizations representing a broad array of individuals with rare diseases and their families. NORD has been tireless in its efforts to assist these individuals and families and to promote public awareness of the plight they face.

The issues I have discussed are controversial ones, which have been debated for several years. An alternative approach for resolving them was vetoed by the President last year. One hesitates to think how much time, effort, and money has already been spent in reviewing these questions.

I believe that this reauthorization proposal represents the right public policy choice, and I hope that my colleagues will join me in supporting it on that basis. There comes a point where enough is enough. The intent of the Orphan Drug Act is clear, its purpose is worthy, and it is well past time that the clouds on its credibility be lifted.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis, and a letter from Ms. Abbey Meyers, Executive Director of NORD, appear in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Orphan Drug Amendments of 1991".

SEC. 2. DESIGNATIONS.

(a) IN GENERAL.—Section 526(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)(2)) is amended by adding before the period at the end the following: ", and on the basis of projections as to the number of persons who will be affected by the disease or condition 3 years from such date".

(b) EXCLUSIVITY.—Section 527(b) of such Act (21 U.S.C 360cc(b)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ";" and

(3) by adding at the end the following new paragraphs:

"(3) a drug has been designated under section 526 for a rare disease or condition described in section 526(a)(2)(A) and if after such designation such disease or condition does not meet such description; or

"(4) the Secretary has issued a termination notice under, and acted in accordance with, subsection (c)."

SEC. 3. TERMINATION OF ORPHAN DRUG STATUS FOR DRUGS OF SIGNIFICANT COMMERCIAL VALUE.

Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended by adding at the end the following new subsection:

"(c)(1) If the Secretary determines that the cumulative net sales of a drug which is designated under section 526 are more than $150,000,000 during the 7-year period described in subsection (a), the Secretary shall commence the review of any other application under section 505, certification under section 507, or license under section 351 of the Public Health Service Act (42 U.S.C. 262), for such drug for such designation, if such review has not already commenced.

"(2) If the Secretary determines that the cumulative net sales of a drug which is designated under section 526 are more than $200,000,000 during the 7-year period described in subsection (a), the Secretary shall issue a termination notice to the holder of the approved application of such designated drug. The notice shall state that the Secretary is authorized, no earlier than 90 days after the date of the notice, to approve other applications under section 505, issue other certifications under section 507, or issue other licenses under section 351 of the Public Health Service Act, for such drug for any such designation, unless such holder makes the showing described in paragraph (3).

"(3) Not later than 30 days after the date of the termination notice, the holder described in paragraph (2) may submit evidence to the Secretary to demonstrate that—

"(A) the cumulative net sales of the drug are not more than $200,000,000; or

"(B) the exceptionally high costs of developing the drug in the United States exceeded $200,000,000.

"(4) Not later than 90 days after the date of the termination notice, the Secretary shall review any evidence submitted by the holder—

"(A) in accordance with paragraph (3)(A), and determine whether cumulative net sales of the drug are more than $200,000,000, or

"(B) in accordance with paragraph (3)(B), and determine whether the costs of developing the drug in the United States exceeded $200,000,000.

"If the Secretary determines that the cumulative net sales of the drug are not more than $200,000,000, the Secretary shall, within such 90 days, vacate the notice until such time as such sales are more than $200,000,000. If the Secretary determines that the costs of developing the drug in the United States exceeded $200,000,000 the Secretary shall, within such 90 days, determine the amount of costs incurred in developing the drug in the United States and vacate the notice until such time as the cumulative net sales are more than such amount.

"(5) In determining the cumulative net sales of a drug, or determining the costs of developing a drug for purposes of paragraph (4), the Secretary shall consider—

"(A) evidence submitted in accordance with paragraph (3)(A) or paragraph (3)(B);

"(B) data obtained through contracts with independent sources of comparative sale date;

"(C) data submitted by interested parties; or

"(D) other relevant data available to the Secretary.

"(6) Any person may submit to the Secretary a petition which contains evidence of the cumulative net sales of a drug and which requests the Secretary to determine whether a termination notice under paragraph (2) must be issued.

"(7) As used in this subsection, the term 'cumulative net sales' of a drug means total sales of the drug in the United States minus discounts, allowances, and returns."

SEC. 4. OFFICE FOR ORPHAN AND RARE DISEASES AND CONDITIONS.

Section 227 of the Public Health Service Act (42 U.S.C. 236) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) There is established in the Department of Health and Human Services an Office for Orphan Diseases and Conditions. Such Office shall be established at a level within the Department with sufficient authority to assure full implementation of the functions and responsibilities established by this section.";

(2) by striking "Board" each place the term appears and inserting "Office";

(3) by striking "drugs and devices" in subsection (b) and inserting "Drugs, devices, and medical foods";

(4) by inserting "of chapter V" after "subchapter B" in subsection (c)(1)(A); and

(5) by adding at the end the following new subsection:

"(f)(1) There is established in the Office an advisory committee to advise the Office in carrying out the functions of the Office under this section.

"(2) The advisory committee shall be comprised of 11 members appointed by the Secretary, in consultation with the Office and the Commissioner of the Food and Drug Administration, from persons knowledgeable about rare diseases and conditions, including—

"(A) 5 representatives of organizations of persons with rare diseases or conditions;

"(B) 3 research scientists; and

"(C) 3 representatives of health-related companies.

"(3) The Secretary shall also appoint, as liaisons to the advisory committee, individuals from the Food and Drug Administration, the National Institutes of Health, and other appropriate Federal agencies.

"(4) Any vacancy occurring in the membership of the advisory committee shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the advisory committee.

"(5) Members of the advisory committee, and liaisons to the advisory committee, shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, for each day the member or liaison is engaged in the performance of duties away from the home or regular place of business of the member or liaison.

"(6) Notwithstanding section 1342 of title 31, United States Code, the advisory committee may accept the voluntary services provided by a member of the advisory committee, or a liaison to the advisory committee.".

SEC. 5. AUTHORIZATION FOR ORPHAN DRUG ACT.

Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended by striking "$10,000,000" and all that follows and inserting "$20,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, and $30,000,000 for fiscal year 1994."

SUMMARY OF ORPHAN DRUG AMENDMENTS OF 1991

The bill is designed to retain the incentives to develop drugs for rare diseases, but to provide for appropriate competition for commercially viable drugs with net sales of $200 million or more. It would require the Food and Drug Administration [FDA] to look into the future when deciding whether more than 200,000 people have a particular disease or condition, and to take into account conditions such as AIDS which may affect less than 200,000 people today but which are likely to affect more than 200,000 people in the near future. Finally, the bill would establish an Office of Rare Diseases within the Department of Health and Human Services, and it would provide an authorization for the research grant program for the next three years.

Section 1: The short title is the Orphan Drug Amendments of 1991.

Section 2: Under current law, the application for orphan drug status must show that, at the time of designation, the disease or condition for which the drug is marketed affects fewer than 200,000 persons in the United States. In the case of a condition such as AIDS, this means that a drug can qualify for orphan drug status even though it is expected that in the near future more than 200,000 people will be affected.

Section 2 requires that the determination of whether 200,000 people are affected by a disease or condition be made on the basis of projections as to the number of people who will be affected 3 years from the date that the designation is requested. Section 2 also provides that if at any time the number of people affected by the disease or condition goes above 200,000, additional companies may seek and obtain permission to market their drugs.

Section 3: Current law provides that an unlimited number of companies may obtain an orphan drug designation. An unlimited number of companies may also apply for approval of any specific orphan drug, but only one (the first to obtain approval) is granted seven years of market exclusivity. Any remaining sponsors of that drug must wait until the end of the 7-year period to market their products.

Section 3 establishes a trigger of $200 million in sales during the exclusive marketing period. When sales exceed the $200 million trigger, a company loses its exclusive marketing rights to an orphan drug unless it can demonstrate that development costs of the drug exceeded that amount.

Section 3 also requires the Secretary to begin review of other applications when the net sales of the designated drug reach $150 million, in order to avoid delay in the approval of a second sponsor's drug once the $200 million trigger is exceeded. This provision does not permit the approval of a competing drug prior to the termination of the market exclusivity of the designated drug.

Section 4: This section would eliminate the Orphan Products Board and substitute an Office of Orphan Products. The Office would coordinate the activities within the Federal Government concerning the development of drugs, devices, and medical foods for persons with orphan diseases and conditions. It would be assisted by an advisory committee comprised of representatives of organizations of persons with rare diseases and conditions, research scientists and representatives of health-related companies.

Section 5: Provides for an authorization for the grant program for fiscal year 1992, fiscal year 1993, and fiscal year 1994. The fiscal year 1992 authorization is $20 million, with increases of $5 million in each of the 2 following fiscal years.

NATIONAL ORGANIZATION FOR RARE DISORDERS, INC.,
New Fairfield, CT, October 22, 1991.

Sen. NANCY KASSEBAUM,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR KASSEBAUM: Once again we are indebted to you for your compassion and leadership benefiting people with rare "orphan diseases." It has been 10 historic years since you stepped forward to fill a gaping societal need for the development of unprofitable drugs to treat rare disorders by sponsoring the Orphan Drug Act in the Senate.

Today, we marvel at the Act's accomplishments. It has decreased pain, alleviated disability and prevented death in untold numbers of people who previously had no hope. Yet it has also been the source of unimaginable ethical and moral issues that no civilized society has ever faced.

While we have often objected to the high prices some companies are charging for their designated orphan drugs in recent years, we are outraged the absolutely unaffordable prices charged by a few companies today which blocks access to therapy by ill and dying Americans. There is no cruelty more intense than charging $350,000 per year, per patient, for a live-saving drug, knowing that families must stand helplessly by watching their loved one die because they can't afford it.

Even if a patient is insured, most people have a $1 million lifetime cap on their health insurance. As a result we are facing an outrageous dilemma when a family can hardly afford therapy to save a dying child for only 1 year.

Neither can Medicare or Medicaid bear the burden of this exorbitant pricing. Medicare's End Stage Renal Disease (ESRD) program spent approximately $250 billion on EPO this year and Medicaid pays a large proportion of the bills for AIDS drugs which are designated orphans.

It is time we put an end to the limitless profits some pharmaceutical companies are making through the privileges of a law that was written to encourage development of drugs of little commercial value. We feel your Orphan Drug Amendments are crucial to maintaining the integrity of the law, and will ensure access by patients and fairness to orphan drug manufacturers.

The appeal mechanism you have developed permits companies that spend an extraordinary amount of money developing an orphan drug to extend their exclusivity, and should lay to rest any argument that some compounds may be more expensive to develop than others. As companies see that their orphan drug is approaching the very generous $200 million cumulative sales trigger, they are free to lower their price in order to extend their exclusivity for the full 7 years. Even if they lose their exclusivity before the seven years expires, companies are free to continue marketing their orphan drug at any price they wish, but like any other American industry they will have to compete in a free market. We hope the FDA will assure the American people that it will approve additional versions of orphan drugs immediately after the initial exclusivity expires.

We are also delighted that the Central Office for Rare Diseases will be created to coordinate all of the Government's efforts related to orphan diseases and orphan drugs. This office, which was the main recommendation of the National Commission on Orphan Diseases, should save many years and millions of dollars in uncoordinated duplicative efforts by all parties that seem to operate in a vacuum at the present time.

Senator Kassebaum, it is a great sadness to recognize that a small number of abuses have led to the need to change the Orphan Drug Act. But the law's imperfections have permitted violations of its intent, and if we don't stop them now there is no telling where it will end. If a drug for a growth disorder costs per year now, an a drug for a deadly genetic disease costs $350,000 per year now, can a million dollar per year drug be far behind?

We all know that Congress must take control of health care inflation, and the best place to start is a law written to encourage development of unprofitable drugs. Anyone who knows the legislative history of the Orphan Drug Act cannot deny this, and yet it is being denied by some companies who insist that profits should have no bounds.

As you well know, the goal of the act was to ensure that no company would lose money developing an orphan drug, and they would indeed make reasonable profits; but now is the time to assure those profits are indeed reasonable and not exorbitant. There is a beyond which the neediest and most vulnerable segment of our society, the ill and the disabled, must rely on the wisdom and compassion of Congress to protect them.

Very truly yours,

ABBEY S. MEYERS,
Executive Director.

• Mr. METZENBAUM. Mr. President, I rise to join my distinguished colleague, Senator KASSEBAUM, in introducing the Orphan Drug Amendments of 1991. I want to begin by commending Senator KASSEBAUM for her leadership in the area of orphan drugs. Since the initial enactment of the Orphan Drug Act in 1983, she has never wavered in her determination to make the Orphan Drug Program an unqualified success. Her sponsorship of this bill is another indication of her continuing commitment to this most important law.

This bill amends the Orphan Drug Act—which was enacted to foster the development of medications to treat people with rare diseases—so-called orphan drugs. Until the Orphan Drug Act was passed, there were no financial incentives for pharmaceutical companies to discover and develop drugs for illnesses affecting fewer than 200,000 people. Simply put, drugs for such small patients populations had very little commercial value, and companies were rarely willing to invest the resources necessary to bring them to the market.

The Orphan Drug Act provided pharmaceutical companies with important incentives to invest in orphan drugs; most important among them was an assured 7-year market monopoly. During that 7-year period, no other company could bring a competing product to the market.

I am proud to say that the Orphan Drug Act has been an unqualified success in spurring the development of essential, sometimes life-saving drugs, for small, often forgotten, groups of patients. To date, the Food and Drug Administration [FDA] has granted 476 orphan designations and approved 58 orphan drugs. Consequently, treatments are now available for people suffering from rare diseases and illnesses such as tissue rejection following a bone marrow transplant, paget's disease—a disease that weakens the bones and causes them to break—leprosy, and AIDS-related Kaposi's sarcoma among others. The development and approval of these and numerous other orphan drugs has given thousands upon thousands of desperately ill people hope for survival and freedom from pain and suffering. This was exactly the result that Congress hoped for when the Orphan Drug Act was approved.

Unfortunately, a few companies have exploited their 7-year market monopoly for an orphan drug by charging victims of rare diseases and illnesses thousands of dollars a year for their drugs. Patients with rare diseases and illnesses are forced to pay these exorbitantly high prices because the company that makes the drug they need has a lock on the market. Competitors that want to get on the market, and offer lower prices, cannot for 7 years.

Let me illustrate just how bad this problem can be. Ceredase, a drug for the treatment of Gaucher's disease, costs a patient $350,000 a year. Human Growth Hormone, a drug for pituitary dwarfism, costs a patient between $10,000 and $30,000 a year. And the list of horribles does not end here.

I am not suggesting that the pharmaceutical companies are violating the letter of the Orphan Drug Act by charging outrageously high prices for their orphan drugs. Clearly, they are not. However, I believe these companies are violating the spirit of the act and jeopardizing congressional support for the act. Through their high prices, these companies have turned a drug for a relatively small patient population into a drug with tremendous commercial value, and then they have used their 7-year marketing exclusively rights to block their competitors. This awful result was never contemplated under the Orphan Drug Act and should not be tolerated.

The Orphan Drug Act was carefully designed to give one company the necessary incentives to take on the development of a drug of little commercial value. Instead, the act has become a shield with which one company blocks its competitors from the market for a drug of tremendous commercial value, thereby subverting the important purpose of the act.

Fortunately, the number of circumstances have been relatively few in which this misuse of the act has occurred. However, it is clear from evaluating the designated orphan drugs currently undergoing testing at the FDA, that there will be many more orphan drugs that have tremendous commercial value. It is imperative that we act immediately to avoid further undermining of the Orphan Drug Act.

Last year the Congress passed a bill to deal with this problem that was vetoed by the President. That legislation would have allowed for FDA approval for companies that were simultaneously developing the same drug for the same rare disease. President Bush claimed that these changes would have undermined the act's incentives for bringing an orphan drug to the market, so he vetoed it.

Although I believe that the President was wrong, the Orphan Drug Amendments of 1991 take a different approach to the problem of high-cost, commercially valuable orphan drugs. The bill establishes a sales trigger that will allow a competitor's drug onto the market when the original sponsor's cumulative sales in the United States exceeds $200 million. This very generous sales trigger guarantees that an orphan drug's sponsors will receive a substantial return on its investment in a particular drug. Moreover, the sales trigger does not affect the ability of the original orphan drug sponsor to continue to sell its drug or set the selling price after it exceeds the trigger amount. Quite simply, all the bill does is allow a competitor onto the market before the original orphan drug sponsor's 7-year monopoly expires, if the original sponsor has sales of more than $200 million. Injecting competition into the market for costly orphan drugs will bring prices down and help make these drugs affordable for the patients who need them.

A few of the biotechnology companies that produce some of the most costly orphan drugs, have already begun to complain about the potential loss of market exclusivity. They argue that because they often have difficulty obtaining patient protection on biotechnology derived products and processes, the Orphan Drug Act is their only protection from competition, and hence their only assurance of recouping their investment. This argument stands the Orphan Drug Act on its head. Quite simply, the act was never intended to protect the stockholders of these biotechnology companies. Rather, it was enacted to provide pharmaceutical companies with special incentives to produce drugs of little commercial value for desperately ill patients. The biotechnology companies, with high-priced, commercially valuable drugs, cannot be allowed to hide behind the protection of the Orphan Drug Act because they have a problem with the patent laws. Their patent law problems ought to be addressed through amendments to those laws.

The bill contains several other provisions that are important changes to the Orphan Drug Act. Senator KASSEBAUM has discussed those provisions in the summary of the bill which she has placed in the RECORD.

In closing, I want to encourage all Senators to carefully review this important bill. If you want to end the inappropriate use of the Orphan Drug Act to block competition for high-priced, commercially valuable drugs, then you ought to join us in sponsoring this bill.●

By Mr. SASSER:

S. 2061. A bill to amend the Internal Revenue Code of 1986 to provide middle income tax relief, to provide for long-term economic growth, and for other purposes; to the Committee on Finance.

MIDDLE INCOME TAX RELIEF AND ECONOMIC GROWTH ACT OF 1991.

Mr. SASSER. Mr. President, the Conference Board reports this morning that consumer confidence has dropped to the lowest point in this present recession. Consumer confidence is lower today than it was in those fearful days just preceding the Persian Gulf war. And confidence is even lower now than at the worst point of the 1982 recession, which was the deepest recession in the post-World War II era.

We do not really need the Conference Board's survey to figure out that people who are worried about their jobs just do not make confident consumers, and they do not spend much money. 493,000 Americans filed unemployment claims just last week. That is the third consecutive weekly increase and the heaviest level of new claims since late April.

Economists are now revising downward their forecast for the fourth quarter gross national product growth for 1991, and more so, they are reviewing the figures coming in from the third quarter, which now we anticipate will be lower than originally predicted. But through it all, the prescription for the White House never changes. As the economy falters and flags, the White House says, "Stand pat; do not worry; keep cool; prosperity is just around the corner."

It is time we accept that this do-nothing approach has, indeed, done just that—nothing. What is needed now is a comprehensive, responsible, and well-crafted plan for recovery. The President never had a plan for unemployed Americans. We had to put one together on the Senate floor. I suppose it logically follows that if there is no plan for those Americans who need it most, since he saw no need to help the most distressed, he is going to have great difficulty seeing the need to help anyone else.

The "let the bad times roll" approach to economic policy is not, I submit, simply a historical anomaly. This administration is true to the economic philosophy of previous Republican administrations. Yes, the administration of President Reagan wore the pro-growth mantle, but very uncomfortably over the last decade, because Republicans are traditionally the party that fears inflation and distrusts economic growth.

The Democratic Party has been far more committed to the notion of Government policies that stimulates growth, that create jobs, that provide upward mobility. Just consider, if you will, the nine Presidents that we have had since World War II. There were four Democrats and five Republicans, and note that all four Democrats rank in the top five with respect to GNP growth records: Kennedy, Johnson, Truman, and Carter. That leaves the Republican administrations bringing up the rear on economic growth.

Put another way: The economy, since the days of Harry Truman, has grown on the average of 4 percent a year under Democratic administrations, and by only 2.5 percent a year with Republicans in the White House. In my estimation, many of our current difficulties—fiscal, political, and otherwise—can be attributed to the fact that this economy simply has not grown appreciably in the last 3 years.

I will note, Mr. President, that this administration in office now, the administration of President Bush, has actually had a negative real growth over the past 3 years. This is the first administration to preside over negative real growth on a per capita basis of any administration since that of Herbert Hoover in the late 1920's.

Mr. President, I am introducing an economic growth plan that is coordinated and is comprehensive. It is aimed at durable growth; it is financed over 5 years by an $80 billion peace dividend. Before going into detail, let me acknowledge that I am not the only one offering a constructive growth proposal. Many of my colleagues have drawn up plans and crafted initiatives that I think are valid, and are also meritorious.

I am not, by any means, wedded to all the elements of my own plan, and I am certainly open to proposals that are not included in what I offer today. But I think the larger point we are making is we, at the very least, need a dialog that leads to corrective action.

If the President waits until January, some 2 months away, if he waits for the State of the Union Address before even offering an economic game plan, we will not have any hope of enacting anything until at least the middle of an election year and, Mr. President, I submit that is too late.

The plan I am offering today is distinct, in my view, because it combines both sharp short-term stimulus and long-term growth elements, while placing necessary emphasis on fiscal constraint.

It is a multitiered approach designed both to lift us from the stagnation of the moment and make durable whatever growth we achieve to pay for it. I am proposing military spending cuts that are reasonable and achievable today and do not reduce our military flexibility or readiness. I am proposing an $80 billion peace dividend which will amount to a 5-percent reduction in defense spending and retake this reduced military spending and divide it into roughly three components: First, $30 billion for a middle-income tax cut; then $23 billion for long-term growth initiatives; and, finally, $25 billion to be applied to reduction of the deficit.

Now, the first component, the middle-income tax cut, is an immediate stimulus, an immediate jolt to counter the economic stagnation that is badly hurting middle-class American families. Middle-income households would receive a $300 to $500 credit against their 1991 taxes, and the proposal would put money, beginning in January 1992, into the pockets and purses of middle-class American families.

Mr. President, I have a chart here which indicates that my tax proposal is carefully targeted to benefit those who are most distressed by this recession and the most neglected by the policies of the last decade—middle-income Americans. You will note that, under this plan, families earning less than $50,000—these families here, families earning less than $50,000—receive 76 percent of the benefits. These same middle-income families would receive 5.8 percent of the capital gains tax cut advocated by the President.

Let me reemphasize, Mr. President. With the middle-income tax cut that I am proposing, 76 percent of the benefits would go to families making below $50,000. Contrast this with the President's proposal in which only 5.6 percent of the capital gains tax cut advocated by the President would go to families making less than $50,000. That is not to say the plan attempts to redress all of the inequities that muddle the Tax Code. Rather, it is designed to create a demand surge, to deliver with full force the momentum necessary to drive a recovery.

To that end, the plan also provides $3 billion for penalty free withdrawals from individual IRA's for first-time homebuyers and for individuals with higher education expenses or particular medical costs.

Now, I have coupled this with a broad-based tax cut and placed it in the context of a stimulus that is sizable, immediate, and temporary.

The plan then seeks to use that initial spark to ignite sustained economic combustion and long-term growth. It provides $12 billion in long-term business incentives, including extensions of the research and experimentation tax credit, the low-income housing tax credit, and the mortgage revenue bond tax credit.

I have also incorporated a proposal developed by Senator BUMPERS to offer a tax incentive for investment in small business to reward entrepreneurship and stimulate capital formation. The premium here is on new capital formation, new investment.

The plan I am offering today also recognizes that we need to improve the structural condition of our Nation, and we need more public investment to do it. My approach would invest $8 billion in roads, highways and bridges, waterways and runways, and in the process it would generate at least 100,000 jobs every year.

Finally, this growth plan would return no less than $25 billion, or nearly one-third of the peace dividend, to the U.S. Treasury in the form of unadulterated deficit reduction.

In offering this plan, I recognize the legitimate concerns of financial markets. That is why the plan is paid for. That is why the tax cut is temporary. The goal is to lift us from the stagnation of the moment and then sustain growth for the future. As I have said, Mr. President, others in the Senate have developed economic recovery proposals that are worthy, that are meritorious, and that are workable. There are other plans in the House of Representatives that also deserve consideration. But the bottom line is that sitting and waiting and complaining is not the answer.

Mr. President, I send this bill to the desk and ask for its immediate appropriate referral, and I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle Income Tax Relief and Economic Growth Act of 1991".

TITLE I—TAX INCENTIVES

SEC. 101. NONREFUNDABLE TAX CREDIT FOR 1991.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. MIDDLE INCOME TAXPAYERS CREDIT.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount determined as follows:

"In the case of a taxpayer described in:	The credit amount is:
Section 1(a)	$500
Section 1(b)	$450
Section 1(c)	$300
Section 1(d)	$250.

"(b) PHASEOUT OF CREDIT AMOUNT.—

"(1) IN GENERAL.—Each dollar amount contained in subsection (a) shall be reduced (but not below zero) by 2 percent of the amount by which the taxpayer's adjusted gross income for the taxable year exceeds the applicable amount.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount for any taxpayer shall be determined as follows:

"In the case of a taxpayer described in:	The applicable amount is:
Section 1(a)	$65,000
Section 1(b)	$60,000
Section 1(c)	$40,000
Section 1(d)	$32,500

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25, the following new item:

"Sec. 25A. Middle income taxpayers credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990, and before January 1, 1992.

SEC. 102. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Section 28(b)(1) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 103. 1-YEAR EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subsection (o) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended—

(1) by striking "1991" each place it appears and inserting "1992",

(2) by striking "1992" each place it appears in paragraph (2) and inserting "1993",

(3) by striking "1993" in paragraph (2)(B) and inserting "1994", and

(4) by striking "1994" in paragraph (2)(C) and inserting "1995".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1991.

SEC. 104. 1-YEAR EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "December 31, 1992".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 of such Code (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendments made by subsection (a) shall apply to bonds issued after December 31, 1991.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after December 31, 1991.

SEC. 105. PENALTY-FREE IRA WITHDRAWAL FOR HOME PURCHASE, HIGHER EDUCATION, AND HEALTH COSTS.

(a) IN GENERAL.—Section 408(d) of the Internal Revenue Code of 1986 (relating to tax treatment of distributions) is amended by adding at the end thereof the following new paragraph:

"(8) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified special purpose distribution from an individual retirement account or an individual retirement annuity.

"(B) QUALIFIED SPECIAL PURPOSE DISTRIBUTION DEFINED.—The term 'qualified special purpose distribution' means—

"(i) a qualified first-time homebuyer distribution, or

"(ii) an applicable medical or educational distribution.

"(C) 25 PERCENT ACCOUNT LIMIT.—

"(i) IN GENERAL.—A distribution shall not be treated as a qualified special purpose distribution to the extent it exceeds the amount (if any) by which—

"(I) 25 percent of the sum of the aggregate balance of individual retirement accounts and individual retirement annuities established on behalf of an individual, plus the aggregate amounts previously treated as qualified special purpose distributions, exceeds

"(II) the aggregate amounts previously treated as qualified special purpose distributions.

"(ii) LIMITATION NOT TO APPLY FOR PURPOSES OF SECTION 72(t).—Section 72(t) shall not apply to any distribution which would be a qualified distribution but for the limitations of clause (i).

"(D) DISTRIBUTIONS USED TO PURCHASE A HOME BY FIRST-TIME HOMEBUYER.—For purposes of subparagraph (B)—

"(i) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer (or by a parent or grandparent of a first-time homebuyer) from an individual retirement account or an individual retirement annuity to the extent such payment or distribution is used by the individual receiving the payment or distribution before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such first-time homebuyer.

"(ii) BASIS REDUCTION.—The basis of any principal residence described in clause (i) shall be reduced by any amount excluded from the gross income of such first-time homebuyer (or parent or grandparent thereof) by reason of this section.

"(iii) RECOGNITION OF GAIN AS ORDINARY INCOME.—

"(I) IN GENERAL.—Notwithstanding any other provision of this subtitle, except as provided in subclause (II), gain (if any) on the sale or exchange of a principal residence to which clause (i) applies shall, to the extent of the amount excluded from gross income under this section, be treated as ordinary income by such individual, and section 72(t) shall apply to such amount.

"(II) EXCEPTION.—Subclause (I) shall not apply to any taxable year to the extent of any amount which, before the due date (without extensions) for filing the return for such year, the taxpayer contributes to an individual retirement account or an individual retirement annuity. Such amount shall not be taken into account for purposes of any provision of this title relating to excess contributions.

"(III) COORDINATION WITH OTHER PROVISIONS.—In the event all or part of the gain referred to in subclause (I) is treated as ordinary income under any other provision of this subtitle, such provision shall be applied before subclause (I).

"(iv) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(I) any amount is paid or distributed from an individual retirement account or an individual retirement annuity to an individual for purposes of being used as provided in clause (i), and

"(II) by reason of a delay in the acquisition of the residence, such amount cannot be so used,

the amount so paid or distributed may be paid into an individual retirement account or an individual retirement annuity as provided in paragraph (3)(A)(i) without regard to paragraph (3)(B), and, if so paid into such other account or annuity, such amount shall not be taken into account in determining whether paragraph (3)(A)(i) applies to any other amount.

"(v) DEFINITIONS.—For purposes of this subparagraph—

"(I) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(II) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subparagraph applies.

"(III) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(IV) DATE OF ACQUISITION.—The term 'date of acquisition' means the date on which a binding contract to acquire the principal residence to which clause (i) applies is entered into, or on which construction or reconstruction of such a principal residence is commenced.

"(E) APPLICABLE MEDICAL DISTRIBUTIONS.—For purposes of subparagraph (A), the term 'applicable medical distributions' means any distributions made to an individual (not otherwise taken into account under this subsection) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 for amounts paid during the taxable year for medical care (without regard to whether the individual itemized deductions for the taxable year). For purposes of determining the amount so allowable, any child or grandchild of the taxpayer shall be treated as a dependent of the taxpayer.

"(F) DISTRIBUTIONS FOR EDUCATIONAL EXPENSES.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'applicable educational distributions' means distributions to an individual to the extent that the amount of such distributions (not otherwise treated as qualified special purpose distributions, determined after application of subparagraph (E)) does not exceed the qualified higher education expenses of the individual for the taxable year.

"(ii) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of clause (i)—

"(I) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the taxpayer, the taxpayer's spouse, or the taxpayer's child (as defined in section 151(c)(3)) or grandchild, at an eligible educational institution (as defined in section 135(c)(3)).

"(II) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 106. DEDUCTION FOR CAPITAL GAINS ON CERTAIN SMALL BUSINESS STOCK.

(a) IN GENERAL.—Subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to capital gains and losses) is amended by adding at the end thereof the following new part:

"PART VII—ENTERPRISE CAPITAL INVESTMENT INCENTIVES

"Sec. 1301. Deduction for gain on certain small business stock.

"Sec. 1302. Definitions and special rules.

"SEC. 1301. DEDUCTION FOR GAIN ON CERTAIN SMALL BUSINESS STOCK.

"(a) GENERAL RULE.—If a taxpayer has a qualified small business net capital gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(1) 50 percent of the excess (if any) of—

"(A) qualified small business net capital gain, over

"(B) the amount of seed capital gain, plus

"(2) the seed capital gain deduction.

"(b) QUALIFIED SMALL BUSINESS NET CAPITAL GAIN.—For purposes of this section, the term 'qualified small business net capital gain' means the lesser of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain for the taxable year determined by taking into account only gain or loss from sales or exchanges of qualified small business stock with a holding period of more than 5 years at the time of sale or exchange.

"(c) SEED CAPITAL GAIN DEDUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'seed capital gain deduction' means an amount equal to the sum of the amounts determined by applying the applicable percentages to the appropriate categories of seed capital gain under the table contained in paragraph (2).

"(2) COMPUTATION OF AMOUNT.—The seed capital gain deduction shall be computed as follows:

"In the case of:	The applicable percentage is:
5-year gain	50
6-year gain	60
7-year gain	70
8-year gain	80
9-year gain	90
10-year gain	100.

"(3) SEED CAPITAL GAIN.—For purposes of this subsection, the term 'seed capital gain' means the lesser of—

"(A) the excess (if any) of—

"(i) the net capital gain for the taxable year, over

"(ii) the qualified small business net capital gain for the taxable year determined without regard to gain or loss described in subparagraph (B), or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from sales or exchanges of stock—

"(i) which is qualified small business stock in a corporation which is a qualified small business (determined by substituting '$5,000,000' for '$100,000,000' in section 1302(b)(1)), and

"(ii) with a holding period of more than 5 years at the time of the sale or exchange.

"(4) CATEGORIES OF GAIN.—For purposes of this subsection—

"(A) 10-YEAR GAIN.—The term '10-year gain' means the lesser of—

"(i) the seed capital gain, or

"(ii) the seed capital gain determined by taking into account under paragraph (3)(B) only gain or loss from qualified small business stock with a holding period of more than 10 years at the time of the sale or exchange.

"(B) OTHER GAIN.—The terms '5-, 6-, 7-, 8-, and 9-year gain' mean, with respect to any category, the lesser of—

"(i) the excess (if any) of—

"(I) seed capital gain, over

"(II) the amount determined under this paragraph for categories with a longer holding period, or

"(ii) seed capital gain determined by taking into account under paragraph (3)(B) only gain or loss from qualified small business stock with a holding period of more than 5, 6, 7, 8, or 9 years but not more than 6, 7, 8, 9, or 10 years, respectively.

"(d) Estates and Trusts.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of qualified small business stock which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gains derived from the sale or exchange of capital assets.

"SEC. 1302. DEFINITIONS AND SPECIAL RULES.

"(a) Qualified Small Business Stock.—For purposes of this part—

"(1) In general.—The term 'qualified small business stock' means any stock in a corporation which is originally issued after December 31, 1991, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (d) and (e), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) 5-year active business requirement.—Stock in a corporation shall not be treated as qualified small business stock unless, during the testing period, such corporation meets the active business requirements of subsection (c).

"(3) Certain redemptions, exchanges, etc. disqualified.—For purposes of paragraph (1)(B), and except as provided in subsections (d) and (e), stock shall not be treated as acquired by the taxpayer at its original issue if—

"(i) it is issued directly or indirectly in redemption of, or otherwise in exchange for, stock which is not qualified small business stock, or

"(ii) it is issued in an exchange described in section 351 in exchange for property other than qualified small business stock, if immediately after the exchange, both the issuer and transferee of the stock are members of the same controlled group of corporations (as defined in section 1563).

"(b) Qualified Small Business.—For purposes of this part—

"(1) In general.—The term 'qualified small business' means any domestic corporation with respect to which the sum of—

"(A) the aggregate amount of money, other property, and services received by the corporation for stock, as a contribution to capital, and as paid-in surplus, plus

"(B) the accumulated earnings and profits of the corporation,

does not exceed $100,000,000. The determination under the preceding sentence shall be made as of the time of such issuance but shall include amounts received in such issuance and all prior issuances.

"(2) Amount taken into account with respect to property and services.—For purposes of paragraph (1)—

"(A) Property.—The amount taken into account with respect to any property other than money shall be an amount equal to the adjusted basis of such property for determining gain, reduced (but not below zero) by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation.

"(B) Compensation for services.—The amount taken into account with respect to stock issued for services shall be the value of such services.

"(c) Active Business Requirement.—For purposes of this part—

"(1) In general.—For purposes of subsection (a)(2), the requirements of this subsection are met if, during the testing period—

"(A) the corporation is engaged in the active conduct of a trade or business, and

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business.

"(2) Special rule for certain activities.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) Stock in other corporations.—

"(A) Look-thru in case of subsidiaries.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) Portfolio stock.—A corporation shall be treated as failing to meet the requirements of paragraph (1) if, at any time during the testing period, more than 10 percent of the value of its assets (in excess of liabilities) consist of stock in other corporations which are not subsidiaries of such corporation.

"(C) Subsidiary.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns at least 50 percent of the combined voting power of all classes of stock entitled to vote, or at least 50 percent in value of all outstanding stock of such corporation.

"(4) Working capital.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(5) Maximum real estate holdings.—A corporation shall not be treated as meeting the requirements of paragraph (1) if, at any time during the testing period, more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

"(6) Small business investment companies.—Paragraph (1) shall not apply to any small business investment company operating under the Small Business Investment Act of 1958.

"(7) Computer software royalties.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(8) Testing period.—For purposes of this section, the term 'testing period' means, with respect to any stock held by a taxpayer, the 5-year period beginning with the first day of the taxpayer's holding period for such stock.

"(d) Special Rules for Options, Warrants, and Certain Convertible Investments.— For purposes of this part—

"(1) In general.—In the case of stock which is acquired by the taxpayer through the exercise of an applicable option or warrant, through the conversion of convertible debt, or in exchange for securities of the corporation in a transaction described in section 368—

"(A) such stock shall be treated as acquired by the taxpayer at original issue, and

"(B) such stock shall be treated as having been held during the period such option, warrant, or debt was held, or such security was outstanding.

"(2) Issue price for convertible debt or security.—For purposes of section 1302(b)(1) and notwithstanding section 1302(b)(2), in the case of a debt instrument converted to stock, or stock issued in exchange for securities in a transaction described in section 368, such stock shall be treated as issued for an amount equal to the sum of—

"(A) the principal amount of the debt or security as of the time of the conversion or exchange, and

"(B) accrued but unpaid interest on such loan or security.

"(3) Applicable option or warrant.—For purposes of this subsection, the term 'applicable option or warrant' means an option or warrant which—

"(A) was issued in exchange for the performance of services for the corporation issuing it, and

"(B) is nontransferrable.

"(e) Certain Tax-Free and Other Transfers.—For purposes of this part—

"(1) In general.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) Transfers to which subsection applies.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death,

"(C) to the extent that the basis of the property in the hands of the transferee is determined by reference to the basis of the property in the hands of the transferor by reason of section 334(b), 723, or 732, or

"(D) of qualified small business stock for other qualified small business stock in a transaction described in section 351 or a reorganization described in section 368.

"(3) Incorporations and reorganizations involving nonqualified stock.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock which is not qualified small business stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) LIMITATION.—This part shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(f) STOCK EXCHANGED FOR PROPERTY.—For purposes of this part, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(1) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(2) the basis of such stock in the hands of the taxpayer shall be treated as equal to the fair market value of the property exchanged.

"(g) PASS-THRU ENTITIES.—For purposes of this part, any gain or loss of a pass-thru entity which is treated for purposes of this subtitle as a gain or loss of any person holding an interest in such entity shall retain its character as qualified small business or seed capital gain or loss in the hands of such person.

"(h) INDEXING.—In the case of any stock issued in a calendar year after 1992, the $5,000,000 and $100,000,000 amounts in section 1301(c)(3)(B)(i) and subsection (b)(1) of this section shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1991' for '1987' in subparagraph (B) thereof.".

(b) MAXIMUM 14 PERCENT TAX RATE.—

(1) INDIVIDUALS.—Section 1(h) of such Code is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rate and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

"(2) SPECIAL RULE WHERE TAXPAYER HAS QUALIFIED SMALL BUSINESS NET CAPITAL OR SEED CAPITAL GAIN.—

"(A) IN GENERAL.—If a taxpayer has qualified small business net capital gain or seed capital gain for any taxable year, then the tax imposed by this section shall not exceed the lesser of—

"(i) the amount determined under paragraph (1), or

"(ii) the sum of—

"(I) the amount determined under paragraph (1) without taking into account qualified small business net capital gain and seed capital gain for purposes of subparagraphs (A) and (B) thereof, plus

"(II) 14 percent of the qualified small business net capital gain and seed capital gain.

"(B) DEFINITIONS.—For purposes of this paragraph, the terms 'qualified small business net capital gain' and 'seed capital gain' have the meanings given such terms by section 1301 (b) and (c), respectively.".

(2) CORPORATIONS.—Section 1201(a) of such Code (relating to alternative tax for corporations) is amended—

(A) by inserting "or the corporation has a qualified small business net capital gain or seed capital gain" before ", then", and

(B) by striking paragraph (2) and inserting:

"(2) a tax equal to the sum of—

"(A) 34 percent of the sum of the net capital gain, reduced by qualified small business net capital gain and seed capital gain, plus

"(B) 17 percent of the qualified small business net capital gain and seed capital gain.".

(c) TREATMENT AS PREFERENCE ITEM FOR MINIMUM TAX.—Section 57(a) of such Code (relating to items of tax preference under the alternative minimum tax) is amended by adding at the end thereof the following new paragraph:

"(8) CAPITAL GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to the deduction for the taxable year determined under section 1301(a)(1).".

(d) LOSSES ON SMALL BUSINESS STOCK.—Section 1244(c)(3)(A) of such Code (defining small business corporation) is amended by striking "$1,000,000" and inserting "$5,000,000 (adjusted at the same time and manner as under section 1302(g))".

(e) CONFORMING AMENDMENTS.—

(1) Section 62(a) of such Code is amended by adding after paragraph (13) the following new paragraph:

"(14) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1301.".

(2) Subparagraph (B) of section 170(e)(1) of such Code is amended by inserting "(or, in the case of qualified small business stock under section 1301, 50 percent of the amount)" after "the amount".

(3) Section 172(d)(2) of such Code is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction for long-term capital gains provided by section 1301 shall not be allowed.".

(4) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 220 of such Code is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for long-term capital gains in the case of sale of qualified small business stock, see section 1301.

"(2) For deductions in respect of a decedent, see section 691.".

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out "reference" in the item relating to section 220 and inserting "references".

(6) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of qualified small business stock held for more than 5 years, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1301 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).".

(7) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1301 (relating to deduction for gain on qualified small business stock) shall not be taken into account.".

(8) Paragraph (4) of section 691(c) of such Code is amended by striking out "1(h), 1201, and 1211" and inserting in lieu thereof "1(h), 1201, 1211, and 1301, and for purposes of section 57(a)(8)".

(9) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking out "66 percent" and inserting "the rate differential portion (within the meaning of section 904(b)(3)(E))".

(10) The second sentence of paragraph (2) of section 871(a) of such Code is amended by inserting "such gains and losses shall be determined without regard to section 1301 (relating to deduction for qualified small business net capital gains) and" after "except that".

(11) Section 1402(i)(1) of such Code is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1301 shall not apply.".

(12) Section 1445(e)(1) of such Code is amended by striking out "34 percent (or, to the extent provided in regulations, 28 percent)" and inserting "34 percent (or, to the extent provided in regulations, the alternative tax rate determined under section 904(b)(3)(E)(iii))".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to stock issued after December 31, 1991.

(2) APPLICATION OF TAX INCENTIVE TO CURRENT STOCK HOLDINGS OF INVESTORS.—

(A) IN GENERAL.—If—

(i) a taxpayer holds any stock on any date on or after the date determined under subsection (a) which, at the time it was issued, would be treated as qualified small business stock (as defined in section 1302(a) of the Internal Revenue Code of 1986) without regard to the time it was issued, and

(ii) the value of such stock on such date exceeds its adjusted basis,

the taxpayer may elect to treat such stock as having been sold on such date for an amount equal to its value on such date (and as having been reacquired on such date for an amount equal to such value). The gain from such sale shall be treated as received or accrued (and the holding period of the reacquired stock shall be treated as beginning) on such date. For purposes of applying section 1301 of such Code, such stock shall be treated after such reacquisition as acquired in the same manner and at the same time as the original acquisition and the requirement of section 1302(a)(1) that the stock must have been issued after December 31, 1991, shall not apply.

(B) ELECTION.—An election under subparagraph (A) with respect to any stock shall be made in such manner as the Secretary may prescribe. Such an election, once made with respect to any stock, shall be irrevocable.

TITLE II—INCREASED OBLIGATION CEILINGS UNDER FEDERAL TRANSPORTATION TRUST FUNDS

SEC. 201. OBLIGATION CEILING FOR FEDERAL-AID HIGHWAY PROGRAMS.

Notwithstanding any other provision of law, the total of all obligations for Federal-aid highway programs (including minimum allocations for States under section 157 of title 23, United States Code) shall not exceed—

(1) $17,300,000,000 for fiscal year 1992;

(2) $17,800,000,000 for fiscal year 1993;

(3) $18,300,000,000 for fiscal year 1994;

(4) $18,800,000,000 for fiscal year 1995;

(5) $18,300,000,000 for fiscal year 1996; and

(6) $17,120,000,000 for fiscal year 1997.

SEC. 202. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR AIRPORT DEVELOPMENT AND PLANNING GRANTS; OBLIGATION CEILINGS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund, $250,000,000 which shall be available only to incur obligations to make grants under section 505(b) of the Airport and Airway Improvement Act of 1982.

(b) OBLIGATION CEILING.—Notwithstanding any other provision of law, the total of all obligations under section 505(b) of the Airport and Airway Improvement Act of 1982 shall not exceed $2,150,000,000 for each of the fiscal years 1993 through 1996.

SEC. 203. OBLIGATION CEILINGS FOR MASS TRANSIT DISCRETIONARY GRANTS.

Notwithstanding any other provision of law, the total of all obligations for the discretionary capital grant program funded out of the Mass Transit Account of the Highway Trust Fund shall not exceed $1,535,000,000 for each of the fiscal years 1993 through 1995.

SEC. 204. SURFACE TRANSPORTATION AUTHORITIES.

The following sections of S. 1204 of the One Hundred Second Congress (as passed the Senate) are hereby enacted: sections 102 and 103, sections 105 through 140, and sections 301 through 347.

TITLE III—DEFICIT NEUTRALITY

SEC. 301. ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (as adjusted under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985) are decreased as follows:

(1) the discretionary spending limit with respect to fiscal year 1993 for the defense category (under section 601(a)(2)(C)(i) of such Act) is decreased by $8,900,000,000 in new budget authority and $2,300,000,000 in outlays;

(2) the discretionary spending limit with respect to fiscal year 1994 for the discretionary category (under section 601(a)(2)(D) of such Act) is decreased by $12,800,000,000 in new budget authority and $7,600,000,000 in outlays; and

(3) the discretionary spending limit with respect to fiscal year 1995 for the discretionary category (under section 601(a)(2)(E) of such Act) is decreased by $17,600,000,000 in new budget authority and $13,800,000,000 in outlays.

(b) REDUCTION IN DEFENSE CATEGORY.—The reductions required under this section shall be achieved through reduction of discretionary appropriations in only the defense category.

SEC. 302. DEFENSE SPENDING LIMITS.

(a) IN GENERAL.—Section 301 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new subsection:

"(j) DEFENSE SPENDING LIMITS.—(1) The term 'defense spending limit' means spending for the major functional category for national defense (function 050) as follows—

"(A) with respect to fiscal year 1994, $282,200,000,000 in new budget authority and $282,300,000,000 in outlays;

"(B) with respect to fiscal year 1995, $280,300,000,000 in new budget authority and $277,600,000,000 in outlays;

"(C) with respect to fiscal year 1996, $272,900,000,000 in new budget authority and $274,200,000,000 in outlays; and

"(D) with respect to fiscal year 1997, $261,400,000,000 in new budget authority and $264,000,000,000 in outlays,

as adjusted consistent with the adjustments that section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 requires that the President or the Director of the Office of Management and Budget make to the discretionary spending limits.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for a fiscal year, amendment to such a concurrent resolution, motion in relation to such a concurrent resolution, or conference report on such a concurrent resolution, that would cause the level of budget authority or outlays for the major functional category for national defense (function 050) for the first fiscal year that is set forth in such concurrent resolution or conference report to exceed the defense spending limit set forth for that year under this subsection.".

(b) PRESIDENT'S BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with levels of budget authority and outlays for the major functional category for national defense (function 050) that do not exceed the defense spending limits set forth under section 301(j)(1) of the Congressional Budget Act of 1974 for any of the 5 years covered by that budget.".

SEC. 303. NO SEQUESTRATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, there shall not no sequestration under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 as a result of any reduction in tax revenues caused by application of the provisions of (and amendments made by) this Act.

(b) BUDGET TOTALS ADJUSTMENTS.—

(1) PRESIDENT'S BUDGET.—When the President submits the budget for fiscal years 1993, 1994, and 1995, in addition to any adjustments required by section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985, the maximum deficit amounts for the budget year and all outyears through fiscal year 1995 (under section 601(a) of the Congressional Budget Act of 1974) shall be adjusted to reflect up-to-date reestimates of the effects on the deficit of the provisions of (and amendments made by) this Act.

(2) CALCULATION OF INCREASE OR DECREASE.—The required increase or decrease under this subsection shall be calculated so that the maximum deficit amount shall be increased by the amount by which the provisions of (and amendments made by) this Act increase the deficit and the maximum deficit amount shall be decreased by the amount by which the provisions of (and amendments made by) this Act decrease the deficit.

By **Mr. KENNEDY** (for himself, Mr. DURENBERGER, Ms. MIKULSKI, Mr. PACKWOOD, Mr. WIRTH, Mr. MCCONNELL, Mr. WELLSTONE, Mr. DECONCINI, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. COHEN, Mr. CRANSTON, Mr. DIXON, Mr. GORE, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. ROBB, Mr. SARBANES, Mr. SIMON, and Mr. WOFFORD):

S. 2062. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

EQUAL REMEDIES ACT OF 1991

Mr. KENNEDY. Today, we are introducing legislation to repeal the cap on the amount of damages available to women, religious minorities, and the disabled under the recently enacted Civil Rights Act of 1991. Identical legislation is being introduced in the House of Representatives.

I intend to ask the Senate Labor Committee to report this legislation at the beginning of the next session of Congress, and Majority Leader Mitchell has assured me that he will schedule it for action early in the session.

Three weeks ago, Congress passed a landmark civil rights bill that will restore to all Americans the ability to enforce their right to be free from job discrimination. Those who are committed to equal justice under law struggled for two years to pass this legislation, and its enactment constituted an impressive victory.

For the first time, the act gives women, religious minorities, and disabled persons the right to recover compensatory and punitive damages when they suffer intentional job discrimination; racial and ethnic minorities may sue under this provision as well.

Unfortunately, the new remedy created a glaring inequity by placing a ceiling on the amount of damages that can be recovered. As a result of this cap, victims of discrimination based on sex, religion, or disability can recover only limited damages, while victims of race or national origin discrimination—who can sue under a different law—can recover unlimited damages.

There is no justification for this double standard. Intentional discrimination against women, religious minorities, and disabled persons is no less reprehensible than intentional race or national origin discrimination, and our laws should not perpetuate this injustice. Women, religious minorities, and the disabled are not second-class citizens, and they do not deserve second-class remedies.

The standard of proof and the definition of intentional discrimination are identical under the Civil Rights Act of 1991 and the long-standing race discrimination statute. There is no reason to expect significantly more litigation, or significantly larger jury awards, under the 1991 act.

In the last 11 years, under the law which allows racial minorities to recover unlimited damages, only 118 successful claims of intentional discrimination have been reported. Damages were awarded in only 69 of these cases, and damages over $200,000 were awarded in only three of these cases.

The caps under the 1991 act will not affect the size of the award for the vast majority of victims of discrimination. But those who have suffered the most severely, or been the victim of the worst discrimination, will be prevented from recovering full damages for their injuries, and employers who have committed the most outrageous acts of discrimination will be shielded from full responsibility.

It makes no sense to create a system which protects the worst lawbreakers and denies relief to those who have been harmed the most.

The Civil Rights Act of 1991 laid the groundwork for granting full justice to women, religious minorities, and the disabled. We must now complete the job.

Mr. DURENBERGER. Mr. President, we have just finished one of the most contentious battles I have witnessed in a very long time in the U.S. Senate. After long periods of discussion, negotiation, and debate, we managed to pass a civil rights bill that overruled several wrongly decided 1989 Supreme Court decisions.

I must add that I have been out in front in the race to end all forms of discrimination, in the workplace especially, and beyond. When I came to the U. S. Senate in 1979, I hired a legislative director by the name of Ralph Neas, who now happens to be Executive Director of the Leadership Conference for Civil Rights. And we made a mutual commitment that Ralph was going to help me end discrimination against women in the workplace. At that time, women in the workplace were being paid about 59 percent of what men were being paid. As Ralph showed me, going through the laws in this country, all of the many ways in which explicitly we discriminated against people on the basis of sex.

So in 1980, with the help of then Senator Birch Bayh, we introduced the first Economic Equity Act and reintroduced it, with Senator BOB PACKWOOD, my colleague from Oregon, in 1981; and we have been reintroducing it and passing portions of it every year since.

Over the last 6 years we made great strides under the Economic Equity Act in eliminating sexual discrimination in pension, estate, and tax law, insurance law, and a host of other issues. That effort has continued in the last 5 years under the leadership of Senator AL CRANSTON, Senator BARBARA MIKULSKI, myself, and others. We share a common goal of making this a Government of laws, not of men and women.

So it is clear from a review of this Senator's record that I have a long history of supporting equal opportunity legislation. And the recent civil rights initiative, spearheaded by Senator JOHN DANFORTH, was a victory for all Americans because it reaffirmed to the Nation and to the Supreme Court that we are committed as a nation to civil rights.

In addition to overturning various 1989 Supreme Court decisions, the civil rights bill plugged one of the biggest gaps in our civil rights laws by providing much-needed relief to victims of discrimination.

Previously, although racial and ethnic minorities were eligible for unlimited compensatory and punitive damages determined by a jury under section 1981 of the Civil Rights Act of 1986, women, the disabled, and persons suffering discrimination on the basis of religion, were only eligible for equitable relief and a court order reinstating the victim to his or her prior job.

In the new civil rights bill that we passed only a few short weeks ago, we provided to women, disabled, and those discriminated against on the basis of religion, compensatory and punitive damages awarded by a jury. The damages are only available to victims of intentional discrimination, and the law only provides recourse to employees who have suffered from deliberate employer conduct.

Thus, we are holding employers accountable for their actions, and thereby encouraging corporations to invest in educating their managers, supervisors, and employees, so employers will eliminate intentional discrimination from the workplace.

This was a much needed remedy, and I applaud the effort. But we did a novel thing when we created this new remedy: We capped the damages at a certain level. In other words, we limited the amount of compensatory and punitive damages in deliberate intentional discrimination cases, and we did it on the basis of the size of the company.

Mr. President, I announced at that time that I voted for the Civil Rights Act that I opposed the capping of the awards for women, the disabled, and those discriminated against because of religion. I did it because if we are to have equal rights, then we need to have equal remedies.

I opposed the damages caps at that time, and I would like to explain why I voted for a bill that contained the caps—there were two reasons. First, I obtained a promise on the part of the Senate leadership, as many of us did, that they would bring to the Senate floor early next year, that is in 1992, the bill that I am cosponsoring today, to lift the damages caps. And second, it was clear after a year-and-a-half of difficult negotiations that any attempt to lift the caps would require a conference with the House and would invite a Presidential veto. This, it would have been counterproductive at a time when we were trying to provide equal access to jury trials, and to provide damages for women and the disabled, to introduce an amendment that eliminated the caps.

Now that the Civil Rights Act has been signed by the President, I ask my colleagues: Why should women, people with disabilities, and those discriminated against intentionally because of religion, be singled out for special treatment? Should they not be entitled to the same relief that all other plaintiffs receive? I think everyone should be allowed to collect the same level of damages.

The reason is simple. The whole premise of civil rights law is to assure equal opportunity to every person. Congress mandates equal rights for all people regardless of race, sex, national origin, or religion.

But if we are to create equal rights, then we must also create and implement equal remedies. Congress must permit all individuals to share equal remedies under the law, and that is why I oppose the caps on damages.

The civil rights bill that we passed just a few short weeks ago had a fatal flaw. In attempting to encourage employers to treat each person equally, we wrote into the law unequal remedies. Racial minorities were entitled to unlimited damages, while women and the disabled have a cap placed on the damages available to them. This detracts from the very equality that we hope to sustain.

So, Mr. President, the time is at hand when we can do something about unequal treatment. And that is exactly what we are doing with the legislation introduced by Senator KENNEDY, myself and others, and the present occupant of the chair, my colleague from the State of Minnesota.

I strongly endorse this proposal to lift the caps. I urge all of my colleagues, particularly on the Republican side of the aisle, to support it. Prior to the new civil rights law, women and the disabled were treated as second class citizens. We cannot allow this treatment to continue.

Mr. PACKWOOD. Mr. President, on October 29 of this year I stood before this body and lamented the fact that we were about to pass the Civil Rights Act of 1991 incorporating a provision that goes only part way toward correcting an equal protection problem in our law. I and others have detailed the history of how remedies for various kinds of intentional job discrimination came to be unequal.

When Congress passed title VII of the Civil Rights Act of 1964, it provided that the remedies for intentional discrimination based on race, sex, religion, or national origin would be primarily "equitable"—that is, you could get injunctions to stop the illegal treatment, and you could get reinstated to your job, and maybe back pay if you were illegally fired. You could not get compensatory damages, which are designed to compensate you for losses you suffered like doctor bills or losing your car if you could not make payments. You could not get punitive damages, which are designed, in egregious cases, to punish the wrongdoer who caused the discrimination.

Congress set up the title VII scheme to give everyone the same kinds of remedies. If you were black and mistreated on the job because of it, you had the same relief available to you as if you were a woman mistreated on the job because of her sex. But in 1976 an anomaly was created by a court when a race discrimination plaintiff successfully argued that they should be able to use section 1981, an 1866 statute which prohibits race discrimination in contracts, to get relief from job discrimination. This makes sense when you think about it because an employment situation really is a contract, an agreement between parties. But the effect of the court accepting this argument is that since 1976 race discrimination victims, and I understand some victims of discrimination based on national origin, have been able to get money damages while women and religious minorities could not. This is an anomaly in the law, created by judicial interpretation, not by any intent of Congress.

The Civil Rights Act of 1991 provides, for the first time, a remedy of money damages for all types of job discrimination, including even handicap discrimination, which was not included in title VII. But the act limits the dollar amount of damages. It is a step in the right direction but it maintains the basic inequity, since race discrimination victims can still use section 1981 and get unlimited damages.

When we passed the Civil Rights Act of 1991, I and some of my distinguished colleagues noted that they were uncomfortable with the still-unequal remedy scheme, and would continue to advocate for uncapped damages for all. I therefore am pleased to join with Senators KENNEDY, DURENBERGER, MCCONNELL, and COHEN and many other Senators to introduce the Equal Remedies Act of 1991, and look forward to Senate action on this very important matter.

Mr. METZENBAUM. Mr. President, I rise as an original cosponsor of the Equal Remedies Act of 1991. This legislation would remove the stigma of second-class status from the working women of this country, from religious minorities, and from the disabled. It would also strike a blow for equal treatment, a principle which every one of us should embrace.

The Civil Rights Act of 1991, signed into law by the President on November 21, 1991, was a giant step forward in the effort to restore the scope and protections of Federal civil rights law. But like most compromises, the Civil Rights Act of 1991 was not a perfect piece of legislation.

In addition to overturning eight Supreme Court decisions, the act attempted to address a longstanding anomaly in Federal civil rights law. Under title VII, women and religious minorities have received backpay and injunctive relief as remedies for intentional discrimination; punitive and compensatory damages have not been available. When the disabled were accorded rights for the first time under the Americans With Disabilities Act of 1990, they were restricted to these remedies as well.

But racial minorities have long been able to recover unlimited punitive and compensatory damages for intentional race discrimination under section 1981, a post-Civil War Reconstruction statute barring discrimination in contracts. Thus, under Federal law prior to enactment of the Civil Rights Act of 1991, racial minorities could recover unlimited punitive and compensatory damages for intentional discrimination, but women, religious minorities, and the disabled could not.

The Civil Rights Act of 1991 creates an important new remedy for women, religious minorities, and the disabled. But tragically, the inequity I have just described remains true today. The act does allow victims of intentional discrimination to recover compensatory and punitive damages, but this recovery is subject to monetary limitations—$50,000, $100,000, $200,000, and $300,000—that vary with the size of the employer. Out-of-pocket compensatory damages are not subject to these limitations. Thus, it is still the case that racial minorities may recover unlimited punitive and compensatory damages for intentional discrimination, but women, religious minorities, and the disabled may not.

This inequity has a tremendous practical effect on the disadvantaged groups. First, because compensatory damages are designed to make an individual whole for all losses they have suffered, it is completely inappropriate to place a monetary limitation on the amount that individual can recover. Victims of intentional harassment and discrimination often suffer severe physical and mental injuries as a consequence. The harms suffered by these victims are not capped in any way, and the remedies available to them should not be limited either.

Second, punitive damages are designed to punish employers who have acted with malice or with reckless indifference to the victim's rights. To ensure that the amount awarded deters the employer from future violations, juries are instructed to consider all relevant circumstances, including the employer's net worth. The Civil Rights Act of 1991 limits the amount of damages that may be awarded, based on the number of employees an employer has. While that number may roughly correspond to the employer's net worth in some instances, size is by no means a proxy for wealth. Moreover, these limitations apply to smaller employers who intentionally discriminate no matter how egregious their conduct. As a consequence, some may escape with only a monetary slap on the wrist that does not serve as a deterrent to future violations.

The legislation we are introducing today performs a quick and simple surgery on the damages provision established by the Civil Rights Act of 1991. It eliminates the monetary limitations described above, to ensure that the Federal Government treats all forms of intentional discrimination equally. I am proud to join with Senators KENNEDY, MIKULSKI, WIRTH, DURENBERGER, and the other original cosponsors in offering this legislation.

Up to now, the very statutes designed to ensure equality of opportunity for all Americans themselves have contained provisions which discriminate against women, religious minorities, and the disabled in terms of the remedies they may recover. Let us move swiftly to remove this inequity from Federal law. I can think of no reason to oppose this legislation, except for a willingness to let women, religious minorities, and the disabled be treated as second-class workers. I certainly hope no one will do so.

Mr. WELLSTONE. Mr. President, today we introduce the Equal Remedies Act of 1991—an act which rectifies a serious inequity created by the Civil Rights Act which was enacted by Congress this fall.

Under the Civil Rights Act which we recently passed, victims of intentional discrimination based on sex, religion, or disability in the workplace will be able to sue under the Federal civil rights laws for the first time. This was a giant step forward in the granting of equal civil rights to all Americans, and toward the elimination of the cancer of discrimination in our society.

That act, however, went only part of the way. While it established a remedy for victims of sex, religious, and disabled status discrimination, it also set a cap—an upward limit—on the amount of damages that the victims of these kinds of discrimination could receive. Although victims of racial discrimination are now able to receive unlimited damages to redress the violations of their civil rights, victims of discrimination on the basis of sex, religion, or disabled status are not.

I know of no legitimate reason—indeed, none has ever been advanced—that justifies this difference in treatment. Illegal discrimination of any kind wounds its victims. Illegal discrimination of any kind diminishes us as a society and as a Nation. We cannot say that one kind of discrimination is better or less reprehensible than another; that the legal remedies for one kind of discrimination will be limited, while the remedies for another will not. The existence of a two-tier system of remedies says to the victims of sex, religious, and disability status discrimination that what they have suffered is of lesser importance; it says to the perpetrators of this discrimination that the law has greater tolerance for their conduct. Neither is true. Both messages of the prior Civil Rights Act must be eradicated.

The section on damages in the Civil Rights Act represented a compromise necessitated by concern about passing a bill which would be signed by the President. Now that this step has been taken, we need to take the next step: The elimination of a damage scheme that itself discriminates against victims of employment discrimination. I believe that Americans believe in fairness and equality. I believe that the U.S. Senate remains committed to fairness and equality. By enacting this legislation, we will be finally completing the eradication of this last vestige of invidious discrimination in the civil rights laws.

By Mr. LEAHY:

S. 2063. A bill to amend the Communications Act of 1934 to require cable television operators to provide notice and options to consumers regarding the use of converter boxes, remote control devices, and multiport technology; to the Committee on Commerce, Science, and Transportation.

CABLE TELEVISION LEGISLATION

Mr. LEAHY. Mr. President, there is a concern I have, and I suspect it is one probably shared by many of those who are watching C-SPAN, or watching these proceedings, and that is the problem of cable television.

My home in Vermont is blessed by the fact that it is so far out in the country, and the houses are about a mile or so apart and you do not have cable television. In fact, we practically have no television. I think we get 1½ channels; one sort of comes in, and other comes in not too bad in the picture, but poor in the content.

I constantly run into people who tell me about the problems with cable television. It was not until I decided, in the home that I use during the week here in the Washington area, to put in cable television that I found out why people complain so about cable. In the rural independent part of the country that I am from, maybe it is just as well they do not have this type of TV. It would probably spark a revolution of people marching on cable headquarters.

So, Mr. President, I rise today to speak about Cable TV, an issue which has the American people fed up, out of patience and ready for action. They are tired of rising prices and dismal service, tired of being charged for channels they never ordered, converter boxes they do not want and remote control units they are forced to rent, tired of being a captive audience for cable operators and tired of too little action from Congress and the President.

THE CABLE MONOPOLY

Meanwhile, politicians, bureaucrats, and lobbyists here in Washington show an amazing ability to stay behind the curve. Last March, a panel of leading industry lights argued at a Senate hearing that cable is not a monopoly because people have other alternatives—such as watching over-the-air stations, or home videos or driving off to a ball game, instead of watching it in their living room. This makes about as much sense as saying that old Ma Bell was not a monopoly because people could write letters or send telegrams. Settling for a handful of over-the air stations or renting a movie is no substitute for the 30, 50, or 80 channels available on cable.

Meanwhile, our Federal watchdog agency, the FCC, after lengthy bureaucratic review, concluded in July that cable operators face effective competition if there are six over-the-air stations in their area. This decision was apparently considered a great advance over the old rule which said that three over-the-air channels amounted to meaningful competition.

All I can say about that is: Guys, you just do not get it. The bureaucrats and experts in Washington can debate the antitrust laws until the cows come home and try to convince each other that cable is not a monopoly, but the American people know better. Any consumer from Burlington, VT, to San Francisco can tell you that if you want to get a full slate of programming, you will probably have to deal with the local cable company. If that is not a monopoly, I do not know what is.

Moreover, cable is an unregulated monopoly. In 1984, Congress stepped in and freed cable from much regulation. In fact, basic cable rates were supposed to be regulated wherever cable faced no effective competition. But when the FCC waved its wand and declared—contrary to simple common sense—that virtually all cable operators did face competition, the operators were off to the races.

From November 1986 to April 1991, basic rates shot up by 56 percent. In a similar period in my own State of Vermont, prices rose 48 percent. And those are just averages. We have all heard the horror stories about truly astronomical increases—of 130 percent in Newark; 186 percent in Jefferson City, MO; and 222 percent in one Connecticut town because of the monopoly. Meanwhile, the unprotected victims of this price-gouging have no recourse.

As cable revenues soared, the industry took aggressive steps to consolidate its position, buying up programmers and preventing potential competitors like satellite or wireless cable from gaining access to key programming. When, for example, cable operators deny competitors access to prime attractions like TNT, with its NBA and NFL broadcasts, what they are doing is making the world safe for monopoly.

And unsafe for consumers. As long as companies face real competition, customers are well served. But if the customer is captive, business' natural impulse to maximize profits means rising prices and declining service. That is why anyone who thinks that cable or any other monopoly can effectively police itself is dreaming.

Of course, in a sense, cable has become a victim of its own success. The programming that cable and its newer competitors like satellite and wireless deliver has increasingly become a fixture in American households. If you want to see news around the clock on CNN; if you want to see public affairs programming on C-SPAN; if you want to see first-run movies or a full menu of college and professional sports, you cannot rely on your old antenna. The days when people were satisfied with a handful of broadcast stations are over. But the more that people come to rely on cable programming, the more that cable's monopoly status becomes intolerable.

THE COMPREHENSIVE CABLE BILL—S. 12

A number of my colleagues, including Senators HOLLINGS, INOUYE, GORE, METZENBAUM, LIEBERMAN, and DANFORTH have been wrestling with the cable issue for a long time and I commend their efforts in doing that. In essence, S. 12 establishes a temporary regulatory scheme while encouraging the growth of a competitive environment that will allow regulation to be phased out.

On the regulatory front, S. 12 requires that cable rates be reasonable and establishes standards for adequate service.

On the competitive front, S. 12 bars any programmer that owns or is owned by a cable operator from unreasonably refusing to deal with competitors like satellite and wireless or from discriminating against them in the price or terms of sale, if such discrimination damages local competition. I think that these nondiscrimination provisions could be still tougher, but they are an important step in the right direction.

I so have some concern about the copyright implications of the bill's new provisions on retransmission consent, and I plan to review those provisions carefully. But, on the whole, I think the approach of S. 12 is right on target.

The cable monopoly, of course, wants to continue to have its cake and eat it too. Cable operators oppose regulation on the ground that the free market should be left to work its will, but oppose the very measures—open access to programming—that would allow the free market to work. They talk about letting the free market in, but they make darn sure the free market does not come in.

The truth is that, when it comes to exclusive program deals, the cable industry has a lousy memory. In 1976, when the networks dominated and cable was a fledgling upstart, Congress granted cable a compulsory license so that cable would have full access to broadcast programming and could compete effectively. Now that the shoe is on the other foot, cable insists on its God-given right to tie up programming with exclusive contracts.

It may be that cable operators should not have been allowed to integrate vertically in the first place. If cable systems and cable programmers had remained in separate hands, many of the anticompetitive problems we face now could have been avoided. But given the vertically integrated world we live in now, with most top programmers owned by cable operators, the least we can do is demand that cable's competitors have access to programming on fair terms. To do less is to consign those competitors to defeat and America's consumers to the whims of monopoly power.

CABLE EQUIPMENT BILL

The bill I am introducing today—the Cable Ready Equipment Act of 1991—is aimed at a problem that more and more cable customers are confronting, to their dismay: Namely, that the converter boxes many are required to use disable important features of their cable ready TV's and VCR's.

How many people, Mr. President, have come to you, as they have to me, and said they have cable but then are told to get a converter box. They have to rent the converter box. How many of these people come in and say, "Hey, I got cable, but the cable company told me, 'Well, now you have to rent a converter box from us.'"

And why do you have to rent the converter box? Does it give you a better picture? Usually not. If anything, it usually degrades the picture. Why do you have to do it? If you do take this converter box that they tell you you need, then the TV remote control unit that you bought with your television becomes worthless. That box also makes it impossible to watch one channel while you tape another or to tape consecutive programs on different channels.

And if your new TV includes special features like a picture-in-a-picture display that lets you simultaneously check out a second channel while watching something else—forget it. The converter box prevents that feature from working—this converter box which you were required by your cable company to take apparently for no other reason than the fact that they make money on it.

My bill would do a number of things to make cable equipment more user-friendly:

First, it would encourage cable systems to use methods of signal denial—such as trapping or interdiction—which do not require a converter box in the first place. Because it is more and more evident to me that the main reason for converter boxes is that cable companies can charge for them. The fact that you bought a whole lot of equipment that you are not going to be able to use is immaterial to them as long as they are making money. The heck with whatever inconvenience it causes you;

Second, my bill would forbid cable operators from scrambling those channels offered on basic cable service;

Third, it would require cable operators to offer subscribers the option of receiving their unscrambled channels by direct hookup to their television, eliminating the converter box as to all such stations;

Fourth, cable operators would have to offer subscribers the option of purchasing a remote control device from any source rather than having to rent it from the cable operator.

Finally, it would direct the FCC to establish regulations phasing in a new technology called mutiport, which can decode scrambled signals without disabling any features of either a cable-ready TV or VCR.

If we lived in a real competitive cable world, this legislation would be unnecessary.

Can you imagine if you had two cable companies, one which said, "Well, you have to rent all this extra equipment of ours, you have to buy this or rent that, you have to set up all this stuff on your television—granted, it will not allow you to use any of the special features of your TV, but we are going to make money out of it"; and right in that same town another cable company that said, "Hey, same price, we will let you just hook right up to your TV, you will not have to rent extra equipment from us; you won't have to have a half dozen remote controls and so on." Which cable company do you think you would buy service from?

If there were real competition, nobody would put up with the kind of baloney that they put us through.

Enterprising companies would have seized the opportunity to offer consumers user-friendly service that allowed full use of their TV's and VCR's. But in a monopolistic world, which we have in the cable industry, consumers need help and this bill is designed to provide it. This is highly technical legislation, and I look forward to working on it with interested and knowledgeable parties in this country and within the Senate.

SATELLITE HOME VIEWER ACT—STANDING

My second bill—which I introduced Thursday—is intended to help reduce the amount that home dishowners have to pay for programming. Congressman BOUCHER has introduced companion legislation in the House. As an FCC study concluded in July, satellite carriers that uplink and downlink superstations and network affiliates routinely charge satellite distributors, who sell programming to dishowners, far more—sometimes several times more—than they charge cable operators. This price discrimination against satellite distributors in turn drives up the price that home dishowners have to pay.

That kind of price discrimination is clearly illegal under the Satellite Home Viewer Act of 1988. The problem is that the distributors have no standing to sue to enforce their rights.

My bill—the Satellite Home Viewer Act Amendments of 1991—will correct this anomaly by making clear that satellite distributors have such standing.

Mr. President, Congress cannot continue to ignore the growing problems in the cable industry. I fully agree that competition is the best way to protect consumers, but until consumers have genuine competitive options and are free from monopoly abuse, regulation will be necessary. Moreover, unless monopoly power is restrained by legislation, new competitors like satellite and wireless will die on the vine.

In this regard, I also want to register my concern over the proposed rule announced in July by the Copyright Office—a rule which would doom wireless cable by denying it the all important benefits of the cable compulsory license. Competition to cable should be the order of the day. The last thing we need is to squeeze the life out of a potential competitor.

Mr. President, I look forward to the debate on comprehensive cable legislation early next year. Cable's captive audience is restless and it has a right to demand better treatment. It is up to the Congress and the White House to deliver.

I ask unanimous consent that the full text of my cable equipment bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NOTICE AND OPTIONS TO CONSUMERS REGARDING CABLE READY EQUIPMENT.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. NOTICE AND OPTIONS TO CONSUMERS REGARDING CABLE READY EQUIPMENT.

"(a) SHORT TITLE.—This section may be cited as the 'Cable Ready Equipment Act of 1991'.

"(b) FINDINGS.—The Congress finds that—

"(1) the use of converter boxes to receive cable television may disable certain features of cable ready televisions and VCRs, including, for example, the ability to—

"(A) watch a program on one channel while simultaneously using a VCR to tape a different program on another channel;

"(B) use a VCR to tape two consecutive programs that appear on different channels; or

"(C) use certain special features of a television such as a 'picture in a picture' feature; and

"(2) cable operators should, to the fullest extent possible, employ technology that allows cable television subscribers to enjoy the full benefit of the features available on cable ready televisions and VCRs.

"(c) DEFINITIONS.—As used in this section:

"(1) The term 'cable ready', when used to describe a television or VCR, means that the television or VCR is equipped with adequate channel capacity to receive the service offered by cable operators without the use of a converter box, except insofar as a converter box is needed to decode scrambled signals.

"(2) The term 'Commission' means the Federal Communications Commission.

"(3) The term 'converter box' means a device that—

"(A) allows televisions that are not cable ready to receive the service offered by cable operators; and

"(B) decodes signals that cable operators deliver to subscribers in scrambled form.

"(4) The term 'multiport' means an apparatus that is built into a television according to the EIA/ANSI 563 standard, or any successor standard accepted by the Commission, into which is fitted a cable system decoder that performs only a descrambling function, while other functions, such as tuning and remote control, are carried out by the television.

"(5) The term 'VCR' means a videocassette recorder.

"(d) SCRAMBLED SIGNALS.—Cable operators shall not scramble or otherwise encrypt any signal that is offered as part of basic cable service, as that term is defined in section 602(2).

"(e) CONVERTER BOXES.—Within 180 days after the date of enactment of this section, the Commission shall promulgate regulations requiring a cable operator offering channels the reception of which requires a converter box to—

"(1) notify a subscriber that if a subscriber's cable service is delivered through a converter box, rather than delivered directly to the subscriber's cable ready television or VCR, the subscriber may be unable to enjoy certain features of his television or VCR, including the ability to—

"(A) watch a program on one channel while simultaneously using a VCR to tape a different program on another channel;

"(B) use a VCR to tape two consecutive programs that appear on different channels; or

"(C) use certain special features of the subscriber's television such as a 'picture in a picture' feature;

"(2) offer any subscriber with a cable ready television who does not receive channels the reception of which requires a converter box, the option of having his cable service installed, or reinstalled, at the cable operator's expense, by direct hookup to the subscriber's television or VCR; and

"(3) offer any subscriber with a cable ready television who receives or wishes to receive channels the reception of which requires a converter box, the option of having his cable service installed, or reinstalled, at the cable operator's expense, in such a way that those channels whose reception does not require a converter box are delivered directly to the subscriber's television or VCR.

"(f) REMOTE CONTROL DEVICES.—Within 180 days after the date of enactment of this section, the Commission shall promulgate regulations relating to the use of remote control devices that shall—

"(1) require a cable operator who offers subscribers the option of renting a remote control unit—

"(A) to notify subscribers that they may purchase from any source a remote control device rather than renting it; and

"(B) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

"(2) prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units.

"(g) MULTIPORT TECHNOLOGY.—Within 180 days after the date of enactment of this section, the Commission shall promulgate regulations relating to the installation of multiport technology on new televisions and the supplying by cable operators of descrambling units that are compatible with such technology. Such regulations shall require that—

"(1) all televisions with a picture screen of 13 inches or greater in size sold in the United States on or after the earliest feasible date to be fixed by the Commission, shall be equipped with multiport technology;

"(2) no later than the date fixed by the Commission in paragraph (1), a cable operator who provides channels the reception of which requires the use of a converter box shall, for a subscriber who receives or wishes to receive such channels and who owns a cable ready television equipped with multiport technology, offer to replace the converter box at the cable operator's expense, with a descrambling unit that is compatible with the multiport technology; and

"(3) an offer made pursuant to paragraph (2) to replace a converter box with a descrambling unit shall fully inform the subscriber that the use of the descrambling unit will enable the subscriber to enjoy features available on a cable ready television and any VCR that is connected to the television.".

By Mr. HATFIELD (for himself, Mr. MITCHELL, Mr. SIMON, Mr. JEFFORDS, Mr. DECONCINI, Mr. LEAHY, Mr. ADAMS, Mr. HARKIN, Mr. KENNEDY, and Mr. WELLSTONE):

S. 2064. A bill to impose a 1-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period; to the Committee on Foreign Relations.

NUCLEAR TESTING MORATORIUM ACT

Mr. HATFIELD. Mr. President, in a just a few days I will be leaving for Pearl Harbor with a delegation taking part in the ceremonies commemorating the 50th anniversary of the Japanese attack on the Pacific fleet. Recorded history refers to December 7, 1941, as a day which will live in infamy.

Mr. President, for myself and many others, Pearl Harbor's shock and tragedy is matched by few horrors, but certainly by the atomic blasts at Hiroshima and Nagasaki. As a young naval officer who viewed Hiroshima only days after the bomb was dropped I saw firsthand the terrible power of nuclear weapons.

Since World War II the United States and the Soviet Union engaged themselves in the task of perfecting the atom, creating tactical and strategic weaponry which could be flexible enough to use in any military situation. Yet, at the same time the superpowers have sought to suppress the possession of nuclear capabilities by other countries. That goal largely has been met. And just as the United States' relationship with Japan since Pearl Harbor has been completely and permanently transformed, so has our own need for nuclear weapons. The problem is that some within the Pentagon are not yet ready to admit that fact.

Today, I am pleased to announce that Senator MITCHELL and I, along with several other Senators, are offering legislation which will place the United States in a leadership position with respect to nuclear testing. Our bill calls for a 1-year, bilateral moratorium on such tests, so long as the Soviets are adhering to their decision to suspend tests. Now, more than ever, a nuclear test ban makes sense and I commit myself today to the effort to enact this moratorium

The premise behind our legislation is rather simple: The ending of the cold war has reversed the arms race. There is no need to develop new nuclear weapons. People will certainly argue over the need for such weapons at all. But no one can, in my view, assert that the United States will be unable to maintain national security if the Nation's testing program is halted. To the contrary, I am convinced that our security in the new world order can only be assured by the decision to suspend all nuclear testing.

President Bush's former arms control negotiator Richard Burt noted recently that "I think the time has come for us to seriously look at [a comprehensive test ban]. If the United States and the Soviet Union stopped testing nuclear weapons, it is going to be that much more difficult for small countries in the Third World to do that."

Mr. Burt has captured the real argument for a test ban: The threat has changed. We cannot allow ourselves to be preoccupied with a Soviet threat which has all but dissolved while ignoring the fact that the gravest danger now lies with the prospect of nuclear proliferation. The United States can recognize this threat and address it not only by implementing the bill introduced by Senator MITCHELL and myself, but by also working vigorously to enact a comprehensive test ban treaty.

Detractors will no doubt argue that a test ban places our nuclear stockpile at risk by prohibiting tests which verify safety. Yet, in a report to Congress last summer, a physicist at Lawrence Livermore National Laboratories asserted that the safety of our nuclear stockpile need not limit U.S. consideration of a test ban. The retirement of older weapons as well as tactical weapons have made this possible. In addition, precautions regarding the handling and transporting of nuclear weapons can provide a measure of safety in lieu of testing.

If then, we have largely ended the nuclear arms race and identified alternatives to testing, I challenge my colleagues to justify to the American taxpayer the continuation of a program which costs an average of $160 million per test. I urge the Congress to adopt the Nuclear Testing Moratorium Act in the spirit of the arms control initiatives announced by Presidents Bush and Gorbachev early this fall.

Mr. MITCHELL. Mr. President, I am pleased to join the distinguished Senator from Oregon [Mr. HATFIELD] and my other distinguished colleagues in introducing this legislation to implement a mutual moratorium on nuclear testing.

I believe it is important to sustain the momentum created by the recent unilateral arms control initiatives taken by President Bush and President Gorbachev. This legislation, by taking up the Soviet offer to temporarily halt nuclear testing, is another step toward building a more peaceful new world order.

President Gorbachev has offered to observe a 1-year testing moratorium as part of an effort to move the two countries toward a comprehensive test ban.

Up until President Bush assumed office, it had long been U.S. policy to pursue an end to all nuclear testing.

Our commitment to end nuclear testing was related to our institution of the nonproliferation regime. In exchange for other countries agreeing not to acquire nuclear weapons, we agreed to try to eliminate their role in our defense. Even President Reagan expressed to Congress his commitment to immediate negotiations on a step-by-step program to limit and end nuclear testing.

Unfortunately, the Bush administration has taken a giant step backward. This administration has called for a "period of implementation" of the Peaceful Nuclear Explosions and Threshold Test Ban Treaties before negotiating additional testing limits.

The rationale the President uses is that we must continue testing as long as we have nuclear weapons. Yet we can test the reliability of nuclear weapons without exploding warheads.

The real reason to conduct new tests is to develop new types of more lethal nuclear weapons, but we don't need such new nuclear weapons. Already this year, the administration has conducted 7 nuclear tests at a cost of between $10 and $100 million per test. This does not seem to reflect the end of the cold war and the emergence of a new world order.

It fails to acknowledge that the relevance of nuclear weapons to our society has declined dramatically. This administration has not sought a comprehensive nuclear test ban despite the fact that the Soviet Union has periodically halted its own nuclear tests.

President Bush has declined to explore further limits despite the fact that he has initiated a new phase of arms control in which progress can be achieved outside of the legal framework of a formal treaty. That is why we are introducing this bill today.

It is a very simple bill. It says that for 1 year, the United States will refrain from exploding any nuclear weapons as long as the Soviet Union, the Soviet Republics, or their successor states do the same. But if they do explode a nuclear device, the United States is free do so. I commend the senior Senator from Oregon for his leadership on this issue and I look forward to continuing to work together on issues of such vital concern. I am confident that we all want to help the new world order become a reality, to see more rapid and meaningful progress toward disarmament.

We all want to help end nuclear proliferation. We all want a cleaner environment, free of radioactive waste. We all want to save money.

With the arms race ending, with both the United States and the Soviet Union making deep reductions in nuclear and conventional weapons, now is the time to take the additional step of negotiating an end to nuclear testing. And in the meantime, the United States should join the Soviet Republics in temporarily halting nuclear explosions. It is a small but meaningful step toward a safer world.

By Mr. DIXON (for himself and Mrs. KASSEBAUM):

S. 2065. A bill to federalize the crime of child molestation for repeat offenders; to the Committee on the Judiciary.

KAHLA LANSING CHILD PROTECTION ACT

Mr. DIXON. Mr. President, I rise today to introduce the Kahla Lansing Child Protection Act of 1991, and ask for its swift enactment.

Kahla Lansing was a lovely 6-year old girl who lived in Spring Valley, IL. Spring Valley is a town of some 5,800 people nestled along the Illinois river in Bureau County, Mr. President. Kahla went to Lincoln elementary school there, and was a bright, well-liked student.

Earlier this year, Kahla was roller skating out in her family's neighborhood when a man in a car abducted her into the night, never to be heard or seen from again. The man molested her and murdered her, Mr. President; this lovely 6-year old girl.

The mayor of Spring Valley, who also happened to be Kahla's elementary school principal, Jim Narczewski, wrote me recently about the Kahla Lansing murder, and its devastating impact on the people of this close-knit family community. In his letter, he writes that the community was shocked to learn that the accused:

> Had been twice convicted of child molestation in the State of TX, sentenced to ten years imprisonment, and released after three months of "shock" incarceration. * * * in addition to abducting, molesting, and murdering Kahla Lansing, this same individual also sexually molested a child in Galesburg, Illinois. After leaving Galesburg, Illinois, the defendant traveled to Spring Valley * * * in search of a child to abduct and molest.

Mr. President, please hear what the mayor has said: The accused was twice convicted of child molestation, served his time under the law, and then hunted down Kahla Lansing. The system failed in this case.

It provided the loophole through which the accused was able to continue his sick criminal activity.

It is a sad fact that the Kahla Lansing case is not unique. Thousands of children are molested every day. Those convicted serve a wide variety of sentences. State laws provide an inadequate patchwork of laws for repeat offender situations. The application of Federal law in repeat offender situations provides the type of protection necessary to prevent Kahla's tragedy from reoccurring.

Our children are not adequately protected under current law from this crime. We need to provide better protection.

The legislation I am introducing today closes the loophole. It provides for Federal jurisdiction in cases where an individual has one or more prior Federal or State criminal convictions for child abuse as the term is defined in the 1990 Crime Control Act. The bill imposes a tough 15-year minimum mandatory sentence with no opportunity for parole, and requires the Bureau of Prisons to provide appropriate counseling and therapy to the person while incarcerated.

Under my legislation, values are put into practice. We, as parents and legislators, have the obligation to protect children from the type of sick people who engage in child abuse, molestation, and pornography.

I truly hope, Mr. President, that through this legislation, no child will have happen to them what happened to Kahla Lansing. It would be a fitting memorial to her, and to all those children whose voices were silenced too soon, to enact this legislation. We must never forget Kahla, Mr. President, and with my colleagues' support of this legislation, we never will.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2066. A bill to amend title 10, United States Code, to require the Secretary of Defense to provide financial assistance to local educational agencies administering public school districts where military installations are located; to the Committee on Armed Services.

IMPACT AID PROVIDED BY THE SECRETARY OF DEFENSE

• Mr. DIXON. Mr. President, together with my good friend and colleague Senator PAUL SIMON from Illinois, I am introducing legislation correcting what is presently an inequity in financing education for those communities that support military bases and an inequity to their local taxpayers. This bill transfers part of the Federal impact fund from the Department of Education to the Department of Defense. While this step may at first appear to do things backward, the reality is that this legislation will help correct an injustice to many local property taxpayers who presently have to bear the unfair burden of paying a large portion of the cost of educating military dependents who live at many of our U.S. installations.

Many of our school districts Mr. President, are in a dire financial state. They are taking drastic steps to try to balance their budgets. Teacher paycuts, lack of necessary school equipment, reduction or elimination of sports programs, and the reduction of the number of school days all attest to the problem many of the school districts are having with their budgets. These cutbacks in educational services to our children are occurring at a time when we desperately need to improve our educational system in order to assure our future competitiveness in the world marketplace.

All of these financial problems are being made much worse by the impact of our military dependent children that the school districts are required to absorb in their school systems. In my State of Illinois, there are school districts, for example, Highwood-Highland Park and West Chicago, that are facing financial collapse due in large part to the impact of supporting military dependents without adequate financial support from the Federal Government.

A large portion of the money to pay for the school system comes from local taxpayers in the form of property tax and State tax. If a military member lives on the military installation, he does not pay any property tax. If his official residency is other than the State where he is stationed, he is not required to pay tax to that State where he is temporarily living.

Mr. President, for the local school districts, this means that needed tax money is not generated. To offset this problem, the Federal impact law provides Federal money to the school district for these students. The Department of Education administers this program. Unfortunately, based upon the dollars allocated in this program and the formulas used by the Department of Education to dispense these dollars, the school districts that service military dependents do not get adequate funds. The result is the school districts are short-changed on the dollars, which, in turn, means our students are penalized with a less than adequate education. This situation causes a grave injustice to those communities which are required to provide an educational system for military dependents.

Mr. President, as the chairman of the Armed Services Subcommittee on Readiness, Sustainability, and Support, I strongly believe that the Department of Defense should be accountable for those costs that are directly related to their operations. I further strongly believe that the cost to have military personnel and their dependents located in our communities at military installations is a cost directly related to the operations of that installation.

Mr. President, by transferring the responsibility and administration of that portion of the Federal impact funds that support military dependents to the Department of Defense, we will ensure the Department of Defense considers the cost of supporting its dependents in their budget requests. This in turn will cause the Department of Defense to ensure that the local community school system gets the needed dollars to support military dependents. Mr. President, this bill will require the Department of Defense to pick up the tab for military dependent schooling. I strongly feel this is only right. Mr. President, I also plan to introduce, at a later date, a bill to revamp how the impact fund for the military dependents is administered.

This bill we are introducing that transfers the portion of the impact funds that support military dependents is basically restating a premise that the national defense costs are a shared national burden, not an item with which to over burden a small group of homeowners. This cost of educating our military dependents should be factored in as a vital part of the cost of defense.

Mr. President, I ask unanimous consent that a copy of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF IMPACT AID RESPONSIBILITY TO THE SECRETARY OF DEFENSE.

(a) IN GENERAL.—(1) Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2254. Impact aid for local educational agencies

"(a) The Secretary of Defense shall establish and conduct a program to provide direct financial assistance to each local public educational agency that—

"(1) administers a public school district in which there is located any military installation composed of property that—

"(A) was acquired by the United States since 1938;

"(B) was not acquired by exchange for other Federal property owned by the United States before 1939 that was located in the school district; and

"(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired);

"(2) experiences a substantial and continuing financial burden resulting from the acquisition of such property by the United States; and

"(3) is not being substantially compensated for the loss in revenue resulting from the acquisition of such property by the United States.

"(b) To the maximum extent practicable, the program established pursuant to subsection (a) shall be consistent with the program established under the provisions of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 236 et seq.).

"(c) Funds for carrying out subsection (a), including funds for making payments to local educational agencies pursuant to such subsection, shall be provided for under the national defense budget function (050).

"(d) A local educational agency may not receive payments under the Act referred to in subsection (b) with respect to children counted for the purpose of providing financial assistance under the program conducted pursuant to this section.

"(e) In this section, the term 'military installation' shall have the meaning given that term in section 2801(c) of this title.".

(2) The table of sections at the beginning of subchapter II of such chapter is amended by inserting after the item relating to section 2253 the following new item:

"2254. Impact aid for local educational agencies.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1992.•

• Mr. SIMON. Mr. President, I rise to join my colleague and friend from Illinois in supporting legislation that directs the Secretary of Defense to administer the military portion of impact aid. I am pleased to be an original cosponsor of this bill.

Impact aid financially compensates local school districts that are adversely affected by activity within the district, such as a military base. This activity can severely affect the tax base of the school district and thus hamper local schools' ability to provide all students with the quality education they deserve. Not only does our Federal activity reduce revenue from local property taxes, it can substantially increase the number of students that local schools must educate.

By not adequately reimbursing local schools for this cost, the Federal Government is shortchanging these districts—and in many areas, local taxpayers are taking up the slack. For example, North Chicago District 187 is losing up to $4,000 per year for each military child—despite passage of a referendum to raise property taxes to one of the highest rates in Illinois. Inadequate impact aid funding has forced North Chicago to cut 45 of 140 teachers in order to meet payroll. Highland Park and other Illinois districts, as well as school districts throughout the country, face similar problems. Our students deserve better.

Last week I wrote to Secretary Cheney urging that the Department of Defense take over the military portion of the Impact Aid Program. The Federal defense budget is nearly 10 times larger than our education budget. Obviously, there is much more room for providing adequate funding for this program within the defense budget than in the already underfunded education budget. In fact, impact aid funds appropriated for next year total just less than the cost on one B-2 bomber. I do not have to ask what is more important to our future—manufacturing another bomber that will probably never even be used or providing access to a quality education for 600,000 students.

In short, transferring the military portion of impact aid to the Department of Defense is common sense. What better way to show our appreciation to the individuals who serve in our Armed Forces—many of the whom served in the Persian Gulf—than to contribute to full and fair funding for educating their children.

Mr President, I urge my colleagues to join me in supporting this important legislation.●

By Mr. MOYNIHAN:

S. 2067. A bill to provide for the elimination of the General Services Administration's Federal Building Fund; to the Committee on Environment and Public Works.

S. 2068. A bill to provide for a biennial review and planning for a public buildings program; to the Committee on Environment and Public Works.

S. 2069. A bill to provide that the General Services Administration provide information concerning public buildings in a certain form for the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives; to the Committee on Environment and Public Works.

REFORM OF GENERAL SERVICES ADMINISTRATION

Mr. MOYNIHAN. Mr. President, today I am introducing legislation to reform the General Services Administration's Public Buildings Service. Mr. President, we have a budget process which looks no further than 1 year. Thus we continue to waste scarce funds and make poor investment decisions. In the case of procuring Government space, we have been forced to continue to lease expensive space rather than purchase or construct new space. Landlords become wealthy, but the Government has nothing to show for it, except a stack of rent stubs.

This is not new. Shortly after World War I, a public buildings commission surveyed Federal office space in Washington and found we were spending $1 million a year in rent to private landlords. There was an outcry, of course, and we built the Federal Triangle shortly thereafter. By 1994 we will spend $2 billion a year for rent. Too much for an outcry. Perhaps a howl.

The administrations' economic policies of the last decade have left us with no choice but to lease rather than to construct Federal office space. The pressure of the budget crisis makes it expedient to budget annual lease payments rather than the larger sums necessary to construct federally owned buildings. A General Accounting Office study of 43 proposed new building projects found that building the facilities would be $12 billion cheaper than leasing the space, over a 30-year period. Thus, while claiming to make Government behave more like the private sector, we fail to make necessary and wise investments.

But this has always been the case. It has been said that public buildings are the second most important item to every Cabinet Secretary. More time is spent worrying about office space than almost any other single issue in Government.

Although public building space is important, it is not popular. Such an investment never is. Thus we build in fits and starts.

From the first Congress until 1902, new Federal buildings were generally authorized individually. In 1902, Congress passed the first Omnibus Building Act, authorizing more than 60 buildings. Other such bills were passed, but with the onset of World War I everything just stopped. And they did not truly start again until the enactment of the Public Buildings Act of 1926 which created Washington's Federal Triangle and the Supreme Court Building. The Federal Triangle was needed to make up for the Government's office space shortage, which had become intolerable. During World War I, while we delayed the construction of new projects, the Government work force doubled to some 70,000.

World War II brought an end again to new public buildings construction. From then on we built slowly until space shortages would become troublesome enough that Congress would authorize a larger package of buildings all at once. This happened in 1954. GSA received a 3-year authority to build 23 buildings. Again in 1972, GSA received authority to build 68 projects.

Recognizing this trend, during the last buildings crisis, we created a self-funding mechanism for public building, known as the Federal Building Fund or FBF. It is funded by the so-called rent paid by agencies to GSA. The fund was intended to come the operating cost of the Public Buildings Service and to fund new construction projects. It has not. In fact, the fund has generated less than $100 million a year, on average, for new construction. To put this in perspective, the administration has requested a new Department of Transportation headquarters. That project alone would cost over $500 million.

The simple truth is we are not building enough buildings. A 1989 GSA/OMB study reached the same conclusion. But as long as we link the amount of money GSA collects in rents to the amount available for building new buildings we will fail to make the necessary investment.

The Administrator of the General Services Administration has testified before the Subcommittee on Water Resources, Transportation and Infrastructure, which I chair, that GSA should own 74 percent of its space, leasing the other 26 percent. In 1970, GSA owned 70 percent. Today they own just 57 percent. We are going backward. This is unwise and unacceptable.

For this reason, Mr. President, I introduce today a bill to eliminate the Federal Buildings Fund. I am greatly pleased that Senator BURDICK, chairman of the Environment and Public Works Committee is a cosponsor of this legislation.

By returning to the regular appropriations process for public buildings we will be able to make decisions based on the economics of such an investment. The shortsightedness may not end, but the choices will be clear.

Funding is not the only problem with GSA's public buildings service. Their planning and analysis are also insufficient. As chairman of the subcommittee which oversees GSA's Building Program, I am astonished at how little information we receive about proposed projects. Not just new construction, but leases and repair and alteration projects as well.

In this time of tight budget constraints, the question is not whether a proposed project has a positive rate of return, but which projects have the highest rate of return—where does the Government get its best return on investment. GSA must submit an adequate 5-year plan establishing priorities. I have requested such a plan, but not received it.

As such, Mr. President, I am also introducing a bill, to be known as the Public Buildings Planning Act. This bill will require that GSA provide the information necessary for Congress to make rational economic choices in the public buildings area. it is a maxim that good decisions require good information. We are not getting it. We must require it.

Finally, Mr. President, I introduce a bill today to require GSA to include commercial equivalent rates in their lease prospectus submissions. GSA currently presents the committee a lease range estimate that doesn't relate to the private sector. This has caused great consternation in the committee. That information is important and this bill will require it to be included in all GSA lease requests to Congress.

Mr. President, these reforms are long overdue. We need to make intelligent investments and with these bills enacted, we will have a greater opportunity to do so.

By Mr. MOYNIHAN (for himself and Mr. BURDICK):

S. 2070. A bill to provide for the Management of Judicial Space and Facilities; to the Committee on Environment and Public Works.

JUDICIAL SPACE AND FACILITIES MANAGEMENT ACT

• Mr. MOYNIHAN. Mr. President, today I introduce, along with Senator BURDICK, legislation to grant the Federal courts greater independence from the General Services Administration in the area of space and facilities management. Mr. President, currently the judicial branch of our Government is dependent upon the executive branch for all of its space and facilities needs. The Judiciary's requests are subjected to both GSA's and OMB's decisionmaking process. And although both have been willing in recent years to fund a great number of court projects, it remains an executive branch prerogative.

The courts have rightfully requested more independence from GSA. The legislation I introduce today will do just that. Under this bill, following a transition period, the courts will no longer be subjected to executive branch review. Rather, they will make their space and facilities requests directly to Congress. Further, the Director of the Administrative Office of the United States Courts will be granted authority to contract for space and facilities for the U.S. courts itself, instead of relying on GSA.

As a consequence of this separation, the courts will no longer pay the so-called rent to GSA. They will be required only to reimburse GSA on an actual cost for services rendered basis. Such an arrangement already exists for several buildings belonging to the Social Security Administration.

Let me state here, Mr. President, that I do not support the decentralization of public building services. Centralization in this area is efficient and appropriate for executive branch agencies. Yet, in the case of the courts, it raises the question of separation of powers.

It should also be recognized, Mr. President, that greater independence for the courts ought not threaten the construction of new executive branch buildings. We know we are not building enough. The Administrator of GSA has testified that the Government should own 74 percent of its space. Currently, however, GSA owns just 57 percent. This is down from 70 percent in 1970. We are headed in the wrong direction. As such, the courts will not be permitted to receive funds from the Federal Building Fund for construction of its facilities following the 2-year phase period.

The courts will be permitted to establish their own building fund to be capitalized from whatever sources they may identify. And of course, Congress may directly appropriate funds for court projects. Mr. President, this bill is fair. It provides independence for the courts, but it does not create an inefficient duplication of GSA's services. I urge my colleagues to support it.•

By Mr. KERRY:

S. 2071. A bill to suspend temporarily the duties on certain instant print cameras; to the Committee on Finance.

S. 2072. A bill to suspend temporarily the duties on certain chemicals; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN CAMERAS AND CHEMICALS

• Mr. KERRY. Mr. President, today I am introducing two bills to amend the Tariff Code.

In the last few years, Mr. President, many of us have begun to recognize the way in which international competition is shifting significantly to the economic sphere. Indeed, many eloquent speeches have been made on this floor alluding to the fleeting triumphs of the cold war and enjoining America to embark on a new economic struggle to regain economic competitiveness.

However, Mr. President, despite this new reality and new rhetoric, precious little is being done to advance the competitiveness of this Nation. In fact, we continue to force our companies to play by a set of outmoded rules, to tie one hand behind their backs. This is especially true in the area of trade.

American businesses, to their credit, are doing their best to compete globally regardless of the laws and regulations imposed on them by Congress and regulatory agencies. One prime example of this is Polaroid. This company, a leader in advanced instant print systems and a leading manufacturer of technical and industrial photographic equipment, is engaged in an effort to maintain its dominance. What is so special about this effort is that Polaroid is seeking to keep its production facilities principally located in the United States.

Today I am introducing two bills to assist Polaroid in this effort. My legislation would suspend temporary duties on certain instant print cameras and chemicals now produced by the company in its foreign trade subzone located in Massachusetts. This duty suspension would help Polaroid continue to be competitive from its United States base. At the same time, the legislation would not damage any other U.S. competitor since there are no U.S. producers of the imported goods or of high-quality-instant photographic equipment.

I hope that my colleagues can join me in this small effort to assist a dynamic U.S. corporation retain its leadership.•

By Mr. BREAUX (for himself and Mr LOTT):

S. 2073. A bill to authorize appropriations for fiscal year 1992 for the Maritime Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MARITIME ADMINISTRATION AUTHORIZATION

• Mr. BREAUX. Mr. President, I, along with my colleague, Senator LOTT, am introducing a bill today that authorizes the appropriations for the Maritime Administration [MarAd] for fiscal year 1992. The largest increase over the administration's request is an additional $8,961,000 for MarAd's Ready Reserve Force [RRF] Operations and Training. The funds authorized by this bill will enable MarAd to continue and improve upon its operation of the RRF as well as its many other functions.

MarAd's primary responsibility is the promotion of those activities that are designed to enhance the maritime industry in the United States. Among these duties are the maintenance and deployment of the National Defense Reserve Fleet, including the Ready Reserve Force.

The RRF played an essential role in Operation Desert Shield/Desert Storm. Had it not been for the RRF's participation in the military sealift strategy of the United States during the conflict in the Persian Gulf, the allied victory in the Middle East might not have been as thorough as it proved to be.

MarAd deserves much credit for our success in the Persian Gulf. Its performance in the maintenance and deployment of the RRF was vital. They are to be commended for a job well done.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. For fiscal year 1992, the following amounts are authorized to be appropriated for the Maritime Administration:

(1) $272,210,000 for payment of obligations incurred for operating-differential subsidies of United States-flag vessels.

(2) $36,985,000 for expenses related to manpower, education, and training, including—

(A) $25,278,000 for maritime training at the Merchant Marine Academy at Kings Point, New York;

(B) $10,072,000 for assistance to the State maritime academies; and

(C) $1,635,000 for manpower and additional training.

(3) $28,204,000 for operating programs.

(4) $8,011,000 for expenses related to national security support capabilities, including—

(A) $6,748,000 for the National Defense Reserve Fleet; and

(B) $1,263,000 for emergency planning operations.

(5) $233,961,000 for the Ready Reserve Force, including—

(A) $104,000,000 for fleet additional, replacements acquisitions, and upgrading of vessels for the Ready Reserve Force;

(B) $125,961,000 for maintenance and operations programs in support of the Ready Reserve Force; and

(C) $4,000,000 for Ready Reserve Force share facilities and fleet support craft.•

By Mr. LIEBERMAN (for himself and Mr. RUDMAN):

S. 2074. A bill to amend section 6002, United States Code, respecting immunized testimony; to the Committee on the Judiciary.

IMMUNIZED TESTIMONY

Mr. LIEBERMAN. Mr. President, together with my friend and colleague from New Hampshire, Senator WARREN RUDMAN, I rise today to introduce a bill that would revamp our Nation's laws governing use immunity. Passage of this bill is essential to preserve the ability of law enforcement and Congress to obtain immunized testimony from a witness without endangering society's right to hold that witness accountable for his or her crimes.

Many of the arguments supporting this legislation are summarized in an op-ed I wrote that was published in the Washington Post earlier this year. I will not repeat them now, but ask unanimous consent that a copy of my op-ed be reprinted in the RECORD immediately following my statement.

This is a significant anticrime measure. Since Congress adopted use immunity as part of the Organized Crime Control Act of 1970, it has become one of the greatest weapons Federal prosecutors have to attack organized crime, including drug kingpins, and complex, white collar crimes, such as S&L fraud. Unfortunately, this weapon has been significantly blunted by recent court decisions. This bill seeks statutorily to reform the law underlying those decisions, thereby reinvigorating use immunity as a law enforcement weapon.

This bill is also essential to preserving Congress' oversight and investigative powers. Without the reforms contained in this bill, Congress will often face the dilemma of either letting criminals go free or obtaining testimony necessary to proper oversight.

Mr. President, there is an adage I learned in law school that says, "Hard cases make bad law." Fortunately, in this instance, it is within our power to change the law. We can make use immunity useful once again.

I ask unanimous consent that copy of the bill be printed in the RECORD, immediately following my op-ed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 24, 1991]

AFTER THE NORTH CASE: HOW DO WE GET AT THE TRUTH?

(By Joseph I. Lieberman)

"Hard cases make bad law," an adage first learned in law school, was borne out once again by the legal journey of Oliver North. Col. North—patriot and hero to some, scoundrel to others—has won his freedom. In the process, his case may have destroyed a valuable investigative tool used by law enforcement agencies and by Congress: the grant of "use immunity." Now freed from the political controversy of the North prosecution, it is time to assess and repair this damage.

Use immunity was an innovation enacted by Congress as part of the Organized Crime Control Act of 1970. It struck a balance between society's interest in fully investigating and prosecuting crimes and a witness's Fifth Amendment privilege against self-incrimination. Under that law, which the Supreme Court upheld in 1972, a witness who is compelled to testify can still be prosecuted so long as neither the witness's testimony nor evidence derived from it is later used to prosecute him or her.

This balance, properly executed, makes sense. In criminal cases involving organized crime and complex white-collar crime (such as the savings and loan scandal), the testimony of underlinings is often essential in convicting the criminal boss. Strategic granting of use immunity allows prosecutors to gain the evidence they need to convict the boss while preserving the witness's Fifth Amendment right not to testify against oneself and the right to prosecute that witness.

Similarly, Congress has legitimate oversight responsibilities for which it may require testimony from alleged criminal perpetrators. By granting use immunity to key witnesses, Congress can more quickly arrive at the truth of a matter of urgent public importance.

But under the court decisions that led to the end of the North case, the right to prosecute a witness granted use immunity has become an illusion; it's tantamount to waiving prosecution, no matter how heinous the crime. That's because the court in the North case vastly expanded what it means to use a defendant's immunized testimony against him or her. To prosecute that person, prosecutors must show that the defendant's testimony in no way influenced their witnesses. The incentive given to clever defense lawyers is clear: simply show your client's immunized testimony to every possible prosecution witness and—bingo—they're tainted and useless in court. Indeed, to fail to do so may be malpractice.

The chilling effect on Congress's power to investigate is clear: left unchanged, the current state of the law will inhibit its ability to get to the bottom of future S&L, HUD, Watergate, Iran-contra and BCCI scandals. Congress will be forced to forgo shedding the light of public inquiry on major cases of fraud and abuse if it doesn't want to endanger the prosecution of those who committed crimes.

Similarly, the outcome of the North case will inhibit prosecutors from going after the masterminds of criminal conspiracies by granting use immunity to their associates. Lawrence Walsh's decision to end North's prosecution demonstrates that the appellate court has erected an insurmountable burden to prosecuting a witness who has given testimony under a grant of use immunity.

I do not believe the Fifth Amendment requires us to sanction such gamesmanship or mandates the onerous requirements set by the appellate court. During Senate consideration of crime legislation earlier this year, I was blocked from offering an amendment that would have established a more sensible balance between investigators' needs and a defendant's Fifth Amendment rights. Under my amendment, which will shortly be introduced as a bill, testimony of a witness exposed to the defendant's prior immunized testimony would not be excluded so long as the witness testifies based on what he saw or heard transpire.

For example, if the bill had been law, it would not have mattered that Robert McFarlane was affected by North's immunized congressional testimony so long as he testified based on his own knowledge of the facts in the case. My bill would also prohibit the prosecution from exposing a witness to the immunized defendant's statements or otherwise using the defendant's immunized testimony to develop lines of inquiry.

These modifications would permit Congress to investigate fraud without shielding the perpetrators from prosecution and would give back to prosecutors the power to use testimony from witnesses to convict criminal bosses. At the same time, our legislation would still protect defendants against the misuse of immunized testimony by prosecutors.

This is the kind of balance Congress intended when it created use immunity 20 years ago. It is the kind of balance Congress must restore if the public's right to know—and right to justice—is to be fully preserved. Hard cases do make bad law. But it's within our power to change the law and make use immunity useful once again.

S. 2074

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. IMMUNIZED TESTIMONY.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 6002 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whenever"; and

(2) by adding at the end the following new subsection:

"(b)(1) Testimony of a witness that is based on the witness's personal knowledge, irrespective of whether the witness has been exposed to testimony compelled under subsection (a), shall not be considered to be directly or indirectly derived from or to constitute a use of such compelled testimony if—

"(A) the prosecution has made no use of the immunized testimony; and

"(B) the witness was not exposed to the immunized testimony by the prosecution or by a third part acting, directly or indirectly, at the direction of the prosecution.

"(2) This subsection does not affect the prosecution's affirmative duty to prove that the evidence it proposes to use is otherwise derived from legitimate sources wholly independent of the compelled testimony.

"(3) This subsection shall be applied so as fully to protect a witness's privilege against self-incrimination in all respects. If, in the particular circumstances of any case, any provision of this subsection cannot be applied in a manner that is fully consistent with a witness's privilege against self-incrimination, the provision shall be applied only to the extent that it is fully consistent with the witness's privilege against self-incrimination, and the remainder of this subsection shall be fully applicable.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to compelled testimony that is given on or after the date of enactment of this Act.

By Mr. LIEBERMAN:

S. 2075. A bill to facilitate and assist in the economic adjustment and industrial diversification of defense industries, defense-dependent communities, and defense workers that are adversely affected by the termination or reduction of defense spending or defense-related contracts; to the Committee on Finance.

INDUSTRIAL DIVERSIFICATION AND ECONOMIC ADJUSTMENT ACT OF 1991

• Mr. LIEBERMAN. Mr. President, I rise today to introduce the Industrial Diversification and Economic Adjustment Act of 1991, a bill designed to effectuate a smooth, orderly, and intelligent transition to reduced levels of U.S. defense spending.

I am very pleased to be joined in this effort by Senator DODD, and I am also pleased to join Senator DODD as a cosponsor of the Defense Savings Investment Act of 1991, which he will be introducing later this afternoon.

Mr. President, throughout our history the level of U.S. defense spending has fluctuated greatly in response to a variety of threats to our national security. In 1944, during the peak of World War II, defense spending represented approximately 39.2 percent of our total GNP; in 1953, during the Korean war, defense spending represented approximately 14.4 percent of total GNP; and in 1968, during the Vietnam war, defense spending rose to 9.6 percent of GNP.

More recently, between the years 1979 and 1986, the United States waged what we are now able to describe as the final battle of the cold war. United States defense spending rose from 4.8 to 6.5 percent of GNP—the largest peacetime buildup in our history. In fact, Mr. President, in 1989 the Federal Government spent approximately $300 billion for defense. If we adjust this figure for inflation it represents roughly the same percent of GNP as at the 1953 Korean war peak and the 1968 Vietnam war peak.

Unlike most other conflicts, however, the cold war was not fought on the battlefields. It was fought in factories and laboratories throughout the country, and the soldiers included not only the armed services, but some of America's finest engineers, scientists, and skilled workers.

Now, in significant part due to their efforts, democratization and economic reform are emerging in both Eastern Europe and the Soviet Union, and the United States has declared victory in this first cold war.

We no longer need to place the containment of communism as our top spending priority. We now have the opportunity to reevaluate our national defense needs and reorder our national spending priorities. I believe, as others have indicated, that we will be able to reduce the defense budget by at least 25 percent over the next 5 years. If this is accomplished we will surely have the opportunity to address many domestic issues—like job creation and economic growth—that have for too long been neglected.

These opportunities will be both refreshing and exciting, but, it is important to remember that the actions we take to reduce the level of defense spending will have broad and direct ramifications for our economy, for our ability to compete in the world marketplace, as well as for the workers, communities, and businesses who, for reasons of national security, have become economically dependent on defense programs.

The legislation I am introducing attempts to minimize this impact by creating a bridge, if you will, to provide for an orderly, thoughtful, transition, and a unified governmental response to reduce levels of defense spending.

Mr. President, I believe diversification initiatives are important for many reasons.

First, we have already made an enormous investment, both directly and indirectly, in our defense infrastructure. In the past we have evaluated levels of defense spending on either national security or budgetary grounds. It is clear, however, that since defense industries now represent a major part of our remaining industrial, technological, and manufacturing base, that it will be essential to make these decisions on economic grounds as well.

While Japan and Germany have been pouring capital into their civilian industrial base, we have been pouring it into our defense base. We are now considering scrapping a big piece of what's left of the most advanced part of our industrial base. We must do this intelligently and provide for a careful transition on the American economy, American job creation, and American competitiveness will miss an opportunity and sacrifice much strength.

Thus, in order to protect this investment and our economic future, we will need to appraise our manufacturing and industrial base and then assess how best to effectuate a successful transition. If possible, cutbacks in this area should be undertaken so as to not adversely affect, and whenever possible to enhance, our industrial and technological capabilities. If we disregard this step, an important part of our economic future will surely be at risk.

Second, Mr. President, study after study tells us how this gap between the jobs and the skills of workers will continue to grow as we approach the 21st century. It is fair to state that the significant growth in the U.S. economy during the 20th century has been attributed to increases in human capital or the expansion of workers' knowledge. In order for us to continue to grow during the 21st century, we must have a work force prepared to meet the technical requirements of the workplace of the future.

Thus, as our inability to compete in the international marketplace becomes more and more apparent, it is clearly in our best interest to retain and re-use one of the finest trained and highly skilled work forces in the world—our defense workers—highly qualified and motivated—stars of the American work force. They can and should play an important role in the peaceful economic challenges that lay ahead.

And finally, I simply believe the Federal Government has a compelling obligation to mitigate the economic distress caused directly by its actions. America's defense workers are, in a way, veterans of the cold war and thus deserve our assistance during this time of transition, particularly in the area of job training. Mr. President, why should those who worked so hard to guarantee our security during times of conflict now be forced to pay the price for peace?

Just as it was in our national interest to spend billions and billions of dollars on defense over the last decade, I believe, for the reasons I have outlined, that it is now very much in our national interest to provide for an orderly transition and to enact diversification legislation concurrent with reductions in defense spending.

Mr. President, I know of the need to assist in the transition of defense workers and industries from firsthand experience. Throughout the cold war, as it was in the Revolutionary War and in every other conflict involving our Nation, Connecticut has been an arsenal of democracy. In 1989 my State received approximately $5.8 billion in direct defense expenditures and another $4.2 billion in indirect defense expenditures. On a per capita basis, that amounted to approximately $3,100 per resident and meant that approximately 8 percent of Connecticut's work force was employed in defense or defense-related jobs. In 1990, the Department of Defense awarded direct contracts worth $4.2 billion to more than 700 Connecticut companies.

Thousands of my constituents have been working in round-the-clock shifts to produce submarines, tanks, helicopters, and military aircraft engines—all the best in the world.

In this legislation I have attempted to address the diversification issue in a well balanced and comprehensive manner that addresses industrial, business, work force, and community issues. This legislation:

Calls for a study so we can better understand the extent to which and the means by which diversification defense industries to nondefense production can be accomplished;

Creates a Presidential Council on Economic Diversification to coordinate the efforts of Federal agencies and programs for the purpose of assisting communities, workers, and businesses in economic diversification;

Establishes a Defense Industrial Diversification Account for businesses wishing to diversify from relying primarily on defense contracts to becoming more integrated into the civilian sector. This account would function much like an IRA;

Establishes within the Small Business Administration a permanent Office of Small Business Diversification, and creates a small business diversification guaranteed loan or grant program;

Requires employee notification be given for qualified employees 90 days prior to any layoff;

Amends title III of the Job Training Partnership Act to increase the Federal set-aside for displaced workers and modifies the formula used to disburse funds to States;

Allows qualified defense workers who have been laid-off to withdraw funds from their Individual Retirement Account to pay the principal or interest on a mortgage on their primary residence or for the rental costs of their primary residence;

Identifies communities that will be substantially and seriously affected by defense layoffs and allows these impacted communities to be eligible for title IX Community Planning Grants under the Economic Development Administration;

Establishes an Office of Commercial and Defense Product Integration in the Department of Defense to implement policies and procedures designed to achieve a better integration of commercial production process and defense procurement practices and which will promote diversification by defense firms, as well as reduce the cost of defense products;

Establishes a Commission on Military Budget Reform to study the desirability and feasibility of Congress instituting a 3-year budget cycle for defense contracting. This multiyear approach can have the effect of reducing unit costs, increasing efficiency, and protecting jobs.

Mr. President, we will face a number of issues as we debate the fiscal year 1993 budget—a weekend economy, a crippling budget deficit, a chronic trade deficit, the savings and loan bailout, and an array of domestic issues demanding our time and attention. This, in combination with the global crumbling of communism, suggests that our defense budget must be reduced. What I am saying with this legislation is that we can do this one of two ways—either we can cut programs, troops, and contracts without regard for the consequences of our actions, or for a relatively low cost, we can protect our investment in both our work force and our industrial base and provide for an orderly, less painful, transition to the apparently more peaceful environment that lies ahead.

I believe this legislation takes us down the latter, wiser course.

Mr. President, I ask unanimous consent that a summary of this legislation be included in the RECORD immediately following my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF INDUSTRIAL DIVERSIFICATION AND ECONOMIC ADJUSTMENT ACT OF 1991

TITLE I—INDUSTRIAL DIVERSIFICATION STUDY

Requires the Department of Commerce, in consultation with the Department of Defense, the Small Business Administration, and the Defense Advanced Research Projects Agency (DARPA) to perform a study on the extent to which and how diversification of defense industries to non-defense production can be accomplished.

TITLE II—DEFENSE INDUSTRIAL DIVERSIFICATION ACCOUNT

Establishes a Defense Industrial Diversification Account for defense business wishing to become more integrated into the civilian sector.

This title would allow a firm, which is at least 35 percent reliant on defense contracts, to deposit a portion of its gross revenues into the account, tax free, for the purposes of investing in new non-defense plant and equipment or for the retaining or continued education of its workforce.

Deposits would be limited to the amount of a firm's defense-related depreciable assets. These investments could be made for a period of five years. the withdrawals could occur for 10 years. If the money were withdrawn for purposes other than those specifically stated, then the money would be fully taxed and a 10 percent penalty would be added.

TITLE III/TITLE IV—SMALL BUSINESS DIVERSIFICATION

Establishes, within the Small Business Administration, a permanent Office of Small Business Diversification. The purposes of this office is to identify the problems associated with defense cutbacks, for small defense-dependent businesses. The office would also serve to coordinate the efforts of the Small Business Administration and its programs for assisting firms adversely affected by defense cutbacks.

Creates a small business diversification guaranteed loan or grant program. Loans, guaranteed loans, or grants are capped at $40,000 for qualified small firms and require a 1:1 match from the firm.

Specific uses for the loan, guaranteed loan, or grant may include, but shall not be limited to, conducting market research or analysis for non-defense products, development of an alternative use of non-defense business plan, basic or applied research and development for non-defense lines of business, strategic planning, or non-defense prototype development.

Program is designed to promote diversification of small defense manufacturers and to qualify firms, if needed, for other S.B.A. loan guarantee programs or commercial lending sources.

TITLE VI—ECONOMIC ADJUSTMENT ASSISTANCE FOR EMPLOYEES

Employee notification is required for qualified employees 90 days prior to layoff.

Amends Title III of the Job Training Partnership Act (Displaced Worker Title). Increases Federal set-aside for displaced workers and modifies the formula used to disburse funds to States to factor in defense-related lay-offs.

Allows qualified defense workers, who have been laid-off, to withdraw funds from their Individual Retirement Account to pay the principal or interest on a mortgage of his or her primary residence of for the rental costs of his or her primary.

TITLE VII—COMMUNITY ECONOMIC ADJUSTMENT PLANNING

Identifies communities that will be substantially and seriously affected by defense lay-offs. (loss of more than 250 employees)

Allows substantially and seriously impacted communities to be eligible for Title IX Community Planning Grants under the Economic Development Administration.

TITLE VIII—COMMERICAL AND DEFENSE PRODUCT INTEGRATION

Establishes an Office of Commercial and Defense Product Integration in the Department of Defense to implement policies and procedures designated to achieve a better integration of commercial production processes and defense procurement practices.

TITLE IX—COMMISSION ON MILITARY BUDGET REFORM

Establishes a Commission on Military Budget Reform to study the desirability and feasibility of Congress instituting a three year budget cycle for defense contracting. The commission will determine whether the multi—year approach can have the effect of reducing unit costs, increasing efficiency, and protecting jobs.•

By Mr. PELL (for himself and Mr. WOFFORD):

S. 2076. A bill to amend the Communications Act of 1934 and the Federal Election Campaign Act of 1971 to better inform the electorate in Senate elections; to the Committee on Rules and Administration.

FEDERAL ELECTION CAMPAIGN ACT OF 1971

• Mr. PELL. Mr. President, on behalf of myself and the junior Senator from Pennsylvania [Mr. WOFFORD], I introduce a bill to provide free broadcast time for the use of candidates for the U.S. Senate.

This bill, which I introduced in prior Congresses as the Informed Elections Act, has some special features which I believe could contribute to a restoration of public confidence in Congress as an institution:

It does not involve public financing;

It can help reduce the costs of campaigning; and

It directly deals with the problem of negative advertising.

The purpose of this legislation is simple and straightforward. It attacks the problem of spiraling costs of Federal political campaigns at its source. It would make available at no cost the one element which has contributed the most to the cost spiral and that is media broadcast time.

The bill requires TV stations—as a condition of their license to use public air waves—to provide time for campaign use to the national committees of the political parties, which would in turn allocate the time to eligible candidates for the Senate. Minor parties showing support of at least 5 percent of the electorate would also be eligible to participate.

Committees receiving free broadcast time may use up to 15 minutes per day up to a limit of 3 hours on any 1 station during the 60-day period immediately preceding a general or special election. The bill does not apply to primaries.

All time is to be provided during the so-called prime time access period, from 7:30 to 8 p.m. local time, each weekday evening. This is a time period which local stations are supposed to use for community-oriented programming, but which in practice is not always well used.

The free time must be used in a manner which promotes a rational discussion and debate of issues pertinent to the election involved. At least 75 percent of the time must be taken up by a candidate's own remarks. In this way, I believe the bill provides a positive alternative to negative campaign ads without in any way imposing limits on present practices.

While our bill would place an administrative burden on the parties, I suggest that it is a burden they should be glad to accept. The plan of the bill permits the party organizations to decide which of their candidates—particularly in metropolitan areas where Senate candidates from more than one State may be competing for time—can best benefit from the media exposure offered by the bill.

This bill is in no way restrictive of present campaign practices. Any candidate, whether or not a recipient of free time under this bill, is still at liberty to go out and purchase as much additional media time as he or she can afford and needs. Hopefully, however, the substantial infusion of free time provided by the bill will reduce substantially campaign expenditures for media purchases.

I would emphasize that this is a no-cost bill in terms of the value of the media time that would be given to the political process. The basic commodity of the bill is an existing public resource—namely the airwaves—which the Congress can properly require to be used for political debate.

The idea is by no means a new one. I introduced it in the 99th Congress as S. 2837, in the 100th Congress as S. 593, and in the 101st Congress as S. 751. And the idea has been espoused, quite independent of my own efforts, by scholars and commentators as diverse as Charles Krauthammer, Arthur M. Schlesinger, Jr., and Larry J. Sabato. So there has been ample opportunity for the concept to be absorbed into the fabric of campaign reform.

I am especially pleased to note that the basic concept of this bill was included among the recommendations of the bipartisan Campaign Finance Reform Panel appointed by the Senate majority and minority leaders last year. In its report of March 6, 1990, the panel specifically recommended that broadcasters be required, as a condition of license renewal, to make free time available to political parties for campaign use. There are some differences in the distribution formula, but essentially the bill matches the panel's recommendation.

I also note with great interest that the idea has been embraced on the other side of the aisle in this body. I was very pleased to find that title V of S. 7, the Fairness in Politics Act, introduced by the Republican leader, Mr. DOLE, mandates a grant of free time to Senate candidates by broadcast licensees. And the senior Senator from Delaware, Mr. ROTH, introduced another version of the plan as S. 1062.

Finally, I would note that this concept has particular relevance at this time when Congress as an institution is under attack, and when so much uncritical attention is being given to panaceas such as mandatory limitations on the number of terms a Member can serve.

The best alternative to mandatory term limitations, in my view, is to assure that the existing system of term limitation—namely the right of the electorate to throw out an incumbent every time he runs for reelection—is as competitive as it can be. This bill would help assure that objective.

So the time seems ripe to translate this idea into action.

Mr. President, studies have shown that at least 40 percent of all political campaign expenditures—and up to 75 percent in some media markets—are spent on media advertising. If we are truly concerned about curbing the cost of campaigning, it makes sense to use an available public resource to substitute for this major category of expenditure.

Hopefully, we will be giving thoughtful consideration to the subject of campaign reform in the second session of the 102d Congress. I offer this bill at this time for consideration in that context.•

By Mr. MOYNIHAN (for himself, Mr. DURENBERGER, Mr. PACKWOOD, Mr. ROTH, Mr. AKAKA, and Mr. MCCAIN):

S. 2077. A bill to amend title XIX of the Social Security Act to provide for optional State coverage of coordinated care, and to improve Federal requirements with respect to the provision of coordinated care by health maintenance organizations in order to allow States to reduce costs and improve quality of care in contracting for managed care services under the Medicaid program; to the Committee on Finance.

MEDICAID MANAGED CARE IMPROVEMENT ACT OF 1991

• Mr. MOYNIHAN. Mr. President, along with Senators DURENBERGER, PACKWOOD, ROTH, AKAKA, and MCCAIN, I an introducing today the Medicaid Managed Care Improvement Act of 1991. Our goal is to make it easier for States to enroll their welfare recipients into managed care plans—health maintenance organizations, preferred provider organizations, and primary care case management programs.

In part, this legislation is motivated by the problem of rising costs. The Medicaid Program has become the most volatile part of State budgets, and Governors have been fighting a losing battle to control expenditures. That job has been made more difficult by Congress' adoption of a long list of program expansions, principally in the areas of maternal and child health and long-term care, and by the willingness of hospitals and nursing homes to go to court under the Boren amendment to seek higher reimbursements. In addition, the provider tax controversy may result in some States receiving less Federal Medicaid funding than they had counted on. In this difficult environment, managed care represents one of the few ways that States can control costs without harming recipients.

Furthermore, managed care is needed to improve access to services. In most places, this is the real quality-of-care issue. Often, Medicaid reimbursements are so low that health care providers refuse to take welfare recipients as patients. In New York, for instance, Medicaid reimburses doctors $11 for a simple office visit, much less than the rate charged to private patients. The result is that most doctors refuse to see Medicaid clients. By reducing unnecessary services—particularly inpatient hospitalization—managed care plans save money and thus are able to pay providers higher fees. As a result, more doctors participate, and the plan is able to guarantee each client access to a physician and to other health care providers.

Finally, managed care no longer represents a new technology. Health maintenance organizations have been in existence for over 50 years, and there have been Medicaid HMO contracts for over 20 years. It may have made sense to have strict Federal oversight when States first contracted with HMO's 20 years ago, but it makes little sense today.

Currently, managed care is only allowed in the Medicaid program under special waivers. And the Federal waiver process is long and difficult. It may take several years to receive Federal approval for a new program. In contrast, our bill lets States decide whether they want to contract with managed care plans. There would still be Federal requirements—HMO's could not discriminate in enrolling and disenrolling people based on health status, for instance—but States would not have to receive prior Federal approval. In effect, managed care would become a regular part of the Medicaid Program.

Ensuring that managed care plans provide health care of high quality is important. There have been some problems in this area in the past, and there is a need for oversight. But the present system works poorly. Some of the rules accomplish little other than to place a heavy burden on the Medicaid agencies and the managed care plans that are required to meet them. Furthermore, the States are in a better position than the Federal Government to monitor the quality of care at the local level because they are closer to the action.

Consider, for instance, the rule that 25 percent of the enrollees in a Medicaid-contracting HMO must be private pay clients. This rule was placed into the law out of concern that HMO's providing care to the poor not be composed solely of poor people. The argument was that an HMO is less likely to provide substandard care if some of its enrollees are paying their own way and thus are able to take their business elsewhere if dissatisfied with the quality of services. The only problem is that it has not worked out that way. There is a virtual consensus among those familiar with Medicaid-contracting HMO's that the 75-25 rule has done little, if anything, to improve the quality of care. There are bad HMO's that have ample private pay enrollees and excellent HMO's made up exclusively or largely of welfare clients—this is allowed currently under a waiver.

And the 75-25 requirement virtually rules out managed care plans in areas of concentrated poverty, such as large urban ghettoes, because there are so few private pay clients there. Yet it is there that we are most likely to find welfare clients abusing the system—getting drug prescriptions from several physicians and then selling the drugs on the street, for instance, or receiving their care in hospital emergency rooms where there are no records of previous services received and thus no continuity of care. This is where managed care is needed most.

Our bill replaces the existing arrangements with a meaningful quality assurance system which requires that enrollees be fully informed of their rights; that there be an extablished grievance procedure both within the plan and within the State agency overseeing the managed care program—including toll-free hotlines; that the State do periodic surveys of enrollee satisfaction; and that it review medical records to identify indications of underutilization and/or inappropriate treatment patterns. Finally, the bill requires that an independent, outside entity review each plan's quality assurance activities, and issue an annual report on its findings.

Our proposal also allows States to require that Medicaid recipients enroll in a managed care plan to receive services, but only if there are at least two plans available in the area from which recipients can choose—it would also be allowed where there is only a single plan if that plan has enrolled at least two-thirds of the area's physicians. If enrollment is purely voluntary, chances are that the worst abusers—clients who insist on seeing four or five doctors at the same time, for instance—will not enroll. Moreover, there is some evidence that a voluntary program will attract the healthiest clients but not those with more serious health care needs.

Some will argue that mandating enrollment in managed care limits the client's freedom of choice. In practice, however, the opposite is usually the case. In many center cities, where few physicians will accept welfare customers, freedom of choice is an empty phrase. Clients can pick any physician they want, but few of these will accept welfare customers. HMO's, in contrast, are able to attract additional physicians by paying more competitive rates, and thus provide a much broader set of choices for enrollees. In this sense, mandatory enrollment actually increases consumer choice.

Managed care provides major advantages to States struggling to control their exploding Medicaid costs. It also can help States guarantee access to services for welfare recipients who often have trouble finding a physician to treat them. And whatever the past problems with Medicaid HMO's, State Medicaid directors are unanimous in believing that, on the whole, the care provided in managed care plans is superior to that in the regular Medicaid fee-for-service, system. For these reasons, I am hopeful that the Senate will join us in approving this legislation as soon as possible.

I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD along with a recent New York Times editorial.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Managed Care Improvement Act of 1991".

SEC. 2. OPTIONAL STATE MEDICAID COVERAGE OF COORDINATED CARE.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) in paragraph (24), by striking the comma at the end and inserting a semicolon;

(3) by redesignating paragraphs (22), (23), and (24) as paragraphs (25), (22), and (23), respectively, and by transferring and inserting paragraph (25) after paragraph (23), as so redesignated; and

(4) by inserting after paragraph (23) as redesignated, the following new paragraph:

"(24) coordinated care (as defined in section 1903(m)(1)); and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 3. MODIFICATION OF FEDERAL REQUIREMENTS TO ALLOW STATES MORE FLEXIBILITY IN CONTRACTING FOR MANAGED CARE SERVICES UNDER MEDICAID.

(a) COORDINATED CARE DEFINED.—Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended by amending paragraph (1) to read as follows:

"(1) For purposes of this subsection, the term 'coordinated care' means programs operated by any public or private entity described in paragraph (2)(A) or a primary care case management program described in paragraph (6).".

(b) IN GENERAL.—Section 1903(m) of such Act (42 U.S.C. 1396b(m)) is further amended—

(1) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

"(A) For purposes of this subsection, the term 'plan' means a public or private organization, organized under the laws of any State, operating under contract with a State, which meets the requirement of section 1902(w) and is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) or is a public or private organization, organized under the laws of any State, operating under contract with a State, which meets the requirements of section 1902(a) (except subsections (a)(1) and (a)(10)(B)). No payment shall be made under this title to a State with respect to expenditures incurred by it for payment for services provided by a plan unless the contract between the State and the plan provides for the following:

"(i) That it makes services it provides to individuals eligible for benefits under this title accessible to such individuals, within the area served by the plan, to the same extent as such services are made accessible to individuals (eligible for medical assistance under the State plan) not enrolled with the organization.

"(ii) That the plan has made adequate provision against the risk of insolvency, which provision is satisfactory to the State and which assures that individuals eligible for benefits under this title are in no case held liable for debts of the plan in case of the plan's insolvency.

"(iii) That the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the plan (and of any subcontractor) that pertain—

"(I) to the ability of the plan to bear the risk of potential financial losses, or

"(II) to services performed or determinations of amounts payable under the contract.

"(iv) That in the plan's enrollment, reenrollment, or disenrollment of individuals who are eligible for benefits under this title and eligible to enroll, reenroll, or disenroll with the plan pursuant to the contract, the plan will not discriminate among such individuals on the basis of their health status or requirements for health care services.

"(v) That the plan—

"(I) except as provided under subparagraph (E), permits individuals who have elected under the State plan for medical assistance to enroll with the plan for purposes of such benefits to terminate such enrollment without cause as of the beginning of the first calendar month following a full calendar month after the request is made for such termination, and

"(II) provides for notification of each such individual, at the time of the individual's enrollment, of such right to terminate such enrollment.

"(vi) That the plan permits, at the option of the State, mandatory enrollment of individuals eligible for benefits under this title provided that the individual has—

"(I) a choice of two or more plans,

"(II) a choice between enrolling in a plan or a primary care case management system described in paragraph (6)(A), or

"(III) a choice among participating physicians to the extent that at least two-thirds of physicians in a geographic area participate in the plan or in the primary care case management system.

"(vii) That, at the option of the State, the plan may continue to provide an individual the benefits covered under its contract with the State, and receive State payment for such coverage, for a guaranteed period of one to six months, regardless of whether the individual becomes ineligible for benefits under this title during the six-month period.

"(viii) That the contract provides that, in the case of medically necessary services which were provided—

"(I) except as provided under subparagraph (E), to an individual enrolled with the plan under the contract and entitled to benefits with respect to such services under the State plan, and

"(II) other than through the plan because the services were immediately required due to an unforeseen illness, injury, or condition, either the plan or the State provides for reimbursement with respect to those services.

"(ix) That the plan provides for disclosure of information in accordance with section 1124 and paragraph (3) of this subsection.

"(x) That the contract provides, in the case of a plan that has entered into a contract for the provision of services with a federally qualified health center, that—

"(I) rates of prepayment from a State are adjusted to reflect fully the rates of payment specified in section 1902(a)(13)(E), and

"(II) at the election of such center payments made by the plan to such a center for services described in section 1905(a)(2)(C) are made at the rates of payment specified in section 1902(a)(13)(E).

"(xi) That any physician incentive plan that it operates meets the requirements described in section 1876(i)(8).

"(xii) That the plan provides for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients.

"(xiii) That the payment methodology is based on experience rating or another actuarially sound methodology as approved by the Secretary and that payments to the plan shall not exceed 100 percent of expenditures that would otherwise have been made, demonstrated by such models or formulas as the Secretary may approve.

"(xiv) That the plan shall provide for implementation of an internal quality assurance program containing at least the following elements:

"(I) A written Quality Assurance Program (hereinafter referred to as 'QAP') specifying a systematic process including: measurable goals and objectives for quality of care, and activities to be undertaken on a continuous basis, and annual evaluation of the QAP.

"(II) The plan has an identifiable organization structure responsible for performing quality assurance functions within the plan and is accountable to the governing body of the plan, and whose activities have adequate supervision, staff, and other necessary resources.

"(III) If the QAP delegates certain quality assurance functions to other entities, the plan remains accountable for all QAP functions, and must have mechanisms to assure that all QAP plan activities are carried out.

"(IV) The QAP contains provisions to assure that physicians under contract with the plan, as well as all other health care professionals under contract with the plan, are qualified to perform their services and that their qualifications are assured through appropriate credentialing and recredentialing procedures.

"(V) The QAP provides for policies addressing enrollee rights and responsibilities, including enrollee grievance mechanisms and mechanisms to provide enrollees with information about access to and use of services within the plan.

"(VI) The QAP implements a continuous process of monitoring the delivery of health care which includes: identification of clinical areas to be monitored; use of quality indicators and standards for assessing care delivered, including availability and accessibility of care; monitoring through use of epidemiologic data or chart review, the care of individuals, as appropriate, and patterns of care overall; and implementation of corrective actions.

"(VII) For any other requirements if approved by the Secretary in consultation with States.".

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A), as amended, the following new subparagraph:

"(B) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a plan within the meaning of subparagraph (A) shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.";

(D) in subparagraph (C) as redesignated—

(i) by striking "clause (ix)" and inserting "clause (x)"; and

(ii) by striking "an entity" and inserting "a plan";

(E) by striking subparagraphs (C) and (D);

(F) by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (D), (E), (F), and (G), respectively;

(G) in subparagraph (D), as redesignated—

(i) by adding "and" at the end of clause (iii);

(ii) by striking "; and" at the end of clause (iv) and inserting a period; and

(iii) by striking "(v)" and all that follows through the period;

(H) in subparagraph (E), as redesignated—

(i) in clause (i)—

(I) by striking "subparagraph (E) or (G)" and inserting "subparagraph (D) or (F)"; and

(II) by striking "which meets" and all that follows through "(A)(ii)";

(ii) in clause (ii), by striking "paragraph (6)" and inserting "paragraph (5)"; and

(iii) in the matter following clause (ii), by striking "clause (vi)" and inserting "clause (v)";

(I) in subparagraph (F), as redesignated—

(i) by striking "In" and inserting "The provisions of subparagraph (E) shall apply in"; and

(ii) by striking ", clauses (i)" and all that follows through "apply"; and

(J) in subparagraph (G), as redesignated, by striking "health maintenance organization" each place it appears and inserting "plan";

(2) by redesignating paragraph (4) as paragraph (3);

(3) in paragraph (3), as redesignated—

(A) by striking "health maintenance organization" the first place it appears and inserting "plan"; and

(B) by striking "organization" each place it appears and inserting "plan";

(4) by redesignating paragraph (5) as paragraph (4); and

(5) in paragraph (4), as redesignated—

(A) by striking "organization" each place it appears and inserting "plan";

(B) by striking "entity" and inserting "plan"; and

(C) by striking "(2)(A)(v)" and inserting "(2)(A)(iv)".

(c) PRIMARY CARE CASE MANAGEMENT PROGRAM DEFINED.—Section 1903(m) of such Act (42 U.S.C. 1396b(m)) is further amended—

(1) by redesignating paragraph (6) as paragraph (5); and

(2) by adding at the end the following new paragraph:

"(6) For purposes of this subsection, a primary care case management program means a process wherein individual medical providers, under agreements with the State, coordinate the delivery of medical care to individuals entitled to benefits under this title. The State may provide for a primary care case management program under this subsection that does not meet the requirements of section 1902 (a)(1), (a)(7), and (a)(10)(B). No payment shall be made under this title to a State with respect to expenditures incurred by it for payment for services provided under a primary care case management program established by a State unless it provides for the following:

"(A) The individual medical provider operating under the program meets all applicable State licensure requirements and is otherwise eligible to participate under this title.

"(B) The primary care case management agreements entered into with the States meet the requirements of clauses (ii), (iii), (iv), (viii), and (xi) of paragraph (2)(A) if payment under the agreement is made on a risk basis for outpatient services delivered to an enrollee.".

(d) INDEPENDENT REVIEW AND QUALITY ASSURANCE OF COORDINATED CARE.—Section 1903(m) of such Act (42 U.S.C. 13966(m)) is further amended by adding at the end the following new paragraphs:

"(7) A State contracting for coordinated care as described in paragraph (1) with a primary care case management program described in paragraph (6) or a plan as described in paragraph (2) shall provide for quality assurance activities to be conducted by the State consisting of at least the following activities:

"(A) A toll-free telephone number for enrollee questions and grievances.

"(B) A State-operated enrollee grievance procedure.

"(C) Periodic informing of enrollees of such enrollees rights.

"(D) Sample review of grievances registered with the plan or the State.

"(E) Survey and analysis of enrollee satisfaction.

"(F) In the case of a State contracting for coordinated care with a plan under paragraph (2), monitoring the plan's quality assurance to assure that it meets requirements specified in law and the contract entered into between the State and the plan under this subsection.

"(8) A State contracting for coordinated care as described in paragraph (1) with a plan described in paragraph (2) shall in addition to the requirements of paragraph (8) provide for an external independent review of each plan's quality assurance activities to be conducted by a Peer Review Organization or other organization external to the State as approved by the Secretary that consists of the following activities:

"(A) Review of the plan's medical records through sample or other appropriate methods for indications of inappropriate utilization and treatment.

"(B) Review of enrollee inpatient and ambulatory data either through sample or other appropriate methods to determine quality trends.

"(C) Review of the plan's internal quality assurance activities.

"(D) Notification of plans and State follow-up activities when any of the activities of this paragraph indicate inappropriate care or treatment.".

(e) CONTINUATION OF CERTAIN MANAGED CARE PLANS.—Section 1903(m) of such Act (42 U.S.C. 1396b(m)) is further amended by adding at the end the following new paragraph:

"(9) The Secretary may provide for the continuation of any managed care program operating under sections 1115 and 1915 authority without the need for granting additional waivers under such sections provided the program has been successful in assuring quality and containing costs (as determined by the Secretary) and is likely to continue to be successful in the future.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 4. CONVENING OF SECRETARIAL GROUPS ON SENTINEL HEALTH EVENTS AND ENCOUNTER DATA FORMATS.

(a) SENTINEL HEALTH EVENTS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall no later than 1 year after the date of enactment of this Act convene a group composed of State medicaid staff, physicians, and representatives from public or private health maintenance organizations and submit to Congress no later than 18 months after the date of enactment of this Act recommendations on criteria to be used by States and the plans described in section 1903(m)(2)(A) of the Social Security Act to determine underutilization in certain distinct health areas.

(b) ENCOUNTER DATA FORMATS.—The Secretary shall no later than 1 year from the date of enactment of this Act convene a group composed of State medicaid staff and representatives from public or private health maintenance organizations and submit to Congress no later than 18 months after the date of enactment of this Act recommendations on the feasibility of utilizing encounter data and on data elements and formats to be utilized in submission and State review of information concerning services provided by plans described in section 1903(m)(2)(A) of the Social Security Act to individuals receiving services under such plans under the medicaid program.

SEC. 5. CERTAIN IMPROVEMENTS IN MEDICAID CASE MANAGEMENT SERVICES AND HOME AND COMMUNITY-BASED WAIVERS.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in paragraph (17)—

(A) by striking "and" at the end of subparagraph (C);

(B) by adding "and" at the end of subparagraph (D); and

(C) by adding at the end the following new subparagraph:

"(E) nothing in this subsection shall be construed as restricting payment of medical assistance under this title for services received by individuals eligible under this title, when similar services are provided by the State or under contract with the State through a public or private entity to a population without charge to the individual;";

(2) in paragraph (23), by inserting "(including case management services under subsections (c), (d), and (g) of such section)" after "in section 1915"; and

(3) in paragraph (32)—

(A) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(B) by adding at the end the following new subparagraph:

"(D) in the case of services arranged through the case management agency under subsections (c), (d), or (g) of section 1915, payments made by the case management agency to providers of services shall be permitted provided that—

"(i) the case management entity is a nonprofit entity;

"(ii) the case management entity maintains a clear system of records demonstrating conformity between payments made and services required under the individual's plan of care; and

"(iii) the entity makes assurances satisfactory to the State that providers paid by the entity, for covered services to individuals eligible under this title, are eligible for payments under the provisions of this title;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1992.

SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) in section 1902—

(A) in subsection (a)(30), by amending subparagraph (C) to read as follows:

"(C) provide, in the case of coordinated care under section 1903(m)(2), quality assurance review as described in section 1903(m)(8);"; and

(B) in subsection (e)(2)—

(i) in subparagraph (A)—

(I) by striking "an entity" and all that follows through "1903(m)(2)(A)" and inserting "a plan or program providing for coordinated care described in section 1903(m) (2)(A) or (6)"; and

(II) by adding at the end the following new sentence: "The State plan may also provide for 1 month continuous eligibility (as described in subparagraph (C)) for individuals enrolled with a coordinated care plan or primary care case management program under section 1903(m)."; and

(ii) by adding at the end the following new subparagraph:

"(C) For purposes of subparagraph (A), one month continuous eligibility means continued enrollment in a coordinated care program under section 1903(m) for a period of 1 month if the enrolled individual is determined ineligible due to excess income or resources and can reasonably be expected to reestablish eligibility in the month following the month of ineligibility."; and

(2) in section 1905—

(A) in paragraph (1), by inserting "(other than that which is permitted under section 1903(m)(6)" after "case management system"; and

(B) in paragraph (4), by inserting "other than that which is permitted under section 1903(m) regarding coordinated care programs" after "(4)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

PUT THE AID BACK IN MEDICAID

When they're sick, poor people in New York State suffer twice. Beyond injury and disease, they must struggle with a health care system that sends them from emergency room to clinic to Medicaid mill, looking for treatment they're not likely to find. They rarely see the same doctor twice, rarely get the attention that private patients do and even more rarely develop relationship with doctors who know their medical histories.

The result is attention that's so fragmented and haphazard that patients avoid it until they get so ill they have no choice. That's not only senseless; it is explosively expensive.

There is a better way, and several states, including New York, are giving it serious consideration. It is called managed Medicaid, a way of providing medical care to the poor that restores dignity and common sense. A blue-ribbon committee now urges Mayor David Dinkins of New York to embrace managed Medicaid. The case is compelling, for the physical health of poor patients and also the fiscal health of the city and state.

Under the present system, poor people who receive often inadequate Medicaid insurance seek care wherever they can find it, often at an emergency room. Under managed Medicaid they would choose from a new network of medical care facilities and receive their care in that place. That would allow them to develop a relationship with one doctor and get preventive, continuing attention. Typically, these facilities would resemble health maintenance organizations, or H.M.O.'s, which increasingly attract privately insured people.

Because enrollment would be mandatory, a managed system has a good chance of overcoming a besetting problem: the lack of doctors willing to serve poor patients in poor areas. How to attract the doctors? By paying higher reimbursement rates and guaranteeing them a large pool of patients. The state could afford the higher rates and still save money because preventive medical attention would obviate much more expensive care.

Adovcates predict that a managed system could attract private doctors, H.M.O.'s and hospitals now struggling to serve Medicaid patients inefficiently in costly emergency rooms meant to cope with true emergencies.

There are obstacles to managed Medicaid. It would, notably, require capital to establish the new neighborhood facilities. But the chief stumbling block is emotional—overcoming the perception that a managed system denies poor people the freedom of choice available to others. Patients would have to choose and stay with one facility. But compare that with the only practical present choice—ping-ponging from sullen service in one place to the same in another.

It will take time to put a managed system into practice, but New York is on the verge of talking the first step. Gov. Mario Cuomo has introduced a bill to require counties to set up managed Medicaid systems gradually. Now Mayor Dinkin's management advisory committee urges him to go ahead with a pilot project. Concern for the poor, and for prudent management, would impel him to say yes, and soon.

The current system is close to disaster. It accounts for about 14 percent of the state budget and nearly 7 percent of New York City's budget, and it keeps growing. A managed system would save money—the costs average at least 10 percent less than traditional Medicaid. More important, it can bring humanity and quality care to poor New Yorkers; they already suffer enough.

• Mr. DURENBERGER. Mr. President, I am pleased to rise today to join my good friend, the senior Senator from New York, in introducing the Medicaid Managed Care Improvement Act. This legislation will provide States greater flexibility to address the health care needs of their Medicaid populations through health maintenance organizations and other forms of managed care. No longer will States have to obtain permission from the Federal Government to use managed care techniques that have been widely accepted and applied in the private sector. Techniques which have been demonstrated to both control costs and improve access to medically necessary treatments for Medicaid recipients in several States, including my own.

Mr. President, our recent debate on Medicaid provider taxes drove home a point of which I think most of us were already painfully aware: Medicaid directors and their governors are facing unprecedented fiscal crises. The combination of tightly constrained budgets and rapidly rising Medicaid costs has pushed some States to the brink of disaster—not just in terms of Medicaid, but with respect to other important programs as well. Funding for education, transportation, and law enforcement has been slashed in order for States to balance their budgets.

New Federal mandates expanding the eligible population plus health care cost inflation have created dramatic growth in State Medicaid spending over the past 10 years. As a result, Medicaid is the fastest growing component of most State budgets.

In the span of just a decade, from 1980 to 1990, the portion of State budgets consumed by Medicaid grew from 9 percent to 14 percent. It is projected to rise to 17 percent by 1995. The State share of Medicaid costs rose by 18 percent last year, and is expected to rise by 23 percent this year.

Unfortunately, Mr. President, the Federal Government has contributed much to the dilemma faced by the States, but offered little in the way of constructive solutions. In fact, we have placed major obstacles in the way of States who have sought to use managed care as an alternative to eliminating the eligibility of optional categories of Medicaid recipients or making drastic cuts in provider reimbursement. The result has been fewer poor people covered by Medicaid and, in many States, a provider population so grossly underpaid that few are willing to treat Medicaid patients.

The goal of the legislation we are introducing today is to eliminate the barriers that exist in current law with respect to States' use of managed care in Medicaid. While erected to preserve freedom of choice among providers for Medicaid recipients and to assure the provision of good quality care, in reality these legislative barriers have failed to accomplish either objective.

In fact, the notion of freedom of choice in fee-for-service Medicaid is a fantasy. Just what types of choices are available to fee-for-service Medicaid patients in urban ghettos?

On July 8, 1991, the New York Times furnished a graphic portrayal of what, unfortunately, is an all too common experience for Medicaid patients in inner cities. And I quote:

> The lines begin at sunrise, often before the metal gates have been lifted from a single shop window in Harlem or the Bronx.
>
> Patients arrive by the dozen, limping and wheezing, many clutching Medicaid cards. Some like Melissa Mendez, a 26-year old mother of four, will stand for hours, fevered and coughing, outside a bleak South Bronx office building. Others nap on crumpled pads of cardboard, or fashion makeshift chairs from the seats of abandoned cars.
>
> The street is their waiting room, because there is almost never a place to sit inside the dilapidated doctors' offices known as "Medicaid mills".
>
> * * * Housed in shabby, nondescript storefronts along the most desolate blocks in the city, the clinics are called mills because, for the official New York State Medicaid reimbursement rate of about $11 per patient visit, doctors there grind routinely through dozens of patients in a single hour. Often exams consist of nothing more than taking a person's name, temperature and Medicaid information.

So much for freedom of choice in fee-for-service settings for inner city Medicaid patients. And so much for quality of care considerations.

Mr. President, I request that the entire article from which I just read be placed in the RECORD following my statement.

The Medicaid Managed Care Improvement Act will make it possible for states to contract with managed care plans, including health maintenance organizations, preferred provider organizations and primary care case management systems, without obtaining a waiver from the Federal Government. It will also allow States to mandate enrollment in managed care plans so long as the beneficiary has a choice among at least two plans. If there is just a single plan available, enrollment can only be made mandatory if at least two-thirds of the physicians in an area are participating providers.

Some advocacy groups may perceive this provision as an abandonment of our commitment to assuring poor people the same range of health care choices that exist for other people. The harsh reality is that, despite the best efforts of these groups, we have never succeeded in mainstreaming the Medicaid population. As poignantly illustrated in the New York Times article from which I read, having a Medicaid card does not guarantee access to good health care. For many Medicaid recipients, enrollment in an HMO—voluntary or mandatory—would represent a significant improvement in access over what is available in a fee-for-service environment.

Senator MOYNIHAN and my bill will eliminate the requirement that any HMO in which Medicaid recipients are enrolled have at least 25 percent private pay enrollees. Historically, this requirement has been used as a measure of the quality of care provided by the plan. It was believed that having some enrollees who are free to disenroll at will would help assure a certain standard of quality in the organization.

While logical on the surface, the reality is that the mix of patients has little to do with the quality of services provided by a managed care plan. And, the downside of the 75/25 requirement has been to make it virtually impossible to establish managed care plans for Medicaid recipients in inner cities. These are often the populations that need managed care the most: patients who are likely to have multiple health and social problems that can best be served in a coordinated care system.

Instead of relying on an artificial proxy for quality of care, such as the 75/25 rule, our bill requires that all Medicaid managed care plans have an internal quality assurance program that is responsible for continuously monitoring the health care provided to patients and for implementing corrective action plans. In addition, States that contract for managed care must have their own quality assurance program that includes a toll-free telephone line for recipients. The State must review all grievances registered with the plan or the State, and it must survey and analyze enrollee satisfaction, as well as monitor the managed care plans' quality assurance programs. Finally, all managed care plans must submit to a review of their medical records by an independent, external organization, such as a Peer Review organization, that looks for indications of inappropriate utilization or treatment.

While there is no evidence to suggest that HMO's which are at financial risk for the health care services used by their enrollees provide less care than may be medically necessary, there continues to be concern that this could occur. Therefore, our bill directs the Secretary of Health and Human Services to convene two groups. The first group is to be comprised of State Medicaid staff, physicians and HMO representatives and will be charged with examining the entire issue of underutilization. The second group will study the feasibility of using medical encounter data for monitoring quality of care, and will determine the data elements and formats that should be used to accomplish that objective.

Mr. President, the bill my distinguished colleague from New York and I are introducing today will not solve all of the problems with the Medicaid program. For example, it will not correct the gross inequities that exist between States with respect to eligibility, covered services and provide payments. Nor will our bill make it easier for eligible people to enroll, or eliminate the welfare stigma that surrounds the program as a result of its linkages to AFDC and SSI.

I am convinced that for Medicaid to fulfill its original mission of providing access to health care services for poor pregnant women and children, the program must undergo a total transformation. And this cannot be accomplished without restructuring Medicare in a way that ensure that the long-term care needs of our elderly and disabled populations are met without them having to become Medicaid eligible.

I am committed to pursuing legislation that will reshape Medicaid and Medicare to better meet the health care needs of our population. However, this is a long-term proposition that, under the most optimistic scenario, will take years to accomplish. In the meantime, States are in crisis right now.

Good managed care plans offer states a chance to slow the rate of increase in their Medicaid Programs through the use of rigor our utilization review techniques; primary care gatekeepers and/or other providers as patient care managers; channeling of patients to high quality, efficient providers; quality assurance programs; and reimbursement systems that make the providers financially accountable for the cost and quality of services rendered.

Minnesota has employed mandatory managed care in its Medicaid Program in three counties since June of 1982, with great success. Currently, some 62,000 Minnesota Medicaid recipients are enrolled in managed care plans, and Minnesota's program is highly regarded among experts in this area. Nonetheless, despite nearly a decade of experience in Medicaid managed care, Minnesota must continue to operate its program under a waiver from the Federal Government.

This means that every few years, the Minnesota Medicaid staff must jump through a series of Federal hoops to get their waiver extended. Every few years they must hold their breath and hope that the waiver comes through.

Mr. President, no good purpose is served by the continuation of Federal waivers for States to use managed care in Medicaid. Managed care offers great promise for both slowing the rate of increase in health care costs and improving the quality of services rendered. It is commonplace in employer-sponsored health plans, and I look forward to the time when it is equally commonplace in Medicaid. This legislation will do much to hasten that day, and I encourage all of my colleagues to become cosponsors.●

[From the Washington Post, July 8, 1991]

Medicaid's Malady

(By Michael Specter)

New York—The lines begin at sunrise, often before the metal gates have been lifted from a single shop window in Harlem or the Bronx.

Patients arrive by the dozen, limping and wheezing, many clutching Medicaid cards. Some, like Melissa Mendez, a 26-year-old mother of four, will stand for hours, fevered and coughing, outside a bleak South Bronx office building. Others nap on crumpled pads of cardboard, or fashion makeshift chairs from the seats of abandoned cars.

The street is their waiting room, because there is almost never a place to sit inside the dilapidated doctors' offices known as "Medicaid mills." Often the last refuge for sick people in need of quick medical attention but with no money to pay for it, such mills have taken on a troubling new prominence here as funds for public health clinics disappear and the poor overwhelm hospital emergency rooms.

Housed in shabby, nondescript storefronts along the most desolate blocks in the city, the clinics are called mills because, for the official New York State Medicaid reimbursement rate of about $11 per patient visit, doctors there grind routinely through dozens of patients in a single hour. Often, exams consist of nothing more than taking a person's name, temperature and Medicaid information.

"You can't call what goes on in those places medicine," said Joseph Post, medical coordinator for the state Health Department's office of professional conduct, which investigates Medicaid abuse. "It's a continuous obscenity. It isn't just that we treat poor people worse than animals. It's that the incentives are all designed to give the biggest rewards to the biggest criminals. No real doctor would spend a day there."

Medicaid, the primary health plan for the poor, has become by far the fastest-growing spending program in the United States, costing federal and state governments more than $90 billion this year. Yet even as costs rise beyond the most pessimistic projections, experts say the program serves fewer of those who need it most each year.

With fees that lag far behind what private insurers or even Medicare, the government program for the elderly, pay for the same services, many of even the most committed doctors refuse to participate in Medicaid.

In statehouses and on Capitol Hill, political leaders issue almost daily denunciations of a health-care system that ignores the nearly 34 million Americans with no insurance and treats the larger number on public assistance with indifference.

But it is on the poverty-ridden streets of the nation's largest cities that one can best understand the effects of a federal health policy that rewards doctors willing to abuse the neediest members of society.

"I regard the whole program as beyond repair," said Fernando Ferrar, Bronx borough president and an advocate of recruiting higher-paid physicians to serve underprivileged areas of the city. "We should just blow it up. * * * the city has the world's best medical schools and the finest hospitals. It has thousands of licensed doctors, many of them famous. And we have no health care at all for people who are in need. None. Nothing we do can be worse than this."

In areas where talented and qualified physicians rarely dare to practice, Medicaid mills prevail. Scattered throughout communities hit hardest by the spiraling epidemics of drug abuse, AIDS, tuberculosis, measles and many other preventable and often easily treated diseases, the exact number of such outfits in New York is unknown.

The 15 state health investigators in New York City divide their time between looking for abuse on the streets and doing paperwork involved in auditing the more than 10 million individual Medicaid claims filed each month. Local law enforcement officials recently have intensified their scrutiny of the mills, where doctors often prescribe drugs that in turn are sold immediately on the street or back to the supplying pharmacies—usually owned by the same person who owns the mill.

But, enforcement officials and legislators say, like crack houses or brothels, as soon as one mill is shut, another opens around the corner. Often the three can be found in the same block.

Several recent visits to one such doctor's office, on East 138th Street in the South Bronx, revealed long lines of young men waiting to enter, then staying for only a moment or two. Most then proceeded to the pharmacy next door. When finished there, several crossed the street and climbed into an abandoned building through a hole in a bricked-up window.

"Crack house," said a sergeant at the nearest police precinct, "They go from the doctor to the pharmacy, get whatever they can and try to barter it away for crack. It's absolutely routine."

Most Medicaid mills are run by people who never appear on the premises, according to state fraud investigators. With no sign outside, or simply the words "Doctors Office" painted above their doors, the offices consist of a waiting area, desk and examination room. Medical equipment is sparse, usually nothing more than a machine to test hearing and another to test lung capacity.

"They are installed only for the revenue they bring in," said Post, a retired physician who investigates claims of abuse for the state. "They advertise for doctors in the newspaper help-wanted ads. Most are newly licensed immigrants, eager for the money and often unaware that the conditions are so profoundly unacceptable."

The doctors work in shifts earning a salary of as much as $5,000 a week for fewer than 40 hours of work.

No matter what the malady, a visit to a mill rarely lasts more than a minute or two, time enough for a cursory examination and to draw blood for a series of expensive tests. The blood will be sent to a lab that will reward the Medicaid mill with a small fee for the favor. The same is true for pharmaceuticals. Since the government pays for Medicaid drugs, and kickbacks are routine, few patients depart without prescriptions.

Mendez said she came to the mill near her home in the Bronx on a recent morning only because the emergency room at the Lincoln Hospital Center usually is so overcrowded that she could not wait. Still, she stood in line at the mill with two of her four children for two hours, waiting to see a doctor for a severe respiratory infection. Three minutes after she finally entered, she came out with prescriptions for three popular and expensive drugs.

The drugs, given to many patients at this clinic, were Naprosyn, Tagament and Proventil. Naprosyn is an anti-inflammatory drug that can cause internal bleeding. Tagamet is used for ulcers or the type of bleeding that can be caused by improper or extensive use of Naprosyn. Proventil has been highly successful in treating asthma.

"[The doctor] took my temperature and gave me blood tests," she said. "She really checked me out."

But many health professionals say it is not possible to receive real care—good or bad—in such a brief visit. Mill doctors rarely bother to learn results of the tests they order for patients. Even when they do receive test results from the labs, state investigators say, the doctors frequently fail to inform patients of abnormal findings.

The office Mendez visited, on the Grand Concourse in the South Bronx, appears to close whenever an unusual looking person—a white man in a tie, for example—arrives. "They're not stupid," said Anjean Carter, medical director for the Community Service Society, a local health-advocacy organization. "They know who is there for treatment and who is there to shut them down."

Repeated attempts by a reporter to speak with doctors at four separate offices in the Bronx were refused by a receptionist who said the doctors were not in. On two such visits to the Grand Concourse office, an employee ran out and drew the metal gates to the ground as a reporter attempted to enter. On another occasion, when the doctor was not yet at the office, there were rodents in the tiny examination room and used syringes on the floor.

New York state does not release records of Medicaid investigations, but several case studies were made available by the House Government Operations subcommittee on human resources and intergovernmental relations, whose chairman, Ted Weiss (D-N.Y.), has held hearings on the quality of Medicaid physicians in the poores urban areas.

The pictures that emerge from these reports are similar. "All patients made only one visit," said a typical state health department study on Robert Rozefort, a New York doctor excluded from the Medicaid program last year after a lengthy review. "Histories were illegible, no real records, or exams. There were no lab tests ordered or recorded nor were diagnoses validated," which means there was no continuity in the charts nor were there second visits to make certain that initial diagnoses were correct.

"There is a monotonous quality to these charts," the study said. "Eight of 10 patients complain of asthma, and five of 10 complain of back pains. Almost all were given Tagamet and Proventil for uninvestigated complaints. These drugs potentiate [multiply] the effects of cocaine. This is grossly sustandard care." Rozefort could not be reached for comment. Although the state decided to withdraw permission for him to receive Medicaid reimbursement, no other action was taken.

Because of the welter of licensing regulations and a cumbersome appeals process, attempts to remove physicians from the Medicaid program can take years. Any licensed doctor may treat Medicaid patients; physicians are free to take a few patients, many or none.

The wide disparity in fees discourages many competent and reputable doctors from treating those often most in need of basic care. Many reports have shown the sharp statistical relationship between low-income and perilously bad health care. Yet, in its most recent report to Congress, the Physician Payment Review Commission found that 44 states have severe problems finding doctors willing to participate in the Medicaid program. Low fees were cited as the reason in almost every case.

In New York, whose Medicaid reimbursement rates are the nation's second-lowest behind West Virginia, doctors receive $15 for a routine electrocardiogram. But a doctor treating a patient on Medicare, the federal health program for the elderly, would receive $45 for precisely the same service. If the patient had private insurance or paid himself, the bill would be more than $100. For an initial office visit, a doctor can receive $63 under Medicare in New York, more than five times what Medicare pays.

According to the New York City Health Department, more than 530,000 people are eligible to receive Medicaid in the Bronx alone, about as many people as live in Boston. But in its most recent survey of health-care delivery to New York's poor, the Community Service Society could identify only six private physicians willing to provide a full range of medical services in the area's most ravaged neighborhoods.

"Look around and you will quickly find that the primary health-care network has been destroyed," said Bruce Vladek, president of the United Hospital Fund, a nonprofit health-advocacy group. "A system has been constructed that automatically scares away the people it is supposed to attract."

Low pay is only the most obvious reason. Doctors who work in the poorest neighborhoods also must contend with crime. They pay higher insurance premiums because their neighborhoods are more dangerous. Away from the customary affiliations with solid hospitals, they often lose their link to the newest trends in medicine.

Here and in many other states, there has long been steady resistance to the idea of raising fees to attract better physicians, not only because of costs during a budget crisis, but, more important, because many legislators also fear it is at least as likely to provide greater incentives for the worst abusers.

In the past, young doctors with the best intentions have come to Central Harlem and the Bronx, where the hypertension death rate is more than 1,000 times higher than the nation as a whole and mortality rates have far more in common with sub-Saharan Africa than with most of New York City.

Often, they say they want to practice where black men are many times more likely to die needlessly from preventable heart disease than residents in Zip codes only a mile away. In many cases, these physicians are idealistic, young and say they have an obligation to society that they want to fulfill.

"My entire goal in life was to become a doctor and return to the Bronx to treat my people," said Luis A. Diaz Jr., 38. Born and raised in the South Bronx, he spent his youth watching classmates slowly disappear, lost to drugs and guns and, more recently, to AIDS.

After much struggle and many false steps, he accomplished the first part of his dream in 1981, graduating from Tufts Medical School although he never officially graduated from college. For several years, he worked in one of the Bronx's few community health-care clinics, the Morris Heights Health Center, receiving a solid salary to provide quality health care. But the long hours, lack of continuity and difficulty clinic doctors have in establishing firm ties with patients, who might see one doctor one day and another the next, got to him.

More than once, he says, he was offered jobs by owners of the Medicaid mills, through advertisements and acquaintances at the hospital where he trained.

"Two-, three-thousand dollars a week for three days' work," he said, sadly shaking his head. "They just wanted me to front by signing prescriptions and making an occasional visit. That's a lot of money. But what they were doing in the mills was everything I was against. Sixty patients an hour. Even whores spend more time with their clients."

Finally, he decided to open his own office, with a colleague in pediatrics. He said he craved the time to treat patients properly, advise them on preventive medicine and above all to follow them over the course of their illnesses.

"I want to make a difference," he said. "I know it sounds stupid, but I thought I could."

But not with Medicaid patients. Despite his professed desire to treat the people with nowhere else to turn, Diaz quickly realized that, if he hoped even to pay the rent on his modest office, Medicaid patients were luxuries that he simply could not afford.

"You should see the look on people's face when we tell them we don't take Medicaid," he said, sitting in his neat examination room, brightly decorated with charts that explain how various organs work. "They look at me like I am scum. They don't want to hear about my wife and three kids. It's a betrayal.

"I tell them I am treating the working poor, who have no insurance at all," he continued. "But they don't care, and I don't blame them. The fact is, I refuse to treat the poorest patients. It makes me sick I don't have a choice.

• Mr. PACKWOOD. Mr. President, Medicaid expenditures have been increasing at a rate of 20 to 25 percent a year and are placing tremendous pressure on State budgets that are already stretched thin. In part, this has resulted from a series of Medicaid expansions passed by this Congress in such areas as maternal and child health, and long-term care for the elderly and the mentally retarded. In addition, all over the country, States are being sued by hospitals and nursing homes on the grounds that their Medicaid payments are inadequate.

That is why I am proud to introduce today, with Senators DURENBERGER and MOYNIHAN, the Medicaid Managed Care Improvement Act of 1991. Managed care, or coordinated care, is one of the few tools available to States to control costs without cutting benefits or restricting eligibility. And in many places, where State payments are so low that most providers refuse to participate in Medicaid, coordinated care may be the only way to guarantee that a welfare mother will be able to access a physician who will take care of her and her children.

Yet Federal policy discourages Medicaid Programs from using managed care. Even though HMO's have been available for more than 50 years and are well accepted in the private sector, States are forced to go through a lengthy and arduous waiver process before they can contract with such plans for Medicaid beneficiaries. Indeed, at a time when States have broad discretion to determine who to cover under Medicaid, what services to provide, and what to pay for services, the Federal Government insists on micromanaging State decisions regarding managed care.

By eliminating the requirement for Federal waivers, our bill, the Medicaid Managed Care Improvement Act of 1991, establishes managed care as a regular part of the Medicaid Program. States seeking to contract with HMO's would be able to do so without having to meet the 75/25 rule or the requirements for statewideness and comparability of benefits. Instead, States are required to develop strong quality assurance systems to monitor the care provided in managed care plans.•

• Mr. McCAIN. Mr. President, I rise today as a cosponsor and strong supporter of the Managed Care Improvement Act.

This legislation, which would enhance the ability of States to experiment with managed care in the context of their Medicaid Program, offers great hope to States and the Federal Government in bringing the growth in Medicaid costs under control.

Mr. President, as many of my colleagues know, Arizona has had a managed care Medicaid Program for nearly a decade—the Arizona Health Care Cost Containment System. AHCCCS, as it is known to those familiar with it, enjoys great support among Medicaid beneficiaries in Arizona and has been very successful in containing the growth in costs so many other States have experienced. Its success has been the subject of a number of recent articles.

I believe managed care does have a place in controlling costs and ensuring access to essential health care services for our Nation's poor. Arizona's program has demonstrated it.

But doing this has not been easy. The program functions under a section 1115 waiver, which has brought with it an enormous morass of studies, evaluations, and other administratively burdensome requirements. In spite of all this, it has been a very beneficial endeavor. It is AHCCCS' success that makes possible the legislation I am introducing today with Senators MOYNIHAN, DURENBERGER, and others.

I believe that as the cost growth in Medicaid remains largely unbridled for other States, more and more will look to the positive experience Arizona has had in applying managed care to Medicaid. I believe this legislation will give them the flexibility to experiment with this critical alternative.

On this note, I am very grateful to my colleagues from New York and Minnesota for including language in this legislation that will permit the Secretary of Health and Human Services to make a Medicaid demonstration program permanent if it has proven to be fiscally and programatically successful. This is critical, as we should permit those States that break new ground in this area and succeed in making their program permanent.

In conclusion, Mr. President, I would like to express my appreciation to my colleagues from New York and Minnesota for the time they put into crafting this legislation. I encourage all of my colleagues to consider signing onto this important legislation.•

By Mr. MITCHELL:

S. 2078. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the purchase of a principal residence by a first-time home buyer; to the Committee on Finance.

CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY A FIRST-TIME HOMEBUYER

Mr. MITCHELL. Mr. President, I am introducing legislation today, along with Senators SHELBY, REID, DIXON and INOUYE to establish a $1,000 tax credit for first-time home buyers. This legislation is designed to achieve two very important objectives. First, the bill provides critical financial assistance to enable young families to purchase a first home. Second, the bill will stimulate an important industry which has traditionally led the national economy out of a recession.

The fastest and most direct way to help many average income Americans is to help them become homeowners. Interest rates today are at their lowest point in years, but the lack of income growth has prevented middle income families from accumulating the savings necessary to purchase a first home.

In fact, since 1980 the home-ownership rate among young families has fallen almost 20 percent. According to the Census Bureau, only nine percent of today's renters can afford a median-priced home in the community where they live. Statistics from the Harvard Joint Center for Housing Study indicate why this has occurred. In 1970, first-time home buyers paid 16.2 percent of after-tax household income on housing. Today, first-time home buyers spend 29 percent of after-tax income on housing. These percentages are based on total household income and contradict the trends we might expect as millions of more families become two-income households.

My legislation addresses these alarming statistics by providing downpayment assistance in the form of tax credits to families who want to buy a first home. The bill provides a permanent $1,000 tax credit for the purchase of a first home for taxpayers with adjusted gross income under $40,000. The value of the credit is phased out until income reaches $50,000.

By making homes affordable to millions of Americans, the tax credit will also address the dire condition of our housing construction industry by increasing the demand for new homes. The home building industry is suffering through a depression in many areas of the Nation, with high unemployment rates among construction workers, and thousands of builders in bankruptcy. Residential construction is now at its lowest level since the Second World War.

Housing construction has led this country out of each recession since World War II but that has often required specific Federal policies to encourage home buying. The tax credit that I am proposing is similar to a temporary credit enacted in 1975 to encourage home purchases. That credit successfully stimulated the housing industry and the national economy. I believe my legislation will do the same.

I invite Senators to cosponsor this bill. I hope that we can get this legislation enacted into law in the near future.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence during the taxable year, there shall be allowed to such individual as a credit against the tax imposed by this subtitle for such taxable year an amount equal to $1,000.

"(b) INCOME LIMITATIONS.—

"(1) IN GENERAL.—No credit shall be allowed under subsection (a) to any individual whose adjusted gross income for the taxable year exceeds $50,000.

"(2) PHASE-DOWN OF CREDIT.—The $1,000 amount set forth in subsection (a) shall be reduced by $10 for each $100 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $40,000.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of such residence.

"(B) DATE OF ACQUISITION.—For purposes of subparagraph (A), the term 'date of acquisition' means the date—

"(i) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(ii) on which construction or reconstruction of such a principal residence is commenced.

"(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(3) PURCHASE.—The term 'purchase' means any acquisition of property, but only if the basis of such property in the hands of the person acquiring it is not determined—

"(A) in whole or in part by the reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(B) under section 1014(a) (relating to property acquired from a decedent).

"(4) TREATMENT OF MARRIED INDIVIDUALS.—The adjusted gross income of any individual for any taxable year shall include the adjusted gross income of such individual's spouse for such spouse's taxable year corresponding to the taxable year of the individual. For purposes of the preceding sentence, marital status shall be determined under section 7703; except that an individual shall not be treated as being married if such individual would not be treated as being married under section 21(e)(4).

"(5) JOINT PURCHASES.—If a residence is purchased together by 2 or more individuals for use as their principal residence—

"(A) such individuals shall be limited to 1 credit under this section for such purchase and the amount of such credit shall be allocated among such individuals in the manner prescribed by the Secretary,

"(B) no credit shall be allowed under this section for such purchase unless all of such individuals are first-time homebuyers, and

"(C) the aggregate adjusted gross income of all of such individuals shall be taken into account in determining the amount of the credit allowable under this section for such purchase."

(b) CLERICAL AMENDMENTS.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Purchase of principal residence by first-time homebuyer.

"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to principal residences purchased after November 26, 1991.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 2079. A bill to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes; to the Committee on Energy and Natural Resources.

MARSH-BILLINGS NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

Mr. JEFFORDS. Mr. President, I am pleased to rise today, along with the senior Senator from Vermont, to introduce legislation which would create the first national park in my home State of Vermont.

I would like to commend the senior Senator from Vermont for the work he has done over the course of time to make this event possible. I know he has worked very hard to ensure that we be graced with this national park. It has been a pleasure working with him on it.

Let me explain just a little bit about it, because it is kind of a novel situation. It will probably be one of the smallest, if not the smallest, national parks in the United States. It will consist of about 450 acres of woods, old farm fields, carriage roads, walking paths, a quiet pond, and scenic hilltops in the heart of the Green Mountain State.

Laurence and Mary Rockefeller, residents of Woodstock, VT, have earned over the years a well-deserved reputation as two of America's great preservationists. Now they wish to give to America their home and the land that surrounds it. I hope we in Congress can accommodate them, for it is the Nation that stands to gain.

The Rockefellers live in an historic house dating back to the early 19th century, a house once lived in by the first of America's conservationists, George Perkins Marsh. Indeed, old boundary markers high in the hills behind the house still bear the Marsh name. Later the home was owned by Frederick Billings, a railroad pioneer, who had much to do with the settlement and development of the great American West.

In fact, Billings, MT, is named after his family. A biography has just been published about Billings. For the first time, this country is coming to understand his contributions.

Mary French Rockefeller grew up in that great house, overlooking the green valley of the winding and clear Ottauquechee River and the houses and spires of Woodstock. Later she met and married the Dartmouth College roommate of her brother, John French. And still later the Rockefellers made their home in what Woodstock residents call "The Mansion." So it remains.

At this time, I would be happy to yield to my senior colleague from Vermont, so that he may participate before I go on, and give further history of this great mansion.

If the Senator from Vermont [Mr. LEAHY], would like to participate at this point, I would certainly appreciate it.

Mr. LEAHY. Mr. President, I rise to join my Vermont colleague, Senator JEFFORDS, in introducing a bill to authorize the long-overdue establishment of Vermont's first National Park Service unit—the Marsh-Billings National Historical Park in Woodstock.

We take this action today, on what may be the last day of this session of the Congress, to allow us several weeks before the next session to describe and explain the many positive features of this bill to our fellow Senators. As soon as possible, we want to do the work necessary to have the bill speedily taken up and reported by the appropriate committee in the Senate—the Energy and Natural Resources Committee—for passage early in 1992.

The primary purpose of the new park is to interpret the history and evolution of land conservation stewardship in America. The Marsh-Billings property is a highly appropriate setting for this activity, as it is the birthplace of George Perkins Marsh—statesman, linguist, and a pioneering American conservationist.

It is also the former home of Frederick Billings—conservationsist, philanthropist, pioneer in reforestation and scientific farm management—who applied and refined the principles of sound land management introduced by George Perkins Marsh.

Many months ago, I spent significant time at the Marsh-Billings home in Woodstock with its present owners, Mary and Laurence Rockefeller, and Secretary of the Interior Lujan. We began to plan for the introduction of the legislation, and for the long term, when this important property will be open to the American public. Without the generosity of the Rockefellers, who are donating the property and establishing endowments to pay for ongoing preservation, maintenance, and property taxes, none of this would be possible.

It is ironic that Vermont—a national leader in historic preservation, forest stewardship, and natural resource conservation activities—is without any kind of National Park Service installation. I believe that the time, the property, and the circumstances are now right to change this situation by passing the Marsh-Billings National Historical Park Act early in 1992.

This is an extraordinary property—a mansion, related buildings, and approximately 500 acres of rolling hills and forests with scenic views. Laurence and Mary Rockefeller have my great admiration, and strong support for what they are working to accomplish for the National Park System in Woodstock. On an emotional level, I know how much this beautiful property means to them. They were married there before I was born. On our visits there, Senator JEFFORDS and I have seen and felt their great fondness for the home and land and all its historic heritage.

This new piece of legislation represents an outstanding opportunity to preserve the heritage of an important earlier era, left to us by two founders of the American conservation movement. If this house and land are not available for the American public to visit and appreciate, someday only books will be available to portray this sense of place and era. There is a very real need for this type of preservation, and this opportunity to place a real treasure within the public trust must not be missed.

George Perkins Marsh and Frederick Billings are significant figures in Vermont's history, and I am pleased to be able to act to preserve their legacy. I have viewed and sensed a great deal of the remarkable heritage of these two men in that house and on those grounds, and look forward to sharing that with my fellow Vermonters and Americans.

I believe that the Marsh-Billings National Historical Park will be yet another jewel in a State blessed with many jewels. It will be the product of a working partnership between the local Woodstock community, and State and local government. It will be established under a long-term financial arrangement that is very fair and reasonable for the American—and the Woodstock—taxpayer. And it will be a tribute to the generosity, foresight and dedication of two extraordinary people, Laurence and Mary Rockefeller.

Mr. President, I very much look forward to working with my colleagues toward passage of the Perkins-Marsh National Historical Park Act in 1992.

Mr. JEFFORDS. Madam President, the Rockefellers would give the great house, now a national historic site, and the lands around it to the people of America. The property is a fairyland of formal gardens, pristine woods, fields still farmed, a deep and clear pond, high ledges with long views and old Billings family carriage trails that now make superb hiking and riding paths.

And just across the road is the Billings Farm Museum, one of this country's best living history places, a working farm and preserve of the family farm heritage. Americans can visit this repository of an earlier way of life and then go across the road to visit the home of some of America's great families. And they could walk about one of the finest bits of Earth on this continent in the quiet of rural Vermont, if we make real the dreams of the Rockefellers.

This would be a small national park, but to paraphrase Daniel Webster, there would be those who love it. Indeed, this is a place all America could come to love.

I want to briefly explain what this bill would do. It would establish the Marsh-Billings National Historical Park, which would consist of land donated by the Rockefellers. The park would contain two zones, a historic zone and a protection zone, and be surrounded by a scenic zone of private land with easements to preserve the natural beauty beyond the protection zone. The Secretary of the Interior is required to develop a management plan for the park within 3 years of enactment of the legislation.

As we all know, well-meaning gifts of property and physical plant can often lead to substantial operating costs. The commitment and generosity of the Rockefellers in creating this park is reflected by two funds they have offered to establish. This is truly a unique situation in which the Rockefellers have committed to preserve the integrity of their land and the town.

The first fund will be a tax fund to ensure that the town of Woodstock does not lose its tax base by the establishment of the park. The Rockefellers will continue to make payments in lieu of taxes as long as they remain in residence. Then the Park Service will make payments for 5 years as required by law. At that time, the town will be able to draw on this tax fund, which will be funded before the Rockefellers terminate their residency, to cover the loss in taxes that would occur when the Park Service completes its payments.

The second fund established in this bill would cover the cost of maintenance and preservation of the mansion and the surrounding grounds. This fund will be used in conjunction with the National Park Service's annual budget for the park. The Rockefellers have committed to covering the cost the maintenance and preservation of the park through this fund.

The Rockefellers have also agreed to cover half of the cost of the general management plan required in the bill. This is truly an amazing act of generosity. Not only are they willing to donate their land, which is valued at $10 million, they have agreed to establish two funds to protect both the town and the park. I am deeply appreciative of their commitment.

The people of Woodstock have expressed support for this initiative, as well as their strong interest in working with the Rockefellers and the National Park Service in developing a plan that will best suit the town. Given the substantial amount of land that will be donated, establishment of the park could have a major impact on the town, especially with any increasing number of visitors. I feel strongly the people of Woodstock must be a part of this process, for they will be the ones who can best determine the impact a park will have on the town.

I hope we approve this legislation and make this extraordinary gift to America a reality. It is seldom that this Congress gets such an opportunity. It is an act of generosity and farsightedness that deserves our enthusiastic support. If we so act, generation on generation of citizens will have a place to go and understand the kind of place from whence America came. It is the kind of place America must never let go.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marsh-Billings National Historical Park Act."

SEC. 2. PURPOSES.

The purpose of this Act are to—

(1) interpret the history and evolution of conservation stewardship in America;

(2) recognize and interpret the contributions and birthplace of George Perkins Marsh, pioneering environmentalist, author of "Man and Nature," statesman, lawyer and linguist;

(3) recognize and interpret the contributions of Frederick Billings, conservationist, pioneer in reforestation and scientific farm management, lawyer, philanthropist, and railroad builder, who extended the principles of land management introduced by Marsh;

(4) preserve the Marsh-Billings Mansion and its surrounding lands; and

(5) recognize the significant contributions of Julia Billings, Mary Billings French, Mary French Rockefeller and Laurence Spelman Rockefeller in perpetuating the Marsh-Billings heritage.

SEC. 3. ESTABLISHMENT, ACQUISITION AND PURPOSES.

(a) There is hereby established the Marsh-Buildings National Historical Park (hereinafter referred to as the "park") as a unit of the National Park System, consisting of an historic zone and a protection zone.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the park in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 606; 16 U.S.C. 461-467).

(c) The park shall consist of no more than 560 acres in the historic zone and no more than 95 acres in the protection zone, all in Windsor County, Vermont, as generally depicted on the map entitled Marsh-Billings National Historical Park Boundary Map, dated 11/19/91. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(d) The historic zone shall include the Marsh-Billings Mansion and surrounding buildings and the area known as Mt. Tom. The primary purpose of the historic zone shall be for preservation, education and interpretation. The Secretary is authorized to acquire lands and interests therein in the historic zone by donation or with donated funds.

(e) The protection zone shall include the areas presently occupied by the Billings Farm and Museum. The primary purpose of the protection zone shall be to preserve the general character of the setting across from the Marsh-Billings Mansion in such manner and by such means as will continue or permit current and future compatible uses.

(f) The Secretary is directed to pursue protection and preservation alternatives for the protection zone, working with affected State and Local Government units and affected landowners, to develop and implement land use practices consistent with the purposes of this Act. The Secretary is authorized to accept donations of lands and interests in lands within the protection zone; further, the Secretary is authorized to acquire such lands and interests therein by means other than donation, if the Secretary determines that the lands are being used, or that there is an imminent threat that the lands will be used, for any purpose that is incompatible with the purposes of this Act.

SEC. 4. SCENIC ZONE.

There is hereby established a scenic zone, which shall include the lands generally depicted on the map entitled Marsh-Billings National Historical Park Scenic Zone Map, dated 11/19/91. The purposes of the scenic zone shall be to protect portions of the natural setting beyond the protection zone which are visible from the Marsh-Billings Mansion, by such means and in such manner as will permit current and future compatible uses. The Secretary is authorized to acquire scenic easements by donation within the scenic zone.

SEC. 5. COOPERATIVE AGREEMENTS.

(a) The Secretary may enter into cooperative agreements with such persons or entities as he may determine to be appropriate for the preservation, interpretation, management and operation of, and provision of educational and recreational uses for, the properties in the park and the scenic zone.

(b) The Secretary may, through cooperative agreements with owners or operators of land and facilities in the protection zone, provide for facilities to support activities of the historic zone.

(c) The Secretary may not expend appropriated funds in direct support of commercial enterprises, other than pursuant to a concession contract, entered into in accordance with the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20-29g), provided that existing commercial activities may be continued, insofar as they interpret the historic purposes of the site, by public or private non-Federal entities through cooperative agreements.

SEC. 6. ENDOWMENT.

The Secretary is authorized to receive and expend funds from an endowment to be established with The Woodstock Foundation or its successors and assigns, subject to the condition that payments therefrom shall be expended exclusively as the Foundation or its successors and assigns may designate for the preservation and maintenance of the Marsh-Billings Mansion and its immediately surrounding property, except that all such expenditures shall be consistent with the general management plan for the park.

SEC. 7. USE AND OCCUPANCY.

(a) When acquiring any land pursuant to this Act, the Secretary may acquire any such land subject to the retention of a right of use and occupancy for noncommercial residential purposes for a term not to exceed twenty-five years or for the life of the owner or owners.

(b) The Secretary may acquire lands in the historic zone subject to terms and easements providing for the management and commercial operation of existing hiking and cross-country ski trails by the grantor, his successors and assigns.

SEC. 8. GENERAL MANAGEMENT PLAN.

Within three years from the date funding is made available for the purposes of this section, by donation or otherwise, the Secretary shall develop and transmit a general management plan for the park to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

By Mr. LEVIN (for himself and Mr. DURENBERGER):

S. 2080. A bill to clarify the application of Federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

PREEMPTION CLARIFICATION AND INFORMATION ACT

• Mr. LEVIN. Mr. President, since 1789, Congress has enacted approximately 350 laws explicitly preempting State and local authority; over half of these laws having been enacted in the last 20 years. These figures, however, do not touch upon the extensive Federal preemption of State and local authority which has occurred as a result of judicial interpretation of congressional intent, when Congress's intention to preempt has not been explicitly stated in law. When Congress is unclear about its intent to preempt, it is left to the courts to decide whether or not preemption was intended and, if so, to what extent.

While we don't have any accurate data as to how many cases there have been where the courts have found preemption by implication, we do know they are numerous and that they form an increasingly significant portion of cases before the courts. According to a recent report by the Appellate Judges Conference of the American Bar Association, "Compared to 20 years ago, the number of preemption cases on the Supreme Court's docket has increased by a factor of four." This trend is not expected to abate.

Today, along with Senator DURENBERGER, I am introducing legislation to require that in order for there to be Federal preemption of State and local law, Congress must include an explicit statement to that effect in any bill it passes, unless of course, there exists a direct conflict between the Federal law and a State or local law which cannot be reconciled. This would close the back door of implied Federal preemption and put the responsibility for determining whether or not State and local governments should be preempted back in Congress where it belongs.

Article VI of the Constitution, the Supremacy Clause, states that Federal laws made pursuant to the Constitution, "shall be the supreme Law of the Land." In its most basic sense, this clause means that a State law is negated or preempted when it is in conflict with a constitutionally enacted Federal law. A significant body of case law has been developed to arrive at standards by which to judge whether or not Congress intended, by implication, to preempt State or local authority.

Of course if Congress clearly states its desire to preempt State and local authority or where there's a direct conflict that cannot be reconciled, then the question of preemption is resolved. But, in those cases in which the Federal law is not explicit regarding preemption of State and local authority, the matter can often end up in the courts. This is especially true in those cases in which the Federal Government sets a floor or ceiling for a certain activity but is silent with regard to whether or not, or to what extent, a State or local government can go further than the Federal Government requirement—above the floor or below the ceiling.

For example, if a Federal law sets a ceiling of 10 parts per billion of a certain toxic substance in drinking water, but is silent on the issue of whether or not, or to what extent, a State or local government could require stricter curbs on this toxin, the issue of State or local authority may very well end up subject to judicial interpretation. Similarly, if a Federal law sets a minimum of at least 10 parts per billion of an important additive to drinking water—like flouride—but is silent on whether or not, or to what extent, a State or local government could require greater amounts of the substance in drinking water, the courts would be left to resolve that issue. In both of these cases, our bill would permit tougher State laws, unless preemption were explicit or these was a direct conflict. These are the types of cases the courts have been considering in increased volume over the past 10 years.

A recent Supreme Court decision over the regulation of pesticides by local governments, Wisconsin versus Public Intervenor, describes the three standards by which, absent explicit preemptive language, congressional intent to preempt may be inferred. The three tests are as follows:

> * * * if a scheme of Federal regulation is 'so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it,' if 'the Act of Congress * * * touch[es] a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject,' or if the goals "sought to be obtained" and the "obligations imposed" reveal a purpose to preclude state authority.

We believe that if we in Congress want Federal law to preempt State and local government from legislating in an area, we should be clear about that. If we set a floor or a ceiling but are silent on actions which certainly meet but then go beyond the Federal requirement, State and local governments should be allowed to act as they deem appropriate. Our silence should not result in State and local governments having to fight these types of battles in the courts, and courts should not have to read the tea leaves to discern what we in Congress intended. Too much is at stake in these cases.

Our bill seeks to address this situation by requiring that—

> [n]o statute, or rule promulgated under such statute, shall preempt, in whole or in part, any State or local government law, ordinance, or regulation, unless the statute ex-

plicitly states that such preemption is intended or unless there is a direct conflict between such statute and a State or local law, ordinance, or regulation so the two cannot be reconciled or consistently stand together.

Upon passage of this bill, a clear statement of intent to preempt will be the standard by which Federal preemption is to be judged: If there is no such statement or a direct, unreconcilable conflict, there is no preemption.

It will force Congress to think through the issue of preemption and whether or not it is appropriate for the matter at hand. The question of preemption will require debate and resolution at the front end of the process rather than after-the-fact guesswork. It places responsibility for the debate and resolution of the preemption question where it should be, with the legislature, not the judicial branch.

Our legislation also requires the Congressional Research Service, at the end of each Congress, to compile a report on laws passed in which statutory preemption is explicit and on all Federal cases in which preemption of State or local authority has been an issue. This will constitute the first time such a complete report has been done, and the information will be valuable to the debate regarding the appropriate use of preemption to reach Federal goals.

We have worked closely with the Advisory Commission on Intergovernmental Relations in devising this legislation. This organization has done a great deal of work in this area. Moreover, legislation in this area has been endorsed by the National Conference of State Legislators, the Intergovernmental Affairs Committee of the Council of State Governments, the United States Conference of Mayors and the Appellate Judges Conference of the American Bar Association.●

● Mr. DURENBERGER. Mr. President, I am pleased to join with my colleague, the distinguished junior Senator from Michigan, in introducing the Preemption Clarification and Information Act of 1991.

The Founding Fathers established in the Constitution a joint role for the States and the Federal Government. The powers of the Federal Government, including its role in regulating interstate and foreign commerce, maintaining the military, and entering into treaties, are clearly outlined in the body of the Constitution. When there is a question over jurisdiction, however, the tenth amendment prescribes that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Yet, Mr. President, the issue of Federal preemption of State and local authority has increasingly dominated intergovernmental relations. In spite of what is known as the supremacy clause of article VI, which proclaims that the laws enacted by the Congress will be the supreme law of the land, wrangling between State and Federal authority has only increased during the past half-century.

In the judgment of this Senator, the questions over preemption issues have not been as much related to the merits of the legislative differences, but have instead been focused on whether, and to what extent, preemption was intended by the Congress. Unfortunately, Mr. President, it is not the Congress which has determined preemption issues, as intended under the supremacy clause, it is the courts. When the Congress does not express its intent clearly enough, it abdicates its role and powers to the courts which are left to determine Congressional intent.

The Senator from Michigan and I do not intend to create new powers for the States or for the Congress, nor do we intend to usurp powers from State or local governments. Our purpose is to ensure that the Congress makes its intent clear when preempting State or local law. When it does not, this legislation ensures that the benefit of the doubt lies with the State or local government.

It is our hope that the Preemption Clarification and Information Act of 1991 will minimize litigation congesting the courts, will help to end the need for the courts to speculate and try to discern congressional intent, and will reduce the erosion of State efforts to work their will on issues with which they share legitimate interests with the Federal Government.

I encourage my colleagues to join us in supporting this effort to more carefully discharge the constitutional duties of the Congress.●

By Mr. JEFFORDS.

S. 2081. A bill to sell agricultural commodities to the Union of Soviet Socialists Republics so as to promote local food distribution and production and the operations of privately owned agricultural enterprises; to the Committee on Agriculture, Nutrition, and Forestry.

SALE OF AGRICULTURAL COMMODITIES TO THE SOVIET UNION

Mr. JEFFORDS. Madam President, I also intend to introduce another bill today. It is very interesting being in the Senate and having an opportunity to sit on two committees which deal with problems that sometimes interlock. I am here today to give a suggestion of how we can take a series of problems and resolve them with one bill.

Just the other day we took a considerable amount of time to talk about the serious problems we have in the dairy industry. The most significant aspect of those problems is the amount of surplus of goods we have hanging over the market and deflating the price our dairy farmers receive.

One of the ways that we have traditionally been able to get rid of those surpluses so the market can raise dairy prices is to ship them overseas and donate them or sell to a willing buyer. That is one of the aspects of this bill.

A problem which we have all been reading about in the media is the possible starvation of citizens in the Soviet Union. In relation to that, there is actually the possibility of two problems. First is the lack of food; and the second, the inability to distribute the available food to the people of the Soviet Union. Without correcting these problems we may end up with a serious problem of starvation. And that of course is of great significance and importance to this country because if that does occur, the very fragile union and the fragile situation we have could even go so far as to reverse itself. People need food, and at a time when their lives are threatened they can sometimes revert back to those things which they have tried to get away from.

Another problem we have is that the citizens in the United States that are not very pleased about sending money over to the Soviet Union at a time when we are having difficult times at home with unemployment and our own problems ensuring that everyone has adequate food. However, I do not think we need to choose between these problems. We certainly do have food and money available in this Nation to take care of our own if properly utilized. We have to keep this in mind when we design a program to provide aid to the Soviet Union. Related to this problem of providing assistance to the people of the Soviet Union is the credit restrictions we have in our law. We basically have to guarantee, or have to receive a guarantee, that the loans or the goods that are delivered will be actually paid for.

A while back, we had a hearing where former Ambassador Jack Matlock testified and put out a very interesting suggestion of how we might try to overcome some of these problems. He suggested that rather than just giving away the food, we could loan it to the Soviet Union with the understanding that the following things would occur:

First of all, that the food would be made available to the citizens, but it would be done in a way so that the value of the food products would be converted into the local currency, and instead of taking that money back, put it into a fund to be set up as a free enterprise fund. You would deliver the dairy products and they would be paid for in rubles, but the rubles would remain in the Soviet Union, put into a fund like our loan funds we have for businesses in this country and be made available for specific purposes, especially related to setting up private businesses to distribute food within the Soviet Union. It would be a teaching fund, in a way, to teach the Soviet Union how to utilize the free enterprise system in order to make their system work better. So the opportunities now are truly great, and yet we venture into unchartered territory. We must not hesitate. Rather, in the American tradition, let us reach out eagerly and in peace across the Atlantic and beyond the Urals. Let's build markets for our goods. And in this Thanksgiving season, let us take our agricultural bounty and lend it to the Soviets. This is the right thing to do and the smart thing to do for us, our farmers, and the Soviet people.

The bill I am introducing capitalizes on the ideas of Ambassador Matlock. The program would use commodity credits to establish a free-enterprise fund for Soviet entrepreneurs. Under the program, the Soviets would be required to establish a revolving loan fund in exchange for food from the Commodity Credit Corporation's [CCC] stocks of dairy and other products. In practice, at the time of a CCC sale, the Soviet Union would deposit the ruble value of the food they wish to buy into a free-enterprise fund. Entrepreneurs could borrow from the fund, with preference given to those in food distribution or production. When the term of the CCC loan expires, the Soviet Union would be required to repay the United States, either in real dollars or in an equivalent amount of marketable commodity such as oil or gold.

Under this program, American farmers would be given a break, Soviets would eat this winter, the United States would be paid for what it provides, and Soviet entrepreneurs would be given a fighting chance. No new money need be expended from the U.S. Treasury, and no dollars would leave the United States.

Ambassador Matlock suggested this. I asked him at that time, "Isn't there availability of goods right now that we could transfer?"

He said, "No, the Soviets have been in such a desperate situation, they have already committed their oil and other natural resources they have for purposes of obtaining credit for other essential items. So we might have to wait."

But different from the Marshall plan and others, and especially in view of the huge natural resources in the Soviet Union, it seems to me, in taking Ambassador Matlock's suggestions, the better thing to do would be to ensure that we get repaid sometime.

It does take some faith. There is no question about that. It takes faith that the Soviet Union will survive but the law allows that funds will be provided to protect ourselves.

But it seems to me, here we are going to get $2 for every $1, and that $1 will come back, eventually. So, hopefully, the net impact upon our national debt should be zero. Not only do the Soviets get the value of that food being present now, but they also get the value of those funds equal to the value in their own currency utilized to loan out to create a free enterprise situation.

We have a firm in Vermont—Geonomics—which is studying the monetary and financial systems of the Soviet Union. We submitted the plan to them and they heartily endorsed it and said this is the kind of innovative concept we need to solve the various problems I have discussed.

One, of course, it would unload the surplus dairy products that we have, making it possible for our farmers to increase their revenues. Second, it would assist in feeding the people of the Soviet Union, to prevent starvation in winter; set up the mechanism to create the free enterprise systems necessary to improve their food distribution. It would also not be a program that raises a red flag to the American public: "Here we are just giving money away," but rather we would be loaning the money out with the expectation, assuming our faith in the free enterprise system is adaptable to the Soviet Union, that would result in getting paid back in the future.

So I offer this—perhaps not just in its limited form as we have for agricultural products, but also as a model, an innovative model—thanks again to Ambassador Matlock for his suggestion—that may allow us to help the Soviet Union get them on their feet and let them learn about the free enterprise system. At the same time, banking on their ability to be able to survive and improve their lot with the free enterprise system, and given their vast natural resources, the most natural-resource-endowed country in the world, to repay us in the future. We can always use it, I am here.

The first step in supporting democratic reform is to ensure that the Soviets do not starve this winter. History shows that economic distress combined with dashed hopes for political change are the conditions most likely to provoke unrest. Let's not allow shortages of milk and bread—of which we have so much—to become the curse of democracy. Let's help the Soviets in a way that can also help American farmers, and doesn't strain the American taxpayer.

CONCLUSION

The melting of the cold war has left us hopeful, surprised, and full of ideas, yet short of confident plans. Action seems stymied both by the uncertainty of future developments in the Soviet Union and by the absence of an overarching strategy to replace containment. I would argue that we do not have time to stall. We have the chance to shape a new Europe where democracy, free markets, and peace flourish: A Europe which is a good place for American business and a market for United States agricultural products.

I appreciate the time of my colleagues here. I hope this bill will make a significant contribution, not only to my dairy farmers but also to world peace, and to the Soviet Union.

With that, I ask unanimous consent a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SALE OF AGRICULTURAL COMMODITIES TO SOVIET UNION TO PROMOTE LOCAL FOOD DISTRIBUTION AND PRODUCTION.

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended by adding at the end the following new title:

"TITLE VII—SALE OF AGRICULTURAL COMMODITIES TO SOVIET UNION TO PROMOTE LOCAL FOOD DISTRIBUTION AND PRODUCTION

"SEC. 701. SHORT TITLE.

"This title may be cited as the 'Food for Enterprise Act'.

"SEC. 702. DEFINITIONS.

"For purposes of this title:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means—

"(A) dairy products, wheat, rice, feed grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof, that the Secretary of Agriculture determines meet the purposes of this title; and

"(B) such other edible agricultural commodities as may be acquired by the Secretary of Agriculture or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under section 416(b) of the Agricultural Act of 1949.

"(2) MARKET RATE.—The term 'market rate' means, with respect to financing, any rate of interest which is equal to or greater than the current average interest rate (as of the last day of the month preceding the financing under this title) that the United States Government pays on outstanding marketable obligations of comparable maturity.

"(3) PETROLEUM PRODUCT.—The term 'petroleum product' means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

"(4) UNION OF SOVIET SOCIALIST REPUBLICS.—The term 'Union of Soviet Socialist Republics; means the country recognized by that name by the United States or any successor country recognized by the United States.

SEC. 703. ESTABLISHMENT OF PROGRAM.

"(a) AUTHORITY FOR PROGRAM.—Notwithstanding any other provision of law, the President is authorized to establish a program for the sale on credit terms of surplus agricultural commodities owned or controlled by the Commodity Credit Corporation to the Government of the Union of Soviet Socialist Republics to meet the emergency food needs of that country if such Government meets the conditions of section 704. Such program shall be implemented by the Secretary of Agriculture.

"(b) BILATERAL AGREEMENT.—To carry out subsection (a), the Secretary of Agriculture may negotiate and execute an agreement with the Government of the Union of Soviet Socialist Republics to finance the sale and exportation of agricultural commodities to such Government.

"(c) REPAYMENT TERMS.—Such agreement shall require that the payment for agricultural commodities be made as follows:

"(1) The payment to the United States of principal shall be deferred for such number of years after delivery of the commodities as is set forth in such agreement and may only be paid—

"(A) in United States dollars; or

"(B) in an amount of gold, petroleum products, or other marketable commodity of equivalent value, to be held and disposed of in accordance with section 705.

"(2) The payment to the United States of interest shall be made at market rates, shall be due on the date that the principal is due, and may only be paid—

"(A) in United States dollars; or

"(B) in an amount of gold, petroleum products, or other marketable commodity of equivalent value to be held and disposed of in accordance with section 705.

"(d) TERMS OF DELIVERY.—Delivery of the commodities shall be made in accordance with the terms of the agreement.

"SEC. 704. TERMS AND CONDITIONS OF SALES.

"The conditions referred to in section 703(a) are that the Government of the Union of Soviet Socialist Republics—

"(1) upon receipt of the agricultural commodities, shall establish an interest-bearing account (which may be referred to as the "Free Enterprise Fund") into which shall be paid an amount of local currency equal to the full market value of such commodities, as determined by the agreement but at rates of exchange that are no less favorable than the highest exchange rate legally obtainable in the Union of Soviet Socialist Republics and that are no less favorable than the highest exchange rate obtainable by any other country;

"(2) shall use the Free Enterprise Fund only for loans to nongovernment Soviet entrepreneurs to finance—

"(A) the development of a private distribution system and food processing and food storage systems; and

"(B) the operations of privately owned agricultural enterprises;

"(3) shall cover into the Free Enterprise Fund the repayment of such loans, which amounts shall be available for the same purposes for which amounts in such Fund are otherwise available;

"(4) shall, for the purpose of meeting its emergency food needs, resell the agricultural commodities within the Union of Soviet Socialist Republics for local currency, which may be used as reimbursement to the Government for amounts paid into the Free Enterprise Fund under paragraph (1); and

"(5) shall agree that failure to comply with any of the conditions described in paragraphs (1) through (4) shall render the principal and interest obligations of the Union of Soviet Socialist Republics pursuant to the agreement due immediately, without regard to paragraph (1) or (2) of section 703(c).

"SEC. 705. DISPOSAL OF BARTERED COMMODITIES.

"(a) ROLE OF SECRETARY OF THE TREASURY.—Any gold, petroleum product, or other marketable commodity acquired by the United States in the Union of Soviet Socialist Republics pursuant to paragraph (1)(B) or paragraph (2)(B) of section 703(c) shall be held by the Secretary of the Treasury for disposal in accordance with this section.

"(b) SALE OF COMMODITIES.—The Secretary of the Treasury shall provide for the timely sale of all gold, petroleum products, or other commodities received under subsection (a). All moneys received from the sale of such items shall be covered into the miscellaneous receipts account of the Treasury of the United States.

"(c) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section.".

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2082. A bill relating to the taxation of certain disability benefits received by former police officers or firefighters; to the Committee on Finance.

DISABILITY BENEFITS TAXATION ACT

• Mr. DODD. Mr. President, I rise today to introduce a most important piece of legislation for over 1,000 retired police officers, firefighters and their widows in my home State of Connecticut. I am pleased to be joined in this effort by Senator LIEBERMAN.

The State of Connecticut, in an effort to address the serious problem of job-related hypertension among law enforcement officers, adopted the Heart and Hypertension Act. This State law allows police officers and firefighters who become disabled or die as a result of hypertension or heart disease to claim worker's compensation benefits, which are excluded from Federal taxes under Internal Revenue Code, section 104. Over the last 2 years, 1,110 officers or their survivors have retired or claimed this benefit under this statute.

Unfortunately, in July 1991, the IRS issued a private letter of ruling concluding that these benefits are taxable and has begun an investigation to identify those individuals who received these benefits. Although the State is working to correct the language of the statute to meet IRS requirements and protect future retirees, the current IRS ruling threatens officers who have received these benefits during the past 2 years with back taxes, penalties, and interest.

While I am pleased the State is moving ahead to correct this problem, I am deeply concerned for those unknowing retirees and widows who have, unaware of the taxability of this income, accepted these benefits and now stand possibly liable for back taxes, as well as interest and penalties through no fault of their own. In this regard, this legislation would exempt these benefits from retroactive taxes, penalties, and interest.

Mr. President, this is not an issue of great national magnitude, but for those 1,100 retired officers and widows this is a matter of utmost importance. I am hopeful that the appropriate committees will give this measure their early attention during the next session and we can move ahead toward a speedy passage of this legislation.•

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2083. A bill to provide for an extension of regional referral center classifications, and for other purposes; to the Committee on Finance.

S. 2084. A bill to provide for a minimum Medicare payment level of 90 percent for rural referral centers allowable capital-related cost; to the Committee on Finance.

MEDICARE PAYMENTS TO RURAL REFERRAL CENTERS

• Mr. CRAIG. Mr. President, today Mr. SYMMS and I are introducing two bills that are of great importance to the citizens of our State, Idaho—and to citizens across the Nation who live in rural areas. These measures address a very pressing concern: The future provision of health care in rural America.

The first bill deals with a sunset provision of law which must be extended by the end of fiscal year 1992, if this Nation's rural referral centers are to continue meeting the needs of their patients. This provision, which I refer to as the rural referral grandfather clause, provides these unique hospitals with a reimbursement rate comparable to that of their urban counterparts.

I introduced similar legislation in the 101st Congress, and a provision extending the grandfather clause through fiscal 1992, was included in the Omnibus Reconciliation Act of 1989. Now it is time to address this problem once again. My bill would simply extend the grandfather clause till fiscal year 1995, when the urban-rural differential will be phased out and reimbursements will be more equitable for rural hospitals.

In my State of Idaho and in 41 other States, rural referral centers are the cornerstones of rural health care. In some communities, they are the sole source of health care—the only source of health care for other communities in their region.

Rural referral centers provide a larger variety of specialized services and are therefore reimbursed from Medicare funds at a rate higher than that given to small rural hospitals. The larger rural referral centers must also pay salaries and expenses comparable to urban hospitals. If they are to continue offering the much needed, specialized care, rural referral centers must be reimbursed at a rate which properly reflects their costs. This legislation is fundamentally important to these hospitals if they are to be allowed to continue operating until the urban-rural differential is phased out.

The second bill my colleague from Idaho, Mr. SYMMS, is joining me in introducing makes a minor adjustment to the recently completed Medicare capital payment regulations. Our legislation would simply change the regulations by providing rural referral centers with the same 90 percent payment floor being provided for sole community providers.

Hospitals designated as "sole community providers" provide essential access to patients in predominately rural environments. They have been provided a capital payment floor of 90 percent, which is necessary to ensure that Medicare capital payments to those hospitals are adequate to secure access to essential care for rural America. Rural referral centers have a similar role in playing a major part of health care delivery in rural areas. Not only do they serve a large area, they also provide a wider range of care than do sole community hospitals. Therefore, given the unique role these facilities play in rural health care, I hope my colleagues will join in supporting this legislation to provide rural referral centers with a payment floor of 90 percent.

An article I once read on rural hospitals in Smithsonian magazine always sticks in my mind, because it did an excellent job of highlighting the importance of those institutions:

> A rural hospital, then, may be a place where nothing "special" ever happens. Where no one is a number; where everyone knows your name, tolerates your quirks and shares your griefs; where the nurses celebrate your birthday. Where when you telephone to say you feel sick and wish to be admitted, they turn down your bed and have the florist deliver a half-dozen pink carnations to your room. Where visiting hours do not matter even if they are posted—relatives and friends come and go as they please; where a turned-on light over your door instantly brings a nurse to your bedside. Where the kitchen staff makes bread and pies from scratch, and real mashed potatoes, and if you don't like the evening menu, someone will run to the corner and bring you a pizza with mushrooms and onions—and no anchovies.

Mr. President, rural referral centers are more than just health care centers—they are an important thread in the fabric of rural society. America's rural hospitals continue to face financial difficulties, difficulties that threaten not only their existence, but also the existence of the communities they serve. Medicare payments have long been inequitable to our rural referral centers. Let us protect them and the people they serve, until the present inequities in the system are phased out.•

By Mr. MITCHELL (for Mr. PRYOR, for himself, Mr. DOLE, Mr. COCHRAN, Mr. BOND, Mr. SHELBY, and Mr. BOREN)

S. 2085. A bill entitled the "Federal-State Pesticide Regulation Partnership Act of 1991"; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL-STATE PESTICIDE REGULATION PARTNERSHIP ACT OF 1991

• Mr. PRYOR. Mr. President, today I am introducing an important piece of legislation with the intention of rectifying a serious problem that has recently arisen in our efforts to protect consumers from potential harm from the use of pesticides and agricultural chemicals. This bill, the Federal-State Pesticide Partnership Act of 1991, will provide a national framework which will allow for and emphasize a scientifically sound regulatory approach by creating national uniformity in dealing with this issue.

The need for this legislation surfaced this summer when the Supreme Court ruled that the Federal Insecticide, Fungicide and Rodenticide Act, or FIFRA, does not preempt local governmental regulation of pesticide use in Wisconsin Public Intervenor, et. al versus Mortier, et. al. Under current law, pesticides are regulated by EPA under FIFRA with secondary enforcement reserved for or delegated to the individual States. This well-coordinated regulatory partnership between the Federal Government and the States has been the backbone of FIFRA since at least 1972. Prior to the decision, most had assumed that local governments were without authority to regulate on their own. The Court concluded, however, that while congressional committee reports arguably supported the concept of Federal preemption over local regulation of pesticide use, the express language of the statute itself did not provide sufficient justification for preempting local regulation. In reference to this disregard for legislative history, Justice White's opinion concluded, "* * * Congress is free to find that local regulation does wreak such havoc and enact legislation with the purpose of preventing it. We are satisfied, however, that Congress has not done so yet." Clearly, the Court recognized that national uniformity is not something Congress is precluded from enacting.

The decision of the Court essentially created over 83,000 local jurisdictions that are now free to regulate various aspects of pesticide use. Imagine the enormity of that number, especially when compared to the confusion and inconsistency that has resulted from just five Federal agencies regulating farmers' use of wetlands. As a staunch believer in States rights, I harbor reservations over the Federal preemption of almost anything, but in this case, it is clearly in the interest of the American public to create national uniformity. Without such jurisdiction, the regulation of pesticides will be left in the hands of governmental bodies with the least access to scientific input and the latest regulatory process which licenses pesticides for safe use. Furthermore, local regulation will interfere with the established Federal-State partnership that exists for all other aspects of pesticide regulation under FIFRA. There is the strong likelihood for conflicting and overlapping regulation as communities, townships, cities, counties, and even water conservation districts could enact their own regulations without regard for the regulations of neighboring or overlapping geographical jurisdictions.

Farmers and business people who rely on access to and use of EPA-approved pesticides will be faced with trying to comply with thousands of different regulations. For anyone operating across jurisdictional lines, these varying regulations will obviously create an overwhelming burden, and as a consequence, will surely drive up the prices of the goods and services provided by these interests. The last weight our farmers and small businesses need cast upon them, especially during economic times such as these, are numerous and conflicting regulations. Since the decision, almost 100 cities and towns and counties are considering adopting or have already adopted their own regulations. To date, no two are alike. Worse yet, many local jurisdictions have left technical, scientific, and regulatory decisions in the hands of town engineers and parks department employees since they do not have EPA scientists at their disposal. The trouble this will cause for farmers and small businesses is obvious, but it should not be assumed by anyone that this is only a rural problem. This will have an equal impact on such businesses as home pest controls, lawn care operations, florists, right-of-way maintenance companies, and school cleaning services, any and all of which operate frequently in urban areas.

Mr. President, this problem carries serious risks. Our public is now subjected to the decisions of regulating bodies that simply do not have the scientific expertise to carry out decisions that could effect the health of its citizens. In addition, the tremendous costs which consumers will be required to bear will be a certain result from farmers and companies, when able, having to adjust to so many conflicting and confusing rules in order to be in compliance with an untold number of agencies.

This complex and technical arena of pesticide regulation is one which requires not only the input from the best and brightest, but consistency as well. The only sure way to provide such consistency is through national uniformity. We owe this to the public Mr. President, and it is our responsibility to deliver this to them in a timely fashion, because this is a contemporary problem that the Senate should not delay in addressing.

For the record, I ask unanimous consent to include a list of the many groups that support my legislation, as well as an editorial from the Wall Street Journal from November 21, 1991.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COALITION FOR SENSIBLE PESTICIDE POLICY

Agricultural Alliance of North Carolina.
Alabama Agricultural Chemical Association.
All-America Rose Selections.
American Agri-Women.
American Association of Nurserymen.

American Farm Bureau Federation.
American Sheep Industry.
American Society of Agricultural Consultants
American Sod Producers Association.
American Soybean Association.
American Wood Preservers Institute.
Animal Health Institute.
Arizona Pest Control Association.
Arkansas Agricultural Pesticide Association.
Associated Landscape Contractors of America.
Associated Landscape Contractors of Massachusetts.
California Association of Nurserymen.
Chemical Manufacturers Association.
Chemical Producers and Distributors Association.
Chemical Specialties Manufacturers Association.
Chocolate Manufacturers Association.
Colorado Pest Control Association.
Connecticut Nurserymen's Association.
Connecticut Pest Control Association.
Corn Refiners Association.
Delaware Association of Nurserymen.
Delmarva Agricultural Chemical Association.
Eastern Regional Nurserymen's Association.
Florida Nurserymen and Growers Association.
Florida Pest Control Association.
Garden Centers of America.
Georgia Green Industry Association.
Georgia Pest Control Association.
Golf Course Superintendents Association of New Jersey.
Hawaii Agricultural Alliance.
Hawaii Pest Control Association.
Idaho Soil Fertility and Crop Protection Association.
Illinois Fertilizer & Chemical Association.
Illinois Landscape Contractors Association.
Illinois Pest Control Association.
Indiana Pest Control Association.
Industrial Biotechnology Association.
Institute of Shortening & Edible Oils.
International Sanitary Supply Association.
International Society of Arboriculture (New Jersey Chapter).
Iowa Fertilizer and Chemical Association.
Iowa Nurserymen's Association.
Iowa Pest Control Association.
Kansas Fertilizer and Chemical Association.
Kansas Grain and Feed Association.
Kansas Termite & Pest Control Association.
Kentucky Nurserymen's Association.
Kentucky Pest Control Association.
Landscape Contractors Association, MD-DC-VA.
Landscape Ontario Horticultural Trades Association.
Louisiana AG. Industries Association.
Louisiana Pest Control Association.
Maryland Alliance for Responsible Regulation of Pesticides.
Maryland Nurserymen's Association.
Maryland State Pest Control Association.
Massachusetts Arborists Association.
Massachusetts Biotechnology Council.
Michigan Agri-Business Association.
Michigan Alliance for the Rational Approach to Pesticides [MARAP].
Michigan Nursery and Landscape Association.
Michigan Pest Control Association.
Millers National Federation.
Minnesota Biotechnology Association.
Minnesota Pest Control Association.
Minnesota Pesticide Information and Education.
Mississippi Nurserymen's Association.
Mississippi Pest Control Association.
Missouri Association of Nurserymen.
Missouri Pest Control Association.
Montana Agricultural Business Association.
National Agrichemical Retailers Association.
National Agricultural Aviation Association.
National Agricultural Chemicals Association.
National-American Wholesale Grocers Association.
National Arborist Association.
National Association of Plant Patent Owners.
National Association of State Departments of Agriculture.
National Association of Wheat Growers.
National Broiler Council.
National Cattlemen's Association.
National Christmas Tree Association.
National Confectioners' Association.
National Corn Growers Association.
National Cotton Council of America.
National Council for Environmental Balance.
National Fertilizer Solutions Association.
National Fisheries Institute.
National Food Processors Association.
National Forest Products Association.
National Grain and Feed Association.
National Grange.
National Landscape Association.
National Pest Control Association.
National Pork Producers Council.
Nebraska Fertilizer and Ag-Chemical Institute.
Nebraska State Pest Control Association.
New England Nurserymen's Association.
New England Pest Control Association.
New Jersey Nursery and Landscape Association.
New Jersey Pest Control Association.
New Jersey Turfgrass Association.
New York State Nursery/Landscape Association.
New York State Pest Control Association.
North Carolina Landscape Contractors Association.
North Carolina Pest Control Association.
North Dakota Agricultural Association.
Ohio Agrobusiness Association.
Ohio Grain & Feed Association.
Ohio Nurserymen's Association.
Ohio Pest Control Association.
Oklahoma Fertilizer and Chemical Association.
Oklahoma Pest Control Association.
Oregon Agricultural Chemicals Association.
Oregon Association of Nurserymen.
Oregonians for Food and Shelter.
Pennag Industries Association.
Pennsylvania Agronomic Products Association.
Pennsylvania Nurserymen's Association.
Pennsylvania Pest Control Association.
Pest Control Operators of California.
Pest Control Operators of Oregon.
Pesticide Association of New York State.
Pesticide Association of North Carolina.
Professional Lawn & Pest Applicators of Idaho.
Professional Lawn Care Association.
Responsible Industry for a Sound Environment.
Rocky Mountain Plan Food and Agricultural Chemicals Association.
Society of American Florists.
South Carolina Pest Control Association.
South Dakota Fertilizers and AG Chemical Association.
South Dakota Nurserymen's Association.
Southern Agricultural Chemicals Association.
Southern Nurserymen's Association.
Tennessee Pest Control Association.
Texas Association of Landscape Contractors.
Texas Association of Nurserymen.
Texas Pest Control Association.
The Alliance for Environmental Concerns.
The Alliance of Rhode Island Professional Pesticide Applicators.
United Egg Producers.
United Fresh Fruit and Vegetable Association.
United States Canola Association.
United States Chamber of Commerce.
Virginia Pest Control Association.
Washington Friends of Farms and Forests.
Washington State Nursery & Landscape Association.
Washington State Pest Control Association.
West Virginia Nurserymen's Association.
West Virginia Pest Control Association.
West Virginia Vegetation Management Association.
Wholesale Nursery Growers of America.
Wisconsin Agri-Business Council.
Wisconsin Fertilizer and Chemical Association.
Wisconsin Forestry/Right-of-Way/Turf Coalition.
Wisconsin Landscape Contractor's Association.
Wisconsin Nurserymen's Association.
Women Involved in Farm Economics.

[From the Wall Street Journal, Nov. 21, 1991]

SILENT HARVEST

Bugs are back in the news. California's winter crop has been decimated by a whitefly infestation. Perhaps $100 million of cantaloupes, cauliflower, broccoli and lettuce lie ruined. Probable causes of the blight are warm weather, possibly an intensive type of agriculture that provides hosts for the insects virtually year-round—and the flies' resistance to pesticide. The devastation of these crops raises anew the question of whether this country's recurring phobias over chemicals and the regulatory apparatus that politics has erected around the development of new agricultural chemicals leave the country poorly prepared to deal with problems such as an onslaught of whiteflies.

The institution created to protect us from chemicals is the Environmental Protection Agency. One can argue that the EPA is to agriculture what the Food and Drug Administration is to pharmaceuticals—a drag on the introduction of scientific technology.

It helps to be mindful that an agency like this one to some extent reflects the collective acts of the U.S. Congress. And most agencies have a variety of divisions, some disposed to letting private producers flourish, others antagonistic to the interests of industry. That said, let's see how the EPA figures in the future of the U.S. supply of fresh fruits and vegetables.

In the infamous case of Alar, the agency's carcinogen-assessment staff and ultimately the top administrators played ball with the scaremongers who eventually won the removal of this apple harvest-enhancer from use.

Since that occurred in early 1989, the case against Alar has been progressively discredited, but the verdict of popular fear seems to be permanent and the chemical is unlikely to return. The result has been a significant drop-off in output of some varieties, such as the McIntosh, that are most prone to fall to waste when ripe. Earlier picking schedules of more common types have gotten major producers around Alar's absence but may be shortening the retailing calendar.

Outright bans are rare. Chemicals regulation usually slows innovation more quietly, by imposing barriers to new applications. Consider the case of the whitefly and NTN-3383, a promising alternative to existing pesticides that is being developed by Mobay Corp., a unit of BayerUSA.

On average, such a product seeking EPA "registration," or approval, faces a five- to 10-year process costing $35 million to $50 million, by industry estimate. This typically includes more than 100 different tests, plus followups, documented in excruciating detail. One, the so-called avian field study, will have cost Mobay $2 million, according to development manager Walt Mullins. As the name suggests, it's an open-area test for harm to birds, to avoid another Silent Spring (if there was a first one). Problem is, the results of such a sample are so vague—by nature, you might say—that "you can't say for certain" that even the placebos used are harmless to birds, according to Mr. Mullins.

Because most crops consumed fresh are only lightly dusted with pesticides, they are called "minor uses" by the agricultural-chemical makers. Not much of any single compound is sold, at least compared with the stuff used on the big commodity crops such as wheat, corn and soybeans. So in many cases it just doesn't pay to spend up to $50 million before even chancing the marketplace. Mobay believes it is lucky with NTN, that it may be useful on hundreds of different plants and even home lawns, so that it can be sold in sufficient volume to cover the costs. But that's exceptional.

The testing threshold has been steadily raised through episodes such as the Alar travesty. But that doesn't mean that previously approved substances are home free. Under legislation Congress enacted three years ago, the EPA must re-register agricultural chemicals OK'd before 1984. The industry estimates that'll run $8 million to $10 million apiece. About 400 compounds are vying for renewal. Half again as many won't even be put to the test, though many of those are no longer used anyway. The apple industry alone has lost about 15 chemicals in the past few years, a major Washington state grower says.

Thus, the regulatory meter is rapidly running up the tab on test dollars that could be going into finding new, possibly safer products to increase the supply and decrease the price of an undeniably healthful component of our nation's diet—fresh fruits and vegetables. Costs are driven up by an often vain pursuit of the finer and finer measurements of safety that advanced science permits.

Agriculture is a critical but hardly unique example of this unproductive obsession. Some way out—a new Congress, a more resolute executive branch, a media more skeptical of scares or even a creditable scientific appeals body—needs to be found so that costs can be better equated with the benefits of avoiding harm from real toxic threats. At present, the whiteflies are winning.●

By Mr. BRADLEY:

S. 2086. A bill to amend the Internal Revenue Code of 1986 to provide for individual development accounts, and for other purposes; to the Committee on Finance.

INDIVIDUAL DEVELOPMENT ACCOUNT ACT OF 1991

● Mr. BRADLEY. Mr. President, I rise to introduce legislation that offers a new way of thinking about how to expand our economy so that no one is left out. Our Government's approach toward poor families has, so far, had only one dimension—increasing short-term income, spending, and consumption.

We continue to be surprised when even aggressive income-maintenance efforts fail to reduce the level of poverty in America significantly. Yet the fact is that families cannot spend or consume their way out of poverty. Joining the economic mainstream requires savings, assets, and investment. Individual development accounts will give some of the poorest Americans a chance to build assets so that they can take the next step on the ladder of self-sufficiency: A first home, a college education, or a secure retirement.

Our current welfare system not only does nothing to help people develop assets for the future, it actively penalizes those who try. On the other hand, the Federal Government spends more than $100 billion a year to help better-off families accumulate savings and assets, especially through the deduction for home-mortgage interest and tax benefits for retirement savings. Now we are considering restoring enhanced deductibility for individual retirement accounts for first-time home buyers, higher education and retirement. Most of these policies have helped to relieve financial pressures for families and individuals who already possess significant assets—at most, 40 percent of the population. It's time to ask why we don't offer the same incentives and opportunities to those who don't already have $2,000 or more set aside. Individual development accounts would mirror expanded individual retirement accounts for those who don't already have the savings.

The bill I am introducing today would authorize $100 million for a broad-based demonstration of the merits of individual development accounts. Established community organizations would use the Federal demonstration grant funds, along with State and private contributions, to subsidize individual development accounts so that those who are making an effort to save are able to save about $2,000 a year. Anyone in a household with an income below 200 percent of the Federal poverty line and a net worth below $20,000 would be eligible for an IDA subsidy. The very poorest, those with income of 50 percent of the poverty level or less, would be eligible for a 9-to-1 match up to $1,800. In other words, if the poorest poor could save $200 in their IDA, the participating organization would match it with $1,800 for a total investment of $2,000. At the top end, people with incomes between 116 and 200 percent of the poverty level would be eligible for a 1-to-5 match. They would have to save $1,650 from their disposable income in order to receive a $350 subsidy that would bring the total to $2,000.

Personal contributions to an IDA would be tax deductible up to $2,000 a year. Funds withdrawn for one of the three legitimate purposes—first-home purchase, higher education, and retirement—would not be included in the gross income of the IDA holder. Withdrawals for any other purpose would trigger severe tax penalties and require forfeiture of all deposit subsidies.

The legislation I am introducing today should be the beginning of a transformation in our thinking about welfare and economic opportunity in America. Instead of just helping people survive day-to-day, we can help people build a strong, secure future for themselves and their children. Curing poverty by building assets is a broad strategy that goes beyond IDA's. My colleague from Iowa, Senator GRASSLEY, has introduced legislation that would change the AFDC system so that poor people could build a small investment in a microenterprise—a business with five or fewer employees—and become economically self-sufficient without penalty. I am proud to join Senator GRASSLEY in cosponsoring this overdue initiative.

Microenterprises, individual development accounts, and other initiatives to help poor people invest rather than consume, are the best way to end poverty, rather than just alleviate its consequences. Assets and investments make people stakeholders in our society, and our society is strongest when everyone has a stake in it.

I ask unanimous consent that a short technical description of individual development accounts and the demonstration program be included in the RECORD.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

INDIVIDUAL DEVELOPMENT ACCOUNTS

Definitions. An Individual Development Account (IDA) is an optional, earnings-bearing, tax, benefitted account in the name of one person. An IDA would be held in a licensed, federally insured financial institution. Amounts in an IDA can be withdrawn without penalty only for the following designated purposes: (1) first-home purchase; (2) post-secondary education (college/long-term training); and; (3) retirement. An IDA can also be transferred without penalty to one's spouse or dependent for the same uses.

Contributions and tax benefits. There is no limit on the amount of funds that may be deposited into an IDA, and deposits may come from a variety of sources. The amount allowable as a tax deduction for amounts paid into an IDA, however, shall not exceed $2,000 per year (indexed for inflation), and shall be permitted for only the person in whose name the account has been established. (Married persons filing jointly could each take the full deduction, provided each is eligible.) Earnings on deposits to an IDA would also be exempt from taxation.

Withdrawals and Penalty for Non-Designated Use. Amounts withdrawn for designated purpose and will not be included in the gross income of the person in whose name the IDA has been established. Withdrawals from an IDA will be paid directly to the institution providing the designated service (e.g., to the mortgage provider for first-home purchase, to the university for post-secondary education). Withdrawals for any non-designated use (except in the case of death or disability) would; (1) trigger a 10 percent penalty; (2) require the inclusion in gross income of all amounts previously deducted or excluded; and (3) require the forfeiture of all deposit subsidies.

Deposit Subsidies. In order to stimulate savings of about $2,000 per year per person for any of the designated purposes, deposits into an IDA would be matched in accordance with the table below. All matching amounts would be deposited directly into an IDA and would come form an IDA Reserve Fund established by the project participating in the demonstration.

Income[1]	Matching ratio	Maximum match
50 percent or less	9 to 1 (900 percent)	$1,800
51 or 85 percent	5 to 1 (500 percent)	1,650
86 or 125 percent	2 to 1 (200 percent)	1,400
126 or 160 percent	1 to 2 (50 percent)	700
161 or 200 percent	1 to 5 (20 percent)	350

[1] Income of the individual as a percentage of the Federal poverty threshold.

DEMONSTRATION PROJECTS

General. Demonstration projects (conducted by private, non- and for-profit organizations) will be established to determine: (1) the social, psychological, and economic effects of providing individuals with limited means an opportunity to accumulate assets and; (2) the extent to which asset-based welfare policy may be used to enable individuals with low income to achieve economic self-sufficiency.

Applications. Grants shall be awarded on a competitive basis. Successful applicants will have received financial commitments from the State and private entities to carry out the project and will have demonstrated, in the judgment of the Secretary, an ability to: (1) assist participants in achieving self-sufficiency through the establishment and use of IDA and; (2) responsibly administer the project. Applicants must be submitted no later than April 1, 1992. Approval will be no later than June 1, 1992, with the project beginning on July 1 of that year.

IDA Reserve Fund. Each project participating in the demonstration would establish an IDA Reserve Fund which consists of Federal, State, local, corporate, and private contributions as well a any funds originating from a non-designated use of an IDA. From the Reserve Fund, deposit subsidies would be made directly into an IDA.

Persones Eligible to Participate. The participating organization shall determine who may participate in the demonstration, but in all cases the individual selected will be a member of a household whose income is not more than 200 percent of the Federal poverty threshold and whose net worth is not more than $20,000. Net worth is defined as the sum of the market value of assets owned by every member of the household minus liabilities owed by the Household. Net worth (for purposes, of the demonstration) excludes the first $35,000 of home equity, equity in a vehicle and equity in personal items (furniture, clothing, and jewelry)

Asset Tests in Other Programs. Funds in an IDA account (which are by definition restricted) shall be disregarded in determining eligibility for all means-tested public assistance programs.

General Oversight. A panel (established by the Secretary) composed of Federal and State officials, business leaders, and social policy innovators shall monitor the progress and provide general oversight of all of the demonstration projects. The panel will also develop general investment guidelines for amounts in IDAs and IDA Reserve Funds.

Evaluation. An independent research organization shall evaluate the demonstration projects, individually and as a whole. The research firm will be selected by the panel.

Authorization of Appropriations. Not more than $100,000,000 for each of the fiscal years 1992–1996 are authorized to be appropriated to carry out the project.●

By Mr. SIMON:

S. 2087. A bill to prohibit certain uses of the terms "Visiting Nurse Association," "Visiting Nurse Service," "VNA," and "VNS"; to the Committee on the Judiciary.

PROHIBITION OF CERTAIN USE OF TERMS

● Mr. SIMON. Mr. President, today I introduce legislation that will ensure that consumers and the medical community have the information they need to differentiate clearly between traditional, community-based visiting nurse associations [VNA's] and visiting nurse services [VNS's], which are charitable, nonprofit organizations, and the more recent nontraditional agencies which are private or for-profit. The purpose of this legislation is consumer protection, not commercial protection.

Since their founding more than 100 years ago, VNA's and VNS's have accepted the mission of providing home health care to all, regardless of ability to pay. These agencies annually provide home care to more than 1,500,000 men, women, children, and infants in urban and rural communities in 45 States. As a result of close ties to the communities which they serve, through voluntary boards of directors, local funding, and other volunteers, VNA's and VNS's work with other community organizations to offer such services as hospice care, meals-on-wheels, adult day care, mental health services, and sick and well child care. Services to the poor who are ineligible for Medicaid or Medicare are subsidized with donations from private contributors and charitable organizations and a small number of private-pay patients. Traditional VNA's and VNS's have trained countless numbers of physicians and nurses, many of whom continue to provide home health care.

For many years, VNA's and VNS's were the only organization providing home health care. Since 1981, however, when home health care services became eligible for Medicare or Medicaid reimbursement, hundreds of private and/or for-profit agencies have entered the home health care field. The success of VNA's and VNS's has made them models for home health care organizations. Some of these new companies have taken the name Visiting Nurse Association or Visiting Nurse Service, thereby taking advantage of the accumulated goodwill of the traditional VNA's and VNS's.

So far, instances of actual misrepresentation have been few. Still certain problems have arisen. Nontraditional home care organizations that are mistakenly perceived as traditional VNA's or VNS's may siphon off those patients who are reimbursable or can pay for themselves, leaving traditional VNA's and VNS's with the expensive and untenable task of caring only for the uninsured poor. The traditional VNA or VNS in this situation must either begin to turn needy patients away or accumulate mounting debts.

Patients and physicians who mistakenly believe that every organization calling itself a visiting nurse association or visiting nurse service follows the traditional VNA mission are sometimes confused when, for instance, a patient's Medicare coverage ends and the proprietary agency ends its services, leaving the patient to be cared for by a traditional VNA, or to fall through the cracks. A few physicians have complained that their patients were not receiving prescribed home health care, because a nontraditional organization had taken the case and not provided the same level of care that a traditional VNA or VNS would be expected to provide.

This legislation provides name protection to traditional VNA's and VNS's similar to what Congress has granted to other charitable organizations such as the Red Cross, 4-H, Boy Scouts, Girl Scouts, and Future Farmers of America. While agencies that have already been using the VNA/VNS name are grandfathered, new agencies that do not carry out the traditional VNA/VNS's mission will be precluded from using the name. This reasonable bill will help traditional VNA's and VNS's to continue to provide the charitable and necessary services they have been providing for over 100 years. Companion legislation has already been introduced in the House by Representative STAGGERS. I commend this bill to my fellow Senators and I urge its prompt passage.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF CERTAIN USE OF TERMS "VISITING NURSE ASSOCIATION", "VISITING NURSE SERVICE", "VNA", AND "VNS".

The Attorney General may—

(1) impose on any person who is not a visiting nurse association or visiting nurse service, and knowingly commits any of the violations described in section 2, a civil penalty that does not exceed $1,000 for each such violation; and

(2) enjoin any such person from committing any such violation.

SEC. 2. VIOLATIONS FOR WHICH CIVIL PENALTY MAY BE IMPOSED.

For purposes of section 1, a violation shall be any of the following;

(1) Use of the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term in commerce or in connection with any goods or services in a manner that falsely suggests, or causes any confusion, mistake, or deception, that the goods or services are produced or endorsed by a visiting nurse association or visiting nurse service.

(2) Use of the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term, in commerce or in connection with any goods or services in a manner that falsely suggests, or causes any confusion, mistake, or deception, that the person is associated in any way with a visiting nurse association or visiting nurse service.

SEC. 3. PROCEDURES FOR IMPOSITION OF CIVIL PENALTIES.

The Attorney General shall establish standards and procedures governing the imposition of civil penalties under section 1. The standards and procedures shall provide for the imposition of a penalty only after the person referred to in such subsection has been given an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

SEC. 4. AVAILABILITY OF OTHER REMEDIES.

The remedies provided under this Act shall be in addition to the remedies provided by any other law.

SEC. 5. REGULATIONS.

The Attorney General shall issue any regulations necessary to carry out this Act.

SEC. 6. DEFINITION.

For purposes of this Act, the term "visiting nurse association", "visiting nurse service", "VNA", or "VNS" means a community-based home health care provider comprised of at least a medicare-certified home health agency that is—

(1) controlled, either directly or at the corporate level, by an independent, self-perpetuating, and voluntary board of directors;

(2) is exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986, and

(3) is described in section 501(c)(3) of such Code.

SEC. 7. EFFECTIVE DATE.

(1) IN GENERAL.—This Act shall take effect on the expiration of the 6-month period beginning on the date of the enactment of this Act.

(b) EXCEPTION.—This Act shall not apply to any person referred to in section 1 who has used the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term continuously for at least 2 years prior to the date of the enactment of this Act.•

By Mr. PELL (by request):

S. 2088. A bill to authorize the establishment of a Beringian Heritage International Park; to the Committee on Foreign Relations.

BERINGIAN HERITAGE INTERNATIONAL PARK ACT OF 1991

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to authorize the establishment of a Beringian Heritage International Park. This proposed legislation has been requested by the Department of the Interior, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis and the letter from the Assistant Secretary of the Department of the Interior to the President of the Senate, which was received on November 8, 1991.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Beringian Heritage International Park Act of 1991."

SEC. 2. FINDINGS.

The Congress finds that—

(1) environmental protection and the preservation of our natural and cultural heritage are goals shared by the United States and the Soviet Union, and goals which provide exceptional opportunities for improving peaceful cooperation;

(2) Beringia formed the link between the continents of Asia and North America that resulted in the peopling of North America;

(3) existing United States and planned Soviet national park units in the area of the Bering Strait display complementary resources of shared international significance and provide an excellent foundation for a United States-Soviet Union international park; and

(4) the establishment of a United States-Soviet Union international park in the area of the Beringian region of Alaska and the Soviet Far East would enhance the conservation, management, and understanding of shared resources and would symbolize our Nations' commitment to environmental protection and the preservation of the common natural and cultural heritage of the region.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to foster a climate of understanding and cooperation between the United States and the Soviet Union;

(2) to improve the bases for conservation and management of existing United States National Park System units in Beringia;

(3) to promote the protection, and public understanding and enjoyment of Beringia's unique environmental, natural and cultural values; and

(4) to authorize United States participation in the establishment and administration of an international park in Beringia.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "Beringia" means that area of land and water in Alaska and the Soviet Far East located in the vicinity of the Bering Strait, including the Seward Peninsula in the United States and the Chukotskiy Peninsula in the Soviet Union;

(2) the term "Secretary" means the Secretary of the Interior;

(3) the term "Park" means the Beringian Heritage International Park, authorized to be established under section 5 of this Act; and

(4) the term "Commission" means the Beringian Heritage International Park Commission, authorized to be established under the provisions of section 7 of this Act.

SEC. 5. ESTABLISHMENT OF PARK.

Upon enactment by the proper authority of the Soviet Union of a similar provision respecting the Soviet Far East portion of Beringia, and upon proclamation of the President of the United States, which proclamation is hereby authorized, the Bering Land Bridge National Preserve in the State of Alaska shall thereby be established as part of an international park to be known as the Beringian Heritage International Park.

SEC. 6. AUTHORITIES.

(a) Upon establishment of the Beringian Heritage International Park under section 5 of this Act, the Secretary is authorized—

(1) in consultation with the Secretaries of State, and Treasury, and the Attorney General, to enter into bilateral agreements with the appropriate officials of the Soviet Union, to facilitate international travel to the units of the Park and the exchange of equipment, materials, and information by and among native people and persons having an interest in the Park, either as scientists, tourists, or government officials;

(2) to enter into cooperative agreements with other Federal agencies, State and local governments, native corporations, universities, and other entities, including equivalent Soviet entities, for the purposes of gathering and sharing environmental information, establishing binational cultural programs to reestablish traditional relationships, conducting research including joint research to advance public knowledge of the peopling of North America, performing resource management activities, providing mutual training opportunities, and enhancing tourism or for other similar purposes;

(3) to establish and operate in cooperation with equivalent Soviet entities, a center or centers for research and public information, the purpose of which shall include but not be limited to the collection, storage and translation of technical information, promotion of cultural activities, and the production of exhibits. Such centers may be established through cooperative agreements with existing institutions;

(4) to investigate the suitability and feasibility of securing additional international designations for the Park, including but not limited to joint World Heritage Site designation; and

(5) to receive and provide funds, equipment and in kind services in support of the Park, from or to the appropriate entities of the Soviet Union.

(b) ADDITIONAL UNITS.—The Secretary may propose such legislation as may be appropriate to designate additional units of the Park from among lands that are part of the National Park System.

(c) ANILCA.—Nothing in this act shall be construed to add to or diminish the authorities of the Secretary under the provisions of the Alaska National Interest Lands Conservation Act (16 USC 3101 *et seq.*) with respect to the acquisition, operation, and management of units of the National Park System in Alaska.

SEC. 7. BERINGIAN HERITAGE INTERNATIONAL PARK ADVISORY COMMISSION.

(a) ESTABLISHMENT.—Effective upon issuance of the Presidential proclamation under section 5 of this Act, there is hereby established a Beringian Heritage International Park Advisory Commission which shall advise the Secretary and the Park's Soviet administrative authority on matters pertaining to the identification, protection, and preservation of the Park's natural and cultural heritage.

(b) MEMBERSHIP.—The Commission shall consist of twelve members, of whom six shall be the United States members and six shall be the Soviet Union members.

The United States members shall be appointed as follows:

(1) the Secretary, or his designee;

(2) one individual from among recommendations submitted by the Governor of Alaska, to be appointed by the Secretary;

(3) two Alaska natives from among recommendations submitted by NANA (North Native Association) and Bering Straits Native Corporations, to be appointed by the Secretary;

(4) one individual from among recommendations submitted by the Secretary of the Smithsonian Institution with a background in anthropology, to be appointed by the Secretary; and

(5) one individual from among recommendations submitted by the Director of the National Science Foundation, with a background in the natural sciences, to be appointed by the Secretary.

(c) ALTERNATES AND VACANCIES.—The Secretary shall designate an alternate to act in the stead of each member appointed by him. Alternate members representing the United States shall be appointed, and vacancies on the Commission filled, in the same manner in which the original appointment was made. Alternate members shall have the same authorities and responsibilities as regular members.

(d) TERMS.—Members of the Commission shall be appointed for terms of 3 years and may be reappointed. A member appointed to fill a vacancy occurring before the expiration of the term of which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member of the Commission appointed for a definite term may serve until the member's successor has taken office.

(e) COMPENSATION.—Members of the Commission representing the United States shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(f) CO-CHAIRS.—The Commission shall have Co-Chairs, one from the United States and one from the Soviet Union. The Co-Chairs shall be elected by the members of the Commission. The term of the Co-Chairs shall be 2 years.

(g) QUORUM.—A simple majority of the members shall constitute a quorum, but a lesser number may hold meetings.

(h) MEETINGS.—The Commission shall meet at the call of the Co-Chairs, or a majority of its members, but not less than once a year. Meetings will alternate venue between the United States and the Soviet Union.

(i) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Subject to appropriate restrictions for reasons of national security, upon request of the Commission, any Federal agency may provide to the Commission information, personnel, and services to assist in carrying out its duties under this Act.

(j) ADMINISTRATION OF COMMISSION.—Except as otherwise provided for in this Act, the administration of the Commission shall be in accordance with the provisions of the Federal Advisory Committee Act (5 USC App. Sec. 1 et seq.).

(k) TERMINATION OF COMMISSION.—The Commission shall terminate on the date that is 10 years after the date of the Presidential proclamation establishing the Park. The Commission may be extended by the Secretary and the Park's Soviet administrative authority for a period of not more than 5 years beginning on the date of termination if both parties determine that there is a continuing need for the Commission's advisory services.

SEC. 8. CONSULTATION.

Prior to entering into a bilateral agreement with the Soviet Union under section 6(a)(1) of this Act, the Secretary shall consult with the Secretary of State with respect to the effect of such agreement on the foreign policy of the United States. In all other respects, the Secretary shall consult with the Secretary of State as the Secretary may deem appropriate. The Secretary shall consult with the Secretaries of State, Treasury, and Transportation, the Attorney General, and the heads of other Executive Agencies, as appropriate, for the purposes of ensuring that impediments to cross-border travel between the designated park units, for purposes related to the functioning of the Park, will be lessened and, to the extent practicable, removed.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1—Provides that Act may be cited as "Beringian Heritage International Park Act of 1991."

Section 2—Sets forth Congressional findings that—

(1) environmental protection and preservation of heritage are goals shared by United States and Soviet Union;

(2) Beringia formed link between Asia and North America that resulted in peopling of North America;

(3) existing United States and planned Soviet park units in Bering Strait area display complementary resources of shared international significance and provide excellent foundation for United States-Soviet Union international park; and

(4) establishment of international park would enhance conservation, management, and understanding of shared resources and would symbolize Nation's commitment to environmental protection and preservation of common heritage of region.

Section 3—Sets forth purposes of Act as being—

(1) to foster understanding and cooperation between United States and Soviet Union;

(2) to improve conservation and management of existing National Park System units in Beringia;

(3) to promote protection, public understanding, and enjoyment of Beringia's environmental, natural, and cultural values; and

(4) to authorize United States participation in establishment and administration of an international park in Beringia.

Section 4—Defines following terms:

(1) "Beringia" means area of land and water in Alaska and Soviet Far East in vicinity of Bering Strait, including Seward Peninsula in United States and Chukotskiy Peninsula in Soviet Union;

(2) "Secretary" means Secretary of the Interior;

(3) "Park" means Beringian Heritage International Park, authorized under section 5; and

(4) "Commission" means Beringian Heritage International Park Commission established under section 7.

Section 5—Provides that upon enactment by proper Soviet authority of similar provision respecting Soviet Far East portion of Beringia, and upon proclamation of the President of the United States, hereby authorized, existing Bering Land Bridge National Preserve in Alaska shall thereby be established as part of international park known as Beringian Heritage International Park.

Section 6—Authorities.

(a) Upon establishment of Park, Secretary is authorized—

(1) in consultation with State, Treasury, and Attorney General, to enter into bilateral agreements with Soviet officials to facilitate travel to units of the Park and exchange of equipment, and materials, and information by and among native people and scientists, tourists, or government officials;

(2) to enter into cooperative agreements with other Federal agencies, State and local governments, native corporations, universities and other entities, including equivalent Soviet entities, for purpose of gathering and sharing environmental information, establishing bi-national cultural programs, conducting research, including joint research, performing resource management activities, providing mutual training opportunities, and enhancing tourism or other similar purposes;

(3) to establish and operate in cooperation with equivalent Soviet entities a center or centers for research and public information, purpose of which shall include without limitation promotion of cultural activities and production of exhibits. Centers may be established through cooperative agreements with existing institutions, such as, in the United States, the University of Alaska and existing interagency visitor information facilities;

(4) to investigate suitability and feasibility of securing additional international designations for the Park, including without limitation joint World Heritage Site designation; and

(5) to receive and provide funds or in-kind services in support of the Park, from or to the appropriate Soviet entities.

(b) Authorizes Secretary to propose legislation to designate additional units of the Park from lands that are part of National Park System.

(c) Disclaims any addition to or diminishment of Secretary's authorities under ANILCA respecting acquisition, operation, and management of National Park System units in Alaska.

Section 7—Beringian Heritage International Park Advisory Commission.

(a) Establishes Commission effective upon proclamation, and sets forth purpose as advising the Secretary and the Park's Soviet administrative authority on matters pertaining to identification, protection, and preservation of the Park's natural and cultural heritage.

(b) Sets forth 12 members, 6 from the United States and 6 from the Soviet Union. The United States members to be as follows:

(1) Secretary, or designee;

(2) one from Governor of Alaska's recommendations, appointed by Secretary;

(3) two Alaska natives from NANA and Bering Strait Native Corporation's recommendations, appointed by Secretary;

(4) one from Smithsonian Institution's recommendations, with background in anthropology, appointed by Secretary;

(5) one from National Science Foundation's recommendations, with background in natural sciences, appointed by Secretary.

(c) Provides for alternate members and filling vacancies.

(d) Sets terms of members at 3 years.

(e) Prohibits payment of United States members for service on Commission, but authorizes travel expenses and per diem.

(f) Establishes Co-Chairs, to serve 2-year terms.

(g) Establishes a simple majority as quorum.

(h) Requires meetings to be held at call of Co-Chairs, but not less than once a year. Meetings to alternate venue between the U.S. and the Soviet Union.

(i) Directs Secretary to provide staff and technical assistance as he considers appropriate, and authorizes any Federal agency to provide information, personnel, and services.

(j) Makes applicable Federal Advisory Committee Act to administration of Commission, except as otherwise provided in this Act.

(k) Provides for termination of Commission after 10 years from Presidential proclamation, but authorizes extension for not more than 5 years if both the Secretary and the Parks Soviet administrative authority determine there is continuing need.

Section 8—Requires Secretary to consult with Secretary of State before entering into bilateral agreement with Soviet Union; in all other respects he shall consult with Secretary of State as he deems appropriate. Directs Secretary to consult with Secretaries of State, Treasury, and Transportation, Attorney General and heads of other Executive agencies for purpose of ensuring that impediments to cross-border travel between park units, for purposes related to functioning of park will be lessened and, to extent practicable, removed.

Section 9—Authorizes appropriation of such sums as may be necessary.

U.S. DEPARTMENT OF THE INTERIOR

Washington, DC., November 8, 1991.

Hon. J. DANFORTH QUAYLE,

President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is enclosed a draft bill, the "Beringian Heritage International Park Act of 1991." Also enclosed is a section-by-section analysis of the bill.

We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The enclosed bill would authorize the President, upon enactment of similar authority by the appropriate Soviet authorities, to establish by proclamation the Bering Land Bridge National Preserve in Alaska as the United States unit of an international park to be known as the Beringian Heritage International Park. Upon establishment, the Secretary of the Interior would be authorized, pursuant to cooperative agreements, to facilitate visitor access, coordinate U.S. and Soviet park management objectives and programs, share park environmental and interpretive information, establish bi-national cultural programs, conduct joint research, provide training opportunities, and join in the establishment and operation of centers for research and public information. An advisory commission would be established, composed of United States and Soviet appointees, to advise administrative authorities of both nations on the identification, protection, and preservation of the International Park's natural and cultural heritage. Provisions are included in the bill for early and continuing consultations between the Secretaries of the Interior and State as appropriate.

The purpose of this measure is to foster cooperation between the United States and the Soviet Union in interpreting, studying, and preserving a resource and heritage shared by our two nations in the Bering Strait region. Thousands of years ago, the first North Americans crossed a newly emerged Bering land bridge, following earlier movements of land mammals and plants. The people on each side of the bridge remained joined after a shallow sea formed, and are today united by language, tradition and environment.

Natives of Beringia continue to share common Yupik and Inupiat languages. Walrus and whales remain a vital part of the diet and social fabric of the native people. Archeological sites in both countries show dramatic similarity.

In 1987, under authority of the 1972 United States-USSR Agreement on Cooperation in the Field of Environmental Protection, a working group developed a specific theme for research, conservation, and management of the Beringian heritage. In 1989, a joint Soviet and American planning team assessed parks or potential protected sites on both the American and Soviet coasts of the Bering Sea. The team prepared a joint report recommending to its respective governments that an international park—embodying an existing national park in the United States and a newly created preservation unit in the Soviet Union—be designated by the national legislatures. The report and its recommendations were formally endorsed by Presidents Bush and Gorbachev in June 1990. Enactment of the enclosed bill would fulfill that goal on behalf of the United States. Similar legislation is being prepared by the Soviet counterpart authority for enactment by the appropriate Soviet authorities.

Establishment of the Bering Land Bridge National Preserve as a component of this proposed international park will not change the management or public use of the existing national preserve. The preserve was established as a unit of the National Park System by section 201 (2) of the Alaska National Interest Lands Conservation Act (ANILCA), approved December 2, 1980 (94 Stat. 2371). An area of 2,457,000 acres of public land on the Seward Peninsula of Alaska, the preserve is an ideal place in which to launch an international cooperative effort to recognize, protect and interpret selected elements of the Beringian heritage. One of the major purposes of the preserve, as set forth in ANILCA, is "to provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian continent." Management of the preserve will continue to be accomplished by United States personnel and in accordance with the laws and regulations currently applicable to the preserve.

Operation and management of the national preserve are budgeted at $493,000 for fiscal year 1992. We estimate that, as a consequence of its designation as part of a Beringian Heritage International Park, as proposed herein, additional funds will be budgeted in future years to support increased U.S./Soviet cooperation in management and research. Other costs associated with this proposal are $100,000 per year, beginning in the second year, to support activities of the International Park Advisory Commission and up to $1.5 million per year, after the fourth year, for expanded cooperative research activities.

Construction, including planning, of research and public information center(s), authorized in section 6(a) of the bill, is estimated to cost approximately $12 million. Planning for this facility is expected to begin in the third year following enactment. Operation of the Research Center(s) is expected to begin in the eighth year following enactment at a cost of $500,000 and to cost up to $1 million per year by the tenth year.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

MIKE HAYDEN,
Assistant Secretary.●

By Mr. NICKLES (for himself, Mr. PACKWOOD, and Ms. MIKULSKI):

S. 2089. A bill to repeal exemptions from civil rights and labor laws for Members of Congress; to the Committee on Government Affairs.

CONGRESSIONAL AND PRESIDENTIAL ACCOUNTABILITY ACT OF 1991

● Mr. NICKLES. Mr. President, today the bill I send to the desk is intended to eliminate the double standard which presently exists for the Congress in certain labor and civil rights laws it has passed in the last 50 years.

Traditionally Congress has exempted itself from civil rights, health, safety and many labor laws which have been applied to the Federal executive and judicial branch as well as the private sector. This idea that Congress should not impose laws on the Nation that it will not live under itself is not a new one. A quote by James Madison in the Federalist Papers clearly states this; "Congress can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society."

This piece of legislation would make Congress, all its intrumentalities and certain executive branch employees subject to all regulations and remedies contained in the following laws: the National Labor Relations Act of 1935, Fair Labor Standards Act of 1938, Equal Pay Act of 1963, Civil Rights Act of 1964, Age Discrimination Act of 1967 and amendments of 1975, Occupational Safety and Health Act of 1970, Equal Employment Opportunity Act of 1972, Rehabilitation Act of 1973, American with Disabilities Act of 1990, Privacy Act of 1974, and title 6 of the Ethics in Government Act of 1978.

My distinguished colleague, Senator GRASSLEY, has worked tirelessly to make Congress face up to this double standard and do something about it. His success has been limited by those who continue to argue on the basis of constitutional arguments on which there is little guidance. In fact, the little guidance that does exist in case law of the last 3 years indicates that the courts would sustain the validity of congressional coverage of laws.

The real issue here is that it is about time Congress led by example and not by exemption. if we are going to impose these standards, remedies, and procedures on Federal agencies, State and local governments, and the private sector, we must impose them on ourselves.

If business runs afoul of any of the laws listed in my bill, they face Federal court litigation and endless bureaucratic headaches. Congress has exempted itself from the above-mentioned laws completely or has limited redress to be determined by an internal mechanism. Would we allow major corporations to set up their own rules for dealing with complaints under these laws? The answer is obviously, no.

Congress must no longer tell the American public that we are exempt from the laws which we pass in this Chamber everyday. Therefore, I encourage my colleagues to support this important piece of legislation.•

• Mr. PACKWOOD. Mr. President, I rise today together with Senator NICKLES to introduce the Congressional Accountability Act of 1991. This bill would extend the Protections of all the major discrimination and labor laws to congressional employees.

For the last 50 years, Congress has protected itself from many laws that would establish fair labor practices. Congress passed legislation establishing minimum wage and a maximum work week—and exempted itself. Congress passed legislation establishing equal pay for the same job—and exempted itself. Congress passed legislation prohibiting discrimination based on race, gender, religion or handicap, and legislation to protect the right to organize and bargain—and exempted itself from it all.

When Congress passed the Civil Rights Act of 1991, we made significant headway by including Senator GRASSLEY'S amendment which extends protection of antidiscrimination laws to Senate employees and gives them the right to go all the way to the court of appeals. I commend Senator GRASSLEY for his efforts, and I supported his amendment. But I believe we need to go farther, toward full parity of rights between congressional employees and other Government and private sector employees. That is what the Congressional Accountability Act would do. There is no excuse for Congress to protect all workers except its own. Those people with whom we work each day and upon whose judgment and efforts we depend, should not be treated as second class citizens.

Let's take a look at the laws we are talking about. The National Labor Relations Act—should our employees be allowed, if they want, to organize and join a union? Why not? It is allowed at every other level of Government, in almost every State I know of. Is it going to hurt the operation of the Congress if our employees are allowed to vote on whether or not they want to join a union? I think it would not hamper our effectiveness at all.

Equal pay—why on earth would we even argue whether we should have equal pay for men and women for the same job? That falls under the Equal Pay Act. Surely no one would object to that, from the standpoint of decent morality.

Discriminating on the basis of race, sex, religion, national origin, handicap: Anything wrong with saying you cannot do that? Age discrimination—I would like to think most of us by now have discovered there are many people, including some who have retired, who are willing to come to work, and they make excellent employees.

So go right through the list of the things that the Congressional Accountability Act is talking about, and say to yourself: Would my office be hampered if these laws applied? I would answer that if you say, "yes," my office would be hampered, then there is something wrong with the way you are running your office.

One argument that will be offered against the Congressional Accountability Act is that it is unconstitutional for a variety of reasons: The separation of powers, the speech and debate clause. I don't think that is true. Courts have not ruled squarely on the issue of applying any of the laws covered by this legislation to Congress. Although arguments could be made both ways, caselaw suggests that there are no clear constitutional prohibitions to such applications.

If we pass this bill and this issue goes to the U.S. Supreme Court and the Court says this is unconstitutional there is nothing we can do about that short of amending the Constitution. But I think what we are suggesting is constitutional. I think the court would say Congress has the power to allow itself to be treated, not necessarily as we treat the private sector, but to allow ourselves to be treated as we choose to be treated.

So put aside the argument as to whether or not this is constitutional. Put aside the argument as to whether or not we should treat ourselves like we treat private industry. This legislation should be adopted because it is a simple matter of fairness and decency.

I look forward to working with Senator NICKLES and my colleagues toward passage of this legislation.•

By Mr. AKAKA:

S. 2090. A bill to amend the Harmonized Tariff Schedule of the United States with respect to knit sweaters assembled in Guam; to the Committee on Finance.

TARIFF FOR KNIT SWEATERS ASSEMBLED IN GUAM

• Mr. AKAKA. Mr. President, today I am introducing legislation to make certain necessary technical changes to the tariff for knit sweaters assembled on the island of Guam.

Currently, knit sweaters from Guam receive duty-free treatment under a temporary duty suspension provided until October 31, 1996. Present law requires that the duty-free knit sweaters from Guam be assembled exclusively by United States citizens, nationals, or resident aliens.

This requirement was established at a time when there existed an ample supply of U.S. and resident alien workers on the island. Now, however, Guam enjoys a flourishing economic boom, and is suffering from a serious labor shortage. This 100 percent local labor requirement for sweater manufacturers creates a very real problem which threatens to end apparel manufacturing on the island. At present, there are not enough available U.S. citizens or resident aliens to support full production at even one garment factory.

The sole garment manufacturer on Guam, Sigallo-Pac, has been forced to curtail the production of sweaters because of this serious shortage of workers, despite the fact that Sigallo-Pac pays its assembly employees in excess of $7 per hour. Most workers have been attracted to employment opportunities in the hotel industry and government sector.

Sigallo has reached the point where the company will not be able to continue operations in Guam much longer at the current level of production. This would be unfortunate for Guam, since as I indicated earlier, Sigallo is the only apparel manufacturer on the island and but one of a few nontourist industry employers. Their operation contributes to the health and diversity of Guam's economy, giving the island a broader employment base.

The bill I am introducing simply provides that the duty suspension for knit sweaters assembled in Guam will apply to sweaters in which at least 50 percent of the assembly production workers are U.S. citizens, nationals, or resident aliens, rather than the current 100 percent requirement. Further, this legislation incorporates safeguards to prevent any misuse of this change, including a requirement that the assembly workers be paid at least the U.S. minimum wage.

Enactment of this legislation will permit Sigallo-Pac to supplement their work force with a small number of temporary H-2 workers, approximately 40 people, to meet production requirements.

This bill has the support of the Governor of Guam, the Honorable Joseph F. Ada, and a companion measure has been introduced in the House by my good friend, Congressman BEN BLAZ. I will be seeking expeditious consideration of the bill in the Senate.•

By Mr. DECONCINI (for himself Mr. KENNEDY, Mr. SIMON, Mr. D'AMATO, Mr. MOYNIHAN, Mr. BRADLEY, Mr. ADAMS, Mr. KOHL, Mr. CRANSTON, Mr. KERRY, and Mr. INOUYE):

S. 2091. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption democratic rule in Haiti; to the Committee on the Judiciary.

TEMPORARY PROTECTED STATUS FOR HAITIANS

• Mr. DECONCINI. Mr. President, I am pleased to introduce today, with Senators KENNEDY, SIMON, D'AMATO, MOYNIHAN, BRADLEY, ADAMS, KOHL, CRANSTON, and KERRY, the Temporary Protected Status for Haitians Act of 1991. This legislation will assure that Haitians in the United States, or in United States custody, will be protected until democratic rule is restored in Haiti. Those Haitians who are in our custody and control include those on board United States flag vessels, and those at Guantanamo Bay, Cuba, or elsewhere.

The crisis facing Haitian refugees is a real one. Since September 30, 1991, when the military ousted the first democratically elected President of Haiti, Jean-Bertrand Aristide, Haitians have become the innocent victims of continuous and random violence. Their basic freedoms have been lost. Many lives have been lost. And many others have been imprisoned, have gone into hiding or have fled their tiny island on rickety boats where their personal safety is further endangered on the high seas.

As a nation, we have a moral responsibility to protect those Haitians who have sought refuge from the turmoil in their homeland. Rather than turning them away from America to face an unknown fate, we can demonstrate our compassion toward the Haitian refugees by granting them temporary protected status. The Attorney General can do this, today, and I have urged him to do so. But Congress does not have to sit idly by while the administration chooses not to take action on this issue. We can send a clear message now by enacting the bill I am introducing today.

As my colleagues know, I played an instrumental role in enacting the temporary protected status provisions of the Immigration Act of 1990. This new law is meant to protect nationals from a designated State who do not fit the textbook definition of "refugee" or "asylee," but need temporary protection from armed conflict or other extraordinary conditions that threaten their safety. Haitians in this country and in our custody certainly merit temporary protection from the violence caused by the illegal seizure of power by the military in Haiti.

My bill specifically designates Haiti under section 244A of the Immigration and Nationality Act. Nationals of Haiti who are in the United States or in United States custody as of November 26, 1991, will be eligible for temporary protected status [TPS] for 1 year from the date of enactment of this bill. Haitian nationals would register for TPS benefits and would be given work authorizations.

The registration system provides a means by which the United States can maintain accurate records of Haitians in this country while at the same time provide them with safe haven. In addition, it will facilitate the return of Haitians when the period of temporary protected status expires.

I would like to point out that this legislation is not a substitute for political asylum. It would not grant permanent resident alien status for Haitians. They would not be eligible for any program of cash assistance under Federal law, except for treatment of an emergency medical condition. They may also be deemed ineligible for public assistance by a State or any political subdivision of a State which furnishes such assistance. All Haitians would remain subject to Federal and State laws, and would be subject to deportation for violations. Because the bill is limited to refugees currently residing in this country, or in United States custody, it offers no incentive to those who are not here on or before November 26, 1991.

What this bill will provide is a temporary safe haven in the United States until conditions in Haiti permit refugees to return to their home country safely. At the same time, it will allow for better management of those refugees who choose to remain in this country while peace negotiations continue. Haitians need and deserve our help and protection. This bill provides a positive resolution to this crisis. It also strongly encourages other members of the Organization of American States to protect Haitian nationals who have fled that country.

Mr. President, I urge my colleagues to support this urgent legislation. We all hope that peace and constitutional order will be restored in Haiti. Until that time, however, it is unconscionable for us not to do what we can to provide safe haven for Haitians.

I respectfully ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Temporary Protected Status for Haitians Act of 1991".

SEC. 2. TEMPORARY PROTECTED STATUS FOR HAITIANS.

(a) DESIGNATION.—Haiti is designated as of November 26, 1991 under subsection (b) of section 244A of the Immigration and Nationality Act.

(b) PERIOD OF DESIGNATION.—The designation under subsection (a) shall remain in effect for one year from the date of the enactment of this Act.

(c) ALIENS ELIGIBLE.—In applying section 244A(c)(1)(A) of the Immigration and Nationality Act pursuant to the designation under this section—

(1) nationals of Haiti who are in the United States, or who are in the custody or control of the United States, (including on Coast Guard vessels on the high seas) as of November 26, 1991, are considered to meet the physical presence requirement of clause (i) of such section; and

(2) the continuous residence requirement of clause (ii) of such section shall not apply.

SEC. 3. U.S. POLICY REGRADING PROTECTION OF HAITIANS BY OTHER MEMBERS OF THE ORGANIZATION OF AMERICAN STATES.

It is the policy of the United States to strongly encourage members of the Organization of American States to protect nationals of Haiti who have fled that country.•

• Mr. KENNEDY. Mr. President, over the past 2 weeks the Nation has witnessed one of the most shameful episodes in our immigration history. Hundreds of Haitians are fleeing the brutal military dictatorship that overthrew the democratically elected Aristide government and has since been ruling the country through fear and oppression. Yet, not only has the administration turned a cold shoulder to the Haitian boat people, but it also began to return them to Haiti until the courts intervened.

I believe we are obliged to open our doors, in cooperation with other governments in the region, to those seeking haven from the oppression and violence. Both our traditions and international law dictate that we must do all that we can to protect the Haitian refugees. And we must redouble our efforts to restore democracy and stability to that beleaguered country.

There is ample authority under current law for the administration to provide asylum and safe haven to the Haitian boat people. The administration should be exercising its authority now, in cooperation with our allies in the hemisphere, the Organization of American States, and the U.N. High Commissioner for Refugees.

However, as the administration has steadfastly refused to act under current law to admit Haitians, I am pleased to join with Senator DECONCINI today in introducing legislation to require the Attorney General to use his existing authority to grant "temporary protected status"—or temporary safe haven—to Haitians in the United States.

I believe this step is minimally necessary to respond to the tragedy of the Haitian boat people.

Last week, I called on the administration to work together with other governments in the region to develop a regional burden-sharing response to the boat people crisis.

But so far, the administration's definition of burden-sharing seems to be to accept only 75 Haitians, while urging other governments to accept the remaining thousands. Clearly, until the administration demonstrates its seriousness by taking a fair share of the Haitian boat people, we cannot expect other governments in the region to take seriously our calls for a regional response.

For the moment, the courts have properly stepped in and restrained the administration from its rash policy of sending Haitian refugees back to the abhorrent conditions they risked their lives to flee. I urge the administration to reject its cruel policy of forcibly returning the Haitians.

The United States should be intervening on behalf of the boat people instead of against them. Failure to assist them may well result in their further oppression in Haiti. It will also undermine our authority to speak up on behalf of other refugees in other parts of the world who face similar tragic circumstances in the future.•

• Mr. SIMON. Mr. President, I am pleased to join my friends, the Senator from Arizona, Senator DECONCINI and the chairman of the Immigration and Refugee Affairs Subcommittee, Senator KENNEDY, in introducing temporary protected status legislation for Haiti.

The military coup in Haiti represents a sad chapter in Haiti's history. Less than 1 year ago, the free election of President Aristide gave many in Haiti hope for a better future. The violence in Haiti indicates that this military junta has very little support among the people.

I support the administration's decision not to recognize this military coup and to withhold assistance to Haiti while this illegitimate government is in power. So far, the Organization of American States [OAS] has provided an effective forum to coordinate political, diplomatic and economic pressure on Haiti to reserve the events of the coup. American cooperation with the OAS will be crucial in peacefully resolving this crisis.

The crisis with Haitian boat people, however, cannot await the political process. We need to address this problem immediately and the legislation we introduce today begins to do so. This humanitarian and constitutional crisis calls for our understanding and help. Last year, as part of the Immigration Act 1990, Congress enacted a provision to grant temporary protected status to nationals of certain countries who were fleeing places in turmoil. This provision of law allows them to remain in the United States for a specified period of time, authorizes them to work, and keeps them from being forcibly returned to their country of origin.

The situation in Haiti makes it appropriate for that country to be designated for temporary protected status. The bill we introduce today protects from deportation those Haitian nationals who are in the United States or in United States custody or control as of today's date. This includes those Haitians who are on Coast Guard vessels on the high seas.

Mr. President, it is important, in enacting this legislation, that the United States does not inadvertently encourage Haitian nationals to flee their country. Countless individuals who take boats to get out of Haiti do not make it to safety. Upon the enactment of this legislation, the Voice of America should broadcast in all appropriate languages the eligibility requirements of the bill in order to fully inform the Haitian people who is eligible and who is not. This should not be a bill for false hope. It must be a bill for real protection.

Although the United States cannot accept everyone who wishes to enter our country, the situation in Haiti is unique and these people should not be abandoned or forcibly repatriated to face a government the U.S. does not even recognize. This legislation also encourages other members of the OAS to take in Haitians that have already set sail. The United States has a proud heritage of protecting and accepting those fleeing persecution. Together, on a regional basis, we must continue that partnership for Haitian nationals.•

By Mr. PACKWOOD:

S. 2092. A bill to minimize the impact of Federal acquisition of private lands on units of local government, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL LAND ACQUISITION IMPACT RELIEF ACT

• Mr. PACKWOOD. Mr. President, I am today introducing legislation to protect counties and municipalities from the impacts of Federal acquisition of private land.

My home State of Oregon is over 50 percent owned by the Federal Government. Some counties in Oregon are 75 percent or more federally owned. Every time a Federal agency accumulates another parcel of private land, local communities are harmed. First, the local property tax base is reduced. Hospitals, school districts, fire departments, sheriffs' departments and other essential public service entities, which depend on local property taxes, lose part of their operating budget. Second, local jobs and income are reduced, and opportunities for business development are lost.

Unfortunately, acquisition frequently occurs without even adequate consideration of the various community impacts and the wishes of local citizens.

Currently, the Federal Payments in Lieu of Taxes Act of 1976 [PILT] does compensate units of local government for a portion of lost property tax revenues. However, there are several problems with PILT. For instance, PILT contains a payment ceiling which arbitrarily limits payments to heavily impacted units of local government, especially those units with small populations. In addition, PILT payments have not kept pace with inflation. I am pleased to note that pending legislation by my colleague, Senator GARN of Utah, would increase the PILT authorization and adjust future payments to reflect increases in the Consumer Price Index. I fully support his efforts in this regard.

However, in my view, the PILT concept is no longer adequate to protect local communities from the effects of continued acquisitions of private land by Federal agencies. My bill—which is entitled the Federal Land Acquisition Impact Relief Act of 1991 seeks to address this situation as follows:

First, my bill would force Federal agencies to recognize the local impacts of private land acquisitions. Prior to any land acquisition, my bill would require the relevant Federal agency to conduct an economic impact analysis. The agency would be required to analyze and document the impacts of acquisition in terms of the tax payment losses to units of local government, the impact of tax payment losses on the delivery of essential public services, the effects of acquisition on local employment and income, and the limitations which Federal acquisition would impose on community and business development.

Second, my bill would require the Federal Government to make tax equivalency payments to each unit of local government affected by an acquisition of private land within its jurisdiction after October 1, 1992. In other words, all land already in Federal ownership would remain subject to PILT. All land acquired after October 1, 1992 would be subject to the new formula. The tax equivalency payment would be equal to 100 percent of the local property taxes which would otherwise be due if the land remained in private hands.

The purpose of my bill is to ensure fair treatment for local communities. My bill would not prevent the Federal Government from acquiring private land when it is clearly in the public interest.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 2092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Land Acquisition Impact Relief Act of 1991."

SEC. 2. FINDINGS.

Congress finds that—

(1) land that is held by agencies of the Federal Government does not fully contribute to the tax base of overburdened units of local government;

(2) further acquisitions of private lands by Federal agencies have the potential to impose severe hardships on units of local government; and

(3) when it is clearly in the national interest for the Federal Government to acquire private lands, other than by a contemporaneous exchange involving Federal land, Federal agencies should minimize the impact of Federal acquisition on units of local government.

SEC. 3. DECLARATION OF POLICY.

It is the policy of Congress that—

(1) Federal agencies should not acquire private land, other than by exchange, unless the acquisition is clearly in the national interest;

(2) the acquisition of private land by a Federal agency should be based on a careful analysis of the full range of the benefits and costs of Federal acquisition; and

(3) the acquisition of private land by a Federal agency should not result in a net loss of local tax revenues to the relevant unit of local government.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term "agency" has the same meaning as is provided for "Executive agency" in section 105 of title 5, United States Code.

(2) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means—

(A) any county, municipality, or other political subdivision of a State, having authority under the laws of the State to levy and collect taxes upon real property; or

(B) the District of Columbia.

(3) REAL PROPERTY TAXES.—The term "real property taxes" means all taxes, whether ad valorem or otherwise, applicable with respect to real property, including special assessments, assessments for benefit, or other changes of general application against land in favor of a State or local governmental unit.

(4) STATE.—The term "State" means any of the several States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory and possession of the United States.

SEC. 5. ECONOMIC IMPACT ANALYSIS.

(a) IN GENERAL.—Prior to each acquisition of private land by an agency, the head of the agency shall prepare an economic impact analysis in accordance with this section.

(b) CONTENTS.—In preparing the economic impact analysis, the head of the agency shall, at a minimum, analyze—

(1) the extent to which alternative means to Federal acquisition are available to serve the Federal resource management objectives at issue;

(2) any tax payment loss to the relevant unit of local government;

(3) the effects of the tax payment loss on the delivery of governmental services by the unit;

(4) the effects on local employment and income; and

(5) any potential limitations that the Federal acquisition would pose for future community expansion.

(c) CONSULTATION.—The agency shall consult with the relevant unit of local government during the preparation of the economic impact analysis.

(d) NOTICE AND COMMENT.—The agency shall provide an opportunity for notice and comment in connection with the preparation of the economic impact analysis.

SEC. 6. TAX EQUIVALENCY PAYMENTS.

(a) IN GENERAL.—

(1) IN GENERAL.—For each parcel of private land acquired by an agency after October 1, 1992, other than by contemporaneous land exchange, the head of the agency shall pay annually to the unit of local government in which the parcel is located an amount equal to the real property taxes computed on the current market value of the parcel, as determined in accordance with paragraph (2).

(2) CURRENT MARKET VALUE.—

(A) INITIAL VALUE.—The initial current market value of a parcel shall be equal to the purchase price per acre multiplied by the number of acres acquired by the Federal Government.

(B) ADJUSTMENTS.—The unit of local government may adjust the current market value of a parcel to reflect adjustments in the current market value of other lands within the jurisdiction.

(3) SPECIAL FORMULAS.—In computing a tax equivalency payment under this subsection, special farm or forest use formulas, which may vary from State to State, shall not be applied to the value of the parcel.

(b) FAILURE TO PAY.—If for any reason the head of an agency fails to make a payment required under subsection (a), the unit of local government may file a civil action against the agency, and a district court of the United States shall have jurisdiction to enforce this section.

SEC. 7. EFFECT OF OTHER LAWS.

If for any fiscal year a payment described in section 6(a) is made to a State or unit of local government with respect to a parcel of land described in section 6(a)(1), such payment shall be reduced in proportion to the payment in lieu of real property taxes, if any, which is made with respect to the same parcel of land under any other federal law.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

In each fiscal year, there are authorized to be appropriated to each agency such sums as are necessary to carry out this Act.

SEC. 9. EFFECTIVE DATE.

This Act shall become effective on October 1, 1992.•

By Mr. SIMON (for himself Mr. KENNEDY, Mr. PELL, and Mr. ADAMS):

S. 2094. A bill to repeal sections 601 and 604 of the Emergency Unemployment Compensation Act of 1991, relating to student loan provisions; to the Committee on Labor and Human Resources.

REPEAL OF CERTAIN STUDENT LOANS

• Mr. SIMON. Mr. President, I rise to introduce a bill to repeal two misguided student loan provisions that were included in the unemployment compensation bill that the President signed 10 days ago.

The first provision I wish to address requires credit checks of student loan applicants over 21 years old. While this may appear reasonable at first blush, a careful examination of the issue reveals significant problems that the administration apparently failed to consider. Had this proposal been thoroughly reviewed, I doubt the idea would have been pursued.

As I said on the Senate floor when the unemployment insurance bill was being considered, to believe that we can save money to provide unemployment compensation by denying people the chance to go to college, is the most shortsighted policy I can imagine.

People who apply for student aid may not have perfectly clean credit records. Indeed, that's one reason we guarantee the loans—people who have been unemployed, or on welfare, or just scraping by can have the opportunity to get some further education, some job training, and improve themselves and their income. Some will end up failing and may default on their loans, but we have to provide them with opportunity. Overall, we as a nation benefit through increased productivity and tax revenues, and reductions in welfare payments. Rather than denying people the opportunity to enrich their lives and improve the productivity of our Nation, we should concentrate our efforts on ensuring repayment of loans. For example, a provision to ensure payment through wage garnishment was included in the unemployment insurance bill. This is a much more productive way to address the issue.

If this were the only problem with the credit check provision, it might be difficult to muster enough sympathy in Congress in order to repeal it. But there are at least two other major problems. First, and perhaps most importantly, many students without credit problems will be wrongly accused and will be denied their loan and their college education. Credit reports have a very high error rate. Researchers at Consumers Union, the publisher of Consumer Reports magazine, found errors in nearly half of the credit reports they examined. Moreover, a credit services company—part of the industry we're entrusting with this new responsibility—surveyed 1,500 reports and found serious errors in more than 40 percent of them. The credit reporting industry itself has reported that of the 9 million consumers who requested a copy of their credit reports in 1 year, 3 million of them made corrections.

If they were easy to correct, these errors might not be a major problem. But they aren't. The U.S. Public Interest Research Group [U.S. PIRG], the national association of State PIRG's, recently reviewed complaints about credit reporting agencies that had been filed with the Federal Trade Commission. U.S. PIRG found that consumers had contacted the credit bureau an average of five times over a period of 6 months, and the errors were still not corrected. This problem was featured in a recent column by Jack Anderson and Dale Van Atta, and I ask unanimous consent that it be included in the RECORD at this point.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 18, 1991]

CREDIT BUREAU RECORDS OFTEN INACCURATE

(By Jack Anderson and Dale Van Atta)

When Ken Arsenian applied for his first credit card, he had every reason to expect that the application would sail through. But he hadn't counted on the record turning up a department store bill that the credit bureau said he failed to pay in 1975, when he was 6 years old.

Arsenian, a college student in California, discovered that bills dating from childhood were not the only mistakes on his record. There were a host of other bad debts blamed on him, none of which were actually his. Now, no matter what Arsenian does to clear the record, he can't. He demands corrections, and other mistakes creep in. He can't get a credit card. One bank refused to let him open a checking account. He can't even get a loan to buy a car.

"Each time I apply for a credit card just to see what happens, my report comes up with more derogatories on it," Arsenian told our associate Scott Sleek.

Arsenian is a victim of a centralized system of credit reporting that puts the financial records in the hands of a few companies that make mistakes, and those mistakes are not easily corrected.

One of the three major companies that compile personal financial data, TRW, turned a whole town into victims of the same system. In Norwich, Vt., 1,500 residents were all listed in TRW's records as tax dodgers. A TRW subcontactor had mixed up the list of the town's taxpayers with those who had tax liens against them.

That and other cases have been documented by the U.S. Public Interest Research Group, a private watchdog organization. Among its findings was this unsettling fact: 33 percent of all credit reports contain serious mistakes, despite the claims of the credit bureaus that their error rate is low.

The most common mistake is for the bureaus to mix up the records of people with the same name. John Doe, upstanding citizen, gets saddled with the credit report of John Doe, ex-convict and deadbeat.

One man lost his job after a credit bureau wrongly reported to his employer that he had a felony cocaine conviction. Another man was saddled with a delinquent car loan dating back to when he was 2 years old. A college student was denied credit because the records said she was married to a man who was actually her father, who had a temporary tax problem four years earlier.

Eugene Wolfe, 74, of Washington, has been trying to clear his record for five years. He applied for a small bank loan in 1986 and discovered the debts of another Eugene Wolfe had been mingled with his own. Wolfe—the one who pays his bills—thought he had corrected the report, but the old information popped up in his file again last year. When he went to the credit bureau to straighten things out, he says he got the brushoff. He couldn't get past underlings to speak to anyone in authority.

"It was clear their purpose in life was to get rid of any complainers," Wolfe said.

Sen. Alan Dixon (D-Ill.) is drafting legislation to reinforce the existing laws that are supposed to protect consumers. Among the changes to be included are allowing consumers to have easier access to their files and prohibiting the release of investigative reports without the consumer's permission.

Second, a cornerstone of Federal policy on higher education is that the process of applying for financial aid is both free and as simple as possible. Requiring students to pay up to $25 for a credit check places a barrier to higher education that will prevent many people, particularly those most in need of additional education, from pursuing their dreams. And the charge is potentially much higher than $25, because if the student is denied and needs a cosigner, he or she will need to pay again to get a credit check for the cosigner.

The other provision that my bill would eliminate requires a confession of judgment by the borrower. This means that a student, in getting a loan, would be required to sign a statement confessing guilt in the event of a default. The borrower essentially signs away his or her rights. Both the Congressional Budget Office and the Office of Management and Budget determined that any savings from this provision would be negligible, so the only reason to support this provision would be if you believe that rights and due process should not extend to recipients of financial aid.

Mr. President, these two student loan provisions, placed into the unemployment insurance bill without hearings or analyses, are counterproductive. As the U.S. Student Association said, these changes "will shut people out of higher education and increase the unemployment and work force problems of this country. Surely this is not the intent of Congress." I intend to move to strike these provisions at the earliest opportunity.●

By Mr. SYMMS (for himself and Mr. CRAIG):

S. 2095. A bill to amend the Internal Revenue Code of 1986 to provide a refundable income tax credit for health insurance premiums, to provide for the creation of individual medical care savings accounts, to repeal certain tax benefits relating to medical expenses, and for other purposes; to the Committee on Finance.

AFFORDABLE HEALTH INSURANCE TAX ACT

Mr. SYMMS. Mr. President, every day I read another story about the health care crisis in America. I believe it. We do have a health care crisis, in fact, we have a number of them.

One crisis is that employer costs are going up like a rocket. Another is that we're spending a large and increasing share of our national product on health care, which is a related but separate problem from cost escalation.

Then there's the problem that we still have 30 million plus people who are uninsured. That's not quite a crisis because many, if not most, of these people have access to health care.

In Idaho as in many rural areas, as in many inner cities, there is a crisis in the lack of available health care even if the people needing care have insurance.

THE NEW HEALTH CARE CRISIS

In recent weeks, a new dimension has been added to the overall health care problem. We have a new crisis, which is that virtually every proposal to date would make matters worse. I know my colleagues don't like to hear it, but so far just about every plan and program moves us further down the road to socialized medicine. It's a little bit like the drunk who wakes up with a hangover and figures he needs another drink, like the old saying goes "a little hair of the dog that bit ya."

Mr. President, if a medium dose of bad medicine makes you sick, why in the world would anyone think a bigger dose would cure?

Some of my colleagues have begun pushing the Canadian system. Frankly, I can't understand how anyone could adopt that system now that the evidence is coming in.

For example, Ed Hazelmeyer of the Heritage Foundation recently wrote about a fellow up in Toronto who was told he needed coronary bypass surgery or he'd die, that is the fellow in Toronto, not Ed Hazelmeyer. This isn't the kind of thing you delay. In this country, if your doctor tells you on Tuesday that you need a bypass operation, then you may be in the operating room by Thursday.

The guy in Toronto waited 4 months. His operation was postponed 11 times because of a lack of beds in the intensive care unit. At one point he waited in the hospital for 13 days before being discharged without surgery. When he finally had the operation, a once healthy man with a fixable problem had been so weakened that he died 8 days after the operation. That's a sad story, but what makes it even sadder is that it's not a rare story.

Another idea that gets tossed around in the health care debate is cost containment. Cost containment sometimes means encouraging people to watch what they are paying, but more often means Government price controls. Price controls? You'd think we'd of learned by now. But price controls are a key part of current efforts and would expand significantly under the Kennedy-Mitchell proposal.

Many people have suggested we need to expand the Medicaid Program to deal with some of our health care problems. This is truly an incredible proposition. Medicaid is already growing at over 20 percent a year. I don't see that this is solving any problems. And yet an even faster expansion is to cure our health care systems's ills?

Another version of socialized medicine that some of my friends on the other side of the aisle have supported is the Kennedy pay or play. This system is really clever. Every employer gets a choice. Either accept the Federal requirement of providing health care insurance for your employees or pay an enormous tax.

I'll say one thing for pay or play: Small businessmen in mob-run cities all over the country will understand it. Either pay protection money or your business gets burned to the ground. Pay or play is legislated extortion. Either play by our rules or we'll tax you into the ground.

The one thing all these plans have in common is an enormous increase in Government. Somehow, Government regulators in health care are supposed to do better than the bureaucrats that've brought us such proud moments as the S&L mess and Pentagon overruns.

I understand we all want to do better in getting the health care crisis under control But wishing for better results while ignoring our history lessons is only going to give us a more painful lesson, regulators and bureaucrats are far more adept at creating messes than they are at cleaning them up.

THE HEALTH CARE MARKET

The one phrase we don't hear very often is "Health Care Market." And that should tell us where the real problems are. We don't look at it as a market where people are buying and selling health care services. The only time market forces seem to enter the debate at all is in the context of something that needs to be reversed or stopped.

Doctors, nurses, hospitals, drug companies, insurance companies, Federal, State and local governments, and, yes, even the patients, are participants in a market. And like any market, this one is subject to the normal laws of economics, the law of supply and demand, of scarce resources, of price signals and adjustments.

It shouldn't surprise anyone that the market isn't functioning properly when you realize how the Federal Government dominates the market, deciding who can do what and at what price.

Suppose you go to the doctor and he says he's not sure what the problem is, so he needs to run a few tests. Likely as not, the Federal Government through Medicare has determined what he can charge for those tests, and which tests to do.

If your doctor has some idea which test is most likely to yield results, and if he knows you had to pay all the costs yourself, he'd probably sit down with you and explain it all. That's pretty much what happens now in the one area of medicine pretty much left alone by insurance and Federal meddling—plastic surgery.

Instead, the doctor knows your insurance will cover just about everything. He also has control over has own income since he can order the extra tests, and he knows he can protect himself from future law suits if he does every test possible. He also knows that he isn't violating the hypocratic oath because it's always possible the extra tests will turn something up.

This is just one example, but it's not hard to see what the cost of a whole system set up this way is going to do. It can only go up.

Government control of market almost always fails. That's the lesson of the latter half of this century. It's the message shouted loud into the next century. It seems to be understood everywhere except the U.S. Congress.

Yes, Government controls fail, but it's important to remember why they fail. They fail because Washington doesn't understand a very important law of economics, which goes: Whenever Government interferes with the normal forces of the marketplace, eventually those forces will overcome the interference.

It's true that this market has some very distinctive characteristics, little matters like life and death. But it's a market just the same. As the debate moves forward, we must never forget that we're talking about reforming the way Government interferes with the market.

In considering the various proposals to date and to come, the starting point has to be with the marketplace. Does the proposal move us further down the road of Government intervention? Does it just rejigger the controls to compensate for the ways the market's attempted to skirt the old controls? Or does it shift the focus away from Government and toward individual decisions?

As the debate moves forward, let me take a moment to tick off what I think are the key points to focus on:

QUALITY OF CARE

First, the American people have the best health care services available anywhere. The trouble is we also have the most expensive health care services anywhere, whether measured in terms of what we pay as individuals or in terms of what we pay as a nation. On its face, that shouldn't surprise anyone. If you have the best of something you probably should expect to pay the most for it. You wouldn't expect to be able to buy a Lincoln Continental for the same price as the old Chevy Chevette, would you?

I don't think there's much sentiment out there to reduce the quality of health care just to lower its cost, which is what makes the Canadian system so frightening. While you might get some cost containment in the short run, it comes at a terrible cost in terms of quality of service.

Nevertheless, I think it's equally clear we are paying too much and we surely need to do what we can to lower costs or, more accurately, to reduce their rate of increase. The point is, it's a truism that as the quality of something improves you tend to pay more for it.

DEMOGRAPHICS

Second, another source of the problem is the aging of America. As we get older as a Nation, we have an increasing share of the population demanding health care services and the types of services themselves tend to be more expensive. Again, looking at this as a marketplace, as we get older as a nation we shift the demand curve further and further outward. And like any market, when you increase demand you get an increase in price.

LITIGATION CRISIS

Third, our national love affair with suing people has had an enormous impact on the escalation of health care costs. Every doctor, nurse, hospital and so on buys enormous amounts of insurance to protect themselves from the scourge of litigation. The annual cost of that insurance often runs into the hundreds of thousands of dollars. I am told that a typical insurance policy for an obstetrician in Washington runs around $100,000 annually.

In my own State of Idaho, 34 percent of obstetrician-gynecologists had stopped practicing obstetrics by 1986, and it's not like we had that many in the first place.

The liability problem is not primarily a matter of competence, either. Of course there are some bad doctors out there, just as their are a few bad accountants, lawyers, and so on. But according to one study by the American Medical Association, 77.6 percent of the obstetricians have been sued at least once.

Who pays these high-flying insurance costs? It's not the doctors and nurses, and it's not the insurance companies by the large. It's you and I. We pay the costs through higher health care insurance costs.

The other problem with the medical liability crisis follows from the first. Because of all these suits, there's a lot of defensive medicine. A 1987 AMA study put the cost of defensive medicine at about $14 billion annually. I wouldn't be surprised if that number had doubled since then.

HEALTH INSURANCE

Fourth, one advantage to looking at escalating health care costs through the prism of the marketplace is that it helps you to focus on the underlying problem. Let's take a look at how the health insurance market works.

Mr. Jones walks into a doctor's office with a medical complaint. The doctor checks to see whether Jones has health insurance. Assuming he does, the doctor then proceeds to run this test and that, prescribing various treatments and medication along the way. Mr. Jones, of course, has checked his insurance policy and he knows that after a $200 deductible, all his costs are covered by the insurance. So what does he care what it costs.

What's wrong with this picture?

As a description of what happens, there's very little wrong with the picture. But as a model of economic behavior, it's a prescription for disaster because the person demanding the services doesn't care about their costs as long as his insurance will cover them.

Anytime you separate the person making the payments from the person taking the services, you destroy the market discipline that would otherwise constrain runaway price increases. And that's exactly what's happened.

Once again, the problem is Government interference, only this time it comes through the Tax Code. Because of the exclusion for employer-provided health insurance, we've moved the question of prices about as far from the consumer of health care as possible without going to national health care, and we've created an incentive to purchase insurance that's as rich as possible.

The only way to correct this problem is to get the individual more involved in the actual purchasing, not just the demanding of health care. We have to return normal market discipline to health care. Only by making the patient aware of the choices and the costs can we slow down what is now a runaway train.

Many people have told me that you can't put market discipline into health care demand. If somebody needs an operation to stay alive, they say, he's going to have that operation if he can.

This is true, of course, as far as it goes. But it really doesn't go very far. Even under one current system, patients make decisions about whether to undergo a procedure or not. The reality is there are a great many medical decisions that aren't black and white. Even in medicine we usually have options. If Mr. Jones had to pay a significant share of the costs and there were choices to be made, is there any reason to believe he wouldn't take cost into account?

Because we often make choices in medicine, it's not difficult to bring market discipline back into health care. It doesn't matter that there are instances, even a majority of instances, in which there's only one choice. Remember your economics. Market discipline operates at the margin. It's not the first decision that affects prices, it's the last. If we can make patients cost conscious, we can affect the decisions at the margin and we can restore normal market forces to health care.

THE SYMMS SOLUTION

I am today introducing legislation, along with my colleague Senator CRAIG, to address some of these problems, specifically the over-reliance on third-party insurance.

Let me state at the outset that I'm not opposed to health insurance by any means. Health insurance is vital. The problem is not health insurance as such, but the veil we've erected through employer-provided health care between the insured and the insurer.

The problem is that we've distorted the market incentives for health care. Basically, the Tax Code either encourages you to buy too much insurance, or none at all. If you buy too much, then you're going to use health care services without being a consumer of health care. If you buy no insurance, then you put off needed preventive medicine, and when the problem gets totally out of hand you become a burden on everyone else who shares your costs.

There are two main pieces to my proposal. First off, I think we need to encourage people to save for their out-of-pocket expenses as much as possible. In effect, we should be insuring ourselves for the small stuff.

We can do this with what I call individual medical accounts. If you contribute $1,000 to an IMA, you can exclude the full amount from your taxable income, much as an individual retirement account. Unlike an IRA, however, using my individual medical account, if you make a withdrawal to pay out-of-pocket medical expenses you aren't taxed on the amount withdrawn.

By encouraging people to save for their own medical expenses, the IMA will encourage people to buy insurance with higher deductibles. This will lower insurance costs dramatically. And it'll encourage people to be more cost conscious in their health care purchases because a greater share will be paid by the individual.

The second part of my proposal deals with employer-provided insurance. Let's look at Ms. Smith. Ms. Smith's employer provides health insurance. If she's a typical employee, she has no idea what that insurance costs. And because health insurance premiums are tax exempt, she has every reason to encourage her employer to pay more of her compensation through health insurance than through wages.

So, under current law, Ms. Smith only knows she is better off with what I call a Cadillac insurance plan: low deductibles, little or no copayment, and broadest possible coverage. The problem isn't so much that she is able to exclude the cost of her health insurance, it's just that there's no limit.

A related problem with health insurance today is that it's unaffordable to millions of Americans. Typically, these are people who don't have employer-provided health insurance and so don't enjoy tax-exempt status for their insurance premium. They are the unemployed, the self-employed, and employees of small businesses. Because of their employment status, they pay income tax on the cost of their health insurance. That means they pay 40 percent or more in pretax terms for their health insurance.

Let me tell you how I propose to solve these two problems. First of all, my proposal provides taxpayers with a 15 percent tax credit for health insurance. Such a credit will give everyone access to the same tax benefit irrespective of their employment status. A tax credit will also move the calculation of the tax benefit from the books of the employer to the individual purchasing the insurance, again making the individual more of a consumer and not just a user of health care.

To encourage people to use their tax benefit wisely and to keep costs down, the credit is limited. Under my proposal a certain amount of health insurance is subject to the credit. The credit should cover the costs of a Chevrolet-type plan. If people want to pay more for Cadillac plans, they're welcome to do so, but they shouldn't get a tax credit for all of it. Limiting the amount of insurance qualifying for the credit will also encourage people to raise their deductibles and to use their IMA to pay out-of-pocket expenses.

Also, the amount of credit available varies according to whether the tax filer is an individual, a couple, or a family with children. And there is an additional credit amount if the taxpayer buys long-term care insurance. The problem of long term care is going to grow rapidly as the average age of our citizens continues to grow. A credit for long-term care insurance, if enacted now, will encourage people to buy the insurance now rather than waiting until this becomes an enormous public problem.

We often hear about the 33 million or so uninsured. About two-thirds of the uninsured have incomes below 150 percent of the poverty level. Because of recent changes to the tax laws, these people also don't pay much, if any, Federal income tax. This means a nonrefundable tax credit doesn't do these people much good. So I see no choice but to make the credit refundable so the poor have a fair shot at buying health insurance.

However, making the credit refundable still doesn't go far enough. We have looked at the demographics of the uninsured population. And if you break that population down by income and by age, and then you ask what the effect would be if you enacted my proposal as introduced, then you could probably expect to reduce the rolls of the uninsured by about 10 million people.

A roughly one-third reduction in the uninsured is a great accomplishment, Mr. President. We achieve this result largely because the self-employed and those workers whose employers don't provide health insurance benefits would finally be able to afford health insurance.

But I don't believe that's good enough, particularly since it's the truly poor who would remain uninsured. The reason is simple enough. The poor often simply do not have sufficient disposable income to buy insurance, even with a 15 percent credit.

Mr. President, the fact is we pay for the health costs of the poor one way or another. We either pay through Federal programs like Medicaid, or we pay through higher insurance premiums. Neither makes much sense if there's an alternative, and I believe there is an alternative.

My proposal would give individuals at or below the poverty level a 100 percent credit for the costs of their health insurance. This credit rate then declines to 50 percent and then 15 percent as the taxpayer's income increases. In effect, if they buy the insurance the Federal Government will cover its costs. This is the only way I know to ensure that the poor are properly part of our health care system without an enormous increase in the Federal health care bureaucracy.

Again, looking at the demographic picture of the uninsured we find that by increasing the credit rate for the truly poor we will encourage a additional 10 million Americans, an additional one-third of the uninsured to buy health insurance. I believe, therefore, that my bill would result in a total of some 20 million people who are currently uninsured enjoying the benefits and certainty that comes from holding health insurance policies.

To pay for the individual medical account and the tax credit, I propose repealing the exemption for employer-provided health insurance. Businesses would continue to be able to deduct these expenses as they do today, but individuals would see the amounts paid on their behalf added to their gross income for income tax purposes. So there wouldn't be any immediate impact on businesses.

Before I go on, let me relay a short story. When I first began talking about this package the Associated Press ran a story with the headline "Symms Proposes to Tax Health Benefits." I am not proposing to tax health care benefits, I am proposing to shift the tax benefits so that all Americans can share in them. For the typical taxpayer, there should be no impact on his or her net tax liability once you take into account the combined effect of the IMA, the tax credit, and the repeal of the employer-provided health insurance exclusion.

By including the amount employers pay for health insurance in the employee's taxable income, beneficiaries would finally see how much their insurance costs. This kind of awareness is essential if we're going to get the individual back into his natural role of price monitor.

I include two other revenue offsets in my bill both of which are health care related. First, my bill would repeal the deduction available to itemizers for out-of-pocket health care costs in excess of 7.5 percent of adjusted gross income. This deduction provides a tax incentive not to buy health insurance and not to save for health care costs. It is, therefore, inconsistent with the goals of this legislation and would no longer be appropriate if the health insurance tax credit and the individual medical account became law.

The second offset is the repeal of the supplemental health insurance tax credit which was established as part of the Omnibus Budget Reconciliation Act of 1990. This credit, which piggybacks on the earned income tax credit, is designed to encourage lower income individuals to purchase health insurance, particularly for their children. However, such an encouragement would no longer be needed, and would, in fact be redundant, if my bill were to pass.

It is my hope that this bill is neutral with respect to the Federal deficit. We have three revenue sources, two of which are substantial. I hope to have authoritative estimates from the Joint Tax Committee and the Congressional Budget Office soon so we will know whether we need to tighten some of the parameters in the bill, or whether we have room to relax them to some extent.

I wish to make one last point, Mr. President. The central issue is whether we try to move in the direction of more or less Government meddling in the market for health care. The pay or play and the Canadian system proposals move in the direction of radically increasing Government involvement. Most of the other current plans move in no direction at all, but merely tinker to a greater or lesser degree. My plan moves in the clear direction of less Government involvement by reducing the distorted incentives in the market for health insurance. Which plan do you think is most consistent with the lessons of recent history?

By Mr. GRAHAM (for himself, Mr. DECONCINI, Mr. COATS, and Mr. CRANSTON):

S. 2096. A bill to establish a period of congressional review for proposed arms sales to countries other than NATO allies or major non-NATO allies; to the Committee on Finance.

S. 2097. A bill to require a report regarding proposed sales to countries of the Persian Gulf and the Arabian Peninsula of defense articles pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Finance.

ARMS SALES LEGISLATION

Mr. GRAHAM. Mr. President, this is a time in which delicate peace process negotiations are underway for the Middle East. The American people, and the Congress, need more time to be able to review one of the most significant elements of America's contribution to stability in that region or instability: The United States sale of arms.

I am introducing two bills today which I believe will accomplish this goal of getting a greater understanding and opportunity for the American people and the Congress to be knowledgeable about, to understand, to be a meaningful participant in U.S. policy relative to arms sales in the Middle East.

The first bill would extend the mandatory congressional review period of weapons sales to countries other than NATO allies or major non-NATO allies to 30 session days. Current law stipulates 30 calendar days. That 30 calendar days, in my view, does not give the Congress enough time to consider these sensitive sales, not enough time because the 30-day clock keeps ticking whether we are in session or not. If the President was to submit an arms sale agreement tonight, Mr. President, it will go into effect before the end of this year and under our current schedule, before the Congress would have a meaningful opportunity to consider it.

The second bill would require that the administration report to Congress on how each proposed arms sale to the Persian Gulf and Arabian Peninsula would affect regional military balance.

The administration would also be required to analyze the impact of the proposed sale on multilateral efforts to control arms on a regional basis and on our attempts to secure bilateral security agreements in the area.

Mr. President, the administration continues to pursue seemingly contradictory goals in the Mideast when it comes to arms control. On the one hand, President Bush said on March 6 of this year that it would be "tragic if the nations of the Middle East and Persian Gulf were now, in the wake of war, to embark on a new arms race."

On the other hand, his Defense Secretary, Mr. Richard Cheney, told the House Foreign Affairs Committee, just 2 weeks after the President made that statement, "I think that our objective shouldn't be arms control per se, our objective ought to be security for our friends and allies."

So far, I believe the President's Defense Secretary seems to be winning the debate with the President because the administration has pumped into this region almost 7.5 billion dollars' worth of arms since the first of March.

The most recent sale was a $365 million arms package to Saudi Arabia that the administration sent up just before our August recess. Because of current law, most of the 30 calendar days ran out during the recess while Congress was unable to analyze the implications of that arms sale.

Those of us not on the oversight committees simply did not have appropriate time to carefully consider this sale. The American people are precluded from any understanding of the rationale of this sale.

Mr. President, this sale, in and of itself, on analysis appeared not to be a backbreaker. It included 2,000 MK-84 bombs, 2,100 CBU-87 cluster munitions, 770 AIM-7M Sparrow air-to-air missiles, laser guided bomb components, and miscellaneous munition components, spare and repair parts.

The President is now proposing to sell Patriots to Saudi Arabia. Given that this weapon is a defensive one, I support this particular sale.

But whether any of us support particular sales or not, Congress needs more time to consider each proposed sale on its merits.

I am concerned that, without any well-defined strategic rationale, we continue to pump billions of dollars into this volatile region.

To be exact, about $7.5 billion since the spring. Let me run down the list of the dollar value of some of the arms that have been sold:

March 1, $1.6 billion to Egypt;
March 22, $919 million to Saudi Arabia;
June 11, $150 million to Bahrain;
June 11, $682 million to the United Arab Emirates;
July 11, $473 million to Saudi Arabia;
July 19, $150 million to Oman;
July 19, $250 million to Morocco;
July 19, $146 million to Egypt;
July 23, $2.8 billion to Turkey; and
The most recent sale, July 24, $365 million to Saudi Arabia.

That is $7.5 billion worth in less than 8 months. I accept that dollar value in and of itself does not present a complete picture of each sale. Many of these sales consist of spare parts and other acceptable items. But dollar value is certainly one important indicator of what is happening here.

I believe that the major arms suppliers to the region—the United States, the Soviet Union, China, the United Kingdom, and France—are making some progress on developing ways to control arms sales.

Representatives from each of the five have now met twice to hammer out arms control agreements. Much remains to be done, however. And I question whether the administration is attaching the necessary priority to the issue.

I ask unanimous consent that a September 22, 1991, Washington Post article addressing the question of priority be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT ABOUT ARMS CONTROL?

(By Michael Nacht, Jay Winik, and Alan Platt)

In its headlong rush to convene the Middle East peace conference, the Bush administration is giving short shrift to arms control in the region. That is a serious mistake: Reducing the capabilities and incentives for states in the region to wage war is not only an urgent concern but one that can be usefully addressed even if a peace conference bogs down.

The administration has taken some initiatives to stem the flow of new ballistic missiles into the Middle East, and the president himself has stated that arms control should be a priority. But these efforts have not received the sustained high-level attention and support required to produce results. And even if these efforts were successful, they would still be woefully inadequate.

The Middle East remains virtually the only region where war is still a legitimate and widely used means of achieving political ends and where all the major powers have important ties and interests. Even if all outside arms shipments to the region ceased tomorrow, the region would be the most heavily armed in the world today. What must be found are measures that inhibit and ultimately delegitimize aggressive war as an instrument of policy.

Virtually all observers of the Middle East have rightly noted that it will take years, if not decades, for deep-seated differences between Arabs and Israelis to be overcome. Even if the peace conference were successful—a big if—this sobering reality will not change. Israeli officials have quietly speculated that increased Syrian-Israeli tensions could result from a stalemated peace conference. Should the peace process fail, another war is likely. Whatever the outcome, in the absence of arms control, regional hostility will loom as a cloud threatening reconciliation in the region.

The notion of applying arms control to the Middle East, is often greeted with skepticism based upon three arguments: that arms control is a Western concept inapplicable in the Middle East; that there is no experience with arms control in the region; and that even after the Gulf War there is no evidence of support in the Middle East for such measures. All three arguments are erroneous.

It is true that modern arms control was conceptually developed in the United States and Great Britain in the late 1950s and early 1960s. But this does not make it ill-suited for the Middle East. East-West arms control has had to cover a far broader range of issues and technological esoteric than would be necessary in the Middle East, from strategic and theater nuclear arms to space weapons to a myriad of conventional systems.

The immediate requirements for arms control in the Middle East, however, need not be nearly so comprehensive and arcane. Rather, smaller attainable steps such as confidence-building measures, taken by the regional states themselves, hold far greater promise than they did in the U.S.-Soviet and European contexts.

The bitterness of the Arab-Israeli dispute is not necessarily a block to useful arms negotiations—no more than was the once bitter enmity between the West and the Soviet bloc. Indeed, arms control has often been more effective between adversaries than allies, because its potential payoff is most obvious and the interest of the parties is correspondingly intense. Particularly in times of crisis, arms control can prevent escalation of conflict from political miscalculations or the perception of one side that another has acquired new, first-strike weapons systems. At a minimum, arms control measures could delay or prevent a new round of qualitative weapons competition and military maneuvers which, if left unchecked, would likely bog down the peace process or serve as a catalyst for renewed conflict.

There is, moreover, greater experience with arms control in the Middle East than is commonly acknowledged. The disengagement-of-forces agreements concluded in 1974 and 1975 between Egypt and Israel and between Israel and Syria specified a number of quantitative and geographical limitations on weapons deployments. The 1979 peace treaty between Israel and Egypt also included many such provisions. Over the years, a series of tacit understandings about acceptable military actions has also evolved.

More importantly, arms control is today being accorded far greater attention in the region. United Nations Security Council Resolution 687, which is unprecedented in its scope, seeks to construct an elaborate arms control regime. It calls for the destruction of Iraq's weapons-grade nuclear material and chemical and biological weapons, research sites, equipment to develop weapons of mass destruction and all ballistic missiles with ranges exceeding 150 kilometers. Not unlike the European theatre, a weapons data base is called for, as are intrusive methods of verification and rigorous measures to enforce compliance.

Both in Egypt and Israel, at the Al Ahram and Jaffe strategic study centers respectively, independent experts are, for the first time, exploring regional arms control measures. And in terms of declaratory policy, Egyptian President Hosni Mubarak has called for the elimination of all weapons of mass destruction from the Middle East, while Israel has publicly supported the concept of a nuclear-free zone.

Agreement on a series of confidence-building measures must undergrid any arms control regime. These would reduce the likelihood of war by fostering what experts call "transparency of capabilities and intentions."

The Middle East's historical record demonstrates that ambiguity about intentions has repeatedly led to war. In 1967 Egyptian troops massed against Israel. Uncertain as to Egypt's intentions, Israel struck preemptively, thus beginning the Six Day War. In 1973, Egyptians and Syrians conducted a deceptive maneuvers. Israel chose a wait-and-see attitude, only to be caught off guard when the combined Arab armies attacked. And in August 1990, Iraq employed similar tactics against Kuwait. In each of these cases, military action, whether defensive or preemptive, was seen as the only viable option for ending the crisis.

Among specific measures, that should be considered are: hotline agreements; risk-reduction centers; establishment of keepout zones and demilitarization of critical terrain; and requirements for pre-notification and explanation of military exercises above agreed-upon limits. Clear violations would create a "political trip-wire" designed to bring immediate international pressure to bear before aggressive hostilities break out.

Collectively these measures would go a long way toward making the use of war a far more difficult course for resolving political differences. Over time, states in the region would have far greater confidence in the diplomatic process and would also have greater incentives to make concessions for peace. Moreover, in due course arms-reduction agreements that could lend further stability to the region would have a better chance of success.

While the administration has been slow to articulate a policy for arms control in the Middle East, this approach has already been endorsed by an international group of regional and security specialists. In a recent report published by the United States Institute of Peace, they state: "The Gulf War has created a rare opportunity for serious initiatives on arms control in the Middle East. . . . Arms control measures should be pursued in parallel with the peace process."

The winter 1991 issue of Daedalus, the prestigious journal of the American Academy of Arts and Sciences, reflecting on 30 years of arms control, notes the imperative of disseminating the lessons of arms-control practice to the Middle East. Indeed, no less a hawk than Israel's Ariel Sharon has openly observed that arms control, not a continued arms race,cold help bring peace to the Middle East.

What must be emphasized is that trust is not a necessary pre-condition for effective arms control. Control does not automatically translate into arms reductions and disarmament, as is popularly believed. Nor should it necessarily be construed as meaning comprehensive arrangements that are often unattainable. Rather, arms control encompasses those measures that strengthen regional stability and diminish war as an attractive instrument of national policy whether by design or perceived necessity—precisely what is needed now.

Mr. GRAHAM. Mr. President, in the meantime, I believe that the United States has a unique leadership role to play in this regard. I am not so naive as to think that arm sales to this region will come to a miraculous stop if the United States halts sales. But I do believe that, at the minimum, Congress should more carefully consider sales that the administration does propose.

We must insist that the administration present a more detailed strategic rationale for future sales. The administration justified the August Saudi sale by suggesting that "Saudi Arabia needs to replenish inventories expended during operation Desert Storm."

We need to be asking a number of questions.

What were regional inventories before the Persian Gulf war?

What are they now?

What portion of those inventories were actually expended during the war?

How much military hardware have we left in Saudi Arabia, for instance, following our withdrawal from that country after the war?

What are our overall strategic objectives in selling more than $7 billion worth of military hardware in this region since the end of the war?

Just exactly how are these sales going to advance our interests?

Mr. President, Congress has a responsibility to get answers to these questions.

We need a long-term strategy and clear definition of our goals.

The United States has a historic opportunity to change the way we and other major arms suppliers do business in this volatile region. We must not squander that opportunity.

By Mr. KENNEDY (for himself and Mr. SIMPSON):

S. 2099. A bill to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for the compensation of such judges; to the Committee on the Judiciary.

DESIGNATION OF IMMIGRATION JUDGES

• Mr. KENNEDY. Mr. President, I am pleased to introduce today with Senator SIMPSON, the ranking member on the Senate Subcommittee on Immigration and Refugee Affairs, a bill which gives just compensation to immigration judges and members of the Board of Immigration Appeals, in recognition of their important contributions to the immigration adjudication process.

These immigration judges play a vital role as executors of our Nation's immigration legacy, as they often are the final arbiters of the fate of those seeking to build their lives in America.

This bill addresses the failure of Congress to include immigration judges under the Federal Employees Pay Comparability Act of 1990, which increased the pay scales for all administrative law judges. The pay disparity created by this legislation has made it difficult for the Executive Office of Immigration Review [EOIR] to hire and retain the best immigration judges. Already some of the most gifted and dedicated immigration judges have transferred out of EOIR and to other agencies such as the Social Security Administration, where they would be paid at a much higher rate.

In a recent survey by the Administrative Conference of the United States, it was reported that out of approximately 174,240 enforcement cases heard by adjudicators of nine Federal agencies, including the Departments of Defense, Agriculture, Labor, and others, immigration judges presided over 152,400 cases. This breaks down to 71 immigration judges, each responsible for almost 2,500 cases. According to the report, the complexity of these proceedings, "* * * are akin to criminal proceedings * * *" and involve the understanding of "basic human rights and fundamental concepts of due process." At these proceedings, these judges decide whether or not an alien may be deported or excluded from entry into the United States, or whether an individual may be allowed to remain.

Immigration judges possess a special competence that can be acquired only over time. They preside over an area of the law which has quickly grown in complexity—immigration, passport, and nationality cases—making them specialists in this unique area of public service. Only last year, in the Immigration Act of 1990, Congress revised key aspects of the deportation process, thereby adding to the burden which these judges must shoulder.

Immigration judges are selectively chosen based on years of judicial experience and knowledge of immigration law. The decisions made by these judges not only affect countless lives, but have a profound effect on our national immigration policy.

Clearly, the responsibilities and duties of immigration judges are on an equal standing with that of administrative law judges, in terms of both their level of authority and complexity of issues adjudicated.

Although this bill would not raise the salary levels for immigration judges to exactly that of administrative judges, it establishes a special pay scale which is appropriate to the complex subject matter which they must master. I am confident that by correcting the current pay inequity system with just compensation, we will prevent the dangerous current trend of losing our most gifted and well-qualified immigration judges to other Federal agencies.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF SPECIAL INQUIRY OFFICERS AS IMMIGRATION JUDGES.

(a) Section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)) is amended—

(1) by striking "special inquiry officer" each of the three places it appears and inserting in lieu thereof "immigration judges"; and

(2) by adding at the end thereof the following new sentence: "Such term includes the Chief Attorney Examiner of the Board of Immigration Appeals (as such officer's functions are described in part 3 of title 8 Code of Federal Regulations, as of the date of enactment of this sentence) or any successor officer.

(b) Section 209(a)(2) of such Act (8 U.S.C. 1159(a)(2)) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(c) Section 234 of such Act (8 U.S.C. 1224) is amended by striking "special inquiry officers" and inserting "immigration judges".

(d) Section 235 of such Act (8 U.S.C. 1225) is amended—

(1) in subsection (a)—

(A) by striking "special inquiry officers" each of the three places it appears and inserting in lieu thereof "immigration judges"; and

(B) by striking "special inquiry officer" and inserting in lieu thereof "immigration judge";

(2) in subsection (b), by striking "a special inquiry officer" each of the two places it appears and inserting in lieu thereof "an immigration judge"; and

(3) in subsection (c)—

(A) by striking "the special inquiry officer" and inserting in lieu thereof "the immigration judge";

(B) by striking "a special inquiry officer" each of the three places it appears and inserting in lieu thereof "an immigration judge";

(e) Section 236 of such Act (8 U.S.C. 1226) is amended—

(1) by striking "special inquiry officer" each of the 10 places it appears and inserting in lieu thereof "immigration judge";

(2) by striking "a" after "Proceedings before" and inserting in lieu thereof "an";

(3) by striking "a" after "decision of" each of the two places it appears and inserting in lieu thereof "an"; and

(4) by striking "A" and inserting in lieu thereof "An".

(f) Section 242(b) of such Act (8 U.S.C. 1252(b)) is amended)—

(1) by striking "special inquiry officer" each of the five places it appears and inserting in lieu thereof "immigration judge";

(2) by striking "A" and inserting in lieu thereof "An";

(3) by striking "a" after "proceeding before" and inserting in lieu thereof "an"; and

(4) by striking "a" after "Proceedings before" and inserting in lieu thereof "an";

(g) Section 242B(1) of such Act (8 U.S.C. 1252b(d)(1)) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(h) Section 273(d) of such Act (8 U.S.C. 1323(d)) is amended by striking "special inquiry officers" and inserting in lieu thereof "immigration judges".

(i) Section 292 of such Act (8 U.S.C. 1362) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(j) Section 4 of the joint resolution entitled "Joint resolution to enable the United States to participate in the resettlement of certain refugees, and for other purposes", approved July 14, 1960 (Public Law 86-648), is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(k) Section 2 of the Act entitled "An Act to authorize the creation of record of admission for permanent residence in the case of certain Hungarian refugees", approved July 25, 1958 (Public Law 85-559), is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

SEC. 2. COMPENSATION FOR IMMIGRATION JUDGES.

(a) In General.—Chapter 1 of the Immigration and Nationality Act (8 U.S.C. 1101-1105a) is amended by adding at the end thereof the following new section:

"COMPENSATION FOR IMMIGRATION JUDGES

"Sec. 107. (a) Immigration Judge Schedule.—(1) For purposes of determining pay for immigration judges there shall be six rates of basic pay for immigration judges, under the Immigration Judge Schedule, the designation of which shall be 'IJ', and each immigration judge shall be paid at one of those rates in accordance with the provisions of this section. Each rate shall be calculated as a percentage of the rate of basic pay designated as "ES-5", as established and adjusted by the President for the Senior Executive Service under section 5382 of title 5, United States Code.

"(2) The 'IJ' designation for each rate of basic pay under the Immigration Judge Schedule and that rate of basic pay expressed as a percentage of the ES-5 rate of basic pay are as follows:

"(A) For IJ-1: 65 percent.

"(B) For IJ-2: 70 percent.

"(C) For IJ-3: 75 percent.

"(D) For IJ-4: 80 percent.

"(E) For IJ-5: 85 percent.

"(F) For IJ-6: 90 percent.

"(b) Conversion to Immigration Judge Schedule.—The Attorney General shall determine which of the rates of basic pay shall be paid to each immigration judge and shall classify immigration judge positions by the rates of basic pay under the Immigration Judge Schedule. The rate of basic pay for each such immigration judge shall, upon the date of enactment of this section, be at least equal to the rate which was payable to that individual immediately before such date.".

(b) Amendment to Table of Contents.—The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 106 the following new item:

"Sec. 107. Compensation for immigration judges.".

(c) Effective Date.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.•

• Mr. SIMPSON. Mr. President, I am pleased to join with Senator Kennedy, the chairman of the Immigration Subcommittee, in introducing legislation to revise the pay grades of immigration judges and members of the Board of Immigration Appeals.

Immigration judges perform extremely important functions. They hear and decide whether aliens should be deported or excluded from the United States. They hear and decide whether an alien is likely to face political persecution if forced to return to his or her homeland. They determine whether it is safe to release on bond an alien who has been convicted of a felony. There are countless other decisions made by immigration judges, which are reviewed by the Board of Immigration Appeals, that have significant effects on our immigration policy and on our country.

Presently, immigration judges are paid at the GS-15 level. However, a number of Federal agency adjudicators performing similar functions—such as administrative law judges for the Social Security Administration—are paid at a much higher pay rate. As a result, a number of senior immigration judges have been leaving the immigration judge corps because they are well-qualified for these more lucrative agency-adjudicator positions.

I am greatly concerned that, unless this pay inequity problem is solved, we will lose our most qualified immigration judges to other Federal agencies, and the quality of decisions on important immigration cases will diminish.

This legislation takes a reasonable and responsible approach to the problem. While not paying immigration judges exactly as much as administrative law judges now receive, this bill would substantially increase the salaries of immigration judges and board members. It would decrease the incentive for our most talented judges to leave for employment in other Federal agencies, and it will preserve a quality level of adjudication in the increasingly complex arena of immigration law.

I understand that the Congressional Budget Office finds this legislation acceptable under our budget agreement, and I note that this legislation has significant support in the House of Representatives, as well. I urge the adoption of this bill.•

By Mr. DASCHLE (for himself, Mr. Simon, Mr. Wirth, Mr. Reid, and Mr. Hatfield):

S. 2100. A bill to amend the Internal Revenue Code of 1986 to encourage the development of renewable energy and the conservation of energy, and for other purposes; to the Committee on Finance.

RENEWABLE ENERGY AND ENERGY CONSERVATION ACT OF 1991

• Mr. DASCHLE. Mr. President, last June, the Subcommittee on Energy and Agricultural Taxation, which I chair, held 2 days of hearings on tax proposals to promote the development of renewable energy sources and to encourage energy conservation. At the time of those hearings, I expressed my intention to assemble those proposals, improve upon them, if possible, and reintroduce them in a single legislative package.

That process is complete, and I rise today to introduce the Renewable Energy and Energy Conservation Act of 1991.

Any meaningful energy policy must have four legs: First, improved conservation of energy; second, the development of domestic alternative and renewable energy sources; third, better utilization of our fossil resources; and fourth, the developement of strategic petroleum and product reserves in case of emergencies. If any one of these legs is missing, the policy cannot stand.

The Renewable Energy and Energy Conservation Act of 1991 focuses on the first two legs of that policy. Hence, it contains two titles. The first provides tax and tariff measures to promote renewable energy development and production. The second establishes tax incentives for energy efficiency and conservation.

Earlier this year, the Senate Energy Committee adopted a package of measures within its jurisdiction designed to address many of America's future energy needs. While that measure has since faltered, it is by no means dead and is expected to move again next year. The tax proposals found in the legislation I am introducing today are not alternatives to that energy bill. They are an absolutely essential component of it, and of any comprehensive and long-term national energy policy.

Many of my colleagues, including a number of members of the Energy Committee, would agree that energy tax incentives are critical to a well-rounded energy strategy. Chairman Johnston and Senator Wallop have provided me with many valuable suggestions, and I thank them for their input. Subsequent to that committee's completion of its energy package, a bipartisan group of its members send a letter to Senators Bentsen and Packwood, the chairman and ranking minority members of the Finance Committee, expressing their support for an array of energy tax incentive measures. Many of those measures are contained in the legislation being introduced today.

Mr. President, it is high time that we take action to address America's need for an energy policy. Due to oil shocks in 1973 and 1979, the Nation was shaken from complacency to confront its vulnerability by conserving energy and developing alternative sources of energy. But for a decade now, we have floated in limbo. We closed our eyes as oil imports rose, foreign dependency increased, the environment worsened, and alternative energy industries dried up from lack of support. While some of our leaders have clung to the free market as if it were the Holy Grail, our Nation moves farther and farther from a balanced energy policy.

Despite what can be called, at best, a patchwork energy policy today, we have achieved remarkable benefits from modest conservation measures instituted in the 1970's. The country saves an estimated $160 billion annually in energy costs due to conservation measures instituted since 1973. While overall energy consumption in 1973 was virtually identical to 1986, our GNP grew 40 percent during the period.

The strides made in the 1970's and 1980's stemmed from several factors. Oil became more expensive, causing people to use less of it. Congress passed new fuel efficiency or CAFE standards, raising fuel economy from an average of 13 miles per gallon to 27.5 miles per gallon. Homes were weatherized. Refrigerators and other home appliances became more efficient. Energy conservation became a central design for new and existing utilities.

But the progress of the 1970s stalled in the 1980s, when efforts to put our country on a sound energy footing dropped to an unacceptable level. Let's look at some of the accomplishments of the 1980's. The solar collectors on the roof of the White House were taken down and conservation became a campaign word synonymous with weakness. The Department of Energy was slated for elimination. CAFE standards were rolled back. DOE's research and development budget for renewable energy declined drastically from $557 million in 1981 to $78 million in 1989. In 1985, the 40 percent solar tax credit for homeowners expired, turning a $700 million solar industry into a $70 million one and, in the process, putting 35,000 people out of work.

Today, Japan and Germany use half as much energy per dollar of output as the United States. The longer we put off improving the Nation's energy efficiency and developing new sources of energy, the more precarious our position becomes.

We are at a turning point. The course we have been pursuing for the last 10 years is leading to a dead end. The goal of the Renewable Energy and Energy Conservation Act of 1991 is to make sure that the Nation takes a turn for the better and heads down the road to a comprehensive, environmentally sound and forward-looking energy policy.

Finally, nothing is more important to our immediate future than addressing the Federal budget deficit. While several provisions in this legislation may increase revenues, most will not. Therefore, I will request the Joint Committee on Taxation to prepare a section-by-section estimate of the revenue impact of the bill, and, at an appropriate time thereafter, I will recommend a sufficient revenue offset.

Mr. President, I ask that a summary of the bill and its text be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Renewable Energy and Energy Conservation Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—RENEWABLE ENERGY TAX INCENTIVES

Subtitle A—Generation of Electricity From Renewable Sources

SEC. 101. MODIFICATIONS OF INVESTMENT TAX CREDIT.

(a) 10-YEAR EXTENSION.—Section 48(a)(2)(B) is amended by striking "1991" and inserting "2001".

(b) INCREASE IN AMOUNT OF CREDIT.—Subparagraph (A) of section 48(a)(2) is amended by striking "10 percent" and inserting "20 percent".

(c) PUBLIC UTILITY PROPERTY ELIGIBLE FOR CREDIT.—Section 48(a)(3) is amended by striking the last sentence thereof.

(d) EFFECTIVE DATE.—The amendments made this section shall apply to periods after December 31, 1991, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 102. ALLOWANCE OF ENERGY CREDIT AGAINST ALL OF REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—

(1) REGULAR TAX.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES FOR ENERGY CREDIT.—

"(A) IN GENERAL.—In the case of a C corporation, this section and section 39 shall be applied separately—

"(i) first with respect to so much of the credit allowed by subsection (a) as is not attributable to the energy credit, and

"(ii) then with respect to the energy credit.

"(B) RULES FOR APPLICATION OF ENERGY CREDIT.—

"(i) IN GENERAL.—In the case of the energy credit, in lieu of applying the preceding paragraphs of this subsection, the amount of such credit allowed under subsection (a) for any taxable year shall not exceed the net chapter 1 tax for such year.

"(ii) NET CHAPTER 1 TAX.—For purposes of clause (i), the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and 50 percent of the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the energy credit).

"(C) ENERGY CREDIT.—For purposes of this paragraph, the term 'energy credit' means the credit allowable under subsection (a) by reason of section 48(a).".

(2) MINIMUM TAX.—Paragraph (2) of section 55(c) is amended to read as follows:

"(2) CROSS REFERENCES.—

"(A) For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(B) For provision allowing energy credit against the tax imposed by this section, see section 38(c)(3).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 103. RENEWABLE ENERGY PRODUCTION CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30. RENEWABLE ENERGY PRODUCTION CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

"(1) the credit amount, multiplied by

"(2) the kilowatt hours of electricity produced through the use of qualified technologies property and—

"(A) which is sold by the taxpayer to an unrelated person during the taxable year, and

"(B) the production of which is attributable to the taxpayer.

"(b) CREDIT AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the credit amount shall be determined under the following table:

"Taxable year qualified technologies property placed in service:	The credit amount is:
1992–1996	2.0 cents
1997	1.6 cents
1998	1.2 cents
1999	0.9 cents
2000	0.6 cents
2001	0.3 cents.

"(2) CREDIT ADJUSTMENT BASED ON INFLATION.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 1992, the credit amount under paragraph (1) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs.

"(B) PUBLICATION.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor for the preceding calendar year in accordance with this paragraph.

"(C) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year and the denominator of which is the GNP implicit price deflator for calendar year 1992. The term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

"(c) APPLICATION OF SECTION.—This section shall apply with respect to electricity—

"(1) produced with qualified technologies property—

"(A) placed in service after December 31, 1991, and before January 1, 2002,

"(B) for which an energy credit has not been allowed, and

"(2) sold after December 31, 1991, and before January 1, 2009.

"(d) LIMITATIONS.—

"(1) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The amount of the credit allowable under subsection (a) with respect to any qualified technologies property for any taxable year shall be reduced by an amount determined under rules similar to the rules of section 29(b)(3).

"(2) COORDINATION WITH INVESTMENT CREDIT.—No credit shall be allowable under this section for any taxable year with respect to electricity produced through the use of any property if—

"(A) a credit is allowable under section 38 for such property for such taxable year, or

"(B) any business credit carryforward or carryback to such taxable year is allowable to any portion of the basis of such property.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over

"(B) the tentative minimum tax for the taxable year.

"(e) QUALIFIED TECHNOLOGIES DEFINED.—For purposes of this section—

"(1) QUALIFIED TECHNOLOGIES.—The term 'qualified technologies' means—

"(A) solar thermal,

"(B) photovoltaic,

"(C) wind,

"(D) geothermal (other then dry steam geothermal), and

"(E) biomass.

"(2) BIOMASS.—The term 'biomass' means any organic material, including wood and other agricultural crops, which—

"(A) is available on a renewable basis, and

"(B) is—

"(i) produced by a facility used exclusively for growing biomass for energy purposes on a sustained basis; or

"(ii) converted to electricity by a conversion technology with a net heat rate of 10,500 Btu's per kilowatt hour or less.

The term 'biomass' shall not include aquatic plants and waste residues from wood, animal, municipal, agricultural, or other sources.

"(3) DRY STEAM GEOTHERMAL.—The term 'dry steam geothermal' means geothermal produced from a dry steam geothermal reservoir which—

"(A) has no mobile liquid in its natural state,

"(B) has steam quality of 95 percent water or more, and

"(C) has an enthalpy for the total produced fluid at least equal to 1,200 Btu's per pound.

"(f) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—

"(1) ONLY PRODUCTION WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity produced within—

"(A) the United States (as defined in section 7701(a)(9)), or

"(B) a possession of the United States.

"(2) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER—In the case of a qualified technologies property in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from such property shall be allocated among such persons in proportion to their respective interests in the gross sales from such property.

"(3) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity produced with qualified technologies property to an unrelated person if such electricity is sold to such a person by another member of such group.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(5) FLOW-THRU FOR PUBLIC UTILITIES.—

"(A) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy, shall prescribe regulations for the flow-thru of credits allowed under this section for public utilities.

"(B) PUBLIC UTILITY.—For purposes of subparagraph (A), the term 'public utility' means a person, State agency, or local unit of government engaged in the sale of electricity."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 30. Renewable energy production credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Alternative Transportation Fuels Tax Incentives

SEC. 111. DEDUCTIONS RELATING TO VEHICLES WHICH MAY USE CLEAN-BURNING FUELS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR PURCHASE OF QUALIFIED CLEAN-BURNING MOTOR FUEL AND REFUELING PROPERTY.

"(a) GENERAL RULE.—There shall be allowed as a deduction for a taxable year an amount equal to the cost of—

"(1) any qualified clean-burning motor vehicle fuel property, or

"(2) any qualified clean-burning motor vehicle refueling property,

the original use of which by the taxpayer begins during such taxable year. In the case of property described in paragraph (2), such deduction shall be allowed only if such cost is paid or incurred in connection with a trade or business of the taxpayer.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-BURNING MOTOR VEHICLE FUEL PROPERTY.—The cost which may be taken into account under subsection (a) with respect to each qualified clean-burning motor vehicle fuel property shall not exceed—

"(A) in the case of an automobile, or any truck having a gross vehicle weight rating of 10,000 pounds or less, $2,000,

"(B) in the case of any truck having a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(C) in the case of any other truck, or any bus, $50,000.

"(2) QUALIFIED CLEAN-BURNING MOTOR VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a) with respect to qualified clean-burning motor vehicle refueling property placed in service during the taxable year at the same or related fueling locations shall not exceed the excess (if any) of—

"(i) $75,000, over

"(ii) the aggregate amount taken into account under subsection (a) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such locations for all preceding taxable years.

"(B) RELATED LOCATIONS.—For purposes of this paragraph, refueling locations shall be treated as related if such locations—

"(i) are less than 2 miles apart, and

"(ii) are owned or controlled by the taxpayer or any related person.

"(C) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(D) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a).

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to ensure that the limitation under this paragraph with respect to refueling locations may not be circumvented.

"(c) QUALIFIED CLEAN-BURNING MOTOR VEHICLE FUEL PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-burning motor vehicle fuel property' means property the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any part or component designed to modify a motor vehicle which is propelled by a fuel which is not a clean-burning fuel so that the vehicle may be propelled by a clean-burning fuel, but only to the extent such part or component is—

"(i) an engine (or modification thereof) which uses a clean-burning fuel, or

"(ii) attributable to the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel but only to the extent of the portion of the basis of such vehicle which is attributable to an engine which uses such fuel, to the storage or delivery to the engine of such fuel, or to the exhaust of gases from combustion of such fuel.

"(2) ENVIRONMENTAL STANDARDS.—

"(A) GENERAL RULE.—Property shall not be treated as qualified clean-burning motor vehicle fuel property unless—

"(i) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(ii) in the case of retrofit equipment described in paragraph (1)(A), such retrofit equipment meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(B) RULES WHERE NO STANDARDS ESTABLISHED.—

"(i) IN GENERAL.—If no standards described in subparagraph (A) have been established specifically with respect to any fuel or any retrofit equipment described in paragraph (1), the Administrator of the Environmental Protection Agency shall establish interim standards for such fuel or retrofit equipment within 60 days of the date such standards are requested by any person.

"(ii) BASIS FOR STANDARDS.—In the case of fuel, any interim standards established under clause (i) shall be equivalent to the standards for gasoline or diesel vehicles or engines of the same class, except that if the ozone forming potential of the fuel is not more than that of gasoline, then, for purposes of any ozone requirement, the hydrocarbon emissions requirement shall be adjusted to qualify the fuel under the hydrocarbon standard. Any such standards applicable to retrofit equipment described in paragraph (1) shall provide for emissions-related certification, testing, and warranty requirements no less rigorous than those applicable to original equipment manufacturers' vehicles.

"(d) QUALIFIED CLEAN-BURNING MOTOR VEHICLE REFUELING PROPERTY.—For purposes of this section, the term 'qualified clean-burning motor vehicle refueling property' means property the original use of which begins with the taxpayer and which is for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied petroleum gas, and

"(C) any fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) COORDINATION WITH BASIS PROVISIONS AND DEPRECIATION ALLOWANCE.—

"(A) REDUCTION IN BASIS.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) COORDINATION WITH SECTION 1245.—For purposes of section 1245, the amount of any deduction allowed under subsection (a) shall be treated as a deduction allowed for depreciation under section 167 (or amortization in lieu thereof) to the extent, but for subparagraph (A), it would otherwise be treated as so allowed."

(b) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by adding at the end thereof the following new paragraph:

"(14) QUALIFYING CLEAN-BURNING MOTOR FUEL AND REFUELING PROPERTY.—The deduction allowed by section 179A."

(c) EQUIVALENT PAYMENTS FOR PROPERTY OWNED BY STATE AND LOCAL GOVERNMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall pay to each State or local governmental unit which files a claim under this subsection for any calendar year an amount determined under regulations prescribed by the Secretary equal to the present value of the incremental benefit that would be available under section 179A of the Internal Revenue Code of 1986 if—

(A) all qualified clean-burning motor vehicle fuel property (as defined in section 179A(c) of such Code) held by such unit were used in a trade or business,

(B) such unit was subject to tax under chapter 1 of such Code, and

(C) such year was such unit's taxable year.

(2) TREATMENT AS OVERPAYMENT.—For purposes of any law of the United States, any payment under paragraph (1) shall be treated as a refund of an overpayment of tax imposed by chapter 1 of such Code.

(3) STATE OR LOCAL GOVERNMENTAL UNIT.—For purposes of this subsection, the term "State or local governmental unit" means any State or political subdivision thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(2)(A)."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for purchase of qualified clean-burning motor fuel and refueling property."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 1992, and before October 1, 2002.

SEC. 112. DEDUCTION FOR 25 PERCENT OF PURCHASE PRICE ON NEW ELECTRIC-POWERED AUTOMOBILES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. ELECTRIC-POWERED AUTOMOBILES.

"(a) GENERAL RULE.—There shall be allowed as a deduction for the taxable year an amount equal to 25 percent of the costs incurred by the taxpayer during such taxable year in purchasing a qualified electric-powered automobile.

"(b) QUALIFIED ELECTRIC-POWERED AUTOMOBILE EXPENSES.—For purposes of this section, the term 'qualified electric-powered automobile' means an automobile (as defined in section 4064(b)(1)(A))—

"(1) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current, and

"(2) the original use of which begins with the taxpayer."

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Electric-powered automobiles."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 113. FUEL-USE METHANOL.

(a) IN GENERAL.—Subchapter 1 of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"	9901.00.54	Methanol (provided for in subheading 2905.11.10) or any mixture containing methanol (provided for in heading 2707, 2710, or 3823), if such methanol or mixture is to be used directly as fuel or in producing a mixture of methanol and gasoline or any other mixture to be used as fuel (including motor fuel provided for in subheading 2710.00.15), or is suitable for any such uses	13.21c/liter	Free (A,CA,E,IL)	13.21c/liter	On or before 10/1/2000
"	9901.00.56	Aliphatic ethers derived from methanol (provided for in 2909.19.10) and any mixtures containing such ethers, if such ethers or mixtures are to be used directly as fuel or in producing mixtures to be used as fuel (including motor fuel provided for in subheading 2710.00.15), or is suitable for any such uses	4.53c/liter	Free (A,CA,E,IL)	4.53c/liter	On or before 10/1/2000 ".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

TITLE II—ENERGY CONSERVATION TAX INCENTIVES

Subtitle A—Alternatives to Single-Passenger Automobiles

SEC. 201. INCENTIVES FOR VANPOOLING AND LIMITATIONS ON PARKING TAX BENEFITS.

(a) IN GENERAL.—Paragraph (4) of section 132(h) (relating to special rule for parking) is amended to read as follows:

"(4) WORKING CONDITION FRINGE INCLUDES CERTAIN TRANSPORTATION SUBSIDIES AND PARKING.—

"(A) IN GENERAL.—For purposes of this section, the term 'working condition fringe' includes—

"(i) parking provided to an employee at a qualified parking facility, and

"(ii) qualified transportation provided by the employer between the employee's residence and place of employment.

"(B) LIMITATION.—Subparagraph (A)(ii) shall only apply to the extent the qualified transportation provided during any calendar month does not exceed $75.

"(C) QUALIFIED PARKING FACILITY.—For purposes of this paragraph, the term 'qualified parking facility' means—

"(i) a parking facility—

"(I) which is located on the premises of the employer,

"(II) which is operated by the employer, and

"(III) substantially all the use of which is by employees of the employer; or

"(ii) a parking facility which is on or near a location from which an employee of the employer commutes to work by mass transportation, vanpool, or carpool.

"(D) QUALIFIED TRANSPORTATION.—For purposes of this paragraph, the term 'qualified transportation' means—

"(i) transportation furnished in a commuter highway vehicle operated by or for the employer, and

"(ii) transportation provided by the employer (whether by payment or reimbursement) on buses, trains, boats, or subways but only if such transportation—

"(I) is available to the general public, and

"(II) is scheduled and along regular routes.

"(E) COMMUTER HIGHWAY VEHICLE.—For purposes of subparagraph (D), the term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least eight adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be (I) for purposes of transporting the taxpayer's employees between their residences and their place of employment, and (II) on trips during which the number of employees transported for such purposes is at least one-half the adult seating capacity of such vehicle (not including the driver)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to parking and transportation provided after December 31, 1991, in taxable years ending after such date.

Subtitle B—Other Conservation Incentives

SEC. 211. ENERGY CONSERVATION SUBSIDIES EXCLUDED FROM INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY AND WATER CONSERVATION SUBSIDIES PROVIDED BY UTILITIES.

"(a) GENERAL RULE.—Gross income shall not include the value of any subsidy provided by a public utility to a customer for the purchase or installation of any energy or water conservation measure.

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of any subsidy excluded under subsection (a) which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount of any subsidy excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY OR WATER CONSERVATION MEASURE.—For purposes of this section, the term 'energy or water conservation measure' means—

"(1) any residential energy conservation measure described in section 210(11) of the National Energy Conservation Policy Act (42 U.S.C. 8211(11)),

"(2) any commercial energy conservation measure described in section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986),

"(3) any specially defined energy property (as defined in section 48(l)(5) of this title as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), and

"(4) any other measure designed to reduce energy or water consumption.

"(d) PUBLIC UTILITY.—For purposes of this section, the term 'public utility' means any person, corporation, State agency or local unit of government, or Federal agency engaged in the sale of electrical energy, gas, or water.

"(e) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.".

(b) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by electric utilities.
"Sec. 137. Cross reference to other Acts.".

(c) The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

Subtitle C—Fuel Efficient and Safe Automobiles

SEC. 221. INCENTIVES FOR SAFE AND EFFICIENT VEHICLES.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by adding at the end the following new subchapter:

"Subchapter D—Vehicle Fees and Rebates

"Sec. 4055. Short title.
"Sec. 4056. Definitions.
"Sec. 4057. Motor vehicle fuel economy and safety taxes and rebates.
"Sec. 4058. Fuel economy tax and rebate formula.
"Sec. 4059. Vehicle safety tax and rebate formula.
"Sec. 4060. Publication and display of formulas.
"Sec. 4060A. Collection and disbursement.

"SEC. 4055. SHORT TITLE.

"This subchapter shall be known as the 'Safe and Efficient Vehicles Incentives Act of 1991'.

"SEC. 4056. DEFINITIONS.

"For purposes of this subchapter—

"(1) The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"(2) The 'light-duty class' of motor vehicles means all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating.

"(3) The 'medium-duty class' of motor vehicles means all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.

"(4) The term 'model year' has the same meaning given such term by section 4064(b)(4).

"(5) The term 'sale' shall include any sale or lease of a motor vehicle subject to this subchapter, but shall not include a rental of less than one month in duration.

"SEC. 4057. MOTOR VEHICLE FUEL ECONOMY AND SAFETY TAXES AND REBATES.

"(a) FUEL ECONOMY.—There are hereby imposed or allowed, as determined according to section 4058—

"(1) a tax on the sale of each new motor vehicle sold in the United States whose fuel economy is less than the sales-weighted average fuel economy of all new motor vehicles within the same class, and

"(2) a rebate for the purchase of each new motor vehicle purchased in the United States whose fuel economy is greater than the sales-weighted average fuel economy of all new motor vehicles within the same class.

"(b) VEHICLE SAFETY.—There are hereby imposed or allowed, as determined according to section 4059—

"(1) a tax on the sale of each new motor vehicle sold in the United States whose composite safety factor is greater than the sales-weighted average composite safety factor of all new motor vehicles within the same class, and

"(2) a rebate for the purchase of each new motor vehicle purchased in the United States whose composite safety factor is greater than the sales-weighted average composite safety factor of all new motor vehicles within the same class.

"SEC. 4058. FUEL ECONOMY TAX AND REBATE FORMULA.

"(a) IN GENERAL.—The fuel economy tax or rebate for each new motor vehicle shall be determined according to the following formula:

"Tax/Rebate = $10 × [M − M'], where:

"(1) 'M' means estimated annual fuel consumption of such vehicle and shall be equal to 10,000 divided by the MPG rating of such motor vehicle, as determined by the EPA Administrator under section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2033(d)), and

"(2) 'M'' means the sales-weighted average fuel consumption of all motor vehicles in the same class, as determined by the EPA Administrator and reported to the Secretary under such section 503(d).

"(b) DETERMINATION.—If the result of the calculation under subsection (a) is a positive number, it shall be a tax. If the result of such calculation is a negative number, it shall be a rebate.

"SEC. 4059. VEHICLE SAFETY TAX AND REBATE FORMULA.

"(a) IN GENERAL.—The safety tax or rebate for each new motor vehicle shall be determined according to the following formula:

"Tax/Rebate = $10 × [S − S'], where:

"(1) 'S' means the 'composite safety factor' for such vehicle, based on the formula established by section 103(i) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392(i)); and

"(2) 'S'' means the sales-weighted average composite safety factor of all motor vehicles in the same class, as determined by the Secretary of Transportation and reported to the Secretary under such section 103(i).

"(b) Determination.—If the result of the calculation under subsection (a) is a positive number, it shall be a tax. If the result of such calculation is a negative number, it shall be a rebate.

"SEC. 4060. PUBLICATION AND DISPLAY OF FORMULAS.

"(a) Publication.—Not later than July 31, 1992, and not later than July 31 of each year thereafter, the Secretary shall publish in the Federal Register and send to each manufacturer or importer of motor vehicles subject to this subchapter the formulae applicable for the calculation of fuel economy and safety taxes and rebates for each class of motor vehicles in the next model year.

"(b) Calculation.—The manufacturer or importer of each new light-duty or medium-duty motor vehicle shall calculate the fuel economy tax (or rebate) and the safety tax (or rebate) applicable to each such vehicle according to the applicable formulae published by the Secretary under subsection (a).

"(c) Display.—

"(1) In general.—The manufacturer or importer of each new motor vehicle subject to this subchapter shall include in the label required to be affixed to such vehicle under section 506 of the Motor Fuel Vehicle Information and Cost Savings Act (15 U.S.C. 2006) and in any proposed or final sales contract the following information:

"(A) The fuel economy tax or rebate, as applicable,

"(B) The safety tax or rebate, as applicable, and

"(C) The net tax or rebate, as applicable.

The label shall also include graphic figures showing the relative rank of such motor vehicle to other vehicles in the same class, displayed separately for fuel economy and safety.

"(2) Sticker.—Any person who offers such vehicle for sale shall assure that the required information is prominently displayed on such sticker in bold figures at least the same size as the EPA mileage estimate and in such proposed or final sales contract in bold figures at least twice the size of other dollar figures displayed on such sticker or in such contract. Such information shall also be prominently displayed in any advertisement for such vehicle which includes information on fuel economy.

"SEC. 4060A. COLLECTION AND DISBURSEMENT.

"(a) Collection.—Whenever any person sells a new motor vehicle for which a net tax is due under this subchapter, such person shall collect from the purchaser of such vehicle at the time of purchase the net tax due.

"(b) Disbursement.—Whenever any person sells a new motor vehicle for which a net rebate is due under this subchapter, such person shall give to the purchaser of such vehicle at the time of purchase a voucher for the net rebate due.

"(c) Deposit.—On a quarterly basis, each person who has sold a new motor vehicle subject to this subchapter in the preceding quarter shall submit to the Secretary (1) all taxes collected from purchasers during such period, and (2) an accounting of all rebate vouchers issued to purchasers during such period. The Secretary shall place all receipts of such taxes in a special account dedicated exclusively to the purposes of this subchapter.

"(d) Rebates.—Whenever any purchaser presents a rebate voucher to the Secretary, the Secretary shall pay to such purchaser within thirty days the rebate amount due. Such payments shall be drawn from the special account established under subsection (c). If at any time funds in the special account are not sufficient to meet rebate obligations, the Secretary shall transfer to the account such funds as are necessary to meet such obligations. Such transfers shall be promptly repaid when the special account balance is in surplus. Except to repay any such transfers, the Secretary may not apply funds in the special account to any purpose other than the payment of rebates.

"(e) Forms and Regulations.—The Secretary shall publish such forms and issue such regulations as are necessary to carry out this subchapter.

"(f) Adjustment.—Any rebate issued under this subchapter shall be considered an adjustment to the purchase price of the motor vehicle and shall not be considered income for the purposes of chapter 1 of the Internal Revenue Code.

"(g) Authorization.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subchapter."

(b) Sales-Weighted Average Fuel Consumption.—Section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2033(d)) is amended by adding at the end the following new paragraphs:

"(4) For the purposes of determining fuel economy taxes and rebates due under subchapter D of chapter 31 of the Internal Revenue Code of 1986, not later than July 1, 1992, and each July 1 thereafter, the EPA Administrator shall, for each vehicle class as defined in paragraph (5)—

"(A) calculate the sales-weighted average fuel consumption of all new motor vehicles sold in the United States in the 12-month period covering the first half of the current model year and the last half of the prior model year;

"(B) adjust the result of such calculation by the percentage change in sales-weighted average fuel consumption as compared with the next prior 12-month period; and

"(C) report the resulting value to the Secretary of the Treasury for use as the term 'M' in the formula set forth in section 4058 of the Internal Revenue Code of 1986.

"(5) For the purposes of the preceding paragraph there shall be two vehicle classes. The 'light-duty class' shall include all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating. The 'medium-duty class' shall include all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.

"(6) For any vehicle that is powered by a fuel other than gasoline, the Administrator shall determine an MPG rating which reflects the amount of carbon dioxide emissions produced by such vehicle, taking into account the total fuel cycle, as compared to gasoline-powered vehicles.

"(7) Beginning the first year that fuel economy and safety taxes and rebates come into effect, the EPA Administrator shall include a complete schedule of such fees and rebates for each vehicle model in the fuel economy booklet required to be published each year under section 2006(b)."

(c) Composite Safety Factor and Sales-Weighted Average Composite Safety Factor.—Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(i)(1) For the purposes of determining safety taxes and rebates due under subchapter D of chapter 31 of the Internal Revenue Code of 1986, there is hereby established a 'composite safety factor' to be calculated for each model of motor vehicle within the vehicle classes defined in this subsection. The composite safety factor shall be based on injury criteria specified in regulations of the Secretary codified at 49 CFR section 571.208, using crash test data from tests conducted according to the test protocol set forth in such regulations, except that such crash testing shall be conducted at 35 miles per hour. The formula for the composite safety factor shall be—

"0.1 × [Driver's Injury Factor + (0.5 × Passenger's Injury Factor)], where

"'Driver's Injury Factor' = H + (12.525 × T) + (0.11 × L) + (0.11 × R), as measured for a dummy positioned in the driver's seat, and

"'Passenger's Injury Factor' = H + (12.525 × T) + (0.11 × L) + (0.11 × R), as measured for a dummy positioned in the front passenger's seat, and where

"'H' is the head acceleration as specified in 49 CFR 571.208.S6.1.2 of such regulations,

"'T' is the thorax acceleration as specified in 49 CFR 571.208.S6.1.3 of such regulations, and

"'L' and "R" are the left and right leg force, respectively, as specified in 49 CFR 571.208.S6.1.4 of such regulations.

"(2) The composite safety factor shall be calculated as specified in paragraph (1) unless the Secretary determines by rule that overall safety would be more accurately reflected by a different formula and establishes a revised formula on or before April 1 of the year before the model year to which the revised formula will be first applied. In establishing any revised formula the Secretary may alter the relative weight of the terms specified in paragraph (1) or add terms to account for other safety factors (including, but not limited to, side impact collisions and collision avoidance equipment such as antilock breaking systems), except that the total value of safety taxes collected under the new formula does not differ by more than 10 percent from the total value of safety taxes that would have been collected under the formula specified in paragraph (1).

"(3) Not later than July 1, 1992, and each July 1 thereafter, the Secretary shall, for each vehicle class as defined in this paragraph—

"(A) calculate the sales-weighted average composite safety factor of all new motor vehicles sold in the United States in the 12-month period covering the first half of the current model year and the last half of the prior model year;

"(B) adjust the result of such calculation by the percentage change in sales-weighted average composite safety factor as compared with the next prior 12-month period; and

"(C) report the resulting value to the Secretary of the Treasury for use as the term 'S' in the formula set forth in section 4059 of the Internal Revenue Code of 1986.

"(4) If crash test data necessary to determine the composite safety factor for any new motor vehicle are not available as the result of tests conducted by the Secretary of Transportation, the manufacturer or importer of such vehicle shall conduct such tests as are necessary to determine such factor before such vehicle is offered for sale. Any such tests shall be conducted according to test protocol specified in 49 CFR 571.208 (except that they shall be carried out at 35 miles per hour) and shall be verified by confirmatory tests conducted by the Secretary before the end of the model year. The Secretary may determine that data from a previous model year may be used if the structural specifications of a model have not been altered.

"(5) For the purposes of this subsection there shall be two vehicle classes. The 'light-duty class' shall include all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating. The 'medium-duty class' shall include all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.".

(d) CONFORMING AMENDMENT.—The table of subchapters for chapter 31 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"SUBCHAPTER D. VEHICLE FEES AND REBATES."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of automobiles for model years beginning in 1992 and thereafter.

SUMMARY OF THE RENEWABLE ENERGY AND ENERGY CONSERVATION ACT OF 1991

TITLE I: RENEWABLE ENERGY TAX INCENTIVES

Subtitle A: Generation of Electricity From Renewable Sources

Extends through the end of the year 2001 the current law investment tax credit available to businesses that construct solar and geothermal energy facilities. Increases the credit to 20%.

Allows public utility properties to take the investment tax credit for solar and geothermal energy facilities.

Permits taxpayers that fall under the Alternative Minimum Tax to take the investment tax credit. The amount of the credit that could be taken against the AMT would be capped at 50%, with the ability to carry excess credits forward.

Establishes a new tax credit for the domestic production of electricity through qualified renewable technologies, e.g., solar, wind, geothermal, photovoltaic, and biomass. The credit initially would be equal to 2.0 cents per kilowatt hour and phased down to .3 cents per kilowatt hour by the year 2001. Taxpayers would be prevented from "double-dipping," i.e., taking advantage of both the investment tax credit and the production tax credit simultaneously.

Subtitle B: Alternative Transportation Fuels Tax Incentives

Establishes a deduction for the cost of acquiring a vehicle that utilizes cleanburning fuels (natural gas, liquefied petroleum gas, and any other fuel if at least 85% of the fuel is methanol, ethanol, any other alcohol, ether, or any combination of the foregoing). The permissible deduction amount would be up to $2,000 per vehicle ($5,000 for a medium-size truck and $50,000 for a heavy truck). A deduction of up to $75,000 per location also would be permitted for clean-burning motor vehicle refueling property, e.g., specialized gas pumps. Effective for property placed in service after September 30, 1992 and before October 1, 2002.

Allows individuals and businesses to deduct 25% of the purchase price of electric-powered vehicles.

Imposes a 50 cent-per-gallon customs duty on imported methanol, including the methanol portion of imported fuel additives derived from methanol, such as Methyl Tertiary Butyl Ether (MTBE).

TITLE II: ENERGY CONSERVATION TAX INCENTIVES

Subtitle A: Alternatives to Single-Passenger Automobiles

Includes employer-provided parking under fringe benefit rules along with mass transit, vanpool and carpool subsidies. Permits employee to exclude up to $75 worth of (1) an employer-provided mass transit, vanpool or carpool subsidy; or (2) the value of "qualified" employer-provided parking. Qualified parking is either (1) owned and operated by the employer and used substantially by employees of the employer; or (2) on or near a location from which an employee of the employer commutes to work by mass transportation, vanpool or carpool.

Subtitle B: Other Conservation Incentives

Provides that individual, commercial and industrial taxpayers may exclude from gross income any rebate provided by a public utility (electric, gas and water) for the purchase or installation of an energy conservation measure.

Subtitle C: Fuel Efficient Automobiles

Expands the current law "gas guzzler/gas sipper" tax, which imposes a tax or provides a rebate on the domestic sale of new motor vehicles based on average fuel economies of that class of vehicle. In addition, adds a separate coefficient for the tax based on crash safety data.•

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2101. A bill to amend the Wild and Scenic Rivers Act by designating the Lower Salmon River in Idaho as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

LOWER SALMON RIVER RECREATIONAL AND SCENIC RIVERS ACT

• Mr. CRAIG. Mr. President, today, Senator SYMMS and I are very pleased to introduce this legislation which will protect 112 miles of the lower Salmon River in our State of Idaho as a component of the National Recreational and Scenic Rivers system.

The Salmon River is the largest free-flowing river in the Columbia River basin. While other segments of the Salmon were designated upon enactment of the Wild and Scenic Rivers Act of 1968, that act called for study of the lower segment for possible future designation. A study and accompanying environmental impact statement were completed in 1974 which recommended the lower Salmon River be designated.

I believe the time has come to act on that recommendation. So do the citizens of Idaho. Over the past 2 years I have met with landowners along the river, outfitter-guides who operate businesses on the river, the Federal and State agencies which manage portions of the river, and many others who are vitally interested in its future. I have proceeded slowly, deliberately, in an attempt to gain a consensus in the support of this bill. I believe that has been achieved.

Within this river corridor of about 35,000 acres lie many truly remarkable natural features. The Salmon River gorge is one of the deepest in the United States. Steep, rugged slopes drop hundreds of feet directly into the river. Along other stretches the canyon is broad and open with small river flats, benches, and terraces scattered throughout. The overall effect is one of great scenic beauty. Here is an environment where the visitor will experience solitude in an unspoiled, natural setting. However, man has been a visitor here for thousands of years. There are hundreds of recorded cultural sites presenting a rich and diverse record of human occupation during the past 10,000 years. In historic times, the river served as a magnet to miners after the discovery of gold in the region in 1860. A valuable historic record of that period remains, and this site is listed on the National Register of Historic Places.

Today, the river draws visitors from around the country because of its outstanding recreation opportunities. Communities near the river have experienced an economic transformation built around running whitewater and fishing for steelhead and trout. It is important to remember that this river forms the habitat and migration route for the Snake River spring/summer chinook salmon which has been proposed for listing as a threatened species, and the sockeye salmon which was recently listed as an endangered species by the National Marine Fisheries Service. Though fishing is not allowed on these species, they continue to attract many viewers who hope to see adult salmon negotiating the rapids to reach upstream spawning grounds.

These are some of the reasons I strongly support protection of the lower Salmon River as a recreational and scenic river. This legislation will designate one 53-mile segment as a scenic river under the administration of the Secretary of the Interior and two segments totaling 59 miles as recreational rivers. The Secretary of the Interior will administer one recreational segment. Administration of the second recreational segment, where National Forest land lies to the north and BLM-administered land to the south of the river, will be shared between the Secretary of the Interior and the Secretary of Agriculture. The river corridor boundary matches the temporary mineral withdrawals of public lands made in 1986 and 1988 which extend generally one-quarter mile on each side of the river. Private lands are included, and I have personally met with the landowners to gain their support of this bill. I have made the commitment that the Federal Government will not acquire any private lands or interests in private lands within the corridor without the consent of the owner.

The Bureau of Land Management currently has an active lands adjustment program working cooperatively with willing sellers. Two land exchange cases are nearly complete and one land purchase case is underway. This bill will make permanent the temporary withdrawals of about 18,500 acres from new mineral entries. However, valid, existing rights on seven preexisting mining claims will be maintained.

I know of no opposition to this legislation at this time. It has strong support in Idaho, and I intend to ask the Senate, Mr. President, to move this bill along quickly when we convene in 1992.•

By Mr. GARN (for himself and Mr. ROCKEFELLER):

S. 2102. A bill to amend the International Emergency Economic Powers Act; to the Committee on Banking, Housing, and Urban Affairs.

INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

• Mr. GARN. Mr. President, I rise today to introduce legislation to amend the International Emergency Economic Powers Act, or IEEPA. While this bill amends legislation dealing with international emergencies, it is intended to address a much more mundane problem, but one that is becoming increasingly frequent. That problem is the failure of the Congress to do its job and enact necessary legislation.

I have had many opportunities during my time in the Senate to complain about legislative failures, especially by the House of Representatives. These include leaving FSLIC unfunded in 1986; leaving town last year without funding RTC; the failure to pass comprehensive banking legislation in 1984, 1988 and this year. In this case, however, the focus of my concern is the Export Administration Act.

The EAA lapsed more than a year ago because of delays in conference with the House. At that time, the President invoked IEEPA to maintain export controls. Conference action was completed last November and an EAA reauthorization was sent to the President. Unfortunately, after Congress adjourned, the President took some very bad advice and vetoed the bill because it might have required economic sanctions on users and purveyors of chemical weapons. This meant that the EAA would remain out of force until the 102d Congress was organized.

The Senate made restoring these authorities an early priority and last February 20 the Senate passed a new reauthorization. Unfortunately, the House Foreign Affairs subcommittee responsible for the EAA did not act for another 8 months, and the House did not finally pass a bill until October 30. Facing the end of the session and with the Banking Committee working around the clock to produce legislation that will protect insured depositors in our banks and savings and loans in the months ahead, there is simply no time to act on the House-passed legislation.

Through a string of circumstances, but most importantly because of the irresponsible behavior of a House subcommittee, critical legislation affecting billions of dollars of U.S. exports will continue to be carried out without benefit of any statutory structure or protections for more than a year.

While this situation should be unacceptable to the Congress, it is likely to be repeated because there is no penalty for congressional inaction or a Presidential veto as long as IEEPA is available without restriction to fill the gap. Incentives may even favor a veto by the President since the President's powers under IEEPA are much less constrained than under specific international statutes like the EAA. I believe this state of affairs is unacceptable. The proposed amendment would restrict the use of IEEPA authority to extend or reinstate lapsed provisions of law.

The amendment would limit to 180 days the period for which IEEPA would be used to extend or reinstate expired provisions of law. If IEEPA were used for this purpose, two parallel actions would be triggered. First, authorizing legislation, a simple extender of expired legislation for at least 180 days, would have to be introduced in both houses and referred to appropriate Committees. On a second track, a joint resolution, approving the President's proposed extension of authority for up to one year, would have to be introduced in both Houses and referred to the appropriate committees.

Since it is inaction in the committee of jurisdiction that has been a major source of delay, the bills and resolutions required to be introduced would be subject to expedited procedures for discharge from committee and floor consideration. Critical legislation could not be bottled up.

If Congress were to complete action on authorizing legislation within 180 days, no further action would be required. However, if the Congress failed to enact authorizing legislation within that period, a vote on the joint resolution extending emergency authority would be guaranteed. If Congress failed to endorse the emergency and support an extension of authority, the statutory authority that had been extended would expire.

It is likely that the administration will be unhappy about any amendments to IEEPA that limit the President's discretion. However, this bill does not limit the President's authority in true international emergencies. It limits authority to turn legislative failure into an international emergency. If such a pseudo-emergency situation occurs, the Congress will be forced to restore legislative authority either in the form of a bill or a joint resolution of approval.

It is a sad commentary that legislation like this is necessary. But unfortunately, the legislative process has been so devalued that it only functions through a patchwork of automatic procedures, supermajority votes on budget rules and cloture motions. I regret that I have to propose one more cog in the machinery of automatic legislation but to do otherwise is to endorse irresponsibility and inaction.•

• Mr. ROCKEFELLER. Mr. President, today I am pleased to join with the Senator from Utah [Mr. GARN] in introducing an amendment to the International Emergency Economic Powers Act [IEEPA].

This is a small bill, but it addresses an important problem that goes directly to the issue of presidential powers under the Constitution. Let me begin with a bit of history.

The International Emergency Economic Powers Act provides very broad authority to the President to take measures to deal with international emergencies. It was, for example, the authority President Carter cited when he froze Iranian assets in the United States during the hostage crisis. IEEPA gives the President very broad, even dictatorial authority, to halt or control the flow of commerce or funds between the United States and other parties, subject only to the limitation that he must first declare an emergency and report it to Congress, and that he must explicitly continue the emergency every 6 months with a further report to Congress.

In enacting the IEEPA, Congress consolidated a number of earlier laws relating to international emergencies and attempted to regularize the way the President dealt with unexpected crisis overseas. In doing so, it was Congress' intent that the broad authorities provided be used only in cases of extreme crisis when immediate action was required.

Over the years, this standard has unfortunately been devalued. President Reagan used the authority on several occasions to justify sanctions against specific countries, notably Libya. I hold no brief for Libya, Mr. President, and have consistently suppported sanctions, but I do question whether the situation in Libya threatened such imminent harm to United States economic security that it warranted declaring a national emergency.

Similarly, I am even more concerned about the current application of IEEPA as a substitute for the Export Administration Act. That act lapsed more than a year ago, on October 1, 1990. Subsequently, the Congress passed and sent to the President renewal legislation, which he pocket vetoed last year. At the time of the act's expiration, and subsequently at the time of the veto, the President exercised his authority under IEEPA, declared a national emergency, and imposed under that authority substantially the same system of regulations and controls that had existed under the Export Administration Act.

What that means, Mr. President, is that our entire export control program, a major administrative apparatus, is now being run by executive fiat rather than law. It means that exporters have few, if any, of the rights accorded them under the EAA and instead are having their exports controlled by bureaucratic whim.

Thus far, the bureaucracy's tendency to whimsy has been suppressed, and administration of the program has followed closely the previous law. At the same time, there has been one element of its administration that should give us all pause. When the President reimposed the control system under IEEPA, he did so somewhat selectively, in some cases establishing procedures that had been mandated by the bill he vetoed, and in other cases ignoring the language of that bill. In short, use of IEEPA has effectively allowed the President to have a line item veto. It has allowed him to pick and choose which provisions of a bill he wants to enforce, and it has allowed him to ignore the others. And, most importnt, it has allowed him to claim that a national emergency exists solely because he vetoed a bill that Congress sent him.

This is clearly not what Congress intended when it created IEEPA, but as a result of the way that law was drafted, the President is able to get away with using the broad powers allowed him uner IEEPA to carry out critical policies affecting billions of dollars of U.S. exports without benefit of any statutory structure or protection. There is also some evidence that the White House has actively discouraged Congress' further efforts to renew the Export Administration Act in order to permit the continuation of this extraconstitutional arrangement.

The bill the Senator from Utah and I are introducing is designed to prevent the President from using IEEPA merely as a free-ride vehicle while he vetoes important legislation. It would limit the President's authority under IEEPA to extend or reinstate expired provisions of law to a period no longer than 180 days. In addition, within 10 days of using IEEPA in such a case, two actions would automatically follow. Authorizing legislation would automatically be introduced in both Houses and referred to the appropriate committees of jurisdiction, and a joint resolution, approving the President's proposed extension of authority for up to 1 year, would also be inroduced in both Houses and referred to the appropriate committees.

The bill requires expedited procedures for discharge from committee and for floor consideration. For example, if Congress fails to enact authorizing legislation within 180 days, a vote on the joint resolution extending emergency authority would be guaranteed. The President may submit a proposal to Congress requesting an extension of expiring provisions of law beyond the 180 days, but he must include a declaration of the emergency and explain the unusual and extraordinary threat to national security, foreign policy, or the economy of the United States. Such a proposed extension shall not take effect unless the Congress passes a joint resolution approving the extension within 60 calendar days.

Mr. President, this bill deals with the limited circumstance of use of IEEPA as a substitute for legislation the President has chosen not to appove or the Congress has chosen not to extend. It does not attempt to address some of the other problems we have encountered with IEEPA over the years. In that sense, it is a modest proposal, but it is an important one, both for our exporters, who have the most at stake, and for the Constitution. I hope all senators will support it.•

By Mr. GRASSLEY (for himself and Mr. MOYNIHAN):

S. 2103. A bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortages areas, and for other purposes; to the Committee on Finance.

S. 2104. A bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

PRIMARY CARE HEALTH PRACTITIONER INCENTIVE ACT AND PHYSICIAL ASSISTANT INCENTIVE ACT

• Mr. GRASSLEY. Mr. President, today, on behalf of myself and Senator MOYNIHAN, I am introducing two bills, S. 2103, the Primary Care Health Practitioner Incentive Act of 1991, and S. 2104, The Physician Assistant Incentive Act of 1991. These bills would provide Medicare reimbursement to nurse practitioners [NP's], clinical nurse specialists [CNS's], certified nurse-midwives [CNM's], and physicians assistants [PA's].

Despite the best efforts of the Federal and many State governments, there are still many older Americans who do not have access to affordable health care. For many of these individuals, access would be improved if we reformed the archaic Medicare policies that place a limitation on Medicare Coverage of "physician" services provided by PA's, NP's, CNS's, and CNM's.

These bills will rectify this situation, Mr. President. Specifically, PA's, NP's, CNS's and CNM's would be paid 97 percent of the physician fee schedule for services they perform regardless of location or practice setting. The services include those which these providers are legally authorized to perform under State law whether or not the provider is under the supervision of, or associated with, a physician or other health care provider.

In addition, modeled after the bonus payment of physicians who work in health professional shortage areas [HPSA's], these practitioners would also be paid a bonus payment when they work in health professional shortage areas [HPSA's]. This provision is necessary to encourage nonphysician practitioners [NPP's] to relocate to areas in need of health care services.

THE PROBLEM

Many of the current Medicare payment policies for PA's, NP's, CNS's, and CNM's have no rational basis. I noted above that this legislation would call for the program to reimburse services which these providers are authorized to perform under State law. In both Iowa and New York, State law requires nonphysicians to practice with either a supervising or collaborating physician. This physician need not be physically present in the same facility as the nonphysician practitioner and in many instances is located in a site physically remote from the NPP. In many instances, Medicare reimbursement policy will not recognize this relationship and instead requires that the physician be in the same building as the NPP in order for services to be covered. This legislation would authorize coverage of these health care practitioners as long as they were practicing in accordance with State law.

In addition, the Medicare Program now covers the services of all of these practitioners; however, various payment mechanisms are established for each and, for some, coverage is limited to certain areas or facilities. The legislation directing these differentials in payment levels was passed in an incremental fashion. Both the nonphysician practitioner community and the Physician Payment Review Commission [PPRC] have recognized these inconsistencies and have called for their resolution. This legislation accomplishes that objective and sets a uniform payment policy for these providers.

This legislation also reconciles payment for nonphysician practitioners with the resource-based payment recommendations for physicians which will be implemented in January of 1992.

BACKGROUND

As mandated by law [OBRA '89], the PPRC conducted a study of the implications of a resource-based fee schedule for physician services for nonphysician practitioners. The commission's recommendations are incorporated in the 1991 annual report to Congress. During these deliberations, professional associations representing the nonphysician practitioner groups addressed by the study presented data to the commission and its staff.

Throughout the process, both the commission and the professional associations discussed alternative payment methodologies that would be consistent with the principles and goals of physician payment reform. Both groups reached similar conclusions, "the resulting payments do not reflect the relative costs of NPP services compared with physician services or the relative costs of services provided by one NPP category compared with another"—page 184, PPRC 1991 report to Congress. The mandate to change the law is clear.

In fact, much of this legislation is supported by the PPRC. The first part of this legislation provides a reimbursement rate of 97 percent of the physician payment for similar services. This rate has been developed utilizing identical resource components as those used to determine physician payment: work, practice expense, and malpractice expense. However, contrary to the recommendations of the commission, the PA's, NP's, CNS's and CNM's have documented to me that the value of the work component for physicians and nonphysicians is the same. Both the PPRC and the practitioner groups agree that "practice expense for a type of service should be roughly the same whether it is provided by a PA, NP, CNS, or CNM or a physician"—page 199, PPRC 1991 Report to Congress. Therefore, it is the differential in malpractice expenses that yields the 3-percent differential between the physician and nonphysician payment rates recommended in this bill.

The malpractice costs component represents on the average 4 percent of the physician fee schedule for each service. PA's, NP's, CNS's and CNM's experience 25 percent of the physician malpractice costs on the average. Hence, the professional liability insurance component for this fee schedule for PA's, NP's, CNS's, and CNM's is 1 percent.

Although not precisely accurate for all of these provider groups in all geographic areas of the country, this legislation provides simplicity for the implementation of this program by the Health Care Financing Administration.

IMPLICATIONS FOR PAYMENT POLICY

Currently, the services of PA's, NP's, CNS's and CNM's are paid at the physician rate when provided "incident to physicians' office services". Implicit in this bill is a discontinuation of this policy. Instead, all service provided by these practitioners will be identified as such through the use of a modifier code and will be paid at the 97 percent rate rather than the physician rate. This change will clarify both coverage and payment for services provided "incident to" physician services.

IMPLICATION FOR ACCESS TO CARE FOR MEDICARE BENEFICIARIES

This legislative proposal encourages greater participation in the Medicare Program by all members of the health care team—including PA's, NP's, CNS's and CNM's. Because of the unique contributions of each professional group, the overall improvement in health care for America's Medicare beneficiaries is ensured. Many communities, both urban and rural, simply cannot support a full-time physician. They can, however, support a full-time PA or nurse practitioner or nurse midwife. Therefore, the bill, if enacted, should improve access to health care in many urban and rural communities.

SUPPORT FOR THE BILL

The following groups are supporting these proposals:

American Academy of Physician Assistants.

National Association of Pediatric Nurse Associates and Practitioners [NAPNAP].

American Nurses' Association.

The Organization for Obstetric, Gynecologic, and Neonatal Nurses [NAACOG].

National Association of Neonatal Nurses.

National Association of Nurse Practitioners in Reproductive Health.

National Conference of Gerontological Nurse Practitioners.

National Organization of Nurse Practitioner Faculties.

Illinois Association of School Nurses.

American Nephrology Nurses Association.

National League for Nursing.

American College Health Association/Nurse Practitioner Section.

National Association of School Nurses.

Freestanding Nurse Practitioner Groups.

State Affiliated Nurse Practitioners.

California Coalition of Nurse Practitioners.

American College of Nurse Midwives.

New Hampshire Nurse Practitioner Association.

National Federation of Specialty Organizations.

I hope my colleagues will be able to join me in supporting this bill.

I ask unanimous consent that the texts of the bills be included in the Record after my statement.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 2103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Primary Care Health Practitioner Incentive Act of 1991".

SEC. 2. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, CLINICAL NURSE SPECIALISTS, AND CERTIFIED NURSE MIDWIVES.

(a) Increased Payment.—

(1) Nurse practitioners, clinical nurse specialists, and certified nurse midwives.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) in subparagraph (K), by striking "80 percent" and all that follows through "physician)" and inserting "97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician"; and

(B) in subparagraph (M) the second place it appears, by striking "80 percent" and all that follows through "(r)(2))" and inserting "97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician".

(2) Nurse practitioners.—Section 1842(b)(12)(A)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(12)(A)(ii)) is amended—

(A) in subclause (I), by striking "65 percent" and inserting "65 percent or in the case of nurse practitioner services 97 percent"; and

(B) in subclause (II), by striking "or for services" and all that follows through "1848" and inserting "or in the case of nurse practitioner services 97 percent of the fee schedule amount specified in section 1848 for the same service performed by a physician or for physician assistants the fee schedule amount specified in such section".

(b) Direct Payment for Nurse Practitioners or Clinical Nurse Specialists.—Section 1832(a)(2)(B)(iv) or such Act (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1880(d)(2)(D))".

(c) Bonus Payment for Services Provided in Health Professional Shortage Areas.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended—

(1) by inserting "(1)" after "(m)"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of services of a nurse practitioner, clinical nurse specialist or certified nurse midwife furnished to an individual, described in paragraph (1), in an area that is a health professional shortage area as described in such paragraph, in addition to the amount otherwise paid under this part, there shall also be paid to such service provider (or to an employer in the cases described in clause (C) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Trust Fund an amount equal to 10 percent of the payment amount for the service under this part.".

(d) Definition of Clinical Nurse Specialist Clarified.—Section 1861(aa)(5) of such Act (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by striking "clinical nurse specialist" each place it appears; and

(2) by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) The term 'clinical nurse specialist' means, for purposes of this Act, an individual who—

"(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(e) Removal of Restrictions on Settings.—Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (ii) by striking "in a skilled" and all that follows through "1919(a))"; and

(2) in clause (iii) by striking "in a rural" and all that follows through "(d)(2)(D))".

(f) Effective Date.—The amendments made by this section shall apply to services furnished on or after July 1, 1992.

S. 2104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Physician Assistant Incentive Act of 1991".

SEC. 2. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) In General.—Section 1842(b)(12)(A)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(12)(A)(ii) is amended—

(1) in subclause (I), by striking "65 percent" and inserting "65 percent or in the case of physician assistant services 97 percent"; and

(2) in subclause (II), by striking "or for services furnished" and all that follows through "1848" and inserting "or for services of a physician assistant 97 percent of the fee schedule amount specified in section 1848 for the same service performed by a physician or for services of a nurse practitioner the fee schedule amount specified in such section".

(b) Bonus Payment for Services Provided in Health Professional Shortage Areas.—Section 1833(m) (42 U.S.C. 13951(m)) is amended—

(1) by inserting "(1)" after "(m)"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of services of a physician assistant, furnished to an individual, described in paragraph (1), in an area that is a health professional shortage area as described in such paragraph, in addition to the amount otherwise paid under this part, there shall also be paid to such service provider (or to an employer in the cases described in clause (C) of section 1842(b)(6) (on a monthly or quarterly basis) from the Federal Supplementary Medical Trust Fund an amount equal to 10 percent of the payment amount for the service under this part.".

(c) Removal of Restriction on Settings.—Section 1861(s)(2)(K)(i) of such Act (42 U.S.C. 1395x(s)(2)(K)(i) of such Act (42 U.S.C. 1395x(s)(2)(K)(i) is amended by striking "(I) in a hospital" and all that follows through "shortage area".

(d) Effective Date.—The amendments made by this section shall apply to services furnished on or after July 1, 1992.●

By Mr. BENTSEN:

S. 2105. A bill to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE ACT OF 1991

● Mr. BENTSEN. Mr. President, for a substantial part of this legislative session, we have debated legislation regarding our Nation's transportation system. Although this legislation primarily relates to our land transportation system, we recognize that all types of transportation are important and interdependent. Thus, the development of our air transportation system is critical to the development of our overall transportation needs. It is imperative that we continue to promote the development of new aviation technologies that will allow us to respond to the ever-increasing transportation challenges that will face us in the coming years and to maintain our ability to compete in global aerospace markets.

The preferred mode of travel for intercity and international transportation is clearly air travel. Needless to say, this mode of travel has been quite successful in providing invaluable services to our Nation over the years. A look toward the future reveals that our air transportation system will encounter severe problems with airport congestion that will threaten our ability to expand our domestic transportation capacity to meet rising demands. Therefore, we must begin examining ways to avoid this imminent problem.

The development of vertical flight technology may be one important way to address the airport congestion problem. The type of vertical flight that has the most promise is performed by the tiltrotor aircraft. This aircraft takes off and lands vertically like a helicopter, but flies with the speed, comfort and range of a turboprop aircraft. It can therefore provide fast point-to-point service between relatively small transportation market points, independent of runway locations.

To date, tiltrotor aircraft have been primarily used for military purposes. The development of a civilian tiltrotor aircraft system would surely benefit from the engineering and operational experience of the military program.

This bill will require the Department of Transportation to establish a committee that will consider the most effective way to develop this important new technology. This committee will evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft. It will also devise a national system of infrastructure to support the incorporation of the technology into the national transportation system. One year after this committee begins such activity, it will be required to report its findings and determinations to Congress, so that the actual implementation of a civil tiltrotor aircraft program can be considered.

Mr. President, the establishment of a Civil Tiltrotor Development Advisory Committee is a significant step toward the continued modernization of our Nation's aviation system. I urge my colleagues to support passage of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Civil Tiltrotor Development Advisory Committee Act of 1991".

CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE

Sec. 2. (a) Establishment.—The Secretary of Transportation shall establish in the Department of Transportation a Civil Tiltrotor Development Advisory Committee (hereinafter referred to as the "Advisory Committee") to evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft and a national system of infrastructure to support the incorporation of tiltrotor aircraft technology into the national transportation system.

(b) Membership.—(1) The Advisory Committee shall be composed of members appointed by the Secretary of Transportation, not later than 60 days after the date of the enactment of this Act, as follows:

(A) At least one representative of the Department of Transportation.

(B) At least one representative of the Federal Aviation Administration.

(C) At least one representative of the National Aeronautics and Space Administration.

(D) Representatives of other Federal departments and agencies, State and local governments, and private industry, as considered appropriate and necessary by the Secretary.

(2) Members appointed pursuant to subparagraphs (A), (B), and (C) of paragraph (1) shall be appointed from among individuals employed within the Federal departments and agencies described in such subparagraphs who receive an annual rate of basic pay which equals or exceeds the rate payable for level VI of the Senior Executive Service.

(3) The Secretary of Transportation shall appoint a Chairperson of the Advisory Committee from among individuals employed within the Department of Transportation who receive an annual rate of basic pay which equals or exceeds the rate payable for level IV of the Executive Schedule.

(c) Duties.—The Advisory Committee shall—

(1) determine the costs, feasibility, and economic viability of developing a civil tiltrotor aircraft and establishing the necessary infrastructure to incorporate such aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(2) determines the benefits to the national economy and transportation system, including the potential for improved linkages and connections with other modes of transportation, of incorporating civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(3) determine further aeronautical research and development requirements needed to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(4) determine changes to regulatory standards governing use of the airspace which would be required to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system; and

(5) recommend which of the costs of developing civil tiltrotor aircraft and establishing the infrastructure necessary to support civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft should be paid by the Federal Government and which of such costs should be paid by private industry.

(d) Report.—Not later than the 365th day following the date of the first meeting of the

Advisory Committee, the Advisory Committee shall transmit to Congress a report containing its determinations and recommendations under subsection (c).

(e) TERMINATION.—The Advisory Committee shall terminate on the 30th day following the date of submission of its report under subsection (d).

By Mr. CRANSTON (for himself, Mr. SPECTER, and Mr. GORTON):

S. 2106. A bill to grant a Federal charter to Fleet Reserve Association; to the Committee on the Judiciary.

FLEET RESERVE ASSOCIATION FEDERAL CHARTER

• Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to introduce today S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association [FRA]. Joining with me as original cosponsors are the distinguished ranking Republican member of the committee, Arlen Specter, and Senator SLADE GORTON.

The FRA is a nonprofit, national service organization devoted to the welfare of active duty servicemembers of the sea services and veterans of that service, and their dependents and survivors. Officially chartered in Pennsylvania in 1924, its membership has grown to include 152,000 active duty, Reserve, and retired enlisted members of the Navy, Marine Corps, and Coast Guard and 323 chapters nationwide.

The FRA's primary purpose is to represent and further the viewpoint of its members on matters pertaining to military personnel issues. The association also works closely with the Department of the Navy and the headquarters of the Marine Corps and the Coast Guard in order to provide members and their families with direct assistance on individual career problems. In addition, the FRA assists its members, and their dependents and survivors with personal problems, especially those related to military pay and survivor benefits, and with matters before the Department of Veterans Affairs.

Mr. President, through legislative seminars and two national publications, the FRA keeps its members informed about congressional activity relevant to the members' concerns. It is vitally important in order to promote citizen involvement in the legislative process, that our servicemembers and veterans, and their survivors and dependents, learn about congressional action that affects them, and that they have an organization like the FRA that will represent their views before Congress. Such representation ensures that Congress is well advised of the concerns of the men and women who serve this Nation.

During my tenure as chairman of the committee, it has been my privilege to work with the Fleet Reserve Association on both legislative and oversight matters. Military personnel and veterans throughout our great country have benefited enormously from the FRA's diligent and effective advocacy on their behalf.

Mr. President, I believe that the granting of a Federal charter is an appropriate form of recognition for this group and should help promote its valuable ongoing work. I urge my colleagues' unanimous support of this measure.

I note that on April 24, 1991, the distinguished chairman of the House Veterans' Affairs Committee, G. V. "SONNY" MONTGOMERY, and the ranking Republican member, BOB STUMP, introduced H. R. 2070, a substantively identical bill to grant the FRA a Federal charter. I look forward to working with Chairman MONTGOMERY and Mr. STUMP to secure passage of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECION 1. FEDERAL CHARTER.

The Fleet Reserve Association, a nonprofit corporation organized under the laws of the State of Delaware, is recognized and granted a Federal charter.

SEC. 2. POWERS.

The association shall have only the powers granted to it through it bylaws and articles of incorporation filed in the State of States in which it is incorporated and subject to the laws of such State or States.

SEC. 3. PURPOSES.

The purposes of the association are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) aiding the maintenance of an adequate naval defense for the United States;

(3) assisting the recruitment of the best personnel available for the United States Navy, United States Marine Corps, and United States Coast Guard;

(4) providing for the welfare of the personnel who serve in the United States Navy, United States Marine Corps, and United States Coast Guard;

(5) continuing to loyally serve the United States Navy, United States Marine Corps, and United States Coast Guard.

(6) preserving the spirit of shipmanship by providing assistance to shipmates and their families and

(7) instilling love of the United States and the flag and promoting soundness of mind and body in the youth of the United States.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the association shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the association and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the association.

SEC. 6. BOARD OF DIRECTORS.

The composition of the board of directors of the association and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the States or States in which it is incorporated.

SEC. 7. OFFICERS.

The officers of the association and the election of the officers shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the State or States in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the association may inure to any member, officer, or director of the association or be distributed to any such individual during the life of this charter. This subsection may not be construed to prevent the payment of reasonable compensation to the officers and employees of the association or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The association may not make any loan to any member, officer, director, or employee of the association.

(c) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The association may not issue any shares of stock and declare or pay any dividend.

(d) CLAIMS OF FEDERAL APPROVAL.—The association may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities.

(e) CORPORATE STATUS.—The association shall maintain its status as a corporation organized and incorporated under laws of the State of Delaware.

(f) CORPORATE FUNCTION.—The association shall function as an educational, patriotic, civic, historical, and research organization under the laws of the State or States in which it is incorporated.

(g) NONDISCRIMINATION.—The terms of membership and the conditions for serving as an officer or director in the association may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

SEC. 9. LIABILITY.

The association shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The association shall keep correct and complete books and records of account and minutes of any proceeding of the association involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The association shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the association.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the association may be inspected by any member having the right to vote in any proceeding of the association, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) APPLICATION OF STATE LAW.—This section may not be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following: "(75) Fleet Reserve Association.".

SEC. 12. ANNUAL REPORT.

The association shall annually submit to the Congress a report concerning the activities of the association during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 11. The annual report may not be printed as a public document.

SEC. 13. DEFINITIONS.

For purposes of this Act:

(1) The term "association" means the Fleet Reserve Association.

(2) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

SEC. 14. TAX-EXEMPT STATUS.

The association shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

SEC. 15. TERMINATION.

The charter granted in this Act shall expire if the association fails to comply with the provisions of this Act.

Mr. GORTON. Mr. President, today I speak on behalf of the 152,000 members of the Fleet Reserve Association who request that this body grant their organization a Federal charter. As an honorary member of the Fleet Reserve Association in Washington State, and an original cosponsor of S. 2106, I wholeheartedly support this request.

The primary purpose of the association is to represent and further the viewpoint of its members on matters pertaining to military personnel issues and to provide individual career services to its members. Since 1924, the Fleet Reserve Association has been actively involved in providing individual career services to its members by working closely with the Department of the Navy, the U.S. Marine Corps and the U.S. Coast Guard. In addition, the association keeps abreast of the defense needs of our country and assists in the recruitment of quality personnel for our Nation's sea services.

The Fleet Reserve Association is a nonprofit, nonpartisan, and nonsectarian organization which deals solely with personnel issues rather than military, foreign or political policy.

The association extends its benefits both to its members and to sea servicemen, and their dependents regardless of affiliation.

Senators, a Federal charter for this organization is primarily a symbolic gesture. It does not provide the Fleet Reserve Association with Federal money or office space or any Government-funded perks. It is simply an official recognition of an organization which has worked selflessly and tirelessly for this country and for the great men and women who have served this country in the U.S. Navy, Marines, and Coast Guard, for a period of almost 70 years.

Given a record of service as long and distinguished as that of the Fleet Reserve Association, a Federal charter is well deserved and perhaps long overdue. I, therefore, ask you to join me today in support of Senator CRANSTON'S bid for a Federal charter for the Fleet Reserve Association with the certainty that you are acknowledging the eminently worthy work of a proud and indispensable organization.

By Mr. DURENBERGER:

S. 2108. A bill to establish a national policy to encourage the proper collection, handling, treatment, and disposal of medical waste materials; to the Committee on Environment and Public Works.

MEDICAL WASTE MANAGEMENT POLICIES

• Mr. DURENBERGER. Mr. President, today I am introducing the Medical Waste Management Act of 1991. This legislation is intended to assure the safe management of wastes generated by hospitals, clinics, laboratories, and other medical facilities.

The Medical Waste Management Program set forth in this legislation will replace the Medical Waste Tracking Program that the Congress enacted in 1988 and that has been carried out in a handful of States in the Mid-Atlantic region. This new program would apply to the whole country. It would be a complete management program including standards for storage, treatment, transportation, and disposal.

The Committee on Environment and Public Works will begin markup sessions on the RCRA reauthorization bill when the Congress returns in January. It is my intention to ask the committee to consider this bill as an amendment to that RCRA reauthorization legislation.

Reviewing the provisions of this legislation, one will find that its requirements are not unlike those which will be applied to all solid wastes by that RCRA bill. This bill includes a broader definition of medical waste than some would want and it also includes a very detailed management system. And that will cause concern to some. But a comparison of this bill to the basic RCRA regime that is about to be put in place will show that in the context of the future RCRA solid waste requirements, this program is appropriate for the special characteristics of medical waste.

Medical waste is generated by hospital and other health care facilities, medical laboratories, physician and dentist offices, and other facilities such as nursing homes, funeral homes, and veterinary hospitals. Improper disposal of this waste, as with other types of refuse, is an environmental concern. In addition, certain types of medical waste, such as body parts, can be aesthetically displeasing, and other items, such as hypodermic needles and scalpels, can result in physical injury. However, the major concern is that some medical waste is potentially infectious.

Medical waste is most often defined to include microbiological wastes, liquid blood and blood products, isolation wastes from patients with communicable diseases, pathological wastes, such as body tissues and organs, used sharps like needles and scalpels, and contaminated animal carcasses, body parts, and bedding.

The number of facilities generating medical wastes is unknown but could exceed more than 1 million sites. Reliable data on the total amount of medical waste is also uncertain, but the Environmental Protection Agency estimates the total may be 3.2 million tons per year. About 80 percent of this amount comes from hospitals and according to EPA 10 to 15 percent may be infectious waste.

Hospitals and other health care facilities routinely segregate their wastes that may be infectious. This wastes is placed in specially designated or colored bags—so-called red bags—for storage and disposal. Needles and scalpels are placed in rigid containers to prevent injury to the health care work force.

Hospitals have generally handled their waste by burning it in an incinerator at the hospital. About 70 percent of the hospital waste is incinerated. Another 15 percent is sterilized with steam or heat before it is disposed.

We know that these practices are changing rapidly. Many hospital incinerators have only primitive pollution control equipment. The infectious character of the waste is addressed by incineration, but these facilities can contribute substantial amounts of toxic chemicals to the air in their communities. Air emission standards for hospital incinerators are on the horizon, and as a result much larger volumes of medical waste will be shipped and disposed at other sites.

During 1987 and 1988, several incidents of medical waste washing up on the shores of New Jersey, New York, and Maryland were reported in the press. Problems were also found in the Great Lakes region of the country. Beaches were closed. Businesses which relied on the tourist trade lost money. People were denied the use of these public resources. There have also been many other incidents where children have been exposed to medical wastes that were disposed in unsafe ways.

Many States, including my own State of Minnesota, have responded to those events with medical waste management programs of their own.

This legislation is also designed to address those problems and to assure that a uniform national system for the management of medical waste can be put in place. The bill includes a broad definition of medical waste, requires that regulated medical waste be segregated and stored in specially designated containers, requires that persons transporting or treating medical waste register with EPA and obtain a permit for treatment facilities, establishes treatment standards for various categories of medical wastes, and establishes standards for facilities that treat or dispose of medical waste.

Mr. President, I ask that the text of the bill be printed in the RECORD along with my comments today.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. This Act may be cited as the "Medical Waste Management Act of 1991".

SEC. 102. Subtitle J of the Solid Waste Disposal Act is amended to read as follows:

"Subtitle J—Medical Waste Management Policies

"SEC. 11001. (a) The Congress hereby declares it to be the national policy of the United States that (A) the proper collection, handling, treatment and disposal of medical waste be encouraged to the maximum extent achievable, (B) improper management of medical waste be curtailed in order to properly protect human health and the environment, and (C) the United States no longer disregard the public health and safety concerns and the physical hazards to human health and the environment posed by the improper management of medical waste.

"(b) The Congress further declares it to be the national policy of the United States that the management of medical waste be considered and implemented to assure a comprehensive approach to medical waste management that fosters compliance with standards necessary to protect human health and the environment.

"MEDICAL WASTE DEFINITIONS

"SEC. 11002. As used in this subtitle:

"(1) The term "regulated medical waste" means any solid waste or secondary materials generated in the diagnosis, treatment (e.g., provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. Such term does not include any "hazardous waste" identified or listed under section 3001 or any "household waste" as defined in regulations under subtitle C (including garbage, trash and sanitary wastes in septic tanks derived from households), except to the extent provided in section 11011. Regulated medical waste includes, but is not limited to:

"(A) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines and culture dishes and devices used to transfer, inoculate, and mix cultures.

"(B) Human pathological wastes, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

"(C) Liquid waste human blood, items saturated or dripping with human blood, items that were saturated or dripping with human blood that are now caked with dried human blood, and products of blood, including serum, plasma, and other blood components and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals and including intravenous bags.

"(D) Sharps that have been used in animal or human patient care or treatment or in medical research or industrial laboratories, including hypodermic needles, syringes (with or without attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing and culture dishes (regardless of presence of infectious agents), other types of broken or unbroken glasswares that was in contact with infectious agents.

"(E) Contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

"(F) Biological waste and discarded materials contaminated with blood, excretion, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases or isolated animals known to be infected with highly communicable diseases.

"(G) Chemotherapy wastes, including used intravenousbags and needles, tubing, vials, gloves, gowns, masks, and other disposable material used in the administration of cytotoxic or antineoplastic agents.

"(H) Unused, discarded sharps including hypodermic needles, suture needles, syringes and scalpel blades.

The Administrator is authorized to modify the definition of regulated medical waste under this paragraph as necessary to protect human health and the environment. The Administrator, in consultation with the Director of the Centers for Disease Control and the Administrator of the Occupational Safety and Health Administration, shall consider which of the wastes regulated under the Medical Waste Tracking Act of 1988 are appropriate for inclusion in the definition of regulated medical waste under this title.

"(2) The term "infectious agent" as used in the definition for regulated medical waste means any organism (such as a virus or bacteria) that is capable of being communicated by invasion and multiplication in body tissue and capable of causing disease or adverse health impacts in humans.

"(3) The term "generator" means any person whose activity or process produces regulated medical waste, without regard to quantity of medical waste produced, and includes, but is not limited to, the following categories of facilities and activities:

General Acute Care Hospital
Skilled Nursing Facility or Convalescent Hospital
Intermediate Care Facility
In-Patient Care Facility for the Developmentally Disabled
Chronic Dialysis Clinic
Free Clinic
Community Clinic
Employee Clinic
Health Maintenance Organization (HMO)
Surgical Clinic
Urgent Care Clinic
Acute Psychiatric Hospital
Laboratory
Medical Buildings
Physicians Offices
Veterinarians Offices
Veterinary Hospital
Home Health Agencies
Federal Facilities

"(4) The term "storage" means the temporary holding of regulated medical waste at a designated accumulation area before treatment, disposal or transport.

"(5) The term "transporter" means a person engaged in the off-site transportation of regulated medical waste by air, rail, highway, or water.

"(6) The term "transportation" means the shipment or conveyance of regulated medical waste.

"(7) The term "treatment", when used in connection with regulated medical waste, means any method, technique or process designed to change the biological character or composition of regulated medical waste so as to reduce or eliminate its potential for causing disease or otherwise render it nonhazardous, or so as to render such medical waste safer for transport or storage.

"(8) The term "OSHA" means the Occupational Health and Safety Administration in the Department of Labor.

"STORAGE AND CONTAINMENT OF MEDICAL WASTE

"SEC. 11003. (a) IN GENERAL.—

"(1) Not later than 12 months after the enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with OSHA, shall promulgate regulations for the storage and containment of regulated medical waste.

"(2) Containment of medical waste shall be in a manner and location which assures protection of human heath and the environment and curtails the risk of infectious disease transmission. Such containment shall minimize the exposure of the public to regulated medical waste, and shall be of such a nature and so maintained that such containment will not degrade or decompose, will not provide a breeding place or a food source for insects and rodents, and shall afford ample protection from animals and weather conditions.

"(3) Regulated waste shall be segregated from other waste at the point of origin in the producing facility of the generator.

"(3) Regulated medical waste shall be segregated from other waste at the point of origin in the producing facility of the generator.

"(4) Containment of medical waste shall be separate from other wastes. Enclosures or containers used for containment of medical waste shall be so secured so as to deny access by unauthorized persons and shall be marked with prominent warning signs on, or adjacent to, the exterior of entry doors, gates, or lids. Each container shall be prominently labeled with sign using language to be determined by the Administrator and legible during daylight hours from a distance of 25 feet.

"(b) STORAGE.—Regulated medical waste shall not be stored at a waste producing facility in a manner including the period of time and the maximum temperature at which stored) which will allow any portion of such waste to putrefy. Such requirements may vary with the nature of the waste to be stored. Containment of regulated medical waste at the producing facility for a period of not more than 90 days in accordance with such requirements is permitted without specific approval.

"(c) CONTAINMENT.—

"(1) Regulated medical waste, except for sharps capable of puncturing or cutting, shall be contained in disposable plastic bags which are impervious to moisture and have a strength sufficient to preclude ripping, tearing, or bursting under normal conditions of usage. The bags shall be securely tied so as to prevent leakage or expulsion of solid or liquid wastes during storage, handling, or transport.

"(2) Sharps shall be contained for disposal in leakproof, rigid, puncture-resistant containers which are taped closed or tightly lidded to preclude loss of the contents.

"(3) All bags used for containment and disposal of regulated medical waste shall be red in color and conspicuously labeled to denote the nature of the medical waste. Rigid containers of sharps waste shall be labeled in the same way or placed in the disposable bags used for other regulated medical waste.

"(d) HANDLING.—

"(1) Compactors or grinders shall not be used to process regulated medical waste until after the waste has been rendered noninfectious. Regulated medical waste shall not be subject to compaction by any compacting device and shall not be placed for storage or transport in a portable or mobile trash compactor.

"(2) Regulated medical waste contained in disposable containers as prescribed above, shall be placed for storage, handling, or transport in disposable or reusable pails, cartons, drums, dumpsters, or portable bins. The containment system shall be leak resistant, have tightfitting covers, and be kept clean and in good repair. The containers shall be of any color and shall be conspicuously labeled as set forth in the promulgated requirements, on the lid and on the sides so as to be readily visible from any lateral direction when the container is upright.

"(3) Reusable containers for regulated medical waste shall be thoroughly washed and decontaminated each time they are emptied by a method specified by the regulations or the State Department of Health, unless the surfaces of the containers have been protected from contamination by disposable liners, bags, or other devices removed with the waste.

"(4) Approved methods of decontamination may include, but are not limited to, agitation to remove visible soil combined with one of the following procedures:

"(A) Exposure to hot water of at least (1800 F) for a minimum of fifteen seconds.

"(B) Exposure to a chemical sanitizer by rinsing with or immersion in one of the following for a minimum of three minutes: (i) Hypochlorite solution (500 ppm available chlorine); or (ii) Idoform solution (100 ppm available iodine).

"(5) Reusable pails, drums, dumpsters or bins used for containment of regulated medical waste shall not be used for containment of waste to be disposed of as non-infectious waste or for other purposes except after being decontaminated.

"(6) Trash chutes shall not be used to transfer regulated medical waste between containment locations.

"TRANSFER OF MEDICAL WASTE TO OFF-SITE TREATMENT OR DISPOSAL FACILITIES

"SEC. 11004. (a) TRANSFER OF MEDICAL WASTE TO OFF-SITE TREATMENT AND DISPOSAL FACILITIES.—Any generator of regulated medical waste shall transfer custody of the waste only to a transporter who is registered as a regulated medical waste transporter by the Administrator in accordance with section 11005.

"(b) SEGREGATION OF MEDICAL WASTE IN TRANSPORT.—Regulated medical waste shall not be transported in the same vehicle with other waste unless the medical waste is separately contained or unless all of the waste is to be treated or disposed of as regulated medical waste in accordance with the requirements of this subtitle.

"(c) OFF-SITE STORAGE.—Regulated medical waste shall not be stored at any off-site location in a manner (including the period of time and the maximum temperature at which stored) which will allow any portion of such waste to putrefy. Such requirements may vary with the nature of the waste to be stored.

"(d) MEDICAL WASTE TREATMENT OR DISPOSAL FACILITY.—Regulated medical waste shall be delivered for treatment or disposal only to a facility for which there is a valid and appropriate Medical Waste Facility Permit in accordance with section 11008.

"(e) HANDLING REQUIREMENTS.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with OSHA, shall promulgate regulations establishing requirements for the handling of regulated medical waste by persons who may be in contact with such waste during the transportation process.

"(f) DECONTAMINATION OF TRANSPORT VEHICLES.—Transport vehicles that have contacted spilled or leaked regulated medical waste shall be decontaminated by exposure to hot water of at least 180° F or through chemical sanitizing with the chemicals specified in section 1103(d)(4)(B).

"(g) IDENTIFICATION OF TRANSPORT VECHICLES.—Vehicles transporting regulated medical waste shall be identified on each side of the vehicle with the name or trademark of the transporter.

"STANDARDS APPLICABLE TO TRANSPORTERS OF MEDICAL WASTE

"SEC. 11005. (a) STANDARDS APPLICABLE TO TRANSPORTERS OF MEDICAL WASTE.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with the Secretary of Transportation, shall promulgate regulations establishing requirements for registration as a regulated medical waste transporter.

"(b) REGISTRATION AS MEDICAL WASTE TRANSPORTER.—

"(1) The regulations shall require that any person desiring registration as a medical waste transporter must submit to the Administrator a completed and signed application form provided by EPA.

"(2) The form shall contain a statement certifying that the applicant understands and will company with the applicable requirements of this subtitle, and a list of all vehicles and containers used in the transport of regulated medical waste.

"(3) Each vehicle listed must be registered to the applicant or under control of the applicant pursuant to a written lease or contract, and included in the applicant's required insurance coverage.

"(c) PROOF OF LIABILITY COVERAGE.—

"(1) Applicants shall be required to show evidence of financial responsibility adequate for any potential cleanup costs or third-party damages resulting from the operation of the person's business.

"(2) A copy of the insurance policy, if insurance is the chosen financial alternative for the required coverage, shall be maintained at the transporter's principal place of business.

"(3) A Certificate of Insurance, a bond of a licensed surety company or evidence of qualifications as a self-insurer, shall be provided which indicates that the minimum coverage has been obtained.

"(4) A registered medical waste transporter shall notify the Administrator in writing immediately upon notice of loss of the required liability coverage. A transporter shall immediately cease to transport medical waste upon loss of liability coverage.

"(d) FEES.—Fees for registration and inspection shall be collected from transporters as determined by the Administrator.

"(e) ANNUAL INSPECTIONS OF ROAD VEHICLES.—

"(1) Applicants shall be required to demonstrate that all trucks, trailers, semi-trailers, and containers which are to be used by the applicant for transportation of regulated medical waste on highways and which are subject to the provisions of this subtitle have passed an annual inspection by the Department of Transportation.

"(2) Any person who transports or proposes to transport medical waste on a highway shall—

"(A) Allow the Department of Transportation to inspect jointly the person's trucks, trailers, semi-trailers, and containers;

"(B) Make vehicles and containers available for inspection at a safe work location;

"(C) Allow the Department and the Administrator to inspect manifests, reports, permits, licenses, and other documents related to the handling or transporting of regulated medical wastes;

"(D) Make available to the Administrator and the Department of Transportation upon request all records of inspection.

"(3) The Department of Transportation or the Administrator may require testing, under prescribed conditions, of trucks, trailers, semi-trailers, or containers used to transport regulated medical wastes, in order to assure compliance with this subtitle.

"(4) When so requested by the Department of Transportation or the Administrator, a medical waste transporter shall, within a reasonable period of time, perform any or all of the following actions:

"(A) remove regulated medical waste or materials from the containers or other appurtenances of a truck, trailer, semi-trailer or container in order to make it safe to inspect;

"(B) remove covers and take other steps necessary to allow inspection;

"(C) present the manifest for the waste last held in each truck, trailer, semi-trailer, or container to be inspected.

"(5) Each medical waste transporter shall arrange for an inspection by the Department of Transportation prior to expiration of any certification or date assigned for annual inspection.

"(f) REQUIREMENTS FOR TRANSPORTERS.—

"(1) Registration as a regulated medical waste transporter will expire one year from date of issuance.

"(2) All vehicles and containers requiring certificates of compliance and any attached equipment must be in sound condition and containers must be designed and maintained to properly contain medical waste.

"(3)(A) A certificate of compliance issued by the Department of Transportation shall be placed on each truck, trailer, semi-trailer, and container which has passed its annual inspection.

"(B) The certificate of compliance shall not be displayed by any person who is not registered with the Department of Transportation as a medical waste transporter.

"(C) The certificate of compliance shall expire simultaneously with the expiration date of the medical waste transporter registration, unless the Department of Transportation determines in writing that a simultaneous expiration date would place an undue burden upon the applicant.

"(4) Registered medical waste transporters shall notify the Department of Transportation in writing within 30 days of the following occurrences:

"(A) The transporter changes majority ownership, name, or location;

"(B) Ownership or control of a vehicle or container certified by the Department is changed;

"(C) A truck, trailer, semi-trailer, or container certified by the Department is involved in any spill, in an accident which renders or may have rendered the vehicle or container in noncompliance with the requirements of this Title.

"(g) Medical Waste Containers.—

"(1) Each truck, trailer, semi-trailer, or container used for shipping regulated medical waste shall be so designed and constructed, and its contents so limited, that under conditions normally incident to transportation, there shall be no release of regulated medical waste to the environment.

"(2) Any truck, trailer, semi-trailer, or container used for shipping regulated medical waste shall be free from leaks and all discharge openings shall be securely closed during transportation.

"(h) Transport by Rail, Air or Water.—The Administrator, in consulation with the Secretary of Transportation, shall promulgate regulations which apply the standards and regulations under this section applicable to regulated medical waste transporters using the roadways, to transporters using either the railway, airway or waterway systems to transport regulated medical waste.

"(i) Definition of Container.—For the purposes of this section, the term "container" refers to a large container that is part of a transportation system, designed to contain and aggregate multiple smaller containers but capable of being separated from the vehicle.

"TREATMENT OR DISPOSAL OF MEDICAL WASTE

"Sec. 11006. (a) Regulations.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator shall promulgate regulations establishing standards for the treatment or disposal of regulated medical waste.

"(b) Treatment or Disposal of Medical Waste.—Disposal of regulated medical waste without treatment is prohibited. Treatment of regulated medical waste shall be by one of the following methods:

"(1) (A) Such medical waste may be treated by incineration in a controlled-air multichambered incinerator which provides complete combustion of the waste to carbonized or mineralized ash.

"(B) Incinerators shall be capable of providing proper combustion temperatures and residence time and shall be properly interlocked to assure that optimum operating parameters are maintained. Emissions shall meet emission limitations established on the basis of the maximum achievable control technology, as determined under section 129 and section 112(d) of the Clean Air Act.

"(2)(A) Such medical waste may be treated by decontamination by heating in a steam sterilizer so as to render the waste non-infectious. Medical waste so rendered non-infectious may then be disposed of in accordance with subtitle D or this subtitle, if such decontaminated medical waste is not otherwise identified as a hazardous waste under section 3001.

"(B) Minimum operating procedures for steam sterilizers shall include, but not be limited to, the following;

"(i) Adoption of standard written operating procedures for each steam sterilizer including time, temperature, pressure, type of waste, type of container(s), closure on container(s), pattern of loading, water content, and maximum load quantity.

"(ii) Check of recording and indicating thermometers during each complete cycle to assure the attainment of a temperature no lower than 121° C (250° F) for one-half hour or longer, depending on quantity and density of the load, in order to achieve decontamination of the entire load. Thermometers shall be checked for calibration at least annually.

"(iii) Use of heat sensitive tape or other device for each load that is processed to indicate the attainment of adequate sterilization conditions.

"(iv) Maintenance of records of procedures specified in this subparagraph for a period of not less than one year.

"(3) Non-infectious liquid medical waste may be discharged through a sewer to a publicly owned treatment works, unless prohibited by a State or local health officer or the owner or operator of the publicly owned treatment works.

"(4) The Administrator shall establish a process for qualifying other innovative technologies for the treatment of regulated medical waste, and any such technology may qualify under this subsection if it is found to be as effective in treatment or decontamination as the methods specified in paragraphs (1) and (2).

"(c) Disposal of Cultures.—Cultures of viable etiologic agents shall be rendered non-infectious before disposal on land by heating the cultures in a steam sterilizer, by incineration, or by another sterilization technique approved in writing by the Administrator.

"(d) Anatomical Remains.—Medical wastes consisting of recognizable human anatomical remains shall be disposed of by incineration or interment, unless burial in a landfill is specifically required by the Administrator because the waste contains a hazardous constituent.

"SHIPPING PAPERS

"Sec. 11007. (a) Shipping Papers.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator shall promulgate regulations to establish a system of shipping papers that must accompany shipments of regulated medical waste from the location where they are generated to any treatment or disposal facility. Such regulations shall require generators of regulated medical waste and the owners and operators of facilities for the treatment or disposal of regulated medical waste to maintain records and to report at least annually on the types and quantities of regulated medical waste generated or received and as to compliance with this section.

"(b) Requirements of Shipping Papers.—The shipping papers shall include, but not be limited to, the following:

"(1) The name and address of the generator;

"(2) A brief, general description of the nature and volume of the regulated medical wastes being shipped;

"(3) An indication of whether or not the regulated medical wastes have been treated to render them non-infectious, and if so, the method of treatment;

"(4) If the waste has been treated, the name and address of the treatment facility;

"(5) A method by which the person causing the transportation of a shipment of waste shall designate the offsite treatment or disposal facility, as appropriate, to which the transporter shall deliver the waste.

"(6) A certification by the person causing the waste to be transported that (A) the waste is packaged and labeled in accordance with the regulations adopted under this subtitle; (B) the description of the waste and statement on whether the waste has been treated is accurate; and (C) if the waste has been treated, it has been treated in accordance with methods, techniques, and practices prescribed by requirements under this subtitle.

"(c) Medical Waste Without Shipping Papers.—No off-site treatment or disposal facility shall accept any regulated medical waste, treated or untreated, without the appropriate accompanying shipping papers. No generator of regulated medical waste shall transport or offer for transport, off-site storage, treatment or disposal, any regulated medical waste unless it is accompanied by the appropriate shipping papers.

"(d) Small Quantity Generators.—The Administrator may promulgate alternative requirements applicable to those facilities generating less than 25 kilograms of regulated medical waste per month, provided that such regulations assure protection of human health and the environment with respect to the transportation, treatment and disposal of regulated medical waste.

"TREATMENT, STORAGE, OR DISPOSAL FACILITIES

"Sec. 11008. (a) Requirements for Medical Waste Treatment, Storage, or Disposal Facilities.—Any person who operates a facility for the treatment, storage, or disposal of regulated medical waste shall have a valid and appropriate medical waste management facility permit issued by the Administrator. Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with OSHA, shall promulgate regulations establishing the requirements for such permits and the procedure for issuing such permits.

"(b) Operation Plan.—The operator of any facility used for the treatment, storage, or disposal of regulated medical waste shall have and shall adhere to an operation plan for the handling and disposal of regulated medical waste approved in writing by the Administrator, which shall be a condition of the permit issued under this section. The operation plan shall provide for or include, but not be limited to, the following:

"(1) A method of receiving wastes which assures that regulated medical wastes are handled separately from other wastes until treatment or disposal is accomplished and which prevents unauthorized persons from having access to or contact with the wastes;

"(2) A method of unloading and processing of regulated medical wastes which limits the number of persons handling the wastes and minimizes the possibility of exposure of employees and the public using or visiting the facility to the medical waste;

"(3) A method of decontaminating emptied reusable medical waste containers, transport vehicles or facility equipment which are known or believed to be contaminated with infectious agents or regulated medical waste;

"(4) The provision and required use of clean gloves and uniforms along with other protective clothing, face masks or respirators to provide protection of employees against exposure to regulated medical waste. Soiled protective gear shall be disposed of at the facility or decontaminated;

"(5) The means of decontamination of any person having had bodily contact with regulated medical waste while transporting the waste to the treatment or disposal facility or while handling or disposing of the waste at the facility;.

"(6) A quantification of the maximum amount of medical waste that may be treated, stored, or disposed of per month at the facility.

"(c) NEW OR REVISED OPERATION PLAN.—A new or revised operation plan for a treatment, storage, or disposal facility for regulated medical waste shall be submitted for approval to the Administrator whenever there is a projected increase of more than twenty-five percent in the maximum quantity of regulated medical waste receiving treatment, storage, or disposal per year by the facility or when changes are otherwise made in an existing operation plan.

"(d) NONCOMPLIANCE WITH OPERATION PLAN.—Approval for acceptance of regulated medical waste at a treatment, storage, or disposal facility may be withdrawn by the Administrator for noncompliance with the operation plan or other conditions of a permit issued under this section.

"(e) FINANCIAL ASSURANCE REQUIREMENTS.—As a condition of approval for such permit, any person who operates a facility for the treatment, storage, or disposal of medical waste shall provide evidence of financial assurance in accordance with section 3004(t) to meet all responsibilities with respect to corrective action or closure of such facility and any damages caused by the release of such waste.

"STATE PROGRAMS

"SEC. 11009. Not later than 6 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator shall promulgate regulations establishing the minimum content for State programs to carry out this subtitle. After the effective date of regulations under this subtitle [eighteen months after the date of enactment of the Medical Waste Management Act of 1991], the requirements of this subtitle shall be carried out by each State that has expressed its intention to operate a regulated medical waste program in accordance with this subtitle, unless the Administrator determines that the program of such State does not comply with this subtitle and the minimum State program content regulations promulgated under this section, or that the State does not have the authority or resources to carry out such program.

"ENFORCEMENT AND SANCTIONS

"SEC. 11010. For the purposes of sections 3007 and 3008, the phrase "any requirement of this subtitle" includes any requirement of subtitle J and the term "hazardous waste" includes regulated medical waste.

"HOUSEHOLD MEDICAL WASTE

"SEC. 11011. The Administrator shall undertake a study of medical waste from households, and to the extent that a system for the collection and management of such medical wastes can be developed, the Administrator shall designate medical wastes from households that can be accommodated by such system as regulated medical waste under this subtitle.".

"SEC. 103. Section 1004(40) of the Solid Waste Disposal Act is amended to read as follows:

"(40) The term "medical waste" shall have the meaning provided in section 11002(1).".•

By Mr. BAUCUS (for himself, Mr. PACKWOOD, and Mr. HATCH):

S. 2109. A bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years other than taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Finance.

METHOD OF ELECTION OF TAXABLE YEARS

• Mr. BAUCUS. Mr. President, the Tax Reform Act of 1986 [TRA 1986] imposed a requirement that partnerships, S corporations, and personal service corporations adopt, in general, a calendar year for tax purposes. As a result of public outcry concerning the difficulties created by this requirement, the Revenue Act of 1987 modified TRA 1986 with the creation of section 444 which allowed retention or adoption of a fiscal year by partnerships, S. corporations and personal service corporations if certain annual requirements were met. Section 444 provided a mechanism for relief. However, time has demonstrated that the original rules are overly restrictive and need modification.

The increased complexity of TRA 1986 has resulted in more time being devoted by taxpayers and their advisors to both planning and preparation of individual and small business tax returns. This increased workload has been further compounded by many taxpayers having switched from fiscal years to calendar years. More tax planning and preparation must now be done in a shorter period of time.

A nationwide survey conducted by a national organization of certified public accountants indicates that approximately 60 percent of the annual workload occurs during the first 3 to 4 months of the year. This has historically been a heavy workload period, but it has now become unacceptably heavy for taxpayers and their advisers.

Automatic extensions are available for many tax returns, but this provides only minimal relief to small business taxpayers and advisors. Extensions are costly and inconvenient. The tax liability must still be computed with great accuracy by the original due date. Further, it make it difficult to obtain the information necessary to estimate the tax liability of owners in order for them to apply for an extension.

This workload compression problem is not limited to tax work. It has become an even greater problem with accounting and auditing work. Owners and creditors typically demand financial statements and audit reports within 90 days after year end. Now this work must also be done between January 1 and April 15.

On average, only about 20 percent of small businesses which were on a fiscal year prior to TRA 1986 remain on a section 444 fiscal year.

The administration of the tax system is also damaged by the resulting uneven workload experienced by the Internal Revenue Service. The IRS, taxpayers, and tax practitioners can better meet tax filing requirements if the demands are spread throughout the year.

With the enactment of the section 444 fiscal year retention rules, Congress acknowledged that there are legitimate business reasons for allowing fiscal years. Fiscal years are ordinarily chosen to coincide with the natural business year of the taxpayer. The year end conformity requirement of TRA 1986 unduly interfered with business operations, and the fiscal year retention rules of RA 1987 did not go far enough in remedying the problem.

The legislation I am introducing today modifies a portion of the rules for fiscal year retention in a way which addresses the continuing problems in this area without sacrificing revenue. The general rules of sections 444, 7519, and 280H would remain relatively unchanged. The proposed legislation would reopen the election process to allow existing entities to either elect, re-elect, or modify an existing election for a fiscal year. It is anticipated that the proposed changes to the law will sustain revenue levels. A revenue estimate on the proposal to confirm this neutrality has been requested. In the event that the revenue estimate is negative, certain technical modifications to this bill are available to retain neutrality. The Secretary of the Treasury would prescribe rules consistent with current IRS practices for the frequency of changes.

In addition, no restriction would be imposed on the length of the deferral period. Entities would be allowed to elect a fiscal year which ends in any month. The proposed legislation would also make minor technical corrections and administrative changes which will make the provision fairer and more administrable.

The proposed legislation addresses serious problems being encountered by small businesses and their tax advisors; it offers taxpayers greater flexibility and fairness; it adds to the administrability of the tax system; and, it sustains revenues in this difficult time of budget constraints.

Mr. HATCH. Mr. President, I rise today with my colleagues from Montana and Oregon to introduce legislation to provide small businesses with the option to use a fiscal year instead of a calendar year for tax purposes.

The Tax Reform Act of 1986 contained a provision requiring small businesses to use a calendar year in computing their taxes. This affected small businesses, tax preparers, and the IRS. In response to the difficulties created by the calendar year requirement, the Tax Reform Act of 1987 modified these rules to allow certain small businesses to continue using fiscal years for tax purposes if certain annual requirements were met. This legislation brought some relief to business, but not enough. Most small businesses switched from a fiscal year to a calendar year.

When combined with the increased complexity of the tax law, this transition has severely affected the accounting industry by requiring that more time be spent with each client. The resulting workload shift for tax advisors has caused the period from December to May to become unacceptably heavy, with increases of up to 20 percent. The rest of the year's workload has dropped to unacceptably low levels. This workload pattern is mirrored by the Internal Revenue Service.

This legislation would help correct this imbalance by allowing small businesses to elect to use either fiscal or calendar years for tax purposes. As businesses switch to fiscal years, the workload of tax advisors and the IRS will be spread throughout the year.

As companies make the transition, a short accounting period is created. The short period reduces estimated payments to the Federal Government. This bill would require those companies making the switch to a fiscal year to make an initial deposit payment offsetting this revenue loss. This payment would remain on deposit and be refunded to the company after 20 months.

Mr. President, this legislation is a win-win proposition. It would impose no additional regulation on anyone. Instead, the provisions it contains are purely optional. It gives businesses the freedom to elect the accounting period that best coincides with their business cycle and does so in a fiscally responsible manner. This legislation gives much needed relief to American small business, the accounting industry, and the Internal Revenue Service. I heartily urge my colleagues to support this bill.

By Mr. ADAMS for himself and Mr. GORTON):

S. 2110. A bill to amend the Internal Revenue Code of 1986 to clarify that conservation expenditure by electric utilities are deductible for the year in which paid or incurred; to the Committee on Finance.

ENERGY CONSERVATION EXPEDITURES BY ELECTRIC UTILITIES

• Mr. ADAMS. Mr. President, I am pleased to join with my colleague from Washington State, Senator GORTON, to introduce legislation clarifying the tax treatment of conservation expenses by electric utilities.

Earlier this year, we considered national energy security legislation. That legislation was defeated, partly because certain provisions were objectionable to many Senators. On a more fundamental level, the energy bill was defeated because it was not balanced. It focused too much on production and not enough on conservation.

A major component of our Nation's energy policy must be conservation. It has been estimated that increasing energy efficiency can decrease our energy use by one-third to one-half. The Union of Concerned Scientists has estimated that retrofitting electrically heated residential housing would cut energy consumption in those houses by 87 percent.

The implications are obvious. Greater energy conservation can increase our energy security. It can save taxpayers' money.

However, a fundamental problem inhibits our energy conservation efforts. Existing market barriers and incentive programs favor energy production. Not energy conservation. This must change if tremendous potential of energy conservation is to be realized.

The legislation we are introducing will preserve an important tax incentive for energy conservation.

In the spirit of conservation and reducing the demand for electricity, utilities have embarked on ambitious public education programs. The programs analyze customers' use of electricity and, if cost effective, provide funding to improve consumer energy efficiency. Typical activities include installing more efficient lighting, windows and appliances, and weatherizing older homes.

Since their inception, the IRS has treated the costs of conservation programs as deductable expenses in the year in which they occur. The costs associated with these programs include wages and salaries of employees who conduct and administer these programs, as well as grants given to contractors or customers for energy efficient measures.

I recently became aware of a problem that could send a chilling message to utilities across the country.

Due to conflicting intentions articulated by the Internal Revenue Service, the future treatment of conservation costs is unclear.

Hesitant and vague explanations from the IRS have resulted in considerable uncertainty for utilities. This uncertainty is causing utilities to place on hold or scrap altogether future upgrades and improvements in their conservation programs.

Conservation remains an essential component of any national energy plan. If conservation is to remain a viable option, we must act next year to clarify the tax treatment of these expenses.

The bill we are introducing today is simple and straightforward. It will amend the Internal Revenue Code of 1986 to clarify that conservation expenditures by electric utilities are deductable for the year in which paid or incurred.

Senator GORTON and I urge our colleagues to join us in sending a clear message to utilities across the country that conservation is and will always remain one of our highest priorities.

Mr. President. I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENERGY CONSERVATION EXPENDITURES BY ELECTRIC UTILITIES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 196 the following new section:

"SEC. 197. ENERGY CONSERVATION EXPENDITURES BY ELECTRIC UTILITIES.

"(a) GENERAL RULE.—An electric utility may treat energy conservation expenditures which are paid or incurred during the taxable year by such utility in connection with its trade or business as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(b) ENERGY CONSERVATION EXPENDITURES.—For purposes of this section, the term 'energy conservation expenditures' means expenditures for—

"(1) subsidies provided to customers for—

"(A) any residential energy conservation measure described in section 210(11) of the National Energy Conservation Policy Act (42 U.S.C. 8211(11)),

"(B) any commercial energy conservation measure described in section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986), and

"(C) any specially defined energy property (as defined in section 48(l)(5) of this title as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990),

"(2) energy audits of commercial, residential, and industrial properties, or

"(3) administrative, promotional, and other costs associated with the foregoing.

"(c) ELECTRIC UTILITY.—For purposes of this section, the term 'electric utility' means any person engaged in the sale of electrical energy.

"(d) WHEN METHOD MAY BE ADOPTED.-A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for any taxable year. The method adopted under this section shall apply to—

"(1) all energy conservation expenditures, and

"(2) the taxable year for which adopted and all following taxable years unless, with the approval of the Secretary, a change to a different method is authorized with respect to part or all of such expenditures."

(b) CLERICAL AMENDMENT.—the table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 197. Energy conservation expenditures by electric utilities."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after December 31, 1980.•

• Mr. GORTON. Mr. President, I am proud to join my colleague from Washington State, Senator ADAMS, in introducing this legislation. Our legislation allows power utilities throughout the country to continue to provide valuable energy conservation assistance to businesses and residential customers.

The legislation prevents the Internal Revenue Service from retroactively ruling that the costs of these programs must be capitalized and deducted over a 10-year period by the utility. The current practice is for the utilities to write off the entire costs of the program during the year the expenditure occurs. Unless prohibited by our legislation, a change in the IRS ruling would increase the after-tax cost of conservation programs. If these programs cost utilities more, there would be fewer instances where electricity could be saved cheaper than it could be generated.

For the utility, these costs are primarily the wages it pays to its employees for the energy saving consultations with its customers. The legislation should have no revenue impacts because it only prohibits the IRS from changing its rules regarding the treatment of the costs of these programs.

Many utilities throughout the country provide a service which analyzes its customers usage of power. The utility then makes cost-effective suggestions to the business or residential user which will reduce their demand for the energy provided by the utility. Many utilities provide grants and offer low cost loans to its customers to implement these changes. The suggestions by the utilities to its customers often include installing weatherization measures, lighting changes, and altering industrial processes.

Mr. President, the assistance in energy conservation provided by utilities to its customers has several positive impacts. First, the measure reduces the overall usage of power and lowers the pollution created during power generation. Second, in the long run, the energy conservation measures which utilities assist business and residential users to install will reduce the number of new powerplants necessary to meet the needs of the utilities customers. And third, the legislation reinforces the trend of utility regulators toward rate setting for utilities that encourages utilities to assist its customers in reducing their power needs.

Senator ADAMS and I hope the Finance Committee will seriously consider this legislation next year. I urge my colleagues in the Senate to join us in cosponsoring this important environmentally sound and energy-saving piece of legislation.

By Mr. CHAFEE:

S. 2111. A bill to amend the Internal Revenue Code of 1986 to increase the rollover period on principal residences for taxpayers whose assets are frozen in financial institutions; to the Committee on Finance.

ROLLOVER PERIOD FOR PRINCIPAL RESIDENCES

• Mr. CHAFEE. Mr. President, the bill I am introducing today would provide temporary relief to individuals in Rhode Island who may be required to pay a capital gains tax on the sale of their principal residence.

Under the Internal Revenue Code, homeowners may defer the payment of tax on the sale of their original residence by purchasing a new principal residence within 2 years, either before or after, of the date of sale of the old principal residence. Under current law, the IRS does not have the authority to waive this 2-year requirement, however, an exception does exist to provide additional 2 years for taxpayers whose tax home is outside of the United States after the date of sale of their original residence.

Many Rhode Islanders who sold their homes within the last 2 years have not been able to replace their principal residence under the 2-year rollover rules. These individuals placed the cash proceeds from the sale of their old residence in a Rhode Island financial institution that remains closed pursuant to the bank holiday declared by the Governor of Rhode Island on January 1, 1991. As a result, these individuals have not been able to purchase a new principal residence because they do not have access to their downpayments that are frozen in one of these institutions.

This bill would provide these Rhode Islanders with 2 additional years in which to replace their principal residence by expanding the exception for taxpayers with a tax home outside of the United States. By providing these taxpayers with additional time, they should be able to purchase a new home and defer the tax that would otherwise be due on the gain from the sale of their original residence.

As a result of the collapse of the State bank insurance fund and the bank holiday declared by the Governor, these Rhode Islanders will be penalized by the 2-year rollover rule. I urge my colleagues to join me in supporting this bill so that we can enact it early next year and allow these individuals to avoid this unfair result.•

By Mr. INOUYE:

S. 2112. A bill to amend the Communications Act of 1934 to encourage competition in the provision of electronic information services, to foster the continued diversity of information sources and services, to preserve the universal availability of basic telecommunications services, and for other purposes; to the Committee on Commerce, Science and Transportation.

INFORMATION SERVICES DIVERSITY ACT OF 1991

• Mr. INOUYE. Mr. President, I rise today to introduce the Information Services Diversity Act of 1991. This legislation is designed to promote the development of competition in the local telephone exchange and ensure diversity in the information services industry. Specifically, this bill allows the Bell companies into many information services and contains a waiver provision for other services. It bars the Bell companies from electronic publishing only in their service areas and only until they face competition or 12 years, which ever comes first.

This legislation is necessitated by the July 25, 1991 decision by Judge Greene in *United States* v. *Western Electric Company*, civil action No. 82-0192, (D.D.C. 1991) lifting the information services line of business restriction on the Bell operating companies. That decision could stunt the growth of and eliminate the possibility of there ever being competitive information services industry in this country. History has shown that when the telephone service industry becomes vertically integrated, anticompetitive and anticonsumer abuse is likely to follow.

The Nation's local telephone companies are not like other businesses. Because they control essential telephone facilities and because they are rate regulated, they have the incentive and ability to act anticompetitively when they enter into unregulated lines of business. I do not believe that the individual Bell companies or their employees are malevolent. On the contrary, I have found just the opposite to be the case. It is simply that the lack of competition to the Bell companies gives them substantial incentives to use their undue market power to the detriment of competitors.

Vertical integration has long been a serious problem in the telephone industry. The U.S. Government has brought four antitrust actions against AT&T in the past 75 years. The first action resulted in the 1913 Kingsbury commitment, under which AT&T agreed to sell its holdings in Western Union and to refrain from purchasing any local telephone company. The second action, in 1926, resulted in AT&T divesting its ownership of a nationwide radio programming network. The third action resulted in the 1956 consent decree, which in effect barred AT&T from offering data processing type services. The final action is the 1984 modified final judgment.

Thus, three of these actions resulted in AT&T divesting some of its operations. All of these actions resulted in AT&T or its progeny being prohibited from engaging in certain actions. With the most recent court action, we thought we had put most of these problems to rest. The source of this undue market power—the essential—bottleneck—local telephone facilities—was given to seven different companies—the regional Bell operating companies or RBOC's—and these companies were forbidden to vertically integrate into certain businesses: the provision of long distance and information services and the manufacture of communications equipment. Without the threat of discrimination or cross-subsidization by the Bell companies, competition in these three forbidden sectors has flourished.

The last two antitrust actions brought by the U.S. Government were founded on the same premise: the structure of AT&T was inherently anticompetitive. Firms providing long distance or information services required AT&T's local telephone facilities to complete their calls. Firms manufacturing telecommunications equipment could hardly stay in business if they could not sell to AT&T's local telephone companies. Yet, AT&T, with control of almost all of this country's local telephone facilities, also was engaged in providing long distance and information services and in manufacturing equipment. Not surprisingly, AT&T, the government argued, acted to favor its own enterprises, either by cross-subsidizing them with regulated telephone revenues or by discriminating against competitors. In other words, because it controlled bottleneck facilities, AT&T had both the incentive and ability to foreclose competition. As a result, it was virtually impossible to compete against AT&T in those markets that the government had decided should be competitive.

I believe that if the Bell companies are allowed into the information services market, it is very likely that they will discriminate against unaffiliated information service providers. The problem lies in their incentives. We simply cannot ignore the regional bell operating companies' incentives and capabilities to engage in anticompetitive acts stemming from their bottleneck control. These companies will strive to do what they believe to be in the best interests of their companies and their shareholders. This means that they will undoubtedly give preferential treatment to their affiliated companies. The recent violations by NYNEX and US West are only the latest examples of the Bell companies' potential to cross-subsidize and engage in discriminatory practices.

Virtually all of the largest phone companies which have been audited by regulatory bodies have engaged in some cross-subsidization or unlawful behavior. For example, a 1986 audit by the National Association of Regulatory Utilities Commissioners [NARUC] of Ameritech found Ameritech was cross-subsidizing its regulated business through its procurement process; a 1986 audit of Pacific Telesis by the California Public Utilities Commission found that the company was cross-subsidizing by assigning personnel from the regulated company to the unregulated company, to the tune of $3 million; and a 1985 NARUC audit of Bellsouth found that the regulated business cross-subsidized new, competitive Bellsouth businesses. Finally, in a pending proceeding the FCC has proposed fining a GTE/Contel subsidiary for cross-subsidizing through a purchasing subsidiary.

The Bell companies often assert that the issue of information services was not originally a part of the case against AT&T but was added as a last minute precaution. However, there is a long history of discrimination by both AT&T and the Bell companies against the information service providers. For example, in 1990, a court determined that Southwestern Bell was charging higher prices to directory publishing competitors for listings than it charged its own subsidiaries. In 1990, the Florida Public Service Commission prohibited Southern Bell from selling its own voice messaging services to its business customers after competitors asserted that Southern Bell was discriminating against them—the case was finally settled. I could cite many examples, but I think I have made my point.

I am also concerned about the FCC's ability to monitor these potentially anticompetitive acts. The Commission's accounting standard for monitoring cross-subsidization applies only to the plant used for interstate service, which is only about one-quarter of the total telephone plant. This means that the state regulators are key to ensuring against cross-subsidies, and they have not adopted standards similar to the FCC's. There are even some States which have deregulated all or part of the provision of telephone service, thus ensuring no oversight of cross-subsidies.

Equally troubling is the well recognized fact that the Commission does not have the resources to conduct frequent audits. In 1987, a General Accounting Office study looking at ways to control cross-subsidies between regulated and unregulated telephone services found that the FCC only has the resources to audit each telephone company once every 16 years.

Three of the FCC's present Commissioners, including the Chairman, have expressed reservations about the ability of regulators to regulate telephone companies. Chairman Sikes has stated that he does not believe that career government people or for that matter non-government people can find out what the true cost of telephone service should be. Similarly, in 1990, FCC Commissioner Duggan, speaking about the possibility of letting the telephone companies provide cable service, said that he has a "nightmare" about a "sixty story building *** filled with FCC accountants that would be needed to monitor—telephone company—cross-subsidies if they were in the cable television business."

State regulators also have limited resources and have not adopted standards similar to the FCC's. FCC Commissioner Barrett, a former state regulator, stated in 1990 that "in my years of rate regulation, I've only seen maybe two States that could recognize a cross-subsidy if it was staring them in the face."

As for the matter of discrimination or self-dealing, it is not clear that the FCC has the experience or resources to monitor such practices. There is no practical way for the Commission to monitor the many thousands, possibly millions, of transactions, to determine if the price, terms and conditions are nondiscriminatory. The only way to address this problem is to simply prohibit the bell companies from providing information services in their regions. Unit competition develops, they could provide information services outside of their region.

It is argued that the entry of the RBOC's into information services will do much to improve our Nation's competitiveness. Since the RBOC's have limited experience in information services, they are most likely to enter the market through the purchase of another firm. This would merely substitute another player for existing providers. The RBOC's also contend that the U.S. is falling behind other countries, pointing to the French Minitel System. However, Minitel is a State owned telephone system that only transmits information, it does not generate information. In fact, according to Judge Greene;

> If the regional bell companies were permitted to both generate and to transmit [information], they would, certainly as of now, appear to be the only entities in the developed world to have this kind of stranglehold on information.

Judge Greene's decision to allow the Bell companies into the field of information services clearly was made reluctantly. Judge Green stated that he was almost certain that the Bell companies will use their monopoly over local exchange service to act anticompetitively in the information services market. The court of appeals, however, told Judge Greene that almost certain was not good enough. The court of appeals told him, in effect, that he had to be absolutely certain. According to Judge Greene, this standard was impossible to meet, and it left him no choice but to lift the information services restriction.

As a general matter, I have had great faith in Judge Greene. I believe that he has been flexible in his interpretation of the AT&T consent decree, and he has always provided a sound rationale for his decisions. Frankly, it is my concurrence with Judge Greene that the likelihood of anticompetitive abuse by the Bell companies is almost certain that brings me to this decision. The information services industry is not only a major economic force in this country, it also is the foundation of our political liberties. Without a strong, vibrant, and diversified information industry, our body politic might wither away. A diversity of views is the lifeblood of American political discourse, societal growth and development, and human understanding. Any threat to this diversity must be carefully considered and fully explored.

I am also concerned about the ability of GTE/Contel to engage in discriminatory behavior and cross-subsidization. GTE/Contel is presently subject to restrictions imposed by a consent decree. That decree does not prohibit GTE/Contel from providing information services; it does require that they provide those services through a separate subsidiary.

Just as with the Bell companies, GTE/Contel is the monopoly provider of local telephone service to its subscribers. As a result, it has many of the same incentives as the Bell companies to use its monopoly power to give its own subsidiaries an advantage and to disadvantage its competitors. I also recognize, however, that there are some differences between GTE/Contel and the Bell companies in terms of their ability to exercise that monopoly power. The GTE/Contel telephone companies are more geographically dispersed than the Bell telephone companies and are regulated by a greater number of state regulatory agencies. These factors reduce the potential for GTE/Contel to have cause harm to consumers or in the information services market.

Therefore, this bill applies the separate subsidiary requirements and the cost allocation rules to GTE/Contel, but does not apply the entry test. In other words, this bill will not prohibit GTE/Contel from offering information services. It will simply ensure that the ratepayers and competitors of GTE/Contel will be protected from any incentives to discriminate or engage in cross-subsidization.

The bill I am introducing today takes a reasonable approach. It addresses the issue of competition head-on by forbidding the RBOC's from offering electronic publishing in there service territories until they face competition. It also recognizes that the RBOC's should not be barred from all information services. This bill allows the RBOC's to provide noncontent information services anywhere in the country immediately. This will allow the RBOC's to offer medical imaging, data processing, computer bulletin boards, voice messaging, credit verification, and other services that involve transmitting information generated by others but do not involve compiling, manipulating, or generating information.

The bill will also allow the RBOC's to provide content-based services—called electronic publishing—anywhere in the country except where they provide telephone service. In other words, each RBOC will be able to offer electronic publishing to about 88 percent of the country's population immediately.

The only restriction in the bill is that RBOC's cannot provide electronic publishing services in an area where the RBOC provides telephone service. Even this restriction is lifted when the Bell company faces competition for local telephone service.

Let me briefly summarize the major provisions of this legislation in more detail.

The entry test—This provision states that a Bell company may not provide electronic publishing in the same areas where it provides local phone service until the operating company faces competition for local telephone service. The bill defines such competition to exist when competitive telephone service is available to 50 percent of both residential and business users and 10 percent of residential and business users subscribe to the service.

This test is similar to the test for competition included in S. 12, the Cable Television Consumer Protection Act of 1991, and is also similar to a proposal offered by Senator DANFORTH in 1986 as an amendment to S. 2565.

In the event that competition does not develop in the near future, the entry test sunsets in 12 years. After 12 years, a Bell operating company would be allowed to provide electronic publishing in its service area even if there is little or no competition. Thus, the entry test is not a permanent ban in the event that it takes competition longer to develop. A study done by Dale Hatfield, "An Analysis of the Potential Availability of Local Exchange Network Alternatives", concludes that there will be competition in the next 9 to 12 years.

Thus, this test does not constitute a permanent bar. It merely restricts the Bell companies' entry until competition develops. The sunset provision ensures that in the event that competition does not develop, the Bell companies will be permitted into the field.

In addition, this bill does not require that there be competition in every State served by a Bell company before an RBOC could provide service in any State. The test is applied on a State by State basis. Thus, if the test is met in New York but not New Jersey, NYNEX could provide content services in New York but not in New Jersey.

Waiver provision—To ensure that the American public is not deprived of services in the interim, the bill also includes a waiver provision that allows an RBOC to provide a particular information service if the FCC determines that no one else is providing that service and if it would not raise subscribers' basic telephone rates. This will ensure that the public has access to services that other companies may not choose to provide.

Electronic publishing—Moreover, the ban on the provision of information services by the Bell companies only applies in those areas where they provide local phone service. The Bell companies are free to provide information services in any part of the country outside of their region. Thus, the Bell companies could provide electronic publishing—content, that is, information controlled or generated by the RBOC like stock quotes or sports data—in every area of the country where they do not provide local telephone service—about seven-eighths of the country—using a separate subsidiary.

Noncontent services—In addition, there is no prohibition on the Bell companies provision of noncontent information services, like data processing or voice mail anywhere in the country. My bill would require that all information services, content and noncontent must be provided through a separate subsidiary to ensure that there is no cross-subsidization.

Separate subsidiary provision—this provision is similar to the provision that was included in S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991, which passed the Senate earlier this year. However, this provision is significantly stronger. It requires that any information services must be provided through a separate subsidiary and specifies some of the conditions that must be met to comply with that requirement.

Cost allocation rules—to protect against cross-subsidization, RBOC's that provide any information services must establish a cost allocation system that prohibits any cross-subsidization. For example, the bill would prohibit the cost of providing such services from being subsidized by revenue from the telephone exchange service or telephone exchange access services.

Removal of barriers to entry—to ensure that there are no impediments to the development of competition at the local level, an RBOC may not provide electronic publishing in a State until all legal barriers to entry of competitive telecommunications services imposed by the state have been removed. Thus, the bell companies will have the incentive to work with their state and local regulators to eliminate any barriers to competition in the local exchange. To ensure that this provision does not result in a permanent bar to the entry of the bell companies into information services, this provision also sunsets in 12 years.

Network standards—finally, to ensure that the goal of competition is met, the bill includes provisions designed to improve the reliability of the telephone network and promote the development of competition in the local exchange.

I have made some significant changes in the bill before this introduction. I believe these changes are reasonable and increase the chances for eventual passage. But I do not want to leave any members or interested parties with the impression that this bill is written in stone. I intend to hold hearings on this bill and to hear all sides of the issue. If as a result of those hearings, it is clear that changes need to be made in this legislation, I will make those changes.

However, I do believe that this legislation is necessary to address the problems I have raised.

Mr. President, I believe that this issue is one of the most important issues to face the 102d Congress. I look forward to the support of my colleagues on this measure next year.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2112

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Information Services Diversity Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the national welfare will be enhanced by the continued development of robust competition in the provision of electronic information services and telecommunications services;

(2) the widest possible availability of information and telecommunications services requires an open telecommunications infrastructure that incorporates market-driven advances in technology and whose features and functions are available on a non-discriminatory and unbundled basis;

(3) the availability of multiple and interconnected complementary telecommunications networks can enhance competition in the provision of information and telecommunications services;

(4) the redundancy inherent in a pluralistic telecommunications infrastructure offers protection against network failures;

(5) the cost-effective deployment of advanced public telecommunications networks, subject to appropriate safeguards, can further the long-standing goals of universal telephone service at affordable rates;

(6) the provision of information services by operating companies prior to development of an effectively competitive telecommunications infrastructure would likely lead to higher rates for telephone exchange service and jeopardize the diversity of information sources and services; and

(7) current regulatory policies must be revised and supplemented to ensure the universal availability of telephone exchange service at reasonable rates and fair competition in delivery of telecommunications and information services.

(b) PURPOSES.—The purposes of this Act are to—

(1) ensure the continued availability of affordable telecommunications and information services that are essential to full participation in the nation's economic, political, and social life;

(2) encourage the continued development of advanced, reliable telecommunications networks;

(3) ensure that the costs of such networks and the services provided over them are allocated equitably among users; and

(4) ensure that the provision of information services by operating companies does not jeopardize the universal availability of telephone exchange service at reasonable rates or undermine competition in the information services marketplace.

TITLE I—INFRASTRUCTURE DEVELOPMENT

SEC. 101. NETWORK STANDARDS.

Title II of the Communications Act of 1934 is amended by inserting after section 201 the following new section:

"SEC. 201A. NETWORK STANDARDS.

"(a) SERVICE QUALITY.—

"(1) ADOPTION OF STANDARDS.—A Federal-State Joint Board shall be established under section 410(c) not later than 90 days after the enactment of this subsection to impose and enforce network quality standards upon the common carriers for the purpose of ensuring the continued maintenance and evolution of common carrier facilities and services. Not later than 180 days after the date of enactment of this subsection, the Joint Board shall initiate a rulemaking proceeding to establish standards, to be enforced by the Commission and the State commissions as to matters within their respective jurisdictions, for measuring common carrier network quality.

"(2) REPORT.—Each common carrier shall submit to the Joint Board established pursuant to paragraph (1) a quarterly data report, in a form required by the Joint Board, regarding compliance with the prescribed network quality standards. The Joint Board may require periodic independent audits of common carrier compliance with the network quality standards. The Commission, upon the recommendation of the Joint Board, shall establish enforcement penalties and procedures, including expedited customer complaint mechanisms, to ensure common carrier compliance with network quality standards.

"(b) INTERCONNECTION.—

"(1) GENERALLY.—Each local exchange carrier shall provide interconnection, on a reasonable and non-discriminatory basis, to common carriers and other providers of telecommunications services and information services who request it. An interconnecting party may physically colocate the equipment necessary for interconnection at the premises of a local exchange carrier, except as provided under paragraph (2).

"(2) VIRTUAL COLOCATION.—A local exchange carrier that can demonstrate by a preponderance of the evidence in a particular case that the physical colocation required under paragraph (1) is not practicable for technical reasons or because of space limitations shall offer an interconnecting party virtual colocation with its premises. Virtual colocation shall be economically and technically comparable to interconnection that is or would be obtained through physical colocation of the interconnecting party's equipment at the premises of the local exchange carrier. Nothing in this paragraph shall relieve an operating company of its obligations under section 227(d)(12).

"(3) EXCEPTION FOR RURAL EXCHANGE CARRIERS.—Notwithstanding any other provision of this subsection, a rural exchange carrier shall not be required to provide interconnection to another local exchange carrier for telephone exchange service.

"(4) REGULATIONS.—Within 270 days after the date of enactment of the Telecommunications Act of 1991, the Commission shall—

"(A) adopt and make effective rules to enforce the obligations imposed by this subsection; and

"(B) complete an inquiry to determine whether the interconnection offered by a local exchange carrier pursuant to this subsection should provide for the portability of telephone numbers and report to Congress within 18 months.

"(C) NETWORK ACCESS.—

"(1) REVISIONS TO ORDER.—The Commission shall further revise the order of the Commission entitled 'Filing and Review of Open Network Architecture Plans,' CC Docket 88-2, Phase I, released December 22, 1988, and subsequently revised, to require that—

"(A) the plans for compliance with such order offer unbundled features and functions;

"(B) such features and functions are made available on a reasonably uniform basis by all of the common carriers subject to such order, and that such features and functions are accessible throughout the service territory of each such carrier;

"(C) such plans include a schedule for timely offering of new features and functions; and

"(D) common carriers subject to such order not unreasonably discriminate between affiliated and unaffiliated providers of information services in offering tariffed features, functions, and capabilities, and the features, functions and capabilities necessary for billing and collection.

"(2) REVIEW OF ORDER AND PLANS.—At least once every three years, the Commission shall—

"(A) conduct a proceeding in which interested parties shall have an opportunity to comment on whether and to what extent the order described in paragraph (1), as further revised, and the plans filed pursuant to it have opened the networks of the carriers subject to such order to reasonable and non-discriminatory access by providers of telecommunications services and information services; and

"(B) not later than 180 days after receiving the reply comments filed in such proceeding, revise such order as it deems necessary or appropriate and require the common carriers subject to such order to file new or amended plans consistent with such revisions, which new or amended plans shall also be subject to public comment and Commission review prior to their becoming effective.

"(d) PRIVACY.—Personally identifiable customer information obtained or collected by a local exchange carrier in the course of providing telephone exchange service shall be used only in connection with the provision of such service, and shall not be made available to any affiliate of such carrier or any other person except—

"(1) as required by law; or

"(2) with the affirmative consent of the customer to which such information relates.

"(e) TARIFFS.—

"(1) GENERALLY.—A local exchange carrier shall prepare and file tariffs in accordance with this Act with respect to the interconnection and network access services required under this section. The costs that a local exchange carrier incurs in providing such services shall be borne solely by the users of the features and functions comprising such services. The Commission shall review such tariffs to ensure that—

"(A) the charges for such services are cost-based; and

"(B) the terms and conditions contained in such tariffs do not unreasonably bundle together any separable elements, features, or functions.

"(2) SUPPORTING INFORMATION.—A local exchange carrier shall submit supporting information with its tariffs for interconnection and network access services that is sufficient to enable the Commission and the public to determine the relationship between the proposed charges and the costs of providing such services. The submission of such information shall be pursuant to rules adopted by the

Commission to ensure that similarly situated carriers provide such information in a uniform fashion.

"(3) UNIVERSAL SERVICE ELEMENT.—A local exchange carrier may, subject to regulation, include in its tariffs for interconnection services an element intended to recover the amount necessary to preclude any substantial increases in the rates for telephone exchange service that would otherwise result from the offering of interconnection services. Such element shall be imposed at a uniform rate on any person who purchases such services, and shall also be included at the same rate in such carrier's charges for services offered by the carrier in competition with the services offered by interconnecting parties. No later than 270 days after the date of enactment of the Telecommunications Act of 1991, the Commission shall adopt and make effective rules governing the calculation of such element. Any amounts recovered by the local exchange carrier through the imposition of this additional element shall be used to defray the costs of providing telephone exchange service.

"(f) RESALE.—The resale of telephone exchange service (or unbundled elements of such service) in conjunction with the furnishing of an interstate telecommunications service or any information service shall not be prohibited or subject to unreasonable conditions by the Commission, any State, or any local exchange carrier.

"(g) COORDINATED PLANNING.—The Commission shall adopt and make effective rules for the conduct of coordinated network planning by common carriers, subject to Commission supervision, to ensure (1) the effective and efficient interconnection and interoperability of common carrier networks, and (2) that the design of such networks does not impede access to information services by subscribers to telephone exchange service furnished by a rural exchange carrier.

"(h) STUDY.—No later than 270 days after the enactment of the Telecommunications Act of 1991, the Commission shall initiate an inquiry to examine the effect of competition in the provision of telephone exchange access and telephone exchange service on the availability and rates for telephone exchange service furnished by rural exchange carriers."

SEC. 102. EXPEDITED REVIEW OF CERTAIN COMPLAINTS.

Section 208 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(c) EXPEDITED REVIEW OF CERTAIN COMPLAINTS.—The Commission shall issue a final order with respect to any complaint arising from alleged violations of section 201A within one year after such complaint is filed.".

SEC. 103. EXPEDITED LICENSING OF NEW TECHNOLOGIES AND SERVICES.

Section 7 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(c) LICENSING OF NEW TECHNOLOGIES.—Within twenty-four months after making a determination under subsection (b) that a technology or service related to the furnishing of telecommunications services or information services is in the public interest, the Commission shall adopt and make effective rules for—

"(1) the provision of such technology or service; and

"(2) the filing of applications for the authorizations necessary to offer such technology or service to the public,

and shall act on any such application within twenty-four months after it is filed. Any application filed by a carrier under this subsection for the construction or extension of a line shall also be subject to section 214 and to any necessary approval by the appropriate State commissions.".

TITLE II—PROVISIONS AFFECTING OPERATING COMPANIES

SEC. 201. PROVISION OF INFORMATION SERVICES.

Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

SEC. 227. PROVISION OF INFORMATION SERVICES BY OPERATING COMPANIES.

"(a) PROVISION OF SERVICES.—An operating company or an affiliate thereof may only provide information services, subject to this section and title VI.

"(b) ELECTRONIC PUBLISHING.—

"(1) ENTRY TEST.—An operating company or an affiliate thereof may not offer electronic publishing services in a State in which such company or affiliate provides telephone exchange service until the Commission, after notice and opportunity for public comment and after consultation with the Department of Justice and the appropriate State commission, determines that—

"(A) at least 50 percent of all businesses and residences within the areas in such State which such company or any affiliate thereof provides telephone exchange service have access to transmission and switching facilities (other than those owned or controlled by an operating company or its affiliate) that are comparable in quality, cost, geographic range, and functionally to those offered by the operating company for the delivery of electronic publishing services; and

"(B) at least 10 percent of all businesses and residences within the areas in such State in which such company provides telephone exchange service subscribe to services delivered over such alternative facilities; and

"(C) it is unlikely that the operating company could use its position as a local exchange carrier to (i) impede competition in the provision of such electronic publishing services, or (ii) impose additional costs upon subscribers of telephone exchange service.

"(2) SUNSET.—Subparagraphs (A) and (B) of paragraph (1) shall cease to be effective 12 years after the date of enactment of the Telecommunications Act of 1991.

"(c) WAIVER.—An operating company or an affiliate thereof may petition the Commission for a waiver of subsections (b)(1) and (h) to provide a particular electronic publishing service. Such petition shall be granted if such company or affiliate can demonstrate to the Commission by a preponderance of the evidence that (A) such service would not exist unless offered by such company or affiliate, and (B) the provision of such service by such company or affiliate would not impose additional costs upon subscribers of telephone exchange service. The Commission shall provide notice and opportunity for public comment with respect to any petition for a waiver pursuant to this subsection, and shall issue a final order with respect to any such petition no later than one year after it is filed. The provision of any service authorized pursuant to this subsection shall be subject to all of the other provisions of this Act, including the requirements of this section.

"(d) SEPARATE SUBSIDIARY.—

"(1) GENERALLY.—Except as provided in subsection (e), an operating company or affiliate thereof may provide information services only through a subsidiary that is separated from the telephone exchange service operations of the operating company, in accordance with the requirements of this section and the regulations prescribed by the Commission to carry out this subsection.

"(2) MINIMUM NUMBER OF OUTSIDE DIRECTORS.—Any subsidiary required by this subsection shall have a board of directors not less than 33 percent of whom are not employees, officers, or directors of any operating company or any affiliate of such company.

"(3) TRANSACTION REQUIREMENTS.—Any transaction between a subsidiary required by this section and any operating company or between such subsidiary and any other affiliate of such company—

"(A) shall not be based upon any preference or discrimination in favor of the subsidiary arising out of the subsidiary's affiliation with the operating company;

"(B) shall be carried out in the same manner as such company or affiliate conducts such business with unaffiliated persons;

"(C) shall be pursuant to contract or tariff reported to the Commission and made available for public inspection;

"(D) shall be fully auditable and reflect all costs associated with the conduct of such business; and

"(E) shall not have the effect of permitting any violation of the requirements of subsection (f) of this section.

"(4) SEPARATE OPERATION AND PROPERTY.—A subsidiary required by this subsection may not—

"(A) enter into any joint venture or partnership with the operating company or any affiliate of such company;

"(B) have employees or a financial structure (other than as provided in this section) in common with the operating company or any affiliate of such company;

"(C) own any property in common with an operating company or any affiliate of such company; or

"(D) establish any other subsidiary or affiliate except after notice to the Commission in such form and containing such information as the Commission may require.

"(5) SEPARATE COMMERCIAL ACTIVITIES.—A subsidiary required by this subsection shall carry out directly its own marketing, sales, accounting, hiring and training of personnel, purchasing, and maintenance.

"(6) BOOKS, RECORDS, AND REPORTS.—Any subsidiary required by this subsection shall—

"(A) maintain books, records, and accounts in a manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by the operating company and the other affiliates of the operating company, and which shall identify any conduct of business with such company and any such affiliates; and

"(B) prepare its own financial statements (including balance sheets and the related statements of operations, stockholders' equity, and cash flows) that are not consolidated with the financial statements of the operating company and any other affiliate of such company; and

"(C) prepare and file with the Commission, whether or not such subsidiary is publicly traded, the annual and periodic reports required of publicly traded companies by the Securities and Exchange Commission.

"(7) ADVERTISING.—A subsidiary required by this subsection may not carry out advertising with the operating company, except that such subsidiary may carry out institutional advertising with such company if (A) such advertising does not specifically relate to any service, and (B) the subsidiary and the operating company share any costs of such advertising in proportion to their revenue.

"(8) SECURITIES INFORMATION.—A subsidiary required by this subsection shall submit to the Commission a copy of any statement or prospectus that such subsidiary is required to file with the Securities and Exchange Commission.

"(9) OUTSIDE OWNERSHIP.—An operating company or an affiliate thereof may not own more than 90 percent of any class of outstanding capital stock of any affiliated subsidiary required by this subsection.

"(10) TRANSMISSION CAPACITY.—A separate subsidiary required by this subsection may not own any transmission facilities, and may obtain the use of such facilities from an affiliated operating company or affiliate thereof only pursuant to tariffs of general applicability.

"(11) PRESERVATION OF SEPARATE SUBSIDIARY REQUIREMENTS FOR GRANDFATHERED FUNCTIONS.—Nothing in this subsection shall be construed to relieve an operating company or any affiliate thereof (or any other local exchange carrier or affiliate thereof) of any separate subsidiary requirement imposed before December 1, 1991.

"(12) PROVISION OF SERVICES AND INFORMATION.—An operating company may not provide any services or information to a subsidiary required by this subsection unless such services or information are made available to others on the same terms and conditions.

"(e) EXCEPTION TO SEPARATE SUBSIDIARY REQUIREMENT.—An operating company or affiliate thereof shall not be required to establish a subsidiary pursuant to subsection (d) with respect to any information service that such company or affiliate was authorized to provide on or before December 1, 1991.

"(f) PREVENTION OF CROSS SUBSIDIES.—

"(1) COST ALLOCATION SYSTEM REQUIRED.—Any operating company that provides information services, or which has an affiliate that is engaged in the provision of such services, shall establish and administer, in accordance with the requirements of this subsection and the regulations prescribed thereunder, a cost allocation system that, together with the subsidiary requirements of subsection (d), is intended to prohibit any cost of providing such services from being subsidized by revenue from telephone exchange service or telephone exchange access services.

"(2) COST ASSIGNMENT AND ALLOCATION REGULATIONS.—

"(A) GENERALLY.—The Commission shall establish regulations to require the just and reasonable assignment and allocation of all costs that are in any way incurred by an operating company or any affiliate thereof in the provision of any information service.

"(B) JOINT AND COMMON COSTS.—The regulations adopted pursuant to this paragraph shall include a requirement that any costs of any investment or other expenditure that cannot be allocated based upon direct or indirect measures of cost causation shall be allocated to unregulated services—

"(i) under a formula that ensures that the rates for telephone exchange service are no greater than they would have been in the absence of such investment (taking into account any decline in the real costs of providing such service), or

"(ii) based upon the highest forecast unregulated usage of the investment over the life of the investment,

whichever method results in the lesser allocation of such costs to telephone exchange service.

"(3) INSULATION OF RATEPAYERS.—

"(A) ASSETS.—The Commission shall, by regulation, ensure that the economic risks associated with the provision of information services by operating companies or affiliates thereof (including any increases in the operating company's cost of capital that occur as a result of the provision of such services) are not borne by customers of telephone exchange service. In the event of a business loss or failure, investments or other expenditures assigned to information services shall not be reassigned to telephone exchange service or telephone exchange access service.

"(B) DEBT.—Any operating company affiliate—

"(i) which is providing information services, and

"(ii) which is required to be or is structurally separate from an affiliate engaged in the provision of telephone exchange service,

shall not obtain credit under any arrangement that (I) would permit a creditor, upon default, to have recourse to the assets of the operating company, or (II) would induce a creditor to rely on the tangible or intangible assets of the operating company in extending credit.

"(4) TRANSFERS OF ASSETS BETWEEN AFFILIATED COMPANIES.—The Commission shall prescribe regulations governing the accounting for the transfer of assets between a subsidiary required by this section and any operating company or between such subsidiary and any other affiliate of such company. Such regulations shall protect the interests of ratepayers of telephone exchange service and require such transfer to be conducted by means of a transaction that complies with subsection (d)(3). Such regulations shall require that—

"(A) any transfer of assets from such subsidiary to its affiliated operating company or any affiliate of that company be valued at the lesser of net book cost of fair market value; and

"(B) any transfer of assets from an operating company or its affiliate to such subsidiary be valued at the greater of net book cost or fair market value.

"(5) ANNUAL AUDITING REQUIREMENT.—

"(A) AUDIT APPLICABILITY AND PURPOSE.—Each operating company that engages in, or has an affiliate that engages in, or has a financial or management interest in an organization or entity that provides information services, shall provide annually to the Commission, and to the State commission of each State within which such company provides telephone exchange service, a report on the results of an audit by an independent auditor conducted for the purpose of determining whether the company has—

"(i) established and administered a cost allocation system as required by paragraph (1) of this subsection, and

"(ii) complied with the cost assignment and allocation regulations prescribed under this subsection.

"(B) CONDUCT OF AUDIT.—Such audit shall be conducted, at operating company expense, in accordance with audit procedures prescribed by the Commission, by regulation, which shall include approval of auditor selection by the Commission and rotation of auditors or other procedures to ensure the independence of such auditor.

"(C) SUBMISSION OF AUDIT RESULTS; CERTIFICATION.—The operating company shall submit the audit to the Commission, which shall make the audit report available for public inspection. Such report shall be certified by the person conducting the audit and by an appropriate officer of such affiliate and shall identify with particularity any qualifications or limitations on such certification and any other information relevant to the enforcement of the requirements of this section.

"(D) ACCESS TO DOCUMENTS.—For purposes of conducting and reviewing such audit—

"(i) the auditor, the Commission, and a State commission with jurisdiction over the operating company shall have access to the accounts and records of the operating company and to those accounts and records of any of its affiliates necessary to verify transactions conducted with the operating company; and

"(ii) the Commission and a State commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this paragraph.

"(g) RECOVERY OF USE OF INTANGIBLE ASSETS.—The Commission and a State commission shall, within their respective jurisdictions, require an operating company or any affiliate thereof that provides telephone exchange service to assess any subsidiary providing information services a charge for the reasonable value of any intangible assets used in the provision of information services, and to credit the amount of such charge to the provision of telephone exchange service.

"(h) REMOVAL OF BARRIERS TO COMPETITIVE ENTRY.—

(1) GENERALLY.—An operating company or affiliate thereof may not provide electronic publishing services, other than those it provided on or before December 1, 1991, in a State in which such company or affiliate provides telephone exchange service, unless and until all legal and regulatory entry barriers to the competitive provision of telecommunications services imposed by such State or the State commission in such State have been removed with respect to such company or affiliate.

(2) SUNSET.—Paragraph (1) shall cease to be effective 12 years after the date of enactment of the Telecommunciations Act of 1991.

"(i) PROVISION OF GATEWAY SERVICES.—Any operating company or affiliate thereof that offers a gateway service shall make such service available concurrently to all of its subscribers under non-discriminatory rates, terms, and conditions.

"(j) ENFORCEMENT.—A person who is injured by a violation of any of the requirements of this section may, in lieu of filing a complaint under section 208, commence a civil action for injunctive relief and monetary damages in any Federal judicial district in which the defendant resides or has an agent. A residential customer of telephone exchange service shall have standing to commerce an action under this section, without regard to the amount in controversy. In any action brought under this section, the court may award the costs of litigation (including reasonable attorneys fees).

"(k) ADDITIONAL AUTHORITY.—In addition to any other authority which the Commission may exercise under this Act, the Commission shall take such actions as are necessary—

"(1) to prevent anticompetitive practices between a subsidiary required by subsection (d) and operating company or any affiliate of the operating company;

"(2) to protect ratepayers of operating companies from subsidizing the provision of information services by such companies or their affiliates; and

"(3) to prevent any operating company or any affiliate thereof from imposing any unjust or unreasonable rates or charges for any common carrier services that are provided in connection with the provision of information services.

(l) APPLICABILITY TO OTHER LOCAL EXCHANGE CARRIERS.—Subsections (a), (d), (e), (f), (g), (i), (j), (k), and (m), shall apply to any local exchange carrier that, as of December 1, 1991, was subject to the order entered on December 21, 1984, as restated January 11, 1985, in *United States* v. *GTE Corporation*, Civil Action No. 83-1298 (United States District Court, District of Columbia), or any affiliate of such carrier.

"(m) DEFINITIONS.—As used in this section—

"(1) AFFILIATE.—The term 'affiliate' means any organization or entity that, directly or indirectly, owns or controls, or is owned or controlled by, or is under common ownership or control with, an operating company. For purposes of this paragraph, the terms 'own' 'owned', and 'ownership' means a direct or indirect equity interest (or equivalent thereof) of more than 10 percent of an organization or entity, or the right to more than 10 percent of the gross revenues of an organization or entity under a revenue sharing or royalty agreement, or any substantial management or financial interest.

"(2) OPERATING COMPANY.—The term 'operating company'—

"(A) means any of the following companies: Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, new England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, US West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, the Bell Telephone Company of Pennsylvania, the Chesapeake and Potomac Telephone Company, the Chesapeake and Potomac Telephone Company of Maryland, the Chesapeake and Potomac Telephone Company of Virginia, the Chesapeake and Potomac Telephone Company of West Virginia, the Diamond State Telephone Company, the Ohio Bell Telephone Company, the Pacific Telephone and Telegraph Company, and Wisconsin Telephone Company; and

"(B) includes any success or assign of any such company, but does not include any affiliate of any such company.

"(3) GATEWAY SERVICE.—The term 'gateway service' means an information service that, at the request of the provider of an electronic publishing service or other information service, provides a subscriber with access to such electronic publishing service or other information service, utilizing the following functions: data transmission, address translation, billing information, protocol conversion, and introductory information content.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(d) SEPARATE SUBSIDIARY REQUIREMENTS.—Such sums as may be necessary are authorized to be appropriated for the implementation and enforcement of the requirements of section 208(c) and 227 of this Act. Such funds shall be in addition to any appropriations authorized under subsection a.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DEFINITIONS.

Section 3 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsections:

"(hh) 'Electronic publishing service' means the provision of any information—

"(1)(A) that the provider or publisher has (or has caused to be) authored, originated, gathered, collected, produced, compiled, edited, categorized, or indexed; or

"(B) in which the provider or publisher has a direct or indirect financial or proprietary interest; and

"(2) which is disseminated to an unaffiliated person through some electronic means.

"(ii) 'Information services' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information that may be conveyed via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

"(jj) 'Local exchange carrier' means a provider of telephone exchange service that is classified by the Commission as a dominant carrier.

"(kk) 'Rural exchange carrier' means a local exchange carrier serving a total of 50,000 or fewer access lines.

"(ll) 'Telecommunications' means the transmission, between or among points specified by the customer, of information of the customer's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(mm) 'Telecommunications service' means the public or private offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.".

SEC. 302. JURISDICTION.

Section 2 of the Communications Act of 1934 is amended—

(1) in subsection (b), by striking out "223 or 224" and inserting "223, 224, 225, and 227"; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding subsection (b), a State may not regulate the rates, terms, or conditions for the offering of information services, except as provided in this subsection and title VI.

"(2) A State may impose regulations upon a local exchange carrier with respect to the intrastate provision of information services by such carrier or an affiliate thereof if—

"(A) such regulations are necessary and appropriate to separate the provision of such services from the provision of telephone exchange services by such carrier or affiliate;

"(B) such regulations are intended to protect the privacy rights of customers of telephone exchange services;

"(C) such regulations do not affect the rates, terms, or conditions for the provision of such information services or the types of such services offered by such carrier or affiliate; and

"(D) such regulations are not inconsistent with the purposes of this Act or impede significantly the enforcement of this Act or any regulation or order prescribed by the Commission pursuant to this Act.".

SEC. 303. TELEPHONE EXCHANGE SERVICE IN RURAL AREAS.

Nothing in the amendments made by this Act shall be construed to limit the authority of the States to take actions, consistent with the findings and purposes of this Act, to ensure the availability of telephone exchange service at reasonable rates in areas served by rural exchange carriers (as such terms is defined in section 3(kk) of the Communications Act of 1934).

SEC. 304. APPLICABILITY OF OTHER PROVISIONS OF COMMUNICATIONS ACT.

Nothing in the amendments made by this Act shall be construed to relieve an operating company or affiliate thereof (as such terms are defined in section 227 (m) of the Communications Act of 1934) of any of the obligations, limitations, or responsibilities imposed by any other provision of the Communications Act of 1934, as amended.

SEC. 305. APPLICABILITY OF ANTITRUST LAWS.

(a) APPLICABILITY OF THE MODIFICATION OF FINAL JUDGMENT.—An operating company shall remain fully subject to the Modification of Final Judgment in all respects except as expressly provided in the amendments made by this Act.

(b) NO ANTITRUST, IMMUNITY.— Nothing in the amendments made by this Act shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law to the actions of an operating company or affiliate thereof (as such terms are defined in section 227(m) of the Communications Act of 1934).

(c) DEFINITIONS.— For purposes of this section—

(1) FEDERAL ANTITRUST LAWS.— The term "Federal antitrust laws" means—

(A) the acts cited in section 1 of the Clayton Act (15 U.S.C. 12);

(B) section 5 of the Federal Trade Commission Act (15 U.S.C. 45); and

(C) any law enacted after the date of enactment of this Act by the Congress which prohibits, or makes available to the United States or to any person in any court of the United States any civil remedy with respect to, any restraint upon, or monopolization of, interstate or foreign trade or commerce.

(2) MODIFICATION OF FINAL JUDGMENT.— The term "Modification of Final Judgment" means the order entered August 24, 1982, in *U.S. V. Western Electric Co.*, Civil Action No. 82-0192 (United States District Court, District of Columbia).•

By Mr. PACKWOOD:

S. 2114. A bill to amend the Social Security Act to provide access to health care benefits for all Americans, and for other purposes; to the Committee on Finance.

COMPREHENSIVE HEALTH INSURANCE PLAN OF 1991

• Mr. PACKWOOD. Mr. President, I introduce a bill which I ask that it be appropriately referred. I ask unanimous consent that the entire contents of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Health Insurance Plan of 1991" (to be known as CHIP of 1991).

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—EMPLOYER-PROVIDED HEALTH INSURANCE

Sec. 101. Employers required to offer basic health plans to employees and families.

Sec. 102. Tax penalties on noncomplying employers and insurers.

TITLE II—HEALTH CARE COVERAGE FOR INDIVIDUALS NOT OTHERWISE COVERED UNDER QUALIFIED EMPLOYER PLANS OR MEDICARE

Sec. 201. Expanded medicaid health care coverage of individuals not otherwise covered by qualified employer plans or medicare.
Sec. 202. Permitting buy-in to medicare for certain uninsured individuals.

TITLE III—HEALTH CARE ACCESS—TAX PROVISIONS

Sec. 301. Refundable credit for small business health care costs.
Sec. 302. Health insurance credit doubled to assist low-income employees.
Sec. 303. Repeal of EITC interactions.
Sec. 304. Deductibility for self-employed individuals.

TITLE IV—ADMINISTRATIVE PROVISIONS AND REPORT

Sec. 401. Development and application of uniform administrative procedures.
Sec. 402. Additional funding for outcomes research and practice guidelines.
Sec. 403. Annual report on health care.

TITLE I—EMPLOYER-PROVIDED HEALTH INSURANCE

SEC. 101. EMPLOYERS REQUIRED TO OFFER BASIC HEALTH PLANS TO EMPLOYEES AND FAMILIES.

(a) In General.—The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—EMPLOYER-PROVIDED HEALTH PLANS

"Part A—Requirement to Offer Basic Health Plans to Employees and Families

"Subpart 1—General Requirements and Definitions

"Sec. 2101. Application to employees.
"Sec. 2102. Treatment of all family members as a unit.
"Sec. 2103. Definitions relating to employment and employees.
"Sec. 2104. Definitions relating to families.
"Sec. 2105. Application of requirement to employers.

"Subpart 2—Qualified Employer Plans

"Sec. 2111. Certification of qualified employer plans.
"Sec. 2112. Definitions relating to qualified employer plans.

"Subpart 3—Requirements for Qualified Employer Plans

"Sec. 2121. Basic benefits.
"Sec. 2122. Timing of enrollment; period of coverage; employer plan cards.
"Sec. 2123. Limits on exclusions and coverage standards for basic benefits.
"Sec. 2124. Employee premiums and cost-sharing.
"Sec. 2125. Coordination and portability of health coverage under qualified employer plans.
"Sec. 2126. Use of uniform claims forms.

"Subpart 4—General Protections

"Sec. 2131. Consumer protections.
"Sec. 2132. Preemption of certain State requirements.

"Part B—Small Employer Purchasing Groups

"Sec. 2141. Grants to small employer purchasing groups.
"Sec. 2142. Rules of operation.
"Sec. 2143. Freedom of contract.
"Sec. 2144. Small employer defined.

"Part C—Small Employer Health Insurance Reform

"Sec. 2151. General requirements for health insurance plans issued to small employers.
"Sec. 2152. Rating practices.
"Sec. 2153. Stricter State standards permitted.

"PART A—REQUIREMENT TO OFFER BASIC HEALTH PLANS TO EMPLOYEES AND FAMILIES

"Subpart 1—General Requirements and Definitions

"SEC. 2101. APPLICATION TO EMPLOYEES.

"(a) General Rule.—Except as provided in succeeding subsections of this section, each employer shall, in accordance with this part, offer to each of its eligible employees a qualified employer plan. Such offer—

"(1) shall include at least—

"(A) 1 basic health plan, and

"(B) 1 basic coordinated care plan (if the employer is located in the service area of such a plan), and

"(2) may include 1 or more—

"(A) enhanced health plans, or

"(B) enhanced coordinated care plans.

"(b) Multiple employers.—

"(1) General rule.—Except as provided in paragraph (2), in the case of an individual who is an eligible employee of more than 1 employer, if more than 1 such employer offers the employee enrollment under a qualified employer plan, the individual shall elect (in a manner specified by the Secretary) the qualified employer plan under which the individual (and the individual's family) will be enrolled.

"(2) Alternative procedure developed by the Secretary.—Paragraph (1) shall not apply if the Secretary develops a procedure to require an individual who is an eligible employee of more than 1 employer to enroll in the qualified employer plan of the employer for which the individual reasonably expects to work the most hours.

"(3) Both eligible employees.—In the case of married individuals who are both eligible employees of 1 or more employers, rules established by the Secretary based on the rules under paragraph (1) or (2) shall apply.

"(4) Other employer's obligations.—An employer who is not elected under paragraph (1) nor identified under paragraph (2) is not obligated to offer the employee (and family members) a qualified employer plan and may not charge the individual any premiums for coverage under such qualified employer plan.

"(c) Treatment of Employees Under Collective Bargaining Agreement.—The requirements of this part shall not apply to eligible employees of an employer subject to a collective bargaining agreement between representatives of the employees and the employer if—

"(1) there is evidence health benefits of the employees were the subject of good faith bargaining, and

"(2) the agreement does not provide that this part shall apply.

"(d) Nonapplication to Residents of Puerto Rico and Territories.—The provisions of this title shall not apply with respect to an employee who is not a resident of one of the 50 States or the District of Columbia.

"SEC. 2102. TREATMENT OF ALL FAMILY MEMBERS AS A UNIT.

"The offer of enrollment of an individual in a qualified employer plan required under section 2101(a) shall include enrollment of the family of the individual.

"SEC. 2103. DEFINITIONS RELATING TO EMPLOYMENT AND EMPLOYEES.

"(a) Employment, Etc.—In this title—

"(1) Employment.—

"(A) In general.—Except as provided in subparagraph (B), the term 'employment' has the meaning given such term by section 3121(b) of the Internal Revenue Code of 1986.

"(B) Treatment of federal employment.—In applying subparagraph (A), the term 'employment' shall not be considered to include service performed in the employ of the United States if, in connection with the performance of such service (or the service of a family member), the individual is provided medical and dental benefits under chapter 55 of title 10, United States Code.

"(3) Employee; employer.—The terms 'employee' and 'employer' have the same meanings as such terms have for purposes of chapter 21 of the Internal Revenue Code of 1986.

"(b) Definitions Relating to Employees.—In this title:

"(1) Eligible employee.—The term 'eligible employee' means, with respect to an employer, an employee who is reasonably expected to perform for that employer on a weekly basis at least 25 hours of service and on a yearly basis at least 16 weeks of service.

"(2) Treatment of consultants and contractors.—The term 'eligible employee' includes an individual who is a consultant or contractor of an employer if the Secretary determines that the consulting arrangement or contract was entered into to avoid the requirements of this title.

"(3) Exclusion of foreign employment.—The term 'eligible employee' does not include an individual—

"(A) who is not a citizen or resident of the United States with respect to service performed outside the United States, or

"(B) who is a citizen or resident of the United States with respect to services performed outside the United States for an employer other than an American employer (as defined in section 3121(h) of the Internal Revenue Code of 1986).

"SEC. 2104. DEFINITIONS RELATING TO FAMILIES.

"In this title:

"(1) In general.—Except as provided in paragraph (2), the terms 'family' and 'family member' mean an individual, the individual's spouse, and the dependents of the individual (as defined under section 152 of the Internal Revenue Code of 1986).

"(2) Treatment of families with medicare beneficiaries for coverage purposes.—In the case of a family with a medicare beneficiary, if coverage is provided to family members other than on the basis of employment of a family member, the beneficiary shall not be treated under this title as a member of the family for purposes of determining eligibility for coverage but shall be treated as a separate individual.

"(3) Spouse.—The term 'spouse' means, with respect to an individual, the individual to which the individual is married.

"(4) Marital status.—Marital status shall be determined in accordance with section 7703 of the Internal Revenue Code of 1986.

"SEC. 2105. APPLICATION OF REQUIREMENT TO EMPLOYERS.

"The requirements of this part apply as of January 1, 1993.

"Subpart 2—Qualified Employer Plans

"SEC. 2111. CERTIFICATION OF QUALIFIED EMPLOYER PLANS.

"(a) In General.—An employer plan shall be treated as a qualified employer plan if, upon application, it is certified as meeting the requirements of each section of subpart 3 of this part by the State in which such plan is located, or, in the absence of State procedures or in the case of a self-insured plan, by the Secretary.

"(b) CERTIFICATION PROCEDURES.—

"(1) IN GENERAL.—Each State and the Secretary shall establish, not later than October 1, 1992, or the date specified by paragraph (2), procedures for the certification and periodic review and recertification of plans as qualified employer plans.

"(2) EXCEPTION TO EFFECTIVE DATE OF PROCEDURES.—In the case of a State—

"(A) requiring State legislation (other than legislation appropriating funds) in order to establish the procedures described in paragraph (1), and

"(B) having a legislature which does not meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1993. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(c) TERMINATION OF CERTIFICATION.—A State or the Secretary, as appropriate, shall terminate the certification of a plan as a qualified employer plan if the State or Secretary determines that the plan no longer meets the requirements for certification. Before effecting a termination, the State or Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"SEC. 2112. DEFINITIONS RELATING TO QUALIFIED EMPLOYER PLANS.

"For purposes of this title:

"(1) EMPLOYER PLAN.—The term 'employer plan' means any health plan offered by an employer to its employee, but does not include any of the following:

"(A) Accident only insurance, disability only insurance, or long-term care only insurance.

"(B) Coverage issued as a supplement to liability insurance.

"(C) Workmen's compensation or similar insurance.

"(D) Automobile medical-payment insurance.

"(2) BASIC HEALTH PLANS; BASIC COORDINATED CARE PLANS.—The terms 'basic health plan' and 'basic coordinated care plan' mean a health plan and a coordinated care plan, respectively, which only provide the basic benefits required under section 2121.

"(3) ENHANCED HEALTH PLANS; ENHANCED COORDINATED CARE PLANS.—The terms 'enhanced health plan' and 'enhanced coordinated care plan' mean a health plan and a coordinated care plan, respectively, which, in addition to providing the basic benefits required under section 2121, provide supplemental benefits. The terms 'enhanced health plan' and 'enhanced coordinated care plan' do not include plans which only provide supplemental benefits.

"(4) HEALTH PLAN.—The term 'health plan' means any plan which is a hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract and, in States which have distinct licensure requirements, a multiple employer welfare arrangement.

"(5) COORDINATED CARE PLAN.—

"(A) IN GENERAL.—Until such time as the definition provided by the Secretary under subparagraph (G) takes effect, the term 'coordinated care plan' means a plan operated by a coordinated care entity that provides for the financing and delivery of health care services to individuals enrolled in such plan through—

"(i) arrangements with participating providers to furnish health care services;

"(ii) explicit standards for the selection of participating providers;

"(iii) organizational arrangements for ongoing quality assurance and utilization review programs;

"(iv) financial incentives for individuals enrolled in the plan to use the participating providers and procedures provided for by the plan; and

"(v) a care coordinator responsible for guiding individuals enrolled in the plan to appropriate health care services in cost-effective settings.

"(B) COORDINATED CARE ENTITY.—The term 'coordinated care entity' includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer, or employee organization, or a coordinate care contractor, that operates a coordinated care plan.

"(C) COORDINATED CARE CONTRACTOR.—The term 'coordinated care contractor' means an individual or entity that—

"(i) establishes, operates or maintains a network of participating providers;

"(ii) conducts or arranges for a qualified utilization review program; and

"(iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a coordinated care plan.

"(D) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, pharmacy, laboratory, or other appropriately licensed or certified provider of health care services or supplies, that has entered into an agreement with a coordinated care entity to provide such services or supplies to a patient enrolled in a coordinated care plan.

"(E) CARE COORDINATOR.—The term 'care coordinator' means a physician, nurse practitioner, or other participating provider as determined by the Secretary.

"(F) QUALIFIED UTILIZATION REVIEW PROGRAM.—

"(ii) IN GENERAL.—The term 'qualified utilization review program' means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of this title.

"(ii) UTILIZATION REVIEW PROGRAM.—The term 'utilization review program' means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies provided under a coordinated care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"(G) DEFINITION BY SECRETARY.—The Secretary shall develop, not later than January 1, 1995, a definition for the term 'coordinated care plan' for purposes of this title, including such requirements for financial participation and risk sharing as the Secretary deems appropriate.

"Subpart 3—Requirements for Qualified Employer Plans

"SEC. 2121. BASIC BENEFITS.

"(a) IN GENERAL.—The requirements of this section are met if an employer plan provides for basic benefits described in subsection (b) and meets the requirements of subsection (c).

"(b) SCOPE OF BASIC BENEFITS.—

"(1) GENERAL BENEFITS.—Except as provided in succeeding paragraphs of this subsection, the benefits provided to an eligible employee by a qualified employer plan shall consist of the same benefits as described in title XVIII to an individual entitled to benefits under part A, and enrolled under part B, of title XVIII.

"(2) ADDITIONAL BENEFITS.—

"(A) IN GENERAL.—Subject to periodicity schedules established by the Secretary, additional benefits shall be provided to an eligible employee by a qualified employer plan for the following items and services:

"(i) Newborn and well-baby care.

"(ii) Well-child care, including routine office visits, and routine laboratory tests, for individuals who have not attained age 7.

"(iii) Cancer screening, including pap smears, mammograms, colorectal and prostate screening, and other tests as specified by the Secretary.

"(iv) Routine immunizations (including the vaccine itself).

"(v) Preventive and routine dental services for individuals who have not attained the age of 18.

"(vi) Eyeglasses and hearing aids, and routine examinations therefor for individuals who have not attained the age of 18.

"(vii) Outpatient prescription drugs, biologicals, and insulin (within the meaning of section 1927(k)).

"(viii) Family planning services.

"(B) PERIODICITY SCHEDULES.—The Secretary, in consultation with appropriate medical experts, shall establish schedules of periodicity which reflect the general, appropriate frequency with which services listed in subparagraph (A) (other than clause (vii) thereof) should be provided.

"(3) BENEFITS UNDER STATE STANDARDS.—A State may implement a standard which further limits the basic benefits required to be provided by qualified employer plans under the preceding paragraphs of this subsection, but in no event shall the State implement a standard that limits basic benefits beyond the amount, duration, and scope of benefits provided under the State plan under title XIX, as in effect on or after January 1, 1993.

"(c) MAINTENANCE OF EFFORTS.—

"(1) IN GENERAL.—The Secretary shall, by regulation, provide rules similar to the rules of section 420(c)(3) of the Internal Revenue Code of 1986, to insure that any large employer shall maintain any benefits offered to the employees of such employer on January 1, 1993, which are in addition to the benefits required under subsection (b) for an additional 2 years after the such date.

"(2) LARGE EMPLOYER.—For purposes of paragraph (1), the term 'large employer' means, with respect to a calendar year, an employer that normally employs 100 or more eligible employees on a typical business day.

"SEC. 2122. TIMING OF ENROLLMENT; PERIOD OF COVERAGE; EMPLOYER PLAN CARDS.

"(a) GENERAL RULE.—The requirements of this section are met if an employer plan meets the requirements of subsections (b), (c), and (d).

"(b) TIMING OF ENROLLMENT.—The requirements of this subsection are met if an employer plan provides that:

"(1) ENROLLMENT UPON EMPLOYMENT.—Enrollment under the plan shall occur not later than the date on which the employment, for which such enrollment is required under this part, commences.

"(2) OPEN SEASON ONLY ONCE EVERY 2 YEARS.—Except in the case of a change in family, employment, or residence status for which coverage may be changed under subsection (c)(2), a currently enrolled eligible employee may change or modify coverage only once during any 2-year period.

"(c) PERIOD OF COVERAGE.—The requirements of this subsection are met if an employer plan provides that:

"(1) BEGINNING OF COVERAGE.—

"(A) IN GENERAL.—In the case of an individual enrolled under such plan, the benefits under the plan shall first become available for services furnished beginning on the first day of the month of enrollment.

"(B) TREATMENT OF ADDITIONS OF DEPENDENTS.—Any dependent added during the period of coverage under such plan shall, as of the date of the addition, be automatically enrolled and covered for benefits under the plan.

"(2) STANDARDS TO REFLECT OTHER CHANGES IN FAMILY, EMPLOYMENT STATUS, AND RESIDENCE.—

"(A) IN GENERAL.—Under standards established by the Secretary consistent with this paragraph, appropriate changes in coverage shall be provided to take into account—

"(i) changes in family composition or status resulting from marriage, divorce (or legal separation), and deletions of dependents,

"(ii) changes in employment status, including termination, and

"(iii) in the case of a coordinated care plan, changes in residence outside a plan's service area.

"(B) MONTHLY CHANGES.—Such standards shall be designed—

"(i) to effect a change in enrollment (or status of enrollment) as of the last day of the first month following the date of the event causing the change,

"(ii) to prevent any periods of noncoverage under any qualified employer plans, and

"(iii) to provide, in the case of a change of family status such as marriage, divorce, or legal separation, for accounting and crediting of cost-sharing among family members in an equitable and administrable manner.

"(d) EMPLOYER PLAN CARDS.—The requirements of this subsection are met if in conjunction with enrollment of individuals under an employer plan, such plan provides for the issuance of a card which may be used for purposes of identification of such enrollment and the processing of claims for benefits under the plan. The Secretary shall specify the information to be included on the card.

"SEC. 2123. LIMITS ON EXCLUSIONS AND COVERAGE STANDARDS FOR BASIC BENEFITS.

"The requirements of this section are met if an employer plan—

"(1) does not deny, limit, or condition the coverage under the plan with respect to basic benefits based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual, and

"(2) does not provide for exclusions from coverage for basic benefits that are more restrictive than the exclusions for such benefits under this part.

"SEC. 2124. EMPLOYEE PREMIUMS AND COST-SHARING.

"(a) ENROLLEE PREMIUMS AND COST-SHARING PERMITTED.—The requirements of this section are met if an employer plan provides for—

"(1) premiums, and

"(2) except as provided in subsection (e), cost-sharing amounts,

that comply with the provisions of subsections (b) and (c), respectively.

"(b) PROVISIONS RELATING TO PREMIUMS.—

"(1) LIMITATION ON PREMIUMS.—

"(A) MONTHLY PREMIUM LIMITED TO 20 PERCENT OF ACTUARIAL RATE.—

"(i) IN GENERAL.—A qualified employer plan may not require an eligible employee to pay a premium the amount of which on a monthly basis exceeds 20 percent (30 percent in the case of an eligible employee with a family member enrolled under the plan) of the monthly actuarial rate (as defined under clause (ii)).

"(ii) MONTHLY ACTUARIAL RATE DEFINED.—For purposes of this section, the term 'monthly actuarial rate' means, with respect to a qualified employer plan in a plan year, the average monthly per enrollee amount that the plan estimates, for enrollees under the plan during the year, would be necessary to pay for the total benefits required during the year under the plan, including administrative costs for the provision of such benefits and an appropriate amount for a contingency margin.

"(2) LIABILITY FOR PAYMENT OF PREMIUMS.—An eligible employee enrolled under a qualified employer plan is liable for payment of premiums required under that plan in accordance with this subsection.

"(3) WITHHOLDING PERMITTED.—No provision of State law shall prevent an employer of an eligible employee enrolled under a qualified employer plan from withholding the amount of any premium due by the employee under this subsection from the wages paid the employee.

"(4) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) as preventing an employer from paying part or all of the employee premium for basic benefits or supplemental benefits, or

"(B) subject to subsection (f)(2), from requiring an eligible employee to pay for all or part of the premium for supplemental benefits.

"(5) NONDISCRIMINATION IN PREMIUM AMOUNTS.—Under a qualified employer plan, no eligible employee may be charged a different premium for the same coverage of basic benefits.

"(c) PROVISIONS RELATING TO COST-SHARING.—

"(1) LIMITATION ON DEDUCTIBLES.—

"(A) IN GENERAL.—Except as permitted under subparagraph (B), a qualified employer plan may not require a deductible amount for benefits provided with respect to any plan year beginning in a calendar year before 1994 that is—

"(i) in the case of a basic health plan—

"(I) with respect to any eligible employee with no family member enrolled under such plan, less than $200 or more than $400; and

"(II) with respect to any eligible employee with a family member enrolled under such plan, less than $400 or more than $800; and

"(ii) in the case of a basic coordinated care plan—

"(I) with respect to any eligible employee with no family member enrolled under such plan, more than $100 ($400 with respect to items and services provided outside the network); and

"(II) with respect to any eligible employee with a family member enrolled under such plan, more than $200 ($800 with respect to items and services provided outside the network).

"(B) DRUG DEDUCTIBLE.—A qualified employer plan may provide for a separate deductible amount for the provision of outpatient prescription drugs, biologicals, and insulin not greater than 2 times the limitation amount under subparagraph (A) applicable to the eligible employee.

"(2) LIMITATION ON COPAYMENTS AND COINSURANCE.—A qualified employer plan may not require the payment of any copayment or coinsurance for an item or service—

"(A) in an amount that is—

"(i) in the case of a basic health plan, less than 20 percent, or more than 25 percent, of the amount payable for the item or service under the plan; and

"(ii) in the case of a basic coordinated care plan, more than 20 percent of the amount payable for the item or service under the plan; or

"(B) after an eligible employee and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in paragraph (3)) for a plan year.

"(3) LIMITATION ON OUT-OF-POCKET EXPENSES.—

"(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term 'out-of-pocket expenses' means, with respect to an eligible employee in a plan year, amounts payable under the plan as deductibles, copayments, and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family members covered under the plan.

"(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section, the term 'out-of-pocket limit' means, in the case of a basic health plan or basic coordinated care plan, for a plan year beginning in a calendar year before 1994, an amount that is—

"(i) with respect to any eligible employee with no family member enrolled under such plan, not less than $1,000 nor more than $5,000; and

"(ii) with respect to any eligible employee with a family member enrolled under such plan, not less than $2,000 nor more than $5,000.

"(d) ADJUSTMENTS TO LIMITATIONS.—

"(1) INFLATION ADJUSTMENTS.—For each calendar year after 1993, the dollar amounts described in paragraphs (1)(A) and (3)(B) of subsection (c) for the preceding calendar year shall be increased by the percentage increase in the wage index, as published by the Bureau of Labor Statistics, for the 12-month period ending on September 30 of such preceding calendar year.

"(2) APPLICATION ON BASIS OF FAMILY STATUS.—Except as provided by the Secretary, a qualified employer plan may, with respect to basic benefits, provide for premiums, deductibles, copayments, and coinsurance to be applied, and the monthly actuarial rate described in subsection (b)(1)(A)(ii) to be estimated, on the basis of the number of family members of an eligible employee.

"(e) COST CONTAINMENT ARRANGEMENTS IN LIEU OF COST-SHARING AMOUNTS.—A qualified employer plan shall be permitted to provide for lower employee cost-sharing amounts if the plan contains such cost containment arrangements as described by the Secretary.

"(f) TREATMENT OF SUPPLEMENTAL COVERAGE.—

"(1) GENERAL RULE.—Nothing in this section shall be construed as preventing a qualified employer plan from providing for deductibles, coinsurance, and copayments or other restrictions with respect to supplemental benefits that are different from those permitted with respect to basic benefits.

"(2) Exception for non-optional supplemental benefits.—If a qualified employer plan is an enhanced health plan or an enhanced coordinated care plan and the eligible employee may not elect to forego the supplemental benefits, the plan—

"(A) may not impose a premium, for such basic and supplemental benefits, that exceeds the premiums that may be imposed for the basic benefits, and

"(B) shall assure that cost-sharing is not imposed with respect to basic benefits once the cost-sharing limit has been reached in a year with respect to all benefits.

"SEC. 2125. COORDINATION AND PORTABILITY OF HEALTH COVERAGE UNDER QUALIFIED EMPLOYER PLANS.

"(a) In General.—The requirements of this section are met if an employer plan meets the requirements of subsections (b) and (c).

"(b) Requirements Relating to Coordination.—The requirements of this subsection are met if an employer plan provides for coordination of—

"(1) enrollment and termination of enrollment among the qualified employer plans, the State plan under section 1902(a)(10)(G), and the program under title XVIII, and

"(2) application of deductibles and limitations on cost-sharing among such plans,

in accordance with standards established by the Secretary consistent with this part.

"(c) Requirement of Notices With Respect to Termination of Coverage.—

"(1) In general.—The requirements of this subsection are met if an employer plan provides notice at the time an individual's coverage under the plan is terminated. Such notice shall be provided (in a form and manner and at a time specified by the Secretary) to—

"(A) the individual (or in the case of a dependent, the eligible employee), and

"(B) the State agency administering the State plan under section 1902(a)(10)(G).

"(2) Notices of termination.—Each notice of termination under paragraph (1) shall include—

"(A) the effective date of the termination,

"(B) the names and other identifying information of family members whose coverage is affected by the termination, and

"(C) in the case of notice to the State, sufficient information to facilitate enrollment of the individuals affected under the State plan under section 1902(a)(10)(G).

"SEC. 2126. USE OF UNIFORM CLAIMS FORMS.

"The requirements of this section are met if an employer plan provides for submission of claims using uniform claims forms developed by the Secretary.

"Subpart 4—General Protections

"SEC. 2131. CONSUMER PROTECTIONS.

"(a) Coordination Among Plans.—The Secretary shall provide for such standards as may be necessary to provide for the allocation of responsibility among qualified employer plans (including the State plan under section 1902(a)(10)(G) and the program under title XVIII) in the case of—

"(1) an inpatient hospital stay, or

"(2) a single payment amount made for other services provided over a period of time, that begins during the period of coverage under one qualified employer plan and ends during a period of coverage under another qualified employer plan.

"(b) Protection Against Provider Claims.—In the case of a failure of a qualified employer plan to make payments with respect to basic benefits, an individual who is enrolled under the plan is not liable to any health care provider or practitioner with respect to the provision of such benefits for payments in excess of the amount for which the enrollee would have been liable if the plan were to have made payments in a timely manner.

"SEC. 2132. PREEMPTION OF CERTAIN STATE REQUIREMENTS.

"(a) Benefit and Coverage Rules.—Effective as of January 1, 1993, no State shall establish or enforce any law or regulation that—

"(1) requires the offering, as part of a qualified employer plan which is a basic health plan or a basic coordinated care plan, of any services, category of care, or services of any class or type of provider other than the basic benefits required to be provided under section 2121,

"(2) specifies the individuals to be covered under such a qualified employer plan or the duration of such coverage, or

"(3) requires a right of conversion from such a qualified employer plan to an individual basic health plan or basic coordinated care plan.

"(b) Coordinated Care Plans and Utilization Review Programs.—

"(1) In general.—Effective as of January 1, 1993, with respect to any qualified employer plan which is a coordinated care plan, no requirement of any State law or regulation shall—

"(A) prohibit or limit such coordinated care plan from including financial incentives for enrollees to use the services of participating providers;

"(B) prohibit or limit such coordinated care plan from restricting coverage of services to those—

"(i) provided by a participating provider; or

"(ii) authorized by a designated participating provider;

"(C) subject to paragraph (2)—

"(i) restrict the amount of payment made by such coordinated care plan to participating providers for services provided to enrollees; or

"(ii) restrict the ability of such coordinated care plan to pay participating providers for services provided to enrollees on a per-enrollee basis;

"(D) prohibit or limit such coordinated care plan from restricting the location, number, type, or professional qualifications of participating providers;

"(E) prohibit or limit such coordinated care plan from requiring that services be authorized by a primary care physician selected by the enrollee from a list of available participating providers;

"(F) prohibit or limit the use of utilization review procedures or criteria by a qualified utilization review program or such coordinated care plan;

"(G) require a qualified utilization review program or such coordinated care plan to make public utilization review procedures or criteria;

"(H) prohibit or limit a qualified utilization review program or such coordinated care plan from determining the location or hours of operation of a utilization review, provided that emergency services furnished during the hours in which the utilization review program is not open are not subject to utilization review;

"(I) require a qualified utilization review program or such coordinated care plan to pay providers for the expenses associated with responding to requests for information needed to conduct utilization review;

"(J) restrict the amount of payment made to a qualified utilization review program or such coordinated care plan for the conduct of utilization review;

"(K) restrict access by a qualified utilization review program or such coordinated care plan to medical information or personnel required to conduct utilization review;

"(L) define utilization review as the practice of medicine or another health care profession; or

"(M) require that utilization review be conducted—

"(i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or

"(ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(2) Exceptions to certain requirements.—

"(A) Subparagraph (c).—Subparagraph (C) of paragraph (1) shall not apply where the amount of payments with respect to a block of services or providers is established under a statewide system applicable to all non-Federal payers with respect to such services or providers.

"(B) Subparagraphs (l) and (m).—Nothing in subparagraphs (L) or (M) of paragraph (1) shall be construed as prohibiting a State from

"(i) requiring that utilization review be conducted by a licensed health care professional, or

"(ii) requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(c) State Defined.—In this section, the term 'State' means the 50 States and the District of Columbia.

"Part B—Small Employer Purchasing Groups

"SEC. 2141. GRANTS TO SMALL EMPLOYER PURCHASING GROUPS.

"(a) Grant Authority.—The Secretary may award grants to qualified small employer purchasing groups to assist such groups in paying the expenditures associated with the formation and initial operations of such groups.

"(b) Application.—To be eligible to receive a grant under this section, a qualified small employer purchasing group shall request such a grant as part of an application submitted by such group to the Secretary at such time, in such form, and containing such information, as the Secretary may require, including certification that such entity complies with all rules established by the State in which such entity is located, or in the absence of such rules, any rules established by the Secretary.

"(c) Authorization of Appropriations.—There are authorized to award grants under this section, such sums as may be necessary.

"SEC. 2142. RULES OF OPERATION.

"(a) Establishment of Rules.—Each State shall establish, not later than October 1, 1992, or the date specified by subsection (c), rules governing the approval of the operation of an entity as a small employer purchasing group in such State. Such rules shall require that—

"(1) the entity is administered solely under the authority and control of its member employers;

"(2) the membership of the entity consists solely of small employers (except that an employer member of the group may retain its membership in the group if, after the State determines that the entity meets the requirements of this subsection, the employer member ceases to be a small employer);

"(3) with respect to the State in which its members are located, the entity consists of not fewer than 10 employers;

"(4) the employer plans with respect to the employer members of the entity comply with applicable State laws and part A of this title;

"(5) each small employer in the geographic area covered by the program of the entity may become a member employer of the entity;

"(6) each enrollee in the program of the entity may enroll with any participating carrier that offers qualified employer plans in the geographic area in which the enrollee resides;

"(7) such entity will be a private, profit or nonprofit entity; and

"(8) the entity file an application for approval with the State.

"(b) APPLICATION FOR APPROVAL.—Each entity desiring approval to operate as a small employer purchasing group in any State shall submit an application to such State. Such application shall describe—

"(1) the details of the group program and the participation requirements for small employers;

"(2) the program goals for reducing the price of health insurance for small employers and increasing insurance coverage among employees of small employers and their dependents;

"(3) the approaches proposed for enlisting participation by insurers and small employers; and

"(4) relevant financial information, including plan sponsor fees, the procedure for the collection by the group of employer and employee premiums from employers, and the use of prepayment of premiums or other mechanisms to assure that premium payments will be made for coverage.

"(c) EXCEPTION TO EFFECTIVE DATE OF RULES.—In the case of a State—

"(1) requiring State legislation (other than legislation appropriating funds) in order to establish the rules described in subsection (a), and

"(2) having a legislature which does not meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1993. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(d) ABSENCE OF STATE ACTION.—In the absence of any State action to establish rules described in subsection (a) by the date specified in such subsection, the Secretary shall promulgate rules, including application forms, for the approval of entities to operate as small employer purchasing groups in such State.

"SEC. 2143. FREEDOM OF CONTRACT.

"Nothing in this subpart shall be construed to prohibit a participating carrier from offering health care insurance coverage to small employers that are not participating in the program of a small employer purchasing group.

"SEC. 2144. SMALL EMPLOYER DEFINED.

"In this title, the term 'small employer' means, with respect to a calendar year, an employer that normally employs less than 100 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"PART C—SMALL EMPLOYER HEALTH INSURANCE REFORM

"SEC. 2151. GENERAL REQUIREMENTS FOR HEALTH INSURANCE PLANS ISSUED TO SMALL EMPLOYERS.

"(a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer shall register, not later than January 1, 1993, with the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for each State in which it issues or offers basic health plans or basic coordinated care plans to small employers.

"(b) GUARANTEED ELIGIBILITY.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent of the eligible employee, to whom coverage is made available by a small employer.

"(c) GUARANTEED AVAILABILITY.—

"(1) STATE STANDARD.—

"(A) IN GENERAL.—An insurer that offers a basic health plan or a basic coordinated care plan to small employers located in a State must meet—

"(i) the availability standard of the State which requires that any insurer offering a basic health plan or a basic coordinated care plan to a small employer in the State offer the same plan to all other small employers in the State, or

"(ii) if determined by the State to be in the best interests of the insured in such State, any other standard which insures such availability.

"(B) ADOPTION OF STANDARDS.—

"(i) IN GENERAL.—Each State shall adopt a standard described in subparagraph (A) not later than January 1, 1993, or the date specified in clause (ii).

"(ii) EXCEPTION TO EFFECTIVE DATE OF STANDARDS.—In the case of a State—

"(I) requiring State legislation (other than legislation appropriating funds) in order to adopt a standard described in subparagraph (A), and

"(II) having a legislature which does not meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this clause is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1993. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(iii) ABSENCE OF STATE ACTION.—In the absence of any State action to adopt a standard described in subparagraph (A) by the date specified in such subsection, the Secretary, in consultation with the Secretary of the Treasury, shall develop requirements with respect to guaranteed availability to apply with respect to insurers located in such State.

"(2) TREATMENT OF COORDINATED CARE ENTITIES.—

"(A) GEOGRAPHIC LIMITATIONS.—A coordinated care entity may deny coverage under a basic coordinated care plan to a small employer whose employees are located outside the service area of the entity, but only if such denial is applied uniformly without regard to health status or insurability.

"(B) SIZE LIMITS.—A coordinated care entity may apply to the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for a State to cease enrolling new small employer groups in basic coordinated care plans (or in a geographic area served by such plans) if it can demonstrate that its financial or administrative capacity to serve previously enrolled groups and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled groups) will be impaired if it is required to enroll new groups.

"(3) GROUNDS FOR REFUSAL TO RENEW.—An insurer may refuse to renew, or may terminate, a basic health plan or a basic coordinated care plan under this part only for—

"(A) nonpayment of premiums,

"(B) fraud or misrepresentation, or

"(C) failure to maintain minimum participation rates.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a basic health plan or a basic coordinated care plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(3).

"(2) TERMINATION OF SMALL EMPLOYER BUSINESS.—An insurer is not required to renew a basic health plan or a basic coordinated care plan with respect to a small employer if the insurer—

"(A) elects not to renew all of its basic health plans and basic coordinated care plans issued to small employers in a State; and

"(B) provides notice to the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for such State and to each small employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to a small employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) BASIC COORDINATED CARE OPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an insurer offers a basic coordinated care plan in a State or a geographic area within a State to employers that are not small employers, the insurer must offer such basic coordinated care plan to small employers in the State or geographic area.

"(2) SIZE LIMITS.—An insurer may cease enrolling new small employer groups in a basic coordinated care plan if it ceases to enroll any new employer groups in such plan.

"SEC. 2152. RATING PRACTICES.

"(a) LIMITATIONS ON EXPERIENCE RATING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in establishing premium rates for basic health plans and basic coordinated care plans offered to small employers in a State, an insurer may use experience ratings.

"(2) TOTAL CLAIMS EXCEEDING $10,000.—An insurer offering basic health plans and basic coordinated care plans to small employers in a State must apply the amount by which total claims for the calendar year on a per employee basis exceed $10,000 across all small employer blocks of business of such insurer in such State.

"(3) NONDISCRIMINATION.—Each State shall promulgate such rules as are necessary to insure that rating practices of insurers in such State do not treat similarly situated employees differently.

"(b) PUBLICATION OF RATES.—

"(1) IN GENERAL.—Not later than April 1 of each year beginning with calendar year 1993, each insurer which issues or offers basic health plans and basic coordinated care plans to small employers in a State shall provide to the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for such State the average rates for such basic health plans and for such basic coordinated care plans charged by such issuer to small employer blocks of business in such State for the previous calendar year.

"(2) PUBLICATION.—Not later than July 1 of each year, each State shall publish a schedule of the average rates provided under paragraph (1).

"(c) BLOCK OF BUSINESS DEFINED.—In this section:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'block of business' means, with respect to an insurer, all of the small employers with either basic health plans or basic coordinated care plans issued by the insurer (as shown on the records of the insurer).

"(2) DISTINCT GROUPS.—

"(A) IN GENERAL.—Subject to subparagraph (B), a distinct group of small employers with either basic health plans or basic coordinated care plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(i) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer,

"(ii) have been acquired from another insurer as a distinct group, or

"(iii) are provided through an association with membership of not less than 10 small employers that has been formed for purposes other than obtaining health insurance.

"(B) EXCEPTION ALLOWED.—Except as provided in paragraph (3), an insurer may not establish more than one distinct group of small employers for each category specified in subparagraph (A).

"(3) SPECIAL RULE.—An insurer may establish up to 2 groups under each category in paragraph (1) or (2) to account for differences in characteristics (other than differences in plan benefits) of basic health plans and basic coordinated care plans that are expected to produce substantial variation in health care costs.

"SEC. 2153. STRICTER STATE STANDARDS PERMITTED.

"Nothing in this subpart shall be construed as preventing any State from imposing—

"(1) stricter requirements than those imposed by section 2151(d) and 2152, or

"(2) requirements in addition to those imposed by this subpart,

on insurers which issue or offer basic health plans or basic coordinated care plans to small employers.".

SEC. 102. TAX PENALTIES ON NONCOMPLYING EMPLOYERS AND INSURERS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to taxes on qualified pension plans, etc.) is amended by adding at the end thereof the following new sections:

"SEC. 4980C. FAILURE TO OFFER TO ENROLL ELIGIBLE EMPLOYEES IN QUALIFIED EMPLOYER PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any person to offer to enroll any eligible employee in a qualified employer plan under part A of title XXI of the Social Security Act.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to an eligible employee shall be $50 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a person to offer to enroll any eligible employee in a qualified employer plan under part A of title XXI of the Social Security Act with respect to any eligible employee shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the eligible employee is placed in a financial position which is as good as such employee would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the eligible employee shall be treated as if the employee had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a qualified employer plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the qualified employer plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) DEFINITIONS.—For purposes of this section, the terms 'eligible employee' and 'qualified employer plan' have the meanings given such terms by sections 2103(b)(1) and 2111 of the Social Security Act, respectively.

"SEC. 4980D. FAILURE TO SATISFY CERTAIN STANDARDS FOR SMALL EMPLOYER HEALTH INSURANCE COVERAGE.

"(a) GENERAL RULE.—In the case of any person issuing a qualified employer plan to a small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of part C of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such part.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to all qualified employer plans issued to small employers by the person on whom such tax is imposed.

"(2) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYER PLAN; SMALL EMPLOYER.—The terms 'qualified employer plan' and 'small employer' have the meanings given such terms by sections 2111 and 2144 of the Social Security Act, respectively.

"(2) PERSON.—The term 'person' means any person that offers a qualified employer plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(c) CLERICAL AMENDMENT.—The table of sections for such chapter 43 is amended by adding at the end thereof the following new items:

"Sec. 4980C. Failure to offer to enroll eligible employees in qualified employer plans.
"Sec. 4980D. Failure to satisfy certain standards for small employer health insurance coverage.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on or after January 1, 1993.

TITLE II—HEALTH CARE COVERAGE FOR INDIVIDUALS NOT OTHERWISE COVERED UNDER QUALIFIED EMPLOYER PLANS OR MEDICARE

SEC. 201. EXPANDED MEDICAID HEALTH CARE COVERAGE OF INDIVIDUALS NOT OTHERWISE COVERED BY QUALIFIED EMPLOYER PLANS OR MEDICARE.

(a) IN GENERAL.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by inserting "and" at the end of subparagraph (F); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) subject to section 1916(g), for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5), (17), and (21), to uninsured individuals described in section 1905(t);".

(b) UNINSURED INDIVIDUALS DEFINED.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(t) The term 'uninsured individual' means an individual—

"(1) who is not otherwise eligible under this title or title XVIII of this Act;

"(2) who is not eligible for coverage under a qualified employer plan (described in part A of title XXI of this Act); and

"(3) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 240 percent of the official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.".

(c) LONG-TERM CARE COVERAGE EXCEPTED.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) as amended by subsection (a), is amended in the matter following subparagraph (G)—

(1) by striking "; and (XI)" and inserting "(XI)";

(2) by striking ", and (XI)" and inserting "(XII)"; and

(3) by adding at the end the following new clause: "and (XIII) the medical assistance made available to an individual described in section 1905(t) who is eligible for medical assistance only because of subparagraph (G) shall not include medical assistance for long-term care services (as determined by the Secretary);".

(d) STATE FLEXIBILITY IN PROVIDING BENEFITS AND COVERAGE.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) in section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) as amended by subsection (c)—

(A) by striking "and (XIII)" and inserting "(XIII)"; and

(B) by adding at the end the following new clause: "and (XIV) the medical assistance made available to an individual described in section 1905(t) may be made available to such individuals without regard to the requirements of paragraph (1) or subparagraph (B) of this paragraph;"; and

(2) in section 1905(a)(22) (42 U.S.C. 1396d(a)(22)), by striking "medical care" and inserting "medical care (including, at the option of a State, payment of premiums for enrollment of individuals described in subsection (t) in private insurance plans or coordinated care plans (as defined in section 2112(5) of title XXI of this Act) or other insurance plans as approved by the Secretary)".

(f) PREMIUMS AND COST SHARING.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (b), by striking "(A) or (E)" and inserting "(A), (E) or (G)"; and

(2) by adding at the end the following new subsection:

"(g) The State plan shall provide that in the case of uninsured individuals described in section 1905(t)—

"(1) whose family income (as determined under paragraph (3) of that section) does not exceed 100 percent of the official poverty line referred to in that paragraph, there may be imposed premiums, deductibles or other cost sharing with respect to such individuals as long as such requirements are nominal in amount (as determined by the Secretary); and

"(2) whose family income (as determined under paragraph (3) of that section) is greater than 100 percent of the official poverty line referred to in that paragraph, there may be imposed premiums, deductibles or other cost sharing with respect to such individuals on a sliding-scale basis based on the individuals' level of income as long as such requirements do not exceed the limitations for such requirements specified in section 2124 of part A of title XXI of this Act.".

(g) INCREASE IN FEDERAL PAYMENT TO STATES ENROLLING INDIVIDUALS IN COORDINATED CARE PLANS.—Section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be increased by 5 percent with respect to amounts expended as medical assistance with respect to individuals described in section 1905(t) who are enrolled in coordinated care plans (as defined in section 2112(5) of title XXI of this Act).".

(h) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a state that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 202. PERMITTING BUY-IN TO MEDICARE FOR CERTAIN UNINSURED INDIVIDUALS.

(a) IN GENERAL.—Section 1818(a)(1) of the Social Security Act (42 U.S.C. 1395i–2(a)(1)) is amended by inserting "(A)" after "(1)" and by adding at the end "or (B) has attained the age of 55 but has not attained the age of 65 and is not otherwise eligible under a qualified employer plan described in part A of title XXI of this Act,".

(b) BUY-IN UNDER PART A THROUGH PAYMENT OF PREMIUMS OF FULL BENEFIT COSTS.—Section 1818(d) of such Act (42 U.S.C. 1395i–2(d)) is amended—

(1) in paragraph (1), by inserting "and individuals described in subsection (a)(1)(B)" after "individuals age 65 and over"; and

(2) in paragraph (3), by inserting "and individuals described in subsection (a)(1)(B)" after "individuals age 65 and over".

(c) BUY-IN UNDER PART B THROUGH PAYMENT OF PREMIUMS OF FULL BENEFIT COSTS.—Section 1839(a) of such Act (42 U.S.C. 1395i(a)) is amended by adding at the end the following new paragraph:

"(5) The Secretary shall, during September of 1992, and of each year thereafter, determine and promulgate the monthly actuarial rate which shall be applicable for the succeeding calendar year for individuals described in section 1818(a)(1)(B). Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to such individuals and enrollees age 65 and older will equal 100 percent of the total of the benefits and administrative costs which the Secretary estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such individuals and such enrollees. In calculating the actuarial rate, the Secretary shall include an appropriate amount for a contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1, or, if a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage under parts A and B for months beginning on or after January 1, 1993.

TITLE III—HEALTH CARE ACCESS—TAX PROVISIONS

SEC. 301. REFUNDABLE CREDIT FOR SMALL BUSINESS HEALTH CARE COSTS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CREDIT FOR SMALL BUSINESS HEALTH CARE COSTS.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible small employer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 50 percent of the qualified health care costs paid by such employer during the taxable year.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED HEALTH CARE COSTS.—The term 'qualified health care costs' means the excess of—

"(A) the amounts paid by the eligible small employer for health care coverage or benefits of its eligible employees for the taxable year, over

"(B) 5 percent of the wages paid or incurred with respect to such employees for such taxable year.

"(2) ELIGIBLE SMALL EMPLOYER.—

"(A) IN GENERAL.—The term 'eligible small employer' means any person—

"(i) which, on an average business day during the preceding taxable year, had more than 1 but less than 100 eligible employees, and

"(ii) at least 50 percent of the eligible employees of which during the taxable year received health care coverage.

"(B) AGGREGATION RULES.—All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means an employee who—

"(A) with respect to an eligible small employer, is reasonably expected to perform for that employer on a weekly basis at least 25 hours of service and on a yearly basis at least 16 weeks of service, and

"(B) does not have any health care coverage or benefits other than that provided by the eligible small employer.

The term 'eligible employee' shall not include a self-employed individual as defined in section 401(c)(1).

"(4) WAGES.—The term 'wages' has the meaning given such term by section 3121(a) (determined without regard to dollar limitation contained in such section).

"(c) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—Rules similar to the rules of subsection (g) of section 32 shall apply to any credit to which this section applies.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 77 of such Code is amended by inserting after section 7523 the following new section:

"SEC. 7524. ADVANCE PAYMENT OF CREDIT FOR SMALL BUSINESS HEALTH CARE COSTS.

"(a) GENERAL RULE.—The Secretary of the Treasury shall make advance payments of refunds to which eligible taxpayers are entitled by reason of section 35.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means, with respect to any taxable year, any taxpayer if the taxpayer furnishes, at such time and in such manner as the Secretary may prescribe, to the Secretary such information as the Secretary may require in order to—

"(1) determine whether the taxpayer will be entitled to a refund by reason of section 35 for the taxable year, and

"(2) estimate the amount of qualified health care costs of the taxpayer for such taxable year.

"(c) EMPLOYMENT TAX PAYMENTS OFFSET IN LIEU OF DIRECT PAYMENTS.—

"(1) IN GENERAL.—An eligible taxpayer may, in lieu of receiving payments under subsection (a) from the Secretary, reduce such taxpayer's employment tax payments by an amount equal to the payments under subsection (a).

"(2) EMPLOYMENT TAX PAYMENTS.—For purposes of this subsection, the term 'employment tax payments' means payments made of—

"(A) amounts required to be deducted and withheld under section 3401 (relating to wage withholding),

"(B) amounts required to be deducted under section 3102 (relating to FICA employee taxes), and

"(C) amounts of taxes imposed under section 3111 (relating to FICA employer taxes).

"(3) TREATMENT OF REDUCED PAYMENTS.—For purposes of this title, any reduction of an eligible taxpayer's employment tax payments shall be treated as if such taxpayer had paid to the Secretary, on the day on which wages are paid to such taxpayer's employees, an amount equal to such reduction.".

(c) TECHNICAL AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 35 of such Code".

(d) CLERICAL AMENDMENTS.—

(1) The table sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Credit for small business health care costs.

"Sec. 36. Overpayments of tax.".

(2) The table sections for chapter 77 of such Code is amended by inserting after the item relating to section 7523 the following new item:

"Sec. 7524. Advance payment of credit for small business health care costs.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 302. HEALTH INSURANCE CREDIT DOUBLED TO ASSIST LOW-INCOME EMPLOYEES.

(a) IN GENERAL.—Subparagraph (A) of section 32(b)(2) of the Internal Revenue Code of 1986 (relating to health insurance credit) is amended—

(1) by striking "6 percent" in clause (i) and inserting "12 percent", and

(2) by striking "4.285 percent" in clause (ii) and inserting "8.57 percent".

(b) ADVANCE REFUNDING OF CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 3507 of such Code (relating to advance payment of earned income credit) is amended by striking "equal to such employee's earned income advance amount." and inserting "equal to the sum of such employee's—

"(1) earned income advance amount, plus

"(2) health insurance advance amount."

(2) ELIGIBILITY CERTIFICATE.—Section 3507(b) of such Code (relating to earned income eligibility certificate) is amended by striking "and at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) estimates the amount of health insurance costs (within the meaning of section 32(b)(2)(B)) of the employee for the taxable year."

(3) HEALTH INSURANCE ADVANCE AMOUNT.—Section 3507 of such Code is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) HEALTH INSURANCE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'health insurance advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated health insurance costs included in the earned income eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under subsection (c)."

(4) CONFORMING AMENDMENTS.—

(A) Section 3507(e) of such Code (as so redesignated) is amended—

(i) by striking "earned income advance payments" in paragraph (2) and inserting "advance payments under subsection (a)", and

(ii) by inserting "and health insurance advance amounts" after "amounts" in paragraph (3).

(B) Section 7524(c)(2) of such Code (as added by section 301) is amended by striking "section 3507(d)(2)(B)" and inserting "section 3507(e)(2)(B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 303. REPEAL OF EITC INTERACTIONS.

(a) REPEAL OF INTERACTION WITH MEDICAL EXPENSE DEDUCTION.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(b) REPEAL OF INTERACTION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED.—Paragraph (3) of section 162(l) of such Code is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(c) REPEAL OF INTERACTION WITH DEPENDENT CARE CREDIT.—Subparagraph (D) of section 32(b)(1) of such Code is amended by striking the last sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 304. DEDUCTIBILITY FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking out "25 percent of".

(b) DEDUCTION MADE PERMANENT.—Section 162(l) of such Code is amended by striking out paragraph (6).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

TITLE IV—ADMINISTRATIVE PROVISIONS AND REPORT

SEC. 401. DEVELOPMENT AND APPLICATION OF UNIFORM ADMINISTRATIVE PROCEDURES.

Part A of title XI of the Social Security Act (42 U.S.C. 1101 et seq.) is amended by adding at the end the following new section:

"UNIFORM ADMINISTRATIVE PROCEDURES

"SEC. 1144. The Secretary shall to the extent practicable, by no later than January 1, 1994, develop and implement a universal health identification card, uniform claims form and reporting standards to be utilized under titles XVIII, XIX, and XXI of this Act.".

SEC. 402. ADDITIONAL FUNDING FOR OUTCOMES RESEARCH AND PRACTICE GUIDELINES.

(a) EXTENSION AND EXPANSION OF INITIAL GUIDELINES AND STANDARDS.—Subparagraph (A) of section 1142(a)(3) of the Social Security Act (42 U.S.C. 1320b–12(a)(3)) is amended—

(1) by striking "January 1, 1991" and inserting "January 1, 1993", and

(2) by striking clause (i)(I) and inserting the following:

"(i)(I) account for a significant portion of national health expenditures (including expenditures under titles XVIII and XIX); and".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 1142(i) of the Social Security Act is amended—

(1) in paragraph (1), to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $175,000,000 for fiscal year 1992;

"(B) $225,000,000 for fiscal year 1993; and

"(C) $275,000,000 for fiscal year 1994."; and

(2) in paragraph (2), by striking out "70 percent" and inserting in lieu thereof "50 percent".

SEC. 403. ANNUAL REPORT ON HEALTH CARE.

The Secretary of Health and Human Services shall not later than January 15 of each year beginning with calendar year 1994, submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives providing information (including recommendations to address problems identified) with respect to—

(1) access to health care services including the effects on access of—

(A) patterns of utilization;

(B) supply and distribution of services and providers; and

(C) demographic changes;

(2) sources of significantly changing health care costs;

(3) the effects on costs of—

(A) utilization by service, region, provider type and payer;

(B) supplies, labor, capital, and new and emerging technology;

(C) State and private efforts to contain such costs; and

(D) outcomes research and practice guidelines; and

(4) such other matters as the Secretary may consider appropriate.•

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2115. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; to the Committee on Finance.

SPACEPORTS TREATED LIKE AIRPORTS UNDER EXEMPT FACILITY BOND RULES

• Mr. MACK. Mr. President, today, with my colleague Senator GRAHAM as an original cosponsor, I will be introducing legislation to amend the Internal Revenue Code of 1986 to treat spaceports as airports under tax-exempt facility bond rules. A similar bill, H.R. 1358, has been introduced by Congressmen SHAW and BACCHUS.

Current law allows exempt facility bonds to be issued to finance certain transportation facilities: airports, docks and wharves, mass commuting facilities, high-speed intercity rail facilities, and storage or training facilities directly related to these. With the exception of high-speed intercity rail facilities, the facilities must be owned by a governmental unit to be eligible for such financing. The bill would clarify that the interest earned on bonds issued by spaceports would be exempt from Federal taxation.

The definition of spaceports includes facilities directly related and essential to servicing spacecraft, enabling spacecraft to take off or land, and transferring passengers or space cargo to or from spacecraft. The facilities must be located at, or close proximity to, the launch site to perform these functions. It also includes other functionally related and subordinate facilities at or adjacent to the spaceport, such as launch control centers, repair shops, maintenance or overhaul facilities, and rocket assembly facilities that must be located at or adjacent to the launch site.

Under the bill, spaceport property which is located on land owned by the United States and leased to a governmental unit will be treated as owned if the lease term is at least 15 years. In addition, the land will be treated as owned as long as the lease term is equal to the useful life of the property.

My State contains the Spaceport Florida Authority, created in 1989 as the Nation's first transportation authority to stimulate the development of a commercial launch facility and related infrastructure at Cape Canaveral and Cape San Blas, FL. This was the beginning of the revival of the U.S. aerospace industry in the competitive international market. The passage of my bill will be another aid in positioning our aerospace industry to compete with the rest of the world.

The Joint Committee on Taxation has looked at this bill and has estimated the proposal would reduce the Federal fiscal year budget receipts by the following: (in millions) 1992(−1); 1993(−1); 1994(−2); 1995(−3); 1996(−3); for a total revenue loss to the Treasury of $10 million between 1992–96.

In order to compete in the global marketplace, I urge my colleagues to cosponsor this bill in order to allow our infant commercial spaceports the same advantages under our tax systems as other similar facilities.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPACEPORTS TREATED LIKE AIRPORTS UNDER EXEMPT FACILITY BOND RULES.

(a) IN GENERAL.—Paragraph (1) of section 142(a) of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended to read as follows:

"(1) airports and spaceports,".

(b) TREATMENT OF GROUND LEASES.—Paragraph (1) of section 142(b) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR SPACEPORT GROUND LEASES.—For purposes of subparagraph (A), spaceport property which is located on land owned by the United States and which is leased to a governmental unit shall be treated as owned by such unit if—

"(i) the lease (as defined in section 168(i)(3)) is at least 15 years, and

"(ii) such unit would be treated as owning property if such lease term were equal to the useful life of such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

By Mr. RIEGLE:

S. 2116. A bill to improve the health of children by increasing access to childhood immunizations, and for other purposes; to the Committee on Finance.

COMPREHENSIVE CHILD HEALTH IMMUNIZATION ACT

Mr. RIEGLE. Mr. President, today, I am introducing the Comprehensive Child Health Immunization Act, S. 2116, to ensure that America's children get the healthy start in life that we thought we had ensured more than a decade ago.

BACKGROUND ON THE PROBLEM

In 1979, the United States reached the goal of getting 90 percent of children immunized against common but dangerous diseases before they started school. In the last 3 years, however, we've seen a dramatic rise in the number of toddlers getting sick—even dying—from measles, an entirely preventable disease. Last year, more than 25,000 kids got measles—a two-thirds jump from the year before. In Michigan, measles jumped from a record low in 1988 of 31 cases to 359 in 1989, only to be exceeded again in 1990 with 478 cases—the highest since 1979—and 1 death. Nationally, nearly 4,500 mumps cases and 3,700 whopping cough cases also developed. In fact, in Michigan whooping cough cases almost doubled between 1989 and 1990.

This frightening trend is partly due to the fact that the country's earlier success in immunizing school children has made our system lax. It's also because our vaccine delivery system has not kept up its aggressive pace of pursuing these children, and making the shots affordable and easy to obtain. The sad fact is that about a third of U.S. 2-year-olds are not protected against measles, mumps, rubella, polio, diphtheria, whopping cough, tetanus and HiB—Haemophilus influenza type B. In Michigan, where the number of children fully immunized has been dropping, the rates parallel the national figures. Among poor children in big cities, the immunization rate among 2-year-olds often is as low as 40 percent.

GOAL OF COMPREHENSIVE LEGISLATION

We in Congress responded to the measles outbreak a year ago by increasing the Federal appropriations for immunizations significantly for 1991—and we've increased funding again this year. We're trying to help the Centers for Disease Control [CDC] to attack the problem head on, but it's time to go beyond mere damage control in the short term to correct some basic infrastructure problems. That is the goal of the Comprehensive Child Health Immunization Act and I am introducing today.

Ideally, Mr. President, children should receive immunizations as part of a comprehensive, preventive health care program. Declining immunization status reflects a larger lack of access to basic health services for too many children. For many of us today, the ultimate goal is to guarantee financial access to coordinated health care for all Americans. But improvements in the childhood vaccine delivery system are needed now. The National Vaccine Advisory Committee [NVAC] to the CDC and the many child advocacy organizations it represents have set a new objective for the country. It's called every child by two and the objective is to get 90 percent immunization coverage of 2-year-olds by the year 2000.

We need to do several things to accomplish this, and I believe the Comprehensive Child Health Immunization Act will address them in a thoughtful manner, giving our public health professionals the tools and information they need to solve this problem.

Many groups, including the American Academy of Pediatrics, the Children's Defense Fund, the March of Dimes, and the Michigan Council for Maternal and Child Health, are supportive of this bill. I will continue to work with these and other groups to further refine and improve this bill as it moves through the legislative process.

IMPLEMENTATION OF CDC IMMUNIZATION PRACTICE STANDARDS

First, we have to remove the artificial barriers. For example, often children go to doctors or public health clinics for checkups, or minor illnesses, and no one checks to be sure they are up to date with their shots. It's a missed opportunity—and these opportunities also exist in our public aid programs when kids come along with their parents to offices where their benefit status is checked, and could easily receive shots, or at least have their immunization records checked. To remove these barriers, a set of standards for sound immunization practices is being drawn up by the CDC with input from a great number of public health professionals across the country through the NVAC. Adherence to these standards should be required among all who administer child vaccines, and I propose such adherence wherever Federal moneys are supporting immunizations.

Some of the opportunities for immunization will cost more money to implement—such as keeping vaccination clinics open beyond routine business hours so that working parents have more of a chance to get their kids immunized on the recommended schedule. Under S. 2116, I would authorize funds to ensure that public facilities can take steps such as these where necessary.

UTILIZING PUBLIC PROGRAMS TO INCREASE IMMUNIZATIONS

Child care programs that receive Federal assistance would be required to know the immunization status of all the children they serve and tell parents that full immunization is expected for children's participation and where to go to get them immunized. The bill would require that States getting Federal funds for these programs ensure that this happens. The programs provide assistance for child day care to working parents, including some parents who are in transition from public aid to work, as well as assistance for food programs at child care centers serving poor children.

Public aid offices should have informational materials about vaccination to give to parents, as should facilities in the private sector, such as maternity rooms of hospitals. Community centers, churches, even employment sites, present other opportunities for mothers and fathers to find useful reminders about how critical it is for kids to get their shots, and where they can get them. My legislation would require public aid programs to provide information ensuring that parents know how to get their children immunized, and allocate funds for HHS to develop consumer materials for wide distribution in communities.

INCREASED OUTREACH AND ACCESS TO IMMUNIZATIONS

In several locations, local government and private groups have mobilized to plan innovative ways for achieving their immunization objectives. Detroit is one of these areas, and some of the ideas there include setting up vaccination clinics in places where lots of children can be found, such as day care centers and adult health care clinics where kids accompany parents, even getting the word out to grandparents through AARP chapters. Here again, the local areas that have developed these plans need funds to fully operate them, and the Federal Government must help these as well as other locations that work out creative approaches. Under the Comprehensive Child Health Immunization Act, these programs are funded and funds are also used to spread the results of the techniques that work nationwide.

RESTORING MEDICAID OUTREACH FOR CHILDHOOD IMMUNIZATIONS IN MICHIGAN

Another kind of outreach required under this legislation relates to the health screening program for children in the Medicaid Program, called the Early and Periodic Screening, Diagnosis, and Treatment [EPSDT] Program. In a general way, that program already requires examinations of poor children on welfare, but States must begin to track the immunization status of those kids and aggressively try to reach out to communities at risk to ensure that children are immunized.

Mr. President, Governor Engler recently cut a successful outreach program in Medicaid's preventive health care program for children in Michigan. As reported by Michigan's Department of Public Health, these cuts mean that 40,000 children will not be immunized. The bill I am introducing today directly addresses this problem by requiring outreach for immunization under Medicaid.

NATIONWIDE TRACKING SYSTEM OF IMMUNIZATION STATUS

Public health officials need to keep track of immunization levels nationwide by location and age, but we don't have a reliable way of getting that information. Physicians, furthermore, don't have a good way to check on what shots a child needs if they haven't seen the child before. What's needed is a computerized national registry. It's going to take a couple of years to get one fully developed, but we have to start now by assisting States to put together tracking systems based on their vital records data. Under S. 2116, State demonstration projects would be funded next year. And, ultimately, we should gain a nationwide capability to assess a child's status by 1995. Having that capability will go a long way toward making all of the other outreach activities pay off.

EMERGENCY VACCINE FUND

The CDC must have funds available to respond quickly when an epidemic strikes, such as the measles outbreak that we've recently been confronting. CDC needs a permanent fund to purchase more vaccines in such emergencies to immunize those kids who have not had their second doses for measles, mumps, and rubella. This bill would authorize $20 million each year to be set aside for that purpose.

SUPPORT FOR NEEDED RESEARCH

Under this comprehensive legislation, research specifically dedicated to developing new vaccines would be supported. These are vaccines for younger infants, vaccines that combine several now administered separately, and vaccines against other childhood diseases such as chicken pox.

DEMONSTRATIONS TO TEST NEW PURCHASE AND DISTRIBUTION METHODS OF VACCINES

Finally, the high cost to physicians of purchasing vaccines directly from manufacturers is a problem we have to begin to address by finding ways to get affordable vaccines to primary care givers. One way potentially is to encourage states to buy vaccines under

CDC's contracts and distribute it to all providers at no charge. At least in Medicaid, States might save money this way by not reimbursing physicians with Medicaid funds, and physicians would not lose money as they do now when they have to accept Medicaid's low reimbursement rate.

Our goal in this part of the bill is to create incentives for all children to go back to receiving their immunizations from private providers who furnish ongoing, comprehensive health care. We also must relieve the burden on the public clinics which have been taking on an increasing portion of the task. Through demonstration grants, this bill would help States to experiment with different purchasing and distribution methods in order to find the most cost-effective way of achieving these objectives.

NEED FOR COMPREHENSIVE IMMUNIZATION PROGRAM

Mr. President, public health experts often say that the level of medical attention given to children is a measure of a country's health overall. Certainly, a child's immunization status is a strong indicator of a family's use of personal health services. The United States is now lagging behind other Western countries in its immunization rates. Our declining immunization status indicates a larger lack of access to basic health services for too many children.

Until this country reforms its health care system to make coordinated, comprehensive health care services available to all Americans, we must set our sights on an objective of giving America's children the benefit of the best our system can offer. But the system of delivering immunizations to them needs immediate improvement in order to eliminate the preventable diseases that threaten their future, and I believe this legislation takes important steps to ensure such improvement. The estimated cost of its implementation is $92.5 million in fiscal year 1993, $115.5 million in fiscal year 1994, and $140.5 million in fiscal year 1995, plus such as sums as may be needed for educational materials and to implement certain CDC practice standards.

I ask unanimous consent that the text of the bill, and a detailed summary, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Child Health Immunization Act".

SEC. 2. IMPLEMENTATION OF CENTERS FOR DISEASE CONTROL PRACTICE STANDARDS.

(a) IN GENERAL.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended—

(1) by redesignating section 2106 (42 U.S.C. 300aa-6) as section 2111; and

(2) by inserting after section 2105 (42 U.S.C. 300aa-5) the following new section:

"SEC. 2106. IMPLEMENTATION AND COMPLIANCE WITH IMMUNIZATION PRACTICE STANDARDS.

"(a) DESIGNATION BY SECRETARY.—Not later than 6 months after the date of enactment of this section, the Secretary shall publish in the Federal Register a designation of those Standards for Immunization Practices, developed and published by the Centers for Disease Control under the auspices of the National Vaccine Advisory Committee (hereafter referred to in this section as the 'standards'), that the Secretary determines can be implemented without cost.

"(b) COMPLIANCE.—

"(1) IN GENERAL.—The Secretary shall promulgate regulations that require all individuals or entities receiving assistance from the Secretary for public sector immunization and social service programs, or for private sector immunization services provided through reimbursements made under title XIX of the Social Security Act or with vaccines made available by the Centers for Disease Control, to comply with the standards designated under subsection (a) not later than 18 months after the date of enactment of this section.

"(2) STATES.—Regulations promulgated under paragraph (1) shall require States receiving Federal funds that are used to provide vaccines, to insure that recipients of such vaccines adhere to the standards designated under subsection (a).

"(3) AUDIT PROCEDURES.—The Secretary shall utilize and expand existing audit procedures to monitor compliance with the requirements of this subsection.

"(c) OTHER STANDARDS.—

"(1) PROVISION OF ASSISTANCE.—The Secretary may provide assistance to entities that receive Federal immunization grant funds, to enable such entities to implement those Standards for Immunization Practices that the Secretary determines will necessitate the commitment of additional financial resources and to increase the access of children to immunizations.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to provide assistance under paragraph (1), such sums as may be necessary for each of the fiscal years 1993 through 1995.".

(b) CONFORMING AMENDMENTS.—

Section 2102(a)(9) of such Act (42 U.S.C. 300aa-2(a)(9)) is amended by striking out "2106" and inserting in lieu thereof "2111".

Section 2111(a) of such Act (as redesignated by subsection (a)(1)) is amended by striking out "section 2102(9)" and inserting in lieu thereof "sections 2102(9), 2106, 2107, 2108, 2109, and 2110".

SEC. 3. INCREASED IMMUNIZATION THROUGH ENROLLMENT INFORMATION.

Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2106 (as added by section 2) the following new section:

"SEC. 2107. DEVELOPMENT OF ENROLLMENT AND REFERRAL INFORMATION.

"(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture and with appropriate organizations, shall develop—

"(1) model questions concerning immunization status and medical history; and

"(2) model packets of information concerning—

"(A) the risks and benefits associated with vaccines;

"(B) locations of immunization providers with respect to each State;

"(C) other material determined appropriate by the Secretary;

for use by States in enrolling and recertifying individuals with respect to programs under this Act, part A of title IV and title XIX of the Social Security Act, the special supplemental food program under section 17 of the Child Nutrition Act of 1966, and other programs designated by the Secretary.

"(b) INCORPORATION AND PROVISION OF INFORMATION.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall require States to—

"(A) incorporate the model questions developed under subsection (a)(1) into the forms and procedures utilized by such States with respect to the programs referred to in subsection (a); and

"(B) provide the appropriate information developed under subsection (a)(2) to recipients of benefits provided under the programs referred to in subsection (a).

"(2) OTHER ENTITIES.—The model questions and informational packets developed under subsection (a) shall be administered and provided to recipients of benefits under other Federally administered health programs, including benefits under the block grant program under title V of the Social Security Act, the preventive health block grant program under part A of title XIX of this Act, and benefits provided through community and migrant health centers.

"(c) REFERRAL PROCEDURES.—Not later than 1 year after the date of enactment of this section, the Secretary shall develop and apply, and require States to apply, procedures relating to the referral of individuals for immunization services, including a plan for the provision of transportation assistance for children eligible to receive assistance under title XIX of the Social Security Act.".

SEC. 4. REQUIREMENT OF IMMUNIZATIONS WITH RESPECT TO CHILD CARE.

(a) AFDC AND FAMILY SUPPORT SERVICES.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new section:

"IMMUNIZATION STATUS OF CHILDREN

"SEC. 418 In addition to meeting the other requirements of this part, to be eligible to receive payments under this part, a State shall provide assurances to the Secretary that child care providers within the State that provide services for which assistance is provided under this part will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(b) SOCIAL SERVICES BLOCK GRANTS.—Section 2005 of the Social Security Act (42 U.S.C. 1397d) is amended by adding at the end thereof the following new subsection:

"(c) To be eligible to receive payments under this part, a State shall provide assurances to the Secretary that child care providers within the State that provide services for which assistance is provided under this part will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(c) CHILD CARE FOOD PROGRAM.—Section 17(a)(2) of the National School Lunch Act (42 U.S.C. 1766(a)(2)) is amended—

(1) in subparagraph (B), by striking out "and" at the end thereof;

(2) in subparagraph (C), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(d) CHILD CARE AND DEVELOPMENT BLOCK GRANTS.—Section 658E(c)(2) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e(c)(2)) is amended by adding at the end thereof the following new subparagraph:

"(K) IMMUNIZATION STATUS.—Provide assurances that child care providers within the State that provide services for which assistance is provided under this subchapter will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of enactment of this Act.

SEC. 5. INCREASED OUTREACH AND ACCESS TO IMMUNIZATIONS.

(a) INFANT IMMUNIZATION INITIATIVE PLANS.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2107 (as added by section 3) the following new section:

"SEC. 2108. GRANTS FOR IMPLEMENTATION OF INFANT IMMUNIZATION PLANS AND SUPPORT OF INNOVATIVE PROGRAMS.

"(a) IN GENERAL.—The Secretary shall award demonstration grants to eligible State and local entities to enable such entities to fully implement the plans of such entities with respect to the Infant Immunization Initiative.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be a State or local entity that has developed a plan under the Infant Immunization Initiative; and

"(2) prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary determines appropriate, including a description of the activities the entity intends to carry out using amounts received under the grant.

"(c) MAINTENANCE OF SUPPORT.—The Secretary may not award a grant under this section to an entity unless the entity agrees to maintain the expenditures of the entity for activities of the type described in subsection (e), at a level equal to not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity is applying to receive the grant.

"(d) AMOUNT OF GRANT.—The amount of each grant provided under this section shall be determined by the Secretary based on the size and demonstrated need of the entity.

"(e) USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall be utilized for the implementation of the immunization plan of the entity. Activities under such plan may include—

"(1) the establishment of express vaccination facilities in health clinics;

"(2) the provision of vaccinations in hospital emergency rooms, through in-home visits and in day or child care centers, Head Start institutions, and in schools;

"(3) the establishment of mobile vaccination teams; and

"(4) other activities determined appropriate by the Secretary.

"(f) INNOVATIVE LOCAL PROGRAMS.—The Secretary may make grants to local communities submitting applications that meet the requirements of subsection (b)(2), to assist such communities in carrying out innovative programs designed to increase access to immunizations.

"(g) REPORTING REQUIREMENT.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report concerning the activities undertaken using amounts received under the grant. The Secretary shall compile information received in such reports, make such information available to the public, and provide for the use of such information in the immunization planning activities of other State or local entities.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) GENERAL PROGRAM.—There are authorized to be appropriated to carry out this section, other than subsection (f), $20,000,000 for fiscal year 1993, $25,000,000 for fiscal year 1994, and $30,000,000 for fiscal year 1995. A grant awarded with amounts appropriated under this paragraph shall not be for a period in excess of 3 years.

"(2) LOCAL INNOVATIVE PROGRAMS.—There are authorized to be appropriated to carry out subsection (f), $30,000,000 for fiscal year 1993, $40,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995, and such sums as may be necessary for each fiscal year thereafter.".

(b) COMPLIANCE WITH PRACTICE STANDARDS.—Section 2106 of such Act (as added by section 2) is amended by adding at the end thereof the following new subsection:

"(d) SUPPORT OF OPERATIONAL ACTIVITIES.—

"(1) IN GENERAL.—The Secretary, acting through the Centers for Disease Control, may provide assistance to entities of the type referred to in subsection (b)(1), to support the additional operational activities of immunization sites necessary to maintain compliance with the standards relating to infrastructure changes. Such assistance may also be provided to support innovative approaches designed to increase the access of children to immunization services.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of the fiscal years 1993 through 1995.".

(c) CONSUMER MATERIALS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide for the development and distribution of consumer educational materials concerning childhood immunizations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1993, such sums and may be necessary to carry out this subsection.

(d) EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT PROGRAM.—The Secretary of Health and Human Services shall modify regulations with respect to the Early and Periodic Screening, Diagnosis and Treatment program under title XIX of the Social Security Act, to require States to undertake aggressive outreach efforts in contacting parents concerning the immunization of their children and in tracking the immunization status of children through information submitted to the State from immunization providers seeking reimbursement under such title XIX.

SEC. 6. COMPREHENSIVE IMMUNIZATION TRACKING SYSTEM AND NATIONWIDE REGISTRY.

(a) NATIONAL HEALTH INTERVIEW SURVEY.—There are authorized to be appropriated to the Centers for Disease Control, $500,000 for fiscal year 1993, and such sums as may be necessary for each fiscal year thereafter, to pay the costs associated with the utilization of the National Health Interview Survey compiled by the National Center for Health Statistics.

(b) RESEARCH AND DEMONSTRATION PROGRAM.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2108 (as added by section 5(a)) the following new section:

"SEC. 2109. NATIONWIDE COMPUTERIZED REGISTRY RESEARCH AND DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a research and demonstration grant program to award grants to States, or other entities determined appropriate by the Secretary, for the development of computerized immunization registries in such States.

"(b) APPLICATION.—To be eligible to receive a grant under this section, a State or other entity shall prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary may require, including a description of the immunization registry that such State or entity intends to develop and implement through the use of amounts received under the grant.

"(c) USE OF AMOUNTS.—A State or entity shall use amounts received under a grant awarded under this section to—

"(1) develop and implement a computerized system for the identification and tracking of children for immunization purposes;

"(2) identify appropriate mechanisms for collecting, updating, maintaining and accessing data concerning the immunization of children;

"(3) implement procedures under which vaccine providers will have access to the current immunization records of their patients;

"(4) carry out any other activities determined appropriate by the Secretary.

"(d) REPORTING REQUIREMENTS AND NATIONAL COORDINATION.—Each State or entity that receives a grant under this section shall prepare and submit to the Secretary annual reports concerning the activities undertaken with amounts provided under this section. The Secretary shall utilize such reports to develop a nationwide, computerized registry containing immunization information concerning children throughout the United States. In developing such system, the Secretary shall establish procedures—

"(1) to collect information, through coordination with existing data gathering methods utilized by the Centers for Disease Control, from health care providers and State entities concerning the immunization status of individuals;

"(2) to enable health care providers to access information concerning their patients' immunization status; and

"(3) for tracking the immunization status of children.

"(e) COORDINATION WITH OTHER PROGRAMS.—The Secretary, and each State or entity that receives a grant under this section, shall coordinate the activities under such grant with activities carried out under section 2108.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to award grants under subsection (a), $12,000,000 for fiscal year 1993.

"(2) PURCHASE OF EQUIPMENT.—There are authorized to be appropriated to enable the Secretary to provide assistance under this section for the purchase of computer equipment, to States or entities that demonstrate the likely success of their Statewide registry system, $20,000,000 for fiscal year 1994, and $30,000,000 for fiscal year 1995.

"(g) REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress, a report concerning the results of the implementation of various Statewide immunization tracking systems established under this section until such time as a nationwide system is fully implemented."

SEC. 7. VACCINE PURCHASE AND DISTRIBUTION DEMONSTRATION PROGRAMS.

(a) PUBLIC HEALTH SERVICE ACT.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2109 (as added by section 6(b)) the following new section:

"SEC. 2110. PRIVATE PROVIDER VACCINE PURCHASE DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a demonstration program under which grants will be awarded to eligible States to enable such States to purchase vaccines for distribution to and use by private health care providers.

"(b) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

"(c) MAINTENANCE OF SUPPORT.—The Secretary may not award a grant under this section to a State unless the State agrees to maintain the expenditures of the State for activities of the type described in subsection (d), at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(d) USE OF AMOUNTS.—

"(1) IN GENERAL.—A State shall use amounts received under a grant awarded under this section to purchase vaccines (in addition to those vaccines that such State would otherwise purchase), and distribute such vaccines at no cost to private health care providers for the immunization of children.

"(2) REQUIREMENTS OF PROVIDERS.—A private health care provider that receives vaccines purchased by the State under this section shall—

"(A) administer such vaccines to patients without assessing such patients for the cost of such vaccines;

"(B) with respect to any assessments made for the costs of administering such vaccines to patients—

"(i) prominently display information that indicates that no individual will be denied a vaccine made available under this section because of the inability of such individual to pay for the costs associated with the administration of such vaccine by the provider; and

"(ii) base such assessments on the ability of the patients to pay, consistent with applicable State requirements;

"(C) provide the State with information concerning the number of individuals treated with such vaccines; and

"(D) carry out any other activity determined appropriate by the State.

"(3) REPORTS.—A State that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the findings of the State with respect to any decrease, during the period for which the report is prepared, in the number of individuals referred by private health care providers to public providers for immunization purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1993 through 1995.

"(f) REPORT.—Not later than September 30, 1995, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the demonstration program established under this section. Such report shall include an assessment of whether the number of individuals referred by private health care providers to public providers for immunization purposes decreased in States awarded grants under this section during grant years.".

(b) SOCIAL SECURITY ACT.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end thereof the following new section:

"PRIVATE PROVIDER VACCINE PURCHASE DEMONSTRATION PROGRAM

"SEC. 1931. (a) ESTABLISHMENT.—The Secretary shall establish a demonstration program under which grants will be awarded to eligible States to enable such States to purchase vaccines for distribution to and use by private health care providers and to provide such providers with increased reimbursements for immunization services provided under this title.

"(b) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

"(c) MAINTENANCE OF SUPPORT.—The Secretary may not award a grant under this section to a State unless the State agrees to maintain the expenditures of the State for activities of the type described in subsection (d), at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(d) USE OF AMOUNTS.—

"(1) IN GENERAL.—A State shall use amounts received under a grant awarded under this section to—

"(A) purchase vaccines (in addition to those vaccines that such State would otherwise purchase), and distribute such vaccines at no cost to private health care providers, on a use and replacement basis, for the immunization of children who are eligible for medical care under this title; and

"(B) provide increased reimbursements under this title to private health care providers with respect to immunization services for which reimbursement is provided under this title.

"(2) REQUIREMENTS OF PROVIDERS.—A private health care provider that receives vaccines purchased by the State under this section shall—

"(A) provide the State with information concerning the number of individuals treated with such vaccines; and

"(B) carry out any other activity determined appropriate by the State.

"(3) REPORTS.—A State that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the findings of the State with respect to—

"(A) any decrease, during the period for which the report is prepared, in the number of individuals referred by private health care providers to public providers for immunization purposes;

"(B) any increase in the number of individuals immunized under this title; and

"(C) any savings achieved by the State in the expenses of such State under this title.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1993 through 1995.

"(f) REPORT.—Not later than September 30, 1995, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the demonstration program established under this section. Such report shall include an assessment of—

"(1) whether the number of individuals referred by private health care providers to public providers for immunization purposes decreased in States awarded grants under this section during grant years: and

"(2) the potential savings under this title with respect to immunized children.".

SEC. 8. NATIONAL FUND FOR DISEASE OUTBREAK CONTROL.

Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)) is amended—

(1) in paragraph (1)(A), by inserting "as provided in paragraph (3), and except" after "Except"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) There are authorized to be appropriated $20,000,000 for fiscal year 1993, and each fiscal year thereafter, to be deposited in the National Fund for Disease Outbreak Control established under subparagraph (B).

"(B) The Secretary shall establish and administer a National Fund for Disease Outbreak Control. Such Fund shall be used by the Secretary to provide additional resources to enable the Centers for Disease Control to control the outbreaks of diseases requiring additional vaccine purchases.

"(C) Upon the determination by the Secretary that an unanticipated disease outbreak of the type described in subparagraph (B) occurs, the Secretary shall utilize the Fund established under such subparagraph to provide the Centers for Disease Control with the resources necessary to control the spread of such disease through the implementation of necessary preventive measures, including the reimmunization of children in disease-affected areas who have not yet received the recommended second-dose immunization against the disease.

"(D) Amounts appropriated under this paragraph shall remain available without fiscal year limitation.".

SEC. 9. SUPPORT FOR SPECIAL VACCINE RESEARCH.

Section 2102(a) of the Public Health Service Act (42 U.S.C. 300aa-2(a)) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RESEARCH.—The Director of the Program shall make appropriations available to appropriate Federal agencies to enable such agencies to carry out special research with respect to—

"(A) the development of vaccines that are safe and effective in younger infants and newborns;

"(B) the development of vaccine combinations to decrease the number of injections and required vaccine provider visits; and

"(C) the development of new vaccines, including vaccines for chicken pox and rotovirus strains common throughout the United States.".

SEC. 10. CENTERS FOR DISEASE CONTROL PROGRAM GUIDANCE.

The Centers for Disease Control shall develop a program guidance for all entities receiving a grant under this Act (or the amendments made by this Act), or any other childhood immunization grant under the Public Health Service Act, that shall require, as a condition of receiving such grants, that such grantees describe in detail the objectives, and plans for achieving such objectives, of such grantees and the specific activities to be undertaken by such grantees to reach out to high-risk populations for immunization purposes. Such program guidance shall also require such grantees to submit end-of-year reports to the Director of the Centers for Disease Control describing the success of such grantees in achieving such objectives and in carrying out such plans.

SEC. 11. REPORT.

Not later than 6 months after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the immunization status of preschool and school-aged children nationwide. Such report shall contain a description of the major impediments to the attainment of desired levels of immunization and recommendations for necessary programmatic, policy and legislative changes.

SUMMARY OF THE COMPREHENSIVE CHILD HEALTH IMMUNIZATION ACT

Purpose: To increase childhood immunizations.

Section I—Implement the Standards for Immunization Practices published by the Centers for Disease Control (CDC) under the auspices of the National Vaccine Advisory Committee.

Many of the standards call for elimination of unnecessarily restrictive policy barriers to immunizations which will not require added resources. Others, such as standards calling for clinic staff to give one-to-one information to parents; expanded hours of operation; and for staff to create record systems to track immunization status, will require use of additional funds. CDC, in conjunction with the National Vaccine Advisory Committee and grantees, is in process of developing standards to be completed and promulgated by spring 1992.

1. Change Practice Restrictions in Public Immunization Programs.

Background: Administrative requirements of many public clinic immunization programs frequently make immunizations less accessible to children. Although these restrictions are well meaning, public and private health providers widely agree that they have no valid medical basis and should be eliminated. These barriers include, among others: requirements of advance appointments and physical exams, physician referral, enrollment in well-baby clinics, multiple visits for all vaccinations due at the same time, use of false medical contra-indications to deny vaccination.

Legislative Proposal: Require the Secretary of the Department of Health and Human Service (HHS) to designate those standards which may be implemented in the public sector without reliance on additional resources by six months following enactment of this legislation, and require compliance with them, in all HHS-funded programs, within one-and-a-half years after enactment. Such programs conduct public-sector activities that operate immunization and social service programs and support private sector immunizations either through Medicaid reimbursement or receipt of vaccines from entities which purchased them through CDC grant funds. States which have received federal funds and used them to provide vaccines would be required to assure adherence to these standards by recipients. Require HHS to build on current audit procedures to assure compliance with these standards.

2. Increase funding authorization to implement the remaining standards that require more resources.

Legislative Proposal: Authorize such sums as necessary in FY 1993, 1994 and 1995 for the programs established under the Public Health Service Act to permit CDC to support the additional operational activities of public immunization sites, supported with CDC funds, needed to come into compliance with the CDC practice standards relating to infrastructure changes.

Section II—Utilize enrollment in, and interaction with, other federal public programs to increase immunizations.

Background: Studies have shown that about one-third of unvaccinated measles patients had one or more previous health service contacts—visits with providers that were missed opportunities for vaccination. Many inner-city preschool children are in regular contact with public assistance programs which see families each month. Yet state welfare enrollment, and periodic visits to welfare office by clients, do not incorporate screening of immunization status of children.

Legislative Proposal: Require HHS and the Department of Agriculture, in conjunction with appropriate groups, to develop questions about immunization status and medical history, and provide information on vaccine risks and benefits and where to obtain immunizations, for use by states in enrolling and recertifying individuals in the Aid to Families with Dependent Children (AFDC), Medicaid, and Women, Infants and Children (WIC) programs. Such questions should be incorporated into existing procedures and forms. These questions should be administered, and the information provided, also to recipients of services given in federally administered health and social services programs such as those funded by maternal and child health, prevention and Title XX social services block grants or rendered in community and migrant health centers. The questions and information will be developed for use within one year after enactment.

HHS will also develop referral procedures across federally-supported programs one year after enactment, and require states to develop such procedures for state-administered programs as well as a plan for transportation assistance to Medicaid-eligible children.

Section III—Assess and Improve Immunizations in Child Care Programs.

Background: States receive federal funds to assist child care programs under at least five different programs. Two of these assist current or former AFDC recipients who are in transition to employment ("welfare to work" and "at risk" programs) by providing payments vouchers or placements of their children in child care. Another supports child care through social services block grants under Title XX of the Social Security Act. A fourth assists food programs in child care and family day care centers that serve poor children, under the National School Lunch Act. The fifth supports child care centers, as well as group, in-home and family day care programs for poor children under the Child Care and Development Block Grant Act.

Legislative Proposal: Require states, as a condition of receiving funds under these programs, to mandate that recipients of the funds, including child and family day care centers, assess the up-to-date immunization status of all children they serve and provide information as described in Section II. This requirement will be effective six months after enactment.

Section IV—Increase Outreach and Access to Immunizations.

Background: Funding is needed to enable HHS to support innovative approaches to increasing access to immunizations.

1. In September 1991 HHS announced it had identified and would provide technical assistance to six local areas to develop plans that will improve access to immunizations. These plans have not been funded for complete implementation, however, and replication in other locations of any activities that succeed will not be possible without federal assistance.

2. In addition to the need for greater support of the immunization delivery system is the need for more widespread consumer educational materials to increase parental desire to have children immunized. Although existing coalitions, representing private organizations devoted to improving the nation's immunization levels, may succeed in gaining philanthropic and corporate funding to develop such materials, success will require use of government financial assistance, as well.

3. The Early and Periodic Screening Diagnosis and Treatment (EPSDT) program, established under Title XIX of the Social Security Act, requires state Medicaid agencies to ensure that the health status of Medicaid-eligible children is checked regularly. This program has not required states to track the immunization status of children, however, or to contact parents to urge them to have their children vaccinated.

Legislative Proposal: 1(a). Authorize a program of demonstration grants under the Public Health Service Act, totaling $20 million in FY 1993, $25 million in FY 1994, and $30 million in FY 1995, to be used by the six model communities in order to fully implement their plans. These plans include such activities as opening "express" lanes in clinics for vaccinations; providing vaccinations in hospital emergency rooms, in home visits, in day care/child care, Head Start and WIC centers, and in schools; and activating mobile vaccination teams. The results of these model plans will be distributed and used in planning activities in other areas that will improve access to immunizations.

1(b). Authorize $30 million in FY 1993, $40 million in FY 1994, $50 million in FY 1995, and such sums as may be needed thereafter, to permit CDC to assist local innovative programs designed to increase access to immunizations.

2. Authorize new funds under the Public Health Service act, such sums as necessary in FY 1993, to finance the development and distribution by HHS of consumer educational materials on childhood immunizations to a wide range of types of facilities, such as hospitals, employment sites and community centers.

3. The HHS Secretary will amend regulations for the EPSDT program to require states to make aggressive outreach efforts in contacting parents about immunization and tracking children's immunization status, using information submitted to states by

medical providers seeking Medicaid reimbursement.

Section V—Create a Comprehensive Immunization Tracking System through a Nationwide Registry.

Background: 1. The last time a comprehensive national survey of immunization was conducted was in 1985. This year an immunization assessment of all children is included as part of the National Health Interview Survey conducted for the National Center for Health Statistics. This surveillance system of age-specific vaccination rates should be maintained to help monitor compliance with recommended immunization schedules. In the past, the funding for the inclusion of this assessment in the survey has come from CDC operational funding.

2. State computerized tracking systems are needed to permit all providers to accurately assess immunization status each time a child has a medical encounter, as well as to compile national statistics on levels of immunization across the country. Presently, assessment of a child's status depends on the memory or records available from a parent, except when all vaccinations have been done by one provider. The basis for data systems exists through vital statistics records and birth certificate information. CDC plans to assist several cities this year to participate in a demonstration of tracking systems and some of the cities indicate they cannot initiate such systems without outside funding.

Legislative Proposal: 1. Create a new, permanent authorization for the CDC immunization program of $500,000 for FY 1993, and such sums as may be needed in years thereafter, to enable the agency to pay for the cost of using the next national survey. The results of the survey regarding immunization should be published in a timely manner.

2. The HHS Secretary will establish a research and demonstration program under the Public Health Service Act which ultimately will lead to full development of an interstate computerized registry which can be widely used by both public and private providers. Information in the registry will come from medical providers and state entities, such as vital records diversions. HHS will ensure that such demonstrations protect confidential information about children and are coordinated with CDC's existing methods of data gathering.

For FY 1993, demonstration grants to states or appropriate organizations will be authorized, totaling $12 million, to identify appropriate mechanisms for collecting, updating and maintaining data and effective means of accessing it. The demonstration programs will include a means of tracking the immunization status of children in the EPSDT program and will be coordinated with program under Section IV. The Secretary will make annual reports to Congress on the results of various state tracking methods until a nationwide tracking system is fully operational.

An authorization of $20 million will be created in FY 1994, and $30 million in FY 1995, for HHS to assist states or appropriate organizations to purchase computer equipment and software, where necessary. The purpose of the authorization is to make computer tracking effective and full integrated across all states through HHS, in order to make the data nationally available.

Section VI—Demonstrate New Purchase and Distribution Methods.

Background: The cost of vaccination in physician office is too high for many middle-income parents, due to market prices of private-sector purchase. Therefore, an increasing number of parents seek immunizations for their children at already burdened public clinics, often interrupting the coordination of children's preventive care. States now purchase approximately half of the vaccines administered to children in the public sector; the balance of vaccines administered in the public sector in provided with federal funds. Most state purchases are at a more favorable price than private providers can obtain because they are made under contracts between CDC and manufacturers. If states were to increase their purchases through the CDC contract in order to distribute vaccines to private providers at no cost, they could expect to recover part of the cost of doing so through avoidance of Medicaid reimbursements to private providers. In addition, if private providers were more fully reimbursed for Immunizations under Medicaid, more physicians might participate and more children get immunized.

Legislative Proposal: To reduce the financial disincentive to receiving immunizations at physician offices, or other private facilities, HHS will develop two demonstration programs to be carried out over three years. Funding for these programs will be authorized at $5 million for each program in each of the three years. One will examine two mechanisms for increasing immunizations of Medicaid-eligible children in the private sector; the other will demonstrate whether vaccines made available to physicians at no cost will bring a substantial number of non-welfare children back to the private physician for immunization, and relieve the burden on public clinics. The cost-effectiveness of the different approaches will be assessed. For both demonstrations, funds will be authorized under the Public Health Service Act.

1. In the first demonstration, participating states will use grant funds from the Health Care Financing Administration to: 1) increase Medicaid reimbursement rates to private providers and, 2) purchase additional vaccines to give to private providers—on a use and replacement basis—who immunize children covered by Medicaid. The demonstration will examine, among other things, the degree of increased immunizations among children eligible for Medicaid and, in the second part, the potential savings to Medicaid.

2. In the second demonstration, participating states will use immunization grant funds provided by CDC under the Public Health Service Act to purchase additional vaccines to give to private providers for any and all immunizations. The demonstration will assess possible decreased referrals to public clinics from the private sector.

In the second demonstration, although providers will not be allowed to charge for the cost of vaccines, they will be allowed to charge for administration of vaccines, based on ability to pay or consistent with state requirements. If providers charge for administration, they will prominently display information which indicates that no one may be denied vaccine provided by the federal government for failure to pay the administration fee or failure to make a donation to the provider.

Section VII—Establish a national fund for outbreak control.

Background: When a disease outbreak occurs, emergency appropriations must be provided and often this does not happen fast enough.

Legislative Proposal: Under the Public Health Service Act, authorize an amount of $20 million each beginning in FY 1993, to be placed in a permanent reserve fund for use when unanticipated outbreaks require CDC to purchase additional vaccines. In those instances, as determined by the HHS Secretary, the fund could be used for the re-vaccination of children in affected areas who have not received the second dose recommended against measles, mumps, and rubella, or as the Secretary deems necessary.

Section VIII—Support special research.

Legislative Proposal: Authorize such sums as necessary to the National Vaccine Program within HHS to dispense to appropriate federal agencies for special research. This research will be for the purpose of: 1) developing vaccines that are safe and effective in younger infants and, ideally, newborns; 2) developing vaccine combinations to decrease the number of injections and visits required; and 3) developing new vaccines, including vaccines against chicken pox and rotoviruses common in the U.S.

Section IX—Report to Congress.

Legislative Proposal: The HHS Secretary will report to Congress six months after enactment, and annually thereafter, on the immunization status of pre-school and school-age children nationwide, describing the major barriers to attaining desired levels of immunization and identifying necessary programmatic, policy and legislative changes.●

By Mr. SASSER (for himself, Mr. MOYNIHAN, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. PRYOR, Mr. HOLLINGS, Mr. SIMON, Mr. DECONCINI, Mr. GRAHAM, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. DODD, Mr. WIRTH, Mr. GLENN, Mr. ADAMS, Mr. METZENBAUM):

S. 2117. A bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses; pursuant to the order of August 4, 1977, referred jointly to the Committee on Budget and the Committee on Governmental Affairs.

SOCIAL SECURITY SERVICE PRESERVATION ACT OF 1991

Mr. SASSER. Mr. President, I rise today to introduce a vital piece of legislation: the Social Security Preservation Act of 1991. I am pleased to have as original cosponsors Senators MOYNIHAN, RIEGLE, SANFORD, SARBANES, PRYOR, HOLLINGS, SIMON, DECONCINI, GRAHAM, ROCKEFELLER, MIKULSKI, DODD, WIRTH, GLENN, ADAMS, and METZENBAUM.

The Social Security system is perhaps the most important program that is administered by the Federal Government. Social Security represents a sacred trust between the US Government and its citizens. It provides benefits to 40 million beneficiaries and it takes 3.6 million new applications every year.

The Social Security Program is administered by the Social Security Administration—SSA in shorthand. Unfortunately, in 1985, the President set in motion the termination of 17,000 SSA positions over a 6-year period ending in 1990. This action has had very adverse impacts on service to Social Security beneficiaries and applicants.

The Social Security Disability Program now has a backlog of more than

600,000 cases pending. Even if the entire amount requested by the President for 1992 is appropriated, the backlog will grow to 700,000 by the end of 1992. In an unprecedented disclosure, a press release accompanying the President's budget this year acknowledged that the applications of disabled Americans could require as much as 6 months to process by the end of 1992, even if the Congress approved the full amount of the President's budget request for SSA.

Just think of that. Some of the most vulnerable Americans—those who are completely disabled and cannot hold a job—have to wait 6 months to get Social Security benefits that they are entitled to by law. And all because the President and his advisers slashed the number of people working for the Social Security Administration over the last 6 years or asked for insufficient funds to pay for its activities. This is unjust and unfair.

But this is just the beginning. The pending number of hearings and appeals rose from 154,000 in late 1989 to 187,000 in August. Why? Because there are not enough staff and not enough other resources.

There has been a severe problem with telephone service. In a misguided attempt to solve this telephone service difficulty, SSA attempted to switch to one 800 number for the entire Nation and make it impossible for people to call their local offices. But there are not enough people to answer the 800 number. During peak periods in February, the busy signal rate was 74 percent; during nonpeak periods in the same month the busy signal rate was 64 percent. This is unacceptable. And in efforts to reduce this busy signal rate, SSA is switching staff out of handling Social Security claims in order to answer the 800 number. They are robbing Peter to pay Paul.

Manpower shortages are so severe that there are not enough people to train new claims representatives. In years past a new worker was given at least 13 weeks of training. This made sense because the Social Security rules and formulas take up 26 huge volumes. But now workers receive a maximum of only 10 weeks of training. Some workers are receiving no formal training. This is obviously unacceptable.

I could go on, but I think the point is clear. The unwarranted cutbacks in Social Security staff and resources have resulted in significant reductions in service to the public. And the problem has been compounded because OMB has repeatedly refused to release contingency funds appropriated for the agency by the Congress.

Fortunately, there is a solution. The Social Security Administration needs more money to hire additional staff and to have greater resources available. But as I will show in a moment, Social Security is competing with all other domestic appropriated programs for scarce funds. My legislation would eliminate this competition, enabling sufficient funding so that Social Security service to the public can be restored to needed levels.

Why are Social Security Administrative costs forced to compete with all other domestic appropriated programs for scarce dollars? Did not the Congress enact a law last year completely removing Social Security from the budget?

Congress certainly did enact a law last year that did just that. The law was very clear: for all budgetary purposes, Social Security was to be excluded. In particular, Social Security was to be excluded from the caps or limits that were placed on total domestic appropriations in each year.

But the Office of Management and Budget made the dubious legal decision that Social Security administrative costs were not excluded from the caps. As a result Social Security administrative money must compete with all other domestic appropriations for funding. Given the very tight limits on domestic spending and the significant unmet domestic needs in this country, it is small wonder that Social Security does not get enough money to provide adequate service to the public.

The legislation I am introducing today would fix this problem. It would make it clear in statute that Social Security administrative expenses must be excluded from the domestic discretionary spending caps. In this way the Social Security Administration could be given the amount of funding necessary to provide needed services to the public.

Social Security administrative expenses would not be completely unrestricted. To maintain budgetary control, these funds would be subject to the Social Security firewall, which already provides budgetary controls on all Social Security benefits and revenues. The legislation makes clear the precise manner in which administrative costs would be subject to this firewall.

We must protect the Social Security system in full. Full protection means that beneficiaries and applicants must receive adequate service. This legislation will make it possible to ensure that service. I strongly urge my colleagues to support this legislation.•

• Mr. SANFORD. Mr. President, I am pleased to be a cosponsor of this important legislation to remove Social Security administrative funds from the Federal budget. This was what Congress intended last year when legislation removing Social Security trust funds from the deficit calculations was approved. I thought we had made a clean break, but the Office of Management and Budget determined that administrative costs would not be removed, and instead would be counted under the domestic discretionary cap.

This administration, as was the case with the previous administration, likes to be creative with trust fund money. This creativity continued in the President's fiscal year 1992 budget proposal by counting Social Security administrative money as domestic discretionary money. This administration wants to pit Social Security, a program that more than pays for itself against Head Start, public health services and many other important underfunded nontrust fund programs. Where is the logic in that?

My staff spends an enormous amount of time helping people in North Carolina with Social Security problems. Most of these problems could be prevented if Social Security offices had enough manpower to get the job done. There are fewer offices to help people, and fewer people within those offices that remain. The problem may be as simple as getting through to the new 800 number to get a question answered. "Why is it taking so long?" is a question I get often as I move around the State. Well the answer is that during the past decade insufficient funding has created larger and larger backlogs and more problems for citizens and workers alike. And these problems are getting worse.

To hold Social Security administrative funds hostage under a domestic discretionary spending cap only makes matters worse. President Bush should not be doing this, and I am pleased to cosponsor legislation to end this unfair practice.•

• Mr. SARBANES. Mr. President, I rise today in strong support of the Social Security Service Preservation Act introduced by the distinguished chairman of the Budget Committee. I am proud to join him as an original cosponsor of this important piece of legislation.

Last year, we removed Social Security from the Federal budget and exempted what is this Nation's largest and most important service delivery program from the constraints of the Budget Enforcement Act. When the Senate supported this change by a vote of 98 to 2, it was unknown that language in another provision of the Budget Act raised some question as to whether the off-budget status of the Social Security Program included the administrative costs of the Social Security Administration. Clearly the intent of the legislation we passed last year was to have the entire program off budget. The bill offered by the Senator from Tennessee will clarify this by removing the administrative costs of the Social Security Administration from the discretionary spending limits in the Budget Enforcement Act and by reducing the spending caps accordingly.

Mr. President, I am privileged to represent the tens of thousands of Federal employees who are at the heart of Social Security operations. They represent the finest and best-trained employees found anywhere in our civil service. However, the budget cuts and staff reductions of the last two administrations have deprived these dedicated employees of the resources they need to provide adequate services to Social Security beneficiaries. Recent studies cited by the Senator from Tennessee indicate how these services have suffered under the pressure of dwindling resources.

This is not the first time I have taken the floor urging that we ensure that the Social Security Administration has sufficient resources to meet the needs of the public. In 1987, I authorized the Federal Government Service task force to study the service provided by the Social Security Administration through a survey of congressional caseworkers. The study revealed that, notwithstanding the diligent efforts of an overworked, underfunded staff, there existed a gross deficiency in service delivery. In fact, the problem of insufficient and declining service is such that I currently have legislation before the Senate to ensure that Social Security service offices are not closed unnecessarily.

The legislation introduced by Senator SASSER is critical to the effort of restoring Social Security services to an acceptable level. It would clarify the intent of last year's Budget Enforcement Act that the administrative costs be excluded from Federal budgetary constrictions. Most importantly, this legislation will help to ensure that this Nation's most important domestic program has the resources necessary to deliver its vital services to the public.

Mr. President, I commend the Senator from Tennessee for his work on this important issue. I urge my colleagues to support this legislation; and I yield the floor.•

• Mr. RIEGLE. Mr. President, today I am pleased to join with Senator SASSER, Senator MOYNIHAN and others in introducing legislation to remove the administrative expenses of the Social Security Program from the discretionary caps established under last fall's budget summit agreement. As a member of both the Senate Budget and Finance Committees, I strongly believe that the administrative costs of the Social Security Program should be treated in the same way as the old age, survivors, and disability insurance trust fund.

As my colleagues are aware, Social Security is a self-financed program, funded entirely from a dedicated payroll tax. I was a strong advocate in the early 1980's of removing Social Security from the Federal budget because there were some people who wanted to cut Social Security benefits to balance the budget. I felt it was important to protect the benefits that people had earned and eliminate once and for all the temptation to use Social Security funds for purposes other than those for which they were intended. The old age, survivors, and disability insurance trust funds were finally taken out of the Federal budget in 1985 as part of the original Gramm-Rudman-Hollings law.

Despite this action, Social Security continued to be counted toward the deficit calculations under Gramm-Rudman-Hollings. As my colleagues are well aware, the Social Security trust funds are currently running a surplus—this year it's going to be $63 billion according to the Congressional Budget Office [CBO]. When these surpluses are included in the deficit calculations, they make the operating deficit of the Federal Government look much smaller than it actually is. That's why we took the step last year of removing Social Security from the deficit calculations under Gramm-Rudman. When we did this, we believed we were taking all of Social Security, including the administrative expenses, out of these calculations.

Providing adequate levels of funding for administrative expenses is essential for the smooth operation of the Social Security Program. Currently, the administration of Social Security programs is hampered by the budgetary limits placed on the administrative expenses. For example, right now it takes anywhere from 2 to 6 months for the State disability determination services to make a decision on applications for disability benefits. People are waiting 6 to 14 months in some cases for a decision on an appeal to an Administrative Law Judge; in some cases people are waiting over 1 year just to get a hearing. And it's not just the disability program that is affected, seniors have been hurt by the problems at SSA. The entire system is fraught with delays, and services have deteriorated.

If the administrative expenses are treated as domestic discretionary spending and subjected to the spending caps enacted last fall, as the Office of Management and Budget [OMB] has indicated it intends to do, these funds could be subjected to any across-the-board cuts triggered if spending exceeds the levels set under the caps for this area of spending. This risk is unwarranted and unjustified. First of all, these expenses are paid directly by the trust funds, not from general revenues. And keeping the administrative costs on-budget is not what we intended last year when we took Social Security—all of it—out of Gramm-Rudman.

Mr. President, Social Security, including the administration of the program, is not contributing to the Federal budget deficit in any way. In order for the program to be run smoothly and for senior citizens and disabled persons to receive the benefits to which they are entitled, it is essential that the administrative aspect of the program be fully funded, and not subject to political manipulation. I urge our colleagues to join us in supporting this legislation to clarify the intent of Congress in this area.•

By Mr. D'AMATO:

S.J. Res. 236. Joint resolution designating the third week in September 1992 as "National Fragrance Week"; to the Committee on the Judiciary.

NATIONAL FRAGRANCE WEEK

• Mr. D'AMATO. Mr. President, I rise today to introduce legislation designating the week beginning the second Sunday in September as "National Fragrance Week."

"National Fragrance Week" is the offspring of the Fragrance Foundation based in Manhattan. The Fragrance Foundation is responsible for many outstanding community and industry-wide contributions. They are a nonprofit organization geared toward education and community outreach. Not only does the foundation offer a central library and support international sensory research, it also participates in the mentor program at the Fashion Institute of Technology. Additionally it is an ardent supporter of Fragrance Gardens for the Blind. The Fragrance Forum, the foundation's quarterly newsletter, keeps the industry up to date on trends and activities.

The city of New York has had an annual celebration of Fragrance Week since 1987. Fragrance Week is marked by a mayoral proclamation and citywide celebrations. This year, the Fragrance Foundation and I seek a nationwide celebration during the third week of September 1992.

Mr. President, I ask unanimous consent that the text of my joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 236

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the Fragrance Foundation, a nonprofit educational organization, has grown and prospered since its establishment in 1949;

Whereas the Fragrance Foundation's goals are to advance the understanding and enjoyment of fragrance, one of humankind's greatest sensory pleasures, and to explore through scientific inquiry the therapeutic benefits of fragrance;

Whereas fragrance has the power to evoke memories, reduce anxiety, increase alertness, and elevate the spirits;

Whereas the fragrance industry employs more than 1,000,000 people and generates more than $4,000,000,000 in sales in the United States;

Whereas the Fragrance Foundation has celebrated the observance of Fragrance Week each year since 1987 and wishes to expand the festivities of Fragrance Week into a nationwide celebration; and

Whereas on September 13th, 1992, the Fragrance Foundation will inaugurate a nationwide educational effort through the leading retailers of the United States to acquaint the people of the United States with the benefits and pleasures of fragrances: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in the Congress assembled, That the week beginning September 13th, 1992, is designated as "National Fragrance Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.•

By Mr. DASCHLE:

S.J. Res. 237. A joint resolution proposing an amendment to the Constitution of the United States to set the compensation of services for Members of Congress, and for other purposes; to the Committee on the Judiciary.

COMPENSATION OF SERVICES FOR MEMBERS OF CONGRESS

• Mr. DASCHLE. Mr. President, public confidence in Congress as an institution is near an all-time low. That is understandable given the recent attacks from the President, the media, and certain members of the House and the Senate.

Some of the criticism is fair, some of it is not. But the need for constructive change cannot and should not be ignored.

As someone who believes in the constitutionally designated role of this institution, I am convinced that we have to take serious action to address this decline in public confidence by attacking its root causes. If people cannot trust that Congress will serve the national interest rather than individual Members' interests, if people cannot believe that their voices will be heard above the fray of partisan politics, then the very principles that drive our democratic system are threatened. We cannot have a government "of the people, for the people, and by the people" if the people do not believe or participate in it.

How do we restore public faith in our Government? There is no quick fix, and at least some of the responsibility lies with those who use cheap shots to denigrate the institution for short-term political gain or increased newspaper sales. But there are several things we in Congress can and must do to protect the integrity of this institution—not because it is "ours," or because we might be affected in the next election, but because our democracy depends on it.

First, we must acknowledge our faults. Although some of the attacks on Congress are arguably unfair or misleading, they would would not be so harmful if we did not create fertile ground for them. We, as an institution, have our problems, and we should acknowlege them honestly and do our best to correct them.

Second, we must fight the tendency to allow style and symbolism to overtake substance. The real problems in America are all too often neglected in favor of petty politics or symbolic speeches.

Third, we must, I am convinced, enact serious campaign finance reform. The long reach of special interests must be withdrawn and replaced by greater citizen participation in the electoral process.

Finally, we must develop a package of internal reforms to ensure that we avoid even an appearance of conflict of interest. There are several proposals already under consideration. Over the next few months. I will be introducing a package of legislation to initiate several reforms I believe are key to restoring the public trust in Congress.

Today I am introducing the first pillar of that package—the Congressional Pay Limitation Amendment. This joint resolution would amend the Constitution to ensure that Congress does not establish its own pay.

Instead of giving itself pay raises, Congress's pay would rise or fall with the income of the average American family. Not only would Congress be removed from pay decisions, Member's pay would be indirectly based on their performance in addressing our national economic issues, since improvements or declines in our economic strength would bring with them corresponding increases or decreases in congressional pay. The amemdment reads: "The Congress shall make no law affecting the compensation for services for Members of Congress. On January 1, of each year of the first session of a Congress, the compensation of Members of Congress shall be adjusted to correspond to any increase or decrease in the median income of all citizens of the United States."

In the near future, I will be introducing two other pieces of this package: first, a bill to eliminate congressional perks; and, second, a bill to ensure congressional coverage under workplace laws.

Congress is, by definition, the people's body. Taxpayers should not be required to subsidize special privileges or benefits for Members of Congress that are unrelated to the conduct of their official duties.

As for workplace laws, I have long believed that if Congress makes a law, we should live by it. The Grassley-Mitchell amendment to the Civil Rights Act of 1991 brought the Senate into compliance with antidiscrimination laws, and I look forward to working to ensure that all other appropriate laws also cover Congress.

Finally, it is necessary to overcome the public perception that the Senate is becoming an anachronism in the modern age. The feeling—within and outside of the Senate—that it is becoming increasingly difficult to accomplish substantive policy goals, is pervasive. We need to begin an earnest review of Senate rules to determine whether or not changes can be enacted to facilitate genuine debate and policymaking in the Senate.

No doubt there are other reforms that may prove necessary. We should remain open to them, and I look forward to working with my colleagues from both parties to bring some badly needed changes to help restore the people's trust in the people's government.

There being in objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 237

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

"ARTICLE

"The Congress shall make no law affecting the compensation for services for Members of Congress. On January 1, of each year of the first session of a Congress. the compensation of Members of Congress shall be adjusted to correspond to any increase or decrease in the median income of all citizens of the United States.". •

By Mr. RIEGLE (for himself and Mr. LEVIN):

S.J. Res. 238. A joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week"; to the Committee on the Judiciary.

NATIONAL SENIOR SOFTBALL WEEK

• Mr. RIEGLE. Mr. President, for 7 glorious days in September of next year, in Wayne County, MI, a hearty group of people will participate in a softball tournament. Now a softball tournament is not a particularly exceptional event, a lot of people—some 32 million—play softball. What makes this particular tournament different is the age of the participants: they all will be at least 50 and they will be playing in the Seniors Softball World Series. In honor of this wonderful project, today I am introducing a joint resolution to designate the last week of September 1992 as National Senior Softball Week.

The idea for the Seniors Softball World Series began in 1985 with Mr. Ken Maas and Ms. Jacqui Jolly. They established the National Association of Senior Citizen Softball [NASCS], and I am proud to say that they founded it in Michigan. The NASCS is the only national organization promoting senior softball; teams from around the United States and Canada know the work of the NASCS. The first NASCS tournament, held in Clinton Township, MI, attracted 12 teams. The following year 21 teams participated and the year after that, 30 teams.

The success of the NASCS tournament caught on and in 1988, Mr. Maas, working with the Sporting Goods Manufacturers Association, established Seniors Softball World Series, Inc. The first Seniors Softball

World Series was held in Greensboro, NC, in 1989 with 68 teams. Since then, this Fall Classic has been played in Scottsdale, AZ, and Palm Beach County, FL. The event continues to grow—in 1991, 83 teams participated in the Seniors Softball World Series.

Mr. President, the growth and success of the NASCS and the Seniors Softball World Series provides further evidence of the energy and joy that seniors bring to this country. Every day we hear about or see examples of seniors throwing out the myth that getting older means you have to give up staying active. Seniors Softball also promotes an atmosphere of friendly competition and physical fitness among older americans. The NASCS also promotes international harmony; twice, teams from the NASCS have made road trips to the United Kingdom to share with them this uniquely American game. I urge my colleagues to acknowledge the spirt of our seniors by joining me in supporting this resolution.•

By Mr. DECONCINI:

S. 2118. A bill to create a Department of the Treasury Forfeiture Fund; to the Committee on Finance.

DEPARTMENT OF THE TREASURY FORFEITURE FUND

• Mr. DECONCINI. Mr. President, today I rise to introduce legislation, along with my colleague from Maryland, Senator MIKULSKI, to establish a Department of the Treasury forfeiture fund.

Mr. President presently, there are two Federal law enforcement forfeiture funds into which agencies of the Department of Justice and Treasury deposit receipts from forfeitures assets seized through drug, currency and customs violations: The Department of Justice assets forfeiture fund, and the U.S. Customs forfeiture fund. The Internal Revenue Service [IRS], the U.S. Secret Service and the Bureau of Alcohol, Tobacco and Firearms [ATF], law enforcement agencies of the Treasury Department, deposit all the proceeds for assets seized under violations of the laws they enforce into the Department of Justice Assets forfeiture fund. The Customs Service, on the other hand, has it own fund and deposits its proceeds from assets forfeited from violations of its laws into the Customs forfeiture fund. [The only proceeds for seized assets by Customs which are deposited into the Justice Fund are proceeds from assets seized for violations under 21 U.S.C. 881].

The legislation I am introducing today will allow all of the Treasury law enforcement bureaus to deposit receipts from Secretary of the Treasury. The Customs Service would serve as the management agent for the other bureaus by managing the seized property program and serving as the management agent for the fund itself.

This legislation provides a permanent indefinite appropriation for all costs related to seizures, awards of compensation to informants, satisfaction of liens, remission and mitigation payments, claims of parties in interest to certain low value property disposed of under 19 U.S.C. 1612(b), the expense of training related to seizure and forfeiture, and costs of certain experts and consultants.

A capped amount of $100 million would be available during each fiscal year for certain purposes including: publication of availability of moiety payments; payment of certain costs of joint operations with Treasury bureaus; payment of the attributable costs of the IRS Detroit Data Center.

The uncapped portion, estimated at $200 million, would be available for a number of other critical law enforcement needs including: equipment for vessels, vehicles or aircraft and other equipment related to seizure and forfeiture; purchase of evidence or information regarding violations of laws enforced by the Treasury law enforcement bureaus; reimbursement of private persons for expenses incurred by such persons in cooperation with Treasury law enforcement bureau investigations and to offset the necessary and reasonable costs of undercover operations.

This legislation would also authorize equitable sharing payments, out of the uncapped portion of the fund, to State and local law enforcement agencies based upon their participation in joint operations. Subject to State Department approval, the Treasury fund would make similar payments to foreign law enforcement agencies. The Department of the Treasury would have control over the amount paid out and the procedures used to determine the criteria for payment.

In an April 1991 article in The Police Chief, entitled "Equitable sharing of Federal Forfeiture Proceeds", George J. Terwilliger III, Associate Deputy Attorney General, U.S. Department of Justice, wrote:

> By all accounts, the sharing of federal forfeiture proceeds with cooperating state and local law enforcement agencies has been a dramatic success. In fact, in the past five years, more than half a billion dollars has been shared with cooperating state and local law enforcement officials—more than an eight fold increase over the fiscal year 1986 level of $22.5 million. Sharing in fiscal years 1990 had risen to $200 million. The prospects for continued growth of the program are excellent.
>
> Forfeiture proceeds are most effectively used to identify, investigate and prosecute more criminals.

While the Justice Department statistics are impressive, I want to point out to this body that one small Treasury Bureau, the Customs Service, is responsible for contributing over $224 million during the last 5 years in equitable sharing payments to State and local law enforcement agencies through its Customs forfeiture fund.

In addition to fostering improved relations between Federal, State and local law enforcement agencies, these equitable sharing transfers have helped agencies expand the number of criminal investigations; modernize their motor fleets; purchase computers and other high technology equipment, as well as new weapons and protective equipment; salaries and over time expenses; and meet the myriad of other expenses encountered by law enforcement agencies.

Clearly, State and local law enforcement organizations have been and will continue to our overall efforts in combating drug trafficking and crime generally—with equitable sharing playing a central role in expanding the number of criminal investigations undertaken.

Unobligated balances remaining in the fund in excess of $30 million at the end of each fiscal year will be transferred to the Department of Education for activities authorized under the Drug Free Schools and Communities Act. These funds are not intended to supplant normal appropriations for the Department of Education.

Last, Mr. President, this legislation makes changes to title 18 and title 26 to permit Treasury bureaus to seize assets under the provisions of these statutes which they enforce.

Mr. President, there have been concerns expressed in the past about the proliferation of forfeiture funds in the Federal Government. To be clear, this bill will not create an additional fund since one already exists under the Department of Treasury—the Customs forfeiture fund. Upon enactment, there will still only be one fund at the Treasury Department, however it will be one that is diversified with the participation of the three other Treasury bureaus: The Bureau of Alcohol Tobacco and Firearms, the U.S. Secret Service; and the Internal Revenue Service. This fund will, of course, receive oversight from the Secretary of the Treasury.

Having all of the Treasury bureaus participate in a Treasury-wide fund, managed by the Department of Treasury, they will avoid unnecessary communication problems or delays as these agencies have in place a variety of mechanisms for communicating and resolving concerns through their parent cabinet agency. This approach is also preferable to having a forfeiture fund at each individual law enforcement agency—with the accompanying duplication of management overhead and potential for waste, fraud, and abuse.

Mr. President, I have heard considerable testimony over the years as chairman of the Treasury, Postal Service, and General Government Appropriations Subcommittee as well as through the Judiciary Committee on forfeiture funds and related issues.

It is my experience that the Treasury bureaus have not received fair and eq-

uitable treatment through the Department of Justice assets forfeiture fund and that such participation has lead to difficulties for the Treasury bureaus. Most recently, I have heard this concern expressed directly from Secretary Brady during his testimony before the Appropriations Committee this last spring as well as from the Treasury law enforcement bureaus. It is my understanding that these difficulties have still not been resolved through direct negotiations and that additional problems continue to arise.

It is my view that having the Treasury bureaus participate in a Treasury fund will lead to a reduction in conflicts between the Treasury and Justice Departments—since the day-to-day forfeiture issues will not have to be resolved across Departmental lines. And, it will allow the two major Federal law enforcement agencies to focus additional time addressing issues associated with the war on drugs and combatting violent crime than on issues associated with the proceeds of forfeited property.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of the Treasury Forfeiture Fund Act".

SEC. 2. DEPARTMENT OF THE TREASURY FORFEITURE FUND.

(a) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 9702 the following new sections:

"§ 9703. Department of the Treasury Forfeiture Fund

"(a) IN GENERAL.—

"(1) There is established in the Treasury of the United States a Fund to be known as the 'Department of the Treasury Forfeiture Fund' (hereafter in this section referred to as the 'Fund'), which shall be managed by the Secretary of the Treasury (hereafter in this section referred to as the 'Secretary'). The Fund shall be available to the Department of the Treasury, subject to appropriation, with respect to seizures and forfeitures under any law enforced or administered (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) by the United States Customs Service, the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, and the United States Secret Service (hereafter in this section referred to as the Treasury law enforcement bureaus), and the United States Coast Guard for payment, or for reimbursement to the appropriation from which payment was made, for—

"(A) all costs incurred by the Treasury law enforcement bureaus related to seizures, including costs leading to seizures and all proper expenses of seizures or the proceedings of forfeiture and disposition, and all expenses of inventory, security, and maintenance of custody of the property, advertisement, and disposition of the property, and, if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(B)(i) awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

"(ii) awards for information or assistance that leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000 for a violation of the provision of the Bank Secrecy Act (except that any such award shall not exceed the lesser of 25 percent of the net amount of the fine, penalty, or forfeiture or $150,000);

"(iii) purchases by—

"(I) the United States Customs Service of evidence or information with respect to violations of drug smuggling, drug trafficking or money laundering statutes;

"(II) the United States Secret Service of evidence or information with respect to violations of any of the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments, or of any of the laws of the United States relating to fraud in or against a financial institution or the Resolution Trust Corporation;

"(III) the Internal Revenue Service of evidence or information with respect to violations of sections 5313, 5314, 5315, and 5324 of this title and of violations of sections 1956 and 1957 of title 18; and

"(IV) the Bureau of Alcohol, Tobacco and Firearms, of evidence or information with respect to violations of section 924(c) of title 18, section 844 (d) through (i) of title 18, or section 842(h) of title 18;

"(C) satisfaction of—

"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with Customs according to law; and

"(ii) other valid liens and mortgages against property that have been forfeited pursuant to any law referred to in this paragraph, subject to the discretion of the Secretary to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

"(D) amounts authorized by law with respect to remission and mitigation;

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure;

"(F) equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries under the authority of section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or section 201 of the Department of the Treasury Forfeiture Fund Act and all costs related thereto;

"(G) equipment for any vessel, vehicle, or aircraft available for official use by a Treasury law enforcement bureau to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment related to seizure or forfeiture, including, but not limited to, laboratory equipment, communications equipment, and the operation and maintenance costs of such equipment;

"(H) equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with any Treasury law enforcement bureau which may result in seizure or forfeiture;

"(I) overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting in law enforcement operations with any Treasury law enforcement bureau which may result in seizure or forfeiture;

"(J) at the discretion of the Secretary, the reimbursement of the expenses of private persons incurred by such persons in cooperating with any Treasury law enforcement bureau in investigations or undercover law enforcement operations;

"(K) the expenses of training the personnel of the Treasury law enforcement bureaus in carrying out their duties relating to seizure and forfeiture, including administrative duties related to inventory, maintenance, and disposition of seized or forfeited items;

"(L) the expenses incurred pursuant to regulations promulgated by the Secretary, that are necessary and related to seizure or forfeiture programs, including payments for the purchase or lease of automatic data processing equipment (if the majority of the use of such equipment is related to such programs), training, printing, and contracting for services directly related to the processing of and accounting for forfeitures, and contracting for services directly related to the identification of forfeitable assets, and the storage, protection, and destruction of controlled substances, explosives, and explosive materials; and

"(M) the costs of retaining the services of experts and consultants needed by the Treasury law enforcement bureaus to carry out their duties related to seizure and forfeiture.

"(2)(A) Any payment made under paragraph (1) (C) or (D) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of such seizure.

"(B) Any payment made under paragraph (1)(H) with respect to a seizure or forfeiture of property shall not exceed the value of such property at the time of disposition.

"(3) In addition to the purposes described in paragraph (1), the Fund shall be available for—

"(A) publication of the availability of awards under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

"(B) payment of overtime salaries, travel, fuel, training, equipment (including equipment for any vessel, vehicle, or aircraft available for official use by a foreign law enforcement agency), and other similar costs of foreign law enforcement officers incurred in joint law enforcement investigations with a Treasury law enforcement bureau, if such payments may result in seizure or forfeiture and are—

"(i) agreed to by the Secretary of State;

"(ii) authorized in an international agreement between the United States and the foreign country; and

"(iii) made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h));

"(C) payment of contract services relating to the receipt, processing, maintenance, and dissemination of reports filed in accordance with section 6050I of the Internal Revenue Code or sections 5313, 5314, 5315, or 5316 of this title; and

"(D) deposits pursuant to subsection (f)(3).

"(b) UNITED STATES COAST GUARD.—The Secretary of the Treasury shall make available to the United States Coast Guard, from funds appropriated under subsection (f)(2) not to exceed $10,000,000 for a fiscal year, an amount equal to the amount in the Fund derived from seizures by the Coast Guard. Funds made available under this subsection may be used for—

"(1) equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(2) equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Coast Guard;

"(3) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard; and

"(4) expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

"(c) DEPOSITS.—There shall be deposited into the Fund:

"(1) All forfeited currency and proceeds from forfeitures under any law enforced or administered (other than sections 7301 and 7302 of the Internal Revenue Code) by any Treasury law enforcement bureau or the United States Coast Guard.

"(2) Deposits and transfers pursuant to paragraphs (1) and (3) of subsection (g).

"(3) Income from investments made pursuant to subsection (d).

"(d) INVESTMENT.—Amounts in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) ANNUAL REPORTS; AUDITS.—

"(1) The Secretary shall transmit to the Congress, not later than February 1 of each year—

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the Treasury law enforcement bureaus or the United States Coast Guard with respect to which funds were not deposited in the Fund during the previous fiscal year;

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency;

"(B) a report on—

"(i) the balance of the Fund at the beginning of the preceding fiscal year;

"(ii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies during the previous fiscal year;

"(iii) the net amount realized from the operations of the Fund during the previous fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over to the current fiscal year;

"(iv) any defendant's equity in property valued at $1,000,000 or more; and

"(v) the balance of the Fund at the end of the previous fiscal year; and

"(C) a report containing, for the previous fiscal year—

"(i) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Comptroller General, and

"(ii) an analysis of income and expenses showing the revenue received or lost—

"(I) by property category (general property, vehicles, vessel, aircraft, cash, and real property); and

"(II) by type of disposition (sales, remissions, cancellations, placed into official use, sharing with State and local agencies, and destructions).

"(2) The Fund shall be subject to annual financial audits conducted by the Comptroller General of the United States.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) There are hereby appropriated from the Fund such sums as may be necessary to administer the Fund and to carry out the purposes set forth in subsection (a)(1).

"(2)(A) Subject to subparagraph (B), there are authorized to be appropriated from the Fund not to exceed $100,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for each such fiscal year.

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $100,000,000 for fiscal year 1993.

"(ii) $100,000,000 for fiscal year 1994.

"(3)(A) Subject to subparagraph (B), in each of fiscal years 1992, 1993, and 1994, the Secretary may transfer from the Fund any unobligated balances remaining unexpended to the Department of Education for activities authorized under the Drug Free Schools and Communities Act (20 U.S.C. 3181). Such transfers shall be made on a quarterly pro rata basis.

"(B) Transfers under subparagraph (A) may be made only from excess unobligated amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a)(1).

"(C) At the end of each of fiscal years 1992, 1993, and 1994, the Secretary may retain in the Fund not more than $30,000,000, or if determined by the Secretary to be necessary for asset specific expenses, a greater amount equal to not more than one-tenth of the total of obligations from the Fund in the preceding fiscal year. Any amount in excess of $30,000,000 shall be transferred to the Department of Education for activities authorized under the Drug Free Schools and Communities Act.

"(g) MISCELLANEOUS.—Notwithstanding any other provision of law, during any period when forfeited currency and proceeds from forfeitures under any law enforced or administered (other than sections 7301 and 7302 of the Internal Revenue Code) by the Treasury law enforcement bureaus and the United States Coast Guard, are required to be deposited in the Fund—

"(1) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall be transferred to the Fund;

"(2) except as provided in paragraph (1), no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and

"(3) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the date of the enactment of this Act shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.

"(h) REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

"§ 9704. Authority of the Secretary relating to forfeited property

"(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the 'Secretary') with respect to any property forfeited under any law enforced or administered by the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, or the United States Secret Service may—

"(1) retain such property for official use; or

"(2) transfer such property to—

"(A) any other Federal agency; or

"(B) any State or local law enforcement agency that assisted in the seizure or forfeiture of such property.

"(b) TRANSFER TO FOREIGN COUNTRY.—The Secretary may transfer any forfeited personal property or the proceeds from the sale of any forfeited personal or real property to any foreign country which participated, directly or indirectly, in the seizure or forfeiture of the property, if such a transfer—

"(1) is one with which the Secretary of State has agreed;

"(2) is authorized in an international agreement between the United States and the foreign country; and

"(3) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).

"(c) AUTHORITY UNDER THE TARIFF ACT OF 1930.—Nothing in this section shall affect the authority of the Secretary under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).

"(d) LIABILITY.—The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.

"(e) TITLE TO FORFEITED PROPERTY.—Following completion of procedures for the forfeiture of property pursuant to any law enforced or administered by a Treasury law enforcement bureau (as defined in section 9703), the Secretary is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

"(f) FORFEITED PROPERTY DEFINED.—For purposes of this section and section 9703, and notwithstanding any other provision of law, property shall be deemed forfeited pursuant to a law enforced or administered by a Treasury law enforcement bureau if it is forfeited pursuant to—

"(1) a judicial forfeiture proceeding where the underlying seizure was made by an officer of a Treasury law enforcement bureau or where the property was maintained by a Treasury law enforcement bureau; or

"(2) a civil administrative forfeiture proceeding conducted by a Treasury law enforcement bureau.".

(b) CLERICAL AMENDMENT.—The table of sections for subtitle VI of title 31, United States Code, is amended by inserting after the item relating to section 9702 the following new items:

"9703. Department of the Treasury Forfeiture Fund.
"9704. Authority of the Secretary relating to forfeited property.".

SEC. 3. AMENDMENTS TO OTHER LAWS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(4) of title 28, United States Code, is amended—

(1) by striking "the Secretary of the Treasury or";

(2) by inserting ": (1)" after the word "except"; and

(3) by inserting before the period "; or (2) all proceeds of forfeitures of property seized

by the Treasury law enforcement bureaus (as defined in section 9703 of title 31, United States Code) deposited into the Department of the Treasury Forfeiture Fund established pursuant to such section".

(b) ANTI-DRUG ABUSE ACT of 1988.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended by inserting before the period: "and from the Department of the Treasury Forfeiture Fund in the manner provided in section 9703(f)(3) of title 31, United States Code".

(c) AMENDMENTS TO TITLE 18.—

(1) Section 981(a)(1) is amended by adding at the end thereof the following new subparagraph:

"(F) Any property, real or personal, involved, used or intended to be used in, or constituting, derived from or traceable to any proceeds obtained directly or indirectly from, a violation of—

"(i) section 842 or 844 of this title (relating to explosives or arson) or section 924(c) of this title (relating to firearms), including a predicate offense to a violation of section 924(c);

"(ii) any of the laws of the United States relating to coins, obligations, or other securities of the United States or of any foreign government; or

"(iii) section 1028, 1029, or 1030 of this title.".

(2) Section 981(b)(1) of title 18, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) subject to forfeiture to the United States under subparagraph (F) of subsection (a)(1) of this section may be seized by the Secretary of the Treasury.".

(3) Section 981(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) Nothing in this section shall prohibit the seizure or forfeiture of property that has been commingled with other property.".

(4) Section 982(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—

"(A) section 842 or 844 of this title (relating to explosives or arson) or section 924(c) of this title (relating to firearms), including a predicate offense to a violation of section 924(c);

"(B) any of the laws of the United States relating to coins, obligations or other securities of the United States or of any foreign government; or

"(C) section 1028, 1029 or 1030 of this title, shall order that the person forfeit to the United States any property, real or personal, involved, used or intended to be used in, or constituting, derived from or traceable to any proceeds obtained directly or indirectly from such violation.".

(d) AMENDMENT TO THE INTERNAL REVENUE CODE.—Section 5872(a) of the Internal Revenue Code of 1986 is amended to read as follows:

"(a) LAWS APPLICABLE.—Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture and (except as provided in subsection (b)) the provisions of law relating to searches, seizure, condemnation, and summary and judicial forfeiture of unstamped articles are extended to and made to apply to articles taxed under this chapter, and the persons to whom this chapter applies.".●

By Mr. MOYNIHAN:

S. 2119. A bill to amend title II of the Social Security Act to waive the 24 month waiting period for medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome [AIDS], and for other purposes; to the Committee on Finance.

MEDICARE ELIGIBILITY FOR INDIVIDUALS WITH AIDS

● Mr. MOYNIHAN. Mr. President, I rise today to reintroduce health legislation that will remove a significant barrier to health care access for individuals with acquired immune deficiency syndrome. The legislation I propose today would waive the 24 month waiting period for disability insurance beneficiaries with AIDS.

Four years ago, when I first introduced this legislation, I cited the following information:

> According to the Centers for Disease Control (CDC), as of December 31, 1986, there have been about 29,003 cases of full-blown AIDS reported in this country and of those 29,003, 16,301 have died.

When I reintroduced similar legislation in 1989, the death toll had risen 270 percent in just 2 years. By December 1988, more than 80,000 cases of AIDS had been reported to the CDC.

As of October 1991, more than 195,000 Americans have been diagnosed with AIDS since 1981, of whom over 120,000 have died. And these are only the documented cases. The Centers for Disease Control estimates that as many as 1 million Americans may be infected with the AIDS virus. Most of them will develop full blown AIDS in the next decade.

Mr. President, these numbers are rising at an alarming rate and we still have not addressed a fundamental problem confronting those with the syndrome: inadequate health insurance coverage for AIDS patients who become disabled.

There is currently a 24 month waiting period for disabled individuals before receiving Medicare benefits. The Medicare waiting period was established primarily to ensure that Medicare does not overlap with the disabled individuals's private health insurance. Unlike most other disability insurance beneficiaries, however, the AIDS patient cannot wait 24 months for health insurance coverage after the onset of opportunistic diseases like Kaposi's sarcoma or pneumonia. Even with AZT treatments, and AIDS patient's chance of surviving the waiting period are small. Given that AIDS patients are increasingly denied private health insurance coverage, we offer them little choice but to impoverish themselves by spending down to the level of Medicaid eligibility in order to obtain the coverage they need.

Mr. President, these individuals have worked and paid Social Security taxes and they are entitled to Medicare benefits. Until a cure is found for this tragic disease, let us at least minimize their suffering by granting disabled AIDS patients the benefits they deserve.

I urge all my colleagues to support this necessary legislation in our fight against AIDS. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF TWENTY-FOUR MONTH WAITING PERIOD FOR MEDICARE ELIGIBILITY FOR INDIVIDUALS WITH AIDS.

(a) IN GENERAL.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h)(1) Subject to paragraph (2), in the case of an individual who is medically determined to have acquired immune deficiency syndrome (AIDS) and who files an application for hospital insurance benefits under part A of title XVIII pursuant to this subsection, subsection (b) shall be applied as if—

"(A) in paragraph (2)(A), ', and has for 24 calendar months been entitled to,' were deleted;

"(B) in paragraph (2)(B), ', and has been for not less than 24 months,' were deleted;

"(C) in paragraph (2)(C)(ii), ', including the requirement that he has been entitled to the specified benefits for 24 months,' were deleted;

"(D) in the matter in the first sentence following subparagraph (C), 'first month' were substituted for 'twenty-fifth month'; and

"(E) in the second sentence, 'twenty-fourth' were deleted.

"(2) Paragraph (1) shall not result in an individual becoming entitled to hospital insurance benefits under part A of title XVIII for any month before the first month in which the individual both—

"(A) is medically determined to have acquired immune deficiency syndrome; and

"(B) has filed an application under paragraph (1).

"(3) For purposes of this subsection, an individual will be presumed to have acquired immune deficiency syndrome (AIDS) if the individual has been diagnosed, in accordance with standards established by the Secretary after consultation with the Director of the Centers for Disease Control, as having such disease.".

(b) EFFECTIVE DATE—The amendments made by subsection (a) shall take effect on the first day of the first month that begins more than forty-five days after the date of the enactment of this Act.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 353

At the request of Mr. GLENN, his name was added as a cosponsor of S. 353, a bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes.

S. 447

At the request of Mr. ROBB, his name was added as a cosponsor of S. 447, a bill to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 456

At the request of Ms. MIKULSKI, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 456, a bill to amend chapter 83 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 456, supra.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 511

At the request of Mr. DODD, the names of the Senator from Nevada [Mr. REID] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 511, a bill to establish programs to improve foreign instruction and to amend the Higher Education Act of 1965 in order to promote equal access to opportunities to study abroad, and for other purposes.

S. 588

At the request of Mr. MITCHELL, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of S. 588, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of certain cooperative service organizations of private and community foundations.

S. 649

At the request of Mr. BREAUX, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 689

At the request of Mr. HATFIELD, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 689, a bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes; to create the United States Peace Tax Fund to receive such tax payments; to establish a United States Peace Tax Fund Board of Trustees; and for other purposes.

S. 765

At the request of Mr. BREAUX, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 810

At the request of Mr. HARKIN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 810, a bill to improve counseling services for elementary school children.

S. 866

At the request of Mr. BREAUX, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 1040

At the request of Mr. GLENN, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Maryland [Mr. SARBANES], the Senator from Alabama [Mr. SHELBY], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1040, a bill to provide a Government-wide comprehensive energy management plan for Federal agencies.

S. 1100

At the request of Mr. KERRY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1125

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1125, a bill to provide incentives to health care providers serving rural areas, to provide grants to county health departments providing preventative health services within rural areas, to establish State health service corps demonstration projects, and for other purposes.

S. 1159

At the request of Mr. GORE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1159, a bill to provide for the labeling or marking of tropical wood and tropical wood products sold in the United States.

S. 1227

At the request of Mr. MITCHELL, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1227, a bill to amend the Public Health Service Act, the Social Security Act, and the Internal Revenue Code of 1986 to provide affordable health care of all Americans, to reduce health care costs, and for other purposes.

S. 1289

At the request of Mr. HARKIN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1289, a bill to amend the provisions of the Higher Education of 1965 relating to treatment by campus officials of sexual assault victims.

S. 1294

At the request of Mr. FOWLER, the names of the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. SHELBY], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 1294, a bill to protect individuals engaged in a lawful hunt within a national forest, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

S. 1424

At the request of Mr. CONRAD, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 1424, a bill to amend chapter 17 of tile 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States.

S. 1482

At the request of Mr. DIXON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1482, a bill to amend the Social Security Act to improve the notice of medicaid payment of medicare cost-sharing, and for other purposes.

S. 1521

At the request of Mr. MCCONNELL, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1521, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material.

S. 1578

At the request of Mr. THURMOND, the names of the Senator from Illinois [Mr. DIXON], the Senator from Illinois [Mr. SIMON], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 1614

At the request of Mr. GRAHAM, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1614, a bill to amend the Rehabilitation Act of 1973 to revise and extend the program regarding independent living services for older blind individuals, and for other purposes.

S. 1622

At the request of Mr. KENNEDY, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

S. 1667

At the request of Mr. FORD, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1667, a bill to provide for a 2-year Federal budget cycle, and for other purposes.

S. 1686

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 1686, a bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

S. 1691

At the request of Mr. COCHRAN, his name was withdrawn as a cosponsor of S. 1691, a bill to amend title 18, United States Code, to govern participation of Federal Prison Industries in Federal procurements, and for other purposes.

S. 1696

At the request of Mr. BAUCUS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1696, a bill to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes.

S. 1725

At the request of Mr. DIXON, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1725, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the first voyage to the New World by Christopher Columbus and to establish the Christopher Columbus Quincentenary Scholarship Foundation and an Endowment Fund, and for related purposes.

S. 1731

At the request of Mr. MCCONNELL, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Florida [Mr. MACK], the Senator from Rhode Island [Mr. PELL], the Senator from Kansas [Mr. DOLE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. LUGAR], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 1731, a bill to establish the policy of the United States with respect to Hong Kong after July 1, 1997, and for other purposes.

S. 1738

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1738, a bill to prohibit imports into the United States of meat products from the European Community until certain unfair trade barriers are removed, and for other purposes.

At the request of Mr. COATS, his name was added as a cosponsor of S. 1738, supra.

S. 1774

At the request of Mr. BRYAN, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1774, a bill to establish a silver congressional commemorative medal for members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1777

At the request of Mr. ADAMS, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 1793

At the request of Mr. D'AMATO, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1793, a bill to restrict United States assistance for Serbia or any part of Yugoslavia controlled by Serbia until certain conditions are met, and for other purposes.

S. 1830

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 1830, a bill to require Senators and Members of the House of Representatives to pay for medical services provided by the Office of the Attending Physician, and for other purposes.

At the request of Mr. WOFFORD, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1830, supra.

S. 1838

At the request of Mr. PRYOR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1838, a bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under medicare.

S. 1894

At the request of Mr. ROTH, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1894, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance during the implementation and phase-in of the North American Free Trade Agreement, and for other purposes.

S. 1902

At the request of Mr. ADAMS, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1902, a bill to amend title IV of the Public Health Service Act to require certain review and recommendations concerning applications for assistance to perform research and to permit certain research concerning the transplantation of human fetal tissue for therapeutic purposes, and for other purposes.

S. 1912

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1912, a bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes.

S. 1916

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1916, a bill to transfer Federal financial assistance currently used to develop herbicide resistant plants to nonchemical weed control systems, and for other purposes.

S. 1920

At the request of Mr. KASTEN, the names of the Senator from North Carolina [Mr. HELMS], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1920, a bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for children, to provide tax incentives for economic growth, and for other purposes.

S. 1927

At the request of Mr. D'AMATO, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1927, a bill to authorize the Secretary of Agriculture to carry out a grant program to increase the international competitiveness of the forest products industries in the United States, and for other purposes.

S. 1933

At the request of Mr. PACKWOOD, his name was added as a cosponsor of S. 1933, a bill to amend titles VII and VIII of the Public Health Service Act to reauthorize and extend programs under such titles, and for other purposes.

S. 1935

At the request of Mr. SIMPSON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1935, a bill to require the Secretary of Agriculture to submit a report on, and establish a system for, lamb price and supply reporting services in the Department of Agriculture, and for other purposes.

S. 2000

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 2000, a bill to provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes.

SENATE JOINT RESOLUTION 15

At the request of Mr. THURMOND, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 15, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE JOINT RESOLUTION 100

At the request of Mr. KOHL, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from North Carolina [Mr. SANFORD], the Senator from Arizona [Mr. DECONCINI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 100, a joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week".

SENATE JOINT RESOLUTION 224

At the request of Mr. SIMON, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. BRADLEY], the Senator from New York [Mr. MOYNIHAN], the Senator from Virginia [Mr. ROBB], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Montana [Mr. BAUCUS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. METZENBAUM], the Senator from Michigan [Mr. LEVIN], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Oklahoma [Mr. BOREN], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. KASTEN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 224, a joint resolution designating March 1992 as "Irish-American Heritage Month".

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week".

SENATE JOINT RESOLUTION 227

At the request of Mr. COATS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 227, a joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office for Members of Congress.

SENATE JOINT RESOLUTION 229

At the request of Mr. BYRD, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Arizona [Mr. DECONCINI], the Senator from Maryland [Ms. MIKULSKI], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 229, a joint resolution designating the month of May, 1992, as "National Trauma Awareness Month".

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. HATCH, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Concurrent Resolution 17, a concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. DECONCINI, the names of the Senator from Colorado [Mr. WIRTH], the Senator from California [Mr. CRANSTON], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Concurrent Resolution 74, a concurrent resolution calling for acceptance and implementation by certain republics of the commitments on human rights, fundamental freedoms, and humanitarian cooperation contained in the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

SENATE RESOLUTION 66

At the request of Mrs. KASSEBAUM, the names of the Senator from Maine [Mr. COHEN], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Resolution 66, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 109

At the request of Mr. RIEGLE, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Resolution 109, a resolution exercising the right of the Senate to change the rules of the Senate with respect to the "fast track" procedures for trade implementation bills.

SENATE RESOLUTION 184

At the request of Mr. DIXON, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Resolution 184, a resolution to recommend that medical health insurance plans provide coverage for periodic mammography screening services.

SENATE RESOLUTION 221

At the request of Mr. COATS, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 221, a resolution to establish a procedure for the appointment of independent counsels to investigate ethics violations in the Senate, transfer to the Committee on Rules and Administration the remaining authority of the Select Committee on Ethics, and abolish the Select Committee on Ethics.

SENATE RESOLUTION 227

At the request of Mr. PRESSLER, the names of the Senator from Idaho [Mr. CRAIG], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Resolution 227, a resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations.

SENATE RESOLUTION 231

At the request of Mr. SIMON, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Resolution 231, a resolution expressing the sense of the Senate that the President should submit to the 102nd Congress a proposal for reforming the health care system of the United States.

SENATE CONCURRENT RESOLUTION 80—RELATIVE TO THE DEMOCRATIC SITUATION IN ZAIRE

Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. WOFFORD, and Mr. HOLLINGS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 80

Whereas the people of the United States support the development of democratic institutions in Zaire that reflect the will of the people of Zaire and are concerned about ongoing human rights abuses in Zaire as confirmed by the Lawyers Committee for Human Rights;

Whereas Zairean security forces have repressed peaceful mass demonstrations protesting the government's economic policies and urging the implementation of democratic reforms;

Whereas recent press reports and other reliable sources indicate that these incidents caused the death of several people as well as the arrest of numerous people opposed to the regime;

Whereas these tragic events occurred following a period of continuous procrastination in convening a sovereign national conference composed of political, civic, religious, and other organizations;

Whereas President Mobutu has indicated, clearly, a lack of commitment to a transitional government to return the country to democracy by dismissing the new Prime Minister Tshisekedi Wa Mulumba;

Whereas the leaders of government in Zaire, beginning with President Mobutu, have systematically obstructed each attempt to facilitate this conference which could bring about a peaceful transition toward democracy; and

Whereas the catastrophic economic and social situation and the rampant corruption of authority, against which the population of Zaire is revolting, are being aggravated by the political uncertainty deliberately prolonged by President Mobutu: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls on President Mobutu to step down and permit the transitional government to return the country to democratic rule;

(2) firmly condemns all violations of human rights in Zaire;

(3) fully supports the aspirations of the Zairean people for democratic change, in particular the convocation of a sovereign national conference that would be fully representative of all the opposition forces, that would be conducted in a democratic manner, and that would have the full right to take its own decisions;

(4) supports the sovereign national conference to form the transitional government as soon as possible to organize free and democratic elections;

(5) invites the international community of nations to express their concern with respect to the repression and corruption of the regime and to provide support to the Zairean democratic forces desire for peaceful change;

(6) calls upon the President of the United States to urge that an appropriate international peacekeeping force be brought into Zaire to ensure stability during the political transition process; and

(7) calls upon the President of the United States to express his willingness to offer appropriate assistance to help implement any future international peacekeeping arrangement.

• Mr. SIMON. Mr. President, I would like to introduce today a resolution, concurrent with one sponsored by Representative Payne in the House and passed by the House last Tuesday, concerning Zaire. I have spoken on the floor regarding the situation in Zaire before now, and I remain gravely concerned. I feel that it is important that we in the Senate take urgent action on the very serious crisis Zaire is now facing. President Mobutu is still clinging to power, and has in fact used his power to choose still another prime minister, rather than seeking the input of the main opposition coalition on this important decision. Proposals to arrange for a transition to free and fair elections appear blocked. This resolution will express the Senate's desire to see a transitional government installed, a government which will begin to address the dire economic situation and to respect human rights in Zaire. It will send a message to Africa that America supports efforts to ensure democracy and peace for all Africans.•

SENATE CONCURRENT RESOLUTION 81—RELATIVE TO THE AMERICAN VISIONARY ART MUSEUM

Ms. MIKULSKI submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 81

Whereas visionary art is the art produced by self-taught individuals who are driven by their own internal impulses to create;

Whereas the visionary artist's product is a striking personal statement possessing a powerful and often spiritual quality;

Whereas prominent among the creators of visionary art are the mentally ill, the disabled, and the elderly;

Whereas there are many museums of visionary art located throughout Europe such as the Art Brut Museum located in Lausanne, Switzerland;

Whereas the American Visionary Art Museum is the first museum in North America to be wholly dedicated to assembling a comprehensive national collection of American visionary art;

Whereas the collection at the American Visionary Art Museum includes film, literature, and research on all fields related to visionary art;

Whereas the American Visionary Art Museum's mission is to increase public awareness of uncommon art produced by individuals in response to extraordinary circumstances;

Whereas the American Visionary Art Museum seeks to remove the stigma associated with disability by illuminating the power of humans to triumph over adversity through creativity;

Whereas the national policy of deinstitutionalization has resulted in the closure of many facilities and the destruction of visionary artwork;

Whereas the American Visionary Art Museum has the support of certain offices of the National Institute of Mental Health and other government agencies in its goal to function as a national repository for works produced by formerly institutionalized individuals; and

Whereas it is the best interest of the national welfare and all American citizens to preserve visionary art and to celebrate this unique art form: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) visionary art should be designated as a rare and valuable national treasure to which we devote our attention, support, and resources to make certain that it is collected, preserved, and understood; and

(2) the American Visionary Art Museum is the proper national repository and educational center for visionary art.

SENATE CONCURRENT RESOLUTION 82—URGING GREATER PROGRESS TOWARD DEMOCRATIZATION IN HONG KONG

Mr. MACK (for himself, Mr. McCONNELL, and Mr. LUGAR) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 82

Whereas the 1984 Sino-British Joint Declaration on the Question of Hong Kong (hereafter in this concurrent resolution referred to as the "Joint Declaration") provides for the reversion of Hong Kong to China on July 1, 1997, after which Hong Kong will become a Special Administrative Region of the People's Republic of China;

Whereas the cornerstone of the Joint Declaration is the principle that the people of Hong Kong will govern themselves through an elected legislature and an executive accountable to the people and will enjoy "a high degree of autonomy" for at least 50 years after 1997;

Whereas the provisions of the Joint Declaration for an autonomous, democratically elected government were critical to persuading the people of Hong Kong to accept that agreement;

Whereas the Basic Law of the Special Administrative Region of the People's Republic of China (PRC), which will serve as the constitution of Hong Kong after 1997, was promulgated by the National People's Congress of the PRC but was never ratified or accepted by the people of Hong Kong;

Whereas, despite the statement in the Joint Declaration that the Hong Kong legislature "shall be constituted by elections", the Basic Law provides for only one-third of the legislature to be democratically elected by 1997, only one-half of the legislature by 2007, and contains no provision that the legislature will ever have a democratically elected majority;

Whereas confidence in the future of Hong Kong was severely eroded by the Government of China's June 1989 suppression of the pro-democracy movement in China;

Whereas the continued repression of the pro-democracy movement in China and statements and actions of the Government of China regarding Hong Kong have heightened concerns that the commitments of the Joint Declaration and the protections provided for in the Basic Law might not be adhered to and that the people of Hong Kong might be deprived of their freedom and human rights after 1997;

Whereas, in September 1991, members of the Hong Kong Legislative Council were selected by the people of Hong Kong in direct elections for the first time, but only 18 out of 60 members were allowed to be chosen through such direct elections;

Whereas in these elections a coalition of advocates of greater democracy received overwhelming support from the people of Hong Kong and won 16 out the 18 seats determined by the elections;

Whereas the people of Hong Kong, in voting for the pro-democracy coalition, expressed their desire for greater progress towards democracy in Hong Kong at the risk of displeasing the Government of the People's Republic of China; and

Whereas the people of Hong Kong, as evidenced by the voting in the September 1991 elections, believe that their freedoms, including the right to private property and other economic freedoms, will be best protected by accelerating the development of fully democratic institutions: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) fulfillment of the Joint Declaration and contemporaneous commitments of the governments of the United Kingdom and the People's Republic of China, require that the Legislative Council of Hong Kong be democratic elected;

(2) democratic institutions and practices should be firmly established before sovereignty over Hong Kong is transferred to the People's Republic of China in 1997;

(3) the Basic Law should be amended to be consistent with the Joint Declaration's commitments to democratic and autonomous government;

(4) the governments of the United Kingdom and the People's Republic of China should respect the will of the people of Hong Kong to establish further democratic institutions and practices and to take steps consistent with the Joint Declaration to safeguard their basic human rights before and after 1997; and

(5) the people of Hong Kong are to be commended for their efforts to maintain their freedom and prosperity and to attain fully democratic government.

Mr. MACK. Mr. President, it is ironic that just as democracy and freedom are sweeping the globe as never before, some six million of the freest people on earth are soon to be deliberately handed over to a Communist regime. The world cannot stand silently by as the fate of the free people of Hong Kong is put into the hands of the dictators of Beijing.

Today, Senators SIMON, MCCONNELL, and LUGAR join me in introducing a Senate concurrent resolution urging greater progress toward democracy in Hong Kong. Time is short for the people of Hong Kong, and it is time that the United States take a more active role in this struggle for freedom.

Mr. President, this is a situation Hong Kong faces, and how the people of Hong Kong are expressing their desire for democracy.

On July 1, 1997, the British colony of Hong Kong will become a "Special Administrative Region" of the People's Republic of China [PRC]. In September of this year, the people of Hong Kong voted overwhelmingly for legislative candidates advocating greater progress toward democracy in Hong Kong before the 1997 turnover.

Now, less than one third of the Hong Kong legislature is directly elected. The Chinese-drafted Basic Law—which will be Hong Kong's constitution after 1997—provides for only half the legislature to be directly elected by 2007, and has no provision for a majority of the legislature to ever be directly elected.

The people of Hong Kong voted for candidates who believe that the best hope of safeguarding their freedom and prosperity is to strengthen democratic institutions in Hong Kong before 1997. The resolution commends the people of Hong Kong for their efforts to maintain their freedom and prosperity and to attain fully democratic government.

The resolution also urges the British and Chinese governments to respect the will of the Hong Kong people to accelerate the building of democratic institutions before 1997 and to take steps consistent with the 1984 Sino-British Joint Declaration to safeguard their freedoms and human rights.

I would like to emphasize that this resolution does not ask or demand that the joint declaration be reversed. It calls for full and fair implementation of the declaration, whose letter was to guarantee a high degree of autonomy and whose spirit was to guarantee full democracy for Hong Kong well into the next century.

The problem is not joint declaration, but that Britain and China have betrayed the letter and spirit of the declaration by refusing to allow the Hong Kong people to guarantee their own freedoms. The Hong Kong people have been denied the ability to ratify or amend the Basic Law, or to institutionalize democracy in the precious years before 1997.

That is wrong, and it is time that the United States Congress, and United States policy, said so.

I ask unanimous consent that a background paper on Hong Kong be printed in the RECORD.

[From the office of Senator Connie Mack]

HONG KONG'S FREEDOM IN DANGER

Hong Kong is one of the world's great success stories. Once an impoverished backwater on the South China Sea, Hong Kong has become a free market showplace. With the world's highest population density and virtually no natural resources, the people of Hong Kong have built one of East Asia's richest economies on the principles of free trade (no tariff or nontariff barriers), low taxes, and little government interference in the economy. Hong Kong's achievements in standard of living, per capita income, life expectancy, literacy, and other indices have been the envy of the developing world.

Sadly, the "Hong Kong Miracle" may soon come to a halt. In 1997, without the consent of its people, Hong Kong will be turned over to the People's Republic of China, one of the most repressive communist totalitarian states and perpetrator of the 1989 "Tiananmen Square Massacre" in Beijing. While the rest of the world is enjoying an unprecedented trend toward democracy and free markets, the people of Hong Kong (many of them originally refugees from communist China) face being pulled down in the death throes of a failed system.

HISTORICAL BACKGROUND

Hong Kong is a British Crown Colony. In 1842, China ceded Hong Kong Island in perpetuity to the the United Kingdom, a result of 19th-century conflicts between Britain and China over the opium trade. In the 1860's, Britain received a perpetual lease in the nearby peninsula area south of Boundary Street in present-day Kowloon. Finally, in 1898, China granted the British a 99-year lease on areas adjoining Kowloon, called the "New Territories." Hong Kong was declared a free port in 1841, but its major importance and growth as a commercial and manufacturing center occurred after World War II.

In the early 1980s, the government of British Prime Minister Margaret Thatcher concluded that the parts of Hong Kong under permanent British control (Hong Kong Island and most of Kowloon) would not be viable after the expiration of the New Territories lease in 1997. Accordingly, in 1982 the British began negotiations with the Chinese communists over the colony's future. The result was a December 1984 Chinese/British "Joint Declaration," under which the entirety of Hong Kong (including the areas under British sovereignty or perpetual lease-rights) would be returned to China on July 1, 1997, along with the New Territories.

REVERSION WITHOUT REPRESENTATION

The Joint Declaration is a bilateral agreement between London and Beijing—the people of Hong Kong were not represented in the negotiations. (While not a party to the Declaration, the United States has been supportive of British policy.) The Joint Declaration states that for at least 50 years after the 1997 reversion Hong Kong will be a Special Administrative Region in China with "a high degree of autonomy," retaining its own economic and administrative system, and continuing to participate in international agreements and organizations. A new "Basic Law," specified under the Joint Declaration to serve as a constitution for Hong Kong after 1997, was drafted without any effective contribution by the Hong Kong people; it contains no provision for a legislature with an elected majority.

Thus, despite these assurances of "autonomy," most of Hong Kong faces 1997 with increasing trepidation, based upon past experience with the Chinese communists, and reinforced by the bloody events of June 1989. In addition, the communists' blunt opposition to any democratization of Hong Kong institutions has added to these fears. Despite Beijing's opposition, elections were held in September 1991 for 18 of the 60 seats on Hong Kong's largely rubber-stamp Legislative Council. To the surprise of many observers (and the chagrin of both Beijing and the British administration), 16 seats were won by the United Democrats of Hong Kong and their allies. The United Democrats, led by Legislative Council member Martin Lee, favor more democracy in Hong Kong and less interference by the Chinese communists in the colony's affairs. In particular, Mr. Lee and the United Democrats believe that international pressure on the Chinese and the British is essential to protecting Hong Kong's interests.

THE AMERICAN STAKE IN HONG KONG

Hong Kong is a major U.S. trading partner and a key link in the world trade network. The United States is tied with Japan (and far ahead of Britain) in its economic presence in Hong Kong, with over 800 U.S. corporations located there and investments of about $6 billion in the colony. In addition, Hong Kong is one of America's largest trading partners, with 1990 U.S. imports of almost $7 billion and exports to the U.S. of over $9 billion. In its global commercial importance, Hong Kong's foreign trade of nearly $100 billion outstrips that of the whole of mainland China. Hong Kong's demise as a commercial and financial center would send shock waves throughout East Asia and the Pacific region, with a negative impact on the U.S. economy.

But the crisis in Hong Kong cannot be measured purely in economic terms. The United States has taken the lead in promoting democratic and free market values in the developing world and, in particular, in the formerly communist countries of the Soviet Union and Eastern Europe. The collapse of the "Evil Empire" represents a triumph of humane and civilized values over communist tyranny—the same tyranny that will swallow up almost 6 million Chinese people in Hong Kong in less than 6 years. Since 1984, Hong Kong has experienced an intensifying "brain drain" as its most talented people cast about with increasing desperation for a place of escape: Britain, Australia, Canada, Europe, the United States. As 1997 approaches, fears of public disorder and economic collapse are increasing.

A NEW U.S. POLICY NEEDED

What can the United States do? As of 1991, it is unlikely that the scheduled transfer of sovereignty can be avoided. The United Kingdom remains determined to abide by its agreement with Beijing. However, the United States must begin to make it clear to both Britain and the Chinese communists that the United States has important and independent interests in Hong Kong, and that disregard for these interests will have consequences.

It is important that the U.S. government distance itself from British policy (as it has begun to do, for example, over the recent British agreement to forcibly repatriate Vietnamese "boat people" from Hong Kong) and establish direct contacts with spokesmen for the people of Hong Kong, such as Martin Lee. Indeed, the recent meeting between Vice-President Dan Quayle and Martin Lee is a significant step in the development of such relationships.

Another significant step that can be taken to reassure the people of Hong Kong that America is both interested and concerned about their future is the adoption of the U.S.-Hong Kong Policy Act. Sen. Mitch McConnell (R-KY) has introduced this legislation that would formalize the U.S.'s bilateral relationship with Hong Kong. He correctly argues that "the more extensive and established U.S.-Hong Kong ties are before 1997, the more likely that they will be maintained after 1997."

Finally, and most importantly in my view, the United States must insist on democratization of Hong Kong institutions to guarantee the autonomy and respect for human rights promised in the Joint Declaration. The United States has been a beacon of democracy which has helped steer Eastern Europe and the Soviet Union away from totalitarianism. For the United States to passively allow the absorption of six million free Hong Kong citizens into an authoritarian China without democratic safeguards is unthinkable.

There are four steps which must be taken to provide for the development of democratic institutions in Hong Kong:

(1) All members of the Legislative Council of Hong Kong must be democratically elected–a requirement consistent with the Joint Declaration and contemporaneous commitments of the United Kingdom and the People's Republic of China;

(2) All democratic institutions and practices should be firmly established before sovereignty over Hong Kong is transferred to the People's Republic of China in 1997;

(3) The Basic Law should be amended to be consistent with the Joint Declaration's commitments to democratic and autonomous government; and

(4) The governments of the United Kingdom and the People's Republic of China should respect the will of the Hong Kong people to further establish democratic institutions and practices and to take steps consistent with the Joint Declaration to safeguard their basic human rights before and after 1997 by permitting the Hong Kong people to determine by referendum these matters which so dramatically affect their future.

It is time for the United States to take an active role in aiding the Hong Kong people to fulfill their desire for democracy. A democratic Hong Kong will assure both the freedom of its people and the vitality of its economy.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION NO. 234—RELATING TO COMMERCIAL AIRCRAFT SALES

Mr. BINGAMAN (for himself, Mr. EXON, Mr. GORE, Mr. GLENN, Mr. BRYAN, Mr. LIEBERMAN, Mr. ADAMS, Mr. HARKIN, Mr. FORD, Mr. DASCHLE, Mr. LEAHY, Mr. DODD, Mr. KERREY, and Mr. WELLSTONE) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 234

Whereas the United States would market position in many manufacturing and high-technology areas has deteriorated in part because of the sale of United States companies with developed technologies to foreign interests;

Whereas development of advanced technology industries, and the aerospace industry in particular, has been vigorously supported by the governments of most other industrialized nations;

Whereas the commercial aircraft industry is regarded as a strategic industry by most industrialized nations and is directly subsidized by foreign governments to the degree that it is often difficult to separate government from industry;

Whereas McDonnell Douglas has derived benefits for its commercial aircraft program from its contracts with the Department of Defense for research, development, and procurement of military transports, and there are close links between the technology of commercial airliners and of military transports;

Whereas current United States law restricts foreign equity investment in United States airlines on national security grounds;

Whereas Taiwan, in furtherance of its six-year economic plan to develop and promote high-technology industry, would instantly acquire world-class status in this strategic industry as a part of the world's third largest commercial aircraft firm for an investment of a mere $2,000,000,000, which is a small fraction of the investment already made by United States taxpayers and McDonnell Douglas' shareholders;

Whereas the United States has allowed Taiwan to pursue mercantile trade policies and run a cumulative trade surplus of $100,000,000,000 during the last 10 years, that is now being used to purchase a United States high technology company;

Whereas United States trade policy has allowed Airbus Industrie, a company that receives enormous direct subsides from European governments for aircraft manufacture in Europe, to compete unfairly with United States aerospace companies and to surpass McDonnell Douglas and become the second-largest aircraft producer in the world in the twenty-one years since it was established;

Whereas McDonnell Douglas has suffered gravely as a result of this unfair competition, and United States policy over the past decade has been ineffective in preventing the damage to McDonnell Douglas by Airbus;

Whereas if this proposed sale occurs, up to sixty percent of the manufacturing work on the MD-12 will be done in Taiwan, accelerating the transfer of high-technology manufacturing jobs to other countries over the long term;

Whereas the Exon-Florio law gives the President the power to suspend or prohibit a transaction if such transaction would result in a foreign interest exercising control over a United States company in a manner that might impair the national security of the United States;

Whereas United States foreign investment policy must not ignore serious national security concerns regarding foreign purchases of United States companies and technologies;

Whereas other nations have strategic technology, manufacturing, and trade policies that promote research, development, production, and domestic equity ownership of strategic technologies and industries such as aerospace; and

Whereas a strong American aerospace sector is critical to the economic security and long-term defense of the United States, and the best interest of the United States can only be served by thoroughly examining the long-term impact of the proposed sale on the United States industrial base: Now, therefore, be it

Resolved, That (a) the Senate has strong reservations about the long-term impact on the United States aerospace industry, including the supplier base, skilled workers, and technology and manufacturing capabilities, of the proposed sale of forty percent of McDonnell Douglas' commercial aircraft division to a corporation that is owned in large part by a foreign government.

(b) It is the sense of the Senate that the President should—

(1) conduct a 60-day review of the proposed sale, consulting with the departments and agencies of the United States that he deems appropriate;

(2) examine closely the proposal's long-term impact on the health and competitiveness of the United States aerospace industry, including the supplier base;

(3) examine closely the relationship between the civilian and defense sectors of the aerospace industry, with special attention to the impact of declining defense budgets, including cancellations and cutbacks in research and development and weapons procurement programs, on the industrial base of the United States, on the economic health of dual military-civilian aerospace firms, and on the retention of highly skilled, high-value American jobs;

(4) examine closely the proposal's short- and long-term impact on manufacturing employment in the United States aerospace sector, including at the second and third tier supplier levels;

(5) examine closely United States policy toward the support and promotion of the export of United States aerospace products and options that would allow McDonnell Douglas to compete in foreign markets against subsidized producers such as Airbus;

(6) examine closely the options available to the Federal Government for ending foreign unfair trading practices in high-technology products, particularly aerospace products;

(7) investigate, with McDonnell Douglas, its supplier base, and other representatives of United States industry and labor, available Federal options in areas, including technology policy, manufacturing policy, trade

policy, and foreign investment policy, that would preserve high-technology research, development and manufacturing jobs in the United States, as well as preserving American equity ownership of McDonnell Douglas' commercial aircraft division while maintaining the company as a viable commercial entity; and

(8) submit a report containing his findings within 60 days of the adoption of this resolution to the President of the Senate.

• Mr. BINGAMAN. Mr. President, I rise today to introduce a Senate Resolution concerning the proposed sale of forty percent of McDonnell Douglas's commercial aviation division to the Taiwan Aerospace Corp. I am joined in offering this resolution by Senators EXON, GORE, GLENN, LIEBERMAN, BRYAN, ADAMS, HARKIN, KERREY, FORD, DASCHLE, LEAHY, DODD, and WELLSTONE.

This resolution calls upon the President to review the proposed sale and report on its implications for America's competitive position in the aerospace sector. It is not a resolution to block the deal. It is a resolution that calls upon the President to seek to define an alternative more favorable to this Nation's long-term prospects that the current deal, which may ultimately result in 49.9 percent of the equity in McDonnell Douglas' commercial aircraft division being in foreign hands.

Mr. President, over the last two decades, the U.S. share of world export markets has remained flat or declined in virtually every key area of manufacturing. We make less and less of the manufactured products sold in our own domestic market. The examples are too numerous to cite: cars, steel, VCR's, TV's, semiconductor chips, machine tools, industrial robots, telecommunications equipment, and yes, commercial aircraft, to name but a few. The average American need only look around to see how few of the manufactured products he or she purchases are still made in this country. And our losses are not just in established industries, but in key emerging products like optoelectronics, fuel cells, and superconducting materials.

In fact, it is hard to find a single area in which the relative American position was strengthened during the 1980's. This includes the aerospace sector, although it continues to be our leading export industry, surpassing all others in the contribution it makes to our trade balance. More than ever before our aerospace firms are challenged from abroad. And much of this challenge is the result of the combination of the industrial and trade policies of our trading partners with the indifference of our Government over the past decade to the health of U.S. firms affected by those policies.

The development of advanced technology industries has been vigorously supported by the governments of most other industrialized nations. The European Community, Japan, and the other nations of the Pacific Rim, our chief economic rivals, have pursued numerous government-led and/or government-funded efforts to upgrade capabilities in a wide range of high technology industries.

The aerospace industry in particular has received vigorous support from foreign governments. Aerospace is regarded as a strategic industry by most industrialized nations. This fact is even acknowledged in the preamble to the General Agreement on Tariffs and Trade, which recognizes that the commercial aircraft sector is viewed as an important component of economic and industrial policy. The industry is subsidized abroad to the degree that it is often difficult, if not impossible, to separate government from industry.

It is true, as other nations point out, that McDonnell Douglas, like Boeing, has derived some benefits for its commercial aircraft program from its contracts with the Department of Defense for research, development, and procurement of military transports, including the current C–17 program and the earlier KC–10 program. The technological synergies between civilian and military technology are such that many technological innovations first funded by the Department of Defense have been spun off into the commercial sector. But these benefits have been indirect, and they are likely to decrease in the future as defense budgets decline.

The defense budget downturn comes at a time when the EC, Japan, and rapidly developing Pacific Rim industrialized countries such as Korea and Taiwan are actively pursuing the development of strategic high-technology industries, including commercial aerospace. At the same time, high-technology developments with implications for defense are increasingly being made in the commercial sector rather than the military sector. The defense market will increasingly become a niche market for firms whose main business will be the far larger commercial marketplace. In those circumstances, a decline in the competitive position of United States high-technology industry may well result in a decline in the ability of our defense sector to maintain the technological superiority of our weapon systems.

U.S. efforts to support the domestic commercial aircraft manufacturing industry directly have been infrequent and ad hoc, and not part of a coherent strategy to support the sector. That in my view needs to change. Our Government cannot leave the playing field entirely to other governments. We need to relearn lessons from our past when laissez-faire ideology did not dominate our policymaking. In that regard it is interesting to note that the Johnson administration provided a $75 million loan guarantee in 1967 to ease the merger of Douglas Aircraft Co. and McDonnell Aircraft Co. and save the company's commercial aircraft business.

Foreign governments consider the commercial aircraft industry a critical sector which should be supported. The United States has considered it critical enough to support in the past. And current U.S. law restricts foreign equity investment in U.S. airliners on national security grounds. If foreign influence on United States airliners represents an unacceptable national security risk, should we not at least think through the implications of having 49.9 percent of McDonnell Douglas under foreign control? What if a few years from now, McDonnell Douglas needs a new infusion of capital and its foreign collaborators are again happy to oblige? Is majority foreign-ownership acceptable?

The Government of Taiwan, like many other nations which pursue coordinated industrial policies, has targeted various industrial sectors for support. State-owned enterprises spearheaded Taiwan's move into industries such as steel, aluminum, and petrochemicals, and through the 1970's the share of Taiwan's industrial production of these enterprises averaged over 22 percent. By 1988, despite rapid growth in its GNP and a burgeoning trade surplus with the United States, state-owned companies continued to account for 18 percent of Taiwan's industrial production.

The Taiwan Aerospace Co. [TAC] is one such enterprise, set up recently by the Government of Taiwan and various Taiwanese firms, many with close ties to the government, in furtherance of its 6-year economic plan to develop and promote high-technology industry. If McDonnell Douglas's deal with TAC is finalized, Taiwan would instantly acquire world-class status in the strategic commercial aircraft industry through the purchase of 40 percent of the world's third largest commercial aircraft firm for an investment of a mere $2 billion, which is a small fraction of the investment already made by U.S. taxpayers and McDonnell Douglas's shareholders.

If this deal were to go through as planned, it would be difficult to argue that foreign government support of strategic industries is a poor policy choice for those governments. The world will see that the investment of only $2 billion is sometimes enough to propel a country into world-class status in an industry which generates tens of billions of dollars in sales annually. The reluctance of this and the previous administration to even consider the possibility that some industries must be supported directly in the face of other governments' policies will have made this possible.

The past two administrations' policies toward trade have clearly helped propel McDonnell Douglas into the arms of Taiwan Aerospace Corp. We have allowed Taiwan to pursue mercantile trade policies and run a cumulative trade surplus with the United States of over $100 billion over the last 10 years. This huge cash horde is now available to purchase key U.S. high-technology companies. We are apparently about to start selling not just New York and Los Angeles office buildings to pay for a decade of failure in our trade policy, but our key industrial firms as well.

Administration policy has also allowed Airbus Industrie, a company that receives enormous direct subsidies from European governments for aircraft manufacture in Europe, to compete unfairly with U.S. aerospace companies and to surpass McDonnell Douglas and become the second-largest aircraft producer in the world in the 21 years since it was established. A recent Office of Technology Assessment report titled "Competing Economies: America, Europe, and the Pacific Rim" points out that Airbus has received funding equal to 75 percent of the development costs of every Airbus model that has been developed. Chapter 8 of the OTA report examines government support of the large commercial aircraft industries of Japan, Europe, and the United States, and I ask that the chapter be included in the RECORD at the end of my statement.

You cannot read that chapter and conclude anything but that other nations do not accept the pure laissez-faire doctrine the administration espouses and largely chooses to live by. They pursue targeted industrial policies and mercantile trade policies in a coordinated fashion. We leave our firms to compete with national governments. That ultimately will mean our industrial structure in a variety of industries, from commercial airliners to space launch vehicles to advanced electronics, will be determined by the industrial and trade policies of other nations. I find that unacceptable. Future generations of Americans will find that unforgivable.

McDonnell Douglas has suffered gravely as a result of this unfair competition, and U.S. policy over the past decade has been totally ineffective in preventing damage to the company by Airbus. And the administration's unwillingness to address this issue has now led McDonnell Douglas to propose this sale of its equity.

If this sale were to occur, up to 60 percent of the manufacturing work on the MD-12, McDonnell Douglas's next generation commercial aircraft, will be done in Taiwan. As United States world market share for high-technology products declines, this will have the effect of accelerating the transfer of high-technology manufacturing jobs to other countries over the long term. It will be especially damaging to McDonnell Douglas's subtier suppliers in this country. And it won't be long before research and engineering design will follow manufacturing.

Mr. President, the Exon-Florio law gives the President the power to suspend or prohibit a transaction if such transaction would result in a foreign interest exercising control over a U.S. company in a manner that might impair the national security of the United States. The Committee on Foreign Investment in the United States [CFIUS], chaired by the Department of the Treasury, is the body that studies transactions and determines whether or not they might impair our national security. I believe that CFIUS should study this transaction.

I do not know whether this sale would impact national security in the narrow sense of that term, which CFIUS has thus far chosen to employ. But I would point out the other nations, such as Japan, with similar national security restraints on foreign equity ownership in key sectors do not interpret the term narrowly. Nor should we. Our national security is fundamentally tied to the strength of our manufacturing sector. We cannot allow that sector to be hollowed out indefinitely.

This administration's policy has been captured in a remark once made by an unknown administration official: "Semiconductor chips, potato chips, what's the difference?" Well, I think most Americans think there is a difference. Our vision of our Nation's future involves good jobs for our children developing and producing the most advanced products for world markets. Administration policy today and for the past decade has simply not embraced or served that vision.

However, I want to again reiterate that a CFIUS decision to simply suspend or block this transaction is not my goal. In this case, if the sale were blocked and no effort was made to address the company's legitimate need for capital or the unfair competitive pressures that have driven it to seek out a foreign government as an investor, McDonnell Douglas would almost certainly be forced out of the commercial aircraft business in the long run. This is not an acceptable alternative.

Other nations have strategic technology, manufacturing, and trade policies that promote the research, development, production, and domestic equity ownership of strategic technologies and industries such as aerospace. If the United States is to maintain its position in high-technology industries over the long term, we need to develop policies in these areas, or run the risk of having our industrial structure determined by the industrial policies of other nations.

Mr. President, this resolution calls upon the President to review the proposed deal. It asks him to consult with whichever departments and agencies he deems appropriate to examine closely the proposal's long-term impact on the health and competitiveness of the United States aerospace industry, including the supplier base. The impact on the supplier base is particularly important. If 60 percent of the manufacturing of the most technologically sophisticated commercial aircraft McDonnell Douglas has developed is done abroad, it is likely that the high-technology supplier base will also move abroad. The loss of that supplier base would make future U.S.-based manufacture of advanced aircraft less likely and hold implications for the United States maintaining its position as the world leader in aerospace.

This resolution calls upon the President to examine closely the relationship between the civilian and defense sectors of the aerospace industry, with special attention to the impact of declining defense budgets on the industrial base of the United States, the economic health of dual military-civilian aerospace firms, and on the retention of highly skilled, high-value-added American jobs.

Given the synergies between commercial and military technology not just in aerospace but in most of the critical areas identified by the Department of Defense in its first three Critcial Technology Plans, the loss of U.S. high-technology companies will have national security implications, particularly growing dependence on foreign sources for critical components and diminishing ability to reconstitute the defense base in case of need. In the absence of Federal policies that support commercial high-technology industry, directly or indirectly, to the extent that military research, development, and procurement has since World War II, the impact on those companies of lower defense budgets is likely to accelerate the loss of United States capabilities in the face of targeted civilan industry assistance programs by foreign governments.

The loss of highly skilled workers in high-technology manufacturing sectors should be of particular concern because of the difficulty in reconstituting and retraining a skilled workforce once it has been disbanded. Thus the resolution calls upon the President to examine closely the proposal's short- and long-term impact on manufacturing employment in the aerospace sector, including at the second and third tier supplier levels. The resolution also calls upon the President to examine closely U.S. policy toward the support and promotion of the export of U.S. aerospace products, and options that would allow McDonnell Douglas to compete in foreign markets against subsidized producers such as Airbus. With its government backing, Airbus has been able to offer financing packages for purchase of its aircraft that McDonnell Douglas and other commercial aircraft manufacturers cannot match. Given the policies of other advanced industrialized nations, I believe that the Federal Government should be more active in promoting the export of high-technology manufactured goods made in the United States. The proposed sale should be taken as an opportunity to begin addressing these issues through an examination of trade policy as it applies to the aerospace sector.

The United States should also be more active in trying to end foreign unfair trading practices in high-technology products, particularly direct subsidies such as those received by Airbus. By one means or another, we need to reestablish fair trade in foreign government-targeted industrial sectors. We cannot have our industrial structure determined by the industrial policies of other nations. We can not continue to concede sector after sector of high technology industry to other nations.

Finally, the resolution calls upon the President to investigate, with McDonnell Douglas, its supplier base, and representatives of U.S. industry and labor, federal initiatives that might provide McDonnell Douglas with options that go beyond seeking the assistance of a foreign government. Efforts need to be made in areas such as development of a coherent technology policy, development of a manufacturing policy that assists firms in upgrading their manufacturing capabilities, development of a strategic trade policy that promotes the export of high value-added U.S. goods, and development of a foreign investment policy that makes sense in light of vigorous foreign efforts to target strategic industries.

The goal of these efforts should be the preservation of high-technology research, development, and manufacturing jobs here in America. Using McDonnell Douglas as a case study, we should explore the various options in these areas and try to develop a plan of action that would preserve American equity ownership of McDonnell Douglas's commercial aircraft division while maintaining the company as a viable commercial entity.

Mr. President, this resolution is not intended to tie McDonnell Douglas's hands. It is not intended to bash Taiwan. It is intended to begin a long-overdue debate in America on how we are going to treat the U.S. high-technology industrial sectors that are targeted by coordinated, foreign government-led development efforts. This proposal provides an opportunity to examine the impact of foreign government-subsidized development of strategic industries and begin to develop policies of our own that will support American industry in the world market.

Mr. President, if we choose to stand idly by while the industrial policies of Pacific Rim nations and the European Community dictate our industrial structure in the aerospace sector, one of the few high-technology manufacturing sectors where the United States holds a clear edge, when will we take action?

There are alternatives. For example, the Aerospace Industries Association recently released a report titled "The U.S. Aerospace Industry in the 1990's: A Global Perspective," that lays out numerous recommendations for industry and government that would aid the aerospace sector. Rather than listing my own proposals, I would ask my colleagues to consider the proposals developed by industry, developed in part to prevent the need for the sale which McDonnell Douglas is now proposing. I ask that the summary and highlights of the report be included in the RECORD at the end of my statement.

Mr. President, the McDonnell Douglas transaction should be a wakeup call for this Nation. It is testimony to the failure of a decade of pure laissez-faire ideology guiding our economic policymaking. We can no longer afford to deal with the rest of the world as we wish they were. We need to deal with them as they are. Many of the steps we need to take to begin to deal with this self-inflicted problem are clear. The question is whether this administration is prepared to change course and take those steps.

GOVERNMENT SUPPORT OF THE LARGE COMMERCIAL AIRCRAFT INDUSTRIES OF JAPAN, EUROPE, AND THE UNITED STATES

(Chart and figures referred to are not reproducible in the RECORD.)

The commercial aircraft industry is often characterized by superlatives. It has the largest trade surplus of any U.S. Industry. There are fewer large firms dominating the world market than in perhaps any other industry. It is marked by larger economies of scale than most other industries. In every country that has a domestic commercial aircraft assembler, the hand of government is prominent in the industry's behavior and performance. Because of the industry's distinctive characteristics, it pays to be cautious in drawing broader lessons about the efficacy of government involvement in the industry's competitiveness.

Even with an appropriate dose of caution, however, some conclusions about the nature of government/business relationships in the commercial aircraft industry sound familiar. The United States has influenced the commercial aircraft industry primarily through spinoffs from other programs, rather than directly or with the intent of improving competitiveness. Four European nations (France, Germany, Great Britain, and Spain) have played a much more decisive role in boosting the competitiveness of their aircraft consortium. Airbus Industrie. The amount and kind of support extended to Airbus from these governments has been far more effective in improving its competitiveness than the military spinoffs and basic research programs of NASA in the United States. While Japanese industrial policy has failed to produce a domestic assembler of large commercial aircraft, Japan, like Europe, has expended a great deal of money and effort aimed directly at improving competitiveness in the aircraft industry. Japanese firms have become world-class subsystems makers. In short, both Japan and Europe have directly aimed public policies and supports at competitiveness, and have gotten results. In comparison, American companies have gotten much less consistent or effective boosts from policies that were directed toward other goals.

Several advanced countries and even some developing nations have decided that the capacity to build commercial aircraft is important to their national self-interest. The preamble to the General Agreement on Tariffs and Trade (GATT) Agreements on Trade in Civil Aircraft acknowledges this, stating that countries have made that pact recognizing that the aircraft sector is viewed as a particular important component of economic and industrial policy. The principal reasons are the industry's links to national security, the generation of technologies that may spill over the other industries, and contributions of aircraft exports to a positive balance of payments, the creation of well paying jobs, and national pride.

Government supports of the commercial aircraft industry have taken various forms: synergies between military and commercial work, funding of civil R&D, direct financial supports for specific commercial projects, encouragement of the growth of domestic demand and efforts to steer it toward domestic suppliers, export assistance, and efforts to organize industry so it is well suited to international competition. The most important effects in the United States have come from the National Aeronautics and Space Administration (NASA) and Department of Defense (DoD) programs. While promoting competitiveness has been a goal of NASA's aeronautics program, other benefits include the side effects of actions taken for reasons unrelated to competitiveness. As a result, the benefits have consistently been smaller than if promotion of international competitiveness had been a major policy objective. In particular, the indirect benefits U.S. Companies received from DoD programs were substantial in the past, but have declined as military and civil technologies have diverged and the air transport industry has matured. In contrast, the direct financial supports used heavily in Europe and Japan have been provided specifically for the purpose of improving competitiveness. While they have been costly, they have also been effective and appear likely to continue.

Table 8-1 assesses the relative importance of each of the major types of support to the success of commercial aircraft manufacturers in Europe, Japan, and the United States.

TABLE 8–1—BENEFITS TO COMMERCIAL AIRCRAFT AND COMPONENT MANUFACTURERS OF VARIOUS TYPES OF GOVERNMENT ACTIONS[1]

	U.S.	Japan	Europe
Direct financial aid	Small (↓)	Large (=)	Very large (=)
Military R&D plus procurements	Medium (↓)	Small (↑)	Medium (↓)
Civil R&D	Medium (=)	Small (=)	Small (=)
Control of domestic demand	None (=)	Small (=)	Medium (↓)

TABLE 8-1—BENEFITS TO COMMERCIAL AIRCRAFT AND COMPONENT MANUFACTURERS OF VARIOUS TYPES OF GOVERNMENT ACTIONS [1]—Continued

	U.S.	Japan	Europe
Export assistance	Small (=)	None (=)	Small (=)
Organizing the industry	None (=)	Small (=)	Medium (=)

Legend: (↑) increasing in importance; (=) remaining at about the same level of importance; (↓) decreasing in importance.

[1] This table compares total benefits, not efficiency. The fact that two categories get the same rating does not mean that the costs of providing those supports are necessarily equal. Also, some types of government actions affect some parts of the industry more than others—e.g., military/civil synergies are greater for engine makers than airframers. This table represents a rough average for the whole industry.

Source: Office of Technology Assessment, 1991.

RISK AND THE ROLE OF GOVERNMENTS

The principal way these supports benefit manufacturers is by reducing risk. Risk in the commercial aircraft business is higher than in most others. Both technological and market uncertainties are great, and the costs of launching a new model are enormous. This combination of uncertainties and high costs adds up to big risks. Bringing out a new airplane can mean betting the company—and more than one company has lost the bet. Government support can reduce these risks to a point where the relation between risks and expected rewards is favorable and a company can proceed to launch a new model or adopt a new technology.

The use of state-of-the-art systems in each new generation of aircraft confronts manufacturers with significant technological risks. A project may be years and billions of dollars into its development before a technical obstacle is discovered that delays or stops the effort. Rolls Royce's effort to make all-composite fan blades for the Lockheed L-1011 engine failed, causing delay in the plane's introduction and ultimately the bankruptcy of both companies. Boeing's 747 got heavier and heavier throughout the development process, requiring more and more powerful engines and driving up costs. Pan Am, the 747's launch customer, Pratt & Whitney, the engine makers, and Boeing were all nearly bankrupted by the effort. Even when technological uncertainty does not threaten the launch of a model, it affects the manufacturer's decision about whether to adopt advanced subsystems and components. The opportunity to develop and prove advanced technology at the expense of the government, in either military or civil R&D projects, can help give companies enough confidence in the cost and performance of the new systems to justify incorporating them into products.

More than technological failure, failure in the market has been the source of disasters in the aircraft business. As a rule, an aircraft manufacturer needs to sell at least 500 units of a model for it to break even. Of the 26 basic airplane types introduced worldwide since the beginning of the jet age, only 6 have sold as many as 500 (another 4 are likely to do so before their production runs end). Seven sold less than 120 copies. Only four or five have been profitable. A report by First Boston Corp. concludes that in 1984, the jet transport aircraft programs then launched had accumulated total losses of $40 billion on total sales of $180 billion (in 1984 dollars). "The essential message [of these figures] is that economic failure is the norm in the civil aircraft business."

Considering this record, no one in this business commits to building a new design before assembling a number of launch customers. These early orders not only assure the manufacturer that it will sell at least that many units, they are needed to convince the manufacturer's financial backers that the model has sufficient appeal to airlines to justify committing funds. Government influence over airlines' choice of which aircraft to buy when a launch is pending can directly affect the manufacturer's decision, as can large government orders of military aircraft that are similar or identical to commercial models. Governments naturally favor domestic suppliers for their military needs, but in the commercial business, airlines' purchase decisions frequently turn on narrow differences in performance and price among competing airlines. A nudge from the airline's government—e.g., to choose a domestic company or one that buys some parts or subsystems from domestic companies—can be decisive.

In addition to technological and market uncertainties, financial risks are also high. Aircraft development costs have risen dramatically since the early days of air transport, as table 8-2 shows.

The $1.2 billion development costs of the 747, spent between December 1965 and January 1969, were over 3 times the $372 million capitalization of the Boeing company. The $1.1 billion cost of developing the DC-10 was over 3 times greater than the $364 million capitalization of the Douglas company. The combined launch costs of Boeing's 757 and 767 in the late 1970s again exceeded the net worth of the company. Coupled with these tall investment requirements are long lead times before the project reaches positive cash flow, and an even longer wait before the break-even point. Typically, it takes 4 to 5 years to develop, test, and certify a new aircraft, 2 years longer for the engines, and as much as 10 years from then to recover the initial investment—if that point is ever reached. Figure 8-1 shows the cash flow of a typical aircraft program.

Unless they have government support, manufacturers finance these costs from four sources:

1. retained earnings,
2. issues of debt and equity,
3. progress payments from customers, and
4. cost-sharing with subcontractors and partners.

These sources may not be sufficient to enable a manufacturer to launch a new model, and in some instances, only if governments are willing to directly assume much of the financial risk can the project proceed. Governments can offer loan guarantees or credits with payback contingent on success; or they may pay outright some costs of developing new projects, either by providing funds at preferential rates or by contracting for development work.

Although government assistance to the large commercial aircraft industry is undeniably important overall, the effects of individual government supports vary greatly. Government support for R&D may not advance a company's technological development. On the one hand, it may stimulate a company to increase its own funding for R&D, or it may supplement the firm's own R&D program. Alternatively, it may supplant R&D the company would have done anyway. Financial assistance with the launch of new designs may enable firms to proceed with models that otherwise would never have made it past paper studies, but it may also remove market disciplines and encourage a firm to proceed without first establishing that sufficient demand exists, leading to costly market failures. Government-provided financing to ease companies' cash flows during production may enable firms to increase production rates and improve market share, but it may diminish pressures for the firm to institute needed cost-controlling measures. The effectiveness of government support depends not only on the degree to which it is offered but also on the type given and the way in which it is delivered.

The following sections describe government policies related to the aircraft industries of the United States, Japan, and Europe, focusing on the motives, content, and results of government interactions with the industry.

TABLE 8-2.—AIRCRAFT DEVELOPMENT COSTS

[Dollar amounts in millions]

Aircraft	Entered service	Development cost in dollars	Development cost in 1991 dollars	Development cost per seat in 1991 dollars
DC-3	1936	$0.3	$3	$0.1
DC-6	1947	14	90	1.7
DC-8	1959	112	600	3.75
747	1970	1,200	3,300	7.3
777	[1] 1995	[1] 5,000	[1] 4,300	[1] 14.0

[1] Estimate.

Source: U.S. Department of Defense, National Aeronautics and Space Administration, and Department of Transportation, R&D Contributions to Aviation Progress (RADCAP) (Springfield, VA: National Technical Information Service, August, 1972), vol. II, app. 9, p. 21. 1991 values are computed using aerospace industry price deflators for 1965–1989 and GNP deflators and estimates for other years.

UNITED STATES

Motives

The U.S. Government today avoids helping any particular industry compete in world markets. However, the government does have policies related to national defense and trade, and takes actions that affect transportation and technology. The U.S. commercial aircraft industry has benefited from measures taken in these areas.

The greatest benefits for U.S. commercial aircraft manufacturers have been side effects of the government's commitment to building and maintaining a strong defense industrial and technology base. The use of advanced technology in national defense has generated both financial and technological benefits for companies that produce commercial as well as military aircraft. Several factors make the commercial aircraft industry of special interest to defense policymakers. Technological advances made for commercial aircraft show up in military hardware and concurrent production of commercial aircraft reduces military aircraft costs. The supplier base and work force skills needed for rapid military buildups are maintained by civil aircraft production, and the design teams needed for military projects are kept together by commercial work during periods of weak military demand. These benefits are likely to become even more important in the future as defense spending is scaled back and military hardware comes to rely more heavily on dual-use technologies.

Support for civil aeronautical R&D is strong in the United States, compared with that for most other areas of the civilian economy. The traditional rationale for government support of NASA technology programs is that the resulting R&D compensates for the tendency of private firms to do less than the socially optimal levels of R&D because they are unable to capture fully the returns of their investments. This is the standard economic justification for civil technology policies in general. Although NASA's official mission does not go farther towards helping U.S. aircraft manufacturers compete, this alone does provide some competitiveness benefits to U.S. firms.

The belief that air travel is important for U.S. transportation needs has led to measures such as airline regulation, subsidies for air mail, Federal and local subsidies for airports, safety monitoring, and the management of the air traffic environment. Though most of these measures were aimed primarily at air transportation, they fostered the early growth of a strong domestic market for commercial aircraft, which in turn benefited U.S. producers.

As for trade policy, U.S. commitment to free trade served the country's aircraft manufacturers well for many years after World War II. During the war, the United States had become the world's greatest producer of aircraft and it emerged at war's end with the industry intact; this helped establish the industry's dominance. With the strong domestic market and continuing military-civil connections giving U.S. producers significant advantages, a liberal trade environment favored the American industry. The government also used its influence to discourage foreign support for competitors (though with limited success), maintained a tariff of 5 percent or more on aircraft imports until 1980, and provided export assistance to U.S. producers to compensate for perceived unfair practices. In the 1980s, while U.S. trade deficits reached record levels, commercial aircraft exports rose. Indeed, aircraft is the United States' largest exporting industry. The U.S. trade surplus in transport aircraft (not counting spare parts) from 1985 to 1989 (the latest year for which firm figures are available) was $35 billion. Although sales of commercial transport aircraft represented less than 0.3 percent of U.S. gross national product (GNP) in 1989, they accounted for nearly 3.4 percent of the dollar value of U.S. merchandise exports.

Among this list of U.S. Government actions and policies, only NASA's support for civil aeronautical R&D constitutes a deliberate effort to help the competitiveness of commercial aircraft builders. Benefits the industry has received in other areas, especially from the synergies between military and civil aircraft work, have been the results of government actions taken with goals other than competitiveness in mind.

Military-Commercial Synergies

The U.S. Government policy that has most affected the competitiveness of the commercial aircraft industry is procurement of military aircraft and funding of the related R&D. Most important among the effects of military work are technological synergies. In a few cases, whole systems developed for the military have been spun off to commercial applications, reducing development costs and risks to the commercial users. In others, large military orders for products or technologies designed for commercial uses (or those closely related) have boosted production runs, and therefore lowered costs by allowing companies to achieve economies of scale, learn the production process, and share overhead costs. Military development programs have assumed the risks of proving advanced technologies, giving commercial users the confidence to adopt them. Often, the benefits accrue not so much to aircraft assemblers, but at the subsystem level, in materials, or in manufacturing process technology. Though synergies appear to be declining, the boost the industry was given in the past when military and civil technology were more similar accounts for a portion of the success of the industry today.

Examples of these synergies are numerous. Boeing's civil 707 and the military KC-135 tanker were both developed from a common prototype and shared 20 percent of the tooling, reducing costs to both commercial and government customers. The prototype itself drew heavily on advances made in the B-47 and B-52 bomber programs, including the flexible swept wing and the podded engine. The core of General Electric's largest commercial engine was originally developed for the C-5 military transport, and the core of the company's medium-sized commercial engine came from the B-1 bomber. At the GE Aircraft Engines plant in Evendale, Ohio, commercial and military engines move through many of the same production stations. Both sides of the business share a common management structure, common ordering and inventory, common manufacturing processes, and common R&D facilities. Only finance and marketing are separated. McDonnell Douglas sold 60 of its commercial DC-10s to the Air Force for use as air refueling tankers, thus increasing the total profits of the program and helping to keep production going until the company was ready to commit to the derivative MD-11. The development of lightweight composite materials is being led by the military; commercial users have been unwilling to adopt the materials until they have acquired sufficient service experience that their safety is assured. Military users are providing that experience. Though much of the development cost of the ring laser gyroscope for internal reference systems was borne by companies, military funding at key moments in the development process, together with the promise of combined military and civil market, spurred the private investment. Pratt & Whitney's F-117 engine for the Air Force C-17 cargo plane was adapted from the commercial P&W 2037 engine and bought "off the shelf" by the military, thereby increasing production runs, spreading development and overhead costs, and decreasing costs to both military and commercial users.

Military projects help train aeronautical engineers. The original 747 design team consisted of engineers who had been trained and familiarized with the tasks involved in designing wide-bodies during the C-5A military transport competition. One McDonnell Douglas official suggested that even if the C-17 program were canceled, it would still have had the beneficial effect of training 2,000 engineers the company could then employ on commercial work.

Until the last decade, military work was profitable. This, combined with the often alternating cycles of the commercial and military sides of the business, generated some financial benefits for companies involved in both commercial and military work. For example, according to a leading aircraft industry analyst, Boeing's commercial activities lost money during the first 20 years of jet production; the company was carried during that period by steady profits in its military business, especially the B-52 and Minuteman missile. In 1967, despite an order backlog of $2.3 billion in commercial aircraft, the commercial Douglas Co. was forced to merge with the primarily military McDonnell Aircraft Corp. The cash infusion from McDonnell not only saved Douglas from bankruptcy but enabled the company to bring out the DC-10 (introduced in 1971).

However, the defense connection has not been an unqualified boon. Defense and commercial technologies have been gradually diverging since the beginning of the jet age, so opportunities for the commercial side to benefit from military developments are shrinking. Commercial requirements are driving high reliability, low fuel consumption, and low noise technologies, while defense needs are pushing low radar detection, high speeds, and high maneuverability. Some synergies remain, but they are smaller than they once were.

Other aspects of the defense business are negative as well. Military projects can divert limited resources (e.g., highly specialized aeronautical engineers) away from commercial projects. Export controls limit international markets, military requirements may entrench processes and mentalities ill-suited to commercial competition, and efforts to standardize military hardware with allies may have transferred commercially relevant technology to competitors. Classification of defense systems often makes advances in military technology unavailable to commercial divisions even within the same company, and much of the DoD aircraft development and procurement budget is spent with firms that have no significant commercial activity. In the late 1980s and early 1990s, defense aircraft work in the United States has become less profitable than it once was, creating a burden on profitable commercial operations.

DoD's procurement regulations often create de facto requirements for firms to separate their military and commercial development and production, reducing the potential benefits of simultaneous involvement in both sides of the business. The costs generated by DoD's close oversight or detailed specification of hardware and production processes cause some companies to separate military and commercial production that they might have combined if DoD provided for more latitude. Even when companies still find it beneficial to combine military and commercial production, the benefits are less than if DoD procurement regulations and contract specifications allowed more flexibility. Burdensome military requirements are unlikely to leave commercial producers less competitive than if the companies had no military business at all, but they do interfere with the ability of firms to take maximum advantage of available synergies.

The defense business has generated benefits for and imposed extra costs on firms also involved in commercial work. These benefits have been far less than they could have been if promoting commercial competitiveness were a major policy goal.

Government Funding for Civil Aeronautical R&D

In addition to the often indirect and generally unintended benefits to commercial manufacturers of military aircraft, the U.S. Government has directly funded R&D for civil applications through the aeronautics program at NASA and its predecessor, the National Advisory Committee on Aeronautics (NACA). Figure 8-2 shows the funding history for NASA's aeronautics program. Their research projects have produced many advances that improved the performance and safety of aircraft. However, the gains for the competitiveness of U.S. aircraft manufacturers have been less clear.

One undisputed benefit has been the research and test facilities NASA provides. Since companies are relieved of the need to maintain redundant facilities of their own, the NASA facilities reduce costs for individual firms and improve the efficiency of the industry as a whole. Most used by companies are the wind tunnels. According to NASA officials, every commercial aircraft built in the United States has been tested in NASA wind tunnels. Computers, simulators, aircraft for flight testing, and other specialized equipment are also used by industry, sometimes quite heavily. Aircraft companies account for 15 to 20 percent of the use of the Numerical Aerodynamic Simulation computers, the world's most advanced facility for computational fluid dynamics (CFD). In 1984, the replacement value of all of NASA's aeronautics facilities was estimated at $10 billion.

NASA's aeronautics R&D program also benefits U.S. aircraft producers, though it does not always bestow a competitive advantage. The program helps U.S. aircraft manufacturers develop and adopt new technologies by conducting research inhouse and then transferring the results to companies and by contracting with companies to perform specific research tasks, usually in cooperation with inhouse NASA research. Further, NASA researchers act as a free consulting service for industry engineers having technical problems. The availability of technologies developed and tested at NASA's expense and risk helps aircraft manufacturers incorporate new capabilities into their products at diminished cost or risk, just as military developments do.

Sometimes, these technological advances result in gains in competitiveness for the firms that use them. Examples include NASA's work in CFD, which helped Boeing find positions to locate the nacelles on the wings of the 737, 757, and 767 to minimize drag. NASA's energy efficiency projects of the late 1970s and 1980s helped U.S. engine makers decrease fuel consumption of their engines, increasing their appeal to airlines looking for ways to cut operating costs. NASA's noise reduction projects helped U.S. engine makers build quieter engines, which resulted in significant competitive advantages when Congress passed noise limitations in 1968 and tightened them in 1974.

Howver, NASA's technology advances can provide U.S. firms with a competitive advantage only if they are able to apply the technology before their foreign competitors. The record has been mixed. Cases in which foreign competitors have applied NASA research first are numerous. Winglets made their first commercial appearance on Airbus planes. The supercritical wing are first employed on the Airbus A320. In Japan, the Shin-Meiwa Co., which builds some composite parts for Boeing, claims to have learned much of its carbon fiber technology from NASA publications. NASA advances in engine technology will be applied by Société Nationale d'Etude et de Construction de Moteurs d'Aviation (SNECMA), the French aircraft engine company, in its high-pressure compressor for the GE-90. Advances made in short take-off and landing (STOL) technology have been used more by the Canadian company DeHavilland (to the degree that they have been used at all) in its Dash-7 aircraft than by U.S. firms. Safety-related research, such as that on the prevention of icing, transfers quickly—as indeed it should.

NASA publishes nearly all of its research in open literature. Even when U.S. companies do get access to NASA technology first, they may transfer this technology overseas in technology licensing arrangements and through joint ventures. Foreign governments' support of their own aircraft industries in ways that reduce the risks of adopting new technologies is a major reason for foreign firms taking advantage of NASA-generated advances sooner than U.S. firms do.

U.S. firms do have some advantages in getting to NASA R&D first. Most importantly, they often participate in the research projects, gaining valuable "hands-on" experience. NASA also tries to limit the distribution of the most valuable results, though with limited success.

It is likely that the competitiveness benefits to U.S. firms equal only a portion of the cost of NASA's aeronautical R&D program. While the facilities and some portion of NASA's aeronautics R&D budget may be viewed as a support to the industry, to view the whole budget as such is an overestimate of those effects.

Direct Financial Assistance

Though synergies between military and civil work and NASA's aeronautics R&D program are the main sources of U.S. Government benefits to commercial producers, other government actions have also helped. On three occasions, the U.S. Government has provided direct financial supports to the industry. In the late 1960s, poor sales and costs overruns of the L-1011 drove Lockheed to the brink of bankruptcy. In 1971, the Nixon administration approved a loan guarantee of $250 million, which saved the company but failed to prevent it from exiting the commercial business within a decade. In any case, the government's main purpose was to save a defense contractor, not a commercial aircraft producer. Commercial interests were more directly involved in the case of the Douglas Aircraft Co. When the company approached bankruptcy in 1967, the government eased its merger with the McDonnell Aircraft Co. by providing a loan guarantee of $75 million, helping to save its commercial aircraft business. Here, the government's interest was more in the realm of the domestic economy—jobs and community economic base—than in international competitiveness. In neither situation was the guarantee called upon. In the third case, the U.S. Government spent roughly $1 billion between 1961 and 1971 on the development of a supersonic transport (SST) to rival the Concorde. The program was canceled long before an aircraft flew but did generate some technology that appeared in later subsonic aircraft.

The Lockheed and Douglas loan guarantees and the SST program are the most significant direct financial assistance the U.S. commercial aircraft industry has received from the U.S. Government, yet they pale in comparison to the funding available in other countries. Further, these interventions were infrequent and ad hoc, not part of a coherent strategy to support the commercial aircraft manufacturing industry.

Promotion of a Domestic Market

The government has helped U.S. aircraft manufacturers indirectly through its efforts to promote the growth of domestic air travel. The size and strength of the American market is a major reason for the success of U.S. commercial aircraft manufacturers. The earliest commercial use of air transport was in carrying the mail. Deliberate government subsidies enabled carriers to use larger, faster planes better suited to carrying passengers as well. In 1938, the Civil Aviation Administration (CAA) was set up within the Department of Commerce to provide "direct subsidies to promote passenger travel, economic regulation of the airlines, air traffic control, and safety." In 1948, the CAA was divided into the Civil Aeronautics Board (CAB), with responsibility to regulate routes and fares, and the Federal Aviation Administration (FAA) to oversee safety and the air-traffic environment. Safety standards, efficient management of the airspace, and technical support for the construction of airports provided by the FAA all helped to make air travel a safe and desirable means of transport. Regulation, which ended in 1978, enabled airlines to pass on the costs of more expensive, more advanced aircraft to the traveling public, so airlines were quick to replace old aircraft and to introduce technological innovations. Though these benefits have largely disappeared in the last decade, historically they were very important to the industry.

Export Assistance

Finally, the U.S. Government has helped aircraft manufacturers export by providing credit on favorable terms through the Export Import bank (Eximbank). Over the decade from 1967 to 1977, the Eximbank provided $5.77 billion in loans covering the export sales of 1,185 commercial jets worth $12.8 billion. In the early 1970s, when the aircraft market was so weak that U.S. aircraft manufacturers faced serious threats to their survival, the Eximbank became so heavily involved in financing aircraft exports that it acquired the nickname "Boeing's bank." However, two developments have greatly undermined the importance of export financing. First, an agreement among the major aircraft exporters called the Large Aircraft Sector Understanding (LASU), concluded under the auspices of the Organization for Economic Cooperation and Development (OECD), established a minimum rate governments could offer. Second, in the mid-1980s, the financial markets realized that aircraft retain their value well and can be held as collateral against the loans used to buy them. Bank rates for aircraft purchase loans consequently dropped very close to rates available with government guarantees, greatly diminishing the role of export financing. Boeing officials state the Eximbank now finances only five to seven sales of Boeing planes annually, or about 2 percent of the company's sales.

JAPAN

Motives

In contrast to the United States, the explicit goal of the Japanese Government in its support for commercial aircraft manufacturers was and still is promoting the industry's development. Japanese Government support for this industry is properly seen as another step up the technological ladder in a long succession of targeted industries.

After the U.S. occupation of Japan ended, most of the companies that had built military aircraft during WWII returned to the business. Their first significant work came from the overhaul of U.S. military aircraft used in the Korean War, followed by licensed production of U.S. military designs. In the 1960s, a project to build a twin-engine turboprop gave companies their first experience designing commercial transports and their first taste of the business. Following the costly failure of this domestic venture, airframe work shifted to subcontracting for Boeing and engine work focused on the multinational V2500. Military work dominates the industry today, though the proportion of commercial work is increasing rapidly. The total civil production remains less than 5 percent of that of the United States.

The legal foundation for Japanese Government support of the industry was laid with the passage of the Aircraft Industry Manufacturing Law in July, 1952, barely 2 months after the end of the occupation made aviation activities possible.The First Aircraft Industry Promotion Law of 1954 led to heavy subsidization of the industry in the 1960s. Aircraft were first designated a "targeted industry" by Japan's Ministry of International Trade and Industry (MITI) in its "vision" for the 1970s, and then again in the document for the 1980s. (The 1990s vision did not name any specific industries.)

As in the United States, military work has helped Japanese companies' efforts to become major commercial suppliers, though relatively small government orders, use of licensed designs (rather than domestically developed ones), and restrictions on exports of military goods have limited the spillover benefits. Although Japanese planners may use military aircraft production to help develop their commercial aircraft industry, the overall benefits from the military connection is less than in the United States.

Promoting economic growth has been and remains the prime motivation for Japanese Government support of industry, and the nation's GNP is now the fastest growing among advanced nations. Partly as a result, Japanese firms now face an acute labor shortage. The need for growth to increase employment is not great. Instead, Japanese planners see the commercial aircraft industry as an opportunity to learn advanced new technologies that may spill over into other sectors, moving firms into more knowledge intensive and higher added-value work. Planners see aircraft production as an area in which recently industrialized countries are unlikely to threaten more technologically advanced nations as they have in industries like steel and ship building.

Japanese companies produced 159 billion yen worth ($1.2 billion at 135 yen to the dollar) of commercial aircraft-related goods and services in 1989. Though government supports have greatly helped Japanese companies achieve such successes as they have, these supports have not been sufficient to fully overcome the obstacles the industry faced in the post-WWII period.

Direct Financial Supports

Early Japanese Government efforts to promote the development of a domestic commercial aircraft industry involved heavy government funding in the hope of rapidly catching up with the West. However, after the failure of its first effort and the high costs it entailed, the government switched to a more gradual approach. In the projects of the 1960s, most of the risk was borne by the government. Now much more of the risk is borne by companies, though the government funds involved are still substantial. The Japanese Government appears to have accepted that catch-up will be a decades-long process.

Government support remains very important to the Japanese industry. Japan's postwar hiatus in aircraft manufacture, its history of licensed production of military aircraft, and limited defense budgets have left Japanese aircraft companies in a weak position from which to compete in international markets. Because commercial aircraft manufacturers in Europe, the United States, and other countries have received many benefits from their governments, the prices of aircraft made in those countries do not reflect their full cost. Without government support, Japanese aircraft manufacturers would have to be far more efficient producers and have better products to offer than their foreign competitors in order to make a profit. They have not yet achieved that. Each of the major Japanese aircraft companies has suffered several costly failures in commercial aircraft ventures, and they are reluctant to repeat the experience. Japan's major aircraft manufacturers are all large, highly diversified companies, and senior management is reluctant to divert too much of their technical talent to the aircraft business.

The Japanese Government has offered aircraft firms direct financial supports in various forms. Though funds involved have been far less than those provided in Europe, they have been large in relation to the size of the industry in Japan. Initially, Japan's Ministry of International Trade and Industry (MITI) used equity participation and guarantees against losses incurred during the production phase of a project. For the YS–11 airplane, a 64-passenger, twin-engine turbo-prop of the 1960s, MITI provided 54 percent of the initial capitalization and guaranteed the participating firms against production phase losses. By the time production was canceled in 1973, only 182 YS–11s had been sold, two-thirds of those to domestic customers, and the project had accrued debts of 28 billion yen ($207 million), four times its initial capitalization of 7.8 billion yen. Most of these debts were never repaid and were quietly forgiven by the government when the management organization was dissolved in 1986.

Later, MITI used *hojokin*—loans offered directly from the Ministry, to be repaid only if the project is successful. The *hojokin* were offered only for expenses incurred during the product development phase, not during production. In 1977, Japan's three largest aircraft manufacturers formed a consortium to make 15 percent of Boeing's 767 (first delivered in 1982). The Japanese partners' total costs came to 29 billion yen during the official development phase, 1978 through 1983, MITI-directed funding covered 14.7 billion yen . In addition, companies spent on their own an estimated 20 billion yen on production facilities and tooling, for a total investment of about 49 billion yen before revenues started flowing. The Japanese companies lost money on the venture for several years because of the fall of the dollar and because production was low. However, the terms of the development loans were favorable to the companies; MITI slowed the loans' early repayment because the program was so costly to the Japanese producers.

In 1986, MITI introduced a new system whereby loans for up to 50 percent of the product development costs of aircraft projects are made available by the government-owned Japan Development Bank (JDB). MITI pays the interest on these JDB loans with further loans from a new government-funded organization called the International Aircraft Development Fund (IADF). Companies begin repaying the IADF loans only when the project reaches the break-even point, so the JDB and IADF loans combined provide firms with nearly interest-free financing. Though companies are officially required to fully repay the loans' principal, if projects funded through this system ran into severe difficulty it is likely MITI would ease repayment requirements. The result is a system of launch aid similar to that used in Europe. Japanese companies' 20-percent participation in Boeing's 777, launched in late 1990, will probably cost $1.2 to $1.3 billion. Of this, $700 million is development expense, half of which is eligible for MITI support (the remaining costs are for facilities, tooling, and operating expenses, which MITI does not cover). JDB has committed to supply 17.4 billion yen ($129 million) for the 777 for 1991, and MITI has requested 798 million yen ($6 million) in IADF funds that "will be applied as a subsidy for 50 percent of the especially high-risk development cost and for the interest on the JDB loan."

While the Japanese Government is gradually reducing its share of the costs and risks of commercial aircraft projects, direct financial supports continue to benefit Japanese firms. MITI supports enable companies to make much larger investments in commercial aircraft projects than they would otherwise, thereby speeding the development of the industry.

Military-Commercial Synergies

Japanese aircraft companies have achieved synergies between their military and commercial businesses in many of the same ways U.S. firms have. The total benefits, however, are much lower than in the United States because Japanese procurement budgets are far smaller and the R&D budgets smaller still. Japan's defense budget has hovered around 1 percent of the country's GNP for four decades. In 1988, Japan spent Y3.7 trillion ($27.4 billion) on its military. Military aircraft procurements have ranged between 7 and 12 percent of the total defense budget (Y381 billion in 1988) for the last two decades. In comparison, the U.S. defense budget for 1988 was $290.4 billion, $28.2 billion of which was for aircraft procurement. The contrast is even greater for R&D. In fiscal year 1991, U.S. Department of Defense R&D was $37.8 billion and about 15 percent of the $285.6 billion defense budget, while Japan's military R&D spending was only Y114 billion ($844 million) and 3 percent of the defense budget (the highest percentage it has ever been).

Synergies between military and civil work are reduced by Japan's propensity to license U.S. designs, rather than developing them domestically. This has denied Japanese firms the opportunity to develop valuable design and development skills. In fiscal year 1991, Japan paid the United States $816 million in royalties for these licenses, roughly the equivalent of the entire Japanese military R&D budget.

On the positive side is the flexibility the Japanese Defense Agency allows its contractors, enabling Japanese aircraft manufacturers to realize some synergies much more easily than U.S. producers. For example, the JDA allows contractors to retain any intellectual property rights generated in development projects, enabling firms to use research results in commercial products at their discretion. Further, the JDA deliberately seeks out technologies with dual-use potential, increasing chances for synergies.

Other Mechanisms

Japan has a civil aeronautical R&D program similar to NASA's, which generates some competitive benefits for Japanese firms. The mission and activities of the National Aerospace Laboratories (NAL) are much like NASA's; however funding is less than one-tenth as much. In translating its technical advances into competitive benefits for Japanese firms, NAL suffers from some of the same difficulties NASA faces. The technology development programs run by MITI's Agency of Industrial Science and Technology have been more important than NAL's efforts. The FJR–710 engine program, which was almost entirely funded by MITI through its Agency of Industrial Science and Technology (AIST) for a total of 19.8 billion yen ($147 million) between 1971 and 1981, formed the basis for Japan's current 23-percent share of the V2500 engine program. Officials at Ishikawajima Harima Heavy Industries state that without strong government support, they would never have attempted such a technologically risky venture. Currently, AIST is funding a research project in hypersonic propulsion systems, aimed at putting Japanese manufacturers in a position to participate in building a high-speed commercial transport that may be built early in the next century.

The Japanese Government has aided its aircraft manufacturers in two other significant ways. First, by creating a preference among domestic airlines for aircraft that have large portions built in Japan, the Japanese Government encourages foreign manufacturers to increase the amount of work they subcontract in Japan. A combination of close relationships between government officials and senior airline executives and roughly $1 billion in preferential interest rate loans that MITI can offer for aircraft imports gives the government great influence. This is not to say that the government makes overt demands of foreign manufacturers. Rather, foreign companies are aware of these interactions and take into account that substantial subcontracting in Japan may help them sell to Japanese airlines.

Second, the Japanese Government has helped Japanese firms to pool their resources in consortia, decreasing the risk any one firm faces and increasing their bargaining power with potential partners. The main purpose of the First Aircraft Industry Promotion Law of 1954 was to create cartels within the industry. That law and its successors not only offer inducements for cooperation among firms; they require Japanese companies to obtain formal MITI approval before entering the aircraft business. Consortia in the aircraft industry are remarkable because unlike those in other Japanese industries, which handle R&D only up to the precompetitive stage, these extend into the production stage. All of Japan's major international projects—the 767, the V2500, and the 777—have been handled through such consortia.

EUROPE

Motives

In contrast to the predominantly indirect benefits U.S. commercial aircraft manufacturers have received from the U.S. Government, European firms have benefited from government policies aimed directly at promoting their competitiveness. Several motives lie behind this direct support. European planners value aircraft manufacture explicitly for the employment it creates. An Airbus official explained that the main reason the collaboration works is that by creating jobs in an export industry, Airbus enables the member countries to capture jobs from other parts of the world (Figure 8–3 shows the historical and expected growth in Airbus' share of the world market. For a brief description of the history and current structure of Airbus, see box 8–A.) The member governments are less concerned about global economic efficiency and rules of comparative advantage than with meeting immediate domestic needs. With government commitment to full employment, policymakers view the thousands of jobs Airbus creates in England, France, Germany, and other European countries as well worth the costs of the supports provided.

Another reason European government support the industry is concern that without support for their domestic manufacturers, European airlines will be forced to rely solely on two U.S. suppliers. By supporting a challenger, European governments force U.S. manufacturers to keep their prices low. As a result, some portion of every dollar European governments spending supporting Airbus is returned to their economies in lower airplane costs. Baldwin and Krugman examined the competition between the Airbus A300 and the rival Boeing 767 and concluded that European consumers do benefit, but by less than what they estimate European taxpayers paid for those benefits. "Overall it seems that the A300 project constituted a beggar-thy-neighbor and beggar-thyself policy for Europe."

National prestige plays a big role. Though the influence of pride is difficult to trace, aircraft projects have broad popular support, making them an easy cause for politicians to endorse. Europeans are proud of a long history of achievement in aeronautics, including the first supersonic transport, the first jet transport, the first jet engine, and even claims of the first powered flight. Airbus Industrie (AI) executives describe an "Airbus reflex" in the French Government. Airbus does not even have to go to government offices to solicit help; the venture is so highly regarded that the relevant ministries come to Airbus on their own and ask, "How can we help?"

Just as in the United States, national defense policies aimed at maintaining autonomous and technologically advanced military production capabilities have greatly increased the ability of firms to design, develop, and build large commercial transports. In addition, regulation and state ownership of airlines, put in place to meet air transport policy goals, provide European aircraft manufacturers with reliable domestic customers. Support for aircraft manufacture is justified on trade grounds as substituting domestic goods for imports and boosting exports. Planners perceive the products as driving technological advance and moving jobs to higher added-value and more knowledge-intensive areas.

Direct Financial Support

Direct financial supports have been the principal mechanisms used by European governments to assist their commercial aircraft manufacturers. This support has taken the form of government contracts for the development of commercial models (in effect, grants), loans and loan guarantees on favorable terms covering both development and production costs, guarantees against losses caused by exchange rate changes, equity infusions, tax breaks, debt forgiveness, and bail outs. Without these supports, it is likely that no European firms would be in the large commercial aircraft manufacturing business.

Beyond simply enabling companies to operate at a loss, government financing has several benefits over commercially available financing. Governments, unlike commercial lenders, will finance specific projects. This enables manufacturers to move quickly to fill market openings with new models even when the cash flow from previous models is insufficient to convince banks to lend. This may give the manufacturers a head start on their competitors, and because of the steep learning curve of this industry, a head start is an important advantage. Ideally, by getting into the new market first, the firm will be able to deter the entry of any competitor and so be able to establish a monopoly position. Also, since government funding is usually provided during the development phase and paid back as a levy on sales, the government assumes much of the risk if sales are poor. This encourages companies to shift as many costs as possible to the development phase. For example, adopting advanced manufacturing methods and higher levels of automation in the production process may increase development costs but decrease production costs. Similarly, use of more advanced product technologies may increase development costs but reduce operating costs in airlines. Since the government bears the risk for the development expenses, companies are encouraged to make the most advanced aircraft in the most advanced way possible.

Before Airbus, British, French, and German jet transport manufacturers had launched 8 different models of jet transport of which only 2 sold more than 200 (total sales of 239 and 279), 2 sold between 100 and 200 (total sales of 112 and 117), and the other 4 were catastrophic failures (total sales of 14, 11, 54, and 10). Judging by the experiences of Douglas (driven to bankruptcy even while its planes were selling well), Lockheed (driven to bankruptcy by the L–1011, which ultimately sold 249 units), and Convair (driven from the commercial aircraft business by the 880/990, which sold 102 units), any one of these European ventures should have forced its manufacturers into bankruptcy, or at least from the commercial aircraft business. However, not one of the firms responsible for any of these aircraft has left the field, though some have been consolidated.

The ability of these firms to launch further aircraft models after their failures with previous designs is directly attributable to government intervention. From 1945 to 1974, the British Government spent £1,504 million at 1974 prices ($9.3 billion inflated to 1991 values) in launch aid for civil projects, including the Concorde, and were repaid less than £150 million ($929 million inflated to 1991 values) of that. The total cost of jet transport programs to the British Government rises to several times that amount if the cost of bailouts is included. From 1962 to 1977, the French Government spent an average of $829 million (at 1991 values) per year on civil projects, during that period repayments averaged only about $23 million per year. Costs to the German Government were lower, as they had no part in the Concorde project, but Germany had other costly failures. Not only has government funding made European prime assemblers more competitive in international markets, at the supplier level it has made companies more desirable partners for U.S. firms looking to share the burdens of launching expensive, risky projects. Government support of the European partners made European participation in ventures like the CFM–56 and V2500 much more appealing for U.S. firms.

Because of Airbus, direct financial supports have come more into the international limelight, including a formal GATT complaint from the United States in early 1991. Most of the support the British, French, and German (and Spanish) Governments have provided to their aircraft manufacturers has been in the form of launch aid, although the British Government has been more hesitant in this regard than the French and German Governments. As of the end of 1989, the governments of France, England, and Germany had disbursed a total of $5.4 billion to the Airbus member companies in launch aid. Of this, roughly $500 million had been repaid. Repayment of the remainder has been either forgiven or deferred, or was never intended. An additional $2.3 billion had been pledged for the A330/A340, and the German Government had committed a further $3 billion as part of the Daimler-MBB merger. This government financing represents almost 75 percent of the development funds required for the Airbus models developed to date. As table 8-3 shows, as of the end of 1990, the $5.6 billion would have been $10.7 billion if the governments had charged firms the cost of the funds at rates the government themselves have to pay for borrowed money, and $18.0 billion if the firms had had to pay a corporate prime rate.

In addition to launch aid, the German Government (through not the French or British Governments) has provided its commercial aircraft manufacturers with loans to cover losses incurred during the production phase of Airbus projects. In 1988, the German Government paid off the outstanding production-phase debt its aircraft manufacturer had accumulated in the A300/310 projects so that no more interest charges would accumulate. Accumulated capital and interest had reached $1.05 billion. Further, the German Government agreed in 1988 to guarantee against losses caused by the exchange rate falling below 1.8 DM to the dollar. Analysts estimate the government's maximum liability for the guarantees through 1996 is $1.3 billion and for the period from 1997 to 2000 is $863 million. With exchange rates at levels (as low as the 1.5 DM to the dollar since the guarantee began, around 1.7 in mid-1991), the German Government is likely to have to pay nearly the full amount of the guarantee. Finally, at various times all of the Airbus members were government owned; Aerospatiale and Construziones Aeronautics S.A. (CASA) still are. Some of the equity bought by the governments constitutes a further subsidy.

TABLE 8-3.—LAUNCH AID FOR AIRBUS MEMBERS[1]

[In billions of dollars]

	A300 and A310			A320			A330 and A340		
	France	United Kingdom	FRG	France	United Kingdom	FRG	France	United Kingdom	FRG
Commitments	1.2	0.1	3.0	0.7	0.4	0.9	0.8	0.7	1.6
Disbursements	1.1	.1	1.5	.7	.4	1.0	.3	.3	.3
Value at government[2]	3.3	.3	3.1	1.2	.6	1.1	.3	.4	.3
Value at corporation[3]	7.5	.3	5.7	1.8	.7	1.2	.4	.4	.3

	Program totals[4]			Country totals			All airbus
	A300 and 310	A320	A330 and 340	France	United Kingdom	FRG	
Commitments	4.3	2.0	3.2	2.7	1.2	5.5	9.5
Disbursements	2.7	2.1	.8	2.1	.8	2.8	5.6
Value at government	6.7	2.6	1.1	4.8	1.3	4.7	10.7
Value at corporation	13.3	3.7	1.0	9.6	1.3	7.1	18.0

[1] These figures represent all launch aid and include funds allotted to non-Airbus aircraft projects such as the French ATR 42 and 72. Officials in France, Germany, and England state that the numbers are accurate. Neither firms nor governments in Europe disclose public supports at a level more detailed than those used here, so it is impossible to tell by how much the table overestimates the Airbus aid. Since Airbus is by far the largest aircraft venture currently receiving public financing in Europe, it is likely these figures overestimate the total Airbus launch aid by only a little.

[2] Value of the disbursed funds as of Dec. 31, 1988, including interest accrued assuming government rates (10-year T-bills). The effects of staggered disbursements and loan repayments during the course of the programs have been factored in, and end-of-1988 currency exchange rates used.

[3] Value of the disbursed funds as of Dec. 31, 1988, including interest accrued assuming corporate prime rates. The effects of staggered disbursements and loan repayments during the course of the programs have been factored in, and end-of-1988 currency exchange rates used.

[4] The development costs of Airbus' most recent launch, a stretched version of the A320 designated the A321, are being financed without government assistance. The A321 was financed on commercial terms with a line of credit from the Euro Investment Bank. The financing was not project based but rather based on AI's credit standing as backed by the liability of the members under the GIE structure. The A321 thus represents not only the first time a new or derivative Airbus model was launched without government aid, it is also the first time that AI and not the members arranged the financing.

Source: U.S. Department of Commerce, unpublished data collected from publicly available data.

Government Influence Over Airline Procurement Decisions

European governments have also created benefits for their commercial aircraft producers by influencing the procurement decisions of domestic airlines. Government ownership of airlines, close relationships between high-level officials and airline executives, and regulatory clout combine to give European governments sufficient influence to swing airlines' choice of manufacturers. (Table 8-4 shows government ownership of major European airlines.)

Examples of government intervention in procurement decisions are numerous. The British Government directed British European Airways to buy the British-made BAC 1-11 and British Overseas Airways to buy the VC-10 in the 1960s and 1970s. All of British Airways' current fleet uses Rolls Royce engines. The French Government pressured French airlines to buy the French-made Caravelle, and Air Inter, France's domestic airline, was the only airline ever to buy the short-lived Mercure. The French Government tried to force Air France to buy DC-9s instead of Boeing's 737s in order to help negotiations between McDonnell Douglas and Dassault over the proposed Mercure 200. The French Government succeeded in forcing the airline to buy GE engines instead of Pratt & Whitney engines for the A310 because of GE's close ties to the French engine-maker SNECMA. Overall, the preference of European airlines for Airbus planes is pronounced, as figure 8-4 shows. In the categories where U.S.-made and Airbus aircraft compete directly, both Air France and Lufthansa have only Airbus planes in their inventories. In fact, the willingness of national airlines to buy Airbus planes was an essential part of the original agreement by which Airbus was established.

The significance of government-steered procurements has come less from the total volume of these orders than from their timing. French, British, and German airlines have provided the key launch orders, without which few of Europe's commercial aircraft programs would ever have proceeded. Without these orders, no Airbus models would likely have been launched.

The preference the Airbus members have shown for sourcing domestically has also been effective at promoting the development of a European supplier industry and at convincing U.S. manufacturers to transfer workshare and technology to European suppliers in return for access to Airbus contracts. During the selection of engines for the A300, Pratt & Whitney offered European firms subcontracts, but GE offered SNECMA and MTU a full partnership, giving them 16 and 10 percent respectively of the workshare of GE's CF-6-50 engine, and a say in the program's management. This offer was sufficient to convince the French and German Governments to specify the GE engine for the launch of the A300. Again, in the A310 engine competition, the GE partnership with SNECMA convinced the French Government to override Air France's preference for Pratt & Whitney engines. This selection led to GE's and SNECMA's 50/50 venture to build the CFM-56 engine, which is now used on the A320. Needless to say, Air France has specified the CFM-56 for all of its A320s.

TABLE 8-4.—GOVERNMENT OWNERSHIP OF MAJOR EUROPEAN AIRLINES

Airline	Country	Government ownership
British Airways	Great Britain	0 percent (100 percent until 1987).
Air France	France	Almost 100 percent (previously private UTA bought in 1990).
Lufthansa	Germany	52 percent (72 percent in 1987).
Iberia	Spain	Almost 100 percent.
Sabena	Belgium	Almost 100 percent (trying to privatize parts).
KLM	Netherlands	34 percent (declining from over 70 percent in early 80s).
Alitalia	Italy	100 percent.
Swiss Air	Switzerland	NA.
SAS	Scandinavian	100 percent (Sweden, Norway, and Denmark).

NA=not applicable.

Source: County NatWest Bank.

Government Promotion of Cooperation and Consolidation

European governments have also tried to improve the competitiveness of their aircraft manufacturers by promoting domestic consolidation and intra-European cooperation. European planners believe that to compete internationally in this industry, bigger companies are better. Domestic competition is seen as inefficient and has been sacrificed willingly to form larger firms better able to compete with American rivals. In England, France, and Germany, the dozens of aircraft companies that emerged from WWII were gradually consolidated into one commercial airframer and one commercial engine maker in each country. Consolidation at the supplier level followed. Competition within Europe has been discouraged in favor of cooperation, leading to a string of multinational ventures.

The rise of intra-European cooperation is an extension of the desire to achieve economics of scale that motivated consolidation within countries. The Concorde was the first major collaborative civil project, followed by the ill-fated VFW-614 project between MBB and Fokker. Civilian collaboration really took off, however, with Airbus. Collaboration in military aircraft ventures is even more common than in civil projects. The Transall and the Toranado have been the biggest to date. Currently over 70 percent of Deutsche Aerospace's turnover is derived from collaborative projects, a proportion that is likely to rise to 80 percent by the end of the decade. Though it is impossible to know exactly what the competitive benefits of all this consolidation and cooperation have been, European policy makers seem well satisfied by the results.

Military-Commercial Synergies

In addition to all the benefits described above, European manufacturers have profited from synergies between their military and commercial businesses, from funding of civil aeronautical R&D, and from export assistance much as U.S. companies have.

Examples of military/civil synergies in Europe are numerous. Rolls Royce's early engines, the Avon, the Olympus, and the Spey, all began as military engines. Among Rolls' current commercial engines, none has a direct lineage in a military predecessor, but strong military R&D programs and sales, especially to the Middle East, contributed to Rolls Royce's recent recovery in the commercial engine business. SNECMA has benefited from combined civil and military sales of the CFM-56 just as GE has. GEC of the United Kingdom is developing a heads-up-display (HUD) combined with an infrared sensor to create a so-called "synthetic vision system" for use on commercial aircraft. The needed technologies came out of military developments for night flying. The Transall military transport collaboration between France and Germany ran from the late 1950s until the early 1970s and provided both specific technical synergies and broader business synergies with the commercial sides of the companies involved.

Some differences between the European and U.S. defense businesses affect the ability of commercial aircraft manufacturers to realize benefits from their military work. On the negative side, European governments have spent less on military aircraft than the U.S. Government, and military R&D has been a lower percentage of procurement, creating fewer opportunities for spillovers to the commercial side of the business. Duplication of R&D among various countries, each wanting to maintain autonomous defense production capabilities, has led to inefficient use of total European military R&D funds, resulting in fewer opportunities for commercial spin-offs than if the countries' R&D programs had been coordinated. European governments have spent less on the development of bombers, tankers, and military transports, which generate the most benefits for commercial aircraft.

On the positive side, European military exports are a greater percentage of total military production, partly compensating for lower domestic sales. Further, a higher proportion of the funds spent on military aircraft in Europe go to the same companies that build commercial planes than in the United States, which has many dedicated military contractors. As table 8-5 shows, total military production of all the Airbus members (excluding the rest of Daimler-Benz) is comparable to that of Boeing and McDonnell Douglas, and the reliance of these firms on military sales is higher than Boeing's, though not quite as high as McDonnell Douglas'.

European governments have mostly paid to develop military aircraft domestically rather than licensing from the United States. This practice has generated more commercially useful design and development capabilities than licensed production. The generally close relationships among European governments and their aircraft manufacturers create an atmosphere of trust in which companies are given substantial flexibility in the organization of their military work, leaving them more free than U.S. companies to achieve possible commercial-military synergies. Consolidation has left most countries with only one manufacturer in each product category, which increases the bargaining power companies have in concluding contracts with their governments. This may enable firms to achieve higher profits on military work, and those funds may then be used to finance commercial programs. Finally, most of the European companies interviewed for this study appear to do as well or better than U.S. firms at combining military and civil overhead functions, reducing costs.

TABLE 8–5.—REVENUES FROM MILITARY AIRCRAFT AND RELATED SALES, 1989

Company	Military sales[1]	Percent of total
MBB	783	47.0
Aerospatiale[2]	1,335	33.5
British Aerospace	3,470	53.6
All Airbus	5,588	46.1
Boeing	4,361	23.4
McDonnell Douglas	5,919	55.5

[1] In dollars.

[2] Includes some nonmilitary government sales.

Source: Company annual reports.

Government Funding for Civil Aeronautical R&D

Civil aeronautical R&D in Europe is similar to that in the United States. The Deutsche Forschungsund Versuchsanstalt für Luft- und Raumfahrt (previously DFVLR, now DLR) in Germany, Britain's Royal Aircraft Establishment (RAE) and the Office National d'Etude et de Recherches Aerospatiale (ONERA) in France all perform functions similar to NASA's aeronautics program. They supply some of Europe's largest, most expensive research and test facilities and conduct research in areas in which firms would otherwise underinvest. These activities generate some competitive benefits for European firms, but the benefits are limited by the same difficulties NASA faces. Also, their combined aeronautics budget is smaller than NASA's, and redundancy among the three organizations reduces their effectiveness. The prospects for increased cooperation are good. While the benefits to European manufacturers of government-funded technology programs are unlikely to equal those for U.S. manufacturers, at least they are likely to increase for the level they are at now.

Export Assistance

Finally, European governments have helped their aircraft manufacturers export. In Europe, as in the United States, export financing has become much less important in the last decade than it once was. However, before the Large Aircraft Sector Understanding (LASU) agreement and the improvement of commercially available export financing, European governments helped aggressively. Until the late 1970s, Airbus sold so few planes that each sale was critically important. One order could represent a year's production. These circumstances drove Airbus to offer extreme deals to win orders. Even now, U.S. companies claim Airbus can offer better deals than they can because of the government support the members receive. European governments are also involved in providing offsets as sales incentives, whereas the U.S. Government refuses to become involved in such practices. Desirable landing rights for purchasing countries' airlines and development assistance to poorer countries are the most commonly cited examples.

Overall, Airbus deserves credit for the technical excellence of its aircraft and its improvements in production efficiency and product support. However, the importance of direct financial supports, other direct supports, and indirect benefits such as civil/military synergies are so great that it is fair to say that Europe has bought itself an aircraft industry.

CONCLUSIONS

The principal lesson of this study is that, for governments that believe some industries are more important to national welfare than others, many tools are available to speed the development of those industries. some of the means of promoting development described here are expensive, and the task of weighing the cost of acquiring the desired industry against the benefits derived must be done carefully. In many cases, government supports have undesired side effects that undermine the intended positive effects. However, other cost little and all that is required of a government is the will to employ them. Sometimes, actions the government would take anyway naturally help the competitiveness of a desired industry, and all that is needed is that the government not prevent the benefits from accruing. Without doubt, effectively supporting an industry is difficult. However, as the world's aircraft industries show, it is possible.

THE U.S. AEROSPACE INDUSTRY IN THE 1990'S—A GLOBAL PERSPECTIVE

The United States is the world leader in aerospace design and manufacturing but other countries are strong competitors. In a new report, "The U.S. Aerospace Industry in the 1990s: A Global Perspective" the Aerospace Industries Association takes a hard look at where it stands and how it can maintain or increase its market position.

The aerospace industry of the 1990s is global, dynamic, and complex—driven by fast-paced technological change and heavily influenced by national government support. The aerospace market is also characterized by numerous international partnerships of every sort. In this environment, the traditional "modus operandi" of many U.S. firms and the U.S. Government may be inappropriate for continuing success.

THE U.S. AEROSPACE INDUSTRY IN 1991

Since AIA published its 1988 report on The U.S. Aerospace Industry and the Trend Toward Internationalization, the U.S. industry has increased its international activities. As a result, both exports and imports continue to rise, but export growth has been considerable enough to ensure a continuing string of record trade surpluses. Aerospace has the largest positive trade balance of any U.S. manufacturing sector. Still, the U.S. world market share in aerospace is declining. Despite growing demand for aerospace products, there are an increasing number of market competitors.

In a changing world, where market access is often on a quid pro quo basis, U.S. companies cannot depend only on direct sales abroad of U.S. products manufactured in the United States. Other avenues of trade must be pursued. Consequently, the number of

U.S./foreign partnerships is rising and U.S. companies are exploring new roles in these relationships.

U.S. aerospace manufacturers are producing for two very different markets, although strong foreign competition and international cooperation—to one degree or another—are characteristic of both.

Defense Aerospace Market

With the end of the Cold War, and despite lingering concern over a Soviet threat, the United States and its allies are more concentrated on regional threats to global peace. A lesson of the Persian Gulf War is that a strong defense is still necessary; at the same time, that lesson will not prevent the decline of the defense budgets of the United States and its allies. Instead, there will be increased emphasis on tactical systems, and on force mobility and deployment.

The U.S. defense industry is entering this new era from a weakened financial position resulting from government policies that limited profits and reduced the cash flow needed to meet increased operating capital requirements. Defense exports can offset some of the lost sales as the U.S. Government cuts defense spending. However, any number of sales are politically problematic for the United States, and with enormous excess defense production capacity in the world, American companies can easily be supplanted as suppliers. The loss of key defense markets could mean loss of national influence in certain regions of the world.

The issue of economic competitiveness has grown in importance relative to purely defense-related concerns in the United States. Worries about the industrial/technology base have heightened discussion over foreign sourcing for defense system components, foreign investment in the United States, offset sales arrangements, and technology export through international defense cooperation. While many would have the United States pull back from cooperative relationships, other countries, particularly in Europe, are forging closer ties; this could limit U.S. participation in those markets. European countries are also strong competitors for defense sales around the globe.

Civil Aerospace Market

The market for civil areospace products is more promising than the defense market. Commercial production is the growing share of total U.S. industry output and commercial products have long dominated U.S. areospace exports. With world airline capacity expected to double by 2005, prospects for the commercial transport sector are particularly bright.

Problems confronting U.S. producers include economic recession and airport congestion, which could limit expected expansion of this market. Another concern is the need to harmonize airworthiness requirements to prevent additional costs to U.S. manufacturers, and to preclude these requirements becoming technical barriers to trade between nations. Probably the most serious threat to all U.S. civil aircraft and space vehicle manufacturers is foreign government support of their aerospace companies.

The U.S. civil helicopter industry is not faring as well as the commercial transport sector. Strong foreign competition, often subsidized, has made substantial market inroads. Rotorcraft manufacturers have suffered from recession in the oil industry. Today, they are pinning hopes on the need to replace aging fleets, a rebound in energy markets and the economy, and new technology models under development. Long-term, expansion of this market depends on development of an infrastructure to support regularly scheduled rotorcraft operations.

American general aviation manufacturers have experienced serious decline in the piston-powered aircraft market, due to excessive product liability claims and the resulting high cost of insurance. Higher value commuter and business turboprops and business jets are selling well and exports are rising. New technology aircraft and sizable military contracts should lead to stronger sales.

The space vehicles and launch services sector is expanding steadily. Military requirements for space systems will continue to grow. The commercial space market will develop more slowly and require substantial government support and encouragement.

Two regional markets are particularly important to the U.S. aerospace industry in the 1990s—Western Europe and the Asia-Pacific Rim.

Western European Aerospace Market

The market landscape is being altered for U.S. manufacturers by the emergence of a unified Western European economy, parallel efforts to integrate the European defense market (which already has significant cross-border relationships), the unification of East and West Germany, and the opening of other Eastern European countries. The U.S. relationship with Europe through NATO has been a cornerstone of the American defense market. Events in Eastern Europe and the Soviet Union may mean that the NATO alliance will take on a more political than military cast—with considerable effect on European defense purchases and U.S./European manufacturing arrangements.

Western countries will continue to need defense equipment such as deep strike, theater ballistic missile defense, air defense, chemical/biological warfare protection, command and control, surveillance and verification, early warning and reconnaissance, and long-range targeting systems. These needs should provide opportunities for joint U.S.-European cooperation. However, joint programs have not occurred on any significant scale. Instead, European countries are cooperating among themselves—as are American companies—to a greater degree.

Cross-border relationships have been central to European strategic planning for years, and they have been a key element in keeping the European aerospace sector viable. Meanwhile, U.S. defense manufacturers were able to be successful by concentrating on the large U.S. domestic market, and competing against each other.

Exports have been extremely important to European aerospace manufacturers for years, and—as the U.S. defense market shrinks—their importance to U.S. companies is growing. Both U.S. and European aerospace companies lean heavily on direct exports and on licensing to achieve foreign sales objectives. In addition, European manufacturers are pursuing international joint ventures and mergers at a pace unparalleled in the industry. While most of these efforts are aimed at consolidating their regional position, European manufacturers are also making inroads in the U.S. and Asian markets. The emergence of these larger corporate entities and interfirm alliances is spearheading a global change in the industry.

Factors that figure prominently in the European embrace of a transnational strategy, and the development of larger companies, include: the rising price of advanced technology, the increasing risk of undertaking aerospace programs, regional overcapacity, and the need to balance the United States' competitive advantages in terms of greater sales base and strong R&D funding.

European governments have fostered international aerospace alliances by:

Allowing companies to participate in transnational partnerships—particularly those involving defense contracts and nationalized firms. European governments have not overburdened partnerships with oversight and technology-transfer restrictions.

Continuing to fund joint venture projects which, in many cases, would have been impossible without government assistance.

Supporting European economic unification, joint aeronautical R&D, and the efforts of the Independent European Program Group, which has called for cooperative R&D and greater regional competition to strengthen Europe's defense industrial base.

Nine of the 12 European Community members can produce some form of air craft and several have the capability to design and assemble state-of-the-art products. Depending on the extent of their current capabilities, these countries use international collaboration to supplement their domestic programs, build their credentials in the world aerospace market or, in the case of new market entrants—Greece, Portugal and Turkey—to build their industrial base.

Japan and the Asia-Pacific Rim Aerospace Market

Twenty-three countries comprise the Asia-Pacific Rim region and the robust economic growth of this region will continue to create demand for aerospace products. Commercial air traffic is in a growth mode. Defense spending is also on the increase, with annual regional increases of 6 percent. The region is an important market for U.S. aerospace manufacturers and commercial sales, particularly, have shown growth. European manufacturers have also gained a share of this market—once totally dominated by U.S. industry. European firms are currently engineering a more aggressive marketing campaign in the region.

Many nations in the Asia-Pacific Rim are launching their own aerospace programs. Japan has ambitions to be a major player in the world aerospace market. While its efforts have not always met with success, Japan continues to move forward and is currently involved in several important aerospace projects. China is another active regional aerospace market participant, although with more limited capabilities. Taiwan and South Korea both have programs underway, which they hope will provide the start necessary to build at least some aerospace capacity within their countries. While these nations will not be able to challenge U.S. "big-ticket" programs such as the manufacture of commercial transports, they will increase competition in other segments of the market—e.g., in the production of components and parts. Because a large national commitment will be needed for success, government support of aerospace programs in the Asia-Pacific Rim will be substantial and long-term.

Japan is the economic power in the region and its actions may be a guide to its neighbors. In the defense sector, the Japanese aerospace industry has used its strong position as a buyer to obtain technology and manufacturing skills from foreign companies, particularly those in the United States. The Japanese domestic market alone is not of sufficient size to allow Japan to sustain a large commercial aircraft manufacturing effort. Instead, the Japanese have concentrated on niche markets, such as parts and subassembly production, and have targeted export demand.

The Japanese government has been strongly behind the development of its aerospace industry. It has identified projects, solicited foreign collaboration, set up and coordinated domestic consortia, and arranged financing and R&D funding. Japan considers cooperation between government and industry in developing market capabilities not only desirable, but necessary. The government sees aerospace as a strategic industry, and the key to advancing high-technology development generally.

Japan is pursuing an airspace development strategy centered on:

Continuing R&D aimed at enabling Japanese manufacturers to shoulder a larger role in development and production of future or next-generation technology (e.g., high speed civil transport). Japan will seek an equal partner role in such an effort.

Attempting to launch a regional aircraft program with foreign partners.

Improving design and production processes by remaining a high-quality reliable supplier of aircraft parts and sections, particularly fuselage subassemblies and wing parts.

Becoming a world leader in aerospace systems and components production. Japanese industry is looking for joint development opportunities in this area.

Developing high technology space systems, including unmanned launch vehicles and manned space stations.

At the subcontractor level, Japanese firms compete against each other and foreign companies for business. For large projects, which require high levels R&D funding, national competition is limited; major Japanese aerospace firms form domestic consortia and negotiate workshares. Consortia enable Japan to present a stronger position on the international market.

Changing U.S. Role in International Space Activities

For years, the United States dominated free world space efforts, cooperating with other nations to establish world-wide satellite communication capabilities, but continuing to develop guidance systems, electronics, computer software, new materials, propulsion equipment, and so forth, in the United States—and almost solely for government needs. Today many nations have space capabilities and any nation with the ability to pay for a launch can have access to space. At least seven nations offer launch facilities and vehicles. Space is on the way to becoming a business, not simply a function of national prestige or dominance driven by political and military considerations.

Worldwide, it is estimated, nearly $80 billion a year is being spent on space-related activities. Of that $80 billion, the United States accounts for about 42 percent, the Soviet Union 45 percent, and the rest of the world 13 percent. Of that 13 percent, Europe predominates followed by China and Japan. Many newcomers to space have piggybacked on American technology.

In a world of tighter space transportation and R&D budgets, the United States must make decisions about its investment. Billions of dollars have been spent to support a serious space program. However, large near-term outlays for long-range, visionary programs may be in doubt in light of program setbacks and budget deficits. The United States will maintain a broad capability in space—in part, for national security reasons. But it must better position itself to capture the benefits of space in the commercial sector.

Over the next few years, it will be important to maintain confidence in the U.S. space program, and to sustain an appropriate level of funding. In addition, space programs need stronger coordination and focus within the government. With a spotty history of success in international cooperative programs, the nation also needs to recognize that international partnerships will be necessary for many new space endeavors—and operate accordingly. Finally, there are some tough trade issues to be faced including how to ensure that U.S. private companies can compete against the space products and services of nonmarket economies.

Aerospace Technology—Trends and Strategies

Technology development and technology export are priority concerns for the aerospace industry. Technology is a key issue in either creating or impending international partnerships. The high cost and risk of new technology, access to technology advantages of partners, and market entry are reasons favoring cooperation. But technology leaders such as the United States also face the possible loss of a key element of business advantage. It is important to ask: What must be held back to protect future competitive advantage? What can be shared to achieve today's sales, today's market access, today's mutual benefit?

Nations are collaborating more to develop and apply new aerospace technology, and the capabilities of U.S. competitors are growing. An additional complication is that some technology being applied in aerospace is "dual-use," with both military and civil applications. This has led to a situation where some U.S. products are—or may be—restricted from export, while similar products of competitors are not.

The issue of technology transfer was at the heart of the controversy over the FSX fighter project with Japan. The issue has also caused problems between Europe and the United States. If the United States is not willing, or U.S. companies not allowed, to pursue cooperative efforts—sometimes from initial R&D on—companies from other nations will not hesitate to fill the void. The agreement between Germany's Daimler-Benz and Mitsubishi of Japan to discuss a range of collaborative efforts is a striking example.

What can be lost in discussions about cooperation between the United States and other countries is the fact that technology flows both ways. Other countries have made advances from which the United States can benefit. Agreements can be structured to protect critical, proprietary information while taking advantage of the market potential cooperative arrangements provide.

The United States has no strategy to foster technology development and satisfactorily address technology-sharing questions. Its approach is an *ad hoc* blend of government and private industry initiatives, offensive and defensive. Defensive initiatives include Buy American legislation, offset restrictions, anti-foreign direct investment measures, and export controls. Unfortunately, export controls are not coordinated, delays in issuing export licenses can be extreme and American manufacturers are often prevented from making, or must report at length, special arrangements needed to secure foreign sales.

Strategies that place the United States on the offensive include research and development incentives, teaming domestically for research and development, and targeted spending on critical technologies. The Aerospace Industries Association has launched a Key Technologies initiative to keep the United States aerospace industry in the forefront. AIA identified important enabling technologies, and is developing technology roadmaps and development plans, and working cooperatively with the government and universities to focus funding and research.

Government policy makers and industry continue to debate what a national technology strategy should be, and the issue is often contentious. Technology strategy is frequently cast, and negatively, in terms of "industrial policy"—the choosing of winners and losers. The question is: what middle ground can be found between a government-directed and supported approach to business and leaving things as they are? Meanwhile, U.S. companies compete in a marketplace where other nations' resolve to subsidize and otherwise assist their industries in influencing the outcome of sales.

CONCLUSIONS

The World Aerospace Market

The aerospace market is a global market that will strongly challenge U.S. aerospace firms in the 1990s.

The aerospace market is characterized by numerous international business partnerships—from joint ventures through subcontracting relationships. In this environment, the traditional *modus operandi* of many U.S. firms and the U.S. Government may be inappropriate for achieving success.

The U.S. aerospace industry will continue as the world leader in aerospace for the foreseeable future—given the right balance of policy and programs. It will not maintain as dominant a position as in the past in all segments of the market.

The prescription for market success calls for maintaining the industry's scientific and technical strengths and enhancing them with greater manufacturing capability. Success depends upon the industry's ability to export, its access to affordable investment capital—and to well-educated workers.

New market opportunities are available for U.S. aerospace firms.

With sales and exports at record levels, the U.S. aerospace industry is in a strong position to capitalize on the market opportunities of the next decade. The world's defense market will continue to be an important source of sales. However, the commercial sector is now the area of market growth.

U.S. aerospace producers face greater competition.

Every national market will be more competitive. Manufacturers from the Soviet Union and Eastern Europe will be moving into Western markets for the first time. Aerospace firms in Western Europe will be stronger and more capable than ever. Countries in the Asia-Pacific Rim are intent on developing their own aerospace industries.

Trends In International Aerospace Cooperation

Foreign firms will continue to seek out U.S. companies for collaborative efforts, particularly on commercial projects.

Aerospace companies are cooperating internationally in order to compete. The size of the U.S. military and commercial markets makes U.S. companies attractive partners. At the same time, foreign companies—particularly European firms—are competing with the United States for key roles in international partnerships.0

Defense cooperation between the United States and other nations will not live up to recent expectations.

The decline in defense funding and the changing threat will reduce defense cooperation between the United States and other countries from expectations of several years ago. Paradoxically, these same trends and events will highlight the usefulness of cooperation as a means of spreading costs, sharing risk, and increasing market access.

In Western Europe and Japan, cooperation is viewed as a fundamental part of the defense industrial strategy. In general, in the United States, cooperation is not seen as essential to building an effective defense.

Cooperation among U.S. Defense Contractors is increasing.

American companies are beginning to work together, as are the Europeans, to rationalize their defense technology resources.

International collaboration will often take different forms than in the past.

The competitive pressure on the United States for more genuine collaboration is resulting in new types of partnership and new, sometime subordinate, roles for U.S. manufacturers. But critical U.S. technologies will be more closely guarded by both companies and the government for competitive reasons.

The Space Market

The United States will continue to be a leader in space but will face increasing competition in commercial markets.

U.S. space leadership will continue thanks to the large investment in space-related research and the significant space infrastructure the United States has created. However, the trend is towards sharing of a larger space market and away from the dominance of the United States and the Soviet Union.

In the years just ahead, it will be difficult for NASA to do ambitious "big ticket" projects.

Political consensus is necessary to fund ambitious large-scale space projects and, at a time of budget restraints, that will be difficult for the United States to achieve. A new attitude of long-term commitment by the government is necessary in order to accomplish the goals of large-scale program. It will be necessary to establish discrete short-term goals, concentrated on enabling technologies.

U.S. commercial space business prospects could be enhanced by more centralized decision-making.

Programs that could lead to competitive products and services suffer from a lack of focused, business-oriented management. The diffusion of responsibility and lack of focus make funding decisions difficult for Congress.

U.S. government help will be needed to get the commercial space sector established.

The U.S. Government should support space-oriented commercial business—as other governments are doing.

International space consortia are proceeding without U.S. participation.

The United States will be excluded from some international arrangements because of its reputation as an unreliable partner and its restrictive technology transfer policies.

Technology Trends and Strategies

The United States needs a national technology strategy and commitment to a strong industrial/technology base.

The United States does not yet have a coherent strategy to support industry on high technology issues. A strong case is building for a strategy of nurturing generic, enabling technolgies—technologies that encompass both civil and military applications and are vital to worldwide competitiveness.

The United States needs to step up its investment in manufacturing capability.

While maintaining the vitality of science and technology, the United States cannot afford to underinvest in manufacturing technology. The true cutting edge in world competition is how fast, how well and how cost-effectively products are manufactured.

The prospects of the U.S. aerospace industry will be affected by tighter R&D budgets and the debate over how technology dollars should be spent.

Technology demonstration will become more important than ever in order to shorten the time from concept to application and to learn how various advanced technologies work together.

Validation of generic technology—to reduce the risk of application for manufacturers—is as important in the civil as in the military sector. Over the long term, lack of validation funding will inhibit technological preeminence in civil aeronautics.

More development and coproduction among American companies will strengthen the competitive position of the United States.

Coproduction ventures among U.S. firms will help companies build upon joint research, and create profits they can reinvest in the technology base.

Trying to stop the international flow of advanced technology through excessive restrictions on products or on cooperative programs is nonproductive.

Company proprietary know-how and technologies critical for national security must be protected. Beyond that, restrictions on technology are less productive than working to continually advance the state-of-the-art, improve manufacturing technology, and speed up the cycle of concept to application.

An educated, motivated work force is one of the most important components of competitive success for aerospace.

The aerospace industry will be challenged to meet its future work force needs. Other countries are doing a better job of preparing workers who can meet the requirements of high technology industries.

RECOMMENDATIONS

Create Better, Lower-cost Products Faster Than Competitors

Industry

Give technology planning and development as much priority in business planning as profits.

Expand the use of concurrent engineering whereby engineering designers and manufacturing planners work hand in hand from the first stages of product development.

Pursue the aerospace industry's Key Technologies for the Year 2000 program.

Comment to a strong, continuing investment in manufacturing capability.

Emphasize use of Total Quality programs to motivate employees and improve the productivity of the aerospace work force.

Put more effort into building better working teams, both in domestic partnerships and with foreign companies.

Government

Support industry-led Key Technologies program and work with industry to develop consensus technology development plans.

Provide sustained, strong, balanced funding of the technology base and technology demonstration/validation.

Provide incentives for private R&D investment.

Enact legislation supporting formation of U.S. production-based consortia.

Support major space initiatives such as Space Station Freedom, the Missions to and from Planet Earth, and the Space Exploration Initiative within the context of a strong overall U.S. space program and the incremental development of technology.

Pursue bilateral or multilateral cooperative efforts in space.

Support a competitive commercial space industry in the United States through a strong public-private partnership.

Increase IMIP funding within the DoD budget, set unified policy for management of programs across services, and streamline IMIP contract implementation.

Support development of the National Defense Manufacturing Technology Plan.

Foster use of management concepts for continuous productivity improvement.

Establish An Investment Climate That Supports A Strong Industrial/Technology Base

Industry

Build partnerships with U.S. suppliers and promote productivity through assistance with employee training, R&D, manufacturing investment.

Develop international partnerships that provide a strong flowback of financial and technology resources.

Government

Pursue fiscal and spending policies that will make capital available and affordable for business investment.

Place greater effort into improving the dialogue between government and industry, and involving industry in the development of program requirements.

Encourage industry's investment in technology and innovation by allowing full recovery of the costs of IR&D/B&P.

Increase progress payments to defense contractors.

Reorient the defense budget cycle to allow more multi-year procurements.

Rescind the current DoD policy on recoupment of RDT&E costs and apply recoupment surcharges only to major defense equipment sold to foreign countries.

Educate, Attract, and Develop a High-Caliber Work Force

Industry

Continue and strengthen support of the public education system, particularly science, math and language programs from K–12 through university level.

Expand enhanced in-house education programs for those with specialized and critical skills, and to increase productivity and competitiveness of the work force as a whole.

Expand in-house remedial education for workers, stressing fundamentals such as English, communications, and computations.

Expand recruitment and training of women and minorities.

Continue to pursue and develop ties with the university community in support of research objectives and development of an educated work force.

Continue to provide Key Technologies information to universities to help guide curriculum changes.

Government

Provide strong support nationwide for the study of science, math and languages.

Provide financial incentives to develop university-industry partnerships.

Academia

Work with industry to develop and integrate curricula that respond to the needs of knowledge-intensive production.

Work with industry and government to develop sound Key Technology development plans, coordinate with them on university-based research efforts and relate curriculum where possible to important generic technologies.

Remove Barriers To Trade

Government

Work toward a free and open climate for international trade and investment including greater harmonization of country practices on R&D and production subsidies, and elimination of non-tariff barriers and technical barriers such as some standards, testing and certification requirements.

Take aggressive action against violators of international trade agreements.

Continue to support the Uruguay Round of the GATT and work to strengthen the multilateral trading system.

Effectively regulate the entry of space launch systems developed in nonmarket economies into the limited commercial market.

Establish Pro-trade policies

Government

Seek active FAA role in promotion of U.S. aviation interests world-wide, including strong efforts to maintain the integrity of U.S. federal airworthiness regulations (FARs).

Work toward speedy harmonization of product liability laws in the international arena, and reform present U.S. product liability laws and penalties.

Affirm an Administration policy on defense exports and international cooperative programs.

Work toward a multilateral framework on offset understandings and take no unilateral action to limit offset.

Ensure adequate financing for all exports.

Implement Technology Export Policies That Make National Security And Market Sense

Industry

Foster discussion of industrial/technology base issues from a global perspective.

Focus internal activities on key company strength—critical product and process technology—while cooperating internationally to enhance U.S. market opportunities.

Structure cooperative agreements for strategic acquisition—as well as sharing—of technology.

Government

More clearly define products and technologies to be controlled rather than imposing broad, generalized prohibitions.

Provide a single DoD policy guidance on defense exports, technology transfer, the industrial base, and arms cooperation.

Clarify jurisdiction between Departments of State and Commerce with respect to "dual-use" commodities, with final appeal to the President.

Conform U.S. Munitions List to COCOM International List to put U.S. suppliers on equal footing with foreign competitors.

More narrowly define "defense articles and services."

Streamline export controls administration.

Pursue technology developed abroad through government to government efforts.•

SENATE RESOLUTION 235—RELATIVE TO THE BLOODSHED IN CROATIA

Mr. D'AMATO submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 235

Whereas the history and culture of the Croatian people dates back well over 1000 years;

Whereas Croatian and Serbian borders have shifted over the centuries, with each ethnic group having more or less territory at different times in history;

Whereas some of the finest remaining treasures of the Ancient Greek and Roman civilizations, like the Roman amphitheater in Pula, the Emperor Diocletian's Palace in Split, and the archeological riches of Vucedol near Vukovar, are in Croatia;

Whereas many magnificent churches, cathedrals, palaces, castles, museums and libraries were built in Croatia from ancient times to the present day;

Whereas the Yugoslav army has been targeting many of these cultural landmarks for destruction in attacks from land, air, and sea;

Whereas the Yugoslav army and Serbian insurgents have been destroying hospitals, and ambulances and relief workers are being fired upon;

Whereas the historic city of Dubrovnik holding no military significance, has been subjected to malnutrition, thirst and disease due to an extended siege without supplies, water or electricity;

Whereas the city of Vukovar has been leveled and its population killed, injured, or displaced;

Whereas the Yugoslav army is targeting Osjek and other Croatian cities for similar destruction;

Whereas Serbians and Croatians have each alleged that members of the other group are perpetrators of atrocities, summary executions, and terrorism against civilians as well as soldiers: Now, therefore, be it

Resolved, That it is the sense of the Senate that bloodshed must be stopped and that:

(1) the United Nations should intervene and send peacekeeping forces to Yugoslavia,

(2) Yugoslav army forces and Serbian insurgents should pull back to internationally recognized pre-war borders,

(3) destruction of cultural artifacts and buildings must cease,

(4) destruction of churches, synagogues, and other places of worship, as well as hospitals, must cease,

(5) attacks on internationally recognized relief workers and their organizations must cease,

(6) warring factions must stop summary executions, torture, abuse, and terrorism,

(7) an independent authority should investigate allegations of atrocities by warring factions.

(8) warring factions must respect the rights of all ethnic groups and halt the killing of innocent people.

SENATE RESOLUTION 236—RELATIVE TO GAYS AND LESBIANS IN THE ARMED SERVICES

Mr. ADAMS (for himself, Mr. CRANSTON, Mr. AKAKA, Mr. INOUYE, and Mr. WIRTH) submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 236

Whereas the capacity of the Armed Forces of the United States to carry out the mission of such forces is hindered when competent and qualified individuals are denied the opportunity to serve in such forces;

Whereas an estimated 1,000 men and women are discharged from the Armed Forces each year simply because of their sexual orientation;

Whereas such discharges cost American taxpayers millions of dollars each year;

Whereas studies authorized by the Department of Defense have shown that there is no correlation between sexual orientation and the successful performance of service in the Armed Forces;

Whereas Secretary of Defense Richard Cheney has acknowledged that men and women who would be prohibited from service in the Armed Forces by reason of their sexual orientation under Department of Defense Directive 1332.14, section II.1, are currently permitted to serve in sensitive civilian positions in the Department of Defense;

Whereas men and women who would have been banned from service in the Armed Forces under the directive have served in the Armed Forces in war and in peace throughout the history of the United States;

Whereas such men and women have received military honors and decorations for their valor and service to the United States;

Whereas men and women who could be banned from service in the Armed Forces under the directive presently serve in the Armed Forces and carried out combat missions in the Persian Gulf War as part of such service;

Whereas in an appearance before Congress, Secretary of Defense Richard Cheney testified that the directive contains a policy that he believes the Department of Defense has "inherited" and that the rationale for the directive, that it protects against security risks, is "a bit of an old chestnut"; and

Whereas, regardless of their sexual orientation, all Americans who qualify for service in the Armed Forces deserve an opportunity to serve in the Armed Forces in defense of the United States; Now, therefore, be it

Resolved, That the Senate urges the President to rescind Department of Defense Directive 1332.14, section H.1, so that all Americans, regardless of sexual orientation, who currently serve the United States through service in the Armed Forces and all Americans who wish to serve the United States by such service, will not be prevented from, or punished for, doing so.

• Mr. ADAMS. Mr. President, I am pleased to be joined today by Senators CRANSTON, AKAKA, INOUYE, and WIRTH in introducing a resolution urging repeal of the military's policy banning gay men and lesbians from service. The resolution calls on the President to rescind Department of Defense Directive 1332.14, section H.1, which bans gay, lesbian and bisexual Americans from military service.

This policy is based on stereotypes and prejudice. It is bigoted. It wastes millions of American taxpayers' dollars.

The Pentagon defends itself with the same tired arguments used to deny African-Americans the right to serve their country. The same arguments were raised against women joining the service. The United States has the most modern military in the world. And an antique personnel policy. It is time to discard the policy.

I have a special interest in overturning the ban on gays in the military. It is likely to cause Washington State—and our Nation—to lose a truly outstanding officer, Col. Margarethe Cammermeyer.

Colonel Cammermeyer has served our Nation and all Americans with great distinction for 26 years. She was awarded the Bronze Star for service in Vietnam. She has received the highest professional awards from the Surgeon General. Since 1986, she has served as the State Chief Nurse of the Washington State National Guard. She was on her way to becoming Chief Nurse of the U.S. National Guard when she responded honestly to a question about her sexual orientation. This prompted the 6th Army to begin discharge proceedings against her.

In response to my request that the Army terminate such proceedings, the Department of the Army wrote, in part:

> We agree that the service record of colonel Cammermeyer is impressive. She has had a distinguished military career on active duty in the Army and Army National Guard.

Not surprisingly, the Washington National Guard supports retaining Colonel Cammermeyer. Her supervisor, State Surgeon Col. George Koss, has requested that she be retained.

What did Colonel Cammermeyer do wrong? Nothing. After 26 years of exceptional service to our country, the move to discharge her is based solely on her sexual orientation. This is disgraceful.

But it is not unusual. Since 1982, more than 13,200 gays and lesbians have been forced out of the military. Every year the military boots more than 1,000 talented individuals from service because they may be a gay or lesbian. It has nothing to do with conduct. One was a naval cadet near the top of his class at Annapolis. Many have won the highest military honors. This discriminatory policy deprives our country of talented and truly dedicated individuals.

The Pentagon's own studies offer nothing to substantiate this policy. Department of Defense evaluations have revealed no correlation between successful military service and sexual orientation. One Pentagon study, prepared several years ago by the Defense Personnel Security Research and Education Center [PERSEREC], shows gays and lesbians often perform better than other soldiers. A more recent PERSEREC study dispels the myth that gays pose a higher security risk than their heterosexual counterparts.

A 1989 Gallup poll indicated that 60 percent of the American public support the inclusion of gays in the military. A September 1, 1991 New York Times editorial found: "The ban deprives the armed forces of talent and discharges damage thousands of careers and lives. All for a policy with not a shred of hard evidence to support it."

When asked earlier this year about the DoD policy, Secretary of Defense Cheney conceded it is one he inherited. He acknowledged it is two-faced: it does not apply to civilians holding even the most sensitive positions in the Department. Secretary Cheney admitted it is a "bit of an old chestnut."

The fact is: gays and lesbians have served in the military throughout history. Some estimate that as many as 50,000 served in the Persian Gulf war. The Pentagon has allowed gay men and lesbians to risk their lives during times of war, when it needs them. What makes the same individuals unfit to serve in peacetime?

In 1941, a Navy memorandum asserted that blacks and whites living together could lead to "disruptive and undermining conditions." President Truman put an end to that policy of segregation by Executive Order in 1948. President Bush could do the same thing today.

My resolution urges the President Bush to rescind the directive so that all Americans, regardless of sexual orientation, may serve their country. No one should be prevented from serving or punished for serving solely on the basis of sexual orientation.

My resolution is a matter of justice. It is a matter of fundamental human decency. It is also good policy.●

SENATE RESOLUTION 237—RELATIVE TO DEFORESTATION IN THE PHILIPPINES

Mr. GORE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 237

Whereas, illegal logging is a chronic problem worldwide and particularly in the Philippines, a nation that retains less than 3 percent of its original primary forest cover,

Whereas illegal logging is a practice occurring also in other areas exporting tropical timber, including Burma, Thailand, Papua New Guinea,

Whereas illegal logging deprives native and local communities of legitimate control and benefits from forest resources, and the corruption and violence inherent in illegal trading in timber undermines the healthy development of democracy,

Whereas devastating floods that killed over 6,000 people this November in the Philippines were exacerbated by the removal of forest cover, reportedly caused by illegal logging.

Whereas the problem of illegal logging in the Philippines is exacerbated by the involvement of corrupt military and paramilitary personnel who reportedly have harassed and killed environmentalists, indigenous leaders, and priests working to preserve forests, as is suspected in the cases of Henry Dumoldol, Fr. Nerilito Satur, and Fr. Kark Schmitz, S.P.,

Whereas the International Tropical Timber Organization is an international commodity trading organization established to monitor and regulate the trade in tropical timber, issue recommendations for the policies of members countries, including for the purpose of maintaining the ecological balance in the region concerned; and,

Whereas the ITTO has not sufficiently addressed the issue of illegal logging nor made efforts to ensure that the international trade in tropical timber does not support the socially and environmentally devastating effects of illegal logging, now, therefore be it

Resolved, that the government of the United States, in its participation in the International Tropical Timber Organization, requests the International Tropic Timber Organization fully to recognize the problem of illegal logging in many timber exporting countries, and asks the International Tropical Timber Organization to prioritize efforts to develop a system to prevent the illegal cutting and trade in tropical timber through monitoring, certification, and control of timber traded;

That it should be the policy of the government of the United States to ensure that military and other assistance to the Philippines does not support illegal logging activities undertaken by officials of the Philippine military,

That it is the sense of the Senate that the government of Japan should undertake an investigation through ITTO to determine the amount of illegal tropical timber imported into Japan by individuals and corporations involved in the Philippines tropical timber trade.

● Mr. GORE. Mr. President: Every day, 140,000 acres of tropical rainforest are torn down. By the end of this year, at least 50 million more acres of tropical forest will be gone forever.

The price of our rampant destruction of the forests is high. Though constitutioning only a small fraction of the earth's entire landmass, tropical forests are home to over half of all animal and plant species. In indiscriminantly cutting and burning the trees, we are severing the very threads of life, and jeopardizing the ability of all life forms to evolve and flourish.

Our planet's delicate climatic balance is also jeopardized by our destruction of the forests. With the loss of trees, we lose one of nature's most effective mechanisms for cleansing the atmosphere of carbon dioxide and other trace gases. In addition, trees play a vital role in continuing the cycle of water from the air to the earth; the loss of trees, particularly in tropical regions, often leads to desertification and severe soil erosion. Studies have shown that, within 3 to 4 years, many deforested regions are wastelands—unable to support life.

Advances in science are making us aware of these and other environmental catastrophes that result from rampant burning and cutting of the forest. What we are still largely blind to, however, is the devastating impact these practices are also having on the communities and villages of the forest.

Today I rise to introduce a resolution that calls attention to the shocking situation of one country, the Philippines, where human rights abuses of the worst kind are part and parcel of a seemingly tireless campaign waged by logging companies—and by corrupt government and military officials—to strip the country bare of its once rich forest resources.

As reported by the Philippine Center for Investigative Journalism, "Through the years, logging companies have made big money from the island's forests but have left the people * * * little except a legacy of death and destruction." Whole villages have been left in ruin as the chainsaws and bulldozers rip through the countryside. Though promised new land, medical and financial help, communities have instead been left in utter devastation.

And the loss to the villagers is not only financial. For thousands of people, the consequence has been death. Denuded of trees, the islands—and hillside communities—are extremely vulnerable to floods. In November alone, some 6,000 people perished as the torrential downpours swept tons of mud from the hills. Reports abound of families literally buried alive as the landslides enveloped their homes.

Some have tried to raise their voices against these abuses. Many of these courageous individuals, however, have lost their lives as a consequence. Those profiting from these disastrous practices have little tolerance for those who would jeopardize their profiteering schemes, and they have been willing to go to any length to put an end to potential interference with their plunder of the forests and enslavement of forest communities.

Newspaper accounts of the devastation indicate that mayors and other political operatives are at the heart of the corruption. And the military, too, is playing a big role. The Chronicle, for example, reports that "Military officials in this province (Nueva Ecija) have reportedly taken turns in stealing and selling illegally-cut lumber and banned narra species."

In 1934, more than 57 percent—some 17 million hectares—of the Philippines were covered by rich forest. Today, only 6 million hectares of forest remain, and only a small part of the remainder is virgin forest. If nothing is done to stop the present feverish rate of deforestation, all of the country's virgin forests will be gone in just 9 years.

Mr. President, deforestation in the Philippines has brought untold devastation to the country and untold misery to her citizens. Action must be taken now to stop the abuses. In this resolution, I call on the International Tropical Timber Organization—the international body charged with regulating and monitoring tropical forestry practices—to prioritize efforts to bring an end to illegal logging. The resolution also declares it to be the policy of the United States to ensure that military and other financial assistance we provide to the Philippine Government is not used in support of the rampant deforestation and calls on the Government of Japan to ensure that logs illegally taken from Philippine forests are not imported there.

Mr. President, I urge my colleagues to join me in support of this measure and in sending a loud message to those who would destroy human lives and the forests and the many species that depend on the forests, that there corrupt practices will not long be tolerated.●

AMENDMENTS SUBMITTED

MEDICAID MORATORIUM AMENDMENTS

DURENBERGER (AND RUDMAN) AMENDMENT NO. 1446

Mr. DURENBERGER (for himself and Mr. RUDMAN) proposed an amendment to the reported amendment to the bill (H.R. 3595) to delay until September 30, 1991, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a States expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source, as follows:

In lieu of the matter proposed to be inserted, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991".

SEC. 2. PROHIBITION ON USE OF VOLUNTARY CONTRIBUTIONS, AND LIMITATION ON THE USE OF PROVIDER-SPECIFIC TAXES TO OBTAIN FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

"(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

"(B) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

"(C)(i) Except as otherwise provided in clause (ii), subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

"(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

"(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

"(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(iii) In this subparagraph and subparagraph (E), the term 'impermissible tax' means a health care related tax for which a reduction may be made under clause (ii) or (iii) of subparagraph (A).

"(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

"(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

"(F) In this paragraph in the case of a State—

"(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

"(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

"(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

"(2)(A) In this subsection, the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (7)(B)),

"(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of subsection (a).

"(B) For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3)(A) In this subsection, the term 'health care related tax' means a tax (as defined in paragraph (7)(F)) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) In this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed of each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that violates the standards in subparagraph (E)(ii) (I) and (II) or paragraph (4).

"(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment may be made under a State plan under this title or title XVIII, or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title.

"(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraphs (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

"(ii) The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

"(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax is imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of subclause (II).

"(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

"(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

"(B)(i) In subparagraph (A), the term 'State base percentage' means, with respect to a State, an amount (expressed as a percentage) equal to—

"(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

"(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

"(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

"(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

"(6) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State-owned teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under this section.

"(7) For purposes of this subsection:

"(A) Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(E) The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(t) of such Act (42 U.S.C. 1396a(t)) is amended—

(A) by striking "Except as provided in section 1903(i), nothing" and inserting "Nothing", and

(B) by striking "taxes (whether or not of general applicability)" and inserting "taxes of general applicability".

(2) Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by striking paragraph (10) inserted by section 4701(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990.

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect January 1, 1992.

(2) Except as specifically provided in section 1903(w) of the Social Security Act and notwithstanding any other provision of such Act, the Secretary of Health and Human Services shall not, with respect to expenditures prior to the effective date specified in section 1903(w)(1)(F) of such Act, disallow any claim submitted by a State for, or otherwise withhold Federal financial participation with respect to, amounts expended for medical assistance under title XIX of the Social Security Act by reason of the fact that the source of the funds used to constitute the non-Federal share of such expenditures is a tax imposed on, or a donation received from, a health care provider, or on the ground that the amount of any donation or tax proceeds must be credited against the amount of the expenditure.

SEC. 3. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(a) REPEAL OF PROHIBITION OF UPPER PAYMENT LIMIT FOR DISPROPORTIONATE SHARE HOSPITALS.—Section 1902(h) of the Social Security Act (42 U.S.C. 1396a(h)) is amended by striking "to limit" the first place it appears and all that follows through "special needs or".

(b) LIMITATION ON AGGREGATE PAYMENT ADJUSTMENTS.—

(1) IN GENERAL.—Section 1923 of such Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(f) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR PAYMENTS IN EXCESS OF CERTAIN LIMITS.—

"(1) IN GENERAL.—

"(A) APPLICATION OF STATE-SPECIFIC LIMITS.—Payment under section 1903(a) shall not be made with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (4)(B)) for quarters—

"(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

"(I) the payment adjustments are made in accordance with the State plan in effect or submitted to the Secretary by September 30, 1991, or in accordance with the State plan in effect or submitted to the Secretary by November 26, 1991 or modification thereof, if the amendment designates only disproportionate share hospitals with a medicaid or low-income utilization percentage at or above the Statewide arithmetic mean, or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date, or

"(II) the payment adjustments are the minimum adjustments required in order to meet the requirements of subsection (c)(1); or

"(ii) in a subsequent fiscal year, to the extent that the total of such payment adjustments exceeds the State disproportionate share hospital (hereinafter referred to as 'DSH') allotment for the year (as specified in paragraph (2)).

"(B) NATIONAL DSH PAYMENT LIMIT.—The national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under State plans under this title for medical assistance during the fiscal year.

"(C) PUBLICATION OF STATE DSH ALLOTMENTS AND NATIONAL DSH PAYMENT LIMIT.—Before the beginning of each fiscal year (beginning with fiscal year 1993), the Secretary shall, consistent with section 1903(d), estimate and publish—

"(i) the national DSH payment limit for the fiscal year, and

"(ii) the State DSH allotment for each State for the year.

"(2) DETERMINATION OF STATE DSH ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year (or, for fiscal year 1993, the State base allotment as defined in paragraph (4)(C)), increased by—

"(i) the State growth factor (as defined in paragraph (4)(E)) for the fiscal year, and

"(ii) the State supplemental amount for the fiscal year (as determined under paragraph (3)).

"(B) EXCEPTIONS.—

"(i) LIMIT TO 12 PERCENT OR BASE ALLOTMENT.—A State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year, except that, in the case of a high DSH State (as defined in paragraph (4)(A)), the State DSH allotment shall equal the State base allotment.

"(ii) EXCEPTION FOR MINIMUM REQUIRED ADJUSTMENT.—No State DSH allotment shall be less than the minimum amount of payment adjustments the State is required to make in the fiscal year to meet the requirements of subsection (c)(1).

"(3) STATE SUPPLEMENTAL AMOUNTS.—The Secretary shall determine a supplemental amount for each State that is not a high DSH State for a fiscal year as follows:

"(A) DETERMINATION OF REDISTRIBUTION POOL.—The Secretary shall subtract from the national DSH payment limit (specified in paragraph (1)(B)) for the fiscal year the following:

"(i) the total of the State base allotments for high DSH States;

"(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fiscal year 1993, the total of State base allotments) for all States other than high DSH States;

"(iii) the total of the State growth amounts for all States other than high DSH States for the fiscal year; and

"(iv) the total additions to State DSH allotments the Secretary estimates will be attributable to paragraph (2)(B)(ii).

"(B) DISTRIBUTION OF POOL BASED ON TOTAL MEDICAID EXPENDITURES FOR MEDICAL ASSISTANCE.—The supplemental amount for a State for a fiscal year is equal to the lesser of—

"(i) the product of the amount determined under subparagraph (A) and the ratio of—

"(I) the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year, to

"(II) the total amount of expenditures made under the State plans under this title for medical assistance during the fiscal year for all States which are not high DSH States in the fiscal year, or

"(ii) the amount that would raise the State DSH allotment to the maximum permitted under paragraph (2)(B).

"(4) DEFINITIONS.—In this subsection:

"(A) HIGH DSH STATE.—The term 'high DSH State' means, for a fiscal year, a State for which the State base allotment exceeds 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year.

"(B) STATE.—The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(C) STATE BASE ALLOTMENT.—The term 'State base allotment' means, with respect to a State, the greater of—

"(i) the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1992 (excluding any such payment adjustments for which a reduction may be made under paragraph (1)(A)(i)), or "(ii) $1,000,000.

The amount under clause (i) shall be determined by the Secretary and shall include only payment adjustments based on the State plan described in subparagraph (A)(i)(I), or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date.

"(D) STATE GROWTH AMOUNT.—The term 'State growth amount' means, with respect to a State for a fiscal year, the lesser of—

"(i) the product of the State growth factor and the State DSH payment limit for the previous fiscal year, or

"(ii) the amount by which 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year exceeds the State DSH allotment for the previous fiscal year.

"(E) STATE GROWTH FACTOR.—The term 'State growth factor' means, for a State for a fiscal year, the percentage by which the expenditures described in section 1903(a) in the State in the fiscal year exceed such expenditures in the previous fiscal year.".

(2) CONFORMING AMENDMENTS.—(A) Such section 1923 is further amended—

(i) in subsection (a)(2)(B), by striking "subsection (c)," and inserting "subsections (c) and (f),"; and

(ii) in subsection (c), by striking "In order" and inserting "Subject to subsection (f), in order".

(B) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "and section 1923(f)" after "of this section".

(c) PROHIBITING USE OF DSH PAYMENT ADJUSTMENT TO HOLD HOSPITALS HARMLESS FOR TAXES.—Subsection (c) of such section if further amended by adding at the end the following: "A payment adjustment that varies by type of hospital after the effective date specified in section 1903(w)(1)(F) is not consistent with this subsection if its purpose or effect is to reimburse providers for health care related taxes without regard to their low-income utilization rate or medicaid inpatient utilization rate (as such terms are defined in subsection (b)).".

(d) LIMITS ON AUTHORITY TO RESTRICT DSH DESIGNATIONS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(4) The Secretary may not restrict a State's authority to designate hospitals as disproportionate share hospitals under this section, except as provided in the last sentence of subsection (c).".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1992.

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

"(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

"(i) provider-related donations made to the State or units of local government during such fiscal year, and

"(ii) health care related taxes collected by the State or such units during such fiscal year.

"(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply fiscal years ending after the date of the enactment of this Act.

SEC. 5. INTERIM FINAL REGULATIONS.

The Secretary of Health and Human Services shall issue such regulations (on an interim final or other basis) as may be necessary to implement this Act and the amendments made by this Act. The Secretary of Health and Human Services shall consult with the States before issuing any regulations under this Act.

HEALTH PROFESSIONALS EDUCATION

KENNEDY (AND HATCH) AMENDMENT NO. 1447

Mr. REID (for Mr. KENNEDY, for himself and Mr. HATCH) proposed an amendment to the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—PROVISIONS RELATING TO TITLE VII

Sec. 100. Short title.

Subtitle A—General Provisions

Sec. 101. Revision of title heading.
Sec. 102. Definitions.
Sec. 103. National Advisory Council.
Sec. 104. Prohibition of discrimination.
Sec. 105. Health professions data.
Sec. 106. Required assurances.
Sec. 107. Priority in awarding of grants.
Sec. 108. Savings provision with respect to current grants or contracts.
Sec. 109. Evaluation and Report.

Subtitle B-Student Assistance

Sec. 110. Limitations on scope of Federal loan insurance program.
Sec. 111. Loan deferral and loan consolidation.
Sec. 112. Maximum interest rates to be assessed.
Sec. 113. Participation of institutions in loan collection.
Sec. 114. Default penalty fees.
Sec. 115. Elimination of statute of limitations for loan collections.
Sec. 116. Student loan insurance fund.
Sec. 117. Powers and responsibilities.
Sec. 118. Annual report concerning default rates.
Sec. 119. Eligibility of institutions.
Sec. 120. Office for Health Education Assistance Loans.
Sec. 121. Authorization of appropriations for certain loans.

Subtitle C—Direct Student Loan Health Demonstration Program

Sec. 131. Direct student loan health demonstration program.
Sec. 132. Loan repayment program for allied health personnel.
Sec. 133. Scholarships for students of exceptional financial need.
Sec. 134. Repeal of Lister Hill scholarship program.
Sec. 135. Scholarships for students from disadvantaged backgrounds.
Sec. 136. Faculty loan repayment program.

Subtitle D—Grants and Contracts for Programs and Projects

Sec. 141. Departments of family medicine.
Sec. 142. Area health education centers.
Sec. 143. Programs of excellence in health professions education for minorities.
Sec. 144. Training, traineeships, and fellowships in general internal medicine and general pediatrics.
Sec. 145. Dentistry.
Sec. 146. Family medicine residencies.
Sec. 147. Educational assistance to individuals from disadvantaged backgrounds.
Sec. 148. Retention program for certain health professionals.
Sec. 149. Minority faculty development training fellowships.
Sec. 150. Special demonstration projects.
Sec. 151. AIDS education and training.
Sec. 152. Geriatric education centers and geriatric training.

Subtitle E—Personnel in Public Health, Health Administration and Allied Health

Sec. 161. Special projects, schools of public health.
Sec. 162. Graduate programs.
Sec. 163. Public health traineeships.
Sec. 164. Project grants and contracts.
Sec. 165. Advanced training of allied health personnel.
Sec. 166. Division of Allied Health.

Subtitle F—Miscellaneous Programs

Sec. 171. Council on Graduate Medical Education.
Sec. 172. Rural health training program.
Sec. 173. Creation of Advisory Council on Medical Licensure.
Sec. 174. Grants for certain postdoctoral fellowships.

Subtitle G—Repealers and Technical and Conforming Amendments

Sec. 181. Repeal of facilities construction grant program.
Sec. 182. Technical and conforming amendments.

TITLE II—PROVISIONS RELATING TO TITLE VIII

Sec. 201. Short title.
Sec. 202. Special projects grants and contracts.
Sec. 203. Advanced nurse education programs.
Sec. 204. Nurse practitioner and nurse midwife programs.
Sec. 205. Capacity building.
Sec. 206. Nursing education opportunities for individuals from disadvantaged backgrounds.
Sec. 207. Traineeships for advanced education of professional nurses.
Sec. 208. Nurse anesthetists.
Sec. 209. Authorization of appropriations for loan repayments.
Sec. 210. Allotments and payments.
Sec. 211. Distribution.
Sec. 212. Undergraduate education of professional nurses.
Sec. 213. Employer loan repayment program.
Sec. 214. Prohibition on discrimination.
Sec. 215. Evaluations.
Sec. 216. Grants for nurse education in long-term care facilities.

Sec. 217. Primary care training program.
Sec. 218. Assurances regarding transmission of bloodborne diseases.
Sec. 219. Technical amendments.

TITLE III—COMPREHENSIVE MATERNAL AND EARLY CHILDHOOD HEALTH CARE

Sec. 301. Short title.
Sec. 302. Migrant and community health center initiatives.
Sec. 303. Expansion of immunization programs for young children.
Sec. 304. Project grants for maternal and child preventive health and health care services.
Sec. 305. Birth defects proposal.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Preemption exclusion.

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—PROVISIONS RELATING TO TITLE VII

SEC. 100. SHORT TITLE.

This title may be cited as the "Health Professions Training Improvement and Reauthorization Act of 1991"

Subtitle A—General Provisions

SEC. 101. REVISION OF TITLE HEADING.

The heading for title VII (42 U.S.C. 292 et seq.) is amended by striking out "HEALTH RESEARCH AND TEACHING FACILITIES AND".

SEC. 102. DEFINITIONS.

Section 701 (42 U.S.C. 292a) is amended—

(1) by striking out paragraphs (1), (3), (7) and (9);

(2) by redesignating paragraphs (2), (4), (5), (6), (8) and (10) through (13) as paragraphs (1) through (9), respectively;

(3) in paragraph (2) (as so redesignated)—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

"(B) The term 'graduate program in clinical social work' means an accredited graduate program in a public or nonprofit private institution in a State that provides training in a concentration in health or mental health care leading to a graduate degree in social work.

"(C) The term 'graduate program in marriage and family therapy' means an accredited graduate program in a public or nonprofit private institution in a State which provides training in a concentration leading to a graduate degree in marriage and family therapy.";

(4) in paragraph (3) (as so redesignated), by striking out "or a graduate program in clinical psychology" and inserting in lieu thereof "a graduate program in clinical psychology, and a graduate program in clinical social work that offers a training concentration in health or mental health care, and a graduate program that provides training in a concentration leading to a graduate degree in marriage and family therapy"; and

(5) in paragraph (9) (as so redesignated) by adding at the end thereof the following new sentence:

"Such term shall not include any registered nurse or physician assistant."

SEC. 103. NATIONAL ADVISORY COUNCIL.

Section 702 (42 U.S.C. 292b) is amended—

(1) in subsection (a)—

(A) by striking out "twenty-one" in the matter preceding paragraph (1) and inserting in lieu thereof "22";

(B) by striking out "thirteen" in paragraph (1) and inserting in lieu thereof "fourteen"; and

(C) by striking out "and graduate programs in clinical psychology" in paragraph (1)(A) and inserting in lieu thereof ", graduate programs in clinical psychology and clinical social work"; and

(2) by adding at the end thereof the following new subsection:

"(e)(1) There is established a subcommittee of the National Advisory Council on Health Professions Education to be known as the Subcommittee on Allied Health (hereafter in this section referred to as the 'Subcommittee') which shall meet at least twice annually until such time as the final report is submitted under paragraph (4). The Subcommittee shall—

"(A) provide advice and make recommendations to the National Advisory Council, the Secretary, and to the Committee on Labor and Human Resources and Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, with respect to—

"(i) the supply and distribution of allied health personnel throughout the United States;

"(ii) current and future shortages or excesses of allied health personnel, particularly in medically underserved and rural communities;

"(iii) priority research needs within the allied health professions;

"(iv) appropriate Federal policies relating to the matters described in clauses (i) through (iii), including policies concerning changes in the financing of undergraduate and graduate allied health programs, changes in the types of allied health education, and the appropriate Federal role in the development of a research base in the allied health professions;

"(v) appropriate efforts to be carried out by health care facilities, schools and programs of allied health, and professional associations with respect to the matter referred to in clause (i), including efforts for changes in undergraduate and graduate allied health education programs, and private support for research initiatives;

"(vi) deficiencies and needs for improvements in existing data bases concerning the supply and distribution of training programs for allied health in the United States and steps that should be taken to eliminate such deficiencies; and

"(vii) problems, and recommendations for the resolution of such problems, relating to the roles and functions of professionals within the allied health fields and other fields such as medicine and dentistry;

"(B) encourage entities providing allied health education to conduct activities to voluntarily achieve the recommendations of the Subcommittee;

"(C)(i) conduct a study concerning the shortage of clinical laboratory technologists for the purpose of—

"(I) determining the extent of such shortage;

"(II) determining the causes of such shortage; and

"(III) developing recommendations concerning the manner in which such shortage can be alleviated; and

"(ii) in conducting the study required under clause (i)—

"(I) consider any special or unique factors affecting the supply of clinical laboratory technologists in medically underserved and rural communities; and

"(II) conduct an assessment of alternative routes for certification of the competence of individuals to serve as such technologists, and consider the role of entities that provide such certifications; and

"(D) not later than October 1, 1993, prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report concerning the results of the study conducted under subparagraph (D).

"(2) In addition to select members of the National Advisory Council, the Subcommittee shall be composed of—

"(A) the Assistant Secretary for Health;

"(B) the Administrator of the Health Care Financing Administration;

"(C) the Assistant Secretary for Defense for Health Affairs;

"(D) the Chief Medical Director of the Department of Veterans Affairs;

"(E) the Commissioner of the Bureau of Labor Statistics of the Department of Labor;

"(F) a representative of the National Center for Education Statistics of the Department of Education;

"(G) a representative of the Bureau of Health Professions, Health Resources and Services Administration to be appointed by the Secretary;

"(H) five individuals appointed by the Secretary to represent allied health professionals, of which—

"(i) two such individuals shall be representatives of allied health professionals who provide occupational, speech, respiratory or physical therapy services;

"(ii) two such individuals shall be health professionals who provide primary care services in underserved areas or to underserved populations; and

"(iii) one such individual shall be a health professional who provides primary care services to the elderly;

"(I) five individuals appointed by the Secretary, including representatives of schools and programs of allied health, health care facility employers of allied health personnel, health insurers, and professional organizations representing the allied health professions;

"(J) a professional knowledgeable about health occupations and professions and data policy to be appointed by the Secretary; and

"(K) a representative of the general public to be appointed by the Secretary.

"(3) Not later than April 1, 1992, the Secretary shall appoint the members of the Subcommittee in accordance with paragraph (2).

"(4) Not later than 6 months after the date on which the initial meeting of the Subcommittee is held, the Subcommittee shall prepare and submit to the individual and entities described in paragraph (1)(A) a progress report concerning the activities of the Subcommittee. Not later than April 1, 1994, the Subcommittee shall prepare and submit to such individuals and entities a final report.

"(5) The Secretary shall ensure that necessary resources are made available to implement the provisions of this subsection.

"(6) The Subcommittee shall terminate upon the submission of the final report required under paragraph (4).".

SEC. 104. PROHIBITION OF DISCRIMINATION.

Section 704 (42 U.S.C. 292d) is amended—

(1) in the section heading by striking out "ON BASIS OF SEX";

(2) by striking out "sex" each place that such occurs and inserting in lieu thereof

"race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation"; and

(3) by striking out "or graduate program in clinical psychology" and inserting in lieu thereof "graduate program in clinical psychology or graduate program in clinical social work".

SEC. 105. HEALTH PROFESSIONS DATA.

(a) IN GENERAL.—Section 708 (42 U.S.C. 292h) is amended—

(1) in subsection (a)—

(A) by inserting after "clinical psychologists," the following: "physician assistants, clinical social workers practicing in health or mental health care"; and

(B) by adding at the end thereof the following new sentence: "Data shall also be collected with respect to health professional shortage areas as designated under section 332, and other medically underserved communities (as defined in section 711(c)(2)) and underserved populations."; and

(2) in subsection (d)—

(A) by inserting "health professional shortage areas, rural areas, and medically underserved areas and populations," after "profession," in paragraph (1); and

(B) by inserting ", service in health professional shortage areas and to medically underserved communities (as defined in section 711(c)(2) and populations," after "geographic location" in paragraph (2).

(b) TRANSFER OF PROVISIONS WITH RESPECT TO STATISTICS AND REPORT.—

(1) IN GENERAL.—Section 794 (42 U.S.C. 295h-2)—

(A) is transferred to part A of title VII;

(B) is redesignated as section 708A; and

(C) is inserted after section 708 of such part A.

(2) REVISION.—Section 708A (as transferred and added by paragraph (1), is amended—

(A) in the section heading by striking out "ANNUAL" and inserting in lieu thereof "BIENNIAL"; and

(B) in subsection (c)—

(i) by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources" in the matter preceding paragraph (1); and

(ii) by striking out "under this subpart" and inserting in lieu thereof "under subpart I of part G" in paragraph (2).

SEC. 106. REQUIRED ASSURANCES.

Section 709(c) (42 U.S.C. 292i(c)) is amended by adding at the end thereof the following new sentence: "The applicant is further required to provide assurances to the Secretary that all trainees will receive instruction in the utilization of universal precautions and infection control procedures for the prevention of transmission of bloodborne diseases."

SEC. 107. PRIORITY IN AWARDING OF GRANTS.

Part A of title VII (42 U.S.C. 292 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 711. PRIORITIES IN AWARDING OF GRANTS.

"(a) ALLOCATION OF COMPETITIVE GRANT FUNDS.—In awarding competitive grants under this title or title VIII, the Secretary shall, among applicants that meet the eligibility requirements under such titles, give priority to entities submitting applications that—

"(1) can demonstrate that such entities have training programs that demonstrate the presence of, or progress toward the development and integration of effective approaches and educational strategies to promote health and prevent disease and disability, especially in primary care, that will help meet the Healthy People 2000: National Health Promotion and Disease Prevention Objectives established by the Public Health Service; and

"(2)(A) have a high permanent rate for placing graduates in practice settings which serve residents of medically underserved or rural communities; or

"(B) will provide for not less than four of the following—

"(i) the rotation of health professionals and students to clinical settings whose focus is to serve medically underserved communities or rural areas;

"(ii) the appointment of health professionals whose practices serve medically underserved or rural communities to act as preceptors to supervise training in such settings;

"(iii) a plan that insures that all health professionals and students receive information on practice opportunities involving medically underserved or rural communities;

"(iv) service contingent scholarship or loan repayment programs for students and health professionals to encourage practice in or service to medically underserved or rural communities;

"(v) the recruitment and admission of students from medically underserved or rural communities; and

"(vi) other training methodologies that demonstrate a significant commitment to the expansion of the proportion of graduates that elect to practice in or serve the needs of medically underserved or rural communities.

"(b) SERVICE IN MEDICALLY UNDERSERVED OR RURAL COMMUNITIES.—Of the amounts appropriated for fiscal year 1995, and for each subsequent fiscal year, for competitive grants under this title or title VIII, the Secretary shall give preference in awarding grants to schools or programs that are otherwise eligible for grants under such titles, and that can demonstrate that—

"(1) not less than 20 percent of the graduates of such schools or programs during the preceding 2-year period are engaged in full-time practice in a health professions shortage specialty in a medically underserved or rural community; or

"(2) the number of the graduates of such schools or programs that are practicing in a medically underserved or rural community has increased by not less than 50 percent over that proportion of such graduates for the previous 2-year period.

Among the pool of applications that have been approved by the standard peer review process, funding preference shall apply only to those applications that score in the upper 80th percentile of those approved applications.

"(c) DEFINITIONS.—As used in this section:

"(1) GRADUATE.—The term 'graduate' means, unless otherwise specified, an individual who has successfully completed all training and residency requirements necessary for full certification in the health professions discipline that such individual has selected.

"(2) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' means—

"(A) an area designated under section 332 as a health professional shortage area;

"(B) an area or population designated as a medically underserved area under section 330(b)(3), including areas designated under section 330(b)(6);

"(C) populations served by migrant health centers under section 329, community health centers under section 330, programs providing health services for the homeless under section 340, or Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act;

"(D) a community that is certified as underserved by the Secretary for purposes of participation in the rural health clinic program under title XVIII of the Social Security Act; or

"(E) a community that meets the criteria for the designation described in subparagraph (A) or (B) but that has not been so designated.

"(3) RURAL COMMUNITY.—The term 'rural' refers to geographic areas that are located outside of standard metropolitan statistical areas.".

SEC. 108. SAVINGS PROVISION WITH RESPECT TO CURRENT GRANTS OR CONTRACTS.

Part A of title VII (42 U.S.C. 292 et seq.) (as amended by section 107) is further amended by adding at the end thereof the following new section:

"SEC. 712. SAVINGS PROVISION WITH RESPECT TO CURRENT GRANTS OR CONTRACTS.

"Notwithstanding any other provision of law, in the case of any authority for the provision of a grant or contract under this title or title VIII (as such titles existed prior to the date of enactment of the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991) that is terminated by any provision of the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991 (as it amends such titles), the Secretary shall, notwithstanding the termination of such authority, continue in effect any grant or contract awarded or entered into under the authority that is in effect on the day before the date of enactment of such Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such grant or contract, or in approving the most recent request made (prior to such date of enactment) for the continuation of such grant or contract, as the case may be.".

SEC. 109. EVALUATION AND REPORT.

Part A of title VII (42 U.S.C. 292 et seq.) (as amended by sections 107 and 108) is further amended by adding at the end thereof the following new section:

"SEC. 713. EVALUATION AND REPORT.

"(a) EVALUATION.—The Office of Technology Assessment shall, in accordance with Technology Assessment Act of 1972 (Public Law 92-484), conduct a program evaluation of the programs, projects and activities of the Secretary under this title and title VIII (as amended by the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991), to determine their effectiveness in—

"(1) increasing the number of primary care providers (physicians, physician assistants, nurse midwives, nurse practitioners and general dentists), nurses and allied health personnel; and

"(2) improving the geographic distribution of health professionals in medically underserved and rural areas.

"(b) CONTENT.—The evaluation conducted under subsection (a) should determine—

"(1) whether or not funding under this title (as amended by the Act referred to in subsection (a)) has increased the number of primary care practitioners (family medicine, general internal medicine, general pediatrics, general dentistry, and physician assistants) in medically underserved or rural communities;

"(2) whether or not funding under this title (as amended by the Act referred to in subsection (a)) has increased the number of allied health professionals in medically underserved or rural communities;

"(3) whether or not funding under title VIII (as amended by the Act referred to in subsection (a)) has increased the number of nurses in medically underserved or rural communities;

"(4) whether or not access to health care services in medically underserved or rural communities has been affected by programs funded under this title or title VIII (as amended by the Act referred to in subsection (a));

"(5) whether or not the various mechanisms (such as scholarships, fellowships, traineeships, loan repayment programs, project grants, and education centers) have been effective in producing health care professionals who work or practice in medically underserved or rural communities and the relative impact or effectiveness of each mechanism;

"(6) the duration of service in medically underserved or rural communities of health professionals whose training was funded by this title and title VIII (as amended by the Act referred to in subsection (a)) or who received financial incentives to practice in these communities;

"(7) the geographic distribution of former trainees under this title and title VIII (as amended by the Act referred to in subsection (a)) working in medically underserved or rural communities; and

"(8) other such factors as may be relevant to the reauthorization of this title and title VIII.

"(c) REPORT.—Not later than March 31, 1996, the Office of Technology Assessment shall prepare and submit to the Labor and Human Resources Committee of the Senate, and the Subcommittee on Labor, Health and Human Services of the Committee on Appropriations of the Senate, and the Committee on Energy and Commerce of the House of Representatives, and the Subcommittee on Labor, Health and Human services of the Committee on Appropriations of the House of Representatives, and the Secretary a report concerning the findings and recommendations of the Office concerning the best strategies for future funding of allocations under this title and title VIII.".

Subtitle B-Student Assistance

SEC. 110. LIMITATIONS ON SCOPE OF FEDERAL LOAN INSURANCE PROGRAM.

Section 728(a) (42 U.S.C. 294a(a)) is amended—

(1) in the first sentence by striking out "$500,000,000" and all that follows through the end thereof and inserting the following: "$400,000,000 for fiscal year 1992, $425,000,000 for fiscal year 1993, $475,000,000 for fiscal year 1994, $525,000,000 for fiscal year 1995, and $550,000,000 for fiscal year 1996."; and

(2) in the third sentence by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1999".

SEC. 111. LOAN DEFERRAL AND LOAN CONSOLIDATION.

(a) LOAN DEFERRAL.—Section 731(a)(2)(C) (42 U.S.C. 294d(a)(2)(C)) is amended—

(1) in clause (viii)—

(A) by striking out "clauses (i) through (vii)" and inserting in lieu thereof "clauses (i) through (x)"; and

(B) by striking out "clauses (i) through (viii)" and inserting in lieu thereof "clauses (i) through (xi)";

(2) by redesignating clauses (vii) and (viii) as clauses (x) and (xi), respectively; and

(3) by inserting after clause (vi), the following new clauses: "(vii) not in excess of 3 years, for a borrower who has (I) completed an accredited internship or residency training program in osteopathic general practice, family medicine, general internal medicine or general pediatrics, or (II) completed training in general dentistry, public health dentistry, clinical psychology or clinical social work and is currently serving as a primary care provider in a medically underserved or rural community as defined in section 711(c), (viii) not in excess of 1 year, for borrowers in the health professions that do not require residency training, (ix) not in excess of 2 years during which the borrower is providing care in a medically underserved or rural community as defined in section 711(c),".

(b) LOAN CONSOLIDATION.—Subsection (f) of section 732 (42 U.S.C. 294e(f)) is amended to read as follows:

"(f) Nothing in this section shall be construed to preclude the consolidation of all of the borrower's debts into a single instrument on the same terms and conditions as those provided in the Higher Education Act of 1965.".

(c) TECHNICAL AMENDMENTS.—Section 728(c) (42 U.S.C. 294a(c)) is amended—

(1) by striking out paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 112. MAXIMUM INTEREST RATES TO BE ASSESSED.

Section 731 (42 U.S.C. 294d) is amended—

(1) in subsection (a)(2)(D), by striking out "semiannually" and inserting in lieu thereof "annually"; and

(2) in subsection (b)—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out "No maximum" and inserting in lieu thereof "The";

(C) by striking out "subsection (a) may exceed the average" and inserting in lieu thereof "subsection (a) may not exceed the average";

(D) by inserting before the period, the following: "with a maximum rate of interest of 12 percent per year"; and

(E) by adding at the end thereof the following:

"(2)(A) A special allowance may be paid to an eligible holder of an eligible loan under this subpart for each of the 3-month periods ending on March 31, June 30, September 30, and December 31 of each year. The amount of a special allowance paid to any holder under this paragraph with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to such principal) on all eligible loans held by such holder during such period.

"(B) Subject to subparagraphs (D) and (F), a special allowance paid under this paragraph to a holder shall be computed—

"(i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for the 3-month period for which the allowance is to be paid;

"(ii) by subtracting the maximum applicable interest rate on the loans that are subject to such allowance from such average,

"(iii) by adding 3 percent to the amount determined under clause (ii); and

"(iv) by dividing the amount determined under clause (iii) by 4.

"(C) The holder of an eligible loan under this subpart shall have a contractual right against the United States, during the life of such loan, to receive the special allowance under this paragraph. The special allowance determined for any 3-month period under this paragraph shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established under regulations promulgated under this paragraph.

"(D)(i) If payment of a special allowance to a holder under this section has not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment from such holder, the amount of such allowance shall be increased by an amount equal to the daily interest accruing on such allowance, as determined under clause (ii).

"(ii) The amount of the daily interest referred to in clause (i) shall be computed at the daily equivalent rate of the sum of the special allowance rate determined under subparagraph (B) and the interest rate applicable to the loan, and shall be paid for the later of—

"(I) the 31st day after the receipt of a request for payment of an allowance under this paragraph by the holder; or

"(II) the 31st day after the final day of the period or periods covered by such request;

and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

"(iii) For purposes of reporting to Congress the amounts of special allowances paid under this paragraph, amounts so paid shall be segregated and reported separately.

"(E) The Secretary shall pay the holder of an eligible loan a special allowance under this paragraph, at such time or times as are specified in regulations promulgated under this paragraph, subject to the condition that such holder shall submit to the Secretary, at such time or times, and in such manner as the Secretary determines appropriate, such information as may be required under such regulations for the purpose of enabling the Secretary to carry out this section and to carry out the purposes of this section.

"(F) The quarterly rate of the special allowance for holders of loans that were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1986, shall be one half the quarterly rate of the special allowance established under subparagraph (B). Such rate shall also apply to holders of loans that were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, loans made or purchased with funds described in the preceding sentence or from income on the investment of such funds.".

SEC. 113. PARTICIPATION OF INSTITUTIONS IN LOAN COLLECTION.

(a) ELIGIBILITY.—Section 731(a)(2) (42 U.S.C. 294d(a)(2)) is amended—

(1) in subparagraph (G), by striking out "and" at the end thereof;

(2) in subparagraph (H), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(I) authorizes an institution or postgraduate training program attended by the borrower to assist in the collection of any loan that becomes delinquent, by providing information concerning the borrower to the Secretary and to past and present lenders and holders of the borrower's loans.".

(b) FEDERAL LOAN INSURANCE PROGRAM.—Section 733 (42 U.S.C. 294f) is amended—

(1) by adding at the end of subsection (a) the following new sentence: "The Secretary shall establish by regulation performance standards and fees to be paid by lenders and

loan holders for the servicing of HEAL loans and for the processing of loan default claims filed by insurance beneficiaries under this subsection.";

(2) in subsection (e)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the term 'default rate', in the case of an eligible entity, means the percentage constituted by the ratio of—

"(A) the principal amount of loans insured under this subpart—

"(i) that are made with respect to the entity and that enter repayment status after April 7, 1987; and

"(ii) for which amounts have been paid under subsection (a) to insurance beneficiaries, exclusive of any loans for which amounts have been so paid as a result of bankruptcy under title 11 of the United States Code, or the death or total and permanent disability of the borrowers, and exclusive of any amounts of principal actually repaid by the borrowers subsequent to payment of the claim; to

"(B) the total principal amount of loans insured under this subpart that are made with respect to the entity and enter repayment status after April 7, 1987.";

(3) in the first sentence of subsection (f), by striking out "The Secretary may" and inserting in lieu thereof "The Secretary shall"; and

(4) in subsection (h)(1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period in subparagraph (C), and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) in the judgment of the Secretary, in consultation with the lender or holder, there is not a reasonable likelihood of recovering, within 6 months of the date on which active enforcement of the judgment begins, at least one-half of the outstanding debt owed by the borrower (including collections costs and associated charges) or $10,000, whichever is less.".

SEC. 114. DEFAULT PENALTY FEES.

(a) In General.—Part C of title VII is amended by inserting after section 732 (42 U.S.C. 294e) the following new section:

"SEC. 732A. DEFAULT PENALTY FEES.

"(a) Authority.—With respect to a loan made under this subpart, the Secretary, in accordance with subsection (b), shall assess a risk-based premium on an eligible borrower and, if required, an eligible institution that is based on the default rate of the eligible institution involved.

"(b) Assessment of Premium.—Except as provided in subsection (d)(2), the risk-based premium to be assessed under subsection (a) shall be as follows:

"(1) Low-risk rate.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of not to exceed five percent, such borrower shall be assessed a risk-based premium in an amount equal to 6 percent of the principal amount of the loan.

"(2) Medium risk rate.—

"(A) In general.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of five percent but not to exceed 15 percent—

"(i) such borrower shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan; and

"(ii) such institution shall be assessed a risk-based premium in an amount equal to 5 percent of the principal amount of the loan.

"(B) Reduction in loan level.—The maximum loan amount for which a borrower of the type described in subparagraph (A) shall be eligible to receive shall be reduced by an amount equal to 10 percent of the maximum loan amount that such borrower would otherwise be eligible to receive under this subpart prior to the date of enactment of this section.

"(C) Default management plan.—An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval, an annual default management plan, that shall specify the detailed short-term and long-term procedures that such institution will have in place to minimize defaults on loans to borrowers under this subpart. Under such plan the institution shall, among other measures, provide an exit interview to all borrowers that includes information concerning repayment schedules, loan deferments, forbearance, and the consequences of default.

"(3) High risk rate.—

"(A) In general.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of 15 percent but not to exceed 25 percent—

"(i) such borrower shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan; and

"(ii) such institution shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan.

"(B) Reduction in loan level.—The maximum loan amount for which a borrower of the type described in subparagraph (A) shall be eligible to receive shall be reduced by an amount equal to 25 percent of the maximum loan amount that such borrower would otherwise be eligible to receive under this subpart prior to the date of enactment of this section.

"(C) Default management plan.—An institution of the type described in subparagraph (A) shall, in addition to complying with the provisions of paragraph (2)(C), become a co-signer of the loan. The Secretary may require a performance bond on behalf of such an institution.

"(4) Ineligibility.—A borrower shall not be eligible to obtain a loan under this subpart for attendance at an institution that has a default rate of in excess of 25 percent.

"(c) Reduction of At-Risk Premium.—Lenders may reduce by 50 percent the at-risk premium to eligible borrowers if a credit worthy parent or other responsible party cosigns the loan note.

"(d) Administrative Waivers.—

"(1) Hearing.—The Secretary shall afford an institution not less than one hearing, and may consider mitigating circumstances, prior to assigning an institution to a risk-based category under subsection (b) or making such institution ineligible for participation in the programs under this subpart.

"(2) Exceptions.—In carrying out this section with respect to an institution, the Secretary may grant an institution a waiver of requirements of subsection (b) if the Secretary determines that—

"(A) the default rate for such institution is not an accurate indicator because the volume of the loans under this subpart made by such institution has been insufficient; or

"(B) the institution can justify the default record using other sources of information.

"(3) Transition for certain institutions.—Effective January 1, 1992, Historically Black Colleges and Universities and tribally controlled schools shall be exempt from the ineligible requirements of subsection (b)(4) for the 3-year period beginning on the date of enactment of this section. Such institutions with default rates on loans under such programs greater than 25 percent shall be required to comply with all guidelines applicable to institutions in the high risk default categories.

"(e) Payoff to Reduce Risk Category.—An institution may payoff the outstanding principal and interest owed by the students of such institution who have defaulted on loans made under this subpart in order to reduce the risk category of the institution.".

(b) Technical Amendment.—Section 732 (42 U.S.C. 294e) is amended by striking out subsection (c).

SEC. 115. ELIMINATION OF STATUTE OF LIMITATIONS FOR LOAN COLLECTIONS.

(a) Elimination.—

(1) In general.—Section 733 (42 U.S.C. 294f) is amended by adding at the end the following new subsection:

"(j)(1) It is the purpose of this subsection to ensure that obligations to repay loans are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

"(2) Notwithstanding any other provision of Federal or State statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by the Secretary, the Attorney General, or other administrative head of another Federal agency, as the case may be, for the repayment of the amount due from a borrower on a loan made under this subpart that has been assigned to the Secretary under this subpart.".

(2) Effective date.—The amendment made by this subsection shall be effective with respect to actions pending on or after the date of enactment of this Act.

(b) Technical Amendment.—Section 733(h)(1)(A)(ii) (42 U.S.C. 294f(h)(1)(A)(ii)) is amended by striking out "fruitless" and inserting in lieu thereof "inappropriate".

SEC. 116. STUDENT LOAN INSURANCE FUND.

Section 734 (42 U.S.C. 294g) is amended—

(1) in the first sentence of subsection (a), by striking out "in connection with the collection or default of loans" and inserting in lieu thereof "in connection with the administration, collection and default of loans"; and

(2) by adding at the end thereof the following new subsection:

"(c) The Secretary may utilize not to exceed $1,000,000 of amounts available under this section for each of the fiscal years 1992 through 1996 to support the activities of the Office for Health Education Assistance Loans.".

SEC. 117. POWERS AND RESPONSIBILITIES.

Section 735(c) (42 U.S.C. 294h(c)) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively; and

(2) by inserting immediately before paragraph (2) (as so redesignated) the following new paragraph:

"(1) Borrowers under this subpart who enter and remain in the primary care fields of osteopathic general practice, general internal medicine, general pediatrics and family medicine shall receive preference for participation in the National Health Service Corps Loan Repayment Program under section 338B.''

(3) in paragraph (2) (as so redesignated), by striking out ''not to exceed $10,000 in any 12-month period'' and inserting in lieu thereof ''not to exceed $35,000 in any 12-month period'';

(4) in paragraph (3) (as so redesignated)—

(A) by striking out ''paragraphs (3) and (4)'' and inserting in lieu thereof ''paragraphs (4) and (5)''; and

(B) by striking out ''paragraph (1)'' and inserting in lieu thereof ''paragraph (2)'';

(4) by striking out paragraph (4) (as so redesignated) and inserting in lieu thereof the following new paragraph:

''(4) The obligation of a borrower to pay damages under this subsection shall be canceled only in the case of the death, bankruptcy or total permanent disability of the borrower. A borrower may not be permitted to discharge in bankruptcy a loan made under this section within 5 years of the first date on which repayment of the damages is required.''; and

(5) in paragraph (5) (as so redesignated), by striking out ''paragraph (2)'' and inserting in lieu thereof ''paragraph (3)''.

SEC. 118. ANNUAL REPORT CONCERNING DEFAULT RATES.

Subpart I of part C of title VII (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 737B. ANNUAL REPORT CONCERNING DEFAULT RATES.

''(a) REPORT.—Not later than September 30, 1992, and annually thereafter, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning the default rates for each—

''(1) institution described in section 737(1) that is participating in the loan programs under this subpart;

''(2) lender participating in the loan program under this subpart; and

''(3) loan holder under this subpart.

''(b) LIST OF DEFAULTERS.—As part of the report submitted under subsection (1), the Secretary shall compile, and publish in the Federal Register, a list of the borrowers who are in default under this subpart.

''(c) NOTICES OF DEFAULT.—The Secretary shall annually send notices of default with respect to the borrowers identified on the list under subsection (b), to relevant Federal agencies and to organizations such as State licensing boards, hospitals with which such borrowers may be associated, and specialty organizations.''.

SEC. 119. ELIGIBILITY OF INSTITUTIONS.

(a) IN GENERAL.—Section 739(a) (42 U.S.C. 2941) is amended—

(1) in paragraph (3), by striking out ''and'' at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

''(5) the assessing of tuition or fees to borrowers in amounts that are the same or less than the amount of tuition and fees assessed to non-borrowers;

''(6) the submission, by the institution and the lender to the Office of Health Education Assistance Loans, of information concerning each loan made under this subpart, including the date when each such loan was originated, the date when each such loan is sold, the identity of the loan holder and information concerning a change in the borrowers status;

''(7) the withholding of services, including academic transcripts, financial aid transcripts, and alumni services, by an institution from a borrower upon the default of such borrower of a loan under this subpart, except in case of a borrower who has filed for bankruptcy; and

''(8) the offering, by the lender to the borrower, of a variety of repayment options, including fixed-rate, graduated repayment with negative amortization permitted, and income dependent payments for a limited period followed by level monthly payments.''.

(b) WORKSHOP FOR BORROWERS.—Section 739 (42 U.S.C. 2941) is amended by adding at the end thereof the following new subsection:

''(c) Each participating institution must have, at the beginning of each academic year, a workshop concerning the provisions of this subpart that all student borrowers shall be required to attend.''.

SEC. 120. OFFICE FOR HEALTH EDUCATION ASSISTANCE LOANS.

Subpart I of part C of title VII is amended by adding at the end thereof the following new section:

"SEC. 739B. OFFICE FOR HEALTH EDUCATION ASSISTANCE LOANS.

''(a) ESTABLISHMENT.—The Secretary shall establish, within the Bureau of Health Professions, an office to be known as the Office for Health Education Assistance Loans (hereafter referred to in this section as the 'Office').

''(b) PURPOSE AND FUNCTIONS.—It shall be the purpose of the Office to achieve a reduction in the number and amounts of defaults on loans made or guaranteed under this part. In carrying out such purpose the Office may—

''(1) conduct analytical and evaluative studies concerning loans and loan defaults;

''(2) carry out activities designed to reduce loan defaults;

''(3) respond to special circumstances that may exist in the financial lending environment that may lead to loan defaults;

''(4) coordinate with other Federal entities that are involved with student loan programs, including—

''(A) with respect to the Department of Education, to develop a single student loan application form, a single student loan deferment form and a single disability form; and

''(B) with respect to the Department of Justice to recover payments from health professionals who have defaulted on loans made or guaranteed under this part;

''(5) provide technical assistance to lenders, servicers and schools concerning deferments and collection activities;

''(6) establish a central student loan database; and

''(7) carry out any other activities that the Secretary determines appropriate.''.

SEC. 121. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN LOANS.

(a) CONSTRUCTION.—Subsection (a) of section 742 (42 U.S.C. 294o) is repealed and subsections (b) and (c) of such section are redesignated as subsections (a) and (b), respectively.

(b) AUTHORIZATION.—Section 742(b)(1) (as so redesignated) (42 U.S.C. 294o(c)(1)) is amended by striking out ''$15,000,000'' and all that follows through the end thereof and inserting the following: ''$15,000,000 for each of the fiscal years 1992 through 1996.''.

Subtitle C—Direct Student Loan Health Demonstration Program

SEC. 131. DIRECT STUDENT LOAN HEALTH DEMONSTRATION PROGRAM.

(a) Purpose.—It is the purpose of this section to establish a direct student loan demonstration program for health professions students to examine the viability of such a program and determine—

(1) whether such a program will—

(A) reduce default costs to the Federal Government; and

(B) provide loans on more favorable terms to students; and

(2) whether the existing HEAL program under part C of the Public Health Service Act should be replaced by a direct loan program in which health professions schools, rather than lenders, make such loans directly to borrowers.

(b) ESTABLISHMENT OF PROGRAM.—Part C of title VII (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new subpart:

''*Subpart VII—Demonstration Programs*

"SEC. 765. ESTABLISHMENT OF DIRECT STUDENT LOAN HEALTH DEMONSTRATION PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish a direct student loan health demonstration program under which the Secretary will make assistance available to certain institutions who shall utilize such assistance to make direct loans to health professions students to assist such students in meeting the costs associated with attending such institutions.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $50,000,000 for each of the fiscal years 1992 through 1996.

''(c) PARTICIPATING INSTITUTIONS.—

''(1) SELECTION.—The Secretary shall select not to exceed 20 eligible institutions to participate in the program established under this section. In making such selections, the Secretary shall, to the maximum extent practicable, ensure that a wide range of health professions institutions participate in such program, except that the Secretary may refuse to permit the participation of any institution that has a default rate under the program established under subpart I that is in excess of 15 percent.

''(2) ELIGIBLE INSTITUTIONS.—To be eligible for selection under paragraph (1), an institution shall—

''(A) be eligible to participate in the program established under subpart I;

''(B) have annually accepted for enrollment not less than 20 student borrowers under such subpart;

''(C) prepare and submit to the Secretary an application, at such time, in such form, and containing such information as the Secretary may require, including demonstrable evidence that the institution possesses the administrative capacity to implement the direct loan program either in-house or through the employment of an outside entity;

''(D) agree to assume full liability, as assessed by the Secretary, for errors relating to the origination of loans or other administrative responsibilities of institutions under this title;

''(E) agree to provide all information and maintain such records as required by the Secretary in order to assist in the evaluation of the program authorized under this section; and

''(F) otherwise meet the requirements of this section.

''(3) REQUIREMENTS.—An institution participating in the program established under this section shall—

''(A) be responsible for originating loans under the program, conducting interviews with borrowers prior to the origination of such loans, conducting exit interviews with borrowers (which shall include the provision of all pertinent documentation as required by the Secretary), and assisting collection agencies in locating and collecting repayments from borrowers who become delinquent;

"(B) increase tuition and required fees at a rate that does not exceed 150 percent of the increase in the cost of living in the previous year;

"(C) not later than 15 working days after a borrower is determined to have lost his or her status as a full-time student, proceed with in-house collection activities or forward the loan of the borrower to a collection agency selected by the Secretary.

"(d) Borrowers.—

"(1) Eligibility.—A student who has not previously obtained a loan under subpart I shall be eligible to participate in the program established under this section. The provisions of section 731 (except for subsection (a)(1)(B) and (b) of such section) shall apply to borrowers under this subpart.

"(2) Ineligibility for HEAL loans.—A student that obtains a loan under the program established under this section shall be ineligible to obtain a loan under subpart I until the expiration of the program established under this subpart.

"(3) Evaluation agreement.—A borrower under this section shall agree to participate in an evaluation of the program established under this section.

"(4) Limitations.—The limitations described in section 729 shall apply to loans made under this subpart.

"(e) Terms of Loans.—

"(1) Promissory note.—A borrower under this section shall be required, at the origination of a loan, to sign a promissory note to the Federal Government promising to repay the loan under the terms and conditions disclosed to the borrower at such origination.

"(2) Interest rates.—With respect to a loan made under this section, a borrower shall be assessed an interest rate on such loan that is equal to one percentage point above the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter. Such interest will accrue on such loan and will be compounded annually.

"(3) Origination fee.—A borrower under this section shall pay a loan origination fee equal to 3 percent of the principal amount of the loan. The proceeds generated from such loan origination fees shall be remitted by the institution to the Secretary to assist in offsetting the costs of the administration of the program.

"(4) Repayment.—Repayment on a loan made under this section shall be deferred for the period during which the borrower is a full-time student at the institution. Except as provided in paragraph (5), such repayment shall commence 90 days after the date on which the borrower is no longer a full-time student at such institution.

"(5) Forbearance.—

"(A) On demand.—A borrower may receive forbearance on a loan under this section on the demand of such borrower for a period of—

"(i) not to exceed 5 years if such borrower is in an accredited postgraduate residency program;

"(ii) not to exceed 1 year beginning on the date on which the borrower leaves the institution if such borrower is not completing a residency or practicing in a medically underserved community; or

"(iii) not to exceed 5 years if such borrower is practicing in a medically underserved community.

"(B) Payments.—During the period of forbearance under this paragraph, a borrower and an institution may agree on a partial payment schedule based on the income and debt burden of the borrower. In such case the interest shall continue to accrue on the loan and shall be added to the principal amount due on such loan annually. Notwithstanding the preceding sentences, a borrower shall not be required to make any payments of principal or interest on the loan during such forbearance period.

"(6) Cancellation.—The obligation of a borrower to repay a loan under this section shall be canceled only in the case of the death, bankruptcy or total permanent disability of the borrower, whichever occurs later. In the case of bankruptcy, the provision of section 733(g) shall apply.

"(f) Collection Agencies.—

"(1) Requirement.—In establishing the program under this section, the Secretary shall enter into contracts with not less than two collection agencies for the collection of repayments under loan made to borrowers under this section.

"(2) Selection by Secretary.—In entering into contracts under paragraph (1), the Secretary shall select collection agencies—

"(A) with experience in Federal student loan collections, a comprehensive program of repayment options for borrowers, and modest costs; and

"(B) that provide evidence of being able to work cooperatively with participating institutions.

"(3) Selection by institution.—A participating institution under this section shall proceed with in-house collection activities or select an agency that is a party to a contract under paragraph (1) for the collection of repayments on loans originated by the institution.

"(4) Reimbursement.—A collection agency selected by an institution under paragraph (3) shall be reimbursed by the Secretary for collection activities in an amount that is based on the number of students served by such collection agency under this section. Such agencies shall agree to accept loans from any institution participating in the demonstration program under this section.

"(g) Suspension.—The Secretary may suspend the eligibility of any institution to participate in the program under this section if the Secretary determines that the institution is not successfully implementing the program.

"(h) Evaluation.—Not later than 1, 5, 10, and 15 years after the date of enactment of this section, the Secretary shall conduct an evaluation of the program established under this section to identify any problems in the program that need correction. The evaluation shall, among other things, assess the cost of the program to the Federal Government, the cost of the program to the borrower, the cost of the program to institutions, the default record of institutions in the program compared to institutions in the program under subpart I, administrative problems that arise from the program, and the impact of the program on the borrower's choice of specialization and residency or practice decisions.

"(i) Terms and Conditions.—Unless otherwise specified, all loans made under this subpart shall be subject to the same terms and conditions as loans made under subpart I.

"(j) Termination.—The authority to make loans under this section shall terminate 5 years after the date of enactment of this section.".

SEC. 132. LOAN REPAYMENT PROGRAM FOR ALLIED HEALTH PERSONNEL.

Section 751 (42 U.S.C. 294r) is amended—

(1) in subsection (a), by striking out "an Indian Health Service" and all that follows through the end thereof and inserting "a medically underserved or rural community that can demonstrate a shortage of allied health professionals in a recognized discipline."; and

(2) in subsection (d), by striking out "$2,000,000" and all that follows through the end thereof and inserting "$5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 133. SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.

(a) In General.—Section 758(d) (42 U.S.C. 294z(d)) is amended by striking out "$16,000,000" and all that follows through the end thereof and inserting "$30,000,000 for each of the fiscal years 1992 through 1996.".

(b) Technical Amendment.—Part C of title VII (42 U.S.C. 294 et seq.) is amended by striking out the subpart heading for subpart IV.

SEC. 134. REPEAL OF LISTER HILL SCHOLARSHIP PROGRAM.

Section 759 of title VII (42 U.S.C. 294aa) is repealed.

SEC. 135. SCHOLARSHIPS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS.

Section 760 (g)(1) (42 U.S.C. 294bb(g)(1)) is amended by striking out "$17,000,000" and all that follows through the end thereof and inserting "$17,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 136. FACULTY LOAN REPAYMENT PROGRAM.

Section 761 (42 U.S.C. 294cc) is amended—

(1) in subsection (b), by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(b) Eligible Individuals.—The individuals referred to in subsection (a) are individuals from disadvantaged backgrounds who are newly employed as faculty of the eligible school and who have not been members of the faculty of any school at any time during the 18-month period preceding the date of application, and who—";

(2) in subsection (d)—

(A) by striking out "for such year"; and

(B) by striking out "equal to 50 percent" and inserting in lieu thereof "equal to 20 percent"; and

(3) in subsection (h), by striking out "$4,000,000" and all that follows through the end thereof and inserting "$5,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle D—Grants and Contracts for Programs and Projects

SEC. 141. DEPARTMENTS OF FAMILY MEDICINE.

Section 780 (42 U.S.C. 295g) is amended—

(1) in subsection (b)—

(A) by striking out "and" at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1), the following new paragraph:

"(2) in the case of an applicant with an existing department or division of family medicine, assurance satisfactory to the Secretary that such applicant will secure financial support from non-Federal sources in amounts that shall increase annually, and that the applicant has developed a plan for future self-sufficiency; and";

(2) in subsection (c), to read as follows:

"(c) In making grants under subsection (a), the Secretary shall give priority to applications that—

"(1) establish new Departments of Family Medicine; or

"(2) demonstrate the substantial expansion of program activities in existing Departments of Family Medicine."; and

(3) in subsection (d), by striking out "$10,000,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, $11,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, $13,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 142. AREA HEALTH EDUCATION CENTERS.

(a) TERMS OF AGREEMENTS.—Section 781(a) (42 U.S.C. 295g–1(a)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), an agreement entered into under this subsection for establishment of a center shall remain in effect for a period of 6 years from the date on which such agreement was executed. Such agreement shall be extended to the extent necessary to provide Federal funds under such agreement, for a 6-year period, to all centers operated or developed with funds provided under such agreement.

"(B) The agreements referred to in subparagraph (A) may be terminated by the Secretary on a determination by the Secretary that a center, developed and operated with funds received under such agreement, has not performed in a satisfactory manner.".

(b) REQUIREMENTS.—Section 781(c) (2 U.S.C. 295g–1(c)) is amended—

(1) in paragraph (4), by inserting after "school of dentistry" the following: "or program in clinical psychology"; and

(2) by adding at the end thereof the following new sentences: "The Secretary shall give preference in awarding contracts under this section to applicants that will establish new programs. The Secretary shall give priority in awarding contracts under this section to applicants that establish linkages with a school of public health, if such a school exists within the area being served by such center and desires to participate.".

(c) HEALTH EDUCATION TRAINING CENTERS.—Section 781(f) (42 U.S.C. 295g–1(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "and in other high-impact urban or rural areas (as determined by the Secretary)" before the semicolon in subparagraph (A); and

(B) by inserting "and other high risk" after "Hispanic" in subparagraph (B);

(2) in paragraph (3)—

(A) by inserting "or high impact" after "Each border"; and

(B) by inserting "or a high impact urban or rural area (as determined by the Secretary)" before the period at the end thereof;

(3) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(4) by inserting after paragraph (5), the following new paragraph:

"(6) The Secretary shall give priority in the funding of a health education training center under such agreement to applicants that establish linkages with a school of public health, if such a school exists within the area being served by such center and desires to participate.".

(d) STATE MATCHING AREA HEALTH EDUCATION CENTER PROGRAMS.—Section 781 (42 U.S.C. 295g–1) is further amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f), the following new subsection:

"(g)(1)(A) The Secretary may enter into agreements with eligible schools of medicine and osteopathic medicine for the planning, development and operation of State supported area health education center programs that meet the requirements of subparagraph (B).

"(B) To be eligible to receive an agreement award under this section, the applicant shall ensure that the program supported with amounts received under the agreement will—

"(i) meet the other requirements of subsections (b) and (c);

"(ii) create and maintain preceptorship educational experiences for health science students;

"(iii) develop or affiliate with community-based primary care residency programs;

"(iv) institute or coordinate with continuing education programs for health professionals;

"(v) establish and maintain learning resource and dissemination systems for information identification and retrieval;

"(vi) enter into agreements with community-based organizations for the delivery of services supported under this authority;

"(vii) become involved in the training of nurses, allied and other health professionals and, where consistent with State laws, nurse practitioners and physicians assistants;

"(viii) carry out recruitment programs for health science professions among minority and other elementary or secondary students from areas the program determines to be medically underserved; and

"(ix) carry out not less than three of the activities described in subparagraph (C).

"(C) The activities referred to in subparagraph (B)(ix) shall include—

"(i) coordinating with an Office of Rural Health in the State that is operating in the area served by the center, wherein one exists;

"(ii) administering appropriate National Health Service Corps program activities in the area serviced by the center, except that such center shall provide only support services if the responsibility for such administration has been assigned to any other State agency;

"(iii) working directly with local health departments in the area served by the center;

"(iv) participating in community and migrant health centers and similar provider activities in the area to be served by the centers; or

"(v) cooperating with other federally and State funded health service provider recruitment and retention programs operating in the area to be served by the center.

"(2) Amounts received under an agreement entered into under this subsection shall be sufficient to enable a State supported area health education program to carry out demonstration projects concerning subjects determined appropriate by the Secretary, including, but not limited to—

"(A) the establishment of computer-based information programs or telecommunication networks that will link health science centers and service delivery sites;

"(B) the provision of disease specific educational programs for health providers and students in areas of concern to the United States;

"(C) the development of information dissemination models to make available new information and technologies emerging from biological research centers to the practicing medical community;

"(D) the institution of new minority recruitment and retention programs, targeted to improved service delivery in areas the program determines to be medically underserved;

"(E) the establishment of State health service corps programs to place physicians from health professional shortage areas into similar areas to encourage retention of physicians and to provide flexibility to States in filling positions in health professional shortage areas; and

"(F) the establishment or improvement of education and training programs for State emergency medical systems.

"(3) The Secretary shall not provide in excess of $2,000,000 per annum per State, or per program where that program serves more than one State, or an aggregate amount based on an average award of $250,000 per center to be supported in the States in which the program is operating, whichever is less, to programs under this subsection.

"(4) An agreement entered into under this subsection shall require that the program—

"(A) ensure that at least 75 percent of the amounts received under the agreement be distributed to area health education centers within the area served by the program, through a formal agreement; and

"(B) use amounts provided under such agreement to supplement, not supplant, State funds provided for similar programs prior to the execution of the agreement.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 781 (42 U.S.C. 295g–1) is further amended—

(1) in subsection (f)(8)—

(A) by striking out "(h)(2)" in subparagraph (A) and inserting in lieu thereof "(i)(2)"; and

(B) by inserting "and Native American" after "Hispanic" in subparagraph (B)(i); and

(2) by striking out subsection (i) (as so redesignated by subsection (b)(1)), and inserting in lieu thereof the following new subsection:

"(i)(1)(A) For purposes of carrying out this section other than subsection (f), there are authorized to be appropriated $40,000,000 in each of the fiscal years 1992 through 1996. Any amounts appropriated with respect to fiscal year 1992 or 1993 in excess of $19,200,000 and with respect to fiscal years 1994 through 1996 in excess of $18,700,000 shall be used to carry out the activities authorized under subsection (g). Not more than 10 percent of any amount appropriated in a fiscal year in excess of $21,000,000 shall be used to fund the activities authorized under subsection (g)(2).

"(B) The Secretary may obligate not more than 20 percent of the amount appropriated under this paragraph in each fiscal year, or up to $4,000,000, whichever is less, for special area health education center initiatives under section (a)(2)(A).

"(2) For purposes of carrying out subsection (f), there are authorized to be appropriated—

"(A) $5,000,000 for fiscal year 1992;

"(B) $6,000,000 for fiscal year 1993;

"(C) $7,000,000 for fiscal year 1994;

"(D) $8,000,000 for fiscal year 1995; and

"(E) $9,000,000 for fiscal year 1996.".

(f) MATCHING REQUIREMENT.—Section 781 (42 U.S.C. 295g–1) is further amended by adding at the end thereof the following new subsection:

"(j) An agreement entered into under subsection (g) after the date of enactment of this subsection shall require that the entity awarded such agreement make available (directly through cash donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for every $1 of Federal funds provided under the agreement in such year.".

(g) TECHNICAL AMENDMENTS.—Section 781 such Act (42 U.S.C. 295g–1) is further amended—

(1) by striking out "contract" each place that such appears and inserting in lieu thereof "agreement"; and

(2) by striking out "contracts" each place that such appears and inserting in lieu thereof "agreements".

SEC. 143. PROGRAMS OF EXCELLENCE IN HEALTH PROFESSIONS EDUCATION FOR MINORITIES.

(a) DEFINITIONS.—Section 782(g)(1)(A) (42 U.S.C. 295g-2(g)(1)(A)) is amended by striking out "a school of dentistry" and all that follows through the end thereof and inserting "a school of osteopathic medicine, a school of dentistry, a school of pharmacy, a school of public health, or a graduate program in clinical psychology.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORITY.—Section 782(a) (42 U.S.C. 295g-2(a)) is amended by inserting ", or enter into contracts with," after "make grants to".

(2) APPROPRIATIONS.—Section 782(h) (42 U.S.C. 295g-2(h)) is amended—

(A) in paragraph (1)—

(i) by striking out "grants" and inserting in lieu thereof "grants or entering into contracts"; and

(ii) by striking out "such sums" and all that follows in paragraph (1) through the end thereof and inserting "$28,000,000 for each fiscal year 1992 through 1996.";

(B) in paragraph (2)—

(i) by striking out "grants" each place that such appears and inserting in lieu thereof "grants or contracts"; and

(ii) by striking out "$2,500,000" in subparagraph (B), and inserting in lieu thereof "$5,000,000"; and

(C) in paragraph (3)—

(i) by striking out "grants" the first place that such appears and inserting in lieu thereof "grants or contracts";

(ii) by striking out "for the grants"; and

(iii) by striking out "to making grants".

SEC. 144. TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS.

(a) GRANTS.—Paragraphs (1) and (2) of section 784(a) (42 U.S.C. 295g-4(a)) are amended to read as follows:

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including an approved residency or internship program) in the field of internal medicine or pediatrics for allopathic and osteopathic medical students, interns, residents, or practicing physicians, that emphasizes training for the practice of general internal medicine or general pediatrics;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to allopathic and osteopathic students, interns, residents, practicing physicians, or other medical personnel, who are in need of such assistance, who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine and general pediatrics;".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 784(c) (42 U.S.C. 295g-4(c)) is amended by striking out "$10,000,000" and all that follows through the end thereof and inserting "$35,000,000 for fiscal year 1992, $36,000,000 for fiscal year 1993, $37,000,000 for fiscal year 1994, $38,000,000 for fiscal year 1995, and $39,000,000 for fiscal year 1996.".

SEC. 145. DENTISTRY.

(a) RESIDENCY PROGRAMS.—Section 785 (42 U.S.C. 295g-5) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period in paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) to fund innovative, nontraditional models for the provision of postdoctoral General Dentistry training."; and

(2) in subsection (b), by striking out "$4,000,000" and all that follows through the end thereof and inserting "$8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.".

(b) TRAINING GRANTS.—Part F of title VII is amended by inserting after section 785 (42 U.S.C. 295g-5) the following new section:

"SEC. 785A. TRAINING IN DENTAL PUBLIC HEALTH.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with schools of dentistry, schools of public health, accredited postgraduate dental training institutions, or State or local public health agencies to assist such entities in meeting the costs of projects—

"(1) to plan, develop or participate in new residency programs and expand or improve existing residency programs in dental public health; and

"(2) to provide financial assistance in the form of traineeships to dental residents or practicing dentists who participate in any program of the type described in paragraph (1) and who plan to work in the field of public health.

"(b) ELIGIBILITY.—To be eligible to receive a grant or contract under subsection (a), an entity of the type described in such subsection shall—

"(1) prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require; and

"(2) demonstrate to the Secretary that such entity has available full-time faculty or staff with training and experience in the field of public health, preventive dentistry or community dentistry and other related specialties or disciplines.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 146. FAMILY MEDICINE RESIDENCIES.

Section 786 (42 U.S.C. 295g-6) is amended—

(1) in subsection (b)—

(A) by striking out "priority" and inserting in lieu thereof "preference"; and

(B) by inserting after "family medicine" the following: "and who demonstrate a substantial linkage to one or more medically underserved or rural communities (as defined in section 711(c))";

(2) in subsection (c), by striking out "$37,900,000" and all that follows through the end thereof and inserting "$50,000,000 for fiscal year 1992, $51,000,000 for fiscal year 1993, $52,000,000 for fiscal year 1994, $53,000,000 for fiscal year 1995, and $54,000,000 for fiscal year 1996."; and

(3) by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, after October 1, 1993, only those schools or hospitals with departments or divisions or approved residencies providing clinical instruction in family medicine shall be eligible to receive assistance under this section."

SEC. 147. EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 787 (42 U.S.C. 295g-7) is amended—

(1) in subsection (a)(1), by inserting "or clinical social work" after "clinical psychology";

(2) in subsection (b)—

(A) by inserting "or clinical social work" after "clinical psychology" in paragraph (1);

(B) by striking out "priority" and inserting in lieu thereof "preference" in the matter preceding subparagraph (A) of paragraph (2);

(C) by striking out "and" at the end of subparagraph (A) of paragraph (2);

(D) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following new subparagraph:

"(B) to schools that—

"(i) maintain an enrollment of individuals from disadvantaged backgrounds at a level that exceeds 200 percent of the national average of such individuals enrolled in such schools;

"(ii) secure financial support from non-Federal sources in amounts that increase annually; and

"(iii) involve or consult with appropriate State and local health and educational agencies and entities in the planning and conduct of the project.";

(3) in subsection (c)—

(A) by striking out "$20,000,000" and all that follows through the first period and inserting "$36,000,000 for fiscal year 1992, $37,000,000 for fiscal year 1993, $38,000,000 for fiscal year 1994, $39,000,000 for fiscal year 1995, and $40,000,000 for fiscal year 1996."; and

(B) by striking out the third and fourth sentences; and

(4) by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law relating to a limitation on the amount of stipends that may be paid under this section, the Secretary may provide for the payment of stipends under this section in an amount not to exceed $40 per day.".

SEC. 148. RETENTION PROGRAM FOR CERTAIN HEALTH PROFESSIONALS.

Section 787A(d) (42 U.S.C. 295g-7a(d)) is amended by striking out "and 1991" and inserting in lieu thereof "through 1996".

SEC. 149. MINORITY FACULTY DEVELOPMENT TRAINING FELLOWSHIPS.

Part F of title VII is amended by inserting after section 787A (42 U.S.C. 295g-7a) the following new section:

"SEC. 787B. MINORITY FACULTY DEVELOPMENT TRAINING FELLOWSHIPS.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology, and other public or private nonprofit health or educational entities of the type described in section 701, to assist such schools in increasing the number of underrepresented minority faculty members at such schools.

"(b) APPLICATIONS.—To be eligible to receive a grant or contract under this section a school shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that amounts received under such a grant or contract will be used to award a fellowship to a new member of the faculty of such school who meets the requirements of subsections (c) and (d), that shall include a stipend in an amount that does not exceed 50 percent of the regular salary of a similar faculty member position up to a maximum of $30,000.

"(c) ELIGIBILITY.—To be eligible to receive a grant or contract under subsection (a), an applicant shall demonstrate to the Secretary that such applicant has or will have the ability to—

"(1) identify, recruit and select individuals from underrepresented minorities in health professions who have the potential for teaching, administration, or conducting research at a health professions institution;

"(2) provide such individuals with the skills necessary to enable them to secure a tenured faculty position at such institution, which may include training with respect to pedagogical skills, program administration, the design and conduct of research, grants writing, and the preparation of articles suitable for publication in peer reviewed journals;

"(3) provide mentoring or other services designed to assist such minorities in their preparation for an academic career; and

"(4) provide health services to rural or medically underserved populations.

"(d) REQUIREMENTS.—To be eligible to receive a grant or contract under this section an applicant shall—

"(1) provide an assurance that such applicant will make available (directly through cash donations) $1 for every $1 of Federal funds received under this section for the fellowship;

"(2) provide an assurance that institutional support will be provided for the individual for a second year at a level that is not less than the total amount of Federal and institutional funds provided in the year in which the grant or contract was awarded;

"(3) provide an assurance that the individual that will receive the fellowship will be a member of the faculty of the applicant school; and

"(4) provide an assurance that the individual that will receive the fellowship will have, at a minimum, appropriate advanced preparation (such as a master's or doctoral degree) and special skills necessary to enable such individual to teach and practice.

"(e) DEFINITION.—As used in this section, the term 'minority' means an individual from a racial or ethnic group that is underrepresented in the health professions.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 in each of the fiscal years 1992 through 1996.".

SEC. 150. SPECIAL DEMONSTRATION PROJECTS.

(a) GRANTS FOR STUDIES AND DEMONSTRATIONS.—Subsection (a) of section 788 (42 U.S.C. 295g-8(a)) is amended to read as follows:

"(a) GRANTS FOR STUDIES AND DEMONSTRATIONS.—The Secretary may award grants to and enter into contracts with public or nonprofit private entities to enable such entities to conduct studies and demonstration projects related to—

"(1) the improvement of health professions education, including studies and projects to determine—

"(A) the effectiveness of various methods of training health professionals (including nurses) to practice in primary care specialties or to provide services to underserved populations;

"(B) the merits of major curricular innovations (such as the increased integration of undergraduate and graduate medical education and various approaches to interdisciplinary training programs);

"(C) the effect of Medicare graduate medical education funding and medical research grant funding on medical schools and residency programs, particularly as such funding may affect institutional support for primary care training and student choices regarding medical specialty and location of practice;

"(D) the effectiveness of education targeted toward meeting the needs of particular population groups (such as the elderly, women, children, adolescents, the disabled, individuals residing in rural areas);

"(E) the impact of student indebtedness on specialty choice and practice location; and

"(F) the impact of underrepresented minority and disadvantaged health professions programs in minority and majority schools on recruitment, retention, and practice choices of underrepresented minority and disadvantaged health personnel;

"(2) the assurance of the competency of health personnel, including studies and projects to determine—

"(A) the effect on quality and service of adopting alternative approaches to the licensure and credentialing of health personnel;

"(B) the efficacy of different approaches to providing for continuing competency of such personnel;

"(C) the effectiveness and variation of State licensing authorities in identifying problem providers and undertaking disciplinary actions;

"(D) the usefulness of various types of certification programs in assuring the quality of health personnel; and

"(E) the appropriate differentiation of functions of various types and levels of health professions personnel.".

(b) CHIROPRACTIC TRAINING AND DEMONSTRATION PROJECT.—Subsection (b) of section 788 (42 U.S.C. 295g-8) is amended to read as follows:

"(b) CHIROPRACTIC TRAINING AND DEMONSTRATION PROJECT.

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with, colleges and universities of chiropractic to assist such colleges and universities in—

"(A) meeting the costs of projects designed—

"(i) to plan, develop, establish, expand and operate advanced degree programs or postdoctoral programs in chiropractic for the advanced specialty training of chiropractic health care professionals who plan to teach and conduct research in chiropractic;

"(ii) to support interdisciplinary training programs that promote the effectiveness of chiropractic in prevention, diagnosis and treatment of chronic lower back, musculoskeletal, and spinal problems;

"(iii) to develop innovative models to link chiropractic, chiropractic education and chiropractic research;

"(iv) to identify, recruit and train individuals from disadvantaged backgrounds;

"(v) to improve and strengthen the curriculum of such colleges or universities by including or expanding the knowledge and practice concerning disease prevention and health promotion; or

"(vi) to develop new and innovative methods to train chiropractors to provide services in rural and medically underserved areas; or

"(B) establishing a demonstration project to develop the collaboration of a college or university of chiropractic and a traditional health professions academic institution training program, including medical schools. The demonstration project referred to in subparagraph (B) shall address the manner in which to effectively integrate chiropractic into the traditional health care provider systems and medical education programs, with particular emphasis on the reduction of health care costs for lower and spinal-related back problems.

"(2) METHODS.—A recipient of funds under paragraph (1) may use various methods in carrying out the projects described in subparagraphs (A) and (B) of such paragraph, including—

"(A) the distribution of stipends to students and faculty of eligible applicants;

"(B) the establishment of a post-doctoral fellowship program;

"(C) the training of faculty in preparation for graduate and post-doctoral education and training activities; and

"(D) the purchase of equipment and training materials where the need for such equipment due to unique characteristics of the project is demonstrated by the recipient.

"(3) ADMINISTRATION.—An applicant for a grant or contract under this subsection shall not use in excess of five percent of the funds made available to such applicant under this subsection for administrative expenses and not more than five percent of such funds for indirect costs.

"(4) ELIGIBLE APPLICANTS.—To be eligible to receive funds under paragraph (1)(A), an applicant for a grant or contract shall be an accredited college or university of chiropractic. Such eligible applicants shall not include for-profit entities, either directly or through a subcontract or subgrant. Applications for a grant or contract under paragraph (1)(B) shall be jointly submitted by a college or university of chiropractic and by one or more of the following:—

"(A) State or local health departments;

"(B) public and nonprofit colleges, universities, schools of allopathic or osteopathic medicine; or

"(C) public or nonprofit hospitals.

"(5) PEER REVIEW.—

"(A) IN GENERAL.—Each applicant for a grant or contract under this subsection shall be submitted to a peer review group for an evaluation of the merits of the proposals contained in the application.

"(B) ESTABLISHMENT.—The Secretary shall establish such peer review groups as may be necessary to carry out subparagraph (A). The Secretary shall make appointments of individuals to the peer review group from among appropriately qualified individuals who are not officers or employees of the United States. The peer review group shall consist of not more than six members, at least three of which shall be chiropractors. Of such chiropractor members—

"(i) one shall represent the Consortium for Chiropractic Research;

"(ii) one shall represent a college or university of chiropractic; and

"(iii) one shall be a practicing chiropractor.

"(6) EXPEDITING AWARD OF GRANTS/CONTRACTS.—The Secretary shall expedite the awarding of grants or contracts to eligible applicants under this subsection. To the maximum extent practicable, such grants or contracts shall be awarded by the Secretary not later than 120 days after the date of the receipt of the final recommendation of the peer review group established under paragraph (5) concerning applications submitted under this subsection.

"(7) REPORT.—Not later than April 1, 1995, the Secretary shall prepare and submit to the Committee on Labor and Human Resources and the Subcommittee on Labor, Health, and Human Services, Education and Related Agencies of the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee on Appropriations of the House of Representatives, a comprehensive report summarizing the applications that were submitted and the grants and contracts that were awarded under this subsection, and the effectiveness of programs established using such grants or contracts.".

(c) PREVENTIVE MEDICINE.—

(1) REPEAL.—Section 793 (42 U.S.C. 295h-1c) is repealed.

(2) TRANSFER OF PROVISIONS WITH TRAINING AND PREVENTIVE MEDICINE.—

(A) IN GENERAL.—Subsection (c) of section 788 (42 U.S.C. 295g-8)—

(i) is transferred to subpart I of part G of title VII;

(ii) is redesignated as section 793(a); and

(iii) is inserted after section 792.

(B) REVISION.—Section 793 (as transferred and added by subparagraph (A), is amended—

(i) by inserting immediately preceding subsection (a) the following:

"SEC. 793. TRAINING IN PREVENTIVE MEDICINE.";

(ii) in the subsection heading of subsection (a) to read as follows:

"(a) TRAINING GRANTS AND CONTRACTS.—"; and

(iii) by adding at the end thereof the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 in fiscal year 1992, $7,000,000 in fiscal year 1993, $8,000,000 in fiscal year 1994, $9,000,000 in fiscal year 1995, and $10,000,000 in fiscal year 1996.".

(d) PHYSICIAN ASSISTANTS.—

(1) TRANSFER OF PROVISIONS WITH TRAINING AND PREVENTIVE MEDICINE.—Subsection (d) of section 788 (42 U.S.C. 295g-8)—

(A) is transferred to part F of title VII;

(B) is redesignated as section 786A(a); and

(C) is inserted after section 786.

(2) REVISION.—Section 786A (as transferred and added by paragraph (1), is amended—

(A) by inserting immediately preceding subsection (a) the following:

"SEC. 786A. PHYSICIAN ASSISTANT PROGRAMS.";

(B) in the subsection heading of subsection (a) to read as follows:

"(a) GRANTS AND CONTRACTS.—"; and

(C) by adding at the end thereof the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.".

(e) PODIATRIC MEDICINE.—Section 788 (42 U.S.C. 295g-8) is amended by redesignating subsection (e) as subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—Subsection (f) of section 788 (42 U.S.C. 295g-8(f)) is amended to read as follows:

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SUBSECTION (a).—There are authorized to be appropriated to carry out subsection (a), $5,000,000 for each of the fiscal years 1992 through 1996.

"(2) SUBSECTION (b)(1).—

"(A) SUBPARAGRAPH (A).—There are authorized to be appropriated to carry out subsection (b)(1)(A), $1,000,000 for each of the fiscal years 1992 through 1996.

"(B) SUBPARAGRAPH (B).—There are authorized to be appropriated to carry out subsection (b)(1)(B), $500,000 for each of the fiscal years 1992 through 1994.

"(4) SUBSECTION (c).—There are authorized to be appropriated to carry out subsection (c), $1,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 151. AIDS EDUCATION AND TRAINING.

(a) IN GENERAL.—Section 788A (42 U.S.C. 295g-8b) is amended—

(1) in subsection (a)—

(A) by inserting "and other public or private nonprofit health or educational entities" after "science centers" in the matter preceding paragraph (1); and

(B) by striking out paragraphs (1) through (3) and inserting in lieu thereof the following new paragraphs:

"(1) to train health professions faculty to teach health professions practitioners and students to provide for the health care needs of individuals infected with the human immunodeficiency virus and individuals who are at high risk of contracting such infection;

"(2) with respect to improving skills in the diagnosis, treatment, and prevention of such infection, to educate and train health professions practitioners and students; and

"(3) to develop and disseminate health professions curricula and related resource materials relating to the care and treatment of individuals infected with the human immunodeficiency virus and to the prevention of such infection in individuals who are at high risk of contracting such virus.";

(2) in subsection (b)—

(A) by striking out "treatment for minority individuals with acquired immune deficiency syndrome" in paragraph (1), and inserting in lieu thereof "health care to minority individuals who are infected with the human immunodeficiency virus"; and

(B) by striking out "treatment for individuals with acquired immune deficiency syndrome" in paragraph (2), and inserting in lieu thereof "health care to individuals who are infected with the human immunodeficiency virus and other individuals who are at high risk of contracting such infection"; and

(3) in subsection (e), by striking out "such sums" and all that follows through the end thereof and inserting "$21,000,000 for fiscal year 1992, $23,000,000 for fiscal year 1993, $25,000,000 for fiscal year 1994, $27,000,000 for fiscal year 1995, and $29,000,000 for fiscal year 1996.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (f)(5) of section 788A (42 U.S.C. 295g-8b(f)(5)) is amended by striking out "such sums" and all that follows through the end thereof and inserting "$6,000,000 for fiscal year 1992, $8,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $12,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 152. GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.

(a) EDUCATION.—Section 789(a)(1) (42 U.S.C. 295g-9(a)(1)) is amended by striking out "and programs referred to in section 701(8)" and inserting in lieu thereof ", programs referred to in section 701(5) and schools referred to in section 853".

(b) TRAINING.—Section 789(b) (42 U.S.C. 295g-9(b)) is amended—

(1) in paragraph (1), by inserting ", geriatric psychiatry," after "geriatric medicine";

(2) in paragraph (2)—

(A) by inserting "or geriatric psychiatry" after "geriatric medicine" in subparagraph (A); and

(B) by inserting "or in a department of geriatric psychiatry" after "department of geriatrics" in subparagraph (C); and

(3) in paragraph (3)(B)—

(A) by striking out "1-year or" in the matter preceding clause (i); and

(B) by striking out clause (ii) and inserting in lieu thereof the following new clause:

"(ii) dentists who have demonstrated a commitment to an academic career and who have completed postdoctoral dental training, including postdoctoral dental education programs or who have relevant advanced training or experience.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 789(c) (42 U.S.C. 295g-9(c)) is amended to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $26,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle E—Personnel in Public Health, Health Administration and Allied Health

SEC. 161. SPECIAL PROJECTS, SCHOOLS OF PUBLIC HEALTH.

(a) TRANSFER OF PROVISIONS.—Section 790A (42 U.S.C. 295g-11)—

(1) is transferred to subpart I of part G of title VII;

(2) is redesignated as section 794; and

(3) is inserted after section 793.

(b) REVISION.—Section 794 (as transferred and added by subsection (a), is amended—

(1) in subsection (a)—

(A) by striking out "schools of public health" and all that follows through "evaluating projects" in the matter preceding paragraph (1) and inserting in lieu thereof "accredited schools of public health for the costs of planning, developing, demonstrating, operating, and evaluating projects to accomplish the Healthy People 2000: National Health Promotion and Disease Prevention Objectives, including projects";

(B) by striking out "and quality in health care." in paragraph (4) and inserting in lieu thereof "to preventive services and quality in health care;"; and

(C) by inserting after paragraph (4), the following:

"which shall provide graduate students with comprehensive knowledge and skills, recruit candidates for graduate education in preparation for public service in specialties that are in short supply, strengthen existing departments of instruction to cope with specific and especially severe health problems, strengthen continuing education and non-degree teaching programs, and establish firm links with governmental and private health agencies and institutions as sites for field practice training."; and

(2) in subsection (d), by striking out "$1,500,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, $11,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, $13,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 162. GRADUATE PROGRAMS.

(a) HEALTH ADMINISTRATION PROGRAMS.—Section 791(d) (42 U.S.C. 295h(d)) is amended by striking out "$3,250,000" and all that follows through the end thereof and inserting "$1,700,000 for each of the fiscal years 1992 through 1996.".

(b) HEALTH ADMINISTRATION TRAINEESHIPS.—Section 791A(c) (42 U.S.C. 295h-1a) is amended by striking out "$2,500,000" and all that follows through the end thereof and inserting "$1,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 163. PUBLIC HEALTH TRAINEESHIPS.

(a) GRANTS.—Subsection (a) of section 792 (42 U.S.C. 295h-1b(a)) is amended to read as follows:

"(a)(1) The Secretary may make grants to—

"(A) accredited schools of public health; and

"(B) other public or nonprofit private institutions that provide graduate or specialized training in public health and that are not eligible to receive a grant under section 791A;

to provide traineeships to increase the number of graduate students preparing to serve the Healthy People 2000: National Health Promotion and Disease Prevention Objectives.

"(2) Traineeships under paragraph (1) shall be awarded primarily to—

"(A) minority and disadvantaged students;

"(B) physicians, scientists and engineers who are determined by the Secretary to be in short supply in the public health field;

"(C) students in other areas of severe personnel shortage such as epidemiology and preventive medicine; and

"(D) students committed to service that involves severe health problems that are targeted in the Healthy People 2000: National Health Promotion and Disease Prevention Objectives, including AIDS prevention and control, maternal and child health, drug abuse, infant mortality, injury prevention and control, environmental protection and chemical hazards, including toxic wastes, chronic disease prevention and control, health problems in minority populations, health problems of the elderly, migrants and immigrants, and specific health promotion programs in underserved areas.".

(b) PREFERENCES.—Subsection (b) of section 792 (42 U.S.C. 295h-1b(b)) is amended by striking out paragraphs (2) through (4) and inserting in lieu thereof the following new paragraph:

"(2) When considering applications submitted for grants under this section, the Secretary shall give preference to—

"(A) projects that provide for increased involvement of State and local governments in the planning and support of training initiatives to help mobilize State and local financial support for needed activities as well as to enhance the responsiveness of educational and training programs to State, local and regional health personnel needs; and

"(B) projects that can demonstrate effectiveness in meeting priority health care needs of underserved populations, especially public health, environmental health and allied health training.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (c) of section 792 (42 U.S.C. 295h-1b(c)) is amended by striking out "$7,500,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, $11,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, $13,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 164. PROJECT GRANTS AND CONTRACTS.

Section 796 (42 U.S.C. 295h-5) is amended to read as follows:

"SEC. 796. PROJECT GRANTS AND CONTRACTS.

"(a) PROJECTS RELATED TO ALLIED HEALTH PROFESSIONS WITH PERSONNEL SHORTAGES.—The Secretary may award grants to and enter into contracts with eligible entities to assist such entities in meeting the costs associated with increasing program enrollments or establishing programs that will increase the number of individuals in those allied health professions with demonstrated personnel shortage (including occupational therapy, physical therapy, respiratory therapy, clinical laboratory personnel and dental hygienists) to provide individuals to serve in a medically underserved or rural communities (as defined in section 711(c)). Programs and activities funded under this section may include—

"(1) the expansion of program enrollments in those professions with the greatest shortages and whose services are most needed by the elderly;

"(2) projects to provide rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences;

"(3) the establishment of innovative outreach programs that link academic resources with rural clinical settings to establish community-based allied health training programs;

"(4) the development of interdisciplinary training programs that promote formal education and professional certification of allied health professionals in more than one discipline;

"(5) projects that provide career advancement training for practicing allied health professionals; and

"(6) projects that by expanding or establishing clinical training sites for allied health professionals in medically underserved or rural communities will increase the number of individuals so trained.

"(b) STRENGTHENING ALLIED HEALTH PROFESSIONS.—The Secretary may award grants to and enter into contracts with eligible entities to assist such entities in meeting the costs associated with the planning, development, establishment and operation of projects relating to—

"(1) the development of a curriculum that will emphasize knowledge and practice concerning prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics;

"(2) the expansion or establishment of interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly;

"(3) the expansion or establishment of demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research; and

"(4) the improvement and strengthening of the effectiveness of allied health administration, program directors, faculty, and clinical faculty.

"(c) TRAINING CENTERS FOR ALLIED HEALTH PROFESSIONS.—

"(1) GRANTS AND CONTRACTS.—The Secretary may award grants to and enter into contracts with training centers for allied health professions to assist such centers in meeting the costs associated with projects designed to provide financial assistance in the form of traineeships to students—

"(A) pursuing a career in the allied health fields that have demonstrated personnel shortages; and

"(B) who agree upon completion of their training program to practice in a medically underserved or rural community (as defined in section 711(c)).

"(2) USE OF FUNDS.—Amounts provided under grants and contracts awarded under paragraph (1) shall be utilized to assist in the payment of the costs associated with tuition, fees and such other stipends as the Secretary may consider necessary.

"(d) APPLICATION.—

"(1) REQUIREMENT.—No grant may be awarded or contract entered into under subsections (a), (b), or (c) unless an application therefore has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) PREFERENCE.—In considering an application submitted for a grant under this section, the Secretary shall give preference to applicants that plan to increase their first-year enrollments by not less than 10 percent over the number of such enrollments in 1991.

"(3) AMOUNT.—The amount of any grant awarded under subsections (a), (b), or (c) shall be determined by the Secretary.

"(e) ELIGIBLE ENTITIES.—For purposes of this section, the term 'eligible entities' means entities that are—

"(1) public or private nonprofit schools, universities, or other educational entities that provide for allied health personnel education and training and that meet such standards as the Secretary may by regulation prescribe; or

"(2) public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsections (a), (b), and (c).

"(f) AUTHORIZATION OF APPROPRIATION.—

"(1) IN GENERAL.—For the purpose of carrying out activities under this section, there are authorized to be appropriated $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.

"(2) AVAILABILITY OF AMOUNTS.—Of the amounts appropriated pursuant to paragraph (1) for each fiscal year, the Secretary shall make available not less than 70 percent of such amounts in each such fiscal year to carry out subsection (a), not more than 10 percent of such amounts in each such fiscal year to carry out subsection (b), and not less than 20 percent of such amounts in each such fiscal year to carry out subsection (c).".

SEC. 165. ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Section 797 (42 U.S.C. 295h–6) is amended to read as follows:

"SEC. 797. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

"(a) GRANTS.—The Secretary may award grants to and enter into contracts with training centers for allied health professions to assist such centers in meeting the costs associated with projects designed to—

"(1) plan, develop, establish or expand postbaccalaureate programs for the advanced training of allied health professionals in demonstrated shortages who commit to teaching in an allied health training program; and

"(2) provide financial assistance, in the form of traineeships or fellowships, to postbaccalaureate students who are participants in any such program and who commit to teaching in an allied health discipline.

"(b) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give preference to projects that can demonstrate that—

"(1) not less than 50 percent of the graduates of such schools or programs during the preceding 2-year period are engaged as full-time teaching faculty in an allied health shortage specialty; or

"(2) the number of the graduates of such schools or programs that are practicing as full-time teaching faculty in an allied health shortage specialty has increased by not less than 50 percent over that proportion of such graduates for the previous 2-year period.

"(c) LIMITATION.—The Secretary shall limit grants and contracts awarded or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

"(1) the most significant national or regional shortages of practitioners including clinical laboratory technologists, respiratory therapists, dental hygienists;

"(2) insufficient numbers of qualified faculty in entry level or advanced educational programs; or

"(3) a significant role in the care and rehabilitation of patients who are elderly or disabled including physical therapists and occupational therapists.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out activities under this section, there are authorized to be appropriated $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.

"(e) AVAILABILITY OF FUNDS.—Amounts appropriated under this section for any fiscal year shall remain available until expended or through fiscal year 1996.".

SEC. 166. DIVISION OF ALLIED HEALTH.

Section 798 (42 U.S.C. 295h–7) is amended to read as follows:

"SEC. 798. DIVISION OF ALLIED HEALTH.

"(a) ESTABLISHMENT.—The Secretary shall establish, within the Bureau of Health Professions, a division to be known as the Division of Allied Health (hereafter referred to in this section as the 'Division').

"(b) PURPOSE.—It shall be the purpose of the Division to exercise responsibility over allied health programs administered by the Secretary under this title, including oversight over the Subcommittee on Allied Health and other related matters concerning allied health professions.".

Subtitle F—Miscellaneous Programs

SEC. 171. COUNCIL ON GRADUATE MEDICAL EDUCATION.

Section 799 (42 U.S.C. 295i) is amended—

(1) in subsection (a)(1)—

(A) by redesignating subparagraphs (C) through (F) as subparagraphs (F) through (I), respectively;

(B) by inserting after subparagraph (B) the following new subparagraphs:

"(C) the adequacy of current and future supplies of primary care physicians to serve health professional shortage areas and medically underserved areas and populations as designated in section 338B;

"(D) the effect of Medicare graduate medical education funding and medical research grant funding on medical schools and residency programs, particularly as such funding may affect institutional support for primary care training and student choices regarding medical specialty and location practice;

"(E) the inclusion of health promotion and disease and disability prevention as a part of graduate medical education, in order to address those objectives contained in Healthy People 2000: National Health Promotion and Disease Prevention Objectives relevant to the provision of preventive services and education of health professionals;";

(C) in subparagraph (G) (as so redesignated) by striking out ", (B), and (C)" and inserting in lieu thereof "through (F)"; and

(D) in subparagraph (H) (as so redesignated) by striking out ", (B), and (C)" and inserting in lieu thereof "through (F)";

(2) in subsection (b)(4), by inserting before the colon "(including those physicians practicing in a medically underserved or rural community (as defined in section 711(c))"; and

(3) in subsection (k), by striking out "1989, 1990, and 1991" and inserting in lieu thereof "1992 through 1996".

SEC. 172. RURAL HEALTH TRAINING PROGRAM.

(a) PART HEADING.—The heading for part I of title VII (42 U.S.C. 295j et seq.) is amended to read as follows:

"Part I—Rural Health Training Program".

(b) TRAINING PROGRAM.—Section 799A (42 U.S.C. 295j(c)) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 799A. RURAL HEALTH TRAINING PROGRAM.";

(2) in subsection (b)(1)—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period in subparagraph (E) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(F) conduct research concerning the social and psychological processes involved in health-related decisionmaking, the perception of assessments of risk, and health risk reduction relating to individuals in rural areas; and

"(G) design training models for rural areas that focus on illness prevention and health promotion that may include programs in areas such as—

"(i) rehabilitation;

"(ii) health concerns of minorities or economically disadvantaged individuals;

"(iii) environmental health;

"(iv) women's health;

"(v) infant, prenatal, and developmental care;

"(vi) adolescent health;

"(vii) the process of health-care seeking, decisionmaking, and compliance behavior;

"(viii) developmental life span perspective;

"(ix) rural occupational health and safety;

"(x) geriatrics; and

"(xi) other areas determined to be appropriate by the Secretary.";

(3) in subsection (b)(2)—

(A) by adding "or" at the end of subparagraph (B);

(B) by striking out "; or" in subparagraph (C) and inserting in lieu thereof a period; and

(C) by striking out subparagraph (D);

(4) in subsection (b)(3), by adding at the end thereof the following new subparagraph:

"(C) LIMITATION.—An institution that receives a grant under this section shall use amounts received under such grant to supplement, not supplant, amounts made available by such institution for activities of the type described in subsection (b)(1) in the fiscal year preceding the year for which the grant is received.";

(5) in subsection (c)—

(A) by inserting "clinical" before "psychology" and before "social work"; and

(B) by inserting "marriage and family therapy" after "social work";

(6) by striking out subsection (e) and redesignating subsections (f) through (h) as subsections (e) through (g), respectively;

(7) in subsection (f) (as so redesignated) to read as follows:

"(f) DEFINITIONS.—As used in this section:

"(1) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' has the same meaning given such term in section 711(c).

"(2) RURAL.—The term 'rural' refers to geographic areas that are located outside of standard metropolitan statistical areas."; and

(8) in subsection (g) (as so redesignated) to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 in fiscal year 1992, $11,000,000 in fiscal year 1993, $12,000,000 in fiscal year 1994, $13,000,000 in fiscal year 1995, and $14,000,000 in fiscal year 1996.".

SEC. 173. CREATION OF ADVISORY COUNCIL ON MEDICAL LICENSURE.

Title VII (42 U.S.C. 295j et seq.) is amended by adding at the end thereof the following new part:

"Part J—Advisory Council on Medical Licensure

"SEC. 799D. CREATION OF ADVISORY COUNCIL ON MEDICAL LICENSURE.

"(a) ADVISORY COUNCIL.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall establish a Council to be known as the 'Council on Medical Licensure'.

"(2) DUTIES.—

"(A) ADVICE.—The Council shall provide advice to the Secretary regarding the establishment and operation of the system established by the American Medical Association for the purpose of verifying and maintaining information regarding the qualifications of individuals to practice medicine, and advice regarding the establishment and operation of any similar system.

"(B) ACTIVITIES.—In carrying out subparagraph (A), the Council shall—

"(i) monitor and review the operation of the private credentials verification system and develop recommendations regarding methods by which the system can be improved, and make recommendations for the establishment of nondiscriminatory policies and practices for the operation of the system;

"(ii) determine to what extent the system has expedited and otherwise improved the efficiency and equitable operation of the process in the States for licensing individuals to practice medicine who previously have been licensed by another State (commonly known as licensure by endorsement); and

"(iii) review the policies and practices of the States (including any relevant laws) in licensing international medical graduates and in licensing domestic medical graduates, and determine the effects of the policies.

"(3) COMPOSITION.—

"(A) IN GENERAL.—The Council shall be composed of 13 voting members selected in accordance with subparagraphs (B) and (C).

"(B) HRSA.—The Secretary shall designate one official or employee of the Health Resources and Services Administration to serve as a member of the Council. The official or employee so designated shall be a graduate of a medical school located in the United States.

"(C) APPOINTMENTS.—From among individuals who are not officers or employees of the Federal Government, the Secretary shall, subject to subparagraph (D), make appointments to the Council as follows:

"(i) one individual from an organization representing State authorities that license individuals to practice medicine;

"(ii) one individual representing a national organization that represents practicing physicians in the United States;

"(iii) one individual representing an organization in the United States that tests international medical graduates regarding medical knowledge;

"(iv) one individual representing an organization in the United States that tests individuals who are graduates of medical schools located in the United States regarding medical knowledge;

"(v) one physician representing a medical school or medical schools in the United States;

"(vi) one individual who is a representative of the private credentials verification system;

"(vii) one individual who is a graduate of a medical school in the United States, licensed to practice medicine in a State for at least 20 years, and who has applied for and received licensure by endorsement within the past 5 years;

"(viii) one individual who is an international medical graduate and who is representing a coalition representing international medical graduates;

"(ix) one individual who is a native of the United States who is a graduate of a medical school located in a country other than the United States or Canada;

"(x) one international medical graduate who is a native of a country located in southern or eastern Asia (including southern or eastern Asian islands), and who is a graduate of a medical school located in such a country;

"(xi) one international medical graduate who is a native of a European country and who is a graduate of a medical school located in such a country; and

"(xii) one international medical graduate who is a native of a country located in a Latin American or Caribbean country and who is a graduate of a medical school located in such a country.

At least one member appointed by the Secretary under this subparagraph should be practicing in a medically underserved or rural area as defined in section 711(c).

"(D) CONSULTATION.—The Secretary shall make the appointments described in subparagraph (C) only after consultation with relevant organizations and coalitions.

"(4) DURATION.—The Council shall continue in existence until the submission of the report required under paragraph (6), or not later than September 30, 1995, whichever is earlier.

"(5) ANNUAL REPORT.—The Council shall annually submit to the Secretary, the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report describing the findings and recommendations of the Council pursuant to the duties established in paragraph (2). The Secretary shall provide a copy of each such report to the private credentials verification system.

"(6) FINAL REPORT AND RECOMMENDATIONS.—

"(A) IN GENERAL.—Not later than September 30, 1995, the Council shall prepare and submit to the Secretary, the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a final report that shall include recommendations regarding activities conducted pursuant to paragraph (2), that shall include a determination as to whether the private credentials verification system is operating with a reasonable degree of efficiency and whether the policies and practices of the system are nondiscriminatory.

"(B) RECOMMENDATIONS.—If the Secretary determines that the private credentials verification system fails to meet either of the criteria with respect to the determination described in subparagraph (A), the Secretary, in consultation with the Council and relevant organizations, shall make a recommendation concerning the establishment of an alternative private system and concerning the specifications for such a system as described in paragraph (2)(B).

"(b) STUDY OF STATE LICENSURE PROCESS.—

"(1) IN GENERAL.—With respect to the licensure by the States of individuals to practice medicine, the Secretary, in consultation with the Council, shall annually conduct a study of not less than 10 States for the purpose of determining—

"(A) the average length of time required for the States involved to process the licensure applications of domestic medical graduates and the average length of time required for the States to process the licensure applications of international medical graduates, and the reasons underlying any significant differences in such times; and

"(B) the percentage of licensure applications from domestic medical graduates that are approved and the percentage of licensure applications from graduates of international medical schools that are approved, and the reasons underlying any significant differences in such percentages.

"(2) REPORT.—The Secretary each fiscal year shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the findings made as a result of the study required in paragraph (1) for the fiscal year.

"(c) DEFINITIONS.—For purposes of this section:

"(1) COUNCIL.—The term 'Council' means the Council on Medical Licensure established in subsection (a)(1).

"(2) DOMESTIC MEDICAL GRADUATE.—The term 'domestic medical graduate' means an individual who is a graduate of a medical school located in the United States or Canada.

"(3) INTERNATIONAL MEDICAL GRADUATE.—The term 'international medical graduate' means an individual who is a graduate of a medical school located in a country other than the United States or Canada.

"(4) MEDICAL SCHOOL.—The term 'medical school' means a school of medicine or a school of osteopathic medicine, as such terms are defined in section 701(2).

"(5) NONDISCRIMINATORY.—The term 'nondiscriminatory' with respect to policies and practices means that such policies and practices do not discriminate on the basis of race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation.

"(6) PRIVATE CREDENTIALS VERIFICATION SYSTEM.—The term 'private credentials verification system' means the system described in subsection (a)(2)(A) and established by the American Medical Association.

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(8) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(d) NECESSARY RESOURCES.—The Secretary shall ensure that necessary resources are made available to implement the provisions of this section.".

SEC. 174. GRANTS FOR CERTAIN POSTDOCTORAL FELLOWSHIPS.

Title VII (42 U.S.C. 295j et seq.) (as amended by section 173) is further amended by adding at the end thereof the following new part:

"Part K—Miscellaneous Provisions

"SEC. 799G. GRANTS FOR POSTDOCTORAL FELLOWSHIPS IN CLINICAL PSYCHOLOGY, CLINICAL SOCIAL WORK, AND PSYCHIATRY

"(a) IN GENERAL.—The Secretary shall establish a postdoctoral clinical psychology, clinical social work, and psychiatry program to award grants to or enter into contracts with eligible entities to enable such entities to provide financial assistance (in the form of traineeships and fellowships) to participants who will train and provide mental health services in Federal, State or local prisons or correctional facilities or public mental health facilties.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section an institution shall submit an application to the Secretary at such time, in such form and containing such information as the Secretary shall require, including a certification that such institution—

"(1) is an entity, accredited public or nonprofit school, or program in a State that provides training leading to a degree of doctor of psychology, social work, allopathic or osteopathic medicine and will provide mental health services in Federal, State or local prisons or correctional facilities or public mental health facilties;

"(2) will use amounts provided to such institution under this section to provide financial assistance in the form of traineeships or fellowships to qualified individuals who meet the requirements of subsection (c);

"(3) will not use in excess of 10 percent of amounts provided under this section to pay for administrative costs; and

"(4) will provide any other information or assurance as the Secretary determines appropriate.

"(c) INDIVIDUALS.—To be eligible to receive a traineeship or fellowship under this section an individual—

"(1) shall have received a doctoral degree through a graduate program in psychology or social work, a degree in allopathic or osteopathic medicine and is licensed to provide mental health services; and

"(2) will spend not less than 50 percent of the fellowship providing mental health services in a Federal, State or local prison or correctional facility or public mental health facilty.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle G—Repealers and Technical and Conforming Amendments

SEC. 181. REPEAL OF FACILITIES CONSTRUCTION GRANT PROGRAM.

Part B of title VII (42 U.S.C. 293 et seq.) is repealed.

SEC. 182. TECHNICAL AND CONFORMING AMENDMENTS.

(a) PUBLIC HEALTH SERVICE ACT.—Title VII is amended—

(1) in section 701(3) (as so redesignated) by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(2) in section 731(a)(1)(A)(iii) (42 U.S.C. 294d(a)(1)(A)(iii)), by striking out "tuition," and inserting in lieu thereof "tuition and ";

(3) in section 740(c)(1)(B) (42 U.S.C. 294m(c)(1)(B)), by striking out "such paragraph" and inserting in lieu thereof "such subparagraph";

(4) in section 741(c) (42 U.S.C. 294n(c)), by striking out "podiatry, optometry," and inserting in lieu thereof "podiatric medicine, optometry, or";

(5) in section 741(f)(1)(B) (42 U.S.C. 294n(f)(1)(B)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(6) in section 760(a)(1)(A) (42 U.S.C. 294bb(a)(1)(A)), by striking out "individuals";

(7) in section 787(b)(1) (42 U.S.C. 295g-7(b)(1)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(8) in section 787A(a) (42 U.S.C. 295g-7a(a)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(9) in the first sentence of section 790(5)(A) (42 U.S.C. 295g-10(5)(A)), by striking out

"evaluation." and inserting in lieu thereof "application."; and

(10) in section 799A(c) (42 U.S.C. 295j(c)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine".

(b) IMMIGRATION AND NATIONALITY ACT.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(5)(B)—

(A) by striking out "passed parts I" and all that follows through "Services)" in the first sentence and inserting in lieu thereof "passed medical science examinations administered by the Educational Commission for Foreign Medical Graduates to graduates of foreign medical schools and approved by the Secretary of Health and Human Services for purposes of the law"; and

(B) by striking out "parts I and II of the National Board of Medical Examiners examination" in the second sentence and inserting in lieu thereof "medical science examinations";

(2) in subsection (a)(32)—

(A) by striking out "passed parts I" and all that follows through "Services)" in the first sentence and inserting in lieu thereof "passed medical science examinations administered by the Educational Commission for Foreign Medical Graduates to graduates of foreign medical schools and approved by the Secretary of Health and Human Services for purposes of the law"; and

(B) by striking out "parts I and II of the National Board of Medical Examiners examination" in the third sentence and inserting in lieu thereof "medical science examinations"; and

(3) in subsection (j)(1)(B)—

(A) by striking out "passed parts I" and all that follows through "Services)" in the first sentence and inserting in lieu thereof "passed medical science examinations administered by the Educational Commission for Foreign Medical Graduates to graduates of foreign medical schools and approved by the Secretary of Health and Human Services for purposes of the law"; and

(B) by striking out "parts I and II of the National Board of Medical Examiners examination" in the second sentence and inserting in lieu thereof "medical science examinations".

(c) AMENDMENTS RELATING TO DEFINITIONS.—The Act is amended—

(1) in section 2(f) (42 U.S.C. 201(f)), by striking out "701(9),";

(2) in section 737(4) (42 U.S.C. 294j(4)), by striking out "701(10)" and inserting in lieu thereof "701(6)";

(3) in section 747 (42 U.S.C. 294q-3), by striking out "701(5)" and inserting in lieu thereof "701(3)";

(4) in section 781(c)(3) (42 U.S.C. 295g-1(c)(3)), by striking out "(as defined in section 701(7))";

(5) in section 782(c)(2)(A)(i) (42 U.S.C. 295g-2(c)(2)(A)(i)), by striking out "701(4)" and inserting in lieu thereof "701(2)";

(6) in section 786A(a)(1) (42 U.S.C. 295g-8(d)(1)), by striking out "701(8)" and inserting in lieu thereof "701(5)";

(7) in section 789(a)(1) (42 U.S.C. 295g-9(a)(1)), by striking out "701(4) or 701(10) and programs referred to in section 701(8)" and inserting in lieu thereof "701(2) or 701(6)";

(8) in section 1706(d) (42 U.S.C. 300u-5(d)), by striking out "701(4)" and inserting in lieu thereof "701(2)"; and

(9) in section 1910(c)(1) (42 U.S.C. 300w-9(c)(1)), by striking out "701(4)" and inserting in lieu thereof "701(2)".

TITLE II—PROVISIONS RELATING TO TITLE VIII

SEC. 201. SHORT TITLE.

This title may be cited as the "Nurse Education Improvement and Reauthorization Act of 1991".

SEC. 202. SPECIAL PROJECTS GRANTS AND CONTRACTS.

Section 820 (42 U.S.C. 296k) is amended—

(1) in subsection (a)—

(A) by inserting "serving in medically underserved or rural communities as defined in section 711(c)" before the semicolon in paragraph (1);

(B) by striking out ", through geriatric health education centers and other entities," in paragraph (2);

(C) by striking out "through telecommunications via satellite" in paragraph (3)(B); and

(D) by adding "or" at the end of paragraph (4);

(E) by inserting after "settings" in paragraph (5) the following: ", including providing nursing care as a component of nursing training in one or more medically underserved or rural communities (as defined in section 711(c))";

(F) by striking out "; or" at the end of paragraph (5) and inserting in lieu thereof a period; and

(G) by striking out paragraph (6);

(2) by striking out subsection (b);

(3) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively;

(4) in subsection (b)(1) (as so redesignated), by inserting "and innovative nursing practice models in primary care and long-term care settings" after "nursing practice models" in paragraph (1);

(5) in subsection (b)(2) (as so redesignated)—

(A) by striking out "hospital" each place that such appears;

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(D) by adding at the end thereof the following new subparagraph:

"(D) to evaluate the effectiveness of providing incentives to practice in rural and underserved areas."; and

(6) in subsection (f) (as so redesignated), to read as follows:

"(f) For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 203. ADVANCED NURSE EDUCATION PROGRAMS.

Section 821(b) (42 U.S.C. 296l(b)) is amended by striking out "$13,000,000" and all that follows through the period and inserting in lieu thereof "$20,000,000 for fiscal year 1992, $21,000,000 for fiscal year 1993, $22,000,000 for fiscal year 1994, $23,000,000 for fiscal year 1995, and $24,000,000 for fiscal year 1996.".

SEC. 204. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

Section 822 (42 U.S.C. 296m) is amended—

(1) in subsection (a)—

(A) by striking out the second sentence of subsection (a)(1); and

(B) by striking out "including primary health care" in paragraph (2)(A) and inserting in lieu thereof "including health care";

(2) in subsection (b)(1)—

(A) by striking out "give special consideration" and inserting in lieu thereof "give preference"; and

(B) by striking out "health professional shortage areas designated under section 332" and inserting in lieu thereof "medically underserved or rural communities as defined in section 711(c)"; and

(3) in subsection (d), by striking out "$12,000,000" and all that follows through the period and inserting in lieu thereof "$25,000,000 for fiscal year 1992, $27,000,000 for fiscal year 1993, $29,000,000 for fiscal year 1994, $30,000,000 for fiscal year 1995, and $31,000,000 for fiscal year 1996.".

SEC. 205. CAPACITY BUILDING.

Subpart I of part A (42 U.S.C. 296k et seq.) is amended by adding at the end thereof the following new section:

"SEC. 823. CAPACITY BUILDING IN NURSING EDUCATION FOR PRACTICE.

"(a) GRANTS AND CONTRACTS.—The Secretary may award grants to and enter into contracts with public and private nonprofit schools of nursing for the purpose of providing support (including traineeships and fellowships) for projects to enable such schools to develop resources or strengthen programs or faculty to address the National Health Objectives for the Year 2000.

"(b) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section a school shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require.

"(2) CONSIDERATION.—The Secretary shall give special consideration to applications submitted by schools that provide outreach programs that are taught in medically underserved or rural communities (as defined in section 711(c)) in which advanced nursing education is not readily available or that, as a result of such location, may have difficulty recruiting qualified faculty, or schools that can demonstrate that graduates of the nursing program serve rural or underserved populations.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,500,000 for fiscal year 1992, $2,000,000 for fiscal year 1993, $2,500,000 for fiscal year 1994, $3,000,000 for fiscal year 1995, and $3,500,000 for fiscal year 1996.".

SEC. 206. NURSING EDUCATION OPPORTUNITIES FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 827(c) (42 U.S.C. 296r(c)) is amended by striking out "$3,000,000" and all that follows through the period and inserting in lieu thereof "$5,000,000 for fiscal year 1992, $5,500,000 for fiscal year 1993, $6,000,000 for fiscal year 1994, $6,500,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996.".

SEC. 207. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

Section 830 (42 U.S.C. 297) is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "for nurses" and inserting in lieu thereof "for individuals"; and

(B) by striking out "programs in order to educate such nurses to" and inserting in lieu thereof "nursing programs in order to educate such individuals to";

(2) by adding at the end of subsection (a)(1), the following new subparagraph:

"(C) Non-nurses enrolled in masters of nursing programs shall be eligible for traineeship support only after completion of basic nursing preparation as defined by the school of nursing consistent with State nurse practice Acts.";

(3) by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(4) in subsection (c) (as so redesignated) to read as follows:

"(c) For the purpose of carrying out this section, there are authorized to be appropriated $17,000,000 for fiscal year 1992, $19,000,000 for fiscal year 1993, $21,000,000 for fiscal year 1994, $23,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996.".

SEC. 208. NURSE ANESTHETISTS.

Section 831(c) (42 U.S.C. 297-1(c)) is amended by striking out "$1,800,000" and all that follows through "1991" and inserting in lieu thereof "$3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, $6,000,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996".

SEC. 209. AUTHORIZATION OF APPROPRIATIONS FOR LOAN REPAYMENTS.

(a) IN GENERAL.—Section 837A (42 U.S.C. 297c-1) is amended by striking out "$5,000,000" and all that follows through the period and inserting in lieu thereof "$5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, $8,000,000 for fiscal year 1995, and $9,000,000 for fiscal year 1996.".

(b) REPEALER.—Section 837 (42 U.S.C. 297c) is repealed.

SEC. 210. ALLOTMENTS AND PAYMENTS.

Section 838(a)(3)(A) (42 U.S.C. 297d(a)(3)(A)) is amended in the first sentence by striking out "in such fiscal year and in the fiscal year succeeding the fiscal year" and inserting in lieu thereof "until expended".

SEC. 211. DISTRIBUTION.

Section 839 (42 U.S.C. 297e) is amended—

(1) in subsection (a), by striking out "1991" and inserting in lieu thereof "1996"; and

(2) by striking out "1994" each place that such appears and inserting in lieu thereof "1999".

SEC. 212. UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

Section 843 (42 U.S.C. 297j) is amended—

(1) in subsection (c), by striking out "serve as a nurse for a period not less than two years" and inserting in lieu thereof "serve as a nurse for a period equal to the number of years of the scholarship award"; and

(2) in subsection (f), by striking out "$15,000,000" and all that follows through the period and inserting in lieu thereof "$30,000,000 for fiscal year 1992, $31,000,000 for fiscal year 1993, $32,000,000 for fiscal year 1994, $33,000,000 for fiscal year 1995, and $34,000,000 for fiscal year 1996.".

SEC. 213. EMPLOYER LOAN REPAYMENT PROGRAM.

Section 847 (42 U.S.C. 297n) is repealed.

SEC. 214. PROHIBITION ON DISCRIMINATION.

Section 855 (42 U.S.C. 298b-2) is amended—

(1) in the section heading by striking out "ON THE BASIS OF SEX"; and

(2) by striking out "sex" each place that such occurs and inserting in lieu thereof "race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation".

SEC. 215. EVALUATIONS.

Section 859(b) (42 U.S.C. 298b-6(b)) is amended—

(1) by striking out paragraph (1); and

(2) in paragraph (2)—

(A) by striking out "(2)"; and

(B) by striking out "biannually" and inserting in lieu thereof "every 2 years".

SEC. 216. GRANTS FOR NURSE EDUCATION IN LONG-TERM CARE FACILITIES.

Part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart IV—Grants for Nurse Education in Long-Term Care Facilities

"SEC. 848. ESTABLISHMENT OF NURSE EDUCATION GRANT PROGRAM WITH RESPECT TO SERVICE IN LONG-TERM CARE FACILITIES.

"(a) IN GENERAL.—The Secretary may award grants to public and private nonprofit undergraduate schools or programs accredited for the training of professional nurses for the purpose of providing fellowships to licensed vocational or practical nurses, nursing assistants and other paraprofessional nursing personnel to assist such individuals in obtaining professional nursing education to attain the level of registered nurse.

"(b) PREFERENCES.—The Secretary may not award a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the applicant will give preference to—

"(1) disadvantaged and minority individuals who are underrepresented in the nursing profession, as determined in accordance with appropriate criteria established by the Secretary; and

"(2) individuals participating in rapid transition programs targeted towards the achievement of professional nursing degrees.

"(c) CERTAIN REQUIREMENTS WITH RESPECT TO STUDENTS.—The Secretary may not award a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the applicant will provide a fellowship to an individual only if—

"(1) the individual is enrolled or accepted for enrollment as at least a half-time student in a public or nonprofit school of nursing or other training program accredited to provide the requisite education and training for the level of professional certification sought by the individual;

"(2) the individual agrees to expend amounts received under the fellowship solely for the payment of the costs of tuition, books, fees, reasonable living expenses, or necessary transportation related to the training program referred to in paragraph (1);

"(3) the individual agrees that, if the individual is dismissed from the school or program referred to in paragraph (1) for academic reasons, voluntarily terminates such education or training, or violates the contract entered into pursuant to paragraph (4), the individual will be liable to the United States in an amount equal to 100 percent of the amount of the fellowship, plus interest at a rate of 5 percent per annum; and

"(4) the individual enters into a contract with a long-term care facility that is certified under title XVIII or XIX of the Social Security Act to engage in full-time employment at the higher level of professional skill acquired under this section for a period of time equal to not less than the period of time during which the individual receives assistance under this section.

"(d) CERTAIN REQUIREMENTS WITH RESPECT TO LONG-TERM CARE FACILITIES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the amount of a fellowship provided for an individual attending the school will not exceed the amount described in subsection (c)(2).

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not award a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 217. PRIMARY CARE TRAINING PROGRAM.

Subpart I of part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 832. PRIMARY CARE TRAINING PROGRAM.

"(a) IN GENERAL.—The Secretary may award grants to public or nonprofit private schools of nursing for the establishment or expansion of clinical training sites or training affiliations that shall be administered by such schools.

"(b) APPLICATION.—A school desiring to receive a grant under subsection (a) shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF GRANTS.—Amounts received under grants awarded under subsection (a) shall be used to—

"(1) establish clinical training sites or new training affiliations to be run and staffed by the faculty and students of such grantee school, to provide nursing students with training in the delivery of primary care in rural areas or in areas on or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

"(2) provide for all aspects of clinical training program development, faculty enhancement and student scholarships; and

"(3) carry out any other activities determined appropriate by the Secretary.

"(d) DESIGN.—The training sites established under subsection (c)(1) shall be designed to provide at least 25 percent of the school's nursing students with a structured clinical experience in primary care.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 218. ASSURANCES REGARDING TRANSMISSION OF BLOODBORNE DISEASES.

Title VIII (42 U.S.C. 296K) is amended by adding at the end thereof the following new section:

"SEC. 860. ASSURANCES REGARDING TRANSMISSION OF BLOODBORNE DISEASES.

"Applicants under this title are required to provide assurances to the Secretary that all trainees will receive instruction in the utilization of universal precautions and infection control procedures for the prevention of transmission of bloodborne diseases.".

SEC. 219. TECHNICAL AMENDMENTS.

Title VIII is amended—

(1) in section 836(b)(1) (42 U.S.C. 297b(b)(1)) by striking out the period and inserting in lieu thereof a semicolon;

(2) in section 851(a) (42 U.S.C. 298(a)) by striking out "a Advisory" and inserting in lieu thereof "an Advisory"; and

(3) in section 859(a) (42 U.S.C. 298b-6(a)) by striking out "as result of" and inserting in lieu thereof "as a result of".

TITLE III-COMPREHENSIVE MATERNAL AND EARLY CHILDHOOD HEALTH CARE

SEC. 301. SHORT TITLE.

This title may be cited as the "Comprehensive Maternal and Early Childhood Health Care Act".

SEC. 302. MIGRANT AND COMMUNITY HEALTH CENTER INITIATIVES.

(a) Migrant Health Centers.—Paragraph (2) of subsection (h) of section 329 (42 U.S.C. 254b(g)) is amended to read as follows:

"(2)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist, and expand the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where Migrant Health Centers are currently operating Comprehensive Perinatal Care Programs. The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to Migrant Health Centers to assist such Centers in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such Programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services shall include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary for the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at the health center (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and through others) to ensure access and coordination.".

(b) Community Health Centers.—Subsection (g) of section 330 (42 U.S.C. 254c(g)) is amended:

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(C) Of the amounts appropriated under subparagraph (A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such subparagraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year to make grants under subsections (c) and (d) for the planning and development of health centers to serve medically underserved populations. New community health centers shall be equitably distributed between underserved urban and rural areas with satellite models used where appropriate."; and

(2) in paragraph (2) to read as follows:

"(2)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for—

"(i) the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist; and

"(ii) expanding the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where community health centers are currently operating Comprehensive Perinatal Care Programs in areas with high infant mortality.

The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to Community Health Centers to assist such Centers in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services shall include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center-based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at the health center, (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C.

1786), by drug treatment service providers and by others) to ensure access and coordination.".

(c) Programs for the Benefit of Homeless Individuals.—Subsection (q) of section 340 (42 U.S.C. 256(q)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for—

"(i) the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist; and

"(ii) expanding the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where grantees under this section are currently operating Comprehensive Perinatal Care Programs.

The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to grantees under this section to assist such grantees in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such Programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services should include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center-based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at a health center, (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and by others) to ensure access and coordination.".

SEC. 303. EXPANSION OF IMMUNIZATION PROGRAMS FOR YOUNG CHILDREN.

(a) Vaccine Bulk Purchase Program.—Part B of title III is amended by inserting after section 317A the following new section:

"SEC. 317B . VACCINE BULK PURCHASE PROGRAM.

"(a) In General.—The Secretary acting through the Director of the Centers for Disease Control and in accordance with the preventative health grant provisions of subsections (a) and (j)(1)(B) of section 317, shall provide to the health department of each State or large city that is operating an immunization project, vaccines for immunization purposes.

"(b) Distribution.—Vaccines provided to grantees with existing immunization projects under subsection (a) shall be made available for distribution and immunization services through the public health departments of such States or cities, recipients of grants under section 329, 330, and 340 in the State or city, Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act operating in the State or city, and public health professionals.

"(c) Quantity.—In determining the quantity of vaccine that is needed by a grantee under subsection (a), the Administrator of the Health Resources and Services Administration shall make available to the Director of the Centers for Disease Control data from annual reports submitted by recipients of grants under section 329, 330, and 340 and from entities certified as Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act. The Director of such Centers shall direct the health department of the State, county or city to equitably allocate vaccines made available under the bulk purchase program among those recipients described in subsection (b) who are providing immunization services to children, except that the amounts received by each provider on the date of enactment of this section shall not be diminished relative to the population served, and that grantees shall receive not less than the amount such grantees received under their bulk vaccine allotment as of January 1, 1991.

"(d) Maintenance of Supply.—The provisions of this section shall be effective only to the extent to which the Secretary, acting through the Director of the Centers for Disease Control, provides assurances that the implementation of this section will not result in a reduction in the supply of vaccines available to grantees receiving vaccine allotments under the bulk purchasing programs as of January 1, 1991.".

(b) Immunization Demonstration Projects for Outreach Programs.—Subsection (b) of section 2 of the Vaccine and Immunization Amendments of 1990 (Public Law 101–502) is amended to read as follows:

"(b) Demonstration Projects for Outreach Programs.—

"(1) In general.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to States for the purpose of carrying out demonstration projects—

"(A) to provide, without administrative charge, immunizations for vaccine preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low income individuals, increasing the capacity of public health departments to deliver vaccines and facilitating outreach activities to improve the percentage of fully immunized children;

"(B) to expand the capacity of public health departments, recipients of grants under sections 329, 330, and 340 of the Public Health Service Act, and other health provider entities that are co-located with centers providing services under section 17 of the Child Nutrition Act of 1966 in order to provide immunizations to participants in the program established under such section 17 during regular hours, and to enable State health departments working through State directors of the program established under such section 17 to make available to such centers vaccines and adequate funds to administer immunizations; and

"(C) to maintain private provider participation in the provision of immunization services and to encourage private physicians to provide such services to infants and children enrolled for benefits under title XIX of the Social Security Act.

"(2) Authorization of Appropriations.—For the purposes of carrying out paragraph (1), there are authorized to be appropriated $25,000,000 in fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.".

SEC. 304. PROJECT GRANTS FOR MATERNAL AND CHILD PREVENTIVE HEALTH AND HEALTH CARE SERVICES.

Section 314 (42 U.S.C. 246) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary is authorized to award grants to eligible entities for the development and operation of Comprehensive Perinatal and Early Childhood Health Programs, to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development.

"(2)(A) To be eligible to receive a grant under this subsection, an entity shall be a public health department or public or private nonprofit health entity that—

"(i) does not receive assistance under section 329 or 330;

"(ii) is located in a medically underserved or health professional shortage area not served by an entity receiving funds under section 329 or 330; and "(iii) has demonstrated a commitment to serving low income and uninsured individuals and families.

"(B) Notwithstanding subparagraph (A), entities located in areas served by grantees under section 329 or 330 may apply for and receive a grant under this subsection, if such 329 or 330 grantees do not intend to apply for expanded funding for prenatal and early childhood health care services, and if such entities can demonstrate that—

"(i) the women and children to be served, or the services to be provided, using funds provided under the grant are in addition to those populations served and services offered by such existing section 329 or 330 grantees; and

"(ii) the entity will not use funds provided under this subsection to supplant State expenditures.

"(3) Services to be provided with funds under a grant awarded under this subsection shall be delivered in a culturally sensitive manner and made accessible to the population to be served. Such services shall include—

"(A) public information, outreach, or case finding services provided through the use of media, community canvassing (including the use of volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(B) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(i) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(ii) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(C) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children and families;

"(D) substance abuse screening, outpatient substance abuse counseling services, or referral to substance abuse treatment services for women with substance abuse problems;

"(E) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(F) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both counseling provided directly by the grantee, and through distribution of the Maternal Child Health Handbooks as available.

Services described in subparagraphs (D), (E) and (F) shall be provided by grantees under this subsection to the maximum extent practicable.

"(4) To the maximum extent practicable, services provided under this subsection shall be delivered in a single location by the grantee, except that such may include multiple sites if mobile health care provider units are utilized (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act, by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966, by drug treatment service providers, and by others) to ensure access and coordination.

"(5) The Secretary may not award a grant under this subsection unless—

"(A) the applicant for the grant has entered into, or will enter into, a participation agreement within 180 days of the date of the grant award with the State agency administering funds under title XIX of the Social Security Act and is qualified to receive such payments for services provided;

"(B) the applicant for the grant has prepared a schedule of fees or payments for the provision of services under paragraph (3) consistent with locally prevailing rates or charges, and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, such discounts to be adjusted on the basis of the patient's ability to pay;

"(C) the applicant for the grant provides assurances that every reasonable effort will be made to secure from patients and third party reimbursement entities, including any State compensation program, health insurance entity, any entity providing health services on a prepaid basis, or any Federal or State health benefits program, full payment for the services provided under paragraph (3). Amounts awarded under this subsection shall be used as the payment source of last resort for services provided.

"(6) In addition to providing the services required under paragraph (3), a grantee may use amounts provided under the grant for minor remodeling and rehabilitation of the facilities needed to support the delivery of such services. No funds may be used for the construction of new buildings or the acquisition of properties.

"(7) A grantee shall not use in excess of 5 percent of the amounts received under a grant awarded under this subsection for administration, accounting, reporting and program oversight functions.

"(8) To be eligible to receive a grant under this subsection, an entity, in addition to meeting the requirements of paragraph (2), shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

"(A) that funds received under a grant awarded under this subsection will be utilized to supplement not supplant State funds made available to the entity for the provision of maternal and child health and social services, with identification of funding received from other sources for such purposes;

"(B) that prenatal and early childhood health care will be provided under a case management model, that continuity of care will be provided for all individuals, and that services to be provided are accessible to the target population to be served;

"(C) that the entity will serve low income women and children in the service delivery area, and have a plan for outreach to those at risk of inadequate health care services;

"(D) that the entity has outlined a needs assessment of the health care delivery system in the service delivery area, to include health status indicators for women of childbearing age and young children, and identification of other health care provider groups in the area;

"(E) that the entity has reviewed the application for a grant under this section with the State agency administering amounts received under title V of the Social Security Act and the local health department, and that such application is consistent with the State plan for the delivery of maternal and child health services; and

"(F) that the entity will submit a report to the Secretary and to the State and relevant local health departments that will include demographic data on the number of individuals served and those services provided with funds provided under this subsection, and a description of the manner in which services provided by the entity are integrated with those services provided by other health care agencies or provider groups in the service delivery area.

"(9) In awarding grants under this subsection, the Secretary should give priority to—

"(A) those applications submitted by entities that are an association of one or more public, and one or more nonprofit private health care and social service providers, except that in areas where such an association would not be possible as a result of the absence of more than one provider entity, no such priority shall be given; and

"(B) those applications providing evidence of local investment (such as State, health care provider, local charity, and volunteer organization contributions) in maternal and child health initiatives, through a 10 percent local contribution to match Federal funds, in cash or in kind, fairly evaluated, not including any portion of any service subsidized by the Federal Government or other copayments under paragraph (5).

Grants under this subsection shall be awarded on an equitable basis among eligible rural and urban applicants.

"(10) Not later than 30 months after the date of enactment of this subsection, the Secretary shall prepare and submit, to the Senate Committee on Labor and Human Resources, the Senate Finance Committee, and the House Committee on Energy and Commerce, an evaluation of the program established under this subsection, that shall include—

"(A) an analysis of the manner in which funds provided under this subsection have been used by grantees, with a review of the services provided;

"(B) the infant mortality rates and immunization rates in the communities served by grantees prior to the receipt of such a grant and at the time such evaluation is prepared, and an assessment of the impact of enhanced services on such rates;

"(C) an analysis of the manner in which entities receiving grants under this subsection have integrated the services provided under such grants with other available health and social service providers in the service delivery area; and

"(D) recommendations concerning any modifications necessary to improve program effectiveness in reaching the stated goals of the program in a cost-effective manner.

"(11) There are authorized to be appropriated for each of the fiscal years 1992 through 1994, such sums as may be necessary to carry out this subsection.".

SEC. 305. BIRTH DEFECTS PROPOSAL.

Part B of title III (42 U.S.C. 243 et seq.) (as amended by section 303) is further amended by inserting after section 317B, the following new section:

"SEC. 317C. COORDINATION OF BIRTH DEFECTS SURVEILLANCE AND EPIDEMIOLOGY RESEARCH PROGRAMS.

"(a) FINDINGS.—Congress finds that—

"(1) birth defects are the leading cause of infant mortality, directly responsible for one out every five infant deaths;

"(2) thousands of the 250,000 infants born with a birth defect annually face a lifetime of chronic disability and illness; and

"(3) there is no national effort to record birth defect data and perform epidemiologic surveillance even though such data would aid research efforts to understand and reduce the incidence of preventable birth defects.

"(b) PLAN FOR IMPLEMENTING A NATIONAL BIRTH DEFECTS MONITORING SYSTEM AND SURVEILLANCE PROGRAM.—

"(1) DEVELOPMENT.—The Secretary, acting through the Centers for Disease Control, shall develop a plan to establish regional birth defects monitoring programs to serve all States for the purpose of collecting and analyzing data on the incidence of birth defects with relevant epidemiologic data. Such plan shall specify how collaborative efforts between the Centers for Disease Control and responsible State agencies will be carried out, and may include the provision of grants or cooperative agreements, and technical assistance.

"(2) CLEARINGHOUSE.—The Centers for Disease Control shall develop a program plan to serve as the national clearinghouse of the collection and storage of data and information generated from birth defects monitoring programs developed under paragraph (1). Functions of the clearinghouse will include facilitating the coordination of birth defects research.

"(3) REPORT.—The Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the plan required under paragraph (1), together with recommendations to facilitate the immediate implementation of such plan, on or before July 1, 1993.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECTIVE DATE.

Notwithstanding any other provision of law, section 403A(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)(1)) shall not apply with respect to any requirement of any State or political subdivision regarding maple syrup until December 1, 1993.

JUDICIAL NATURALIZATION AMENDMENTS

KENNEDY (AND SIMPSON) AMENDMENT NO. 1448

Mr. REID (for Mr. KENNEDY, for himself and Mr. SIMPSON) proposed an amendment to the bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority on courts to administer oaths of allegiance for naturalization, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous and Technical Immigration and Naturalization Amendments of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

Sec. 101. Short title of title.
Sec. 102. Court authority to administer oaths of allegiance for naturalization.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

Sec. 201. Short title of title.
Sec. 202. Repeal of numerical limitations on P-1 and P-3 nonimmigrants; GAO report.
Sec. 203. Standards for classification of P-1 and P-3 nonimmigrants.
Sec. 204. Consultation requirement.
Sec. 205. Amendments relating to O nonimmigrants.
Sec. 206. Amendments relating to P nonimmigrants.
Sec. 207. Other amendments.
Sec. 208. Effective date.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

Sec. 301. Short title of title; reference to the Immigration and Nationality Act.
Sec. 302. Corrections relating to Title I of the Immigration Act of 1990.
Sec. 303. Corrections relating to Title II of the Immigration Act of 1990.
Sec. 304. Corrections relating to Title III of the Immigration Act of 1990.
Sec. 305. Corrections relating to Title IV of the Immigration Act of 1990.
Sec. 306. Corrections relating to Title V of the Immigration Act of 1990.
Sec. 307. Corrections relating to Title VI of the Immigration Act of 1990.
Sec. 308. Corrections relating to Title VII of the Immigration Act of 1990.
Sec. 309. Additional miscellaneous corrections.
Sec. 310. Effective dates.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

SEC. 101. SHORT TITLE OF TITLE.

This title may be cited as the "Judicial Naturalization Ceremonies Amendments of 1991".

SEC. 102. COURT AUTHORITY TO ADMINISTER OATHS OF ALLEGIANCE FOR NATURALIZATION.

(a) IN GENERAL.—Subsection (b) of section 310 of the Immigration and Nationality Act (8 U.S.C. 1421), as amended by section 401(a) of the Immigration Act of 1990, is amended to read as follows:

"(b) COURT AUTHORITY TO ADMINISTER OATHS.—

"(1) JURISDICTION—Subject to section 337(c)—

"(A) GENERAL JURISDICTION.—Except as provided in subparagraph (B), each applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the attorney general or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.

"(B) EXCLUSIVE AUTHORITY.—An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 377(a) to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A)(i) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.

"(2) INFORMATION.—

"(A) GENERAL INFORMATION.—In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—

"(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

"(ii) the Attorney General—

"(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 337(a) and

"(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

"(B) ASSIGNMENT OF INDIVIDUALS IN THE CASE OF EXCLUSIVE AUTHORITY.—If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), as the time of the approval of the person's application for naturalization, of—

"(i) the court's exclusive authority to administer the oath of allegiance under section 337(a) to such a person during the period specified in paragraph (3)(A)(i), and

"(ii) the date or dates (if any) under paragrah (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

"(3) SCOPE OF EXCLUSIVE AUTHORITY.—

"(A) LIMITED PERIOD AND ADVANCE NOTICE REQUIRED.—The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—

"(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

"(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.

(B) AUTHORITY OF ATTORNEY GENERAL.—Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.

(C) WAIVER OF EXCLUSIVE AUTHORITY.—Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 337(a) to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration ceremonies. Upon notification of a court's waiver of jurisdiction, the Attorney General shall promptly notify the applicant.

"(4) ISSUANCE OF CERTIFICATES.—The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.

"(5) ELIGIBLE COURTS.—For purposes of this section, the term 'eligible court' means—

"(A) a District Court of the United States in any State, or

"(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.".

(b) CONFORMING AMENDMENTS.—

(1) FUNCTIONS OF CLERKS.—Section 339(a) of such Act (8 U.S.C. 1450(a)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) deliver to each person administered the oath of allegiance by the court pursuant to section 337(a) the certificate of naturalization prepared by the Attorney General pursuant to section 310(b)(2)(A)(ii),",

(B) in paragraph (2), by inserting "a list of applicants actually taking the oath at each scheduled ceremony and" after "Attorney General",

(C) by striking paragraph (3),

(D) in paragraph (4), by striking the period at the end and inserting ", and" and by redesignating such paragraph as paragraph (3),

(E) by inserting after paragraph (3), as so redesignated, the following new paragraph:

"(4) be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General and shall account to the Attorney General for them whenever required to do so.", and

(F) by adding at the end the following:

"No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificates shall be returned to the Attorney General.".

(2) EXPEDITED ADMINISTRATION OF OATH.—Subsection (c) of section 337 of such Act (8 U.S.C. 1448) is amended to read as follows:

"(c) Notwithstanding section 310(b), an individual may be granted an expedited judicial oath administration ceremony or administrative naturalization by the Attorney General upon demonstrating sufficient cause. In determining whether to grant an expedited judicial oath administration ceremony, a court shall consider special circumstances (such as serious illness of the applicant or a member of the applicant's immediate family, permanent disability sufficiently incapacitating as to prevent the applicant's personal appearance at the scheduled ceremony, developmental disability or advanced age, or exigent circumstances relating to travel or employment). If an expedited judicial oath administration ceremony is impracticable, the court shall refer such individual to the Attorney General who may provide for immediate administrative naturalization.".

(3) FEES.—Section 344 of such Act (8 U.S.C. 1455) is amended by adding at the end the following new subsection:

"(f)(1) The Attorney General shall pay over to courts administering oaths of allegiance to persons under this title a specified percentage of all fees described in subsection (a)(1) collected by the Attorney General with respect to persons administered the oath of allegiance by the respective courts. The Attorney General, annually and in consultation with the courts, shall determine the specified percentage based on the proportion, of the total costs incurred by the Service and courts for essential services directly related to the naturalization process, which are incurred by courts.

"(2) The Attorney General shall provide on an annual basis to the Committees on the Judiciary of the House of Representatives and of the Senate a detailed report on the use of the fees described in paragraph (1) and shall consult with such Committees before increasing such fees.".

(c) EFFECTIVE DATE.—The amendments made by this title shall take effect 30 days after the date of the enactment of this Act.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

SEC. 201. SHORT TITLE OF TITLE.

This title may be cited as the "O and P Nonimmigrant Amendments of 1991".

SEC. 202. REPEAL OF NUMERICAL LIMITATIONS ON P-1 AND P-3 NONIMMIGRANTS; GAO REPORT.

(a) IN GENERAL.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)), as added by section 205(a) of the Immigration Act of 1990, is amended—

(1) by adding "or" at the end of subparagraph (A),

(2) by striking ", or" at the end of subparagraph (B) and inserting a period, and

(3) by striking subparagraph (C).

(b) REPORT.—(1) By not later than October 1, 1994, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives a report containing information relating to the admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under subparagraphs (O) and (P) of section 101(a)(15) of the Immigration and Nationality Act, and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens.

(2) Not later than 30 days after the date the Committee of the Judiciary on the Senate receives the report under paragraph (1), the Chairman of the Committee shall make the report available to interested parties and shall hold a hearing respecting the report. No later than 90 days after the date of receipt of the report, such Committee shall report to the Senate its findings and any legislation it deems appropriate.

SEC. 203. STANDARDS FOR CLASSIFICATION OF P-1 NONIMMIGRANTS.

(a) SUBSTITUTION OF NEW STANDARDS.—Clause (i) of section 101(a)(15)(P) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended to read as follows:

"(i)(a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups);".

(b) NEW STANDARDS.—Section 214(c)(4) of such Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by redesignating subparagraphs (A) through (C) as subparagraphs (C) through (E) and by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) For purposes of section 101(a)(15)(P)(i)(a), an alien is described in this subparagraph if the alien—

"(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

"(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

"(B)(i) For purposes of section 101(a)(15)(P)(i)(b), an alien is described in this subparagraph if the alien—

"(I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time.

"(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

"(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

"(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

"(iii)(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in a group.

"(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

"(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.".

SEC. 204. CONSULTATION REQUIREMENT.

Section 214(c) of the Immigration and Nationality Act, as amended by section 207(b)(2) of the Immigration Act of 1990, is amended—

(1) in paragraph (3)(A), by striking "after consultation with peer groups in the area of the alien's ability" and inserting "after consulation in accordance with paragraph (6)",

(2) in paragraph (3)(B), by striking "after consultation with labor organizations with expertise in the skill area involved" and inserting "after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien's ability",

(3) in paragraph (4)(C), as redesignated by section 203(b), by striking "clause (ii) of",

(4) in paragraph (4)(D), as redesignated by section 203(b), by striking "after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved" and inserting "after consultation in accordance with paragraph (6)",

(5) by redesignating paragraph (6) as paragraph (7), and

(6) by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) To meet the consultation requirements of paragraph (3)(A) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(i) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a peer group (or other person or persons of its choosing, which may include a labor organization) with expertise in the specific field involved.

"(ii) To meet the consultation requirement of paragraph (3)(B) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(ii) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the skill area involved.

"(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field of athletics or entertainment involved.

"(B) To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization.

"(C) In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion.

"(D) Any person or organization receiving a copy of a petition described in subparagraph (A) and supporting documents shall have no more than 15 days following the date of receipt of such documents within which to submit a written advisory opinion or comment or to provide a letter of no objection. Once the 15-day period has expired and the petitioner has had an opportunity, where appropriate, to supply rebuttal evidence, the Attorney General shall adjudicate such petition in no more than 14 days. The Attorney General may shorten any specified time period for emergency reasons if no unreasonable burden would be thus imposed on any participant in the process.

"(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

"(ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 101(a)(15)(O)(i) or 101(a)(15)(P)(i) in the case of emergency circumstances (including trades during a season).

"(F) No consultation required under this subsection by the Attorney General with a nongovernmental entity shall be construed as permitting the Attorney General to delegate any authority under this subsection to such an entity. The Attorney General shall give such weight to advisory opinions provided under this section as the Attorney General determines, in his sole discretion, to be appropriate."

SEC. 205. AMENDMENTS RELATING TO O NONIMMIGRANTS.

(a) Definition of Extraordinary Ability in the Arts for O Nonimmigrants.—Section 101(a) of the Immigration and Nationality Act, as amended by sections 123 and 204(c) of the Immigration Act of 1990, is amended by adding at the end the following new paragraph:

"(46) The term 'extraordinary ability' means for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction.".

(b) Eliminating Additional Paperwork Requirement for O–1's.—Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, as amended by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", but only" and all that follows up to the semicolon at the end.

(c) Clarification of Significant Photography for O–2s.—Section 101(a)(15)(O)(ii)(III)(b) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking "signification principal photography" and inserting "significant production (including pre- and post-production work)".

(d) Clarification of Multiple Events for Visas for O Nonimmigrants.—Section 214(a)(2)(A) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by inserting "(or events)" after "event".

(e) Consultation with Respect to Readmitted O–1 Nonimmigrants.—Section 214(c)(3) of the Immigration and Nationality Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by adding at the end the following: "The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 101(a)(15)(O)(i) because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.".

SEC. 206. AMENDMENTS RELATING TO P NONIMMIGRANTS.

(a) Eliminating 3-Month Out-of-Country Rule for P–2 and P–3 Nonimmigrants.—Section 214(a)(2)(B) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended—

(1) by striking "(B)(i)" and inserting "(B)", and

(2) by striking clause (ii).

(b) Treatment of Foreign Organizations for P–2 Nonimmigrants.—Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by inserting "or organizations" after "and an organization".

(c) Treatment of P–2 Nonimmigrants.—(1) Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", between the United States and the foreign states involved".

(2) Section 214(c)(4)(E) of the Immigration and Nationality Act, as added by 207(b)(2)(B) of the Immigration Act of 1990 and as redesignated by section 203(b) of this title, is amended by striking ", in order to assure reciprocity in fact with foreign states".

(d) Performance of Teaching and Coaching Functions by P–3 Nonimmigrants.—Section 101(a)(15)(P)(iii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended—

(1) by striking "for the purpose of performing" and inserting "to perform, teach, or coach", and

(2) by inserting "commercial or noncommercial" before "program".

SEC. 207. OTHER AMENDMENTS.

(a) Return Transportation Requirement for O and P Nonimmigrants.—Section 214(c)(5) of the Immigration and Nationality Act, as added by section 207(b)(2) of the Immigration Act of 1990, is amended by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) In the case of an alien who enters the United States in nonimmigrant status under section 101(a)(15)(O) of 101(a)(15)(P) and whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.".

(b) Entry of Fashion Models Under H–1B.—Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended—

(1) by inserting "or as a fashion model" after "214(i)(1)", and

(2) by inserting "or, in the case of a fashion model, is of distinguished merit and ability" after "214(i)(2)".

(c) Annual Report.—

(1) In general.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(3)), as amended by section 207(b)(2) of the Immigration Act of 1990 and by section 204 of this title, is amended by adding at the end the following new paragraph:

"(8) The Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and of the State a report describing, with respect to petitions under each subcategory of subparagraphs (H), (O), (P), and (Q) of section 101(a)(15) the following:

"(A) The number of such petitions which have been filed.

"(B) The number of such petitions which have been approved and the number of workers (by occupation) included in such approved petitions.

"(C) The number of such petitions which have been denied and the number of workers (by occupation) requested in such denied petitions.

"(D) The number of such petitions which have been withdrawn.

"(E) The number of such petitions which are awaiting final action.".

(2) Deadline for first report.—The first report under section 214(c)(8) of the Immigration and Nationality Act shall be provided not later than April 1, 1993.

SEC. 208. EFFECTIVE DATE.

The provisions of, and amendments made by, this title shall take effect on April 1, 1992.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

SEC. 301. SHORT TITLE OF TITLE; REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

(a) This title may be cited as the "Immigration Technical Corrections Act of 1991".

(b) In this title, the term "INA" means the Immigration and Nationality Act.

SEC. 302. CORRECTIONS RELATING TO TITLE 1 OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 201 of the INA as amended by section 101(a) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(3), by striking "(3) The number computed under this paragraph for a fiscal year" and inserting the following:

"(3)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(a) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year"; and

(B) in subsection (d)(2), by striking "(2) The number computed under this paragraph for a fiscal year" and inserting the following:

"(2)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(b) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year".

(2) Section 101 of the Immigration Act of 1990 is amended by adding at the end the following new subsection:

"(c) TRANSITION.—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of an alien whose citizen spouse died before the date of the enactment of this Act, notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.".

(3) Section 202(a)(4)(A) of the INA, as amended by section 102(I) of the Immigration Act of 1990, is amended by striking "MINIMUM".

(b)(1) Section 112 of the Immigration Act of 1990 is amended—

(A) in subsection (c), by striking "temporary or" before paragraph (1), and

(B) by adding at the end the following:

"(d) DEFINITIONS.—The definitions in the Immigration and Nationality Act shall apply in the administration of this section.".

(2) Section 203(b) of the INA, as inserted by section 121(a) of the Immigration Act of 1990, is amended—

(A) in paragraphs (1), (2), and (3), by striking "40,000" and inserting "28.6 percent of such world-wide level" each place it appears,

(B) in paragraph (1)(C), by striking "who seeks" and inserting "the alien seeks",

(C) in paragraphs (4) and (5), by striking "10,000" and inserting "7.1 percent of such world-wide level" each place it appears, and

(D) in paragraph (2)(B), by inserting "professions," after "arts,".

(3) Section 216A of the INA, as inserted by section 121(b)(1) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(2)(A), by inserting "(and the alien's spouse and children if it was obtained on a conditional basis under this section or section 216)" after "status of the alien", and

(B) in subsections (c)(3)(B) and (d)(2)(A), by striking "obtaining the status of".

(4) Section 121(b)2) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "deportation".

(5) Section 124(a) of the Immigration Act of 1990 is amended—

(A) in paragraph (1)—

(i) by inserting "(or paragaph (2) as the spouse or child of such an alien)" after "paragraph (3)", and

(ii) by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1991 or 1992, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year."; and

(B) in paragraph (3)(A), by striking "(and has been so employed during the 12 previous, consecutive months)" and inserting "except for temporary absences at the request of the employer and has been employed in Hong Kong for at least 12 consecutive months".

(6) Section 132 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)";

(B) in subsection (a), by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1992 or 1993, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.";

(C) in subsection (b)(1), effective after fiscal year 1992, by striking "that is not contiguous to the United States and ";

(D) in subsection (c)—

(i) effective beginning with fiscal year 1992, by striking "in the chronological order in which aliens apply for each fiscal year" and inserting "strictly in a random order among those who qualify during the application period for each fiscal year established by the Secretary of State",

(ii) by inserting before the period at the end the following: "and except that if more than one application is submitted for any fiscal year (beginning with fiscal year 1993) with respect to any alien all such applications submitted with respect to the alien and fiscal year shall be voided", and

(iii) by adding at the end the following: "If the minimum number of such visas are not made available in fiscal year 1992 or 1993 to such natives the shortfall shall be added to the number of such visas to be made available under this section to such natives in the suceeding fiscal year. In applying this section, natives of Northern Ireland shall be deemed to be natives of Ireland."; and

(E) in subsection (e)—

(i) by striking "the grounds" and all that follows through "shall not apply, and",

(ii) by striking "of such section" and inserting "of section 212(a) of the Immigration and Nationality Act", and

(iii) by adding at the end the following: "In addition, the provisions of section 212(e) of such Act shall not apply so as to prevent an individual's application for a visa or admission under this section.".

(7) Section 134(a) of the Immigration Act of 1990 is amended by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)".

(c)(1) Section 141 of the Immigration Act of 1990 is amended—

(A) in the heading, by striking "Legal",

(B) in subsection (a), by striking "Legal",

(C) in subsection (a)(1)(B), by striking "of the Subcommittee" and all that follows through "International Law", and

(D) by adding at the end the following new subsection:

(i) PRESIDENTIAL REPORT.—The President shall conduct a review and evaluation and provide for the transmittal of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b).".

(2) The item in the table of contents of such Act relating to section 141 is amended to read as follows:

"Sec. 141. Commission on Immigration Reform.".

(d)(1) Section 152(b)(1)(A) of the Immigration Act of 1990 is amended by striking "who has performed faithful service" and inserting "and has performed faithful service as such an employee".

(2) Section 245 of the INA, as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended—

(A) in subsection (c)(2), by inserting "(J)," after "(I),", and

(B) by adding at the end the following new subsection:

(h) In applying this section to a special immigrant described in section 101(a)(27)(J)—

"(1) such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States; and

"(2) in determining the alien's admissibility as an immigrant—

"(A) paragraphs (4), (5)(A), and (7)(A) of section 212(a) shall not apply, and

"(B) the Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), or (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 101(a)(27)(J) shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.".

(3) Section 241(h) of the INA, as amended by section 153(b) of the Immigration Act of 1990, is amended by striking the comma after "(3)(A)".

(4) Section 154 of the Immigration Act of 1990 is amended—

(A) in subsection (b)(1)(A), by inserting "or China" after "Hong Kong",

(B) in subsection (b)(1)(B)(i), by inserting "of" after "of section 203(a)", and

(C) by striking paragraph (3) of subsection (c).

(5) Section 155 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or section 203(e), in the case of fiscal year 1992)" after "203(c)", and

(B) in subsection (b), by striking "or the child" and inserting "or who are the spouse or child".

(e)(1) Section 161(a) of the Immigration Act of 1990 is amended by striking "in this section," and inserting "in this title, this title and".

(2) Section 161(c)(1) of the Immigration Act of 1990 is amended—

(A) by inserting "or an application for labor certification before such date under section 212(a)(14)" after "before such date)".

(B) in subparagraph (A), by inserting "or application" after "such a petition",

(C) in subparagraph (A), by inserting ", or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993" after "(by not later than October 1, 1993". and

(D) by adding at the end the following new sentence:

"In the case of a petition filed under section 204(a) of such Act before October 1, 1991, but which is not described in paragraph (4), and for which a filing fee was paid, any additional filing fee shall not exceed one-half of the fee for the filing of the new petition referred to in subparagraph (A).".

(3) Section 203(f) of the INA, as inserted by section 162(a) of the Immigration Act of 1990, is amended—

(A) by striking "Presumption.—" and all that follows through "so described." and inserting "Authorization for Issuance.—", and

(B) by striking "201(b)(1) or in subsection (a) or (b)" and inserting "201(b)(2) or in subsection (a), (b), and (c)".

(4) Section 204(a)(1) of the INA, as amended by section 162(b) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by adding at the end the following: "An alien described in the second sentence of section 201(b)(2)(A)(i) also may file a petition with the Attorney General under this subparagraph for classification under such section.",

(B) in subparagraph (F), by striking "Secretary of State" and inserting "Attorney General", and

(C) in subparagraph (G)(iii), by striking "or registration".

(5) Section 204(e) of the INA, as amended by section 162(b)(3) of the Immigration Act of 1990, is amended by striking "a immigrant" and inserting "an immigrant".

(6) Paragraph (1) of section 162(e) of the Immigration Act of 1990 is repealed, and the provisions of law amended by such paragraph are restored as though such paragraph had not been enacted.

(7) Section 245(b) of the INA, as amended by section 162(e)(3) of the Immigration Act of 1990, is amended—

(A) by striking "201(a)" and inserting "202 and 203", and

(B) by striking "for the succeeding fiscal year" and inserting "for the fiscal year then current".

(8) Effective as if included in section 162(e) of the Immigration Act of 1990—

(A) clauses (ii)(II) and (iii)(II) of section 101(a)(27)(I) of the INA are amended by striking "applies for a visa or adjustment of status" and inserting "files a petition for status",

(B) section 216(g)(1) of the INA is amended by striking "203(a)(8)" and inserting "203(d)"; and

(C) section 221(a) of the INA is amended by striking "nonpreference,".

(9) Effective as if included in the Immigration Nursing Relief Act of 1989, section 212(m)(2)(A) of the INA is amended, by inserting after the first sentence following clause (vi) the following: "Notwithstanding the previous sentence, a facility that lays off a registered nurse other than a staff nurse still meets clause (i) if, in its attestation under this subparagraph, the facility has attested that it will not replace the nurse with a nonimmigrant described in section 101(a)(15)(H)(i)(a) (either through promotion or otherwise) for a period of 1 year after the date of the lay off.".

(10) Effective as if included in the Immigration Nursing Relief Act of 1989, as amended by section 162(f)(1)(B) of the Immigration Act of 1990, section 2(b) of the Immigration Nursing Relief Act of 1989 is amended by inserting after "registered nurse," the following: "who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status,".

SEC. 303. CORRECTIONS RELATING TO TITLE II OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 217 of the INA, as amended by section 201(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(4), by striking "BY SEA OR AIR" and inserting "INTO THE UNITED STATES", AND

(B) in the heading of subsection (b), by striking "RIGHTS" and inserting "Rights".

(2) Section 217(e)(1) of the INA, as redesignated by section 201(a)(7) of the Immigration Act of 1990, is amended by striking "(a)(4)(C)" and inserting "(a)(4)".

(3) The second sentence of section 251(d) of the INA, as inserted by section 203(b)(2) of the Immigration Act of 1990, is amended by striking "charterer" and inserting "consignee".

(4) Section 258(c)(2)(B) of the INA, as inserted by section 203(a)(1) of the Immigration Act of 1990, is amended by striking "each such list" and inserting "each list".

(5)(A) Section 101(a)(15)(H)(i)(b) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by inserting "subject to section 212(j)(2)," after "(b)".

(B) Section 212(j) of the INA is amended by striking paragraph (2) and inserting the following:

"(2) An alien who is a graduate of a medical school and who is coming to the United States to perform services as a member of the medical profession may not be admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) unless—

"(A) the alien is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency, or

"(B)(i) the alien has passed the Federation licensing examination (administered by the Federation of State Medical Boards of the United States) or an equivalent examination as determined by the Secretary of Health and Human Services, and

"(ii)(I) has competency in oral and written English or (II) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States).".

(6) Section 212(n)(1)(A)(ii) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended by striking "for such aliens" and inserting "for such a nonimmigrant".

(7)(A) Section 101(a)(15)(H)(i) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by striking ", and had approved by,".

(B) Section 212(n) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended—

(i) in paragraph (1)(A)—

(I) by striking "and to other individuals employed in the occupational classification and in the area of employment" and inserting "admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b)".

(II) by amending subclause (I) to read as follows:

"(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or".

(III) after subclause (II), by striking "determined" and inserting "based on the best information available";

(ii) in paragraph (1)(D), by striking "(and accompanying documentation)" and inserting "(and such accompanying documents as are necessary)";

(iii) in paragraph (1), by moving the matter after the first sentence of subparagraph (D) flush with the left margin and by adding at the end the following:

"The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary finds that the application is incomplete or obviously inaccurate, the Secretary shall provide the certification described in section 101(a)(15)(H)(i)(b) within 7 days of the date of the filing of the application.";

(iv) in paragraph (2)(C), by striking "(or a substantial failure" and all that follows through "misrepresentation" and inserting "of paragraph (1)(B). a substantial failure to meet a condition of paragraphs (1)(C) or (1)(D), a willful failure to meet a condition of paragraph (1)(A), or a misrepresentation";

(v) in paragraph (2)(D), by striking "In addition to the sanctions provided under subparagraph (C), if" and inserting "If"; and

(vi) in paragraph (2)(D), by inserting before the period at the end the following: ", whether or not a penalty under subparagraph (C) has been imposed".

(8) The Secretary of Labor shall issue final or interim final regulations to implement the changes made by this section to section 101(a)(15)(H)(i)(b) and section 212(n) of the Immigration and Nationality Act no later than January 2, 1992.

(9) Section 206(a) of the Immigration Act of 1990 is amended by inserting "and section 124(a)(3)(A) of this Act" after "Immigration and Nationality Act".

(10) Section 214(c)(2) of the INA, as added by section 206(b)(2) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by striking "individuals petitions" and inserting "individual petitions". and

(B) in subparagraph (D)(ii), by striking "involved" and inserting "involves".

(11) Section 214(a)(2)(A) of the INA, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by striking "under section 101(a)(15)(O)" and inserting "described in section 101(a)(15)(O)".

(12) Section 214(c)(5) of the INA, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by striking "101(H)(ii)(b)" and inserting "101(a)(15)(H)(ii)(b)"

(13) Section 207(c) of the Immigration Act of 1990 is amended by inserting "of the Immigration and Nationality Act" after "101(a)(15)(H)(ii)(a)" each place it appears.

(14) Section 101(a)(15)(Q) of the INA, as added by section 208(3) of the Immigration Act of 1990, is amended by striking "designated" and inserting "approved".

(b)(1) Section 221(a) of the Immigration Act of 1990 is amended—

(A) in the matter before paragraph (1), by striking "in a position unrelated to the alien's field of study and", and

(B) in paragraph (1), by inserting "academic" before "year".

(2) Section 221(b) of the Immigration Act of 1990 is amended—

(A) by inserting "and the Secretary of Labor" after "the Commissioner of the Immigration And Naturalization", and

(B) by inserting "a report" after "to the Congress".

(3) Section 222(a) of the Immigration Act of 1990 is amended by striking "subject to the succeeding provisions of this section" and inserting "Subject to subsection (b)".

(4) Section 223(a) of the Immigration Act of 1990 is amended—

(A) by striking the period at the end of paragraph (2) and inserting a comma, and

(B) by adding at the end the following: "or who is the spouse or minor child of such an alien if accompanying or following to join the alien.".

SEC. 304. CORRECTIONS RELATING TO TITLE III OF THE IMMIGRATION ACT OF 1990.

(a) Section 302(c) of the Immigration Act of 1990 is amended by striking "AFFECT", "supercede", and "affect" and inserting "EFFECT", "supersede", and "effect", respectively.

(b) Section 244A of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(1) in subsection (a)(1), by inserting after "designated under subsection (b)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)",

(2) in paragraph (1)(B), by adding at the end the following: "In the case of aliens registered pursuant to a designation under this section made after July 17, 1991, the Attorney General may impose a separate, additional fee for providing an alien with documentation of work authorization. Notwithstanding section 3302 of title 31, United States Code, all fees collected under this subparagraph shall be credited to the appropriation to be used in carrying out this section,", and

(3) in subsection (c)(1)(A), by inserting after "designated under subsection (b)(1)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)".

(c)(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, or

(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act; and

(B) the alien shall not be considered, by reason of such authorizes departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

(2) Aliens described in this paragraph are the following:

(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990.

SEC. 305. CORRECTIONS RELATING TO TITLE IV OF THE IMMIGRATION ACT OF 1990.

(a) Section 310(b) of the INA, as amended by section 401(a) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(b) Section 407(c)(11) of the Immigration Act of 1990 is amended by striking ", other than subsection (d)".

(c) Section 407(d)(8) of the Immigration Act of 1990 is amended by striking "Section 328(c) (8 U.S.C. 1439(c)) is amended" and inserting "Subsections (b)(3) and (c) of section 328 (8 U.S.C 1439) are amended".

(d) Subsection (g) of section 334 of the INA, as redesignated by section 407(d)(12)(E) of the Immigration Act of 1990, is redesignated as subsection (f).

(e) Section 407(d)(12(B) of the Immigration Act of 1990 is amended by adding "and" at the end of clause (i).

(f) Section 335(b) of the INA, as amended by section 407(d)(13(C)(iii) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(g) Section 407(d)(14)(D)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(h) Section 407(d)(14)(3)(ii) of the Immigration act of 1990 is amended by striking "persons" and inserting "person".

(i) Section 337(c) of the INA is amended by striking "before".

(j)(1) Section 407(d)(16)(C) of the Immigration Act of 1990 is amended by striking the comma after "venue".

(2) Section 338 of the INA, as amended by section 407(d)(16)(C) of the Immigration Act of 1990, is amended by striking "District" and inserting "district".

(k) Section 340 of the INA, as amended by section 407(d)(18) of the Immigration Act of 1990, is amended—

(1) in the first sentence of subsection (a), by striking "District Court" and inserting "district court", and

(2) in the second sentence of subsection (g), by striking "clerk of the court" and inserting "clerk of court".

(l) Section 407(d)(19)(A)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(m) Effective as if included in section 407(d) of the Immigration Act of 1990:

(1) Paragraph (24) of section 101(a) of the INA is repealed.

(2) Section 312 of the INA is amended by striking "petition" and inserting "application" each place it appears.

(3) The heading of section 322 of the INA is amended by striking "PETITION" and inserting "APPLICATION".

(4) The item in the table of contents of the INA relating to section 322 is amended by striking "petition" and inserting "application".

(5) Section 330 of the INA is amended by striking "of this subsection" and inserting "of this section".

(6) Section 332(a) of the INA is amended by striking "petitioners" and inserting "applicants".

(7) Section 334(a) of the INA is amended by striking ", in duplicate,".

(8) Section 341(a) of the INA is amended by striking "a petitioner" and inserting "an applicant".

(n) Section 408(a)(2)((B) of the Immigration Act of 1990 is amended by striking "on the date of the enactment of this Act" and inserting "on January 1, 1992".

SEC. 306. CORRECTIONS RELATING TO TITLE V OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 101(a)(43) of the INA, as amended by section 501(a)(4) of the Immigration Act of 1990, is amended by striking" "and inserting a period.

(2) Section 502(a) of the Immigration Act of 1990 is amended by striking "(8 U.S.C. 1152a(a)(1))" and inserting "(U.S.C. 1105a(a)(1))".

(3) Section 287(a)(4) of the INA, as amended by section 503(a)(2) of the Immigration Act of 1990, is amended by striking ", and" at the end and inserting "; and".

(4) Subparagraph (B) of section 242(a)(2) of the INA, as added by section 504(a)(5) of the Immigration Act of 1990, is amended to read as follows:

"(B) The Attorney General may not release from custody any lawfully admitted alien who has been convicted of an aggravated felony, either before or after a determination of deportability, unless the alien demonstrates to the satisfaction of the Attorney General that such alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.".

(5) Section 236(e)(1) of the INA, as amended by section 504(b) of the Immigration Act of 1990, is amended by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)".

(6) Section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 507 of the Immigration Act of 1990, is amended—

(A) by striking "the certified records" and inserting "notice", and

(B) by inserting before the period at the end the following: "and under which the State will provide the Service with the certified record of such a conviction within 30 days of the date of a request by the Service for such record".

(7) Section 509(b) of the Immigration Act of 1990 is amended by inserting before the period at the end the following: ", except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction".

(8) The last sentence of section 510(b) of the Immigration Act of 1990 is amended by striking "for".

(9) The last sentence of section 510(c) of the Immigration Act of 1990 is amended by striking "been been" and inserting "been".

(10) The last sentence of section 212(c) of the INA, as added by section 511(a) of the Immigration Act of 1990, is amended by striking "an aggravated felony and has served" and inserting "one or more aggravated felonies and has served for such felony or felonies".

(11) Section 513(b) of the Immigration Act of 1990 is amended—

(A) by striking "petitions to review" and inserting "petitions for review", and

(B) by inserting before the period at the end the following: "and shall apply to convictions entered before, on, or after such date".

(12) Section 514(a) of the Immigration Act of 1990 is amended by striking "10 years" and inserting "ten years".

(13) Paragraphs (1) and (2) of section 515(b) of the Immigration Act of 1990 are amended to read as follows:

"(1) The amendment made by subsection (a)(1) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for asylum made on or after such date.

"(2) The amendment made by subsection (a)(2) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for withholding of deportation made on or after such date.".

(b)(1) Section 274B(g)(2)(B)(iv)(II) of the INA, as amended by section 536(a) of the Immigration Act of 1990, is amended by striking "subclause (IV)" and inserting "subclauses (III) and (IV)".

(2) Section 274A(b)(3) of the INA, as amended by section 538(a) of the Immigration Act of 1990, is amended by striking the comma after "officers of the Service".

(3) Section 274B(g)(2)(B) of the INA, as amended by section 539(a) of the Immigration Act of 1990, is amended—

(A) in clause (iv)(IV), by striking the period at the end and inserting a semicolon,

(B) in clauses (v) and (vi), by striking the comma at the end and inserting a semicolon,

(C) in clause (vii), by striking ", and" and inserting "; and",

(D) in clause (vii), by striking "to order (in an appropriate case) the removal of" and inserting "to remove (in an appropriate case)", and

(E) in clause (viii), by striking "to order (in an appropriate case) the lifting of" and inserting "to lift (in an appropriate case)".

(c)(1) Section 274B(g)(2)(D) of the INA is amended by striking "physicially" and inserting "physically".

(2) Section 543(a)(3) of the Immigration Act of 1990 is amended by inserting "each place it appears" before "and inserting".

(3) Sections 252(c) and 275(a) of the INA, as amended by section 543(b) of the Immigration Act of 1990, are each amended by striking "fined not more than" and all that follows through "United States Code)" and inserting "fined under title 18, United States Code,".

(4)(A) The second sentence of section 231(d) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(B) The third sentence of section 237(b) of the INA is amended by striking "district director of customs" and inserting "Commissioner".

(C) The second sentence of section 254(a) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(D) The second sentence of section 273(b) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(5)(A) Section 274C(a) of the INA, as added by section 544(a) of the Immigration Act of 1990, is amended—

(i) in paragraph (2), by inserting "or to provide" after "or receive",

(ii) in paragraph (3), by inserting "or to provide or attempt to provide" after "attempt to use", and

(iii) in paragraph (4), by inserting "or to provide" after "receive".

(B) Section 544 of the Immigration Act of 1990 is amended by striking "(c) EFFECTIVE" and inserting "(d) EFFECTIVE".

(6) Section 242B of the INA, as inserted by section 545(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(1)(E), by striking ", upon request,";

(B) in subsection (a)(2)(A)(ii), by inserting ", except under exceptional circumstances," after "failure";

(C) in subsection (a)(2), by adding at the end the following:

"In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F).";

(D) in subsection (b)(1), by inserting before the period at the end of the following: ", unless the alien requests in writing an earlier hearing date";

(E) in subsection (b)(2)—

(i) by inserting "pro bono" after "to represent", and

(ii) by adding at the end the following "Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.";

(F) in subsection (c)—

(i) in paragraph (1), by striking "except as provided in paragraph (2)," each place it appears,

(ii) in paragraph (1), by adding at the end the following: "The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F).", and

(iii) by striking the second sentence of paragraph (2);

(G) in subsection (c)(4), by inserting "(or 30 days in the case of an alien convicted of an aggravated felony)" after "60 days";

(H) in subsection (d), by striking "the Board" and inserting "the Attorney General";

(I) in subsection (e)(4)(B), by inserting "a" after "with respect to"; and

(J) in subsection (e)(5), by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(7) The 8th sentence of section 242(b) of the INA, as amended by section 545(e) of the Immigration Act of 1990, is amended to read as follows: "Such regulations shall include requirements that are consistent with section 242B and that provide that—

"(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held.

"(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose,

"(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government, and

"(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.".

SEC. 307. CORRECTIONS RELATING TO TITLE VI OF THE IMMIGRATION ACT OF 1990.

(a) Section 212(a) of the INA, as amended by section 601(a) of the Immigration Act of 1990, is amended—

(1) in paragraph (1)(A), by adding "or" at the end of clause (ii);

(2) in paragraph (3)(A)(i), by inserting "(I)" after "any activity" and by inserting "(II)" after "sabotage or";

(3) in paragraph (3)(B)(iii)(III), by striking "an act of terrorist activity" and inserting "a terrorist activity";

(4) in paragraph (3)(D)(iv), by striking "if the alien" and inserting "if the immigrant";

(5) in paragraph (3)(C)(iv), by striking "identities" and inserting "identity";

(6) in paragraph (5)(C), by striking "preference immigrants" and all that follows through the end and inserting the following: "immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).";

(7) in paragraph (6)(B)—

(A) by striking "who seeks" and inserting "(a) who seeks",

(B) by striking "(or" and inserting ", or (b) who seeks admission", and

(C) by striking "felony)" and inserting "felony,";

(8) in paragraph (6)(E)—

(A) by redesignating clause (ii) as clause (iii), and

(B) by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(9) in paragraph (8)(B), by striking "alien" the first place it appears and inserting "person"; and

(10) in paragraph (9)(C)—

(A) in clause (i), by striking everything that follows "entry of" and inserting "an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order, is excludable until the child is surrendered to the person granted custody by that order.", and

(B) in clause (ii), by striking "to an alien who" and all that follows through "signatory" and inserting "so long as the child is located in a foreign state that is a party".

(b) Section 212(c) of the INA, as amended by section 601(d)(1) of the Immigration Act of 1990, is amended by striking "subparagraphs (A), (B), (C), or (E) of paragraph (3)" and inserting "paragraphs (3) and (9)(C)".

(c) Section 212(d)(3) of the INA, as amended by section 601(d)(2)(B)(i) of the Immigration Act of 1990, is amended—

(1) by striking "(3)(A)," and inserting "(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii)," each place it appears, and

(2) by striking "(3)(D)" and inserting "(3)(E)" each place it appears.

(d) Section 212(d)(11) of the INA, as added by section 601(d)(2)(F) of the Immigration Act of 1990, is amended by inserting "and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof)" after "section 211(b)".

(e) Section 212(g)(1) of the INA, as amended by section 601(d)(3) of the Immigration Act of 1990, is amended by striking "section (a)(1)(A)(i)" and inserting "subsection (a)(1)(A)(i)".

(f) Section 212(h) of the INA, as amended by section 601(d)(4) of the Immigration Act of 1990, is amended—

(1) in the matter before paragraph (1), by striking "in the case of" and all that follows through 'permanent residence"; and

(2) in paragraph (1)—

(A) in the matter before subparagraph (A), by inserting "(A) in the case of any immigrant" after "(1)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking "and" at the end of subparagraph (C) and inserting "or",

(D) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and

(E) by adding at the end the following:

"(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and".

(g) Section 212(i) of the INA, as amended by section 601(d)(5) of the Immigration Act of 1990, is amended by striking "alien" and "alien's" each place it appears and inserting "immigrant" and "immigrant's", respectively.

(h) Section 241(a) of the INA, as amended by section 602(a) of the Immigration Act of 1990, is amended—

(1) by striking "deportable as being", and by inserting "deportable" after "the following classes of";

(2) in paragraph (1)(D)(i), by inserting "respective" after "terminated under such";

(3) in paragraph (1)(E)(i), by inserting "any" before "entry" the second and third places it appears;

(4) in paragraph (1)(E), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(5) in paragraph (1)(G), by striking "212(a)(5)(C)(i)" and inserting "212(a)(6)(C)(i)";

(6) in paragraph (1)(H), by striking "paragraph (6) or (7)" and inserting "paragraph (4)(D)";

(7) in paragraph (2)(D), by inserting "or attempt" after "conspiracy";

(8) in paragraph (3), by adding at the end the following:

"(C) DOCUMENT FRAUD.—Any alien who is the subject of a final order for violation of section 274C is deportable.";

(9) in subparagraphs (A) and (B) of paragraph (4), by striking "after entry has engaged" and inserting "after entry engages"; and

(10) in paragraph (4)(C)(ii), by striking "excluability" and inserting "excludability".

(i) Section 102 of the INA, as amended by section 603(a)(2) of the Immigration Act of 1990, is amended by striking "paragraph (3) (other than subparagraph (E)) of section 212(a)" each place it appears and inserting "subparagraphs (A) through (C) of section 212(a)(3)".

(j) Effective as if included in section 603(a)(5) of the Immigration Act of 1990, section 210(b)(7)(B) of the INA is amended by striking "212(a)(19)" and inserting "212(a)(6)(C)(i)".

(k) Effective as if included in section 602(b) of the Immigration Act of 1990, section 241 of the INA is amended—

(1) by striking subsection (d), and

(2) in the subsection (h) (added by section 153(b) of the Immigration Act of 1990) by striking "exist" and inserting "existed" and by redesignating the subsection as subsection (c).

(l) Effective as if included in section 603(a) of the Immigration Act of 1990:

(1) Sections 207(c)(3) and 209(c) of the INA as amended by section 603(a)(4)(B) of the Immigration Act of 1990, are each amended by striking "subparagraphs (A)" and inserting "subparagraph (A)".

(2) Section 210A(e)(2)(B) of the INA is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii) Paragraph (3) (relating to security and related grounds).".

(3) Section 217(a) of the INA is amended by striking "(26)(B)" and inserting "(7)(B)(i)(II)".

(4) Section 218(g)(3) of the INA is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)(i)".

(5) Section 244A(c) of the INA as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(A) in paragraph (2)(A)(iii)(I), by striking "paragraphs (9) and (10)" and inserting "paragraphs (2)(A) and (2)(B)"; and

(C) by amending subclause (III) of paragraph (2)(A)(iii) to read as follows:

"(III) paragraphs (3)(A), (3)(B), (3)(C), or (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).".

(6) Section 245A(d)(2)(B)(ii) of the INA is amended—

(A) by striking subclause (IV),

(B) by redesignating subclause (II) as subclause (IV) and by transferring and inserting it after clause (III).

(C) by redesignating subclause (III) as subclause (II),

(D) by inserting after subclause (II) (as so redesignated) the following new subclause:

"(III) Paragraph (3) (relating to security and related grounds).", and

(E) by striking "Subclause (II)" and inserting "Subclause (IV)".

(7) Section 272(a) of the INA is amended by striking the comma before "shall pay".

(8) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as amended by section 603(a)(20)(B) of the Immigration Act of 1990, is amended by striking "(D)" and inserting "(E)".

(9) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended by striking "(23)(B), (27), (29), or (33)" and inserting "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)".

(10) Section 2(a)(3) of the Immigration Nursing Relief Act of 1989 is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)".

(m) Effective as if included in section 603(b) of the Immigration Act of 1990—

(1) paragraph (4)(B) of such section is amended by striking "in paragraph (2)", and

(2) section 242(e) of the INA is amended by striking "paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3), or (4)".

SEC. 308. CORRECTIONS RELATING TO TITLE VII OF THE IMMIGRATION ACT OF 1990.

(a) Effective October 1, 1991, section 245(e)(3) of the INA, as added by section 702(a)(2) of Immigration Act of 1990, is amended by striking "204(h)" and inserting "204(g)".

(b) Section 702(b) of the Immigration Act of 1990 is amended by striking "204(h) (8 U.S.C. 1154(h))" and inserting "204(g) (8 U.S.C. 1154(g)), as redesignated by section 162(b)(6) of this Act,".

(c) Section 304(f) of the Immigration Reform and Control Act of 1986, as amended by section 704(b) of the Immigration Act of 1990, is amended—

(1) by striking "appointment in the and" and inserting "appointment and". and

(2) by striking "civil" the first place it appears and inserting "competitive".

(d) Section 404(b)(2)(A) of the INA, as added by section 705(a)(5) of the Immigration Act of 1990, is amended by adding at the end the following new sentence:

"In applying clause (i), the providing of parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district."

SEC. 309. ADDITIONAL MISCELLANEOUS CORRECTIONS.

(a)(1)(A) Section 209 of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100-459, 102 Stat. 2203) is amended—

(i) in subsection (a)—

(I) by striking "Title 8, United States Code, section 1356 is amended by adding" and inserting "Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end", and

(II) in the subsection (o) added by such subsection, by striking "will" and inserting "shall"; and

(ii) by amending subsection (b) to read as follows:

"(b) Section 344(g) of the Immigration and Nationality Act (8 U.S.C. 1455(g)) is amended by inserting after 'Treasury of the United States' the following: 'except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 286(m)'.".

(B) The fourth proviso under Immigration and Naturalization Service in the Department of Justice Appropriations Act, 1990 (title II of Public Law 101-162, 103 Stat. 1000) is amended to read as follows: ": *Provided further*, That section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by striking 'in excess of $50,000,000' and by striking the second sentence".

(2)(A) Section 286 of the INA, as amended by section 210 of the Department of Justice Appropriations Act, 1991, is amended—

(i) in subsection (h)(1)(A), by inserting a period after "available until expended",

(ii) in subsection (m), by striking "additional" and inserting "additional",

(iii) by moving the left margins of subsection (q)(2) and the matter in subsection (q)(3)(A) (before clause (i)) 2 ems to the left,

(iv) in subsection (q)(3)(A), by inserting "the" after "The Secretary of", and

(v) in subsection (q)(5)(B), by striking "subsection (q)(1)" and inserting "paragraph (1)".

(B) Section 210(a)(2) of the Department of Justice Appropriations Act, 1991, is amended by striking "in which fees" and inserting "in which the fees".

(3) The amendments made by paragraph (1) and (2) shall be effective as if they were included in the enactment of the Department of Justice Appropriations Act, 1989 and the Department of Justice Appropriations Act, 1990, respectively.

(b)(1) Section 101(a)(15)(D)(i) of the INA is amended by inserting a comma after "States)".

(2) The item in the table of contents of the INA relating to section 242A is amended by striking "Procedures" and inserting "procedures".

(3) The item in the table of contents of the INA relating to section 345 is repealed.

(4) Section 101(c)(1) of the INA is amended by striking "322, and 323" and inserting "and 322".

(5) Section 204(f)(4)(A)(ii)(II) of the INA, as redesignated by section 162(d)(6) of the Immigration Act of 1990, is amended by striking "section 652 of such Act" and inserting "the second and third sentences of such section".

(6) Paragraph (3) of section 210(d) of the INA is amended—

(A) by indenting the paragraph (and its subparagraphs) 2 ems to the right;

(B) by striking "Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA)" and inserting "Service pursuant to this subsection";

(C) in the matter before subparagraph (A), by striking "INS" each place it appears and inserting "Service";

(D) in subparagraph (A), by striking "as defined in section 210(a)(1)(A) of the INA the INS" and inserting "described in subsection (a)(1)(A) the Service";

(E) in subparagraph (A), by striking "in the INA"; and inserting "in this Act";

(F) in subparagraph (B), by striking "as defined in section 210(a)(1)(B)(1)(B) of the INA" and inserting "described in subsection (a)(1)(A)"; and

(G) in subparagraph (B), by striking "section 210(b)(1)(A)" and inserting "subsection (b)(1)(A)".

(7) Section 212(j) of the INA is amended by striking "International Communication Agency" in paragraphs (1)(D) and (3) and inserting "United States Information Agency".

(8) Section 218(i)(1) of the INA is amended by striking "274A(g)" and inserting "274A(h)(3)".

(9) Section 242(h) of the INA is amended by inserting a comma after "Parole".

(10) Section 242(a) of the INA is amended by striking "101(a)(43)" and inserting "101(a)(43))".

(11) Section 274A(b)(1)(D)(ii) of the INA is amended by striking "clause (ii)" and inserting "clause (i)".

(12) Section 286(e)(1)(D) of the INA is amended by striking "of this title".

(13) Section 313(a)(2) of the INA is amended by inserting "and" before "(F)" and by striking "; (G)" and all that follows through "of 1950" the second place it appears.

(14) Section 344(c) of the INA is redesignated by section 407(d)(19)(F) of the Immigration Act of 1990, is amended by striking "of this subchapter" and inserting "of this title".

(15) The amendments made by section 8 of the Immigration Technical Corrections Act of 1988 shall be effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986 (Public Law 99-653).

SEC. 310. EFFECTIVE DATES.

Except as otherwise specifically provided, the amendments made by (and provisions of)—

(1) sections 302 through 308 shall take effect as if included in the enactment of the Immigration Act of 1990.

(2) section 309(a) shall be effective with respect to allotments for fiscal years beginning with fiscal year 1989, and

(3) section 309(c) shall take effect on the date of the enactment of this Act.

Amend the title to read as follows: "A bill to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws."

ABANDONED INFANTS ASSISTANCE ACT AMENDMENTS

LEVIN (AND OTHERS) AMENDMENT NO. 1449

Mr. REID (for Mr. LEVIN, for himself, Mr. KASTEN, and Mr. RIEGLE) proposed an amendment to the amendment of the House to the bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes, as follows:

In the appropriate place in the bill insert the following new section:

"SEC. . Amend Section 105 of the Older Workers Benefit Protection Act (P.L. 101-433) by striking the semicolon at the end of paragraph (b)(1) and inserting thereafter the following: '; or that is a result of pattern collective bargaining in an industry where the agreement setting the pattern was ratified after September 20, 1990, but prior to the date of enactment, and the final agreement in the industry adhering to the pattern was ratified after the date of enactment, but not later than November 20, 1990;' "

NOTICE OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Oversight of DOD Hospital and Medical Supply System, on Thursday, December 5, 1991, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for my colleagues and the public that two field hearings have been scheduled before the Mineral Resources Development and Production Subcommittee of the Committee on Energy and Natural Resources.

The purpose of the hearings is to receive testimony on S. 433, the Mining Law Reform Act of 1991.

The hearings are scheduled to take place on December 18, 1991, in Salt Lake City, UT, and December 19, 1991, in Bayard, NM. The exact time and locations for the hearings are to be announced.

Testimony will be by invitation only. For further information, please contact Lisa Vehmas of the subcommittee staff at 202/224-7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 26, 1991, at 10 a.m. to hold a hearing on cutting taxes for middle-income Americans.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Tuesday, November 26, 1991, after the first vote of the afternoon, to hold a business meeting to vote out the nominations of Charles Hilty to be Assistant Secretary of Agriculture, and Gary Byrne to be a member of the Farm Credit Administraion Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in closed/executive session on Tuesday, November 26, 1991, at 2:30 p.m., to discuss the nomination of Lt. Gen. Thomas J. Hickey, USAF, to be placed on the retired list in the grade of lieutenant general; and to discuss other pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on November 26, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate an original bill providing for an amendment to the 1956 Lumbee Act, and to meet on S. 1602, the Fort Peck Indian Tribes-Montana Compact Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 26, at 10 a.m. to receive a closed briefing on recent developments with regard to chemical and biological weapons proliferation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, November 26, 1991, at 9:30 a.m., to hold a hearing by the Juvenile Justice Subcommittee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RECOGNITION OF BUFORD BIBLE, KNOXVILLE, TN

• Mr. SASSER. Mr. President, in a time when American industry is under siege by a rising flood of foreign competition, I would like to take a moment to recognize Mr. Buford Bible of Knoxville, TN, who recently bought his 35th Chevrolet. This is the first time that a single customer has bought his 35th car from the same Chevrolet dealer, and I believe this event is quite an achievement for both Mr. Bible and Tarr Chevrolet, where Mr. Bible bought his car. In my view, Mr. Bible's purchase illustrates that the American automotive industry still offers products that are beyond compare, and I ask to submit into the RECORD a letter I wrote to Mr. Bible commending him on this accomplishment.

The letter follows:

U.S. SENATE,
Washington, DC, November 25, 1991.

Mr. BUFORD BIBLE,
Knoxville, TN.

DEAR MR. BIBLE: Mr. Lonas Tarr has informed me that you recently purchased your 35th Chevrolet from Tarr Chevrolet. This purchase is indeed an historic milestone, and I would like to take this opportunity to commend you on this accomplishment.

As an educator, you have been a role model for generations of Tennesseans, and your career was certainly a successful one. In this time of increasingly stiff competiton in the automotive market, once again you offer a shining example for all of us to follow.

I have heard many complain that American industry no longer offers quality products at an affordable price, but I believe that American products meet and often surpass world standards of quality. With your 35th Chevrolet, you prove that American industry is still second to none, and I challenge all Americans to follow your lead.

I have known Lonas Tarr for a number of years. I am sure that the service you received at his dealership over the last 40 years has been beyond compare. It is this effective relationship between salesman and customer on which this nation was built. Satisfied customers—like you—reflect the capitalist ideal and are the engine for an American democracy that is the envy of the world.

Once again, I would like to commend you on purchasing your 35th Chevrolet. I would welcome the opportunity to be of assistance to you or your family should the occasion arise.

Best wishes and keep in touch.

Sincerely,

JIM SASSER,
U.S. Senator.•

UNIVERSITY OF FLORIDA WINS FIRST OFFICIAL SOUTHEASTERN CONFERENCE FOOTBALL TITLE

1991 IS THE YEAR OF THE GATOR

• Mr. MACK. Mr. President, on Saturday, November 16, the University of Florida Fightin' Gator Football Team won its first official Southeastern Conference Football Championship.

From its humble beginnings in 1906 to the present, the University of Florida football program has had a rich and proud history. And now, this 1991 team has built on the enthusiasm and excitement of the last 85 years of gridiron competition and started a new chapter in the annals of Florida football.

Not only is this SEC championship special for the players and coaches who won it on the field, but it's also a moment to savor for the many past and present Gator fans who have lived and died Florida football.

It is also important to note that 25 years ago this season, for the first time a player from the University of Florida won college football's most distinguished honor—the Heisman Trophy. That same legend, Steve Spurrier, has now returned as coach to lead his alma mater to its first official SEC championship. Both as a player and now as a coach, he has brought excitement and excellence to Florida football.

This is indeed a joyous occasion for Gator fans in Florida and around the country. After 58 years of disappointment and frustration and "Wait 'til Next Year" in SEC football competition, the orange and blue can truthfully say with pride that 1991 is "The Year of the Gator."

As the Senator from Florida and an alumnus of the University of Florida, I would like to extend my congratulations on a job well done to the players, coaches and staff of the 1991 fightin' Gators.

UNIVERSITY OF FLORIDA'S 1991 SEC SCHEDULE AND RESULTS

Home	Score	Visitor	Score
Florida	35	Alabama	0
Florida	29	Mississippi State	7
Florida	16	Louisiana State	0
Florida	35	Tennessee	18
Florida	31	Auburn	10
Florida	45	Georgia	13
Florida	35	Kentucky	26

FIGHTIN' GATOR 1991 SEC CHAMPIONSHIP TEAM

PLAYERS

Brady Ackerman, Myrick Anderson, Pete Archie, Ephesians Bartley, Chris Bilkie, Norm Bolduc, Mike Brandon, Craig Carey, Kevin Carter, Michel Cohen, Kendall Cook, Gantt Crouch, Brad Culpepper, Aeden Czyzewski, Judd Davis, Charlie Dean, Terry Dean, Gregg Diamond, Cal Dixon, Monty Duncan, Shayne Edge, Tre Everett, Kevin Freeman, Brian Fisher, Brian Fox.

William Gaines, Michael Gilmore, Greg Gingeleski, Kevin Glenn, Dean Golden, Monty Grow, Bill Gunter, Henry Haston, Lawrence Hatch, Aubrey Hill, Harrison Houston, Matt Hurbanis, Hesham Ismail, Terrell Jackson, Willie Jackson, Ellis Johnson, Leroy Jones, Greg Keller, Larry Kennedy, Eddie Lake, Kedra Malone, Shane Matthews, Willie McClendon, Tony McCoy, Dexter McNabb.

Darren Mickell, Carlton Miles, Harold Monk, Brian Montgomery, Johnny Nichols, Marquette Oliver, Tim Paulk, Carlton Pouncy, Kelvin Randolph, Errict Rhett, Ed Robinson, Kirk Robinson, Tony Rowell, George Rushing, Ryan Ruland, Sam Scavella, Dexter Smith, Lex Smith, Del Speer, David Swain, Ryan Taylor, Harvey Thomas, Jim Watson, Mark White, Wil White, Rod Whited.

COACHES

Steve Spurrier, Jerry Anderson, Jim Collins, Dwayne Dixon, Carl Franks, Rich McGeorge, John Reaves, Bob Sanders, Charlie Strong, Ron Zook.

STAFF

Dr. John Lombardi, President, Bill Arnsparger, Norm Carlson, Ross Davis, Bud Fernandez, Jeremy Foley, John Humenik, Dr. Pete Indelicato, Doug Kaufman, Betty Ling, Chris Patrick, Tim Sain, Dr. Richard Shaara, Jamie Speronis.•

WORKER'S FAMILY PROTECTION ACT

• Mr. GLENN. Mr. President, I rise today to join my colleagues in cosponsoring S. 353, the Workers' Family Protection Act of 1991. This legislation addresses the growing problem of employee transported contaminant releases, a issue which has received very little attention. By providing grants for further research, hopefully we can ascertain the effects of such contaminant releases and then work to address a solution for this problem.

In the past, I have sponsored many bills which would protect employees who work with hazardous materials. But we have not adequately addressed the issue of the home. Knowing that chemical compounds such as lead and mercury have dangerous effects on people, we need to ensure people are properly protected from such toxins. Families remain in the dark about the possible risks of this toxic contamination. In fact, we ourselves do not know the magnitude of this problem. As my colleague from Vermont and sponsor of S. 353 pointed out, we have not studied this problem since the 1970's.

S. 353 will ease the family's anxieties by sponsoring additional research. With such information we will have the information not only to answer the queries of families, but also to solve the problem of contamination releases.

Mr. President, we cannot afford to ignore such a problem with the health of so many on the line. Under the Workers' Family Protection Act, we can finally gather the information needed to prevent these poisons from entering the home.•

OUTSTANDING SCHOOL NURSE OF 1991—BEVERLY ANN SHIPE

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to Beverly Ann Shipe who has been selected Outstanding School Nurse of 1991 by American School Health Association.

Beverly Ann Shipe is a teacher/practitioner school nurse in the Sweet Home School District in Amherst, NY. Mrs. Shipe functions as a school nurse practitioner in an expanded role, and as an elementary health education teacher.

Beverly Ann received her R.N. and B.S.N. degrees from D'Youville College in 1976. She went on to complete the School Nurse Practitioner Program at SUNY, Buffalo. She earned her M.S.N. degree in 1983. She is a New York State Board of Regents certified School Nurse Teacher and holds two national board certifications: School Nurse Practitioner from the American Nurses Association and Pediatric Nurse Practitioner from the National Certifying Board of Pediatric Nurse Practitioners and Nurses. She is a fellow of the National Association of Pediatric Nurse Associates and Practitioners.

Mrs. Shipe is a recipient of many prestigious awards including the National Association of School Nurses' Lina Rogers Collaborative Research Award, 1991 New York State Legislature Nurse of Distinction Award, and the 1986 Metropolitan Life Foundation Excellence in Health Education Initiative Healthy Me Award; among others.

She is the organizer of many health-related activities and health fairs. Mrs. Shipe believes that providing a positive clinical and educational experience in school can help interdict many of the social and health-related problems in society today.

For these and many other great contributions that Beverly Ann has made and continues to make in the lives of our young people I salute her and wish her well. Thank you, Beverly Ann and thank you, Mr. President.•

AMBASSADOR SMITH HEMPSTONE

• Mr. SIMON. Mr. President, the situation in Kenya has deteriorated.

But the one thing that Americans should note with pleasure is that our Ambassador, Smith Hempstone, has stood up courageously and forthrightly for the cause of human rights and the cause of democracy in that country.

Obviously, the hope of all of us is that President Moi will recognize that change is coming and will lead on that change and permit it to take place. He should do it graciously, as President Kaunda did in Zambia.

I confess that when Smith Hempstone was named, I was not that enthusiastic. While I continue to differ in political philosophy from Smith Hempstone, I recognize that he has shown skills and courage that a more traditional foreign service officer might not have.

He has not softened his message in any way, calling for democracy and freedom for the people of Kenya, and I applaud him for that.•

HONORING THE EMPLOYEES OF THIOKOL CORP., SPACE OPERATIONS

• Mr. HATCH. Mr. President, I rise today to honor the fine employees of Thiokol Corp., space operations, Ogden, UT. Recently, NASA awarded the George M. Low Trophy to this outstanding Utah company for its achievements in quality and productivity improvement and total quality management. This award recognizes the best NASA contractors who work on the space program. The award criteria, developed by NASA in conjunction with the American Society for Quality Control, were used to judge nominees on performance achievements and improvements in customer satisfaction, quality, and productivity levels. Thiokol Corp., documented four areas of excellence for consideration by NASA: First, continued high reliability of the space shuttle solid rocket motors; second, increased quality of products and services; third, dedicated employees and suppliers and; fourth, commitment to continuous improvement.

Mr. President, Thiokol's rocket motor redesign, which produces most of the thrust for the space shuttle liftoff, and its reliability that has proved dependable in more than a dozen flights since 1988, and the high quality of its products and services, all show the extremely high commitment and devotion of Thiokol's employees. The George M. Low Trophy is the highest award that NASA presents to its contractors, and I am extremely proud of the fine men and women of Thiokol Corp., who have brought honor to the corporation they work for and the great State of Utah in which they live.•

AMERICAN JEWISH COMMUNITY SUPPORT FOR LAND-FOR-PEACE IN ISRAEL

• Mr. WELLSTONE. Mr. President, the Middle East peace conference which opened in Madrid last month represents an historic opportunity to bring peace to a troubled region. Simply by sitting down together and listening to one another, the protagonists have taken the first step toward a durable and peaceful settlement between Israel, the Arab States, and the Palestinians. I commend President Bush and Secretary of State Baker for the skill and dedication they demonstrated in getting this peace process underway.

The next step in this process requires hard negotiations between Israel and the Palestinians and her Arab neighbors. Peace cannot be imposed from the outside by the United States or anyone else. However, Israel's future concerns all Americans, as well as Jews the world over. American Jews, in particular, have given Israel crucial financial, moral, and political support since her founding.

Many leaders of the American Jewish community ardently hope that the Israeli Government will seize the current opportunity to engage in meaningful negotiations with the Palestinians. Two hundred American rabbis last week presented Prime Minister Yitzhak Shamir with a letter urging him to freeze Israeli settlement activities in order to advance the peace process. The Prime Minister was in the United States to address the annual meeting of the Council of Jewish Federations. A survey of officers and board members of the council revealed that a majority of these Jewish leaders believes that Israel should accept an eventual demilitarized Palestinian State, and swap land in return for recognition of Israel by their Arab neighbors.

Mr. President, I want to draw the attention of my colleagues to the views of these two influential segments of the American Jewish community. I request that the text and signatures of the rabbis' letter to Prime Minister Shamir, and a Washington Post article on the survey of Council of Jewish Federation leaders, are printed in the CONGRESSIONAL RECORD.

The material follows:

[From the Washington Post, Nov. 21, 1991]

POLL FINDS DISAGREEMENT WITH SHAMIR'S POSITION

(By John M. Goshko)

A significant number of American Jewish community leaders strongly disagree with Israel's unwillingness to seek a Middle East peace settlement that would be based on giving up Israeli-occupied territory, according to a survey made public yesterday.

The survey covers the views of 205 of the more than 300 officers and board members of the Council of Jewish Federations, who are holding their annual meeting in Baltimore. The council is the umbrella for 153 local federations serving Jewish communities throughout this country.

Israeli Prime Minister Yitzhak Shamir is scheduled to address the conference today, following a tradition in which Israeli prime ministers have appeared at the conference in recognition of the council's large role in American Jewish life.

However, according to the survey, the audience that Shamir will be addressing this year disagrees with his refusal to freeze Jewish settlements in the West bank and the Gaza Strip, and the group believes Israel should accept a demilitarized Palestinian state and swap land in return for recognition of Israel by Arab neighbors.

While American Jews differ about specifics of the Middle East peace process, past polls have indicated that most favor a settlement based on "land for peace." Nonetheless, the major American Jewish organizations have been reluctant to express their reservations about Shamir's hard-line policies out of a sense of solidarity with Israel.

Organizers of this most recent survey said yesterday that the start of a renewed peace process, begun at talks in Madrid last month, has put added pressure on Israel to show more flexibility and has made American Jewish leaders willing to differ more openly with Shamir. They also said that many American Jews want to avert a clash between Israel and President Bush, an outspoken foe of additional Israeli settlements in the occupied territories.

This week, 200 American rabbis wrote to Shamir calling on him to freeze settlements.

The survey was conducted for the Los Angeles-based Wilstein Institute of Jewish Policy Studies, which is associated with the conservative branch of American Judaism. The questionnaire was designed and analyzed by Prof. Steven M. Cohen of Queen's College in New York and Prof. Seymour Martin Lipset, a political scientist now at George Mason University.

At a news conference yesterday, Lipset said telephone interviews with prospective attendees at the Baltimore meeting revealed that the 205 who responded are largely business people and professionals with a median age of 55 and a median annual income of more than $200,000; they are highly knowledgeable about Israeli affairs, give an average of more than $20,000 a year to Israel and regard themselves politically as liberal to middle-of-the-road.

Lipset characterized the respondents as "security-oriented doves" who are near-unanimous in agreeing that Israel's safety requires a strong military, including forces in the occupied territories, for many years to come; Jerusalem must remain Israel's undivided capital; and Arab refusal to accept the Jewish state's legitimacy is "the major obstacle to peace."

At the same time, a large majority endorsed a freeze on settlements in exchange for U.S. loan guarantees and most disagreed with Shamir's opposition to returning even "one inch" of occupied territory. A substantial majority also differed with Shamir's categorical refusal to eventually allow a Palestinian state and to conduct negotiations with the Palestine Liberation Organization if it recognizes Israel and ceases terrorism.

AMERICANS FOR PEACE NOW,
November 21, 1991.

DEAR PRIME MINISTER YITZHAK SHAMIR: We, American rabbis who are deeply committed to the State of Israel, its survival, security, and well-being, extend a warm welcome to you.

Like our ancestor Jacob in this week's portion of the Torah, Parashat Vayishlah, you, as Prime Minister, and we as the Jewish people, stand at a crossroads of Jewish History. Like Jacob—crossing the ford of Yabbok and preparing to reconcile with Esau, and achieve his new name and destiny as Israel—historical opportunities present themselves to Zionism, our thousands' years hope. We urge you for the sake of Zion and Jerusalem to listen to the voices of the majority of American Jews and the majority of Israelis who in their hearts hold the following beliefs:

A greater Israel is not identical with the size of its boundaries. Israel's security is the most crucial issue. Territorial compromise that enhances the possibility of peace and long-term security is for us a religious obligation, not a political expediency and not a weakness. Netzach Israel (the eternity of Israel) is a moral principle, not a geographical issue.

Furthermore, the resettlement of our brothers and sisters from abroad means more to us than the settlements in the West Bank and Gaza. Continued settlement activities are not only detrimental to the peace process, but also to the successful absorption of the new Olim in Israel. Therefore we encourage a freeze on settlements.

The opening of the peace conference reminded us that our enemies are still our enemies, that living together with Esau remains a future hope. Therefore, all the more reason to follow Jacob's example and Sarah's wisdom and accept the principles of separation of the two people and partition of the land. This is the only realistic hope, it is the historic path of Zionism and the wishes of the majority of Israelis, American Jews, the world community, and finally, after years of rejectionism, of the Palestinian people too.

As American Jews and religious leaders, we are acutely aware of the unique and vital role the U.S. government holds regarding the peace process. Therefore we strongly support the efforts of our government to bring about a durable and peaceful settlement between Israel, the Arab states, and the Palestinians. As in the case of the Camp David Accords, we will support positive U.S. incentives to all parties to bring about a reconciliation.

We respect your strength and congratulate you for your perseverance in leading Israel to the peace conference. The ultimate priority of peace may lead you and the Israeli people to take substantial risks with regard to territory. If this is your course, you will have the overwhelming support of the Jewish people.

This week's Torah portion concludes with Esau and Jacob reuniting to attend to the burial of their father Yitzhak. We hope and pray that the legacy of Yitzhak Shamir will also be one of peacemaker.

Signatories listed in formation:

Rabbi Kass Abelson, Minneapolis, MN.
Rabbi Jeffrey Ableser, Phoenix, AZ.
Rabbi Arik W. Ascherman, Berkeley, CA.
Rabbi Richard F. Address, Philadelphia, PA.
Rabbi Daniel Alder, New York, NY.
Rabbi Rebecca T. Alpert, Philadelphia, PA.
Rabbi Joel Alpert, Elkins Park, PA.
Rabbi Miriam Ancis, New York, NY.
Rabbi Akiva Annes, Tarzana, CA.
Rabbi Charles Arian, Washington, DC.
Rabbi Albert S. Axelrod, Waltham, MA.
Rabbi David Azen, Philadelphia, PA.
Rabbi Andrew Baker, Washington, DC.
Rabbi Martin Ballonoff, Petaluma, CA.
Rabbi Samuel Barth, New York, NY.
Rabbi Lewis M. Barth, Los Angeles, CA.
Rabbi D'vorah Bartnoff, Philadelphia, PA.
Rabbi Haim Dov Beliak, Los Angeles, CA.
Rabbi Maynard Bell, Paradise Valley, AZ.
Rabbi Michael Berenbaum, San Rafael, CA.
Rabbi William C. Berk, Phoenix, AZ.
Rabbi Howard Berman, Chicago, IL.
Rabbi Sol Bernards, Brooklyn, NY.
Rabbi Leila Berner, Media, PA.
Rabbi Joseph R. Black, Minneapolis, MN.
Rabbi Barry Block, Chicago, IL.
Rabbi Marc Blumenthal, Denver, CO.
Rabbi Alan Breqman, Highland Park, IL.
Rabbi Barnett J. Brickner, St. Louis, MO.
Rabbi Caryn Broightman, Philadelphia, PA.
Rabbi Herbert Bronstein, Chicago, IL.
Rabbi Deborah R. Bronstein, Los Angeles, CA.
Rabbi Jan Gerald Brown, Los Angeles, CA.
Rabbi Harold F. Caminker, Long Grove, IL.
Rabbi Debra S. Cantor, Brooklyn, NY.
Rabbi Steven A. Chester, Oakland, CA.
Rabbi Samuel Chiel, Newton, MA.
Rabbi Stanley F. Chyet, Los Angeles, CA.
Rabbi Sharon Cohen, Medford, MA.
Rabbi Jordan D. Cohen, Santa Barbara, CA.
Rabbi Stephen Cohen, Santa Barbara, CA.
Rabbi Hillel Cohn, San Bernardino, CA.
Rabbi Neil Comess-Daniels, Los Angeles, CA.
Rabbi Rachel Cowan, New York, NY.
Rabbi Robert Daum, San Rafael, CA.
Rabbi James Dennett, St. Louis, MO.
Rabbi James S. Diamond, St. Louis, MO.
Rabbi Dan Dorfman, San Francisco, CA.
Rabbi Israel Dresner, Wayne, NJ.
Rabbi Ellen W. Dreyfus, Park Forest, IL.
Rabbi Larry Edwards, Ithaca, NY.
Rabbi Denise L. Eger, Los Angeres, CA.
Rabbi Michael B. Eisenstat, Coral Gables, FL.
Rabbi Steven Fager, Durham, NC.
Rabbi David S. Fass, New City, NY.
Rabbi David Feder, Detroit, MI.
Rabbi Emily H. Feigenson, Los Angeles, CA.
Rabbi Edward Feld, Princeton, NJ.
Rabbi Louis Feldstein, Miami, FL.
Rabbi Reuven Firestone, Boston, MA.
Rabbi Frank Fischer, Chapel Hill, NC.
Rabbi Alan Flam, Providence, RI.
Rabbi Lori Forman, New York, NY.
Rabbi David Frank, Encinitas, CA.
Rabbi Daniel Freedlander, Paramus, NJ.
Rabbi Allen I. Freehling, Los Angeles, CA.
Rabbi Lee Friedlander, Roslyn, NY.
Rabbi Ronne Friedman, Boston, MA.
Rabbi Dale Friedman, Philadelphia, PA.
Rabbi John Friedman, Durham, NC.
Rabbi Joan Friedman, Bloomington, IN.
Rabbi Nancy Fuchs-Kreimer, Bala Cynwyd, PA.
Rabbi Roy Furman, Chicago, IL.
Rabbi Hilel Gamoran, Palatine, IL.
Rabbi Robert T. Gan, Los Angeles, CA.
Rabbi Dov Gartenberg, Seattle, BA.
Rabbi Laura Geller, Los Angeles, CA.
Rabbi Roland Gittelshon, Boston, MA.
Rabbi Mark Glickman, Dayton, OH.
Rabbi Robert Gluck, Philadelphia, PA.
Rabbi Rosalind A. Gold, Reston, VA.
Rabbi Jerrold Goldstein, Northridge, CA.
Rabbi Donald Goor, Tarzana, CA.
Rabbi David Gordis, Los Angeles, CA.
Rabbi Samuel Gordon, Wilmette, IL.
Rabbi Jerome Gorelman, St. Louis, MO.
Rabbi Arthur Green, Philadelphia, PA.
Rabbi Julie Greenberg, Philadelphia, PA.
Rabbi Howard R. Greestein, Jacksonville, FL.
Rabbi Jerome W. Grollman, St. Louis, MO.
Rabbi Susan Grossman, New York, NY.
Rabbi Stephen Hart, Chicago, IL.
Rabbi Floyd Herman, Baltimore, MD.
Rabbi Arthur Hertzberg, Englewood, NJ.
Rabbi Norman D. Hirsh, Seattle, WA.
Rabbi Seth Hochberg-Miller, Long Beach, CA.
Rabbi Lisa Hochberg-Miller, Long Beach, CA.
Rabbi Vicki Hollander, Seattle, WA.
Rabbi Linda Holtzman, Philadelphia, PA.
Rabbi Jeff Huntting, Beverly Hills, CA.
Rabbi Yitzhak Husbands-Hankin, Eugene, OR.
Rabbi Robert P. Jacobs, St. Louis, MO.
Rabbi Steven Jacobs, Encino, CA.
Rabbi Devorah Jacobson, Claremont, CA.
Rabbi Garry Johnson, Agora, CA.
Rabbi Yoel Kahn, San Francisco, CA.
Rabbi Arnold Kaiman, Chicago, IL.
Rabbi Allen Kaplan, New York, NY.
Rabbi Patricia Karlin-Neuman, Alameda, CA.
Rabbi Jan Katzew, Chicago, IL.
Rabbi Jan Kaufman, Washington, DC.
Rabbi James Kaufman, North Hollywood, CA.
Rabbi Ralph Kingsley, Miami, FL.
Rabbi Sharon Kleinbaum, Washington, DC.
Rabbi Bonnie Koppell, Meza, AZ.
Rabbi Michael Kramer, Bowie, MD.
Rabbi Douglass E. Krantz, Armonk, NY.
Rabbi Aaron Kriegel, Los Angeles, CA.
Rabbi Fred Krinsky, Claremont, CA.
Rabbi Howard Laibson, Long Beach, CA.
Rabbi Martin Lawson, San Diego, CA.
Rabbi Barton Lee, Tempe, AZ.
Rabbi Allan Lehman, Gainesville, FL.
Rabbi Arthur Lelyveld, Cleveland, OH.
Rabbi Joy Levitt, Roslyn, NY.
Rabbi Naomi Levy, Venice, CA.

Rabbi Richard N. Levy, Los Angeles, CA.
Rabbi Mordechai Liebling, Philadelphia, PA.
Rabbi Eugene Lipman, Washington, DC.
Rabbi Serge A. Lippe, Paradise Valley, AZ.
Rabbi Charles D. Lippman, New York, NY.
Rabbi Jane Litman, Manhattan Beach, CA.
Rabbi Mark Loeb, Baltimore, MD.
Rabbi Tom Louchheim, Tucson, AZ.
Rabbi Jack Luxemburg, Rockville, MD.
Rabbi Janet R. Marder, Los Angeles, CA.
Rabbi Shana Margolin, Bell Meade, NJ.
Rabbi Marc Margolius, Narbeth, PA.
Rabbi Susan Marks, Santa Monica, CA.
Rabbi Jeff Marks, Santa Monica, CA.
Rabbi Robert G. Marx, Chicago, IL.
Rabbi Simeon J. Maslin, Philadelphia, PA.
Rabbi J. Rolando Matalon, New York, NY.
Rabbi Bernard H. Mehlman, Boston, MA.
Rabbi Shelley Melzer, New York, NY.
Rabbi Paul Menitoff, Boston, MA.
Rabbi Marshall Meyer, New York, NY.
Rabbi Carole Meyers, Glendale, CA.
Rabbi Jacob Milgrom, Berkeley, CA.
Rabbi Charles Mintz, Minneapolis, MN.
Rabbi James Mirel, Seattle, WA.
Rabbi Norman Mirsky, Santa Monica, CA.
Rabbi Joel Mishkin, Baltimore, MD.
Rabbi Nina J. Mizrahi, St. Louis, MO.
Rabbi Michael Paley, New York, NY.
Rabbi Jack Paskoff, New Brunswick, NY.
Rabbi Hayim Goren Perelmuter, Chicago, IL.
Rabbi Michael Perelmuter, Santa Monica, CA.
Rabbi Aaron M. Petuchowski, Roslyn Heights, NY.
Rabbi David Pinkwasser, Tempe, AZ.
Rabbi Albert Plotkin, Phoenix, AZ.
Rabbi James Prosnit, Bridgeport, CT.
Rabbi Sanford Ragins, Los Angeles, CA.
Rabbi Einat Ramon, Berkeley, CA.
Rabbi Paula Reimers, Long Beach, CA.
Rabbi Steven Carr Reuben, Pacific Palisades, CA.
Rabbi Steve Robbins, Beverly Hills, CA.
Rabbi Jeff Ronald, Davis, CA.
Rabbi John Rosove, Hollywood, CA.
Rabbi Morris L. Rubinstein, Sun Valley, CA.
Rabbi James Sagarin, Chicago, IL.
Rabbi Paul Z. Saiger, Rochester, NY.
Rabbi Melvin Sands, Claremont, CA.
Rabbi Dennis C. Sasso, Indianapolis, IN.
Rabbi Sandy E. Sasso, Indianapolis, IN.
Rabbi Stanley T. Schickler, Port Washington, NY.
Rabbi Ira Schiffer, Baltimore, MD.
Rabbi Robert D. Schreibman, Northfield, IL.
Rabbi Barry L. Schwartz, Chevy Chase, MD.
Rabbi Sidney Schwarz, Rockville, MD.
Rabbi Chaim Seidler-Feller, Los Angeles, CA.
Rabbi Gerald Serotta, Washington, DC.
Rabbi Isaac Serotta, Washington, DC.
Rabbi Rami Shapiro, Miami, FL.
Rabbi Rona Shapiro, Springfield, MA.
Rabbi Mark Shapiro, Springfield, MA.
Rabbi Alexander Shapiro, South Orange, NJ.
Rabbi Henry M. Shreibman, Chicago, IL.
Rabbi Marion Shulevitz, New York, NY.
Rabbi Daniel I. Siegel, Dartmouth College.
Rabbi James Simon, Wooster, MA.
Rabbi Marjorie Slome, Brooklyn, NY.
Rabbi Ruth Sohn, Boston, MA.
Rabbi Joshua Stampfer, Portland, OR.
Rabbi Richard S. Sternberger, Washington, DC.
Rabbi Sharon Stiefel, Philadelphia, PA.
Rabbi Warren Stone, Kensington, MD.
Rabbi Ariel Stone, Miami, FL.
Rabbi Michael Strassfield, New York, NY.
Rabbi Marla Subeck, Northfield, IL.
Rabbi Frank N. Sundheim, Miami, FL.
Rabbi Brooks Susman, St. Louis, MO.
Rabbi Daniel Swartz, Los Angeles, CA.
Rabbi Robert P. Tabak, Philadelphia, PA.
Rabbi David Teutsch, Philadelphia, PA.
Rabbi Leonard Thal, Los Angeles, CA.
Rabbi Gordon Tucker, New York, NY.
Rabbi Burton Visotzky, New York, NY.
Rabbi David Vorspan, Reseda, CA.
Rabbi Max Vorspan, Los Angeles, CA.
Rabbi Leon Waldman, Fairfield, CT.
Rabbi Brian Walt, Havertown, PA.
Rabbi Shiela Weinberg, Amherst, MA.
Rabbi Daniel Weiner, Baltimore, MD.
Rabbi Samuel Weintraub, New York, NY.
Rabbi Simcha Weintraub, Brooklyn, NY.
Rabbi Avi Weiss, Cambridge, MA.
Rabbi Joseph Weizenbaum, Tucson, AZ.
Rabbi Harold White, Washington, DC.
Rabbi Michael White, Los Angeles, CA.
Rabbi Paula Winnig, Queens, NY.
Rabbi Joseph Wolf, Portland, OR.
Rabbi Gregory Wolfe, Milwaukee, WI.
Rabbi David S. Wolfman, Lexington, MA.
Rabbi Gordon Yaffe, Stratford, CT.
Rabbi Cary D. Yales, Lexington, MA.
Rabbi Elaine S. Zecher, Boston, MA.
Rabbi Daniel G. Zemel, Washington, DC.
Rabbi Marcia Zimmerman, Minneapolis, MN.
Rabbi Daniel Zucker, Los Angeles, CA.•

TRIBUTE TO MINNESOTAN JOHN BERKEY, 1991 CHRISTMAS STAMP DESIGNER

• Mr. DURENBERGER. Mr. President, it is with pride that I rise today in honor of Minnesotan John Berkey, designer of the 1991 Christmas stamp. Millions of Christmas greetings will be received in homes across the Nation during this holiday season and attached to those cards and letters will be John's contemporary designs of Santa in a variety of Christmas scenes.

This year's Christmas series marks a continuation of a successful career for John Berkey. In addition to holiday stamps, John has been commissioned by the U.S. Postal Service to design the 1983 Christmas stamp as well as the recently issued Hubert H. Humphrey postage stamp. A resident of Excelsior, MN, since 1941, John's artwork has been seen by millions of Americans in films as well as his sketches and paintings. Anyone picking up the upcoming book "Painted Space" will easily recognize John's work.

Mr. President, again I salute John Berkey on being chosen as the designer of the 1991 Christmas stamp, and I thank him for allowing us to share in the gift of his marvelous talents.•

LIFE STORY: BURDENS, DREAMS MINGLE FOR INMATE, 20

• Mr. SIMON. Mr. President, crimes are not committed in some vacuum. I do not suggest that criminals should not be punished for their actions, nor should we say that society is always to blame and, therefore, we have to treat those who commit crimes with great leniency.

But just as we have been told that unemployment is a major cause of alcohol and drug abuse, social conditions create other crimes.

Recently, I read an article of one prison inmate written by Bill Smith of the St. Louis Post-Dispatch.

It is a moving story, and it is a reminder that we have to pay attention to our social problems if we are to significantly reduce the crime problem.

I ask that the article be printed in the RECORD at this point.

The article follows:

[From the St. Louis Post-Dispatch, Nov. 19, 1991]

LIFE STORY: BURDENS, DREAMS MINGLE FOR INMATE, 20

(By Bill Smith)

Sometimes, on these cold November afternoons, Richard Perry says, he will sit and read to his friend inside the stark third-floor walls of City Hall.

"You got to start off with the easy books," said Perry, who is jailed on a murder charge. "I've been reading him a book called 'Lady Bug' from the library. It's a little cartoon book about kids and animals. I try to teach him the words.

"We'll watch a little TV, or play some spades or some checkers. Some of us play chess; Donald doesn't play chess."

On November 19, Donald Earl McCarthy will turn 21.

He can't read.

He can't write.

He doesn't know the name of the president of the United States.

He never has held a steady job.

Nov. 19 will mark his 94th straight day as a prisoner of the city of St. Louis—the 94th day since police discovered him and his younger brother hiding atop a walk-in cooler inside Flayer's Tavern. It was 4 a.m. on a warm August morning, and he had $14 stuffed in his pockets—all in quarters, dimes and nickels.

"I ain't going to lie about it," he said in an interview. "We went in there to get some money."

In nine days, Donald McCarthy legally will be a man.

He doesn't have a drivers license.

He is deaf in one ear and hearing impaired in the other.

His speech is crude, slurred and difficult to understand.

If he could travel anywhere in the world, he said, "I think I'd go to a bingo game.

"Do you think," he asked a reporter, "that I could get out for my birthday? I'd like to go to see a movie—maybe the one about that little dude who got in all that trouble at Christmas. I saw a thing for that one in the newspaper."

He spent part of last summer living in a storage shed in Lawrence Cooley's junkyard in the Cote Brillante neighborhood, eating White Castle hamburgers when he could get some money and earning a few dollars by helping Cooley and the boys load old tires onto trucks.

He's a good little worker, but I can't be responsible for him," Cooley said. "You got to watch him so he don't hurt himself.

"He'll call from jail almost every day, asking me, "if he get out can he have a job."

His mother and his stepfather say they can't scrape together $250 to pay his bond. They don't even have enough to pay this month's rent, said John Alsup, McCarthy's stepfather.

They are too poor, they say, to put gas in the family's old truck to drive the five miles to the jail to visit their son.

Maybe she can visit on Sunday, his mother said, "if something doesn't come up."

Last month, the couple said, they had to get an unlisted telephone number so Donald would stop calling them collect from the jail. "We owe the phone company $303 from last month," his stepfather said. Inmates' calls are collect, even in town.

"He's not a kid any more," said John Alsup. "Sometimes, I think he's a genius. He can fix old radios nobody can figure out. He can fix cars nobody can figure out."

GUILTY PLEAS AND APOLOGIES

In a year plagued by murder and other violence in the city, the people who know Donald McCarthy say he is anything but violent.

"He's not a hardened criminal; he's too fragile," said Bob Fleming, manager of Flayer's. Fleming was there that August morning when police brought Donald McCarthy out of the tavern.

"There's not a doubt in my mind that that kid can be rehabilitated. But he's got a lot of strikes against him."

Paul Thornton operates a hauling and salvage company in the city and has known McCarthy for several years.

Says Thornton: "He isn't a bad fellow.

"He'd take a battery charger or a TV from the shop, and his little brother would come and tell us about it. And then Donnie would bring the stuff back, and he'd apologize for taking it.

"He wants to learn; if somebody would just take the time."

Donald McCarthy is in the most serious trouble of his young life.

And he knows it.

On Thursday, he stood in Judge Anna C. Forder's courtroom and admitted that he had broken into the tavern.

Yes, he told the judge, he knew that he had a right to trial by jury.

Yes, he said, he knew he could go to prison.

The circuit attorney's office is asking for seven years.

His public defender is asking for probation.

Records say McCarthy is 5 feet 8 inches tall and weights 140 pounds. But in the big courtroom on Thursday, he seemed much smaller.

Forder leaned across the bench and spoke loudly to him to make sure he could understand.

It was the third time in three years that McCarthy had stood before a judge and pleaded guilty of a theft-related charge. In December, he pleaded guilty of stealing a truck, although he says now that he can't remember that incident at all.

Two years earlier, in July 1988, he pleaded guilty of second-degree burglary for breaking into a city service station.

"I wanted to get some tools so I could work on cars and make some money; I know I shouldn't have done it," he says.

Sometimes, he says, he lies in his bunk late at night and remembers back to a day some 10 years ago when he was struck by a car while playing baseball near Elliot School.

"I think I might go in front of a car again and get killed," he said. "What else is there to do?"

"SLOW LEARNER" TO DROPOUT

Donald McCarthy's childhood—at least a part of it—is in his city public school file. School officials made the file available to a reporter after McCarthy and his family gave their permission.

When he was 5, a psychological examiner with the school system labeled him a "slow learner." One test reported an IQ of 50, indicating moderate retardation. A second showed an IQ of 72, indicating a more mild retardation.

As a 6-year-old special education student at Stix School, he was described by a teacher as "a small boy who is very unhappy."

"It would appear that he wants much attention at school. Does try to please teachers by running tasks, cleaning up classroom."

His personal appearance was described as poor. "He comes to school every day with dirty face and hands," says the evaluation.

"Seldom smiles."

In 1979, at the age of 9, records show, Donald and his two brothers were placed in foster care for a year and a half as a result of suspected child abuse.

His mother and stepfather said it was a drummed-up charge.

"They came in and sprayed green stuff on the food so it looked like mold," said Victoria Alsup, McCarthy's mother.

In September 1984, when Donald was 13, a school psychologist at Blewett Middle School wrote:

"Tires quickly, daydreams, is usually preoccupied, does not make friends, lacks self-confidence, gives up easily, withdrawn, overconforms, unable to express ideas, depressed, worried, does not trust others, disoriented, overly dependent, poor grooming * * *"

He was reading at a primer level; his mathematics ability was at a first-grade level. A speech therapist noted that he had a severe speech impairment. "Speech is unintelligible to the casual listener," the therapist wrote. An intelligence test showed him with an IQ of 55; 100 is normal.

A final report is dated April 28, 1986. It was one month before Donald McCarthy would leave Blewett Middle School. The next summer he would be enrolled at Vashon High School.

That final report showed that he was reading at a first-grade level. "The student is functioning within the range of mildly handicapped abilities."

The report showed that at least three attempts had been made to reach his parents. After each attempt there is the notation, "Negative response."

In the fall of 1986, Donald McCarthy said, he was in his first high school class as a special education student at Vashon when the teacher asked the class to read and answer some questions in a textbook.

He says he raised his hand and said he could not read; he says the teacher took him to the principal. He says he never went back to that class.

He only went to school sporadically for the next two and a half months. When he turned 16, Donald McCarthy left school for good.

After all, he said, his older brother had done the same.

DREAMS AND A DAY IN COURT

Her older son, now 24, "can't read or write either," Victoria Alsup said.

He knows he faces a tough, uphill battle, Donald McCarthy says, but there are still things he wants to do one day.

"I don't want to go to the penitentiary," he said. "I want to go back to the junkyard. Or I want to go back home to live with my mom and dad.

"I could live in an apartment," he said, "if I could get somebody to come in and cook for me."

Before his arrest, McCarthy did work for neighbors in the area near the old water tower on North Grand, where his family lives.

"If he gets out," his mother said, "I want to get him in with the Job Corps."

But he has his own ideas, too.

"If I can get out of there, I want to get me a garage, some place in the city and work on cars and whatnot. I have a dream about that—me working on cars and making some good money. Have my own tow truck. when somebody calls up on the phone, I can go out and get them."

Now, though, Donald McCarthy plays checkers and looks at the pictures in hot rod magazines. "I could get an old car at the junkyard for $50 and fix it up real nice," he said.

Sometimes, when he gets a few dollars from his parents, he buys popcorn and candy bars.

His parents get $407 a month in Social Security for Donald as a result of his retardation, his mother says. They also get $407 for their daughter, 11. That is the family's total income, they said. They say they wish they could save enough to post bond for their son, but it's just not possible.

"We just got the checks at the first of the month," John Alsup told McCarthy on the phone last week, "and it's gone already."

Except for a reporter and his public defender, he has had no visitors in the three months he has been shuttled between City Jail and the Workhouse.

Still, he knows the visiting hours.

"To 5:45 to 7:45 on Mondays and Fridays; to 12 to 2 on Wednesdays.

"Do you think you could get my mom and dad's phone number? Do you think you could ask them to visit me?

"Sometimes I get mad," he said. "Sometimes I think why nobody can't bond me out.

"Yeah, I know whose fault it is that I'm here. It's my fault. I know that."

He can see the cars come and go through the cloudy, barred windows. He can see the people on the sidewalks, hurrying from one building to the next.

Sometimes, he says, it seems like summer was just yesterday. Soon it will be Thanksgiving and then Christmas.

He doesn't know where he will be on Christmas.

"It's in judge Forder's hands," said public defender Janis Good.

Donald McCarthy is scheduled to be sentenced on Dec. 13—a Friday the 13th, Judge Forder noted as she marked it on her calendar.

"I don't like that," Donald McCarthy said. "I don't like Friday the 13th. It's bad luck.

"My mom and dad don't even go out of the house."•

TRIBUTE TO MISSOURI'S ENVIRONMENTAL IMPROVEMENT AND ENERGY RESOURCES AUTHORITY

• **Mr. BOND.** Mr. President, I rise today to pay tribute to Missouri's Environmental Improvement and Energy Resources Authority, which along with the University of Missouri Extension, was recently recognized with a 1991 Presidential Envoronmental Conservation Challenge Award.

The working partnership between EIERA and University of Missouri Extension culminated in the household hazardous waste project, which was created to inform the citizens of Missouri about the importance of safe disposal and storage on hazardous waste products from household chemicals. The project has helped increase awareness of the dangers that can result from improper use and disposal, and contribute to a safer environment. The household hazardous waste project began as a grassroots community effort that was expanded statewide due to the hard work and efforts of the EIERA and University of Missouri Extension.

We are proud that Missouri's efforts to increase community awareness on this important issue have resulted in the household hazardous waste project being adopted as a nationally recognized model used by the United Nations and countless others. On behalf of my fellow Missourians, I congratulate our Environmental Improvement and Energy Resources Authority and the University of Missouri Extension on the national recognition their efforts have earned.●

CBO ESTIMATE ON S.J. RES. 23

● Mr. JOHNSTON. Mr. President, on September 20, the Committee on Energy and Natural Resources reported Senate Joint Resolution 23, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920. The committee submitted a report on this resolution but the budget impact estimate from the Congressional Budget Office was not ready at the time of the submittal. That estimate has now been received by the committee and I ask that it be printed in the RECORD.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 25, 1991.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S.J. Res. 23, a joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920, as ordered reported by the Senate Committee on Energy and Natural Resources, November 20, 1991. Enactment of this resolution would result in no cost for the Federal Government or for State or local governments. Enactment of S.J. Res. 23 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to this bill.

S.J. Res. 23 would grant the consent of the United States to a number of amendments to the Hawaiian Homes Commission Act, 1920, already adopted by the State of Hawaii. These amendments generally concern the administration and development of the Hawaiian home lands.

If you wish further on this estimate, we will be pleased to provide them. The CBO staff contact is Marjorie Miller, who can be reached at 226-2860.

Sincerely,
ROBERT D. REISCHAUER.●

VETERAN OBSERVANCE OF PEARL HARBOR

● Mr. D'AMATO. Mr. President, it is incumbent upon all of us to remember Pearl Harbor today, November 26, 1991. It was 50 years ago today that six Japanese aircraft carriers, and a full complement of cruisers, destroyers and support vessels set sail from Hitokappu Bay led by Admiral Chuichi Nagumo's flagship, the *Akagi*, on their way to that day of infamy at Pearl Harbor.

While a pressing prior commitment precludes my attendance at the Syracuse, NY, VA Medical Center observance of the 50th anniversary of the raid on Pearl Harbor, I want to join in their observance by recalling that day.

It has been 50 years since that fateful day when the dreaded news of death and destruction reached our parents, grandparents, and other relatives. The surprise attack by the Imperial Japanese naval air forces upon our naval base at Pearl Harbor and the airfields around the island of Oahu was to shake the world as we knew it to its very foundation. Reactions to the news varied from disbelief, shock, and surprise to anger. Later, these feelings would translate into a sense of mission, duty, and responsibility which would drive the American war machine and keep the recruitment offices jammed with volunteers.

The raid on Pearl Harbor is an event which will be forever ingrained in the hearts and minds of all of us old enough to remember. The war is over, but we shall never forget. We shall not forget the destruction and sorrow of the day which drew us into World War II. Today as we remember that "day of infamy," let us also remember that we fought for peace, for a lasting peace that will carry us through in future generations.●

THIRD COUNTRY MEAT DIRECTIVE—S. 1738

● Mr. COATS. Mr. President, today, I rise in support of S. 1738. The so-called third country meat directive bill. This bill, in my opinion does a great deal to make the point that we in the United States—lawmakers, processers, farmers, and consumers—are serious indeed about promoting and insisting upon fair trade practices.

For many years, the European Community has had in place what it calls the third country meat directive. By their standards, this directive seeks to restrict U.S. meat and meat products processed in plants which do not meet the standards of the directive. Mr. President, in my opinion, this is no more than a clever name for an unfair nontariff trade barrier.

The third country meat directive is an arbitrary standard arranged and rearranged to meet the import needs of the day by the European Community. Unfortunately, of late, there seems to be very little need for U.S. meat products in the European Community. Last year the United States exported 809,386 metric tons of meat and meat products—only a small percentage of which went to the European Community. By contrast, the United States in 1988 imported nearly 6 million metric tons of European Community meat and meat products.

I have been pleased to see that recently, the European Community has decided to relist 14 meat processing plants as eligible to ship meat and meat products to the European Community. This is a move in the right direction. However, it is not a move far enough. We must move to eliminate all trade barriers, especially those which are unfair and unnecessary.

As I have traveled across the State of Indiana, I continue to hear from pork producers, sheep producers, poultry producers, and cattlemen, who just want the opportunity to compete in a fair and impartial fashion. They are not asking to automatically be declared the winner, only to compete on a level playing field. It is their feeling, and mine I might add, that if we play with even odds that the Hoosier farmer and the American farmer will prevail.

S. 1738 seeks to bring this misalignment a little bit more in line. Specifically, it will prohibit the import of meat products from the European Community until these unfair trade barriers are removed. It is for this reason, that I join as a cosponsor today of S. 1738.●

INTERNATIONAL COMPARISONS OF SCIENCE AND MATHEMATICS ACHIEVEMENT

● Mr. HATFIELD. Mr. President, in recent weeks, I have been following a disturbing colloquy that is taking place in the print media. I refer to the sequence of articles claiming that the achievement of U.S. students is or is not at tragically low levels, particularly in international comparisons.

When systems analysts at the Sandia National Laboratories examined data on the status of United States education, they represented an objective outsider perspective. Their conclusions, which ran counter to others that report dreadful crises in American education, were quashed by the administration for being a call for complacency at a time when just the opposite is required. One antonym of complacency is "panic"—as in fear, trepidation, or hysteria—which I doubt was being advocated.

Other parties joined in the see-saw dialog. Testing experts issued their analyses of international testing procedures and test results, challenging the validity of international rankings. The Department of Education insisted that those claims are foolish, since U.S. students definitely lag in math and science achievement. A research psychologist, highly profiled in this analyses of the gloom and doom critics of U.S. education, was hired by a leading education association then released when he continued to participate in the media coverage.

Both sides of these public conversations have made significant contributions to advances in mathematics and science education in the Nation. Both sides have displayed their confidence in the commitment of American educators to improving the substance, content, delivery, and environment of schooling. So, as an outdated commercial inquired, "Where's the beef?"

Mr. President, my own beef with this situation—perhaps I should say my concern, disappointment, or distress—is with what I think are unintended consequences of some of our official reporting on and resulting media coverage of the status of U.S. students. The Washington Post quoted the coordinator of the 1993 international comparison of mathematics and science achievement as saying:

> I find it scary when I look at a magazine and see a graph ranking countries with virtually no explanatory material. The graph makes it look like the Japanese system is wonderful and the United States system is the pits.

Even if there were explanatory text, we all know that people often look at a graph and ignore the written analyses. That's a fundamental technique of advocacy: Present your data in eye-catching pictorials that back up your position,

That's my concern: What is our position regarding American precollege education? What are we advocating?

First, I must comment that there is a continuum connecting the extreme perspectives of complacency and panic. It's not a case of either one or the other. Second, the public quibbling between researchers and government officials does nothing to enlist the general public's support for educational improvement efforts. And, third, to my regret, I am compelled to point out that the fourth national educational goal adds fuel to this debate and that it is inconsistent with the other five goals.

The fourth goal states, "By the year 2000, U.S. students will be the first in the world in science and mathematics achievement." This is the only national education goal that imposes an external comparison; the other five commit the Nation to improving our status quo in school readiness, graduation rate, academic competency, literacy and citizenship, and freedom from drugs and violence. The other five goals embody an American tradition: We can always do better.

If an industry spokesman were to predict, "By the year 2000, the U.S. automobile industry will be the first in the world," or an alumnus, "By the year 2000, the Willamette Bearcats will be the best football team in the world," people may jeer good-naturedly but will recognize the bravado as statements of hope. If officials claim, "By the year 2000, the military power of the United States will be the strongest in the world," or "By the year 2000, the American space exploration program will be the most advanced in the world," listeners might just shrug while advocates would point to missiles or missions.

I am certainly not opposed to U.S. students being the first in the world in science and mathematics achievements. My legislative history will confirm the leading role I have to support math-science education. However, I don't consider first in the world to be a valid goal, for a very fundamental reason. The National Assessment of Educational Progress is expending enormous efforts to develop valid instruments to measure mathematics and science achievement in just our own country, instruments that are as valid in the schools of Evanston as in the Andrews school district in Princeton, OR, which consists of only one school with 6 students. How much more complicated it must be to ensure validity in international comparisons!

The third national goal includes mathematics and science among the challenging subject matter in which American students will demonstrate their competency in grades four, eight, and twelve. Just as importantly, the third goal also includes competency in English, history, and geography. This is the goal I support. We must establish competency standards and see whether our students progress toward them. In the process, if they somehow produce the best test results among fourth graders in the world, that's icing on the cake. But that would still not make them the first in the world. It would just make their test scores the highest.

The mathematics and science education communities, through their professional societies, have made great investments of membership funds and time for improvement efforts. It is ironic that these are the groups whose so-called failures are pointed to by writers who use international test scores as weapons of aggression. The math teacher groups have developed national standards for curriculum, teacher preparation, and teaching. Those standards are now being used to frame training activities and conferences across the country. Science teachers have also begun the process of developing similar standards for science education. Partial funding, in fact, have been given to these activities by the National Science Foundation and the Department of Education.

Another significant achievement in this country is that a greater percentage of students stay in school for longer portions of their lives than in any other country in the world. Our higher education system of universities, liberal arts colleges, community colleges, and technical institutions is unmatched in the world. We are also the only country on earth to mention nontraditional students in our academic literature and in legislation, making the expansion of educational opportunities well beyond the teen years.

I am convinced that we must work together to continue to improve our schools. I will keep reading newspapers and journals to see whether other educators, policymakers, and bureaucrats share my belief or whether they will continue their campaign to convince the Nation of the mediocrity of U.S. students in mathematics and science.

Mr. President, I ask that a recent article in Science summarizing this situation be printed in the RECORD.

The article follows:

QUESTIONS RAISED ON MATH RANKINGS

(Edited by Constance Holden)

A reversal of the old question "If you're so smart why aren't you rich?" has been posed by a National Science Foundation official: If our science education system is so rotten, how come the United States still enjoys overwhelming dominance in scientific productivity?

Iris C. Rotberg, writing in a National Academy of Engineering publication, The Bridge, says the answer may be that international comparisons of student achievement in science and math have been providing "highly misleading indicators" of the actual quality of education systems and student expertise.

Rotberg, a program director with the Directorate for Education and Human Resources, argues that a major problem stems from sampling biases: The percentage of teenagers enrolled in high school is much higher in the United States than in many other countries—and the less selective the test-taking population, the lower the scores will be. By the same token, distortions are imposed by huge variations in the proportions of students who take advanced math courses. For example, according to the International Association for the Evaluation of Educational Achievement, Hungary ranks near the top in 8th-grade math achievement. But by the 12th grade, the country falls to the bottom of the list because it enrolls more students than any other country—50%—in advanced math. Hong Kong, in contrast, comes in first, but only 3% of its 12th graders take math.

Rotberg says these problems also affect the Educational Testing Service's [ETS] International Assessment of Education Progress, initiated in 1988. In the first project, only six countries participated, sample sizes were small, and there was no way of knowing if the results reflected differences in students' socioeconomic status rather than differences in the quality of schooling. Rotberg says sampling problems have gotten even more complicated with the recent expansion of the project to 20 countries. In some countries—particularly poor ones, where many students have already left school by the 8th grade—only the elite will be sampled, while countries attempting to democratize education will appear to fall short. Logistical decisions—like including only Mandarin-speaking Chinese in the China sample—also result in an elite bias. The solution? "Let's focus our attention on the difficult public policy issues . . . rather than on comparisons and rankings," says Rotberg.

Both the Department of Education and the ETS disagree with Rotberg and other critics. According to The Washington Post, Diane S. Ravitch, assistant secretary for educational research and improvement, argues that in the first ETS assessment, 99% of the teenagers in all the countries surveyed were in high school. Archie Lapointe of ETS is quoted as saying the surveys "don't overstate anything * * * The fact is students in other countries do better than our students in mathematics."

HUMANS, NOT MASCOTS

• Mr. SIMON. Mr. President, I am one who has long been offended by the use of the term "Redskins" or anything like that for team mascots.

I got into difficulty in Illinois when I publicly said I favored moving away from Chief Illiniwek as the University of Illinois symbol. But I'm pleased to say that the discussion that caused has done some good. The student senate at the University of Illinois voted 34-2 to change the mascot, and I am sure one of these days the University of Illinois is going to be sensitive enough to do that.

I hope that others, including the Washington Redskins, will do the same.

Recently, the Lakota Times, published by Tim Giago in South Dakota, had an editorial on this question.

For those who may wonder what the feeling of American Indians is on this question, this editorial is a clear answer.

I ask unanimous consent that it be printed in the RECORD at this point.

The editorial follows:

[From the Lakota Times, Nov. 13, 1991]

WE ARE HUMANS, NEVER MASCOTS

Most readers of the Lakota Times are now aware of the overt racism that still abounds in America, evidenced by the bitter comments hurled at those Indians protesting the use of Indian tribes and Indian names for baseball and football teams.

Last week's Lakota Times had a very profane letter written by a woman from Phoenix, Ariz., that really came down on Indians for speaking out about this strangely American phenomenon of naming a football team after the color of a people's skin. She vented her spleen against us.

But that just shows there is a pervasive ignorance about this topic and that we must begin to educate the rest of Black, White, Brown and Yellow America about the fact that although we are referred to as Redskins, Redmen, etc., We are not mascots, we are human beings.

As long as we have those members of our own people willing to go on the air or be interviewed by a newspaper and say that they don't mind being called "mascots" or they are making big bucks from selling tomahawks to the Atlanta Braves fans so these very fans can further insult us by using them in a derisive fashion, we will never break this mold.

We must consider those Indian people who would profit at the expense of their own culture and spirituality by selling sacred artifacts to tourists or to professional sporting teams as traitors to their own kind. We can think of no other way to phrase this.

Surely there are other items these profiteers can sell that will not be used to degrade or insult us. There is a lot more support for our beliefs out there than one can imagine, but that support can easily become confused when sell-out Indians say, "We don't mind being used as mascots."

We are not mascots, we are human beings.

From the outpouring of cards, letters and phone calls we have received since we started to protest use of Indians as mascots—99 percent supportive of our stand—we know for a fact that most traditional Indians do resent and detest being used as mascots for sporting teams and sporting events.

To have someone like Princess Pale Moon, a supposed Indian, sing at the Redskin football game at RKF Stadium while Indian people protesting outside the stadium were being spit upon by angry white and black football fans is situation all grassroots Indians should find intolerable.

If there are those Indians who don't mind being mascots, that is their prerogative, but don't get up on national TV and show the rest of America how ignorant you are. If you want to be a mascot—be one—but please understand that most of Indian America will consider you a sellout.

As for most Lakota and Dakota people: We are not mascots, we are human beings. Is that so hard to understand?

If the Washington Redskins advance to the playoffs and then to the Super Bowl, you bet your last dollar that this situation will become even more heated. We must stand together as Indian people to bring this disgraceful use of our heritage and our race to promote fun and games for black and white sports fans to an end. These racial slurs and insults must cease!

The only thing we should remember is: We are not mascots. We are human beings.•

COLLOQUY ON LAMPF DECISION SENATE BANKING BILL, S. 543

• Mr. DOMENICI. I am pleased that, with the cooperation of the Senator from Nevada [Mr. BRYAN] and the help of the chairman and ranking member of the Banking Committee, we were able to work out a strategy for dealing with the several issues associated with the Lampf versus Gilbertson Supreme Court decision. We have been dealing with basically these related issues: What should Congress do about the cases that have been dismissed because of a retroactive application of the Lampf decision? Should the Congress overturn the Supreme Court and, if so, what additional measures should be adopted to eliminate the excessive amount of frivolous securities fraud litigation?

Senator BRYAN made a very compelling case that the dismissed lawsuits should not have been dismissed. I wholeheartedly agree. I believe we are enacting good public policy in addressing this retroactivity issue now.

I commend Senator BRYAN for bringing this urgent problem to the attention of the Senate.

The language included in the manager's amendment means that the Lampf decision would be applied prospectively only.

Mr. BRYAN. I felt that there was a great deal of urgency in dealing with this issue. The most time sensitive aspect of this situation has been resolved once and for all. The cases that have been dismissed can be refiled or reinstated.

Mr. DOMENICI. We are nearing the end of the session and I think the accommodation that has been worked out is in everyone's best interests. Were it not the end of the session I would have insisted on taking the Senate's time to fully consider these issues. I am committed to enacting meaningful securities litigation reforms.

I am convinced that the ability of plaintiffs' lawyers to bring frivolous lawsuits, and the burdens of joint and several liability, under section 10(b) of the Securities Exchange Act are having a very detrimental effect on American companies' ability to compete. It is hurting our economy.

Under our agreement we will postpone until next year the issue of necessary changes to section 10(b), including the appropriate statute of limitations and measures to reduce meritless litigation. This will allow the Congress time to carefully consider the statute of limitations and section 10(b) litigation reforms as a comprehensive package. Since Congress has never really considered the court-created private right of action under section 10(b), it should be an important agenda item for next year.

I look forward to working with the committee to convene hearings on this problem of unwarranted litigation as well as prospective statute of limitations.

Mr. MCCONNELL. I have been a proponent of comprehensive tort reform and I am pleased that the Banking Committee will be examining the litigation explosion in this area of the law.

Mr. DOMENICI. There are similar concerns about this issue in the House. Is it the chairman's position that if this provision becomes an issue during the conference that the Senate will insist upon the compromise that has been worked out today and under no circumstances expand it in conference to cover a new prospective rule?

Mr. RIEGLE. That is my intention to all Senators who have helped resolve this matter.

Mr. GARN. That is my position as well.

Mr. BRYAN. Since it is uncertain which version of the banking bill will actually be sent to the President, is it the chairman and ranking Member's understanding that this provision will be included in any such legislation?

Mr. RIEGLE. Absolutely; this is a critical situation and it must be corrected. Senator BRYAN has been extremely effective in educating the members of the Senate about this issue.

Mr. GARN. That is my understanding as well. It would be irresponsible for Congress to adjourn without providing for the dismissed cases.•

NORTH DAKOTA PEARL HARBOR SURVIVORS

• Mr. CONRAD. Mr. President, on December 7, 1991, our Nation will pause to commemorate and remember one of the most solemn events of our country's history—the attack on Pearl Harbor during the early days of World War II.

December 7, is of special significance this year as the date marks the 50th anniversary of the attack on Pearl Harbor and America's entry into World War II.

The day of the attack on Pearl Harbor is one of the darkest days in our Nation's history. More than 3,200 American servicemen were killed on that tragic day, and the country's Pacific fleet was severely damaged. Despite these tremendous losses, our Nation stood united, restoring peace to the Pacific, and helping to end the reign of terror in Europe.

The men and women who fought for the cause of democracy and to restore peace in the Second World War deserve the highest praise and appreciation of our Nation. It is most important as we remember this most solemn occasion, that we honor and pay tribute to the sacrifices that our servicemen and their families have made for our country.

It is also most appropriate that we recognize and pay special tribute, on this 50th anniversary of Pearl Harbor, to the survivors of the attack as well as the families of the more than 3,200 servicemen who were killed on that day.

Mr. President, earlier this month, Gov. George Sinner at the State Capitol in Bismarck, honored 23 North Dakota Pearl Harbor survivors and their families with the presentation of the Congressional Pearl Harbor Commemorative Medal.

The Pearl Harbor Commemorative Medal is a well deserved and distinguished tribute to the survivors of the attack on December 7. It is also a fitting memorial to the families of the more than 3,200 servicemen who died on that tragic day.

The Pearl Harbor Commemorative Medal along with the special recognition that we give to December 7 during this 50th anniversary commemoration, is a solemn reminder to all Americans of the many sacrifices made by veterans and their families during World War II—sacrifices that we must never forget, and that take on special importance in 1991 as we witness some of the most dramatic political changes on behalf of democracy across Europe and the Soviet Union.

Mr. President, I ask that an article from the Bismarck Tribune of November 11, 1991, regarding the Pearl Harbor Commemorative Medal ceremony be printed at the conclusions of my remarks in the RECORD.

The article follows:

[From the Bismarck Tribune, Nov. 11, 1991]

N.D. SURVIVOR WON'T FORGET PEARL

(By Jayme Fritel)

HAZEN.—Ed Bridge is among 26 North Dakota survivors of Pearl Harbor who will receive the first Congressional Commemorative Medals Tuesday at the Capitol.

The ceremony in Bismarck will honor survivors, friends and family.

"Remember Pearl Harbor" was the rallying cry for the United States during World War II. With the 50th anniversary of the Dec. 7, 1941, attack approaching, "Remember Pearl Harbor" has renewed significance for those who were there.

Bridge, a retired electrical engineer, joined the Navy when he was 17 and was put on a "kiddie car cruise" until he turned 21.

In February 1941 he was sent to Pearl Harbor. He was at a receiving barracks within eyeshot of Battleship Row waiting for his assignment when the Japanese attacked.

Because the U.S. ships were doing year-end overhauls and weapons checks, Bridge didn't even have a weapon readily available when the Japanese struck.

He remembers standing on a dock, and hastily putting together a single-shot rifle to fire at the enemy planes. The rifle parts were still in Cosmolene grease and he had to tear off his T-shirt to wipe away the grease before assembling the gun.

"The planes came so low in the harbor you could distinguish the pilot. There was not much we could do" he said.

He watched as the battleship Arizona went down and the beleaguered Nevada steamed itself aground so as not to plug up the harbor. He also witnessed a hit to the Utah.

The attack was brief and soldiers immediately prepared for a second wave. Bridge recalls setting up a machine gun along the wharf. Suddenly American planes flew over and Americans fired at them, but fortunately hit none.

The attack was a horrendous ordeal, but, Bridge said, not nearly as terrible as being on burial detail—seeing drowning victims, burning oil and bodies afloat in the bay.

Bridge's wife, Maureen, was in California when word of the attack was received. She was told the Japanese had taken Pearl Harbor and Los Angeles and were on their way to San Diego.

Being young, Maureen was more curious than frightened. She recalls looking skyward for planes.

It took three weeks for Bridge's letter—even burned a bit—to reach Maureen, telling her he was all right. Six weeks later he mailed her an engagement ring and proposed marriage. They were married while he was on leave.

"You grow up fast in a situation like that," Maureen said.

While Pearl Harbor survivors were admittedly unprepared for the attack, Harold Bruschwein said the attack was "not due to them not doing their jobs."

Bruschwein was in an Army antisabotage battalion at the time of the Japanese attack. Americans had been expecting the Japanese to attack the Philippines, and for 11 days before the attack on Pearl Harbor his battalion had patrolled Honolulu and other places to prevent land sabotage and terrorism.

Bruschwein, of Wahpeton, is the state chairman of the Pearl Harbor Survivors Association, which has the motto "Remember Pearl Harbor—Keep America Alert."

Those receiving medals Tuesday have furnished proof that they were at Pearl Harbor. Others can receive medals later after proper documentation is furnished.

Medal recipients are Peter Muth, Dickinson; John Pauek, Fargo; Russell Arhart, Fargo; Bridge; Bruschwein; Charles Christie, Velva; Alfred Dobler, Venturia; John Emery, Fargo; Eugene Finz, Mandan; Milton Gittel, Bismarck; Floyd Graff, Stanley; Clement Lonski, Jamestown; Donald Marman, Beach; John M. Martin, Bismarck; Steven Mozinski, Minto; Gordon Nelson, Fargo; Arthur Neuenschwander, Minot; Arthur Paschke, Grand Forks; George Paul, Mandan; E.J. Penn, Grand Forks; Harold Rivinius, Bismarck; Marcel Saint, McHenry; Everett Severinson, Grand Forks; Robert Shapland, Hettinger; Jacob Suko, Jamestown; and Albert Vennes, Willston.•

THE OUTSTANDING SERVICE OF LISA MOORE

• Mr. MURKOWSKI. Mr. President, when the motion to adjourn is agreed to, and the bells ring to mark the closing of the first session of the 102d Congress, they will signal more than the end of a legislative year. These bells will signal a transition in the life of a person who, for over 7 years, has served America's veterans, Alaska's citizens, and this Senator with distinction.

Mr. President, Lisa Moore began her work in Washington in 1984 when she served as an intern for the Committee on Veterans' Affairs, then chaired by the Senator from Wyoming. At the end of the summer it was evident that her work was outstanding and Lisa was hired full-time with the committee as a research assistant. A few short months later, this Senator had the honor of succeeding my good friend from Wyoming as the chairman of the committee and I retained Lisa as a valued member of my team on the committee staff.

Mr. President, the Committee on Veterans' Affairs has been entrusted by this body, and by the American people, with responsibility for questions of extraordinary importance and sensitivity. For over 6 years, first as chairman and then as ranking member, when those questions were questions of veterans' health or health care I turned to Lisa Moore for research, analysis, and counsel. For more than 6 years Lisa provided these services with the perception, sensitivity, and excellence called for by the significance of the issues.

Earlier this year, when I stepped down as ranking member of the committee, I was fortunate to have Lisa join my personal staff. With this move, Lisa's portfolio was expanded from veterans' issues to all issues relating to health care. Here again, Lisa served with distinction.

Mr. President, this past August I had an opportunity to travel with Lisa to many communities in Alaska to discuss issues with Alaska's veterans and health care providers. The issues were complex and the hours were long, but Lisa's energy was unwavering. Alaskans were well served by the expertise and experience she brought with her.

Mr. President, Lisa Moore is leaving the Senate to begin her own family. For the past 7 years Lisa has been a valued member of the "family" that has worked on the Veterans Affairs Committee. This Senator would like to express his thanks for 7 years of dedication, sound advice, and friendship. We all wish Lisa and her family the best.●

COMMEMORATING UNIVERSITY OF OREGON ASIAN STUDIES PROGRAM

● Mr. HATFIELD. Mr. President, I rise today to commemorate the 50th anniversary of the Asian Studies Program at the University of Oregon. In 1941 the University of Oregon became one of the first institutions in the Nation to establish an interdisciplinary Asian studies program. Long before anyone coined the term "Pacific Century," the University of Oregon knew that the future would be shared with Asia.

The first Asian studies program grew out of faculty concern that friends and colleagues elsewhere failed to notice Japan's growing economic, political, and military power. There already were modest contacts even earlier than 1941 that helped to establish ties between Oregon and the Asian region. By 1925, relations between Oregon and Japan had grown such that Meiji University defeated Oregon, 11 to 6, in a friendly game of baseball play in Tokyo. In 1927 and again 1931, the University of Oregon's Pacific Basin Good-Will Team made a 35,000-mile speaking and debating tour of the countries of the Pacific. And in the 1930's the University of Oregon sent student representatives to several meetings of the Japanese-American Good-Will Conference, held alternatively on the west coast of the United States and in Tokyo.

Mr. President, much has changed in the Asia-Pacific region since the inception of the Asian Studies Program at the University of Oregon. Japan has come from being one of the United States most bitter adversaries to one of our largest trading partners and valued allies.

In my home State of Oregon, Japanese companies have invested heavily, mostly into the high technology industries. These companies have positive impacts in Oregon communities, employing several thousand workers. I believe that it is the people of Oregon—the students and faculty at the University of Oregon—and their devotion and effort to understand others, who have truly brought the "Pacific Century" to Oregon.

As the complexity and nature of the relationship between the United States and the entire Asian region have changed over the past 50 years, so has the Asian Studies Program at the University of Oregon. Today, the Center of Asian and Pacific Studies at the University of Oregon, of which the Asian Studies Program is a part, focuses the diverse, interdisciplinary interests of some 70 faculty members, on China, Japan, Burma, and Korea, among others. By broadening the student perspective, to not limit the students to just a Western perspective on the Asian region, the University of Oregon offers firsthand experience of Asia through study abroad programs for students in 11 Asian nations. In addition, some 770 foreign students from the Asian region, compromising nearly 59 percent of the foreign student body, come to the University of Oregon every year.

The Oregon Asian studies prepare students to work with the many complex business, cultural, and political issues surrounding the Asia-Pacific region. The work of the students and faculty at the University of Oregon will help us all as we try to understand an increasingly global economy and environment.●

ECONOMIC CONVERSION CHALLENGE

● Mr. SIMON. Mr. President, a longtime friend of mine, Henry Bieniecki, sent me an article from Aerospace America titled "The Challenge of Economic Conversion" by Eric Lerner, as well as an editorial from the same journal written by Elaine J. Camhi titled "Peace Should Not Mean Hard Times."

I am asking that both be printed in the RECORD.

On the fiscal year 1991 bill authorizing funding for the Arms Control And Disarmament Agency, I introduced an amendment to ask that Agency to study the question of economic conversion.

The response that we got was not an in-depth study, but it did suggest that the fears of much of industrial America about the problems of conversion tend to be exaggerated.

However, particularly in a time of economic recession, that adjustment may not be as easy as has been suggested by the ACDA study.

There is no question that we have to shift to civilian investment and production, and in the long run, our economy will benefit by that. We will raise the standard of living of our people.

If we can produce cars and refrigerators instead of tanks and bombers, that helps our standard of living more.

And if we put the research money into civilian improvements and into things like medical research, we will ultimately benefit our population.

But the fears and concerns in an industry like the aerospace industry are very real and understandable.

And the paucity of investment in civilian industry compounds our problem. That problem is obviously severely aggravated by our deficit which causes our long-term interest rates to be much higher than they should be.

The article and editorial should be matters of concern to all of us, not just those involved in the aerospace industry.

The material follows:

THE CHALLENGE OF ECONOMIC CONVERSION

Profound crisis in the Soviet Union, the collapse of the Warsaw Pact, and the end of the Cold War have left the Pentagon with no enemies worthy of its titanic arsenal. Despite the brief respite provided by the conflict in the Persian Gulf, a huge budget deficit and even greater unmet domestic needs have made sharp cuts in the size of the armed forces inevitable.

But if the armed forces are to contract sharply, what becomes of the giant defense industry? It is extremely difficult to justify spending billions on new weapons when existing ones are being moth-balled or destroyed. Sooner or later defense production will have to fall, and far more sharply than the size of the remaining armed forces. What happens now to more than a million engineers, scientists, and skilled workers employed in defense industries and to the modern defense plant and its equipment? Will they lie idle, squandering the nation's most technically advanced productive resources? Or will these plants, engineers, and workers be redirected to the great tasks of modernizing U.S. industry and rebuilding America's neglected and crumbling cities?

The answer will determine to a large extent the prosperity of not only those now involved in the defense industry, but of the nation as a whole, for the resources involved in defense production are vast. Moreover, the debate over military-civilian conversion and the fate of the arms industry will, in the view of many observers, dominate much of American politics in the next few years. For the question of how to spend the "peace dividend" is tied up with the other dilemmas facing America's economy—the federal deficit, the banking crisis, the obsolescence of industry, and the decaying infrastructure.

Yet despite the importance of the conversion question, relatively little about the problem's dimensions and potential remedies has been reported outside highly specialized journals. This two-part report will highlight current debate on this issue and assess prospects for the future of the aerospace-defense industry.

If there is one thing certain about the defense industry it is its importance to the U.S. economy. Some have minimized its impact, pointing out that the Pentagon's expenditures amount to only 7% of the nation's $4 trillion gross national product. But that comparison is misleading. With over $300 billion in expenditures, the Dept. of Defense dwarfs any single industry in the U.S., even the auto industry, with its roughly $200 billion in sales.

Of the total defense budget, over $100 billion is allocated to procurement of goods and another $30 billion to research and development for new armaments. By this measure, which excludes the $170 billion spent on the operations of the armed forces, the defense industry is still two-thirds the size of the auto industry. By other measures, the defense industry is larger. Some 1.4 million people work in defense production, significantly more than the 1.2 million in automotive production, and these are among the most highly skilled and educated in the workforce, including 300,000 scientists and engineers.

Another comparison may be made between arms production and the production of industrial capital goods. Armaments—whether aircraft, ships, missiles, or tanks—are the capital goods of defense, the machinery of war. The plants that produce them are broadly similar to those that produce complex machinery for industry, such as machine tools. Some $80 billion of the total $100 billion in defense production goes for armaments proper (excluding construction and procurement of non-arms goods such as uniforms). By comparison, in 1989 all of U.S. industry purchased some $90 billion worth of industrial machinery. So at present U.S. investment in military equipment nearly equals investment in civilian industry. Similarly, military R&D is nearly half that of the civilian economy.

Thus the defense industry remains a highly significant part of the American economy. Within that sector, aerospace is dominant. Of the $80 billion in arms expenditures last year, nearly $50 billion was for aircraft, missiles, and associated electronics. Of this, aircraft accounted for $24 billion, missiles for $20 billion.

Very little of this industry is invulnerable to the spending cuts likely to come in the wake of global political change. With the Soviet Union and U.S. agreeing to cut strategic nuclear forces by 30% or more, congressional support for additional production of MX missiles and B-2 bombers is evaporating. Congress has already canceled additional Trident submarines.

For conventional forces, the situation is similar. Soviet forces will soon have withdrawn from most or all of Eastern Europe, and the Warsaw Pact has dissolved. U.S. forces in Europe are being drawn down, and all three services are planning size reductions, with the Army having already announced plans for a 25% cut. Tank production is to halt no later than 1993 for the first time since WW II, and with the major force reductions, continued production of Bradley fighting vehicles and Blackhawk helicopters will be increasingly difficult to defend.

The Navy faces similar demands for cuts in its major programs, the Aegis destroyer and SSN-21 attack subs, as does the Air Force for its big ticket items, the F-16 (to end production in FY93) and the C-17 transport. Already F-14 and F-15 production is terminating, and so are new programs such as the Navy P-7A and others. With even former defense secretaries recommending cuts of 50% in the overall defense budget, capital expenditures for new arms are likely to drop far more in the next decade, perhaps by 75%.

Defense spending, 1990

	Billions
Operations	$171
Research and development	31
Construction	7
Non-durables	11
Durables	82
Aircraft	27
Airframes	17
Engines	6
Other	4
Missiles and space	14
Electronics	18
Ships	10
Tanks and armored vehicles	4
Weapons and ammunition	6
Other	3
Total	302

Source: Dept. of Defense.

Some layoffs have already occurred. Over the past two years defense employment has fallen by about 4%, or by 40,000 jobs. Hundreds of thousands more layoffs are likely to take place unless defense plants can be converted to other uses. McDonnell Douglas has announced layoffs of 17,000, nearly 15% of their workforce, for example. To some in the industry, prospects appear hopeless. General Dynamics, which runs the only two tank plants in the U.S., has already stated that it would close the plants rather than convert if defense production ceased. "What can you do with a tank factory?" General Dynamics vice president Michael Wynne asked in the New York Times interview.

Yet the U.S. has vast needs that defense production could help meet, say those who have studied conversion. For example, the nation's stock of housing has fallen far behind needs. The 2 million units of housing produced in the best of years is barely enough to keep up with new family formation, and a million more housing units deteriorate each year without replacement. The net result has been an accumulated deficit of nearly 15-17 million units of housing—and 2-3 million homeless. The housing gap will take over $150 billion to close. Underinvestment in the nation's roads, bridges, and water supply has generated another massive deficit estimated at $300 billion or more. Environmental cleanup of the atomic weapons industry itself is projected to cost over $175 billion and toxic waste cleanup more than $100 billion. More billions are needed to expand mass transit facilities.

There is certainly work to be done—but the nation lacks the industrial capacity to do it. Over the past 15 years, the nation's industrial base has become increasingly obsolescent, and in many industries has shrunk in absolute terms. "Steel capacity has dropped by a third, and the number of machine tools by more than a quarter, since 1973," points our Hofstra Univ.'s John E. Ullman, a member of the National Commission for Economic Conversion and Disarmament, a private conversion study group.

Engineering and scientific employment in defense aerospace

	Thousands
Electrical and electronics engineers	$99
Computer scientists	40
Mechanical engineers	38
Industrial engineers	21
Aeronautical, astronautical engineers	19
Chemical engineers	5
Metallurgical and materials engineers	3
Nuclear engineers	2
Other engineers	49
All engineers	276
Physicists	5
Mathematics	5

Source: Dept. of Defense.

Over the past five years, net investment in industrial equipment has been virtually zero—new equipment has merely replaced worn out machinery, according to the U.S. Bureau of Economic Analysis. This stagnation of U.S. industry has led to a steady decline in American standards of living, with family income falling 12% and real wages falling nearly 20% in the past two decades. This decline has occurred despite a huge increase in the trade deficit, which represents a net shift of material goods to the U.S. from the rest of the world.

To a large extent, this situation is a direct consequence of heavy investment in armaments in past decades, as Seymour Melman of Columbia Univ., a leading expert on conversion, emphasizes. "Money spent on armaments is money that's unavailable for investment in new industrial equipment, and it monopolizes the very resources that are needed to produce that equipment," he explains. (A second key factor is the heavy diversion of money into speculative acquisitions and leveraged buyouts. The $5 billion General Motors spent on acquiring defense contractor Hughes Aircraft, for example, was $5 billion that did not go to modernizing General Motors automobile factories.)

So there is work to be done in rebuilding American cities and factories. But can the current defense industry be converted to do the job? From a technical standpoint, the answer is clearly yes. There are three key components of the defense industry that have to be realigned to new tasks—the productive equipment (plant and machinery), the productive workforce, and the engineering and technical workforce.

The productive equipment is perhaps the easiest part to convert. As studies by Melman and others have documented, the basic equipment in the airframe and aircraft engine sectors of the defense industry, and in large parts of defense shipbuilding and tank reproduction as well, is essentially the same as that needed to produce advanced automated machinery for U.S. industry. The primary equipment is metalworking machinery of various sorts, especially metal cutting machine tools. The productive capacity of the defense aircraft industry alone is comparable to that of the entire metalworking machinery industry, and the equipment used is more modern and efficient. For example, 20% of all machine tools in the aircraft industry are numerically controlled, compared with only 10% in the metalworking machinery industry, according to a recent survey by *American Machinist* magazine.

Investment in manufacturing, 1989

	Billions
Equipment purchase	$63
Structure purchase	16
Total investment	79
Depreciation	80
Net investment	−1
Total manufacturing equipment stock	560
Defense capital goods production	82

Source: U.S. Bureau of Economic Analysis.

While much of the aircraft industry equipment is ideally suited for machinery production, the equally large electronics defense industries are suited to the production of automation equipment used to direct such machinery. Electronics plants are extremely similar to one another, whether the chips involved go to building missiles or industrial robots; only the design and programming of the circuitry change. Indeed, some small defense electronics firms have already made the leap to commercial products. Kavilco, a Moorpack, Calif., contractors, switched from complete dependence on high-tech sensors for military aircraft and missiles to a range of electronic systems for the automotive, air conditioning, and refrigeration industries.

Most of the productive workforce, which will be using the same machines and working in the same plants, is similarly flexible. "Standards and tolerances are, of course, different in civilian work," comments Carl Schwartz, a Boeing inspector and activist with the International Association of Machinists. "But we've found that when people shift to civilian work they need only several weeks of retraining. Basically you just change the number punched into the machine."

The economic impact of any large-scale conversion to the production of metalworking and other industrial machinery could be profound. Studies of factory-built housing have indicated that the investment of roughly $15 billion a year in the manufacture of highly automated equipment for housing production could more than double the nation's capacity for housing construction and eliminate the housing deficit in a decade. Over a five-year period, a $10-billion annual level of investment in the metalworking machinery industry could more than double capacity. In less than a decade, the overall production level of industrial equipment could double as well. This would mean an annual increase in industrial capacity approaching 10% instead of today's near-zero rate, with investment barely making up for depreciation and obsolescence.

MACHINE TOOLS AND MANUFACTURING CAPACITY

Industry	Metal cutting machine tools	Total capital equipment (billions)	Machinery production capacity (billions/year)
Metalworking machinery	221,000	$16	$30
General industrial machinery	154,000	16	36
Military aircraft	82,000		
Shipbuilding	28,000		30
Tanks	14,000		

Not only would such a conversion plan modernize U.S. industry and preserve the million and a half jobs currently in the defense sector, but the expansion of industrial capacity would increase the number of high-paying industrial jobs by over a million a year, rapidly absorbing long-term unemployment created by the past decade's contraction of industry.

To be sure, not all productive equipment is sufficiently generalized for easy conversion. Much of the equipment in the missile and space sector is so specialized that it would be difficult to redirect outside the civilian space effort. A small part of the airframe industrial equipment is similarly specialized, and it might be used for tasks such as production of high-speed magnetic levitation trains or similar vehicles. But for the most part, the equipment poses no real technical problems.

For the engineering and technical staff the situation is more complex. "The industrail culture in the civilian sector and in defense are utterly different," Melman emphasizes, and others concur. Extensive retraining would be needed to reorient many engineers toward the cost requirements of commercial products. "The problem is that many engineers in the defense industry are assigned to narrow, fractional jobs that limit their flexibility," comments David Levinger, a Boeing flight test engineer who has been active in groups planning for conversions. "A lot of them aren't sure that they could relearn new jobs, mainly because they have been allowed so little initiative in their existing work." However, he believes that if engineers were retrained to work in teams that tackle whole design problems rather than isolated in fractional tasks, "then they could work on anything."

Given adequate retraining in the work methods needed in the civilian realm, most defense engineers have backgrounds that could be used in designing products as dissimilar from aircraft as industrial machinery. Only 10% of aerospace engineers are propulsion or aeronautical engineees, whose specialities would be harder to use outside the aerospace sector. Most are mechanical, electronics, and industrial engineers who will not be so closely tied to the existing products. For those engaged in defense R&D, there are agian large areas in the civilian economy that require intense high-technology efforts. Problems such as the development of fusion power, the efficient destruction of pollutnats, or the development of an ultra-high-speed magnetic levitation rail network provide technical challenges as great as any in defense. In fact, for some scientists and engineers, conversion would mean returning to previous areas of work.

Conversion thus appears to be technically possible—the current defense industry could design and produce advanced industrial machinery needed to solve pressing problems such as the housing shortage and the decay of the infrastructure and environment. But is conversion possible economically and politically? It is these more complex issues that we examine in the second part of this report.

PEACE SHOULD NOT MEAN HARD TIMES

The world appears to be lurching its way, in fits and starts, toward peace. For all intents and purposes the Cold War is over, and our former adversaries are now engrossed in their own internal problems. This is certainly a welcome turn of events, but as the global picture changes, new domestic problems must be addressed.

In a world that is redefining itself almost daily, those who cannot change with the times may be swept away. So it may be with aerospace companies that are primarily or solely defense driven. Certainly the U.S. will always need to be prepared for conflict. But the arms race of the past four decades is essentially over, and economic survival in the 1990's will depend upon innovation and education. For defense industries, the approach should be twofold: identifying new applications and markets for their resources and abilities and then pursuing them.

This country was built on imagination and innovation. The creative minds that revolutionized the conduct of military campaigns can surely find new roles to play. As innovative as this country may be, it is starting to fray around the edges. Taking the energy and creative spark that produced the most technologically advanced military machinery in history and redirecting it toward the reconstruction of a sometimes crumbling infrastructure is just one potential opportunity.

Identifying areas of opportunity may only require close examination of our everyday surroundings. Better and faster public transportation and sturdier bridges and highways come to mind almost immediately as just a few of the country's needs that could be addressed by the right combination of skill and ingenuity. Reconfiguring a plant or facility to branch off in a new direction may be difficult, but it is not an insurmountable task.

Just as plants and machinery will need to be retooled for new applications, so our most valuable natural resource—the work force—may need re-education. Here, enlightened self-interest might stimulate the federal government to help fund this retraining. Surely it is less expensive to subsidize retraining programs than it is to support longer and longer term unemployment insurance payouts and growing welfare rolls. Workers who are not working spend less, creating problems for other, non-defense industries that deal in goods and services. And workers who are not working do not pay taxes, thereby increasing the federal deficit.

The U.S. has always been at its best when faced with a challenge. Finding a solid economic ground in these times of flux may be the most difficult task the country has faced in a long time. But we can meet the challenge. Peace can bring prosperity.

ELAINE J. CAMHI,
Editor.●

DOWNTOWN MEMPHIS OPTIMIST CLUB

● **Mr. SASSER.** Mr. President, I rise today to commend the Downtown Memphis Optimist Club for sponsoring Project 1991—Liberty Appreciation Week. In observance of the bicentennial of the Bill of Rights, the club has planned activities to bring together the Memphis community during the week of December 15–21, 1991, in celebration of the rights and privileges guaranteed all Americans by the Bill of Rights.

The Downtown Memphis Optimist Club recognizes as invaluable the rights enumerated in the Bill of Rights and hopes to convey their importance to the citizens of Memphis. The liberties that were fought for by the original 13 States are to be held dear by all the Nation's people. In this spirit, the Project 1991 logo features an eagle as a symbol of the eternal vigilance that accompanies liberty. While the eagle offers an olive branch of peace and friendship, he also carries weapons to defend the liberties should his peace offer be refused.

The Downtown Memphis Optimist Club was founded in 1940 and thrives today as a group of 20 successful businessmen and women from the Memphis community. The organization improved the quality of life of the people of Memphis through its commitment to youth and its financial support for charitable organizations providing needed services. The club focuses its efforts on the development of youth in the community by sponsoring a little league footfall team as well as adopting a local elementary school where they provide antidrug programming and career counseling.

I extend my best wishes to the Downtown Memphis Optimist Club in their celebration of Liberty Appreciation Week. I am glad to recognize this distinguished chapter of the Optimist Club for its contributions to Memphis, TN, Nation. I wish them continued success and thank them for the positive impact they have made on the State of Tennessee and its people.●

CONSTRUCTION OF FEDERAL COURT FACILITIES

● **Mr. BURDICK.** Mr. President, I must make special note of Senator MOYNIHAN'S proposal, which I have cosponsored, to reform the process whereby the Federal judiciary receives the approval of the Congress for the construction of Federal court facilities. As the Federal judicial system confronts an unprecedented case load, and as the need to expand the number of Federal courts rises with it, it is important for

Congress to have a process in place which will allow for a review of the long-term building needs of the courts; expedite the review of specific proposals for court construction; and reestablish the separation of powers between the judiciary and the executive branches of our Government with regard to the construction of these facilities.

I would hope, Mr. President, that the Administrative Office of the Courts, the General Services Administration, and other interested parties would take the time in the coming weeks to review this particular piece of legislation. I believe that Senator MOYNIHAN has crafted a workable proposal, and it is my sincere wish to act on this measure as soon as possible next year.•

FLORIDA VETERANS DENIED FAIR SHARE OF BENEFITS

Mr. GRAHAM. Mr. President, an editorial in the November 23, 1991, St. Petersburg Times details the limitations on access to health care for Florida veterans. The theme is one which I have brought before the Senate on numerous occasions—veterans should not be denied health care simply based on where they live.

The problem, Mr. President, is that many of the veterans' health care facilities were built in geographical locations where there is no longer a large concentration of veterans. But with limited budgets, the VA is unable to relocate or build new facilities in the areas where veterans are moving—South.

Although a new hospital is being constructed in West Palm Beach and another slated for the east central Florida area, veterans in Florida will, at least in the short run, continue to wait longer for limited health care resources than their counterparts in other parts of the country.

The Commission on the Future Structure of Veterans Health Care reported this month that there is a mismatch between the location of VA facilities and veterans' residences and that this maldistribution will worsen by 2010 if adjustments are not made.

The Commission stated, "Our guiding principle for planning is that eligible veterans' health care needs and locations of veteran population concentrations should become the major factors in how VA plans the size, type, and geographic distribution of health care services."

Mr. President, it is my intention to ensure that Congress and the VA heed these words of the Commission and begin appropriating funds for veterans' health care to those parts of the country where the veterans live, and not just where powerful Members of Congress live.

I ask that the text of the St. Petersburg Times' editorial be printed in the RECORD.

The editorial follows:

FLORIDA VETERANS' UNFAIR SHARE

Veterans' hospitals are federal facilities, but no federal law mandates that veterans be offered equal care in every state. In Florida, for instance, there are roughly two beds for every 1,000 military veterans eligible for medical care. Nationwide, the ratio is about three beds for 1,000 veterans. Only five states have worse patient/bed ratios than Florida: Colorado, Idaho, Oklahoma, Nevada and New Hampshire. The District of Columbia has the best, with more than 10 beds per 1,000. Among the states with large concentrations of veterans, Florida has a clear disadvantage.

Veterans who can claim service-related disabilities or squeeze into a handful of other narrow categories won't have a problem in Florida. Others, however, may be lopped from the bottom rungs of the government's priority ladder. Eligible for treatment in states with empty hospital beds, they may find themselves ineligible in Florida.

"All the rest are 'may treat' as available," explained John Vogel, director of the Veterans Administration (VA) medical center at Bay Pines. "Essentially, there is no 'may treat' availability. That's just the reality of things. There is no excess capacity here."

VA hospitals don't turn emergency cases away; the problem is much more subtle. Of the 170 unscheduled patients who turned up at Bay Pines on Monday, for example, some were treated and some were referred elsewhere. "There is a priority for delivering care, and every veteran in the U.S. is not going to get it," Vogel said.

The federal government spends about $12-billion annually on veterans' medical care; some $546.6-million goes to Florida. State experts say that Florida veterans are shortchanged by about $200-million in care each year, money that is made up by shrinking the patient pool. "We can tell how many patients were seen," one expert said, "but we can't tell how many weren't seen."

"The VA has, I believe, an unparalleled ability to manipulate its work load," said Michael Hahn, legislative affairs' director for the Florida Department of Veterans Affairs. "There are terms such as 'constrained or 'restricted' demand. A veteran population can be told 'no' frequently enough that they stop asking. In Florida . . . people have been told no, frequently."

If VA dollars were allocated according to the number of veterans in an area, Florida's share would be much more generous. If the percentage of elderly and disabled wartime era veterans was also brought to the equation, the portion would be larger still. Add the fact that veterans are continuing to migrate to Florida at a rapid rate, and support for medical services in the state might come up to par.

Instead, the federal government hands out money according to a formula that reflects the number of treatment facilities available. Florida has five VA medical centers, in St. Petersburg, Tampa, Gainesville, Lake City and Miami.

A new facility is under construction in the West Palm Beach area, though, and another is planned for the state's east central region. Each new medical complex will include a nursing home, acknowledging the burgeoning needs of veterans in the oldest category.

The real problem with VA allocations is not demographic naivete, but congressional unwillingness to treat the program as an even-handed federal entitlement. Michael Hahn, fighting for Florida's fair share, doesn't hesitate to use the old-fashioned term, "pork barrel." When elected officials stop treating VA facilities as local fiefdoms to be defended, veterans in every state will have a chance to claim the benefits they need and deserve.•

WINNING THE PEACE DIVIDEND: SAVINGS AND SECURITY FOR THE 1990's

• Mr. McCAIN. Mr. President, the American people deserve a peace dividend; they have earned it. For more than half a century they have sacrificed in the cause of democracy and to deter war. The end of the Warsaw Pact and the ongoing collapse of the Soviet Union make such a dividend possible, and the time has come to reshape American defense spending and American strategy.

The Bush administration deserves credit for the fact that we have already received a major peace dividend over the last 6 years. Real defense spending has dropped each year. The net result is a 24-percent cut in real defense spending between fiscal year 1985 and fiscal year 1992, and that our defense budget has dropped from $350 to $278 billion in constant fiscal year 1992 dollars. Its current plans call for annual cuts of 3 percent through fiscal year 1996.

These plans, however, were formulated back in late 1990, and before the failure of the Soviet coup and the complete breakup of the Warsaw Pact. It is clear that we can and must go further. The American taxpayer has earned relief, and our highest single priority in government is to reduce our budget deficit and free the economy from the shackles of Federal spending.

Cutting defense can only provide part of the funds needed for deficit reduction. Although the American economy has grown 150 percent since 1962—a high point in the cold war—real defense spending has grown only 13 percent, while domestic discretionary spending has grown 187 percent and mandatory Federal spending or "entitlements" have grown 448 percent. Nevertheless, increased cuts in real defense spending might still cut the currently projected Federal deficit in half by fiscal year 1997, and this would have a major impact in raising real personnel income, increasing jobs, and stimulating economic growth.

I have examined this situation in depth, and have costed the alternatives with the aid of the Congressional Budget Office and the Defense budget project. I have prepared a detailed analysis of our strategic requirements, and the options for a peace dividend, an analysis that I respectfully request be placed in the Record immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. McCAIN. Mr. President, as a result, I feel that such cuts can reach levels as high as an average of 6 percent per year during the next 5 years. This would cut real defense spending by another third by fiscal year 1997, and cut annual real defense spending by a total of 54 percent of discretionary spending from the peak levels under the Reagan buildup.

Such a shift in our forces would save some $235 billion compared to continuing to spend at today's level of defense spending. More important, it would reduce defense spending to about 3 percent of the GNP, and 15 to 16 percent of the Federal budget, levels that could be sustained indefinitely without a major burden on the American taxpayer.

Equally important, a 6-percent annual cut would be slow enough to allow us to react to any unanticipated changes in the Soviet Union or Eastern Europe. It would allow us to cut our all volunteer forces without creating massive unemployment, or treating our men and women in uniform unfairly. It would allow our defense industrial base to adapt, it would minimize the impact on communities with defense bases and industries, and it would allow our allies to adapt to the changes in our posture.

Major additional cuts in defense spending are not easy to accomplish. Our current force plans already call for reducing our combat forces by an average of 25 percent by fiscal year 1997, for cutting active and reserve military manpower by more than 500,000, and defense civilians by more than 200,000. This requires cuts of 33 percent in our Army divisions, 38 percent of our tactical air wings, and 100 ships in our Navy, a cut that will produce a 451-ship fleet where our force goal was once 600.

I believe, however, that additional spending reductions can be achieved through a combination of three major types of cuts. First, by terminating major weapons systems that are vestiges of the cold war. Second, by aggressively moving forward with President Bush's new nuclear arms control initiatives to reduce our strategic forces from roughly 10,000 warheads to levels of 6,000 to 3,000. Third, by recognizing the fact we must convert from our present Europe-oriented cold war strategy to a power projection strategy designed to deal with the emerging risks in Asia and the developing world.

The weapons system terminations I recommend include the B-2, the small ICBM, and the SSN-21. The total cost of these three programs is in excess of $100 billion. At the same time, we should slow down high technology programs whose main rationale was an evolving Warsaw Pact threat that no longer exists. These include the U.S. Army Armored System Modernization Program, the advanced technology fighter, and the high-technology/high-cost mix of escorts for our carrier battle groups. This could save up to $25 billion more.

The cuts in strategic forces I recommend would build on cancellation of the B-2 and SICBM to sharply reduce the number of Minutemen, eliminate the Peacekeeper, cut the bomber force, and shift the remaining B-52's to the conventional role, down-load and detube the SSBN force while buying fewer D-5 missiles, and make further reductions in our theater nuclear forces. These cuts would depend on matching cuts by the Soviet Union, but could save $6 to $12 billion a year.

The key to such an aggressive approach to nuclear arms control is, however, to go forward with strategic defenses. The plan advanced by the Senate Armed Services Committee would provide a means for the United States and Soviet Union to eliminate the risk of accidental or unauthorized launch and any remaining incentives for a first strike. It would guard against proliferation, and ensure that our forces and our allies could protect against shorter range threats without relying on the threat of offensive escalation.

The most critical aspect of my proposal, however, is to shift our strategy and force posture to focus on power projection. It is time that Europe assumed the responsibility for the defense of Europe. However, our current force plan would still deploy 150,000 men in Europe in fiscal year 1997. More importantly, it would deploy nearly half of the 2.5 million people planned to be in our force structure in the "Atlantic package," a mission whose rationale is essentially to refight World War II in a prolonged conventional war in Europe.

I believe that no more than 50,000 to 100,000 men and women will be needed in Europe. We also believe that we can phase out large numbers of active and reserve units whose primary, if not only, contingency mission is to mobilize and move from the United States to Europe. This would allow cuts in active and reserve manning of up to 500,000. It would allow us to eliminate two to four active Army divisions, three to four Reserve and two cadre divisions, one to one and one-half Active Air Wings, five to seven Reserve Air Wings, and a substantial number of frigates and other ships, as well as make suitable cuts in headquarters and support and other associated activities.

The precise pace and scale of these cuts could be adjusted to the events in Europe and the rest of the world. Nevertheless, it is clear that this pool of resources is large enough to allow us to reach the goal of a 6 percent annual cut in defense spending, and to do so without cutting the power projection forces we really need.

We are not present at the end of history but rather at the creation of a new role for America and a new strategy. We must be prepared to deal with major threats like a North Korea that is likely to have nuclear weapons by the mid-1990's. We must remember that we have used our military forces more than 220 times in the developing world since World War II, to secure our interests and those of our allies, in contingencies that had little or nothing to do with the Soviet or Warsaw Pact threat.

We are dealing with a developing world where 14 countries have or are developing chemical weapons, 7 have biological warfare capabilities, 21 countries have tactical ballistic missiles, and at least 7 have or are developing nuclear weapons.

We are dealing with a developing world that has imported an average of 1,500 main battle tanks, 2,000 artillery weapons, 3,000 other armored vehicles, 100 combat ships, 350 supersonic combat aircraft, and 5,500 surface-to-air missiles a year.

In advocating a peace dividend, we must recognize that there is a floor beneath which we must not go. We must keep our Marine Corps and Army contingency forces strong and fully combat capable. We must give them the airlift and rapid sealift and other enhancements that are key lessons of the gulf war. We must keep our carrier forces strong enough to maintain a global presence and help deter local conflicts. We must preserve the rapidly deployable elements of our Air Force, and provide enhanced long range tactical strike capability.

Mr. President, we must recognize that we cannot take a peace dividend at random, or waste it by using it to subsidize further Federal spending. A major peace dividend will affect millions of lives in our active forces, reserves, and defense industry. It will affect our security and perceptions of American strength that are critical to world peace and arms control. The systematic changes in spending, strategy, and force structure we advocate will produce both the dividend and security we need. Any less structured approach is almost certain to undermine our security and to waste the funds taken away from our defense.

EXHIBIT 1

MATCHING A PEACE DIVIDEND WITH NATIONAL SECURITY—A NEW STRATEGY FOR THE 1990'S

(By Senator John McCain)

During the next few months, the U.S. will have to begin to make hard choices between a "peace dividend" and national security. The end of the Cold War means that the United States can and should take a peace dividend in the form of additional reductions in defense spending. This peace dividend should provide direct benefits to the Americans taxpayer in terms of deficit reduction and reduced taxes. It should be used to fund the economic growth and competitiveness that can only come from stimulating consumer demand and reducing the federal drain on the nation's credit.

At the same time, new threats are arising and the world remains an unstable and often threatening place. The U.S. must maintain a stable core of combat ready forces to protect its interests, its citizens, its allies, and its friends. The U.S. must recognize the fact that it may be decades before it can create anything approaching a new world order. History is grimly unpredictable. The improvements in East-West relations may well be replaced with North-South and South-South conflicts. North Korea's efforts to develop nuclear weapons, the war between Iran and Iraq, and the tensions between India and Pakistan—both of which have nuclear and chemical weapons. In such circumstances, there is a level of military capability, and level of defense spending, we must maintain.

We also must recognize the fact that sudden cuts in defense spending have a drastic impact on our men and women in uniform, on communities throughout the United States, on our defense industrial base, and on our economy. A peace dividend must be taken with care, not only to protect our security, but to protect our fellow Americans and our recovery from the current recession.

CREATING THE RIGHT KIND OF PEACE DIVIDEND

There is no easy way to make such tradeoffs, and to choose between the size of the peace dividend we can take and national security. The end of the Cold War means, however, that it is now possible to provide a substantial peace dividend without depriving our nation of the power projection forces it must have in the 1990s, and without acting so precipitously that we will not be able to react if new threats arise.

To be specific, it should be possible to double the rate of cuts in real defense spending that the Bush Administration planned in early 1991, and to go from an average cut of 3 percent in annual defense spending during FY1991–FY1997 to a rate of 6 percent.

In practice, this would mean cutting defense spending during FY1993 from $278 billion in budget authority to $261 billion. Real defense spending in constant FY1992 dollars could than be cut to $245 billion in FY1994, $230 billion in FY1995, $216 billion in FY1996, and as little as $203 billion by FY1997.

There are many different ways that the resulting peace dividend can be calculated, but if we use the present level of $278 billion as our base, it would be $17 billion in FY1993, $33 billion in FY1994, $48 billion in FY1995, $62 billion in FY1996, and $75 billion by FY1997. This would total $235 billion over the next five years.

In all frankness, it is uncertain whether real defense spending should ever drop below $200 billion in constant FY1992 dollars unless we face severe new economic problems and the world remains an extraordinarily peaceful place. A properly phased approach to a peace dividend would, however, avoid any substantial risk in the initial years, and build towards a major saving in the out years.

This approach not only limits risk, it allows us to cut our forces and defense spending in ways which minimize the disruptive impact on the men and women in our armed forces, on communities with defense bases and facilities, and on our economy and defense industry.

Capping defense spending as a percent of Federal spending and the gross national product

The best way of obtaining a peace dividend is not to cut defense to the point we could be forced into crash efforts to rebuild our forces in an emergency—to repeat the "boom and bust" cycle in defense spending that has characterized so much of U.S. history. It is rather to establish a stable level of defense spending that provides the resources that are needed but that steadily reduces defense spending as a share of total federal spending and our gross national product as our economy expands.

To put this issue in perspective, defense spending as a percent of federal spending has already dropped from a post war high of 57%, and a high of 27% during the Reagan Administration, to around 20%. Such cuts would reduce defense spending to around 15–16% of the federal budget by FY1996–FY1997. Similarly, defense spending has dropped from a post war high of 11.9% of the GNP, and 6.3% during the Reagan Administration, to about 4.7% of the GNP today.

The proposed cuts would allow defense spending to drop to as low as 3% of the GNP by the mid to late 1990s. Capping defense at these levels of our federal budget and GNP would still provide around $215–$240 billion in constant FY1992 dollars, but would shrink the burden defense places on the American taxpayer to a small fraction of federal spending, and a far smaller fraction of our total economic activity. At the same time, it would allow us to deter or halt the kind of aggression or conflict that—without American military action—would force us into massive new expenditures and possibly into another major war.

Where the peace dividend would come from

There is no royal road to obtaining a peace dividend. We have already been cutting our real defense spending during each of the last six years, and it has already dropped by 20.5% since FY1986, or from $349.9 billion to $267.3 billion in constant FY1992 dollars. The Bush Administration has already planned on cuts during FY1991–FY1997 that would cut our forces by:

360,000 active duty men and women in uniform.

271,000 men and women in the reserves.

At least 180,000 defense civilians.

About 25% of out total force structure.

33% of our active Army divisions, a cut from 18 to 12.

40% of our Army divisions, a cut from 10 to 6.

100 ships or 18% of our total naval battle force, a drop from 545 to 451 ships.

38% of our tactical air wings, with a cut in active wings from 24 to 15, and from 12 to 11 reserve wings.

33% of our strategic bombers, a cut from 268 to 181.

It is not easy to add to these cuts without being disruptive or eliminating forces we are going to need in the future. Nevertheless, such cuts are possible through two mechanisms. The first is major program terminations. These allow limited near term savings. The second is by eliminating those forces and functions that are largely vestiges of the Cold War as soon as possible, and concentrating on preserving our key conventional power projection capabilities.

Major program terminations

We can terminate or reduce the following programs without taking unacceptable risks with our security:

Eliminate the Small ICBM program, and continuing to rely on upgrades of a single warhead silo deployed version of the Minuteman III. The only justification for a new SICBM is mobility and President Bush has canceled this aspect of the program. Relying on an upgrade of the Minuteman could save a total of up to $35 billion.

Terminate the B–2 program. This aircraft is a technical triumph, but it no longer can be justified for strategic nuclear missions and is far too expensive and mission limited for conventional missions. Canceling this program could save $20.9 billion to $25.9 billion over the next five years, and more than $35 billion over the life of the program if associated support, construction, and weapons costs are included.

Terminate the SSN–21 submarine. This submarine will cost some $2–$3 billion a ship at a time when there is virtually no chance of fighting a Battle of the Atlantic or sea control battle with the Soviet Union. Its practical mission advantages over the SSN–688 are uncertain, and increasingly so because of problems in developing the new weapons systems it is intended to use. Relying on existing SSN–688s, while we develop a new submarine some five or more years in the future could save $15 to $30 billion. Replacing the SSN–21 immediately with the SSN–688I and Centurion type submarine we need, would save $4.6–$5.0 billion over the next five years.

Reduce the construction of high cost escorts like the DDG–51 to take account of the reductions in the threat to our carrier battle groups. We continue to need carriers as a key element of our power projection capability. We do not need to give them the kind of protection needed for an extended naval war with a threat as sophisticated as the Soviet Navy. This could save up to $5 billion.

Slow the advanced technology fighter program, and delaying a production decision until it is clear that a threat exists that forces deployment of this aircraft, could save $4.6 billion. This step is particularly important because the current design is optimized around air combat missions at a time when the primary need of both the Air Force and Navy is for an advanced long range strike fighter, and funding effective production rates requires a high degree of commonality between the Air Force and Navy aircraft.

Reduce funding of the U.S. Army Armored System Modernization (ASM) program. This program was developed to meet the challenge of a Warsaw Pact that no longer exists, and the Gulf War indicates it was based on an exaggerated view of Soviet capabilities. Upgrading existing systems and designing a new family of equipment for power projection could save $2.3–$2.8 billion over the next five years and as much as $25 billion in total program costs.

It is important to note that while some of these cuts produce large cumulative savings, many involve short term termination costs. Further, no combination of major program terminations can—by itself—produce a sustained peace dividend of the scale necessary to double the Bush Administration's planned rate of a 3% annual cut in real defense spending.

Producing a near term peace dividend requires cuts in budget outlays as well as in budget authority. This is often difficult in terminating major procurements, and the end result is likely to be a significant gap between what can be achieved through program terminations and the required cut in expenditure that can only be made through rapid additional involuntary separations of manpower or by slashing readiness and sustainability. This would, almost inevitably, create hollow elements in at least part of our force structure.

Emphasizing cuts in nuclear forces and conventional force structure

In contrast, careful and properly planned changes in strategy and force structure provide a basis for making more substantial force cuts in ways that preserve military capability. This allows a peace dividend to be taken from those elements of our force structure which are least necessary, given the end of the Cold War, and provides sufficient flexibility to fund selected improvements in those forces that remain necessary.

This can best be accomplished in two ways. First, by focusing on President Bush's nuclear arms reduction initiatives to examine ways in which we can use a combination of unilateral action and arms control to accelerate reductions in our nuclear forces and other selected elements of our force structure.

Cuts in nuclear forces: Savings through arms control

The termination of the B-2 and SICBM are tangible reflections of what we can do immediately. In addition, the measures that the President suggested to cut theater and strategic nuclear systems would save at least $5 billion in FY1992–1997 and $13 billion during FY1992–FY2010.

It should, however, be possible to build on President Bush's initiatives by moving aggressively to eliminate land-based MIRV'd ICBMs, freeze most aspects of offensive strategic and theater nuclear technology, and seek additional cuts in strategic warheads of at least 1,000–2,000 warheads. The U.S. should work aggressively towards reductions from the present total of roughly 10,000 warheads on each side to levels as low as 6,000 or 3,000.

Recent work by the Congressional Budget Office indicates that a reduction to 6,000 warheads could eventually save the U.S. up to $6 billion a year, and a reduction to 3,000 warheads could save up to $11.9 billion.

These cuts could be accomplished by downloading bombers and SLBMs/SSBNs, by using the B–1B and ACM to provide future bomber strike capabilities, by further reductions in ICBM numbers, and by seeking cuts in the SSN forces of the U.S. and Soviet Union to reduce any threat to the SSBN forces of either side. This would still allow both sides to maintain a significant retaliatory deterrent, to improve their warning and attack assessment systems, and to deter any attacks by third party nations.

A cut to a force of 6,000 warheads could be accomplished by cutting the number of remaining Minutemen to less than 300 missiles, rather than the 500 permitted under START. Bomber forces would be cut, the first eight Ohio-class SSBNs would not be fitted with D–5 missiles, and fewer D–5 missiles would be purchased. The remaining force of theater nuclear weapons would be cut from 7,000 to 4,000.

A cut to a force of 3,000 warheads would mean a force about one-third the level the U.S. seems likely to retain after START, and would reduce the 6,000 warheads countable under START by about 50%. It would require elimination of the M–X force, and downloading each SLBM remaining in service to three warheads—maintaining the currently programmed number of SSBNs to reduce vulnerability. Detubing would be a possible alternative. The bomber force would consist solely of the B–1 equipped with the ACM or a similar system. All B–52s would be shifted to conventional missions.

Such options will, however, involve risks that arms control alone cannot alleviate. This is why the U.S. must move forward, hopefully in cooperation with the Soviet Union and smaller nuclear powers like Britain, France, and China to do everything possible to reduce the threat of accidental launch, further proliferation, and a political faction or extremist group seizing control of a nuclear armed long-range ballistic missile.

Further, the U.S. cannot rely on offensive nuclear weapons alone under any foreseeable options to deter the risk of long range missile attacks on its allies, its forces, and its territory. As has already been stated, it must proceed with a limited strategic defense system of the kind proposed in the Senate Armed Services Committee plan.

This system must include a mix of modern space borne sensors, land based missile defenses, and space based intercept capabilities. It must involve an active effort to cooperate in strategic defense with the USSR to eliminate any vestigial risk of nuclear attack, "breakout" in offensive weapons, and efforts to seek a first strike advantage. It must also include the development of theater ballistic missile defenses for our friends and allies, and U.S. forces.

It is impossible to estimate the schedule and size of the resulting annual savings, since this would depend on the outcome of arms control negotiations with the USSR, but they should rapidly reach a level of at least $1 billion a year and could reach a level of $4 billion to $8 billion by the mid 1990s if both sides accepted the need to achieve major savings in military spending. This could total $16 billion over the next five years.

The importance of strategic defenses

Such an aggressive approach to arms control does, however, involve risks. No one can be certain of the unity and stability of the Soviet Union. At the same time, a reliance on conventional weapons presents risks in a proliferating world. For this reason, it is essential that the U.S. proceed with a limited strategic defense system that can guard against accidental or limited nuclear strikes, help protect it and its allies from the emerging nuclear forces in the developing world, and deter any future successor regime in the Soviet Union from attempting to gain nuclear superiority by rushing to rebuild or redeploy nuclear forces.

The proposal advanced by the Senate Armed Services Committee represents a prudent and vital approach to providing this capability. It would seek to deploy a limited land based system by FY 1996, continue to fund development of an economic space based system, and encourage active negotiations with the Soviet Union to renegotiate the ABM Treaty. It also allows for cooperative development of such a system with the USSR—which would be as important in preventing the long term risk of nuclear war as any currently foreseeable cut in nuclear offensive forces.

Cuts in conventional forces

Conventional forces make up at least 80% of the forces funded in the defense budget, and any peace dividend must come primarily through cuts in such forces. Many proposals for such cuts, achieve their savings through sweeping cuts in total unit numbers, manpower, or equipment. They do not attempt to focus on the need for major changes in our strategy to reflect the changing threat and the end of the Cold War.

The bulk of such cuts must be based on shifting from an East-West to a power projection strategy that focuses on the existing and emerging threats in other parts of the world. Such a power projection strategy allows us to reduce and/or eliminate forces whose primary mission has been the defense of Europe, particularly in a prolonged conventional war.

While no one can dismiss the possibility of a successful hard line coup in the Soviet Union, or further problems in Eastern Europe, this prospect now seems so unlikely that the force packages developed in August, 1990 have become obsolete. Europe is now capable of assuming primary responsibility for its own defense, and this allows major cuts in the U.S. forces deployed in Europe, reinforcement forces in the U.S., and naval forces whose primary mission is sea control and the battle of the Atlantic, rather than power projection.

As General Powell said in a recent press conference:

"* * * the force structure was to do something about a massive Red Army assault coming west through the Fulda Gap. There is no Fulda Gap, except to tourist traffic. It was once an armed camp. And the Red Army has gone hundreds of kilometers to the east and is in the process of doing that. So that general battlefield situation has changed fundamentally." (9/27/91)

It is time to make it clear to our allies that they must assume far more of the burden of ensuring their future security than in the past. The United States should not abandon its Allies or withdraw from Europe.

At the same time, the U.S. should not assume the responsibility for overseeing the coming massive changes in NATO strategy and force posture. Europe must assume responsibility for Europe's post-CFE defense posture. The FRG, Belgium, Denmark, France, the Netherlands, and United Kingdom must take the lead in restructuring NATO's defense posture in the Central Region.

Further, the U.S. forces that are left in Europe must not be seen as being assigned or earmarked on a full time basis to NATO and SACEUR. They must be treated as contingency forces that the U.S. can use for power projection as long as the Soviet threat remains as low as it is today. It must be made forcefully clear to our German allies that they must increase their burden sharing efforts in terms of the costs they pay for the U.S. forces that remain in Europe, and to our other allies that our forward deployed tactical air, carrier, and Marine Corps forces are power projection forces and we must have the freedom to deploy and sustain them for such missions.

The U.S. must cease responsibility for missions like airborne command and control, surface-to-air missile defenses, emergency resupply, and a host of other infrastructure and support missions it now assumes in NATO. These should be firmly shifted to Europe by FY1996, and the U.S. share of NATO infrastructure expenditures should be steadily cut to reflect both these changes in U.S. strategic alignments and the role the U.S. undertakes for the entire alliance in terms of out of area operations.

We need to make even more serious cuts in our reinforcement forces for Europe in the United States, and in the so-called "reconstitution mission". It is prudent to have power projection forces that can reinforce Central Europe, as well as meet contingency needs for forces that can fight in high and medium intensity combat in other parts of the world. It is another thing entirely to assume that the U.S. must dedicate forces to serve as, "the bedrock of reconstitution capability should we receive warning of a Soviet return to a posture of direct military confrontation with the West."

The current force plan, as presented by General Powell on September 25, 1991, shows that the Atlantic part of the U.S. force structure in FY1997 would total about 1.35 million men, out of a total active and reserve force structure of 2.5 million men. This makes the Atlantic Force package larger that the manpower in all other functions, including the Pacific (550,000 personnel), Contingency (380,000 personnel), and Strategic (100,000 personnel) force packages.

Roughly 60% of the personnel in the Atlantic force package would be reserves in the U.S., of which about 66% are in support functions. The remainder would be active, of which over 75% would be deployed in the United States. This means that close to half of our FY1997 force structure would be reinforcement whose primary mission would essentially consist of refighting World War II against a Warsaw Pact enemy that no longer exists.

Enough is enough. This is not 1945, 1960, or even 1985. If there is a reconstitution mission for the defense of Europe—and that is increasingly doubtful given the end of the Warsaw Pact as a military alliance and the continued pattern of change in the USSR—the cost must be born by our European allies.

We have now lived for two decades with the illusion, if not the lie, that the U.S. can credibly plan to fight an extended conventional war in Europe. First, our allies show no serious interest or capability for such a conflict. Second, we have never funded the strategic lift, sustainability, or readiness to make good on commitments like sustaining 10 divisions in Europe within 10 days, and have no prospect of doing so.

Limiting the reinforcement and reconstitution mission in the mid to late 1990s to those forces needed for global power projection would free substantial resources to fund the modernization, readiness, and forward deployed forces we really need. It would fund the strategic lift and sustainability the Army needs for quick reaction deployments and allow the Marine Corps to remain at its present strength.

The specific force reductions that should result from the end of the Cold War, and the changing situation in Europe are:

Cutting the total active forces the U.S. has in Europe in 1995–1997 to levels of 50,000 (100,000) men, with matching cuts in active army and air force combat strength, and the proper slice of support, logistic, and headquarters forces and bases. This option would be equivalent to a 50% to 66.6% cut in the present "forward presence" part of the Atlantic Forces package.

This would require eliminating 3–4 active brigades from the 1 Corps and 2 divisions currently planned for deployment in Europe in FY1995, and 1.5-2.5 tactical fighter wings, plus associated support, logistics, and headquarters personnel. The heavy equipment for two full divisions, and suitable stocks, could, however, remain prepositioned at least until the end of the 1990s.

Cutting the forces in the U.S. that are scheduled to become the Crisis Response part of the Atlantic Forces package to 50% or 33.3% of their current level. It would require a cut of at least 1–2 active Army divisions, 3–4 reserve Army divisions, 1–1½ active fighter wings, and 5–7 reserve fighter wings, and the proper slice of support, logistic, and headquarters forces and bases. This could save $12.8 to $18.5 billion over the next five years.

Eliminating the Reconstitution Forces portion of the Atlantic Forces package (2 Army cadre divisions, navy frigates, and other related forces.) by FY1995–FY1997. This could save at least $2.2 billion over the next five years.

Eliminating by 1995–1997, any other active and reserve forces whose primary contingency role is the reinforcement of Europe in a prolonged major conventional war.

Options for cutting the overall mix of submarines, ASW forces, and related R&D and procurement programs to reflect the lower Soviet threat, and reduced need for any battle of the Atlantic contingency to supply NATO.

Reducing the number of active carrier battle groups to 10–12 carrier battle groups. Cut the cost of maintaining the present number of active carrier battle groups by delaying aircraft modernization, cutting the number of escort ships to reflect a smaller Soviet threat, and/or delaying construction of a new carrier. This could save $2.2 billion to $26.1 billion over the next five years.

In addition, there are other forces that can be cut or eliminated:

Cut the active army units in Alaska from the force structure, and reduce active air strength to minimum levels.

Eliminate and consolidate the active and reserve components of non-combat Army, Air Force, and Navy support units in the U.S. by an additional 15%–30% beyond the currently programed level by 1995–1997. This could save $35.8 billion to $71.8 billion over the next five years.

This rapid shift away from a Europe-oriented to a power projection strategy will allow us to make further major adjustments that might be made in procurement and research and development expenditures. These adjustments include:

Shifting the mix of major procurements planned for the mid-1990s and early 2000s to rely on upgrades of current major weapons while limiting expenditure on such systems to R&D. This should be able to save at least $2 to $4 billion a year by FY1994.

Reduce funding of R&D, less SDI/TMDI, to 1976–1991 share. These savings would vary by year, but would approach $6 billion in FY1993, $4.6 billion in FY1994, and $1.0 billion in FY1995. This could total $7.1 billion over the next five years.

Mandating a shift away from reliance on MILSPEC and a military industrial base to reliance on civilian technology over the next 5–10 years in all those areas where a shift to a civilian industrial base is possible. These include areas like electronics, engines, and other high cost components.

The U.S. has the option of reducing its active military strength in South Korea to no more than one active Army brigade and one active tactical fighter wing by 1995–1997. Such an option may be possible if the political situation in North Korea should change radically by the mid-1990s. However, the U.S. already has plans to reduce its forces in the Pacific to levels where further major cuts do not seem prudent at this time.

This highlights the need to maintain forward deployed active forces in the areas where these play a powerful deterrent and stabilizing role, and can contain contingencies that might otherwise require far larger force deployments from the U.S.

Tailoring force cuts to provide the peace dividend goal

While it is tempting to propose price tags for each of the above savings, the exact amount of money that can be saved from such cuts in force structure must be tailored to the most desirable pace of reductions shaped by developments in the Soviet Union and Europe. In fact, one of the advantages of these cuts is that they provide a pool of actions where the exact cut in each area can be shaped to minimize the disruption in our capabilities, all volunteer force structure, and defense industrial base.

It is clear, however, that such cuts are drastic enough to meet the annual goals set forth for a six percent reduction in real defense spending. These goals require a saving of $17 billion in FY 1993, $33 billion in FY 1994, $48 billion in FY 1995, $62 billion in FY 1996, and $75 billion by FY 1997, or a total of $235 billion over the next five years. Just the reductions proposed for U.S. forces in Europe, in the reinforcement forces for Europe in the U.S., and in associated headquarters and support forces should be more than adequate to meet these levels of reduction.

SETTING A FLOOR FOR FORCE CUTS AND CUTS IN DEFENSE SPENDING: THE NEED FOR A POWER REDUCTION STRATEGY

At the same time, we must set limits to the cuts we make in defense spending. We must be prepared to shift away from many of the roles and missions of the Cold War era and to focus on our capabilities for power projection: The capabilities that are necessary to deal with regional aggressors, proliferation, and other challenges to world peace that emerge from the continued instability in the Third World. These power projection missions require strong, fully combat, ready, and rapidly deployable forces, and they will consume most of the defense resources we will have available in the 1990s.

As the Gulf War has just shown, wars in the Third World can require heavy armored forces and the most advanced air powers available. They can require all our naval and amphibious capability, and they can place a massive strain on our existing strategic lift and prepositioning capabilities. They also require advanced technology, and the kind of military professionalism and readiness that can win quick and decisive military victories. We cannot realistically hope to engage in prolonged conflicts that lead to high casualties and that do not produce a clear strategic result.

We had a decisive technical and military superiority in the Gulf War, but we must not take such superiority for granted or underestimate its importance. This superiority is essential to minimize American and allied casualties and bring a conflict to a quick and decisive end.

The growing threat in the Third World

It is easy to talk about a new world order, but it may be exceptionally difficult to create one. The end of the Cold War does not change the fact that there have been an average of 20–25 conflicts and civil wars raging in the Third World during every year since 1945. It does not change the fact that the U.S. had had to use military force more than 200 times since the end of World War II to protect its allies, its citizens, and its strategic interests in areas where no element of Soviet bloc forces was involved.

The Third World is not becoming a kinder and gentler place. Third World nations spend nearly 5% of their gross national product, and 20% of all government expenditures on military forces: A total of $175 to $200 billion a year. They take delivery on an average of over $40 billion worth of arms a year, including approximately 1,500 modern main battle tanks, 2,000 artillery weapons, 3,000 other armored fighting vehicles, over 100 combat ships, 350 supersonic jet combat aircraft, and 5,500 surface-to-air missiles.

As Iraq has shown, some such nations can become massive threats to the security of their region, and this threat is likely to grow:

At least fourteen developing countries now have offensive chemical weapons.

Seven developing countries have biological warfare capabilities.

Twenty-one countries now have tactical ballistic missiles. Eighteen developing nations are likely to possess long range tactical ballistic missiles by the year 2000, and up to fifteen countries may be able to manufacture them.

Nine developing countries seem likely to acquire imagery satellites by 2000.

Forty-seven developing countries have modern main battle tanks.

Fifty-eight countries have modern jet fighter aircraft.

103 countries have cruise missiles.

Seventy-one countries have anti-ship cruise missiles, and 46 countries have naval mines.

Over 30 developing countries have submarines.

We must have combat forces that can deal with any foreseeable combination of threats in the Third World, and these threats are not theoretical or ones that may appear in the future. If Iraq's offensive capabilities have been destroyed, those of North Korea remain, and North Korea has chemical and biological weapons and seems to be rapidly moving towards a nuclear capability.

Our forces also must have enough combat readiness, forward deployed capability, and strategic life to deter conflict wherever possible, and to rapidly contain and limit conflict when deterrence fails. Most conflicts in the Third World occur without significant strategic warning, and many take an unpredictable form. In virtually all cases, the level of escalation in such crises and conflicts is dependent on how quickly action is taken to control them.

The role of the U.S. in power projection

There have been an average of more than 25 ongoing civil and international conflicts in the developing world every year since the end of World War II. There are now more than 10 low level conflicts going on in the Middle East and the Gulf.

The U.S. cannot aspire to be the global policeman and intervene in every low level conflict. The fact remains, however, that the U.S. has global interests that can be affected by regional disputes whether it wishes it or not. The U.S. is also the only power capable of assuming a leadership role for the community of democratic nations to focus international efforts on a global basis toward a common goal.

These realities were demonstrated all too clearly during the Gulf War. The world community simply could not risk hostile control of Persian Gulf oil. Important as UN and allied action proved to be, the U.S. was the only nation with the naval power to take the lead in keeping the Gulf open.

We also need to recognize that our interests have changed fundamentally since the beginning of World War II. The U.S. economy is dependent on trade and the flow of high technology goods, and even more dependent on raw materials. The U.S. is critically dependent on imported energy, a dependence that seems certain to increase during the next few decades. The U.S., and U.S. citizens, are also far more involved in political and commercial activities throughout the world. Many are in states vulnerable to internal instability or outside threats, where the U.S. may be called upon to protect its interests with little or no warning.

The balance of power has also changed in ways that have nothing to do with the Soviet or Warsaw Pact threat. Before World War II, European powers defended Western interests, and often those of the U.S. While the U.S. emerged as a major maritime power between 1776 and 1941, it never had to act as the dominant power.

In the years since 1941, the U.S. has emerged as the dominant power securing the West's interests throughout the world and has become the only free world power that can secure the interests of all free world states. Decolonization began an irreversible process that has already stripped Europe's power projection capabilities to largely symbolic levels and is leading to a continuing decline in the forces that remain.

Even the term "Western interests" has become a strategic anachronism as the balance of economic power has shifted to favor Asia and as free nations have become at least partially dependent upon the U.S. in Latin America, the Middle East, the Gulf, and Asia. Japan and the NICS, however, have never developed power projection capabilities, and it is not in our interest for them to do so when they can make far more important contributions in the form of economic aid.

Future contingency requirements

No one has yet been able to predict the contingencies that have been most critical to our security. We became involved in two World Wars despite strong isolationist sentiment. We have been involved in several major, and numerous minor, military actions since the end of World War II that were not foreseen. By contrast, the long awaited Der Tag with the Soviet Union never came despite several promising opportunities. In short, the cumulative probability of having to deal with wild card scenarios has always proven greater than the probability of having to deal with the most frequently predicted case.

It is virtually certain that the future will involve fewer opportunities for confrontation with the Soviet Union or the Warsaw Pact, particularly in the Central Region. The fundamental issue dividing the U.S. and the Soviet Union has been the fate of Europe and the potential impact on the U.S. if Europe were to fall under Soviet domination. There does not appear to be any other issue that would compel the U.S. and Soviet Union to risk general war with each other as this issue fades into history. Regardless of the final form of "Glasnost", however, the world will remain a very troubled place.

As a result, our strategy, our forces, and the roles and missions of our forces must change to reflect both the decline in our real defense resources and the fact that most of the threats to our interests, and our friends and allies, outside of Europe remain and may even intensify.

Unfortunately, our dependence on energy imports is growing again and is projected to continue growing well into the next century with more than 35% of our petroleum products imported in the last year. We continue to be heavily dependent on imports for virtually all our critical minerals and most of our other raw materials.

Equally important, we are critically dependent on the smooth flow of world trade. The total volume of U.S. imports rose from $16.3 billion in 1960 to $42.6 billion in 1970, and $257 billion in 1980. U.S. imports have virtually doubled again since 1980, reaching $460 billion in 1988. Global trade in high technology has also more than doubled in the last five years. Trade in the five most critical technologies has risen from less that $90 billion in 1984 to more than $200 billion today.

The changes in the Soviet Union and Warsaw Pact threat have an important but limited impact in reducing the requirements for U.S. power projection forces. The U.S. still faces the risk of a significant conflict in Northeast Asia and in the Gulf. The U.S. has forces to meet such contingencies, but either one would require most of our power projection capability including forward deployed forces and prepositioned equipment.

Essential forces and force improvements for the 1990's

Given this strategic background, we can see the essential military capabilities we must preserve while seeking a peace dividend. They include:

Maintaining the U.S. Army capability to deploy contingency forces like the XVIIIth Corp to provide a mix of combat ready airborne and air assault capabilities for low intensity conflicts plus a rapidly deployable mix of mechanized and armored forces for medium and high intensity conflicts and sufficent reserve and National Guard forces to provide reinforcement in prolonged medium and high intensity conflicts.

Maintaining sufficient carrier task forces, rapid sealift, amphibious forces, and mine warfare capabilities for our power projection needs in the Atlantic, Pacific, Mediterranean, and Indian Ocean/Gulf.

Maintaining the three MEFs of the Marine Corps as an active forward deployed power projection forces with sufficient prepositioning, lift, and modernization to operate in both low and medium intensity conflict.

Maintaining sufficient conventional bomber, tactical air, and strategic airlift strength to deploy decisive amounts of air power in power projection missions for low, medium, and high intensity conflicts outside Europe.

It is important to note that some elements of these forces are currently underfunded. As a result, the U.S. must make the following investments in its power projection capabilities over the next ten years:

Give the Army's rapidly deployable combat forces the active combat and service support necessary to allow at least medium intensity combat without calling up reserve and National Guard units.

Provide the additional prepositioning and fast sea lift needed to provide suitable strategic mobility for the Marine Corps and the rapidly deployable Army forces requiring fast sealift.

Provide a suitable package of strategic airlift for the power projection of U.S. Army, Air Force, and Marine Corps forces for missions other than a major combat contingency in the central region of Europe.

Develop and deploy an advanced long range attack aircraft to compensate for the range, vulnerability, and mission limits of the F–16 and F–18, and provide suitable improvements in the theater air and tactical amphibious lift of the Marine Corps.

Bring the Marine Corps to three fully combat ready MEFs with the sustainability and equipment modernization necessary for medium intensity combat in the 1990s.

Correct the currently programmed obsolescence of the amphibious force.

These forces can be provided by combining the remaining forces in the Atlantic Force package with the forces in the other two packages of conventional forces presented in the Bush Administration force plans for fiscal year 1992–fiscal year 1996. These two packages include:

Pacific Forces whose primary mission is the defense of Northeast Asia and the Pacific Rim, including Southeast Asia. They seem to split the mission of covering the Indian Ocean, although this is unclear in the material issued to date.

Contingency Forces in the U.S. to provide global crisis and contingency response capability across the spectrum of conflict from counterinsurgency to major conventional conflict.

By the mid-1990s, the forces assigned to Pacific Forces are planned to include 1 Army division and 1-2 Air Force fighter wings in South Korea; 1-2 Air Force fighter wings, 1 carrier battle group, and 1 Marine MAGTF in Japan; 1 light Army division in Hawaii and Alaska; and 5 carrier battle groups and support ships, and 1 Marine Expeditionary Brigade in the U.S. There will be roughly 30,000 military personnel in South Korea and 35,000 in Japan by the mid-1990s, a reduction from 45,183 in South Korea and 46,824 in Japan in 1990.

The forces assigned to Contingency Forces will include 4-5 Army Divisions, 7 Air Force fighter wings; Air Force Strategic Airlift, undefined remaining Navy and Marine Corps forces from the Atlantic and Pacific, the 8 SL-7 fast sealift ships, and the remainder of the Ready Reserve Fleet. The bulk of the Army forces in the Contingency Forces package will be drawn from the present XVIIIth Corps. They will include the 82nd Airborne and 101st Air Assault Division, and will probably include the 24th Mechanized Division and one to two other Army active divisions.

Preserving the power projection capabilities of the U.S. Army

If one looks at this pool of forces by service, an effective power projection strategy must be founded on a mix in which the U.S. Army provides the bulk of U.S. capability for sustained medium and high intensity combat and reinforcement, as well as Special Forces.

The most critical Army contingency forces now include the XVIIIth Airborne Corps with the 82nd Airborne Division (Ft. Bragg), the 101st Airborne Division (Ft. Campbell), the 7th Infantry Division (Ft. Lewis), the 24th Infantry Division Mechanized (Ft. Stewart), and the 10th Mountain Division (Ft. Drum)—and the three active divisions that are dedicated to the defense of the Pacific region and South Korea.

What is also needed, however, is a mix of 3-5 highly mobile heavy divisions in CONUS and Europe that can deploy within a few weeks to several months and provide the armor, artillery, and heavy weapons necessary for medium and high intensity combat anywhere in the world. These forces will need suitable training, equipment, sustainability, and strategic lift. They will have to be combat ready, although not necessarily at levels of 100% and be able to draw on reserves for combat and service support.

The elements of such a force are already present in the units the U.S. has developed for Europe. What is lacking is the fast sealift and maritime prepositioning and the detailed programming priorities necessary to convert these forces from NATO-oriented to power projection forces. Such changes should be accomplished over the FY1992-FY1996 period.

The role of seapower and the carrier battle group

The U.S. has already cut back to 14 carrier battle groups and two surface action groups centered around our two remaining battleships. It now plans to drop to 12 carrier battle groups and 13 carrier air wings, and eliminate all its surface action groups by 1991. The cuts suggested in this plan would entail further cuts to a force of 10-12 carrier battle groups with each of the remaining battle groups built around a smaller force of escorts.

The importance of the carrier is illustrated by its role in recent power projection missions. Throughout our history, and even during the height of the Cold War, the U.S. has primarily used military forces in the context of regional conflicts. We have used military force well over 200 times since the end of World War II. The numbers are not precise and some regional conflicts obviously derived from the central confrontation between the U.S. and the Soviet Union, however, it remains clear that seapower was used in over 80% of these incidents and carrier forces were needed in over half.

The figures are more precise for the period between 1945 and 1989. We have used our naval forces 187 times in the period between 1945 and November, 1989. We used our carriers in 125 of these 187 cases, 67% of the total.

While it is impossible to characterize our uses of sea power it terms of simple categories or patterns, the vast majority of our naval deployments provided the kind of rapid reaction capability necessary to keep a crisis from escalating. We used force to prevent war, to limit escalation; or to protect American citizens, friends, and allies. There have been, however, many cases where seapower played a critical combat role, including South Korea, Vietnam, Grenada, and the raid on Libya—just to name a few.

What is equally important in terms of our future strategic needs is that we relied primarily on the U.S. Navy and Marine Corps teams. We used amphibious ships in 101 of 187 cases, just over half the time. During 97% of the times we deployed Marine Corps forces we used the U.S. Navy as well. The U.S. Navy has also worked closely with the power projection elements of the U.S. Air Force and U.S. Army. U.S. Navy and U.S. Air Force units were involved in 54 of the 187 cases, or 29%. U.S. Army forces were involved in 34 cases, or 18%.

It is easy to forget that we have never funded the number of carrier task forces necessary to meet the Soviet and Warsaw Pact threat. During the last two decades, requirement study after requirement study has shown that the U.S. would need in excess of twenty carriers in the event of war between NATO and the Warsaw Pact. As a result, even "Peacetime" deployments to the Persian Gulf have forced us to extend carrier tours of duty well beyond the desired time in order to maintain an effective naval presence in other areas.

This sharply limits the "peace dividend" in the form of surplus carriers that we can eliminate because of the changes in the Soviet and Warsaw Pact threat. The potential loss of significant overseas bases—which will probably be increased by the decline of the Soviet Empire—may also make the future burden heavier yet.

We have further increased the burden on our carriers by making cuts in the size of our battleship forces in FY1991. The role of the battleship is badly misunderstood. We have stressed its ability to provide naval gunfire and there is no doubt that such capabilities are important and that the carrier must now assume the role of providing close air support as a substitute for naval gunfire.

We should, however, be willing to adjust the strength of our supporting surface fleet—and the rate of modernization of naval air power, nuclear attack submarines, and fleet weapons systems—to deal with a less sophisticated threat than the Soviet Navy.

The Bush Administration has already recognized this fact in plans that call for cuts in battle force ships from 545 to 451 ships. These plans, however, call for major reductions in amphibious capability from 59 active and 3 reserve ships to around 50 active ships and no reserve ships.

In contrast, the Navy places too much emphasis on preserving capability to fight a major action with the Soviet navy. While the number of major surface combatants is planned to drop from around 140 ships today to 134 ships by the mid-1990s, it will rise towards the end of the decade and reach nearly 150 ships.

The U.S. does not need the capability for a "forward strategy" that would attack the Soviet fleet in its bastions in the North Atlantic and Pacific. Such a strategy and force posture have become needlessly provocative and needlessly costly.

The U.S. can afford to unilaterally adjust its naval force posture and exercise activity to convince the Soviet Union that the primary mission of the U.S. Navy is power projection and sea control and not to directly threaten the Soviet homeland. At the same time, the U.S. can join with the USSR in strengthening existing agreements and confidence building measures that provide both nations with increased confidence that seapower will not be used to threaten each other's territory.

The end result would be smaller battle groups with a focus on modernization, rather than maintaining force strength. The 600 ship navy never had strategic justification and wasted precious U.S. power projection assets. By cutting fleet strength, and converting added ships to the naval reserves, the U.S. can provide the modern escorts, mine warfare ships, and other "coastal combat" capabilities needed to deal with increasingly sophisticated Third World threats and still cut costs.

The Navy can also help improve the carrier force by ensuring that the new F-18E/F program is re-examined to ensure that it will fully meet the need for a longer range and more attack capable multi-role fighter. At the same time, it is difficult to see what justification exists for a separate AX program when there is a clear need for a high degree of commonality with the Air Force for a high performance attack fighter.

The Air Force and Navy should be directed to restructure the ATF program to emphasize attack capabilities. The U.S. simply cannot afford two major aircraft programs at this level of sophistication for the late 1990s and early 2000s. If this entails major delays in the Navy's schedule for the A-X, it should be directed to remanufacture the F-14 to provide a suitable interim capability. The resulting program savings should allow the U.S. to modernize other naval aircraft, maintain the necessary mix of active and reserve air wings, and still cut defense expenditures.

Finally, the Navy now has 87 commissioned SSNs. It should be able to reduce this force to 80 SSNs by the end of the decade, even without any naval arms control agreements with the Soviet Union. These force reductions seem well judged, but the Navy's force improvement plans do not.

Maintaining the active strength of the U.S. Marine Corps

The United States Marine Corps is an elite force designed to provide quick reaction global power projection capabilities. It now has a strength of three active Marine Expeditionary Forces: These are land-air-amphibious task forces built around three divisions.

Two of these divisions are oriented towards the Pacific and Indian Ocean area: The First Division at Camp Pendelton and Twentynine Palms and the Third Division at Okinawa and Hawaii. The other division is oriented towards the Atlantic and Mediterranean Basin: The Second Division at Camp Lejune, North Carolina, and one in Okinawa. The key element of the Corps located outside the main division bases include a brigade in Virginia, a brigade and air group in Hawaii, air units in Arizona, and a wing in Japan.

Some reductions in Marine Corps manpower strength are possible by cutting smaller units, but the Bush Administration now plans cuts that are too large. The MEFs now have only two brigades and one air wing each. Some are units assigned a secondary training role. The U.S. cannot achieve meaningful economies by cutting fully ready power projection forces, particularly since they already have seaborne prepositioning and sustainment. If the U.S. should destroy this existing capability, it will almost certainly find that it will have to be recreated later at greater cost.

Further, the Marine Corps must be given all the contingency capabilities needed for power projection in medium intensity, as well as low intensity combat, and mission capabilities with added sustainability and combat capability that is less tied to amphibious operations. The present structure of the Corps has created a force that is too light for many of the power projection missions of the 1990s, and which is too tied to a traditional role in "over-the-beach" operations. The U.S. cannot afford to limit one of its most critical power projection capabilities in this manner.

The Marine Corps must have the strategic and theater lift it needs to be effective, and the artillery and tanks to sustain itself in medium and high intensity combat. In the case of strategic and tactical lift, this requires a comprehensive re-examination of current U.S. amphibious lift plans which will now severely weaken the Corps' contingency capabilities after the mid 1990s, and a firm decision regarding procurement of the V-22. It also requires the development of an integrated long term plan that ties together amphibious lift, tactical airlift, maritime prepositioning, and overall sustainability.

The Corps also needs enough firepower and maneuver capability to deal with the armored forces of the best equipped developing nations. Marine forces are now too lean to provide its forces with the modern tanks and self-propelled artillery that are vital to effective future operations.

Marine Corps divisions with clear contingency missions are far less well equipped than Army reserve heavy divisions, whose European contingency mission no longer has its past priority. During the Gulf War, this led to a situation where Marine Corps divisions had obsolete M-60A1 tanks, while reserve units that remained in the U.S. had M-1s. This situation needs to be fully reexamined. It may be possible to upgrade Marine Corps land forces by reprogramming procurement funds away from Army reserve units.

Similar problems exist in Marine Corps tactical aviation. The problems in modernizing U.S. Navy aircraft have led to a situation where no clear plan exists to fund the modernization of Marine Corps tactical aircraft. The AV-8B badly needs upgrading and modernization and a clear plan is needed for the overall modernization of Marine Corps fixed wing and rotary wing aircraft.

Finally, we must firmly accept the fact that the basic rationale for the Marine Corps is that its forces already exist, are fully funded and ready, and provide a vital strategic capability. The issue of whether the Marine Corps does or does not duplicate the Army in some capabilities is moot. Combining the forces, or "rationalizing" them in some other fashion would not save money or improve U.S. power projection capabilities, and would almost certainly leave a lasting legacy of problems in morale.

Preserving the power projection capabilities of the U.S. Air Force

The Air Force provides high technology strike power, air defense capabilities, and strategic lift that can rapidly deploy to any friendly base, rapidly changing the regional balance of power in most non-NATO contingencies. In combination with Navy and Marine Corps aviation, it forms the most effective single branch of our power projection capabilities in terms of the ability to react quickly to an unforeseen crisis, support allied and friendly forces, and confront hostile Third World states with capabilities they cannot defend against effectively or match in strike power.

The Bush Administration plans to cut the total number of Air Force tactical fighter wings from 36 to 26 wings, with active wings being cut from 24 to 16 wings. The suggested force cuts would add 2 to 4 active and 5 to 7 reserve wings to this total. The remaining force is a bare minimum to provide power projection capability while providing a prudent reserve for other contingencies. The U.S. must not risk cutting this strength further, or its mix of Navy and Marine Corps aviation.

There is a high risk, however, that such forces will be inadequate because the Air Force has not funded the F-15E or any other long range high capability strike fighter for the late 1990s or early 2000s. The present program calls for a moderate range and capability multi-role fighter and an extremely expensive fighter oriented for air defense may—like funding of the B-1—be an outdated expression of the past mission emphasis of the Air Force and the Cold War.

Emphasis should be given to developing an upgrade of the F-16 or F-15 to provide improved attack capability in a multi-role fighter, while reorienting the ATF program to emphasize long range and high performance attack capability.

If the U.S. Air Force slows the pace of other aircraft and weapons modernization, as has been suggested earlier, and makes the proper cuts in strategic forces, it should be able to fund the mix of active and reserve tactical air forces it will need for the 1990s. The Air Force should also have sufficient resources for its airlift and surveillance and reconnaissance missions.

The Air Force and Navy both need to reexamine their plans for air munitions. Both are now committed to a number of very advanced missile programs, and are canceling production of proven systems like the Phoenix and Maverick. It may well be able to sustain the munitions levels it needs for proper sustainability by continuing production of advanced versions of existing missiles, and slowing the procurement schedule for more advanced systems.

Changes in U.S. strategic lift

Operation Desert Shield and Operation Desert Storm were only possible because of U.S. strategic lift. During the period before the war started (through December 31, 1990), the U.S. was able to move more than 300,000 troops and 305,000 short tons of cargo by air, 220,000 ton of equipment and supplies and 190,000 barrels of fuel from its prepositioned ships and tankers, and 2.5 million short tons of cargo using sealift.

Current U.S. strategic lift plans are sized to provide two major capabilities. First, to deploy about five Army divisions, along with tactical fighter and naval forces, in about six weeks. Second, to augment the U.S. forces in Europe with about 4 Army divisions, 30 tactical fighter squadrons, 1 Marine Expeditionary brigade, and their associated support within 10 days, and to deploy the remaining forces in two to three months. In addition, the U.S. has nine Maritime Prepositioning Ships (MPS), 8 afloat prepositioned ships, and 2 prepositioned tankers.

The U.S. no longer needs all the lift required for the European augmentation mission. This is a vestige of the Cold War. The U.S. does, however, need sufficient lift to deploy heavy Army divisions for a high intensity conflict in the Third World, suitable lift for its tactical air forces, and the amphibious lift and prepositioning ships needed for the Marine Corps.

The U.S. now has an aging fleet of air transport aircraft, and one key aircraft—the C-141—may have to retire earlier than planned. This makes procurement of the C-17 a critical priority for power projection. The U.S. is also dependent on eight fast deployment ships, 23 other cargo ships, 41 tankers, and an aging Ready Reserve Fleet assigned to the Maritime Administration, which currently has very low operational readiness.

The U.S. must create a new affordable mix of strategic and tactical lift that ensures the C-17 will be procured on schedule, and that sufficient fast sea lift ships are available to rapidly move several Army divisions. It needs at least one more maritime prepositioning ship for the Marine Corps. It does not need to fund sealift for a major European war.

The Air Force may have suitable funding plans for the C-17 in the FY1992-FY1996 program—although much depends on the ability to avoid past problems in cost growth and program management. The Navy, however, is again "studying" the sealift problem, plans major cuts in the amphibious force, and force of ammunition, supply, repair, and salvage ships. It also has not funded the added maritime prepositioning needs of the Marines.

Secretary Garrett has stated that, "The lessons learned in Desert Shield and initial analyses conducted in the requirements study indicate that large, roll-on/roll-off ships in the speed range of 19 to 25 knots should be the general target of our acquisition program, and that, "we hope our analysis will be completed some time this summer to provide a firm requirement . . ."

This issue has been studied long enough. The FY1993 budget submission should have a clear request for funding and operating the additional fast sealift ships needed for power projection, it should fund at least one more MPS ship, and should fund an adequate level of amphibious forces and modernization. It should also examine buying maritime prepositioning for the Army and accelerating the draw down of Army prepositioned equipment in Europe. At the same time, the U.S. military cannot and should not subsidize the U.S. commercial fleet and ship building industry. The sealift we need should be procured in the most cost-effective manner possible.

Further, both sea and air lift requirements should be sized for power projection. Present requirements are sized for long, relatively intensive wars that begin with little or no warning. Major improvements in airlift are funded around a troubled program—the C-17—with sealift given lip service. Strategic lift capabilities are not adequately tied to theater lift, and lift requirements have not been regularly updated to deal with changes in contingency requirements.

The U.S. needs to eliminate reserve fleet ships and subsidies to merchant shipping geared to long wars in Europe. Clear decisions are also needed regarding the relative merits of a C-130 follow-on, the V-22, and heliborne lift. This will not achieve savings, but it will create a more effective force mix with the lower strategic lift budgets planned for the 1990s.

Savings in support and infrastructure

Even in the case of power projection forces, it should be possible to achieve major savings by making major cuts in the large numbers of headquarters units, support commands, and other "infrastructure" forces and facilities in the U.S., and in costly overexpansion efforts like "homeporting".

Too much of our current debate over defense spending focuses on the units we need most, and ignores the fact that behind our combat forces is a massive structure of other elements tailored for the contingency of a massive conventional war in Europe. This is the real "fat" in our defense effort and it should be possible to make 10–15% cuts in all headquarters and infrastructure forces over the next two fiscal years. This will achieve a major additional "peace dividend" with minimal impact on our contingency capabilities.

At the same time, it is essential that we restructure our reserve and National Guard forces to provide the kind of reinforcement and sustainability we need for regional contingencies. Reserve and National Guard forces are highly cost-effective—when they are given the resources they need—and they are tailored to missions they can perform without major additional training in a crisis. We need to restructure our reserves to support power projection, rather than a war in Europe.

Creating a new total force concept to balance active and Reserve Forces

This shift to a power projection force posture must be accompanied by the creation of a new total force concept. In spite of recent reports by the Department of Defense, there is no total force concept that ties together plans for active and reserve force strength, manning levels, training readiness, lift and sustainability. Each of these areas tends to be dealt with separately, and "war stoppers" often exist in one or more areas while the others are fully funded.

These problems are compounded by a command structure that originated at the height of the Cold War. We need to re-examine present command structures and the roles and missions of these commands. In particular, it does not seem useful to continue to put Africa under USEUCOM, or leave USCENTCOM so vaguely defined in terms of its associated forces and supporting seapower.

TECHNOLOGY, PROCUREMENT, AND DEFENSE INDUSTRIAL POLICY

Implementing the preceding plans will ease some of the growing problems in preserving our defense industrial base in the areas where we need it most by maintaining the production of existing systems and slipping advanced technologies until they are more mature and affordable.

There is no question, however, that the Department of Defense must stop attempting to deal with the defense industrial base as if a government subsidized mix of highly specialized companies could adjust to defense cuts on the basis of market forces and still preserve the ongoing surge production capabilities, and mix of overall production capabilities, needed during the next decade.

The Department of Defense needs an integrated plan for research and development, procurement, and the defense industrial base which uses competition where this is still possible, but which ensures that a mix of low rate production and emphasis on "centers of excellence" and contingency production capabilities in the U.S. can meet its future needs.

This requires a fundamental change in the way the Department of Defense treats procurement and in the way the Congress reviews both R&D and procurement. The Department has consistently ignored the economic realities that defense industry faces, and has tried to shift the burden of defense cuts to industry without considering what must be done to keep production capability alive.

It has cancelled existing production programs, and created potential production gaps of half a decade or more, as if private industry could somehow "mothball" design and production capabilities. It has stressed efficient rates of production to produce short term savings in unit cost without adequate consideration of what this is doing to the long term efficiency of the American defense industry.

The Department has also failed to come to grips with the need to make clear choices between the preservation of critical production capabilities in the U.S. and interdependence with our friends and allies. The U.S. cannot afford either excessive dependence or futile efforts at autarchy.

At the same time, the Congress has increasingly attempted to micromanage the Department's research and development programs in ways that serve various state and local interests, but are divorced from the fact that no lead in technology is meaningful unless it can be transformed into affordable military equipment. It has risked overfunding research that cannot be translated into procurement, and underfunding the development activity defense industries needed for actual production.

Both the Department and Congress have also failed to put sufficient emphasis on finding ways to transform military designs to make increasing use of technology and production capabilities in the civil sector. The need to shift the design focus of military procurement away from specialized components and production capabilities has been given little more than lip service.

In short, the U.S. must develop a clear plan for defense production and maintaining the key elements of our defense industrial base that focuses on meeting military needs, while carefully avoiding subsidies to given industries and "critical technologies".

While the Bush Administration has indicated that it will address these issues in its FY 1993 defense budget request, its plans remain vague and poorly defined. They are also limited by a Congressional focus on cooperative projects with our allies that have generally failed to save money, produce effective equipment, and meet U.S. requirements, and by a focus on "critical technologies" which involve extensive guesswork about future military needs, are often isolated from the needs of civil industry, and are more suitable to the Cold War than power projection.

What is clearly needed is a focus on actual procurement needs and the production and R&D base necessary to meet them. We need to preserve critical production capabilities or we will never be able to make effective use of critical technologies. We also need to know when we must turn to production methods and technologies available in the civil sector because we can no longer afford to maintain a defense industrial base that is decoupled from the civil economy.

This requires a new type of industrial planning by the Department of Defense, and we must recognize the special nature of the defense industry and the fact that the only way we can deal with the coming cuts in defense procurement is to have a clear defense industrial plan. Half measures, and a focus on technology, will not cope with the problems we face in reshaping key industries like aerospace, electronics, ship building, and nuclear reactor construction to meet our future needs.

BURDENSHARING AND COOPERATION: THE OTHER ELEMENTS OF A PEACE DIVIDEND AND EFFECTIVE STRATEGY

Finally, a peace dividend and power projection strategy must take into account the need for improved cooperation with our allies, and effective burdensharing. The U.S. must not plan its forces in a vacuum. It must accept the need for regional and global partnerships.

The role of allied nations

In the case of Europe, the end of the Cold War means that the defense of Europe should become a European problem. This does not mean that the U.S. should abandon Europe. It does mean that Europe should contribute a far larger portion of Europe's defense, that it should cease to ask the United States to dedicate land and air forces solely to the defense of NATO, and that the U.S. should act quickly and decisively to make Europe assume responsibility for a greatly increased role in its defense.

In the case of Japan, Japan does not need to expand its forces, but it does need to formally accept the fact that the primary function of the strategic partnership between the U.S. and Japan has shifted from the defense of Japan against a Soviet threat to the preservation of strategic stability in Northeast Asia, the Pacific, and Southwest Asia.

More broadly, our wealthier European, Japanese, and Gulf allies must share at least the financial burden of executing those power projection missions that serve their regional and global interests. If they do not play an active military role, they must use their wealth to aid those who do, and to match military action with the economic and military assistance which is often a vital supplement to, or substitute for, the use of military force. There is no partnership without participation, and Germany and Japan must realize that the time has ended when they can stand aside from their responsibilities.

The role of military assistance

Like burdensharing, military assistance is a critical "force multiplier" in an era where the U.S. must cut its own forces and capabilities. The U.S. cannot afford to be the world's policeman; it can only act in conjunction with regional allies, and its allies must be strong enough to deter or counter low to mid-intensity threats wherever possible.

This requires the U.S. to make fundamental shifts in its approach to military assistance from an approach centered around containment of the Communist threat to one centered on regional peace and stability. In many regions, particularly the Gulf and Asia, military assistance also now means providing the weapons and technical assistance our allies need at fair market value, rather than through grants or preferential loans.

This does not mean that the U.S. should encourage massive arms transfers to its allies, or see such arms transfers as the solution to regional arms races. It does mean that the U.S. should do everything possible to encourage regional solutions to regional problems, and should limit its forward deployed and over-the-horizon forces to roles that its allies cannot assume.

Using the advantages of foreign deployment while minimizing costs

The U.S. must adopt a clear strategy towards foreign deployment and basing (with its attendant reliance on allies), burdensharing and military assistance. Both we and our allies need to recognize that we cannot base our strategy and force structure on a "go it alone" approach to power projection. The U.S. must limit its commitments and costs by steadily integrating its power projection concepts with those of regional friends and allies.

The U.S. can almost certainly make reductions in its present overseas strength—even in major threat areas like Northeast Asia. We need to recognize, however, that these forward deployed forces offer the maximum degree of deterrence and ability to deal with a crisis or conflict early enough to minimize the required use of force.

In many cases—particularly Japan and South Korea—our allies have already increased their burden sharing efforts to the point where forward deployment will be cheaper than relocating and maintaining these forces in the U.S. and paying for the strategic mobility required to send them back under emergency conditions. In all cases, active forces in the U.S. will have far less deterrent value and reserve forces will be so intangible that they may have no deterrent value at all.

The role of arms control

Wherever possible, we must use arms control as a substitute for arms, and we must reexamine how arms sales and military assistance can act as a substitute for U.S. military power.

START and CFE already are examples of the kind of agreements that both help achieve military stability and deter war, and that offer both the U.S. and USSR the ability to substantially reduce defense spending in areas that no longer have a major priority for either nation.

We need to aggressively push arms control options in the other parts of the world. Arms control efforts like the renegotiation of the Nuclear Non-Proliferation Treaty, Biological Weapons Convention, draft Chemical Weapons Convention, and Missile Technology Control Regime offer the safest and cheapest road to eliminating the risk of conflicts involving the use of weapons of mass destruction. The end of the Cold War offers a steadily expanding range of opportunities for East-West action in each area, and allows us to rethink all our present objections to intrusive inspection.

We also need to explore every possible route to halting the shipment of conventional arms and military technology to aggressor and terrorist states. The supplier's conference is a first step to this end, but we need to develop a clear recognition on the part of both East and West that there are no real profits in the arms trade to such countries. The end result inevitably conflicts with which cost supplier nations far more in terms of overall trade, aid, and military action than any such arms sales are worth.

Finally, we need to consider whether we can enhance our security and achieve major savings by seeking naval arms control with the USSR in sizing our respective submarine forces. The SSN is the primary threat to the SSBN forces of each side, to the maritime traffic of the West, and to the security of Soviet naval bastions. The ASW/SSN race is also one of the most expensive aspects of defense activity by both the US and USSR.

While most forms of naval arms control present the problem that the U.S. and USSR have fundamentally asymmetric strategic needs, reducing SSN strength and modernization rates might well suit the needs of both sides. They could also achieve broader strategic stability and permit larger reductions in strategic weapons.•

AIDS UPDATE

• Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of October 31, 1991, 199,406 Americans have been diagnosed with AIDS; 126,491 Americans have died from AIDS; and 72,895 Americans are currently living with AIDS.

Mr. President, two recent events will likely change—perhaps dramatically—the face of the AIDS epidemic in the United States. One is the announcement of basketball star Magic Johnson of his HIV-positive status, prompting an awakening by many Americans to the reality of who gets AIDS and how. The other is a new definition of AIDS by the Centers for Disease Control, a move that will broaden the current clinical disease manifestation diagnosis definition to include anyone who is HIV positive and shows evidence of immune system suppression.

The disclosure by Magic Johnson shattered the stereotypes much of our society holds about those who acquire AIDS. Johnson is one of the world's most accomplished and admired athletes. He acquired the AIDS virus, by his own account, through unprotected heterosexual sex. For millions of Americans, the implication is clear: As medical authorities have long warned us, the AIDS virus is not a respector of sexual orientation, or gender; drug abuse is not always a cofactor. So-called high-risk groups are not the only ones to get AIDS—in fact, who you are has nothing to do with whether a person is in danger of being infected. What matters is what a person does.

Magic Johnson's decision to go public about being HIV-positive is a profound public service. Millions of Americans, especially young Americans, are getting a critically important lession in the epidemiology of AIDS. Lives will have been saved by Magic Johnson's selfless action. More lives will be saved by his decision to making fighting the AIDS epidemic a personal mission. I am heartened, too, by President Bush's announcement that he intends to appoint Magic Johnson to the National Commission on AIDS.

In January 1992, the Centers for Disease Control will redefine AIDS, replacing the definition last revised in 1987. The proposed new CDC guidelines will measure the degree of immune suppression by the loss of T-helper (CD4) cells and will no longer rely solely on clinical disease diagnosis. Under the previous AIDS definition, persons were diagnosed as having AIDS when certain medical symptoms appeared, many of which are now seen as advanced indicators of the disease. The new definition will allow for an earlier diagnosis of AIDS, triggered by reliable indications of a compromised immune system, which will allow many people to get earlier treatment and to plan better for the long-range effects of their illness, both medically and financially.

Dr. James Curran, head of the AIDS division at the CDC's National Center for Infectious Diseases, predicts that the broader definition could add 150,000 to 200,000 to the national AIDS caseload. Early drug therapy, already proven to be very important, will become vitally important, as will the need for early treatment and counseling of lifestyle changes. As we now know, the onset of more serious manifestations of the AIDS virus can be at least delayed by early diagnosis and treatment and the quality, even the quantity, of life for the HIV-positive person can be greatly enhanced.

As we look ahead in Federal policy making, there are issues raised by the redefinition of AIDS that will require attention. Federal funding formulas are often linked to the CDC definition of AIDS. Under the Ryan White CARE Act, for example, as many as nine new title I cities—cities heavily impacted by AIDS cases—may qualify for Federal assistance under the new AIDS definition. Under programs such as Social Security the new definition will likely affect the criteria for presumptive eligibility. There will be an impact on the drug approval process, since the CDC definition of AIDS is often used as an endpoint in clinical trials and CDC counts are often the basis for determining the efficacy and approval of experimental therapies.•

THE VETERANS HEALTH CARE AMENDMENTS ACT OF 1991

• Mr. KERREY. Mr. President, I am pleased to support S. 869, the Veterans Health Care Amendments Act of 1991.

This legislation will expand the medical services available through the Veterans' Administration, especially in the areas of post-traumatic stress disorder [PTSD] and mental health research and education. It also includes a new effort to meet the needs of homeless veterans.

The National Vietnam Veterans Readjustment Study [NVVRS] documented a large unmet need for PTSD treatment and services. Yet attention to this need has been slow to materialize. We have added some funds in the appropriations process over the past several years to initiate programs but it is only with this legislation that service people will qualify for care without going through the lengthy process for formal adjudication of service connection. In addition, various outreach and counseling services for PTSD are authorized.

S. 869 also requires the VA to establish five mental illness research, education, and clinical centers. The purpose is to improve and expand the capability of VA health facilities to respond to mental illness disabilities, such as PTSD, schizophrenia, and drug and alcohol abuse. They would be charged with research, training and education of professionals, and development of new models for care and treatment. The centers are to be affiliated with medical schools.

Studies have suggested that the number of homeless veterans probably ranges between 150,000 and 250,000. Many of these veterans are mentally ill and/or have serious medical problems. The legislation builds upon the efforts that are underway, extending the Homeless Chronically Mentally Ill Veterans Program, requiring a new assessment of needs of homeless veterans, authorizing a new pilot program of cooperation between the VA and community-based organizations at 15 sites and expanding the domiciliary care program.

Finally, the bill makes numerous other changes in VA health care which are designed to make the VA health care system more responsive and efficient.

My experience as a veteran has taught me the need for quality health care. My experience as a member of the VA-HUD-Independent Agencies Appropriations Subcommittee has taught me the scope and complexity of health care problems facing our veterans today and in the future as our veterans population continues to age. This legislation is another step in our efforts to provide the quality of care which our veterans need and deserve.●

TRIBUTE TO JOHN FINNAN

● Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky businessman who has left behind 17 years of success in the corporate banking world to pursue his dream of opening a small community bank in northern Kentucky.

This summer, John Finnan left his job as senior vice president of the largest financial institution in northern Kentucky to begin working on plans for Peoples Bank of Northern Kentucky, an institution he envisions as a local, personal bank. Since August, Mr. Finnan has been working around the clock from his Fort Mitchell dining room, lining up investors. Already, the new bank shows promise of success.

The Federal Deposit Insurance Corporation has approved Finnan's bank, and Peoples Bank of Northern Kentucky is now scheduled to open January 2, 1992. Mr. Finnan had originally planned to sell $4 million in stock for startup capital. However, interest has been much higher than expected—more than 200 people have invested $6.5 million in the bank, and Mr. Finnan expects the total to reach $7 or $8 million by January.

John Finnan's decision represents his ongoing commitment to the people of northern Kentucky. He says he's always dreamed of operating a bank where the customers are known by their first names, and are more than just account numbers.

Mr. Finnan is also an active community leader. He has been a member of the Spiral Festival board, Junior Achievement board, and Greater Cincinnati Red Cross board. He also just finished a stint as chairman of the Northern Kentucky Chamber of Commerce.

Mr. President, I congratulate John Finnan for his efforts, both personal and professional, to further enhance the quality of life in northern Kentucky. Please insert the following article from the Kentucky Post into the RECORD:

[From the Kentucky Post, Oct. 22, 1991]

BANKER TAKES CHANCE ON DREAM

(By Tim Stein)

After 17 years climbing the corporate ladder at established banks, John Finnan quit.

Since Aug. 1, he's worked 12- to 18-hour days in his Ft. Mitchell dining room lining up investors in his dream.

That dream will take Finnan from senior vice president of Star Bank, the largest financial institution in Northern Kentucky, to president of a small community bank that will first open in a Kenton County trailer.

"It was a big chance, but it was one I needed to take," Finnan said. "I've always thought there was a market for a local, personal bank. But unless I took the chance there was never going to be a way for me to find out."

Finnan will find out soon.

The new bank has been approved by the Federal Deposit Insurance Corp. and will open Jan. 2 near Lookout Farms in Crestview Hills.

Already, the new bank shows promise of success.

Finnan had planned to sell $4 million in stock for start-up capital. But more than 200 people have invested $6.5 million in the new bank. Finnan expects that total to reach $7 million or $8 million before it opens.

"It's already gone way beyond my complete expectations," said the 38-year-old Finnan. "It's been very reassuring that people believe in me and the concept of the new bank enough to purchase that much stock."

Most of the bank's founders are not bankers, Finnan said.

"The people who are investors are neighbors, are friends, are people who I've dealt with on a professional level for the 10 years that I've been here," he said.

"Never in my wildest dreams did I think it would take off like this," Finnan said.

But success has followed Finnan throughout his banking career.

Finnan, 38, who grew up in Richmond, Ind., graduated in 1975 from Miami University, Oxford, Ohio, with a degree in business administration.

His first banking job was as a teller at Richmond Bank during the summer of 1974.

"I fell in love with banking that summer and decided that's what I was going to do for a living," Finnan said.

After graduating, Finnan became a management trainee with Richmond Bank, then moved up to branch manager in 1976.

He graduated from Ball State University, in Muncie, Ind. in 1978 with a masters degree in management, and progressed to installment loan officer, commercial loan officer and in charge of branch banking with Richmond Bank.

In 1980, Finnan went to work in Jacksonville, Fla. for a statewide banking institution that loaned money to retail businesses.

In December 1981 he moved to Northern Kentucky, where he became vice president of branch adminstration and marketing for Peoples Liberty Bank.

He moved up to executive vice president of Peoples in March 1986, and became president of Peoples Liberty Banking Corp., in December 1987.

When Star Bank bought Peoples Liberty in 1988, Finnan remained with Star as president of its Kenton County affiliate bank, and then as senior vice president when its Northern Kentucky operations merged.

The merger of Star's Northern Kentucky operation and Kentucky National Bank earlier this year created the largest bank in the area, but Finnan felt it also left a void.

He saw his chance to open a community bank.

The new bank will be called Peoples Bank of Northern Kentucky. "It (the name) has name recognition from Peoples Liberty Bank name and it also gives the image that we're trying to project," Finnan said.

"I've always dreamed of operating a bank where you know your customers by a first name basis, and where people are more than a checking account for loan number," Finnan said.

"I could have played it safe and stayed with Star, which is a fine institution," he said. "But this was an opportunity for me to proceed with my dream."

Finnan works on that dream from 6:30 a.m. until after midnight most days.

"I really thought I would have some time to myself since I was working out of the house, but boy, I was sure wrong," he said. The phone rings more than 25 times a day with people interested in buying stock or finding out more about the new bank.

"If I'm not on the phone then I'm doing paperwork. If I'm not doing paperwork I'm out somewhere at a meeting.

"I'm all there is right now, and I really don't mind the long hours," he said. "When the bank finally gets off the ground, I'll probably have some time to myself."

At least he hopes so.

Finnan, who is divorced, plans to remarry next month.

A year or so ago Finnan attended his high school reunion in Richmond, and remet classmate Susan Kinder. Although they didn't date in high school, Finnan said they hit it off well and fell in love. The couple plans to take a short honeymoon.

"We'll take an extended honeymoon next summer after the bank opens," Finnan said. Finnan has an 8-year-old daughter, Stephanie, who lives with him.

Finnan has also been very active in the Northern Kentucky community.

He has been a member of the Spiral Festival board, the Community Chest board, Junior Achievement board, Greater Cincinnati Red Cross board, just finished a stint as chairman of the Northern Kentucky Chamber of Commerce, and was in charge of the United Way drive in Northern Kentucky several years ago.

"I love this area, and I plan to stay here for the rest of my life," he said.●

RETIREMENT OF WILLIAM NAHAS

● Mr. DODD. Mr. President, I rise to pay tribute to Mayor William "Willie"

Nahas, whose inestimable contribution to the city of New London cannot be overstated. Last week, Mayor Nahas passed the reigns of city governance to his successor, Mr. Anthony R. Basilica, after 20 years of faithful service on New London's city council. Swinging the gavel for the last time as Mayor on November 18, Mayor Nahas presided over the changing of New London's guard with amiable grace and honesty that has characterized his political career and earned for him the trust, respect, and reverence of the community.

Known affectionately to all, from constituent to colleague, as Willie, Mayor Nahas' approach to leadership placed the city's needs before party affiliations and personal advancement and, by the strength of his example, achieved a spirit in municipal government of true bipartisanship. Indeed, Willie's ties to the Republican Party have always been incidental to his politics, guided as he is by a devotion to the well-being of New London and an ardent parochial loyalty in short supply these days.

The adjournment of Monday's city council meeting marked the resignation of this mayor for all seasons who has sometimes stood alone, amidst a furor of doomsayers, in his unflagging optimism and belief in the certain recovery of the beleaguered New London economy.

No one who knows Willie doubts that his rich trove of experience and his great commitment to seeing New London on top again will continue to influence and enhance that city's political landscape. For me and all these who have been privileged to witness the effect of Willie's terrific spirit on a community determined to carry out his vision for it, Willie will always be on top.•

THE CONVENTIONAL FORCES IN EUROPE TREATY

• Mr. KERREY. Mr. President, I would like to express my strong support for ratification of the Conventional Forces in Europe [CFE] Treaty.

While the world has changed dramatically since this treaty was negotiated, and even since it was signed, it represents an important step that will assist us in making greater arms reductions down the road with the START Treaty and beyond.

The CFE Treaty's preamble lays out three primary objectives: To establish a secure and stable balance of conventional armed forces in Europe at lower levels; to eliminate disparities prejudicial to stability and security; and to eliminate the capability of a State or States to launch a surprise attack or to initiate large-scale offensive action in Europe.

On all three counts, I believe ratification of the treaty is justified. By requiring major cuts in Soviet Armed Forces, the treaty will enhance the security of NATO nations and also the emerging democracies of Eastern Europe. It codifies the Soviet Union's military withdrawal from Eastern Europe and promotes stability in the region. It will allow us to continue to move beyond the framework of the cold war to a new era characterized by cooperation rather than competition.

The treaty is an important benchmark. It requires that the Soviet Union destroy or disarm more than 20,000 of the 73,000 tanks, artillery, and other heavy weapons used by its forces west of the Urals. This figure, however, does not include the reductions in Soviet conventional power in Europe since the CFE negotiations began in 1989. When measured against the level of Soviet weapons deployed less than 3 years ago, the Soviet Union's arsenal will be reduced by more than two-thirds under the treaty.

I am pleased that the Senate adopted amendments related to the potential impact of future events in the Soviet republics. In particular, I support a move requiring that the administration seek Senate approval of any treaty changes required if the Soviet Republics split off and disavow the agreement. I also support Senator COHEN'S effort to require the President to seek a Senate resolution of support if the decision is made to stick with the treaty even if a republic does not observe the weapons ceilings. The issue of republics' adherence to the treaty is an important one. In the event that one or more republics decline to respect the treaty it is important that we make their adherence to the treaty a high priority.

I welcome the changes called for in this agreement.•

YOUTHBUILD ACT OF 1991

• Mr. D'AMATO. Mr. President, today I am pleased to join my distinguished colleague from Massachusetts, Mr. KERRY, as a cosponsor of Senate bill 1100, the YouthBuild Act of 1991.

The effects of this legislation are far-reaching. By coordinating education and employment opportunities, it provides school dropouts the opportunity to develop technical skills while allowing apprentices to gain on the job experience and training. There is also a second and equally important facet to this legislation, and that is the role that it will play in combating homelessness and fostering neighborhood improvement.

The need for this type of program is overwhelming. Just last year we had 36,471 high school dropouts in my State alone. We also have countless numbers of homeless people on the street every night. Millions of people nationwide are being priced out of their homes. We need affordable housing. We need skills training for disadvantaged youth. This program merges those desperate needs.

Already there are three highly successful YouthBuild programs in my State alone. These programs have become models for similar programs nationwide and in fact serve as the model for this legislation.

The roots of YouthBuild came out of Manhattan and the Youth Action Program of East Harlem. The Youth Action Program provides a comprehensive approach toward expanding life choices and work opportunities for Latino and Afro-American youth. Youth Action's Construction Training Program provides school dropouts with construction skills while they rehabilitate abandoned buildings for badly needed housing for the homeless and low-income families.

In New York City, the Youth Action Program is currently rehabilitating a row of abandoned tenant buildings in East harlem which at one time housed a local gang. These programs are working in neighborhoods of high crime and drug activity. They have become a ray of hope for disadvantaged youth who would not otherwise have this opportunity to improve their life.

But there is more to the YouthBuild Program than the benefits attained from the skills, training, and workplace experience for disadvantaged youth. In preparation for employment in the construction field the individuals involved in these programs supplement their work experience with classroom academics and have the opportunity to earn their graduate equivalency diploma. Individual counseling, peer support, drivers training, parenting skills, and a host of other activities help make this a successful program.

The YouthBuild Program, and this legislation, contain valuable ideas. I believe that the Congress should include these ideas in next year's housing bill or other legislation. The Federal Government ought to support local efforts to revitalize communities and build a high skills, high quality, high performance work force for tomorrow. It's time that we invested in human capital, an idea that has been overlooked for too long.

Finally, Mr. President, let me reiterate how this program simultaneously addresses many serious problems affecting our youth, our cities, and our country. This bill supports a proven program that encourages and enhances the opportunities for disadvantaged youth to obtain education and develop employment-related skills that will enable them to enter the work force as productive employees and good citizens.

The youth are weighed down by anchors of drugs, crime, poor public education, and scarce employment opportunities. This bill attempts to cast off those anchors and enables the program's participants to chart their own course in the Nation's economic waters. As they do so, they will contribute to the economic growth of the entire country—increasing productivity, unleashing potent economic forces, and improving the financial position of all citizens.•

THE PRIMARY HEALTH CARE INVESTMENT ACT OF 1991—S. 1912

• Mr. PACKWOOD. Mr. President, I have signed on as a cosponsor of S. 1912, the Primary Health Care Investment Act of 1991.

This bill, introduced by my distinguished colleague, Senator DOMENICI of New Mexico, would be a transfusion of hope into our community health centers. This is particularly true in the rural areas of my State of Oregon, where many people will be the recipients of this primary care.

At the present time, 6 million people receive comprehensive primary and preventive health care through our Nation's community health centers. Eight million more people who presently do not have any health insurance will be helped by this legislation. The bill expands the Community Health Center Program by authorizing a 20-percent increase in funding for each of the next 5 years.

The Community Health Center Program is often overlooked as one of the very bright spots in our oft-maligned health care delivery system. Specifically, Mr. President, at a time when health care access and costs are one of our country's most talked about concerns, this bill goes a long way toward helping those Americans with no primary and preventive health care. There is just not another health care program for so many people for so few dollars.

According to the Congressional Budget Office, the community health centers provide primary care to the uninsured for under $90 per patient a year. Under the Medicaid Program, the cost to the system is $625 per person, 600 percent more. Imagine, $90 instead of $625 per person.

The bill also helps those rural areas where there is a critical shortage of health care professionals. It increases the funding for the National Health Service Corps [NHSC] Recruitment Program.

The legislation helps get more caregivers to our underserved rural areas and also into our inner cities. It also encourages hospitals to start recruiting and training more primary care physicians right now.

Mr. President, I am pleased to add my name as a cosponsor of S. 1912 and urge my colleagues to consider doing the same.•

• Mr. DODD. Mr. President, I rise today to pay tribute to a remarkable woman known for her outstanding work for her State of Connecticut and for the entire Nation. Mr. President, this woman is Marian L. Heard, and I am proud to announce that she has recently been named the first woman and the first African-American to head the United Way of Massachusetts Bay.

Marian has been with the United Way of Eastern Fairfield County since 1974, having joined as a child care program specialist. At the United Way, Marian has served in a wide range of positions including director of membership, director of allocations, director of operations, and associate executive director. In 1989, she was appointed executive director and in 1990 was appointed president and chief executive officer. As president and chief executive officer Marian played an integral role in the administration of the United Way community service system affecting the towns of Bridgeport, Fairfield, Easton, Stratford, Trumbull, and Monroe.

In addition to serving on several regional United Way committees, Marian has served her Bridgeport community as a member of the Governor's child day care council, as an instructor at Housatonic Community College, and as a leader in fighting the battle against cocaine use in Bridgeport.

It comes as no surprise, Mr. President, that Marian has received much recognition for her community service. She has won awards from such social service organizations as the American Cancer Society, Big Brothers and Big Sisters of Fairfield County, the United Way of America, and the YWCA.

At the national level, Marian is an active member of President Bush's Points of Light Foundation. She has served as interim president and chief executive officer of the foundation. Most recently, Marian was elected to the board of directors and currently serves as vice chairman.

Mr. President, Marian Heard's drive to treat the serious social ills which plague our communities, our States, and our entire Nation should be an inspiration to us all. While Connecticut will greatly miss this remarkable woman and her commitment to the Bridgeport community, we rejoice in her new challenge as the head of the United Way of Massachusetts Bay and wish her every success.•

ENDANGERED SPECIES ACT

• Mr. SYMMS. Mr. President, in the interest of ensuring that you and my other colleagues in the Senate are well informed on threatened and endangered species issues and, specifically, the Endangered Species Act itself, I ask to submit into the RECORD several articles which I believe are both timely and informative. These articles were recently produced by the National Wilderness Institute which has been conducting ongoing research on this topic. The first is the cover story from volume II, issue 1, of the institute's quarterly magazine, the NWI Resource, published in February of 1991. The second article, "The Art of Statistics," is taken from fall, 1991 edition of the NWI Resource, volume II, issue 3. The third is an excerpt from the October 1991 issue of the institute's bimonthly newsletter, Fresh Tracks. I would also like to submit for the RECORD a recent column published in the Washington Times by nationally syndicated journalist Warren Brookes which discusses the results of research conducted by the National Wilderness Institute on the Fish and Wildlife Service's Endangered and Threatened Species Recovery Program.

Frankly, Mr. President, the information brought forth in these articles is very disturbing, and I believe merits close examination during the upcoming session. So I would urge my colleagues in the Senate to review this material in the interim to more fully understand the many important issues surrounding current endangered species legislation. The manner in which we manage and recover endangered and threatened species is undoubtedly of great importance to the American people. It is our duty, therefore, as elected representatives of the people to first educate ourselves on every aspect of this issue, however contentious or unsavory, and second, accept the responsibility of addressing all aspects of an issue which, in one way or another, will deeply affect the lives and work and future opportunities of Americans for years to come. The material I have submitted here today is an important, much needed step toward fulfilling that obligation.

RESOURCE

(By Robert E. Gordon, Jr.)

One of these two owls is considered threatened by the Federal Government. Can you tell which one? Without knowing where the pictures were taken it would be pretty tough. The one on the left is a threatened Spotted owl of the Northwest. The one on the right is a Spotted owl from California and not threatened. They are nearly identical in appearance and genetic structure. The primary difference may be that they live in different places.

The Northwest-Spotted owl is now part of an exclusive club. According to the 1991 Budget Justification for the Fish and Wildlife Service, there were some 1,070 endangered and threatened plans and animals listed as of 1989. The Service states that "ultimate goal of threatened and endangered species conservation is to recover populations to levels where protection under the Act is no longer required." While that may sound pretty straightforward a close look at the Endangered Species Act, the listed plants and animals, and their record of recovery tells quite a different story.

The Service assesses different animals and plants for listing primarily on the "degree and immediacy of threat and taxonomic uniqueness." What is and isn't taxonomically unique has become extraordinarily hazy in recent years. The species is the basic category for taxonomical classification of living things—it is a kind of animal. A fairly common definition, as stated in one of the National Wildlife Federation-sponsored Peterson Field Guides, is that, "two animals are considered to be of the same species, or kind, if they are fundamentally similar in structure and interbreed to produce offspring but do not ordinarily interbreed with other groups." Harvard biologist E. O. Wilson would content that "under naturally occurring circumstances" should be added. What is and isn't a naturally occurring circumstance can be subjectively interpreted in any number of ways. Consequently, many of the species and subspecies currently listed may not merit such distinct taxonomic classification.

The degree to which truly taxonomic uniqueness is an important prerequisite for listing is questionable. About 30% of the animals listed as endangered or threatened in the U.S. are subspecies, something many scientists consider an unreliable unit of classification. For example, some antelope in Arizona are called *Antilocapra americana sonoriensis* and list as endangered, while antelope at the species level *Antilocapra americana*—which is not listed, and includes all the antelope in Arizona—is increasing in number in much of its range. In other cases, the listing at the species level is debatable. In addition to species and subspecies, Fish & Wildlife lists populations—a group of a kind of animals living somewhere. Some argue that (what they consider) distinct populations may eventually evolve into entirely different creatures and therefore merit listing. Smaller groups of creatures with smaller odds for a beneficial random mutation in genetic structure is certainly a debatable basis for listing.

Undaunted, Fish & Wildlife projects an increase for listed species from 1,070 in 1989 to 1,170 in 1991. According to the '91 Budget Justification, "the Service has set an expanded goal of 55 species proposed for listing in '91." This is only a minute fraction of what could be considered since "nearly 4,000 species are formally recognized as potential candidates for listing." This figure undoubtedly includes many subspecies and populations. But listing is supposed to be only the first step, with recovery as the "ultimate goal".

The first tactical step in recovering an endangered species is preparing a recovery plan. The Service admits a "backlong" and states that "recovery efforts shifted towards * * * increasing multi-species recovery plans." As of 1989, and were 550+ U.S. listees of which 291 are covered by plans. More than 40 plants and animals are covered by the multi-species plans. The Ash Meadows plan, for example, including four fish, one insect and seven plants. *Peromyscus polionotus*, a mouse which inhabits beaches, has five subspecies listed. It might be on sounder taxonomic grounds to have only one listing and do as well with one plan. But if the total population of each of the variants listed were combined, one must wonder whether the mouse would merit listing at all?

It's been said that failing to plan is planning to fail; that certainly holds true for Fish and Wildlife's record of achieving its "ultimate goal" in endangered species conservation—"recovery". Through 1989, a total of 27 species had been downlisted and 17 delisted since the Act was passed nearly 20 years ago. Not too good when you consider there were over 100 U.S. animals already listed prior to the Act's passage in 1973. It is even worse when you look at what 'delisted' means. For of the 17 were removed because of original data error. Six of the 17 were removed because they are now considered extinct. In five of those cases the creature was a subspecies, and in at least four of them introgression, or breeding, (recall the confusion over the definition of species) with other subspecies was considered a contributing factor to "extinction." Seven of the 17 are considered recovered. Three of the seven recovered species are found on a Pacific Trust Terriroty, Palau Island. According to one Fish & Wildlife official, early population counts of these animals may have been inaccurate. Additionally, their numbers improved following natural habitat recovery since the end of WWII. The Palau owl recovered in part because locals eradicated a coconut beetle which it ate, causing it to die of internal wounds inflicted by a spine on the beetle. Another "recovered" animal is the American alligator which Dennis David of the Florida Game and Fresh Water Commission surmises would not even have been put on the '73 list by today's standards.

He ought to know, considering there may be as many as a million alligators in Florida.

The Service states it "has increased emphasis on . . . implementation of highest priority recovery action . . ." Such actions included $580,000 worth of programs for the Bruneau Hot Springs snail in 1990. The Service also states "that for many species, particularly those that are habitat-limited, maintenance of remaining populations to prevent extinction may be a more realistic objective."

Many of the listed species have severely restricted natural ranges such as islands: there are at least 44 in Hawaii, 27 in Puerto Rico and 17 inhabiting other Trust Territories. Additionally, some are naturally rare in the U.S. like the ocelot that wanders up from Mexico to the extreme northern part of its range in Texas, Arizona and New Mexico. Furthermore, many of the listed populations of subspecies may be losing the battle for survival of the fittest. There are, for example, at least 11 animals on the list limited to a cave or cave system, and one salamander known only from algae mats in a system of spring-fed pools in Texas. The natural rarity of another listee, the New Mexican ridge-nosed rattlesnake, Crotalvs willardi obscurus (read: obscure), is revealed by its name. As Greg Easterbrook states in The New Republic: "More than 99% of the creatures to have ever come into existence have been rendered extinct . . . Nature discards creatures with a pitilessness that makes humity seem saintly."

These examples are not uncharacteristic of this issue. There are undoubtedly many valid cases that deserve our attention, including some in the above statistics. However, there are clearly many problems with the current approach that detract from the ability of the talented biologists and others at Fish & Wildlife to achieve their ultimate endangered species conservation goal—recovery. Sticking things on the list seems to be a priority—something for which we in the environmental community must bear some responsibility. Additionally, it appears evident that serious taxonomic ground rules are needed. And finally, it would seem logical that the Service be required to succeed in recovering at least a few more listees before it considers increasing the rate at which it lists things. One bright point in the '91 budget justification is the statement that the service intends to "encourage greater public participation in the recovery planning process." Hopefully this is true because the current record of performance would not be tolerated in the private sector.

THE ART OF STATISTICS: FISH AND WILDLIFE'S REPORT TO CONGRESS ON THE ENDANGERED AND THREATENED SPECIES RECOVERY PROGRAM

(By Robert E. Gordon, Jr.)

On October 7, 1988 President Reagan signed into law a bill amending the Endangered Species Act which, among other things, makes more specific the general requirement that the Secretary of Interior develop and implement recovery plans. The Amendment further directs the Secretary to report every two years on the status of efforts to develop and implement recovery plans for all listed species and on the status of all species for which recovery plans have been developed. Accordingly, the Fish and Wildlife Service has just released the "first comprehensive accounting" of its efforts since 1967 to conserve and recover endangered species. It is a huge glossy document with lists, codes, graphs and pie charts. The document raises questions about the trends in endangered species recovery work at F&W and, when deciphered, about their success in reaching the ultimate goal of endangered species conservation, recovery of populations "so that protection under the Act is no longer required."

PLANNING TO PLAN

In accordance with the law, the beginning step in endangered species recovery is the development of a recovery plan for each listed species. For 224 of the 581 listees that first step was not taken as of October 1, 1990. Rather oddly, F&W states that it "recognizes the need to develop recovery plans" and further states that after more than two decades "target time frames have been established to guide the development of draft and final plan preparation." While the ostensible objective of the plans is to recover endangered species, the Service repeatedly states that "the most significant recovery status difference between the species with and without recovery plans is the number of 'unknowns' for those species without recovery plans (25% 'unknowns' without plans versus 16% with plans)." Regrettably, this statement appears to be accurate.

RECOVERY . . . "A MAJOR PART OF THE SERVICE'S ENDANGERED SPECIES PROGRAM"

Fish and Wildlife states, in a rather passive voice, that "reclassifications and delistings demonstrate that there can be successes in recovery" but neglects to mention any delisting except the alligator. Dennis David of the Florida Game and Fresh Water Commission surmises that the alligator would not even have been put on the '73 list by today's standards. The only other "delisted" species include three from a U.S. trust territory several hundred miles east of the Philippines (the Palau owl, dove and fantail) and the Rydberg milk-vetch, of which the Service was unable to provide a photograph. According to one F&W official, early counts of the endangered species from Palau may have been underestimated; their habitat recovered naturally following WWII. The owl recovered in part because locals eradicated a coconut beetle which the owl ate with tragic results. A spine on the beetle inflicted fatal internal wounds.

The Report goes on to state that "implementation of recovery plan tasks provide for significant gains towards positive species recovery" and mentions such things as the successful captive breeding of California condors which F&W officials originally opposed. Rather than being presented in straight figures, the percentage of a "species' recovery objective(s) that have been met" are denoted by an integer of 1–4 representing 0–25%, 26–50%, 51–75% and 76–100%, respectively. As of October 1, 1990, 439 of the 581 U.S. species listed, or 76%, had only between 0–25% of their recovery objectives achieved. In a high percentage of these cases zero would seem the most appropriate percentage for recovery objectives achieved. Several species presumed extinct are status "1" and numerous other "1's" have no anticipated "major recovery activity over the next reporting period". In other instances the planned activities are not impressive. The Sonoran pronghorn, for example, has been listed since 1970 and the next anticipated "major recovery activity" is to "convene a meeting of knowledgeable professionals . . . to evaluate recent information."

On the other end of the spectrum are the "Recovery Objective(s) Achieved" "4's" having 75–100% of their recovery objectives achieved of which there are only 11, or less than 2% of the list. Upon examination the "4's" as additional populations were found by the Bureau of Land Management and taxonomic studies showed that this daisy and another daisy thought to be a different kind were the same thing. In the case of another "4", the Pahrump killifish, F&W wrote a plan and Nevada Department of Wildlife personnel sprayed cattails destroying the fish's habitat with "Rodeo" (an herbicide). The Tinnean monarch, a bird found on a Pacific island, is also a "4" after 20 years without a plan and a population survey nearly a decade ago showed 40,000 birds.

The Report goes on to repeatedly state that "removal from the list is not a reasonable goal for all endangered species" and that "a more realistic measure of the Service's recovery efforts than the number of species delisted is *probably* the portion of listed species whose status as been stabilized" (emphasis added). "Stable" is one of the five status categories the Service assigns each listee. The Report includes an extraordinarily misleading graph of "declining" species to support their statement about the stabilizing effect of the list. The "82%" depicted in F&W graph represents less than 6% or 38 of the total listed species. The other three columns represent over 94% (approx. 269, 152 and 122 respectively) of the listed species unequally and are grouped in time periods of unequal length. The groupings conveniently incorporate a zero percent (from years in which there are less than 10 listees) into columns with the lowest overall percentage.

The statistical artist or artists who designed this graph are deceptively implying that it represents improvement of declining species over time. The selection of time spans which appear to be part of a continuum, the symbols "<" and ">", and the term "function" lead one to believe that these figures were generated over time. Yet, as this graph is a snapshot of "declining" species on October 1, 1990, there is no way to determine if there has been *any* change ever. A graph through time, not at a moment in time, would depict a changing condition of listees. It is, however, impossible to determine trends from the Report as no base year figures are supplied for comparison. A more appropriate name for the graph would be "Percentage of Species Declining as of Oct. 1, 1990 Selectively Grouped by Year Listed".

Additionally, the possible error in the percentage figures for "decreasing" species is tremendous because 19% of all listees are "unknowns" and therefore, possibly, "declining". The probability of this is relatively high as more than 37% of listees are considered "declining" and they are, after all, federally endangered or threatened species. It also seems strange that such a high percentage of the first year listees are known to be "declining" when none of them have plans and F&W itself states that "the most significant recovery status difference between the species with and without recovery plans is the number of unknowns for those species without recovery plans." Is it random chance that the percentage of "declining" species listed the year the Report was produced exceeds every other year's group of listees from nearly 20 to over 60 percent; or could the fact that this Report is being produced prior to the Endangered Species Act's reauthorization have affected the listing process?

This graph reminds one of the sort of figures generated by Soviet economists and would seem to be a deliberate attempt to mislead Congress and the public. One must wonder if the Service has any data to support its claim that "species listed longer appear to have a better chance of becoming stable or improving" or if it only appears that way through contrived graphs.

In explaining this rather bleak record the Report states "though the time frame involved may be perceived as long, recovery can and does happen" and goes on to state that "a serious commitment of both personnel and money are important to ensure stabilization and recovery . . ."

MONEY

According to the Report "the goal of [recovery] is the maintenance of secure, self-sustaining wild populations of species with the minimum necessary investment of resources." According to recent audits by the Interior's Inspector General the potential recovery costs for currently listed species is approximately $4.6 billion. This is an average of over $7.9 million per listed species. If that average were applied to the some 600 candidate species the Service believes "warrant listing" it would amount to another $4.7 billion; furthermore, if that average were applied to the 3,000 candidate species which the Service believes "may warrant listing" it would amount to an additional $23.7 billion. In addition to the recovery costs, the report states that "approximately 25% of all listed species have conflicts with development projects or other forms of economic activity" which certainly entails staggering costs to the economy. Even with its poor recovery record and huge economic impact, the Service argues that it "must be allowed to exercise management discretion in order to achieve the greatest conservation benefits for resources expended."

"MANAGEMENT DISCRETION"

How the Service exercises "management discretion" is also disturbing. The Report states that "Fundamentally, the Endangered Species Act is habitat-oriented. It seeks to conserve the ecosystems upon which endangered species and threatened species depend * * * this orientation has been embraced by the Service.* * *" In part, this appears to mean that the Service is trying to add to the over 87 million acres it already controls. For example, recovery actions for at least 28% of the mammals listed include plans for acquiring more land into the already enormous Federal estate. What is most disturbing is that there appears to be a definite bias within the Service against private property. In the case of the Utah prairie dog, for example, recovery criteria consist of "maintaining 3 populations [for 5 years] on public lands with a minimum number of 813 animals each as counted in Spring censuses." The actual total population of Utah prairie dogs reached 9,200 *adults* in 1989 but *"only 34% were on public property"* (emphasis added). Strangely, F&W states that "population densities are increasingly to a point where a crash is imminent" but that none of the populations have reached "the minimum size for delisting on public lands."

The Service's view of the Endangered Species Act as a beginning rather than a final legal step in endangered species conservation is another disturbing aspect of their management discretion. The Report states "recovery of many species requires concerted efforts on the part of Federal and State authorities, as well as private parties, to enact laws and regulations and to reach agreements to protect listed species independent of the Endangered Species Act," If and when a species actually recovers it may not be delisted. The Service states: "biologically recovered species may still need the Act's protection in order to sustain population levels." F&W seems to be focusing more on empire-building than on the implementation of deeds that actually improve the condition of flora and fauna.

SUMMARY

Rather than directing their efforts toward achieving the "ultimate goal" of endangered species conservation—recovery, the Service seems to focus almost entirely on listing more species, keeping them on the list, acquiring land and budget increases, and because the law mandates, drafting past due plans. As can be seen in the statistics and examples provided, F&W's recovery record is abysmal. After decades of endangered species work with few, if any, legitimate delistings to show,the Service states that "a commitment to endangered species recovery is needed for a long time to show noticeable results." In support of their efforts, the Service states that "species listed longer appear to have a better chance of becoming stable or improving." *Appearances* can be [deliberately] deceiving as in the case of the Report's graph on percentage of declining species. Hopefully, as accurate information reaches the public and our legislators, reforms will be undertaken which result in endangered species conservation that works for those species of wildlife and plants which are truly diminishing.

ENDANGERED SPECIES ACT COMING UP FOR REAUTHORIZATION

Proponents and critics of the Endangered Species Act appear to be gearing up for debate. Word is that Rep. Gerry Studds (D–MA) will try to get a quick multi-year re-authorization of the Endangered Species Act to avoid opening the Act up for debate. Fish & Wildlife has demonstrated considerably more success at listing and keeping species on the list than recovering them. Critics of the Act argue that it is used to promote "Not In My Back Yard" (NIMBY) politics rather than care for rare plants and wildlife. As more candidate species are reviewed, the list will be increasingly composed of snails, mussels, beetles and minnows rather than the "warm and fuzzy" animals the general public tends to associate with endangered species. Unfortunately, there is little, if any, provision in endangered species legislation made for private recovery efforts. Here are some background facts:

According to the U.S. Fish and Wildlife Service, "the ultimate goal of threatened and endangered species conservation is to recover populations to levels where protection under the Act is no longer required." However, as of April 1990, nearly two decades since the Act was passed, there were only 16 delistings: 6 extinct; 4 removed due to data error; and 6 "recovered". This already dismal recovery record declined according to the July 1991 report in which one listee (purple-spined hedgehog cactus) previously classified as "recovered" was re-classified as "original data error."

The "recovered": 3 of 5 are indigenous to Palau Island, a tiny Pacific Trust Territory located five hundred miles east of the Philippines. According to at least one F&W official, early population counts may have been inaccurate and their habitat recovered naturally, not through Fish & Wildlife efforts, following World War II.

41% of listees are plants; 59% are animals–of which 24% are invertebrates (i.e. insects, spiders, snails, etc.) 12% are reptiles and amphibians, 25% are fishes, 25% are birds, 14% are mammals.

There are currently 1,116 listed species, about 600 of which are U.S., and the Service formally recognizes 3,600 U.S. species as candidates for listing.

Of 3,600 candidate species, Fish and Wildlife "believes 600 warrant listing" and states that "3,000 may warrant listing but sufficient information is not presently available."

Endangered species listings plummet property values. According to the Deputy Chief Tax Appraiser in Travis County, Texas property values have decreased $358.7 million since the federal listing of two songbirds, the Golden-cheeked warbler and the Black-capped vireo. Estimated shortfall in tax revenues next year to the city of Austin, Texas is $2.1 million. With this real estate having a market appraisal ten times less than before the species listing, U.S. Fish and Wildlife's Office of Endangered Species plans to create a wildlife refuge in the area. Landowners have little recourse except to sell. An interesting Constitutional question raised by such events is whether a declaration which results in property devaluations constitutes a taking.

[From the Washington Times, Oct. 18, 1991]

ENDANGERED SPECIES TURF GAME

(By Warren Brooks)

Putting any government agency in charge of solving a problem is certain to make the problem bigger and worse, because a bureaucracy now has a stake in that outcome.

There may be no better illustration of that than the U.S. Fish and Wildlife Service's report released this week on the Endangered and Threatened Species Recovery Program, which alleges great progress, but in fact demonstrates only a bureaucracy bent on expanding its turf.

The primary purpose of the Endangered Species Act is not merely listing and protection, but the development of plans to recover the species, return it to normal levels, and thus take it back off the endangered list.

But this first accounting of FWS efforts since the original act passed shows that virtually all of its activities have been directed not at "recovery" but at listing. Since 1967, some 581 species have been put on the Endangered list, but as the National Wilderness Institute notes in a special report by Director Robert Gordon, as of October 1990, recovery plans have not even been developed for 224 of those species. Yet "in accordance with the law, the beginning step in endangered species recovery is the development of a recovery plan."

FWS admits that such plans are badly needed because, it argues, that "reclassifications and delistings demonstrate that there can be successes in recovery," but as Mr. Gordon points out it "neglects to mention any delisting except the alligator," and "the alligator would not even have been put on the 1973 list by today's standards." The only other delisted species include three from Palau (several hundred miles east of the Philippines) and a plant called the Ryberg Milk-Vetch "of which the FWS was unable to provide a photograph."

What is most troubling in this report, Mr. Gordon argues, is the FWS attempt to use highly misleading graphics to suggest far more recovery has taken place than actually has. One chart shows four bars showing the percentage of species declining in each period ranging from 82 percent in the most recent year to 30 percent for those listed 15 years or more.

Yet the way the chart has been constructed, "there is no way to determine if there has been any change in the groups since listing," and because the periods chosen vary in length and the availability of data itself, it is impossible to make any inference about whether FWS is accomplishing any "recovery" at all.

As Mr. Gordon charges, the data presented "reminds one of the type of figures generated by out-of-work Soviet economists. There can be no doubt that it is part of a deliberate attempt to mislead Congress and the media.

Worse, the 2 percent of all species that are said to have achieved 75 percent to 100 percent (only 11) include species where additional populations have been discovered, suggesting they shouldn't have been listed in the first place, and one bird whose population today is identical to what it was 10 years ago, and for whom no recovery plan has ever been written! Indeed, without such plans the FWS admits there are so many "unknowns" it is almost impossible to determine whether that species is declining or rising, suggesting that entire report alleging progress is in fact fatuous in the extreme.

What is more curious about the FWS report is its frank admission it has no intention of really trying to push species back off the list as "recovered." Instead it says "removal from the list is not a reasonable goal for all endangered species," and even so, "biologically recovered species may still need the Act's protection in order to sustain population levels."

In short, the FWS is using the Act primarily as a way of expanding the total turf it already controls, with the premise that each endangered species listed adds to that turf control.

As the report frankly admits, "Fundamentally the ESA is habitat-oriented. It seeks to conserve the ecosystems upon which endangered species and threatened species depend," which is shorthand, in Mr. Gordon's eyes, for saying "the Service is trying to add to the more than 87 million acres it already controls."

What worries NWI, a market-oriented conservation group that tends to be suspicious of public land ecological policies is "the definite bias within the Service against private property."

As an example, Mr. Gordon cites the Utah prairie dog for which the FWS recovery plan lists as its criteria, "maintaining three populations [for five years] on public lands with a minimum number of 813 animals each [2,439 in all]." Yet as he points out, "the total population of Utah prairie dogs reached 9,200 adults in 1989," but the FWS complains that "only 34 percent were on public property." Worse, even though FWS now admits that the density of population of this "endangered species" has increased to a point "where a crash is imminent," FWS contends that "none of the populations have reached "the minimum size for delisting on public lands."

In others words, even though private lands are teeming with Utah prairie dogs, because the public habitats are not, the animal is endangered. There is of course something classically federal and bureaucratic about such a posture.

In that sense, NWI's Mr. Gordon argues the FWS endangered species program exhibits all the classic elements of "public choice" economics: "Rather than directing their efforts toward achieving the 'ultimate goal' of endangered species conservation, recovery, the Service seems to focus almost entirely on listing more species, keeping them on the list, acquiring land and budget increases; and because the law mandates, drafting past-due recovery plans."

We shouldn't be surprised the FWS report concludes by arguing that "a commitment to endangered species recovery is needed for a long time to show noticeable results." Like forever?

Warren T. Brookes is a nationally syndicated economics columnist.

HONORING THE FORGOTTEN VICTIMS OF THE DECEMBER 7, 1941, ATTACK ON PEARL HARBOR

• Mr. AKAKA. Mr. President, I rise today to recognize the forgotten victims of the December 7, 1941, attack on Pearl Harbor—the innocent civilians who were killed that fateful morning 50 years ago.

In less than 2 weeks, our Nation will commemorate the 50th anniversary of the attack on Pearl Harbor. On behalf of the congressional delegation from the State of Hawaii, I request that a copy of the Delegation Joint Resolution No. 6 be printed in the RECORD following my remarks. The Delegation Resolution honors these forgotten casualties of the war. A copy of the resolution and an accompanying certificate of special recognition will be presented to the surviving families.

Mr. President, I would like to take this opportunity as well to express my appreciation to Ms. Nanette Purnell, a resident of my State, who has done extensive research on this issue; and to the Arizona Memorial National Park Service personnel, especially Mr. Jim Harpster and Mr. Kam Napier, who provided the background and research information for this important endeavor.

Mr. President, it is fitting and proper that we recognize these forgotten victims. As the 50th anniversary of the attack on Pearl Harbor draws near, let us honor all those Americans, both in uniform and in civilian occupations, who gave the greatest sacrifice so that freedom might flourish in this world.

The resolution follows:

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

DELEGATION JOINT RESOLUTION 6

Whereas on Sunday morning, December 7, 1941, at 7:55 a.m., first wave of bombers from the Imperial Japanese Combined Fleet attacked military facilities in the Territory of Hawaii, United States of America; and

Whereas the first bombs fell on Kancohe Naval Air Station, and other military facilities across Oahu soon became targets to incoming bombers; and

Whereas as a result of this unprovoked attack by the Imperial Forces, there were over two thousand American military and civilian casualties; and

Whereas of the two thousand killed in connection with the attack on Pearl Harbor, over 60 were civilians; and

Whereas at least 35 civilians were killed as a result of the inadvertent explosion of American anti-aircraft ordnance which landed at approximately 12 sites on the island of Oahu; and

Whereas at least nine civilians died from direct enemy fire; and

Whereas during the commemoration of the Fiftieth Anniversary of the attack on Pearl Harbor, it is fitting and proper that we honor these innocent victims: now, therefore, Be it

Resolved That: The Hawaii Delegation to the 102nd Congress of the United States calls upon the people of Hawaii and the Nation to remember the innocent victims of that fateful morning fifty years ago; and be it further resolved that,

The Hawaii Delegation, on this Fiftieth Anniversary of the attack on Pearl Harbor, extends its deepest sympathies and compassion to the families, friends, and colleagues of those brave men and women who fell; and be it further resolved that,

A copy of this Joint Resolution of the Hawaii State Congressional Delegation be printed in the Congressional Record and that copies be distributed to Pearl Harbor civilian survivors or their next of kin and interested parties.•

ECONOMIC CRISIS CONFRONTING AMERICA

• Mr. LIEBERMAN. Mr. President, last week my colleague from Connecticut, Senator DODD, rose to speak of the economic crisis we are in and to ask that we stay here until we can offer some real help to the American people. I rise now to support my colleague.

When I think of how the administration is responding to the economic crisis confronting America, something like a cross between the Emperor Nero and Alfred E. Newman comes to mind. Nero fiddled while Rome burned, and Mr. Newman's famous line is, "What? Me Worry?"

There are some who say the President's inaction in the midst of this terrible recession is a real boon for our Democratic Party. That may be so, but, frankly, America cannot afford the luxury of politicizing our economic woes. We need the President to take charge, to lead the way to solutions to our fiscal problems. We need him to act as he did in the gulf war, when he put together an unprecedented global coalition to defeat the aggression of Iraq. We need a domestic equivalent to Operation Desert Storm.

But, we may be waiting in vain. For the President seems to believe that our problems will work themselves out through the market, which is an extremely limited and timid view, particularly in emergencies like the one we face now.

I believe it is time for all of us, Republican or Democrat, to put aside our ideological blinders and get working on a program that's practical, and that can get our economy growing again and our people back to work. Despite rhetoric to the contrary, Government has always been actively involved in the marketplace; witness Government's role in aerospace, defense, and agriculture, for example. Government can and must act in partnership with business to identify ways to promote economic growth and job creation.

The President has said he will propose nothing to Congress in the way of an economic plan, at least not until the State of the Union in January. Mr. President, our economy cannot wait for a midwinter Presidential speech to find relief. We must begin to work now on a plan that will bring relief to millions of Americans who have lost, or are at risk of losing, their jobs.

With that in mind, I believe we owe it to the American people to remain at our posts here in Washington—beyond Thanksgiving—to put together an economic recovery and growth plan. We did pass unemployment compensation legislation, which was desperately needed, and which will help millions of people whose jobless benefits are running out. But we must do more than treat the symptoms of this recession. We must work on a cure.

That means tax relief for working families. That also means tax incentives for business, to help them get back on their feet, growing, keeping and adding jobs for working people. That means passing transportation legislation, which will funnel billions of dollars into the economy in the way of construction and other kinds of jobs.

The American people are demanding answers from their Government, not adjournment. I believe we must remain on the job as long as it takes to bring more relief to our beleaguered economy.

We should stay here, passing legislation, and sending it to the President. If the President will not act on his own to help lead us out of our economic crisis, we must present him with our own solutions, and ask him to take a stand—for or against Government's help in solving this nation's recession.

Nero fiddled while Rome burned. Frankly, I do not know what the Roman Senate did at that time. Clearly, they did not do enough. Let us not make the same mistake. The American people are demanding action, and we should give them results. They do not care about the politics of it all, they just want relief. Let us stay here at work until relief is on the way.•

WILMINGTON LIONS CLUB

• Mr. BIDEN. Mr. President, in towns throughout all of our States, there are organizations that represent the best of our shared community spirit. Through caring service to those in need, active concern for neighbors and a commitment to the basic values that have strengthened our country throughout its history, those community leaders serve and inspire each of us, and help lead the way to a brighter future.

One such organization, familiar to all of us, is Lions International. I pay tribute today to the Lions Club of Wilmington, DE, which will commemorate its 70th anniversary on December 6. Over the years, it has been my privilege to work closely with members of the Lions Club, and I am pleased to have this opportunity to express my respect and appreciation for their efforts.

It would be impossible to list all the contributions and community projects of the Lions Club of Wilmington, but a few examples make clear the depth and breadth of their efforts:

In 1952, the Lions Club organized a children's zoo in Wilmington, which has since become part of the county parks system and is a center of education and enjoyment for Delawareans of all ages.

The Lions have worked with newly naturalized citizens since 1945, helping to make each new American more at home in their new country.

A leader in programs for Delawareans with special needs, the Lions Club invests thousands of dollars every year to help neighbors overcome the challenge of disability and disadvantage.

To help encourage the talents and good citizenship of our young people, and to promote the promise or our future, the Lions Club runs the Teenager of the Year Program, recognizing academic achievement and community service.

The upcoming 70th anniversary is more than a celebration of the spirit of the Lions Club of Wilmington, it is a celebration of the spirit of America—a spirit of caring and service, of pride in the past and hope for the future. I am grateful and proud that on the anniversary of one of the outstanding organizations in my home town, I can share both the meaning and the inspiration of the celebration with the Senate and the Nation.•

ALCOHOL AND DRUG ABUSE

• Mr. GORE. Mr. President, I have been following with interest the efforts of Surgeon General Antonia Novello to educate Americans about alcohol abuse. I speak today to encourage those efforts, particularly as the Surgeon General prepares for a December meeting with members of the alcohol beverage industry, a meeting where she is expected to urge those in the alcohol beverage industry to eliminate advertising aimed at young people.

The problems associated with alcohol abuse also threaten pregnant women who use alcohol unaware of its deadly impact on their pregnancy. I am very concerned about the number of women who are using alcohol during pregnancy. Study after study confirms that pregnant women are drinking alcohol not realizing that their child is very likely to be permanently damaged by fetal alcohol syndrome. We have had 17 years of research on this issue, most of it supported by the National Institute on Alcohol Abuse and Alcoholism. All of that research has proven that alcohol is a teratogenic drug—it causes birth defects.

Children who suffer from fetal alcohol syndrome have growth deficiencies that are apparent at the moment of birth. Their behavior reflects central nervous system problems. They are hyperexcitable, have poor concentration and attention. They are dependent, stubborn, sullen, or withdrawn.

Children who suffer from fetal alcohol syndrome cry and laugh too easily, and suffer periods of high anxiety. They are permanently affected by the alcohol drinking habits of their mothers. They miss most of life as you and I know it. And they miss it unnecessarily. I believe that if their mothers knew what their children would miss and the struggle their children would face just to live, then these mothers would make very different decisions about drinking alcohol during their pregnancies.

Recently, I learned that the consequences of fetal alcohol syndrome can be even more dire. Michael Dorris, the author of "The Broken Cord" wrote about his adopted son, Adam. Adam, a child of native American descent was finally diagnosed, after much searching, as a child suffering from fetal alcohol effects. Typical of FAS children, Adam could not understand or connect his actions with their consequences. He didn't understand that he should not wear black and walk home late at night along rural roads. His father had told him many times, but Adam couldn't remember that or connect it to his life. He was killed by a driver late one night. She didn't even see him.

I believe, we can prevent the disease that killed Adam. If mothers knew, they could take action to prevent this disease from hurting their children. Fetal alcohol syndrome is totally preventable. That's why I am working with my colleagues here to pass the Alcohol Beverage Advertising Labeling Act. The warning labels this bill requires can help pregnant women learn about fetal alcohol syndrome, what causes it, and what stops it.

The Surgeon General deserves credit for her efforts to stop and prevent alcohol abuse. Clearly, the stakes involved in her efforts and ours are high—they affect our children and our future.•

TRIBUTE TO BRUCE SEATON

• Mr. BREAUX. Mr. President, I would like to call to the attention of the Senate the upcoming retirement of Bruce Seaton, chairman of the board of directors and chief executive officer of American President Companies, Ltd.

Bruce is known by many members of the Senate, particularly those of us involved in the maritime and intermodal transportation communities. He became the president and chief operating officer of American President Lines in 1977, and led the company through a number of periods of growth to become the state-of-the-art intermodal transportation company it is today.

Bruce Seaton has been a visionary and an innovator within the maritime and transportation communities. Well ahead of many of his peers, he recognized that shippers would be best served by transportation companies which blended the advantage inherent in each mode of transportation and linked those modes together through sophisticated information networks.

Bruce's contributions have strengthened the U.S. maritime industry, virtually created America's leading double stack rail network, enhanced the competitiveness of U.S. goods overseas and upgraded out national defense transportation system.

Mr. President, in 1989 Bruce Seaton was named an Admiral of the Ocean Seas [AOTOS], considered by many to be the most prestigious industry award in the U.S. maritime community. By this, and many other measures, Bruce Seaton has made tremendous contributions to the transportation industry and his country.

We wish Bruce Seaton well as he retires from his current position, and look forward to his continued involvement as our Nation wrestles with the challenges of the 1990's.•

WAR ON DRUGS IS FAR FROM OVER

• Mr. DECONCINI. Mr. President, for some time now, the Bush administration has been claiming great progress in the Nation's ongoing war on drugs. This past week, two items caught my attention which would suggest that the progress may not be as great as the administration would like us to believe.

First, the Washington Post on Sunday, November 17, 1991, reported that for the first time in over a year, cocaine-related visits to hospital emergency rooms were on the rise. Since 1989, the number of cocaine-related emergencies had been decreasing slowly, however, according to a study to be released within the next 2 weeks by the drug abuse warning network and the National Institute on Drug Abuse, there was an alarming increase during the first 3 months of 1991. These figures seem to indicate that hard core cocaine use in the United States is again on the rise and remains a serious threat to the public health. It is incumbent on the President and the Director of the Office of National Drug Control Policy, Governor Martinez, to look closely at the results of this study before trying to convince Congress next year that their efforts to eradicate this country's drug problem are succeeding.

The second item which caused me enormous concern occurred on the international front. The Los Angeles Times on November 20, 1991, carried a story which comes at a critical point in the United States' relations with Mexico on counternarcotics activities. It appears that on November 7, 1991, during an inspection of a private aircraft suspected of carrying illegal drugs into Mexico, on a remote airstrip near Veracruz, Mexico, a team of Mexican-Federal law enforcement agents, working as part of a special response team cooperating with United States drug agents, were ambushed and murdered by Mexican Army troops.

According to the Times article, a group of Mexican-Federal law enforcement agents were dispatched to an airstrip where the suspect aircraft found to be carrying 800 pounds of cocaine, was brought down, only to be met by a hailstorm of gunfire and Mexican Army soldiers. Seven Mexican drug agents were killed. Two were shot in the back at close range and one was shot point blank in the mouth.

Mr. President, the Mexican Army initially depicted the attack as a tragic mistake. I find this hard to believe, particularly since the operation took place during a 2-hour period, throughout which a great deal of information concerning the operation was communicated to the Mexican Army commander. From the information in the article, it is absurd to believe that the troops responsible for the slaying could not have known that the men they were aiming fire at were their own Federal drug agents. The aircraft from which the drug agents departed carried the insigna of the Federal Attorney General's office.

Mr. President, I am outraged by this deplorable and inhumane act of criminal wrongdoing. It just demonstrates to what lengths those involved in drug trafficking will go to continue their criminal activities. The article stated that President Salinas has directed the Mexican National Human Rights Commission to investigate the incident. I hope President Salinas is serious about this investigation. Those responsible for this vicious and heinous crime must be vigorously pursued, brought to justice, and prosecuted to the fullest extent of the law.

This incident not only offends my senses, but it may as well have very serious consequences for continued United States cooperation with Mexico on drug enforcement. Since President Salinas took office, United States-Mexico cooperation on drug interdiction has improved significantly. President Salinas has taken several positive steps to eliminate corruption and reduce the amount of drug traffic transitting Mexico. He has enacted sweeping reforms of the criminal justice system and has directed the Attorney General's office to act on recommendations made by the Human Rights Commission on allegations of abuse of individual rights. He has engaged in a cooperative drug interdiction program with the United States Customs Service allowing United States pilots to fly radar-equipped interception aircraft to conduct operations in Mexico with his law enforcement agents. He has also resumed the authority for the United States Customs Service to overfly Mexico with its P3 aircraft for detecting suspect targets destined for the United States. In fact, it was the Customs Service who altered its Mexican counterparts to the particular suspect target from South America outlined in the Times article.

Unless President Salinas takes swift and forceful action on this incident, the good will and cooperation built by his administration will be lost. How can the United States continue sensitive joint counternarcotics operations without a firm conviction that all of those involved in this partnership, including the Mexican Armed Forces, will work for the common good? How can any relationship continue if we are not convinced that the Mexican Government will take whatever action it must to prove to the world that criminal acts on the part of its own military officials will not be tolerated?

Mr. President, what if those individuals who were killed on that remote airstrip in Mexico were United States agents? Mexico would have an international incident on its hands. I want to make sure that our own United States law enforcement agents are not put at risk due to the greedy and criminal objectives of Mexican citizens, military, or otherwise. It would be irresponsible to do any less.

Mr. President, I would hate to see the progress our two countries have made over the past few years shattered, because powerful drug lords have secured protection of their operations from within. President Salinas has an opportunity to send a strong message to the United States and all those countries trying to rid their countries of drug trafficking. That message should be that Mexico is, indeed, a serious and willing partner in the international fight against drugs and here is a perfect opportunity for Mexico to demonstrate its seriousness to achieve that objective. Much of what will happen in our future dealings with Mexico in this Senator's mind will depend on the recommendations and findings of the Human Rights Commission's investigation. In the meantime, I hope that President Bush and his administration will monitor this situation closely and send a strong communication to the Mexican Government demanding justice.

Mr. President, separately, these two events over the past few weeks would be cause enough for concern. Coming within a week of one another, they only emphasize that the war on drugs needs to be more than a war of rhetoric. It is a war which affects lives here and on foreign soil. Its casualties can be found in hospital emergency rooms here in the United States, as well as on clandestine airstrips in Mexico. Mr. President, it is a war which is far from over.

Mr. President, I ask that the two articles referred to in my remarks be printed in the RECORD in their entirety.

The articles follow:

[From the Los Angeles Times, Nov. 20, 1991]

MEXICO SOLDIERS ACCUSED IN DRUG AGENT KILLINGS

(By Majorie Miller and Douglas Jehl)

MEXICO CITY.—Scores of Mexican soldiers deliberately opened fire and killed seven federal drug agents at a clandestine Veracruz airstrip earlier this month to protect a Colombian cocaine shipment, U.S. and Mexican officials now believe.

The attack had been characterized as a tragic mistake. But autopsies of the victims revealed that two of the slain Mexican agents were shot in the back at close range and a third was shot point-blank in the mouth, leaving powder burns, sources said Tuesday.

"They gave them the coup de grace there at the end," a U.S. drug enforcement official said.

The Americans and Mexicans had been cooperating in tracking the shipment of cocaine from South America to Veracruz.

The attack on the planeload of Mexican police agents, which lasted for more than two hours on the morning of Nov. 7, was filmed from another government aircraft that circled overhead, providing key evidence that has been viewed by U.S. and Mexican officials.

The three traffickers under pursuit by the Mexican agents escaped and remain at large. Sources said that a Mexican army general, based in the area, is suspected of overseeing an operation that offered the smugglers protection and resulted in the attack on the police.

The assault brought a bloody end to an anti-drug mission that began when a U.S. Customs Service radar surveillance plane guided the two planes to the airstrip, pursuing the traffickers' aircraft, sources said.

After Police Cmdr. Eduardo Salazar Carrillo climbed out of the government plane—a Beech King Air with the federal attorney general's insignia on its tail—and began to inspect the traffickers' Cessna, soldiers opened fire on him. That began the fusillade that was fatal to seven officers, although three others from the government plane, including Salazar, survived, the sources said.

An official account of the incident issued that day by the Mexican Defense Ministry and the attorney general's office explained that the seven agents were killed by mistake during a shootout between the two anti-drug forces in the predawn confusion. Other bullets issued by the Mexican government described the government craft as unmarked and said the federal police started shooting at the soldiers about 1,200 feet away.

But the U.S. and Mexican sources say that compelling evidence indicates that the soldiers attacked intentionally, first only one police agent fired a weapon and that some drug agents were shot at such close range that there could have been no doubt as to their identity as police officers.

"This was no accident, a furious senior Bush Administration official said. Added another senior U.S. official: "There is a strong belief that the Mexican army is lying through its teeth on this."

The incident has raised fears among U.S. and Mexican officials of a fracture in the 18-month-old partnership between Washington and Mexico City over the use of U.S. Customs planes to help Mexican officials interdict drug shipments.

The arrangement relies extensively on Mexican army forces and could be jeopardized if drug corruption in the military has penetrated as deeply as the clash between soldiers and police suggests, the officials warned. But U.S. and Mexican officials have gone out of their way to play down the attack and stress that their cooperation will continue.

Under orders from President Carlos Salinas de Gortari, the Defense Ministry has asked the government's National Human Rights Commission to investigate the deaths. "The president wanted an impartial investigation of this," said a Mexican source.

In Washington, spokesmen for Customs, the Drug Enforcement Administration, the State Department and other U.S. agencies declined official comment on the incident and referred inquiries to the Mexican government. The Mexican attorney general's office declined to comment, saying it will wait for the Human Rights Commission's investigation. Defense Ministry officials could not be reached for comment.

But an emerging picture of the incident, based on extensive interviews with U.S. and Mexican sources, provided this account of a brutal, deliberate assault on the police agents at the clandestine airstrip near Tlalixcoyan, 25 miles south of Veracruz.

American drug officials based at the DEA's El Paso intelligence center spotted the Cessna off the coast of Nicaragua as they monitored radar signals from an airborne Customs plane Nov. 7.

The U.S. authorities alerted Mexican drug agents. The Mexican attorney general's office, which oversees the federal judicial police, dispatched two aircraft to pursue the cocaine-laden Cessna from Mexico's southern border to its landing on the airstrip near Tlalixcoyan at about 6:15 a.m.

A truck with eight barrels of fuel was waiting on the ground for the drug plane at the strip, surrounded by more than 100 Mexican soldiers. Despite the soldiers' presence two men and woman escaped from the Cessna, discovered to be transporting more than 800 pounds of cocaine.

The first of the government planes—the King Air with government insignia—landed about half an hour after the drug plane. As Salazar inspected the Cessna, the soldiers fired on him and his agents.

Shortly after the shooting began, the attorney general's office in Mexico City advised the Veracruz army commander, Gen. Alfredo Moran Acevedo, that his troops were firing on federal police. But the soldiers continued firing for another two hours.

The army has asserted that the police agents refused to identify themselves, and a senior U.S. official said that question "remains in some dispute." But the weekly magazine Proceso reported that the surviving pilots and police commander have given sworn statements that the agents identified themselves by shouting.

U.S. and Mexican sources said that when the second government plane landed at about 8:30 a.m., the soldiers took the pilot and agents into custody while continuing to shoot at officers from the first plane.

"It is unclear whether the seven agents were killed before or after the second plane landed," said a source. But he said that two of the agents had bullet wounds in their backs and had been shot from a distance of less than 12 yards. A third agent had been shot in the mouth at close range, he said. Only one of the victims showed evidence of having fired his weapon.

In Washington, U.S. officials said the Mexican drug agents killed during the raid had been working closely with the DEA for months as part of the new response team, which relied heavily on the radar intelligence gathered by military and U.S. Customs radar planes operating off the Mexican coast. "People around here are really pissed off," one DEA official said "This is a story that really should be told."

But the Administration spokesmen who refused to comment directly on the incident went out of their way —when told that others had provided detailed accounts of the shooting—to praise the Mexican government in what seemed an attempt to forestall any rupture in relations.

[From the Washington Post, Nov. 17, 1991]

REVERSING COURSE, COCAINE-USE INDICATOR IS RISING

(By Michael Isikoff)

Federal health officials will report shortly that the number of cocaine-related visits to hospital emergency rooms has risen for the first time in more than a year, according to sources, familiar with the figures.

"This 15 percent jump in such visits recorded by the government's Drug Abuse Warning Network (DAWN) during the first three months of this year might indicate a resurgence of the nation's hard-core cocaine problems."

"This is a disturbing trend. . . . It's a real jump," said Adele Harrell, senior research analyst at the Urban Institute, who specializes in drug abuse trends. "This indicates an increase in negative health consequences from cocaine use."

The figures also tend to support the view of some federal anti-drug officials that the country may be facing a renewed heroin problem. Herion-related hospital emergencies also rose from the final three months of 1990 to the first three months of this year. But even with the 13 percent increase, the number of heroin-related emergencies was still below the total for the first three months of 1990.

White House drug advisers have used the DAWN figures as one of their principal yardsticks in measuring the nation's progress in fighting drug abuse.

When declines in cocaine emergencies were first reported last year, Secretary of Health and Human Services Louis W. Sullivan hailed it as evidence of "significant headway" in the war against drug use, a theme that has been repeated frequently by President Bush.

But the recent increase—especially if it continues—could undermine the president's ability to make that argument during next year's campaign and give Democrats new ammunition that his war on drugs has failed, particularly in the inner cities.

Rep. Charles B. Rangel (D-N.Y.), chairman of the Select Committee on Narcotics Abuse and Control, said the new figures belie "ridiculous" claims by the administration of progress. "The administration is constantly talking about DAWN reports. . . . They're always looking for good news," he said. "But the truth of the matter is they don't want to acknowledge that in the inner cities, there is still an explosion of cocaine use."

Ingrid Kolb, acting deputy director for demand reduction in the Office of National Drug Control Policy, said the drug office had not seen the new DAWN figures and could not comment. The figures had been scheduled to be released by the National Institute on Drug Abuse within the next two weeks. But a spokeswoman for NIDA said Friday the agency will wait until mid-December to release the study so it can include updated figures for the spring of 1991 that have not yet been analyzed.

Some anti-drug analysts said it is too early to draw hard conclusions from the increase, emphasizing that it could represent a number of factors: higher street purities causing an increase in overdoses, an overall growth in the number of users or possible differences in reporting methods among hospitals in the DAWN system.

Nevertheless, the DAWN system is considered one of the only government indicators capable of measuring that aspect of the drug problem that has proven most intractable: hard-core abuse, especially among the poor, unemployed and other groups that tend to be underrepresented in government-sponsored surveys of drug use.

The DAWN system consists of reporting from a sample of 535 hospital emergency rooms in 21 cities. Throughout the last half of the 1980s, cocaine-related hospital emergencies reported by DAWN skyrocketed as hospitals were flooded with the victims of the crack cocaine epidemic.

Although DAWN's reporting system has changed, the government's adjusted numbers show that the number of cocaine emergencies peaked in the summer of 1989 at 29,939. In the last three months of that year, they began to drop, with the figure leveling off at 19,381 during the last quarter of 1990.

But the trend reversed itself in the first three months of this year as cocaine emergencies rose to 22,282. In addition, heroin-related emergencies increased from 7,510 in the last quarter of 1990 to 8,465 in the first quarter of 1991, although they were still below the 9,967 during the first quarter of 1990.

The total number of drug-related hospital emergencies, which include visits for alcohol, also climbed during this period from 89,325 in the final months of last year to 96,406 in the first quarter of 1991.

Some anti-drug officials noted that there is considerable variation in DAWN figures from city to city.

For example, there was no appreciable increase in cocaine emergencies in the District of Columbia. In Miami, the number of such visits nearly doubled, from 186 to 358.

The increase in Miami is particularly ominous, some analysts said, because South Florida is an entry point for much of the nation's cocaine. A big increase in Miami might suggest that cocaine imports, after being temporarily disrupted over the past two years because of enhanced interdiction, might again be on the rise, some analysts said.•

AOJ IN EASTERN EUROPE: WHAT ADMINISTRATION? WHOSE JUSTICE?

• Mr. CRANSTON. Mr. President, I rise today to express my great dismay over the administration's failure to provide appropriate administration of justice support for the emerging democracies of Eastern Europe.

Earlier this year I introduced, together with my friends and colleagues, the Senator from South Carolina [Mr. THURMOND] and the Senator from Massachusetts [Mr. KERRY], the Omnibus Eastern European Security Assistance Act of 1991.

The purpose of this bill was to provide the emerging democracies of Eastern Europe with knowledge of, and training in, U.S. law enforcement practices.

Mr. President, the U.S. model of civil-military relations and our system of administration of justice are perhaps two of the most successful yet little-promoted underpinnings of our democracy.

Based on the essential distinction between internal security and national defense, the principle of posse comitatus has ensured that our military remain nonpartisan and our police forces professional.

Mr. President, when I introduced our legislation I pointed out the importance of drawing upon our own expertise and experience in this area in offering assistance to the governments of an Eastern Europe whose security establishment was synonymous with misrule and fear.

I pointed then to the growing sense of unease in the region, where economic dislocation, xenophobia, and a resurgence of hate crimes made it imperative that the Soviet-trained security forces in those countries be exposed to democratic models.

I called attention to the fact that foreign investment, the lode star to which so many hopes there are being attached, was a mere chimera unless contracts could be enforced, unless the criminal justice system showed signs of working, and unless businessmen were free of fears of extortion, or crime on the streets.

Mr. President, yesterday the Senator from Delaware [Mr. BIDEN] took to the floor to point out that much of what we've been dealing with on an emergency basis for the former Soviet Union could have been taken care of with strong bipartisan support for the SEED legislation we offered 2 years ago.

Today, I must point out that, in similar fashion, the administration is shooting itself in the foot because of its catch-as-catch-can attitude concerning administration of justice concerns in Eastern Europe.

When we made our proposal last spring, the State Department moved to block it. When it became part of the discussions in the House-Senate conference on foreign aid, State moved quietly to kill it.

The word went out: Eastern Europe is not ready for an administration of justice program. What it needs they said, is antinarcotics and antiterrorism assistance.

What administration of justice support there is, comes from a $750,000 Rule of Law Program administered by USIA; $750,000 for the entire Eastern European region. Compare that to this administration's continued willingness to throw military assistance at nations with much less democratic vocation.

It is truly unfortunate, Mr. President, the realization that the administration will not work with Congress to ensure that a mere $5 million out of funds already allocated for the region be used to address this problem.

It is truly a cause for confusion to see the State Department, in the person of Special Assistant for Eastern European Affairs Bob Barry, weigh in against such a modest proposal—then have his office find that, on an important request for assistance by the Polish Interior Minister, it lacks the kind of congressional authorization provided in the Cranston-Thurmond bill.

And it is truly a moment for reflection, Mr. President, knowing that requests for assistance from our beleaguered democratic allies in Eastern Europe often go unfulfilled because Ambassador Barry and the State Department choose to kill anything that doesn't have the stamp: "Made Here."

Mr. President, the request by Polish Interior Minister Henryk Majewski included 19 areas that needed assistance. It was finally acted up at an interagency meeting in which the attending players had to pledge money from their existing budgets.

There was no mechanism for central coordination, there was no money available specifically dedicated for these purposes, and one can only wonder what the followthrough will be. This was, of course, only one request. Yet, inquiries by my office have revealed an ad hoc approach to this very important issue, and this one request is just a part of a much larger number that demand urgent attention.

Mr. President, if administration of justice concerns are being addressed in a timely and appropriate manner, why then are private individuals bankrolled by private interests rushing to fill the void, as they are? Why are businesses finding that they have to finance efforts where the U.S. Government can and should be taking the lead?

The assistance being provided is not in question. I must stress that there is not a hint of wrongdoing in the assistance that is being offered.

Yet it is unseemly, this privatization of law enforcement training. In a democracy, the administration of justice is not the concern of a select or well-heeled few.

Unfortunately, this message appears to fall on deaf ears over at the State Department.

How else to explain this scramble for money and authorities, when proposals that would give both are there for the taking?

When will the administration learn that antiterrorism and antinarcotics efforts can only be as effective as the justice system which backs them up?•

CABLE TELEVISION CONSUMER PROTECTION ACT

• Mr. DANFORTH. Mr. President, before this session of Congress draws to a close, I want to thank the majority leader for scheduling S. 12, the Cable Television Consumer Protection Act, for consideration in January. The decision to make this cable reform legislation a high priority for early next year is a victory for the consumer. It is a victory because this much-needed legislation encourages competition to cable, protects the consumer where there is no competition, and helps to ensure the continued existence of free TV.

For too long, the cable industry has been permitted to operate as an unregulated monopoly. The rate increases slated for the new year underscore this fact.

In addition to thanking the majority leader for his assistance and his commitment to bring this bill before the Senate, I want to commend Senator INOUYE, the chairman of the Communications Subcommittee, and Senator HOLLINGS, the chairman of the Commerce Committee, for their hard work on this consumer legislation.•

VIEWS ON S. 543

• Mr. SIMON. Mr. President, on Thursday November 21 the Senate passed S. 543, the banking bill, by voice vote. I wish to go on the Record to state that had there been a rollcall vote, I would have voted no on this measure.

There is little debate that Congress needs to act to recapitalize the nearly bankrupt bank insurance fund in the FDIC. It is this fund that insures deposits in banks throughout the country. The soundness of this bank insurance fund is crucial to the soundness of our banking system and indeed to our entire economy. If all we were voting on last week was a replenishing of the BIF, there would have been little argument, little negotiation. It would have been enacted swiftly and with broad consensus.

Without going through a long history of what was originally intended in bank restructuring legislation, there are two key points in S. 543 I wish to address.

First, S. 543 contains provisions changing long-standing Federal laws preventing banks from establishing national branches. This law was originally written to prevent a few large money-center banks from dominating the allocation and distribution of credit in small communities, rural areas, and even in large cities outside of the country's large commercial centers. It was intended to prevent a few large banks from absorbing deposits in States like Illinois and not providing loans and credit in those areas. I have many serious concerns about this provision in the Senate bill. That is why I voted for the Bumpers amendment insuring that only those States that affirmatively choose to "opt-in" interstate banking will be subject to these new Federal laws.

I hope that this provision will be dropped in conference. But if it is not dropped, I will oppose the conference report and I will request a rollcall vote.

Second, S. 543 originally contained several vital consumer provisions, provisions requiring banks to provide basic banking services and government check cashing services to low-income bank customers. These provisions were deleted during Senate consideration of S. 543 and were not in the bill when it was finally voted out of the Senate. I find it curious that the Senate was willing to provide to the large banks something they very much wanted, interstate banking, but did not require them to provide any services to low-income customers who will tend to be overlooked if banks continue to gain sweeping new powers.

Restructuring the financial industry is a complex project. I hope and assume the Senate will return to this task next year. I also hope that the Senate can address the issues facing the financial industry and still protect the interests of small communities, depositors, consumers, and low-income people.•

KEIRETSU AND THE BUSH ADMINISTRATION

• Mr. BAUCUS. Mr. President, in recent weeks, a host of Bush administration officials have urged Japan to address the central source of United States-Japanese friction—trade relations between our two countries.

I have frequently stated that trade should be the top issue on our agenda with Japan. I doubt that trade is yet atop the administration's agenda, but perhaps it is finally rising.

For as long as I have been involved with international trade issues, the United States has struggled to open the Japanese market.

Prime ministers and presidents change.

Exchange rates ebb and flow.

But one thing seems always to stay the same: It is extremely difficult to sell American goods in Japan. Few challenges we face have proved as illusive as reducing Japanese trade barriers.

I believe Japan's keiretsu system may be the single most important impediment to better trade relations with Japan.

KEIRETSU AND UNITED STATES-JAPANESE TRADE

Most Americans have never heard of keiretsu—Japan's unique system of interlocking corporate families.

In fact, part of the problem is that we're still not sure exactly what we're dealing with. Yet if the precise definition of keiretsu is unclear, the effects are increasingly evident.

Japan can attribute its economic success in large part to the opportunities it enjoys in the American market.

Unfortunately, the United States has not enjoyed reciprocal access. Last year the Japanese surplus with the United States topped $40 billion—four times larger than the United States deficit with any other country.

The anecdotal evidence of keiretsu is also strong. This year's National Trade Estimate—a listing of foreign trade barriers—refers to the effects of keiretsu in blocking access to the Japanese markets for paper, auto parts, and motor vehicles. Strong evidence has been presented about the effects of the keiretsu system on the U.S. glass industry.

The Japanese Government's own report in connection with the structural impediments initiative recognizes the negative effects of keiretsu on trade and investment.

CURRENT EFFORTS TO ADDRESS KEIRETSU

Current efforts to address keiretsu arise out of the structural impediments initiative [SII]. SII has succeeded in sharpening our understanding of the underlying causes of United States-Japanese trade disputes.

Unfortunately, SII has been less effective in crafting remedies. This is particularly true in addressing the problems created by keiretsu.

In fact, U.S. negotiators stated in their first annual SII report that dealing with keiretsu had been one of the biggest disappointments of the SII process.

My experiences in dealing with Japan have convinced me of one thing: The United States achieves results only through sustained pressure. We need mechanisms that establish priorities, deadlines, and criteria for measuring results.

NEW REMEDIES FOR ADDRESSING KEIRETSU

I believe that keiretsu should be addressed using a coordinated combination of multilateral and bilateral mechanisms.

Frankly, what we really need to address the keiretsu system is a renewal of Super 301.

Even without its "super" provisions, "normal" section 301 has been an extremely successful in addressing unfair Japanese trade practices. The United States has used it to open markets in wood products, satellites, supercomputors, leather, footwear, construction, semiconductors, tobacco, and oranges.

It is important to emphasize that section 301 is not inconsistent with multilateral dispute resolution under the GATT.

In tandem with a section 301 investigation, and consistent with section 301 deadlines, the United States should urge the formation of a GATT panel under article XXIII—the nullification and impairment provision.

Keiretsu are not specifically addressed in the GATT. However, article XXIII of the GATT addresses the situation in which a country's practice, although not specifically outlawed, "nullifies" or "impairs" a GATT benefit.

I believe article XXIII should be applied to keiretsu. Keiretsu nullify and impair GATT benefits the United States would otherwise receive. For example, Japan's average tariff rates are quite low. U.S. exporters cannot take advantage of this benefit, however, where keiretsu block access to the market.

FOCUSING ON RESULTS

Whether a resolution to the keiretsu problem is negotiated multilaterally or bilaterally, a solution should focus on results.

Do not get me wrong. I am not talking about assigning market shares.

However, benchmarks can be used to evaluate Japan's progress in a number of areas. We can use benchmarks to compare the openness of the Japanese market to other markets, and to measure progress in addressing a particular barrier.

Benchmarks already are being used with significant effect in addressing Japanese barriers to United States semiconductors. Benchmarks also should be used in evaluating whether prices and import levels in Japan are consistent with other developed countries.

CONCLUSION

There is a lot we can learn from the Japanese. I have been reading with great interest the MIT study, "The Machine that Changed the World." This important book outlines the revolutionary contributions of Japan to the development of industrial processes.

There is much that we Americans must do for ourselves. We have our own structural impediments. There may be aspects of keiretsu that we should emulate.

But it is absolutely clear that keiretsu have seriously protectionist effects. These effects act as a unfair impediment to U.S. goods.

Our ability to eliminate the trade distorting aspects of the keiretsu represents one of the single most important challenges the United States faces in this new era of economic competition.

If President Bush travels to Japan in January, one point must be made loud and clear: Japan must reform its keiretsu system, or relations with the United States will deteriorate.●

ACCESS TO AFFORDABLE HEALTH CARE

● **Mr. KERREY.** Mr. President, I have made it clear in the past, that the time to reform our Nation's system of financing health care is long overdue. Reforming our Nation's health care system is not only a humanitarian issue, it is a vital economic issue. It is eroding our standard of living and threatening our ability to compete in an aggressive international marketplace.

Access to affordable health care is moving beyond the reach of the working American families. Health care costs are rising as incomes are falling. Individuals and families are spending more for health care and receiving less coverage while they are earning lower wages.

Last July, I introduced the Health USA Act of 1991 to restructure how our Nation pays for health care. Since then, I have received many letters from Nebraskans on the topic of health care and the adverse effects of its rising costs. In a recent letter from Mr. Timothy Deal of Hastings, NE, he illustrates very specifically and honestly how an increase in his families' health care premiums, accompanied by a decrease in the amount of coverage, has put his family on the edge of financial devastation.

Mr. Deal's situation is extremely troublesome. But, tragically, it's not that unusual. Rapidly rising health care costs are crowding out wage and salary increases, impairing the American people's standard of living, and putting the fear of financial ruin resulting from a serious illness into their hearts.

Mr. President, I ask that Mr. Deal's letter be printed in the RECORD. I encourage all of my colleagues to read this letter and realize that the specific situation that Mr. Deal has shared with us, is the norm throughout the Nation.

The letter follows:

HASTINGS, NE, *August 4, 1991.*

DEAR SENATOR KERREY: May I begin by saying that it is indeed a privilege of fortune to enjoy the benefits of life in America. Furthermore, should the wheels of corporate gains and industrial economics suddenly and unexpectedly cease to turn, there is no better place in the world than the USA that I would choose to be. Having made this clear, I do however wish to share with you my personal opinion and perception of present social and economic concerns.

I am well aware that you have great concerns, as do I, of current existing health care deficiencies, and have addressed these pending concerns with your own innovative health care plan. I applaud your efforts and want you to know I support your philosophy with regard to this issue. I am also aware that many have been critical of this plan and voiced openly their opposition toward its economic support. Please share my letter with them! Please note the following information reflects an honest glimpse of my family's personal income and dispersement of spending. Note as well that I am not venting discontent with these salaries, as they likewise reflect an economic portrait far above the numbers realized by many less fortunate than myself.

My wife and I are both gratefully employed full time and our family's net monthly income is $1150.00 after deductions for federal and state taxes, social security, health insurance, daycare, and education savings. Our monthly expenses are as follows:

$550.00—Housing (house payment and average utilities).

$100.00—Transportation (1977 Honda, 1981 Escort, no maintenance).

$50.00—Auto and Home Insurance.

$25.00—Medical insurance deductible.

$25.00—Dental and Optical expenses (not covered by insurance).

$25.00—Copayment of insured medical expenses (Blue Cross/Blue Shield 80/20 on all medical expenses covered under the current policy).

Total—$775.00.

As you can see, this allows only $375.00 to be appropriated for food for four, household purchases, recreation and entertainment, gifts and contributions, telephone and postal, newspaper and garbage expenses. Clothing, I do not include, but with the exception of socks and undergarments, all clothing for the family is purchased from garage sales and thrift shops.

We have been able to juggle these appropriations each month without the use of credit cards, thus we have our needs met and have therefore remained secure economically. Recently, however, our medical insurance premiums increased from $80.00 a month to $95.00 while our coverage decreased. Please note the seriousness that this change has invoked with regard to our economic stability. As of August 1st, our policy, which previously covered 100 percent of hospitalization and emergency costs with the exception to a small number of exclusions, has been amended to cover 80 percent of all medical whether basic or major medical. This policy included a $3000.00 copayment stop loss annually. I can not express effectively, the concern this presents our family. Allow me to convey it this way. I have two young children, ages 6 and 1, both of which have been hospitalized in the past 2 months for ear surgery. One of the children, our 6 year old, was hospitalized twice as an inpatient and once as an outpatient. Altogether, these medical expenses totaled several thousands of dollars. Had this medical dilemma occurred now, instead of prior to August 1st, our family could be faced with an economic hardship of such magnitude that I hesitate to ponder it. Sad as it seems, more and more medical policies have increasingly diminished in coverage while premiums increase.

Please Mr. Kerrey, I have been frank with you throughout this letter, I have disclosed valid information reflecting average midwestern economics. Please take this letter to the Senate floor and read it. If your opponents scoff at its contents, then they, not I, suffer greater social inequity.

Sincerely yours,
Timothy J. Deal

P.S. note that the $95.00 premium makes up only 20 percent of the policy's total monthly cost. My employer's benefit is nearly $400.00 a month.●

ACCESS TO QUALITY MAMMOGRAPHY SCREENING

● Mr. D'AMATO. Mr. President, I rise today to cosponsor two bills that address the urgent need for expanded access to quality mammography screening for all American women.

Expanding access to mammography screening and ensuring that such screenings meet the highest standards of quality is vital to reducing the unacceptably high death rate associated with breast cancer in this country. It is estimated that in 1991, 175,000 women will be diagnosed with breast cancer, and 44,500 women will die from the disease. This makes breast cancer the second leading cause of cancer death among women in the United States.

Mr. President, next to a cure—and we must do far more at the Federal level to speed research on effective treatments for breast cancer—our best defense against this horrible disease is early detection and treatment. Such early detection, through regular mammograph screening, can, according to the Centers for Disease Control, reduce breast cancer mortality by 30 to 40 percent for women aged 50 and older.

Unfortunately, far too few Americans women receive early cancer detection tests on a regular basis. In 1987, only 25 percent of women over age 50 reported having a mammogram within the preceding 2 years.

We need to encourage and facilitate the use of these tests by American women—and that is why on April 23, 1991, I joined Senators MACK and BREAUX in introducing S.891, legislation which provides a tax credit of up to $250 against the costs of early cancer detection procedures.

Today, I am cosponsoring two bills that I believe will further promote the availability of quality mammograms. The first, Senate Resolution 184, is a sense-of-the-Senate resolution that calls on insurance companies throughout the country to include periodic mammography screening services as part of their basic coverage for women. New York State has required health insurance policies to include coverage for annual mammography screenings since 1988. I am hopeful that this far-sighted bill, introduced by my colleague from Illinois, Senator DIXON, will encourage insurance companies in every state to follow suit.

The second bill, S.1777, will establish national quality standards for mammography to assure that every mammogram a woman receives is safe and accurate. The need to establish national standards was underscored by the findings of a recent General Accounting Office report which found that existing professional standards are not uniformly followed at many screening facilities. The same study found a need for strong Federal standards to assure the quality of mammography screening, and sufficient legal mechanisms to enforce them. S.1777 addresses this need by requiring the Secretary of Health and Human Services to develop national quality standards in the areas of equipment, personnel, oversight, quality control, and enforcement. I commend my colleague from Washington, Senator ADAMS, for introducing this bill, which, by improving the quality of mammography screening, will surely save numerous lives.

Mr. President, we know that one in every nine American women will develop breast cancer at some point in her life. We need to guarantee these women access to the best preventive health care available. These bills will help us do just that. I encourage my colleagues to join me in cosponsoring these measures, and I urge their prompt passage.●

● Mr. GLENN. Mr. President, last year, Congress passed the Chief Finance Officers Act, the first comprehensive effort in years to overhaul the Government's antiquated, inefficient and abuse-ridden financial systems.

I was very pleased to have sponsored the CFO Act, and to have taken the lead in its passage. Federal agencies desperately need to get their financial houses in order, to know what tax dollars are being spent for, and to know if they are being spent wisely. With a trillion-and-a-half-dollar budget to administer every year, Uncle Sam simply can't afford to have holes in his pockets.

With the CFO Act, in fact, I hoped that the Government was finally on its way to eliminating shoddy and duplicative accounting, mismanagement, faulty financial statements, and the unprecedented waste, fraud and abuse that so rightfully disgusts taxpayers and undermines the Government's credibility. I was initially pleased that the administration recognized the importance of the CFO Act, but after a year of watching the White House implement this legislation, I am concerned that the CFO Act is not working as its sponsors intended.

I feel the CFO Act is turning into the Complacency Act, because the White House is nominating some people with limited, if any, direct financial management experience to be agency chief financial officers. In some cases, CFO positions are being tacked onto the already overburdened shoulders of their assistant secretaries for administration or management as an afterthought. This practice all but ensures that these very important jobs—and thus financial management—will get short shrift in many agencies.

Agencies, I might add, are not unlike our country's largest corporations, in that they must account for and spend billions of dollars a year. The difference is that America's leading corporations take their financial management jobs seriously, and the people who hold corporate CFO positions generally are well-qualified for those jobs.

One of the purposes of the CFO Act was to bring individuals with superior qualifications into positions where they have the power and authority to make significant improvements. In fact, the CFO Act is quite specific about CFO qualifications—more so than almost any other law which authorizes Presidentially appointed, Senate-confirmed, positions.

The relevant language in the Act reads as follows: Each agency chief financial officer shall be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in, financial management practices in large governmental or business entities.

But even this statement, strong as it is, is not the last word on CFO qualifications. In addition to the language in the law, the administration itself, through the Office of Management and Budget, has approved qualification standards for CFO's and deputy CFO's. These standards were drafted in consultation with Congress and the General Accounting Office [GAO].

Thus, the administration's own standards for CFO's require that nominees should have practical involvement with financial management in large public or private organizations; direct knowledge and experience with budgets, internal controls, accounting and financial reporting; and finally, substantial familiarity with the design or operation of large financial or management information systems.

These standards—the administration's standards—clearly envision CFO's who bring to their positions solid knowledge of, and experience in, financial management.

But, Mr. President, I think it's safe to say that the standards in the law and in OBM's own guidelines are being ignored. We now have CFOs nominated by the President, and expecting Senate confirmation, who have essentially no direct financial management experience. There is a pattern emerging that disturbs me. In several cases now, the Senate has been asked to confirm CFO's who, while perhaps qualified generally in management or policy issues, have little of the financial knowhow necessary to guide changes in major cabinet agencies. While they may be perfectly bright, hard working individuals, and qualified to assume the duties of an assistant secretary for management, I am very concerned about their abilities to fulfill the CFO mandate.

The enormous job of cleaning up the books and hauling the government into the modern financial management age cannot be undertaken by just any political appointee simply looking to polish a resume. The CFO Act envisioned and deserves must more. The taxpayers and the elimination of waste, fraud and abuse deserve much more.

I will not believe that the White House, and, yes, the Senate, are serious about financial management until they get serious about CFO nominations. Unless we appoint CFO's who understand the financial problems of our government agencies and can quickly act to fix them, then I can assure my colleagues that the CFO Act will not work—business as usual is all we will get. And if the administration and this Senate are unable to muster the interest and the political will to hold our standards high, to bring in the best and the brightest, then I would suggest that business as usual is all we deserve.

While I will not hold up the CFO nominations at the Departments of Agriculture and Health and Human Services that the authorizing committees have already seen fit to approve, I regret that I cannot support them, either. I recognize that assistant secretaries for management have responsibilities that go beyond their CFO duties, and that as a result, the authorizing committees must judge the nominees on many issues. But that is part of the problem.

The authorizing committees have chosen to report these nominations out favorably, and for that reason I am not going to oppose them. But very simply, we need to do better. The administration, the authorizing committees, this Senate, need to do better in nominating and confirming people for CFO positions.

Granted, these are not high profile jobs, but they are very important. If we are to make any progress at all, they cannot be handed out cavalierly, or like some trophy. Make no mistake, CFO jobs will be hard—their problems are tough and their responses must be tough. Our only chance to get the job done is to put in place people with the skills and experience who know what must be done, and then let them do it. That's what the CFO Act envisioned and that's what the CFO Act deserves. Financial Management, and sewing up the holes in Uncle Sam's pockets, are just too important for anything less.•

THE NEED FOR FARMLAND PRESERVATION

• Mr. WOFFORD. Mr. President, I rise today to support the need for farmland preservation. As part of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 the State of Vermont will be eligible for funding from the Commodity Credit Corporation [CCC] to support the purchase of development rights on prime farmland. I strongly support this measure because it is the first Federal program that recognizes the need for such protection and builds on existing State farmland protection programs.

The Farms for the Future Act, if expanded to other eligible States, will assist Pennsylvania and other States with approved preservation programs in preserving their most valuable resource. It will also encourage those States which currently do not have programs to initiate the process. This program is an excellent opportunity to leverage scarce public funds at both the Federal and State levels.

As many States know, land conservation is costly. But, it is a resource worth preserving in view of the billions of dollars in economic activity generated annually by agriculture industry. That economic benefit reaches into all parts of the economy making farmland preservation important to all States.

Mr. President, I support farmland preservation. It has preserved many prime farms in Pennsylvania. The assistance received from the Federal level will greatly assist States in their efforts to conserve this natural resource.•

PROPOSED SCIENCE AND TECHNOLOGY STUDY CONFERENCE

• Mr. GORE. Mr. President, in April 1988, the Carnegie Corporation created the Carnegie Commission on Science, Technology, and Government to study how Federal and State Governments could better deal with science and technology issues. The 22 members of the Commission are leaders from industry, government, and academia who have a great deal of experience dealing with science and technology issues. President Jimmy Carter and former Senators Daniel Evans and Charles McC. Mathias are among the members.

To examine how Congress deals with science and technology issues, the commission formed a Committee on Science, Technology, and Congress, chaired by John Brademus. For the last 2 years, several of my colleagues and I have served on a Congressional Advisory Council which has provided the Committee with advice and direction.

So far, the Committee has prepared two very useful reports on how the Congress gathers and utilizes information on scientific and technical questions. The first report, "Science, Technology, and Congress: Expert Advice and the Decision-Making Process," contained a number of insightful observations on the congressional process and made some helpful recommendations to the Congress.

I found one recommendation particularly useful; the report call for creation of a Science and Technology Study Conference which would help Congress deal with the increasing complicated science and technology policy issues that we face. The Study Conference would be modeled on the very successful Environmental and Energy Study Conference [EESC] which was created in 1975 to provide members and staff with information on legislation relating to energy and environment matters. Today, more than 380 members of the House and Senate contribute to the EESC and benefit from the newsletters, bulletins, and briefings that it provides.

Ten years ago, most science and technology issues were put on the back burner—they just did not get much attention on the Hill. That's not the case today. This year, there have been extended floor debates on a number of scientific programs, including the Space Station and the Superconducting Super Collider. The Commerce Committee, chaired by Senator HOLLINGS, and the Commerce Committee's Science Subcommittee, which I chair, have held numerous hearings on how the government could do more to work with industry and academia to develop new technologies. The Commerce Committee and others are working to formulate a coherent, pro-active U.S. technology policy to do just that. At the same time, the Energy committee is hard at work defining new roles for the Department of Energy's national laboratories so that they can contribute more to America's technological competitiveness. On the Armed Services Committee, Senator NUNN, Senator BINGAMAN, and I are seeking ways to leverage the billions of dollars that the Defense Department spends on technology development in order to help our civilian high-technology industries. The Judiciary Committee is grappling with difficult issues involving intellectual property rights, computer security, and bioethics. Both the Environment Committee and the Agriculture Committees face a number of thorny scientific and technological questions, too, ranging from the control of genetically-engineered organisms to the development of new technologies for less-polluting farming practices.

With so many congressional committees working on science and technology issues, I feel it would be useful to have a Science and Technology Study Conference [STSC] to keep everyone informed about developments in the Congress. We cannot hope to coordinate our science and technology policy if the right hand does not know what the left hand is doing. To coordinate you need to communicate. In addition to tracking congressional activities, the STSC could help us keep up with developments in the administration, in industry, and in the laboratories.

The Science and Technology Study Conference could publish a weekly bulletin like the EESC Bulletin that could keep congressional offices up-to-date on new legislation and new scientific developments. It could organize briefings by researchers, administration officials, and industry representatives for members and staff. It could provide a forum for discussions of key issues that span more than one committee or subcommittee.

The STSC, like other legislative service organizations, would rely on contributions from Members' clerk hire accounts. I know that none of us have extra money in our office accounts, but I think if 70 to 100 Members in the House and Senate can chip in, we can create a viable organization that could help us all keep up with fast-moving developments in science and technology. In addition, if we can get adequate funding from Members, it is likely that we would be able to attract outside funding from foundations and elsewhere to fund an institute, like the Environmental and Energy Study Institute, which could supplement the efforts of the STSC.

During the recess, my staff and I will be contacting Member's offices to gauge interest in forming a Science and Technology Study Conference and to discuss how to organize such a study conference to best help the Congress deal with the many complex issues we face. We are clearly in the formative stages, but I have already found a lot of interest. here in the Senate, Senators DOMENICI, SANFORD, and BINGAMAN and others on the Carnegie Committee's Advisory Committee have expressed interest. In the House, Congressmen TIM VALENTINE, BILL GREEN, GEORGE BROWN, and others are interested in exploring the idea. I think we all understand that there is a need here, and I look forward to working with my colleagues to address that need.•

HERE'S A WAY TO GET OUT THE VOTE

• Mr. WOFFORD. Mr. President, it is unfortunate that a constitutional right of Americans—the right to participate in the elective process—is exercised by decreasing numbers of eligible voters. In 1988, only 50.1 percent of those eligible to vote for President did so. That was the lowest voter turnout rate in 64 years. Worse still, the President of the United States was chosen by only 26.8 percent of eligible voters.

There are many reasons why people choose not to vote. But if we are to maintain Lincoln's vision that a "government of the people, by the people, for the people, shall not perish from the earth," we must find ways to encourage fuller participation in the political process.

Recently, Mr. Andrew Henshel of Philadelphia wrote an article that appeared in the Philadelphia Inquirer on this topic. In that article, Mr. Henshel offers a thoughtful, well reasoned argument on the necessity of reforming this nation's voter registration laws which I recommend to my colleagues. I ask that this article be printed in the RECORD.

[From the Philadelphia Inquirer, Sept. 16, 1991]

HERE'S A WAY TO GET OUT THE VOTE

(By Andrew Henshel)

With about one-third of eligible Americans not registered to vote, there is a clear need for national voter registration reform. According to the Federal Election Commission, only about 50 percent of the eligible voters participated in the 1988 presidential election, while less than 40 percent turned out in the 1990 congressional elections.

These deplorable rates of participation, which one congressional committee has suggested could create "serious problems for our democratic society," can be attributed in large part to archaic and restrictive voter registration laws and procedures.

The proposed National Voter Registration Act of 1991 (Senate Bill 250), which is expected to come before the Senate for consideration in the next few weeks, responds to these dismal rates of voter participation in a fair, sensible manner. The bill, sponsored by Sen. Wendell H. Ford (D., Ky.), chairman of the Rules Committee, is the most important proposed expansion of voting rights and opportunities since the passage of the Voting Rights Act of 1965. It would remove barriers to registration that presently exist in a number of states and localities.

This comprehensive measure would, for the first time, establish clear national standards for voter registration. It calls for each of the states to implement a variety of procedures to increase voter participation, including registration by mail, "motor-voter" registration and registration at government agencies that serve the public.

The bill approved by the Senate Rules Committee contains the following key provisions:

The application for a driver's license, renewal, change of address or a non-driving ID card would also serve as an application to register to vote, unless the individual is ineligible to vote or declines to exercise this option. It has been estimated that this system, which has been implemented successfully in a number of states, would enfranchise as many as 90 percent of eligible voters.

In order to reach eligible citizens who are less likely to have driver's licenses, the bill provides for agency-based voter registration and assistance in completing registration applications at government offices, such as unemployment, public assistance and vocational rehabilitation offices. In addition, such locations as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus and tax offices, would be required to make voter registration applications available. Federal offices, as well as voluntary private sector agencies, also would be encouraged to participate.

A uniform mail registration system, allowing citizens the opportunity to register by mail, would be adopted nationwide. Already, more than half the states, including Pennsylvania and New Jersey, utilize some form of voter registration by mail.

The present system of "purging," or removing voters from the registration rolls for failing to vote in a prescribed number of elections would be eliminated entirely. Removal of a voter's name from the registration rolls would be permitted only at the request of the voter, because of a verifiable change of residence, upon the death of the voter, or as provided by state law for criminal conviction or mental incapacity. Any programs used by the states to update and maintain the accuracy of voter registration lists would be required to be uniform, nondiscriminatory, and in compliance with the provisions of the Voting Rights Act.

To prevent electoral fraud or abuse in federal elections, the submission of false or fraudulent registrations and other abuses of the election process would be made a federal crime.

There is widespread support for voter registration reform. A similar bill was approved overwhelmingly by the House in February 1990 and only the threat of a filibuster prevented Senate consideration of the bill.

Although the need for this legislation is clear, a tough fight to get it enacted into law is a strong possibility. Any effort to attach amendments that would weaken the proposed bill should be opposed.

At a time when people of countries around the world are risking their lives for the principles of freedom and democracy, and the right to vote, we must increase active participation and involvement by citizens in our democratic system of government.

In this 200th anniversary year of the Bill of Rights, passage of this vital legislation would demonstrate a renewed national commitment to the revitalization of American democracy and citizen participation. As Thomas Jefferson said, "In democracy, agreement is not essential, but participation is."•

CURRENT GATT NEGOTIATIONS

• Mr. LEAHY. Mr. President, the recession is hitting rural America hard.

One in every eight rural Americans is now out of work—20 percent more than a year ago. Unemployment in rural areas is 27 percent higher than in urban areas.

While rural America pleads for help in these times of economic hardship, the administration turns its back.

Last week, the administration successfully blocked—for the third time this year—help for our Nation's dairy farmers. Farmers will lose thousands of dollars. Some will lose their farms.

While many farmers are wondering how they will make it through the next year, the administration is working quietly behind closed doors in Geneva on a new trade policy that could intensify their attack on dairy farmers, as well as other parts of American agriculture.

Reports from the GATT (General Agreement on Tariffs and Trade) negotiations suggest that the administration has effectively given away section 22 import protections for dairy and other commodities without any assurances that we will get a commensurate response from other countries. The administration's blanket acceptance of tariffication while leaving the details to be worked out later could undermine our ability to achieve a fair and balanced outcome for American agriculture.

Our GATT negotiators have established an artificial deadline of late December to reach a basic agreement. I am worried that this new trade package could be the kind of unwanted Christmas gift that only Ebenezer Scrooge would think of delivering.

I have long been a supporter of efforts to lower trade barriers to end subsidy wars to expand overseas markets. This is why I supported a free-trade agreement with Canada and the initial fast track GATT negotiating authority 4 years ago.

In fact, early in the GATT negotiations, I believed an agreement could benefit all agricultural commodities. In 1987, the administration calculated that 40 percent of U.S. agricultural spending was required just to offset the money spent by other nations to subsidize their exports.

It clearly makes no sense for the United States and Europeans to bid against each other and bribe other countries to buy their farm products. This only drives prices down and raises taxpayer costs. I believed our negotiators deserved the chance to end this chaos and rid agricultural trade of direct export subsidies.

But I have become increasingly concerned about the administration's trade negotiating strategy. We appear to be rushing headlong into a GATT agreement simply for the sake of getting an agreement. But we must not let our desire for an agreement lead us to an agreement that is not fair for every part of American agriculture.

As Chairman of the Senate Agriculture Committee and the Judiciary Committee's Technology Subcommittee, I met privately with administration officials, pushing them to specify their negotiating goals and positions. I also chaired hearings to flesh out the pros and cons of the GATT negotiations.

I have been troubled by the administration's refusal to give the American public greater assurances on U.S. negotiating strategy. While the administration cannot be expected to spell out each and every detail of its negotiating strategy, the public and those industries affected by the negotiations have the right to know more about how the administration plans to prevent the loss of American jobs. They need more than vague promises that these issues can be resolved in some foreign capital.

For these reasons, I voted last May against the administration's request for the extension of GATT fast track negotiating authority. I felt then—as I do now—that the administration has not shown that it is willing only to negotiate a GATT agreement that is fair for all of American agriculture.

The administration won its fast track request and continued GATT negotiations. Now, as the negotiators appear to be moving quickly to a close, my worst fears may be realized.

And despite its efforts that could negotiate away section 22 and other programs that protect American farmers from unfair foreign competition, the administration continues to refuse to promise income protection to American farmers hurt by a GATT agreement.

Despite the ominous signs for the farm community, the GATT negotiations could have potential benefits, particularly on the issue of achieving stronger protection for U.S. intellectual property—such as computers, software, motion pictures, sound recordings, and pharmaceuticals.

Intellectual property is one of the crown jewels of our economy. While smokestack industries—like steel and autos—used to fire the engine of our economic growth, more and more that engine is being fired by the works of our imagination—software, motion pictures, sound recordings, and the like. Our core copyright industries in 1989 alone accounted for $22 billion in foreign sales, more than the entire U.S. aerospace industry.

At the same time, success carries risks. Products like computer programs, pharmaceuticals, and movies are expensive to make, but easy to copy. It takes no great genius for an overseas bootlegger to duplicate a U.S.-made floppy disk or a video cassette or for a foreign chemist to break down the components of a new wonder drug.

Modern-day pirates who steal the creations of American artists, scientists, and engineers cheat the American economy of billions of dollars each year.

We must demand the highest level of worldwide protection for intellectual property. We must demand strict standards of protection and serious enforcement.

Earlier this year, the administration sent China, Thailand, and India the right messages under section 301 of the 1988 Trade Act: Entry into the United States market is not a one-way street; reciprocity must guide our trade relations; and countries that raise barriers to American goods cannot expect a free ride into our open market.

But with respect to GATT negotiations on intellectual property and services, we know that after 4 long years of negotiations, serious problems still exist. These include: the level of protection for computer software and for semiconductor chip designs; the European determination to exempt cultural industries from a Services agreement; the conditions under which countries may grant compulsory licenses for patented products; and the right, if any, of producers of sound recordings and software to prohibit rental.

Other issues remain as well. I am troubled that an agreement may preclude us from taking a unilateral action under section 301—our most potent tool for securing tougher protection for intellectual property and other industries. The last thing we want is a watered-down, least-common-denominator agreement on intellectual property that codifies inadequate levels of protection while curtailing our ability to act.

Also affected by GATT negotiations are a number of environmental issues.

For example, in a troubling ruling, a GATT panel earlier this year invalidated a United States environmental statute requiring Mexican exporters to reduce the number of dolphins killed by tuna fishermen. This means that U.S. tuna fishermen must follow one environmental standard while foreign fishermen follow another. It is unclear how a GATT negotiated agreement will affect other American environmental standards.

It is in the details of this agreement—not in the symbolism of international cooperation or in the political imperative of getting a deal—that American jobs will be won or lost.

In the end, this GATT agreement will be judged not on whether it is ideologically correct, but on whether it improves the lives of American families.●

LAWRENCE B. LINDSEY'S NOMINATION TO THE FEDERAL RESERVE BOARD OF GOVERNORS

● Mr. MACK. Mr. President, last Friday the Senate confirmed the nomination of Lawrence B. Lindsey as member of the Board of Governors of the Federal Reserve System. This action was a significant step toward improved Government economic policymaking.

The current economic state of affairs has us all concerned. The credit crunch is stifling business activity. Rising unemployment and bankruptcies are shaking the confidence of consumers nationwide. Plummeting real estate values are rocking our construction and financial industries. Exploding budget deficits are wiping out what little faith people had that Government can effectively deal with these problems.

What we need is some good, old-fashioned economic growth. But it's as though the burst of energy which spurred the thousands of new businesses and millions of new jobs during the 1980's has been stamped out. The avalance of Federal State and local tax and regulatory increases over the last few years have considerably slowed down the ability of the U.S. economy to grow. Frankly, Mr. President, we in Congress have forgotten that the things we do—the laws we pass, the taxes we raise, the regulations we impose—all have consequences. They affect real people with real jobs and real families.

I would like to share with you some startling numbers. Both OMB and CBO are forecasting rates of growth over the next 5 years that are well below the post-WWII trendline of 3 percent economic growth. If OMB's forecast of 2.6 percent is right, economic output over the next 5 years will be $1.6 trillion less than it would be if the economy would grow at its post-war average.

CBO's projections are even worse. It predicts an average growth rate of 2.3 percent throught 1996. If this would hold true, economic output would be $1.8 trillion less. Larry Kudlow, who is the Chief Economist for Bear Sterns in New York, calculates that this loss in output implies a stunning 6 million lost jobs!

Clearly, Congress absolutely must get its act together and correct its past fiscal policy mistakes. The luxury taxes, high capital gains taxes, arbitrary real estate tax law changes, inflexible banking and environmental regulations all must go.

Under these circumstances, it is critical that the key insitution involved in formulating monetary policy—the Board of Governors of the Federal Reserve System—be comprised of individuals who understand that strong economic growth and zero inflation are not mutually exclusive policy achievements.

Such an individual is Lawrence Lindsey. Dr. Lindsey is a highly regarded economist whose background includes President Reagan's Council of Economic Advisors, the Harvard economics faculty, and President Bush's White House Office of Policy Development.

Today's economy is globally integrated to such a degree that it is inappropriate, if not impossible, for the Federal Reserve to conduct monetary policy without a careful assessment of fiscal policy. Monetary policy's goal of negligible inflation is highly dependent upon international capital flows, exchange rate fluctuations, and domestic/international exchange rate and interest rate differentials—all of which are affected by the Government's tax, spending, and regulatory decisions.

This is precisely why Larry's presence on the Federal Reserve Board will prove valuable. He is a renowned expert on tax policy whose credentials have been earned through astute analysis of the relationship between tax policy and economic growth. His unique skills will complement those of existing Board members.

I am very pleased that the Senate has confirmed his nomination. I am confident that his impact on the shape of monetary policy will be significant.●

LIGHT OF THE WORLD CHRISTIAN CHURCH, 125TH ANNIVERSARY

Mr. LUGAR. Mr. President, I bring to your attention today one of the largest and fastest growing Disciples of Christ congregations in the world. Light of the World Christian Church, formerly known as Second Christian Church, was organized in Indianapolis as a mission project in 1866. It was later remodeled from materials removed from the Civil War barracks in Military Park.

Beginning November 24, 1991, Light of the World Christian Church will celebrate "125 Years of Excellence: The Victory is in the Vision." Their plan includes construction of a campus that will encompass a community and family center, the senior saint complex and the academy, which will provide Christian and cultural learning in a drug-free, gang-free and violence-free environment.

The ministry has grown and prospered under the able and visionary leadership of Dr. T. Garrett Benjamin. Technological advances have allowed the work of the church to reach some 35 million viewers.

Please join with me in congratulating my good friends, Dr. and Mrs. Benjamin, for their leadership and spiritual guidance. The Light of the World Christian Church has made a great difference in the city of Indianapolis, the State of Indiana and our Nation.

HIDTAs ARE MAKING A DIFFERENCE

Mr. DeCONCINI. Mr. President, I rise today to turn this body's attention to the war on drugs. It is an ongoing war that confronts us everyday in newspapers and on newscasts in every part of the country and the sad truth is that the story is always the same. Drug crime remains a front-page issue and is not likely to be fully under control in the near future. I chair the Appropriations Subcommittee on Treasury, Postal Service and General Government which has funding jurisdiction over the Treasury law enforcement bureaus, including the Customs Service, the Bureau of Alcohol, Tobacco and Firearms [ATF], the Secret Service, and the IRS as well as the Office of National Drug Control Policy [ONDCP]. They do a Herculean amount of work in the drug war, and the word from them is that they have more business than they can handle.

Halting drug trafficking is a long-term proposition demanding an intensive and aggressive approach. Drug traffickers are constantly changing their methods to adapt to existing law enforcement practices. The creativity of these traffickers in coming up with new ways to circumvent law enforcement efforts means that enforcement must have the resources to meet the fluid environment of the drug trade. We are making progress, but our future success depends on the continued support of Federal, State and local law enforcement agencies. We cannot afford to focus attention away from this Nation's drug problem. Just as importantly, is the recognition and support of enforcement programs that have proven to be effective and are slowly gaining ground in this uphill battle.

Mr. President, there is a program that is making a difference. It is the designation of certain areas in this country as High Intensity Drug Trafficking Areas [HIDTAs]. The purpose of the HIDTAs is to concentrate manpower and funds to curtail the especially high level of illegal drug trafficking in these regions. In the 1988 Anti-Drug Abuse Act, Congress authorized the designation of High Intensity Drug Trafficking Areas [HIDTAs] and directed that they be coordinated by the Office of National Drug Control Policy [ONDCP]. ONDCP designated the five areas of New York City, Houston, Los Angeles, Miami, and the southwest border as priority drug trafficking points. Following the designation of these areas, Congress provided ONDCP $25 million in the 1990 supplemental appropriations bill to support Federal anti-drug trafficking efforts in the HIDTAs. Subsequently in FY 1991, Congress increased the appropriations to $82 million for the HIDTAs with $50 million for Federal programs. Congress increased the amount for HIDTA activities in fiscal year 1991 above the Administration's request and instituted an earmark for this increase of $32 million for direct assistance to State and local law enforcement agencies in the HIDTAs. This year, despite ONDCP's failure to request funds for State and local law enforcement, we appropriated $86 million to the HIDTAs, or $36 million above the request while maintaining the $50 million for Federal programs and earmarking $36 million for State and locals. Mr. President, despite early skepticism, over the past few years the HIDTA Program has proven its value and effectiveness in combating drug trafficking. It is a program that we can be proud of. In spite of this success, yearly we receive a budget from the President that fails to request increased resources for maintaining the vigilant law enforcement activities in the HIDTA's by ignoring State and local needs.

Recently, federally funded task forces in the HIDTA's have achieved significant victories in the drug war. A few weeks ago a High-Intensity Drug Trafficking Area [HIDTA] Violent Gang Task Force made up of agents from Federal, State, and local law enforcement agencies in New York City arrested seventeen members of a vicious Dominican drug gang known as the "Gerry Curls." Months of undercover work and dedication by members of the task force culminated in the bust. The Gerry Curls are believed to be responsible for a cocaine operation worth more than $11 million. For over 2 years, they have terrorized the residents of the West 157th Street neighborhood where the gang bases its operations. It is indicative of the gang's reign of terror that even after the arrests neighbors refused to speak with the media for fear of retaliation. Two murders are directly attributed to the Gerry Curls and they are certainly responsible for many more. One of the killings was the brutal slaying of a 66-year-old resident who tried to organize tenants to oust the gang members.

Mr. President, the Gerry Curls' flamboyant manner, identified by members' distinctive hair styles and flashy gold cars, typifies the lack of fear these drug gangs have of law enforcement. Often these gangs operate on the streets and out of apartment buildings with no fear of retribution. The efforts of the New York City HIDTA Violent Gang Task Force show these gangs that such activities are no longer tolerable. The crippling of the Gerry Curls illustrates the effect organized law enforcement can have in the drug war and reinforces the importance of supporting Federal, State, and local law enforcement in the HIDTA's. I would like to congratulate the agents and officers who make up the HIDTA Task Force as well as New York County District Attorney, Robert Morgenthau, on the success of this operation.

In my own State of Arizona, a large-scale drug operation that brought an average of 16 kilos of cocaine a week into Arizona through California and Mexico was significantly curtailed by a task force supported by HIDTA funding to State and locals. Rex Holgerson of the Arizona Criminal Justice Commission said that this effort would not have been successful without HIDTA funds. The city of Phoenix used its entire allotment of 1991 HIDTA money to purchase equipment and support a multijurisdictional effort with the DEA. About 250 officers served 32 search warrants and seized 19 kilos of cocaine, over $171,000 in cash, 48 vehicles, and numerous weapons including an AR15 assault weapon and a grenade launcher. Forty-eight arrests have been made and 90 indictments are expected with the investigation still ongoing. This was a massive effort with remarkable results. Mr. President, it is gratifying to know that the money we provide to the HIDTA's, although not nearly the amount I would like, is having a strong effect in curbing drug trafficking.

Contrary to what we have heard and read lately, I can assure you that the war on drugs has not been won. Arizona, the Southwest Border States, and the other HIDTA's are still inundated with illegal drugs. Decreasing emergency room admissions cannot be used as a measure of the incidence of drug-related crime. It is wrong to claim that halting drug trafficking no longer requires an aggressive approach. Law enforcement, however, is doing its level best fighting day in and day out to put a dent into operations like the Gerry Curls and the one in Arizona. The concentration of resources in the HIDTA's makes such efforts possible. The officers in the HIDTA task forces deserve our sincere thanks and continued support as they wade into the daily battle to keep our streets and homes safe from drug crime and violence.•

TRIBUTE TO JAMES EARL COWART; ONE OF MISSISSIPPI'S FINEST

• Mr. LOTT. Mr. President, in a few weeks our Nation will pause to remember the service and dedication of the men and women who served in America's Armed Forces in Southwest Asia 1 year ago. In that campaign our cause was noble, our principle just, and our determination strong.

Our Nation's history is filled with accounts of noble pursuits and sacrificial dedication. And each time our great country sought to strike a blow for freedom, the blood of America's best was shed. Such was the case on September 16, 1964.

James Earl Cowart was a boiler technician aboard the U.S.S. *Coontz* (DLG-9) and enjoyed the good fortune of being from Poplarville, MI. On a special operation in the South China Sea, the U.S.S. *Coontz* was operating in support of the U.S.S. *Ranger* in its plane guard position while answering flank speed turns for 32 knots.

Serving on his upper level duty station, James suffered second and third degree burns over 60 percent of his body when several rear wall boiler tubes burst in the 1B boiler. James managed to escape the scalding confines of the boiler room and was transferred to the U.S.S. *Ranger* for medical attention. Sadly, 4 days later James Earl Cowart died from his injuries.

Like tens of thousands of other Americans who gave their life in pursuit of a cause, James lost his life in service to his country. Later his brother Donald was also killed while serving in the National Guard. The Cowart family endured the pain and loss twice, all in service and dedication to our country.

So it is with patriots—men whose goals are noble and dedication supreme. James was like many great Americans—Americans who sacrificed ultimately out of courage—because they had hope for the future. Napoleon once said, "Courage is like love; it must have hope for nourishment."

As the anniversary of America's involvement in Iraq approaches, I am compelled to think of all the young men and women—many of them from Mississippi—who have sacrificed with courage and hope. As the United States begins to savor our victory over communism and Soviet oppression, we can clearly see that the hope of James and the thousands of men and women like him has not been lost. Theirs is an investment which is now reaping great returns.

It is with honor and admiration that I recognize James Earl Cowart's life, his death and his sacrifice. May God bless him, his family, the state of Mississippi, and God bless the United States.•

CHAMPUS REFORM INITIATIVE CONTRACT

• Mr. McCAIN. Mr. President, last week Congress passed both a Department of Defense authorization and appropriation bill, and these bills have been forwarded to the President for his signature. The relationship between these two bills was the subject of much discussion on the Senate floor. I myself offered some remarks on this relationship when the Senate considered the appropriation bill. I believe that one particular subject area that is addressed in both bills, and on which I spoke briefly last week, deserves further clarification.

Specifically, I wish to clarify the relationship between the treatment by the two bills of the delivery of medical services under the CHAMPUS reform initiative beyond the scheduled termination of the current vendor contract on January 31, 1993. The appropriation bill directs the Secretary of Defense to extend the current contract for an additional year without the benefit of competitive bidding or any other customary procurement practices. The authorizing committees of both Houses, however, have a different position. And, that is, that competitive bidding must be the practice for such contracts as opposed to political favors. Accordingly, the authorization bill requires that the Secretary utilize competitive bidding and other customary procurement practices in any award of the right to provide services under the CHAMPUS reform initiative program beyond the scheduled termination of the current contract on January 31, 1993.

The two provisions are directly at odds. In essence, it is the intent of each provision to repeal the other and substitute its own direction to the Secretary for that provided by the other bill. For this reason, I believe that the latter of the two bills to be signed into law must prevail on this issue and effectively extinguish the earlier signed measure.

While I believe that the course taken in the authorization is the correct one, it is not my purpose here to argue that case. I am simply making clear for the record, prior to the signing of these bills by the President, my understanding as ranking member of the Subcommittee on Manpower and Personnel of the Committee on Armed Services as to the relationship between these conflicting CHAMPUS Reform Initiative provisions.•

TRIBUTE TO WILLIAM H. HUDNUT III

• Mr. LUGAR. Mr. President, I rise today to honor a man who, for the past 16 years, has served the city of Indianapolis with distinction. He was honored by the Indianapolis Star in 1979, as "Man of the Year," and in 1988, City and State magazine named him the "Nation's Outstanding Mayor."

Bill Hudnut's commitment to public service began at an early age. He graduated from Princeton University in 1954, with high honors and was selected for Phi Beta Kappa. He then attended Union Theological Seminary in New York City, where he graduated summa cum laude, and subsequently became a third generation Presbyterian minister. Prior to coming to Indianapolis, Bill served in two churches located in New York and Maryland.

In 1972, Bill Hudnut was elected to Congress. During his tenure, he sponsored 17 bills which are now public law. In 1975, he was elected mayor of Indianapolis, where he has served for 4 consecutive terms.

As a former president of the National League of Cities and the Indiana Association of Cities and Towns, Bill Hudnut has helped Indianapolis achieve spectacular growth while maintaining a small town feel. Under Bill's leadership, more than 100,000 jobs have been created and 5,000 new businesses have opened their doors. Public-private partnerships have spirited the redevelopment of downtown Indy, while preserving the historic older neighborhoods.

Mayor Hudnut has demonstrated a solid commitment to the advancement of Indianapolis' minority population. He promoted the appointment of minority candidates in the highest levels of his administration. He has also supported investment intiatives which fostered the growth of minority-owned business enterprises in the city.

I ask my colleagues to join me in saluting this outstanding public servant for his forward-looking leadership in building a better Indianapolis.•

ALLEGHENY WILD AND SCENIC RIVER BILL

• Mr. SPECTER. Mr. President, I am pleased to support passage of S. 606, the Allegheny Wild and Scenic River bill, which designates certain segments of the Allegheny River of Pennsylvania as a part of the National Wild and Scenic River System.

Our friend and colleague, Senator John Heinz, was the original sponsor and an ardent supporter of this bill. As you know, John Heinz was noted for his dedication to environmental protection and his innovative efforts to find solutions to the complex environmental threats that confront us. I feel that it would be a fitting tribute to Senator Heinz to pass this year the Allegheny Wild and Scenic River bill, which is representative of his passionate commitment to the preservation of our natural resources.

Mr. President, 22 years ago, Congress enacted the Wild and Scenic River Act to set the policy of our country in protecting and preserving certain rivers in the United States that possess remarkable scenic, geologic, historic, cultural, or recreational attributes. The Wild and Scenic Rivers System represents a balanced approach to land management that allows for productive interaction between man and nature. This program affords the people of this country the opportunity to enjoy fully the natural values of rivers such as the Allegheny while ensuring the long-term preservation of those assets so that future generations may enjoy the same benefits.

For those who have not had the pleasure to visit, the Allegheny River is located in northwestern Pennsylvania and flows through portions of the Allegheny National Forest, one of the most beautiful forests in the country. Seventy-three percent of the Allegheny River corridor is forested, predominantly with oak, hemlock, and northern and Allegheny hardwoods. The Pennsylvania Fish and Wildlife Service lists 394 species of mammals, birds, amphibians, reptiles, and fish that are likely to be found along the river corridor. Of these, 34 are designated as threatened, endangered, or of special concern in the State of Pennsylvania. Passage of this bill would extend added protection to the bald eagle, the only federally listed endangered species known to live in the corridor.

In 1978, Congress directed the Forest Service to conduct a study to determine which portions of the Allegheny River were eligible for protection under the Wild and Scenic Rivers Act. The study, completed earlier this year, concluded that 85 miles of the river contained outstanding remarkable values. In addition to the beautiful scenic value of the river, there are 109 islands containing significant ecological and recreational value. The Allegheny River also has cultural value as a principal travel route for more than 12,000 years, marked by a site known as Indian God Rock, which is listed on the National Register of Historic Places.

As no section of the Allegheny River was remote enough to be classified as a wild river area, the 85 miles of the river will be designated as a recreational river. This is fitting, as this beautiful river supports a strong tradition of fishing, canoeing, camping, and other recreational activities.

Mr. President, this bill has been developed through extensive consultation with the Forest Service, local and county governments, and members of the public. The Allegheny River is located within 3 hours of several major metropolitan areas, and there are 2,000 cottages and permanent homes located within the eligible river segments. In addition, the Allegheny study report estimates that recreational use could increase by 30 percent within 6 years following designation, creating jobs in the region and stimulating the local economy by $315,000 each year.

Mr. President, this legislation represents another step in our efforts to preserve, enhance, and protect the natural heritage and beauty of our great Nation. I am proud to join in support of this legislation to preserve a piece of our natural heritage for future generations of Pennsylvanians and all Americans.●

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I had several discussions throughout the evening with the Speaker and with the distinguished Republican leader and other Members of the leadership—both House and Senate, Republican and Democratic—in an effort to determine the best way to proceed to complete action on the important measures remaining before the Congress.

I am advised by the Speaker that the House will remain in session throughout the night in an effort to act upon several of those important measures, including the surface transportation conference report and, if it is available during the night, the banking bill conference report, and perhaps other measures as well.

Since, under our procedures, the Senate cannot act on those measures until after they have been acted upon by the House and transported to the Senate, we are now in the position of awaiting House action before we can act here in the Senate.

It is my conclusion that under those circumstances it is the most sensible and prudent thing for the Senate to recess now for a period of time while we await action in the House on these measures so that, to the extent possible, Senators can get some sleep and be ready to go tomorrow morning when we do have these measures from the House.

Since at this time I am not in a position to make a judgment on precisely when those actions will occur in the House, I am going to suggest that we recess subject to the call of the Chair, with the intention of reconvening the Senate at about 9 a.m. this morning.

If a decision is made to reconvene prior to that, Senators will, of course, be given as much notice as possible.

I do not think that is likely to occur, but, of course, we do not know as we await these actions by the House.

I have discussed this with the distinguished Republican leader and I intend to meet with the Speaker shortly, to talk with the Speaker again, shortly, to get a better and perhaps more up-to-date view on the timing of the action in the House on these various measures.

Mr. President, before I do so, I will yield to the distinguished Republican leader for such comments as he may wish to make.

Mr. DOLE. Mr. President, I concur in the statements by the majority leader. I think this would permit Senate staff to get some rest, too, is that correct? So they would not have to stay here subject to the call of the Chair.

As I understand it, we are still on target. It just happens in this time we are a little ahead of the House. Generally I think the House is sometimes waiting for us. This time we are waiting for them.

It is my understanding tomorrow morning we will have the supplemental appropriation measure available. Shortly thereafter, maybe the highway bill. And they are still in conference on the banking bill. And I am not certain about Medicaid.

It seems to me we are pretty much on target. We could complete action on most of those sometime tomorrow morning, early afternoon.

Mr. MITCHELL. That is my hope and expectation.

Mr. President, so there is no misunderstanding, I may have misspoken, my intention is to, at least at this point, recess subject to the call of the Chair. Following further discussion with the Speaker, perhaps recess over to a definite time this morning.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MITCHELL. Mr. President, for now, unless the distinguished Republican leader has anything further he wishes to say, or any other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 12:14 a.m., the Senate recessed subject to the call of the Chair; whereupon, the Senate reassembled at 1:02 a.m. when called to order by the Presiding Officer (Mr. FORD).

The PRESIDING OFFICER. The distinguished majority leader.

RECESS UNTIL TODAY AT 9 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess until 9 a.m. this morning.

There being no objection, the Senate, at 1:02 and 15 seconds a.m., recessed until Wednesday, November 27, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 26, 1991:

THE JUDICIARY

JAMES B. FRANKLIN, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF GEORGIA VICE ANTHONY A. ALAIMO, RETIRED.

EDUARDO C. ROBRENO, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE LOUIS H. POLLAK, RETIRED.

URSULA MANCUSI UNGARO, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF JUSTICE

DAVID JAMES JORDAN, OF UTAH, TO BE U.S. ATTORNEY FOR THE DISTRICT OF UTAH FOR A TERM OF 4 YEARS, VICE DEE V. BENSON, RESIGNED.

THE FOLLOWING NAMED PERSONS TO BE COMMISSIONERS OF THE U.S. PAROLE COMMISSION FOR THE TERMS INDICATED:

EDWARD F. REILLY, OF KANSAS, FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997, VICE BENJAMIN F. BAER.

JOHN R. SIMPSON, OF MARYLAND, FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997, VICE CAMERON M. BATJER, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, FOR THE PERSONAL RANK OF CAREER AMBASSADOR IN RECOGNITION OF ESPECIALLY DISTINGUISHED SERVICE OVER A SUSTAINED PERIOD:

HERMAN J. COHEN, OF NEW YORK

CONFIRMATION

Executive Nomination Confirmed by the Senate November 26, 1991:

DEPARTMENT OF EDUCATION

CAROLYNN REID-WALLACE, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, November 26, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

During this season of Thanksgiving, we earnestly pray, O God, that Your spirit will touch the lives of people and that deeds of generosity and acts of kindness will be the standard for people everywhere. May the reality of violence in communities or in our world be conquered by acts of understanding and compassion; may the spirit of hatred or suspicion be overcome with reconciliation; may the grasp for power be tempered with respect for others; and may enthusiasm for success be measured by an enthusiasm for faithfulness and for truth. Gracious God, You have created us to be Your people and to give thanks for the gifts we have received, we pray for the strength and the courage to do justice, to love kindness, and to walk humbly with You. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DERRICK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DERRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 112, not voting 39, as follows:

[Roll No. 428]

YEAS—283

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Atkins
AuCoin
Bacchus
Barnard
Bateman
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Callahan
Campbell (CO)
Cardin
Carper
Carr
Clement
Clinger
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Rhodes
Richardson
Rinaldo
Roe
Roemer
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Schiff
Schulze
Schumer
Serrano
Sharp
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—112

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Cox (CA)
Cunningham
Dannemeyer
DeLay
Doolittle
Duncan
Edwards (OK)
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Hyde
Inhofe
Jacobs
James
Johnson (TX)
Kanjorski
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
McCandless
McDade
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Murphy
Nussle
Oxley
Paxon
Porter
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—39

Alexander
Anthony
Aspin
Beilenson
Boxer
Byron
Chapman
Collins (IL)
Crane
Davis
Dickinson
Dixon
Dornan (CA)
Eckart
Ford (MI)
Ford (TN)
Hammerschmidt
Ireland
Lowery (CA)
Markey
McCrery
Miller (WA)
Morella
Mrazek
Oberstar
Pelosi
Ridge
Ritter
Rose
Sanders
Scheuer
Shaw
Smith (NJ)
Tallon
Towns
Waters
Weber
Wilson
Young (AK)

☐ 1028

Mr. JAMES changed his vote from "yea" to "nay."

Mr. JOHNSTON of Florida changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from West Virginia [Mr. WISE] please come forward and lead the House in the Pledge of Allegiance.

Mr. WISE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes; and

H.R. 3370. An act to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding to feasibility of establishing a Native American cultural center in Oklahoma City, OK.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1891) entitled "An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the amendment of the House to the bill (S. 1193) entitled "An act to make technical amendments to various Indian laws."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 756. An act to amend title 17, United States Code, the copyright renewal provisions, and for other purposes;

S. 1595. An act to preserve and enhance the ability of Alaska Natives to speak and understand their native languages;

S. 2047. An act to establish a commission to commemorate the bicentennial of the establishment of the Democratic Party of the United States; and

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3816

Mr. DICKS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3816.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

☐ 1030

McPEAK FAMILY STRUGGLES WITH HEALTH CARE EXPENSES

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, this morning I would like to introduce another West Virginia family from Harpers Ferry that is having trouble receiving health care.

Kare McPeak has two hemophiliac sons, Anthony and Thomas, 10 and 11 years old respectively. A service agency has been covering the boys' medical expenses since their father, while he works, does not have insurance that covers the boys. His insurance does not cover preexisting illness.

Recently Mrs. McPeak just got a new job to help foot their huge medical bills. The additional income unfortunately will knock her out of the assistance she is getting from the service agency, and their medical expenses total over one-half-million-dollars per year. She and her husband together make a good income. They consider themselves middle America. But they just lost their home because they had to make a choice between paying for their mortgage and paying for the boys' medication.

Does anyone really consider that a choice?

Mr. Speaker, how much longer must citizens like Mrs. McPeak choose between working to help provide for her family and having medical care for her children? How long must families choose between paying the mortgage and paying for medicine? How much longer until Congress enacts a national health care strategy which says Anthony and Thomas will have access to affordable health care?

STATUS OF REPUBLICAN ECONOMIC GROWTH PACKAGE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, last night BOB MICHEL and I met with the President on our economic growth legislation. At the end of that meeting we had to rush back to the House to vote on the campaign reform bill.

The haste of our departure led some White House reporters to be confused about the tenor of that meeting.

This morning the White House issued the following statement on behalf of the President and I quote:

> Congress has had many months to pass our economic growth package. The President regrets Congress' inaction. He is enthusiastic about the House Republicans' efforts to advance a responsible growth package. As we said last night, the President reviewed the package with Bob Michel and Newt Gingrich and told them unequivocally that he liked the package, and supports their efforts to advance the growth agenda.

I hope, given this statement, that the Democratic leadership will make in order an up-or-down vote on the growth package today.

STATUS OF PRESIDENT'S INTENTIONS ON REPUBLICAN ECONOMIC GROWTH PACKAGE

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, what I said to the press publicly I also want to say on the floor of the House.

We have had confusing statements from the White House and from Members of the House of Representatives on the Republican side about the President's intentions with regard to the possible continuation of this session for the purpose of considering issues relating to various proposals having to do with taxes and other matters.

Every bit of information that I have received in a private way indicates that the President does not wish that this session be extended beyond the time required to complete the announced program for the purpose of considering any so-called growth package offered by the Republican Members of the House.

I have not received any information to the contrary.

It is important to be clear about this because of suggestions that the President is willing or might be willing or that members of the White House staff might be willing or interested, and so forth. This is something that can be settled very easily.

If the President communicates directly to me, or to the majority leader, or to the majority leader and the Republican leader simultaneously today that he desires us to extend this session of the 102d Congress for the purpose of considering legislation dealing with tax reductions for middle-income taxpayers and other proposals of this kind—despite the previous indications that he wishes to consider these after the State of the Union Message—I will urge that we stay in session.

However, I believe the time has come for an end to the gamesmanship of indirect suggestions back and forth. This is not a matter on which there should be any confusion. The President either wishes us to conclude our business and adjourn this session of the Congress or he does not. We will accommodate the President's desires in this regard but he must articulate them clearly, unequivocally, and directly and should do so today.

CLARIFICATION OF PRESIDENT'S INTENTIONS WITH RESPECT TO REPUBLICAN GROWTH PACKAGE

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, it is not confusing that this Government is based on separation of powers. This House is just as important as the executive branch and this House if it wants to do something about jobs in America can do it on its own and does not need directions from the President.

The point here is that the Democrats do not want to address jobs in America.

There still is not order but I will continue because obviously the Democrats would rather talk on the floor of the House than listen about jobs in America. We are talking about jobs and this House can take any action it wants. It can vote on a growth package today or it can call us back into session after the Thanksgiving recess or we can work through Thanksgiving. The point is that America's economy is hurting and we need jobs in America. We can call this session back after Thanksgiving if we so desire. We do not need the President of the United States to tell us.

The President of the Untied States told us last night that if we pass a growth package similar to what the Republicans are offering, he will sign it, which means that we can pass it on the floor of the House today or we can come back after Thanksgiving and do what is the will of the Congress.

It is obvious to me that the Democratic leadership, Mr. Speaker, does not care about jobs in America.

DISTRIBUTION OF TRANSPORTATION FUNDS TO THE STATES

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, later today we are scheduled to consider the transportation reauthorization conference report. As of this hour, we have not received an updated analysis of how the transportation funds will be distributed to the States, nor have we seen bill language. I ask you—how can we be expected to support legislation which we have not seen and that leaves us in the dark as to how fairly or unfairly highway money is to be distributed? I don't think we can.

I have been criticized in various circles over the last 24 hours for inaccurately portraying how poorly donor States will do under this conference report. However, my analysis is based on distribution tables produced by the Federal Highway Administration on Sunday. I must stress that these are the most recently released tables from the administration. Committee leaders have told me that the numbers have changed, but when asked, they cannot produce new tables to refute those I have been distributing. I always say, "trust, but verify;" and while I believe in the integrity of the Public Works Committee, I owe it to my State and you owe it to yours to verify, on paper, the committee's claims. It is the committee that has the burden of proof and if they cannot meet the burden, we are compelled to oppose the conference report.

In reviewing the latest available material from the transportation reauthorization conference, it appears that those of us who represent donor States have every reason to be concerned. According to my analysis, as of now, the conference report that we are to vote on uses Senate formulas and only applies the 90 percent minimum allocation to about 75 percent of the total program. Gone are the FAST formulas that I, and so many of you, fought for so vigorously, and we are stuck with the continued use of an antiquated distribution system that was developed 35 years ago to construct this Nation's interstate system. Now that the system is nearly complete, it is time to move forward in an effort to meet modern transportation needs with a modern formula. This bill does not seem to do that.

Even more disconcerting is the fact that the 90 percent minimum allocation program, intended to be a safety net, has such limited application. In many cases, this means that donor States will do worse under the conference report than under either the House or Senate bill. Most States cannot live with that and neither should we. The equity and fairness that we achieved in the House bill has been lost and I can see no reason to support the conference report.

□ 1040

THE ANGELS OF THE WORLD FOUNDATION

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, this is the ninth year I have had the honor and pleasure of delivering one of your first gifts of the holiday season.

You should have already received the 1991 Angels of the World Christmas ornament from the T&M Ranch in Indiantown, FL.

Many of you will recall the T&M Ranch is a home and school for mentally handicapped adults. There they learn the necessary skills to become working members of their community.

They craft these beautiful angel ornaments designed by sculptor Laszlo Ispanky. The project teaches them to make something with their hands, prepare it for delivery and to manage the money they earn from their efforts.

The T&M Ranch and the Angels of the World Foundation use proceeds from the sale of the ornament to create scholarships for mentally disabled persons.

It has been a great pleasure of mine to bring their gift of love to you. I hope you have a special place for the 1991, ninth edition angel, Anna of Germany. Happy holidays to you all.

WE MUST ENCOURAGE OTHER COUNTRIES TO ACCEPT HAITIAN REFUGEES

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, as we try to decide today whether or not we have a sufficient amount of votes to extend the death penalty for 50 additional Federal crimes, which would include Indians and other people in this country, I would want to share the thought that, if we walk away from this Congress and do nothing about the Haitian refugees, that indirectly we may be responsible for the lives of many poor people that will be directed back to Haiti. The only thing that prevents these refugees from returning is that a Federal court order out of Miami restrains the administration from sending the Haitians back to Haiti where many would face certain death. Mr. Speaker, the Committee on the Judiciary is now considering a Mazzoli bill that would codify the law and encourage other countries to take these people, but says, "any place but Haiti."

Religious leaders around the country, Catholics, Protestants, Jewish people, and gentiles, have come together to say that at this holiday season, as Mary and Joseph found themselves homeless, let us not return these people without a country, without homes and without hope back to Haiti. We can at least go and have that Thanksgiving knowing that we have taken a vote to encourage other countries' leaders to accept these poor people rather than to send them to Haiti where they can face certain death.

THE UNFAIR BURDEN OF THE EARNINGS TEST ON AMERICA'S WORKING SENIORS

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, once again Washington bureaucrats are telling us they know more about seniors than seniors themselves. And to add insult to injury, they are spending our tax dollars to do it.

The bureaucrats at the Social Security Administration are trumpeting the results of a study that suggests Americans aged 65 to 69 who are receiving Social Security benefits won't go back to work if the Social Security earnings penalty is repealed. The earnings penalty, you'll recall, is that Depression-era fossil that takes away $1 in Social Security benefits for every $3 a senior earns over $9,720 annually. For seniors earning as little as $10,000 a year, that amounts to an effective marginal tax rate of 56 percent—nearly twice the tax rate millionaires pay.

The study the SSA bureaucrats are touting says that repeal of this discriminatory law will have no effect on seniors. Mr. Speaker, nothing could be further from the truth.

Maybe if the Social Security Administration bureaucrats left their comfortable offices and actually talked to some of America's working seniors, they would realize the unfair burden the earnings test places on seniors, our Nation's businesses, and the national economy. They might even discover that tens of thousands of otherwise honest citizens have been forced into an underground cash economy.

Many seniors are forced to work after they reach retirement age simply because they cannot make ends meet on Social Security alone. With increasing property taxes, skyrocketing health care costs, and extremely low interest rates on their modest savings, more and more seniors must work.

As I walk the streets in my district every weekend, I talk to seniors who tell me they would work all year if they could do so without losing their benefits—but who quit in midfall because it is more cost effective for them to do so.

Businesses rely on seniors because older Americans respect the work ethic and are reliable. And with more people working and spending, the economy would get a badly needed shot in the arm.

And finally, Mr. Speaker, the numbers speak for themselves. According to the National Center for Policy Analysis, more than 700,000 seniors would return to the work force or emerge from the underground economy if the earnings test was repealed.

The SSA bureaucrats who want to continue to penalize seniors are afraid that repeal of the earnings test means fewer of them will be needed to push papers. But keeping bureaucrats busy is a poor reason to retain this foolish law.

A DOMESTIC PROGRAM AND A TAX CUT BY CHRISTMAS IS POSSIBLE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, my colleagues, if the indecision and confusion down at the White House was not so dangerous, it would be providing us with great yearend entertainment. In his final year, entering his final year of his term, President Bush cannot decide whether or not he is even for the domestic agenda, which is being offered by the Republicans here in the House. First it was, "Don't offer it." Now it is, "Maybe offer it." First it was, "You won't vote." Now, "Maybe you shall vote." It is dangerous.

The President has got to pay more attention to the domestic economy, and he has got to make up his mind, but from the Democratic side we tell him this: "If you don't threaten to veto, Mr. President, if you want us to stay in session, the Democrats on our side would like to give middle-income Americans a tax cut to put under their Christmas tree."

So, join us, Mr. President. Invite us to stay in session. We will do it, and we will provide middle-income Americans with a domestic program and a tax cut by Christmas.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would remind Members that comments in the House are to be directed to the Chair and not to persons outside the Chamber.

INVESTIGATION OF THE OCTOBER SURPRISE IS A FRIVOLOUS WASTE OF TAXPAYER DOLLARS

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, talk about gamesmanship. Where in the world are the priorities of the Democrat leadership of this House?

As my colleagues know, despite what the Democrat candidates for President have been saying for the last few months, despite what everybody acknowledges to be big problems in this country—the economy, health care, education and the like, the fact is that the priorities of this House leadership lead us to spend time and substantial money on a spurious October surprise investigation.

Mr. Speaker, that was all 12 years ago. The ordinary statute of limitations is 5 years, and other investigations have thrown cold water on the idea. There was the GAO report, the Senate Intelligence Committee, the Iran-Contra investigation, the independent counsel, and even Newsweek and New Republic have debunked this thing entirely, yet a majority of the Committee on Rules of this House voted to go ahead with this investigation.

Why, Mr. Speaker? We have big problems. There is substantial evidence of other matters that could be investigated, like the relationship of Members of the House to the Sandinista communists in the late 1980's. But why this?

What it comes down to is that we are not about to study economic problems, not address an economic program, but instead we will frivolously waste the taxpayers' dollars and our important time on this worthless investigation of the "October Surprise"—for no other reason than partisan advantage in a presidential election year.

AMENDMENTS TO THE HAWAIIAN HOMES COMMISSION ACT OF 1920

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, today I have introduced companion legislation to Senate Joint Resolutions 23 through 34. This action is to provide for the consent of the United States to certain amendments to the Hawaiian Homes Commission Act, 1920, as amended, made in 1986, 1987, and 1989, and 1990 through the enactment of laws by the State of Hawaii.

It is my hope that by introducing companion legislation to the House of Representatives that consent to these amendments will be agreed upon without further delay.

Approval of these amendments will allow more native Hawaiians to acquire homesteads more quickly and thus fulfill the original Homesteaders Act of 1920.

Mahalo and Aloha.

THE DEMOCRATS HAVE NOT DONE ONE THING TO PUT AMERICANS BACK TO WORK

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, and colleagues, I am absolutely amazed when Democrat Members of this institution stand up and say, "Mr. President, tell me what you want, and we will do it."

Mr. Speaker, I say to them, "You have already sent to the President of the United States no less than 24 bills he had to veto. He has told you clearly and unequivocally this crime bill will be vetoed. If you believe what you have said this morning, then don't even bring the crime bill up. Go back to conference, and do a real crime bill. You want to adjourn so you can go across this country and ask the American people if they're better off than they were 4 years ago, but I urge caution when you do that because, if you make that statement, if you ask that question, the American people very properly will ask you back, 'And what, Mr. Democratic Congressman, have you done about it?'"

Mr. Speaker, the hard cold reality is that, unless a growth package is made in order to the RTC bill later today, the Democrats will have to admit to the American people that in the midst of the recession that they, the Democrats who control this Congress, have not done one thing to put one American back to work.

□ 1050

ARKANSAS EDUCATIONAL TELEVISION CELEBRATES SILVER ANNIVERSARY

(Mr. THORNTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THORNTON. Mr. Speaker, my State will pass an educational milestone next month, marking the silver anniversary of its venture into educational television.

On December 4, 1966, Arkansas placed into operation the first of what would become five television stations, which now broadcast educational programming to over 90 percent of our State.

The Arkansas Educational Television Commission has been working on this silver anniversary celebration all year, using its award-winning theme, "Where Learning Never Ends," to stress the excellent variety of programming that is available to Arkansas because of its work.

The network is active 18 hours a day, offering Arkansas viewers education that ranges from "Sesame Street" to college telecourses, with geography, science, math, and GED programming in between; cultural productions that include opera, ballet, and drama; and an informative schedule of public affairs programming that includes the "MacNeil/Lehrer Newshour," "Washington Week in Review," and its own production, "Arkansas Week."

AETN and its five transmitters present to Arkansas the best in public broadcasting while helping to educate our children and to raise the levels of scholastic accomplishment in our State. AETN also presents programs like the "Arkansas Traveler" and "Ozark Mountain Christmas"—programs that make our State proud.

Mr. Speaker, I am pleased to call my colleagues' attention to this great Arkansas resource and to congratulate the staff and management of AETN for this achievement.

ELEVATING EPA STATUS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, this is the time of year when we ask, what happened to such and such bills? My colleague, the gentleman from New York [Mr. BOEHLERT] has been making inquiries this week to find out whatever happened to legislation to elevate the EPA to a Cabinet level.

Incredibly, this is something that has been on the agenda since I first came to Congress almost 3 years ago. The other body has already taken positive action on such a measure, all the major environmental groups and the administration has long been asking for such action. Not surprisingly, the American people support it too. It is astonishing to note that all of this support is apparently being frustrated by the will of one House committee, of one committee chairman who has so far refused to bring this legislation to the floor. Mr. Speaker, if it looks like a Cabinet-level agency, acts like a Cabinet-level agency, and is expected to be treated like a Cabinet-level agency, then why can't this body do the right thing and finally give the EPA the forum that its responsibilities demand?

DEFICIT CONSEQUENCES TO THE REPUBLICAN GROWTH PLAN

(Mr. DURBIN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, it is time to take a closer look at the Republican growth package. This growth package which the gentleman from Georgia [Mr. GINGRICH] described this morning will add $25 billion to our national deficit over the next 5 years.

After all the carping and crying about our national debt, the House Republicans believe a bigger deficit is the answer to our economic problems.

Now, what is the centerpiece of the Gingrich Republican growth plan? Surprise, surprise. The Republican plan would cut the capital gains tax on the wealthiest Americans. The Joint Committee on Taxation estimates that 57 percent of this tax break would go to those Americans earning over $200,000 a year. For those Americans it means a tax reduction each year of over $11,000.

Let us go back on this chart to the middle-income Americans, the working families. The Republican growth package gives the working family a whopping $65 to $84 tax break. The Republican growth package would help the incomes of the wealthiest Americans grow dramatically.

Does this sound familiar? Have we heard this song before? It is the same supply side, voodoo, trickledown economics that got our country into this economic mess.

RECOGNITION OF MEMBERS

The SPEAKER pro tempore (Mr. MAZZOLI). For what purpose does the gentleman from California [Mr. DORNAN] seek recognition?

The House will be in order. The Chair will repeat, the House will be in order.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. MAZZOLI). When the House is in order, the gentleman will be recognized.

Mr. DANNEMEYER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Speaker, when one Member of the House uses a chart as part of a presentation, do the rules provide that another Member can make a reference to that chart?

The SPEAKER pro tempore. References can be made, but the use of the chart is not guaranteed.

Mr. DANNEMEYER. Mr. Speaker, is it appropriate to make a parliamentary inquiry to ask the Chair to ask the Sergeant at Arms to go and find that chart?

The SPEAKER pro tempore. That is not a proper parliamentary inquiry.

THE ELUSIVE CHART

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I want to revise and extend my remarks and take that chart and put it to literary prose and put it in immediately following my remarks. I like that chart.

I wanted to talk about that chart. I am going to go and look for it in the Speaker's Lobby afterwards and study that chart and memorize that chart, because I noticed the next item up, which was the second highest paid Americans on that chart, was U.S. Congressmen and Senators. The next category up was $100,000 to $200,000, and we pull down about $125,000 here.

I thought I would point out that under that Republican plan Members of Congress were going to get a 13.7-percent tax break, so I thought when we go home on Thanksgiving and have our town hall meetings, we may hear people stand up and say, "Mr. Congressperson, you make $125,000. Why wouldn't you give us a growth package so that we could begin to create jobs again in America?"

Under President Reagan we were creating 300,000 jobs a month, and George Bush had hoped to break that record, but because of the Democratic-controlled Congress, the House and the Senate, we are losing 50,000 jobs a month. I ask, "Why don't we stay and come back after Thanksgiving and pass this growth package? We will let you call it the Democratic growth package."

Mr. Speaker, I am going to go and look for that chart now. It is fascinating.

THE 70-PERCENT MINIMUM WAGE INCREASE WILL HURT WORKERS AND SMALL BUSINESSES IN DISTRICT OF COLUMBIA

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I could not believe my eyes when I read that the District of Columbia Wage-Hour Board has decided to increase District of Columbia's minimum wage from $4.25 to $7.25.

That's a 70-percent wage increase that will be devastating to small business men and women in the District of Columbia.

While the wage-hour board certainly had good intentions, it's decision will hurt those it intends to help—low-income workers.

The Washington Post reported yesterday that a day care center in southeast Washington will begin to lay off or close entirely because of the board's decision. This day care center has provided service to low-income families for 23 years.

The chairman and CEO of Colonial Parking, which employs 250 cashiers, also said he is considering massive layoffs.

Mr. Speaker, the way to help low-income workers is through an expanding economy that creates new jobs to give people employment options. By increasing wages by 70 percent, the D.C. Wage-Hour Board will shrink the job pool and will chase small businesses out of the city. That's no way to help the people of Washington.

BUREAUCRATIC REDTAPE HAMPERS IMPLEMENTATION OF ASSISTANCE PROGRAMS

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, Complexity cripples the food stamp, AFDC, and Medicaid Programs and increases the potential that families will be denied assistance because of red-tape rather than for eligibility reasons.

And taxpayer dollars are paying for ever more bureaucracy as the need for these vital programs grows.

My bill simply calls for USDA and HHS to compile a document to delineate what statutory and regulatory changes may be made to streamline and coordinate program rules.

If we pass this bill, policy makers will have, for the first time, a document from which meaningful and lasting changes can be made for the benefit of recipients and taxpayers.

To be denied assistance simply because government bureaucracy cannot keep up with itself is an inefficiency that we should not tolerate.

PORNOGRAPHY BOYCOTT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, our first amendment right of free speech is the cornerstone of all other civil liberties. Without it religious liberty would be diminished, the right to freely associate would be meaningless, and the right to vote would be irrelevant.

But with this precious right comes responsibility. Interestingly, this right of free speech cuts both ways. That is, we can use our collective voice to rise up against that which fails to uplift the human spirit or which does not quite meet an accepted standard. Environmentalists use this right to announce boycotts against tuna manufacturers. Some black Americans once sought to boycott businesses operating in South Africa. And some people use this right to boycott the promotion of cultural decay.

Mr. Speaker, I fit in with this latter group. I have chosen to boycott the K-Mart Corp., owners of Waldenbooks, who choose to sell pornography in their stores. I am just one consumer, but I will not knowingly allow my money to go to porn merchants no matter how respectable they try to make themselves seem.

PASS THE CRIME BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the crime bill, which I hope comes to the floor later today, is being hit from the left by liberals among us because it includes additional death penalties, because it eases the exclusionary rule, and limits to some extent habeas corpus death row petitions.

That same bill is being hit from the right by the conservatives because it includes handgun waiting periods and it does not go far enough to ease the exclusionary rule or to limit habeas corpus or to add death penalties.

There is a legislative rule of thumb that I have generally lived by these 20 years I have been in political office. And that is any bill which is assaulted and decried from the left and any bill which is at the same time assaulted and decried from the right is probably a pretty good bill.

So I say the crime bill is not a great bill. But, it is a pretty good bill. I hope that that bill passes today.

JAPANESE APOLOGY FOR PEARL HARBOR ATTACK

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, December 7, 1991, marks the 50th anniversary of the Imperial Japanese Navy's attack on the United States Pacific Fleet at Pearl Harbor in Hawaii. That act resulted in more than 2,400 American deaths, including 1,102 Navy personnel on the battleship *Arizona*, plus numerous other military and civilian casualties.

Not only has there never been an apology for these deaths and casualties, but it appears that Japan no longer is acknowledging responsibility inasmuch as our information indicates that Japan's history books are to be rewritten without any references to the Pearl Harbor Sunday morning attack.

Therefore, over the weekend I submitted a resolution calling upon the Japanese Government to formally apologize on or before December 7, 1991, to the widows, parents, children, other survivors, and to the people of the United States. I urge my colleagues who believe in America to join me and several other Members in supporting this bipartisan resolution concerning Pearl Harbor 50 years later.

GOVERNMENT SERVICE IS PUBLIC SERVICE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, today my colleague, the gentleman from Washington [Mr. CHANDLER] and I are introducing legislation that would create a lifetime ban on working for a foreign government or foreign-controlled corporation for certain high-level appointees of the executive branch and officials involved in trade negotiations, which would involve people at the U.S. Trade Representative's Office, the International Trade Commission, the Commerce Department and the Defense Department.

The purpose is manifold: To stop opportunists who used political influence to get trade jobs in the Government, blocking out people who would choose public service as a career rather than a pit stop, to remove the financial incentives for experienced trade negotiators to leave public service, to stop the flow of insider information about trade negotiations and individual corporations to foreign interests, and to remove the unfair advantage foreign competitors gain by having a former high-level U.S. official represent them before a Federal agency, Congress or the White House.

The purpose of this bill is clear. Government service is public service, not a training program for financial self-enrichment. We need to begin to fight for our own, to keep U.S. corporations strong and to preserve American jobs.

WHY NOT AN ECONOMIC GROWTH PACKAGE TODAY?

(Mr. SANTORUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANTORUM. Mr. Speaker, today we are about to embark on what the majority leader has termed the mother of all sessions. We are going to knuckle down here in the House of Representatives, and we are going to spend day and night and possibly morning solving the problems of our country. But in that expanse of time, there is no room to consider a growth package.

We have heard here this morning that if we got a call from the President of the United States to stay over that we could deal with the growth package.

This is nothing new. This is nothing new. These growth packages have been around for a year. We have been asking for them for a year. This is another delay.

We have 1 full day. We have 24 hours. We have plenty of time to come here to the floor today to do this for America today.

There are unemployed people who are sitting at home because they do not have a job right now watching us who want our help. Let us help them.

LET US DEAL WITH THE UNDERLYING CANCER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Republicans have another economic growth plan which constitutes tax cuts around election time. I am not going to put the Republicans down because the Democrats also have a similar type of plan.

My colleagues in the Congress, I say the real problem is we are treating the symptoms: crime, drugs, prostitution, welfare. No one is dealing with the underlying cancer.

In my opinion, no one is looking at trade reform, tax loophole reform, because those parties are looking exactly alike. It is getting so bad, when we have a sitting President that is agreeing to an economic growth package from a group of Republican Congressmen that he has never read, then our economy is in deep trouble, big time.

I say before we go on with any more 10-year plans, 5-year plans, let us start with taking a look at the trade and tax policies of our country that are sending our jobs overseas and ruining, ruining our communities.

SOME ASPECTS OF THE GROWTH PACKAGE

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, the majority leader said that it would require the President to extend Congress. We can do that on the RTC bill that is coming up, but let me go through just a couple of items that the package includes, not for the rich but a 30-percent inclusion from taxable income from any taxable asset. That means a home, whether it is a $15,000 home or a $200,000 home. Adjust value asset for effects of inflation. No penalty for a first-time home buyer. I know my daughter and my son are coming up to buy a home. I do not think they can do it.

The most highly taxed group in America. I do not call them senior citizens, I call them chronically gifted, a Social Security earnings limitation reduction. That is important, Mr. Speaker.

This is not for the rich. Leading employees apprentice program. This is where employers can invest to create jobs in our shipbuilding industry. In San Diego they are already doing that. They are providing jobs for young men and women coming out of high school.

We can give them a tax credit. Repeal the excise tax on boats, aircraft, and passenger vehicles. This costs the Government money.

Those are all but about 15 of the items, Mr. Speaker.

THE TRANSPORTATION BILL

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, we hope we are going to have a transportation bill out today. We do not have all of the numbers together yet so we do not know where all the money is going to go, and I think it is a disservice to the Members of the House to come out with figures that are not accurate because we do not have the figures and to be telling people that they are going to be hurt.

We are looking at the donor States, and we know, and I am a donor State, I want to get everything back into my district that I can because that is what the people want. But at the same time we are looking at a national bill, we are looking, if we want to jump-start the economic engine, this is the way to do it because we are talking about 2 million jobs, something that would put the economic stimulus into the Nation and help to get us back on the road again.

But we cannot do it if it is not going to be given a fair chance and a fair opportunity today. Today we are going to vote on it. Please, wait and look and listen and find out what is going to be in the bill before making any serious mistakes and saying, "No, I am not going to do it because there is not enough in my pocket."

□ 1110

ENCOURAGING RECOGNITION OF UKRAINIAN INDEPENDENCE

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, in just a few days the nearly 52 million people of Ukraine will vote overwhelmingly to declare their independence from the former Soviet Union. The United States should be among the first to recognize Ukrainian independence. It is vitally important that the United States side with the people of Ukraine instead of continuing to prop up a Kremlin still run by barely reconstructed Communists. In particular it is important that America not repeat the performance so embarrassing to all of us in which our Nation was nearly the last on Earth, save our Cuba, to recognize the independence of the Baltic nations.

Those who argue that Kremlin control over the military, economic, and social policies of Ukraine is somehow in America's interests are wrong. America now has the opportunity to negotiate with an independent Russia and then independent Ukraine for the wholesale destruction of nuclear weapons and for the implementation of free market reforms.

I urge my colleagues to sign a letter I have prepared for President Bush encouraging him to accept the advice of several in his administration, including Secretary Cheney, to recognize Ukraine upon their declaration of independence this weekend.

SAME OLD REPUBLICAN TRICKLEDOWN ECONOMICS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I listen to my colleagues on the other side, and I wish so much that it was as simple as they would like to portray it. We keep hearing about this wonderful tax package that they have, and I feel like it is a movie. This is where we came in. This is how we got in trouble. So what should we do? Do more of it?

They are talking about more cuts for luxury taxes, more cuts for the rich on their capital gains taxes. I suppose that means we are going to get trickled on one more time. For the people who have still been waiting to be trickled on for the last 10 years of tax cuts and are not even damp, I do not think this will do it.

The gentleman from Ohio makes a very good point. What is wrong with this economy is very serious and we should stay here and we should deal with it. But it goes to trade, it goes to jobs, it goes to global market, it goes to all sorts of things. It is not about a tax on boats alone, believe me.

DEMOCRATS' FOREIGN POLICY LEGISLATION IGNORES DOMESTIC NEEDS

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, for weeks our Democrat colleagues have been attacking the President on foreign policy matters. The chief Democrat accuser has been the majority leader, who has called for putting America first. Now here we are in the last day of the session and what is the only bill that the majority leader chooses to bring up? It is the Democrat $25 billion foreign aid bill.

We have voted on this bill now for the third time, but 178 days ago the President of the United States asked for a highway bill. Where is it? We have not voted on it once. But in this foreign aid there are $3 billion to build highways overseas, but not 1 cent to build highways here at home.

Senior citizens are asking. The leading tax writer, the gentleman from Illinois [Mr. ROSTENKOWSKI], sends us a "Dear Colleague" letter, "Vote for the foreign aid bill." Senior citizens are asking if the Democrats have enough money to spend $25 billion overseas, why don't they have enough money to restore the Social Security benefits that were taken away by a Democrat Congress and a Democrat President in 1977.

In 5 months we have voted on foreign aid three times. We are shoveling it overseas so fast they cannot spend it fast enough, but in 13 years we have not voted on notch once. Now go home and tell your notchers that.

FOREIGN AID BILL REFLECTS THE PRESIDENT'S REQUESTS

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, never have I heard more fantasy engaged in on the House floor than by the previous speaker. The previous speaker just indicated that the Democratic foreign aid bill may be before the House today. What absolute baloney.

The fact is that virtually every dollar of that foreign aid bill is in the bill at the request of George Bush in the big White House down on the other side of Pennsylvania Avenue.

The second fact which the gentleman chooses to ignore is that the IMF, which is a $13 billion piece of that bill, is in the bill at the specific request of the President of the United States. This is one Democratic chairman who is going to make very certain that that IMF never sees the light of day in the appropriations bill.

But if the Members want to know who is responsible for that $13 billion request, do not tell the American people a falsehood. Do not pretend that that bill is a Democratic bill. Virtually every dollar in that bill is at the request of the Republican White House and $13 billion IMF is in that bill because Nick Brady, the Secretary of the Treasury and the President's best friend in the Cabinet, is demanding that it be in there. So let us tell the truth.

AMERICA NEEDS GREATER CONTRIBUTION FROM ITS ALLIES

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, last week in Tokyo, Secretary Dick Cheney made what I think is a very significant speech. During his remarks he called on Japan to play a more active role, militarily and politically, in the world today, and to take on greater world responsibilities, particularly by helping the emerging democracies in Eastern Europe and the Soviet Union.

I would quote directly from his remarks, as follows: "Japan can do more. Japan's economic strength gives it worldwide political influence." I think this is a very important policy statement by the Secretary of Defense. At least we are saying to one of our allies, and we should say to all of them, "You must take greater responsibility, financial and otherwise, for world peace."

We have 56,000 American U.S. service personnel stationed in Japan today. This number should be reduced substantially. This is a very expensive cost to the United States. I think it is vital that we get a greater contribution from our allies, not only Japan but also others in paying the security costs for maintaining world peace.

I commend Secretary Cheney for taking that message to our ally in the Pacific.

LAST MINUTE REPUBLICAN GROWTH PACKAGE RHETORIC

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, once again the Republicans want to repeat history. They want us to consider one of their economic growth packages in the middle of the night on the last day of the session.

Mr. Speaker, we did that in 1981 and we had the largest deficits in the history of this country created, deficits that are now crippling our economy and crippling the American family and crippling our ability to create jobs.

In 1986 the Republican-led Senate, with the full support of President Reagan and then-Vice President George Bush, took capital gains out of the Tax Code, took passive losses out of the Tax Code, took the IRA's out of the Tax Code, and told us it would create economic growth. Now George Herbert Walker Bush is back here telling us, and the Republicans are saying, put it all back in and it will create economic growth.

Which is it, folks? You ought to settle this debate within your party before you try to get us to consider it in the middle of the night. This is not so much about economic growth as it is about the growth of the bank accounts of the wealthiest people in this country who would benefit under the Republican proposal. This is not so much about their willingness to stay here in session as it is the Republicans' fear to go home and find out what they have done to the American people and this economy.

MUSINGS OF MARIO

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, it was another weekend of the musings of Mario. Get used to it, America. We in New York have watched this sideshow for years. Last weekend Mario Cuomo laid every problem in New York at the doorstep of President Bush.

Let us set the record straight. It was Mario Cuomo who raised taxes by $1 billion in each of the last 3 years, making New York Money Magazine's tax hell. It was Mario Cuomo who moved New York to dead last on the list of Tax Freedom Days. The Center for Study of the States says our Governor accumulated the worst record for balancing the budget. Cuomo added 30,000 new State jobs, raised State spending 98 percent, and has given us the third lowest bond rating in all of America.

Financial World Magazine rates Mario Cuomo 43d in fiscal management. On his watch, SAT scores have dropped from 36th to 45th in the Nation. Now New York's biggest and fastest export is our educated youth, who leave to look for jobs elsewhere.

The Washington Post said last month, and I quote here, "Cuomo says he would have to quit as Governor to run for presidency." That is the best news New Yorkers have heard in years. Please do not disappoint us.

□ 1120

BEWARE OF STRANGERS BEARING GIFTS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, there is an old saying, "Beware of strangers bearing gifts." Never is it more important to understand that than in the 11th hour of a legislative session.

Now we have the Republicans coming to us with their economic growth package. I call it the dollar and-a-quarter package. $1.25 a week is what they offer to middle-income families. Some stimulus, is it not?

But look a little closer at this package. Down at the bottom, those families that make over $200,000 a year, almost $12,000 a year in tax cuts. In fact, 70 percent of their tax cuts go to people with incomes over $100,000.

There is nothing new about this, but there is certainly something Republican about it. The same old tired nonsense. They continue to believe that the key of the kingdom of economic growth is in the bank accounts of the rich.

When will they understand that the middle-income families drive this economy, and if ever we would give the middle-income families a little something to work with, America would get to work again.

When will we see an economic growth package that is fair from Republicans? I hope it is soon.

THE DISTRICT OF COLUMBIA'S INTERSTATE GUN CONTROL

(Mr. INHOFE asked and was given permission to address the House for 1 minute.)

Mr. INHOFE. Mr. Speaker, much as I hate to change the subject from this very interesting topic today, I would like to recall that on Tuesday, November 5, the District of Columbia passed into law a measure that holds firearm manufacturers and sellers liable for injuries caused by the persons who purchase their guns.

This is just another gust of wind in the storm called gun control. The media and proponents of gun control have somehow fooled the public into believing that if we get rid of the firearm, we get rid of the fired upon.

We seem to be forgetting who is doing the killing. We seem to be forgetting that a person using a steak knife can kill somebody, a person driving an automobile can murder someone, a person using something as harmless as a pillow can commit a homicide. But do we hold the Sheffield Knife Co. liable, do we hold General Motors liable, do we hold the Cannon Linen Co. liable. I don't think so.

So, where are the gun control enthusiasts leading us? First to court and then on to being a totally defenseless nation. If measures like the one passed here in the District prevail, they will make a mockery of our Nation's interstate commerce laws.

Forget the fact that a dealer in Oklahoma legally sold an individual, with sporting intentions, a firearm. The lawsuits will quickly drive gundealers and manufacturers out of business and the only winners will be the incessant lawyers that feed on these types of statutes.

Mr. Speaker, when I read about the D.C. referendum in the paper, I was reminded of England between the two World Wars. Well-meaning lawmakers in the Labor Party convinced the people that by giving up their guns they would then disarm the IRA rebels and have peace. The Firearms Acts of 1922 and 1937 set up gun registration that led to confiscation. It was only when Adolph Hitler had invaded their homeland and taken away what little defense they had at Dunkirk that they realized their predicament.

They found out they had a dried-up arms industry and they had to come to barbaric America to bail them out.

A few minutes ago the gentleman from California [Mr. MILLER] talked about remembering history. I hope that we can remember this bit of history as we act on these gun control measures in this country.

Today we face the same predicament with the rebels on our own streets. Let us not make the same mistake. Only tougher laws against criminals will bring down crime rates.

Mr. Speaker, the only winners in the D.C. referendum will be criminals and lawyers.

GIVE WORKERS A CHANCE TO HAVE A REAL THANKSGIVING

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, Thanksgiving is coming Thursday, but almost 8,000 workers in North Carolina will not be able to afford a turkey, because this House passed the luxury tax that has destroyed the boat building industry and their jobs.

Mr. Speaker, we could pass a Democrat growth package in a couple hours. Time is not the stumbling block that prevents our vote on the Republican growth package, politics is. We have been wasting time here doing nothing but 1-minute speeches, suspensions, and special orders, so there is plenty of time for a serious effort.

Give us a chance to vote on our growth package which would help those North Carolina workers to get their jobs back and have a real Thanksgiving.

ANOTHER NEW LOW

(Mr. McEWEN asked and was given permission to address the House for 1 minute to revise and extend his remarks and to include extraneous materials.)

Mr. McEWEN. Mr. Speaker, just when you think you have heard it all, then you find out that there is another new low.

I wish to bring to the attention of my colleagues H.R. 3807 which will be messaged over from the Senate later on this afternoon. There is a provision in there to give $700 million to the Soviet Union, $700 million; but listen to this, line 19 of section 5 says this:

> The value of assistance from existing stocks and inventories of the Department of Defense or any other federal Department or agency may not be charged against those funds.

Now, not only are we going to give $700 million in cash, we can take anything that America possesses and give to them free with no accountability under any circumstances.

Now, rest assured if this amendment is allowed to pass this afternoon, I swear, I guarantee, we are going to be sending trucks to the Soviet Union to transport food, rest assured; not to your local hospital board, not to a fire department, not to a police department. We are going to be sending it to the Soviet Union so they can build aircraft.

Mr. Speaker, from Jane's Defense Weekly of November 16, 1991, I include an article as to how they are accelerating their fighter construction in order to sell on the market for hard cash; so we will pick up their expenses at home so they can sell arms abroad:

[From Jane's Defense Weekly, Nov. 16, 1991]

NEW "FROGFOOT" IN THE WINGS—RUSSIANS SEEKING FOREIGN CASH

Russia, soon to assume control of its own aircraft programmes, may have to seek foreign investment to keep its fly-by-wire MiG-29 "Fulcrum" programme alive, according to Vladimir Laptev, Deputy Minister for the Soviet Union's soon-to-be disbanded Ministry of Aviation Industry.

The MiG-29M, as it is called, is one of several combat aircraft programmes eligible for foreign participation: another is the Soviet Air Force's next-generation jet trainer.

"We're due to make a final decision in January," Laptev said. Principal bidders for the twin-engine trainer are Mikoyan, Sukhoi and Yakovlev.

So far, both sub-and supersonic designs are under consideration. The aircraft should be able to cater for both basic and advanced instruction.

The air force is fighting to maintain next year's R&D budget at current funding levels, Laptev said. Even so, programmes are having to be strictly prioritized in the scramble for the scant cash available.

"There will be a concentration of funds on the most important programmers at the expense of secondary programmes," Laptev told JDW. The MiG-29M has been sacrificed because it is not a core air force programme, he said. "We may look for a foreign partner to continue (with it)," he added.

Asked whether any next-generation combat aircraft programmes had fallen at the cash hurdle, Laptev said: "Naturally, there are financial constraints, but so far, no, none had been stopped.

"Some of these programmes are so advanced that it would be most damaging to stop them now," He added.

In September, Laptev said work for the Soviet Air Force was underway on improvements to existing MiG-29 "Fulcrums" and Su-27 "Flankers" as well as development of new fighters comparable to NATO's next-generation aircraft.

Other combat aircraft designs, notably the Yak-141 "Freestyle" and the multi-role Su-37 fighter, are open to foreign investment both to complete and—in the case of the Su-37—to start their development.

SEND BACK EDWARD LEE HOWARD, AN AMERICAN TRAITOR

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROOMFIELD. Mr. Speaker, yesterday the other body voted to transfer $500 million from the Pentagon budget to help dismantle Soviet nuclear weapons.

I suspect that is just the opening round in a series of proposals to help the people in the various Republics once controlled by the Soviet Union get back on their feet.

The Soviets are not in a position to give us much in return for our financial aid, but there is one thing they surely can do: Send back Edward Lee Howard.

He is the first American CIA operative ever to defect to the Soviet Union. According to a story in today's Washington Times, "U.S. officials have said his disclosures caused the deaths of several agents working secretly in Moscow."

Edward Lee Howard betrayed his friends, betrayed his Government, and betrayed his country. We should demand his return.

I include the Washington Times article for printing in the RECORD:

[From the Washington Times, Nov. 26, 1991]

CIA DEFECTOR NOW UNGUARDED

(By Bill Gertz)

CIA defector Edward Lee Howard has lost the round-the-clock protection provided by the KGB in Moscow and worries that he could be turned over to U.S. authorities for prosecution, according to Bush administration intelligence officials.

A Western reporter recently approached Howard at his Moscow apartment and the defector tried to have the reporter thrown out, said officials who spoke on condition of anonymity.

However, no security guards were present or came to Howard's aid in trying to oust the journalist from the apartment building, the officials said.

The officials said the incident was a clear sign the Soviets have abandoned the blanket protection once afforded their prize CIA defector.

FBI spokesman Bill Carter declined to comment on whether Howard has lost his security protection. But he said the former CIA operative still is wanted on espionage charges.

In Moscow, Alexi Zakharov, a spokesman for the Soviet security police, said of Howard: "I don't know the man, but in our country everything is possible."

Asked if someone like Howard might leave the country someday, the spokesman said of the spy business: "In these days, ours leave, and yours come, so in general everything is possible."

Howard, a CIA operative from 1981 to 1983, slipped away from FBI surveillance agents watching his New Mexico home in September 1985. Several months later he was granted political asylum in Moscow.

Trained as a Moscow case officer, he is the first CIA officer ever to defect to the KGB, and U.S. officials have said his disclosures caused the deaths of several agents working secrecy in Moscow.

The KGB, a central pillar of Soviet power, was disbanded following disclosures that its chairman, Vladimir Kryuchkov, and several top aides helped engineer the abortive coup last August.

In its place, several new organizations were set up. The internal security and conterintelligence police is called the Interrepublican Security Service. A separate foreign espionage branch was renamed the Central Security Service.

Howard told The Washington Post last year that he lived in a country house outside Moscow with two KGB guards who provided 24-hour protection against possible kidnapping by Western spy services.

At the time the defector said he regularly played chess with his guards.

David Wise, author of the 1988 book on Howard, "The Spy Who Got Away," said the defector also lives in an apartment provided by the KGB near the Arbat, a shopping area of Moscow.

It was at this second-floor apartment where the recent confrontation between Howard and a Western correspondent took place, the officials said.

"He worries a lot about being abducted," Mr. Wise said in an interview.

According to Mr. Wise, Howard told him during a series of interviews in Hungary several years ago that he feared the CIA would abduct him or poison food sent to him from abroad.

"I have to worry that the agency might try to kidnap me," Howard was quoted as saying in the Wise book. "It wouldn't take much, a hypodermic needle, throw me in the trunk of the car, and it's only two hours to the [Austrian] border."

Thomas DuHadway, the late chief of the FBI's intelligence division, said in September that the United States should press the Soviets to extradite Howard in exchange for U.S. economic assistance.

THE UNITED STATES IS THE ONLY NATION WITHOUT AN ENVIRONMENTAL DEPARTMENT

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, the United States is the only nation in the developed world that does not have an environmental department at the highest level of government, yet the American people repeatedly tell us they want the top environmental administrator, for our Government sitting at the President's Cabinet table.

We have a bill, Mr. Speaker, at the Speaker's table already passed by the Senate that would fix this problem, and yet the chairman of the Government Operations Committee refuses to act. We have a bipartisan coalition, a majority in this Chamber that wants to pass that legislation to elevate the EPA to Cabinet level status, yet the chairman of the Government Operations Committee refuses to act.

Every major environmental group in America and the administration has endorsed this bill, yet the chairman of the Government Operations Committee refuses to act.

The American people, the environmentalists, all of us who are so vitally concerned, Republicans and Democrats alike, know who to blame if we do not pass this legislation by the end of this session. It is the chairman of the Government Operations Committee.

ECONOMIC GROWTH, A PRIORITY

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, when Speaker FOLEY was down here in the well a few minutes ago at the beginning of the 1-minute speeches, he did say one thing that struck me as right. He said the issue is too important for gamesmanship. But what did he describe as the issue? Taxes, tax cuts, tax breaks. He could not bring himself to use the words "economic growth."

Well, Mr. Speaker, our priority before we go home, before we adjourn for the year is economic growth, because we realize that extending unemployment insurance benefits, recapitalizing the bank insurance fund, appropriating billions more for the savings and loan bailout without addressing underlying economic conditions is like pumping blood into a hemorrhaging patient without first closing the wound.

Yes, our package does have capital gains, which is an item very much supported by America's farmers and small business people.

Yes, we would repeal the luxury taxes which have cost working Americans their jobs, but we would also reinstate passive losses and repeal the Social Security's earnings limit, both ideas which have tremendous Democratic support in this House.

Mr. Speaker, it is a sad commentary on this place that we cannot have a debate on economic growth because the liberal Democratic majority that runs the place, that sets the schedule, that controls the rules, will not allow that debate to take place.

THE REPUBLICAN CHRISTMAS TREE

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, imagine the so-called Republican growth package as a Christmas tree down at the

White House. The President has invited in his wealthy friends. And what do we find under the tree? Well, of course, we find capital gains, because 31 percent is an egregious amount for the richest people in America to pay in terms of taxes on their income. It used to be 71 percent, but they are a little greedy; 31 percent, that is too much, let us take them to 18 and, well, it will trickle down to the rest of us for next Christmas.

Now, this bizarre thing about the tax on boats, they are not concerned about the fact that we levied a registration tax on every small boatowner in America, the people who cannot afford it; but no, those people will not find yachts under the Christmas tree.

Get this one. If a yacht costs $120,000, with this surtax it will cost $122,000.

□ 1130

And those people who can afford $120,000 yachts just will not buy them when they cost $122,000. They will not be under Christmas trees, and those people who build the yachts will be out of work.

If you believe that, I have got something special to put under your Christmas tree.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each scheduled motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

SAN CARLO APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 291) to settle certain water rights claims of the San Carlos Apache Tribe, as amended.

The Clerk read as follows:

S. 291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Carlos Apache Tribe Water Rights Settlement Act of 1991".

SEC. 2. CONGRESSIONAL FINDINGS.

(a) SPECIFIC FINDINGS.—The Congress finds and declares that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) qualification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on November 9, 1871, and by actions subsequent thereto, the United States Government established a reservation for the San Carlos Apache Tribe in Arizona;

(5) the United States, as trustee for the San Carlos Apache Tribe, obtained water entitlements for the Tribe pursuant to the Globe Equity Decree of 1935; however, continued uncertainty as to the full extent of the Tribe's entitlement to water has severely limited the Tribe's access to water and financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and self-sufficiency;

(6) proceedings to determine the full extent and nature of the Tribe's water rights are currently pending before the United States District Court in Arizona and in the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Tribe's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Tribe and its neighboring non-Indian communities have sought to settle their dispute to water and reduce the burdens of litigation;

(8) after lengthy negotiations, which included participation by representatives of the United States Government, the Tribe, and neighboring non-Indian communities of the Salt River and Gila River Valleys, who are all party to the General Adjudication of the Gila River System and Source, the parties are prepared to enter into an Agreement to resolve all water rights claims between and among themselves, to quantify the Tribe's entitlement to water, and to provide for the orderly development of the Tribe's lands;

(9) pursuant to the Agreement, the neighboring non-Indian communities will relinquish claims to approximately 58,735 acre-feet of surface water to the Tribe, provide the means of storing water supplies of the Tribe behind Coolidge Dam on the Gila River in Arizona to enhance fishing, recreation, and other environmental benefits, and make substantial additional contributions to carry out the Agreement's provisions; and

(10) to advance the goal of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Tribe to utilize fully its water resources in developing a diverse, efficient reservation economy.

(b) PURPOSES OF THIS ACT.—It is the purpose of this Act—

(1) to approve, ratify, and confirm the Agreement to be entered into by the Tribe and its neighboring non-Indian communities,

(2) to authorize and direct the Secretary of the Interior to execute and perform such Agreement, and

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Tribe as provided in the Agreement and this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) "Active conservation capacity" means that storage space, exclusive of bank storage, available to store water which can be released through existing reservoir outlet works.

(2) "Agreement" means that agreement among the San Carlos Apache Tribe; the United States of America; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Arizona cities of Chandler, Glendale, Globe, Mesa, Safford, Scottsdale and Tempe, the town of Gilbert; Buckeye Water Conservation and Drainage District, Buckeye Irrigation Company, the Phelps Dodge Corporation and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is executed by the Secretary of the Interior pursuant to sections 10(c) and 11(a)(7) of this Act.

(3) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(4) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(5) "Globe Equity Decree" means the decree dated June 29, 1935, entered in the United States of America v. Gila Valley Irrigation District, et al., Globe Equity 59, in the District Court of the United States in and for the District of Arizona, and all decrees and decisions supplemental thereto.

(6) "Reservation" means the reservation authorized by the Treaty with the Apache Nation dated July 1, 1852 (10 Stat. 979), established by the Executive orders of November 9, 1871 and December 14, 1872, as modified by subsequent Executive orders and Act of Congress including the Executive order of August 5, 1873.

(7) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(8) "Secretary" means the Secretary of the Interior.

(9) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona Corporation.

(10) "SCIP" means the San Carlos Irrigation Project authorized pursuant to the Act of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs.

(11) "Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary.

SEC. 4. WATER.

(a) REALLOCATION OF WATER.—The Secretary shall reallocate, for the exclusive use of the Tribe, all of the water referred to in subsection (f)(2) of section 2 of the Act of October 19, 1984 (98 Stat. 2698), which is not required for delivery to the Ak-Chin Indian Reservation under that Act. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(b) Partial Satisfaction of Claims.—Notwithstanding any other provision of this Act, in the event the authorizations contained in section 8(b) do not become effective, the water referred to in subsection 4(a) of this Act shall constitute partial satisfaction of the Tribe's claims for water in the proceeding entitled "In Re the General Adjudication of All Rights To Use Water in the Gila River System and Source, Maricopa County Superior Court Nos. W-1, W-2, W-3, and W-4 (consolidated), as against the parties identified in section 3(2) of this Act.

(c) Additional Allocations.—The Secretary shall reallocate to the Tribe an annual entitlement to 14,655 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to Phelps Dodge Corporation in the Notice of Final Water Allocations to Indian and non-Indian water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12446 et seq.). The Tribe shall pay the United States or, if directed by the Secretary, CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 6, water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(d) Additional Allocation.—The Secretary shall reallocate to the Tribe and annual entitlement to 3,480 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to the city of Globe, Arizona in the Notice of Final Water Allocations to Indian and Non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12466 et seq.). The Tribe shall pay the United States or, if directed by the Secretary CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 6, water service capital charges, or any other charges or payments of such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be reimbursable.

(e) Water Storage Pool.—Notwithstanding the Act of June 7, 1924 (43 Stat. 475), as amended by the Act of March 7, 1928 (45 Stat. 200, 210), in order to permit the Tribe to maintain permanently a pool of stored water for fish, wildlife, recreation and other purposes, the Secretary shall designate for the benefit of the Tribe such active conservation capacity behind Coolidge Dam on the Gila River in Arizona as is not being used by the Secretary to meet the obligations of SCIP or irrigation storage, except that any water stored by the Tribe shall be the first water to spill ("spill water") from Coolidge Dam. The water stored by the Tribe shall be, at the Tribe's designation, the water provided to the Tribe pursuant to subsections (a), (c) and (d) of this section, its entitlement of 12,700 acre-feet of water under its Tribal CAP Delivery Contract dated December 11, 1981; the water referred to in section 10(f), or any combination thereof. A pro rata share of evaporation and seepage losses shall be deducted daily from the Tribe's stored water balance as provided in the Agreement. The Tribe shall pay an equitable share of the operation and maintenance costs for the water stored for the benefit of the Tribe, subject to the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386 et seq.). The water stored by the Tribe pursuant to this subsection shall not be subject to apportionments pursuant to Article VIII(2) of the Globe Equity Decree. Not later than January 31 of each year, the Secretary shall notify the United States District Court for the District of Arizona of the Tribe's stored water balance as of January 1 of that year. The Secretary shall notify said Court of the Tribe's stored water balance at least once per calendar month and at such more frequent intervals as conditions, in the Secretary's judgment, may require.

(f) Execution of Agreement.—The Secretary shall execute the Agreement which establishes, as between and among the parties to Agreement, the Tribe's permanent right, except as provided in paragraphs 13.0, 14.0 and 15.0 of the Agreement, to the on-reservation diversion and use of all ground water beneath the Tribe's Reservation, subject to the management plan referred to in section 10(D) of this Act, and all surface water in all tributaries within the Tribe's Reservation to the mainstreams of: The Black River, the Salt River below its confluence with the Black River, the San Pedro River and the Gila River, including the right, except as provided in paragraphs 14.0 and 15.0 of the Agreement, to fully regulate and store such water on the tributaries. The Tribe's rights to the mainstream of Black River, San Pedro River and the Gila River shall be as provided in the Agreement and the Globe Equity Decree. With respect to parties not subject to the waiver authorized by subsection 8(b) of this Act, the claims of the Tribe and the United States, as trustee for the Tribe, are preserved.

(g) Gila River Exchanges.—Any exchange pursuant to this legislation of Gila River water for water supplied by the CAP shall not amend, alter or conflict with the exchanges authorized by section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)).

SEC. 5. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) Ratification of Contract.—Except as provided in section 10(i), the contract between the SRP and the RWCD District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) Subcontract.—The Secretary shall revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of Exhibit "A" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) Restrictions.—The lands within RWCD and SRP shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law.

(d) Disclaimer.—No person, entity or lands shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) or any full cost pricing provision of Federal law by virtue of their participation in the settlement or their execution and performance of the Agreement, or the use, storage or delivery of CAP water pursuant to a lease, sublease or exchange of water to which the Tribe is entitled under this Act.

(e) Full Cost Pricing Provisions.—The lands within the Tribe's Reservation shall be free from all full cost pricing provisions of Federal law.

(g) Certain Extensions Authorized.—Notwithstanding any other provision of law or any other provision of this Act, the Secretary, subject to tribal approval, is authorized and directed to: extend the term of that right-of-way permit granted to Phelps Dodge Corporation on March 8, 1950, and all amendments thereto, for the construction, operation and maintenance of an electrical transmission line and existing road for access to those facilities over the lands of the Tribe; extend the term of that right-of-way permit numbered 2000089 granted on July 25, 1944, to Phelps Dodge Corporation, and all amendments thereto, for the construction, use, operation and maintenance of a water plant, pipeline, canal, water flowage easement through Willow Creek and existing road for access to those facilities over the lands of the Tribe; and grant a water flowage easement through the portions of Eagle Creek flowing through the Tribe's Reservation. Notwithstanding any other provision of law, each such right-of-way and flowage easement shall be for a term expiring on March 8, 2090, and shall be subject to the right of Phelps Dodge to renew the rights-of-way and flowage easements for an additional term of up to 100 years, subject to payment of rental at a rate based upon fair market retail value.

SEC. 6. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE, WATER WITHDRAWAL.

(a) Amendment of Contract.—The Secretary shall amend the CAP water delivery contract between the United States and the Ak-Chin Indian Community dated December 11, 1980, and the contract between the United States and the Ak-Chin Indian Community dated October 2, 1985, as is necessary to satisfy the requirements of section 4(a) of this Act.

(b) Contract Amendment.—The Secretary shall amend the CAP water delivery contract between the United States and the Tribe dated December 11, 1980 (hereinafter referred to as the "Tribal CAP Delivery Contract"), as follows:

(1) To include the obligation by the United States to deliver water to the Tribe upon the same terms and conditions set forth in the Tribal CAP Delivery Contract as follows:

water from those sources described in subsections (a), (c), and (d) of section 4 of this Act; except that the water reallocated pursuant to such subsections shall retain the priority such water had prior to its reallocation. The cost to the United States to meet the Secretary's obligation to design and construct new facilities to delivery CAP water shall not exceed the cost of construction of the delivery and distribution system for the 12,700 acrefeet of CAP water originally allocated to the Tribe.

(2) To extend the term of such contract to December 31, 2100, and to provide for its subsequent renewal upon the same terms and conditions as the Tribal CAP Delivery Contract, as amended.

(3) To authorize the Tribe to lease or to enter into an option or options to lease the water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, within Maricopa, Pinal and Pima Counties for terms not exceeding one hundred years and to renew such leases.

(4) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, to the city of Scottsdale under the term and conditions of the Water Lease set forth in Exhibit "B" to the Agreement.

(5) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, including, but not limited to, the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Temple and the town of Gilbert.

(c) Approval of Amendments.—Notwithstanding any other provision of law, the amendments to the Tribal CAP Delivery Contract set forth in Exhibit "C" to the Agreement are hereby authorized, approved and confirmed.

(d) Charges Not To Be Imposed.—The United States shall not impose upon the Tribe the operation, maintenance and replacement charges described and set forth in section 6 of the Tribal CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the lessee or lessees of the options to lease or leases herein authorized.

(e) Water Lease.—Except as provided in paragraph (3) of this subsection, any Water Lease entered into by the Tribe as authorized by section 6 shall specifically provide that—

(1) the lessee shall pay all operation, maintenance and replacement costs of such water to the United States, or if directed by the Secretary, to CAWCD;

(2) except as provided in paragraph (3) of this subsection, the lessee shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance and replacement costs and lease payments; and

(3) with respect to the water reallocated to the Tribe pursuant to subsections (c) and (d) of section 4, the Tribe or lessee shall pay any water service capital charges or municipal and industrial subcontract charge for any water use or lease from the effective date of this Act through September 30, 1995.

(f) Allocation and Repayment of Costs.—For the purpose of determining allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-06-W-245, Amendment No. 1, between the United States of America and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of water to which the Tribe is entitled under the Tribal Delivery Contract, as amended, to the lessee or lessees of the options to lease or leases herein authorized shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(g) Agreements.—The Secretary shall, in consultation with the Tribe, enter into agreements necessary to permit the Tribe to exchange, within the State of Arizona, all or part of the water available to it under its Tribal CAP Delivery Contract, as amended.

(h) Ratification.—As among the parties to the Agreement, the right of the city of Globe to withdraw and use water from under the Cutter subarea under the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(i) Use of Water.—As among the parties to the Agreement, the right of the city of Stafford to withdraw and use water from the Bonita Creek watershed as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(j) Withdrawal and Use of Water.—As between the Tribe and Phelps Dodge, the right of Phelps Dodge to divert, withdraw and use water as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(k) Prohibitions.—Except as authorized by this section, no water made available to the Tribe pursuant to the Agreement, the Globe Equity Decree, or this Act may be sold, leased, transferred or in any way used off the Tribe's Reservation.

SEC. 7. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) Duties.—The Secretary is directed—

(1) pursuant to the existing authority of the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) to design and construct new facilities for the delivery of 12,700 acre-feet of CAP water originally allocated to the Tribe to tribal reservation lands at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this Act; and

(2) to amend the contract between the United States Economic Development Administration and the Tribe relating to the construction of Elgo Dam on the San Carlos Apache Indian Reservation, Project No. 07-81-000210, to provide that all remaining repayment obligations, owing to the United States on the date of the enactment of this Act are discharged.

(b) Fund.—There is established in the Treasury of the United States a fund to be known as the "San Carlos Apache Tribe Development Trust Fund" (hereinafter called the "Fund") for the exclusive use and benefit of the Tribe. The Secretary shall deposit into the Fund the funds authorized to be appropriated in subsection (c) and the $3,000,000 provided by the State of Arizona pursuant to the Agreement. There shall be deposited into the Fund any monies paid to the Tribe or to the Secretary on behalf of the Tribe from leases or options to lease water authorized by section 6 of this Act.

(c) Authorization.—There are authorized to be appropriated $18,800,000 in fiscal year 1993, and $19,600,000 in fiscal year 1994, together with interest accruing thereon beginning one year from the date of enactment of this Act at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity, to carry out the provisions of subsection (b).

(d) Use of Fund.—When the authorizations contained in section 8(b) of this Act are effective, the principal of the Fund and any interest or income accruing thereon may be used by the Tribe to put to beneficial use the Tribe's water entitlement, to defray the cost to the Tribe of CAP operation, maintenance and replacement charges as appropriate, and for other economic and community development purposes. The income from the Fund shall be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council. Such income may thereafter be expended only in accordance with such budget. Income not distributed shall be added to principal. The principal from the Fund may be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council and the Secretary. Such principal may thereafter be expended only in accordance with such budget: *Provided, however*, That the principal may only be utilized for long-term economic development projects. In approving a budget for the distribution of income or principal, the Secretary shall, in accordance with regulations promulgated pursuant to subsection (e) of this section, be assured that methods exist and will be employed to ensure the use of the funds shall be in accordance with the approved budget.

(e) Regulations.—The Secretary shall, no later than 30 days after the date the authorizations contained in section 8(b) are effective, promulgate regulations necessary to carry out the purposes of subsection (d).

(f) Disclaimer.—The United States shall not be liable for any claim or cause of action arising from the Tribe's use or expenditure of monies distributed from the Fund.

SEC. 8. SATISFACTION OF CLAIMS.

(a) Full Satisfaction of Claims.—Except as provided in subsection (e) of this section, the benefits realized by the Tribe and its members under this Act shall constitute full and compete satisfaction of all members' claims for water rights or injuries to water rights under Federal, State and other laws (including claims for water rights in ground water, surface water, and effluent) from time immemorial to the effective date of this Act. Notwithstanding the foregoing, nothing in this Act shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's Reservation.

(b) Release.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized, as part of the performance of the obligations under the Agreement, to execute a waiver and release, except as provided in the Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from time immemorial to the effective date of this Act, and any and all future claims of water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this Act, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise.

(c) Additional Releases.—Except as provided in the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any person, corporation or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise in its own right or on behalf of the Tribe based upon—

(1) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) of the Tribe and its members, or

(2) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) held by the United States on behalf of the Tribe and its members.

(d) Savings Provision.—In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 11(a), the Tribe and the United States shall retain the right to assert past and future water rights claims as to all Reservation lands.

(e) Disclaimer.—Nothing in this Act shall affect the water right or claims related to the San Carlos Apache Allotments outside the exterior boundaries of the Reservation.

SEC. 9. ENVIRONMENTAL COMPLIANCE.

(a) No Major Federal Action.—Execution of the settlement agreement by the Secretary as provided for in section 10(c) shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary shall carry out all necessary environmental compliance during the implementation phase of this settlement.

(b) Authorizations.—There are authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with the settlement under this Act, including mitigation measures adopted by the Secretary.

(c) Lead Agency.—With respect to such settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable Federal environmental laws.

(d) Environmental Acts.—The Secretary shall comply with all aspect of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable Federal environmental Acts and regulations in proceeding through the implementation phase of such settlement.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) Waiver of Sovereign Immunity.—In the event any party to the Agreement files a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of this Act or the Agreement, naming the United States of America or the Tribe as parties, authorization is hereby granted to joining the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived.

(b) Certain Claims Prohibited.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Agreement against any lands within the San Carlos Apache Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) Approval of Agreement.—Except to the extent that the Agreement conflicts with the provisions of this Act, such Agreement is hereby approved, ratified and confirmed. The Secretary shall execute and perform such Agreement as approved, ratified and confirmed. The Secretary is authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(d) Ground Water Management Plan.—The Secretary shall establish a ground water management plan for the San Carlos Apache Reservation which, except as is necessary to be consistent with the provisions of this Act, will have the same effect as a management plan developed under Arizona law.

(e) Amendment to the Act of April 4, 1938.—The Act of April 4, 1938 (52 Stat. 193; 25 U.S.C. 390) is amended by inserting immediately before the period at the end thereof a colon and the following: "Provided further, That concessions for recreation and fish and wildlife purposes on San Carlos Lake may be granted only by the governing body of the San Carlos Apache Tribe upon such conditions and subject to such limitations as may be set forth in the constitution and bylaws of such Tribe."

(f) San Carlos Reservoir.—There is hereby transferred to the Tribe the Secretary's entitlement of 30,000 acre-feet of water, less any evaporation and seepage losses from the date of acquisition by the Secretary to the date of transfer, which the Secretary may have acquired through substituting CAP water for water to which the Gila River Indian Community and the San Carlos Irrigation and Drainage District had a right to be released from San Carlos Reservoir and delivered to them in 1990.

(g) Limitation.—No part of the Fund established by section 7(b) of this Act, including principal and income, or income from options to lease water or water leases authorized by section 6, may be used to make per capita payments to members of the Tribe.

(h) Disclaimer.—Nothing in this Act shall be construed to repeal, modify, amend, change or affect the Secretary's obligations to the Ak-Chin Indian Community pursuant to the Act of October 19, 1984 (98 Stat. 2698).

(i) Water Rights.—Nothing in this Act shall be construed to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona tribe, band or community, including, but not limited to, the Gila River Indian Community and the White Mountain Apache Tribe, other than the San Carlos Apache Tribe.

(j) Planet Ranch.—The Secretary is authorized and directed to acquire, with the consent of and upon terms mutually acceptable to the city of Scottsdale ("city") and the Secretary, all of the city's right, title and interest in Planet Ranch located on the Bill Williams River in Arizona, including all water rights appurtenant to that property, and the city's January 1988 application filed with the Arizona Department of Water Resources to appropriate water from the Bill Williams River through a land exchange based on fair market value. If an exchange is made with land purchased by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, then, upon commencement of repayment by CAWCD of the reimbursable costs of the Central Arizona Project, the fair market value of those lands so exchanged shall be credited in full against the annual payments due from CAWCD under Article 9.4(a) of Contract No. 14–06–W–245, Amendment No. 1, between the Untied States and CAWCD dated December 1, 1988, and any amendment or revision thereof, until exhausted: Provided, however, That the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection.

(k) Repeal.—Section 304(c)(3) of the Colorado River Basin Project Act (43 U.S.C. 1524(c)(3)) is hereby repealed. This subsection does not authorize transportation of water pumped within the exterior boundary of the Federal reclamation project established prior to September 30, 1968, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391), as amended and supplemented, across project boundaries.

(l) Water Rights.—Nothing in this Act shall be construed to affect the water rights or the water rights claims of any Federal agency other than the Bureau of Indian Affairs on behalf of the San Carlos Apache Tribe, nor shall anything in this Act be construed to prohibit the United States from confirming in the Agreement, except on behalf of Indian tribes other than the San Carlos Apache Tribe, the Gila River and Little Colorado River watershed water rights of other parties to the Agreement by making express provisions for the same in the Agreement.

SEC. 11. EFFECTIVE DATE.

(a) Effective Date of Authorization.—The authorization contained in section 8(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has fulfilled the requirements of sections 4 and 6;

(2) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as appropriated in section 5(b);

(3) the funds authorized by section 7(c) have been appointed and deposited into the Fund;

(4) the contract referred to in section 7(a)(2) has been amended;

(5) the State of Arizona has appropriated and deposited into the Fund $3,000,000 as required by the Agreement;

(6) the stipulations attached to the Agreement as Exhibits "D" and "E" have been approved; and

(7) the Agreement has been modified, to the extent it is in conflict with this Act, and has been executed by the Secretary.

(b) Conditions.—

(1) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this Act have not occurred by December 31, 1994, subsections (c) and (d) of section 4, subsections (a) and (b), of section 5, section 6, subsection (a)(2), (c), (d), and (f) of section 7, subsections (b) and (c) of section 8, and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (l) of section 10 of this Act, together with any contracts entered into pursuant to such section or subsection, shall not be effective on and after the date of enactment of this Act, and any funds appropriated pursuant to section 7(c), and remaining unobligated and unexpended on the date of the enactment of this Act, shall immediately revert to the Treasury, as general revenues, and any funds appropriated by the State of Arizona pursuant to the Agreement, and remaining unobligated and unexpended on the date of the enactment of this Act, shall immediately revert to the State of Arizona.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the provisions of subsections (a) and (b) of section 5 of this Act have been otherwise accomplished pursuant to provisions of the Act of October 20, 1988, the provisions of paragraph (1) of this subsection shall not be construed as affecting such subsections.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 291, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support on S. 291, the San Carlos Apache Tribe Water Rights Settlement of 1991.

The House passed a similar bill in the 101st Congress. Earlier this year, the Committee on Interior and Insular Affairs held a joint hearing on this legislation with the Senate Select Committee on Indian Affairs. The Senate passed S. 291 on October 8, 1991.

The State of Arizona and its Indian and non-Indian residents have all shown tremendous leadership in formulating settlements to Indian water disputes. I congratulate all those who have participated in putting the San Carlos settlement together.

The House amendment to S. 291 deletes section 8(f) of the Senate bill. This provision would have exempted non-Indian irrigators who use water from the central Arizona project from the acreage limitation and full-cost pricing provisions of reclamation law.

This provision was included in the Senate-passed bill as a quid pro quo for the non-Indian irrigators, who have agreed to waive their claims to 33,300 acre-feet per year of water that will now become a part of the San Carlos stettlement. The non-Indians believe they had an entitlement to that water, and asked for relief from the requirements of reclamation law in return for waiving their claims.

Our review of the facts of this matter indicates that no such entitlement exists. In particular, I call the attention of my colleagues to a letter dated April 22, 1991, from Mr. Timothy W. Glidden, who chairs the Interior Department's working group on Indian water settlements. Mr. Glidden's letter presents the facts which justify deletion of section 8(f) of the Senate version of the bill. It is my understanding that the minority is agreeable to this amendment. I ask that this letter be inserted in the RECORD.

Mr. Speaker, the terms of the San Carlos settlement included in S. 291 will go a long way toward resolving years of water disputes in Arizona. Everyone agrees that the water rights of tribes in Arizona and elsewhere in the West have been wrongfully taken from them by non-Indians in many cases. Enactment of S. 291 will right some of these wrongs.

I urge my colleagues to support passage of this important bill.

Mr. Speaker, the letter to which I referred is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, April 22, 1991.

Hon. GEORGE MILLER,
Vice Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. VICE CHAIRMAN: On March 21, 1991, the Department of the Interior (Department) provides testimony at the joint Senate-House Hearing on H.R. 748 and S. 291, the "San Carlos Indian Water Rights Settlement Act of 1991." During the hearing, Mr. Hayes and Mr. Swan identified several specific concerns which needed to be addressed before the Administration could support the settlement. They also stated the Administration's belief as to how important it was to outline the Administration's position on two critical aspects of the subject legislation—the Scottsdale/Planet Ranch land exchange and the Ak Chin component of the water budget. Resolution of these two issues would be moving the settlement in the proper direction; however, the Administration remains opposed to the settlement unless the subject legislation is amended to address all of the concerns identified in the testimony.

First, it is our understanding that the San Carlos Tribe (Tribe), the local settlement participants and the Arizona delegation all favor the addition of a provision which would facilitate a land exchange between the Federal Government and the City of Scottsdale. This exchange would transfer Bureau of Reclamation acquired lands (mostly within the City's limits) to the City in exchange for the City's land and water rights along the Bill Williams River in Western Arizona.

This new provision is an important component to this legislation for two reasons. First, the water lease between the Tribe and the City provided by the settlement makes it possible for the City to consider the transfer of its Planet Ranch property to the Federal Government. The new land and water rights will be an important addition to the Bill Williams Unit of the Havasu National Wildlife Refuge, which will relieve tension between the Federal Government and the City in the area of water rights. Second, by acquiring the City's existing water rights and by perfecting a right for which the City has applied under state law, the Federal Government will ensure in perpetuity the constant flow of a sizeable quantity of water into Lake Havasu for the benefit of the Central Arizona Project (CAP).[1]

We cannot overstate the importance of acquiring the Planet Ranch property from the perspective of maintaining the health and viability of the Bill Williams Wildlife Refuge. As a result, we have worked diligently with the City's representatives to make the exchange possible. Set forth below is our proposed language, which we urge you to add as an amendment to this legislation:

Section 10. Miscellaneous Provisions

(1) The Secretary is authorized to acquire, upon terms mutually acceptable to the City of Scottsdale ("the City") and Secretary, all of the City's right, title and interest to the Planet Ranch located on the Bill Williams River in Arizona; including all water rights appurtenant to that property and the City's January 1988 application to appropriate water from the Bill Williams River ("City Property"). The Secretary shall acquire full fee simple title to the City Property through a land exchange pursuant to authorities in the National Wildlife Refuge System Administration Act of 1966. All lands and interests acquired by the Secretary under this provision, including all water rights appurtenant to that property, shall be managed as an addition to the Bill Williams Unit of the Havasu National Wildlife Refuge, hereafter designated the Bill Williams National Wildlife Refuge, a unit of the National Wildlife Refuge System.

(2) If an exchange is made with land acquired by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, the original cost of those lands so exchanged shall be deducted from the cost of said project to be allocated for determining repayment to the United States; provided however, that the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection; provided further, that said lands shall be exchanged at their fair market value.

For the reasons stated above, the Planet Ranch exchange is a critical aspect of this legislation. We, therefore, urge that it be included as a part of the final bill. If you have any questions about this proposal we will be pleased to respond.

The second critical aspect is the proposed use of the excess Ak Chin water as a part of this settlement. At the hearing on similar legislation introduced in 1990, both the Arizona Department of Water Resources (DWR) and the Central Arizona Water Conservation District (CAWCD) opposed the settlement legislation on the basis of their opposition to the utilization of the Ak Chin supply. We want to provide the committees with our position and give you the benefit of our thinking on this matter.

We favor the use of the excess Ak Chin water for this settlement. In fact, we see the Ak Chin water as a critical component, since without it we fully expect that the settlement will not work and that viable alternative sources will not be found. In order for you to understand our position, it is necessary that we explain a number of points.

1. The history of the 1984 Ak Chin Settlement is thoroughly explained in the September 14, 1984, House of Representatives Report (House Report); and therefore, it need not be repeated here. It is sufficient to note that the Ak Chin Settlement was structured solely with water from Arizona's 2.8 million annual entitlement from the Colorado River. In

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[1] The exchange will transfer to the U.S. Fish and Wildlife Service state law certificated water rights in the amount of approximately 14,400 acre-feet (A/F) per year, which will be changed from consumptive uses to instream flow type uses. The exchange will also transfer Scottsdale's pending application for an additional water right on the Bill Williams River. The Fish and Wildlife Service will perfect this right under State law for non-consumptive instream flow type purposes. Together these new rights will amount to approximately 40–50,000 A/F per year. The acquisition of the Planet Ranch property and the maintenance and perfection of the water rights involved will be totally a result of the utilization of government resources. If the Bureau of Reclamation acquired lands were not used for these purposes, they would be sold at public auction and the proceeds would be credited to the CAP costs with any excess over the original acquisition costs being deposited in the U.S. Treasury.

other words, there were no contributions, either in water or money, from the local parties who would have faced litigation against the Ak Chin Community and the United States.

In order to provide for the settlement, the Secretary obtained, with the approval of Congress, 50,000 acre-feet (A/F) of Colorado River water from the Yuma-Mesa Division of the Gila Project, and then reallocated that water for use on the Ak Chin Reservation, to be delivered via the CAP canal system.[2] The 50,000 A/F were added to the Ak Chin Tribe's existing CAP allocation of 58,300 A/F per year for a total of 108,300 A/F available for settlement purposes.

However, the settlement provided that in most years a quantity of 75,000 A/F per year would be delivered to the Ak Chin Community—see section 2(a) of P.L. 98-530, 98 Stat. 2698. This leaves an ordinary year surplus of 33,300 A/F per year, and it is this surplus which is proposed for use in the San Carlos Settlement. Importantly, the San Carlos Settlement expressly provides that the use of this supply in the San Carlos Settlement shall in no way impact the rights of the Ak Chin Community under the Ak Chin Settlement.

2. The essence of the argument against the use of the excess Ak Chin water in this settlement is that in the Ak Chin legislation the excess water was somehow committed to general CAP uses, and could thereafter not be used for dedicated Indian purposes. We disagree with this conclusion.

The 58,300 A/F allocation to the Ak Chin Community was made in the Secretary's CAP allocation order published in the Federal Register on March 24, 1983. That decision created an Indian CAP water pool of 309,828 A/F. In our view, that pool was not changed by the Ak Chin legislation, and the Secretary has never taken any administrative action to reduce the pool. Thus, that pool of CAP water remains available for use on Indian reservations, unless the Secretary decides to reallocate the water for some other CAP purpose, including allocation to non-Indians.

Our conclusion that the excess water remains where it was first allocated is supported by the House Report. On page 12, the House Report states: "It is the intent of the Committee that the Yuma-Mesa Division reallocation be the first segment of the permanent supply the Secretary is obligated to deliver. Any water in excess of the Secretary's obligation [to deliver 75,000 A/F per year] would be from the Ak Chin's CAP allocation." We strongly agree with the Committee's views, and it has always been the Department's position that the higher-priority Yuma-Mesa reallocation water should be the first-used foundation for the Ak Chin excess supply. As a result, the excess water will always be the unused portion of the Ak Chin CAP allocation, which was allocated as a part of the Indian CAP pool in 1983.

Most importantly, in the Ak Chin legislation Congress did not expressly direct the Secretary to utilize the excess Ak Chin water in a specific manner. Rather, section 2(k) of the Ak Chin Act speaks in general terms as to what the Secretary may do with the excess water:

(k) The water referred to in subsection (f)(1) shall be for the exclusive use and benefit of the Ak-Chin Indian Community, except that whenever, the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

The House Report underscores the conclusion that the decision as to how the excess water was to be used was left to the Secretary's discretion. Again on page 12 of the House Report, the committee states: "It is the intent of the Committee that water not needed to satisfy the Secretary's delivery obligation [75,000 A/F per year] be available for allocation in the State of Arizona." Similarly, on page 13 of the House Report, in specific reference to section 2(k) of the Ak Chin legislation, the Committee explains the purpose of section 2(k) and states that: "It is the intent of the Committee that any such excess water be allocated for use in Arizona." Senator Goldwater's comments on the Senate floor, printed in the Congressional Record (September 25, 1984), also support this position: "The second amendment [in section 2(k)], technical in nature, merely reconfirms the fact that any of the surplus aggregate water which the Secretary of the Interior does not use in fulfilling his obligation to the [Ak Chin] Indians goes to the Central Arizona Project."

These comments reflect an understanding by the Committee, and the Congress, of the Secretary's broad authority under section 5 of the 1929 Boulder Canyon Project Act, 43 U.S.C. 617, et seq., to allocate and contract for the use of water from the Colorado River within the lower basin area. In order to change that authority, or to circumscribe the Secretary's discretion in this area, we believe that the words of Congress must be clear and express. That did not happen in the Ak Chin legislation.

3. A second argument, which has been made, is that certain verbal understandings were established in the final hours of the Ak Chin legislation wherein the excess water was committed to non-Indian CAP users. The stated reason for the understanding was that the non-Indian CAP users deserved such a benefit in return for the utilization of the Yuma-Mesa water (50,000 A/F) which would have been diverted by the CAP in future years if that supply was not needed at the Yuma-Mesa Division. In other words, since that portion of the Yuma-Mesa water was not being used, the diversion of that water by the CAP was expected and that expectation was impacted by the reallocation.

We believe that this is not a case where the words of Congress are unclear, and if there were any ambiguity, the House Report provides the legislation history to support the conclusion that the Secretary retained the authority to use the excess water as he determines—as long as the use is within Arizona.

There is an alternate argument that the non-Indian CAP users were entitled to the Yuma-Mesa water, and therefore deserved some compensation in the form of a deal concerning the excess water. We do not give this argument great weight.

First, the fact that CAP may have used the unused Yuma-Mesa water would not have given the CAP a contract right to that water. The entitlement belonged to the Yuma-Mesa District; and therefore, at best the CAP only had an expectation of using that water. Even if Bureau of Reclamation or DWR water supply studies contributed to the expectation, that expectation did not ripen into a right.

Second, this Department must give full respect to the contract water rights of Colorado River users until such rights are withdrawn, canceled, or reduced by action of the Secretary or the Supreme Court. Thus, we cannot view all unused entitlements or portions of entitlements along the Arizona side of the Colorado River as somehow belonging to the CAP. For example, CAP may presently divert the unused City of Kingman entitlement, but the City of Kingman has projections for the use of that water. Even if Kingman cannot put its unused water to beneficial use, we have a clear expectation that the Kingman entitlement will be reallocated in the future for use within Mojave County. In other situations, unused supplies may be secured for use by the CAP.

Third, the Yuma-Mesa water was not simply reallocated by unilateral action of the Secretary. Rather, an agreement was reached with the Yuma-Mesa Division, and various forms of compensation were provided in order to obtain the consent of the Division in regard to the reduction of its contract entitlement. Thus, the notion that the non-Indian CAP users were entitled to "compensation" for the utilization of that water in the Ak Chin Settlement when the Government had already provided compensation to the Yuma-Mesa Division for the same water, seems to ignore the circumstances which led to the acquisition of the Ak Chin water.

4. We feel it is important to note that the Ak Chin Settlement was somewhat unique in that it was not supported by local contributions. The Federal Government provided the whole solution to the Ak Chin Settlement via the Community's CAP allocation and the acquired Yuma-Mesa water. In addition, the Government even faces money damage penalties if the Congressionally established supply is not delivered annually by the Secretary.

We see this as significant in light of opposition to the San Carlos legislation. As we believe you understand, only a few of the many CAP subcontractors are opposing this legislation on the basis of the Ak Chin excess water. Among that small group are the large CAP-user irrigation districts in Pinal County, such as Maricopa Stanfield and the Central Arizona Irrigation and Drainage District (CAIDD). These entities apparently support proposition that any uncommitted CAP water, which in their view is the excess AK Chin water, would enure to the benefit of the CAP agricultural users.

This position contains an inherent contradiction. The Ak Chin water was allocated by the Secretary; and therefore, was never available for use by other CAP water users. In addition, the United States bore the cost of purchasing the Colorado water used to satisfy the Ak Chin water claims. Therefore, since the United States acquired the water for the Ak Chin settlement, there could be no rights which would accrue to other CAP water users.

We disagree with the position that CAP agricultural users obtained some type of commitment to benefit from the excess Ak Chin water. We are confident that these CAP water users do not have valid legal claims to the excess water. If this legislation is enacted, a few of the agricultural entities may persist and take their claims to the Claims Court; however, we feel strongly that such claims will be rejected in that forum.

5. Finally, we wish to address this problem on a scale which is broader than the technical argument.

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[2] By the Act of July 30, 1947, Congress had authorized the use of up to 300,000 A/F of water per year for use within the Yuma-Mesa Division. Since a need for that much water had not been demonstrated, the Division's annual entitlement was contractually reduced to 250,000 A/F as a result of the Ak Chin settlement.

Many of the CAP subcontractors are the same entities at risk in the Gila River adjudication as a result of Indian water claims.

These entities at risk face essentially three choices: (1) litigation, (2) reach a settlement by giving up some of their present uses from local sources, or (3) acquire or consent to the use of some other source of water which can be used as the basis for a settlement. Clearly the excess Ak Chin water represents a utilization of alternative number 3.

By supporting the use of the excess Ak Chin water for this settlement, which could have been reallocated by the Secretary to non-Indian users at some point in the future, the non-Indian settlement participants are making a choice to utilize an available component of the CAP supply to structure this settlement as opposed to giving up some of, or more of, the water they presently enjoy from local supplies. We see using this future water which may or may not become an entitlement as a reasonable choice.

The point is that the Ak Chin water is a critical component of this settlement in that it provides a significant portion of the settlement water budget. Without this source we assume that the settlement will fail, and we see no viable alternative solutions. Accordingly, all of us are left with no choice. Is the excess Ak Chin water an acceptable component to this settlement, or do we oppose that action to the detriment of the settlement? Based on the reasons outlined above, we support the use of the excess Ak Chin water.

In conclusion, let me say that we recognize that the Ak Chin matter is complex and the historical record is important to a clear understanding of our position. We also want the committees to have a full and complete understanding or our analysis so that you can see that we have carefully considered the problem.

Our recommendation is that you support the inclusion of the excess Ak Chin water in this settlement. We also recommend that you add the Planet Ranch exchange provision set forth herein as a way to greatly protect and enhance a unit of the national wildlife refuge system, and provide a tangible and long-term benefit to the State and CAWCD in regard to the security of the CAP water supply.

The Office of management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Thank you for your attention to our concerns.

Sincerely,
TIMOTHY W. GLIDDEN,
Chairman, Working Group on
Indian Water Settlements.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I naturally rise in support of this legislation, and I would be remiss if I did not begin by thanking the chairman of the full committee, the gentleman from California, Mr. MILLER, for his assistance in getting this Senate bill to the floor with the House amendment so that we can pass the bill here in the last day of the session and proceed to conference with the Senate to resolve the remaining differences which exist in the bill.

The chairman has very, very adequately explained the process that got us to this point, and I am in full agreement with 95 percent of the chairman's statement. The chairman knows which 5 percent I am not in agreement with, and we will be continuing discussions about that 5 percent as we go along toward conference with the Senate.

This is a very important bill for the State of Arizona. It resolves a longstanding dispute and it rights many longstanding wrongs in favor of the San Carlos Apache Indians.

But as important as righting those wrongs is the fact that, with resolution of this dispute, the parties to the dispute now have an element called certainty. They now know, or will know, what their rights are as it pertains to certain quantities of water, ground water and surface water, in the State of Arizona.

This is important to the Indians; it is important to the cities who are parties to the settlement; it is important to the State of Arizona.

Without this element of certainty being acquired by the parties to this agreement, they all faced years and years of costly and expensive litigation in order for a judicial determination of various and sundry rights they have.

While that litigation is continuing, they are unable to plan for their futures, unable to know what degree of certainty they have to their wear rights and their ability to go forth into the next century.

So, achieving this negotiated settlement is an extremely important event in the lives of the participants and the lives of those who are parties to the agreement. I commend everybody who has been involved.

I certainly want to thank my fellow members of the Arizona delegation here in the House, our two Senators, Senator McCAIN and Senator DECONCINI, for their assistance.

I again thank the gentleman from California [Mr. MILLER] and all of our staffs who worked very hard on this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KYL].

Mr. KYL. I thank my colleague for yielding. I would like to express my appreciation to him and to Chairman MILLER for their work on this bill. I too support the bill.

The San Carlos Indian Tribe is in my congressional district, as are many of the communities which will benefit from the resolution of the disputes which this bill will help resolve. The only concern that we have is the change that has been made in the legislation that was alluded to by the chairman. The compromise that was delicately put together here is, to some extent, disrupted as a result of this change, but time is of the essence here. It is important this bill move to conference so these issues can be discussed.

One of the most critical things is the fact that litigation is pending, as my colleague from Arizona pointed out, and the longer that litigation proceeds and the further down the road it gets, the more difficult it is to reach these kinds of compromise agreements..

We are very concerned that unless we can bring it up soon and get this legislation passed, we may have missed the opportunity to reach a negotiated settlement which would be in the interests of all of the parties.

So, time is important. We do urge that our colleagues support this legislation, move the bill to conference, and there we can try to iron out those items upon which we currently differ.

It is legislation well worth supporting.

Mr. RHODES. Mr. Speaker, I urge our colleagues to support passage of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the Senate bill, S. 291, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

TELEPHONE CONSUMER PROTECTION ACT OF 1991

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1462) to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment, as amended.

The Clerk read as follows:

S. 1462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Consumer Protection Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and,

when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals' privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

(10) Evidence compiled by the Congress indicates that residential telephone subscribers consider automated or prerecorded telephone calls, regardless of the content or the initiator of the message, to be a nuisance and an invasion of privacy.

(11) Technologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer.

(12) Banning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

(13) While the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless of the type of call, the Federal Communications Commission should have the flexibility to design different rules for those types of automated or prerecorded calls that it finds are not considered a nuisance or invasion of privacy, or for noncommercial calls, consistent with the free speech protections embodied in the First Amendment of the Constitution.

(14) Businesses also have complained to the Congress and the Federal Communications Commission that automated or prerecorded telephone calls are a nuisance, are an invasion of privacy, and interfere with interstate commerce.

(15) The Federal Communications Commission should consider adopting reasonable restrictions on automated or prerecorded calls to businesses as well as to the home, consistent with the constitutional protections of free speech.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

(a) AMENDMENT.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

"(B) to dial such numbers.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity (A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

"(3) The term 'telephone solicitation' means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person's prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax exempt nonprofit organization.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

"(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—

"(1) PROHIBITIONS.—It shall be unlawful for any person within the United States—

"(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

"(i) to any emergency telephone line (including any '911' line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);

"(ii) to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

"(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

"(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by rule or order by the Commission under paragraph (2)(B);

"(C) to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine; or

"(D) to use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

"(2) REGULATIONS; EXEMPTIONS AND OTHER PROVISIONS.—The Commission shall prescribe regulations to implement the requirements of this subsection. In implementing the requirements of this subsection, the Commission—

"(A) shall consider prescribing regulations to allow businesses to avoid receiving calls made using an artificial or prerecorded voice to which they have not given their prior express consent; and

"(B) may, by rule or order, exempt from the requirements of paragraph (1)(B) of this subsection, subject to such conditions as the Commission may prescribe—

"(i) calls that are not made for a commercial purpose; and

"(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

"(I) will not adversely affect the privacy rights that this section is intended to protect; and

"(II) do not include the transmission of any unsolicited advertisement.

"(3) PRIVATE RIGHT OF ACTION.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

"(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

"(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater, or

"(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

"(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

"(A) compare and evaluate alternative methods and procedures (including the use of electronic databases, telephone network technologies, special directory markings, industry-based or company-specific 'do not call' systems, and any other alternatives, individually or in combination) for their effectiveness in protecting such privacy rights, and in terms of their cost and other advantages and disadvantages;

"(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

"(C) consider whether different methods and procedures may apply for local telephone solicitations, such as local telephone solicitations of small businesses or holders of second class mail permits;

"(D) consider whether there is a need for additional Commission authority to further restrict telephone solicitations, including those calls exempted under subsection (a)(3) of this section, and, if such a finding is made and supported by the record, propose specific restrictions to the Congress; and

"(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

"(2) REGULATIONS.—Not later than 9 months after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

"(3) USE OF DATABASE PERMITTED.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, and to make that compiled list and parts thereof available for purchase. If the Commission determines to require such a database, such regulations shall—

"(A) specify a method by which the Commission will select an entity to administer such database;

"(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

"(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

"(D) specify the methods by which such objections shall be collected and added to the database;

"(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

"(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

"(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

"(H) specify the methods for recovering, from persons accessing such database, the costs involved in identifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

"(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with the regulations prescribed under this subsection;

"(J) be designed to enable States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

"(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

"(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

"(4) CONSIDERATIONS REQUIRED FOR USE OF DATABASE METHOD.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

"(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

"(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

"(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

"(ii) reflect the relative costs of providing such lists on paper or electronic media; and

"(iii) not place an unreasonable financial burden on small businesses; and

"(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

"(5) PRIVATE RIGHT OF ACTION.—A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State—

"(A) an action based on a violation of the regulations prescribed under this subsection to enjoin such violation,

"(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater, or

"(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations prescribed under this subsection. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(6) RELATION TO SUBSECTION (B).—The provisions of this subsection shall not be construed to permit a communication prohibited by subsection (b).

"(d) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) PROHIBITION.—It shall be unlawful for any person within the United States—

"(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system, that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards; or

"(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

"(2) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after one year after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business, other entity, or individual.

"(3) ARTIFICIAL OR PRERECORDED VOICE SYSTEMS.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

"(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business, other entity, or individual; and

"(B) any such system will automatically release the called party's line within 5 seconds of the time notification is transmitted to the system that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

"(e) EFFECT ON STATE LAW.—

"(1) STATE LAW NOT PREEMPTED.—Except for the standards prescribed under subsection (d) and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

"(A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

"(B) the use of automatic telephone dialing systems;

"(C) the use of artificial or prerecorded voice messages; or

"(D) the making of telephone solicitations.

"(2) STATE USE OF DATABASES.—If, pursuant to subsection (c)(3), the Commission requires the establishment of a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, a State or local authority may not, in its regulation of telephone solicitations, require the use of any database, list, or listing system that does not include the part of such single national database that relates to such State.

"(f) ACTIONS BY STATES.—

"(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls or other transmissions to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) DEFINITION.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "Except as provided" and all that follows through "and subject to the provisions" and inserting "Except as provided in sections 223 through 227, inclusive, and subject to the provisions".

(c) DEADLINE FOR REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by this section not later than 9 months after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The requirements of section 228 of the Communications Act of 1934 (as added by this section), other than the authority to prescribe regulations, shall take effect one year after the date of enactment of this Act.

SEC. 4. AM RADIO SERVICE.

Section 331 of the Communications Act of 1934 is amended—

(1) in the heading of such section, by inserting "AND AM RADIO STATIONS" after "TELEVISION STATIONS";

(2) by inserting "(a) VERY HIGH FREQUENCY STATIONS.—" after "SEC. 331."; and

(3) by adding at the end the following new subsection:

"(b) AM RADIO STATIONS.—It shall be the policy of the Commission, in any case in which the licensee of an existing AM daytime-only station located in a community with a population of more than 100,000 persons that lacks a local full time aural station licensed to that community and that is located within a Class I station primary service area notifies the Commission that such licensee seeks to provide full-time service, to ensure that such a licensee is able to place a principal community contour signal over its entire community of license 24 hours a day, if technically feasible. The Commission shall report to the appropriate committees of Congress within 30 days after the date of enactment of this Act on how it intends to meet this policy goal.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House will consider a substitute amendment to Senate 1462 that embodies the text of H.R. 1304, the Telephone Advertising Consumer Rights Act, which passed this body on November 16. I am offering this compromise amendment with the gentleman from New Jersey [Mr. RINALDO]. The compromise effectively merges and improves legislation passed by the Senate dealing with automatic dialing systems and unsolicited facsimile messages.

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In short, Mr. Speaker, the compromise will finally give the public the opportunity to just say no to unsolicited phone or fax advertisements. The compromise gives the public a fighting chance to start to curtail unwanted telemarketing practices by requiring the FCC to conduct a rulemaking and weigh the alternative methods for protecting consumers' privacy rights and to put them in place before our home telephones become the receptacles of junk calls in the same way that junk mail often inundates our mailboxes.

Mr. Speaker, today in America more than 300,000 solicitors make more than 19 million calls every day, while some 75,000 stockbrokers make 1.5 billion telemarketing calls a year. Automatic dialing machines, on the other hand, have the capacity to call 20 million Americans during the course of a single day, with each individual machine delivering a prerecorded message to 1,000 homes.

In addition, automatic dialing machines place calls randomly, meaning they sometimes call unlisted numbers, or numbers of hospitals, police and fire stations, causing public safety problems. Our bill, H.R. 1304, would prohibit advertising calls to public safety numbers, as well as to paging, specialized mobile radio and cellular equipment.

In the final analysis a person's home is his castle. Preservation of the tranquility and privacy of that castle should compel us to avail consumers of the opportunity to place the telephone line into their home, the sanctuary from which they escape all the other trials that society and Congress cause them, off limits to intrusive and annoying interruptions. I believe that telemarketing can be a powerful and effective business tool, but the nightly ritual of phone calls to homes from strangers and robots has many Americans fed up.

Mr. Speaker, the aim of this legislation is not to eliminate the brave new world of telemarketing, but rather to secure an individual's right to privacy that might be unintentionally intruded upon by these new technologies. For this reason the legislation addresses live unsolicited commercial telemarketing to residential subscribers. If a live call is being made for the purpose other than for a commercial solicitation, then it is not regulated under this bill. In the context of the legislation a telephone solicitation is a call to encourage the purchase, rental of, or investment in property, goods, or services.

In addition, the compromise bill makes it unlawful for any person to initiate any telephone call to any residence using an artificial or prerecorded voice to deliver a message. The legislation makes two absolute exceptions to this prohibition:

First, where there is the prior express consent of the called party; and second, where the call is initiated for emergency purposes. The term "emergency purposes" is also intended to include any automated telephone call that notifies consumers of impending or current power outages, whether these outages are for scheduled maintenance, unscheduled outages caused by storms, or power interruptions for load management programs.

Second, the bill also allows the Federal Communications Commission to exempt, by rule or order, classes or categories of calls made for commercial purposes that do not "adversely affect the privacy rights" that this section of the bill is intended to protect and, that "do not include the transmission of any unsolicited advertisement." An example of such a use may be to leave messages with consumers to call a debt collection agency to discuss their student loan or to notify a consumer that a product they have ordered is ready to be picked up at the store. I fully expect the Commission to grant an exemption, for instance, for voice messaging services that forward calls. For example, if a consumer is late catching a plane and calls his home to tell his wife he'll be arriving late and can't get through to her, this service allows him to leave a message and board the plane. While he is traveling, the service automatically dials the number repeatedly until the message is delivered. Such a voice messaging service is a benefit to consumers and should not be hindered by this legislation.

I believe we have put together a consensus compromise, one that reflects a responsible approach to address what the record indicates is of greatest concern to consumers.

I, as usual, want to thank the gentleman from New Jersey [Mr. RINALDO] for his leadership, for his cooperation, for his steadfast support in the development of this legislation. It is typical of the working relationship that we have had on the subcommittee for the last 5 years that we could produce such a complex piece of legislation. As well, I would like to thank the gentleman from New York [Mr. LENT] on the minority side who, along with his staff, have worked with us in the development of the legislation, the gentleman from Tennessee [Mr. COOPER], the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentleman from Massachusetts [Mr. FRANK], along with the gentleman from Texas [Mr. BRYAND]. Each and every one of them has played a role in helping to craft this legislation and, working with the majority staff of David Leach at the full committee level and Mick Regan on the minority side, we have been able to put this legislation together. So, I want to thank all of the parties involved.

Mr. Speaker, I think this is an excellent piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in supporting S. 1462, the Automated Telephone Consumer Protection Act of 1991. This bill is substantially similar to H.R. 1304, the Telephone Advertising Consumer Rights Act, a bill that the House recently passed.

This bill addresses widespread and growing concern about abuses associated with automatic dialers, junk faxes, and unwanted telephone solicitations. Under this bill, those who use automatic dialers would be prohibited from making computer-generated calls to emergency lines at health care facilities, fire protection, or law enforcement agencies, any telephone line at a patient room in a hospital, or paging or cellular telephone numbers.

In addition to addressing these serious health and safety concerns, the bill would prohibit autodialed calls to anyone that has not given the caller prior express consent. This bill also requires the FCC to restrict only those categories of artificial or prerecorded voice calls which are made for commercial purposes and will affect the privacy rights that the bill intends to protect. Among categories which should be made available to the public are voice messaging services which deliver legitimate personal messages to one or more persons.

The FCC has already authorized as in the public interest a service which allows a caller from a coin telephone to record a message for later delivery when encountering a busy signal or no answer. Likewise, a similar service which the FCC has also authorized would allow a person to send a message to a group of people through a recorded message. Clearly, these types of personal voice messaging services are not invasive of a person's privacy rights, and this bill is not intended to prohibit these or other such services yet to be developed.

S. 1462 also directs the FCC to determine the most effective and efficient method of allowing telephone subscribers to avoid live telephone solicitation calls. Specifically, the Commission must consider an electronic database, special directory markings, industry-based or company-specific "do not call" systems, as well as other alternative solutions to the problem of unsolicited calls.

In drafting this legislation, we recognized that many legitimate businesses make telephone calls, including solicitations, without annoying consumers. Thus, the bill exempts businesses that have a preestablished business relationship with a customer as well as telephone calls from nonprofit organizations. In addition, the bill mandates that the FCC consider whether different methods and procedures should apply for local telephone solicitations, particularly from small businesses and holders of second-class mail permits, such as newspapers.

I want to briefly mention an important issue relating to a person's change in residence and change in telephone number. In the committee report on H.R. 1304, we state that during the first 6 to 12 months after a change in a person's telephone number, a telephone subscriber should reasonably expect to receive telemarketing calls. No matter what telemarketing control alternatives are selected by the FCC, implementation may take up to 12 months for a new resident. This initial contact during that period may actually help introduce new residents to local goods and services available in their new community. We expect that such calls will be allowed during the first 6 to 12 months.

To ensure a uniform approach to this nationwide problem, this bill would preempt the States from adopting a database approach, if the FCC mandates a national database. From the industry's perspective, this preemption has the important benefit of ensuring that telemarketers are not subject to duplicative regulation.

Finally, this bill promotes the allocation of fulltime AM radio channels to medium-sized cities located in or adjacent to major metropolitan markets that lack a fulltime AM station.

I would like to thank Messrs. DINGELL, LENT, and MARKEY for their help and leadership in crafting this important bill. I would also like to thank Senators HOLLINGS, DANFORTH, and PRESSLER for their hard work in developing consensus, bipartisan legislation. I urge my colleagues to support this important measure.

Mr. Speaker, I would like to once again particularly thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], for his help, for his leadership, for his cooperation in seeing that this bill got to the floor and in working out some of the problems associated with the legislation. I would also like to thank Senators DANFORTH, HOLLINGS, and PRESSLER for their hard work in developing consensus bipartisan legislation. In addition, I think it should be noted that the gentleman from Michigan [Mr. DINGELL], the chairman of the full Committee on Energy and Commerce, and my good friend, the gentleman from New York [Mr. LENT], the ranking minority member of that committee, exhibited a great amount of leadership in seeing that the bill got through the full committee and onto the floor.

Finally, Mr. Speaker, I would like to thank the members of the committee and acknowledge their hard work and dedication in seeing that this bill would get to the floor. I thank my good friend and colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA], who worked extremely hard to see to it that this bill got to where it is today and will be on the President's desk shortly.

Mr. Speaker, I reserve the balance of my time.

□ 1150

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I represent the home area of MessagePhone, Inc., a company which is engaged in the business of message forwarding. Senator HOLLING's legislation, as it passed the Senate—the Automated Telephone Consumer Protection Act, S. 1462, would have inadvertently ended their operations. The bill however has been corrected to avoid this inadvertent result.

Automatic message delivery, developed by MessagePhone, gives a caller, who encounters a busy or unanswered telephone call, the opportunity to record a short message for subsequent delivery. For example, the technology for this service could call the original destination number every 15 minutes for several hours or until the telephone was answered and the message was delivered. For the purpose of privacy, after delivery, the call attempts are stopped and the message is destroyed.

MessagePhone designed the service to give the calling party an alternative to busy and unanswered telephone calls which make up 30 percent of all telephone calls.

Unlike the technology used by telemarketers for their random solicitations, this service is a prepaid, person-to-person communication, not all that different from a regular telephone call. The service is designed so that the messages are short and the content is personal in nature.

Take for instance the scenario where you are at an airport, you missed your flight and only have a few minutes to call your spouse with the updated flight information. The line is busy and you have to leave. With my constituent's service, you could record a message; they would attempt to deliver a few minutes later, even if you were completely removed from a telephone.

Furthermore, Bell Atlantic currently offers this very service from its payphones. In order to do so, Bell Atlantic had to receive a waiver from the FCC's Computer II rules. To qualify for the waiver, the service had to pass a rigorous public interest test. A similar request that must meet the same public interest test recently was filed by BellSouth. In comments to the FCC, these two Regional Bell Companies have demonstrated that there are well over 1 billion busy and unanswered telephone calls, from payphones, annually.

It is important to note that, in 1988, Judge Greene granted the Regional Bell Operating Companies a waiver of the modified final judgment, concluding that automatic message delivery services were little more than a delay in a standard telephone transmission and that the Regional Bells should be allowed to offer these caller-directed services to the public.

MessagePhone's automatic message delivery services does not consist of random calls with prerecorded messages that invade the privacy of our constituents. Rather, they provide a message service that clearly is beneficial to the public. It is important that existing and emerging technologies and services that are beneficial to the public should not be prohibited by this legislation.

The broadness of the Senator's original definition of an autodialer would have prevented the telemessaging services I have described.

MessagePhone, Inc., has been providing the messaging service described above which has been favorably perceived by the public. Family members, friends, or business associates can receive a recorded message of very limited duration for subsequent delivery when the telephone line is answered or free.

I understand that the legislation we have before us now does not shut down all telemessaging services. The bill allows the Federal Communications Commission to exempt:

(i) calls that are not made for a commercial purpose; and

(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

(I) will not adversely affect the privacy rights that this section is intended to protect; and

(II) do not include the transmission of any unsolicited advertisement.

I am pleased that this issue was resolved without a formal conference with the Senate, and I further understand that the FCC is amenable to this language as a means of preserving these valuable telemessaging services.

I thank you for your valuable assistance on this issue.

Mr. Speaker, I would like to ask the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY] if I am correct in my understanding of the bill.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. BRYANT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, the gentleman has accurately described the intention of the legislation. We have made the commonsense exceptions that in fact improve communications between individuals using the modern telecommunications technologies while at the same time targeting that abusive robotic use of the technology which has become such an intrusive part of the American society.

Mr. BRYANT. Mr. Speaker, I further understand that the FCC is amenable to the direction that the bill is taking now with regard to this automated type of messaging service; is that correct?

Mr. MARKEY. The gentleman is correct.

Mr. BRYANT. Mr. Speaker, I would like to express my very deep thanks to the gentleman from New Jersey [Mr. RINALDO], too, for allowing us to make this needed correction to the bill.

Mr. RINALDO. Mr. Speaker, I yield 3 minutes to the ranking minority member of the full committee, the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I urge my colleagues to support S. 1462, the Telephone Protection Act of 1991. This bill contains many of the same provisions included in H.R. 1304, the Telephone Advertising Consumer Rights Act, which the House passed last week. The bill reflects a consensus that has been worked out between the House and the Senate on concerns about the telemarketing industry. I want to commend both the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] as well as the gentlelady from New Jersey [Mrs. ROUKEMA], for an outstanding job and Mike Regan, Jerry Waldron, David Leach, and other Energy and Commerce Committee staff for helping to bring this bill to the floor.

This is important legislation with bipartisan support designed to address various consumer concerns without unnecessarily burdening the telemarketing industry. The bill before the House today reflects a further effort to address problems in the telemarketing industry, while accommodating legitimate concerns of telemarketers that their industry not be unfairly stifled.

S. 1462 explicitly recognizes that there are certain classes and categories of calls that consumers do not mind, and in fact would probably like to receive. Calls informing a customer that a bill is overdue, or a previously unstocked item is now available at a store are clearly not burdensome, and should not be prohibited. Similarly, the bill grants the FCC the latitude to exempt certain services that telephone companies presently offer, or in the future are likely to offer, to send messages and other important information.

While the telemarketing industry is understandably concerned about being subject to excessive regulation, I believe that the Nation's consumers have a reasonable concern regarding privacy. S. 1462 balances both of these concerns, and I urge my colleagues to join me in supporting the bill.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I thank the distinguished chairman of the subcommittee for yielding time to me. I congratulate him for his leadership in moving this legislation. And I add my congratulations to the distinguished ranking member, the gentleman from New Jersey.

Mr. Speaker, I rise in support of this legislation because it effectively addresses the nightly assault by telemarketing machines and operators on the privacy of our homes. Yet it does so in a balanced way that permits telemarketing to continue its important function of promoting commerce.

I have said here before that some of these calls are much more annoying than others. For example, I regard and I hope the FCC will regard, robotic calls by machines such as autodialers and computer-generated voices to be a much greater threat to the privacy of our homes than calls by live operators. At least you can vent your anger to a real person if they have interrupted your dinner. You can ask them questions and hold them accountable to some extent. At least a live person can only call one person at a time.

Among calls placed by live operators, there are some that we may not mind so much. Some are even helpful. We may not mind a call from a local business in town reminding us of a special sale or opportunity. If they are rude or intrusive, they are accountable in the local area by the damage to their reputation among the people who live there. For interstate calls, especially there. For interstate calls, especially from other time zones, there is no such accountability. Unwanted calls are tainting the wanted ones and make us cringe at the thought of answering the telephone at night. As I have said before, it's a classic case of the bad apples spoiling the whole barrel.

Chairman MARKEY and the Subcommittee on Telecommunications and Finance crafted an excellent bill that would enable the Federal Communications Commission to protect consumers from the calls they don't want, but not restrict their ability to receive the calls they do want. The FCC was given broad flexibility to fashion regulatory approaches to achieve this result. I am pleased to see that in working out a compromise on the legislation passed by the other body, the chairman preserved this flexibility. I commend him for preserving the opportunity for a choice by the consumer.

Under the legislation before us the FCC still has the same breadth of options available to address this issue. Some options are spelled out as examples for the Commission's consideration, but they are not limiting. I was concerned that the compromise with the other body might narrow the options and tilt the regulatory process toward adoption of a national data base. That has clearly not occurred here.

My own belief is that the national database will not bear up well under close scrutiny. I think the company-specific do-not-call approach offers consumers greater choice. To me, it seems more efficient in terms of the cost of implementation and the lag times required to implement it, as compared to the national database. But that is for the FCC to decide.

I am especially pleased that the Commission still has the opportunity to prescribe methods and procedures for local telephone solicitations that are different from that selected for the non-local calls. This will enable the Commission to take into account that telemarketers making local calls already have an accountability within the community by virtue of their reputation as businesses and as individuals. The other methods and procedures available to the Commission for the local option might be entirely different approaches from that selected for the nonlocal calls. For example, the Commission might decide to use a hybrid approach of a mandatory, company-specific do-not-call system at the local level and something else, perhaps even a national database for other calls.

Overall, Mr. Speaker, this is a good compromise. The FCC has the latitude, the tools, to strike a good balance between curbing annoying telemarketing while preserving telemarketing's contribution to commerce. I thank the chairman for his leadership and I wholeheartedly support and endorse this legislation.

Mr. RINALDO. Mr. Speaker, I yield 1 minute to the distinguished minority whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, I simply want to report to the House that the President 5 minutes ago met with the press and, in response to the Speaker's request for instructions on economic growth, said this House has had a full year to play around with the issue. He is requesting that the Democrats make in order this afternoon a vote on the Republican growth plan.

As soon as the transcript of his exact comments is available, I will bring the transcript to the floor and read his exact words into the RECORD. I think it is now up the Speaker to make in order a vote on the bill.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I thank the chairman of the subcommittee for yielding this time to me.

Mr. Speaker, I rise in support of today's legislation, and I want to commend the gentleman from New Jersey [Mr. RINALDO] and the gentleman from Massachusetts [Mr. MARKEY], as well as the staffs of the majority and the minority for the outstanding job that they have done to bring us this legislation today.

I also want to particularly commend the chairman of the subcommittee for his statement in which he says that the term "emergency purposes" is also intended to include any automated telephone calls that notify consumers of impending or current power shortages, whether these outages are for scheduled maintenance or unscheduled outages caused by storms or power interruptions for load management programs. That language is inserted, I'm told, in order to try to accommodate the concerns many of our rural electric cooperatives have had with respect to doing normal maintenance on their lines.

Mr. Speaker, I appreciate the personal attention of the subcommittee chairman, and I will convey to the REC's their concerns have been addressed by this legislation.

□ 1200

Mr. RINALDO. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from my home State of New Jersey [Mrs. ROUKEMA].

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey.

The SPEAKER pro tempore. The gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 2 minutes.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of S. 1462, the Telephone Advertising Regulation Act. I also want to thank the distinguished chairman of the Subcommittee on Telecommunications and Finance, Mr. MARKEY, and the distinguished ranking member, my colleague from New Jersey, Mr. RINALDO, for their expeditious handling of this compromise legislation, which preserves the rights of consumers and protects the health and safety of the public. At long last a reliable law will be passed.

Telecommunications and computer technology advances have made information exchange easier, and brought our Nation and the world closer together. However, as with any vital technology, telecommunications and computer equipment may be used in a counterproductive and abusive fashion.

Today, we unfortunatley find that automatic dialing recorded message players are being used in record numbers to systematically solicit unsuspecting and unwilling residential and commercial telephone subscribers. This practice is an unwarranted invasion of privacy, and it can be dangerous and life-threatening. This Congress can no longer stand by the wayside and allow telephones to become a potential health hazard.

I am sure my colleagues have heard many complaints about computer-generated phone calls from their constituents. In my case, I have been contacted by a number of physicians in my district who have justifiably complained that their office emergency lines, typically reserved for critical cases, are being clogged with unsolicited computer calls. One of these physicians also happens to be my husband, Dr. Richard W. Roukema, who has repeatedly suffered this problem on his phone lines reserved for emergency calls from the hospital. I especially appreciate the support of Chairman MARKEY in this respect. His wife, also a practicing physician, understood the problem immediately.

This is harassment.

Computer calls are also harassing police and fire emergency numbers. This problem is particularly serious when the computer-generated call will not disconnect and free up the phone line until after its message has been completed. Mr. Speaker, this practice must stop before lives are lost.

S. 1462 contains a provision which prohibits computer-generated calls to emergency phone lines or pagers at hospitals, physicians' or medical service offices, health care facilities, and fire protection and law enforcement agencies.

Yet, as alluded to earlier, it is not just calls to doctors' offices or police and fire stations that pose a public health hazard. I have previously recounted the story of a New York mother who tried to call an ambulance for her injured child, and the sheer terror she experienced when she picked up her phone only to find it occupied by a computer call that would not disconnect. Fortunately, that injured child survived, but, Mr. Speaker, let us not wait for tragedy before we act.

S. 1462 also contains a provision requiring computer-generated calls to disconnect as soon as the receiver seeks to terminate the message. This is a commonsense provision which ensures the saftey of telephone customers who may have received unsolicited and unwanted computer-generated calls.

Another important aspect of S. 1462 is that it protects the privacy of telephone subscribers by allowing those citizens who object to receiving computer-generated phone calls to add their names to a national database or a comparable substitute as determined by the FCC. This key provision finally guarantees telephone subscribers freedom from unwanted intrusions into their privacy.

The Senate language has tightened up the prohibition on automatic dialing computers by completely prohibiting their use unless the FCC grants an exemption in the public interest. Such an exemption would include emergency information about natural disasters and health-related evacuations.

Under the provisions of the bill, live telemarketers will still be able to make commercial calls to those customers who have not requested an exemption from such calls. This will allow legitimate telemarketers to conduct business in a safe and responsible fashion, without penalty.

In conclusion, this compromise is faithful to the basic purposes of the original intent of the legislation. It preserves the privacy of the consumer through the ban on autodialers except where consumers choose the exemption.

I support the bill.

Mr. MARKEY. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I would like to make it quite clear that that particular provision is a direct result of the interest which the husband of the gentlewoman from New Jersey [Mrs. ROUKEMA] showed on this subject.

Mrs. ROUKEMA. My husband and your wife.

Mr. MARKEY. Mr. Speaker, I would simply like to point out that when the gentlewoman from New Jersey [Mrs. ROUKEMA] a year or a year and a half ago approached me with this problem that her husband, a physician, had with the inability for him to have complete control over his telephones for emergency purposes, that that triggered the discussion, the process, which has resulted in the provision being built into this legislation which will protect not only your husband, but my wife, who is also a physician, and the other tens of thousands of physicians and emergency personnel across the country, from having their lines stopped up by these junk calls which in dire circumstances could prevent the proper treatment by physicians of some very serious medical problems in the country.

Mr. Speaker, I want to congratulate the gentlewoman from New Jersey [Mrs. ROUKEMA] and congratulate her husband, because this provision is really in the name of her husband.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to once again thank the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], for his work, along with his work, along with his staff on these issues. I would like to thank Senator HOLLINGS, Senator PRESSLER, Senator INOUYE, and Senator DANFORTH for their work on these issues.

I would like to thank John Windhausen and Mary McManus from the Senate Commerce staff for their work, and the yeoman work, to use the words of the gentlewoman from New Jersey [Mrs. ROUKEMA], of Steve Cope from legislative counsel, who has helped us enormously.

When a bill of this magnitude is passed, I recognize my indebtedness to the people who work for me directly on an ongoing basis. At this juncture I would just like to personally acknowledge the work of Gerry Salemme and Jerry Waldron and Colin Crowell and Ed Joseph, who each have participated in this long process. Also I would like to note as well, so that all of the proper thank yous are made, Justin Lilley on the minority side as well, who helped to construct this effort that has produced a piece of legislation which the gentleman from New Jersey [Mr. RINALDO] and I, the gentleman from Michigan [Mr. DINGELL] and the gentleman from New York [Mr. LENT], have been able to bring out to the floor here today.

Mr. RINALDO. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Speaker, I just want to underscore what the chairman of the committee has stated. I think it is important to note for the RECORD that we have a situation on the Subcommittee on Telecommunications and Finance where both majority and minority staffs work very well together in an effort to work out problems with legislation, to compromise effectively, to negotiate, and to come up with the kind of package that meets the needs of the people we represent and the people of this great country of ours, and I would particularly acknowledge the endeavors of David Leach, Jerry Waldron, Colin Crowell, Mike Regan, Justin Lilley, and Cathy Reid, for the fine job they have done, not working for any partisan interest, but working together to achieve the kind of results that we see here this morning, of course once again, in the very bipartisan and fair manner in which Chairman MARKEY runs the subcommittee.

Mr. MARKEY. Mr. Speaker, reclaiming my time, I thank the gentleman from New Jersey [Mr. RINALDO].

Mr. Speaker, I would just like to say that this is the beginning of the end for junk faxes and junk calls in America. This knows no partisan line. This is not a Democrat or Republican issue, this is not a liberal or conservative issue. When those junk faxes start coming over your machine, you do not think like a Republican or a Democrat, you just think how are you going to be able to get your hands around the neck of the person making you pay with your paper for whatever message they are trying to send you.

We are sending instructions over to the FCC that we want them to begin the process here of shutting down the abuse of the telephones and fax machines that have grown over the last half a decade.

Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I want to just attest to the effective bipartisanship of both the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] on a number of telecommunications issues.

Last night we passed the Corporation for Public Broadcasting bill that had a number of provisions important to women and minorities in rural areas, giving them access to telemarketing. I especially want to note the cooperation I got from the gentleman from Massachusetts [Mr. MARKEY] on a number of issues relating to exemptions when there are medical emergencies and safety issues.

Mr. Speaker, I can attest again to the gentleman from New Jersey [Mr. RINALDO] and the gentleman from Massachusetts [Mr. MARKEY] effectively working on a number of bills. I think we have had a lot of suspensions in this area, and I just want to join in commending them for this very strong effort and their excellent staffs.

Mr. Speaker, I rise today in strong support of S. 1462, the Automated Telephone Consumer Protection Act. I commend the gentlemen from Massachusetts and New Jersey for producing a final product that strikes an appropriate balance so that individuals will be protected from unwanted calls while still having the ability to take advantage of doing some of their shopping and subscription renewals at home over the telephone.

As an early cosponsor of the House version of the bill, H.R. 1304, I am a strong supporter of the effort to control unwanted calls. The question, however, was how to do this while still allowing those telephone solicitation calls that consumers might want: From their alma mater, from their favorite charity, from their newspaper or magazine about a lapsed subscription. This bill gives the Federal Communications Commission [FCC] a way of regulating these types of calls and provides some necessary guidance and considerations for the FCC as part of their deliberations.

The bill appropriately singles out calls in which there is an existing business relationship between the caller and the consumer. Different rules should apply to these types of calls. Businesses need to be able to contact customers with whom they have a prior or existing business relationship. Generally, these calls are not objectionable to the recipient; they allow the customer to take advantage of special promotions and other offers from vendors with whom they are already familiar. At the same time, I want to emphasize that these vendors should be keeping track of customers' wishes regarding telephone calls and where and when he likes to receive them or not. Responsible telemarketers should respect certain basic privacy concerns irregardless of whether there is an existing business relationship.

Responsible telemarketing practices will not be restricted by this legislation, and the industry will continue to play a beneficial consumer role in our society. For example, newspapers often use telemarketing to renew lapsed subscriptions or offer special promotions to people who receive the paper only a few days a week. Customers are familiar with these calls and generally find it a convenience not to have to get in touch with their distributor about renewal.

Finally, the bill allows the FCC to evaluate alternatives for protecting residential phone customers from unwanted calls. The FCC is authorized to consider several options for how best to accomplish this. It is my personal opinion that the creation of a giant national database containing the names of people who do not wish to receive telemarketing calls is not the best way to go. This proposal is extremely problematic and may cause more harm than good. I would, therefore, urge the FCC to adopt another, less intrusive, means of protecting residential telephone customers from unwanted telemarketing.

Once again, let me congratulate the sponsors of the bill for their extraordinary efforts to produce a final products that deals with various concerns raised by different parties. Because of the leadership of the subcommittee chairman and ranking Republican member, we are able to pass this consensus bill before the end of the first session. I would urge my colleagues to vote for the bill.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to note that, as usual, from my 5 years as subcommittee chairman, the gentleman from New Mexico [Mr. RICHARDSON] has, as he has on every single piece of legislation, inserted provisions that are going to be very important and vital for the protection of the American public. I would like to make that notation here before we conclude debate.

Mr. Speaker, again, we worked in a bipartisan fashion. We hope that the House sees fit to accept this legislation today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the Senate bill, S. 1462, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

REGARDING UNFAIR IMPRISONMENT OF DR. NGUYEN DAN QUE BY GOVERNMENT OF VIETNAM

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 78) regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

The Clerk read as follows:

S. CON. RES. 78

Whereas the normalization of relations with the Socialist Republic of Vietnam and the potential lifting of the economic embargo depend in part on that nation taking certain steps related to the recognition of certain human rights;

Whereas Dr. Nguyen Dan Que is a nonviolent advocate for human rights and democracy in the Socialist Republic of Vietnam;

Whereas Dr. Nguyen Dan Que's right to free expression is guaranteed by Article 19 of the Universal Declaration of Human Rights;

Whereas Dr. Nguyen Dan Que has been imprisoned for 12 of the last 13 years and has for 14 years suffered from ill health;

Whereas Dr. Nguyen has finally been charged with treason and trying to overthrow the Vietnamese government;

Whereas Dr. Nguyen is scheduled to go on trial on November 29, 1991; and

Whereas numerous international human rights organizations have called for the release of Dr. Nguyen: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) Dr. Nguyen Dan Que should be accorded a fair and impartial trial as is his right under Articles 10 and 11 of the Universal Declaration of Human Rights;

(2) to ensure fairness and impartiality during his impending trail, international observers should be permitted access to all court proceedings and evidence; and

(3) if Dr. Nguyen is merely guilty of nonviolently expressing his views regarding human rights, he should be released immediately.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the following persons: the Permanent Representative of Vietnam to the United Nations, the Speaker of the Vietnamese National Assembly, the Foreign Minister and the Prime Minister of the Socialist Republic of Vietnam, as well as the Secretary of State and the President of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution was introduced by Senator ROBB and passed by the other body on Saturday. It expresses the deep concern of the Congress about the impending trial of Dr. Nguyen Dan Que of Vietnam.

Dr. Que, a human rights activist who has spent most of the past 14 years in prison, was arrested in Ho Chi Minh City on June 14, 1990, apparently for the high crime of signing a petition for nonviolent political reform and respect for human rights in Vietnam.

According a Asia Watch, one of the most respected human rights organizations in the world, which is noted in particular for the excellence of the people who work for it, Dr. Que's crime is the exercise of basic human rights of speech and association, as guaranteed, believe it or not, by Vietnam's own constitution, as well as by the International Covenant on Civil and Political Rights, to which the government of Vietnam has acceded.

According to a Ho Chi Minh City law journal, Dr. Que's accusers take as evidence of his so-called criminal intent such alleged facts as—now, listen to this one—his interest in studying Russian, his membership in Amnesty International, his letters protesting human rights abuses in China, Turkey, Greece, Colombia, and the Philippines, his sending a telegram to the government of Japan protesting the repatriation of a defecting Chinese pilot, and testimony from others that Dr. Que is apparently the sort of person who "asks others to join him in action, the same way Western politicians do."

□ 1210

My friends, these may be serious crimes in Vietnam, but in the United States and most other countries around the world, they would be seen not as evidence of criminality, but as a manifestation of decency and good will and a commitment to the cause of fundamental human rights.

The resolution before us today urges that Dr. Que be accorded a fair and impartial trial and that international observers be permitted access to all court proceedings and evidence.

It also states that if Dr. Que is merely guilty of the nonviolent expression of his views, as Asia Watch and other groups assert, he should be released immediately.

Mr. Speaker, this is a significant resolution, as it reaffirms the importance of human rights in the evolving bilateral relationship between the United States and Vietnam. I think it is very important for the leadership in Hanoi to know that the continued and systematic violation of basic human rights will inevitably limit the degree of bilateral cooperation between our two countries.

I also hope that the adoption of this resolution will serve to encourage the government in Vietnam to expedite the release and emigration of those so-called reeducation camp detainees who remain in long-term detention and who have been there in most if not all instances for nearly 17 years.

The fact is, of course, that the Government of Vietnam has released most of the thousands of people who had been held in reeducation camps since 1975, and a number of us worked long and hard to bring that about, but the State Department and human rights groups have contended that there are about 100 who remain in long-term detention in these reeducation camps, and we hope the day will soon come when literally all of them are released.

Finally, Mr. Speaker, I want to express my appreciation to the gentleman from Virginia [Mr. WOLF], my very good friend, who encouraged the Committee on Foreign Affairs to move this resolution expeditiously to the floor. For many years now he has been an outspoken advocate on behalf of the cause of human rights in Vietnam in general and the plight of the reeducation camp prisoners over there in particular.

I think we all owe him a debt of gratitude for reminding us of our continuing obligation to speak up on behalf of these people, who suffer either by virtue of their association with our country during the course of the war in Vietnam or because they espouse the fundamental ideals and principles upon which our own great republic was founded 200 years ago.

This resolution will probably not attract much attention over here. I doubt it will be on the front page of the Washington Post tomorrow. But I suspect that Dr. Que somehow or other will learn about it, and I have no doubt it will embolden him and greatly enhance his morale.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I am pleased to yield to the gentleman from Florida [Mr. FASCELL], my beloved chairman.

Mr. FASCELL. Mr. Speaker, I simply want to join my colleague in his eloquent statement with regard to this legislation and commend the original sponsor, the gentleman from Virginia [Mr. WOLF] and my distinguish ranking member or the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD].

It is important. The time has come to normalize our relationship after a long, bitter confrontation.

In that process, as we move along, the gentleman is absolutely correct, if there is one constancy about the United States and its people it is our strong conviction with regard to the nonviolent expression of political opinion and human rights.

It is the one thing that is respected around the world by all people regardless of what language they speak. We have seen the constancy of the American people in a firm belief of their value system as the one thing that changed the world and certainly what we see happening all over the world now is ample proof of that.

None of us should take lightly the importance of passing a resolution expressing the conviction of the American people in a matter of this kind.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 78 and urge its immediate adoption by the House. This resolution expresses the sense of the Congress that the Government of Vietnam should accord Dr. Nguyen Dan Que, an outspoken advocate for democracy in that country who is scheduled to go on trial for treason this Friday, his internationally recognized human right to due process of law.

The resolution further calls on the Government of Vietnam to release immediately Dr. Nguyen Dan Que who, in our opinion and that of the international human rights community, has been imprisoned solely for the nonviolent expression of his political views.

Mr. Speaker, as the process of normalizing the relations between the United States and Vietnam begins, it is essential that the United States Government insist that respect for human rights and greater political freedoms for the people of Vietnam be on the bilateral diplomatic agenda. One of the first steps the Government of Vietnam can take—and for which the United States Government should press—is the release of Dr. Nguyen and all others who languish in Vietnamese prisons for their attempts to exercise their internationally recognized human rights, including freedom of thought, expression, association and assembly.

I urge unanimous passage of this resolution.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for his observation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to express my strong support for this resolution.

Senate Concurrent Resolution 78 calls on Vietnam to give Dr. Nguyen Dan Que a fair trial and to release him if in fact his only crime is expressing his views.

Several years ago, Dr. Que, a Vietnamese physician, criticized the lack of medical supplies available to doctors. The Vietnamese authorities punished him for his candor by throwing him in a reeducation camp for 10 years.

After his release in 1988, Dr. Que remained steadfast in his determination to speak the truth about conditions in his country. He continued to speak out for nonviolent political change in Vietnam. The Government has responded by charging him with treason and trying to overthrow the regime.

For 35 years, the Communist government in Hanoi has boasted of its achievements. During the Vietnam war, there were some who were willing to believe that the Communists in Hanoi were only patriots who wanted to build a better future for their country.

Today, the failure of communism in Vietnam is obvious to all except the Government in Hanoi. The country is poor and has a few friends. But the Communists continue to stamp out human rights, and seek to silence men such as Dr. Que, who try to speak out.

For the past few years, the Vietnamese Government has called for an end to the American economic embargo and for normalization of relations between our two countries. Vietnam says that we should bury the past and seek a better relationship with their country.

I'm all for seeking reconciliation with former enemies, including Vietnam. But it seems to me that while the American people's attitudes towards Vietnam have changed, the men in Hanoi are still playing by the old rules and attitudes.

It's time that the Government in Hanoi begins to respect the human rights of its citizens. Senate Concurrent Resolution 78 sends a message to Vietnam that the United States is following Dr. Que's case closely, and that we expect Vietnam to fully respect the principles of the Universal Declaration on Human Rights.

I urge my colleagues to support this important resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I want to thank the gentleman from Florida [Mr. FASCELL], the committee chairman, the gentleman from New York [Mr. SOLARZ], and the gentleman from Michigan [Mr. BROOMFIELD], the ranking Republican member, for moving this and for their work on this and other pieces of legislation like this.

I think the Vietnamese Government will know now that the three of them are interested in this, and with the threat of them watching to see what the outcome of this trial would be, I feel much better about it, and I am sure that they know that the three of them are going to be looking to see how it goes and what the results are of the trial.

So to the three gentleman, I appreciate their putting this on and moving it so quickly.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 78 which calls on the Vietnamese Government to guarantee a fair and impartial trial for Dr. Nguyen Dan Que, a prisoner of conscience, who will be brought to trial on November 29, 1991, in Ho Chi Minh City and formally charged with "activities aimed at overthrowing the people's government." Dr. Que could face the death penalty for this offense.

According to Amnesty International, Dr. Nguyen Dan Que was born in 1942 in northern Vietnam, studied medicine at Saigon University and, on graduation, joined the teaching staff of the university medical school. Dr. Que remained in Ho Chi Minh City after the end of the Vietnam war in 1975, and was appointed director of Cho-ray Hospital. Concerned by the shortage of medicines and standards of medical care in the country, he became disillusioned with the new Government's health care policies and expressed criticisms openly. This led to his dismissal as hospital director and in February 1978, he was arrested and accused of "rebelling against the regime." He was imprisoned for 10 years without charge or trial.

Dr. Que was released in February 1988, and later became a founding member of a political movement established in 1990 under the name of the High Tide of Humanism Movement. In May 1990 this organization launched a petition calling for nonviolent political, social and economic change in Vietnam, including the introduction of a multiparty system for government. In clear violation of the Universal Declaration of Human Rights, Dr. Que was re-arrested one month later, on June 14, 1990, and has been held without charge or trial since. He has allegedly been ill-treated and tortured and is currently suffering ill-health.

Dr. Que will be brought to trial on November 29, and could be put to death for "activities aimed at overthrowing the people's government."

The freedom of expression, the bedrock of free societies, the first amendment of our own Constitution, is being suppressed in Vietnam. Dr. Que will be tried on Friday for non-violently calling for change. As the United States moves toward normalizing relations with Vietnam, the Congress cannot stand by and allow the same country to suppress the most fundamental freedoms.

I call on the Congress to send a message to Vietnam that the United States will not tolerate Vietnam's shirking of international standards of human rights and demand that if Dr. Que is merely guilty of nonviolently expressing his views regarding human rights, he should be released immediately.

□ 1220

Mr. SOLARZ. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I thank the gentleman for yielding the time and thank the subcommittee chairman and commend him and the ranking minority members for this very forceful and appropriate resolution. I rise in strong support of the resolution.

Mr. Speaker, freedom is winning around the world, but it has not yet won. This is chilling evidence of the fact that there are places in the world where when a man or woman speaks his or her mind or takes an act of political conscience, the penalty can still be severe. I commend the committee for pointing this out, and I would suggest that the only way that the momentum of freedom that we have seen in the last few years can be reversed is if good people of good faith like the members of this committee fail to act and fail to tell Vietnam, in this case, that the world is watching this trial.

So I thank and commend the members of the committee.

Mr. SOLARZ. Mr. Speaker, I simply want to thank the gentleman from New Jersey and let him know that anytime he cares to make remarks like that he will always be eligible for time from the Committee on Foreign Affairs. We appreciate it very much.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 78.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SENSE OF HOUSE WITH RESPECT TO LEGISLATION RELATING TO AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 292) expressing the sense of the House of Representatives with respect to legislation relating to the amortization of goodwill and certain other intangibles.

The clerk read as follows:

H. RES. 292

Resolved, That it is the sense of the House of Representatives that any legislation enacted with respect to amortization of goodwill and certain other intangibles for Federal income tax purposes should contain a provision permitting taxpayers to elect in a consistent manner the provisions of such legislation with respect to transactions after the date on which H.R. 3035 of the One Hundred Second Congress was introduced and before the otherwise prescribed effective date of such legislation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 292, expressing the sense of the House with respect to the effective date of legislation to simplify the tax treatment of intangible assets.

As reported by the Committee on Ways and Means, this sense of the House resolution would promote economic stability by ensuring that normal business transactions are not held up while tax simplification legislation works its way through the legislative process.

Last July, I introduced H.R. 3035, which would eliminate much of the controversy over the tax treatment of intangible assets by providing a uniform, predictable set of rules for amortizing these assets. This bill was one of a series of bills that I introduced this year relating to tax simplification.

The Committee on Ways and Means has held 2 days of hearings on H.R. 3035 and the issue of the tax treatment of intangibles. While some problems remain to be worked out, I have been encouraged by the public response to the bill, which has been overwhelmingly favorable. I am also gratified by the Treasury Department's position in support of the bill.

As introduced, H.R. 3035 would become effective on the date of enactment of the bill. Concern has recently been expressed that business transactions are being held up because of uncertainty as to when this legislation might be enacted.

House Resolution 292 would alleviate these concerns by stating the sense of the House that in the event that intangible legislation is enacted into law, taxpayers should be allowed to elect to apply the legislation to all acquisitions of intangible assets taking place after the date of introduction of H.R. 3035—July 25, 1991—and before its enactment.

Because it is an election at the taxpayer's choice, this sense of the House resolution would not harm any taxpayer, but instead would ensure that taxpayers could proceed with business as usual without fear of losing the benefit of pending tax simplification.

I want to emphasize, Mr. Speaker, that passage of this resolution today is not intended to prejudge or otherwise prejudice important issues that must be worked out next year with respect to H.R. 3035. Issues such as the treatment of computer software, government licenses, movie distribution rights, and retroactivity all must be resolved on their merits in the substantive markup anticipated next year House Resolution 292 is merely intended to allow business transactions to proceed while the underlying intangibles bill works its way through the legislative process.

Mr. Speaker, I urge all my colleagues to support this sense of the House resolution.

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, frequently, the mere anticipation of congressional action influences significant business and personal decisions.

A significant change in the law is proposed by a leading lawmaker, and people naturally begin to ask themselves how the proposal might affect them. They may change or delay action they were planning to take.

That has apparently been the case with legislation proposed by Chairman ROSTENKOWSKI on July 25 to change the taxation of intangible assets such as goodwill, customer lists, computer software, know how, and the like.

There is anecdotal evidence that the uncertainty over changes in the amortization of intangibles may be delaying business transactions that would otherwise be taking place.

This resolution attempts to alleviate some of that uncertainty. The last thing the economy needs now is people postponing investments and acquisitions that could produce jobs.

I commend the chairman for moving House Resolution 292 forward. It is a responsible attempt to ease taxpayer concerns while the amortization of intangibles issue is still being considered.

It says that if Congress should enact legislation changing the taxation of intangible assets, we intend to allow taxpayers an election to use the benefits of the new law back to July 25, 1991—if it is to their advantage.

The resolution does not attempt to settle the underlying question of the tax treatment of intangibles. That is a separate issue for another day.

I personally have real concerns about forcing taxpayers to amortize any asset—intangible or otherwise—over a period longer than its economic life.

Importantly, a vote for this resolution today does not obligate anyone to support the chairman's intangibles bill or any other bill. The resolution has no bearing on whether or when amortization legislation will be enacted—or how it would be structured.

It says only that we plan to give taxpayers a choice of new or old law—retroactive to July 25, 1991—if we pass a law on intangibles.

The resolution does not carry with it the force of law. It makes no guarantees. It will however, give taxpayers some degree of assurance that the House doesn't intend to penalize taxpayers who go forward now.

House Resolution 292 deserves our support. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

□ 1230

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I just wanted to take this opportunity to engage in a colloquy with the distinguished ranking minority member of the committee.

Mr. Speaker, just to repeat this gentleman's understanding that this resolution does not bind the members of the Ways and Means Committee to vote one way or the other on any procedure, including the issue of retroactivity. Is that the gentleman's understanding?

Mr. ARCHER. Mr. Speaker, if the gentleman will yield, that is my understanding. It is a nonbinding resolution.

Mr. STARK. And that therefore an attorney out on Wall Street today advising his or her clients on a merger or an acquisition when it comes to the possibility of tax treatment of intangibles could not use this as a basis for a legal opinion; would that be the gentleman's understanding?

Mr. ARCHER. Mr. Speaker, if the gentleman will yield further, I am afraid I cannot speculate on legal opinions.

Mr. STARK. All right, but so far as the gentleman knows, there is nothing in this bill that in effect has the force of law?

Mr. ARCHER. I do not think that it is of any benefit to expand on the response that I made initially, but I would simply add, if the gentleman will yield further, that any individual who does enter into an acquisition on the assumption that the intangibles bill will pass is taking a very real risk, because I do not think it is at all certain that it is going to pass.

Mr. STARK. Mr. Speaker, I thank the gentleman. To go on further, that is what I wanted to suggest, that in its most definitive interpretation, this bill could merely represent that a majority of the Ways and Means Committee favored bringing it and that as far as we know, at least two-thirds of the House of Representatives would not object to it as a policy, but that it otherwise would have no force and effect at this moment.

Mr. ARCHER. That is my understanding.

Mr. STARK. Mr. Speaker, I thank the gentleman.

Mr. ARCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and agree to the resolution, House Resolution 292.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

TECHNICAL CORRECTIONS ACT OF 1991

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1555) to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technical Corrections Act of 1991".

TITLE I—REVENUE PROVISIONS

SEC. 101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 102. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking "section 1(i)(3)(B)" and inserting "section 1(g)(3)(B)".

(2) Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "24".

(3) Clause (ii) of section 32(b)(1)(B) is amended by inserting a comma after "greater".

(4) Section 541 is amended by striking "28 percent" and inserting "31 percent".

(5) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF DEDUCTION FOR MEDICAL INSURANCE OF SELF-EMPLOYED.—In determining the amount of adjusted gross income for purposes of this section, the amount of the deduction under section 162(l) shall be determined without regard to section 162(l)(3)(B)."

(6) Clause (i) of section 151(d)(3)(C) is amended by striking "joint of a return" and inserting "joint return".

(7) Subparagraph (B) of section 402(e)(1) is amended by striking the last sentence thereof.

(8) Subsection (b) of section 1 is amended by striking "$26,500" in the table contained therein and inserting "$26,050".

(b) AMENDMENTS RELATED TO SUBTITLE B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking "Paragraph (1) of section 6724(d)" and inserting "Subparagraph (B) of section 6724(d)(1)".

(2) Subsection (b) of section 4082 is amended to read as follows:

"(b) TAX ON CERTAIN USES.—If any person uses gasoline (other than in the production of gasoline or special fuels referred to in section 4041), such use shall for purposes of this chapter be considered a removal."

(3)(A) Subparagraph (B) of section 4093(c)(2) is amended by inserting before the period "unless such fuel is sold for exclusive use by a State or any political subdivision thereof".

(B) Paragraph (4) of section 6427(l) is amended by inserting before the period "unless such fuel was used by a State or any political subdivision thereof".

(4) Paragraph (1) of section 6416(b) is amended by striking "chapter 32 or by section 4051" and inserting "chapter 31 or 32".

(5) Paragraph (1) of section 9502(e) is amended to read as follows:

"(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990."

(6) Section 7012 is amended—

(A) by striking "production or importation of gasoline" in paragraph (3) and inserting "taxes on gasoline and diesel fuel", and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(7) Subsection (c) of section 5041 is amended by striking paragraph (6) and by inserting the following new paragraphs:

"(6) CREDIT FOR TRANSFEREE IN BOND.—If—

"(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

"(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the 'transferee') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

"(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

"(7) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons during a calendar year, and

"(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year."

(8) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(f),".

(9) Section 5354 is amended by inserting "(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))" after "any one time".

(10) Effective on the date of the enactment of this Act, paragraph (7) of section 11202(i) of the Revenue Reconciliation Act of 1991 is amended by adding at the end thereof the following: "The Secretary may treat any person who bore the ultimate burden of the tax imposed by this subsection as the person to whom a credit or refund under such provisions may be allowed or made."

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraph (I) as subparagraph (H).

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xi),

(B) by striking the period at the end of the clause added by section 11212(e) of the Revenue Reconciliation Act of 1990 and inserting ", or", and

(C) by redesignating the clause added by section 11323(c)(2) of such Act as clause (xiii).

(3) Subsection (g) of section 6302 is amended by inserting ", 22," after "chapters 21".

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking "any transaction to which the summons relates" and inserting "any affected taxable year", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates."

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary."

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking "this subtitle" and inserting "this title".

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) Paragraph (9) of section 132(h) is amended by striking "or the last sentence of subsection (c)(1) thereof".

(2) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(3) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking "any month of the 10-year period" and inserting "any year of the 4-year period",

(B) by striking "succeeding months" and inserting "succeeding years", and

(C) by striking "over the remainder of such period (or, if lesser, 5 years)" and inserting "to zero over the succeeding 5 years".

(e) AMENDMENTS RELATED TO SUBTITLE E.—

(1) Subsection (d) of section 39 is amended—

(A) by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), and

(B) by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2).

(2)(A) Subsection (h) of section 56 is amended—

(i) by striking "subsection (g)(4)(G)" in paragraph (5) and inserting "subsection (g)(4)(F)", and

(ii) by striking "section 613(e)(3)" in paragraph (7)(B) and inserting "section 613(e)(2)".

(B) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

"(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A)."

(C) Subparagraph (B) of section 56(g)(1) is amended by striking "and the alternative tax net operating loss deduction" and inserting ", the alternative tax net operating loss deduction, and the deduction under subsection (h)".

(3) Clause (i) of section 613A(c)(3)(A) is amended by striking "the table contained in".

(4) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking "section 40(f) or 51(j)" in subsection (m) (as redesignated by subparagraph (A)) and inserting "section 40(f), 43, or 51(j)".

(5) Paragraph (2) of section 55(c) is amended by striking "29(b)(5)" and inserting "29(b)(6)".

(6) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: "and without regard to the deduction under section 56(h)".

(7) Clauses (iii) and (iv) of section 53(d)(1)(B) are each amended by striking "section 29(b)(5)(B)" and inserting "section 29(b)(6)(B)".

(8) Subparagraph (B) of section 56(h)(4) is amended by striking "For purposes of subparagraph (A), the" and inserting "The".

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section."

(B) Section 2701(a)(3)(B) is amended by inserting "CERTAIN" before "QUALIFIED" in the heading thereof.

(C) Sections 2701 (d)(1) and (d)(4) are each amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3) (B) or (C)".

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting "(or, to the extent provided in regulations, the rights as to either income or capital)" after "income and capital".

(3)(A) Section 2701(b)(2) is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICABLE FAMILY MEMBER.—For purposes of this subsection, the term 'applicable family member' includes any lineal descendant of any parent of the transferor or the transferor's spouse."

(B) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes "shall be treated as holding" and inserting:

"(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS.—An individual".

(C) Section 2704(c)(3) is amended by striking "section 2701(e)(3)(A)" and inserting "section 2701(e)(3)".

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

"(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,".

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

"(i) IN GENERAL.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments."

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: "A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election."

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2501 of such Code for calendar year 1991.

(6) Section 2701(d)(3)(A)(iii) is amended by striking "the period ending on the date of".

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting "or the exclusion under section 2503(b)," after "section 2523,".

(8) Section 2701(e)(5) is amended—

(A) by striking "such contribution to capital or such redemption, recapitalization, or other change" in subparagraph (A) and inserting "such transaction", and

(B) by striking "the transfer" in subparagraph (B) and inserting "such transaction".

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) TRANSFER TO TRANSFERORS.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest."

(10) Section 2701(e)(6) is amended by inserting "or to reflect the application of subsection (d)" before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking "to the extent" and inserting "if" in clause (i),

(ii) by striking "or" at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting ", or", and

(iv) by adding at the end thereof the following new clause:

"(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section."

(B)(i) Section 2702(a)(3) is amended by striking "incomplete transfer" each place it appears and inserting "incomplete gift".

(ii) The heading for section 2702(a)(3)(B) is amended by striking "INCOMPLETE TRANSFER" and inserting "INCOMPLETE GIFT".

(12) Section 2703(b)(2) is amended by striking "members of the decedent's family" and inserting "natural objects of the bounty of the transferor".

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking ", or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock" in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: "For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock."

(B) Paragraph (1) of section 1248(e) is amended by striking "or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock".

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking "or 361(c)(1)" and inserting "355(c)(1), or 361(c)(1)".

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section."

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking "section 408(b)" and inserting "section 408(b)(12)".

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting ", but only with respect to taxable years beginning after December 31, 1989" before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking "or" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", or", and by adding at the end thereof the following new subclause:

"(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)."

(B) Subparagraph (K) of section 168(g)(4) is amended by striking "section 48(a)(3)(A)(iii)" and inserting "section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking "subsection (m)" and inserting "subsection (h)".

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking "243(b)(5)" and inserting "243(b)(2)".

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting "of" after "In the case".

(5) The subsection heading for subsection (a) of section 280F is amended by striking "INVESTMENT TAX CREDIT AND".

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting "section" before "243(b)(2)".

(7) Paragraph (3) of section 341(f) is amended by striking "351, 361, 371(a), or 374(a)" and inserting "351, or 361".

(8) Paragraph (2) of section 243(b) is amended to read as follows:

"(2) AFFILIATED GROUP.—For purposes of this subsection:

"(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(b), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

"(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

"(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

"(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.".

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after "section 48(a)(5)".

(10) Paragraph (1) of section 179(d) is amended—

(A) by striking "in a trade or business" and inserting "a trade or business", and

(B) by adding at the end thereof the following new sentence: "Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units and horses".

(11) Subparagraph (E) of section 50(a)(2) is amended by striking "section 48(a)(5)(A)" and inserting "section 48(a)(5)".

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck "Section 422A(c)(2)" and inserted "Section 422(c)(2)".

(13) Subparagraph (B) of section 424(c)(3) is amended by striking "a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option" and inserting "an incentive stock option or an option granted under an employee stock purchase plan".

(14) Subsections (a)(45), (b)(14), and (c)(21) of section 11801 of the Revenue Reconciliation Act of 1990 are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such subsections (and the amendments made by such subsections) had not been enacted.

(15) Subparagraph (E) of section 1367(a)(2) is amended by striking "section 613A(c)(13)(B)" and inserting "section 613A(c)(11)(B)".

(16) Subparagraph (B) of section 460(e)(6) is amended by striking "section 167(k)" and inserting "section 168(e)(2)(A)(ii)".

(17) Subparagraph (C) of section 172(h)(4) is amended by striking "subsection (b)(1)(M)" and inserting "subsection (b)(1)(E)".

(18) Section 6503 is amended—

(A) by redesignating the subsection relating to extension in case of certain summonses as subsection (j), and

(B) by redesignating the subsection relating to cross references as subsection (k).

(19) Paragraph (4) of section 1250(e) is hereby repealed.

(i) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

SEC. 103. MISCELLANEOUS PROVISIONS.

(a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

"(iii) AMOUNTS HELD PENDING REINVESTMENT OR REDEMPTION.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) TREATMENT OF DISPOSITIONS UNDER PASSIVE LOSS RULES.—

(1) IN GENERAL.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

"(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)),

shall be treated as a loss which is not from a passive activity."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(f) MISCELLANEOUS AMENDMENTS TO FOREIGN PROVISIONS.—

(1) COORDINATION OF UNIFIED ESTATE TAX CREDIT WITH TREATIES.—Subparagraph (A) of section 2102(c)(3) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.".

(2) TREATMENT OF CERTAIN INTEREST PAID TO RELATED PERSON.—

(A) IN GENERAL.—Subparagraph (B) of section 163(j)(1) is amended by inserting before the period at the end thereof the following: "(and clause (ii) of paragraph (2)(A) shall not apply for purposes of applying this subsection to the amount so treated)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply as if included in the amendments made by section 7210(a) of the Revenue Reconciliation Act of 1989.

(3) TREATMENT OF INTEREST ALLOCABLE TO EFFECTIVELY CONNECTED INCOME.—

(A) IN GENERAL.—

(i) Subparagraph (B) of section 884(f)(1) is amended by striking "to the extent" and all that follows down through "subparagraph (A)" and inserting "to the extent that the allocable interest exceeds the interest described in subparagraph (A)".

(ii) The second sentence of section 884(f)(1) is amended by striking "reasonably expected" and all that follows down through the period at the end thereof and inserting "reasonably expected to be allocable interest.".

(iii) Paragraph (2) of section 884(f) is amended to read as follows:

"(2) ALLOCABLE INTEREST.—For purposes of this subsection, the term 'allocable interest' means any interest which is allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States."

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the amendments made by section 1241(a) of the Tax Reform Act of 1986.

(4) CLARIFICATION OF SOURCE RULE.—

(A) IN GENERAL.—Paragraph (2) of section 865(b) is amended by striking "863(b)" and inserting "863".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 1211 of the Tax Reform Act of 1986.

(5) REPEAL OF OBSOLETE PROVISIONS.—

(A) Paragraph (1) of section 6038(a) is amended by striking ", and" at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(B) Subsection (b) of section 6038A is amended by adding "and" at the end of paragraph (2), by striking ", and" at the end of paragraph (3) and inserting a period, and by striking paragraph (4).

(g) TREATMENT OF ASSIGNMENT OF INTEREST IN CERTAIN BOND-FINANCED FACILITIES.—

(1) IN GENERAL.—Subparagraph (A) of section 1317(3) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence: "A facility shall not fail to be treated as described in this subparagraph by reason of an assignment (or an agreement to an assignment) by the governmental unit on whose behalf the bonds are issued of any part of its interest in the property financed by such bonds to another governmental unit."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in such section 1317 on the date of the enactment of the Tax Reform Act of 1986.

(h) CLARIFICATION OF TREATMENT OF MEDICARE ENTITLEMENT UNDER COBRA PROVISIONS.—

(1) IN GENERAL.—

(A) Subclause (V) of section 4980B(f)(2)(B)(i) is amended to read as follows:

"(V) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in paragraph (3)(B) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this clause before the close of the 36-month period beginning on the date the covered employee became so entitled."

(B) Clause (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(v) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 603(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled."

(C) Clause (iv) of section 2202(2)(A) of the Public Health Service Act is amended to read as follows:

"(iv) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 2203(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1989.

(i) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking "of the subclause" and inserting "of subclause".

(2) Paragraph (2) of section 72(m) is amended by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking "adusted" and inserting "adjusted".

(4)(A) The heading for section 112 is amended by striking "**COMBAT PAY**" and inserting "**COMBAT ZONE COMPENSATION**".

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking "combat pay" and inserting "combat zone compensation".

(C) Paragraph (1) of section 3401(a) is amended by striking "combat pay" and inserting "combat zone compensation".

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking "section 563(c)" and inserting "section 563(d)".

(7) Paragraph (1) of section 958(a) is amended by striking "sections 955(b)(1)(A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)" and inserting "section 960(a)(1)".

(8) Subparagraph (B) of section 4092(b)(1) is amended by striking "or" at the end of clause (i).

(9) Subsection (g) of section 642 is amended by striking "under 2621(a)(2)" and inserting "under section 2621(a)(2)".

(10) Section 1463 is amended by striking "this subsection" and inserting "this section".

(11) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(12) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking "and special rules".

(13) Paragraph (2) of section 4978(b) is amended by striking the period at the end of subparagraph (A) and inserting a comma, and by striking the period and quotation marks at the end of subparagraph (B) and inserting a comma.

(14) Paragraph (3) of section 5134(c) is amended by striking "section 6662(a)" and inserting "section 6665(a)".

(15) Paragraph (2) of section 5206(f) is amended by striking "section 5(e)" and inserting "section 105(e)".

(16) Paragraph (1) of section 6050B(c) is amended by striking "section 85(c)" and inserting "section 85(b)".

(17) Subsection (k) of section 6166 is amended by striking paragraph (6).

(18) Subsection (e) of section 6214 is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(19) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(20) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(21) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(22)(A) Section 7232 is amended—

(i) by striking "**LUBRICATING OIL,**" in the heading, and

(ii) by striking "lubricating oil," in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking "lubricating oil," in the item relating to section 7232.

(23) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subclause (IV)" and inserting "subclause (V)".

(24) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking "subsection (c)(2)" and inserting "subsection (c)".

(25) Paragraph (1) of section 7646(b) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)".

(26) Paragraph (10) of section 7721(c) of such Act is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6661(b)(2)(C)(ii)".

(27) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting "the first place it appears" before "in clause (i)".

(28) Paragraph (10) of section 7841(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)".

(29) Paragraph (2) of section 7861(c) of such Act is amended by inserting "the second place it appears" before "and inserting".

(30) Paragraph (1) of section 460(b) is amended by striking "the look-back method of paragraph (3)" and inserting "the look-back method of paragraph (2)".

(31) The heading for paragraph (2) of section 6427(b) is amended by striking "3-CENT" and inserting "3.1-CENT".

TITLE II—MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 200. REFERENCES TO OBRA-1990; EFFECTIVE DATE.

(a) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—In this title, the term "OBRA–1990" means the Omnibus Budget Reconciliation Act of 1990.

(b) EFFECTIVE DATE.—Except where otherwise provided, the amendments made by this title and the provisions of this title shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

Subtitle A—Amendments Relating to Part A of the Medicare Program

SEC. 201. EXCLUDING DISTINCT PSYCHIATRIC AND REHABILITATION UNITS FROM ADJUSTMENT TO PAYMENT AMOUNTS FOR PPS-EXEMPT HOSPITALS (SECTION 4005 OF OBRA-1990).

(a) IN GENERAL.—Section 1886(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(b)(1)(B)(ii)), as amended by section 4005(a)(1) of OBRA–1990, is amended by striking "(ii) in the case of" and inserting "(ii) for a hospital that is not a subsection (d) hospital (other than a unit of a hospital described in subsection (d)(1)(B)(ii)), in the case of".

(b) CONFORMING AMENDMENT.—Section 1886(d)(1)(B) of such Act (42 U.S.C. 1395ww(d)(1)(B)) is amended—

(1) in clause (i), by striking "1861(f))," and inserting "1861(f)) or a rehabilitation hospital (as defined by the Secretary),";

(2) by amending clause (ii) to read as follows:

"(ii) in accordance with regulations of the Secretary, a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital (as defined by the Secretary),"; and

(3) by striking the semicolon at the end of clause (v) and all that follows and inserting a period.

SEC. 202. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION (SECTION 4003 OF OBRA-1990).

(a) APPLICATION TO WHOLLY OWNED ENTITIES.—Section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)), as amended by section 4003(a) of OBRA–1990, is amended—

(1) in the first sentence, by striking "wholly owned or operated by" and inserting "related to"; and

(2) by adding at the end the following new sentence: "In the first sentence of this paragraph, an entity is 'related to' a hospital if the hospital is to a significant extent associated or affiliated with or has control of or is controlled by the entity.".

(b) NON-APPLICATION TO PPS-EXEMPT HOSPITALS.—The first sentence of section 1886(a)(4) of such Act (42 U.S.C. 1395ww(a)(4)) is further amended by striking "and includes" and inserting "and (in the case of a subsection (d) hospital) includes".

SEC. 203. ESSENTIAL ACCESS COMMUNITY HOSPITAL PROGRAM.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) of the Social Security Act (42 U.S.C. 1395i–4(a)(1)) is amended by striking "7" and inserting "9".

(b) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—Section 1820 of the Social Security Act (42 U.S.C. 1395i–4) is amended—

(1) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5); and

(2) in subsection (e)(1)(A) (as redesignated by paragraph (1)—

(A) by striking ", (ii)" and inserting "or (ii)",

(B) by striking "or (iii)" and all that follows through "section,", and

(C) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(c) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(1) IN GENERAL.—Section 1820 of such Act (42 U.S.C. 1395i–4) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining

State and is otherwise eligible for designation as such a hospital; and

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection.

"(3) a hospital or facility designated by a State pursuant to paragraph (1) shall be eligible to receive a grant under subsection (a)(2).".

(2) CONFORMING AMENDMENT.—Section 1820(c)(1) of such Act (42 U.S.C. 1395i-4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(d) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) of such Act (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(e) MISCELLANEOUS TECHNICAL AMENDMENTS.—(1) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) of such Act (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) of such Act (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) of such Act (42 U.S.C. 1395x(a)) is amended—

(A) in paragraphs (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

SEC. 204. CARE OF PATIENTS RECEIVING QUALIFIED PSYCHOLOGIST SERVICES.

Section 1861(e)(4) of the Social Security Act (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

SEC. 205. TREATMENT OF CERTAIN MILITARY FACILITIES.

(a) COVERAGE OF SERVICES PROVIDED IN CERTAIN UNIFORMED SERVICES TREATMENT FACILITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not take any action to recover amounts that were paid by the United States under title XVIII of the Social Security Act to the facilities described in paragraph (2) (or to other individuals or entities with whom such facilities had entered into agreements to provide services under such title) for services provided during the period beginning October 1, 1986, and ending December 31, 1989.

(2) FACILITIES DESCRIBED.—The facilities referred to in paragraph (1) are the hospitals described in section 248c of title 42, United States Code, that are located in Boston, Massachusetts; Baltimore, Maryland; and Seattle, Washington.

(b) STUDY OF JOINT MEDICAL FACILITY.—

(1) STUDY.—The Secretary of Health and Human Services, in consultation with the Secretary of Defense, shall conduct a study of the feasibility and desirability of establishing a joint medical facility among the Department of Defense, the Department of Veterans' Affairs, and other public and private entities, and shall include in such study an analysis of the need to make changes in the medicare and medicaid programs (including facility certification standards under such programs) in order to facilitate the establishment of such joint medical facility.

(2) REPORT.—Not later than June 1, 1992, the Secretary of Health and Human Services shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives.

SEC. 206. TECHNICAL CORRECTION RELATING TO NURSING HOME REFORM (SECTION 4008 OF OBRA-1990).

Section 1819(b)(3)(C)(i)(I) of the Social Security Act (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)), as amended by section 4008(h)(2)(C) of OBRA-1990, is amended by striking "not later than" before "14 days".

Subtitle B—Amendments Relating to Part B of the Medicare Program

SEC. 211. PHYSICIAN PAYMENT PROVISIONS (SECTIONS 4101 THROUGH 4118 OF OBRA-1990).

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA-1990).—(1) Section 1842(b)(16)(B)(iii) of the Social Security Act, as added by section 4101(b) of OBRA-1990, is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA-1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA-1990).—(1) Section 1834(b)(4) of the Social Security Act is amended by redesignating subparagraphs (E) and (F) (as previously redesignated by section 4102(a)(1) of OBRA-1990) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) of the Social Security Act, as inserted by section 4102(a)(2) of OBRA-1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA-1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services".

(4) Section 4102(d) of OBRA-1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) of the Social Security Act, as inserted by section 4102(d) of OBRA-1990, is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) of the Social Security Act, as added by section 4102(g)(2)(B) of OBRA-1990, is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) of the Social Security Act, as inserted by section 4103(a)(2) of OBRA-1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA-1990).—(1) Section 1848(i)(2)(B) of the Social Security Act, as added by section 4107(a)(1) of OBRA-1990, is amended by striking "performed under this part" and inserting "paid under this part".

(2) Section 4107(c) of OBRA-1990 is amended by inserting "(a)(1)" after "subsection".

(3) Section 4107(a)(2) of OBRA-1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA-1990).—Section 1842(b) of the Social Security Act is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA-1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA-1990).—Section 4117 of OBRA-1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(g) Reciprocal Billing Arrangements (Section 4110 of OBRA–1990).—Clause (D) of section 1842(b)(6) of the Social Security Act, as inserted by section 4110(a)(2) of OBRA–1990), is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first provider".

(h) Study of Aggregation Rule for Claims of Similar Physician Services (Section 4113 of OBRA–1990).—Section 4113 of OBRA–1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(i) Other Miscellaneous and Technical Amendments.—(1) The heading of section 1834(f) of the Social Security Act (42 U.S.C. 1395m(f)), as amended by section 4104(a) of OBRA–1990, is amended by striking "Fiscal Year".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(C)), as added by section 4105(c)(2) of OBRA–1990, is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting "Publication of performance standard rates.—" after "(d)".

(3) Section 1842(b)(4)(F) of the Social Security Act (42 U.S.C. 1395u(b)(4)(F)), as amended by section 4106(a)(1) of OBRA–1990, is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge"; and

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(4) Section 1842(b)(4)(F)(ii)(I) of the Social Security Act (42 U.S.C. 1395u(b)(4)(F)(ii)(I)), as amended by section 4106(a)(1) of OBRA–1990, is amended by striking "respiratory therapist,".

(5) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(6) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(7) Section 1848(e)(1)(C) of the Social Security Act, as added by section 4118(c)(2) of OBRA–1990, is amended by inserting "date of the" after "since the".

(8) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(9) Section 4118(f)(1)(N)(ii) of such Act is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(10) Section 1845(e) of the Social Security Act (42 U.S.C. 1395w–1(e)), as amended by section 4118(j)(1)(D) of OBRA–1990, is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(12)(A) Section 1848(i)(3) of the Social Security Act, as added by section 4118(k) of OBRA–1990, is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) of the Social Security Act is amended by striking "as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)".

SEC. 212. SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS (SECTION 4151 OF OBRA–1990).

(a) Payment Amounts for Services Furnished in Ambulatory Surgical Centers.—(1)(A) Section 1833(i)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than July 1, 1993, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(B) Section 1833(i)(2) of such Act (42 U.S.C. 1395l(i)(2)) is amended—

(i) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(ii) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1994), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.".

(C) The second sentence of section 1833(i)(1) of such Act (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(2) Section 4151(c)(3) of OBRA–1990 is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—(1) Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

SEC. 213. DURABLE MEDICAL EQUIPMENT (SECTION 4152 OF OBRA–1990).

(a) Updates to Payment Amounts.—Subparagraph (A) of section 1834(a)(14) of the Social Security Act, as added by section 4152(b)(4) of OBRA–1990, is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(b) Treatment of Potentially Overused Items and Advanced Determinations of Coverage.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) of the Social Security Act, as added by section 4152(e) of OBRA–1990, is amended to read as follows:

"(15) Special treatment for potentially overused items.—

"(A) Development of list of items by secretary.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) Items subject to special carrier scrutiny.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) Effective January 1, 1992, section 1834(a)(11) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) Section 1834(h)(3) of such Act, as added by section 4153(a) of OBRA–1990, is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than January 1, 1993—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under subparagraph (A), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) of the Social Security Act (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(e) ORTHOTIC AND PROSTHETIC FEE SCHEDULES.—Section 1834(h)(2) of the Social Security Act (42 U.S.C. 1395m(h)(2)) is amended—

(1) in subparagraph (A)(ii)(II), by striking "1992 or 1993" and inserting "1992, 1993, or 1994";

(2) in subparagraph (B)(i), by striking "1992" and inserting "1993"; and

(3) in subparagraph (C)—

(A) in clause (i), by striking "or 1991" and inserting "1991, or 1992",

(B) in clause (ii), by striking "1992" each place it appears and inserting "1993",

(C) in clause (iii), by striking "1993" each place it appears and inserting "1994", and

(D) in clause (iv), by striking "1994" and inserting "1995".

(f) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA–1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) of the Social Security Act, as inserted by section 4152(c)(2)(D) of OBRA–1990, is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) of the Social Security Act, as added by section 4152(c)(2)(F) of OBRA–1990, is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) of the Social Security Act (42 U.S.C. 1395m(a)(3)), as amended by section 4152(c)(3) of OBRA–1990, is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA–1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA–1990 is amended by striking "Reconciliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) of such Act (42 U.S.C. 1395m) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking "(2) through (7)" each place it appears and inserting "(2) through (5) and (7)";

(ii) in paragraph (7), by striking "(2) through (6)" and inserting "(2) through (5)";

(iii) in paragraph (8), by striking "paragraphs (6) and (7)" each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

SEC. 214. OTHER PART B ITEMS AND SERVICES (SECTIONS 4154 THROUGH 4164 OF OBRA–1990).

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) of the Social Security Act (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(A) by inserting "and clinical social worker services" after "psychologist services"; and

(B) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) The Omnibus Budget Reconciliation Act of 1989 is amended by striking section 6137.

(2) Section 1135(d) of the Social Security Act (42 U.S.C. 1320b–5(d)) is amended—

(1) by striking paragraph (6); and

(2) in paragraph (7)—

(A) by striking "systems" each place it appears and inserting "system"; and

(B) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1833(n)(1)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking "1989" and inserting "1989 and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1833(n)(1)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1833(a)(1) of the Social Security Act, as amended by section 4155(b)(2) of OBRA–1990, is amended—

(A) by striking "and" before "(N)"; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking "(M)" and inserting ", and (O)", and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(2) Section 1833(r)(1) of such Act, as added by section 4155(b)(3) of OBRA–1990, is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(3) Section 1833(r)(2)(A) of such Act (42 U.S.C. 1395l(r)(2)(A)), as added by section 4155(b)(3) of OBRA–1990, is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(4) Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(5) Section 1861(aa)(5) of such Act, as amended by section 4155(d) of OBRA–1990, is amended by striking "this Act" and inserting "this title".

(6) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(7) Section 1866(a)(1)(H) of such Act (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) of the Social Security Act (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) of the Social Security Act (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)), as amended by section 4151(c)(1)(A) of OBRA-1990, are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA-1990).—Section 4154(e)(5) of OBRA-1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA-1990).—Section 4157(a) of OBRA-1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 4160 OF OBRA-1990).—Section 1833(l)(4)(B)(ii)(VII) of the Social Security Act, as inserted by section 4160(3) of OBRA-1990, is amended by striking "1997" and inserting "1996".

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA-1990).—(A) The fourth sentence of section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)), as added by section 4161(b)(1) of OBRA-1990, is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA-1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA-1990).—(A) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(i) in subsection (s)(13), as added by section 4163(a)(1) of OBRA-1990, by striking "subsection (jj)" and inserting "subsection (kk)"; and

(ii) in the subsection (jj) inserted by section 4163(a)(2) of OBRA-1990, by striking "(jj) The term" and inserting "(kk) The term".

(B) Section 1834(c)(1) of the Social Security Act, as added by section 4163(b) of OBRA-1990, is amended in the matter preceding subparagraph (A) by striking "1861(jj)" and inserting "1861(kk)".

(C) Section 4163 of OBRA-1990 is amended—

(i) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(ii) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments.".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) of the Social Security Act inserted by section 4156(a)(2) of OBRA-1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) Section 1861(jj) of the Social Security Act (42 U.S.C. 1395x(jj)) is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) of such Act (42 U.S.C. 1395x(m)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (jj), but excluding other".

(iii) Section 1861(s)(2) of such Act (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N); and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) of such Act (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than covered osteoporosis drug (as defined in section 1861(jj)))"; and

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to covered osteoporosis drug (as defined in section 1861(jj)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) of such Act (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than covered osteoporosis drug (as defined in section 1861(jj))".

(9) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA-1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) of the Social Security Act, as inserted by section 4164(b)(1) of OBRA-1990, is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA-1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA-1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

Subtitle C—Amendments Relating to Parts A and B

SEC. 221. PROVISIONS RELATING TO PARTS A AND B (SECTIONS 4201 THROUGH 4207 OF OBRA-1990).

(a) ESRD (SECTION 4201 OF OBRA-1990).—(1) Section 4201(b)(3) of OBRA-1990 is amended by striking "The Commission" and all that follows through "1993)" and inserting 'Not later than June 1, 1992 (in the case of fiscal year 1993), and not later than March 1 before the beginning of each fiscal year thereafter, the Commission".

(2) Section 1881(b)(1)(C) of the Social Security Act, as inserted by section 4201(d)(2) of OBRA-1990, is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(O)".

(3) Section 4201(d)(2) of OBRA-1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(b) HOME DIALYSIS DEMONSTRATION PROJECT (SECTION 4202 OF OBRA-1990).—Section 4202 of OBRA-1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels);

(3) in subsection (c)(1)(A), by striking "skilled";

(4) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)";

(5) in subsection (f)—

(A) by striking "AUTHORIZATION OF APPROPRIATIONS.—The Secretary" and inserting "FUNDING.—(1) The Secretary";

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E); and

(C) by adding at the end the following new paragraph:

"(2) Funds provided under subparagraphs (B) through (E) of paragraph (1) to carry out the demonstration project established under subsection (a) in a fiscal year shall remain available until expended.".

(c) EXTENSION OF SECONDARY PAYOR PROVISIONS (SECTION 4203 OF OBRA-1990).—(1) The sentence in section 1862(b)(1)(C) of the Social Security Act added by section 4203(c)(1)(B) of OBRA-1990 is amended—

(A) by striking "on or before January 1, 1996," and inserting "before January 1, 1996"; and

(B) by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(2) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1862(b)(1) of the Social Security Act is amended.—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting ", without regard to section 5000(d) of such Code" before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking "current calendar year or the preceding calendar year" and inserting "current calendar year and the preceding calendar year"; and

(C) in the matter in subparagraph (C) after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(3) Section 4203(c)(2) of OBRA-1990 is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(4) Section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(d) Health Maintenance Organizations (Section 4204 of OBRA–1990).—(1) Section 4204(b) of OBRA–1990 is amended to read as follows:

"(b) Revisions in the Payment Methodology for Risk Contractors.—(1)(A) The Secretary of Health and Human Services shall revise the payment method for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act for years beginning with 1993.

"(B) In making the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics;

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas; and

"(iii) the difference in costs associated with medicare beneficiaries 65 years of age or older for whom medicare is the secondary payor under section 1862(b)(1)(A) of the Social Security Act and beneficiaries for whom medicare is the primary payor.

"(2) Not later than March 1, 1992, the Secretary shall cause to have published in the Federal Register a proposed rule describing the proposed revisions in the payment methodology.

"(3) Not later than May 1, 1992, the Comptroller General shall review the proposal made pursuant to paragraph (1), and shall report to Congress on the appropriateness of the proposed modifications.

"(4) Taking into account the recommendations in the report made pursuant to paragraph (3), not later than August 31, 1992, the Secretary shall issue a final rule implementing the revised payment methodology, effective for contract years beginning on or after January 1, 1993.".

(2) Section 1876(a)(3) of the Social Security Act (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(3) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(4) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(5) Section 1876(a)(1)(E)(ii)(I) of the Social Security Act, as added by section 4204(e)(1)(B) of OBRA–1990, is amended by striking the comma after "contributed to".

(6) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(7) Section 4204(f)(4) of OBRA–1990 is amended by striking "final".

(8) Section 1862(b)(3)(C) of the Social Security Act, as added by section 4204(g)(1) of OBRA–1990, is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(e) Peer Review Organizations (Section 4205 of OBRA–1990).—(1) The third sentence of section 1156(b)(1) of the Social Security Act, as inserted by section 4205(a)(1)(B) of OBRA–1990, is amended by striking "whehter" and inserting "whether".

(2) Section 1154(a)(9)(B) of the Social Security Act, as added by section 4205(d)(1)(A)(ii) of OBRA–1990, is amended by striking "this subsection" and inserting "section 1156(a)".

(3) Section 4205(d)(2)(B) of OBRA–1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) of the Social Security Act (as added by section 4205(e)(1) of OBRA–1990) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA–1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(f) Survey and Certification Requirements.—(1) Section 1864 of the Social Security Act (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(g) Other Miscellaneous and Technical Provisions.—(1) Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA–1990 as subsection (s).

(2) Section 1866(f)(1) of the Social Security Act (42 U.S.C. 1395cc(f)(1)), as added by section 4206(a)(2) of OBRA–1990, is amended by striking "1833(r)" and inserting "1833(s)".

(3) The section following section 4206 of OBRA–1990 is amended by striking "Sec. 4027." and inserting "Sec. 4207.", and in this subsection is referred to as section 4207 of OBRA–1990.

(4) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after "such review.".

(5) Section 4207(a)(4) of OBRA–1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(6) Section 4207(b)(1) of OBRA–1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(7) Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended—

(A) in the fourth sentence of subsection (f)—

(i) by striking "provided" and inserting "furnished", and

(ii) by striking "provides" and inserting "furnish".

(B) in the fifth sentence of subsection (f)—

(i) by striking "providing" each place it appears and inserting "furnishing",

(ii) by striking "with respect to the providers" and inserting "with respect to the entities", and

(iii) by striking "diagnostic imaging services of any type" and inserting "magnetic resonance imaging, computerized axial tomography scans, and ultrasound services";

(C) in subsection (h)(1)—

(i) by striking "; REMUNERATION.—(A)" and inserting ".—",

(ii) in subparagraph (A), by striking "any remuneration" and all that follows and inserting "any payment (whether directly or indirectly, overtly or covertly, in cash or in kind) made by an entity to a physician (or immediate family member).", and

(iii) by striking subparagraph (B); and

(D) in subsection (a)(2)(B), by striking "subsection (h)(1)(A)" and inserting "subsection (h)(1)".

(8) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(9) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(10) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(11) Section 4207(c)(2) of OBRA–1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(12) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(13) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(14) Section 4207(j) of OBRA–1990 is amended by striking "title" each place it appears and inserting "subtitle".

Subtitle D—Medicare Supplemental Insurance Policies

SEC. 231. CORRECTIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES (SECTIONS 4351 THROUGH 4361 OF OBRA–1990).

(a) Simplification of Medicare Supplemental Policies (Section 4351 of OBRA–1990).—

(1) Section 4351 of OBRA–1990 is amended by striking "(a) In General.—".

(2) Section 1882(p) of the Social Security Act, as added by section 4351 of OBRA–1990, is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards')", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(3) The Secretary of Health and Human Services shall publish in the Federal Register a list described in section 1882(p)(10) of the Social Security Act by not later than December 31, 1991.

(4) For purposes of section 1882 of the Social Security Act, when the National Association of Insurance Commissioners modifies its 1991 NAIC Model Regulation (adopted in July 1991) to delete from section 15C the exception which begins with "unless", such modification shall be considered to be part of that Regulation under such section. If subsection (p)(1)(A) of such section is applicable, until the Association makes such modification, such section shall be applied as if such exception had been deleted. Any 1991 Federal Regulation adopted under such section shall not include such exception. If the Secretary of Health and Human Services identifies a State as requiring legislative action in order to conform its regulatory program to the modification described in this paragraph, the State regulatory program shall not be considered to be out of compliance with the requirements of such section due solely to failure to make such modification until the close of the first regular legislative session that begins after the date of the enactment of this Act.

(b) GUARANTEED RENEWABILITY (SECTION 4352 OF OBRA-1990).—Section 1882(q) of the Social Security Act, as added by section 4352 of OBRA-1990, is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS (SECTION 4353 OF OBRA-1990).—

(1) Section 1882(a)(2) of the Social Security Act, as added by section 4353(a)(2)(B) of OBRA-1990, is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) of the Social Security Act added by section 4353(c)(5) of OBRA-1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) of the Social Security Act is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) of such Act is amended by striking "the the Secretary" and inserting "the Secretary".

(d) PREVENTING DUPLICATION (SECTION 4354 OF OBRA-1990).—

(1) Section 1882(d)(3)(A) of the Social Security Act, as amended by section 4354(a)(1) of OBRA-1990, is amended—

(A) by inserting before the first sentence the following:

"(i) Effective before January 1, 1994, it is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

"(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.";

(B) by designating the current first sentence as clause (ii) and, in such clause, by striking "It is unlawful" and inserting "Effective January 1, 1994, it is unlawful";

(C) by designating the current second sentence as clause (iii) and, in such clause, by striking "the previous sentence" and inserting "clause (i) or (ii)";

(D) by designating the current third sentence as clause (iv) and, in such clause—

(i) by striking "the previous sentence" and inserting "clause (i) or (ii) with respect to the sale of a medicare supplemental policy", and

(ii) by striking "the sale of the policy will not duplicate health benefits to which the individual is otherwise entitled" and inserting "the individual is not entitled to benefits under another medicare supplemental policy"; and

(E) by striking the last sentence.

(2) Section 1882(d)(3)(B) of the Social Security Act, as amended by section 4354(a)(2) of OBRA-1990, is amended—

(A) in clause (i)(I), by striking "clause (II)" and inserting "clause (ii)",

(B) in clause (ii)(II), by striking "65 years of age or older",

(C) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(D) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(E) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(F) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the individual's full liability for medicare cost-sharing (as defined in section 1905(p)(3)).".

(3)(A) Section 1882(d)(3)(C) of the Social Security Act is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: ", (ii) the sale or issuance before January 1, 1994, of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if there is disclosed in a prominent manner as part of the application a statement of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance before January 1, 1994, of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 90 days after the date of the enactment of this Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5)(A) of the Social Security Act, as added by section 4354(b) of OBRA-1990, is amended by striking "of the Social Security Act".

(5) The second subsection (b) of section 4354 of OBRA-1990 (relating to effective date) is amended by redesignating such subsection as subsection (c).

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS (SECTION 4355 OF OBRA-1990).—

(1) Section 1882(r) of the Social Security Act, as added by section 4355(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all policies issued by an insurer in a State and shall be based only on aggregate benefits provided and premiums collected under the policies after such date.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue. In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 12 months following such date.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(J) in paragraph (4), by striking "disllowance", "loss-ratios", and "loss-ratio" and inserting "disallowance", "loss ratios", and "loss ratio", respectively;

(K) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(L) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) of the Social Security Act is amended by transferring and inserting the subparagraph (G) added by section 4355(c)(3) of OBRA–1990 immediately after the subparagraph (F) added by section 4353(c)(3) of that Act.

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.".

(f) TREATMENT OF HMO'S (SECTION 4356 OF OBRA–1990).—

(1) Section 1882(g)(1) of the Social Security Act, as amended by section 4356(a) of OBRA–1990, is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the 1-year period beginning on the date specified in subsection (p)(1)(C), a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA–1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS (SECTION 4357 OF OBRA–1990).—Section 1882(s) of the Social Security Act, as added by section 4357(a)(2) of OBRA–1990, is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or", and

(2) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES (SECTION 4358 OF OBRA–1990).—

(1) Section 1882(t) of the Social Security Act, as added by section 4358(a) of OBRA–1990, is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) of the Social Security Act, as amended by section 4358(b)(3) of OBRA–1990, is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING (SECTION 4360 OF OBRA–1990).—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report",

(C) in paragraph (1), by striking "Statewide", and

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM (SECTION 4361 OF OBRA–1990).—

(1) Section 1804 of the Social Security Act is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 of the Social Security Act, as inserted by section 4361(a) of OBRA–1990, is repealed.

TITLE III—CORRECTIONS RELATING TO SOCIAL SECURITY, INCOME SECURITY AND HUMAN RESOURCES, AND TARIFF AND CUSTOMS

Subtitle A—Social Security

SEC. 301. TECHNICAL CORRECTIONS RELATED TO OASDI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5103(b) RELATING TO DISABLED WIDOWS.—Section 223(f)(2) of the Social Security Act (42 U.S.C. 423(f)(2)) is amended—

(1) in subparagraph (A), by striking "(in a case to which clause (ii)(II) does not apply)"; and

(2) by striking subparagraph (B)(ii) and inserting the following:

"(ii) the individual is now able to engage in substantial gainful activity; or".

(b) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5105(d) RELATING TO REPRESENTATIVE PAYEES.—Section 5105(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) by striking "Section 205(j)(5)" and inserting "Section 205(j)(6)"; and

(2) by redesignating the paragraph (5) as amended thereby as paragraph (6).

(c) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5106 RELATING TO COORDINATION OF RULES UNDER TITLES II AND XVI GOVERNING FEES FOR REPRESENTATIVES OF CLAIMANTS WITH ENTITLEMENTS UNDER BOTH TITLES.—

(1) CALCULATION OF FEE OF CLAIMANT'S REPRESENTATIVE BASED ON AMOUNT OF PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS AFTER APPLICATION OF WINDFALL OFFSET PROVISION.—Section 1631(d)(2)(A)(i) of the Social Security Act (as amended by section 5106(a)(2) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1383(d)(2)(A)(i)) is amended to read as follows:

"(i) by substituting, in subparagraphs (A)(ii)(I) and (C)(i), the phrase '(determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a))' for the parenthetical phrase contained therein; and".

(2) CALCULATION OF PAST-DUE BENEFITS FOR PURPOSES OF DETERMINING ATTORNEY FEES IN JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(i) by inserting "(A)" after "(b)(1)"; and

(ii) by adding at the end the following new subparagraph:

"(B) For purposes of this paragraph—

"(i) the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223, and

"(ii) amounts of past-due benefits shall be taken into account to the extent provided under the rules applicable in cases before the Secretary.".

(B) PROTECTION FROM OFFSETTING SSI BENEFITS.—The last sentence of section 1127(a) of such Act (as added by section 5106(b) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1320a–6(a)) is amended by striking "section 206(a)(4)" and inserting "subsection (a)(4) or (b) of section 206".

(3) APPLICATION OF SINGLE DOLLAR AMOUNT CEILING TO CONCURRENT CLAIMS UNDER TITLES II AND XVI.—

(A) In general.—Section 206(a)(2) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(2)) is amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph:

"(C) In any case involving—

"(i) an agreement or agreements described in subparagraph (A) with any person relating to both a claim of entitlement to past-due benefits under this title and a claim of entitlement to past-due benefits under title XVI, and

"(ii) a favorable determination made by the Secretary with respect to both such claims,

the Secretary may approve such agreement or agreements only if the total fee or fees specified in such agreement or agreements do not exceed, in the aggregate, the dollar amount in effect under subparagraph (A)(ii)(II).".

(B) Conforming amendment.—Section 206(a)(3)(A) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(3)(A)) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

(d) Amendment Related to Provisions in Section 5115 Relating to Advance Tax Transfers.—Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended in the last sentence by striking "and" the second place it appears.

(e) Effective Date.—Each amendment made by this section shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates.

Subtitle B—Income Security and Human Resources

SEC. 311. REPEAL OF PROVISION INADVERTENTLY INCLUDED IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

SEC. 312. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) Amendment Related to Section 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking "a semicolon" and inserting " '; and' ".

(b) Amendments Related to Section 5105(d)(T11)(b).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) by striking "Section 1631(a)(2)(E)" and inserting "Section 1631(a)(2)(F)"; and

(2) by redesignating the subparagraph (E) as amended thereby as subparagraph (F).

(c) Amendment Related to Section 5105(a)(1)(b).—The second paragraph of section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Payments" and inserting "(2)(A)(i) Payments".

(d) Amendments Related to Section 5105(b).—Section 1631(a)(2)(C) of the Social Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (ii);

(2) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(3) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(e) Amendments Related to Section 5107(a)(2)(b).—Section 1631(c)(1)(B) of the Social Security Act (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(f) Amendment Related to Section 5109(a)(2).—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(g) Amendments Related to Section 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) in subparagraph (A), by striking "paragraph (8)" and inserting "paragraph (9)";

(2) in subparagraph (B), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(h) Effective Date.—Each amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.

SEC. 313. CORRECTION RELATED TO SECTION 8006 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1989.

(a) Correction.—Section 473(a)(6)(B) of the Social Security Act (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(B)" and inserting "474(a)(3)(C)".

(b) Effective Date.—The amendment made by subsection (a) of this section shall take effect as if included in section 8006 of the Omnibus Budget Reconciliation Act of 1989 at the time such section 8006 became law.

SEC. 314. AMENDMENT RELATED TO SECTION 13101(d)(2) OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) In General.—Section 256(k)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "—" the second place it appears and all that follows through "(I)"; and

(2) by striking "; or" and all that follows through "(II)" and inserting ", except that a State may not be allotted an amount under this subparagraph that exceeds".

(b) Effective Date.—The amendments made by subsection (a) of this section shall take effect as if included in section 13101(d)(2) of the Omnibus Budget Reconciliation Act of 1990 at the time such section 13101(d)(2) became law.

Subtitle C—Tariff and Customs

SEC. 321. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

(a) In General.—The Harmonized Tariff Schedule of the United States is amended as follows:

(1) Removal of GDR from column 2 rate list.—General Note 3(b) is amended by striking "German Democratic Republic".

(2) Tapestry and upholstery fabrics.—The article description for subheading 5112.19.20 is amended by striking "of a weight exceeding 300 g/m^2".

(3) Gloves.—

(A) Chapter 61 is amended by redesignating subheading 6116.10.45 as subheading 6116.10.48.

(B) Chapter 62 is amended by striking the superior text "Other:" that appears between subheadings 6216.00.46 and 6216.00.52.

(4) Agglomerate stone floor and wall tiles.—The article description for subheading 6810.19.12 is amended to read as follows: "Of stone agglomerated with binders other than cement".

(5) 2,4-Diaminobenzenesulfonic acid.—The article description for heading 9902.30.43 is amended by striking "2921.51.50" and inserting "2921.59.50".

(6) Machines used in the manufacture of bicycle parts.—The article description for heading 9902.84.79 is amended by striking "8479.89.90" and inserting "8462.49.00, 8479.89.90 or 9031.80.00".

(7) Copying machines and parts.—The article description for heading 9902.90.90 is amended by inserting "or 8473.40.40" after "8472.90.80".

(b) Staged Rate Reductions for Gloves.—Any staged reduction of a special rate of duty set forth in subheading 6116.10.45 of such Schedule that takes effect on or after October 1, 1990, by reason of section 10011(a)(2) of Omnibus Budget Reconciliation Act of 1990 shall apply to the corresponding rate of duty in subheading 6116.10.48 (as redesignated by subsection (a)(3)(A)).

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) Retroactive application for certain liquidations and reliquidations.—

(A) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the 90th day after the date of the enactment of this Act, any entry—

(i) that was made after the applicable date and before the 15th day after such date of enactment; and

(ii) with respect to which there would have been a lesser or no duty if any amendment made by subsection (a) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

(B) For purposes of this subsection, the term "applicable date" means—

(i) if such amendment is made by subsection (a)(4) or (a)(7), December 31, 1988; and

(ii) if such amendment is made by subsection (a)(2), (a)(3), (a)(5), (a)(6), September 30, 1990.

SEC. 322. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) In General.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) by striking out "and" at the end of clause (iv);

(2) by striking out the period at the end of clause (v) and inserting "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the merchandise subject to duty under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c)."

(b) Effective Date.—The amendments made by subsection (a) apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the entry was not liquidated before such 15th day.

SEC. 323. TECHNICAL AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

(a) IN GENERAL.—Paragraph (2) of section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "the date of enactment of this Act" and inserting "January 1, 1989"; and

(B) by striking "such date of enactment" and inserting "January 1, 1989"; and

(2) in subparagraph (B), by striking "such date of enactment" and inserting "January 1, 1989".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect January 1, 1989.

(c) CONSTRUCTION.—For purposes of applying the amendments made by subsection (a), the column 1-general rate of duty established by any amendment to the Harmonized Tariff Schedule of the United States that was enacted after January 1, 1989, shall, if—

(1) such amendment has, or is statutorily treated as having, an effective date of January 1, 1989; or

(2) application for liquidation or reliquidation at such rate with respect to entries made after December 31, 1988, and before the effective date of the amendment, is provided for;

be treated as the rate in effect on January 1, 1989.

SEC. 324. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking ", or withdrawn from warehouse for consumption," and inserting "for transportation in bond".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include herein extraneous material on H.R. 1555, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House H.R. 1555, the Technical Corrections Act of 1991, as unanimously approved by the Ways and Means Committee.

The primary purpose of this legislation is to make technical corrections to the provisions of the Omnibus Budget Reconciliation Act of 1990 within the jurisdiction of the Ways and Means Committee. It includes technical corrections relating to past tax, Social Security, health, human resources, and trade legislation.

Mr. Speaker, I want to assure my colleagues that this bill is not intended to make substantive changes to the 1990 act or other recent legislation. Like past technical corrections bills, H.R. 1555 is revenue neutral. The Joint Committee on Taxation and the Congressional Budget Office have certified that the bill will not cause any overall loss of Federal revenues.

H.R. 1555 has broad bipartisan support, including the support of the administration. The legislation is the product of the majority and minority staffs of the Ways and Means Committee working with the staff of the Joint Committee on Taxation, appropriate administration departments and agencies, and the Office of the Legislative Counsel to review and make recommendations for technical corrections and clarifications. In addition, our staff worked with the staff of the Energy and Commerce Committee on the relevant Medicare provisions. I want to particularly thank Chairman JOHN DINGELL and other members of the Energy and Commerce Committee for their cooperation and the cooperation of their staffs in bringing H.R. 1555 to the floor today.

Mr. Speaker, it is important to pass this legislation as expeditiously as possible. To the extent that the bill corrects or clarifies Tax Code provisions, it will guide taxpayers in properly filing their tax returns; it will also help the Internal Revenue Service in its task of interpreting and administering the laws consistent with congressional intent. The Medicare corrections are needed to clarify provisions affecting payments to hospitals, physicians, and other health care providers.

Therefore, Mr. Speaker, I urge my colleagues to support this important measure.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to join the chairman of the Ways and Means Committee in support of H.R. 1555, the Technical Corrections Act of 1991.

H.R. 1555 contains necessary technical corrections to prior tax, trade, and health legislation. The provisions of the bill have been worked out in cooperation between the minority and majority staffs of the Ways and Means Committee and the Joint Committee on Taxation. The bill is supported by the Treasury. These provisions are all nonsubstantive changes to current law and I urge their adoption.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I just want to suggest to the Members that title II of this bill contains a number of miscellaneous and technical amendments to the Medicare statute. These amendments have been developed in a cooperative effort with our ranking minority member, Mr. GRADISON, and with the Energy and Commerce Committee majority and minority.

These provisions are all truly no-cost items according to the CBO. In addition there are no spending items with offsetting savings provisions which redistribute Medicare funds in any way.

These provisions clarify payments to hospitals exempt from prospective payment, the DRG payment window, the EACH program, payments to ambulatory surgery centers, payments for durable medical equipment, and end-stage renal disease benefits.

Title II also amends the Medigap sections of OBRA '90. These provisions make clarifications in the areas of duplicate coverage and loss ratios. In addition, they include a number of minor, technical, and conforming changes in the statutory language of OBRA '90.

Again, let me reiterate that these amendments are all minor and no cost. I urge my colleagues to support this bill.

Mr. DONNELLY. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Massachusetts.

Mr. DONNELLY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it is my understanding that the Medicare technical corrections bill contains provisions that are only technical in nature. There are no policy changes or substantive changes in the document before the House.

Mr. STARK. The gentleman's understanding is correct.

Mr. DONNELLY. Mr. Speaker, I thank the gentleman.

Mr. ARCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 1555, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TAX EXTENSION ACT OF 1991

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3909) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Extension Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—6-MONTH EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

SEC. 101. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) EXTENSION.—Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) YEARS TO WHICH RULE APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to the taxpayer's first 3 taxable years beginning after August 1, 1989, and on or before August 1, 1992.

"(B) REDUCTION.—Notwithstanding subparagraph (A), in the case of the taxpayer's first taxable year beginning after August 1, 1991, this subsection shall only apply to qualified research and experimental expenditures incurred during the first 6 months of such taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1989.

SEC. 102. RESEARCH CREDIT.

(a) EXTENSION.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "December 31, 1991" each place it appears and inserting "June 30, 1992", and

(2) by striking "January 1, 1992" each place it appears and inserting "July 1, 1992".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1991.

SEC. 103. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992, only amounts paid before July 1, 1992, by the employer for educational assistance for the employee shall be taken into account in determining the amount excluded under section 127 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 104. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal service plans) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992, only amounts paid before July 1, 1992, by the employer for coverage for the employee, his spouse, or his dependents, under a qualified group legal services plan for periods before July 1, 1992, shall be taken into account in determining the amount excluded under section 120 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 105. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after December 31, 1991.

SEC. 106 ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

Subparagraph (B) of section 48(a)(2) (relating to energy percentage) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

SEC. 107. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) Paragraph (1) of section 42(o) is amended—

(A) by striking ", for any calendar year after 1991",

(B) by inserting before the comma at the end of subparagraph (A) "to any amount allocated after June 30, 1992", and

(C) by striking "1991" in subparagraph (B) and inserting "June 30, 1992".

(2) Paragraph (2) of section 42(o) is amended—

(A) by striking "1992" each place it appears and inserting "July 1, 1992",

(B) by striking "December 31, 1991" in subparagraph (B) and inserting "June 30, 1992",

(C) by striking "December 31, 1993" in subparagraph (B) and inserting "June 30, 1994", and

(D) by striking "January 1, 1994" in subparagraph (C) and inserting "July 1, 1994".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1991.

SEC. 108. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "June 30, 1992".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1991.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after December 31, 1991.

SEC. 109. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 1991.

SEC. 110. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992—

(A) only amounts paid before July 1, 1992, by the individual for insurance coverage for periods before July 1, 1992, shall be taken into account in determining the amount deductible under section 162(l) of the Internal Revenue Code of 1986 with respect to such individual for such taxable year, and

(B) for purposes of subparagraph (A) of section 162(l)(2) of such Code, the amount of the earned income described in such subparagraph taken into account for such taxable year shall be the amount which bears the same ratio to the total amount of such earned income as the number of months in such taxable year ending before July 1, 1992, bears to the number of months in such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 111. EXPENSES FOR DRUGS FOR RARE CONDITIONS.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1991.

SEC. 112. CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY.

Subparagraph (B) of section 57(a)(6) (relating to appreciated property charitable deduction) is amended by adding at the end thereof the following new sentence: "In the case of a contribution made before July 1, 1992, in a taxable year beginning in 1992, such term shall not include any tangible personal property."

TITLE II—MODIFICATION TO CORPORATE ESTIMATED TAX PROVISIONS

SEC. 201. TEMPORARY INCREASE IN AMOUNT OF CORPORATE ESTIMATED TAX PAYMENTS.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installment) is amended by adding at the end thereof the following new paragraph:

"(3) TEMPORARY INCREASE IN AMOUNT OF INSTALLMENT BASED ON CURRENT YEAR TAX.—In the case of any taxable year beginning after 1991 and before 1997—

"(A) Paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting for '90 percent' each place it appears the current year percentage determined under the following table:

In the case of a taxable year beginning in:	The current year percentage is:
1992	93
1993 or 1994	94
1995 or 1996	95.

"(B) Appropriate adjustments to the table contained in subsection (e)(2)(B)(ii) shall be made to reflect the provisions of subparagraph (A)."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 6655(e) is amended by striking "modified by subsection (d)(2)" and inserting "modified by paragraphs (2) and (3) of subsection (d)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3909, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

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Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as reported by the Committee on Ways and Means, this bill would extend for 6 months 12 expiring provisions of the Internal Revenue Code that were enacted to provide incentives for low-income housing, research and development, education, and other activities beneficial to the economy. Many Members of the House have written to me and the Ways and Means Committee urging us to act on the expiring provisions prior to adjournment.

H.R. 3909 will allow these important programs to continue beyond their scheduled expiration of December 31, 1991. Without this emergency legislation, these programs will expire at year-end, causing injury to millions of taxpayers who benefit from these provisions, and further jeopardizing important sectors of the economy. The 6-month extension contained in H.R. 3909 should be adequate to allow for the development of a permanent solution in the event that there is a tax bill next year.

The Senate Finance Committee has reported identical legislation. It is my hope that both Houses will pass the identical legislation before we adjourn, so that it may be signed into law as soon as possible.

Mr. Speaker, I want to express my intention that this will be the last temporary extension of these 12 expiring tax provisions. Over the past few years, these temporary extensions have become an annual ritual. Such on-again, off-again legislation is bad for government and bad for taxpayers, who cannot plan ahead to utilize the incentives. This annual uncertainty does not reflect well on the Congress or the administration, and creates needless instability in the economy.

Yet the current budgetary and political realities in the closing days of the first session of this Congress demand such a temporary solution. Early next year, however, the Ways and Means Committee will hold hearings to review all the expiring tax provisions and will vote on each one individually, to decide whether each one should be made permanent or allowed to expire. The burden will be on those who support individual extensions, both in the administration and in the Congress, to present the case for a permanent extension and to recommend ways to pay for them.

Mr. Speaker, in compliance with the budgetary pay-as-you-go requirements, H.R. 3909 contains a revenue offset which would speed up estimated tax payments for large corporations. Under current law, these corporations are required to make estimated tax payments equal to 90 percent of their current tax liability. The bill would temporarily raise this required percentage to 95 percent, after a 3-year phasein period.

Commitments have been made in both Houses of Congress to keep this legislation clean of all amendments. I would urge that these commitments be honored, so this important emergency legislation is not jeopardized. I strongly urge my colleagues to vote for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield myself such time as I may consume and ask unanimous consent to revise and extend my remarks.

H.R. 3909, the Tax Extension Act of 1991, provides for a 6-month extension of a dozen tax provisions that are generally due to expire at the end of this year.

These tax provisions have become known euphemistically as the extenders inasmuch as Congress has extended these provisions generally 1 year at a time for the past several years.

These expiring tax provisions include such provisions as the research and experimentation tax credit—deduction of health insurance costs for self-employed individuals, the exclusion for employer-provided educational assistance, extension of qualified mortgages bonds which provides low interest mortgage for first time home buyers, and the low-income housing tax credit.

Several of the expiring provisions are of such unquestionable merit that they should have been extended permanently years ago. Unfortunately, revenue constraints in recent years have led us to extend them for only short periods of time.

I look forward to working with Chairman ROSTENKOWSKI next year in reviewing the entire list of expiring provisions. We should extend permanently those provisions that merit permanent extension and eliminate those that do not.

The bill is funded through a modification to the estimated tax payments for corporations. Under current law, a corporation generally is required to pay estimated tax payments equal to 90 percent of the corporation's final tax liability. Under the bill, this 90-percent requirement would be increased to 95 percent.

While this revenue raiser may sound rather innocuous at first blush, I have serious concerns about the proposal. No hearings have been held. I seriously doubt that 5 percent of the corporate tax directors in this country are even aware we are considering this proposal today.

Second, the Ways and Means Committee recently considered a similar modification to the estimated tax payment rules for individuals in the context of the unemployment bill. The committee soundly rejected the proposal until numerous concerns had been remedied.

The estimated tax payment process is not a simple one for small businesses that lack the sophistication to adequately comply.

The current law 90-percent rule provides a 10-percent margin of error to accommodate the good faith estimated tax calculations taxpayers are required to make four times each tax year. Increasing the degree of accuracy to 95 percent will strain the practical ability of many small business owners.

Unfortunately, the problem can be far worse for large corporations.

I recently heard from 1 corporation in my district that has approximately 300 domestic subsidiaries and 150 foreign subsidiaries. It is virtually impossible for this corporation to gather accurate tax information from this far-flung enterprise in order to file accurate estimated taxes. Because penalties for underpayment of estimated tax are nondeductible, this company will be forced to overpay its taxes, thereby providing an interest-free loan to the U.S. Government. This is fundamentally unfair.

In the coming months, we will have an opportunity to monitor the problems raised by this and past modifications to the estimated tax rules. I hope that we will have an opportunity next year to comprehensively review the estimated tax payment rules in order to simplify and improve these rules.

Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, I rise in strong support of H.R. 3909.

I wish to thank the chairman and the ranking member as well as the members of the committee for extending these very important programs; specifically, the mortgage revenue bond and the low-income housing tax credit. These programs provide 1.3 million Americans with homes, provides some 400,000 rental units. I believe these are the types of programs which have worked and which I hope, as the committee goes back to review this, they will make permanent.

I think our country needs the housing program; I think these are programs which have been proven.

Mr. Speaker, I commend the committee for extending these programs so that there is no disruption in the building programs and the housing for our homeless.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of this legislation.

Mr. Speaker, we have heard a lot of talk today dealing with the need for action on our economy. There is no question that we must take action to reverse this recession and its damaging impact on families across this great land.

Make no mistake about it, Democrats have a plan and are ready to act if the President will join us productively, rather than merely threaten another veto.

In the interim, I want to commend the chairman of the Ways and Means Committee for bringing this bill, extending critical expiring tax provisions to keep investment going in our economy. As I discussed with the chairman, this bill is a lifeline to our home building industry, without which this recession will only become deeper and more severe.

Housing starts are now at the lowest level of any year since World War II. Over 15 percent of those employed by the homebuilding industry on a national level—and over 60 percent in the Washington metropolitan region—are out of work today. This industry and its impact on our economy are clearly in a crisis.

At the same time, it is important to note that Housing has led our Nation out of every recession. Without a turnaround in the housing industry, we may continue to flounder and sink in the rough seas in which we now find ourselves.

This legislation will keep in place critical lifelines to the homebuilding industry. Without these extensions, financing that is now available through mortgage revenue bonds and capital that is available for low-income housing would dry up and turn a crisis into a disaster and a recession into a depression.

To point out the importance of these provisions, it is important to note that State-issued mortgage revenue bonds have funded more than 1.3 million lower income mortgages—and over 131,000 in 1990 alone. Local housing authorities have provided another 474,000 mortgage revenue bond [MRB] loans. In 1990, in Maryland, over 4,400 families have received MRB-assisted loans. This means jobs for employees of the homebuilding industry and means the recession is that much less painful.

The Chairman's bill will allow us to get to next year, when we can include these provisions in an overall package that focuses on spurring and sustaining economic growth.

I also commend the chairman on his commitment to review these issues next year and make them permanent if they are found to be productive. At long last we can stop the gameplaying of making these issues a political football on an annual basis and provide some confidence and stability to capital markets for the homebuilding industry. I thank the chairman for this action today and urge adoption of this important legislation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, let me congratulate the Chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], and also the ranking Member, the gentleman from Texas [Mr. ARCHER], for coming together to make such an important issue to the American people and the Nation a nonpartisan issue.

Clearly, all 12 of these extenders have a great constituency, but I am concerned about the creation of jobs for the underprivileged, especially our teenagers, and the targeted job credits where we reach out and encourage people to hire the disadvantaged and give them the training necessary to keep them working, off the welfare rolls and out of trouble.

In addition, we are talking about the low-income housing credit, where 95 percent of all the housing that has been built in the last 3 years where the rent has been $450 or less per month has been built under the low-income housing credit.

So I do join with the minority and the majority, hoping that it soon will become permanent. But it took a lot of cooperation and a lot of work for us to get where we are today, and I congratulate both of these gentlemen.

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Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise today in strong support of the bill, and I rise in relief that we are considering H.R. 3909. I thank the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, and certainly thank the gentleman from Texas [Mr. ARCHER].

This legislation would extend the 12 tax provisions that are slated to expire on December 31, 1991. These include important programs like mortgage revenue bonds, the low-income housing tax credit, and the research and development tax credit.

Extending these proven programs is the least complicated and least costly way to stimulate the economy. I am the lead sponsor of the mortgage revenue bond extender. This is a vital program that helps working families purchase their first home. It is supported by 391 Members of the House.

The Mortgage Revenue Bond Program helped more than 605,000 families become homeowners in 1990 alone. Since 1988, 10,239 families in Connecticut have become first time homebuyers with the assistance of mortgage revenue bonds.

The Mortgage Revenue Bond Program is a proven program. It is one of the few things that is still moving homes in the residential real estatemarket. In addition, more than 60 percent of all lower priced RTC home sales have been financed by the Mortgage Revenue Bond Program, the only gold star the RTC can claim.

The extension of the Low-Income Housing Tax Credit Program will also provide much needed stimulus for our fragile economy. The low-income housing tax credit is the most important housing program we have today, providing for more new construction than any other Federal program. The credit produces 120,000 units of low-income rental housing each year. And since its inception this vital program has added 28,000 new low-income housing units in Connecticut.

If my colleagues really want to do something for jobs, and if they want to do something for real estate, and, most importantly, if they want to do something for the American people, here it is. Here is something practical we can do in this very good economic package in front of us, and I am delighted we have it and hope everybody comes together, as they have on the committee, to support it.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from Connecticut [Mrs. KENNELLY] who just spoke is absolutely correct. The public would like for this Congress to come together without partisan bickering to try to help the economy, and this is one step today in this bill where we have come together, where we can go arm and arm, Democrats and Republicans, to the American people and say, "We do want to create jobs."

Mr. Speaker, this targeted jobs tax credit, which will be renewed by this bill, creates job opportunities for Americans. The mortgage revenue bond provision, which is renewed, will create the construction of more homes, and the sale of more homes and the creation of more jobs. The R&D tax credits will create more jobs for those people who are at the cutting edge of developing technology that will keep this country in the forefront and competing with its foreign trading partners. That is in addition to low income housing. The credit there will create more jobs.

So, this Congress is taking at least a small step forward in a positive way today to help to move us out of a recession and into greater job creation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding this time to me, and let me say that I was pleased yesterday when the Committee on Ways and Means Democrats and Republicans decided together to do what I think all of us understand is necessary for the economy. These are public policies that are important, and we have decided to extend these extended tax provisions so we do not get in positions where our failure to extend them depresses the economy further and causes further loss of jobs. This is a package that will help stimulate and help produce some economic activity, and I am pleased to see that we can work together and can have a spirit of bipartisanship and harmony on these issues.

I do want to take one of these extenders and discuss it just for a moment. That is the 25-percent health insurance deduction for self-employed. I am pleased that that is not allowed to expire, that that is in fact extended, but it is not nearly enough. There is no excuse at all in these times when we talk about the need for incentives to have health insurance to say to a small business or a farmer on one side of the street, "You get a 25-percent deduction for your health insurance on your income tax, but your competitor across the street is incorporated, and you get, Mr. Competitor, a 100-percent deduction. If you're incorporated, you get a full 100-percent deduction for health insurance costs, but if you're a self proprietor or self-employed, you only get 25 percent."

Mr. Speaker, we have to correct that, and we have to do it soon. I am hoping next year when we discuss this we will decide that the self-employed, the unincorporated businesses of America, will have a 100-percent education for health insurance costs, just as the incorporated businesses have. There is no justification of that difference in public policy.

Once again let me say in the midst of all of this partisan chaos around there that this is at least one small shining example of how Republicans and Democrats can work together to bring something to the floor that is good for the country, and I congratulate the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, and I congratulate the ranking member, the gentleman from Texas [Mr. ARCHER] and the folks on that side of the aisle as well.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the gentleman from Texas [Mr. ARCHER] for yielding this time to me, and let me agree with my friend, the gentleman from North Dakota [Mr. DORGAN] on the timeliness and importance of extending these expiration provisions. I salute the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI]. I salute the gentleman from Texas [Mr. ARCHER] and will expand only for a moment on how this is a small way is a package that Members on both sides of the aisles can take home and say, "We have done something for growth and for competitiveness."

The gentleman from North Dakota [Mr. DORGAN] expanded on the 25-percent deductibility, which is really not so much a tax issue as it is a fairness issue, and I will not elaborate on that except to say that both he and I have sponsored legislation to expand that deductibility to 100 percent, and indeed that proposal is incorporated in many of the health care reform packages that both Republicans and Democrats have offered.

But, as a Representative from a rural area, Mr. Speaker, let me highlight some provisions that I think are terribly important to rural communities that have suffered outmigration and has sustained a lack of growth for many years. In addition to health care deductibility for self-employed individuals, and in our case that usually means farmers, there are two other provisions that are terribly important. The provisions which extends the qualified small new manufacturing bonds are those bonds from which beginning farmer lender programs grow. Iowa has had a very successful beginning farmer program. It depends on these private activity bonds and will be allowed to continue at least for 6 months, which is good news for a lot of young farmers who otherwise would not be enfranchised in agriculture.

Similarly, the low-income housing tax credit more and more in rural areas where we are suffering a tremendous shortage in housing is now combining with Farmers Home and FHA to provide housing needs for the rural poor. That is a tremendously important extension.

Let me add one more personal note. To reauthorize section 127, which is employer-provided education assistance, is not only good tax policy, it is good competitive policy for this country. We all know and have heard in the Committee on Ways and Means and on the floor of this House how important it is to move our work force to a skill force. Unless employers get involved, this will not happen, so this provision, and hopefully others to come, provide a tremendous opportunity for growth and competitiveness.

I salute the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, and I salute the gentleman from Texas [Mr. ARCHER], and I encourage all Members to support enthusiastically the expiring provisions.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Speaker, I rise, too, in support of this important bipartisan legislation, the Tax Extension Act of 1991. This may be one of the most significant pieces of legislation that Congress considers this session to encourage risk-taking, investment, and jobs creation.

Mr. Speaker, history has shown us that the research and development tax credit has helped businesses develop new products that stimulate economic growth and make us more competitive with our trading partners. It is absolutely critical that we extend this important credit.

Second, Mr. Speaker, the targeted jobs credit has enabled many businesses to employ the disadvantaged. Over a half a million workers benefit from this specific tax provision.

Finally, the extension of the 25-percent tax deduction for the self-employed is absolutely critical if we are going to control insurance costs for small businesses. This is an issue that we must address as a Congress and in the Ways and Means Committee in this next legislative session. But today we are saying to the small businessman that we must keep their insurance costs from going up. We are, therefore, extending this important deduction.

Mr. Speaker, the Ways and Means Committee will be back 6 months from now to review these provisions and to look at other provisions that can encourage growth in our economy.

I want to commend the chairman and the ranking minority member. This is a bipartisan bill; it is an important piece of legislation, and I encourage its passage.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise today to thank Chairman ROSTENKOWSKI for bringing this important legislation to the floor before adjournment. The extension of these provisions of the Tax Code are critically important as my letter to the committee last week, signed by 94 of our colleagues, pointed out. This bill is essential to the stability of our economy, particularly during this recession.

Among the programs extended are the low-income housing tax credit and Mortgage Revenue Bond Program which are very important to our housing industry, especially at this difficult time. The bill also extends the targeted jobs tax credit which has clearly served to create jobs that we need now more than ever. The research and experimentation tax credit is also important to expanding our economy, and this bill keeps that credit in operation as well. It also preserves the tax exclusion for employer-provided educational and legal expenses and tax provisions related to the value of donated works of art.

Mr. Speaker, we all know that these particular tax provisions have histories of success, and it is indeed good news that this bill is being moved quickly through the Congress before adjournment. I commend the committee for its timely action and urge my colleagues to lend their full support to its passage today. I submit my letter of November 22 along with the list of signers to be printed at this point in the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 22, 1991.
Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Longworth Building, Washington, DC.

DEAR MR. CHAIRMAN: We respectfully urge you to convene your committee at the first opportunity to consider a short term extension of the expiring provisions of the tax code before we adjourn for the year. At this time, when our economy is mired in recession, we must maintain the viability of these programs, all of which have positive economic and societal impacts.

Although we would urge a long term or even permanent extension of these provisions, we are aware of the constraints imposed by the 1990 Budget Agreement. Hence, we want you to know of our support for a short-term extension, even as short as three months, to keep these programs operating while we grapple with the tough economic and tax questions which we all know must be addressed in early 1992.

Mr. Chairman, we understand your reservations about opening up the tax code so late in the year, but we ask that you do so to ensure that the social and economic benefits from these important programs are not jeopardized at this critical time. While all of us have changes we would like to see in the tax code, we realize the overriding importance of maintaining continuity for these long-standing provisions which are set to expire December 31. We encourage you to bring an extension bill to the floor under suspension of the rules before we adjourn.

Sincerely,

Nita M. Lowey, Mike Espy, Claude Harris, John Cox, Jr., Lane Evans, W.G. Hefner, Frank Pallone, Jr., Tim Johnson, Hamilton Fish, Jr., Matthew J. Rinaldo, William H. Zeliff, Jr., Chalmers P. Wylie, Stephen L. Neal, and Beverly Byron.

John Conyers, Jr., Les AuCoin, Collin Peterson, David R. Nagle, James H. Bilbray, Glen Browder, Robert E. Cramer, Jr., Ben Nighthorse Campbell, William Lehman, Matthew McHugh, Glenn Anderson, Patricia Schroeder, J. Roy Rowland, David Price, Vic Fazio, and Robert J. Mrazek.

Ileana Ros-Lehtinen, Ben Jones, Bill Emerson, Robin Tallon, Richard Lehman, Jon Kyl, Scott Klug, Peter H. Kostmayer, Joseph Gaydos, Walter Jones, Thomas Ewing, Norman F. Lent, Mary Rose Oakar, and Henry J. Nowak.

John Tanner, Jim Jontz, Bernard J. Dwyer, James F. Sensenbrenner, Jr., Randy "Duke" Cunningham, Jack Reed, Craig Thomas, Robert A. Borski, Terry Bruce, Dick Swett, Dan Burton, Jose E. Serrano, James V. Hansen, Constance Morella, Howard Coble, Wally Herger, William L. Dickinson, Joel Hefley, Dan Schaefer, and Tom Lewis.

Tom Bevill, Larry Smith, Bill Alexander, Ronald K. Machtley, Porter Goss, Robert W. Davis, Charles Taylor, James H. Scheuer, Arthur Ravenel, Jr., Bill Lowery, Gerry Studds, Jerry F. Costello, Marilyn Lloyd, and Floyd Spence.

Gary Ackerman, Dave Camp, Thomas McMillen, Bart Gordon, Chester G. Atkins, Sam Gejdenson, Glenn English, Douglas "Pete" Peterson, Charles A. Hayes, Robert J. Lagomarsino, Dale E. Kildee, Wayne Owens, John M. Spratt, Jim Bacchus, Tom Andrews, Susan Molinari, and Alex J. McMillan,

Members of Congress.

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Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, I would like to congratulate the chairman of the committee for finding a way to bridge this gap. The extenders are being extended because they have stood the test of time. These are deserving provisions. They have been placed in the rather unusual situation of every so often having to be renewed. But they are renewed because they serve basic economic needs for employers, large and small, for employers of all kinds.

Next year they are going to have to stand the rest of financial stringency, and I hope all of us who support the essence of these provisions will look ahead and try to find a way to fit these provisions into an overall tax package on a permanent basis.

So, Mr. Speaker, I rise in strong support of this action. It is a responsible one. In 6 months we will take another look and make sure we can handle this on a permanent basis.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in support of this measure and commend the chairman of the committee for his leadership.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I want to commend the chairman of the committee and the committee for bringing this proposal to the floor.

I have some concerns obviously about the on-and-off nature of these extenders, but I think the most important point made by the committee is that in advancing these extenders they paid for them. The cost of these extenders for 5 years is $3.1 billion. They raised $3.1 billion by increasing the corporate estimated tax in terms of its payment.

There are a lot of tax proposals that are being thrown around here. Some of them are paid for, some of them are not. The worst thing we could do is to cut taxes for some people while increasing the worst tax of all, which is the deficit on the American people. That is a lesson that both the President and my colleagues need to learn.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I want to thank my chairman for yielding me the time, and I want to congratulate the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from Texas [Mr. ARCHER] for finding a way to bring this extender bill to the floor.

These expiring tax provisions are very important to our economy and very important to many programs that we have in our State and local governments and throughout our communities.

I want to underscore the point that the gentleman from Illinois [Mr. ROSTENKOWSKI] made earlier, and that is that we need to take up these expiring tax provisions next year. I hope at that time that we will be able to look at permanent extensions for these tax provisions and also look at ways in which we can modify some of these provisions to make them more effective. Unfortunately, we just extend many of these provisions without looking at each individual one. I think that is important, and I thank the chairman of the committee for giving us that opportunity again next year.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS], a member of the committee.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is ironic that the morning after the House passed a multimillion dollar campaign finance bill with no funding source, there is a discussion about a tax package that actually pays for itself. We are talking about $3.1 billion in which a committee, on which it is my pleasure to be a member, was at least responsible enough to include sufficient revenue for the revenue lost.

Last night in a fit of orgy this House passed a bill that includes tax credits that the Joint Tax Committee estimates will, over a 5-year period, cost about $780 million. It included a postage subsidy which was between $50 and $75 million a year, and it included matching funds which the other side of the aisle said all last night were to be paid for out of voluntary funds. If we would take a look at this morning's Washington Post, we would see that the gentleman from Connecticut has already reneged on that commitment and says he reserves the right to use tax dollars.

Mr. Speaker, I wish those Members who just took the microphone and talked about responsibility in terms of covering the cost of requests would have been at the microphone last night when this body unfortunately passed a multibillion-dollar package financing campaigns with taxpayers' money and did not have the coverage to pay for it.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman very much for yielding this time to me.

Mr. Speaker, I rise in strong support of this bill to extend key expiring tax provisions.

There are disagreements in this House, and they are legitimate disagreements. We fight tough battles about what the future tax policy of this Nation ought to be and these are valid battles. But it indeed would be a shame if we were unable to provide the predictability of policy that is so important to the success of the programs that we currently have in place.

These extenders are the most successful housing policy the Federal Government participates in in my district and in my State. These extenders provide the most powerful and successful educational assistance to working people that my constituents enjoy. It is imperative in an era of skyrocketing health care costs that we preserve the right of self-employed, small businessmen and women to deduct at least 25 percent of their health care premiums. Failure to renew the targeted jobs tax credit would throw a new round of people into the unemployment lines in Connecticut. These programs funded through tax expenditures create opportunity for millions of Americans, and thousands of my constituents.

So, Mr. Speaker, I commend the chairman and the ranking member for being able to create the discipline in this and the other body to bring the bill to the floor. By so doing we restore the predictability and certainty that makes sound tax policy. We restore benefits to thousands of folks out there that are crucial to their well-being and to the opportunity they have to realize new dreams and we restore Congress' credibility as the steward of the people's interests.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I just wonder if there is a message in all the compliments that are being paid to the chairman. I usually only see these kinds of compliments when someone has either died or is retiring.

May I ask the chairman if there is a message there?

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the chairman of the committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I am sure that the gentleman was aware that the extensions of gratitude were rendered to both Mr. ROSTENKOWSKI and the gentleman from Texas [Mr. ARCHER].

The SPEAKER pro tempore (Mr. MAZZOLI). The time of the gentleman from Pennsylvania [Mr. MURTHA] has expired.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I rise in enthusiastic support of extending these provisions in a manner that they may be paid for as we go.

Mr. ARCHER. Mr. Speaker, I think we should quit while we are ahead.

Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one certain evidence we have seen here is that the Congress can work together. These are very important provisions. They are provisions that both the minority and the majority, not only in the Committee on Ways and Means but in conference as well, have been struggling with for a long time. That is one of the reasons why in the past we did extend them permanently, and only because of budget constraints and revenues we continuously cut them back to a point where only this year we had them for 9 months.

I think there is much to be said about the Ways and Means Committee reviewing these extenders, as they are known, and doing something about them on a permanent basis.

Mr. Speaker, in conclusion, I wish to say that I am especially pleased that by this bill we are able to extend the low-income-housing tax credit for 6 months.

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In Chicago alone it will enable us to create 2000 new units of housing for the poorest of the citizens. It is of the utmost importance to me, and I think to generally the poor people of the country, that we pass this legislation, both for our inner cities and rural areas. They certainly deserve it, are counting on it, and I think we should move with great dispatch.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise in strong support of passage of H.R. 3909, which authorizes the extension of 12 expiring tax provisions.

It is fitting that as we begin to celebrate the holiday season, we can point to an issue which has united both sides of the aisle.

For too long, the Congress has delayed taking action on these expiring tax credits which have been an essential part of our economy.

While the 6 month extension of these tax credits will show the business community that Congress supports these credits and that we have a strong interest in seeing them continued, I hope Members will continue to support efforts to extend them permanently or on a yearly basis.

Premanent extension of these provisions will allow businesses to make the financial plans to fully utilize their credits on a yearly basis.

Earlier this year, I introduced the Small Business Jobs and Tax Benefits Act which would extend 5 of the 12 expiring provisions which I believe are crucial to the success and expansion of the small business community. I am pleased that these five expiring provisions were included in H.R. 3909.

Real long-term economic growth and expanded job opportunities will depend on Congress passing measures such as H.R. 3909 which create incentives for business to invest and expand.

These provisions will also assist employers who offer educational programs, target jobs to disadvantaged and disabled workers, relieve the burden of insurance for self-employed individuals, assist in the development of solar and geothermal energy equipment and exclude employer provided group legal services from taxes.

Mr. Speaker, I am also very concerned about the ability of working families to find affordable housing.

That is why I am very pleased two other provisions will be extended—the Mortgage Revenue Bond Program and the Low Income Housing Tax Assistance Program.

These will be the first step that Congress takes in passing legislation which will get our economy up and running again.

Mr. Speaker, I urge all Members to support this bill.

Mr. MOODY. Mr. Speaker, I rise in strong support of H.R. 3909, the bill to extend the 12 tax provisions that will expire at the end of this year. I commend Chairman ROSTENKOWSKI and my fellow members of the Ways and Means Committee for working together to find a way to extend these provisions.

I cosponsored legislation to extend these crucial provisions because each of them serves an essential need in our communities. Several of these items are among the most successful that we have enacted in the Ways and Means Committee in recent years.

I'd like to single out the targeted jobs tax credit and the low-income housing tax credit for special notice. Both of these tax credits are very important in my district and in my State. This Wisconsin Housing and Economic Development Authority has been especially supportive of the low-income housing credit, and have proclaimed it to be a major success in Milwaukee. Several other nongovernmental, nonprofit community groups make extensive use of these credits to build affordable housing for low-income families without the direct involvement of the Government.

The targeted jobs tax credit is another good example of a successful approach to using the private sector to address a public need by providing the necessary resources without Government micromanagement. This credit helps defray the costs of hiring young men and women that have had difficulty getting into or staying in the work force. It gives these workers real jobs in the private sector, providing them with experience and training.

This legislation also extends the 25-percent deductibility of health insurance for the self-employed. This is obviously a minimum necessity given the high and ever-growing cost of health insurance. However, it is only a stopgap measure. I have introduced legislation with my colleague BYRON DORGAN to make health insurance fully deductible for the self-employed. There is no reason that one set of businesses should be allowed to deduct 100 percent of this cost, and another set of businesses denied this benefit. The real long-term solution to this problem, however, is a fundamental reform of the health insurance system that puts serious controls on rising health costs. I hope we achieve this reform in this Congress by adopting a bill I have introduced to establish a single-payer health insurance system that will reduce costs for the vast majority of American families and businesses.

There are other provisions in this bill which I heartily support, including: mortgage revenue bonds to help working families buy their own homes; small issue manufacturing bonds to help communities attract and retain business for economic development; and the research and experimentation tax credit which continues to give American business the incentive to invest in research projects that will contribute to the long-term competitiveness of this economy.

While I am extremely happy that we are able to extend these provisions for 6 months, I think that it is essential that we make it a priority to permanently extend each of them before they expire next year. I look forward to working with Members of the committee and the House to find a way to do this.

Mr. REED. Mr. Speaker, I rise today in strong support of H.R. 3909 and in recognition of Chairman ROSTENKOWSKI's efforts to bring this legislation to the floor.

H.R. 3909 demonstrates our commitment to improving the economy, affordable housing, health care, jobs, and research. Its passage will continue for 6 months a host of programs of vital importance to our States. I would like to highlight a few.

The Mortgage Revenue Bond Program and the low-income housing tax credit are two of the most effective tools we have to create affordable housing as well as meet our goal of providing all Americans with decent, accessible, and safe housing.

Since its inception 12 years ago, the targeted jobs tax credit has helped millions of low-income Americans go from tax users to tax payers. At the same time, the targeted jobs tax credit also affords businesses, large and small, the opportunity to reduce their tax burden. The targeted jobs tax credit also increases hiring from groups in our society which are historically disadvantaged and structurally unemployed, and thus begin to break the vicious cycle of poverty.

While health insurance costs have been escalating dramatically for all businesses, the costs have been significantly higher for small business. New data on health coverage in small firms indicates that they still employ a disproportionately large share of workers without employer provided health insurance. Moreover, nearly half of the self-employed workforce is uninsured.

The continuation of the 25 percent deduction for health insurance costs provides an incentive for more small business owners to purchase health insurance for themselves and their employees.

Again, I would like to state my support for the worthy programs I mentioned above as well as continuing the authority of States to issue tax-exempt small issue manufacturing bonds.

Mr. BLACKWELL. Mr. Speaker, I rise today to express my strong support for H.R. 3909. This economy needs a jump start and I can think of no better way to help get it going than by supporting this bill that will give tax credits for the construction of low-income housing. The low-income housing tax credit is the Nation's primary affordable housing tool, responsible for 94 percent of all low-income housing starts and more than 35 percent of all rental housing starts each year. In addition, this bill allows tax exempt status for mortgage revenue bonds, and gives tax credit for the hiring of disabled and disadvantaged workers. I firmly believe that we need affordable housing for the poor and the working class. We need jobs for all Americans, including the disabled, and we must support programs that encourage people to further their education. This comprehensive bill will offer millions of people the push that they need to get on with their lives. By supporting this legislation, we can help these people, and stimulate our fragile economy at the same time.

Ms. SLAUGHTER of New York. Mr. Speaker, I rise in support of the H.R. 3909, the compromise bill on extenders that will temporarily rescue the 12 expiring provisions of the Tax Code. I commend the wisdom of the Ways and Means Committee and the Senate Finance Committee in recognizing the importance of these expiring provisions.

While I strongly support the tax breaks for low-income housing, research and experimentation, and employer-provided educational assistance, among others, there is one expiring provision about which I have been particularly concerned. That provision is the deduction for interest on industrial revenue bonds, [IDB's] issued to provide capital for small manufacturers.

By providing a sound, responsible, reliable means of capital development, IDB's have played a critical role for small manufacturing firms. Such firms have long been a key component of the economy of my district, which includes parts of Greater Rochester, NY. While the manufacturing sector of our economy has been in decline in recent years, IDB's have been a useful mechanism in the struggle to reverse this trend. By reducing the cost of capital, IDB's encourage investment by small manufacturing firms. In recent years in New York, estimates are that $1 of every $10 invested in the small manufacturing industries has involved IDB's. In the Rochester area alone, IDB-financed projects have created more than 1,000 new jobs over the last 4 years.

I have fought to keep open the manufacturing sector's access to needed capital by introducing legislation, both this year and last, to extend the tax exemption on IDB's for a 5-year period. A 5-year extension is needed because our practice of piecemeal extensions of shorter time periods has discouraged some manufacturers from using IDB financing. While IDB's do work, small manufacturers need a program in place that provides continuity and an adequate planning horizon. Accordingly, H.R. 3909's 6-month extension is only a partial victory for small manufacturers. Congress must recognize the job creation and economic stimulus potential of a full 5-year extension of the IDB exemption.

As American manufacturers struggle to survive a recession, a credit crunch, and stiffening foreign competition, we owe nothing less to this backbone sector of our Nation's economy.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of H.R. 3909, to extend 12 expiring tax provisions for 6 months. I would like to commend Chairman ROSTENKOWSKI and Ranking Member ARCHER for their work to develop this package. I know that bringing this bill to the floor today was not easy and required persistence, creativity, and commitment.

Included in these provisions are a number of important programs. Of particular interest to my constituents are the extension of the low-income housing tax credit and the mortgage revenue bond [MRB] programs. These two programs provide much need assistance for the development of affordable housing. I was pleased to work with Representative MACHTLEY in initiating a letter to Chairman ROSTENKOWSKI and Ranking Member ARCHER, cosigned by 225 of our colleagues, urging that these 2 worthy programs be extended.

The tax credit is a significant Federal incentive for the production and rehabilitation of low-income rental housing. Fully utilized, the credit is capabile of facilitating the production and rehabilitation of over 120,000 units of low-income house annually. If made permanent, the tax credit over the next decade could save approximately 620,000 low-income rental units which would otherwise be lost from the house stock. In the San Francisco Bay area, the tax credit has been used in a number of innovative affordable projects. I am very pleased that today we are acting to prevent its expiration.

The Mortgage Revenue Bond Progam, too, plays a significant role in providing affordable housing. The MRB Progam help to reduce home mortgage costs for lower income families, and in my city of San Francisco, helps to provide for moderate-income workers in the city who would otherwise not able to afford to live there. Nationwide, MRB's have assisted over 1.3 million low- and moderate-income families become homeowners.

The bill before us today takes a step in the direction of reordering our domestic priorities. The mechanism developed to raise the revenue needed to extend these expiring tax provisions will speed up tax collections on corporations. Currently, corporations pay taxes based on 90 percent of the current year's tax liability without having to pay an assessment for failure to pay estimated tax. H.R 3909 will require corporations with taxable income over $1 million to pay quarterly taxes based on 95 percent of their income. We implemented a similar change for individuals in orfer to fund the extension of unemployment benefits. It is fitting that today we are using changes to coporate taxation to fund the development of affordable housing.

Again, I would like to commend Chairman ROSTENKOWSKI and Congressman ARCHER for their success with this measure. I urge my colleagues to support H.R. 3909.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of H.R. 3909, a bill to extend for 6 months 12 vital tax provisions that are due to expire on December 31, 1991.

On November 23, I wrote to the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, urging that he bring before the full House, prior to adjournment of this first session, legislation to extend these crucial tax provisions. I wish to thank both the chairman and the ranking Republican member of the Ways and Means Committee, Mr. ARCHER, for their efforts to bring this bill before us today.

Given our current recessionary economy, this bill is among the most important legislative initiatives that we will consider prior to adjournment. A number of New Jersey businesses have brought to my attention their strong support for extending various of these 12 tax provisions that they view as crucial to their operations. Also, I wish to point out that this bill will help to ensure the availability of affordable housing for low- and moderate-income families, health insurance benefits for self-employed persons and their families, and employer-sponsored educational benefits for many Americans.

As the ranking Republican member of the Banking, Housing and Urban Affairs Subcommittee on Housing, and a strong proponent of affordable housing alternatives, I am particularly pleased to note that H.R. 3909 extends both the low-income housing tax credit and the authority of States to issue tax-exempt mortgage-revenue bonds. Earlier this year, I cosponsored H.R. 413 and H.R. 1067, bills to extend on a permanent basis the low-income housing tax credit and mortgage-revenue bond programs, respectively. Government entities and individual groups, together with many Members of this body committed to affordable housing, know the successful history of these programs.

Mr. Speaker, the mortgage-revenue bond program has enabled many low- and moderate-income Americans to purchase their own homes. In New Jersey, where real estate prices are amongst the highest in the Nation, and the gap between household income and home purchase prices has widened, mortgage-revenue bonds and the low-income housing tax credit are the only forms of Federal assistance remaining to facilitate affordable housing.

Mr. Speaker, the bill before us also extends the health insurance deduction for self-employed individuals and their families. Without this provision, many more American families would likely find themselves without necessary health care coverage. One illness or medical emergency could thrust such families into poverty. Thus, the extension of this provision will serve to protect the health and economic well-being of self-employed persons and their families.

I also wish to address the extreme importance of extending tax credits for business research and experimentation [R&E]. Since its enactment in 1981, this tax credit has proven to be an extremely effective incentive to American companies to increase their level of research on new technologies and new products. American businesses would be severely disadvantaged in international markets if the research and experimentation tax credits were allowed to lapse. It is estimated that the extension of these tax credits could lead to $27.5 billion in increased spending for R&E from 1991 to 1995. In addition to the obvious technological research benefits of this increased R&E spending, it would also serve to stimulate jobs, thereby bolstering local economies and businesses.

Last year, during the final hours of the budget debate, Congress approved a 12-month extension of these tax provisions. This year, under the resulting 1990 budget agreement, we must offset this 6-month extension of these tax provisions. This bill does so by speeding up tax collection from certain corporations who make quarterly estimated tax payments. Since a large number of such corporations benefit from these tax provisions, this is an appropriate offset.

While a permanent extension of these credits would be preferable, I believe that we will revisit this issue next year when we tackle the difficult economic and tax issues that we all know must be addressed at the earliest possible opportunity.

Mr. Speaker, I urge my colleagues to lend their support to this bill. It is good for business, good for job creation, good for the economy, and good for America. I also urge our colleagues in the other body to act quickly on this high-priority measure so that we may ensure that there will be no interruption in the operation of these 12 essential programs.

Ms. DeLAURO. Mr. Speaker, today, on the last day of this legislative session, we are debating one of the most important bills we have considered this year. H.R. 3909, which will extend a number of crucial tax incentives, is good news for businesses in my State and around the country.

The Government policies addressed in this legislation will help businesses that are struggling to survive this recession—they must not be allowed to lapse. Between 1980 and 1990, an average of 183 businesses per year declared bankruptcy in my State of Connecticut. This year, 526 businesses declared bankruptcy in the first 8 months. Clearly, something must be done.

This bill would extend a dozen vital tax measures scheduled to expire at the end of this year. The incentives in this bill will help businesses, expecially in the slumping real estate sector, to endure these tough economic times. If we allow them to expire, we risk doing serious damage to businesses already weakened by the recession.

Some of the most significant provisions are: Tax credits for business research and experimentation, which will help American businesses and universities invest in the future; low-income housing tax credits and mortgage-revenue bonds, which are vital to the development of affordable housing for low- and moderate-income Americans; deductions of health insurance costs for the self-employed, which allow self-employed individuals to deduct their health care costs in the same manner as larger businesses; and the targeted jobs tax credit, which encourages businesses to hire disabled and disadvantaged workers.

Other provisions in this bill include: Exclusion from taxes of employee-provided education assistance, tax credits for business investment in solar and geothermal energy equipment, and authority to issue tax-exempt small issue manufacturing bonds.

This legislation will not solve the economic ills facing our country. We need to do much, much more. The bill before us extends most of the expiring tax incentives only through the first 6 months of next year. Many, if not most, of these provisions will need to be extended further, and some are worthy of permanent extension.

But this bill represents our commitment to helping businesses through this devastating period and creating new growth, new jobs, and new hope for the future. For businesses surviving on the edge, this legislation will bring a much needed reprieve from the economic pressures they face.

Mr. Speaker, we cannot afford to allow these vital programs to expire. I call on my colleagues to join me in supporting this important proposal.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore, (Mr. Mazzoli). The question is on the motion offered by the gentleman from Illinois [Mr. Rostenkowski] that the House suspend the rules and pass the bill (H.R. 3909) as amended.

The question was taken.

Mr. ARCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT AMENDMENTS OF 1991

Mr. de la GARZA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 305) concurring in the Senate amendment to H.R. 3029 with an amendment.

The Clerk read as follows:

H. Res. 305

Resolved, That upon adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill (H.R. 3029) to make technical corrections to agricultural laws, with the Senate amendment thereto, and to have concurred in the Senate amendment with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food, Agriculture, Conservation, and Trade Act Amendments of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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Sec. 103. Double cropping of 0/92 acres.
Sec. 104. Announcement of acreage reduction programs for rice.
Sec. 105. Corn and sorghum bases.
Sec. 106. Cover crops on reduced acreage.
Sec. 107. Cotton user marketing certificates.
Sec. 108. Malting barley.
Sec. 109. Deficiency payments for wheat, barley, and oats.
Sec. 110. Minor oilseed loan rates.
Sec. 111. Sugar.
Sec. 112. Crop acreage base.
Sec. 113. Miscellaneous amendments to the Agricultural Act of 1949.
Sec. 114. Miscellaneous amendments relating to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 115. Miscellaneous amendments to the Agricultural Adjustment Act.
Sec. 116. Miscellaneous amendments to the Agricultural Adjustment Act of 1938.
Sec. 117. Section redesignation.
Sec. 118. Other miscellaneous commodity amendments.
Sec. 119. Sense of Congress regarding imported barley and oats.

Sec. 120. Cotton classing fees.
Sec. 121. Sense of Congress regarding targeted option payments.
Sec. 122. Transfer of peanut quota undermarketings.
Sec. 123. Cotton futures contracts.
Sec. 124. Lamb price and supply reporting services report and system.
Sec. 125. Cotton first handler marketing certificates.
Sec. 126. Production of black-eyed peas for donation.
Sec. 127. Milk price support program limited to 48 contiguous States.
Sec. 128. Modification of milk production termination program.
TITLE II—CONSERVATION
Sec. 201. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 202. Amendment to the Soil Conservation and Domestic Allotment Act.
Sec. 203. Farms for the Future.
Sec. 204. Amendments to the Food Security Act of 1985.
TITLE III—AGRICULTURAL TRADE
Sec. 301. Superfluous punctuation in farmer to farmer provisions.
Sec. 302. Punctuation correction in Enterprise for the Americas Initiative.
Sec. 303. Spelling correction in section 604.
Sec. 304. Missing word in section 606.
Sec. 305. Punctuation error in section 607.
Sec. 306. Typographical correction in section 612.
Sec. 307. Erroneous quotation.
Sec. 308. Punctuation correction.
Sec. 309. Date correction.
Sec. 310. Missing subtitle heading correction.
Sec. 311. Redesignation of subsection.
Sec. 312. Date correction to section 404.
Sec. 313. Date correction to section 416.
Sec. 314. Redesignation of section.
Sec. 315. Cross reference correction.
Sec. 316. Placement clarification.
Sec. 317. Punctuation correction.
Sec. 318. Elimination of obsolete cross reference.
Sec. 319. Cross reference correction.
Sec. 320. Correcting clerical errors in section 204 of the Agricultural Trade Act of 1978.
Sec. 321. Capitalization correction.
Sec. 322. Correction of error in date.
Sec. 323. Correction of typographical error.
Sec. 324. Cross reference correction.
Sec. 325. Elimination of superfluous word.
Sec. 326. Cross reference correction.
Sec. 327. Amendment to section 602.
Sec. 328. Section 407 corrections.
Sec. 329. Section 407(b) amendment.
Sec. 330. Supplemental views in annual report.
Sec. 331. Consultations with Congress.
Sec. 332. Statute designation.
Sec. 333. Correction of placement and indentation of subparagraph.
Sec. 334. Export credit guarantee program.
Sec. 335. Technical amendments to the Food for Progress Program.
Sec. 336. Miscellaneous amendment to the Agricultural Trade Development and Assistance Act of 1954.
Sec. 337. Reporting requirements.
Sec. 338. Sharing United States agricultural expertise and information.
Sec. 339. Conforming amendment relating to the Environment for the Americas Board.
TITLE IV—RESEARCH
Sec. 401. Competitive, special, and facilities research grants.
Sec. 402. National Agricultural Research, Extension, and Teaching Policy Act of 1977.
Sec. 403. Rural development and small farm research and education.
Sec. 404. National Genetic Resources Program.
Sec. 405. Alternative agricultural research and commercialization.
Sec. 406. Deer tick research.
Sec. 407. Miscellaneous research provisions.
Sec. 408. Sustainable agriculture research and education.
TITLE V—CREDIT
Sec. 501. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 502. Amendments to the Farm Credit Act of 1971.
Sec. 503. Federal Agricultural Mortgage Corporation.
TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE
Sec. 601. Federal crop insurance.
Sec. 602. Disaster relief.
TITLE VII—RURAL DEVELOPMENT
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Sec. 937. Amount and term of grant.
Sec. 938. Other requirements.
Sec. 939. Authorization of appropriations.
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Sec. 941. Technical amendments to the Food Stamp Act of 1977.
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TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS
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Sec. 1002. Agricultural fellowships.
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Sec. 1006. Amendments to FIFRA and related provisions.
Sec. 1007. Grain standards.
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Sec. 1009. Redundant language in Warehouse Act.
Sec. 1010. Clarification of Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 1011. Perishable agricultural commodities.
Sec. 1012. Egg products inspection.
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TITLE XI—EFFECTIVE DATES
Sec. 1101. Effective dates.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 102. CONSERVING USE ACRES.

(a) RICE.—Section 101B(c)(1)(E) (7 U.S.C. 1441-2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) ALTERNATIVE CROPS.—The Secretary" and inserting the following:

"(E) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(ii) SESAME AND CRAMBE.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.".

(b) Cotton.—Section 103B(c)(1)(E) (7 U.S.C. 1444–2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) Alternative crops.—The Secretary" and inserting the following:

"(E) Alternative crops.—

"(i) Industrial and other crops.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(ii) Sesame and crambe.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.".

(c) Feed Grains.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

(d) Wheat.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

SEC. 103. DOUBLE CROPPING OF 0/92 ACRES.

(a) Feed Grains.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended by adding at the end the following new clause:

"(iii) Double cropping.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

(b) Wheat.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended by adding at the end the following new clause:

"(iii) Double cropping.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

SEC. 104. ANNOUNCEMENT OF ACREAGE REDUCTION PROGRAMS FOR RICE.

Section 101B(e)(1) (7 U.S.C. 1441–2(e)(1)) is amended by striking subparagraph (C) and inserting the following new subparagraph:

"(C) Announcements.—

"(i) Preliminary announcement.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than December 1 of the calendar year preceding the year in which the crop is harvested (or, for the 1992 crop, as soon as practicable after the date of enactment of this subparagraph). The preliminary announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

"(ii) Final announcement.—Not later than January 31 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop described in paragraph (2)(A).".

SEC. 105. CORN AND SORGHUM BASES.

Section 105B(e)(2) (7 U.S.C. 1444f(c)(2)) is amended by adding at the end the following new subparagraph:

"(H) Corn and sorghum bases.—Notwithstanding any other provision of this Act, with respect to each of the 1992 through 1995 crops of corn and grain sorghums—

"(i) the Secretary shall combine the permitted acreages established under subparagraph (D) for a farm for a crop year for corn and grain sorghums;

"(ii) for each crop year, the sum of the acreage planted and considered planted to corn and grain sorghum, as determined by the Secretary under this section and title V, shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year; and

"(iii) for each crop year, the sum of the corn and grain sorghum payment acres, as determined under subsection (c), shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn or grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum established for each crop year.".

SEC. 106. COVER CROPS ON REDUCED ACREAGE.

(a) Rice.—Clause (i) of section 101B(e)(4)(B) (7 U.S.C. 1441–2(e)(4)(B)(i)) is amended to read as follows:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) Arid areas.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) Approval of cover crops and practices.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(b) Cotton.—Clause (i) of section 103B(e)(4)(B) (7 U.S.C. 1444–2(e)(4)(B)(i)) is amended to read as follows:

"(i) Required.—

"(I) In general.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) Arid areas.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(c) FEED GRAINS.—Clause (i) of section 105B(e)(4)(B) (7 U.S.C. 1444f(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(d) WHEAT.—Clause (i) of section 107B(e)(4)(B) (7 U.S.C. 1445b-3a(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

SEC. 107. COTTON USER MARKETING CERTIFICATES.

(a) ISSUANCE.—Section 103B(a)(5)(E) (7 U.S.C. 1444-2(a)(5)(E)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) ISSUANCE.—Subject to clause (iv), during the period beginning August 1, 1991, and ending July 31, 1996, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

"(I) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), established under subparagraph (C), does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary.";

(2) in clause (ii), by striking "marketing certificates" and inserting "marketing certificates or cash payments"; and

(3) by adding at the end the following new clause:

"(iv) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under clause (i) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subparagraph, exceeds the Northern Europe price by more than 1.25 cents per pound.".

(b) PREVAILING WORLD MARKET PRICE.—Section 103B(a)(5)(C)(ii) (7 U.S.C. 1444-2(a)(5)(C)(ii)) is amended by striking "and (B)" and inserting ", (B), and (E)".

SEC. 108. MALTING BARLEY.

Section 105B (7 U.S.C. 1444f) is amended—

(1) in subsection (e)(2)(G), by adding at the end the following new sentence: "The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation under this paragraph and shall announce such determination in the Federal Register."; and

(2) by striking subsection (p) and inserting the following new subsection:

"(p) MALTING BARLEY.—

"(1) ASSESSMENT REQUIRED.—In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on any producer of malting barley produced on a farm that is enrolled for the crop year in the production adjustment program under this section. The Secretary shall establish such assessment at not more than 5 percent of the value of the malting barley produced on program payment acres on the farm during each of the 1991 through 1995 crop years. The production per acre on which the assessment is based shall not be greater than the farm program payment yield.

"(2) VALUE OF MALTING BARLEY.—The Secretary may establish the value of such malting barley at the lesser of the State or national weighted average market price received by producers of malting barley for the first 5 months of the marketing year. In calculating the State or national weighted average market price, the Secretary may exclude the value of malting barley that is contracted for sale by producers prior to planting.

"(3) EXCEPTION TO ASSESSMENT.—In counties where malting barley is produced, participating barley producers may certify to the Secretary prior to computation of final deficiency payments that part or all of the producer's production was (or will be) sold or used for nonmalting purposes. The portion certified as sold or used for nonmalting purposes shall not be subject to the assessment. The Secretary may require producers to provide to the Secretary such documentation as the Secretary considers appropriate to carry out this paragraph.".

SEC. 109. DEFICIENCY PAYMENTS FOR WHEAT, BARLEY, AND OATS.

Section 114(c) (7 U.S.C. 1445j(c)) is amended—

(1) in the material preceding the paragraphs, by striking "sections" and inserting "section";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by striking paragraph (2) and inserting the following new paragraphs:

"(2) With respect to feed grains (excluding barley and oats), 75 percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

"(3) With respect to wheat, barley, and oats, the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year. Such projected payment shall be based on the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel with respect to wheat or 7 cents per bushel with respect to barley and oats.".

SEC. 110. MINOR OILSEED LOAN RATES.

Section 205(c) (7 U.S.C. 1446f(c)) is amended—

(1) in paragraph (2), by striking "flaxseed" and inserting "flaxseed, individually,";

(2) in paragraph (3), by striking "that, in the case of cottonseed, in no event less" and inserting "in no event shall the level for such oilseeds (other than cottonseed) be less"; and

(3) by adding after and below paragraph (3) the following new sentence:

"To ensure that producers have an equitable opportunity to produce an alternative crop in areas of limited crop options, the Secretary may limit, insofar as practicable, adjustments in the loan rate established under paragraph (2) applicable to a particular region, State, or county for the purpose of reflecting transportation differentials such that the regional, State, or county loan rate does not increase or decrease by more than 9 percent from the basic national loan rate.".

SEC. 111. SUGAR.

(a) Sugar Price Support and Marketing Assessments.—Section 206 (7 U.S.C. 1446g) is amended—

(1) in subsection (e), by striking "announce the loan rate" and inserting "announce the basic loan rates for beet sugar and cane sugar";

(2) in subsection (f), by striking "Loans" and inserting "Except as provided in subsection (g), loans";

(3) by striking subsection (g) and inserting the following new subsection:

"(g) Supplementary Nonrecourse Loans.—The Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in 9 months less the quantity of time that the first loan was in effect."; and

(4) in subsection (i)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) Sugarcane.—Effective only for marketings of raw cane sugar during the 1992 through 1996 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(2) Sugar beets.—Effective only for marketings of beet sugar during the 1992 through 1996 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

"(3) Collection.—

"(A) Timing.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

"(B) Manner.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable."; and

(B) in paragraph (4), by striking "collect or remit the reduction" and inserting "remit the assessment".

(b) Security Interests.—Subsection (b) of section 405 (7 U.S.C. 1425) is amended to read as follows:

"(b) Sugarcane and Sugar Beets.—The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 401(e)(2).".

(c) Sugar Information Reporting.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) Duty of Processors, Refiners and Manufacturers To Report.—

"(1) Processors and refiners.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) Manufacturers of crystalline fructose.—All manufacturers of crystalline fructose from corn (hereafter in this part referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) Duty of Producers To Report.—The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively."; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking "data on imports," and inserting "data on production, imports,"; and

(B) by inserting "composite data on distributions of" after "sugar and".

(d) Marketing Allotments for Sugar and Crystalline Fructose.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) Sugar Estimates.—

"(1) In general.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

"(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

"(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

"(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

"(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

"(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

"(2) Quarterly reestimates.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) Sugar Allotments.—

"(1) In general.—For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C), that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 359c for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

"(2) Products.—The Secretary may include sugar products, whose majority content is sucrose or crystalline fructose for human consumption, derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part."; and

(3) in subsection (d)(4), by inserting after "the United States" the following: "(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)".

(e) Establishment of Marketing Allotments.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in subsection (b)(1)—

(A) by striking "from the estimated sugar consumption" and inserting "from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)"; and

(B) in subparagraph (A), by striking "(representing minimum imports of sugar for consumption in the United States during the fiscal year)";

(2) in subsection (b)(2), by striking "prevent the accumulation of sugar acquired by" and inserting "avoid the forfeiture of sugar to";

(3) in subsection (f)—

(A) in the subsection heading, by striking "Sugarcane Allotment" and inserting "Cane Sugar Allotments"; and

(B) by striking "allotted among the 5 States in the United States in which sugarcane is produced" and inserting "allotted, among the 5 States in the United States in which sugarcane is produced,";

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) In general.—The Secretary shall, based on reestimates under section 359b(a)(2)—

"(A) adjust upward or downward marketing allotments established under subsections (a) through (f) in a fair and equitable manner;

"(B) establish marketing allotments for the fiscal year or any portion of such fiscal year; or

"(C) suspend the allotments,

as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.".

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) Reductions.—Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g), for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed."; and

(5) by striking subsection (h) and inserting the following new subsection:

"(h) Filling Cane Sugar and Beet Sugar Allotments.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.".

(f) Allocation of Marketing Allotments.—Section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) is amended—

(1) in subsection (a)(2) by striking "after such hearing" both places it appears and inserting "after a hearing, if requested by interested parties,"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) Filling Cane Sugar Allotments.—Except as otherwise provided in section 359e, a State cane sugar allotment established under section 359c(f) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.".

(g) Reassignments of Deficits.—Section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee) is amended to read as follows:

"SEC. 359e. REASSIGNMENT OF DEFICITS.

"(a) Estimates of Deficits.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

"(b) Reassignment of Deficits.—

"(1) Cane sugar.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

"(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(2) Beet sugar.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors; and

"(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(3) Corresponding increase.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.".

(h) Provisions Applicable to Producers.—Section 359f(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)) is amended—

(1) in paragraph (1)(A), by striking "250 producers in such State" and inserting "250 sugarcane producers in the State (other than Puerto Rico)";

(2) in paragraph (2), by striking "establish proportionate shares for the crop of sugarcane that is harvested during" and inserting "establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during"; and

(3) by striking paragraphs (3), (4), and (5) and inserting the following new paragraphs:

"(3) Method of determining.—For purposes of determining proportionate shares for any crop of sugarcane:

"(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

"(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

"(C) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

"(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

"(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

"(4) Acreage base.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

"(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

"(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

"(5) Violation.—

"(A) In general.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) Civil penalty.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).".

(i) Special Rules.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Transfer of Acreage Base History.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(b) Preservation of Acreage Base History.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share."; and

(2) in subsection (c)—

(A) by striking "hearing and"; and

(B) by inserting "required to be" after "proportionate share was".

(j) REGULATIONS.—Subsection (a) of section 359h of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359hh(a)) is amended to read as follows:

"(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part."; and

(k) APPEALS.—Paragraph (2) of section 359i(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii(b)(2)) is amended to read as follows:

"(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.".

SEC. 112. CROP ACREAGE BASE.

(a) ACREAGE CONSIDERED PLANTED.—Section 503(c) (7 U.S.C. 1463(c)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8) respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) acreage in an amount not to exceed 20 percent of the crop acreage base for a crop of feed grains or wheat if—

"(A) the acreage is planted to dry peas, (limited to Austrian peas, wrinkled, seed, green, yellow, and umatilla) and lentils; and

"(B) payments are not received by producers under sections 105B(c)(1)(E) and 107B(c)(1)(E), as the case may be;".

(b) ADJUSTMENT OF BASES.—Section 503(h) (7 U.S.C. 1463(h)) is amended—

(1) by striking "BASES.—The county" and inserting the following: "BASES.—

"(1) IN GENERAL.—The county"; and

(2) by adding at the end the following new paragraph:

"(2) RESTORATION OF CROP ACREAGE BASE.—

"(A) IN GENERAL.—For the 1992 through 1995 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2), above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

"(B) ELIGIBLE PRODUCER DEFINED.—For the purposes of this paragraph, the term 'eligible producer' means a producer of upland cotton or rice who, the appropriate county committee determines—

"(i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and

"(ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

"(C) REGULATIONS.—The Secretary shall issue regulations to carry out this paragraph.".

(c) PLANTING FLEXIBILITY.—Section 504(b)(1) (7 U.S.C. 1464(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) mung beans.".

SEC. 113. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is further amended—

(1) in section 101B(c)(1)(B) (7 U.S.C. 1441–2(c)(1)(B)), by redesignating the second clause (ii) as clause (iii);

(2) in section 103B(a) (7 U.S.C. 1444–2(a))—

(A) in paragraph (1)(B), by striking "upland cotton," and inserting "upland cotton),"; and

(B) in paragraph (3), by striking "the date of enactment of this Act" and inserting "November 28, 1990";

(3) in section 103B(n)(1)(D) (7 U.S.C. 1444–2(n)(1)(D)), by striking "effective date of the proclamation" and inserting "date the special quota is established by the Secretary";

(4) in section 105B(c)(1)(B)(iii)(IV)(bb) (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) by striking "(bb) BARLEY CALCULATIONS.—" and inserting "(bb) BARLEY CALCULATIONS.—";

(5) in section 105B(g) (7 U.S.C. 1444f(g))—

(A) in paragraph (1), by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in paragraph (6)(E), by striking "is" both places it appears and inserting "are";

(6) in section 107B(g)(1) (7 U.S.C. 1445b–3a(g)(1)), by striking "subsection (d)" and inserting "subsection (e)";

(7) in section 110 (7 U.S.C. 1445e)—

(A) in subsection (n), by striking "the date of enactment of this section" and inserting "November 28, 1990";

(B) by redesignating subsection (o) as subsection (p) and transferring such subsection to the end of the section; and

(C) in the second subsection (k)—

(i) by redesignating such subsection as subsection (o);

(ii) by striking "(o) In" and inserting "(o) REVIEW.—In"; and

(iii) by striking "subsection (e)(1)" and inserting "this section";

(8) in section 201 (7 U.S.C. 1446), by redesignating subsection (b) (as amended by section 1161(b)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3521)) as subsection (c);

(9) in section 202 (7 U.S.C. 1446a)—

(A) by striking "Administrator of Veterans' Affairs" each place it appears and inserting "Secretary of Veterans Affairs"; and

(B) by striking "Administrator" each place it appears and inserting "Secretary of Veterans Affairs";

(10) in section 204(h)(3) (7 U.S.C. 1446e(h)(3)), by adding at the end the following new sentence: "A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).";

(11) in section 406(b)(4) (7 U.S.C. 1426(b)(4)), by striking "the date of enactment of this subsection" and inserting "November 28, 1990,"; and

(12) in section 426 (7 U.S.C. 1433e)—

(A) in subsection (c)—

(i) by striking "division" in paragraphs (1) and (6) and inserting "Division"; and

(ii) by striking "subsection (e)" in paragraph (7) and inserting "subsection (f)";

(B) in subsection (f), by striking "county or State" and inserting "State or county";

(C) in subsection (g), by striking "County Committees" and inserting "county committees"; and

(D) in subsection (h), by striking "section 8(e)" and inserting "section 8(b)".

SEC. 114. MISCELLANEOUS AMENDMENTS RELATING TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) IN GENERAL.—The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359) is amended—

(1) in section 1124 (7 U.S.C. 1445e note; 104 Stat. 3506), by striking "warehouse" both places it appears and inserting "warehousemen";

(2) in section 1156 (7 U.S.C. 1421 note), by striking subsection (b) and inserting the following new subsection:

"(b) FUNDS.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Secretary, in the sole discretion of the Secretary, determines in advance that such funds shall be used for this purpose.";

(3) in section 1353 (7 U.S.C. 1622 note; 104 Stat. 3567), by striking "et seq" and inserting "et seq.";

(4) in section 2241 (7 U.S.C. 1421 note; 104 Stat. 3963)—

(A) in subsection (a)(4)(A), by inserting "extra long staple cotton," after "upland cotton," each place it appears;

(B) in subsection (b)(1), by inserting "extra long staple cotton," after "upland cotton,"; and

(C) in subsection (b)(4), by inserting "extra long staple cotton," after "upland cotton,";

(5) in section 2243(b)(2)(A) (7 U.S.C. 1421 note; 104 Stat. 3966), by striking "to harvest" and inserting "for harvest";

(6) in section 2249 (7 U.S.C. 1421 note; 104 Stat. 3972), by striking "chapter" and inserting "subchapter" each place it appears;

(7) in section 2250(b)(1) (7 U.S.C. 1421 note; 104 Stat. 3973), by striking "cotton" and inserting "upland cotton, extra long staple cotton";

(8) in section 2257 (7 U.S.C. 1421 note; 104 Stat. 3974), by striking "chapter" and inserting "subchapter" each place it appears;

(9) in section 2258 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(10) in section 2259 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(11) in section 2263 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter" each place it appears;

(12) in section 2265 (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "chapter" and inserting "subchapter";

(13) in section 2266(a) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter";

(14) in section 2267 (7 U.S.C. 1421 note; 104 Stat. 3976)—

(A) in subsection (a), by striking "subchapter" and inserting "chapter" each place it appears; and

(B) in subsection (b), by striking "chapter 1" and inserting "this chapter";

(15) in section 2268(b) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter"; and

(16) in section 2271 (7 U.S.C. 1421 note; 104 Stat. 3977), by striking "payment of" and inserting "payments or".

(b) Price Support for High Moisture Feed Grains.—

(1) In general.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(A) by redesignating subsection (q) as subsection (r); and

(B) by inserting after subsection (p) the following new subsection:

"(q) Price Support for High Moisture Feed Grains.—

"(1) Recourse loans.—Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary (through the Commodity Credit Corporation) shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

"(A) normally harvest all or a portion of their crop of feed grains in a high moisture state, hereinafter in this subsection defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a);

"(B)(i) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

"(ii) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

"(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such high-moisture feed grain;

"(D) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

"(E) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

"(2) Eligibility of acquired feed grains.—The loans shall be made on a quantity of feed grains of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

"(A) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

"(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such high moisture feed grain was obtained.".

(2) Conforming amendment.—Section 404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444f–1) is repealed.

SEC. 115. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in section 8b(b)(2) (7 U.S.C. 608b(b)(2)), by striking "(7 U.S.C. 1445c–2)" and inserting "(7 U.S.C. 1445c–3)"; and

(2) in section 8c(5)(B)(ii) (7 U.S.C. 608c(5)(B)(ii)), is amended by striking "and," before clause (f) and inserting ", and".

SEC. 116. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938.

The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(1) in section 319(l) (7 U.S.C. 1314e(l))—

(A) by inserting "in a State" after "one farm";

(B) by striking "of Tennessee"; and

(C) by adding at the end the following new sentence: "This subsection shall apply only to the States of Tennessee and Virginia.";

(2) in section 374(a) (7 U.S.C. 1374(a))—

(A) by inserting after "30 inch rows" the following: "(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)"; and

(B) by adding at the end the following new sentence: "For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops."; and

(3) in section 379(a) (7 U.S.C. 1379(a))—

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; or";

(C) by striking "; or" at the end of paragraph (6) and inserting a period; and

(D) by redesignating paragraph (7) as subsection (c), moving such subsection to appear after subsection (b), and conforming the left margin of such subsection to subsection (b).

SEC. 117. SECTION REDESIGNATION.

(a) Section Redesignation.—Sections 359 and 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359 and 1359a) are redesignated as sections 358d and 358e, respectively.

(b) Conforming Amendments as Result of Redesignations.—

(1) Price support program.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(A) in section 108A(3)(A) (7 U.S.C. 1445c–2(3)(A)), by striking "section 359" each place it appears and inserting "section 358d"; and

(B) in section 108B(c)(1) (7 U.S.C. 1445c–3(c)(1)), by striking "sections 359 and 359a" each place it appears and inserting "sections 358d and 358e".

(2) Marketing quotas.—The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(A) in section 358(v)(3) (7 U.S.C. 1358(v)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(B) in section 358–1(e)(3) (7 U.S.C. 1358–1(e)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(C) in section 358d (7 U.S.C. 1359), as redesignated by subsection (a)—

(i) by striking "section 359(a)" in subsection (b) and inserting "subsection (a)"; and

(ii) by striking "section 108B" each place it appears in subsections (m)(1)(C), (p)(1), and (r)(2)(A) and inserting "section 108A"; and

(D) in section 358e(b)(1) (7 U.S.C. 1359a(b)(1)), as redesignated by subsection (a), by striking "section 359(c)" and inserting "section 358d(c)".

SEC. 118. OTHER MISCELLANEOUS COMMODITY AMENDMENTS.

(a) Missing Language.—Section 5(i)(3) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking "(42 U.S.C. 1396d(5)))" and inserting "(42 U.S.C. 1396d(5))))".

(b) Missing Language.—Section 1001(2)(B)(iv) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)(iv)) is amended by inserting "section" before "107B(c)(1)".

(c) Extra Language.—Section 1001A(a)(2) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)(2)) is amended by striking "0 to".

(d) Amendment to Food and Agriculture Act of 1962.—Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is amended by adding at the end the following sentences: "The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.".

(e) Amendment to the Food, Agriculture, Conservation, and Trade Act of 1990.—Section 102(b)(1)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e–1(b)(1)(B)) is amended by striking "Commodity Credit Corporation" and inserting "Secretary".

(f) Clarification of Amendment.—Section 704 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "SEC." and all that follows through "If payments" in the first sentence of subsection (a) and inserting the following:

"SEC. 704. PAYMENT AS MEANS OF PRICE SUPPORT.

"(a) Use of Payments.—If payments".

SEC. 119. SENSE OF CONGRESS REGARDING IMPORTED BARLEY AND OATS.

(a) Findings.—Congress finds that—

(1) significant quantities of barley and oats are currently being imported into the United States from Norway, Sweden, and Finland origins, and there is reason to believe that such imports will continue in the future;

(2) such imported barley and oats are being purchased at a price artificially established at a level significantly below that of domestically produced barley and oats due to unfair and predatory export subsidies and schemes employed by the exporting countries of origin; and

(3) it is likely that the continued importation of such quantities of subsidized barley and oats will significantly and adversely affect producers of domestic barley and oats and impair the operations of existing farm commodity programs for barley and oats in the United States.

(b) Sense of Congress.—Based on these findings, it is the sense of Congress that the Secretary of Agriculture and the President of the United States should immediately and aggressively employ all available options under existing laws, including those under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to prevent material damage to the producers of domestic barley and oats and to prevent material interference with the programs established pursuant to section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f).

SEC. 120. COTTON CLASSING FEES.

(a) Extension of Authorization.—The first sentence of section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended to read as follows: "Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.".

(b) FEES.—The first proviso in the second sentence of section 3a of such Act is amended—

(1) by striking clauses (1) and (2) and inserting the following new clauses: "(1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales;"; and

(2) by striking clause (7) and inserting the following new clause: "(7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies.".

(c) CLARIFICATION OF SERVICES.—The third sentence of section 3a of such Act is amended to read as follows: "Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence.".

(d) REPEAL OF STUDY ON PROCESSING CERTAIN COTTON GRADES.—Section 3 of the Uniform Cotton Classing Fees Act of 1987 (7 U.S.C. 473a note) is repealed.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (c), and the amendments by subsections (a), (b), and (c), shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 1996.

SEC. 121. SENSE OF CONGRESS REGARDING TARGETED OPTION PAYMENTS.

(a) FINDINGS.—Congress finds that—

(1) thousands of agricultural producers are facing extremely difficult economic times and low commodity prices;

(2) the conditions on each farm are unique and require a unique plan to meet the income, conservation, and soil and weather conditions of the farm; and

(3) agricultural producers need the maximum possible flexibility to tailor the agricultural price support and production adjustment program to their farms' individual needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should offer targeted option payments for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice as authorized by sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(e)(3), 1444f(e)(3), 1444–2(e)(3), and 1441–2(e)(3)), respectively.

SEC. 122. TRANSFER OF PEANUT QUOTA UNDERMARKETINGS.

Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(including any applicable undermarketings)" after "any part of the poundage quota"; and

(B) by inserting "(including any applicable undermarketings)" after "any such lease of poundage quota";

(2) in the first sentence of paragraph (2), by striking "for the farm" and inserting "(including any applicable undermarketings)"; and

(3) in paragraph (3), by inserting after "farm poundage quota" the following: "(including any applicable undermarketings)".

SEC. 123. COTTON FUTURES CONTRACTS.

Subsection (c)(1) of the United States Cotton Futures Act (7 U.S.C. 15b(c)(1)) is amended by inserting before the period at the end the following: ", except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and Act".

SEC. 124. LAMB PRICE AND SUPPLY REPORTING SERVICES REPORT AND SYSTEM.

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry. In preparing the report, the Secretary shall examine measures to improve information on—

(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

(A) California (including San Francisco);

(B) the East Coast region (including Washington, D.C.);

(C) the Midwest region (including Chicago, Illinois);

(D) Texas;

(E) the Rocky Mountain region; and

(F) Florida;

(2) sheep and lamb inventories, including on-feed reports;

(3) the price and supply relationships between retailers and breakers;

(4) the viability of voluntary or mandatory reporting for sheep prices; and

(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

(b) PRICE DISCOVERY AND REPORTING SYSTEM.—

(1) SYSTEM REQUIRED.—Based on the report required under subsection (a), the Secretary shall—

(A) develop a price discovery system formula for the lamb market, such as carcass equivalent pricing; and

(B) establish a price discovery and reporting system for the lamb market to assist lamb producers to better allocate their resources and make informed production and marketing decisions.

(2) IMPLEMENTATION.—The price discovery and reporting system for the lamb market shall be implemented by the Secretary not later than 180 days after the date of the submission of the report.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to develop and establish the system required under this subsection.

(c) CONSULTATION.—In preparing the report required under subsection (a) and establishing the price discovery and reporting system required under subsection (b), the Secretary shall consult with lamb producers and other persons in the national lamb industry.

SEC. 125. COTTON FIRST HANDLER MARKETING CERTIFICATES.

Section 103B(a)(5)(B) (7 U.S.C. 1444–2(a)(5)(B)) is amended—

(1) by inserting "or cash payments" after "marketing certificates" each place it appears in clauses (i) and (ii); and

(2) in clause (iii), by inserting "or cash payment" after "certificate".

SEC. 126. PRODUCTION OF BLACK-EYED PEAS FOR DONATION.

(a) 50/92 PROGRAM FOR COTTON.—Section 103B(c)(1)(D) (7 U.S.C. 1444–2(c)(1)(D)) is amended by adding at the end the following new clause:

"(ix) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, all or any part of the acreage required to be devoted to conservation uses as a condition for qualifying for payments under this subparagraph to be devoted to the production of black-eyed peas if—

"(I) the producer agrees to donate the harvested peas from the acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(II) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

(b) ACREAGE REDUCTION PROGRAM.—Section 103B(e)(2) of such Act (7 U.S.C. 1444–2(e)(2)) is amended by adding at the end the following new subparagraph:

"(G) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, producers on a farm to plant black-eyed peas on not more than one-half of the reduced acreage on the farm if—

"(i) the producer agrees to donate the harvested peas from such acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(ii) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

SEC. 127. MILK PRICE SUPPORT PROGRAM LIMITED TO 48 CONTIGUOUS STATES.

(a) IN GENERAL.—Section 204 (7 U.S.C. 1446e) is amended—

(1) in subsection (a), by inserting "produced in the 48 contiguous States" after "the price of milk";

(2) in subsection (c)(1), by inserting before the period the following: "produced in the 48 contiguous States";

(3) in subsection (d)(5)(B), by striking "United States" both places it appears and inserting "48 contiguous States and the District of Columbia"; and

(4) in subsections (g)(1) and (h)(1), by striking "United States" each place it appears and inserting "48 contiguous States".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as of January 1, 1991.

SEC. 128. MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM.

(a) CERTAIN TRANSFERS AUTHORIZED.—If the Secretary of Agriculture determines that a natural disaster renders unusable the land or milk production facilities of the producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to a farm idled under the milk production termination program established under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), without penalty, if the producers on the farm agree to comply with all terms and conditions of the program contract for the remainder of the contract period.

(b) APPLICATION.—This section shall apply with respect to any natural disaster occurring during the period beginning on October 1, 1990, and ending on February 1, 1991.

TITLE II—CONSERVATION

SEC. 201. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENTS TO SECTION 1451.—Section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822) is amended—

(1) in subsection (b)(1)(D), by striking "(e)" and inserting "(f)";

(2) in subsection (d), by inserting "each of" before "the calendar";

(3) in subsection (f)(5), by striking "assisting" and inserting "assist"; and

(4) in subsection (h)(7)(B)—

(A) in clause (i), by inserting before the period at the end of the first sentence the following: ", but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-1)"; and

(B) in clause (ii), by striking "under" and all that follows through "Agricultural" and inserting "under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E) of the Agricultural".

(b) AMENDMENTS TO SECTION 1466.—Section 1466 of such Act (7 U.S.C. 4201 note) is amended—

(1) in subsection (c), by striking "Funds" and inserting "funds"; and

(2) in each of subsections (e) and (f), by striking "section (b)" and inserting "subsection (b)".

(c) AMENDMENT TO SECTION 1468(a)(2).—Section 1468(a)(2) of such Act (7 U.S.C. 4201 note) is amended by striking "Funds" and inserting "funds".

(d) AMENDMENTS TO SECTION 1473(a).—Section 1473(a) of such Act (7 U.S.C. 5403(a)) is amended—

(1) in paragraph (1), by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(2) in paragraph (2), by striking "subparagraph (A)" " and inserting "paragraph (1)".

(e) AMENDMENT TO SECTION 1483(c).—Section 1483(c) of such Act (7 U.S.C. 5503(c)) is amended by inserting "and" after "Animal".

(f) AMENDMENT TO SECTION 1485.—Section 1485 of such Act (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "Administrator" both places it appears " and inserting "Director";

(2) in subsection (a)(3), by striking "Atmospheric Agency, the" " and inserting "Atmospheric Administration, the"; and

(3) in subsection (b)(3), by striking "subsection (a)" " and inserting "this subsection".

(g) AMENDMENTS TO SECTION 1499.—Section 1499 of such Act (7 U.S.C. 5506) is amended—

(1) in the 4th sentence of subsection (a)—

(A) by inserting "Agricultural" before "Environmental"; and

(B) by striking "1612" and inserting "1472";

(2) in subsection (b)—

(A) by striking "AFFECT" and inserting "EFFECT"; and

(B) by inserting "and section 1499A" after "subsection (a)"; and

(3) in subsection (c), by inserting "and" after "Animal".

(h) NEW SECTION.—

(1) EDUCATION PROGRAM.—Such Act is amended by inserting after section 1499 (7 U.S.C. 5506) the following new section:

"SEC. 1499A. EDUCATION PROGRAM REGARDING HANDLING OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

"Subject to the availability of funds appropriated in advance, the Secretary of Agriculture shall direct the Extension Service to operate a program in each State to catalogue the Federal, State, and local laws and regulations that govern the handling of unused or unwanted agricultural chemicals and agricultural chemical containers in the State. The program established under this section shall make available to producers of agricultural commodities and the general public, and provide on request, educational materials developed or collected by the program.".

(2) The table of contents in section 1(b) of such Act (104 Stat. 3363) is amended by inserting after the item relating to section 1499 the following new item:

"Sec. 1499A. Education program regarding handling of agricultural chemicals and agricultural chemical containers.".

SEC. 202. AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

The 14th sentence of the 5th undesignated paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by inserting ", except that, in the case of a person elected to be a national officer or State president of the National Association of Farmer Elected Committeemen, the limitation shall be four consecutive terms" before the period.

SEC. 203. FARMS FOR THE FUTURE.

(a) IN GENERAL.—Sections 1465 through 1469 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) are amended to read as follows:

"SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

"(a) SHORT TITLE.—This chapter may be cited as the 'Farms for the Future Act of 1990'.

"(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

"(c) DEFINITIONS.—As used in this chapter:

"(1) ALLOWABLE INTEREST RATE.—The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan (including the interest paid by the State trust fund, State, or State agency on bonds or other obligations described in paragraph (2)).

"(2) ELIGIBLE LOAN.—The term 'eligible loan' means each loan made by lending institutions to each State trust fund, or to the State acting in conjunction with the State trust fund, to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

"(3) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) the State of Vermont; and

"(B) at the option of the Secretary and subject to appropriations, any State that—

"(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

"(ii) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

"(4) LENDING INSTITUTION.—The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

"(5) PROGRAM.—The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(7) STATE.—The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

"(8) STATE TRUST FUND.—The term 'State trust fund' means any trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, where such eligible State is approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468.

"SEC. 1466. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—

"(1) PURPOSE.—The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for eligible loans described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds.

"(2) ASSISTANCE.—Under the program the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds and shall for each such 10-year period subsidize the interest on such eligible loans at the allowable interest rate for the first 5 years after the loan is made, or issued, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

"(b) MANDATORY ASSISTANCE TO EACH STATE TRUST FUND.—The Secretary shall—

"(1) fully guarantee with the full faith and credit of the United States each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund under procedures established by the Secretary;

"(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund during each of the first 5 years after the date on which each such loan was made or issued; and

"(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made to, or issued for the benefit of, the State trust fund, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each such loan made to, or issued for the benefit of, the State trust fund, as determined under procedures established by the Secretary.

"(c) FUNDING.—

"(1) ISSUANCE OF STOCK.—The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

"(2) PURCHASE OF STOCK.—The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the raising of funds to purchase stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of Treasury who shall promptly purchase the stock (within 60 days) being offered by the Secretary of Agriculture.

"(3) COMMODITY CREDIT CORPORATION.—If the Secretary of Agriculture fails to issue stock as required under this chapter, or if funding is otherwise not provided as set forth in this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

"(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall promptly purchase stock (within 60 days) offered by the Secretary under subsection (c) and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

"(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in subsection (b).

"(f) REGULATIONS.—Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

"(1) the application procedures for eligible States;

"(2) the factors to be used in approving applicants;

"(3) procedures for the prompt payment of the obligations of the Secretary under subsection (b);

"(4) recordkeeping requirements for approved State trust funds;

"(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

"(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

"(7) any other rules necessary and appropriate to carry out the program.

"(g) DURATION OF PROGRAM.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

"(h) ELIGIBLE USES FOR GUARANTEED LOAN FUNDS.—

"(1) IN GENERAL.—Funds from eligible loans (including proceeds from the sale of bonds or other obligations described in section 1465(c)(2)) guaranteed under this chapter, and any earnings of the State trust funds, may be used—

"(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or some lesser estate in land;

"(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

"(C) to pay the costs of enforcing easements or land use restrictions;

"(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

"(E) to generate earnings (including through investments not exceeding 10 years in duration for each eligible loan), to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any Federally insured State nonmember bank.

"(2) COLLATERAL FOR LOANS.—To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

"(i) STATE USE OF GUARANTEED LOAN FUNDS.—The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the eligible loans (described in section 1465(c)(2)) guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loans guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

"(j) SPECIAL RULES FOR THE PILOT PROJECT STATE.—Notwithstanding any other provisions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

"(1) PROVISION OF LOAN GUARANTEE AND INTEREST ASSISTANCE AGREEMENT.—Within 30 days of the date any State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

"(2) APPROVAL OF APPLICATION.—The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

"(3) AMOUNT OF GUARANTEES.—The Secretary shall calculate the total amount of guarantees to be provided for fiscal year 1992 in an amount equal to double the sum of—

"(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board regardless of whether the fund had been approved by the Secretary in fiscal year 1991), by the State described in section 1465(c)(3)(A), political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

"(B) the matching contribution calculated under section 1468(c) for fiscal year 1992 for the State.

"(k) MISCELLANEOUS PROVISIONS.—

"(1) OPERATION.—Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

"(2) EARNINGS.—Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

"SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

"(a) ACCOUNTS.—To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

"(b) Compliance.—If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

"SEC. 1468. APPLICATIONS AND ADMINISTRATION.

"(a) Applications.—In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

"(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

"(2) agree that the State trust fund will use any funds provided, or guaranteed, by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

"(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

"(b) Annual Applications.—Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.

"(c) Match and Maximum Amount.—

"(1) In general.—The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund (including matching funds described in paragraphs (2) through (4)) in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

"(2) Earnings.—Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

"(3) Obligations.—Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

"(4) Land.—The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

"(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

"(ii) the donation is consistent with the State farmland preservation plan,

except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

"(d) Clarification of Federal Law.—Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

"SEC. 1469. REPORT.

"Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.".

(b) Regulations.—Section 1470 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) is amended—

(1) by striking "This" and inserting "(a) In General.—This"; and

(2) by adding at the end the following new subsection:

"(b) Regulations.—Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.".

(c) Reports; Stock Issuance.—Such Act is amended by adding at the end the following new sections:

"SEC. 1470A. COMPTROLLER GENERAL REPORTS.

"On February 15 of 1992, and on December 1 of each of the years 1992 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

"SEC. 1470B. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

"The Secretary shall issue the stock required to be issued to the Secretary of Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.".

SEC. 204. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended—

(1) in section 1211 (16 U.S.C. 3811)—

(A) in paragraph (1)(D), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(B) in paragraph (3)(D), by inserting "of subtitle D" after "chapter 2"; and

(C) in paragraph (3)(E), by inserting "of subtitle D" after "chapter 3";

(2) in section 1212 (16 U.S.C. 3812)—

(A) in subsection (f)(4)(A), by striking "such violations" and inserting "such violation"; and

(B) in subsection (g)(2), by striking "XIII," and inserting "XIII";

(3) in section 1221(1)(D) (16 U.S.C. 3821(1)(D)), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(4) in section 1223 (16 U.S.C. 3823), by striking "and" at the end of paragraph (3);

(5) in section 1232(a) (16 U.S.C. 3832(a))—

(A) by striking the extra semicolon at the end of paragraph (6); and

(B) in paragraph (7)—

(i) by striking "fall and winter"; and

(ii) by striking "for an applicable reduction in rental payment" and inserting "and occurs during the 7-month period in which grazing of conserving use acreage is allowed in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or after the producer harvests the grain crop of the surrounding field for a reduction in rental payment commensurate with the limited economic value of such incidental grazing".

(6) in section 1237(d) (16 U.S.C. 3837(d)), by striking "subsection (d)" and inserting "subsection (c)";

(7) in section 1239(b)(1)(A) (16 U.S.C. 3839(b)(1)(A)), by striking "corridors," and inserting "corridors;"; and

(8) in section 1247(b) (16 U.S.C. 3847(b)), by striking "subsection 1234(b)" and inserting "section 1234(b)".

TITLE III—AGRICULTURAL TRADE

SEC. 301. SUPERFLUOUS PUNCTUATION IN FARMER TO FARMER PROVISIONS.

Section 501(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(a)(3)) is amended by striking the comma after "public".

SEC. 302. PUNCTUATION CORRECTION IN ENTERPRISE FOR THE AMERICAS INITIATIVE.

Section 603(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738b(a)(3)) is amended by inserting a hyphen between "Inter" and "American".

SEC. 303. SPELLING CORRECTION IN SECTION 604.

Section 604(a)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c(a)(2)) is amended by striking "AVALIABILITY" and inserting "AVAILABILITY".

SEC. 304. MISSING WORD IN SECTION 606.

Section 606(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738e(c)) is amended by inserting "accounts" after "Corporation".

SEC. 305. PUNCTUATION ERROR IN SECTION 607.

Section 607(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738f(a)) is amended by striking the quotation mark before "Fund" and inserting it after "Fund" the last place it appears.

SEC. 306. TYPOGRAPHICAL CORRECTION IN SECTION 612.

Section 612(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738k(a)(1)) is amended by striking "462), and—" and inserting "2281 et seq.);".

SEC. 307. ERRONEOUS QUOTATION.

Section 1515(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "title I and" and inserting "titles I and".

SEC. 308. PUNCTUATION CORRECTION.

Section 103(d)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5603(d)(2)) is amended by inserting a close parenthesis mark before the final period.

SEC. 309. DATE CORRECTION.

Section 203(g)(3) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(g)(3)) is amended by striking "the date of enactment of this Act" and inserting "November 28, 1990,".

SEC. 310. MISSING SUBTITLE HEADING CORRECTION.

Title II of the Agricultural Trade Act of 1978 is amended by inserting after the title heading the following:

"Subtitle A—Programs".

SEC. 311. REDESIGNATION OF SUBSECTION.

Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by redesignating subsection (g) as subsection (f).

SEC. 312. DATE CORRECTION TO SECTION 404.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is amended by striking out "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 313. DATE CORRECTION TO SECTION 416.

Section 416(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5676(e)) is amended by striking out "the effective date of this section" and inserting "November 28, 1990".

SEC. 314. REDESIGNATION OF SECTION.

The Agricultural Trade Act of 1978 is amended by redesignating section 506 (7 U.S.C. 5695) as section 505.

SEC. 315. CROSS REFERENCE CORRECTION.

Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is amended by striking "section 104" each place it appears and inserting "section 103".

SEC. 316. PLACEMENT CLARIFICATION.

Section 1532 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "thereof" and inserting "of title I".

SEC. 317. PUNCTUATION CORRECTION.

Section 108(b) of the Agricultural Act of 1954 (7 U.S.C. 1748) is amended by striking the period at the end of paragraph (1)(B) and inserting a semicolon.

SEC. 318. ELIMINATION OF OBSOLETE CROSS REFERENCE.

Section 108(b)(4) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(4)) is amended by striking "the trade assistance office" and all that follows through "section 201),".

SEC. 319. CROSS REFERENCE CORRECTION.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)) is amended by inserting "title I of" before "this Act" each place it appears in paragraphs (2)(B) and (3).

SEC. 320. CORRECTING CLERICAL ERRORS IN SECTION 204 OF THE AGRICULTURAL TRADE ACT OF 1978.

Section 204(d) of the Agricultural Trade Act of 1978 (7 U.S.C. 5624) is amended—

(1) by striking "Agency or Private Parties" in the heading and inserting "Agencies"; and

(2) by striking "government" and inserting "Government".

SEC. 321. CAPITALIZATION CORRECTION.

Section 403(i)(2)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(i)(2)(C)) is amended by striking "Committees" and inserting "committees".

SEC. 322. CORRECTION OF ERROR IN DATE.

Section 409, 410(a), 410(b), 410(c), and 411(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c, 1736d(a), 1736d(b), 1736d(c), and 1736e(e)) are each amended by striking "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 323. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 406(b)(5)(D) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)(5)(D)) is amended by striking "items" and inserting "time".

SEC. 324. CROSS REFERENCE CORRECTION.

Section 407(c)(1)(A) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(A)) is amended by striking "this section" and inserting "title I".

SEC. 325. ELIMINATION OF SUPERFLUOUS WORD.

Section 407(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(C)) is amended by striking "other".

SEC. 326. CROSS REFERENCE CORRECTION.

Section 411(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e(a)) is amended by striking "this title" and inserting "title I".

SEC. 327. AMENDMENT TO SECTION 602.

Section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a)) is amended—

(1) in paragraph (1), by striking "designate as produced" and inserting "designate produced"; and

(2) in paragraph (2), by striking "in accordance with subsection (c)".

SEC. 328. SECTION 407 CORRECTIONS.

(a) Subsection (c)(4).—Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended—

(1) by inserting "provides or" after "in which such person"; and

(2) by striking "if the person is" and inserting "of a person".

(b) Elimination of Word.—Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking "other".

SEC. 329. SECTION 407(b) AMENDMENT.

Section 407(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(b)(1)) is amended by striking "or agricultural commodity donated".

SEC. 330. SUPPLEMENTAL VIEWS IN ANNUAL REPORT.

Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738m) is amended—

(1) by striking "Not later" and inserting "(a) In General.—Not later"; and

(2) by adding at the end the following:

"(b) Supplemental Views in Annual Report.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.".

SEC. 331. CONSULTATIONS WITH CONGRESS.

The Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after section 614 (7 U.S.C. 1738m) the following:

"SEC. 615. CONSULTATIONS WITH CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.".

SEC. 332. STATUTE DESIGNATION.

Section 407(d)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(d)(4)) is amended by striking "the Federal Property Act of 1949, as amended," and inserting "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)".

SEC. 333. CORRECTION OF PLACEMENT AND INDENTATION OF SUBPARAGRAPH.

Subparagraph (B) of section 1514(5) of the Food, Agriculture, Conservation, and Trade Act of 1990, 104 Stat. 3663) is amended to read as follows:

"(B) by inserting after subparagraph (E) the following new subparagraph:

" '(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.' ".

SEC. 334. EXPORT CREDIT GUARANTEE PROGRAM.

Section 202(i) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(i)) is amended by striking "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserting "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

SEC. 335. TECHNICAL AMENDMENTS TO THE FOOD FOR PROGRESS PROGRAM.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (l), by striking "September 30," where it appears immediately before "December 31";

(2) in subsection (m), by striking "this Act" each place it appears and inserting "this section"; and

(3) by redesignating subsections (l) and (m) (as amended by paragraphs (1) and (2)) as subsections (k) and (l), respectively.

SEC. 336. MISCELLANEOUS AMENDMENT TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The first sentence of section 411(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e) is amended by inserting before the period at the end the following: "at least 10 days prior to providing the debt relief".

SEC. 337. REPORTING REQUIREMENTS.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509(f)) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Exceptions.—The reporting and recordkeeping requirements of this section shall not apply with respect to cigars, cigar tobaccos, pipe tobacco, chewing tobacco in retail packaging, and snuff in retail packaging. In order to qualify for the exception under this subsection, the tobacco must have a certification that its end use is for cigars, cigar tobacco, pipe tobacco, chewing tobacco in retail packaging, or snuff in retail packaging.".

SEC. 338. SHARING UNITED STATES AGRICULTURAL EXPERTISE AND INFORMATION.

Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) by striking the subsection heading and inserting the following:

"(d) E (Kika) de la Garza Agricultural Fellowship Program.—The Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') shall establish a program, to be known as the 'E (Kika) de la Garza Agricultural Fellowship Program', to develop agricultural markets in emerging democracies and to promote cooperation and exchange of information between agricultural institutions and agribusinesses in the United States and the Soviet Union, as follows:

"(1) Development of agricultural systems.—";

(2) in paragraph (1), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(3) in paragraph (2), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(4) by indenting 2 ems the left margin of paragraphs (1) through (9) and redesignating

such paragraphs as subparagraphs (A) through (I), respectively;

(5) by striking "subsection" each place it appears and inserting "paragraph";

(6) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(7) by striking "paragraph (2)(A)" each place it appears and inserting "subparagraph (B)";

(8) by striking "paragraph (2)(B)" each place it appears and inserting "subparagraph (B)";

(9) in paragraph (1)(B) (as so redesignated)—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end the following new clause:

"(iii) by providing for necessary subsistence expenses in emerging democracies and necessary transportation expenses of United States agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging democracies.";

(10) in paragraph (1)(I) (as so redesignated), by striking "$5,000,000" and inserting "$10,000,000"; and

(11) by adding at the end the following new paragraph:

"(2) AGRICULTURAL INFORMATION PROGRAM.—

"(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, administered to complement the emerging democracies export promotion program developed under this section, to initiate and develop collaboration between the United States Department of Agriculture, United States agribusinesses, and appropriate agricultural institutions in the Soviet Union in order to promote the exchange of information and resources that will make a long-term contribution to the establishment of a free market food production and distribution system in the Soviet Union and the enhancement of agricultural trade with the United States.

"(B) IMPLEMENTATION.—The Secretary shall draw on the Department of Agriculture's experience to design, implement, and evaluate, on a cost-sharing basis with cooperating agricultural institutions, a program to—

"(i) compile, through contacts with the Government of the Soviet Union and private sector officials in the Soviet Union, a list of their agricultural institutions, including the location, capabilities, and needs of the institutions;

"(ii) make such information available through an appropriate agency of the Department of Agriculture to agribusinesses and agricultural institutions in the United States and other agencies of the United States Government; and

"(iii) carry out a program—

"(I) to review available agricultural information resources, to determine which would be useful for the purposes of this program;

"(II) to arrange for the exchange of persons associated with such agricultural institutions and agribusinesses with experience or interest in the areas of need identified in clause (i); and

"(III) to help establish contacts between agricultural entrepreneurs and businesses in the United States and the Soviet Union, which may include individuals and entities participating in the program established under paragraph (1), to facilitate cooperation and joint enterprises.

"(C) CONSULTATION AND COORDINATION.—The Secretary shall consult and coordinate with the Secretary of State and the Agency for International Development in the formulation and implementation of this program in conjunction with overall assistance to the Soviet Union.

"(D) DEFINITION.—For the purposes of this subsection, the term 'Soviet Union' means the Soviet Union, its successor entities, or any of the individual republics of the Soviet Union.

"(E) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program established under this paragraph.".

SEC. 339. CONFORMING AMENDMENT RELATING TO THE ENVIRONMENT FOR THE AMERICAS BOARD.

Section 610(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "five" and inserting "six"; and

(B) by inserting ", at least one of whom shall be a representative of the Department of Agriculture" after "Government"; and

(2) in subparagraph (B), by striking "four" and inserting "five".

TITLE IV—RESEARCH

SEC. 401. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

(a) SHORT TITLE.—Subsection (a) of section 2 of Public Law 89-106 (7 U.S.C. 450i) is amended—

(1) by inserting "(1)" before "In order"; and

(2) by adding at the end the following new paragraph:

"(2) SHORT TITLE.—This section may be cited as the 'Competitive, Special, and Facilities Research Grant Act'.".

(b) OTHER AMENDMENTS.—Such section is further amended—

(1) in subsection (b)(10), by striking "and" after "1993,";

(2) in subsection (e)—

(A) by striking "RECORD KEEPING.—" and inserting "INTER-REGIONAL RESEARCH PROJECT NUMBER 4.—";

(B) in paragraphs (1) and (7), by striking "this section" and inserting "this subsection";

(C) in paragraphs (2), (3), (4), (5)(C), and (6)(A), by striking "IR-4 program" and inserting "IR-4 Program";

(D) in paragraph (5)(B)—

(i) by striking "registration," and inserting "registrations,"; and

(ii) by inserting "and" at the end of the subparagraph; and

(E) in paragraph (6)—

(i) by striking "within one year of the date of the enactment of this paragraph" and inserting "not later than November 28, 1991,"; and

(ii) by inserting a comma after "reregistrations" in the first sentence;

(3) in subsection (f), by striking "LIMITS ON OVERHEAD COSTS.—" and inserting "RECORD KEEPING.—";

(4) in subsection (g), by striking "AUTHORIZATION OF APPROPRIATIONS.—" and inserting "LIMITS ON OVERHEAD COSTS.—";

(5) in subsection (h)—

(A) by striking "RULES.—" and inserting "AUTHORIZATION OF APPROPRIATIONS.—";

(B) by striking "subsection (b) of this section" and inserting "subsections (b) and (e)"; and

(C) by striking "the provisions of";

(6) in subsection (i)—

(A) by striking "APPLICATION OF OTHER LAWS.—" and inserting "RULES.—";

(B) by striking "is authorized to" and inserting "may"; and

(C) by striking "the provisions of";

(7) in subsection (j) (as redesignated by section 1497(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3630)), by inserting "APPLICATION OF OTHER LAWS.—" after "(j)"; and

(8) by redesignating subsections (j), (k), and (l) (as inserted by section 1615(b) of such Act (104 Stat. 3731)) as subsections (k), (l), and (m), respectively.

SEC. 402. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended—

(1) in section 1407(e) (7 U.S.C. 3122(e)) by striking the semicolon at the end of paragraph (7) and inserting a period;

(2) in section 1408 (7 U.S.C. 3123)—

(A) in subsection (e), by striking "government" and inserting "Government"; and

(B) in subsection (g)(1), by striking "Federally" and inserting "federally";

(3) in sections 1404(18) and 1408A(a) (7 U.S.C. 3103(18) and 3123a(a)), by inserting "and" after "Science";

(4) in section 1408A(c)(2)(H) (7 U.S.C. 3123a(c)(2)(H)), by striking "farmerworkers" and inserting "farmworkers";

(5) in section 1412 (7 U.S.C. 3127), by striking "and Advisory Board" in subsections (b) and (c) and inserting ", Advisory Board, and Technology Board";

(6) in section 1417(i) (7 U.S.C. 3152(c)), by striking the second sentence;

(7) in section 1419(b) (7 U.S.C. 3154(b)), by striking "subsection (c)" and inserting "subsection (d)";

(8) in section 1432 (7 U.S.C. 3194), by striking "SEC. 1432. (a)";

(9) in section 1446(d)(2) (7 U.S.C. 3222a(d)(2), by striking "the needs identified" and inserting "the purposes identified";

(10) in section 1446(e) (7 U.S.C. 3222a(e)), by striking "objective or" and inserting "objective of";

(11) in section 1458(a) (7 U.S.C. 3291(a)), by striking the period at the end of paragraph (3) and inserting a semicolon;

(12) in section 1463(a) (7 U.S.C. 3311), by striking "subtitle H and";

(13) in section 1473 (7 U.S.C. 3319), by striking "subsection (c)(2)" and inserting "subsection (c)(1)(B)"; and

(14) by repealing section 1473E (7 U.S.C. 3319e).

SEC. 403. RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION.

(a) PROGRAMS AUTHORIZED.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended—

(1) in subsection (f)—

(A) by striking the subsection heading and inserting "COMPETITIVE GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.—"; and

(B) in paragraph (2), by striking "during the period beginning on the date of the enactment of this Act and ending on" and inserting "until"; and

(2) in the subsections following subsection (g)—

(A) by striking "(b) RURAL DEVELOPMENT EXTENSION" and inserting "(h) RURAL DEVELOPMENT EXTENSION";

(B) by striking "(h) RURAL HEALTH" and inserting "(i) RURAL HEALTH";

(C) by striking "(h) RESEARCH GRANTS.—" and inserting "(j) RESEARCH GRANTS.—"; and

(D) by arranging such subsections to appear in the proper order.

(b) Distribution of Funds.—Section 503(c)(1) of that Act (7 U.S.C. 2663(c)(1)) is amended—

(1) by striking "the provisions of section 502(e) of this title" and inserting "subsections (e) and (i) of section 502"; and

(2) by striking "objectives of section 502(e) of this title" and inserting "objectives of those subsections".

SEC. 404. NATIONAL GENETIC RESOURCES PROGRAM.

(a) In General.—Subtitle C of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3744) is amended—

(1) in the subtitle heading, by striking "**Genetics**" and inserting "**Genetic**"; and

(2) in section 1633(a) (7 U.S.C. 5842(a)), by striking "Resources program" and inserting "Resources Program".

(b) Table of Contents.—The item relating to such subtitle in section 1(b) of such Act (104 Stat. 3365) is amended to read as follows:

"Subtitle C—National Genetic Resources Program".

SEC. 405. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION.

(a) Punctuation Correction.—Section 1658(d) of the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5902(d)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting "; and"; and

(2) by striking "; and" at the end of paragraph (3) and inserting a period.

(b) Establishment of Regional Centers.—Section 1663(a)(2) of such Act (7 U.S.C. 5907(a)(2)) is amended by striking "A Regional Center may not be established or operated" and inserting "No Regional Centers may be established".

SEC. 406. DEER TICK RESEARCH.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in subsection (i), by striking "Agricultural Research Service" and inserting "Secretary of Agriculture, acting through the Cooperative State Research Service, to make competitive grants"; and

(2) in subsection (k)(1), by striking "Except for research funded under subsection (i), research" and inserting "Research".

SEC. 407. MISCELLANEOUS RESEARCH PROVISIONS.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3703) is amended—

(1) in section 1604(a) (Public Law 101–624; 104 Stat. 3706), by striking "(7 U.S.C. 3122(a))" and inserting "(7 U.S.C. 3122)".

(2) in section 1619(b)(8) (7 U.S.C. 5801(b)(8)), by striking "Marianas Islands" and inserting "Mariana Islands";

(3) in section 1628(c) (7 U.S.C. 5831(c)), by striking "education" and inserting "educational";

(4) in section 1629(c)(1) (7 U.S.C. 5832(c)(1)), by striking "insure" and inserting "ensure";

(5) in section 1634(l) (7 U.S.C. 5843(l)), by striking "committee established" and inserting "council established";

(6) in section 1638(b)(5) (7 U.S.C. 5852(b)(5)), by striking "National Sciences Foundation" and inserting "National Science Foundation";

(7) in section 1639(a) (7 U.S.C. 5853(a)), by striking "Act" and inserting "subtitle";

(8) in section 1652(b)(1) (7 U.S.C. 5883(b)(1)), by striking "pheremones" and inserting "pheromones";

(9) in section 1668(g)(2) (7 U.S.C. 5921(g)(2)), by striking "Witholdings" and inserting "Withholdings";

(10) in section 1670(d) (7 U.S.C. 5923(d)), by striking "acquaculture" and inserting "aquaculture";

(11) in section 1672(c) (7 U.S.C. 5925(c)), by redesignating paragraphs (A) through (I) as paragraphs (1) through (9), respectively;

(12) in section 1673(f) (7 U.S.C. 5926(f)), by striking "programs or" and inserting "programs of";

(13) in section 1674 (7 U.S.C. 5927)—

(A) in subsection (d)(3)(A), by striking "Schedules" and inserting "Schedule"; and

(B) in subsection (f), by striking "Committee" both places it appears and inserting "Committees";

(14) in section 1675(c) (7 U.S.C. 5928(c))—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) Establishment.—Notwithstanding subsection (g)(1), the Secretary shall establish not more than four centers."; and

(B) in paragraph (2), by striking "Periods and preferences.—Grants" and inserting the following: "Operating grants.—The Secretary shall make grants to operate the centers established under paragraph (1). Such grants shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (a). Such grants";

(15) in section 1677 (7 U.S.C. 5930)—

(A) by striking "Reservation" each place it appears in subsections (a), (b), and (e) and inserting "reservation";

(B) by striking "Reservations" both places it appears in subsection (a) and inserting "reservations"; and

(C) by striking "Tribal" in subsection (c) and inserting "tribal";

(16) in section 1678(d) (7 U.S.C. 5931(d)), by striking "Teaching, and Extension" and inserting "Extension, and Teaching"; and

(17) in section 1681(a)(2), (7 U.S.C. 5934(a)(2)), by striking "teacheal mite" and inserting "tracheal mite".

SEC. 408. SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

Section 1624 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5814) is amended by striking "and 1623" and inserting "and 1622".

TITLE V—CREDIT

SEC. 501. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) Amendments to Section 304.—Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsection (d) as subsection (a) and moving such subsection to appear before subsection (b).

(b) Amendment to Section 312(a).—Section 312(a) of such Act (7 U.S.C. 1942(a)) is amended by striking "systems." and all that follows and inserting "systems (for purposes of this subtitle, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 310D, and (13) borrower training under section 359.".

(c) Amendments to Section 331.—

(1) Direct amendments.—Section 331(b)(4) of such Act (7 U.S.C. 1981(b)(4)) is amended—

(A) by striking "this title"; and

(B) by striking "1949 from" and inserting "1949, from".

(2) Indirect amendments.—

(A) Clarification of repeal.—Section 1805 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3819) is amended by striking subsections (b) and (c) and inserting the following:

"(b) Payment of Accrued Interest.—Section 331 (7 U.S.C. 1981) is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.".

(B) Clarification of technical corrections.—Section 2388(d)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4052) is amended—

(i) by inserting ", as amended by section 1805(b) of this Act," before "is amended";

(ii) in clause (i) of subparagraph (A), by striking "(h), and (i)" and inserting "and (h)";

(iii) by striking clause (iv) and redesignating clauses (v), (vi), and (vii) of subparagraph (A) as clauses (iv), (v), and (vi), respectively;

(iv) in clause (iv) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph), by striking "(i)" and inserting "(h)"; and

(v) in clause (vi) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph)—

(I) by striking "(j)" and inserting "(i)"; and

(II) by striking "(10)" and inserting "(9)".

(d) Amendments to Section 331E.—

(1) In general.—Section 331E of such Act (7 U.S.C. 1981e) is amended—

(A) by striking "The" and inserting "(a) In General.—The"; and

(B) by adding at the end the following new subsection:

"(b) Calculation of Yields.—

"(1) In general.—For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this title (except for loans under subtitle C), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

"(2) Affected by a disaster.—For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

"(3) Application of subsection.—Paragraph (1) shall apply to all actions taken by the Secretary to carry out this title (except for loans under subtitle C) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.".

(2) Regulations.—

(A) Interim regulations.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) beginning in crop year 1992.

(B) Final regulations.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).

(3) Effective Date.—

(A) In general.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A).

(B) Exception.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act.

(e) Amendments to Section 333(2)(A).—Section 333(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)) is amended by redesignating clauses (1), (2), and (3), as clauses (i), (ii), and (iii), respectively.

(f) Amendments to Section 335(e)(1).—Section 335(e)(1) of such Act (7 U.S.C. 1985(e)(1)) is amended—

(1) in subparagraph (A)(i), by striking "the borrower" and all that follows through "the 'borrower-owner')" and inserting "borrower-owner (as defined in subparagraph (F)"; and

(2) by adding at the end the following new subparagraph:

"(F) As used in this paragraph, the term 'borrower-owner' means—

"(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this title; or

"(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(g) Amendments to Section 352.—Section 352 of such Act (7 U.S.C. 2000) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'borrower-owner' means—

"(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1); or

"(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(2) by striking "borrower" each place it appears and inserting "borrower-owner".

(h) Amendments to Section 353.—Section 353 of such Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)(6)(A)(ii), by striking "the date of enactment of this paragraph" and inserting "November 28, 1990"; and

(2) in subsection (m), by striking "335(e)(1)(A)" and inserting "335(e)(1)".

(i) Amendments to Section 363.—Section 363 of such Act (7 U.S.C. 2006e) is amended—

(1) by striking "3801(a)(16))" and inserting "3801(a)(16)))"; and

(2) by striking "prior to the date of enactment of this section" and inserting "before November 28, 1990".

SEC. 502. AMENDMENTS TO THE FARM CREDIT ACT OF 1971.

(a) Amendments to Section 1.11(a).—Section 1.11(a) of the Farm Credit Act of 1971 (12 U.S.C. 2019(a)) is amended—

(1) by striking "(a) Agricultural or Aquatic Purposes" and inserting the following:

"(a) Agricultural or Aquatic Purposes";

(2) by striking "(1) In general" and inserting the following:

"(1) In general"; and

(3) by striking "(2) Limitation on loans for basic processing and marketing operations" and inserting the following:

"(2) Limitation on loans for basic processing and marketing operations".

(b) Amendment to Section 2.0(b)(8).—Section 2.0(b)(8) of such Act (12 U.S.C. 2071(b)(8)) is amended by striking "charter to" and inserting "charter, to".

(c) Amendment to Section 2.1.—Section 2.1 of such Act (12 U.S.C. 2072) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(d) Amendment to Section 2.11.—Section 2.11 of such Act (12 U.S.C. 2092) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(e) Amendment to Section 3.7(b).—

(1) In general.—Section 3.7(b) of such Act (12 U.S.C. 2128(b)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a domestic" and inserting "(A) a domestic";

(C) by inserting "or products thereof" after "commodities";

(D) by striking "(2) a domestic" and inserting "(B) a domestic"

(E) by striking "clause (1) of this subsection" and inserting "subparagraph (A)"; and

(F) by adding at the end the following new paragraphs:

"(2) A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, to any domestic or foreign entity that is eligible for a guarantee or insurance as described in subparagraphs (A) and (B) with respect to transactions involving the Soviet Union (its successor entities or any of the individual republics of the Soviet Union) or an emerging democracy (as defined in section 1542(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note)) for the export of agricultural commodities and products thereof from the United States, including (where applicable) the cost of freight, if in each case—

"(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

"(B) the guarantee or insurance—

"(i) covers at least 95 percent of the amount loaned for the purchase of the commodities or products; and

"(ii) is issued on or before September 30, 1995.

"(3) A bank for cooperatives is authorized to provide such services as may be customary and normal in maintaining relationships with domestic or foreign entities to facilitate the activities specified in paragraphs (1) and (2), consistent with this Act.".

(2) Conforming amendment.—Section 3.8(b)(1)(D) of such Act (12 U.S.C. 2129(b)(1)(D)) is amended by striking "section 3.7(f)" and inserting "subsection (b) or (f) of section 3.7".

(f) Amendments to Section 3.8.—Section 3.8 of such Act (12 U.S.C. 2129) is amended—

(1) in subsection (a)(4), by striking "(4) A" and inserting "(4) a"; and

(2) in subsection (b)(1), by moving subparagraph (D) 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C).".

(g) Amendment to Section 4.28.—Section 4.28 of such Act (12 U.S.C. 2214) is amended by striking "2.17" and inserting "2.16".

(h) Amendment to Section 5.17(a)(8)(B)(ii).—Section 5.17(a)(8)(B)(ii) of such Act (12 U.S.C. 2252(a)(8)(B)(ii)) is amended by striking the last period.

(i) Amendment to Section 5.35(3).—Section 5.35(3) of such Act (12 U.S.C. 2271(3)) is amended by striking "D" and inserting "E".

(j) Amendment to Section 5.58(4)(B).—Section 5.58(4)(B) of such Act (12 U.S.C. 2277a-7(4)(B)) is amended by inserting after "and the Corporation," the following: "in any capacity,".

(k) Amendments to Section 5.65.—Section 5.65(d)(1) of such Act (12 U.S.C. 2277a-14(d)(1)) is amended by striking "insured".

(l) Amendments to Section 6.2(d).—Section 6.2(d) of such Act (12 U.S.C. 2278a-2(d)) is amended by striking "subchapter 1" each place such term appears and inserting "subchapter I".

(m) Amendments to Section 6.23.—Section 6.23 of such Act (12 U.S.C. 2278b-3) is amended by inserting before the period at the end the following: ", except in the event of a restructuring or liquidation to a successor System institution".

(n) Amendment to Section 7.11(a)(2).—Section 7.11(a)(2) of such Act (12 U.S.C. 2279e(a)(2)) is amended by striking "30 days" and inserting "60 days".

SEC. 503. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

(a) Section 8.11 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-11) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) Authority.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall have the authority to provide, acting through the Office of Secondary Market Oversight—

"(A) for the examination of the Corporation and its affiliates; and

"(B) for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this title, including through the use of the authorities granted to the Farm Credit Administration under—

"(i) part C of title V; and

"(ii) beginning 6 months after the date of enactment of this section, section 5.17(a)(9).";

(2) by adding at the end of subsection (a) the following new paragraph:

"(3) Office of Secondary Market Oversight.—

"(A) Not later than 180 days after the date of enactment of this paragraph, the Farm Credit Administration Board shall establish within the Farm Credit Administration the Office of Secondary Market Oversight.

"(B) The Farm Credit Administration Board shall carry out the authority set forth in this section through the Office of Secondary Market Supervision.

"(C) The Office of Secondary Market Supervision shall be managed by a full-time Director who shall be selected by and report to the Farm Credit Administration Board.";

(3) by adding at the end thereof the following new subsection:

"(f) The Farm Credit Administration Board shall ensure that—

"(1) the Office of Secondary Market Supervision has access to a sufficient number of qualified and trained employees to adequately supervise the secondary market activities of the Corporation; and

"(2) the supervision of the powers, functions, and duties of the Corporation is performed, to the extent practicable, by personnel who are not responsible for the supervision of the banks and associations of the Farm Credit System.";

(b) Title VIII of the Farm Credit Act of 1971 (12 U.S.C. 2279aa et seq.) is amended—

(1) by inserting after section 8.0 the following:

"Subtitle A—Establishment and Activities of Federal Agricultural Mortgage Corporation"; and

(2) by inserting after section 8.14 the following new subtitle:

"Subtitle B—Regulation of Financial Safety and Soundness of Federal Agricultural Mortgage Corporation

"SEC. 8.31. DEFINITIONS.

"For purposes of this subtitle:

"(1) Compensation.—The term 'compensation' means any payment of money or the provision of any other thing of current or potential value in connection with employment.

"(2) Core capital.—The term 'core capital' means, with respect to the Corporation, the sum of the following (as determined in accordance with generally accepted accounting principles):

"(A) The par value of outstanding common stock.

"(B) The par value of outstanding preferred stock.

"(C) Paid-in capital.

"(D) Retained earnings.

"(3) Director.—The term 'Director' means the Director of the Office of Secondary Market Oversight of the Farm Credit Administration, appointed under section 8.11(a)(3).

"(4) Office.—The term 'Office' means the Office of Secondary Market Oversight of the Farm Credit Administration, established in section 8.11(a).

"(5) Regulatory capital.—The term 'regulatory capital' means, with respect to the Corporation, the core capital of the Corporation plus an allowance for losses and guarantee claims, as determined in accordance with generally accepted accounting principles.

"(6) State.—The term 'State' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 8.32. RISK-BASED CAPITAL LEVELS.

"(a) Risk-Based Capital Test.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, the Director of the Office of Secondary Market Oversight shall, by regulation, establish a risk-based capital test under this section for the Corporation. When applied to the Corporation, the risk-based capital test shall determine the amount of regulatory capital for the Corporation that is sufficient for the Corporation to maintain positive capital during a 10-year period in which both of the following circumstances occur:

"(1) Credit risk.—With respect to securities representing an interest in, or obligations backed by, a pool of qualified loans owned or guaranteed by the Corporation and other obligations of the Corporation, losses on the underlying qualified loans occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing industry practice in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (as established by the Director), experienced the highest rates of default and severity of agricultural mortgage losses, in comparison with such rates of default and severity of agricultural mortgage losses in other such areas for any period of such duration, as determined by the Director.

"(2) Interest rate risk.—Interest rates on Treasury obligations of varying terms increase or decrease over the first 12 months of such 10-year period by not more than the lesser of (A) 50 percent (with respect to the average interest rates on such obligations during the 12-month period preceding the 10-year period), or (B) 600 basis points, and remain at such level for the remainder of the period. This paragraph may not be construed to require the Director to determine interest rate risk under this paragraph based on the interest rates for various long-term and short-term obligations all increasing or all decreasing concurrently.

"(b) Considerations.—

"(1) Establishment of test.—In establishing the risk-based capital test under subsection (a)—

"(A) the Director shall take into account appropriate distinctions based on various types of agricultural mortgage products, varying terms of Treasury obligations, and any other factors the Director considers appropriate;

"(B) the Director shall conform loan data used in determining credit risk to the minimum geographic and commodity diversification standards applicable to pools of qualified loans eligible for guarantee;

"(C) the Director shall take into account retained subordinated participating interests under section 8.6(b)(2);

"(D) the Director may take into account other methods or tests to determine credit risk developed by the Corporation before the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991; and

"(E) the Director shall consider any other information submitted by the Corporation in writing during the 180-day period beginning on the date of the enactment of such Act.

"(2) Revising test.—Upon the expiration of the 5-year period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, the Director shall examine the risk-based capital test under subsection (a) and may revise the test. In making examinations and revisions under this paragraph, the Director shall take into account that, before the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, the Corporation has not issued guarantees for pools of qualified loans. To the extent that the revision of the risk-based capital test causes a change in the classification of the Corporation within the enforcement levels established under section 8.35, the Director shall waive the applicability of any additional enforcement actions available because of such change for a reasonable period of time, to permit the Corporation to increase the amount of regulatory capital of the Corporation accordingly.

"(c) Risk-Based Capital Level.—For purposes of this subtitle, the risk-based capital level for the Corporation shall be equal to the sum of the following amounts:

"(1) Credit and interest rate risk.—The amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation, adjusted to account for foreign exchange risk.

"(2) Management and operations risk.—To provide for management and operations risk, 30 percent of the amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation.

"(d) Specified Contents.—The regulations establishing the risk-based capital test under this section shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to value ratios, taxes, yield curve slopes, default experience, prepayment rates, and performance of pools of qualified loans). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

"(e) Availability of Model.—The Director shall make copies of the statistical model or models used to implement the risk-based capital test under this section available for public acquisition and may charge a reasonable fee for such copies.

"SEC. 8.33. MINIMUM CAPITAL LEVEL.

"(a) In General.—Except as provided in subsection (b), for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 2.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.45 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(b) 18-Month Transition.—During the 18-month period beginning upon the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.40 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(c) Linked Portfolio Assets.—The percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is referred to in subsections (a)(3) and (b)(3) of this section (and in section 8.34(3)(A)) shall be—

"(1) during the 5-year period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991—

"(A) 0.45 percent of any such assets not exceeding $1,000,000,000;

"(B) 0.75 percent of any such assets in excess of $1,000,000,000 but not exceeding $2,000,000,000;

"(C) 1.00 percent of any such assets in excess of $2,000,000,000 but not exceeding $3,000,000,000;

"(D) 1.25 percent of any such assets in excess of $3,000,000,000 but not exceeding $4,000,000,000;

"(E) 1.50 percent of any such assets in excess of $4,000,000,000 but not exceeding $5,000,000,000; and

"(F) 2.50 percent of any such assets in excess of $5,000,000,000.

"(2) after the expiration of such 5-year period, 2.50 percent of any such aggregate assets.

"SEC. 8.34. CRITICAL CAPITAL LEVEL.

"For purposes of this subtitle, the critical capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.25 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.25 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) a percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g), which shall be—

"(A) during the 5-year period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, one-half of the percentage that is determined under section 8.33(c)(1); and

"(B) after the expiration of such 5-year period, 1.25 percent of any such aggregate assets.

"SEC. 8.35. ENFORCEMENT LEVELS.

"(a) IN GENERAL.—The Director shall classify the Corporation, for purposes of this subtitle, according to the following enforcement levels:

"(1) LEVEL I.—The Corporation shall be classified as within level I if the Corporation—

"(A) maintains an amount of regulatory capital that is equal to or exceeds the risk-based capital level established under section 8.32; and

"(B) equals or exceeds the minimum capital level established under section 8.33.

"(2) LEVEL II.—The Corporation shall be classified as within level II if—

"(A) the Corporation—

"(i) maintains an amount of regulatory capital that is less than the risk-based capital level; and

"(ii) equals or exceeds the minimum capital level; or

"(B) the Corporation is otherwise classified as within level II under subsection (b) of this section.

"(3) LEVEL III.—The Corporation shall be classified as within level III if—

"(A) the Corporation—

"(i) does not equal or exceed the minimum capital level; and

"(ii) equals or exceeds the critical capital level established under section 8.34; or

"(B) the Corporation is otherwise classified as within level III under subsection (b) of this section.

"(4) LEVEL IV.—The Corporation shall be classified as within level IV if the Corporation—

"(A) does not equal or exceed the critical capital level; or

"(B) is otherwise classified as within level IV under subsection (b) of this section.

"(b) DISCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing (and provides written notification to the Corporation and the Farm Credit Administration) that the Corporation is taking any action not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages securitized by the Corporation or property underlying securities guaranteed by the Corporation, has decreased significantly, the Director may classify the Corporation—

"(1) as within level II, if the Corporation is otherwise within level I;

"(2) as within level III, if the Corporation is otherwise within level II; or

"(3) as within level IV, if the Corporation is otherwise within level III.

"(c) QUARTERLY DETERMINATION.—The Director shall determine the classification of the Corporation for purposes of this subtitle on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made for the quarter ending March 31, 1992.

"(d) NOTICE.—Upon determining under subsection (b) or (c) that the Corporation is within level II or III, the Director shall provide written notice to the Congress and to the Corporation—

"(1) that the Corporation is within such level;

"(2) that the Corporation is subject to the provisions of section 8.36 or 8.37, as applicable; and

"(3) stating the reasons for the classification of the Corporation within such level.

"(e) IMPLEMENTATION.—Notwithstanding paragraphs (1) and (2) of subsection (a), during the 30-month period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, the Corporation shall be classified as within level I if the Corporation equals or exceeds the minimum capital level established under section 8.33.

"SEC. 8.36. MANDATORY ACTIONS APPLICABLE TO LEVEL II.

"(a) CAPITAL RESTORATION PLAN.—If the Corporation is classified as within level II, the Corporation shall, within the time period provided in section 8.40(b) and in consultation with the Director, submit to the Director a capital restoration plan that complies with section 8.40 and, after approval, carry out the plan.

"(b) RESTRICTION ON DIVIDENDS.—If the Corporation is classified as within level II, the Corporation may not make any payment of dividends that would result in the Corporation being reclassified as within level III or IV.

"(c) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—The Director shall immediately reclassify the Corporation as within level III (and the Corporation shall be subject to the provisions of section 8.37), if—

"(1) the Corporation is within level II; and

"(2)(A) the Corporation does not submit a capital restoration plan that is substantially in compliance with section 8.40 within the applicable period or the Director does not approve the capital restoration plan submitted by the Corporation; or

"(B) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(d) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 30-month period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991.

"SEC. 8.37. SUPERVISORY ACTIONS APPLICABLE TO LEVEL III.

"(a) MANDATORY SUPERVISORY ACTIONS.—

"(1) CAPITAL RESTORATION PLAN.—If the Corporation is classified as within level III, the Corporation shall, within the time period provided in section 8.40(b) and in consultation with the Director, submit to the Director a capital restoration plan that complies with section 8.40 and, after approval, carry out the plan.

"(2) RESTRICTIONS ON DIVIDENDS.—

"(A) PRIOR APPROVAL.—If the Corporation is classified as within level III, the Corporation—

"(i) may not make any payment of dividends that would result in the Corporation being reclassified as within level IV; and

"(ii) may make any other payment of dividends only if the Director approves the payment before the payment.

"(B) STANDARD FOR APPROVAL.—If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

"(3) RECLASSIFICATION FROM LEVEL III TO LEVEL IV.—The Director shall immediately reclassify the Corporation as within level IV (and the Corporation shall be subject to the provisions of section 8.38), if—

"(A) the Corporation is classified as within level III; and

"(B)(i) the Corporation does not submit a capital restoration plan that is substantially in compliance with section 8.40 within the applicable period or the Director does not approve the capital restoration plan submitted by the Corporation; or

"(ii) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(b) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

"(1) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.

"(2) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the Corporation or require contraction of the assets of the Corporation.

"(3) PROHIBITION ON DIVIDENDS.—Prohibit the Corporation from making any payment of dividends.

"(4) ACQUISITION OF NEW CAPITAL.—Require the Corporation to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Corporation as within level II.

"(5) RESTRICTION OF ACTIVITIES.—Require the Corporation to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Corporation.

"(6) CONSERVATORSHIP.—Appoint a conservator for the Corporation consistent with part C of title V.

"(c) EFFECTIVE DATE.—This section shall take effect on January 1, 1992.

(c) AMENDMENT TO SECTION 8.3(c).—Section 8.3(c) of such Act (12 U.S.C. 2279aa–3(c)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) To establish, acquire, and maintain affiliates (as such term is defined in section 8.11(g)) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this title.".

(d) Amendment to Section 8.6.—Section 8.6 of such Act (12 U.S.C. 2279aa–6) is amended by adding at the end the following new subsection:

"(g) Purchase of Guaranteed Securities.—

"(1) Purchase authority.—The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

"(2) Issuance of debt obligations.—The Corporation (and affiliates) may issue debt obligations solely for the purpose of obtaining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 8.0(9)(B)), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

"(3) Terms and limitations.—

"(A) Terms.—The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

"(B) Requirement.—Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(C) Authority.—The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 8.13(a) remains outstanding.".

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

SEC. 601. FEDERAL CROP INSURANCE.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq) is amended—

(1) in section 506(d) (7 U.S.C. 1506(d))—

(A) by striking "section 508(c)" and inserting "section 508(f)"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in section 506(m) (7 U.S.C. 1506(m))—

(A) by striking "wilfully" and inserting "willfully"; and

(B) by striking "to" after "exceed";

(3) in section 507(c)(2) (7 U.S.C. 1507(c)(2)), by inserting a comma after "private insurance companies";

(4) in section 508(a) (7 U.S.C. 1508(a)), by striking "(1)";

(5) in section 508 (7 U.S.C. 1508), by redesignating subsections (l), (m), and (n) as subsections (k), (l), and (m), respectively; and

(6) in section 518 (7 U.S.C. 1518) by striking "subsection (a) or (i)" and inserting "subsection (a) or (k)".

SEC. 602. DISASTER RELIEF.

(a) 1989 Act.—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by inserting "(A)" after the paragraph heading.

(b) 1988 Act.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) (as amended by section 1541 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in the subsection heading, by striking "Sunflower Seed" and inserting "Sunflowerseed"; and

(2) in paragraph (2)(A)—

(A) by inserting a comma after "(7 U.S.C. 612c)" in clause (i);

(B) by striking "such Act" in clause (i) and inserting "such section"; and

(C) by striking "sunflower seed" in clause (iv) and inserting "sunflowerseed".

(c) Clarification of Amendment.—Section 2232(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-510; 104 Stat. 3959) is amended—

(1) by striking "is amended to read:" and inserting "is amended by striking the material before the clauses and inserting the following:";

(2) by inserting open double quotes before "(A)"; and

(3) by moving the left margin of subparagraph (A) 2 ems to the right.

TITLE VII—RURAL DEVELOPMENT

SEC. 701. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) Amendments to Section 306(a).—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in paragraph (11)(B)(ii)—

(A) in subclause (I), by inserting "and" after the semicolon; and

(B) in subclause (II), by striking "; and" and inserting a period; and

(2) by striking paragraph (21).

(b) Amendments to Section 306C(a)(2).—Subparagraphs (A) and (B) of section 306C(a)(2) of such Act (7 U.S.C. 1926c(a)(2)(A) and (B)) are each amended by moving the left margin of such subparagraphs 2 ems to the right.

(c) Amendments to Section 310B.—Section 310B of such Act (7 U.S.C. 1932) is amended—

(1) in subsection (i)(2)(B)(iv), by striking "(ii) of this subsection" and inserting "(iii) of this subparagraph";

(2) in subsection (i)(5)(A), by striking "365(b)(3)," and inserting "365(b)(3)),";

(3) by transferring to the end of such section the provision added by section 2386 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4051);

(4) by redesignating the provision so transferred as subsection (j); and

(5) in subsection (j) (as so redesignated), by striking "The Secretary" and inserting "Grants to Broadcasting Systems.—The Secretary.

(d) Amendments to Section 364(e).—Section 364(e) of such Act (7 U.S.C. 2006f(e)) is amended—

(1) in paragraph (2), by striking "the date of enactment of this section" and inserting "November 28, 1990"; and

(2) in paragraph (3), by striking "the date of enactment of this section" and inserting "November 28, 1990,".

(e) Amendments to Section 365(b).—Section 365(b) of such Act (7 U.S.C. 2008(b)) is amended—

(1) in paragraph (4)(A), by striking "(3)(C)" and inserting "(3)(A)(iii)"; and

(2) in paragraph (5), by striking "(3)(B)" and inserting "(3)(A)(ii)".

(f) Amendment to Section 366(h).—Section 366(h) of such Act (7 U.S.C. 2008a(h)) is amended by striking "of such officer" and inserting "of such officer's".

(g) Amendment to Section 367(b)(1).—Section 367(b)(1) of such Act (7 U.S.C. 2008b(b)(1)) is amended by striking "365(b)(6)" and inserting "366(b)(6)".

(h) Miscellaneous Amendments.—

(1) Identical amendments.—Each of the following provisions of such Act is amended by striking "this Act" each place such term appears and inserting "this title":

(A) Section 306(a)(12)(D) (7 U.S.C. 1926(a)(12)(D)).

(B) Section 306(a)(20) (7 U.S.C. 1926(a)(20)).

(C) Section 310B(d)(5) (7 U.S.C. 1932(d)(5)).

(D) Section 310B(d)(7) (7 U.S.C. 1932(d)(7)).

(E) Section 331(b)(3) (7 U.S.C. 1981(b)(3)).

(F) Section 346(b)(3)(C) (7 U.S.C. 1994(b)(3)(C)).

(2) Other miscellaneous amendment.—Section 352(b)(3) of such Act (7 U.S.C. 2000(b)(3)) is amended by striking "be".

SEC. 702. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) Amendment to Section 2302(b)(1).—Section 2302(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f note) is amended by striking "the date of enactment of this section" and inserting "November 28, 1990".

(b) Amendments to Section 2311.—Section 2311 of such Act (7 U.S.C. 2007a) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "4(b)" and inserting "4(e)";

(B) by striking "the section 4(c)" and inserting "section 4(l)"; and

(C) by striking "450b(c)))" and inserting "450b(l)))"; and

(2) in paragraph (4), by striking "this Act" and inserting "this chapter".

(c) Amendments to Section 2313.—Section 2313 of such Act (7 U.S.C. 2007c) is amended—

(1) in subsection (a)(2), by striking "Fund established under paragraph (1)" and inserting "Rural Business Investment Fund";

(2) in subsection (b)(1), by striking "fund established by subsection (a)" and inserting "Rural Business Investment Fund"; and

(3) in subsection (c)(6), by inserting "Business Investment" before "Fund".

(d) Amendment to Section 2314(a)(1)(A)(i).—Section 2314(a)(1)(A)(i) of such Act (7 U.S.C. 2007d(a)(1)(A)(i)) is amended by striking "from the Fund under this chapter" and inserting "under this chapter from the Rural Business Investment Fund".

(e) Amendment to Section 2315(d)(2).—Section 2315(d)(2) of such Act (7 U.S.C. 2007e(d)(2)) is amended by striking "engage in conduct, in".

(f) Amendments to Section 2322.—Section 2322 of such Act (7 U.S.C. 1926–1) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking "section 306(a)(9) and 306(a)(10)" and inserting "paragraphs (9) and (10) of section 306(a)"; and

(B) by striking "sections 306(a)(19)(A) and (B)" and inserting "subparagraphs (A) and (B) of section 306(a)(19)"; and

(2) in subsection (i)(1), by striking "and (3)".

(g) Amendment to Section 2332.—Section 2332 of such Act (7 U.S.C. 950aaa–1) is amended by striking "Federal government" and inserting "Federal Government".

(h) Amendments to Section 2388(h).—

(1) Amendments.—Section 2388(h) of such Act (104 Stat. 4053) is amended—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) Special rule.—The Consolidated Farm and Rural Development Act shall be applied and administered as if the amendment made by 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 had never been enacted.

(i) Repeal of Section 2388(i).—Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) is hereby repealed and the Consolidated Farm and Rural Development Act shall be applied and administered as if the amendments made by such subsection had never been enacted.

SEC. 703. AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.

(a) Amendment to Section 11A.—Section 11A(e) of the Rural Electrification Act of 1936 (7 U.S.C. 911a(e)) is amended by striking "1 percent" and inserting "2 percent".

(b) Repeal of Section 17.—Section 17 of such Act (7 U.S.C. 917) is repealed.

(c) Amendments to Section 501.—Section 501 of such Act (7 U.S.C. 950aa) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon;

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

(d) Amendment to Section 502.—Section 502(a)(2) of such Act (7 U.S.C. 950aa–1(a)(2)) is amended by striking "as defined in this Act".

SEC. 704. RURAL HEALTH LEADERSHIP DEVELOPMENT.

(a) In General.—Section 502(i)(1) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by adding at the end the following new subparagraph:

"(C) Rural health leadership development.—The Secretary, in consultation with the Office of Rural Health Policy of the Department of Health and Human Services, may make grants to academic medical centers or land grant colleges and universities, or any combination thereof, for the establishment of rural health leadership development education programs that shall assist rural communities in developing health care services and facilities that will provide the maximum benefit for the resources invested and assist community leaders and public officials in understanding their roles and responsibilities relative to rural health services and facilities, including—

"(i) community decisions regarding funding for and retention of rural hospitals;

"(ii) rural physician and allied health professionals recruitment and retention;

"(iii) the aging rural population and senior services required to care for the population;

"(iv) the establishment and maintenance of rural emergency medical services systems; and

"(v) the application of computer-assisted capital budgeting decision aids for rural health services and facilities.".

(b) Conforming Amendment.—The first sentence of section 502(i)(4) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by inserting after "to States" the following "or entities described in paragraph (1)(C)".

TITLE VIII—AGRICULTURAL PROMOTION

SEC. 801. SHORT TITLE.

Section 1901 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 note; 104 Stat. 3838) is amended by striking "This Act" and inserting "This title".

SEC. 802. PECANS.

Subtitle A of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 et seq., 104 Stat. 3838) is amended—

(1) in section 1907(22) (7 U.S.C. 6002(22)), by striking "inshell" and inserting "in-shell";

(2) in section 1910(b)(8)(G) (7 U.S.C. 6005(b)(8)(G))—

(A) by striking "paragraph 3(A), (B), and (C)," and inserting "subparagraphs (A), (B), and (C) of paragraph (3),"; and

(B) by striking "paragraph (3)(D) and (E)" and inserting "subparagraphs (D) and (E) of paragraph (3)"; and

(3) in section 1915(b)(2) (7 U.S.C. 6010(b)(2)), by striking "section" after "1913 or".

SEC. 803. MUSHROOMS.

Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6101 et seq.; 104 Stat. 3854) is amended—

(1) in section 1925(h) (7 U.S.C. 6104(h)), by striking "government" and inserting "governmental";

(2) in section 1928(d)(1)(A) (7 U.S.C. 6107(d)(1)(A)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1929(b)(2) (7 U.S.C. 6108(b)(2)), by striking "section" after "1927 or".

SEC. 804. POTATOES.

Section 310(a)(2) of the Potato Research and Promotion Act (7 U.S.C. 2619(a)(2)) is amended by striking "(2) when" and inserting "(2) When".

SEC. 805. LIMES.

Subtitle D of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6201 et seq.; 104 Stat. 3870) is amended—

(1) in section 1955(e)(1)(B) (7 U.S.C. 6204(e)(1)(B)), by striking "government employees" and inserting "Government employees";

(2) in section 1958(d)(1) (7 U.S.C. 6207(d)(1)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1959(b)(2) (7 U.S.C. 6208(b)(2)), by striking "section" after "1957 or".

SEC. 806. SOYBEANS.

Subtitle E of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6301 et seq.; 104 Stat. 3881) is amended—

(1) in section 1969 (7 U.S.C. 6304)—

(A) in subsection (g)(2)(A)(ii), by striking "Argicultural" and inserting "Agricultural";

(B) in subsection (l)(2)(F)(vii)(V), by striking "that requests" and inserting "that request"; and

(C) in subsection (q)(4)—

(i) by inserting a comma after "and"; and

(ii) by striking the semicolon after "Board";

(2) in section 1970(b)(3) (7 U.S.C. 6305(b)(3)), by striking "this Act" and inserting "this subtitle"; and

(3) in section 1974 (7 U.S.C. 6309)—

(A) in subsection (b)(3), by striking "section 1969(k)(4)" and inserting "section 1969(l)(4)"; and

(B) by redesignating the second subsection (b) as subsection (c).

SEC. 807. HONEY.

The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) is amended—

(1) in section 9(h) (7 U.S.C. 4608(h)), by inserting "to" before "an importer"; and

(2) in section 11A(b)(2) (7 U.S.C. 4610a(b)(2)), by striking "section" after "10 or".

SEC. 808. COTTON.

(a) Cotton Promotion Act.—The Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.) is amended—

(1) in section 7(e)(4) (7 U.S.C. 2106(e)(4)), by striking "title" and inserting "Act";

(2) in section 8(b)(2) (7 U.S.C. 2107(b)(2)), by striking "section 17C(2)" and inserting "section 17(c)(2)";

(3) in section 10(b) (7 U.S.C. 2109(b)), by striking "section 8(b) or 8(c)" and inserting "subsection (b) or (c) of section 8"; and

(4) in section 11(a) (7 U.S.C. 2110(a))—

(A) by inserting "of this Act" after "section"; and

(B) by striking "of this Act," after "subsection (b),".

(b) Reports.—Section 1998 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2101 note; 104 Stat. 3913) is amended by striking "title" each place it appears in subsections (a) and (b) and inserting "subtitle".

SEC. 809. FLUID MILK.

Section 1999L(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6411(b); 104 Stat. 3922) is amended by striking "this subsection" and inserting "this section".

SEC. 810. WOOL.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by inserting after the third sentence the following new sentence: "In any agreement entered into under this section, the Secretary shall prohibit the use of any funds made available through pro rata deductions from payments under section 704 of this title in any manner for the purpose of influencing legislation or government action or policy, except for the development or recommendation to the Secretary of amendments to the research and promotion program.".

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

SEC. 901. APPLICATION OF FOOD STAMP ACT OF 1977 TO DISABLED PERSONS.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by inserting after "title I, II, X, XIV, or XVI of the Social Security Act" both places it appears in subsections (g)(7) and (i) the following: ", or are individuals described in paragraphs (2) through (7) of subsection (r),".

SEC. 902. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF GENERAL ASSISTANCE.

The third sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "appropriate for categorical treatment" and inserting "based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month,".

SEC. 903. EXCLUSIONS FROM INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "to the extent" and all that follows through "involved)" and inserting "awarded to a household member enrolled"; and

(B) in subparagraph (B)—

(i) by inserting after "amount" the following: "used for or"; and

(ii) by striking "or program for" and inserting "program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved),";

(2) by striking "and" at the end of paragraph (14); and

(3) by inserting before the period at the end the following: ", and (16) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))".

SEC. 904. RESOURCES THAT CANNOT BE SOLD FOR A SIGNIFICANT RETURN.

Section 5(g)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(5)) is amended by adding at the end the following new sentences: "A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to require verification of the value of a resource to be excluded under this paragraph unless the State agency determines that the information provided by the household is questionable.".

SEC. 905. RESOURCE EXEMPTION FOR HOUSEHOLDS EXEMPT UNDER AFDC OR SSI.

Subsection (j) of section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) is amended to read as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g).".

SEC. 906. TECHNICAL AMENDMENT ON TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)(F)) is amended by inserting before the semicolon the following: ", if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases".

SEC. 907. PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) IN GENERAL.—Subparagraph (L) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(L)) is amended to read as follows:

"(L)(i) The Secretary shall establish performance standards and measures applicable to employment and training programs carried out under this paragraph that are based on employment outcomes, including increases in earnings.

"(ii) Final performance standards and measures referred to in clause (i) shall be published not later than 12 months after the date that the final outcome-based performance standards are published for job opportunities and basic skills training programs under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(iii) The standards shall encourage States to serve those individuals who have greater barriers to employment and shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph. The standards shall require participants to make levels of efforts comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.

"(iv) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the outcome-based performance standards described in this subparagraph.

"(v) A State agency shall be considered in compliance with applicable performance standards under subparagraph (K) if the State agency operates an employment and training program in a manner consistent with its approved plan and if the program requires participants to make levels of effort comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.".

(b) LIMITATION.—Section 6(d)(4)(K)(i) of such Act is amended—

(1) by striking "50 percent through September 30, 1989" and inserting "10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995"; and

(2) by adding at the end the following new sentence: "The Secretary shall not require the plan of a State agency to provide for the participation of a number of recipients greater than 10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995, of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).".

SEC. 908. SUSPENSION OF CERTAIN REQUIREMENTS, AND STUDY, OF FOOD STAMP PROGRAM ON INDIAN RESERVATIONS.

(a) SUSPENSION OF REQUIREMENTS.—

(1) STAGGERED ISSUANCE OF COUPONS.—No State agency shall be required to implement section 7(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(h)(1)), regarding the staggering of issuance of food stamp coupons, until April 1, 1993. The Secretary of Agriculture shall issue final regulations requiring the staggered issuance of coupons no later than December 1, 1992.

(2) EXEMPTION FROM MONTHLY REPORTING SYSTEMS.—No State agency shall be required to exempt households residing on Indian reservations from food stamp program monthly reporting systems until April 1, 1993. The Secretary shall issue final regulations requiring the exemption of households residing on Indian reservations from food stamp program monthly reporting systems no later than December 1, 1992.

(b) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall report to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the difficulties that residents of Indian reservations experience in obtaining food stamp benefits, in using food stamp benefits, and in purchasing food economically with food stamps.

(2) COMPONENTS.—In carrying out paragraph (1), the Comptroller General shall—

(A) examine whether monthly reporting requirements are a burden to food stamp households residing on Indian reservations;

(B) examine whether prices at food stores serving reservations are increased during the parts of months when food stamps are issued or are decreased during times of the month when most households have exhausted their food stamp allotments;

(C) examine whether eligible households residing on reservations would prefer that the households' food stamp issuances be—

(i) staggered throughout the month;

(ii) concentrated on the same day of each month; or

(iii) staggered during approximately the first 2 weeks of the month; and

(D) analyze problems associated with transportation difficulties in terms of food stamp program participation and any actions that could be taken at the Federal, State, or local level to remedy the problems.

(3) CONSULTATION.—In completing the report and recommendations, the Comptroller General shall consult with Indian tribes, State agencies, and other appropriate parties.

SEC. 909. VALUE OF ALLOTMENT.

Section 8(b) of the Food Stamp Act of 1977 (7 U.S.C. 2017(b)) is amended—

(1) by striking "the allotment provided any eligible household" and inserting "benefits that may be provided under this Act, whether through coupons, access devices, or otherwise"; and

(2) by striking "an allotment" and inserting "benefits".

SEC. 910. PRORATING WITHIN A CERTIFICATION PERIOD.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month."; and

(2) in paragraph (2)(B), by striking "previous participation in such program" and inserting "the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10)".

SEC. 911. RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.

The first sentence of section 13(b)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(2)(A)) is amended by inserting before the period the following: ", except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household's monthly allotment".

SEC. 912. DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT.

The Secretary of Agriculture shall solicit requests to participate in the demonstration projects required by section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) by May 1, 1992. The projects shall commence operations no later than January 1, 1993.

SEC. 913. DEFINITION OF RETAIL FOOD STORE.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99-570; 7 U.S.C. 2012 note) is amended by striking "and (b)" and inserting ", (b), and (c)".

Subtitle B—Commodity Distribution

SEC. 921. EXTENSION OF ELDERLY COMMODITY PROCESSING DEMONSTRATIONS.

Section 1114(a)(2)(D) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(D)) is amended by striking "1992 and 1993" and inserting "1992, 1993, and 1994".

SEC. 922. REDUCTION OF FEDERAL PAPERWORK FOR DISTRIBUTION OF COMMODITIES.

(a) HUNGER PREVENTION ACT.—Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(1) in paragraphs (1) and (2) of subsection (c), by inserting after "to needy persons" each place it appears the following: "and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy persons"; and

(2) by adding at the end the following new subsections:

"(j) PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.—

"(1) SOUP KITCHENS.—In distributing commodities under this section, the distributing agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

"(2) INSTITUTIONS THAT SERVE ONLY LOW-INCOME RECIPIENTS.—If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

"(3) OTHER INSTITUTIONS.—If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy persons.

"(k) SETTLEMENT AND ADJUSTMENT OF CLAIMS..—

"(1) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under this section; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of this section.

"(2) LITIGATION.—Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(b) EMERGENCY FOOD ASSISTANCE ACT.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end the following new section:

"SEC. 215. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

"(a) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

"(1) determine the amount of, settle, and adjust any claim arising under this Act; and

"(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this Act.

"(b) LITIGATION.—Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(c) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by adding at the end the following new subsection:

"(k)(1) The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under the commodity supplemental food program; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the program.

"(2) Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

Subtitle C—Indian Subsistence Farming Demonstration Grant

SEC. 931. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of subsistence farming programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian subsistence farming demonstration grant program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) have income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

SEC. 932. DEFINITIONS.

For the purposes of this subtitle:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is identified by the Secretary as having special dietary needs;

(B) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) has income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTER-TRIBAL CONSORTIUM.—The term "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any subsistence farming program funded or assisted under this subtitle.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 933. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may establish an Indian subsistence farming demonstration grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of subsistence farming operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the subsistence farming project proposed by the applicant;

(B) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(C) the number of Indians who are projected as eligible recipients of produce grown under the project.

SEC. 934. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service may conduct, with respect to the projects established under this title, site surveys, workshops, short courses, training, and technical assistance on such topics as nutrition food preservation and preparation techniques, spacing, depth of seed placement, soil types, and other aspects of subsistence farming operations.

SEC. 935. TRIBAL CONSULTATION.

An Indian tribe participating in any subsistence farming program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian subsistence farming project.

SEC. 936. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 937. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $50,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. 938. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 939. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $2,000,000 for each of the fiscal years 1993 through 1995.

Subtitle D—Technical Amendments

SEC. 941. TECHNICAL AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended—

(1) in section 3 (7 U.S.C. 2012)—

(A) in subsection (j), by striking "section 3(p) of this Act" and inserting "subsection (p)";

(B) in subsection (o)(6), by striking "per centun" and inserting "percent"; and

(C) by redesignating subsection (u) as subsection (t);

(2) in section 5 (7 U.S.C. 2014)—

(A) in subsection (d)(2), by striking "section 5(f) of this Act" and inserting "subsection (f)";

(B) in subsection (h)(1), by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(C) in subsection (k)(2), by moving the margin of subparagraph (E) to the left so as to align with the margin of subparagraph (D);

(3) in section 6 (7 U.S.C. 2015)—

(A) in subsection (c)(1)(A), by moving the margin of clause (ii) to the left so as to align with the margin of clause (i);

(B) in subsection (d)(1)(A)—

(i) by striking "who is physically" and inserting "who is a physically";

(ii) by striking "Secretary;" in clause (i) and all that follows through "refuses" in clause (ii) and inserting "Secretary; (ii) refuses"; and

(iii) by striking "two months" in clause (ii) and all that follows through "refuses" in clause (iii) and inserting "two months; or (iii) refuses";

(C) in subsection (d)(4)(B)(vii)—

(i) by striking "Secretary,," and inserting "Secretary,"; and

(ii) by striking "aimed an" and inserting "aimed at";

(D) in subsection (d)(4)(D)(iii), by striking "clauses (i) or (ii)" and inserting "clause (i) or (ii)"; and

(E) in subsection (d)(4)(I)(i)(II)—

(i) by striking "601 et seq.))" and inserting "601 et seq.)"; and

(ii) by striking ", but in" and inserting "), but in";

(4) in section 9(a)(1) (7 U.S.C. 2018(a)(1)), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(5) in section 11(e) (7 U.S.C. 2020(e))—

(A) in paragraph (2), by striking the period at the end and inserting a semicolon;

(B) in paragraph (3)—

(i) in subparagraph (D), by inserting a close parenthesis after "section 6"; and

(ii) in subparagraph (E), by striking "verified under this Act, and that the State agency shall provide the household" and inserting "verified under this Act,
and that the State agency shall provide the household"; and

(C) in paragraph (15), by striking the period at the end and inserting a semicolon;

(6) in section 11 (7 U.S.C. 2020), by redesignating subsection (p) as subsection (b) and transferring such subsection to the location after subsection (a);

(7) in section 16 (7 U.S.C. 2025)—

(A) in subsection (g), by inserting a comma after "1991"; and

(B) in subsection (h)(4), by striking "the Act" and inserting "this Act";

(8) in the first sentence of section 17(b)(3)(C) (7 U.S.C. 2026(b)(3)(C)), by striking "402(g)(1)(A)" and inserting "402(g)(1)(A))";

(9) in section 19(b)(1)(A)(i) (7 U.S.C. 2028(b)(1)(A)(i)), by striking "directly." and inserting "directly";

(10) in section 20(g)(2) (7 U.S.C. 2029(g)(2))—

(A) by moving the margins of subparagraphs (A) and (B) 2 ems to the left; and

(B) in subparagraph (B), by moving the margins of clauses (i) and (ii) 2 ems to the left; and

(11) in section 22 (7 U.S.C. 2031)—

(A) by inserting the following section heading above the section designation:

"FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN";

(B) in subsection (d)(2)(B), by striking "paragraph (b)(3)(D)(iii)" and inserting "subsection (b)(3)(D)(iii)"; and

(C) in subsection (h), by striking "subsection b(12)" and inserting "subsection (b)(12)".

SEC. 942. AMENDMENT RELATING TO THE HUNGER PREVENTION ACT OF 1988.

Section 1772(h)(5) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3809) is amended by striking "Relief" and inserting "Prevention".

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 1001. ORGANIC CERTIFICATION.

Title XXI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat 3935) is amended—

(1) in section 2105 (7 U.S.C. 6504), by striking the period at the end of paragraph (2) and inserting "; and";

(2) in section 2110 (7 U.S.C. 6509)—

(A) in subsection (d)(1)(B), by striking "paraciticides" and inserting "parasiticides"; and

(B) by redesignating subsection (h) as subsection (g);

(3) in section 2111(a)(1) (7 U.S.C. 6510(a)(1)), by striking "post harvest" and inserting "postharvest";

(4) in section 2112(b) (7 U.S.C. 6511(b)), by striking "PRE-HARVEST" and inserting "PREHARVEST";

(5) in section 2116(j)(2) (7 U.S.C. 6515(j)(2)), by striking "certifying such" and inserting "such certifying";

(6) in section 2118(c)(1)(B)(i) (7 U.S.C. 6517(c)(1)(B)(i)), by striking "paraciticides" and inserting "parasiticides"; and

(7) in section 2119(a) (7 U.S.C. 6518(a)), by striking "(to" and inserting "to";

(8) in section 2120(f) (7 U.S.C. 6519(f)), by inserting a comma after "et seq.)" the first place it appears; and

(9) in section 2121(b) (7 U.S.C. 6520(b)), by striking "District Court for the District" and inserting "district court for the district".

SEC. 1002. AGRICULTURAL FELLOWSHIPS.

Section 1543(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293; 104 Stat. 3694) is amended by striking "Program" and inserting "program".

SEC. 1003. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (a)(3), by striking "section" and inserting "subsection";

(2) in subsection (c)(1)(C), by inserting "program" after "agricultural"; and

(3) in subsection (d)(3), by striking "Not later than 1 year after the date of enactment of this Act," and inserting "Not later than November 28, 1991,".

SEC. 1004. PROTECTION OF PETS.

Section 28(b)(2)(F) of the Animal Welfare Act (7 U.S.C. 2158(b)(2)(F)) is amended by striking "subsection (b)" and inserting "subsection (a)".

SEC. 1005. CRITICAL AGRICULTURAL MATERIALS.

The Critical Agricultural Materials Act (7 U.S.C. 178 et seq.) is amended—

(1) in section 5(b)(9) (7 U.S.C. 178c(b)(9)), by striking the first comma after "industrial purposes"; and

(2) in section 11 (7 U.S.C. 178i), by striking "insure" both places it appears and inserting "ensure".

SEC. 1006. AMENDMENTS TO FIFRA AND RELATED PROVISIONS.

(a) IN GENERAL.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) in section 2(e)(1) (7 U.S.C. 136(e)(1))—

(A) by striking "section 4" and inserting "section 11";

(B) by striking "use" in the second sentence and inserting "uses"; and

(C) by striking "section 2(ee) of this Act" and inserting "subsection (ee)";

(2) in section 2(q)(2)(A)(i) (7 U.S.C. 136(q)(2)(A)(i)), by striking "size of form" and inserting "size or form";

(3) in section 3(c)(1) (7 U.S.C. 136a(c)(1))—

(A) by striking subparagraphs (E) and (F);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) the complete formula of the pesticide;

"(E) a request that the pesticide be classified for general use or for restricted use, or for both; and"; and

(D) in subparagraph (F) (as so redesignated)—

(i) by striking "(i) with" and inserting "(i) With";

(ii) by striking the semicolon at the end of clauses (i), (ii), and (iii) and inserting a period;

(iii) by striking "(ii) except" and inserting "(ii) Except"; and

(iv) by striking "(iii) after" and inserting "(iii) After";

(4) by conforming the left margin of paragraph (3) of section 4(f) (7 U.S.C. 136a–1(f)) to the left margin of the preceding paragraph;

(5) in section 6(f)(3)(B) (7 U.S.C. 136d(f)(3)(B)), by striking "an unreasonable adverse affect" and inserting "an unreasonable adverse effect";

(6) in section 11 (7 U.S.C. 136i)—

(A) in the section heading, by striking "APPPLICATORS" and inserting "APPLICATORS";

(B) in subsection (b), by striking "this paragraph" each place it appears and inserting "subsection (a)(2)"; and

(C) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsection (a)";

(7) in section 12(a)(2) (7 U.S.C. 136j(a)(2))—

(A) by striking "thereunder. It" in subparagraph (F) and inserting "thereunder, except that it";

(B) by striking "or" at the end of subparagraph (O); and

(C) by striking the period at the end of subparagraph (P) and inserting a semicolon;

(8) in section 14(a)(2) (7 U.S.C. 136l(a)(2))—

(A) by striking ": *Provided*, That" and inserting ", except that"; and

(B) by striking "use" and inserting "uses";

(9) in section 17(a) (7 U.S.C. 136o), by removing the last sentence from paragraph (2) and placing it as full measure sentence under such paragraph;

(10) in section 20(a) (7 U.S.C. 136r(a)), by striking "insure" and inserting "ensure"; and

(11) in section 26(c) (7 U.S.C. 136w–1(c)), by striking "use" and inserting "uses".

(b) GENDER.—

(1) Such Act is amended by striking "he" each place it appears in sections 3(c)(2)(A), 3(c)(5), 3(c)(6), 3(d)(1)(A), 3(d)(1)(B), 3(d)(1)(C), 3(d)(2), 5(b), 5(e), 5(f), 6(a)(1), 6(b), 6(c)(1), 6(c)(3), 7(b), 8(a), 9(c)(3), 10(c), 11(b), 16(b), 16(d), 18, 20(a), 21(b), 25(a)(3), 25(b), 25(c)(5), and 25(d) (7 U.S.C. 136a(c)(2)(A), 136a(c)(5), 136a(c)(6), 136a(d)(1)(A), 136a(d)(1)(B), 136a(d)(1)(C), 136a(d)(2), 136c(b), 136c(e), 136c(f), 136d(a)(1), 136d(b), 136d(c)(1), 136d(c)(3), 136e(b), 136f(a), 136g(c)(3), 136h(c), 136i(b), 136n(b), 136n(d), 136p, 136r(a), 136s(b), 136w(a)(3), 136w(b), 136w(c)(5), and 136w(d)) and inserting "the Administrator".

(2) Such Act is amended by striking "his" each place it appears in sections 3(c)(2)(A), 3(c)(3)(A), 3(c)(6), 6(b), 6(c)(1), 6(d), 10(b), 11(a)(2), 16(b), 17(c), 18, 21(b), and 25(c)(4) (7 U.S.C. 136a(c)(2)(A), 136a(c)(3)(A), 136a(c)(6), 136d(b), 136d(c)(1), 136d(d), 136h(b), 136i(a)(2), 136n(b), 136o(c), 136p, 136s(b), and 136w(c)(4)) and inserting "the Administrator's".

(3) Such Act is amended—

(A) in section 2(e)(2) (7 U.S.C. 136(e)(2)), by striking "him or his" and inserting "the applicator or the applicator's";

(B) in section 2(e)(3), by striking "he" and inserting "the applicator";

(C) in section 6(a)(2) (7 U.S.C. 136d(a)(2), by striking "he" and inserting "the registrant";

(D) in section 6(c)(3), by striking "him" and inserting "the Administrator";

(E) in section 6(d), by striking "him" and inserting "the Administrator";

(F) in section 7(c)(1) (7 U.S.C. 136e(c)(1), by striking "he" each place it appears and inserting "the producer";

(G) in section 7(c)(2)—

(i) by striking "him" and inserting "the Administrator"; and

(ii) by striking "he" and inserting "the producer";

(H) in the fourth sentence of section 9(a)(2) (7 U.S.C. 136g(a)(2)), by striking "he" and inserting "the officer or employee";

(I) in the third sentence of section 9(c)(1), by striking "his" and inserting "the person's";

(J) in section 10(a) (7 U.S.C. 136h(a)), by striking "his" and inserting "the applicant's";

(K) in section 11(a)(1) (7 U.S.C. 136i(a)(1))—

(i) in the ninth sentence, by striking "his" and inserting "the applicator"; and

(ii) in the last sentence, by striking "him" and inserting "the Administrator";

(L) in section 12(a)(2)(C) (7 U.S.C. 136j(a)(2)(C))—

(i) by striking "his" and inserting "the person's"; and

(ii) by striking "he" and inserting "the person";

(M) in section 12(a)(2)(D), by striking "his" and inserting "the person's";

(N) in section 12(b)(1)—

(i) by striking "he" and inserting "the person";

(ii) by striking "him" and inserting "the person";

(O) in section 12(b)(3), by striking "his official duties" and inserting "the official duties of the public official"; and

(P) in the second sentence of section 16(b) (7 U.S.C. 136n(b)), by striking "him" and inserting "the Administrator".

(c) UNEXECUTABLE AMENDMENT.—The phrase sought to be struck in section 102(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 (Public Law 100–532; 102 Stat 2667) shall be deemed to be "an end-use product".

(d) RECORDKEEPING.—Section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 136i–1) is amended—

(1) in subsection (a), by striking "(7 U.S.C. 136a(d)(1)(C))" and inserting "(7 U.S.C. 136a(d)(1)(C)))"; and

(2) in subsection (d)(1), by inserting "of" after "fine".

(e) MAINTENANCE FEE.—Paragraph (5) of section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)) is amended to read as follows:

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

"(i) $650 for the first registration; and

"(ii) $1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

"(C) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(D) The maximum annual fee payable under this paragraph by—

"(i) a registrant holding not more than 50 pesticide registrations shall be $55,000; and

"(ii) a registrant holding over 50 registrations shall be $95,000.

"(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

"(I) a registrant holding not more than 50 pesticide registrations shall be $38,500; and

"(II) a registrant holding over 50 pesticide registrations shall be $66,500.

"(ii) For purposes of clause (i), the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(F) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(G) The authority provided under this paragraph shall terminate on September 30, 1997.".

(f) REGISTRATION AND EXPEDITED PROCESSING FUND.—Section 4(k)(3)(A) of such Act (7 U.S.C. 136a–1(k)(3)(A)) is amended by striking "each fiscal year not more than $2,000,000 of the amounts in the fund" and inserting "for each of the fiscal years 1992, 1993, and 1994, 1/7th of the maintenance fees collected, up to $2 million each year".

SEC. 1007. GRAIN STANDARDS.

The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75), by striking "The" in subsections (i), (j), (k), (u), (v), (w), (x), (z), and (aa) and inserting "the";

(2) in section 16(a) (7 U.S.C. 87e(a)), by striking "Administrtor." in the second sentence and inserting "Administrator."; and

(3) in section 17B(a) (7 U.S.C. 87f–2(a))—

(A) by striking "The" and inserting "On December 1 of each year, the";

(B) by striking "committee on Agriculture" and inserting "Committee on Agriculture; and

(C) by striking "one year" and all that follows through "such committees".

SEC. 1008. PACKERS AND STOCKYARDS.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) is amended—

(1) in section 202(c) (7 U.S.C. 192(c)), by striking "dealer. any" and inserting "dealer, any"; and

(2) in section 406(b)(2) (7 U.S.C. 227(b)(2)), by striking the comma after "unmanufactured form,".

SEC. 1009. REDUNDANT LANGUAGE IN WAREHOUSE ACT.

Section 17(c)(1)(B) of the United States Warehouse Act (7 U.S.C. 259(c)(1)(B)) is amended by striking ", or to a specified person".

SEC. 1010. CLARIFICATION OF FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

Notwithstanding any other provision of law, the Secretary of Agriculture is directed immediately to implement the establishment within the Department of Agriculture of the Rural Development Administration established by subtitle A of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f et seq.) and the amendments made by such subtitle.

SEC. 1011. PERISHABLE AGRICULTURAL COMMODITIES.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.), is amended—

(1) in the first section (7 U.S.C. 499a)—

(A) by striking out "That when used in this Act—" and inserting the following:

"SECTION 1. SHORT TITLE AND DEFINITIONS.

"(a) SHORT TITLE.—This Act may be cited as the 'Perishable Agricultural Commodities Act, 1930'.

"(b) DEFINITIONS.—For purposes of this Act:"; and

(B) by striking the semicolon at the end of paragraphs (1), (2), (3), (4), (5), (6), and (9) and inserting a period;

(2) in section 4(a) (7 U.S.C. 499d(a)), by striking "anual" in the material before the first proviso and inserting "annual";

(3) in section 5(c)(2) (7 U.S.C. 499e(c)(2)), by striking "(as" and inserting ", as";

(4) in section 6 (7 U.S.C. 499f)—

(A) by adding a period at the end of subsection (c); and

(B) by striking the semicolon at the end of subsection (d) and inserting a period;

(5) in section 7 (7 U.S.C. 499g), by striking the semicolon at the end of subsections (a), (b), and (c) and inserting a period;

(6) in section 8(a) (7 U.S.C. 499h(a))—

(A) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(B) by striking the semicolon at the end of the subsection and inserting a period;

(7) in section 14(a) (7 U.S.C. 499n(a))—

(A) by striking "(7 U.S.C., Supp. 2, secs. 1 to 17 (a))" and inserting "(7 U.S.C. 1 et seq.)"; and

(B) by striking the semicolon at the end of the subsection and inserting a period; and

(8) by striking section 18 (7 U.S.C. 499r).

SEC. 1012. EGG PRODUCTS INSPECTION.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) food borne illness is a serious health problem;

(B) its incidence can be reduced through proper handling of food; and

(C) eggs are perishable and therefore are particularly susceptible to supporting microbial growth if proper temperature controls are not maintained.

(2) Purposes.—It is the purpose of this section to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect the health and welfare of consumers.

(b) Inspection of Egg Products.—Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer—

"(A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and

"(B) contain labeling that indicates that refrigeration is required.

"(2) In the case of a shell egg packer packing eggs for the ultimate consumer, the Secretary shall make an inspection in accordance with paragraph (1) at least once each calendar quarter.

"(3) The Secretary of Health and Human Services shall cause such inspections to be made as the Secretary considers appropriate to ensure compliance with the requirements of paragraph (1) at food manufacturing establishments, institutions, and restaurants, other than plants packing eggs.

"(4) The Secretary shall not make an inspection as provided in paragraph (1) on any egg handler with a flock of not more than 3,000 layers.

"(5) A representative of the Secretary and the Secretary of Health and Human Services shall be afforded access to a place of business referred to in this subsection, including a transport vehicle, for purposes of making an inspection required under this subsection.".

(c) Prohibited Acts.—Section 8 of such Act (21 U.S.C. 1037) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No egg handler shall possess any eggs after the eggs have been packed into a container that is destined for the ultimate consumer unless the eggs are stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as prescribed by rules and regulations promulgated by the Secretary.".

(d) Penalties.—Section 12 of such Act (21 U.S.C. 1041) is amended—

(1) in the first sentence of subsection (a), by striking "$1,000" and inserting "$5,000";

(2) by designating the last sentence of subsection (a) as subsection (d) and transferring such subsection to the end of the section;

(3) by redesignating subsection (b) as subsection (e) and transferring such subsection to the end of the section;

(4) by redesignating subsection (c) as subsection (b); and

(5) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as otherwise provided in this subsection, any person who violates any provision of this Act or any regulation issued under this Act, other than a violation for which a criminal penalty has been imposed under this Act, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation to which this subparagraph applies shall be considered a separate offense.

"(B) No penalty shall be assessed against any person under this subsection unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(C) The amount of the civil penalty imposed under this subsection—

"(i) shall be assessed by the Secretary, by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and

"(ii) may be reviewed only as provided in paragraph (2).

"(2)(A) The determination and order of the Secretary under this subsection shall be final and conclusive unless the person against whom such a violation is found under paragraph (1) files an application for judicial review within 30 days after service of the order in the United States court of appeals for the circuit in which the person has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit.

"(B) Judicial review of any such order shall be based on the record on which the determination and order are based.

"(C) If the court determines that additional evidence needs to be taken, the court shall order the hearing to be reopened for this purpose in such manner and on such terms and conditions as the court considers proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, on the basis of the additional evidence so taken.

"(3) If any person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General. The Attorney General shall institute a civil action to recover the amount assessed in an appropriate district court of the United States. In the collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

"(4) All penalties collected under this subsection shall be paid into the Treasury of the United States.

"(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

"(6) Paragraph (1) shall not apply to an official plant.".

(e) Reporting of Violation to United States Attorney for Institution of Criminal Proceedings.—The last sentence of section 13 of such Act (21 U.S.C. 1042) is amended by inserting before the period at the end the following: "or an action to assess civil penalties".

(f) Imports.—Section 17(a) of such Act (21 U.S.C. 1046(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (2), and (4), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) No eggs packed into a container that is destined for the ultimate consumer shall be imported into the United States unless the eggs are accompanied by a certification that the eggs have at all times after packaging been stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as required by sections 5(e) and 8(c).".

(g) Relation to Other Authorities.—The first sentence of section 23(b) of such Act (21 U.S.C. 1052(b)) is amended by striking "and (2)" and inserting the following: "(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, Federal requirements, and (3)".

(h) Effective Date.—This section and the amendments made by this section shall become effective 12 months after the Secretary of Agriculture promulgates final regulations implementing this section and the amendments.

SEC. 1013. PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM.

(a) In General.—The Secretary of Agriculture shall, to the extent practicable, take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

(b) Introduction Into Hawaii.—The Secretary shall initiate a program to prevent, to the extent practicable, the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

(c) Authority.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b).

(d) Control of Brown Tree Snakes.—The Act of March 2, 1931 (46 Stat. 1468, chapter 370; 7 U.S.C. 426) is amended by inserting "brown tree snakes," after "rabbits,".

(e) Importation of Brown Tree Snakes.—The first sentence of section 42(a)(1) of title 18, United States Code, is amended by inserting "brown tree snakes," after "reptiles,".

SEC. 1014. GRANT TO PREVENT AND CONTROL POTATO DISEASES.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food, and Rural Resources for potato disease detection, control, prevention, eradication and related activities, including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine. Any unobligated balances of funds previously appropriated or allocated for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SEC. 1015. COLLECTION OF FEES FOR INSPECTION SERVICES.

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Quarantine and Inspection.—The Secretary" and inserting the following:

"(1) Quarantine and inspection.—

"(A) In general.—The Secretary";

(B) by indenting 2 ems the left margin of paragraph (1); and

(C) by adding at the end the following new subparagraphs:

"(B) AIRPORT INSPECTION SERVICES.—For airport inspection services, the Secretary shall collect no more than $69,000,000 in fiscal year 1992 and $75,000,000 in fiscal year 1993 from international airline passengers and commercial aircraft operators.

"(C) COMMERCIAL TRUCK AND RAILROAD CAR INSPECTION SERVICES.—For commercial truck and railroad car inspection services, the Secretary shall collect no more than $3,667,000 in fiscal year 1992 and $3,890,000 in fiscal year 1993 from commercial truck and railroad car operators.

"(D) COSTS.—Fees, including fees from international airline passengers and commercial aircraft operators, may only be collected to the extent that the Secretary reasonably estimates that the amount of the fees are commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of such services with respect to passengers as a class includes the costs of related inspections of the aircraft.";

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following new clause:

"(ii) REIMBURSEMENT.—The Secretary of the Treasury shall use the Account to provide reimbursements to any appropriation accounts that incur the costs associated with the administration of this subsection and all other activities carried out by the Secretary at ports in the customs territory of the United States and at preclearance or preinspection sites outside the customs territory of the United States in connection with the enforcement of the animal quarantine laws. Any such reimbursement shall be subject to appropriations under clause (v)."; and

(3) in paragraph (4), by striking "The" and inserting "Subject to the limits set forth in paragraph (1), the".

SEC. 1016. EXEMPTION AND STUDY OF CERTAIN FOOD PRODUCTS.

(a) AMENDMENTS TO FEDERAL MEAT INSPECTION ACT.—Section 23 of the Federal Meat Inspection Act (21 U.S.C. 623) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under section 24 that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a meat food product from the inspection requirements of this Act if—

"(A) the meat food product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(b) AMENDMENTS TO POULTRY PRODUCTS INSPECTION ACT.—Section 15 of the Poultry Products Inspection Act (21 U.S.C. 464) is amended—

(1) by redesignating subsection (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (e) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under this section that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a poultry product from the inspection requirements of this Act if—

"(A) the poultry product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(c) REGULATIONS.—No later than August 1, 1992, the Secretary of Agriculture shall issue final rules, through prior notice and comment rulemaking procedures, to implement the exemption authorized by section 23(c) of the Federal Meat Inspection Act (as added by subsection (a)) and the exemption authorized by section 15(d) of the Poultry Products Inspection Act (as added by subsection (b)). Prior to the issuance of the final rules, the Secretary shall hold at least one public hearing examining the public health and food safety issues raised by the granting of each of the exemptions.

(d) STUDIES.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the National Academy of Sciences, shall conduct—

(A) a study to develop criteria for, and evaluate, present and future inspection exemptions for meat food products and poultry products under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), respectively, which shall examine the potential effect on consumers, on the affected industries, on public health and food safety, on the role of the Department of Agriculture, and the scientific basis for the exemptions; and

(B) a study of the appropriateness of granting an exemption from the requirements of the Federal Meat Inspection Act or the Poultry Products Inspection Act, as appropriate, for wholesale meat outlets selling to hotels, restaurants, or other similar institutional users provided that the processing of meat by the outlets is limited to cutting, slicing, grinding, or repackaging into smaller quantities.

(2) RESULTS.—On completion of each study required under paragraph (1), the Secretary shall provide the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1017. FEES FOR LABORATORY ACCREDITATION.

Section 1327 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 138f) is amended to read as follows:

"SEC. 1327. FEES.

"(a) IN GENERAL.—At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, subject to subsection (e), shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

"(b) AMOUNT OF FEE.—The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a).

"(c) REIMBURSEMENT OF EXPENSES.—Each laboratory that is accredited under a statutory authority set forth in subsection (a) or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

"(d) ADJUSTMENT OF FEES.—The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accreditation programs carried out under the statutory authorities set forth in subsection (a).

"(e) APPROPRIATIONS PREREQUISITE.—No fees collected under this section may be used to offset the cost of laboratory accreditation without appropriations made under subsection (f).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year such sums as may be necessary for laboratory accreditation services under this section.".

SEC. 1018. STATE AND PRIVATE FORESTRY TECHNICAL AMENDMENTS.

(a) COOPERATIVE FORESTRY ASSISTANCE.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended—

(1) in section 5(d) (16 U.S.C. 2103a(d)), by striking "State Foresters" each place it appears and inserting "State foresters";

(2) in section 7 (16 U.S.C. 2103c)—

(A) in subsection (d)(2), by striking "Not later than 1 year after the date of enactment of this section," and inserting "Not later than November 28, 1991,";

(B) in subsection (e), by striking "Within 1 year from the date of enactment of this section and in consultation with State Forest Stewardship Advisory Committees established under section 15(b)" and inserting "Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 19(b)"; and

(C) in subsection (f), by striking "subsection (d)" and inserting "subsection (e)";

(3) in section 9 (16 U.S.C. 2105)—

(A) in subsection (g)(1)(C), by striking "subsection (e)" and inserting "subsection (f)";

(B) in subsection (g)(3)(E), by striking "subsection (e)" and inserting "subsection (f)";

(C) in subsection (h)(1), by striking "subsection (f)" and inserting "subsection (g)"; and

(D) in subsection (h)(2), by striking "subsection (f)(3)" and inserting "subsection (g)(3)"; and

(4) in section 10(g)(2) (16 U.S.C. 2106(g)(2)), by striking "fire fighting organization" and inserting "firefighting organization".

(b) COMMISSION ON STATE AND PRIVATE FORESTS.—Section 1245(g)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3549; 16 U.S.C. 1601 note) is amended by striking "the Director of the Office Technology Assessment may furnish".

(c) FOREST PRODUCTS INSTITUTE.—Section 1247(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3551; 16 U.S.C. 2112 note) is amended by striking "in this section" the second place it appears.

(d) RENEWABLE RESOURCES EXTENSION.—Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of the first paragraph (9) (as added by section 1219(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3539) and inserting "; and"; and

(3) by redesignating the second paragraph (9) (as added by section 1251(b)(3) of such Act (104 Stat. 3552) as paragraph (10).

(e) AMERICA THE BEAUTIFUL.—Section 1264(n)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3556; 16 U.S.C. 2101 note) is amended by striking "this Act" and inserting "this subtitle".

(f) REFORESTATION ASSISTANCE.—Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3558; 16 U.S.C. 2106a) is amended—

(1) by inserting "(16 U.S.C. 2101 et seq.)" after "1978"; and

(2) by striking "(16 U.S.C. 590h, 590l, or 590p)" and inserting "(16 U.S.C. 590p(b))".

SEC. 1019. REPEAL.

Public Law 76–543 (54 Stat. 231) is hereby repealed.

TITLE XI—EFFECTIVE DATES

SEC. 1101. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) INCLUSION IN FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624) to which the amendment relates:

(1) Section 201 (other than section 201(h)).

(2) Section 307.

(3) Subsections (a) through (c), (e), (h), and (i) of section 501.

(4) Subsections (a), (b), (f) through (i), and (l) of section 502.

(5) Section 602(c).

(6) Section 701 (except as provided in subsection (c) of this section).

(7) Section 702.

(8) Section 703(c).

(c) MISCELLANEOUS AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The amendments made by section 701(h) of this Act to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

(d) FOOD AND NUTRITION PROGRAMS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, title IX of this Act, and the amendments made by title IX of this Act, shall take effect and be implemented no later than February 1, 1992.

(2) PASS ACCOUNTS EXCLUSION.—

(A) IN GENERAL.—The amendment made by section 903(3) of this Act shall take effect on the earlier of—

(i) the date of enactment of this Act;

(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(B) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (as redesignated by section 941(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 903(3) of this Act applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (as added by section 903(3) of this Act) was raised with the State agency prior to the date of enactment of the Act.

(3) PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.—The amendments made by section 908 of this Act shall take effect on September 30, 1991.

(4) RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.—The amendment made by section 911 of this Act shall take effect on the date of enactment of this Act.

(5) DEFINITION OF RETAIL FOOD STORE.—The amendment made by section 913 of this Act shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House amendment to the Senate amendment to H.R. 3029, the Food, Agriculture, Conservation and Trade Act Amendments of 1991, is a bipartisan, House-Senate compromise making technical and a limited number of substantive changes in our agriculture, export promotion and nutrition programs.

The House version of H.R. 3029 was overwhelmingly approved 417 to 5 on July 31. The Senate measure was approved by voice vote just last Friday, November 22. Over the weekend the staff of the House and Senate Agriculture Committees worked quickly to resolve the areas of minor differences between the two bills and today Members of the House and Senate resolved the remaining outstanding issues.

The bulk of the compromise language on H.R. 3029 involves correcting technical and drafting errors and clarifying various provisions in Public Law 101-624, the Food, Agriculture, Conservation and Trade Act of 1990, that was signed into law last November.

There are some provisions in this bill that contain somewhat more substantive policy changes. Most of these provisions seek to correct implementation problems which have come to our attention since enactment of the 1990 Farm Act. These problems involve unclear wording in last year's farm bill or issues raised by farmers and others in the initial interpretations of the law made by the U.S. Department of Agriculture.

This bill also contains some substantative policy changes that originated in the other body that were found acceptable by our side and are included in this House amendment.

We have worked closely with the Department of Agriculture in drafting this bill, and although we do not have a formal statement of administration views on this bill, I believe the administration will support this legislation.

Basically, the compromise on H.R. 3029 seeks to achieve the original intent of the 1990 farm bill by providing the Department of Agriculture the direction it needs to carry out these programs in a fair and equitable manner.

Mr. Speaker, I briefly want to highlight the major provisions in each title of the House amendment to the Senate amendment of H.R. 3029:

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

The bill clarifies various provisions in the operations of various commodity programs that were reauthorized in the 1990 Farm Act. Provisions contained in the bill also ensure that farmers can take full advantage of the planting flexibility provisions of last year's farm act.

TITLE II—CONSERVATION

The bill contains several provisions making technical improvements to the conservation and environmental aspects of commodity program operations authorized or reauthorized in the 1990 Farm Act.

TITLE III—AGRICULTURAL TRADE

The bill contains mainly technical corrections to the 1990 Farm Act's trade title.

TITLE IV—RESEARCH

The bill contains various technical corrections to the 1990 Farm Act's research title, including a clarification on the number of regional Alternative Agricultural Research and Commercialization Centers to be created out of appropriated funds.

TITLE V—CREDIT

The bill requires Farmers Home Administration to allow a farmer borrower who has been affected by disaster during at least 2 previous crop years to exclude the lowest yield from the calculation of the farm's future yields. The bill also authorizes the bank for cooperatives to make loans for the export of agricultural commodities if certain conditions are met.

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

The bill makes a limited number of technical corrections in the wording of the 1990 Farm Act's crop insurance and disaster relief title.

TITLE VII—RURAL DEVELOPMENT

The bill makes various technical changes to the operations of the rural development lending programs administered by Farmers Home Administration and the Rural Electrification Administration. The bill also authorizes the establishment of a rural health leadership development program by the U.S. Department of Agriculture, in consultation with the Department of Health and Human Services, to help rural areas develop health care services and facilities.

TITLE VIII—AGRICULTURAL PROMOTION

The bill makes various technical corrections to the research and promotion programs for pecans, mushrooms, potatoes, limes, soybeans, honey, cotton, fluid milk, and wool that were authorized in the 1990 Farm Act.

TITLE IX—FOOD AND NUTRITION PROGRAMS

The bill has several provisions which clarify and makes explicit certain changes in the Food Stamp and Nutrition Programs to benefit low-income Americans. The bill also establishes a grant program and technical assistance to help Indian tribes and Alaska Natives develop and operate subsistence farming programs to improve the nutrition and health of Indians living on or near Indian reservations.

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

The bill makes various technical changes or corrections in the 1990 Farm Act's provisions on organic certification, pesticide programs, forestry programs, and the maintenance fees authorized for pesticide registrations, for international passenger inspection services, and for laboratory accreditation. In addition, the bill contains provisions regarding the inspection of eggs, preventive measures to stop the spread of brown tree snakes from Guam, and exempting pizzas containing meat products from duplicative inspection under certain circumstances.

The Committee on Agriculture has been and wants to continue to be sensitive to the budget problems our Nation faces. I would point out to my colleagues that this technical corrections bill is not only budget neutral—it actually provides us with some budget savings over the next 5 years.

Based on preliminary estimates by the Congressional Budget Office, the bill is scored as saving about $2 million in fiscal year 1992 and $0.3 million over the next 5 years. Preliminary estimates by the Department of Agriculture indicates the bill will cost nothing in fiscal year 1992 and save $7 million over the next 5 years.

Mr. Speaker, this bill will help our farm programs operate more effectively and as we in Congress intended when we debated and passed the 1990 farm bill. This bill will benefit the entire agricultural sector of our economy and it will strengthen the interests of consumers who are concerned about the availability of a safe, abundant and affordable supply of food and fiber. I urge my colleagues to support passage of this very necessary piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3029, a bill making technical corrections to the 1990 Food, Agriculture, Conservation, and Trade Act.

This bill passed the House last July 31 by a vote of 417 to 5, and the legislation has changed relatively little since it was acted upon by the House. It does make minor, technical corrections to the 1990 farm bill, and I understand the administration has no objections to its adoption.

For instance, the bill deals with conserving use acres, double cropping on 0/92 acres, clarifying corn and sorghum bases, and deficiency payments for wheat, barley, and oats to name four of the technical provisions contained in the commodity program title.

Other provisions of the bill concern conservation, agricultural trade, research, credit, rural development, agricultural promotion programs, food and nutrition matters and other technical, miscellaneous corrections to the bill.

In concluding, Mr. Speaker, I want to assure my colleagues in the Banking Committee who are concerned about the provisions dealing with Farmer Mac's linked portfolio strategy: the Agriculture Committee will actively oversee the Farm Credit Administration's regulation of Farmer Mac. We will work closely with the Banking Committee in carrying out that responsibility. I appreciate the Banking Committee's agreeing to this compromise.

Mr. Speaker, I urge the House to agree to the Senate amendments and finish this important piece of legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise to support the 1990 farm bill technical corrections measure since it has many important provisions including the provisions related to feed grain base flexibility, introduced by my distinguished colleague from Nebraska [Mr. BARRETT], and this Member and important provisions on wheat deficiency payments. It also clarifies the authority of the Federal Agricultural Mortgage Corporation, so called Farmer Mac, to engage in certain activities. However, I support the legislation with reservations because of some of the provisions related to the Farm Credit Administration relations to Farmer Mac.

As provided by the bill, the Corporation, known as Farmer Mac, would be allowed to undertake secondary market activities—for example, set up subsidiaries and go to debt markets—in a manner similar to those engaged by the Fannie Mae and Freddie Mac. Farmer Mac has called its activity the linked portfolio strategy and is intended to offer more attractive interest rates to borrowers.

Specifically, however, this Member would like to draw the attention of this body to other provisions pertaining to regulation of Farmer Mac. In exchange for authorizing the linked portfolio strategy, some members of the Agriculture Committee have insisted that the Farm Credit Administration retain regulatory and rulemaking authority over Farmer Mac—through a separate Office of Secondary Market Supervision to be established within the Farm Credit Administration.

This Member again states that allowing the Farm Credit Administration to regulate Farmer Mac is the worst of all options. It is a blatant conflict of interest to allow a regulator to supervise a secondary market as well as the market's participants, in this case, the Farm Credit System institutions.

Mr. Speaker, this Member expects only the worst in terms of quality of regulation from the Farm Credit Administration and it will be up to the agency to prove me wrong.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. ENGLISH], the chairman of the Subcommittee on Conservation, Credit and Rural Development.

Mr. ENGLISH. Mr. Speaker, I, too, would like to rise in support of this legislation. I think that as the chairman has stated, whenever this legislation left the House of Representatives it was primarily a technical corrections bill. Most of the provisions in it still are.

The other body did add a few substantive items, and one of those dealt with, as has been referred to before, Farmer Mac. The provisions that are contained in the bill are a compromise between various concerns with regard to the Farmer Mac operation.

Mr. Speaker, I think this legislation contains a proper approach, one that is balanced and one that I wholeheartedly support.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I rise in strong support of the conference report to the 1990 farm bill technical corrections bill. This legislation contains technical changes to the 1990 farm bill. These alterations resolve minor problems which have been discovered during implementation of farm programs. Section 107, black-eyed peas for donation, is one such provision which will help ease the ability of farmers to satisfy the rising demand for food donations to food banks, food pantries and soup kitchens. This is the same provision, with minor modifications, which was offered to the House Agriculture Cotton, Rice and Sugar Subcommittee mark-up of the technical corrections legislation.

The intent of the language is to give the U.S. Department of Agriculture [USDA] the authority to allow mechanical harvesting of black-eyed peas on cotton-conserving-use acres and set-aside acreage for donation to charitable organizations. The language in section 107 provides that the Secretary of Agriculture shall not prohibit implementation of this section unless he determines that it would disrupt the normal channels of trade. The Secretary should implement the section in such a manner to ensure optimum producer participation. Clearly, the intent of the legislation is not designed to negatively impact the market for black-eyed peas raised for sell but rather it is designed to provide for the mechanical harvest of black-eyed peas for donation to food-bank-type charitable organizations.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in support of H.R. 3029 which makes technical changes to farm programs enacted by the farm bill, the Food, Agriculture, Conservation, and Trade Act of 1990.

Since February, the Committee on Agriculture has taken an active oversight role in the implementation of the 1990 farm bill. I appreciate and compliment Chairman DE LA GARZA and ranking member, Mr. COLEMAN, for their efforts in getting this bill to the floor today. I know producers in Kansas and all over rural America, preparing for spring planting, appreciate your efforts as well.

Last March the Subcommittee on Wheat, Soybeans, and Feed Grains, held a hearing in Washington to discuss with producer groups their problems with the farm bill. The subcommittee then traveled to Bonner Springs, KS, to hear from farmers themselves about how they are dealing with the farm bill's new programs.

I am sure the subcommittee will stay active in overseeing this farm bill as the years progress, but I must say these two hearings were very helpful in outlining a few issues the House and Senate Agriculture Committees overlooked when completing the details of the 1990 farm act.

Mr. Speaker, the provisions contained in H.R. 3029 are budget neutral, so they will not cost the Government any additional money to implement. They will, however, make sure the programs of the 1990 act are implemented the way in which we intended.

Second, Mr. Speaker, the provisions in H.R. 3029 expand upon a number of objectives established in the 1985 Food Security Act and then again extended in the 1990 Farm Act. First and foremost of these objectives was the committee's desire to include more planting options for producers participating in farm programs. For many years, farmers were restricted to growing only the crops for which they have a history of planting. The committee remedied this in the 1990 farm bill by allowing them to divert a percentage of their acres to other crops.

Because producers are receiving less Government support on their acres than ever before, H.R. 3029 comes at an important time. In short, the bill lifts planting restrictions to enable farmers to respond even better to market prices. The provisions outlined below, which are amendments to the wheat, feed grains, and oilseeds titles of the 1990 farm bill, are an attempt to do just that; they loosen program constraints and expand certain programs.

One, H.R. 3029 allows the planting of certain minor use, experimental, and industrial-use crops on conserving-use acres—0/92 program.

Two, H.R. 3029 allows producers who plant minor oilseeds, or minor use, experimental, or industrial-use crops, on conserving use acres to double crop that acreage with soybeans. However, the producer must have a history of double-cropping soybeans to take advantage of this option.

Three, H.R. 3029 gives the State and county ASCS committees more control over the types of cover crops that must be planted on set-aside acres. It also gives the State committees discretion to exempt certain arid areas of their States from this planting requirement.

Four, H.R. 3029 requires the Department of Agriculture to provide wheat, oats, and barley producers' income-support payments more expeditously than provided in the 1990 farm bill.

Five, corn and grain-sorghum producers will be allowed once again, as they were under the 1985 farm bill, to combine their corn and grain-sorghum acreages and plant whichever crop best fits their crop rotation practice. This provision is particularly important to producers in Kansas and the Plains States.

Six, H.R. 3029 allows producers, through the 1995 crop year, to plant as much as 20 percent of a crop-acreage base to peas and lentils. This provision extends a similar provision which was in effect for the 1989 through 1991 crop years.

Mr. Speaker, I know that my producers in Kansas and all other wheat and feed grains producers in this country will benefit from these changes in the farm programs. In fact they have been waiting for us to act on this bill. At a time when Government support for agriculture is declining, farmers need the flexibility to grow different crops for the best market return without being penalized by the farm program. My subcommittee worked very hard in analyzing different flexibility options and I believe this bill incorporates the best of those options.

Finally, Mr. Speaker, in the 1990 farm bill, we created a new oilseed program, providing marketing loans or price supports to oilseeds such as sunflower, canola, flaxseed, and rapeseed. As with all new programs, the potential for problems to arise is not uncommon. I want to take this time to recognize one potential problem and assure my colleagues that I will actively monitor this and, if required, to address it further through legislation.

In implementing the new minor oilseeds program, the Department decided to establish separate loan programs for oil-type and confection sunflowerseed. Under normal circumstances, processors of confection seed must offer a premium of 2 to 3 cents per pound over prevailing prices for oil-type seed to ensure sufficient production. This incentive is required to offset higher management and input costs and risk involved in production of confection seed.

With loan support of 8.9 cents per pound under the 1990 farm bill for oil-type seed, confection processors will, under normal circumstances, need to offer 11 cents or higher to encourage production of confection seed. In the event prices for oil-type sunflower fall below the prevailing loan level, the price differential between oil-type and confection seed could widen beyond the traditional 2 to 3 cent spread. This situation could well result in making U.S. confection seed and products uncompetitive in foreign markets, and encourage confection seed production in other countries.

If this happens, I will take the necessary action to correct it. This program was created to spur the production of minor oilseeds, especially sunflowers, not to spur the growth of imports.

In closing, I strongly encourage my colleagues to vote for this bill. To jog your memories, the House passed almost the same bill on July 30th of this year. These technical changes, will undoubtedly make the 1990 farm bill a better bill and a better bill for farmers.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank members of the committee and staff on both sides who have worked so diligently to get us to the point where we are at. Everything to my knowledge is in agreement and accord. Not everyone is entirely happy, but I appreciate this very much.

Mr. WEBER. Mr. Speaker, I intend to support this legislation because it will help Minnesota farmers. However, I rise to express my opposition to the provision concerning exemptions from inspection under the Federal Meat Inspection Act. While the amendment does contain significant provision to assure protection of public health, I remain concerned that the structure of this amendment grants an exemption from Federal meat inspection before undertaking the assessment of public health implications. It is shoot public health first and ask questions later approach. A sounder policy for granting exemptions from a major requirement of a public health protection statue would be for the assessment of the public health implications to precede the grant of the exemption.

The Federal Meat Inspection Act and the Poultry Products Inspection Act are among the Nation's oldest statutes designed to protect the public health. These acts achieve their purpose by requiring the daily presence of a Government inspector at facilities manufacturing meat and poultry products for resale. Such inspection ensures that exacting manufacturing and processing requirements result in wholesome and properly labeled meat and poultry products. In effect, these inspectors are the eyes of consumers.

This continuous inspection is necessary because products of animal origin can be carriers for disease and microbiological contaminants that could jeopardize the public. Hence inspection is generally required of all further processing of the cured/cooked product when it is used in further processed products designated for resale. There are many reasons for such inspection. First, further processing of the meat may reintroduce old dangers or create new dangers, such as under processing a canned meat product. Second, a safe cooked/cured product may be recontaminated during processing or distribution. Third, manufacture for resale, by definition, means a third party will handle the product and may introduce new dangers of mishandling.

Notwithstanding the above, it is appropriate, from time to time, to review whether inspection is necessary in every instance. There may be limited situations when the risks discussed above are not present, or where there are protections available other than continuous Federal inspection. If such situations are identified, consideration should be given to exempting the processing of such products from inspection.

However, before protections are lowered or altered, it must be clearly established that consumers will not be placed at risk; microbiological contaminants are an ever present threat. This provision does not abandon these principles nor, if properly implemented, does it lower public health protections.

SECTION-BY-SECTION ANALYSIS

This section requires the Secretary to exempt pizzas from inspection requirements of the FMIA. However, this authority is limited both procedurally and substantively. Further, the section mandates the Secretary, in consultation with NAS, to conduct a study to evaluate present and future exemptions.

Subsection (a) would amend section 23 of the FMIA, 21 U.S.C. §623, to require the Secretary to exempt from inspection, by regulation, the processing of pizzas containing previously inspected and passed meat components in a cured or cooked form. In promulgating regulations to implement this provision, the Secretary shall prescribe whatever terms and conditions are necessary to ensure food safety and public health. These terms and conditions are to be issued under §§21 and 24 of the FMIA. Section 21 is the Secretary's general rulemaking authority to adopt regulations for the efficient execution of the act. It is not expressly cited in the statute as the Secretary has the clear authority to adopt any and all needed conditions for the exemption. Section 24 authorizes the establishment of storage and handling requirements for facilities not processing under inspection. It is anticipated that these requirements will include those applicable to inspected establishments, as is the case for exempt custom operations. 9 CFR §30.31(a)(2)(i). It is also expected the Secretary will impose whatever additional requirements may be necessary to ensure that public health problems do not arise. Thereby, the Secretary will ensure public safety in the absence of the daily inspection.

Further, the exemption may be granted for the processing of pizzas which contain only cooked or cured meat and if the product will be distributed only to public or private nonprofit institutions that operate under supervision that the Secretary determines will protect public health, such as the direct supervision of a registered dietician. The Secretary has broad authority to withdraw or modify any exemption.

Subsection (b) requires the Secretary to implement subsection (a) through notice and comment rulemaking, which shall include at least one public hearing examining public health and food safety issues raised by the granting of this exemption. In such rulemaking, the Secretary is required to develop such terms and conditions as may be necessary to ensure food safety and protect the public health from any increased risk associated with granting of an exemption under subsection (a). This rulemaking should be completed by August 1, 1992.

Subsection (c) requires the Secretary, in consultation with the National Academy of Sciences, to conduct a study to evaluate and develop criteria for exemptions from inspection of meat food products, as well as reviewing existing exemptions.

ANALYSIS

The legislation would provide a procedural and substantive framework for the Secretary to grant an exemption from inspection of pizzas.

As an initial matter, the new authority granted by this legislation would exempt the processing of pizzas from the requirement of daily inspection if certain conditions are met. The processing operation and products manufactured under such an exemption would still remain within the Secretary's authority and would be subject to the adulteration, misbranding, and other provisions of the FMIA or the PPIA, including storage, handling, processing and facility requirements.

The Secretary has broad authority to impose additional requirements upon an exemption as necessary to assure the exemption does not endanger public health. Moreover, the Secretary has broad discretionary authority to withdraw or modify such exemptions to effectuate the purposes or provisions of the act. The Secretary would expressly be given the authority to withdraw or modify any exemption in particular instances or at particular facilities, subject to appropriate due process protections. Further, the Secretary may indefinitely suspend a previously granted exemption and then reassess the exemption through a new rulemaking proceeding if there is basis to believe a risk to public health exists.

Subsections (a) would impose several procedural preconditions on the grant of an exemption. The requirement to grant an exemption applies only where such an exemption would not enganger public health. Since an exemption from inspection would not necessitate continuous inspection, the Secretary must obtain the broadest public review and comment in assessing whether an exemption creates unacceptable public health risks. Notice and comment rulemaking provides an appropriate structure for the Secretary to receive such input, and hence is required. Such rulemaking, which includes a public hearing, shall focus on evaluating the public health implications of granting any proposed exemption. The notice and comment rulemaking is to identify public health problems that may arise through such an exemption, and to guarantee that such risks must be fully eliminated through the terms and conditions, the Secretary must adopt as a precondition of implementation of the exemption. The Secretary's duty with respect to such terms and conditions could not be cast in stronger terms. School children and, perhaps, the ill or elderly are likely consumers of these noninspected pizzas. Therefore, such terms and conditions must go beyond merely providing for food safety.

The requirement for the Secretary to grant an exemption from inspection of pizzas must not be construed as a statutory mandate to lower food safety protections for the vulnerable populations of private and nonprofit institutions. Indeed, the mandate to ensure food safety and protect public health in the absence of continuous inspection premised on the expectation that the Secretary will prescribe existing terms and conditions on these facilities. Even if the inspector is not present on a daily basis, equipment and facilities must adhere to high standards of cleanliness and safe food handling must be assured. Only when the Secretary has developed such terms and conditions should the Secretary promulgate a final rule to implement subsection (a). If such terms and conditions cannot be established, no regulations to grant the exemption should be published.

Earlier versions of this provision, passed by both the House and Senate, authorized, but did not require, the Secretary to grant exemptions. In this provision, the word "shall" replaces the word "may" to make clear that it is the firm intent of Congress that the Secretary must address this issue. The new authority established herein is not mere discretionary authority for the Secretary to exercise to the extent, and at whatever time, the Secretary deems appropriate. The Secretary is obliged by this authority to prosecute a thorough and carefully considered rulemaking. However, this requirement does not relieve the Secretary of his public health protection duties.

The substantive requirements of the legislation have been designed to make certain that a product exemption will not be granted where there are substantial risks inherent in manufacturing the pizza for resale. To be eligible for exemption, the meat component of the pizza must have been previously inspected and passed by USDA in a cured or cooked form. Failure to start with such meat would clearly entail risk. Furthermore, there are risks inherent in the storage handling and processing of meat. The legislation requires the Secretary to mandate requirements for facilities processing without daily inspection. Sanitary specifications for facilities, equipment, and storage rules, as well as acceptable processing methods must be adopted to fully eliminate the risks preparing meat food products. Finally, the pizza may only be distributed to public or nonprofit private institutions. Such institutions may purchase such products for immediate consumption, thereby avoiding some food handling risks. Given that these institutions, by definition, do not have a profit motive, there is a presumption that they are insulated from pressures to compromise public health. The sponsors envision that such institutions will be operated under supervision that assures that food handling and sanitation practices protect public health, such as the direct supervision of a registered dietician.

Admittedly, the Secretary bears a substantial burden to develop terms and conditions that are so effective as to ensure food safety when an inspector is not present on a daily basis. However, development of such terms and conditions is more appropriately within the exercise of the Secretary's informed expertise, including consideration of pertinent operational data and the relevant scientific basis, and public comment. In the evaluation of information from these sources, the Secretary would consider the history and nature of the product, whether a pattern of insanitary conditions may exist in the industry, educational level and training of personnel, compliance with ingredient specifications, and the health status and vulnerabilities of likely consumers, among others.

The Secretary retains broad discretion to withdraw or modify such exemption to effectuate the purposes of the act. When this authority is exercised with respect to a particular facility, due process protections must, of course, be afforded. Regarding an exemption generally, in the event new evidence arises or the Secretary, in his discretion, otherwise determines that a risk to public health exists, such exemption should be suspended pending completion of a rulemaking to reevaluate the matters and promulgate such new terms and conditions as are required to ensure food safety and protect public health or eliminate the exemption.

In addition, the Secretary is expected to assure that manufacturers of exempt products comply with all relevant labeling requirements. Failure to require scrupulous adherence to such labeling requirements would result in an unlevel playing field for competitors and disserve institutional consumers who increasingly rely on product labeling. The Secretary is expected to promptly exercise his discretionary authority to refuse or withdraw an exemption from inspection in any case where an exempt facility manufactures for resale a product that fails to fully comply with relevant labeling requirements.

In the development of this legislation, concerns were expressed regarding current exemption provisions of the FMIA. It is alleged that these provisions have resulted in a patchwork of inconsistent exemption decisions, not based on a public health standard. Accordingly, subsection (c) of the legislation would require the Secretary to begin reviewing these exemptions by directing the Secretary to undertake a study, in consultation with the National Academy of Sciences, to develop criteria for, and evaluate, present and future exemptions for meat and poultry products, as well as the affects those exemptions would have on public health. Once that study is completed, within 24 months from the date of enactment, it is anticipated that the Secretary will work with the Congress to resolve the controversy and ensure public health protection. The sponsors envision the fruit of this study to be a coherent policy for product exemptions.

Mr. Roberts. Mr. Speaker, I rise in support of H.R. 3029, the Flood, Agriculture, Conservation and Trade Act Amendments of 1991. It was about this time 1 year ago when we completed action on the 1990 farm bill—a bill designed to bring consistency and predictabiliy into our Federal farm programs, and to assist this Nation's farmers and stockmen in their efforts to provide this Nation's consumers with a high quality, low cost, food supply second to none in terms of wholesomeness and variety.

Unfortunately during our efforts to complete the 1990 farm bill, technical mistakes with the language were overlooked. And, as the USDA worked to implement the legislation, they discovered the authority to make common sense adjustments to the Federal farm programs in certain areas, was severly limited.

This legislation is aimed at correcting those mistakes and providing other critically needed technical changes to the 1990 farm bill.

For example, this bill will correct the problem faced by feed grain producers who lost an important flexibility option. In the 1985 farm bill, Congress authorized USDA to allow corn and grain sorghum producers to interchange plantings of these two feed grains on their crop bases. Congress fully intended to extend this option for the term of the 1990 farm bill.

A technical glitch in the commodity program provisions effectively eliminated the corn/sorghum substitution option.

I strongly support this bill's correction provision to restore the feed grain flexibility needed by corn and sorghum producers to meet farm management challenges such as safer pest control, water conservation and marketing options.

I also appreciate the provisions to correct the Secretary of Agriculture's problem in implementing the high moisture loan program. This program option helps stockmen meet the feeding needs of their livestock operations, as well as providing a viable marketing option for feed grain farmers.

I am disappointed that the urgency of adjournment has affected the reconciliation of the differences between the two technical correction bills, forcing the omission of various report language statements intended to clarify congressional intent relative to certain 1990 farm bill provisions.

Originally, for example H.R. 3029 included report language addressing concerns over the administration of the sunflower marketing loan program relative to the establishment of separate loan programs for oil and confection sunflowers. Historically, confection sun seed processors must pay a 2-to 3-cent premium to ensure sufficient production to meet processing needs.

The major concern involves a scenario where sunflower oilseed prices fall below the announced loan rate forcing confection sunflower seed market rates to be set at an uncompetitive price relative to foreign markets. USDA's Foreign Agriculture Service has worked hand-in-glove with the U.S. sunflower industry to establish stable markets for U.S. grown confection sunflower seed products.

I remain concerned that if the current two-program loan system causes confection sunflower market prices to go beyond the historical price spread, there is a significant potential for our domestic sunflower industry to be dealt a severe blow by foreign competitors. I strongly urge the USDA to keep vigilant in monitoring the sunflower marketing loan programs, market prices and the activities of U.S. competitors in these newly developed markets. In addition, I ask my colleagues to be prepared to address this issue in the future.

Finally, Mr. Speaker, I want to mention this bill contains language to address a problem faced by the Environmental Protection Agency in their efforts to fulfill the mandates of the 1988 amendments of FIFRA. Due to unforseen circumstances, the EPA has been unable to meet the goal of collecting $14 million in reregistration fees as was agreed to by EPA and the chemical industry. The provisions in this bill, which were cooperatively worked out by the Agency and registrants, will enable EPA to meet the fee collection goal and help keep the reregistration process on schedule to the extent possible.

I would inform my colleagues that FIFRA will be a major item on agriculture's agenda next year and look forward to working with my colleagues on the issues of food and pesticide safety.

Certainly there are many other noteworthy provisions of this package that time does not permit us to discuss in detail. I want to commend the staff who worked very hard and diligently to prepare this urgently needed corrections package for our consideration before adjournment. I urge my colleagues support of its passage.

Mr. PENNY. Mr. Speaker, I strongly support the technical amendments to the 1990 farm bill. I applaud the efforts of Chairman DE LA GARZA, Congressman THOMAS COLEMAN, ranking minority member, and our counterparts on the Senate Aguriculture Committee for their hard work on this legislation. Included in this package are several provisions of great importance to farmers in Minnesota, and throughout the nation.

The amendments will restore the price support loan program for high-moisture corn established in the 1985 Food Security Act. This program is especially important for dairy farmers for corn used on the farm for feed or sold as silage. This loan program has kept many of our family dairy farmers in Minnesota in business by providing short-term operating loan funds.

The legislation also makes clarifications of the planting requirements for cover crops on acreage set aside for conserving uses. This is an important provision for plantings to reduce erosion and provide wildlife habitat on farms that are enrolled in commodity acreage reduction programs. The bill will allow producers to plant and maintain perennial grasses as cover crops rather than planting a new crop each year.

Finally, the bill gives producers additional flexibility to plant alternative crops on acreage enrolled in the acreage reduction programs. A major focus of the 1990 farm bill was increased planting flexibility for farmers to allow them to respond more easily and quickly to rapidly changing market forces and reduced federal agricultural price supports. This amendment will allow the planting of certain minor-use, industrial, and experimental crops on such acreage, thus giving our farmers more viable options in their cropping programs.

Mr. BARRETT. Mr. Speaker, I rise in support of H.R. 3029, legislation making technical corrections and amendments to the 1990 farm bill. I'm particularly pleased with a provision of the bill that addresses problems farmers would face in coming seasons, because of an unintended effect of last year's farm bill.

Under the 1985 farm bill, producers could plant corn or grain sorghum on a combined corn and grain base, in a manner that is best suited to their rotation and production needs. Unfortunately, the 1990 farm bill unintentionally took away that flexibility. The 1990 act separates corn and sorghum base acres and does not allow their interchange—thereby eliminating the farmer's ability to undertake the best management practices in the farm operation.

The loss of this flexibility could have a dramatic impact on Nebraska's economy. The value of our corn and grain sorghum production reaches over $2.2 billion annually, and generated more than $1.8 billion in cash receipts in 1989 for Nebraska farmers. If Secretary of Agriculture Clayton Yeutter had not found a way to provide for the fair and equitable establishment of corn and sorghum bases during the 1991 crop year, we would have seen a decline in farm income.

To address this problem, I introduced H.R. 980, the Corn and Grain Sorghum Base Clarification Act. This would expressly provide the Secretary of Agriculture the authority to allow producers to interchange corn and sorghum base acres. I am pleased that the committee included language in section 105, similar to H.R. 980 in the legislation we are considering.

Mr. Speaker, I strongly urge my colleagues to join me in supporting H.R. 3029.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 3029. I would like to take this opportunity to thank Chairman DE LA GARZA for the cooperation of the Committee on Agriculture in working to accommodate the concerns of the Committee on Foreign Affairs with regard to the trade title of this bill, over which the Foreign Affairs Committee has a jurisdictional interest.

The bill before us today contains an agricultural information program to support collaboration between the United States Department of Agriculture, United States agri-businesses, and appropriate agricultural institutions in the Soviet Union. At the request of the Committee on Foreign Affairs, the bill now provides that the Secretary of Agriculture is required to consult and coordinate with the Secretary of State and the Administrator of the Agency for International Development on the formulation and implementation of this program. While it is my understanding that the primary purpose of this program is to promote United States agricultural exports, coordination with other United States Government programs being developed for the Soviet Union is necessary to assure that various agencies of the United States Government do not work at cross purposes or with incomplete information as to what other agencies may be undertaking.

Chairman DE LA GARZA has proposed that United States land-grant universities should receive support for the establishment of programs of linkage and exchange with agricultural institutions in the republics of the former Soviet Union. Indeed, I understand that a number of U.S. universities have already on their own initiated such programs. The Agency for International Development has for many years supported the land-grant universities and other universities with similar programs in other countries, and I urge A.I.D. to support the efforts of United States universities to establish linkages with institutions in the Soviet Union. I would hope, however, that other United States Government agencies would not seek to establish similar programs of university-to-university exchange just for the former Soviet Union.

I appreciate the concern of the Committee on Agriculture concerning the need for stability in the agricultural sector of the former Soviet Union as it seeks to make a difficult and perhaps painful transition to a free-market agricultural economy. I hope that resources of the Department of Agriculture can be used effectively in coordination with other resources of the U.S. Government to support this transition.

Mr. COLEMAN of Missouri. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and agree to the resolution House Resolution 305.

The question was taken; and (two-thirds having voted in favor thereof) the resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING CORRECTION OF ENROLLMENT OF H.R. 3029, FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT AMENDMENTS OF 1991, PURSUANT TO H. RES. 305

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the clerk be authorized to correct spelling, punctuation, section designation, errors, and conform the table of contents necessary to reflect the action of the House in agreeing to H. Res. 305.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now redesignate the time for further proceedings on questions postponed on today and on the legislative day of November 23. Such proceedings will be resumed today after further consideration of H.R. 2929 in the Committee of the Whole pursuant to House Resolution 279.

MODIFICATION TO BLAZ AMENDMENTS EN BLOC NO. 10 TO H.R. 2929, THE CALIFORNIA DESERT PROTECTION ACT OF 1991

Mr. BLAZ. Mr. Speaker, I ask unanimous consent that when H.R. 2929 is considered in the Committee of the Whole, in lieu of my amendment No. 10 made in order under the rule, I be permitted to offer a modified amendment in the form of an amendment at the desk.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam [Mr. BLAZ]?

Mr. VENTO. Mr. Speaker, I reserve the right to object so that I may again ask the gentleman from Guam to confirm that this is the same proposed amendment that he and I agreed upon earlier.

Mr. BLAZ. Mr. Speaker, will the gentleman from Minnesota yield under his reservation?

Mr. VENTO. I am glad to yield to the gentleman.

Mr. BLAZ. Mr. Speaker, I thank the gentleman for yielding, and I can assure him that this is the same modification to my amendment that he and I have worked out together. I am renewing my unanimous-consent request of Friday.

Mr. VENTO. Mr. Speaker, I again thank the gentleman from Guam for his cooperation and persistence with regard to this important matter. I believe that this Vento-Blaz form of the Blaz amendment fully and properly addresses both the genuinely necessary renewal of the military withdrawals of the China Lake and Chocolate Mountain areas, and the perceived need of the military for a disclaimer concerning continued overflights by military aircraft of the lands dealt with in this bill. I fully support the proposed amendment, and so I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

There was no objection.

The SPEAKER pro tempore. The modification will be printed in the RECORD at this point.

The text of the amendment, as modified, is as follows:

Amendment as modified, offered by Mr. BLAZ: Instead of the matter proposed to be inserted, insert the following: Page 65, after line 15, and the following new title:

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on

Federal lands in the California desert area are not readily available;

(3) While changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragarph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated November 1991 and filed in accordance with section 803.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management of public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

SEC. 805. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. EL CENTRO RANGES.

The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1994, the approximately 44,870 acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. Such use shall be consistent with such Memorandum of Understanding and such additional terms and conditions as the Secretary of the Interior may require in order to protect the natural, scientific, environmental, cultural, and other resources and values of such lands and to minimize the extent to which use of such lands for military purposes impedes or restricts use of such or other public lands for other purposes. All military uses of such lands shall cease on January 1, 1994, unless authorized by subsequent Act of Congress.

SEC. 812. MILITARY OVERFLIGHTS.

(a) DISCLAIMER.—Nothing in this Act shall preclude low-level overflights by military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over the new units of the National Park or National Wilderness Preservation Systems (or any additions to existing units of such Systems) designated by this Act.

(b) MONITORING.—The Secretary of the Interior shall monitor the effects of aircraft overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and on visitor enjoyment of such units. The Secretary of the Interior shall actively seek the assistance of the Secretary of Defense, consistent with national security needs, to resolve concerns related to such overflights and to prevent, eliminate, or minimize the derogation of resources and values and of visitor enjoyment associated with overflight activities.

□ 1320

PRESS CONFERENCE FROM THE OVAL OFFICE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, as I promised earlier, I wanted to read into the RECORD the transcript, 11:35 a.m. this morning, the Oval Office.

QUESTION. Mr. President, what do you really think about the economic package that was presented to you yesterday?

The PRESIDENT. I'm for it.

QUESTION. You're for it?

The PRESIDENT. Yes.

QUESTION. How strongly?

The PRESIDENT. That's what I've said.

QUESTION. Enough to keep Congress in session?

The PRESIDENT. Listen, Congress has been here all year long. If they want to pass this, let them pass it today.

QUESTION. You're not going to ask them to stay in?

The PRESIDENT. I want the package passed and I want to see it done fast. And I've wanted a lot of legislation that they've had all year to pass. And this kind of ploy at the end is just that—it's a ploy. We've got a good package up there. I've had one up there all year long. Now there's another good one. Let's see them vote on it. They can vote if they want to. This idea of dancing around, that's not good enough for the American people.

QUESTION. The Republicans—

The PRESIDENT. Look, we've got to get on with our business here. Put me down as enthusiastically for it.

QUESTION. You were misinterpreted, weren't you?

The PRESIDENT. Misinterpreted. If they just print what I say, what our statements say, then we would avoid some of this intepretation. I am for this; would like to see it voted on today. And there's no point in Congress sticking around, in my view.

QUESTION. Sir, the economy troubled ordinary Americans wonder why not keep them in?

The PRESIDENT. Because they've been here all year long and the economy is in trouble. That's the answer.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman will state it.

Mr. ABERCROMBIE. Mr. Speaker, did the gentleman read the entire transcript or read it selectively? I have the transcript here, and I notice he has left key words out at key points.

The SPEAKER pro tempore. The Chair would advise the gentleman that that is not a parliamentary inquiry.

CALIFORNIA DESERT PROTECTION ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 279 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2929.

□ 1322

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Park, and for other purposes, with Mr. GLICKMAN, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. GLICKMAN). When the Committee of the Whole rose on Friday, November 22, 1991, amendment No. 1 offered by the gentleman from California [Mr. LEWIS] has been disposed of.

It is now in order to consider amendment No. 2 printed in House Report 102-314.

Mr. LEHMAN of California. Mr. Chairman, if I might, that amendment will be offered later in the en bloc amendment offered by the gentleman from California [Mr. MILLER]. We are not going to offer it at this time.

The CHAIRMAN pro tempore. Since that amendment will be deferred, it is now in order to consider amendment No. 3 printed in House Report 102-314.

PARLIAMENTARY INQUIRY

Mr. LEWIS of California. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. LEWIS of California. Mr. Chairman, the bill has been brought up in relatively short notice in terms of the circumstance of these closing moments. Is there a way of giving reasonable notice, of deferring this?

I do not want to see a Member lose their opportunity because they do not know that we are up yet.

Mr. LEHMAN of California. Mr. Chairman, I have no objection, if the gentleman from California [Mr. DANNEMEYER] wants to reserve his space.

Mr. LEWIS of California. Mr. Chairman, it is clear that really none of these Members are here. It is a delicate circumstance.

The CHAIRMAN pro tempore. Without objection, the gentleman may strike the last word. In the Committee of the Whole, the Chair cannot entertain the request to change the order of amendments when it was stated in the rule.

There was no objection.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

My concern is that we do have a number of amendments that Members are serious about because we are in the closing day and because of the confusing schedule.

I would hope that we could give Members who have amendments filed notice immediately, if we could proceed with that, so that we do not literally cut the sand from under the feet of a Member who is legitimately in line to be heard but may not know that he is up yet, if there is a way we can handle that.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Minnesota.

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. VENTO. Mr. Chairman, I note that the gentleman from Guam [Mr. BLAZ] has an amendment that is not controversial and the gentleman is present. If we could ask unanimous consent, I thought perhaps we could move ahead with that.

The CHAIRMAN pro tempore. The Chair would state that the gentleman from California [Mr. MILLER] chairman of the committee can offer amendments en bloc at any time. The Chair unfortunately cannot by unanimous consent recognize for amendments out of order since in the Committee of the Whole and the order was provided in the rule.

The Chair would recommend either that the gentleman from California be recognized or else the Chair would recognize Members to strike the last word, without objection, if there is no objection, for a short period of time until such time as we get reasonable notice to Members.

The Chair agrees with the gentleman from California, this bill did come up instantly.

It is now in order to consider amendment No. 3 printed in House Report 102-314.

AMENDMENTS EN BLOC OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. DANNEMEYER:

Page 43, strike line 11 and all that follows through line 7 on page 54 (all of title IV), and redesignate succeeding titles accordingly.

Page 55, strike lines 11 through 20, and on line 21 strike "(4)" and insert "(3)".

The CHAIRMAN pro tempore. Under the rule, the gentleman from California [Mr. DANNEMEYER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I rise in support of this amendment to strike from the bill the inclusion of what is known as the East Mohave area. I think it is appropriate to talk about the political force that essentially is driving the consideration by the House to lock up this area of our State.

Three years ago I sent an intern to the records of the Federal Elections Commission and asked that intern to check an analysis of the records on file there for some of the organizations that comprise the Environmental Party in American politics.

This list is by no means exclusive, but the organizations in that unit include the following: The Center for Marine Conservation, the Clean Water Action Project, the Environmental Defense Fund, Greenpeace U.S.A., National Audubon Society, National Wildlife Federation, Natural Resources Defense Council, the Nature Conservancy, Public Interest Research Groups, the Sierra Club, the Wilderness Society, and the World Wildlife Fund.

This is a short list, by no means exclusive. These organizations have a combined membership in the country of a little less than 13 million people who annually put up $335 million to influence public policy.

□ 1330

Of that sum, about $127 million is spent on grassroots lobbying. The two major political parties in the country, the Democratic Party and the Republican Party, have a contributing base of about 2.3 million people, that is at the national level, who annually put up about $93 million to influence all aspects of public policy. So the Environmental Party has four times the contributing base and four times the resources to influence public policy.

No one who hears my comments should believe that these people do not have the right to organize into a party and influence public policy. I am not saying that at all. I am just saying that we Americans better wake up to the reality that this Environmental Party seeks to change our society to one that worships the creation rather that the creator. If you wander through life and you do not believe in a hereafter, which I believe the leaders of the Environmental Party do not, what they see in this world is all there ever will be and they get disturbed when anybody wants to tear down a tree and make a piece of lumber to build a house, or if somebody wants to catch a fish or if somebody wants to bag a deer and eat that meat or share it with somebody else, these people in the Environmental Party get real uptight. This is the movement we are dealing with in this issue.

In the East Mojave area I think we should understand something. It is comprised of 210,000 acres. The Union Pacific Transcontinental Railroad cuts across the area for 55 miles and forms 35 miles of the southwest boundary. We have about 40,000 miners mining the minerals in the State of California, and about 20,000 have their jobs in this area. The reality is if this bill passes is that these 20,000 jobs are going to be gone.

I have never been able to understand why the proponents of this legislation who profess such a tender concern for the working men and women of our society; namely, the members of the Democratic Party, are so unconcerned about the loss of jobs and economic growth and activity that is going to take place in the State of California if this measure is adopted.

Let me just recite to my colleagues some of the activity that is going on in this area. Over 10,000 mining claims exist. Four hundred and thirty thousand acres in the East Mojave have been leased for oil and gas development. Over 2,500 miles of major and secondary roads cover the proposed monument. Since grazing allotments encompass more than 90 percent of the East Mojave, over 700 miles of cattle fence, water pipelines, tanks, troughs, an corrals exist in this area.

AT&T, Sprint, and Wiltel have miles of cable, including fiberoptics, running across the area. A natural gas pipeline runs almost 40 miles along the southern section of the proposed monument. Southern California Edison maintains 75 miles of wood pole power lines. Pacific telephone lines wind on for 120 miles inside the designated area. High voltage steel tower transmission lines criss-cross the area. Southern California Edison shares 425 miles of power lines with the Los Angeles Department of Water and Power.

In short, this is a developed area of southern California. It is desert area, it is true, but it is a vast resource of minerals that the people of this country need, the 20,000 people working in this region of our State need for a livelihood.

I ask for an "aye" vote for this amendment that would delete this portion from the bill.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Does the gentleman from California [Mr. LEHMAN] oppose the amendment?

Mr. LEHMAN of California. Mr. Speaker, I am opposed to the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] is recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is hard to take this amendment seriously, but I will, and it is certainly not my intention to get into a theological discussion this afternoon with my good friend, the gentleman from California [Mr. DANNEMEYER].

This is one of the most important parts of this legislation that Mr. DANNEMEYER seeks to gut, the designation of the East Mojave as a national monument. When we examined all of the areas in the California Desert, 25 million acres, we found the East Mojave to be one of the most deserving of protection, and in fact so well deserving that we decided to give it a higher designation. The original proposal had this area designated as a national park. We made it as a national monument in the legislation on the floor to facilitate some more multiple use planning.

Both the Bureau of Land Management and the National Park Service professional staff have studied the Mojave's resources and have made strong recommendations for designation of the area as a national park. I quote from the Park Service study on the East Mojave:

> Cultural and natural resource values of the East Mojave study area are so diverse and outstanding that the area readily qualifies for national park or monument status. In all the California Desert, and I am quoting from this study by the Park Service, there is no finer grouping of different wildlife habitats than the East Mojave.

What about the mineral and geological aspects of the East Mojave? Well, it is not as Mr. DANNEMEYER has stated. According to a recent U.S. Geological Survey report on the East Mojave, and I quote from it,

> The prospects for further mineral discoveries in the Mojave are relatively poor.

In the parlance of mineral resources, this does not appear to be an area of world class deposits.

Again with respect to the wilderness areas in this bill, the mining can continue. Mining has not been prohibited and will not be. Indeed, with respect to the major mine in the East Mojave we have not designated that land as wilderness to even give them a further protection there in the park to continue to mine under the auspices of the Park Service.

The East Mojave is the gem of the California Desert. We recognize it as such in this legislation. Not even the gentleman from California [Mr. LEWIS], who in his substitute last week changed the designations of this area went as far as the gentleman from California [Mr. DANNEMEYER] and removed all protections of this area, whether it is wilderness or Park Service. This takes all protection from the East Mojave and keeps the status quo.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands.

Mr. VENTO. Mr. Chairman, I rise in opposition to these Dannemeyer amendments en bloc.

These amendments would delete from the bill the sections that establish the East Mojave National Monument and that designate as wilderness some of the lands within that unit of the National Park System.

As has been noted before, national monument status for the East Mojave area has been supported by the professional judgment of the land managers: In 1979, the BLM reported that—

> Cultural and natural resource value of the East Mojave area are so diverse and outstanding that the area readily qualifies for national park or monument status.

And in 1987, after reviewing the proposed designation of the area as a national park, the professional staff of the National Park Service's western region found that the area met the required criteria specified in the service's management policies, and they concluded that the area would be a worthy and valuable addition to the National Park System.

The Interior Committee agreed with those professional judgments, and the House should do so, too, and should reject these Dannemeyer amendments en bloc.

The Dannemeyer amendments also should be rejected because they would delete from the bill all the wilderness designations for lands within the East Mojave area. The President has proposed that some of these lands be designated as wilderness.

The substitute offered by the gentleman from California [Mr. LEWIS], designated some of these lands as wilderness. The gentleman offering these amendments voted for that substitute, so he evidently supports designation of some wilderness in the East Mojave. The gentleman's amendment has consequences that he doesn't intend or he has changed his views.

The lands that would be designated as wilderness by the bill have wilderness values, and they should be so designated and managed, which would not occur if these Dannemeyer en bloc amendments were adopted. I urge the House to reject the Dannemeyer amendments.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I rise in opposition to this amendment. The amendment would gut the essence of this legislation. It is extremely important to protect this extraordinarily fragile and vital resource. The East Mojave, as the chairman of the subcommittee indicated, was originally designated a national park. It is now designated a national monument. The subcommittee chairman read quotes that are extremely important that emphasize that the staff of both the BLM and the National Park Service have come to the conclusion that the East Mojave is worthy of national park status.

I would like to respond briefly to two points of the proponent, one to suggest that this is a lockup, a canard. The fact is this is a preservation provision that is essential to this extraordinary resource. Second, although I do not intend, either, to get into a theological debate, to suggest that this amendment should be passed because somehow environmentalists are subversive or ungodly is not worthy of a response, but certainly is not an appropriate reason to not protect this extraordinarily precious resource.

Mr. LEHMAN of California. Mr. Chairman, I yield myself the remaining time.

The CHAIRMAN. The gentleman from California is recognized for 1 minute.

Mr. LEHMAN of California. Mr. Chairman, the quote I read earlier was from the Bureau of Land Management desert planning staff that was submitted to the Park Service on the study of the East Mojave. As I alluded to, a study was also done by the National Park Service. The Regional Director of the Park Service recommended that the Mojave, and I quote, "would be a worthy and valuable addition to the National Park System."

□ 1340

In addition, we have allowed for in the bill under national monument status that we can make some adjustments outside just the domain of being in the park as far as land use management in the area is concerned. We have accommodated the utilities that exist in the area and none of them are opposed to this legislation. We have worked with the cattle interests in the area and have gone beyond what is usually done in a national park in terms of the 10-year phaseout or an immediate phaseout and given them up to 25 years for those six operations in the area.

Mr. Speaker, this is a bad amendment. It kills our bill. I ask for a "no" vote.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from California [Mr. DANNEMEYER].

The amendments en bloc were rejected.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Rept. 102-314.

For what purpose does the gentleman from Montana [Mr. MARLENEE] rise?

AMENDMENTS OFFERED BY MR. MARLENEE

Mr. MARLENEE. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

> Amendments offered by Mr. MARLENEE: Page 44, line 16, insert "(a)" after "402.".
>
> Page 44, after line 25, add the following:
>
> (b) The Secretary shall permit hunting on all lands within the monument in accordance with applicable Federal and State law. The Secretary may, after consultation with the California Department of Fish and Game, designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife habitat, or public use and enjoyment, subject to terms and conditions as he deems necessary in furtherance of this Act. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilites of the State of California with respect to fish and wildlife.

The CHAIRMAN. Under the rule, the gentleman from Montana [Mr. MARLENEE] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman I rise in strong support of the Marlenee amendment to H.R. 2929, the California Desert Protection Act. The Marlenee amendment would protect hunters rights in the Mojave National Monument created by H.R. 2929.

Public lands provide access to hunters who don't have the financial ability to own their own land or belong to a private hunting club.

Restricting access to an additional 1.5 million acres would further diminish the multiple use of our public lands. In addition to prohibiting hunting on the Mojave Monument, the designation of 4.3 million acres of wilderness in H.R. 2929 further restricts the opportunity for hunters.

Although hunting is allowed in wilderness areas, restricted access to those areas makes it much more difficult for the hunter to utilize the area.

Hunting and hunters have contributed greatly to wildlife and wildlife management. The foundation for the conservation of desert bighorn sheep and many other conservation organizations should be commended for their work in reestablishing viable wildlife populations.

They should not be punished by having access to public lands denied or restricted.

Allowing hunting in this area will contribute greatly to the management of wildlife species. In my home State of Pennsylvania, we have the Gettysburg National Military Park and the Eisenhower National Historic Site. Both of these areas are managed by the Park Service and hunting is not allowed.

Because no hunting is allowed, deer populations have soared and are six times greater than the carrying capacity of the ecosystem. This is causing severe economic and environmental stress.

Do not let this happen in the Mojave National Monument. For the conservation of our Nation's wildlife, I urge my colleagues to support the Marlenee amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I oppose this amendment. The gentleman from Minnesota [Mr. VENTO] will go into the arguments with regard to Park Service rules.

The desert has 25 million acres in it, my friends. Three million acres are in the Mojave area and have always been off limits to hunting. Less than 1 million acres are in Joshua Tree and have always been off limits. That leaves 21 million acres.

With this bill, an additional 1.5 million acres out of the mix would be put in the national monument and hunting will not be allowed in that area. There will still be almost 19 million acres on the desert where you can hunt.

Now, the good gentleman talks about wildlife in this area. The facts should be clearly on top, especially with respect to deer. Last year in California we shot 30,000 deer statewide. How many were shot in the East Mojave? Exactly 25.

In response to that statistic, in committee the gentleman from Montana [Mr. MARLENEE] said, well, a lot of us like maybe not just to shoot, but to go walk around out there.

Well, that is fine, but you still have 19 million acres on which to do that.

Everyone in this bill in order to protect the California desert is being asked to give just a little. The utilities have given a little. The cattle interests are giving a little. The mining interests are giving a little. This should not be the only group not to give anything to protect the species in the area.

Mr. Chairman, I ask for a no vote.

Mr. MARLENEE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, recently a "Dear Colleague" letter was circulated by those who oppose this amendment. That "Dear Colleague" letter said this would destroy the few remaining big game species in that area. What a misleading statement that is; what a blatantly/misleading statement that is.

I assure you and I assure all my colleagues that it must be an insult to the California State Fish and Game Department, under those whose control the harvesting of wild game takes place.

It further states that there are very few animals to hunt and very few animals taken. That is not the question. What we are trying to do here is protect the areas and the accessibility and the opportunity for sportsmen across the United States of America, sportsman who in fact have put waterholes and water out there, reintroduced the big horn desert sheep in that particular area, and now the antihunters are going to tell those sportsmen they are going to remove 1.5 million acres because somebody said we ought not to allow hunting.

They will also tell you that this is unprecedented that we are allowing hunting on national parks, but there is a precedent. In these particular areas, Big Cypress Reserve of Florida, Delware Water, Fire Island National, Glenn Canyon area, all these areas are in the National Park System and allow hunting to take place.

The harvesting of game is natural and it must take place to prevent overpopulation and degradation of the envionment.

I am chagrined that such a misleading "Dear Colleague" letter would be sent out.

You know, this amendment is simple. It is either you are for the sportsmen or you are against them.

We want no net loss of hunting or hunting areas to take place.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the amendment, which would open to hunting the new East Mojave National Monument designated by this bill.

I am a hunter and I do not think we need to hunt in national parks and monuments.

The fact of the matter is the list the gentleman from Montana placed up there are not national parks or monunments. There is only one national park on that list, and that is the Grand Tetons, and that is the hunting of elk, and the individuals who do that have to be deputize to do so, so what we are about to do or what the gentleman proposes to do is to throw our a 75-year history of policy with regard to national parks and monuments that are established to preserve the species in perpetuity, but the gentleman would say we are going to reverse this whole policy. We are going to stand it on its head because the hunters of America look at this as a symbol. I do not think this is a symbol. I think we have to get down to the facts, and the facts are that in order for people to hunt, there has to be game in these particular areas. There is very little game in these areas.

What we are saying in this type of Mojave Desert area is that we want to see the natural processes take place without being interfered with by man, permitting the types of desert species that occur there to live in as natural a condition as possible.

We know that most hunters are good people; they are conservationists. We also know that there are a lot of directional and informational signs that get shot up and a lot of other damage that goes on in some of these areas because some people—some hunters—are not as responsible.

So I will just emphasize, Mr. Chairman, we are being asked here to reverse a 75-year time-honored policy with regard to the National Park System. All the other units that permit such activities are preserves. In Alaska we have some examples, and the Tetons, where individuals have to be deputized in order to hunt.

The amendment would undermine one of the basic, longstanding principles under which National Park System monuments and national parks are managed—that they are sanctuaries for wildlife, and are off limits to sport hunting.

I understand that supporters of this amendment claim that it is necessary in order to save hunting on public lands in California. Of course, that is not the case. Just in the California desert alone, there are millions and millions of acres of public lands that would be left wide open to hunting by this bill. Establishment of the East Mojave National Monument is not a threat to hunting on these other lands, and there is no need to save hunting through this amendment.

Furthermore, hunters hunt game—they don't hunt acres. It's true the East Mojave is a fairly large area, but it is not really one that is important for hunters. We have been told that of some 30,000 deer taken by hunters in California annually, only about 25 or 30 come from the East Mojave area.

Twenty-five or thirty deer out of 30,000 deer taken annually in California. Obviously, the East Mojave is not an important part of the deer hunting scene in California. And the story is the same for other game species as well.

The fact is, the East Mojave is a rugged desert area, remote from any major population centers. Closing it to hunting will not have any significant effect on hunting opportunities for the sportsmen of California.

The author of the amendment is well aware that there are some types of National Park System units where hunting is permitted—but he is not proposing to change the designation of the East Mojave. So, what is the purpose of this amendment? The answer is, It is an attack on the principle that national parks and national monuments are off limits to hunting.

Finally, Mr. Chairman, I note that many of the backers of this amendment are opposed to the bill, and at the same time they urge a vote for the amendment, they urge opposition to final passage. That tells me that this amendment isn't intended to address any real need to save hunting, but is strictly an attempt to derail the conservation designations in this overall desert legislation and it generally damages 75 years of time honored policy. Not to hunt in national parks and monuments.

I urge the House to reject the amendment.

Mr. MARLENEE. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman and my colleagues, this is another part of the desert lockout bill. I told you the other day that the desert lockout bill locks out 100,000 blue collar families from the California desert, and the South Algodones is doomed.

In this particular area, they are locking out 22,000 blue collar families that, yes, they cannot go deer hunting north in Montana or Wyoming, but they do take the kids and they go out with their campers from L.A., from San Diego and other points in the inland empire to go hunting for a couple days for dove, for quail, and for rabbits in the desert.

□ 1350

This is another part of the Democrat lockout bill.

Support the Marlenee amendment.

Mr. MARLENEE. Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield my remaining 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman for yielding.

Mr. Chairman, let me begin by responding to my friend from California who talked about 22,000 hunters in this area. Those 22,000 hunters bagged all of 25 deer last year in the East Mojave.

Now there may be 22,000 hunters, there may be 22,000 hunters in the entire wilderness area, but let us get our facts straight. This bill leaves 9 million wilderness acres available for hunting. The part of the bill that we are talking about is an area which claimed 25 deer, 25 deer.

Now we are talking about the East Mojave. When people claim this is a lockout, which the other side consistently does, let us talk about what we are protecting. We are protecting an essential part of the fragile resource, which we discussed in the last amendment, which was defeated on a voice vote.

This amendment is nothing more than a subterfuge for eroding protection in National Park Service land, national parks and national mounuments in those areas.

It is an effort to allow hunting in parks. It is extraordinarily important to understand what is at stake here. We are simply suggesting that this fragile resource in the East Mojave, leaving 9 million wilderness acres available for hunting, should be protected.

To my friends on the other side who suggest that somehow there is an overpopulation-of-wildlife problem here, that is simply contravened by the facts. This area, this entire area, netted 25 deer. And for the extraordinary effort that is occurring to try to keep hunting in an area which claimed 25 deer in the last year, I believe that tells us what the real intent of this amendment is. The real intent of the amendment is to open up our national parks and to open up our national monuments to hunting.

The CHAIRMAN. The Chair recognizes the gentleman from Montana [Mr. MARLENEE] for 30 seconds.

Mr. MARLENEE. I yield myself 30 seconds.

Mr. Chairman, this is not to open up a national park. They are the ones on that side of the aisle who are creating a new national park that will reserve, 1.5 million acres and take it away from the sportsmen, the sportsmen who have developed the area, who provided watering holes and reintroduced species.

We are not talking about how many game animals that have been harvested during this period of time. We are talking about the opportunities, as my good friend, DUNCAN HUNTER, understands very well, the opportunity to go out there with your family and enjoy a day of hunting and field activity.

The CHAIRMAN. The time of the gentleman from Montana [Mr. MARLENEE] has expired. All time has expired.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Montana.

The CHAIRMAN. The gentleman is recognized.

Mr. VENTO. Regular order, Mr. Chairman.

Mr. Chairman, under the rule there are 10 minutes given to this amendment. I would ask would it not be appropriate at this time to call for the question?

The CHAIRMAN. The Chair would remind the gentleman from Minnesota [Mr. VENTO] that under the rule the chairman or ranking minority member of the Committee on Interior and Insular Affairs may offer pro forma amendments.

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, as the chairman, I would make a parliamentary inquiry: Has Mr. BLAZ assumed that role?

The CHAIRMAN. Yes. Mr. BLAZ assumed that position during the entire general debate.

The Chair is trying to be consistent.

The gentleman from Montana [Mr. MARLENEE] is recognized.

Mr. MARLENEE. Mr. Chairman, I realize there is an attempt to muzzle this side of the aisle continually, and particularly to muzzle this side of the aisle——

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, a point of parliamentary inquiry. Is a different amendment being offered by the gentleman from Guam?

Mr. MARLENEE. Mr. Chairman, I do not yield. I do not yield. I do not yield.

The CHAIRMAN. The Chair would remind the gentleman from Minnesota the gentleman from Montana [Mr. MARLENEE] has been recognized.

Mr. MARLENEE. Mr. Chairman, as I said, I realize there is a continual attempt by the animal activists to eliminate hunting wherever that opportunity exists. If it was of no significance, why is this amendment supported to such a great degree by the National Rifle Association and other conservation groups such as Quail Unlimited, California Wildlife Federation, California Chapter of the Izaak Walton League, Society for the Conservation of Bighorn Sheep, Safari Club International, Fish and Wildlife Legislative Fund, the International Association of Fish and Wildlife Agencies.

They recognize that we have got to be in a position of no net loss on hunting. Otherwise, we are going to have those strict preservationists take from the American sportsman all of the opportunity to enjoy and participate in outdoor activity.

The CHAIRMAN. The gentleman from Guam [Mr. BLAZ] controls the time, and it will be designated by the gentleman from Guam and not by the Chair.

Mr. BLAZ. I thank the Chair.

Mr. Chairman, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, at this point in the debate I also want to offer my thanks to the gentleman from Guam for his very statesmanlike handling of this particular piece of legislation that has been, I think, a very difficult piece of legislation.

Let me just say to the people on the other side of the aisle who have talked about deer hunting on the Mojave and said, "You are not shooting any deer, so let us lock it up," the Mojave is not a deer hunting area. The Mojave is a place where blue-collar families can get on highway 10 from Los Angeles, millions of them, and you will see literally thousands and thousands of pickups and campers leaving on an exodus every Friday night to go out to the Mojave with their family and to go hunting for a few duck, quail, chukar partridge, maybe jackrabbits and cotton-tail rabbits.

It is not a deer hunting area, but it is a place where the average family in California that cannot afford to go fly fishing in New Zealand, like some of the Sierra Clubbers can, can go out and have a decent time.

We are locking up California, and we are locking it up from precisely the same people, blue-collar people who lost 114,000 jobs over the last year. The Democratic leadership ought to be concentrating on a jobs package, which they refused to bring up today, that will help middle-class America instead of locking them out of national lands.

Mr. SCHULZE. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from Pennsylvania.

Mr. SCHULZE. I thank the gentleman for yielding.

Mr. Chairman, earlier one of our colleagues referred to the fact that there were something like 30,000 deer harvested in all of California. Let me tell you that close to 40,000 deer a year are killed on the highways in the Commonwealth of Pennsylvania, at an average cost of about $1,000 per incident, not counting the loss of life and limb and hospital bills associated with that. Much of this is due to some unwise utilization of hunting and preservation in certain areas. We have got to have a balance.

The greatest conservationists in the United States of America are the sportsmen of America. They do not want to eliminate species. They have spent thousands and thousands of dollars continuing the propagation of bighorn sheep in this very area.

Mr. HUNTER. I thank the gentleman for his comments. The people who built water guzzlers, they have gone out there and built water guzzlers for small game and big game in the 110-degree heat in the desert, have been sportsmen. They have been people who like to hunt and fish. They developed this desert so that Californians can use it.

We are now in the process of locking Californians out of their own desert.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Montana.

Mr. MARLENEE. I thank the gentleman for yielding.

Mr. Chairman, I note the "Dear Colleague" said that opening up this hunting would destroy the few remaining species of big-game species. How would they do that? That is an incredible statement. How would they do that?

Mr. HUNTER. In the first place, they would not do it because the vast majority of the people who hunt in the Mojave are people who hunt small game, like dove and quail and rabbits.

Second, you have very stringent game laws, and you have game management very effective in California. We can see to it that you have no overharvest.

The facts are that American sportsmen and Californians ought to be trusted. The whole theme of the Democratic side is you cannot trust Californians to use their own public lands. Let us lock them out with their off-road vehicles, they cannot use them in the desert where you have sand dunes; let us lock them out of the hunting areas because you cannot trust them.

You cannot trust them. You have to trust people who live in condominiums in San Francisco and who can go off to foreign countries and have great vacations and come back and say, "Now, for an encore, I am going to lock out some middle-class people."

The CHAIRMAN. The time of the gentleman from Guam [Mr. BLAZ] has expired.

The question is on the amendments offered by the gentleman from Montana [Mr. MARLENEE].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VENTO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 193, not voting 6, as follows:

[Roll No. 429]

AYES—235

Alexander
Allard
Allen
Anderson
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bevill
Bilbray
Bliley
Boehner
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Callahan
Camp
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLay
Derrick
Dickinson
Dingell
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (TX)
Emerson
English
Erdreich
Espy
Ewing
Fields
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kolter
Kopetski
Kyl
Lagomarsino
LaRocco
Laughlin
Leach
Lent
Lewis (CA)
Lightfoot
Livingston
Lloyd
Marlenee
Martin
Martinez
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McMillan (NC)
McNulty
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Morrison
Murphy
Myers
Nagle
Neal (NC)
Nichols
Nussle
Olin
Ortiz
Orton
Owens (UT)
Oxley
Packard
Parker
Pastor
Patterson
Paxon
Payne (VA)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Pursell
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Roth
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wilson
Wise
Wolf
Wyden
Yatron
Young (AK)
Young (FL)
Zeliff

NOES—193

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bereuter
Berman
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brown
Bustamante
Campbell (CA)
Cardin
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Cox (IL)
Coyne
de la Garza
DeLauro
Dellums
Dicks
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Evans
Fascell

Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Goss
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Jacobs
James
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Moody
Moran
Morella
Mrazek
Murtha
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olver
Owens (NY)
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Porter
Price
Rangel
Ravenel
Richardson
Ridge
Riggs
Rinaldo
Roe
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Skaggs
Slaughter
Smith (FL)
Solarz
Stark
Stokes
Studds
Swett
Swift
Synar
Thornton
Torres
Torricelli
Traficant
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wolpe
Wylie
Yates
Zimmer

NOT VOTING—6

Byron
Edwards (OK)
Ford (MI)
Lowery (CA)
Reed
Towns

□ 1420

The Clerk announced the following pairs:

On this vote:

Mr. LOWERY of California for, with Mr. TOWNS against.

Mrs. SCHROEDER, Mr. JAMES, and Mr. HUGHES changed their vote from "aye" to "no."

Mrs. LLOYD and Messrs. TRAXLER, WILSON, CARR, PICKLE, SIKORSKI, BARNARD, ERDREICH, MARTINEZ, and BRYANT changed their vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

□ 1420

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 102-314.

AMENDMENTS EN BLOC OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. DELAY: Page 54, beginning on line 1, strike "thereof" and all that follows through "title." on line 7, and insert "thereof.".

Page 65, after line 6, insert the following new section:

LAND ACQUISITION ON A WILLING SELLER BASIS

SEC. 612. Lands may not be acquired by the Secretary for the purposes of this Act without the consent of the owner thereof.

Mr. DELAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. DELAY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Is the gentleman from California [Mr. LEHMAN] opposed to the amendments?

Mr. LEHMAN of California. I am opposed to the amendments, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, currently the Federal government may acquire land without the consent of the owner. This is an infringement on property rights, and should not be allowed to occur except in the gravest of situations. The situation described in H.R. 2929 is not grave. In fact, the bill has been criticized by many, including members of the California delegation, for designating lands that do not meet minimum wilderness protection standards, as well as protecting more land than necessary to preserve the California desert.

My amendment would establish some reason and fairness by requiring that the Federal Government obtain the consent of the property owner before taking his or her land for public use. Already the Federal Government owns, manages, or controls approximately one-third of all of the Nation's land. If one includes State and local government holdings, the total Government land ownership of the United States jumps to about 40 percent. Most of this federally-owned land is located in the West, with about 63 percent of all the land in the 13 Western States owned by the Federal Government.

We have to establish some restraints on this outrageous land grab. Do you realize that the millions of acres of land affected by this bill will be the second largest land withdrawal in U.S. history after Alaska? As Mr. John Kenneth Galbraith, a well-known liberal perceptfully observed:

> The public lands of the United States exceed the combined areas of Germany, France, Italy, Belgium, Holland, Switzerland, Denmark, Hungary, and Albania. Where socialized ownership of land is concerned, only the U.S.S.R. and China can claim company with the United States.

This statement clearly shows that the U.S. Government is far exceeding its bounds in the taking of land. The irony is that the Soviet Government is finally selling its land to private citizens, while the United States continues to move in the opposite direction by taking land away from its citizens. Considering our country was founded with the belief that the cornerstone of all our freedom depends upon the widest possible distribution of property, securely protected under a system of private ownership, this is a staggeringly high percentage of government ownership of land and resources.

H.R. 2929, the California Desert Protection Act, if passed, will add another 828,000 acres of State and privately owned land to the Federal inventory. This may be a silly question, but do we need this?

Furthermore, this bill does not account for either the wishes of the landowners or how they will be compensated. H.R. 2929 allows the Federal Government to acquire these lands through exchange, but considering there are only 550,000 acres of suitable land available in California for exchange, this still leaves several hundred thousand acres of land unaccounted for. And, although the bill also allows for the purchase of land, we must keep in mind that we are deeply in debt at this time. While the Constitution allows the taking of land for public use, the fifth amendment requires that there be just compensation. This bill does not reflect the constitutional mandate.

Giving the Government the power to take land without any restraints regarding the willingness of the property owner will only tempt it to continue to acquire more land which we do not need. My amendment will require the consent of the owners of the land included in this bill before the Federal Government may purchase it, which will help curb the Government's hungry appetite. I urge you to support this amendment to H.R. 2929 and help keep these lands in the hands of citizens, where it belongs.

□ 1430

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, the gentleman from Texas has completely misstated the language in the bill and has completely misinterpreted existing law. Under existing law, condemnation is prohibited in the Wilderness Act and thus, in over half the acreage in the bill, no condemnation could take place anyway.

Second, there is language in this bill which we inserted requiring consent of a property owner in the Mojave before an action could take place unless they were using the land in such a way that was adverse to the monument.

Third, over seven eighths of the holdings in this bill, that is over 85 percent, are owned by two entities, the State of California and the Catellus Land Co.

We have already worked out the details for change with regard to those, those entities, at their request. There is no taking of private land in the bill, as I just said. We have developed an exchange procedure for seven eighths of the holdings.

The experience in the area is exactly the contrary to what the gentleman has stated. In the Death Valley National Monument there has been absolutely no condemnation since it was created.

It is interesting how some opponents get upset regarding Federal ownership of land. Remember that this is BLM desert land, leftover land in the West that no one else wanted. Suddenly, when we try to protect it from destruction, we are told it ought to be put in private hands.

It has long been the goal of the land management agencies to consolidate land holdings.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to these amendments en bloc by the gentleman from Texas. This legislation has no or insignificant impact on public land ownership. It deals with how we manage such lands. Public lands are the heritage of all Americans. We don't have to apologize for that.

The amendments would restrict the authority of the Secretary of the Interior with respect to acquisition of lands—authority that he has today. The effect of the amendments would be to limit the Secretary so that acquisitions would occur only on a willing-seller basis. The basic law that governs BLM lands provides this authority nationwide. Just the classification changes are no basis for such a restriction; if anything, such a tool is needed even more under these designations.

As a practical matter, Mr. Chairman, it is unlikely that there will be any significant acquisitions in the desert on any other basis. The American people, through the National Government, are already the major landowner there. The second largest landowner is the State of California which has school lands granted by the United States at the time California was admitted to the Union—and the State is not only willing, but eager, to transfer these lands to the National Government under the exchange provisions of the bill.

So, the amendments are not necessary. Furthermore, Mr. Chairman, as a matter of sound land management, the National Government should retain the option of making unrestricted acquisitions in those exceptional circumstances that may arise where that would be necessary to protect the public interest. By denying that option, these amendments en bloc would place an unnecessary and unwise restriction on the National Government.

Mr. Chairman, it is interesting that the gentleman from Texas wants to amend the bill in order to restrict the National Government in this way. The substitute bill offered by the Gentleman from California [Mr. LEWIS] did not include any such restriction—and the gentleman from Texas voted for that substitute, which suggests that his support for these restrictions is selective, and not across the board.

The en bloc amendments are unnecessary, unwise, and would be bad public policy. I urge their rejection by the House.

Mr. DELAY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of this amendment. If there is no private land under this bill that is taken without the consent of the owner, then there should be no objection to the amendment. May I suggest respectfully, we have already $3 and $5 billion authorized private land that the Congress has not acquired. I believe very strongly that the protection of the private land is crucial. In fact, if the individual does not want to sell his land, he should not be required to do that.

The gentleman from Texas is absolutely correct. We own over 647 million acres of land in the United States and it does not take one nickel of taxes.

Remember, every acre of land that we take out and put into public ownership does not produce $1 for the workingman, nor does it produce any dollar for the Treasury to conduct the programs. Yet we continue to do that. So this is wrong. This is a simple amendment that says if the owner does not wish to sell that land, he does not have to sell the land. There is private land in this bill.

I urge adoption of the amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, the suggestion is somehow that this is a great land grab if we look here at the map, the blue is the State land. In the bill it says upon request of the State Lands Commission. The same is true for the biggest private land holder; 735 acres out of 830,000 acres is upon request of those landowners to engage in the exchange. The rest of it is protected not by the amendment of the gentleman from Texas [Mr. DELAY], not by this bill, but by the Constitution of the United States.

There is nothing we can do about that. People are entitled to that compensation should there be a taking. There will be no taking without compensation. That is the Constitution.

So the gentleman ought not to misrepresent the bill or misrepresent the facts. It is about upon request. On page 51, section 610 "Upon request the California State Lands Commission," and I think it is very important for Members to understand that.

The suggestion is here somehow this committee is willy-nilly going around scooping up lands in the California desert, and that is simply not the case. This is after years of study, and the private landowners, the State landowners have come to us and asked for those exchanges.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

The last amendment passed, and I think a number of Members were not aware fully of its impact. But they better be aware of the full impact of what this amendment does. This is the Liberty Lobby amendment.

Oh, it hurts. This will start unraveling the capability of the Federal Government to protect anything in this country; the Liberty Lobby would like to take all Government lands away from Government ownership.

This will start the ball rolling in that direction. Be very careful, my colleagues, there will be no protection of anything in this country, not the Everglades in Florida, not the national parks, and certainly not this property in California if we vote yes.

I urge my colleagues to vote "no." This can be one of the most devastating votes that they could make on this bill. It is wrong and the concept is wrong.

I say to our Republican colleagues, if they do not like it, they can vote against it, too.

Mr. LEHMAN of California. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I would just like to underscore two of the key issues here. No. 1, there is no taking of private land required by this bill, and we ought to get the facts straight.

In terms of the Catellus property and the State Lands property, seven-eighths of the properties here, those entities prefer exchanges. The exchange has been worked out. This is a red herring.

It is not necessary. It presents a danger that does not exist in the bill. I strongly urge a no vote on the DeLay amendment. It raises an assertion that is flatly false.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I would like to ask the gentleman from California [Mr. LEHMAN] a question. I do not want to misstate him, but I thought I heard him say there is no private land to be taken in this land grab.

Mr. LEHMAN of California. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Chairman, that is correct.

Mr. DANNEMEYER. Mr. Chairman, if the gentleman will continue to yield, I ask the gentleman from California [Mr. LEHMAN] does he see this map?

Mr. LEHMAN of California. Mr. Chairman, if the gentleman will continue to yield, that is by request, as the gentleman from California stated it.

Mr. DANNEMEYER. Mr. Chairman, this is a map of the East Mojave area. On the legend the white is the private ownership that has existed there for sometime. The blue is the State land. The yellow is the BLM and look at the checkered white land on this map. This is private land. People are using it for all of the purposes for which private property exists in this country. And all the amendment of the gentleman from Texas [Mr. DELAY] says is that before this land grab can be successful with this private land, these private property owners have to consent.

I concede that the Government could take private land for building a road, or a school, or a highway, that is part of America.

1440

But this is different. Right now the Environmental Party in America wants to grab to itself all the land that it can. There are people in this movement in this country who believe that all undeveloped land belongs only in public ownership. I suggest that these private property owners have the right to say that before their land is part of this land grab they have to consent.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman for yielding.

I want to follow up on the point Mr. DANNEMEYER has been making. There are a minimum of 584,000 acres of private land which would be affected by passage of H.R. 2929. Some suggest that these lands can be negotiated away by way of a trade for other public lands. The fact is that there has been no trade. Any private holder, whether they are a public interest or otherwise, that wants to try to trade with our agencies faces considerable delay and substantial doubt as to the final outcome.

In the meantime, the private landholders have been there for generations. They deserve a fair hearing, and assurance that they will get fair compensation for their land. Their voice should be heard when they agree to a transfer, before they agree to a transfer of that land.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding.

I think we should listen to the chairman of the committee very carefully. What he said was a right was guaranteed in the Constitution, and that is correct, a right for compensation. That is not what this amendment is about. The Chairman knows that.

There was the only asbestos-free talc mine in the United States that was taken, that was taken. Was there compensation? Yes. Was there permission? No. This amendment requires permission. That is all.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding.

I cannot believe what I am hearing. I have to charge that there are some serious misrepresentations going on here. I am not trying to inflame the passions of people that want to grab this land. All I am saying is let us have a little fairness here. If a group does not want to give up their land, then they should not have to. I am not attempting to do anything to compensation. If they have a land swap deal with private ownerships that went consent, my amendment does not touch that at all. But if in this case, if there is a landowner here that does not want to give up his land and there are private landowners here that do not want to give up their land, then they should not be made to do so.

I have a list of 23 organizations that agree with me. I think Members ought to really pay attention to what is going on here. What I am talking about is a land grab for no outrageous reason other than an environmental group wants to take land, more land, and put land into the environmental system. I am just trying to slow down what is happening here.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes under the rule.

Mr. LEHMAN of California. Mr. Chairman, I yield to the gentleman from Minnesota, [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I will just reiterate that we are not changing any of the laws with regard to the powers of the Secretary of the Interior. The Secretary of the Interior has the same powers under the proposals that are being made here generally that he has in terms of the public domain. In fact, with respect to the lands that have been illustrated here in terms of the Mojave National Monument, there is a special provision on page 53 of the bill that points out, and I will read it, Mr. Chairman, "Lands or interests therein within the boundary of the monument which are not owned by the State of California or any political subdivision may be acquired only with the consent of the owner," only with the consent of the owner.

There is an exception made if after written notice the owner had the opportunity for comment that the property was to somehow be developed in an adverse way within a national monument, that then we would have the opportunity, for instance, to stop such development, Mr. Chairman.

So the provisions of this bill are very reasonable. The powers that the Secretary has today are reasonable. We are not changing those powers generally. If anything, we are restricting them in this bill. We should not accept this type of general amendment which would take away the power of the Secretary of the Interior to manage the public lands and the designations that we are making in this bill.

Mr. Chairman, I request a no vote on the DeLay amendment.

Mr. LEHMAN of California. Mr. Chairman, it is amazing to me how selective Mr. DELAY is being with this amendment. Imagine the mischief in this country if this amendment were applied to the highway system. Imagine the mischief in this country if this amendment were applied to the military and expansion of military bases, one of which is being proposed under this legislation. There are no trades in the bill. There is a provision to allow for trades, a provision that has already been negotiated out with the entities that own seven-eighths of the property. There is no controversy over it.

We are talking here also, the Members should know, about State lands in California, land use for the State Teachers Retirement System. I hope the gentleman from California on the other side has no objection to that.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I think the gentleman from California [Mr. LEHMAN] just put his finger on it. Later tonight hopefully or early tomorrow morning you are going to vote on a $151 billion highway bill and transit bill. Which of you would put in the way of the transit or highway system in your State or your district this requirement, that one willing seller would hold up a highway, or buyer, because they chose not to do it?

For 75 years the Department of Interior has amassed what many of us refer to when we go back to our districts as the crown jewels of this country: The National Park System, the national monuments, some of the wilderness areas. We talk about how proud we are, and the millions and millions of Americans that have visited them every day. This bill seeks to do for the desert that which we do for the Grand Tetons, that which we did for Yellowstone or for Glacier or for Olympic National Park, that which we did for Fire Island.

It is the same process but now we are into an ideological debate here about the Environmentalist Party seeking to violate the Constitution or people's rights.

But when you come here to expand a military base there will be no amendment about willing sellers and willing buyers. Later tonight, in a $151 billion transportation bill, none of you will give the right to a landowner in your district to delay a single highway, an off ramp, an access road, or a transit pass. None of you will do that because you know what this amendment does. This amendment simply creates mischief.

Yes, utilities and cities and States and the Federal Government from time to time have a right under eminent domain to take property. In this particular case, we have some three-quarters of the land where the sellers are excited to engage in an exchange. So let us keep our eye and understanding out of the ideological debate here about whether or not this is a taking or a willing seller and willing buyer. The gentleman knows exactly what his amendment does.

There will later be amendments offered in this process to expand Fort Irwin or to engage in the military, and I suspect that not the gentleman or anyone else will suggest that the willing seller, willing buyer provision would stand in the way of that provision.

The CHAIRMAN. All time has expired.

The question is on the amendment en bloc offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Chair being in doubt, the Committee divided and there were—ayes 43, noes 43.

RECORDED VOTE

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 143, noes 289, not voting 2, as follows:

[Roll No. 430]

AYES—143

Allard
Allen
Anderson
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bilirakis
Bliley
Boehner
Broomfield
Bruce
Bunning
Burton
Byron
Callahan
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Laughlin
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Marlenee
Martin
McCandless
McCrery
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Ortiz
Orton
Oxley
Packard
Panetta
Paxon
Penny
Peterson (MN)
Petri
Poshard
Pursell
Quillen
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Rohrabacher
Santorum
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (IA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Walsh
Wylie
Young (AK)
Young (FL)

NOES—289

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Pickett
Pickle
Porter
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Richardson
Riggs
Rinaldo
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Solarz
Spratt
Staggers
Stark
Stearns
Stokes
Studds
Swett
Swift
Synar
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Zeliff
Zimmer

NOT VOTING—2

Lowery (CA)
Roe

☐ 1512

Mr. REED changed his vote from "aye" to "no."

Mr. APPLEGATE and Mr. RIDGE changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 102–314.

AMENDMENTS EN BLOC OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. ALLARD:

Page 60, line 17, after "by this Act," insert the following: "and subject to the limitations set forth in subsection (e),".

Page 61, after line 15, insert the following:

(e) With respect to the Havasu and Imperial Wilderness areas designed by section 111(a) of this Act, no rights to water of the Colorado are reserved, either expressly, impliedly, or otherwise.

The CHAIRMAN. Under the rule, the gentleman from Colorado [Mr. ALLARD] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from California [Mr. LEHMAN] rise in opposition to the amendment?

Mr. LEHMAN of California. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I offer amendments en bloc today to prevent a Federal reserve water right created in the California Desert Protection Act from interfering with the Colorado River Compact. The amendment I have today has been voted on by this body before. It was passed in the Arizona Wilderness Act of 1990.

Mr. Chairman, this amendment has been taken word for word from that provision. This amendment applies to the same refugee areas, the Imperial and the Havasu refuge areas. It has an unintended consequence not brought to our attention until after the full committee. The only difference is this bill affects the California side of the Colorado River which divides these same refuge areas.

Mr. Chairman, this is an important issue. I know it was not the intent of the sponsors to introduce a bill to this body that will undo the extremely complicated and fragile Colorado River Compact system. We must not let Federal reserve water rights take precedence over the Colorado River Compact worked out by California, Arizona, Nevada, Utah, New Mexico, Colorado, and Wyoming.

Mr. Chairman, the Committee on Interior and Insular Affairs in its report on H.R. 2889 states its intent that the bill would not affect water rights on the Colorado River, but the report is not legally binding. The report language offered by the committee after passing the Arizona bill recognized the fact that it does not have the law behind it. My amendment puts into law this clarification.

I hope the sponsors will view this as a friendly amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I thank the gentleman from Colorado [Mr. ALLARD] for yielding this time to me.

Mr. Chairman, I rise in support of the amendment offered by my friend, the gentleman from Colorado [Mr. ALLARD]. Mr. ALLARD's amendment clarifies the intent of Congress with respect to wilderness water rights for the Colorado River. This amendment is identical to one added to last year's Arizona Desert Wilderness Act. That law has now been embraced as boilerplate for the water law throughout the Western States.

Mr. Chairman, the Colorado River supplies water for the rest of the West. The Colorado is at the center of a body of law intended to safeguard the rights and needs of all. It is essential then that any legislation be neutral in its impact on the river or on the water compacts and water rights associated with it.

The amendment of the gentleman from Colorado [Mr. ALLARD] provides this safeguard in a way that builds on past precedent and improves the underlying bill, and I urge my colleagues to join me in voting for this amendment.

Mr. ALLARD. Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am rising in opposition to the amendments en bloc offered by the gentleman from Colorado [Mr. ALLARD], and I understand the gentleman's statement, that he means this not as a harmful amendment to the bill. He is trying to clarify something.

Mr. Chairman, we are opposed on this side. We think the amendment is unnecessary, and we fear it could create problems that might not be anticipated right now.

The boundaries of the wilderness area in question were specifically drawn above the historic high-water mark just to make sure that there was no question as to whether the Colorado River would be involved. The lines were drawn above the high water mark.

The report language specifically states, and I quote from it:

> The Committee notes, with regard to this section on water rights, that boundaries of both of the Wildlife Refuge wilderness units designated in section 111 are above the historic high water mark of the Colorado River. Neither of these wilderness areas include any portion of the Colorado River. Therefore, the express reservation of water for wilderness purposes in section 608 does not affect the Colorado River, its water management or any compacts associated with it.

□ 1520

Finally, the Colorado River is 100 percent appropriated whether we in California like that or not, and there is no water right there for the Federal Government to obtain. We have taken care of the problem in the legislation. The area in question is not included, and the report language adequately clarifies that.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I appreciate what the gentleman from Colorado [Mr. ALLARD] is trying to do, and I understand why they are offering the amendment, but I must say that I think that in fact this amendment is somewhat mischievous as to what is really settled law with respect to the compact, and to suggest that somehow a Federal water right could be perfected in the lower basin and then somebody could go to the northern basin to perfect that water right is to stand the compact on its head. I would really raise the question with the gentleman that to pursue this amendment and lend that suggestion, whether it is in this bill or whether it is the question of that being opened up, raises a question, and I would ask him if he might reconsider.

We have worked with the gentleman. We recognize the concerns of all the parties to the compact. As the gentleman from California [Mr. LEHMAN] pointed out, the boundaries have been drawn in a very conservative fashion, recognizing there is no abutment to the Colorado River. I really raise this issue in all sincerity, that to suggest anybody in the southern basin could perfect a water right in any fashion where there is no water and then somehow go and deal with that in the north, I think the legislation speaks to that and I would hope the Members would oppose the amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. MILLER].

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, I would just like to point out to the gentleman from California that the language we have in this amendment is the exact same language that is in the Arizona Wilderness Act, and this particular language was a hard-fought compromise in 1990 when that language came through, and the same set of facts that applied in that period of time still apply at this time.

I think this is a very important amendment, and I would ask that the sponsor of the bill go ahead and accept the amendment. It is really a technical amendment.

Mr. MILLER of California. Mr. Chairman, reclaiming my time, I understand that.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

Mr. ALLARD. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. RHODES.]

Mt. RHODES. Mr. Chairman, I thank the gentleman for yielding time to me.

The Imperial Havasu Refuge is astraddle the river. On the Arizona side of the river, the law specifically says that as to those refuges there is no Federal reserve water right in the Colorado River. If as to the California side of the two refuges we are silent except for report language, my concern is that we are lending confusion to the managers of those lands.

My concern also is having the report language refer to the historical high-water mark of the river. Those of us who live in both Arizona and California know that that river fluctuates both in terms of width and breadth and also height frequently and historically, and the historical high-water mark of the river could well not be the historical high-water mark of the river once you Californians get over your drought and the river gets back to where it is supposed to be.

It simply seems to me that consistency calls for having the language defining the water rights or the lack of water rights of these two refuges be consistent on both sides of the river.

Mr. Chairman, I urge adoption of the Allard amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] has 1 minute remaining, and the gentleman from California [Mr. LEHMAN] has 2½ minutes remaining.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to reiterate what Chairman MILLER suggested here. We do not mean any mischief on this side as far as what water rights are going to be under the legislation. There is a possibility of talking about this and trying to work it out. If you think the language on this side does some harm to you, let me just say that we are not willing at this time to accept the language that you have, not knowing what the impacts of it might be down the line.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would ask the gentleman from Colorado whether there are any areas of this wilderness in the bill that touch the Colorado River. The fact is that they do not, so that being the case, does the gentleman believe a wilderness could have a water right outside the wilderness boundaries?

That is what this is about. We are setting some precedents here in terms of granting water rights outside. A lot of people argue about water rights within a wilderness. Now, this language would suggest that the water rights of the wildness somehow go outside. This does not even touch the Colorado River.

I might say, with reference to the hard-fought Arizona water language, that we really did not have any debate at all on that particular portion of the water rights. It came back from the Senate. I was the manager, along with Congressman Udall. We accepted it. It was not necessary in the Arizona bill, and it is not necessary in this bill.

I think the mischief is that you are, I think, accidentally trying to create water rights outside of a wilderness that do not exist. We argue about them within. There is no reason to try to suggest there are water rights outside. We are not suggesting that, and we hope the gentleman from Colorado is not suggesting it.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Colorado.

Mr. ALLARD. The precedent has been set in the Arizona wilderness bill. We are just using the same language. We are even applying it to the same refuge area.

Mr. VENTO. Mr. Chairman, if the gentleman from California will yield further, yes, the precedent has been set. It is a bad precedent, and we ought not duplicate it here, because you are extending it outside the wilderness where there is no wilderness designation. It is a bad precedent, and we should not set it.

Mr. LEHMAN of California. Mr. Chairman, I would suggest that the gentleman is also setting a bad precedent for his own purposes in that if this were to pass, in future acts, if there were nothing done with respect to rivers outside a wilderness area, somebody might interpret that because nothing was done, there might be a right there, and that would certainly harm interests that were not intended to be harmed under this legislation.

Mr. Chairman, I urge a "no" vote on the amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] has 1 minute remaining.

Mr. ALLARD. Mr. Chairman, I yield my remaining 1 minute to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I rise in strong support of this amendment. It is designed to accomplish one simple but essential goal. It clarifies that the California Desert Protection Act has absolutely no impact on the carefully balanced compact which determines water rights in the Colorado River.

Water is absolutely essential to life for those of us who live in the arid west. Our agriculture, industry, and even the population density in our dry Western States could not exist without a very well-developed system to store, transport and efficiently utilize water. My own State of Utah is the second driest in the Nation. Water is our life blood and is an issue of overriding importance to us. I realize that it is hard for those of my colleagues from States with higher levels of precipitation to understand our overriding preoccupation with water.

Almost 40 years ago, the States in the Colorado River Basin finally arrived at an agreement on how the flow of the Colorado River would be utilized. This Colorado River Basin compact was enacted into law and has worked well in the years since. Like most water agreements, it is a very delicately balanced compromise between competing interests.

In the Western States there is never enough water. That is the reality we must always live with. So the water which is available must be clearly allocated among many competing uses.

What this amendment will do is simply ensure that the carefully crafted agreement among the Colorado River Basin States is not inadvertently upset by the legislation before us to designate wilderness in California.

This is a simple amendment which is identical to one which the House has placed in previous legislation. When the Congress enacted the Arizona wilderness bill in the last session, it included this identical provision. We are asking for nothing more than what has already been agreed to in the past to ensure that the rights to water in the Colorado are not affected by wilderness designation.

There is another important element of this issue which I hope all of my colleagues will consider. When the Congress enacted the Wilderness Act in 1964, and FLPMA in 1976, it created wilderness designation as a category or system of management of public lands. I can find no provision of either act which would create any water rights attached to public lands or being reserved to the Federal Government. Water rights lie within the jurisdiction of the separate States and must be reserved to the States, not preempted by the Federal Government. While water is perhaps more essential to those of us who live in areas where it is scarce, the question raised by claims of Federal reserved water rights is one which goes far beyond the arid public land States of the West. I would submit that ownership of water rights is vital to every State. Whether it is for municipal use, transportation, agriculture, industry, or recreation, the rights and responsibilities of the various States versus the Federal Government is a question which must be reserved to State statute.

I would urge all my colleagues to realize the true implications of this amendment and support it.

The CHAIRMAN. All time for debate has expired.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Guam [Mr. BLAZ] is recognized for 5 minutes.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for his time.

There is no question for those of us who come from the arid public land States that there is nothing more important than water rights. There is nothing more important to us than having it clearly defined in the law where we stand in the future with regard to water. It has to do with the shifting of rivers, it has to do with the use of the boundary, a boundary of the wilderness or a park area. The shifting may change that. It has particular importance in the Colorado River where we have now congressionally approved compacts between the upper and the lower.

I think this amendment is simply designed to make it certain that we do not find ourselves in court wondering what the interpretation of the law would be, and I certainly stand in support of the amendment offered by the gentleman from Colorado [Mr. ALLARD].

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I rise in strong support of the Allard amendment.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from Colorado [Mr. ALLARD].

☐ 1530

MR. ALLARD. Mr. Chairman, I would just summarize by quickly saying I think this is an important amendment. I think a precedent has been set prior to this time, and we need to continue it in order to honor it in this body. So I am going to ask for a yes vote on the Allard amendment.

Mr. OWENS of Utah. Mr. Chairman it is clear from the report language of the committee that there is no intention to effect a reserved water right to the Colorado River in this wilderness bill. The boundaries of the wilderness areas in the Imperial and Havasu National Wildlife Refuges next to the river do not even extend to the historic high water mark—a sure indication that no reserved water right is sought on the Colorado River.

That having been said, while there is no clear need for this amendment, I also do not see the harm in clarifying the committee's intent directly in the text of the bill. In any case, this legislation is not likely to emerge from the Senate without this language which mirrors the language the Senate added to the Arizona Wilderness Area last year for the same refuges on the other side of the Colorado River.

Nothing causes as much suspicion and consternation in the West, especially in Upper Basin States like Utah, as the possibility that rights under the Colorado River Compact might be affected. We can allay those fears simply by establishing that the intent of this bill was not to establish a Federal reserved water right on the Colorado. When proponents of wilderness, myself included, can make rational compromises, then I think we should. Even as I vote for this amendment, I want my colleagues to understand that I am in no way repudiating the Winters Doctrine and the importance of Federal reserved water rights to wilderness areas. I believe that wilderness is entitled to the water necessary to fulfill the purpose of its establishment. I am simply saying that we should, as much as possible, signal our willingness to work to calm fears and exhibit a spirit of compromise on issues this emotionally powerful.

Mr. BLAZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Colorado [Mr. ALLARD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ALLARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 274, not voting 5, as follows:

[Roll No. 431]

AYES—155

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CO)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallo
Gekas
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kasich
Klug
Kolbe
Kolter
Kyl
LaRocco
Laughlin
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Moran
Morrison
Myers
Nichols
Nussle
Orton
Owens (UT)
Oxley
Packard
Pastor
Paxon
Pickle
Porter
Pursell
Quillen
Ramstad
Regula
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Swift
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—274

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Ridge
Rinaldo
Ritter
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swett
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Walsh
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—5

Hammerschmidt
Johnston
Roe
Washington
Wilson

☐ 1554

Mr. HYDE changed his vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 102-314.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DANNEMEYER: Page 61, line 7, after section 611 insert the following new section:

ECONOMIC IMPACT STATEMENT

SEC. 612. (a) Notwithstanding any other provision of this Act, lands in the State of California designated in sections 102, 402, and 501 of this Act shall not be designated as wilderness or established as a national park or monument unless—

(1) the Secretary has prepared an economic impact analysis with respect to each land designation;

(2) the Secretary determines, based on that analysis, that the environmental benefits of each land designation outweigh the economic costs of each land designation; and

(3) the Secretary publishes an economic impact statement describing the findings of that analysis.

(b)(1) The Secretary shall perform an economic impact analysis in accordance with this paragraph with respect to each land designation in sections 102, 402, and 501.

(2) An economic impact analysis under this paragraph shall include the following:

(A) The economic consequences of each land designation, including aggregate statistical data which indicates—

(i) identifiable and potential job losses or diminishments resulting from a designation,

(ii) identifiable losses or diminishments in the value of real property resulting from a designation; and

(iii) losses or diminishments in the value of business enterprises resulting from a designation.

(B) The effect that a designation will have on revenues received by the Federal Government or by State and local governments, including any revenue losses attributable to losses or diminishments in value described in clause (i).

(C) The effects that a designation will have on outlays by Federal, State, and local governments, including—

(i) effects on payments made pursuant to paragraph (1),

(ii) effects on expenditures required for Federal unemployment compensation, aid to families with dependent children, medicaid, and other Federal, State, and local programs,

(iii) the effect that a designation will have on the competitive position of any individual business or aggregate industry affected by a designation, determined jointly with the Secretary of Commerce, and

(iv) any other potential economic, budgetary, or ecological effects that the Secretary considers appropriate.

(c) Not later than one year after the date of enactment, the Secretary shall determine, based on the analysis performed under paragraph (2), whether the economic costs of each designation outweigh the environmental benefits of each designation.

(d) In implementing this Act with respect to each land designation in subsections 102, 402, and 501, the Secretary shall limit losses incurred by persons as a result of each land designation.

(e) The Secretary shall pay to any person who incurs an economic loss as a result of a land designation the amount of that loss, including—

(1) any diminishment in the value of tangible or intangible property, and

(2) any loss resulting from the loss or diminishment of a job.

(f) The Secretary shall issue regulations establishing procedures for obtaining payments under this subsection.

(g) A person may not recover any amount under this subsection for any de minimis or wholly speculative loss.

(h) Any denial by the Secretary of an application for payment under this subsection may be appealed in the appropriate Federal district court of the United States, including any determination by the Secretary that a person is ineligible for payment by reason of paragraph (3).

(i) Any person (including any State or local governmental entity) may intervene in any proceeding under this subsection for the purpose of assisting the Secretary in issuing payments under this subsection to individuals or businesses who suffer demonstrable loss as a result of a land designation.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. DANNEMEYER] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

Is the gentleman from California [Mr. LEHMAN] opposed to the amendment?

Mr. LEHMAN of California. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this map to my left tells quite a story. The western United States is owned predominantly by the Federal Government. Government ownership of land in my State of California is about 46 percent of the 100 million acres.

These landgrabbers today want some more land, another 4.5 million acres.

Our world really is turned upside down, because we have an Endangered Species Act which has been in the law since 1973, which requires an environmental impact statement to determine whether or not we are going to list one of these critters on the list of endangered species.

In my State of California we have seen thousands of people in the lumber industry in northern California out of work because of the spotted owl. In my area of southern California, the Least Bell's bireo, a little bird, threatens the whole Santa Ana River flood control project.

There is nothing in this Endangered Species Act that gives any consideration to the impact on jobs and businesses and private property when we list one of these critters. I say it is high time in this country, Mr. Chairman, that we have a law which says that we should recognize jobs, and people, and businesses, and private property at least on the same basis as we recognize critters. What is more important in this world, people or animals?

Our world is turned upside down. The Environmental Party likes it that way. They want to preserve the creation, worship the creation rather than the Creator, and I say just the opposite should be the case.

All my amendment does is say that we have to prepare an economic impact statement in order to determine what the impact is going to be on jobs, on property and businesses if this law comes into existence.

When Members read the report on pages 70 and 71, it is uncertain as to what the cost is going to be. Now they have conveniently shunted aside any evaluation of the minerals under the ground. It so happens in my State of California that the mineral reserves are estimated at $360 billion.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend from California.

Mr. ROHRABACHER. Mr. Chairman, let us note that in the middle of the worst drought in California history, 1.8 billion gallons of water were dumped into the ocean because of a bird nest on the Prado Dam. Things are topsy-turvy. The gentleman is right. We are putting more value on the life of small critters and things rather than on human life and the lifestyles of the people themselves.

I think that this body should have some reflection on the values that our legislation maintains in this country.

□ 1600

Mr. DANNEMEYER. I thank my colleague for his comment.

Mr. Chairman, this economic impact statement that I ask be adopted would show that we in California lead all States in the production of asbestos, borates, portland cement, diatomite, calcined gypsum, construction sand and gravel, tungsten, yttrium, and rare earths.

We have over 40,000 people working in the mining industry in the State of California, about 20,000 of them are going to be put out of work.

Now, the unemployment rate in California today is 7.3 percent. That is a half a percentage point higher than the Nation.

We have been talking in this Chamber in the last few days about jobs creation. This bill is a Job Unemployment Act of 1991 waiting to be adopted.

Where in the world in the tender concern in the hearts of the Democrat leadership who are pushing this bill for the 20,000 people who are going to be put out of work in the mining industry in the State of California if this turkey becomes law?

I do not understand this at all, and this is the reason for this economic impact statement which would also show that each $1 million in mining output in the desert provides about 15.1 jobs, $334,000 plus of personal income, $28,000 in local tax revenues, $47,000 in State tax revenues, and $1.8 million overall to the southern California economy.

Gold production in the desert area is about 400,000 ounces in 1989.

We have 12 of 21 geothermal sites in California or in the desert that supply about 450,000 watts of power.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield for a question?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, there has been a lot of talk in this body about which party represents the working men and women of America.

I would like to know how this proposal the gentleman is making today affects them.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the other gentleman from California has talked here for 5 minutes about the Endangered Species Act. The Endangered Species Act is not in this bill. The Endangered Species Act is not affected by this bill, nor will it be affected by the gentleman's amendment.

No one who wants any level of protection, no matter how minimal it is on the California desert, could support the amendment of the gnetleman from California [Mr. DANNEMEYER].

The gentleman from California [Mr. LEWIS] did not have this provision in his substitute before us last week. Even in the substitute of the gentleman from California [Mr. LEWIS] the findings state:

> It is in the national interst that these wilderness areas be promptly designated as components of the National Wilderness Preservation system.

The purpose of this amendment is to make sure that they are never designated. It is an amendment to delay forever.

But what about the economic consequencies? It is not as if they had not been studied.

Again I quote from the U.S. Geological Survey:

> The prospects for future mineral discoveries in the Mojave are relatively poor. In the parlance of mineral resources, this does not appear to be an area of world calss deposits.

None of the 14 minerals identified by the Office of Technology Assessment of meeting the criteria for strategic minerals is produced anywhere in the Calfiornia desert conservation area.

The Mountain Pass Mine which produces 97 percent of the U.S. output of rare earth minerals is excluded from the boundaries of the Mojave Monument.

This idea that there are thousands of jobs lost is ludicrous. In 1990, the U.S. Department of Commerce statistics state there were 1,100 mining jobs in all of San Bernardino County, and understand that the mines in wilderness areas are protected. Understand that the other major ones have been taken out. Understand that when the national monument is created there will be many, many new jobs associated with that monument in its place.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I actually think in general in concept the idea of an economic impact statement has some merit, I do not believe it has any merit as applied to this particular bill for several reasons.

First of all, this bill has been around now for 5 years. This is the third Congress that has looked at this bill. We have had extensive hearings.

This proposal, this suggestion, has never been made at the committee level, has never been made at the subcommittee level, and frankly what an impact statement would be designed to review has been studied very thoroughly in the deliberations leading up to the floor consideration of this bill.

As the gentleman from California [Mr. LEHMAN] has indicated, mines within the boundaries of this legislation are protected.

This does not put people out of work. This does not cost jobs. This bill simply does not deal with any of the things that the author of the amendment suggested that it would do.

The fact of the matter is that this is a proposal in terms of Death Valley, in terms of Johua Tree, in terms of the East Mojave. It has been looked at carefully. It has been analyzed carefully.

The economic consequences of these provisions have been evaluated and analyzed and studied and all the representations that have been made have been found wanting.

I would say that if there was a serious suggestion to have an economic impact statement, that that could have been made at any point in time during the 5 years in which this bill was considered, but to bring it up today at the 11th hour on the House floor and to support it with a range of arguments that have been repudiated thoroughly throughout this process simply is an effort again to delay extraordinarily important desert protection legislation that Congress should act upon positively today.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

The Dannemeyer amendment providing for an economic impact statement may sound appealing on the surface, but I assure my colleagues that this would lead us into unchartered waters.

The bottom line of this amendment as an example states that the Secretary of the Interior shall pay to any person who incurs any economic loss as the result of land designation the amount of that loss.

Then it goes on to include all sorts of tangible and intangible losses, an appeals process. This could subject the Federal Government to unreasonable and unlimited costs.

Where is the CBO estimate on this?

The fact of the matter is they have been arguing in the courts and the Supreme Court for years about whether the classification or zoning of land is an authority of the National Government or any local government.

This particular amendment makes a finding in favor of the landowners. It comes down and states that classification changes must be paid for by the Federal Government.

The truth of the matter is that we have very little understanding of many of the impacts of the environmental classification and the species. The fauna and flora. We ought to do a much better job regarding the science of such ecosystems.

This is not a debate about the Endangered Species Act. This is simply a stumbling block that is attempting to be placed in the way of the designation of the California Desert Act, and as such it should be defeated.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I thank my colleague, the delegate from Guam [Mr. BLAZ] for yielding to me.

I want to say one more time to the Members that I appreciate the very fine job the gentleman has done in helping to add some balance to this debate.

Mr. Chairman, it was suggested earlier by the gentleman from California [Mr. LEVINE] and others that I did not include an economic impact statement in my substitute.

Mr. Chairman, we do have economic impacts regarding this bill versus the substitute that I had before the House the other day. The Bureau of Land Management did give us a guesstimate. If H.R. 2929 became law, the cost would be somewhere between $290 and $610 million.

If our substitute had been implemented instead, the Bureau of Land Management suggested the spread might be between $45 and $170 million.

To say the least, there is a huge difference reflected in these estimates.

The guesstimates were that if H.R. 29 was implemented that the loss of jobs would be in the neighborhood of 20,000 jobs, versus less than 2,000 jobs in the substitute.

Indeed, this proposal is going to have a huge economic effect. Detailed economic impact analysis is appropriate for H.R. 2929 since it was not a product of a public process.

□ 1610

Let me make the point in this way: Two organizations have very sizable holdings in this territory. The California Public Employees Retirement System has large holdings that they had planned to be developed for the benefit of retirees. Everybody admits that there is potential resource value that has not been evaluated or tapped.

The California Teachers Association has similar holdings. Their retirees are at risk without effective evaluation of the underlying resource potential here. To suggest that economic impact evaluation would not help them in their eventual decisions as to what is required for a trade of land, for example, is unreasonable.

These lands have great economic potential for the retired teachers of California and for the retired employees of California.

Mr. Chairman, are the ranking members suggesting that we should ask them to trade their land without an economic evaluation first? Certainly not.

Mr. DANNEMEYER is simply suggesting that, up front, such evaluation should be made because the studies, the detailed have not been done. The people who will lose if you do not accept this kind of approach are the people of California. A very significant number of the landholders are the retired former employees of the people of California.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding.

Let me tell my colleagues just what my amendment would do. It would require the Secretary to determine that environmental benefits must outweigh economic losses or costs before land in the above sections can be designated. Now, that is a balance in our law that I think is missing in a very significant way today because what we have done—look at this map. At least a third of the western part of the United States is already in public ownership.

How much land is enough? How much land does the environmental party need before it satisfies its lust to take all land in private ownership and put it into public ownership?

Now, it may create a world where we have clean air and clean water in America, but I ask you one simple question: Where are the jobs going to be for the people of this country who want to work and make a living? Somebody has to watch out for these people, and that is what this amendment does. It just says there has got to be balance when we make these environmental decisions.

The CHAIRMAN. The time of the gentleman from Guam [Mr. BLAZ] has expired.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the penultimate word.

Mr. Chairman, first of all, contrary to the presentation just made, there is no increase in the amount of Federal land owned under this legislation. The land that is being changed is having its designation changed, not its ownership. The Federal Government owns the land now, and the Federal Government will continue to own the land in the future. We are changing the way in which the land is managed.

The provisions in the bill allowing for acquisition on a case-by-case basis in the future provide for exchange of land. Again, there is not going to be a change in the value of land owned by the Federal Government, and probably not in the amount.

So that is not really an issue here. The CBO estimate of the cost of this legislation shows that it is negligible. As far as mining is concerned, it says:

> Loss of receipts from mining activities relative to current law, we do not expect the loss of receipts to the Federal Government from mineral leasing activities to be significant over the next 5 years.

The report shows zero, zero outlays for 1990, 1991, 1992, 1993, 1994, and 1995.

The costs here are not significant. The great cost is not acting to protect the desert. The great cost is to those of us in California and those around the country if we fail to act to save the desert now while we still have a chance.

Are we going to let amendments like this drive off the day of decision until it is too late to protect the endangered species? Until it is too late to protect the land from total degradation?

Or are we going to do it now while we still have a chance?

That is the issue. That is the heart of the matter.

Mr. Chairman, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, the gentleman's amendment goes to a different direction; it has nothing to do with public ownership of land versus nonpublic. It has to do with how we conduct the policy on public lands, the designations. He is saying that the Secretary "shall pay to any person who incurs an economic loss as a result of land designation, that means zoning, the amount that that loss, including," and then he goes through all that. So he is on uncharted waters in terms of in fact committing the Congress and the U.S. Government to such payment.

The other thing the gentleman says is that we are going to turn over to the Secretary of the Interior the right to make the decision on how this land should be designated.

Well, Mr. Chairman, the reason that our committee has so many measures on the floor is because Congress has reserved to itself the right to make designations as to wilderness, as to parks and other uses of our land.

We do not give that job to the bureaucrats the unelected in this country. We think it is an important decision that ought to rest with Congress.

I do not care if it is done under an economic impact statement excuse or done on some other basis; in other words, Congress ought to be involved in the terms of making such decisions.

I think that that by itself is enough reason to vote "no" on this amendment. We should not transfer this unlimited power in the California desert to the Secretary of the Interior or to anyone else. We ought to make the decisions on the floor ourselves with regard to wilderness, with regard to parks and monuments. That is what we have been struggling to do this week, and I hope we will do so by defeating this poorly crafted amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman for yielding.

Mr. Chairman, in a nutshell this amendment is an amendment designed to kill desert protection. Let us be candid about what we are trying to do here.

This is an amendment that seeks to impose requirements on this legislation that simply cannot be met. It is impossible, it is simply impossible to quantify the educational, the scientific, the scenic, the historic, and natural values associated with preserving desert lands for future generations. That is the essence of this legislation.

One point on cost: Mr. LEWIS raises a number of cost figures. It is important to understand that CBO spells out $6 million in cost beyond those that are currently undertaken by the Federal Government in order to provide this type of desert protection.

For an additional $6 million a year, that is an extraordinary good deal for the American taxpayer, for the American citizen and those future taxpayer, for the American citizen and those future generations who will, I think, be pleased that this legislation is enacted into law.

Mr. LEHMAN of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 316, not voting 8, as follows:

[Roll No. 432]

AYES—110

Allard
Allen
Anderson
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Gilman
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hayes (LA)
Hefley
Herger
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McEwen
McMillan (NC)
Michel
Miller (OH)
Moorhead
Myers
Nichols
Oxley
Packard
Paxon
Pursell
Rhodes
Roberts
Rogers
Rohrabacher
Roth
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Smith (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Wolf
Young (AK)
Young (FL)

NOES—316

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hutto
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Zeliff
Zimmer

NOT VOTING—8

Hughes
Mrazek
Obey
Ridge
Riggs
Smith (TX)
Whitten
Wilson

☐ 1638

Mr. GLICKMAN changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 102–314.

AMENDMENT OFFERED BY MR. NICHOLS

Mr. NICHOLS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. NICHOLS: Page 61, line 17, insert "(a)" after "SEC. 609.

Page 61, after line 19, insert the following: (b) EFFECTIVE DATE.—This section shall take effect in the fiscal year following the first fiscal year after the date of enactment of this Act in which Federal revenues are equal to or greater than Federal expenditures.

☐ 1640

The CHAIRMAN. Under the rule, the gentleman from Kansas [Mr. NICHOLS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Kansas [Mr. NICHOLS].

Mr. NICHOLS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Department of Interior already faces a budget shortfall of astronomical proportions. When I say astronomical, I mean approaching $8½ to $10½ billion. That may not seem like much here in Washington, but that is an awful lot of money to the citizens of this country.

To break that down, this means that the U.S. Department of the Interior already faces a $3 to $5 billion backlog of land acquisition—a $5 billion backlog in major repairs and construction—and a $375 million shortfall in their annual operations budget. Why are we proposing to spend more money than the department has?

We, as a nation, must learn fiscal responsibility. We are writing checks on a line of credit that long ago went bad—the pot of gold is empty. We have absolutely no right, no right whatsoever, to authorize any additional spending unless it is an urgent investment in the ongoing prosperity and well-being of the citizen taxpayers of this country. And that, my colleagues, is why I offer this amendment today.

I am not against protecting the very fragile and uniquely beautiful environment and ecosystem of the California desert. I have visited the area with my family. We have driven through Death Valley and marveled at the region.

I wholeheartedly understand the desire to add to the already existing expanses of protected desert wilderness in the California desert. However, now is not the time. Not with a record deficit of $269 billion this year alone. Not at a time when our Government needs to drastically reevaluate its spending practices. Not when the taxpayers of our Nation are frustrated by the political process that is supposed to be protecting them.

My amendment merely places a condition on the expenditures of funds for the enactment of this act until Congress is able to balance the budget.

All across America, families are having to carefully limit their spending for the upcoming holiday season, while Congress continues to spend like everyday is Christmas. Why can't this great body, full of so many honorable and distinguished Members, use good, sound judgment when it comes to spending money. The time to reduce spending is not some time in the future, it is now.

I urge you to vote "aye" on my balanced budget amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1 minute.

This is not a balanced budget amendment. In fact, it has nothing to do with the balanced budget. All of the expenditures by the Park Service can continue to go on even with this amendment.

All the amendment affects is the ability of the Federal Government to enter into the land exchange after 1996 with the State teachers retirement system in California. Under this amendment none of those exchanges will be allowed to take place. Those exchanges are not going to cost the Federal Government any money.

As the bill states, property will be exchanged value for value and we will have an even playing field.

We have done that to ensure that the Federal Government does not lose any money and that the State teachers retirement system is held whole in its land holdings and so that we can consolidate the national monument.

This amendment will not pay them any money. It will place a hardship on the State teachers retirement system and do great damage to this bill.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Nichols so-called balanced-budget amendment. The fact of the matter is that almost all these lands that are being designated here are already managed by the Federal land management agencies, by the Park Service, by the Bureau of Land Management. So we are transferring some of these lands from the jurisdiction of the BLM to the Park Service. There may be some turf battles involved, but the fact of the matter is the money within the Department of the Interior can flow to the Park Service in these instances.

Likewise, they may, for instance, as we look at these designations, we are asking the BLM to manage some of the lands as wilderness area and releasing other lands from being managed as wilderness.

Furthermore the private land would be insignificant because most of this is public land.

I would challenge the gentleman's figures that he has on the chart concerning the backlog; the figure is closer to $3 billion. In any case the land acquisition funding is not based on a pot of gold. It is based on a pot of oil, offshore Continental Shelf receipts, the land-water conservation fund which are credited to the land-water acquisition programs which has over $7 billion available until appropriated.

Mr. NICHOLS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Smoke and mirrors, Mr. Chairman. They say there will be no cost. What about the cost of the 20,000 jobs that will be lost?

I would hate to manage millions of dollars and millions of acres myself. The gentleman said it is all BLM land. I thought we were just talking about exchange of millions of acres of land that would come into this. Who is going to maintain that? Who is going to maintain the roads? Who is going to maintain the water? Who is going to maintain the rest of it?

We the taxpayers are going to do that. It is going to take this public land off the tax rolls.

What about the revenue from the mineral sources? The other side of the aisle and many Members on this side of the aisle are always looking for alternative fuel sources. What about the geothermal that will not be looked into because this bill only covers, as I understand it, existing lines, existing coverages.

Some of my friends say, I've got to protect my environment vote. My heart bleeds for them. How about protecting the people instead of their environmental vote?

Take a look at the map that was up here before. If Members on the east coast had to live with the amount of Government-owned land, I do not think they could stand it. Remember the four Congressmen that represent that area want "no" on 2929 and "yes" on this amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I will just mention briefly that the common thrust of these amendments is to do one thing. It is to delay this bill so long that California desert protection will never occur. I do not know that there is a coordinated effort with regard to these amendments. I suspect there is not. But there is one common theme. It is delay, delay, delay until this basically cannot occur.

The other point that I just want to emphasize is that that the subcommittee chairman emphasized. We have gone to great lengths to protect the retired teachers of the States of California in this bill. The lands that are being exchanged are lands that are very important to the retired teachers in California. This provision would hurt California's retired teachers by blocking the exchange that has been very carefully worked out and that the State retired teachers and the public lands commission are strongly supporting.

I strongly urge a "no" vote on this amendment.

☐ 1650

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the House had a similar amendment before us when we were dealing with the Flint Hills Prairie Park. That amendment was defeated on a vote of 153 to 249. I think the House would do well to defeat this amendment on the same basis it defeated that amendment.

Mr. NICHOLS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I appreciate the gentleman from California trying to make this my amendment by saying this is delay, delay, delay, delay, but I must point out that it is the gentleman from Kansas [Mr. NICHOLS] that brought the amendment and it is not a delay tactic. What it is is fiscal responsibility.

What we are saying is right now we cannot pay for the land that we have tried to acquire. I am told that the Park Service is in arrears right now $4 to $5 billion, trying to pay for the land they have already acquired. Since they cannot pay for it, land not only in this desert but in other areas of the country, this land cannot be used, it cannot be sold, nobody will use it. It is amazing to me that if we do not have the money now to pay for land, and we do not have the money, even if it is not true, I am just told that it is true, but even if it is not true, we do not have the money when we are talking about a $350 billion deficit, we do not have the money for this kind of action. All the gentleman is saying is we cannot do it until we have the money.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER], the chairman of the full committee.

Mr. MILLER of California. Mr. Chairman, I would hope that we would reject this amendment. I think we should understand that what is happening in this legislation is that we seek for the most part the exchange of lands. There are very substantial private inholdings within the boundaries of this area. Many in the private sector would like to exchange those lands out. Their lands are not productive for any economic purpose. They are valuable from an environmental point of view, from a cultural point of view, from an anthropological point of view, but the fact is they have no economic value for that company, that holding. They believe they can trade those off for lands of economic value which they can then use, they can use in their endeavors to create jobs, to create economic activity. We will be able to put the park and the monument and others together for the purposes of better management.

So this makes sense all around. This is a win-win. This allows the private sector to go out and utilize its expertise and talents on those lands. It allows the public sector to have the most economical unit in order to run. This is a very foolish amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] has 45 seconds remaining.

Mr. LEHMAN of California. Mr. Chairman, I yield myself the 45 seconds.

Again, this amendment has nothing to do with anything except some land that the State teachers' retirement system in California owns. It has nothing to do with purchasing any other land. The provisions of the bill allow that the State of California, the State lands commission, may exchange those lands with lands offered to it by the Federal Government after the year 1996. That is all we allow for in the bill.

The losers, if this amendment is going to pass, are going to be the State of California and the State teachers' retirement system in California, an innocent party. It is not going to be anything else and it is not going to be anyone else.

We have carefully worked out the compromise with the State lands commission and the state teachers' retirement system over months and months of work. This House should abide by that work at this time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Kansas [Mr. NICHOLS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. NICHOLS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 133, noes 292, not voting 9, as follows:

[Roll No. 433]

AYES—133

Allard
Allen
Anderson
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bilirakis
Boehner
Brewster
Broomfield
Bunning
Burton
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gingrich
Goodling
Goss
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kasich
Kolbe
Kyl
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Murphy
Myers
Nichols
Nussle
Oxley
Packard
Parker
Paxon
Petri
Porter
Quillen
Ramstad
Ray
Regula
Rhodes
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Schaefer
Schulze
Sensenbrenner
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Wylie
Young (AK)

NOES—292

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
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Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NOT VOTING—9

Anthony
Derrick
Gilman
Lloyd
Pelosi
Ridge
Washington
Williams
Wise

☐ 1713

Mr. MOODY change is vote from "aye" to "no."

Mr. JAMES and Mr. RAY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 10, printed in House Report 102-314.

AMENDMENT AS MODIFIED OFFERED BY MR. BLAZ

Mr. BLAZ. Mr. Chairman, I offer an amendment as modified.

The CHAIRMAN. The Clerk will designate the amendment as modified.

The text of the amendment, as modified, is as follows:

Amendment as modified; offered by Mr. BLAZ; instead of the matter proposed to be inserted, insert the following:

Page 65, after line 15, add the following new title:

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on Federal lands in the California desert area are not readily available;

(3) while changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated November 1991 and filed in accordance with section 803.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

SEC. 805. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. EL CENTRO RANGES.

The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1994, the approximately 44,870 acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. Such use shall be consistent with such Memorandum of Understanding and such additional terms and conditions as the Secretary of the Interior may require in order to protect the natural, scientific, environmental, cultural, and other resources and values of such lands and to minimize the extent to which use of such lands for military purposes impedes or restricts use of such or other public lands for other purposes. All military uses of such lands shall cease on January 1, 1994, unless authorized by subsequent Act of Congress.

SEC. 812. MILITARY OVERFLIGHTS.

(a) DISCLAIMER.—Nothing in this Act shall preclude low-level overflights by military aircraft, the designation of new units of special airspace, or the use or establishment of military flight telephone routes over the new units of the National Park or National Wilderness Preservation Systems (or any additions to existing units of such Systems) designated by this Act.

(b) MONITORING.—The Secretary of the Interior shall monitor the effects of aircraft overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and on visitor enjoyment of such units. The Secretary of the Interior shall actively seek the assistance of the Secretary of Defense, consistent with national security needs, to resolve concerns related to such overflights and to prevent, eliminate, or minimize the derogation of resources and values and of visitor enjoyment associated with overflight activities.

The CHAIRMAN. Under the rule, the gentleman from Guam, Mr. BLAZ, will be recognized for 5 minutes, and a member opposed will be recognized for 5 minutes.

Does the gentleman from California [Mr. LEHMAN] oppose the amendment?

Mr. LEHMAN of California. I do not, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] does not oppose the amendment.

The Chair recognizes the gentleman from Guam [Mr. BLAZ].

Mr. BLAZ. Mr. Chairman, I have an inquiry then. If the gentleman from California [Mr. LEHMAN] does not oppose the amendment, since 10 minutes are allowed for this amendment, do I have 10 minutes to dispense?

The CHAIRMAN. The Chair will then ask is there any opposition to the amendment?

Without objection, the gentleman from Guam [Mr. BLAZ] will be recognized for 10 minutes.

There was no objection.

Mr. BLAZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, prior to the debate I sought unanimous consent that the proposed Blaz amendment and the proposed vento amendment be merged. That was granted. My comments, then, relate to the Vento-Blaz formulation.

Mr. Chairman, I offer this amendment in conjunction with Mr. Vento because it has become apparent to all of us that the end of the cold war has, sadly, not opened an era of world peace. Rather, the fall of the Iron Curtain has revealed an array of regional conflicts which previously had been concealed by the global nature of the stand-off between the United States and the Soviet Union.

The Persian Gulf war is only one example of how these smaller conflicts can reach the United States with devastating impact. Or course, we all applaud the military cutbacks which the end of the cold war will permit. But we must not persuade ourselves that our military is superfluous. Indeed, if we learned anything from the Persian Gulf, it is that as our military becomes smaller, its training must be enhanced to assure that our vital interests as a Nation will be preserved.

As technologically advanced as our arsenal is, it will prove no more effective than a club and a rock, unless the personnel who man it have acquired the necessary skills. The California desert provides the area and the facilities where these skills can be honed. This amendment, which I join Mr. VENTO in offering, will help assure that when we must next send our young people in harm's way, they will be going forth fully prepared. It is the most that we can do for our brave men and women in uniform, and it is the least that should be expected of us as a Nation.

I urge all my colleagues in the House to support this amendment.

Mr. Chairman, it is my understanding since some of my colleagues on both sides would like some time, that I am now prepared to yield time to those who wish time. But before I yield to the gentleman who is standing, let me say I mentioned last week and I mentioned today again this gentleman absolutely enjoyed working with the gentleman from Minnesota [Mr. VENTO], the gentleman from California [Mr. LEHMAN], and the gentleman from California [Mr. MILLER], and the gentleman from California [Mr. LEVINE] as well.

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Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of this amendment. As modified by the gentleman from Guam under his unanimous-consent request, the new Vento-Blaz amendment is similar to my own amendment, which is made in order under the rule.

Mr. Chairman, this amendment would add to the bill provisions related to continued military use by the Navy of more than 1.3 million acres of Federal lands in the California desert and continued low-level overflights by military aircraft of other areas covered by the bill.

The amendment is similar to a bill—H.R. 3565—which I introduced last month and that was cosponsored by Chairman MILLER of the Interior Committee and the gentlemen from California, Mr. LEHMAN and Mr. LEVINE. It is also similar to a bill, sponsored by our colleague from Maryland, Mrs. BYRON, that the House passed in 1987 but on which the Senate did not complete action.

The lands covered by this amendment have been used by the Navy for many yuears and for a variety of important purposes. Past withdrawals for military use have expired—and under the Engle Act such withdrawals in peacetime can be renewed only by congressional action such as this amendment.

The amendment would add a new title, title VIII, to the bill, It would renew the military withdrawal of the China Lake Naval Weapons Center and the Chocolate Mountain Aerial Gunnery Range and would also authorize continued military use of certain other lands in Imperial County, CA, by the Navy.

The Subcommittee on National Parks and Public Lands, which I chair, held a hearing on these provisions on November 5, and this Vento-Blaz amendment includes some revisions made in response to suggestions by the administration.

For example, the amendment would delete from the Chocolate Mountain withdrawal 640 acres, as proposed by the Interior Department, to accommodate mineral exploration. At the hearing, the Defense Department indicated that this was acceptable to them. Similarly, language related to possible recreational use of the withdrawn lands has been narrowed so that it applies only to China Lake—again, as suggested by the Interior Department.

In the same way, this Vento-Blaz amendment includes language related to military overflights that is based on administration suggestions at that same hearing. That language would add to H.R. 2929 a provision stating that nothing in the bill is to be construed as precluding low-level military overflights of lands covered by the bill or as prohibiting either the designation of new units of special airspace of the establishment of military flight training routes over the lands covered by the bill.

Mr. Chairman, provisions related to overflights are not actually a necessary part of this or any bill designating wilderness areas or to provide for adding lands to the National Park System. Such designations, by themselves, do not have any direct effect on low-level overflights, civilian or military, which are regulated by other existing laws and policies.

However, because some have argued that enactment of legislation like H.R. 2929 could have such a direct effect on existing patterns of military overflights, I think adding language to clarify this matter may be helpful—and that is what this amendment does.

In summary, Mr. Chairman, this amendment will assure continued military use of the important China Lake and Chocolate Mountain areas, and will clarify that the designation of other California desert lands as wilderness or National Park System areas will not by itself block continued military overflights of those lands. I urge adoption of the amendment.

Mr. BLAZ. Mr. Chairman, I have an inquiry at this point. I must admit that I did not hear what was said at the beginning. Do I have 5 minutes or do I have 10 minutes?

The CHAIRMAN. There was no Member rising in opposition. The gentleman from Guam [Mr. BLAZ] had 10 minutes, and he has 3½ minutes remaining.

Mr. BLAZ. Mr. Chairman, in that case, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I would like to have the Members of the House consider that, if they think there is no cost in H.R. 2929, when they come to pay for their parks and recreation on the east coast, think about where the money is going to come from. It is all going to California.

Mr. Chairman, I would like to thank the gentleman from Guam [Mr. BLAZ]. Not many people know General BLAZ. He, as a boy, came from Guam, and looked at the 9th Marine Regiment and said, "I think I can do that." Well, General BLAZ grew up to lead the 9th Marine Regiment and is very noteworthy in his attempts in what he is trying to do.

However, Mr. Chairman, I would like to point out some shortfalls. I rise in support of the amendment of the gentleman from Guam [Mr. BLAZ], but opposed to H.R. 2929.

The amendment of the gentleman from Guam [Mr. BLAZ] does a lot of different things. One of the points in the whip notice is it says 30 years for renewals. It is actually 15 years, as combined, as I understand it, with Mr. VENTO'S. One of the things with the gentleman from Minnesota [Mr. VENTO] is the El Centro ranges that go out in 1994. Those are the ranges where I, as a pilot, Jonathan Livingston Seagull trained on Inky Barley Pitty Baggage Rakey's Litter. That is where we drop our practice bombs, and I know that they can request a renewal, but then they have to support and requisition an environmental-impact statement, and the Navy has to give a report of decontamination.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would just point out that this is because they had not made a formal request under the Engel Act. We have no illusions about anything, and these are standard procedures under the Engel Act, as is the 15 years.

Mr. Chairman, I thank the gentleman from California [Mr. CUNNINGHAM] for yielding.

Mr. CUNNINGHAM. Mr. Chairman, 15 years is not my point. It is that they phased out in 1994, and that this training is critical. This is where our young pilots train from the training squadrons, and without that we are lost. If my colleagues want to cut the military, they want them well equipped, well trained, well, there needs more in this amendment. We also need buffer zones around.

Mr. BLAZ. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, let me thank the gentleman from Guam [Mr. BLAZ] and the gentleman from California [Mr. CUNNINGHAM] who has just spoken from the well.

Mr. Chairman, I have been assured by the Department of Defense that by 1994, that is adequate time for them to get the request in for a continuation of the use of those areas.

Let me say to my colleague, the gentleman from Guam [Mr. BLAZ] who serves on both the Committee on Armed Services and the Committee on Interior and Insular Affairs with me, and also to the gentleman from Minnesota [Mr. VENTO], chairman of the Subcommittee on National Parks and Public Lands, that I want to thank him for putting the language of a bill that I had passed by this body in 1987. Once again DOD was here in November to testify in a hearing that we had, and the testimony was that they stated at the time with a modification of the gentleman's amendment it met all of their concerns and, therefore, they are in favor of the amendment as drafted.

As my colleagues know, we spent a great deal of time on Friday discussing this amendment. My colleagues from California, Top Gun CUNNINGHAM, and I had a discussion, but I think this amendment answers the questions that DOD was concerned about.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the last word, and I will only take 30 seconds. I just want to get on the record the answer to two questions.

I ask the gentleman from Guam, "Mr. BLAZ, are the land withdrawal provisions in your amendment the ones the Navy wants?"

Mr. BLAZ. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Guam.

Mr. BLAZ. Yes, it is.

Mr. LEHMAN of California. And is the overflight language which is put forth in the amendment the overflight language that the Defense Department has asked for?

Mr. BLAZ. Yes, it is.

Mr. LEHMAN of California. Mr. Chairman, I thank the gentleman from Guam for his good work in this area.

Mr. BLAZ. Mr. Chairman, I move to strike the last word on my own amendment.

The CHAIRMAN. The gentleman from Guam is recognized for 5 minutes.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman from Guam [Mr. BLAZ] yielding this time to me.

Mr. Chairman, the amendment presented by the gentleman from Guam and the gentleman from Minnesota is very helpful to some of the concerns that we have about the military mission that is so critical to this country's role in the world. The National Training Center for the Army and the Marine Corps base at Twentynine Palms were very fundamental to the kind of training that caused us to be so successful in our venture in the Middle East. I know that the gentleman presenting this amendment and the Department of Defense feel very strongly that this amendment does not solve all of the problems involved.

I have a letter dated November 21 of this year to the chairman of the Committee on Armed Services that says:

> DEAR MR. CHAIRMAN: We oppose the California Desert Protection Act, 2929, and support the California Public Lands Wilderness Act, H.R. 3066. Adoption of amendments to H.R. 2929 expected to be offered by Congressman VENTO and Congressman BLAZ would address defense concerns relating to military overflight, the National Training Center and land withdrawals, but H.R. 2929 still would not address the following needs.

They list three critical needs which have been previously addressed in the RECORD. Can we carry forward the training mission that is so vital to the future of our national defense H.R. 2929 is in effect?

The answer to that according to the Secretary of Defense is no.

So, Mr. Chairman, while I rise in support of the amendment of the gentleman from Guam [Mr. BLAZ], let us state clearly for the record that we have not met the challenge of meeting the tremendous potential of this region. Our ability to defend ourselves and to move forward in our support of freedom throughout the world, depends on resolving these issues.

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Mr. BLAZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from Guam [Mr. BLAZ].

The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 12 printed in House Report 102-314.

AMENDMENT OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DELAY:

Page 65, after line 15, add the following new title:

TITLE VIII—REQUIREMENT FOR LAND DISPOSAL UPON LAND ACQUISITION

LAND DISPOSAL UPON LAND ACQUISITION

SEC. 801. Within one year of acquiring any non-Federal land or interest therein for any purpose of this Act, the Secretary shall dispose of all right, title, and interest in and to a quantity of Federal lands equal in value to the non-Federal land or interest acquired, as determined by the Secretary.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. DELAY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I am opposed to the amendment and would ask for the time.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair now recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, although our operating deficit currently stands at $412 billion, H.R. 2929 requires the Federal Government to spend even more money for the management and acquisition of land. This is simply fiscally irresponsible.

The Federal Government already owns approximately one-third of all of the land in the United States. We certainly do not need more. More importantly, we cannot afford it.

The Bureau of Land Management [BLM] estimates that there are 828,000 acres of non-Federal land included in the land covered by the conservation and protection provisions of H.R. 2929. Using current appraisal data and mapping the area by value, BLM has estimated that the value of these 828,000 acres of land ranges from a low of $180 million to a high of $500 million. In addition, the total of all administrative costs and clearances could exceed $49 million. These are not insignificant amounts of money which we would have to spend if this bill were passed.

Furthermore, as these figures provided by the National Park Service show, the NPS currently has a total shortfall of $8.38 to $10.38 billion; $3-$5 billion of this shortfall is in land it is authorized to acquire and has not yet paid for. It also has a shortfall of $5 billion in major facility repair and construction costs, and needs $375 million for annual park operations. It is unbelievable that some Members of this body are supporting H.R. 2929, a bill which will only add to the National Park Service's debt and burden it with additional land it will not be able to care for.

H.R. 2929 would also add to the Federal backlog of land it owes. Most people do not realize that the State of California is still negotiating for 51,000 acres of land that were part of its original statehood grant and have not yet been received. How can we even consider acquiring more of California's land before we have paid off our decades-old debt?

Even more outrageous is the fact that H.R. 2929 delays payment for the acquisition of land until after the budget agreement expires. The supporters of this bill know that we do not have the money or enough California land to pay for what it requires and are blatantly trying to avoid following the rules that this House passed to try to stem the growth of the deficit. The bill instead establishes the California desert lands credit account in the amount of the appraised value of the remaining land which has not been accounted for, with the intent to pay for it after October 1, 1995. If this is not a sign of fiscal irresponsibility then I don't know what is.

I am offering an amendment which will curb these fiscal excesses. My amendment will require the Federal Government to sell land of an equal value in exchange for acquiring additional land. If the land in question is considered truly vital for the public good and the Federal Government feels it necessary to acquire it, there must be some other less valuable piece of land which the Government could exchange for it. This will serve to keep the Government from purchasing more and more land which it cannot pay for.

I am merely asking that we maintain an equilibrium. I am not asking that we get rid of land, just that we have no net gain of Federal land so as not to continue to plunge further into debt. I urge you to support my amendment as an act of fiscal responsibility.

Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment.

Mr. Chairman, I think that Members should be aware of the ramifications of this. It is hard to take this amendment too seriously due to the enormous impact it might have beyond the bill we are talking about today.

The requirement that we sell off Federal land whenever we acquire any Federal land, as written in this amendment, would impact all the 50 States, not just the State of California vis-a-vis the actions we take in the California desert. If we acquire land with respect to the desert, we would have to sell land anywhere in the United States, not just in the vicinity of the desert.

Again we have required in the bill, in the exchange provisions, that there be a value-for-value trade at the time each exchange is made. Where there is Federal land available and where we need to acquire Federal land from the State teachers or in the amendment that the gentleman from California [Mr. MILLER] will offer in a couple of minutes, from Catallas, we will be able to do so by trading for other Federal land of equal appraised value somewhere else. The requirement placed here would make it virtually impossible to carry out the purposes of the act.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair will state that the gentleman from Texas [Mr. DELAY] has 1 minute remaining, and the gentleman from California [Mr. LEHMAN] has 3½ minutes remaining.

Mr. DELAY. Mr. Chairman, I will just quickly use my remaining 1 minute.

Mr. Chairman, I appreciate what the chairman of the subcommittee is saying, but it is obvious that they do not want to stop here. They want to increase the bank of Federal lands in this country. The fiscal irresponsibility embodied in this bill is truly astounding. How much clearer can it be?

Proponents of the Desert Protection Act claim that the land would be paid for through the exchange, as the subcommittee chairman says. However, there is only 550,000 acres of Federal land available in California for disposal, and H.R. 2929 will require the acquisition of 828,000 acres. To pay for all that land through equal exchange, California would have to be given Federal land outside the State, which means California would end up owning land in Oklahoma or New York, it is that crazy. Obviously this would not be a very good solution.

I am just saying that we should not be increasing the bank of Federal land in this country if we do not have the money for it. We can sell land if we want more land, but we should sell land in an equivalent amount.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

The amendment provides a solution where no problem exists. California has no problem in terms of the exchanges because there is Federal land in California which can provide the exchanges to block up and provide for the conservation units in the California desert. This reaches out and grabs into every 1 of the 50 States. You could have a 100-acre exchange in California and lose land in Minnesota or Washington or someplace else. The truth of the matter is that there is no great Federal grab that is going on. Our Nation has tried throughout its history to provide lands for homesteads, for schools, and for other purposes.

□ 1740

The lands that remain here are the lands that nobody wanted. These were considered the wastelands.

We see special value in these lands. We want to take and preserve them for the parks, for the wilderness, and other areas in this country for future generations. This is our American heritage. Let us try and hold it together.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I would just say that the President had a policy of no new net wetlands. This is a sort of a no new net national park.

If we create the Mojave National Park, then we have to give back land out of the Grand Tetons. And if we want to expand Yellowstone to protect the park, we can give back some of Colorado, the Colorado National Park. Or if we want to expand Yosemite, we can give back Fire Island.

The bill provides for the exchange of lands between the private sector and the public sector. That is what the legislation does. For this amendment to come along is just ludicrous at this point, to suggest that somehow this is a workable policy or that this will save the taxpayers money.

These lands are there. They are there to be exchanged. For the gentleman from the State of Texas, which has so much RTC property, he ought to be happy that the California State teachers retirement system is even thinking of bidding on RTC properties down the road.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

I think the amendment is seriously flawed from a practical aspect. The requirement that Federal lands be disposed of within 1 year is totally impractical and in fact would have serious consequences right now when there is so much real estate on the market. It is flawed. We have worked out the problems in this bill with respect to exchange. I ask for a no vote on the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 49, noes 379, not voting 6, as follows:

[Roll No. 434]

AYES—49

Archer
Armey
Ballenger
Barton
Burton
Coble
Combest
Crane
Dannemeyer
DeLay
Doolittle
Duncan
Edwards (OK)
Emerson
Fields
Gekas
Grandy
Hall (TX)
Hancock
Hayes (LA)
Herger
Holloway
Hunter
Inhofe
Johnson (TX)
Kolbe
Kyl
Lightfoot
Livingston
Marlenee
McCandless
McEwen
Miller (OH)
Myers
Nichols
Packard
Payne (VA)
Rhodes
Rohrabacher
Skeen
Smith (OR)
Smith (TX)
Stump
Tauzin
Taylor (NC)
Thomas (WY)
Vucanovich
Young (AK)
Zimmer

NOES—379

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff

NOT VOTING—6

Dymally
Gephardt
Kleczka
Nagle
Rangel
Ridge

□ 1801

Mr. HEFLEY and Mr. ROSTENKOWSKI changed their vote from "aye" to "no."

Mr. SMITH of Texas changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS, EN BLOC AS MODIFIED, OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will report the amendments en bloc.

The Clerk read as follows:

Amendments en bloc, as modified, offered by Mr. MILLER of California:

Page 7, lines 1 and 2, strike "seven hundred and thirty" and insert in lieu thereof "three hundred and eighty".

Page 13, line 14, move section 102(25) to page 8, line 10, and renumber all the remaining wilderness areas in section 102 in sequential order.

Page 16, line 2, strike "twenty-eight thousand eight hundred and twenty" and insert in lieu thereof "twenty-nine thousand five hundred and eighty".

Page 16, lines 3 through 8, strike "two maps" and everything that follows through line 8, and insert in lieu thereof "a map entitled 'Kelso Dunes Wilderness—Proposed 1', dated October 1991, a map entitled 'Kelso Dunes Wilderness—Proposed 2', dated May 1991, and a map entitled 'Kelso Dunes Wilderness—Proposed 3', dated September 1991, and which shall be known as the Kelso Dunes Wilderness.".

Page 16, line 21, strike "forty-eight acres" and insert in lieu thereof "three hundred and sixty-eight acres".

Page 17, line 6, strike "forty-five thousand six hundred and eighty acres" and insert in lieu thereof with "forty-six thousand four hundred and sixty acres".

Page 17, line 15, strike "three hundred", and insert in lieu thereof "four hundred".

Page 18, line 6, strike "twenty-five", and insert in lieu thereof "five".

Page 19, line 16, strike "five hundred and eighty", and insert in lieu thereof "two hundred and forty".

Page 20, lines 7 through 11, strike "two maps" and everything that follows and insert in lieu thereof "a map entitled 'Old Woman Mountains Wilderness—Proposed 1', dated May 1991 and a map entitled 'Old Woman Mountains Wilderness—Proposed 2', dated October 1991, and which shall be known as the Old Woman Mountains Wilderness.".

Page 25, line 23, strike "five hundred and forty", and insert in lieu thereof "eight hundred".

Page 25, line 25, strike "dated May 1991", and insert in lieu thereof "dated October 1991".

Page 33, line 12 and 13, strike "a map entitled 'Havasu Wilderness'" and insert in lieu thereof "a map entitled 'Havasu Wilderness—Proposed'".

Page 33, lines 18 and 19, strike "a map entitled 'Imperial Refuge Wilderness'", and insert in lieu thereof "two maps entitled 'Imperial Refuge Wilderness—Proposed " and 'Imperial Refuge Wilderness—Proposed 2,'".

Page 33, line 20, strike "known as Imperial Wilderness" and insert in lieu thereof "known as Imperial Refuge Wilderness".

Page 40, line 7, strike "dated May 1991 or prior" and insert in lieu thereof "dated October 1991 or prior".

Page 44, line 8, strike "service" and insert in lieu thereof "services".

Page 48, line 23, strike "in a right-of-way identified in paragraph (1)" and insert "in the Southern California Edison Company validly issued Eldorado-Lugo Transmission Line right-of-way and Mojave-Lugo Transmission Line right-of-way".

Page 49, line 14, strike "replacement" and insert "upgraded".

Page 49, line 23, strike "Eldorado rights-of-way" and insert in lieu thereof "Eldorado rights-of-way and Mojave right-of-way".

Page 50, line 3, strike "in the Mojave right-of-way".

Page 55, line 3, strike "six hundred" and insert "seven hundred".

Page 55, lines 12 and 13, strike "ninety-four thousand five hundred acres" and insert in lieu thereof "ninety-five thousand fifty-six acres".

Page 55, line 16, strike "dated September 1991 or prior" and insert in lieu thereof "dated October 1991 or prior".

Page 55, line 19, strike "dated September 1991 or prior" and insert in lieu thereof "dated October 1991 or prior".

Page 64, line 5, strike "October 1, 1995" and insert "October 1, 1996".

Page 26 lines 17 through 23; page 26, strike lines 11 through 19; page 27, strike lines 3 through 9; and redesignated the paragraphs in section 102 accordingly.

Page 31, line 20, insert "(a)" after "Sec. 108.".

Page 31, line 23, insert ", except for those areas provided for in subsection (b)," after "Act".

Page 32, after line 5, insert the following new subsection:

(b) Subject to valid existing rights, the Federal lands identified on maps as "Avawatz Mountains Wilderness—Proposed", dated May 1991; "South Avawatz Wilderness—Proposed", dated May 1991; and two maps entitled "Soda Mountains Wilderness—Proposed 1", dated May 1991, and "Soda Mountains Wilderness—Proposed 2", dated January 1989, are hereby withdrawn from disposition under the public lands laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and form operation of the Geothermal Steam Act of 1970.".

Page 65, lines 5 and 6 and insert in lieu thereof the following:

EXCHANGES

SEC. 611. (a) Upon request of the Catellus Development Corporation (hereafter in this section referred to as "Catellus"), the Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) of this section for lands of Catellus or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act.

(b) Within six months after the date of enactment of this Act, the Secretary shall send to Catellus and to the Committees a list of the following:

(1) Lands of Catellus or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands, wherever located, under the Secretary's jurisdiction to be offered for exchange, in the following priority:

(A) Lands, including lands with mineral and geothermal interests, which have the potential for commercial development but which are not currently under lease or producing Federal revenues.

(B) Federal lands managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for (A) an exchange involving lands outside the State of California, (B) more than 5,000 acres of Federal land or interests therein in California, or (C) Federal lands in any State valued at more than $5,000,000, the Secretary shall provide to the Committees a detailed report of such land exchange agreements.

(2) All land exchange agreements shall be consistent with the Federal Land Policy and Management Act of 1976.

(3) Any report submitted to the Committee under this subsection shall include the following:

(A) A complete list and appraisal of the lands or interests in land proposed for exchange.

(B) A complete list of the lands, if any, to be acquired by the United States which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law, together with the estimated costs of any such action.

(4) An agreement under this subsection shall not take effect unless approved by a joint resolution enacted by the Congress.

(d) The Secretary shall provide the California State Lands Commission with a 180-day right of first refusal to exchange for any federal lands or interests therein, located in the State of California, on the list referred to in subsection (b)(2). Any lands with respect to which a right of first refusal is not noticed within such period or exercised under this subsection shall be available to Catellus for exchange in accordance with this section.

(e) On January 3, 1996, the Secretary shall provide to the Committees a list and appraisal consistent with the Federal Land Policy and Management Act of 1976 of all Catellus lands eligible for exchange under this section for which an exchange has not been completed. With respect to any of such lands for which an exchange has not been completed by October 1, 1996 (hereafter in this section referred to as "remaining lands"), the Secretary shall establish an account in the name of Catellus (hereafter in this section referred to as the "exchange account"). Upon the transfer of title by Catellus to all or a portion of the remaining lands to the United States, the Secretary shall credit the exchange account in the amount of the appraised value of the transferred remaining lands at the time of such transfer.

(f) Catellus may use the credit in the exchange account to bid, as any other bidder, for any property real, personal, or mixed, wherever located, owned or controlled by the United States, including in a corporate capacity or as a receiver, conservator, or similar fiduciary capacity to be sold in accordance with the applicable laws and regulations of the Federal agency or instrumentality, or any element thereof, offering such property for sale. Upon approval by the Secretary in writing, the credits in Catellus's exchange account may be transferred or sold in whole or in part by Catellus to any other party, thereby vesting such party with all the rights formerly held by Catellus. The exchange account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales.

(g)(1) The Secretary shall not accept title pursuant to this section to any lands unless such title includes all right, title, and interest in and to the fee estate.

(2) Notwithstanding paragraph (1), the Secretary may accept title to any subsurface estate where the United States holds title to the surface estate.

(3) This subsection does not apply to easements and rights-of-way for utilities or roads.

(h) In no event shall the Secretary accept title under this section to lands which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law unless such remedial action has been completed prior to the transfer.

(i) For purposes of the section, any appraisal shall be consistent with the provisions of section 206 of the Federal Land Policy and Management Act of 1976.

(j) As used in this section, the term "Committees" means the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MILLER] will be recognized for 10 minutes and the gentleman from Guam [Mr. BLAZ] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my understanding that the amendment that we are now offering has no opposition. There is no controversy to the amendment. We will quickly move and hopefully pass this by a voice vote and then we will go to a vote immediately on final passage. That is my understanding from the other side of the aisle. Is that correct?

Mr. BLAZ. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. MILLER of California. Mr. Chairman, I offer these en bloc amendments. They are mainly technical amendments to the bill that have been worked out with the minority and the majority of the staffs of the subcommittee. I would hope the Members would support them.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to my colleague, the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague yielding to me.

Mr. Chairman, as I understand the amendment, it is designed to address certain public employee lands in order that those lands might be disposed of in a way that at least the author of the amendment deems to be appropriate. Is that correct?

Mr. MILLER of California. That is correct.

Mr. LEWIS of California. The point of this amendment that does concern me is that there are very sizable numbers of acres of land in the territory that we are dealing with here in this bill in which a combination of two very important groups of public employees have significant investments.

The Members should know that in this case the California Teachers' Association has very sizable investments in thousands of acres of land. The teachers have investments by way of their retirement funds in thousands of acres of lands, invested because they hoped they would be kept for various natural resources to benefit their retirees. There is a process whereby those lands will be dealt with.

As I understand, this amendment deals with public employees who have a similar investment in acres of land. They invested those retirement dollars in order to hope for future potential resources that might be discovered. So I have a couple of questions in connection with that.

The provisions that relate to the teachers indicate that the teachers get a buyout after the year 2000 for whatever is left in their credit exchange account, as I understand it.

Mr. MILLER of California. Should the money be appropriated; that is correct.

Mr. LEWIS of California. Should the money be appropriated—I do not think there is any doubt about that, is there?

Mr. MILLER of California. The teachers do not doubt it; the gentleman is correct.

Mr. LEWIS of California. The State teachers get a buyout after the year 2000 for any amount left in their credit account, and I am asking, do the public employees have such a right?

Mr. MILLER of California. That is correct. That is in the body of the bill.

Mr. LEWIS of California. I am not sure it is correct. My understanding is that the teachers have that right, but the public employees do not have that right.

Mr. MILLER of California. Mr. Chairman, I cannot hear the gentleman.

Mr. LEWIS of California. It is my understanding that the teachers have that right, but the public employees' language does not provide them with that right; they have a different disposal mechanism.

Mr. MILLER of California. That is correct.

Mr. LEWIS of California. The public employees, as I understand it, can exchange for public lands outside the State of California, is that correct?

Mr. MILLER of California. That is provided that it is approved by the Congress.

Mr. LEWIS of California. It is my understanding that the State teachers cannot—they cannot exchange lands outside the State of California under this bill.

Mr. MILLER of California. That is at their request; the gentleman is correct. They have requested that they not be provided lands outside of California.

Mr. LEWIS of California. Well, Mr. Chairman, I appreciate the gentleman responding to my questions. I will ask for my own time and then comment on the amendment on my own time.

Mr. Chairman, I thank the gentleman.

Mr. BLAZ. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I take this time because I believe a very important problem continues to exist with the bill.

Mr. Chairman, one of the complications of this bill that is very, very important to the citizens of California, but particularly important to retired former employees in California, is the fact that this bill has not settled the potential erosion of very significant investments for the retired teachers and the retired public employees in our State.

I had planned a motion to recommit in order to have a thorough and extensive discussion of this matter, but I am not sure that the House is either patient enough to put up with more dialog on this bill or that all that time is necessary. The points I wish to make now are pretty fundamental.

A wilderness package was put together that provided for 2.3 million acres of wilderness land and minimized these conflicts. If it had been enacted, it would have become the largest wilderness area in the continental United States.

□ 1810

That bill did not begin to create problems that might erode the future retirement benefits of former public employees of our State. As of this moment, the California Teachers Association literally owns nearly 300,000 acres of land in the territory that would be put in a wilderness area under H.R. 2929. Those lands were purchased because of their considered judgment about future retirement potential from the natural resources that can be tapped over time.

The teachers were somewhat ahead of the game. Some time ago they recognized the tremendous potential and resource value in those lands.

Looking around the scene, the investment advisers for the public employees said, "I wonder why the teachers are investing in all that land out there?" After they got a lot of advice and counsel from highly paid experts, they came to the conclusion it was because the teachers saw a tremendous profit potential there.

The public employees said, "How can we possibly take advantage of a similar circumstance for our retired employees?" Well, there was not very much land left that had huge investment potential. So they looked around in the private sector. It turned out, lo and behold, that the Santa Fe Railroad had an investment corporation that held hundreds of thousands of acres of land in this same territory.

What happened? The public employees bought 20 percent of the Santa Fe Railroad's property firm. Can you imagine that? Now, why would the public employees do that? Well, simply because they were looking for the investment potential in terms of America's natural resources in that very land.

They both were negotiating with the public commission that was drafting the bill which I offered earlier as a substitute. That bill excluded most of these territories, so that the teachers and the public employees could take advantage of that speculation for their future retirees' benefit.

In this bill, we give them a beg and a promise. We kiss them on the cheek, and we say, "Hey, we are your friends. We will give you a promise about the future. We will trade that land off. But remember, friend, you teachers, you retired employees, you are our constituents. We got the votes, we will tell you what to do." So they forced some of their leadership to sign off in a haphazard fashion to a solution that is not a solution at all.

There is huge investment potential here that can cause retired employees and retired teachers in our State to hope that they will be able to keep up with inflation from those investments. This bill will totally undermine that future potential.

It is important that the Members know that this bill, H.R. 2929, does create unnecessary problems for retired teachers and retired public employees in our State. That is the reason I was asking for an "aye" vote the other day on our substitute. It is one of the many substantive reasons why we ought to vote "no" on this bill on final passage.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the subcommittee chairman, the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, the facts here ought to be very clear. There is a difference between the land owned by the old Santa Fe Land Co. and the land owned by the California State retired teachers.

Over 100 years ago, the Federal Government gave land to the State of California, land that no one else wanted, including the Federal Government, for the purposes of education. The State of California turned the land over to State teachers, and it ended up in their retirement system.

It was a land grant over 100 years ago from the Federal Government, far different from the situation with Catellus, the successor to the Santa Fe Land Co., which 1 year ago was invested in by CALPERS, the California Public Employee Retirement System. Now, this bill has been around for over 5 years, and it has been around the House, and this issue, in a form very similar to what it is today.

They made that investment 1 year ago, a 20-percent investment in Catellus.

They could sell that land tomorrow, just like they could sell any investment, but the obligation of the Federal Government here with respect to the two, I believe, is quite different. The State teachers system did not select their lands on the basis of any plan as the gentleman suggested. They received those lands as a grant from the National Government when California was admitted as a State. And all during the 100 years, the teachers retirement system has held that land, they have not sought to develop that land in any manner whatsoever. We have worked this out. I ask for a "no" vote.

Mr. BLAZ. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN. The gentleman from Guam [Mr. BLAZ] has 5 minutes remaining, and the gentleman from California [Mr. MILLER] has 5 minutes remaining.

Mr. BLAZ. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I thank the gentleman for yielding.

I just think it is kind of telling that what we have in this amendment is an offering for a land exchange. We had an amendment defeated earlier, in which people who had paid their own money privately invested in the land were going to be forced from the land even if they were unwilling sellers.

They were going to be forced from the land because the gentleman from California, the chairman of the committee, has said there was a constitutional provision which would allow the Government to take the land and give them what the Government thought was reasonable compensation.

Mr. Chairman, I think it is ironic that the company that was mentioned in this amendment is the successor to the railroad which the Government gave the land to as an inducement for it to build the railroad.

What the chairman is engaged in is taking the public's land, which was given to a private corporation as a stimulus to build the railroad and which has been held over the years and has accumulated value, and now they have a special amendment to allow them to exchange that land, some of it valuable, some of it less valuable, for other land, some of it valuable, some of it less valuable, rather than using another approach. It just seems to me that for all of the arguments about the encroachment of corporations, of individuals, and of rights, that most ironic amendment offered today is the fact that the public-used land to induce growth through a private company, and here we are coming full circle with an amendment which will bribe these folks with yet more land.

It was public land, should be public land, and you are going to use public land to buy them out.

Mr. MILLER of California. Mr. Chairman, I yield 30 seconds to the author of the bill, the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman for yielding.

I think, for the record, in light of the comments we have just heard on a technical amendment that does not deal with a land exchange, but with regard to the land exchange the record should reflect, No. 1, the California Retired Teachers Association, in a letter to the committee on October 25, supports the bill. And the company that includes the public employees retirement investors, in a letter to the committee of November 13, states, "We fully support the amendment and would no longer oppose the bill if the amendment is adopted." Both TERS and the retired teachers are happy with the amendment and urge support for the bill.

Mr. BLAZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, I rise only to make a final point regarding this measure.

I want to remind those Members who either may have forgotten or were not able to be here when we had the first discussion regarding this bill: There were four Members of Congress who stood at once as we began this debate. We represent the territory that we are dealing with in this bill. Together, the population they represent would make us the 23d largest State in the country.

□ 1820

We represent territory that would make us the 29th State in terms of size, and yet as this bill went together the four Members who represent the territory, as well as the people they represent, were not consulted. In turn, those Members supported the substitute on the floor that was the result of almost 10 years of public dialog, 4 years of public hearings, and some 40,000 individual citizens' input.

Mr. Chairman, if we care about anything around here as a body, at least we should be willing to focus upon the Members who represent these districts.

The CHAIRMAN. The gentleman from California [Mr. MILLER] is recognized for 2 minutes.

Mr. MILLER of California. Mr. Speaker and Members of the House, perhaps the California delegation is giving the Members the finest Christmas present they could have received today because those of my colleagues who feared a powerful, unified delegation of 52 Members after reapportionment can now rest easy.

This bill has been attacked by my colleagues within the delegation and by those from without the delegation. They have tried numerous efforts today. My colleagues have voted every 10 minutes as they have attacked this bill, trying to lead us to believe that this is some kind of effort to create a park where a park is not justified.

The fact is over the last decade a park has been justified, and that is what all of the studies have found, and now we seek to implement it. We seek to implement it through the regular order. We seek to implement it through the hearings that were held, and the witnesses that were heard and the participation of all the members of our committee.

Now we come to the last noncontroversial amendment, an amendment that was asked for, and I cannot quite get this clear between my two colleagues whether we are doing too much for the teachers and these people or whether we are doing too little. That is not quite clear, but they asked for this amendment because they want to be able to exchange their lands out, and that is what we do in this bill which my colleagues have already voted on. This is just a technical amendment.

Mr. Chairman, I say to my colleagues, "One of these groups was given the lands when California became a State. Can't do much with the land. It's valuable from an environmental point of view, but it doesn't generate much income. They'd like to see if they can swap it out. The other is a private sector company that believes that they would like to swap their land out of the holdings of the monument so that they could see if they could become more productive on some other land because this land isn't terribly productive."

That is what we do, that is the regular order, that is what we have done in parks, and monuments and wilderness all over the country.

Mr. Chairman, I would urge my colleagues to support this amendment, there is no opposition to it, and then I would urge my colleagues to support the final passage of this legislation because this has been a long tortuous task, but is is clearly the right thing to do, and I urge an aye vote.

This amendment addresses concerns raised by the Catellus Development Corporation and the 950,000 members of the California Public Employees Retirement System.

Catellus and its stockholders, including the members of the California Public Employees Retirement System, own approximately 410,000 acres of land that would become inholdings within the park unit and monument areas designated in the California Desert Protection Act.

Mr. Chairman, using the numbers provided in the BLM's report inholding acquisition costs, the lands owned by Catellus are located in areas where land values range from $100 to $400 per acre. If we assume BLM's numbers are accurate, and some people including Catellus say they are high—this means the 410,000 acres of Catellus lands are worth from $41 to $164 million. Our amendment would allow Catellus to realize the value of these lands, while at the same time protecting the taxpayer's pocketbook.

The amendment is very similar to a provision included in the California Desert Protection Act to address concerns raised by the California State Lands Commission and the retired teachers in California.

The amendment directs the Secretary of the Interior to enter into land exchange negotiations with Catellus. The agreement would provide for the exchange of lands owned by Catellus for surplus nonrevenue producing Federal lands under the Interior Department's jurisdiction.

All land exchange agreements must be consistent with the Federal Land Policy and Management Act. Any land exchange agreement involving more than 5,000 acres of Federal land, any transaction valued at more than $5,000,000, or any exchange involving lands outside the State of California must be approved by a joint resolution of Congress.

Mr. Chairman, it is our hope that land exchanges will be successfully completed. However, if Catellus continues to own inholdings in the park units, and monument or wilderness areas after October 1, 1996, the Secretary is directed to establish a monetary credit account in the name of Catellus. The amount of the account shall be equivalent to the appraised value of the remaining inholdings. Catellus could then use this account to bid as any other bidder for excess or Federal property offered in a public sale.

Mr. Chairman, this amendment has the support of environmental organizations, as well as the California Public Employees Retirement System, and Catellus. It is an attempt to fairly deal with the largest inholder within the park, wilderness, and monument areas designated by this bill. The amendment allows the landowner to receive fair market value for its lands at the same time as it ensures that Federal taxpayers will receive fair market value for their public land. The exchange only occurs if Catellus wishes to give the Federal Government title to the Catellus lands.

Mr. BLAZ. Mr. Chairman, I am about to yield back the remaining time, but, before I do that, I just want to say to you that I appreciate more than I can express your indulgence and your courtesy to the gentleman from Guam.

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the Vento-Blaz amendment to H.R. 2929, the California Desert Protection Act. The amendment is similar to H.R. 3565, which was referred jointly to the Committees on Armed Services and Interior and Insular Affairs.

This amendment withdraws 1.3 million acres of land from appropriation under the public land laws, allowing for its continued use for military purposes. The withdrawal for China Lake Naval Weapons Center in Inyo, Kern, and San Bernardino Counties and the Chocolate Mountain Aerial Gunnery Range in Imperial County would last for 15 years.

The area covered by the withdrawal meets the requirement of the Department of Defense for these two locations. Previous withdrawals of these lands for military purposes expired many years ago. The amendment also permits use by the Navy of the El Centro Ranges, also in Imperial County, until January 1, 1994.

The Vento-Blaz amendment also addresses the issue of military overflights. In section 812, the amendment clearly states that nothing in this bill precludes current or future military use of airspace. The section requires the Secretary of Interior to monitor the effects of overflights, and to work with the Secretary of Defense to prevent, eliminate, and minimize any adverse impact on resources, values, and visitor enjoyment caused by overflights.

This amendment is very similar to a bill passed by the House in the 100th Congress, H.R. 1548, and is modeled closely on the Military Lands Withdrawal Act of 1986, Public Law 99–606, 100 Stat. 3457–68. It has been slightly modified from the bill originally introduced this year, H.R. 3565, to address concerns raised by the Departments of Interior and Defense during hearings by the Interior Committee.

As chairwoman of the Armed Services Subcommittee on Military Installations and Facilities, I support the withdrawal of these lands from the protected California desert to allow for the continuation of military purposes set forth in the amendment. I salute the chairman of the National Parks and Public Lands Subcommittee, the gentleman from Minnesota [Mr. VENTO] and my colleague on the Armed Services Committee, the gentleman from Guam [Mr. BLAZ] for offering this amendment to address specific military concerns raised by the California Desert Protection Act.

Mr. BLAZ. Mr. Chairman, I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield back the balance of my time

Mr. LEHMAN of California. Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman form California [Mr. MILLER].

The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. KENNELLY) having assumed the chair, Mr. BARNARD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, pursuant to House Resolution 279, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEWIS of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 297, noes 136, not voting 1, as follows:

[Roll No. 435]

AYES—297

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Goss
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

NOES—136

Allard
Allen
Anderson
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Brewster
Broomfield
Bunning
Burton
Callahan
Camp
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Gillmor
Gingrich
Goodling
Gradison
Grandy
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Laughlin
Lent
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Myers
Nichols
Nussle
Orton
Oxley
Packard
Parker
Paxon
Quillen
Ray
Regula
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Roth
Schaefer
Schulze
Sensenbrenner
Shuster
Skeen
Skelton
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

NOT VOTING—1

Ridge

☐ 1845

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, although I was present on the floor of the House, my vote was not recorded on rollcall No. 433, the Nichols amendment to H.R. 2929. Had my vote been recorded it would have been a "nay."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 2929, CALIFORNIA DESERT PROTECTION ACT OF 1991

Mr. LEHMAN of California. Madam Speaker, I ask unanimous consent that in the enrollment of H.R. 2929, the Clerk may correct cross-references, change section, subsection, and paragraph numbers, and make other necessary technical and conforming changes.

The SPEAKER pro tempore (Mrs. KENNELLY). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. LEHMAN of California. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2929, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2797

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2797.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from Missouri?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2540

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent that to have my name removed from cosponsorship of H.R. 2540.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

CEILING WITH RESPECT TO HEALTH EDUCATION ASSISTANCE LOANS

Mr. WAXMAN. Mr. Speaker, I ask unainmous consent to take from the Speaker's table the Senate bill (S. 2050) to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LENT. Mr. Speaker, reserving the right to object, while I do not object, I make this reservation for the purpose of asking the gentleman from California [Mr. WAXMAN] if he will explain what is in this bill.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding.

The purpose of S. 2050 is to authorize the Secretary of Health and Human Services to approve Federal loan insurance to new borrowers in the Health Education Assistance Loan [HEAL] Program. We have been advised by the Department that in the absence of legislation reauthorizing the HEAL Program for fiscal year 1992, the Department would be limited to insuring loans only to students who had previously received assistance. This would impose severe hardship upon students entering school who had depended upon these loans for their tuition. Legislation extending the HEAL Program has passed the House and is awaiting conference with the Senate. Although we anticipate swift resolution of the differences between House and Senate bills, this cannot occur until early next year. In the interim it is essential that the Department have sufficient authority to make new loans.

At the appropriate time, I will offer an amendment that will make a technical correction in the Senate-passed bill and authorize a small pilot program for training individuals in clinical pharmacology. If successful, this program can assist the Food and Drug Administration in attracting skilled scientific personnel to promote public health by improving the quality and speed of the drug approval process.

I know of no objection to the legislation.

Mr. LENT. Mr. Speaker, continuing my reservation, I rise in support of S. 2050, as amended. This legislation has been worked out with the Senate and includes the following two provisions.

An extension of the credit limit for the Health Education Assistance Loan [HEAL] Program for new borrowers. Since the Congress has not yet completed its work on the reauthorization of the health manpower programs contained in title VII of the Public Health Service Act, this provision is necessary to address an immediate problem. For students who are first time borrowers under the HEAL Program, current law only authorizes such loans through fiscal year 1991. This bill extends that authority for another year.

A provision to authorize $750,000 per year for fiscal year 1992–1996 for a pilot Clinical Pharmacology Training Program to be administered by the Food and Drug Administration. There is currently a shortage of trained clinical pharmacologists, which is hindering the development of new drugs. In addressing this need, it is particularly important to determine the feasibility of expanding clinical pharmacology programs into medical schools currently without such programs.

Mr. Speaker, I know of no objection to this bill.

Mr. LENT. Mr. Speaker, I withdrew my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled an Act "Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. WAXMAN:

Strike all after the enacting clause and insert the following:

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of title VII of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.".

SEC. 2. PILOT PROGRAM IN CLINICAL PHARMACOLOGY.

(a) ESTABLISHMENT.—The Commissioner of Food and Drugs is authorized to award through a competitive bid process a grant for a pilot program for the training of individuals in clinical pharmacology at an appropriate medical school without such a program. Such grant shall be for the purpose of evaluating the extent to which such a program can contribute to an identifiable increase in the number of trained biomedical, scientific personnel in clinical pharmacology.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years 1992 through 1996 $750,000 for each fiscal year to carry out this section.

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. WAXMAN].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO HAVE UNTIL MIDNIGHT, FRIDAY, DECEMBER 6, 1991, TO FILE SUNDRY REPORTS

Mr. BROWN. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology have until midnight, Friday, December 6, 1991 to file the following late reports: H.R. 191, Technology Transfer Improvements Act of 1991, H.R. 2941, Surface Transportation Research and Development Act of 1991, and, H.R. 3507, American Industrial Quality and Training Act of 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1850

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHARP). Pursuant to clause 5 of rule I, the Chair will now redesignate the time for further proceedings on suspension requests postponed on today and on the legislative day of Saturday, November 23, 1991. Such proceedings will be resumed later today.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 754. An act to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program; and

S.J. Res. 229. Joint resolution designating the month of May, 1992, as "National Trauma Awareness Month".

The message also announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) "An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary."

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1724, EXTENSION OF NONDISCRIMINATORY TREATMENT TO CERTAIN COUNTRIES, EXTENSION OF UNEMPLOYMENT BENEFITS; AND CHEMICAL AND BIOLOGICAL WEAPONS CONTROL, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Ms. SLAUGHTER of New York, from the Committee on Rules, submitted a privileged report (Rept. No. 102–389) on the resolution (H. Res. 306) waiving all points of order against the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2212, UNITED STATES-CHINA ACT OF 1991

Ms. SLAUGHTER of New York, from the Committee on Rules, submitted a privileged report (Rept. No. 102–390) on the resolution (H. Res. 307) waiving all points of order against the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 1724, EXTENSION OF NONDISCRIMINATORY TREATMENT TO CERTAIN COUNTRIES, EXTENSION OF UNEMPLOYMENT BENEFITS: AND CHEMICAL AND BIOLOGICAL WEAPONS CONTROL

Ms. SLAUGHTER of New York. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 306 and, pursuant to House Resolution 294, ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 306

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 306 waives all points of order against the conference report on H.R. 1724 and against its consideration. The rule also provides that the conference report will be considered as having been read.

The House passed H.R. 1724 under suspension of the rules on October 8, 1991. The Senate, after enacting the Emergency Unemployment Compensation Act of 1991 without amendment, took up H.R. 1724 and added one amendment, to change the extended unemployment benefits.

Mr. Speaker, the Senate unemployment amendment provides all States with at least 13 weeks of extended unemployment benefits and provides reachback for all States. The program is shortened from July 4, 1992, the program would now expire June 13, 1992.

Last week, the House took up H.R. 1724, agreed to the Senate amendment and further amended the bill to add the text of four bills: H.R. 3347, repeal of the ban on importing Soviet gold coins; H.R. 3313, extension of MFN treatment to Estonia, Latvia, and Lithuania; H.R. 661, trade preference for the Andean region; and H.R. 3409, control of chemical and biological weapons act.

Mr. Speaker, the conference report is identical to the most recent House-passed version, with one exception. The conference report strikes certain provisions from the text of H.R. 3409, the chemical and biological weapons; the provisions that are removed are identical to provisions already enacted into law in Public Law 102–138, the State Department Authorization Act for fiscal year 1992.

Mr. Speaker, this is the customary rule for conference reports. I urge my colleagues to adopt the rule and move this important legislation forward.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from New York [Mrs. SLAUGHTER] has ably described the rule.

This conference report contains a number of important trade provisions. Among other things, it extends most-favored-nation treatment to Hungrary and Czechoslovakia, repeals the ban on importation of Soviet gold coins, and provides for controls and sanctions against foreign persons and countries involved in the production and use of chemical and biological weapons.

The conference report also includes the Andean initiative to provide trade alternatives for the Andean nations of South America to combat illegal drugs. This initiative was proposed by the administration. I would like to note here, Mr. Speaker, that the administration does support this conference report.

Most importantly, Mr. Speaker, this conference report provides for modifications to the Emergency Unemployment Compensation Act of 1991 which the President recently signed. It replaces the three-tier benefit system of 6, 13, or 20 weeks of extended benefits in that legislation with a two-tier system. This new system provides all States with at least 13 weeks of extended unemployment benefits and 20 weeks for unemployed in the same 9 States plus Puerto Rico that would have received 20 weeks under the prior legislation.

Mr. Speaker, I support this rule so that the House may proceed with passage of the conference report.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. JACOBS].

ADJOURNMENT TOMMYROT

(By unanimous consent, Mr. JACOBS was allowed to proceed out of order.)

Mr. JACOBS. Mr. Speaker, a few nights ago CBS rebroadcast some of Ed Sullivan's old programs, and they included Richard Burton in Camelot.

That, together with the nasty rumor that is going about whether the sun will rise on Wednesday of this week at adjournment, has brought out the poet in me.

Each evening between now and December,
Before you drift to sleep upon your cot,
Think back on all the tales that you remember,
About adjournment tommyrot.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1900

Mr. ROSTENKOWSKI. I submitted the following conference report and statement on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary:

CONFERENCE REPORT (H. REPT. 102-391)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SEC. 4. REPEAL OF THE PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS.

Section 510 of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5100) is repealed.

TITLE I—EXTENSION OF NONDISCRIMINATORY TREATMENT TO ESTONIA, LATVIA, AND LITHUANIA.

SEC. 101. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) The Government of the United States extended full diplomatic recognition to Estonia, Latvia, and Lithuania in 1922.

(2) The Government of the United States entered into agreements extending most-favored-nation treatment with the Government of Estonia on August 1, 1925, the Government of Latvia on April 30, 1926, and the Government of Lithuania on July 10, 1926.

(3) The Union of Soviet Socialist Republics incorporated Estonia, Latvia, and Lithuania involuntarily into the Union as a result of a secret protocol to a German-Soviet agreement in 1939 which assigned those three states to the Soviet sphere of influence; and the Government of the United States has at no time recognized the forcible incorporation of those states into the Union of Soviet Socialist Republics.

(4) The Trade Agreements Extension Act of 1951 required the President to suspend, withdraw, or prevent the application of trade benefits, including most-favored-nation treatment, to countries under the domination or control of the world Communist movement.

(5) In 1951, responsible representatives of Estonia, Latvia, and Lithuania stated that they did not object to the imposition of "such controls as the Government of the United States may consider to be appropriate" to the products of those countries, for such time as those countries remained under Soviet domination or control.

(6) In 1990, the democratically elected governments of Estonia, Latvia, and Lithuania declared the restoration of their independence from the Union of Soviet Socialist Republics.

(7) The Government of the United States established diplomatic relations with Estonia, Latvia, and Lithuania on September 2, 1991, and on September 6, 1991, the State Council of the transitional government of the Union of Soviet Socialist Republics recognized the independence of Estonia, Latvia, and Lithuania, thereby ending the involuntary incorporation of those countries into, and the domination of those countries by, the Soviet Union.

(8) Immediate action should be taken to remove the impediments, imposed in response to the circumstances referred to in paragraph (5), in United States trade laws to the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of those countries.

(9) As a consequence of establishment of United States diplomatic relations with Estonia, Latvia, and Lithuania, these independent countries are eligible to receive the benefits of the Generalized System of Preferences provided for in title V of the Trade Act of 1974.

SEC. 102. EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

(a) IN GENERAL.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) or any other provision of law, nondiscriminatory treatment (most-favored-nation treatment) applies to the products of Estonia, Latvia, and Lithuania.

(b) CONFORMING TARIFF SCHEDULE AMENDMENTS.—General Note 3(b) of the Harmonized Tariff Schedule of the United States is amended by striking out "Estonia", "Latvia", and "Lithuania".

(c) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (b) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 103. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE BALTICS.

Title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply to Estonia, Latvia, and Lithuania effective as of the 15th day after the date of the enactment of this Act.

SEC. 104. SENSE OF THE CONGRESS REGARDING PROMPT PROVISION OF GSP TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that the President should take prompt action under title V of the Trade Act of 1974 to provide preferential tariff treatment to the products of Estonia, Latvia, and Lithuania pursuant to the Generalized System of Preferences.

TITLE II—TRADE PREFERENCE FOR THE ANDEAN REGION

SEC. 201. SHORT TITLE.

This title may be cited as the "Andean Trade Preference Act".

SEC. 202. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this title.

SEC. 203. BENEFICIARY COUNTRY.

(a) DEFINITIONS.—For purposes of this title—

(1) The term "beneficiary country" means any country listed in subsection (b)(1) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this title.

(2) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) The term "HTS" means Harmonized Tariff Schedule of the United States.

(b) COUNTRIES ELIGIBLE FOR DESIGNATION; CONGRESSIONAL NOTIFICATION.—(1) In designating countries as beneficiary countries under this title, the President shall consider only the following countries or successor political entities:

Bolivia
Ecuador
Colombia
Peru.

(2) Before the President designates any country as a beneficiary country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(c) LIMITATIONS ON DESIGNATION.—The President shall not designate any country a beneficiary country under this title—

(1) if such country is a Communist country;

(2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association, which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, and if such preferential treatment has, or is likely to have, a significant adverse effect on United States commerce, unless the President—

(A) has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and

(B) reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent or such country fails to work towards the provision of adequate and effective protection of intellectual property rights;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this title if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(d) Factors Affecting Designation.—In determining whether to designate any country a beneficiary country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to protect its own economic development;

(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights;

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(11) whether such country has met the narcotics cooperation certification criteria set forth in section 481(h)(2)(A) of the Foreign Assistance Act of 1961 for eligibility for United States assistance; and

(12) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this Act.

(e) Withdrawal or Suspension of Designation.—(1) The President may—

(A) withdraw or suspend the designation of any country as a beneficiary country, or

(B) withdraw, suspend, or limit the application of duty-free treatment under this title to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such a country should be barred from designation as a beneficiary country.

(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days before taking such action.

(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

(i) accept written comments from the public regarding such proposed action,

(ii) hold a public hearing on such proposed action, and

(iii) publish in the Federal Register—

(I) notice of the time and place of such hearing prior to the hearing, and

(II) the time and place at which such written comments will be accepted.

(f) Triennial Report.—On or before the 3rd, 6th, and 9th anniversaries of the date of the enactment of this title, the President shall submit to the Congress a complete report regarding the operation of this title, including the results of a general review of beneficiary countries based on the considerations described in subsections (c) and (d). In reporting on the considerations described in subsection (d)(11), the President shall report any evidence that the crop eradication and crop substitution efforts of the beneficiary are directly related to the effects of this title.

SEC. 204. ELIGIBLE ARTICLES.

(a) In General.—(1) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of—

(i) the cost or value of the materials produced in a beneficiary country or 2 or more beneficiary countries under this Act, or a beneficiary country under the Caribbean Basin Economic Recovery Act or 2 or more such countries, plus

(ii) the direct costs of processing operations performed in a beneficiary country or countries (under this Act or the Caribbean Basin Economic Recovery Act),

is not less than 35 percent of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out subsection (a) including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expense of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, interest, and salesmen's salaries, commissions or expenses.

(4) If the President, pursuant to section 223 of the Caribbean Basin Economic Recovery Expansion Act of 1990, considers that the implementation of revised rules of origin for products of beneficiary countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) would be appropriate, the President may include similarly revised rules of origin for products of beneficiary countries designated under this title in any suggested legislation transmitted to the Congress that contains such rules of origin for products of beneficiary countries under the Caribbean Basin Economic Recovery Act.

(b) Exceptions to Duty-Free Treatment.—The duty-free treatment provided under this title shall not apply to—

(1) textile and apparel articles which are subject to textile agreements;

(2) footwear not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(6) articles to which reduced rates of duty apply under subsection (c);

(7) sugars, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12 of the HTS; or

(8) rum and tafia classified in subheading 2208.40.00 of the HTS.

(c) Duty Reductions for Certain Goods.—(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

(B) be implemented in 5 equal annual stages with the first 1/5 of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.

(d) SUSPENSION OF DUTY-FREE TREATMENT.—(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed under chapter 1 of title II of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the United States International Trade Commission to the President under section 202(f) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation providing solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be taken under section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974, determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this title.

(5)(A) Any action taken under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 202 of this title shall remain in effect until modified or terminated.

(B) If any article is subject to any such action at the time duty-free treatment is proclaimed under section 202 of this title, the President may reduce or terminate the application of such action to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 204 of the Trade Act of 1974.

(e) EMERGENCY RELIEF WITH RESPECT TO PERISHABLE PRODUCTS.—(1) If a petition is filed with the United States International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within 14 days after the filing of a petition under paragraph (1) of this subsection —

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the taking of action under section 203 of the Trade Act of 1974,

(B) on the day a determination by the President not to take action under section 203(b)(2) of such Act becomes final,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day of the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means—

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;

(C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheadings 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; or

(D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

(f) SECTION 22 FEES.—No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624).

SEC. 205. RELATED AMENDMENTS.

(a) INCREASE IN DUTY-FREE TOURIST ALLOWANCE.—Note 4 to subchapter IV of chapter 98 of the HTS is amended by inserting before the period the following: "or a country designated as a beneficiary country under the Andean Trade Preference Act".

(b) TREATMENT OF INSULAR POSSESSIONS PRODUCTS.—General Note 3(a)(iv) of the HTS (relating to products of the insular possessions) is amended by adding at the end thereof the following:

"(E) Subject to the provisions in section 204 of the Andean Trade Preference Act, goods which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under such Act.".

SEC. 206. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—The United States International Trade Commission (hereinafter in this section referred to as the "Commission") shall prepare, and submit to the Congress, a report regarding the economic impact of this title on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this title in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, during—

(1) the 24-month period beginning with the date of enactment of this title; and

(2) each calendar year occurring thereafter until duty-free treatment under this title is terminated under section 208(b).

For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States industries.

(b) REPORT REQUIREMENTS.—(1) Each report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regarding—

(A) the actual effect, during the period covered by the report, of this title on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries;

(B) the probable future effect that this title will have on the United States economy generally, as well as on such domestic industries, before the provisions of this title terminate; and

(C) the estimated effect that this title has had on the drug-related crop eradication and crop substitution efforts of the beneficiary countries.

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable—

(A) analyze the production, trade and consumption of United States products affected by this title, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this title.

(c) SUBMISSION DATES; PUBLIC COMMENT.—(1) Each report required under subsection (a) shall be submitted to the Congress before the close of the 9-month period beginning on the day after the last day of the period covered by the report.

(2) The Commission shall provide an opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

SEC. 207. IMPACT STUDY BY SECRETARY OF LABOR.

The Secretary of Labor, in consultation with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact that the implementation of the provisions of this title has with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

SEC. 208. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment.

(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this title shall remain in effect 10 years after the date of the enactment of this title.

TITLE III—CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Chemical and Biological Weapons Control and Warfare Elimination Act of 1991".

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to mandate United States sanctions, and to encourage international sanctions, against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals, and to impose sanctions against companies that aid in the proliferation of chemical and biological weapons;

(2) to support multilaterally coordinated efforts to control the proliferation of chemical and biological weapons;

(3) to urge continued close cooperation with the Australia Group and cooperation with other supplier nations to devise ever more effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production; and

(4) to require Presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, deliver, transfer, or use chemical or biological weapons.

SEC. 303. MULTILATERAL EFFORTS.

(a) MULTILATERAL CONTROLS ON PROLIFERATION.—It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons. In furtherance of this policy, the United States shall—

(1) promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(2) set as a top priority the early conclusion of a comprehensive global agreement banning the use, development, production, and stockpiling of chemical weapons;

(3) seek and support effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(4) pursue and give full support to multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing "appropriate and effective" sanctions against any country which uses chemical weapons in violation of international law.

(b) MULTILATERAL CONTROLS ON CHEMICAL AGENTS, PRECURSORS, AND EQUIPMENT.—It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to support the Australia Group's objective to support the norms and restraints against the spread and the use of chemical warfare, to advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Australia Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by proposing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(B) liaison officers to the Australia Group's coordinating entity from within the diplomatic missions,

(C) a close working relationship between the Australia Group and industry,

(D) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(E) information-exchange channels of suspected proliferants,

(F) a "denial" list of firms and individuals who violate the Australia Group's export control provisions, and

(G) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 304. UNITED STATES EXPORT CONTROLS.

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technology,

that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) EXPORT ADMINISTRATION ACT.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended—

(1) by redesignating subsections (m) through (r) as subsections (n) through (s), respectively; and

(2) by inserting after subsection (l) the following:

"(m) CHEMICAL AND BIOLOGICAL WEAPONS.—

"(1) ESTABLISHMENT OF LIST.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the list maintained under this section, a list of goods and technology that would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability.

"(2) REQUIREMENT FOR VALIDATED LICENSES.—The Secretary shall require a validated license for any export of goods or technology on the list established under paragraph (1) to any country of concern.

"(3) COUNTRIES OF CONCERN.—For purposes of paragraph (2), the term 'country of concern' means any country other than—

"(A) a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of goods or technology on the list established under paragraph (1); and

"(B) such other countries as the Secretary of State, in consultation with the Secretary and the Secretary of Defense, shall designate consistent with the purposes of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.".

SEC. 305. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) AMENDMENT TO EXPORT ADMINISTRATION ACT.—The Export Administration Act of 1979 is amended by inserting after section 11B the following:

"CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS

"SEC. 11C. (a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States under this Act, or

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of this Act to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under sub-

section (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

(b) AMENDMENT TO ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended by inserting after chapter 7 the following:

"CHAPTER 8—CHEMICAL OR BIOLOGICAL WEAPONS PROLIFERATION

"SEC. 81. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

"(a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States,

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

"(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)) to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHOM SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall

apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

SEC. 306. DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) WHEN DETERMINATION REQUIRED; NATURE OF DETERMINATION.—Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after the date of the enactment of this title, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 307 applies if the President determines that that government has so used chemical or biological weapons.

(2) MATTERS TO BE CONSIDERED.—In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(3) DETERMINATION TO BE REPORTED TO CONGRESS.—Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 307.

(b) CONGRESSIONAL REQUESTS; REPORT.—

(1) REQUEST.—The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on Foreign Affairs of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) REPORT TO CONGRESS.—Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of whether the specified government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This report shall contain an analysis of each of the items enumerated in subsection (a)(2).

SEC. 307. SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) INITIAL SANCTIONS.—If, at any time, the President makes a determination pursuant to section 306(a)(1) with respect to the government of a foreign country, the President shall forthwith impose the following sanctions:

(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

(2) ARMS SALES.—The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

(3) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(5) EXPORTS OF NATIONAL SECURITY-SENSITIVE GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. 2405) shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 5(c)(1) of that Act (22 U.S.C. 2404(c)(1)).

(b) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—Unless, within 3 months after making a determination pursuant to section 306(a)(1) with respect to a foreign government, the President determines and certifies in writing to the Congress that—

(A) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(B) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(C) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals,

then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least 3 of subparagraphs (A) through (F) of paragraph (2).

(2) SANCTIONS.—The sanctions referred to in paragraph (1) are the following:

(A) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

(B) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(C) FURTHER EXPORT RESTRICTIONS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of all other goods and technology (excluding food and other agricultural commodities and products).

(D) IMPORT RESTRICTIONS.—Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(E) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(F) PRESIDENTIAL ACTION REGARDING AVIATION.—(i)(I) The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 306(a)(1) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(II) Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii)(I) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 306(a)(1), in accordance with the provisions of that agreement.

(II) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(iv) For purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(c) REMOVAL OF SANCTIONS.—The President shall remove the sanctions imposed with respect to a country pursuant to this section if the President determines and so certifies to the Congress, after the end of the 12-month period beginning on the date on which sanctions were initially imposed on that country pursuant to subsection (a), that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(d) WAIVER.—

(1) CRITERIA FOR WAIVER.—The President may waive the application of any sanction imposed with respect to a country pursuant to this section—

(A) if—

(i) in the case of any sanction other than a sanction specified in subsection (b)(2)(D) (relating to import restrictions) or (b)(2)(E) (relating to the downgrading or suspension of diplomatic relations), the President determines and certifies to the Congress that such waiver is essential to the national security interests of the United States, and if the President notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, or

(ii) in the case of any sanction specified in subsection (b)(2)(D) (relating to import restrictions), the President determines and certifies to the Congress that such waiver is essential to the national security interest of the United States, and if the President notifies the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect; or

(B) if the President determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of that country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

(2) REPORT.—In the event that the President decides to exercise the waiver authority provided in paragraph (1) with respect to a country, the President's notification to the Congress under such paragraph shall include a report fully articulating the rationale and circumstances which led the President to exercise that waiver authority, including a description of the steps which the government of that country has taken to satisfy the conditions set forth in paragraphs (1) through (4) of subsection (c).

(e) CONTRACT SANCTITY.—

(1) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.—(A) A sanction described in paragraph (4) or (5) of subsection (a) or in any of subparagraphs (A) through (D) of subsection (b)(2) shall not apply to any activity pursuant to any contract or international agreement entered into before the date of the presidential determination under section 306(a)(1) unless the President determines, on a case-by-case basis, that to apply such sanction to that activity would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(B) The same restrictions of subsection (p) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as that subsection is so redesignated by section 304(b) of this title, which are applicable to exports prohibited under section 6 of that Act shall apply to exports prohibited under subsection (a)(5) or (b)(2)(C) of this section. For purposes of this subparagraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a foreign government in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(p) of that Act.

(2) SANCTIONS APPLIED TO EXISTING CONTRACTS.—The sanctions described in paragraphs (1), (2), and (3) of subsection (a) shall apply to contracts, agreements, and licenses without regard to the date the contract or agreement was entered into or the license was issued (as the case may be), except that such sanctions shall not apply to any contract or agreement entered into or license issued before the date of the presidential determination under section 306(a)(1) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

SEC. 308. PRESIDENTIAL REPORTING REQUIREMENTS.

(a) REPORTS TO CONGRESS.—Not later than 90 days after the date of the enactment of this title, and every 12 months thereafter, the President shall transmit to the Congress a report which shall include—

(1) a description of the actions taken to carry out this title, including the amendments made by this title;

(2) a description of the current efforts of foreign countries and subnational groups to acquire equipment, materials, or technology to develop, produce, or use chemical or biological weapons, together with an assessment of the current and likely future capabilities of such countries and groups to develop, produce, stockpile, deliver, transfer, or use such weapons;

(3) a description of—

(A) the use of chemical weapons by foreign countries in violation of international law,

(B) the use of chemical weapons by subnational groups,

(C) substantial preparations by foreign countries and subnational groups to do so, and

(D) the development, production, stockpiling, or use of biological weapons by foreign countries and subnational groups; and

(4) a description of the extent to which foreign persons or governments have knowingly and materially assisted third countries or subnational groups to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons.

(b) PROTECTION OF CLASSIFIED INFORMATION.—To the extent practicable, reports submitted under subsection (a) or any other provision of this title should be based on unclassified information. Portions of such reports may be classified.

SEC. 309. REPEAL OF DUPLICATIVE PROVISIONS.

(a) REPEAL.—Title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138), and the amendments made by that title, are repealed.

(b) REFERENCES TO DATE OF ENACTMENT.—The reference—

(1) in section 11C(a)(1) of the Export Administration Act of 1979, as added by section 305(a) of this Act, to the "date of the enactment of this section",

(2) in section 81(a)(1) of the Arms Export Control Act, as added by section 305(b) of this Act, to the "date of the enactment of this section", and

(3) in section 306(a)(1) of this Act to the "date of the enactment of this title",

shall be deemed to refer to the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

And the House agree to the same.

DAN ROSTENKOWSKI,
SAM GIBBONS,
Managers on the Part of the House.

LLOYD BENTSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill inserted a new section at the end of the bill.

The House agreed to the Senate amendment with an amendment which inserted after the matter inserted by the Senate the combined texts of H.R. 3347, H.R. 3313, H.R. 661, and H.R. 3409 as reported to the House.

The Senate recedes from its disagreement to the amendment of the House inserting the texts of H.R. 3347, H.R. 3313, H.R. 661, and H.R. 3409, with an amendment to the text of H.R. 3409. The House recedes to the amendment of the Senate. The differences between the text of the bill as amended by the Senate, the House amendment, and the amendment agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TERMINATION OF THE APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO CZECHOSLOVAKIA AND HUNGARY

(Sections 1 and 2 of House bill; sections 1 and 2 of House bill as amended by Senate; sections 1 and 2 of conference agreement.)

CONGRESSIONAL FINDINGS AND PREPARATORY PRESIDENTIAL ACTION

(Section 1 of House bill; section 1 of House bill as amended by Senate; section 1 of conference agreement.)

Present Law

No provision.

Section 1 contains Congressional findings and notes preparatory Presidential action. Subsection (a) makes a number of findings related to Hungary's and Czechoslovakia's respect for fundamental human rights; their policies of free emigration for their citizens; and the political and economic reforms undertaken by both countries. Subsection (b) notes that the President, in anticipation of the enactment of the bill, has directed the U.S. Trade Representative to negotiate with both countries to preserve the commitments contained in the bilateral commercial agreements that are consistent with the General Agreement on Tariffs and Trade; and to obtain other appropriate commitments.

House Bill as Amended by Senate

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO CZECHOSLOVAKIA AND HUNGARY

(Section 2 of House bill; section 2 of House bill as amended by Senate; section 2 of conference agreement.)

Present Law

Title IV of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990, sets forth three requirements relating to freedom of emigration which must be met, or waived by the President, in order for the President to grant nondiscriminatory, most-favored-nation (MFN) status to a nonmarket economy country. Title IV also requires that a trade agreement providing MFN status remain in force between the United States and the nonmarket economy country receiving MFN status and sets forth minimum provisions which must be included in such an agreement.

Presidential waivers and reports under Title IV—and thus a country's MFN status—are subject to disapproval by Congress. If the President determines that a country is in full compliance with the Jackson-Vanik freedom of emigration requirements, section 402(b) requires that he submit a report to the Congress by June 30 and December 31 of each year that such country receives MFN treatment, describing the nature of the country's emigration laws and policies. The country's MFN status may be revoked, if a joint resolution disapproving the December 31 compliance report is enacted into law within 90 legislative days of the delivery of the report to Congress. If such a resolution is enacted, the country's MFN status is rescinded, effective 60 calendar days after enactment.

Annual Presidential recommendations under section 402(d) for a 12-month extension of authority to waive Jackson-Vanik freedom of emigration requirements (either generally or for specific countries) are subject to a joint resolution of disapproval passed by the Congress within 60 calendar days after expiration of the previous waiver extension. An additional 15 legislative days, following the 60 calendar day period for initial passage, is available for consideration of any veto message. If such a resolution is enacted, the country's MFN status is rescinded, effective 60 calendar days after enactment.

House Bill

Section 2 provides for the termination of application of Title IV of the Trade Act of 1974 to Czechoslovakia and Hungary. Subsection (a) authorizes the President to determine that such title should no longer apply to Hungary or Czechoslovakia, or to both; and after making such a determination, proclaim the extension of nondiscriminatory, MFN treatment to the products of that country. Subsection (b) provides that after the extension under subsection (a) of MFN treatment to the products of a country, Title IV of the Trade Act of 1974 shall cease to apply to that country.

House Bill as Amended by Senate

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

AMENDMENTS TO THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

(Section 3 of House bill as amended by Senate; section 3 of conference agreement.)

Present Law

All States are eligible to provide Emergency Unemployment Compensation (EUC) benefits to unemployed workers who have exhausted their unemployment benefits under existing programs. These benefits are available between November 17, 1991, and July 4, 1992.

There are three levels of weeks of eligibility for EUC benefits. The number of weeks of benefits payable to an unemployed worker in a particular State is determined by combinations of State adjusted insured unemployment rates (AIURs), exhaustion rates (ERs), and total unemployment rates (TURs). All rates are rounded to the nearest tenth of a percentage point. For example, 2.95 percent would be rounded to 3.0 percent.

The AIUR for a State is the insured unemployment rate for a given month plus the number of workers who have exhausted their regular State benefits in the last three months added to the numerator.

The ER is the percentage obtained by dividing the average monthly number of workers who have exhausted their regular State benefits during the last 12 months by the average monthly number of individuals filing initial claims for regular State benefits during the last 12-month period ending 6 months earlier. (For the reachback and initial benefit periods an eight-month average ending with September was used.)

The TUR is the percentage obtained from the ratio of all unemployed workers to all workers in the labor force in that State during the last six months for which data are published.

States can receive 6, 13, or 20 weeks as follows:

All States get at least 6 weeks.

States with AIURs of at least 4 percent *or* AIURs of at least 2.5 percent *and* exhaustion rates of at least 29 percent get at least 13 weeks.

States with AIURs of at least 5 percent or TURs of at least 9 percent get 20 weeks.

Once a State has "triggered on" for a 6, 13, or 20 weeks period of EUC benefits, the State remains triggered on that tier for at least 13 weeks, even if it drops to a lower tier during that period. Alternatively, if a State's moves to a higher tier during that period, workers in that State qualify for the additional benefits.

Also, once an unemployed worker becomes eligible for 6, 13, or 20 weeks of EUC benefits, the worker is paid for all weeks to which he is entitled, even if the State drops to a lower tier or the program expires before the worker has received the full number of weeks of benefits.

Unemployed workers who have exhausted their benefits under the regular unemployment program between March 1 and November 16 are eligible to receive EUC benefits in States which qualify as 13- or 20-week States or which had AIURs of at least 3 percent. Qualifying States are eligible for a minimum of 6 weeks of "reachback" benefits, however, States on the second and third tiers are eligible to pay for 13 or 20 weeks, respectively.

House Bill

No provision.

Senate Amendment

The Senate amendment replaces the three tier system of 20, 13, and 6 weeks of emergency unemployment compensation with a two tier system of 20 and 13 weeks. The 9 States and Puerto Rico with total unemployment rates of at least 9 percent or adjusted insured unemployment rates of at lest 5 percent still would receive 20 weeks of benefits. The other 41 States and the District of Columbia and Virgin Islands would receive 13 weeks of benefits. In addition, reachback coverage would be added for all States so that the 18 States and the Virgin Islands that do not currently receive these benefits would become eligible to provide them. Finally, the expiration date of the program would change from July 4, 1992, to June 13, 1992.

Conference Agreement

The conferees agree to the Senate amendment.

REPEAL OF THE PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS

(Section 4 of House amendment; section 4 of conference agreement.)

Present Law

Section 510 of the Comprehensive Anti-Apartheid Act of 1986 prohibits the importation into the United States by any person, including a bank, of any gold coins minted in the Union of Soviet Socialist Republics (USSR) or offered for sale by the Government of the USSR. Any individual who violates the prohibition or implementing regulations is subject to a fine of not more than five times the value of the gold coins involved.

Imports of gold coins enter the United States duty-free.

House Amendment

Section 4 repeals section 510 of the Comprehensive Anti-Apartheid Act of 1986.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO ESTONIA, LATVIA, AND LITHUANIA

(Title I of House amendment; Title I of conference agreement.)

CONGRESSIONAL FINDINGS

(Section 101 of House amendment; section 101 of conference agreement.)

Present Law

No provision.

House Amendment

Section 101 makes a number of findings relating to the history of U.S. diplomatic relations with the Baltic states; their forcible incorporation into the Soviet Union in 1940; and their successful efforts to restore their independence from the Soviet Union, which occurred on September 6, 1991.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA

(Section 102 of House amendment; section 102 of conference agreement.)

Present Law

The law governing U.S. trade relations with nonmarket economy counties is Title IV of the Trade Act of 1974 (the so-called Jackson-Vanik amendment), as amended by the Customs and Trade Act of 1990. That title requires the President to deny MFN status to those nonmarket economy countries which did not receive such status on the date of enactment. Because Estonia, Latvia, and Lithuania on the date of enactment were under the forcible control of the Soviet Union, this prohibition applied to those states.

Title IV also authorizes the President to extend MFN status to a nonmarket economy country, if that country meets three requirements relating to the freedom of emigration of its citizens. Alternatively, the President may waive those requirements and extend MFN status on an annual basis to a nonmarket economy country, subject to disapproval by Congress. Finally, Title IV requires that a trade agreement providing MFN status remain in force between the United States and the nonmarket economy country receiving MFN status; and it sets forth minimum provisions which must be included in such an agreement.

General Note 3(b) of the Harmonized Tariff Schedule of the United States includes Estonia, Latvia, and Lithuania on the list of countries subject to Column 2 (non-MFN) rates of duty.

House Amendment

Section 102 applies nondiscriminatory, MFN treatment to the products of Estonia, Latvia, and Lithuania, notwithstanding Title IV or any other provision of law. It amends General Note 3(b) to remove these three countries from the application of Column 2 (non-MFN) rates of duty.

These provisions apply with respect to goods imported on or after the 15th day after the date of enactment of the Act.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE BALTICS

(Section 103 of House amendment; section 103 of conference agreement.)

Present Law

Title IV of the Trade Act of 1974, as amended, has applied to Estonia, Latvia, and Lithuania by virtue of their forcible incorporation into the Soviet Union in 1940.

House Amendment

Section 103 provides that title IV shall cease to apply to Estonia, Latvia, and Lithuania, effective as of the 15th day after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SENSE OF THE CONGRESS REGARDING PROMPT PROVISION OF GSP TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA

(Section 104 of House amendment; section 104 of conference agreement.)

Present Law

Title V of the Trade Act of 1974 authorizes the President to provide duty-free, Generalized System of Preferences (GSP) treatment to any eligible article from designated beneficiary developing countries, subject to certain conditions and limitations. Under Section 502, the President is prohibited from designating as beneficiary developing countries certain specified developed countries, including the Soviet Union; communist countries unless certain criteria are satisfied; and countries which do not meet other specified criteria. Because Estonia, Latvia, and Lithuania are now independent of the Soviet Union, they are eligible for GSP benefits, subject to the criteria of Title V.

House Amendment

Section 104 expresses the sense of the Congress that the President should take prompt action under Title V to provide GSP benefits to the products of Estonia, Latvia, and Lithuania.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TRADE PREFERENCE FOR THE ANDEAN REGION

(Title II of House amendment.)

SHORT TITLE

(Section 201 of House amendment.)

Present Law

No provision.

House Amendment

Section 201 provides that the title may be cited as the "Andean Trade Preference Act" (ATPA).

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

AUTHORITY TO GRANT DUTY-FREE TREATMENT

(Section 202 of House amendment.)

Present Law

Bolivia, Ecuador, Colombia, and Peru receive most-favored-nation, column 1 rate of duty treatment and are designated as beneficiary countries for duty-free treatment on eligible articles under the Generalized System of Preferences (GSP) program.

House Amendment

Section 202 authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

BENEFICIARY COUNTRY

(Section 203 of House amendment.)

Present Law

No provision. The designation authority and criteria that apply under section 212 (b) and (c) of the Caribbean Basin Economic Recovery Act (CBERA) to beneficiary countries under the Caribbean Basin Initiative (CBI) program, are nearly identical to the provisions of section 203. Section 212 of the CBERA has similar withdrawal and suspension authorities and notification and reporting requirements with respect to CBI beneficiary countries.

House Amendment

Section 203 authorizes the President to consider only Bolivia, Ecuador, Colombia, and Peru for designation as beneficiary countries under the ATPA. Before designating any country, the President must notify the Congress of his intention to make the designation, together with the considerations entering into the decision. Designation by the President of a country as a beneficiary country is subject to 7 specific conditions, most of which are subject to waiver if he determines that designation of the country will be in the national economic or security interest of the United States and reports that determination and the reasons therefor to the Congress. The President must also take 12 other specific factors into account in designating any beneficiary country.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article of any beneficiary country if he determines after designation that the country should be barred from designation because of changed circumstances. The President must submit to the Congress every 3 years a complete report on the operation of the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

ELIGIBLE ARTICLES

(Section 204 of House amendment.)

Present Law

Imports from the Andean countries are subject to normal customs provisions for determining origin, except that articles eligible for duty-free treatment under the GSP program are subject to the rules-of-origin specified under section 503 of the Trade Act of 1974. The rule-of-origin requirements for duty-free treatment under the ATPA are nearly identical to the requirements under section 213(a) of the CBERA for determining origin under the CBI program.

Section 223 of the CBERA provides that if the President considers that implementation of revised rules of origin for products of CBI beneficiary countries would be appropriate, he shall transmit such legislation to the Congress, after taking into account a report and recommendations of the U.S. International Trade Commission (ITC) and advice from various sources.

The product exclusions from eligibility for duty-free treatment and the duty reductions on imports of certain leather products under the CBI program are identical to the ATPA, except that rum is eligible for duty-free treatment under the CBERA.

Additional U.S. Notes 2, 3, and 4 of Chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) authorize the imposition of duties or quotas on imports of sugars, syrups, and molasses. Presidential Proclamation 6179, signed on September 13, 1990, provided for the establishment of tariff-rate quotas on sugar imports beginning on October 1, 1990, to replace the system of absolute quotas. Under the tariff-rate quota system, the Secretary of Agriculture announces a quantity of sugar that will be subject to current tariff rates (the "lower tier" tariff rate), which is then allocated among country suppliers. Any additional quantities of sugar above these allocated amounts are subject to a tariff rate of 16 cents per pound, raw value (the "upper tier" tariff rate). GSP and CBI beneficiary countries are eligible to receive duty-free treatment on the quantities of sugar permitted entry at the lower tier tariff rate. All four Andean countries currently have sugar import allocations subject to GSP duty-free treatment.

The CBI program contains identical authorities for granting import relief and taking emergency action on agricultural perishable products.

House Amendment

Section 204 requires duty-free treatment on any article, not otherwise excluded from eligibility, which is the growth, product, or manufacture of a beneficiary country if (1) that article is imported directly from a beneficiary country into the U.S. customs territory; and (2) the sum of (a) the cost or value of materials produced in one or more Andean beneficiary countries or one or more CBI beneficiary countries, plus (b) the direct costs of processing operations performed in one or more Andean or CBI beneficiary countries is not less than 35 percent of the appraised value of the article (which may include Puerto Rico and Virgin Islands content and up to 15 percent of the value of U.S. content). Section 204 also specifies requirements which the Secretary of the Treasury must prescribe in regulations. The President may include revised rules of origin for duty-free treatment under the ATPA similar to revised rules for CBI duty-free treatment in any suggested legislation submitted to the Congress pursuant to section 223 of the CBERA.

Section 204 excludes from eligibility for duty-free treatment: (1) Textiles and apparel articles, which are subject to textile agreements; (2) footwear ineligible for GSP duty-free treatment; (3) canned tuna; (4) petroleum or petroleum products; (5) certain watches and watch parts; (6) handbags, luggage, flat goods, work gloves, and leather wearing apparel ineligible for GSP duty-free treatment, which are subject to 20 percent duty reductions not to exceed 2.5 percent ad valorem implemented over 5 years; (7) sugars, syrups, and molasses subject to overquota rates of duty; and (8) rum.

The President may suspend duty-free treatment on any eligible article under import relief or national security authorities. In any report to the President on an import relief investigation involving a duty-free article under the ATPA, the ITC must state whether and to what extent its injury findings and remedy recommendations apply to imports from beneficiary countries. Under emergency relief provisions for imports of perishable agricultural products, within 7 days after receiving a recommendation from the Secretary of Agriculture (within 14 days after the filing of a petition) that emergency action is warranted, the President must withdraw duty-free treatment or determine not to take emergency action. No proclamation under the ATPA shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

RELATED AMENDMENTS

(Section 205 of House amendment.)

Present Law

Note 4 and tariff items under subchapter IV of chapter 98 of the HTS provide a duty-free tourist allowance to returning U.S. residents arriving directly or indirectly from foreign countries (including Andean countries) of $400, or $600 in the case of CBI beneficiary countries. U.S. residents returning from foreign countries may bring in not more than one liter of alcoholic beverages duty-free and excise-tax free; residents returning from CBI beneficiary countries may enter one additional liter duty-free if produced in a CBI beneficiary country.

General Note 3(a)(iv) of the HTS provides that goods imported from U.S. insular possessions shall receive no less favorable duty treatment than accorded to eligible articles imported from beneficiary countries under the GSP or CBI programs.

House Amendment

Section 205 increases the duty-free tourist allowances for U.S. residents returning directly or indirectly from Andean beneficiary countries from $400 to $600 and for one additional liter of alcoholic beverages if produced in an Andean country.

Goods imported from U.S. insular possessions will receive duty treatment no less favorable than the treatment afforded such goods imported from a beneficiary country under the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT

(Section 206 of House amendment.)

Present Law

No provision. Section 215 of the CBERA requires a similar report by the ITC with respect to the CBI program.

House Amendment

Section 206 requires the ITC to prepare and submit to the Congress a report on the economic impact of the ATPA on U.S. industries and consumers and on the effectiveness of duty-free treatment in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, initially on the first two years of the program and annually thereafter.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

IMPACT STUDY BY SECRETARY OF LABOR

(Section 207 of House amendment.)

Present law

No provision. Section 216 of the CBERA contains an identical requirement with respect to the CBI program.

House Amendment

Section 207 requires the Secretary of Labor to make an annual report to the Congress of its review and analysis of the impact of the ATPA on U.S. labor.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT

(Section 208 of House amendment.)

Present Law

No provision.

House Amendment

Section 208 provides that the ATPA takes effect on the date of enactment, and that duty-free treatment terminates 10 years after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

(Title III of House amendment; Title III of conference agreement.)

SHORT TITLE

(Section 301 of House amendment; section 301 of conference agreement.)

Present Law

Title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138) entitles the provisions of that title the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

PURPOSES

(Section 302 of House amendment; section 302 of conference agreement.)

Present Law

Title V of Public Law 102–138 states the purposes of the title as mandating U.S. sanctions and encouraging international sanctions against chemical and biological weapons (CBW) country violators, supporting multilateral proliferation controls, urging cooperation with the Australia Group and other suppliers' groups, and requiring Presidential reports on chemical and biological weapons proliferation.

House Amendment

Same as present law.

Senate Amendment.

No provision.

Conference Agreement

The Senate recedes.

MULTILATERAL EFFORTS

(Section 303 of House amendment; section 303 of conference agreement.)

Present Law

Title V of Public Law 102–138 specifies measures that the United States shall take to lead and coordinate multilateral efforts to control the proliferation of chemical and biological weapons.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

UNITED STATES EXPORT CONTROLS

(Section 304 of House amendment; section 304 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President to use the authorities of the Arms Control Act and the Export Administration Act of 1979 to control the exports of defense articles and services and other goods and technologies which he determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons. It also provides for a list of goods and technology.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SANCTIONS AGAINST CERTAIN FOREIGN PERSONS

(Section 305 of House amendment; section 305 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President to impose sanctions on foreign persons who have knowingly and materially contributed to efforts by certain countries, projects, or entities to use, develop, produce, stockpile, or acquire chemical or biological weapons. It urges the President to undertake consultation with the country of jurisdiction in order to secure corrective action. It permits the President to delay imposition of sanctions against a foreign person for up to 90 days to pursue consultations and corrective action. It requires the President to report within 90 days after his determination on the status of the consultations and permits him to delay the imposition of sanctions for an additional 90 days if the President determines and certifies to Congress that the government is pursuing corrective actions. Upon making a determination that a foreign person has engaged in the prohibited activities, the President is required to impose government procurement sanctions against that person for at least 12 months, after which the sanctions may be terminated if the President determines and certifies that the violations have ceased. Certain exceptions also are provided (e.g., for certain defense articles and services or existing contracts). This section also provides for a Presidential waiver after 12 months, based on the President's determination that such a waiver is important to the national security interests of the United States.

House Amendment

Section 305 adds import sanctions to the sanctions which must be imposed against a foreign person found to be engaged in prohibited activities.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS

(Section 306 of House amendment; section 306 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President, once information becomes available to him, to determine, within 60 days of his receipt of pertinent information, whether any foreign country has used or made substantial preparation to use chemical weapons in violation of international law or against its own nationals. It also stipulates that the Senate Foreign Relations Committee and House Foreign Affairs Committee Chairmen, upon consultation with their ranking Minority Members, may request from the President a report on the information held by the Executive branch pertinent to the suspected violation.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS

(Section 307 of House amendment; section 307 of conference agreement.)

Present Law

Title V of Public Law 102–138 applies to any government which the President determines has used, or is making substantial preparation to use, chemical or biological weapons in violation of international law or against its own nationals. It establishes a two-tier sanctions regime. Once a determination is made, the President shall impose immediately the specified U.S. Government-associated sanctions (foreign assistance, arms sales, arms sales financing, government credit or financing, exports of national security-sensitive goods and technology). If, after 3 months, the President is not able to certify to Congress that the violation has ceased, that the government in question has provided assurances about no further use, and that the government is willing to allow onsite inspections by international observers, then the President shall impose three out of five possible sanctions (multilateral development bank assistance, bank loans, further export restrictions, diplomatic relations, landing rights). The President may remove the country sanctions after 12 months if he determines and can certify these same changes in conduct by the government in question.

The Presidential waiver authority in present law allows the President to waive the imposition of sanctions if he determines and certifies to Congress that it is essential to the national security interests of the United States; and if the President notifies the Committee on Foreign Relations in the Senate and the Committee on Foreign Affairs in the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with foreign aid reprogramming procedures. The President also must report on the rationale for, and circumstances of, his waiver.

The President also may waive the sanctions if he determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of the sanctioned country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

Present law also provides contract sanctity for contracts and agreements entered into before the date on which the President imposes sanctions unless such contract sanctity would assist the country in using chemical or biological weapons in violation of international law.

House Amendment

The landing rights sanction in section 307 specifies the steps to be taken by the Secretary of Transportation in implementing this sanction and providing for emergency procedures.

With respect to import sanctions, the President must notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, rather than the Committees on Foreign Relations and Foreign Affairs, of his determination and certification at least 15 days before the waiver takes effect. The notification requirement with respect to sanctions other than import sanctions is unchanged.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

PRESIDENTIAL REPORTING REQUIREMENTS

(Section 308 of House amendment; section 308 of conference agreement.)

Present Law

Title V of Public Law 102–138 requires a Presidential report to Congress 90 days after enactment of the amendment and every 12 months thereafter. This report is intended to be comprehensive and to include such information as a description of actions taken to carry out this title; efforts by countries and subnational groups to develop, produce, and use chemical or biological weapons; and any use of such weapons by a country in violation of international law.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

REPEAL OF DUPLICATIVE PROVISIONS

(Section 309 of Senate amendment to House amendment; section 309 of conference agreement.)

Present Law

Title V of Public Law 102–138 establishes a framework of sanctions for the proliferation and use of chemical and biological weapons.

House Amendment

No provision.

Senate Amendment to House Amendment

Section 309 repeals Title V of Public Law 102–138 and the amendments to other laws made by that title. It establishes the effective date of Title III of H.R. 1724 and the amendments to other laws contained therein as the date of enactment of Public Law 102–138.

Conference Agreement

The House recedes.

DAN ROSTENKOWSKI,
SAM GIBBONS,
Managers on the Part of the House.

LLOYD BENTSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 306, I call up the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SHARP). Pursuant to the rule, the conference report is considered as having been read.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the conference report presently being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 1724. This report contains modifications to the recently enacted Emergency Unemployment Compensation Act of 1991 and a number of very important trade provisions.

The original bill provides for termination of the Jackson-Vanik provisions of the Trade Act of 1974 and permanent extension of most-favored-nation treatment to Hungary and Czechoslovakia.

On November 20, the House concurred in the Senate amendment to H.R. 1724, which replaces the three-tier benefit system enacted in the Emergency Unemployment Compensation Program of 6, 13, and 20 weeks with a two-tier system of 13 and 20 weeks. An additional 24 State programs could provide 13 weeks of extended benefits instead of 6 weeks, and 19 additional State programs would be eligible for the reachback provisions under the new program. To pay for these two changes, the duration of the program would be cut by 3 weeks, from July 4 to June 13, 1992, but no State would lose benefits.

Because this bill will be enacted after the effective date of the program, there are certain requirements in present law relating to eligibility requirements for extended benefits that States will not be able to meet. I want to clarify that it is the expectation of the conferees that the Department of Labor will waive these requirements, in order that States will not be penalized for failure to take actions that, given the retroactive nature of this legislation, they cannot reasonable be expected to take.

The conference report includes the provisions of all four trade bills which the House passed by voice voter on November 20 as a composite amendment to the Senate-passed bill. The Senate agreed to repeal of the ban in the Comprehensive Anti-Apartheid Act of 1986 on importation of Soviet gold coins, the extension of unconditional most-favored-nation status to the Baltic States of Estonia, Latvia, and Lithuania, and United States export controls and sanctions against foreign persons and countries involved in the production and use of chemical and biological weapons.

Finally, Mr. Speaker, the Senate agreed to the provisions of H.R. 661, the Andean Trade Preference Act, an administration initiative to provide economic alternatives for the Andean nations to combat illegal drugs. The conference agreement fulfills the instruction passed on November 21 to the House conferees to insist on the position of the House with regard to this legislation.

Mr. Speaker, I urge my colleagues to support the conference report on H.R. 1724.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House conferees were very successful in winning approval of all of H.R. 1724's trade provisions. Those initiatives are important. The conference acted wisely.

Several of the provisions are reflective of the improved international situation in which we find ourselves.

They achieve permanent normalized trade relations with Hungary, Czechoslovakia, and the Baltic nations of Estonia, Latvia, and Lithuania.

Permanent most-favored-nation treatment is a positive signal we can send those who have struggled for economic reform and political freedom.

MFN for the Soviet Union is not contained in this bill. It is addressed, however, in a separate resolution which we passed last week—and which passed the Senate yesterday. This conference report does, however, contain a related measure.

It repeals the prohibition on the importation of gold coins from the Soviet Union—fulfilling a commitment made by the United States during talks on the bilateral trade agreement.

The chemical and biological weapons control measure contained in the conference report retains important waiver authority and flexibility for the President. It will be helpful in crafting an effective and judicious response to violations in this area.

I was particularly pleased by the inclusion of the Andean trade initiative in the final agreement. It is an important part of the President's war on illicit drug production. It fulfills his commitment to the Presidents of Bolivia, Columbia, Ecuador, and Peru to help them stimulate other exports.

Last week's 416-to-0 vote in the House on PHIL CRANE's motion to instruct conferees sent a clear signal to the Senate. This antidrug initiative is important.

The Senate got our message. The measure stayed in the conference agreement.

Final passage will send an equally clear signal to the Andean nations. The United States stands with them in their efforts to combat illegal drug trafficking by developing other products for export.

I can't say enough about the tireless efforts of our colleague PHIL CRANE, the ranking Republican on the Trade Subcommittee. He has been the congressional leader on the Andean initiative and deserves great credit for moving it forward. So does Chairman ROSTENKOWSKI—for holding firm on the House position in the face of last minute Senate hesitancy.

These trade issues are important. They deserve our support. I want to vote for them. Once again I can't. They remain packaged with still another unemployment benefit expansion—at levels I cannot support.

Less than 2 weeks ago, President Bush signed into law a $5.2 billion program of temporary extended benefits.

That plan had serious flaws—but at least it targeted relief to workers in States with high unemployment levels.

The package before us today amends that brand new law. It provides 7 more weeks of benefits in States which need them the least. Sixteen of those States have insured unemployment rates under 2 percent. Once again, Congress has cringed before the icon of political expediency.

This expansion strikes a blow at the foundation of the unemployment compensation program. It perverts the basic premise of extended benefits—that they should be concentrated in those areas where it's hardest for unemployed workers to find a job.

It's no fun being a lonely dissenting voice on this issue. The conference report will be adopted with little opposition.

It's important, though, that someone reminds this body of the groundwork we are laying today.

The next time we see the extended benefits issue, the call will be for a costly, permanent, nontargeted program which will require a significant tax increase.

I reserve the balance of my time.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Speaker, the conference report on H.R. 1724 contains virtually all of the provisions on chemical and biological weapons proliferations found in the conference report on H.R. 1415, the State Department authorization for fiscal years 1992 and 1993, which was passed by the House on October 8, 1991.

When the State Department authorization conference report was on the floor, I engaged in a colloquy with the gentleman from California [Mr. BERMAN]. The purpose of the colloquy was to clarify the circumstances in which the President could delay a determination that a foreign person had knowing and materially contributed to the proliferation of chemical or biological weapons.

Inasmuch as the provisions which gave rise to the colloquy are contained in the conference report now before us, and the purpose of legislative history, I include at this point in the RECORD a reflection of the colloquy between Mr. BERMAN and myself as it appeared on page H7640 of the CONGRESSIONAL RECORD for October 8, 1991.

Mr. MCCURDY. Mr. Speaker, will the gentlemen yield?

Mr. BERMAN. I yield to the gentlemen from Oklahoma.

Mr. MCCURDY. Mr. Speaker, if the chairman of the subcommittee would allow it, I would like to engage him in a colloquy.

I would like to clarify the provisions in H.R. 1415 that amend the Export Administration Act and the Arms Export Control Act to provide for sanctions against foreign companies involved in the development or production of chemical and biological weapons. These provisions mandate sanctions once the President makes a determination that a foreign person has "knowingly and materially" contributed to the efforts by any foreign country to develop or use biological or chemical weapons.

I strongly endorse this effort to sanction foreign companies involved in the proliferators of chemical and biological weapons. I rise to clarify one point concerning the Presidential determinations called for in these provisions. It has come to my attention that, in rare circumstances, a premature determination might inhibit the flow of information which is necessary to the full imposition of sanctions against all violators. It seems to me that the President should be allowed to delay such a determination where it is necessary to protect intelligence sources and methods which are being used to acquire further, possibly more important, information on CBW proliferation.

Is it your understanding that the protection of intelligence sources or methods for the stated purpose may be a factor in deciding on the timing of a Presidential determination that a foreign person is contributing to CBW proliferation?

Mr. BERMAN. Mr. Speaker, reclaiming any time, to answer the gentleman from Oklahoma [Mr. MCCURDY], chairman of the House Permanent Select Committee on Intelligence, it is my understanding that the President, in rare circumstances, could delay a determination that a foreign person has knowingly and materially contributed to CBW proliferation if such a delay is necessary to protect intelligence sources or methods essential to the acquisition of further intelligence about CBW proliferation. Such a delay would be appropriate, for example, where the United States is using the sensitive intelligence sources or methods to gather information on other CBW proliferation, or where additional time is needed to develop nonsensitive information that could be used to explain publicly the imposition of sanctions. However, such a delay should not be indefinite, because the ultimate purpose of these provisions is to sanction those foreign persons that we know to be knowingly and materially involved in CBW proliferation. Moreover, the delay should only be for the purpose of furthering our policy of sanctioning those proliferators. A delayed determination would not be justified to further any other policy.

Mr. McCURDY. Mr. Speaker, if the gentleman would continue to yield, I thank my colleague for this clarification. I, too, would like to add my congratulations to the chairman of the subcommittee for his stewardship of this bill this year.

□ 1910

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois. [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I am forced to rise in opposition to this conference report despite the fact that I strongly favor many of the trade-related initiatives within it, including a measure which I sponsored myself. I cannot, however, in good conscience support an unemployment measure which would expand benefits to States which have an unemployment rate of less than 2 or 3 percent. Surely, our country cannot afford to be so generous as to expand such benefits to States which clearly do not have an unemployment problem.

Despite my strong objection to the unemployment provision, I would like to remind my colleagues of the positive aspects of this legislation. H.R. 1724 includes two measures to extend Most-Favored-Nation trading status to Czechoslovakia and Hungary as well as to each of the individual Baltic States. Granting MFN to these deserving nations will show that America is committed to helping the growing number of Democratic nations throughout the world.

I am particularly pleased that the Andean Trade Preference Act has been incorporated into H.R. 1724. Having introduced the bill earlier this year, I have been very interested in seeing it move rapidly through the legislative process. The fact that it has come to the floor this quickly is evidence of this body's firm commitment to the war against drugs.

Drafted by the Administration, the Andean Trade Preference Act is a very important aspect of the President's enterprise for the Americas initiative. This bill is designed to assist the Andean Nations; Colombia, Bolivia, Ecuador, and Peru, in their struggle to eliminate the production, processing and shipment of illegal drugs by removing the duties on a number of products originating in the region. As a result of this measure, the poor peasant farmers—who have been forced to rely on the drug trade to earn their daily bread—will be provided with an opportunity to engage in legitimate crop production.

Since nearly all of the cocaine entering the United States originates in the Andean region, our country stands to gain a great deal from the Andean Trade Preference Act. And while this act alone will not eliminate the flow of cocaine into the United States, this program coupled with the others which fall under the purview of the enterprise for the Americas initiative, will contribute significantly to the growth and prosperity of the Andean countries, thereby giving them the means to address the serious drug problems facing our hemisphere.

In addition, passage of this measure will in effect be an acknowledgement of the substantial sacrifices the Andean countries have already made in the war against drugs. And perhaps today's actions will spur even greater efforts in that direction.

I wish to thank Chairman GIBBONS, Chairman ROSTENKOWSKI, and the ranking Republican on the Ways and Means Committee, BILL ARCHER, for all their efforts in helping to move the Andean legislation so swiftly.

It is truly with deep regret that I must vote against H.R. 1724.

Mr. PEASE. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Ohio, the acting chairman, for yielding this time to me, and commend the full committee chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], and our congressional classmate, the gentleman from Texas [Mr. ARCHER] for the work they have done.

Mr. Speaker, certainly I rise in support of permanent MFN status for the emerging East Bloc nations of Hungary and Czechoslovakia, and also for those brave nations, formerly a part of the U.S.S.R.; but in addition to those wonderful things, I would like to speak momentarily in favor of the amendments made by the distinguished Committee on Ways and Means on the formulas for the extension of unemployment benefits to the states.

My home State of Kentucky was one which would have received only 6 weeks, a very welcome 6 weeks, I must say, under the original bill, but now it will receive 13 weeks, which is even more important to the many thousands upon thousands of unemployed in Louisville and Jefferson County and throughout the Commonwealth of Kentucky.

So I realize it took a lot of doing to reach this point tonight. I want to thank all those responsible and rise in very strong support of this conference report.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the distinguished ranking minority member for whom I have as much respect for as any Member in this body for yielding me this time.

I was not going to speak on this bill, but when I heard the gentleman say he was a lone voice speaking out against this unemployment compensation switch, I wanted to join him in that. I voted against this bill the last time for that specific reason.

We in Pennsylvania are hurting and have been hurting for a long time in my area. This recession has taken a very heavy toll, but the people in Pennsylvania under this bill are going to get less benefits than they would under the bill that is currently the law right now, because they shortened the timeframe that allows us to get benefits, so I am voting against this bill. I think every Member from Pennsylvania should vote against this bill.

If we are really serious about extending unemployment compensation benefits to the people who are hurting, who cannot get jobs, not in States in which we have 3-percent unemployment and have healthy economies, but in States where people are really hurting, if that is what this body cares about, about people who are hurting out there who cannot find jobs, then this is a sham. We should be giving those benefits to people who need them and in the States where it is hard to find jobs, and this is the State of Pennsylvania.

So I rise in support of the position of the gentleman on that and I will be opposing the vote, even though there may be many things in this bill, as the gentleman from Illinois just said, that I support and in fact was a cosponsor of the legislation; but I find this absolutely repugnant for this precedent and for this insult to the people who are really hurting in this country.

I also find it very ironic that we are here discussing unemployment compensation extensions when what we should be discussing is getting these people a job and considering a growth package right now before we get out of here for Thanksgiving.

Mr. PEASE. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I must say it pains me that my colleagues on the Ways and Means Committee, the distinguished gentleman from Texas [Mr. ARCHER] and the distinguished gentleman from Illinois [Mr. CRANE] like this bill a lot, but they cannot quite bring themselves to vote for it. Some of us, I guess, on this side, are going to have to provide the votes to give not only trade preferences to some very important nations around the world, but also unemployment benefits to workers who badly need them.

I rise to support of all the sections of this bill, particularly the portions dealing with MFN for Czechoslovakia and Hungary and the Batlic states.

Eastern Europe is going through a dramatic transformation. The people of those countries need a great deal of help in adjusting to changing their systems from one of communism to one of free enterprise and democracy. There is a limit to how much we can do in terms of actual aid to those countries, but certainly providing them with trading privileges, allowing them to join the community of nations in the trading arena can mean a great deal to them, can encourage investment in those countries, can allow them over a period of a few years hopefully to transform their economies and that will be the best contribution we can make to those countries.

Mr. Speaker, I had the privilege of being in Estonia in the first part of September of this year on the day that the Supreme Soviet officially recognized the independence of Estonia. On that occasion we were speaking to some Estonian officials about granting MFN and saying that we were going to do it for the Soviet Union and we were not sure whether we ought to make the granting of MFN for Estonia a part of the granting of that MFN for the Soviet Union or whether we ought to act separately.

I remember vividly that the Estonian official with whom we are talking turned and said, "As of today, the Soviet Union is a foreign nation as far as Estonia is concerned."

Last week, as has been noted, we did provide MFN to the Soviet Union. Today we do so for Estonia, Latvia, and Lithuania as well. I think that is a very appropriate step on our part.

Now, as far as unemployment compensation is concerned, I think we ought to set their record straight. We have heard three speakers now on the Republican side of the aisle complain about this bill, complain about what they would term I guess excessive generosity of these benefits.

I would hope perhaps the gentleman from Pennsylvania [Mr. SANTORUM] who spoke just before myself would leave his home in Pittsburgh and drive down the turnpike a little ways to Youngstown, OH, and tell unemployed workers in Youngstown that they are not entitled, that they are not worthy of the employment benefits which we provide in this bill.

□ 1920

I am from Ohio. We have serious economic problems, high levels of unemployment in Ohio, and I certainly take exception to anybody who claims that we are not deserving, that our workers are not deserving of 13 weeks of unemployment compensation.

Let me enter into the RECORD a little history, as far as the unemployment compensation is concerned.

Early in the Reagan administration, at the insistence of the Reagan administration, the trigger mechanism for extended benefits was changed so it made it virtually impossible for States to trigger onto extended benefits, which I guess is the way the Reagan administration wanted it to be.

We had the anomaly that later on in the 1980's when we had extremely high unemployment in some States it still was not high enough to trigger onto extended benefits because the trigger was what they called the insured unemployment rate, which is those people who are collecting unemployment at any given time. And in many, many States with very high lingering, continuing high unemployment the number of people who are insured and collecting unemployment was rather small because they, most of them, had already exhausted their benefits.

So I and others during the 1980's have been working to make the trigger something other than the insured unemployment rate. We tried to use the total unemployment rate, much more indicative in deciding whether a State needs extended benefits or not. We passed two bills in this House and sent them to the President. Both of them used the total unemployment rate as the trigger mechanism.

The President thwarted our effort both times.

Three weeks ago we reported out of the Committee on Ways and Means again a bill that uses the total unemployment rate as the trigger mechanism. Using that trigger mechanism many States qualify for 6 weeks, some for 13, some for 20, and many of them qualified for reachback, for the persons who had already exhausted their benefits.

But the Bush administration was not happy with that. They could not tolerate so many unemployed people getting benefits. So they insisted on going back to the insured unemployment rate. And what that did was to knock several States back from 13 to 6 weeks and it knocked a number of States out of eligibility for reachback provisions at all.

The Senate in its wisdom during deliberations last week insisted that that injustice be corrected. That injustice has been corrected in the legislation before us now.

Under this legislation those in all States would be eligible for at least 13 weeks, some for 20 weeks, and most would be eligible, in fact, all would be eligible for some reachback provisions.

If my colleagues from the other side of the aisle want to complain that an arbitrary eligibility for at least 13 weeks goes contrary to reasoned determination of how many people are unemployed in any State, I would remind them that the real atrocity of the last 10 years has been the insistence of the Republican administrations, two of them, on using the insured unemployment rate, which certainly did not measure in any reasoned or rational way the necessity in one State or another to have extended benefits.

I think this is a very good package. I commend it to the support of my colleagues.

Mr. GUARINI. Mr. Speaker, I rise in strong support of the conference report on H.R. 1724, particularly as it relates to the Andean Trade Preference Act. I am pleased to be one of the original cosponsors of this most important piece of legislation, and it has been one of my top legislative priorities.

The Andean Trade Preference Act is targeted at four countries—Colombia, Boliva, Peru, and Ecuador. These countries have been waging a life and death struggle against illegal drugs. They are also emerging democracies. This legislation will help promote their economic development. In so doing, these nations will be able to combat more effectively the narcotics problem and provide a standard of living for their people conducive to democratic development.

Nearly all the world's coca is produced in Peru and Bolivia. Colombia, as we all know, is the major processing point for cocaine. Although there is much that must be done in the United States to curb the demand for drugs, we cannot ignore the supply side of the equation. These countries, at great cost, have made considerable progress in dealing with the drug problem. Assassination and terrorism are scourges that they must live with.

President Bush, at the Cartagena summit, recognized the importance of increasing economic opportunities for these countries if they are to have any chance in their fight against illegal drugs. The President also recognized the mutual economic benefit to both Latin America and the United States of increased trading opportunities within our hemisphere.

This legislation will serve both purposes. The United States will have increased access to goods from the Andean region, as well as new export opportunities. This bill will improve economic prospects in the Andean region and create growth opportunities. It will lead to progress in eradicating the production, processing and shipment of illegal drugs. Improved trade will also enable these countries to buy more of our goods.

I urge my colleagues to support this conference report.

Mr. ARCHER. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CORRECTING TECHNICAL ERROR IN ENROLLMENT OF H.R. 1724

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 249) correcting a technical error in the enrollment of the bill, H.R. 1724.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. ARCHER. Mr. Speaker, reserving the right to object, I shall not object, but I take this time for the purpose of requesting the chairman of the Committee on Ways and Means to explain what is involved.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Speaker, this resolution makes clear that individuals whose unemployment insurance benefit year expired after February 28, 1991 would be eligible for so-called reachback benefits under the Emergency Unemployment Compensation Act of 1991. It was requested by the administration, and it is consistent with the intent of this act.

Mr. ARCHER. Mr. Speaker, there is no opposition to this resolution as I understand it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The reading of the concurrent resolution will be dispensed with.

The text of the concurrent resolution is as follows:

H. CON. RES. 249

Resolved by the House of Representatives (the Senate concurring),

That, in the enrollment of the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, the Clerk of the House of Representatives shall make the following correction:

Strike section 3(a)(3) of the bill and insert the following:

(3) Section 102(f)(3)(A) of the Emergency Unemployment Compensation Act of 1991 is amended to read as follows:

"(A) IN GENERAL.—If any individual has a benefit year which ends after February 28, 1991, such individual shall be entitled to emergency unemployment compensation under this Act in the same manner as if such individual's benefit year ended no earlier than the last day of the first week following November 16, 1991."

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2212, UNITED STATES-CHINA ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 307 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk read the resolution, as follows:

H. RES. 307

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 307?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 307.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York, [Mr. SOLOMON], pending which I yield myself such time as I may consume. During debate on this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 307 waives all points of order against the conference report on H.R. 2212 and against its consideration. The rule also dispenses with the reading of the conference report.

Mr. Speaker, H.R. 2212 stipulates that the President may not waive the Jackson-Vanik requirements with respect to granting MFN status to the products of the People's Republic of China unless he reports that China has met certain human rights objectives. In particular, China must account for and release citizens held for the 1989 Tiananmen Square incident.

In addition, Mr. Speaker, the President must report that China has made significant progress on trade and weapons proliferation issues.

Mr. Speaker, Representative PELOSI deserves our praise for her patience and perseverance. This measure is in large part due to her hard work. Chairman ROSTENKOWSKI also deserves our gratitude as does Mr. SOLOMON. They have worked hard to shepherd this measure through the Congress. We hope the President will sign it.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule, providing consideration for the conference report on the Pelosi bill which places conditions on the further extension of most-favored-nation trade status to the People's Republic of China. And I pay special tribute to the bill's sponsor, the gentlewoman from California [Ms. PELOSI], for without her driving determination, my colleagues, this bill would not be before us today.

I can assure you of that, Mr. Speaker, there are so many problems in our relations with Communist China that it's just hard to know where to start.

Whether we look at Chinese missile sales to unsavory governments throughout the World—at Chinese assistance to countries in building nuclear reactors, capable of producing fissionable materials for nuclear bombs—at Chinese repression in Tibet and slave labor production of goods—and so on, it's just plain clear that the Chinese Communist Government must change its ways.

Mr. Speaker, of course, nothing sticks in our craw more than the massacre perpetrated by Communist-led troops in Tiananmen Square, a little over 2 years ago.

Yes. Hundreds of innocent people died.

No. We have not forgotten.

Mr. Speaker, I am pleased to stand here and offer my support for the rulemaking in order the conference report on H.R. 2212, a bill that will place conditions on any further extension of United States trade benefits to the so-called People's Republic of China.

Frankly, Mr. Speaker, I would have preferred, to cut off those benefits completely—to place punishing tariffs on their goods, goods—often made with slave labor and often bearing the counterfeit trademark of American-made goods—often secreted into the United States through third countries in clear violation of the bilateral trade agreements that that Government solemnly signed with us.

Mr. Speaker, in each of the last 2 years, I offered this House a chance to end most-favored-nation status for Communist China—to end it outright.

In both cases, an overwhelming majority of the Members voted for that course of action in passing my bills that recinded special trade preference for China.

Regrettably, the Senate failed to uphold the House's action in both cases.

Mr. Speaker, when I stood in the well of this House speaking on behalf of my first effort to cut off most-favored-nation status for Communist China, I pointed out that an article in the Chinese Communist Press, at that time, indicated that the Chinese Communist leadership felt, as early as 1 year after its Tiananmen massacre, that the world was already losing its concern for justice in that bloody crime.

I said then that Communist China would not respect democratic rights any more after the extension of most-favored-nation status, than it did before.

I believe that the facts since then, have borne me out.

Mr. Speaker, the Tiananmen Square massacre took place so soon after the extension of most-favored-nation status in 1989, that we could not act in time.

In 1990, our efforts died in the Senate.

Now, in 1991, a conference report is before us. One that will make it difficult for the so-called People's Republic of China, to get another extension next year without changing its ways.

Yes; I am disappointed that we have not yet cut off MFN.

But, yes; I am pleased at the progress that we are making toward that goal and this bill is a strong step in that direction.

The Communist Chinese Government knows now that we have not forgotten and that we will not forget.

Mr. Speaker, in closing, let me say this. I greatly respect President Bush and how hard he is working—using a carrot-and-stick approach—to get the Communists to respect their people's freedom and rights.

He is working to strengthen the international controls covering Chinese arms sales, and working to cut off Chinese counterfeit and slave-labor-manufactured goods.

□ 930

He just recently sent Secretary of State Baker to Beijing with, what I am sure, was a clear message that their actions will have consequences.

But our purpose here today is to show that there is indeed a stick—a big stick—and that there will indeed be consequences for Communist China—if his calls for reform continue to fall on deaf ears.

My colleagues, passage of the bill this rule makes in order will help President Bush get the message across to the old men in the so called Great Hall of the People that we, the American people, will not tolerate a ruthless regime that has no respect for the human rights of decent, helpless people, the citizens of China. Mr. Speaker, that is why I urge support of this rule, and I urge support of the conference report that will follow it.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I rise in support of this bill, in very strong support, and I thank our chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], for his active leadership in bringing it to the floor today.

Mr. Speaker, It is going to be unusual, I think for almost anybody to stand up on the floor today and discuss this bill without making reference to the gentlewoman from California [Ms. PELOSI]. If ever there was a bill which owed its progress to one person, this is it. She has been absolutely tenacious in advancing the bill, pushing and retrieving it from various backwaters, making sure that it did not get forgotten and getting it on the floor today, and I would like to commend her for the outstanding job that she has done in getting this piece of legislation before us.

Mr. Speaker, after Tiananmen Square I tried to figure out what our response should be. I introduced very shortly thereafter a bill to condition MFN for China. We had a debate 2 years ago, and last year, earlier this year on that, my bill, and that of the gentlewoman from California [Ms. PELOSI] and others. I am pleased that my bill played a small part in this effort but whatever role I played is small compared to that of the gentlewoman from California [Ms. PELOSI], and I want to give full credit to her.

Mr. Speaker, I rise then in support of this rule and in support of the conference report.

Mr. SOLOMON. Mr Speaker, I yield such time as he may consume to the distinguished gentleman from California. [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of the gentlewoman from California [Ms. PELOSI]. She chose to come over to this side of the aisle with her fight against the MFN for China unless they met certain requirements, and I think that these requirements are in order. It is very seldom, I think, that we can find that on foreign issues that we can support the other side of the aisle, and this is one that I am glad to. Every country that I would ever have fought against in combat, the Chinese, and the Soviets, and even the French, would supply weapons to those countries. It is not just the slavery, it is not just the drug trade, but I think the weapons sales and how they could influence the future of the world.

Mr. Speaker, I think to give them most-favored-nation status would be a crime in itself, and I thank the gentlewoman from California [Ms. PELOSI] for her foresight.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. SOLOMON] for yielding this time to me and for his hard work on this bill, and also the distinguished gentlewoman from California [Ms. PELOSI] for her leadership on this bill.

Mr. Speaker, let me simply say that we are right now facing a world in which dangerous technology is being transferred at a very rapid rate, and this technology is going to result in over 15 nations having ICBM capability within a very short period of time, and other lesser missile technology and lesser missile capability that can mean in the end dead Americans in a conflict and dead allies of America.

Mr. Speaker, we saw in the Iraqi situation a lot of Western technology coming back at us and back at our soldiers and sailors in the sands of the Middle East. China can either have a salutary effect on this situation, or they can exacerbate this enormous problem of technology transfer to irresponsible parties. So far China has opted for the latter route, and they have in transferring Silkworm missiles and other technology to adversaries of America placed the men and women of America's Armed Forces in harm's way.

Mr. Speaker, I applaud the authors of this measure for the conditions that they are laying down for China to follow.

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I think China is going to largely determine whether or not the terrorists with high technology, in this new era we are moving into as we leave the Soviet-United States confrontation era, the era with terrorists and their high technology, will be largely affected by the political decisions that China makes. I hope that China makes the right decisions. If they do not make the right decisions, they certainly should not be the beneficiaries of American trade preferences.

Second, Members of this House have visited Chinese labor camps and have seen for themselves that slave labor indeed is being used to make products that are competing with American products on American shelves at American retail outlets. That is absolutely unacceptable, and I know that this measure offered by the gentlewoman from California [Ms. PELOSI] and the gentleman from New York addresses this area also, that of slave labor being utilized to create indeed exports to the very country that is condemning the activities that took place at Tiananmen Square in actions subsequent to those.

Let me thank the gentlewoman from California [Ms. PELOSI] and the gentleman for their leadership in this area, and I thank the chairman of the full committee, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. Speaker, I stand in full support of the resolution.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to another distinguished Californian, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in strong support of this rule and of the measure.

I want to join in congratulating the gentlewoman from California [Ms. PELOSI] as well as the gentleman from New York [Mr. SOLOMON], along with the many others who have been working on this legislation for a long time now.

I would like to join in the remarks that the gentleman from New York made about President Bush and Secretary of State Baker with regard to this issue. Recently I had the occasion to hear Jim Baker explain what had happened in China. I think some progress is being made, but I think—and he probably would not agree with this—that by passing this resolution we will help them, not hurt them, and get the Chinese to do the right thing.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, I rise in strong support of the legislation, and I want to associate myself with the remarks previously made by the gentlewoman from California [Ms. PELOSI] and the gentleman from New York [Mr. SOLOMON].

I was over there during the summer with a group that was sponsored by the Chamber of Commerce of Hong Kong. Quite frankly, I had never been to the Far East, and we were just absolutely amazed by what we encountered when we went over there. Senator Brown headed the delegation, and there were about a dozen Members of Congress who went with us.

We found that the Chinese people were well-fed and well-clothed, but if they professed themselves politically, they were grabbed up off the street or wherever they happened to be and they were summarily thrown into jail. They disappeared and, I imagine, in some instances worse.

The estimates over there are that there are approximately 10 million people working in prisons in China, and they manufacture every conceivable thing under the sun. Most of those manufactured items are shipped to Hong Kong. The labels are changed, and then they are sold throughout the world. A great many of those prison-made items are sold in the United States.

In my State of South Carolina we are losing approximately 5,000 textile jobs a year, so it affects us directly.

We were denied permission to visit the dissidents who were in prison over there, one in particular, a young man by the name of Wang Juntao. Everywhere we went, we requested permission to see the leaders, and finally we got to the First Secretary of the Communist party in China, and he said, no, he could not make arrangements for us to meet Wang Juntao, who was being held under very severe conditions.

So I asked the man, I said, "Let me tell you something, man. You are the head knocker here in China. If you can't make arrangements for us to meet Mr. Wang Juntao, who in the world can?"

Well, he sloughed that answer off, but subsequently, through some efforts of some good Caucasians who were over there, we were able to meet with his wife, Mrs. Ho. You probably read just the other day when Mrs. Ho tried to meet with some of Secretary Baker's delegation, she was arrested and held overnight. This is a charming young lady. She confirmed what we had been told about the conditions under which these young folks were held.

At one of the meetings we had with the Chinese officials, one of them approached me on a lesser level, I feel sure, and he said, "What do you think we ought to do?"

I said, "We need a sign. We need an expression of good will back in the United States, in the Congress, before we vote on most-favored-nation status."

He said, "What would you suggest?"

I said, "Why don't you let these young kids go? You've got less than a hundred of them now still in jail from the Tianamen Square situation. Why don't you just let them go and let them come to the United States? We will take them as political refugees. They will all continue their education at colleges and universities around our country, and probably in 10 or 15 years they will all be Chinese millionaires. That is the kind of thing you need to do as an expression of good will."

Of course, we have heard nothing from them. They are just as intransigent now as they were back then. I thought surely when Mr. Baker went to China as a representative of the President, he would have more success than our delegation and Ms. PELOSI's delegation had. But absolutely not. They have absolutely stonewalled the situation.

What they cannot understand is why we associate trade with human rights. They just cannot understand this. We told them repeatedly all of this. We said that in our country the two are inseparable, and the American people do not want to do business with people who treat folks like they are treating them

So I think the legislation provided by this rule is apropos and very much on time. I hope that all the Members will vote for the rule by a substantial margin.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BARTON], who has been so active and helpful in this area.

Mr. BARTON of Texas. Mr. Speaker, I, too, rise in strong support of the rule and the legislation, the conference report granting most-favored-nation trade status for China.

I would like to commend the gentlewoman from California [Ms. PELOSI] for the continuing good work she has done on this issue, as well as the gentleman from New York [Mr. SOLOMON], the gentleman from New York [Mr. GREEN], the gentleman from Washington [Mr. MILLER], the gentleman from Georgia [Mr. JONES], and many, many others for the fine work they have done.

I consider this bill to be a continuing step in our efforts to make the current leadership in communist China understand that the American people will not forget what happened at Tiananmen Square, that we are sincerely dedicated to keeping hope alive that one day freedom will be allowed to flourish in that land. This is another bill that would do that.

I would point out that last week several of my colleagues and I introduced another piece of legislation that will allow those Chinese students and adult nonstudents who are in this country and were in this country when Tiananmen Square occurred to stay in this country permanently should they choose to do so, if the President has not certified that conditions exist so that they would be allowed to return peacefully to China.

We all know that Secretary of State Jim Baker recently returned to China. He went there with high hopes, and unfortunately those hopes were frustrated.

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The Chinese Government refused to make any concessions. In fact, several individuals that wanted to meet with the Secretary were prevented forcefully from meeting with him.

While the Secretary went with all the good intentions, he did not come back with any substantive progress.

This bill that we will vote on later this evening is a cleaned up version of the bill that passed the House overwhelmingly not too many months ago. It is a much cleaner bill. It is much more narrowly drawn, much more straightforward, but still has real conditions for MFN to be granted. It would require that the Chinese release the prodemocracy demonstrators currently imprisoned in China or Tibet; it would require that they commit not to sell missiles to Syria or Iran; it would require that there be significant progress in human rights, in nuclear proliferation, and in trade.

It is a straightforward piece of legislation. If we pass it tonight overwhelmingly, I am sure that when we reconvene in the second session of this Congress, that it will also pass in the Senate, and hopefully the President will sign it and it will set the stage to really begin the process of bringing China back into the League of Nations.

Mr. Speaker, I thank the gentleman for allowing me this time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take a minute to commend my colleague from Texas [Mr. BARTON] who just spoke, who has consistently spoken out on this issue over a long period of time, even when other Members were not calling attention to it.

Mr. SOLOMON. Mr. Speaker, in yielding back the balance of my time, let me just point out that there are few countries left in the world that still operate under the failed political philosophy of communism, a philosophy that has no respect for human life and human decency at all. I guess there is still Cuba, there is still Vietnam, there is still North Korea, and, of course, there is still the People's Republic of China with one-fifth of the world's population.

That is a shame. Many countries throughout the world are throwing off the shackles of communism and moving toward democracy. But it isn't happening yet in China.

If we are going to be successful in China, I just want to say once again that the gentlewoman from California [Mr. PELOSI] in her dogged determination to see this bill through the House and the Senate and back here with this conference report in what we hope are the waning hours of this session this year, will certainly have to get all the credit in the world. I pay deep tribute to her for that.

Mr. Speaker, I hope that every Member will support this rule and then give unanimous support to a very fine bill that will send the right message to the Chinese leadership: That we will not tolerate this kind of treatment of decent human beings.

Mr. Speaker, I urge support of the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-392)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212), regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-China Act of 1991".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Chinese people have provided a dramatic demonstration of their desire for democratic freedoms. Thousands of courageous Chinese students and workers, men and women, demonstrated on June 4, 1989, that they were willing to die, or face imprisonment or exile, in pursuit of democratic self-determination and human rights.

(2) The Government of the People's Republic of China, which is a member of the United Nations and obligated to uphold the Charter of the United Nations and the Universal Declaration of Human Rights, continues to engage in flagrant violations of internationally recognized human rights, including—

(A) torture and cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges and trial and sentencing of persons solely for the nonviolent expression of their political views;

(C) arbitrary arrest and the unacknowledged detention of persons; and

(D) use of forced labor of prisoners to produce cheap products for export to countries, including the United States, in violation of international labor treaties and United States law.

(3) The Government of the People's Republic of China has denied Chinese citizens who support the pro-democracy movement and others the right of free, unimpeded emigration.

(4) The Government of the People's Republic of China has restricted the number of students permitted to study abroad, required some college students to attend military indoctrination courses, and required university graduates to work 5 years after graduation and to pay large sums of money before being eligible to apply for study outside China.

(5) The Government of the People's Republic of China continues to violate the internationally recognized human rights of the people of Tibet and uses the People's Liberation Army and police forces to intimidate and repress Tibetan and Chinese citizens peacefully demonstrating for democratic change and religious freedom.

(6) The Government of the People's Republic of China is engaging in unfair trade practices against the United States by failing to protect intellectual property rights, raising tariffs, employing taxes as a surcharge on tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries.

(7) The Government of the People's Republic of China has not demonstrated its willingness and intention to participate as a full and responsible party in good faith efforts to control the proliferation of dangerous military technology and weapons, including biological, chemical, and nuclear weapons technologies.

(8) The Government of the People's Republic of China has interfered with the movement toward self-rule by the people of Hong Kong in their political, cultural, and economic activities.

(9) The President of the United States has suspended all government-to-government sales and commercial exports of defense articles and services to China and issued an Executive order to treat sympathetically requests by Chinese students in the United States to extend their stay.

(10) United States policy toward China has failed to prevent or discourage the People's Republic of China from—

(A) committing violations of internationally recognized human rights, including the rights of the people of Tibet;

(B) taking action that results in the proliferation of dangerous military technology and weapons; and

(C) engaging in unfair trade practices against the United States.

(b) POLICY.—It is the sense of the Congress that—

(1) with respect to the actions of the People's Republic of China in the areas of human rights, weapons proliferation, and unfair trade practices, the President should take such actions as necessary to achieve the purposes of this Act, including, but not limited to—

(A) instructing the United States delegation to the United Nations Commission on Human Rights to actively seek the appointment of a special rapporteur to investigate violations of internationally recognized human rights in China and to seek allied and Soviet support for such an investigation;

(B) directing the United States Trade Representative to take appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the trade practices of the People's Republic of China which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States commerce;

(C) interacting more forcefully with our allies, especially Japan and European countries, to accomplish the restriction of transfers of technology to China; and

(D) encouraging members of the Missile Technology Control Regime, and other countries, as appropriate, to set up a working group to develop a common policy concerning missile transfers to other countries by the People's Republic of China;

(2) the sanctions being applied against the People's Republic of China on the date of enactment of this Act should be continued and strictly enforced; and

(3) the President should submit the report required by the Joint Resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China (Public Law 99–183; 99 Stat. 1174).

SEC. 3. ADDITIONAL OBJECTIVES WHICH THE GOVERNMENT OF CHINA MUST MEET IN ORDER TO RECEIVE NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—The President may not recommend the continuation of a waiver in 1992 for a 12-month period under section 402(d) of the Trade Act of 1974 for the People's Republic of China unless the President reports in the document required to be submitted by such section that the government of that country—

(1) has, in regard to the events that led up to, and occurred during and after, the violent repression of dissent in Tiananmen Square on June 3, 1989—

(A) provided an accounting of citizens who were detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during those events; and

(B) released citizens who were imprisoned after such detention, accusation, or sentencing; and

(2) has made overall significant progress in achieving the objectives outlined in each of the categories of—

(A) human rights, as described in subsection (b);

(B) trade, as described in subsection (c); and

(C) weapons proliferation, as described in subsection (d).

(b) HUMAN RIGHTS.—The human rights objectives described in this subsection are—

(1) taking appropriate action to prevent gross violations of internationally recognized human rights in the People's Republic of China, including Tibet;

(2) preventing exports of products made by prisoners and detainees assigned to labor camps, prisons, detention centers, and other facilities holding detainees, and allowing United States officials and international humanitarian and intergovernmental organizations to inspect the places of detention suspected of producing export goods to ensure that appropriate steps have been taken and are in effect;

(3) terminating religious persecution in the People's Republic of China, including Tibet, and releasing leaders and members of all religious groups detained, incarcerated, or under house arrest as a result of the expression of their religious beliefs;

(4) removing restrictions in the People's Republic of China, including Tibet, on freedom of the press and on broadcasts by the Voice of America;

(5) terminating the acts of intimidation and harassment of Chinese citizens in the United States, including the return and renewal of passports confiscated by authorities as retribution for prodemocracy activities;

(6) ensuring access of international human rights monitoring or humanitarian groups to prisoners, trials, and places of detention;

(7) ensuring freedom from torture and from inhumane prison conditions;

(8) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989;

(9) fulfilling its commitment to engage in high-level discussions on human rights issues; and

(10) adhering to the Joint Declaration on Hong Kong that was entered into between the United Kingdom and the People's Republic of China.

(c) TRADE.—The trade objectives described in this subsection are—

(1) providing adequate protection of United States patents, copyrights, and other intellectual property rights;

(2) providing American exporters fair access to Chinese markets, including lowering tariffs, removing nontariff barriers, and increasing the purchase of United States goods and services; and

(3) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and which burden or restrict United States commerce.

(d) WEAPONS PROLIFERATION.—The weapons proliferation objectives described in this subsection are—

(1) adopting a national policy which adheres to, and ceasing activities inconsistent with—

(A) the limitations and controls contained in the Missile Technology Control Regime;

(B) the standards and guidelines set by the Nuclear Suppliers Group; and

(C) the standards and guidelines set by the Australia Group on chemical and biological arms proliferation; and

(2) taking clear and unequivocal steps to assure that the People's Republic of China is not assisting and will not assist any nonnuclear weapons state, directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices.

SEC. 4. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1992 under section 402(d) of the Trade Act of 1974 for the People's Republic of China, he shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

SEC. 5. ENFORCEMENT OF PROHIBITION AGAINST IMPORTATION OF CONVICT-MADE GOODS.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended—

(1) by striking "All goods" and inserting "(a) IN GENERAL.—All goods";

(2) by striking "'Forced Labor,'" and inserting "(b) FORCED LABOR.—'Forced Labor,'"; and

(3) by adding at the end thereof the following new subsection:

"(c) PENALTIES.—

"(1) IN GENERAL.—Any person who—

"(A) enters or imports, or attempts to enter or import, goods, wares, articles, or merchandise into the customs territory of the United States in violation of subsection (a); and

"(B) knew or should have known that such entry or importation, or attempted entry or importation, was in violation of such subsection, shall be liable to pay to the United States a civil penalty.

"(2) AMOUNT OF PENALTY.—Any civil penalty imposed under paragraph (1) shall be in an amount not to exceed—

"(A) $10,000 for one violation;

"(B) $100,000 in the case of a person previously subject to a penalty for one violation under this section; or

"(C) $1,000,000 in the case of a person previously subject to penalties for more than one violation under this section.

"(3) The Secretary of the Treasury shall by regulation prescribe procedures for imposing penalties under this section, including, but not limited to, prepenalty notice.

SEC. 6. REPORT BY THE PRESIDENT.

If the President recommends in 1992 that the waiver referred to in section 3 be continued with respect to the People's Republic of China, the President shall include in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974 a report on the extent to which the Government of the People's Republic of China has, during the period covered by the report, complied with the provisions of section 3.

SEC. 7. DEFINITIONS.

For the purposes of this Act:

(1) ACTS OF INTIMIDATION AND HARASSMENT.—The term "acts of intimidation and harassment" in section 3(b)(5) means actions taken by the Government of the People's Republic of China that are intended to deter or interfere with, or to be in retaliation for, the nonviolent expression of political beliefs by Chinese citizens within the United States.

(2) DETAINED AND IMPRISONED.—The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(3) FORCED LABOR.—The term "forced labor" has the meaning given to such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(4) GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term "gross violations of internationally recognized human rights" in section 3(b)(1) includes, but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(5) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(6) SIGNIFICANT PROGRESS.—(A) The term "significant progress" in section 3(a)(2) means the implementation of measures that will meaningfully reduce, or lead to the termination of, the practices identified in that paragraph.

(B) With respect to section 3(d)(1), progress may not be determined to be "significant progress" if the President determines that, on or after November 26, 1991, the People's Republic of China has transferred to Syria or Iran—

(i) ballistic missiles or missile launchers for the weapons systems known as the M–9 or the M–11; or

(ii) material, equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device.

And the Senate agree to the same.

From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,
From the Committee on Foreign Affairs:
DANTE B. FASCELL,
STEPHEN J. SOLARZ,
Managers on the Part of the House.

From the Committee on Finance:
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

H.R. 2212, REGARDING THE EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA, AND FOR OTHER PURPOSES

1. Short Title (Section 1 of Senate Amendment; Section 1 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

United States-China Act of 1991.

Conference agreement

House recedes.

2. Findings and Policy (Section 2 of Senate Amendment; Section 2 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Sets forth certain findings relating to the prodemocracy demonstrations of the Chinese people; the actions and policies of the Government of China, including its continuing violations of internationally-recognized human rights, the denial of free emigration to citizens supporting the prodemocracy movement, weapons proliferation, support for the Khmer Rouge, restrictive trade practices, and interference in Hong Kong; and the policies of the United States toward China. States the sense of the Congress that U.S. sanctions in the areas of technology exports and international monetary loans should be continued and strictly enforced and that the U.S. Government should consult with the U.S. business community regarding guidelines for corporate activity in China.

Conference agreement

House recedes with an amendment: (1) to make various conforming, clarifying, and technical changes; (2) to drop the finding relating to the Khmer Rouge, and the policy statement relating to guidelines for corporate activity; (3) to merge section 3 of the Senate amendment (relating to Presidential action) into the policy section, with conforming changes; and (4) to add to the policy section a provision that the President should submit the report required by Public Law 99-183 regarding China's nuclear nonproliferation policies.

3. Renewal of MFN Status—Additional Objectives (Section 1(a) of House Bill; Section 4 of Senate Amendment; Section 3 of Conference Agreement)

A. HUMAN RIGHTS OBJECTIVES

Present law

Section 402 of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990, sets forth three objectives relating to freedom of emigration which must be met, or waived by the President, before a nonmarket economy country may be granted MFN status. A Presidential waiver must be renewed annually, in order for a country's MFN status to remain in effect.

Section 307 of the Tariff Act of 1930 prohibits the importation of goods made by convict or forced labor, and directs the Secretary of the Treasury to prescribe regulations for the enforcement of the prohibition.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government—

(1) has provided an accounting of citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during and after the June 1989 Tiananmen Square incident;

(2) has released citizens who were imprisoned after such detention, accusation, or sentencing;

(3) is adhering to the Joint Declaration on Hong Kong;

(4) does not support or administer any program of coercive abortion or involuntary sterilization; and

(5) has taken appropriate steps to prevent exports of products made by prisoners and detainees, and has allowed U.S. and international inspection of places of detention.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government—

(1) has accounted for those citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs;

(2) has released those citizens who were imprisoned after such detention, accusation or sentencing;

(3) is adhering to the Joint Declaration on Hong Kong;

(4) does not support or administer any program of coercive abortion or involuntary sterilization; and

(5) has ceased exporting to the United States products made by convict, forced, or indentured labor under penal sanctions.

Conference agreement

Senate recedes with an amendment: (1) dropping the objective relating to abortion; and (2) moving the objectives relating to prison labor exports and Hong Kong to the "significant progress" section, with conforming changes.

B. WEAPONS PROLIFERATION OBJECTIVES

Present law

The Missile Technology Control Act (Title VII of Public Law 101-510) establishes requirements for negotiations and controls on the proliferation of missiles and technology, with trade and foreign policy sanctions required for violations.

House bill

Provides that the President may not recommend the continuation of a wavier in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has provided assurances that it—

(1) is not assisting and will not assist any nonnuclear state is acquiring nuclear explosive devices or the materials and components for such devices; and

(2) will not contribute to the proliferation of missiles and adheres to the Missile Technology Control Regime, at least with respect to countries in the Middle East and South Asia.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has ceased supplying arms and military assistance to the Khmer Rouge.

Conference agreement

The conferees agreed to merge the various provisions in the bill relating to weapons proliferation into one provision and to move that provision to the "significant progress" category. The provision sets forth two objectives relating to weapons proliferation and adds a definition which states that progress may not be determined to be "significant progress," if the President determines that, on or after November 26, 1991, the People's Republic of China has transferred to Syria or Iran certain missiles or nuclear technologies or devices.

Senate recedes on the Khmer Rouge objective.

C. TRADE OBJECTIVES

Present law

No provision.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has moderated its position on Taiwan's accession to the GATT.

Senate amendment

No provision.

Conference agreement

Senate recedes, with an amendment moving the provision to the "significant progress" section.

D. "SIGNIFICANT PROGRESS" OBJECTIVES

(i) Human rights

Present law

No provision.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has made overall significant progress in:

(1) taking appropriate action to prevent gross violations of internationally recognized human rights in China, including Tibet;

(2) ending religious persecution in China, including Tibet;

(3) removing restrictions in China, including Tibet, on press freedom and VOA broadcasts;

(4) terminating intimidation and harassment of China citizens in the United States;

(5) ensuring access of international human rights groups to prisoners, trials, and places of detention;

(6) ensuring freedom from torture and inhumane prison conditions; and

(7) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in:

(1) taking appropriate action to prevent gross violations of internationally-recognized human rights and fundamental freedoms in China and Tibet, including ending religious persecution and restriction on press freedom and VOA broadcasts;

(2) terminating intimidation and harassment of Chinese citizens in the United States;

(3) ensuring access of international human rights groups to prisoners, trials, and places of detention;

(4) fulfilling its commitment to engage in high-level discussions on human rights;

Conference agreement

Senate recedes with an amendment adding an objective relating to high-level discussions on human rights.

(ii) Weapons proliferation

Present law

See description under item 3(b) above.

House bill

No provision

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in adopting a national policy which adheres to, and ceasing activities inconsistent with, the Missile Technology Control Regime and the standards and guidelines set by the Nuclear Suppliers group and the Australia Group on chemical and biological arms proliferation.

Conference agreement

See description under item 3(b).

(iii) Trade

Present law

Section 301 of the Trade Act of 1974 authorize the U.S. Trade Representative (USTR) to take action to enforce U.S. rights under trade agreements or eliminate foreign practices that violate trade agreements or are unjustifiable and burden or restrict U.S. commerce.

"Special" 301 authorizes the USTR to take action to achieve protection of U.S. intellectual property rights, and market access for U.S. persons that rely on intellectual property rights, in priority foreign countries.

House bill

No provision.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in—

(1) providing adequate protection of U.S. intellectual property rights;

(2) providing American exporters fair market access, including lowering tariffs, removing nontariff barriers, and increasing the purchase of U.S. goods and services; and

(3) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and burdensome and restrict U.S. commerce through a variety of unfair trade practices.

Conference agreement

House recedes with an amendment dropping the detailed list of unfair trade practices (which is retained in the "Findings" section).

(iv) Other

Present law

Public Law 99-183, relating to nuclear cooperation between the U.S. and China, prohibits exports and transfers of U.S. nuclear material, facilities, or components to China unless the President certifies and reports to Congress that China has met certain requirements related to nuclear nonproliferation.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President has made the certification and submitted the report required by Public Law 99-183 on China's nuclear nonproliferation policies.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government is reducing assistance to Cuba, whether in the form of subsidized trade, management of trade balances, or in any other form.

Conference report

House recedes, with an amendment to add statement to policy section that the President should submit the report required by Public Law 99-183 regarding China's nuclear nonproliferation policies. See also description under item 3(b) with respect to weapons proliferation.

Senate recedes on objective relating to Cuba.

4. Presidential Action (Section 3 of Senate Amendment; Section 1(b) of Conference Agreement

Present law

No provision.

House bill

No provision.

Senate amendment

Directs the President to take the following actions:

(1) interact more forcefully with U.S. allies and multilateral lending institutions to restrict technology transfer to China;

(2) encourage members of the Missile Technology Control Regime to set up a working group to develop a common policy concerning China's missile transfers to other countries;

(3) direct the USTR to take appropriate action under section 301;

(4) encourage the UN Human Rights Commission to issue a report on human rights conditions in China, and encourage U.S. allies and the Soviet Union to encourage issuance of such a report; and

(5) take any other action the President deems advisable to achieve the purposes of the Act.

Conference agreement

House recedes with an amendment moving the provision to the "Policy" section, with conforming changes.

5. Termination of MFN Status (Section 5 of Senate Amendment)

Present law

Section 402(c)(3) of the Trade Act of 1974, states that the President may, at any time, terminate by Executive order any waiver granted under that subsection. (In addition, the President may choose not to extend the annual waiver of any country upon expiration of the waiver.)

House bill

No provision.

Senate amendment

Requires termination of China's MFN status no later than July 3, 1992, if the President determines after enactment of this Act that China has transferred to Syria or Iran (1) ballistic missiles or missile launchers for the M-9 or M-11 weapons systems or (2) material equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device.

Conference agreement

See description under item 3(c).

6. Sanctions by Other Countries (Section 6 of Senate Amendment; Section 4 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Delays effective date of any denial of China's MFN status pursuant to this Act for a 60-day period, during which time the President is required to undertake efforts to ensure that GATT members take similar action with respect to China.

Conference agreement

House recedes with an amendment, conforming the provision to the timetable in Title IV of the Trade Act of 1974 relating to the President's waiver notice (i.e., 30 days prior to the expiration of the previous waiver).

7. Enforcement of Ban on Imports of Convict-Made Goods (Section 7 of Senate Amendment; Section 5 of Conference Agreement)

Present law

Section 307 of the Tariff Act of 1930 prohibits the importation of goods made by convict or forced labor. Current regulations outline detailed procedures to be followed in enforcing the prohibition.

House bill

No provision.

Senate amendment

Establishes civil penalties for violations of the import prohibition under section 307 of the Tariff Act of 1930 and a procedure for parties to petition the Department of Commerce to enforce such prohibition.

Specifically, requires civil penalties of $10,000 for one violation; $100,000 for two violations; and $1,000,000 for three or more violations. Establishes detailed procedures for prepenalty notice and hearings; and for private petitions by "any public interest group, human rights organization, or entity representing an industry adversely affected by imports of convict-made goods." Provides that the Secretary of the Treasury may prescribe sanctions for abuse of discovery and abuse of process.

Conference agreement

House recedes on provision establishing civil penalties for violations of the import ban, with an amendment adding a "knowing" standard.

Senate recedes on the provision establishing private petition procedures. The conferees note that existing Customs regulations to enforce section 307 (19 CFR 12.42-12.62) establish detailed procedures for petitions from "any person" who has reason to believe that prohibited merchandise is being, or is likely to be, imported into the United States.

8. Report by the President (Section 2 of House Bill; Section 4 of Senate amendments; Section 6 of Conference Agreement)

Present law

Section 402(d) of the Trade Act of 1974 provides that if the President determines that further extension of the waiver authority will substantially promote the objectives of freedom of emigration, he may recommend extension of such authority for successive 12-month periods. Any such recommendation must be accompanied a document transmitted to Congress, setting forth his reasons for recommending extension of the waiver authority, and a statement setting forth his reasons for determining that extension of the waiver will substantially promote Title IV's objectives with respect to a particular country.

House bill

Provides that if the President recommends extension of China's waiver in 1992, he must submit as part of the document required in section 402(d) a report on the extent to which the government of China has implemented the measures listed in section 1(a).

Senate amendment

Similar provision.

Conference agreement

Senate recedes.

9. Definitions (Section 1(b) of House Bill; Section 8 of Senate Amendment; Section 7 of Conference Agreement)

Present law

No provision.

House bill

Provides definitions of a number of terms used in the bill, among which: "the term significant progress means the implementation of measures that will meaningfully reduce, or lead to the termination of, the repressive practices identified under item 3."

Senate amendment

Similar provision. However, it defines significant progress as "specific actions taken to achieve the objectives stated" under item 3.

Conference agreement

The conferees agree generally to merge the House and Senate definitions, with conforming amendments. However, the Senate recedes on the definition of "significant progress."

From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,
From the Committee on Foreign Affairs:
DANTE B. FASCELL,
STEPHEN J. SOLARZ,
Managers on the Part of the House.

From the Committee on Finance:
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
BOB PACKWOOD,
Managers on the Part of the Senate.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 307, I call up the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation to the products of the People's Republic of China, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to order of the House of today, Tuesday, November 26, 1991, the conference report is considered as having been read.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. CRANE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report on H.R. 2212.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was not objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 2212, relating to the extension of China's most-favored-nation [MFN] status, is the culmination of months of hard work and tireless effort on the part of a number of Members of Congress. However, I particularly want to commend Congresswoman NANCY PELOSI for the dedicated efforts that she has devoted to keeping the issue of human rights in China squarely before us. The fact that we are here today considering this conference report is due in large measure to her efforts.

H.R. 2212 passed the House on July 10, 1991, with a number of amendments relating to human rights and weapons proliferation. The Senate passed the bill on July 23, with additional amendments, relating not only to human rights and weapons proliferation, but also to trade and other matters.

The conference report on H.R. 2212, in general, merges the two bills, with amendments. It provides that the President may not recommend the continuation of a Jackson-Vanik waiver for China in 1992, unless he reports that China has met two objectives relating to the accounting for, and release of, citizens detained, accused, or sentenced after the June 1989 Tiananmen Square incident. It also provides that the waiver may not be extended unless the President reports that China has made overall significant progress in a number of objectives relating to human rights, trade, and weapons proliferation.

Mr. Speaker, although I had a number of reservations about the bill as it passed the House and Senate, I support the conference report today. The Chinese Government does not seem to have gotten the message which the United States Congress has been trying to send loud and clear—that the American people expect the Chinese leaders to live up to a much higher standard of behavior toward their own people and the security concerns of other countries than they have exhibited to date. Adoption of the conference report on H.R. 2212 should leave no doubt in the minds of China's leaders as to where the American people and their elected representatives stand. I urge my colleagues to join me in support of the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the conference report on H.R. 2212. I would like at the outset, however, to pay tribute to our distinguished colleague from California [Ms. PELOSI] for what I deem intentions that are an expression of the sentiments of the overwhelming majority, probably 99.9 percent, of the American people. The gentlewoman is concerned, and properly so, about the condition human rights for minorities in China, she is concerned about issues of arms proliferation, and she would like to see a significant change in the move in direction that more truly reflects the values that we mutually share.

However, I must say that I have serious reservations as to whether doing it in this manner, where you dictate specific terms and in effect back the rulers of the People's Republic of China into a corner and expect them to make concessions, is a way to accomplish the goal.

The Chinese are very proud people. In fact, the Oriental nations are comprised of very proud people.

I remember one time when we were negotiating with some of the Japanese Government officials back in 1981, in terms of seeking to get concessions from them. We were tutored on the eve of each one of those meetings as to how to diplomatically put our proposals on the table, let them mull them over, sleep on it for a night, come back the next day, and move another inch or two in the direction of our goals. It took us the better part of a week before finally the representatives of the Japanese Government said they had listened to our arguments, they found them persuasive, and they accepted our positions.

Mr. Speaker, that was a diplomatic process that runs contrary to our tendency to just lock horns and wrestle across the table and insist that before sundown, or before the crack of dawn, we are going to get the concessions we would like to see.

Mr. Speaker, the administration has been maintaining multilevels of negotiations with the Chinese Government to effect reforms in areas other than trade, but trade is one of those where we are locked into a confrontation with them right now on intellectual property rights, and it does not look good.

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We have the capacity under existing law to effect some kind of retaliatory action, and the administration is going to speak to this point tomorrow. But what I submit to my colleagues is that if these conditions are viewed as demands by the Chinese Government that they do not feel they are capable of capitulating to without losing face, where are we?

The fact of the matter is, we have other nations in this world, in fact, major trading partners of our own that are engaged in routine trade. They tender the equivalent of most-favored-nation treatment to China and simultaneously make no effort whatsoever to effect meaningful reforms in the areas that the gentlewoman from California [Ms. PELOSI] wants to address.

In other words, it is make a buck, get in, get out. We are, I think, the only Nation that has endeavored to try and effect these kinds of reforms. And the only way in which I take issue with the gentleman from California is whether what we are doing is designed to accomplish that objective. I fear quite the contrary, that if they view this as out of the question and slam the door in our faces, as a consequence of that, when we have had this escalating trade, and I think we are now, they are our 10th largest trading partner. And there is a lot of American investment going on in southern China. There is, in addition, by their probably worst enemy in their own perception, namely the Republic of China on Taiwan, they are investing finally and providing jobs and improvement of the economic condition in China.

What if the door is slammed in our face as a consequence of this? What have we accomplished? Did we help the students? Did we cause a deterrence from further commission of this sin that they perpetrated in Tiananmen Square? We enhanced our negotiating condition in terms of trying to get an end to nuclear arms proliferation?

I would argue that quite the contrary, we are putting these same people at risk because the rulers in that country have nothing to worry about. No one is in a position to overthrow them.

They control the guns. They control the Government. And so they go on and only the people suffer.

In addition to that, I would argue that there is a risk involved in this affecting Hong Kong. As we know, in 1997, Hong Kong will, under the agreement between Great Britain and China, be transferred back to the government of the mainland. And when we were over there on a trip that was referred to earlier this summer, there was suddenly a shift in outlook on the part of business people in Hong Kong who initially figured they are going to sell it off and throw it out and sink it or else they were going to incorporate Hong Kong into a slave state. And they concluded that is changing, that there are meaningful reforms that are taking place on the mainland that are positive.

As a result of that, they had a hopeful outlook. And they said this had occurred just within the last 12 months. And primarily because of the business ties and connections especially in southern China.

As the gentleman who spoke about that trip earlier mentioned, what we saw in Beijing, what we saw in Shanghai was mindboggling. We saw all kinds of billboards advertising products in English and Chinese. We saw happy, flourishing people. We saw all the young people in Western attire. We saw kids with English logos on all their T-shirts. We saw a distinct absence of any military presence except for an occasional guard at a government building.

In addition to that, in the middle of the week we visited the Great Wall of China. There were easily a quarter of a million people that we could see there, 99 percent of whom were Chinese, fathers, mothers, children. And we saw hucksters with their little temporary shops peddling goods and wares to the Chinese as well as to Americans.

We went to Shanghai and went down streets that would just boggle the mind where there was shop after shop after shop lining both sides of the street and considerable business activity going on in daylight hours, even a florist shop doing business. We do not find florist shops thriving in impoverished countries.

But this level of economic activity by entrepreneurs, not time clock punchers, these are people that had to make the distinction between gross and net income. These are people who had to understand marketing skills. People who had to understand servicing products. There people had an understanding of free enterprise.

And this Communist representative sitting next to me on the bus, I reminded her that they believe in a command autonomy in communism, and we are the champions of free enterprise in this world, right? I said we can afford to send some people over here and learn from your entrepreneurs on both sides of the street.

What I am saying is the situation is not hopeless but I am arguing is that with this well-intentioned effort on the part of the gentlewoman from California, we run the risk of cutting off our contacts. We run the risk of terminating forthwith the positive influence that we have exerted and we alone have exerted on mainland China.

To be sure, none of us will forget Tiananmen Square and to be sure come next December 7, none of us will forget Pearl Harbor. But on the other hand, there has been progress made, not as great as we would like to see by any manner of means, but I would suggest that we run the very real risk, if we adopt this measure, which the President has indicated he will veto for the same reasons I am advancing, if we terminate this contact, we run the risk of inflicting even greater injury on the very people we want to help.

For that reason, I urge my colleagues to vote no on H.R. 2212.

Mr. Speaker, I rise in strong opposition to the conference report on H.R. 2212. Let there be no mistake. These provisions would end U.S. economic ties to China and plunge this strategically important country into isolationism and economic stagnation. The President has vowed to veto it.

The United States would no longer be able to employ its influence to improve human rights and ensure political freedoms in China, and to preserve democracy and economic independence in Hong Kong. A normalized trade relationship, highlighted by MFN, is essential if we are to reform Chinese policies, both by example and by political and economic leverage. Trade must exist for this strategy to be successful.

This bill is replete with lofty goals and good intentions.

Congress understandably wants to end repression, guarantee human rights, resolve all trade problems and eliminate nuclear proliferation with the stroke of a pen. However, I think we all know how unrealistic this legislation is. We understand the President is right to want to stay engaged in dialog with the Chinese.

This very day, we are engaged in tough negotiations with China on specific trade problems.

So far China has not been responsive on intellectual property rights, and the United States will retaliate in a precise and effective way. The retaliation list will be announced tomorrow.

We should not throw everything out the window with a bill like H.R. 2212. No dialog means no solutions.

The actions of the current Chinese leadership against their own people are abhorrent and painful to contemplate.

The world is outraged at the notorious events in Tiananmen Square. However, these repressive policies will not be transformed by legislation that undermines our President and sacrifices American economic interests.

The President has demonstrated strength of will and purpose in dealing with the complicated foreign policy and economic interests of the United States in China.

For that, he is admired throughout the world. I believe Americans are proud of the leadership role of the United States in defending democracy and individual freedoms.

This bill will save no student from prison and no dissident from censure. Our disengagement will only make their fate more uncertain and shrouded in secrecy. Normalized trade relations are an essential tool for the President in crafting an effective China policy that will result in meaningful reforms.

Mr. Speaker, I urge my colleagues to vote "no" on the conference report to accompany H.R. 2212.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 6 minutes to the gentlewoman from California [Ms. PELOSI], pointing out that the gentlewoman from California did a tremendous amount of work and, a great deal of credit for considering this legislation at this point in time is due to her efforts.

Ms. PELOSI. Mr. Speaker, I thank the chairman for making this opportunity possible for us to bring this legislation to the floor today. He is indeed generous with his remarks, but he is also indeed responsible for us having reached, to be able to reach this compromise.

Many people on the floor said to me today, I want a tougher bill, or I do not want any bill at all. But that is what this is, it is a compromise which I believe reflects the concerns of this body but achieves some doable clear and concise conditions of which China can easily understand in order to receive renewal of most-favored-nation status next year.

I want to also thank the gentleman from Florida [Mr. GIBBONS], the gentleman from New York [Mr. SOLARZ], the gentleman from Ohio [Mr. PEASE], who spoke during rule when the gentleman from Illinois [Mr. ROSTENKOWSKI], brought us all together to begin the forging of a compromise.

I want to thank the gentleman from New York [Mr. SOLOMON], and the gentleman from Massachusetts, [Mr. MOAKLEY], for helping us; the gentleman from Texas [Mr. FROST] for getting the rule to come to the floor so quickly and so many Members on both sides of the aisle who worked so hard, the gentleman from New York [Mr. GILMAN], many of the Members are present and will speak to this.

I would also like, before proceeding, to thank Rob Leonard, Joanna, Shelton, and George Wise of the committee and subcommittee staff and my own staff person, Craig Middleton, for all of their hard work because it has been indeed months that we have been working on this. So to the chairman and the ranking member, the committee and the subcommittee, the staff, I thank them all very much. By persevering with this and not letting this legislation be forgotten, we are sending a clear message that those prisoners who were arrested for peacefully demonstrating in Tiananmen Square are not forgotten by this body as well.

Others have mentioned some of the concerns that are addressed in this legislation. The conditions address three areas of concern: human rights, trade, and nuclear proliferation. Much has been written and said about the repressive policies of the Chinese regime in regard to freedom of speech, religion and press. We were stunned by the massacre in Tiananmen Square 2½ years ago and continue to deplore the ongoing arrest and detention because of the practice of religion, the violations of freedom of the press and jamming of Voice of America.

Americans have heard this over and over. It is well-documented by Asia Watch and Amnesty International and indeed included in the findings in this conference report. Many of us have addressed this issue on the floor before. Improvement of human rights and basic freedoms were the conditions for our original bill.

However, actions taken by the Chinese Government have caused Members of the House and Senate to insist that language regarding nuclear proliferation and violations of our trade relationship be included in this bill. I do not agree that there have been great improvements made as far as the Chinese Government is concerned.

So in addition to principle, there are some very practical reasons, Mr. Speaker, why we ask our colleagues to support conditional renewal.

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As we develop working relations with China we must, I believe, insist that our relationship make the political situation there freer, the world safer, and the trade fairer to American workers. That is why this legislation is important to our constituents.

Since 1989, the Chinese Government has blatantly violated our trade relationship by refusing to remove barriers to our products in China. As a result we have a growing trade deficit—$6 billion in 1989, $9 billion in 1990, and a projected $15 billion for 1991—$30 billion since 1989, nearly all of it since Tiananmen Square.

In addition, American workers are placed at a disadvantage by having to compete costwise with prison labor. The use of transshipments also hurts American workers. This is the process by which fake labels are placed on products or put onto products to indicate that they come from someplace other than China in order to circumvent our import quotas.

This legislation, this conference report, also addresses violation of our copyright and intellectual property rights by the Chinese. We have just heard that the trade representative is going to take action because they have failed to address the situation adequately.

Mr. Speaker, in almost every way the Chinese have violated our trade relationship.

Next, I would like to move on, in the interest of time, to the issue of China's role in nuclear proliferation. In a year when we went to war because of Saddam Hussein's development of nuclear weapons, it is clear that this is an overriding concern to the American people. The conference report clarifies the nuclear proliferation condition by requiring that most-favored-nation status not be granted in 1992, if China sells missiles to Syria or Iran. China must also assure that it will not sell nuclear weapons to nonnuclear states, unsafeguarded states, and will abide by the missile technology control regime.

I commend the Chairman for forging this compromise, because I believe it has resulted in an excellent conference report that is clear, concise, focused—a true instrument for leverage. We do not want to break off the relationship with China or isolate China, so we do want to relate to them based on principle and the practical aspects of our fairness to American workers and making the world safer.

So I think that this bill is not only good for our relationship with China but will stand the scrutiny of being legislation that says in our bilateral relationships we should have terms that make the world safer by addressing nuclear proliferation, that makes trade fairer by being fairer to American workers, instead of clobbering them with the violations that the Chinese have, and by making the world freer by allowing a free discourse on issues in all countries in the world.

I am proud that we are taking up this issue today. I thank all the Members, Democrat and Republican alike, for their assistance in this.

Mrs. KENNELLY. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I voted against the original bill but I did so because of my concern over the sale of agricultural products to China. But over the past few months, particularly after talking with my colleague, the gentlewoman from California, [Ms. PELOSI], I have had some serious misgivings and reflections.

In the case of Iraq, it was my amendment to the farm bill a year ago that cut off agricultural sale because of their human rights violations. In the case of the USSR I fought against the renewal of Jackson-Vanik and MFN until their human rights policy changed. The same with El Salvador.

So would China, with an abysmal human rights policy and nuclear proliferation problems, be different? Should it be spared from a uniquely American effort to modify the way it treats its own citizens? I think not.

This conference report is better than the original bill on the merits and it is easier to support on that basis, but I support it because it is right and it may just increase the prospects for freedom in China.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, despite the efforts of the administration, China has continued to violate the norms of international behavior. Some progress has been made in restraining the actions of the Chinese Government, but China still threatens to become the world's largest outlaw state.

We have all seen what mischief can result when even a smaller country like Iraq flouts the principles of acceptable international behavior. Through its policies on human rights, exports of military technology, and trade China threatens the stability of the entire world order.

The world was shocked and stunned when the Chinese Government, in June 1989, turned the guns of the military against peaceful protesters. Since then we have watched in horror as repression continued. And we have been disappointed again and again by the failure of the Chinese to address the fundamental issues in United States-China relations.

We can never close our eyes to what the Chinese Government did at Tiananmen Square. Nor can we, however, afford to close the doors entirely to China.

Despite our repugnance for its government, we must continue if at all possible to engage the Chinese Government and try to aid the Chinese people. The best way to promote political change in China is to continue cooperating toward steady economic growth.

The conference report absolutely requires—for continued MFN trade status—only that the Chinese Government address the unresolved human rights issues associated with the Tiananmen Square massacre and its aftermath. On other major issues it requires only "overall significant progress." With respect to missile or nuclear proliferation the only absolute condition is that China not transfer such technology to Iran or Syria.

Mr. Speaker, the conditions set in this bill can easily be met by the Chinese Government. Indeed, they should be our bottom line in dealing with China.

I believe that this bill contains enough flexibility for the President to use in putting pressure on the Chinese Government to resolve human rights abuses and remedy other violations of generally accepted international norms. The administration, through Secretary Baker's recent trip and other actions, has already done much to address these issues.

Let us hope that our action today will help the administration work to change the policies of the Chinese Government.

Mr. KENNELLY. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota, [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I appreciate the gentlewoman yielding time to me.

Following on the heels of the discussion of my colleague, the gentleman from Kansas [Mr. GLICKMAN], let me say that this is not an issue of boycott. With respect to those of us who come from grain country, and we are concerned about selling grain around the world, this is not a boycott issue. We are not suggesting shutting off trade with the Chinese. The issue here is do we expect, for the extension of MFN, for the Chinese to meet certain acceptable standards, standards we expect them to meet in the course of human dignity.

□ 2020

The Chinese, frankly, have an enormous trade deficit with us. We have a deficit with them and it is growing radically. It seems to me we ought to expect the People's Republic of China to buy much more grain from us than they now buy.

I support the initiatives of the gentlewoman from California. I think we ought to stand up for something in the country and say that we expect a certain level of behavior coming from that country.

No, I do not want to shut off grain shipments. That is not what the issue is about. The issue is about trying to get the Chinese Government to conform to certain patterns of behavior in exchange for the extension of most-favored-nation status.

Mr. CRANE. Mr. Speaker, I yield 4 minutes to our distinguished colleague, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

As I said before in the debate on the rule, I strongly support this conference report.

Mr. Speaker, at this late hour, and with the politics of the Presidential season now coming upon us, there are many issues that divide us as Democrats and Republicans. However, today there are many other issues that should unite us, and no such issue on which we can all unite is more important than the encouragement and protection of human rights—at home and abroad.

To that end, I believe the conference report on this bill, H.R. 2212, should make a very substantial contribution.

Chairman ROSTENKOWSKI is to be commended for his initiative in putting together a conference report which we can all support on both sides of the aisle. America is always most effective when it speaks with just voice on trade and foreign policy issues. This conference report will enable America's message of support for the suffering people of China to come through loudly and clearly.

And, of course, Mr. Speaker, whenever we consider the plight of the Chinese people, we really have to pay tribute to their champion in this House the gentlewoman from California [Ms. PELOSI], believe me.

Her tenacity in moving this bill forward, and in keeping our attention constantly focused on the needs of the Chinese people, in both the Senate and the House, is an inspiration to us all. It really is to me.

But Mr. Speaker, the Chinese leadership does not seem to get it—it does not seem to understand that membership in the community of nations confers responsibilities along with the privileges that they enjoy from us. The Chinese leadership is always enthused about the privileges, but accepting the responsibilities is another story altogether.

Beijing's continued defiance of every international standard concerning the proliferation of weapons of mass destruction, as well as its continued denial of basic human rights for the Chinese people demands a response from this congress, and we are getting that here today with this bill. The assurances that were supposedly given on these subjects to Secretary Baker 10 days ago just are not enough.

The Chinese leadership has given assurance repeatedly—oftentimes to members of this Chamber from both sides of the aisle. You heard members speak about being there last month, 2 months ago, 3 months ago and the Chinese gave all of us those assurances. But they just do not mean anything.

The Chinese record is filled with broken promises, abusive behavior, and yes, outright lies. But just mention privileges, and the Chinese leadership pushes to the head of the line.

Mr. Speaker, for this year—1991—the Chinese trade surplus against the United States will reach $13 billion, thanks to MFN. Mr. Speaker, we are running a trade deficit with China that is second only to the one we have with Japan. Just think of that.

Mr. Speaker, to run such a deficit with a Government which is undemocratic, which specializes in slave labor for export, and which thumbs its nose at every international norm, is as morally wrong as it is economically idiotic.

Mr. Speaker, many months ago this House passed my resolution to immediately cutoff MFN for China. It passed overwhelmingly, but never got through the other body.

I would have preferred that approach here tonight, but this legislation will send a strong message to the Chinese leadership: Treat people with human decency, or else you are not going to trade with us, with Americans.

Mr. Speaker, I urge unanimous support for the legislation of the gentlewoman from California [Ms. PELOSI]. Please vote for it.

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I was deeply offended, as were the Oregonians that I represent, with the indifferent stonewalling treatment that the Chinese gave our Secretary of State when he recently visited China. He merely asked in the name of all Americans for attention to basic human rights, and to this day the Chinese rulers are resisting and are stonewalling.

So I rise in strong support of this conference agreement tonight because it puts the United States of America on the side of human rights, democracy and justice in China. Since the House passed this bill in July there has been no meaningful improvement in the Chinese Government's incarceration of political prisoners, its oppression in Tibet, or its denial of the most basic human rights for its citizens. Instead, we have seen more reports of China's irresponsible readiness to supply nuclear technology and weapons of mass destruction to Iran, to Iraq, to Algeria, and to other such regimes in unstable parts of the world. These actions by China pose a grave threat to world peace.

Now we are told that high-ranking Chinese officials have promised to behave more responsibly in the future.

Well, I say and Oregonians say, promises are not enough. That is why we must pass this conference agreement.

This bill would allow the President to renew most-favored-nation status for China only if China releases pro-democracy demonstrators imprisoned in China and Tibet, does not sell missiles to Syria or Iran, and makes significant progress in improving human rights, preventing nuclear proliferation, removing trade barriers to United States products and ending the export of prison-made goods. It is a good proposal and it deserves our support tonight.

Mrs. KENNELLY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, I, too, was a part of the delegation back in August which visited China. I must say, first of all, that I rise in strong support of the conference report.

What frustrated all of us and my colleague, the gentleman from South Carolina [Mr. RAVENEL] explained it very genuinely on the floor, he and I held a press conference in Benjing expressing our frustration.

The Chinese officials were personally friendly to all of us. They were very gracious hosts and were very nice personally, but when it came to discussing human rights, they did not budge an inch. In fact, it was as if they had prerecorded their answers to us, anticipating what we would say and they could have just as well pushed a button and that would have been the pre-recorded answer; because we certainly did not get any satisfaction to any of the questions that were asked.

When we spoke about human rights, we were told that there were no human rights violations.

When we said we were very concerned about the actions in Tiananmen Square, we were told that they acted very cautiously and prudently in Tiananmen Square. They said that no other nation on this Earth would have allowed the demonstrations to continue and they said that they actually were very restrained in what they did.

It is almost an insult to one's intelligence to receive the kinds of answers we got from the Chinese officials.

When we spoke about Tibet, they told us that the Tibetan people welcomed them with open arms.

When we asked about sales of missiles to Syria, we were stonewalled.

When we asked the Secretary General, the head man in China, to allow us to see one of the prisoners who was jailed in the Tiananmen Square uprising, he told us that he did not have the power to allow us to see dissidents.

It was very, very frustrating. They tell us not to interfere with the internal affairs of China.

I would say that what is going on in China with the human rights abuses is not simply internal affairs, but it is a concern for all the world, certainly a concern for the United States of America.

Yes, it is important to have good relations with China and I would like to see nothing better than for Chinese-United States relations to improve, but not at the price of terrorism, not at the price of people not having freedom, not at the price to allow those brave young men and women who stood in Tiananmen Square and yearned for the same kinds of freedom that we in America yearn for and take for granted, not at the price of selling them out.

We have to stand up and say that we will never allow these human rights abuses to continue with business as usual. We will never allow the tyranny that goes on.

□ 2030

The insult to injury was when Secretary Baker came back last week and was really not given anything at all. It is time this Congress acted. I am pleased to enthusiastically support the conference report.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the Conference Report on H.R. 2212, legislation to condition renewal of most-favored-nation status to the People's Republic of China [PRC] and I commend the gentlewoman from California [Ms. PELOSI] for her dedicated efforts in support of this measure and Ways and Means Chairman, Mr. ROSTENKOWSKI, for putting together a reasonable compromise measure. The House Foreign Affairs Committee has conducted extensive hearings with regard to China's human rights violations.

Since the Tiananmen Square massacre in 1989, human rights conditions in the PRC have not improved. The PRC government continues to repress any form of prodemocracy sentiments, engages in continuing violations of internationally recognized human rights, uses forced labor on a vast scale to produce exports, and brutally occupies Tibet.

Some of my colleagues have argued that China is an extensively poor country and that we should help it progress by keeping the doors open. Economic progress, we are told, will eventually lead to political pluralism. It is not too difficult to recognize that they have been wrong and that unconditional MFN for China has only served to close the door to progress in both areas. If we truly want a sound economic environment that supports investment, then we should help nurture a democratic form of government in Beijing. By permitting the renewal of unconditional MFN we would be bankrolling the communist regime and perpetuating a fragile political and economic system.

Let me also add that the Communist government ruling the People's Republic of China sells nuclear technology and ballistic missiles to just about any middle eastern tyrant who wants them, nurtures the despicable Khmer Rouge, threatens the emerging democracies in Mongolia, Nepal and Taiwan, undercuts the President's efforts to mount an international campaign to persuade North Korea to halt its nuclear weapons program, and arms the authoritarian rulers of Burma who have placed the latest Nobel prize winner under house arrest and who have oppressed their people.

To understand why China seems so determined to sell arms indiscriminately to practically everyone without regard to the international destabilization it causes, it would help to know a little more about the level of corruption in China's ruling circles. My colleagues should be made aware that we are informed that Deng Xiaoping's son-in-law and the PRC's vice president's son are personally profiting from China's arms sales. They run a company by the name of Polytechnology which is China's leading exporter of arms. Costind, another Chinese arms exporter, is run by the children and spouse of China's military leaders.

If my colleagues really want to see both economic and political progress in China then we need to start pressuring the clans that run, own and enslave it. Accordingly, I urge my colleagues to support the Conference Report on H.R. 2212, which imposes significant conditions on any consideration of most-favored-nation status for the People's Republic of China.

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I would also like to thank the gentlewoman from California [Ms. PELOSI] for her leadership on this issue. I have heard her speak in Washington quite eloquently and I have heard her speak in Beijing eloquently. And I think she speaks in the best tradition of the American spirit, but also she has displayed those Chinese traits of patience, perseverance, compassion that make the Chinese people such a great culture.

Mr. Speaker, about 2½ years ago, in June 1989, in Beijing, a young man stood in front of a long column of tanks, and he stopped them, if only momentarily, as the world watched, our imagination captured by his courage.

Tonight, as we deliberate here, in prisons throughout China are hundreds, perhaps thousands of young people who are sitting in prisons, who are looking to us for a sign. They were arrested for doing things that we take for granted, for assembling, for speaking, for speaking freely about their dreams of a democratic China.

The distinguished gentleman from Illinois has talked of face, that Oriental tradition of saving face. I would suggest that it is not just the Marxists, the brutal Marxist dictators who have the Chinese people under their heels that have face, but also the 1.1 billion Chinese people, such as those we speak of in those prisons, who have face and who want to save it.

We can do something about that. We can send a clear message tonight. If you believe that China should release those nonviolent prodemocracy demonstrators from Tiananmen Square and if you believe they should stop the practice of slave labor and prison labor, if you believe they should stop the practice of transshipments, stop the practice of shipping nuclear technology to Syria and Iran, then you should support this resolution.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Indiana [Mr. BURTON].

I rise in support of the conference report which places conditions on the renewal of most-favored-nation status [MFN] for the People's Republic of China [PRC].

On November 17, 1991, Secretary of State James Baker returned from his 3-day visit to China, the first by a high-ranking United States official since the Tiananmen Square massacre in 1989. The visit brought back memories of President Nixon's trip in 1972. The purpose of each was founded in an effort to mend strained Sino-U.S. relations. The context of the two trips, though, could not have been more different. Efforts to cajole the Chinese into entering strategic partnerships to keep the Soviet Union off balance were not discussed, nor were attempts made to woo the Chinese into the American corner. Rather, the emergence of democracy around the world has placed the U.S. firmly in a position of strength in dealing with China. The content of the meetings last week reflected the shifts: the U.S. consistently demanded change. Meanwhile China is becoming increasingly isolated.

The results of Secretary Baker's trip verify what we already know to be true. One official present at the meetings described the Chinese officials as "recalcitrant"—obstinately defiant. Was there ever any doubt? The Chinese continue to export forced labor products, practice unfair trade policy, and recklessly sell nuclear technology to states such as Pakistan, Syria, Algeria, and now Iran. If this Congress were to step back and observe, I think we would quickly conclude that China is following a well-designed plan to ruin its chances of getting MFN. China remains obstinately defiant.

Today we are considering the conference report which would extend MFN status to China. We have an opportunity to strengthen our position with China, or weaken it. The conference report, if passed, would allow the President to renew MFN for China only if the Chinese Government agrees to a short list of fair and concise conditions.

We have before us an opportunity to help the Chinese people and I encourage my colleagues to send a strong message to China that the United States will no longer tolerate defiance to internationally recognized standards of fundamental human rights.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, 10 million people, 10 million people in prisons, gulags in China, 10 million.

Think about that. That is twice as many people, almost, as there are in the State of Indiana, which I represent. That is more people than there are in the Los Angeles County, one of the biggest counties in the United States. Ten million people suffering under the tyranny of the Communist slave system.

They are providing the slave labor which is making goods that we are buying in this country.

Mr. Speaker, we had a $13 billion trade deficit with them last year. That means we bought $13 billion more in goods then they bought from us. And we do not know about the underground staff that they were sending over here.

It is made by 10 million slave laborers. Now, I do not know how many people saw that "60 Minutes" piece that was on television not long ago, but I watched it twice. They had people going undercover, making deals with people who are in those prisons. Then they would flash over to the people running that government. The people running the governmet said, "No, we don't use any slave labor." Then they would cut back to the guy running the prison and the guy running the prison would say, "Well, yes, we can get you the goods you people want. Our people will make them." Any they said, "Well, what about the the quality? Now are we going to guarantee that?" And the guys running the prison said, "Well, if they don't produce quality goods, we will beat them, we will torture them," and they said that on national television here in the United States, and we saw it time and again.

And yet, we still do business with these guys.

It is my opinion if we really believe in democracy, freedom and human rights, we will send a message to the Communist Government of China that we are not going to do business with them if they continue this attitude and continue using people as slave laborers.

We saw the manifestations of their attitude when they ground those young people who wanted freedom and democracy in Tiananmen Square into dog meat with their tanks. Yet, we still do business with them.

I want to congratulate the gentlewoman from California [Ms. PELOSI]. She has done yeoman service for this body, for the country and for the people who are fighting for freedom and democracy in China.

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I commend the chairman, the committee and the very persistent gentlewoman from California [Ms. PELOSI].

This conference report sends the right message at the right time. It tells China, that America will not stand idly by while an isolated leadership tramples on human rights and peddles dangerous military technologies.

All of us applauded the recent release of hostages in Lebanon. But what about the hundreds of hostages languishing in Chinese prisons, facing deprivation, forced labor, and torture? The only crime these people committed was to demonstrate principle and courage. Are we going to remain silent in the face of their suffering?

The Chinese Government calculates that they can violate any internationally held norm of decency and the United States will do nothing. They believe they can sell missiles and nuclear technology to anyone who will pay—and the U.S. will do nothing. They believe they can keep their markets closed to most U.S. exports—(adding $15 billion to the U.S. trade deficit this year alone), and the U.S. will do nothing.

□ 2040

Mr. Speaker, our vote today will send a clear and simple message to Beijing: "Don't be so smug. Don't assume the United States will turn a blind eye while you trample upon rights which we hold sacred and upon which our Nation was founded." These are rights for which Chinese men and women and Tibetan men and women have gone to prison for and died for. It is time for all of us in Congress to stand up with them in their struggle for freedom.

Mr. Speaker, we can do so tonight with our vote.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I want to begin by paying tribute to the gentlewoman from California [Ms. PELOSI] for her efforts, and I know, as a result of this bill tonight, people will be released from prison.

The two points that I would like to cover is, first, when I was there several months ago with Congressman CHRIS SMITH, we visited Beijing Prison No. 1. There were 41 or 42 Tiananmen Square demonstrators who were in the prison for speaking out for democracy. It was a cold day, about 25 degrees and snowing, and the prison was absolutely freezing. They were working on manufacturing socks and plastic shoes called jelly shoes for export around the world in competition with textile manufacturers in South Carolina, and North Carolina, and New England and around this country.

For those men who are in prison tonight this passage of this bill by an overwhelming vote will be so important.

Second, Mr. Speaker, many Members, when we went to Beijing, signed a letter to Li Peng asking that they release those who are in prison for religious freedom. There are 70 priests, ministers, and bishops who are in prison, some up to 32 years, that have not been out of prison for 32 years. The passage of this legislation by an overwhelming vote I believe will open up the prison doors and allow those bishops, and priests and ministers to leave.

Thirdly, for those of my colleagues on my side who voted no the last time I say, "You can vote yes this time. This is a much more watered-down bill. It is a bill that perhaps can even be signed by the President. But your vote makes a difference tonight, and I want to tell you why."

As we met with the families of those people, they told us that, when the Congress acts, and Voice of America then records what happens in this body, it makes a difference. So, tomorrow night, when they are listening with their little crystal sets somewhere in Beijing, or wherever they are, and know that the United States Congress stood with the Chinese people, it will make a difference.

So, Mr. Speaker, I strongly urge those on my side who voted no before on the other bill to please vote yes on this bill to open up the prisons, to let the bishops, and the priests, and the rabbis out, to prohibit the export of slave-labor-made goods into the United States and send a message that we care.

I say to the gentlewoman from California, "Ms. PELOSI, I want to again take may hat off to you and what you're doing here tonight. I know it will make a tremendous difference in the lives of so many people."

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentlewoman from Connecticut [Mrs. KENNELLY] for yielding this time to me.

Mr. Speaker, I want to join my colleague on the Helsinki Commission, the gentleman from Virginia [Mr. WOLF], who is such a strong fighter for human rights, both within the Helsinki process and around the world. I also want to join him in congratulating the gentlewoman from California [Ms. PELOSI]. Rarely does a single Member make such an impact on an issue as she has done.

The Universal Declaration of Human Rights that the United Nations promulgated said that there was a certain standard that we would expect human beings to be treated by all nations. Subsequently, the United States, the Soviet Union, and 33 other nations signed the Helsinki Final Act, again reiterating a commitment to a certain level of standards for the treatment of human beings by governments. The United States was in the leadership of raising the issue time, after time, after time that the Soviet Union and the other Eastern European nations were not in fact, according to human beings, at that level to which they had agreed. They protested repeatedly year in and year out that those issues were the internal affairs of those nations. We rejected that premise. Instead the United States and most of the Western world adopted the premise that the well-being of any individual human being was the concern of the international community and that there were certain international standards which we would expect those with whom we did business, either politically, or socially, or culturally, in whatever way, would meet those standards. It was not, frankly, just until a few years ago that the Soviet Union, and with the freedom of the Eastern European nations, that the premise of international affairs justifying mistreatment and human abuse was banned.

Mr. Speaker, this bill says the United States will expect certain levels of performance from those with whom we do business. It is the right thing to do. It ought to be adopted unanimously. I urge my colleagues, each and every one, to strongly support this legislation.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, we are not asking that the Communist regime in China be perfect, but we do expect that any regime that has most-favored-nation status at least be evolving in the right direction. The Communist regime is not only tyrannical, not only does it have hands that are dripping with blood of those who are struggling for democracy, but it is not getting any better. It is not going in the right direction.

This administration begged us not to threaten China's most-favored-nation status. Now the boneheads at the State Department act surprised when the gangsters in Peking tell Secretary Jim Baker to shove off and to get our noses out of their business. Well, Mr. Speaker, the butchers of Tiananmen Square are thumbing their nose. They are laughing at us while profiting from a trade policy that should be reserved for free countries.

I believe in free trade. Our goal should be free trade between free people. It is an absolute abomination that products made by slave labor are making their way onto the shelves of America's markets.

Let us set conditions on giving most-favored-nation status to the Communist regime in China. They can still think of us as ugly Americans, but at least they will not think of us as dumb Americans. If we want to get their attention, let us start turning a smiling face toward Taiwan, where they have made great progress in democracy, but, most importantly, let us make it clear to the Communist regime and those struggling for freedom whose side America is on. If there is any question in anybody's mind whose side we are on, something is dreadfully wrong. The legislation of the gentlewoman from California [Ms. PELOSI] will help correct that and make it clear that America is still the land of the free and the home of the brave, the last and best hope for all of mankind.

Mrs. KENNELLY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, when the President asked the Congress to renew most-favored-nation tariff status for China, the challenge we faced was to fashion a response which would make it clear both to the people and to the leaders of China that the United States was on the side of democracy rather than dictatorship, of reform rather than repression, but which was also designed to enhance, rather than diminish, the prospects for democracy and human rights in China.

□ 2050

Basically, we had three options. First, we could have unconditionally renewed MFN, as the President wanted us to do, on the theory that this would enable us to better persuade the leaders of China to make the kind of changes and reforms we sought. But I would suggest that a policy of constructive engagement vis-a-vis China is no more likely to succeed than was the policy of constructure engagement vis-a-vis South Africa.

Unless the Chinese leaders know that there is a price to be paid, in the absence of their willingness to address our concerns, there can be little hope for any real progress in the PRC.

The second option was to reject MFN for China entirely. But however emotionally satisfying such a response would have been, I suggest that it would have also been counterproductive. It would not have brought the gerontocracy which had seized power in Bejing to its knees. It would have more likely resulted in a decision on the part of the Chinese leaders to crack down than to open up, and this would have badly hurt Hong Kong, in whose economic vitality we have a significant national interest.

The third option was to make the renewal of MFN conditional, as we do in this conference report, on overall progress toward the achievement of our objectives in the area of human rights, economic relations, and the proliferation of weapons of mass destruction.

This conference report gives the President enormous flexibility. It does not require perfection, but it does require progress, and I think the gentlewoman from California [Ms. PELOSI], together with the chairman of the committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the distinguished ranking minority member, all deserve enormous credit for fashioning a formula which is truly responsible. It encourages the Chinese leaders to move in the right direction. It gives the President ample flexibility in implementing the legislation.

Mr. Speaker, I not only urge its adoption by the House but I urge the President to sign it because I truly believe this is the best way to say to the people of China that we are on the side of democracy, while encouraging the Chinese leaders to move in that direction.

Mr. CRANE. Mr. Speaker, I yield two minutes to our distinguished colleague, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend, the gentleman from Illinois, for yielding time to me.

Mr. Speaker, I rise in support of the conference report conditioning MFN for the People's Republic of China.

Mr. Speaker, the legislation before us permits the President to renew MFN for the PRC provided the Chinese Government:

Releases nonviolent prodemocracy demonstrators imprisoned during and after the Tiananmen Square incident;

Does not sell missiles to Syria or Iran; and

Makes overall significant progress in each of the following three categories:

Human rights: Allowing human rights monitoring groups access to prisoners, ceasing the jamming of Voice of America, ending restrictions on freedom of religion, speech, press and assembly in China and Tibet.

Nuclear proliferation: Assuring that it will not sell nuclear weapons technology to non-nuclear states and will abide by guidelines of the Missile Technology Control Regime, MTCR.

Trade: Removing barriers to United States products entering Chinese markets, ending the export of prison-made goods, stopping violations of intellectual property rights, ending the use of transshipments to evade U.S. import quotas.

In late March, Mr. Speaker, Congressman FRANK WOLF and I spent the better part of a week in Beijing and Shanghai to promote human rights as part of an ongoing human rights effort.

We talked and argued with several government officials and visited Beijing Prison No. 1, a prison that unjustly incarcerates at least 40 political prisoners. We also met with Premier Li Peng and made a strong case—face to face—for human rights with the Chinese leader.

We told Li Peng that all Americans—including the President and Congress—continue to be outraged concerning the brutality by Chinese troops in Tiananmen Square. We urged the immediate release of all political prisoners.

The conference report I am pleased to point out appropriately uses our economic clout to encourage the release of these brave souls.

We raised the issue of convict labor and told Li Peng that products made by inmates—especially political prisoners—are absolutely unwelcomed on our shores and in our markets. The conference report includes language to address this concern.

We asked Li Peng to take steps to reverse the current crackdown on religious freedom. The evidence clearly suggests an all-out assault on people of faith is underway in China. Mr. WOLF presented Li Peng a list of 78 known prisoners of conscience—men and women who languish in gulags solely because of their religious beliefs. The conference report accommodates this concern for which I am grateful.

Finally, we expressed our outrage over the systematic exploitation of women and children—the family—who suffer terribly as a direct result of the PRC's brutal one child per couple policy with its heavy reliance on forced abortion and forced sterilization.

On two occasions this House has condemned this violation of women's rights and children's rights as "crimes against humanity." We have also withheld funds to the U.N. Population Fund for its support and comanagement of coercive abortion. But these modest steps need to be augmented by additional action. This conference report fails on that score.

Mr. Speaker, since 1979, it is estimated that over 120 million babies have been slaughtered by the state—approximately 90 percent of these abortions being the result of coercion. Forced abortion—coercive population control—is a horrible crime against women and babies.

Thus, while I support this compromise conference report, it deeply saddens the heart that the anti-coercion language adopted by this House when the bill was originally considered was dropped in conference.

Chinese women and children deserve better than that.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I see so many of my colleagues here who have worked so hard on this issue, including the gentlewoman from California [Ms. PELOSI] and the gentleman from Georgia [Mr. JONES], with whom I traveled to China just a short time ago to discuss this subject of human rights.

People listening to this debate must be wondering, why are we so exorcised about this Chinese Government? Well, this is a government that sends missiles to make trouble in the Middle East. This is a government that sends prison-made goods into our country to compete with goods made by our own labor. This is a government that sends its own people to prison for worshiping God and for speaking out for political freedom.

Now we have a chance to send this Chinese Government a message, and the message is this: that access on favorable terms to the United States market depends in the future on the Chinese Government stopping this conduct and obeying the norms that civilized nations follow.

Mr. Speaker, I am from a trade-dependent area in Washington State. My constituents, however, understand that we cannot ignore what is going on in China. We understand, sure, that in the short run we may risk losing trade by this measure, but we understand that in the longrun there will be more trade and investment in a world where human rights are honored and not ignored.

Mr. Speaker, let us pass this conference report.

Mrs. KENNELLY. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, this is really the least that we can do. This is the world's leading democratic government. This is the country that set the standard for the world for human rights and civil liberties, and there should not be one standard for Europeans and one standard for the rest of the world.

The courage of those young people at Tiananmen Square crushed by the Chinese tanks ought not be forgotten. Whether they labor today in prisons to manufacture goods shipped to the United States or whether the entire society with its lack of freedom is the issue, this country's voice ought to be loud and clear, and it gives me great pride that on this issue there is a bipartisan effort within this House to condemn the actions of the Chinese Government and to take a far stronger stand than our own administration has been willing to take.

Mr. Speaker, I would particularly like to commend the gentlewoman from California [Ms. PELOSI] and all the others on both sides of the aisle, including the gentleman from Washington [Mr. MILLER] and the gentleman from Georgia [Mr. JONES], who have led this effort to make sure that America stands on the side of those who are oppressed and not on the side of the oppressors.

Mrs. KENNELLY. Mr. Speaker, I yield back the balance of my time.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I have heard that the Chinese are proud. The Asian-American is proud. He has helped to build this country. The families have stressed education in the home, and they teach that if you work hard, you can make it in this country.

These are the same Asian-Americans who have asked us to support conditional renewal of MFN. We need to send a strong message. We support a norm of international behavior that the Chinese will not adhere to. This is a message that life, liberty, and the pursuit of happiness is part of our new world order.

☐ 2100

Yes, if they call if face, if they call it arrogance and they spurn the United States' offer, so be it. There are many countries that want our trade.

Hal Lindsey in "The Lake Great Planet Earth" gives us an inside look at future China. Support conditional renewal of MFN for a safer world, for a better world, and thank the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentlewoman from California [Ms. PELOSI] for this legislation.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the conference report on H.R. 2212, most-favored-nations status for China.

Mr. Speaker, I will not repeat all that has been so eloquently stated by my colleagues about human rights abuses in China, slave labor, near genocide in Tibet and arms sales to terrorist nations.

I do want to add to the charges against the brutal Communist dictators of China one that is seldom mentioned—probably even little known. That is the cruel actions it has taken against the Mongolian people of Inner Mongolia.

The Mongolian people of what used to be called Inner Mongolia, just to the south of the Mongolian Republic have been deliberately subjected to extremely cruel treatment, and because of the sending of thousands of ethnic Chinese to the area, are now a minority in their own land.

Mr. Speaker, in August, as the Chairman of the National Republican Institute, I led a delegation to the Mongolian Republic, the second country in the world to become Communist, the first Communist country in Asia to throw out a Communist government, to see if we could be of assistance in the move toward democracy.

While we were there, we met dissidents who had escaped from imprisonment in Inner Mongolia and fled to Mongolia. Their crime? To say that they would like to have democracy as well.

Mr. Speaker, I want to join in commending Ms. PELOSI, who certainly has been the leader in this fight.

Mr. SCHULZE. Mr. Speaker, I rise in support of the conference report to H.R. 2212.

As I and many of my colleagues have noted during this and last year's debate on whether to extend most-favored-nation trading status to China, that country's emigration and human rights policies clearly have worsened since the brutal massacre at Tiananmen Square. Further, China is steadily adding to its nearly $15 billion trade surplus with the United States through the use of cheap prison labor.

No mystery are they, the worsening conditions within China have been confirmed by several organizations: Amnesty International, ASIA's Watch, the Library of Congress and, even our very own Department of State.

Given that China's emigration policy is not in compliance with title 4 of the Trade Act of 1974, I have argued strenuously that this Nation is not legally entitled to the preferential tariff rates accorded under the MFN program.

For this reason, I and some very committed colleagues—including Messrs. SOLOMON, MARKEY and ROSE—have led a 2-year effort to terminate China's MFN status. In fact, in 1980, I was just as vehement in my opposition to President Carter's recommendation that China be granted MFN treatment in the first place.

Regrettably, over the past decade, the State Department has argued just as strenuously that a policy of appeasement—as opposed to the more heavy-handed approach preferred by most of us—is the way to yield positive change in China. This policy failed in the 1980's, and it will continue to fail in the 1990's. Chinese leaders neither respect nor respond to the carrot approach. Indeed, they arrogantly chew up the carrots and spit them in the faces of those who naively offer them. It is time to wield a stick!

I regret being in the position in which I find myself today. Whether I vote for or against the legislation before us, China still receives most-favored-nation status—and that truly disgusts me!

However, I commend the gentlelady from California, Ms. PELOSI, for her tireless efforts in bringing this conference report to the floor. At this stage, H.R. 2212 represents the strongest message we can sent to the Chinese leaders, and it and its author deserve our strong support.

Mr. LANCASTER. I speak today in full support of the conference report on H.R. 2212, which would allow the President to renew MFN for China only if the Chinese Government does three things: Releases imprisoned pro-democracy demonstrators held in China and Tibet; stops selling missiles to Syria or Iran; and makes "significant progress" in improving human rights, stemming nuclear proliferation, and practicing equitable trade policy.

Each of those provisions is completely defensible in its own right. In combination they represent a package worthy of strong bipartisan support.

The Chinese Government battles words with tanks. The Chinese Government denies its citizens the most basic of human rights. The Chinese Government abides by its own rules as it contributes to nuclear proliferation while most civilized countries work to stem such activity. The Chinese Government enjoys a growing multibillion-dollar trade surplus with the United States as it denies entry of United States products into its own markets. And the Chinese Government remains confident that the United States will continue to extend MFN to China irrespective of its ignoble practices and policies.

It is time for the United States Congress to speak with a loud and unified voice in telling the Chinese Government they are very much mistaken. We will not reward their shameful ways with preferential trade treatment. We will instead pass into law this conference report. We will send the signal that we will do business with China on our terms, not on terms dictated by the Chinese Government—especially when those terms work to the disadvantage of American interests.

The conference report is clear, it makes sense, and it is simply the right thing to do. I urge my colleagues to support the conference report.

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of the conference report and to express my appreciation to the chairman [Mr. ROSTENKOWSKI] and the gentlelady from California [Ms. PELOSI] for their support and leadership.

Mr. Speaker, we are tired of the new China syndrome, where Chinese leaders promise to change, yet China continues to supply nuclear technology to pariah states and sophisticated missiles to terrorist countries. And while the blood of the Tienenmen Square massacre is still fresh, America rewarded China with a high level visit from Secretary Baker.

I do not doubt the President's commitment to human rights, fair trade, and restrictions on the proliferation of nuclear and missile technology. By passing this conference report with a two-thirds majority, we will help the President press these important principles with the

Government of the People's Republic of China.

Nearly 2 decades ago, I voted for the Jackson-Vanik Amendment. As my colleagues know, this amendment conditioned the extension of MFN to the Soviet Union on the Soviet's emigration policies.

Today, Mr. Speaker, we can point to a changed Soviet Union. It can no longer be viewed as the evil empire. It has changed its emigration policies, and while minorities still face an uncertain future, the historic Jackson-Vanik Amendment has been waived.

The Soviet Union has changed.

Sadly, the situation in China has deteriorated. Since the Tianenmen Square massacre, over 30,000 pro-democracy activists have been detained. Some, and we don't know exactly whom and how many, have been executed. More than 800 activists have been imprisoned and the Chinese secret police continues to investigate, harass, and persecute others thought to support the democracy movement.

This President, this Congress, this country, must not send a message of weakness. We must not disappoint those Chinese citizens who have sacrificed their lives and their futures for democracy.

As Jackson-Vanik helped lay the groundwork for the changes we are seeing today in the Soviet Union, conditioning MFN to China will set a similar standard for our relations with China and pose a vital, tangible symbol of hope and American commitment for democratic activists in China.

Mr. Speaker, this is not a partisan issue. An overwhelming bipartisan majority voted for the bill. And this is not a political issue. The President shares our goals.

Clearly, the issue here is one of tactics.

I was one who thought that Secretary Baker's trip was premature. That the Chinese had not given even a glint of hope of progress. But I was willing to give the administration the benefit of the doubt.

Secretary Baker was tough. He pressed the hardliners but there was no give. They even arrested two activists just prior to his arrival just to remind us who is boss.

I can imagine the thoughts of Chinese leaders. They are thinking that there will be no price to pay for their intransigence. They are thinking that their gross human rights violations will go without any real American response. That they can continue to provide nuclear and missile technology to terrorist states with impunity. That they can violate U.S. trade laws, export prison-made goods and stomp on the American worker without censure.

Now, after Secretary Baker returned form Beijing empty-handed, we have an obligation to put up or shut up.

I urge my colleagues to support this conference report, and I hope that the other body and the President are listening.

Mr. MARKEY. Mr. Speaker, I rise in reluctant support of the conference report on H.R. 2212, regarding the extension of most-favored nation status for the People's Republic of China.

There is much in the conference report which I strongly endorse, particularly provisions in the bill relating to human rights in China and the status of the pro-democracy protesters who have been imprisoned and mistreated since the Tiananmen Square massacre. At the same time, I must note that the nuclear non-proliferation requirements contained in the conference report are significantly weaker than the language of the House resolution.

Last June I testified in favor of tough nuclear non-proliferation conditions on MFN extension before the Ways and Means Committee last June and I worked with the gentleman from New York [Mr. DOWNEY] and my Republican colleague [Mr. SOLOMON] to craft the language which Mr. DOWNEY attached to H.R. 2212 in the Ways and Means Committee.

The House China MFN resolution would have conditioned extension of MFN status for the People's Republic of China on two factors:

First, the Chinese Government would have had to provide clear and unequivocal assurances to the United States that it is not assisting any non-weapons state—either directly or indirectly—to acquire nuclear explosive devices or the materials and components for such devices.

Second, the House resolution would have required that before MFN status could be extended, the President of the United States must certify to Congress that based on the assurances provided by the Chinese Government, as well as all other information available to the President, that the Chinese were in fact not assisting any state in acquiring nuclear explosives.

Specifically, under the House resolution, in order for MFN status to be extended for the People's Republic of China, the President would be required to submit the report and make the certifications required under the 1985 congressional resolution which approved the United States-People's Republic of China Nuclear Cooperation Agreement. The 1985 legislation conditioned United States-Chinese nuclear cooperation on the People's Republic of China Government providing the United States with additional information regarding its nuclear non-proliferation policies and practices.

Based on this information, the President was required to certify that China was not in violation of section 129 of the Atomic Energy Act. Section 129 of the act bars U.S. nuclear cooperation with any country which has "assisted, encouraged, or induced any non-nuclear-weapons state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices." Section 129 also bars such cooperation with nations which have transferred reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapons state. To date, neither the report or the certifications required under the 1985 resolution have been made, and administration officials have acknowledged that this failure is directly tied to Chinese continuing misbehavior on nuclear non-proliferation.

Unfortunately, the conference report has substantially weakened the nuclear non-proliferation requirements set forth in the original House and Senate resolutions.

Instead of a tough nuclear non-proliferation requirement that actually ties MFN extension to a requirement that China's reckless nuclear non-proliferation practices come to an end, the conference report requires only that China make "overall significant progress" in "adopting a national policy" which: First, adheres to, and ceasing activities inconsistent with the standards and guidelines set by the Nuclear Suppliers Group; and, second takes clear and unequivocal steps to assuring the PRC is not assisting any non-weapons state in acquiring nuclear explosives.

The conference report states that the "significant progress standard" would not be met if the President determined that on or after November 26, 1991, the People's Republic of China had transferred to Syria or Iran material, equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device. Interestingly, this requirement would not apply to any transfers of equipment or technology to Iran which occurred before today's date—such as the Chinese transfers of calutrons and reactor technology to Iran, which was reported on by the Washington Post earlier this year. It would also not apply to Chinese nuclear assistance to other potential proliferators—such as Algeria or Pakistan—despite substantial evidence that China has previously assisted these countries in acquiring nuclear weapons technologies.

The conference report also expresses the sense of the Congress that the President should submit the report required under the 1985 congressional resolution on United States-People's Republic of China nuclear cooperation.

While I would have preferred tougher nuclear non-proliferation requirements as a condition of MFN extension, I am reluctantly supporting the conference report today because I believe the final language, while less stringent than the house resolution, nonetheless represents an improvement over current law, which does not link MFN for China to nuclear non-proliferation.

Mr. CRANE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. KENNELLY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. KENNELLY. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 409, nays 21, answered "present" 1, not voting 3, as follows:

[Roll No. 436]

YEAS—409

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—21

Archer
Armey
Campbell (CA)
Crane
Fawell
Grandy
Johnson (CT)
Kolbe
Kopetski
Lewis (FL)
Matsui
McCandless
Myers
Nussle
Pickett
Roemer
Shays
Taylor (MS)
Traficant
Vucanovich
Wyden

ANSWERED "PRESENT"—1

Murphy

NOT VOTING—3

Davis
LaRocco
Martinez

□ 2120

Mr. McCANDLESS, Mrs. VUCANOVICH, and Mr. LEWIS of Florida changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair announces that pursuant to the provisions of clause 5, rule I, that he will postpone further proceedings today on each scheduled motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, and votes previously postponed, will be taken after the expiration of a recess.

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT AMENDMENTS

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3576) to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnership Act for certain insular areas, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. RESERVATION OF ASSISTANCE.

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

(2) by adding at the end the following new paragraph:

"(3) INSULAR AREAS.—

"(A) IN GENERAL.—For each fiscal year, of any amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to the insular areas an amount that reflects—

"(i) their share of the total population of eligible jurisdictions; and

"(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B).

"(B) SPECIFIC CRITERIA.—The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

"(C) TRANSITIONAL PROVISIONS.—For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 216(6)(A).".

SEC. 2. DEFINITIONS.

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "the Marshall Islands" and inserting "the insular areas"; and

(2) by adding at the end the following new paragraph;

"(24) The term 'insular areas' means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa."

SEC. 3. EXTENSION OF TIME TO SUBMIT CDBG STATEMENT.

Notwithstanding any other provision of law, the City of Petersburg, Virginia is authorized to submit not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(1) in connection with a grant to the

City of Petersburg under title I of such Act for fiscal year 1991.

SEC. 4. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as prescribed in section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay closing of financing under this section of the existence, or occupancy terms, of any such restrictive covenant.".

SEC. 5. FLOOD ELEVATION DETERMINATION.

Notwithstanding the time limit set forth in section 1363(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(c) and (d)), St. Charles Parish, Louisiana, may file an appeal with the Director of the Federal Emergency Management Agency with respect to certain flood elevation determinations for the area in and near the Ormond Country Club Estates located in St. Charles Parish, Louisiana, not later than June 1, 1992.

Mr. GONZALEZ (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. McCANDLESS. Mr. Speaker, reserving the right to object, I do so to ask my honorable chairman, the gentleman from Texas, Mr. GONZALEZ, if he would explain the basis for his request and the subject matter in the request.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, the House passed H.R 3576 as amended, which is what we are offering here, on October 21, and it passed it under suspension of the rules as a technical amendment to the HOME Program to correct a series of unintended problems which would have prevented the four U.S. territories from participating in the HOME Program.

On Saturday last the Senate passed an amendment to H.R. 3576 and has returned the bill to the House for a final consideration. One, in addition to providing funding to the territories under the HOME Program, the bill extends the deadline for filing a final statement under the CDBG Program for Petersburg, Virginia;

Two, it corrects a glitch in the law governing the FmHA section 515 Rural Rental Housing Program to enable loan closings for projects using the low-income housing tax credit, and it extends a time deadline for filing an appeal for floodplain determinations in St. Charles Parish, LA.

These additional provisions have been accepted by both sides of the aisle, and I urge the adoption of H.R. 3576.

Mr. McCANDLESS. Mr. Speaker, I thank the gentleman. It is my understanding that the ranking minority member of our committee has concurred in this.

Mr. RIGGS. Mr. Speaker, I rise today in support of this urgently needed legislation. Amidst all the partisan rhetoric and bitterness generated by our debate over an economic growth package, I ask for a moment of reason and careful consideration of the legislation before us. This body has an opportunity to rise above the petty politics and, by extending this package of productive tax credits, show the American people that the Congress is still looking out for their best interests.

I have heard it said that you can claim to be an advocate for the people all year, but it's your vote that counts. That statement is particularly germane today, while we consider whether we will provide housing for literally hundreds of thousands of people. I would argue that passing this bill does not go far enough and that Congress should make all of the credits contained in this package permanent provisions of the tax code.

My concern with the extension of these tax credits stems from my background as a small businessman in the real estate industry. I know from personal experience how effective incentives can be in driving policy, and how well the low income housing tax credit in particular has been received in the market. I would remind my colleagues that the low income housing tax credit is the last Federal tax incentive remaining which encourages private sector production of affordable housing stock.

I represent the First Congressional District of California, which happens to include 2 of the 10 least affordable housing markets in the entire United States. Based on my own personal experience and the outcry from my constituents, I must conclude that much of America is the victim of a serious social illness in the form of increasing homelessness and general poverty. These programs we are considering have developed an excellent track record of combatting such social problems since their enactment. Thus, unless we're philosophically opposed to the creation of affordable housing or we think that helping low-income families achieve the American dream of home ownership isn't a worthwhile goal, the House of Representatives has no excuse for failing to pass this bill.

As Members of Congress, it is our responsibility to act in a timely manner to extend these successful credits. I honestly do not believe I would be doing my job if I voted against this legislation. I urge my colleagues to affirm the American dream as well as the faith of the people in their leadership by doing what is right and voting for this bill. I am submitting for the RECORD an editorial which speaks eloquently on the need for action and was written by my constituent, Mr. Arnold Sternberg, Director of Burbank Housing Development Corp. of Sonoma County, California.

HOUSING AID VITAL TO SONOMA COUNTY—CLOSE TO HOME

(By Arnold Sternberg)

Ken Harney's syndicated column in Sunday's real estate supplement paints a bleak picture for the future of affordable housing across the nation. In his column, Harney reports that the two federal programs which are the backbone of the nation's affordable housing effort may disappear at the end of this year.

The two programs whose demise he predicts are the mortgage revenue bond program, which provides permanent financing at below market interest rates for the first-time home buyers, and the federal low-income housing tax credit program, which is designed to attract private investment to make low-rent apartment development possible.

To understand what these two programs mean to Sonoma County, one need look no further than the Burbank Housing Development Corporation's experience in utilizing these programs:

In Petaluma, two sweat-equity projects, the 32-unit Magnolia Hills and the 8-house Madison Manor as well as the just-completed 29-unit Cherry Hill home ownership opportunity and the soon-to-start Hillview Oaks (30 town homes in the Corona-Ely annexation area), all rely on mortgage revenue bonds for financing.

In Santa Rosa, the 40-house self-help Rancho Miguel and Gardner Construction's 62-house development—Parkside—now going up at Piner and Fulton, are also largely financed with the same mortgage revenue bond program.

On the rental side, Burbank developed the 23-unit Madrone Village in Petaluma and the 20 senior apartments, Mountain Terrace II, in Healdsburg, using the tax-credit program. Also slated for tax-credit financing is Burbank's 50-unit apartment development in Rohnert Park and the 24-bed Burbank-Community Support Network joint venture, for which ground was just broken on Aston Avenue in Santa Rosa, a development designed to house formerly homeless people with a history of mental illness and other disabilities.

Burbank also utilized mortgage revenue bond financing in developing the 60-unit Gravenstein Apartments in Sebastopol, the 40 apartments at West Avenue in Santa Rosa and the 7-unit Cubernet project for seniors in Sonoma.

Virtually none of these 208 home-ownership opportunities would have been available to first-home buyers without the mortgage revenue bond program and none of these 225 below market rent apartments could have been built without the federal low-income housing tax credit program and mortgage revenue bond financing.

Harney's column should be read, therefore, as a "call to arms" for all those interested in solving, at least in part, the affordable housing program in Sonoma County. Our elected representatives need to know what has been done by just one small nonprofit developer in this county using these two programs.

Harney's predictions notwithstanding, the two programs can be saved and extended if this community, beginning with the Chamber of Commerce's November 15, symposium on affordable housing, can put this effort at the top of its legislative "must" list.

In the House of Representatives the extension vehicle for tax credits is HR–413 and for the mortgage revenue bond bill, it is HR–1067. Congressman Riggs and Congresswoman Boxer, Senators Cranston and Seymour need to hear from you on this subject now.

Mr. McCANDLESS. Mr. Speaker, based upon that explanation, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

IMPROVING OPERATIONAL EFFICIENCY OF JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Mrs. LOWEY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3932) to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes.

The Clerk read as follows:

H.R. 3932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF JAMES MADISON MEMORIAL FELLOWSHIP ACT

The James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.) is amended—

(1) in subsection (b) of section 803, by adding at the end the following new paragraph:

"(3) A member of the Board whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired."; and

(2) in subsection (a) of section 811—

(A) in paragraph (1)—

(i) by striking "an other" and inserting "and other"; and

(ii) by striking "(1)"; and

(B) by striking paragraph (2).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York [Mrs. LOWEY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3932 is important legislation to allow the James Madison Memorial Fellowship Foundation to begin full operation of its scholarship program.

In general, we all recognize that our Nation urgently needs to expand Federal student aid programs. The James Madison Memorial Fellowship Program, which is aimed at strengthening the teaching of the principles and development of the United States Constitution, is a particularly worthy and important fellowship program.

The bill is very simple. When the Fellowship Foundation was created, it was endowed with a trust fund that has subsequently accrued interest. This bill permits the Madison Foundation to get down to the business of awarding fellowships by using the interest which has accrued on its endowment to fund its fellowship program, while protecting the trust fund itself.

It is important to point out that this legislation requires no Federal funding. It has received bipartisan support within the Committee on Education and Labor, from Chairman BILL FORD and ranking member BILL GOODLING, and it has been endorsed by the administration.

Mr. Speaker, this legislation will help us improve the quality of education in our Nation and will help broaden the understanding and appreciation of our Constitution and our democratic system of government. There are few objectives that are more worthy of our strong support.

I would urge all Members to support this bill, and at this point, I would yield to the gentleman from Virginia, who introduced this important legislation and has worked hard to see that it is enacted.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SISISKY] who has produced this important legislation and has worked hard to see that it is enacted.

Mr. SISISKY. Mr. Speaker, I rise today in support of legislation to allow the James Madison Memorial Fellowship Foundation to begin full operation of its fellowship program. It is only fitting that in the year we commemorate the bicentennial of the ratification of the Bill of Rights, we also grant to the foundation—named after the Bill of Right's principal author—the ability to perform its worthy mission assigned by Congress.

Mr. Speaker, the Madison Foundation is a living memorial to James Madison: Father of the Constitution, fourth President of the United States, and truly a great Virginian. It was established by Congress in 1986 as a part of the bicentennial commemoration of the U.S. Constitution. This program will award fellowships nationwide to outstanding graduate students preparing to become secondary school teachers in the fields of American history and government. This program will also award fellowships to experienced high school teachers seeking to strengthen their knowledge in the same area. Madison fellows will agree to teach full-time in secondary schools for at least 1 year for each year of assistance, and will emphasize the U.S. Constitution in their teaching.

The legislation we are considering today is actually very simple. In addition to two house-keeping provisions, this measure permits the Madison Foundation to embark on its mission of strengthening the teaching in our Nation's schools of the framing, principles, and development of the U.S. Constitution. It does so by allowing the Madison Foundation to use the interest which has accrued on its endowment to fund its fellowship program, while protecting the corpus of the Foundation's trust fund.

While enacting this important legislation will require no Federal funding, it will pay dividends for years to come. These dividends will be deeper understanding of American government, increased knowledge of the rights and responsibilities of citizens under the Constitution, and an enhanced spirit of civic participation in both teachers and students * * * the same spirit which inspired our Nation's Founding Fathers.

This bill has the support of the Education and Labor Committee Chairman, Mr. FORD, and the committee's ranking minority member, Mr. GOODLING. In addition, the measure is supported by Senators HATCH and KENNEDY in the other body. Furthermore, it has been scrutinized and endorsed by the Office of Management and Budget. I urge my colleagues to support this worthwhile legislation which promotes a program that emphasizes the Constitution and higher education. It is indeed deserving of our support.

□ 2130

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the program envisioned here is very laudable. We have a serious problem, however, in that when we put up the $20 million, the Foundation indicated putting up $10 million would be an easy kind of thing to do. Unfortunately, they have not done it.

I just want to make it very, very clear, that when they come back next year and ask to use the interest on the $20 million that the taxpayers put up, that I will do my very best to make sure that it is not granted, unless they have shown a very good faith effort to get their $10 million which they originally said would be easy to do.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. Yes, I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, this is sounding a little like a shell game to me. The taxpayers put up $20 million with the idea that the foundation was going to put up $10 million, and now they have not gotten their $10 million, but they are going to come back and use the interest on the money originally put up by the taxpayers, is that right?

Mr. GOODLING. That is right, $4 million.

Mr. WALKER. Now, how much money has been raised by the Foundation so far?

Mr. GOODLING. I will yield to the gentleman from Virginia [Mr. [SISISKY] to anwer that.

Mr. SISISKY. Mr. Speaker, they are in the process of raising money.

Mr. WALKER. Have they raised half of it?

Mr. SISISKY. Mr. Speaker, if the gentleman will yield, I do not believe they have. I do not know the figure, but if the gentleman will let me explain. One of the projects was a coin bill which we are waiting to do in 1993 and this was the problem. We have not yet passed a coin bill for the James Madison Foundation to raise the money.

Mr. WALKER. But as I understand it, this is not a coin bill either. What this is doing is simply saying that we are going to now use the interest money, which is essentially money that the taxpayers have already forwarded.

Now, I am a little confused. How are we going to raise the $10 million that was a part of the $20 million guarantee?

Mr. SISISKY. Mr. Speaker, if the gentleman will yield further, we are in the process of raising the money from foundations and other things. We are having trouble, in all honesty, on the issue of raising the money.

Mr. WALKER. Well, does the figure of $50,000 sound right?

Mr. SISISKY. I think we raised more than $50,000. Is the gentleman saying $50,000?

Mr. WALKER. I have had it indicated to me that the total that has been raised so far out of the $10 million is $50,000.

Mr. SISISKY. I think we have raised more than $50,000, but I am really not sure of the figure, honestly, I am not.

Mr. WALKER. Well, I am concerned about the process that we are using here at the very last minute.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. WELDON. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Pennsylvania.

Mr. WELDON. Mr. Speaker, I thank my colleague for yielding to me.

I would just like to ask a question. I am not against this particular bill or the concept, but I understand there was an attempt made, or there has been a bill introduced to offer a coin that would generate approximately $10 million in funding, and now instead of that coin bill, we are offering a bill that will in fact allow the interest to be used, to which I am not objecting.

My question is do the sponsores plan to continue to move the coin bill forward to raise the additional amount of funds necessary to match the $20 million of public funding?

Mr. SISISKY. Mr. Speaker, if the gentleman will yield, we would like to move the coin bills forward.

Mr. WELDON. Well, the only thing I would say to my colleagues in the House, and once again not being against this, but the scenario of what happened here today was that there was going to be a package of four coin bills offered shortly that my colleagues are going to be asked to vote upon.

In the initial package of those coin bills the Madison coin bill was included in that package. It was only removed because there was an outcry nationally from the American Fire Service, the 3 million people who have been working for 2 years to pass a Ben Franklin coin in 1993, which the Madison bill would completely knock out.

Now we are finding that not only are we going to pass this bill, which is going to allow the interest to be used, the $4 million, but we are going to come back and pursue a 1993 coin bill to raise additional funds for the James Madison Foundation, and again jeopardize the number one priority of the National Fire Service, which is the Ben Franklin coin bill.

I really find this somewhat outrageous.

While I do not want to disagree with my friend and told him I did not want to stand up here and oppose it, what is happening is we are going to have the coin bill come back again that will raise the money for this, and I do not know where the Foundation is raising its money on its own.

As a matter of fact, my friend and colleague on the Republican side who is offering the bill with my good colleague and friend, the gentleman from Virginia, was not even aware what this bill was 5 minutes ago. He thought this was the coin bill, because the staff had not told him that they changed it from a coin bill that now allows the Foundation to use the interest on the money generated.

I find this offensive, especially in light of the fact that with the coin bill that was being proposed, there was no limitation on the administrative overhead, the funds to be used for salaries.

I just find this an outrageous way to try to fund what in fact is a very worthwhile project.

Mr. GOODLING. Taking back my time, Mr. Speaker, I again reiterate that I have no objection to the legislation tonight.

I will be very much in opposition to any attempt next year to use the interest, unless the foundation has made a very good-faith effort to raise their part of the money.

Mr. ALLARD. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Speaker, today I join with my distinguished colleague, Congressman NORMAN SISISKY, in supporting H.R. 3932, a bill which will improve the operational efficiency of the James Madison Memorial Fellowship Foundation. Since coming to Congress, I have been a strong supporter of the education programs of the Madison Foundation.

Under the direction of Adm. Paul A Yost, the former Commandant of the U.S. Coast Guard, the foundation is in its first year of full operation. However, Admiral Yost, and the trustees of the foundation have indicated that there are several provisions which need to be addressed in order to improve the operations of the foundation.

This legislation does three things: First, it allows existing members of the board of trustees of the foundation to continue serving at the end of their term until the President of the United States either reappoints that trustee or he appoints that trustee's successor. This will allow the foundation to continue its operations more efficiently because there will be a fully functioning board of trustees at all times to oversee the foundation's activities.

Second, a typographical error is corrected in the foundation's original legislation.

Third, the foundation will be relieved of its current mandate to raise an additional $10 million from private and other sources before fellowships can be awarded. Raising this large amount of funds has proven to be difficult, and there is a great need for the foundation to be in operation before potential donors are comfortable in funding the foundation's educational programs.

I want to assure the members of the House that this legislation does not allow the foundation to spend any of its original $20 million trust fund. The foundation will only be able to use the interest the trust fund has accrued. The foundation fully intends to continue to raise funds from private and other sources.

Finally, I would like to point out to my colleagues that the Office of Management and Budget has reviewed this legislation and has given its approval of its enactment.

I ask that my colleagues join me in supporting this important legislation which will help the Madison Foundation accomplish the mandate on educating our Nation's secondary school teachers.

Mr. GOODLING. Mr. Speaker, I want to make sure that the third gentleman from Pennsylvania just speaking was not speaking of this gentleman, the first gentleman from Pennsylvania, when he said that he did not know what was in the legislation. I know very well what is in the legislation.

Mr. Speaker, I yield back the balance of my time.

Mrs. LOWEY of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentlewoman from New York [Mrs. LOWEY] that the House suspend the rules and pass the bill, H.R. 3932.

The question was taken; and on a division (demanded by Mr. WALKER) there were—yeas 14, nays 3.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 2140

GENERAL LEAVE

Mrs. LOWEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3932 the bill just considered.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentlewoman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONOR OF H.R. 2797

Mr. HANCOCK. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2797.

The SPEAKER pro tempore Is there objection to the request of the gentleman from Missouri?

There was no objection.

COMMENDING PEOPLE OF GUAM AND HAWAII FOR SACRIFICES AND CONTRIBUTIONS MADE DURING WORLD WAR II

Mr. DE LUGO. Mr. Speaker, I move the House suspend the rules and pass the resolution (H. Res. 293) commending the people of Guam and Hawaii for the sacrifices and contributions they made during World War II.

The Clerk read as follows:

H. RES. 293

Whereas on December 8, 1941, the Imperial Japanese Forces attacked the territory of Guam;

Whereas such forces bombed the marine barracks of the United States in the village of Sumay, the Piti Navy Yard, the U.S.S. Penguin, and the U.S.S.R.L. Barnes;

Whereas on December 10, 1941, Guam became the only populated community of the United States to be invaded and forcibly occupied by such forces;

Whereas the residents of Guam, particularly the resident forces of the United States Navy and Marine Corps and the local force known as the Navy Insular Force, valiantly defended the territory in the face of overwhelming opposition;

Whereas the Navy Insular Force was singled out by its commander for its defense of the Governor's Palace at the Plaza de Espana;

Whereas Guam was occupied by the enemy for 32 months, until the armed forces of the United States liberated the territory in July 1944;

Whereas, throughout the occupation, individuals on Guam were beaten or executed for remaining loyal to the United States, for aiding and providing food to imprisoned members of the armed forces of the United States, and for hiding members of the armed forces of the United States from the enemy;

Whereas the people of Guam were denied basic civil liberties and were forced to construct airstrips, dig caves, install antilanding barriers, grow food, and raise livestock for the Imperial Japanese Forces;

Whereas the people of Guam were deprived of sufficient food, clothing, and medical care by such forces;

Whereas a number of Chamorro men were executed for refusing to reveal the whereabouts of a sailor from the United States who was hiding on Guam;

Whereas the people of Guam were forced to live in a concentration camp under inhuman conditions;

Whereas in Tinta on July 15, 1944, and again in Faha on July 16, 1944, 30 residents of Merizo, Guam were taken into a cave and executed by members of the Imperial Japanese Forces;

Whereas on December 7, 1941, military installations of the United States in the territory of Hawaii, including Pearl Harbor, were attacked by armed forces of Japan;

Whereas among the defenders of Hawaii were the 298th and 299th Infantry Regiments, which included large numbers of Hawaii National Guardsmen who had been mobilized previously and residents of Hawaii who had been drafted in 1940 and 1941;

Whereas the 2,403 Americans killed in that attack included 68 civilian residents of Hawaii;

Whereas residents of Hawaii employed in civilian jobs at Pearl Harbor and other military installations responded courageously by manning anti-aircraft guns, fighting fires, tending to the wounded, and performing rescue operations;

Whereas individuals at Pearl Harbor Naval Ship Yard performed heroic work in raising and repairing the ships of the Pacific Fleet of the United States which had sunk or sustained damage during the December 7th attack, which work resulted in the return to active service of 18 out of 21 such ships;

Whereas such individuals played a vital role in making the Pacific fleet fit to fight in subsequent battles of World War II;

Whereas the University of Hawaii Reserve Officers' Training Corps was mobilized to defend Hawaii against the threat of imminent enemy invasion, making such corps the only unit of the Reserve Officers' Training Corps to be mobilized for active duty;

Whereas the members of the such corps and other residents of Hawaii were activated into the Hawaii Territorial Guard for the purpose of defending the Hawaiian islands;

Whereas the loyalty of Americans of Japanese Ancestry came under unjustified suspicion in the aftermath of the attack on Pearl Harbor even though many of the residents of Hawaii who assisted courageously in the defense of Pearl Harbor and other military installations on December 7, 1941, as well as many of those uniform poised in defense of Hawaii, were Americans of Japanese Ancestry;

Whereas such unjustified suspicion resulted in the wrongful internment of some 110,000 Americans of Japanese Ancestry;

Whereas Hawaii was placed under martial law from 1941 to 1944 and its people were denied a number of fundamental constitutional rights, such as the right to petition for habeas corpus;

Whereas the imposition of martial law suspended the constitutional provisions which protected minorities, compounding the difficult situation of Americans of Japanese Ancestry;

Whereas Americans of Japanese Ancestry in the territory of Hawaii were unjustly discharged from the Hawaii Territorial Guard and removed from combat units;

Whereas such individuals, who resolved to demonstrate their loyalty, engaged in volunteer defense work by enlisting in the Varsity Victory Volunteers and similar organizations;

Whereas such individuals, when they were permitted to serve in combat units, demonstrated beyond question their loyalty by volunteering to serve in the armed forces of the United States in record numbers; and

Whereas such individuals compiled extraordinarily distinguished records in the 100th Infantry Battalion, the 442nd Regimental Combat Team, and the Military Intelligence Service: Now, therefore, be it

Resolved, That the House of Representatives commends—

(1) the people of Guam for their patriotism, bravery, loyalty to the United States, and many sacrifices during World War II, particularly during the invasion and occupation of the territory of Guam;

(2) the members of the Navy Insular Force and United States Navy and Marine Corps for the efforts and sacrifices they made in defense of the United States;

(3) the people of Hawaii for their sacrifices and contributions to the war effort of the United States, particularly during the attack on Pearl Harbor on December 7, 1941; and

(4) the members of the Hawaii Territorial Guard, the Varsity Victory Volunteers, the civilian workers at Pearl Harbor Naval Ship Yard and other military installations in Hawaii, the 100th Infantry Battalion, the Military Intelligence Service, and the 442nd Regimental Combat Team for their sacrifices and contributions to the war effort of the United States, particularly during the attack on Pearl Harbor on December 7, 1941.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the title of the resolution states, House Resolution 293 would commend our fellow Americans in Guam and Hawaii for the sacrifices and contributions they made during World War II.

It recounts some of these sacrifices and contributions in great and—in some cases—painful, detail. And as dramatic and horrifying as some of these details may sound, they are not exaggerated.

In fact, there is even more that could be said if a complete description of the suffering of our fellow Americans in Guam and Hawaii were given.

The resolution, further, commends the people of Guam for their patriotism, bravery, loyalty, and sacrifices during the war; those who defended our Nation in what were then both territories; and the people of Hawaii for their sacrifices and contributions, particularly during the attack on Pearl Harbor.

We certainly cannot say too much in these areas.

The 50th anniversary of the attack on Pearl Harbor—and the 50th anniversary of the invasion of Guam—is, of course, an appropriate time for the House to remember the deeds of these Americans and thank them for what they did.

And we should do so with more than just a mere passing through.

One reason is that their sacrifices and contributions were so great and so important.

Another, though, is that while World War II may now be a distant memory for some Americans, the painful memories have not faded for many of the people who were in the front line in the Pacific.

In fact, some of the sadder legacies of World War II are the very real problems related to it that we still face in Guam. Indeed, they are such powerful issues that they affect consideration of the island's relationship to the rest of our country, a matter that is now being reconsidered.

Guam is the only present United States territory with a sizable population occupied by enemy forces during the war. The attack on lightly-fortified Guam—which occurred almost simultaneously with the attack on Pearl Harbor—was followed by the subjugation of the people to enemy military rule.

The hardships of this time were tremendous: Guamanian people were denied basic human rights in their own homeland; they were imprisoned, forced to labor, tortured, and murdered, often by beheading.

They were made to suffer precisely because of their patriotism.

Then, their island was virtually destroyed during its liberation by U.S. forces. And, later, their land was often unfairly taken by their liberators.

I first came to understand the emotion and importance attached to the issues dating to this period when I learned of them from our late colleague Antonio Won Pat, whose own brother was, I believe, executed by the enemy when it occupied the island. Of course, Tony served with distinction for many years in this House.

I have also come to understand this matter from Tony's successor, our colleague BEN BLAZ, who himself suffered hardships inflicted by the enemy during his youth.

The gentleman from Guam has pressed for action on two measures to respond to these issues. One would return land unfairly taken from his people by the U.S. military that is no longer needed by the military. The other would compensate his people for war suffering and losses, an issue on which we have also worked with Senator George Bamba of Guam.

The Subcommittee on Insular and International Affairs, which I am privileged to chair, has spent a lot of time—through oversight and legislation—on both of these matters as well as on the very important question of the future Guam-United States relationship, which they influence.

I know that I am joined by the gentleman from California [Mr. LAGOMARSINO] the ranking Republican of the subcommittee, as well as the gentleman from Guam, when I say that we very much hope that we will be able to reach agreement with all concerned on these matters.

So, I regard this resolution, in part, as a step that we can take now to demonstrate our sincere appreciation to the people of Guam along a path of concluding our responsibilities to them arising out of World War II.

Another step that we can certainly take next year is to provide the funds needed to acquire the land designated as the war in the Pacific National Park in 1978.

I hope that the park will be fully operational before the 50th anniversary of the liberation of Guam 2½ years from now. I also hope that the American Memorial Park in the nearby North Mariana Islands, which would also commemorate World War II suffering, will be fully funded by then.

While it is difficult to resolve many of these issues relating to World War II in our Pacific insular areas, the extent of the sacrifices and the fervor of the people compel us to continue to keep trying to do so.

So, it is with a deep sense of duty and appreciation that I urge the House to approve this resolution, recalling the immeasurable suffering of the people of Guam and Hawaii during that time of adversity and commending them for their bravery and loyalty. It should never be forgotten.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 293 introduced by my colleague BEN GILMAN, Which commends our fellow United States citizens in Guam and Hawaii for their courageous sacrifices and contributions made during World War II. Many of their individual efforts have become legendary particularly among those who joined the U.S. Armed Forces and served with great distinction. SENATOR DANIEL INOUYE of Hawaii is a great example of one who took up the call to arms in defense of our country and was decorated for his bravery on the battlefield.

My good friend from Guam, BEN BLAZ, also lived through the occupation of Guam seeing firsthand the terrors of war and the joys of liberation by the United States Armed Forces. He later joined the Marine Corps and rose through the ranks to become general. It has indeed been a pleasure and an honor to work with General Blaz and to serve with him on the Committee on Interior and Insular Affairs and the Committee on Foreign Affairs. Not only has he distinguished himself in his prior military career, he has made his mark here in the Congress as well. His handling of the very complicated California Desert Protection Act is a testament to the excellence of his work.

There are also many unsung heroes from Guam and Hawaii who gave their lives or parts of their lives as a result of their loyalty to the United States during the war. This became dramatically evident during hearings which were held by the Subcommittee of Insular and International Affairs on which I serve regarding World War II war reparations. Many of the survivors of the atrocities of World War II told horrific tales of torture and forced labor during the occupation of Guam. One woman showed the broad red scar stretching across the back of her neck where enemy forces had attempted a beheading and left her for dead among other victims. This U.S. citizen is only one of many who suffered the trials of World War II while remaining loyal to the United States and who deserve more than public recognition.

I have worked closely with the Chairman of the Subcommittee on Insular and International Affairs, RON DE LUGO, to develop Guam war reparations legislation which would be equitable to all and acceptable to the Senate and the administration. In spite of our efforts in the last Congress, opposition in Guam arose to the war reparations legislative compromise based on the false assumption that greater reparation levels could be obtained.

As we approach the 50th anniversary of the start of World War II, it is fully appropriate and necessary to remember the challenges endured by our fellow U.S. citizens in two great Pacific archipelagoes: the Marianas and Hawaii. I urge my colleagues to join in commending the people of Guam, the southernmost island of the Mariana Islands, and Hawaii for the sacrifices and contributions made during World War II. Perhaps one day restitution will be provided for those who suffered the tribulations of occupation in the same spirit which recognition is given through this resolution.

☐ 2150

Mr. Speaker, I reserve the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I again want to urge my colleagues to approve this measure so that the people of Guam and Hawaii will know how much the House of Representatives appreciates their tremendous sacrifices and contributions made during World War II. Finally, I want to commend our colleagues, the gentleman from Guam [Mr. BLAZ], the gentleman from New York [Mr. GILMAN], the gentleman from Hawaii [Mr. ABERCROMBIE] and others for proposing this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the author of the resolution.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Resolution 293 along with my colleagues, the gentleman from Guam [Mr. BLAZ], the gentleman from New York [Mr. SOLARZ], the gentleman from Hawaii [Mr. ABERCROMBIE], the gentleman from Iowa [Mr. LEACH], the gentleman from American Samoa [Mr. FALEOMAVAEGA], and the gentleman from California [Mr. LAGOMARSINO] who joined with me in sponsoring this legislation commending the people of Guam and Hawaii for their sacrifices and their contributions to the allied effort during World War II. I want particularly to commend my good friend, the gentleman from Guam [Mr. BLAZ], for his dedication and diligent work on behalf of his constituents and all the veterans, as well as the gentleman from Hawaii [Mr. ABERCROMBIE] on behalf of his constituents, and I thank the gentleman from the Virgin Islands [Mr. DE LUGO], the distinguished subcommittee chairman, and the distinguished ranking minority member of that committee, the gentleman from California [Mr. LAGOMARSINO].

Mr. Speaker, the date of December 7, 1941, is the day that will long live in infamy and will live forever in the minds of all Americans. Virtually every American recognizes the significance of that fateful day which brought the United States into the Second World War. However December 8 also represents a terrible day for Americans and freedom. On that day the Imperial Japanese forces attacked the Territory of Guam, bombing the village of Sumay, the Piti Navy Yard, the U.S.S. *Penguin* and the U.S.S. *R.L. Barnes*, and on December 10, 1941, Guam became the only populated community of the United States to be invaded and forcefully occupied by Japanese forces.

Mr. Speaker, one unfortunate result of these terrible attacks was the suspicion and internment of some 110,000 Americans of Japanese ancestry. This measure appropriately recognizes the partiotism and loyalty of many Americans of Japanese ancestry who served during World War II in the Armed Forces of the United States.

This resolution also specifically recognizes the outstanding contributions of individuals of the 100th Infantry Battalion, the 44th Regimental Combat Team and the Military Intelligence Service, all of whom served in World War II.

Finally, Mr. Speaker, this resolution recognizes the efforts of the Navy Insular Force, and the U.S. Navy and Marine Corps for their efforts and many sacrifices on behalf of our Nation in that part of the world.

Mr. Speaker, the original cosponsor of this resolution, the gentleman from Guam [Mr. BLAZ], regretted that an overseas mission prevented him from taking part in this discussion, and he has asked that his remarks be made part of the RECORD of this debate. The gentleman from Guam, in noting "America's Forgotten Patriots," stated:

> I'd like to remind my colleagues that the word "forgotten" is used bittersweetly, for all too often the people of Guam have had to ask, "How can we be forgotten when we were not remembered in the first place?"

Mr. Speaker, I thank my colleagues for their generous support for this measure, and I again commend the people of Guam and Hawaii for their extensive sacrifices.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I would just like to add my voice of support to this piece of legislation.

As we have heard this evening, the people of Guam were attacked simultaneously with the people of Hawaii and Pearl Harbor, the American sailors there at Pearl Harbor, and, as we also have noted tonight, there was a great deal of heroism that some of our fellow Americans have not remembered, that the people of Guam, they were probably some of the most heroic citizens of the war, and yet for so often now, as we are looking at this 50th anniversary, their heroism has been totally forgotten.

Mr. Speaker, that is why this legislation is so important. These were Americans. The Japanese who invaded those islands knew they were Americans, and they treated them like they were occupying American territory.

Now I will never forget as a kid my dad was a Marine lieutenant colonel, and we know a lot about the Marines and about what was going on in World War II, but one story that I heard about was some of the Marines and some of the military people there who survived the Japanese attack and went into the countryside in Guam, for years Guamanians went and took them at great personal risk. These people, if they would have been caught giving aid to these Americans hiding out from the Japanese; as a matter of fact, some of them were executed, and I think a couple of the Americans survived. I remember reading the story about one of these men, and Harry was telling me about brave Guamanians who would come and give them food. That was the only thing that helped them survive, and then of course, after the harsh years of occupation, what happened? The Americans came to liberate the island, and of course, as is true with a great military, we obliterated everything in our path, and these heroic people who loved this country; their heart just tingles when they see the American flag, and, after going through all this suffering from World War II, and then to have their island obliterated while it was being liberated, it is just something that we Americans cannot afford to forget at this 50th anniversary.

What always brings this to mind is of course that our colleague, this gentleman, but this brave man, this courageous man who serves with us, the gentleman from Guam [Mr. BLAZ], and he of course, as we know, he himself is an American hero, not necessarily for what he did in World War II because I am not sure what it was, and he has told us he did some things then, but we know what he did in Vietnam, we know what he did as a soldier, and we know what Guamanians have been doing these last 50 years to protect this country and to promote the cause of human freedom throughout the world.

Mr. Speaker, this is something we should all be grateful for. This resolution helps us express that in just one little way, just to say we are grateful to these people. We are grateful to the people of Hawaii, but, yes, we are grateful to these Americans, these Americans in Guam who have been such wonderful Americans, and done so much for our country and shown us what kind of people Americans are all about, and they are the people of Guam.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Resolution 293, legislation I introduced along with my colleagues Mr. BLAZ, Mr. SOLARZ, Mr. ABERCROMBIE, Mr. LEACH, Mr. FALEOMAVAEGA, and Mr. LAGOMARSINO commending the people of Guam and Hawaii for their sacrifices and their contributions to the Allied effort during World War II, and I want to particularly commend my good friend, the gentleman from Guam [Mr. BLAZ] for his dedication and diligent work on behalf of his constituents and the gentleman from Hawaii, Mr. Mr. ABERCOMBIE, and all veterans and I thank the gentleman from the Virgin Islands, the distinguished Committee Chairman, Mr. DELUGO, and the distinguished ranking Minority member, the gentleman from California, Mr. LAGOMARSINO.

The day of December 7, 1941, is a day that will live in infamy forever in the minds of Americans. Virtually every American recognizes the significance of that fateful day which brought the United States into the Second World War. However, December 8, 1941, also represents a terrible day for Americans and freedom. On that day the Imperial Japanese forces attacked the Territory of Guam, bombing the village of Sumay, the Piti Navy Yard, the U.S.S. *Penguin*, and the U.S.S. *R.L. Barnes*. On December 10, 1941, Guam became the only populated community of the United States to be invaded and forcibly occupied by Japanese forces.

One unfortunate result of these terrible attacks was the suspicion and internment of some 110,000 Americans of Japanese ancestry. This measure appropriately recognizes the patriotism and loyalty of many Americans of Japanese ancestry who served during World War II in the Armed Forces of the United States. The resolution specifically recognizes the outstanding contributions of individuals of the 100th Infantry Battalion, the 44th Regimental Combat Team, and the Military Intelligence Service.

Finally, this resolution recognizes the efforts of the Navy Insular Force, and the United States Navy and Marine Corps for their efforts and sacrifices on behalf of the United States.

Mr. Speaker, the original cosponsor of this resolution, the gentleman from Guam, Mr. BLAZ, regreted that an overseas mission prevented him from taking part in this discussion and has asked that his remarks be made a part of the record of this debate. Mr. BLAZ, in noting "America's Forgotten Patriots," stated: I would like to remind my colleagues that the word forgotten is used bittersweetly, for all too often the people of Guam have to ask "How can we be forgotten when we were not remembered in the first place?"

Mr. Speaker, I thank my colleagues for their support for this measure and I again commend the people of Guam and Hawaii for their sacrifices.

Mr. BLAZ. Mr. Speaker, as we prepare to celebrate this Thanksgiving holiday, I am particularly humbled that the Congress is extending this accommodation and expression of gratitude to the people of Guam for their service to America. At this time, I would like to insert in the Record "America's Forgotten Patriots" remarks I delivered in the House on November 21, 1991. I would like to remind my colleagues, however, that the word forgotten is used bittersweetly, for all to often the people of Guam have to ask "How can we be forgotten, when we were not remembered in the first place?"

I am very grateful to the gentleman from New York, Mr. BENJAMIN GILMAN for extending this courtesy to the people of Guam. It is the most this Congress can give for them, and it is the least that they deserve.

AMERICA'S FORGOTTEN PATRIOTS

Mr. BLAZ. Mr. Speaker, as thousands gather in Hawaii on December 7 to commemorate the 50th anniversary of America's entry in World War II, hundreds of journalists and photographers will memorialize the event and broadcast it to the entire world. A million words will be spoken by the President of the United States and other dignitaries to honor the memories of the hundreds of soldiers, sailors, Marines and civilians who were killed and wounded on that infamous day 50 years ago at Pearl Harbor.

As tragic and as devastating as that assault on Pearl Harbor was 50 years ago, we have learned that little note has been made and even less has been remembered about the attack on that other harbor—Apra Harbor, on Guam. This other attack bears striking similarities to the one at Pearl Harbor: same time, same enemy, same American blood, same shattering of a peaceful island community.

Yet, for all these similarities, there is at least one major difference worth noting: Whereas Hawaii was attacked, Guam was attacked * * * and invaded * * * and captured * * * and occupied. For almost 3 years, our people quietly suffered the burden of hostile occupation by enemy forces. No other American territory has suffered the same fate.

As excruciating and as harrowing as this occupation would later prove to be, our people did not surrender without a fight and did not stop fighting after the surrender. In the face of an overwhelmingly larger enemy force, a handful of U.S. sailors and U.S. Marines stood their ground. Standing beside them, with equal valor and courage but with even greater pride and determination, were the members of the Navy Insular Force. For these men, native Chamorros all, the defense of Guam meant the defense of home, family and honor. Although they wore the same U.S. Navy uniforms, their pay was exactly 1/2 that of their stateside comrades. Although they fought under the same U.S. flag, they were considered only half-brothers in the patronizing, colonial society on Guam at that time. Yet, when it came time to shed blood against foreign invaders, the Chamorros of the Navy Insular Force demonstrated their loyalty to the U.S. in the same way they demonstrated their love for the U.S. principles of freedom and democracy: not half-heartedly, but totally and whole-heartedly.

Regrettably, this chapter of American history appears to have slowly faded into the recesses of our Nation's collective subconsciousness. While our country may not remember the lives that were lost, the families that were torn asunder and the homes that were destroyed on that tragic day 50 years ago, these sacrifices are no less real to us and will forever be burned into the psyches of our people.

As a 13-year-old boy who witnessed these events half a century ago, I am often asked by friends and acquaintances to share my memories of that momentous and pivotal period in our history. There are many horrible and appalling stories I could tell about the atrocities inflicted upon our people—about mysterious disappearances of friends, about discoveries of decapitated corpses tied to trees, about clearing jungles under the barrel of a gun and about the hunger and deprivation of concentration camps. While the sting of remembering these events is very real to those who lived through them and should never be forgotten, I have decided over the years to remember also the brighter sides of that dark period.

There were long hours sitting on a log with our parents sharing their thoughts and experiences with us much like the generations before them had done.

There were the groups of neighboring farmers who pooled their strength to push back the jungle so we could plant.

There were men echoing each other's folk song at twilight as they cut tuba.

There were devout men who emerged among our group as natural leaders to lead us in prayer during our most trying and fearful moments as we labored to finish the airfield under incredible duress.

There was the young Japanese officer who taught me Japanese in exchange for my father teaching him English and who, after getting to know us, innocently asked my father why we were at war.

There were the U.S. Marines who, after hopping island to island, eventually liberated one of their own and seemed almost as glad as we were that they came back to Guam.

Under the adverse conditions of that time, I learned things that no school could ever teach me. I learned to give freely, even when there was nothing to share. I learned to be tolerant, even when conditions were intolerable. I learned to be strong, even though my body was weak. I learned to speak volumes in the silence of eye contact. And I learned the sweetness that can be found in the saltiness of sweat.

Looking around me now, 50 years later, I wonder if those of us who lived and died through those trying times were really ever forgotten—how can we be forgotten if we were never really remembered in the first place?

And those who claim to remember us now, do not really know us: Like the U.S. Postal Commission that just issued in 1991 a set of commemorative stamps for World War II that trivializes and dishonors Guam by labeling it a mere "outpost." Like some of the leaders of our great Nation who will congregate at Pearl Harbor in memory of the brave men and women who died there, but whose continuing unawareness of the Guam chapter of this momentous period in our history prevents them from returning the salute extended by the brave men and women of Guam 50 years ago.

On this, the 50th anniversary of World War II, and for the fathers, mothers, brothers, sisters, sons and daughters of Guam who lived and died through that period, I offer these humble words in proud salute and in eternal gratitude to those patriots whom America may have forgotten but whom Guam shall always remember.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield back the balance of my time.

□ 2200

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from the Virgin Islands [Mr. DE LUGO] that the House suspend the rules and agree to the resolution, H. Res. 293.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LUGO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

RELEASE OF FUNDS FOR PROVIDING MEDICAL AND HUMANITARIAN ASSISTANCE TO IRAQI CITIZENS

Mr. DYMALLY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 168) expressing the sense of the Congress that a portion of Iraq's frozen assets be released to UNICEF for the sole purpose of providing medical and humanitarian assistance to Iraqi citizens, as amended.

The Clerk read as follows:

H. CON. RES. 168

Whereas the suffering of Iraqi citizens, especially children, continues as verified by studies by the International Study Team led by representatives of Harvard University, by the United Nations, and by UNICEF in conjunction with representatives of Tufts University, and by reports of relief agencies working in Iraq;

Whereas infant and child mortality rates in Iraq reportedly have doubled since Iraq's invasion of Kuwait;

Whereas acute shortages of food and essential medicine, poor sanitation, and lack of clean drinking water have placed a substantial portion of Iraq's population of 18,000,000 at risk to water-borne diseases;

Whereas the Iraqi health care system is operating at a fraction of its former capacity;

Whereas the United States Government and the United Nations Security Council have established a mechanism to provide relief to Iraq through United Nations Security Council Resolutions 706 and 712;

Whereas Saddam Hussein is responsible for the continuing suffering of Iraqi citizens because of his continued intransigence in not cooperating with United Nations Security Council resolutions, his refusal to allow equitable distribution of food and medicines, and his obstruction of the delivery of humanitarian assistance by the United Nations and private relief agencies; and

Whereas the condition of Iraqi children is an international humanitarian concern that must be addressed immediately: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns Saddam Hussein for refusing to comply with United Nations Security Council resolutions 706 and 712, preventing an equitable distribution of food and medicine to the Iraqi people, and blocking the delivery of humanitarian assistance by the United Nations and private relief agencies;

(2) commends the President and the United Nations Security Council for their efforts to address humanitarian concerns in Iraq through United Nations Security Council Resolutions 706 and 712 and supports their continued effort to gain Iraqi compliance with these resolutions; and

(3) urges the President, consistent with United Nations Security Council resolutions 706 and 712, to explore alternatives under the auspices of the United Nations to utilize and mobilize resources necessary to get an adequate supply of food and medicine to the vulnerable populations of Iraq, especially children.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DYMALLY] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution we have before us tonight should be examined very carefully because this resolution has nothing to do with praising or giving any credit to Iraq or Saddam Hussein. It is very specific, and it directs its attention to the vulnerable people of Iraq, especially the children, and directs that we provide some benefit through UNICEF to help these children of Iraq.

Mr. Speaker, I want to commend the gentleman from Minnesota [Mr. PENNY] for his commitment and his courage, because this is not a very popular issue to champion now, because once you mention the word "Iraq," people begin to have reverse reactions to the whole country. But these are children who are victims of man's inhumanity to man, and we are very pleased that the gentleman from Minnesota brought this to the attention of the Committee on Foreign Affairs, and we have today presented it to the Members of the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, this resolution has gone through a variety of changes in the last several days and hours, and I appreciate the work of the many, many Members who have participated in assisting in the development of this legislation.

Mr. Speaker, for 6 long months we have watched as the death toll among young children in Iraq mounts. For the children of Iraq are in peril—not from bombs or bullets but from the effects of malnutrition and disease. This Thanksgiving while thousands of American children are feasting on roast turkey and all the trimmings, one thousand Iraqi children will likely die from starvation or illness.

Since May, study teams from a variety of institutions have been to Iraq and have reported on the troubling situation there. Much credit for drawing attention to the problems of Iraqi children in the aftermath of the gulf crisis should be given to the original Harvard study team whose initial findings reported that 55,000 Iraqi children had already died from starvation and disease and that thousands more would continue to die if conditions did not improve. Nearly concurrent with the Harvard study, a group of Arab-American doctors of the Arab-American Medical Association visited Iraq and publicized their findings with a report and videotape that was shared with every Member of Congress. Dr. Afran J. Al-Hani, a cardiologist from Chicago, has been tireless in his efforts to get assistance to Iraqi children, and it was my personal contact with him that gave me added incentive to move forward with my original resolution in June.

It was already clear in June that the children of Iraq needed assistance from the world community in order to guarantee their survival. Since many of their country's resources, such as the ability to provide electrical power, basic sanitation and clean water had been destroyed and Iraq's assets remained frozen, Iraq's ability to respond to its own children was terribly limited. It seemed that the best way to meet these needs was to use Iraq's own funds, in the form of assets frozen by coalition governments, to pay for humanitarian assistance delivered under United Nations' supervision. The original version of H. Con. Res. 168 proposed that a portion of Iraq's frozen assets be released to UNICEF for the sole purpose of providing medical and humanitarian assistance to Iraqi citizens. This resolution has gained the support of 91 of our House colleagues and I am grateful for their concern.

Other studies—one done on behalf of UNICEF by representations of Tufts University and one done under United Nations' auspices and led by Prince Sadruddin Aga Khan—corroborated and expanded the earlier findings. On August first, the International Task Force of the Select Committee on Hunger held a hearing on the situation in Iraq. Witnesses from Tufts University, UNICEF and Catholic Relief Services—all of which had "on the ground" experience in Iraq—testified to uniformly desperate conditions there—children wading through raw sewage on the streets, the lack of basic medicine, the ever-growing shortage of food.

The United Nations finally addressed the humanitarian crisis in Iraq in August when the Security Council passed Resolution 706 allowing Iraq to sell $1.6 billion worth of oil to pay for relief materials. Even as the resolution was passed, it was already known that the $1.6 billion would fall far short of the true amount needed to finance a minimum humanitarian aid effort in Iraq. The U.S. own estimate of the amount needed was $2.265 billion. However, in order for the flow of oil to begin, the resolution required that Iraq accept U.N. monitoring of relief efforts and oil pumping and that Iraq pay its first installment of reparations to Kuwait. Claiming that the resolution violates its sovereignty, the Iraqi government has thus far refused to comply with terms of the resolution. As a result, the country's children continue to suffer and die.

From August 23 to September 5, the international study team on the gulf crisis comprehensively surveyed the impact of the gulf crisis on the health and welfare of the Iraqi population. The team consisted of 87 researchers from a wide variety of disciplines including agriculture, electrical engineering, environmental sciences, medicine, economics, child psychology, sociology, and public health. The team visited all areas of Iraq and prepared an in-depth report on conditions there. They found: "The economic and social disruption and destruction caused by the gulf crisis has had a direct impact on the health conditions of the children of Iraq. Iraq desperately needs not only food and medicine, but also spare parts to repair basic infrastructure in electrical power generation, water purification, and sewage treatment. Unless Iraq quickly obtains food, medicine and spare parts, millions of Iraqis will continue to experience malnutrition and disease. Children by the tens of thousands will remain in jeopardy. Thousands will die."

With yet another study before us confirming what we had already known

and with Saddam Hussein's continued intransigence in refusing to accept the U.N. mechanism that would bring help and health to the Iraqi people, it left me and others concerned with this situation still asking the question: What can we do?

In an effort to answer that question, on November 13, the Select Committee on Hunger held a second hearing with witnesses from the International Study Team, Catholic Relief Services and the Department of State. In addition, Representative JIM MCDERMOTT from the Seventh District of Washington, who is also a physician, told of his experiences in Iraq during the month of August. By whatever standards used, the situation has not improved since the initial visits by monitoring teams last spring.

Although House Concurrent Resolution 168 proposed the use of assets to provide assistance, I was most willing to go along with either oil sales under the U.N. resolution or with the release of assets as the means by which humanitarian aid gets to Iraq. Since the Iraqis were not accepting the mechanism for oil sales, it seemed that release of assets might again be a reasonable approach to follow. While U.N. Resolution 706 does permit the use of frozen assets for humanitarian purposes in Iraq, the Bush Administration remains opposed to this approach and has advised other governments not to release assets.

It appears that we are at a stalemate on this issue. All the while, time is running out for the children of Iraq. Hundreds more children are dying or having their futures put at risk by lack of proper nutrition and medical care during critical developmental stages in their lives.

The time has passed when we can continue to wait for oil sales to move forward. Therefore, I believe we should press for another creative solution to this situation. One thing is certain: Saddam has put politics ahead of children's lives and futures. In order to save these children it is time for the world community to marshal an international effort equal to the cooperative effort demonstrated during the gulf crisis.

Passage of House Concurrent Resolution 168 as amended makes it clear that we want to act now. The resolution condemns Saddam for refusing to comply with the U.N. resolutions and calls upon President Bush to explore other U.N. alternatives consistent with resolutions 706 and 712 to get an adequate supply of food and medicine to the vulnerable populations of Iraq, especially Iraq's children.

I am grateful for the support and help of many individuals in bringing this resolution to the floor today. My thanks to the Foreign Affairs Committee, particularly Chairman FASCELL and ranking member Mr. BROOMFIELD; and to Chairman HAMILTON and Mr. YATRON whose subcommittees held jurisdiction over the legislation and to their ranking members Mr. GILMAN and Mr. BEREUTER. These subcommittees also graciously allowed me to sit with them on two occasions and ask questions of U.N. Ambassador Pickering on this issue.

The continued activity of the Select Committee on Hunger, under the direction of Chairman HALL and ranking member EMERSON, and, especially the strong leadership demonstrated by International Task Force Chairman DORGAN, was vital to keeping the plight of the children before the Congress and the public. The personal interest of Representative JIM MCDERMOTT in making a private trip to Iraq speaks volumes of the depth of his commitment. Additionally, I gratefully acknowledge the staffs of the Foreign Affairs and Hunger Committees for their assistance and the courtesy shown to me and my staff.

As we act on this legislation today, we say to the children of Iraq: we hear you and we will find a way to help you.

I urge adoption of this resolution.

Mr. DYMALLY. Mr. Speaker, briefly, let me express my thanks to the gentleman from Michigan [Mr. BROOMFIELD] for his cooperation in this matter, as well as to the gentleman from Indiana [Mr. HAMILTON], the gentleman from New York [Mr. GILMAN], and the gentleman from Nebraska [Mr. BEREUTER].

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker as a cosponsor, I strongly support House Concurrent Resolution 168 as amended, and commend Congressman Penny for his perseverance in bringing this matter before the House. I also commend the subcommittees for their work under Chairmen HAMILTON, and YATRON and Congressmen GILMAN and BEREUTER. Finally, I wish to recognize Committee Chairman Fascell for his leadership on this important issue.

This resolution, in its current form, was drafted in close consultation with the administration. The administration has no objection.

Mr. Speaker, what we are witnessing now in Iraq is but the latest chapter in a long saga of contempt for human life by Saddam Hussein. Just when it seemed that the Iraqi dictator had committed every atrocity imaginable, he has manifested a new resourcefulness for inflicting human suffering.

Reports by the United Nations and other organizations indicate that in Iraq there are acute shortages of food and medicine, that there is inadequate sanitation, and that clean drinking water is increasingly scarce. As a result, malnutrition and disease are increasing substantially, particularly among women and children.

How did this catastrophe happen? Did the United Nations target the civilian population of Iraq? Did the United States seek to punish the people of Iraq, or stand in the way of humanitarian relief to vulnerable populations in Iraq? Of course not.

Mr. Speaker, the responsibility for this disaster—like the responsibility for the war which preceded it—lies squarely with the Tyrant from Tikrit, Saddam Hussein. The fact is that food and medicine are not included in the U.N. embargo of Iraq.

Moreover, U.N. Security Council Resolutions 706 and 712—which were adopted under the leadership of the United States—established a mechanism for the Iraqi government to alleviate the suffering that is taking place. These resolutions permit Iraq to sell up to $1.6 billion worth of oil in order to pay for urgently needed food, medicine, and other humanitarian items.

What has been Saddam Hussein's response? He has refused to comply with these Resolutions. Worse, he has thwarted the distribution of food and medicine to vulnerable populations inside Iraq. Instead, he has actually directed humanitarian assistance to his supporters.

This resolution condemns these deplorable actions, and it commends President Bush and the U.N. Security Council for their efforts to alleviate the suffering of the people of Iraq. It also urges the President, in coordination with the United Nations, to explore alternative ways of delivering humanitarian aid to Iraq.

Mr. Speaker, this is an important and timely resolution, and I urge its adoption.

□ 2210

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I am pleased to rise to strongly endorse H. Con. Res. 168 and I commend the gentleman from Minnesota, Mr. PENNY, for introducing this resolution.

Saddam Hussein's barbarity toward the people of Kuwait is now being exceeded by the atrocities that he is inflicting on his own people. This brutal dictator is engaged in systematically depriving the Iraqi people of access to food, medicine, and other humanitarian supplies. Saddam Hussein continues to flout United Nations security council resolutions number 706 and number 712, diverting supplies to his supporters, and blocking the delivery of humanitarian relief by the United Nations and private relief organizations.

Mr. Speaker, I join in saluting President Bush and the U.N. Security Council for their diligence in establishing a special mechanism to facilitate humanitarian relief for Iraq, and in continuing to seek to obtain Iraq's compliance with security council resolutions number 706 and number 712.

I urge my colleagues to encourage the President, through the United Nations, to consider alternatives to bring timely relief to the people of Iraq as they continue to suffer under the deprivations of their despotic dictator.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], a member who worked very hard on this resolution.

Mr. BEREUTER. Mr. Speaker, as ranking member of the Subcommittee on Human Rights and International Organizations, this member rises in strong support of House Concurrent Resolution 168.

Few things have been more heartbreaking, Mr. Speaker, than the suffering that the Iraqi people have experienced because of the leadership of Saddam Hussein since the end of the gulf war. Because of Saddam Hussein's continued flaunting of the cease-fire agreement and the subesequent U.N. Security Council resolutions, the country of Iraq faces a situation where hundreds of thousands of innocent civilians are at risk. And we know, Mr. Speaker, that countless thousands would have perished had not the United States and other nations come to the assistance of the Kurdish population in northern Iraq through "Operation Provide Comfort."

It is clear that Saddam Hussein is using the suffering of his people for his own perverse political gains. He refuses to use revenue to be generated by the sale of Iraqi oil under U.N. direction. Regions that did not unwaiveringly support Saddam's war effort are now paying the price. We know, for example, that Saddam has targeted specific communities where existing stocks of food and medicine have been seized. It is these communities, in turn, that Saddam Hussein has displayed to visiting media and dignitaries to reflect the suffering of his people. Such is the character of Saddam Hussein.

Moreover, Saddam Hussein has done his best to manipulate international relief efforts. He has diverted food supplied by the World Food Program [WFP], and given that food to the army and to party loyalists. His interference has been so serious that organizations such as the WFP and UNICEF refused to participate as long as Saddam Hussein continues to control the distribution of aid.

There is a U.N. mechanism to fund relief activities through the sale of Iraqi oil, but thus far Saddam Hussein is trying to wait out the international community. He is refusing to sell oil as long as the profits go to support U.N. humanitarian activities.

While we are all rightly outraged at the intolerable behavior of the Iraqi Government, we cannot ignore the starvation of the innocent civilians of that nation. The suffering and starvation are real. The disease and lack of medicine are real. House Concurrent Resolution 168 says that we do not quitely accept the barbarism of Saddam Hussein. It says that the United States should work with the U.N. to look for creative ways to assist the suffering people of Iraq.

Mr. Speaker, while House Cononcurrent Resolution 168 addresses the immediate problem of disease and malnutrition in Iraq, we should not delude ourselves. The problem will persist so long as the Iraq leadership has no regard for its own population. The Subcommittee on Human Rights and International Organizations, together with the Subcommittee on Europe and the Middle East, already have conducted a series of hearings on this very subject. This Member has no doubt that these hearings and appropriate pressure will continue as long as Saddam Hussein remains in power. Simply put, we will not let this issue fade away.

Mr. Speaker, this Member would take a moment to recognize the dedicated efforts of the author of this resolution, the distinguished gentleman from Minnesota [Mr. PENNY]. As a member of the Select Committee on Hunger, he has performed yeoman's work. He has effectively worked to make us all aware of the terrible suffering that is taking place in Iraq and to advance this resolution; this body is in his debt.

Mr. Speaker, this Member urges the adoption of House Concurrent Resolution 168.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of the resolution offered by my colleague from Minnesota, TIM PENNY. I would also like to commend Mr. PENNY for all his fine work and leadership on the issue of humanitarian aid to Iraq. He has pursued this issue tirelessly and with great compassion since he first became aware of the growing humanitarian disaster in much of Iraq. I believe this resolution shows great flexibility in urging the President to assert greater leadership at the United Nations to find more resources to get food and medicine to the vulnerable populations of Iraq, especially children.

Mr. Speaker, this is a resolution that I believe deserves support from every Member of Congress. The United States has tried hard, through United Nations Security Council Resolutions 706 and 712, to get the Iraqi Government to allow more humanitarian aid in by using revenues from its oil sales. However, tragically, Iraq refuses to cooperate with even this measure to help their own people. But this does not mean we can give up trying—we cannot stand by and let the innocent women and children of Iraq continue to die. We have a moral obligation to try harder.

The International Task Force of the Select Committee on Hunger has held two hearings on the humanitarian situation in Iraq. The most recent one, on November 13, was even more depressing than the one last summer. Conditions have continued to deteriorate to the point where the infant and child mortality rates have at least doubled, if not tripled, since the gulf crisis. The International Study Team, a group of public health experts from Harvard and elsewhere, has just issued a second report on conditions in Iraq which paints a picture of a continuing downward spiral. There are widespread shortages of food, essential medicines, and safe water. A witness from the study team reported seeing raw sewage running through a hospital. Not surprising, these conditions have led to a public health disaster; water-borne diseases, such as cholera, are epidemic; and have increased by as much as one hundredfold in some areas.

Mr. Speaker, I know, from my constituents, that the American people don't want the children of Iraq to pay for Saddam Hussein's actions. I know that they strongly support providing humanitarian aid to the children and mothers of Iraq. This resolution urges the administration to do its utmost to provide that aid. I urge my colleagues to support the resolution.

Mr. MCDERMOTT. Mr. Speaker, I commend my colleague, Mr. PENNY for sponsoring House Concurrent Resolution 168 and for his efforts to find a way to provide humanitarian aid to the people of Iraq. Mr PENNY has worked for months on this issue. His original proposal to use Iraqi frozen assets to pay for humanitarian aid is worthwhile and I am one of the 92 Members of the House who cosponsored this legislation. However, it is clear this idea is unacceptable to the administration and so we must urge the administration to seek other solutions.

House Concurrent Resolution 168, as it is now written, will not solve the public health crisis in Iraq, but certainly this resolution will send a message to the State Department and the United Nations that Congress is becoming increasingly concerned about the disasterous conditions in Iraq and the United States' response to this situation.

I traveled to Iraq in August with a human rights group as a physician examining the state of its public health system. I saw the devastation of Iraq's infrastructure wrought by the strategic bombing of the Allied Forces. The most essential aspects of a society's public health system—water, electricity, and sewage systems—were destroyed by our military assault, and these systems have yet to be adequately reconstructed.

The health of the Iraqi people is spiraling downward. The hospitals are filled with malnourished children suffering from cholera and typhoid because there is no clean water. Women are dying in childbirth because there is no anesthesia to perform cesearean sections. Diabetics are in comas because there is no insulin, and people are suffering strokes because there is no high blood pressure medication. The health care situation was critical when I was there in August, and surely it is worse today. The recent report released by the Harvard School of Public Health investigative team confirms this.

A massive humanitarian aid effort is desperately needed in Iraq. This effort must be coordinated among the International Red Cross, the Red Crescent and the Iraqi distribution system. The relief organizations cannot deliver aid in a country of 18 million people without the use of its existing distribution system.

The administration apparently is hopeful that the U.N. resolution allowing Iraq to use proceeds from its oil sales to purchase food and medical supplies will alleviate the suffering of its people. However, the most recent negotiations between the U.N. and Saddam have failed. It is time to explore other options. The prospect that U.S. policy may well remain unchanged while negotiations on the oil sale option continue is distressing. For many innocent Iraqis, death will not wait.

The United States must find a way to move beyond its political agenda to help the people of Iraq. I urge our State Department to make this effort a priority. I realize that it is not our sole responsibility—Hussein must be willing to negotiate—but certainly the United States can increase its efforts to try to find some workable solution to the desperate situation in Iraq. We must do absolutely all that we can to achieve a solution to the food and medical crisis in Iraq.

I hope that House Concurrent Resolution 168 will send the much needed signal to the Bush administration that there is growing concern in the Congress for the health and welfare of the Iraqi people. It was not this country's policy to harm innocent Iraqis in the gulf war and it certainly should not be United States policy today.

I commend Mr. PENNY for his efforts and offer my full support to House Concurrent Resolution 168.

Mr. YATRON. Mr. Speaker, I rise in strong support of the resolution and commend the author, Mr. PENNY as well as Chairman FASCELL, Congressmen BROOMFIELD, HAMILTON, GILMAN, and BEREUTER for their leadership in bringing this legislation to the House floor.

Mr. Speaker, this resolution appropriately commends the President and the U.N. for seeking to address the humanitarian crisis in Iraq through the relevant Security Council resolutions.

The resolution calls for the President and the U.N. to explore alternatives, consistent with U.N. Resolutions 706 and 712, to bring much needed relief to hundreds of thousands of starving and sick people including children. But the resolution rightly places the blame for this tragedy squarely on the shoulders of Saddam Hussein.

Mr. Speaker, in the last year, the Subcommittee on Human Rights and International Orgranizations, which I chair, and the Europe and the Middle East Subcommittee, chaired by Congressman HAMILTON, conducted joint hearings on the U.N. role in the gulf.

Based on the testimony at these hearings, it is clear that Saddam is cynically manipulating the food supply to starve vulnerable populations centers while at the same time ensuring that his political cronies and military leaders are well fed. There are cases in which Saddam has either blocked or diverted U.N. food shipments destined for the suffering people of Iraq.

Saddam is starving the Iraqi people so as to generate anti-Americanism which he hopes will bolster his tenuous political position and he is starving his people to build a case for breaking the strict U.N. sanctions arrayed against his regime.

The current sanctions permit U.N.-administered humanitarian relief operations and the U.N. Security Council has adopted a resolution approving the sale of $1.6 billion of Bagdad's oil of which the bulk of the proceeds would be used for humanitarian assistance under strict U.N. supervision.

Saddam has rejected these arrangements because it prevents him from purchasing goods and technologies to rebuild his warmaking capacity.

The world community has justly maintained the sanctions against Saddam but it must be equally resolute in not allowing Saddam to starve hundreds of thousands of innocent people.

This resolution calls for a more assertive effort, under U.N. auspices, to remedy this ongoing tragedy. Our commitment to human rights and justice calls for no less and I urge the adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. DYMALLY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 168, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read:

"Concurrent Resolution condemning Saddam Hussein for refusing to comply with United Nations Security Council resolutions 706 and 712 and urging the President under the auspices of the United Nations to provide humanitarian assistance to the vulnerable populations of Iraq.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days within which to revise and extend their remarks and include therein extraneous material on H. Con. Res. 168; the concurrent resolution just agreed to.

The SPEAKER, pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

1992 WHITE HOUSE COMMEMORATIVE COIN ACT

Mr. TORRES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3337) to require the Secretary of the Treasury to mint a coin in commemoration of the 200th anniversary of the White House, as amended.

The Clerk read as follows:

H.R. 3337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "1992 White House Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than five hundred thousand (500,000) one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the White House. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 5 SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

SEC. 6. ISSUANCE OF THE COINS.

(a) TIME FOR ISSUANCE.—The coins authorized under this Act shall be issued beginning on May 1, 1992.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this Act shall be issued in uncirculated and proof qualities. Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins issued under this Act shall be promptly paid by the Secretary to The White House Endowment Fund (The Fund) to assist The Fund's efforts to raise an endowment to be a permanent source of support for the White House Collection of fine art and historic furnishings, and for the maintenance of the historic public rooms of the White House.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of The Fund as may be related to the expenditure of amount paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund to The White House Endowment Fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this Act unless the Secretary has received—

(1) full payment thereof;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE I—1992 WHITE HOUSE COMMEMORATIVE COINS

SEC. 101. SHORT TITLE.

This title may be cited as the "1992 White House Commemorative Coin Act".

SEC. 102. COIN SPECIFICATIONS.

(a) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than five hundred thousand (500,000) one dollar coins which shall weigh 26.73 grams, have a diameter of 1,500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the White House. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 103. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 104. SELECTION OF DESIGN.

The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 105. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(c) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

SEC. 106. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this title shall be available for issue not later than May 1, 1992, but shall be issued only during the 1-year period beginning on such date.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this title shall be issued in uncirculated and proof qualities. Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 108. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins issued under this title shall be promptly paid by the Secretary to The White House Endowment Fund (The Fund) to assist The Fund's efforts to raise an endowment to be a permanent source of support for the White House Collection of fine art and historic furnishings, and for the maintenance of the historic public rooms of the White House.

SEC. 109. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of The Fund as may be related to the expenditure of amount paid under section 108.

SEC. 110. COINAGE PROFIT FUND.

Notwithstanding any provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund to The White House Endowment Fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 111. FINANCIAL ASSURANCES.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 102 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this title unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE II—WORLD CUP USA 1994 COMMEMORATIVE COINS

SEC. 201. SHORT TITLE.

This title may be cited as the "World Cup USA 1994 Commemorative Coin Act".

SEC. 202. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 750,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue not more than 5,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(c) HALF DOLLAR CLAD COINS.—The Secretary shall issue not more than 5,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(d) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 203. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this title from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 204. DESIGN.

(a) DESIGN REQUIREMENTS.—The design of each coin authorized hereunder shall include the official 1994 World Cup logo adopted by World Cup USA 1994, Inc., the organizing committee for the event (hereafter referred to as the "Organizing Committee") and shall reflect the unique appeal of soccer. On each coin authorized hereunder there shall be a designation of the value of the coin, and inscriptions of the words "United States of America", "E Pluribus Unum", "In God We Trust", "Liberty" and "World Cup USA 1994".

(b) DESIGN COMPETITION.—The Director of the United States Mint shall sponsor a nationwide open competition for the design of each coin authorized hereunder beginning not later than 3 months and concluding not later than 9 months after the date of the entitlement of this title. The Director of the United States Mint shall select 10 designs for each coin to be submitted to the Secretary, who shall select the final design for each such coin in consultation with the Organizing Committee.

SEC. 205. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

(e) WORLD CUP COMMUNITIES.—The Secretary shall use best efforts to market World Cup coins in the United States with particular focus on communities in which World Cup games are held.

(f) INTERNATIONAL SALES.—The Secretary, in cooperation with the Organizing Committee, shall develop an International Marketing Program to promote and sell coins outside the United States.

(g) REPORTS TO CONGRESS.—

(1) REQUIRED.—Not later than 15 days after the last day of each month which begins before January 1, 1996, the Secretary shall submit a report describing in detail the activities carried out under this title to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS OF REPORT.—Each report submitted pursuant to paragraph (1) shall include a review of all marketing activities under this section and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.

SEC. 206. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this title shall be minted and available for issue no later than January 3, 1994, but shall be issued only during 1994.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this title shall be issued in uncirculated and proof qualities.

(c) BUREAU OF THE MINT.—Not more than 1 facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 207. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 208. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges which are received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary to the Organizing Committee.

(b) USE OF PROCEEDS.—Amounts received under subsection (a) shall be used by the Organizing Committee for purposes of organizing and staging the 1994 World Cup, with 10 percent of such funds to be made available through the United States Soccer Federal Foundation, Inc., for distribution to institutions for scholastic scholarships to qualified students.

SEC. 209. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents and other data of the Organizing Committee as may be related to the expenditure of amounts paid under section 208.

SEC. 210. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund to the Organizing Committee; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 211. FINANCIAL ASSURANCES.

(a) NO NET COST.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 202 shall not result in any net cost to the Federal Government.

(b) PAYMENT ASSURANCES.—No coin shall be issued under this title unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment;

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE III—SILVER MEDALS FOR VETERANS OF THE PERSIAN GULF CONFLICT

SEC. 301. PURPOSE.

It is the purpose of this title to commemorate the sacrifices made and service rendered to the United States by members of the United States Armed Forces who serve in a combat zone in connection with the Persian Gulf conflict.

SEC. 302. SILVER CONGRESSIONAL COMMEMORATIVE MEDAL.

(a) IN GENERAL.—The Secretary of the Treasury shall design and strike a silver medal with suitable emblems, devices, and inscriptions to be determined by the Secretary in commemoration of the sacrifices made and service rendered to the United States by members of the United States Armed Forces referred to in section 303(a).

(b) SOURCE OF BULLION.—The Secretary of the Treasury shall obtain silver for minting coins under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.) and such silver shall be furnished to the Secretary at no cost by the custodian of the stockpile.

SEC. 303. ELIGIBILITY TO RECEIVE MEDAL.

(a) IN GENERAL.—Any member of the United States Armed Forces who serves in a combat zone in connection with the Persian Gulf conflict shall be eligible for a silver medal referred to in section 302.

(b) DETERMINATION.—Eligibility under subsection (a) shall be determined by the Secretary of Defense and such Secretary shall establish a list of the names of such eligible individuals before the end of the 120-day period beginning on the date of the entitlement of this title.

(c) NEXT OF KIN.—If any member referred to in subsection (a) is deceased, the next of kin of such member may receive the medal referred to in section 302.

(d) DELIVERY.—The medals struck pursuant to section 302(a) shall be delivered by the Secretary of the Treasury to the Secretary of Defense and the Secretary of Defense shall arrange for the distribution of the medals to the eligible individuals.

SEC. 304. NATIONAL MEDALS.

The medals struck pursuant to this title are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 305. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the silver medal described in section 302 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost of duplicates and the cost of designing and striking the medals under section 302, including labor, materials, dies, use of machinery, and overhead expenses.

(b) PROCEEDS IN EXCESS OF COST TO BE USED TO REDUCE THE NATIONAL DEBT.—Any amount received by the Secretary of the Treasury from the sale of duplicate medals under subsection (a) in excess of the costs described in such subsection shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 306. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 307. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing medals under this title will not result in any net cost to the United States Government.

(b) NO EXPENDITURES IN ADVANCE OF RECEIPT OF FUNDS.—The Secretary of the Treasury shall not strike, mint, or distribute the medals described in section 302 until such time as the Secretary certifies that sufficient funds have been received by the Secretary under section 305 or from donations from private persons to ensure that striking, minting, and issuing medals described in section 302 will not result in any net cost to the United States Government.

TITLE IV—CHRISTOPHER COLUMBUS QUINCENTENARY COINS AND FELLOWSHIP FOUNDATION

SUBTITLE A—CHRISTOPHER COLUMBUS QUINCENTENARY COINS

SEC. 401. SHORT TITLE.

This subtitle may be cited as the "Christopher Columbus Quincentenary Coin Act".

SEC. 402. SPECIFICATIONS OF COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this subtitle referred to as the "Secretary") shall mint and issue not more than 500,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall, in accordance with section 404, bear a likeness of Christopher Columbus. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the

year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) One Dollar Silver Coins.—

(1) Issuance.—The Secretary shall mint and issue not more than 4,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) Design.—The design of the one dollar coins shall, in accordance with section 404, be emblematic of the quincentenary of the discovery of America. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) Half Dollar Clad Coins.—

(1) Issuance.—The Secretary shall issue not more than 6,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) Design.—The design of the half dollar coins shall, in accordance with section 404, be emblematic of the quincentenary of the discovery of America. Each half dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) Legal Tender.—The coins minted under this subtitle shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 403. SOURCES OF BULLION.

(a) Gold.—The Secretary shall obtain gold for minting coins under this subtitle pursuant to the authority of the Secretary under existing law.

(b) Silver.—The Secretary shall obtain silver for minting coins under this subtitle only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 404. DESIGN OF COINS.

The design for each coin authorized by this subtitle shall be selected by the Secretary after consultation with the Christopher Columbus Fellowship Foundation and the Commission of Fine Arts.

SEC. 405. ISSUANCE OF COINS.

(a) Five Dollar Coins.—The five dollar coins minted under this subtitle may be issued in uncirculated and proof qualities and shall be struck at the Untied State Mint at West Point, New York.

(b) One Dollar and Half Dollar Coins.—The one dollar and half dollar coins minted under this subtitle may be issued in uncirculated and proof qualities, except that not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

(c) Period of Issuance.—The Secretary may issue the coins minted under this subtitle during the period beginning on January 1, 1992, and ending on June 30, 1993.

SEC. 406. SALE OF COINS.

(a) In general.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this subtitle at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) Bulk Sales.—The Secretary shall make any bulk sales of the coins minted under this subtitle at a reasonable discount.

(c) Prepared Orders.—The Secretary shall accept prepaid orders for the coins minted under this subtitle prior to the issuance of each coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) Surcharges.—All sales of coins minted under this subtitle shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 407. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this subtitle will not result in any net cost to the United States Government.

(b) Payment for Coins.—A coin shall not be issued under this subtitle unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 408. USE OF SURCHARGES.

(a) In General.—The surcharges that are received by the Secretary from the sale of coins minted under this subtitle shall be deposited in the Christopher Columbus Fellowship Fund and be available to the Christopher Columbus Fellowship Foundation.

(b) Audits.—The Comptroller General shall have the right to examine such books, records, documents, and other data of the Christopher Columbus Fellowship Foundation as may be related to the expenditure of amounts paid under subsection (a).

SEC. 409. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this subtitle.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this subtitle from complying with any law relating to equal employment opportunity.

SEC. 410. COINAGE PROFIT FUND.

(a) Deposits.—All amounts received from the sale of coins issued under this subtitle shall be deposited in the coinage profit fund.

(b) Payments.—The Secretary shall make the deposits of the amounts required under section 408(a) from the coinage profit fund.

(c) Expenditures.—The Secretary shall charge the coinage profit fund with all expenditures under this subtitle.

SEC. 411. REPORTS TO CONGRESS

(A) Required.—Not later than 15 days after the last day of each month which begins before July 1, 1993, the Secretary shall submit a report describing in detail the activities carried out under this subtitle to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) Contents of Report.—Each report submitted pursuant to subsection (a) shall include a review of all marketing activities under section 406 and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.

SUBTITLE B—CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION

SEC. 421. SHORT TITLE.

This subtitle may be cited as the "Christopher Columbus Fellowship Act".

SEC. 422. PURPOSE.

The purpose of this subtitle is to establish the Christopher Columbus Fellowship Program to encourage and support research, study, and labor designed to produce new discoveries in all fields of endeavor for the benefit of mankind.

SEC. 423. CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION.

(a) Establishment and Purposes.—There is established, as an independent establishment of the executive branch, the Christopher Columbus Fellowship Foundation (hereinafter in this subtitle referred to as the "Foundation").

(b) Membership.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members as follows:

(1) 2 members appointed by the President in consultation with the President pro tempore of the Senate.

(2) 2 members appointed by the President in consultation with the Minority Leader of the Senate.

(3) 2 members appointed by the President in consultation with the Speaker of the House of Representatives.

(4) 2 members appointed by the President in consultation with the Minority Leader of the House of Representatives.

(5) 5 members appointed by the President.

(c) Chairman and Vice chairman of the foundation.—The President shall designate a chairman and a Vice Chairman from among the members appointed by the President.

(d) Terms of Office; Vacancies.—Each member of the Board of Trustees appointed under subsection (b) shall serve for a term of 6 years from the expiration of the term of such member's predecessor, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed—

(A) 4 shall be appointed for a term of 2 years;

(B) 5 shall be appointed for a term of 4 years; and

(C) 4 shall be appointed for a term of 6 years,

as designated by the President.

(e) Expenses; No Additional Compensation.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

SEC. 424. FELLOWSHIP RECIPIENTS.

(a) Award.—The Foundation is authorized to award fellowships to outstanding individuals to encourage new discoveries in all fields of endeavor for the benefit of mankind. Recipients shall be known as "Columbus Scholars".

(b) Term.—Fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed 2 years.

(c) Selection.—The Foundation may provide, directly or by contract, for the conduct of a nationwide competition for the selection of fellowship recipients.

SEC. 425. STIPENDS.

Each person awarded a fellowship under this subtitle shall receive a stipend as determined by the Foundation.

SEC. 426. CHRISTOPHER COLUMBUS FELLOWSHIP FUND.

(a) IN GENERAL.—There is established in the Treasury a fund to be known as the Christopher Columbus Scholarship Fund (hereafter in this subtitle referred to as the "fund"), which shall consist of—

(1) amounts deposited under subsection (d);

(2) obligations obtained under subsection (c);

(3) amounts contributed to the Foundation; and

(4) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Christopher Columbus Quincentenary Coin Act.

(b) INVESTMENTS.—

(1) DUTY OF SECRETARY TO INVEST.—The Secretary of the Treasury shall invest in full any amount appropriated or contributed to the fund.

(2) AUTHORIZED INVESTMENTS.—Investments pursuant to paragraph (1) may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SPECIAL OBLIGATIONS.—The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that, if such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) SALE OF OBLIGATIONS.—Any obligations acquired by the fund (except special obligations issued exclusively to the fund in accordance with subsection (b)(3)) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) INTEREST.—The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(e) AVAILABILITY OF FUND.—

(1) STIPENDS.—The fund shall be available to the Foundation for payment of stipends awarded under section 425.

(2) EXPENSES.—The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the funds such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provision of this subtitle.

(f) DISBURSEMENTS.—Disbursements from the fund shall be made on vouchers approved by the Foundation and signed by the Chairman.

SEC. 427. AUDITS.

The activities of the Foundation under this subtitle may be audited by the Comptroller General of the United States. The Comptroller General shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

SEC. 428. EXECUTIVE SECRETARY OF FOUNDATION.

(a) DUTIES.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) COMPENSATION.—The Executive Secretary of the Foundation shall be compensated at an annual rate of basic pay not in excess of the amount payable for Executive Level V.

SEC. 429. ADMINISTRATIVE PROVISIONS.

(a) The Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this subtitle, except that in no case shall employees (other than the Executive Secretary) be compensated at a rate in excess of the rate of basic pay payable for GS–15 of the General Schedule;

(2) procure temporary and intermittent services of such experts and consultants as are necessary to the extend authorized by section 3109 of title 5, but at rates not in excess of the rate of basic pay payable for Executive Level V;

(3) prescribe such regulations as the Foundation may determine to be necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 529 of title 31, United States Code;

(8) rent office space;

(9) conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging new discoveries in all fields of endeavor for the benefit of making; and

(10) to make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Congress an annual report of its operations under this subtitle.

Amend the title so as to read: "A Bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. TORRES] will be recognized for 20 minutes, and the gentleman from California [Mr. MCCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as chairman of the Subcommittee on Consumer Affairs and Coinage of the Committee on Banking, Finance and Urban Affairs, I am calling for consideration of the White House Commemorative Coinage Act.

Mr. Speaker, I might also point out that this particular bill as amended would also involve the World Cup USA, which has passed both the House and the Senate, the Christopher Columbus coin, which has passed the House on three previous occasions, and, moreover, silver medals for veterans of Desert Storm, which has passed this House. It should be noted that the White House commemorative coin has passed the Senate.

Mr. Speaker, the three coins have all had public hearings and have been marked up by the Subcommittee on Consumer Affairs and Coinage. In this instance, the White House commemorative coin has the 40 cosponsors required in the U.S. Senate, and has the strong support of this House, including the sponsorship of the chairman and ranking minority members of the House Committee on Banking, Finance and Urban Affairs.

WORLD CUP USA 1994 COMMEMORATIVE COIN BILL DESCRIPTION OF PROVISIONS

SECTION 2

This section sets forth the specifications of the gold, silver and clad coins. The specifications are identical to previous programs which will allow the Mint a smooth transition into this program.

The mintage levels established in the bill have been questioned by some claiming the level is too low while others argue it is too high. It is impossible to predict with perfect accuracy exactly what the level of sales may be. The mintage level set in the bill is designed to strike a balance.

Since the World Cup is the largest single-sport spectacle in the world, the Committee believes the potential markets are much larger which will present the Mint with a unique opportunity for international sales. The Committee expects the Mint to work closely with the World Cup Organizing Committee in marketing the coins. The Mint's experience combined with the World Cup's international sports and marketing skills will provide an opportunity to reach the sales levels specified.

SECTION 4

This section requires the Mint to sponsor a nationwide open competition for the design of each coin. This section was added to comply with the Mint's view that the American public should be allowed to participate in the design of these coins.

SECTION 5

Subsection (b): The Mint has been criticized for not issuing bulk sale information to dealers until after the programs have begun.

In the case of the Korean Coin Program, the bulk purchase conditions were not released until the final quarter of the program. This does not provide adequate time for bulk dealers to plan marketing programs.

The Committee expects the Mint to consult with leading coin dealers and the respective trade associations in 1993 and to prepare suitable bulk sales terms and conditions. These terms and conditions should be released as soon as possible in 1993.

Subsection (c): The Committee expects the Mint to be very aggressive in marketing the coins. Since the World Cup tournament will not be held until 1994, it is very important that the Mint work closely with the World Cup to secure a substantial number of prepaid orders. The Committee directs the Mint to work closely with the World Cup Organizing Committee to take advantage of every opportunity for early sales.

The Committee expects the Mint to pay the surcharges from prepaid orders to the World Cup Organizing Committee within a reasonable time after they are received.

Subsection (e): The World Cup will be held in several cities across the nation. This affords excellent marketing opportunities for the Mint. The Committee expects the Mint to work with banks and retailers in those venue cities to establish distribution outlets. The Mint may designate these distributors as "Official U.S. Mint World Cup Coin Distributors." The Mint should include in their reports to Congress a report detailing their efforts to develop this distribution system.

Subsection (f): The World Cup is an international sporting event. The Committee believes there is an excellent opportunity for international marketing. The Committee expects the Mint to work with the World Cup Organizing Committee to establish international marketing and distribution systems. The Mint may designate international distributors as "Official U.S. Mint World Cup Coin Distributors" with concurrence of World Cup 1994.

Subsection (g): The Committee intends for the Mint to work in a cooperative fashion with the Congress and World Cup to provide timely information on the performance of the coin program.

The Committee would like to see a very successful program and believes that cooperative reporting will provide the information necessary to help the Mint and World Cup maximize the potential of this program.

Since coin programs are short-term (i.e. one year in duration), it is difficult to react quickly to any potential marketing opportunities unless there is an ongoing update of what is actually occurring with the program.

The Committee anticipates the format of the reports will follow the example provided by the Mint in the Mint Budget Authorization Report—H.R. 2631; July 15, 1987; Page 77. Furthermore, we acknowledge that the Mint was required to provide similar reports by the 1984 Olympic Coin Program (P.L. 97-220). This reporting amendment attempts to follow the earlier reporting requirements so as not to be unnecessarily disruptive to the Mint operations.

The Committee understands that it will be difficult for the Mint to provide actual numbers in the early days of the program. Therefore, we recognize that the Mint will have to estimate many of the early costs. However, the Committee expects the Mint to update their estimates with the actual costs when they become available. Even the estimates will be helpful to show early trends in the programs performance.

SECTION 6

The Committee's intent is to have coins available for sale January 3, 1994. The terms "issued" and "issuance" are to be interpreted broadly, not restrictively. The Committee understands that coins sold on December 31, 1994 cannot practically be delivered to customers until 1995. The Committee expects the Mint to push coin sales through the end of the calendar year even if some deliveries have to be made in 1995.

SECTION 8

Subsection (a): The Committee intends that the purpose of the World Cup 1994 Commemorative Coin Program is to raise surcharges for the World Cup USA 1994 Organizing Committee. However, it is also our intent that the program shall not result in any net cost to the Federal Government.

In prior coin programs, there has often been a residual operating profit at the conclusion of a program. This residual operating profit is the balance remaining from a specific program after the Federal Government has recovered all its costs to operate a program. The profit accrues because in order to comply with Section 11(a), the Mint must make sure it has raised sufficient funds from the sale of each coin to cover the costs associated with producing and marketing the coin. Since it is extremely difficult to predict exactly what those costs may be, the Mint must make sure their estimates are conservative so there is not a shortfall. In other words, this residual operating profit is the difference between the Mint's estimated costs and their actual costs.

While the Committee accepts this practice as a means to insure that a coin program results in no net cost to the Federal Government, the Committee feels strongly that the Mint should not use this practice to generate profits for the Mint. As stated earlier, the intent of the legislation is to generate surcharges for World Cup while incurring no net cost to the Federal Government. If the Committee finds that the Mint has used this practice to generate excessive profits for the Mint, the Committee will revisit this issue.

Subsection (b): Ten percent of the funds made available by subsection 8(a) will be available to the United States Soccer Federation Foundation, Inc. for distribution to institutions for scholastic scholarships to qualified students. The scholastic scholarships shall go to any groups for distribution to qualified students that meet the following criteria:

Definition of "Institutions"—In selecting institutions to provide scholastic scholarships to qualified students, the Committee expects that the United States Soccer Federation Foundation shall select no more than five recipients, provided that the institution:

Is a 501(c)(3) non-profit which includes as its mission increasing the representation of qualified students, as defined in the following section, in higher education by providing scholarship assistance to students pursuing college degrees;

Serves all of the geographic and ethnic subgroups of a target population consisting principally of qualified students; and

Provides educational services, scholastic scholarships and related services to qualified students.

The Committee does not intend that institutions of higher learning, trade associations, for-profit institutions, units of state or local government, or other organizations or entities providing scholastic scholarships that are generally available to persons other than qualified students be considered by the United States Soccer Federation Foundation for participation in the programs authorized by this section.

Definition of "qualified student"—The Committee intends that the term "qualified students" be interpreted narrowly by institutions providing scholastic scholarships. The Committee intends to limit scholarships under this section to the most under-educated persons and groups in American society. The Committee expects that "qualified students" shall be identified based on the following criteria:

Individuals who are "first-generation" college students, i.e., whose parents did not complete a course of study at an accredited institution of higher learning; and

Individuals who are "economically disadvantaged", i.e., who come from families with incomes at or below the median family income of the U.S. population, or who are members of communities with median incomes at or below 70% of the median family income of the U.S. population; and

Individuals who are "educationally disadvantaged," because of developmental disability, national origin, nativity or limited-English proficiency, or attended school districts with dropout rates at least twice as high as the national average; and

The scholastic scholarship fund will be targeted to minority student groups that have a high school completion rate of less than 60 percent.

Provided further,

That at least one such institution serves as an umbrella organization for at least 125 affiliated local community-based organizations. Such institution provides capacity-building assistance, public policy analysis and advocacy, public information efforts, and special catalytic efforts on behalf of economically and educationally disadvantaged persons. Such institution is governed by organizational by-laws that require a Board of Directors reflective of the geographic, gender and ethnic composition of a target population consisting principally of qualified students and their families, as defined in this section. Such institution includes a corporate board of advisors composed of at least twenty senior executives of major corporations.

That at least one such institution is a 501(c)(3) nonprofit organization whose sole mission is to provide scholarship assistance to qualified students in all fifty states and Puerto Rico. Scholarship recipients are selected on the basis of academic achievement and personal strengths, and represent hundreds of both public and private colleges and universities across the nation. Recipients are also reflective of the composition of five national regions. Such institution annually selects scholarship recipients using a process of regional review committees. In addition, such institution is governed by organizational bylaws which require a board of directors comprised of corporate and educational leaders.

That at least one such institution is a 501(c)(3) nonprofit organization with a national scope and a primary goal to provide post high school scholarship assistance to qualified students in all fifty states and the territories of the United States of America. Scholarship recipients are selected on the basis of academic achievement, community leadership and financial need. Such institution is governed by organizational by-laws that require officers, board of directors, and trustees who are business and community leaders throughout the nation and are dedicated to the educational advancement of a target population of qualified students as defined in this section.

Student eligibility: A qualified student who is in attendance or who has been accepted for admission, as a full-time undergraduate or graduate student at an accredited institution of higher education may apply.

The Committee recognizes that institutions must have some flexibility in the selection of scholarship recipients; however, we expect that, except in unusual or exceptional circumstances, each scholarship recipient shall meet three of the four broad criteria in addition to other criteria set forth by the institution.

SECTION 11

As mentioned earlier, the Committee expects the Mint to use best efforts to insure this program results in no net cost to the Federal Government.

Mr. TORRES. Mr. Speaker, I reserve the balance of my time.

□ 2220

Mr. MCCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

First, I would like to compliment the subcommittee chairman and his staff for working with us on some areas in which we had some small disagreements and the consensus is a result of a bill that we are able to support entirely. I wanted to express my appreciation here in the House for the cooperation of the gentleman from California [Mr. TORRES] and his staff.

We have before us H.R. 3337, sponsored by the gentleman from Louisiana [Mr. BAKER], and we have essentially four titles to this. The first title is the White House Commemorative Coin, which is to be minted in 1992, given the successful conclusion of this bill. The beneficiary of this coin is the White House Endowment Fund, which has the responsibility of furnishing and preserving the public rooms of the White House.

I might add that no taxpayers' money is used for the preservation and refurbishing of public rooms at the White House. So this indeed is a necessary revenue to continue to perform that function.

Title II deals with the World Cup Commemorative Coin to be minted in 1994, and it is the basis for supporting the World Cup Games here in the United States and the funding necessary to bring that about, one of the first of its kind for the United States.

Title III deals with silver medals, which are to be issued for veterans of the Persian Gulf conflict. And I might add, in that particular case in title III, the funding will be entirely paid for by private donations and the sale of the bronze duplicates. No taxpayers' money or support is going to be involved.

Finally, Part 4, the Christopher Columbus coin, to be minted in 1992, has a beneficiary in the form of the Christopher Columbus Fellowship for scholarships for discoveries, which was passed by the House back in July on a vote of 408 to 2.

That pretty much covers it, Mr. Chairman, along with what our subcommittee chairman has said.

Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Speaker, I certainly wish to express my appreciation to the gentleman as well as the chairman of the subcommittee, the gentleman from California [Mr. TORRES] for their cooperativeness in bringing this resolution to the floor this evening. Of course, it accomplishes a number of important purposes, but the primary concern to me is the White House Commemorative Coin which accomplishes two very important goals: the first being to recognize the laying of the cornerstone of the White House some 200 years ago, an important historical achievement for the City of Washington. And secondarily, to recognize an important responsibility of proceeds from the sale of this coin, and that is to provide the resources to perform an important refurbishment and remodeling of the White House which has not been done for many years.

For these two reasons I think the issuance of this claim is a very important purpose. I simply rise to commend the chairman and the ranking Member for their cooperativeness in providing this opportunity.

Mr. WELDON. Mr. Speaker, will the gentleman yield?

Mr. BAKER. I yield to the gentleman from Pennsylvania.

Mr. WELDON. Mr. Speaker, will the gentleman answer a question for me? There have been some rumors circulating that there is some involvement of Hallmark Cards in the issuance of this coin. Is the gentleman aware of any involvement of Hallmark Cards?

Mr. BAKER. Mr. Speaker, the only interest expressed to me so far has been a very nice letter from Barbara Bush explaining her interest in the matter and hoping that it is successful for the benefit of the White House Historical Society as well as for the White House staff.

Mr. WELDON. But there is no involvement of Hallmark Cards?

Mr. BAKER. Mr. Speaker, not to my knowledge.

Mr. MCCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

I might add in response to the question of the gentleman, again, this money is used by the White House Endowment Fund for the sole purpose of furnishing and preserving the public rooms of the White House, which no taxpayers' money is used for or has been used for in the past.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding.

First of all, let me commend both my colleagues, having served on that subcommittee, most Members cannot appreciate the length of time that it takes normally for a Member of the House or a Member of the Senate to meet the criteria that the subcommittee sets up in order to get a resolution to the floor creating a commemorative coin. I know it takes a great deal of time because I served on that subcommittee and marshalled one through. It took over a period of 2 years to fruition. So I want to commend both gentlemen.

I think particularly the Persian Gulf coin, the World Cup coin and the Christopher Columbus coin were very much involved, my colleague and I, the gentleman from Ohio [TOM SAWYER] have been very much involved in this celebration, the quincentennary celebration, and that will go a long way in meeting some of the goals of that celebration that was identified by Congress in, I think it was 1984, to be enjoyed by this country next year.

I guess just one comment I want to make, and it is perhaps somewhat critical. As I scan the four coins, I certainly support titles II, III and IV. I understand the purpose of title I. I just wish rather than having been sent up a White House commemorative coin, they would have sent out an economic package. I think that is great that they are going to use some of this money to refurbish the White House, and I will question the alacrity with which it managed to get through the hoops and the loops that everybody is normally required to jump through, but I did want to thank my colleagues for their work and recognize publicly that it is normally a very difficult thing to get a commemorative coin to this floor.

I thank them for their efforts and clearly the sponsors of these coins certainly deserve to be congratulated.

Mr. MCCANDLESS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I, too, want to thank my colleague, the gentleman from Pennsylvania [Mr. RIDGE] for his cooperation on a number of issues that we have worked together on, one of which is a coin bill that is currently before the Subcommittee on Consumer Affairs and Coinage. I also want to thank the chairman of the Subcommittee on Consumer Affairs and Coinage, the gentleman from California [Mr. TORRES] and the ranking member, the gentleman from California [Mr. MCCANDLESS] for their straightforward dialogue with us as we have tried to push forward a coin that recognizes the Nation's Fire Service in the year 1993.

It is not part of this process. I am disappointed in that, but there is no coin yet designated for 1993, and that option is still open.

I am a cosponsor of the coin bills that are in this particular resolution with the exception of the White House coin bill, which I understand was just recently put together within the last month or so.

I applaud my colleagues who have brought forward the Christopher Columbus coin, the World Cup coin, the bill of the gentleman from California [Mr. TORRES] and the silver medal honoring the troops from Desert Storm. I think they are all very valuable and worthwhile functions.

I guess I could add the same thing on the White House coin with the exception that I am also disappointed, as my colleague, the gentleman from Pennsylvania [Mr. RIDGE] has mentioned, that it did not go through the full process of committee hearings and markup even though it is for a very valuable cause.

That disappoints me because we have been pressuring the White House for some 2 years to support the 1993 coin that honors the Nation's Fire Service, and I would hope that they would give the same full support and endorsement for that bill in the second half of this session of Congress as they have for the White House commemorative coin.

The Fire Service bill and coin has no overhead money and it would basically go to benefit the 1½ million direct fire fighters and the 3 million total dependents and family members who are part of the Fire Service family. It is the number one priority of the Fire Service Nationwide and currently has over 270 cosponsors.

It passed the Senate in the last session of Congress. Senators JOE BIDEN and BILL ROTH were the cosponsors of that bill this year.

So it is my hope that we can move that bill forward in the second half of this session. I will not oppose this bill, even though I have some concerns about the White House coin, because the other coins I have publicly cosponsored.

I would ask the committee, subcommittee chairman and the ranking member, to work with us next year for a markup process so that we can move forward with a 1993 coin.

Mr. McCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

I think it would be of interest, with the permission of our subcommittee chairman, to maybe comment a little bit about the circumstances surrounding the White House commemorative coin. I include for the record at this point a copy of a letter addressed to Mrs. Earle Craig, Chairman of the White House Endowment Fund, from Mrs. Barbara Bush.

THE WHITE HOUSE
Washington, October 10, 1991.

Mrs. EARLE M. CRAIG, Jr.
Chairman, The White House Endowment Fund, Midland, TX.

DEAR DOTTIE, The 200th anniversary of the laying of the cornerstone of the White House this coming year—October 13, 1992—is a milestone we all look forward to celebrating. I am delighted both that plans for congressional authorization of a commemorative coin are undeway and that the proceeds from the sale of this coin will go to The White House Endowment Fund toward a permanent endowment for the furnishing and preservation of the public rooms of the White House. As we all know, no taxpayers' money is used for the preservation and refurbishing of the public rooms of the White House, and therefore the funds from the sale of this commemorative coin will be an important contribution to a White House endowment.

George and I are both grateful for the work of the White House Historical Association in seeking authorization of a commemorative coin, and we are grateful to all who are working on behalf of what we consider to be a wonderful opportunity to acknowledge an important date and to augment an endowment for the White House.

Warmly,

BARBARA.

□ 2230

Mr. McCANDLESS. Continuing, the White House commemorative coin is scheduled to be introduce at the 200th anniversary of the laying of the cornerstone. It is intended to be introduced in 1992 in conjunction with or in the same year, I should say, as the Christopher Columbus coin.

The coin collectors are very dubious about too many commemorative coins, and as a result encouraged the subcommittee to limit the number. I would point out that in this case we have an unusual situation, not because it is the White House commemorative but because there are only going to be 500,000 silver dollars issued based upon the successful conclusion of this legislation commemorating the 200th anniversary of the White House cornerstone laying, as opposed to the normal type, for example, the Christopher Columbus coin, which is scheduled to be introduced in 1992 and will have 500,000 $5 gold pieces, 4 million silver dollars, and 6 million half dollar class.

So we are not really sending up something special that is going to be in conflict, but what it is the subcommittee and the chairman have been attempting to accomplish, and that is to zero in on excellent subjects to give maximum benefit to the commemorative coin, which in turn produces the revenues that continue to support these kinds of projects.

Mr. Speaker, I reserve the balance of my time.

Mr. TORRES. Mr. Speaker, I thank the ranking minority member of the subcommittee for his comments. To be sure, this particular commemorative coin will raise the necessary funds for the endowment fund, which will be utilized, as is well pointed out, for those aspects of the White House, the furnishing, the refurbishing of the rooms, the buying of fine art, the restoration of pieces of furniture and the buying of pieces of antique furniture that are still in private collections.

This is a house for all Americans and I think this is an appropriate way for coins to be sold to the public at no expense to the taxpayers, the money to be used for these important aspects.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio, [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank the gentleman from California [Mr. TORRES], my friend, and welcome this opportunity to rise and join in support of this entire piece of legislation. I am particularly pleased to associate myself with the remarks of my friend and colleague on the Subcommittee on Census and Population, the gentleman from Erie, PA, Mr. RIDGE, in his comments about the importance of the whole range of these undertakings, but particularly with regard to the Christopher Columbus Quincentennary commemorative coin.

As some may know, this has been a difficult year in terms of trying to focus the work of that Commission and to provide appropriate funding for that work. Among the vehicles for that purpose has been the coining of this particular commemorative piece in recognition of the 500th anniversary of Columbus' voyages. That difficulty has received a considerable amount of publicity in recent weeks.

I rise on this particular occasion to recognize the substantial difference in the work that has gone before that may have been troubled at times, and to distinguish that from the work that goes ahead from this time forward as a result of the good work that is being done on the floor here today in providing a vehicle for the support of the Columbus scholarships and the continuing work of the Columbus Quincentennary Commission under the new leadership of its new chairman, Frank Donnatelli, whose efforts have been of the highest order and worthy of the kind of support we are giving him here today.

Mr. RIDGE. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I am happy to yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Speaker, as the ranking member on the subcommittee privileged to serve with my friend and colleague, the gentleman from Ohio, I just want to associate myself with his remarks. Mr. Donnatelli has steered this celebration, as the *Nina*, the *Pinta*, and the *Santa Maria*, back out of very difficult waters. It looks like the sailing is going to be a lot smoother, particularly with this effort that our colleagues here brought before the House. It gives them a funding vehicle to not only deal with the scholarship fund but I think it also elevates in a very positive way the kind of celebration we want to engage in this year as a country, and I want to associate myself with his remarks.

Mr. SAWYER. Mr. Speaker, I thank the gentleman for his comments.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I want to commend both the gentleman from Ohio [Mr. SAWYER] and the gentleman from Pennsylvania [Mr. RIDGE] for putting the quincentennary back on the right track. We have had extensive hearings and this coin will certainly help these great ceremonies that they are planning under the direction of Mr. Donnatelli, but it was these two gentleman, the gentleman from Ohio [Mr. SAWYER], and the gentleman from Pennsylvania [Mr. RIDGE], who have helped to bring back the Commission to where it belongs with the proper objectives, the proper resources, and the proper ethics. I thank the gentleman for their work.

Mr. SAWYER. I thank the gentleman for his comments.

Mr. ANNUNZIO. Mr. Speaker, I rise in support of this legislation. The Chairman of the Consumer Affairs and Coinage Subcommittee, Mr. TORRES, is to be congratulated for his work in the field of coinage. His leadership is what has enabled the House to consider this legislation this evening.

I want to address the title of this bill which authorizes the minting of coins in commemoration of the quincentenary of the discovery of America by Christopher Columbus in 1492.

I recognize that there is much debate over whether Columbus was actually the first to discover The New World. There may well have been others that got here first. The difference is that when Columbus discovered America, it stayed discovered.

The Columbus coin title not only provides for the minting of coins in commemoration of the Columbus Quincentenary, but it establishes a Columbus Fellowship program with the surcharges raised from the sale of the coins. These Fellowships would be awarded to scholars, inventors, and the like so that they can work toward discoveries for the benefit of mankind. The scholarships would be awarded by a non-partisan Board of Directors whose members would be appointed by the President after consultation with the leadership of both Bodies of Congress.

If all the coins under this bill were sold, over $50 million would be raised for the Columbus Foundation established under this bill. This money, along with donations which the Foundation could accept, would be used to establish an endowment for the award of the Fellowships.

Mr. Speaker, this bill will establish a lasting memorial to the greatest explorer in history. The time is short for beginning this coin and fellowship program. I urge the passage of the bill.

Mr. McCANDLESS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TORRES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from California [Mr. TORRES] that the House suspend the rules and pass the bill, H.R. 3337, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TORRES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in H.R. 3337, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BICENTENNIAL OF THE DISTRICT OF COLUMBIA

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 356) designating December 1991 as "Bicentennial of the District of Columbia Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so, first of all, to acknowledge the work of our colleague, the gentleman from Virginia [Mr. BLILEY] who is the chief sponsor of this joint resolution.

Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I want to thank my colleagues for the honor and recognition they give to the people of the District of Columbia in House Joint Resolution 356 honoring our bicentennial.

Mr. Speaker, this resolution acknowledges the Democratic majesty of the District of Columbia. As the Nation's city, it praises the creation of the District as an important act of self-government designed to strengthen and preserve the political institutions of a free people. We acknowledge with sincere appreciation the role the District of Columbia has been given to play in the development of the Nation's free institutions. We ask only that the act of self-governance inherent in our creation be extended to the 650,000 people who reside in the District.

Through greater home rule and ultimately statehood we seek to join the family of free and equal States that comprise the United States. We live for that day. Pending its sunrise, we are gratified and delighted with the bipartisan praise in this House for the District, its place in history, and the extraordinary dedication and energy of its people.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, I thank my friend from Pennsylvania for yielding and I rise only to express the real gratitude we owe to the gentlewoman from the District of Columbia for the extraordinary effort that she has brought forth to bring this matter before us today. It may not be known to many who listen, the extraordinary effort that some Members have gone through to accomplish this. The gentleman from Richmond had the foresight to introduce the measure, but as much as anyone, it was the gentlewoman from the District of Columbia who today put together the signatures necessary to bring this before us tonight.

□ 2240

That is an extraordinary accomplishment and I wanted to take just a moment to recognize it.

Mr. RIDGE. Mr. Speaker, I want to join my friend in singing the praises of the gentlewoman. It was definitely through her energetic initiative throughout this day that we were able to bring this matter to the floor this evening.

H.J. RES. 356

Whereas the year 1991 is recognized as the 200th anniversary of the District of Columbia because many of the events important to the founding of the Nation's Capital occurred during that year;

Whereas on January 24, 1791, George Washington selected the site along the Potomac River as the district for the permanent seat of the Government of the United States where the vision of the infant nation dedicated to the principles of self-government could be realized;

Whereas in February 1791, Andrew Ellicott and Benjamin Banneker began to survey the new district, which would become the center of a continent and leader of the free world;

Whereas on September 9, 1791, the Commissioners charged with the founding of the city informed Major Pierre L'Enfant that the Federal district was to be called the Territory of Columbia and the Federal city the City of Washington;

Whereas on December 13, 1791, L'Enfant's grand plan for the development of the Nation's Capital, which included magnificent vistas, radiating avenues, beautiful parks and promenades, cascading fountains, and public spaces for national monuments, and which reflected the patriotic enthusiasm that the Federal city forever serve as a temple to liberty, was submitted to the Congress;

Whereas on December 19, 1791, the State of Maryland forever ceded and relinquished to the Congress and the Government of the United States the final land grant to form the new district;

Whereas the creation of the District of Columbia was an important act of self-government by the first Federal Congress designed to strengthen and preserve the political institutions of a free people, and the District itself is a time-honored symbol of the Republic;

Whereas the grandeur and beauty of the District of Columbia are acclaimed throughout the world;

Whereas the sacrifices of a people dedicated to freedom are forever remembered in the inspiring memorials located in the District of Columbia.

Whereas the people of the District of Columbia have made contributions to the arts, law, music, and culture that have been recognized throughout the Nation and the world;

Whereas the District of Columbia is a national treasure as the repository of much of our Nation's history; and

Whereas the District of Columbia is truly where the people of the United States, through our elected representatives, exercise the right of self-governance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 1991 is designated as "Bicentennial of the District of Columbia Month", and the President is authorized and requested to issue a proclamation—

Whereas (1) honoring the 200th anniversary of the founding of the District of Columbia as the Nation's Capital; and

Whereas (2) calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1572

Mr. MACHTLEY. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of H.R. 1572.

The SPEAKER pro tempore. (Mr. MFUME). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

BASKETBALL CENTENNIAL DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution, House Joint Resolution 372, designating December 21, 1991, as "Basketball Centennial Day" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do simply to acknowledge the work of our colleague, the gentleman from Massachusetts [Mr. NEAL] who is the chief sponsor of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

Whereas basketball, the only major sport funded in America, was invented by Dr. James Naismith in 1891;

Whereas the first basketball game was played by Dr. James Naismith's gymnastics class, using nine players on each side, peach baskets nailed to the wall at both ends of the gym, and a soccer ball;

Whereas basketball was first played by women in 1893;

Whereas basketball, the American Game, grew in popularity over the next two years throughout the United States and several foreign countries, and by the turn of the century was being played in 20 nations;

Whereas basketball became an official Olympic sport in Berlin in 1936, and the United States defeated Canada to win the first Gold Medal;

Whereas basketball at every level of play has been enjoyed by millions of spectators;

Whereas our youth—the future of our Nation—have become involved in various basketball leagues that have contributed to the ideals of dedication, commitment, and teamwork; and

Whereas basketball, the American Game, is played and enjoyed by many people in America and in the rest of the world; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 21, 1991, is designated as "Basketball Centennial Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECOGNIZING CONTRIBUTIONS OF FEDERAL CIVILIAN EMPLOYEES DURING ATTACK ON PEARL HARBOR AND DURING WORLD WAR II

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate Joint Resolution 198, to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do so to identify and acknowledge the work of the sponsor of the resolution, our colleague, the gentleman from Hawaii [Mr. Abercrombie] and also to yield such time as he may consume to our colleague, the gentleman from New York [Mr. GILMAN], a member of the full committee.

Mr. GILMAN. Mr. Speaker I am pleased to rise in support of Senate Joint Resolution 198, a bill recognizing the contributions that Federal employees provided during World War II and specifically during the attack on Pearl Harbor. I would like to commend the gentleman from Hawaii, Mr. ABERCROMBIE for bringing this measure to the floor of the House at this appropriate time.

We all fully recall that infamous date, December 7, 1941 when the Imperial Japanese forces attacked Pearl Harbor, beginning our Nation's involvement in the Second World War. I am pleased to stand here today, nearly 50 years later, as the ranking member of the House Post Office and Civil Service Committee, to recognize the service and self-sacrifice given to our nation by our Federal employees.

The dedication, valor, and contributions made by our Federal employees during the Japanese attack on Pearl Harbor and subsequently throughout World War II exhibited the highest standards of professionalism and patriotism. The men and women employed by the Federal Government provided expertise, vital services to those in uniform, and to the civilian population.

Accordingly, Mr. Speaker, I urge my colleagues to join in supporting the resolution remembering the dedication of our Federal civilian employees.

Mr. ABERCROMBIE. Mr. Speaker, as we approach the 50th anniversary of Pearl Harbor, our thoughts naturally turn to the sacrifices and bravery shown by U.S. personnel on December 7, 1941.

Their heroism inspired the Nation to steel its resolve and settle for nothing less than total victory in World War II.

That ordeal has been seared into our national consciousness.

It is no exageration to say that Pearl Harbor was a defining moment in American history.

This month and next, Pearl Harbor military veterans throughout the Nation are standing tall as they receive the special Pearl Harbor Commemorative Medal authorized last year by Public Law 101-511.

These men and women richly deserve this belated recognition as their memories—and ours—travel a half-century back in time to the day their lives were changed forever in the shattering trauma of Pearl Harbor.

While we rightly commemorate the dedication of the soldiers, sailors and marines of December 7, we can not forget the forgotton heroes of Pearl Harbor.

I am speaking of the Federal civilian employees of the Pearl Harbor Naval Ship Yard, Hickam Field, and other military installations on the island of Oahu.

They, too, demonstrated heroism and suffered casualties in the defense of the United States.

While the attack raged, they fired antiaircraft guns, fought fires, rescued the drowning, rendered first aid and performed a thousand and one other tasks at peril to their lives.

They include—and I cite only a few of the thousands of examples of quiet bravery:

Mary Helen Stevens, the Pearl Harbor base librarian, who organized volunteers to tend the wounded * * *

Ponciano Bernardino, of the submarine base, who led a makeshift group of civilians to fight fires in Drydock One * * *

George Walters, a crane operator, who frustrated dive bombing attacks on the battleship Pennsylvania by moving his crane between the diving planes and the helpless ship * * *

On Tai Pang, of Pearl Harbor's Shop 02, who transported the wounded under fire * * *

And mechanic's helper Clifford Oliver of Hickam Field, who drove a truck into a burning building to remove precious aircraft engines.

As I said, Mr. Speaker, this is only a small sampling of the bravery shown by civilian Federal employees who demonstrated a devotion that went far above and beyond the call of duty for a librarian * * *

a shop worker * * *

a mechanic's helper * * *

a crane operator.

Other civilian employees paid with their lives for their dedication to duty:

August Akina * * *

Philip Eldred * * *

Benigno Cabaay * * *

Tai Ching Loo * * *

Daniel LaVerne.

House Joint Resolution 368 honors these splendid men and women by declaring December 4, 1991, to be Federal Civilian Employee Remembrance Day.

As we mark this turning point in history, I thank every member for their support of this resolution.

Especially the gentleman from Guam and the gentlelady from Hawaii for their help on this measure.

As we remember Pearl Harbor, let us salute its unsung heroes: the Federal civilian employees who rose to the occasion so magnificently.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

S.J. RES. 198

To recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

Whereas on Sunday morning, December 7, 1941, at 7:55 a.m., the first wave of dive and hight level bombers from the Imperial Japanese Combined Fleet attacked Hickam and Wheeler Airfields in the United States territory of Hawaii;

Whereas the first bombs fell on Ford Island at Pearl Harbor;

Whereas American fighter planes were strafed and destroyed on the ground at Pearl Harbor, Hickman Airfield, Kaneohe Naval Air Station, Bellow Airfield, Ewa Marine Corps Air Station, Schofield Barracks, and Wheeler Air field;

Whereas the United States Pacific Fleet was devastated, but its carriers were still afloat, and Pearl Harbor's shipyards, fuel storage area, and submarine base remarkably suffered very little damage;

Whereas Federal civilian employees responded magnificantly that fateful morning and met their country's call to duty with distinction and valor;

Whereas Federal civilian employees were instrumental in the remarkable salvage effort to raise and repair several of the naval vessels that were put back in action before the end of World War II;

Whereas of the 2,403 Americans killed in connection with the attack on Pearl Harbor, 68 were civilians, and of the 1,178 Americans wounded in connection with the attack, 35 were civilians;

Whereas Federal civilian employees exhibited the highest sense of patriotism and exemplary performance at Pearl Harbor and during World War II;

Whereas on December 4, 1991, ceremonies coordinated by the National Park Service will be held in the State of Hawaii to recognize the contributions of Federal civilian employees; and

Whereas we should honor these distinguished individuals during the commemoration of the fiftieth anniversary of the attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 4, 1991, is designated as "Federal Civilian Employees Remembrance Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities recognizing the important contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II, and thanking such dedicated and committed individuals for their sacrifice and devotion to their country.

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the several resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

HEALTH CARE FOR COAL MINERS

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, I rise on behalf of the 35,000 retired coal miners and their families in West Virginia who depend on the UMWA health and retirement funds for health care benefits in support of the Coal Industry Retiree Health Benefit Act of 1991 being introduced today in the House of Representatives.

The pressing need to establish a sound and viable health care delivery system for miners and their families is second to none. Yet, today, the health funds are in deficit, threatening the continuity of benefits to both existing and future retirees.

Currently about 60 percent of all beneficiaries under the health funds are miners who retired from companies that have gone out of business. An additional 15 percent are retired from companies which have, simply put, walked away from their responsibilities to provide health care to their former employees. As such, 75 percent of the retirees served by the funds never worked for, or had any connection with, a currently contributing company.

This is not only causing a growing deficit in the funds, but means that the responsibility for providing these retirees with health care coverage is being shouldered by members of the Bituminous Coal Operators Association. The result: For every dollar current BCOA member companies contribute for their own retirees they pay $3 for other companies' retirees.

I would submit that this is an unjust situation.

It should be noted that the funds are unique, and what would normally be a matter solely for the private sector is not in this instance. There is a federal responsibility to these funds. The genesis for the funds dates back to 1946 in an agreement between then-UMW President John L. Lewis and the Federal Government to resolve a long-running labor dispute. At the time, President Truman had ordered the Interior Secretary to take possession of all bituminous coal mines in the country in an effort to break a United Mine Workers of America strike. Eventually, Lewis and Secretary Julius Krug reached an agreement that included an industrywide, miner controlled health plan.

The legislation being introduced today in the House is identical to the measure sponsored by the junior Senator from West Virginia, JAY ROCKEFELLER. The Senator explained the bill in great detail when he introduced it on November 19, 1991, and I would refer my colleagues to his remarks as to the particulars of this measure. I would, however, note that nobody is eager to place a new tax on the coal industry in this country. Nor, should this be viewed as a matter of union versus nonunion companies.

The bottom line is that we, as a Nation, must ensure that retired coal miners and their families are provided with health care coverage, now and in the future. I believe that the bill being introduced today represents our best chance to reach that goal.

RECESS

The SPEAKER pro tempore (Mr. MFUME). The Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 45 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 0040

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. BROWN] at 12 o'clock and 43 minutes a.m., on November 27, 1991 (Legislative day of November 26, 1991).

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 543. An Act to establish the Manzanar National Historic Site in the State of California, and for other purposes.

H.R. 2370. An Act to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes.

H.R. 3049. An Act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization.

H.R. 3508. An Act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

The message also announced, That the Senate insists upon its amendment to the bill (H.R. 3508) "An Act to amend Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, Mr. HATCH, and Mrs. KASSEBAUM to be the conferees on the part of the Senate.

The message also announced, That the Senate agrees to the amendments of the House to bill (S. 1532) entitled "An Act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes" with an amendment.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes.

S. 447. An act to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 452. An act to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes.

S. 606. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 1187. An act to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes.

S. 1528. An act to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes.

S. 1577. An act to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the Act, and for other purposes.

S. 1707. An act to authorize the establishment of the Fort Totten National Historic Site.

S. 1743. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic River System, and for other purposes.

S. 1770. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes.

S. 2098. An act to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration.

S.J. Res 23. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

ELECTION OF MEMBER TO A STANDING COMMITTEE

Mr. HOYER. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 308), and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 308

Resolved, That the following named Member be, and is hereby elected to the following standing committee of the House of Representatives:

Committee on Public Works and Transportation: Lucien Blackwell, Pennsylvania.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.J. RES. 157, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS FOR RELIEF FROM THE EFFECTS OF NATURAL DISASTERS, FOR OTHER URGENT NEEDS, AND FOR INCREMENTAL COST OF OPERATION DESERT SHIELD/DESERT STORM ACT OF 1992

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes:

CONFERENCE REPORT (H. REPORT. 102–394)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 157) "making technical corrections and correcting enrollment errors in certain Acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the joint resolution, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

MISSILE PROCUREMENT, ARMY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Missile procurement, Army", $78,000,000, to remain available for obligation until September 30, 1994, and in addition, $67,000,000 to be derived by transfer from "Missile procurement, Air Force, 1991/1993", to remain available for obligation until September 30, 1993.

SHIPBUILDING AND CONVERSION, NAVY

For an additional amount for "Shipbuilding and conversion, Navy", for LSD–41 dock landing ship, cargo variant program, advance procurement of engines and generators, $25,000,000, to remain available for obligation until September 30, 1996.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve equipment", $10,100,000, to remain available until September 30, 1994, for the purchase of one MH–60G helicopter.

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF DEFENSE—MILITARY

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental cost of the Department of Defense, the Department of Veterans Affairs, and the Department of Transportation associated with operations in and around the Persian Gulf as part of operations currently known as Operation Desert Shield (including Operation Desert Storm) and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102–28), in addition to the amounts that may be transferred to appropriations available to the Department of Defense and other Departments pursuant to that Act, not to exceed $3,968,500,000 may be transferred during fiscal year 1992 from either the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund, to the following accounts in not to exceed the following amounts:

OPERATIONS AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additionl amount for "Operation and maintenance, Army", $227,300,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $270,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $75,000,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", $23,200,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", $28,300,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $41,900,000.

PROCUREMENT

(TRANSFER OF FUNDS)

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $270,800,000, to remain available for obligation until September 30, 1994.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile procurement, Army", $21,800,000, to remain available for obligation until September 30, 1994.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of weapons and tracked combat vehicles, Army", $63,000,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other procurement, Army", $80,500,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $521,000,000, to remain available for obligation until September 30, 1994.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons procurement, Navy", $8,100,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other procurement, Navy", $112,700,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $4,300,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft procurement, Air Force", $309,500,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $560,000,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, DEFENSE AGENCIES

For an additional amount for "Procurement, Defense Agencies", $76,900,000, to remain available for obligation until September 30, 1994.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

(TRANSFER OF FUNDS)

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, development, test and evaluation, Army", $47,800,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, development, test and evaluation, Navy", $6,100,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, development, test and evaluation, Air Force", $24,300,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, development, test and evaluation, Defense Agencies", $28,100,000, to remain available for obligation until September 30, 1993.

DEFENSE BUSINESS OPERATIONS FUND

(TRANSFER OF FUNDS)

For an additional amount for "Defense business operations fund", $1,140,000,000.

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,900,000, to remain available for obligation until expended.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION—MEDICAL CARE

(TRANSFER OF FUNDS)

For an additional amount for "Medical care", $10,000,000.

DEPARTMENT OF DEFENSE—MILITARY

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred pursuant to the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102–28) and under the terms and conditions of that Act, during the fiscal year 1992, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Act in amounts not to exceed $6,282,400,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal year 1992: Provided, That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

To be derived by transfer, $685,000,000 for "Military personnel, Army".

MILITARY PERSONNEL, NAVY

To be derived by transfer, $70,000,000 for "Military personnel, Navy".

MILITARY PERSONNEL, MARINE CORPS

To be derived by transfer, $18,000,000 for "Military personnel, Marine Corps".

MILITARY PERSONNEL, AIR FORCE

To be derived by transfer, $81,000,000 for "Military personnel, Air Force".

RESERVE PERSONNEL, ARMY

To be derived by transfer, $80,000,000 for "Reserve personnel, Army".

RESERVE PERSONNEL, AIR FORCE

To be derived by transfer, $4,000,000 for "Reserve personnel, Air Force".

NATIONAL GUARD PERSONNEL, ARMY

To be derived by transfer, $10,000,000 for "National Guard personnel, Army".

NATIONAL GUARD PERSONNEL, AIR FORCE

To be derived by transfer, $3,000,000 for "National Guard personnel, Air Force".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

To be derived by transfer, $2,717,500,000 for "Operation and Maintenance, Army".

OPERATION AND MAINTENANCE, NAVY

To be derived by transfer, $1,080,000,000 for "Operation and maintenance, Navy".

OPERATION AND MAINTENANCE, MARINE CORPS

To be derived by transfer, $165,000,000 for "Operation and maintenance, Marine Corps".

OPERATION AND MAINTENANCE, AIR FORCE

To be derived by transfer, $1,241,400,000 for "Operation and maintenance, Air Force".

OPERATION AND MAINTENANCE, ARMY RESERVE

To be derived by transfer, $6,000,000 for "Operation and maintenance, Army Reserve".

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

To be derived by transfer, $59,200,000 for "Operation and maintenance, Air Force Reserve".

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

To be derived by transfer, $3,600,000 for "Operation and maintenance, Army National Guard".

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

To be derived by transfer, $58,700,000 for "Operation and maintenance, Air National Guard".

GENERAL PROVISIONS—CHAPTER I

SEC. 101. The prohibition in section 132(a)(2) of Public Law 101–189 (103 Stat. 1383) does not apply to the obligation of $70,200,000 provided in "Aircraft procurement, Army" of chapter I, title I for the procurement of AH–64 Apache attack helicopters.

SEC. 102. Of the funds provided in title III of Public Law 101–165 for "Other procurement, Air Force", not more than $80,000,000 shall be available, and may be obligated and expended, for costs arising from the cancellation of the Alaskan OTH–B radar program and powerplant lease: Provided, That such funds will be available for contract termination, site restoration, modification of facilities and other costs associated with the termination of the Alaskan OTH–B radar program and powerplant lease, or the transfer and modification of facilities and material located at or procured for the Alaskan OTH–B radar program or powerplant to any other Department of Defense activitiy or program at the OTH–B radar powerplant site.

KURDISH PROTECTION FORCE

(TRANSFER OF FUNDS)

SEC. 103. In addition to other transfer authority granted by this or any other Act, and under the terms and conditions of the "Operations Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102–28), the Secretary of Defense may transfer not to exceed $100,000,000 for costs incurred during fiscal years 1991 and 1992 from the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund to appropriate Department of Defense appropriations for costs incurred through February 1992 in support of U.S. military forces in and around Iraq and Turkey known as the Kurdish Protection or Ready Reaction Force.

RESTRICTION OF ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a number certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

(d) Any military equipment of the United States, including battle tanks, armored combat vehicles, and artillery, included within the Conventional Forces in Europe Treaty definition of "conventional armaments and equipment limited by the Treaty", which may be transferred to any other NATO country shall be subject to the notification procedures stated in section 523 of Public Law 101–513 and in section 634A of the Foreign Assistance Act of 1961.

MIDDLE EAST HUMANITARIAN RELIEF

Sec. 105. (a) Of the funds appropriated from the Defense Cooperation Account for the Kurdish Ready Reaction Force, up to $15,000,000 may be made available only for the prepositioning of relief supplies in the Middle East to meet emergency Kurdish and other Iraqi-related humanitarian needs and related transportation costs. (b) In addition, the Secretary of Defense may transfer up to $15,000,000 in additional funds from the Defense Cooperation Account to the appropriate appropriations accounts within the Department of Defense for these Kurdish and other Iraqi-related humanitarian purposes.

CLASSIFIED PROGRAM

SEC. 106. (a) In section 110 of the Classified Annex incorporated into the Department of Defense Appropriations Act, 1992, the matter beginning with "Notwithstanding" and ending with "Provided, That" shall have no force or effect.

(b) The funds described in section 110 of such Classified Annex may be obligated for the program described therein only in accordance with the Classified Annex incorporated into the National Defense Authorization Act for Fiscal Years 1992 and 1993.

SEC. 107. None of the funds available to the Department of Defense in fiscal year 1992 may be used by the Department of the Army to award a contract for the procurement of four-ton dolly jacks if such equipment is or would be manufactured outside the United States of America and would be procured under any contract, agreement, arrangement, compact or other such instrument for which any provisions including price differential provisions of the Buy American Act of 1933, as amended, or any other Federal buy national law was waived: Provided, That the Secretary of the Army may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

(TRANSFER OF FUNDS)

SEC. 108. In addition to other transfer authority available to the Department of Defense, the Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $400,000,000, to the appropriate accounts within the Department of Defense for reducing the Soviet nuclear threat and for the purposes set forth in the Soviet Nuclear Threat Reduction Act of 1991 contained in H.R. 3807, as passed the Senate on November 25, 1991, and under the terms and conditions of such Act: Provided, That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds.

(TRANSFER OF FUNDS)

SEC. 109. In addition to other transfer authority available to the Department of Defense, the Secretary of Defense, upon the declaration of an emergency by the President under the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $100,000,000, to the appropriate accounts within the Department of Defense, in order to transport by military or commercial means, food, medical supplies, and others types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, and for the purposes set forth in section 301 of H.R. 3807, as passed the Senate on November 25, 1991, and under the terms and conditions of such section 301 of H.R. 3807: Provided, That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds: Provided further, That the Committees on Appropriations be notified of transfers under this provision fifteen days in advance.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

ADMINISTRATIVE PROVISION

Section 518(a) of the "General Provisions" in H.R. 2519, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, is amended by striking out "Section 662A(c)" and inserting in lieu thereof "Section 1722A(c)".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISION—HOME

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

(2) by adding at the end the following new paragraph:

"(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriations Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.5 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.".

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "American Samoa,"; and

(2) by adding at the end the following new paragraph:

"(24) The term 'insular area' means any of the following: Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.".

ADMINISTRATIVE PROVISION—STAFFING

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (H.R. 2519), is amended—

(1) in the appropriation paragraph entitled "Personal Services and Travel, Office of Public and Indian Housing" by striking "$10,424,000" and inserting in lieu thereof "$12,788,000" each time it appears in the paragraph;

(2) in the appropriating paragraph entitled "Personal Services and Travel, Office of Policy Development and Research" by striking "$10,705,000" and inserting in lieu thereof "$8,717,000"' each time it appears in the paragraph; and

(3) in the appropriating paragraph entitled "Personal Services and Travel, Office of General Counsel" by striking "$14,985,000" and inserting in lieu thereof "$14,609,000" each time it appeard in the paragraph.

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Of the funds made available under this head in Public Law 102–139, not to exceed $950,000, to remain available until September 30, 1993, shall be available for the purpose of providing financial assistance (through grant or contract made, to the maximum extent feasible, not later than 150 days after enactment of this Act) to facilitate the furnishing of legal and other assistance, without charge, to veterans and other persons who are unable to afford the cost of legal representation in connection with decisions to which section 7252(a) of title 38, United States Code, may apply, or with other proceedings in the Court, through a program that furnishes case screening and referral, training and education for attorney and related personnel, and encouragement and facilitation of pro bono representation by members of the bar and law school clinical and other appropriate programs, such as veterans service organizations, and through defraying expenses incurred in providing representation to such persons: Provided, That such grants or contracts shall be made by the Legal Services Corporation pursuant to a reimbursable payment from the United States Court of Veterans Appeals for the purposes described herein: Provided further, That the Legal Services Corporation is authorized to receive a reimbursable payment from the United States Court of Veterans Appeals for the purpose of providing the financial assistance described herein: Provided further, That no funds made available herein shall be used for the payment of attorney fees: Provided further, That, not later than 180 days after the enactment of this Act, and, again, not later than one year after a grant or contract is made pursuant to the provisions of this paragraph, the Legal Services Corporation and the United States Court of Veterans Appeals shall report to the appropriate committees of the Congress regarding the implementation of the provisions of this paragraph.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Of the funds appropriated for the wastewater treatment facilities fund under title VI of the Federal Water Pollution Control Act, up to one-half of one per centum may be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For emergency disaster assistance payments necessary to provide for expenses in presidentially-declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an additional amount for "Disaster relief", $943,000,000, to remain available until expended, of which $143,000,000 shall be available only after submission to the Congress of a formal budget request by the President designating the $143,000,000 as an emergency: Provided, That up to $1,250,000 of the funds made available under this heading may be transferred to, and merged with, amounts made available to the Federal Emergency Management Agency under the heading "Salaries and expenses" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies

Appropriations Act, 1992 (Public Law 102–139): Provided further, That hereafter, beginning in fiscal year 1993, and in each year thereafter, notwithstanding any other provision of law, all amounts appropriated for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that are in excess of either the historical annual average obligation of $320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, shall be considered as "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and such amounts shall hereafter be so designated.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

The last proviso under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations, 1990 (Public Law 101–144), is hereby deleted.

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For necessary expenses of the National Commission on Severely Distressed Public Housing, in carrying out its functions under title V of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235), $250,000, to remain available until expended, to be derived by transfer from amounts provided to the Department of Housing and Urban Development under the heading "Salaries and expenses" in Public Law 102–139.

CHAPTER III

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

In view of the occurrence of recent natural disasters—similar to the volcano eruption of 1980, the earthquake of 1989, and the hurricane of 1989—droughts, floods, freezes, tornadoes, and other catastrophes which resulted in billions of dollars in damages, and in an effort to restore the economy and to alleviate the effects of the disasters, an additional $1,750,000,000, to remain available until expended, is hereby made available for losses associated with 1990 crops as authorized by P.L. 101–624, and for losses associated with 1991 and 1992 crops under the same terms and conditions: Provided, That $995,000,000 of this amount is available for payments to producers for losses on either 1990 or 1991 crops, at the producer's option: Provided further, That the remaining $755,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That this $755,000,000 shall be available for crop losses for one of the years 1990, 1991 or 1992, at the producer's option, but shall not be for a year for which disaster payments were previously provided to the producer: Provided further, That $100,000,000 of the $755,000,000 is set aside for program crops planted in 1991 for harvest in 1992: Provided further, That, consistent with the amounts made available above, emergency loans made with respect to damage to an annual crop planted for harvest in 1991 under subtitle C of the Consolidated Farm and Rural Development Act shall be made available without regard to the purchase of crop insurance under the Federal Crop Insurance Act by the producer who requests such a loan.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food and Rural Resources for potato disease detection, control, prevention, eradication and related activities including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine and any unobligated balances of funds previously appropriated or earmarked for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

TITLE II–GENERAL PROVISIONS

SEC. 200. FINDING OF DIRE EMERGENCY CONDITIONS.—The Congress finds that—

(a) the President has designated and requested the Congress to designate over $1,140,000,000 in 1991 international assistance funds to meet emergency needs in foreign lands;

(b) natural disasters (including floods, droughts, tornadoes, hurricanes, earthquakes, freezes, and typhoons) have occurred in the United States and its territories causing loss of life, human suffering, loss of income, and property loss or damage with dire emergency financial situations;

(c) since October 1990, there have been 44 presidentially-declared disasters and 89 disasters declared by the Secretary of Agriculture affecting every area of the Nation in almost every State for which Federal funds are not available to meet emergency needs, resulting in calls for the National Guard and other assistance;

(d) as a consequence of these disasters, millions of acres of land are or were under water, millions of acres of farm land are not able to be planted, and highways, dams, roads, and bridges have not been repaired. Many of the people in communities, counties, States, and many private businesses have been dangerously affected, and the local authorities in many cases are unable to meet the financial costs; and

(e) the combination of the effects of these conditions and the current recession constitutes a dire emergency situation (8,582,000 people are unemployed, total employment has declined by over 1,400,000 jobs in the last year, over 7,500 businesses are failing each month, and foreign purchases of United States land and companies are increasing) which will, if not corrected by increased production, necessitate the need for a Job Creation Bill similar to what was enacted in 1983.

SEC. 201. No part of any appropriation contained in this joint resolution shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

CONGRESSIONAL DESIGNATION OF EMERGENCY

SEC. 202. Although the President has only designated portions of the funds in this joint resolution pertaining to the incremental costs of Desert Shield/Desert Storm and certain Federal Emergency Management Agency costs as "emergency requirements", the Congress believes that the same or higher priority should be given to helping American people recover from natural disaters and other emergency situations as has been given to foreign aid "emergency" needs. The Congress therefore designates all funds in Titles I and II of this joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RESTRICTIONS ON ASSISTANCE FOR KENYA

SEC. 203. (a) Restrictions.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be made available for Kenya unless the President determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to advocate the establishment of political parties and organizations; and

(5) has implemented the principle of freedom of movement, including the right of all citizens of Kenya to leave and return to their country.

(b) PROHIBITION.—

(1) LIMITATION ON NEW PROJECT ASSISTANCE.—During fiscal year 1992, funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 that are provided for assistance to the Government of Kenya for new projects shall be made available only for new projects—

(A) that promote basic human needs, directly address poverty, enhance employment generation, and address environmental concerns; or

(B) to improve the performance of democratic institutions, or otherwise promote the objectives being sought in the certification required by subsection (a).

(2) CONGRESSIONAL NOTIFICATION.—During fiscal year 1992, none of the funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of the Foreign Assistance Act of 1961 shall be obligated unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(3) APPLICABILITY.—The provisions of paragraphs (1), and (2) of this subsection shall cease to apply 30 days after the certification described in subsection (a) is made to the Congress.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

SENSE OF THE SENATE REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

SEC. 204. (a) FINDINGS.—The Senate makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent, democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectivization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of people to peaceful and democratic self-determination.

(8) As recognized in Article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

SEC. 205. The appropriation entitled "Fishing Vessel Obligation Guarantees" in Public Law 102–140 is amended by striking the sum "$10,000,000" and inserting in lieu thereof the sum "$24,000,000".

SEC. 206. From the funds made available for Land Acquisition of the United States Fish and Wildlife Service in the fiscal year 1992 Department of the Interior and Related Agencies Appropriations Act (Public Law 102–154), $965,000 is hereby appropriated by transfer to the Resource Management account of the United States Fish and Wildlife Service.

SEC. 207. Notwithstanding any other provisions of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States v. Exxon Corporation and Exxon Shipping Company (Case No. A90–015–1CR and 2CR), hereinafter the Plea Agreement, United States v. Exxon Corporation et al. (Civil No. A91–082–CIV) and State of Alaska v. Exxon Corporation et al. (Civil No. A91–083–CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited into the Natural Resource Damage Assessment and Restoration Fund established by Public Law 102–154. Such amounts, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses for assessment and restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23–24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: Provided, That such amounts (and accrued interest) shall remain available until expended: Provided further, That such amounts may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree: Provided further, That herein and hereafter any amounts deposited into the Natural Resource Damage Assessment and Restoration Fund shall be invested by the Secretary of the Treasury in interest bearing obligations of the United States to the extent such amounts are not, in his judgment, required to meet current withdrawals: Provided further, That interest earned by such investments shall be available for obligation without further appropriation: Provided further, That, for fiscal year 1992, the Federal Trustees shall provide written notification of the proposed transfer of such amounts to the Appropriations Committees of the House of Representatives and the Senate thirty days prior to the actual transfer of such amounts: Provided further, That, for fiscal year 1993 and thereafter, the Federal Trustees shall submit in the President's Budget for each fiscal year the proposed use of such amounts.

WAIVER OF CERTAIN RECOVERY REQUIREMENTS

SEC. 208. Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa–12(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. 209. (a) Section 307E of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c), is amended to read as follows:

"SEC. 307E. (a) The Architect of the Capitol, subject to the direction of the Joint Committee on the Library, is authorized to—

"(1) construct a National Garden demonstrating the diversity of plans, including the rose, our national flower, to be located between Maryland and Independence Avenues, S.W., and extending from the Botanic Garden Conservatory to Third Streets, S.W., in the District of Columbia; and

"(2) solicit, receive, accept, and hold gifts, including money, plant material, and other property, on behalf of the Botanic Garden, and to dispose of, utilize, obligate, expend, disburse, and administer such gifts for the benefit of the Botanic Garden, including among other things, the carrying out of any programs, duties or, functions of the Botanic Garden, and for constructing, equipping, and maintaining the National Garden referred to in paragraph (1).

"(b)(1) Gifts or bequests of money under subsection (a)(2) shall, when received by the Architect, be deposited with the Treasurer of the United States, who shall credit these deposits as offsetting collections to an account entitled "Botanic Garden, Gifts and Donations". The gifts or bequests described under subsection (a)(2) shall be accepted only in the total amount provided in appropriations acts.

"(2) Receipts, obligations, and expenditures of funds under this section shall be included in annual estimates submitted by the Architect for the operation and maintainance of the Botanic Garden and such funds shall be expended by the Architect, without regard to section 3709 of the Revised Statutes, for the purposes of this section after approval in appropriations Acts. All such sums shall remain available until expended, without fiscal year limitation.

"(c)(1) In carrying out this section and his duties, the Architect of the Capitol may accept personal services, including educationally related work assignments for students in nonpay status, if the service is to be rendered without compensation.

"(2) No person shall be permitted to donate his or her personal services under this section unless such person has first agreed, in writing, to waive any and all claims against the United States arising out of or in connection with such services, other than a claim under the provisions of chapter 81 of title 5, United States Code.

"(3) No person donating personal services under this section shall be considered an employee of the United States for any purpose other than for purposes of chapter 81 of title 5, United States Code.

"(4) In no case shall the acceptance of personal services under this section result in the reduction of pay or displacement of any employee of the Botanic Garden.

"(d) Any gift accepted by the Architect of the Capitol under this section shall be considered a gift to the United States for purposes of income, estate, and gift tax laws of the United States.".

(b) Pursuant to section 307E of the Legislative Branch Appropriations Act, 1989, not more than $2,000,000 shall be accepted and not more than $2,000,000 of the amounts accepted shall be available for obligation by the Architect for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden.

SEC. 210. (a) The caption for section 713 of title 18, United States Code, is amended as follows:

"§713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seal of the United States Senate."

(b) Subsection (a) of Section 713 of title 18, United States Code, is amended by inserting "or the seal of the United States Senate," after "Vice President of the United States,".

(c) Subsection (c) of section 713 of title 18, United States Code, is—

(1) amended to read as follows:

"A violation of the provisions of this section may be enjoined at the suit of the Attorney General,

(1) in the case of the great seal of the United States and the seals of the President and Vice President, upon complaint by any authorized representative of any department or agency of the United States; and

(2) in the case of the seal of the United States Senate, upon complaint by the Secretary of the Senate."; and

(3) redesignated as subsection (d).

(d) Section 713 of title 18, United States Code, is amended by inserting after subsection (b) the following new subsection:

"(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $250 or imprisoned not more than six months, or both.".

(e) The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item for section 713 and inserting the following:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seal of the United States Senate.".

SEC. 211. Section 311(i) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e(i)) is amended by striking out "with respect to sessions of Congress beginning with the second session of the One Hundred Second Congress," and inserting in lieu thereof "beginning on May 1, 1992,".

SEC. 212. The Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189) and the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510) and as provided for in the Military Construction Appropriations Act, 1990 (Public Law 101–148) and the Military Construction Appropriations Act, 1991 (Public Law 101–519).

SEC. 213. Unobligated funds in the amount of $990,000 authorized and appropriated under Public Law 102–143 for bridge safety repairs in Vermont shall be made available as follows—$350,000 to the City of Barre for the Granite Street Bridge, $350,000 to the City of Montpelier for the Bailey Avenue Bridge, $90,000 to the Town of Brandon for the replacement of the Dean Bridge, and $90,000 for the Town of Williston and $110,000 for the Town of Essex for the North Williston Road Bridge—without regard to whether or not such expenses are in-

curred in accordance with sections 101, 106, 110, and 120 of title 23 of the United States Code.

SEC. 214. Section 4001(a)(14) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(14)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C)(i) notwithstanding any other provision of this title, during any period in which an individual possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an affected air carrier of which he was an accountable owner, whether through the ownership of voting securities, by contract, or otherwise, the affected air carrier shall be considered to be under common control not only with those persons described in subparagraph (B), but also with all related persons; and

"(ii) for purposes of this subparagraph, the term—

"(I) 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds a certificate of public convenience and necessity under section 401 of such Act for route number 147, as of November 12, 1991;

"(II) 'related person' means any person which was under common control (as determined under subparagraph (B)) with an affected air carrier on October 10, 1991, or any successor to such related person;

"(III) 'accountable owner' means any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Interanl Revenue Code of 1986 more than 50 percent of the total voting power of the stock of an affected air carrier;

"(IV) 'successor' means any person that acquires, directly or indirectly through the application of section 318 of the Internal Revenue Code of 186, more than 50 percent of the total voting power of the stock of a related person, more than 50 percent of the total value of the securities (as defined in section 3(20) of this Act) of the related person, more than 50 percent of the total value of the assets of the related person, or any person into which such related person shall be merged or consolidated; and

"(V) 'individual' means a living human being;".

This joint resolution may be cited as the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operations Desert Shield-Desert Storm' Act of 1992".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the joint resolution and agree to the same.

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES
(except as to the disposition of sections 213 and 214 of the Senate amendment),
DAVID R. OBEY,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
VIC FAZIO,
W.G. (BILL) HEFNER,
JOSEPH M. MCDADE,
JOHN T. MYERS,
CLARENCE MILLER,
CARL PURSELL,
BILL GREEN,
JOE SKEEN,
Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PAT LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
BROCK ADAMS,
WYCHE FOWLER, JR.,
MARK O. HATFIELD,
TED STEVENS,
JAKE GARN,
THAD COCHRAN,
ROBERT W. KASTEN, JR.,
ALFONSE M. D'AMATO,
WARREN RUDMAN,
ARLEN SPECTER,
PETE V. DOMENICI,
DON NICKLES,
PHIL GRAMM,
CHRISTOPHER S. BOND,
SLADE GORTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONGERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes to the two Houses on the amendment of the Senate to the joint resolution (H.J. Res. 157) making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House in the report accompanying H.R. 3543 (H. Rept 102–255) which is not changed by the report of the Senate (S. Rept 102–216), and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

The conference agreement deletes technical corrections and enrolling error corrections to four fiscal year 1991 appropriations acts that were proposed by the House and stricken by the Senate. These corrections have already been made in an earlier supplemental appropriations act, Public Law 102–27.

SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY PROCURMENT

MISSILE PROCUREMENT, ARMY

(INCLUDING TRANSFER OF FUNDS)

PATRIOT

The conferees have provided $145,000,000, including $67,000,000 derived by transfer from contract savings on the Maverick missile, for the procurement of additional Patriot missiles. The Army is directed to procure as many new missiles as possible with the funding available.

SHIPBUILDING AND CONVERSION, NAVY

The conferees agree to provide $25,000,000 in advance procurement funding to finance long lead items, including engines and generators, for the LSD cargo variant.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to provide $10,100,000 for the purchase of one MH-60G helicopter for the Air National Guard.'

TITLE I–EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Chapter I

DEPARTMENT OF DEFENSE—MILITARY

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

The conferees agree to provide $3,968,500,000 for additional incremental costs of the Department of Defense, the Department of Veterans Affairs, and the Department of Transportation, as follows:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

The conferees agree not to provide an additional amount for National Guard Personnel, Army, as proposed by the Senate instead of $40,200,000 as proposed by the House in H.R. 3543.

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

The conference agreement on additional transfers for Operation and Maintenance is as follows:

Operation and Maintenance:	*Conference*
Army	$227,300,000
Navy	270,000,000
Marine Corps	75,000,000
Army Reserve	23,200,000
Navy Reserve	28,300,000
Army National Guard	41,900,000
Total	665,700,000

PROCUREMENT

The supplemental request proposed transfers from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund to the procurement accounts in the amount of $1,472,900,000. The conference agreement includes transfers totalling $2,028,600,000 as follows:

Appropriation Account/Line Item	Quantity	Amount
Aircraft Procurement, Army:		
AH–64 Helicopter	6	$70,200,000
CH–47D Modification	2	27,000,000
OH–58D Modifications	12	90,200,000
UH–60 Helicopter	6	38,400,000
UH–60 Helicopter (Replaces UH–1)	7	45,000,000
Total		270,800,000
Missile Procurement, Army:		
TOW/STINGER Restockage		21,800,000
Total		21,800,000
Procurement of Weapons and Tracked Combat Vehicles, Army:.		
M1A1 Tanks	18	63,000,000
Total		63,000,000
Other Procurement, Army:		
HMMWV	155	4,800,000
HEMTT M977	42	6,600,000
HEMTT M978	161	27,300,000
5 Ton Truck FMTV	436	41,800,000
Total		80,500,000
Aircraft Procurement, Navy:		
SH–60B Helicopter	1	17,000,000
F/A–18 Aircraft	5	135,000,000
F/A–18 Aircraft (Replaces A–6)	4	108,000,000

Appropriation Account/Line Item	Quantity	Amount
AV–8B Aircraft	6	230,000,000
AH–1W Helicopter (Replaces AH–1J)	2	18,000,000
OV–10 Series Modifications		13,000,000
Total		521,000,000
Weapons Procurement, Navy:		
5–inch 54 Gun Mount	1	8,100,000
Total		8,100,000
Other Procurement, Navy:		
Civil Engineering Equipment		97,700,000
MK–103 Mine Clearing Sleds		2,100,000
Trucks		300,000
Medical Support Equipment		12,600,000
Total		112,700,000
Procurement, Marine Corps:		
Light Armored Vehicle	4	4,300,000
Total		4,300,000
Aircraft Procurement, Air Force:		
F–15E Aircraft	3	268,800,000
F–117A Aircraft		40,700,000
Total		309,500,000
Other Procurement, Air Force:		
Laser Guided Bomb Kits		460,000,000
Combined Effects Munitions		100,000,000
Total		560,000,000
Procurement, Defense Agencies:		
AC–130 Aircraft (Spec. Ops. Command)	1	71,400,000
UH–60L Helicopter (Spec. Ops. Command)	1	5,500,000
Total		76,900,000
Grand Total		2,028,600,000

AVAILABILITY OF FUNDS

The conference agreement retains Senate language in each of the procurement appropriations making the funds available for obligation until September 30, 1994.

AH–64 APACHE HELICOPTER

The conference agreement includes $70,200,000 for procurement of six AH-64 Apache helicopters, as proposed by the Senate. The conference agreement also retains Senate Section 101 which sets aside a provision of Public Law 101–189 to make this procurement possible.

AIR FORCE MUNITIONS

The Senate bill included a provision permitting the use of $100,000,000 of the $460,000,000 included for procurement of laser guided bomb kits for the procurement instead of combined effects munitions. The conference agreement deletes this provision and includes $460,000,000 for procurement of laser guided bomb kits and $100,000,000 for the procurement of combined effects munitions.

AC–130 GUNSHIP

The conferees agree with the House language in H.R. 3543 that an AC-130 "U" model shall be procured with funding provided under Procurement, Defense Agencies.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The supplemental request proposed transfers from the Defense Cooperation Acccount or the Persian Gulf Regional Defense Fund to the Research, Development, Test and Evaluation accounts in the amount of $108,500,000. The conference agreement includes transfers totalling $106,300,000 as follows:

	Conference
Research, Development, Test and Evaluation, Army:	
Chem-Bio Defense Equipment—Adv. Development	$7,500,000
Night Vision System—Eng. Development	8,000,000
Chemical/Smoke Equipment Defeating Technologies	1,300,000
Special Army Program	1,600,000
Combat Vehicle and Automotive Technology	1,100,000
Military Engineering Technology	1,100,000
TRACTOR HOLE	2,100,000
Materials and Structures Adv. Technology	0
Joint Surveillance and Target Attack Radar System	0
Logistics and Engineer Equipment—Eng. Development	2,100,000
Army Test Ranges	1,400,000
Exploitation of Foreign Items	6,200,000
Base Operations	0
Landmine War/Barrier Adv. Technology	1,700,000
Various Programs Under $1 million	13,700,00
Total, RDT&E, Army	47,800,000
Research, Development, Test and Evaluation, Navy:	
Tactical Command System	1,300,000
Mine Countermeasures	2,200,000
Various Programs Under $1 million	2,600,000
Total, RDT&E, Navy	6,100,000
Research, Development, Test and Evaluation, Air Force:	
Airborne Warning and Control System (AWACS)	7,300,000
C(3) Advanced Development	0
EW Development	1,800,000
Joint Surveillance System	3,300,000
Constant Source	3,800,000
Armament Ordnance Development	700,000
Surface Defense Suppression	3,400,000
Various Programs Under $1 million	4,000,000
Total, RDT&E, Air Force	24,300,000
Research, Development, Test and Evaluation, Defense Agencies:	
Flying Carpet	10,300,000
DART	5,600,000
Other DARPA	6,300,000
OSD	2,800,000
DCA	300,000
SOCOM	2,700,000
DSPO	100,000
Total, RDT&E, Defense Agencies	28,100,000
Total, Research, Development, Test and Evaluation:	$106,300,000

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

MEDICAL RESEARCH

The conferees agree that within the funds appropriated in the Department of Defense Appropriations Act, 1992, for medical technology in Research, Development, Test and Evaluation, Army, $3,000,000 shall be made available for the PYROCAP B-136 project as described in the conference report of the National Defense

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

OVER THE HORIZON TARGETING

The conferees direct that of the $33,977,000 appropriated in fiscal year 1992 for the Tactical Command System (program element 0604231N), $2,974,000 is only for Over the Horizon Targeting which had been requested by the Navy in program element 0604707N. DD Form 1414 for fiscal year 1992 shall show the Over the Horizon Targeting funds as an item of special interest, a decrease to which requires prior Congressional approval.

155MM LIGHTWEIGHT HOWITZER

The report accompanying the National Defense Authorization Act for Fiscal Years 1992 and 1993 recommended the provision of $2,500,000 for the Marine Corps and Army Lightweight 155mm Howitzer program. The conferees on H.J. Res. 157 support that endorsement. The conferees direct that up to $2,500,000 of the funds appropriated in the Department of Defense Appropriations Act, 1992, for Research, Development, Test and Evaluation, Navy, shall be used only for necessary planning and preparation of the fiscal year 1993 Lightweight 155mm Howitzer competitive demonstration program.

DEFENSE BUSINESS OPERATIONS FUND

(TRANSFER OF FUNDS)

The conference agreement on additional transfers for the Defense Business Operations Fund is as follows:

	Conference
Defense Business Operations Fund:	
Army Supply Operations	$410,000,000
Navy Supply Operations	450,000,000
Air Force Supply Operations	280,000,000
Total	1,140,000,000

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

The conferees agree to provide $17,900,000 for an additional amount for operating expenses of the Coast Guard. The conferees further agree that these amounts shall be available until expended.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINSTRATION

MEDICAL CARE

(TRANSFER OF FUNDS)

Transfers $10,000,000 from funds available for the costs of Operation Desert Shield/Desert Storm to medical care, instead of transferring $10,000,000 from the same source and earmarking the funds for marriage and family counseling services for veterans of the Persian Gulf War and their spouses and families, contingent upon authorizing legislation during this Congress, as proposed by the Senate. The conferees agree that the $10,000,000 should be available for a subsequently authorized program for marriage and family counseling services for veterans of the Persian Gulf War and their spouses and families (or for similar, currently authorized services if specific legislation is not enacted) and for other medical services for Persian Gulf veterans.

DEPARTMENT OF DEFENSE—MILITARY

(TRANSFER OF EXISTING FUNDS)

The conferees agree to provide authority to realign $6,282,400,000 of funds previously transferred pursuant to the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102–28).

GENERAL PROVISIONS—CHAPTER I

AH-64 APACHE HELICOPTER

The conferees agree to the Senate general provision (Sec. 101) which enables obligation of funds for the AH-64 Apache helicopter.

OTH-B RADAR

The conferees agree to the Senate provisions (Sec. 102) regarding the Over-the-Horizon Backscatter Radar.

KURDISH PROTECTION FORCE

(TRANSFER OF FUNDS)

The conferees agree to provide $100,000,000 by transfer for expenses resulting from U.S. participation in the Kurdish Protection Force (KPF) (Sec. 103). The conferees direct that no later than March 1, 1992, the Secretary of Defense shall provide the Committees on Appropriations of the House and Senate with a report detailing (1) the full costs of the KPF operation, to include the amount paid by other allied participants; (2) the rules of engagement under which the KPF operates, and (3) the assistance being provided to the KPF by the Government of Turkey.

RESTRICTIONS AND ARMS SALES TO SAUDI ARABIA AND KUWAIT

The conferees have included language proposed by the Senate (Sec. 104), which takes effect 120 days after the date of enactment of this joint resolution, restricting the use of funds to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until they have fully paid their mutually agreed commitments to the United States to support Operation Desert Shield/Desert Storm. The House bill contained no similar provision.

The conferees have included further language requiring the notification of United States military equipment transfers to other NATO countries under the provisions of the Conventional Forces in Europe Treaty.

PARKING TICKETS OWED BY DIPLOMATS OF SAUDI ARABIA AND KUWAIT

It has been brought to the attention of the conferees that diplomats of many countries have failed to pay parking fees and fines in both the District of Columbia and the City of New York. Special action was taken to notify foreign ambassadors of the obligation of diplomats to pay these fines in a letter from the Office of Foreign Missions of the Department of State in June, 1991.

Despite this letter, New York City records indicate that for 1989 and 1990 Saudi Arabian diplomats located at the Saudi Consulate and the Saudi Mission in New York City have 1,247 outstanding tickets valued at $41,151. Additionally, District of Columbia records indicate that 2,752 tickets owed by Saudi Arabian diplomats and valued at $121,250 are outstanding from the last three years

Diplomats of Kuwait, according to District of Columbia records, have 56 tickets valued at $2,465 still outstanding despite recent actions clearing up other overdue tickets.

The conferees are disturbed by this failure of foreign diplomats to live within simple domestic laws. The conferees warn that continued failure to pay parking fines by foreign diplomats will result in legislative consideration of measures both to restrict benefits granted to such countries and to restrict diplomatic privileges enjoyed by such countries.

MIDDLE EAST HUMANITARIAN ASSISTANCE

(TRANSFER OF FUNDS)

The conferees have modified language proposed by the Senate (Sec. 105) to give the Secretary of Defense discretionary authority to provide $15,000,000 from the "Defense Cooperation Account for the Kurdish Ready Reaction Force", and $15,000,000 from the "Defense Cooperation Account" for the prepositioning of humanitarian relief supplies in the Middle East. The conferees have included this provision in order to address needs that may occur related to Iraqi Kurds. The House had no similar language.

The conferees also agree that the Department of Defense is to thoroughly coordinate this program with the Office of Disaster Assistance within the Agency for International Development. Fiscal Year 1991 funds remain available for Middle East humanitarian support through the Agency for International Development, and the conferees want to make sure that the AID program and the DOD program are proceeding with proper coordination. The Committees on Appropriations are to be notified in advance on the use of the funds under this authority.

CLASSIFIED PROGRAM

The conferees agree to the Senate amendment (Sec. 106) modifying section 110 of the Classified Annex incorporated by reference into the "Department of Defense Appropriations Act, 1992". Additional guidance by the conferees is contained in a classified letter accompanying this statement of the managers.

FOUR-TON DOLLY JACKS

The conferees agree to include language (Sec. 107) which prohibits the use of fiscal year 1992 appropriated funds to procure four-ton dolly jacks outside the United States unless the Secretary of Defense determines such procurement is necessary in the interest of national security.

In February 1991, the Department awarded a contract to an overseas firm to procure 814 four-ton dolly jacks. Subsequently, this firm has failed to successfully complete first article testing on two occasions.

Therefore, the conferees direct the Department of Defense to terminate contract DAAA09–91–C–0353 if the contractor fails to complete first article testing.

SOVIET NUCLEAR WEAPONS CONTROL AND DESTRUCTION

The conferees agree to a general provision (Sec. 108) which would allow the Secretary of Defense to transfer up to $400,000,000 from fiscal year 1992 operation and maintenance funds and from cash balances in the working capital funds to other Department of Defense appropriation accounts to cover the costs of the United States Government in assisting the Soviet Union and/or emerging political structures on the territory of the former Soviet Union in dismantling nuclear weapons.

The conferees are adamant that any funds used for this purpose cannot come at the expense of the readiness of U.S. forces. In addition, the conferees agree that none of the funds for transfer may be derived from programs which were increased in the Department of Defense Appropriations Act for fiscal year 1992 above the amount requested. Further, no funds shall be transferred from environmental clean-up and natural and cultural resource management activities.

No funds may be transferred to provide U.S. assistance in destroying nuclear weapons unless the President first certifies to the Congress that the potential recipient is committed to making a substantial investment of its resources for dismantling or destroying such weapons; foregoing any military modernization that is designed to replace destroyed weapons of mass destruction; foregoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons; and taking adequate measures to prevent any transfer of nuclear weapons or their components to any third party.

The conferees further stipulate that the Secretary of Defense shall submit to the Committee on Appropriations for prior approval under established reprogramming procedures any proposed transfer authorized by this section.

EMERGENCY TRANSPORTATION

The conferees agree to a general provision (Sec. 109) authorizing the Secretary of Defense at the direction of the President to transfer funds from Department of Defense fiscal year 1992 funds and working capital accounts to the appropriate Department of Defense appropriations to allow the Department of Defense to transport by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein, in order to address emergency conditions which may arise. The provision of humanitarian assistance shall be carried out under the terms and conditions established as authorized by section 301 of H.R. 3807 as passed the Senate on November 25, 1991.

The conferees are adamant that any funds used for the purposes provided herein cannot come at the expense of the readiness of the United States Armed Forces. Further, the conferees stipulate that none of the funds for transfer may be derived from programs which were increased by the Department of Defense Appropriations Act for fiscal year 1992 above the amount requested. Further, no funds shall be transferred from environmental clean-up and natural and cultural resource management activities.

Finally, the conferees agree that the Secretary of Defense shall submit to the Committees on Appropriations for prior approval under established reprogramming procedures any proposed transfer authorized by this section.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

ADMINISTRATIVE PROVISION

Inserts language reflecting a recodification in a general provision in the 1992 VA, HUD, and Independent Agencies Appropriations Act, as proposed by the Senate. An identical provision is contained in H.R. 3543.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISIONS

Includes language adjusting the amounts appropriated for three salaries and expenses appropriations in the Department of Housing and Urban Development as proposed by the Senate, amended to permit four U.S. territories to participate in the HOME program. Both of these provisions are in H.R. 3543.

Concern has been expressed regarding potential 1992 staffing restrictions in HUD. The Department has recently indicted that it does not anticipate the need for any furloughs. In the future, HUD needs to more accurately estimate personal service costs and to better monitor employment levels in housing to ensure they do not increase beyond levels that can be funded.

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Inserts language as proposed by the Senate authorizing that not to exceed $950,000 of 1992 Court of Veterans Appeals' funds be available through a reimbursable payment to the Legal Services Corporation for grants or contracts to organizations that provide legal assistance to veterans in *pro se* cases before the court. The conferees wish to make clear that these funds will provide for a *demonstration* program in fiscal years 1992 and 1993. Further funding of these types of services will depend upon an independent evaluation of the demonstration program and the availability of funds.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Inserts language proposed by the Senate providing that up to one half of one percent of funds appropriated may be available as direct grants to Indian tribes for the construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF FUND

Appropriates $943,000,000 for the disaster relief fund, as proposed by the Senate in H.J. Res. 157 and the House in H.R. 3543. Of this amount, $800,000,000 has been designated as an emergency and therefore is not subject to the spending caps contained in the Budget Enforcement Act of 1990. The conferees have agreed that the remaining $143,000,000 will be available if the President submits a formal budget request and designates these funds as emergency in nature. This supplemental appropriation is urgently needed for disaster assistance to 38 states and territories. The Committees on Appropriations have been assured by both FEMA and OMB that this amount, when combined with unobligated balances, recoveries from prior years and the regular 1992 appropriation, will be sufficient to meet FEMA's costs for all outstanding prior year disasters, and a normal level of disaster activity for the remainder of the fiscal year.

In addition, language has been included that specifies that in future years, commencing with fiscal year 1993, only amounts in excess of either the historical average for disaster relief of $320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, will be considered "emergency" in nature under the Balanced Budget and Emergency Deficit Control Act of 1985. The conference agreement provides an automatic designation as an emergency on the part of Congress and the President for any amounts that are signed into law in the future that exceed the specified threshold. The conferees and the Administration agree that this language assures that the Committees on Appropriations will not be scored in future years for providing less than the historical average of $320,000,000 for the disaster relief fund.

Language is also included permitting FEMA to transfer up to $1,250,000 to salaries and expenses appropriation, (which would also be designated as an emergency), from the disaster relief fund as proposed by the Senate. These funds will support an additional 25 FTE to meet disaster assistance workload requirements.

The conferees also note that many projects resulting from the Loma Prieta earthquake have not yet been funded. Of the funds allocated for Loma Prieta disaster assistance activities, the conferees urge FEMA to expedit projects, such as Loma Prieta damaged hospitals, where critical and compelling community needs such as health care are at stake.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

Inserts language as proposed by the Senate repealing the development cost "cap" on the Comet Rendezvous Asteroid Flyby/Cassini mission as contained in the fiscal year 1990 VA, HUD, and Independent Agencies Appropriations Act. In the recently enacted 1992 NASA appropriation, the conferees agreed to reduce the CRAF/Cassini mission by $117,300,000. This reduction will cause a delay of approximately one year in the mission. That will result in an increase in the $1,600,000,000 existing development "cap." This proviso would repeal that dollar cap which was included in the 1990 appropriation bill. The conferees direct that a new CRAF/Cassini development cost "cap" be transmitted with the 1992 NASA operating plan. The conferees also want to restate the further direction contained in the conference report accompanying the 1992 bill requiring that NASA submit in connection with the fiscal year 1992 operating plan, proposed "caps" for all development (and where applicable) operations activities covering all programs funded within the agency. The conferees believe that this action is essential in view of the anticipated extremely limited budget resources available in the coming fiscal year.

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

The conferees have included $250,000 for the National Commission on Severely Distressed Public Housing, to be derived by transfer from the salaries and expenses account of the Department of Housing and Urban Development. These funds are necessary to permit the Commission to complete its work. The conferees expect the Commission to deliver its report to the Congress at the earliest possible date, but in no event later than June 1, 1992, to allow for consideration of its contents as part of the fiscal year 1993 appropriations bill.

CHAPTER III

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

The conference agreement includes $1,750,000,000 for disaster payments to farmers and ranchers to compensate them for losses suffered from natural disasters during crop years 1990, 1991, and 1992. The agreement provides the same smount proposed by the House in H.R. 3543 and the same amount proposed by the Senate.

The conference agreement earmarks $995,000,000 for disaster payments authorized by Public Law 101-624 for crop year 1990 and for crop year 1991 under the same terms and conditions. Payments are available for losses which occurred in either 1990 or 1991, at the producer's option.

The conference agreement also provides $755,000,000 for crop years 1990, 1991, and 1992 under the same terms and conditions as authorized in P.L. 101-624 which shall be available only upon receipt of an official budget request or requests.

The conference agreement amends Senate language which provided that for purposes of this Act the term "1991 crop" shall include any program crop planted in 1991 for harvest in 1992. The conferees were unable to finance losses of crops planted in 1991 for harvest in 1992 as a dire emergency at this time. But, the conferees have set aside $100,000,000 of the $755,000,000 to meet such problems, subject to receipt of an official budget request or requests.

The conferees will expect that all payment limitations now in law be implemented carefully and all applications for assistance be considered on a case-by-case basis.

CROP INSURANCE WAIVER FOR EMERGENCY LOANS

The conference agreement amends Senate language that waives the requirement to have crop insurance in 1990 and 1991 to obtain emergency loans. H.R. 3543 contained no similar provision. The agreement waives the requirement for 1991 only, since the 1990 requirement was waived previously.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

The conference agreement earmarks $530,000 of existing funds for a grant to the State of Maine Department of Agriculture for potato disease efforts as proposed by the Senate. H.R. 3543 contained no similar provision.

SOIL CONSERVATION SERVICE

EMERGENCY WATERSHED PROTECTION

The conference agreement deletes the $50,000,000 for the Emergency Watershed Protection Program proposed by the House in H.R. 3543 and the $28,000,000 proposed by the Senate.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

The conference agreement deletes the $5,000,000 for the Emergency Conservation Program proposed by the House in H.R. 3543. The Senate resolution contained no similar provision.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

The conference agreement deletes the $100,000,000 for the Special Supplemental Food Program for Women, Infants, and Children (WIC) proposed by both the House and the Senate. The fiscal year 1992 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act provided $2,600,000,000 for the WIC program, an increase of $250,000,000 or 10.6 percent over the fiscal year 1991 level. Since 1980 Congress has increased WIC funding by 253 percent, resulting in average monthly participation increasing from 1.9 million persons in 1980 to 4.9 million persons in 1991.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The conference agreement deletes funding that was proposed by the Senate in H.J. Res. 157 for Flood Control, Mississippi River and Tributaries, Operation and Maintenance, General and Flood Control and Coastal Emergencies.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

The conference agreement deletes language proposed by the Senate regarding the Buffalo Bill Dam Modification project in Wyoming.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

H.J. Res. 157 that would have appropriated $5,000,000 to the State Department, notwithstanding Sec. 15 of the State Department Basic Authories Act, for rewards for information leading to the arrest, return to trail, and conviction of international terrorists. Neither the House version of H.J. Res. 157 nor the House Bill (H.R. 3453) contained such funds.

The Senate amendment has been deleted because this supplemental appropriation of $5,000,000 would not meet the definition of an emergency, and would result in additional spending and thereby cause a sequester of funds in fiscal year 1992.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

The Conference agreement does not include the Senate amendment to H.J. Res. 157 which would have appropriated $300,000 for the Interjurisdictional Fisheries Program for the restoration of shellfishing beds in Rhode Island damaged by Hurricane Bob. Neither the House version of H.J. Res. 157 nor the House Bill (H.R. 3543) contained funds for this purpose.

In addition, the conference agreement does not include the provision in the House Bill (H.R. 3543) which would have appropriated $1,300,000 to restore lost computer and related telecommunications equipment destroyed by a fire at NOAA's Office of Administration in Suitland, Maryland. Neither the House version of H.J. Res. 157 nor the Senate amendment to H.J. Res. 157 included funds for this purpose.

The conference agreement does not include either the House or the Senate supplemental items for NOAA. The conferees now believe there are sufficient funds currently available to NOAA in fiscal year 1992, both from carryover balances and new appropriations, to handle these requirements.

U.S. INFORMATION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

The conference agreement does not include the Senate language in H.J. Res. 157 that would have provided for a transfer of $5,600,000 to USIA to allow for the continued participation of the United States in the 1992 Columbus Quincentennial Expositions in Seville, Spain, and Genoa, Italy. The transfer comes from funds provided to the Board for International Broadcasting for the Israel Relay Station project. Neither the House version of H.J. Res 157 nor the House Bill (H.R. 3543) contained such a transfer of funds.

The Senate language has been deleted because an identical provision has been included in the conference agreement on the Department of Defense Appropriations Act, 1992, which the House and Senate have already approved.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

Three provisions with respect to Interior and related agencies appropriations which were adopted by the House in H.R. 3543, Making Dire Emergency Supplemental Appropriations and Transfers for Relief from the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" for the Fiscal Year Ending September 30, 1992, and for Other Purposes, were not included by the Senate in H.J. Res. 157. The conference agreements with respect to those provisions are as follows:

First, no funding is provided for emergency reclamation projects under the abandoned mine reclamation fund in the Office of Surface Mining Reclamation and Enforcement. The House had provided $10,300,000 in Title I, Chapter V of H.R. 3543 for emergency abandoned mine reclamation projects. The Congress has recently addressed this issue in Public Law 102–154.

Second, no funding is provided for U.S. Geological Survey emergency assistance to local and State governments to assess geologic and hydrologic effects and develop preparedness and response plans for disasters. The House had provided $5,000,000 in Title I, Chapter V of H.R. 3543 for this program.

Third, no funding is provided for the Forest Service in the Department of Agriculture to address critical health and safety projects included in its maintenance, repair and restoration backlog. The House had provided $25,000,000 in Title I, Chapter V of H.R. 3543 to address the maintenance backlog.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL

The conference agreement deletes appropriation of $90,000,000 for the childhood immunization program proposed by the Senate. The House version of H.J. Res. 157 contained no funds for this purpose. H.R. 3543 as passed by the House included $90,000,000 for the program. The 1992 Labor–HHS–ED Appropriations Bill includes $297,845,000 for this purpose, an increase of $80,314,000 over fiscal year 1991. The conferees have deleted supplemental funding because of budgetary constraints.

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

The conference agreement deletes appropriation of $1,200,000,000 for the Head Start program proposed by the Senate. The House version of H.J. Res. 157 contained no funds for this purpose. H.R. 3543 as passed by the House included $1,200,000,000 for the program. The 1992 Labor–HHS–ED Appropriations Bill includes $2,201,800,000 for Head Start, an increase of $250,000,000 over fiscal year 1991. The conferees have deleted supplemental funding because of budgetary constraints.

It was recently brought to the conferees' attention that the White House Conference on Aging will run out of funds by December 31, 1991. While sufficient funds were provided in the fiscal year 1992 Labor, Health and Human Services and Education Appropriations Act for operations of the Conference, these funds were contingent upon enactment of authorizing legislation. This legislation will probably not be enacted until sometime next year. Therefore, the conferees would entertain a reprogramming request to continue current staff and mandatory costs for operation of the White House Conference until authorizing legislation is enacted. The conferees also expect, within thirty days of enactment of this legislation, to receive a full report on carryover balances and needs for the Conference for fiscal year 1992.

DEPARTMENT OF EDUCATION

FOREIGN LANGUAGE ASSISTANCE

It has been brought to the conferees' attention that final regulations regarding the use of fiscal year 1991 foreign language assistance funds have not yet been issued. The conferees feel that the Department has had more than sufficient time to issue these regulations and therefore direct the Department to issue final regulations within fifteen days of enactment of this legislation.

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

The conference agreement provides no funds for "Salaries and expenses, House of Representatives" instead of $50,000 as provided in H.R. 3543.

TITLE II—GENERAL PROVISIONS

The conference agreement inserts a Finding of Dire Emergency Conditions. Such a finding was included in H.R. 3543. No findings was included in H.J. Res. 157, as amended by the Senate. The conferees agree that dire emergency conditions exist and have repeated this finding in the resolution.

The conference agreement includes a limitation on the obligations of all funds in the joint resolution beyond fiscal year 1992 except as expressly provided as proposed by the Senate. The House parallel bill H.R. 3543 contained a similar provision.

CONGRESSIONAL DESIGNATION OF EMERGENCY REQUIREMENTS

The conference agreement includes a Congressional "emergency requirement" designation at section 202 that designates all funds in Titles I and II of the joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. Under section 251(b)(2)(D) of that Act, amounts appropriated for discretionary accounts that are designated as emergency requirements by the President and by Congress shall constitute automatic adjustments to the appropriate Budget Enforcement Act discretionary spending limits.

The conference agreement deletes a provision proposed by the Senate that would have made available only those funds the President designated, prior to enactment, as emergency requirements. There was no similar provision included in H.R. 3543.

The conference agreement deletes language proposed by the Senate in sections 213 and 214 dealing with abortion.

RESTRICTIONS ON FOREIGN ASSISTANCE FOR KENYA

Section 203. The conferees have modified Senate language on prohibiting foreign assistance to Kenya. The new language clarifies that the Presidential determination for Kenya must indicate that the Government of Kenya has taken significant steps toward allowing for the freedom to advocate the establishment of political parties and organizations. The House bill included no language on Kenya.

RECOGNITION OF UKRAINIAN INDEPENDENCE

Section 204. The conferees have agreed to include Sense of the Senate language concerning the recognition of the Ukraine. The Senate had proposed the language as a Sense of Congress. The House had no similar language.

MONITORING OF FOREIGN GRAIN

The conference agreement deletes Senate language in section 218 and 219 that required monitoring of domestic uses made of certain foreign grain after importation; including certification and quarterly reporting, customs and civil penalties, and suspension or debarment for use of foreign grain in certain agricultural trade programs. H.R. 3543 contained no similar provision.

FIRE BLIGHT

The conference agreement deletes Senate language in section 225 which amended the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that fire blight is included in the definition "damaging weather" for purposes of determining eligibility for disaster payments. Fire blight is a highly infectious bacterial disease of apples, pears, and other orchard crops. H.R. 3543 contained no similar provisions.

The conferees agree that fire blight may be a "related condition" for purposes of section 2251 of the Food, Agriculture, Conservation, and Trade Act of 1990 and losses should be eligible for disaster payments where the condition has been accelerated or exacerbated naturally as a result of damaging weather.

ORCHARD CROPS

The conference agreement deletes Senate language in section 226 which amended the Food, Agriculture, Conservation, and Trade Act of 1990 to expand disaster payments to provide for the rehabilitation or restoration of trees damaged rather than just the replanting of trees. The Senate amendment also increased the payment limitation for the losses from $25,000 to $75,000 per person. H.R. 3543 contained no similar provision.

EXTENSION OF CERTAIN FERC-ISSUED LICENSES

The conference agreement deletes language proposed by the Senate in Section 217 regarding extensions of certain FERC-issued licenses.

Section 205. The conference agreement changes, from $10,000,000 to $24,000,000, the limitation for the loan guarantee program level under "Fishing Vessel Obligations Guarantees" in P.L. 102–140, the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriation Act, 1992. This change in the limitation for the loan program level is consistent with the current subsidy rate estimated by the Office of Management and Budget for that program.

The Senate amendment in Sec. 206 of H.J. Res. 157 would have eliminated the limitation of $10,000,000 on such loan guarantees contained in P.L. 102–140. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained any similar provision.

The conference agreement does not include the Senate provision in Sec. 211 of H.J. Res. 157 that would have added language amending Section 511(e) of the Controlled Substances Act to authorize the Attorney General to transfer forfeited real property to States for use as public areas for recreational or historic purposes. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained this language.

The Senate language was deleted because this policy issue should be addressed by the appropriate legislative committee of the Congress. In addition, this provision was deleted because it would have violated the Pay-As-You-Go (PAYGO) provisions of the Budget Enforcement Act.

The conference agreement does not include the Senate provision in Sec. 212 of H.J. Res. 157 that would have added language expressing the Sense of the Senate concerning the investigation, arrest and prosecution of individuals involved in the destruction of Pan Am Flight 103. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained this language.

The conferees agree that: (1) the President of the United States should pursue by any and all legal means the apprehension for trial of the individuals indicted for the destruction of Pan Am Flight 103; (2) the President should offer awards for information leading to the arrest and return of these individuals; and (3) the investigation of the bombing of Pan Am Flight 103 must continue until all individuals involved in the commission of this crime are brought to justice.

The conference agreement does not include the Senate provision in Sec. 222 of H.J. Res. 157 that would have added language amending subchapter IV of chapter 35, United States Code to allow the Secretary of State to waive, for up to three years, the current five-year employment limitation placed on individuals serving with the Intergovernmental Panel on Climate Change. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained this language.

The Senate provision was deleted since this is a policy matter which should be addressed by the appropriate legislative committee of the Congress.

U.S. FISH AND WILDLIFE SERVICE

Section 206. The conference agreement transfers $965,000 from U.S. Fish and Wildlife Service land acquisition to U.S. Fish and Wildlife Service resource management as proposed by the Senate. The $965,000 is derived from the $3,800,000 provided for water rights acquisition for Stillwater National Wildlife Refuge in Nevada and is to be used for various activities under the Truckee-Carson-Pyramid Lake Settlement Act such as NEPA compliance, endangered species protection, fishery technical assistance and ecological contaminant studies. This provision was included as section 205 in the Senate-passed bill. The House has no similar provision.

EXXON VALDEZ

Section 207. The conference agreement amends Senate proposed section 224 to deposit funds from the Exxon settlement with the United States and Alaska into the Natural Resource Damage Assessment and Restoration Fund in the Department of the Interior rather than in the Oil Spill Liability Trust Fund as proposed by the Senate. The House had no similar provision. The agreement also provides for the earning of interest on funds deposited and Congressional review of the use of the funds.

FIREFIGHTING

The conference agreement deletes section 215 proposed by the Senate which adds the words "emergency presuppression" to the Emergency Department of the Interior Firefighting Fund established in Public Law 102–154. The additional language is unnecessary because funding for emergency presuppression activities historically has been part of wildfire suppression activities already included in the account. It was the intent of the conferees on Public Law 102–124 that emergency presuppression continue to be charged to the emergency account along with wildfire suppression, as defined in the Department's fiscal year 1992 budget justification. The conferees on this bill also expect this practice to continue.

The conference agreement also deletes section 216 proposed by the Senate which adds the words "emergency presuppression" to the Emergency Forest Service Firefighting Fund established in Public Law 102–154. The additional language is unnecessary because funding for emergency presuppression activities historically has been part of the "Fighting Forest Fires" activity which was the basis for the new emergency fund. It was the intent of the conferees on Public Law 102–154 that emergency presuppression continue to be charged to the emergency account along with wildfire suppression, as described in the agency's fiscal year 1992 budget justification. The conferees on this bill also expect this practice to continue.

NATIONAL PARK SERVICE

The conference agreement deletes section 220 proposed by the Senate which directs the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the General Management Plan for the Custer Battlefield National Monument. The House had no similar provision. The conferees agree that the National Park Service is to work with the Bureau of Indian Affairs and the Crow Tribe of Montana and the private sector to implement the Custer Battlefield National Monument general management plan.

Also, in response to language included in Senate Report 102–216, the conferees agree that the National Park Service may perform maintenance at the Bureau of Indian Affairs school in Phoenix Arizona to the extent authorized by law.

HEAL LOAN BORROWING

The conference agreement deletes language proposed by the Senate which would have permitted loan authority for Health Education Assistance Loans (HEAL) to be used for new, as well as continuing, borrowers. The conferees believe that the HEAL loan limitation for fiscal year 1992 contained in H.R. 3839, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992, provides sufficient legal authority for the Department of Health and Human Services to make HEAL loans to new borrowers. This provision was contained in section 209 of H.J. Res. 157. The House bill did not include a similar provision.

Section 208. Mental Health Facilities Cost Recovery: The conference agreement inserts language proposed by the Senate which amends the Public Health Service Act to permit the Secretary of the Department of Health and Human Services to waive recovery rights to Federal funds used for construction of community mental health facilities if the facility is sold or transferred. The Secretary already has authority to waive recovery if the facility is no longer used for its original purpose, but is retained by the original owners. The conferees agree that this authority will only be used when the proceeds of any sale or transfer are used for purposes which are compatible with the original grant award.

Section 209. The conference agreement provides that, for fiscal year 1992, not more than $2,000,000 of donated funds may be accepted or obligated for the preparation of working drawings, specifications, and cost estimates for renovation of the Botanic Garden conservatory, as was provided in the Senate bill, and amends the FY 1989 Legislative Branch Appropriations Act to authorize the Architect of the Capitol, subject to the direction of the Joint Committee on the Library, to construct a National Garden and to solicit and accept certain gifts on behalf of the United States Botanic Garden for the purpose of constructing the National Garden or for the general benefit of the Botanic Garden, to deposit such gift funds in the Treasury of the United States and, subject to approval in appropriations Acts, to expend such sums. The conference agreement authorizes the Architect of the Capitol to accept non-compensated personal services for these purposes, and any gift accepted shall be considered a gift to the United States for purposes of income, estate, and gift tax laws.

Section 210. The conference agreement amends the language of the Senate bill to establish protection and criminal penalties for the unauthorized use of any likeness of the seal of the United States Senate and sets a $250 fine and six month imprisonment for violations, and provides that violations may be enjoined by suit of the Attorney General upon complaint by the Secretary of the Senate. The conferees have deleted the inclusion of the seal of the House of Representatives, or changes in criminal penalties imposed on unauthorized use of the great seal of the United States or the seals of the President and Vice President, but urge the Committees on the Judiciary of the House and Senate to study the matter, including the appropriate penalties for unauthorized use of government seals.

Section 211. Upon request of the managers on the part of the Senate, the conference agreement includes a provision not included in either the House or Senate bills. The provision delays until May 1, 1992, the effective date specified in Sec. 311(i) for subsection (d) of the Legislative Branch Appropriations Act, 1991.

Section 212. The Senate amendment to H.J. Res. 157 included Section 203 of Title II, General Provisions, which directs the Secretary of Defense to continue construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada. The conferees agree with the Senate provision to continue construction of the facility but have revised the Senate language to correct the citations. The conference agreement also changes the section number.

Section 213. The conference agreement includes a provision allocating $990,000 of previously appropriated funds to certain bridge safety repair projects in the State of Vermont as proposed by the Senate. The House bill (H.R. 3543) contained no similar provision.

Section 214. The conference agreement inserts a provision amending the Employment Retirement Income Security Act of 1974 to define the accountable owner of Trans World Airlines as any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986 more than 50 percent of the total voting power of the stock of Trans World Airlines.

The conference agreement does not include the House provision in Sec. 301 of H.R. 3543 that contained language making technical corrections to the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1992. Neither the House version of H.J. Res. 157 nor the Senate amendment to H.J. Res. 157 contained this provision.

The House language was deleted since an identical provision has been included in the Department of Interior Appropriations Act, 1992.

The conference agreement amends the title of the joint resolution as proposed by the Senate. The original title, as passed the House, is no longer appropriate because this resolution is no longer a technical corrections and enrollment error corrections resolution. H.J. Res. 157, as amended by the Senate, and H.R. 3543 are parallel bills. The title to H.J. Res. 157, as amended by the Senate, and the title to H.R. 3543 are identical, and this same title has been agreed to by the conferees.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1992 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 budget estimates, and the House and Senate bills for 1992 follow:

Budget estimates of new (obligational) authority, fiscal year 1992	[1] $3,641,700,000
House bill, fiscal year 1992	[1] $7,486,250,000
Senate bill, fiscal year 1992	[1] $7,980,500,000
Conference agreement, fiscal year 1992	[1] $6,889,600,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority fiscal year 1992	[1] +3,247,900,000
House bill, fiscal year 1992	[1] −596,650,000
Senate bill, fiscal year 1992	[1] −1,090,900,000

[1] Includes Desert Shield/Desert Storm funds.

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES
(except as to the disposition of sections 213 and 214 of the Senate amendment),
DAVID R. OBEY,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
VIC FAZIO,
W.G. (BILL) HEFNER,
JOSEPH M. MCDADE,
JOHN T. MYERS,
CLARENCE MILLER,
CARL PURSELL,
BILL GREEN,
JOE SKEEN,

Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PAT LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
BROCK ADAMS,
WYCHE FOWLER, JR.,
MARK O. HATFIELD,
TED STEVENS,
JAKE GARN,
THAD COCHRAN,
ROBERT W. KASTEN, JR.,
ALFONSE M. D'AMATO,
WARREN RUDMAN,
ARLEN SPECTER,
PETE V. DOMENICI,
DON NICKLES,
PHIL GRAMM,
CHRISTOPHER S. BOND,
SLADE GORTON,

Managers on the Part of the Senate.

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–395) on the resolution (H. Res. 309) waiving all points of order against the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 309 and, pursuant to House Resolution 294, ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 309

Resolved, that upon adoption of this resolution it shall be in order to consider the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

During debate on this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 309 waives all points of order against the conference report on H.J. Res. 157 and against its consideration. The rule also provides that the conference report will be considered as having been read.

The dire emergency supplemental provides necessary funding for the incremental costs of Operation Desert Storm. Funds are appropriated from the Persian Gulf foreign contribution gift account.

Mr. Speaker, the conference report also provides $943 million for disaster assistance through the Federal Emergency Management Agency and provides $1.75 billion for the Commodity Credit Corporation to pay for crop losses caused by agricultural disasters.

There are now 44 Presidentially-declared disasters affecting 33 States. The Secretary of Agriculture has declared 89 agricultural disasters affecting 39 States. It is time, Mr. Speaker, to address American needs. This measure needs to be swiftly enacted.

Finally, Mr. Speaker, we have a bill providing for domestic needs which the President will sign. All funds are either agreed to as an emergency or will only be obligated if the President designates them to be an emergency or the funds are derived from existing funds. The supplemental appropriation act conforms to all budget requirements.

Mr. Speaker, this is the customary rule for conference reports. I urge my colleagues to adopt the rule and move this important legislation forward.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this rule because it allows this conference report to move forward without a separate vote on a very controversial provision. The conferees inserted into it a transfer of $500 million from our defense budget to aid the Soviet Union. Of that amount, $400 million will be earmarked for the destruction of that country's nuclear arsenal, and the other $100 million to deliver private humanitarian aid.

I have no objection to the humanitarian aid funding and, in concept, I support the use of United States expertise and technology to help the Soviet Union dismantle its menacing nuclear capability. But what concerns me about the $400 million earmark is that it does not require that American personnel and know-how be utilized in the dismantling process. In addition, I am still concerned with reports that Soviet aid continues to flow to third world dictators in spite of assurance that it would end.

In addition to the Soviet giveaway, Mr. Speaker, the conference report goes beyond what is necessary for emergency spending, and it evades the pay-as-you-go requirements by requiring the President to come up with the funds when he submits his fiscal year 1993 budget proposal. Once again, we are shirking our responsibility in setting budget priorities by throwing our dirty laundry onto the lap of the only person in this Government who is willing to lead: President Bush.

Mr. Speaker, it may be late in this session of Congress, but it's not too late to produce responsible legislation. For this reason, I urge my colleagues to defeat this rule, and I reserve the balance of my time.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I thank the gentlewoman for yielding.

Let me explain exactly what we did. The Defense Subcommittee met in the last 4 or 5 days with Director Gates of the CIA, and also today we met with General Colin Powell and Secretary Dick Cheney. They all agree the Soviet Union is in disarray. They believe that a crisis is imminent. They believe that the biggest danger in the Soviet Union today is the possibility of nuclear proliferation.

The Senate started this idea, passed it overwhelmingly, and their proposal was to authorize $500 million for dismantling nuclear weapons and $200 million for humanitarian aid. The gentleman from Pennsylvania [Mr. MCDADE], and I did not agree with that. We argued vigorously against the way they had laid it out. We believed that it should be reduced to $400 million for dismantling the nuclear weapons. We believed it should be left to the discretion of the President if he wanted to use the aid. We believed that American personnel should be used in dismantling the equipment overseas.

Our biggest concern is that the independent countries who have talked to Secretary Cheney do not want these nuclear weapons moved back to Russia, they want them dismantled in the independent countries, Ukraine being a perfect example.

We believe it has to be done. We think in the long run it will substantially reduce our defense needs and the expense of defense in this country.

The humanitarian side of it, we did not appropriate any money for humanitarian aid. We appropriated money to transport voluntary aid that may be made available in the United States. We think this balance gives the President a legitimate tool to be able to respond to a crisis which may happen in the next couple of months. I am convinced listening to Secretary Cheney that the military is disintegrating, has disintegrated substantially. I believe that if we do not take action to allow the President to have available to him these tools in the next couple of months we will have a real crisis that he could not respond to because we would not be in session.

We also safeguard the process by insisting on observing reprogramming procedures. The money can come from O&M and there is nobody that protects O&M more carefully than the gentleman from Pennsylvania [Mr. MCDADE], and myself. We believe that is the heart of the defense structure of this country. But we also believe that this money will save money in the long run.

Everything we did in this bill was to make sure that Congress safeguards its rights by making sure that the Defense Department has to request reprogramming of the funds so we know exactly where they come from, and at the same time we allow the President the discretion to make the decision about whether he needs to use this aid, but it will be American military personnel trained to dismantle these weapons.

We think that in the long run it will be substantially safer in this country and reduce our defense expenditure if we give the Soviets this aid. The initial proposal was for $1 billion humanitarian aid. Chairman ASPIN brought this to our attention. We had a concern with that, because we were not sure how it will be distributed. We were not sure it would get to the people it needed to get to.

I think this is a legitimate compromise. I think it is necessary. I think the Soviet Union at this point is in a very dangerous situation. I think we would make a grave mistake if we did not make this money available to the President to use at his discretion.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, let me simply say I agree with everything said by the gentleman from Pennsylvania, and I would simply say that I wish every Member of this House could have shared the experience that a number of the Members of the House did have in August when we were in Budapest and had a very sober meeting with Boris Yeltsin's Foreign Minister. If the Members could have heard him describe their concerns about the availability of nuclear warheads in a variety of republics, the Members would understand why this is necessary. I think for anybody who participated in that conversation it was one of the most sobering experiences we have ever had.

It seems to me that this is the single most important thing we can do right now to stabilize that situation and to enable us to reach those weapons and assist in their destruction while we have a window of opportunity to do so.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to simply ask the distinguished chairman of the Subcommittee on Defense, I would like to say that I totally agree with everything that has been said, and it is very clear that every single one of us desperately wants to see an elimination of those 2,000 nuclear warheads that exist in the Ukraine and in the other republics. That is the goal that we have.

The concern that emanates from this side is that we may not be using the very best vehicle possible to assure that. Why is it that we could not see the Pentagon in fact move ahead and do that without this, what is perceived by some on this side as rather vague language which could potentially end up as being nothing but a foreign aid package which would go to the Soviet Union. This has been understandably frustrating for the American people and specifically many Members of this House?

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend from Pennsylvania.

Mr. MURTHA. Mr. Speaker, let me say that we tried to be as specific as possible and yet give the President the flexibility he needed to be able to dismantle these nuclear weapons. The supplemental language relects what happened in the authorization bill, they have to stop production of their nuclear weapons or the President has to be assured that they have stopped production, because we do not want them building new weapons while we are, on the other hand, dismantling old weapons.

I do not think there is any other vehicle. Everything came together at once. Director Gates was just confirmed and Secretary Cheney and Colin Powell had focused on the problem, the

Soviets have deteriorated substantially in the last few months, and I really believe it would be a mistake for us not to allow the President to have this opportunity to respond to what I consider could be the major crisis of this century.

Mr. DREIER of California. Mr. Speaker, I know my friend can understand, and I appreciate that answer, the concern about the prospect of a foreign aid package going to the Soviet Union. That is the fear that many on this side have raised

Mr. MURTHA. I think you are absolutely right. For instance, I remember talking to a steelworker, a volunteer who drives me around back in the district, and I said, "Ozzie, what do you think of the idea of giving the Russians new humanitarian aid?" He said, "I never saw any skinny Russians on television."

I think that is the tone of the American people. This is an entirely different situation. We are talking here about making money available to the President to dismantle a real threat to this country, and I believe it is important, it is the right way to do it. It is not foreign aid, it is helping security of this country, in my estimation.

Mr. DREIER of California. Mr. Speaker, let me thank my very healthy and robust colleague for that very adequate response.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I thank my good friend for yielding.

I want to begin by apologizing to all our colleagues in the House in that this comes in at a very late hour, late in the session, and it is natural there should be concerns raised, indeed, on both sides of the aisle about how exactly this is structured, and where it came from. Let me say that I believe that the gentleman from Pennsylvania, Mr. MURTHA, completely described the process which we went through to arrive at his conclusion to make this money available to the President. I support it. I think it is in the national interest of this country to be in a posture to enable the President, should he decide to, and he must come back to us, may I say to my friend from California, should he decide to utilize the authorities that we have granted him in this legislation.

□ 0100

On Sunday next, as has been mentioned, the Ukraine will vote and in all likelihood they are going to vote for complete independence and become an independent nuclear power.

We had a meeting this morning, as my friend, the gentleman from Pennsylvania said, with the Secretary of Defense and with the Chairman of the Joint Chiefs of Staff, to see if we had the capability should we put this option on the President's list to be able to go into the Ukraine. They are not going to give those missiles back to the Soviet Union, not to Russia, or what was the Soviet Union.

Mr. DREIER of California. We want to assure that they will not.

Mr. McDADE. Well, everybody's opinion is that they will not. I agree with my friend, the gentleman from California.

The question was would we have the capability of using U.S. personnel to be able to go in and demobilize those weapons if the Ukrainians should invite us in and say to the President, "Send us help. We want to get rid of these weapons, but they are not going to go back to the Soviet Union."

The only dismantling plant of the Soviet Union for nuclear weapons is in Russia itself, not in the Ukraine or any of the other Republics.

So we thought it was in the national interest, may I say to my good friend, to make this authority available to the President after it goes through certifications, and he comes back to the Congress.

If he wishes to do it, may I say to my friend, we have given him the authority, but I want to assure my friend there is no pass-through of money to the Soviet Union in any foreign aid form, that this is money going to the President for his discretion.

Mr. DREIER of California. Mr. Speaker, I thank the extraordinarily distinguished ranking member of the subcommittee and the full committee for that excellent explanation.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER], the third Pennsylvanian to whom I will yield.

Mr. WALKER. Mr. Speaker, I thank the gentleman for returning to Pennsylvania.

I appreciate the discussion here on the $500 million of the money going to the Soviet Union.

There are a couple other issues in this bill, though, that I think need to be raised that bother me fairly significantly. I am concerned that we do not let it slip through here in the early morning hours.

For example, I understand there is a provision in this bill giving the Senate an additional 4 months to comply with the Ethics Code. Back when the Senate was getting its pay increase to $125,000, part of the reason for giving them the pay increase was that they were going to comply with the Ethics Code.

Now it turns out that the Senate has decided they are not going to live the same as we in the House, that indeed they want another 4 months in order to come into compliance with that code. I think that is a concern.

As a matter of fact, it has been represented to me that this is taking care of one U.S. Senator who would like to pay off some debts and therefore is requesting that we do not take care of this matter for another 4 months. I think that is a concern.

I think it is terribly wrong that the pay raise went forward and we are still going to have the Senate out of compliance with the Ethics Code that was supposed to accompany it.

Second, I think there is another serious matter that has been buried down in this bill which essentially amounts to a bill of attainder, or an ex-post facto law, whichever one you want, and this involves one executive or one owner of an airline who is being told that he has to assume full financial responsibility ex-post facto and who has indicated that if in fact this law is passed, he intends to shut down the airline, thereby putting 30,000 people out of work.

I think we saw the other day that we make mistakes when we do some of these kinds of things, as we did with the credit card. Here is another instance where we may well be responsible for putting 30,000 people on the streets.

At a time of economic problems, I doubt that it is a very good idea for Congress to take a step which apparently will result in 30,000 more people out of work. That also bothers me.

I do not quite understand why when we are dealing with very serious issues that are in this bill, we all of a sudden find buried down in the language in these many pages that are sitting before us these kinds of provisions, which I think a number of the Members may have some concerns about.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, I cannot speak to the TWA issue affecting Mr. Icahan and the airline employees, the second point the gentleman made.

I just want to point out to my colleagues that the first point was thoroughly discussed in the conference on at least two occasions and there was no effort to bury it down deep in the report.

I think we have given the other body 4 additional months to try to reconcile their procedures so that they can make a clean and clear distinction, as we have in this body, between official expenses and political and politically related expenses.

Mr. WALKER. How many months have they had so far?

Mr. FAZIO. They have had a year.

Mr. WALKER. They have had a year. It seems to me any reconciling that could have been done and should have been done could have taken place within that year.

Mr. FAZIO. Mr. Speaker, I tend to agree with the gentleman from Pennsylvania, but I did so to accommodate

Senator STEVENS and other Members of the other body, who felt that they needed additional time.

Now, we have offered the services of the House staff to help them reach some conclusions.

Mr. WALKER. For what reason? Could the gentleman explain to us, I mean, if there was a thorough discussion, for what reason do they need an additional 4 months over the 1 year that they have already had?

Mr. FAZIO. Mr. Speaker, if the gentleman will yield further, they seem to think they have been stymied on some very difficult questions about how they can extricate themselves from the situation they are in now, whereby they often comingle their political expenses and their official expenses.

Mr. WALKER. Were they not supposed to stop comingling these funds when they took the pay raise in the bill?

Mr. FAZIO. First of all, Mr. Speaker, if the gentleman will yield further, it has nothing to do with the pay raise. This agreement was reached in the context of reaching some sort of compromise on the franking issue. That is the context in which we then said to the Senate, "We will meet you halfway, but in order to make sure that we are playing on the same field, on a level playing field, we would like you to follow the same procedures the House has."

Mr. WALKER. It was directly related to the pay raise, because of course the pay raise when it passed here, we said we were going to comply with certain new ethical standards and so on.

Now, the Senate also having not taken the pay raise, did not agree to do that. When they took the pay raise, they made that agreement. That is where the tie-in is. That is a personal point here.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield further, I do not really need to argue with the gentleman. We are both on the same side here. In fact, it was this subcommittee that I chair that forced the Senate to accept these changes.

Mr. WALKER. I agree with the gentleman.

Mr. FAZIO. So I am only pointing out to the gentleman that it was not done in the context of the pay raise. It was done in the context of another disagreement we had between the two bodies.

I can pledge to the gentleman and all my colleagues in both parties here tonight that this is the last extension the Senate is going to get.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Wisconsin [Mr. ASPIN], the chairman of the Committee on Armed Services.

Mr. ASPIN. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

Let me commend the Committee for the work they did on this issue of helping the Soviets to dismantle their nuclear weapons.

I think the compromises that the gentleman from Pennsylvania and the gentleman from Wisconsin worked out I think are tremendous.

I think the funding here is about as well as we can do under the circumstances, and I think that the effort here is really something that people will look back on from the future. They will look back and say this was an historic turn of events, that this was a very, very sensible policy, that this was not foreign aid. This was defense by another means.

I think that the gentleman from Pennsylvania [Mr. MURTHA], the gentleman from Wisconsin [Mr. OBEY] and all the Members of the Committee here should be commended for their work.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. Yes, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just have a couple questions.

As I understand it, the people from the Ukraine would rather have Americans in there dismantling these weapons than the Soviets?

Mr. ASPIN. Exactly so.

Mr. BURTON of Indiana. Now, what I do not understand, if we are going to have American personnel in there, American military personnel, why is the $400 million for this purpose going to the Soviets? Why is it not going to our Defense Department and the Defense Department will do it? Maybe I missed that point. Perhaps the gentleman could just explain it a little better.

Mr. ASPIN. The $400 million is not going to the Soviets, nor is the $400 million for American transports. Those will be going to Americans to help Americans in the case of the $400 million, and in the case of transportation, technical advisors and other things to get them to the Ukraine, to get them housed and fed and deployed on temporary duty to the Ukraine to help them establish them there so they can dismantle the weapons.

Similarly, for the $100 million, the $100 million does not go to the Soviet Union. It goes to augmenting the costs of transportation of the U.S. military, more fuel, more operating hours of the equipment, so that when they help move the equipment or move the food and medicine to the Soviet Union.

Mr. BURTON of Indiana. One final question, and I think I know the answer. But why did this not come out of the Defense budget instead of having it come out of this Supplemental?

Mr. ASPIN. We would love to have had it come out of the Defense budget. In fact, my original proposal was to take the $100 million out of the Defense budget, but we ran into a buzz saw here a few weeks ago on that issue.

I think as the proposition was reworked by the Appropriations Committee, and indeed the mood has changed slightly, plus the third thing that has happened is that there have been a lot more stories coming out of the Soviet Union about the state of disaster they are in, that therefore the best place they found to put it was on the supplemental.

□ 0110

But my original proposal was to take it out of the Defense budget and to divert the funds from the Defense budget. Now it is on the supplemental because, frankly, that is the only thing that is left.

Let me yield to the gentleman from Pennsylvania.

Mr. MURTHA. Let me add to the answer: Actually, most of this will be operation and maintenance money, and that is why we felt that is an area where it could come from. We resisted and tried to get some from foreign aid, but it really is an American military project; that is the way it looks to us.

Mr. BURTON of Indiana. If the gentleman would yield further, I was just talking to the other gentleman from Pennsylvania [Mr. MCDade] and he indicated it would come out of the Defense budget.

Mr. ASPIN. That is right. It was originally part of the DOD authorization conference report, but that was dropped out of that. It is now part of the supplemental. But the actual money for the funding for it comes out of the O&M account in the Department of Defense.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to a very able member of the Committee on Armed Services, the gentleman from San Diego, our top gun, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, are we are out of our minds? I heard Mr. SANTORUM this afternoon stand up, saying that we did not have enough money to carry over unemployment.

The Members on the other side of the aisle for the last month are saying we need money for unemployment, we need money here.

This money comes out of defense, out of O&M funds. Let me tell you, for the people who have never been in the military: What does that mean? O&M? That means the kids sitting at Miramar do not have enough fuel to fly and train or have parts. At Nellis Air Force Base, the same thing.

That money comes out of defense.

The original cost was supposed to be $1 billion. Remember, the Soviet Union was not supposed to be a threat anymore. That is why you are cutting defense by 25 percent.

I saw Members of the Democratic side sit up here and fight tooth, hook, and nail over base closures because it cost them jobs. You cut defense by 25 percent, and then you try to take out another $1 billion? That is ludicrous. You are costing Americans lives. You are costing Americans jobs, and I am damn tired of it.

O&M funds go for training people, fuel, parts for machines and aircraft.

We cannot do that. Do you have any idea how many jobs? I read today that McDonnell Douglas is sending some of their work for their airliners to Taiwan. I heard a Democratic Senator saying that the President is not doing enough.

Well, let us take half a billion dollars and maybe supplement our own defense work and maybe building those to help the unions. But a billion dollars or a half-a-billion-dollars to the Soviet Union? Not on my watch.

I sit and watch the Committee on Armed Services pork barrel. A Member of the other body wanted 117's built that the Air Force did not even want. Even if they had the money, they did not want it. But yet the pork barrel in the appropriations, that particular Member forced it through and cost this country F-14 upgrade.

That is pork-barrel spending. I would not send one penny to the Soviet Union, not one penny. Even in the foreign aid bill, we sent money and a message to take money out of Jordan. No, the conference put it back in. Not one penny to the Soviet Union, the Ukraine, or anybody else out of defense. You are costing American lives.

The same way they did in Vietnam, the liberals have cut defense by 25 percent.

Do you have any idea how many jobs? Hundreds of thousands of jobs have been cut; electricians, military—if you sell pizzas or cars or real estate, those jobs have been lost. And you still want to cut it more? Not on my watch.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate, I yield 2 additional minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. I thank the gentlewoman for yielding again.

Let me emphasize this money is not going to the Soviet Union, this money is going to United States personnel to help dismantle weapons that threaten the United States. These independent countries do not want these weapons to go back to Russia.

The Ukraine, for instance, has a couple of thousand nuclear missiles and warheads they want to keep in the Ukraine. They are asking us to help them dismantle those weapons and in the end this will save us substantial amounts of money.

Our O&M budget is $80 billion. Now, there is nobody who protects this budget more than I do. I have offered amendment after amendment over the years to increase O&M. But I think this is a good expenditure of money, not to the Soviet Union but to help the independent countries around the Soviet Union to reduce the threat to this country.

I think it is a wise expenditure of funds in the long run which will allow the President to provide technical assistance if he decides that it is a threat. Listening to Director Gates and Secretary Cheney, they believe, as I believe, that there is a possibility of a real threat in the next couple of months and we need to have U.S. personnel helping them dismantle these weapons systems to reduce the threat to the United States.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

Mr. CUNNINGHAM. I thank the gentleman for yielding.

Mr. Speaker, I sat on the Coral Sea with 20-year-old airplanes because I did not have enough parts and enough fuel to fly them. O&M, and you say you fight for it, is critical to training. We want to cut defense, but you say you want a smaller force, well equipped, well trained, just like the desert act, where they are taking away some of the training that we have now through the environmentalists. Now we are trying to take some of the same training regardless if it goes to personnel, military, it is still taking it away from O&M budget out of military training.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the distinguished ranking member of the Committee on Rules, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding this time to me.

Ladies and gentlemen, I was not going to speak on this appropriations bill. I was going to wait until we take up the next bill, which is the implementation legislation for the CFE Treaty. We really have the cart before the horse here because we are debating a supplemental appropriations bill concerning a bill we are going to take up in the next few minutes, which is the authorizing bill. And as I read the amendments concerning the provision of aid to the Soviet Union that are going to be adopted in the bill that we will be taking up in a few minutes, the language says, "The program under this section shall be limited to cooperation among the United States, the Soviet Union and its republics." It goes on to say in this amendment, "Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction."

I am just having a very difficult time trying to figure out why we are taking money for this purpose out of the defense budget. If we are going to use this money for American troops and American vehicles, and those troops and vehicles are going to cross through Poland, Czechoslovakia, and Hungary into the Ukraine or into Russia or wherever they are going, why do we have to take the money out of the defense budget? There are funds right now to go in there and dismantle the nuclear weapons and bring them out back through Poland, Czechoslovakia, and Hungary and into our NATO countries.

So I just do not understand that provision. We really should have debated it, the bill itself, the authorizing bill, before we got into this supplemental.

Lastly, without taking too much time, when we had an emergency situation called Desert Storm, we all put our heads together and, over a period of time, we worked out a cumulative fund whereby Japan and Germany and all of the NATO countries pitched in and helped because Desert Storm was to their mutual benefit.

I heard my good friend, JOHN MURTHA, mention that it is in the best interests of the United States that we support this new provision and that we do it now; it is an emergency. Anything could happen.

Well, I think that same kind of emergency that we had in Desert Storm and that same kind of mutual benefit applies to this. I see my friend, PAT SCHROEDER, sitting over there. She and I have worked for years on burden sharing, trying to get our NATO allies to carry their fair share of the burden.

There needs to be a fair share of the burden in this Soviet aid provision. Why should we be committing $700 million? I give my good friends, JOHN MURTHA and JOE MCDADE, credit for saving us $200 million because they reduced the Senate's authorization down to $500 million, and that is great. But, that is still a lot of money we are talking about in this bill.

As my colleagues know, if this Soviet aid package had been subject to regular order and the Committee on Foreign Affairs had been working on it, and the Committee on Armed Services had been working on it, and the same thing was happening over in the Senate, we would not be taking this up in the middle of the night right now.

The gentleman from Florida [Mr. FASCELL] came up to the Committee on Rules a few minutes ago, and said, "Since receiving this legislation last night, we have worked hard." The gentleman from Wisconsin [Mr. ASPIN] and the gentleman from Florida [Mr. FASCELL] have worked hard. But, as my colleagues know, we are rushing into this thing.

Until hearings are held, until there is a demonstrated need, we should not be passing this aid package tonight. The emergency is not here tonight. We are voting on something about which we do not have any idea of what it is. The phrase I just read which says that we are going to cooperate with the Soviets.

Mr. Speaker, to me that means we are going to give the Soviet Union the money to help them dismantle these weapons. The program under this section shall be limited to cooperation among the United States, the Soviet Union and its republics, and then it goes on again to say, "Such cooperation may also involve the funding."

So, it is just so open-ended, there is no legislative intent written here, no hearings to go by.

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, let me just point out to the gentleman from New York [Mr. SOLOMON] that there have been hearings. The House Committee on Armed Services held hearings on this issue way back at the beginning of September, so there have been hearings.

Second, on the issue of cooperation, indeed part of our hope is that the administration will take whatever is in this bill and this proviso and go out and leverage a bigger effort on behalf of the objectives in this bill by getting help from our allies. Indeed that was what we hoped they would do and encourage them in a lot of language in there that says we would like the President to take the initiative and organize an international effort along these lines, not just take the money that we are talking about here from the United States taxpayers, but actually go out and get it from the Japanese, and from the Germans, and from other NATO countries, from wherever we can to try and get this program.

Indeed part of the program is going to have to come from some of the others because of the humanitarian aid. The only thing we have got in humanitarian aid here is the transportation part, so it is going to have to be an international effort and a cooperation, and again the money is going to essentially Americans.

We are not going to hand over the dollars here. There is no handing over of cash. That is money down a rat hole with a country that has not straightened out its basic economic infrastructure and its basic pricing system and established a rule of law and private property. We cannot funnel economic aid into that country without losing a lot of it, and that is not what we are doing here.

This is essentially providing American expertise on nuclear weapons and American transportation to move food and medicine. That is what this bill is about.

Mr. SOLOMON. Mr. Speaker, I hope that the gentleman from Wisconsin [Mr. ASPIN] is right. And it seems to me that if the total cost here is going to be $500 million, our share of it compared to all of the NATO countries should be, let us say, 10 or 20 percent. Then we only would be putting up a hundred million. And let us pass the hat around and collect the other $400 million from our friends.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding. I just have one brief question.

Was there any consultation with our NATO allies about this beforehand, and, if so, did anybody raise the issue that the gentleman from New York has raised, and that is would they be willing to pay part of this $400 million cost for dismantling these weapons?

Mr. OBEY. Mr. Speaker, would the gentleman yield so I can answer?

Mr. SOLOMON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, frankly I would be shocked if at this point the costs being incurred by Germany alone for a variety of assistance programs in the Soviet Union, if that cost alone did not exceed $10 billion.

Mr. SOLOMON. Excuse me, gentlemen. There is going to be a meeting in the Committee on Rules on the highway bill. Passing that bill will help us get out of here so that we can go home. And so I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 3 additional minutes to the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Speaker, I am going to yield again to the gentleman from Indiana [Mr. BURTON] to make sure that he gets the answer to his question. Basically, let met try to explain.

We, meaning the Committee on Armed Services and people who have been interested in this proposal, have had a chance to explore it with people who have been coming through the country or coming through the Capitol here to see whether in fact they are interested in doing this, and we got generally a favorable response. We are not in a position to negotiate the deal. The President and the Secretary of State and the Secretary of Defense are really the people who are under the Constitution to negotiate this thing. We have explored it with various government leaders who have come through and found that there was a favorable response. That is basically as far as we could go.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I do not want to belabor the point, but I would like to just end by saying those weapons are much closer to Germany and the other countries over in NATO than they are to us, and it seems to me that they would be very anxious to participate in paying for this dismantlement.

Mr. ASPIN. No question, and that is why they are interested.

Mr. GREEN of New York. Mr. Speaker, will the gentleman yield to me on this point?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Speaker, I cannot believe that anyone in this House wants Germans to start playing with nuclear weapons.

Mr. ASPIN. Definitely we do not, but that is why the Germans are interested in having the United States and an international organization go into the Ukraine and help the Ukrainians dismantle their weapons.

I think there is an opportunity here, as the gentleman from Pennsylvania [Mr. MURTHA] talked about. We have an opportunity here that is open now, a window of opportunity that is opened here, while these countries, and particularly we are going to have a vote, as somebody pointed out, very shortly coming up on Ukrainian independence, and that is an opportunity for us to take advantage of the fact that the Ukrainians do not want to transship those nuclear weapons back to Russia and would welcome outside help in dismantling those weapons. It is an opportunity.

Mr. HENRY. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Michigan.

Mr. HENRY. With all due respect, Mr. Speaker, my concern on this, if the Ukrainians need assistance, the quickest thing that is going to stir up a countercoup in the Soviet Union itself or in the Russian republics is going to be unwanted American troops, American vehicles, American assistance dismantling what Russians regard as their armament in the Ukraine, and I think something of this magnitude needs a lot more consideration by this conference, and it concerns me very much.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, let me say that in talking to Secretary Cheney and to Mr. Gates, they both believe that these countries will welcome American troops into their country to dismantle nuclear weapons.

Mr. HENRY. Well, I raise the question because it is, as the gentleman from Pennsylvania [Mr. MURTHA] said, an historic decision being made on very short notice.

Mr. ASPIN. Absolutely historic.

Mr. NAGLE. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. ASPIN] for yielding.

I have spent some specific time on that Ukrainian situation the gentleman made reference to, but that is not the situation there. It is very important that we recognize that the current leadership of the Ukrainians are not necessarily consistent with our own interests or consistent with the problem that we have over there.

As a matter of fact, taking the weapons out from the Ukrainians and this current leadership is probably very, very important. They are not necessarily our friends, and I have not been impressed with this peaceful intention towards the Soviet Union itself, or Russia, and, therefore, I think the point of the gentleman from Wisconsin is very well taken.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been a fascinating debate on the authorization bill, H.R. 3807, the CFE authorization bill, and actually I should remind our colleagues that at this moment we are debating the rule for the supplemental appropriations bill.

Mr. Speaker, I yield 2 minutes to my very good friend, the gentleman from New York [Mr. GREEN], an able member of the Committee on Appropriations.

□ 0130

Mr. GREEN of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have long argued in this House that the major risk of nuclear holocaust that this country and the world faced was not a confrontation with the Soviet Union but the "N-nation" problem, the risk that nuclear weapons will proliferate and so many countries will have them that they will become uncontrollable. Suddenly, we have a situation, with the breakup of the Soviet Union, that that very breakup may create the "N-nation" problem, because so many of the Soviet republics may get their hands on nuclear weapons.

What this rule lets us bring to the floor is a bill which provides $400 million from funds previously appropriated so that, if the President chooses to use those funds, he can become a player in this situation and can help in trying to avoid proliferation of nuclear weapons among those new countries.

I do not see how anyone in this House can be fearful of such a provision. I do not see how anyone in this House can help but think that that is a useful tool to provide to the President of the United States. So I hope that my colleagues would put aside the confusion that seems to have been raised about this issue at this late hour.

Understand that all this bill is doing is giving the President of the United States some additional capacity in terms of dollars to deal with this problem.

Vote for the rule, and then vote for the supplemental appropriation.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I want to say that I rarely take the floor to engage in many debates, because I think too much talk goes on here, but I must tell you how very angry I am about this bill that is coming up.

We have just heard all the things we did moving heaven and Earth. Let me tell you what else happened.

Everything we put in there for children we took out, o-u-t, out. When we get to this dire, urgent supplemental, what we are saying is we are breaking our covenant with our children. We are not even making the first year's commitment.

Both the House and the Senate voted to at least meet the first-year commitment on immunizations, on the WIC program defeat, and on Head Start to keep it on track so that by the year 1996 it would be fully funded.

Now, I do not know about you, but I think 1996 is too long, but, OK, we accepted that. We accepted it as a challenge.

We had CEO's from America's major Fortune 500 companies here saying how important this was that every dollar we spent we saved all sorts of money. We have had testimony up to the wazoo, we have had hearings up to the wazoo. Everybody says they are for Head Start, WIC, and immunizations. The Surgeon General has talked about it, and yet when both the House and Senate passed it, nevertheless in conference it came out.

I must say that I find it shocking that everything else in the world is an important disaster that we have to deal with, but not our children.

One-third of the children under the age of 6 are in poverty in this country, and if we do not invest in them, we will never, never be able to compete, and we are really shooting ourselves in the foot when it comes to the future.

Mrs. BOXER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentlewoman from California.

Mrs. BOXER. Mr. Speaker, I want to say at this very late hour, or early hour, depending on how you look at it, I want to thank the gentlewoman for her clear voice.

I want to say to the gentlewoman that it is very difficult to come here at this hour and be a voice of discontent, and the fact that the gentlewoman is doing it, she is doing it not only as the gentlewoman from Colorado but as Chair of the Select Committee on Children, Youth and Families.

Our country is in trouble. Our children are in trouble, and if we do not move to make sure that those children are educated and fed and nourished and have health care, you know, we are talking about our allies here. Maybe the gentlemen over there ought to understand that our allies immunize 90 percent of their children, and in this country we immunize 50 percent of our children. I guess they are not particularly interested in it.

But, again, I just want to thank the gentlewoman and tell her that I am with her on this, and I think, you know, children do not write checks. Maybe that is why they do not have a voice. I am glad the gentlewoman is here, and I am glad she made her statement.

Mrs. SCHROEDER. I must say that I am very, very dismayed. We did everything we know how to do. We passed it on both sides, and yet the conference took it out.

There are all sorts of reasons, people can say, but it is interesting to me that continually we see everything else is a disaster but out children. It is also interesting to me that we have studies that would fill this Chamber showing that every dollar we spend in the Federal budget this year on a child, on those three programs, we will save anywhere from $3 to $10 next year in the Federal budget, so forget the children, forget anything, this is a phenomenal investment, and yet somehow they just do not count.

I do not know what we do to make them count. I do not know what we do to keep our covenant to America's children, but to think that we are writing off one-third of our youngest kids, to think that only 25 to 30 percent of the children eligible for Head Start are getting it in this country, when we talk about it, to think that 60 percent of the children in New York City have not had their shots and 50 percent of the children in the Nation's Capital have not, I am shocked. I think that is a disaster.

I am just very ashamed to be part of this body tonight and to see how we are treating our future.

Mr. EDWARDS of California. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, I believe the conference also took out the Senate-passed amendment approved by the Senate the other night offered by Senator WIRTH that would have provided or allowed women in the service overseas to pay for their own abortions in military hospitals, and that was also removed by the conference.

Mrs. SCHROEDER. I am so pleased the gentleman from California pointed that out, too. Yes, women and children first.

The Russians got in. We have the Turks off budget. We have the Kurds off budget. Kurds, yes; kids, no. Turks, yes; kids, no.

When do we think about our kids, and when do we think about America's women?

This is a bill that basically is bailing out the final cost of the war, and other things got added to it.

Well, why do not the Kuwaitis help bail us out? They have got megabucks, and gigabucks, and all I can see the main purpose is we got the Emir back on his throne. We can be talking about a little burden-sharing there. He could be helping.

We could find all sorts of things that we could be doing.

But to see American women who went overseas to defend our rights being denied those same rights that they fought for overseas and to see children being treated this way, I think, is an outrage.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would simply want to once again reflect on the comments I made very briefly in my exchange with the gentleman from Wisconsin [Mr. ASPIN].

This is, indeed, a very historic provision in this bill relative to giving the President funds and discretionary authority to assist in the dismantling of the Soviet Union's nuclear stockpile.

I do want to remind our Members, however, that there are three major actors in the process over there right now: the Soviet Union, what there is left of it; the Russian Republic; and the Ukrainian Republic.

The context of this discussion has taken place in terms of what if the Ukraine asserts its independence, what if the Ukraine then asks for assistance in defusing and dismantling these terrible devices? My question is only: What if, in fact, we give that assistance, and what does that do in terms of the potential for Russian reaction, or what is left of the Soviet Union, the Soviet Union's reaction?

I would simply say that the context of the discussion and the context of the legislation troubles me deeply, because this may very well be a two-edged sword in historicity of the moment maybe quite different than what most of us anticipate at this point in time.

☐ 0140

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF], who has some important questions to ask.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to ask a question of the distinguished chairman of the Committee on Armed Services [Mr. ASPIN] or the chairman of the Subcommittee on Defense of the Committee on Appropriations [Mr. MURTHA], because I do not think I heard this question answered earlier.

If this aid is primarily for U.S. forces to help dismantle nuclear weapons inside the Soviet Union, why do we have to take this money out of the defense budget and separately identify it for that purpose? If it were to remain in the defense budget, would it not be available for the same purpose?

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, I think the President had to have authority, and we were very careful to give him specific authority, to allow him to go forward with a program if he saw fit. In international relations, right now I do not think anybody has any peer. I think he is a good one to make the judgments. But it is primarily for American personnel, for American military personnel or experts in dismantling this equipment. So he needed authority, and we are giving him that authority to send troops or experts in, using O&M money.

I think in the long run it will save us money.

Mr. SCHIFF. Mr. Speaker, reclaiming my time, we are taking $500 million out of the O&M budget.

Mr. MURTHA. Mr. Speaker, if the gentleman will yield further, we will actually save money down the road. It is the ultimate SDI. We are destroying these missiles on the ground, is actually what we are doing. We are being invited in by these independent countries.

Mr. SCHIFF. Mr. Speaker, I would again ask the respected subcommittee chairman this question: There is just one aspect of this that I still find not being answered, and that is simply this: Why in the appropriations process are we taking $500 million out of the Department of Defense budget for the President to be able to use Department of Defense, which is to say military, personnel, to accomplish a task? If the funds were to remain in the DOD budget, then, with the proper authority, is the money not there for the President to use if he sees fit now as Commander-in-Chief?

Mr. MURTHA. Mr. Speaker, if the gentleman will yield further, we think the President needs this appropriation in order to go forward. He had to make the judgment. We leave it up to him. We make the money available. If he thinks it is necessary in the next couple of months, it would be in the defense budget. But this specific authority to send troops or experts into the Soviet Union to dismantle weapons, there is a question. We try to eliminate that question.

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I have a question for the gentleman from Pennsylvania [Mr. MURTHA]. Right now, as I understand it, there are over 30,000 nuclear warheads that we are looking at. Over 10,000 of those warheads as we are sitting here today are involved here. I am concerned about nuclear weapons. When we expend half a billion out of our training, it just concerns me that there is a delta there in which we lose the training versus what we actually get out of the Ukranian nuclear weapons.

The SPEAKER pro tempore [Mr. BROWN]. The time of the gentleman has expired. The Chair would announce that the gentleman from California [Mr. DREIER] has 30 seconds remaining.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, would the gentleman from California [Mr. CUNNINGHAM] repeat his question?

Mr. CUNNINGHAM. Mr. Speaker, with us having 30,000 warheads that we are looking at, over 10,000 of those are looking at us right now, the small amount in the Ukraine is a pittance. I am concerned about nuclear weapons, but how would we ever pay to dismantle all of those? I agree, it is like SDI, getting rid of those missiles.

Mr. MURTHA. Mr. Speaker, I do not think any of us can predict how much it will cost. Nobody could give me an estimate from the Department of Defense or from the White House. We are just making money available in case the President feels he needs to help them if they request it. We hope that they do request it. We hope we can dismantle those weapons in the Ukraine or any of the other independent states surrounding the Soviet Union.

As far as reducing our capability in the United States, we say specifically if you use O&M money, you cannot reduce the readiness of U.S. forces. We think if we reduce the capability of the Russians to fire weapons at the United States, or any other country, we obviously need less defense in the United States.

So it kind of balances off in our estimation. We are going to spend over $4 billion this year for SDI, so this is one way to destroy those weapons on the ground.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, section 108 provides money may come from O&M, but it also may come from surplus in the capital account. Section 108 gives discretion to the Department of Defense as well as to the President to use available funds. We suggest two areas. They do have to come back for reprogramming. That all has to be reprogrammed. The President has to come back and certify that the Soviet Union is doing their part, that none of the fissionable material might be used in building a new weapon.

There are a lot of things we put in here that they must do to get the technical assistance that this provides.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, the fact of the matter is that since I have been here in Congress for the last 11 months, there has not been a whole lot of discussion on this floor that has impressed me terribly much. I did not come here to vote $80 billion for the savings and loan institutions. I did not come here to vote $70 billion for a bailout of the commercial banks, or $290 billion for an inflated military budget.

I did come here to try to do something to address the fact that 20 percent of our children are living in poverty. Several weeks ago the gentlewoman from Colorado [Mrs. SCHROEDER] came up with an intelligent and serious proposal that called for $1.4 billion to go to the Head Start Program, to go to the WIC Program, to go to children's immunization programs.

There was a good debate here, and the people on the floor, Members of Congress, voted that $1.4 billion.

Tonight, at a quarter to 2 in the morning, we have learned that out of nowhere the conference committee rejected that money for children in need.

Mr. Speaker, my proposal and thought is we should reject this rule, send it back to the Committee on Rules, and tell them we want a rule which will once again allow us to vote that $1.4 billion for the children of this country.

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from Lomita, CA, (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, maybe our colleague from Colorado, (Mrs. SCHROEDER) could answer this, too: Why, if it was so important, did it take until 2½ weeks ago for the gentlewoman to come up with this idea. How come for all this year, if it is so important as we are talking about it now, the gentlewoman waited until 2½ weeks ago? Why did the gentlewoman wait that long?

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I pointed out in my speech exactly why where we are is where we are. That is that we are at the end of the year where we have a shortfall. At the beginning of the year we made the commitment to attempt to fully fund these three core programs by 1996. So to get there, there is like a stair step of incremental increases.

The problem was while we made that commitment in January, here we are now taking Polaroid shots as to where we are, and some of that money we were to commit has gotten chipped away, plus more children have fallen into poverty. Even today's newspapers talk about how many more children have fallen into poverty, much faster than was projected. So it takes more money to get to that point.

So we are looking at the year-end, and the dire urgent supplemental was the only thing moving that you could then make that course correction to make sure you kept that covenant that you made to at least get to the first year.

□ 0150

My problem is, if we did this in the very first year, imagine where we are going to be by 1996. There is already talk from the administration and other places to forget it, and maybe we will try and do it by the year 2000.

My question is, How many generations of American kids do we let this happen to?

I really hope that the gentleman understands that.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BROWN). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SANDERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 242, nays 175, not voting 17, as follows:

[Roll No. 437]

YEAS—242

Alexander
Anderson
Andrews (TX)
Anthony
Applegate
Aspin
Bacchus
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Boehlert
Boehner
Bonior
Borski
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Burton
Bustamante
Byron
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clement
Clinger
Coleman (MO)
Coleman (TX)
Condit
Cooper
Coughlin
Coyne
Cramer
Darden
de la Garza
DeLauro
DeLay
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Dwyer
Eckart
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Fish
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Green
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kleczka
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Luken
Machtley
Manton
Marlenee
Martin
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Moakley
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oberstar
Obey
Olin
Olver
Orton
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Roe
Rogers
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sangmeister
Sawyer
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Solarz
Spratt
Stallings
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walsh
Waxman
Weber
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wylie
Yatron
Young (FL)

NAYS—175

Abercrombie
Ackerman
Allard
Allen
Andrews (ME)
Andrews (NJ)
Annunzio
Archer
Armey
Atkins
AuCoin
Baker
Barton
Berman
Bilirakis
Blackwell
Bliley
Boxer
Bryant
Bunning
Callahan
Camp
Campbell (CA)
Carper
Clay
Coble
Collins (IL)
Collins (MI)
Combest
Conyers
Costello
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
Davis
DeFazio
Dellums
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Early
Edwards (CA)
Edwards (OK)
Fawell
Feighan
Fields
Foglietta
Ford (TN)
Franks (CT)
Gallegly
Gejdenson
Gekas
Gilchrest
Gillmor
Gingrich
Goss
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (IL)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Kasich
Kennedy
Kildee
Klug
Kolbe
Kolter
LaFalce
Leach
Levine (CA)
Lewis (FL)
Lloyd
Lowey (NY)
Markey
Martinez

Matsui
McCandless
McCollum
McDermott
McEwen
Mfume
Miller (CA)
Mineta
Mink
Molinari
Moody
Murphy
Neal (NC)
Nichols
Nussle
Oakar
Owens (NY)
Packard
Patterson
Paxon
Pelosi
Penny
Petri
Porter
Poshard
Ramstad
Rangel
Rhodes
Ridge
Ritter
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Russo
Sanders
Santorum
Savage
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stark
Stearns
Stenholm
Stokes
Stump
Swett
Taylor (NC)
Thomas (WY)
Traficant
Unsoeld
Upton
Valentine
Vento
Walker
Washington
Waters
Weiss
Weldon
Williams
Wyden
Young (AK)
Zeliff
Zimmer

NOT VOTING—17

Ballenger
Boucher
Dickinson
Dymally
Flake
Hall (OH)
Lehman (FL)
Ortiz
Pickett
Riggs
Rose
Sarpalius
Saxton
Thomas (CA)
Towns
Traxler
Yates

□ 0210

Mr. MFUME, Mr. ROBERTS, Ms. PELOSI, and Mr. OWENS of New York changed their vote from "yea" to "nay."

Messrs. MRAZEK, OLVER, and CONDIT changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 585

Mr. OLIN. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of the bill, H.R. 585, the Biological Diversity Conservation and Environmental Research Act.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Virginia?

There was no objection.

CONFERENCE REPORT ON H.J. 157, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS FOR RELIEF FROM THE EFFECTS OF NATURAL DISASTERS, FOR OTHER URGENT NEEDS, AND FOR INCREMENTAL COST OF OPERATION DESERT SHIELD/DESERT STORM ACT OF 1992

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, I call up the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts, making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 309, the conference report is considered as read.

(For conference report and statement, see prior proceedings of the House of today.)

The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the joint resolution (H.J. Res. 157) making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of Operation Desert Shield/Desert Storm for the fiscal year ending September 30, 1992, and for other purposes, and that I may be allowed to include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the debate we just heard is illustrative of what we have to deal with in the Committee on Appropriations.

I have said before and I have said it seriously that we are going to have to give our domestic programs a foreign address to get them taken care of.

We have heard the debate here about the WIC Program and others. Let me tell you what the facts are.

I was one, and I apologize for it, who recommended the Budget Act, and it has not worked at all like it was planned. We recommended the Budget Act because funding was going around the Committee on Appropriations and leading us into debt right and left.

We recommended that the Budget Committee be made up of five members from the Ways and Means Committee, five members from the Appropriations Committee and five members from the various legislative committees so that we might hold the spending of the Government in line with revenues and by enabling the Appropriations Committee to have the strong voice to hold it back.

We did not get that. We got a committee weighted in favor of the legislative committees.

May I say, since 1945 we have held the appropriation bills $180 billion below the recommendations of all the Presidents. However, just since 1980, our debt has gone from less than $1 to $4 trillion. With spending going around the Committee on Appropriations the Budget Act has not succeeded. It has not worked and that causes the situation that we saw tonight.

May I say again that in the conference we were faced with the fact that if we kept funding not only this WIC Program, but several others, we would have had sequestration and everything would be cut, and the certainty of that came from the other side of the Capitol.

We tried to hold the things in line that we had. They were sound, not only the programs referred to, but other items which were very sound.

I say again that if we are going to look after our own country, we are going to have to put first things first and see that we are held up, by Budget Act requirements as we were in our conference.

Now, I am not going to argue with my colleagues who spoke so eloquently about the needs of the youth of this country. We strongly recognize those needs, I will say that conditions are a little better than might be expected in that we have $2.6 billion in the WIC section of the fiscal year 1992 Appropriations Act. Not only that, but we provided $250 million above what we had last year. I do not say that complaining. I just say that we have done the best we could within the limits of what is possible, and I want to say this as we begin this debate.

Now, the other side of this, I am going to say I hope you will take time to read my full remarks in the RECORD, but listen to what I say now.

At this time, I call your attention to the fact that economically and financially as a nation we face a national emergency—a dire emergency. All this year I have been saying that anyone who reads a newspaper, watches television, or talks to neighbors is bound to realize we are in a deep recession and, judging by history, it will take a real effort if we are to avoid a long drawn out depression.

Despite the fact that our Committee on Appropriations has held the total of appropriations bills $180,800 million below the recommendations of our Presidents since 1945, today we owe a debt of $4 trillion and have outstanding loan and deposit guarantees of another $5 trillion. We can work our way out of this only by increasing production and regaining our domestic markets and our normal share of foreign markets. History will decide whose fault it is—and our domestic policy of placing foreign relations ahead of the domestic economy, where we are letting our real wealth deteriorate, will figure prominently in that.

On November 22, I pointed out how the trade deficit has grown by over $1.1 trillion since 1981 as follows:

[In billions of dollars]

	Amount
1981	$34.6
1982	38.4
1983	64.2
1984	122.4
1985	133.6
1986	155.1
1987	170.3
1988	137.1
1989	129.4
1990	123.4

In addition, conditions are terrible because of natural disasters—hurricanes, earthquakes, freezes, drought, floods, tornadoes, and more recently, wildfires—which have been declared disasters by the President and the Secretary of Agriculture which affect every State in the Union. These disasters have created a dire emergency which must be addressed to prevent a cutting back on vital ongoing programs.

Mr. Speaker, it will take time if we are to work out of the present problem. We need to get our country moving, to increase production, to again export more than we import—and we need to start now for we live in a competitive world.

The conference agreement provides agricultural disaster assistance for crop years 1990, 1991, and to some extent, 1992 in the amount of $1,750 million—$995 million now and $755 million when the President submits a budget request.

The agreement also includes $943 million for the Federal Emergency Management Agency—$800 million now and $143 million when the President submits a budget request.

In addition, the conferees agreed to provide $4,083,500,000 for the incremental costs of Operation Desert Shield/Desert Storm.

As a start, we must join together to adopt this Dire Emergency Disaster Assistance Bill.

The conditions resulting from the widespread disasters continue to get worse. There are now 44 Presidentially declared disasters which affect 33 States and an additional 89 disasters have been declared by the Secretary of Agriculture which affect 39 States. With reductions in employment, in production, and exports resulting from these disasters, when added to our mistaken policies, it is apparent that the Nation must take action. It has been over 6 months since we called attention to the problem, the facts of which are well known.

In the years 1990 and 1991, disaster declarations have been declared or are pending for 11 States in the East, 8 States in the Southeast, 8 South Central States, 11 North Central States, 6 States in the Northwest, and 6 States in the Southwest. Thus, in connection with this, the Congress and the President have declared these domestic needs to be dire emergencies so that other essential programs won't be reduced by sequestration as has been done to fiscal year 1991 programs which were reduced thirteen ten-thousandths of 1 percent by the Office of Management and Budget based on its own counting without the approval of the Congress.

To begin to meet these problems, this Dire Emergency Supplemental provides funds to meet the disasters which have hit the Nation since last October and to provide more funds for Hurricane Hugo damage and the 1989 California earthquake.

Recently, Hurricane Bob struck the Northeast coast. To date, estimated costs for the disasters declared due to this hurricane are approximately $52 million.

Farmers in Minnesota and Iowa were unable to plant their crops due to an unprecedented spring and summer rainfall. Furthermore, many crops which may have been planted were destroyed because of flooding.

Since early spring of this year, tremendous storms with accompanying torrential rain and winds have hit areas of the country. At one point, over 4 million acres of land in the Mississippi River Delta were inundated, destroying or damaging drainage ditches, bridges, roads, homes, and farms. Additionally, some of the worst drought conditions of the century have affected other parts of the country.

Since October 1990, there have been disasters which resulted in calls for the National Guard and other assistance. Mr. Chairman, in fiscal 1990 the Guard was called out 292 times in 38 States; in fiscal 1991, 337 times in 42 States. This need will continue and shows the tremendous peacetime mission the Guard has. Because they are local, they play a big part in support of the regular services.

Mr. Speaker, this is a good agreement, and I urge it be adopted.

□ 0220

I do not know whether any of you have noticed it, but each week whatever groceries you buy have increased in price. For the years 1990 and 1991 the agricultural related disaster declarations have been getting worse.

What we are trying to do in this bill, and what we have done, is to recommend funds for holding our country together.

May I say again that your committee is trying to save our country and restore it. And I point out again the policies that we have been following have contributed greatly to our decline. We have given away billions of dollars of our domestic markets, and we are the ones who set up the European Common Market, not they; we are the ones that financed the defense of Japan so that they could build up their economy, and then we get stuck.

May I say again that in voting for this bill tonight, we are trying to save our country. I want to say right now that just as sure as I am standing here, we are going to be faced with the need for a jobs bill. Since 1981, the 1981 Tax Act has lost over $2.4 trillion in income. In 1982 we had a disastrous year, a rescission of over $14 billion, and by late 1982 we had a recession.

During Easter 1983, at the request of my colleagues, I stayed here and worked out the jobs bill. We came up with a jobs bill which left it up to the local people so that you had something to show for it. In other words, investment spending. We bailed out the country.

At the local level throughout the United States, we tried to be sure we got our money's worth.

May I say again, so many people do not realize or seem to know that wealth and money are not the same thing. They are not. Wealth is solid, material things. We are going to have to try to look after our own country because all this foreign aid and military spending depends on your own country to finance and support it.

May I say again it is not the fault of this committee or this group of conferees that these items that have been complained about are not included. We were faced with sequestration, which means everything would have been cut. We had to bring back the best we could.

So, if you want to go after the real problem, go after that which holds back what we can do—the Budget Act. If you do not stay within the limits, then sequestration takes effect. That is what we have to work with.

That is where your problem is caused.

I repeat again, for what it is worth, for WIC we have $250 million increase over last year to take care of an additional 300,000 participants per month. I agree with you the need is there, and I agree we are right in trying to hold the country together. We are going to have to look after our own country because all the rest depends on our country.

The other thing I want to say to you is that we live in a competitive world. We tried to sell apples in foreign countries, and they turned us down because they have artificial coloring on them. We tried to sell breed stock cattle to England, and they would not let us sell it because of the hoof and mouth disease; they had it, and we did not.

So I say tonight, it is time we look at our situation, see where the cause is, and correct it.

But I would like for you to understand these other facts—we have to regain our foreign markets, maintain our present domestic markets, and get away from being told what we can do by the Office of Management and Budget, and get away from the sequestration.

Mr. Speaker, I urge adoption of this conference report and reserve the balance of my time.

Mr. MURTHA. Mr. Speaker, chapter 1 of the bill deals with the matters affecting the Department of Defense:

Approved $4 billion in new authority to finance the costs of Operation Desert Shield/Desert Storm.

These appropriations were requested to replace material lost or consumed during combat and to provide for the rehabilitation and repair of equipment resulting from heavy use during Desert Shield/Desert Storm.

In addition, authority is provided to transfer $6.3 billion among accounts in fiscal year 1991 to adjust funding previously provided in the initial Desert Shield/Desert Storm supplemental enacted last April.

The most recent cost estimate of the conflict is $61.1 billion.

After factoring out: cash contributions from foreign countries; in-kind assistance from various countries; and the fact that various equipment which was destroyed will not be replaced, the actual cost of the conflict not covered by foreign contributions is estimated to be approximately $4.4 billion.

Basically, we have approved the budget request with several exceptions:

We provided $145,000,000 in additional funds to buy Patriot missiles.

We provided $25,000,000 in additional funds for advance procurement of engines and generators for the LSD–41 dock landing ship.

We provided $10,100,000 for the purchase of one MH–60E helicopter for the National Guard and Reserve.

We provided authority to allow the transfer of not to exceed $400,000,000 of defense funds to aid in the destruction of nuclear and other weapons in the Soviet republics and the Soviet Union.

We provided authority to allow the transfer of not to exceed $100,000,000 of defense funds to provide transportation of food, medical supplies, and other humanitarian assistance to the Soviet Union and the Soviet republics.

The SPEAKER pro tempore (Mr. BROWN). The gentleman from Pennsylvania [Mr. MCDADE] is recognized for 30 minutes.

Mr. MCDADE. Mr. Speaker, let me say to my colleagues that I have the long speech and the short speech, and you are going to get the short one at 20 minutes past 2 in the morning

I want to say this is the first time, my friends, in the 5 months this bill has been pending that I have risen in support of this bill. It is not only me, but I want you to know that every member of the conference committee on both sides of the aisle has signed the conference report.

The President, I am authorized to tell you, is waiting, should we decide to send the bill down, to sign it.

It has three principal components in it:

The first component is the funding for the Desert Storm operation, roughly $4 billion, all of which is funded by foreign contributions and is outside of the budget caps.

The second portion of it consists of emergency money for agricultural disasters in the country. That sum is $995 million, and covers crop year 1990 or 1991, at the farmer's choice. There is an additional $755 million that becomes available if the President requests it and designates it as an emergency.

The third major component in the bill is for disaster assistance under the Federal Emergency Management Administrations which is in the bill at $800 million, and covers the backlog of every single natural disaster which has occurred around the country and for which a lot of your communities are sitting and waiting. There is an additional $143 million that becomes available if the President requests it and designates it as an emergency.

That is the essence of the bill.

I urge your approval of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I commend the action of the conferees to correct the practice of the Defense Department of exporting American jobs to foreigners. Section 107 prevents the use of U.S. tax dollars to import 4-ton dolly jacks that are efficiently manufactured here at home. It is anti-American to export jobs to foreign countries when jobs are scarce in the United States. This practice must be stopped. I appreciate the committee for supporting my amendment. This section saves American jobs and keeps our people working so they can support their families.

Mr. Speaker, I would like to engage the chairman of the Subcommittee on Energy and Water, the gentleman from Alabama [Mr. BEVILL] in a short colloquy.

Mr. Speaker, when the Senate passed the fiscal year 1992 dire emergency supplemental appropriations bill, an amendment was adopted regarding an extension of certain FERC license deadlines for hydroelectric power projects which have or are soon to expire. That amendment, which was identical to S. 1283 as passed by the Senate, was dropped during conference consideration of the dire emergency supplemental appropriations measure.

I am aware that the House committee with jurisdiction over S. 1283, and a similar bill, H.R. 2677, which I introduced, plans to take action on these proposed extensions en bloc in the near future. I seek clarification from the chairman that the conferees's action to delete the amendment was in deference to the House authorization committee and in no way reflects on the merits of the proposed extensions.

Mr. Speaker, I ask the gentleman, is this correct?

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the chairman, the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct.

Mr. MCDADE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. GREEN] a member of our subcommittee.

Mr. GREEN of New York. I thank the distinguished ranking minority member of the Committee on Appropriations for yielding the time to me.

I take this time because I think Members should understand that, in addition to appropriating funds to clean up the FEMA backlog, we have established important new grounds rules for FEMA of which everyone should be aware.

The appropriations for FEMA involve a total of $943 million, of which $800 million is agreed to between the Administration and the Congress as emergency funds for 1990 Budget Act purposes. The balance of $143 million may be spent by the administration only if the administration determines that the purpose for which it seeks the funds qualifies as an emergency under the 1990 Budget Act and will not trigger a sequester. That is what we did for the current fiscal year.

□ 0230

But in addition to that, as I mentioned, we established some new ground rules, because the administration has been complaining that the shortfall in funds which we were facing this calendar year was the result of congressional failure to provide as much money to the disaster relief account as history had suggested it needed and as the administration had requested, and frankly the administration had a good case in making that claim. As a result, this bill provides that there will be a baseline established of $320 million for a fiscal year, which is agreed to as the recent historical average of emergency needs for the FEMA program, or such lesser amount as the administration may request in its budget recommendations for any fiscal year. That amount will be a baseline which must be met before amounts above that level, which are agreed to by the Congress and the administration, may be deemed to be emergencies.

So, Mr. Speaker, I think that this agreement will deal with the concerns of the administration that by underfunding this account in past years we created an artificial emergency. we shall now have a baseline by which to judge that every year.

Since the report of the managers is a little obscure in its language, let me make it clear that shortfalls below the baseline do not carry over from year to year. So, for example, if the administration requests $320 million, and we appropriate only $250 million, and only $250 million is needed in that fiscal year, then the $70 million shortfall does not carry over, and we start afresh in the next fiscal year. So there will be no carryover of gaps between the baseline and the amount appropriated if in fact the lower appropriation proves to be all that is needed in that fiscal year.

I apologize to my colleagues for discussing this at this hour of the night, but I think it is important to make clear in the RECORD and for my colleagues' understanding just what the ground rules are going to be as to when FEMA appropriations are going to be considered emergencies and when they are not.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Fazio], a member of the committee.

Mr. FAZIO. Mr. speaker, I appreciate the gentleman from Mississippi [Mr. WHITTEN] yielding this time to me.

Mr. Speaker, I simply want to thank the chairman for help on three different disasters that have faced California in the last years. we are still finding $300 million in the Loma Prieta earthquake in this bill. There will be at least $300 million to deal with the freeze that beset the San Joaquin Valley and $100 million to take care of those people in the city of Oakland who suffered the loss of public facilities.

I know that the California delegation appreciates the committee's assistance in the context of this supplemental, and I am hopeful that a much larger percentage of them will support final passage than supported the rule.

Mr. Speaker, I rise in strong support of the conference report on the dire emergency appropriations bill for fiscal year 1992.

The measure is a good compromise. It will get some immediate relief to the victims of natural disasters throughout our country, affording them the same assistance that we have provided to the victims of natural disaster in other parts of the world.

Despite my strong support for the conference report, Mr. Speaker, I remain disappointed that the President would not agree to make the full $1.75 billion in crop loss disaster assistance and $943 million in FEMA aid, as proposed by the House, immediately available.

The House and Senate have both stated very emphatically the belief that there are emergency requirements outstanding that will reach at least the levels set in the original House and Senate bills. We know, for example, that eligible crop losses across the country may exceed $2 billion.

But the President was unwilling to make immediately available what we believe to be the required level of disaster assistance. Therefore, while under the measure we have made most of the funds immediately available, a portion of the moneys will be made available only if the President determines that an emergency exists and thereby releases the funds. No further action by Congress will be required, however.

Of the $1.75 billion in crop loss assistance, $995 million will be made available immediately and $755 million is provided, contingent upon a Presidential declaration that an emergency exists. Of the $943 million for FEMA, $800 million will be available immediately and $143 million could be made available by the President, if he exercises his emergency authority.

But the conference report appropriates what we believe will be required to meet our Federal disaster assistance obligations and gives the President the authority and flexibility to respond.

Mr. Speaker, for my own State of California this bill is particularly critical. My State has suffered from one major natural disaster after another. The bay area is still recovering from the Loma Prieta earthquake. The Oakland fire last month was among the worst natural disasters to hit our State. And, the farmers and farm communities throughout the State, particularly in the San Joaquin Valley, are still trying to recover from the devastating freeze which hit the State last December.

The measure will provide roughly $100 million to help rebuild fire damaged areas of Oakland, up to $425 million for farmers and farm communities hit by last December's freeze, and an estimated $300 million to clear up Federal obligations still outstanding from the 1989 Loma Prieta earthquake.

Mr. Speaker, all year long, the President has been handing out aid to the victims of disasters in foreign countries. And, while these are laudable causes, he has repeatedly turned his back on those in our own country who have suffered from similar emergencies. We have fought and fought for this aid, and, now, hopefully, the President will sign this bill and get the aid flowing to those in our own country who are entitled to this essential assistance.

I want to also explain another item which affects the legislative branch appropriation.

In section 209, we have provided authority to spend donated funds for construction drawings and specifications for the replacement of the Botanic Garden Conservatory.

All Members should realize that part of this historic building will be torn down within a few weeks. The middle portion—the Palm House—is in such a deteriorated and even dangerous condition that it must be razed.

The balance of the building—the Fern House, the Orangerie, the display halls—all require immediate structural and environmental repair.

The entire project will cost from $20 to $30 million. We did not even have the funds for the construction drawings.

So the good people who are raising donations for the National Garden—Lindy Boggs, the wives of Senator BENTSEN and Senator JOHNSON—came to us and said they would like to raise funds for the design. That will cost almost $2 million.

The Senate bill gave the Architect of the Capitol the authority to expend the $2 million—but subject to an authorization bill being passed.

We were informed that the authorizing committees—Senate Rules and House Administration—would probably not get to that matter this session.

So the conferees on the supplemental decided to insert the authorization also, so that this important design could go forward.

We had to make some adjustments in the authorization introduced by Senator PELL because of the scorekeeping rules. The OMB and CBO agreed those adjustments were necessary to prevent the bill from being scored and perhaps trigger a sequestration.

The conferees have provided authority to accept gifts or bequests of money in the amounts provided in appropriation acts in section 307E(b)(1). It is not the intent of the conferees that gifts or bequests of a nonmonetary nature be included in such limitations.

So all we are doing is trying to use other sources of funds—private donations—to keep our physical plant in repair. I think we owe that to the American people.

Mr. MCDADE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. COLEMAN], the ranking member of the Committee on Agriculture.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise to express my support of language included in this conference report that will protect the pension benefits of thousands of TWA employees. The amendment ensures that up to $1 billion of unfunded pension liability will not, by means of a slick legal maneuver, be transferred to the Pension Benefit Guaranty Corporation.

The owner of TWA, Carl Icahn, is currently negotiating with creditors to develop a prepackaged bankruptcy agreement. Under current law, Mr. Icahn, as the holder of more than 80 percent of the airline's common stock, is deemed in control of TWA. Furthermore, the law holds the other businesses he controls in common with TWA liable for the pension obligations.

Mr. Icahn proposes, as part of the agreement, to decrease his ownership below 80 percent, but to retain control of the TWA board and management. If accepted, this proposal would insulate Mr. Icahn and his financial empire from the liability for the unfunded pension obligations. Those obligations have been estimated to be from $150 to $900 million.

Mr. Speaker, this amendment has been very narrowly drawn, and applies only to the particular situation involving TWA. Without it, the Pension Benefit Guaranty Corporation, already dealing with an accumulated deficit of $1.8 billion, will be forced to pickup some $440 million in guaranteed benefits for TWA employees. And without it, TWA employees will lose an estimated $400 million in promised, but not PBGC guaranteed, pension benefits.

I urge my colleagues to accept this language.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Mississippi [Mr. WHITTEN] very much for yielding this time to me.

Mr. Speaker, I just wanted to say again that, as I read this bill, the congressional designations of emergency points out that, while the President had only designated portions of the funds dealing with Desert Shield and Desert Storm, the Congress believed others should have a higher priority, and that is what I had hoped children would get.

I must say that, as I read this bill, and I have not had time to get through all of it, but I see in here a $½ million to the State of Maine for potato disease. There is something in here I do not understand where we are increasing $14 million to something called fishing vessel obligation guarantees. Then the Kurdish protection forces, and, as my colleagues know, I can keep reading this about the Kuwaitis and the Saudis not paying their parking tickets to the tune of a lot of money, and on, and on, and on.

Mr. Speaker, I just, as I say, am very sad to stand here and take on the Committee on Appropriations, but, when I look at all of this, I certainly think America's children were entitled to the same kind of coverage, and it saddens me. I have to keep reiterating this over and over again, but the more I read, the more I am horrified at those who got a higher priority than kids, and that makes me very sad.

Mr. McDADE. Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. McDADE] for yielding this time to me.

Mr. Speaker and Members of the House, in voting in favor of this resolution, I cast that vote to keep faith with the farmers who will benefit from the impact of this legislation, and with the FEMA personnel who also will benefit, and we who at large know what devastation the farms of our country have faced this past year during the drought.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to myself.

Mr. Speaker, I would like to point out, in view of statements that have been made earlier, the fiscal year 1992 appropriations bill, which was signed into law October 28, 1991, provides $2.6 billion for WIC—an increase of $250 million above the 1991 level. May I say that there were 4.9 million persons in fiscal year 1991 that were served, and, for the present year, 5.2 million persons—an increase of 300,000. Within the limits of the possible we have done the very best we could, and I think the RECORD should show it.

Mr McDADE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. McDADE] for yielding this time to me.

On page 158–200 of the report I come across an interesting item that sounds like a dire emergency to me.

> Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food and Rural Resources for potato disease detection, control, prevention, eradication and related activities including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine and any unobligated balances of funds previously appropriated or earmarked for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

Mr. Speaker, is this a dire emergency that was requested by the President?

Mr McDADE. Mr. Speaker, I yield myself such time as I may consume.

May I say to my colleague that it was not in the budget submitted by the President, no.

Mr. WALKER. I thank the gentleman from Pennsylvania.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Speaker, I would like to take less than a minute to thank the gentleman from Mississippi [Mr. WHITTEN] for this legislation. I urge my colleagues to support it.

Contained in this bill, the disaster assistance is going to assist agriculture producers all across this country. A number of those are in my northeast Texas district where in May 1990 the Red River was 10 miles wide. Tens of thousands of acres of farmland were flooded. Those folks have had no funding for the authorized disaster programs that Congress has passed.

□ 0240

Tonight we will give them that needed funding, breathe life into those producers, and for that, Mr. Chairman, my constituents owe you a debt of gratitude, and so do I.

I urge my colleagues to support this legislation and help us rebuild the assets that have made this country great and give our agriculture producers around this country a chance to get back on their feet.

Mr. McDADE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Speaker, I rise in strong support of the dire emergency supplemental legislation, which includes much-needed relief for those affected by natural disasters throughout the country, including this summer's Midwest drought.

The country has seen an unusually high level of natural disasters, including drought, flooding, freezing, and fires. In Illinois, many farmers had no rain at all during the critical growing season. Many are facing significant looses, some are facing total losses. Without this legislation, many will go out of business and join the ranks of the unemployed.

While national production may be average, this drought has been spotty, and those who have been hit have been hit very hard. This legislation is critically necessary to thousands of agricultural producers.

This drought comes on the heels of devastating droughts in 1980, 1983, and 1988 and is particularly devastating to many farmers who are still trying to recover financially from this long string of droughts.

Drought relief has been languishing in Congress for over 4 months. The time has come for us to act. I want to thank the President and congressional leaders for reaching this agreement. If we act tonight, we can deliver this much-needed assistance before Christmas.

Mr. Speaker, drought relief is very important for our economy and for thousands of farmers and others throughout the country. I urge my colleagues to support this legislation.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, you are going to get some regular order. I was almost asleep until I saw this in here where they deleted certain provisions from this bill.

I want to ask if I can engage in a colloquy with the chairman of the committee.

What were the reasons for the deletion of the agreement not to include supplemental appropriations for $1.2 billion for Head Start; $100 million for women and children, the WIC Program; and the Nutrition Program; and $90 million for the Childhood Immunization Program?

I cannot go back to my poor kids in my community and not be able to explain why we do not have this kind of money.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. HAYES of Illinois. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I want to say to my friend from Chicago that I do not know of a single Member in this House who is against Head Start, against the WIC Program, or against the Childhood Immunization Program.

The amendment offered by the gentlewoman from Colorado, as the gentleman knows, added $1.2 billion to the Head Start Program. The regular bill, I say to my friend from Chicago, had $2,202,000,000 for Head Start for fiscal year 1992. This is an increase of $250 million. This follows a $400 million increase in Fiscal Year 1991. As far as the Childhood Immunization Program is concerned, in the regular bill we have $298 million, and this is an $80 million increase over 1991.

Not a single dollar of the money added by the gentlelady would have been dropped by the conferees if it had not been for the two letters that the conferees received from OMB. One of them was directed to the Chairman of the Committee on Appropriations in the Senate, Mr. BYRD. The other was directed to my chairman, the gentleman from Mississippi [Mr. WHITTEN]. These letters informed the conferees that if these supplemental amounts remained in the bill, not qualifying under the emergency category, there would be a sequester. This sequester would be up to 2.7 percent across the entire domestic discretionary budget for fiscal year 1992. The gentleman from Illinois would not like it, and I would not like it. Think about it.

Let me say to the gentleman that this 2.7-percent reduction across the entire budget would cover all 10 domestic appropriation bills. Not $1 would have been removed if these amounts added by the gentlewoman from Colorado could have been classified under the emergency category. Every dollar would have remained in there. The gentleman and I are both for Head Start. We are both for the WIC Program. We are also for childhood immunization.

Mr. HAYES of Illinois. I am not sure OMB is, if I can reclaim my time.

Mr. NATCHER. No. I understand. But let me say this to the gentleman; I do not know of a Member in this House that is against any one of these three programs. They would have remained if there had not been the threat of this sequester.

Mr. HAYES of Illinois. I want it clearly understood that I am not blaming the gentleman, but I want it clearly understood, too, that our priorities are on the wrong end. We are not doing enough for poor kids who are tomorrow's leaders in this great Nation of ours. We tend to forget. We do not know where our priorities are. We look at some of the money we spent for bridges and other things within this bill, and when you really look at it, we are really behind the times of where we need to move.

Mr. McDADE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROWN). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 303, noes 114, not voting 17, as follows:

[Roll No. 438]

AYES—303

Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Aspin
Bacchus
Baker
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Camp
Cardin
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Ford (MI)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (LA)
Hefner
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oberstar
Obey
Olin
Olver
Owens (UT)
Oxley
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Poshard
Price
Quillen
Ravenel
Reed
Regula
Richardson
Ridge
Riggs
Roberts
Roe
Rogers
Rohrabacher
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Schiff
Schulze
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torres
Torricelli
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waxman
Weber
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—114

Abercrombie
Andrews (NJ)
Applegate
Archer
Armey
AuCoin
Barton
Bilirakis
Blackwell
Bliley
Burton
Callahan
Campbell (CA)
Campbell (CO)
Carper
Clay
Collins (MI)
Conyers
Cox (CA)
Crane
Cunningham
Dannemeyer
DeFazio
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (CA)
Erdreich
Fawell
Fields
Foglietta
Ford (TN)
Franks (CT)
Gejdenson
Geren
Gilman
Goss
Guarini
Gunderson
Hancock
Hansen
Hayes (IL)
Hefley
Henry
Herger
Hertel
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Kennedy
Kolbe
Laughlin
Lewis (FL)
Lloyd
Luken
McCandless
McCollum
McEwen
Mfume
Moorhead
Nussle
Oakar
Orton
Owens (NY)
Packard
Pallone
Pastor
Pease
Penny
Petri
Porter
Pursell
Rahall
Ramstad
Rangel
Ray
Rhodes
Rinaldo
Ritter
Roemer
Ros-Lehtinen
Santorum
Savage
Schaefer
Schroeder
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Slattery
Solomon
Stark
Stearns
Stenholm
Stump
Swett
Thomas (WY)
Traficant
Valentine
Walker
Washington
Waters
Weiss
Weldon
Zeliff
Zimmer

NOT VOTING—17

Atkins
Ballenger
Collins (IL)
Dickinson
Dymally
Flake
Lehman (FL)
Ortiz
Pickett
Pickle
Rose
Sarpalius
Saxton
Thomas (CA)
Towns
Traxler
Yates

☐ 0305

Messrs. CAMPBELL of Colorado, MFUME, and GREEN of Texas changed their vote from "aye" to "no."

Mr. WILLIAMS changed his vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE SUNDRY REPORTS

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m. on Friday, December 20, 1991, to file sundry reports.

The SPEAKER pro tempore (Mr. BROWN). Is there objection to the request of the gentleman from Michigan?

There was no objection.

TAX EXTENSION ACT OF 1991

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3909, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 3909, on which the yeas and nays are ordered.

The motion was taken by electronic device, and there were—yeas 420, nays 0, not voting 14, as follows:

[Roll No. 439]

YEAS—420

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—14

Atkins
Collins (IL)
Dickinson
Dymally
Flake
Lehman (FL)
Ortiz
Pickett
Rose
Thomas (CA)
Towns
Traxler
Vander Jagt
Yates

☐ 0326

Mr. HUTTO changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, I was unavoidably absent on certain rollcall votes on November 6 and 7. I wish to have the RECORD indicate that had I been present, I would have voted "aye" on rollcall votes 283, 376, 385, and 386.

I would have voted "no" on rollcall votes 321, 322, and 363.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 585, THE NATIONAL BIOLOGICAL DIVERSITY CONSERVATION AND ENVIRONMENTAL RESEARCH ACT

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that the name of Hon. JAMES OLIN be removed from the list of cosponsors to H.R. 585, the National Biological Diversity Conservation and Environmental Research Act. His name was placed on the list due to a clerical error.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2824

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2824.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 210

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 210.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

KONIAG LANDS CONVEYANCE AMENDMENTS OF 1991

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3638.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Yesterday the House vacated the ordering of the yeas and nays on Saturday, November 23, 1991, by unanimous consent.

The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 3638.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR DISPOSITION OF SENATE AMENDMENTS TO H.R. 3807, CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–401) on the resolution (H. Res. 316) providing for disposition of the Senate amendments to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–402) on the resolution (H. Res. 317) waiving all points of order against the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

□ 0330

WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 317 and, pursuant to House Resolution 294, ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 317

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore (Mr. HOYER). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. McEWEN] pending which I yield myself such time as I may consume.

Mr. MOAKLEY. Mr. Speaker, during debate on House Resolution 317, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 317, is the rule providing for the consideration of the conference report on H.R. 2950, the Intermodel Surface Transportation Infrastructure Act of 1991. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as read.

Mr. Speaker, H.R. 2950 provides a total of $151 billion for surface transportation over the next 6 years. The conference report authorizes $119 billion for highway construction and $32 billion for mass transit construction and expansion.

In addition, Mr. Speaker, the conference report authorizes $38 billion for a 155,000-mile National Highway System, $16 billion for a bridge replacement and rehabilitation program, $24 billion for the flexible surface transportation program, and increases from 85 to 90 percent the guaranteed minimum allocation for each State relative to its share of highway trust fund contributions.

Mr. Speaker, Chairman ROE and the ranking Republican member, Mr. HAMMERSCHMIDT, deserve our praise for their relentless efforts in bringing this most important measure to this phase of the legislative process. The gentleman from California, Mr. MINETA and the gentleman from Pennsylvania, Mr. SHUSTER also deserve our gratitude for the many long hours they have spent on this bill.

Mr. Speaker, this conference agreement strikes a reasonable balance and represents a consensus on this important legislation. The effort all the conferees deserves the appreciation of all Members of the House and I urge Members to support the rule and the conference report.

Mr. McEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY] in the explanation of the conference report, House Resolution 317, the Intermodal Surface Transportation and Infrastructure Act of 1991.

As was stated by the chairman, the rule does waive points of order and brings before us the major provisions of this important legislation.

I join the chairman in expressing my appreciation to the chairman of the committee, the gentleman from New Jersey [Mr. ROE] and the ranking member of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the chairman of the Subcommittee on Surface Transportation, the gentleman from California [Mr. MINETA], and his ranking member, the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. Speaker, only five provisions of the bill that were not mentioned by the chairman that I would make note of. Of the $119 billion for highway construction and repairs, $31.5 billion is for mass transit; a Federal-State match share of 80/20 for all programs except interstate highway projects, which will be 90/10; authorization of $7.2 billion for completion of the Interstate System as well as $16 billion for a rebuilding program for the Nation's bridges; a Corridor of National Significance Program; and a freeze to prevent expanded use of triple-trailer trucks.

Mr. Speaker, it is vitally important that this legislation, which is an authorization beginning October 1, recognizing this is the end of November, it is important for this legislation to be enacted.

Mr. Speaker, I urge the support of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Speaker, the Republicans want a growth package, the Democrats want a growth package, the American people are looking for an economic growth package. This is probably the best economic growth package that the Congress will vote on. This will set in motion high-speed rail, it will complete the intermodal system and our highway system, and this bill will create potentially 2 million jobs, 2 million jobs. This may be the most important economic growth package we will vote on in the next 8 years.

I encourage everybody to vote for the rule.

I appreciate the work done by the committee under the first big time of our committee chairman, the gentleman from New Jersey [Mr. ROE], the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the gentleman from Pennsylvania [Mr. SHUSTER], and the gentleman from California [Mr. MINETA].

This is a good bill.

Mr. McEWEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3595, MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees: Messrs. DINGELL, WAXMAN, and LENT.

There was no objection.

JUDICIAL NATURALIZATION AMENDMENTS OF 1991

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—*This Act may be cited as the "Miscellaneous and Technical Immigration and Naturalization Amendments of 1991".*

(b) TABLE OF CONTENTS.—*The table of contents of this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

Sec. 101. Short title of title.
Sec. 102. Court authority to administer oaths of allegiance for naturalization.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

Sec. 201. Short title of title.
Sec. 202. Repeal of numerical limitations on P-1 and P-3 nonimmigrants; GAO report.
Sec. 203. Standards for classification of P-1 nonimmigrants.
Sec. 204. Consultation requirement.
Sec. 205. Amendments relating to O nonimmigrants.
Sec. 206. Amendments relating to P nonimmigrants.
Sec. 207. Other amendments.
Sec. 208. Effective date.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

Sec. 301. Short title of title; reference to the Immigration and Nationality Act.
Sec. 302. Corrections relating to title I of the Immigration Act of 1990.
Sec. 303. Corrections relating to title II of the Immigration Act of 1990.
Sec. 304. Corrections relating to title III of the Immigration Act of 1990.
Sec. 305. Corrections relating to title IV of the Immigration Act of 1990.
Sec. 306. Corrections relating to title V of the Immigration Act of 1990.
Sec. 307. Corrections relating to title VI of the Immigration Act of 1990.
Sec. 308. Corrections relating to title VII of the Immigration Act of 1990.
Sec. 309. Additional miscellaneous corrections.
Sec. 310. Effective dates.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

SEC. 101. SHORT TITLE OF TITLE.

This title may be cited as the "Judicial Naturalization Ceremonies Amendments of 1991".

SEC. 102. COURT AUTHORITY TO ADMINISTER OATHS OF ALLEGIANCE FOR NATURALIZATION.

(a) IN GENERAL.—*Subsection (b) of section 310 of the Immigration and Nationality Act (8 U.S.C. 1421), as amended by section 401(a) of the Immigration Act of 1990, is amended to read as follows:*

"(b) COURT AUTHORITY TO ADMINISTER OATHS.—

"(1) JURISDICTION.—*Subject to section 337(c)—*

"(A) GENERAL JURISDICTION.—*Except as provided in subparagraph (B), each applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the Attorney General or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.*

"(B) EXCLUSIVE AUTHORITY.—*An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 337(a) to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A)(i) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.*

"(2) INFORMATION.—

"(A) GENERAL INFORMATION.—*In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—*

"(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

"(ii) the Attorney General—

"(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 337(a), and

"(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

"(B) ASSIGNMENT OF INDIVIDUALS IN THE CASE OF EXCLUSIVE AUTHORITY.—*If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), at the time of the approval of the person's application for naturalization, of—*

"(i) the court's exclusive authority to administer the oath of allegiance under section 337(a) to such a person during the period specified in paragraph (3)(A)(i), and

"(ii) the date or dates (if any) under paragraph (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

"(3) SCOPE OF EXCLUSIVE AUTHORITY.—

"(A) LIMITED PERIOD AND ADVANCE NOTICE REQUIRED.—*The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—*

"(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

"(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.

"(B) AUTHORITY OF ATTORNEY GENERAL.—*Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.*

"(C) WAIVER OF EXCLUSIVE AUTHORITY.—*Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 337(a) to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration ceremonies. Upon notification of a court's waiver of jurisdiction, the Attorney General shall promptly notify the applicant.*

"(4) ISSUANCE OF CERTIFICATES.—*The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.*

"(5) ELIGIBLE COURTS.—*For purposes of this section, the term 'eligible court' means—*

"(A) a District Court of the United States in any State, or

"(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.".

(b) CONFORMING AMENDMENTS.—

(1) FUNCTIONS OF CLERKS.—*Section 339(a) of such Act (8 U.S.C. 1450(a)) is amended —*

(A) by striking paragraph (1) and inserting the following:

"(1) deliver to each person administered the oath of allegiance by the court pursuant to section 337(a) the certificate of naturalization prepared by the Attorney General pursuant to section 310(b)(2)(A)(ii),",

(B) in paragraph (2), by inserting "a list of applicants actually taking the oath at each scheduled ceremony and" after "Attorney General",

(C) by striking paragraph (3),

(D) in paragraph (4), by striking the period at the end and inserting ", and" and by redesignating such paragraph as paragraph (3),

(E) by inserting after paragraph (3), as so redesignated, the following new paragraph:

"(4) be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General and shall account to the Attorney General for them whenever required to do so.", and

(F) by adding at the end the following:

"No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed,

but such certificates shall be returned to the Attorney General.".

(2) EXPEDITED ADMINISTRATION OF OATH.—Subsection (c) of section 337 of such Act (8 U.S.C. 1448) is amended to read as follows:

"(c) Notwithstanding section 310(b), an individual may be granted an expedited judicial oath administration ceremony or administrative naturalization by the Attorney General upon demonstrating sufficient cause. In determining whether to grant an expedited judicial oath administration ceremony, a court shall consider special circumstances (such as serious illness of the applicant or a member of the applicant's immediate family, permanent disability sufficiently incapacitating as to prevent the applicant's personal appearance at the scheduled ceremony, developmental disability or advanced age, or exigent circumstances relating to travel or employment). If an expedited judicial oath administration ceremony is impracticable, the court shall refer such individual to the Attorney General who may provide for immediate administrative naturalization.".

(3) FEES.—Section 344 of such Act (8 U.S.C. 1455) is amended by adding at the end the following new subsection:

"(f)(1) The Attorney General shall pay over to courts administering oaths of allegiance to persons under this title a specified percentage of all fees described in subsection (a)(1) collected by the Attorney General with respect to persons administered the oath of allegiance by the respective courts. The Attorney General, annually and in consultation with the courts, shall determine the specified percentage based on the proportion, of the total costs incurred by the Service and courts for essential services directly related to the naturalization process, which are incurred by courts.

"(2) The Attorney General shall provide on an annual basis to the Committees on the Judiciary of the House of Representatives and of the Senate a detailed report on the use of the fees described in paragraph (1) and shall consult with such Committees before increasing such fees.".

(c) EFFECTIVE DATE.—The amendments made by this title shall take effect 30 days after the date of the enactment of this Act.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

SEC. 201. SHORT TITLE OF TITLE.

This title may be cited as the "O and P Nonimmigrant Amendments of 1991".

SEC. 202. REPEAL OF NUMERICAL LIMITATIONS ON P-1 AND P-3 NONIMMIGRANTS; GAO REPORT.

(a) IN GENERAL.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)), as added by section 205(a) of the Immigration Act of 1990, is amended—

(1) by adding "or" at the end of subparagraph (A),

(2) by striking ", or" at the end of subparagraph (B) and inserting a period, and

(3) by striking subparagraph (C).

(b) REPORT.—(1) By not later than October 1, 1994, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives a report containing information relating to the admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under subparagraphs (O) and (P) of section 101(a)(15) of the Immigration and Nationality Act, and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens.

(2) Not later than 30 days after the date the Committee of the Judiciary on the Senate receives the report under paragraph (1), the Chairman of the Committee shall make the report available to interested parties and shall hold a hearing respecting the report. No later than 90 days after the date of receipt of the report, such Committee shall report to the Senate its findings and any legislation it deems appropriate.

SEC. 203. STANDARDS FOR CLASSIFICATION OF P-1 NONIMMIGRANTS.

(a) SUBSTITUTION OF NEW STANDARDS.—Clause (i) of section 101(a)(15)(P) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended to read as follows:

"(i)(a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups);".

(b) NEW STANDARDS.—Section 214(c)(4) of such Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by redesignating subparagraphs (A) through (C) as subparagraphs (C) through (E) and by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) For purposes of section 101(a)(15)(P)(i)(a), an alien is described in this subparagraph if the alien—

"(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

"(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

"(B)(i) For purposes of section 101(a)(15)(P)(i)(b), an alien is described in this subparagraph if the alien—

"(I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,

"(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

"(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

"(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

"(iii)(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in a group.

"(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

"(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.".

SEC. 204. CONSULTATION REQUIREMENT.

Section 214(c) of the Immigration and Nationality Act, as amended by section 207(b)(2) of the Immigration Act of 1990, is amended—

(1) in paragraph (3)(A), by striking "after consultation with peer groups in the area of the alien's ability" and inserting "after consultation in accordance with paragraph (6)",

(2) in paragraph (3)(B), by striking "'after consultation with labor organizations with expertise in the skill area involved" and inserting "after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien's ability",

(3) in paragraph (4)(C), as redesignated by section 203(b), by striking "clause (ii) of",

(4) in paragraph (4)(D), as redesignated by section 203(b), by striking "after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved" and inserting "after consultation in accordance with paragraph (6)",

(5) by redesignating paragraph (6) as paragraph (7), and

(6) by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) To meet the consultation requirement of paragraph (3)(A) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(i) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a peer group (or other person or persons of its choosing, which may include a labor organization) with expertise in the specific field involved.

"(ii) To meet the consultation requirement of paragraph (3)(B) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(ii) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the skill area involved.

"(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field of athletics or entertainment involved.

"(B) To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization.

"(C) In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion.

"(D) Any person or organization receiving a copy of a petition described in subparagraph (A) and supporting documents shall have no more than 15 days following the date of receipt of such documents within which to submit a written advisory opinion or comment or to provide a letter of no objection. Once the 15-day period has expired and the petitioner has had an opportunity, where appropriate, to supply rebuttal evidence, the Attorney General shall adjudicate such petition in no more than 14 days. The Attorney General may shorten any specified time

period for emergency reasons if no unreasonable burden would be thus imposed on any participant in the process.

"(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

"(ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 101(a)(15)(O)(i) or 101(a)(15)(P)(i) in the case of emergency circumstances (including trades during a season).

"(F) No consultation required under this subsection by the Attorney General with a nongovernmental entity shall be construed as permitting the Attorney General to delegate any authority under this subsection to such an entity. The Attorney General shall give such weight to advisory opinions provided under this section as the Attorney General determines, in his sole discretion, to be appropriate.".

SEC. 205. AMENDMENTS RELATING TO O NONIMMIGRANTS.

(a) Definition of Extraordinary Ability in the Arts for O Nonimmigrants.—Section 101(a) of the Immigration and Nationality Act, as amended by sections 123 and 204(c) of the Immigration Act of 1990, is amended by adding at the end the following new paragraph:

"(46) The term 'extraordinary ability' means, for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction.".

(b) Eliminating Additional Paperwork Requirement for O–1's.—Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, as amended by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", but only" and all that follows up to the semicolon at the end.

(c) Clarification of Significant Photography for O–2s.—Section 101(a)(15)(O)(ii)(III)(b) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking "significant principal photography" and inserting "significant production (including pre- and post-production work)".

(d) Clarification of Multiple Events for Visas for O Nonimmigrants.—Section 214(a)(2)(A) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by inserting "(or events)" after "event".

(e) Consultation With Respect to Readmitted O–1 Nonimmigrants.—Section 214(c)(3) of the Immigration and Nationality Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by adding at the end the following: "The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 101(a)(15)(O)(i) because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.".

SEC. 206. AMENDMENTS RELATING TO P NONIMMIGRANTS.

(a) Eliminating 3-Month Out-of-Country Rule for P–2 and P–3 Nonimmigrants.—Section 214(a)(2)(B) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended—

(1) by striking "(B)(i)" and inserting "(B)", and

(2) by striking clause (ii).

(b) Treatment of Foreign Organizations for P–2 Nonimmigrants.—Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by inserting "or organizations" after "and an organization".

(c) Treatment of P–2 Nonimmigrants.—(1) Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", between the United States and the foreign states involved".

(2) Section 214(c)(4)(E) of the Immigration and Nationality Act, as added by 207(b)(2)(B) of the Immigration Act of 1990 and as redesignated by section 203(b) of this title, is amended by striking ", in order to assure reciprocity in fact with foreign states".

(d) Performance of Teaching and Coaching Functions by P–3 Nonimmigrants.—Section 101(a)(15)(P)(iii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended—

(1) by striking "for the purpose of performing" and inserting "to perform, teach, or coach", and

(2) by inserting "commercial or noncommercial" before "program".

SEC. 207. OTHER AMENDMENTS.

(a) Return Transportation Requirement for O and P Nonimmigrants.—Section 214(c)(5) of the Immigration and Nationality Act, as added by section 207(b)(2) of the Immigration Act of 1990, is amended by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) In the case of an alien who enters the United States in nonimmigrant status under section 101(a)(15)(O) or 101(a)(15)(P) and whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.".

(b) Entry of Fashion Models Under H–1B.—Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended—

(1) by inserting "or as a fashion model" after "214(i)(1)", and

(2) by inserting "or, in the case of a fashion model, is of distinguished merit and ability" after "214(i)(2)".

(c) Annual Report.—

(1) In general.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(3)), as amended by section 207(b)(2) of the Immigration Act of 1990 and by section 204 of this title, is amended by adding at the end the following new paragraph:

"(8) The Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing, with respect to petitions under each subcategory of subparagraphs (H), (O), (P), and (Q) of section 101(a)(15) the following:

"(A) The number of such petitions which have been filed.

"(B) The number of such petitions which have been approved and the number of workers (by occupation) included in such approved petitions.

"(C) The number of such petitions which have been denied and the number of workers (by occupation) requested in such denied petitions.

"(D) The number of such petitions which have been withdrawn.

"(E) The number of such petitions which are awaiting final action.".

(2) Deadline for first report.—The first report under section 214(c)(8) of the Immigration and Nationality Act shall be provided not later than April 1, 1993.

SEC. 208. EFFECTIVE DATE.

The provisions of, and amendments made by, this title shall take effect on April 1, 1992.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

SEC. 301. SHORT TITLE OF TITLE; REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

(a) This title may be cited as the "Immigration Technical Corrections Act of 1991".

(b) In this title, the term "INA" means the Immigration and Nationality Act.

SEC. 302. CORRECTIONS RELATING TO TITLE I OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 201 of the INA, as amended by section 101(a) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(3), by striking "(3) The number computed under this paragraph for a fiscal year" and inserting the following:

"(3)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(a) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year"; and

(B) in subsection (d)(2), by striking "(2) The number computed under this paragraph for a fiscal year" and inserting the following:

"(2)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(b) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year".

(2) Section 101 of the Immigration Act of 1990 is amended by adding at the end the following new subsection:

"(c) Transition.—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of a alien whose citizen spouse died before the date of the enactment of this Act, notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.".

(3) Section 202(a)(4)(A) of the INA, as amended by section 102(1) of the Immigration Act of 1990, is amended by striking "MINIMUM".

(b)(1) Section 112 of the Immigration Act of 1990 is amended—

(A) in subsection (c), by striking "temporary or" before paragraph (1), and

(B) by adding at the end the following:

"(d) Definitions.—The definitions in the Immigration and Nationality Act shall apply in the administration of this section.".

(2) Section 203(b) of the INA, as inserted by section 121(a) of the Immigration Act of 1990, is amended—

(A) in paragraphs (1), (2), and (3), by striking "40,000" and inserting "28.6 percent of such worldwide level" each place it appears,

(B) in paragraph (1)(C), by striking "who seeks" and inserting "the alien seeks",

(C) in paragraphs (4) and (5), by striking "10,000" and inserting "7.1 percent of such worldwide level" each place it appears, and

(D) in paragraph (2)(B), by inserting "professions," after "arts,".

(3) Section 216A of the INA, as inserted by section 121(b)(1) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(2)(A), by inserting "(and the alien's spouse and children if it was obtained on a conditional basis under this section or section 216)" after "status of the alien", and

(B) in subsections (c)(3)(B) and (d)(2)(A), by striking "obtaining the status of".

(4) Section 121(b)(2) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "deportation".

(5) Section 124(a) of the Immigration Act of 1990 is amended—

(A) in paragraph (1)—

(i) by inserting "(or paragraph (2) as the spouse or child of such an alien)" after "paragraph (3)", and

(ii) by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1991 or 1992, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year."; and

(B) in paragraph (3)(A), by striking "(and has been so employed during the 12 previous, consecutive months)" and inserting "except for temporary absences at the request of the employer and has been employed in Hong Kong for at least 12 consecutive months".

(6) Section 132 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)";

(B) in subsection (a), by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1992 or 1993, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.";

(C) in subsection (b)(1), effective after fiscal year 1992, by striking "that is not contiguous to the United States and";

(D) in subsection (c)—

(i) effective beginning with fiscal year 1993, by striking "in the chronological order in which aliens apply for each fiscal year" and inserting "strictly in a random order among those who qualify during the application period for each fiscal year established by the Secretary of State",

(ii) by inserting before the period at the end the following: "and except that if more than one application is submitted for any fiscal year (beginning with fiscal year 1993) with respect to any alien all such applications submitted with respect to the alien and fiscal year shall be voided", and

(iii) by adding at the end the following: "If the minimum number of such visas are not made available in fiscal year 1992 or 1993 to such natives, the shortfall shall be added to the number of such visas to be made available under this section to such natives in the succeeding fiscal year. In applying this section, natives of Northern Ireland shall be deemed to be natives of Ireland."; and

(E) in subsection (e)—

(i) by striking "the grounds" and all that follows through "shall not apply, and",

(ii) by striking "of such section" and inserting "of section 212(a) of the Immigration and Nationality Act", and

(iii) by adding at the end the following: "In addition, the provisions of section 212(e) of such Act shall not apply so as to prevent an individual's application for a visa or admission under this section.".

(7) Section 134(a) of the Immigration Act of 1990 is amended by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)".

(c)(1) Section 141 of the Immigration Act of 1990 is amended—

(A) in the heading, by striking "legal",

(B) in subsection (a), by striking "Legal",

(C) in subsection (a)(1)(B), by striking "of the Subcommittee" and all that follows through "International Law", and

(D) by adding at the end the following new subsection:

"(i) PRESIDENTIAL REPORT.—The President shall conduct a review and evaluation and provide for the transmittal of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b).".

(2) The item in the table of contents of such Act relating to section 141 is amended to read as follows:

"Sec. 141. Commission on Immigration Reform.".

(d)(1) Section 152(b)(1)(A) of the Immigration Act of 1990 is amended by striking "who has performed faithful service" and inserting "and has performed faithful service as such an employee".

(2) Section 245 of the INA, as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended—

(A) in subsection (c)(2), by inserting "(J)," after "(I),", and

(B) by adding at the end the following new subsection:

"(h) In applying this section to a special immigrant described in section 101(a)(27)(J)—

"(1) such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States; and

"(2) in determining the alien's admissibility as an immigrant—

"(A) paragraphs (4), (5)(A), and (7)(A) of section 212(a) shall not apply, and

"(B) the Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), or (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 101(a)(27)(J) shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.".

(3) Section 241(h) of the INA, as amended by section 153(b) of the Immigration Act of 1990, is amended by striking the comma after "(3)(A)".

(4) Section 154 of the Immigration Act of 1990 is amended—

(A) in subsection (b)(1)(A), by inserting "or China" after "Hong Kong",

(B) in subsection (b)(1)(B)(i), by inserting "of" after "of section 203(a)", and

(C) by striking paragraph (3) of subsection (c).

(5) Section 155 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or section 203(e), in the case of fiscal year 1992)" after "203(c)", and

(B) in subsection (b), by striking "or the child" and inserting "or who are the spouse or child".

(e)(1) Section 161(a) of the Immigration Act of 1990 is amended by striking "in this section," and inserting "in this title, this title and".

(2) Section 161(c)(1) of the Immigration Act of 1990 is amended—

(A) by inserting "or an application for labor certification before such date under section 212(a)(14)" after "before such date)",

(B) in subparagraph (A), by inserting "or application" after "such a petition",

(C) in subparagraph (A), by inserting ", or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993" after "(by not later than October 1, 1993", and

(D) by adding at the end the following new sentence:

"In the case of a petition filed under section 204(a) of such Act before October 1, 1991, but which is not described in paragraph (4), and for which a filing fee was paid, any additional filing fee shall not exceed one-half of the fee for the filing of the new petition referred to in subparagraph (A).".

(3) Section 203(f) of the INA, as inserted by section 162(a) of the Immigration Act of 1990, is amended—

(A) by striking "PRESUMPTION.—" and all that follows through "so described." and inserting "AUTHORIZATION FOR ISSUANCE.—", and

(B) by striking "201(b)(1) or in subsection (a) or (b)" and inserting "201(b)(2) or in subsection (a), (b), or (c)".

(4) Section 204(a)(1) of the INA, as amended by section 162(b) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by adding at the end the following: "An alien described in the second sentence of section 201(b)(2)(A)(i) also may file a petition with the Attorney General under this subparagraph for classification under such section.",

(B) in subparagraph (F), by striking "Secretary of State" and inserting "Attorney General", and

(C) in subparagraph (G)(iii), by striking "or registration".

(5) Section 204(e) of the INA, as amended by section 162(b)(3) of the Immigration Act of 1990, is amended by striking "a immigrant" and inserting "an immigrant".

(6) Paragraph (1) of section 162(e) of the Immigration Act of 1990 is repealed, and the provisions of law amended by such paragraph are restored as though such paragraph had not been enacted.

(7) Section 245(b) of the INA, as amended by section 162(e)(3) of the Immigration Act of 1990, is amended—

(A) by striking "201(a)" and inserting "202 and 203", and

(B) by striking "for the succeeding fiscal year" and inserting "for the fiscal year then current".

(8) Effective as if included in section 162(e) of the Immigration Act of 1990—

(A) clauses (ii)(II) and (iii)(II) of section 101(a)(27)(I) of the INA are amended by striking "applies for a visa or adjustment of status" and inserting "files a petition for status",

(B) section 216(g)(1) of the INA is amended by striking "203(a)(8)" and inserting "203(d)"; and

(C) section 221(a) of the INA is amended by striking "nonpreference,".

(9) Effective as if included in the Immigration Nursing Relief Act of 1989, section 212(m)(2)(A) of the INA is amended, by inserting after the first sentence following clause (vi) the following: "Notwithstanding the previous sentence, a facility that lays off a registered nurse other than a staff nurse still meets clause (i) if, in its attestation under this subparagraph, the facility has attested that it will not replace the nurse with a nonimmigrant described in section 101(a)(15)(H)(i)(a) (either through promotion or otherwise) for a period of 1 year after the date of the lay off.".

(10) Effective as if included in the Immigration Nursing Relief Act of 1989, as amended by section 162(f)(1)(B) of the Immigration Act of

1990, section 2(b) of the Immigration Nursing Relief Act of 1989 is amended by inserting after "registered nurse," the following: "who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status,".

SEC. 303. CORRECTIONS RELATING TO TITLE II OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 217 of the INA, as amended by section 201(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(4), by striking "BY SEA OR AIR" and inserting "INTO THE UNITED STATES", and

(B) in the heading of subsection (b), by striking "RIGHTS" and inserting "RIGHTS".

(2) Section 217(e)(1) of the INA, as redesignated by section 201(a)(7) of the Immigration Act of 1990, is amended by striking "(a)(4)(C)" and inserting "(a)(4)".

(3) The second sentence of section 251(d) of the INA, as inserted by section 203(b)(2) of the Immigration Act of 1990, is amended by striking "charterer" and inserting "consignee".

(4) Section 258(c)(2)(B) of the INA, as inserted by section 203(a)(1) of the Immigration Act of 1990, is amended by striking "each such list" and inserting "each list".

(5)(A) Section 101(a)(15)(H)(i)(b) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by inserting "subject to section 212(j)(2)," after "(b)".

(B) Section 212(j) of the INA is amended by striking paragraph (2) and inserting the following:

"(2) An alien who is a graduate of a medical school and who is coming to the United States to perform services as a member of the medical profession may not be admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) unless—

"(A) the alien is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency, or

"(B)(i) the alien has passed the Federation licensing examination (administered by the Federation of State Medical Boards of the United States) or an equivalent examination as determined by the Secretary of Health and Human Services, and

"(ii)(I) has competency in oral and written English or (II) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States).".

(6) Section 212(n)(1)(A)(ii) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended by striking "for such aliens" and inserting "for such a nonimmigrant".

(7)(A) Section 101(a)(15)(H)(i) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by striking ", and had approved by,".

(B) Section 212(n) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended—

(i) in paragraph (1)(A)—

(I) by striking "and to other individuals employed in the occupational classification and in the area of employment" and inserting "admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b)",

(II) by amending subclause (I) to read as follows:

"(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or",

(III) after subclause (II), by striking "determined" and inserting "based on the best information available";

(ii) in paragraph (1)(D), by striking "(and accompanying documentation)" and inserting "(and such accompanying documents as are necessary)";

(iii) in paragraph (1), by moving the matter after the first sentence of subparagraph (D) flush with the left margin and by adding at the end the following:

"The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary finds that the application is incomplete or obviously inaccurate, the Secretary shall provide the certification described in section 101(a)(15)(H)(i)(b) within 7 days of the date of the filing of the application.";

(iv) in paragraph (2)(C), by striking "(or a substantial failure" and all that follows through "misrepresentation" and inserting "of paragraph (1)(B), a substantial failure to meet a condition of paragraphs (1)(C) or (1)(D), a willful failure to meet a condition of paragraph (1)(A), or a misrepresentation";

(v) in paragraph (2)(D), by striking "In addition to the sanctions provided under subparagraph (C), if" and inserting "If"; and

(vi) in paragraph (2)(D), by inserting before the period at the end the following: ", whether or not a penalty under subparagraph (C) has been imposed".

(8) The Secretary of Labor shall issue final or interim final regulations to implement the changes made by this section to section 101(a)(15)(H)(i)(b) and section 212(n) of the Immigration and Nationality Act no later than January 2, 1992.

(9) Section 206(a) of the Immigration Act of 1990 is amended by inserting "and section 124(a)(3)(A) of this Act" after "Immigration and Nationality Act".

(10) Section 214(c)(2) of the INA, as added by section 206(b)(2) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by striking "individuals petitions" and inserting "individual petitions", and

(B) in subparagraph (D)(ii), by striking "involved" and inserting "involves".

(11) Section 214(a)(2)(A) of the INA, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by striking "under section 101(a)(15)(O)" and inserting "described in section 101(a)(15)(O)".

(12) Section 214(c)(5) of the INA, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by striking "101(H)(ii)(b)" and inserting "101(a)(15)(H)(ii)(b)".

(13) Section 207(c) of the Immigration Act of 1990 is amended by inserting "of the Immigration and Nationality Act" after "101(a)(15)(H)(ii)(a)" each place it appears.

(14) Section 101(a)(15)(Q) of the INA, as added by section 208(3) of the Immigration Act of 1990, is amended by striking "designated" and inserting "approved".

(b)(1) Section 221(a) of the Immigration Act of 1990 is amended—

(A) in the matter before paragraph (1), by striking "in a position unrelated to the alien's field of study and", and

(B) in paragraph (1), by inserting "academic" before "year".

(2) Section 221(b) of the Immigration Act of 1990 is amended—

(A) by inserting "and the Secretary of Labor" after "the Commissioner of the Immigration and Naturalization", and

(B) by inserting "a report" after "to the Congress".

(3) Section 222(a) of the Immigration Act of 1990 is amended by striking "Subject to the succeeding provisions of this section" and inserting "Subject to subsection (b)".

(4) Section 223(a) of the Immigration Act of 1990 is amended—

(A) by striking the period at the end of paragraph (2) and inserting a comma, and

(B) by adding at the end the following:

"or who is the spouse or minor child of such an alien if accompanying or following to join the alien.".

SEC. 304. CORRECTIONS RELATING TO TITLE III OF THE IMMIGRATION ACT OF 1990.

(a) Section 302(c) of the Immigration Act of 1990 is amended by striking "AFFECT", "supercede", and "affect" and inserting "EFFECT", "supersede", and "effect", respectively.

(b) Section 244A of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(1) in subsection (a)(1), by inserting after "designated under subsection (b)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)",

(2) in paragraph (1)(B), by adding at the end the following: "In the case of aliens registered pursuant to a designation under this section made after July 17, 1991, the Attorney General may impose a separate, additional fee for providing an alien with documentation of work authorization. Notwithstanding section 3302 of title 31, United States Code, all fees collected under this subparagraph shall be credited to the appropriation to be used in carrying out this section.", and

(3) in subsection (c)(1)(A), by inserting after "designated under subsection (b)(1)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)".

(c)(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, or

(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act; and

(B) the alien shall not be considered, by reason of such authorized departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

(2) Aliens described in this paragraph are the following:

(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990.

SEC. 305. CORRECTIONS RELATING TO TITLE IV OF THE IMMIGRATION ACT OF 1990.

(a) Section 310(b) of the INA, as amended by section 401(a) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(b) Section 407(c)(11) of the Immigration Act of 1990 is amended by striking ", other than subsection (d)".

(c) Section 407(d)(8) of the Immigration Act of 1990 is amended by striking "Section 328(c) (8 U.S.C. 1439(c)) is amended" and inserting "Subsections (b)(3) and (c) of section 328 (8 U.S.C. 1439) are amended".

(d) Subsection (g) of section 334 of the INA, as redesignated by section 407(d)(12)(E) of the Immigration Act of 1990, is redesignated as subsection (f).

(e) Section 407(d)(12)(B) of the Immigration Act of 1990 is amended by adding "and" at the end of clause (i).

(f) Section 335(b) of the INA, as amended by section 407(d)(13)(C)(iii) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(g) Section 407(d)(14)(D)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(h) Section 407(d)(14)(E)(ii) of the Immigration Act of 1990 is amended by striking "persons" and inserting "person".

(i) Section 337(c) of the INA is amended by striking "before".

(j)(1) Section 407(d)(16)(C) of the Immigration Act of 1990 is amended by striking the comma after "venue".

(2) Section 338 of the INA, as amended by section 407(d)(16)(C) of the Immigration Act of 1990, is amended by striking "District" and inserting "district".

(k) Section 340 of the INA, as amended by section 407(d)(18) of the Immigration Act of 1990, is amended—

(1) in the first sentence of subsection (a), by striking "District Court" and inserting "district court", and

(2) in the second sentence of subsection (g), by striking "clerk of the court" and inserting "clerk of court".

(l) Section 407(d)(19)(A)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(m) Effective as if included in section 407(d) of the Immigration Act of 1990:

(1) Paragraph (24) of section 101(a) of the INA is repealed.

(2) Section 312 of the INA is amended by striking "petition" and inserting "application" each place it appears.

(3) The heading of section 322 of the INA is amended by striking "PETITION" and inserting "APPLICATION".

(4) The item in the table of contents of the INA relating to section 322 is amended by striking "petition" and inserting "application".

(5) Section 330 of the INA is amended by striking "of this subsection" and inserting "of this section".

(6) Section 332(a) of the INA is amended by striking "petitioners" and inserting "applicants".

(7) Section 334(a) of the INA is amended by striking ", in duplicate,".

(8) Section 341(a) of the INA is amended by striking "a petitioner" and inserting "an applicant".

(n) Section 408(a)(2)(B) of the Immigration Act of 1990 is amended by striking "on the date of the enactment of this Act" and inserting "on January 1, 1992".

SEC. 306. CORRECTIONS RELATING TO TITLE V OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 101(a)(43) of the INA, as amended by section 501(a)(4) of the Immigration Act of 1990, is amended by striking ",." and inserting a period.

(2) Section 502(a) of the Immigration Act of 1990 is amended by striking "(8 U.S.C. 1152a(a)(1))" and inserting "(8 U.S.C. 1105a(a)(1))".

(3) Section 287(a)(4) of the INA, as amended by section 503(a)(2) of the Immigration Act of 1990, is amended by striking ", and" at the end and inserting "; and".

(4) Subparagraph (B) of section 242(a)(2) of the INA, as added by section 504(a)(5) of the Immigration Act of 1990, is amended to read as follows:

"(B) The Attorney General may not release from custody any lawfully admitted alien who has been convicted of an aggravated felony, either before or after a determination of deportability, unless the alien demonstrates to the satisfaction of the Attorney General that such alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.".

(5) Section 236(e)(1) of the INA, as amended by section 504(b) of the Immigration Act of 1990, is amended by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)".

(6) Section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 507 of the Immigration Act of 1990, is amended—

(A) by striking "the certified records" and inserting "notice", and

(B) by inserting before the period at the end the following: "and under which the State will provide the Service with the certified record of such a conviction within 30 days of the date of a request by the Service for such record".

(7) Section 509(b) of the Immigration Act of 1990 is amended by inserting before the period at the end the following: ", except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction".

(8) The last sentence of section 510(b) of the Immigration Act of 1990 is amended by striking "for".

(9) The last sentence of section 510(c) of the Immigration Act of 1990 is amended by striking "been been" and inserting "been".

(10) The last sentence of section 212(c) of the INA, as added by section 511(a) of the Immigration Act of 1990, is amended by striking "an aggravated felony and has served" and inserting "one or more aggravated felonies and has served for such felony or felonies".

(11) Section 513(b) of the Immigration Act of 1990 is amended—

(A) by striking "petitions to review" and inserting "petitions for review", and

(B) by inserting before the period at the end the following: "and shall apply to convictions entered before, on, or after such date".

(12) Section 514(a) of the Immigration Act of 1990 is amended by striking "10 years" and inserting "ten years".

(13) Paragraphs (1) and (2) of section 515(b) of the Immigration Act of 1990 are amended to read as follows:

"(1) The amendment made by subsection (a)(1) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for asylum made on or after such date.

"(2) The amendment made by subsection (a)(2) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for withholding of deportation made on or after such date.".

(b)(1) Section 274B(g)(2)(B)(iv)(II) of the INA, as amended by section 536(a) of the Immigration Act of 1990, is amended by striking "subclause (IV)" and inserting "subclauses (III) and (IV)".

(2) Section 274A(b)(3) of the INA, as amended by section 538(a) of the Immigration Act of 1990, is amended by striking the comma after "officers of the Service".

(3) Section 274B(g)(2)(B) of the INA, as amended by section 539(a) of the Immigration Act of 1990, is amended—

(A) in clause (iv)(IV), by striking the period at the end and inserting a semicolon,

(B) in clauses (v) and (vi), by striking the comma at the end and inserting a semicolon,

(C) in clause (vii), by striking ", and" and inserting "; and",

(D) in clause (vii), by striking "to order (in an appropriate case) the removal of" and inserting "to remove (in an appropriate case)", and

(E) in clause (viii), by striking "to order (in an appropriate case) the lifting of" and inserting "to lift (in an appropriate case)".

(c)(1) Section 274B(g)(2)(D) of the INA is amended by striking "physicially" and inserting "physically".

(2) Section 543(a)(3) of the Immigration Act of 1990 is amended by inserting "each place it appears" before "and inserting".

(3) Sections 252(c) and 275(a) of the INA, as amended by section 543(b) of the Immigration Act of 1990, are each amended by striking "fined not more than" and all that follows through "United States Code)" and inserting "fined under title 18, United States Code,".

(4)(A) The second sentence of section 231(d) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(B) The third sentence of section 237(b) of the INA is amended by striking "district director of customs" and inserting "Commissioner".

(C) The second sentence of section 254(a) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(D) The second sentence of section 273(b) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(5)(A) Section 274C(a) of the INA, as added by section 544(a) of the Immigration Act of 1990, is amended—

(i) in paragraph (2), by inserting "or to provide" after "or receive",

(ii) in paragraph (3), by inserting "or to provide or attempt to provide" after "attempt to use", and

(iii) in paragraph (4), by inserting "or to provide" after "receive".

(B) Section 544 of the Immigration Act of 1990 is amended by striking "(c) EFFECTIVE" and inserting "(d) EFFECTIVE".

(6) Section 242B of the INA, as inserted by section 545(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(1)(E), by striking ", upon request,";

(B) in subsection (a)(2)(A)(ii), by inserting ", except under exceptional circumstances," after "failure";

(C) in subsection (a)(2), by adding at the end the following:

"In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F).";

(D) in subsection (b)(1), by inserting before the period at the end the following: ", unless the alien requests in writing an earlier hearing date";

(E) in subsection (b)(2)—

(i) by inserting "pro bono" after "to represent", and

(ii) by adding at the end the following: "Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.";

(F) in subsection (c)—

(i) in paragraph (1), by striking "except as provided in paragraph (2)," each place it appears,

(ii) in paragraph (1), by adding at the end the following: "The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F).", and

(iii) by striking the second sentence of paragraph (2);

(G) in subsection (c)(4), by inserting "(or 30 days in the case of an alien convicted of an aggravated felony)" after "60 days";

(H) in subsection (d), by striking "the Board" and inserting "the Attorney General";

(I) in subsection (e)(4)(B), by inserting "a" after "with respect to"; and

(J) in subsection (e)(5), by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(7) The 8th sentence of section 242(b) of the INA, as amended by section 545(e) of the Immigration Act of 1990, is amended to read as follows: "Such regulations shall include requirements that are consistent with section 242B and that provide that—

"(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held,

"(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose,

"(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government, and

"(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.".

SEC. 307. CORRECTIONS RELATING TO TITLE VI OF THE IMMIGRATION ACT OF 1990.

(a) Section 212(a) of the INA, as amended by section 601(a) of the Immigration Act of 1990, is amended—

(1) in paragraph (1)(A), by adding "or" at the end of clause (ii);

(2) in paragraph (3)(A)(i), by inserting "(I)" after "any activity" and by inserting "(II)" after "sabotage or";

(3) in paragraph (3)(B)(iii)(III), by striking "an act of terrorist activity" and inserting "a terrorist activity";

(4) in paragraph (3)(D)(iv), by striking "if the alien" and inserting "if the immigrant";

(5) in paragraph (3)(C)(iv), by striking "identities" and inserting "identity";

(6) in paragraph (5)(C), by striking "preference immigrants" and all that follows through the end and inserting the following: "immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).";

(7) in paragraph (6)(B)—

(A) by striking "who seeks" and inserting "(a) who seeks",

(B) by striking "(or" and inserting ", or (b) who seeks admission", and

(C) by striking "felony)" and inserting "felony,";

(8) in paragraph (6)(E)—

(A) by redesignating clause (ii) as clause (iii), and

(B) by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(9) in paragraph (8)(B), by striking "alien" the first place it appears and inserting "person"; and

(10) in paragraph (9)(C)—

(A) in clause (i), by striking everything that follows "entry of" and inserting "an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order, is excludable until the child is surrendered to the person granted custody by that order.", and

(B) in clause (ii), by striking "to an alien who" and all that follows through "signatory" and inserting "so long as the child is located in a foreign state that is a party".

(b) Section 212(c) of the INA, as amended by section 601(d)(1) of the Immigration Act of 1990, is amended by striking "subparagraphs (A), (B), (C), or (E) of paragraph (3)" and inserting "paragraphs (3) and (9)(C)".

(c) Section 212(d)(3) of the INA, as amended by section 601(d)(2)(B)(i) of the Immigration Act of 1990, is amended—

(1) by striking "(3)(A)," and inserting "(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii)," each place it appears, and

(2) by striking "(3)(D)" and inserting "(3)(E)" each place it appears.

(d) Section 212(d)(11) of the INA, as added by section 601(d)(2)(F) of the Immigration Act of 1990, is amended by inserting "and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof)" after "section 211(b)".

(e) Section 212(g)(1) of the INA, as amended by section 601(d)(3) of the Immigration Act of 1990, is amended by striking "section (a)(1)(A)(i)" and inserting "subsection (a)(1)(A)(i)".

(f) Section 212(h) of the INA, as amended by section 601(d)(4) of the Immigration Act of 1990, is amended—

(1) in the matter before paragraph (1), by striking "in the case of" and all that follows through "permanent residence"; and

(2) in paragraph (1)—

(A) in the matter before subparagraph (A), by inserting "(A) in the case of any immigrant" after "(1)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking "and" at the end of subparagraph (C) and inserting "or",

(D) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and

(E) by adding at the end the following:

"(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and".

(g) Section 212(i) of the INA, as amended by section 601(d)(5) of the Immigration Act of 1990, is amended by striking "alien" and "alien's" each place it appears and inserting "immigrant" and "immigrant's", respectively.

(h) Section 241(a) of the INA, as amended by section 602(a) of the Immigration Act of 1990, is amended—

(1) by striking "deportable as being", and by inserting "deportable" after "the following classes of";

(2) in paragraph (1)(D)(i), by inserting "respective" after "terminated under such";

(3) in paragraph (1)(E)(i), by inserting "any" before "entry" the second and third places it appears;

(4) in paragraph (1)(E), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(5) in paragraph (1)(G), by striking "212(a)(5)(C)(i)" and inserting "212(a)(6)(C)(i)";

(6) in paragraph (1)(H), by striking "paragraph (6) or (7)" and inserting "paragraph (4)(D)";

(7) in paragraph (2)(D), by inserting "or attempt" after "conspiracy";

(8) in paragraph (3), by adding at the end the following:

"(C) DOCUMENT FRAUD.—Any alien who is the subject of a final order for violation of section 274C is deportable.";

(9) in subparagraphs (A) and (B) of paragraph (4), by striking "after entry has engaged" and inserting "after entry engages"; and

(10) in paragraph (4)(C)(ii), by striking "excluability" and inserting "excludability".

(i) Section 102 of the INA, as amended by section 603(a)(2) of the Immigration Act of 1990, is amended by striking "paragraph (3) (other than subparagraph (E)) of section 212(a)" each place it appears and inserting "subparagraphs (A) through (C) of section 212(a)(3)".

(j) Effective as if included in section 603(a)(5) of the Immigration Act of 1990, section 210(b)(7)(B) of the INA is amended by striking "212(a)(19)" and inserting "212(a)(6)(C)(i)".

(k) Effective as if included in section 602(b) of the Immigration Act of 1990, section 241 of the INA is amended—

(1) by striking subsection (d), and

(2) in the subsection (h) (added by section 153(b) of the Immigration Act of 1990) by striking "exist" and inserting "existed" and by redesignating the subsection as subsection (c).

(l) Effective as if included in section 603(a) of the Immigration Act of 1990:

(1) Sections 207(c)(3) and 209(c) of the INA, as amended by section 603(a)(4)(B) of the Immigration Act of 1990, are each amended by striking "subparagraphs (A)" and inserting "subparagraph (A)".

(2) Section 210A(e)(2)(B) of the INA is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii) Paragraph (3) (relating to security and related grounds).".

(3) Section 217(a) of the INA is amended by striking "(26)(B)" and inserting "(7)(B)(i)(II)".

(4) Section 218(g)(3) of the INA is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)(i)".

(5) Section 244A(c) of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(A) in paragraph (2)(A)(iii)(I), by striking "paragraphs (9) and (10)" and inserting "paragraphs (2)(A) and (2)(B)"; and

(C) by amending subclause (III) of paragraph (2)(A)(iii) to read as follows:

"(III) paragraphs (3)(A), (3)(B), (3)(C), or (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).".

(6) Section 245A(d)(2)(B)(ii) of the INA is amended—

(A) by striking subclause (IV),

(B) by redesignating subclause (II) as subclause (IV) and by transferring and inserting it after clause (III),

(C) by redesignating subclause (III) as subclause (II),

(D) by inserting after subclause (II) (as so redesignated) the following new subclause:

"(III) Paragraph (3) (relating to security and related grounds).", and

(E) by striking "Subclause (II)" and inserting "Subclause (IV)".

(7) Section 272(a) of the INA is amended by striking the comma before "shall pay".

(8) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as amended by section 603(a)(20)(B) of the Immigration Act of 1990, is amended by striking "(D)" and inserting "(E)".

(9) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended by striking "(23)(B), (27), (29), or (33)" and inserting "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)".

(10) Section 2(a)(3) of the Immigration Nursing Relief Act of 1989 is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)".

(m) Effective as if included in section 603(b) of the Immigration Act of 1990—

(1) paragraph (4)(B) of such section is amended by striking "in paragraph (2)", and

(2) section 242(e) of the INA is amended by striking "paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3), or (4)".

SEC. 308. CORRECTIONS RELATING TO TITLE VII OF THE IMMIGRATION ACT OF 1990.

(a) Effective October 1, 1991, section 245(e)(3) of the INA, as added by section 702(a)(2) of Immigration Act of 1990, is amended by striking "204(h)" and inserting "204(g)".

(b) Section 702(b) of the Immigration Act of 1990 is amended by striking "204(h) (8 U.S.C. 1154(h))" and inserting "204(g) (8 U.S.C. 1154(g)), as redesignated by section 162(b)(6) of this Act,".

(c) Section 304(f) of the Immigration Reform and Control Act of 1986, as amended by section 704(b) of the Immigration Act of 1990, is amended—

(1) by striking "appointment in the and" and inserting "appointment and", and

(2) by striking "civil" the first place it appears and inserting "competitive".

(d) Section 404(b)(2)(A) of the INA, as added by section 705(a)(5) of the Immigration Act of 1990, is amended by adding at the end the following new sentence:

"In applying clause (i), the providing of parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district."

SEC. 309. ADDITIONAL MISCELLANEOUS CORRECTIONS.

(a)(1)(A) Section 209 of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100–459, 102 Stat. 2203) is amended—

(i) in subsection (a)—

(I) by striking "Title 8, United States Code, section 1356 is amended by adding" and inserting "Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end", and

(II) in the subsection (o) added by such subsection, by striking "will" and inserting "shall"; and

(ii) by amending subsection (b) to read as follows:

"(b) Section 344(g) of the Immigration and Nationality Act (8 U.S.C. 1455(g)) is amended by inserting after 'Treasury of the United States' the following: 'except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 286(m)'.".

(B) The fourth proviso under Immigration and Naturalization Service in the Department of Justice Appropriations Act, 1990 (title II of Public Law 101–162, 103 Stat. 1000) is amended to read as follows: ": Provided further, That section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by striking 'in excess of $50,000,000' and by striking the second sentence".

(2)(A) Section 286 of the INA, as amended by section 210 of the Department of Justice Appropriations Act, 1991, is amended—

(i) in subsection (h)(1)(A), by inserting a period after "available until expended",

(ii) in subsection (m), by striking "additonal" and inserting "additional",

(iii) by moving the left margins of subsection (q)(2) and the matter in subsection (q)(3)(A) (before clause (i)) 2 ems to the left,

(iv) in subsection (q)(3)(A), by inserting "the" after "The Secretary of", and

(v) in subsection (q)(5)(B), by striking "subsection (q)(1)" and inserting "paragraph (1)".

(B) Section 210(a)(2) of the Department of Justice Appropriations Act, 1991, is amended by striking "in which fees" and inserting "in which the fees".

(3) The amendments made by paragraph (1) and (2) shall be effective as if they were included in the enactment of the Department of Justice Appropriations Act, 1989 and the Department of Justice Appropriations Act, 1990, respectively.

(b)(1) Section 101(a)(15)(D)(i) of the INA is amended by inserting a comma after "States)".

(2) The item in the table of contents of the INA relating to section 242A is amended by striking "Procedures" and inserting "procedures".

(3) The item in the table of contents of the INA relating to section 345 is repealed.

(4) Section 101(c)(1) of the INA is amended by striking "322, and 323" and inserting "and 322".

(5) Section 204(f)(4)(A)(ii)(II) of the INA, as redesignated by section 162(d)(6) of the Immigration Act of 1990, is amended by striking "section 652 of such Act" and inserting "the second and third sentences of such section".

(6) Paragraph (3) of section 210(d) of the INA is amended—

(A) by indenting the paragraph (and its subparagraphs) 2 ems to the right;

(B) by striking "the Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA)" and inserting "Service pursuant to this subsection";

(C) in the matter before subparagraph (A), by striking "INS" each place it appears and inserting "Service";

(D) in subparagraph (A), by striking "as defined in section 210(a)(1)(A) of the INA the INS" and inserting "described in subsection (a)(1)(A) the Service";

(E) in subparagraph (A), by striking "in the INA" and inserting "in this Act";

(F) in subparagraph (B), by striking "as defined in section 210(a)(1)(B)(1)(B) of the INA" and inserting "described in subsection (a)(1)(A)"; and

(G) in subparagraph (B), by striking "section 210(b)(1)(A)" and inserting "subsection (b)(1)(A)".

(7) Section 212(j) of the INA is amended by striking "International Communication Agency" in paragraphs (1)(D) and (3) and inserting "United States Information Agency".

(8) Section 218(i)(1) of the INA is amended by striking "274A(g)" and inserting "274A(h)(3)".

(9) Section 242(h) of the INA is amended by inserting a comma after "Parole".

(10) Section 242A(a) of the INA is amended by striking "101(a)(43)" and inserting "101(a)(43))".

(11) Section 274A(b)(1)(D)(ii) of the INA is amended by striking "clause (ii)" and inserting "clause (i)".

(12) Section 286(e)(1)(D) of the INA is amended by striking "of this title".

(13) Section 313(a)(2) of the INA is amended by inserting "and" before "(F)" and by striking "; (G)" and all that follows through "of 1950" the second place it appears.

(14) Section 344(c) of the INA, as redesignated by section 407(d)(19)(F) of the Immigration Act of 1990, is amended by striking "of this subchapter" and inserting "of this title".

(15) The amendments made by section 8 of the Immigration Technical Corrections Act of 1988 shall be effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986 (Public Law 99–653).

SEC. 310. EFFECTIVE DATES.

Except as otherwise specifically provided, the amendments made by (and provisions of)—

(1) sections 302 through 308 shall take effect as if included in the enactment of the Immigration Act of 1990,

(2) section 309(a) shall be effective with respect to allotments for fiscal years beginning with fiscal year 1989, and

(3) section 309(c) shall take effect on the date of the enactment of this Act.

Amend the title to read as follows: "An Act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws.".

Mr. MAZZOLI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Kentucky?

Mr. FISH. Mr. Speaker, reserving the right to object, I do so solely for the purpose of asking the chairman of the subcommittee if he would explain the measure.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. FISH. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, the Senate amendment to H.R. 3049 is extremely meritorious and deserves the House's support.

The House passed H.R. 3049 by voice vote on November 12. The measure, as passed by the House, is quite simple: It restores to our Federal and State courts the authority to conduct naturalization ceremonies for new citizens.

The Senate amendment to H.R. 3049 incorporates the House-passed bill nearly verbatim. The Senate amendment differs only in that it tightens the language of the House bill to ensure that those courts that conduct naturalization ceremonies are fully reimbursed for their costs by the Immigration Service, but will not in fact make a profit. The Judicial Conference of the United States strongly supports this amendment.

The Senate amendment also includes a provision to ensure that if a court is unable to conduct a naturalization ceremony it has scheduled, notification will be given promptly to those applicants who would be affected.

Beyond that, the Senate amendment includes, without change, the text of H.R. 3048, a measure that passed yesterday. That measure relaxes the entry requirements for certain types of foreign artists, athletes, and entertainers.

In addition, the Senate amendment includes, with minor changes, the text of H.R. 3670, which is also a measure the House passed yesterday. That bill makes a series of technical amendments to the Immigration and Naturalization Act.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. It there objection to the initial request of the gentleman from Kentucky?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING THE PRESIDENT TO APPOINT MAJ. GEN. JERRY RALPH CURRY TO OFFICE OF ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2098) to authorize the President to appoint Maj. Gen. Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. CLINGER. Mr. Speaker, reserving the right to object, and I will not object, I do so for the purpose of inquiring of the chairman of the subcommittee the purpose of this legislation.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, the legislation now before us would allow Maj. Gen. Jerry Ralph Curry to serve as Administrator of the Federal Aviation Administration while remaining on the retired list of the U.S. Army.

The legislation is necessary because of a provision in the 1958 law establishing the Federal Aviation Administration which requires that the FAA Administrator be a civilian and not on the active or retired list of the armed services. This law is important in the interests of establishing civilian primacy over the regulations of the Nation's airspace.

While it is important to retain generally this provision regarding the Office of FAA Administrator, I believe the requirement should be waived in this instance so that General Curry can be appointed and not lose any of the military retirement benefits he has earned. Without this bill, he would have to resign his commission and be removed from the retirement list of the Army in order to be appointed Administrator which would harm his pension benefits.

The Aviation Subcommittee held hearings on this legislation yesterday and received testimony from General Curry. General Curry is very much aware of the need for civilian control of the airspace, and I do not expect undue military influence to creep into his management of the airspace just because he is a retired officer.

The Congress has passed similar legislation on a number of previous occasions. It is important that we do so again today in order that General Curry can be confirmed and appointed so that there is little loss in the continuity of leadership at this important agency. The current Administrator, James B. Busey, has also been nominated by the President to become Deputy Secretary of Transportation. So without this legislation passing today, the FAA would be without an Administrator for a period of weeks, possibly months.

Finally, I would note that the Senate bill we are taking up is identical to a bill, H.R. 3902, which I introduced on Saturday along with ROBERT A. ROE, Chairman of the Public Works and Transportation Committee, JOHN PAUL HAMMERSCHMIDT, our full committee ranking Republican member, BILL CLINGER, our subcommittee ranking Republican member, and NORMAN MINETA, an active member of our committee on aviation matters.

□ 0340

The current Administrator, James B. Busey, has also been nominated by the President to become Deputy Secretary of Transportation. Unless we pass this legislation today, the FAA could be without an Administrator for a period of weeks, and maybe even months.

Mr. CLINGER. Mr. Speaker, further reserving the right to object, I yield to the ranking member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I support the request of the distinguished subcommittee chairman.

Mr. Speaker, I support this bill. Current law requires that the Administrator of the FAA be a civilian. This means that he cannot be on either the active or retired list of any military service.

This bill will allow Jerry Curry to become FAA Administrator despite his retired military status. If we do not pass this bill, General Curry would have to resign his commission and lose his pension benefits prior to serving as Administrator.

There is no reason that Jerry Curry should be required to make this sacrifice in order to serve at the FAA. At least four times in the past, we have enacted legislation to allow a military man to assume the top post at the FAA.

General Curry is well qualified for this post. He has served his country well in several capacities, most recently as Administrator of the National Highway Traffic Safety Administration. I am confident that he will make a fine FAA Administrator.

We should move quickly here so that the FAA will not be without a chief for too long. The Senate will soon approve the Curry nomination and pass its bill. I urge quick approval of S. 2098 so that Jerry Curry can move into his new position right away.

Mr. CLINGER. Mr. Speaker, further reserving the right to object, I join with the chairman in support of the unanimous consent request. It is a necessary technicality, but it will ensure that we will have Mr. Curry in the position at FAA promptly and not jeopardize his pension rights.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration. Major General Curry's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Army, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Major General Curry shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Army, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Army, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Major General Curry shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Army.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2098, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REQUEST TO START DEBATE ON CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. ROE. Mr. Speaker, for the benefit of the Members of the House, the printed copy is on its way over here, but in order for us not to delay the start of this debate, I ask unanimous consent that we be able to start the discussion on this proposal pending its getting here, which should be in a few minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. DINGELL. Mr. Speaker, reserving the right to object, I would observe that the papers are not here yet.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, they are on their way over here now.

Mr. DINGELL. Does that include the signatures of all the House conferees?

Mr. ROE. We do have the signatures, they tell me, for those who chose to sign the report.

Mr. DINGELL. Mr. Speaker, I would note there are portions of that in which the Committee on Energy and Commerce has equal conferees with regard to certain matters relative to rail transit. Are those papers in the hands of my friends?

Mr. ROE. Mr. Speaker, the signature sheets are coming over here with the rest of the papers.

Mr. Speaker, I withdraw my request. We will have to wait until the papers get here.

PROVIDING FOR DISPOSITION OF SENATE AMENDMENTS TO H.R. 3807, CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 316 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 316

Resolved, That upon adoption of this resolution it shall be in order to consider a nondivisible motion to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with the Treaty of Conventional Armed Forces in Europe, with the Senate amendments thereto, and to concur in the Senate amendments with amendments printed in the report of the Committee on Rules accompanying this resolution. The motion and the Senate amendments shall be considered as having been read. Debate on said motion shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The previous question shall be considered as having been ordered on the motion to final adoption without intervening motion. All points of order against the motion are hereby waived.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 316?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 316.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

□ 0350

Ms. SLAUGHTER of New York. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. McEWEN] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this House resolution makes in order a nondivisible motion to take H.R. 3807 from the Speaker's table, and agree to the Senate amendments with three House amendments. The House amendments are printed in the report to accompany the rule, and all points of order are waived against the motion. Finally, the rule provides 1 hour of debate on the motion.

Mr. Speaker, H.R. 3807 authorizes the President to transfer tanks, artillery, and armored combat vehicles to member countries in NATO to implement the transfer program associated with the Conventional Forces in Europe Treaty negotiated last November in Paris. The program will allow the alliance to modernize forces and become more efficient as the burden of providing an adequate defense shifts among allied countries in Europe.

During its deliberations last night the Senate added three amendments relating to nuclear weapons destruction and emergency humanitarian assistance for the Soviet Union. Members of the Foreign Affairs and Armed Services Committees have met with their counterparts in the Senate and devised language which is mutually agreeable to all parties and—as I understand it—will be agreed to by the Senate once we have returned the legislation to that body.

The compromise agreement is included in the text of House amendments to the Senate amendments to H.R. 3807.

The House amendments authorize $400 million to facilitate the destruction of nuclear, chemical, and other weapons in the Soviet Union and put in place safeguards against the proliferation of such weapons. The amendments authorize $100 million for humanitarian aid, including food and medical supplies, to be supplied by commercial or military means to the Soviet Union, its Republics or successor entities. The amendments also provide that the President encourage the repayment of such assistance through the provision of natural resources.

Finally, the amendments authorize the Arms Control and Disarmament Agency for 2 years and further clarify the congressional oversight activities of the onsite inspection agency.

Mr. Speaker, this rule will facilitate final action on this important legislation without the necessity of convening a conference in the waning hours of the session. I urge my colleagues to adopt this resolution so that we may proceed to the consideration of these important arms control policy initiatives.

Mr. Speaker, I reserve the balance of my time.

Mr. McEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from New York has explained what this rule will provide; namely, a self-executing rule to adopt a number of Senate and House amendments, waive all points of order against the consideration of those amendments as a part of the Arms Control Export Act of 1991 as amended, and bring it quickly to the floor.

Because it is a self-executing rule, I cannot support it. Even at this late hour, we should not abandon proper procedures to enact amendments in one fell swoop, without the benefit of considering them here on the floor of the House. And there is much in this that many Members on this side of the aisle would wish to debate.

That wasn't true 1 week ago. This bill passed the House without controversy at that time, and was sent to the Senate. Now, this important bill comes back before the House after Senate amendments to the Conventional Forces in Europe Treaty implementation. Those amendments included funding for the destruction of nuclear weapons in the possession of the Soviet Union. Further, those amendments also provided for funding of humanitarian assistance to the Soviet Union or its Republics.

After passage of those amendments in the Senate last night, the leadership of the House Foreign Affairs Committee along with the leadership of the House Armed Services Committee have spent most of the day and night in consultation with their Senate counterparts trying to work out amendments to the Senate amendments that could be accepted by both Chambers. And the leadership of those committees deserve commendation for their hard work.

Mr. Speaker, this is an important task: First, authorizing some necessary transfers of arms to NATO members countries; second, dismantling some of the nearly 30,000 nuclear warheads in the Soviet arsenal and third, providing the humanitarian assistance mentioned earlier.

It is worth noting, Mr. Speaker, that while the Senate originally asked for $500 million for the Nuclear Weapon Destruction Program, this House-amended form lowers that level to $400 million. The Senate planned a $200 million authorization for transportation of aid to the Soviets, and that has been dropped to $100 million.

Mr. Speaker, I am a firm believer that all the money in all the wallets of all the taxpayers in America would never be enough to bail out a failed, centrally planned economy in the Soviet Union. Granted, this bill does not authorize direct aid—it only authorizes the President to exercise discretion in this area, up to a certain funding level. However, I would submit that most Americans will perceive this as aid to the Soviet Union at a time when many of them are looking for jobs here at home. We must not be perceived as simply giving handouts to the Soviet Union, or its republics. After all, this is a rich country: rich in gold reserves, rich in strategic metals, and incredibly rich in oil reserves.

So, I was pleased that the House included in its amendments to the Senate amendments the notion of compensation for this aid. The amendment will now read that the U.S. Government should be reimbursed by the recipient central or republic government to the extent that the President determines to be appropriate.

Mr. Speaker, I wish to express my appreciation to Representative BENNETT of Florida and make special mention for his insisting on this provision—a provision which I was proud to support.

However, we must accept the fact that we are playing at the margins. The massive, wrecked economy of the Soviet Union and its republics doesn't need aid half as much as they need free markets and investment incentives.

Much hard and important work has been done today on this bill, Mr. Speaker. However, we must ask why we have to rush this through now with a self-executing rule—when we have refused to rush through an economic aid package for America before going home. It doesn't make sense to me, and I think we should follow normal procedure in matters such as this.

For that reason, Mr. Speaker, I urge opposition to the rule even as I recognize the yeoman's duty performed by Mr. FASCELL of Florida and Mr. ASPIN of Wisconsin, the chairmen of the Foreign Affairs and Armed Services Committees, respectively.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, this is a fair rule on a good bill.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, pursuant to House Resolution 316, I move to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The SPEAKER pro tempore. The Clerk will designate the motion and the House amendments.

The text of the motion and the text of the House amendments are as follows:

Mr. FASCELL moves to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, with Senate amendments thereto, and concur in the Senate amendments with amendments, as follows:

Amendment to Senate amendment numbered 1:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE II—SOVIET WEAPONS DESTRUCTION

PART A—SHORT TITLE

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

PART B—FINDINGS AND PROGRAM AUTHORITY

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(a) FINDINGS.—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of Soviet nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among the Soviet Union, its republics, and any successor entities that is not conducive to weapons safety or to international stability; (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know-how outside of the territory of the Soviet Union, its republics, and any successor entities, that contribute to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union, its republics, and any successor entities, and (B) to assist in the prevention of weapons proliferation.

(b) EXCLUSIONS.—United States assistance in destroying nuclear and other weapons under this title may not be provided to the Soviet Union, any of its republics, or any successor entity unless the President certifies to the Congress that the proposed recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

SEC. 212. AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President, consistent with the findings states in section 211, may establish a program as authorized in subsection (b) to assist Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C.

(b) TYPE OF PROGRAM.—The program under this section shall be limited to cooperation among the United States, the Soviet Union, its republics, and any successor entities to (1) destroy nuclear weapons, chemical weapons, and other weapons, (2) transport, store, disable, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon United States technology and United States technicians.

PART C—ADMINISTRATIVE AND FUNDING AUTHORITIES

SEC. 221. ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) FUNDING.—

(1) TRANSFER AUTHORITY.—The President may, to the extent provided in an appropria-

tions Act or joint resolution, transfer to the appropriate defense accounts from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States code, not to exceed $400,000,000 for use in reducing the Soviet military threat under part B.

(2) Limitation.—Amounts for transfer under paragraph (1) may not be derived from amounts appropriated for any activity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed forces, including amounts for—

(A) training activities; and

(B) depot maintenance activities.

(b) Department of Defense.—The Department of Defense shall serve as the executive agent for any program established under part B.

(c) Reimbursement of Other Agencies.—The Secretary of Defense may reimburse other United States Government departments and agencies under this section for costs of participation, as directed by the President, only in a program established under part B.

(d) Charges Against Funds.—The value of any material from existing stocks and inventories of the Department of Defense, or any other United States Government department or agency, that is used providing assistance under part B to reduce the Soviet military threat may not be charged against funds available pursuant to subsection (a) to the extent that the material contributed is directed by the President to be contributed without subsequent replacement.

(e) Determination by Director of OMB.—No amount may be obligated for the program under part B unless expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1992 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 222. REPAYMENT ARRANGEMENTS.

(a) Reimbursement Arrangements.—Assistance provided under part B to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(b) Natural Resources, Etc.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this section that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

SEC. 223. DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.

It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the President to transfer funds pursuant to this title.

Part D—Reporting Requirements

SEC. 231. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds for a program under part B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs for which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232. QUARTERLY REPORTS ON PROGRAM.

Not later than 30 days after the end of each quarter of fiscal years 1992 and 1993, the President shall transmit to the Congress a report on the activities to reduce the Soviet military threat carried out under part B. Each such report shall set forth, for the preceding quarter and cumulatively, the following:

(1) Amounts spent for such activities and the purposes for which they were spent.

(2) The sources of the funds obligated for such activities, stated specifically by program.

(3) A description of the participation of the Department of Defense, and the participation of any other United States Government department or agency, in such activities.

(4) A description of the activities carried out under part B and the forms of assistance provided under part B.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the program under part B.

Amendment to Senate amendment numbered 2:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

SEC. 301. AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) Findings.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of antidemocratic forces in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union, its republics, and any successor entities.

(b) Authority To Transfer Certain Funds.—

(1) In general.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, may during fiscal year 1992, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts sufficient funds, not to exceed $100,000,000 from funds described in paragraph (3) in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, its republics, or any successor entities—with the consent of the relevant republic government or independent successor entity—in order to address emergency conditions which may arise in such republic or successor entity, as determined by the president. As used in this subsection, the term "humanitarian assistance" does not include construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dumptrucks, generators, and compressors.

(2) Reports by the Secretary of State.—The Secretary of State shall promptly report to the President regarding any emergency conditions which may require such humanitarian assistance. The Secretary's report shall include an estimate of the extent of need for such assistance, discuss whether the consent of the relevant republic government or independent successor entity has been given for the delivery of such assistance, describe steps other nations and organizations are prepared to take in response to an emergency, and discuss the foreign policy implications, if any, of providing such assistance.

(3) Source of funds.—Any funds which are transferred pursuant to this subsection shall be drawn from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code.

(4) Emergency requirements.—The Congress designates all funds transferred pursuant to this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds shall be available for transfer pursuant to this section only if, not later than the date of enactment of the appropriations Act or joint resolution that makes funds available for transfer pursuant to this section, the President, in a single designation, designates the entire amount of funds made available for such transfer by that appropriations Act or joint resolution to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) Repayment Arrangements.—

(1) Reimbursement arrangements.—Assistance provided under subsection (b) to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(2) Natural resources, etc.—The President shall encourage the satisfaction of such reimbursement arrangements through the provisions of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this subsection that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

(d) Dire Emergency Supplemental Appropriations.—It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the Secretary of Defense to transfer funds pursuant to this title.

SEC. 302. REPORTING REQUIREMENTS.

(a) PRIOR NOTICE.—Before any funds are transferred for the purposes authorized in section 301(b), the President shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(b) REPORTS TO THE CONGRESS.—Within ten days after directing the Secretary of Defense to transfer funds pursuant to section 301(b), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. This report shall at a minimum, set forth—

(1) the amount of funds transferred under this title, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the form and number of lift assets planned to be used to deliver assistance pursuant to this title;

(4) the types and purpose of the cargo planned to be delivered pursuant to this title; and

(5) the locations, organizations, and political institutions to which assistance is planned to be delivered pursuant to this title.

Amendment to Senate amendment numbered 3:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE IV—ARMS CONTROL AND DISARMAMENT ACT

SEC. 401. ARMS CONTROL AND DISARMAMENT AGENCY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended—

(1) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(2) in paragraph (1) as so redesignated, by striking out "$36,000,000 for the fiscal year 1990 and $37,316,000 for the fiscal year 1991" and inserting in lieu thereof "$44,527,000 for fiscal year 1992 and $45,862,810 for fiscal year 1993"; and

(3) in paragraph (2) as so redesignated, by striking out "fiscal years 1990 and 1991" and inserting in lieu thereof "each fiscal year for which an authorization of appropriations is provided in paragraph (1)".

(b) ADMINISTRATIVE AUTHORITIES REGARDING INVESTIGATIONS.—Section 41 of that Act (22 U.S.C. 2581) is amended—

(1) by redesignating paragraphs (h) and (i) as paragraphs (i) and (j), respectively; and

(2) by inserting after paragraph (g) the following new paragraph (h):

"(h) administer oaths and take sworn statements in the course of an investigation made pursuant to the Director's responsibilities under this Act;".

(c) ACDA REVITALIZATION.—Not later than December 15, 1992, the Inspector General of the Arms Control and Disarmament Agency (who serves also as the Inspector General of the Department of State) shall submit to the President, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate a report with regard to the Agency's fulfillment of the primary functions described in section 2 of the Arms Control and Disarmament Act (22 U.S.C. 2551). Such report shall address the current ability and performance of the Agency in carrying out these functions and shall provide detailed recommendations for any changes in executive branch organization and direction needed to fulfill these primary functions. Within 60 days after submission of this report, the President shall submit the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate comments on any recommendations contained in the report dealing with executive branch organization and direction.

SEC. 402. ON-SITE INSPECTION AGENCY.

(A) RESPONSIBILITIES OF THE ON-SITE INSPECTION AGENCY.—

(1) ADDITIONAL RESPONSIBILITIES.—Section 61 of the Arms Control and Disarmament Act (22 U.S.C. 2595) is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) the On-Site Inspection Agency has additional responsibilities to those specified in paragraph (4), including the monitoring of nuclear tests pursuant to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the monitoring of the inspection provisions of such additional arms control agreements as the President may direct;".

(2) CONFORMING AMENDMENTS TO DEFINITIONS.—Section 64 of that Act (22 U.S.C. 2595c) is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(C) by adding after paragraph (2) the following:

"(3) the term 'Peaceful Nuclear Explosions Treaty' means that Treaty Between the United States of America and the Union of Soviet Socialist Republic on Underground Nuclear Explosions for Peaceful Purposes (signed at Washington and Moscow, May 28, 1976); and

"(4) the term 'Threshold Test Ban Treaty' means the Treaty Between the United States of American and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapons Tests (signed at Moscow, July 3, 1974).".

(b) IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.—Title V of that Act is amended—

(1) by redesignating section 64 as section 65; and

(2) by inserting after section 63 the following:

"SEC. 64. IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.

"(A) REPORT FROM THE PRESIDENT.—Concurrent with the submission to the Congress of the request for authorization of appropriations for OSIA for fiscal year 1993, the President shall submit a report on OSIA to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Armed Services of the House of Representatives and Senate. The report shall include a review of—

"(1) the history of OSIA, including how, when, and under what auspices it was established, including the applicable texts of the relevant executive orders;

"(2) the missions and tasks assigned to OSIA to date;

"(3) any additional missions and tasks likely to be assigned to OSIA during fiscal year 1993;

"(4) the budgetary history of OSIA; and

"(5) the extent to which OSIA plays a role in arms control policy formulation and operational implementation.

"(b) REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.—Any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall also be submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and shall be subject to review by those committees.".

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3807, authorizing the President to transfer certain limited equipment pursuant to the CFE Treaty. In addition to provisions that implement the CFE Treaty, H.R. 3807 includes the authority for the United States to facilitate the dismantlement and destruction of Soviet nuclear, chemical, and other weapons of mass destruction.

H.R. 3807 also includes authority to transport by emergency airlift food, medical supplies, and other types of humanitarian assistance. This provision specifically prohibits the transfer to the Soviet Union, its republics or successor entities any construction-related equipment.

Finally, H.R. 3807 provides for the authorization of appropriations for the Arms Control and Disarmament Agency for fiscal years 1990 and 1991 and in that regard delineates the responsibility of the On-Site Inspection Agency.

One year ago, on November 19, 1990, 22 nations met at a summit of the Conference on Security and Cooperation in Europe in Paris and signed the Treaty on Conventional Armed Forces in Europe [CFE Treaty]. The CFE Treaty is an agreement that mandates reductions and limits on military equipment such as tanks, armored vehicles, artillery, combat aircraft, and helicopters in Europe from the Atlantic Ocean to the Ural Mountains. This treaty is another major arms control achievement of the post-cold-war era. It culminates a long, arduous process of negotiations between NATO and the Warsaw Pact on force reductions in Europe, which began in 1973 but didn't become a realistic opportunity until the Berlin Wall came down.

The CFE Treaty requires that each state which is a party to the treaty submit extensive data on its military forces, adhere to detailed provisions for the destruction or conversion of excess equipment, and open military installations to intrusive inspection. The CFE Treaty was formally submitted to the Senate on July 1, 1991, and the Senate considered and ratified the treaty on November 25, 1991.

The legislation that we are considering today is a key component of the CFE Treaty and is considered to be part of the implementation of that treaty. Specifically, the transfer program authorized by this legislation would enable the United States, Germany, and other allies to adjust their reduction liabilities by transferring treaty-limited equipment to other allies, allowing the alliance to achieve an effective overall defense capability at lower force levels.

I would like to also point out that this is a NATO program and not solely a U.S. program, with the U.S. portion representing only 30 percent of the overall program. Therefore, 70 percent of the costs associated with the program will not be incurred by the United States, and 70 percent of the actual equipment transfers will come from other NATO member countries.

Briefly, title I of the legislation:

Clarifies that the transfers are consistent with the obligations incurred by the United States and other allies in connection with the CFE Treaty;

Limits the articles eligible for transfer only to battle tanks, armored combat vehicles, or artillery included within the CFE Treaty's definition of conventional armaments and equipment limited by the treaty;

Clarifies that the United States will not incur any additional costs for such transfers;

Includes language concerning the military balance in the eastern Mediterranean; and

Stipulates congressional reporting requirements prior to any transfer.

This legislation does not include authority requested by the executive branch concerning follow-on support for the initial transfers. This language was deleted to reflect concerns raised by some of our colleagues and with the concurrence of the executive branch.

I would like to commend my colleagues on both sides of the aisle of the Foregn Affairs Committee and also on the Armed Services Committee for working with us to fashion this legislation, which now enjoys broad bipartisan support. I would also note that this legislation in its current form is fully supported by the executive branch.

I believe this treaty enhances stability and security in Europe and that this implementing legislation further complements the treaty objectives, and I urge my colleagues to support this measure.

Other important components of this bill include two provisions dealing with Soviet weapons destruction and emergency humanitarian assistance to the Soviet Union, it's republics and successor entities. Both of these provisions have strong, bipartisan support in the other body. Funding for them is already contained in the Dire Emergency Supplemental Appropriations Act for 1992. Both provisions are narrowly defined and pertain strictly to the dismantling of Soviet nulcear weapons and the provision of emergency humanitarian assistance. No other assistance, technical or otherwise, is contained in this bill.

Soviet President Gorbachev has requested Western help in dismantling Soviet nuclear weapons, and President Bush has proposed that the United States provide such assistance directed at the storage, transportation, dismantling, and destruction of nuclear weapons. It is clearly in the security interests of the United States and its allies to help the Soviets dispose of their nuclear weapons to prevent their possible seizure, theft, or transfer, not to mention use in the looming atmosphere of instability and chaos in the Soviet Union.

Title II of this legislation provides that the President may transfer up to $400 million in fiscal year 1992 from Department of Defense accounts for these purposes. Prior to the expenditures of any of these funds, the President will first certify to the Congress that potential recipients in the Soviet Union, by the republics or what is left of the central authorities, are committed to a series of constructive actions. These include making a substantial investment of their own for the destruction of such weapons, forgoing military modernization, as well as the use of fissionable or other components of the destroyed nuclear weapons, complying with all relevant arms control agreements and facilitating U.S. verification of the weapons' destruction.

Such a program of nuclear weapons destruction will increase U.S. security by:

Avoiding spending billions of dollars on arms production that perpetuates arms race;

Enhancing our country's nonproliferation and antiterrorism efforts;

Enhancing the prospects for a peaceful transition from authortarian to democratic rule in the Soviet Union;

Creating more business opportunities for U.S. disarmament contractors; and making arms disarmament, not just arms control, a reality in the post-cold war environment.

It is important that this program has both a "matched" and a "multilateral" aspect.

Matched—because we expect the Soviets to not only pay their share but to also make the political decisions to get weapons destruction programs moving and funded.

Multilateral—because we expect European countries have a special stake in seeing Soviet weapons destroyed and, therefore, they should also contribute funds and expertise to this mutual security effort.

U.S. leadership is important on efforts such as this and we, in Congress, can be proud of our efforts to initiate the process. Our constituents can be assured that this is not a Soviet aid giveaway program but rather a United States security and arms control enhancement program. Furthermore, the fund will be used to fund U.S. experts, technicians, planners, and contractors to enable them to play a crucial role in initiating these weapons destruction programs.

In short, this program is in our own self-interest. It will enhance United States security by assuring the destruction of Soviet weaponry and by cutting off opportunities that might allow these weapons to proliferate into the wrong hands to be used directly or indirectly against the United States.

Economic chaos in the Soviet Union is mounting and threatens the peaceful transformation of that country. Emergency humanitarian assistance in the form of necessary food stuffs and medical supplies can be helpful in averting potential disaster. Title III provides for up to $100 million to be transferred, at the direction of the President, from Department of Defense funds for the transport, by either military or commercial means of food, medical supplies, and other types of emergency humanitarian assistance to the Soviet Union, it's republics or any successor entities.

The Secretary of State will report to the President in prompt fashion regarding any emergency conditions which may require such assistance. Notification of the Senate and House Committee on Armed Services, Appropriations, Foreign Policy, and Foreign Affairs is required within 10 days of the transfer of these emergency humanitarian funds.

Mr. Speaker, the Soviet Union is at a crossroads in its history, and it needs our help and that of the rest of the developed world. This is not a problem we can simply throw some money or ideas at and think we have done our duty. We must recognize the limits but also the opportunities involved in our efforts to help the Soviets. This legislation carefully targets two areas of immediate concern to the stability and well-being of the Soviet Union, Europe, the United States, and the world: The destruction of Soviet nuclear weapons and the provision of emergency humanitarian assistance. These are straightforward, necessary, and narrow defined steps, and I urge my colleagues to support them.

Title IV of H.R. 3807 also authorizes funding for the Arms Control and Disarmament Agency [ACDA] for fiscal years 1992 and 1993 and addresses the congressional oversight of the activities of the On-Site Inspection Agency [OSIA].

The post-cold-war, the post-Gulf-war, and the post-Soviet-coup setting poses many new challenges and opportunities for both of these agencies in the field of arms control and disarmament. The activities and importance of these agencies will increase significantly in the coming years as we actively complete and implement some half dozen bilateral and multilateral arms control and disarmament agreements.

The authorization level for ACDA is set at $44.527 million for fiscal year 1992. This modest level is easily explained by ACDA's increased responsibilities related to several arms control negotiations and implementation of three arms control agreements, the INF Treaty and the two nuclear testing treaties—PNET and TTBT. It is our intention that this funding level will enable ACDA to provide for additional external research in support of the Agency's activities.

The other item related to ACDA in this legislation is a provision calling for a report by the inspector general of ACDA to examine ACDA's fulfillment of its primary functions and to review what recommendations he might make regarding ACDA's needs during this period of increasing responsibilities and activities.

The Arms Control and Disarmament Agency is the U.S. Government agency with primary responsibility for the development and implementation of U.S. arms control policies. ACDA is implementing three arms control agreements—the INF Treaty and the two nuclear testing treaties—and is working on as many as nine other arms control accords—START I and II, CFE I and II, two chemical weapons agreements, short-range nuclear forces, biological weapons, and nuclear nonproliferation. That is a very full agenda and that is why the Committee on Foreign Affairs supported modest increases in personnel and research for ACDA.

The On-Site Inspection Agency [OSIA] was established in February 1988 to implement the INF Treaty. OSIA Manages, directs, and implements all the on-site inspections for that treaty, which now total approximately 600 inspections Even though all the INF missiles have now been destroyed, the monitoring, verification, and inspecting under the INF Treaty will continue for the next 10 years. Now, OSIA will also be implementing, monitoring, and overseeing the two nuclear testing agreements, and it will also have several more treaties, such as CW, CFE, and START to work on.

The On-Site Inspection Agency implements arms control and disarmament agreements and it carries out those activities on foreign territory. The Committee on Foreign Affairs has oversight and legislative responsibility for matters involving arms control and for U.S. activities taking place on foreign territory. Therefore, the Committee on Foreign Affairs needs to receive from the administration adequate information on all OSIA activities in order to exercise its proper oversight and legislative responsibilities.

The provision of the House amendment which amends title V of the Arms Control and Disarmament Act regarding congressional oversight of On-Site Inspection Agency activities contains the following:

A requirement for the President to submit a report to the appropriate committees of the Congress concurrent with an authorization request which includes:

A description of how and when OSIA was established, including the applicable texts of the relevant executive orders;

A summary of the mission and tasks assigned to OSIA to date;

Any additional missions and tasks projected with respect to fiscal year 1993;

The budgetary history of the Agency to date, including budget requests, actual authorization and appropriation levels enacted and reprogrammings submitted to Congress; and

A discussion of the extent to which OSIA plays a role in arms control policy formulation and operational implementation.

A requirement that any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall be submitted to the Committee on Foreign Affairs of the House and the Committee on Foreign Relations of the Senate shall be subject to review by those committees.

The intent of the provision regarding the reprogramming notification requirement is that the Committee on Armed Services and the Committees on Foreign Affairs and Foreign Relations have equal rights and responsibilities with respect to approval of any request to reallocate funds from or within OSIA. The committee expects that these rights and responsibilities will be conducted consistent with the current Armed Services procedures applicable to reprogrammings.

OSIA is playing a central role in implementing the INF Treaty and two nuclear testing treaties (PNET, TTBT), and it may be implementing six to nine more treaties. OSIA is part of our overall Government arms control community, which must now respond positively to the arms control opportunities before us and assure that these opportunities are turned into agreements in which our Government and people can have confidence and trust that the other side is fulfilling their end of the bargain.

Therefore, OSIA has a rightful claim and, indeed, a clear responsibility to make its arms control policy input into the total Government process. OSIA is not just a nuts and bolts operation, it is a key agency in the total picture of our Government's arms control and disarmament policy.

OSIA's organizational structure currently reflects the importance of the agency's policy component. The Arms Control and Disarmament Agency and the Department of State provide assistant directors to OSIA. Again, it is the Committee on Foreign Affairs which authorizes funds for both the Department of State and ACDA and therefore must oversee the structure and functioning of OSIA's directorate and the overall agency.

President Bush's September 27, 1991, arms control initiative sets in motion unilateral U.S. arms control measures. Congress should not only look to OSIA for its policy evaluation of such unilateral moves but also to OSIA for ways in which it can play some role in assuring that such unilateral moves are reciprocated by the Soviets if that is the understanding. New developments in arms control, such as the President's September 27 initiative, illustrate even more poignantly how important it is to have proper and adequate communication between the Foreign Affairs Committee and the OSIA.

By reflecting for just a minute on the adverse impact to the arms control process that was caused by Soviet violation and compliance questions during the last decade, it is quite easy to realize what an important role OSIA must play in the United States arms control policy process.

The Committee on Foreign Affairs' jurisdiction over U.S. Government activities on foreign soil gives it a special, specific, and significant responsibility regarding the establishment of guidelines for monitoring training inspectors, escorting and collection activities, and the general management of arms control inspections on foreign territory.

The legislation before us is designed to improve the arms control work of both ACDA and OSIA at the same time that it also seeks to improve congressional oversight and legislative activities relating to arms control and disarmament policies.

This legislation establishes the necessary administrative tools and financial support for the effective operation of our major arms control agencies—ACDA and OSIA—in the post-cold-war era.

With this explanation, I am confident these arms control agencies will continue to receive broad bipartisan support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. ASPIN], the chairman of the Committee on Armed Services, to explain whatever he wants to explain, and I take this opportunity to thank him and his staff for his valuable cooperation in making it possible to move this bill.

Mr. ASPIN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me just say that I want to say how much we appreciate working with the gentleman from Florida and his staff, and we would like to commend them for their hard work in putting together this proposal and putting together this legislation.

I would like to also thank the gentleman from Florida [Mr. BENNETT], whose suggestion we incorporated in one of the amendments, and the gentleman from Ohio [Mr. McEWEN], whose suggestion we also incorporated in one of the amendments.

I would like to thank the gentleman from Florida—the two gentlemen from Florida—and the gentleman from Ohio.

Mr. Speaker, we have today a historic opportunity to reduce the threat Americans face from the Soviet Union. In the span of less than 2 years, we have seen the fall of the Berlin Wall, the collapse of the Warsaw Pact, the utter failure of Soviet communism, and now the disintegration of the Soviet Union itself.

Unlike the earlier developments, the collapse of the union presents Americans with real and tangible dangers as well as challenges and opportunities for a more peaceful world. I wish to address myself to those dangers and opportunities because they are the reason for the legislation before this House today.

We face the disintegration of a nuclear superpower. The former Soviet Union holds within its borders nearly 30,000 nuclear weapons and the bomb-making expertise to spawn new nuclear arsenals around the world. These facts represent real dangers to the United States and its allies.

The legislation before you would take steps to reduce these new threats posed to Americans by events in the Soviet Union.

First, it would help the Soviets make a start on dismantling this enormous and unnecessary nuclear arsenal by authorizing $400 million for a cooperative effort with the United States. For decades we have aimed our defense budgets at buying forces that would scare the Soviets out of using these weapons. Here is a chance to take them off the table for good. We cannot pass up this opportunity to help them reduce this arsenal.

Second, there is the prospect of social chaos this winter in the former Soviet Union due to severe shortages of medicine and food in critical areas. This prospect of social chaos presents us with two dangers.

Danger one: the nuclear danger. There is the possibility that the fabric of Soviet society will become so unraveled that even military discipline fails and nuclear weapons fall into the wrong hands. The prospect of nuclear weapons or fissile materials passing into unfriendly, perhaps undeterrable hands is a danger indeed. And the danger is not limited to materials. At some point, the deterioration of Soviet society will prompt a migration of nuclear expertise, and some of it will surely go to those who do not wish their neighbors or us well.

Danger two: the political danger. If this first winter of freedom in the Soviet Union is a disaster, we have to fear another coup attempt. The hardliners haven't left. They are very likely waiting for another chance. If they get one, they may succeed in ousting the democratic reformers. If democratic reformers are replaced by dictators, our hopes for even further reductions in U.S. defense spending could be dashed.

Therefore, we must defend ourselves against these two new dangers. The legislation before you responds to this urgent need. It is defense by different means, but it is defense, nevertheless. It would allow for urgent and direct action to defend our interests by avoiding social chaos in the Soviet Union this winter. It would authorize $100 million to allow the Department of Defense to airlift food, medicine, and other materials to areas of critical need in the Soviet Union as determined by President Bush. This would bypass the corrupt and collapsing Soviet transport system where so much is now lost or stolen.

Only one institution in the world has this capability. That institution is the U.S. military. The Soviet military could not accomplish it. The centrally directed Soviet transportation system is the problem, so it surely cannot be the solution. The only instrument we have capable of helping to avert social chaos this winter is the U.S. military. That is why this legislation enables President Bush—entirely at his discretion—to use Pentagon assets to transport food and medicine.

Once again, this is defense by other means but clearly defense.

There is a final element to this legislation. It would require that the President—to the extent he deems appropriate—seek reimbursement for any assistance from the recipient Soviet or other government in the former Soviet Union. It is an entirely appropriate addition.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support H.R. 3807 which authorized the President to transfer certain equipment to NATO allies pursuant to the implementation of the CFE Treaty.

The underlying bill was passed unanimously by the House last week. Yesterday the legislation was amended by the other body adding language regarding United States policy toward the Soviet Union. Today we consider specific amendments to that language.

It is important that the Congress complete consideration of this legislation. Delaying action until early next year will cost the U.S. taxpayer approximately $500,000 a month. In addition, any delay in sending this legislation to the President may prevent the U.S. from meeting its commitments required under the CFE Treaty.

There are additional reasons we should move this legislation forward. In my view, it is imperative that we seize the moment to take advantage of the opportunity to reduce the Soviet military threat at its source—within the Soviet Union itself.

I support the provisions in this bill regarding nuclear weapons destruction in the Soviet Union. The President should be provided with the authority to utilize, if he deems it necessary, appropriate funds to destroy and dismantle the nuclear and chemical weapons in the Soviet Union.

I urge support for the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL].

The motion was agreed to.

A motion to reconsider was laid on the table.

□ 0400

COMMENTS ON H.R. 3807, SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991

(Mr. BENNETT asked and was given permission to address the House for 1 minute.)

Mr. BENNETT. Mr. Speaker, the bill we have just been considering was controversial when first suggested by the gentleman from Wisconsin [Mr. ASPIN]. A lot of people did not understand what he had in mind. As revised, with the amendments that worked out in the Committee on Armed Services and the Committee on Foreign Affairs, it provides that the countries that are going to be assisted, the Soviet empire, the independent countries, they are required to do some participation themselves in this. The President is authorized to do the best he can to work out arrangements with regard to things like oil, magnesium, and other assets that Russia has in large quantity. Russia and the Soviet empire are not poor in any respect. They have a lot of materials that we would like to buy. Along with the gentleman from Ohio [Mr. McEWEN], myself and others, we worked out some amendments which make it possible for us to have barter and other ways to keep the taxpayers of the United States from having to carry all of this burden.

Mr. McEWEN. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Ohio.

Mr. McEWEN. Mr. Speaker, I thank the gentleman from Florida [Mr. BENNETT] for yielding and wish to commend him for his leadership.

What happens on occasions like this, it seems like the generosity of the American people is so overwhelming we sometimes get our heart in front of our head. The truth of the matter is that much has to be done to rescue the Soviet Union from 70 years of socialism.

Mr. Speaker, you will, however, observe that the Japanese do not feel so obligated, the Germans do not feel so obligated, and the British do not feel so obligated, even though all of them would benefit from the actions taking place.

What the gentleman from Florida [Mr. BENNETT] has said is that this is going to cost the taxpayers some money, and it is going to cost the taxpayers of America some money. In the course of doing it, in the benefit of the global welfare of our planet, we should be able to have access to the abundant reserves that are there in the Soviet Union.

Mr. Speaker, the gentleman from Florida [Mr. BENNETT] has mentioned that perhaps the second largest oil reserves in the world are in the Soviet Union. The largest strategic metal reserves are in the Soviet Union. So as they have these capacities, we should be able to establish long-term contracts whereby the expenditures of the taxpayers of the people of America can be rewarded.

Mr. Speaker, if the gentleman would continue to yield, let me just share with you two paragraphs from Jane's Weekly of November 16, 1991, this past week, in which a discussion with the head of the Soviet Air Force was held, where he was asked whether the next generation of combat aircraft programs had fallen upon a cash hurdle due to their dilemmas.

General Laptev said, "Naturally, there are financial constraints, but so far, no, none has been stopped.

"Some of these programs are so advanced that it would be most damaging to stop them now," he added.

"In September Laptev said work for the Soviet Air Force was underway on improvements to existing MiG-29 Fulcrums and Su-27 Flankers, as well as development of new fighters comparable to NATO's next generation aircraft."

The gentleman from Florida [Mr. BENNETT] mentioned the discussion so well that we had, that we cannot pick up for the Soviet Union this burden if they are going to continue their modernization. Sixteen hundred tanks in the last 12 months, 4400 armored personnel carriers in the last 12 months, 575 jet fighters in the last 12 months, as well as they floated 11 new submarines and 40 new strategic bombers.

So in these negotiations what we are saying is as we help clean up the mess, the President of the United States should protect the American taxpayer by making sure we get paid in some kind in return from their natural resources.

Mr. Speaker, I thank the gentleman from Florida [Mr. BENNETT] for his leadership. He has done not only freedom a service, but America a service by demanding that this logical, common sense consideration be included in this bill.

Mr. BENNETT. Mr. Speaker, reclaiming my time, I thank the gentleman from Ohio [Mr. MCEWEN] for his leadership. It is very outstanding.

FUNDING OF NATIONAL INTERMODAL SURFACE TRANSPORTATION SYSTEM

Mr. Speaker, we are in a tight position with regard to allowing time on the transportation bill, so I would like to make some remarks about this.

The transportation bill, the idea of interstate highways, was born in the mind of Eisenhower when he was President, with the assistance of a Florida man, who brought it to his attention about this being an important thing to occur. So really the Eisenhower administration is known today as the father of the interstate system.

When it was started, it did not seem to be a bad thing to have States that were better off make donations in large amounts of money to the trust fund to provide for interstate highways in States where they could not raise that money. So for decades that has been the system.

But the formula under which that money was distributed was an archaic formula. It was based on such things as rural mail carrier routes.

So a few months ago, perhaps more than that, I read in the editorials of Florida about how Florida was getting such a bad drubbing under the existing law with regard to highways. So I wrote to these people that made those comments and I said, "What is the problem?" They explained to me about this antique system to provide for who got how much money under the highway program.

So I asked the heads of transportation in all 50 States to give me suggestions. They worked out a suggestion of a modern formula, things based on six-lane and eight-lane highways, based upon diesel utilization, the length of the roads, and things that make sense and make an entirely different formula, a formula which gives the donor States like California, Texas, Florida, and other growing States, a better chance to be financed in this type of activity.

Mr. Speaker, I took that to the Committee on Public Works and Transportation. They looked at it and they did the best they could with it. As a matter of fact, they did a pretty good job with it. They passed in the House of Representatives a bill which greatly improved that distribution of funds. They greatly improved it.

But now what do we have tonight? I regret to say I myself am going to vote against this bill because of the fact it is so unfair. It is even more unfair than the bill that passed in the Senate. The bill that passed in the Senate, for instance, gave Florida 83 cents on the dollar. This bill gives Florida 82 cents on the dollar. It is not much of an improvement.

Theoretically, and you will be told this by the committee when it gets before you, "Oh, BENNETT is wrong. You get 90 percent. Everybody gets 90 percent."

But that overlooks the fact that the 90 percent does not apply to all the money, it only applies to a portion of the money.

When you get all those other portions worked out, you find out that Florida just give 82 percent on the dollar.

Now, some States get 500 percent of what they pay in. Many States get a much larger amount of money than they pay in.

So it is very unfair in 1991 to have a system of taking care of our interstate highways which is based upon an archaic formula. It is very sad in the closing days of this 102d Congress, this session, that we are having to have a bill like this.

Mr. Speaker, I do not blame the House committee. It worked real hard. The gentleman from New Jersey [Mr. ROE] worked very, very hard, and so did the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

□ 0410

The gentleman from Arkansas [Mr. HAMMERSCHMIDT] if Congress has a gentleman, it is the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT. And also the gentleman from Kentucky, BILL NATCHER, on our side. He is a gentleman. I admire them tremendously.

I would say the Members that worked on both sides of the aisle tried to get out a good bill. They did get out a good bill. The House passed a good bill, but it went to conference.

I want to say something that I have observed about government here much more clearly than I ever observed before and that is, our constitution gives a terrible blow on some types of legislation. Here we have a Member of the U.S. Senate, representing only a small fraction of the population that I represent in the House of Representatives; and others in the Senate who are representing very few people, and they are able to vote down the vast majority of American citizens. So it is almost not democracy.

The majority of Members of Congress are from areas that are contributing to this situation very unfairly. The majority of Members of Congress are. But that is not true in the Senate.

So the Senate stood there adamantly and was able to achieve something unfair which I regret was achieved.

One other point about this. The Speaker in the House and the Presiding Officer in the Senate can help a little bit in a case like this. The way in which they should help is they should have put Members on the conference, even though they were not on the committee, who had something to do with the idea that we should be fairer with regard to the formulas.

I had asked both sides whether they would lend me any time on this bill, and they are pretty cramped for the time. So I am using this opportunity, but I am not mad about anything. Because the House committee worked hard to bring out what it did, and they tried to be fair about it to the very best of their ability.

I am not in any way running them down. I am saying it is a sad thing in 1991 that we are now passing a 6-year highway bill which has a formula that is tied to such things as rural mail carriers instead of 8-lane highways and the modern problems that we have with regard to highways. The modern formula was worked out, and it did do a good, fair thing to this situation and it did pass the House. But regrettably it died in the conference as a lot of good things do.

NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 367) to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from California?

Mr. GOODLING. Mr. Speaker, reserving the right to object, although I shall not object, I yield to the gentleman from California [Mr. MILLER] for the purpose of explaining what it is we are doing.

Mr. MILLER of California. Mr. Speaker, as the sponsor of H.R. 907, the Nontraditional Employment of Women Act, I urge my colleagues to support this legislation. H.R. 907 is identical to the NEW provisions in the Job Training Partnership [JTPA] Amendments of 1989, which was passed overwhelmingly in the House last year, and to S. 367.

This legislation is supported by the administration, the National Governors Association, the AFL-CIO, the Homebuilders Institute, and a number of women's organizations, including Wider Opportunities for Women, the National Tradeswomen Network, and the National Displaced Homemakers Network.

I want to thank my colleague from Maryland, Mrs. CONNIE MORELLA, who was the major cosponsor of this legislation, and the other numerous cosponsors from both sides of the aisle who strongly supported NEW.

The purpose of NEW is to increase nontraditional training and employment opportunities for women served by JTPA. Nontraditional occupations are those jobs in which 25 percent or less of the work force is female. Examples of nontraditional jobs are trades workers, electronic technicians, mechanics, and maintenance engineers.

Women in nontraditional jobs earn higher wages which enable them to become economically self-sufficient and support their families. In no way will NEW discriminate against men. They will continue to be eligible for training programs in all occupational areas.

NEW is needed because despite current JTPA language encouraging the elimination of occupational stereotyping, occupational segregation still exists in JTPA programs, and the gap in wages between women and men continues.

A 1991 GAO investigation of the Job Training Partnership Act found that JTPA, the only major source of employment training for the economically disadvantaged, dislocated workers, and others who face significant employment barriers, discriminates against blacks and women in the services it provides.

The GAO found that in one-third of the service delivery areas [SDA's], white participants were more likely to receive occupational training than black recipients; and in two-thirds of the SDA's, men were more likely to receive on-the-job training while women were more likely to receive classroom training for mostly lower wage jobs.

The GAO also found that the Department of Labor [DOL] and State JTPA agencies do not conduct sufficient monitoring activities to identify and address disparities; and when they are able to identify disparities, they do not take corrective actions. These disparities were attributed to the systemic problems in the way projects operate at the local level.

According to a 1989 GAO study, women graduates of JTPA programs earned an average of $4.65 an hour, 51 cents less than male graduates. The GAO found that less than 9 percent of women in JTPA supported classroom training were being trained in nontraditional occupations. These occupations pay an average of 30 percent higher wages than occupations which are traditionally female. Sixty-nine percent of the women who were placed in jobs after participation in JTPA were clustered in the two lowest paying occupational areas—clerical and sales, 43 percent, and service, 26 percent, of JTPA's nine occupational areas.

NEW requires services delivery areas and States to include goals in their annual job training plans for training and placing women in nontraditional employment. It creates a time-limited program out of existing funds, at a cost of $1.5 million annually, to foster the development and institutionalization of programs to train women for nontraditional employment.

NEW complements the Department of Labor's skilled trade initiative to help women gain access to the skilled trades by providing an incentive for JTPA funded training to prepare women for apprenticeships.

Over the last 6 months, three private industry councils have participated in a demonstration to implement the kind of goal setting which the NEW Act would require. These projects are in Hartford, CT, Milwaukee, WI, and Missoula, MT.

In all three service delivery areas, wide community support has already been generated to achieve the goals. It has proven neither costly nor a major administrative burden in any of these three communities to put in place the systems to make nontraditional training accessible to women.

This demonstration effort had been funded by the Ford Foundation, the Rockefeller Family Fund, the Aetna Foundation, and the Women's Bureau of the Department of Labor. The lessons learned in this project will make it easier to implement the NEW Act when it becomes law.

While NEW alone will not solve the inequities in JTPA training programs, it is a vital and important step to help ensure that women are trained in all occupational areas. I urge you to support this legislation.

Mr. GOODLING. Mr. Speaker, continuing my reservation of objection, I yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding to me.

As the cosponsor of H.R. 907, the Nontraditional Employment for Women Act, I am pleased to join my colleague, Congressman GEORGE MILLER in urging passage of this critical bill.

I see this bill as an important elemental step toward achieving the kind of trained and prepared work force that will be needed over the next decades. It is a waste of our resources and human potential to continue the training of low income women in the narrow range of occupations that the Job Training Partnership Act programs have most frequently targeted for women. The concentration of women in training for clerical, sales, and low wage service jobs has had a negative effect on women's wages as well as a negative impact for employers making a good faith effort to find trained women for a broader spectrum of jobs. The NEW Act will address these issues in the Job Training Partnership Act.

The NEW Act is an appropriate strategy for this Congress to bring to the employment and training community at this time. We must be looking for strategies that will insure that economically disadvantaged women—especially those who are struggling to raise their children alone—are receiving services that promise a route out of poverty. Training for nontraditional employment—with its assurance of wages that are at least 30 percent higher in most occupations—is one of the most successful strategies toward this goal. All too often, we have been investing JTPA training dollars in training for jobs that keep women and their children in poverty.

I am pleased to support a bill that has the chance to improve the JTPA and its services to women without substantial new resources being required or burdensome overregulation. The NEW Act requires goal-setting and the development of data systems to measure progress. This is, I think, a good business strategy consistent with the overall direction of the Job Training Partnership Act.

I urge this House to support NEW and to join in moving toward a better trained, more flexible, and diverse work force.

THE NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT: H.R. 906, S. 367

Status: Introduced in both the House and Senate on February 6, 1991. The Senate Labor and Human Resources Committee passed the bill unanimously on February 20, with no amendments. No action has been taken yet by the House Education and Labor Committee.

Summary: The bill is an amendment to the Job Training Partnership Act to increase nontraditional training and employment for women served by the JTPA. The bill:

Requires States and service delivery areas to set goals for training and placing women in traditionally male fields and to report on their results in meeting these goals;

Authorizes the State Job Training Coordinating Council to review the plans and outcomes of the service delivery areas and the governor, to make recommendations for future activities related to improving nontraditional training, and to disseminate successful approaches developed in the States;

Directs the governor and SJTCC to coordinate efforts for training and placing women in nontraditional employment under the JTPA and vocational education system;

Establishes a four year demonstration grants program to be awarded by the Secretary of Labor to no more than six States per year to expand/extend nontraditional training and employment programs throughout the State, utilizing $1.5 million annually from USDOL's national JTPA program monies; and

Directs the Secretary of Labor to report to Congress on the efforts made at the local, State, and national levels to train, place, and retain women in nontraditional occupations and to generate recommendations for legislative and administrative changes necessary to increase nontraditional opportunities for women under JTPA.

Rationale: As of 1988, only 9% of women workers were employed in nontraditional occupations—those in which 25% or less of the work force is female. These occupations pay an average of 30% higher wages than occupations which are traditionally female. Since 1983, however, the number of women in nontraditional jobs has remained relatively unchanged at 4% of the total workforce. In the Job Training Partnership Act, while more than 50% of those served are female, a study of 1986 enrollments showed that less than 9% of women in JTPA-supported classroom training were being trained in nontraditional occupations. In contrast, female participants were most often trained in clerical and caretaking occupations in which placements occurred less often and at lower wages. Given the low income and welfare status of many female JTPA participants training in nontraditional and higher skill occupations should be a priority.

While program models for training women in a wide variety of nontraditional occupations have been successfully implemented since the mid-1960s, these models have not been institutionalized throughout the JTPA system. A few programs, like those listed below, have demonstrated that nontraditional training can be successfully implemented;

T.R.E.E. (Training, Recruiting, Educating and Employing, Inc.) is a JTPA-funded nontraditional training program for women in Middlesex County, New Jersey. TREE provides eight weeks of hands on, pre-apprenticeship training in one of four fields: electrical, plumbing, drywall taping/finishing, and painting. TREE also provides women with support services, linkage to vocational-technical schools for literacy and basic skill training, and job placement assistance upon completion of the program.

STEP-UP of Women is a comprehensive nontraditional skills training program for women located in Vermont and New Hampshire. STEP-UP provides 13 weeks of training to 75 women each year, primarily in construction trades, such as carpentry, plumbing and welding. 80% of women completing the program are placed in jobs which provide further training through on-the-job training or apprenticeships. The program is funded by JTPA and Vocational Education funds.

Women Accessing Technology is a program of the Waukesha County Technical College in Wisconsin. The program assists women and high school girls to enter and complete technical training in fields such as Electronics and Telecommunications. WAT provides hands-on experience, as well as role model and employer contacts, career exploration and job shadowing.

Other examples of nontraditional employment skills training programs for women include: Bergen County Technical schools in Hackensack, NJ; ANEW in Renton, Washington; Nontraditional Employment for Women in New York City; Midwest Women's Center and Chicago Women in the Trades in Chicago; MiCasa in Denver; Women's Technical Institute in Boston; Prep, Inc. in Ohio; Women in the Skilled Trades (WIST) in Oakland, CA; and Women in Apprenticeship/Prep Inc. in San Francisco.

Major Supporting Organizations: The National Governors' Association, Wider Opportunities for Women, The National Tradeswomen's Network, the AFL/CIO, the Homebuilders Institute, the National Displaced Homemakers Network, the National Women's Law Center, Women Construction Owners and Executives, and the New York and Ohio State Employment Bureaus.

Mr. GOODLING. Mr. Speaker, continuing my reservation of objection, I would merely say that the new act is the same as the old act, which the gentleman from California [Mr. MILLER] explained, that was passed in our committee last year and in the House. Unfortunately, it did not make it to the Senate.

I should point out that the Department of Labor does not oppose the act. They do have two concerns. One concern being that it is earmarking some more money, we have already earmarked $8 million of their $35 million, that we earmark another million and a half. And their second concern, of course, is one that we may hear about sometime. They do have some concern about the increased reporting requirements and the administrative costs for the State and local government.

So in case we get that message when we get back home after this kicks in, do not act as if we do not know anything about it. We will just have to come back and fix it.

Mr. MILLER of California. Mr. Speaker, if the gentleman will continue to yield, I would like to recognize the work of our colleague, the gentleman from Kentucky [Mr. PERKINS] for all of the work and effort that he put into bringing this legislation to this point.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nontraditional Employment for Women Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of those families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act;

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the work force may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this Act are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl

D. Perkins Vocational and Applied Technology Education Act to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

SEC. 3. DEFINITION.

Section 4 of the Job Training Partnership Act (hereinafter referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

"(30) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work.".

SEC. 4. SERVICE DELIVERY AREA JOB TRAINING PLAN.

Section 104(b) of the Act is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), (9), (10), and (11) as paragraphs (6), (7), (8), (9), (10), (11), and (12), respectively;

(2) by inserting after paragraph (4) the following new paragraph:

"(5) goals for—

"(A) the training of women in nontraditional employment; and

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

and a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities;"; and

(3) in paragraph (12), as redesignated in paragraph (1) above, by—

(A) striking "and" at the end of subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) adding after subparagraph (C) the following new subparagraphs:

"(D) the extent to which the service delivery area has met its goals for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the participant's age;

"(iv) the participant's race; and

"(v) information on retention of the participant in nontraditional employment.".

SEC. 5. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) of the Act is amended by—

(1) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The plan shall include goals for—

"(A) the training of women in nontraditional employment through funds available under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, and other sources of Federal and State support;

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

"(C) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities; and

"(D) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to train and place women in nontraditional employment.".

(b) SPECIAL PROGRAMS.—Section 121(c) of the Act is amended by—

(1) redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(2) inserting after paragraph (8) the following new paragraph:

"(9) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment;".

SEC. 6. STATE JOB TRAINING COORDINATING COUNCIL.

Section 122(b) of the Act is amended by—

(1) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (9), (10), (11), and (12), respectively; and

(2) inserting after paragraph (4) the following new paragraphs:

"(5) review the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(6) prepare a summary of the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(7) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(8) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational and Applied Technology Education Act, obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational and Applied Technology Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;".

SEC. 7. STATE EDUCATION COORDINATION AND GRANTS.

(a) STATE EDUCATION COORDINATION AND GRANTS.—Section 123(a) of the Act is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(3) inserting the following new paragraph at the end thereof:

"(4) to provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

(b) USE OF FUNDS.—Section 123(c) is amended—

(1) in paragraph (2)(B) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)"; and

(2) in paragraph (3) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)".

SEC. 8. USE OF FUNDS.

Section 204 of the Act is amended by—

(1) redesignating paragraphs (27) and (28) as paragraphs (28) and (29), respectively; and

(2) inserting after paragraph (26) the following new paragraph:

"(27) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment,".

SEC. 9. DEMONSTRATION PROGRAMS.

Part D of title IV of the Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAMS

"SEC. 457. (a)(1) From funds available under this part for each of the fiscal years 1992, 1993, 1994, and 1995, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) The Secretary may award no more than 6 grants in each fiscal year.

"(b) In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between the Job Training Partnership Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under the Job Training Partnership Act;

"(3) the extent to which the initiatives proposed by a State supplement or build upon existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of such State's demonstration training programs.

"(c)(1) Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontraditional employment.

"(2) Each State receiving financial assistance pursuant to subsection (c)(1)(A) may only award grants to—

"(A) community based organizations,

"(B) educational institutions, or

"(C) other service providers,

that have demonstrated success in occupational skills training.

"(3) Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Each State receiving financial assistance pursuant to subsection (c)(1)(B) or (c)(1)(C) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds under subsection (c)(1)(A).

"(d) In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs,

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment, or

"(3) provide technical assistance to service providers.

"(e) The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the demonstration programs' effectiveness in—

"(1) preparing women for nontraditional employment, and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

SEC. 10. REPORT AND RECOMMENDATIONS.

(a) REPORT.—The Secretary of Labor shall report to the Congress within 5 years of the date of enactment of this Act on—

(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(2) the effectiveness of the demonstration programs established by section 457 of the Job Training Partnership Act in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration programs authorized by section 457 of the Job Training Partnership Act.

(b) RECOMMENDATIONS.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 457 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

SEC. 11. DISCRIMINATION.

(a) For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(b) Nothing in this Act shall be construed to require, sanction or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief. Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect upon the date of enactment of this Act, except that the requirements imposed by sections 4, 5, and 6 of this Act shall apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1992.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 0420

ABANDONED INFANTS ASSISTANCE ACT AMENDMENTS OF 1991

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes, with a Senate amendment to the House amendments thereto, and agree to the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

On page 13, after line 14, of the House amendment to the text of the bill, insert:

SEC. (9) Amend Section 105 of the Older Workers Benefit Protection Act (PL 101-433) by striking the semicolon at the end of paragraph (b)(1) and inserting thereafter the following: "; or that is a result of pattern collective bargaining in an industry where the agreement setting the pattern was ratified after September 20, 1990, but prior to the date of enactment, and the final agreement in the industry adhering to the pattern was ratified after the date of enactment, but not later than November 20, 1990;'".

Mr. MILLER of California (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1532 the Senate bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. ROE. Mr. Speaker, the final details are now being completed, and the conference report with proper signatures will be here momentarily. I ask unanimous consent that we proceed with the debate on the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleagues for their indulgence in allowing us to proceed because it will save time in the long run.

Mr. Speaker, I wish to thank all of the conferees who literally worked around the clock for weeks, especially my colleagues on the Public Works and Transportation Committee. I do want to pay the highest regard and special tribute to their leadership, particularly the gentleman from Arkansas, Mr. JOHN PAUL HAMMERSCHMIDT, our ranking member; the gentleman from California, Mr. NORM MINETA, the subcommittee chairman; the gentleman from Pennsylvania, Mr. BUD SHUSTER, the ranking member.

I also want to take this time publicly to thank Senator DANIEL PATRICK MOYNIHAN of New York and the other Senate conferees for their tremendous cooperation and support. If ever the Members of the House owed a great deal of praise and regard for a staff that has worked on this bill in the last 3 weeks, day and night, Saturdays and Sundays, 18 hours a day, I would like to highly compliment the staff of the Public Works Committees of both the House and the Senate who have made it possible for us to arrive at this point.

Mr. Speaker, I am proud to present to the House, on behalf of the Committee on Public Works and Transportation and on behalf of the 92 conferees, the Intermodal Surface Transportation Efficiency Act of 1991, a bipartisan bill that will stand as the centerpiece of our domestic and economic agenda for years and decades.

Tonight on this floor we are marking the start of a new transportation era for America. We are bringing to this

House a surface transportation policy bill, an economic agenda, an environmental program and an energy conservation measure, that will touch the life of every American. We are starting to rebuild America.

I wish to thank all of the conferees who have literally worked around the clock for weeks, especially my colleagues on the Public Works and Transportation Committee. I want to pay special tribute to the other members of the committee leadership with whom I have worked so closely during the last few months: JOHN PAUL HAMMERSCHMIDT of Arkansas, NORMAN MINETA of California and BUD SHUSTER of Pennsylvania.

I also want to thank Senator DANIEL PATRICK MOYNIHAN of New York and the other Senate conferees for their tremendous cooperation and support.

All of us in the House owe a tremendous thanks to the staff of the Public Works and Transportation Committee. They have worked on this bill in a totally bipartisan manner for more than 2 years and virtualy continuously for 7 months to get this job done. This has been a humongous job and the staff has risen to the occasion.

Working together, we have produced a bill that will meet the vast and varied surface transportation needs of the entire Nation.

First and foremost, every State will receive back 90 cents on the dollar from the highway trust fund. We labored for 3 weeks over this issue because it is one of simple fairness and equity to all the States. We have worked to balance the interests of all the States: The donor States, the rural States, the urban States, the growth States.

With this bill we are rebuilding America. We will have an increased investment of 46 percent in our Nation's highways and bridges, and a virtual doubling of the Nation's transit commitment.

Never before has there been the enormous investment that this bill authorizes, directs and promotes. It will have a huge impact on the economic dynamics of the entire Nation. Our people need transportation, they need jobs, they need clean air. This bill will bring about a better transportation system through intermodalism, it will result in better coordination with environmental needs and it will improve the quality of life.

The overriding question is what kind of America will we have? How do our people get to their jobs, to their schools, to commercial areas, to airports and to ports? How do we invest in our infrastructure to develop a national intermodal transportation system for the future as we enter the 21st century? We must build on the successful efforts of the past but we must also move in bold and audacious new directions in transportation policy.

This bill is more than a highway bill, it is more even than a surface transportation bill. There is nothing more important today than the economic condition of the Nation. We are bringing before the House an economic program that will create 2 million real jobs for Americans. These are real jobs that are creating the new wealth of the Nation for the 21st century through investment in the transportation infrastructure.

This bill is an investment in the economic and environmental future of America. Everyone here should be aware that there is no more important legislation in this Congress for the quality of life of all Americans than this transportation policy bill.

This legislation will have a dynamic economic effect on America. We will be creating jobs—real jobs. We will be investing in our Nation and we will be preparing for competition in the global economy.

It is time our Nation made this major and significant commitment to upgrading our transportation infrastructure. Our foreign rivals, Germany, France, and Italy have all been engaged in major infrastructure investment programs that have led to significant productivity growth. Japan has embarked on a 10-year, $3.2 trillion infrastructure investment campaign, Taiwan on a 6-year, $300 billion campaign.

We are using the optimum resources of the highway trust fund to put trust back in the trust fund by spending down the balance. Durings the 6 years of the bill, the balance in the highway account will be reduced from $11.4 to $2.3 billion. Most importantly, we are using the American taxpayers' transportation funds for transportation purposes and not for shielding the public deficit. We are rebuilding America.

This bill meets the transportation needs of every part of our Nation: Urban, suburban, and rural. We have worked throughout the year on a bipartisan basis to emphasize flexibility, equity and balance. We ask the support of the Members of this House for this new transportation policy for the Nation, a policy that will provide the direction to lead our Nation into the 21st century.

A list of conferees follows:

PUBLIC WORKS AND TRANSPORTATION COMMITTEE CONFEREES

Mr. Roe, Mr. Anderson, Mr. Mineta, Mr. Oberstar, Mr. Nowak, Mr. Rahall, Mr. Applegate, Mr. de Lugo, Mr. Savage, Mr. Borski, Mr. Kolter, Mr. Hammerschmidt, Mr. Shuster, Mr. Clinger, Mr. Petri, Mr. Packard, Mr. Boehlert, and Mrs. Bentley.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 2950, the Intermodal Surface Transportation Efficiency Act of 1991.

I want to thank all of the 92 conferees from both bodies for their dedication, hard work, and determination to make certain that we reached agreement on a bill that would be acceptable to both Houses and could be sent to the President for his signature.

I especially want to commend my good friend, BOB ROE, chairman of the Public Works and Transportation Committee and chairman of the conference; Surface Transportation Subcommittee Chairman NORM MINETA; and the subcommittee's ranking member, BUD SHUSTER, for their tremendous leadership, perseverance, and cooperative effort in helping bring the conference to a highly successful conclusion. I also add my deepest appreciation to our very professional and dedicated staff.

Mr. Speaker, I am pleased that the conference agreement retains the strengths of the bill passed by the House on October 23. As we provided in the House bill, the conference agreement authorizes $151 billion over 6 years to move the Nation's vitally important Surface Transportation Program forward.

Mr. Speaker, in addition to that this is a jobs bill.

According to the Department of Transportation funding the program at these levels could create up to 4 million jobs. And it's going to happen at an opportune time in our Nation's economic slow down.

The conference agreement also provides for the creation of a 155,000-mile National Highway System, which will include the Interstate System and principal arterial routes, and it funds this new program at the more adequate levels proposed by the House.

This conference agreement also recognizes that many highway corridors were left off the interstate map when it was first drawn. Therefore, the National Highway System will include major transportation corridors that provide the highest level of service and carry the greatest amount of traffic.

As we invest in the Nation's surface transportation infrastructure through this agreement, we will also be spending down the balance in the highway trust fund to about $2.5 billion in fiscal year 1997.

The conference agreement goes to considerable lengths to provide greater equity in the apportionment of funds. It raises from 85 to 90 percent the return that States receive relative to what they contribute to the highway trust fund.

In addition, the agreement provides minimum allocation States with bonus minimum allocation funds, and it provides funds where necessary to ensure that such States receive at least a 90 percent return on their trust fund contributions. Hold harmless funds are also provided to assure that a State's fiscal year 1992 funding level does not fall below its fiscal year 1991 level.

Clearly, the conferees made every effort to provide equity in the distribution of trust fund dollars. And it is important that the Members of this body realize that while some States still may want more than they will be receiving under the agreement, the funding in the bill provides States with a 46-percent increase over the next 6 years relative to the funding they have received over the past 5 years.

This conference committee fully realized the pressing transportation infrastructure needs that exist all over the Nation. I believe that we have provided a strong response in H.R. 2950, and I urge my colleagues to support it.

Mr. Speaker, I would like to take this opportunity to clarify the provision in the bill authorizing high priority cooridors through several States. The table printed in the bill describing the corridor segments lists the States associated with the project. There has been some confusion as to whether this listing somehow prejudices the alignment of the corridor.

Let me give you an example. One of the corridors in the bill is the North-South corridor from Kansas City, MO, to Shreveport, LA. A segment of this corridor from Alma, AR, to the Louisiana border is designated for special funding. The chart lists Texas and Arkansas for this segment.

This does not mean, however, that the alignment must go through Texas to reach the Louisiana border. The corridor ultimately selected could be entirely in Arkansas. There is no requirement that the route go through Texas. The decision on the best alignment for the route is left to the States of Arkansas, Texas, and Louisiana, working cooperatively with the Department of Transportation.

A similar situation exists with respect to the avenue of the Saints. Even though the chart lists three States for this corridor project, this in no way precludes the selection of an alignment which traverses States not listed in the chart.

The listing of States in the charts accompanying the high priority corridors and other projects are not binding and do not prevent States from choosing the best alignments for the projects.

In any event, the corridor program is an important one. I am especially aware of what the upgrading of these corridors can mean to areas of the country undergoing tremendous growth and expansion.

Northwest Arkansas, for example, has experienced such rapid growth that the existing highway system is simply inadequate to meet the demand.

That is why the high priority corridor designation of the North-South Highway 71 corridor from Shreveport to Kansas City and the Highway 412 corridor from Tulsa to Nashville, through Arkansas, is so very important. As such, there 2 routes will be eligible for funding over and above Arkansas' normal apportionments and, thus, construction on them can be expedited.

The conference agreement also authorizes funding for other important Arkansas projects as well. These include a four-lane highway for Harrison to the Missouri line and the extension of Phoenix Avenue in Fort Smith.

An important study is authorized to examine alternate locations for traffic flow on and around Highway 71 in the Bella Vista area.

Funding is also provided for the Devalls Bluff Bridge replacement project over the White River and for the Mississippi Great River Bridge. Needed interchange work at Jonesboro will be able to go forward, as well as construction on the North Belt Freeway in Little Rock.

The conference agreement names the University of Arkansas at Fayetteville as the site of a new National Rural Transportation Study Center, where research and training will be conducted in the development and operation of rural intermodal transportation systems.

Funds will be made available to purchase a needed handicapped-accessible, electrically powered bus for the Eureka Springs Transit System.

The agreement also authorizes the Department of Transportation to test luminous all-weather safety markers, and it permits the State of Arkansas to train county, city and town traffic officials in the use of uniform traffic control devices.

Mr. Speaker, the conference report also includes provisions to modify certain stormwater permit application deadlines established pursuant to the Clean Water Act. This section focuses on municipally owned or operated stormwater discharges associated with industrial activity. It codifies various deadlines established by EPA in its most recent rulemaking for permit applications for industrial operations owned or operated by certain municipalities.

It also modifies certain regulatory requirements set out by EPA. For example, municipalities with populations of less than 100,000 would not be required to apply for permits for stormwater discharges associated with industrial activities except for power plants, uncontrolled sanitary landfills, and airports. The provision also establishes a new statutory deadline for part II group applications for stormwater discharges associated with industrial activities owned or operated by a municipality.

The conference report, however, does not address any permit requirements or deadlines for stormwater discharges associated with industrial activities not owned or operated by municipalities. In my view, this is unfortunate. At the very least, it requires some clarification.

First of all, our decision to focus on municipal discharges does not reflect a lack of concern about the regulatory impacts imposed upon privately owned industries. In fact, a large number of these non-municipal dischargers are small businesses that have limited resources and are relying heavily on group applications or general permits to achieve compliance. It is important that we not lose sight of the regulatory burdens industries will face under the stormwater permitting regime.

It is also important to note, Mr. Speaker, that nothing in the conference report affects most of the dates for submitting stormwater permit applications established in EPA's recent rulemaking published in the Federal Register on November 5, 1991. The rulemaking extended the application deadlines for industries owned or operated by municipalities and those privately owned industries discharging into municipal storm systems. The conference report, while silent on the deadlines for these privately owned industries, is not intended to override the dates established in EPA's rulemaking action.

Nor, Mr. Speaker, is anything in the legislation intended to prejudice or in any manner affect existing litigation, including *Natural Resources Defense Council* v. *U.S. EPA*, case No. 90-70671 and 91-70200 (9th Cir., 1990).

The conference report includes provisions from both the House- and Senate-passed bills relating to wetlands mitigation banks. The legislation authorizes the use of Federal transportation funds for wetlands conservation, restoration, and creation efforts—including the establishment and use of mitigation banks.

The legislation adds some important new authorities to strengthen wetlands protection efforts. For example, State and Federal transportation officials will now have greater opportunities to protect, conserve, and restore our Nation's existing wetlands base while meeting transportation needs.

The conference report will help to encourage further development and use of wetlands restoration and creation efforts. The science of wetlands creation is not without controversy. This legislation, however, will help to provide funds and authorities to explore more opportunities but without waiving any applicable Federal Laws or regulations.

The conference report does not include provisions from the Senate-passed bill relating to the protection of private property rights. From my perspective, this is regrettable; the provisions could have helped to ensure greater deference by Federal regulatory agencies to rights guaranteed by the fifth amendment—particularly in the arena of wetlands regulation under section 404 of the Clean Water Act.

It is important to note that many conferees agreed to delete the provisions primarily because of procedural obstacles or concerns in the final days of the first session. The conference on

H.R. 2950 simply was not the best forum to address, at least in a comprehensive manner, this emerging issue of critical importance.

Reauthorization of the Clean Water Act, which I would hope includes revisions to the section 404 wetlands regulatory program, may present a more appropriate context. I look forward to this opportunity next session, and I think a majority of Members in this body does as well.

I am also pleased to note that this conference report includes the Washington airports legislation in exactly the same form as it passed the House last week. This legislation revises the governing structure of the Metropolitan Washington airports authority to resolve constitutional concerns raised by the Supreme Court.

As revised, the airports board of review will become an advisory board that will monitor certain activity at the two airports and screen those actions that are worthy of further congressional consideration. Passage of this legislation now is important, since it will ensure that the capital improvement programs at National and Dulles Airports can move forward without interruption.

Mr. Speaker, this legislation, in its entirety, deserves the support of my colleagues, and I urge its approval.

☐ 0430

Mr. ROE. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MINETA], the Chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

I might say to all our colleagues here, that he has done an extraordinarily good job on this bill over the last 2 years. I want to commend the gentleman for the great work he has done for our country.

Mr. MINETA. Mr. Speaker, as everyone well knows, the hour is early and we want to get on with the conference report.

I have got to say that there is nothing that I have been connected with than the Civil Liberties Act of 1988 that I can say I have had more pride in putting together and working with a very fine group, and that is the Intermodal Surface Transportation Infrastructure Act of 1991, working with the likes of the chairman, the gentleman from New Jersey [Mr. ROE], a dedicated, hard-driving person who looks into the details of the bill, with the very fine gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking Republican on the full Committee on Public Works, and with the gentleman from Pennsylvania [Mr. SHUSTER], probably the most knowledgeable person in the House of Representatives when it comes to surface transportation law.

Two-and-one-half-years ago when the members of the Public Works and Transportation Committee elected me to chair the Subcommittee on Surface Transportation, I knew that we had two challenges. One was to arrest the decay of infrastructure in the United States, and the other was to get a bill together that would take us into the 21st century after the completion of the interstate era, so we have done that. For 2½ years we have held hearings across the country. We have listened to people about what they want in their transportation system and what they think they need in the transportation system.

Mr. Speaker, once again, I would like to commend you for your leadership on this issue.

Many of my committee colleagues have heard me say that the House and Senate surface transportation bills were, at one time, like two ships passing in the night.

They were indeed very different.

I do believe, however, that the House and Senate conferees have been able to construct a single 6-year vision for America that will in fact build an innovative and effective transportation network second to none in the world.

As chair of the Surface Transportation Subcommittee, I have spent much of the last 2½ years traveling throughout America, holding hearings, and listening to what the American people want and what their transportation needs are.

My conclusion:

The highways, bridges, and transit systems of the United States have fallen apart because the Federal Government has fallen down on the job and has tried to get States and localities to pick up the tab to fix the mess.

And the message to this Congress could not be more clear:

The cold war is over.

America and freedom won that war.

It is now time to build American roads and transit systems—not American bombers.

In the future, the security of this Nation will depend less on how fast an ICBM travels to the former Soviet Union and more on how fast commerce travels through our transportation network.

Our transportation network is an integral part of our economy and, therefore, our national security.

It is now absolutely essential that America do more than reverse the collapse of our annual transportation investment from 2.3 percent of our gross national product in the 1960's and 1970's to four-tenths of 1 percent from the 1980's to this very day.

That is why we must begin, today, here in this Congress, to build a new transportation age in America.

This conference report embodies a program to rebuild America not the way some faceless bureaucrats in Washington, DC, dictate it, but the way the American people are demanding that it be rebuilt—through us, the Congress.

That is the way it should be.

And that is the way it is in our 6-year, $151 billion plan for America.

This legislation is a genuine new transportation policy for America, and a tremendous investment in our future.

The flexibility designed into this law is unprecedented, and of particular importance to States like my home of California which will grow enormously in the balance of this century, and into the next.

Mr. Speaker, I am also pleased that we were able to include titles addressing our serious highway safety and motor carrier needs.

Studies call for transportation investments of up to $3 trillion during the next 20 years. We can differ about the final cost, but to me there are no more universal truths than these:

First, the transportation needs are there.

Second, how we spend the money we have is at least as important as how much money we spend.

Mr. Speaker, this conference report takes the best of the House and Senate bills and will get the job done.

The final legislation retains the integrity of the proposed National Highway System while enhancing the role of the local officials and metropolitan planning organizations.

Mr. Speaker, I must say at this point that I regret that the conference was unable to accept the state allocation formulas detailed in the House bill.

I believe that these formulas represented a fair return on the highway trust fund contributions of donor States.

However, the conference report does provide States with unprecedented funding levels and flexibility.

During the last 5 years, our Nation spent $86 billion on our National Highway Program.

During the next 6 years, our legislation provides more than $119 billion to make our roads and bridges ready for the 21st century.

As importantly, our legislation authorizes transit funding levels which doubles the wholly inadequate funding levels we have known in the past.

This is a tremendous victory in our efforts to meet the requirements of the Clean Air Act, relieve congestion, and encourage new energy alternatives.

And perhaps most important, Mr. Speaker, this legislation comes at a time when it is desperately needed—both in terms of our infrastructure, and for our Nation's economic health.

At a time when the White House continues to deny the effects of the economic recession, we have before us legislation that will create 2 million jobs over the next 6 years.

And while the people of 1600 Pennsylvania Avenue haven't seen or felt the effects of the recession, Mr. Speaker, you have only to ask the people of Bethlehem, PA, if there is a recession.

Or the people of Chicago.

Or the people of Lafayette, LA.

Or the people of San Jose, CA.

They will tell you that our economy is hurting.

They will tell you that America needs this legislation, and we need it now.

Mr. Speaker, this legislation will improve how Americans get from here to there, as well as the air we breathe, our quality of life, and the future of our economy.

Mr. Speaker, America deserves nothing less.

I urge my colleagues to support the conference report on H.R. 2950.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SHUSTER], the distinguished ranking member of the subcommittee.

Mr. SHUSTER. Mr. Speaker, just as the American people looked back to the creation of the Interstate System a half century ago and see it as the very foundation upon which our transportation system was built in this century, the American people in the 21st century will look back to what we do here today as the foundation upon which an integrated transportation system will be built for the next century.

In fact, today we here create a national highway system for America, building on the Interstate System, adding about 110,000 additional miles and integrating a transportation system not only with highways, but with transit as well.

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Here today we have the opportunity to make a major investment in the future of America and, yes, most of the money comes out of the highway trust fund, which means we are not adding to the deficit in the general fund.

One of the few programs here in Washington that we can say is financed on a pay-as-you-go basis.

Mr. Speaker, I certainly should emphasize that this has been a bipartisan effort from the very beginning. Chairman ROE, Chairman MINETA, Congressman HAMMERSCHMIDT, we have all worked together. We have been full partners on both sides of the aisle to craft this legislation.

Mr. Speaker, this afternoon it was announced that the President of the United States does support this bill and he will sign this bill.

Beyond the transportation implications for our country, it is of enormous importance to note that a minimum of 2 million jobs will be created directly by this legislation and perhaps another 2 million on top of that. But if you just take the 2 million jobs and look at a very small State, say a State that gets only 1 percent of the fund from this bill, 1 percent of 2 million jobs is 20,000 jobs, in a small State. Certainly, if there were ever any time when we need this kind of a jobs program that is going to rebuild America and help get this economy moving, now is that time.

Mr. Speaker, I can tell you that the conferees fought very hard to preserve the projects in this bill, and we succeeded in doing that. We preserved the projects which are so important to the Members across America. While those projects represent only 3.3 percent of the dollars in the bill, I know for our colleagues across America those projects are significant, and indeed it is right and proper that the elected Representatives of the people should be able to have some say in what gets built back in their congressional districts.

The faceless, nameless bureaucrats will be making most of the decisions, but it is right that Members be able to say what is most important in their district. Your conferees have preserved that right.

Mr. Speaker, I do not agree with everything in this bill. If I were writing it myself, I would have done some things differently.

It is said that one of the colleagues of John Adams criticized him because they said he fret the extremities without ever focusing on the heart of the matter. I am sure virtually every one of us can fret about some of the provisions in this bill, but more important than fretting about the extremities, I hope we focus on the heart of the legislation, which is: building a fundamental transportation system for America and creating jobs.

Mr. Speaker, I would be derelict if I did not emphasize to the House tonight that our staff on both sides of the aisle performed absolutely magnificently. Led by Jack Doyle and Jack Schenendorf the entire staff worked night and day and weekends.

While we like to think we as conferees work hard, I can tell you they worked much, much harder than we did. So we bring to you today legislation that, indeed, is historic in nature, and we urge you to vigorously support this historic bill.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in support of the conference agreement on the Surface Transportation Assistance Act. I would like to commend Chairman ROE, the ranking minority member, Congressman HAMMERSCHMIDT and all the conferees on their efforts in crafting an excellent final conference report. This report provides flexibility for State and local officials to transfer highway funds to mass transit in areas such as Los Angeles, where unfettered highway construction is clearly not the answer to congestion and gridlock.

I especially want to extend my support to the provisions which authorize the construction of the third segment of the Los Angeles Metro Rail Red Line project, and in particular, the east side extension. The eastern extension will bring metro rail into east Los Angeles for the first time and plan for improved rail transit services to the eastern communities of Los Angeles County as well. In addition, these provisions authorize extensions into the San Fernando Valley and provide for service into west Los Angeles without having to excavate through a methane gas risk zone. An overall amount of $1.2 billion will be divided among the three segments of the MOS–3 portion of the Los Angeles Metro Rail system. With an immediate amount of $695 million available and an additional $535 million in advance construction funds, this long-awaited project will bring metro rail to several communities by 2001.

This extension to east Los Angeles will truly provide a much-needed means of transportation to neighborhoods that have been vastly underserved in the past. With several studies already completed, the estimated ridership for the combined segments serving east and west Los Angeles is well over 360,000 passengers. In east Los Angeles, there is a dire need to upgrade transportation services. As part of a major travel corridor which crosses the city of Los Angeles and unincorporated portions of Los Angeles County, the "east side corridor" encompasses such important areas as the central business district on the west, I–10—the San Bernardino Freeway—on the north, Garfield Boulevard on the east and I–5—the Santa Ana Freeway—on the south. Since 1987, the population on the east side has increased by almost 9 percent, three times the regional growth rate. This creates an even higher demand for transit. At the present time, there are more than 56,000 daily east side bus trtansit boardings, far exceeding the Federal minimum of 15,000 riders required to demonstrate a need for rail transit. Individuals traveling to and from the east side must use heavily congested streets and freeways to reach their jobs and on their return home, further adding to the delay and gridlock of this massively overburdened transportation system. Additionally, the east side is already slated for improvements under the Southern California Association of Governments' Regional Mobility Plan.

Improved transit service will reduce travel times and thereby increase availability of regional connections and socio-economic opportunities for east Los Angeles residents. These benefits will include job, education, medical, shopping, and cultural opportunities. As a representative of a district that is very dependent on public mass transit systems, I feel that this legislation strongly addresses the specific transportation needs of all segments of the diverse communities that make up the Los Angeles area. In additon to the transportation benefits derived by our citizens, this legislation will play a vital role in relieving the problems of air quality and congestion that plague our area.

I am proud to have developed, along with my colleagues in surrounding districts, a unified effort to keep all portions of this interrelated project intact both in construction and funding, thus ensuring that east Los Angeles and other communities will share in the advantages that this system will bring. The invaluable input, concern, and assistance from community organizations and from the Los Angeles County Transportation Commission has helped to develop an excellent foundation for continued neighborhood participation in this profound public endeavor. I wholeheartedly extend my support and will continue to work for completion of this transportation initiative that is of such critical importance to both my constituents and all the residents of Los Angeles. I would also urge my colleagues to vote in favor of this conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, I want to join my fellow conferees in strong support of the conference report on H.R. 2950, the Intermodal Surface Transportation Efficiency Act of 1991.

I want to commend Chairman BOB ROE and NORM MINETA, and the ranking Republicans JOHN HAMMERSCHMIDT and BUD SHUSTER, for their strong leadership in crafting this visionary legislation which will guide America's transportation future into the 21st Century.

What makes this legislation revolutionary is its dramatic shift toward public transit. Never before has Congress made such a strong commitment to transit.

The legislation authorizes $31.5 billion over a 6-year period for public transit, virtually doubling current levels of transit funding and reversing what has been a 10-year decline in transit spending.

But the commitment to public transit extends beyond dollars and cents to a fundamental change in the way we view transit and its relationship to the entire transportation system.

Earlier this year, when Transportation Secretary Skinner testified before the Public Works and Transportation Committee, I asked him why the Urban Mass Transit Administration [UMTA] was not identified as a Federal agency of national scope, as is the case for the Federal Aviation Administration, the Federal Highway Administration, and other agencies which regulate modes of transportation.

My point was simple. Strong public transit is critically important to an integrated national transportation system. Transit is not simply an urban or city transportation system which receives Federal dollars but a system of travel warranting as much Federal attention as highways, aviation, rail, and water navigation.

H.R. 2950 recognizes that fact.

It renames UMTA the Federal Transit Administration.

H.R. 2950 also adopts a bold, new flexible funding program, enabling State and local officials to transfer almost two-thirds of Federal highway funds to transit to meet clean air requirements, reduce congestion, and to provide transportation services for working people and senior citizens.

This legislation places highways and transit on a level playing field by equalizing their Federal matching shares. This will remove incentives for States to build highways over transit, which has always received a smaller Federal match.

Finally, H.R. 2950 contains important provisions strengthening the role of Metropolitan Planning Organizations [MPO's] in project selection.

This will be of great benefit to public transit. MPO's understand the needs of our congested metropolitan areas and they will now have greater say in determining how best to use Federal transportation dollars in urbanized areas.

Clearly, H.R. 2950 represents a new commitment to public transit and one I am proud to support this legislation as a member of the Public Works and Transportation Committee.

No longer is public transit the big loser to highways in surface transportation funding. No longer is transit the ugly stepchild of Federal transportation policy. Instead, transit has finally become an equal member of the transportation family. That will benefit us all.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I too rise in strong support of the bill.

Mr. Speaker, I rise in support of the conference report and thank CHAIRMAN ROE, subcommittee chairman, NORM MINETA, and ranking minority members JOHN PAUL HAMMERSCHMIDT and BUD SHUSTER for their excellent work in this conference.

This legislation creates a comprehensive national transportation system that will move our Nation, our industries, and our people competitively into the 21st century.

It will help restore America's preeminence in the world economy.

In the long term, this important massive investment in our infrastructure will improve our productivity and make us tough competitors around the world in the next century.

In the short term, passage of this legislation will do more to stimulate the economy than any legislation we have considered in this session of Congress.

It will create nearly 2 million jobs—2 million badly needed jobs in today's tough economic times.

Mr. Speaker, this bill is a thoughtful and far-reaching blueprint for the Nation's transportation system.

And it is fair.

As a member of the committee from Virginia, a donor State, I can assure you that this bill will distribute funds more equitably than any previous transportation authorization.

My State, like other donor States, will receive a much greater portion of the money they have contributed to the highway trust fund.

The increased funding level and the fact that Virginia receives about 7 more cents back from each dollar it contributes to the trust fund means that Virginia, which has averaged $290 million per year, will receive about $425 million annually over the next 6 years.

This is good news for all Virginians and, indeed, for all Americans, since other States are being treated similarly.

This legislation will put Americans back to work immediately, and it will make America more competitive well into the future.

Mr. Speaker, this is a good bill for our State. It is a good bill for all Americans.

I urge my colleagues to support this important piece of legislation.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Speaker, I rise in strong support of the conference report on H.R. 2950, the Intermodal Surface Transportation Assistance Act of 1991.

This legislation provides a new, creative master plan that is balanced, to meet the transportation needs of the urban, suburban, and rural areas of our Nation.

This creative plan was the vision of the bipartisan leadership of our Committee on Public Works and Transportation—Chairman ROE, Subcommittee Chairman MINETA, the ranking minority members, Mr. HAMMERSCHMIDT and Mr. SHUSTER.

They are to be commended, not only for their dedication to this vision, but also for the limitless energy they displayed in forging this conference report during the last 15 days.

It was a herculean effort.

The result, however, is an epic piece of legislation that will enable our Nation to better meet its infrastructure needs.

This legislation certainly is a package aimed at better moving people and products across our Nation.

Certainly it is also a sorely needed job creating mechanism.

Most importantly, this legislation will enable our Nation to be more competitive in the new global marketplace.

This legislation will enable us to better meet the economic challenges that remain in this decade and that will confront us in the 21st century.

After long negotiations, the conferees achieved fairness for all States and flexibility for all States.

I urge my colleagues to support the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, I rise in support of this conference report and want to thank the distinguished chairman of the Subcommittee on Surface Transportation, Mr. MINETA, and the chairman of the Public Works and Transportation Committee, Mr. ROE, for supporting my efforts to secure several provisions affecting indians in this bill.

The legislation authorizes that over $1.1 billion be made available for the Indian Reservation Roads [IRR] Program during the next 6 years. This is a tremendous and long overdue increase in funding.

Indian tribes will be allowed direct access to moneys for bridge replacement and rehabilitation for the first time under this bill. Previously, tribes had to convince a State to designate a bridge on Indian land a priority over a State bridge in order to receive funding. This process resulted in a backlog of dangerous Indian bridges needing repair.

The bill mandates that States fully consult with appropriate tribal governments when developing State transportation plans, and allows

States to give Indian preference in hiring for construction of roads near reservations. Since it is not unlikely for a reservation to be suffering from 70, 80 percent, or even 90 percent unemployment, I hope several states will take advantage of this willing work force through this provision.

Up to 2 percent of the funds available under the IRR Program will be made available through contracts for tribes to develop and plan their road system. This provision along with one which includes tribes in training programs will give tribal governments the ability to become more involved and more educated in the process of choosing tribal priorities for future road construction.

This legislation will also allow the Bureau of Indian Affairs [BIA] to use up to 15 percent of IRR funds for the purposes of road sealing, a very important process which greatly extends the life of a road. I want to point out, however, that these funds are only made available to BIA provided that BIA continues to retain responsibility, including annual funding request for road maintenance programs on Indian Reservation Roads. The BIA knows better then most the horrendous condition of existing Indian roads and the enormous need for new road construction. Funds made available from the highway trust fund is for construction purposes and not to be used for maintaining existing roads nor should that money be used by the administration as an excuse not to fund road maintenance in future budget requests as has been rumored.

The Secretary of Transportation is directed to conduct a study on inequities which exist between Indian Reservation Roads and other highway systems and report to Congress on recommendations to address those inequities. As part of the Federal trust responsibility toward Indian tribes, the Department of Transportation is in a perfect position to address past mistakes in the Indian Roads Program and I look forward to the submission of this report.

Mr. Speaker, these are just some of the provisions in this legislation which will affect Indian tribes and their lands. I believe that enactment of this legislation will afford tribes new opportunities to work with States in partnership agreements to build a safe and adequate transportation system so that Indian children can ride on safe roads over safe bridges to school. I look forward to the day when horror stories about elderly Indians stranded and starving are fed by helicopter drops because of impassable roads and of Indian hospitals and schools built with no road access to them are a thing of the past. This legislation is a step in that direction and I am glad to have been allowed to be a part of it.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Speaker, I rise in strong support of the conference report on H.R. 2950, the surface transportation authorization bill.

I very much appreciate the hard work of Chairman Bob Roe of the Public Works Committee, Chairman Norm Mineta of the Surface Transportation Subcommittee, our colleagues on the conference committee, and the staff who have worked so hard on this historic measure.

I am very pleased that the conference agreement includes a provision of the House bill that authorizes $515 million in section 3 transit funds for Portland's Westside light rail project.

The highly successful MAX light rail system serves the eastern part of the Portland region.

It carries half a million riders per month; costs 30 percent less per passenger to operate than buses; and has influenced more than $1 billion in development along its route.

The Westside project will extend MAX from downtown into the western suburbs, providing similar benefits to Washington County, with the final terminus in Hillsboro.

Westside is Oregon's highest transportation priority because we want to solve the problems of congestion and air pollution in Portland.

We want to boost our economy by creating 17,000 job-years of employment. We want to protect the environment, save energy, and provide a sound basis for our future growth. MAX and other local success stories are the key to achieving national goals for a healthy economy, clean air, energy conservation, and an efficient transportation network.

I applaud the conference committee for its foresight in accepting the House bill's Westside language. While many other provisions of the conference agreement are worthy of mention, I would like to specifically thank the conferees for authorizing a National Scenic Byway Program. The Oregon State Department of Transportation has worked long and hard to develop this program.

We have an outstanding scenic byway candidate in the tristate Pacific Coast route, U.S. 101. It can be a model for the success of this program and a valuable support for our coastal areas. H.R. 2950 goes far toward meeting the challenges of the post-interstate era. With $151 billion in highway and transit funding, comprehensive planning requirements, and many innovative programs, this conference agreement provides the basis for an integrated transportation network that strengthens the economy, cleans up the air, saves energy, reduces gridlock, and provides mobility for all citizens.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Poshard].

Mr. POSHARD. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, as a member of the Public Works and Transportation Committee, I rise in strong support of H.R. 2950 and encourage my colleagues to offer their support.

This is a highly valuable investment in the future of our Nation. Over the 6-year period covered by this bill, we will invest $151 billion in highways, bridges, and mass transit systems across this country.

In southern Illinois that means a study of the feasibility of a tollway linking my area and St. Louis. This project has tremendous local support and is a crucial element of continuing efforts to improve the economy of our area.

It means millions of dollars to improve Route 13, the primary East-West artery which connects communities in southern Illinois and holds tremendous commercial promise.

It means reconstruction of Feather Trail Road, something essential to the completion of the $800 million Olmsted Locks and Dam project.

It improves conditions on Route 1 in two rural counties in my district, provides funding for a bridge in the community of Du Quoin, and near the community of Sauget it connects a major highway with a developing business park and airport.

Mr. Speaker, just from a review of the economic implications for my district, one can easily determine this is a bill that is good for America. We are investing in the concrete and steel that allow the people of this country to work for a living. And at a time of economic hardship, this bill pumps money into the construction sector and creates millions of new jobs, while providing the economic base for sustained economic development in the future.

I thank all of the members of the Public Works and Transportation Committee who helped produce this final product, especially Chairman Roe and Chairman Mineta, with whom I have had the distinct pleasure of serving as a new member of the committee.

This is the kind of work people send us here to accomplish. This is certainly one of the high points of this or any other legislative session, and I look forward to the continued progress for America made possible by this excellent legislation.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Geren].

Mr. GEREN of Texas. Mr. Speaker, I rise in strong support of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from the Virgin Islands [Mr. de Lugo].

Mr. de LUGO. Mr. Speaker, I rise in support of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Lipinski].

Mr. LIPINSKI. Mr. Speaker, I rise in strong support of the bill.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Flake].

Mr. FLAKE. Mr. Speaker, I rise in support of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DeLauro].

Ms. DeLAURO. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, we are here in the early morning hours working to complete the task of reauthorizing the Surface Transportation Act. I want to commend the dedication and effort shown by the members of the conference committee in bringing this legislation to the floor for a vote in a timely manner. I also want to commend Chairman Roe, Mr. Mineta, Mr.

HAMMERSCHMIDT, and Mr. SHUSTER for their leadership and commitment to taking the steps necessary to craft this vital piece of legislation.

Beyond sound transportation policy—and I believe this legislation gives us that—this bill is an essential part of our effort to pull our Nation out of recession and bring about a real economic recovery. It brings with it real hope for recovery because it brings with it the real jobs needed by so many of our citizens and businesses struggling to survive this recession.

Let me speak for a moment to what this bill could mean for the State of Connecticut—really to what it means for each State and for our country. These are perilous times for Connecticut and its citizens. In the last year alone, over 80,000 Connecticuters have lost their jobs. Five hundred and twenty-six Connecticut businesses have been forced into bankruptcy.

This bill—as it helps build a sound transportation system to carry us confidently into the new century—will infuse over $2.2 billion into the State of Connecticut. These badly needed transportation funds could bring as many as 100,000 new jobs to the State. Jobs that mean food on the table for families in need. Jobs that will give people the opportunity to work for a paycheck instead of having to wait in a line for an unemployment check or for no check at all.

Mr. Speaker, the Surface Transportation Reauthorization Act is a bill that the State of Connecticut needs, that New England needs, and that the Nation needs. The bill not only demonstrates this Congress' commitment to improving our Nation's transportation infrastructure, but also its commitment to taking the necessary steps to moving our Nation along the path to a real and lasting economic recovery.

Mr. Speaker, long regarded as the world's policeman, the United States has made the world safe for democracy, yet it has failed to makes it's streets safe for children and families.

Statistics, usually stale and lifeless, speak volumes about the indignities Americans suffer at the hands of criminals here every day. In 1990 alone nearly 35 million Americans—almost 14 percent of the total population—were the victims of crime in this country.

Today, however, we can take an important first step in reclaiming our streets and protecting our people. We have the opportunity to pass the Omnibus Control Act, one of the toughest anticrime measures in U.S. history.

This bill will send a powerful message to those who commit crimes, and an equally strong message to the people of America. Through 50 new crimes punishable by the death penalty, it lets criminals know that they will pay for their crimes.

By providing more cops on the beat and a waiting period on the purchase of handguns, it tells Americans and law enforcement officers that we will back them up, not just with angry rhetoric, but with real, powerful, anticrime measures.

Sadly, it does not ban assault weapons—something many of us fought hard for.

But today we can give people some hope. We can help them restore safety to their streets, security to their homes, and dignity to their lives.

Vote for the Omnibus Crime Control Act.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOLTER].

Mr. KOLTER. Mr. Speaker, I rise in strong support of the bill and ask for its passage.

Mr. ROE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri [Ms. HORN].

Ms. HORN. Mr. Speaker, I rise in strong support of this conference report, the Intermodal Surface Transportation Infrastructure Act of 1991.

The United States invests a smaller percentage of its gross national product on highways and bridges than any other major industrial nation, and this neglect has severely hampered our competitiveness by impeding the movement of people and goods. The conference report addresses this neglect by radically redirecting transportation spending for the coming century.

The situation which our cities face today is extremely bleak. Gridlock is an everyday occurrence in most cities, contributing to decreased productivity and increased air pollution and commuter stress; those able to flee to the surburbs do so, weakening the urban tax base and further slowing infrastructure investments which would reduce gridlock and perhaps stem the urban flight. H.R. 2950 seeks to address this problem by allocating $32 billion for transit projects nationwide, and by allowing the transfer of up to 25 percent of a State's national highway system funds to urban areas. This flexibility, combined with the creation of the National Highway System, is a vital step on the long road toward rebuilding America's infrastructure.

H.R. 2950 will also strengthen the authority of local metropolitan planning organizations [MPO's], giving local planners greater say in how State transportation dollars are spent. Currently, MPO's exist largely in an advisory capacity, their views on mass transit and urban planning often carrying little weight. Last year's Clean air Act imposes stringent pollution-control measures upon our urban areas, but if we expect our cities to enact expensive antipollution measures, we must also give our urban regions the funds they need to effect programs which will accomplish the goals of the Clean Air Act. St. Louis County is a moderate nonattainment region, and any new road construction in the region must conform to the tenants of the Clean Air Act. Empowering the MPO's will allow funds to be spent where and how they are most urgently needed.

According to the House Committee on Public Works, every dollar spent on infrastructure results in a $10 return to the local community through increased jobs, productivity, and efficiency. This $151 billion bill is going to create over 2 million jobs during the 6 years of the program. H.R. 2950 is not an extravagant spending bill; it is an investment in America, in our future, in ourselves. Mr. Speaker, the bill before us today is vital to restoring our large urban areas, and subsequently the rest of the Nation, to health. I urge the most immediate passage of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Speaker, I rise in strong support of this bill and commend the House leaders and the members of the conference for doing a tremendous job for our Nation.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, I know that it is very late, and that my colleagues would like to pass a transportation bill before we recess, but in the name of fairness, I ask my colleagues to take a look at what this bill does to the donor States. Georgia gets back only 79 cents for every dollar. California gets back 81 cents, Florida, Michigan, Texas, all of the donor States lose millions and millions of dollars under this bill. Our National Highway System is complete, Mr. Speaker. Donor States have contributed more than their fair share to build a national highway system, instead of rewarding the donor States for their generosity by establishing equity in the funding formulas, this bill perpetuates the antiquated funding system of the past 40 years, and continues to rob the fast growing donor States.

The funding process of this bill can be likened to plugging the holes in a leaky dam. Whenever a State complains, the complaints are stopped with a few more dollars. But this is not a long-term solution. The donor States are still being taken for a ride, Mr. Speaker. This is not an equitable transportation bill. This is highway robbery. I urge my colleagues to send this bill back to conference, adopt the funding formulas the House overwhelmingly passed, and stop taking advantage of the donor States.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I rise in strong support of the conference report.

When crafting this conference report I assure my colleagues that the 92 conferees; representing 7 House committees and 5 Senate committees, kept all your interests firmly in mind. I did not check to see how many States these 92 conferees represented, but I would bet it was close to all 50.

As my colleagues before me have alluded, H.R. 2950 represents a turning point in American transportation history. Dwight D. Eisenhower's vision in 1954 of a national contiguous framework of roads has been recognized. Now, almost 40 years later, with the exception of a few remaining segments, not the least of which being portions of the Century Freeway in Los Angeles, the United States' Interstate System has been completed. H.R. 2950 builds upon President Eisenhower's vision and moves this country's transportation system forward to meet the needs of the 20th century.

Up to this point, the United States' Interstate System was billed as the largest public works project in U.S. history.

However, at $151 billion, you have before you the largest public works project in U.S. history. What's more, you have before you a $151 billion Christmas present for millions of unemployed Americans. This bill represents a 46-percent increase in the total amount of highway and transit dollars, and creation of 2 million jobs. Let me repeat that to some of my friends from the donor States, California being the leading donor State. This bill represents a 46-percent increase over previous transportation funding levels, and creation of an estimated 2 million jobs.

If there is one donor State that would have a reason to gripe about not getting its fair share of highway dollars, it would be California. Since the inception of the Interstate Program California has donated 7 billion in highway dollars to other States. I say to my colleagues from Los Angeles, Mayor Tom Bradley strongly supports the bill. To my colleagues from California * * * when I spoke to Governor Wilson this afternoon not only did he tell me that he supported the bill, he had already placed calls to his former colleagues in the Senate asking them to support the bill.

And finally, to my friends from donor States, I tell you that the largest donor State in the Nation, California, supports this compromise.

One final point I wish to make. In 1986, when I was Chairman of the Surface Transportation Subcommittee, I wrote, H.R. 2, the last Highway bill, along with then-Public Works Committee Chairman James Howard. Many of you may recall that President Reagan vetoed that bill in March of 1987, however, it was subsequently overridden. Times are different now, and so is this bill. Earlier today, President Bush spoke in favor of this particular compromise we are debating tonight, and urged the Congress to do the same.

In closing, let me just say that those of you that choose not to support this legislation, that is your prerogative. However, I ask you to think of your constituents that make their living in the transportation industry. These people are bleeding and need a Band-Aid. This compromise is not only the Band-Aid, it is the bandage, and it is the cure. I urge you to support it.

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Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, this is the single, most important legislation we will pass in this session of Congress.

And not just for the obvious reasons. Its magnitude and reach are impressive. A 6 year, $151 billion program charting the course of the Nation's transportation policy for the balance of this century. It's impressive also for what it promises in the short term—a needed shot in the arm to an unhealthy economy. Translate that to mean tens of thousands of jobs in the construction and manufacturing sectors. And jobs is my favorite four letter word.

While some of our colleagues are engaged in meaningful and necessary tax cut debates which might lead to a couple hundred dollars tax benefit in the Spring of 1993, or to a couple of dollars of Federal tax reductions per week sooner, we are gaining approval for a plan which will reap immediate and substantial dividends for our entire economy.

We are told that within a few weeks of enactment, hundreds of millions of dollars in new contract authority will be on the streets. In the transit section alone, and that is the smaller of the two major sections, more than a billion dollars in contract authority will be awarded within 120 days.

That's the kind of action a stagnant economy demands. We are providing it.

And we are doing it the right way. The broad program focuses on flexibility. No longer is the mindset one which maintains we must pave America from coast to coast.

Quality roads and safe bridges are a must, particularly in that wide expanse between our major urban areas. After all, the goods and services produced there have to get to the people.

More than 60 percent of our roads and 40 percent of our bridges are structurally deficient. We're going to fix them.

But a transportation policy is more than quality roads and safe bridges. Economical, efficient, public transit systems benefit the people, particularly the young, the elderly, and the low income among us. Such systems are better for the environment and make us less dependent on foreign oil, two big pluses. The Intermodal Surface Transportation Infrastructure Act of 1991 is so much more than the highway bills of yesteryear, it is indeed a multidimensional intermodal measure—$32 billion of this package is dedicated to transit, the highest level of funding for this purpose ever to emerge from our Committee in its history.

The importance of this legislation is difficult to overstate. Its passage will be good for America.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, while the Senate language called for the establishment of a U.S. designed maglev technology, the conferees agreed on a national Maglev Design Program that recognizes that domestic companies may be able to develop a domestic maglev industry based on existing technology.

We recognize that there is a need to develop this technology expeditiously—hopefully before the expiration of this legislation. We further recognize that Federal involvement is necessary to encourage the development of this industry and have therefore committed significant Federal funding to maglev development.

The conferees agree in the statement of managers that no prototype should be developed if none of the phase II conceptual designs will yield a working prototype at a reasonable cost.

The conferees also agree that a minimum travel distance of 19 miles should be required and that no prototype should be developed that cannot operate safely and efficiently in all domestic climatic situations. The conferees also agree that maglev development should be intermodal in nature, connecting airports, ports, and other modes of transportation.

Mr. Speaker, our Nation will be well served by the development of a domestic maglev program.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I want to express my support for the conference report to accompany H.R. 2950. With the completion of the Interstate System now in sight, attention has focused on this reauthorization of our surface transportation program. In this legislation, we have attempted to grant more flexibility to the States through increased transferability among programs and to allow cities and States to address their clean air needs. A National Highway System is established which will consist of the Interstate and other major roads which bring together our Nation's commercial and population centers.

In addition, we will begin to spend-down the large balance currently sitting idle in the highway trust fund. These are gas tax dollars paid into the fund for the specific purpose of funding a national transportation network, and it is time that these funds were put to the intended use. As a representative of the donor State of Wisconsin, which has a historic return of 74 cents on the dollar, I would have preferred the more equitable formulas of the House bill. Nevertheless, my own State will see a substantial improvement to a 98 percent return over the next 6 years.

Funding is also provided for improvements to two highways in Wisconsin which have been identified as priorities by the Wisconsin Department of Transportation. Improvements will be made on segments of Highway 41, the road which connects Milwaukee and Green Bay. Congestion is growing rapidly in the Oshkosh area and these funds will provide needed relief and improvements on segments located from the Winnebago County line north to the Green Bay area. Funding is also provided to expand a segment of Highway 29 to a four-lane expressway. This is the most heavily traveled east-west route across central or northern Wisconsin.

H.R. 2950 also establishes a National Recreational Trails Trust Fund so that taxes from nonhighway recreational fuels taxes will be returned to States for the purposes of providing and maintaining recreational trails. Funding is assured for both motorized and nonmotorized trails and all who enjoy trails—whether on foot, bike, or horseback—will benefit from this program.

In conclusion, Mr. Speaker, let me commend the leadership of the Public Works Committee and our hardworking staff for the many hours they have put into this legislation over the course of the last several months.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I rise in support of the conference report on this critically important transportation legislation.

I would like to thank the committee chairman, Mr. ROE, and the ranking member, Mr. HAMMERSCHMIDT. I also want to thank subcommittee chairman, Mr. MINETA, and ranking member, Mr. SCHUSTER. The gentleman from Pennsylvania [Mr. SHUSTER] has been extremely helpful to so many of us, as has been the chairman, Mr. MINETA.

There are three aspects of this monumental legislation that I would like to highlight.

The first deals with funding for two projects, Route 33 and 222, in my district.

The second boosts magnetic levitation and high-speed rail.

And the third accents an important study that may help stimulate the use of recycled materials in highway projects.

Mr. Speaker, let me say that I am extremely pleased that this year's highway bill includes $18.3 million in funding for the Lehigh Valley's Route 33 and 222 projects, the full amount proposed by the Public Works and Transportation Committee.

The funding for the two projects was approved as part of the 5-year Intermodal Surface Transportation Act. It provides $16.8 million for the extension of Route 33 from Route 22 in Bethlehem to Interstate 78. It also provides $1.5 million for the relocation of Route 222 from the area east of Route 309 to west of Route 100. The funds for Route 33 will be used for engineering work and land acquisition; the Route 222 funds will be used for engineering and environmental studies.

The Route 33 project consists of constructing a 3.5-mile extension that will connect Route 22 in Bethlehem to Interstate 78. This connection will complete the final leg of a four-lane limited access highway north to the Poconos and south to Philadelphia, linking interstates 78 and 80, two major east-west interstates in Pennsylvania.

Basically, this north/south interconnection makes the east-west Route 22, I–78 and I–80 far more valuable to all of eastern Pennsylvania.

The economic benefits will be significant and far reaching. An economic impact study funded by non-Federal sources has shown that this project could lead to more than 20,000 new jobs by the year 2010, based on projected increases in the demand for industrial land such as that located along the Route 33 corridor.

This area of Pennsylvania has a vibrant and growing economy, however, without improved infrastructure, it will not sustain the present rate of growth. By linking the growing corridors of Route 22 and Interstate 78, and Route 33 extension will prevent Lehigh and Northampton Counties from being strangled by their own growth. I might add that if the project is not built, the study estimates a loss of more than 20,000 jobs, and an economic loss of nearly $300 million per year, including more than $10 million in local tax revenues that would not be realized.

The Pennsylvania Department of Transportation [PennDOT] and the Federal Highway Administration consider the completion of Route 33 as priority. The project is in the first 4 years of PennDOT's 12-year plan and the FHWA has agreed to budget money for the completion of Route 33 in its interstate cost estimate.

This road also affects many New Jersey citizens who work in the Lehigh Valley, as well as my constitutents who work in New Jersey.

Another project in need of funding is Route 222, which follows the alignment of the Old Kings Highway—a road constructed in the 1750's and was designed for horse drawn vehicles. By 1880, most of the existing intersections along U.S. 222 had been established. Up until the 1950's, the area was predominantly rural, so the roadway was sufficient to carry the limited automobile traffic.

In the last 40 years, the population of the townships along Route 222 has more than quadrupled. The population of Lower Macungie has increased 184 percent in the last 20 years, while the population of Upper Macungie has doubled in this time.

In addition to the residential growth, Upper Macungie Township has evolved into a regional industrial center containing 5 of the 10 major industrial employers within Lehigh County.

Route 222 is choking from massive traffic congestion. This is a project that the Lehigh Valley desperately needs.

Looking across the U.S.A., congestion has become a way of life on the highways and at the airports.

We need to make intercity travel much more efficient and convenient for our citizens. We need to look boldly at new transportation modes that can help to relieve the burden on planes and automobiles. We need trains.

The magnetic-levitation and high-speed rail provisions in this bill could go a long way towards relieving intercity travel congestion, whether on the road or at the airport.

Regarding new modes of rail travel, this bill represents an important legislative achievement, made possible by the teamwork of the House committees (Public Works and Transportation; Science, Space, and Technology; and Energy and Commerce) and the Senate committees (Environment and Public Works; and Commerce).

I want to commend all of my fellow conferees for their constructive efforts to fashion a balanced legislative blueprint for the future of high-speed ground transportation. With respect to magnetic-levitation vehicles, or maglev, this bill sets an important precedent by making maglev research and prototype development eligible for direct assistance from the highway trust fund, amounting to about three-quarters of a billion dollars over 5 years.

This is a critical step toward design and actual operation of a U.S.-built maglev system. It is a field that is important to our industrial future, not only because efficient transportation helps make industry efficient, but also because maglev employs vast areas of technology and American industry including many critical areas of advanced technology. Superconductivity and advanced materials. Technologies with broad future applications well beyond transportation would be involved. After dropping the ball 15 years ago, when the United States terminated Federal support of U.S.-invented maglev technology, this bill will put us on track to regain technological leadership in this field.

While maglev is clearly the transportation wave of the future, many areas of the country could benefit from high-speed steel-wheel systems comparable to the French T.G.V., the German I.C.E., and the Japanese bullet train as a less costly near-term improvement in transportation infrastructure. The legislation addresses high-speed rail policy as well, primarily by including high-speed rail projects for the first time in the existing $1-billion loan guarantee program established under section 511 of the Railroad Revitalization and Regulatory Act—4–R Act—of 1976. This assures that as we develop a transportation system for the next century, neither maglev nor high-speed rail will be overlooked or neglected.

We know that highways are not the sole answer to our transportation needs. Construction of major interstate highways has virtually halted, and the Nation has not opened a new major airport since 1974. Congestion of both our roads and our airways is reaching record levels, and is exacting a huge toll in lost economic productivity.

Maglev and high-speed rail represent reliable, all-weather, environmentally benign alternatives to motor vehicle and air transportation. On the under-600-mile corridors where maglev and high-speed rail are most appropriate, huge amounts of existing airport capacity can be freed up by shifting short-haul traffic to mag-lev and rail corridors. A vivid example of this phenomenon is the recently reported shift in passenger traffic on the 290-mile Paris-to-Lyon rail route served by the T.G.V. high-speed train in France. In just 2 years of operation, the train captured 80 percent of the traffic in that corridor. Think what shifting even half of that amount of our short-haul air traffic could mean for airport capacity. It would be equivalent to receiving several new airports for free.

Finally, we cannot overlook the safety record of mag-lev and high-speed rail. In motor vehicles, the United States has already suffered more fatalities than in both World Wars, Korea, and Vietnam combined. But the Japanese bullet train, for example, has operated for 28 years without a single fatality. The French T.G.V. has a similarly impressive record. How can we not support a mode of transportation so vastly superior in safety for our citizens?

To physical safety, we also must add environmental safety. Maglev and high-speed rail are environmentally benign, in that they avoid the heavy emissions of internal-combustion engines, they use our own domestically fueled electrical generating capacity, and are vastly more energy-efficient than other modes of transportation.

We need a balanced national transportation strategy that recognizes legitimate roles for planes, trains, and automobiles. This legislaltion is a key step toward implementing such a strategy.

I wish to take a moment to focus on a small, but important provision on the utilization in highway projects of asphalt containing recycled rubber from scrap tires. Scrap tires are a major headache for cities and towns across the country. As ranking member of the Subcommittee on Transportation and Hazardous Materials, the subcommittee charged with reauthorizing the Resource Conservation and Recovery Act, or RCRA, I am well aware of the environmental problems caused by the 242 million scrap tires that are generated in this country every year. The rubberized asphalt provisions of the legislation before us today are an important part of our strategy to make good use of scrap tires. Thus complementing our efforts in RCRA reauthorization.

One of our major tasks in RCRA reauthorization is to refocus RCRA on recovering and conserving resources, by reducing barriers to recycling and creating incentives to use more materials that would otherwise be discarded. Our interest goes well beyond the use of scrap tires and includes developing markets and environmentally sound techniques to recycle and reuse all types of waste materials.

This legislation contains an important study that may help to stimulate the use of recycled materials in highway projects. The Senate version of the rubberized asphalt provision directed the Secretary of Transportation, in cooperation with the Administrator of EPA, to conduct a program of research on asphalt rubber pavement, its health and environmental risks, its performance and its recyclability. The House version directed the Secretary alone to conduct a more general study on possible uses of recycled materials in highway projects, including the use of asphalt containing reclaimed whole tire rubber.

The conferees have combined these two initiatives into a single, two-part study to be conducted jointly by the Secretary and the Administrator. The first part focuses specifically on asphalt pavement containing recycled rubber, its potential threats to human health and the environment, its performance and its recyclability. The expertise of the two agencies should be put to its best use by having the Secretary conduct that portion of the study relating to the technical performance of the pavement and the Administrator conduct the portion of the study relating to the potential health and environmental threats.

In the conference, the second part of the study was of particular interest and importance to me, particularly in view of my role as ranking member of the subcommittee reauthorizing RCRA. This second part is a broader examination of the economic savings, performance, potential threats to human health and the environment and potential environmental benefits of various uses and techniques for utilizing recycled materials, other than asphalt pavement containing recycled rubber, in highway projects, highway devices and appurtenances.

Some possible uses and techniques are listed in the statute, but this list is in no way intended to be exclusive. In addition to adding rubber to asphalt, the study should look at other additives such as glass and plastic. It should look at techniques for recycling asphalt removed from existing highways when the road is resurfaced. It should look at the use of recycled steel, paper and plastic in highway signs and other devices. It should look at the recycling of materials derived from industrial wastes such as coal ash, incinerator ash, cement kiln dust, construction debris and steel slag in roadbeds. I has to call them wastes because some of these materials, although by-products and residues from one process, are uniquely suited for highway construction projects.

Recovering values from materials otherwise destined for disposal is only one way to use recycle materials. Another important technique of using recycled materials in highway projects is to recover energy values from materials that might otherwise be thrown away. For example, in addition to recovering rubber from tires to actually be placed in or under asphalt, tires may also be recycled by using them as an energy source in an asphalt or cement plant.

An October 1991 EPA report, entitled "Markets for Scrap Tires", identifies several materials for the utilization of waste tires as a fuel. It specifically mentions the suitability of using waste tires to supply heat in the production of cement. While the definition of recycling within the context of the RCRA regulatory scheme remains ambiguous and subject to continuing discussion and controversy, the term as used in the study should not be read narrowly. Rather, in keeping with the broad scope of the second part of the study, the term should be read broadly to include energy recovery without prejudging its meaning in other statues.

Another example is fuel substitutes derived from spent solvents and waste oils that may or may not be hazardous. The study should examine the technical performance of materials made using these various recycling techniques and look at potential environmental impacts such as determining whether cement made with hazardous waste-derived or tire-derived fuel substitutes poses any greater risk than cement made with coal or other traditional fuels. The potential is great, and it is only limited by our technical imagination, as long as we insure that the materials are handled in an environmentally acceptable manner.

In conclusion, the second part of the study should be a broad examination of known and potential techniques of utilizing recycled materials in all aspects of highway construction projects.

I strongly support the approval of the conference report.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I, too, want to congratulate the conferees for doing an outstanding job and for providing a package that will help improve our Nation's economy.

Mr. Speaker, I rise today in support of the conference report on H.R. 2950 the Intermodal Transportation Infrastructure Act and I commend the distinguished chairman of the Public Works and Transportation Committee, the gentleman from New Jersey [Mr. ROE] and the ranking minority member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from California [Mr. MINETA] and the gentleman from Pennsylvania [Mr. SHUSTER] for their tireless work on this measure.

Mr. Speaker, with our transportation system falling apart, this Congress is obligated to do something about it. Our cities are bursting and their infrastructure is not keeping apace of growing needs. Our suburbs are booming and mass transit system hasn't adjusted to reach far enough or carry enough passengers to accommodate our commuters.

Our country's Interstate Highway System is decaying at the same time that our industries are trucking greater loads. Our bridges are collapsing, literally collapsing around us.

In this era of budget deficits and pressing need for fiscal restraint, I believe this bill—with its demonstration projects—represents a practical, moderate plan to revamp our desperate intermodal system.

This transportation bill is a responsive answer to our growing population, energy, and environmental problems. H.R. 2950 would provide funding for many high occupancy vehicles—carpooling—and mass transit programs. These types of programs would not only cut volume on our crowded, gridlocked highways and streets, but they would also cut down on the pollutants emitted by cars and reduce our Nation's overall energy consumption.

Mr. Speaker, H.R. 2950 is a well-planned program to rehabilitate and expand our Nation's intermodal system. I cannot stress enough the inextricable link between a vibrant economy and efficient transportation infrastructure. This Nation simply cannot thrive economically with our existing system. In fact, transportation spending has been proven to be one of the most effective boosts to our domestic economy.

Therefore, this legislation is badly needed in these difficult times. We in the Congress would be abrogating our responsibilities if we did not pass this positive, pro-jobs measure.

Accordingly, I urge all my colleagues to support this conference report.

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in order to get this matter back in sync now that the paperwork is all properly filed, I send to the desk the conference report to accompany H.R. 2950, the Intermodal Surface Transportation Infrastructure Act of 1991.

The Clerk read the title of the bill.

CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. ROE submitted the following conference report and statement on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-404)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Surface Transportation Efficiency Act of 1991".

SEC. 2. DECLARATION OF POLICY: INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.

It is the policy of the United States to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the Nation to compete in the global economy, and will move people and goods in an energy efficient manner.

The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the Nation's preeminent position in international commerce.

The National Intermodal Transportation System shall include a National Highway System which consists of the National System of Interstate and Defense Highways and those principal arterial roads which are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.

The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to world commerce.

The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion and other aspects of the quality of life in the United States.

The National Intermodal Transportation System must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth, and accountability. Practices that resulted in the lengthy and overly costly construction of the Interstate and Defense Highway System must be confronted and ceased.

The National Intermodal Transportation System shall be adapted to "intelligent vehicles", "magnetic levitation systems", and other new technologies wherever feasible and economical, with benefit cost estimates given special emphasis concerning safety considerations and techniques for cost allocation.

The National Intermodal Transportation System, where appropriate, will be financed, as regards Federal apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.

The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the Nation for the 21st century.

The Secretary shall distribute copies of this Declaration of Policy to each employee of the Department of Transportation and shall ensure that such Declaration of Policy is posted in all offices of the Department of Transportation.

SEC. 3. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

Part A—Title 23 Programs

SEC. 1001. COMPLETION OF INTERSTATE SYSTEM.

(a) DECLARATION.—Congress declares that the authorizations of appropriations and apportionments for construction of the Dwight D. Eisenhower National System of Interstate and Defense Highways made by this section (including the amendments made by this section) are the final authorizations of appropriations and apportionments for completion of construction of such System.

(b) APPROVAL OF INTERSTATE COST ESTIMATE FOR FISCAL YEAR 1993.—The Secretary shall apportion for all States (other than Massachusetts) for fiscal year 1993 the sums authorized to be appropriated for such year by section 108(b) of the Federal-Aid Highway Act of 1956 for expenditure on the Dwight D. Eisenhower National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of the Committee Print Numbered 102–24 of the Committee on Public Works and Transportation of the House of Representatives.

(c) EXTENSION OF APPORTIONMENT.—Section 104(b)(5)(A) of title 23, United States Code, is amended by striking "1960 through 1990" each place it appears and inserting "1960 through 1996".

(d) EXTENSION OF ADMINISTRATIVE ADJUSTMENT OF ICE.—Section 104(b)(5)(A) of such title is amended by striking the next to the last sentence and inserting the following new sentence: "As soon as practicable after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 for fiscal year 1992, and on October 1 of each of fiscal years 1993, 1994, and 1995, the Secretary shall make the apportionment required by this subparagraph for all States (other than Massachusetts) using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds, and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds.".

(e) ALLOCATION OF FUNDS TO MASSACHUSETTS.—Section 104(b)(5)(A) of title 23, United States Code, is amended by inserting before the last sentence the following new sentence: "Notwithstanding any other provision of this subparagraph or any cost estimate approved or adjusted pursuant to this subparagraph, subject to the deductions under this section, the amounts to be apportioned to the State of Massachusetts pursuant to this subparagraph for fiscal years 1993, 1994, 1995, and 1996 shall be as follows: $450,000,000 for fiscal year 1993, $800,000,000 for fiscal year 1994, $800,000,000 for fiscal year 1995, and $500,000,000 for fiscal year 1996.".

(f) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of subsection (b) of section 108 of the Federal-Aid Highway Act of 1956 is amended by striking "and the additional sum of $1,400,000,000 for the fiscal year ending September 30, 1993." and inserting the following: "the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1993, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1994, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1995, and the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1996.".

(g) DECLARATION OF POLICY.—The second paragraph of section 101(b) of such title is amended—

(1) by striking "thirty-seven years'" and inserting "forty years'"; and

(2) by striking "1993" and inserting "1996".

(h) TERMINATION OF MINIMUM APPORTIONMENT.—Section 102(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (23 U.S.C. 104 note) is amended by inserting after "1987," the following: "and ending before October 1, 1991,".

SEC. 1002. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law (other than subsection (f) of this section), the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $16,800,000,000 for fiscal year 1992;

(2) $18,303,000,000 for fiscal year 1993;

(3) $18,362,000,000 for fiscal year 1994;

(4) $18,332,000,000 for fiscal year 1995;

(5) $18,357,000,000 for fiscal year 1996; and

(6) $18,338,000,000 for fiscal year 1997.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;

(2) under section 157 of such title;

(3) under section 147 of the Surface Transportation Assistance Act of 1978;

(4) under section 9 of the Federal-Aid Highway Act of 1981;

(5) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;

(6) under section 404 of the Surface Transportation Assistance Act of 1982; and

(7) under sections 1103 through 1108 of this Act.

Such limitations shall also not apply to obligations of funds made available by subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—

(1) GENERAL RULE.—For each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(2) SPECIAL RULE FOR MASSACHUSETTS.—For purposes of this section, funds apportioned to the State of Massachusetts pursuant to the next to the last sentence of section 104(b)(5)(A) of title 23, United States Code, shall be treated as if such funds were allocated to such State under such title. If, before October 1 of each of fiscal years 1992, 1993, 1994, and 1995, the State of Massachusetts indicates it will not obligate a portion of the amount which would be distributed to such State under the preceding sentence, the Secretary shall distribute such portion to the other States under paragraph (1).

(d) LIMITATION ON OBLIGATION AUTHORITY.—During the period October 1 through December 31 of each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year.

(e) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsections (c) and (d), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention

to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code; and

(3) not distribute amounts authorized for administrative expenses, Federal lands highways programs, and the national high speed ground transportation programs and amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(f) ADDITIONAL OBLIGATION AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State which after August 1 and on or before September 30 of fiscal year 1993, 1994, 1995, 1996, or 1997 obligates the amount distributed to such State in such fiscal year under subsections (c) and (e) may obligate for Federal-aid highways and highway safety construction on or before September 30 of such fiscal year an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(A) under sections 104 and 144 of title 23, United States Code, and

(B) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(2) LIMITATION ON ADDITIONAL OBLIGATION AUTHORITY.—During the period August 2 through September 30 of each of fiscal years 1993, 1994, 1995, 1996, and 1997, the aggregate amount which may be obligated by all States pursuant to paragraph (1) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(A) under sections 104 and 144 of title 23, United States Code, and

(B) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in such fiscal year if the total amount of obligational authority provided by subsection (a) for such fiscal year were utilized.

(3) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply to any State which on or after August 1 of fiscal year 1993, 1994, 1995, 1996, or 1997, as the case may be, has the amount distributed to such State under subsection (c) for such fiscal year reduced under subsection (e)(2).

(g) OBLIGATION CEILING FOR HIGHWAY SAFETY PROGRAMS.—Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000 for fiscal year 1992 and $20,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(h) CONFORMING AMENDMENT.—Section 157(b) of title 23, United States Code, is amended by striking the period at the end of the last sentence and inserting "and section 1002(c) of the Intermodal Surface Transportation Efficiency Act of 1991.".

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.

(a) FROM THE HIGHWAY TRUST FUND.—For the purpose of carrying out the provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program $2,431,000,000 for fiscal year 1992, $2,913,000,000 for fiscal year 1993, $2,914,000,000 for fiscal year 1994, $2,914,000,000 for fiscal year 1995, $2,914,000,000 for fiscal year 1996, and $2,914,000,000 for fiscal year 1997.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System $3,003,000,000 for fiscal year 1992, $3,599,000,000 for fiscal year 1993, $3,599,000,000 for fiscal year 1994, $3,599,000,000 for fiscal year 1995, $3,600,000,000 for fiscal year 1996, and $3,600,000,000 for fiscal year 1997.

(3) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program $3,418,000,000 for fiscal year 1992, $4,096,000,000 for fiscal year 1993, $4,096,000,000 for fiscal year 1994, $4,096,000,000 for fiscal year 1995, $4,097,000,000 for fiscal year 1996, and $4,097,000,000 for fiscal year 1997.

(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program $858,000,000 for fiscal year 1992, $1,028,000,000 for fiscal year 1993, $1,028,000,000 for fiscal year 1994, $1,028,000,000 for fiscal year 1995, $1,029,000,000 for fiscal year 1996, and $1,029,000,000 for fiscal year 1997.

(5) BRIDGE PROGRAM.—For the bridge program $2,288,000,000 for fiscal year 1992, $2,762,000,000 for fiscal year 1993, $2,762,000,000 for fiscal year 1994, $2,762,000,000 for fiscal year 1995, $2,763,000,000 for fiscal year 1996, and $2,763,000,000 for fiscal year 1997.

(6) FEDERAL LANDS HIGHWAY PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads $159,000,000 for fiscal year 1992 and $191,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(B) PUBLIC LANDS HIGHWAYS.—For public lands highways $143,000,000 for fiscal year 1992, $171,000,000 for each of fiscal years 1993, 1994, and 1995, and $172,000,000 for each of fiscal years 1996 and 1997.

(C) PARKWAYS AND PARK HIGHWAYS.—For parkways and park highways $69,000,000 for fiscal year 1992, $83,000,000 for each of fiscal years 1993, 1994, and 1995, and $84,000,000 for each of fiscal years 1996 and 1997.

(7) FHWA HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 by the Federal Highway Administration $17,000,000 for fiscal year 1992 and $20,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(8) FHWA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 by the Federal Highway Administration $10,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts authorized to be appropriated under titles I (other than part B), III, V, and VI of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(2) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

(A) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $15,370,000, as adjusted by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are also otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(5) STUDY.—

(A) IN GENERAL.—The Comptroller General shall conduct a study of the disadvantaged business enterprise program of the Federal Highway Administration (hereinafter in this paragraph referred to as the "program").

(B) CONTENTS.—The study under this paragraph shall include the following:

(i) GRADUATION.—A determination of—

(I) the percentage of disadvantaged business enterprises which have enrolled in the program and graduated after a period of 3 years;

(II) the number of disadvantaged business enterprises which have enrolled in the program and not graduated after a period of 3 years;

(III) whether or not the graduation date of any of the disadvantaged business enterprises described in subclause (II) should have been accelerated;

(IV) since the program has no graduation time requirements, how many years would appear reasonable for disadvantaged business enterprises to participate in the program;

(V) the length of time the average small nondisadvantaged business enterprise takes to be successful in the highway construction field as compared to the average disadvantaged business enterprise; and

(VI) to what degree are disadvantaged business enterprises awarded contracts once they are no longer participating in the disadvantaged business program.

(ii) OUT-OF-STATE CONTRACTING.—A determination of which State transportation programs meet the requirement of the program for 10 percent participation by disadvantaged business enterprises by contracting with contractors located in another State and a determination to what degree prime contractors use out-of-State disadvantaged business enterprises even when disadvantaged business enterprises exist within the State to meet the 10 percent participation goal and reasons why this occurs.

(iii) PROGRAM ADJUSTMENTS.—A determination of whether or not adjustments in the program could be made with respect to Federal and State participation in training programs and with respect to meeting capital needs and bonding requirements.

(iv) SUCCESS RATE.—Recommendations concerning whether or not adjustments described in clause (iii) would continue to encourage minority participation in the program and improve the success rate of the disadvantaged business enterprises.

(v) PERFORMANCE AND FINANCIAL CAPABILITIES.—Recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises enrolled in the program.

(vi) ENFORCEMENT MECHANISMS.—A determination of whether the current enforcement mechanisms are sufficient to ensure compliance with the disadvantaged business enterprise participation requirements.

(vii) ADDITIONAL COSTS.—A determination of additional costs incurred by the Federal Highway Administration in meeting the requirement of the program for 10 percent participation by disadvantaged business enterprises as well as a determination of benefits of the program.

(viii) EFFECT ON INDUSTRY.—A determination of how the program is being implemented by the construction industry and the effects of the program on all segments of the industry.

(ix) CERTIFICATION.—An analysis of the certification process for Federal-aid highway and transit programs, including a determination as to whether the process should be uniform and permit State-to-State reciprocity and how certification criteria and procedures are being implemented by the States.

(x) GOALS.—A determination of how the Federal goal is being implemented by the States, including the waiver process, and the impact of the goal on those individuals presumed to be socially and economically disadvantaged.

(C) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under this paragraph.

(c) REDUCTION IN AUTHORIZATIONS FOR BUDGET COMPLIANCE.—If the total amount authorized by this Act out of the Highway Trust Fund (other than the Mass Transit Account) exceeds $17,042,000,000 for fiscal year 1992, or exceeds $98,642,000,000 for fiscal years 1992 through 1996, then each amount so authorized shall be reduced proportionately so that the total equals $17,042,000,000 for fiscal year 1992, or equals $98,642,000,000 for fiscal years 1992 through 1996, as the case may be.

SEC. 1004. BUDGET COMPLIANCE.

(a) IN GENERAL.—If obligations provided for programs pursuant to this Act for fiscal year 1992 will cause—

(1) the total outlays in any of the fiscal years 1992 through 1995 which result from this Act, to exceed

(2) the total outlays for such programs in any such fiscal year which result from appropriation Acts for fiscal year 1992 and are attributable to obligations for fiscal year 1992,

then the Secretary of Transportation shall reduce proportionately the obligations provided for each program pursuant to this Act for fiscal year 1992 to the extent required to avoid such excess outlays.

(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall apply, notwithstanding any provision of this Act to the contrary.

SEC. 1005. DEFINITIONS.

(a) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The undesignated paragraph of section 101(a) of title 23, United States Code, relating to highway safety improvement project is amended by inserting after "marking," the following: "installs priority control systems for emergency vehicles at signalized intersections,".

(b) URBANIZED AREA.—Such section is amended by striking the undesignated paragraph relating to urbanized area and inserting the following new undesignated paragraph:

"The term 'urbanized area' means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Boundaries shall, at a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.".

(c) NATIONAL HIGHWAY SYSTEM.—Such section is further amended by striking the undesignated paragraph relating to the Federal-aid primary system and inserting the following new undesignated paragraph:

"The term 'National Highway System' means the Federal-aid highway system described in subsection (b) of section 103 of this title.".

(d) CONFORMING AMENDMENTS.—Such section is amended—

(1) by striking the undesignated paragraph relating to the Federal-aid secondary system;

(2) by striking the undesignated paragraph relating to the Federal-aid urban system;

(3) in the undesignated paragraph relating to Indian reservation roads by striking ", including roads on the Federal-aid systems,"; and

(4) in the undesignated paragraph relating to park road by inserting ", including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles," before "that is located within".

(e) INTERSTATE SYSTEM.—The undesignated paragraph of such section relating to the Interstate System is amended by inserting "Dwight D. Eisenhower" before "National".

(f) OPERATIONAL IMPROVEMENT.—Such section is further amended by inserting after the undesignated paragraph relating to Interstate System the following new undesignated paragraph:

"The term 'operational improvement' means a capital improvement for installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, incident management programs, and transportation demand management facilities, strategies, and programs and such other capital improvements to public roads as the Secretary may designate, by regulation; except that such term does not include resurfacing, restoring, or rehabilitating improvements, construction of additional lanes, interchanges, and grade separations, and construction of a new facility on a new location.".

(g) STARTUP COSTS FOR TRAFFIC MANAGEMENT AND CONTROL; CARPOOL PROJECT; PUBLIC AUTHORITY; PUBLIC LANDS HIGHWAY; RECONSTRUCTION.—Such section is further amended by inserting after the undesignated paragraph relating to Interstate System the following new undesignated paragraphs:

"The term 'startup costs for traffic management and control' means initial costs (including labor costs, administration costs, cost of utilities, and rent) for integrated traffic control systems, incident management programs, and traffic control centers.

"The term 'carpool project' means any project to encourage the use of carpools and vanpools, including but not limited to provision of carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

"The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

"The term 'public lands highway' means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.".

SEC. 1006. NATIONAL HIGHWAY SYSTEM.

(a) ESTABLISHMENT.—Section 103 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) IN GENERAL.—For purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) PURPOSE.—The purpose of the National Highway System is to provide an interconnected system of principal arterial routes which will serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System shall consist of the following:

"(A) Highways designated as part of the Interstate System under subsection (e) and section 139 of this title.

"(B) Other urban and rural principal arterials and highways (including toll facilities) which provide motor vehicle access between such an arterial and a major port, airport, public transportation facility, or other intermodal transportation facility. The States, in cooperation with local and regional officials, shall propose to the Secretary arterials and highways for designation to the National Highway System under this paragraph. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under section 134 of this title. The routes on the National Highway System, as shown on the map submitted by the Secretary to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate in 1991, illustrating the National Highway System, shall serve as the basis for the States in proposing arterials and highways for designation to such system. The Secretary may modify or revise such proposals and submit such modified or revised proposals to Congress for approval in accordance with paragraph (3).

"(C) A strategic highway network which is a network of highways which are important to the United States strategic defense policy and which provide defense access, continuity, and emergency capabilities for the movement of personnel, materiels, and equipment in both peace time and war time. Such highways may include highways on and off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and be subject to approval by Congress in accordance with paragraph (3).

"(D) Major strategic highway network connectors which are highways that provide motor vehicle access between major military installations and highways which are part of the strategic highway network. Such highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and subject to approval by Congress in accordance with paragraph (3).

"(3) APPROVAL OF DESIGNATIONS.—

"(A) PROPOSED DESIGNATIONS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a proposed National Highway System with a list and description of highways proposed to be designated to the National Highway System under this subsection and a map *showing such proposed designations. In preparing the proposed system, the Secretary shall consult appropriate local officials and shall use the functional reclassification of roads and streets carried out under subsection (c) of section 1006 of the Intermodal Surface Transportation Efficiency Act of 1991.*

"(B) APPROVAL OF CONGRESS REQUIRED.—After September 30, 1995, no funds made available for carrying out this title may be apportioned for the National Highway System or the Interstate maintenance program under this title unless a law has been approved designating the National Highway System.

"(C) MAXIMUM MILEAGE.—For purposes of proposing highways for designation to the National Highway System, the mileage of highways on the National Highway System shall not exceed 155,000 miles; except that the Secretary may increase or decrease such maximum mileage by not to exceed 15 percent.

"(D) EQUITABLE ALLOCATIONS OF HIGHWAY MILEAGE.—In proposing highways for designation to the National Highway System, the Secretary shall provide for equitable allocation of highway mileage among the States.

"(4) INTERIM SYSTEM.—For fiscal years 1992, 1993, 1994, and 1995, highways classified as principal arterials by the States shall be treated as being on the National Highway System for purposes of this title.".

(b) CONFORMING AMENDMENTS TO SECTION 103.—

(1) REPEAL OF FEDERAL-AID SECONDARY AND URBAN SYSTEMS.—Subsections (c) and (d) of such section are repealed.

(2) APPROVAL.—Subsection (f) of such section is amended—

(A) by striking "the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and"; and

(B) by striking the last sentence.

(c) FUNCTIONAL RECLASSIFICATION OF HIGHWAYS.—

(1) STATE ACTION.—Each State shall functionally reclassify the roads and streets in such State in accordance with such guidelines and time schedule as the Secretary may establish in order to carry out the objectives of this section, including the amendments made by this section.

(2) APPROVAL AND SUBMISSION TO CONGRESS.—Not later than September 30, 1993, the Secretary shall approve the functional reclassification of roads and streets made by the States pursuant to this subsection and shall submit a report to Congress containing such reclassification.

(3) STATE DEFINED.—In this subsection, the term "State" has the meaning such term has under section 101 of title 23, United States Code, and shall include the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas.

(d) PROJECT ELIGIBILITY.—Section 103 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(i) ELIGIBLE PROJECTS FOR NHS.—Subject to project approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

"(1) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of such system.

"(2) Operational improvements for segments of such system.

"(3) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System and construction of a transit project eligible for assistance under the Federal Transit Act—

"(A) if such highway or transit project is in the same corridor as, and in proximity to, a fully access controlled highway designated to the National Highway System;

"(B) if the construction or improvements will improve the level of service on the fully access controlled highway and improve regional travel; and

"(C) if the construction or improvements are more cost effective than an improvement to the fully access controlled highway that has benefits comparable to the benefits which will be achieved by the construction of, or improvements to, the highway not on the National Highway System.

"(4) Highway safety improvements for segments of the National Highway System.

"(5) Transportation planning in accordance with sections 134 and 135.

"(6) Highway research and planning in accordance with section 307.

"(7) Highway-related technology transfer activities.

"(8) Startup costs for traffic management and control if such costs are limited to the time period necessary to achieve operable status but not to exceed 2 years following the date of project approval, if such funds are not used to replace existing funds.

"(9) Fringe and corridor parking facilities.

"(10) Carpool and vanpool projects.

"(11) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(12) Development and establishment of management systems under section 303.

"(13) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and development of statewide and regional wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.".

(e) APPORTIONMENTS.—Section 104(b)(1) of such title is amended to read as follows:

"(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remaining 99 percent apportioned in the same ratio as funds are apportioned under paragraph (3).".

(f) TRANSFERABILITY.—Section 104 of such title is amended by striking subsection (c) and inserting the following new subsection:

"(c) TRANSFERABILITY OF NHS APPORTIONMENTS.—A State may transfer not to exceed 50 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3). A State may transfer not to exceed 100 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3) if the State requests to make such transfer and the Secretary approves such transfer as being in the public interest after providing notice and sufficient opportunity for public comment. Section 133(d) shall not apply to funds transferred under this subsection.".

(g) CONFORMING AMENDMENTS TO OTHER SECTIONS.—

(1) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by striking the paragraph relating to Federal-aid highways and inserting the following new paragraph:

"The term 'Federal-aid highways' means highways eligible for assistance under this chapter other than highways classified as local roads or rural minor collectors.".

(2) PREVAILING RATE OF WAGE.—Section 113(a) of such title is amended by striking "systems, the primary and secondary, as well as their extension in urban areas, and the Interstate System," and inserting "highways".

(h) NATIONAL DEFENSE HIGHWAYS LOCATED OUTSIDE THE UNITED STATES.—

(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for the reconstruction of such highway or portion of highway.

(2) FUNDING.—The Secretary may make available, from funds appropriated to construct the National System of Interstate and Defense Highways, not to exceed $20,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996 to carry out this subsection. Such sums shall remain available until expended.

SEC. 1007. SURFACE TRANSPORTATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 132 the following new section:

"§133. Surface transportation program

"(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

"(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title.

"(2) Capital costs for transit projects eligible for assistance under the Federal Transit Act and publicly owned intracity or intercity bus terminals and facilities.

"(3) Carpool projects, fringe and corridor parking facilities and programs, and bicycle transportation and pedestrian walkways in accordance with section 217.

"(4) Highway and transit safety improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.

"(5) Highway and transit research and development and technology transfer programs.

"(6) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(7) Surface transportation planning programs.

"(8) Transportation enhancement activities.

"(9) Transportation control measures listed in section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act.

"(10) Development and establishment of management systems under section 303.

"(11) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and devel-

opment of statewide and regional wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.

"(c) LOCATION OF PROJECTS.—Except as provided in subsection (b)(1), surface transportation program projects (other than those described in subsections (b)(3) and (4)) may not be undertaken on roads functionally classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.

"(d) ALLOCATIONS OF APPORTIONED FUNDS.—

"(1) FOR SAFETY PROGRAMS.—10 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program for a fiscal year shall only be available for carrying out sections 130 and 152 of this title. Of the funds set aside under the preceding sentence, the State shall reserve in such fiscal year an amount of such funds for carrying out each such section which is not less than the amount of funds apportioned to the State in fiscal year 1991 under such section.

"(2) FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—10 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall only be available for transportation enhancement activities.

"(3) DIVISION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION AND OTHER AREAS.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (C) and (D), 62.5 percent of the remaining 80 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall be obligated under this section—

"(i) in urbanized areas of the State with an urbanized area population of over 200,000, and

"(ii) in other areas of the State,

in proportion to their relative share of the State's population. The remaining 37.5 percent may be obligated in any area of the State. Funds attributed to an urbanized area under clause (i) may be obligated in the metropolitan area established under section 134 which encompasses the urbanized area.

"(B) SPECIAL RULE FOR AREAS OF LESS THAN 5,000 POPULATION.—Of the amounts required to be obligated under subparagraph (A)(ii), the State shall obligate in areas of the State (other than urban areas with a population greater than 5,000) an amount which is not less than 110 percent of the amount of funds apportioned to the State for the Federal-aid secondary system for fiscal year 1991.

"(C) SPECIAL RULE FOR CERTAIN STATES.—In the case of a State in which—

"(i) greater than 80 percent of the population of the State is located in 1 or more metropolitan statistical areas, and

"(ii) greater than 80 percent of the land area of such State is owned by the United States,

the 62.5 percentage specified in the first sentence of subparagraph (A) shall be 35 percent and the percentage specified in the second sentence of subparagraph (A) shall be 65 percent.

"(D) NONCONTIGUOUS STATES EXEMPTION.—Subparagraph (A) shall not apply to any State which is noncontiguous with the continental United States.

"(E) DISTRIBUTION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION.—The amount of funds which a State is required to obligate under subparagraph (A)(i) shall be obligated in urbanized areas described in subparagraph (A)(i) based on the relative population of such areas; except that the State may obligate such funds based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to do so and the Secretary grants the request.

"(4) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

"(e) ADMINISTRATION.—

"(1) NONCOMPLIANCE.—If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State that, if the State fails to take corrective action within 60 days from the date of receipt of the notification, the Secretary will withhold future apportionments under section 104(b)(3) until the Secretary is satisfied that appropriate corrective action has been taken.

"(2) CERTIFICATION.—The Governor of each State shall certify before the beginning of each quarter of a fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for surface transportation program projects during such quarter. A State may request adjustment to the obligation amounts later in each of such quarters. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the surface transportation program funds expected to be obligated by the State in such quarter for projects not subject to review by the Secretary under this chapter.

"(3) PAYMENTS.—The Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.

"(4) POPULATION DETERMINATIONS.—The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures for purposes of this section.

"(f) ALLOCATION OF OBLIGATION AUTHORITY.—A State which is required to obligate in an urbanized area with an urbanized area population of over 200,000 under subsection (d) funds apportioned to it under section 104(b)(3) shall allocate during the 6-fiscal year period 1992 through 1997 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction for use in such area determined by multiplying—

"(1) the aggregate amount of funds which the State is required to obligate in such area under subsection (d) during such period; by

"(2) the ratio of the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction during such period to the total sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to an obligation limitation) during such period.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 132 the following:

"133. Surface transportation program.".

(b) APPORTIONMENT OF SURFACE TRANSPORTATION PROGRAM FUNDS.—

(1) IN GENERAL.—Section 104(b)(3) of title 23, United States Code, is amended to read as follows:

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) GENERAL RULE.—For the surface transportation program in a manner so that a State's current percentage share of apportionments is equal to the State's 1987–1991 percentage share of apportionments. For purposes of this paragraph—

"(i) a State's current percentage share of apportionments is the State's percentage share of all funds apportioned for a fiscal year under paragraph (1) for the National Highway System, under section 144 for the bridge program, under paragraph (5)(B) for Interstate maintenance, and under this paragraph; and

"(ii) a State's 1987–1991 percentage share of apportionments is the State's percentage share of all apportionments and allocations under this title for fiscal years 1987, 1988, 1989, 1990, and 1991 (except apportionments and allocations for Interstate construction under sections 104(b)(5)(A) and 118, Interstate highway substitute under section 103(e)(4), Federal lands highways under section 202, and emergency relief under section 125, all allocations under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and the portion of allocations under section 157 (relating to minimum allocation) that would be attributable to apportionments made under Interstate construction and Interstate highway substitute programs under sections 104(b)(5)(A) and 103(e)(4), respectively, for such fiscal years if the minimum allocation percentage for such fiscal years had been 90 percent instead of 85 percent).

"(B) CALCULATION RULES.—In calculating a State's percentage share under this paragraph for the purpose of making apportionments for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, each State shall be treated as having received ½ of 1 percent of all funds apportioned for the Interstate construction program under section 104(b)(5)(A) in fiscal years 1987, 1988, 1989, 1990, and 1991. Notwithstanding any other provision of this paragraph, in any fiscal year no State shall receive a percentage of total apportionments and allocations that is less than 70 percent of its percentage of total apportionments and allocations for fiscal years 1987, 1988, 1989, 1990, and 1991, except for those States that receive an apportionment for Interstate construction under paragraph (5)(A) of more than $50,000,000 for fiscal year 1992.".

(2) CONFORMING AMENDMENTS.—Section 104 of such title is further amended—

(A) in subsections (a) and (b) by striking "upon the Federal-aid systems" and inserting "on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System";

(B) in subsection (b) by striking "paragraphs (4) and (5)" and inserting "paragraph (5)(A)"; and

(C) in subsection (b) by striking "and sections 118(c) and 307(d)" and inserting "and section 307".

(c) TRANSPORTATION ENHANCEMENT ACTIVITIES DEFINED.—Section 101(a) of title 23, United States Code, is amended by adding at the end the following new paragraph:

"The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff.".

SEC. 1008. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 149 of title 23, United States Code, is amended to read as follows:

"§149. Congestion mitigation and air quality improvement program

"(a) ESTABLISHMENT.—The Secretary shall establish a congestion mitigation and air quality improvement program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—Except as provided in subsection (c), a State may obligate funds apportioned to it under section 104(b)(2) for the congestion mitigation and air quality improvement program only for a transportation project or program—

"(1)(A) if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clauses (xii) and (xvi) of such section), that the project or program is likely to contribute to the attainment of a national ambient air quality standard; or

"(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section;

"(2) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits; or

"(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors.

No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times.

"(c) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have a nonattainment area for ozone or carbon monoxide under the Clean Air Act located within its borders, the State may use funds apportioned to it under section 104(b)(2) for any project eligible for assistance under the surface transportation program.

"(d) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.".

(b) APPORTIONMENT.—Section 104(b)(2) of such title is amended to read as follows:

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program, in the ratio which the weighted nonattainment area population of each State bears to the total weighted nonattainment area population of all States. The weighted nonattainment area population shall be calculated by multiplying the population of each area within any State that is a nonattainment area (as defined in the Clean Air Act) for ozone by a factor of—

"(A) 1.0 if the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act;

"(B) 1.1 if the area is classified as a moderate ozone nonattainment area under such subpart;

"(C) 1.2 if the area is classified as a serious ozone nonattainment area under such subpart;

"(D) 1.3 if the area is classified as a severe ozone nonattainment area under such subpart; or

"(E) 1.4 if the area is classified as an extreme ozone nonattainment area under such subpart. If the area is also classified under subpart 3 of part D of title I of such Act as a nonattainment area for carbon monoxide, for purposes of calculating the weighted nonattainment area population, the weighted nonattainment area population of the area, as determined under the preceding provisions of this paragraph, shall be further multiplied by a factor of 1.2. Notwithstanding any provision of this paragraph, in the case of States with a total 1990 census population of 15,000,000 or greater, the amount apportioned under this paragraph in a fiscal year to all of such States in the aggregate, shall be distributed among such States based on their relative populations; except that none of such States shall be distributed more than 42 percent of the aggregate amount so apportioned to all of such States. Notwithstanding any other provision of this paragraph, each State shall receive a minimum apportionment of ½ of 1 percent of the funds apportioned made under this paragraph. The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking

"149. Truck lanes."

and inserting

"149. Congestion mitigation and air quality improvement program.".

SEC. 1009. INTERSTATE MAINTENANCE PROGRAM.

(a) LIMITATION ON NEW CAPACITY.—Section 119 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(g) LIMITATION ON NEW CAPACITY.—Notwithstanding any other provision of this title, the portion of the cost of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway or bridge, where such new capacity consists of one or more new travel lanes that are not high-occupancy vehicle lanes or auxiliary lanes, shall not be eligible for funding under this section.".

(b) ADEQUATE MAINTENANCE OF THE INTERSTATE SYSTEM.—Section 119(f) of such title is amended by inserting after "Interstate System routes and" the following: "the State is adequately maintaining the Interstate System and".

(c) GUIDANCE TO THE STATES.—The Secretary shall develop and make available to the States criteria for determining—

(1) what share of any project funded under section 119 of title 23, United States Code, is attributable to the expansion of the capacity of an Interstate highway or bridge; and

(2) what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23, United States Code.

(d) NONCHARGEABLE SEGMENTS.—Section 104(b)(5)(B) of title 23, United States Code, is amended by inserting "and routes on the Interstate System designated under section 139(a) of this title before March 9, 1984," after "under sections 103 and 139(c) of this title" each place it appears.

(e) CONFORMING AMENDMENTS.—

(1) NEW HEADING.—The heading for section 119 of such title is amended to read as follows:

"§119. Interstate maintenance program".

(2) ANALYSIS.—The analysis for chapter 1 of such title is amended by striking

"119. Interstate System resurfacing."

and inserting

"119. Interstate maintenance program.".

(3) ELIGIBLE ACTIVITIES.—Section 119(c) of such title is amended to read as follows:

"(c) ELIGIBLE ACTIVITIES.—Activities authorized in subsection (a) may include the reconstruction of bridges, interchanges, and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary, but shall not include the construction of new travel lanes other than high occupancy vehicle lanes or auxiliary lanes.".

(4) PREVENTIVE MAINTENANCE.—Section 119(e) of such title is amended to read as follows:

"(e) PREVENTIVE MAINTENANCE.—Preventive maintenance activities shall be eligible under this section when a State can demonstrate, through its pavement management system, that such activities are a cost-effective means of extending Interstate pavement life.".

(5) MISCELLANEOUS.—Section 119 of such title is amended—

(A) in subsection (a) by striking ", rehabilitating, and reconstructing" and inserting "and rehabilitating";

(B) in subsection (a) by striking the last sentence;

(C) in the heading for subsection (f) by striking "PRIMARY SYSTEM" and inserting "SURFACE TRANSPORTATION PROGRAM";

(D) in subsection (f)(1) by striking "rehabilitating, or reconstructing" and inserting "or rehabilitating"; and

(E) in subsection (f) by striking "section 104(b)(1)" each place it appears and inserting "sections 104(b)(1) and 104(b)(3)".

SEC. 1010. OPERATION LIFESAVER; HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended to read as follows:

"(d) OPERATION LIFESAVER AND HIGH SPEED RAIL CORRIDORS.—

"(1) OPERATION LIFESAVER.—The Secretary shall expend from administrative funds deducted under subsection (a) $300,000 for each fiscal year for carrying out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

"(A). Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year for elimination of hazards of railway-highway crossings in not to exceed 5 railway corridors selected by the Secretary in accordance with the criteria set forth in this paragraph.

"(B) A corridor selected by the Secretary under subparagraph (A) must include rail lines where railroad speeds of 90 miles per hour are occurring or can reasonably be expected to occur in the future.

"(C) In making the determination required by subparagraph (A), the Secretary shall consider projected rail ridership volumes in such corridors, the percentage of the corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line, projected benefits to nonriders such as congestion relief on other modes of transportation serving the corridors (including congestion in heavily traveled air passenger corridors), the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities, and the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in such corridors.".

SEC. 1011. SUBSTITUTE PROGRAM.

(a) HIGHWAY PROJECTS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 103(e)(4)(G) of title 23, United States Code, is amended—

(A) by striking "and" the next to the last place it appears;

(B) by inserting before the period at the end the following: ", $240,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, and 1995"; and

(C) by adding at the end the following: "Such sums may be obligated for transit substitute projects under this paragraph.".

(2) DISTRIBUTION.—Section 103(e)(4)(H) of such title is amended—

(A) by adding at the end of clause (i) the following new sentence: "For each of fiscal years 1992, 1993, 1994, and 1995, all funds made available by subparagraph (G) shall be apportioned in accordance with cost estimates adjusted by the Secretary.";

(B) in clause (iii), by striking "1988, 1989, 1990, AND 1991 APPORTIONMENTS" and inserting "1988–1995 APPORTIONMENTS"; and

(C) by striking "and 1991." and inserting "1991, 1992, 1993, 1994, and 1995.".

(b) TRANSIT PROJECTS.—Section 103(e)(4)(J) of such title is amended—

(1) in clause (i) by inserting after "1983," the following: "and ending before October 1, 1991";

(2) by adding at the end of clause (i) the following new sentence: "100 percent of funds appropriated for each of fiscal years 1992 and 1993 shall be apportioned in accordance with cost estimates adjusted by the Secretary.";

(3) in clause (iii) by striking "1988, 1989, 1990, AND 1991 APPORTIONMENTS" and inserting "1988–1993 APPORTIONMENTS"; and

(4) by striking "and 1991." and inserting "1991, 1992, and 1993.".

(c) PERIOD OF AVAILABILITY.—Section 103(e)(4)(E)(i) of such title is amended by adding at the end the following new sentence: "In the case of funds authorized to be appropriated for substitute transit projects under this paragraph for fiscal year 1993 and for substitute highway projects under this paragraph for fiscal year 1995, such funds shall remain available until expended.".

SEC. 1012. TOLL ROADS, BRIDGES, AND TUNNELS.

(a) NEW PROGRAM.—Section 129(a) of title 23, United States Code, is amended to read as follows:

"(a) BASIC PROGRAM.—

"(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Notwithstanding section 301 of this title and subject to the provisions of this section, the Secretary shall permit Federal participation in—

"(A) initial construction of a toll highway, bridge, or tunnel (other than a highway, bridge, or tunnel on the Interstate System) or approach thereto;

"(B) reconstructing, resurfacing, restoring, and rehabilitating a toll highway, bridge, or tunnel (including a toll highway, bridge, or tunnel subject to an agreement entered into under this section or section 119(e) as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991) or approach thereto;

"(C) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

"(D) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility; and

"(E) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under subparagraph (A), (B), (C), or (D);

on the same basis and in the same manner as in the construction of free highways under this chapter.

"(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach thereto constructed under this subsection must—

"(A) be publicly owned, or

"(B) be privately owned if the public authority having jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with a private person or persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

"(3) LIMITATIONS ON USE OF REVENUES.—Before the Secretary may permit Federal participation under this subsection in construction of a highway, bridge, or tunnel located in a State, the public authority (including the State transportation department) having jurisdiction over the highway, bridge, or tunnel must enter into an agreement with the Secretary which provides that all toll revenues received from operation of the toll facility will be used first for debt service, for reasonable return on investment of any private person financing the project, and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation. If the State certifies annually that the tolled facility is being adequately maintained, the State may use any toll revenues in excess of amounts required under the preceding sentence for any purpose for which Federal funds may be obligated by a State under this title.

"(4) SPECIAL RULE FOR FUNDING.—In the case of a toll highway, bridge, or tunnel under the jurisdiction of a public authority of a State (other than the State transportation department), upon request of the State transportation department and subject to such terms and conditions as such department and public authority may agree, the Secretary shall reimburse such public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as such department would be reimbursed if such project was being carried out by such department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid system in such State on which the project is being carried out.

"(5) LIMITATION ON FEDERAL SHARE.—Except as otherwise provided in this paragraph, the Federal share payable for construction of a highway, bridge, tunnel, or approach thereto or conversion of a highway, bridge, or tunnel to a toll facility under this subsection shall be such percentage as the State determines but not to exceed 50 percent. The Federal share payable for construction of a new bridge, tunnel, or approach thereto or for reconstruction or replacement of a bridge, tunnel, or approach thereto shall be such percentage as the Secretary determines but not to exceed 80 percent. In the case of a toll facility subject to an agreement under section 119 or 129, the Federal share payable on any project for resurfacing, restoring, rehabilitating, or reconstructing such facility shall be 80 percent until the scheduled expiration of such agreement (as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991).

"(6) MODIFICATIONS.—If a public authority (including a State transportation department) having jurisdiction over a toll highway, bridge, or tunnel subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991, requests modification of such agreement, the Secretary shall modify such agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

"(7) LOANS.—A State may loan all or part of the Federal share of a toll project under this section to a public or private agency constructing a toll facility. Such loan may be made only after all Federal environmental requirements have been complied with and permits obtained. The amount loaned shall be subordinated to other debt financing for the facility except for loans made by the State or any other public agency to the agency constructing the facility. Funds loaned pursuant to this section may be obligated for projects eligible under this section. The repayment of any such loan shall commence not more than 5 years after the facility has opened to traffic. Any such loan shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. The term of any such loan shall not exceed 30 years from the time the loan was obligated. Amounts repaid to a State from any loan made under this section may be obligated for any purpose for which the loaned funds were available. The Secretary shall establish procedures and guidelines for making such loans.

"(8) INITIAL CONSTRUCTION DEFINED.—For purposes of this subsection, the term 'initial construction' means the construction of a highway, bridge, or tunnel at any time before it is open to traffic and does not include any improvement to a highway, bridge, or tunnel after it is open to traffic.".

(b) CONGESTION PRICING PILOT PROGRAM.—(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more congestion pricing pilot projects. The Secretary may enter into cooperative agreements with as many as 5 such State or local governments or public authorities to establish, maintain, and monitor congestion pricing projects.

(2) Notwithstanding section 129 of title 23, United States Code, the Federal share payable for such programs shall be 80 percent. The Secretary shall fund all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least 1 year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund any project for more than 3 years.

(3) Revenues generated by any pilot project under this subsection must be applied to projects eligible under such title.

(4) Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall allow the use of tolls on the Interstate System as part of a pilot program under this section, but not on more than 3 of such programs.

(5) The Secretary shall monitor the effect of such projects for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic, volume, transit ridership, air quality, and availability of funds for transportation programs.

(6) Of the sums made available to the Secretary pursuant to section 104(a) of title 23, United States Code, not to exceed $25,000,000 shall be made available each fiscal year to carry out the requirements of this subsection. Not more than $15,000,000 of such amounts shall be made available to carry out each pilot project under this section.

(c) ELIMINATION OF PUBLIC OPERATION REQUIREMENT FOR TOLL FERRIES.—Section 129 of such title is amended—

(1) by striking subsections (b), (c), (d), (e), (h), (i), and (k);

(2) by redesignating subsections (f), (g), and (j) as subsections (b), (c), and (d), respectively;

(3) in subsection (c) as so redesignated by inserting "and ferry terminal facilities" after "boats";

(4) in subsection (c) as so redesignated by striking paragraph (3) and inserting the following:

"(3) Such ferry boat or ferry terminal facility shall be publicly owned."; and

(5) in subsection (c)(4) as so redesignated—

(A) by inserting "or other public entity" after "State"; and

(B) by inserting before the period at the end the following: ", debt service, negotiated management fees, and, in the case of a privately operated toll ferry, for a reasonable rate of return".

(d) CONTINUATION OF EXISTING AGREEMENTS.—Unless modified under section 129(a)(6) of such title, as amended by subsection (a) of this section, agreements entered into under section 119(e) or 129 of such title before the effective date of this title and in effect on the day before such effective date shall continue in effect on and after such effective date in accordance with the provisions of such agreement and such section 119(e) or 129.

(e) SPECIAL RULE FOR CERTAIN EXISTING TOLL FACILITY AGREEMENTS.—Notwithstanding sections 119 and 129 of title 23, United States Code, at the request of the non-Federal parties to a toll facility agreement reached before October 1, 1991, regarding the New York State Thruway or the Fort McHenry Tunnel under section 105 of the Federal-Aid Highway Act of 1978 or section 129 of title 23, United States Code (as in effect on the day before the date of the enactment of this Act), the Secretary shall allow for the continuance of tolls without repayment of Federal funds. Revenues collected from such tolls, after the date of such request, in excess of revenues needed for debt service and the actual costs of operation and maintenance shall be available for (1) any transportation project eligible for assistance under title 23, United States Code, or (2) costs associated with transportation facilities under the jurisdiction of such non-Federal party, including debt service and costs related to the construction, reconstruction, restoration, repair, operation and maintenance of such facilities.

(f) VOIDING OF CERTAIN AGREEMENTS FOR I-78 DELAWARE RIVER BRIDGE.—Upon the joint request of the State of Pennsylvania, the State of New Jersey, and the Delaware River Joint Toll Bridge Commission, and upon such parties entering into a new agreement with the Secretary regarding the bridge on Interstate Route 78 which crosses the Delaware River in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, the Secretary shall void any agreement entered into with such parties with respect to the bridge before the effective date of this subsection under section 129(a), 129(d), or 129(e) of title 23, United States Code. The new agreement referred to in the preceding sentence shall permit the continuation of tolls without repayment of Federal funds and shall provide that all toll revenues received from operation of the bridge will be used—

(1) first for repayment of the non-Federal cost of construction of the bridge (including debt service);

(2) second for the costs necessary for the proper operation and maintenance of the bridge, including resurfacing, restoration, and rehabilitation; and

(3) to the extent that toll revenues exceed the amount necessary for paragraphs (1) and (2), such excess may be used with respect to any other bridge under the jurisdiction of the Delaware River Joint Toll Bridge Commission.

(g) BRIDGE CONNECTING PENNSYLVANIA TURNPIKE SYSTEM AND NEW JERSEY TURNPIKE.—Section 3 of the Act of October 26, 1951 (65 Stat. 653), is amended by striking ": Provided," and all that follows before the period.

SEC. 1013. MINIMUM ALLOCATION.

(a) GENERAL RULE.—Section 157(a) of title 23, United States Code, is amended—

(1) in paragraph (3) by striking "THEREAFTER" and inserting "FISCAL YEARS 1989–1991";

(2) in paragraph (3) by striking "and each fiscal year thereafter," and inserting ", 1990, and 1991"; and

(3) by adding at the end the following new paragraph:

"(4) THEREAFTER.—In fiscal year 1992 and each fiscal year thereafter on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for Interstate construction, Interstate maintenance, Interstate highway substitute, National Highway System, surface transportation program, bridge program, scenic byways, and grants for safety belts and motorcycle helmets shall not be less than 90 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data are available.".

(b) CONFORMING AMENDMENTS.—Section 157(b) of such title is amended—

(1) by striking "primary, secondary," and inserting "National Highway, surface transportation program,";

(2) by striking "urban," and inserting "congestion mitigation and air quality improvement program,";

(3) by striking "replacement and rehabilitation"; and

(4) by inserting after the first sentence the following: "½ of the amounts allocated pursuant to subsection (a) after September 30, 1991, shall be subject to section 133(d)(3) of this title.".

(c) DONOR STATE BONUS AMOUNTS.—

(1) FUNDING.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the payment of donor State bonus amounts the following amounts for the following fiscal years:

(A) For fiscal year 1992 $429,000,000.

(B) For fiscal year 1993 $514,000,000.

(C) For fiscal year 1994 $514,000,000.

(D) For fiscal year 1995 $514,000,000.

(E) For fiscal year 1996 $514,000,000.

(F) For fiscal year 1997 $515,000,000.

(2) APPORTIONMENT.—

(A) FORMULA.—The bonus apportionments which are provided under this subsection for a fiscal year shall be apportioned in such a way as to bring each successive State, or States, with the lowest dollar return on dollar projected to be contributed into the Highway Trust Fund for such fiscal year, up to the highest common return on contributed dollar that can be funded with the annual authorizations provided under this subsection.

(B) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—Funds apportioned under this subsection shall be available for obligation in the same manner and for the same purposes as if such funds were apportioned for the surface transportation program under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended. 1/2 of the amounts apportioned under this subsection shall be subject to section 133(d)(3) of title 23, United States Code, as added by this Act.

SEC. 1014. REIMBURSEMENT FOR SEGMENTS OF THE INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§160. Reimbursement for segments of the Interstate System constructed without Federal assistance

"(a) GENERAL AUTHORITY.—The Secretary shall allocate to the States in each of fiscal years 1996 and 1997 amounts determined under subsection (b) for reimbursement of their original contributions to construction of segments of the Interstate System which were constructed without Federal financial assistance.

"(b) DETERMINATION OF REIMBURSEMENT AMOUNT.—The amount to be reimbursed to a State in each of fiscal years 1996 and 1997 under this section shall be determined by multiplying the amount made available for carrying out this section for such fiscal year by the reimbursement percentage set forth in the table contained in subsection (c).

"(c) REIMBURSEMENT TABLE.—For purposes of carrying out this section, the reimbursement percentage, the original cost for constructing the Interstate System, and the total reimbursable amount for each State is set forth in the following table:

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Alabama	$9	0.50	$147
Alaska		.50	147
Arizona	20	.50	147
Arkansas	6	.50	147
California	298	5.42	1,591
Colorado	23	.50	147
Connecticut	314	5.71	1,676
Delaware	39	0.71	209
Florida	31	.56	164
Georgia	46	.84	246
Hawaii		.50	147
Idaho	5	.50	147
Illinois	475	8.62	2,533
Indiana	167	3.03	892
Iowa	5	.50	147
Kansas	101	1.84	540
Kentucky	32	.57	169
Louisiana	22	.50	147
Maine	38	.69	204
Maryland	154	2.79	820
Massachusetts	283	5.14	1,511
Michigan	228	4.14	1,218
Minnesota	16	.50	147
Mississippi	6	.50	147
Missouri	74	1.35	396
Montana	5	.50	147
Nebraska	1	.50	147
Nevada	2	.50	147
New Hampshire	8	.50	147
New Jersey	353	6.41	1,882
New Mexico	8	.50	147
New York	929	16.88	4,960
North Carolina	36	.65	191
North Dakota	3	.50	147
Ohio	257	4.68	1,374
Oklahoma	91	1.66	486
Oregon	78	1.42	417
Pennsylvania	354	6.43	1,888
Rhode Island	12	.50	147
South Carolina	4	.50	147
South Dakota	5	.50	147
Tennessee	7	.50	147
Texas	200	3.64	1,069
Utah	6	.50	147
Vermont	1	.50	147
Virginia	111	2.01	591
Washington	73	1.32	389
West Virginia	5	.50	147
Wisconsin	8	.50	147
Wyoming	9	.50	147
D.C.	9	.50	147
Totals	4,967	100.00	29,384

"(d) TRANSFER OF REIMBURSABLE AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (e) of this section, the Secretary shall transfer amounts allocated to a State pursuant to this section to the apportionment of such State under section 104(b)(3) for the surface transportation program.

"(e) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of this title shall not apply to ½ of the amounts transferred under subsection (d) to the apportionment of the State for the surface transportation program:

"(1) Subsection (d)(1).

"(2) Subsection (d)(2).

"(3) Subsection (d)(3).

"(f) Authorization of Appropriations.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $2,000,000,000 per fiscal year for each of fiscal years 1996 and 1997 to carry out this section.".

(b) Conforming Amendment.—The analysis for chapter 1 of such title is amended by adding at the end the following new item:

"160. Reimbursement for segments of the Interstate System constructed without Federal assistance."

(c) Kansas Projects.—

(1) United States route 50.—The State of Kansas shall obligate in fiscal year 1996 $24,440,000 to construct the Hutchinson Bypass between United States Route 50 and Kansas Route 96 in the vicinity of Hutchinson, Kansas. Such funds shall be obligated from amounts allocated to the State of Kansas for fiscal year 1996 under section 160 of title 23, United States Code.

(2) United States route 91.—The State of Kansas shall obligate in fiscal years 1996 and 1997 such sums as may be necessary to widen United States Route 91 from Belleville, Kansas, to the Nebraska border. Such funds shall be obligated from amounts allocated to the State of Kansas for fiscal years 1996 and 1997 under such section.

(3) Nonapplicability of certain provisions.—Sections 160(d) and 133(d)(3) of title 23, United States Code, shall not apply to funds allocated to the State of Kansas for fiscal years 1996 and 1997.

SEC. 1015. APPORTIONMENT ADJUSTMENTS.

(a) Hold Harmless.—

(1) General rule.—The amount of funds which, but for this subsection, would be apportioned to a State for each of the fiscal years 1992 through 1997 under section 104(b)(3) of title 23, United States Code, for the surface transportation program shall be increased or decreased by an amount which, when added to or subtracted from the aggregate amount of funds apportioned to the State for such fiscal year and funds allocated to the State for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, under section 202 of such title for the Federal lands highways program, section 160 of such title for the reimbursement program, and section 1013(c) of this Act for the donor State bonus program, will result in the percentage of amounts so apportioned and allocated to all States being equal to the percentage listed for such State in paragraph (2).

(2) State percentages.—For purposes of paragraph (1) the percentage of amounts apportioned and allocated which are referred to in paragraph (1) for each State and the District of Columbia shall be determined in accordance with the following table:

States:	Adjustment Percentage
Alabama	1.74
Alaska	1.28
Arizona	1.49
Arkansas	1.20
California	9.45
Colorado	1.35
Connecticut	1.78
Delaware	0.41
District of Columbia	0.53
Florida	4.14
Georgia	2.97
Hawaii	0.57
Idaho	0.69
Illinois	3.72
Indiana	2.20
Iowa	1.25
Kansas	1.14
Kentucky	1.52
Louisiana	1.55
Maine	0.50
Maryland	1.69
Massachusetts	4.36
Michigan	2.81
Minnesota	1.58
Mississippi	1.15
Missouri	2.23
Montana	0.97
Nebraska	0.83
Nevada	0.64
New Hampshire	0.48
New Jersey	2.87
New Mexico	1.08
New York	5.37
North Carolina	2.65
North Dakota	0.62
Ohio	3.73
Oklahoma	1.42
Oregon	1.26
Pennsylvania	4.38
Rhode Island	0.54
South Carolina	1.41
South Dakota	0.71
Tennessee	2.08
Texas	6.36
Utah	0.77
Vermont	0.44
Virginia	2.27
Washington	2.06
West Virginia	0.94
Wisconsin	1.70
Wyoming	0.67

(b) 90 Percent of Payment Adjustments.—

(1) General rule.—For each of fiscal years 1992 through 1997, the Secretary shall allocate among the States amounts sufficient to ensure that a State's total apportionments for such fiscal year and allocations for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, section 202 of such title for the Federal lands highways program, section 1013(c) of this Act for the donor State bonus program, section 160 of such title for the reimbursement program, and subsection (a) of this section for hold harmless is not less than 90 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than Mass Transit Account) in the latest fiscal year in which data is available.

(2) Transfer of allocated amounts to STP apportionment.—Subject to subsection (d) of this section, the Secretary shall transfer amounts allocated to a State pursuant to paragraph (1) to the apportionment of such State under section 104(b)(3) for the surface transportation program.

(c) Additional Allocation.—Subject to subsection (d) of this section, the Secretary shall allocate to the State of Wisconsin $40,000,000 for fiscal year 1992 and $47,800,000 for each of fiscal years 1993 through 1997 and transfer such amounts to the apportionment of such State under section 104(b)(3) of title 23, United States Code, for the surface transportation program.

(d) Limitation on Applicability of Certain Requirements of STP Program.—The following provisions of section 133 of title 23, United States Code, shall not apply to ½ of the amounts added under subsection (a) to the apportionment of the State for the surface transportation program and of amounts transferred under subsections (b) and (c) to such apportionment:

(1) Subsection (d)(1).

(2) Subsection (d)(2).

(3) Subsection (d)(3).

(e) Authorization of Appropriations.—There are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this section such sums as may be necessary for each of fiscal years 1992 through 1997.

SEC. 1016. PROGRAM EFFICIENCIES.

(a) HOV Passenger Requirements; Engineering Cost Reimbursement.—Section 102 of title 23, United States Code, is amended to read as follows:

"§102. Program efficiencies

"(a) HOV Passenger Requirements.—A State highway department shall establish the occupancy requirements of vehicles operating in high occupancy vehicle lanes; except that no fewer than 2 occupants per vehicle may be required and, subject to section 163 of the Surface Transportation Assistance Act of 1982, motorcycles and bicycles shall not be considered single occupant vehicles.

"(b) Engineering Cost Reimbursement.—If on-site construction of, or acquisition of right-of-way for, a highway project is not commenced within 10 years after the date on which Federal funds are first made available, out of the Highway Trust Fund (other than Mass Transit Account), for preliminary engineering of such project, the State shall pay an amount equal to the amount of Federal funds made available for such engineering. The Secretary shall deposit in such Fund all amounts paid to the Secretary under this section.".

(b) Project Approval.—Section 106 of such title is amended—

(1) in subsection (a) by inserting "this section and" before "section 117"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) Special Rules.—

"(1) 3R projects on NHS.—Notwithstanding any other provision of this title, a State highway department may approve, on a project by project basis, plans, specifications, and estimates for projects to resurface, restore, and rehabilitate highways on the National Highway System if the State certifies that all work will meet or exceed the standards approved by the Secretary under section 109(c).

"(2) Non-NHS projects and low-cost NHS projects.—Any State may request that the Secretary no longer review and approve plans, specifications, and estimates for any project (including any highway project on the National Highway System with an estimated construction cost of less than $1,000,000 but excluding any other highway project on the National Highway System). After receiving any such notification, the Secretary shall undertake project review only as requested by the State.

"(3) Safety considerations.—Safety considerations for projects subject to this subsection may be met by phase construction consistent with an operative safety management system established in accordance with section 303.".

(c) Standards.—Section 109(c) of such title is amended to read as follows:

"(c) Design and Construction Standards for NHS.—Design and construction standards to be adopted for new construction on the National Highway System, for reconstruction on the National Highway System, and for resurfacing, restoring, and rehabilitating multilane limited access highways on the National Highway System shall be those approved by the Secretary in cooperation with the State highway departments. All eligible work for such projects shall meet or exceed such standards.".

(d) Compliance With State Laws for Non-NHS Projects.—Section 109 of such title is amended by adding at the end the following new subsection:

"(p) Compliance With State Laws for Non-NHS Projects.—Projects (other than highway projects on the National Highway System) shall be designed, constructed, operated, and main-

tained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.".

(e) HISTORIC AND SCENIC VALUES.—Section 109 of such title is amended by adding at the end the following new subsection:

"(q) HISTORIC AND SCENIC VALUES.—If a proposed project under sections 103(e)(4), 133, or 144 involves a historic facility or is located in an area of historic or scenic value, the Secretary may approve such project notwithstanding the requirements of subsections (a) and (b) of this section and section 133(c) if such project is designed to standards that allow for the preservation of such historic or scenic value and such project is designed with mitigation measures to allow preservation of such value and ensure safe use of the facility.".

(f) CONFORMING AMENDMENTS.—

(1) STANDARDS.—Section 109 of such title is amended—

(A) in subsection (a) by striking "projects on any Federal-aid system" and inserting "highway projects under this chapter"; and

(B) in subsection (l)(1) by striking "Federal-aid system" and inserting "Federal-aid highway".

(2) CERTIFICATION ACCEPTANCE.—Section 117 of such title is amended—

(A) in subsection (a) by striking "on Federal-aid systems, except" and inserting "under this chapter, except projects on";

(B) in subsection (a) by inserting "or other transportation" before "construction,";

(C) by striking subsection (b) and inserting the following:

"(b) The Secretary may accept projects based on inspections of a type and frequency necessary to ensure the projects are completed in accordance with appropriate standards."; and

(D) in subsection (e) by inserting ", section 106(b), section 133, and section 149" after "in this section".

(3) CHAPTER ANALYSIS.—The analysis of chapter 1 of such title, is amended by striking

"102. Authorizations."
and inserting

"102. Program efficiencies.".

(g) LIMITATION ON CERTAIN EXPENDITURES.—No Federal funds may be expended for any highway project on any portion of the scenic highway known as "Ministerial Road" between route 138 and route 1 in the State of Rhode Island unless the Governor of such State and the town council of the town of South Kingstown, Rhode Island, first agree to the design.

SEC. 1017. ACQUISITION OF RIGHTS-OF-WAY.

(a) RIGHT-OF-WAY REVOLVING FUND.—Sections 108(a) and 108(c)(3) of title 23, United States Code, are each amended by striking "ten" and inserting "20".

(b) EARLY ACQUISITION OF RIGHTS-OF-WAY.—Section 108 of such title is further amended by adding at the end the following new subsection:

"(d) EARLY ACQUISITION OF RIGHTS-OF-WAY.—

"(1) GENERAL RULE.—Subject to paragraph (2), funds apportioned to a State under this title may be used to participate in the payment of—

"(A) costs incurred by the State for acquisition of rights-of-way, acquired in advance of any Federal approval or authorization, if the rights-of-way are subsequently incorporated into a project eligible for surface transportation program funds; and

"(B) costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values.

"(2) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title when the rights-of-way acquired are incorporated into a project eligible for surface transportation program funds, if the State demonstrates to the Secretary and the Secretary finds that—

"(A) any land acquired, and relocation assistance provided, complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

"(B) the requirements of title VI of the Civil Rights Act of 1964 have been complied with;

"(C) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and the acquisition is certified by the Governor as consistent with the State plans before the acquisition;

"(D) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this title;

"(E) the alternative for which the right-of-way is acquired is selected by the State pursuant to regulations to be issued by the Secretary which provide for the consideration of the environmental impacts of various alternatives;

"(F) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the right-of-way was acquired by the State, and the acquisition has been approved by the Secretary under this Act, and in compliance with section 4(f) of the Department of Transportation Act, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

"(G) before the time that the cost incurred by a State is approved for Federal participation, both the Secretary and the Administrator of the Environmental Protection Agency have concurred that the property acquired in advance of Federal approval or authorization did not influence the environmental assessment of the project, the decision relative to the need to construct the project, or the selection of the project design or location.".

(c) PRESERVATION OF TRANSPORTATION CORRIDORS REPORT.—The Secretary, in consultation with the States, shall report to Congress within 2 years after the date of the enactment of this Act, a national list of the rights-of-way identified by the metropolitan planning organizations and the States (under sections 134 and 135 of title 23, United States Code), including the total mileage involved, an estimate of the total costs, and a strategy for preventing further loss of rights-of-way including the desirability of creating a transportation right-of-way land bank to preserve vital corridors.

SEC. 1018. PRECONSTRUCTION ACTIVITIES.

(a) LIMITATION ON ESTIMATES FOR CONSTRUCTION ENGINEERING.—Section 106(c) of title 23, United States Code, is amended to read as follows:

"(c) LIMITATION ON ESTIMATES FOR CONSTRUCTION ENGINEERING.—Items included in all such estimates for construction engineering for a State for a fiscal year shall not exceed, in the aggregate, 15 percent of the total estimated costs of all projects financed within the boundaries of the State with Federal-aid highway funds in such fiscal year, after excluding from such total estimate costs, the estimated costs of rights-of-way, preliminary engineering, and construction engineering.".

(b) CONFORMING AMENDMENTS.—Section 121(d) of such title is amended—

(1) by striking "120" and inserting "106(c), 120,"; and

(2) by striking the last sentence.

SEC. 1019. CONVICT PRODUCED MATERIALS.

Section 114(b)(2) of title 23, United States Code, is amended by inserting "after July 1, 1991," after "Materials produced".

SEC. 1020. PERIOD OF AVAILABILITY.

(a) DATE AND PERIOD OF AVAILABILITY; DISCRETIONARY PROJECTS.—Section 118 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this title shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

"(b) PERIOD OF AVAILABILITY; DISCRETIONARY PROJECTS.—

"(1) INTERSTATE CONSTRUCTION FUNDS.—Funds apportioned or allocated for Interstate construction in a State shall remain available for obligation in that State until the last day of the fiscal year in which they are apportioned or allocated. Sums not obligated by the last day of the fiscal year in which they are apportioned or allocated shall be allocated to other States, except Massachusetts, at the discretion of the Secretary. All sums apportioned or allocated on or after October 1, 1994, shall remain available in the State until expended. All sums apportioned or allocated to Massachusetts on or before October 1, 1989, shall remain available until expended.

"(2) OTHER FUNDS.—Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title (other than for Interstate construction) in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.".

(b) SET ASIDE FOR DISCRETIONARY PROJECTS.—Section 118(c) of such title is amended—

(1) by striking "1983" and inserting "1992";

(2) by striking "$300,000,000" and inserting "$100,000,000"; and

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) SET ASIDE FOR 4R PROJECTS.—

"(A) IN GENERAL.—Before any apportionment is made under section 104(b)(1) of this title, the Secretary shall set aside $54,000,000 for fiscal year 1992, $64,000,000 for each fiscal years 1993, 1994, 1995, and 1996, and $65,000,000 for fiscal year 1997 for obligation by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing any route or portion thereof on the Interstate System (other than any highway designated as a part of the Interstate System under section 139 and any toll road on the Interstate System not subject to an agreement under section 119(e) of this title, as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991). Of the amounts set aside under the preceding sentence, the Secretary shall obligate $16,000,000 for fiscal year 1992 and $17,000,000 for each of fiscal years 1993 and 1994 for improvements on the Kennedy Expressway in Chicago, Illinois. The remainder of such funds shall be made available by the Secretary to any State applying for such funds, if the Secretary determines that—

"(i) the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments under section 104(b)(1) other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System which has been submitted by the State to the Secretary for approval; and

"(ii) the applicant is willing and able to (I) obligate the funds within 1 year of the date the

funds are made available, (II) apply them to a ready-to-commence project, and (III) in the case of construction work, begin work within 90 days of obligation.

"(B) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under subparagraph (A), the Secretary shall give priority consideration to any project the cost of which exceeds $10,000,000 on any high volume route in an urban area or a high truck-volume route in a rural area.

"(C) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this paragraph shall remain available until expended.".

(c) CONFORMING AMENDMENT.—Section 118(d) of such title is amended by striking "(b)(2)" and inserting "(b)(1)".

(d) ALASKA AND PUERTO RICO.—Section 118(f) of such title is amended by striking "on a Federal-aid system".

SEC. 1021. FEDERAL SHARE.

(a) IN GENERAL.—Section 120 of title 23, United States Code, is amended by striking subsections (a), (b), (c), and (d) and inserting the following new subsections:

"(a) INTERSTATE SYSTEM PROJECTS.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost thereof, plus a percentage of the remaining 10 percent of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area; except that such Federal share payable on any project in any State shall not exceed 95 percent of the total cost of such project.

"(b) OTHER PROJECTS.—Except as otherwise provided in this title, the Federal share payable on account of any project or activity carried out under this title (other than a project subject to subsection (a)) shall be—

"(1) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands therein, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

"(2) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area;

except that the Federal share payable on any project in a State shall not exceed 95 percent of the total cost of any such project. In any case where a State elects to have the Federal share provided in paragraph (2) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring such State to use solely for purposes eligible for assistance under this title (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in paragraph (2) and what its share would be if it elected to pay the share provided in paragraph (1) for all projects subject to such agreement.

"(c) INCREASED FEDERAL SHARE FOR CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, pavement marking, commuter carpooling and vanpooling, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection.".

(b) CONFORMING AMENDMENTS.—Section 120 of such title is further amended—

(1) by striking subsections (j), (k), (l), and (m),

(2) by redesignating subsections (e), (f), (g), (h), (i), and (n) as subsections (d), (e), (f), (g), (h), and (i) respectively, and

(3) in subsection (d) as so redesignated by striking "and (c)" and inserting "and (b)".

(c) LIMITATION ON STATUTORY CONSTRUCTION.—The amendments made by this section shall not be construed to affect (1) the Federal share established by the Supplemental Appropriations Act, 1983 (97 Stat. 329) for construction of any highway on the Interstate System, and (2) the Federal share established by section 120(k) of such title, as in effect on the day before the date of the enactment of this Act, with respect to United States Highway 71 in Arkansas from the I-40 intersection to the Missouri-Arkansas State line.

(d) HIGHER FEDERAL SHARE.—If any highway project authorized to be carried out under section 1103 through 1108 of this Act is a project which would be eligible for assistance under section 204 of title 23, United States Code, or is a project on a federally owned bridge, the Federal share payable on account of such project shall be 100 percent for purposes of this Act.

SEC. 1022. EMERGENCY RELIEF.

(a) EXTENSION OF TIME PERIOD.—Section 120(d) of title 23, United States Code, as redesignated by section 1021(b) of this Act, is amended by striking "90 days" and inserting "180 days".

(b) DOLLAR LIMITATION FOR TERRITORIES.—Section 125(b)(2) of such title is amended by striking "$5,000,000" and inserting "$20,000,000".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall only apply to natural disasters and catastrophic failures occurring after the date of the enactment of this Act.

SEC. 1023. GROSS VEHICLE WEIGHT RESTRICTION.

(a) CONFORMING AMENDMENTS.—Section 127(a) of title 23, United States Code, is amended—

(1) by striking "funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned" and inserting "funds shall be apportioned in any fiscal year under section 104(b)(1) of this title"; and

(2) in the fourth sentence by inserting after "thereof" the following: ", other than vehicles or combinations subject to subsection (d) of this section,".

(b) OPERATION OF LONGER COMBINATION VEHICLES.—Section 127 of such title is amended by adding at the end the following new subsection:

"(d) LONGER COMBINATION VEHICLES.—

"(1) PROHIBITION.—

"(A) GENERAL CONTINUATION RULE.—A longer combination vehicle may continue to operate only if the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 1991, or pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186).

"(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991; except that subject to such regulations as may be issued by the Secretary pursuant to paragraph (5) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

"(C) WYOMING.—In addition to those vehicles allowed under subparagraph (A), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in subsection (a) and do not exceed 117,000 pounds gross vehicle weight.

"(D) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under subparagraph (A), such State may allow longer combination vehicles with 3 cargo carrying units of 28½ feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

"(E) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under subparagraph (A), such State may allow the operation of longer combination vehicles which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 5, 1991.

"(2) ADDITIONAL STATE RESTRICTIONS.—

"(A) IN GENERAL.—Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection; except that such restrictions or prohibitions shall be consistent with the requirements of sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311, 2312, and 2316).

"(B) MINOR ADJUSTMENTS.—Any State further restricting or prohibiting the operations of longer combination vehicles or making minor adjustments of a temporary and emergency nature as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (5) of this subsection, shall, within 30 days, advise the Secretary of such action, and the Secretary shall publish a notice of such action in the Federal Register.

"(3) PUBLICATION OF LIST.—

"(A) SUBMISSION TO SECRETARY.—Within 60 days of the date of the enactment of this subsection, each State (i) shall submit to the Secretary for publication in the Federal Register a complete list of (I) all operations of longer combination vehicles being conducted as of June 1, 1991, pursuant to State statutes and regulations; (II) all limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection; and (III) such statutes, regulations, limitations, and conditions; and (ii) shall submit to the Secretary copies of such statutes, regulations, limitations, and conditions.

"(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this sub-

section, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information.

"(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual operation on a regular or periodic basis on or before June 1, 1991.

"(D) FINAL LIST.—Except as modified pursuant to paragraph (1)(C) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, longer combination vehicles may not operate on the Interstate System except as provided in the list.

"(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list the Secretary shall correct the publication under subparagraph (D) to reflect the determination of the Secretary.

"(4) LONGER COMBINATION VEHICLE DEFINED.—For purposes of this section, the term 'longer combination vehicle' means any combination of a truck tractor and 2 or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds.

"(5) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (1)(B).".

(c) STATE CERTIFICATION.—Section 141(b) of such title is amended by adding at the end the following new sentence: "Each State shall also certify that it is enforcing and complying with the provisions of section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)).".

(d) INTERSTATE ROUTE 68.—Section 127 of such title is amended by adding at the end the following new subsection:

"(e) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON INTERSTATE ROUTE 68.—The single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate Route 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal, logs, and pulpwood if such vehicle is of a type of vehicle as was operating in such counties on United States Route 40 or 48 for such purpose on August 1, 1991.".

(e) FIREFIGHTING VEHICLES.—

(1) TEMPORARY EXEMPTION.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations and the bridge formula for vehicles using the National System of Interstate and Defense Highways, shall not apply, in the 2-year period beginning on the date of the enactment of this Act, to any existing vehicle which is used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which is in actual operation before such date of enactment and to any new vehicle to be used for such purpose while such vehicle is being delivered to a firefighting agency. The Secretary may extend such 2-year period for an additional year.

(2) STUDY.—The Secretary shall conduct a study—

(A) of State laws regulating the use on the National System of Interstate and Defense Highways of vehicles which are used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which are being delivered to or operated by a firefighting agency; and

(B) of the issuance of permits by States which exempt such vehicles from the requirements of the second sentence of section 127 of title 23, United States Code.

(3) PURPOSES.—The purposes of the study under this subsection are to determine whether or not such State laws and such section 127 need to be modified with regard to such vehicles and whether or not a permanent exemption should be made for such vehicles from the requirements of such laws and section 127 or whether or not the bridge formula set forth in such section should be modified as it applies to such vehicles.

(4) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (2), together with recommendations.

(f) MONTANA-CANADA TRADE.—The Secretary shall not withhold funds from the State of Montana on the basis of actions taken by the State of Montana pursuant to a draft memorandum of understanding with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana; except that such actions do not include actions not permitted by the State of Montana on or before June 1, 1991.

(g) TRANSPORTERS OF WATER WELL DRILLING RIGS.—

(1) STUDY.—The Secretary shall conduct a study of State and Federal regulations pertaining to transporters of water well drilling rigs on public highways for the purpose of identifying requirements which place a burden on such transporters without enhancing safety or preservation of public highways.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with any legislative and administrative recommendations of the Secretary.

SEC. 1024. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 134 of title 23, United States Code, is amended to read as follows:

"§134. Metropolitan planning

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

"(2) MEMBERSHIP OF CERTAIN MPO'S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) REDESIGNATION.—

"(A) PROCEDURES.—A metropolitan planning organization may be redesignated by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000, or (ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

"(6) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.

"(c) METROPOLITAN AREA BOUNDARIES.—For the purposes of this section, the boundaries of a

metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

"(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.

"(e) COORDINATION OF MPO'S.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

"(f) FACTORS TO BE CONSIDERED.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum, consider the following:

"(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

"(2) The consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives.

"(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur.

"(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans.

"(5) The programming of expenditure on transportation enhancement activities as required in section 133.

"(6) The effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded.

"(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

"(8) The need for connectivity of roads within the metropolitan area with roads outside the metropolitan area.

"(9) The transportation needs identified through use of the management systems required by section 303 of this title.

"(10) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors and identification of those corridors for which action is most needed to prevent destruction or loss.

"(11) Methods to enhance the efficient movement of freight.

"(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(13) The overall social, economic, energy, and environmental effects of transportation decisions.

"(14) Methods to expand and enhance transit services and to increase the use of such services.

"(15) Capital investments that would result in increased security in transit systems.

"(g) DEVELOPMENT OF LONG RANGE PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long range plan for its metropolitan area in accordance with the requirements of this subsection.

"(2) LONG RANGE PLAN.—A long range plan under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum:

"(A) Identify transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long range plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

"(B) Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing.

"(C) Assess capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

"(D) Indicate as appropriate proposed transportation enhancement activities.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long range plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a long range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long range plan, in a manner that the Secretary deems appropriate.

"(5) PUBLICATION OF LONG RANGE PLAN.—Each long range plan prepared by a metropolitan planning organization shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The metropolitan planning organization designated for a metropolitan area, in cooperation with the State and affected transit operators, shall develop a transportation improvement program for the area for which such organization is designated. In developing the program, the metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include the following:

"(A) A priority list of projects and project segments to be carried out within each 3-year period after the initial adoption of the transportation improvement program.

"(B) A financial plan that demonstrates how the transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including value capture, tolls, and congestion pricing.

"(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (i)(4), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement program for the area.

"(4) MAJOR CAPITAL INVESTMENTS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements under such Act applicable to highway projects. Nothing in this section shall be construed to affect the applicability of such Act to transit or highway projects.

"(5) INCLUDED PROJECTS.—A transportation improvement program for a metropolitan area developed under this subsection shall include projects within the area which are proposed for funding under this title and the Federal Transit Act which are consistent with the long range plan developed under subsection (g) for the area. The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(6) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—The Secretary shall designate as transportation management areas all

urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96-551.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and the Federal Transit Act through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section.

"(4) SELECTION OF PROJECTS.—All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) or pursuant to the Federal Transit Act shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management area on the National Highway System or pursuant to the Bridge and Interstate Maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area and shall be in conformance with the transportation improvement program for such area.

"(5) CERTIFICATION.—The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of this section and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 8(o) of the Federal Transit Act.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k) TRANSFER OF FUNDS.—Funds made available for a highway project under the Federal Transit Act shall be transferred to and administered by the Secretary in accordance with the requirements of this title. Funds made available for a transit project under the Federal-Aid Highway Act of 1991 shall be transferred to and administered by the Secretary in accordance with the requirements of the Federal Transit Act.

"(l) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Notwithstanding any other provisions of this title or the Federal Transit Act, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(m) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or the Federal Transit Act.

"(n) REPROGRAMMING OF SET ASIDE FUNDS.—Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this section may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135.".

(b) AMENDMENTS TO SECTION 104.—Section 104(f) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking "one-half per centum" and inserting "1 percent";

(2) in paragraph (1) by striking "the Federal-aid systems" and inserting "programs authorized under this title";

(3) in paragraph (1) by striking "except that" and all that follows before the period and inserting "except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate construction and Interstate substitute programs";

(4) in paragraph (3) by striking "section 120" and inserting "section 120(j)";

(5) in paragraph (4) by striking "and metropolitan area transportation needs" and inserting "attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable requirements of Federal law"; and

(6) by adding at the end the following new paragraph:

"(5) DETERMINATION OF POPULATION FIGURES.—For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.".

(c) CONFORMING AMENDMENTS.—

(1) The analysis of chapter 1 of title 23, United States Code, is amended by striking

"Sec. 134. Transportation planning in certain urban areas."

and inserting

"Sec. 134. Metropolitan planning.".

(2) Section 104(f)(3) of title 23, United States Code, is amended by striking "designated by the State as being".

SEC. 1025. STATEWIDE PLANNING.

(a) IN GENERAL.—Section 135 of title 23, United States Code, is amended to read as follows:

"§135. Statewide planning

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve all areas of the State efficiently and effectively. Subject to section 134 of this title, the State shall develop transportation plans and programs for all areas of the State. Such plans and programs shall provide for development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal State transportation system. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall coordinate such planning with the transportation planning activities carried out under section 134 of this title for metropolitan areas of the State and shall carry out its responsibilities for the development of the transportation portion of the State implementation plan to the extent required by the Clean Air Act.

"(c) STATE PLANNING PROCESS.—Each State shall undertake a continuous transportation planning process which shall, at a minimum, consider the following:

"(1) The results of the management systems required pursuant to subsection (b).

"(2) Any Federal, State, or local energy use goals, objectives, programs, or requirements.

"(3) Strategies for incorporating bicycle transportation facilities and pedestrian walkways in projects where appropriate throughout the State.

"(4) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations.

"(5) The transportation needs of nonmetropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation.

"(6) Any metropolitan area plan developed pursuant to section 134.

"(7) Connectivity between metropolitan areas within the State and with metropolitan areas in other States.

"(8) Recreational travel and tourism.

"(9) Any State plan developed pursuant to the Federal Water Pollution Control Act.

"(10) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities.

"(11) The overall social, economic, energy, and environmental effects of transportation decisions.

"(12) Methods to reduce traffic congestion and to prevent traffic congestion from developing in

areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant motor vehicle travel.

"(13) Methods to expand and enhance transit services and to increase the use of such services.

"(14) The effect of transportation decisions on land use and land development, including the need for consistency between transportation decisionmaking and the provisions of all applicable short-range and long-range land use and development plans.

"(15) The transportation needs identified through use of the management systems required by section 303 of this title.

"(16) Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing.

"(17) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identify those corridors for which action is most needed to prevent destruction or loss.

"(18) Long-range needs of the State transportation system.

"(19) Methods to enhance the efficient movement of commercial motor vehicles.

"(20) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(d) ADDITIONAL REQUIREMENTS.—Each State in carrying out planning under this section shall, at a minimum, consider the following:

"(1) The coordination of transportation plans and programs developed for metropolitan areas of the State under section 134 with the State transportation plans and programs developed under this section and the reconciliation of such plans and programs as necessary to ensure connectivity within transportation systems.

"(2) Investment strategies to improve adjoining State and local roads that support rural economic growth and tourism development, Federal agency renewable resources management, and multipurpose land management practices, including recreation development.

"(3) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the State.

"(e) LONG-RANGE PLAN.—The State shall develop a long-range transportation plan for all areas of the State. With respect to metropolitan areas of the State, the plan shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. With respect to areas of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in cooperation with such government and the Secretary of the Interior. In developing the plan, the State shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan. In addition, the State shall develop a long-range plan for bicycle transportation and pedestrian walkways for appropriate areas of the State which shall be incorporated into the long-range transportation plan.

"(f) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The State shall develop a transportation improvement program for all areas of the State. With respect to metropolitan areas of the State, the program shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—A transportation improvement program for a State developed under this subsection shall include projects within the boundaries of the State which are proposed for funding under this title and the Federal Transit Act, which are consistent with the long-range plan developed under this section for the State, which are consistent with the metropolitan transportation improvement program, and which in areas designated as nonattainment for ozone or carbon monoxide under the Clean Air Act conform with the applicable State implementation plan developed pursuant to the Clean Air Act. The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for such project within the time period contemplated for completion of the project. The program shall also reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) PROJECT SELECTION FOR AREAS LESS THAN 50,000 POPULATION.—Projects undertaken in areas of less than 50,000 population (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) shall be selected by the State in cooperation with the affected local officials. Projects undertaken in such areas on the National Highway System or pursuant to the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials.

"(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and approved no less frequently than biennially by the Secretary.

"(g) FUNDING.—Funds set aside pursuant to section 307(c)(1) of title 23, United States Code, shall be available to carry out the requirements of this section.

"(h) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section, section 134, and section 8 of the Federal Transit Act, State laws, rules or regulations pertaining to congestion management systems or programs may constitute the congestion management system under this Act if the Secretary finds that the State laws, rules or regulations are consistent with, and fulfill the intent of, the purposes of this section, section 134 or section 8 of such Act, as appropriate.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 135 and inserting the following:

"135. Statewide planning.".

SEC. 1026. NONDISCRIMINATION.

(a) FUNDING OF HIGHWAY CONSTRUCTION TRAINING.—Subsection (b) of section 140 of title 23, United States Code, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, not to exceed ¼ of 1 percent of funds apportioned to a State for the surface transportation program under section 104(b) and the bridge program under section 144 may be available to carry out this subsection upon request of the State highway department to the Secretary.".

(b) ELIGIBILITY FOR TRAINING PROGRAMS.—Subsections (b) and (c) of section 140 of such title are each amended by inserting "Indian tribal government," after "institution,".

(c) INDIAN EMPLOYMENT PREFERENCE.—Section 140(d) of such title is amended by inserting after the first sentence the following new sentence: "States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations.".

SEC. 1027. PUBLIC TRANSPORTATION.

(a) IMPROVED ACCESS BETWEEN INTERCITY AND RURAL BUS SERVICE.—Section 142(a)(2) of title 23, United States Code, is amended—

(1) by striking ", beginning with the fiscal year ending June 30, 1975,";

(2) by striking "Federal-aid urban system," the first place it appears and inserting "the surface transportation program"; and

(3) by striking "104(b)(6)" the first place it appears and all that follows through the period at the end and inserting "104(b)(3) for carrying out any capital transit project eligible for assistance under the Federal Transit Act, capital improvement to provide access and coordination between intercity and rural bus service, and construction of facilities to provide connections between highway transportation and other modes of transportation.".

(b) ACCOMMODATION OF OTHER MODES.—Section 142(c) of such title is amended to read as follows:

"(c) ACCOMMODATION OF OTHER MODES OF TRANSPORTATION.—The Secretary may approve as a project on any Federal-aid system for payment from sums apportioned under section 104(b) (other than section 104(b)(5)(A)) modifications to existing highway facilities on such system necessary to accommodate other modes of transportation if such modifications will not adversely affect automotive safety.".

(c) METROPOLITAN PLANNING.—Section 142(d) of such title is amended to read as follows:

"(d) METROPOLITAN PLANNING.—Any project carried out under this section in an urbanized area shall be subject to the metropolitan planning requirements of section 134.".

(d) AVAILABILITY OF RIGHTS-OF-WAY.—Section 142(g) of such title is amended to read as follows:

"(g) AVAILABILITY OF RIGHTS-OF-WAY.—In any case where sufficient land or air space exits within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, and highway and nonhighway public mass transit facilities, the Secretary shall authorize a State to make such lands, air space, and rights-of-way available with or without charge to a publicly or privately owned authority or company or any other person for such purposes if such accommodation will not adversely affect automotive safety.".

(e) CONFORMING AMENDMENTS TO SECTION 142.—Section 142 of such title is amended—

(1) in subsection (e)(2) by striking "Federal-aid urban system" and inserting "surface transportation program";

(2) by striking subsections (f) and (k);

(3) by redesignating subsections (g), (h), (i), and (j) as subsections (f), (g), (h), and (i), respectively;

(4) in subsection (g), as so redesignated, by striking "or subsection (c) of this section"; and

(5) in each of subsections (h) and (i), as so redesignated, by striking "and subsection (c)".

(f) CONFORMING AMENDMENT TO SECTION 156.—Section 156 of such title is amended by striking "States shall" and inserting "Subject to section 142(f), States shall".

SEC. 1028. BRIDGE PROGRAM.

(a) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—Section 144(c) of title 23, United States Code, is amended by adding at the end the following new paragraph:

"(3) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall (A) inventory all those highway bridges on

Indian reservation roads and park roads which are bridges over waterways, other topographical barriers, other highways, and railroads, (B) classify them according to serviceability, safety, and essentiality for public use, (C) based on the classification, assign each a priority for replacement or rehabilitation, and (D) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.".

(b) Bridge Structure Painting and Acetate Application.—Section 144(d) of such title is amended—

(1) by inserting after the first sentence the following new sentence: "Whenever any State makes application to the Secretary for assistance in painting and seismic retrofit, or applying calcium magnesium acetate to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting or seismic retrofit of, or application of such acetate to, such structure."; and

(2) by inserting after "projects" the first place it appears in the last sentence the following: "(other than projects for bridge structure painting or seismic retrofit or application of such acetate)".

(c) Federal Share.—Section 144(f) of such title is amended by striking "highway bridge replaced or rehabilitated" and inserting "project".

(d) Discretionary Bridge Program.—Section 144(g)(1) of such title is amended to read as follows:

"(1) Discretionary bridge program.—Of the amounts authorized for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 by section 103 of the Intermodal Surface Transportation Efficiency Act of 1991, all but $57,000,000 in the case of fiscal year 1992, $68,000,000 in the case of fiscal years 1993 and 1994, and $69,000,000 in the case of fiscal years 1995, 1996, and 1997 shall be apportioned as provided in subsection (e) of this section. $49,000,000 in the case of fiscal year 1992, $59,500,000 in the case of fiscal years 1993 and 1994, and $60,500,000 in the case of fiscal years 1995, 1996, and 1997 of the amount authorized for each of such fiscal years shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of $49,000,000 in the case of fiscal year 1992, $59,500,000 in the case of fiscal years 1993 and 1994, and $60,500,000 in the case of fiscal years 1995, 1996, and 1997 shall be at the discretion of the Secretary, and $8,500,000 per fiscal year ($8,000,000 in the case of fiscal year 1992) of the amount authorized for each of such fiscal years shall be available in accordance with section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991, relating to highway timber bridges.".

(e) Off-System Bridges.—

(1) Allocation of funds.—Section 144(g)(3) of such title is amended—

(A) by striking "and 1991" and inserting "1991, 1992, 1993, 1994, 1995, 1996, and 1997"; and

(B) by striking "or rehabilitate" and inserting ", rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate to".

(2) Applicability of state standards for projects.—Section 144 of such title is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Applicability of State Standards for Projects.—A project on a Federal-aid highway not under this section shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.".

(f) Set-Aside for Indian Reservation Bridges.—Section 144(g) of this title is amended by adding at the end the following new paragraph:

"(4) Indian reservation bridges.—Not less than 1 percent of the amount apportioned to each State which has an Indian reservation within its boundaries for each fiscal year shall be expended for projects to replace, rehabilitate, paint, or apply calcium magnesium acetate to highway bridges located on Indian reservation roads. Upon determining a State bridge apportionment and before transferring funds to the States, the Secretary shall transfer the Indian reservation bridge allocation under this paragraph to the Secretary of the Interior for expenditure pursuant to this paragraph. The Secretary, after consultation with State and Indian tribal government officials and with the concurrence of the Secretary of the Interior, may, with respect to such State, reduce the requirement for expenditure for bridges under this paragraph when the Secretary determines that there are inadequate needs to justify such expenditure. The non-Federal share payable on account of such a project may be provided from funds made available for Indian reservation roads under chapter 2 of this title.".

(g) Transferability of Bridge Apportionments.—Section 104(g) of such title is amended by inserting before the last sentence the following new sentence: "A State may transfer not to exceed 40 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d)."

SEC. 1029. NATIONAL MAXIMUM SPEED LIMIT COMPLIANCE PROGRAM.

(a) Permanent Extension of 65 MPH Speed Limit Demonstration Program.—Section 154(a) of title 23, United States Code, is amended by striking "Clause (3)" and inserting "Clause (4)" and by striking "or (3)" and inserting the following: "(3) a maximum speed limit in excess of 65 miles per hour on any highway within its jurisdiction located outside an urbanized area of 50,000 population or more (A) which is constructed to interstate standards in accordance with section 109(b) of this title and connected to a highway on the Interstate System, (B) which is a divided 4-lane fully controlled access highway designed or constructed to connect to a highway on the Interstate System posted at 65 miles per hour and constructed to design and construction standards as determined by the Secretary which provide a facility adequate for a speed limit of 65 miles per hour, or (C) which is constructed to the geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and is designated by the Secretary as part of the Interstate System in accordance with section 139(c) of this title, or (4)".

(b) Collection of Data.—Section 154(e) of such title is amended—

(1) by striking "fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour" and inserting "the speed limit on maximum speed limit highways"; and

(2) by adding at the end the following: "Such data shall include, but not be limited to, data on citations, travel speeds, and the posted speed limit and the design characteristics of roads from which such travel speed data are gathered. The Secretary shall issue regulations which ensure (1) that the monitoring programs conducted by the States to collect data for purposes of this subsection are uniform, (2) that devices and equipment under such programs are placed at locations on maximum speed limit highways on a scientifically random basis which takes into account the relative risk, as determined by the Secretary, of motor vehicle accidents occurring considering the classes of such highways and the speeds at which vehicles are traveling on such classes of highways, and (3) that the data submitted under this subsection will be in such form as the Secretary determines is necessary to carry out this section.".

(c) Enforcement.—

(1) Proposed rule.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a proposed rule to establish speed limit enforcement requirements which, at a minimum, shall—

(A) provide for the transfer of apportionments under section 104(b) of title 23, United States Code (other than paragraph (5)), if a State fails to enforce speed limits in accordance with this section and such rule; and

(B) include a formula for determining compliance with the requirements of this section and such rule which—

(i) assigns a greater weight for violations of such speed limits in proportion to the amount by which the speed of the motor vehicle exceeds the speed limit; and

(ii) differentiates between the type of road on which the violations occur.

(2) Factors to consider.—In developing the compliance formula in accordance with paragraph (1), the Secretary shall consider factors relating to the enforcement efforts made by the States and data concerning fatalities and serious injuries occurring on roads to which subsection (a) applies and any other factors relating to speed limit enforcement and speed-related highway safety trends which the Secretary determines appropriate.

(3) Final rule.—Not later than 60 days after the date of publication of the proposed rule under paragraph (1), the Secretary shall publish in the Federal Register a final rule which meets the requirements of paragraph (1) and which shall take effect no later than 12 months after the date of its publication in the Federal Register.

(d) Administration.—The Secretary shall carry out sections 154 and 141(a) of title 23, United States Code, through the National Highway Traffic Safety Administration and the Federal Highway Administration.

(e) Annual Report.—Section 154 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(i) Annual Report.—The Secretary shall transmit to Congress an annual report on travel speeds of motor vehicles on roads subject to subsection (a), State enforcement efforts with respect to speeding violations on such roads, and speed-related highway safety statistics.".

(f) Enforcement Moratorium.—No State shall be subject under section 141 or 154 of title 23, United States Code, to withholding of apportionments for failure to comply in fiscal years 1990 and 1991 with section 154 of such title, as in effect on the day before the date of the enactment of this Act, or section 141(a) of such title.

(g) Repeal of Obsolete Enforcement Provisions.—On the 730th day following the date of the enactment of this Act, subsections (f), (g), and (h) of section 154 of title 23, United States Code, are repealed.

SEC. 1030. ROAD SEALING ON INDIAN RESERVATION ROADS.

Section 204(c) of title 23, United States Code, is amended by adding at the end the following new sentences: "Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend not more than 15 percent funds apportioned for Indian reservation roads from the Highway Trust Fund for the purpose of road sealing projects. The Bureau of Indian

Affairs shall continue to retain responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.".

SEC. 1031. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) PROGRAM.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 152 the following new section:

"§153. Use of safety belts and motorcycle helmets

"(a) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to a State in a fiscal year in accordance with this section if the State has in effect in such fiscal year—

"(1) a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(2) a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

"(b) USE OF GRANTS.—A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

"(1) EDUCATION.—To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

"(2) TRAINING.—To train law enforcement officers in the enforcement of State laws described in subsection (a).

"(3) MONITORING.—To monitor the rate of compliance with State laws described in subsection (a).

"(4) ENFORCEMENT.—To enforce State laws described in subsection (a).

"(c) MAINTENANCE OF EFFORT.—A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's 2 fiscal years preceding the date of the enactment of this section.

"(d) FEDERAL SHARE.—A State may not receive a grant under this section in more than 3 fiscal years. The Federal share payable for a grant under this section shall not exceed—

"(1) in the first fiscal year the State receives a grant, 75 percent of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

"(2) in the second fiscal year the State receives a grant, 50 percent of the cost of implementing in such fiscal year such traffic safety program; and

"(3) in the third fiscal year the State receives a grant, 25 percent of the cost of implementing in such fiscal year such traffic safety program.

"(e) MAXIMUM AGGREGATE AMOUNT OF GRANTS.—The aggregate amount of grants made to a State under this section shall not exceed 90 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

"(f) ELIGIBILITY FOR GRANTS.—

"(1) GENERAL RULE.—A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

"(2) SECOND-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 75 percent; and

"(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 50 percent.

"(3) THIRD-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 85 percent; and

"(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 70 percent.

"(g) MEASUREMENTS OF RATES OF COMPLIANCE.—For the purposes of subsections (f)(2) and (f)(3), a State shall measure compliance with State laws described in subsection (a) using methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

"(h) PENALTY.—

"(1) FISCAL YEAR 1994.—If, at any time in fiscal year 1994, a State does not have in effect a law described in subsection (a)(1) and a law described in subsection (a)(2), the Secretary shall transfer 1½ percent of the funds apportioned to the State for fiscal year 1995 under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

"(2) THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect a law described in subsection (a)(1) and a law described in subsection (a)(2), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

"(3) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred to the apportionment of section 402 shall be 100 percent.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 which is determined by multiplying—

"(A) the amount of funds transferred to the apportionment of section 402 of the State under section 402 for such fiscal year; by

"(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for such fiscal year.

"(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs carried out by the Federal Highway Administration under section 402 shall apply to funds transferred under this subsection to the apportionment of section 402.

"(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) MOTORCYCLE.—The term 'motorcycle' means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154 of this title.

"(3) PASSENGER VEHICLE.—The term 'passenger vehicle' means a motor vehicle which is designed for transporting 10 individuals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

"(4) SAFETY BELT.—The term 'safety belt' means—

"(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1992. From sums made available to carry out section 402 of this title, the Secretary shall make available $17,000,000 for fiscal year 1992 and $24,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

"(k) APPLICABILITY OF CHAPTER 1 PROVISIONS.—All provisions of this chapter that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 152 the following new item:

"153. Use of safety belts and motorcycle helmets.".

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study or studies to determine the benefits of safety belt use and motorcycle helmet use for individuals involved in motor vehicle crashes and motorcycle crashes, collecting and analyzing data from regional trauma systems regarding differences in the following: the severity of injuries; acute, rehabilitative and long-term medical costs, including the sources of reimbursement and the extent to which these sources cover actual costs; government, employer, and other costs; and mortality and morbidity outcomes. The study shall cover a representative period after January 1, 1990.

(2) REPORT.—The Secretary shall make public a proposed report on the results of the study or studies conducted under this subsection, provide a period of 90 days for public comment on such report, consider such comments, and transmit to Congress a report on the results of such study or studies, together with a summary of such comments, not later than 40 months after the funds for such study are made available by the Secretary.

(3) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1992 or 1993 (or both) to carry out section 153 of title 23, United States Code, the Secretary shall make available $5,000,000 in the aggregate in such fiscal years to carry out this subsection. Such funds shall remain available until expended.

SEC. 1032. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively;

(3) by inserting after "allocate" in subsection (b), as so redesignated, "34 percent of"; and

(4) by striking the period at the end of subsection (b), as so redesignated, and inserting the following: "which are proposed by a State which contains at least 3 percent of the total public lands in the Nation. The Secretary shall allocate 66 percent of the remainder of the authorization for public lands highways for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987, and with respect to these allocations the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through renewable resources and land use planning and the impact of such planning on existing transportation facilities.".

(b) PROJECTS.—Section 204 of such title is amended—

(1) in subsection (a) by striking "forest highways," and by adding at the end of such subsection the following new sentences: "The Secretary, in cooperation with the Secretary of Interior and the Secretary of Agriculture, shall develop appropriate transportation planning procedures and safety, bridge, and pavement management systems for roads funded under the Federal Lands Highway Program. Notwithstanding any other provision of this title, no public lands highway project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project.";

(2) in subsection (b)—

(A) by striking "construction and improvements thereof" and inserting "planning, research, engineering and construction thereof";

(B) by striking "forest highways and"; and

(C) by adding at the end the following new sentence: "Funds available for each class of Federal lands highways shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to or provides access to the areas served by the particular class of Federal lands highways.";

(3) in subsection (c) by striking "on a Federal aid system" and inserting "eligible for funds apportioned under section 104 or section 144 of this title"; and

(4) by striking subsection (h) and inserting the following new subsections:

"(h) ELIGIBLE PROJECTS.—Funds available for each class of Federal lands highways may be available for the following:

"(1) Transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.

"(2) Adjacent vehicular parking areas.

"(3) Interpretive signage.

"(4) Acquisition of necessary scenic easements and scenic or historic sites.

"(5) Provision for pedestrians and bicycles.

"(6) Construction and reconstruction of roadside rest areas including sanitary and water facilities.

"(7) Other appropriate public road facilities such as visitor centers as determined by the Secretary.

"(i) TRANSFERS TO SECRETARY OF INTERIOR.—The Secretary shall transfer to the Secretary of Interior from the appropriation for public land highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.

"(j) INDIAN RESERVATION ROADS PLANNING.—Up to 2 percent of funds made available for Indian reservation roads for each fiscal year shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self-Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and, as may be appropriate, with a State, local government, or metropolitan planning organization, shall develop a transportation improvement program, that includes all Indian reservation road projects proposed for funding. Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary.".

(c) FOREST DEVELOPMENT ROADS AND TRAILS.—Section 205(c) of such title is amended by striking "$15,000" each place it appears and inserting "$50,000".

(d) INDIAN RESERVATION ROADS.—Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled postsecondary vocational institutions.

(e) REPORT.—The Secretary shall undertake a study to determine if the method for allocating funds authorized for Federal lands highways is adequate to meet the relative transportation needs of the Federal lands served. The report shall be submitted within 2 years of the date of the enactment of this Act.

(f) CONFORMING AMENDMENTS.—Section 203 of title 23, United States Code, is amended by striking "forest highways" each place it appears.

SEC. 1033. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended to read as follows:

"§217. Bicycle transportation and pedestrian walkways

"(a) USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(3) of this title for construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use.

"(b) USE OF NATIONAL HIGHWAY SYSTEM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of bicycle transportation facilities on land adjacent to any highway on the National Highway System (other than the Interstate System).

"(c) USE OF FEDERAL LANDS HIGHWAY FUNDS.—Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities in conjunction with such trails, roads, highways, and parkways.

"(d) STATE BICYCLE AND PEDESTRIAN COORDINATORS.—Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

"(e) BRIDGES.—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a highway access to which is fully controlled, on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

"(f) FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be 80 percent.

"(g) PLANNING.—Pedestrian walkways and bicycle transportation facilities to be constructed under this section shall be located and designed pursuant to an overall plan to be developed by each metropolitan planning organization and State and incorporated into their comprehensive annual long-range plans in accordance with sections 134 and 135 of this title, respectively. Such plans shall provide due consideration for safety and contiguous routes.

"(h) USE OF MOTORIZED VEHICLES.—No motorized vehicles shall be permitted on trails and pedestrian walkways under this section, except for—

"(1) maintenance purposes;

"(2) when snow conditions and State or local regulations permit, snowmobiles;

"(3) when State and local regulations permit, motorized wheelchairs; and

"(4) such other circumstances as the Secretary deems appropriate.

"(i) TRANSPORTATION PURPOSE.—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

"(j) BICYCLE TRANSPORTATION FACILITY DEFINED.—For purposes of this section, a 'bicycle transportation facility' means new or improved lanes, paths, or shoulders for use by bicyclists, traffic control devices, shelters, and parking facilities for bicycles.".

SEC. 1034. MANAGEMENT SYSTEMS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 302 the following new section:

"§303. Management systems

"(a) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations for State development, establishment, and implementation of a system for managing each of the following:

"(1) Highway pavement of Federal-aid highways.

"(2) Bridges on and off Federal-aid highways.

"(3) Highway safety.

"(4) Traffic congestion.

"(5) Public transportation facilities and equipment.

"(6) Intermodal transportation facilities and systems.

In metropolitan areas, such systems shall be developed and implemented in cooperation with metropolitan planning organizations. Such regulations may include a compliance schedule for development, establishment, and implementation *of each such system and minimum standards for each such system.*

"(b) TRAFFIC MONITORING.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment.

"(c) STATE REQUIREMENTS.—The Secretary may withhold up to 10 percent of the funds apportioned under this title and under the Federal Transit Act for any fiscal year beginning after September 30, 1995, to any State and any recipient of assistance under such Act in the State unless, in the preceding fiscal year, the State was implementing each of the management systems described in subsection (a) and, before January 1 of the preceding fiscal year, the State certified, in writing, to the Secretary, that the State was implementing each of such management systems in the preceding fiscal year.

"(d) PROCEDURAL REQUIREMENTS.—In developing and implementing a management system under this section, each State shall cooperate with metropolitan planning organizations for urbanized areas of the State and affected agencies receiving assistance under the Federal Transit Act and shall consider the results of the management systems in making project selection decisions under this title and under such Act.

"(e) INTERMODAL REQUIREMENTS.—The management system required under this section for intermodal transportation facilities and systems shall provide for improvement and integration of all of a State's transportation systems and shall include methods of achieving the optimum yield from such systems, methods for increasing productivity in the State, methods for increasing use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

"(f) ANNUAL REPORT.—Not later than January 1 of each calendar year beginning after December 31, 1992, the Secretary shall transmit to Congress a report on the progress being made by the Secretary and the States in carrying out this section.

"(g) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned after September 30, 1991, under subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title for developing and establishing management systems required by this section and funds apportioned under section 144 of this title for developing and establishing the bridge management system required by this section.

"(h) REVIEW OF REGULATIONS.—Not later than 10 days after the date of issuance of any regulation under this section, the Secretary shall transmit a copy of such regulation to Congress for review.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 302 the following new item:

"303. Management systems.".

SEC. 1035. LIMITATION ON DISCOVERY OF CERTAIN REPORTS AND SURVEYS.

(a) IN GENERAL.—Section 409 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§409. Discovery and admission as evidence of certain reports and surveys"; and

(2) by striking "admitted into evidence in Federal or State court" and inserting "subject to discovery or admitted into evidence in a Federal or State court proceeding".

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 409 and inserting the following:

"409. Discovery and admission as evidence of certain reports and surveys.".

SEC. 1036. NATIONAL HIGH-SPEED GROUND TRANSPORTATION PROGRAMS.

(a) DECLARATION OF POLICY.—Section 302 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) It is the policy of the United States to promote the construction and commercialization of high-speed ground transportation systems by—

"(A) conducting economic and technological research;

"(B) demonstrating advancements in high-speed ground transportation technologies;

"(C) establishing a comprehensive policy for the development of such systems and the effective integration of the various high-speed ground transportation technologies; and

"(D) minimizing the long-term risks of investors.

"(2) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States.".

(b) NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM.—

(1) MANAGEMENT OF PROGRAM.—There is hereby established a national magnetic levitation prototype development program to be managed by a program director appointed jointly by the Secretary and the Assistant Secretary of the Army for Civil Works (hereinafter in this subsection referred to as the "Assistant Secretary"). To carry out such program, the Secretary and the Assistant Secretary shall establish a national maglev joint project office (hereinafter in this subsection referred to as the "Maglev Project Office"), which shall be headed by the program director, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions. In carrying out such program, the program director shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency.

(2) PHASE ONE CONTRACTS.—

(A) REQUEST FOR PROPOSALS.—Not later than 12 months after the date of the enactment of this Act, the Maglev Project Office shall release a request for proposals for development of conceptual designs for a maglev system and for research to facilitate the development of such conceptual designs.

(B) AWARD OF CONTRACTS.—Not later than 15 months after the date of the enactment of this Act, the Secretary and the Assistant Secretary shall, based on the recommendations of the program director, award 1-year contracts for research and development to no fewer than 5 eligible applicants. If fewer than 5 complete applications have been received, contracts shall be awarded to as many eligible applicants as is practical.

(C) FACTORS AND CONDITIONS TO BE CONSIDERED.—The Secretary and the Assistant Secretary may approve contracts under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights-of-way, the potential for the guideway design to be a national standard, the applicant's resources, capabilities, and history of successfully designing and developing systems of similar complexity, and the desirability of geographic diversity among contractors and only if the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development and agrees to provide for matching of the phase one contract at a 90 percent Federal, 10 percent non-Federal, cost share.

(3) PHASE TWO CONTRACTS.—Within 3 months of receiving the final reports of contract activities under paragraph (2), and based only on such reports and the recommendations of the program director, the Secretary and the Assistant Secretary shall select not more than 3 eligible applicants from among the contract recipients submitting reports under paragraph (2) to receive 18-month contracts for research and development leading to a detailed design for a prototype maglev system. The Secretary and the Assistant Secretary may only award contracts under this paragraph if—

(A) they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into an operational prototype as described in paragraph (4),

(B) the applicant agrees to submit the detailed design within such 18-month period to the Maglev Project Office and the selection committee described in paragraph (4), and

(C) the applicant agrees to provide for matching of the phase two contract at an 80 percent Federal, 20 percent non-Federal, cost share.

(4) PROTOTYPE.—

(A) SELECTION OF DESIGN.—Within 6 months of receiving the detailed designs developed under paragraph (3), the Secretary and the Assistant Secretary shall, based on the recommendations of the selection committee described in this subparagraph, select 1 design for development into a full-scale prototype, unless the Secretary and the Assistant Secretary determine jointly that no design shall be selected, based on an assessment of technical feasibility and projected cost of construction and operation of the prototype. A selection committee of 8 members, consisting of—

(i) 1 member to be appointed by the Secretary,

(ii) 1 member to be appointed by the Assistant Secretary,

(iii) 3 members to be appointed by the Senate majority and minority leaders, and

(iv) 3 members to be appointed by the Speaker of the House and the minority leader of the House,

shall be appointed not later than 1 year following the award of contracts under paragraph (3). The selection committee, within 3 months of receiving the detailed designs developed under paragraph (3), shall make a recommendation to the Secretary and the Assistant Secretary as to the best prototype design or the unsuitability of any design. The program director shall provide technical reviews of the phase two contract reports to the selection committee and otherwise provide any technical assistance that the committee requires to assist it in making a recommendation. In the event that the Secretary and the Assistant Secretary determine jointly not to select a design for development under this subsection, they shall report to Congress on the basis for such determination, together with recommendations for future action, including further research, development, or design, termination of the program, or such other action as may be appropriate.

(B) AWARD OF CONSTRUCTION GRANT OR CONTRACT.—Unless the Secretary and the Assistant Secretary determine not to proceed pursuant to subparagraph (A), they shall, not later than 3 months after selection of a design for development into a full-scale prototype, and based on the recommendations of the program director, award 1 construction grant or contract to the applicant whose detailed design was selected under subparagraph (A) for the purpose of con-

structing a prototype maglev system in accordance with the selected design. Not more than 75 percent of the cost of the project shall be borne by the United States.

(C) FACTORS TO BE CONSIDERED IN SELECTION.—Selection of the detailed design under this paragraph shall be based on consideration of the following factors, among others:

(i) The project shall be capable of utilizing Interstate highway rights-of-way along or above a significant portion of its route, and may also use railroad rights-of-way along or above any portion of the railroad route.

(ii) The total length of guideway shall be at least 19 miles and allow significant full-speed operations between stops.

(iii) The project shall be constructed and ready for operational testing within 3 years after the award of the contract or grant.

(iv) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

(v) The project shall be located in an area that provides a potential ridership base for future commercial operation.

(vi) The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States.

(vii) The project shall have at least 1 switch.

(viii) The project shall be intermodal in nature connecting a major metropolitan area with an airport, port, passenger rail station, or other transportation mode.

(D) ADDITIONAL FACTORS FOR CONSIDERATION.—In awarding a grant or contract under this paragraph, the Secretary shall encourage the development of domestic manufacturing capabilities. In selecting among eligible applicants, the Secretary shall consider existing railroads and equipment manufacturers with excess production capacity, including railroads that have experience in advanced technologies (including self-propelled cars).

(5) LICENSING.—

(A) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this subsection shall be disclosed.

(B) COMMERCIAL INFORMATION.—The research, development, and use of any technology developed pursuant to an agreement reached pursuant to this subsection, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714). In addition, the Secretary and the Assistant Secretary may require any grant or contract recipient to assure that research and development be performed substantially in the United States and that the products embodying the inventions made under any agreement pursuant to this subsection or produced through the use of such inventions be manufactured substantially in the United States.

(6) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports to Congress on progress made under this subsection.

(7) ELIGIBLE APPLICANT DEFINED.—For purposes of this subsection, the term "eligible applicant" means a United States private business, United States public or private education and research organization, Federal laboratory, or a consortium of such businesses, organizations, and laboratories.

(c) TECHNOLOGY DEMONSTRATION PROGRAM; RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, is amended by adding at the end the following new section:

"§309. High-speed ground transportation

"(a) The Secretary of Transportation, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Public Works, and the heads of other interested agencies, shall lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster the implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems.

"(b)(1) The Secretary may award contracts and grants for demonstrations to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems. Such demonstrations shall be designed to measure and evaluate such factors as the public response to new equipment, higher speeds, variations in fares, improved comfort and convenience, and more frequent service. In connection with grants and contracts for demonstrations under this section, the Secretary shall provide for financial participation by private industry to the maximum extent practicable.

"(2)(A) In connection with the authority provided under paragraph (1), there is established a national high-speed ground transportation technology demonstration program, which shall be separate from the national magnetic levitation prototype development program established under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991 and shall be managed by the Secretary of Transportation.

"(B)(i) Any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem, or system in any revenue service high-speed ground transportation project or system under construction or in operation at the time the application is made.

"(ii) Grants or contracts shall be awarded only to eligible applicants showing demonstrable benefit to the research and development, design, construction, or ultimate operation of any maglev technology or high-speed steel wheel on rail technology. Criteria to be considered in evaluating the suitability of a proposal under this paragraph shall include—

"(I) feasibility of guideway or track design and construction;

"(II) safety and reliability;

"(III) impact on the environment in comparison to other high-speed ground transportation technologies;

"(IV) minimization of land use;

"(V) effect on human factors related to high-speed ground transportation;

"(VI) energy and power consumption and cost;

"(VII) integration of high-speed ground transportation systems with other modes of transportation;

"(VIII) actual and projected ridership; and

"(IX) design of signaling, communications, and control systems.

"(C) For the purposes of this paragraph, the term 'eligible applicant' means any United States private business, State government, local government, organization of State or local government, or any combination thereof. The term does not include any business owned in whole or in part by the Federal Government.

"(D) The amount and distribution of grants or contracts made under this paragraph shall be determined by the Secretary. No grant or contract may be awarded under this paragraph to demonstrate a technology to be incorporated into a project or system located in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such project or system.

"(E) Recipients of grants or contracts made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration proposed, as required by the Secretary.

"(c)(1) In carrying out the responsibilities of the Secretary under this section, the Secretary is authorized to enter into 1 or more cooperative research and development agreements (as defined by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and 1 or more funding agreements (as defined by section 201(b) of title 35, United States Code), with United States companies for the purpose of—

"(A) conducting research to overcome technical and other barriers to the development and construction of practicable high-speed ground transportation systems and to help advance the basic generic technologies needed for these systems; and

"(B) transferring the research and basic generic technologies described in subparagraph (A) to industry in order to help create a viable commercial high-speed ground transportation industry within the United States.

"(2) In a cooperative agreement or funding agreement under paragraph (1), the Secretary may agree to provide not more than 80 percent of the cost of any project under the agreement. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

"(3) The research, development, or utilization of any technology pursuant to a cooperative agreement under paragraph (1), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(4) The research, development, or utilization of any technology pursuant to a funding agreement under paragraph (1), including the determination of all licensing and ownership rights, shall be subject to the provisions of chapter 18 of title 35, United States Code.

"(5) At the conclusion of fiscal year 1993 and again at the conclusion of fiscal year 1996, the Secretary shall submit reports to Congress regarding research and technology transfer activities conducted pursuant to the authorization contained in paragraph (1).

"(d)(1) Not later than June 1, 1995, the Secretary shall complete and submit to Congress a study of the commercial feasibility of constructing 1 or more high-speed ground transportation systems in the United States. Such study shall consist of—

"(A) an economic and financial analysis;

"(B) a technical assessment; and

"(C) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

"(2) The economic and financial analysis referred to in paragraph (1)(A) shall include—

"(A) an examination of the potential market for a nationwide high-speed ground transportation network, including a national magnetic levitation ground transportation system;

"(B) an examination of the potential markets for short-haul high-speed ground transportation systems and for intercity and long-haul high-speed ground transportation systems, including an assessment of—

"(i) the current transportation practices and trends in each market; and

"(ii) the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation;

"(C) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for private and public financing;

"(D) the availability of rights-of-way to serve each market, including the extent to which average and maximum speeds would be limited by the curvature of existing rights-of-way and the prospect of increasing speeds through the acquisition of additional rights-of-way without significant relocation of residential, commercial, or industrial facilities;

"(E) a comparison of the projected costs of the various competing high-speed ground transportation technologies;

"(F) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed ground transportation systems and the completion of a nationwide high-speed ground transportation network;

"(G) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth;

"(H) recommendations for the roles appropriate for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities;

"(I) an assessment of the potential for a high-speed ground transportation technology export market;

"(J) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation;

"(K) an examination of the role of the National Railroad Passenger Corporation in the development and operation of high-speed ground transportation systems; and

"(L) any other economic or financial analyses the Secretary considers important for carrying out this section.

"(3) The technical assessment referred to in paragraph (1)(B) shall include—

"(A) an examination of the various technologies developed for use in the transportation of passengers by high-speed ground transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system;

"(B) an examination of the potential role of a United States designed maglev system, developed as a prototype under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, in relation to the implementation of other high-speed ground transportation technologies and the national transportation system;

"(C) an examination of the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988;

"(D) an examination of the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems;

"(E) an examination of the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way;

"(F) an examination of the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems; and

"(G) any other technical assessments the Secretary considers important for carrying out this section.

"(e)(1) Within 12 months after the submission of the study required by subsection (d), the Secretary shall establish the national high-speed ground transportation policy (hereinafter in this section referred to as the 'Policy').

"(2) The Policy shall include—

"(A) provisions to promote the design, construction, and operation of high-speed ground transportation systems in the United States;

"(B) a determination whether the various competing high-speed ground transportation technologies can be effectively integrated into a national network and, if not, whether 1 or more such technologies should receive preferential encouragement from the Federal Government to enable the development of such a national network;

"(C) a strategy for prioritizing the markets and corridors in which the construction of high-speed ground transportation systems should be encouraged; and

"(D) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies.

"(3) The Secretary shall solicit comments from the public in the development of the Policy and may consult with other Federal agencies as appropriate in drafting the Policy.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 308 the following:

"309. High-speed ground transportation.".

(d) FUNDING.—

(1) OUT OF HIGHWAY TRUST FUND.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) the following sums:

(A) NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM.—For the national magnetic levitation prototype development program under this section $5,000,000 for fiscal year 1992, $45,000,000 for fiscal year 1993, $100,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, $125,000,000 for fiscal year 1996, and $125,000,000 for fiscal year 1997.

(B) NATIONAL HIGH-SPEED GROUND TRANSPORTATION TECHNOLOGY DEMONSTRATION PROGRAM.—For the national high-speed ground transportation technology demonstration program under section 309 of title 49, United States Code, $5,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(2) OUT OF GENERAL FUND.—In addition to amounts made available by paragraph (1), there is authorized to be appropriated for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

(A) $225,000,000 for the national magnetic levitation prototype development program under this section;

(B) $25,000,000 for the national high-speed ground transportation technology demonstration program under section 309 of title 49, United States Code; and

(C) $25,000,000 for national high-speed ground transportation research and development under section 309 of title 49, United States Code.

(3) PERIOD OF AVAILABILITY.—Funds made available by and under this section shall remain available until expended.

(4) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant or contract with funds made available by paragraph (1) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

(e) GUARANTEE OF OBLIGATIONS.—Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "shall be or have been used";

(B) by striking "or" after "car management systems)," and inserting in lieu thereof "(2)"; and

(C) by inserting ", or (3) to acquire, rehabilitate, improve, develop, or establish high-speed rail facilities or equipment" after "new railroad facilities";

(2) in subsection (g)—

(A) by inserting "or high-speed rail services" after "rail services" both places it appears in paragraph (3);

(B) by inserting "or passengers" after "provide shippers" in paragraph (3);

(C) by striking "or improved" and inserting in lieu thereof "improved, developed, or established" in paragraph (4);

(D) by striking "improved, rehabilitated, or acquired" and inserting in lieu thereof "acquired, rehabilitated, improved, developed, or established" in paragraph (5);

(E) by striking "and" at the end of paragraph (5);

(F) by inserting "or high-speed rail carrier" after "affected railroad" in paragraph (6);

(G) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(H) by adding at the end the following new paragraph:

"(7) in the case of high-speed rail facilities and equipment, at least 85 percent of such facilities and equipment are mined, produced, or manufactured in the United States, unless the Secretary finds in writing that—

"(A) such requirement would be inconsistent with the public interest;

"(B) such facilities and equipment could not be mined, produced, or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality;

"(C) such a requirement would increase the cost of the facilities and equipment by more than 25 percent; or

"(D) such a requirement would result in a violation of obligations of the United States under international trade agreements.";

(3) in subsection (i)(1)—

(A) by amending subparagraph (B) to read as follows:

"(B)(i) will not use any funds or assets from railroad operations for nonrail purposes; and

"(ii) will not use any funds or assets from high-speed rail operations for purposes other than high-speed rail purposes,"; and

(B) by inserting "or high-speed rail services" after "provide rail services"; and

(4) by adding at the end the following new subsection:

"(n) DEFINITIONS.—As used in this section, the term 'high-speed rail' means all forms of nonhighway ground transportation that run on rails providing transportation service which is—

"(1) reasonably expected to reach sustained speeds of more than 125 miles per hour; and

"(2) made available to members of the general public as passengers.

Such term does not include rapid transit operations within an urban area that are not connected to the general rail system of transportation.".

(f) GENERAL ACCOUNTING OFFICE STUDY.—The Comptroller General, within 2 years after the date of the enactment of this Act, and annually thereafter, shall analyze the effectiveness of the application of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 to high-speed rail facilities and equipment, and report the results of such analysis to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 1037. RAILROAD RELOCATION DEMONSTRATION PROGRAM.

Section 163(p) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by striking "and 1991," and inserting "1991, 1992, 1993, and 1994,".

SEC. 1038. USE OF RECYCLED PAVING MATERIAL.

(a) Asphalt Pavement Containing Recycled Rubber Demonstration Program.—Notwithstanding any other provision of title 23, United States Code, or regulation or policy of the Department of Transportation, the Secretary (or a State acting as the Department's agent) may not disapprove a highway project under chapter 1 of title 23, United States Code, on the ground that the project includes the use of asphalt pavement containing recycled rubber. Under this subsection, a patented application process for recycled rubber shall be eligible for approval under the same conditions that an unpatented process is eligible for approval.

(b) Studies.—

(1) In general.—The Secretary and the Administrator of the Environmental Protection Agency shall coordinate and conduct, in cooperation with the States, a study to determine—

(A) the threat to human health and the environment associated with the production and use of asphalt pavement containing recycled rubber;

(B) the degree to which asphalt pavement containing recycled rubber can be recycled; and

(C) the performance of the asphalt pavement containing recycled rubber under various climate and use conditions.

(2) Division of responsibilities.—The Administrator shall conduct the part of the study relating to paragraph (1)(A) and the Secretary shall conduct the part of the study relating to paragraph (1)(C). The Administrator and the Secretary shall jointly conduct the study relating to paragraph (1)(B).

(3) Additional study.—The Secretary and the Administrator, in cooperation with the States, shall jointly conduct a study to determine the economic savings, technical performance qualities, threats to human health and the environment, and environmental benefits of using recycled materials in highway devices and appurtenances and highway projects, including asphalt containing over 80 percent reclaimed asphalt, asphalt containing recycled glass, and asphalt containing recycled plastic.

(4) Additional elements.—In conducting the study under paragraph (3), the Secretary and the Administrator shall examine utilization of various technologies by States and shall examine the current practices of all States relating to the reuse and disposal of materials used in federally assisted highway projects.

(5) Report.—Not later than 18 months after the date of the enactment of this Act, the Secretary and the Administrator shall transmit to Congress a report on the results of the studies conducted under this subsection, including a detailed analysis of the economic savings and technical performance qualities of using such recycled materials in federally assisted highway projects and the environmental benefits of using such recycled materials in such highway projects in terms of reducing air emissions, conserving natural resources, and reducing disposal of the materials in landfills.

(c) DOT Guidance.—

(1) Information gathering and distribution.—The Secretary shall gather information and recommendations concerning the use of asphalt containing recycled rubber in highway projects from those States that have extensively evaluated and experimented with the use of such asphalt and implemented such projects and shall make available such information and recommendations on the use of such asphalt to those States which indicate an interest in the use of such asphalt.

(2) Encouragement of use.—The Secretary should encourage the use of recycled materials determined to be appropriate by the studies pursuant to subsection (b) in federally assisted highway projects. Procuring agencies shall comply with all applicable guidelines or regulations issued by the Administrator of the Environmental Protection Agency.

(d) Use of Asphalt Pavement Containing Recycled Rubber.—

(1) State certification.—Beginning on January 1, 1995, and annually thereafter, each State shall certify to the Secretary that such State has satisfied the minimum utilization requirement for asphalt pavement containing recycled rubber established by this section. The minimum utilization requirement for asphalt pavement containing recycled rubber as a percentage of the total tons of asphalt laid in such State and financed in whole or part by any assistance pursuant to title 23, United States Code, shall be—

(A) 5 percent for the year 1994;

(B) 10 percent for the year 1995;

(C) 15 percent for the year 1996; and

(D) 20 percent for the year 1997 and each year thereafter.

(2) Other materials.—Any recycled material or materials determined to be appropriate by the studies under subsection (b) may be substituted for recycled rubber under the minimum utilization requirement of paragraph (1) up to 5 percent.

(3) Increase.—The Secretary may increase the minimum utilization requirement of paragraph (1) for asphalt pavement containing recycled rubber to be used in federally assisted highway projects to the extent it is technologically and economically feasible to do so and if an increase is appropriate to assure markets for the reuse and recycling of scrap tires. The minimum utilization requirement for asphalt pavement containing recycled rubber may not be met by any use or technique found to be unsuitable for use in highway projects by the studies under subsection (b).

(4) Penalty.—The Secretary shall withhold from any State that fails to make a certification under paragraph (1) for any fiscal year, a percentage of the apportionments under section 104 (other than subsection (b)(5)(A)) of title 23, United States Code, that would otherwise be apportioned to such State for such fiscal year under such section equal to the percentage utilization requirement established by paragraph (1) for such fiscal year.

(5) Secretarial waiver.—The Secretary may set aside the provisions of this subsection for any 3-year period on a determination, made in concurrence with the Administrator of the Environmental Protection Agency with respect to subparagraphs (A) and (B) of this paragraph, that there is reliable evidence indicating—

(A) that manufacture, application, or use of asphalt pavement containing recycled rubber substantially increases the threat to human health or the environment as compared to the threats associated with conventional pavement;

(B) that asphalt pavement containing recycled rubber cannot be recycled to substantially the same degree as conventional pavement; or

(C) that asphalt pavement containing recycled rubber does not perform adequately as a material for the construction or surfacing of highways and roads.

The Secretary shall consider the results of the study under subsection (b)(1) in determining whether a 3-year set-aside is appropriate.

(6) Renewal of waiver.—Any determination made to set aside the requirements of this section may be renewed for an additional 3-year period by the Secretary, with the concurrence of the Administrator with respect to the determinations made under paragraphs (5)(A) and (5)(B). Any determination made with respect to paragraph (5)(C) may be made for specific States or regions considering climate, geography, and other factors that may be unique to the State or region and that would prevent the adequate performance of asphalt pavement containing recycled rubber.

(7) Individual state reduction.—The Secretary shall establish a minimum utilization requirement for asphalt pavement containing recycled rubber less than the minimum utilization requirement otherwise required by paragraph (1) in a particular State, upon the request of such State and if the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, determines that there is not a sufficient quantity of scrap tires available in the State prior to disposal to meet the minimum utilization requirement established under paragraph (1) as the result of recycling and processing uses (in that State or another State), including retreading or energy recovery.

(e) Definitions.—For purpose of this section—

(1) the term "asphalt pavement containing recycled rubber" means any hot mix or spray applied binder in asphalt paving mixture that contains rubber from whole scrap tires which is used for asphalt pavement base, surface course or interlayer, or other road and highway related uses and—

(A) is a mixture of not less than 20 pounds of recycled rubber per ton of hot mix or 300 pounds of recycled rubber per ton of spray applied binder; or

(B) is any mixture of asphalt pavement and recycled rubber that is certified by a State and is approved by the Secretary, provided that the total amount of recycled rubber from whole scrap tires utilized in any year in such State shall be not less than the amount that would be utilized if all asphalt pavement containing recycled rubber laid in such State met the specifications of subparagraph (A) and subsection (d)(1); and

(2) the term "recycled rubber" is any crumb rubber derived from processing whole scrap tires or shredded tire material taken from automobiles, trucks, or other equipment owned and operated in the United States.

SEC. 1039. HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROGRAM.

(a) Research Grants.—The Secretary may make grants to other Federal agencies, universities, private businesses, nonprofit organizations, and any research or engineering entity to carry out research on 1 or more of the following:

(1) Development of new, economical highway timber bridge systems.

(2) Development of engineering design criteria for structural wood products for use in highway bridges in order to improve methods for characterizing lumber design properties.

(3) Preservative systems for use in highway timber bridges which demonstrate new alternatives and current treatment processes and procedures and which are environmentally sound with respect to application, use, and disposal of treated wood.

(4) Alternative transportation system timber structures which demonstrate the development of applications for railing, sign, and lighting supports, sound barriers, culverts, and retaining walls in highway applications.

(5) Rehabilitation measures which demonstrate effective, safe, and reliable methods for rehabilitating existing highway timber structures.

(b) Technology and Information Transfer.—The Secretary shall take such action as may be necessary to ensure that the information and technology resulting from research conducted under subsection (a) is made available to State and local transportation departments and other interested persons.

(c) CONSTRUCTION GRANTS.—

(1) AUTHORITY.—The Secretary shall make grants to States for construction of highway timber bridges on rural Federal-aid highway.

(2) APPLICATIONS.—A State interested in receiving a grant under this subsection must submit an application therefor to the Secretary. Such application shall be in such form and contain such information as the Secretary may require by regulation.

(3) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this subsection based on the following criteria:

(A) Bridge designs which have both initial and long-term structural and environmental integrity.

(B) Bridge designs which utilize timber species native to the State or region.

(C) Innovative bridge designs which have the possibility of increasing knowledge, cost effectiveness, and future use of such designs.

(D) Environmental practices for preservative treated timber, and construction techniques which comply with all environmental regulations, will be utilized.

(d) FEDERAL SHARE.—The Federal share of the costs of research and construction projects carried out under this section shall be 80 percent.

(e) FUNDING.—From the funds reserved from apportionment under section 144(g)(1) of title 23, United States Code, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

(1) $1,000,000 shall be available to the Secretary for carrying out subsections (a) and (b); and

(2) $7,500,000 ($7,000,000 in the case of fiscal year 1992) shall be available to the Secretary for carrying out subsection (c).

Such sums shall remain available until expended.

(f) STATE DEFINED.—For purposes of this section, the term "State" has the meaning such term has under section 101 of title 23, United States Code.

SEC. 1040. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—The Secretary shall use funds made available by subsection (e) to carry out highway use tax evasion projects in accordance with this section. Such funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary. The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this section.

(b) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only to expand efforts to enhance motor fuel tax enforcement, fund additional Internal Revenue Service staff but only to carry out functions described in this subsection, supplement motor fuel tax examinations and criminal investigations, develop automated data processing tools to monitor motor fuel production and sales, evaluate and implement registration and reporting requirements for motor fuel taxpayers, reimburse State expenses that supplement existing fuel tax compliance efforts, and analyze and implement programs to reduce tax evasion associated with other highway use taxes.

(c) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State under this section in a fiscal year unless the State certifies that aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

(d) REPORTS.—

(1) IN GENERAL.—On September 30 and March 31 of each year, the Secretary shall transmit to the Committee on Environment and Public Works and the Committee on Finance of the Senate and the Committee on Public Works and Transportation and the Committee on Ways and Means of the House of Representatives a report on motor fuel tax enforcement activities under this section and the expenditure of funds made available to carry out this section, including expenses for the hiring of additional staff by any Federal agency.

(2) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which funds are to be allocated to the Internal Revenue Service under this section, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986.

(e) USE OF DYE AND MARKERS.—

(1) STUDY.—The Secretary, in consultation with the Internal Revenue Service, shall conduct a study to determine the feasibility and the desirability of using dye and markers to aid in motor fuel tax enforcement activities and other purposes.

(2) REPORT.—Not later than 1 year after the effective date of this section, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(f) FUNDING.—

(1) HIGHWAY TRUST FUND.—There shall be available to the Secretary for carrying out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997. Such sums shall be available for obligation in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code; except that the Federal share for projects carried out under this section shall be 100 percent and the sums shall remain available until expended.

(2) GENERAL FUND.—There are authorized to be appropriated to carry out this section $2,500,000 per fiscal year for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term "State" means the 50 States and the District of Columbia.

SEC. 1041. REGULATORY INTERPRETATIONS.

(a) INCLUSION OF COATING OF STEEL IN BUY AMERICA PROGRAM.—Section 635.410 of title 23 of the Code of Federal Regulations and any similar regulation, ruling, or decision shall be applied as if to include coating.

(b) FUNDING OF FUSEES AND FLARES.—Section 393.95 of title 49 of the Code of Federal Regulations shall be applied so that fusees and flares are given equal priority with regard to use as reflecting signs.

SEC. 1042. INDIAN RERVATION ROADS STUDY.

(a) STUDY.—The Secretary shall conduct a study on the funding needs for Indian reservation roads taking into account funding and other quality inequities between Indian reservation roads and other highway systems.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under this section, together with any legislative and administrative recommendations of the Secretary for correcting inequities identified under such study.

SEC. 1043. REPORT TO CONGRESS ON QUALITY IMPROVEMENT.

(a) REPORT TO CONGRESS ON QUALITY IMPROVEMENT.—The Comptroller General shall submit within 24 months following the date of the enactment of this title a report to Congress addressing means for improving the quality of highways constructed with Federal assistance. This report shall address Federal design standards, engineering and design services, and construction of Federal-aid highway projects.

(b) SCOPE OF THE REPORT TO CONGRESS.—In preparing such report, the Comptroller shall address, at a minimum, the following:

(1) Alternative modifications to current Federal and State minimum design standards, including but not limited to, the anticipated impacts these alternatives would have on the serviceability, maintenance, expected life, and costs (including engineering and design, construction maintenance, operation and replacement costs).

(2) Inclusion of guarantee and warranty clauses in contracts with designers, contractors, and State highway departments to address, at a minimum, potential costs and benefits of such clauses; any liability or insurance constraints or concerns; implications for small, minority, or disadvantaged businesses; currently existing options for States to require these clauses or other means with similar effect without additional Federal legislation, and the effect these or similar clauses may have on the availability of insurance and bonds for design professionals and contractors and the implication to the public of any change in such availability.

(3) Means of enhancing the maintenance of the Federal-aid Highway System to ensure the public investment in such system is protected.

SEC. 1044. CREDIT FOR NON-FEDERAL SHARE.

(a) ELIGIBILITY.—A State may use as a credit toward the non-Federal matching share requirement for all programs under this Act and title 23, United States Code, toll revenues that are generated and used by public, quasi-public and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce. Such public, quasi-public or private agencies shall have built, improved, or maintained such facilities without Federal funds.

(b) MAINTENANCE OF EFFORT.—The credit for any non-Federal share shall not reduce nor replace State monies required to match Federal funds for any program pursuant to this Act or title 23, United States Code. In receiving a credit for non-Federal capital expenditures under this section, a State shall enter into such agreements as the Secretary may require to ensure that such State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding three fiscal years.

(c) TREATMENT.—Use of such credit for a non-Federal share shall not expose such agencies from which the credit is received to additional liability, additional regulation or additional administrative oversight. When credit is applied from chartered multi-State agencies, such credit shall be applied equally to all charter States. The public, quasi-public, and private agencies from which the credit for which the non-Federal share is calculated shall not be subject to any additional Federal design standards, laws or regulations as a result of providing non-Federal match other than those to which such agency is already subject.

SEC. 1045. SUBSTITUTE PROJECT.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials, the Secretary may approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of the I-94 East-West Transitway project in Milwaukee and Waukesha Counties, as identified in the 1991 Interstate Cost Estimate.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute highway or transit project or projects under subsection (a), *the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate submitted to Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project or projects.*

(c) LIMITATION ON ELIGIBILITY.—If, by October 1, 1993, or two years after the date of the enactment of this Act, whichever is later, the Governor of the State of Wisconsin has not submitted a request for a substitute project or projects in lieu of the I-94 East-West Transitway, the Secretary shall not approve such substitution. If, by October 1, 1995, or four years after the date of the enactment of this Act, whichever is later, such substitute project or projects are not under construction, or under contract for construction, no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project or projects. For the purposes of this subsection, the term "construction" has the same meaning as given to it in section 101, title 23, United States Code, and shall include activities such as preliminary engineering and right-of-way acquisition.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT OR PROJECTS.—Any substitute project approved under subsection (a) shall be deemed to be a substitute project for the purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Wisconsin shall, on the date of approval of any substitute project or projects under subsection (a), be applied toward the Federal share of the costs of such substitute project or projects.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(4) FISCAL YEARS 1993 AND 1994 APPORTIONMENTS.—For the purpose of apportioning funds for fiscal years 1993 and 1994 under section 104(b)(5)(A), the Secretary shall consider Wisconsin as having no remaining eligible costs. For the purpose of apportioning funds under section 104(b)(5)(A) of title 23, United States Code, for fiscal year 1995 and subsequent fiscal years, Wisconsin's actual remaining eligible costs shall be used.

(e) TRANSFER OF APPORTIONMENTS.—Wisconsin may transfer Interstate construction apportionments to its National Highway System in amounts equal to or less than the costs for additional work on sections of the Interstate System that have been built with Interstate construction funds and that are open to traffic as shown in the 1991 Interstate Cost Estimate.

SEC. 1046. CONTROL OF OUTDOOR ADVERTISING.

(a) FUNDING.—Section 131(m) of title 23, United States Code, is amended by adding at the end the following new sentence: "Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.".

(b) REMOVAL OF ILLEGAL SIGNS.—Section 131 of such title is amended by adding at the end the following new subsection:

"(r) REMOVAL OF ILLEGAL SIGNS.—

"(1) BY OWNERS.—Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

"(2) BY STATES.—If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.".

(c) SCENIC BYWAY PROHIBITION.—Such section is further amended by adding at the end the following new subsections:

"(s) SCENIC BYWAY PROHIBITION.—If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section.

"(t) PRIMARY SYSTEM DEFINED.—For purposes of this section, the terms 'primary system' and 'Federal-aid primary system' mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

(d) STATE COMPLIANCE LAWS.—The amendments made by this section shall not affect the status or validity of any existing compliance law or regulation adopted by a State pursuant to section 131 of title 23, United States Code.

SEC. 1047. SCENIC BYWAYS PROGRAM.

(a) SCENIC BYWAYS ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish in the Department of Transportation an advisory committee to assist the Secretary with respect to establishment of a national scenic byways program under title 23, United States Code.

(2) MEMBERSHIP.—The advisory committee established under this section shall be composed of 17 members as follows:

(A) The Administrator of the Federal Highway Administration or the designee of the Administrator who shall serve as chairman of the advisory committee.

(B) The Chief of the Forest Service of the Department of Agriculture or the designee of the Chief.

(C) The Director of the National Park Service of the Department of the Interior or the designee of the Director.

(D) The Director of the Bureau of Land Management of the Department of the Interior or the designee of the Director.

(E) The Under Secretary for Travel and Tourism of the Department of Commerce or the designee of the Under Secretary.

(F) The Assistant Secretary for Indian Affairs of the Department of the Interior or the designee of the Assistant Secretary.

(G) 1 individual appointed by the Secretary who is specially qualified to represent the interests of conservationists on the advisory committee.

(H) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests of recreational users of scenic byways on the advisory committee.

(I) 1 individual appointed by the Secretary who is specially qualified to represent the interests of the tourism industry on the advisory committee.

(J) 1 individual appointed by the Secretary who is specially qualified to represent the interests of historic preservationists on the advisory committee.

(K) 1 individual appointed by the Secretary who is specially qualified to represent the interests of highway users on the advisory committee.

(L) 1 individual appointed by the Secretary to represent State highway and transportation officials.

(M) 1 individual appointed by the Secretary to represent local highway and transportation officials.

(N) 1 individual appointed by the Secretary who is specially qualified to serve on the advisory committee as a planner.

(O) 1 individual appointed by the Secretary who is specially qualified to represent the motoring public.

(P) 1 individual appointed by the Secretary who is specially qualified to represent groups interested in scenic preservation.

(Q) 1 individual appointed by the Secretary who represents the outdoor advertising industry.

Individuals appointed as members of the advisory committee under subparagraphs (G) through (P) may be State and local government officials. Members shall serve without compensation other than for reasonable expenses incident to functions of the advisory committee.

(3) FUNCTIONS.—The advisory committee established under this subsection shall develop and make to the Secretary recommendations regarding minimum criteria for use by State and Federal agencies in designating highways as scenic byways and as all-American roads for purposes of a national scenic byways program to be established under title 23, United States Code. Such recommendations shall include recommendations on the following:

(A) Consideration of the scenic beauty and historic significance of highways proposed for designation as scenic byways and all-American roads and the areas surrounding such highways.

(B) Operation and management standards for highways designated as scenic byways and all-American roads, including strategies for maintaining or improving the qualities for which a highway is designated as a scenic byway or all-American road, for protecting and enhancing the landscape and view corridors surrounding such a highway, and for minimizing traffic congestion on such a highway.

(C)(i) Standards for scenic byway-related signs, including those which identify highways as scenic byways and all-American roads.

(ii) The advisability of uniform signs identifying highways as components of the scenic byway system.

(D) Standards for maintaining highway safety on the scenic byway system.

(E) Design review procedures for location of highway facilities, landscaping, and travelers' facilities on the scenic byway system.

(F) Procedures for reviewing and terminating the designation of a highway designated as a scenic byway.

(G) Such other matters as the advisory committee may deem appropriate.

(H) Such other matters for which the Secretary may request recommendations.

(4) REPORT.—Not later than 18 months after the date of the enactment of this Act, the advisory committee established under this section shall submit to the Secretary and Congress a report containing the recommendations described in paragraph (3).

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall provide technical assistance to the States (as such term is defined under section 101 of title 23, United States Code) and shall make grants to the States for the planning, design, and development of State scenic byway programs.

(c) FEDERAL SHARE.—The Federal share payable for the costs of planning, design, and devel-

opment of State scenic byway programs under this section shall be 80 percent.

(d) FUNDING.—There shall be available to the Secretary for carrying out this section (other than subsection (f)), out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 for fiscal year 1992, $3,000,000 for fiscal year 1993, $4,000,000 for fiscal year 1994, and $14,000,000 for each of the fiscal years 1995, 1996, and 1997. Such sums shall remain available until expended.

(e) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of activities for which the grant is being made.

(f) INTERIM SCENIC BYWAYS PROGRAM.—

(1) GRANT PROGRAM.—During fiscal years 1992, 1993, and 1994, the Secretary may make grants to any State which has a scenic highway program for carrying out eligible projects on highways which the State has designated as scenic byways.

(2) PRIORITY PROJECTS.—In making grants under paragraph (1), the Secretary shall give priority to—

(A) those eligible projects which are included in a corridor management plan for maintaining scenic, historic, recreational, cultural, and archeological characteristics of the corridor while providing for accommodation of increased tourism and development of related amenities;

(B) those eligible projects for which a strong local commitment is demonstrated for implementing the management plans and protecting the characteristics for which the highway is likely to be designated as a scenic byway;

(C) those eligible projects which are included in programs which can serve as models for other States to follow when establishing and designing scenic byways on an intrastate or interstate basis; and

(D) those eligible projects in multi-State corridors where the States submit joint applications.

(3) ELIGIBLE PROJECTS.—The following are projects which are eligible for Federal assistance under this subsection:

(A) Planning, design, and development of State scenic byway programs.

(B) Making safety improvements to a highway designated as a scenic byway under this subsection to the extent such improvements are necessary to accommodate increased traffic, and changes in the types of vehicles using the highway, due to such designation.

(C) Construction along the highway of facilities for the use of pedestrians and bicyclists, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretive facilities.

(D) Improvements to the highway which will enhance access to an area for the purpose of recreation, including water-related recreation.

(E) Protecting historical and cultural resources in areas adjacent to the highway.

(F) Developing and providing tourist information to the public, including interpretive information about the scenic byway.

(4) FEDERAL SHARE.—The Federal share payable for the costs of carrying out projects and developing programs under this subsection with funds made available pursuant to this subsection shall be 80 percent.

(5) FUNDING.—There shall be available to the Secretary for carrying out this subsection, out of the Highway Trust Fund (other than the Mass Transit Account), $10,000,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, and $10,000,000 for fiscal year 1994. Such sums shall remain available until expended.

(g) LIMITATION.—The Secretary shall not make a grant under this section for any project which would not protect the scenic, historic, recreational, cultural, natural, and archeological integrity of the highway and adjacent area. The Secretary may not use more than 10 percent of the funds authorized for each fiscal year under subsection (f)(5) for removal of any outdoor advertising sign, display, or device.

(h) TREATMENT OF SCENIC HIGHWAYS IN OREGON.—For purposes of this section, a highway designated as a scenic highway in the State of Oregon shall be treated as a scenic byway.

SEC. 1048. BUY AMERICA.

(a) INCLUSION OF IRON.—Section 165(a) of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 101 note) is amended by inserting ", iron," after "steel".

(b) WAIVERS; INTENTIONAL VIOLATIONS.—Section 165 of such Act is amended by adding at the end the following new subsections:

"(e) REPORT ON WAIVERS.—By January 1, 1995, the Secretary shall submit to Congress a report on the purchases from foreign entities waived under subsection (b) in fiscal years 1992 and 1993, indicating the dollar value of items for which waivers were granted under subsection (b).

"(f) INTENTIONAL VIOLATIONS.—If it has been determined by a court or Federal agency that any person intentionally—

"(1) affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or

"(2) represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;

that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

"(g) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.—If the Secretary, in consultation with the United States Trade Representative, determines that—

"(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section, and

"(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement,

the provisions of subsection (b) shall not apply to products produced in that foreign country.".

SEC. 1049. DESIGN STANDARDS.

(a) SURVEY.—The Secretary shall conduct a survey to identify current State standards relating to geometric design, traffic control devices, roadside safety, safety appurtenance design, uniform traffic control devices, and sign legibility and directional clarity for all Federal-aid highways. The purpose of the survey is to determine the necessity of upgrading such standards in order to enhance highway safety. In conducting the survey, the Secretary shall take into consideration posted speed limits as they relate to the design of the highway.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the survey conducted under this section, and on the crashworthiness of traffic lights, traffic signs, guardrails, impact attenuators, concrete barrier treatments, and breakaway utility poles for bridges and roadways currently used by States, together with any recommendations of the Secretary relating to the purpose of the survey.

SEC. 1050. TRANSPORTATION IN PARKLANDS.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall conduct and transmit to Congress a study of alternative transportation modes for use in the National Park System. In conducting such study, the Secretary shall consider (1) the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands; and (2) methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) FUNDING.—From sums authorized to be appropriated for park roads and parkways for fiscal year 1992, $300,000 shall be available to carry out this section.

SEC. 1051. WORK ZONE SAFETY.

The Secretary shall develop and implement a work zone safety program which will improve work zone safety at highway construction sites by enhancing the quality and effectiveness of traffic control devices, safety appurtenances, traffic control plans, and bidding practices for traffic control devices and services.

SEC. 1052. NEW HAMPSHIRE FEDERAL-AID PAYBACK.

(a) EFFECT OF REPAYMENT.—The amount of all Federal-aid highway funds paid on account of those completed sections of the Nashua-Hudson Circumferential in the State of New Hampshire referred to in subsection (c) of this section shall, prior to the collection of any tolls thereon, be repaid to the Treasurer of the United States before October 1, 1992. The amount so repaid shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of funds apportioned to the State of New Hampshire in accordance with section 104(b)(1) of title 23, United States Code. The amount so credited shall be in addition to all other funds then apportioned to such State and shall remain available until expended.

(b) USE OF REPAID FUNDS.—Upon repayment of Federal-aid highway funds and the cancellation and withdrawal from the Federal-Aid highway program of the projects on the section in subsection (c) as provided in subsection (a) of this section, such section of this route shall become and be free of any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulation thereunder, with respect to the imposition and collection of tolls or other charges thereon or for the use thereof.

(c) PROJECT DESCRIPTION.—The provisions of this section shall apply to the section of the completed Nashua-Hudson Circumferential between the Daniel Webster Highway in the city of Nashua and New Hampshire Route 3A in the town of Hudson.

SEC. 1053. METRIC SYSTEM SIGNING.

Section 144 of the Federal-Aid Highway Act of 1978 (92 Stat. 2713; 23 U.S.C. 109 note) is repealed.

SEC. 1054. TEMPORARY MATCHING FUND WAIVER.

(a) WAIVER OF MATCHING SHARE.—Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary under title 23, United States Code,

and of any qualifying project for which the United States becomes obligated to pay under title 23, United States Code, during the period beginning on October 1, 1991, and ending September 30, 1993, shall be the percentage of the construction cost as the State requests, up to and including 100 percent.

(b) REPAYMENT.—The total amount of increases in the Federal share made pursuant to subsection (a) for any State shall be repaid to the United States by the State on or before March 30, 1994. Payments shall be deposited in the Highway Trust Fund and repaid amounts shall be credited to the appropriate apportionment accounts of the State.

(c) DEDUCTION FROM APPORTIONMENTS.—If a State has not made the repayment as required by subsection (b), the Secretary shall deduct from funds apportioned to the State under title 23, United States Code, in each of the fiscal years 1995 and 1996, a pro rata share of each category of apportioned funds. The amount which shall be deducted in each fiscal year shall be equal to 50 percent of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for fiscal years 1995 and 1996 in accordance with title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection (b).

(d) QUALIFYING PROJECT DEFINED.—For purposes of this section, the term "qualifying project" means a project approved by the Secretary after the effective date of this title, or a project for which the United States becomes obligated to pay after such effective date, and for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

SEC. 1055. RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION.

Section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633(c)) is amended by inserting "and the Rural Electrification Administration" after "Tennessee Valley Authority".

SEC. 1056. USE OF HIGH OCCUPANCY VEHICLE LANES BY MOTORBIKES.

Section 163 of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 146 note) is amended—

(1) by inserting before "and acceptance" the following: ", after notice in the Federal Register and an opportunity for public comment,"; and

(2) by adding at the end the following: "Any certification made before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 shall not be recognized by the Secretary until the Secretary publishes notice of such certification in the Federal Register and provides an opportunity for public comment on such certification.".

SEC. 1057. EROSION CONTROL GUIDELINES.

(a) DEVELOPMENT.—The Secretary shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part under this title.

(b) MORE STRINGENT STATE REQUIREMENTS.—Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

(c) CONSISTENCY WITH OTHER PROGRAMS.—Guidelines developed under subsection (a) shall be consistent with nonpoint source management programs under section 319 of the Federal Water Pollution Control Act and coastal nonpoint pollution control guidance under section 6217(g) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 1058. ROADSIDE BARRIER TECHNOLOGY.

(a) REQUIREMENT FOR INNOVATIVE BARRIERS.—Not less than 2½ percent of the mileage of new or replacement permanent median barriers included in awarded contracts along Federal-aid highways within the boundaries of a State in each calendar year shall be innovative safety barriers.

(b) CERTIFICATION.—Each State shall annually certify to the Secretary its compliance with the requirements of this section.

(c) DEFINITION OF INNOVATIVE SAFETY BARRIER.—For purposes of this section, the term "innovative safety barrier" means a median barrier, other than a guardrail, classified by the Federal Highway Administration as "experimental" or that was classified as "operational" after January 1, 1985.

SEC. 1059. USE OF TOURIST ORIENTED DIRECTIONAL SIGNS.

(a) IN GENERAL.—The Secretary shall encourage the States to provide for equitable participation in the use of tourist oriented directional signs or "logo" signs along the Interstate System and the Federal-aid primary system (as defined under section 131(t) of title 23, United States Code).

(b) STUDY.—Not later than 1 year after the effective date of this title, the Secretary shall conduct a study and report to Congress on the participation in the use of signs referred to in subsection (a) and the practices of the States with respect to the use of such signs.

SEC. 1060. PRIVATE SECTOR INVOLVEMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a private sector involvement program to encourage States to contract with private firms for engineering and design services in carrying out Federal-aid highway projects when it would be cost effective.

(b) GRANTS TO STATES.—

(1) IN GENERAL.—In conducting the program under this section, the Secretary may make grants in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to not less than 3 States which the Secretary determines have implemented in the fiscal year preceding the fiscal year of the grant the most effective programs for increasing the percentage of funds expended for contracting with private firms (including small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals) for engineering and design services in carrying out Federal-aid highway projects.

(2) USE OF GRANTS.—A grant received by a State under this subsection may be used by the State only for awarding contracts for engineering and design services to carry out projects and activities for which Federal funds may be obligated under title 23, United States Code.

(3) FUNDING.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

(c) REPORT BY FHWA.—Not later than 120 days after the date of the enactment of this Act, the Administrator of the Federal Highway Administration shall submit to the Secretary a report on the amount of funds expended by each State in fiscal years 1980 through 1990 on contracts with private sector engineering and design firms in carrying out Federal-aid highway projects. The Secretary shall use information in the report to evaluate State engineering and design programs for the purpose of awarding grants under subsection (b).

(d) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on implementation of the program established under this section.

(e) ENGINEERING AND DESIGN SERVICES DEFINED.—The term "engineering and design services" means any category of service described in section 112(b) of title 23, United States Code.

(f) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue regulations to carry out this section.

SEC. 1061. UNIFORM TRAFFIC CONTROL DEVICES.

(a) HIGHWAY PROJECT.—The Secretary shall carry out a highway project in the State of Arkansas to demonstrate the benefits of providing training to county and town traffic officials in the need for and application of uniform traffic control devices and to demonstrate the safety benefits of providing for adequate and safe warning and regulatory signs.

(b) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUNDS.—There is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, for fiscal year 1992 to carry out this section—

(1) $200,000 for providing training; and

(2) $1,000,000 for providing warning and regulatory signs to counties, towns and cities.

Amounts provided under paragraph (2) shall be divided equally between counties with a total county population of 20,000 or less and counties with a total county population of more than 20,000. Such amounts shall be distributed fairly and equitably among counties, cities, and towns within those counties.

(c) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of the project under this section shall be 80 percent and such funds shall remain available until expended. Funds made available under this section shall not be subject to any obligation limitation.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to Congress on the effectiveness of the project carried out under this section.

SEC. 1062. MOLLY ANN'S BROOK, NEW JERSEY.

The Secretary shall carry out a project to make modifications to bridges necessary for the Secretary of the Army to carry out a project for flood control, Molly Ann's Brook, New Jersey, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4119). Any Federal expenditures under this part for such project shall be treated as part of the non-Federal share of the cost of such flood control project.

SEC. 1063. PRESIDENTIAL HIGHWAY, FULTON COUNTY, GEORGIA.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary shall approve the construction of the Department of Transportation project MEACU-9152(2) in Fulton County, Georgia, as described in the legal settlement agreed to for the project by the Georgia Department of Transportation, the city of Atlanta, and CAUTION, Inc. Execution of the settlement agreement by those parties and approval of the settlement agreement by the DeKalb County, Georgia Superior Court shall be deemed to constitute full compliance with all Federal laws applicable to carrying out the project.

(b) LIMITATIONS ON FEDERAL FUNDING.—With the exception of Federal funds expended for construction of the project described in subsection (a) and with the exception of Federal funds appropriated or authorized for the acquisition, creation, or development of parks or battlefield sites, no further Federal funds, including funds from the Highway Trust Fund and funds appropriated for the Federal-aid highway systems, shall be authorized, appropriated, or expended for expanding the capacity of the project described in subsection (a) or for new

construction of a Federal-aid highway in any portion of rights-of-way previously acquired for Department of Transportation project MEACU-9152(2) which is not used for construction of such project as described in subsection (a) and in any portion of the rights-of-way previously acquired for Georgia project I-485-1(46) in Fulton County, Georgia; Georgia project U-061-1(14) in Fulton and DeKalb Counties, Georgia; and Georgia project F-056-1(12) in Fulton County, Georgia.

(c) LIMITATION ON EFFECT.—In the event that the settlement agreement referred to in subsection (a) is not executed by the parties or approved by the DeKalb County, Georgia Superior Court in Case No. 88-6429-3, this section shall have no force or effect.

SEC. 1064. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c) of title 23, United States Code.

(b) FEDERAL SHARE.—The Federal share payable for construction of ferry boats and ferry terminal facilities under this section shall be 80 percent of the cost thereof.

(c) FUNDING.—There shall be available, out of the Highway Trust Fund (other than the Mass Transit Account), to the Secretary for obligation at the discretion of the Secretary $14,000,000 for fiscal year 1992, $17,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996, and $18,000,000 for fiscal year 1997 in carrying out this section. Such sums shall remain available until expended.

(d) APPLICABILITY OF TITLE 23.—All provisions of chapter 1 of title 23, United States Code, that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.

(e) TREATMENT OF CERTAIN ROADS.—For purposes of this section, North Carolina State Routes 12, 45, 306, 615, and 168 and United States Route 421 in the State of North Carolina shall be treated as principal arterials.

SEC. 1065. ORANGE COUNTY TOLL PILOT PROJECTS.

(a) EXEMPTION OF CERTAIN LANDS.—For the purposes of any approval by the Secretary of proposed highway improvements authorized by section 129(d)(3) of title 23, United States Code, in Orange County, California, pursuant to section 303 of title 49, United States Code, and section 138 of title 23, United States Code, those sections (collectively known as "section 4(f)") shall not be applicable to public park, recreation area, wildlife and waterfowl refuge (collectively referred to hereinafter in this section as "parkland")—

(1) that are acquired by a public entity after a governmental agency's approval of a State or Federal environmental document established the location of a highway adjacent to the parklands; or

(2) where the planning or acquisition documents for the parklands specifically referred to or reserved the specific location of the highway.

(b) APPLICABILITY.—Without limiting its prospective application, this section shall apply to any approval of the proposed highway improvements by the Secretary prior to the effective date of this section only if—

(1) the approximately 360 acres comprising the proposed Upper Peters Canyon Regional Park in Orange County, California, is conveyed to a public agency for use as public park and recreation land or a wildlife or waterfowl refuge, or both, within 90 days of such effective date;

(2) the approximately 100 acres of lands described as the Dedication Area in that certain Option Agreement dated April 16, 1991, by and between the city of Laguna Beach and the owner thereof is conveyed to a public agency for use as public park and recreation land for a wildlife or waterfowl refuge, or both, within 90 days of such effective date.

(c) PURPOSE.—This section is adopted in recognition of unique circumstances in Orange County, California, including a comprehensive land use planning process; the joint planning of thousands of acres of parklands with the locations of the proposed highway improvement; the provision of rights-of-way for high occupancy vehicle lanes and fixed rail transit in the 3 transportation corridors; the use of toll financing, which will discourage excessive automobile travel; and the inclusion of a county-wide growth management element and substantial local transit funding commitment in the county's voter-approved supplemental sales tax for transportation.

(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—In no event shall this section be construed to apply to any other highway projects other than the proposed San Joaquin Hills, Foothill, and Eastern Transportation Corridor highways in Orange County, California. Nothing in this section is intended to waive any provision of law (including the National Environmental Policy Act, the Endangered Species Act, and the National Historic Preservation Act) other than the specific exemptions to section 303 of title 49 and section 138 of title 23, United States Code. Nothing in this section shall be construed to give effect to or approve regulations issued pursuant to section 4(f) and published in the Federal Register on April 1, 1991 (56 Federal Register 62).

SEC. 1066. RECODIFICATION.

The Secretary shall, by October 1, 1993, prepare a proposed recodification of title 23, United States Code, and related laws and submit the proposed recodification to Congress for consideration.

SEC. 1067. PRIOR DEMONSTRATION PROJECTS.

(a) TAMPA, FLORIDA.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(81) of such section shall be available to the Secretary for carrying out a highway project to widen, modernize, and make safety improvements to interstate route I-4 in Hillsborough County, Florida, from its intersection with I-275 in Tampa, Florida, to the Hillsborough-Polk County line.

(b) SANTA FE, NEW MEXICO.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(107) of such section shall be available to the Secretary for carrying out a highway project to construct a bypass for Santa Fe, New Mexico.

(c) LARKSPUR TO KORBEL, CALIFORNIA.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(41)(B) of such section shall be available to the Secretary for carrying out a highway project to construct a transportation corridor along a right-of-way which is parallel to Route 101 in California and connects Larkspur, California, and Korbel, California.

(d) PASSAIC AND BERGEN COUNTIES, NEW JERSEY.—The highway project authorized by section 149(a)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181), shall include improvements to New Jersey State Route 21, the Crooks Avenue interchange between United States Route 46 and New Jersey State Route 20, and the United States Route 46 bridge over the Passaic River between Clifton and Elmwood Park, New Jersey. Notwithstanding any other provision of law, the Governor of the State of New Jersey shall carry out with respect to the construction of such highway project all of the responsibilities of the Secretary under title 23, United States Code, and all other provisions of law. To provide for expedited completion of the project, the Governor is authorized to waive any and all Federal requirements relating to the scheduling of activities associated with such highway project, including final design and right-of-way acquisition activities.

SEC. 1068. STORMWATER PERMIT REQUIREMENTS.

(a) GENERAL RULE.—Notwithstanding the requirements of sections 402(p)(2) (B), (C), and (D) of the Federal Water Pollution Control Act, permit application deadlines for stormwater discharges associated with industrial activities from facilities that are owned or operated by a municipality shall be established by the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") pursuant to the requirements of this section.

(b) PERMIT APPLICATIONS.—

(1) INDIVIDUAL APPLICATIONS.—The Administrator shall require individual permit applications for discharges described in subsection (a) on or before October 1, 1992; except that any municipality that has participated in a timely part I group application for an industrial activity discharging stormwater that is denied such participation in a group application or for which a group application is denied shall not be required to submit an individual application until the 180th day following the date on which the denial is made.

(2) GROUP APPLICATIONS.—With respect to group applications for permits for discharges described in subsection (a), the Administrator shall require—

(A) part I applications on or before September 30, 1991, except that any municipality with a population of less than 250,000 shall not be required to submit a part I application before May 18, 1992; and

(B) part II applications on or before October 1, 1992, except that any municipality with a population of less than 250,000 shall not be required to submit a part II application before May 17, 1993.

(c) MUNICIPALITIES WITH LESS THAN 100,000 POPULATION.—The Administrator shall not require any municipality with a population of less than 100,000 to apply for or obtain a permit for any stormwater discharge associated with an industrial activity other than an airport, powerplant, or uncontrolled sanitary landfill owned or operated by such municipality before October 1, 1992, unless such permit is required by section 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act.

(d) UNCONTROLLED SANITARY LANDFILL DEFINED.—For the purposes of this section, the term "uncontrolled sanitary landfill" means a landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on and run-off controls established pursuant to subtitle D of the Solid Waste Disposal Act.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect any application or permit requirement, including any deadline, to apply for or obtain a permit for stormwater discharges subject to section 402(p)(2)(A) or (E) of the Federal Water Pollution Control Act.

(f) REGULATIONS.—The Administrator shall issue final regulations with respect to general permits for stormwater discharges associated with industrial activity on or before February 1, 1992.

SEC. 1069. MISCELLANEOUS HIGHWAY PROJECT AUTHORIZATIONS.

(a) BALTIMORE-WASHINGTON PARKWAY.—There is authorized to be appropriated $74,000,000 for renovation and reconstruction of the Baltimore-Washington Parkway in Prince Georges County, Maryland. The Federal share of the cost of such project shall be 100 percent.

(b) EXIT 26 BRIDGE.—There is authorized to be appropriated $22,400,000 for construction of the Exit 26 Bridge in Schenectady County, New York. The Federal share of the cost of such project shall be 80 percent.

(c) CUMBERLAND GAP TUNNEL.—There are authorized to be appropriated such sums as may be necessary to complete construction of the Cumberland Gap Tunnel, Kentucky, including associated approaches and other necessary road work. The Federal share of the cost of such project shall be 100 percent.

(d) RIVERSIDE EXPRESSWAY.—There is authorized to be appropriated $53,400,000 for construction of the Riverside Expressway, including bridges crossing the Monongahela River and Buffalo Creek, in the vicinity of Fairmont, West Virginia. The Federal share of the cost of such project shall be 80 percent.

(e) BUSWAY.—There is authorized to be appropriated $39,500,000 for design and construction of an exclusive busway linking Pittsburgh and Pittsburgh Airport. The Federal share of such project shall be 80 percent.

(f) EXTON BYPASS.—There is authorized to be appropriated $11,004,000 for construction of the Exton Bypass, in Exton, Pennsylvania. The Federal share of such project shall be 80 percent.

(g) PENNSYLVANIA ROUTE 33 EXTENSION.—There is authorized to be appropriated $5,400,000 for extension of Route 33 in Northampton County, Pennsylvania. The Federal share of such project shall be 80 percent.

(h) U.S. ROUTE 202.—There is authorized to be appropriated $4,500,000 for construction of U.S. Route 202. The Federal share of such project shall be 80 percent.

(i) WOODROW WILSON BRIDGE.—There is authorized to be appropriated $15,000,000 for rehabilitation of the Woodrow Wilson Bridge. The Federal share of such project shall be 100 percent.

(j) WARREN OUTERBELT IMPROVEMENT, WARREN, OHIO.—There is authorized to be appropriated $1,000,000 for design and construction of Warren Outerbelt improvements, Warren, Ohio. The Federal share of such project shall be 80 percent.

(k) OHIO STATE ROUTE 46 IMPROVEMENTS.—There is authorized to be appropriated $2,000,000 for design and construction of Ohio State Route 46 improvements. The Federal share of such project shall be 80 percent.

(l) OHIO STATE ROUTE 5 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 5 improvements. The Federal share of such project shall be 80 percent.

(m) U.S. ROUTE 62 IMPROVEMENTS, OHIO.—There is authorized to be appropriated $1,000,000 for design and construction of U.S. Route 62 improvements, Ohio. The Federal share of such project shall be 80 percent.

(n) OHIO STATE ROUTE 534 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 534 improvements. The Federal share of such project shall be 80 percent.

(o) OHIO STATE ROUTE 45 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 45 improvements. The Federal share of such project shall be 80 percent.

(p) ROUTE 120, LOCK HAVEN, PENNSYLVANIA.—There is authorized to be appropriated $4,000,000 for the widening of Route 120 and the removal of unstable rockfill area, Lock Haven, Pennsylvania. The Federal share of such project shall be 80 percent.

(q) TRUSS BRIDGE, TIOGA RIVER, LAWRENCEVILLE, PENNSYLVANIA.—There is authorized to be appropriated $3,200,000 to replace the existing Truss Bridge across the Tioga River, in Lawrenceville, Pennsylvania. The Federal share of such project shall be 80 percent.

(r) U.S. ROUTE 6, BRADFORD COUNTY, PENNSYLVANIA.—There is authorized to be appropriated $3,000,000 for the widening of U.S. Route 6 (Wysox Narrows Road), in Bradford County, Pennsylvania. The Federal share of such project shall be 80 percent.

(s) SEBRING/MANSFIELD BYPASS, PENNSYLVANIA.—There is authorized to be appropriated $4,800,000 for design and construction of the Sebring/Mansfield Bypass on U.S. 15, Pennsylvania. The Federal share of such project shall be 80 percent.

(t) I–5 IMPROVEMENTS.—The States of Oregon and Washington should give priority consideration to improvements on the I–5 Corridor. The Secretary shall give priority consideration to funding I–5 improvements in Oregon and Washington from section 118(c)(2) of title 23, United States Code, as amended by this Act. The Secretary shall give the highest priority to those Oregon projects identified in the State's transportation improvement plan.

(u) ROUTE 219.—The Secretary shall designate Route 219 from the Maryland line to Buffalo, New York, as part of the National Highway System.

(v) COALFIELDS EXPRESSWAY.—There is authorized to be appropriated such sums as may be necessary for design and construction of the project known as "Coalfields Expressway" from Beckley, West Virginia, to the West Virginia-Virginia State line, generally following the corridor defined by, but not necessarily limited to, Routes 54, 97, 10, 16, and 93. The Federal share of such project shall be 80 percent.

(w) UNITED STATES ROUTE 119.—There is authorized to be appropriated $70,000,000 for upgrading United States Route 119 to 4 lanes beginning west of Huddy, Kentucky. The Federal share of such project shall be 80 percent.

(x) CHAMBERSBURG, PENNSYLVANIA.—Not later than 30 days after the date of the enactment of this Act, in Chambersburg, Pennsylvania, at both the intersection of Lincoln Way and Sixth Street and the intersection of Lincoln Way and Coldbrook Avenue, the Pennsylvania Department of Transportation shall include an exclusive pedestrian phase in the existing lighting sequence between the hours of 8:00 and 8:30 a.m. and between the hours of 2:45 and 3:45 p.m. on weekdays.

(y) CONSTRUCTION OF AND IMPROVEMENTS TO THE APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.—There is authorized to be appropriated such sums as may be necessary for projects involving construction of, and improvements to, corridors of the Appalachian Development Highway System.

(z) UNITED STATES ROUTE 52 IN WEST VIRGINIA.—(1) There is authorized to be appropriated such sums as may be necessary for projects for the construction, renovation, and reconstruction of United States Route 52 in West Virginia.

(2) The Federal share payable on account of any such project shall be 80 percent of the cost thereof.

(aa) ROUTE 219, NEW YORK.—(1) For the purpose of projects to improve and upgrade Route 219 in New York, from Springeville to the Pennsylvania border Route 219 shall be considered as eligible for funding under the Appalachian Development Highway System.

(2) For purposes of paragraph (1) there is authorized to be appropriated such sums as may be necessary. The Federal share payable on account of such project shall be 80 percent of the cost thereof.

(bb) ROUTES 5 AND 92 CONGESTION MANAGEMENT PROJECT.—There is authorized to be appropriated $20,000,000 to carry out a project to relieve congestion in the vicinity of the intersection of routes 5 and 92 in the Towns of Manlius, New York, and Dewitt, New York.

(cc) ROCHESTER ADVANCED TRAFFIC MANAGEMENT SYSTEM.—There is authorized to be appropriated $15,000,000 to implement an integrated advanced traffic management/advanced driver information system in the city of Rochester, New York.

(dd) RENSSELAER ACCESS PROJECT.—There is authorized to be appropriated $35,000,000 to construct a new interchange (Exit 8) on Interstate Route 90, which includes an access-controlled roadway, in Rensselaer County, New York.

(ee) GOWANUS EXPRESSWAY CORRIDOR IMPROVEMENTS.—There is authorized to be appropriated $200,000,000 to carry out improvements to the Gowanus Expressway Corridor in Brooklyn, New York.

(ff) I–287 CROSS WESTCHESTER EXPRESSWAY HIGH OCCUPANCY VEHICLE LANE PROJECT.—There is authorized to be appropriated $200,000,000 to construct High Occupancy Vehicle Lanes on the Cross Westchester Expressway in Westchester County, New York.

(gg) OAK POINT LINK FREIGHT ACCESS PROJECT.—There is authorized to be appropriated $150,000,000 to complete the construction of the Oak Point Link in the Harlem River in New York City, New York.

(hh) OPERATIONAL IMPROVEMENTS, FRANKLIN DELANO ROOSEVELT DRIVE.—There is authorized to be appropriated $50,000,000 to carry out operational and safety improvements to the Franklin Delano Roosevelt Drive in New York City, New York.

SEC. 1070. MODIFICATIONS OF NIAGARA FALLS BRIDGE COMMISSION CHARTER.

(a) PAYMENT OF COSTS.—

(1) IN GENERAL.—Section 4 of the joint resolution entitled "Joint resolution creating the Niagara Falls Bridge Commission and authorizing said Commission and its successors to construct, maintain, and operate a bridge across the Niagara River at or near the city of Niagara Falls, New York", approved June 16, 1938, as amended (hereinafter in this section referred to as the "Joint Resolution"), is amended to read as follows:

"SEC. 4. The Commission is authorized to issue its obligations to provide funds for the acquisition or construction of bridges (provided the same is authorized by Act or Joint Resolution of Congress of the United States), and the repair, renovation and expansion of the same, working capital and other expenditures and deposits convenient to carrying out the Commission's purposes. The terms of the obligations shall be determined by resolution of the Commission (subject to such agreements with bondholders as may then exist), including provisions regarding rates of interest (either fixed or variable), contracts for credit support, risk management, liquidity or other financial arrangements, security or provision for payment of the obligations and such contracts (including the general obligation of the Commission and the pledge of all or any particular revenues or proceeds of obligations of the Commission). The obligations shall be sold at public or private sale at such prices above or below par as the Commission shall determine. As used herein 'bridges' includes approaches thereto, land, easements and functionally related appurtenances.".

(2) EXISTING CONTRACTUAL RIGHTS.—The amendments made by paragraph (1) shall be subject to the contractual rights of the holders of any of the bonds of the Niagara Falls Bridge

Commission which are outstanding as of the date of the enactment of this section.

(b) Repayments.—Section 5 of the Joint Resolution is amended—

(1) in the first sentence—

(A) by striking "a fund" and "a sinking fund" each place such terms appear and inserting "funds",

(B) by striking "herein provided" and inserting "provided by resolution",

(C) by striking "bonds" and inserting "obligations,", and

(D) by striking "bridge" and inserting "bridges" each place such term appears, and

(2) by striking the second and third sentences and inserting: "After payment or provision for payment of the foregoing uses, the remainder of the tolls shall be applied, as and when the Commission determines, for purposes convenient to the accomplishment of its purposes.".

(c) Treatment of Commission.—The last sentence of section 6 of the Joint Resolution is amended to read as follows: "The Commission shall be deemed for purposes of all Federal law to be a public agency or public authority of the State of New York, notwithstanding any other provision of law.".

(d) Administrative Provisions.—Section 8 of the Joint Resolution is amended in the second sentence thereof by striking out "shall not be entitled to any compensation for their services but" and inserting "shall be entitled to reimbursement for actual expenses incurred in the performance of official duties and to a per diem allowance per member of $150 when rendering services as such member (but not exceeding $10,000 for any member in any fiscal year).".

SEC. 1071. PEACE BRIDGE TRUCK INSPECTION FACILITIES.

Notwithstanding any other provision of law, the Administrator of General Services shall lease truck inspection facilities for the Peace Bridge. Such facilities must be immediately adjacent to the intersection of Porter Avenue and the New York State Thruway in Buffalo, New York. Before leasing such facilities, the Administrator must be assured that the facilities will be offered at a fair market price and that the facilities chosen will be connected to the bridge by a secure access road. Provided that these conditions are met, the Administrator shall enter into the lease on or before April 30, 1992.

SEC. 1072. VEHICLE PROXIMITY ALERT SYSTEM.

The Secretary shall coordinate the field testing of the vehicle proximity alert system and comparable systems to determine their feasibility for use by priority vehicles as an effective railroad-highway grade crossing safety device. In the event the vehicle proximity alert or a comparable system proves to be technologically and economically feasible, the Secretary shall develop and implement appropriate programs under section 130 of title 23, United States Code, to provide for installation of such devices where appropriate.

SEC. 1073. ROADSIDE BARRIERS AND SAFETY APPURTENANCES.

(a) Initiation of Rulemaking Proceeding.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such rulemaking shall reflect state-of-the-art designs, testing, and evaluation criteria contained in the National Cooperative Highway Research Program Report 230, relating to approval standards which provide an enhanced level of crashworthy performance to accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles.

(b) Final Rule.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall complete the rulemaking proceeding initiated under subsection (a), and issue a final rule regarding the implementation of revised guidelines and standards for acceptable roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such revised guidelines and standards shall accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles and shall be applicable to the refurbishment and replacement of existing roadside barriers and safety appurtenances as well as to the installation of new roadside barriers and safety appurtenances.

SEC. 1074. DESIGNATION OF UNITED STATES ROUTE 69.

Notwithstanding any other provision of law, upon the request of the Oklahoma State highway agency, the Secretary shall designate the portion of United States Route 69 from the Oklahoma-Texas State line to Checotah in the State of Oklahoma as a part of the Interstate System pursuant to section 139 of title 23, United States Code.

SEC. 1075. SPECIAL PROVISIONS REGARDING CERTAIN HYDROELECTRIC PROJECTS.

(a) Brasfield Dam Project in Virginia.—(1) Notwithstanding section 13 of the Federal Power Act providing for the termination of a license issued by the Federal Energy Regulatory Commission (hereinafter in this subsection referred to as the "Commission") to the Appomattox River Water Authority (hereinafter in this subsection referred to as the "Authority") for the Brasfield Dam Hydroelectric Project (FERC Project No. 9840-001) on the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia, and notwithstanding the prior surrender of such license by the Authority, the Commission shall reissue such license to the Authority, together with any amendments necessary and appropriate to carry out this subsection, and extend the period referred to in section 13 of that Act for a period ending 3 years after the enactment of this Act, subject to the requirements of this section and the provisions of Federal Power Act.

(2) During the 3-year period referred to in paragraph (1), the Commission shall issue an order, at the request of the Authority, permitting the Authority to transfer the license for such project to another person designated by the Authority for the purpose of protecting the Authority from challenge in connection with its agreement of trust with the Crestar Bank or under any provision of law of the State of Virginia. Any such transfer shall occur at a time specified in the order which shall not be after the expiration of the 3-year period referred to in paragraph (1).

(3) Any license transfer under this subsection shall require that the licensee shall be subject to, and comply with, the license and the provisions of the Federal Power Act, including the provisions of section 10 thereof (related to fish and wildlife) with respect to such project to the same extent and in the same manner as the Authority would be subject to such license and such Act in the absence of such transfer. Nothing in the transfer of such license shall affect the authority or power of the Commission under the license or under the Federal Power Act. Nothing in the Federal Power Act shall be construed as precluding a transfer of such license for the purposes specified in this section.

(4) Any license transfer under this subsection shall be subject to revocation, at the request of the Authority, to permit the Authority to surrender the license. No surrender of such license by the Authority (or by any other person) shall be effective until after—

(A) reasonable prior notice (as determined by the Commission),

(B) completion of project construction, including the installation of any facilities for the protection, mitigation, and enhancement of fish and wildlife required under the license (including facilities required by the State fish and wildlife agency); and

(C) delivery to the Commission of a statement certified by the Board of the Authority that the terms of any actual or proposed Commission order with respect to the Brasfield Dam Hydroelectric Project would cause the Authority to act in violation of its Charter or be inconsistent with its bond indentures.

The Commission shall accept the surrender of such license and establish conditions applicable to such license surrender which require the removal of hydroelectric power generation facilities, require that the licensee provide assurances satisfactory to the Commission that, following surrender of the license, the Brasfield Dam will be subject to State laws regarding fish and wildlife and dam safety and require that such surrender will not impose any duty, liability or obligation on the part of any department, agency, or instrumentality of the United States. Nothing in this section shall affect the application of the River and Harbor Act of 1894 (33 U.S.C. Sec. 1).

(b) Projects Nos. 3033, 3034, and 3246.—(1) Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), the Federal Energy Regulatory Commission, upon the request of the licensees for Federal Energy Regulatory Commission Projects Nos. 3033, 3034, and 3246 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, to extend—

(A) until August 10, 1994, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999, the time required for completion of construction of the project;

(B) until August 10, 1996, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001, the time required for completion of construction of the project; and

(C) until October 15, 1995, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3246, and until October 15, 1999, the time required for completion of construction of the project.

(2) The authorization for issuing extensions under this subsection shall terminate 3 years after the date of enactment of this section.

(3) To facilitate requests under this subsection, the Commission may consolidate the requests.

(c) Union City, Michigan.—Notwithstanding section 23(b) or section 4(e) of the Federal Power Act, it shall not be unlawful for the municipality of Union City, Michigan, to operate, maintain, repair, reconstruct, replace, or modify—

(1) any dam which, as of the date of the enactment of this Act, is owned and operated by Union City, Michigan, and located across a segment of the St. Joseph River, in Branch County, Michigan, approximately 5 miles downstream from such municipality, or

(2) any water conduit, reservoir, power house, and other works incidental to such dam.

No license shall be required under part 1 of the Federal Power Act for the dam, water conduit, reservoir, power house, or other project works referred to in the preceding sentence and, subject to compliance with State laws, permission is hereby granted for such facilities to the same extent as in the case of facilities for which permission is granted under the last sentence of section 23(b) of that Act.

SEC. 1076. SHORELINE PROTECTION.

The project for shoreline protection, Atlantic Coast of New York City from Rockaway Inlet to

Norton Point, authorized by section 501(a) of the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4135), is modified to authorize the Secretary to construct the project at a total first cost of $69,200,000, based on the New York District Engineer's draft General Design Memorandum dated April 1991, with an estimated first Federal cost of $39,800,000 and an estimated non-Federal cost of $29,400,000, and an average annual cost of $580,000 for periodic nourishment over the life of the project, with an estimated annual Federal cost of $377,000 and an estimated annual non-Federal cost of $203,000. The Secretary shall proceed with the storm damage reduction measures as the first construction feature. The project is further modified to authorize the Secretary to relocate existing comfort and lifeguard stations at full Federal expense, provided such relocations are desired by the non-Federal sponsor. Operation and maintenance of the facilities after relocation will be a non-Federal responsibility. The cost of these relocations shall not be treated as a project cost for purposes of either economic evaluation or project cost-sharing of the project.

SEC. 1077. REVISION OF MANUAL.

Not later than 90 days after the date of the enactment of this Act, the Secretary shall revise the Manual of Uniform Traffic Control Devices and such other regulations and agreements of the Federal Highway Administration as may be necessary to authorize States and local governments, at their discretion, to install stop or yield signs at any rail-highway grade crossing without automatic traffic control devices with 2 or more trains operating across the rail-highway grade crossing per day.

SEC. 1078. DECLARATION OF NONNAVIGABILITY OF PORTION OF HUDSON RIVER, NEW YORK.

(a) DECLARATION OF NONNAVIGABILITY.—Subject to subsections (c), (d), and (e), the area described in subsection (b) is declared to be nonnavigable waters of the United States.

(b) AREA SUBJECT TO DECLARATION.—The area described in this subsection is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York):

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918.003 west 9806.753.

Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°–44′–20″ east, having a radius of 390.00 feet and a central angle of 22°–05′–50″, 150.41 feet to a point of tangency.

Thence north 71°–38′–30″ east, 42.70 feet.

Thence south 11°–05′–40″ east, 33.46 feet.

Thence south 78°–54′–20″ west, 0.50 feet.

Thence south 11°–05′–40″ east, 2.50 feet.

Thence north 78°–54′–20″ east, 0.50 feet.

Thence south 11°05′40″ east, 42.40 feet to a point of curvature.

Thence southerly, on the arc of a circle curving to the right, having a radius of 220.00 feet and a central angle of 16°37′40″, 63.85 feet to a point of compound curvature.

Thence still southerly, on the arc of a circle curving to the right, having a radius of 150.00 feet and a central angle of 38°39′00″, 101.19 feet to another point of compound curvature.

Thence westerly, on the arc of a circle curving to the right, having a radius of 172.05 feet and a central angle of 32°32′03″, 97.69 feet to a point of curve intersection.

Thence south 13°16′57″ east, 50.86 feet to a point of curve intersection.

Thence westerly, on the arc of a circle curving to the left, whose radial bears north 13°16′57″ west, having a radius of 6.00 feet and a central angle of 180°32′31″, 18.91 feet to a point of curve intersection.

Thence southerly, on the arc of a circle curving to the left, whose radial line bears north 75°37′11″ east, having a radius of 313.40 feet and a central angle of 4°55′26″, 26.93 feet to a point of curve intersection.

Thence south 70°41′45″ west, 36.60 feet.

Thence north 13°45′00″ west, 42.87 feet.

Thence south 76°15′00″ west, 15.00 feet.

Thence south 13°45′00″ east, 44.33 feet.

Thence south 70°41′45″ west, 128.09 feet to a point in the United States Pierhead Line approved by the Secretary of War, 1936.

Thence north 63°08′48″ west, along the United States Pierhead Line approved by the Secretary of War, 1936, 114.45 feet to an angle point therein.

Thence north 61°08′00″ west, still along the United States Pierhead Line approved by the Secretary of War, 1936, 202.53 feet.

The following three courses being along the lines of George Soilan Park as shown on map prepared by The City of New York, adopted by the Board of Estimate, November 13, 1981, Acc. N° 30071 and lines of property leased to Battery Park City Authority and B. P. C. Development Corp.

Thence north 77°35′20″ east, 231.35 feet.

Thence north 12°24′40″ west, 33.92 feet.

Thence north 54°49′00″ east, 171.52 feet to a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941.

Thence north 12°24′40″ west, along the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 62.26 feet to the point or place of beginning.

(c) DETERMINATION OF PUBLIC INTEREST.—The declaration made in subsection (a) shall not take effect if the Secretary of the Army (acting through the Chief of Engineers), using reasonable discretion, finds that the proposed project is not in the public interest—

(1) before the date which is 120 days after the date of the submission to the Secretary of appropriate plans for the proposed project; and

(2) after consultation with local and regional public officials (including local and regional public planning organizations).

(d) LIMITATION ON APPLICABILITY OF DECLARATION.—

(1) AFFECTED AREA.—The declaration made in subsection (a) shall apply only to those portions of the area described in subsection (b) which are or will be occupied by permanent structures (including docking facilities) comprising the proposed project.

(2) APPLICATION OF OTHER LAWS.—Notwithstanding subsection (a), all activities conducted in the area described in subsection (b) are subject to all Federal laws which apply to such activities, including—

(A) sections 9 and 10 of the Act of March 3, 1899 (33 U.S.C. 401, 403), commonly known as the River and Harbors Appropriation Act of 1899;

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1254); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) EXPIRATION DATE.—The declaration made in subsection (a) shall expire—

(1) on the date which is 6 years after the date of the enactment of this Act if work on the proposed project to be performed in the area described in subsection (b) is not commenced before such date; or

(2) on the date which is 20 years after the date of the enactment of this Act for any portion of the area described in subsection (b) which on such date is not bulkheaded, filled, or occupied by a permanent structure (including docking facilities).

(f) PROPOSED PROJECT DEFINED.—For the purposes of this section, the term "proposed project" means any project for the rehabilitation and development of—

(1) the structure located in the area described in subsection (b), commonly referred to as Pier A; and

(2) the area surrounding such structure.

SEC. 1079. CLEVELAND HARBOR, OHIO.

(a) DEAUTHORIZATION OF PORTION OF PROJECT FOR HARBOR MODIFICATION.—That portion described in subsection (b) of the project for harbor modification, Cleveland Harbor, Ohio, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is not authorized after the date of the enactment of this Act.

(b) AREA SUBJECT TO DEAUTHORIZATION.—The portion of the project for harbor modification, Cleveland Harbor, Ohio, described in this subsection is that portion situated in the City of Cleveland, Cuyahoga County, and State of Ohio, T7N, R13W and being more fully described as follows:

Beginning at an iron pin monument at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of relocated Erieside Avenue N.E. (70 ft. wide).

Thence South 50°06′52″ West on the centerline of relocated Erieside Avenue N.E. a distance of 112.89 feet to a point.

Thence southwesterly continuing on the centerline of relocated Erieside Avenue N.E. along the arc of a curve to the left, with a radius of 300.00 feet and whose chord bears South 42°36′52″ West 140.07 feet, an arc distance of 141.37 feet to a point.

Thence North 60°53′08″ West a distance of 35.00 feet to a point on the northwesterly right-of-way line of relocated Erieside Avenue N.E.

Thence South 29°06′52″ West on the northwesterly right-of-way line of relocated Erieside Avenue N.E. a distance of 44.36 feet to a point.

Thence North 33°53′08″ West a distance of 158.35 feet to a point.

Thence South 56°06′52″ West a distance of 76.00 feet to a point.

Thence North 78°53′08″ West a distance of 18.39 feet to a point.

Thence North 33°53′08″ West a distance of 33.50 feet to a point, said point being the true place of beginning of the parcel herein described.

Thence South 56°06′52″ West a distance of 84.85 feet to a point.

Thence North 33°53′08″ West a distance of 137.28 feet to a point.

Thence North 11°06′52″ East a distance of 225.00 feet to a point.

Thence South 78°53′08″ East a distance of 160.00 feet to a point.

Thence South 11°06′52″ West a distance of 46.16 feet to a point.

Thence South 56°06′52″ West a distance of 28.28 feet to a point.

Thence South 11°06′52″ West a distance of 89.70 feet to a point.

Thence South 33°53′08″ East a distance of 28.28 feet to a point.

Thence South 11°06′52″ West a distance of 83.29 feet to a point.

Thence South 56°06′52″ West a distance of 4.14 feet to a true place of beginning containing 42,646 square feet more or less.

(c) REIMBURSEMENT NOT REQUIRED.—The Ohio Department of Natural Resources shall not be required to reimburse the Federal Government any portion of the credit received by the non-Federal project sponsor as provided for in Public Law 100–202 (101 Stat. 1329–108).

(d) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary of the Army finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Cleveland Harbor, Ohio, described below, are not in the public in-

terest then, subject to subsections (e) and (f) of this section, those portions of such Harbor, bounded and described as follows, are declared to be nonnavigable waters of the United States:

Situated in the City of Cleveland, Cuyahoga County and State of Ohio, T7N, R13W and being more fully described as follows:

Beginning at an iron pin monument at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of relocated Erieside Avenue, N.E., (70 feet wide) at Cleveland Regional Geodetic Survey Grid System, (CRGS) coordinates N92,679.734, E86,085.955;

Thence South 56°06'52" West on the centerline of relocated Erieside Avenue, N.E., a distance of 89.50 feet to a drill hole set;

Thence North 33°53'08" West a distance of 35.00 feet to a drill hole set on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., said point being the true place of beginning of the parcel herein described;

Thence South 56°06'52" West on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 23.39 feet to a ⅝ inch re-bar set;

Thence southwesterly on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., along the arc of a curve to the left with a radius of 335.00 feet, and whose chord bears South 42°36'52" West 156.41 feet, an arc distance of 157.87 feet to a ⅝ inch re-bar set;

Thence South 29°06'52" West on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 119.39 feet to a ⅝ inch re-bar set;

Thence southwesterly on the northwesterly right-of-way of relocated Erieside Avenue, N.E., along the arc of a curve to the right with a radius of 665.00 feet, and whose chord bears South 32°22'08" West 75.50 feet, an arc distance of 75.54 feet to a ⅝ inch re-bar set;

Thence North 33°53'08" West a distance of 279.31 feet to a drill hole set;

Thence South 56°06'52" West a distance of 37.89 feet to a drill hole set;

Thence North 33°53'08" West a distance of 127.28 feet to a point;

Thence North 11°06'52" East a distance of 225.00 feet to a point;

Thence South 78°53'08" East a distance of 150.00 feet to a drill hole set;

Thence North 11°06'52" East a distance of 32.99 feet to a drill hole set;

Thence North 33°53'08" East a distance of 46.96 feet to a drill hole set;

Thence North 56°06'52" East a distance of 140.36 feet to a drill hole set on the southwesterly right-of-way line of East 9th Street;

Thence South 33°53'08" East on the southwesterly right-of-way line of East 9th Street a distance of 368.79 feet to a drill hole set;

Thence southwesterly along the arc of a curve to the right with a radius of 40.00 feet, and whose chord bears South 11°06'52" West 56.57 feet, an arc distance of 62.83 feet to the true place of beginning containing 174,764 square feet (4.012 acres) more or less.

(e) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (d) shall apply only to those parts of the areas described in subsection (d) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(f) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (d) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (e) of this section, or if work in connection with any activity permitted in subsection (e) is not commenced within 5 years after issuance of such permit, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 1080. DEAUTHORIZATION OF A PORTION OF THE CANAVERAL HARBOR, FLORIDA, PROJECT.

The following portion of the project for navigation, Canaveral Harbor, Florida, authorized by the River and Harbor Act of 1945, as modified by the River and Harbor Act of 1962 (Pub. L. 87-874), shall not be authorized after the date of the enactment of this Act:

Begin at the northwesterly corner of the west turning basin, Federal navigation project, Canaveral Harbor, Brevard County, Florida, having a northing of 1,483,798.695 and an easting of 619,159.191 (Florida east zone, State plane transverse mercator standard conical projections) and being depicted on the Department of the Army, Jacksonville District, Corps of Engineers 'Construction Dredging 31 Foot Project', D.O. File No. 11–34, 465 sheet 35, dated October 1984; thence S. 0°18'51" E., along said westerly boundary, a distance of 1320.00 feet; thence N. 89°41'09" E., a distance of 1095.00 feet; thence N. 62°35'15" W., a distance of 551.30 feet; thence N. 56°56'18" E., a distance of 552.87 feet; thence S. 89°41'09" W., a distance of 1072.00 feet to the point of beginning (containing 21.43 acres, more or less).

SEC. 1081. INFRASTRUCTURE INVESTMENT COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the "Commission to Promote Investment in America's Infrastructure" (hereinafter in this section referred to as the "Commission").

(b) FUNCTION OF COMMISSION.—It shall be the function of the Commission to conduct a study on the feasibility and desirability of creating a type of infrastructure security to permit the investment of pension funds in funds used to design, plan, and construct infrastructure facilities in the United States. Such study may also include an examination of other methods of encouraging public and private investment in infrastructure facilities.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 7 members appointed as follows:

(A) 2 members appointed by the majority leader of the Senate.

(B) 2 members appointed by the Speaker of the House of Representatives.

(C) 1 member appointed by the President.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission shall have appropriate backgrounds in finance, construction lending, actuarial disciplines, pensions, and infrastructure policy disciplines.

(3) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

(d) PAY AND TRAVEL EXPENSES.—Members shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, while away from their homes or regular places of business in the performance of services for the Commission in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code.

(e) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairperson may—

(1) appoint and fix the pay of an executive director, a general counsel, and such additional staff as the Chairperson considers necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such staff members may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall transmit to the President and Congress a report containing its findings and recommendations.

(g) TERMINATION.—The Commission shall terminate on the 180th day following the date of the submission of its report under subsection (f).

SEC. 1082. DEAUTHORIZATION OF ACADEMY CREEK FEATURE OF THE BRUNSWICK HARBOR, GEORGIA, PROJECT.

The Academy Creek feature of the Brunswick Harbor, Georgia, project, authorized for construction by the River and Harbor Act of 1907 in accordance with House Document 407, 59th Congress, shall not be authorized after the date of the enactment of this Act.

SEC. 1083. NAMINGS.

(a) WILLIAM H. HARSHA BRIDGE.—The United States Route 68 bridge across the Ohio River between Aberdeen, Ohio, and Maysville, Kentucky, shall be known and designated as the "William H. Harsha Bridge".

(b) J. CLIFFORD NAUGLE BYPASS.—The highway bypass being constructed around the Borough of Ligonier in Westmoreland County, Pennsylvania, shall be known and designated as the "J. Clifford Naugle Bypass".

(c) LINDY CLAIBORNE BOGGS LOCK AND DAM.—

(1) DESIGNATION.—The lock and dam numbered 1 on the Red River Waterway in Louisiana shall be known and designated as the "Lindy Claiborne Boggs Lock and Dam".

(2) REFERENCE.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Lindy Boggs Lock and Dam".

(d) JOSEPH RALPH SASSER BOAT RAMP.—

(1) DESIGNATION.—The boat ramp constructed on the left bank of the Mississippi River at River Mile 752.5 at Shelby Forest in Shelby County, Tennessee, shall be known and designated as the "Joseph Ralph Sasser Boat Ramp".

(2) LEGAL REFERENCE.—A reference to any law, map, regulation, document, record, or other paper of the United States to such boat ramp shall be deemed to be a reference to the "Joseph Ralph Sasser Boat Ramp".

SEC. 1084. SIGNING OF UNITED STATES HIGHWAY 71.

The Arkansas State Highway and Transportation Department shall erect the signs along United States Highway 71 from the I–40 intersection to the Missouri-Arkansas State line which are required to be erected by the Arkansas State law designated as Act 6 of 1989.

SEC. 1085. CONTINUATION OF AUTHORIZATION FOR RHODE ISLAND NAVIGATION PROJECT.

(a) CONTINUATION OF AUTHORIZATION.—Notwithstanding section 1001(a) of the Water Re-

sources Development Act of 1986, the project for navigation, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986, shall remain authorized to be carried out by the Secretary.

(b) TERMINATION DATE.—The project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during this period, funds have been obligated for construction, including planning and design, of the project.

SEC. 1086. PENSACOLA, FLORIDA.

(a) STUDY.—The Secretary shall conduct a study of the feasibility of constructing, in accordance with standards applicable to Interstate System highways, a 4-lane highway connecting Interstate Route 65 and Interstate Route 10 in the vicinity of Pensacola, Florida.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for the location of a corridor in which to construct the highway described in subsection (a).

SEC. 1087. INCLUSION OF CALHOUN COUNTY, MISSISSIPPI, IN APPALACHIA.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended in the fifth undesignated paragraph of such section by inserting "Calhoun," after "Benton,".

SEC. 1088. HANDICAPPED PARKING SYSTEM.

(a) STUDY.—The Secretary shall conduct a study of the progress being made by the States in adopting and implementing the uniform system for handicapped parking established in regulations issued by the Secretary pursuant to Public Law 100-641 (102 Stat. 3335).

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the study conducted under this section.

SEC. 1089. FEASIBILITY OF INTERNATIONAL BORDER HIGHWAY INFRASTRUCTURE DISCRETIONARY PROGRAM.

(a) STUDY.—The Secretary shall conduct a study of the advisability and feasibility of establishing an international border highway infrastructure discretionary program. The purpose of such a program would be to enable States and Federal agencies to construct, replace, and rehabilitate highway infrastructure facilities at international borders when such States, agencies, and the Secretary find that an international bridge or a reasonable segment of a major highway providing access to such a bridge (1) is important; (2) is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; (3) poses a safety hazard to highway users; (4) by its construction, replacement, or rehabilitation, would minimize disruptions, delays, and costs to users; or (5) by its construction, replacement, or rehabilitation, would provide more efficient routes for international trade and commerce.

(b) REPORT.—Not later than September 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with any recommendations to the Secretary.

SEC. 1090. METHODS TO REDUCE TRAFFIC CONGESTION DURING CONSTRUCTION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that many highway projects are carried out in a way which unnecessarily disrupts traffic flow during construction and that methods need to be adopted to eliminate or reduce these disruptions.

(b) STUDY.—The Secretary shall conduct a study on methods of enhancing traffic flow and minimizing traffic congestion during construction of Federal-aid highway projects and on costs associated with implementing such methods.

(c) CONSIDERATIONS.—In conducting the study under this section, the Secretary shall consider—

(1) the feasibility of carrying out construction of Federal-aid highway projects during off-peak periods and limiting closure of highway lanes on Federal-aid highways to portions of highways for which actual construction is in progress and for which safety concerns require closure; and

(2) the need for establishment and operation by each State of a toll-free telephone number to receive complaints and provide information regarding the status of construction on Federal-aid highways in the State.

(d) REPORT.—Not later than September 30, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with such recommendations as the Secretary considers appropriate.

SEC. 1091. STUDY OF VALUE ENGINEERING.

(a) STUDY.—The Secretary shall study the effectiveness and benefits of value engineering review programs applied to Federal-aid highway projects. Such study shall include an analysis of and the results of specialized techniques utilized in all facets of highway construction for the purpose of reduction of costs and improvement of the overall quality of Federal-aid highway projects.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to Congress on the results of the study under subsection (a), including recommendations on how value engineering could be utilized and improved in Federal-aid highway projects.

SEC. 1092. PILOT PROGRAM FOR UNIFORM AUDIT PROCEDURES.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program under which any contract or subcontract awarded in accordance with section 112(b)(2)(A) of title 23, United States Code, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal regulations. The pilot program under this section shall include participation of not more than 10 States.

(b) INDIRECT COST RATES.—In lieu of performing their own audits, the States participating in the pilot program shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or audited by an independent certified public accountant, if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, all the recipients of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or defacto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subsection shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subsection, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

(c) REPORT.—Each State participating in the pilot program shall report to the Secretary not later than 3 years after the date of enactment of this Act on the results of the program.

SEC. 1093. RENTAL RATES.

Within 1 year after the date of the enactment of this Act, the Comptroller General shall complete a study on equipment rental rates for use in reimbursing contractors for extra work on Federal-aid projects. Such study shall include an analysis of the reasonableness of currently accepted equipment rental costs, adequacy of adjustments for regional or climactic differences, adequacy of consideration of mobilization costs, loss of time and productivity attendant to short-term usage of equipment, and approvals of rental rate costs by the Federal Highway Administration.

SEC. 1094. STUDY ON STATE COMPLIANCE WITH REQUIREMENTS FOR REVOCATION AND SUSPENSION OF DRIVERS' LICENSES.

(a) STUDY.—The Secretary shall conduct a study of State efforts to comply with the provisions of section 333 of the Department of Transportation and Related Agencies Appropriation Acts, 1991, 1992, relating to revocation and suspension of drivers' licenses.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 1095. BROOKLYN COURTHOUSE.

The Administrator of the General Services Administration is authorized to enter into a lease with the United States Postal Service for space to house the Federal Courts and related Federal agencies in Brooklyn, New York. The Administrator is further authorized—

(1) to advance the amount provided in the fiscal year 1992 Treasury, Postal Service, and General Government Appropriation Act to the Postal Service to expedite the start of construction; and

(2) to transfer the present Emanuel Celler Federal Building and Courthouse in Brooklyn to the Postal Service.

SEC. 1096. BORDER STATION INTERNATIONAL FALLS, MINNESOTA.

The Administrator of the General Services Administration is authorized to provide for the construction of a 9,000 occupiable square foot border station at International Falls, Minnesota, at a total estimated cost of $2,480,000, in accordance with an amended prospectus submitted by the General Services Administration to the Senate Committee on Environment and Public Works on June 19, 1991.

SEC. 1097. MILLER HIGHWAY.

The Secretary shall deem the independent proposals to construct a new highway facility in the Route 9A corridor between the Battery and 59th Street, and to relocate the existing Miller Highway facility, between 59th Street and 72nd Street, on the west side of Manhattan, New York, New York, to be separate and distinct projects for the purposes of compliance with any applicable Federal laws.

SEC. 1098. ALLOCATION FORMULA STUDY.

(a) The General Accounting Office in conjunction with the Bureau of Transportation Statistics created pursuant to title VI of this Act, shall conduct a thorough study and recommend to the Congress within 2 years after the date of the enactment of this Act a fair and equitable apportionment formula for the allocation of Federal-aid highway funds that best directs highway funds to the places of greatest need for highway maintenance and enhancement based on the extent of these highway systems, their present use, and increases in their use.

(b) The results of this study shall be presented to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on or before January 1, 1994, and shall be considered by these committees as they reauthorize the surface transportation program in 1996.

SEC. 1099. ESTABLISHMENT OF INTERSTATE STUDY COMMISSION.

For the National Capital Region, comprised of the Washington, D.C., Metropolitan Statistical Area, a commission is established to recommend new mechanisms, authority, and/or agreements to fund, develop, and manage the transportation system of the National Capital Region, and primarily focusing on interstate highway and bridge systems. The commission shall develop its recommendations consistent with the transportation planning requirements for metropolitan areas as contained elsewhere in this bill. The study commission shall report to the Congress, the Department of Transportation, the Governors of Maryland and Virginia, the Mayor of the District of Columbia, and the National Capital Region Transportation Planning Board, the designated Metropolitan Planning Organization (MPO) for the Washington metropolitan area, no later than 12 months from the date of passage of this legislation. Representatives on the commission shall include a Member of Congress from each of Maryland, Virginia, and the District of Columbia; the Governors of Maryland and Virginia and the Mayor of the District of Columbia; 1 local elected official from each State and the District of Columbia appointed by the National Capital Region Transportation Planning Board; 3 private sector representatives appointed by the Governors and the Mayor; and the commission chairman to be appointed by the Secretary of Transportation. There is authorized to be appropriated for the purposes of carrying out this section such sums as may be necessary for the commission to carry out its functions.

SEC. 1100. EFFECTIVE DATE; APPLICABILITY; CERTAIN UNOBLIGATED BALANCES.

(a) GENERAL RULE.—This title, including the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY.—The amendments made by this title shall apply to funds authorized to be appropriated or made available after September 30, 1991, and, except as otherwise provided in subsection (c), shall not apply to funds appropriated or made available on or before September 30, 1991.

(c) UNOBLIGATED BALANCES.—

(1) IN GENERAL.—Unobligated balances of funds apportioned to a State under sections 104(b)(1), 104(b)(2), 104(b)(5)(B), and 104(b)(6) of title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991.

(2) TRANSFERABILITY.—

(A) PRIMARY SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid primary system before October 1, 1991, to the apportionment to such State under section 104(b)(1) or 104(b)(3) of title 23, United States Code, or both.

(B) SECONDARY AND URBAN SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid secondary system or the Federal-aid urban system before October 1, 1991, to the apportionment to such State under section 104(b)(3) of such title.

(C) APPLICABILITY OF CERTAIN LAWS, REGULATIONS, POLICIES, AND PROCEDURES.—Funds transferred under this paragraph shall be subject to the laws, regulations, policies, and procedures relating to the apportionment to which they are transferred.

SEC. 1101–1102. STUDY ON IMPACT OF CLIMATIC CONDITIONS.

(a) STUDY.—The Secretary shall conduct a study of the effects of climatic conditions on the costs of highway construction and maintenance. The study shall take into account such climatic conditions as freezing, thawing, and precipitation and the impact of climatic conditions on increased highway design costs and decreased highway service life in the various regions of the United States.

(b) REPORT.—Not later than September 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with such recommendations as the Secretary considers appropriate. The report shall include a description of the implications of the differing costs on the allocation of highway funds to the States.

SEC. 1103. HIGH COST BRIDGE PROJECTS.

(a) PURPOSE.—The purpose of this section is to provide funds to accelerate construction of high cost bridge projects.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the high cost of bridge projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	High cost bridges	Amount in millions
1.	Delaware, Oklahoma	Construction of a replacement bridge on U.S. Rt. 59 over Grand Lake in Delaware, Oklahoma	9.7
2.	Eugene, Oregon	Construction of the Ferry Street Bridge	23.7
3.	Beaver County, Pennsylvania	Construction of Aliquippa Ambridge Bridge of Beaver County, Pennsylvania	25.0
4.	Arkansas	For an expanded study of environmental impact and geo technical information for Arkansas-Mississippi Great River Bridge	0.8
5.	Gloucester Point, Virginia	Provide for additional crossing capacity of the York River	11.8
6.	San Francisco, California	For preliminary work associated with the seismic upgrading of the Golden Gate Bridge in San Francisco, California	5.9
7.	Cape May & Atlantic Counties, New Jersey	Replace critically important bridge between Ocean City and Longport, New Jersey	18.4
8.	Ohio	Conduct environmental and feasibility studies for the construction of a bridge or tunnel across the Maumee River in the vicinity of an existing left span bridge	1.0
9.	Maine	Donald B. Carter Memorial Bridge	32.1
10.	Shakopee, Minnesota	Bloomington Ferry Bridge replacement, Shakopee, Minnesota	22.0
11.	Charleston, South Carolina	Highway 17 Bridge replacement projects: Cooper River, Charleston, South Carolina	14.2
12.	Ft. Lauderdale, Florida	17th Street Causeway Tunnel/Bridge replacement, Ft. Lauderdale, Florida	13.6
13.	Maryland	Woodrow Wilson Bridge rehabilitation	29.6
14.	New York	Macomb Dam Bridge, Manhattan Bridge Rehabilitation Project, Queensboro Bridge—Rehabilitation of Main Span, Williamsburg Bridge Rehabilitation Project, Brooklyn Bridge Rehabilitation	74.0
15.	Miami, Florida	Complete construction of Dodge Island Bridge	3.4

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1104. CONGESTION RELIEF PROJECTS.

(a) PURPOSE.—The purpose of this section is to improve methods of congestion relief.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the congestion relief projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal *years 1992 through 1997 to carry out each such project the amount listed for each such project:*

	City/State	Congestion relief	Amount in millions
1.	Long Beach, California	Construction of HOV Lanes on I–710	7.4
2.	Philadelphia, Pennsylvania	Project to Construct Bridge-Pratt Terminal as part of an I-95 reconstruction mitigation project	34.5
3.	Davidson-Williamson County, Tennessee	Study and construction of the Davidson-Williamson Bike Path	1.0
4.	East St. Louis, Illinois to St. Louis, Missouri	To conduct a study to determine the feasibility of a bridge between East St. Louis, Illinois and St. Louis, Missouri	1.4
5.	St. Louis, Missouri	Relocation of Lindbergh Boulevard and Interstate 70 at St. Louis Lambert Airport	14.8
6.	District of Columbia	Primary Intermodal System, Washington, D.C.	6.8
7.	Buffalo, New York	Construction of Peace Bridge truck inspection facility	19.5
8.	Nashua, New Hampshire	Nashua River Bridge, Nashua, New Hampshire—Construction of second bridge	1.2
9.	Las Vegas, Nevada	Reconstruct and upgrade I–15/U.S. 95 (Spaghetti Bowl)	45.0
10.	San Diego, California	Construct 1 block of Cut and Cover Tunnel on Rt. 15 in downtown San Diego, California	5.0
11.	Los Angeles, California	To extend I–110 North from its current terminus at I–10 into downtown Los Angeles via Central City West Area in Los Angeles, California	10.1
12.	North Dakota	Design and construct 7.5 mile bypass around Lincoln State Park	1.1
13.	Babylon, New York	Construct turning lanes, sign upgrades, traffic signal interconnections and road repair and resurfacing	2.1
14.	Dixon, California	To improve 3 grade crossings in Dixon, California	1.8
15.	Fairfield, California	To construct 2 park & ride facilities, an information center and transfer hub for I–80 express and local bus service	7.7
16.	St. Louis, Missouri	Feasibility study for interchange improvements for I–255 at Rt. 231, St. Louis, Missouri	0.1
17.	Murfreesbro, Tennessee	Conduct a feasibility study of constructing a bicycle system as an alternative form of commuter transportation, air pollution reduction, and enhance recreation	0.4
18.	Long Island, New York	To make improvements on the Van Wyck Expressway to improve traffic flow, Long Island, New York	3.6
19.	Fox River Valley, Illinois	Study, plan and construct up to 8 bridges across the Fox River	8.3
20.	Prince George's County, Maryland	To rehabilitate the Baltimore-Washington Parkway in Prince George's County, Maryland	16.3
21.	Toledo, Ohio	Conduct study of possible safety and traffic delay improvement benefits in 6 corridors	0.24
22.	Boston, Massachusetts	To plan and construct a bicycle and pedestrian path connecting Arlington, Cambridge and Boston, Massachusetts	1.2
23.	Tucson, Arizona	To make interchange improvements at Oracle and Orange Grove Roads in Tucson, Arizona	3.9
24.	Victorville, California	Construct interchange 1 mile north of Palmdale Road on I–15	2.7
25.	Palm Beach, Florida	Acquire right-of-way and construct and widen to 4 lanes 19 mile segment of U.S. 27	5.5
26.	Pennsylvania	Improve River Street, Towanda Borough and North Towanda Township to form highway bypass	8.8
27.	Maine	Topsham-Brunswick Bypass	10.5
28.	Rankin County, Mississippi	East-Metro Center Access Road	4.6
29.	Kansas	West Leavenworth Trafficway Project, Leavenworth, Kansas	8.6
30.	Broward County, Florida	Hallandale Bridge Project, Broward County, Florida	8.5
31.	Idaho	Any of the Federal-aid projects eligible for funding under title 23, United States Code, located in Bannock or Caribou County, shall be eligible for funding	10.1
32.	Michigan	I–75/M57 Interchange improvement in the vicinity of Vienna Township, Michigan	8.9
33.	Prince William County, Virginia	I–95 HOV lane extension	13.5
34.	St. Thomas, Virgin Islands	Construction of Raphune Hill Bypass, St. Thomas, Virgin Islands	18.4
35.	Merrillville, Indiana	Construction of four lane road and overpass	1.8
36.	Milwaukee and Waukesha Counties, Wisconsin	I–794 Bicycle Transportation Project in Milwaukee and Waukesha Counties, Wisconsin	1.5
37.	Richmond, California	I–80 Richmond Parkway Interchange	1.8
38.	New York, New York	Construction of Williamsburg to Holland Tunnel Bypass	3.6
39.	Louisville, Kentucky	Waterfront Development Roadway Improvements	4.7
40.	Sunnyvale, California	HOV lane improvements on Lawrence Expressway	10.1

	City/State	*Congestion relief*	*Amount in millions*
41.	*Ohio*	*Construction of a bicycle/pedestrian facility from Greene County, Ohio, to Dayton, Ohio*	*3.0*
42.	*Jefferson County and Berkeley County, West Virginia*	*Improvements of State Highway 9 from Martinsburg, West Virginia to Virginia State line*	*110.0*
43.	*West Virginia*	*Construction of the Coal Fields Expressway from Beckley, West Virginia to Virginia State line*	*50.0*
44.	*Maine*	*Improvements to the Carlton Bridge in Bath-Woolwich*	*10.0*

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1105. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) the construction of the Interstate Highway System connected the major population centers of the Nation and greatly enhanced economic growth in the United States;

(2) many regions of the Nation are not now adequately served by the Interstate System or comparable highways and require further highway development in order to serve the travel and economic development needs of the region; and

(3) the development of transportation corridors is the most efficient and effective way of integrating regions and improving efficiency and safety of commerce and travel and further promoting economic development.

(b) PURPOSE.—It is the purpose of this section to identify highway corridors of national significance; to include those corridors on the National Highway System; to allow the Secretary, in cooperation with the States, to prepare long-range plans and feasibility studies for these corridors; to allow the States to give priority to funding the construction of these corridors; and to provide increased funding for segments of these corridors that have been identified for construction.

(c) IDENTIFICATION OF HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.—The following are high priority corridors on the National Highway System:

(1) North-South Corridor from Kansas City, Missouri, to Shreveport, Louisiana.

(2) Avenue of the Saints Corridor from St. Louis, Missouri, to St. Paul, Minnesota.

(3) East-West Transamerica Corridor.

(4) Hoosier Heartland Industrial Corridor from Lafayette, Indiana, to Toledo, Ohio.

(5) I-73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, and Detroit, Michigan.

(6) United States Route 80 Corridor from Meridian, Mississippi, to Savannah, Georgia.

(7) East-West Corridor from Memphis, Tennessee, through Huntsville, Alabama, to Atlanta, Georgia, and Chattanooga, Tennessee.

(8) Highway 412 East-West Corridor from Tulsa, Oklahoma, through Arkansas along United States Route 62/63/65 to Nashville, Tennessee.

(9) United States Route 220 and the Appalachian Thruway Corridor from Business 220 in Bedford, Pennsylvania, to the vicinity of Corning, New York.

(10) Appalachian Regional Corridor X.

(11) Appalachian Regional Corridor V.

(12) United States Route 25E Corridor from Corbin, Kentucky, to Morristown, Tennessee, via Cumberland Gap, to include that portion of Route 58 in Virginia which lies within the Cumberland Gap Historical Park.

(13) Raleigh-Norfolk Corridor, Raleigh, North Carolina, to Norfolk, Virginia.

(14) Heartland Expressway from Denver, Colorado, through Scottsbluff, Nebraska, to Rapid City, South Dakota.

(15) Urban Highway Corridor along M-59 in Michigan.

(16) Economic Lifeline Corridor along I-15 and I-40 in California, Arizona, and Nevada.

(17) Route 29 Corridor from Greensboro, North Carolina, to the District of Columbia.

(18) Corridor from Indianapolis, Indiana, to Memphis, Tennessee, via Evansville, Indiana.

(19) United States Route 395 Corridor from the United States-Canadian border to Reno, Nevada.

(20) United States Route 59 Corridor from Laredo, Texas, through Houston, Texas, to the vicinity of Texarkana, Texas.

(21) United States Route 219 Corridor from Buffalo, New York, to the intersection of United States Route 17 in the vicinity of Salamanca, New York.

(d) INCLUSION ON NHS.—The Secretary shall include all corridors identified in subsection (c) on the proposed National Highway System submitted to Congress under section 103(b)(3) of title 23, United States Code.

(e) PROVISIONS APPLICABLE TO CORRIDORS.—

(1) LONG-RANGE PLAN.—The Secretary, in cooperation with the affected State or States, may prepare a long-range plan for the upgrading of each corridor to the appropriate standard for highways on the National Highway System. Each such plan may include a plan for developing the corridor and a plan for financing the development.

(2) FEASIBILITY STUDIES.—The Secretary, in cooperation with the affected State or States, may prepare feasibility and design studies, as necessary, for those corridors for which such studies have not been prepared. A feasibility study may be conducted under this subsection with respect to the corridor described in subsection (c)(2), relating to Avenue of the Saints, to determine the feasibility of an adjunct to the Avenue of the Saints serving the southern St. Louis metropolitan area and connecting with I-55 in the vicinity of Route A in Jefferson County, Missouri.

(3) CERTIFICATION ACCEPTANCE.—The Secretary may discharge any of his responsibilities under title 23, United States Code, relative to projects on a corridor identified under subsection (c), upon the request of a State, by accepting a certification by the State in accordance with section 117 of such title.

(4) ACCELERATION OF PROJECTS.—To the maximum extent feasible, the Secretary may use procedures for acceleration of projects in carrying out projects on corridors identified in subsection (c).

(f) HIGH PRIORITY SEGMENTS.—Highway segments of the corridors referred to in subsection (c) which are described in this subsection are high priority segments eligible for assistance under this section. Subject to subsection (g)(2), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out a project on each such segment the amount listed for each such segment:

	City/State	*High priority corridors*	*Amount in millions*
1.	*Pennsylvania*	*For upgrading U.S. 220 High Priority and the Appalachian Thruway Corridor between State College and I-80*	*50.7*
2.	*Alabama, Georgia, Mississippi, Tennessee*	*Upgrading of the East-West Corridor along Rt. 72*	*25.4*
3.	*Missouri*	*Improvement of North-South Corridor along Highway 71, Southwestern, MO*	*3.6*
4.	*Arkansas*	*For construction of highway 412 from Siloam Springs to Springdale, Arkansas as part of Highway 412 East-West Corridor*	*34.0*
5.	*Arkansas*	*For construction of Highway 412 from Harrison to Springdale, Arkansas as part of the Highway 412 East-West Corridor*	*56.0*
6.	*Pennsylvania*	*To improve U.S. 220 to a 4-lane limited access highway from Bald Eagle northward to the intersection of U.S. 220 and U.S. 322*	*148.0*

	City/State	High priority corridors	Amount in millions
7.	S. Dakota/Nebraska	*Conduct a feasibility study of expressway from Rapid City, S. Dakota to Scotts Bluff, Nebraska*	0.64
8.	Alabama	*Construction of Appalachian Highway Corridor X from Corridor V near Fulton, Mississippi to U.S. 31 at Birmingham, Alabama as part of Appalachian Highway X Corridor Project*	59.2
9.	Alabama	*For construction of a portion of Appalachian Development Corridor V from Mississippi State Line near Red Bay, Alabama to the Tennessee State Line north of Bridgeport, Alabama*	25.4
10.	West Virginia	*Construction of Shawnee Project from 3-Corner Junction to I–77 as part of I–73/74 Corridor project*	4.5
11.	West Virginia	*Widening U.S. Rt. 52 from Huntington to Williamson, W. Virginia as part of the I–73/74 Corridor project*	100.0
12.	West Virginia	*Replacement of U.S. Rt. 52 from Williamson, W. Virginia to I–77 as part of the I–73/74 Corridor project*	14.0
13.	North Carolina/Virginia	*For Upgrading I–64 and Route 17 Virginia and constructing a new highway from Rocky Mount to Elizabeth City, North Carolina as part of the Raleigh-Norfolk High Priority Corridor Improvements*	17.8
14.	Arkansas	*Construction of Highway 71 between Fayetteville and Alma, Arkansas as part of the North-South High Priority Corridor*	100.0
15.	Arkansas/Texas	*For construction of Highway 71 from Alma, Arkansas to Louisiana border*	70.0
16.	Michigan	*To widen a 60 mile portion of highway M–59 from MacComb County to I–96 in Howell County, Michigan*	29.6
17.	South Dakota, Colorado, Nebraska	*To improve the Heartland Expressway from Rapid City, South Dakota to Scotts Bluff, Nebraska*	29.6
18.	Indiana	*To construct a 4-Lane highway from Lafayette to Ft. Wayne, Indiana, following existing Indiana 25 and U.S. 24*	9.5
19.	Ohio/Indiana	*Conduct feasibility and economic study to widen Rt. 24 from Ft. Wayne, Indiana to Toledo, Ohio as part of the Lafayette to Toledo Corridor*	0.32
20.	California, Nevada, Arizona	*For improvements on I–15 and I–40 in California, Nevada and Arizona ($10,500,000 of which shall be expended on the Nevada portion of the corridor, including the I–15/U.S. 95 interchange)*	59.2
21.	Louisiana	*To improve the North-South Corridor from Louisiana border to Shreveport, Louisiana*	29.6
22.	Missouri, Iowa, Minnesota	*For improvements for Avenue of the Saints from St. Paul, Minnesota to St. Louis, Missouri*	118.0
24.	Various States	*I–66 Transamerica Highway Feasibility study*	1.0
25.	Kentucky, Tennessee, Virginia	*To improve Cumberland Gap Tunnel and for various associated improvements as part of U.S. 25E Corridor, except that the allocation percentages under section 1105(g)(2) of this section shall not apply to this project after fiscal year 1992*	72.4
26.	Indiana, Kentucky, Tennessee	*To improve the Bloomington, Indiana, to Newberry, Indiana, segment of the Indianapolis, Indiana, to Memphis, Tennessee, high priority corridor*	23.7
27.	Washington	*For improvements on the Washington State portion of the U.S. 395 corridor from the U.S.-Canadian border to Reno, Nevada*	54.5
28.	Virginia	*Construction of a bypass of Danville, Virginia, on Route 29 Corridor*	17.0
29.	Arkansas	*Highway 412 from Harrison to Mt. Home*	20.0
30.	New York	*Improvements on Route 219 between Springville to Ellicottville in New York State*	9.5

(g) PROVISIONS RELATING TO HIGH PRIORITY SEGMENTS.—

(1) DETAILED PLANS.—Each State in which a priority segment identified under subsection (f) is located may prepare a detailed plan for completion of construction of such segment and for financing such construction.

(2) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (f) for each high priority segment authorized by subsection (f) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(3) FEDERAL SHARE.—The Federal share payable on account of any project under subsection (f) shall be 80 percent of the cost thereof.

(4) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary may delegate responsibility for construction of a project or projects under subsection (f) to the State in which such project or projects are located upon request of such State.

(5) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(6) APPLICABILITY OF TITLE 23.—Funds authorized by subsection (f) and subsection (h) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under subsection (f) shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by subsection (f) shall not be subject to any obligation limitation.

(7) STATE PRIORITY FOR HIGH PRIORITY SEGMENTS.—Section 105 of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following new subsection:

"(k) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—In selecting projects for inclusion in a program of

projects under this section, the State may give priority to high priority segments of corridors identified under section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991. In approving programs of projects under this section, the Secretary may give priority of approval to, and expedite construction of, projects to complete construction of such segments.".

(8) SPECIAL RULE.—Amounts allocated by subsection (f) to the State of California for improvements on I–15 and I–40 shall not be subject to any State or local law relating to apportionment of funds available for the construction or improvement of highways.

(h) AUTHORIZATION FOR FEASIBILITY STUDIES.—There is authorized to be appropriated to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) $8,000,000 per fiscal year for each of the fiscal years 1992 through 1997 to carry out feasibility and design studies under subsection (e)(2).

(i) REVOLVING LOAN FUND.—

(1) ESTABLISHMENT.—The Secretary may establish a Priority Corridor Revolving Loan Fund.

(2) ADVANCES.—The Secretary shall make available as repayable advances amounts from the Revolving Loan Fund to States for planning and construction of corridors listed in subsection (c). In making such amounts available, the Secretary shall give priority to segments identified in subsection (f).

(3) REPAYMENT OF ADVANCES.—The amount of an advance to a State in a fiscal year under paragraph (2) may not exceed the amount of a State's estimated apportionments for the National Highway System for the 2 succeeding fiscal years. Advances shall be repaid (A) by reducing the State's National Highway System apportionment in each of the succeeding 3 fiscal years by ⅓ of the amount of the advance, or (B) by direct repayment. Repayments shall be credited to the Priority Corridor Revolving Loan Fund.

(4) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, out of the Highway Trust Fund (other than the Mass Transit Account), $40,000,000 per fiscal year for each of fiscal years 1993 through 1997 to carry out this subsection.

SEC. 1106. RURAL AND URBAN ACCESS PROJECTS.

(a) RURAL ACCESS PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to provide funds for projects that ensure better rural access and that promote economic development in rural areas.

(2) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out rural access projects described in this paragraph. Subject to paragraph (3), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Rural access	Amount in millions
1.	Cadiz, Ohio	Improvements of Short Creek Highway from Cadiz, Ohio to Rayland, Ohio	2.5
2.	Boger City, North Carolina	Construction of 4-lane divided highway along Highway 321 to Boger City, NC to NC 127 South	14.2
3.	Utica, New York	Improvement of the Utica North/South Arterial	9.9
4.	Oneida County, New York	Upgrade a highway to 4 lanes in Oneida County, New York	8.0
5.	Southern, Oklahoma	Widening of U.S. 70	0.24
6.	Southern, Oklahoma	Construction of a bridge and approaches at Pennington Creek, OK	1.0
7.	Johnsonburg, Pennsylvania	Relocation of a 2-lane highway from Center Street to PA Rt. 255 along U.S. 219, Johnsonburg Bypass	14.0
8.	Pennsylvania	Construction of truck driving lanes and safety improvements on U.S. 219 between I–80 and the NY State Line	26.0
9.	East St. Louis, Illinois	Feasibility study for 4-lane Access Road to Jefferson Memorial Park	0.24
10.	Illinois	To conduct an Environmental Impact Study & Design Study on a 58-mile stretch of U.S. 67 corridor from Alton, IL to Jacksonville, IL	2.5
11.	Venice, Illinois	For rehabilitation of McKinley Bridge near Venice, IL	5.9
12.	Decatur, Alabama	Project for replacement of Keller Memorial Bridge, Decatur, AL	12.7
13.	Lenoir City, Tennessee	Feasibility Study on Fort Loudon Dam Bridge on U.S. Highway 231 in Lenoir City, TN	0.5
14.	Blount City, Tennessee	Improvement of U.S. Highway #411 in Monroe and Blount Counties, TN	15.7
15.	Missouri	For improvements of Highway 60 in New Madrid, Stoddard, Carter and Butler Counties, MO	21.7
16.	Southern, Missouri	Improvement of Rt. 65 through Greene, Christian and Taney Counties, MO	14.1
17.	Lake Charles, Louisiana	Construction of roads and bridge to provide access to Rose Bluff Industrial Area, Lake Charles, LA	4.1
18.	Louisiana	For improvement and extension of Ambassador Caffery Parkway in Louisiana	14.9
19.	Ohio	Construction of U.S. Rt. 68 Bypass in Clark, Champaign and Logan Counties	15.8
20.	Aliquippa, Pennsylvania	For various 3-R Projects in Aliquippa, PA	12.8
21.	Riverton, Kansas	Construction of a new highway from Riverton, KS to Interstate 44 in Missouri	13.1
22.	North Minnesota	Construction and reconstruction of Forest Highway 11 connecting Aurora-Hoyt Lakes and Silver Bay, MN	9.5
23.	Richfield, Minnesota	77th Street Reconstruction Project, Richfield, MN	11.6
24.	Mississippi	Impovements on Highway 84 in Franklin and Lincoln Counties, MS	9.5
25.	Mississippi	Upgrading of U.S. Highway 98 from County line of Pike and Waltham Counties, MS to Lamar County, MS	0.4
26.	Mississippi	Upgrading Highway 61 from Natchez, MS to Louisiana State line	0.35
27.	Mississippi	Upgrading Highway 84 from Brookhaven, MS to U.S. 49 in Collins, MS	2.1
28.	Chattahouchee, Florida	Construction of Mosquito Creek Bridge	2.4
29.	Florida	To upgrade State Rt. 71 from State Rt. 10 to State Rt. 8	2.9
30.	Florida	To upgrade Florida State Rt. 267 from State Rt. 8 to State Rt. 10	4.7
31.	Illinois	Tollway feasibility study (East St. Louis to Carbondale, IL)	0.32
32.	Mt. Vernon, Illinois	Extension of 34th Street from IL Rt. 15 to County Road 10	0.96
33.	Illinois	Reconstruction of Feather Trail Road from Ullin Road Interchange to Rt. 37, Pulaski County, IL	1.1
34.	Illinois	Resurfacing IL Rt. 1 from Cave-In-Rock to north of Omaha	1.8
35.	Williamson County, Illinois	Upgrading IL Rt. 13 in Williamson County, IL	7.8

	City/State	*Rural access*	*Amount in millions*
36.	*Saline County, Illinois*	*For improvements to Rt. 13 from Williamson-Saline County line to Harrisburg, IL*	*4.0*
37.	*Winchester, New Hampshire*	*Replacement of Winchester Bridge, Winchester, NH*	*0.8*
38.	*Hanover, New Hampshire*	*Ledyard Bridge reconstruction*	*7.8*
39.	*Asheville, North Carolina*	*U.S. 19–23 improvement project, Asheville, NC*	*11.1*
40.	*Niles, Ohio*	*Belmont Street Bridge replacement, Niles, OH*	*1.2*
41.	*Struthers, Ohio*	*Bridge Street Bridge replacement, Struthers, OH*	*1.2*
42.	*Niles, Ohio*	*South Main Street Bridge replacement, Niles, OH*	*2.5*
43.	*St. Joseph County, Michigan*	*U.S. 131, St. Joseph County*	*0.5*
44.	*Berrien County, Michigan*	*U.S. 31 relocation, Berrien County, MI*	*17.4*
45.	*Holland, Michigan*	*U.S. 31 upgrade, Holland, Ottawa County, MI*	*1.3*
46.	*North Carolina*	*I–85 Interchange improvement at State Route 1103 Granville County, NC*	*1.7*
47.	*Manchester, New Hampshire*	*Manchester Airport Road improvements*	*4.0*
48.	*New Hampshire*	*Wetlands mitigation package for New Hampshire Rt. 101/51*	*10.0*
49.	*Arkansas*	*To improve U.S. 65 from Harrison, Arkansas to Missouri Line*	*38.0*
50.	*Arkansas*	*To improve Phoenix Avenue in the vicinity of the Ft. Smith Airport, Ft. Smith, Arkansas*	*7.9*
51.	*Arkansas*	*To study bypass alternatives for U.S. 71 in the vicinity of Bella Vista, Arkansas*	*3.0*
52.	*Bedford Springs, Pennsylvania*	*To construct an access road along Old U.S. 220 to the Springs Project and to construct other facilities to facilitate movement of traffic within the site and construction of a parking facility to be associated therewith*	*19.7*
53.	*DeValls Bluff, Arkansas*	*Construction of a replacement bridge across the White River*	*2.5*
54.	*Jonesboro, Arkansas*	*Complete construction of 3 interchanges on the Highway 63 Bypass at Jonesboro*	*5.7*
55.	*Brevard County, Florida*	*Design and engineer improvements for State Rd. 3 between State Rd. 520 and State Rd. 528*	*0.16*
56.	*Louisiana*	*For construction of a new road from an area in the vicinity of I–55 to Alexandria, Louisiana*	*1.7*
57.	*Beaumont, Texas*	*Widen Highway FM–364 from a 2-Lane to a 4-Lane road*	*10.4*
58.	*Farmington Hills, Michigan*	*To widen 12-mile road corridor in the vicinity of Farmington Hills, Michigan*	*2.5*
59.	*Laredo, Texas*	*Expand capacity of 2-lane highway, construct interchanges and connector highway*	*7.4*
60.	*Montewma, Colorado*	*Upgrade farm to market road serving Ute Indian Reservation*	*2.9*
61.	*Lubbock, Texas*	*Initiate feasibility and route studies and preliminary engineering and design for highway to connect Lubbock with Interstate 20*	*2.9*
62.	*Rosenberg, Texas*	*To purchase right-of-way for Highway 36 Bypass West of Rosenberg, Texas*	*0.9*
63.	*Angleton, Texas*	*For various activities associated with relocation of Highway 288 in vicinity of Angleton, Texas*	*0.9*
64.	*Mentor, Ohio*	*For construction of an interchange on State Rt. 615 at I–90 in Mentor, Ohio*	*4.7*
65.	*W. Central, Illinois*	*For widening of U.S. 34 between Burlington, Iowa and Monmouth, Illinois*	*1.9*
66.	*Illinois*	*To make improvements including construction of a bridge on U.S. 67 in NW Illinois*	*2.4*
67.	*Monongahela Valley, Pennsylvania*	*For construction of southernmost extension of the Monongahela Expressway*	*14.0*
68.	*Dauphin County, Pennsylvania*	*Design, acquire right-of-way and reconstruct 5.1 miles of 4-Lane divided highway from Dauphin Borough to Speeceville, Pennsylvania*	*12.0*
69.	*Rutherford County, Tennessee*	*Replace existing bridge over the west fork of the Stone's River including a 5 foot elevated walkway*	*0.8*
70.	*Wayne County, New York*	*To improve Rt. 104 from Furnace Road to Pound Road in the Wayne County Area of New York*	*6.4*
71.	*Chautauqua County, New York*	*Construct 2 additional expressway lanes from Chautauqua Lake Bridge to Pennsylvania Border*	*17.0*
72.	*North Carolina*	*To reimburse the State of North Carolina for construction and repair of the Bonner Bridge, North Carolina*	*3.0*
73.	*North Carolina*	*Construct interstate link between I–95 and I–40 in vicinity of Wilson and Goldsboro, North Carolina*	*8.9*
74.	*Bossier City, Louisiana*	*To study grade separations along 10 miles of KC Railroad along U.S. 71*	*0.16*
75.	*Pennsylvania*	*Widen 14 mile segment of U.S. 15 from 2 to 4 lanes*	*13.8*
76.	*Overland Park, Kansas*	*I–435 Interchange Project*	*4.1*
77.	*Fairmont, West Virginia*	*Riverside Expressway improvements*	*5.3*
78.	*Washington*	*State Rt. 14 Improvement Projects, Columbia River Gorge, Washington*	*8.6*
79.	*Pennsylvania*	*Pennsylvania Industrial Park access, Washington County, Pennsylvania*	*6.3*
80.	*Pennsylvania*	*Chadville Improvement Project, Southern Fayette County, Pennsylvania*	*2.4*
81.	*Pennsylvania*	*U.S. Rt. 219 Meyersdale Bypass*	*48.0*
82.	*Pennsylvania*	*U.S. Rt. 22 Improvements: Monroeville to Ebansburg*	*30.3*
83.	*Pennsylvania*	*Laurel Valley Expressway, Blairsville, Pennsylvania*	*5.0*
84.	*Brownsville, Texas*	*Brownsville Railroad Relocation Project*	*6.7*
85.	*South Carolina*	*Southern Connector Highway, Greenville County, South Carolina*	*3.6*
86.	*Ohio*	*Rt. 18 Bypass Study, Medina, Ohio*	*0.4*
87.	*Ohio*	*U.S. Rt. 250 Bypass Study, Norwalk, Ohio*	*0.4*
88.	*Mankato, Minnesota*	*Mankato South Rt. Improvements, Mankato, Minnesota*	*10.0*

	City/State	Rural access	Amount in millions
89.	Kentucky	U.S. 119 Upgrading, Pike County, Kentucky	7.6
90.	Michigan	U.S. Rt. 127 Upgrading, Jackson County, Michigan	0.8
91.	Eden Prairie & Cologne, Minnesota	U.S. Trunk Highway 212 improvement project, Eden Prairie/Cologne, Minnesota	8.7
92.	Ohio	Rt. 30 extension: East Canton/Minerva, Ohio	5.3
93.	New Mexico	Raton-Clayton Rd., Clayton, New Mexico	9.3
94.	New Mexico	Jicarilla Apache State Road, New Mexico	1.5
95.	Arizona	Turquoise Trail Highway, Navajo County, Arizona	5.9
96.	Pennsylvania	U.S. Rt. 222 Relocation, Lehigh County, Pennsylvania	1.5
97.	Pennsylvania	Pennsylvania Rt. 33 Extension, Northhampton County, Pennsylvania	16.8
98.	Kentucky	Highway 92 Relocation Study, South Central Kentucky	0.1
99.	Kentucky	U.S. 27 Improvements, Jessamine County, Kentucky	9.2
100.	North Carolina	U–2519/X–2 Highways, Cumberland, North Carolina	15.9
101.	Missouri	Adams Dairy Parkway Project, Blue Springs, Missouri	1.5
102.	Lawrence, Kansas	Lawrence Circumferential Roadway, Douglas County, Kansas	3.3
103.	Kansas	Oakland Expressway, Eastern Shawnee, Kansas	5.9
104.	Missouri	Highway 63 improvements, Columbia, Missouri/Iowa border	5.9
105.	West Virginia	Highway Improvements: Mason County/Kanawha, West Virginia	19.5
106.	Pennsylvania	Warren Street Extension/U.S. 222 Reconstruction, Berks County, Pennsylvania	6.6
107.	Illinois	For construction of the Alton Bypass from the vicinity of Alton and Godfrey, Illinois	4.4
108.	Iowa	Construct Mason City Bypass, Gerro Gordo County, Iowa	14.8
109.	Prince Edward County, Virginia	A highway improvement project one mile south of Farmville in Prince Edward County, Virginia, to increase from two lanes to four lanes approximately two miles of Route 460. Such project shall connect the existing four lanes of Route 460 approaching the segment from the east and the west. The Secretary of the Army, acting through the Chief of Engineers, is directed, upon request of officials representing Prince Edward County, Virginia, to allow the immediate filling of the Sandy River Reservoir in accordance with the terms and conditions of the permit, without further amendment or modification in any respect, issued by the Department of the Army relating to the reservoir, except that no contingency in such permit pertaining to water demand or use shall become effective or shall be enforced prior to seven years from date of completion of such highway project	4.4
110.	Port Lavaca to Cuero, Texas	Construct upgraded, improved four-lane divided highway	43.9
111.	Parker County, Texas (SH199)	Upgrade existing highway to four-lane divided highway	33.5
112.	Howell County, Missouri	Improve Highway 63	3.6
113.	Louisa, Louisiana	Louisa Bridge replacement, Louisa, Louisiana	9.5
114.	Travis County, Texas	Highway 620 bridge improvement	11.4
115.	Latrobe, Pennsylvania	Ligonier Street Reconstruction	0.8
116.	Carroltown/DuBois, Pennsylvania	U.S. 219 Improvements	4.0
117.	Robinson Township, Pennsylvania	Design Work in Town Center	5.0
118.	West Virginia	Chelyan Bridge Replacement	8.5

(3) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by paragraph (2) for each project authorized by paragraph (2) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(4) FEDERAL SHARE.—The Federal share payable on account of any project under this subsection shall be 80 percent of the cost thereof.

(5) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this subsection to the State in which such project or projects are located upon request of such State.

(6) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this subsection shall not be subject to any obligation limitation.

(b) URBAN ACCESS AND URBAN MOBILITY PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to provide funds for projects that enhance urban access and urban mobility.

(2) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out urban access and urban mobility projects described in this paragraph. Subject to paragraph (3), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Urban access & mobility	Amount in millions
1.	Santa Ana, California	Bristol Street Project	4.1
2.	Illinois/Missouri	Metro East/St. Louis, Missouri Bridge Feasibility Study	1.0
3.	Beaver/Butler Counties, Pennsylvania	Construction of Crow's Run Expressway from I–79 to PA Rt. 60, Beaver/Butler Counties, PA	3.5
4.	Atlanta, Georgia	Improvement of Martin Luther King Drive	0.8
5.	Chicago, Illinois	Handicapped Accessibility Projects on various Chicago Streets	2.4

	City/State	Urban access & mobility	Amount in millions
6.	Chicago, Illinois	Feasibility study for a road between existing Lake Shore Drive and Indiana Road	0.16
7.	San Jose, California	Improvement of Interchange at Highway 85/ Highway 17	35.0
8.	Gilroy, California	For safety improvements on Highway 152 in vicinity of Gilroy, CA	5.9
9.	New York, New York	Improvements on Miller Highway in New York City, NY	15.6
10.	District of Columbia	Construction of missing segments of Eastern and Southern Avenues (Boundary Street Safety Initiative)	6.8
11.	Buffalo, New York	Scajaquada Expressway Classification study	0.24
12.	Buffalo, New York	NY State Thruway relocation study, Buffalo (Niagara), NY	0.24
13.	Joliet, Illinois	For rehabilitation of Houbolt Road from Jefferson Street to Joliet Jr. College and construction and interchange at Houbolt Road and I–80	1.0
14.	Chicago, Illinois	WPA street improvements bounded on the north by 103rd, the east by Stoney Island, the west by Ashland, and the south by the city limits	3.7
15.	Burnham, Illinois	To improve Dolton Avenue between Torrence Avenue and Indiana State Line, Burnham, IL	1.9
16.	Calumet Park, Illinois	Ashland Avenue Bridge replacement	2.1
17.	Harvey, Illinois	Illinois 1 Interchange improvement from U.S. 6 to I–80	2.5
18.	Markham, Illinois	Sibley Boulevard traffic flow improvement from Dixie Highway	3.5
19.	Chicago, Illinois	Illinois 1 intersection improvement, Harvey, IL (intersection at 155th Street)	1.4
20.	Youngstown, Ohio	Center Street Bridge replacement, Youngstown, OH, including Poland Avenue—Shirley Road connector and ramps at I-680	12.2
21.	Lake Porter and LaPort Counties, Indiana and Illinois	Study linkage roads to connect Lake Shore Drive and surrounding facilities	1.0
22.	Indiana	Acquisition of West Lake Corridor Right-of-Way between Munster, IN and Hammond , IN	1.0
23.	Portage, Indiana	Widen Willow Creek Road to 4 lanes	1.5
24.	Hobart, Lake Station and New Chicago, Indiana	Various improvements to Ridge Road to relieve congestion	4.3
25.	Passaic County, New Jersey	To complete construction of Rt. 21 in Passaic County, New Jersey	98.8
26.	Northeastern, New Jersey	To raise 14 bridges over Molly Ann's Brook Northeastern, New Jersey	9.5
27.	Chambersburg, Pennsylvania	To improve the Wayne Avenue—I–81 Interchange and to widen Wayne Avenue to 5 lanes from Kriner Road to Coldbrook Avenue in the vicinity of Chambersburg, Pennsylvania	1.84
28.	Newark, New Jersey	To construct ramps to provide access to I–78	7.2
29.	Newark, New Jersey	To construct a parking facility as part of a multi-modal transportation facility in the vicinity of United Hospitals Medical Center, Newark, New Jersey	4.9
30.	Lawrence, Massachusetts	Study, design, and construct new road service; road and ramps and widen I–495	4.7
31.	Baltimore, Maryland	To improve various roads as part of project "Project Vision" in Baltimore, Maryland	5.0
32.	Bellevue, Washington	Conduct Phase I design study for I–405 interchange at Northeast 8th Street	5.0
33.	Springfield, Illinois	To extend 11th Street from Stevenson Drive to Toronto Road in the vicinity of Springfield, Illinois	8.3
34.	Middlesex, New Jersey	Route 1 widening in Middlesex County, New Jersey from Raritan River to Rahway River	7.4
35.	Perth Amboy & Woodbridge Township, New Jersey	Study whether additional river crossings may be necessary based on condition of 3 existing crossings	2.5
36.	Compton, California	For a grade separation project at W. Alameda Street and the Mealy St. Corridor	6.6
37.	Parsippany, Troy Hills, New Jersey	Construct interchange and ramp improvements for east and west bound traffic on I–280	3.1
38.	Queens, New York	To rehabilitate 39th Street Bridge over rail tracks at the Sunnside Rail Yard in Queens, New York	10.4
39.	Omaha, Nebraska	For improvements to US Highway 6 (W. Dodge Road) from 86th Street to 118th including the intersection with I–680 in Omaha, Nebraska	5.2
40.	Suffolk County/ Long Island, New York	Construct various roadway improvements on 7.1 miles of New York Rt. 112, including, resurfacing, widening, adding turning and parking lanes and improving traffic signals	3.4
41.	San Diego, California	To conduct environmental study on feasibility of constructing 4-lane highway from State Rt. 805 to International border near Otay Mesa	1.0

	City/State	Urban access & mobility	Amount in millions
42.	Sarasota, Florida	To construct a bridge interchange at US 301 and University Parkway in the vicinity of Sarasota, Florida	2.4
43.	Hartford, Connecticut	To rehabilitate Connecticut Rt. 99 South of Hartford, Connecticut	5.0
44.	Hartford, Connecticut	For improved access to the Connecticut River as in I–91 Mitigation Project, Hartford, Connecticut	2.3
45.	Chattanooga, Tennessee	Construct an urban diamond interchange to improve capacity and a connector road	3.1
46.	Commerce, California	To relocate a portion of Atlantic Blvd. in the vicinity of Telegraph Rd. as part of a grade separation project	4.7
47.	Scranton, Pennsylvania	Realign 3,000 feet of N. Scranton Expressway to connect with Mulberry Street	7.2
48.	Long Island, New York	Southern State Parkway Improvement	4.6
49.	New York	Exit 26 Ridge Project Schenectady, New York	5.7
50.	Capital Beltway, Springfield, Virginia	Upgrade interchanges on I–495, including Virginia Mixing Bowl Improvements	7.5
51.	Utah	Expansion of State Rd. 5600 West	3.3
52.	Chicago, Illinois	Right-of-way preservation projects (Eisenhower & Stevenson Connector)	4.8
53.	Chicago, Illinois	Museum of Science & Industry: Various intermodal facilities, Chicago, Illinois	35.0
54.	Chicago, Illinois	Chicago Skyway Bridge, Chicago, Illinois	14.2
55.	Chicago, Illinois	Cermak Road Bridge reconstruction, Chicago, Illinois	9.2
56.	Chicago, Illinois	Roosevelt Rd. and Bridge Improvements, Chicago, Illinois	11.8
56A.	Chicago, Illinois	State Street Mall Improvements, Chicago, Illinois	14.2
57.	Chicago, Illinois	Cicero Avenue Improvements, vicinity of Chicago, Illinois	1.1
58.	Chicago, Illinois	183rd Street Reconstruction, Chicago, Illinois	1.5
59.	Chicago, Illinois	111th Street Reconstruction, Chicago, Illinois	2.5
60.	Chicago, Illinois	111th Street Upgrade: Cicero Avenue to Pulaski Road, Chicago, Illinois	2.5
61.	Chicago, Illinois	111th Street Widening; Central Avenue to Cicero Avenue, Chicago, Illinois	4.7
62.	Muncie, Indiana	State Rd. 67 Widening	10.0
63.	Columbus, Indiana	Columbus Entranceway project, Columbus, Indiana	3.3
64.	New Jersey	Rt. 17/4 Interchange Project, Paramus, New Jersey	5.7
65.	New Jersey	Hackensack Avenue/ Kinderkamack Road Bridges over Rt. 4, Hackensack, New Jersey	5.7
66.	Los Angeles	Grade separation projects (3), Los Angeles County, California	7.1
67.	New York	Preservation of Rail Corridor (North Shore Rail Line), Staten Island	10.7
68.	Maryland	Improvement of U.S. Route 1 in Baltimore County, Maryland	11.8
69.	Camden, New Jersey	Renovation of South Jersey Port Corporation's Beckett Street Terminal	8.3
70.	Washington, D.C.	Design and construction of noise barriers along Southeast/ Southwest Freeway and Anacostia Freeway in D.C.	4.7
71.	Anaheim, California	Construction of public HOV facilities to provide public access to I–5 in the vicinity of the Anaheim Regional Transportation Intermodal Complex	14.8
72.	Atlanta, Georgia	Construction of I–20 interchange at Lithonia Industrial Boulevard	11.2
73.	Buffalo, New York	The Southtowns Connector Buffalo, New York	8.5
74.	Tucson, Arizona	Veterans Memorial Interchange/ Palo Verde Overpass Bridge Replacement	2.4
75.	Providence, Rhode Island	Memorial Boulevard Pedestrian/ Traffic Improvements	5.0
76.	Renton, Washington	Houser Way Relocation Expansion	3.0

(3) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by paragraph (2) for each project authorized by paragraph (2) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(4) FEDERAL SHARE.—The Federal share payable on account of any project under this subsection shall be 80 percent of the cost thereof.

(5) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this subsection to the State in which such project or projects are located upon request of such State.

(6) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this subsection shall not be subject to any obligation limitation.

SEC. 1107. INNOVATIVE PROJECTS.

(a) IN GENERAL.—The purpose of this section is to provide assistance for highway projects demonstrating innovative techniques of highway construction and finance. Each State in which 1 of the projects authorized by subsection (b) is located shall select and use, in carrying out such project, innovative techniques in highway construction or finance. Such techniques may include state-of-the-art technology for pavement, safety, or other aspects of highway construction; innovative financing techniques; or accelerated procedures for construction.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the innovative projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Innovative projects	Amount in millions
1.	Cadiz, Ohio	Construction of 4-lane Limited Access Highway from Cadiz, OH to Interstate 70 Interchange at St. Clairsville, OH along U.S. Rt. 250	20.0
2.	Maryland	Construction of Durham Road Bridge #75 in Harford County, MD	0.5
3.	Maryland	Construction of a replacement bridge at Furnace Road Bridge #74, Harford County, MD	0.6
4.	Maryland	Construction of a replacement bridge at South Hampton Road Bridge #47, Harford County, MD	1.0
5.	Maryland	Construction of a replacement bridge at Wheel Road Bridge #9, Harford County, MD	1.0
6.	Maryland	Construction of a replacement bridge at Watervale Bridge #63, Harford, MD	1.1
7.	Baltimore County, Maryland	Replacement of Papermill Road Bridge #123 in Cockeysville Area of Baltimore, MD	5.3
8.	Southern, Oklahoma	Testing of effectiveness of recyclable materials on a resurfacing project on U.S. 70 in Southern, OK	2.1
9.	Tulsa, Oklahoma	Upgrade U.S. 75 to Expressway standards, Tulsa, OK	14.0
10.	Atlanta, Georgia	For various transportation improvements in connection with the 1996 Olympics, including the city of Atlanta advanced traffic management system (IVHS)	58.1
11.	Chicago, Illinois	Computerized infrastructure management systems, Chicago, IL	4.3
12.	Oceanside, California	Construction of A, B, and C segments of State Route 76	14.4
13.	Carlsbad, California	Improvements to the interchange at Palomar Airport Road and Interstate 5	3.4
14.	Danville, Virginia	To replace bridges on Main and Worsham Streets in Danville, VA	10.0
15.	Mokena, Illinois	For construction of Wolf Road to an area between LaPort Road and U.S. Rt. 30 in Mokena, IL	1.4
16.	Frankfort, Illinois	Village of Frankfort Roadway improvement projects	1.3
17.	Plainfield, Illinois	Replacement of E J & E Viaduct over IL Rt. 59 and Dupage River Tributary	1.0
18.	Romeoville, Illinois	Replacement of 135th Street Bridge, Romeoville, IL	5.9
19.	Water Street, Pennsylvania	Construction of a 2 lane bypass around the Borough of Water Street on U.S. 22 of Pennsylvania	8.0
20.	Holidaysburg, Pennsylvania	To relocate U.S. 22 around the Borough of Holidaysburg, Pennsylvania	52.0
21.	Lewistown, Pennsylvania	For safety improvements on the Narrows to eliminate potential problems brought on by rock slides	1.6
22.	Pennsylvania	To relocate U.S. Rt. 22 North of Lewistown, Pennsylvania	58.3
23.	Reedsville, Pennsylvania	For construction of a 4 lane highway between Reedsville and Seven Mountains, Pennsylvania	35.1
24.	Pennsylvania	To relocate section of railroad tracks between Hagerstown, Maryland and Shippensburg, Pennsylvania to eliminate 23 at-grade crossings and to make connection to an existing railroad line	14.4
25.	Roaring Spring, Pennsylvania	To upgrade to 3 lanes by adding a center turning lane to a section of Pennsylvania 36 from New U.S. 220 to the intersection at Roaring Spring, Pennsylvania	8.8
26.	Altoona, Pennsylvania	To widen and extend Chestnut Avenue from Altoona to Juniata, Pennsylvania	7.12
27.	Bedford County, Pennsylvania	To widen Rt. 30 from the Narrows in Bedford to Mt. Dallas, Pennsylvania	48.0
28.	Brevard County, Florida	Design, acquire right-of-way and construct a widened bridge on State Road 3 over the Barge Canal	6.9
29.	Blacksburg, Montgomery County, Virginia	Construction of 6 mile 4 lane highway to demonstrate intelligent/vehicle highway systems	5.9
30.	Mobile, Alabama	For reconstruction of the West Tunnel Plaza Interchange on I–10 from Virginia Street to Mobile River Tunnel, Mobile, Alabama	15.0
31.	Pennsylvania	To widen U.S. Rt. 202 from King of Prussia to Montgomeryville, Pennsylvania	8.9
32.	Galina, Illinois	To conduct environmental, preliminary engineering and design studies to widen a 47 mile stretch of U.S. 20 to 4 lanes	2.0
33.	Areneck County, Michigan	To improve a 12-mile stretch of U.S. 23 between Rt. 13 and Rt. 65, Michigan	4.7
34.	Brooks, Jim Wells, and Live Oak Counties, Texas	To improve, upgrade and widen U.S. 281 to the Mexican Border	27.6
35.	Alabama	To construct a 4-lane access controlled highway to bypass Montgomery, Alabama and connect I–65 and I–85	11.8
36.	North Dakota	To design computerized system to inventory and manage off system bridge repairs or replacement statewide; begin repair activities	8.9
37.	Los Angeles, California	For preliminary work on a project to enhance the capacity of I–5 in Los Angeles and Orange County from the downtown area to the State Rt. 91 interchange in Buena Park	6.7
38.	Mendon, Illinois	To construct 14.8 miles of Highway 336 from Illinois Rt. 61 near Mendon, Illinois to West Point Road	5.0
39.	Bryden, Washington	Construct 3 miles of new and improved highways connecting Clarkston, Washington with Lewiston, Idaho	3.9
40.	Missouri	To widen I–55 between Rt. M and Rt. 67 in Jefferson County, Missouri	5.1
41.	Jefferson County, Missouri	To upgrade 7.9 miles of Missouri Highway 21 in Jefferson County, Missouri	5.1
42.	St. Louis, Missouri	To construct a 4-Lane outer beltway connecting I–55 and I–44 in St. Louis and Jefferson County, Missouri	7.6
43.	Hillsborough, Florida	Widen and enhance safety and drainage features of I–4 from Tampa to the Hillsborough County Line	24.5

	City/State	*Innovative projects*	*Amount in millions*
44.	*Wichita, Kansas*	*To construct a 6 lane access controlled highway and interchange at Oliver Street*	*6.6*
45.	*Brigham City, Utah*	*To construct an interchange on I–15 at Forest St. in Brigham City, Utah*	*3.6*
46.	*Utah*	*For the upgrading of U.S. 89 in Davis and Weber Counties, Utah*	*3.0*
47.	*Grand Rapids, Michigan*	*For construction of a bypass around Grand Rapids, Michigan connecting I–96 and I–196*	*6.9*
48.	*Suffolk County/Long Island, New York*	*Avoid erecting costly areas through selective black topping through high noise road segments*	*2.0*
49.	*Suffolk County, New York*	*Evaluate suitability of composting and recycling for use on Federal-aid highway medians and perimeters*	*0.4*
50.	*Springfield, South Dakota*	*Plan, engineer and construct a bridge across the Missouri River to connect South Dakota Rt. 37 to Nebraska Highway 12*	*4.7*
51.	*Vermillion, South Dakota*	*Engineer and construct bridge across the Missouri River in the vicinity of Vermillion, South Dakota*	*3.6*
52.	*Pennsylvania*	*Design, engineer and construct 2 exits off Interstate 81 at Wilkes-Barre and Mountaintop, Pennsylvania*	*16.7*
53.	*Genesse, Michigan*	*Widen and improve pavement in Mundy Township, from Baldwin Rd. to Cook Rd.*	*0.16*
54.	*Flint, Michigan*	*Engineer, design and construct improved and widened 5-lane road*	*0.5*
55.	*Flint, Michigan*	*Engineer, design and construct 1.02 miles of 5-lane roadway*	*0.9*
56.	*Flint, Michigan*	*Right-of-way acquisition, relocation and construction of Bristol Road*	*3.1*
57.	*Salem, Oregon*	*To construct the Salem Bypass around Salem, Oregon*	*6.0*
58.	*Montgomeryville, Pennsylvania*	*To improve U.S. 202 from Montgomeryville to Doylestown, Pennsylvania*	*10.8*
59.	*Amherst/Erie County, New York*	*Widen 2 miles of Rt. 263 from 2 lanes to 4 lanes and rehabilitate a 4 mile stretch of Rt. 78*	*7.6*
60.	*Idaho*	*To improve the Bryden Canyon Rd. in Lewiston, Idaho*	*5.3*
61.	*Mojave, California*	*Widen and reconstruct bridge to CALTRANS height standards*	*1.8*
62.	*Freemont, Iowa*	*For construction of Iowa highway #2 from Sidney, Iowa to I–29 in Freemont County, Iowa*	*8.7*
63.	*Council Bluffs, Iowa*	*For a variety of improvements to the Valley View Corridor in Council Bluffs, Iowa*	*1.0*
64.	*Indiana*	*Construct extension of Interstate 69 to link Evansville and Indianapolis, Indiana*	*3.8*
65.	*Aberdeen, Ohio*	*U.S. 62 Ohio River Bridge*	*15.5*
66.	*Jacksonville, Illinois*	*U.S. 67 Jacksonville Bypass*	*15.8*
67.	*Snohomish, Washington*	*Snohomish County, Washington HOV Lanes*	*6.5*
68.	*Portland/S. Portland, Maine*	*Portland-S. Portland Bridge*	*134.5*
69.	*Iowa*	*Highway 63 Improvements, Waterloo to New Hampton, Iowa*	*15.1*
70.	*Brook Park, Ohio*	*Aerospace Technology Park Access Rd., Brook Park, Ohio*	*14.2*
71.	*California*	*Rt. 156 Hollister Bypass, San Benito, California*	*0.9*
72.	*Monterey, California*	*Rt. 101, Prunedale, California*	*4.2*
73.	*New Jersey*	*Rt. 21 Viaduct, Newark, New Jersey, City of Newark's Project*	*14.8*
74.	*New Jersey*	*Rt. 21 widening, Newark, New Jersey, City of Newark's Project*	*13.9*
75.	*North Carolina*	*U.S. 64 widening in Chatham and Wake Counties, North Carolina*	*5.3*
76.	*Tennessee*	*I–81/Industrial Park South Interchange, Sullivan County, Tennessee*	*5.8*
77.	*Tennessee*	*Foothills Parkway: Pittman Center to Cosby, Tennessee*	*11.2*
78.	*Ohio*	*Kelly Avenue extension, Akron, Ohio*	*9.5*
79.	*Exton, Pennsylvania*	*Exton Bypass, Exton, Pennsylvania*	*26.8*
80.	*Alabama*	*Black Warrier River Bridge, Tuscaloosa County, Alabama*	*6.4*
81.	*Brooklyn Park, Minnesota*	*Highway 610 crosstown project, Brooklyn Park, Minnesota*	*36.0*
82.	*California*	*I–880/Alvarado-Niles Road Interchange, Union City, California*	*9.5*
83.	*Merrysville, Washington*	*Interstate 5 Interchange improvement: 88th Street, Merrysville, Washington*	*1.9*
84.	*Myrtle Beach, South Carolina*	*Carolina Bays Parkway, Myrtle Beach, South Carolina*	*5.9*
85.	*Mississippi*	*U.S. 90 improvements including 6 lane bridge and approaches, Pascagoula, Mississippi*	*4.3*
86.	*Bakersfield, California*	*Rt. 58 Improvements, Bakersfield, California*	*4.7*
87.	*Santa Fe Springs, California*	*Norwalk Blvd. grade separation, Santa Fe Springs*	*4.7*
88.	*Hoquiam, Washington*	*Gray's Harbor Industrial Corridor Bridge, Hoquiam, Washington*	*4.7*
89.	*Traverse City, Michigan*	*Traverse City Bypass, Traverse City, Michigan*	*4.5*
90.	*Nevada*	*Lamoille Highway widening, Elko County, Nevada*	*2.4*
91.	*Reno, Nevada*	*U.S. 395 Extension, in vicinity of Reno, Nevada*	*14.8*
92.	*Carson City, Nevada*	*Carson City Bypass, Carson City, Nevada*	*7.6*
93.	*Columbus, Ohio*	*I–270 North outerbelt widening, Franklin County, Ohio*	*10.2*
94.	*St. Thomas, Virgin Islands*	*Feasibility study of constructing a second road to the west end of the island*	*1.7*
95.	*Illinois*	*DeQuoin Highway Bridge*	*2.6*
96.	*Illinois*	*Tamarack Street Extension*	*0.6*
97.	*Indiana*	*East Chicago Marina Access Road*	*8.5*
98.	*District of Columbia*	*Hybrid Fuel Cell*	*3.6*
99.	*Ohio*	*Rehabilitation of Bridge on U.S. 224 near State Route 616*	*1.0*

	City/State	Innovative projects	Amount in millions
100.	Arkansas	North Belt Freeway Project, Thornton, Arkansas	8.9
101.	Ft. Worth, Texas	I–35 Basswood Interchange, Ft. Worth, Texas	17.8
102.	Illinois	Illinois 17 road replacement, .2 miles west of Splear Road to Illinois 1: 5.3 miles	1.8
103.	Leroy, Illinois	U.S. 150 road replacement, North of Hemlock Street to South of Gilmore Street in Leroy: 1.6 miles	1.0
104.	Ford County, Illinois	U.S. 24 replacement, 1.1 miles east of Forrest to Ford County Line: 8.0 miles	1.8
105.	Illinois	U.S. 24 road replacement: Crescent City to Illinois 1 in Watseka: 6.3 miles	2.5
106.	Emington, Illinois	Emington Spur road replacement Illinois 47 to Emington: 2.9 miles Emington, Illinois	0.65
107.	Illinois	New Lenox Road Improvement	2.5
108.	Illinois	Shorewood Roadway Improvements	1.3
109.	Illinois	Bridge painting of various moveable bridges to prevent rusting, Chicago, Illinois	2.8
110.	Huntington County, Pennsylvania	Jacobs Timber Bridge over Greater Trough Creek	0.35
111.	Chicago, Illinois	Landscaping, resurfacing, repair and replacement of curbs and gutters, bridge cleaning and repair of lights and redesigning and installation of new signs historic 28 mile Boulevard, Chicago, Illinois	5.4
112.	Cadillac, Michigan	Improvements to highway U.S. 131, north of Cadillac	4.2
113.	Durham County, North Carolina	Accelerated construction of a four-lane divided freeway on Route 147	38.3
114.	Corpus Christi to Angleton, Texas	Construct new multi-lane freeway	41.7
115.	Fort Worth, Texas	Construction of an overpass and frontage road at the Fort Worth Hillwood/I–35 interchange	12.7
116.	West Sacramento, California	Construction of Industrial Boulevard Bridge over Sacramento River Barge Canal in West Sacramento, California	8.3
117.	Baltimore County, Maryland	I–695 Improvements in Baltimore County, Maryland	23.9
118.	Hampton Roads, Virginia	I–64 Crossing of Hampton Roads	5.9
119.	Calumet City, Illinois	Reconstruction of 156th Street and 156th Place from Burkham Avenue to State line	1.3
120.	Frankfort Township, Illinois	Improvements of streets in Frankfort Township	1.0
121.	Matteson, Illinois	I–57 Bridge Improvements	3.6
122.	Illinois	Road Improvement, U.S. 150/Ill. 1 from Belguim to South of Westville	3.8
123.	Illinois	Road Improvement, U.S. 45 from Savoy to Tolono	5.6
124.	Alabama	Patton Island Bridge Project	4.7
125.	Borough of Paulsboro, New Jersey	Construction of a new bridge to improve safety	2.7
126.	Minnesota	Completion of Cross-Range Expressway (Trunk Highway 169)	13.0
127.	Hinckley, Minnesota	Safety and capacity improvements to Trunk Highway 48 and relocation of County Road 134	2.0
128.	Minnesota	Trunk Highway 53, Twig to Trunk Highway 37	9.5
129.	Minnesota	Trunk Highway 169, Grand Rapids to High City	9.0
130.	Minnesota	Trunk Highway 61, Schroeder to Grand Marais	18.0
131.	Wisconsin	Improvements to Highway 41, Oshkosh to Green Bay	41.7
132.	Wisconsin	Improvements to Highway 29, Chippewa Falls to State Trunk Hwy. 73	28.3
133.	Minnesota	Trunk Highway 37 and Hughes Rd	0.5
134.	Pennsylvania	Route 120 widening in vicinity of Lock Haven	4.0
135.	Pennsylvania	Replace U.S. 15 bridge across Tioga River	3.2
136.	Pennsylvania	Wysox Narrows Rd. (U.S. 6)	3.0
137.	Chicago, Illinois	Improvements on Kennedy Expressway, except that the allocation percentages under this section shall not apply to this project and, in lieu thereof, 1/3 of the funds for such projects shall be available for obligation in each of fiscal years 1992, 1993, and 1994	175.0
138.	South Carolina	Southern Connector Highway improvements in Greenville County; Highway 17 Bridge Replacement Projects over Cooper River, Charleston; Carolina Bays Parkway improvements, Myrtle Beach (funds to be equitably divided among these facilities)	11.0
139.	South Carolina	Rail Corridor Revitalization in Columbia, South Carolina	4.0
140.	Rhode Island	For design and construction of a stormdrain retrofit on I–95 and other highway runoff programs to protect Narragansett Bay	13.0
141.	South Kingstown, Rhode Island	For historic renovation and development of an intermodal center at the Kingston Railroad Station	2.0
142.	Lincoln and Cumberland, Rhode Island	For historic rehabilitation of the Albion Bridge and Albion Trench Bridge	2.0
143.	Newport, Rhode Island	To develop the marine mode of the intermodal Gateway Transportation Center	6.0
144.	Bristol, Rhode Island	For road improvements in Bristol, Rhode Island	2.0
145.	Pennsylvania	An applied technology demonstration in advanced technology demonstrations in advanced driver information systems, with a special emphasis on display instrumentation and information communications technology, to be carried out in cooperation with the Center for Advanced Design and Communication Arts Technology at the University of the Arts	2.0
146.	Vermont	Construction of a highway from U.S. 7, North of Bennington, Vermont southwest to NY 7 in Hoosick, NY	20.0
147.	Woonsocket, Rhode Island	For construction of Route 99 Extension	1.96
148.	Woonsocket, Rhode Island	For repaving streets in Woonsocket	1.40
149.	Woonsocket, Rhode Island	For improvements to 3 bridges crossing the Blackstone River	0.35

	City/State	Innovative projects	Amount in millions
150.	Cranston, Rhode Island	For reconstruction and repaving of Park Avenue, Sockanossett Crossroads, Olney Arnold Road, South Comstock Parkway, Wildflower Drive, Aqueduct Road and Mapleton Street	5.7
151.	Rhode Island	For operating expenses of the Rhode Island Public Transit Authority	18.0
152.	New Hampshire	To study corridor protection for New Hampshire Route 16	2.0
153.	North Conway, New Hampshire	To provide congestion relief on U.S. 302 and New Hampshire Route 16	6.3
154.	Kansas	To widen U.S. 81 7–15 miles Belleville to Concordia	7.0
155.	Kansas	To construct Hutchinson Bypass between U.S. 50 and K–96 Hutchinson, Kansas	24.4
156.	Wyoming	For reconstruction of county roads not on the State Highway System by the Wyoming State Department of Transportation	20.0
157.	Virginia	For the rehabilitation, renovation, reconstruction, resurfacing, safety improvements and modernization on the existing 1,069 mile Interstate system in Virginia to be distributed by the Commonwealth Transportation Board, to the maximum extent possible, on an equitable regional basis	63.5
158.	Minnesota	Hennepin County, Minnesota Bloomington Ferry Bridge/C.S.A.H. 18 Replacement Project Bloomington, MN	18.0
159.	Minnesota	Nicollet County, Minnesota C.S.A.H. 41 for roadway stabilization and rockfall control North Mankato, MN	3.0
160.	Minnesota	St. Cloud, Minnesota T.H. 15 bridge across Mississippi River and Interchange with T.H. 10	3.24
161.	Minnesota	Minnesota Safety Initiative Program ($2 million to demonstrate the safety benefits of retroreflective pavement markings and signs, especially for nighttime and older drivers; $1 million to demonstrate the safety and environmental benefits of elastomer modified asphalt in cold weather climates)	3.0
162.	New York, New York	Hell Gate Viaduct: upgrade, repair & paint	55.0
163.	New York, New York	Ferry Landing, Battery Park: Reconstruction of ferry landing within Battery Park	2.0
164.	New York, New York	Foley Square Plaza: Transportation improvements & construction activities for Foley Square Plaza development	5.25
165.	New York, NY	Franklin Delano Roosevelt Drive: To reconstruct & improve several sections of Franklin Delano Roosevelt Drive	10.0
166.	Corning, NY	Corning Bypass Improvements	11.0
167.	Nelson County, North Dakota	Grading & surfacing: from U.S. Highway 2 at Michigan southerly to ND Highway 15 at McVille; and of FAS 3220 from ND 1 to ND 32	8.5
168.	Stutsman County, North Dakota	Surfacing from I–94 north & east through Spiritwood, then north to ND Highway 9	4.0
169.	Steele/Griggs County, North Dakota	Grading & surfacing of FAS 4612 & FAS 2012 from ND 32 to ND 45	2.9
170.	Grand Forks County, North Dakota	Surfacing of FAS 1822 from FAS 1833 to I–29, & FAS 1812 from FAS 1833 to I–29, & FAS 1833 from FAS 1824 to ND 15	2.6
171.	Richland County, North Dakota	Grading & surfacing from Wahpeton to the Froedtert Malting Plant	0.6
172.	Ward/McHenry County, North Dakota	Grading & surfacing FAS 5158 & FAS 2546 from U.S. 83 to ND 41.	4.5
173.	Bottineau County, North Dakota	Grading & surfacing from Bottineau to ND Highway 43	2.4
174.	McKenzie County, North Dakota	Grading & surfacing of FAS 2750 from U.S. 85 west 12 miles	2.3
175.	Wells County, North Dakota	Grading & surfacing of FAS 5215 from FAS 5208 north to the county line, & from U.S. 52, one mile west of Manfred, north to FAS 5208	2.5
176.	Traill County, North Dakota	Grading & surfacing of FAS 4916 from ND 200 east to the Red River	2.8
177.	Eddy County, North Dakota	Grading & surfacing of: FAS 1404 from U.S. 281 east 10.5 miles & from ND 20 west 5.5 miles; & of FAS 1427 from ND 20 south about 8 miles	2.5
178.	Renville/Ward County, North Dakota	Grading & surfacing, starting at FAS 3809 on the Ward County line south 4 miles & then east 2 miles	0.9
179.	Morton County, North Dakota	Grading & surfacing of FAS 3020 from ND 49 southeasterly to FAS 3033	3.1
180.	Walsh County, North Dakota	Surfacing of FAS 5017 from Lankin south to the Nelson County line & FAS 5022 from Fordville east to ND 18	2.5
181.	Dickey County, North Dakota	Grading & surfacing of FAS 1112 from U.S. 281 east to FAS 1127, FAS 1111 from ND 11 south to FAS 1124, & FAS 1137 from ND 11 north to Guelph	4.0
182.	Burke County, North Dakota	Grading & surfacing of FAS 0717 from Lignite south to ND 50	4.4
183.	Morton County, North Dakota	For a bypass from ND 1806 around the westside of Fort Lincoln State Park	3.2
184.	Rolette County, North Dakota	Grading & surfacing from U.S. 281 around the access loop road in the Int'l. Peace Gardens	1.9
185.	Oliver County, North Dakota	Grading & surfacing of FAS 3331 from ND 200A at Hensler southerly to ND 25, & FAS 3304 from FAS 3331 east to FAS 3339	2.9
186.	Williams County, North Dakota	Grading & surfacing at County Rd. 5 from U.S. 2 southerly to ND 1804	2.5

	City/State	Innovative projects	Amount in millions
187.	Plummer, Idaho	Reconstruct a total of 2.9 miles of SH–5 (FAP–14) beginning at M.P. 0.5 in the City of Plummer in Benewah County to M.P. 1.1, and two additional segments located on Peedee Hill from approximately M.P. 3.6 to M.P. 4.9 and M.P. 5.7 to M.P. 6.7	3.6
188.	Lemhi County, Idaho	Reconstruct a 8.3 mile section of U.S. 93 (FAP–35) in Lemhi County at the Idaho/Montana border. 23 U.S.C. 120(a) shall be applicable to the Federal share payable of the cost of such project	25.6
189.	St. Maries, Idaho	Rehabilitate existing pavement structure for a total of 14.2 miles of Idaho Forest Highway 50, the St. Joe River Road between St. Maries and the Benewah/Shoshone County Line	3.4
190.	Lewiston, Idaho	Construct a new road for a total of 2.4 miles along FAU Route 7344, M.P. 0.0–2.4, in Bryden Canyon, Lewiston	3.9
191.	Bear Lake County, Idaho	Reconstruct a 13.0 mile segment of U.S.–89 (FAP–53) between the communities of Montpelier and Geneva	18.5
192.	Alabama	Improvements to Anniston Eastern Bypass, in the vicinity of U.S. 431 and Alabama State Hwy. 21 north of Anniston to the Golden Springs interchange on I–20	11.0
193.	Corning, New York	Additional funding for Corning Bypass (Route 1), except any excess funds from the $13.4 million in total funding for this project shall be available for construction of two additional expressway lanes from Chautauqua Lake Bridge to Pennsylvania border on Route 17	2.4
194.	Billings, Montana	Construction of the Shilo I–90 Interchange	11.0
195.	Missoula, Montana	Construction of the Missoula Airport I–90 Interchange	7.0
196.	Orlando, Florida	Land & right-of-way acquisition & guideway construction for magnetic levitation projection	97.5
197.	Toledo, Ohio	Design & initial construction of a new I–280 Maumee River crossing to replace the Craig Memorial Bridge	37.0
198.	New London-Groton/Bridgeport/New Haven, Connecticut	Rehabilitate or replace: The Gold Star Bridge over the Thames River I–95 between New London & Groton; the Bridge over the Yellow Mill Channel (Bridgeport); & the Tomlinson Bridge on Rte. 1 over the Quinnipiac River (New Haven)	62.0
199.	Raleigh/Rocky Mount/Elizabeth City, North Carolina	Design & Construction of interstate standard highway from Rocky Mount, NC to Elizabeth City, NC, & for the upgrading of I–64 from Raleigh, NC to Rocky Mount, NC, & Rte. 17 from Elizabeth City to Norfolk. A substantial portion of the funding should be used for magnetic levitation projection to Elizabeth segment	30.0
200.	Binghamton, New York	A study of the feasibility of rehabilitation of the South Washington Street Bridge in Binghamton, NY, to identify plans & specifications for repair if feasible.	0.5
201.	District of Columbia	Advanced composite bridge deck demonstration at Catholic University	0.2
202.	Georgia	For any highway improvement projects eligible for funding under title 23, United States Code	27.0
203.	Hawaii	For any highway improvement projects eligible for funding under title 23, United States Code	6.0
204.	Oklahoma	For any highway improvement projects eligible for funding under title 23, United States Code	59.0

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it; the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) REPORTS.—Not later than 1 year after completion of a project under this section, the State in which such project is located shall submit to the Secretary a report on the innovative techniques used in carrying out such project and on the results obtained through the use of such techniques.

(h) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1108. PRIORITY INTERMODAL PROJECTS.

(a) PURPOSE.—The purpose of this section is to provide for the construction of innovative intermodal transportation projects.

(b) AUTHORIZATION OF PRIORITY PROJECTS.—The Secretary is authorized to carry out the priority intermodal transportation projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Intermodal projects	Amount in millions
1.	Long Beach, California	Interchange at Terminal Island Freeway and Ocean Boulevard	11.8
2.	Wilmington/Los Angeles, California	Widening of Anaheim Street Viaduct	11.8
3.	Wilmington/Los Angeles, California	Grade Separation Project of Pacific Coast Highway near Alameda Suite	11.8

	City/State	*Intermodal projects*	*Amount in millions*
4.	*Compton City/Los Angeles County, California*	*Widening of Alameda Street and grade separation between Rt. 91 and Del Amo Boulevard*	*11.8*
5.	*Pennsylvania*	*Upgrading U.S. Highway 30 from Ohio Border to Pittsburgh International Airport*	*3.2*
6.	*Philadelphia, Pennsylvania*	*Reconstruction of the Old Delaware Avenue Service Road*	*2.4*
7.	*Ardmore, Oklahoma*	*Study of upgraded State Route 53 off U.S. 35 leading to improved Ardmore Airport*	*2.5*
8.	*Detroit, Michigan*	*To relocate Van Dyke Street and construct a road depression under the runway at McNichols Road at the Detroit City Airport ($1,000,000 of the Federal funds shall be for the relocation of Van Dyke Street)*	*4.3*
9.	*E. Haven/Wallingford, Connecticut*	*Improvement of highway and transit projects in East Haven/Wallingford, Connecticut ($8.8 million for East Haven Route 80, $2.4 million for Wallingford I–91, and $0.7 million for Wallingford Oakdale)*	*10.1*
10.	*St. Louis, Missouri*	*Rehabilitation of Eads Bridge, St. Louis, Missouri*	*8.9*
11.	*Atlanta, Georgia*	*Study of 5-Points Intermodal Terminal-Atlanta, Georgia*	*2.4*
12.	*Buffalo, New York*	*Construction of Buffalo River/Gateway Tunnel Project*	*20.2*
13.	*Northern California*	*Purchase right-of-way and develop a transportation corridor in existing rail right-of-way from Larkspur to Korbel, and Novato to Lombard*	*15.1*
14.	*Portland, Oregon*	*To widen 2.7 miles of U.S. 26 from the Zoo interchange to the Sylvan Interchange to accommodate highway lanes and light rail alignment*	*14.2*
15.	*Los Angeles, California*	*For construction of a multi-modal transit parkway that includes both highway and transit improvements on Santa Monica Blvd. from the San Diego Freeway to Hollywood Freeway, Los Angeles, California*	*8.9*
16.	*Jacksonville, Florida*	*Construct new I–295 Interchange and arterial access road to link Jacksonville's seaport, airport terminals and the interstate*	*7.1*
17.	*Las Vegas, Nevada*	*Conduct environmental studies and preliminary engineering for the western and northern portions of the project linking McCarran International Airport with I–15*	*3.8*
18.	*Ontario, California*	*To complete construction of access roads to Ontario International Airport, Ontario, California*	*4.7*
19.	*Allegheny County, Pennsylvania*	*For an expansion of the existing Martin Luther King, Jr. Busway in the vicinity of Allegheny County, Pennsylvania to serve the Greater Pittsburgh International Airport and adjoining communities*	*21.7*
20.	*Pierce County, Washington*	*Conduct feasibility study and analyze expanding Tacoma Narrows Bridge and other transportation alternatives between State Rd. 16 and I–5*	*0.7*
21.	*San Jose, California*	*Upgrade Rt. 87 from 4 to 6 lanes including 2 HOV Lanes, a new freeway interchange and local circulation system for San Jose International Airport*	*14.8*
22.	*American Samoa*	*Rehabilitate 8 miles of Tau Road from Falessao to Fatuita American Samoa*	*1.1*
23.	*Manu'a Island, American Samoa*	*Rehabilitate and otherwise improve 8 miles of roadway from Ofu to Olosfaga and Slie*	*1.2*
24.	*Spokane, Washington*	*Conduct feasibility study of future transportation needs of Southeastern Washington*	*0.8*
25.	*Detroit, Michigan*	*To provide for construction of an access road to Detroit Metropolitan Airport including access on the southern end of the airport in order to provide a link to I–275*	*33.8*
26.	*Pittsburgh, Pennsylvania*	*For design and construction of an exclusive busway linking Pittsburgh and the Pittsburgh Airport*	*9.8*
27.	*St. Louis, Missouri*	*To construct a multi-modal transportation facility in St. Louis, Missouri*	*5.9*
28.	*Orange & Rockland, New York*	*To construct park and ride facilities and establish innovative traffic management system measures to promote efficient transportation usage*	*4.7*
29.	*Philadelphia, Pennsylvania*	*To improve mobility for a variety of traffic flow projects in the vicinity of the Pennsylvania Convention Center, Philadelphia, Pennsylvania*	*9.5*
30.	*Oxnard, California*	*To extend Rice Rd., widen Hueneme Rd. and construct Rt. 1/Rice Rd. interchange in order to improve access to Port Hueneme, Oxnard, California*	*8.9*
31.	*Los Angeles, California*	*To improve ground access from Sepulveda Blvd. to Los Angeles, California*	*8.9*
32.	*Mt. Vernon, New York*	*To construct an intermodal facility at the Mt. Vernon Rail Station, Mt. Vernon, New York*	*7.1*
33.	*Orange County, New York*	*I–87/I–84 Stuart Airport Interchange Project*	*15.7*
34.	*Mississippi*	*I–20 Interchange at Pirate*	*3.4*
35.	*Jackson, Mississippi*	*Jackson Airport Connectors*	*3.1*
36.	*Palmdale, California*	*Avenue P8 Improvements*	*3.6*
37.	*Lafayette, Indiana*	*Lafayette Railroad Relocation Project*	*24.3*
38.	*Provo, Utah*	*South Access Rd. to Provo Municipal Airport*	*1.0*

	City/State	*Intermodal projects*	*Amount in millions*
39.	*Pennsylvania*	*Eastside Connector Project/Port of Erie Access, Erie County, Pennsylvania*	*7.5*
40.	*Minneapolis, Minnesota*	*Intermodal Urban connection project, Minneapolis, Minnesota*	*19.9*
41.	*Kansas City, Missouri*	*Bruce Watkins Roadway Improvements*	*1.4*
42.	*Missouri*	*Smith Riverfront Expressway, Jackson/Kansas City, Missouri*	*12.7*
43.	*Portland, Oregon*	*Columbia Slough Intermodal Expansion Bridge, Portland, Oregon*	*2.1*
44.	*Ft. Worth, Texas*	*Ft. Worth Intermodal Center*	*13.4*
45.	*Gary, Indiana*	*Extension of U.S. Highway 12/20 to Lake Michigan*	*2.2*
46.	*Carson/Los Angeles Counties, California*	*Grade Separation Project at Sepulveda Boulevard and Alameda Street*	*9.5*
47.	*Williamson, Travis, Caldwell, and Guadalupe, Texas*	*Feasibility studies (including the effect of closing Bergstrom AFB on traffic corridor), Route studies, preliminary engineering, and right-of-way acquisition for Alternate Route to relieve I–H35 traffic congestion*	*5.2*
48.	*Augusta, Georgia*	*Railroad relocation demonstration project, overpass at 15th Street and Greene Street*	*5.9*
49.	*Louisiana*	*Saint Bernard Intermodal Facility Engineering, Design, and Construction*	*10.2*
50.	*Illinois*	*Interstate 255 Interchange*	*3.4*
51.	*Long Beach, California*	*Long Beach Airport Access*	*8.5*

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

(h) HIGHWAY AND MASS TRANSIT PROJECTS.—Each project authorized by this section or by any other section of this Act is a highway or an urban mass transportation project.

SEC. 1109. INFRASTRUCTURE AWARENESS PROGRAM.

(a) IN GENERAL.—For the purpose of creating an awareness by the public and State and local governments of the state of the Nation's infrastructure and to encourage and stimulate efforts by the public and such governments to undertake studies and projects to improve the infrastructure, the Secretary is authorized to fund the production of a documentary in cooperation with a not-for-profit national public television station.

(b) FUNDING.—There is authorized to be appropriated to the Secretary to carry out this section $2,000,000 for fiscal years beginning after September 30, 1991, out of the Highway Trust Fund (other than the Mass Transit Account), which shall remain available until expended. All of the provisions of chapter 1 of title 23, United States Code, shall apply to the funds provided under this section. This section shall not be subject to any obligation limitation.

PART B—NATIONAL RECREATIONAL TRAILS FUND ACT

SEC. 1301. SHORT TITLE.

This part may be cited as the "Symms National Recreational Trails Act of 1991".

SEC. 1302. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing and maintaining recreational trails.

(b) STATEMENT OF INTENT.—Moneys made available under this part are to be used on trails and trail-related projects which have been planned and developed under the otherwise existing laws, policies and administrative procedures within each State, and which are identified in, or which further a specific goal of, a trail plan included or referenced in a Statewide Comprehensive Outdoor Recreation Plan required by the Land and Water Conservation Fund Act.

(c) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Until the date that is 3 years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (e).

(2) PERMANENT PROVISION.—On and after the date that is three years after the date of the enactment of this Act, a State shall be eligible to receive moneys under this part only if—

(A) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing and maintaining recreational trails;

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this part as provided in subsection (e).

(d) ALLOCATION OF MONEYS IN THE FUND.—

(1) ADMINISTRATIVE COSTS.—No more than 3 percent of the expenditures made annually from the Fund may be used to pay the cost to the Secretary for—

(A) approving applications of States for moneys under this part;

(B) paying expenses of the National Recreational Trails Advisory Committee;

(C) conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this part; and

(D) if any such funds remain unexpended, research on methods to accommodate multiple trail uses and increase the compatibility of those uses, information dissemination, technical assistance, and preparation of a national trail plan as required by the National Trails System Act (16 U.S.C. 1241 et al).

(2) ALLOCATION TO STATES.—

(A) AMOUNT.—Amounts in the Fund remaining after payment of the administrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) EQUAL AMOUNTS.—50 percent of such amounts shall be allocated equally among eligible States.

(ii) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—50 percent of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) USE OF DATA.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off-highway vehicle registrations in each State.

(3) LIMITATION ON OBLIGATIONS.—The provisions of paragraphs (1) and (2) notwithstanding, the total of all obligations for recreational trails under this section shall not exceed—

(A) $30,000,000 for fiscal year 1992;

(B) $30,000,000 for fiscal year 1993;

(C) $30,000,000 for fiscal year 1994;

(D) $30,000,000 for fiscal year 1995;

(E) $30,000,000 for fiscal year 1996; and

(F) $30,000,000 for fiscal year 1997.

(e) USE OF ALLOCATED MONEYS.—

(1) PERMISSIBLE USES.—A State may use moneys received under this part for—

(A) in an amount not exceeding 7 percent of the amount of moneys received by the State, administrative costs of the State;

(B) in an amount not exceeding 5 percent of the amount of moneys received by the State, operation of environmental protection and safety education programs relating to the use of recreational trails;

(C) development of urban trail linkages near homes and workplaces;

(D) maintenance of existing recreational trails, including the grooming and maintenance of trails across snow;

(E) restoration of areas damaged by usage of recreational trails and back country terrain;

(F) development of trail-side and trail-head facilities that meet goals identified by the National Recreational Trails Advisory Committee;

(G) provision of features which facilitate the access and use of trails by persons with disabilities;

(H) acquisition of easements for trails, or for trail corridors identified in a State trail plan;

(I) acquisition of fee simple title to property from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means;

(J) construction of new trails on State, county, municipal, or private lands, where a recreational need for such construction is shown; and

(K) only as otherwise permissible, and where necessary and required by a State Comprehensive Outdoor Recreation plan, construction of new trails crossing Federal lands, where such construction is approved by the administering agency of the State, and the Federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this part for—

(A) condemnation of any kind of interest in property;

(B)(i) construction of any recreational trail on National Forest System lands for motorized uses unless such lands:

(I) have been allocated for uses other than wilderness by an approved Forest land and resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved land and resource management plan; or

(ii) construction of any recreational trail on Bureau of Land Management lands for motorized uses unless such lands:

(I) have been allocated for uses other than wilderness by an approved Bureau of Land Management resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved management plans; or

(C) upgrading, expanding, or otherwise facilitating motorized use or access to trails predominantly used by non-motorized trail users and on which, as of May 1, 1991, motorized use is either prohibited or has not occurred.

(3) GRANTS.—

(A) IN GENERAL.—A State may provide moneys received under this part to make grants to private individuals, organizations, city and county governments, and other government entities as approved by the State after considering guidance from the recreational trail advisory board satisfying the requirements of subsection (c)(2)(A), for uses consistent with this section.

(B) COMPLIANCE.—A State that issues such grants under subparagraph (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) ASSURED ACCESS TO FUNDS.—Except as provided under paragraphs (6) and (8)(B), not less than 30 percent of the moneys received annually by a State under this part shall be reserved for uses relating to motorized recreation, and not less than 30 percent of those moneys shall be reserved for uses relating to non-motorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this part in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (g)(5); or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

This paragraph shall remain effective until such time as a State has allocated not less than 40 percent of moneys received under this part in the aforementioned manner.

(B) COMPLIANCE.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of subsection (c)(2)(A).

(6) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than 1 per centum of all such fuel use in the United States, shall be exempted from the requirements of paragraph (4) of this subsection upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) CONTINUING RECREATIONAL USE.—At the option of each State, moneys made available pursuant to this part may be treated as Land and Water Conservation Fund moneys for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act.

(8) RETURN OF MONEYS NOT EXPENDED.—

(A) Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within 4 years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(B) If approved by the State recreational trail advisory board satisfying the requirements of subsection (c)(2)(A), may be exempted from the requirements of paragraph (4) and expended or committed to projects for purposes otherwise stated in this subsection for a period not to extend beyond 4 years after receipt, after which any remaining moneys not expended or dedicated shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(f) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreation trail pursuant to this part is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (e). Nothing in this part diminishes or in any way alters the land management responsibilities, plans and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(g) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (c).

(2) FUND.—The term "Fund" means the National Recreational Trails Trust Fund established by section 9511 of the Internal Revenue Code of 1986.

(3) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, aquatic or water activity and vehicular travel by motorcycle, four-wheel drive or all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

(6) MOTORIZED RECREATION.—The term "motorized recreation" may not include motorized conveyances used by persons with disabilities, such as self-propelled wheelchairs, at the discretion of each State.

SEC. 1303. NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the National Recreational Trails Advisory Committee.

(b) MEMBERS.—There shall be 11 members of the advisory committee, consisting of—

(1) 8 members appointed by the Secretary from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:

(A) hiking,

(B) cross-country skiing,

(C) off-highway motorcycling,

(D) snowmobiling,

(E) horseback riding,

(F) all-terrain vehicle riding,

(G) bicycling, and

(H) four-wheel driving;

(2) an appropriate official of government with a background in science or natural resources management, including any official of State or local government, designated by the Secretary;

(3) 1 member appointed by the Secretary from nominations submitted by water trail user organizations; and

(4) 1 member appointed by the Secretary from nominations submitted by hunting and fishing enthusiast organizations.

(c) CHAIRMAN.—The Chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a non-voting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the advisory committee must be supported by at least five of the members appointed under subsection (b)(1).

(e) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of three years, except that the members filling five of the eleven positions shall be initially appointed for terms of two years, with subsequent appointments to those positions extending for terms of three years.

(f) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trail-side and trail-head facilities that qualify for funding under this part; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this part.

(g) ANNUAL REPORT.—The advisory committee shall present to the Secretary an annual report on its activities.

(h) REIMBURSEMENT FOR EXPENSES.—Nongovernmental members of the advisory committee shall serve without pay, but, to the extent funds are available pursuant to section 1302(d)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) REPORT TO CONGRESS.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this part, and contains recommendations for changes in Federal policy to advance the purposes of this part.

TITLE II—HIGHWAY SAFETY

PART A—HIGHWAY SAFETY GRANT PROGRAMS

SEC. 2001. SHORT TITLE.

This part may be cited as the "Highway Safety Act of 1991".

SEC. 2002. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended by inserting after the third sentence the following: "In addition, such uniform guidelines shall include programs (1) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits, (2) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags, (3) to reduce deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance, (4) to reduce deaths and injuries resulting from accidents involving motor vehicles and motorcycles, (5) to reduce injuries and deaths resulting from accidents involving school buses, and (6) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures. If the Secretary does not designate as priority programs those programs described in the preceding sentence, the Secretary shall submit to Congress a report describing the reasons for not prioritizing such programs. The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report such data as the Secretary may require. The purposes of the program are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs. The program shall include information obtained by the Secretary under section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991 and provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts. The Secretary shall establish minimum reporting criteria for the program. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents.".

(b) ADMINISTRATIVE REQUIREMENTS AND USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—Section 402(b) of such title is amended by adding at the end the following new paragraphs:

"(3) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not approve a State highway safety program under this section which does not—

"(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

"(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the minimum standards established by the Secretary under this section;

"(C) except as provided in paragraph (5), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B); and

"(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

"(4) WAIVER.—The Secretary may waive the requirement of paragraph (3)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

"(5) USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers.".

(c) CONFORMING AMENDMENT.—Section 402(d) of such title is amended by striking "Federal-aid primary" and inserting "National Highway System".

SEC. 2003. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

(a) GENERAL AUTHORITY; DRUGS, AND DRIVER BEHAVIOR.—Section 403 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY OF THE SECRETARY.—

"(1) IN GENERAL.—The Secretary is authorized to use funds appropriated to carry out this section to engage in research on all phases of highway safety and traffic conditions.

"(2) ADDITIONAL AUTHORITY.—In addition, the Secretary may use the funds appropriated to carry out this section, either independently or in cooperation with other Federal departments or agencies, for—

"(A) training or education of highway safety personnel,

"(B) research fellowships in highway safety,

"(C) development of improved accident investigation procedures,

"(D) emergency service plans,

"(E) demonstration projects, and

"(F) related research and development activities which the Secretary deems will promote the purposes of this section.

"(3) SAFETY DEFINED.—As used in this section, the term 'safety' includes highway safety and highway safety-related research and development, including research and development relating to highway and driver characteristics, crash investigations, communications, emergency medical care, and transportation of the injured.

"(b) DRUGS AND DRIVER BEHAVIOR.—In addition to the research authorized by subsection (a), the Secretary, in consultation with other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

"(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles.

"(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver crash involvement to highway safety.".

(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—Section 403 of such title is amended by striking subsection (f) and inserting the following new subsection:

"(f) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—For the purpose of encouraging innovative solutions to highway safety problems, stimulating voluntary improvements in highway safety, and stimulating the marketing of new highway safety-related technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, colleges, and universities and corporations, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State or the United States. This collaborative research may include crash data collection and analysis; driver and pedestrian behavior; and demonstrations of technology.

"(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in entering into such agreements, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this subsection.

"(3) PROJECT SELECTION.—In selecting projects to be conducted under this subsection, the Secretary shall establish a procedure to consider the views of experts and the public concerning the project areas.

"(4) APPLICABILITY OF STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.—The research, development, or utilization of any technology pursuant to an agreement under the provisions of this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980.".

(c) CONFORMING AMENDMENT.—Section 403(c) of such title is amended by striking "subsection (b)" and inserting "subsections (a) and (b)".

SEC. 2004. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

"§410. Alcohol-impaired driving countermeasures

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance. Such grants may only be used by recipient States to implement and enforce such programs.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fis-

cal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

"(c) Basic Grant Eligibility.—A State is eligible for a basic grant under this section in a fiscal year only if such State provides for 4 or more of the following:

"(1) Establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(B) the notice of suspension or revocation referred to in subparagraph (A) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(C) the State shall provide, in the administrative procedures referred to in subparagraph (B), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in subparagraph (F);

"(D) after serving notice and taking possession of a driver's license in accordance with subparagraph (A), the law enforcement officer immediately shall report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this clause;

"(E) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

"(i) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(ii) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(F) the suspension and revocation referred to under subparagraph (D) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with subparagraph (B).

"(2)(A) For each of the first three fiscal years in which a grant is received, any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated; and

"(B) for each of the last two fiscal years in which a grant is received any person with a blood alcohol concentration of 0.08 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(3) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol.

"(4) A self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(5) An effective system for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

"(d) Amount of Basic Grants.—The amount of a basic grant to be made in a fiscal year under this section to a State eligible to receive such grant shall be 65 percent of the amount of funds apportioned to such State in such fiscal year under this section.

"(e) Supplemental Grants.—

"(1) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(2) OPEN CONTAINER LAWS.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(3) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATES.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides for the suspension of the registration of, and the return to such State of the license plates for an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates on an individual basis to avoid undue hardship to any individual (including any family member of the convicted individual and any co-owner of the motor vehicle) who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration of the motor vehicle, unrestricted return of the license plates of the motor vehicle, or unrestricted return of the motor vehicle.

"(4) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(5) DRUGGED DRIVING PREVENTION.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance, a combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body; and

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) has in effect a law which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a

mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause under State law to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those persons who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those persons who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect 2 of the following programs:

"(i) An effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances.

"(ii) An effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances.

"(iii) An effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(6) BLOOD ALCOHOL CONCENTRATION LEVEL PERCENTAGE.—A State shall be eligible to receive a supplemental grant in a fiscal of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and requires that any person with a blood alcohol concentration of .08 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated in each of the first three fiscal years in which a basic grant is received.

"(7) VIDEO EQUIPMENT FOR DETECTION OF DRUNK AND DRUGGED DRIVERS.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment.

"(f) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States.

"(g) APPORTIONMENT OF FUNDS.—

"(1) FORMULA.—After the deduction under subsection (f), the remainder of the funds authorized to be appropriated to carry out this section shall be apportioned 75 percent in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States.

"(2) DETERMINATION OF PUBLIC ROAD MILEAGE.—For the purposes of this subsection, the term 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

"(3) MINIMUM PERCENTAGE.—The annual apportionment under this paragraph to each State shall not be less than ½ of 1 percent of the total apportionment; except that the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

"(4) REAPPORTIONMENT OF NONELIGIBLE STATE FUNDS.—If a State is not eligible for a basic grant or for a supplemental grant under this section in a fiscal year, the amount of funds apportioned to the State in the fiscal year to make such grant shall be reapportioned to the other States eligible to receive such a grant in the fiscal year in accordance with the formula specified in this subsection. The reapportionment shall be made on the first day of the succeeding fiscal year.

"(h) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, all provisions of chapter 1 of this title that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISIONS.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) INCREASED FEDERAL SHARE FOR CERTAIN INDIAN TRIBE PROGRAMS.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'.—In applying provisions of chapter 1 in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State and, in the case of an Indian tribe program, the Secretary of the Interior.

"(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(j) FUNDING FOR FISCAL YEARS 1993–1997.—From sums made available to carry out section 402 of this title, the Secretary shall make available $25,000,000 for each of fiscal years 1993 through 1997 to carry out this section.".

(b) STATES ELIGIBLE FOR GRANTS UNDER SECTION 410 BEFORE DATE OF ENACTMENT.—A State which, before the date of the enactment of this Act, was eligible to receive a grant under section 410 of title 23, United States Code, as in effect on the day before such date of enactment, may elect to receive in a fiscal year grants under such section 410, as so in effect, in lieu of receiving in such fiscal year grants under such section 410, as amended by this Act.

(c) CONFORMING AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 410 and inserting the following:

"410. Alcohol-impaired driving countermeasures.".

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

For purposes of carrying out the provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) NHTSA HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration $126,000,000 for fiscal year 1992 and $171,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(2) NHTSA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 by the National Highway Traffic Safety Administration $44,000,000 for each of the fiscal years 1992 through 1997.

(3) ALCOHOL TRAFFIC SAFETY INCENTIVE GRANT PROGRAM.—For carrying out section 410 of such title $25,000,000 for fiscal year 1992.

SEC. 2006. DRUG RECOGNITION EXPERT TRAINING PROGRAM.

(a) ESTABLISHMENT.—The Secretary, acting through the National Highway Traffic Safety Administration, shall establish a regional program for implementation of drug recognition programs and for training law enforcement officers (including enforcement officials under the motor carrier safety assistance program) to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol or one or more controlled substances or other drugs.

(b) ADVISORY COMMITTEE.—The Secretary shall establish a citizens advisory committee that shall report to Congress annually on the progress of the implementation of subsection (a). Members of the committee shall include 1 member of each of the following: Mothers Against Drunk Driving; a narcotics control organization; American Medical Association; American Bar Association; and such other organizations as the Secretary deems appropriate. The committee shall be subject to the provisions of the Advisory Committee Act and shall terminate 2 years after the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for each of fiscal years 1992 through 1997.

(d) DEFINITION.—For purposes of this section, the term "controlled substance" means any controlled substance, as defined under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), whose use the Secretary has determined poses a risk to transportation safety.

SEC. 2007. NATIONAL DRIVER REGISTER ACT AUTHORIZATIONS.

Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second place it appears; and

(2) by inserting before the period at the end the following: ", and not to exceed $4,000,000 for fiscal year 1992. From sums made available to carry out section 402 of title 23, United States Code, the Secretary shall make available $4,000,000 for each of fiscal years 1993 and 1994 to carry out this section.".

SEC. 2008. EFFECTIVE DATE; APPLICABILITY.

Except as otherwise provided, this title, including the amendments made by this title, shall take effect on the date of the enactment of this Act, shall apply to funds authorized to be appropriated or made available after September 30, 1991, and shall not apply to funds appropriated or made available on or before such date of enactment.

SEC. 2009. OBLIGATION CEILINGS.

(a) IN GENERAL.—Sums authorized for fiscal year 1992 by sections 2005(1), 2005(3), and 2006(c) of this Act and section 211(b) of the National Driver Register Act of 1982 shall be subject to the obligation limitation established by section 102 of this Act for fiscal year 1992.

(b) OBLIGATION LIMITATION.—If an obligation limitation is placed on sums authorized to be appropriated to carry out section 402 of title 23, United States Code, for fiscal year 1993 or subsequent fiscal years, any amounts made available out of such funds to carry out sections 2004 and 2006 of this Act and section 211(b) of the National Driver Register Act of 1982 shall be reduced proportionally.

PART B—NHTSA AUTHORIZATIONS AND GENERAL PROVISIONS

SEC. 2500. SHORT TITLE.

This part may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

SEC. 2501. AUTHORIZATION OF APPROPRIATIONS.

(a) TRAFFIC AND MOTOR VEHICLE SAFETY PROGRAM.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, $74,044,106 for fiscal year 1994, and $76,857,782 for fiscal year 1995.

(b) MOTOR VEHICLE INFORMATION AND COST SAVINGS PROGRAMS.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, $6,987,224 for fiscal year 1994, and $7,252,739 for fiscal year 1995.

SEC. 2502. GENERAL PROVISIONS.

(a) DEFINITIONS.—As used in this part—

(1) the term "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) the term "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) the term "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer;

(4) the term "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment; and

(5) the term "Secretary" means the Secretary of Transportation.

(b) PROCEDURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any action taken under section 2503 shall be taken in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.).

(2) SPECIFIC PROCEDURE.—

(A) INITIATION.—To initiate an action under section 2503, the Secretary shall, not later than May 31, 1992, publish in the Federal Register an advance notice of proposed rulemaking or a notice of proposed rulemaking, except that if the Secretary is unable to publish such a notice by such date, the Secretary shall by such date publish in the Federal Register a notice that the Secretary will begin such action by a certain date which may not be later than January 31, 1993 and include in such notice the reasons for the delay. A notice of delayed action shall not be considered agency action subject to judicial review. If the Secretary publishes an advance notice of proposed rulemaking, the Secretary is not required to follow such notice with a notice of proposed rulemaking if the Secretary determines on the basis of such advanced notice and the comments received thereon that the contemplated action should not be taken under the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103 of such Act (15 U.S.C. 1392), and if the Secretary publishes the reasons for such determination consistent with chapter 5 of title 5, United States Code.

(B) COMPLETION.—

(i) PERIOD.—Action under paragraphs (1) through (4) of section 2503 which was begun under subparagraph (A) shall be completed within 26 months of the date of publication of an advance notice of proposed rulemaking or 18 months of the date of publication of a notice of proposed rulemaking. The Secretary may extend for any reason the period for completion of a rulemaking initiated by the issuance of a notice of proposed rulemaking for not more than 6 months if the Secretary publishes the reasons for such extension. The extension of such period shall not be considered agency action subject to judicial review.

(ii) ACTION.—A rulemaking under paragraphs (1) through (4) of section 2503 shall be considered completed when the Secretary promulgates a final rule or when the Secretary decides not to promulgate a rule (which decision may include deferral of the action or reinitiation of the action). The Secretary may not decide against promulgation of a final rule because of lack of time to complete rulemaking. Any such rulemaking actions shall be published in the Federal Register, together with the reasons for such decisions, consistent with chapter 5 of title 5, United States Code, and the National Traffic and Motor Vehicle Safety Act of 1996.

(iii) SPECIAL RULE.—

(I) PERIOD.—Action under paragraph (5) of section 2503 which was begun under subparagraph (A) shall be completed within 24 months of the date of publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date for completion for not more than 6 months and shall publish in the Federal Register a notice stating the reasons for the extension and setting a date certain for completion of the action. The extension of the completion date shall not be considered agency action subject to judicial review.

(II) ACTION.—A rulemaking under paragraph (5) of section 2503 shall be considered completed when the Secretary promulgates a final rule with standards on improved head injury protection.

(C) STANDARD.—The Secretary may, as part of any action taken under section 2503, amend any motor vehicle safety standard or establish a new standard under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.).

SEC. 2503. MATTERS BEFORE THE SECRETARY.

The Secretary shall address the following matters in accordance with section 2502:

(1) Protection against unreasonable risk of rollovers of passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(2) Extension of passenger car side impact protection to multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(3) Safety of child booster seats used in passenger cars and other appropriate motor vehicles.

(4) Improved design for safety belts.

(5) Improved head impact protection from interior components of passenger cars (i.e. roof rails, pillars, and front headers).

SEC. 2504. RECALL OF CERTAIN MOTOR VEHICLES.

(a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

SEC. 2505. STANDARDS OF COMPLIANCE TEST PROGRAM.

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following:

"(j) The Secretary shall establish and periodically review and update on a continuing basis a 5-year plan for testing Federal Motor Vehicle Safety Standards that are capable, in the Secretary's judgment, of being tested. In developing the plan and establishing testing priorities, the Secretary shall take into consideration such factors as the Secretary deems appropriate, consistent with the purposes of this Act and the Secretary's other responsibilities under this Act. The Secretary may at any time adjust such priorities to address matters the Secretary deems of greater priority. The initial plan may be the 5-year plan for compliance testing in effect on the date of enactment of this subsection.".

SEC. 2506. REAR SEATBELTS.

The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for fiscal year 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

SEC. 2507. BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS.

Not later than December 31, 1993, the Secretary, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966, shall publish an advance notice of proposed rulemaking to consider the need for any additional brake performance standards for passenger cars, including antilock brake standards. The Secretary shall complete such rulemaking (in accordance with section 2502(b)(2)(B)(ii)) not later than 36 months from the date of initiation of such advance notice of proposed rulemaking. In order to facilitate and encourage innovation and early application of economical and effective antilock brake systems for all such vehicles, the Secretary shall, as part of the rulemaking, consider any such brake system adopted by a manufacturer.

SEC. 2508. AUTOMATIC CRASH PROTECTION AND SAFETY BELT USE.

(a) AMENDMENT OF STANDARD.—

(1) SPECIFICATIONS.—Notwithstanding any other provision of law or rule, the Secretary shall by September 1, 1993, promulgate, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 (to the extent such Act is not in conflict with the provisions of this section), an amendment to Federal Motor Vehicle Safety Standard 208 issued under such Act to provide that the automatic occupant crash protection system for the front outboard designated seating positions of each—

(A) new truck, bus, and multipurpose passenger vehicle (other than walk-in van-type trucks and vehicles designed to be exclusively sold to the United States Postal Service) with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, and

(B) new passenger car,

manufactured on or after the dates specified in the applicable schedule established by subsection (b), shall be an inflatable restraint complying with the occupant protection requirements under section 4.1.2.1 of such Standard. This section supplements and revises, but does not replace, Federal Motor Vehicle Safety Standard 208, including the amendment to such Standard 208 of March 26, 1991 (56 F.R. 12472), extending the requirements for automatic crash protection, together with incentives for more innovative automatic crash protection, to trucks, buses, and multipurpose passenger vehicles.

(2) REQUIREMENT.—The amendment to such Standard 208 shall also require, to be effective as soon as possible after the promulgation of such amendment, that the owner manuals for passenger cars and trucks, buses, and multipurpose passenger vehicles equipped with an inflatable restraint include a statement in an easily understandable format—

(A) that the vehicle is equipped with an inflatable restraint referred to as an "airbag" and a lap and shoulder belt in either or both the front outboard seating positions;

(B) that the airbag is a supplemental restraint;

(C) that it does not substitute for lap and shoulder belts which must also be correctly used by an occupant in such seating position to provide restraint or protection not only from frontal crashes but from other types of crashes or accidents; and

(D) that all occupants, including the driver, should always wear their lap and shoulder belts, where available, or other safety belts, whether or not there is an inflatable restraint.

(3) FINDING.—The Congress finds that it is in the public interest for all States to adopt and enforce mandatory seat belt use laws and for the Federal Government to adopt and enforce mandatory seat belt use rules.

(b) SCHEDULE.—The amendment promulgated under subsection (a) shall establish the following schedule:

(1) NEW PASSENGER CARS.—The amendment shall take effect for 95 percent of each manufacturer's annual production of passenger cars manufactured on and after September 1, 1996, and before September 1, 1997, and for 100 percent of each manufacturer's production of passenger cars manufactured on and after September 1, 1997. Subject to the provisions of subsection (c), the percentage prescribed for passenger cars manufactured on and after September 1, 1997, shall be met entirely by inflatable restraints (accompanied by lap and shoulder belts) for both front outboard seating positions.

(2) NEW TRUCKS, BUSES, AND MULTIPURPOSE PASSENGER VEHICLES.—The amendment shall take effect for 80 percent of each manufacturer's annual production of trucks, buses, and multipurpose passenger vehicles described in subsection (a)(1)(A) and manufactured on and after September 1, 1997, and before September 1, 1998, and for 100 percent of each manufacturer's production of such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1998. Subject to the provisions of subsection (c), the percentage prescribed for such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1998, shall be met entirely by inflatable restraints (accompanied by lap and shoulder belts) for both front outboard seating positions. The incentives or credits available under Standard 208 (as amended by this section) prior to September 1, 1998, shall not be available to the manufacturers to comply with the 100 percent requirement of this paragraph on and after such date.

(c) TEMPORARY EXEMPTION FROM REQUIREMENTS.—Upon application by a manufacturer, in such manner and containing such information as the Secretary shall prescribe in the amendment under this section to such Standard 208, the Secretary may at any time, under such terms and conditions and to such extent as the Secretary deems appropriate, temporarily exempt or renew the exemption of a motor vehicle from the requirements of subsection (a) or (b), or both, if the Secretary finds that there has been a disruption in the supply of any inflatable restraint component, or a disruption in the use and installation by the manufacturer of such component due to unavoidable events not under the control of the manufacturer, that will prevent a manufacturer from meeting its anticipated production volume of vehicles with such restraints. Each application for such exemption must be filed by the manufacturer affected, and must specify the models, lines, and types of vehicles actually affected, although the Secretary may consolidate applications of a similar nature of 1 or more manufacturers. Any exemption or renewal shall be conditioned upon the manufacturer's commitment to recall the exempted vehicles for installation of omitted inflatable restraints within a reasonable time proposed by the manufacturer and approved by the Secretary after such components become available in sufficient quantities to satisfy both anticipated production and recall volume requirements. Notice of each application shall be published in the Federal Register and notice of each decision to grant or deny a temporary exemption, and the reasons for granting or denying it, shall be published in the Federal Register. The Secretary shall require labeling for each exempted motor vehicle which can only be removed after recall and installation of the required inflatable restraint. If a vehicle is delivered without an inflatable restraint, the Secretary shall require that written notification of the exemption be delivered to the dealer and first purchasers for purposes other than resale of such exempted motor vehicle in such a manner, and containing such information, as the Secretary deems appropriate.

(d) CONSTRUCTION.—Nothing in this section shall be construed by the Secretary or any other person, including any court, as altering or affecting any other provision of law administered by the Secretary and applicable to such passenger cars or trucks, buses, or multipurpose passenger vehicles or as establishing any precedent regarding the development and promulgation of any Federal Motor Vehicle Safety Standard. Nothing in this section or in the amendments made under this section to Federal Motor Vehicle Safety Standard 208 shall be construed by any person or court as indicating an intention by Congress to affect, change, or modify in any way the liability, if any, of a motor vehicle manufacturer under applicable law relative to vehicles with or without inflatable restraints.

(e) REPORT.—The Secretary shall biannually report, beginning October 1, 1992 and continuing to October 1, 2000, on the actual effectiveness of an occupant restraint system defined as the percentage reduction in fatalities or injuries of restrained occupants as compared to unrestrained occupants for the combination of inflated restraints and lap and shoulder belts, for inflated restraints alone, and for lap and shoulder belts alone. The Secretary, in consultation with the Secretary of Labor and the Secretary of Defense, shall also provide data and analysis on lap and shoulder belt use, nationally and in each State, by Federal, State, and local law enforcement officers, by military personnel, by Federal and State employees other than law enforcement officers, and by the public.

(f) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies and consistent with applicable provisions of Federal procurement law and available appropriations, shall establish a program requiring that all passenger cars acquired after September 30, 1994, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side inflatable restraints and that all passenger cars acquired after September 30, 1996, for use by the Federal Government be equipped, to the maximum extent practicable, with inflatable restraints for both the driver and front seat outboard seating positions.

SEC. 2509. HEAD INJURY IMPACT STUDY.

The Secretary, in the case of any head injury protection matters not subject to section 2503(5) for which the Secretary is on the date of enactment of this Act examining the need for rulemaking and is conducting research, shall provide a report to Congress by the end of fiscal year 1993 identifying those matters and their status. The report shall include a statement of any actions planned toward initiating such rulemaking no later than fiscal year 1994 or 1995 through use of either an advance notice of proposed rulemaking or a notice of proposed rulemaking and completing such rulemaking as soon as possible thereafter.

TITLE III—FEDERAL TRANSIT ACT AMENDMENTS OF 1991

SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Transit Act Amendments of 1991".

SEC. 3002. AMENDMENTS TO URBAN MASS TRANSPORTATION ACT OF 1964.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1601–1621).

SEC. 3003. AMENDMENT TO SHORT TITLE OF URBAN MASS TRANSPORTATION ACT OF 1964.

(a) IN GENERAL.—The Act is amended by striking "That this Act may be cited as the 'Urban Mass Transportation Act of 1964'." and inserting the following:

"**SECTION 1. SHORT TITLE.**

"This Act may be cited as the 'Federal Transit Act'.".

(b) OTHER REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Act of 1964 shall be deemed to be a reference to the "Federal Transit Act".

SEC. 3004. FEDERAL TRANSIT ADMINISTRATION.

(a) REDESIGNATION OF UMTA.—The Urban Mass Transportation Administration of the Department of Transportation shall be known and designated as the "Federal Transit Administration".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administration shall be deemed to be a reference to the "Federal Transit Administration".

(c) AMENDMENTS TO TITLE 49.—

(1) AMENDMENT TO TEXT.—Section 107(a) of title 49, United States Code, is amended by striking "Urban Mass Transportation Administration" and inserting "Federal Transit Administration".

(2) AMENDMENT TO SECTION HEADING.—The heading for section 107 of such title is amended to read as follows:

"**§107. Federal Transit Administration".**

(3) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of such title is amended by striking the item relating to section 107 and inserting the following:

"107. Federal Transit Administration.".

(d) AMENDMENTS TO TITLE 5.—Title 5, United States Code, is amended—

(1) in section 5314 by striking "Urban Mass Transportation Administrator" and inserting "Federal Transit Administrator"; and

(2) in section 5316 by striking "Deputy Administrator, Urban Mass Transportation Administration" and inserting "Deputy Administrator, Federal Transit Administration".

SEC. 3005. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2(a) is amended—

(1) in paragraph (2) by striking "; and" and inserting a semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) that significant transit improvements are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.".

(b) PURPOSES.—Section 2(b) is amended—

(1) in paragraph (2) by striking "; and" and inserting a semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) to provide financial assistance to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.".

SEC. 3006. MAJOR CAPITAL INVESTMENT PROGRAM.

(a) ELDERLY PERSONS AND PERSONS WITH DISABILITIES.—Section 3(a)(1) is amended by striking subparagraph (E) and inserting the following new subparagraph:

"(E) transit projects which are planned, designed, and carried out to meet the special needs of elderly persons and persons with disabilities; and".

(b) CORRIDOR DEVELOPMENT.—Section 3(a)(1) is further amended by adding at the end the following new subparagraph:

"(F) the development of corridors to support fixed guideway systems, including protection of rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes, construction of park and ride lots, and any other nonvehicular capital improvements that the Secretary may determine would result in increased transit usage in the corridor.".

(c) GRANDFATHERED LETTERS OF INTENT.—This Act shall not be construed to affect the validity of any existing letter of intent, full funding grant agreement, or letter of commitment issued under section 3(a)(4) of the Federal Transit Act before the date of the enactment of the Federal Transit Act Amendments of 1991.

(d) ALLOCATIONS.—Section 3(k) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Subject to paragraph (3), of the amounts available for grants and loans under this section for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

"(A) 40 percent shall be available for fixed guideway modernization;

"(B) 40 percent shall be available for construction of new fixed guideway systems and extensions to fixed guideway systems; and

"(C) 20 percent shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities."; and

(2) by adding at the end the following new paragraph:

"(3) AREAS OTHER THAN URBANIZED AREAS.—At least 5.5 percent of the amounts available for grants and loans under subsection (k)(1)(C) for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 shall be available for areas other than urbanized areas.".

(e) BOND INTEREST ON ADVANCE CONSTRUCTION.—Section 3(l)(2)(B) is amended by striking "the excess of—" and all that follows through the period and inserting "the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financial terms.".

(f) FEDERAL SHARE.—Section 4(a) is amended—

(1) by striking "75 per centum" and inserting "80 percent"; and

(2) by inserting before the period at the end of the second sentence the following: ", unless the recipient of the grant requests a lower Federal grant percentage".

(g) LOCAL SHARE FOR CERTAIN PLANNED EXTENSIONS OF FIXED GUIDEWAY SYSTEMS.—Section 4(a) is amended by adding at the end the following new sentence: "The remainder of the net project cost of a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant demonstrates to the satisfaction of the Secretary that—

"(1) such purchase was made solely with non-Federal funds; and

"(2) such purchase was made for use on the extension.".

(h) FISCAL CAPACITY CONSIDERATIONS.—Section 4 is amended—

(1) by striking subsections (b), (c), (d), (e), (f), and (g) and redesignating subsections (h) and (i) as subsections (b) and (c), respectively; and

(2) by adding at the end the following new subsection:

"(d) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to the funding of projects which include more than the non-Federal share required by subsection (a), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.".

SEC. 3007. CAPITAL GRANTS; TECHNICAL AMENDMENT TO PROVIDE FOR EARLY SYSTEMS WORK CONTRACTS AND FULL FUNDING GRANT AGREEMENTS.

Section 3(a)(4) is amended—

(1) by inserting "(A)" after "(4)";

(2) in the fifth sentence by inserting "not less than" after "complete";

(3) by adding after the sixth sentence the following:

"(B) The Secretary is authorized to enter into a full funding grant agreement with an applicant, which agreement shall—

"(i) establish the terms and conditions of Federal financial participation in a project under this section;

"(ii) establish the maximum amounts of Federal financial assistance for such project;

"(iii) cover the period of time to completion of the project, including any period that may extend beyond the period of any authorization; and

"(iv) facilitate timely and efficient management of such project in accordance with Federal law.

"(C) An agreement under subparagraph (B) shall obligate an amount of available budget authority specified in law and may include a commitment, contingent upon the future availability of budget authority, to obligate an additional amount or additional amounts from future available budget authority specified in law. The agreement shall specify that the contingent commitment does not constitute an obligation of the United States. The future availability of budget authority referred to in the first sentence of this subparagraph shall be amounts to be specified in law in advance for commitments entered into under subparagraph (B). Any interest and other financing costs of efficiently carrying out the project or a portion thereof within a reasonable period of time shall be considered as a cost of carrying out the project under a full funding grant agreement; except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financing terms. The total of amounts stipulated in a full funding grant agreement for a fixed guideway project shall be sufficient to complete not less than an operable segment.

"(D) The Secretary is authorized to enter into an early systems work agreement with an applicant if a record of decision pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary determines that there is reason to believe—

"(i) a full funding grant agreement will be entered into for the project; and

"(ii) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost.

The early systems work agreement shall obligate an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of project implementation, including land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. An early systems work agreement shall cover such period of time as the Secretary deems appropriate, which period may extend beyond the period of current authorization. The interest and other financing costs of carrying out the early systems work agreement efficiently and within a reasonable period of time shall be considered as a cost of carrying out the agreement; except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financing terms. If an applicant fails to implement the project for reasons within the applicant's control, the applicant shall repay all Federal payments made under the early systems work agreement plus such reasonable interest and penalty charges as the Secretary may establish in the agreement.";

(4) by inserting "(E)" before "The total estimated" and aligning subparagraph (E) with subparagraph (D);

(5) in the sentence that begins "The total estimated"—

(A) by inserting ", and contingent commitments to incur obligations," after "Federal obligations";

(B) by inserting ", early systems work agreements, and full funding grant agreements," after "all outstanding letters of intent,"; and

(C) by inserting "or 50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund, including amounts received from taxes and interest earned in excess of amounts that have been previously obligated, whichever is greater" after "section 3 of this Act"; and

(6) in the sentence that begins "The total amount covered", by inserting "and contingent commitments included in early systems work agreements and full funding grant agreements" after "by new letters issued,".

SEC. 3008. FIXED GUIDEWAY MODERNIZATION.

Section 3 is amended by striking subsection (h) and inserting the following new subsection:

"(h) FIXED GUIDEWAY MODERNIZATION APPORTIONMENTS.—The Secretary shall apportion the sums made available for fixed guideway modernization under this section for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 as follows:

"(1) The first $455,000,000 made available shall be apportioned for expenditure in the following urbanized areas according to the following percentages:

"(A) Baltimore, 1.84 percent.

"(B) Boston, 8.56 percent.

"(C) Chicago/Northwestern Indiana, 17.18 percent.

"(D) Cleveland, 2.09 percent.

"(E) New York, 35.57 percent.

"(F) Northeastern New Jersey, 9.04 percent.

"(G) Philadelphia/Southern New Jersey, 12.41 percent.

"(H) San Francisco, 7.21 percent.

"(I) Southwestern Connecticut, 6.10 percent.

"(2) The next $42,700,000 made available shall be apportioned for expenditure in the following urbanized areas according to the following percentages:

"(A) New York, 33.2341 percent.

"(B) Northeastern New Jersey, 22.1842 percent.

"(C) Philadelphia and Southern New Jersey, 5.7594 percent.

"(D) San Francisco, 2.7730 percent.

"(E) Pittsburgh, 31.9964 percent.

"(F) New Orleans, 4.0529 percent.

"(3) The next $70,000,000 made available shall be apportioned for expenditure—

"(A) 50 percent in the urbanized areas listed in paragraphs (1) and (2) according to the apportionment formula contained in section 9(b)(2); and

"(B) 50 percent in other urbanized areas eligible for assistance under section 9(b)(2) of this Act which contain a fixed guideway system placed in revenue service not less than 7 years prior to the fiscal year in which funds are made available and in other urbanized areas which before the first day of the fiscal year demonstrate to the satisfaction of the Secretary that the urbanized area has modernization needs which cannot be adequately met with amounts received under section 9(b)(2) according to the apportionment formula contained in such section.

"(4) Any remaining amounts made available in a fiscal year shall be apportioned for expenditure in each urbanized area eligible for assistance under paragraphs (1), (2), and (3) in accordance with the apportionment formula contained in section 9(b)(2).

"(5) In any fiscal year in which the full amounts authorized under paragraphs (1) and (2) are not made available, the Secretary shall reduce on a pro rata basis the apportionments of all urbanized areas eligible under either paragraph to adjust for the shortfall.

"(6) Notwithstanding any other provision of law, rail modernization funds allocated to the New Jersey Transit Corporation under this paragraph may be spent in any urbanized area in which the New Jersey Transit Corporation operates rail service regardless of the urbanized area which generates the funding.".

SEC. 3009. BUS TESTING.

Section 3 is amended by adding at the end the following new subsection:

"(m) BUS TESTING.—Of the amounts made available for replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus related facilities by subsection (k)(1)(C), the Secretary shall make available $1,500,000 in fiscal year 1992, $2,000,000 in fiscal year 1993, the lesser of $2,000,000 or an amount the Secretary determines to be necessary per fiscal year in each of fiscal years 1994, 1995, and 1996, and the lesser of $3,000,000 or an amount the Secretary determines to be necessary in fiscal year 1997. Such amounts shall be available to the Secretary to pay 80 percent of the cost of testing a vehicle at the facility established under section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. App. 1608). The Secretary shall make such payments by contract with the operator of the facility. The remaining 20 percent of the cost of testing a vehicle shall be paid to the operator of the facility by the entity having the vehicle tested.".

SEC. 3010. CRITERIA FOR NEW STARTS.

Section 3(i) is amended to read as follows:

"(i) NEW START CRITERIA.—

"(1) DETERMINATIONS.—A grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may not be made under this section unless the Secretary determines that the proposed project—

"(A) is based on the results of an alternatives analysis and preliminary engineering;

"(B) is justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

"(C) is supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension.

"(2) CONSIDERATIONS.—In making determinations under this subsection, the Secretary—

"(A) shall consider the direct and indirect costs of relevant alternatives;

"(B) shall account for costs related to such factors as congestion relief, improved mobility, air pollution, noise pollution, congestion, energy consumption, and all associated ancillary and mitigation costs necessary to implement each alternative analyzed; and

"(C) shall identify and consider transit supportive existing land use policies and future patterns, and consider other factors including the degree to which the project increases the mobility of the transit dependent population or promotes economic development, and other factors that the Secretary deems appropriate to carry out the purposes of this Act.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary shall issue guidelines that set forth the means by which the Secretary shall evaluate results of alternatives analysis, project justification, and degree of local financial commitment for the purposes of paragraph (1).

"(B) PROJECT JUSTIFICATION.—Project justification criteria shall be adjusted to reflect differences in local land costs, construction costs, and operating costs.

"(C) FINANCIAL COMMITMENT.—The degree of local financial commitment shall be considered acceptable only if—

"(i) the proposed project plan provides for the availability of contingency funds that the Secretary determines to be reasonable to cover unanticipated cost overruns;

"(ii) each proposed local source of capital and operating funding is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project.

"(D) STABILITY ASSESSMENT.—In assessing the stability, reliability, and availability of proposed sources of local funding, the Secretary shall consider—

"(i) existing grant commitments;

"(ii) the degree to which funding sources are dedicated to the purposes proposed; and

"(iii) any debt obligations which exist or are proposed by the recipient for the proposed project or other transit purposes.

"(4) PROJECT ADVANCEMENT.—No project shall be advanced from alternatives analysis to preliminary engineering unless the Secretary finds that the proposed project meets the requirements of this section and there is a reasonable chance that the project will continue to meet these requirements at the conclusion of preliminary engineering.

"(5) EXCEPTIONS.—

"(A) IN GENERAL.—A new fixed guideway system or extension shall not be subject to the requirements of this subsection and the simultaneous evaluation of such projects in more than one corridor in a metropolitan area shall not be limited if (i) the project is located within an extreme or severe nonattainment area and is a transportation control measure, as defined by the Clean Air Act, that is required to carry out *an approved State Implementation Plan, or (ii) assistance provided under this section accounts for less than $25,000,000 or less than ⅓ of the total cost of the project or an appropriate program of projects as determined by the Secretary.*

"(B) EXPEDITED PROCEDURES.—In the case of a project that is (i) located within a nonattainment area that is not an extreme or severe nonattainment area, (ii) a transportation control measure, as defined in the Clean Air Act, and (iii) required to carry out an approved State Implementation Plan, the simultaneous evaluation of projects in more than one corridor in a metropolitan area shall not be limited and the Secretary shall make determinations under this subsection with expedited procedures that will promote timely implementation of the State Implementation Plan.

"(C) EXCLUSION FOR CERTAIN PROJECTS.—That portion of a project (including any commuter rail service project on an existing right-of-way) financed entirely with highway funds made available under the Federal-Aid Highway Act of 1991 shall not be subject to the requirements of this subsection.

"(6) PROJECT IMPLEMENTATION.—A project funded pursuant to this subsection shall be implemented by means of a full funding grant agreement.".

SEC. 3011. ASSURED TIMETABLE FOR PROJECT REVIEW.

(a) IN GENERAL.—Section 3(a) is amended by striking paragraph (6) and inserting the following new paragraphs:

"(6) ASSURED TIMETABLE FOR PROJECTS IN ALTERNATIVES ANALYSIS, PRELIMINARY ENGINEERING, OR FINAL DESIGN STAGES.—

"(A) ALTERNATIVES ANALYSIS STAGE.—For any new fixed guideway project that the Secretary permits to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in alternatives analysis and in preparation of a draft environmental impact statement, and shall approve the draft environmental impact statement for circulation not later than 45 days after the date on which such draft is submitted to the Secretary by the applicant.

"(B) PRELIMINARY ENGINEERING STAGE.—Following circulation of the draft environmental impact statement and not later than 30 days after selection by the applicant of a locally preferred alternative, the Secretary shall permit the project to advance to the preliminary engineering phase if the Secretary finds the project is consistent with the criteria set forth in subsection (i).

"(C) FINAL DESIGN STAGE.—The Secretary shall issue a record of decision and permit a project to advance to the final design stage of construction not later than 120 days after the date of completion of the final environmental impact statement for such project.

"(D) FULL FUNDING GRANT AGREEMENT.—The Secretary shall negotiate and enter into a full funding grant agreement for a project not later than 120 days after the date on which such project has entered the final design stage of construction. Such full funding grant agreement shall provide for a Federal share of the cost of construction that is not less than the Federal share estimated in the Secretary's most recent report required under section 3(j) or an update thereof unless otherwise requested by an applicant.

"(7) PERMITTED DELAYS IN PROJECT REVIEW.—

"(A) IN GENERAL.—Advancement of a project under the timetables specified under paragraph (6) shall be delayed only—

"(i) for such period of time as the applicant, solely at the applicant's discretion, may request; or

"(ii) during such period of time as the Secretary finds, after reasonable notice and opportunity for comment, that the applicant has failed, for reasons solely attributable to the applicant, to comply substantially with requirements of this Act with respect to the project.

"(B) EXPLANATION OF DELAY.—Not more than 10 days after imposing any delay under subparagraph (A)(ii), the Secretary shall provide the applicant with a written statement that (i) explains the reasons for such delay, and (ii) describes all steps which the applicant must take to end the period of delay.

"(C) REPORTS.—The Secretary shall report, not less frequently than once every 6 months, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate in any case in which the Secretary—

"(i) fails to meet a deadline established by paragraph (6); or

"(ii) delays the application of a deadline under subparagraph (A)(ii).

Such report shall explain the reasons for the delay and include a plan for achieving timely completion of the Secretary's review of the project.

"(8) TREATMENT OF PROGRAMS OF INTERRELATED PROJECTS.—

"(A) FULL FUNDING GRANT AGREEMENT.—In accordance with the timetables established by paragraph (6) or as otherwise provided by law, the Secretary shall enter into 1 or more full funding grant agreements for each program of interrelated projects described in subparagraph (C). Such full funding grant agreements shall include commitments to advance each of the applicant's program elements (in the program of interrelated projects) through the appropriate stages of project review in accordance with the timetables established by paragraph (6) or as otherwise provided for a project by law, and to provide Federal funding for each such program element. Such full funding grant agreements may also be amended, if appropriate, to include design and construction of particular program elements. Inclusion of a nonfederally funded program element in a program of interrelated projects shall not be construed as imposing Federal requirements which would not otherwise apply to such program element.

"(B) CONSIDERATIONS.—When reviewing any project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent that such consideration expedites project implementation.

"(C) PROGRAMS OF INTERRELATED PROJECTS.—For the purposes of this paragraph, programs of interrelated projects shall include the following:

"(i) The New Jersey Urban Core Project as defined by the Federal Transit Act Amendments of 1991.

"(ii) The San Francisco Bay Area Rail Extension Program, which consists of not less than the following elements: an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit District Tasman Corridor Project, and any other program element designated by any modification to Metropolitan Transportation Commission Resolution No. 1876, as well as program elements financed entirely with non-Federal funds, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.

"(iii) The Los Angeles Metro Rail Minimum Operable Segment-3 Program, which consists of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

"(I) 1 line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations;

"(II) 1 line running west from the Wilshire/Western station to the Pico/San Vicente station, with 1 intermediate station; and

"(III) the East Side Extension, consisting of an initial line of approximately 3 miles in length, with at least 2 stations, beginning at Union Station and running generally east.

"(iv) The Baltimore-Washington Transportation Improvements Program, which consists of the following elements: 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station and Baltimore-Washington Airport; MARC extensions to Frederick and Waldorf, Maryland; and an extension of the Washington Subway system to Largo, Maryland.

"(v) The Tri-County Metropolitan Transportation District of Oregon Westside Light Rail Program, which consists of the following elements: the locally preferred alternative for the Westside Light Rail Project, including system related costs, set forth in Public Law 101–516 and as defined in House Report 101–584; and the Hillsboro extension to the Westside Light Rail Project as set forth in Public Law 101–516.

"(vi) The Queens Local/Express Connector Program which consists of the following elements: the locally preferred alternative for the connection of the 63rd Street tunnel extension to the Queens Boulevard lines; the bell-mouth portion of the connector which would allow for future access by both commuter rail trains and other subway lines to the 63rd Street tunnel extension; planning elements for connecting both upper and lower level to commuter and subway lines in Long Island City; and planning elements for providing a connector for commuter rail service to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

"(vii) The Dallas Area Rapid Transit Authority light rail elements of the New System Plan, which consists of the following elements: the locally preferred alternative for the South Oak Cliff corridor; the South Oak Cliff corridor extension-Camp Wisdom; the West Oak Cliff corridor-Westmoreland; the North Central corridor-Park Lane; the North Central corridor-Richardson, Plano and Garland extensions; the Pleasant Grove corridor-Buckner; and the Carrollton corridor-Farmers Branch and Las Colinas terminal.

"(viii) Such other programs as may be designated in law or by the Secretary.".

(b) TRANSITIONAL PROVISION.—In the case of a project (including programs of interrelated projects) that, as of the date of enactment of this Act, has reached a particular stage of project review under section 3(a)(6) of the Federal Transit Act, the timetables applicable to subsequent stages of project review contained in such section shall take effect on the date of enactment of this Act.

SEC. 3012. METROPOLITAN PLANNING.

The Act is amended by striking section 8 and inserting the following new section:

"SEC. 8. METROPOLITAN PLANNING.

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for develop-

ing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

"(2) MEMBERSHIP OF CERTAIN MPO'S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) REDESIGNATION.—

"(A) PROCEDURES.—A metropolitan planning organization may be redesignated by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000, or (ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

"(6) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.

"(c) METROPOLITAN AREA BOUNDARIES.—For the purposes of this section, the boundaries of a metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.

"(d) COORDINATION IN MULTI-STATE AREAS.—

"(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

"(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.

"(e) COORDINATION OF MPO'S.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

"(f) FACTORS TO BE CONSIDERED.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum, consider the following:

"(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

"(2) The consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives.

"(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur.

"(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans.

"(5) The programming of expenditure on transportation enhancement activities as required in section 133.

"(6) The effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded.

"(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

"(8) The need for connectivity of roads within the metropolitan area with roads outside the metropolitan area.

"(9) The transportation needs identified through use of the management systems required by section 303 of this title.

"(10) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors and identification of those corridors for which action is most needed to prevent destruction or loss.

"(11) Methods to enhance the efficient movement of freight.

"(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(13) The overall social, economic, energy, and environmental effects of transportation decisions.

"(14) Methods to expand and enhance transit services and to increase the use of such services.

"(15) Capital investments that would result in increased security in transit systems.

"(g) DEVELOPMENT OF LONG RANGE PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long range plan for its metropolitan area in accordance with the requirements of this subsection.

"(2) LONG RANGE PLAN.—A long range plan under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum:

"(A) Identify transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long range plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

"(B) Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing.

"(C) Assess capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

"(D) Indicate as appropriate proposed transportation enhancement activities.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long range plan with the process for development of the transportation control measures of the State Implementation Plan required by the Clean Air Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a long range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long range plan, in a manner that the Secretary deems appropriate.

"(5) PUBLICATION OF LONG RANGE PLAN.—Each long range plan prepared by a metropolitan planning organization shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The metropolitan planning organization designated for a metropolitan area, in cooperation with the State and affected transit operators, shall develop a transportation improvement program for the area for which such organization is designated. In developing the program, the metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include the following:

"(A) A priority list of projects and project segments to be carried out within each 3-year period after the initial adoption of the transportation improvement program.

"(B) A financial plan that demonstrates how the transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including value capture, tolls, and congestion pricing.

"(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (i)(4), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement program for the area.

"(4) MAJOR CAPITAL INVESTMENTS.—Not later than 6 months after the date of enactment of this section, the Secretary shall initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements under such Act applicable to highway projects. Nothing in this section shall be construed to affect the applicability of such Act to transit or highway projects.

"(5) INCLUDED PROJECTS.—A transportation improvement program for a metropolitan area developed under this subsection shall include projects within the area which are proposed for funding under this title and the Federal Transit Act and which are consistent with the long range plan developed under subsection (g) for the area. The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(6) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—The Secretary shall designate as transportation management areas all urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96–551.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and the Federal Transit Act through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section.

"(4) SELECTION OF PROJECTS.—All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the Bridge and Interstate Maintenance programs) or pursuant to the Federal Transit Act shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management area on the National Highway System or pursuant to the Bridge and Interstate Maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area and shall be in conformance with the transportation improvement program for such area.

"(5) CERTIFICATION.—The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of section 134 and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 8(o) of the Federal Transit Act.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k) TRANSFER OF FUNDS.—Funds made available for a transit project under title 23, United States Code, shall be transferred to and administered by the Secretary in accordance with the requirements of this Act. Funds made available for a highway project under this Act shall be transferred to and administered by the Secretary in accordance with the requirements of title 23, United States Code.

"(l) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Notwithstanding any other provisions of this Act or title 23, United States Code, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such area for any transit project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(m) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or the Federal Transit Act; or

"(2) to intervene in the management of a transportation agency.

"(n) GRANTS.—

"(1) ELIGIBILITY.—The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof, or enter into agreements with other Federal departments and agencies, for the planning, engineering, design, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include—

"(A) studies relating to management, operations, capital requirements, and economic feasibility;

"(B) evaluation of previously funded projects; and

"(C) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of facilities and equipment.

"(2) CRITERIA.—A grant, contract, or working agreement under this section shall be made in accordance with criteria established by the Secretary.

"(o) PRIVATE ENTERPRISE.—The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in service in the urban areas, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

"(p) USE FOR COMPREHENSIVE PLANNING.—

"(1) IN GENERAL.—The Secretary shall ensure, to the extent practicable, that amounts made

available under section 21(c)(1) for the purposes of this section are used to support balanced and comprehensive transportation planning that takes into account the relationships among land use and all transportation modes, without regard to the programmatic source of the planning funds.

"(2) FORMULA ALLOCATION TO ALL METROPOLITAN AREAS.—The Secretary shall apportion 80 percent of the amount made available under section 21(c)(1) to States in the ratio that the population in urbanized areas, in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this paragraph. Such funds shall be allocated to metropolitan planning organizations designated under section 8 by a formula, developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary, that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act. The State shall make such funds available promptly to eligible metropolitan planning organizations according to procedures approved by the Secretary.

"(3) SUPPLEMENTAL ALLOCATION.—The Secretary shall apportion 20 percent of the amounts made available under section 21(c)(1) to States to supplement allocations under subparagraph (B) for metropolitan planning organizations. Such funds shall be allocated according to a formula that reflects the additional costs of carrying out planning, programming, and project selection responsibilities under this section in such areas.

"(4) HOLD HARMLESS.—The Secretary shall ensure, to the maximum extent practicable, that no metropolitan planning organization is allocated less than the amount it received by administrative formula under section 8 in fiscal year 1991. To comply with the previous sentence, the Secretary is authorized to make a pro rata reduction in other amounts made available to carry out section 21(c).

"(5) FEDERAL SHARE PAYABLE.—The Federal share payable for activities under this paragraph shall be 80 percent except where the Secretary determines that it is in the Federal interest not to require a State or local match.".

SEC. 3013. BLOCK GRANT PROGRAM.

(a) ALLOCATIONS.—Section 9(a) is amended—

(1) in paragraph (1), by striking "Of the amount" and all that follows through the period and inserting the following: "Of the amounts made available or appropriated under section 21(g), 9.32 percent shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of less than 200,000."; and

(2) in paragraph (2), by striking "Of the amount" and all that follows through the period and inserting the following: "Of the amounts made available or appropriated under section 21(g), 90.68 percent shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of 200,000 or more.".

(b) ENERGY AND OPERATING EFFICIENCIES.—Section 9(b) is amended by adding at the end the following new paragraph:

"(4) ENERGY AND OPERATING EFFICIENCIES.—If a recipient under this section demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce revenue vehicle miles but provide the same frequency of revenue service to the same number of riders, the recipient's apportionment under paragraph (2)(A) shall not be reduced as a result of such actions.".

(c) EXTENSION OF SAFETY AUTHORITY TO BLOCK GRANT PROGRAM.—Section 9(e)(1) is amended by striking "and 19" and inserting "19, and 22".

(d) ANNUAL SUBMISSIONS.—Section 9(e)(2) is amended by inserting after the first sentence the following new sentences: "Such certifications and any additional certifications required by law to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall annually publish in conjunction with the publication required under subsection (q) a list of all certifications required under this Act.".

(e) STREAMLINED PROCEDURES.—Section 9(e) is amended by adding at the end the following new paragraph:

"(6) STREAMLINED ADMINISTRATIVE PROCEDURES.—The Secretary shall establish streamlined administrative procedures to govern compliance with the certification requirement under paragraph (3)(B) with respect to track and signal equipment used in ongoing operations.".

(f) TRANSIT SECURITY SYSTEMS.—Section 9(e)(3) is amended—

(1) in subparagraph (G) by striking "; and" and inserting a semicolon;

(2) in subparagraph (H) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(I)(i) will expend for each fiscal year not less than 1 percent of the funds received by the recipient for each fiscal year under this section for transit security projects; or

"(ii) that such expenditures for such security systems are not necessary.

For the purposes of subparagraph (I), transit security projects may include increasing lighting within or adjacent to transit systems, including bus stops, subway stations, parking lots, and garages; increasing camera surveillance of areas within and adjacent to such systems; providing emergency telephone lines to contact law enforcement or security personnel in areas within or adjacent to such systems; and any other project intended to increase the security and safety of existing or planned transit systems.".

(g) PROGRAM OF PROJECTS.—Section 9(f) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by inserting after paragraph (4) the following:

"(5) assure that the proposed program of projects provides for the coordination of transit services assisted under this section with transportation services assisted from other Federal sources.".

(h) DISCRETIONARY TRANSFER OF APPORTIONMENT.—Section 9 is amended—

(1) in subsection (j)(1), by inserting after the first sentence the following: "In a transportation management area designated pursuant to section 8, funds which cannot be used for payment of operating expenses under this section also shall be available for highway projects if—

"(A) such use is approved by the metropolitan planning organization in accordance with section 8 after appropriate notice and opportunity for comment and appeal is provided to affected transit providers; and

"(B) in the determination of the Secretary, such funds are not needed for investments required by the Americans with Disabilities Act of 1990."; and

(2) by adding at the end of subsection (j) the following new paragraph:

"(3) Funds under this section may be available for highway projects under title 23, United States Code, only if funds used for the State or local share of such highway projects are eligible to fund either highway or transit projects.".

(i) INFLATION ADJUSTMENT FOR OPERATING ASSISTANCE.—Section 9(k)(2)(B) is amended—

(1) by striking "1988," and inserting "1991,";

(2) by striking "of less than 200,000 population" the first place it appears; and

(3) by inserting after "calendar year" the following: "; except that such increase may not exceed the percentage increase of the funds made available under section 21(g) in the current fiscal year and the funds made available under section 21(g) in the previous fiscal year".

(j) FERRY ROUTES.—Section 9 is amended by adding at the end the following new subsections:

"(r) FERRY SERVICES.—A vessel used in ferryboat operations funded under this section that is part of a State-operated ferry system may occasionally be operated outside of the urbanized area in which service is provided to accommodate periodic maintenance if existing ferry service is not thereby significantly reduced.

"(s) GRANDFATHER OF CERTAIN URBANIZED AREAS.—Any area designated as an urbanized area under the 1980 census which is not so designated under the 1990 census—

"(1) for fiscal year 1992, shall be treated as an urbanized area for purposes of section 12(c)(11) of the Federal Transit Act; and

"(2) for fiscal year 1993, shall be eligible to receive 50 percent of the funds which the area would have received if the area were treated as an urbanized area for purposes of such section 12(c)(11) and an amount equal to 50 percent of the funds which the State in which the area is located would have received if the area were treated as an area other than an urbanized area.".

(k) ADJUSTMENTS OF APPORTIONMENTS.—Section 9 is amended by adding at the end the following new subsection:

"(t) ADJUSTMENTS OF APPORTIONMENTS.—Provided that sufficient funds are available, in each fiscal year beginning after September 30, 1991, the Secretary shall adjust apportionments under this section between the Mass Transit Account of the Highway Trust Fund and the general fund of the Treasury to assure that each recipient receives from the general fund of the Treasury not less than the amount of operating assistance made available each fiscal year under this section that such recipient is eligible to receive.".

SEC. 3014. CONTINUED ASSISTANCE FOR COMMUTER RAIL IN SOUTHERN FLORIDA UNDER SECTION 9 PROGRAM.

Section 329 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. 1607a) is amended—

(1) in the first sentence by striking "in which major onsite" and all that follows before the period; and

(2) in the second sentence by striking "provided as" and all that follows before the period.

SEC. 3015. REPEAL OF EXPIRED PROVISION.

Section 9A, relating to Mass Transit Account distribution for fiscal year 1983, is repealed.

SEC. 3016. TRANSIT DEFINITION.

Section 12(c)(7) is amended—

(1) by striking "term" and inserting "terms"; and

(2) by striking "means" and inserting "and 'transit' mean".

SEC. 3017. RULEMAKING.

Section 12(i) is amended by adding at the end the following:

"(3) LIMITATION.—The Secretary shall propose or implement rules governing activities under this Act only in accordance with this section except for routine matters and matters with no significant impact.".

SEC. 3018. TRANSFER OF FACILITIES AND EQUIPMENT.

Section 12 is amended by adding at the end the following new subsection:

"(k) TRANSFER OF CAPITAL ASSET.—

"(1) AUTHORIZATION.—If a recipient of assistance under this Act determines that facilities *and equipment and other assets (including land) acquired, in whole or part, with such assistance are no longer needed for the purposes for which they were acquired, the Secretary may authorize the transfer of such assets to any public body to be used for any public purpose with no further obligation to the Federal Government.*

"(2) DETERMINATIONS.—The Secretary may authorize a transfer under paragraph (1) for any public purpose other than transit only if the Secretary first determines—

"(A) that the asset being transferred will remain in public use for not less than 5 years after the date of the transfer;

"(B) that there are no purposes eligible for assistance under this Act for which the asset should be used;

"(C) the overall benefit of allowing the transfer outweighs the Federal Government interest in liquidation and return of the Federal financial interest in the asset, after consideration of fair market value and other factors; and

"(D) that, in any case in which the asset is a facility or land, there is no interest in acquiring the asset for Federal use.

The determination under subparagraph (D) shall be made through an appropriate screening or survey process.

"(3) DOCUMENTATION.—Determinations required by paragraph (2) shall be made, in writing, and shall include the rationale for such determinations.

"(4) RELATION TO OTHER PROVISIONS.—The provisions of this section shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 3019. SPECIAL PROCUREMENT.

Section 12 is further amended by adding at the end the following:

"(l) SPECIAL PROCUREMENT INITIATIVES.—

"(1) TURNKEY SYSTEM PROCUREMENTS.—

"(A) IN GENERAL.—In order to advance new technologies and lower the cost of constructing new transit systems, the Secretary shall allow the solicitation for a turnkey system project to be funded under this Act to be conditionally awarded before Federal requirements have been met on the project so long as the award is made without prejudice to the implementation of those Federal requirements. Federal financial assistance under this Act may be made available for such a project when the recipient has complied with relevant Federal requirements.

"(B) INITIAL DEMONSTRATION PHASE.—In order to develop regulations applying generally to turnkey system projects, the Secretary is authorized to approve not less than 2 projects for an initial demonstration phase. The results of such demonstration projects (and any other projects currently using this procurement method) shall be taken into consideration in the development of the regulations implementing this subsection.

"(C) TURNKEY SYSTEM PROJECT DEFINED.—As used in this subsection, the term 'turnkey system project' means a project under which a recipient contracts with a consortium of firms, individual firms, or a vendor to build a transit system that meets specific performance criteria and which is operated by the vendor for a period of time.

"(2) MULTIYEAR ROLLING STOCK PROCUREMENTS.—

"(A) IN GENERAL.—A recipient procuring rolling stock with Federal financial assistance under this Act may enter into a multiyear agreement for the purchase of such rolling stock and replacement parts pursuant to which the recipient may exercise an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract.

"(B) CONSORTIA.—The Secretary shall permit 2 or more recipients to form a consortium (or otherwise act on a cooperative basis) for purposes of procuring rolling stock in accordance with this paragraph and other Federal procurement requirements.

"(3) EFFICIENT PROCUREMENT.—A recipient may award to other than the lowest bidder in connection with a procurement under this Act when such award furthers objectives which are consistent with purposes of this Act, such as improved long-term operating efficiency and lower long-term costs. Not later than 90 days after the date of the enactment of this Act, the Secretary shall (A) make such modifications to current procedures as are appropriate to make the policy set forth in this paragraph readily practicable for all transit agencies, including smaller and medium sized agencies, and (B) issue guidance clarifying and implementing such policy.".

SEC. 3020. FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE.

Section 12 is further amended by inserting at the end the following new subsection:

"(m) FEDERAL SHARE FOR CERTAIN PROJECTS.—A Federal grant for a project to be assisted under this Act that involves the acquisition of vehicle-related equipment required by the Clean Air Act or the Americans with Disabilities Act of 1990 shall be 90 percent of the net project cost of such equipment attributable to compliance with such Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs attributable to equipment specified in the preceding sentence.".

SEC. 3021. TRANSIT SERVICES FOR ELDERLY AND DISABLED INDIVIDUALS.

Section 16 is amended—

(1) by striking "elderly and handicapped persons" each place it appears and inserting "elderly persons and persons with disabilities";

(2) in subsection (b)(2) by inserting "to the Governor of each State for allocation" before "to private";

(3) in subsection (b)(2) by inserting "or to public bodies approved by the State to coordinate services for elderly persons and persons with disabilities or to public bodies which certify to the Governor that no nonprofit corporations or associations are readily available in an area to provide the service under this subsection" after "inappropriate";

(4) by striking "and" at the end of subsection (b)(1), by striking the period at the end of subsection (b)(2) and inserting "; and", and by inserting after subsection (b)(2) the following:

"(3) eligible capital expenses under this section may include, at the option of the recipient, the acquisition of transportation services under a contract, lease, or other arrangement.";

(5) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(6) by inserting after subsection (b) the following:

"(c) APPORTIONMENT AND USE OF FUNDS.—

"(1) STATE PROGRAM OF PROJECTS.—Funds made available for purposes of subsection (b) may be used for transportation projects to assist in the provision of transportation services for elderly persons and persons with disabilities which are included in a State program of projects. Such programs shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Federal sources.

"(2) APPORTIONMENT.—Sums made available for expenditure for purposes of subsection (b) shall be apportioned to the States on the basis of a formula administered by the Secretary which shall take into consideration the number of elderly persons and persons with disabilities in each State.

"(3) TRANSFER OF AMOUNTS.—Any amounts of a State's apportionment under this subsection that remain available for obligation at the beginning of the 90-day period before the expiration of the period of availability of such amounts shall be available to the Governor for transfer to supplement funds apportioned to the State under section 18(a) or section 9(d).

"(4) LEASING OF VEHICLES.—The Secretary shall, not later than 60 days following the enactment of the Federal Transit Act, issue regulations to allow vehicles purchased under this section to be leased to local public bodies and agencies for the purpose of improving transportation services designed to meet the special needs of elderly persons and persons with disabilities."; and

(7) by striking subsection (f), as redesignated by this section, and inserting the following:

"(f) MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.—Transit service providers receiving assistance under this section or section 18(a) may coordinate and assist in providing meal delivery service for homebound persons on a regular basis if the meal delivery services do not conflict with the provision of transit services or result in a reduction of service to transit passengers.".

SEC. 3022. TRANSFER OF FACILITIES AND EQUIPMENT.

Section 18 is amended by striking subsection (g) and inserting the following:

"(g) TRANSFER OF FACILITIES AND EQUIPMENT.—A State may transfer facilities and equipment acquired with assistance under this section or section 16(b) to any recipient eligible to receive assistance under this Act with the consent of the recipient currently in possession of such facilities or equipment, if the facility or equipment will continue to be used in accordance with the requirements of this section or section 16(b), as the case may be.".

SEC. 3023. INTERCITY BUS TRANSPORTATION.

Section 18 is further amended by adding at the end the following new subsection:

"(i) INTERCITY BUS TRANSPORTATION.—

"(1) FUNDING OF PROGRAM.—Subject to paragraph (2), a State shall expend not less than 5 percent of the amounts made available to such State under this section in fiscal year 1992, 10 percent of such amounts in fiscal year 1993, and 15 percent of such amounts in fiscal year 1994 and each fiscal year beginning thereafter to carry out a program for the development and support of intercity bus transportation. Eligible activities under such a program include planning and marketing for intercity bus transportation, capital grants for intercity bus shelters, joint-use stops and depots, operating grants through purchase-of-service agreements, user-side subsidies and demonstration projects, and coordination of rural connections between small transit operations and intercity bus carriers.

"(2) CERTIFICATION.—A State shall not be required to comply with paragraph (1) in any fiscal year in which the Governor certifies to the Secretary that the intercity bus service needs of the State are being adequately met.

"(3) SPECIAL RULE.—For fiscal year 1992, a State may meet the requirement of paragraph (1) by expending to carry out the program described in paragraph (1) at least 50 percent of the increase in the amount allocated to the State under this section between fiscal year 1991 and fiscal year 1992.".

SEC. 3024. USE OF POPULATION ESTIMATES.

Section 18(a) is amended in the second sentence by inserting after "the latest available Federal census" the following: ", the population estimate prepared by the Secretary of Commerce following the 4th year after the date of publication of such Federal census, or the population estimate prepared by the Secretary of Commerce following the 8th year after such date of publication, whichever is the most recent.".

SEC. 3025. AUTHORIZATIONS.

Section 21 is amended to read as follows:

"SEC. 21. AUTHORIZATIONS.

"(a) FORMULA GRANT PROGRAMS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9B, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, $1,150,000,000 for fiscal year 1993, $1,190,000,000 for fiscal year 1994, $1,150,000,000 for fiscal year 1995, $1,110,000,000 for fiscal year 1996, and $1,920,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute transit projects under section 103(e)(4) of title 23, United States Code, $2,055,000,000 for fiscal year 1993, $1,885,000,000 for fiscal year 1994, $1,925,000,000 for fiscal year 1995, $1,965,000,000 for fiscal year 1996, and $2,430,000,000 for fiscal year 1997, to remain available until expended.

"(3) FISCAL YEAR 1992.—There shall be available from the Mass Transit Account of the Highway Trust Fund for fiscal year 1992, $409,710,000 to carry out section 9B of this Act, to remain available until expended.

"(b) SECTION 3 DISCRETIONARY AND FORMULA GRANTS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, $1,725,000,000 for fiscal year 1993, $1,785,000,000 for fiscal year 1994, $1,725,000,000 for fiscal year 1995, $1,665,000,000 for fiscal year 1996, and $2,880,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out section 3 of this Act, $305,000,000 for fiscal year 1993, $265,000,000 for fiscal year 1994, $325,000,000 for fiscal year 1995, $385,000,000 for fiscal year 1996, and $20,000,000 for fiscal year 1997, to remain available until expended.

"(3) FISCAL YEAR 1992.—There shall be available from the Mass Transit Account of the Highway Trust Fund for fiscal year 1992—

"(A) $1,345,000,000 to carry out section 3 of this Act;

"(B) $43,780,000 to carry out section 8 of this Act;

"(C) $55,000,000 to carry out section 16 of this Act;

"(D) $19,460,000 to carry out section 26(a) of this Act;

"(E) $20,050,000 to carry out section 26(b) of this Act, of which $12,000,000 shall be available only for part C of title VI of the Intermodal Surface Transportation Efficiency Act of 1991; and

"(F) $7,000,000 to carry out section 11(b) of this Act.

Such sums shall remain available until expended.

"(4) CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant or contract with funds made available under subsection (a)(1), (a)(3), (b)(1), or (b)(3) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project. Approval by the Secretary of a grant or contract with funds made available under subsection (a)(2) or (b)(2) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project only to the extent that amounts are provided in advance in appropriations Acts.

"(c) SET-ASIDE FOR PLANNING, PROGRAMMING, AND RESEARCH.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection 8(p), an amount equivalent to 3.0 percent of funds made available or appropriated under subsections (a) and (b) shall be made available until expended as follows:

"(1) 45 percent of such funds shall be made available for metropolitan planning activities under section 8(f);

"(2) 5 percent of such funds shall be made available to carry out section 18(h);

"(3) 20 percent of such funds shall be made available to carry out the State program under section 26(a); and

"(4) 30 percent of such funds shall be made available to carry out the national program under section 26(b).

"(d) OTHER SET-ASIDES.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection (a), of the funds made available or appropriated under subsections (a) and (b)—

"(1) not to exceed an amount equivalent to .96 percent shall be available for administrative expenses to carry out section 12(a) of this Act and shall be available until expended;

"(2) not to exceed an amount equivalent to 1.34 percent shall be available for transportation services to elderly persons and persons with disabilities pursuant to the formula under section 16(b) of this Act and shall be available until expended; and

"(3) $7,000,000 shall be available for the purposes of section 11(b) relating to university transportation centers for each of fiscal years 1993 through 1996.

"(e) COMPLETION OF INTERSTATE TRANSFER TRANSIT PROJECTS.—Of the amounts remaining available each year under subsections (a) and (b), after allocation pursuant to subsections (c) and (d), for substitute transit projects under section 103(e)(4) of title 23, United States Code, there shall be available $160,000,000 for fiscal year 1992 and $164,843,000 for fiscal year 1993.

"(f) SET-ASIDE FOR RURAL TRANSPORTATION.—An amount equivalent to 5.5 percent of the amounts remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), and (e), shall be available pursuant to the formula under section 18. Such sums shall remain available until expended.

"(g) SECTION 9 FUNDING.—The funds remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), (e) and (f), shall be available under section 9.".

SEC. 3026. REPORT ON SAFETY CONDITIONS IN MASS TRANSIT.

Section 22 is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 22."; and

(2) by adding at the end a new subsection as follows:

"(b) REPORT.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report containing—

"(1) actions taken to identify and investigate conditions in any facility, equipment, or manner of operation as part of the findings and determinations required of the Secretary in providing grants and loans under this Act;

"(2) actions taken by the Secretary to correct or eliminate any conditions found to create a serious hazard of death or injury as a condition for making funds available through grants and loans under this Act;

"(3) a summary of all passenger-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(4) a summary of all employee-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(5) a summary of all actions taken by the Secretary to correct or eliminate the unsafe conditions to which such deaths and injuries were attributed;

"(6) a summary of those actions taken by the Secretary to alert transit operators of the nature of the unsafe conditions which were found to create a serious hazard of death or injury; and

"(7) recommendations to the Congress by the Secretary of any legislative or administrative actions necessary to ensure that all recipients of funds under this Act will institute the best means available to correct or eliminate hazards of death or injury, including—

"(A) a timetable for instituting actions,

"(B) an estimate of the capital and operating cost to take such actions, and

"(C) minimum standards for establishing and implementing safety plans by recipients of funds under this Act.".

SEC. 3027. PROJECT MANAGEMENT OVERSIGHT.

Section 23(a) is amended—

(1) by striking paragraphs (1) through (5);

(2) by striking "½ of 1 percent of—" and inserting the following:

"½ of 1 percent of the funds made available for any fiscal year to carry out sections 3, 9, or 18 of this Act, or interstate transfer transit projects under section 103(e)(4) of title 23, United States Code, as in effect on September 30, 1991, or a project under the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under any such section. In addition to such amounts, the Secretary may as necessary use not more than ¼ of 1 percent of the funds made available in any fiscal year to carry out a major project under section 3 to contract with any person to oversee the construction of such major project.".

SEC. 3028. NEEDS SURVEY.

The Act is amended by inserting after section 26 the following new section:

"SEC. 27. NEEDS SURVEY AND TRANSFERABILITY STUDY.

"(a) NEEDS SURVEY.—In January 1993 and in January of every second year thereafter, the Comptroller General shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report containing an evaluation of the extent to which current transit needs are adequately addressed and an estimate of the future transit needs of the Nation, including transit needs in rural areas (particularly access to health care facilities). Such report shall include the following:

"(1) An assessment of needs related to rail modernization, guideway modernization, replacement, rehabilitation, and purchase of buses and related equipment, construction of bus related facilities, and construction of new fixed guideway systems and extensions to fixed guideway systems.

"(2) A 5-year projection of the maintenance and modernization needs that will result from aging of existing equipment and facilities, including the need to overhaul or replace existing bus fleets and rolling stock used on fixed guideway systems.

"(3) A 5-year projection of the need to invest in the expansion of existing transit systems to meet changing economic, commuter, and residential patterns.

"(4) An estimate of the level of expenditure needed to satisfy the needs identified above.

"(5) An examination of existing Federal, State, and local resources as well as private resources that are or can reasonably be expected to be made available to support public transit.

"(6) The gap between the level of expenditure estimated under paragraph (4) and the level of resources available to meet such needs identified under paragraph (5).

"(b) TRANSFERABILITY STUDY.—

"(1) IN GENERAL.—In January 1993 and in January of every second year thereafter, the Comptroller General shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on implementation of the transferability provisions of section 9(j)(3) of this Act.

"(2) CONTENTS.—The report shall identify, by State, the amount of transit funds transferred for nontransit purposes under such sections during the previous fiscal year and shall include an assessment of the impact of such transfers on the transit needs of individuals and communities within the State. Specifically, the report shall assess the impact of such transfers (A) on the State's ability to meet the transit needs of elderly individuals and individuals with disabilities, (B) on efforts to meet the objectives of the Americans With Disabilities Act of 1990 and the Clean Air Act, and (C) on the State's efforts to extend public transit services to unserved rural areas. The report shall also include an examination of the relative levels of Federal transit assistance and services in urban and rural areas in fiscal year 1991 and the extent to which such assistance and service has increased or decreased in subsequent fiscal years as a result of transit resources made available under this Act and the Intermodal Surface Transportation Efficiency Act of 1991.".

SEC. 3029. STATE RESPONSIBILITY FOR FIXED GUIDEWAY SYSTEM SAFETY.

The Act is amended by inserting after section 27 the following new section:

"SEC. 28. STATE RESPONSIBILITY FOR FIXED GUIDEWAY SYSTEM SAFETY.

"(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary may withhold up to 5 percent of the amount required to be apportioned for use in any State or urbanized area in such State under section 9 for any fiscal year beginning after September 30, 1994, if the State in the previous fiscal year has not met the requirements of subsection (b) and the Secretary determines that the State is not making adequate efforts to comply with such subsection.

"(b) STATE REQUIREMENTS.—A State meets the requirements of this section if—

"(1) the State establishes and is implementing a safety program plan for each fixed guideway transit system in the State which establishes, at a minimum, safety requirements, lines of authority, levels of responsibility and accountability, and methods of documentation for such system;

"(2) the State designates an agency of the State with responsibility to—

"(A) require, review and approve, and monitor implementation of such plans; and

"(B) investigate hazardous conditions and accidents on such systems and require corrective actions to correct or eliminate such conditions; and

"(3) in any case in which more than 1 State would be subject to this section in connection with a single transit agency, the affected States may designate an entity other than the transit agency to ensure uniform safety standards and enforcement and to meet the requirements of this subsection.

"(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (a) from apportionment for use in any State in a fiscal year, shall remain available for apportionment for use in such State until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment for use in a State under paragraph (1), the State meets the requirements of subsection (b), the Secretary shall, on the first day on which the State meets the requirements of subsection (b), apportion to the State the funds withheld under subsection (a) that remain available for apportionment for use in the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year succeeding the fiscal year in which such funds are apportioned pursuant to paragraph (2). Sums not obligated at the end of such period shall be apportioned for use in other States under section 9 of this Act.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment for use in a State under paragraph (1), the State does not meet the requirements of subsection (b), such funds shall be apportioned for use in other States under section 9 of this Act.

"(d) LIMITATION ON APPLICABILITY.—This section only applies to States that have rail fixed guideway mass transportation systems which are not subject to regulation by the Federal Railroad Administration.

"(e) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations which set forth the requirements for complying with subsection (b).".

SEC. 3030. PLANNING AND RESEARCH.

The Act is amended by inserting after section 25 the following:

"SEC. 26. PLANNING AND RESEARCH PROGRAM.

"(a) STATE PROGRAM.—The funds made available under section 21(c)(3) shall be available for State programs as follows:

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—50 percent of that amount shall be available for the transit cooperative research program to be administered as follows:

"(A) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for such program to recommend mass transportation research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE PLANNING AND RESEARCH.—The remaining 50 percent of that amount shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act.

"(A) APPORTIONMENT FORMULA.—Amounts shall be apportioned to the States in the ratio which the population in urbanized areas in each State bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this section.

"(B) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under this subsection to be used to supplement funds available under subsection (a)(1), as the State deems appropriate.

"(b) NATIONAL PROGRAM.—

"(1) IN GENERAL.—The funds made available under section 21(c)(4), shall be available to the Secretary for grants or contracts for the purposes of section 6, 8, 10, 11, or 20 of this Act, as the Secretary deems appropriate.

"(2) COMPLIANCE WITH ADA.—Of the amounts available under paragraph (1), the Secretary shall make available not less than $2,000,000 to provide transit-related technical assistance, demonstration programs, research, public education, and other activities that the Secretary deems appropriate to help transit providers achieve compliance with the Americans with Disabilities Act of 1990. To the extent practicable, the Secretary shall carry out this subsection through contract with a national nonprofit organization serving persons with disabilities with demonstrated capacity to carry out these activities.

"(3) SPECIAL INITIATIVES.—Of the amounts available under paragraph (1), an amount not to exceed 25 percent shall be available to the Secretary for special demonstration initiatives subject to such terms, conditions, requirements, and provisions as the Secretary deems consistent with the requirements of this Act, except that the provisions of section 3(e)(4) shall apply to operational grants funded for purposes of section 6. For nonrenewable grants that do not exceed $100,000, the Secretary shall provide expedited procedures governing compliance with requirements of this Act.

"(4) TECHNOLOGY DEVELOPMENT.—

"(A) PROGRAM.—The Secretary is authorized to undertake a program of transit technology development in coordination with affected entities.

"(B) INDUSTRY TECHNICAL PANEL.—The Secretary shall establish an Industry Technical Panel consisting of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in the identification of priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.

"(C) GUIDELINES.—The Secretary shall develop guidelines for cost sharing in technology development projects funded under this section. Such guidelines shall be flexible in nature and reflect the extent of technical risk, market risk, and anticipated supplier benefits and pay back periods.

"(5) ADVANCED FARE COLLECTION TECHNOLOGY PILOT PROJECT.—From amounts authorized under section 21(c)(4), the Secretary shall make available $1,000,000 in fiscal year 1992 for the purpose of conducting a pilot project to evaluate, develop, and test advanced fare technology systems. Such project shall be carried out by the Washington Metropolitan Transit Authority.

"(6) INERTIAL NAVIGATION TECHNOLOGY TRANSFER.—

"(A) PROJECT.—There is authorized to be appropriated from amounts made available under section 21(c), $1,000,000 for fiscal year 1992 to support an inertial navigation system demonstration project for the purpose of determining the safety, economic, and environmental benefits of deploying inertial navigation tracking and control systems in urban and rural environments.

"(B) PUBLIC-PRIVATE SECTOR PARTICIPANTS.—The project described in subparagraph (A) shall be conducted by the Transit Safety Research Alliance, a nonprofit public-private sector consortium based in Pittsburgh, Pennsylvania.

"(7) SUPPLEMENTARY FUNDS.—The Secretary may use funds appropriated under this subsection to supplement funds available under subsection (a)(1), as the Secretary deems appropriate.

"(8) FEDERAL SHARE.—Where there would be a clear and direct financial benefit to an entity under a grant or contract funded under this subsection or subsection (a)(1), the Secretary shall establish a Federal share consistent with that benefit.

"(c) SUSPENDED LIGHT RAIL SYSTEM TECHNOLOGY PILOT PROJECT.—

"(1) FULL FUNDING GRANT AGREEMENT.—Not later than 60 days after the fulfillment of the requirements under paragraph (5), the Secretary shall negotiate and enter into a full funding grant agreement under section 3 with a public entity selected under paragraph (4) for construction of a suspended light rail system technology pilot project.

"(2) PROJECT PURPOSE.—The purpose of the project under this subsection shall be to assess the state of new technology for a suspended light rail system and to determine the feasibility and costs and benefits of using such a system for transporting passengers.

"(3) PROJECT DESCRIPTION.—The project under this subsection shall—

"(A) utilize new rail technology with individual vehicles on a prefabricated, elevated steel guideway;

"(B) be stability seeking with a center of gravity for the detachable passenger vehicles located below the point of wheel-rail contact; and

"(C) utilize vehicles which are driven by overhead bogies with high efficiency, low maintenance electric motors for each wheel, operating in a slightly sloped plane from vertical for both the wheels and the running rails, to further increase stability, acceleration, and braking performance.

"(4) COMPETITION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall conduct a national competition to select a public entity with which to enter into a full funding grant agreement under paragraph (1) for construction of the project under this subsection.

"(B) PUBLICATION OF NOTICE.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register notice of the competition to be conducted under this paragraph, together with procedures for public entities to participate in the competition.

"(C) SELECTION OF FINALISTS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall select 3 public entities to be finalists in the competition under this paragraph.

"(D) AWARD OF GRANTS.—The Secretary shall award grants to each of the finalists selected under subparagraph (C). Such grants shall be used by the finalists to participate in the final phase of the competition under this paragraph in accordance with procedures to be established by the Secretary. The amount of such grants shall not exceed 80 percent of the costs of such participation. No finalists may receive more than ⅓ of the amount made available under paragraph (9)(C).

"(E) SELECTION OF WINNER.—Not later than 210 days after the date of the enactment of this Act, the Secretary shall select from among the finalists selected under subparagraph (C) the public entity with which to enter into a full funding grant agreement under paragraph (1).

"(F) CONSIDERATIONS.—In conducting the competition and selecting public entities under this paragraph, the Secretary shall consider the following:

"(i) The public entity's demonstrated understanding and knowledge of the project under this section.

"(ii) The public entity's technical, managerial, and financial capacity to undertake construction, management, and operation of the project.

"(iii) Maximization of potential contributions to the cost of the project by State, local, and private sector entities, including the donation of in-kind services and materials.

"(5) EXPEDITED PROCEDURES.—Not later than 270 days after the date of selection of a public entity under paragraph (4), the Secretary shall approve and publish in the Federal Register a notice announcing either (A) a finding of no significant impact, or (B) a draft environmental impact statement for the project under this subsection. The alternative analysis for the project shall include a determination as to whether or not to actually construct such project. If a draft environmental impact statement is published, the Secretary shall, not later than 180 days after the date of such publication, approve and publish in the Federal Register a notice of completion of a final environmental impact statement. The project shall not be subject to the major capital investment policy of the Federal Transit Administration.

"(6) NOTICE TO PROCEED WITH CONSTRUCTION.—Not later than 30 days following the execution of the full funding grant agreement under paragraph (1), the Secretary shall issue a notice to proceed with construction.

"(7) OPTION NOT TO CONSTRUCT.—Not later than the 30th day following the completion of preliminary engineering and design for the project, the public entity selected under paragraph (1) will make a determination on whether or not to proceed to actual construction of the project. If such public entity makes a determination not to proceed to such actual construction—

"(A) the Secretary shall not enter into the grant agreement under paragraph (1);

"(B) any remaining sums received shall be returned to the Secretary and credited to the Mass Transit Account of the Highway Trust Fund; and

"(C) the Secretary shall use the amount so credited and all other amounts to be provided under this section to award to entities selected under paragraph (4)(E) grants under section 3 for construction of the project described in paragraph (1).

Any grants under subparagraph (C) shall be awarded after completion of a competitive process for selection of a grant recipient. Such process shall be completed not later than the 60th day following the date of the determination under this subsection.

"(8) OPERATING COST DEFICITS.—The full funding grant agreement under paragraph (1) shall provide that—

"(A) the system vendor for the project under this section shall fund 100 percent of any deficit incurred in operating the project in the first two years of revenue operations of the project; and

"(B) the system vendor for the project under this section shall fund 50 percent of any deficit incurred in operating the project in the third year of revenue operations of the project.

"(9) FUNDING.—

"(A) PRECONSTRUCTION.—If the systems planning, alternatives analysis, preliminary engineering, and design and environmental impact statement are required by law for the project under this subsection, the Secretary shall pay by grant the Federal share of such costs (as determined under section 3) from amounts provided under such section as follows: not less than $4,000,000 for fiscal year 1993. Such funds shall remain available until expended.

"(B) CONSTRUCTION.—The grant agreement under paragraph (1) shall provide that the Federal share of the construction costs of the project under this section shall be paid by the Secretary from amounts provided under section 3 as follows: not less than $30,000,000 for fiscal year 1994. Such funds shall remain available until expended.

"(C) GRANTS.—Grants under paragraph (4) shall be paid by the Secretary from amounts provided under section 3 as follows: not less than $1,000,000 for fiscal year 1992. Any amounts not expended for such grants shall be available for the Federal share of costs described in subparagraphs (A) and (B).

"(D) OPERATION.—Notwithstanding any other provision of law, the grant agreement under paragraph (1) shall provide with respect to the third year of revenue operations of the project under this subsection that the Federal share of operating costs of the project shall be paid by the Secretary from amounts provided under this section in a sum equal to 50 percent of any deficit incurred in operating the project in such year of revenue operations or $300,000, whichever is less.

"(10) FEDERAL SHARE.—The Federal share of the cost of construction of the project under this subsection shall be 80 percent of the net cost of the project.

"(11) REPORT.—Not later than January 30, 1993, and annually thereafter, the Secretary shall transmit to Congress a report on the progress and results of the project under this subsection.".

SEC. 3031. NEW JERSEY URBAN CORE PROJECT.

(a) CONTRACTUAL COMMITMENTS.—

(1) FULL FUNDING GRANT AGREEMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and enter into a full funding grant agreement under section 3 of the Federal Transit Act for those elements of the New Jersey Urban Core Project which can be fully funded in fiscal years 1992 through 1997. Such grant agreement shall not preclude the allocation of Federal funds for those elements of the project not covered under such grant agreement.

(2) PAYMENT.—The grant agreement under paragraph (1) shall provide that the Federal share of the cost of the New Jersey Urban Core Project shall be paid by the Secretary from amounts provided under section 3 of the Federal Transit Act as follows:

(A) Not less than $95,900,000 for fiscal year 1992.

(B) Not less than $71,700,000 for fiscal year 1993.

(C) Not less than $64,800,000 for fiscal year 1994.

(D) Not less than $146,000,000 for fiscal year 1995.

(E) Not less than a total of $256,000,000 for fiscal years 1996 and 1997.

Nothing in this section shall be construed as precluding other Federal funds from being committed to the project.

(b) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, for the purpose of calculating non-Federal contributions to the net cost of the New Jersey Urban Core Project, the Secretary shall include all non-Federal contributions made on or after January 1, 1987, for construction of any element of the project. Non-Federal funds committed to one element of the project may be used to meet the non-Federal share requirement for any other element of the project.

(c) EXEMPTION FROM CERTAIN REQUIREMENTS.—The requirements contained in section 3(i) of the Federal Transit Act (relating to criteria for new starts) shall not apply with respect to the New Jersey Urban Core Project; except that an alternative analysis and draft environmental impact statement shall be completed with respect to the Hudson River Waterfront element of the project and the Secretary shall approve the recommended locally preferred alternative for such element. No element of the project shall be subject to the major capital investment policy of the Federal Transit Administration.

(d) ELEMENTS OF URBAN CORE PROJECT.—For the purposes of this section, the New Jersey Urban Core Project consists of the following elements: Secaucus Transfer, Kearny Connection, Waterfront Connection, Northeast Corridor Signal System, Hudson River Waterfront Transportation System, Newark-Newark International Airport-Elizabeth Transit Link, a rail connection between Penn Station Newark and Broad Street Station, Newark, New York Penn Station

Concourse, and the equipment needed to operate revenue service associated with improvements made by the project. The project includes elements advanced with 100 percent non-Federal funds.

SEC. 3032. MULTIYEAR FUNDING FOR SAN FRANCISCO BAY AREA RAIL EXTENSION PROGRAM.

(a) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—

(1) COMPLETION DEADLINE.—Not later than 60 days after the date of the enactment of this Act and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete a draft environmental impact statement for an extension of the San Francisco Bay Area Rapid Transit District (hereinafter in this section referred to as "BART") to the San Francisco International Airport.

(2) NOTICE OF AVAILABILITY AND REPORTING.—The Secretary shall publish a notice of availability of the draft environmental impact statement for public review. If the Secretary has not published such notice on or before the 60th day following the date of the enactment of this Act, the Secretary shall report to Congress on the status of the completion of such draft environmental impact statement. The Secretary shall continue to report to such committees every 30 days on the status of the completion of the draft environmental impact statement, including any proposed revisions to the statement or to the work plan, until a notice of availability of such document is published in the Federal Register.

(b) PRELIMINARY ENGINEERING GRANT.—

(1) TO BART.—Not later than 30 days after the date of submittal of a locally preferred alternatives report and notwithstanding any other provision of law, the Secretary shall make a grant to BART to conduct preliminary engineering and to complete an environmental impact statement on the locally preferred alternative for the extension of BART to the San Francisco International Airport. The amount of such grant shall be 75 percent of preliminary engineering costs, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(2) TO SANTA CLARA COUNTY.—Not later than 30 days after the date of the enactment of this Act and notwithstanding any other provision of the law, the Secretary shall make a grant to the Santa Clara County Transit District (hereinafter in this section referred to as "SCCTD") to conduct preliminary engineering and to complete an environmental impact statement in accordance with the National Environmental Policy Act of 1969 on the locally preferred alternative for the Tasman Corridor Project. The amount of such grant shall be $12,750,000; except that the Federal share for all project costs may not exceed 50 percent, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent. Local funds expended on the Tasman Corridor Project after the locally preferred alternative was approved by the Metropolitan Transportation Commission on July 31, 1991, shall be considered eligible project costs under the Federal Transit Act.

(c) CONTRACTUAL COMMITMENTS.—

(1) APPROVAL OF CONSTRUCTION.—Notwithstanding any other provision of law, the Secretary shall approve the construction of the locally preferred alternative for the BART San Francisco International Airport Extension (Phase 1a to Colma and Phase 1b to San Francisco Airport) and the Tasman Corridor Project according to the following schedule; provided that the Secretary does not grant approval under subparagraphs (A), (B), and (C) before the 30th day after completion of the environmental impact statement:

(A) Not later than 90 days after the date of the enactment of this Act, the Secretary shall approve such construction for BART Phase 1a to Colma.

(B) Not later than 90 days after the date of the completion of preliminary engineering, the Secretary shall approve such construction for BART Phase 1b to San Francisco International Airport.

(C) Not later than 90 days after the date of the completion by SCCTD of preliminary engineering, the Secretary shall approve such construction for the Tasman Corridor Project.

(2) EXECUTION OF CONTRACT.—Upon approving construction under paragraph (1), the Secretary shall execute a multiyear grant agreement with BART to permit the expenditure of funds for the construction of the BART San Francisco International Airport Extension (Phase 1a and Phase 1b) and with SCCTD for the construction of the Tasman Corridor Project.

(d) FEDERAL SHARE.—

(1) BART EXTENSION.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the project cost for the locally preferred alternative for the BART San Francisco International Airport Extension (Phase 1a and Phase 1b) shall be 75 percent, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(2) TASMAN CORRIDOR PROJECT.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the project cost for the locally preferred alternative for the Tasman Corridor Project, including costs for preliminary engineering, shall be 50 percent, unless that matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(e) PAYMENT.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the cost of the projects shall be paid by the Secretary from amounts provided under section 3 of the Federal Transit Act for construction of new fixed guideway systems and extensions to fixed guideway systems, as follows:

(1) Not less than $28,500,000 for fiscal year 1990.

(2) Not less than $40,000,000 for fiscal year 1991.

(3) Not less than $100,000,000 for each of fiscal years 1992 through 1995.

(4) Not less than $100,000,000 for fiscal years 1996 and 1997.

Apportionment of payments between BART and SCCTD shall be consistent with the Metropolitan Transportation Commission Resolution No. 1876.

(f) ADVANCE CONSTRUCTION.—The grant agreements under subsection (c)(2) shall provide that the Secretary shall reimburse BART and SCCTD from any amounts provided under section 3 of the Federal Transit Act for fiscal years 1992 through 1997 for the Federal share of the net project costs incurred by BART and SCCTD under subsections (c)(1) and (c)(2), including the amount of any interest earned and payable on bonds as provided in section 3(l)(2) of the Federal Transit Act, as follows:

(1) Not later than September 30, 1994, the Secretary shall reimburse BART and SCCTD a total of $368,500,000 (plus such interest), less amounts provided under subsection (e) for fiscal years 1992 through 1994.

(2) Not later than September 30, 1997, the Secretary shall reimburse BART and SCCTD a total of $568,500,000 (plus such interest), less amounts provided under subsection (e) for fiscal years 1992 through 1997.

(g) FULL FUNDING GRANT AGREEMENTS.—

(1) SCHEDULE.—Notwithstanding any other provision of law, the Secretary shall negotiate and execute full funding grant agreements that are consistent with Metropolitan Transportation Commission Resolution No. 1876 with BART for Phase 1a to Colma and Phase 1b to the San Francisco International Airport, and with SCCTD for the Tasman Corridor Project according to the following schedule:

(A) Not later than 90 days after the date of completion by SCCTD of preliminary engineering, the Secretary shall execute such agreement for the Tasman Corridor Project.

(B) Upon completion by BART of 85 percent of final design, the Secretary shall execute such agreement for Phase 1a to Colma.

(C) Upon completion by BART of 85 percent of final design, the Secretary shall execute such agreement for Phase 1b to the San Francisco International Airport.

(2) ADDITIONAL AMOUNTS.—In addition to the $568,500,000 provided under this section, the Secretary shall, subject to annual appropriations, issue full funding grant agreements to complete the projects utilizing the full amount of the unobligated balance in the Mass Transit Account of the Highway Trust Fund.

(h) ALTERNATIVES ANALYSIS.—The Secretary shall permit the Santa Clara County Transit District, in cooperation with the Metropolitan Transportation Commission, to conduct an Alternatives Analysis to examine transit alternatives including a possible BART extension from southern Alameda County through downtown San Jose to Santa Clara, California.

SEC. 3033. QUEENS LOCAL/EXPRESS CONNECTION.

(a) FULL FUNDING GRANT AGREEMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and enter into a full funding grant agreement under section 3 of the Federal Transit Act for those elements of the Queens Local/Express Connection which can be fully funded in fiscal years 1992 through 1997. Such grant agreement shall not preclude the allocation of Federal funds for those elements of the project not covered under such grant agreement.

(b) PAYMENT.—The grant agreement under subsection (a) shall provide that the Federal share of the cost of the Queens Local/Express Connection shall be paid by the Secretary from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(1) Not less than $11,000,000 for fiscal year 1992.

(2) Not less than $18,700,000 for fiscal year 1993.

(3) Not less than $77,800,000 for fiscal year 1994.

(4) Not less than $76,800,000 for fiscal year 1995.

(5) Not less than $121,800,000 for fiscal year 1996.

Nothing in this section shall be construed as precluding other Federal funds from being committed to the project.

SEC. 3034. MULTIYEAR CONTRACT FOR METRO RAIL PROJECT.

(a) SUPPLEMENTAL EIS.—Not later than April 1, 1992, and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete preparation of a final supplemental environmental impact statement for Minimum Operable Segment-3 (other than the East Side Extension) and publish a notice of the completion of such statement in the Federal Register. Such statement shall reflect any alignment changes in the Los Angeles Metro Rail Project and any determination of an amended locally

preferred alternative for the project. In preparing such statement, the Secretary shall rely, to the maximum extent feasible, upon existing environmental studies and analyses conducted with respect to the project, including the Draft Supplemental Environmental Impact Statement (dated November 1987) and the Final Supplemental Environmental Impact Statement (dated July 1989).

(b) AMENDMENT TO CONTRACT TO INCLUDE CONSTRUCTION OF MOS–3.—

(1) NEGOTIATION.—Not later than April 1, 1992, the Secretary shall begin negotiations with the Commission on an amendment to the full funding contract under section 3 of the Federal Transit Act (dated April 1990) for construction of Minimum Operable Segment–2 of the Los Angeles Metro Rail Project in order to include construction of Minimum Operable Segment–3 (including the commitment described in paragraph (4) to provide Federal funding for the East Side Extension) in such contract.

(2) EXECUTION.—Not later than October 15, 1992, the Secretary shall—

(A) complete negotiations and execute the amended contract under paragraph (1); and

(B) issue a record of decision approving the construction of Minimum Operable Segment–3 (other than the East Side Extension).

(3) PAYMENT OF FEDERAL SHARE.—

(A) FEDERAL SHARE.—The amended contract under paragraph (1) shall provide that the Federal share of the cost of construction of Minimum Operable Segment–3 for fiscal years 1993 through 1997 shall be $695,000,000.

(B) PAYMENT.—The amended contract under paragraph (1) shall provide that the Federal share of the cost of construction of Minimum Operable Segment–3 shall be paid by the Secretary from amounts available under section 3 of the Federal Transit Act in accordance with a schedule for annual payments set forth in such contract.

(4) EAST SIDE EXTENSION.—The amended contract under paragraph (1) shall include a commitment to provide Federal funding for the East Side Extension, subject to completion of alternatives analysis and satisfaction of Federal environmental requirements.

(5) ADVANCE CONSTRUCTION.—

(A) IN GENERAL.—The amended contract under paragraph (1) shall provide that the Commission may construct any portion of Minimum Operable Segment–3 in accordance with section 3(l) of the Federal Transit Act.

(B) AMOUNT.—The Commission may use advance construction authority in an amount not to exceed the sum of $535,000,000 plus the difference (if any) between the Federal share specified in paragraph (3) for fiscal years 1993 through 1997 and the amount of Federal funds actually provided in those fiscal years.

(C) CONVERSION TO GRANTS.—In the event the Commission uses advance construction authority under this paragraph, the Secretary shall convert that authority into a grant and shall reimburse the Commission, from funds available under section 3 of the Federal Transit Act, for the Federal share of the amounts expended. Such conversion and reimbursement shall be made by the Secretary in fiscal years 1998, 1999, and 2000 and shall be equal to the Federal share of the amounts expended by the Commission pursuant to this paragraph (plus any eligible bond interest under section 3(l)(2) of the Federal Transit Act).

(c) FURTHER AMENDMENT TO CONTRACT.—Not later than October 15, 1996, the Secretary shall negotiate and enter into a further amendment to the contract described in subsection (b)(1) in order to provide Federal funding for Minimum Operable Segment–3 for fiscal years 1998 through 2000. The amended contract shall include provisions for the use and reimbursement of advance construction in the manner set forth in subsection (b)(5).

(d) CONTINUING PRELIMINARY ENGINEERING.—Before the date on which an amended contract is executed under subsection (b), the Secretary shall, upon receipt of an application from the Commission, make a grant to the Commission from amounts available under section 3 of the Federal Transit Act for continuing preliminary engineering and environmental analysis work for Minimum Operable Segment–3.

(e) ADDITION OF EAST SIDE EXTENSION.—

(1) ALTERNATIVES ANALYSIS AND ENVIRONMENTAL REVIEW.—The Secretary shall cooperate with the Commission in alternatives analysis and environmental review, including preparation of a draft environmental impact statement, for the East Side Extension. Upon receipt of an application from the Commission, the Secretary shall make a grant to the Commission, from amounts available under section 3 of the Federal Transit Act, for preliminary engineering, design, and related expenses for the East Side Extension, in an amount equal to 50 percent of the cost of such activities. Such funds shall be provided from the amounts made available by the Secretary under subsection (b)(3).

(2) SUPPLEMENTAL EIS.—Not later than December 1, 1993, and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete preparation of a final supplemental environmental impact statement for the East Side Extension and shall publish a notice of completion of such statement in the Federal Register.

(3) AMENDMENT TO CONTRACT TO INCLUDE EAST SIDE EXTENSION.—

(A) NEGOTIATION.—Immediately upon the completion of alternatives analysis and preliminary engineering for the East Side Extension, the Secretary shall begin negotiations with the Commission on a further amendment to the contract referred to in subsection (b)(1) in order to include construction of the East Side Extension.

(B) EXECUTION.—Not later than June 1, 1994, the Secretary shall—

(i) complete negotiations and execute the amended contract under subparagraph (A); and

(ii) issue a record of decision approving the construction of the East Side Extension.

(C) CONTENTS.—The amended contract under subparagraph (A) shall be consistent with the commitment made under subsection (b)(4) and shall include appropriate changes to the existing scope of work to include the East Side.

(f) APPLICABILITY OF FEDERAL REQUIREMENTS.—The amended contracts under this section shall provide that any activity under Minimum Operable Segment–3 that is financed entirely with non-Federal funds shall not be subject to any Federal statute, regulation, or program guidance, unless the Federal statute or regulation in question, by its terms, otherwise applies to and covers such activity.

(g) CRITERIA FOR NEW STARTS.—Minimum Operable Segment–3 shall be deemed to be a project described in and covered by section 303(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(h) NOTIFICATION OF NONCOMPLIANCE.—If the Secretary is unable to comply with a deadline established by this section, the Secretary shall report to Congress on the reasons for the noncompliance and shall provide such Committees a firm schedule for taking the action required.

(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Los Angeles County Transportation Commission (or any successor thereto).

(2) EAST SIDE EXTENSION.—The term "East Side Extension" means that portion of Minimum Operable Segment–3 described in paragraph (3)(C).

(3) MINIMUM OPERABLE SEGMENT–3.—The term "Minimum Operable Segment–3" means that portion of the Los Angeles Metro Rail Project which consists of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

(A) One line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

(B) One line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

(C) One line consisting of an initial line of approximately 3 miles in length, with at least 2 stations, beginning at Union Station and running generally east.

SEC. 3035. MISCELLANEOUS MULTIYEAR CONTRACTS.

(a) HAWTHORNE, NEW JERSEY-WARWICK, NEW YORK, SERVICE.—No later than 120 days after the date of the enactment of this Act, the Secretary shall negotiate and sign a multiyear grant agreement with the New Jersey Transit Corporation which includes not less than $35,710,000 in fiscal year 1992 and not less than $11,156,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of a project to provide commuter rail service from Hawthorne, New Jersey, to Warwick, New York (including a connection with the New Jersey Transit Main Line in Hawthorne, New Jersey, and improvements to the New Jersey Transit Main Line station in Paterson, New Jersey). Such agreement shall provide that amounts provided under the agreement may be used for purchasing equipment and for rehabilitating and constructing stations, parking facilities, and other facilities necessary for the restoration of such commuter rail service.

(b) WESTSIDE LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Tri-County Metropolitan Transportation District of Oregon which includes $515,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act at the Federal share contained in House Report 101–584 to carry out the construction of the locally preferred alternative for the Westside Light Rail Project, including system related costs, set forth in Public Law 101–516 and as defined in House Report 101–584. Such agreement shall also provide for the completion of alternatives analysis, the final Environmental Impact Analysis, and preliminary engineering for the Hillsboro extension to the Westside Project as set forth in Public Law 101–516.

(c) NORTH BAY FERRY SERVICE.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Vallejo, California, which includes $8,000,000 in fiscal year 1992 and $9,000,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out capital improvements under the North Bay Ferry Service Demonstration Program.

(d) STATEN ISLAND-MIDTOWN MANHATTAN FERRY SERVICE.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the New York City Department of Transportation in New York, New York, which includes $1,000,000 in fiscal year 1992 and $11,000,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out capital improvements under the Staten Island-Midtown Ferry Service Demonstration Program.

(e) CENTRAL AREA CIRCULATOR PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Chicago, Illinois, which in-

cludes $260,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for the Central Area Circulator Project. Such grant agreement shall provide that the Federal share of the cost of such project shall be paid by the Secretary from amounts provided under such section 3(k)(1)(B) as follows:

(1) Not less than $21,000,000 for fiscal year 1992.

(2) Not less than $55,000,000 for fiscal year 1993.

(3) Not less than $70,000,000 for fiscal year 1994.

(4) Not less than $62,000,000 for fiscal year 1995.

(5) Not less than a total of $52,000,000 for fiscal years 1996 and 1997.

(f) SALT LAKE CITY LIGHT RAIL PROJECT.—No later than August 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Utah Transit Authority, which includes $131,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the initial segment of the locally preferred alternative for the Salt Lake City Light Rail Project, including feeder bus and other system related costs.

(g) LOS ANGELES-SAN DIEGO (LOSSAN) RAIL CORRIDOR IMPROVEMENT PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Los Angeles-San Diego Rail Corridor Agency which includes not less than $10,000,000 for fiscal year 1992 and not less than $5,000,000 in each of fiscal years 1993 and 1994 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to provide for capital improvements to the rail corridor between Los Angeles and San Diego, California.

(h) SAN JOSE-GILROY-HOLLISTER COMMUTER RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the responsible operating entity for the San Francisco Peninsula Commute Service which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $13,000,000 for capital improvements and trackage rights related to the extension of commuter rail service from San Jose, through Gilroy, to Hollister, California. The Secretary shall allocate to the Santa Clara County Transit District in fiscal year 1992, from funds made available under such section 3(k)(1)(B), $8,000,000 for the purpose of a one-time purchase of perpetual trackage rights between the existing terminus in San Jose and Gilroy, California, to run passenger rail service.

(i) DALLAS LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with Dallas Area Rapid Transit which includes $160,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for the initial 6.4 miles and 10 stations of the South Oak Cliff light rail line. Non-Federal funds used to acquire rights-of-way and to plan, design, and construct any of the elements of such light rail line on or after August 13, 1983, may be used to meet the non-Federal share funding requirement for financing construction of any of such elements.

(j) SOUTH BOSTON PIERS TRANSITWAY/LIGHT RAIL PROJECT.—No later than June 1, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Massachusetts Bay Transportation Authority which includes $278,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the South Station to World Trade Center segment of the locally preferred alternative for the South Boston Piers Transitway/Light Rail Project. Not later than February 28, 1992, the Secretary shall allocate from such $278,000,000 such sums as may be necessary to carry out preliminary engineering and design for the entirety of such preferred alternative. Section 330 of the Department of Transportation and Related Agencies Appropriations Act, 1992, is amended by striking "—", by striking "(a)", by striking "; and" at the end of paragraph (a) and all that follows through the period at the end of such section and inserting a period, and by running in the remaining matter of paragraph (a) following "Administration".

(k) KANSAS CITY LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Kansas City Area Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,500,000 in fiscal year 1992, and $4,400,000 in fiscal year 1993 to provide for the completion of alternatives analysis and preliminary engineering for the Kansas City Light Rail Project.

(l) ORLANDO STREETCAR (OSCAR) DOWNTOWN TROLLEY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Orlando, Florida, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $5,000,000 to provide for the completion of alternatives analysis and preliminary engineering for the Orlando Streetcar (OSCAR) Downtown Trolley Project.

(m) DETROIT LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the city of Detroit, Michigan, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, not less than $10,000,000 for fiscal year 1992, and not less than $10,000,000 for fiscal year 1993, to provide for the completion of alternatives analysis and preliminary engineering for the Detroit Light Rail Project.

(n) BUS AND BUS RELATED EQUIPMENT PURCHASES IN ALTOONA, PENNSYLVANIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with Altoona Metro Transit for $2,000,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of 10 buses, a fuel storage tank, a bus washer and 2 service vehicles.

(o) LONG BEACH METRO LINK FIXED RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Los Angeles County Transportation Commission which includes $4,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act, to provide for the completion of alternatives analysis and preliminary engineering for the Metro Link Project in Long Beach, California.

(p) LAKEWOOD-FREEHOLD-MATAWAN OR JAMESBURG RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the New Jersey Transit Corporation, which includes, from funds made available to the Northeastern New Jersey urbanized area under section 3(k)(1)(B) of the Federal Transit Act, $1,800,000 in fiscal year 1992 and $3,000,000 in each of fiscal years 1993 and 1994 to provide for the completion of alternatives analysis, preliminary engineering, and environmental impact statement for the Lakewood-Freehold-Matawan or Jamesburg Rail Project.

(q) SAN FRANCISCO, CALIFORNIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement for $2,500,000 from funds made available under section 3(k)(1)(C) for fiscal year 1992 to construct a parking facility as part of a multimodal transportation facility in the vicinity of California Pacific Medical Center, San Francisco, California.

(r) CHARLOTTE LIGHT RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multi-year grant agreement with the City of Charlotte, North Carolina which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $125,000 in fiscal year 1992 and $375,000 in fiscal year 1993 to provide for the completion of systems planning and alternatives analysis for a priority light rail corridor in the Charlotte metropolitan area.

(s) BUCKHEAD PEOPLE MOVER CONCEPTUAL ENGINEERING STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Atlanta Regional Commission which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $200,000 in fiscal year 1992, to provide for the completion of a conceptual engineering study for a people mover system in Atlanta, Georgia.

(t) CLEVELAND DUAL HUB RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Greater Cleveland Regional Transit Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,000,000 in fiscal year 1992, $2,000,000 in fiscal year 1993, and $1,000,000 in fiscal year 1994, to provide for the completion of alternatives analysis on the Cleveland Dual Hub Rail Project.

(u) SAN DIEGO MID COAST LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the San Diego Metropolitan Transit Development Board which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,000,000 in fiscal year 1992, $5,000,000 in fiscal year 1993, and $20,000,000 in fiscal year 1994, to provide for the completion of alternatives analysis and the final environmental impact statement, and to purchase right-of-way, for the San Diego Mid Coast Light Rail Project.

(v) CHATTANOOGA DOWNTOWN TROLLEY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Chattanooga Area Regional Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,000,000 in fiscal year 1992 and $1,000,000 in fiscal year 1993 to provide for the completion of alternatives analysis on a proposed trolley circulator in downtown Chattanooga, Tennessee.

(w) NORTHEAST OHIO COMMUTER RAIL FEASIBILITY STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Northeast Ohio Areawide Coordinating Agency which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $800,000 in fiscal year 1992 and $800,000 in fiscal year 1993 to study the feasibility of providing commuter rail service connecting urban and suburban areas in northeast Ohio.

(x) RAILTRAN COMMUTER RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Cities of Dallas and Fort Worth, Texas, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,480,000, in fiscal year 1992, and $3,200,000 in fiscal year 1993 to provide for preliminary engineering and construction of improvements to the Dallas/Fort Worth RAILTRAN System.

(y) BUS AND BUS RELATED EQUIPMENT PURCHASES IN JOHNSTOWN, PENNSYLVANIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Cambria Coun-

ty Transit Authority for $1,600,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of 6 midsize buses; spare engines, transmissions, wheels, tires; wheelchair lifts for urban buses; 20 2-way radios; 29 electronic fareboxes and related equipment; computer hardware and software; and shop tools, equipment and parts for the Cambria County Transit System; and a new 400 HP electric motor and related components; cable replacement; hillside erosion control; park-and-ride facilities; and a handicapped pedestrian crosswalk for the Johnstown Inclined Plane.

(z) BUS PURCHASE FOR EUREKA SPRINGS, ARKANSAS.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with Eureka Springs Transit for $63,600 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of an electrically powered bus which is accessible to and usable by individuals with disabilities.

(aa) TUCSON DIAL-A-RIDE PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Tucson, Arizona which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $8,000,000 in fiscal year 1992 to make capital improvements related to the Tucson dial-a-ride project.

(bb) LONG BEACH BUS FACILITY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the Long Beach Transportation Company to include, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $13,875,000 in fiscal year 1992, to provide for the construction of a bus maintenance facility in the service area of such company.

(cc) PARK-AND-RIDE LOT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the Southeastern Pennsylvania Transportation Authority which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $4,000,000 in fiscal year 1992 to construct a park-and-ride lot in suburban Philadelphia, Pennsylvania.

(dd) NASHVILLE INTERMODAL TERMINAL.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Nashville, Tennessee, which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $3,700,000 in fiscal year 1992 to provide for the construction of an intermodal passenger terminal in Nashville, Tennessee.

(ee) MAIN STREET TRANSIT MALL.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Akron, Ohio, which includes, from funds made available to that State under section 3(k)(1)(C) of the Federal Transit Act, $1,450,000 in fiscal year 1992 to provide for preliminary engineering and construction of an extension to the Main Street Transit Mall.

(ff) PEOPLE MOBILIZER.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with PACE which includes, from funds made available to the suburban Chicago urbanized area under section 3(k)(1)(C), $2,300,000 in fiscal year 1992 to make capital purchases necessary for implementing the people mobilizer project in such area. The limitation on operating assistance which but for this section would apply to the people mobilizer project for fiscal year 1992 under section 9(k)(2)(A) of the Federal Transit Act shall be increased by $700,000.

(gg) CENTRE AREA TRANSPORTATION AUTHORITY REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary shall reimburse the Centre Area Transportation Authority in State College, Pennsylvania, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $1,000,000 in fiscal year 1992 for costs incurred by the Centre Area Transportation Authority between August 1989 and October 1991 in connection with the construction of an administrative maintenance and bus storage facility.

(hh) KEY WEST, FLORIDA.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a grant agreement with the city of Key West, Florida, which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $239,666 in fiscal year 1992 for the cost of purchasing 3 buses.

(ii) BOSTON, MASSACHUSETTS.—The Secretary shall conduct at a cost of $250,000 in fiscal year 1992 from funds made available under section 3(k)(1)(B) of the Federal Transit Act a feasibility study of a proposed rail link between North Station and South Station in Boston, Massachusetts.

(jj) BUFFALO, NEW YORK.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Niagara Frontier Transportation Authority for $2,000,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the construction of metro bus transit centers in the service area of such transportation authority.

(kk) STATE OF MICHIGAN.—No later than June 30, 1992, the Secretary shall enter into a multiyear grant agreement with the State of Michigan for $10,500,000 for fiscal year 1992, and not less than $10,000,000 for each of fiscal years 1993 through 1997 from funds made available under section 3(k)(1)(C) of the Federal Transit Act for the purchase of buses and bus-related equipment to be distributed among local transit operators. Of the grant amount for fiscal year 1992, $500,000 shall be made available for a study of the feasibility of consolidation of transit services.

(ll) ANN ARBOR, MICHIGAN.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Ann Arbor Transportation Authority for $1,500,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act for the purchase of equipment and software for advanced fare collection technology.

(mm) BAY AREA RAPID TRANSIT DISTRICT PARKING.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the San Francisco Bay Area Rapid Transit District which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $12,600,000 for construction of a parking area for the planned East Dublin/Pleasanton BART station.

(nn) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS PROGRAM.—The Secretary shall carry out the Baltimore-Washington Transportation Improvements Program as follows:

(1) BALTIMORE-CENTRAL LIGHT RAIL EXTENSION.—By entering into a full funding grant agreement with the Mass Transit Administration of the Maryland Department of Transportation to carry out construction of locally preferred alternatives for the Hunt Valley, Baltimore-Washington International Airport and Penn Station extensions to the light rail line in Baltimore, Maryland. The grant agreement under this paragraph shall provide that the Federal share shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(A) Not less than $30,000,000 for fiscal year 1993.

(B) Not less than $30,000,000 for fiscal year 1994.

(2) MARC EXTENSIONS.—By entering into a full funding grant agreement with the Mass Transit Administration of the Maryland Department of Transportation for service extensions and other improvements, including extensions of the MARC commuter rail system to Frederick and Waldorf, planning and engineering, purchase of rolling stock and station improvements and expansions. The grant agreement under this paragraph shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(A) Not less than $60,000,000 for fiscal year 1993.

(B) Not less than $50,000,000 for fiscal year 1994.

(C) Not less than $50,000,000 for fiscal year 1995.

(3) LARGO EXTENSION.—By entering into a full funding grant agreement with the State of Maryland or its designee to provide alternative analysis, the preparation of an environmental impact statement and preliminary engineering for a proposed rail transit project to be located in the corridor between the Washington Metropolitan Area Transit Authority Addison Road rail station and Largo, Maryland. The grant agreement under this paragraph shall provide that the Federal share shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act in an amount not less than $5,000,000 for fiscal year 1993.

(oo) MILWAUKEE EAST-WEST CORRIDOR PROJECT.—The Secretary shall negotiate and sign a multiyear grant agreement with the State of Wisconsin which includes $200,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the initial segment of the locally preferred alternative as identified in the alternatives analysis of the Milwaukee East-West Corridor Project.

(pp) BOSTON TO PORTLAND TRANSPORTATION CORRIDOR.—If the State of Maine or an agency thereof decides to initiate commuter rail service in the Boston to Portland transportation corridor, $30,000,000 under section 3(k)(1)(B) is authorized to be appropriated for capital improvements to allow such service.

(qq) NORTHEAST PHILADELPHIA COMMUTER RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Southeastern Pennsylvania Transportation Authority, which includes $400,000 from funds made available to the Philadelphia urbanized area under section 3(k)(1)(B) of the Federal Transit Act to provide for a study of the feasibility of instituting commuter rail service as an alternative to automobile travel to Center City Philadelphia on I-95.

(rr) ATLANTA COMMUTER RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Atlanta Regional Commission which includes, from funds made available to the Atlanta urbanized area under section 3(k)(1)(B) of the Federal Transit Act, $100,000 to study the feasibility of instituting commuter rail service in the Greensboro corridor.

(ss) PITTSBURGH LIGHT RAIL REHABILITATION PROJECT.—No later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and sign a multiyear grant agreement with the Port Authority of Allegheny County which includes $5,000,000 from funds made available to the Pittsburgh urbanized area under section 3(k)(1)(B) of the Federal Transit Act, to complete preliminary engineering for Stage II LRT rehabilitation in Allegheny County, Pennsylvania.

(tt) ATLANTA NORTH LINE EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Metropolitan Atlanta Rapid Transit Authority which includes $329,000,000 from

funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for a 3.1 mile extension of the North Line of the heavy rail rapid transit system in Atlanta, Georgia.

(uu) HOUSTON PRIORITY CORRIDOR FIXED GUIDEWAY PROJECT.—Provided that a locally preferred alternative for the Priority Corridor fixed guideway project has been selected by March 1, 1992, no later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Metropolitan Transit Authority of Harris County which includes $500,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of such locally preferred alternative.

(vv) JACKSONVILLE AUTOMATED SKYWAY EXPRESS EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Jacksonville Transportation Authority which includes $71.2 million from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for a 1.8 mile extension to the Automated Skyway Express starter line.

(ww) HONOLULU RAPID TRANSIT PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City and County of Honolulu which includes $618,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative of a 17.3 mile fixed guideway system.

(xx) SACRAMENTO LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Sacramento Regional Transit District which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $26,000,000 to provide for the completion of alternatives analysis, preliminary engineering, and final design on proposed extensions to the light rail system in Sacramento, California.

(yy) PHILADELPHIA CROSS-COUNTY METRO RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Southeastern Pennsylvania Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,400,000 to provide for the completion of alternatives analysis and preliminary engineering for the Philadelphia Cross-County Metro Rail Project.

(zz) CLEVELAND BLUE LINE LIGHT RAIL EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Greater Cleveland Regional Transit Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,200,000 to provide for the completion of alternatives analysis and preliminary engineering for an extension of the Blue Line to Highland Hills, Ohio.

(aaa) DULLES CORRIDOR RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the State of Virginia, or its assignee, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $6,000,000 to provide for the completion of alternatives analysis and preliminary engineering for a rail corridor from the West Falls Church Washington Metropolitan Area Transit Authority rail station to Dulles International Airport.

(bbb) PUGET SOUND CORE RAPID TRANSIT PROJECT.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the municipality of metropolitan Seattle, Washington, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $300,000,000 for the Puget Sound Core Rapid Transit Project.

(ccc) SEATTLE-TACOMA COMMUTER RAIL.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the municipality of metropolitan Seattle, Washington, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $25,000,000 for the Seattle-Tacoma Commuter Rail Project.

(ddd) ALTOONA PEDESTRIAN CROSSOVER.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the city of Altoona, Pennsylvania, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $3,200,000 for construction of the 14th Street Pedestrian Crossover in Altoona, Pennsylvania.

(eee) MULTI-MODAL TRANSIT PARKWAY.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the State of California which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $15,000,000 for construction of a multi-modal transit parkway in western Los Angeles, California.

(fff) CANAL STREET CORRIDOR LIGHT RAIL, NEW ORLEANS, LOUISIANA.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the city of New Orleans, Louisiana, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $4,800,000 to provide for the completion of alternatives analysis, preliminary engineering, and an environmental impact statement for the Canal Street Corridor Light Rail System in New Orleans, Louisiana.

SEC. 3036. UNOBLIGATED M ACCOUNT BALANCES.

Notwithstanding any other provision of law, any obligated M account balances remaining available for expenditure as of August 1, 1991, under "Urban Discretionary Grants" and "Interstate Transfer Grants-Transit" of the Federal Transit Administration program shall be exempt from the application of the provisions of section 1405(b)(4) and (b)(6) of Public Law 101-510 and section 1552 of title 31, United States Code, and shall be available until expended.

SEC. 3037. TECHNICAL ACCOUNTING PROVISIONS.

Notwithstanding any other provision of law, any funds appropriated before October 1, 1983, under section 6, 10, 11, or 18 of the Act, or section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, that remain available for expenditure after October 1, 1991, may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 3038. REDUCTION IN AUTHORIZATIONS FOR BUDGET COMPLIANCE.

If the total amount authorized by this Act (including amendments made by this Act) out of the Mass Transit Account of the Highway Trust Fund exceeds $1,900,000,000 for fiscal year 1992, or exceeds $13,800,000,000 for fiscal years 1992 through 1996, then each amount so authorized shall be reduced proportionately so that the total equals $1,900,000,000 for fiscal year 1992, or equals $13,800,000,000 for fiscal years 1992 through 1996, as the case may be.

SEC. 3039. PETROLEUM VIOLATION ESCROW ACCOUNT FUNDS.

Notwithstanding any other provision of law, the Federal Transit Administration shall allow petroleum violation escrow account funds spent by the New Jersey Transit Corporation on transit improvements to be applied as credit towards the non-Federal match for any transit project funded under the Federal Transit Act. The New Jersey Transit Corporation shall demonstrate that the use of such a credit does not result in the reduction in non-Federal funding for transit projects within the fiscal year in which the credit is applied.

SEC. 3040. CHARTER SERVICES DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—Notwithstanding any provision of law, the Secretary shall implement regulations, not later than 9 months after the date of the enactment of this Act, in not more than 4 States to permit transit operators to provide charter services for the purposes of meeting the transit needs of government, civic, charitable, and other community activities which otherwise would not be served in a cost effective and efficient manner.

(b) CONSULTATION.—In developing such regulations, the Secretary shall consult with a board that is equally represented by public transit operators and privately owned charter services.

(c) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing an evaluation of the effectiveness of the demonstration program regulations established under this section and make recommendations to improve current charter service regulations.

SEC. 3041. GAO REPORT ON CHARTER SERVICE REGULATIONS.

The Comptroller General shall submit to the Congress, not later than 12 months after the date of the enactment of this Act, a report evaluating the impact of existing charter service regulations. The report shall—

(1) assess the extent to which the regulations promote or impede the ability of communities to meet the transportation needs of government, civic, and charitable organizations in a cost-effective and efficient manner;

(2) assess the extent to which the regulations promote or impede the ability of communities to carry out economic development activities in a cost-effective and efficient manner;

(3) analyze the extent to which public transit operators and private charter carriers have entered into charter service agreements pursuant to the regulations; and

(4) analyze the extent to which such agreements enable private carriers to profit from the provision of charter service by public transit operators using federally subsidized vehicles.

The report shall also include an assessment of the factors specified in the preceding sentence within the context of not less than 3 communities selected by the Comptroller General.

SEC. 3042. 1993 WORLD UNIVERSITY GAMES.

Notwithstanding any other provision of law, before apportionment under section 9 of the Federal Transit Act of funds provided under section 21(a)(1) of such Act for fiscal year 1993, $4,000,000 of such funds shall be made available to the State of New York or to any public body to which the State further delegates authority, as the designated recipient for the purposes of this section, to carry out projects by contracts with private or public service providers to meet the transportation needs associated with the staging of the 1993 World University Games in the State of New York. Such funds shall be available for any purpose eligible under section 9 of such Act without limitation. The matching requirement for operating assistance under section 9(k)(1) of such Act shall not apply to funds made available under this section.

SEC. 3043. OPERATING ASSISTANCE LIMITATION FOR STATEN ISLAND FERRY.

The limitation of operating assistance which, but for this section, would apply to the Staten Island Ferry for fiscal year 1993 under section 9(k)(2)(A) of the Federal Transit Act shall be increased by $2,700,000.

SEC. 3044. FORGIVENESS OF CERTAIN OUTSTANDING OBLIGATIONS.

Notwithstanding the fifth sentence of section 4(a) of the Federal Transit Act, the outstanding balance on grant agreement number NC-05-0021 made to the Fayetteville Transit Authority, North Carolina, is forgiven.

SEC. 3045. FORGIVENESS OF LOAN REPAYMENT.

Notwithstanding any other provision of law (including any regulation), the outstanding balances on the following loan agreements do not have to be repaid:

(1) Loan agreement number PA-03-9002 made to the Southeastern Pennsylvania Transit Authority.

(2) Loan agreement number PA-03-9003 made to the Southeastern Pennsylvania Transit Authority.

SEC. 3046. MODIFIED BUS SERVICE TO ACCOMMODATE THE NEEDS OF STUDENTS.

Nothing in the Federal Transit Act, including the regulations issued to carry out such Act, shall be construed to prohibit the use of buses acquired or operated with Federal assistance under such Act to provide tripper bus service in New York City, New York, to accommodate the needs of students, if such buses carry normal designations and clear markings that such buses are open to the general public. For the purposes of this section, the term "tripper bus service" shall have the meaning such term has on the date of the enactment of this Act in regulations issued pursuant to the Federal Transit Act and shall include the service provided by express buses operating along regular routes and as indicated in published route schedules.

SEC. 3047. ELIGIBILITY DETERMINATIONS FOR DISABILITY.

(a) STUDY.—The Secretary shall conduct a study of procedures for determining disability for the purpose of obtaining off peak reduced fares under section 5(m) of the Federal Transit Act. The study should review different requirements, degree of uniformity, and degree of reciprocity between transit systems.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall report to Congress on the results of the study conducted under this section.

SEC. 3048. MILWAUKEE ALTERNATIVES ANALYSIS APPROVAL.

No later than January 15, 1992, the Secretary shall enter into an agreement with the Wisconsin Department of Transportation giving approval to undertake an alternatives analysis for the East-West Central Milwaukee Corridor. The alternatives analysis shall be funded entirely from non-Federal sources.

TITLE IV—MOTOR CARRIER ACT OF 1991

SEC. 4001. SHORT TITLE.

This title may be cited as the "Motor Carrier Act of 1991".

SEC. 4002. MOTOR CARRIER SAFETY GRANT PROGRAM AMENDMENTS.

(a) CONTENTS OF STATE PLANS.—Section 402(b)(1) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302(b)(1)) is amended—

(1) by striking subparagraph (D) and inserting the following new subparagraph:

"(D) provides a right of entry and inspection to carry out the plan and provides that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Inspection Standard, through the use of a nationally accepted system allowing ready identification of previously inspected commercial motor vehicles;";

(2) by striking "and" at the end of subparagraph (F);

(3) by striking the period of subparagraph (G) and inserting a semicolon; and

(4) by adding at the end the following new subparagraphs:

"(H) ensures that activities described in paragraphs (1), (2), and (3) of subsection (e) if funded with grants under this section will not diminish the effectiveness of development and implementation of commercial motor vehicle safety programs described in subsection (a);

"(I) ensures that fines imposed and collected by the State for violations of commercial motor vehicle safety regulations will be reasonable and appropriate and provides that, to the maximum extent practicable, the State will seek to implement into law and practice the recommended fine schedule published by the Commercial Vehicle Safety Alliance;

"(J) ensures that such State agency will coordinate the plan prepared under this section with the State highway safety plan under section 402 of title 23, United States Code;

"(K) ensures participation by the 48 contiguous States in SAFETYNET by January 1, 1994;

"(L) gives satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations pertaining to commercial motor vehicle safety;

"(M) gives satisfactory assurances that the State will promote activities—

"(i) to remove impaired commercial motor vehicle drivers from our Nation's highways through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment;

"(ii) to provide an appropriate level of training to its motor carrier safety assistance program officers and employees on the recognition of drivers impaired by alcohol or controlled substances;

"(iii) to promote enforcement of the requirements relating to the licensing of commercial motor vehicle drivers, especially including the checking of the status of commercial drivers' licenses; and

"(iv) to improve enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of commercial motor vehicles transporting hazardous materials; and

"(N) give satisfactory assurance that the State will promote—

"(i) effective interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out such interdiction activities; and

"(ii) effective use of trained and qualified officers and employees of political subdivisions and local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous materials transportation safety.".

(b) MAINTENANCE OF EFFORT.—Section 402(d) of such Act is amended—

(1) by inserting "and for enforcement of commercial motor vehicle size and weight limitations, for drug interdiction, and for enforcement of State traffic safety laws and regulations described in subsection (e)" after "programs";

(2) by striking "two" and inserting "3";

(3) by striking "this section" the second place it appears and inserting "the Intermodal Surface Transportation Efficiency Act of 1991"; and

(4) by adding at the end the following new sentence: "In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot programs and shall require the State to exclude Federal funds and State matching funds used to receive Federal funding under this section.".

(c) USE OF GRANT FUNDS FOR ENFORCEMENT OF CERTAIN OTHER LAWS.—Section 402 of such Act is amended by adding at the end the following new subsection:

"(e) USE OF GRANT FUNDS FOR ENFORCEMENT OF CERTAIN OTHER LAWS.—A State may use funds received under a grant under this section—

"(1) for enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific geographical locations (such as steep grades or mountainous terrains) where the weight of a commercial motor vehicle can significantly affect the safe operation of such vehicle, or at seaports where intermodal shipping containers enter and exit the United States;

"(2) for detecting the unlawful presence of a controlled substance (as defined under section 102 of the Controlled Substances Act (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of such a vehicle; and

"(3) for enforcement of State traffic laws and regulations designed to promote safe operation of commercial motor vehicles;

if such activities are carried out in conjunction with an appropriate type of inspection of the commercial motor vehicle for enforcement of Federal or State commercial motor vehicle safety regulations.".

(d) FEDERAL SHARE.—Section 403 of such Act (49 U.S.C. App. 2303) is amended by inserting after the first sentence the following new sentence: "In determining such costs incurred by the State, the Secretary shall include in-kind contributions by the State.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 404 of such Act (49 U.S.C. App. 2304) is amended—

(1) in subsection (a)(2) by striking "and" before "$60,000,000" and inserting a comma; and

(2) by striking the period at the end of subsection (a)(2) and inserting ", $65,000,000 for fiscal year 1992, $76,000,000 for fiscal year 1993, $80,000,000 for fiscal year 1994, $83,000,000 for fiscal year 1995, $85,000,000 for fiscal year 1996, and $90,000,000 for fiscal year 1997.".

(f) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 404(c) of such Act is amended to read as follows:

"(c) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Funds made available by this section shall remain available for obligation by the Secretary until expended. Allocations to a State shall remain available for expenditure in that State for the fiscal year in which they are allocated and 1 succeeding fiscal year. Funds not expended by a State during those 2 fiscal years shall be released to the Secretary for reallocation. Funds made available under this part which, as of October 1, 1992, were not obligated shall be available for reallocation and obligation under this subsection.".

(g) ALLOCATIONS.—Section 404(f) of such Act is amended to read as follows:

"(f) ADMINISTRATIVE EXPENSES; ALLOCATION CRITERIA.—

"(1) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary may deduct, for administration of this section for that fiscal year, not to exceed 1.25 percent of the funds made available for that fiscal year by subsection (a)(2). At least 75 percent of the funds so deducted for administration shall be used for the training of non-Federal employees, and the development of related training materials, to carry out the purposes of section 402.

"(2) ALLOCATION CRITERIA.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by paragraph (1), shall allocate, among the States with plans approved under section 402, the available funds for that fiscal year, pursuant to criteria established by the Secretary; except that the Secretary, in allocating funds available for research, development, and demonstration under subsection (g)(5) and for public education under subsection (g)(6), may designate specific eligible States among which to allocate such funds.".

(h) FUNDING FOR SPECIFIED PROGRAMS.—Section 404 of such Act is further amended by adding at the end of such section the following new subsection:

"(g) FUNDING FOR SPECIFIED PROGRAMS.—

"(1) TRAINING OF HAZMAT INSPECTORS.—The Secretary shall obligate from funds made available by subsection (a)(2) for each fiscal year beginning after September 30, 1992, not less than $1,500,000 to make grants to States for training inspectors for enforcement of regulations which are issued by the Secretary and pertain to transportation by commercial motor vehicle of hazardous materials.

"(2) COMMERCIAL MOTOR VEHICLE INFORMATION SYSTEM REVIEW.—The Secretary may obligate from funds made available by subsection (a)(2) for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 not to exceed $2,000,000 to carry out section 407 of this title, relating to the commercial motor vehicle information system.

"(3) TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.—The Secretary may obligate from funds made available by subsection (a)(2) for each of fiscal years 1993, 1994, 1995, 1996, and 1997 not to exceed $2,000,000 to carry out section 408 of this title, relating to the truck and bus accident data grant program.

"(4) ENFORCEMENT.—

"(A) TRAFFIC ENFORCEMENT ACTIVITIES.—The Secretary shall obligate from funds made available by subsection (a)(2) for each of fiscal years 1993, 1994, and 1995 not less than $4,250,000 and for each of fiscal years 1996 and 1997 not less than $5,000,000 for traffic enforcement activities with respect to commercial motor vehicle drivers which are carried out in conjunction with an appropriate inspection of a commercial motor vehicle for compliance with Federal or State commercial motor vehicle safety regulations.

"(B) LICENSING REQUIREMENTS.—The Secretary shall obligate from the funds made available by subsection (a)(2) not less than $1,000,000 for each of fiscal years 1993, 1994, and 1995 to increase enforcement of the licensing requirements of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2701 App. et seq.) by motor carrier safety assistance program officers and employees, including the cost of purchasing equipment for and conducting inspections to check the current status of licenses issued pursuant to such Act.

"(5) RESEARCH AND DEVELOPMENT.—The Secretary shall obligate from funds made available by subsection (a)(2) not less than $500,000 for any fiscal year for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to promote the purposes of section 402 and which are beneficial to all jurisdictions. Such funds shall be announced publicly and awarded competitively, whenever practicable, to any of the eligible States for up to 100 percent of the State costs, or to other persons as determined by the Secretary.

"(6) PUBLIC EDUCATION.—The Secretary shall obligate from funds made available by subsection (a)(2) for any fiscal year not less than $350,000 to educate the motoring public on how to share the road safely with commercial motor vehicles. In carrying out such education activities, the States shall consult with appropriate industry representatives.".

(i) PAYMENTS TO STATES.—Section 404 of such Act is further amended by adding at the end the following new subsection:

"(h) PAYMENTS TO STATES.—The Secretary shall make payments to a State of costs incurred by it under this section and section 402, as reflected by vouchers submitted by the State. Payments shall not exceed the Federal share of costs incurred as of the date of the vouchers.".

(j) MOTOR CARRIER SAFETY FUNCTIONS.—There is authorized to be appropriated for the motor carrier safety functions of the Federal Highway Administration $49,317,000 for fiscal year 1992.

(k) NEW FORMULA FOR ALLOCATION OF FUNDS.—Not later than 6 months after the date of the enactment of this Act, the Secretary, by regulation, shall develop an improved formula and processes for the allocation among eligible States of the funds made available under the motor carrier safety assistance program. In conducting such a revision, the Secretary shall take into account ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous materials transportation safety. In particular, the Secretary shall place special emphasis on incentives to States that conduct traffic safety enforcement activities that are coupled with motor carrier safety inspections. In improving the formula, the Secretary shall also take into account ways to provide incentives to States that increase compatibility of State commercial motor vehicle safety and hazardous materials transportation regulations with the Federal safety regulations and promote other factors intended to promote effectiveness and efficiency that the Secretary determines appropriate.

(l) INTRASTATE COMPATIBILITY.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall issue final regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety law and regulations with the Federal motor carrier safety regulations under the motor carrier safety assistance program. Such guidelines and standards shall, to the extent practicable, allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In the review of State plans and the allocation or granting of funds under section 153 of title 23, United States Code, as added by this Act, the Secretary shall ensure that such guidelines and standards are applied uniformly.

SEC. 4003. COMMERCIAL MOTOR VEHICLE INFORMATION SYSTEM.

Part A of title IV of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2301–2305) is amended by adding at the end the following new section:

"SEC. 407. COMMERCIAL VEHICLE INFORMATION SYSTEM PROGRAM.

"(a) INFORMATION SYSTEM.—

"(1) REGISTRATION SYSTEMS REVIEW.—Not later than 1 year after the effective date of this section, the Secretary, in cooperation with the States, shall conduct a review of State motor vehicle registration systems pertaining to license tags for commercial motor vehicles in order to determine whether or not such systems could be utilized in carrying out this section.

"(2) ESTABLISHMENT.—The Secretary, in cooperation with the States, may establish, as part of the motor carrier safety information network system of the Department of Transportation and similar State systems, an information system which will serve as a clearinghouse and depository of information pertaining to State registration and licensing of commercial motor vehicles and the safety fitness of the registrants of such vehicles.

"(3) OPERATION.—Operation of the information system established under paragraph (2) shall be paid for by a system of user fees. The Secretary may authorize the operation of the information system by contract, through an agreement with a State or States, or by designating, after consultation with the States, a third party which represents the interests of the States.

"(4) DATA COLLECTION AND REPORTING STANDARDS.—The Secretary shall establish standards to ensure uniform data collection and reporting by all States necessary to carry out this section and to ensure the availability and reliability of the information to the States and the Secretary from the information system established under paragraph (2).

"(5) TYPE OF INFORMATION.—As part of the information system established under paragraph (2), the Secretary shall include information on the safety fitness of the registrant of the commercial motor vehicle and such other information as the Secretary considers appropriate, including data on vehicle inspections and out-of-service orders.

"(b) DEMONSTRATION PROJECT.—The Secretary shall make grants to States to carry out a project to demonstrate methods of establishing an information system which will link the motor carrier safety information network system of the Department of Transportation and similar State systems with the motor vehicle registration and licensing systems of the States. The purposes of the project shall be—

"(1) to allow a State when issuing license plates for a commercial motor vehicle to determine through use of the information system the safety fitness of the person seeking to register the vehicle; and

"(2) to determine the types of sanctions which may be imposed on the registrant, or the types of conditions or limitations which may be imposed on the operations of the registrant, to ensure the safety fitness of the registrant.

"(c) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

"(d) REPORT.—Not later than January 1, 1995, the Secretary shall prepare and submit to Congress a report assessing the cost and benefits and feasibility of the information system established under this section and, if the Secretary determines that such system would be beneficial on a nationwide basis, including recommendations on legislation for the nationwide implementation of such system.

"(e) FUNDING.—Funds necessary to carry out this section may be made available by the Secretary as provided in section 404(g)(2) of this title.

"(f) COMMERCIAL MOTOR VEHICLE DEFINED.—For purposes of this section, the term 'commercial motor vehicle' means any self-propelled or towed vehicle used on highways in intrastate or interstate commerce to transport passengers or property—

"(1) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(2) if such vehicle is designed to transport more than 15 passengers, including the driver; or

"(3) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under such Act.".

SEC. 4004. TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.

Part A of title IV of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2301–2305) is further amended by adding at the end the following new section:

"SEC. 408. TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to States which agree to adopt or have adopted the recommendations of the National Governors' Association with respect to police accident reports for truck and bus accidents.

"(b) GRANT PURPOSES.—Grants may only be made under this section for assisting States in the implementation of the recommendations referred to in subsection (a), including—

"(1) assisting States in designing appropriate forms;

"(2) drafting instruction manuals;

"(3) training appropriate State and local officers, including training on accident investigation techniques to determine the probable cause of accidents;

"(4) analyzing and evaluating safety data so as to develop, if necessary, recommended changes to existing safety programs that more effectively would address the causes of truck and bus accidents; and

"(5) such other activities as the Secretary determines are appropriate to carry out the objectives of this section.

"(c) COORDINATION.—The Secretary shall coordinate grants made under this section with the highway safety programs being carried out under section 402 of title 23, United States Code, and may require that the data from the reports described in subsection (a) be included in the reports made to the Secretary under the uniform data collection and reporting program carried out under such section.

"(d) FUNDING.—Funds necessary to carry out this section may be made available by the Secretary as provided in section 404(g)(3) of this title.".

SEC. 4005. SINGLE STATE REGISTRATION SYSTEM.

Section 11506 of title 49, United States Code, is amended to read as follows:

"§11506. Registration of motor carriers by a State

"(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Interstate Commerce Commission to prove the lawfulness of transportation by motor carrier referred to in section 10521(a) (1) and (2) of this title.

"(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and providing transportation in that State, register the certificate or permit issued to the carrier under section 10922 or 10923 of this title is not an unreasonable burden on transportation referred to in section 10521(a) (1) and (2) of this title when the registration is completed under standards of the Commission under subsection (c) of this section. When a State registration requirement imposes obligations in excess of the standards, the part in excess is an unreasonable burden.

"(c) SINGLE STATE REGISTRATION SYSTEM.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, the Commission shall prescribe amendments to the standards existing as of such date of enactment. Such amendments shall implement a system under which—

"(A) a motor carrier is required to register annually with only one State;

"(B) the State of registration shall fully comply with standards prescribed under this section; and

"(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

"(2) SPECIFIC REQUIREMENTS.—

"(A) EVIDENCE OF CERTIFICATE; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the amended standards implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier holding a certificate or permit issued under this subtitle—

"(i) to file and maintain evidence of such certificate or permit;

"(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

"(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

"(iv) to file the name of a local agent for service of process.

"(B) RECEIPTS; FEE SYSTEM.—Such amended standards—

"(i) shall require that the registration State issue a receipt, in a form prescribed under the amended standards, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this paragraph and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

"(ii) shall require that copies of the receipt issued under clause (i) of this subparagraph be kept in each of the carrier's commercial motor vehicles;

"(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

"(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this paragraph that (I) will be based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates, (II) will minimize the costs of complying with the registration system, and (III) will result in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

"(v) shall not authorize the charging or collection of any fee for filing and maintaining a certificate or permit under subparagraph (A)(i) of this paragraph.

"(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

"(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

"(3) EFFECTIVE DATE OF AMENDMENTS.—Amendments prescribed under this subsection shall take effect by January 1, 1994.

"(d) INTERPRETATION AUTHORITY OF COMMISSION.—This section does not affect the authority of the Commission to interpret its regulations and certificates and permits issued under section 10922 or 10923 of this title.".

SEC. 4006. VEHICLE LENGTH RESTRICTION.

(a) CARGO CARRYING UNIT LIMITATION.—Section 411 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311) is amended by adding at the end the following new subsection:

"(j) CARGO CARRYING UNIT LIMITATION.—

"(1) IN GENERAL.—No State shall allow by statute, regulation, permit, or any other means the operation on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid primary system highways as designated by the Secretary pursuant to subsection (e) of this section, of any commercial motor vehicle combination (except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws) with 2 or more cargo carrying units (not including the truck tractor) whose cargo carrying units exceed—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation authorized by statute or regulation of that State on or before June 1, 1991; or

"(B) the length of the cargo carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 1991.

"(2) WYOMING, OHIO, AND ALASKA.—

"(A) WYOMING.—In addition to those vehicles allowed under paragraphs (1)(A) and (1)(B), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in section 127(a) of title 23, United States Code, and do not exceed 117,000 pounds gross vehicle weight.

"(B) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under paragraphs (1)(A) and (1)(B), such State may allow commercial motor vehicle combinations with 3 cargo carrying units of 28 1/2 feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

"(C) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under paragraphs (1)(A) and (1)(B), such State may allow operation of commercial motor vehicle combinations which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 6, 1991.

"(3) MEASUREMENT OF LENGTH.—For purposes of this subsection, the length of the cargo carrying units of a commercial motor vehicle combination is the length measured from the front of the first cargo carrying unit to the rear of the last cargo carrying unit.

"(4) LIMITATIONS.—Commercial motor vehicle combinations whose operations in a State are not prohibited under paragraphs (1) and (2) of this subsection may continue to operate in such State on the highways described in paragraph (1) only if in compliance with, at the minimum, all State statutes, regulations, limitations, and conditions, including but not limited to routing-specific and configuration-specific designations and all other restrictions in force in such State on June 1, 1991; except that subject to such regulations as may be issued by the Secretary, pursuant to paragraph (8) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction. Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of any commercial motor vehicle combination subject to this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of this section and of section 412 and section 416 (a) and (b) of this Act. Any State further restricting or prohibiting the operations of commercial motor vehicle combinations or making such minor adjustments of a temporary and emergency nature as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (8) of this subsection shall advise the Secretary within 30 days after such action and the Secretary shall publish a notice of such action in the Federal Register.

"(5) LIST OF STATE LENGTH LIMITATIONS.—

"(A) SUBMISSION TO SECRETARY.—Within 60 days after the date of the enactment of this subsection, each State shall submit to the Secretary for publication a complete list of State length

limitations applicable to commercial motor vehicle combinations operating in each State on the highways described in paragraph (1). The list shall indicate the applicable State statutes and regulations associated with such length limitations. If a State does not submit information as required, the Secretary shall complete and file such information for such State.

"(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information.

"(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 1991.

"(D) FINAL LIST.—Except as modified pursuant to subparagraph (B) or (E) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, commercial motor vehicle combinations prohibited under paragraph (1) may not operate on the National System of Interstate and Defense Highways and other Federal-aid primary system highways as designated by the Secretary except as published on the list. The list may be combined by the Secretary with the list required under section 127(d) of title 23, United States Code.

"(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list, the Secretary shall correct the publication under subparagraph (D) to reflect the determination of the Secretary.

"(6) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) allow the operation on any segment of the National System of Interstate and Defense Highways of any longer combination vehicle prohibited under section 127(d) of title 23, United States Code;

"(B) affect in any way the operation of commercial motor vehicles having only 1 cargo carrying unit; or

"(C) affect in any way the operation in a State of commercial motor vehicles with 2 or more cargo carrying units if such vehicles were in actual operation on a regular or periodic basis (including seasonal operation) in that State on or before June 1, 1991, authorized under State statute, regulation, or lawful State permit.

"(7) CARGO CARRYING UNIT DEFINED.—As used in this subsection, 'cargo carrying unit' means any portion of a commercial motor vehicle combination (other than the truck tractor) used for the carrying of cargo, including a trailer, semitrailer, or the cargo carrying section of a single unit truck.

"(8) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (4).

"(9) REGULATIONS FOR DEFINING NONEASILY DISMANTLED OR DIVIDED LOADS.—For the purposes of this subsection only, the Secretary shall define by regulation loads which cannot be easily dismantled or divided.".

(b) APPLICABILITY TO BUSES.—

(1) GENERAL RULE.—Section 411(a) of such Act is amended by inserting "of less than 45 feet on the length of any bus," after "vehicle length limitation".

(2) ACCESS TO POINTS OF LOADING AND UNLOADING.—Section 412(a)(2) of such Act is amended by inserting ", motor carrier of passengers," after "household goods carriers".

(c) CONFORMING AMENDMENT.—Section 411(e)(1) of such Act is amended by striking "those Primary System highways" and inserting "those highways of the Federal-aid primary system in existence on June 1, 1991,".

SEC. 4007. TRAINING OF DRIVERS; LONGER COMBINATION VEHICLE REGULATIONS, STUDIES, AND TESTING.

(a) ENTRY LEVEL.—

(1) STUDY OF PRIVATE SECTOR.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall report to Congress on the effectiveness of the efforts of the private sector to ensure adequate training of entry level drivers of commercial motor vehicles. In preparing the report, the Secretary shall solicit the views of interested persons.

(2) RULEMAKING PROCEEDING.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall commence a rulemaking proceeding on the need to require training of all entry level drivers of commercial motor vehicles. Such rulemaking proceeding shall be completed not later than 24 months after the date of such enactment.

(3) FOLLOWUP STUDY.—If the Secretary determines under the proceeding conducted under paragraph (2) that it is not in the public interest to issue a rule that requires training for all entry level drivers, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 25 months after the date of the enactment of this Act a report on the reasons for such decision, together with the results of a cost benefit analysis which the Secretary shall conduct with respect to such proceeding.

(b) LCVS TRAINING REQUIREMENTS.—

(1) INITIATION OF RULEMAKING PROCEEDING.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to establish minimum training requirements for operators of longer combination vehicles. This training shall include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary.

(2) FINAL RULE.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall issue a final regulation establishing minimum training requirements for operators of longer combination vehicles.

(c) SAFETY CHARACTERISTICS.—

(1) STUDY.—The Comptroller General shall conduct a study of the safety of longer combination vehicles for the purpose of comparing the safety characteristics and performance, including engineering and design safety characteristics, of such vehicles to other truck-trailer combination vehicles and for the purpose of reviewing the history and effectiveness of State safety enforcement pertaining to such vehicles for those States in which such vehicles are permitted to operate. Such study shall include an assessment of each of the following:

(A) The adequacy of currently available data bases for the purpose of determining the safety of longer combination vehicles and recommending safety improvements.

(B) Whether or not such States are actively monitoring the safety of such operations.

(C) The best available information on the safety of such operations.

(D) Enforcement actions which have been taken in such States to ensure the safety of such operations.

(E) Current procedures and controls used by such States to ensure the safety of operation of such vehicles.

(F) Whether or not any special inspections of equipment maintenance is required to improve the safety of such operations.

(G) The economic and safety impact of longer combination vehicles on shared highways.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall transmit a report on the results of the study conducted under paragraph (1) to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(d) OPERATIONS OF LONGER COMBINATION VEHICLES.—

(1) TESTS.—The Secretary shall conduct on the road tests with respect to the driver and vehicle characteristics of operations of longer combination vehicles for the purpose of determining whether or not any modifications are necessary to the Federal commercial motor vehicle safety standards of the Department of Transportation as they apply to longer combination vehicles. At a minimum, such tests shall examine driver fatigue and stress and time of operation characteristics. Such tests also shall examine the characteristics of longer combination vehicles, including an assessment of on-board computers, anti-lock brakes, and anti-trailer under ride systems to determine the potential safety effectiveness of those technologies as applied to such vehicles.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit a report on the results of the tests conducted under paragraph (1) to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(e) FUNDING.—There shall be available to the Secretary for carrying out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 per fiscal year for each of fiscal years 1992, 1993, and 1994. Such sums shall remain available until expended.

(f) LONGER COMBINATION VEHICLE DEFINED.—For the purposes of this section, the term "longer combination vehicle" means any combination of a truck tractor and 2 or more trailers or semitrailers which operate on the National System of Interstate and Defense Highways with a gross vehicle weight greater than 80,000 pounds.

SEC. 4008. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

(a) WORKING GROUP.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a working group comprised of State and local government officials, including representatives of the National Governors' Association, the American Association of Motor Vehicle Administrators, the National Conference of State Legislatures, the Federation

of Tax Administrators, the Board of Directors for the International Fuel Tax Agreement, and a representative of the Regional Fuel Tax Agreement, for the purpose of—

(1) proposing procedures for resolving disputes among States participating in the International Registration Plan and among States participating in the International Fuel Tax Agreement including designation of the Department of Transportation or any other person for resolving such disputes; and

(2) providing technical assistance to States participating or seeking to participate in the Plan or in the Agreement.

(b) CONSULTATION REQUIREMENT.—The working group established under this section shall consult with members of the motor carrier industry in carrying out subsection (a).

(c) REPORTS.—Not later than 24 months after the date of the enactment of this Act, the working group established under this section shall transmit a report to the Secretary, to the Committee on Commerce, Science, and Transportation of the Senate, to the Committee on Public Works and Transportation and the Committee on the Judiciary of the House of Representatives, to those States participating in the International Registration Plan, and to those States participating in the International Fuel Tax Agreement. The report shall contain a detailed statement of the findings and conclusions of the working group, together with its joint recommendations concerning the matters referred to in subsection (a). After transmission of such report, the working group may periodically review and modify the findings and conclusions and the joint recommendations as appropriate and transmit a report containing such modifications to the Secretary and such committees.

(d) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The working group established under this section shall not be subject to the Federal Advisory Committee Act.

(e) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to States and appropriate persons for the purpose of facilitating participation in the International Registration Plan and participation in the International Fuel Tax Agreement and for the purpose of administrative improvements in any other base State fuel use tax agreement in existence as of January 1, 1991, including such purposes as providing technical assistance, personnel training, travel costs, and technology and equipment associated with such participation.

(2) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the grant.

(f) VEHICLE REGISTRATION.—After September 30, 1996, no State (other than a State which is participating in the International Registration Plan) shall establish, maintain, or enforce any commercial motor vehicle registration law, regulation, or agreement which limits the operation of any commercial motor vehicle within its borders which is not registered under the laws of the State if the vehicle is registered under the laws of any other State participating in the International Registration Plan.

(g) FUEL USE TAX.—

(1) REPORTING REQUIREMENTS.—After September 30, 1996, no State shall establish, maintain, or enforce any law or regulation which has fuel use tax reporting requirements (including tax reporting forms) which are not in conformity with the International Fuel Tax Agreement.

(2) PAYMENT.—After September 30, 1996, no State shall establish, maintain, or enforce any law or regulation which provides for the payment of a fuel use tax unless such law or regulation is in conformity with the International Fuel Tax Agreement with respect to collection of such a tax by a single base State and proportional sharing of such taxes charged among the States where a commercial motor vehicle is operated.

(3) LIMITATION.—For purposes of paragraphs (1) and (2), in the event of an amendment to the International Fuel Tax Agreement, conformity by a State that is not participating in such Agreement when such amendment is made may not be required with respect to such amendment until a reasonable time period for such conformity has elapsed, but in no case earlier than—

(A) the expiration of the 365-day period beginning on the first day that the corresponding compliance with such amendment is required of States that are participating in such Agreement; or

(B) the expiration of the 365-day period beginning on the day the relevant office of the State receives written notice of such amendment from the Secretary.

(4) EXCEPTION.—Paragraphs (1), (2), and (3) shall not apply with respect to a State that participates on January 1, 1991, in the Regional Fuel Tax Agreement and that continues to participate after such date in such Agreement.

(h) ENFORCEMENT.—

(1) ACTION.—On the request of the Secretary, the Attorney General may commence, in a court of competent jurisdiction, a civil action for such injunctive relief as may be appropriate to ensure compliance with subsections (f) and (g).

(2) VENUE.—Such action may be commenced only in the State in which relief is required to ensure such compliance.

(3) RELIEF.—Subject to section 1341 of title 28, United States Code, such court, upon a proper showing—

(A) shall issue a temporary restraining order or a preliminary or permanent injunction; and

(B) may require in such injunction that the State or any person comply with such subsections.

(i) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in subsections (f) and (g) shall be construed as limiting the amount of money a State may charge for registration of a commercial motor vehicle or the amount of any fuel use tax a State may impose.

(j) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 1992 \$1,000,000 for funding the activities of the working group under this section and \$5,000,000 for making grants under subsection (e). Amounts authorized by the preceding sentence shall be subject to the obligation limitation established by section 102 of this Act for fiscal year 1992. From sums made available under section 404 of the Surface Transportation Assistance Act of 1982, the Secretary shall provide for each of fiscal years 1993 through 1997 \$1,000,000 for funding the activities of the working group under this section and \$5,000,000 for making grants under subsection (e). Such sums shall remain available until expended.

(k) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle"—

(A) as used with respect to the International Registration Plan, has the meaning the term "apportionable vehicle" has under such plan; and

(B) as used with respect to the International Fuel Tax Agreement, has the meaning the term "qualified motor vehicle" has under such agreement.

(2) FUEL USE TAX.—The term "fuel use tax" means a tax imposed on or measured by the consumption of fuel in a motor vehicle.

(3) INTERNATIONAL FUEL TAX AGREEMENT.—The term "International Fuel Tax Agreement" means the interstate agreement for the collection and distribution of fuel use taxes paid by motor carriers, developed under the auspices of the National Governors' Association.

(4) INTERNATIONAL REGISTRATION PLAN.—The term "International Registration Plan" means the interstate agreement for the apportionment of vehicle registration fees paid by motor carriers, developed by the American Association of Motor Vehicle Administrators.

(5) REGIONAL FUEL TAX AGREEMENT.—The term "Regional Fuel Tax Agreement" means the interstate agreement for the collection and distribution of fuel use taxes paid by motor carriers in the States of Maine, Vermont, and New Hampshire.

(6) STATE.—The term "State" means the 48 contiguous States and the District of Columbia.

SEC. 4009. VIOLATIONS OF OUT-OF-SERVICE ORDERS.

(a) FEDERAL REGULATIONS.—The Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2701–2716) is amended by adding at the end the following new section:

"SEC. 12020. VIOLATION OF OUT-OF-SERVICE ORDERS.

"(a) REGULATIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations of out-of-service orders by persons operating commercial motor vehicles.

"(b) MINIMUM REQUIREMENTS.—Regulations issued under subsection (a) shall, at a minimum, require that—

"(1) any operator of a commercial motor vehicle who is found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 90 days and shall be subject to a civil penalty of not less than \$1,000;

"(2) any operator of a commercial motor vehicle who is found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 1 year and not more than 5 years and shall be subject to a civil penalty of not less than \$1,000; and

"(3) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be subject to a civil penalty of not more than \$10,000.

"(c) DEADLINES.—The regulations required under subsection (a) shall be developed pursuant to a rulemaking proceeding initiated within 60 days after the date of the enactment of this section and shall be issued not later than 12 months after such date of enactment.".

(b) STATE REGULATIONS.—Section 12009(a)(21) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2708(a)(21)) is amended by inserting "and section 12020(a)" before the period at the end.

SEC. 4010. EXEMPTION OF CUSTOM HARVESTING FARM MACHINERY.

Section 12019(5) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716(5)), relating to the definition of motor vehicle, is amended by inserting "or custom harvesting farm machinery" before the period at the end.

SEC. 4011. COMMON CARRIERS PROVIDING TRANSPORTATION FOR CHARITABLE PURPOSES.

Section 10723(b) of title 49, United States Code, is amended—

(1) in paragraph (2) by inserting "(other than a motor carrier of passengers)" after "carrier"; and

(2) by adding at the end the following new paragraph:

"(3) In the case of a motor carrier of passengers, that carrier may also establish a rate and related rule equal to the rate charged for the transportation of 1 individual when that rate is for the transportation of—

"(A) a totally blind individual and an accompanying guide or a dog trained to guide the individual;

"(B) a disabled individual and accompanying attendant, or animal trained to assist the individual, or both, when required because of disability; or

"(C) a hearing-impaired individual and a dog trained to assist the individual.".

SEC. 4012. BRAKE PERFORMANCE STANDARDS.

(a) INITIATION OF RULEMAKING.—Not later than May 31, 1992, the Secretary shall initiate rulemaking concerning methods for improving braking performance of new commercial motor vehicles, including truck tractors, trailers, and their dollies. Such rulemaking shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing.

(b) LIMITATION WITH RESPECT TO RULES.—Any rule which the Secretary determines to issue regarding improved braking performance pursuant to the rulemaking initiated under this section shall take into account the need for the rule and, in the case of trailers, shall include articulated vehicles and their manufacturers.

(c) RULEMAKING PROCEDURE.—Any rulemaking under this section shall, consistent with section 229 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2519(b)), be carried out pursuant to, and in accordance with, the National Traffic and Motor Vehicle Safety Act of 1966.

(d) COMPLETION OF RULEMAKING.—The Secretary shall complete the rulemaking within 18 months after its initiation; except that the Secretary may extend that period for an additional 6 months after giving notice in the Federal Register of the need for such an extension. Such extension shall not be reviewable.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Secretary under this Act (or preventing the Secretary) from simultaneously initiating a rulemaking concerning methods for improving brake performance in the case of vehicles, other than new manufactured commercial motor vehicles, and for considering the necessity for effective enforcement of any rule relating to improving such performance as part of the rulemaking proceeding and for considering the reliability, maintainability, and durability of any brake equipment.

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—For purposes of this section only, the term "commercial motor vehicle" means any self-propelled or towed vehicle used on highways to transport passengers or property if such vehicle has a gross vehicle weight rating of 26,001 or more pounds.

SEC. 4013. FHWA POSITIONS.

To help implement the purposes of this title, the Secretary in fiscal year 1992 shall employ and maintain thereafter 2 additional employees in positions at the headquarters of the Federal Highway Administration in excess of the number of employees authorized for fiscal year 1991 for the Federal Highway Administration.

SEC. 4014. COMPLIANCE REVIEW PRIORITY.

If the Secretary identifies a pattern of violations of State or local traffic safety laws or regulations, or commercial motor vehicle safety rules, regulations, standards, or orders, among the drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary or a State representative shall ensure that such motor carrier receives a high priority for review of such carrier's compliance with applicable Federal and State commercial motor vehicle safety regulations.

TITLE V—INTERMODAL TRANSPORTATION

SEC. 5001. NATIONAL GOAL TO PROMOTE INTERMODAL TRANSPORTATION.

Section 302 of title 49, United States Code (relating to policy standards for transportation), is further amended by adding at the end the following new subsection:

"(e) INTERMODAL TRANSPORTATION.—It is the policy of the United States Government to encourage and promote development of a national intermodal transportation system in the United States to move people and goods in an energy-efficient manner, provide the foundation for improved productivity growth, strengthen the Nation's ability to compete in the global economy, and obtain the optimum yield from the Nation's transportation resources.".

SEC. 5002. DUTIES OF SECRETARY; OFFICE OF INTERMODALISM.

(a) DUTIES OF SECRETARY.—Section 301 of title 49, United States Code (relating to leadership, consultation and cooperation), is amended by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) coordinate Federal policy on intermodal transportation and initiate policies to promote efficient intermodal transportation in the United States;".

(b) INTERMODAL TRANSPORTATION ADVISORY BOARD.—

(1) ESTABLISHMENT.—There shall be established within the Office of the Secretary an Intermodal Transportation Advisory Board.

(2) MEMBERSHIP.—The Intermodal Transportation Advisory Board shall consist of the Secretary, who shall serve as Chairman, and the Administrator, or his or her designee, of—

(A) the Federal Highway Administration;

(B) the Federal Aviation Administration;

(C) the Maritime Administration;

(D) the Federal Railroad Administration; and

(E) the Federal Transit Administration.

(3) FUNCTIONS.—The Intermodal Transportation Advisory Board shall provide recommendations for carrying out the responsibilities of the Secretary described in section 301(3) of title 49, United States Code.

(c) OFFICE OF INTERMODALISM.—

(1) ESTABLISHMENT.—The Secretary shall establish within the Office of the Secretary an Office of Intermodalism.

(2) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 6 months after the date of the enactment of this Act.

(3) FUNCTION.—The Director shall be responsible for carrying out the responsibilities of the Secretary described in section 301(3) of title 49, United States Code.

(4) INTERMODAL TRANSPORTATION DATA BASE.—The Director shall develop, maintain, and disseminate intermodal transportation data through the Bureau of Transportation Statistics. The Director shall coordinate the collection of data for the data base with the States and metropolitan planning organizations. The data base shall include—

(A) information on the volume of goods and number of people carried in intermodal transportation by relevant classification;

(B) information on patterns of movement of goods and people carried in intermodal transportation by relevant classification in terms of origin and destination; and

(C) information on public and private investment in intermodal transportation facilities and services.

The Director shall make information from the data base available to the public.

(5) RESEARCH.—The Director shall be responsible for coordinating Federal research on intermodal transportation in accordance with the plan developed pursuant to section 6009(b) of this Act and for carrying out additional research needs identified by the Director.

(6) TECHNICAL ASSISTANCE.—The Director shall provide technical assistance to States and to metropolitan planning organizations for urban areas having a population of 1,000,000 or more in collecting data relating to intermodal transportation in order to facilitate the collection of such data by such States and metropolitan planning organizations.

(7) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Director shall provide administrative and clerical support to the Intermodal Transportation Advisory Board.

SEC. 5003. MODEL INTERMODAL TRANSPORTATION PLANS.

(a) GRANTS.—The Secretary shall make grants to States for the purpose of developing model State intermodal transportation plans which are consistent with the policy set forth in section 302(e) of title 49, United States Code. Such model plans shall include systems for collecting data relating to intermodal transportation.

(b) DISTRIBUTION.—The Secretary shall award grants to States under this section which represent a variety of geographic regions and transportation needs, patterns, and modes.

(c) TRANSMITTAL OF PLANS.—As a condition to receiving a grant under this section, the Secretary shall require that a State provide assurances that the State will transmit to the Secretary a State intermodal transportation plan not later than 18 months after the date of receipt of such grant.

(d) AGGREGATE AMOUNT.—The Secretary shall reserve, from amounts deducted under section 104(a) of title 23, United States Code, $3,000,000 for the purpose of making grants under this section. The aggregate amount which a State may receive in grants under this section shall not exceed $500,000.

SEC. 5004. SURFACE TRANSPORTATION ADMINISTRATION.

(a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Public Administration to continue a study of options for organizing the Department of Transportation to increase the effectiveness of program delivery, reduce costs, and improve intermodal coordination among surface transportation-related agencies.

(b) REPORT.—The Secretary shall report to Congress on the findings of the study continued under subsection (a) and recommend appropriate organizational changes no later than January 1, 1993. No organizational changes shall be implemented until such changes are approved by law.

SEC. 5005. NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION.

(a) ESTABLISHMENT.—There is established a National Commission on Intermodal Transportation.

(b) FUNCTION.—The Commission shall make a complete investigation and study of intermodal transportation in the United States and internationally. The Commission shall determine the status of intermodal transportation, the problems that exist with respect to intermodal transportation, and the resources needed to enhance intermodal transportation. Based on such investigation and study, the Commission shall recommend those policies which need to be adopted to achieve the national goal of an efficient intermodal transportation system.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—The Commission shall specifically investigate and study the following:

(1) INTERMODAL STANDARDIZATION.—The Commission, in coordination with the National Academy of Sciences, shall examine current and potential impediments to international standardization in specific elements of intermodal transportation. The Commission shall evaluate the potential benefits and relative priority of standardization in each such element and the time period and investment necessary to adopt such standards.

(2) INTERMODAL IMPACTS ON PUBLIC WORKS INFRASTRUCTURE.—The Commission shall examine current and projected intermodal traffic flows, including the current and projected market for intermodal transportation, and how such traffic flows affect infrastructure needs. The Commission shall make recommendations as to capital needs for infrastructure development that will be required to accommodate intermodal transportation, particularly with respect to surface transportation access to airports and ports.

(3) LEGAL IMPEDIMENTS TO EFFICIENT INTERMODAL TRANSPORTATION.—The Commission shall identify legal impediments to efficient intermodal transportation. Specifically, the Commission shall study the relationship between current regulatory schemes for individual modes of transportation and intermodal transportation efficiency.

(4) FINANCIAL ISSUES.—The Commission shall examine existing impediments to the efficient financing of intermodal transportation improvements. In carrying out such examination, the Commission shall examine (A) the most efficient use of existing sources of funds for connecting individual modes of transportation and for accommodating transfers between such modes, and (B) the use of innovative methods of financing for making such improvements. The Commission shall examine current methods of public funding, the desirability of increased flexibility in the use of amounts in Federal transportation trust funds, and increased use of private sources of funding.

(5) NEW TECHNOLOGIES.—The Commission shall study new technologies for improving intermodal transportation and problems associated with incorporating these new technologies in intermodal transportation.

(6) DOCUMENTATION.—The Commission shall study problems in documentation resulting from intermodal transfers of freight and make recommendations for achieving uniform, efficient, and simplified documentation.

(7) RESEARCH AND DEVELOPMENT.—The Commission shall identify the areas relating to intermodal transportation for which continued research and development is needed after the report required by this section is completed, and propose an agenda for carrying out such research and development.

(8) PRODUCTIVITY.—The Commission shall examine the relationship of intermodal transportation to transportation rates, transportation costs, and economic productivity.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 11 members as follows:

(A) 3 members appointed by the President.

(B) 2 members appointed by the Speaker of the House of Representatives.

(C) 2 members appointed by the minority leader of the House of Representatives.

(D) 2 members appointed by the majority leader of the Senate.

(E) 2 members appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals interested in intermodal transportation policy, including representatives of Federal, State, and local governments, other public transportation authorities or agencies, and organizations representing transportation providers, shippers, labor, the financial community, and consumers.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(e) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(g) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(h) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(i) REPORT AND PROPOSED NATIONAL INTERMODAL TRANSPORTATION PLAN.—Not later than September 30, 1993, the Commission shall transmit to Congress a final report on the results of the investigation and study conducted under this section. The report shall include recommendations of the Commission for implementing the policy set forth in section 302(e) of title 49, United States Code, including a proposed national intermodal transportation plan and a proposed agenda for implementing the plan.

(j) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (i). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

TITLE VI—RESEARCH

PART A—PROGRAMS, STUDIES, AND ACTIVITIES

SEC. 6001. RESEARCH AND TECHNOLOGY PROGRAM.

Subsections (a), (b), and (c) of section 307 of title 23, United States Code, are amended to read as follows:

"(a) RESEARCH AND TECHNOLOGY PROGRAM.—

"(1) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary may engage in research, development, and technology transfer activities with respect to motor carrier transportation and all phases of highway planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions) and the effect thereon of State laws and may test, develop, or assist in testing and developing any material, invention, patented article, or process.

"(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities or by making grants to, and entering into contracts and cooperative agreements with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, corporation (profit or nonprofit), organization, or person.

"(C) RESEARCH FELLOWSHIPS.—

"(i) GENERAL AUTHORITY.—The Secretary may, acting either independently or in cooperation with other Federal departments, agencies, and instrumentalities, make grants for research fellowships for any purpose for which research is authorized by this section.

"(ii) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation engineering and research. Such program shall be known as the "Dwight David Eisenhower Transportation Fellowship Program". Of the funds made available pursuant to paragraph (3) for each fiscal year beginning after September 30, 1991, the Secretary shall expend not less than $2,000,000 per fiscal year to carry out such program.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—For the purposes of encouraging innovative solutions to highway problems and stimulating the marketing of new technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any State.

"(B) AGREEMENTS.—In carrying out this paragraph, the Secretary may enter into cooperative research and development agreements, as such term is defined under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

"(C) FEDERAL SHARE.—The Federal share payable on account of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent of the total cost of such activities; except that, if there is substantial public interest or benefit, the Secretary may approve a higher Federal share. All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be treated as part of the non-Federal share of the cost of such activities for purposes of the preceding sentence.

"(D) UTILIZATION OF TECHNOLOGY.—The research, development, or utilization of any technology pursuant to a cooperative research and development agreement entered into under this paragraph, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980.

"(3) FUNDS.—

"(A) IN GENERAL.—The funds necessary to carry out this subsection and subsections (b), (d), and (e) shall be taken by the Secretary out of administrative funds deducted pursuant to section 104(a) of this title and such funds as may be deposited by any cooperating organization or person in a special account of the Treasury of the United States established for such purposes.

"(B) MINIMUM EXPENDITURES ON LONG-TERM RESEARCH PROJECTS.—Not less than 15 percent of the funds made available under this paragraph shall be expended on long-term research projects which are unlikely to be completed within 10 years.

"(4) WAIVER OF ADVERTISING REQUIREMENTS.—The provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) shall not be applicable to contracts or agreements entered into under this section.

"(b) MANDATORY CONTENTS OF RESEARCH PROGRAM.—

"(1) INCLUSION OF CERTAIN STUDIES.—The Secretary shall include in the highway research

program under subsection (a) studies of economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and of the feasibility of uniformity in State regulations with respect to such standards. The highway research program shall also include studies to identify and measure, quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects.

"(2) SHRP RESULTS.—

"(A) IMPLEMENTATION.—The highway research program under subsection (a) shall include a program to implement results of the strategic highway research program carried out under subsection (d) (including results relating to automatic intrusion alarms for street and highway construction work zones) and to continue the long-term pavement performance tests being carried out under such program.

"(B) MINIMUM FUNDING.—Of amounts deducted under section 104(a) of this title, the Secretary shall expend not less than $12,000,000 in fiscal year 1992, $16,000,000 in fiscal year 1993, and $20,000,000 per fiscal year for each of fiscal years 1994, 1995, 1996, and 1997 to carry out this paragraph.

"(3) SURFACE TRANSPORTATION SYSTEM PERFORMANCE INDICATORS.—The highway research program under subsection (a) shall include a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation system of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors which reflect the overall performance of such system.

"(4) SHORT HAUL PASSENGER TRANSPORTATION SYSTEMS.—The Secretary shall conduct necessary systems research in order to develop a concept for a lightweight, pneumatic tire multiple-unit, battery-powered system, in conjunction with recharging stations at strategic locations. The Secretary shall create a potential systems concept and, as part of the surface transportation research and development plan under subsection (b), make recommendations to Congress by January 15, 1993.

"(5) SUPPORTING INFRASTRUCTURE.—The Secretary shall establish a program to strengthen and expand surface transportation infrastructure research and development. The program shall include the following elements:

"(A) Methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion.

"(B) Expansion of the Department of Transportation's inspection and mobile nondestructive examination capabilities, including consideration of the use of high energy field radiography for more thorough and more frequent inspections of bridge structures as well as added support to State highway departments.

"(C) The Secretary shall determine whether or not to initiate a construction equipment research and development program directed toward the reduction of costs associated with the construction of highways and mass transit systems. The Secretary shall transmit to Congress a report containing such determination on or before July 1, 1992.

"(D) The Secretary shall undertake or supervise surface transportation infrastructure research to develop—

"(i) nondestructive evaluation equipment for use with existing infrastructure facilities and for next generation infrastructure facilities that utilize advanced materials;

"(ii) information technologies, including—

"(I) appropriate computer programs to collect and analyze data on the status of the existing infrastructure facilities for enhancing management, growth, and capacity; and

"(II) dynamic simulation models of surface transportation systems for predicting capacity, safety, and infrastructure durability problems, for evaluating planned research projects, and for testing the strengths and weaknesses of proposed revisions in surface transportation operations programs; and

"(iii) new and innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of existing structures.

"(c) STATE PLANNING AND RESEARCH.—

"(1) GENERAL RULE.—2 percent of the sums apportioned for each fiscal year beginning after September 30, 1991, to any State under sections 104 and 144 of this title and for highway projects under section 103(e)(4) of this title shall be available for expenditure by the State highway department, in consultation with the Secretary, only for the following purposes:

"(A) Engineering and economic surveys and investigations.

"(B) The planning of future highway programs and local public transportation systems and for planning for the financing thereof, including statewide planning under section 135 of this title.

"(C) Development and implementation of management systems under section 303 of this title.

"(D) Studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof.

"(E) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, and maintenance of highway, public transportation, and intermodal transportation systems and study, research, and training on engineering standards and construction materials for such systems, including evaluation and accreditation of inspection and testing and the regulation and taxation of their use.

"(2) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—Not less than 25 percent of the funds which are apportioned to a State for a fiscal year and are subject to paragraph (1) shall be expended by the State for research, development, and technology transfer activities described in paragraph (1) relating to highway, public transportation, and intermodal transportation systems unless the State certifies to the Secretary for such fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of such funds and the Secretary accepts such certification.

"(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds which are subject to paragraph (1) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(4) ADMINISTRATION OF SUMS.—Funds which are subject to paragraph (1) shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned under section 104(b)(1) of this title.

SEC. 6002. NATIONAL HIGHWAY INSTITUTE.

Section 321 of title 23, United States Code, is amended to read as follows:

"§321. National Highway Institute

"(a) ESTABLISHMENT; DUTIES; PROGRAMS.—

"(1) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (hereinafter in this section referred to as the 'Institute').

"(2) DUTIES.—The Institute shall develop and administer, in cooperation with the State transportation or highway departments, and any national or international entity, training programs of instruction for Federal Highway Administration, State and local transportation and highway department employees, State and local police, public safety and motor vehicle employees, and United States citizens and foreign nationals engaged or to be engaged in highway work of interest to the United States. The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other provision of law for the development and conduct of education and training programs relating to highways.

"(3) TYPES OF PROGRAMS.—Programs which the Institute may develop and administer may include courses in modern developments, techniques, management, and procedures relating to highway planning, environmental factors, acquisition of rights-of-way, relocation assistance, engineering, safety, construction, maintenance, contract administration, motor carrier activities, and inspection.

"(b) SET-ASIDE; FEDERAL SHARE.—Not to exceed 1/16 of 1 percent of all funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State highway department for payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) FEDERAL RESPONSIBILITY.—Education and training of Federal, State, and local highway employees authorized by this section shall be provided—

"(1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or

"(2) in any case in which education and training are to be paid for under subsection (b), by the State (subject to the approval of the Secretary) through grants and contracts with public and private agencies, institutions, individuals, and the Institute; except that private agencies and individuals shall pay the full cost of any education and training received by them.

"(d) TRAINING FELLOWSHIPS; COOPERATION.—The Institute is authorized, subject to approval of the Secretary, to engage in all phases of contract authority for training purposes authorized by this section, including the granting of training fellowships. The Institute is also authorized to carry out its authority independently or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), any other national or international entity, or any other person.

"(e) COLLECTION OF FEES.—

"(1) GENERAL RULE.—The Institute may, in accordance with this subsection, assess and collect fees solely to defray the costs of the Institute in developing and administering education and training programs under this section.

"(2) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner which may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount which does not exceed the aggregate amount of the costs referred to in paragraph (1) for the fiscal year.

"(3) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(A) persons and entities for whom education or training programs are developed or administered under this section; and

"(B) persons and entities to whom education or training is provided under this section.

"(4) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner which ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in paragraph (1) which relate to such person or entity.

"(f) FUNDS.—The funds required to carry out this section may be from the sums deducted for administration purposes under section 104(a). The sums provided pursuant to this subsection may be combined or held separate from the fees or memberships collected under subsection (e) and may be administered by the Secretary as a fund which shall be available until expended.

"(g) CONTRACTS.—The provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) shall not be applicable to contracts or agreements made under the authority of this section.".

SEC. 6003. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Chapter 3 of title 23, United States Code, is amended by adding at the end the following new section:

"§325. International highway transportation outreach program

"(a) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the domestic highway community of technological innovations abroad that could significantly improve highway transportation in the United States, to promote United States highway transportation expertise internationally, and to increase transfers of United States highway transportation technology to foreign countries. Such activities may include—

"(1) development, monitoring, assessment, and dissemination domestically of information about foreign highway transportation innovations that could significantly improve highway transportation in the United States;

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

"(3) informing other countries about the technical quality of American highway transportation goods and services through participation in trade shows, seminars, expositions, and other such activities;

"(4) offering those Federal Highway Administration technical services which cannot be readily obtained from the United States private sector to be incorporated into the proposals of United States firms undertaking foreign highway transportation projects if the costs for assistance will be recovered under the terms of each project; and

"(5) conducting studies to assess the need for or feasibility of highway transportation improvements in countries that are not members of the Organization for Economic Cooperation and Development as of the date of the enactment of this section, and in Greece and Turkey.

"(b) COOPERATION.—The Secretary may carry out the authority granted by this section, in cooperation with appropriate United States Government agencies and any State or local agency, authority, association, institution, corporation (profit or nonprofit), foreign government, multinational institution, or any other organization or person.

"(c) FUNDS.—The funds available to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The funds shall be available for promotional materials, travel, reception and representation expenses necessary to carry out the activities authorized by this section. Reimbursements for services provided under this section shall be credited to the appropriation concerned.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by adding at the end the following new item:

"325. International highway transportation outreach program.".

SEC. 6004. EDUCATION AND TRAINING PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following new section:

"§326. Education and training program

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies in (1) urbanized areas of 50,000 to 1,000,000 population, and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into contracts for education and training, technical assistance, and related support service that will—

"(1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas (including pavement, bridge and safety management systems), to improve roads and bridges, to enhance programs for the movement of passengers and freight, to deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials, and developing a tourism and recreational travel technical assistance program;

"(2) identify, package, and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; and

"(3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with 2 or more urbanized areas of 50,000 to 1,000,000 population, and (B) rural technical assistance program centers.

Not less than 2 centers under paragraph (3) shall be designated to provide transportation assistance that may include, but is not necessarily limited to, a 'circuit-rider' program, providing training on intergovernmental transportation planning and project selection, and tourism recreational travel to American Indian tribal governments.

"(c) FUNDS.—The funds required to carry out the provisions of this section shall be taken out of administrative funds deducted under section 104(a). The sum of $6,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 shall be set aside from such administrative funds for the purpose of providing technical and financial support for these centers, including up to 100 percent for services provided to American Indian tribal governments.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by adding at the end the following new item:

"326. Education and training program.".

(c) USE OF BUREAU OF INDIAN AFFAIRS' ADMINISTRATIVE FUNDS.—Section 204(b) of such title is amended by adding at the end the following new sentence: "The Secretary of Interior may reserve funds from the Bureau of Indian Affairs' administrative funds associated with the Indian reservation roads program to finance the Indian technical centers authorized under section 326.".

SEC. 6005. APPLIED RESEARCH AND TECHNOLOGY PROGRAM; SEISMIC RESEARCH PROGRAM.

(a) IN GENERAL.—Section 307 of title 23, United States Code, is amended by redesignating subsections (e) and (f) as subsections (g) and (h), respectively, and by inserting after subsection (d) the following new subsections:

"(e) APPLIED RESEARCH AND TECHNOLOGY PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish and implement in accordance with this subsection an applied research and technology program for the purpose of accelerating testing, evaluation, and implementation of technologies which are designed to improve the durability, efficiency, environmental impact, productivity, and safety of highway, transit, and intermodal transportation systems.

"(2) GUIDELINES.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall issue guidelines to carry out this subsection. Such guidelines shall include:

"(A) TECHNOLOGIES.—Guidelines on the selection of both foreign and domestic technologies to be tested.

"(B) TEST LOCATIONS.—Guidelines on the selection of locations at which tests will be conducted. Such guidelines shall ensure that testing is conducted in a range of climatic, traffic, geographic, and environmental conditions, as appropriate for the technology being tested.

"(C) DATA.—Guidelines for the scientific collection, evaluation, and dissemination of appropriate test data.

"(3) TECHNOLOGIES.—Technologies which may be tested under this subsection include, but are not limited to—

"(A) accelerated construction materials and procedures;

"(B) environmentally beneficial materials and procedures;

"(C) materials and techniques which provide enhanced serviceability and longevity under adverse climatic, environmental, and load effects;

"(D) technologies which increase the efficiency and productivity of vehicular travel; and

"(E) technologies and techniques which enhance the safety and accessibility of vehicular transportation systems.

"(4) HEATED BRIDGE TECHNOLOGIES.—

"(A) PROJECTS.—As part of the program under this subsection, the Secretary shall carry out projects to assess the state of technology with respect to heating the decks of bridges and the feasibility of, and costs and benefits associated with, heating the decks of bridges. Such projects shall be carried out by installing heating equipment on the decks of bridges which are being replaced or rehabilitated under section 144 of this title.

"(B) MINIMUM NUMBER OF BRIDGES.—The number of bridges for which heating equipment is installed under this subsection in a fiscal year shall not be less than 10 bridges.

"(5) ELASTOMER MODIFIED ASPHALT.—As part of the program under this subsection, the Secretary shall carry out a project in the State of New Jersey to demonstrate the environmental and safety benefits of elastomer modified asphalt.

"(6) HIGH PERFORMANCE BLENDED HYDRAULIC CEMENT.—As part of the program under this subsection, the Secretary shall carry out a project in the State of Missouri to demonstrate the durability and construction efficiency of high performance blended hydraulic cement.

"(7) THIN BONDED OVERLAY AND SURFACE LAMINATION OF PAVEMENT.—As part of the program under this subsection, the Secretary shall carry out projects to assess the state of technology with respect to thin bonded overlay (including inorganic bonding systems) and surface lamination of pavement, and to assess the feasibility of, and costs and benefits associated with, the repair, rehabilitation, and upgrading of highways and bridges with overlay. Such projects shall be carried out so as to minimize overlay thickness, minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability.

"(8) ALL WEATHER PAVEMENT MARKINGS.—As part of the program under this subsection, the Secretary shall carry out a program to demonstrate the safety and durability of all weather pavement markings.

"(9) Testing of Highway Technologies.—Projects carried out under this subsection to test technologies related to highways shall be carried out on highways on the Federal-aid system.

"(10) Technical Assistance.—The Secretary shall provide technical assistance to States and localities in carrying out projects under this subsection.

"(11) Annual Report.—Not later than 1 year after the date of the enactment of this subsection, and annually thereafter, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the progress and research findings of the program carried out under this subsection.

"(12) Federal Share.—The Federal share of the cost of a project carried out under this subsection shall not exceed 80 percent.

"(13) Funding.—The Secretary shall expend from administrative and research funds deducted under section 104(a) of this title and funds made available under section 26(a)(1) of the Federal Transit Act "$35,000,000 for fiscal year 1992 and $41,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out this subsection. Of such amounts, in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, the Secretary shall expend not less than $4,000,000 per fiscal year to carry out projects related to heated bridge technologies under paragraph (4), not less than $2,500,000 per fiscal year to carry out projects related to thin bonded overlay and surface lamination of pavements under paragraph (7), and not less than $2,000,000 per fiscal year to carry out projects related to all weather pavement markings under paragraph (8). Amounts made available under this subsection shall remain available until expended and shall not be subject to any obligation limitation.

"(f) Seismic Research Program.—

"(1) Establishment.—The Secretary shall establish a program to study the vulnerability of highways, tunnels, and bridges on the Federal-aid system to earthquakes and develop and implement cost-effective methods of retrofitting such highways, tunnels, and bridges to reduce such vulnerability.

"(2) Cooperation with National Center for Earthquake Engineering Research.—The Secretary shall conduct the program under this section in cooperation with the National Center for Earthquake Engineering Research at the University of Buffalo.

"(3) Cooperation with Agencies Participating in National Hazards Reduction Program.—The Secretary shall further conduct the program under this section in consultation and cooperation with Federal departments and agencies participating in the National Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 and shall take such actions as may be necessary to ensure that the program under this subsection is consistent with—

"(A) planning and coordination activities of the Federal Emergency Management Agency under section 5(b)(1) of such Act; and

"(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of such Act.

"(4) Funding.—Of amounts deducted under section 104(a) of this title, the Secretary shall expend not more than $2,000,000 per fiscal year in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to carry out this subsection.

"(5) Report.—Not later than 2 years after the date of the enactment of this section, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the progress and research findings of the program carried out under this section.".

(b) Highway and Bridge Conditions and Performance Report.—Section 307(h) of title 23, United States Code, as redesignated by subsection (a), is amended by adding at the end the following new sentence: "The biennial reports required under this subsection shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in different years when such measures are changed.".

SEC. 6006. BUREAU OF TRANSPORTATION STATISTICS.

Chapter I of title 49, United States Code, is amended by adding at the end the following new section:

"§111. Bureau of Transportation Statistics

"(a) Establishment.—There is established in the Department of Transportation a Bureau of Transportation Statistics.

"(b) Director.—

"(1) Appointment.—The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) Qualifications.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the compilation and analysis of transportation statistics.

"(3) Reporting.—The Director shall report directly to the Secretary.

"(4) Term.—The term of the Director shall be 4 years. The term of the first Director to be appointed shall begin on the 180th day after the date of the enactment of this section.

"(c) Responsibilities.—The Director of the Bureau shall be responsible for carrying out the following duties:

"(1) Compiling Transportation Statistics.—Compiling, analyzing, and publishing a comprehensive set of transportation statistics to provide timely summaries and totals (including industrywide aggregates and multiyear averages) of transportation-related information. Such statistics shall be suitable for conducting cost-benefit studies (including comparisons among individual transportation modes and intermodal transport systems) and shall include information on—

"(A) productivity in various parts of the transportation sector;

"(B) traffic flows;

"(C) travel times;

"(D) vehicle weights;

"(E) variables influencing traveling behavior, including choice of transportation mode;

"(F) travel costs of intracity commuting and intercity trips;

"(G) availability of mass transit and the number of passengers served by each mass transit authority;

"(H) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;

"(I) accidents;

"(J) collateral damage to the human and natural environment; and

"(K) the condition of the transportation system.

"(2) Implementing Long-Term Data Collection Program.—Establishing and implementing, in cooperation with the modal administrators, the States, and other Federal officials a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. Such program shall—

"(A) be coordinated with efforts to develop performance indicators for the national transportation system undertaken pursuant to section 307(b)(3) of title 23, United States Code;

"(B) ensure that data is collected under this subsection in a manner which will maximize the ability to compare data from different regions and for different time periods; and

"(C) ensure that data collected under this subsection is controlled for accuracy and disseminated to the States and other interested parties.

"(3) Issuing Guidelines.—Issuing guidelines for the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis.

"(4) Coordinating Collection of Information.—Coordinating the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) with related information-gathering activities conducted by other Federal departments and agencies and collecting appropriate data not elsewhere gathered.

"(5) Making Statistics Accessible.—Making the statistics published under this subsection readily accessible.

"(6) Identifying Information Needs.—Identifying information that is needed under paragraph (1) but which is not being collected, reviewing such needs at least annually with the Advisory Council on Transportation Statistics, and making recommendations to appropriate Department of Transportation research officials concerning extramural and intramural research programs to provide such information.

"(d) Limitations on Statutory Construction.—Nothing in this section shall be construed—

"(1) to authorize the Bureau to require any other department or agency to collect data; or

"(2) to reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

"(e) Prohibition on Certain Disclosures.—Information compiled by the Bureau shall not be disclosed publicly in a manner that would reveal the personal identity of any individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), or to reveal trade secrets or allow commercial or financial information provided by any person to be identified with such person.

"(f) Transportation Statistics Annual Report.—On or before January 1, 1994, and annually thereafter, the Director shall transmit to the President and Congress a Transportation Statistics Annual Report which shall include information on items referred to in subsection (c)(1), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

"(g) Performance of Functions of Director Pending Confirmation.—An individual who, on the date of the enactment of this section, is performing any function required by this section to be performed by the Director may continue to perform such function until such function is undertaken by the Director.".

(b) Funding.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) only for carrying out the amendment made by subsection (a) $5,000,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, $15,000,000 per fiscal year for each of fiscal years 1994 and 1995, $20,000,000 for fiscal year 1996, and $25,000,000 for fiscal year 1997. Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(c) Conforming Amendment.—The analysis for chapter 1 of such title is amended by adding at the end the following new items:

"Sec. 110. Saint Lawrence Seaway Development Corporation.
"Sec. 111. Bureau of Transportation Statistics.".

(d) AMENDMENT TO TITLE 5, U.S.C.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, Bureau of Transportation Statistics.".

SEC. 6007. ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.

(a) ESTABLISHMENT.—The Director of the Bureau of Transportation Statistics shall establish an Advisory Council on Transportation Statistics.

(b) FUNCTION.—It shall be the function of the advisory council established under this section to advise the Director of the Bureau of Transportation Statistics on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau of Transportation Statistics are of high quality and are based upon the best available objective information.

(c) MEMBERSHIP.—The advisory council established under this section shall be composed of not more than 6 members appointed by the Director who are not officers or employees of the United States and who (except for 1 member who shall have expertise in economics and 1 member who shall have expertise in statistics) have expertise in transportation statistics and analysis.

(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to the advisory council established under this section, except that section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.

SEC. 6008. DOT DATA NEEDS.

(a) STUDY.—Not later than 1 year after the date of the establishment of the Bureau of Transportation Statistics, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study on the adequacy of data collection procedures and capabilities of the Department of Transportation.

(b) CONSULTATION.—The Secretary shall enter into the agreement under subsection (a) in consultation with the Director of the Bureau of Transportation Statistics.

(c) CONTENTS.—The study under subsection (a) shall include an evaluation of the Department of Transportation's data collection resources, needs, and requirements and an assessment and evaluation of the systems, capabilities, and procedures established by the Department to meet such needs and requirements, including the following:

(1) Data collection procedures and capabilities.

(2) Data analysis procedures and capabilities.

(3) Ability of data bases to integrate with one another.

(4) Computer hardware and software capabilities.

(5) Information management systems, including the ability of information management systems to integrate with one another.

(6) Availability and training of the personnel of the Department.

(7) Budgetary needs and resources of the Department for data collection.

(d) REPORT.—Not later than 18 months after the date of the agreement under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study under this section, including recommendations for improving the Department of Transportation's data collection systems, capabilities, procedures, and analytical hardware and software and recommendations for improving the Department's management information systems.

SEC. 6009. SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLANNING.

(a) FINDINGS.—Congress finds that—

(1) despite an annual expenditure in excess of $10,000,000,000 on surface transportation and its infrastructure, the Federal Government has not developed a clear vision of—

(A) how the surface transportation systems of the 21st century will differ from the present;

(B) how they will interface with each other and with other forms of transportation;

(C) how such systems will adjust to changing American population patterns and lifestyles; and

(D) the role of federally funded research and development in ensuring that appropriate transportation systems are developed and implemented;

(2) the population of the United States is projected to increase by over 30,000,000 people within the next 20 years, mostly in existing major metropolitan areas, which will result in increased traffic congestion within and between urban areas, more accidents, loss of productive time, and increased cost of transportation unless new technologies are developed to improve public transportation within cities and to move people and goods between cities;

(3) 18,000,000 crashes, 4,000,000 injuries, and 45,000 fatalities each year on the Nation's highways are intolerable and substantial research is required in order to develop safer technologies in their most useful and economic forms;

(4) current research and development funding for surface transportation is insufficient to provide the United States with the technologies essential to providing its own advanced transportation systems in the future and, as a result, the United States is becoming increasingly dependent on foreign surface transportation technologies and equipment to meet its expanding surface transportation needs;

(5) a more active, focused surface transportation research and development program involving cooperation among the Federal Government, United States based industry, and United States universities should be organized on a priority basis;

(6) intelligent vehicle highway systems represent the best near-term technology for improving surface transportation for public benefit by providing equipment which can improve traffic flow and provide for enhanced safety;

(7) research and development programs related to surface transportation are fragmented and dispersed throughout government and need to be strengthened and incorporated in an integrated framework within which a consensus on the goals of a national surface transportation research and development program must be developed;

(8) the inability of government agencies to cooperate effectively, the difficulty of obtaining public support for new systems and rights-of-way, and the high cost of capital financing discourage private firms from investing in the development of new transportation equipment and systems; therefore, the Federal Government should sponsor and coordinate research and development of new technologies to provide safer, more convenient, and affordable transportation systems for use in the future; and

(9) an effective high technology applied research and development program should be implemented quickly by strengthening the Department of Transportation research and development staff and by contracting with private industry for specific development projects.

(b) SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLAN.—

(1) DEVELOPMENT.—The Secretary shall develop an integrated national surface transportation research and development plan (hereinafter in this subsection referred to as the "plan").

(2) FOCUS.—The plan shall focus on surface transportation systems needed for urban, suburban, and rural areas in the next decade.

(3) CONTENTS.—The plan shall include the following:

(A) Details of the Department's surface transportation research and development programs, including appropriate funding levels and a schedule with milestones, preliminary cost estimates, appropriate work scopes, personnel requirements, and estimated costs and goals for the next 3 years for each area of research and development.

(B) A 10-year projection of long-term programs in surface transportation research and development and recommendations for the appropriate source or mechanism for surface transportation research and development funding, taking into account recommendations of the Research and Development Coordinating Council of the Department of Transportation and the plan of the National Council on Surface Transportation Research.

(C) Recommendations on changes needed to assure that Federal, State, and local contracting procedures encourage the adoption of advanced technologies developed as a consequence of the research programs in this Act.

(4) OBJECTIVES.—The plan shall provide for the following:

(A) The development, within the shortest period of time possible, of a range of technologies needed to produce convenient, safe, and affordable modes of surface transportation to be available for public use beginning in the mid-1990's.

(B) Maintenance of a long-term advanced research and development program to provide for next generation surface transportation systems.

(5) COOPERATION WITH INDUSTRY.—A primary component of the plan shall be cooperation with industry in carrying out this part and strengthening the manufacturing capabilities of United States firms in order to produce products for surface transportation systems.

(6) CONFORMANCE WITH PLAN.—All surface transportation research and development within the Department of Transportation shall be included in the plan and shall be evaluated in accordance with the plan.

(7) COORDINATION.—In developing the plan and carrying out this part, the Secretary shall consult with and, where appropriate, use the expertise of other Federal agencies and their laboratories.

(8) TRANSMITTAL.—On or before January 15, 1993, and annually thereafter, the Secretary shall transmit the plan to Congress, together with the Secretary's comments and recommendations. The Secretary shall review and update the plan before each transmittal under this paragraph.

(9) RECOMMENDATIONS FOR ALTERNATIVES.—In the event a different technology or alternative program can be identified that would accomplish the same or better results than those described in this part, the Secretary may make recommendations for an alternative, and shall promptly report such alternative recommendations to Congress.

SEC. 6010. NATIONAL COUNCIL ON SURFACE TRANSPORTATION RESEARCH.

(a) ESTABLISHMENT.—There is established a National Council on Surface Transportation Research (hereinafter in this section referred to as the "Council").

(b) FUNCTION.—The Council shall make a complete investigation and study of current surface transportation research and technology developments in the United States and internationally. The Council shall identify gaps and duplication in current surface transportation research efforts, determine research and development areas which may increase efficiency, productivity, safety, and durability in the Nation's surface transportation systems, and propose a national surface transportation research and development plan for immediate implementation.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—The Council shall—

(1) survey current surface transportation public and private research efforts in the United States and internationally;

(2) examine factors which lead to fragmentation of surface transportation research efforts and determine how increased coordination in such efforts may be achieved;

(3) compare the role of the Federal Government with the role of foreign governments in promoting transportation research and evaluate the appropriateness of United States policy on government-sponsored surface transportation research;

(4) identify barriers to innovation in surface transportation systems;

(5) examine the range of funding arrangements available for surface transportation research and development and the level of resources currently available for such purposes; and

(6) identify surface transportation research areas and opportunities, including opportunities for international cooperation offering potential benefit to the Nation's surface transportation system, assess the relative priority of such research areas and plans, and develop a plan for national surface transportation research and development which includes short-range and long-range objectives.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Council shall be composed of 7 members as follows:

(A) Three members appointed by the President.

(B) One member appointed by the Speaker of the House of Representatives.

(C) One member appointed by the minority leader of the House of Representatives.

(D) One member appointed by the majority leader of the Senate.

(E) One member appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals involved in surface transportation research, including representatives of Federal, State, and local governments, other public agencies, colleges and universities, public, private, and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community.

(B) INTERNATIONAL ADVISOR.—One of the members appointed by the President pursuant to paragraph (1)(A) shall serve as an international research advisor for the Council.

(3) TERMS.—Members shall be appointed for the life of the Council.

(4) VACANCIES.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Council shall be elected by the members.

(e) STAFF.—The Council may appoint and fix the pay of such personnel as it considers appropriate.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Council, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Council to assist it in carrying out its duties under this section.

(g) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Council, the Administrator of General Services shall provide to the Council, on a reimbursable basis, the administrative support services necessary for the Council to carry out its responsibilities under this section.

(h) OBTAINING OFFICIAL DATA.—The Council may secure directly from any department or agency of the United States information necessary for it to carry out its duties under this section. Upon request of the Council, the head of that department or agency shall furnish that information to the Council.

(i) REPORT.—Not later than September 30, 1993, the Council shall transmit to Congress a final report on the results of the investigation and study conducted under this section. The report shall include recommendations of the Council, including a proposed national surface transportation research plan for immediate implementation.

(j) TERMINATION.—The Council shall terminate on the 180th day following the date of transmittal of the report under subsection (i). All records and papers of the Council shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 6011. RESEARCH ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of transmittal of the report to Congress under section 6010, the Secretary shall establish an independent surface transportation research advisory committee (hereinafter in this section referred to as the "advisory committee").

(b) PURPOSES.—The advisory committee shall provide ongoing advice and recommendations to the Secretary regarding needs, objectives, plans, approaches, content, and accomplishments with respect to short-term and long-term surface transportation research and development. The advisory committee shall also assist in ensuring that such research and development is coordinated with similar research and development being conducted outside of the Department of Transportation.

(c) MEMBERSHIP.—The advisory committee shall be composed of not less than 20 and not more than 30 members appointed by the Secretary from among individuals who are not employees of the Department of Transportation and who are specially qualified to serve on the advisory committee by virtue of their education, training, or experience. A majority of the members of the advisory committee shall be individuals with experience in conducting surface transportation research and development. The Secretary in appointing the members of the advisory committee shall ensure that representatives of Federal, State, and local governments, other public agencies, colleges and universities, public, private, and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community are represented on an equitable basis.

(d) CHAIRMAN.—The chairman of the advisory committee shall be designated by the Secretary.

(e) PAY AND EXPENSES.—Members of the advisory committee shall serve without pay, except that the Secretary may allow any member, while engaged in the business of the advisory committee or a subordinate committee, travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) SUBORDINATE COMMITTEES.—The Secretary shall establish a subordinate committee to the advisory committee to provide advice on advanced highway vehicle technology research and development, and may establish other subordinate committees to provide advice on specific areas of surface transportation research and development. Such subordinate committees shall be subject to subsections (e), (g), and (i) of this section.

(g) ASSISTANCE OF SECRETARY.—Upon request of the advisory committee, the Secretary shall provide such information, administrative services, support staff, and supplies as the Secretary determines to be necessary for the advisory committee to carry out its functions.

(h) REPORTS.—The advisory committee shall, within 1 year after the date of establishment of the advisory committee, and annually thereafter, submit to the Congress a report summarizing its activities under this section.

(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

SEC. 6012. COMMEMORATION OF DWIGHT D. EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS.

(a) STUDY.—The Secretary shall conduct a study to determine an appropriate symbol or emblem to be placed on highway signs referring to the Interstate System to commemorate the vision of President Dwight D. Eisenhower in creating the Dwight D. Eisenhower National System of Interstate and Defense Highways.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study under this section.

SEC. 6013. STATE LEVEL OF EFFORT.

(a) STUDY.—Not later than 3 months after the date of the enactment of this Act, the Secretary and the Director of the Bureau of Transportation Statistics shall begin a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

(b) CONTENTS.—The study under subsection (a) shall include collection of data relating to State and local revenues collected and spent on surface transportation programs. Such revenues include income from fuel taxes, toll revenues (including bridge, tunnel, and ferry tolls), sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and such other State and local revenue sources as the Director of the Bureau considers appropriate.

(c) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary and the Director of the Bureau shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study under this section, including recommendations on the most appropriate measure of State level of effort in funding surface transportation programs and comprehensive data, by State, on revenue sources and amounts collected by States and local governments and devoted to surface transportation programs.

SEC. 6014. EVALUATION OF STATE PROCUREMENT PRACTICES.

(a) STUDY.—The Secretary shall conduct a study to evaluate whether or not current procurement practices of State departments and agencies, including statistical acceptance procedures, are adequate to ensure that highway and transit systems are designed, constructed, and maintained so as to achieve a high quality for such systems at the lowest overall cost.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under this section, together with an assessment of the need for establishing a national policy on transportation quality assurance and recommendations for appropriate legislative and administrative actions.

SEC. 6015. BORDER CROSSINGS.

(a) Identification.—The Secretary, in cooperation with other appropriate Federal agencies, shall identify existing and emerging trade corridors and transportation subsystems that facilitate trade between the United States, Canada, and Mexico.

(b) Priorities and Recommendations.—The Secretary shall investigate and develop priorities and recommendations for rail, highway, water, and air freight centers and all highway border crossings for States adjoining Canada and Mexico, including the Gulf of Mexico States and other States whose transportation subsystems affect the trade corridors. The recommendations shall provide for improvement and integration of transportation corridor subsystems, methods for achieving the optimum yield from such subsystems, methods for increasing productivity, methods for increasing the use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

(c) Minimum Elements.—The highway border crossing assessment under this section shall at a minimum—

(1) determine whether or not the border crossings are in compliance with current Federal highway regulations and adequately designed for future growth and expansion;

(2) assess their ability to accommodate increased commerce due to the United States-Canada Free Trade Agreement and increased trade between the United States and Mexico; and

(3) assess their ability to accommodate increasing tourism-related traffic between the United States, Canada, and Mexico.

The review shall specifically address issues related to the alignment of United States and adjoining Canadian and Mexican highways at the border crossings, the development of bicycle paths and pedestrian walkways, and potential energy savings to be realized by decreasing truck delays at the border crossings and related parking improvements.

(d) Consultation.—In carrying out this section, the Secretary shall consult with appropriate Governors and representatives of the Republic of Mexico and Canada.

(e) Report.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall report to Congress and border State Governors on transportation infrastructure needs, associated costs, and economic impacts identified and propose an agenda to develop systemwide integration of services for national benefits.

SEC. 6016. FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.

(a) Studies.—The Administrator of the Federal Highway Administration (hereinafter in this section referred to as the "Administrator") shall conduct studies of the fundamental chemical property and physical property of petroleum asphalts and modified asphalts used in highway construction in the United States. Such studies shall emphasize predicting pavement performance from the fundamental and rapidly measurable properties of asphalts and modified asphalts.

(b) Contracts.—To carry out the studies under subsection (a), the Administrator shall enter into contracts with the Western Research Institute of the University of Wyoming in order to conduct the necessary technical and analytical research in coordination with existing programs which evaluate actual performance of asphalts and modified asphalts in roadways, including the Strategic Highway Research Program.

(c) Activities of Studies.—The studies under subsection (a) shall include the following activities:

(1) Fundamental composition studies.

(2) Fundamental physical and rheological property studies.

(3) Asphalt-aggregate interaction studies.

(4) Coordination of composition studies, physical and rheological property studies, and asphalt-aggregate interaction studies for the purposes of predicting pavement performance, including refinements of Strategic Highway Research Program specifications.

(d) Test Strip.—

(1) Implementation.—The Administrator, in coordination with the Western Research Institute of the University of Wyoming, shall implement a test strip for the purpose of demonstrating and evaluating the unique energy and environmental advantages of using shale oil modified asphalts under extreme climatic conditions.

(2) Funding.—For the purposes of construction activities related to this test strip, the Secretary and the Director of the National Park Service shall make up to $1,000,000 available from amounts made available from the authorization for parkroads and parkways.

(3) Report to congress.—Not later than November 30, 1995, the Administrator shall transmit to Congress as part of a report under subsection (e) the Administrator's findings on activities conducted under this subsection, including an evaluation of the test strip implemented under this subsection and recommendations for legislation to establish a national program to support United States transportation and energy security requirements.

(e) Annual Report to Congress.—Not later than 180 days after the date of the enactment of this Act, and on or before November 30th of each year beginning thereafter, the Administrator shall transmit to Congress a report of the progress made in implementing this section.

(f) Authorization of Appropriations.—The Secretary shall expend from administrative and research funds deducted under section 104(a) of this title at least $3,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out subsection (b).

SEC. 6017. RESEARCH AND DEVELOPMENT AUTHORITY OF SECRETARY OF TRANSPORTATION.

Section 301(6) of title 49, United States Code, as redesignated by section 502(a) of this Act, is amended by inserting ", and including basic highway vehicle science" after "to aircraft noise".

SEC. 6018. PURPOSES OF DEPARTMENT OF TRANSPORTATION.

Section 101(b)(4) of title 49, United States Code, is amended by inserting ", through research and development or otherwise" after "advances in transportation".

SEC. 6019. ADVANCED AUTOMOTIVE CONFERENCE AND AWARD.

The Stevenson-Wydler Technology Innovation Act of 1980 is amended by inserting after section 17 the following new sections, and by redesignating subsequent sections and all references thereto accordingly:

"SEC. 18. CONFERENCE ON ADVANCED AUTOMOTIVE TECHNOLOGIES.

"Not later than 180 days after the date of the enactment of this section, the Secretary of Commerce, through the Under Secretary of Commerce for Technology, in consultation with other appropriate officials, shall convene a conference of domestic motor vehicle manufacturers, parts suppliers, Federal laboratories, and motor vehicle users to explore ways in which cooperatively they can improve the competitiveness of the United States motor vehicle industry by developing new technologies which will enhance the safety and energy savings, and lessen the environmental impact of domestic motor vehicles, and the results of such conference shall be published and then submitted to the President and to the Committees on Science, Space, and Technology and Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"SEC. 19. ADVANCED MOTOR VEHICLE RESEARCH AWARD.

"(a) Establishment.—There is established a National Award for the Advancement of Motor Vehicle Research and Development. The award shall consist of a medal, and a cash prize if funding is available for the prize under subsection (c). The medal shall be of such design and materials and bear inscriptions as is determined by the Secretary of Transportation.

"(b) Making and Presenting Award.—The Secretary of Transportation shall periodically make and present the award to domestic motor vehicle manufacturers, suppliers, or Federal laboratory personnel who, in the opinion of the Secretary of Transportation, have substantially improved domestic motor vehicle research and development in safety, energy savings, or environmental impact. No person may receive the award more than once every 5 years.

"(c) Funding for Award.—The Secretary of Transportation may seek and accept gifts of money from private sources for the purpose of making cash prize awards under this section. Such money may be used only for that purpose, and only such money may be used for that purpose.".

SEC. 6020. UNDERGROUND PIPELINES.

(a) Study.—The Secretary shall conduct a study to evaluate the feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities other than hazardous liquids and gas.

(b) Report.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under this section.

SEC. 6021. BUS TESTING.

(a) Definition of New Bus Model.—Section 12(h) of the Federal Transit Act (49 U.S.C. 1608(h)) is amended by inserting "(including any model using alternative fuels)" after "means a bus model".

(b) Duties of Bus Testing Facility.—Section 317(b)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. App. 1608 note) is amended—

(1) by inserting "(including braking performance)" after "performance"; and

(2) by inserting "emissions," after "fuel economy,".

(c) Funding.—The first sentence of section 317(b)(5) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting before the period at the end the following: ", for expansion of such facility $1,500,000 for fiscal year 1992, and for establishment of a revolving fund under paragraph (6) $2,500,000 for fiscal year 1992".

(d) Revolving Loan Fund.—Section 317(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by adding at the end the following new paragraph:

"(6) Revolving loan fund.—The Secretary shall establish a bus testing revolving loan fund with amounts authorized for such purpose under paragraph (5). The Secretary shall make available as repayable advances amounts from the fund to the person described in paragraph (3) for operating and maintaining the facility.".

SEC. 6022. NATIONAL TRANSIT INSTITUTE.

The Federal Transit Act (49 U.S.C. App. 1601–1621) is amended by adding after section 28 the following new section:

"SEC. 29. NATIONAL TRANSIT INSTITUTE.

"(a) ESTABLISHMENT.—The Secretary shall make grants to Rutgers University to establish a national transit institute. The institute shall develop and administer, in cooperation with the Federal Transit Administration, State transportation departments, public transit agencies, and national and international entities, training programs of instruction for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Federal-aid transit work. Such programs may include courses in recent developments, techniques, and procedures relating to transit planning, management, environmental factors, acquisition and joint use of rights-of-way, engineering, procurement strategies for transit systems, turn-key approaches to implementing transit systems, new technologies, emission reduction technologies, means of making transit accessible to individuals with disabilities, construction, maintenance, contract administration, and inspection. The Secretary shall delegate to the institute the authority vested in the Secretary for the development and conduct of educational and training programs relating to transit.

"(b) FUNDING.—Not to exceed one-half of 1 percent of all funds made available for a fiscal year beginning after September 30, 1991, to a State or public transit agency in the State for carrying out sections 3 and 9 of the Federal Transit Act shall be available for expenditure by the State and public transit agencies in the State, subject to approval by the Secretary, for payment of not to exceed 80 percent of the cost of tuition and direct educational expenses in connection with the education and training of State and local transportation department employees as provided in this section.

"(c) PROVISION OF TRAINING.—Education and training of Federal, State, and local transportation employees authorized by this section shall be provided—

"(1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or

"(2) in any case where such education and training are to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

"(d) FUNDING.—The Secretary shall make available in equal amounts from funds provided under section 21(c)(3) and 21(c)(4) $3,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 for carrying out this section. Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under this subsection shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.".

SEC. 6023. UNIVERSITY TRANSPORTATION CENTERS.

(a) ADDITIONAL RESPONSIBILITY.—Section 11(b)(2) of the Federal Transit Act (49 U.S.C. App. 1607c(b)(2)) is amended by inserting "transportation safety and" after "training concerning".

(b) ESTABLISHMENT OF NEW CENTERS; PROGRAM COORDINATION.—Section 11(b) of such Act (49 U.S.C. App. 1607c(b)) is amended by striking paragraphs (7) and (8), by redesignating paragraphs (9) and (10) as paragraphs (14) and (15), respectively, and by inserting after paragraph (6) the following new paragraphs:

"(7) NATIONAL CENTER.—To accelerate the involvement and participation of minority individuals and women in transportation-related professions, particularly in the science, technology, and engineering disciplines, the Secretary shall make grants under this section to Morgan State University to establish a national center for transportation management, research, and development. Such center shall give special attention to the design, development, and implementation of research, training, and technology transfer activities to increase the number of highly skilled minority individuals and women entering the transportation workforce.

"(8) CENTER FOR TRANSPORTATION AND INDUSTRIAL PRODUCTIVITY.—

"(A) IN GENERAL.—The Secretary shall make grants under this section to the New Jersey Institute of Technology to establish and operate a center for transportation and industrial productivity. Such center shall conduct research and development activities which focus on methods to increase surface transportation capacity, reduce congestion, and reduce costs for transportation system users and providers through the use of transportation management systems.

"(B) JAMES AND MARLENE HOWARD TRANSPORTATION INFORMATION CENTER.—

"(i) GRANT.—The Secretary shall make a grant to Monmouth College, West Long Branch, New Jersey, for modification and reconstruction of Building Number 500 at Monmouth College.

"(ii) ASSURANCES.—Before making a grant under clause (i), the Secretary shall receive assurances from Monmouth College that—

"(I) the building referred to in clause (i) will be known and designated as the 'James and Marlene Howard Transportation Information Center'; and

"(II) transportation-related instruction and research in the fields of computer science, electronic engineering, mathematics, and software engineering conducted at the building referred to in clause (i) will be coordinated with the Center for Transportation and Industrial Productivity at the New Jersey Institute of Technology.

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $2,242,000 in fiscal year 1992 for making the grant under clause (i).

"(iv) APPLICABILITY OF TITLE 23.—Funds authorized by clause (iii) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities conducted with the grant under clause (i) shall be 80 percent and such funds shall remain available until expended. Funds authorized by clause (iii) shall not be subject to any obligation limitation.

"(9) NATIONAL RURAL TRANSPORTATION STUDY CENTER.—The Secretary shall make grants under this section to the University of Arkansas to establish a national rural transportation center. Such center shall conduct research, training, and technology transfer activities in the development, management, and operation of intermodal transportation systems in rural areas.

"(10) NATIONAL CENTER FOR ADVANCED TRANSPORTATION TECHNOLOGY.—

"(A) IN GENERAL.—The Secretary shall make grants under paragraph (10) to the University of Idaho to establish a National Center for Advanced Transportation Technology. Such center shall be established and operated in partnership with private industry and shall conduct industry driven research and development activities which focus on transportation-related manufacturing and engineering processes, materials, and equipment.

"(B) GRANTS.—The Secretary shall make grants to the University of Idaho, Moscow, Idaho, for planning, design, and construction of a building in which the research and development activities of the National Center for Advanced Transportation Technology may be conducted.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $2,500,000 for fiscal year 1992, $3,000,000 for fiscal year 1993, and $2,500,000 for fiscal year 1994 for making the grants under subparagraph (B).

"(D) APPLICABILITY OF TITLE 23.—Funds authorized by subparagraph (C) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of activities conducted with the grant under subparagraph (B) shall be 80 percent and such funds shall remain available until expended. Funds authorized by subparagraph (B) shall not be subject to any obligation limitation.

"(E) APPLICABILITY OF GRANT REQUIREMENTS.—Any grant entered into under this paragraph shall not be subject to the requirements of subsection (b) of this section.

"(11) PROGRAM COORDINATION.—

"(A) IN GENERAL.—The Secretary shall provide for the coordination of research, education, training, and technology transfer activities carried out by grant recipients under this subsection, the dissemination of the results of such research, and the establishment and operation of a clearinghouse between such centers and the transportation industry. The Secretary shall review and evaluate programs carried out by such grant recipients at least annually.

"(B) FUNDING.—Not to exceed 1 percent of the funds made available from Federal sources to carry out this subsection may be used by the Secretary to carry out this paragraph.

"(12) OBLIGATION CEILING.—Amounts authorized out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection shall be subject to obligation limitations established by section 102 of the Intermodal Surface Transportation Efficiency Act of 1991.

"(13) AUTHORIZATIONS.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for fiscal year 1992 and $6,000,000 for each of the fiscal years 1993 through 1997. Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project."

SEC. 6024. UNIVERSITY RESEARCH INSTITUTES.

Section 11 of the Federal Transit Act (49 U.S.C. App. 1607c) is amended by adding at the end the following new subsection:

"(c) UNIVERSITY RESEARCH INSTITUTES.—

"(1) INSTITUTE FOR NATIONAL SURFACE TRANSPORTATION POLICY STUDIES.—The Secretary shall make grants under this section to San Jose State University to establish and operate an institute for national surface transportation policy studies. Such institute shall—

"(A) include both male and female students of diverse socioeconomic and ethnic backgrounds who are seeking careers in the development and operations of surface transportation programs; and

"(B) conduct research and development activities to analyze ways of improving aspects of the development and operation of the Nation's surface transportation programs.

"(2) INFRASTRUCTURE TECHNOLOGY INSTITUTE.—The Secretary shall make grants under this section to Northwestern University to establish and operate an institute for the study of techniques to evaluate and monitor infrastructure conditions, improve information systems for infrastructure construction and management, and study advanced materials and automated processes for construction and rehabilitation of public works facilities.

"(3) URBAN TRANSIT INSTITUTE.—The Secretary shall make grants under this section to North Carolina A. and T. State University *through the Institute for Transportation Research and Education and the University of South Florida and a consortium of Florida A and M, Florida State University, and Florida International University to establish and operate an interdisciplinary institute for the study and dissemination of techniques to address the diverse transportation problems of urban areas experiencing significant and rapid growth.*

"(4) INSTITUTE FOR INTELLIGENT VEHICLE-HIGHWAY CONCEPTS.—The Secretary shall make grants under this section to the University of Minnesota, Center for Transportation Studies, to establish and operate a national institute for intelligent vehicle-highway concepts. Such institute shall conduct research and recommend development activities which focus on methods to increase roadway capacity, enhance safety, and reduce negative environmental effects of transportation facilities through the use of intelligent vehicle-highway systems technologies.

"(5) INSTITUTE FOR TRANSPORTATION RESEARCH AND EDUCATION.—The Secretary shall make grants under this section to the University of North Carolina to conduct research and development and to direct technology transfer and training for State and local transportation agencies to improve the overall surface transportation infrastructure.

"(6) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 $250,000 per fiscal year to carry out paragraph (1), $3,000,000 per fiscal year to carry out paragraph (2), $1,000,000 per fiscal year to carry out paragraph (3), $1,000,000 per fiscal year to carry out paragraph (4), and $1,000,000 per fiscal year to carry out paragraph (5).

"(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.".

PART B—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS ACT

SEC. 6051. SHORT TITLE.

This part may be cited as the "Intelligent Vehicle-Highway Systems Act of 1991".

SEC. 6052. ESTABLISHMENT AND SCOPE OF PROGRAM.

(a) ESTABLISHMENT.—Subject to the provisions of this part, the Secretary shall conduct a program to research, develop, and operationally test intelligent vehicle-highway systems and promote implementation of such systems as a component of the Nation's surface transportation systems.

(b) GOALS.—The goals of the program to be carried out under this part shall include, but not be limited to—

(1) the widespread implementation of intelligent vehicle-highway systems to enhance the capacity, efficiency, and safety of the Federal-aid highway system and to serve as an alternative to additional physical capacity of the Federal-aid highway system;

(2) the enhancement, through more efficient use of the Federal-aid highway system, of the efforts of the several States to attain air quality goals established pursuant to the Clean Air Act;

(3) the enhancement of safe and efficient operation of the Nation's highway systems with a particular emphasis on aspects of systems that will increase safety and identification of aspects of the system that may degrade safety;

(4) the development and promotion of intelligent vehicle-highway systems and an intelligent vehicle-highway systems industry in the United States, using authority provided under section 307 of title 23, United States Code;

(5) the reduction of societal, economic, and environmental costs associated with traffic congestion;

(6) the enhancement of United States industrial and economic competitiveness and productivity by improving the free flow of people and commerce and by establishing a significant United States presence in an emerging field of technology;

(7) the development of a technology base for intelligent vehicle-highway systems and the establishment of the capability to perform demonstration experiments, using existing national laboratory capabilities where appropriate; and

(8) the facilitation of the transfer of transportation technology from national laboratories to the private sector.

SEC. 6053. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) COOPERATION.—In carrying out the program under this part, the Secretary shall foster use of the program as a key component of the Nation's surface transportation systems and strive to transfer federally owned or patented technology to State and local governments and the United States private sector. As appropriate, in carrying out the program under this part, the Secretary shall consult with the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other interested Federal departments and agencies and shall maximize the involvement of the United States private sector, colleges and universities, and State and local governments in all aspects of the program, including design, conduct (including operations and maintenance), evaluation, and financial or in-kind participation.

(b) STANDARDS.—The Secretary shall develop and implement standards and protocols to promote the widespread use and evaluation of intelligent vehicle-highway systems technology as a component of the Nation's surface transportation systems. To the extent practicable, such standards and protocols shall promote compatibility among intelligent vehicle-highway systems technologies implemented throughout the States. In carrying out this subsection, the Secretary may use the services of such existing standards-setting organizations as the Secretary determines appropriate.

(c) EVALUATION GUIDELINES.—The Secretary shall establish guidelines and requirements for the evaluation of field and related operational tests carried out pursuant to section 6055. Any survey, questionnaire, or interview which the Secretary considers necessary to carry out the evaluation of such tests shall not be subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

(d) INFORMATION CLEARINGHOUSE.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out pursuant to this part and shall make, upon request, such information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation. If the Secretary delegates such responsibility, the entity to which such responsibility is delegated shall be eligible for Federal assistance under this part.

(e) ADVISORY COMMITTEES.—The Secretary may utilize one or more advisory committees in carrying out this part. Any advisory committee so utilized shall be subject to the Federal Advisory Committee Act. Funding provided for any such committee shall be available from moneys appropriated for advisory committees as specified in relevant appropriations Acts and from funds allocated for research, development, and implementation activities in connection with the intelligent vehicle-highway systems program under this part.

SEC. 6054. STRATEGIC PLAN, IMPLEMENTATION, AND REPORT TO CONGRESS.

(a) STRATEGIC PLAN.—

(1) DEVELOPMENT AND IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop, submit to Congress, and commence implementation of a plan for the intelligent vehicle-highway systems program.

(2) SCOPE.—The plan shall—

(A) specify the goals, objectives, and milestones of the intelligent vehicle-highway program and how specific projects relate to the goals, objectives, and milestones, including consideration of the 5-, 10-, and 20-year timeframes for the goals and objectives;

(B) detail the status of and challenges and nontechnical constraints facing the program;

(C) establish a course of action necessary to achieve the program's goals and objectives;

(D) provide for the development of standards and protocols to promote and ensure compatibility in the implementation of intelligent vehicle-highway systems technologies; and

(E) provide for the accelerated use of advanced technology to reduce traffic congestion along heavily populated and traveled corridors.

(b) INTELLIGENT VEHICLE HIGHWAY SYSTEMS.—The Secretary shall develop an automated highway and vehicle prototype from which future fully automated intelligent vehicle-highway systems can be developed. Such development shall include research in human factors to ensure the success of the man-machine relationship. The goal of this program is to have the first fully automated roadway or an automated test track in operation by 1997. This system shall accommodate installation of equipment in new and existing motor vehicles.

(c) IMPLEMENTATION REPORTS.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on implementation of the plan developed under subsection (a).

(2) SCOPE OF IMPLEMENTATION REPORTS.—In preparing reports under this subsection, the Secretary shall—

(A) analyze the possible and actual accomplishments of intelligent vehicle-highway systems projects in achieving congestion, safety, environmental, and energy conservation goals and objectives of the program;

(B) specify cost-sharing arrangements made, including the scope and nature of Federal investment, in any research, development, or implementation project under the program;

(C) assess nontechnical problems and constraints identified as a result of each such implementation project; and

(D) include, if appropriate, any recommendations of the Secretary for legislation or modification to the plan developed under subsection (a).

(d) NONTECHNICAL CONSTRAINTS.—

(1) REPORT TO CONGRESS.—In cooperation with the Attorney General and the Secretary of Commerce, the Secretary shall prepare and submit, not later than 2 years after the date of the enactment of this Act, a report to Congress addressing the nontechnical constraints and barriers to implementation of the intelligent vehicle-highway systems program.

(2) SCOPE OF REPORT.—The report shall—

(A) address antitrust, privacy, educational and staffing needs, patent, liability, standards, and other constraints, barriers, or concerns relating to the intelligent vehicle-highway systems program;

(B) recommend legislative and administrative actions necessary to further the program; and

(C) address ways to further promote industry and State and local government involvement in the program.

(3) Update of Report.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress an update of the report under this subsection.

SEC. 6055. TECHNICAL, PLANNING, AND OPERATIONAL TESTING PROJECT ASSISTANCE.

(a) Technical Assistance and Information.—The Secretary may provide planning and technical assistance and information to State and local governments seeking to use and evaluate intelligent vehicle-highway systems technologies. In doing so, the Secretary shall assist State and local officials in developing plans for areawide traffic management control centers, necessary laws pertaining to establishment and implementation of such systems, and plans for infrastructure for such systems and in conducting other activities necessary for the intelligent vehicle-highway systems program.

(b) Planning Grants.—The Secretary may make grants to State and local governments for feasibility and planning studies for development and implementation of intelligent vehicle-highway systems. Such grants shall be made at such time, in such amounts, and subject to such conditions as the Secretary may determine.

(c) Eligibility of Certain Traffic Management Entities.—Any interagency traffic and incident management entity, including independent public authorities or agencies, contracted by a State department of transportation for implementation of a traffic management system for a designated corridor is eligible to receive Federal assistance under this part through the State department of transportation.

(d) Operational Testing Projects.—The Secretary may make grants to non-Federal entities, including State and local governments, universities, and other persons, for operational tests relating to intelligent vehicle-highway systems. In deciding which projects to fund under this subsection, the Secretary shall—

(1) give the highest priority to those projects that—

(A) will contribute to the goals and objectives specified in plan developed under section 6054; and

(B) will minimize the relative percentage of Federal contributions (excluding funds apportioned under section 104 of title 23, United States Code) to total project costs;

(2) seek to fund operational tests that advance the current state of knowledge and, where appropriate, build on successes achieved in previously funded work involving such systems; and

(3) require that operational tests utilizing Federal funds under this part have a written evaluation of the intelligent vehicle-highway systems technologies investigated and of the results of the investigation which is consistent with the guidelines developed pursuant to section 6053(c).

(e) Authority To Use Funds.—Each State and eligible local entity is authorized to use funds provided under this part for implementation purposes in connection with the intelligent vehicle-highway systems program.

SEC. 6056. APPLICATIONS OF TECHNOLOGY.

(a) IVHS Corridors Program.—The Secretary shall designate transportation corridors in which application of intelligent vehicle-highway systems will have particular benefit and, through financial and technical assistance under this part, shall assist in the development and implementation of such systems.

(b) Priorities.—In providing funding for corridors under this section, the Secretary shall allocate not less than 50 percent of the funds made available to carry out this section to eligible State or local entities for application of intelligent vehicle-highway systems in not less than 3 but not more than 10 corridors with the following characteristics:

(1) Traffic density (as a measurement of vehicle miles traveled per highway mile) at least 1.5 times the national average for such class of highway.

(2) Severe or extreme nonattainment for ozone under the Clean Air Act, as determined by the Administrator of the Environmental Protection Agency.

(3) A variety of types of transportation facilities, such as highways, bridges, tunnels, and toll and nontoll facilities.

(4) Inability to significantly expand capacity of existing surface transportation facilities.

(5) A significant mix of passenger, transit, and commercial motor carrier traffic.

(6) Complexity of traffic patterns.

(7) Potential contribution to the implementation of the Secretary's plan developed under section 6054.

(c) Other Corridors and Areas.—After the allocation pursuant to subsection (b), the balance of funds made available to carry out this section shall be allocated to eligible State and local entities for application of intelligent vehicle-highway systems in corridors and areas where the application of such systems and associated technologies will make a potential contribution to the implementation of the Secretary's plan for the intelligent vehicle-highway systems program under section 6054 and demonstrate benefits related to any of the following:

(1) Improved operational efficiency.

(2) Reduced regulatory burden.

(3) Improved commercial productivity.

(4) Improved safety.

(5) Enhanced motorist and traveler performance.

Such corridors and areas may be in both urban and rural areas and may be interstate and intercity corridors. Urban corridors shall have a significant number of the characteristics set forth in subsection (b).

SEC. 6057. COMMERCIAL MOTOR VEHICLE SAFETY TECHNOLOGY.

(a) Study.—The Secretary shall conduct a study to evaluate technology which is designed for installation on a commercial motor vehicle to provide the individual operating the vehicle with a warning if a turn, lane change, or other intended movement of the vehicle by the operator will place the vehicle in the path of an adjacent object or vehicle.

(b) Report.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing findings and recommendations concerning the study conducted under this section.

SEC. 6058. FUNDING.

(a) IVHS Corridors Program.—There is authorized to be appropriated to the Secretary for carrying out section 6056, out of the Highway Trust Fund (other than the Mass Transit Account), $71,000,000 for fiscal year 1992 and $86,000,000 per fiscal year for each of fiscal years 1993 through 1997. In addition to amounts made available by subsection (b), any amounts authorized by this subsection and not allocated by the Secretary for carrying out section 6056 for fiscal years 1992 and 1993 may be used by the Secretary for carrying out other activities authorized under this part.

(b) Other IVHS Activities.—There is authorized to be appropriated to the Secretary for carrying out this part (other than section 6056), out of the Highway Trust Fund (other than the Mass Transit Account), $23,000,000 for fiscal year 1992 and $27,000,000 per fiscal year for each of fiscal years 1993 through 1997.

(c) Reservation of Funds.—Of the funds made available pursuant to subsection (a), not less than 5 percent shall only be available for innovative, high-risk operational or analytical tests that do not attract substantial non-Federal commitments but are determined by the Secretary as having significant potential to help accomplish long-term goals established by the plan developed pursuant to section 6054.

(d) Federal Share Payable.—The Federal share payable on account of activities carried out under this part shall not exceed 80 percent of the cost of such activities. The Secretary may waive application of the preceding sentence for projects undertaken pursuant to subsection (c) of this section. The Secretary shall seek maximum private participation in the funding of such activities.

(e) Applicability of Title 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any activity under this section shall be determined in accordance with this section and such funds shall remain available until expended. Such funds shall be subject to the obligation limitation imposed by section 102 of this Act.

SEC. 6059. DEFINITIONS.

For the purposes of this part, the following definitions apply:

(1) IVHS.—The term "intelligent vehicle-highway systems" means the development or application of electronics, communications, or information processing (including advanced traffic management systems, commercial vehicle operations, advanced traveler information systems, commercial and advanced vehicle control systems, advanced public transportation systems, satellite vehicle tracking systems, and advanced vehicle communications systems) used singly or in combination to improve the efficiency and safety of surface transportation systems.

(2) Corridor.—The term "corridor" means any major transportation route which includes parallel limited access highways, major arterials, or transit lines; and, with regard to traffic incident management, such term may include more distant transportation routes that can serve as viable options to each other in the event of traffic incidents.

(3) State.—The term "State" has the meaning such term has under section 101 of title 23, United States Code.

PART C—ADVANCED TRANSPORTATION SYSTEMS AND ELECTRIC VEHICLES

SEC. 6071. ADVANCED TRANSPORTATION SYSTEM AND ELECTRIC VEHICLE RESEARCH AND DEVELOPMENT CONSORTIA.

(a) General Authority.—

(1) Proposal.—Not later than 3 months after the date of the enactment of this Act, an eligible consortium may submit to the Secretary a proposal for receiving grants made available under this section for electric vehicle and advanced transportation research and development.

(2) Contents of Proposal.—A proposal submitted under paragraph (1) shall include—

(A) a description of the eligible consortium making the proposal;

(B) a description of the type of additional members targeted for inclusion in the consortium;

(C) a description of the eligible consortium's ability to contribute significantly to the development of vehicles, transportation systems, or related subsystems and equipment, that are competitive in the commercial market and its ability to enable serial production processes;

(D) a description of the eligible consortium's financing scheme and business plan, including any projected contributions of State and local governments and other parties;

(E) assurances, by letter of credit or other acceptable means, that the eligible consortium is able to meet the requirement contained in subsection (b)(6); and

(F) any other information the Secretary requires in order to make selections under this section.

(3) GRANT AUTHORITY.—Except as provided in paragraph (4), not later than 6 months after the date of the enactment of this Act, the Secretary shall award grants to not less than 3 eligible consortia. No one eligible consortium may receive more than one-third of the funds made available for grants under this section.

(4) EXTENSION.—If fewer than 3 complete applications from eligible consortia have been received in time to permit the awarding of grants under paragraph (3), the Secretary may extend the deadlines for the submission of applications and the awarding of grants.

(b) ELIGIBILITY CRITERIA.—To be qualified to receive assistance under this section, an eligible consortium shall—

(1) be organized for the purpose of designing and developing electric vehicles and advanced transportation systems, or related systems or equipment, or for the purpose of enabling serial production processes;

(2) facilitate the participation in the consortium of small- and medium-sized businesses in conjunction with large established manufacturers, as appropriate;

(3) to the extent practicable, include participation in the consortium of defense and aerospace suppliers and manufacturers;

(4) to the extent practicable, include participation in the consortium of entities located in areas designated as nonattainment areas under the Clean Air Act;

(5) be designed to use State and Federal funding to attract private capital in the form of grants or investments to further the purposes stated in paragraph (1); and

(6) ensure that at least 50 percent of the costs of the consortium, subject to the requirements of subsection (a)(3), be provided by non-Federal sources.

(c) SERVICES.—Services to be performed by an eligible consortium using amounts from grants made available under this part shall include—

(1) obtaining funding for the acquisition of plant sites, conversion of plant facilities, and acquisition of equipment for the development or manufacture of advanced transportation systems or electric vehicles, or other related systems or equipment, especially for environmentally benign and cost-effective manufacturing processes;

(2) obtaining low-cost, long-term loans or investments for the purposes described in paragraph (1);

(3) recruiting and training individuals for electric vehicle- and transit-related technical design, manufacture, conversion, and maintenance;

(4) conducting marketing surveys for services provided by the consortium;

(5) creating electronic access to an inventory of industry suppliers and serving as a clearinghouse for such information;

(6) consulting with respect to applicable or proposed Federal motor vehicle safety standards;

(7) creating access to computer architecture needed to simulate crash testing and to design internal subsystems and related infrastructure for electric vehicles and advanced transportation systems to meet applicable standards; and

(8) creating access to computer protocols that are compatible with larger manufacturers' systems to enable small- and medium-sized suppliers to compete for contracts for advanced transportation systems and electric vehicles and other related systems and equipment.

SEC. 6072. DEFINITIONS.

For purposes of this part, the following definitions apply:

(1) ADVANCED TRANSPORTATION SYSTEM.—The term "advanced transportation system" means a system of mass transportation, such as an electric trolley bus or alternative fuels bus, which employs advanced technology in order to function cleanly and efficiently;

(2) ELECTRIC VEHICLE.—The term "electric vehicle" means a passenger vehicle, such as a van, primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current, and that may include a nonelectrical source of supplemental power; and

(3) ELIGIBLE CONSORTIUM.—The term "eligible consortium" means a consortium of—

(A) businesses incorporated in the United States;

(B) public or private educational or research organizations located in the United States;

(C) entities of State or local governments in the United States; or

(D) Federal laboratories.

SEC. 6073. FUNDING.

Funds shall be made available to carry out this part as provided in section 21(b)(3)(E) of the Federal Transit Act.

TITLE VII—AIR TRANSPORTATION

SEC. 7001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act Amendments of 1991".

SEC. 7002. BOARD OF REVIEW.

(a) COMPOSITION.—Section 6007(f)(1) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(f)(1)) is amended to read as follows:

"(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. The Board of Review shall be established by the board of directors to represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the board of directors as follows:

"(A) 4 individuals from a list provided by the Speaker of the House of Representatives.

"(B) 4 individuals from a list provided by the President pro tempore of the Senate.

"(C) 1 individual chosen alternately from a list provided by the Speaker of the House of Representatives and from a list provided by the President pro tempore of the Senate.

In addition to the recommendations on a list provided under this paragraph, the board of directors may request additional recommendations.".

(b) TERMS AND QUALIFICATIONS.—Section 6007(f)(2) of such Act is amended to read as follows:

"(2) TERMS, VACANCIES, AND QUALIFICATIONS.—

"(A) TERMS.—Members of the Board of Review appointed under paragraphs (1)(A) and (1)(B) shall be appointed for terms of 6 years. Members of the Board of Review appointed under paragraph (1)(C) shall be appointed for terms of 2 years. A member may serve after the expiration of that member's term until a successor has taken office.

"(B) VACANCIES.—A vacancy in the Board of Review shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

"(C) QUALIFICATIONS.—Members of the Board of Review shall be individuals who have experience in aviation matters and in addressing the needs of airport users and who themselves are frequent users of the Metropolitan Washington Airports. A member of the Board of Review shall be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

"(D) EFFECT OF MORE THAN 4 VACANCIES.—At any time that the Board of Review established under this subsection has more than 4 vacancies and lists have been provided for appointments to fill such vacancies, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (4) to be submitted to the Board of Review.".

(c) PROCEDURES.—Section 6007(f)(3) of such Act is amended by inserting "and for the selection of a Chairman" after "proxy voting".

(d) REVIEW PROCEDURE.—

(1) ACTIONS SUBJECT TO REVIEW.—Section 6007(f)(4)(B) of such Act is amended—

(A) by inserting "and any amendments thereto" before the semicolon at the end of clause (i);

(B) by inserting "and an annual plan for issuance of bonds and any amendments to such plan" before the semicolon at the end of clause (ii);

(C) in clause (iv) by striking ", including any proposal for land acquisition; and" and inserting a semicolon;

(D) by striking the period at the end of clause (v) and inserting a semicolon; and

(E) by adding at the end the following new clauses:

"(vi) the award of a contract (other than a contract in connection with the issuance or sale of bonds which is executed within 30 days of the date of issuance of the bonds) which has been approved by the board of directors of the Airports Authority;

"(vii) any action of the board of directors approving a terminal design or airport layout or modification of such design or layout; and

"(viii) the authorization for the acquisition or disposal of land and the grant of a long-term easement.".

(2) RECOMMENDATIONS.—Section 6007(f)(4) of such Act is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) RECOMMENDATIONS.—The Board of Review may make to the board of directors recommendations regarding an action within either (i) 30 calendar days of its submission under this paragraph; or (ii) 10 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) of its submission under this paragraph; whichever period is longer. Such recommendations may include a recommendation that the action not take effect. If the Board of Review does not make a recommendation in the applicable review period under this subparagraph or if at any time in such review period the Board of Review decides that it will not make a recommendation on an action, the action may take effect.

"(D) EFFECT OF RECOMMENDATION.—

"(i) RESPONSE.—An action with respect to which the Board of Review has made a recommendation in accordance with subparagraph (C) may only take effect if the board of directors adopts such recommendation or if the board of directors has evaluated and responded, in writing, to the Board of Review with respect to such recommendation and transmits such action, evaluation, and response to Congress in accordance with clause (ii) and the 60-calendar day period described in clause (ii) expires.

"(ii) NONADOPTION OF RECOMMENDATION.—If the board of directors does not adopt a recommendation of the Board of Review regarding an action, the board of directors shall transmit to the Speaker of the House of Representatives and the President of the Senate a detailed description of the action, the recommendation of the Board of Review regarding the action, and the evaluation and response of the board of directors to such recommendation, and the action *may not take effect until the expiration of 60 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day on which the board of directors makes such transmission to the Speaker of the House of Representatives and the President of the Senate.*

"(E) LIMITATION ON EXPENDITURES.—Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.".

(3) CONFORMING AMENDMENT.—Section 6007(f)(4) of such Act is further amended by striking "DISAPPROVAL PROCEDURE.—" and inserting "REVIEW PROCEDURE.—".

(e) CONGRESSIONAL DISAPPROVAL PROCEDURE.—Section 6007(f) of such Act is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (7), (8), and (9), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) CONGRESSIONAL DISAPPROVAL PROCEDURE.—

"(A) IN GENERAL.—This paragraph is enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such these provisions are deemed a part of the rule of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(B) RESOLUTION DEFINED.—For the purpose of this paragraph, the term 'resolution' means only a joint resolution, relating to an action of the board of directors transmitted to Congress in accordance with paragraph (4)(D)(ii), the matter after the resolving clause of which is as follows: 'That the Congress disapproves of the action of the board of directors of the Metropolitan Washington Airports Authority described as follows: .', the blank space therein being appropriately filled. Such term does not include a resolution which specifies more than one action.

"(C) REFERRAL.—A resolution with respect to a board of director's action shall be referred to the Committee on Public Works and Transportation of the House of Representatives, or the Committee on Commerce, Science and Technology of the Senate, by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

"(D) MOTION TO DISCHARGE.—If the committee to which a resolution has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move to discharge the committee from further consideration of that joint resolution or any other resolution with respect to the board of directors action which has been referred to the committee.

"(E) RULES WITH RESPECT TO MOTION.—A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Motions to postpone shall be decided without debate.

"(F) EFFECT OF MOTION.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.

"(G) SENATE PROCEDURE.—

"(i) MOTION TO PROCEED.—When the committee of the Senate has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) LIMITATION ON DEBATE.—Debate in the Senate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(iii) NO DEBATE ON CERTAIN MOTIONS.—In the Senate, motions to postpone made with respect to the consideration of a resolution and motions to proceed to the consideration of other business shall be decided without debate.

"(iv) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution shall be decided without debate.

"(H) EFFECT OF ADOPTION OF RESOLUTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

"(i) The joint resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it, except in the case of final passage as provided in clause (ii)(I).

"(ii) With respect to a joint resolution described in clause (i) of the House receiving the joint resolution—

"(I) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(II) the vote on final passage shall be on the joint resolution of the other House.

Upon disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution that originated in the receiving House.".

(f) CONFLICTS OF INTEREST; REMOVAL FOR CAUSE.—Section 6007(f) of such Act is further amended by adding at the end the following new paragraphs:

"(10) CONFLICTS OF INTEREST.—In every contract or agreement to be made or entered into, or accepted by or on behalf of the Airports Authority, there shall be inserted an express condition that no member of a Board of Review shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon.

"(11) REMOVAL.—A member of the Board of Review shall be subject to removal only for cause by a two-thirds vote of the board of directors.".

(g) LIMITATION ON AUTHORITY.—Section 6007(h) of such Act is amended by inserting "thereafter" before "shall have no".

(h) REVIEW OF CONTRACTS.—Section 6007 of such Act is further amended by adding at the end the following new subsection:

"(i) REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to determine whether such contracts were awarded by procedures which follow sound Government contracting principles and are in compliance with section 6005(c)(4) of this title. The Comptroller General shall submit periodic reports of the conclusions reached as a result of such review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

SEC. 7003. AMENDMENT OF LEASE.

The Secretary of Transportation may amend the lease entered into with the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Authority Act of 1986 to secure the Airports Authority's consent to the conditions relating to the new Board of Review to be established pursuant to the amendments made by this Act.

SEC. 7004. TERMINATION OF EXISTING BOARD OF REVIEW AND ESTABLISHMENT OF NEW BOARD OF REVIEW.

(a) TERMINATION OF EXISTING BOARD AND ESTABLISHMENT OF NEW BOARD.—Except as provided in subsection (b), the Board of Review of the Metropolitan Washington Airports Authority in existence on the day before the date of the enactment of this Act shall terminate on such date of enactment and the board of directors of such Airports Authority shall establish a new Board of Review in accordance with the Metropolitan Washington Airports Act of 1986, as amended by this Act.

(b) PROTECTION OF CERTAIN ACTIONS.—The provisions of section 6007(h) of the Metropolitan Washington Airports Act (49 U.S.C. App. 2456(h)) in effect on the day before the date of the enactment of this Act shall apply only to those actions specified in section 6007(f)(4)(B) of such Act that would have been submitted to the Board of Review of the Metropolitan Washington Airports Authority on or after June 17, 1991, the date on which the Board of Review of the Airports Authority was declared unable to carry out certain of its functions pursuant to judicial order. Actions taken by the Airports Authority and submitted to the Board of Review pursuant to section 6007(f)(4) of such Act prior to June 17, 1991, and not disapproved, shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board of Review.

(c) LIMITATION ON AUTHORITY OF AIRPORTS AUTHORITY.—The Metropolitan Washington Airports Authority shall have no authority to perform any of the actions that are required by section 6007(f)(4) of the Metropolitan Washington Airports Act, as amended by this Act, to be submitted to the Board of Review after the date of the enactment of this Act until the board of directors of the Airports Authority establishes a new Board of Review in accordance with such Act and appoints the 9 members of the Board of Review.

TITLE VIII—EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND

SEC. 8001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Surface Transportation Revenue Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 8002. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) EXTENSION OF TAXES.—The following provisions are each amended by striking "1995" each place it appears and inserting "1999":

(1) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(2) Section 4071(d) (relating to tax on tires and tread rubber).

(3) Section 4081(d)(1) (relating to Highway Trust Fund financing rate on gasoline).

(4) Section 4091(b)(6)(A) (relating to Highway Trust Fund financing rate on diesel fuel).

(5) Sections 4481(c), 4482(c)(4), and 4482(d) (relating to highway use tax).

(b) EXTENSION OF EXEMPTIONS.—The following provisions are each amended by striking "1995" each place it appears and inserting "1999":

(1) Section 4041(f)(3) (relating to exemptions for farm use).

(2) Section 4041(g) (relating to other exemptions).

(3) Section 4221(a) (relating to certain tax-free sales).

(4) Section 4483(g) (relating to termination of exemptions for highway use tax).

(5) Section 6420(h) (relating to gasoline used on farms).

(6) Section 6421(i) (relating to gasoline used for certain nonhighway purposes, etc.).

(7) Section 6427(g)(5) (relating to advance repayment of increased diesel fuel tax).

(8) Section 6427(o) (relating to fuels not used for taxable purposes).

(c) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "1995" each place it appears and inserting "1999", and

(B) by striking "1996" each place it appears and inserting "2000".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of highway use tax on use of highway motor vehicles) is amended by striking "1995" and inserting "1999".

(d) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1995" each place it appears and inserting "1999", and

(B) by striking "1996" each place it appears and inserting "2000".

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) are each amended by striking "1995" and inserting "1997".

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11) is amended—

(i) by striking "1995" and inserting "1997", and

(ii) by striking "1996" each place it appears and inserting "1998".

(C) EXTENSION OF EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended by striking "1994" and inserting "1998".

(e) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUND.—

(1) EXPENDITURES.—Subsections (c)(1) and (e)(3) of section 9503 are each amended by striking "1993" and inserting "1997".

(2) PURPOSES.—Paragraph (1) of section 9503(c) is amended by striking subparagraph (D) and inserting the following:

"(D) authorized to be paid out of the Highway Trust Fund under the Intermodal Surface Transportation Efficiency Act of 1991. In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.".

(f) EXPANSION OF MASS TRANSIT ACCOUNT EXPENDITURE PURPOSES.—Paragraph (3) of section 9503(e) is amended—

(1) by inserting "or capital-related" after "capital" the first place it appears, and

(2) by striking "in accordance with section 21(a)(2) of the Urban Mass Transportation Act of 1964." and inserting "in accordance with—

"(A) paragraph (1) or (3) of subsection (a), or paragraph (1) or (3) of subsection (b), of section 21 of the Federal Transit Act, or

"(B) the Intermodal Surface Transportation Efficiency Act of 1991,

as such Acts are in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.".

(g) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of Transportation shall not impose any condition on the use of funds transferred under section 1040 of this Act to the Internal Revenue Service. The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which such funds are to be transferred, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986.

(h) TAX EVASION REPORT.—The Secretary of Transportation shall also submit each report prepared pursuant to section 1040(d) of this Act to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than the applicable date specified therein.

(i) EXPENDITURES FROM SPORT FISH RESTORATION ACCOUNT.—Subparagraph (B) of section 9504(b)(2) is amended to read as follows:

"(B) to carry out the purposes of the Coastal Wetlands Planning, Protection and Restoration Act (as in effect on November 29, 1990).".

SEC. 8003. NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "National Recreational Trails Trust Fund", consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section, section 9503(c)(6), or section 9602(b).

"(b) CREDITING OF CERTAIN UNEXPENDED FUNDS.—There shall be credited to the National Recreational Trails Trust Fund amounts returned to such Trust Fund under section 1302(e)(8) of the Intermodal Surface Transportation Efficiency Act of 1991.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the National Recreational Trails Trust Fund shall be available, as provided in appropriation Acts, for making expenditures before October 1, 1997, to carry out the purposes of sections 1302 and 1303 of the Intermodal Surface Transportation Efficiency Act of 1991, as in effect on the date of the enactment of such Act.".

(b) CERTAIN HIGHWAY TRUST FUND RECEIPTS PAID INTO NATIONAL RECREATIONAL TRAILS TRUST FUND.—Subsection (c) of section 9503 is amended by adding at the end thereof the following new paragraph:

"(6) TRANSFERS FROM TRUST FUND OF CERTAIN RECREATIONAL FUEL TAXES, ETC.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by him) equivalent to 0.3 percent (as adjusted under subparagraph (C)) of the total Highway Trust Fund receipts for the period for which the payment is made.

"(B) LIMITATION.—The amount paid into the National Recreational Trails Trust Fund under this paragraph during any fiscal year shall not exceed the amount obligated under section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (as in effect on the date of the enactment of this paragraph) for such fiscal year to be expended from such Trust Fund.

"(C) ADJUSTMENT OF PERCENTAGE.—

"(i) FIRST YEAR.—Within 1 year after the date of the enactment of this paragraph, the Secretary shall adjust the percentage contained in subparagraph (A) so that it corresponds to the revenues received by the Highway Trust Fund from nonhighway recreational fuel taxes.

"(ii) SUBSEQUENT YEARS.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received in the Highway Trust Fund from nonhighway recreational fuel taxes.

"(iii) AMOUNT OF ADJUSTMENT.—Any adjustment under clause (ii) shall be not more than 10 percent of the percentage in effect at the time the adjustment is made.

"(iv) USE OF DATA.—In making the adjustments under clauses (i) and (ii), the Secretary shall take into account data on off-highway recreational vehicle registrations and use.

"(D) NONHIGHWAY RECREATIONAL FUEL TAXES.—For purposes of this paragraph, the term 'nonhighway recreational fuel taxes' means taxes under section 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to—

"(i) fuel used in vehicles on recreational trails or back country terrain (including vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain), and

"(ii) fuel used in campstoves and other nonengine uses in outdoor recreational equipment.

Such term shall not include small-engine fuel taxes (as defined by paragraph (5)) and taxes which are credited or refunded.

"(E) TERMINATION.—No amount shall be paid under this paragraph after September 30, 1997.".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9511. National Recreational Trails Trust Fund."

(d) REPORT ON NONHIGHWAY RECREATIONAL FUEL TAXES.—The Secretary of the Treasury shall, within a reasonable period after the close of each of fiscal years 1992 through 1996, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate specifying his estimate of the amount of nonhighway recreational fuel taxes (as defined in section 9503(c)(6) of the Internal Revenue Code of 1986, as added by this Act) received in the Treasury during such fiscal year.

SEC. 8004. COMMUTE-TO-WORK BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation's air;

(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

(4) current Federal law allows employers to provide only up to $21 per month in employee benefits for transit or van pools;

(5) the current "cliff provision", which treats an entire commuter transit benefit as taxable income if it exceeds $21 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has been introduced with bipartisan support in both the Senate and House of Representatives.

(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy "levels the playing field" between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.

SEC. 8005. BUDGET COMPLIANCE.

(a) IN GENERAL.—If obligations provided for programs pursuant to this Act for fiscal year 1992 will cause—

(1) the total outlays in any of the fiscal years 1992 through 1995 which result from this Act, to exceed

(2) the total outlays for such programs in any such fiscal year which result from appropriation Acts for fiscal year 1992 and are attributable to obligations for fiscal year 1992,

then the Secretary of Transportation shall reduce proportionately the obligations provided for each program pursuant to this Act for fiscal year 1992 to the extent required to avoid such excess outlays.

(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall apply, notwithstanding any provision of this Act to the contrary.

And the Senate agree to the same.

From the Committee on Public Works and Transportation for consideration of the entire House bill (except title VII), the entire Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
NICK RAHALL,
DOUGLAS APPLEGATE,
RON DE LUGO,
GUS SAVAGE,
ROBERT A. BORSKI,
JOE KOLTER,
JOHN PAUL HAMMERSCHMIDT,
BUD SHUSTER,
WILLIAM F. CLINGER,
THOMAS E. PETRI,
RON PACKARD,
SHERWOOD BOEHLERT,
HELEN DELICH BENTLEY,

From the Committee on Ways and Means, for consideration of title VII of the House bill, and secs. 140E, 141 through 144, 271(b)(12), and 305 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
GUY VANDER JAGT,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 5, 121(a), 123, 124, 134 (a) and (b), 143, 184, 209, 322(m), 335, title V (insofar as it addresses railroads), secs. 601(b), 608 through 610, 617, and 620 of the House bill, and secs. 103 (b) (1), (2), and (9), 106(a), 107, 113, 114, 115 (a)(2) and (d), 116, 117, 122(b), 127, 128, 131, 140G, 140T, 140U, 239, 261, 262, 319, and 336 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
GERRY SIKORSKI,
NORMAN F. LENT,
DON RITTER,

Provided that Mr. Dannemeyer is appointed in place of Mr. Ritter for consideration of secs. 123 and 124 of the House bill, and secs. 103(b)(2), 106(a) (insofar as it addresses 23 U.S.C. 133(a)(10)), 107, 113, 114, and 319 of the Senate amendment:

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 140I, 140N, part A of title II (except secs. 204, 218, and 226), 264, and 271 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,
W.J. (BILLY) TAUZIN,
JIM SLATTERY,
RICK BOUCHER,
THOMAS J. MANTON,
TERRY L. BRUCE,
CLAUDE HARRIS,
MIKE SYNAR,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
MATTHEW J. RINALDO,
DON RITTER,
JACK FIELDS,
MICHAEL G. OXLEY,

As additional conferees from the Committee on the Judiciary, for consideration of sec. 409 of the House bill, and sec. 238 and title IV of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
BARNEY FRANK,
HAMILTON FISH, Jr.,
CARLOS J. MOORHEAD,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of secs. 141 (a) and (e), 202, 317, 405, 502, 601, 604 through 609, 616 through 618, 651 through 659, and 671 through 673 of the House bill, and secs. 103(b) (9) and (10), 106(a), 107, 115, 116, 127(g), 136(b), 203(e), 204, 232(a), 329, and 341 of the Senate amendment, and modifications committed to conference:

GEORGE E. BROWN, Jr.,
TIM VALENTINE,
DAN GLICKMAN,
TOM LEWIS
(Except Sections 103(b)(9) and 116),

As additional conferees from the Committee on Government Operations, for consideration of title IV of the Senate amendment and modifications committed to conference:

JOHN CONYERS, Jr.,
FRANK HORTON,
Managers on the Part of the House.

From the Committee on Environment and Public Works:

DANIEL PATRICK MOYNIHAN,
QUENTIN BURDICK,
GEORGE MITCHELL,
FRANK R. LAUTENBERG,
HARRY REID,
JOHN H. CHAFEE,
STEVE SYMMS,
JOHN WARNER,
DAVE DURENBERGER,

From the Committee on Commerce, Science, and Transportation:

J. JAMES EXON,
RICHARD H. BRYAN,
JOHN DANFORTH,
SLADE GORTON,

From the Committee on Banking, Housing, and Urban Affairs:

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
CHRISTOPHER S. BOND,
ALFONSE D'AMATO,

From the Committee on Finance:

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BOB PACKWOOD,
BOB DOLE,

From the Committee on Governmental Affairs, only for the consideration of the Uniform Relocation Act Amendment:

JOHN GLENN,
CARL LEVIN,
BILL ROTH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

PROGRAM STRUCTURE

House bill

The House bill restructures the four major Federal-aid highway systems plus the two safety construction programs (hazard elimination and railroad highway crossings) into five new programs: the National Highway Program, Urban Mobility Program, Rural Mobility Program, Combined Safety Improvement Program, and State Flexible Program.

The State Flexible Program is available to the state for any highway or transit capital projects in urban or rural areas. The urban and rural mobility programs are available for highway and transit capital projects. A state is able to transfer up to 25 percent of its National Highway Program apportionment to its Urban or Rural Mobility Program without conditions, and up to an additional 10 percent with the Secretary's approval if the state can demonstrate that its Interstate System is being maintained. A state may transfer 100 percent of the funds apportioned under the National Highway Program if over 90 percent of the land area of the state is within nonattainment areas.

The National Highway System consists of the Interstate System, the Strategic Highway Network, and principal arterial routes from the primary system. The Secretary through coordination with state and local governments will propose a National Highway System of 155,000 miles that could be adjusted by 15 percent. The National Highway System designation requires approval by Congress.

The Urban Mobility Program consists of the existing Federal-aid urban system and principal arterial routes in urban areas that are not a part of the National Highway System. Funds made available under the urban mobility program may be used for the construction of highway projects and transit capital projects. The Metropolitan Planning Organization (MPO) in the urban area has the authority, along with the state, to determine its transportation priorities.

The Rural Mobility Program consists of the existing Federal-aid secondary system and the arterials not on the National Highway System. Eligibility is provided for transit capital projects. The Federal-aid primary system rural mileage that does not meet the National Highway System criteria is eligible for inclusion in the Rural System. About 125,000–150,000 miles is expected to be added to the existing secondary system to constitute a 525,000–550,000 mile rural Federal-aid system. Roads functionally classified as rural minor collector or rural local are not eligible for inclusion in this rural Federal-aid system; however, funding for off system safety and bridge improvements are eligible under other programs.

The State Flexible Program is an innovative program that for the first time provides each state with funds that can be used for any highway or transit capital purpose eligible under Federal law. The state can use these funds for any purpose that is eligible under the National Highway Program, the Urban Mobility Program, the Rural Mobility Program, or the Combined Safety Improvement Program.

Each state is required to spend a percentage of these funds in clean air nonattainment areas equal to the percentage of its population living in nonattainment areas, up to 50 percent. Thus, if 30 percent of a state's population lives in nonattainment areas, the state would be required to spend at least 30 percent in nonattainment areas. If 70 percent of a state's population lives in nonattainment areas, at least 50 percent is required to be spent in nonattainment areas. These are minimum percentages; each state could choose to spend additional portions of its State Flexibility funds in these areas.

The Hazard Elimination and Rail-Highway Grade Crossings programs are combined into one flexible safety program, at an authorization level which represents 4% of the total funds authorized for the five new programs under the restructured highway program.

Within the combined program, the current funding levels of $160 million for Rail-Highway Crossings and $170 million for Hazard Elimination remain fixed, and any additional amount is available for funding eligible projects under either the Hazard Elimination or the Rail-Crossing programs, at the discretion of the state.

The restructured Federal-aid highway program funds the programs as follows: 49% to the National Highway System, 17% to Urban Mobility, 13% to Rural Mobility, 17% to State Flexible and 4% to the Combined Safety Improvement Program.

Senate amendment

This section establishes a new program that gives the States and local governments greater flexibility in using Federal funds to meet their transportation needs. Funds for the new program may be used for eligible projects on any public roads, except roads functionally, classified as local or rural minor collector, except as approved by the Secretary.

Eligible activities include construction, reconstruction, rehabilitation, resurfacing, restoration and operational improvements of highways including work necessary to accommodate other modes, painting and seismic retrofit of bridges, capital costs for mass transit (including improvements to bus shelters), passenger rail (including high speed rail) and magnetic levitation systems, carpool and vanpool projects, fringe and corridor parking facilities and programs, and bicycle facilities and programs; surface transportation safety improvements; surface transportation research and development programs; transportation enhancement activities as defined in 23 U.S.C. 101; and other activities. This section also authorizes the use of Surface Transportation Program funds to mitigate wetland loss related to past or future highway construction.

This section designates two types of regions in each state for the purpose of dividing Federal funds. The first type of region consists of areas with a Metropolitan Statistical Area population 250,000 or greater and areas with an urbanized area population of 50,000 or greater that are in nonattainment for ozone or carbon monoxide. The second type of region consists of all other areas. Seventy-five (75) percent of funds apportioned to a State under the Surface Transportation Program must be divided between these two types of areas based on their relative share of the State's total population. The remaining 25 percent may be distributed to any area of the State. At least 8 percent of the funds apportioned to a State must be programmed for transportation enhancement activities. Projects must be consistent with requirements for metropolitan planning in 23 U.S.C. 134 and statewide planning in 23 U.S.C. 135.

The basic federal share for projects under the Surface Transportation Program is 80 percent. If funds apportioned under this program are used to construct new facilities or expand existing facilities to be available primarily to single-occupant vehicles, the Federal share is 75 percent. If the State constructs a facility not available to single occupant vehicles and subsequently makes the facility available to single occupant vehicles, the State must repay with interest the increase in the Federal share of the project the State received by constructing a facility not available to single occupant vehicles.

The State must submit an annual certification that it will meet all requirements of this section. The State must also notify the Secretary of the amount of obligations it plans to incur for Surface Transportation Program projects during the fiscal year. Acceptance of the certification and notice of obligation constitutes a contractual obligation of the Federal Government for this estimated amount of obligations for projects not subject to review by the Secretary. The State may adjust the estimated obligation at a later date if it wants to obligate more or less funds. Payments will be made to the State for the Federal share of costs incurred on the subject.

Projects must be designed, constructed, operated and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

A State may inform the Secretary that it does not wish review and approval of design and construction standards for projects except for projects on the Interstate System and other multi-lane limited access control highways.

If the Secretary determines that a State or local government has not complied with a requirement of this section, the State will be notified and have 60 days to take corrective action. If corrective action is not taken within 60 days, future payments will be held until adequate corrective action is taken.

In a departure from the current system whereby funds are apportioned by category according to specific formula factors, funds for the Surface Transportation Program shall be apportioned such that they result in each State receiving a percent share of combined Bridge Program, Interstate Maintenance Program, and Surface Transportation Program funds equal to its percent share of total apportionments and allocations made pursuant to Title 23 U.S.C. for fiscal years 1987, 1988, 1989, 1990 and 1991, subject to certain exclusions and adjustments specified in the bill. The Bridge Program and Interstate Maintenance apportionment formulas thus serve principally to determine the amount of funds a State must devote to each program; the apportionment of Surface Transportation Program funds serves to make each State's percentage of Federal aid equal to its percentage under the five years of the 1987 Act.

Paragraph 133(b)(1)(A), which provides for an energy conservation congestion, mitigation and clean air bonus program, is to provide an incentive for States and metropolitan areas to use the enhanced flexibility in the Surface Transportation Program to reduce traffic congestion, improve air quality and lower fuel consumption. The paragraph alters the apportionment of funds under the Surface Transportation Program by rewarding affected States that control growth in vehicle miles of travel per capita and penalizing affected States that do not.

The provision affects only States with metropolitan areas of 250,000 or more and affects only the Surface Transportation Program funds allocated to metropolitan areas pursuant to section 106(b). Because only large urban areas can make significant cuts in growth of vehicle miles traveled, the provision only affects States with such communities.

By using vehicle miles of travel per capita, rather than absolute growth in VMT, the paragraph does not penalize States facing rapid population growth. Instead, it rewards those States which do a better job of managing growth. Thus, some States with the largest absolute growth in VMT (such as Nevada and Florida), have had slow growth in VMT per capita. The Secretary shall apply the most accurate and timely data available in measuring changes in VMT per capita under this paragraph.

This paragraph affects only the apportionment of Surface Transportation Program funds attributed to metropolitan areas pursuant to section 133(b)(1) of Title 23 U.S.C. The provision does not affect the State's 25 percent share of Surface Transportation Program funds or the funds suballocated to nonmetropolitan areas under section 133(b)(1) of title 23 U.S.C. The paragraph provides that bonuses and funds redistributed from the Bonus Fund shall only be used in metropolitan areas and that they be obligated for projects in metropolitan areas within a State in accordance with section 133 of title 23 U.S.C.

The reallocation of funds provided for in the provision will only come into operation after it is determined that one or more of the States subject to this paragraph has VMT per capita in excess of 110 percent of such State's VMT in 1990 (or 110 percent of 1995 levels commencing in fiscal year 1996). If every State maintains its current VMT per capita, the provision will not affect the apportionments.

However, if one or more States subject to this paragraph has VMT per capita in excess of 110 percent of their 1990 levels (or 1995 levels commencing in 1996), the Secretary is required to reduce the metropolitan area funds which would have been allocated to those States by 10 percent. The reduction funds are then placed into a Surface Transportation Bonus Fund which used to reward States that reduce their VMT per capita to less than 90 percent of 1990 levels in the same year. For example, if a State reduced its

VMT per capita to 85 percent of its 1990 level, and several other States allowed increases in VMT per capita in excess of 110 percent of 1990 levels, the State with the reduction would be entitled to receive a bonus of up to 10 percent of its base metropolitan area apportionment, to the extent such funds are available.

If funds remain available in the Bonus Fund after bonuses have been awarded, the remaining funds are redistributed to the metropolitan areas of all States subject to the provision, whether they received a bonus, a reduction, or were unaffected by the provision. The amount each State receives is determined by each State's relative share of all metropolitan area funds allocated.

The provision applies beginning in fiscal year 1993 because of the ongoing development of methodologies to improve the measurement of VMT on road systems within a State. Such methodologies are expected to be available by 1993.

Beginning in fiscal year 1996, the paragraph provides for using 1995 as the base year to measure percentage changes in VMT per capita. This provision is intended to provide a continuing incentive for States which receive bonuses to do a better job over time.

Section 106(c) provides that the Federal share of capital projects that add capacity available to single occupant vehicles is 75 percent. The Federal share for all other projects including projects for high occupancy vehicles that permit single occupant vehicle use during the off-peak periods is 80 percent of the cost of construction. The Secretary will issue guidance on how to determine what portion of a project qualifies for an 80 percent Federal share.

23 U.S.C. 133(b)(2) requires the Secretary to find that the programming and expenditure of funds under section 106 of this bill is consistent with the requirements of section 134. Subsection 133(b)(3) requires that the Secretary also to find that the programming and expenditure of funds for projects in nonmetropolitan areas is consistent with the statewide planning requirements of section 135 of this title.

23 U.S.C. 133(c) states the procedures the Secretary must follow in the event the Secretary determines through the certification review process that a State or local government does not comply with any provision of section 106 of this bill, including the requirement to program and expend funds in a manner consistent with the long range plan and the TIP required by section 134, and the planning requirements of section 135. These procedures require the Secretary to give notice to the State or local government of its failure to comply, and to give the State or local government 60 days to take corrective action. If corrective measures are not taken after the 60-day period has elapsed, the Secretary will not be able to certify that the provisions of section 133 have been complied with, and would have to take actions pursuant to section 134(e)(3).

23 U.S.C. 133(b)(6) requires that States assure equitable distribution of urban Surface Transportation Program funds among metropolitan and nonattainment areas based on relative population. The subsection, however, creates an exception to this general rule where a State and the relevant metropolitan planning organizations "jointly apply to the Secretary for permission to do so and the Secretary grants the request."

Conference substitute

Adopts the Senate provision with modifications.

PROJECT ELIGIBILITY

House bill

The House bill, for the National Highway System, makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; operational improvements; startup costs for traffic management and control; and participation in wetland mitigation banks.

For the Federal-aid mobility systems, the House bill makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; highway safety projects; operational improvements; startup costs for traffic management and control; and participation in wetland mitigation banks; and transit.

Senate bill

The Senate bill, for the Surface Transportation Program, makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; highway safety projects; off-system bridges; capital costs for mass transit and passenger rail; certain operating costs for Amtrak; bus terminals; magnetic levitation systems; contracted passenger rail costs; transportation enhancement activities; transportation control measures listed in the Clean Air Act; incremental costs of alternative fuels school buses; wetlands mitigation; and any other purpose approved by the Secretary.

Conference substitute

The conference substitute makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; highway safety projects; off-system bridges; capital costs for mass transit; bus terminals; certain transportation control measures listed in the Clean Air Act; and wetlands mitigation activities. In certain instances, passenger rail operations provide significant mass transit services. The conferees do not intend to preclude consideration of passenger rail capital costs where those operations provide significant commuter service on a regular basis.

WETLANDS MITIGATION

House bill

Section 108(a) of the House bill amends 23 U.S.C. 103(i) and adds a new subsection (j) to include authority to use highway trust fund money for participation in wetlands mitigation banks and statewide programs to create, conserve, or enhance wetland habitat, including development of statewide mitigation plans and State or regional wetlands conservation and enhancement banks. Contributions may occur in advance of specific project activity to build up credit for future projects which may impact wetlands. Participation in this program does not exempt any highway project from any requirements of Federal law.

Senate amendment

Section 106 of the Senate amendment adds a new section 133 to Title 23 of the U.S. Code, including the authority to use Surface Transportation Program Funds as part of a highway construction project, or as a separate effort, to mitigate wetland loss related to highway construction or to contribute to statewide efforts to conserve and restore wetlands adversely affected by highway construction. Efforts must comply with applicable requirements of and regulations under Federal law. Efforts may include development of statewide wetland conservation plans and other state or regional efforts to conserve and restore wetlands. Contributions may occur in advance of specific highway construction activity only if the state has a planning process which precludes the use of such efforts to influence the environmental assessment of the highway project, decisions related to the need for the project, or the selection of the project design or location.

Conference substitute

The Conference Substitute authorizes the use of Federal transportation funds for wetlands mitigation efforts, including participation in wetlands mitigation banks, consistent with all applicable Federal law and regulations. Mitigation efforts should be undertaken through the application of guidelines promulgated pursuant to Section 404(b)(1) of the Federal Water Pollution Control Act and relevant interagency Memoranda of Agreement. The Managers note that the Section 404(b)(1) guidelines prohibit discharges into aquatic ecosystems, including wetlands, if there is a practicable alternative to the discharge. The guidelines also require appropriate and practicable steps be taken to minimize potential adverse impact upon the aquatic ecosystem. The current Memorandum of Agreement between the Corps of Engineers and the Environmental Protection Agency states that mitigation banking may be an acceptable form of compensatory mitigation depending on the specific circumstances.

The reference to "Federal law and regulations" in this paragraph includes, but is not limited to, the Endangered Species Act, the National Environmental Policy Act, the Federal Water Pollution Control Act, and any applicable regulation promulgated under such Acts.

It is the intent of the Managers that the mitigation efforts if consistent with all requirements of Federal law as described above, may include mitigation outside the acquired right of way and that funding may be made available under this section to carry out mitigation measures, prior to initiation of project construction.

It is the intent of the Managers that, to the extent practicable, mitigation of wetlands losses be undertaken through protection, restoration or creation of similar types of wetlands. For example, if a salt marsh is lost or degraded pursuant to a highway project, it is the intent of the Managers that preference would be given to the restoration of a salt marsh, rather than a fresh-water wetland.

DISADVANTAGED BUSINESS PROGRAM

House bill

Subsection (b) of Section 103 provides for the continuation of the Disadvantaged Business Enterprise program with an adjustment of the 3-year annual average gross receipts limit of $15.37 billion.

Subsection (c) authorizes the Office of the Comptroller General of the Federal Highway Administration to study the disadvantaged business program (DBE) graduation rate; the participation level of disadvantaged business enterprises with out-of-state contracts; training programs, the success rate; and performance and financial capabilities of DBE's. The Comptroller General shall transmit the report to Congress within 12 months after the date of enactment.

The Committee understands that there is no formal "graduation" from the federal highway Disadvantaged Business Enterprise (DBE) Program. In fact, the only way that a DBE is no longer eligible for the DBE program is if it exceeds the size standards, i.e.

average gross revenues over three (3) years exceed $14 million. Thus, in using the term "graduation", the Committee is referring to those DBE firms who have essentially "grown out" of and are no longer eligible for the DBE program.

Since "growing out" of the DBE Program may be highly unlikely after just three (3) years, the Committee in B(i)(IV) directs the "Study" to determine just how many years is reasonable for a DBE to either "grow out" of the Program or no longer need it. Such determination should be made in light of an investigation of barriers DBEs presently face in successfully developing within the highway construction industry.

In addition, a determination of how long it takes a non-DBE to successfully compete in the highway construction field should be determined in order to further justify a definition of what is reasonable. The Study should take into account where the non-DBE gains access to bonding, capital, technical/management expertise, skilled labor and subcontracts and whether such contractor enjoys certain advantages in such areas over the average DBE.

B(i)(VI) directs the GAO to determine to what extent prime contractors continue to use DBEs once they have "graduated" from the program. This clause is to address the possibility that prime contractors do not utilize DBE firms unless there is a legislative requirement to do so.

B(i)(VII) seeks to direct the GAO to determine not only the additional costs incurred by the Federal Highway Administration in meeting the requirement of the DBE program but also whether such costs are offset by benefits of the program. Such benefits might include: additional tax revenues paid to the state by DBE firms; unemployment tax reduction; racial and gender diversity in the highway construction field; economic developing in disadvantaged communities as a result of increased capital to DBEs; and an increase in the number of skilled subcontractors in the highway construction field, thus providing for greater competition among such contractors in the future.

To enhance the evaluation of the disadvantaged business program, the Secretary shall include in the annual reports submitted to Congress, data on the level of participation of disadvantaged business enterprises to reflect the number and dollar awards to ethnic DBE's eligible under this program and the number and dollar awards to women DBE's.

Section 119. Disadvantaged Business Enterprises

This section provides for an ongoing Disadvantaged Business Enterprise (DBE) program. The section is a continuation of section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, which maintained the statutory authority originated in section 105(f) of the Surface Transportation Assistance Act of 1982.

The definition of a "Small Business Concern" has been modified to include an adjustment for inflation.

Senate amendment

Similar to House.

Conference substitute

Adopts the House provision.

SUBSTITUTE PROGRAM

House bill

The bill authorizes $240 million per fiscal year for each of the fiscal years 1992 through 1995 to complete the remaining Interstate substitute highway projects. This Interstate substitute highway funds are apportioned in accordance with cost estimates adjusted by the Secretary.

Funds are made available for the apportionment of Interstate substitute transit funds for fiscal years 1992 and 1993 in accordance with cost estimates adjusted by the Secretary.

Substitute funds are made available until expended.

Senate amendment

This section authorizes $240 million for each of fiscal years 1992 through 1995 for highway or transit assistance projects for the Interstate Substitution Program.

Conference substitute

Adopts the House provision.

APPORTIONMENTS

House bill

The House bill establishes new formulas to be applied to new federal-aid highway programs.

Senate amendment

The Senate amendment provides that each state will receive a percent of funds based on the percent received over the proceeding five year average.

Conference substitute

The Conference substitute includes a modification that provides each state with an amount of funding over six years that is consistent with their historical funding experience.

PROGRAM AND PROJECT APPROVAL

House bill

The House provision directs the States to submit a program of proposed projects for the Secretary of Transportation's approval.

Senate amendment

The Senate amendment repeals section 105 of title 23, United States Code relating to programs.

Conference substitute

The House recedes to the Senate amendment.

PRECONSTRUCTION ACTIVITIES

House bill

Section 106(c) of title 23, U.S.C. is amended to provide for items included in estimates for construction engineering for a state for a fiscal year may not exceed 15 percent of the total estimated costs of Federal-aid projects.

The Secretary is required to consult with the states and report to Congress within two years a national list of rights-of-way that may be included in a Transportation Right-of-Way Land Bank in order to preserve vital transportation corridors. The states are permitted to use funds apportioned for the National Highway System, the urban mobility, and rural mobility systems to purchase right-of-way to preserve transportation corridors. Any right-of-way acquired under the provisions of this subsection may not be converted for non-transportation purposes.

Sentate amendment

The Senate amendment amends 23 U.S.C. 108 to make three changes to current law. First, the period within which construction must be commenced on a right-of-way funded from the right-of-way revolving fund is increased from 10 years to 20 years.

Second, costs incurred by a State to acquire rights-of-ways in advance of Federal approval of authorization and costs incurred to acquire land necessary to preserve environmental and scenic values may be reimbursed with Federal funds if certain conditions are satisfied.

Third, to conform section 108 of title 23 with the other title 23 changes being made by this legislation, this section eliminates the requirement that right-of-way revolving fund advances be for projects "on the Federal-aid system" and authorizes the use of the fund for projects such as passenger rail facilities, magnetic levitation systems, transportation corridor preservation, and long-term transportation planning.

Conference substitute

Adopts House provision.

LETTING OF CONTRACTS

House bill

This section amends section 112(b)(2) of title 23, U.S.C. to require that any audit of a contract or subcontract awarded as a part of a Federal-aid highway project shall be performed and audited in compliance with the cost principles contained in the Federal acquisition regulations of part 31 of title 48 C.F.R. The indirect cost rates established in accordance with Federal acquisition regulations shall apply for the purposes of contract estimation, negotiation, administration, report, and contract payment and shall not be limited by administrative or de facto ceilings.

The intent of these provisions is to establish a single and uniform audit procedure for qualifications based engineering and design services.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute establishes a pilot program for the implementation of single and uniform audit procedures for qualification based engineering and design services. The Secretary of Transportation may permit up to ten states to participate in the pilot program and report to Congress any recommendations for establishing a single and uniform audit procedure for qualifications based engineering and design services within two years.

CONVICT PRODUCED MATERIALS

House bill

The bill clarifies the intent of Congress that materials produced by convict labor after July 1, 1991, may not be used for Federal-aid highway construction projects unless produced at a prison facility producing convict made materials for Federal-aid construction projects prior to July 1, 1987.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

PERIOD OF AVAILABILITY

House bill

The House amendment provides one-year availability of Interstate Construction funds. After October 1, 1994, these funds would be available until expended. In general, non-Interstate funds will continue to be available for four years.

Senate amendment

The Senate amendment provides one-year availability of Interstate Construction funds. After October 1, 1994, these funds would be available until expended. Interstate Construction funds apportioned or allocated to Massachusetts on or before October 1, 1989, shall remain available until expended. Existing provisions relating to Alaska and Puerto Rico are continued.

Conference substitute

House recedes to the Senate.

FEDERAL SHARE

House bill

The House bill provides for a Federal share of 80 percent on non-Interstate Federal aid highway projects, and up to 100% for certain safety projects.

A Federal share of 90 percent is provided for Interstate construction and maintenance projects.

Senate bill

The Senate bill provides for a Federal share of up to 80 percent for all projects, with the exception of construction of new highway capacity not designed for high-occupancy vehicle use, in which case the Federal share would be up to 75 percent.

A Federal share of 90 percent is provided for Interstate construction.

Conference substitute

The conference substitute provides for a Federal share of up to 80 percent for all projects. A Federal share of 90 percent is provided for Interstate construction.

EMERGENCY RELIEF

House bill

The House extends from 90 days to 180 days the period to receive 100 percent funding for emergency repair work. The annual limitation imposed on the territories for receipt of emergency relief funds is increased from $5 million to $20 million. The Secretary is authorized to advance emergency relief funds to the State of Washington to repair a bridge damaged in November, 1990. Repayment is required if it is determined that the cause of the damage to the bridge was the result of human error. All provisions in this section will apply only to natural disaster and catastrophic failures occurring after enactment of this legislation.

Senate amendment

The Senate amendment contains no comparable provisions, with the exception of the aspect relating to the advance to the State of Washington which is substantially the same as the House bill.

Conference substitute

The conference substitute is the same as the House bill, with the exception that the provision concerning the State of Washington was not adopted. The repayment provision for Washington was resolved in the 1992 Appropriations bill.

GROSS VEHICLE WEIGHT RESTRICTION

House bill

Subsection (a), Continuation of Certain Longer Combination Vehicles, amends title 23 U.S.C. by adding a new substitution (d).

New subsection (d)(1) provides that except as provided in this subsection, no state may allow a longer combination vehicle to be operated on the Interstate System within its boundaries, without having its apportionment withheld under subsection (a).

New subsection (d)(2) permits a state to continue to allow to be operated on the Interstate System within its boundaries longer combination vehicles with configuration and weight if (a) the state determined on or before June 1, 1991 that such longer combination vehicles with such configuration and weight could lawfully operate on such system pursuant to a state statute or regulation in effect on June 1, 1991; and if the longer combination vehicles with such configuration and weight were in lawful operation on a regular or periodic basis (including seasonal operation or operation pursuant to a permit issued by the state; or if longer combination vehicles with such configuration and weight were in lawful operation on a regular or periodic basis on such System on or before June 1, 1991 pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186); and (B) if all operations of longer combination vehicles with such configuration and weight on the Interstate System continue to be subject to, at a minimum, all state statutes, regulations, limitations, and conditions (including routing-specific and configuration specific designations and all other restrictions) in effect on June 1, 1991; except that subject to guidelines established by the Secretary, the state may make minor adjustments to routing-specific designations for safety purposes and for road construction purposes.

New subsection (d)(3) provides that in addition to the vehicles which may continue to operate in the State of Wyoming under (d)(2), such state may allow commercial motor vehicle combinations not in actual use on June 1, 1991 on the relevant system and highways by enactment of a state law on or before November 3, 1992. The state must notify the Secretary of enactment of such state law within 30 days and the Secretary must publish notice of the enactment of such law in the Federal Register.

New subsection (d)(4) provides that states may further restrict or prohibit vehicles covered by this provision, however, any such restriction or prohibition must be consistent with sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (40 U.S.C. App. 2311, 2312, and 2316). Any such changes must be submitted to the Secretary. Such change must be published in the Federal Register by the Secretary.

New subsection (d)(5) requires that within 90 days after the effective date of this subsection (October 1, 1991) states must complete and file in writing with the Secretary a complete list of all state statutes, regulations, limitations and conditions governing the operation of these types of vehicles.

If the state fails to file within the specified time, the Secretary is given the authority to complete and file the list for the state.

The state is further required to certify in writing that the state had determined pursuant to a state statute on regulation in effect on June 1, 1991 that such longer combination vehicles could lawfully be operated on such relevant system and highways, and such combinations were in operation on a regular or periodic basis on such system and highways on or before June 1, 1991.

The Secretary is required to publish the list in the Federal Register. After publication the Secretary is required to review the certifications and may commence a proceeding, on the Secretary's own initiative or pursuant to a challenge by any person, to determine whether or not the state's certification is inaccurate. The state has the burden of proof.

If the Secretary determines the certification is inaccurate, the Secretary is required to amend the list published in the Federal Register.

This subsection also provides that no state statute or regulation shall be included on the list published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles not in actual operation on a regular or periodic basis on or before June 1, 1991.

This subsection further provides the lists published in the Federal Register shall become final on the 30th day after publication, with the exception of adjustments made pursuant to paragraphs 2(B) 3 and 4 and subparagraph (D) of paragraph 5.

New subsection (d)(6) requires the Secretary to issue regulations establishing guidelines for states to follow in making minor adjustments for safety or road construction purposes.

New subsection (d)(7) provides that nothing in this subsection should be construed to allow operation on the relevant system or highways of any Commercial Motor Vehicle prohibited under section 411(j) of the Surface Transportation Assistance Act of 1992 (49 U.S.C. App. 2311(j)).

New subsection (d)(8) provides that if a state allows a longer combination vehicle to be operated on the Interstate System within its boundaries in violation of this subsection, the state shall have its apportionment of funds withheld under subsection (a).

New subsection (d)(9) defines longer combination vehicle; it further requires that each state certify that it is complying with the provisions of section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(j); and makes a conforming amendment.

Subsection (b) Interstate Route 68—amends section 127, title 23 by adding at the end the following new subsection (e).

New subsection (e) provides that the single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal and logs if such vehicle is of a type of vehicle as was operating in such counties on U.S. 40 or 48 for such purposes in calendar year 1991.

Subsection (c) makes a conforming amendment.

Subsection (d) requires the Secretary to conduct a study pertaining to transporters of water well drilling rigs on public highways to determine if state and federal requirements place a burden on them. The report is due 2 years after date of enactment.

Subsection (e)(1) provides for a waiver from the axle weight requirements and bridge formula for firefighting equipment. The waiver is for two years, but it may be extended for one additional year. The waiver applies to the Federal requirement.

Subsection (e)(2) provides that during the period in which the waiver is in effect, the Secretary is to conduct a study on this type of equipment and its regulations by the various states, including the issuance of permits by states. The purpose is to determine whether there is a need for a change in Federal and state laws with respect to such vehicles.

Subsection (e)(3) provides that a report on the study, together with the recommendations of the Secretary, shall be submitted to Congress within 18 months of the date of enactment.

Senate amendment

Section 138. Gross vehicle weight restrictions

Summary

This section adds a new subsection (d) to section 127 of title 23, U.S.C., to limit the use of Longer Combination Vehicles (LCV's) on the Interstate System to those places, and under the conditions now imposed, where they are allowed on or before June 1, 1991.

The responsibility for enforcing compliance with the new LCV limitation lies with the Secretary of Transportation, under section 141 of title 23.

The section defines an LCV as a truck tractor with two or more trailers or semitrailers, with a gross vehicle weight of more than 80,000 pounds.

The provision will prevent any further expansion of the use of LCV's. The operation of LCV's on the Interstate System would be illegal unless: (a) they operate under 80,000 pounds gross vehicle weight; or (b) are found by the Secretary to be in "actual, continuing lawful operation" on or before June 1, 1991.

Included in the freeze on LCV operations are those now occurring in Wyoming, pursuant to a specific authorization in the fiscal year 1991 Department of Transportation and Related Agencies Appropriations Act. This section makes the Wyoming provisions in the Act permanent, subject to existing operating restrictions adopted by the State of Wyoming, and consistent with axle and bridge formula specifications in section 127 of title 23, United States Code.

Conference substitute

This section amends section 127 of title 23 by adding new subsections, (d) and (e), to prohibit the expansion of the use of longer combination vehicles on the Interstate System.

New subsection (d)(1) allows only those LCV configurations that were authorized by State statute or regulation and in lawful "regular or periodic" use on or before June 1, 1991. To be considered "regular or periodic" use, operations must have occurred at recurring intervals over a period of time. Moreover, periodic operations must have occurred on an intermittent but consistent basis. Use of an LCV on only one or two occasions pursuant to a special permit would not provide a basis for satisfactorily certifying grandfather rights or operations under this subsection. Seasonal LCV operations, if occurring on a recurring basis, would be allowed to continue. As specified in both the Senate and House provisions, certain LCV operations in the State of Wyoming, other than those that were in regular, periodic operation on or before June 1, 1991, would be allowed, if so directed by the State's voters not later than November 3, 1992. Additionally, limited exceptions to the restrictions of this subsection are provided for certain operations in the States of Ohio and Alaska. Other than those specifically referenced, no additional LCV operations that would otherwise be prohibited under this subsection may be allowed.

New subsection (d)(2) clarifies that States retain the ability to further restrict the use of LCV's, above and beyond the limitations imposed by this subsection. Any such restrictions must be consistent with applicable provisions of title 49. Under the terms of regulations to be promulgated by the Secretary, States are given the ability to make minor adjustments to LCV use of a temporary and emergency nature. The scope of such adjustments is intended to be temporary and very limited; for example, in the case of a bridge failure that would require the re-routing of traffic, including LCV's, to highways on which LCV operations would otherwise be prohibited.

New subsection (d)(3) establishes procedures for determining what specific operations are to be allowed. States are required to submit to the Secretary a list of all information pertaining to LCV use and limitations, including routing-specific and configuration-specific designations and all other restrictions, not later than 60 days after enactment. That information is to be published by the Secretary, and reviewed by the Secretary for accuracy. This review is not intended to provide for a rollback of lawful operations; it is intended to confirm that operations listed by the States were, on or before June 1, 1991, authorized by State statute or regulation, and that they were in regular or periodic operation on or before June 1, 1991. The list of this information, with necessary revisions, is to be published as final not later than 180 days after the date of enactment. Requirements are also established for review and correction of the final list. The provision makes it clear that, in order to be allowed to continue, LCV operations not only must have been authorized by State statute or regulation, but also in lawful regular or periodic operation on or before June 1, 1991.

New subsection (d)(4) defines longer combination vehicles.

New subsection 127(e) allows for the continued operation of certain vehicles in Garrett and Allegany Counties, Maryland.

Subsection (e) provides for a two-year exemption from axle weight limitations and the bridge formula for fire-fighting vehicles. The Secretary is directed to conduct a study to address, long-term, issues involving such vehicles.

Subsection (f) retains identical provisions from the House and Senate bills pertaining to Montana-Canada trade.

Subsection (g) retains the House provisions requiring a study of water well drilling rigs.

CONTROL OF OUTDOOR ADVERTISING

House bill

Subsection (a) authorizes a state to use any Federal-aid highway funds apportioned to the state for the removal of nonconforming signs and the payment of just compensation in accordance with title 23, section 131.

Subsection (b) requires the owner of an illegal sign to remove it within 90 days from enactment of this Act. If the owner of an illegal sign does not remove it within the 90 day period, the state shall remove the illegal sign and assess the costs for removal to the owner of the illegal sign.

Subsection (c) prohibits the erection of any new sign along any highway on the Interstate and Primary system (as in existence on June 1, 1991) that is designated as a scenic byway under a state scenic byway program. This subsection makes it clear that control of outdoor advertising on scenic byways along the Interstate, Primary System and the National Highway System shall be in accordance with title 23, Section 131. This subsection also redefines the Primary System for purposes of application of the Highway Beautification Act as the Primary System in existence on June 1, 1991.

Subsection (d) is intended to avoid confusion among the States in the implementation of these amendments to the Highway Beautification Act. This section makes it clear that the States, in implementing these new provisions, should ensure that signs displays and devices that have received state certification under the existing structure of federal-state agreements and state laws implementing section 131 of title 23 United States Code are not affected in any manner.

Senate amendment

The Senate Amendment has no comparable provision. But the Senate does make funding under the newly defined "Transportation Enhancement Activities" eligible for the removal of outdoor advertising.

Conference substitute

Subsection (a) authorizes a state to use any Federal-aid highway funds apportioned to the state for the removal of nonconforming signs and the payment of just compensation in conformance with title 23, section 131. This provision also applies to signs located along Interstate and Primary system roads designated as Scenic Byways by the states.

Subsection (b) requires the owner of an illegal sign to remove it within 90 days from enactment of this act. If the owner of an illegal sign does not remove it within the 90 day period, the state shall remove the illegal sign and assess the costs for removal to the owner of the illegal sign.

Subsection (c) intends that under the Conference agreement, no signs shall be erected on scenic byways on the Interstate or primary system as those systems are in effect on the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

Subsection (d) is intended to avoid confusion among the States in the implementation of these amendments to the Highway Beautification Act. This section makes it clear that the States, in implementing these new provisions, should ensure that signs displays and devices that have received state certification under the existing structure of federal-state agreements and state laws implementing section 131 of title 23 United States Code are not affected in any manner.

METROPOLITAN PLANNING

House bill

The House Bill revises and strengthens the metropolitan planning process. The general objective of the planning process is to develop transportation facilities that will function as an intermodal transportation system giving emphasis to those facilities which serve important national and regional transportation functions such as moving goods within urbanized areas and to distant markets, enhancing productivity and economic competitiveness, enabling persons to move quickly to and from their homes, jobs, and other destinations, providing access to international border crossings, and connecting roadways within the area with roadways outside the area.

Each urbanized area over 50,000 population is required to designate a metropolitan planning organization to carry out the required planning process. Existing MPOs are treated as continuing and are not required to be redesignated.

The planning process for an area is required to cover the existing urbanized area plus the area expected to be urbanized within the planning forecast period. In addition, the covered area may include the entire metropolitan statistical area or consolidated metropolitan statistical area on an area designated as nonattainment for transportation-related pollutants.

The planning process will include both a long-range plan and a transportation improvement program (TIP). In developing the long range plan and the transportation improvement program, the MPO shall provide affected parties a reasonable opportunity to comment on the proposed plan. The TIP is prepared cooperatively with the state and includes projects proposed for funding under Title 23 and the Urban Mass Transportation Act of 1964 that are consistent with the long-range plan and conform to the applicable clean air state implementation plan in nonattainment areas for transportation related pollutants. A project can only be included in a TIP if it can reasonably be expected to be funded within the time period contemplated for completion of the project. The TIP must be revised at least every two years.

Nothing added by this section of the House bill or the section on statewide planning changes any requirement of the Clean Air Act.

The bill lists a series of factors to be considered in developing plans and programs. In summary these include:

(1) efficient use of existing transportation facilities;

(2) energy conservation goals;

(3) social, economic and environmental effects;

(4) Clean Air Act requirements;

(5) methods to reduce and prevent traffic congestion;

(6) methods to expand and enhance transit use;

(7) effect on land use and land development;

(8) transportation needs identified by management systems;

(9) innovative methods financing;

(10) preservation of transportation corridors;

(11) long range needs;

(12) methods to enhance efficient movement of commercial vehicles;

(13) life cycle costs in design and engineering of bridges, tunnels, and pavements.

In addition to any other requirements, urbanized areas over 200,000 in population must develop plans and programs in cooperation with the state and affected transit operators. Also these urbanized areas must identify methods to reduce congestion that are appropriate for the size of the area and the complexity of the transportation problems in the area. In nonattainment areas, the methods must be coordinated with the development of the state implementation plan for the Clean Air Act.

Finally, the bill provides for the establishment within DOT of an advisory committee to review the metropolitan planning procedures and their relationship with the state planning process.

Senate amendment

Amends 23 U.S.C. 134, Transportation Planning in Certain Urban Areas. The term "certain urban areas" (urban areas of more than 50,000 population) is replaced with the term "metropolitan areas" and the title of Section 134 is now "Metropolitan Planning". Metropolitan area boundaries are determined by the metropolitan planning organization and the Governor, and as a minimum must encompass the existing urbanized area and the area expected to be urbanized within the forecast period. The metropolitan area may encompass the entire Metropolitan Statistical Area/Consolidated Metropolitan Statistical Area. For areas designated as non-attainment for ozone or carbon monoxide, the boundaries must be the boundaries for the non-attainment area unless otherwise provided by the metropolitan planning organization.

The requirement that a metropolitan planning organization (MPO) be designated for each urbanized area over 50,000 population by agreement among the local units of general purpose government and the Governor is continued. Designations made prior to enactment remain valid and redesignation is not required.

The current requirement for a continuing, cooperative, and comprehensive urban transportation planning process in all urbanized areas over 50,000 population is continued with modifications to strengthen the planning process, particularly for metropolitan areas with a metropolitan statistical area (MSA) population of more than 250,000 and in areas classified as non-attainment for ozone or carbon monoxide under the Clean Air Act. Increased emphasis is placed on preserving and making more efficient use of existing transportation facilities; consistency with energy conservation programs, goals and objectives; congestion relief; Clean Air Act requirements; effect of transportation policy decisions on land use and development, and the provisions of land use and development plans; use of innovative financing mechanisms including value capture, tolls, and congestion pricing; programming of transportation enhancement activities; development of transportation improvement programs that are consistent with anticipated funding sources; and establishment of project priorities for implementing the transportation plan.

Transportation improvement programs (TIP) are developed by the MPO, in cooperation with the State and relevant transit operators, and must include all projects to be funded under Title 23 and the Urban Mass Transportation Act. The TIP must be consistent with the long range transportation plan and in nonattainment areas for ozone and carbon monoxide conform with the applicable State implementation plan developed pursuant to the Clean Air Act. The TIP must be approved by the MPO and the Governor, and be updated at least every two years. For metropolitan areas of 250,000 population or less, projects to funded (programmed) with Title 23 funds are selected from the TIP by State in cooperation with the MPO.

In metropolitan areas with a MSA population of more than 250,000, a congestion management system that provides for the effective management of new and existing transportation facilities through travel demand reduction and operational management strategies must be developed through the required technical process. In nonattainment areas for ozone or carbon monoxide where a transportation element of the State Implementation Plan is required by the Clean Air Act, the congestion management system must be coordinated with it. Further in non-attainment areas for ozone or carbon monoxide, Federal funds cannot be used for any highway project that provides a significant increase in carrying capacity for single occupant vehicles unless the project is part of the congestion management system. The conformity review process for transportation plans, programs, and projects funded under Title 23 or the Urban Mass Transportation Act in nonattainment areas must take into account any lack of progress in implementing projects in accordance established priorities and take into consideration the emissions expected from all regionally significant transportation projects regardless of the source of funding. Although emissions from all regionally significant projects will be taken into account, any finding of non-conformity will only delay Federally assisted projects.

In areas over 250,000 population, all projects to be funded under Title 23 (except Bridge and Interstate Maintenance projects) or the Urban Mass Transportation Act must be selected by the MPO and the Governor, and must be consistent with the TIP including the priorities established in the TIP. Bridge and Interstate Maintenance projects are selected by the State in cooperation with the MPO.

In areas over 250,000 population, the Secretary must assure that the requirements of this section are adequately carried out in each metropolitan area and certify the process in each area on annual basis. If at any time after October 1, 1992, the Secretary does not certify the process for an area, the obligation authority for Surface Transportation Program that is attributed to the area automatically lapses and is redistributed to other States.

One percent of the funds authorized for programs under Sections 104 and 144, except for the Interstate Construction and Interstate Substitution programs, is set aside for metropolitan planning. The State must distribute the metropolitan planning funds to MPOs by a formula approved by the Secretary which considers population, status of planning, attainment of air quality standards, metropolitan area transportation needs and other factors necessary to provide an appropriate distribution of funds to carry out applicable statutory requirements. Metropolitan planning funds made available to a MPO and not needed to carry out the provisions of this section may be made available to the State to carry out Statewide transportation planning.

Conference substitute

The Conference Bill incorporates selected provisions from the Highway & Transit Titles of the Senate with the selected provisions of the House Bill to revise and strengthen the metropolitan planning process.

Metropolitan planning organizations are to be designated in each urbanized area over 50,000 population by agreement among the local units of general purpose government and the Governor is modified to require the agreement of local officials representing at least 75 percent of the affected population (including central cities or cities as defined by the Bureau of Census), or as otherwise provided under state or local procedures. All designations whether under this provision or previous provisions of law remain in effect until revoked by agreement between the Governor and local units of general purpose governments representing at least 75 percent of the affected population. If the Governor and local units of government representing 75% of the affected population decide they want to redesignate the metropolitan planning organization, the existing metropolitan planning organization will remain in effect until a new metropolitan planning organization is designated by the Governor and local officials representing 75 percent of the affected population or the existing metropolitan planning organization is revoked by the Governor and local officials representing 75 percent of the population. A special provision is included to allow metropolitan planning organizations to reorganize under certain conditions that pertain to the Chicago and Los Angeles regions.

The managers recognize that the Lake Tahoe Basin was recognized by Congress in P.L. 96-551 as an ecologically fragile area of national significance. The Federal ownership of lands in this California/Nevada Bi-State Basin is approximately 73% and MPO status for purposes of federal transit and transportation funding and assistance is appropriate.

For redesignations or reorganizations of metropolitan planning organizations in transportation management areas subsequent to enactment where the proposed membership varies from the current membership, the metropolitan planning organization must include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area (including all agencies included as of June 1, 1991), and appropriate State officials. However, the requirement is not intended to interfere with any authority of public agencies with multimodal transportation responsibility under State law to develop plans and programs for adoption by the metropolitan planning organization.

Metropolitan area boundaries are determined by the metropolitan planning organization and the Governor, and as a minimum must encompass the existing urbanized area and the area expected to be urbanized within the forecast period. The metropolitan area may encompass the entire Metropolitan Statistical Area/Consolidated Metropolitan Statistical Area. For areas designated as non-attainment for ozone or carbon monoxide, the boundaries must be the boundaries for the non-attainment area unless otherwise provided by the metropolitan planning organization and the Governor.

The planning process in metropolitan areas must as a minimum consider the following items:

(1) efficient use of existing transportation facilities;

(2) energy conservation goals;

(3) methods to reduce and prevent traffic congestion;

(4) effect on land use and land development;

(5) programming of expenditures for transportation enhancement activities;

(6) effects of all transportation projects regardless of source of funds;

(7) international border crossings and access to major traffic generators such as ports, airports, intermodal transportation facilities, and major freight distribution routes;

(8) connectivity of roads within the metropolitan area with roads outside the metropolitan area;

(9) transportation needs identified by management systems;

(10) preservation of transportation corridors;

(11) methods to enhance efficient movement of commercial vehicles;

(12) life cycle costs in design and engineering of bridges, tunnels, and pavement;

(13) social, economic and environmental effects.

Each MPO is required to prepare and update a long range transportation plan for its metropolitan area in accordance with a schedule established by the Secretary. The long range plan must identify transportation facilities that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In nonattainment areas for transportation related pollutants, the metropolitan planning organization must coordinate the development of the long range plan with the process for development of transportation measures of the State Implementation Plan required by the Clean Air Act. The long range plan must be made available for public review prior to approval.

Transportation improvement programs (TIP) are developed by the MPO, in cooperation with the State and relevant transit operators, and must include all projects to be funded under Title 23 and the Federal Transit Act. The TIP must be approved by the MPO and the Governor, and be updated at least every two years. The TIP must be made available for public review prior to approval. In areas that are not designated as transportation management areas, projects are selected by the State in cooperation with the metropolitan planning organization from the approved TIP.

For urbanized areas not designated as transportation management areas, the Secretary may prescribe abbreviated requirements for the development of transportation plans and programs. However, the Secretary may not prescribe abbreviated requirements for any area designated as nonattainment for ozone or carbon monoxide under the Clean Air Act.

Urbanized areas over 200,000 population must be designated as transportation management areas. In addition to the general requirements for all urbanized areas, transportation management areas must develop a transportation management system that provides for effective management of new and existing transportation facilities through travel demand and operational management strategies. In transportation management areas all projects funded under Title 23 (except for National Highway System, Bridge or Interstate Maintenance projects) and the Urban Mass transportation Act are selected by the metropolitan planning organization in consultation with the State. National Highway System, Bridge and Interstate Maintenance projects are selected by the State in cooperation with the metropolitan planning organization.

The Secretary must assure that the requirements of this section are adequately carried out in each transportation management area and certify the process in each transportation management area at least every 3 years. If an area is not certified, the Secretary may withhold, in whole or part, the apportionments under the Surface Transportation Program attributed to the metropolitan area.

In areas classified as nonattainment for ozone or carbon monoxide, Federal funds may not be used for any highway project that will significantly increase the carrying capacity for single occupant vehicles unless the project is part of or consistent with the approved congestion management system.

The Secretary shall prescribe an appropriate phase-in schedule for any new requirements under this section.

One percent of the funds authorized for programs under Sections 104 and 144, except for the Interstate Construction and Interstate Substitution programs, is set aside for metropolitan planning. The State must distribute the metropolitan planning funds to MPOs by a formula approved by the Secretary which considers population, status of planning, attainment of air quality standards, metropolitan area transportation needs and other factors necessary to provide an appropriate distribution of funds to carry out applicable statutory requirements. Metropolitan planning funds made available to a MPO and not needed to carry out the provisions of this section may be made available to the State to carry out Statewide transportation planning.

STATEWIDE PLANNING

House bill

In carrying out statewide transportation planning, the state is required to prepare a long-range plan and a transportation improvement program, taking into consideration the factors listed for the metropolitan planning process. Specifically, the state is required to incorporate, coordinate, and reconcile the plans and programs developed under the metropolitan planning process, provide for comprehensive planning in areas of the state which are not urbanized areas, consult with Indian tribal governments, and establish management and traffic monitoring systems.

Senate amendment

This section would establish a requirement for a statewide transportation planning process in Section 135 of Title 23. Under this section the States would be required to have a Bridge Management System, a Pavement Management System, a Safety Management System, and a Congestion Management System developed in accordance with regulations issued by the Secretary. A State that certifies to the satisfaction of the Secretary that no congestion exists or is expected to exist will not be required to have a congestion management system. These systems are currently in various stages of development. Full development is expected to occur in stages with final implementation by 1995. If a State does not have approved management systems by 1995, the Secretary may: (1) withhold project approvals under 23 U.S.C. 106 and (2) decline acceptance of the State's certification and notice under the 23 U.S.C. 133(c)(2). Each State must also have a Traffic Monitoring System to provide data determined necessary under Title 23. Guidelines and requirements will be established by the Secretary.

The Statewide transportation planning process must take into account the required management systems; Federal, State or local energy use goals, objectives, programs or requirements; and valid state or local development or land use plans, programs, or requirements. The process must provide for comprehensive surface transportation planning for non-metropolitan areas and the integration of any non-metropolitan area plan with any metropolitan area plans. In non-attainment areas for ozone and carbon monoxide, the process must be coordinated with development of the transportation portion on any state implementation plan (SIP) required under the Clean Air Act (CAA) and must provide for compliance with any revelant requirements of the SIP. Any State containing a non-attainment area for ozone or carbon monoxide must develop a State transportation plan and update it at least every two years. In addition to the general requirements for a State transportation plan, the plans in non-attainment areas must incorporate without change metropolitan area plans and provide for coordination in the development of the plan with the SIP.

The funds set aside under 23 U.S.C. 307(c)(1) are available to carry out the requirements of this section.

Conference substitute

The conference Bill incorporates selected provisions from the Senate Bill with the selected provisions of the House Bill to establish a statewide multimodal transportation planning process for the development of transportation plans and programs for all areas of the state. The planning process must consider all modes of transportation and must be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

In developing the transportation plan, the State must provide an opportunity for public involvement and consult with Indian tribal governments having jurisdiction over lands within the State. In developing the transportation improvement program, the State must provide an opportunity for public involvement and cooperate with the metropolitan planning organizations. The transportation improvement programs must include all projects proposed for funding under title 23 or the Federal Transit Act, and must be reviewed and approved at least biennially.

The States would be required to have a Bridge Management System, a Pavement Management System, a Safety Management System, a Congestion Management System, a Transit Management System, and an Intermodal Management System developed in accordance with regulations issued by the Secretary. A State that certifies to the satisfaction of the Secretary that no congestion exists or is expected to exist will not be required to have a congestion management system. These systems are currently in various stages of development. Full development is expected to occur in stages with final implementation by 1995. If a State does not have approved management systems, the Secretary may: (1) withhold project approvals under 23 U.S.C. 106 and (2) decline acceptance of the State's certification and notice under the 23 U.S.C. 133(c)(2). Each State must also have a Traffic Monitoring System to provide data determined necessary under Title 23. Guidelines and requirements will be established by the Secretary.

The Statewide transportation planning process must provide for or take into account:

(1) transportation needs identified by management systems;

(2) plans for bicycle transportation and pedestrian walkways in the various areas of the State to the degree appropriate;

(3) energy conservation goals;

(4) international border crossings and access to major traffic generators such as ports, airports, intermodal transportation facilities, and major freight distribution routes;

(5) comprehensive surface transportation planning for nonmetropolitan areas through a process that includes consultation with local elected officials;

(6) metropolitan plan developed under section 134;

(7) connectivity between metropolitan areas within the State and with metropolitan areas in other States;

(8) recreational travel and tourism;

(9) any State plan developed pursuant to the Federal Water Pollution Control Act;

(10) Clean Air Act requirements in nonattainment areas for transportation related pollutants;

(11) transportation system management and investment strategies to make efficient use of existing transportation facilities;

(12) social, economic and environmental effects;

(13) methods to reduce and prevent traffic congestion;

(14) methods to expand and enhance transit use;

(15) effect on land use and land development;

(16) transportation needs identified through use of the management systems required by this section;

(17) innovative methods of financing;

(18) preservation of transportation corridors;

(19) long range needs;

(20) methods to enhance efficient movement of commercial vehicles;

(21) life cycle costs in design and engineering of bridges, tunnels, and pavements.

The Secretary shall prescribe an appropriate phase-in schedule for the requirements of this section.

The funds set aside under 23 U.S.C. 307(c)(1) are available to carry out the requirements of this section.

INDIAN NONDISCRIMINATION

House bill

Section 140 of Title 23 is amended to make Indian tribal governments eligible for grants to develop, conduct and implement highway construction training and skills programs.

Section 140(d) is amended to authorize states to extend Indian employment preference programs to projects near reservations. Currently, such programs are limited to Indians living on or near reservations and to projects on Indian reservation roads.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

PUBLIC TRANSPORTATION

House bill

The House amendment allows for the improved access between intercity and rural bus service.

Senate amendment

No comparable provision.

Conference substitute

The House recedes to the Senate.

BRIDGE REPLACEMENT AND REHABILITATION

House bill

The Secretary, in consultation with the Secretary of Interior is required to conduct an inventory of Indian reservation and park bridges; classify them according to serviceability, safety, and essentiality for public use; assign a priority for replacement or rehabilitation; and determine the cost of replacing or rehabilitating each bridge.

Bridge painting and the application of calcium magnesium acetate is made an eligible cost under the bridge program.

The Federal share is 80 percent.

There is authorized $ million per fiscal year for each of the fiscal years 1992 through 1996 for the bridge discretionary program. Of that amount, $ million per fiscal year is set-aside for timber bridges.

The provisions of the off-system bridge program are extended to permit the cost of bridge painting and the application of calcium magnesium acetate to off system bridges.

No less than 1 percent of the amount apportioned to each state in bridge funds shall be used on Indian reservation bridges. The funds will be deducted in advance of each state's apportionment and allocated to the Secretary of the Interior for expenditure. The Secretary may reduce the set-aside with the concurrence of the Secretary of the Interior after consultation with the state and tribal governments if it is determined that there are inadequate needs to justify such expenditure. The non-Federal share for Indian reservation bridge projects may be paid from amounts made available from the Indian reservation roads program.

Subsection (g) protects any previously apportioned bridge funds.

Funds are authorized and allocated for high cost bridge projects.

Senate amendment

This section amends Section 144 of Title 23, United States Code. The Federal share payable is retained at 80% for bridge projects where rehabilitation or replacement is for structural reasons. It is also retained for replaced or rehabilitated bridges where additional capacity is needed for other than single occupant vehicles. Where expanded capacity is proposed by either replacement or rehabilitation for use by single occupant vehicles, the federal share is 75 percent. For example, an existing two-lane bridge could be rehabilitated or replaced by a new two-lane bridge with a Federal share of 80 percent. However, if an additional third lane primarily available to single occupant vehicles is constructed, the federal share for the third lane would be 75 percent. Pay back provisions are included for those cases where a State uses 80 percent Federal funding for a bridge, but later converts the bridge for use by single occupant vehicles. The Secretary is to develop the criteria for determining the appropriate Federal share of bridge replacement or rehabilitated bridge projects.

Bridge painting and seismic retrofit is made an allowable expense for bridges eligible for bridge program funding. The discretionary bridge program is repealed.

States need to fully consider the environmental effects and long-term economic costs associated with traditional highway and bridge maintenance and safety practices such as the use of road salt in winter. To encourage States to adopt environmentally safer highway maintenance practices, calcium magnesium acetate (CMA) is included as an eligible expense under the Bridge program. This action is a continuation of Section 173 of Public Law 100-17. This provision should encourage States to use CMA on a limited number of bridges in order to extend their useful life, and to protect the surrounding environment.

Level-of-service criteria are to be established for the bridge program by January 1, 1992. The level-of-service criteria are target values against which bridge characteristics are to be compared. The values vary by highway system or functional classification. Using the comparison, bridges can be categorized as needing or not needing rehabilitation or replacement. The bridges thus categorized are those eligible for bridge program funds, and are the bridges used in apportioning these funds to the States. The bill also permits the States to expend up to 35 percent of Federal bridge funds on bridges that are not in the level-of-service inventory.

Conference substitute

The Conference Substitute adopts the House provisions with an amendment that permits seismic retrofit as an eligible expense for bridges.

SPEED LIMIT

House bill

Section 130 of the House bill establishes new compliance requirements to reflect the higher risk associated with higher speeds, road design, and enforcement capabilities. The House bill also modifies the current sanction requirement.

Under the House bill, the Secretary is required to transfer not less than 1 percent and not more than 5 percent of a state's National Highway System funds to its apportionment under section 402 of this title if the percentage of vehicles in such state (A) on 55 mph Interstate highways are traveling at speeds in excess of the posted speed limit plus 5 miles per hour exceed 50%, (B) on 55 mph Interstate highways are traveling at speeds in excess of the speed limit plus 10 miles per hour exceeds 30 percent, (C) on 65 mph Interstate highways are traveling at speeds in excess of the posted speed limit plus 5 miles per hour exceeds 35 percent, (D) on 65 mph Interstate highways are traveling at speeds in excess of the speed limit plus 20 miles per hour exceeds 20 percent, (E) on non-interstate highways are traveling at speeds in excess of the posted speed limit plus 5 miles per hour exceeds 30 percent, or (F) on non-interstate highways are traveling at speeds in excess of the posted speed limit plus 10 miles per hour exceeds 15%.

Fifty percent of any funds transferred to Section 402 must be used for speed enforcement activities and public education and information. At the request of a state, the Secretary may waive this requirement for any fiscal year quarter after a fiscal year quarter the state is found to be in compliance with this section.

The bill also codifies the current provisions that permit states to raise the speed limit up to 65 mph on certain non-Interstate highways built to Interstate standards and located outside of an urbanized area. In addition, it requires the collection of uniform data on 55 mph and 65 mph highways and requires the Secretary to issue regulations that devices and equipment are placed at locations on maximum speed limit highways on a scientifically random basis which takes into account the relative risk of motor vehicle accidents as they relate to speed and class of highways.

The House bill would further transfer the administration of this section and appropriate Federal Highway Administration personnel to the National Highway Traffic Safety Administration.

Senate amendment

Section 139(a) repeals 23 U.S.C. 141(a), which requires each state to certify annually that it is enforcing all speed limits on public highways posted at the national maximum speed limit and requires the Secretary to withhold project approval in any state that fails to certify accordingly. The language of 23 U.S.C. 141(a) is incorporated in 23 U.S.C. 154 as rewritten in subsection (b) of this section.

Subsection (b) rewrites 23 U.S.C. 154, the national maximum speed limit law. As rewritten, section 154:

(1) continues the current national maximum speed limit of 55 mph on public highways other than Interstate highways located outside of an urbanized area and 65 mph on Interstate highways located outside of an urbanized area;

(2) codifies the current permission for states to raise the speed limit up to 65 mph on certain non-Interstate highways built to Interstate standards and located outside of an urbanized area.

(3) requires each state to collect and submit to the Secretary annual speed-related data on public highways posted at or above 55 mph (current data collection and compliance requirements apply only to highways posted at 55 mph);

(4) incorporates the language of the current section 141(a) prohibiting the approval of state highway construction projects in a state that fails to certify that it is enforcing all speed limits on public highways; and

(5) repeals, by omission, current provisions of the national maximum speed limit law that: (a) require states to submit to the Secretary compliance data for a 12-month period on the percentage of motor vehicles exceeding 55 mph on their public highways posted at 55, and (b) establish a process under which a state could lose up to 10 percent of its non-Interstate highway construction funds for the following fiscal year if the state's 12-month compliance data show that more than 50 percent of its motorists exceeded the posted 55 mph limit;

Conference substitute

The Conference Substitute modifies Sec. 154(e), Title 23 U.S.C., to provide that speed limit data to be reported annually to the Secretary include, but not be limited to, data on citations, travel speeds and the posted speed limit and the design characteristics of roads from which such travel speed data are gathered. The Substitute also adopts the House language regarding the collection of data and the adoption of regulations by the Secretary on the placement of monitoring devices.

The House provision relating to enforcement is amended by requiring the Secretary, one year after the enactment of this Act, to publish in the Federal Register a proposed rulemaking to establish speed limit enforcement requirements which shall devise a formula for determining compliance with the requirements of the rulemaking (1) which assigns greater weight for violations of such speed limits in proportion to the amount by which the speed of the motor vehicle exceeds the speed limit and (2) which differentiates between the type of road on which speed limit violations occur. In developing the formula, the Secretary is required to consider factors relating to (1) the enforcement of efforts made by the states, data concerning fatalities and serious injuries occurring on roads posted at 55 mph or higher, and (2) any other measure of speed enforcement or speed-related highway safety trends which the Secretary deems appropriate. The Conference Substitute applies the same reprogramming provision and Secretarial discretion with regard to the percentage transferred as in the House bill.

The Secretary must publish the final form of the prescribed regulations in the Federal Register within 60 days after publication of the proposed rulemaking. Such final rule shall take effect no later than 12 months after such publication.

MINIMUM ALLOCATION

House bill

The House bill increases the minimum allocation level from 85 percent to 90 percent, i.e. it assures that each State's share of the Federal-aid program (calculated based on that year's apportionment and prior year's allocations) will not be less than 90 percent of its relative share of contributions to the Highway Trust Fund. The base upon which this calculation takes place includes all Federal-aid programs with the exception of forest highways, Indian reservation roads, parkways and park roads, highway related safety grants, non-construction safety grants, motor carrier safety grants, and projects from either this Act or the 1987 STURAA.

Further, the House bill provides a separate guaranteed minimum for the projects contained in the House bill.

Senate amendment

The Senate amendment contains no comparable provision, thus continuing minimum allocation as in current law.

Conference substitute

The conference substitute retains the minimum allocation concept, increased to a 90 percent level, although the base upon which it is calculated is changed. That base includes apportionments for interstate construction, interstate substitution, interstate maintenance, bridge and surface transportation programs as well as prior years discretionary allocations derived from these programs.

BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS

House bill

Section 132 amends Section 217 of title 23, United States Code to provide that, with the approval of the Secretary, a state may obligate its Rural and Urban Mobility and Flexible funds to construct pedestrian walkways and bicycle transportation facilities on any Federal-aid highway, except on the Interstate system. No bicycle projects may be carried out that are not principally for transportation rather than recreational purposes. Also with the Secretary's approval, a state may obligate its national highway system funds to construct bicycle transportation facilities on land adjacent to any National Highway System highway other than on the Interstate system. Funds authorized for forest highways, forest and public lands development, roads and trails, park roads, parkways, Indian reservation roads and public lands highways shall be available for the construction of pedestrian walkways and bicycle transportation facilities in conjunction with such trails, roads, highways and parkways at the discretion of the department which administers the funds.

States shall use urban and rural mobility and flexible apportionments to fund a bicycle and pedestrian coordination position with the state department of transportation. The coordinator shall promote and facilitate increased use of nonmotorized modes of transportation, development of pedestrian and bicycle facilities, public education, and promotional and safety programs for using the facilities. At least 50 percent of the coordinator's position shall be dedicated to coordinating and developing such programs and facilities.

On Federally assisted bridge deck replacement or rehabilitation projects and on highways which are not fully access controlled, where bicycles are permitted to operate at each end, accommodations for bicycles may be included in the project if the Secretary determines it is safe to do so and it can be provided at a reasonable cost. Pedestrian walkways and bicycle transportation facilities shall be located and designed as part of an overall plan with due consideration for safety and contiguous routes, and no motorized vehicles shall be permitted on pedestrian walkways and trails except for maintenance purposes or when snow conditions and state or local regulation permit, motorized wheelchairs.

Senate amendment

The Senate amendment continues existing law with conforming amendments. It also includes facilities for pedestrian and bicycles as an eligible item for funding under transportation enhancement activities.

Conference substitute

The Conference Substitute adopts the House provision.

INDIAN RESERVATION ROADS

House bill

The House bill provides for 2% of IRR funding under the Federal Lands Highway Program to be allocated to tribes applying for transportation planning pursuant to the provisions of the Indian Self Determination and Education Assistance Act. In addition, the bill directs the Secretary to conduct a study related to Indian reservation roads.

Senate amendment

The Senate bill also provides for 2% of IRR funding to tribes applying for transportation planning.

Conference substitute

The managers have agreed to the House language with the exception that the 2% of the funding provided has been amended to provide "up to" 2% is provided.

FEDERAL LANDS

Indian Reservation Roads

House bill

The House amendment directs the Secretary to conduct a study on differences between the use of funds from the Highway Trust Fund on Indian reservation roads and other federal-aid highways to identify inequities. The study results, including legislative and administrative recommendations, shall be sent to Congress within one year.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Senate recedes to the House.

House bill

The House bill provides that two percent of each year's Indian Reservation Roads funds be allocated to tribal governments applying for transportation planning pursuant to the Indian Self-Determination and Assistance Act.

Senate amendment

The Senate bill provides an identical provision.

Conference substitute

The Conference substitute amends the provision for "up to" two percent for such purposes so allocated amount is based on actual applications by tribal governments. Tribes not applying for planning grants under the Self Determination Act will continue to receive such services from the Bureau of Indian Affairs administrative cost account.

Program Structure

House bill

The House bill contains no comparable provisions.

Senate amendment

The Senate amendment restructures the federal land category by consolidating the forest roads and nation-wide discretionary account into a new public lands highway program. Sixty-six percent of the public lands highway account shall be allocated to the Forest Service regional offices for use in 41 states based on forest highway criteria. The remaining 34 percent shall be allocated by the Secretary based on national competition for other forest or public land highways.

The Senate amendment qualifies each class of Federal land highways for transportation planning for tourism and recreational travel and makes certain costs such as interpretative signage and rest areas eligible cost items.

The Senate amendment authorizes the Secretary to transfer appropriate funds to the Secretary of Interior to cover road-related administrative costs of the Bureau of Land Management in connection with public lands highways.

The Senate amendment directs the Secretaries of Transportation, Interior and Agriculture to develop appropriate transportation planning procedures, and safety, bridge and pavement management systems for funds funded under the Federal Lands Highway Program.

CONFERENCE SUBSTITUTE

The Conference recedes to the Senate provisions.

Funding levels

House bill

The House amendment authorizes $268 million for forest roads, $193 million for public lands highways, $292 for parks and parkways, and $1,028 for Indian Reservation Roads over six years.

Senate amendment

The Senate amendment authorizes $1 billion for the new consolidated public land highways program, $600 million for parks and parkways, and $1 billion for Indian reservation roads.

Conference substitute

The Conference substitute provides $1 billion for the public lands highways, $486 million for parks and parkways and $1.114 for Indian reservation roads.

MANAGEMENT SYSTEMS

House bill

The House bill requires the Secretary to issue regulations within one year for the development, establishment, and implementation of six (6) management systems: pavement, bridges, safety, congestion, public transportation, and intermodal. Beginning with FY 96, the Secretary may withhold 10 percent of funds apportioned under Title 23 and the UMTA Act of 1964 for failure to implement and certify implementation of each system in the preceding year. Costs to develop and establish these systems are eligible uses of Federal-aid apportionments.

Senate amendment

The Senate amendment, as part of the Statewide planning process, requires the States to have systems comparable to those of the House bill with the exception of public transportation and intermodal. The penalty for failure to establish approved systems, at the discretion of the Secretary, withholding project approvals and/or decline acceptance for the certification necessary as part of the Surface Transportation Program.

Conference substitute

The Conference substitute adopts the House provision requiring the Secretary to withhold up to 10 percent of the funds apportioned to the states that have adopted and implemented management systems.

LIMITATION ON DISCOVERY OF CERTAIN REPORTS AND SURVEYS

House bill

This section clarifies that no report, survey schedule list, or data compiled for the purpose of complying with Section 130 and 144 of Title 23, United States Code, or for developing any highway safety construction project which may be implemented with Federal-aid highway funds shall be subject to discovery or admitted into evidence in a Federal or state court proceeding.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House Provision.

BUY AMERICA

House bill

This section clarifies the intent of Congress to include products manufactured with iron under the Buy America provisions.

The Secretary of Transportation is required to submit to Congress a report on purchases from foreign entities that include the dollar value of items for which waivers were granted under the Buy America provisions.

This section also contains provisions that establish penalties for certain violations and limitations on the applicability of waivers for products produced in foreign countries that have trade agreements with the United States.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION

House bill

This section exempts the Rural Electrification Administration (REA) from certain rules relating to appraisal required by the Department of Transportation to carry out property acquisitions. If the acquisition activities of the REA result in the dislocation of a person, then REA must follow the rules of adequately compensating a displaced person.

Senate amendment

The Senate amendment amends section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1973. It exempts the Rural Electrification Administration (REA) from the uniform regulation relating to the acquisition of real property under title III of that Act. The relocation provisions in title II of the Act would still apply where the activities of REA (or TVA which is already exempted) result in the displacement of persons or businesses.

Conference substitute

Adopts the Senate provision.

TEMPORARY MATCHING FUND WAIVER

House bill

The House bill contains a provision comparable to that incorporated into the 1987 STURAA, permitting the states to request a waiver of the non-Federal share for a qualifying project, in this case for fiscal years 1992 and 1993. The state shares waived must be fully repaid by March 30, 1994, with payments deposited in the Highway Trust Fund and repaid amounts credited to the appropriate apportionment account of the state.

Any amounts not repaid are to be deducted from the state's fiscal year 1995 and 1996 apportionments and then apportioned to other states which have not received a higher Federal share under this section and to those states which have made the required repayment.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

The conference substitute adopted the House provision.

HIGH PRIORITY CORRIDORS

House bill

This section identifies 16 high priority corridors that are regionally and nationally important. These corridors are required to be put on the National Highway System.

For all of these corridors, both long-range planning and specific feasibility and design studies will be carried out by the Secretary and the states cooperatively. For work on these corridors the Secretary may use certification acceptance under section 117 of title 23 and shall, to the maximum extent feasible, use procedures for acceleration of projects.

Specific high priority segments are identified for specific funding. The overall funding that is available for these projects is $200 million for FY 1992 and $450 million per year for each of FY 1993–1996. In addition, since this special funding will generally not be sufficient to complete work on these segments, the bill requires states to give priority to funding these segments with apportioned funds.

A separate authorization of $10 million per year is provided for feasibility and design studies. In addition, a revolving loan fund of $200 million is established from a $50 million set aside for each of FY 1993–1996. This Fund would be available to advance amounts to a state for construction of projects in the corridors, with priority given to the high priority segments. A state would repay amounts advanced from National Highway System apportionments.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

The conference substitute adopted the House provisions with the following changes: (1) various authorization levels for high priority segments were modified, (2) the mandatory "shall" language was made permissive by substituting the word "may," and (3) a new corridor and segment was added in New York. Technical corrections were made to make the advance construction provisions workable for the Cumberland Gap as well as to clarify the intent of establishing contract authority for the feasibility studies funded under this Section.

Highway Timber Bridge Research and Demonstration Program

House bill

The House amendment directs the Secretary to establish a Timber Bridge Construction and Discretionary grant program, allowing States to receive grants for the construction of highway timber bridges.

Senate amendment

The Senate amendment directs the Secretary to establish a Timber Bridge Construction Discretionary Grant Program, as well as a Program of Research on Wood Use in Transportation Structures.

Conference substitute

House recedes to Senate amendment with funding level to be split between Senate level and the level contained in House bill.

Construction of Ferry Boats and Ferry Terminal Facilities

House bill

This section provides that the Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c) of title 23. The Federal share for construction of ferry boats under this section shall be 80%. There is authorized $36 million for fiscal year 1992 and $43 million per fiscal year for each of the fiscal years 1993 through 1997 out of the Highway Trust Fund and shall be available to the Secretary each fiscal year to obligate at his or her discretion for grants under this section. The funds shall remain available until expended. All the provisions of chapter 1 of title 23 that apply to the National Highway System, except those related to the apportionment formula and Federal share, shall apply to funds made available to carry out this section, unless the Secretary determines they are inconsistent with this section.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision with modifications to the funding levels.

Asphalt Pavement Contacting Recycled Materials

House bill

Section 143 of H.R. 2950 specifies that, for a period of five years, the Secretary of Transportation may not disapprove any state highway project on the basis that such project utilizes rubber modified asphalt. This section also requires the Secretary to conduct a two-year study on the utilization of recycled materials in paving materials and highway devices and appurtenances.

Senate bill

Section 127 of S. 1204 requires the Secretary of Transportation to withhold grants under title 23, other than for projects or grants relating to safety, from any state which cannot certify to the Secretary that it has met the minimum utilization requirement of the equivalent of 6 pounds of rubber derived from scrap tires for each ton of finished asphalt pavement used in federally-assisted highway projects. The provision allows the Secretary to set aside the requirement for any three-year period upon a determination that 1) the use or application of asphalt rubber pavement creates a risk to human health or the environment; 2) asphalt rubber pavement cannot be recycled to the same degree as conventional pavement; or 3) asphalt rubber pavement does not perform adequately as a paving material.

The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is required to conduct research on the environmental risks, technical performance and recyclability of asphalt rubber pavement.

Conference substitute

The Conference Substitute combines the major provisions of both the House and Senate bills. It includes the provision which prevents the Secretary from disapproving a highway project because it includes the use of asphalt pavement containing recycled rubber. It also requires the Secretary and the Administrator of EPA, in cooperation with the states, to conduct a study on the health and environmental threats, recyclability, and technical performance of asphalt pavement containing recycled rubber. In addition, the study will determine the economic savings, technical performance qualities, and environmental threats and benefits of using other recycled materials, including recycled glass, plastic and asphalt, in highway projects. The Secretary is instructed to encourage the use of recycled materials determined to be appropriate by this study. In procuring such materials, procuring agencies as defined in section 1004(17) of the Solid Waste Disposal Act shall comply with all applicable guidelines or regulations issued by the Administrator of the Environmental Protection Agency including those issued pursuant to section 6002 of the Solid Waste Disposal Act.

Beginning January 1, 1995, each state is required to certify to the Secretary that it has satisfied the minimum utilization requirement for asphalt pavement contacting recycled rubber, as follows: five percent in 1994; ten percent in 1995; 15 percent in 1996; and 20 percent in 1997 and each year thereafter. The Secretary shall withhold from any state failing to make such certification a percentage of highway construction, rehabilitation and repair apportionments equivalent to the percentage utilization requirements established in this section.

Other recycled materials, as determined appropriate by the Secretary and the Administrator of EPA, pursuant to the study required by this section, may be substituted for recycled rubber under the minimum utilization requirement up to five percent. The conferees recognize that other recycled materials with the potential for exhibiting technical performance qualities may require substantial time for further development and testing. In such case, it is intended that the Secretary will note this in the report submitted to Congress, and that the authorization to substitute will not go into effect until such time as such other recycled materials have been developed and tested, and as a result of such development and testing, demonstrate, to the satisfaction of the Secretary, that asphalt containing recycled material or materials will perform in a manner equivalent to asphalt contacting recycled rubber.

The conferees recognize that a state may not have a sufficient quantity of scrap tires to meet the minimum utilization requirements established by this section, because it is recycling or processing tires (which includes retreading or energy recovery), or shipping tires to another state for such recycling or processing. In such case the state may request that the Secretary, in concurrence with the Administrator of EPA, reduce the minimum utilization requirement for that state.

The term "recycled rubber", as used in this section, is any crumb rubber derived from processing whole scrap tires or shredded tire material taken from automobiles, trucks or other equipment owned and operated in the United States provided that, such processing does not produce, as a waste, casings or other round tire material that can hold water when stored or disposed above ground.

Highway Use Tax Evasion Projects

House bill

This section provides in subsection (a) that the Secretary shall use funds made available by subsection (f) to carry out highway use tax evasion projects. At the discretion of the Secretary, the funds may be allocated to the Internal Revenue Service and the states.

Funds may be used only to expand efforts to enhance motor fuel tax enforcement; to fund additional Internal Revenue Service staff solely to carry out the functions described in this subsection; to supplement motor fuel tax examinations and criminal investigations; to develop automated data processing tools to monitor motor fuel production and sales; to evaluate and implement registration and reporting requirements for motor fuel taxpayers; to reimburse state expenses that supplement existing fuel tax compliance efforts; and to analyze and implement programs to reduce tax evasion of other highway use taxes.

The Secretary is authorized to conduct a study to determine the feasibility and the desirability of using dye and markets to aid in motor fuel enforcement activities. The Secretary must transmit a report on the results of the study not later than one year after the effective date of this section.

The Secretary shall establish an advisory committee to prepare a plan to carry out and coordinate highway use tax evasion projects, monitor the results of the projects, provide progress reports, and make recommendations to the Secretary for the distribution of funds under this section, including recommendations for distributing funds among states fairly and equitably. The advisory committee members shall be appointed no later than 180 days after enactment. Members shall include representatives of the Federal Highway Administration, the Internal Revenue Service and the States. The advisory committee shall terminate on September 30, 1996.

The Secretary may not make a grant to a state unless it certifies that the aggregate expenditure of state funds, exclusive of Federal funds, for fuel tax enforcement activities will not fall below the average level expended for the last two years.

On October 1 and April 1 of each year, the Secretary shall transmit to the Senate Committee on Environment and Public Works and the House on Public Works and Transportation a report on motor fuel tax enforcement activities and the expenditure of funds made available under this section including the hiring of additional staff by any Federal agency.

There is $7 million authorized for fiscal year 1992 and $8 million per year for fiscal years 1993 through 1997 to be made available to the Secretary for projects under this section. Funds shall be obligated in the same manner and to the same extent as funds apportioned under chapter 1 of Title 23, except that the Federal share for projects shall be 100% and remain available under expended.

For the purposes of this section "state" means the 50 States and the District of Columbia.

Senate amendment

The amendment authorizes $5 million for each of the fiscal years 1992 through 1996 to carry out highway use tax evasion projects. The funds will be allocated to the Internal Revenue Service at the discretion of the Secretary. The funds may be used only to expand efforts to enhance motor fuel tax enforcement, fund additional IRS staff, supplement motor fuel tax examination and criminal investigation and for other related purposes.

The Secretary shall transmit to the Congress a report on motor fuel tax enforcement activities and the expenditure of funds made available under this section, including the hiring of additional staff by any Federal agency, on October 1 and April 1 of each year.

Conference substitute

Adopts the House provision with an amendment that authorizes $25 million in contract authority and $15 million in General Fund appropriations spread out over the 6-year life of the bill.

SUBSTITUTE PROJECT

House bill

The House provision allows the Secretary to approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of I-94.

Senate amendment

The Senate amendment is similar; however, the source of funding for any transit substitute projects approved shall be the Mass Transit Account of the Highway Trust Fund.

Conference substitute

The Senate recedes to the House.

RENTAL RATES

House bill

The House bill authorizes a study on equipment rental rate for use of reimbursing contractors for extra work on Federal-aid projects.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

SCENIC BYWAYS PROGRAM

House bill

Section 147 of the House bill establishes a Scenic Byways Advisory Committee within the Department of Transportation for the purpose of assisting the Secretary in developing a national scenic byways program and in making recommendations to the Secretary regarding minimum criteria for use by state and Federal agencies in designating highways as scenic byways and all-American roads.

Membership must consist of the Administrator or a designate of the Administrator of the Federal Highway Administration; the Chief or designee of the Chief of the Forest Service of the Department of Agriculture; the Director or designee of the Director of the Bureau of Land Management of the Department of the Interior; the Under Secretary or designee of the Under Secretary for Travel and Tourism of the Department of Commerce; the Assistant Secretary or designee of the Assistant Secretary of Indian Affairs of the Department of the Interior; and appointees of the Secretary to represent the interests of conservationists, recreational users of scenic byways, the tourism industry, historic preservationists, highway users, state highway and transportation officials, local highway and transportations officials, an individual qualified to serve on the advisory committee as a planner, one representative each of the motoring public and of groups interested in scenic preservation, and a representative of the outdoor advertising industry.

Recommendations made by the advisory committee shall include consideration of the scenic beauty and historic significance of highways proposed for designation and the areas surrounding the highways; operation and management standards for scenic byways and all-American roads including strategies for maintaining and improving their scenic and historic qualities, for protecting and enhancing landscape and view corridors and for minimizing traffic congestion; standards for scenic byway-related signs, and other matters.

No later than 18 months after enactment, the advisory committee shall submit to the Secretary and Congress a report with all recommendations described in this section. The Secretary shall provide technical assistance and grants to the states for planning, design and development of state scenic byway programs.

An Interim Scenic Byways Program is created for fiscal years 1992, 1993 and 1994, during which the Secretary may make grants to the States for eligible projects on State-designated scenic byways. The Secretary is to give priority to eligibility projects which are included in a corridor management plan for maintaining scenic, historic, recreational, cultural and archeological characteristics of the corridor while providing for accommodation of increased tourism and development of related amenities; to eligible projects for which a strong local commitment is demonstrated for implementing the management plans and protecting the characteristics for which the highway is likely to be designated; to eligible projects included in programs which can serve as models for other States; and to eligible projects in multi-State corridors where the States submit joint applications. Eligible projects include planning, design, and development of State scenic byway programs; making safety improvements to the extent such improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway; construction of facilities for the use of pedestrians and bicycles, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretative facilities; improvements to the highway which will enhance access to an area for the purpose of recreation, including water-related recreation; protecting historical and cultural resources in areas adjacent to the highway; and developing and providing tourist information to the public, including interpretive information about the scenic byway.

Senate amendment

Section 129 provides for the creation of a National Scenic and Historic Byways Program and implements the recommendations from the national study completed by the Federal Highway Administration in January 1991. As part of this program, the Federal Highway Administration will establish the capability to provide information and technical assistance to the state agencies responsible for scenic and historic byway programs. In addition, the Federal Highway Administration will provide grants to these state agencies for the planning, design, and development of State scenic byway programs. These grants may be used for initiating or expanding planning and program development efforts and for providing such road user amenities as information services, maps and brochures, and interpretive displays on existing byways. Criteria for allocating these grants will be established by the Federal Highway Administration consistent with the findings from the national study.

The development of the All American Roads Programs should include a broad-based group of federal, state, local, and private sector representatives having knowledge and experience with scenic byway programs. At a minimum, the federal involvement should include representatives from the Department of Transportation, the United States Forest Service, the Bureau of Land Management, the National Park Service, the Bureau of Indian Affairs, and the U.S. Travel and Tourism Administration. The national study should be consulted in developing the criteria for the All American Roads program. Roads to be considered for this program are to be nominated by the states and federal agencies. For state-owned roads nominated by federal agencies, the state department of transportation shall concur in the nomination. The intent of the All American Roads program is to identify and designate roads having outstanding qualities of scenic, historic, and cultural attractiveness; to preserve and protect these roads and their unique characteristics; and to enhance rural tourism, economic development, and world-class tourism destinations.

Conference substitute

The Conference Substitute adopts the House version, but permits up to 10 percent of scenic highway funds to be used for billboard removal on scenic byways.

The Conferees intend that under the Conference agreement no new billboards shall be enacted on scenic byways on the Interstate or Primary Systems as those systems are in effect on the date of enactment of the Intermodal Transportation Efficiency Act of 1991.

UNIFORM TRAFFIC CONTROL DEVICES

House bill

This section authorizes the Secretary to carry out a project in Arkansas to provide training to country and town traffic officials in the need for and application of uniform traffic control devices and to demonstrate the safety benefits of providing for adequate and safe warning and regulatory signs.

A total of $1.2 million is authorized for fiscal year 1992 to carry out this project.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

RURAL AND URBAN ACCESS PROJECTS

House bill

Subsection (a) authorizes specific projects for the Secretary to carry out to ensure better rural access and promote economic development in rural areas. $100 million is authorized for FY 1992 and $150 million is authorized for each of FY's 1993 through 1996 to carry out these projects.

Subsection (b) authorizes specific projects to enhance urban access and urban mobility. $100 million is authorized for FY 1992 and $150 million is authorized for each of FY's 1993 through 1996 to carry out these projects.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute contains the House provisions with the following changes:

(1) various authorization levels for projects were modified, and (2)

MOLLY ANN'S BROOK, NEW JERSEY

SECTION 150

House bill

The House bill directs the Secretary to carry out a project to make modifications to bridges necessary for the Secretary of the Army to carry out a project for flood control, Molly Ann's Brook, New Jersey, authorized by section 401 of the Water Resources Development Act of 1986. Any Federal expenditures for the raising of bridges over Molly Ann's Brook shall be treated as part of the non-Federal share of the cost of such flood control project.

Senate amendment

No comparable provision.

Conference substitute

Same as House bill.

PASSAIC AND BERGEN COUNTIES, NEW JERSEY

House bill

This section creates a model program of delegation to the State of New Jersey of the Administration of the completion of Route 21 in Passaic County. All aspects of law, regulation, policy and practice are delegated to the State and the State is authorized to administer all aspects of the project design and construction process pursuant to State laws, rules and regulations.

It is the intention of the Committee to continue to determine methods of reducing the time required to complete an urban highway project, as was provided for in the Surface Transportation and Uniform Relocation Assistance Act of 1987, Sec. 149(a)(1), when administration of all Federal Highway Administration requirements are delegated to a state. It is also the intention of the Committee that time reduction be demonstrated through acquisition of right-of-way prior to the determination of the preferred alternative.

The Committee expects expeditious construction of this long-delayed and badly needed project and, therefore, all Federal regulatory requirements, including but not limited to procurement of professional services, staging of design and Right-of-Way acquisition, and all Federal procedures, practices and interpretations, are delegated to the State and may be waived by the State if considered in the public interest.

Senate amendment

No comparable provision.

Conference substitute

Adopts House provision with a modification to authorize the Government to waive any and all Federal requirements relating to the scheduling of activities associated with such highway project, including final design and right-of-way activities.

REGULATORY INTERPRETATIONS

House bill

This section requires that any regulations, rulings, or decisions issued by the Department of Transportation relating to the Buy America requirements be applied as if to include coating.

This section also requires that Sec. 393.95 of Title 49 of the Code of Federal Regulations shall be applied so that fuses and flares are given equal priority with regard to use as reflecting signs.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provisions.

HANDICAPPED PARKING

House bill

Subsection (a) requires the Secretary to conduct a study on the programs being made by the states in adopting and implementing a uniform system for handicapped parking regulations issued by the Department of Transportation.

Subsection (b) provides for the Secretary to report to the Congress within two (2) years from the date of enactment of this Act the results of the study.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

ROADSIDE BARRIER TECHNOLOGY

House bill

This section requires each state use innovative safety barriers for at least 5 percent of the mileage of new or replacement permanent median barrier included in awarded contracts on Federal aid highways. Innovative safety barriers are those barriers, other than guard rail, that are classified by the Federal Highway Administration as experimental or that were classified as operational after January 1, 1985. Each state is required to certify annually to the Secretary its compliance with this requirement.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the House provision with a modification in the requirement. The Conferees agree that 2.5%, rather than 5%, of new or replacement permanent median barrier erected in each state must be "innovative safety barrier".

DESIGN STANDARDS

House bill

Section 155 of the House bill requires the Secretary to conduct a survey to identify current state standards on all Federal-aid highways relating to geometric design, traffic control devices, roadside safety, safety appurtenance designs, uniform traffic control devices and sign legibility and directional clarity for the purpose of determining the need to upgrade such standards.

The Secretary must report to Congress on the results of the Survey and on the crashworthiness of traffic lights, traffic signs, guardrails, impact attenuators, concrete barrier treatments and breakaway utility poles for bridges and roadways currently used by states, together with any recommendations, within two years after enactment.

Senate bill

The Senate bill contains no comparable provision.

Conference substitute

The Conference substitute adopts the House language.

EFFECTIVE DATE

House bill

The House amendment allows unobligated balances of funds apportioned to the States to be transferred to program categories.

Senate amendment

Identical provision that includes the Senate program categories.

Conference substitute

The Conference substitute includes the Senate provision with comparable Senate categories.

UNOBLIGATED BALANCES

House bill

The House bill provides that the amendments of this title do not apply to funds appropriated before September 30, 1991. It also provides that unobligated balances apportioned before October 1, 1991 shall be obligated according to the law in effect on September 30, 1991. In some cases, the unobligated balances may be transferred to the primary, secondary, interstate 4R or urban system programs if the unobligated funds were apportioned before October 1, 1991.

Senate amendment

The Senate provision provides that unobligated balances apportioned for the primary, secondary and urban systems and the railway-highway crossing and hazard elimination programs may be obligated for the Surface Transportation Program.

Conference substitute

The managers have provided that unobligated balances already apportioned are transferable to the new program.

INNOVATIVE PROJECTS

House bill

This section authorizes the Secretary to carry out specific projects demonstrating innovative techniques and advanced technologies in highway construction. $100 million is authorized for FY 1992 and $225 million is authorized for each of Fy's 1993 through 1996 to carry out these projects.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute contains the House provisions with modifications to various authorization levels for projects.

ORANGE COUNTY TOLL PILOT PROJECTS

House bill

This section exempts certain toll pilot projects in Orange County, California, from section 4(f) requirements applicable to public park, recreation area, wildlife and waterfowl refuges.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute contains the House provision.

PRIOR DEMONSTRATION PROJECTS

House bill

This section amends the provisions of three demonstration projects located in Tampa, Florida; Santa Fe, New Mexico; and Larkspur to Korbel, California, that were authorized in the Surface Transportation and Uniform Relocation Assistance Act of 1987 to make the unobligated balances of funds available for other projects.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

WILLIAM H. HARSHA BRIDGE

House bill

This section renames the United States Route 68 bridge across the Ohio River between Aberdeen, Ohio, and Marysville, Kentucky, as the William H. Harsha Bridge.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

COMMEMORATION OF DWIGHT D. EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

House bill

This section authorizes the Secretary to conduct a study to determine the appropriate symbol or emblem to be placed on highway signs to commemorate Former President Eisenhower for his efforts to enact legislation authorizing the construction of the Interstate System.

The report shall be submitted to the Congress not later than one year after the effective date of this title.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

USE OF HIGH OCCUPANCY VEHICLE LANES BY MOTORBIKES

House bill

This section requires the Secretary to not recognize any certification made by a state on the safety of motor bikes on high occupancy vehicle lanes that was made prior to the enactment of the Intermodal Surface Transportation Infrastructure Act of 1991 until the Secretary publishes notice of such certification in the Federal Register and provides an opportunity for public comment on such certification.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

TOURIST ORIENTED DIRECTIONAL SIGNS

House bill

This section directs the Secretary to encourage states to provide for equitable participation in the use of tourist oriented directional signs, or logo signs, along the Interstate and Federal-aid primary systems as covered under the Highway Beautification Act.

The Secretary is required to report to the Congress on the participation in the use of tourist oriented directional signs within one year of enactment.

There have been reports that new business enterprises opening at exits on Interstate highways are not afforded equal treatment as all competitors. The intent of this provision is to encourage states to administer their tourist oriented directional logo signs program fairly among all interested eligible enterprises.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

PENSACOLA, FLORIDA

House bill

This section authorizes the Secretary to conduct a study of the feasibility of constructing a 4-lane highway, in accordance with all Federal standards applicable to the construction standards of Interstate highways, to connect Interstate Route 65 and Interstate Route 10 in Pensacola, Florida.

The Secretary must transmit the report along with recommendations for the location of a corridor to construct the 4-lane highway connector not later than 2 years after the date of enactment of this Act.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

CALHOUN COUNTY, MISSISSIPPI

House bill

This section amends section 403 of the Appalachian Regional Development Act of 1965 to include Calhoun County, Mississippi as an eligible county for receipt of Appalachian Regional Development funds.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

HIGHER FEDERAL SHARE

House bill

This section authorizes for higher Federal share projects constructed on Federally-owned property and for projects entitled to a higher Federal share under Section 204 of 23 U.S.C.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

WORK ZONE SAFETY

House bill

Sec. 168 of the House bill requires the Secretary of Transportation to develop a work zone safety program which would improve work zone safety by enhancing the quality and effectiveness of traffic control devices, safety appurtenances, traffic control plans, and bidding practices for traffic control devices and services.

No later than 2 years after enactment of this title, the Secretary shall submit to Congress such proposed program and recommendations for implementation.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference Report directs the Secretary to develop and implement a work zone safety program.

MISCELLANEOUS PROJECTS

House bill

This section authorizes a series of miscellaneous highway projects to be appropriated.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

RAILROAD RELOCATION DEMONSTRATION PROGRAM

House bill

This section extends the amounts ($15 million per fiscal year) authorized for the railroad relocation demonstration program an additional three years through fiscal year 1994.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

J. CLIFFORD NAUGLE BYPASS

House bill

This section designates the highway bypass being constructed around the Borough of Ligonier in Westmoreland County, Pennsylvania, as the "J. Clifford Naugle Bypass." Mr. Naugle is the former mayor of Ligonier and has worked tirelessly to advance the construction of the bypass.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

INTERIM ADVANCE CONSTRUCTION PROGRAM

House bill

This section authorizes the reimbursement for the construction of eligible Federal-aid highway projects commenced after September 30, 1991 and before the date of enactment of this Act. The amounts obligated under this provision is limited to the amounts apportioned to the states for fiscal year 1991.

Senate amendment

No comparable provision.

Conference substitute

No provision.

PRESIDENTIAL HIGHWAY, FULTON COUNTY, GEORGIA

House bill

The bill authorizes the Secretary to approve the construction of the Presidential Highway as agreed to by the Georgia Department of Transportation, the city of Atlanta, and CAUTION, Inc. The execution of the settlement agreement by the DeKalb County, Georgia Superior Court will be deemed to constitute full compliance with all Federal laws applicable to carrying out the project.

There is also a limitation established on the expenditure of Federal funds for the construction of this project. All limitations on the construction and funding of the Presidential Highway are subject to the approval of the settlement agreement executed by all parties.

Senate amendment

No comparable provision.

Conference substitute

Adopts House provision.

INFRASTRUCTURE AWARENESS PROGRAM

House bill

This section authorizes $2 million for the purpose of creating an awareness by the public and state and local governments of the state of the Nation's infrastructure and to encourage and stimulate efforts by the public and governments to undertake studies and projects to improve the infrastructure.

The Secretary is authorized to fund the production of a documentary on the state of the Nation's infrastructure with a not-for-profit national public television station.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

UNITED STATES-CANADA BRIDGES

House bill

This section authorizes the Secretary to collect and analyze data on the volume of traffic crossing at three international bridge crossings under the authority of the Niagara Falls Bridge Commission.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute provides the Niagara Falls Bridge Commission the authority to issue tax exempt bonds.

USE OF COMPOST

House bill

This section expresses the sense of Congress that State and local governments should encourage the environmentally safe use of compost and other products along the rights-of-way of Federal-aid highways.

Senate amendment

No comparable provision.

Conference substitute

No provision.

Study on State Compliance With Requirements for Revocation and Suspension of Drivers' License

House bill

This section authorizes the Secretary to conduct a study of States' efforts to comply with provisions relating to revocation and suspension of drivers' licenses for individuals convicted of drug and alcohol offenses. The study shall be transmitted to Congress not later than 180 days after the date of enactment.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision with a change in the date of the report.

Private Sector Involvement Program

House bill

This section authorizes the Secretary to establish a private sector involvement program to encourage States to contract with private firms for engineering and design services in carrying out Federal-aid highway projects.

The Secretary is also authorized to make grants to States to conduct this program.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision with a modification to ensure that any contracts would be cost effective.

New Hampshire Federal-Aid Payback

House bill

This section authorizes the State of New Hampshire to repay to the Treasurer of the United States the amount of Federal-aid highway funds paid on account of those completed sections of the Nashua-Hudson Circumferential. The amounts repaid will be deposited to the credit of the unprogrammed balance of funds apportioned to the State of New Hampshire. The amounts credited to the State will be in addition to all other funds apportioned to the State and shall remain available until expended.

Upon repayment of the Federal share of the cost to construct certain segments of the Nashua-Hudson Circumferential, the State of New Hampshire may impose and collect tolls on the Nashua-Hudson Circumferential.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Metric System Signing

House bill

Repeals the prohibition for the placement of metric signs along Federal-aid highways.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Signing of United States Highway 71

House bill

This section authorizes the Arkansas State Highway and Transportation Department to erect signs along United States Highway 71 from the I-40 intersection to the Missouri-Arkansas State line designating the highway as the "John Paul Hammerschmidt Highway" as required to be erected by the Arkansas State law designated as Act 6 of 1989.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Disposition of Paving Materials

House bill

Section 186 of the House bill requires the Secretary to initiate, no later than 60 days after enactment of this Act, a rulemaking proceeding to establish minimum requirements for the economic reuse and environmentally sound disposition of pavement materials removed during construction, reconstruction, or repaving in any federally assisted highway project.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The House recedes to the Senate since section 143, Recycled Paving Materials, contains a provision requiring the Secretary to study state practices with regard to disposal of pavement materials removed during construction.

Study on Impact of Climatic Conditions

House bill

This section authorizes the Secretary to conduct a study of the effects of climatic conditions on the costs of highway construction and maintenance. The study shall consider various climatic conditions and the impact of the climatic conditions on increased highway design costs and decreased highway service life in the various regions of the United States.

The Secretary shall transmit the results of the study along with any recommendations to Congress not later than September 30, 1993.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Methods To Reduce Traffic Congestion During Construction

House bill

This section expressed a sense of Congress that many highway projects are carried out in a way which unnecessarily disrupts traffic flow during construction and that methods need to be adopted to eliminate or reduce these disruptions.

The Secretary is required to conduct a study on methods of enhancing traffic flow during construction and report to Congress on the results of the study not later than September 30, 1992.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Guaranty and Warranty Clauses

House bill

This section requires the Secretary to develop regulations to permit a State highway department to include a clause in a contract for engineering and design services, or for the construction of any Federal-aid highway projects for work performed.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute authorizes a study to be conducted by the Secretary on the feasibility of requiring the inclusion of warranty or guaranty clauses for work performed on Federal-aid highway projects.

Highway Tree Planting Program

House bill

The bill authorizes $5 million per fiscal year for each of the fiscal years 1992 through 1996 for the Secretary to make grants to States for developing a plan for tree planting, developing, and implementing a program for the planting of trees along the rights-of-way of Federal-aid highways. The maximum aggregate amount of grants to a State in a fiscal year is limited to $500,000 and the Federal share may not exceed 60 percent.

The Secretary is required to take action as necessary to encourage State highway departments to enter into cooperative agreements with State foresters to implement the requirements of this subsection. The donation of trees is permitted for carrying out the provisions of this section.

Senate amendment

No comparable provision.

Conference substitute

House recedes to the Senate.

Federal Share on Special Projects

House bill

This section requires the Federal share payable on account of any demonstration project authorized under certain sections to be 80 percent.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

Private Property Rights

House bill

No comparable provision.

Senate amendment

Title IV of the Senate Amendment imposes certain procedural requirements for regulations issued by all Federal agencies. Prior to the promulgation of any regulations by any agency, the Attorney General must certify that the regulation is in compliance with the Executive Order 12630 or similar procedures relating to minimizing the taking of private property as a result of regulatory activity.

Conference substitute

The Senate recedes to the House.

Cleveland Harbor, Ohio

House bill

Section 182 of the House bill deauthorizes a portion of the navigation project for Cleveland Harbor, Ohio to allow for the consideration of permit applications related to construction activities within a portion of Cleveland Harbor. The U.S. Army Corps of Engineers will not consider applications for permits to conduct activities in navigable waters which would impact upon a Federally authorized navigation project.

Senate amendment

No comparable provision.

Conference substitute

The conference Substitute adopts the House provision with an amendment. The Conference Substitute adds language to also declare a certain portion of Cleveland Harbor as nonnavigable waters of the United States.

Stormwater Permits

House bill

No comparable provision.

Senate amendment

Section 140L of the Senate Amendment extends certain application deadlines for and enforcement of the stormwater permitting requirements of Section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)) for industrial activities owned or operated by municipalities with a population of under 100,000.

Conference substitute

The conference substitute extends individual and group permit application deadlines for stormwater discharges associated with industrial activities from municipally owned or operated facilities. Individual permit applications must be submitted no later than October 1, 1992, except that where a timely group permit application is denied the applicant would be entitled to an additional six months from the date of the denial to submit an individual application. Group application deadlines are extended until September 30, 1991 for Part I and October 1, 1992 for Part II except that for municipalities of under 250,000 an additional period of time is provided. No stormwater discharge permits for industrial activities for municipalities of under 100,000 are required prior to October 1, 1992 except stormwater discharges from municipally owned or operated power plants, airports, and certain landfills. The conference substitute also requires that general permit regulations for stormwater discharge permits be promulgated no later than February 1, 1992. The conference substitute is not intended to prejudice or in any manner affect any ongoing litigation.

HUDSON RIVER, NEW YORK

House bill

No comparable provision.

Senate amendment

Section 140U of the Senate Amendment declares a portion of the Hudson River, New York to be nonnavigable waters of the United States. The area declared as nonnavigable is the current location of the structure known as Pier A and its immediate surroundings. The nonnavigability declaration does not affect the application of Federal laws or regulations to activities within the area declared nonnavigable.

Conference substitute

Same as the Senate Amendment.

PROVIDENCE, RHODE ISLAND, BRIDGE REMOVAL

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to extend the authorization for a project to remove the center span of the India Point Railroad Bridge over the Seekonk River in Providence, Rhode Island. The project was originally authorized pursuant to Section 1166(c) of the Water Resources Development Act of 1986 but has been deauthorized by operation of law.

BRUNSWICK HARBOR, GEORGIA

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to deauthorize the Academy Creek feature of the Brunswick Harbor, Georgia navigation project. This feature is no longer needed for commercial navigation.

PORT CANAVERAL, FLORIDA

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to deauthorize a portion of the Federal navigation project for Port Canaveral, Florida, to accommodate new, larger cruise ships at the Port's terminals.

JOSEPH RALPH SASSER BOAT RAMP

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to name a boat ramp facility on the Mississippi River in Shelby County, Tennessee on behalf of Joseph Ralph Sasser, the late father of Senator Jim Sasser.

Mr. Sasser joined the Soil Conservation Service—Civilian Conservation Corps in Selmer, Tennessee in 1935. He attained the rank of major in the 1st Marine Division during World War II. After the war, he returned to work with the Soil Conservation Service until 1970. He then went to Tennessee State University as U.S. Department of Agriculture Liaison Officer until his retirement in 1972. He worked tirelessly for the improvement and preservation of the natural resources of Tennessee.

LINDY CLAIBORNE BOGGS LOCK AND DAM

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision renaming lock and dam number 1 on the Red River Waterway in Louisiana as the Lindy Claiborne Boggs Lock and Dam.

Congresswoman Boggs served in the House of Representatives from 1973, succeeding her husband Hale Boggs, who had served in the House for 27 years, until the end of the 101st Congress. She was the first woman from Louisiana to serve in the House. She devoted great energies to improving the lives of children and to protecting the rights of all Americans. She represented the people of New Orleans with grace, wit, and dedication to the best public policies.

ROCKAWAY INLET TO NORTON POINT, NEW YORK

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision modifying the project for shoreline protection, Atlantic Coast of New York City from Rockaway Inlet to Norton Point, to authorize construction of the project in accordance with the current General Design Memorandum dated April 1991. The project was originally authorized for construction by section 501(a) of the Water Resources Development Act of 1986.

APPOMATTOX RIVER, VIRGINIA

House bill

No provision.

Conference substitute

The conference substitute provides that the Federal Energy Regulatory Commission (FERC) shall re-issue a license under the Federal Power Act to the Appomattox River Water Authority together with any amendments necessary and appropriate and extend the period for construction for three years after enactment. The order would be subject to the requirements of this section and the Federal Power Act. During the three year period FERC is directed to issue an order at the request of the Authority permitting the authority to transfer a license to a third party for the purpose of protecting the Authority from challenge as specified in this provision. The transferee would be subject to, and must comply with, the Federal Power Act, including provisions of section 10 relating to fish and wildlife.

The transferred license would be subject to revocation at the request of the Authority to permit the Authority to surrender the license. That surrender could not take place, however, until notice, the completion of the project construction, including fish and wildlife facilities, and delivery to FERC of a statement by the Board of the Authority that there is a need to surrender because the Authority would be acting in violation of its charter or be inconsistent with bond indentures. The provision requires FERC to accept this surrender.

In addition, the provision includes authority for the FERC to extend the period for construction under section 13 of the Federal Power Act for three identified projects.

Finally, the provision relates to a project in Union City, Michigan and provides that it is not unlawful for the municipality of Union City to operate, maintain, repair, reconstruct, replace or modify the project without a license from FERC.

INTERSTATE MAINTENANCE

House bill

The House bill does not continue Interstate 4R as a separate category, however, it requires that a minimum amount of funds apportioned to the states for the National Highway System must be used for interstate resurfacing, restoring, and rehabilitating. The minimum amount shall be equal to 70 percent of the amounts apportioned to each state in fiscal year 1991 under the Interstate 4R program.

Senate amendment

The Senate amendment renames and modifies the existing Interstate 4R program to eliminate eligibility for projects which expand capacity, except in the case of expansion of capacity for projects where the expansion is for other than single occupant vehicles.

The provisions which allow an unconditional transfer of up to 20 percent of the Interstate Maintenance Program funds to other categories are retained. It requires a positive finding by the Secretary that a State transportation department is adequately maintaining the Interstate system before a State may be allowed to transfer to other categories an amount of Interstate Maintenance funds in excess of 20 percent of its Interstate Maintenance apportionment.

The Federal share for any Interstate maintenance project is established at 80 per centum. The provisions to allow increases in participation ratios up to 95 percent based on the percentage of Indian or Federal lands within the State has been retained.

The Secretary is required to develop guidance for the State transportation departments for determining what share of a project is attributable to the expansion of capacity of an Interstate highway and for what criteria will be used to determine whether the State is adequately maintaining the Interstate system before the State is allowed to transfer to other categories an amount of Interstate Maintenance funds in excess of 20 percent of its Interstate Maintenance apportionment.

Conference substitute

The conference substitute adopts the Senate amendment with some technical changes: (1) eligibility for preventative maintenance is tied to a cost effectiveness determination per recommendations by the General Accounting Office, and (2) eligible for funding for non-chargeable interstate segments.

TOLL FACILITIES

House bill

The House bill amends title 23, United States Code, to permit Federal participation in toll highways, bridges and tunnels at the option of all states. The House bill contains limitations on the kinds of facilities that may be tolled and continues the maximum federal participation at 35%.

Senate amendment

The Senate amendment amends title 23, United States Code, in a manner similar to that of the House. In addition, the Senate would permit up to 80% federal participation in the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities.

Conference substitute

The conference substitute contains the provision allowing all states the option of using federal-aid highway funds on toll road facilities except for Interstate Highways. Other provisions contained in the House bill and Senate amendment thereto have been combined.

NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM

House bill

No comparable provision.

Senate amendment

The Senate amendment declares that it is the policy of the United States to establish in the shortest time practicable a United States designed magnetic levitation technology capable of operating along Federal-aid highway rights-of-way as part of a national transportation system of the United States. It establishes a National Magnetic Levitation Design Program to be managed jointly by the Secretary of Transportation and the Assistant Secretary of the Army for Civil Works and requires development of a strategic plan for the design and construction of a magnetic levitation surface transportation system to be delivered to Congress within 18 months of enactment of the Act.

It establishes a three-phase competitive contract program to ultimately develop and construct an operational prototype maglev system within six years of enactment of the Act. Projects are to be cost-shared with non-federal organizations to encourage collaborative research. The Senate amendment authorizes $750 million for the program, and periodic reports to Congress are required.

Conference substitute

The conference agreement accepts the Senate amendment with substantial modifications. The title of the section is changed to the National High-Speed Ground Transportation Programs, and a National High-Speed Ground Transportation Technology Demonstration Program and high-speed ground transportation research and development are added to the maglev prototype development program. The strategic plan for development of a national maglev transportation system is replaced with a report to Congress in 1995 on the commercial feasibility of one or more high-speed ground transportation systems in the United States, and the time line to develop the maglev prototype is extended by 18 months. Funding for the maglev prototype program is reduced to $700 million, of which $475 million is to come from the Mass Transit Account of the Highway Trust Fund and the rest from general revenues. Authorization for the Transportation Technology and Demonstration Program is $50 million, of which $25 million is to come from the Mass Transit Account and the remainder from general revenues. The research and development program is authorized at $25 million from general revenues.

The Secretary will be required to establish, no later than June 1, 1996, a National High-Speed Ground Transportation Policy. In addition, current law is amended to permit the Secretary to guarantee obligations for qualified high-speed rail systems pursuant to Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831. It is the intent of the conferees that all obligations authorized pursuant to this section, National High-Speed Ground Transportation Programs, will be funded in full.

Section 302 of title 49, United States Code, is amended by declaring it to be the policy of the United States to promote the construction and commercialization of high-speed ground transportation systems by conducting economic and technological research demonstrating advancements in high-speed ground transportation technologies, and establishing a comprehensive policy for the development and integration of various high-speed ground transportation technologies, and minimizing long-term risks to investors.

The conferees recognize that increasing delays related to congestion on highways and airports could be mitigated by high-speed ground transportation technologies such as maglev and high-speed steel wheel, but that the risks of development are too great to be borne without government participation. It is the intent of the conferees to encourage development of such technologies, cooperatively with the non-federal organizations, by sharing in the costs and risks of development. The conferees recognize that government subsidies for high-speed ground transportation systems may be appropriate in cases where economic externalities such as pollution, time lost due to congestion, and condemnation of private property to build new airports and highway lanes, are not adequately reflected in the cost of alternative transportation modes.

This section also declares that it is the policy of the United States to establish in the shortest time practicable a United States-designed and constructed maglev technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States. The conferees recognize that maglev technology was originally developed in the United States in the 1970's, but that since that time lack of funding has resulted in technology development for maglev and high-speed steel wheel technology shifting to Japan and Europe. This section reflects the conferees' desire to shift the balance back toward the United States by encouraging development of next-generation U.S. technologies relating to maglev, superconductors, vehicles, switching, and other technology relating to maglev and/or high-speed steel wheel. Because of the significant cost of right-of-way acquisition in congested corridors, the conferees further intend that high-speed ground transportation technologies be developed to take advantage of existing Federal-aid highway and/or railroad rights of way along substantial portions of their route.

There is established a National Magnetic Levitation Prototype Development Program to be managed by a Program Director appointed jointly by the Secretary of Transportation and the Assistant Secretary of the Army for Civil Works. The Director will carry out the program through a National Maglev Joint Project Office. The conferees recognize that if the program is to be successful, it must have a single leader of exceptional capability, who can coordinate the considerable and varied expertise available to the program from the Department of Transportation and the Corps of Engineers, as well as other interested Federal agencies. The conferees intend that the Director should have substantial technical expertise in a maglev-related technology and successful experience in managing large, complex research and development programs. The conferees do not intend for the Maglev Joint Project Office to be larger than the minimum needed to support the activities of the Director.

Development of a maglev prototype shall occur in three phases. Not later than 12 months after enactment of the Act, the Maglev Project Office shall release a request for proposals for research and development of conceptual designs for a maglev prototype system. The conferees extended the time for submission of the request for proposals to allow the technical results from research currently funded under the National Maglev Initiative to be applied to the preparation and review of Phase I proposals.

Not later than 15 months after enactment of the Act, the Secretary and Assistant Secretary shall award up to five Phase I contracts for development of conceptual plans for development of the prototype. Criteria that should be considered in reviewing the proposals include cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along Interstate highway rights-of-way, the potential of a guideway design to be a national standard, the bidder's resources, capabilities, and history of successfully designing and developing systems of similar complexity, and the desirability of geographic diversity among contractors. The conferees intend that these criteria be applied in such a way as to maximize the probability that the conceptual design will successfully meet the criteria for selection of a Phase III contract, and that awards be made according to the technical merits of the proposals as determined by the Director with advice from expert peer reviewers. The conferees do not intend that poor Phase I projects be selected to satisfy the geographic criterion, but do intend that criterion to be applied to technically acceptable proposals. Bidders are to pay ten percent of the Phase I project costs. it is the intention of the conferees that Phase I contracts be funded at $7–10 million each. Phase I project reports are to be completed within 12 months of contract awards.

It is the intention of the conferees that Phase I and all other contracts include opportunities to conduct research and development in support of components of the proposed designs. The conferees recognize the need to conduct research and development in such areas as superconducting magnets, low-weight vehicle technology and aerodynamics, electromagnetic shielding, environmental mitigation, propulsion systems, guideway configuration and manufacturing technology, switching technology, and rider safety and comfort. The conferees believe that such research and development will be more efficient and productive if it is associated with one or more integrated conceptual designs, than if it is conducted in isolation, but believe that it is critical to the success of developing a United States maglev industry.

Within 3 months of receiving the final reports from the Phase I projects, the Secretary and Assistant Secretary shall select not more than three participants to receive 18-month Phase II contracts for development of detailed designs for the prototype. Selection is to be based on technical merit and potential for further development of the design into a prototype. The Director will make recommendations to the Secretary and Assistant Secretary as to technical merit. Phase II contractors must contribute 20 percent of project costs and submit a final report within 18 months of contract awards.

It is the intention of the conferees that Phase II contracts be funded in the range of $40-50 million each and provide substantial requirements for research and development of components of the prototype. The conferees intend that at least two Phase II awards be made in order to allow alternative system designs to be evaluated. The conferees intend that at least one of the Phase II contracts be based on a superconducting suspension system, unless no acceptable design is submitted in Phase I. The conferees are willing to accept some risk and uncertainty in selection of Phase II contracts in return for reasonable prospects of developing an all-American maglev technology, except that the best technical Phase I project should be selected for Phase II, regardless of the technology. The conferees do not intend for a contract to be awarded to any contractor who did not submit a Phase I project report.

Within six months of receiving the detailed designs developed under Phase II, the Secretary and Assistant Secretary shall select one design for development into a full-scale prototype, unless they determine that no design should be selected based on technical feasibility and projected cost. A Maglev Prototype Selection Committee composed of members appointed by the Secretary, the Assistant Secretary, and the Majority and Minority Leaders of both Houses of Congress, is established to make a recommendation to the Secretary and Assistant Secretary on the prototype project to be selected. The conferees intend that the members of the Maglev Prototype Selection Committee be chosen for their technical expertise and experience in transportation systems planning and engineering. The conferees intend that the Director be responsible for providing thorough technical reviews of the Phase II contracts to the Committee, and otherwise assisting the Committee in making its recommendation.

If the Secretary and Assistant Secretary determine not to select a design, they shall report to Congress on the basis for such a determination, together with recommendations for further action, including further research, development or design, or termination of the program, or such other action such as they deem appropriate. The conferees intend that a failure to select a prototype design within the specified period constitutes a decision not to proceed, requiring a report to Congress.

It is the intent of the conferees that no prototype be developed if, in the opinion of the Director and the Selection Committee, none of the Phase II conceptual designs will yield a working prototype at a reasonable cost. The conferees understand that it is difficult accurately to anticipate the risks of implementing a new technology, and are willing to accept a prudent amount of risk in this regard. The conferees also intend that additional research and development will be performed as a component of prototype implementation.

In awarding a prototype contract, the Secretary and Assistant Secretary shall encourage the development of domestic manufacturing capabilities and, in selecting awardees, shall consider existing railroads with excess production capacity, including railroads with experience in advanced technologies, including self-propelled cars. The conferees do not intend to exclude manufacturers of aircraft, automobiles, or other vehicles by this provision.

Selection of a prototype design shall be based on consideration of the following factors, among others:

The project should be capable of utilizing interstate highway rights-of-way along significant portions of its route, and may also use railroad rights of way. The conferees recognize that right-of-way acquisition often represents a significant fraction of guideway cost in congested areas and intend to encourage technologies capable of minimizing such costs by incorporating guideway/vehicle systems capable of operation within the constraints of curve radii, interchanges, overpasses, and other features typical of interstate highway and railroad rights of way.

The project shall have sufficient length, at least 19 miles, to allow significant full-speed operation between stops. The conferees intend that the prototype be capable of evaluating factors that attend sustained high-speed operation which may be relevant to long-distance maglev systems.

No more than 75% of the cost shall be borne by the United States. The conferees intend the substantial non-federal investment to discourage contractors that do not have substantial confidence in completion of a successful operational prototype.

The project shall be constructed and ready for operational testing within 3 years. The conferees intend to attract non-federal cost-sharing by insuring that funding for the prototype will be available within the authorization period covered by this Act, and that the full cost of the prototype be obligated within the authorization period, with funds to be available until expended.

The project shall be located in an area that provides a potential ridership base for future commercial operation. The conferees intend that the maglev prototype be an experimental system capable of fully evaluating the chosen technical design, but the substantial federal investment, including the anticipated non-federal cost sharing, makes it highly desirable that upon completion of adequate testing, the system also be useful for assessing the economics of maglev travel, as well as providing a public service.

The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States. The conferees intend that the site chosen for construction of the project should, to the extent feasible, be so located as to test the technology in the rain and snow, changes in elevation, wind, and heat. To the extent that this is not completely feasible, the conferees intend that these factors be considered as part of the design, even if testing is not possible.

The project shall have at least one switch. The conferees recognize that high-speed switching technology is essential to the commercial application of maglev technology and should be tested in the prototype. The conferees believe that it also would be highly desirable to be able to test the effects of two vehicles passing in opposite directions on a guideway.

The section protects trade secrets and commercial or financial information, and protects any technology developed pursuant to this section under the Stevenson-Wydler Technology Innovation Act of 1980. The section provides contract authority and defines eligible participants as United States private businesses, United States public and private research organizations, Federal Laboratories, and consortia of such businesses, organizations, or laboratories.

The conference agreement amends Subchapter I of Chapter 3 of Title 49, United States Code, to provide for a National High-Speed Ground Transportation Technology Demonstration Program, and a research and development program. It requires the Secretary, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Civil Works, and other heads of interested agencies, to lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster the implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems. This subsection also authorizes the Secretary to award grants and contracts for demonstrations of specific technologies in high-speed ground transportation projects or systems under construction or in commercial revenue service to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems.

The conferees intend that under the National High-Speed Ground Transportation Technology Demonstration Program established by this subsection, any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem or system in any revenue-service high-speed ground transportation project or system under construction or in operation at the time the application is made. The conferees intend that one or more of the specific criteria enumerated under this subsection be considered in awarding grants or contracts to applicants showing demonstrable benefit to the research and development, design, construction, or ultimate commercial operation of any maglev technology or high-speed steel wheel on rail technology. A total of $50 million, of which $25 million shall be derived from the Highway Trust Fund, shall be made available for grants and contracts awarded pursuant to this subsection.

The conferees intend that the Secretary shall have discretion over the amount and distribution of grants and contracts made pursuant to this subsection, except that no grants or contracts shall be awarded to demonstrate a technology to be incorporated in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such projects or systems. Applicants eligible to participate under this demonstration program include any United States private business, State government, local government, organization of State or local governments, or any combination thereof. Any business owned in whole or in part by the Federal government is not considered to be eligible for participation. Recipients of grants made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration, during the demonstration or following the demonstration as required by the Secretary.

In establishing a high-speed ground transportation research and development program pursuant to this subsection, the Conferees intend to make available up to $25 million from general obligations to fund broad research and development into all forms of high-speed ground transportation. Specifically with respect to research and development related to maglev technology, several other Federal agencies in addition to the Department of Transportation have participated in the assessment of the future potential for maglev systems, including the Department of Energy, the Army Corps of Engineers within the Department of Defense, the Department of Commerce, and the Environmental Protection Agency. The national laboratories, including the Brookhaven and Argonne National Laboratories, have also been involved in maglev through the National Maglev Initiative program. The Conferees intend for the Secretary to coordinate and cultivate the relationships already established with these various Federal agencies and entities as the present maglev technology assessment phase moves forward into further research, development, design and eventual construction of a prototype system.

In order further to promote research and development of all high-speed ground transportation technologies, including high-speed steel wheel on rail technologies, this section would give the Secretary authority to enter into cooperative research and development agreements (CRADAs) (as defined under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980), and one or more funding agreements (as defined by section 201 (b) of title 35, United States Code), with U.S. companies. These CRADAs and funding agreements would be entered into in order to conduct research to overcome technical and other barriers to the development and construction of high-speed ground transportation systems and to transfer that research and basic generic technologies to industry. The purpose of these agreements would be to help stimulate a viable commercial high-speed ground transportation industry within the United States.

The conferees envision that the Secretary would determine, with assistance from the director of any Government-operated Federal laboratory, which CRADAs to enter into with other Federal agencies; units of State and local government; industrial organizations (including corporations, partnerships, and limited partnerships, and industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency). The Department of Transportation's Systems Center in Cambridge, Massachusetts, is a Federal laboratory with the demonstrated capability of performing research and development activities pursuant to this legislation. It is, however, the intent of the Conferees to provide the Secretary with sufficient flexibility to contract with any Federal laboratory as the Secretary deems appropriate.

In addition to the CRADA mechanism, the Conferees intend for the Secretary to enter into one or more funding agreements which do not require the participation of a Federal laboratory. Under a "funding agreement," the non-Federal recipient of Federal funds automatically gets the right to ownership of any patentable inventions resulting from research conducted under the agreement. Under a CRADA, the disposition of rights is negotiated. The Federal laboratory may agree to give up its ownership rights, or to grant licensing rights in advance.

The Conferees intend to provide the Secretary with clear authority to commit Federal funds to maglev and other high-speed ground transportation research and development both within and outside of the Federal laboratory environment. The conferees believe the use of funding agreements would provide additional incentives for private industry to participate in the research and development process.

In order to monitor the results of technology research, development and transfer conducted pursuant to this subsection, the conferees intend that the Secretary be required to provide reports to Congress at the end of FY 1993 and FY 1996 on activities conducted as a result of this subsection.

The conference agreement also requires the Secretary of Transportation to complete a study of the feasibility of constructing one or more high-speed ground transportation systems in the United States and to submit the results of such study to Congress by June 1, 1995. The study required under this section would consist of the following three parts: (1) an economic and financial analysis; (2) a technical assessment; and (3) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

The first part of the study is required to include the following components: (1) an examination of the potential market for a nationwide high-speed ground transportation network; (2) an examination of the potential markets for short-haul (e.g., commuter) high-speed ground transportation systems and for intercity and other long-haul high-speed ground transportation systems, including an assessment of the current transportation practices and trends in each market and the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation; (3) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for public and private financing; (4) consideration of the utility and availability of rights-of-way to serve each market, including the possibility of acquiring additional rights-of-way without significant adverse effects on adjacent communities; (5) a comparison of the projected costs of the various competing high-speed ground transportation technologies; (6) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed ground systems and the completion of a nationwide high-speed ground transportation network; (7) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth; (8) recommendations for the roles appropriated for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities; (9) an assessment of the potential of a high-speed transportation technology export market; (10) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation; (11) an examination of the role of the National Railroad Passenger Corporation (Amtrak) in the development and operation of high-speed ground systems; and (12) any other economic or financial analyses the Secretary considers important for carrying out this title.

The economic and financial analysis described in the previous paragraph will require the Secretary to consider and analyze a broad range of issues. The conferees believe this analysis should provide Congress with an understanding of the current and future transportation marketplace and its relation to high-speed ground transportation, reasonable estimates of the cost of various high-speed ground transportation technologies, reasonable estimates of the cost of constructing high-speed ground transportation systems, possible and practical financial incentives for facilitating the development of high-speed ground systems, the relative benefits of high-speed ground transportation systems compared to current transportation systems, the economic benefits of developing high-speed ground transportation technology and systems, and the potential role of Amtrak in high-speed ground transportation systems in the United States.

The technical assessment required under the second part of the study requires the Secretary to examine: (1) the various technologies developed for use in the transportation of passengers by high-speed ground transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system; (2) the potential role of a United States-designed maglev system, developed as a prototype under the National Magnetic Levitation Prototype Development Program of this Act in relation to the implementation of other high-speed ground transportation technologies and the national transportation system; (3) the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988; (4) the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems; (5) the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way; (6) the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems; and (7) other technical assessments the Secretary deems important for carrying out the study.

This technical assessment uses the Department's expertise in dealing with a number of technological and inter-disciplinary issues. For example, as the Department responsible for issuing regulations with respect to all aspects of transportation safety (including high-speed railroads, as provided in the Rail Safety Improvement Act of 1988), the Department is in an ideal position to fully analyze and assess the progress of efforts to ensure and enhance high-speed ground safety.

The third prong of the study requires the Secretary to make recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems. The conferees recognize the critical role of State and local governments in the development of high-speed ground transportation. States and local governments currently are on the cutting edge of exploring innovative and diverse mechanisms to encourage high-speed ground transportation systems. The conferees believe that States and local governments will continue to lead the way toward actual implementation of high-speed ground transportation systems but that model legislation could help to encourage and coordinate such efforts.

Finally, within 12 months after the submission of the study described above, this act requires the Secretary to establish the National High-Speed Ground Transportation Policy. The Policy is to include: (1) provisions to promote the design, construction and operation of high-speed ground transportation systems in the United States; (2) a determination regarding whether the various high-speed ground transportation technologies can be integrated effectively into a national network and, if not, whether one or more technologies should receive Federal government encouragement in order to enable a national network; (3) a strategy for prioritizing markets and corridors for high-speed ground transportation construction; and (4) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies. The Secretary is required to solicit public comments and may consult with other federal agencies as appropriate in developing the Policy.

The conference agreement also amends section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to provide projects designed to acquire, rehabilitate, improve, develop, or establish high-speed ground transportation facilities or equipment will also be eligible for consideration by the Secretary under section 511. Currently, under section 511, the Secretary is authorized to guarantee the payment of obligations that are used to acquire or to rehabilitate and improve railroad facilities and equipment, or to develop or establish new railroad facilities. The amendment would not alter the terms of the current section 511 program (or applicable regulations issued thereunder; see, 49 CFR Part 260), which includes provisions limiting the rate of interest which may be applicable to an obligation, a requirement that the obligation be adequately secured, a requirement that the terms of the obligation not extend beyond 25 years, a requirement that the financing be justified by the present or probable future demand for rail services, a requirement that the equipment and facilities be economically utilized, a requirement that the prospective earning power of the applicant be sufficient to provide the Federal government with reasonable security and protection, limitations on making discretionary dividend payments, a requirement that the applicant not use funds or assets of the operation for nonrail purposes, authority of the Secretary to assess and collect certain fees from the applicant, and the authority of the Comptroller General to audit operations of the fund established under section 511.

Finally, the bill requires the Comptroller General, within two years after the date of enactment, and annually thereafter, to analyze the effectiveness of application of section 511 of the Railroad Revitalization and Regulatory Reform Act to high-speed ground transportation facilities and equipment, and to report the results of such analysis to the conferees of jurisdiction.

ACCESS TO RIGHTS OF WAY

House bill

No comparable provision.

Senate amendment

This section amends subsection 142(g) of Title 23, United States Code, to require the Secretary to authorize a State to make Federal-aid highway right-of-way available with or without charge to a publicly or privately-owned authority or company for passenger or commuter rail (including high-speed rail), magnetic levitation systems, and other mass transit facilities.

Section 156 of title 23 is also amended to expand the exclusions to the application of section 156 to include governmental use, use by public or private entities for passenger or commuter rail (including high speed rail), magnetic levitation systems, mass transit facilities, and utility use and occupancy necessary for a transportation improvement allowed under this section, in addition to the current exclusions for utility use and occupancy and use for transportation projects eligible for assistance under title 23 U.S.C.

Section 142 is further amended by the deletion of several related subsections; (a)(2), (c), (e)(2), (i), and (k), which, in effect, become redundant because their subject matter is provided in section 106 of this bill which adds Section 133 to title 23 U.S.C.

Conference substitute

The conference substitute contains the Senate amendment.

REIMBURSEMENT

House bill

No comparable provision.

Senate amendment

The Senate amendment provides for an update of the findings of the report required by section 114 of the Federal-Aid Highway Act of 1956 to determine what amount the United States would pay to the States to reimburse the States for segments incorporated into the Interstate System that were constructed at non-Federal expense.

Conference substitute

The conference substitute provides that, during the fifth and sixth year of the bill, the reimbursement program will be implemented.

PROGRAM EFFICIENCIES

House bill

No comparable provision.

Senate amendment

The Senate amendment amends sections 102, 109, and 302 of title 23 U.S.C.

23 U.S.C. 102(a) provides that all Surface Transportation Program projects must be designed, constructed, operated, and maintained in compliance with applicable state and federal requirements. The design and construction standards adopted by states for projects on principal arterials shall be AASHTO standards. Any state may request that the Secretary no longer undertake project-by-project review of design and construction standards for any project, except those on an Interstate highway or a multilane limited access control highway. After receiving such a request, the Secretary can only undertake project design and construction review as requested by the State.

23 U.S.C. 102(b) allows a state highway department to approve the design of any pavement rehabilitation or highway resurfacing project. Once the state highway department has approved the design of such a project, the secretary's approval of the design is not required.

23 U.S.C. 102(c) provides that a state highway department may establish its own standards for routine maintenance of projects constructed under title 23. Those standards will be subject to annual review and approval by the Secretary. If a state is meeting its own standards for routine maintenance, as approved by the Secretary, the Secretary may not withhold project approval pursuant to section 106.

23 U.S.C. 102(d) provides that a state may establish the occupancy requirements of vehicles travelling in HOV lanes, except that no fewer than two occupants may be required. Motorcycles and bicycles are not single occupant vehicles for purposes of title 23, and nothing in this section alters the requirement that each state allow the operation of motorcycles in HOV lanes unless the state certifies that such operation would create a safety hazard.

23 U.S.C. 102(e) provides that a state must repay all federal funds for preliminary engineering for any project that has not advanced to construction or acquisition of right-of-way within 10 years after receipt of the federal funds. Current law requires a state to repay federal funds received for preliminary engineering if a project has not advanced after a period of time. This subsection establishes a uniform period of time before such repayment is required.

23 U.S.C. 109 is amended to allow Interstate Substitute, Surface Transportation Program, and Bridge Rehabilitation projects which are located in areas of historic and scenic value to be designed to standards appropriate to preserve the historic and scenic value of the road. The standards in section 109 (a) and (b) may be modified to provide alternative standards to preserve these historic and scenic values as long as safety of the facility is maintained.

23 U.S.C. 302 is amended to authorize the Secretary, at the request of the Governor of any state, to permit the highway department of a city of over 1 million population within the state to perform the duties and responsibilities of the state highway department for projects undertaken within the city.

Conference substitute

Same as the Senate with respect to the provisions regarding HOV occupancy requirements and repayment of preliminary engineering funds. The Senate recedes with respect to highway maintenance standards. With respect to project approval and design and construction standards, the conferees agreed to the following: 23 U.S.C. 109 is amended to establish design and construction standards for the National Highway System (NHS) highway projects and non-NHS highway projects. The design and construction standards for NHS projects are those approved by the Secretary in cooperation with the state highway agencies. For non-NHS projects, the design and construction standards are established in accordance with State laws, regulations, or directives, based on state-of-the-art practices.

23 U.S.C. 106 is amended to allow a State highway agency to request that the Secretary no longer review plans, specifications, and estimates for any project other than an NHS project or an NHS project with an estimated construction cost of $1 million or less.

23 U.S.C. 106 is further amended to allow a state highway agency to approve, on a

project-by-project basis, the plans, specifications, and estimates for any pavement resurfacing, rehabilitation, or restoration project on the NHS. Further, this subsection allows states to meet or exceed standards for eligible work.

23 U.S.C. 106 is further amended to allow safety considerations to be met by phase construction consistent with the Safety Management System developed under section 303.

Subsection delegating duties and responsibilities of the state highway department to the highway department of a city of over 1 million population is deleted.

New subsection is added to state that nothing in this section shall affect or discharge any responsibility or obligation of the secretary under any federal law, including the National Environmental Policy Act of 1969, section 303 of title 49, title VI of the Civil Rights Act of 1964, title VIII of the Act of April 11, 1968, and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970.

SECTION 204—GRANTS TO STATES WHICH ADOPT NATIONAL SAFETY BELT AND MOTORCYCLE HELMET USE REQUIREMENTS

House bill

Authorize the Secretary to make grants to a State which has laws which make unlawful both the operation of a motorcycle by an individual who is not wearing a motorcycle helmet and the operation of a passenger vehicle whenever an individual in the front seat (other than a child secured in a child restraint system) is not wearing a seatbelt.

Requires a State to use grants to adopt and implement traffic safety programs in vehicle safety and education, law enforcement training, monitoring of compliance, and enforcement of laws.

Requires a State, as a condition of receiving grants, to maintain their aggregate expenditures for such traffic safety programs at or above their average level in the preceding two fiscal years.

Prohibits any State from receiving a grant in more than 3 fiscal years. Stipulates that federal grants shall be a maximum of 75 percent of a State's cost of implementing such traffic safety programs in the first fiscal year, a maximum of 50 percent in the second year, and a maximum of 25 percent in the third fiscal year.

Limits aggregate amount of grants to a State under this section to 90 percent of such State's apportionment for fiscal year 1990 under section 402 of this title.

Requires as a general condition for receiving grants in any fiscal year that a State enter into an agreement with the Secretary to implement a traffic safety program. Additionally requires for a State to receive a grant in a fiscal year succeeding the first fiscal year it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 70 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 65 percent. Additionally requires for a State to receive a grant in a fiscal year succeeding the second fiscal year that it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 80 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 80 percent.

Provides that each State shall measure compliance using methods which conform to guidelines issued by the Secretary.

Stipulates that if a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times in fiscal year 1994 the Secretary shall transfer 1½ percent of funds apportioned to the State under each of the subsections (b)(1), (b)(2) and (b)(6) of Section 104 of this title to the apportionment of the State under Section 402 of this title. Stipulates that if at any time after September 30, 1994 a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times during a fiscal year, then in the succeeding fiscal year the Secretary shall transfer 3 percent of the funds apportioned to the states under each of the above subsections to the apportionment of the State under Section 402 of this title.

Defines terms.

Authorizes to be appropriated out of the Highway Trust Fund $40,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

Provides that certain provisions of chapter 1 of this title are applicable to the funds authorized to be appropriated under this Section and that funds authorized to be appropriated under this Section shall remain available until expended.

SECTION 122—USE OF SAFETY BELTS AND MOTORCYCLE HELMETS

Senate amendment

Authorizes the Secretary to make grants to a State which has laws which make unlawful both the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet and the operation of a passenger vehicle whenever an individual in the front seat (other than a child secured in a child restraint system) is not wearing a seatbelt.

Requires a State to use grants to adopt and implement traffic safety programs in vehicle safety and education, law enforcement training, monitoring of compliance, and enforcement of laws.

Requires a State, as a condition of receiving grants, to maintain their aggregate expenditures for such traffic safety programs at or above their average level of the preceding two fiscal years.

Prohibits any State from receiving a grant in more than 3 fiscal years. Stipulates that federal grants shall be a maximum of 75 percent of a State's cost of implementing such traffic safety programs in the first fiscal year, a maximum of 50 percent in the second year, and a maximum of 25 percent in the third fiscal year.

Limits aggregate amount of grants to a State under this section to 90 percent of such State's apportionment for fiscal year 1990 under Section 402 of this title.

Requires as a general condition for receiving grants in any fiscal year that a State enter into an agreement with the Secretary to implement a traffic safety program. Additionally requires for a State to receive a grant in a fiscal year succeeding the first fiscal year it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 50 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 75 percent. Additionally requires for a State to receive a grant in a fiscal year succeeding the second fiscal year that it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 70 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 85 percent.

Provides that each State shall measure compliance using methods which conform to guidelines issued by the Secretary.

Stipulates that if a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times in fiscal year 1994 such State shall expend for highway safety programs 1½ percent of funds apportioned to the State under subsection (b)(1) of Section 104 of this title. Stipulates that if at any time after September 30, 1994 a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times during a fiscal year, then in the succeeding fiscal year such State shall expend for highway safety programs 3 percent of funds apportioned to the State under subsection (b)(1) of Section 104 of this title. Provides that States required to expend funds for highway safety programs spend such funds for purposes eligible under Sections 402, 152 (except repavement) and section 130. Stipulates that the federal share for such projects shall be 100 percent. Stipulates that funds required to be set aside under this subsection shall be available only in the year for which they were apportioned and shall thereafter lapse.

Defines terms.

Authorizes to be appropriated out of the Highway Trust Fund $45,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

Provides that certain provisions of chapter 1 of this title are applicable to the funds authorized to be appropriated under this Section and that funds authorized to be appropriated under this Section shall remain available until expended.

Requires the Secretary to conduct a study of the cost and severity of injuries of restrained and unrestrained individuals injured in motor vehicle crashes and of helmeted and non-helmeted motorcyclists injured in motorcycle crashes. Authorizes to be appropriated out of the Highway Trust Fund $5 million for such study. Requires the Secretary to report the results of such study within 40 months after the date of enactment of this Act.

Requires the Secretary to issue regulations to carry out this Section within 180 days of the date of enactment of this Act.

Conference agreement

The conference agreement generally follows the Senate Bill. The agreement adopts the House language on the purposes for which redirected funds may be spent by the States, and adopts the House language on definitions.

House bill

No provision.

Senate bill

Section 123 allows States to use as a credit toward meeting non-Federal match requirements non-Federal capital expenditures on toll facilities that are an integral part of the interstate commerce network.

In receiving such a credit, a State would have to maintain its aggregate transportation capital spending, excluding Interstate and discretionary funding, at or above the average level of such spending for the preceding three fiscal years, as required by the Secretary.

Under this section, an agency from which the credit is generated would not be subject to any additional Federal oversight or regulation, above and beyond any that otherwise exist.

Conference substitute

Same as Senate bill.

The conferees do not intend that these credits would result in a small reduction in non-Federal transportation spending by a State receiving the credit.

ACQUISITION OF RIGHTS OF WAY

House bill

No comparable provision.

Senate amendment

Summary

This section amends 23 U.S.C. 108 makes three changes to current law. First, the period within which construction must be commenced on a right-of-way funded from the right-of-way revolving fund is increasing from 10 years to 20 years.

Second, costs incurred by a State to acquire rights-of-way in advance of Federal approval or authorization and costs incurred to acquire land necessary to preserve environmental and scenic values may be reimbursed with Federal funds if certain conditions are satisfied.

Third, to conform section 108 of title 23 with the other title 23 changes being made by this legislation, this section eliminates the requirement that right-of-way revolving fund advances be for projects "on the Federal-aid system" and authorizes the use of the fund for projects such as passenger rail facilities, magnetic levitation systems, transportation corridor preservation, and long-term transportation planning.

Discussion

This amendment will allow states that have rigorous planning and environmental impact analysis requirements to purchase rights-of-way prior to obtaining Federal approval or authorization and to use Federal funds to reimburse the costs of early acquisition if certain conditions are satisfied. As a result, States will be better able to identify and preserve corridors with the express intent of protecting environmental sensitive areas.

To take advantage of the authority provided in this section, the state must satisfy a number of conditions, including demonstrating to the Secretary that: (1) the state has considered the environmental impacts of the acquisition and various alternatives; (2) the early acquisition did not influence the environmental assessment of the underlying project, the decision to proceed with this project, or the selection of the project design or location; (3) the state has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under state law; (4) the acquisition is certified by the Governor as being consistent with the state planning process; and (5) prior to approval of the use of Federal funds to reimburse the costs of early acquisition, all applicable Federal environmental laws have been complied with, including but not limited to the National Environmental Policy Act, section 4(f) of the Department of Transportation Act, and section 7 of the Endangered Species Act. The directive that the Secretary identify the applicable environmental laws in regulations does not authorize the Secretary to waive or otherwise modify the requirements of any environmental law and failure of the Secretary to identify a law shall not affect the substantive or procedural requirements of the law.

Conference substitute

The conference substitute includes the Senate provision with a study added by the House and technical language amendments.

House bill

No similar provision.

Senate amendment

TRANSPORTATION IN PARKLANDS

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall submit to the Congress a study of alternative transportation modes for use in the National Park System. Such study shall consider the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and the general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands. The study shall also consider methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) Authorization of Appropriations.—From within the sums authorized to be appropriated for subsection 202(d) of title 23, United States Code, $300,000 shall be made available to carry out this section.

Conference substitute

SEC. 125. TRANSPORTATION IN PARKLANDS

(a) IN GENERAL.—Not later than twelve months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall submit to the Congress a study of alternative transportation modes for use in the National Park system that is consistent with the findings and purposes of Section 301 of Public Law 95–344. Such study shall consider the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and the general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park System lands. Such study shall also consider methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) (same as Senate language, except amount authorized and appropriated is $240,000)

TRAFFIC CONTROL STANDARDS

House bill

No comparable provision.

Senate amendment

The Senate amendment directs the Secretary to revise the Manual of Uniform Traffic Control Devices to include a standard minimum maintenance level of retroreflectivity for pavement markings and signs and to define the roads that must have a center line or edge line or both. The functional classification of roads, traffic volumes, and the number and width of the lanes are to be considered in making this standard.

Conference substitute

House recedes.

RIGHT OF WAY REVOLVING FUND

House bill

No comparable provision.

Senate amendment

Summary

Section 128 amends Section 108, title 23 U.S.C. by expanding projects eligible for right-of-way revolving fund advances to passenger rail facilities.

Discussion

The right-of-way revolving fund was established by the Federal-Aid Highway Act of 1956 to facilitate the acquisition of rights-of-way in anticipation of construction on the federal-aid highway system. This change was made to make this program consistent with the intermodal philosophy of this bill and to encourage corridor preservation and long-term transportation planning.

Conference substitute

The conference substitute recedes to the House.

RECODIFICATION

House bill

No comparable provision.

Senate amendment

The Senate amendment requires the Secretary to prepare and submit a recodification of title 23, United States Code, to Congress for consideration by October 1, 1993.

Conference substitute

The conference substitute requires the Secretary to prepare and submit a proposed recodification of title 23, United States Code, to Congress for consideration by October 1, 1991.

INDIAN ROAD SEALING

House bill

No comparable provision.

Senate amendment

The Senate amendment amends title 23, United States Code, to establish that the Bureau of Indian Affairs of the Department of the Interior shall be allowed to use Highway Trust Funds for the purpose of the sealing of Indian reservation roads under their jurisdiction.

Conference substitute

The managers have included language authorizing the use of Highway Trust Funds for road sealing projects on Indian reservations but want to make quite clear that these funds are entirely distinguishable from road maintenance funds historically requested in the Bureau of Indian Affairs annual budget. In light of the significant underfunding of Indian reservation roads, the extremely poor conditions of said roads and the need to have an acceptable infrastructure for our Native American communities, it is the Committee's intent that HTF funds are authorized in addition to—and not in lieu of—the BIA's road maintenance program. Pursuant to the provisions of Title 23, Section 116 and 204, and pursuant to the Memorandum of Agreement between BIA and FHWA signed on May 24, 1983, the BIA is clearly responsible for maintaining roads built with Highway Trust Fund dollars. The managers expect the BIA to request funding in FY 1993 that is at least consistent with the level requested and appropriated in FY 1992.

HIGHWAY CONSTRUCTION TRAINING

House bill

No comparable provision.

Senate amendment

The Senate amendment allows one-fourth of 1 percent of funds apportioned to a State for the Surface Transportation Program or Bridge Program may be available for highway construction training.

Conference substitute

House recedes to Senate amendment.

EROSION CONTROL

House bill

No provision.

Senate bill

Section 140B directs the Secretary to develop erosion control guidelines for States to follow in carrying out projects under this Act.

Conference substitute

Same as Senate bill.

INTERNATIONAL TRANSPORTATION OUTREACH

House bill

The House amendment authorizes the Department of Transportation to conduct a program to share technological innovations developed abroad with the U.S. highway community and to increase transfers of U.S. highway transportation technology to foreign countries. Chapter 3 of title 23, United States Code, is amended.

Senate amendment

The Senate amendment authorizes the Department of Transportation to conduct a program to share technological innovations developed abroad with the U.S. highway community and to increase transfers of U.S. highway transportation technology to foreign countries.

Conference substitute

The Conference Substitute includes the Senate provision with the House amendment to Chapter 3 of title 23, United States Code.

EDUCATION AND TRAINING PROGRAM

House bill

The House bill authorizes the Secretary of Transportation to make grants and enter into contracts for a transportation assistance program to provide access to modern highway technology for urbanized areas with populations of 50,000 to 1,000,000 and rural areas. Technical assistance program centers are established to provide usable technology and information to rural and urban transportation agencies to expand their expertise in road and transportation areas.

The Secretary of Transportation is authorized to conduct and report to Congress on the results of a study to determine the appropriate symbol for highway signs to commemorate the Interstate system as the Dwight D. Eisenhower National System of Interstate and Defense Highways.

Senate bill

The Senate amendment contains a provision authorizing the Secretary to make grants and enter into contracts for a transportation assistance programs to provide access to modern highway technology to urbanized areas with populations of 50,000 to 1,000,000 and rural areas. Technical assistance program centers are established to provide usable technology and information to rural and urban transportation agencies to expand their expertise in road and transportation areas.

The Secretary shall establish and administer the Dwight David Eisenhower Transportation Fellowship Program to attract qualified students to the field of transportation engineering and research. No less than $2,000,000 per fiscal year is provided for the fellowship program.

Conference substitute

The conference substitute contains a provision authorizing such sums as may be necessary for the Secretary to make grants and enter into direct contacts for a transportation assistance program to provide access to modern highway technology to urbanized areas with populations of 50,000 to 1,000,000 and rural areas. Technical assistance program centers are established to provide usable technology and information to rural and urban transportation agencies to expand their expertise in road and transportation areas.

The Secretary shall establish and administer the Dwight David Eisenhower Transportation Fellowship Program to attract qualified students to the field of transportation and engineering and research. No less than $2,000,000 per fiscal year is provided for this program. Development of new and efficient combinations of transportation infrastructure requires that the nation's brightest minds be attracted to the transportation and engineering and research professions. The Dwight David Eisenhower Transportation Fellowship Program is designed to accomplish this objective.

The conferees recognize that the fellowship program will be most successful if it serves to attract critical masses of students and professors to evolve into centers of excellence. Therefore, the conferees intend that the program shall be limited to no more than fifty universities, to be selected by the Secretary on the basis of their academic reputation in the transportation engineering and research areas. The conferees intend that the fellowships should be awarded competitively, and be available only to students enrolled in work toward a graduate degree in transportation engineering or research, but exceptions can be made for students in the final year of undergraduate engineering degrees who can demonstrate that they intend to specialize in a transportation-related field following graduation.

The Secretary of Transportation is authorized to conduct and report to Congress on the results of a study to determine the appropriate symbol for highway signs to commemorate the Interstate system as the Dwight D. Eisenhower National System of Interstate and Defense Highways.

NATIONAL HIGHWAY INSTITUTE

House bill

The House bill establishes a National Highway Institute within the Federal Highway Administration to provide technical training programs for federal, State and local employees, U.S. citizens, and foreign nationals engaged in highway work. Up to one-fourth of one percent of all funds apportioned to a State for the Federal-aid primary system funds are available to the State highway department for payment of up to 80 percent of the cost of tuition and direct expenses.

Senate amendment

The Senate amendment establishes a National Highway Institute within the Federal Highway Administration to provide technical training programs for federal, State and local employees, U.S. citizens, and foreign nationals engaged in highway work. Up to one-fourth of one percent of all Surface Transportation Program funds apportioned to a State are available to the State highway department for payment of up to 75 percent of, the cost of tuition and direct educational expenses.

Conference substitute

The House recedes with modification of subsection (b) to reflect the 80% federal share provided in the House bill and with modification that any fees collected by the National Highway Institute be placed in a special account for recovering costs for the purpose of this section.

ZEBRA MUSSELS

House bill

No comparable provision.

Senate amendment

Establishes a study and program for the use of Zebra Mussels as an infrastructure building material.

Conference substitute

Senate recedes to the House.

INFRASTRUCTURE INVESTMENT COMMISSION

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes the Commission to Promote Investment in America's Infrastructure, to be composed of seven members: two each to be appointed by the Majority Leader of the Senate and the Speaker of the House of Representatives; respectively; and one each to be appointed by the Minority Leaders of the Senate, the Minority Leader of the House of Representatives, and the President of the United States, respectively. Members of the Commission are to have appropriate backgrounds in finance, construction, lending, actuarial disciplines, pensions, and infrastructure policy.

The Commission will conduct a study of the feasibility and desirability of creating a type of infrastructure security which would permit the investment of pension funds in funds used to design, plan, and construct infrastructures in the United States. The Commission can include recommendations for private sector or other innovative public policy alternatives to encourage infrastructure investments at all levels of government. The Commission will report to Congress on its findings and recommendations within 180 days of enactment of this Act.

This section provides for reimbursing Commission members for expenses and for a staff to assist the Director is he so chooses. Such sums as may be necessary are authorized to carry out this section.

Conference substitute

The conference accepts the Senate substitute.

REGULATORY INTERPRETATION

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes that steel coating is covered by the federal regulations interpreting Buy America legislation.

Conference substitute

Same as Senate amendment.

CLEAR GASOLINE REQUIREMENT

House bill

No comparable provision.

Senate amendment

The Senate amendment imposes a clear gasoline requirement on refiners pursuant to the Clean Air Act.

Conference substitute

The Senate recedes to the House.

NATIONAL DEFENSE HIGHWAYS

House bill

No comparable provision.

Senate amendment

The Senate amendment declares that upon certification by the Secretary, after consultation with the Secretary of Defense, a highway or portion of highway located outside the territory of the United States is important to the national defense, up to $20,000,000 shall be made available for reconstruction of an eligible highway from the Interstate Construction Program funds.

Conference substitute

House recedes to Senate amendment.

ALLOCATION FORMULA STUDY

House bill

No comparable provision.

Senate amendment

The Senate amendment authorizes a study to be conducted to determine a fair and equitable apportionment formula for the allocation of Federal-aid highway funds.

Conference substitute

The conference substitute contains the allocation formula study.

STORMWATER PERMITS

House bill

No comparable provision.

Senate amendment

Section 140L of the Senate Amendment extends certain application deadlines for and enforcement of the stormwater permitting requirements of Section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)) for industrial activities owned or operated by municipalities with a population of under 250,000.

Conference substitute

The conference substitute extends individual and group permit application deadlines for stormwater discharges associated with industrial activities from municipally owned or operated facilities. Individual permit applications must be submitted no later than October 1, 1992, except that where a timely group permit application is denied the applicant would be entitled an additional six months from the date of the denial to submit an individual application. Group application deadline are extended until September 30, 1991 for Part I and October 1, 1992 for Part II except that for municipalities of under 250,000 an additional period of time is provided. No stormwater discharge permits for industrial activities for municipalities of under 100,000 are required prior to October 1, 1992 except stormwater discharges from municipally owned or operated power plants, airports, and certain landfills. The conference substitute also requires that general permit regulations for stormwater discharge permits be promulgated no later than February 1, 1992. The conference substitute is not intended to prejudice or in any manner affect any ongoing litigation, including Natural Resources Defense Council v. U.S. Environmental Protection Agency, Case Nos. 90-70671 and 91-70200 (9th Cir., 1990).

INVESTIGATION AND REPORT

House bill

No comparable provision.

Senate amendment

The Senate amendment provides for a study on the feasibility of requiring that trucks be restricted from using the left lanes of Interstate highways.

Conference substitute

The Senate recedes to the House.

USE OF OXYGENATED FUELS

House bill

No comparable provision.

Senate amendment

The Senate amendment requires the Secretary, in consultation with the EPA Administrator to submit to Congress a report on the feasibility and effectiveness of requiring all cities and metropolitan statistical areas with a population of 250,000 or more the use of oxygenated fuels (with a percentage of 2.7 or greater).

Conference substitute

Senate recedes to House.

YOUTH JOBS PROGRAMS

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes a youth program in conjunction with highway landscaping and beautification activities and allows States to use up to 0.2 percent of their funds for this purpose.

Conference substitute

The Senate recedes to the House.

INTERSTATE STUDY COMMISSION

House bill

No comparable provision.

Senate amendment

Interstate Transportation Agreements and Compacts. States have Congressional approval to enter into and carry out agreements or compacts to address interstate highway and bridge problems of regional significance identified by metropolitan planning organizations.

Conference substitute

The conference substitute establishes the Interstate Study Commission for Transportation for the National Capital Region to make recommendations on funding and management of the transportation system of the region. The Commission will evaluate existing mechanisms and processes by which transportation decisions are made within the region and make recommendations to provide a coordinated regional approach and process for funding and implementing transportation improvements, primarily focusing on interstate highway and bridge systems. The conferees intend that the recommendations developed by the commission will be consistent with the planning requirements for metropolitan areas, and the recommendations will be made to Congress, the Department of Transportation, the governors of Maryland and Virginia, the mayor of the District of Columbia and the National Capital Region Transportation Planning Board.

MONTANA-CANADA TRADE

House bill

Identical provision.

Senate amendment

The Senate amendment states that the Secretary may not withhold funds from the State of Montana on the basis of actions taken by Montana pursuant to a draft memorandum with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana.

Conference substitute

The Conference Substitute contains the Senate amendment.

LEVEL OF EFFORT

House bill

No comparable provision.

Senate amendment

Provides additional funding to states who have a lower than average per capita discretionary spending and higher than average gasoline tax.

Conference substitute

Senate recedes to House.

The conference agreement includes a study to measure a state's total level of effort with regard to state highway expenditures. Three months after the date of enactment, the Secretary and the newly formed DOT Bureau of Statistics are directed to conduct a study of state level of effort. Not later than nine months, the Secretary is to provide such report to the Senate Environment and Public Works Committee and the House Committee on Public Works.

The Secretary is directed to use data reflecting state and local revenue support for highways. This data shall include: income fuel taxes, toll revenues including bridge tolls and highway tolls, sales taxes (if used by a state on highway expenditures), general fund revenues used for highways, property taxes used for highways, bonds, administrative fees such as vehicle registration and driver license fees collected that may be expended by a state for highway expenses, taxes on commercial vehicles and other appropriate state and local revenue sources.

There was much discussion on the Senate floor with regard to how best to measure a state's total level of effort. The conferees direct the Secretary to conduct a comprehensive study that will compare a state's total level of effort comparing revenues raised and expended for highway purposes with per capita income.

NATIONAL POLICY FOR INFRASTRUCTURE REUSE

House bill

No comparable provision.

Senate amendment

The Senate amendment amends Sec. 307 of title 23 of the United States Code by adding a section at the end that requires within 12 months of the date of enactment of this Act, that the Secretary conduct a study of methods to facilitate the reuse of industrial manufacturing facilities. The Secretary shall consult with other government officials to ascertain regulatory, technical, and other barriers or constraints associated with reusing industrial manufacturing facilities. The Secretary shall report the results of the study to Congress upon its completion. $200,000 is authorized to be taken from administration and research funds in Sec. 104 to conduct the study.

Conference substitute

The conference accepts the Senate substitute.

NONNAVIGABILITY DECLARATION

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes a nonnavigable status for a portion of the Hudson River adjacent to a bulkhead line.

Conference substitute

The House recedes to the Senate.

SENSE OF SENATE (LEVEL OF EFFORT)

House bill

No comparable provision.

Senate amendment

The Senate amendment directs committee conferees to determine each State's total apportionments in a way that reflects each State's total effort for highways including each State's ability to finance its total effort for highways, as measured by its per capita disposable income as compared to the average State per capita disposable income, as well as taking into account the effect of such apportionment formula on energy conservation, energy security, and environmental quality.

Conference substitute

Senate recedes to House.

MILLER HIGHWAY

House bill

No comparable provision.

Senate amendment

No comparable provision.

Conference substitute

The conferees have authorized $14.5 million to undertake engineering and environmental studies and begin to realign Miller Highway inland, between 59th and 72nd Streets, to promote the development of a major public-private works project which will include the creation of a 23-acre public waterfront park to be built with private funds. This authorization shall not be construed to interrupt or interfere with the current rehabilitation of the Miller Highway on its present alignment, which is urgently needed to ensure public safety. Moreover, this project shall be deemed separate and independent from the Route 9A project between the Battery and 59th Street, which has independent utility and logical termini and should be advanced *under* [at] its own *independent engineering and environmental process and* rapid schedule.

REVISION OF MANUAL

House bill

Section 121(m) requires the Secretary to revise the Manual of Uniform Traffic Control Devices and other Federal Highway Administration regulations as may be necessary to permit states and local governments to install stop or yield signs at any rail-highway grade crossing without automatic traffic crossing devices with 2 or more trains operating across such rail-highway crossing.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference Substitute adopts the House provision.

ROADSIDE BARRIERS AND SAFETY APPURTENANCES

House bill

Section 121(c) of the House bill requires the Secretary to initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances. This rulemaking shall reflect criteria related to approval standards contained in the National Cooperative Highway Research Program Report 230 which provide a level of crashworthy performance to accommodate vans, minivans, pickup trucks and 4-wheel drive vehicles, along with all other vehicles.

The Secretary shall issue the final rule no later than one year after the date of enactment of this Act regarding the implementation of such guidelines and standards.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference substitute adopts the House provision.

TITLE II—HIGHWAY SAFETY

PART A—HIGHWAY SAFETY GRANT PROGRAMS

SECTION 2000—SHORT TITLE

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The short title of this part is the "Highway Safety Act of 1991".

SECTION 2001—HIGHWAY SAFETY PROGRAMS

House bill

The House bill, in section 2001, amends Section 402 to provide for mandatory and optional programs for Section 402 grants. To qualify for a 402 grant, each state would be required to establish programs on drunk driving; speeding; occupant protection; emergency medical services; motorcycle safety; uniform data collection and reporting; accident location; highway design; construction and maintenance; traffic engineering services. Programs on bicycle, pedestrian, school bus safety, police traffic services, and traffic record systems, would be left to the discretion of the states.

Senate amendment

The Senate bill contains no comparable provisions.

Conference substitute

The substitute adopts the Senate version which, in effect, maintains existing law, but requires that the programs listed as mandatory programs under the House bill be listed as priority items within the guidelines promulgated by the Secretary. If the Secretary does not prioritize the programs, the Secretary is required to submit a report to the Congress describing why there is no need for the prioritization of the programs.

The agreement also provides that the Secretary is to establish a program to provide for a national uniform data collection and reporting system of traffic-related deaths and injuries. The purposes of this program are to allow the Secretary to determine the causes of such deaths and injuries, to develop programs to reduce such deaths and injuries, and to make recommendations to Congress concerning legislation necessary to implement such programs. The program shall include information obtained by the Secretary under section 404 of the Act and provide for annual reports to the Secretary on the efforts being made by the states in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of these efforts. In addition, the Secretary is required to establish minimum reporting criteria to obtain certain accident information necessary to improve analysis at the state and federal levels. Such criteria shall include criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites, on the configuration of commercial motor vehicles involved in motor vehicle accidents, and any other data elements essential for analysis of highway safety issues the Secretary shall develop through the Critical Automated Data Reporting Elements for Highway Safety Analysis (CADRE).

SECTION 2002—HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

House bill

The House bill, in section 202, amends current law to authorize research into all aspects of highway safety and traffic conditions, including the relationship between the use of drugs and its effect on highway safety and driver performance. The bill provides that funds appropriated for Section 403 of 23 U.S.Code be used for training and education of highway safety personnel; research fellowships in highway safety; accident investigation procedures; emergency service plans; demonstration projects; and any other related activities the Secretary believes will promote highway safety. The bill also authorizes the Secretary to undertake collaborative research and development with nonfederal entities, including state and local governments, universities, corporations and partnerships, on cost-shared basis.

Senate amendment

The Senate bill contains no comparable provisions.

Conference substitute

The conference substitute adopts the House provision.

SECTION 2003—ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES

House bill

The House bill, in Section 203, maintains the existing program under section 410 of title 23, but establishes new grant requirements for the program. The bill establishes basic and supplemental grant programs. To be eligible for a basic grant, a state would have to institute a program involving (1) highway sobriety checkpoints; (2) prompt license suspension of individuals operating vehicles under the influence of alcohol or drugs; (3) a requirement that any person with a blood alcohol concentration (BAC) equal to or greater than 0.10 percent for the first two years of the program, and 0.08 percent thereafter is deemed to be driving under the influence; and (4) mandatory minimum sentences for persons convicted of impaired driving. States that met the basic grant criteria would receive an amount equal to 80% of their allocation under Section 402 of Title 23.

Supplemental grants would be available for each of the following actions: (1) enhanced enforcement of "21 drinking age" laws; (2) the enactment of laws prohibiting the possession of open containers of alcohol in the passenger area of motor vehicles (excepting charter buses) while on the road; and (3) the suspension of car licenses and registrations, and the impoundment of vehicles of repeat offenders of impaired driving laws. States that met the supplemental grant criteria would be eligible for an amount equal to five percent of their 402 grant allocation.

The House bill also authorizes, from funds made available to carry out section 402 of Title 23, the use of $17 million for each of the fiscal years 1993–1997 to carry out this program.

Senate amendment

The Senate amendment, in Section 226, amends Chapter 4 of title 23, to establish a new and comprehensive drunk and impaired driving program. The new program would have a structure identical to that of the existing sections 408 and 410 programs, and would replace those programs when the terms of those programs expired. The program would make available to the states basic and supplemental grants for a maximum of five years. States that met certain basic criteria would receive a grant equal to 30 percent of their section 402 grant amount, which would be funded on a declining share basis—75% for the first year, 50% for the second year, and 25% for the third year.

The amendment provides that a state is eligible for a basic grant if it establishes requirements for (1) administrative revocation of drunk drivers' licenses; (2) sobriety checkpoints; (3) a 0.10 BAC standard for persons who are deemed to be driving while under the influence of alcohol, that would have to be reduced to 0.08 BAC after 3 years; (4) videotaping of drunk drivers; (5) mandatory minimum sentences for those convicted of impaired driving; and (6) a requirement that the program be planned to become self-supporting. The bill provides a waiver of any one of the basic grant criteria for any state which achieves a decrease in its alcohol-related fatalities by an average of three percent per calendar year for five consecutive years.

States that met the criteria for a basic grant would be eligible for supplemental grants for each of the following: (1) the adoption of a mandatory blood alcohol testing program for drivers in accidents involving fatalities or serious injuries; (2) providing for enhanced enforcement of "21 drinking age" laws; (3) the establishment of laws preventing drugged driving, including prompt license suspension, presumed driver consent to drug testing, mandatory minimum sentences for those convicted of drugged driving, and a system of detection of drugged drivers; (4)

the establishment of a mandatory BAC intoxication level of 0.08 during the first three years of the grant; (5) making it unlawful to possess open containers of alcohol in the passenger area of motor vehicles (excepting charter buses) while on the road; or (6) and requiring the suspension of car license plates and registrations for repeat offenders of impaired driving laws. For each supplemental grant criteria that is met, a state would receive an amount equal to 10 percent of its section 402 allocation.

The Senate amendment also authorizes appropriations out of the Highway Trust Fund (other than the Mass Transit Account) in the following amounts to carry out this program: $25 million in FY 1992; and $50 million for each of the fiscal years 1993–1996.

Conference substitute

The Conference substitute, in large part, adopts the Senate provisions regarding the grant program. The agreement, however, deletes the waiver provision for the basic requirements, and provides that a state only has to meet five of the six requirements under the basic grant criteria of be eligible for a basic grant. In addition, videotaping of drunk drivers is now a supplemental grant criteria, and distinguishable license for those under 21 is a basic grant criteria.

SECTION 2004—AUTHORIZATION OF APPROPRIATIONS

House bill

The House bill, in Section 205(1), for programs under section 402 of Title 23 U.S. Code, provides for an authorization out of the Highway Trust Fund (other than the Mass Transit Account) of $121 million for FY92, $190 million for fiscal years 1993–1995, and $168 million for fiscal years 1996–1997.

The House bill, in section 205(2), authorizes an appropriation of $25 million for FY 1992, and $50 million each for FYs 1993 through 1997, for the program under Section 403 of Title 23, U.S. Code.

The bill also authorizes $14,000,000 for carrying out Section 410 of Title 23 U.S. Code for fiscal year 1992.

Senate amendment

The Senate amendment, in section 203(d), authorizes expenditures from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 402 of title 23 of the U.S. Code for FY 1992 through 1996. The amendment provides for an authorization of $126 million for FY 1992; $130,788,000 for FY 1993; $135,757,944 for FY 1994; $140,916,745 for FY 1995; and $146,271,537 for FY 1996.

The Senate amendment, in section 203(e), authorizes expenditures out of the Highway Trust Fund to carry out Section 403 of title 23, U.S. Code. The bill provides for an authorization of $45,869,000 for FYs 1992–1996.

The Senate amendment, in section 226(—), authorizes expenditures out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the impaired driving programs set out in that section as follows: $25,000,000 for FY 1991; and $50,000,000 for each of the fiscal years 1992–1995.

The Senate amendment, in Sections 226(a) and 226(b), authorizes appropriations for the National Highway Traffic Safety Administration to carry out its responsibilities under the National Traffic and Motor Vehicle Safety Act of 1966 as follows: FY 1992—$68,722,000; FY 1993—$71,333,436; FY 1994—$74,044,106. These amounts reflect the Administration's budget request for 1992 increased by the inflation factor recommended by the Congressional Budget Office for the remaining fiscal years. It also authorizes appropriations for the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act as follows: $6,485,000 for fiscal year 1992; $6,731,430 for FY 1993; and $6,987,224 for FY 1994.

Conference substitute

The Conference substitute provides new authorization levels for both Sections 402 and 403, and the Impaired Driving Enforcement program. For programs under Section 402, the agreement provides for an authorization of $126 million for FY92; $175 million for FYs 1993–1994; and $171 million for FYs 1995–1997. For programs under Section 403, the agreement provides for expenditures in the amount of $44,000,000 per year for FYs 1992–1997. For the Impaired Driving Enforcement program, the agreement provides for authorization of $25 million per year for FYs 1992–1997.

The Conference substitute adopts the Senate provisions with respect to expenditures for the National Highway Traffic Safety Administration's administration of the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and includes an authorization for FY 1995 for the latter two purposes.

SECTION 2005—DRUG RECOGNITION EXPERT TRAINING PROGRAM

House bill

The House bill, in section 206, provides for the establishment of a drug recognition expert training program. The purpose of the program is to train law enforcement officers to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol, a controlled substance, or other drug. The bill also establishes a citizens' advisory committee to monitor the progress of the implementation of the program. The advisory committee is to include one member from the organization Mothers Against Drunk Driving. The bill provides for an authorization of $5 million for FY92, and $6 million each for FYs 1993–1997, from the highway trust fund (other than the Mass Transit Account) to carry out the program.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute adopts the House provision, but reduces the funding to $4 million each for FYs 1992–1997. The agreement also provides that the citizens' advisory committee shall include a member of the American Bar Association, and a member of the American Medical Association.

SECTION 2006—NATIONAL DRIVER REGISTER ACT AUTHORIZATIONS

House bill

The House bill, in section 207, provides an authorization of $4 million each for FYs 1992–1994 for programs under the NDR Act.

Senate amendment

The Senate bill, in section 203, provides for a three year authorization to carry out programs under the National Driver Register Act. The bill authorizes expenditures in the amount of $6,131,000 for FY '92; $6,363,978 for FY '93; and $6,605,809 for FY '94.

Conference substitute

The Conference substitute adopts the House provision.

SECTION 2007—OBLIGATION CEILING FOR FISCAL YEAR 1992

House bill

Section 210 of the House bill established obligation ceilings for a number of highway safety programs.

Senate amendment

No provision.

Conference substitute

The conference substitute provides for the following obligation ceilings:

(1) Fiscal Year 1992—Sums authorized for sections 2004(1), 2004(3), and 2005(c) of this Act, and Section 211(b) of the National Driver Register Act of 1982 for Fiscal Year 1992, are subject to the obligation limitations of Section 102 of this Act.

(2) Fiscal Years 1993–1997—2003, 2004(1) and 2005 of this Act and Section 211(b) of the National Driver Register Act of 1982 should be reduced proportionally if an obligation ceiling is placed on the sums authorized to be appropriated to carry out Section 402 of Title 23, United States Code.

PART B—AUTHORIZATIONS AND GENERAL PROVISIONS

SECTION 2500—SHORT TITLE

House bill

No provision.

Senate amendment

The Senate bill in Section 201, provides the following short title: "National Highway Traffic Safety Administration Authorization Act of 1991".

Conference substitute

The Conference substitute adopts the Senate provision.

SECTION 2501—AUTHORIZATION OF APPROPRIATIONS

House bill

No provision.

Senate amendment

The Senate amendment, in Sections 226 (a) and (b), authorizes appropriations for the National Highway Traffic Safety Administration (NHTSA) to carry out its responsibilities under the National Traffic and Motor Vehicle Safety Act of 1966 as follows: $68,722,000 for FY 1992; $71,333,436 for FY 1993; $74,044,106 for FY 1994. These amounts reflect the Administration's budget request for FY 1992, increased by the inflation factor recommended by the Congressional Budget Office for the remaining fiscal years. The Senate amendment also authorizes appropriations for the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act as follows: $6,485,000 for FY 1992; $6,731,430 for FY 1993; and $6,987,224 for FY 1994.

Conference substitute

The Conference agreement adopts the Senate provisions, with modifications to include an additional authorization for FY 1995 of $76,857,782 for carrying out the National Traffic and Motor Vehicle Safety Act of 1996; and $7,252,739 for the Motor Vehicle Information and Cost Savings Act.

SECTION 2502—GENERAL PROVISIONS

House bill

No provision.

Senate Amendment

The Senate amendment, at Section 202, sets out definitions of terms used in the amendment, including definitions of passenger car and multipurpose passenger vehicles (MPVs). These definitions, according to NHTSA, are identical to those used in current NHTSA regulations.

Conference substitute

The Conference adopts the Senate definitions. The Conference agreement also sets out procedures to be used in carrying out the rulemakings required by the Conference agreements.

SECTION 2503—MATTERS BEFORE THE SECRETARY

House bill

No provision.

Senate amendment

The Senate requires the Secretary of Transportation to conduct rulemakings on a number of issues:

(1) Side impact standard: Section 205 of the Senate amendment requires the Secretary, within 18 months after enactment, to promulgate a final rule to extend FMVSS 214, to MPVs and other light trucks, such as minivans, sport utility vehicles and small trucks.

The Senate notes that approximately 8,000 Americans die each year in side impact crashes, and approximately 23,000 suffer serious, nonfatal injuries. After many years of work, NHTSA recently issued an upgraded side impact protection standard for passenger cars, to prevent injuries to the chest and pelvis in such crashes. At the same time, NHTSA indicated that it would continue its work to address head injury prevention in such crashes. MPVs and other light trucks are not currently required to meet the passenger car standard for protection of the chest and pelvis. This section of the Senate amendment would require that the passenger car standards be applied to MPVs and other light trucks.

This Section also would require that the Secretary complete a rulemaking, within a time certain, to consider methods of preventing head injury in side impact crashes.

(2) Protection against rollover: Section 210 of the Senate amendment requires rulemaking to prevent unreasonable risk of rollover in passenger cars, MPVs and other light trucks. The Senate notes that NHTSA's own research indicates that a significant percentage of accidents involving certain types of MPVs, other light trucks and passenger cars involve vehicle rollover. To date, no rule has been issued to deal with this problem. This section of the Senate amendment would require completion of the rulemaking within 12 months of enactment.

(3) Improved design for seatbelts: Section 224 of the Senate amendment requires a rulemaking, to be completed within 12 months of enactment, to consider whether to amend the current standard for seatbelt design to take into account the needs of children and shorter adults. The Senate notes that there is some evidence that current seatbelt design does not protect adequately such individuals, and that this situation could be remedied easily by minor design changes. The Senate notes that while NHTSA recently terminated a rulemaking on this issue, that analysis did not consider the affect on children of such an amendment to the standard. The rulemaking required by the Senate amendment would have to consider the safety of children.

(4) Safety child booster seats used in passenger cars and other motor vehicles: Section 213 of the Senate amendment requires a rulemaking proceeding, to be completed within 12 months of enactment, to increase the safety of child booster seats. Booster seats, used by toddlers and older children, are designed to elevate children so that they are in the proper position to use lap and shoulder belts. The Senate notes that a study conducted for NHTSA, "Evaluation of the Performance of Child Restraint Systems," indicates that some of these systems may not restrain adequately a child in a crash, and some may put pressure on the child's abdomen during a crash. The Senate amendment is a response to the concerns expressed in this study.

(5) Methods of reducing head injuries: Section 219 of the Senate amendment would require a completion of a rulemaking, within two years of enactment, to consider methods of reducing head injuries caused by contact with the interior components of passenger automobiles, MPVs and other light trucks.

The Senate notes that each year a large number of Americans suffer head injuries in automobile crashes. Many of these victims are permanently disabled. The Senate notes that an airbag can reduce the number of head injuries resulting from frontal crashes. Even if all cars were equipped with airbags, however, head injuries will still occur from rollover, side impact, and other crashes. NHTSA's own research indicates that many of these head injuries could be prevented if additional padding were placed in the interior portions of the vehicles likely to come into contact with a crash victim's head.

Conference substitute

The conference substitute provides in lieu of the above mentioned provisions a process for conducting rulemakings in accordance with the National Traffic and Motor Safety Act of 1966. It also provides that any resulting standards be enforced in accordance with the 1966 statute. The process includes a procedure for initiating a rulemaking either as an Advanced Notice of Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM) at the discretion of the Secretary of Transportation. It also provides for completion of the rulemakings consistent with the 1966 statute and the Administrative Procedure Act. Except as otherwise provided, completion could include promulgation of a final rule (with or without changes from the proposed rule), or deciding not to promulgate a rule through termination of the rulemaking process (which decision may include a deferral of a rule, or a decision to start all over at some future time). The Department cannot, however, terminate the rulemaking because it lacked time to complete the rule. Whatever action is taken it must be published in the Federal Register in accordance with the Administrative Procedure Act and the 1966 Act and must include the reasons for that action.

Section 2503 lists five priority matters for which the Secretary must initiate a rulemaking in accordance with these general procedures. They are as follows:

(1) Unreasonable risk of rollovers in passenger cars, MPVs and light trucks.

(2) Extension of passenger car side impact protection to MPVs and light trucks.

(3) Safety of child booster seats in passenger cars and other appropriate vehicles.

(4) Improved design for safety belts.

(5) Improved head impact protection.

With the exception of number five, the listing of these matters for initiating rulemaking decisions is not to be construed as a determination by Congress as to whether or not a rule shall be finalized or if it is finalized what it should contain. The objective of the conferees is to require that the Secretary give priority consideration to these matters without affecting other rulemakings or decisions pending at the Department.

For these five matters, the conferees expect the Secretary to initiate either an ANPRM or a NPRM by May 31, 1992. If the Secretary cannot begin any one of these by that date, he must give notice of the decision to initiate them and provide a date certain for the initiation of either an ANPRM or a new NPRM. Such date certain shall not extend beyond January 31, 1993. He must also explain the reasons for this delay. A decision to provide a new date for that decision will not be reviewable.

Once a rulemaking is initiated, the Secretary must complete the rulemaking within 26 months after initiation, in the case of an ANPRM, and within 18 months after initiation, in the case of an NPRM. However, with the exception of the head injury rulemaking, in the case of an ANPRM, the Secretary may decide not to proceed to an NPRM after issuing the ANPRM if, after consideration of the ANPRM and the comments thereon, he so decides and publishes this decision against continuation of the rulemaking process. He must do this in a manner consistent with the APA and the 1966 Act. The Secretary may in the case of an NPRM extend the 18 month period for an additional 6 months. That extension is not reviewable.

In the case of Section 2503(5) which provides for improved head injury protection regarding interior components of passenger cars (i.e., roofs, pillars, and front headers) there is a special rule. Under that special rule the Secretary must complete the rulemaking and issue a final rule within 24 months after the date of initiation of rulemaking by publication of the ANPRM or the NPRM. That publication must occur either by May 31, 1992 or, as indicated above, by January 31, 1993. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date of completion by an additional six months and publish a notice thereof in the Federal Register. The conferees emphasize that in the case of this special provision a final rule is to be promulgated within the timeframe specified.

Thus, with exception of the head injury protection issue, the conferees do not predetermine the outcome of these rulemakings. The Secretary is free to conclude the rulemaking in any manner consistent with the APA and the 1966 Act. The conferees expect the Secretary to act on these matters in accordance with the time schedule provided.

The conferees expect NHTSA to move quickly on these matters and give preference to rollover protection, and to extension of passenger car side impact protection to light duty trucks and MPVs. In the case of rollovers, the conferees note that in a November 7, 1991 letter to the Committee on Energy and Commerce, the Administrator of NHTSA said:

> The rulemaking process will develop an advanced notice of proposed rulemaking (ANPRM) which will be published late this year. This will be followed by a notice of proposed rulemaking. If the comments and other information in the rulemaking record support the issuance of a final rule, the agency would adopt such a rule.
>
> Since the late 1980s, the agency has conducted research to determine if vehicle attributes exist which are related to vehicle rollover. In a multi-contract effort, the agency has collected engineering data on approximately 60 different vehicles, including MPVs, vans, trucks, and passenger cars. In addition, the agency has collected and analyzed over 100,000 accidents associated with rollover and non-rollover crashes of these vehicles. These two data sets, the physical measurements of the vehicles and the rollover propensity of the vehicles as measured by their actual accident history, were analyzed to determine correlations between vehicle rollover propensity and accident involvement. Correlations were found when controlling for variations in the individual crashes, such as driver demographics, weather conditions, and road conditions. This

analysis was completed in the spring of 1991 and will provide the basis for the forthcoming ANPRM.

The conferees would expect NHTSA to issue an ANPRM before May 31, 1992. Indeed, the conferees understand that an ANPRM has recently been submitted to the Office of Management and Budget.

SECTION 2504—RECALL OF CERTAIN MOTOR VEHICLES

House bill

No provision.

Senate amendment

Section 216 of the Senate amendment provides the Secretary with authority to require manufacturers to send a second notification to owners of defective vehicles to enhance safety defect and non-compliance recall response rates. DOT's review of techniques such as postcard reminders to increase recall response rates shows that a follow-up notice can achieve response rates significantly higher than those achieved by the initial notification.

This section further requires that any owner of leased vehicles who receives a recall notice shall send a copy of such notice to the lessee of the vehicle. Finally, the section requires that any dealer who receives a recall notice with respect to any vehicle or item of equipment may not sell or lease that product unless the defect is remedied or the recall order has been restrained or set aside. This provision, according to the Senate, is intended to close a loophole that exists in the Safety Act.

Conference substitute

The conference substitute adopts the Senate provision. The conferees note that according to a letter from NHTSA Administrator Jerry Curry to the Chairman of the House Committee on Energy and Commerce, dated November 7, 1991, 1991, this provision was recommended by the Department of Transportation.

SECTION 2505—STANDARDS OF COMPLIANCE TEST PROGRAM

House bill

No provision.

Senate amendment

Section 207 requires the Secretary to establish a schedule for investigating compliance with each Federal Motor Vehicle Safety Standard in effect which is capable of being tested. This provision is a result of a December 1986 GAO report, "Motor Vehicle Safety: Enforcement of Federal Standards Can Be Enhanced," which found that enforcement of these standards could be enhanced by insuring that each standard is subject to testing on a regular, rotating basis.

Conference substitute

The conference substitute requires the Secretary to maintain, on a continuing basis, a five-year plan for testing Federal Motor Vehicle Safety Standards. The initial plan may be the five-year plan for compliance testing that is in effect on the date of enactment of the substitute. This provision provides the Secretary with considerable leeway in development of the plan and its implementation. The Conferees intend that the Secretary's testing plan will be available to the public, as it is currently.

SECTION 2506—REAR SEATBELTS

House bill

No provision.

Senate amendment

Section 211 of the Senate bill provides that the Secretary expend such funds as are deemed necessary from funds appropriated to carry out the Cost Savings Act for FYs 1992 and 1993 to provide consumers with information about retrofitting their vehicles with rear seat lap-and-shoulder belts. The Senate notes that such belts only recently have been required to be installed as original equipment, and there is ample evidence, compiled in part through NHTSA's rulemaking, to conclude that rear seat shoulder belts enhance vehicle safety.

All rear passenger car seats have been required since 1968 to be equipped with brackets to allow installation of lap-shoulder belts. Consumers and auto dealers should be made fully aware of the availability of retrofit kits.

Conference substitute

The conference adopts the Senate provision, with the modification that the program would be conducted solely during FY 1993.

SECTION 2507—BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS

House bill

No provision.

Senate amendment

Section 222 of the Senate amendment requires a rulemaking, to be completed within 12 months of enactment, to consider whether to adopt a standard requiring antilock brake systems for cars and MPVs. The Senate notes that there is evidence that these systems are useful in avoiding accidents, particularly in bad weather, and this section requires that NHTSA give priority consideration to whether they should be required.

Conference substitute

Not later than December 31, 1993, the Secretary, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966, shall publish an Advanced Notice of Proposed Rulemaking to consider the need for any additional brake performance standards for passenger cars, including antilock brake standards. The rulemaking is to be completed not later than 36 months from the date of initiation of the ANPRM, in accordance with clause 2502(b)(2)(B)(ii). In order to facilitate and encourage innovation and early application of economical and effective antilock brake systems for all such vehicles, the Secretary shall consider as part of the rulemaking, any brake system adopted by a manufacturer.

SECTION 2508—AUTOMATIC CRASH PROTECTION AND SAFETY BELT USE

House bill

No provision.

Senate amendment

The Senate notes that the current regulations of the Department of Transportation (DOT) require that passenger cars be equipped with "passive restraints," which include either airbags or automatic seatbelts that do not require action by the occupant in order to be engaged. When fully effective, in model year 1994, these regulations will require that all cars have one of these forms of passive restraint on both the driver and passenger side of the front seat (i.e. the front outboard seating position). 49 C.F.R. 571.208.

The Senate notes that in March 1991, DOT issued a similar requirement for passive restraints in the "light truck" fleet, which includes minivans, small pickups, and sport utility vehicles. 56 Fed. Reg. 12472-12487 (March 26, 1991). These vehicles, which originally were used primarily for cargo or work purposes, now make up approximately one-third of the new passenger vehicles sold, and are increasingly used by families. Under the DOT rule, "light trucks" will be required to have "passive restraints" (automatic belts or airbags) on both the driver and passenger sides on the following schedule: 20 percent of the vehicles manufactured after September 1, 1994; 50 percent of those manufactured after September 1, 1995; 90 percent of those manufactured after September 1, 1996; and 100 percent after September 1, 1997. However, those manufacturers that install airbags instead of automatic seatbelts on the driver side are permitted through a credit system to delay installation of any airbags on the passenger side until September 1, 1998.

The Senate amendment addresses the fact that the current rule permits manufacturers to choose between two forms of passive restraints. The Senate notes that DOT has estimated that airbags could save over 9,000 lives and prevent 155,000 moderate to serious injuries each year as compared to the situation if no cars were equipped with airbags. 49 Fed. Reg. 28986 (July 17, 1984).

Section 214 of the Senate amendment sets out two requirements with respect to airbags in passenger vehicles.

First, subsection 214(a) requires that, to the extent practicable, the Secretary, in cooperation with the General Services Administration and heads of other federal agencies, insure that passenger automobiles purchased for the federal fleet be equipped with airbags. Driver side airbags would be required for passenger cars acquired after September 30, 1991, and driver and passenger side airbags would be required for passenger cars acquired after September 30, 1993. If only one source of airbag-equipped vehicles is available, so that competitive bidding cannot occur, such purchase may not be practicable. However, since most manufacturers have announced plans to install airbags in their passenger car fleet in the mid 1990s, this problem is not likely to occur.

Second, subsection 214(b) requires that manufacturers equip all passenger cars and other passenger vehicles as defined in the section to include most multipurpose vehicles, with airbags on a phased-in schedule set out in the bill. Specifically, all passenger cars manufactured on or after September 1, 1995 must be equipped with airbags on both the driver and right front outboard seating positions. In addition, all trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less must have a driver side airbag if manufactured after September 1, 1996 and a passenger side airbag if manufactured on or after September 1, 1997.

Conference substitute

Paragraph (a)(1) requires the Secretary to issue a rule, by September 1, 1993, amending FMVSS 208 in a number of ways, including requiring the installation of an airbag that meets the requirements of FMVSS 208 on both the driver and front outboard passenger seating positions of passenger cars and MPVs and other light trucks. The issuance of a rule to accomplish mandatory airbags in the manner specified in this section is required notwithstanding any other provision of law or rule, but the rule is to be promulgated in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 to the extent such Act is not in conflict with this section. This subsection requires a rule that supplements and revises but does not replace existing FMVSS 208, which was amended on March 26, 1991 to extend the standard's requirements to MPVs and other light trucks.

Paragraph (a)(2) requires that after the promulgation of the amendment in (a)(1), the

Secretary shall require that owner's manuals contain specific language informing consumers about the need to wear seatbelts even in vehicles equipped with airbags. It states:

(A) that the vehicle is equipped with an inflatable restraint referred to as an "airbag" and a lap and shoulder belt in either or both the front outboard seating positions;

(B) that the airbag is a supplemental restraint;

(C) that the airbag does not substitute for lap and shoulder belts which must also be correctly used by an occupant in such seating positions to provide restraint or protection not only from frontal crashes but from other types of crashes or accidents; and

(D) that all occupants, including the driver, should always wear their lap and shoulder belts where available or other safety belts, whether or not there is an inflatable restraint.

Paragraph (a)(3) contains a finding that it is in the public interest for all States to adopt and enforce mandatory seat belt laws and for the Federal government to adopt and enforce mandatory seat belt rules. The conferees note that nine states have not yet adopted such a law. Also, the DOD and the Interior Department's Bureau of Land Management and National Park Service have adopted such rules.

Subsection (b) sets forth the following schedule for implementation of requirements of subparagraph (a)(1): (1) New Passenger Cars—95% of each manufacturer's production volume of cars manufactured on or after September 1, 1996 and before September 1, 1997, and 100% of all such production manufactured on or after September 1, 1997. (2) New MPVs and other light trucks and buses—80% of each manufacturer's production volume manufactured on or after September 1, 1997 and before September 1, 1998, and 100% of each manufacturer's production volume manufactured on or after September 1, 1998.

Subject to the provisions of subsection (c), the requirements for 100% coverage mean that all of these vehicles actually are equipped with airbags on both sides. This is not to be a mathematical calculation involving credits available under the 208 standard, as amended by this bill, from which the Secretary would derive 100% coverage. Rather, it is actual 100% coverage. The subsection provides that the incentives or credits available to the manufacturers under the amended Standard 208 are no longer available when the requirement for 100% coverage becomes effective.

Subsection (c) provides for a temporary exemption from requirements of this section due to supply and unavoidable disruptions. This exemption authority is permanent and is available even after the 100% requirement.

The Conferees intend that the temporary exemption be granted or renewed where there is a disruption of supply, or a disruption in the use and installation by the manufacturer of such component due to unavoidable events totally beyond the manufacturers' control. The Conferees expect that these exemptions will be rarely necessary. However, history shows that there have been supply problems in the past, as shown by a recent report of the General Accounting Office.

The Conferees expect that the Secretary will require written documentation of the facts that have made the inflatable restraint unavailable. The exemption is not intended to be available in situations in which vehicle production plans are interrupted or altered for reasons unrelated to the inflatable restraint, such as general economic conditions or work stoppages at the vehicle manufacturing plant.

In granting the exemption, the Secretary must require that the manufacturer recall the exempted vehicle and install the inflatable restraint within a reasonable time, which is to be proposed by the manufacturer subject to approval by the Secretary. Thus, each grant of exemption by the Secretary must include a requirement for vehicle recall and installation of the inflatable restraint, and a date by which that recall and installation must be completed.

The substitute directs the Secretary to require labeling for each exempted motor vehicle and to provide that the label can only be removed after recall and installation of the airbag. If the vehicle is delivered to the dealer without an inflatable restraint the Secretary shall require that written notification of exemption be delivered to the dealer and first purchasers of such exempted motor vehicles in such manner and containing such information as the Secretary deems appropriate. The purpose of this notice requirement is to inform the dealer and the consumer once the vehicle has reached the showroom of the dealer. Such notice is not necessary if the exemption is granted for the vehicle, and the vehicle is not sold by the manufacturer to the dealer prior to installation of the airbag. The bill does not specify the contents of the label. However, the intent is to inform the prospective purchaser that the inflatable restraint is absent and will have to be installed within a specified period of time. It is, of course, the intention of the Conferees that, in the case of a label, it be conspicuous and that it not be removed by anyone until the restraint has been installed as required.

With respect to subsection (d), the Conferees, noting NHTSA's letter of November 7, 1991, do not want by this section to change the law on liability as it existed prior to enactment. This section is not intended to be a "sword" or a "shield" in litigation or otherwise.

Subsection (e) provides for the Secretary to report biannually on the actual effectiveness of occupant restraint systems.

Subsection (f) provides for the establishment of a program, consistent with applicable provisions of Federal procurement law and available appropriations, under which light duty vehicles acquired by the Federal Government, to the maximum extent practicable, will have driver and passenger-side airbags.

SECTION 2509—HEAD INJURY IMPACT STUDY

House bill

No provision.

Senate amendment

Section 205 of the Senate amendment requires the Secretary, within 12 months of enactment, to issue a final rule amending Federal Motor Vehicle Safety Standard (FMVSS) 214 to establish performance criteria for passenger cars, to provide improved occupant protection from head injury in a side impact crash.

The Senate notes that approximately 8,000 Americans die each year in side impact crashes, and approximately 23,000 suffer serious, nonfatal injuries. Thirty-five percent of the life-threatening automobile injuries occur in side crashes. After many years of work, NHTSA recently issued an upgraded side impact protection standard for passenger cars, to prevent injuries to the chest and pelvis in such crashes. The Senate notes that, at the same time, NHTSA indicated that it would continue its work to address head injury prevention in such crashes.

Conference substitute

The conferees understand that there are other head injury protection matters which are the subject of research at NHTSA and which are not covered by section 2503(5) of this bill. This could include head injury protection matters from various types of crashes, such as side impact.

This section of the bill directs the Secretary to report on the need for rulemaking regarding this research and the extent of that research. The report would be provided by the end of FY 1993 and would identify such research matters and their status. It would also include a statement of any actions planned by the DOT toward initiating rulemaking not later than FY 1994 or 1995. Such a rulemaking would be either an ANPRM or NPRM and would be completed as soon as possible after proposal.

AUTOMOBILE CRASHWORTHINESS DATA

House bill

No provision.

Senate amendment

Section 206 of the Senate amendment required the Secretary to enter into agreements with the National Academy of Sciences to conduct a study, within specified time frames, to consider means of establishing a uniform rating system to permit consumers to compare the crashworthiness of different vehicles. Upon completion of the study, it is to be furnished to Congress, and the Secretary is to begin a period of public comment on the recommendations made in the study. The Secretary then shall determine whether such a crashworthiness rating system can be developed, and shall publish that determination. If it is determined that such a system can be developed, the Secretary is to conduct a rulemaking proceeding to develop such a rule within established time limits.

The Senate notes that the Motor Vehicle Information and Cost Savings Act currently requires DOT to compile crashworthiness information. However, the only such information available is obtained through random sampling in connection with NHTSA's New Car Assessment Program, and is not available at the vehicle's point of sale. The Senate notes that NHTSA studies indicate that prospective new car purchasers favor the idea of a Government safety rating. While a system that could compare all crashworthiness features with just one rating would be preferable and should be explored, the Senate amendment recognizes that a single rating may not be workable, and that a system of several ratings to indicate crashworthiness in various situations may be necessary. This section would permit either a single rating or multiple ratings.

Conference substitute

Senate recedes. The conferees believe that the development of such a system could be beneficial to consumers and encourage NHTSA to continue to work on providing vehicle purchasers usable, accurate, and timely crashworthiness information, taking into consideration all relevant factors in obtaining and disseminating such information.

INVESTIGATION AND PENALTY PROCEDURES

House bill

No provision.

Senate amendment

Section 208 of the Senate amendment requires the Secretary to establish written guidelines for conducting expeditious and thorough investigations of noncompliance with any requirements issued under the Safety Act, which includes NHTSA safety standards and recall orders. The Secretary also is to develop written guidelines for determining when the results of such investigations shall be the subject of a civil penalty proceeding. This provision was based on recommendations in the 1986 GAO report previously referred to in connection with section 207 of the Senate amendment.

Conference substitute

Senate recedes.

MULTIPURPOSE PASSENGER VEHICLE SAFETY

House bill

No provision.

Senate amendment

Section 209 of the Senate amendment requires that the Secretary complete, within 12 months of enactment, a rulemaking to review the classification system for safety purposes of vehicles that weigh under 10,000 pounds. The Senate notes that in the 1960s, NHTSA defined a number of vehicle classes, including a category referred to as multipurpose vehicles (MPVs) (less than 10,000 pounds and designed for carrying 10 persons or less, constructed either on a truck chassis or for occasional off-road operation). GAO recommended in 1978 that NHTSA review its system of classification of vehicles under 10,000 pounds. The Senate notes that since the original classification of passenger vehicles, the types of vehicles making up the passenger fleet have changed dramatically. The use patterns of multipurpose vehicles (MPVs) have changed from primarily cargo-carrying to primarily passenger-carrying. The Senate notes that there are differences between Customs Service classifications for duty purposes and NHTSA classification for safety purposes.

The Senate notes that in 1988 NHTSA issued a Notice of Proposed Rulemaking to consider reclassification. NHTSA terminated this rulemaking proceeding in April 1991, finding that although there could be some benefits associated with a new classification scheme, reclassification was less important because many passenger car safety standards had been extended to light trucks. The Senate notes, however, as NHTSA recognizes, the current situation with respect to current safety standards does not resolve the classification issue for the future. The Senate amendment intends that classification review should be completed to insure that the current classifications are logical and accurate, and insure that future safety standards are applied appropriately across the fleet.

In addition, this section requires that any reclassification of vehicles weighing under 10,000 pounds which is undertaken must consider the Customs Service Classification of vehicles and, to the maximum extent practicable, include as a passenger automobile any vehicle classified by the Customs Service as a vehicle principally designed for the transport of persons. The Senate amendment recognizes that there currently is no coordination between NHTSA and Customs, and that vehicles receiving favorable duty treatment as passenger vehicles may not be required to meet passenger car safety standards. While it may not be practicable to conform NHTSA passenger automobile classification completely to the classification made by the Customs Service, it is the intent of this section to insure that NHTSA reviews the Customs classification in the course of its classification process.

Conference substitute

Senate recedes.

IMPACT RESISTANCE CAPABILITY OF BUMPERS

House bill

No provision.

Senate amendment

Section 212 of the Senate amendment establishes two requirements with respect to bumpers. Subsection 212(a) amends the Motor Vehicle Information and Cost Savings Act to require the Secretary to promulgate a rule regarding disclosure by the manufacturers of the speed at which the bumper meets the applicable Federal damage criteria. Such information must be provided to the Secretary and disseminated by the Secretary to consumers in a form to facilitate comparison among various vehicle types. Subsection 212(b) requires the Secretary to amend, within one year of enactment, the current standard for bumper impact capability, in order to return to the standard in effect on January 1, 1982. The current standard requires bumpers to withstand established levels of damage at impact speeds up to 2.5 miles per hour without damage to the safety features or the exterior sheet metal of the vehicle. The standard to be implemented requires the vehicle to withstand certain levels of damage at impact speeds up to 5 miles per hour.

Conference agreement

Senate recedes.

STATE MOTOR VEHICLE INSPECTION PROGRAMS

House bill

No provision.

Senate amendment

Section 215 of the Senate amendment requires the Secretary to report regularly to Congress on its efforts to assist states and coordinate with EPA in establishing state motor vehicle inspection programs. The Senate notes that a recent GAO report, "Motor Vehicle Safety: NHTSA Should Resume Its Support of State Periodic Inspection Programs," found that such inspection programs reduce highway accident rates by reducing the number of poorly maintained vehicles. This section will allow Congress to monitor more effectively NHTSA's activities in this area.

Conference substitute

Senate recedes.

DARKENED WINDOWS

House bill

No provision.

Senate amendment

Section 217 of the Senate amendment requires the Secretary to conduct a rulemaking to consider certain safety issues related to the use of dark tinted windows in passenger vehicles and the adequacy to current safety standards in this regard. The Senate notes that NHTSA completed a study of this issue in March 1991, and determined that rulemaking is appropriate. This section would insure that the rulemaking is completed in a timely fashion.

Conference substitute

Senate recedes.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

House bill

No provision.

Senate amendment

Section 218 of the Senate amendment establishes a grant program to encourage the states to increase the rate of seat belt usage among their citizens, and to educate their citizens about the proper use of child restraint systems. Grants would be available for a maximum of three fiscal years, to fund a declining percentage of the cost to states of their programs to achieve the required goals. Grants would be available to states that (1) have in effect mandatory seat belt use laws applicable to front seat passengers; (2) achieve either 70 percent seat belt usage by those passengers or a stated, and increasing, improvement over 1989 use rates; and (3) have in effect a program determined by the Secretary to encourage the correct use of child restraint systems.

Conference substitute

Senate recedes. A similar grant program is included in Title I of the conference report.

PEDESTRIAN SAFETY

House bill

No provision.

Senate amendment

Section 220 of the Senate amendment required that NHTSA complete a rulemaking, within two years of enactment, to minimize pedestrian injury attributable to vehicle design elements such as hoods, hood ornaments, fenders and grills. The Senate notes that, according to NHTSA, almost 7,000 pedestrians are killed annually in the United States. Since 1981, NHTSA had done considerable research on reducing pedestrian injuries, and identifying sources of these injuries. This section would require that a rulemaking be conducted utilizing that research.

Conference substitute

Senate recedes.

DAYTIME RUNNING LIGHTS

House bill

No provision.

Senate amendment

Section 221 of the Senate amendment required a rulemaking, to be completed within 12 months of enactment, to authorize passenger cars and MPVs to be equipped with daytime running lights. The Senate notes that some preliminary research in other countries has indicated that these lights reduce accidents. However, some state laws on headlight configuration have the effect of prohibiting the use of such lights. This section would allow their use. The section also requires that the Secretary report to the appropriate congressional committees, within two years of enactment, on the safety implications of these lights.

Conference substitute

Senate recedes. The conferees note that on August 12, 1991 NHTSA issued a notice or proposed rulemaking on the issue of whether manufacturers should be permitted to produce vehicles with daytime running lights despite state laws concerning headlight configuration.

HEADS-UP-DISPLAYS

House bill

No provision.

Senate amendment

Section 223 of the Senate amendment required a rulemaking, to be completed within 12 months of enactment, to consider whether heads-up displays, which permit the driver to obtain information on speed, fuel level, and other instrument readings without looking down, should be required in cars and MPVs. The Senate notes that there is some information that such displays may reduce accidents by allowing the driver to keep his or her eyes on the road while obtaining instrument information. The rulemaking required by this section would not have to result in the issuance of a new or different performance standard or requirements. It is presumed, however, that NHTSA would establish such standard if its investigation showed that they were practicable, would meet the need for motor vehicle safety, and could be stated in objective terms.

Conference substitute

Senate recedes.

TITLE III—TRANSIT

House Bill

The House bill provides that unless specifically identified otherwise, all changes to existing law contained in the Act have been made to the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1601–1621).

Senate amendment

The Senate bill contains a similar provision.

Conference substitute

Senate recedes to House.

Agency Name Change

House bill

The House contains a provision that would rename the Urban Mass Transportation Administration (UMTA) as the Federal Transit Administration (FTA).

Senate amendment

Senate contained similar provision.

Conference substitute

The conference report includes the House provision.

Findings and Purposes

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would add a new finding that a significant improvement in public transportation is necessary to achieve national goals for improved air quality, energy conservation, international competitiveness and mobility for the elderly, persons with disabilities and the economically disadvantaged in urban and rural areas of the country.

This section would also amend Section 2(b) to state that an objective of the Act will be to provide State and local governments with financial resources to help implement the national goals related to improved air quality, international competitiveness and mobility for the elderly, persons with disabilities and economically disadvantaged persons.

Conference substitute

The conference report includes the Senate provision which has been incorporated into Title I.

Capital Grants—Elderly and Persons with Disabilities

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would amend Section 3 of the Act to allow public transit agencies to apply for capital funding under the Section 3 grant program for transportation projects that are specifically designed to meet the needs of elderly persons and persons with disabilities.

Conference substitute

The conference report includes the Senate provision.

Section 3—Program Allocations

House bill

The House bill contains a provision not included in the Senate bill that would allocate 10 percent of Section 3 funds for a minimum apportionment program which guarantees that each State will receive ⅓ of 1 percent of Mass Transit Account funds distributed annually. These funds may be used, at the discretion of the Governor of the state, for any highway or transit capital project eligible for Federal funding. The Federal share for minimum apportionment projects will be 80 percent, unless a lower Federal share in specified under title 23, United States Code.

Senate amendment

The Senate bill contained a provision not included in the House bill that would require the Secretary to allocate Section 3 grant funds in the following way: 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; and 20 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities.

Conference substitute

House recede to Senate with an amendment to create a rural transit set aside of 5.5 percent of the 20 percent allocated for the replacement, rehabilitation and purchase of buses and bus related equipment and the construction of bus facilities.

Advance Construction—Technical Amendment Related to Interest Cost

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would amend Section 3(l) to make the advance construction mechanism more workable by deleting language that requires grantees to bet on future inflation. The bill substitutes the requirement that operators obtain the most favorable interest terms reasonably available for the project at the time of borrowing.

Conference substitute

The conference report includes the Senate provision with an amendment to ensure that operators use due diligence in obtaining the most favorable interest terms.

Capital Grants—Early Systems Work Contracts

House bill

No similar provision.

Senate amendment

The Senate bill contained a provision not included in the House bill that would authorize the Secretary to enter into full funding contracts and early systems work agreements with applicants to provide for more efficient project management.

Conference substitute

The conference agreement includes the Senate provision with technical amendments.

Transit Definitions

House bill

The House bill contains a provision not included in the Senate bill that makes the terms transit, public transportation and mass transportation synonymous.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

Capital Grant or Loan Program

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would rename section 3 of the Urban Mass Transportation Act of 1964 to read "Capital Grant or Loan Program" rather than "Discretionary Grant or Loan Program".

Conference substitute

The conference report does not include the Senate provision.

Section 3—Letter of Intent

House bill

The House bill contains a provision not included in the Senate bill that eliminates the letter of intent process currently used by the Secretary to make discretionary grants under the UMTA Section 3 program.

Senate amendment

No similar provision.

Conference substitute

House recede to Senate.

Section 3—Innovative Techniques

House bill

No similar provision.

Senate amendment

The Senate bill contained a provision not included in the House bill that would expand eligible activities under the section 3 discretionary program to include projects that introduce innovative techniques and methods to public transportation. This change merely codifies existing statute by incorporating language from section 4(i) into section 3.

Conference substitution

The conference report does not contain the Senate provision.

Security Grants

House bill

The House bill contained a provision not included in the Senate bill that would set aside $10,000,000 annually from the section 3 bus discretionary program for projects which enhance transit security.

Senate bill

No similar provision.

Conference substitution

The conference report contains the House provision with an amendment to provide funding for transit security through the section 9 formula program rather than the section 3, a discretionary program. Section 9 recipients must spend 1 percent of their formula apportionment on transit security projects or certify to the Secretary that transit security needs are adequately met. Transit security would also be added as a factor for consideration in the development of transportation plans and programs.

Section 3—Grandfathered Jurisdictions

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would clarify that all existing letters of intent, full funding grant agreements and letter of commitment will remain in effect with passage of this Act.

Conference substitute

The conference agreement included the Senate provision.

Matching Shares

House bill

The House bill contains a provision not included in the Senate bill that would increase the Federal share for projects under Section

3 of the UMT Act from 75 percent to 80 percent.

Senate bill

The Senate bill contained a provision not included in the House bill that would establish a higher federal match for those projects funded under sections 3, 9, 16(b), and 18 that involve the acquisition of bus-related equipment (e.g. lift equipment, particulate traps) or the construction of facilities (e.g. alternative fuels facilities) required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. The federal match would be set at 90 percent of the cost of such equipment or facilities. The Secretary would determine the portion or portions of a project eligible for the higher federal match.

Conference substitute

The conference report includes the House provision and the Senate provision with an amendment to also make vehicle-related equipment required by the Clean Air Act, as amended, or the Americans with Disabilities Act eligible for a 90 percent federal match.

PLANNING

House bill

Section 305 creates an intermodal transportation planning process by combining the fundamental requirements of highway and transit planning under sections 134 and 135 of title 23, United States Code.

Senate amendment

The Senate bill contains a similar provision.

Conference substitute

The Conference agreement contains elements of both the House and Senate bills.

The conferees intend and expect that MPOs when developing long-range plans will cooperate with States and units of local government in outlying areas that are not yet urbanized but are included in the long-range plan since they are expected to become urbanized in the future.

Private Enterprise and MPO Certification

In accordance with this provision, localities shall be afforded wide flexibility in establishing criteria to be used in determining the "feasibility" of private involvement in local programs. However, nothing in this provision shall diminish the responsibility of the Secretary to encourage grantees of federally funded projects to provide for the maximum feasible participation of private enterprise in accordance with Section 8(e).

SECTION 9 PROGRAM

House bill

The House bill contains a provision not included in the Senate bill that would increase the share of formula grant funds allocated to urbanized areas of less than 200,000 population from 8.64 percent to 10 percent and consequently reduce the share of formula grant funds allocated to urbanized areas of 200,000 or more population from 88.43 percent to 85 percent.

The House bill would specifically extend the safety authority of the FTA to the Section 9 formula grant program.

The bill would redefine "materials and supplies" as associated capital maintenance items.

It provides that the operating assistance limitation imposed on urbanized areas under the section 9 formula grant program will be adjusted for inflation according to the Consumer Price Index of the most recent calendar year on October 1, 1991 and each year thereafter.

Senate bill

The Senate bill contained a provision not included in the House bill that would make several amendments to simplify the section 9 grant application process—particularly the existing requirements that recipients self-certify their compliance with various statutory mandates.

The bill would mandate that all certifications required by law be incorporated into a single document to be submitted annually as part of the Section 9 application. The subsection would also require the Secretary to publish an annual list of all required certifications in conjunction with its annual publication—currently required by Section 9(q)—of information outlining the apportionment of Section 9 funds.

The bill would require the Secretary to establish streamlined procedures to govern a recipient's "continuing control" certification with respect to track and signal equipment. Under existing law, a section 9 recipient is required to certify that it has or will have "satisfactory continuing control" over the use of its facilities and equipment. Transit operators have found that UMTA's interpretation of this requirement with respect to track and signal equipment imposes unnecessary administrative burdens on transit recipients.

The Senate bill contained a provision not included in the House bill that would amend section 9 to prevent a transit recipient that undertakes certain energy efficiency initiatives from losing formula funds.

The Senate bill contained a provision not included in the House bill that would apply Section 22 of the Federal Transit Act, which gives the Secretary investigatory powers to ensure safety in mass transit systems, to the section 9 program. The provision is necessary because of the requirement in section 9(e)(1) that only specified sections of the Federal Transit Act apply to section 9.

Conference substitution

The conference report includes the Senate provisions with the following amendments. The share of formula grant funds allocated to urbanized areas of less than 200,000 population is increased from 8.65 percent to 9.32 percent; the share of formula funds for urbanized areas greater than 200,000 population is consequently reduced from 88.43 to 85.10.

The operating assistance limitation in current law would be adjusted for inflation based on the consumer price index, but such increase could not be greater than the increase in the section 9 appropriations from the previous fiscal year.

Energy Efficiency

"The conferees expect that the FTA will adhere to the energy efficiency policy in this legislation. Grantees are deemed in compliance with this policy should they operate shorter trains during certain time periods in order to achieve energy and operating efficiencies."

Security Grants

"The conferees agree that eligible projects include safety communications equipment, as well as, the design and construction of safety and security facilities located on transit system premises."

SECTION 9 PROGRAM—ELIMINATION OF INCENTIVE TIER

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would eliminate the "incentive tier" provisions of the section 9 bus and rail funding formulas.

Conference substitute

The conference report does not include the Senate provision.

SECTION 9 PROGRAM—PROGRAM OF PROJECTS

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would require a recipient, in developing its program of projects, to assure that the program provides for the maximum feasible coordination of public transportation services assisted under the section 9 program with transportation services assisted by other federal sources. A similar provision currently is in Section 18 of the Act.

Conference substitute

The conference report includes the Senate provision with an amendment to delete the words "maximum feasible."

MODIFIED BUS SERVICE

House bill

The House bill contained a provision not included in the Senate bill that would allow "tripper service" to accommodate the needs of students in New York City.

Senate bill

No comparable provision.

Conference substitute

The conference report includes the House provision with a modification to define express bus service to include special school bus service intended to alleviate pressure on regularly scheduled local bus service.

USE OF POPULATION ESTIMATES AND CENSUS DATA

House bill

The House bill did not include a similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would require more frequent updates of the population statistics used to distribute funds under Section 18 and Section 9 for small urbanized areas. Under current law, all UMTA formula programs use population statistics from the most recently available Federal Census. This section would require the Secretary to use interim population estimates provided by the Secretary of Commerce to update the formulas every four years.

The Senate bill also contained a provision not included in the House bill that would require the Secretary to use data from the 1990 census, to the extent practicable, in determining allocation of funds under Sections 9, 16(b)(2) and 18 for fiscal year 1992. The Secretary of Transportation and the Secretary of Commerce would be required to coordinate efforts to expedite the availability of census data in a form that is appropriate for the transit program formulas. The Secretary of Transportation must notify the Congressional authorizing Committees of actions taken under this section within 9 months of enactment of the Federal Transit Act.

Conference substitute

The conference agreement contained the Senate provision with an amendment to drop the use of the 1990 Census to the extent practicable for fiscal year 1992 and limiting the use of interim estimates to the Section 16(b)(2) and 18 programs.

Formula Grant Program—Discretionary Transfer of Apportionment

House bill

The House bill would allow the Governor of a state to transfer 25 percent of the funds allocated to that state for expenditure in urbanized areas of less than 200,000 population under the section 9 program to any other transportation purpose eligible for Federal funding under title 23, United States Code, and an additional 10 percent if transit services are being adequately maintained in those areas.

The House bill would also allow the Governor of a state to transfer 25 percent of the funds allocated to that state for expenditure in rural areas under the section 18 program to any other transportation purpose eligible for Federal funding under title 23, United States Code, and an additional 10 percent if transit services are being adequately maintained in those areas.

Senate bill

The Senate bill would provide that, in a transportation management area, formula grants for construction projects could also be used for highway projects; provided that (i) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers, (ii) adequate provision is first made for any program of investments required to comply with the Americans with Disabilities Act and (iii) funds for the State or local government share of the project are eligible to fund either highway or transit projects, or the Secretary finds that State or local law provides a dedicated source of sufficient funding available to fund local transit projects.

Conference substitute

The conference report contains the Senate provision with an amendment to remove the Secretary's authority to certify that sufficient funding is available to fund transit projects.

Special Procurement

House bill

The House bill contains a provision that would permit the use of "turnkey" procurement in the award of grants for the construction of new transit systems. A "turnkey system project" is defined as one in which a grant recipient contracts with a consortium of firms, an individual firm(s), or a vendor to build a transit system that meets specific performance criteria and which is operated by the vendor for a period of time. Multiyear rolling stock procurements are also specifically permitted.

Senate amendment

The Senate bill contained a similar provision.

Conference substitute

The conference report includes the House provision with an amendment to ensure that the Secretary must allow at least two projects to pursue turnkey system procurements, and to require the Secretary to consider any other projects using turnkey procurement in the development of regulations. The report also includes a provision to allow transit grantees to select other than the lowest bidder if such selection furthers objectives which are consistent with the purposes of this Act, such as improved long term operating efficiency and lower long term costs.

Rulemaking

House bill

No comparable provision.

Senate bill

The Senate bill would require the Secretary to use the notice-and-comment rulemaking process on a range of significant Federal Transit Administration policy issues but would not require the process to be followed in the case of emergency rules, routine matters, or matters of insignificant impact.

Conference substitute

The conference report includes the Senate provision. The conferees do not intend that the Secretary publish all of the Federal Transit Administration's instructions or routine requirements as rulemakings. Examples of matters not subject to the rulemaking process include the issuance or revision of grant application circulars, such as those for the section 9 or 18 programs, letters of explanation or interpretation of regulations or policies in response to requests from Members of Congress or the public, internal procedures on administrative issues, and other routine managerial and program issues.

Transfer of Facilities and Equipment

House bill

The House bill contains a provision not included in the Senate bill that would allow the transfer of capital assets acquired with Federal assistance, which are no longer needed for the purpose for which they were acquired, to any public purpose, provided that the Secretary determines that certain conditions regarding the value and use of the assets have been met.

Senate bill

The Senate bill included a similar provision. The Senate bill also included a provision to allow a similar transfer of assets between the section 18 and section 16 programs.

Conference substitute

The conference report includes the House provision and the Senate provision for transfer of assets under section 18 and section 16.

Elderly and Persons With Disabilities

House bill

The House bill would permit the use of section 16(b) funds for operating expenses. Also, transit service providers receiving assistance under sections 16 or 18 may coordinate and assist in providing meal delivery service for homebound persons on a regular basis if providing the meal service does not conflict with the provision of transit service or result in a reduction of service to transit passengers.

Senate bill

The Senate bill contained a provision not included in the House bill that would clarify existing FTA practice by specifying that funds provided under the Section 16(b)(2) program will be allocated to the States, who in turn will distribute funds to eligible private non-profit organizations. States would submit a program of projects to the Secretary for approval as is current practice. The section also requires an assurance that the State's program of projects provides for the coordination of Section 16(b)(2) transportation services with transportation services assisted from other Federal sources. This provision is designed to encourage more effective coordination and to avoid duplication of service.

In addition, the section would authorize assistance to public bodies that are approved by a State to coordinate transportation services for elderly persons and persons with disabilities. This provision is designed to support the efforts of States attempting to coordinate transportation services.

The Senate bill would allow the Governor of each State to use any funds that remain unobligated from the Section 16(b)(2) program during the final 90 day period prior to the expiration of the grant to be used to supplement funds distributed under either the Section 18 program or the Section 9 program.

The Senate bill would also require the Secretary to issue regulations to allow recipients of 16(b)(2) funds to lease their equipment to public transit entities. The section specifies that the regulations shall be issued within 60 days of enactment of the bill.

Conference substitute

The conference report includes the Senate provisions with an amendment to clarify that public bodies are eligible for capital funding under Section 16(b)(2) only if they certify to the Governor that no non-profit corporations are readily available in an area to provide transportation for elderly persons and persons with disabilities. The conference report includes a provision to allow eligible capital expenses to include the acquisition of transportation services under a contract, lease or other arrangement. The report includes the House provision regarding meal delivery service for homebound persons.

Eligibility Study

House bill

The House bill contains a provision not included in the Senate bill that requires the Secretary to conduct a study on the eligibility requirements of individuals with disabilities for off-peak reduced transit fares.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

E&H Funds for Pennsylvania

House bill

Section 329 sets aside an additional $1,000,000 in Section 9 and 18 funds in FY 1992 for the State of Pennsylvania for elderly and handicapped transportation services.

Senate amendment

No comparable provision.

Conference substitute

The conference report does not include the House provision.

Intercity Bus Transportation

House bill

The House bill contains a provision not included in the Senate bill that would provide that, before apportioning section 18 funds, the Secretary shall set aside $20,000,000 for intercity bus transportation.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision with an amendment to set aside funds for intercity bus service from each State's apportioned section 18 funds rather than provide a discretionary set-aside from the total program. A State would be required to spend 5% of its section 18 allocation in fiscal year 1992, 10% in fiscal year 1993 and 15% in fiscal year 1994 and all years thereafter, for the development of an intercity bus program unless it certifies to the Secretary that the State's intercity bus needs have been adequately met relative to other rural needs in the State.

GAO Study on Public Transit Needs

House bill

The House bill contains a provision requiring the Secretary, beginning in January 1993 and biennially thereafter, to report to the Congress a comprehensive estimate of the future transit needs of the nation, including an assessment of the impact of the transferability of transit funds to highway projects.

Senate bill

The Senate bill contained a similar provision that would require the General Accounting Office, on a biennial basis, to submit a report to Congress that evaluates the extent to which the nation's transit needs are being adequately addressed. The report would include (1) an analysis of the unmet needs for transit; (2) a projection of the maintenance and modernization needs that will accrue over the coming five years as existing transit equipment and facilities deteriorate; and (3) a projection of the need to invest in additional transit facilities over the coming five years to meet changing economic, commuter and residential patterns. The report would also estimate (1) the cost of meeting the needs identified above; (2) the public and private resources that will be available to support public transit; and (3) the gap between transit needs and resources.

Conference substitution

The Conference Agreement contains the Senate provision requiring the General Accounting Office to conduct a comprehensive study on total funding needs for public transit systems as well as a study on the effects of shifting transit funds to highway projects.

ENGINEERING AND DESIGN SERVICES

House Bill

The House contains a provision not included in the Senate bill that would allow the use of indirect cost rates established in accordance with Federal acquisitions regulations in the performance of, or auditing of, FTA grants.

Senate bill

No similiar provision.

Conference substitute

Recede to Senate.

SAFETY CONDITIONS IN MASS TRANSIT

House bill

The House bill included a provision not in the Senate bill that would require states to establish and implement a safety program for fixed guideway transit systems and require the Secretary to withhold transit funds if the State does not comply with the provisions of the section.

Senate bill

The Senate bill contained a provision not included in the House bill that would require the Secretary to submit a report to Congress within 180 days of enactment on the safety of mass transit. The report would include a summary of all passenger-related and employee-related deaths and injuries resulting from unsafe conditions in mass transit facilities. The report would also include a summary of the investigative and remedial actions taken by the Secretary in accordance with the authority provided by Section 22. Finally, the report would make recommendations concerning any legislative or administrative actions that are necessary to ensure that recipients of federal funds will institute the best means available to correct or eliminate safety hazards.

Conference substitute

The conference report includes the Senate provision and the House provision with an amendment to limit the ability of the Secretary to withhold transit funds.

AWARD AUDITS

The House bill contains a provision not included in the Senate bill.

House bill

Section 310 clarifies Congressional intent regarding pre-award and post-award audits of rolling stock purchases.

Senate amendment

No comparable provision.

Conference substitute

The conference report does not contain either provision.

M ACCOUNT

House bill

The House bill contains a provision not included in the Senate bill.

Preserves the availability of M account balances available as of August 1, 1991.

Senate amendment

No similar provision.

Conference substitute

The conference report includes the House provision.

PROJECT MANAGEMENT OVERSIGHT

House bill

No comparable provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would increase the percentage of funds reserved for FTA's project management oversight program. The current ½ percent takedown of all funds available to carry out sections 3, 9, 18, interstate transfer projects, and the National Capital Transportation Act (authorizing legislation for D.C. Metro) would be increased to ¾ percent. A technical restriction would be removed that currently limits the use of these "takedowns" from each eligible program to projects funded under that same particular section. Instead, FTA could aggregate all of these funds for use on projects in any of the eligible programs.

Conference substitute

The conference report includes the Senate provision with an amendment to limit the increase to ¾ percent set-aside to section 3 projects at the discretion of the Secretary.

PLANNING AND RESEARCH

House bill

Section 317 establishes a combined planning and research program under a new section 26. Of the funds made available annually, one-third is available to the Secretary to make grants under sections 6, 8, 10, 11(a), 18(h), or 20.

The remaining two-thirds is available to the states and metropolitan planning organizations for transit-related planning under sections 134 and 135 of title 23, United States Code.

Senate amendment

The Senate bill included a similar provision with a different funding structure.

Conference substitute

The conference report includes the Senate provision with an amendment to add several research demonstration projects.

The suspended Light Rail System Technology Pilot Project should be administered and implemented by the Federal Transit Administration Office of Technology Assistance and Safety with normal oversight and control by the Office of the Administrator.

The conferees want to make clear their intentions with regard to the transit cooperative research program under Section 317(a) of the House bill and under Section 341 of the Senate bill. It is our intention, as specified under an understanding between UMTA and the transit industry and as outlined in the Floor statement of Public Works and Transportation Chairman Roe, that the Transit Development Corporation be designated as the independent governing board that determines what research and related activities are carried out. In interpreting the statutory language it is the conference committee's expectation that this independent governing board will have the authority to provide its own staffing and that UMTA will pay for such expenses. In addition, while the conferees envision that the Transportation Research Board, under the National Academy of Sciences will conduct the research projects designated by the Transit Development Corporation, they expect that the Transit Development Corporation and the American Public Transit Association will have the opportunity to disseminate the results of such research and that UMTA will support such dissemination costs.

CHARTER SERVICE DEMONSTRATION PROGRAM

House bill

No comparable provision.

Senate amendment

The Senate bill contained a provision that would require GAO to conduct a study on charter service regulation.

Conference substitute

The GAO charter service regulation study is amended to include a demonstration program. In response to the concerns expressed by local transit operators regarding the existing charter service regulation, the Conferees have mandated the Secretary to implement an alternative set of regulations in not more than four states that would permit transit operators to provide charter services.

These regulations should be designed to enable public transit operators to provide charter services to government, civic, charitable and other community organizations that serve a public purpose and help address unmet transit needs. It is intended that these regulations will grant public transit operators with additional flexibility that is not afforded under the existing charter services regulations, but will to the maximum extent feasible, not create undue competition for privately owned charter services.

It is the desire of the Conferees to ensure that the regulations provide proper balance between the interests of public and private operators. Thus, in developing the regulations, the Secretary will be required to consult with an advisory board which has equal representation of public transit operators and privately owned charter services.

The Conferees intend to throughly monitor the demonstration program and to review the results of the study carefully during consideration of the interim surface transportation bill.

The Conferees believe this demonstration program will provide Congress and the Secretary with information to determine: (1) the most effective methods for providing charter services to local communities; and (2) whether the current regulations are in need of modification. The Conferees recommend that the Secretary select the state of Michigan as a participant in the program.

EFFECTIVE DATE

House bill

Section 331 sets an effective date of October 1, 1991 for the Act.

Senate amendment

No comparable provision.

Conference substitute

The conference report does not include the House provision.

Budget Compliance

House bill

Section 332 ensures compliance with budgetary guidelines.

Senate amendment

No comparable provision.

Conference substitute

The conference report includes the House provision with a conforming amendment.

House bill

The House bill contains a provision not included in the Senate bill that would allow the New Jersey Transit Corporation to apply Petroleum Violation Escrow Account (PVEA) Funds as a credit toward the non-Federal match of transit projects.

Senate bill

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

Forgiveness of Obligation

House bill

The House bill would forgive the balance on a grant agreement made to the Fayetteville Transit Authority.

The House bill would extend the period by which the Southeastern Pennsylvania Transit Authority (SEPTA) must repay certain loans to UMTA by 10 years.

Senate bill

No comparable provision.

Conference substitute

The conference report includes the House provision with an amendment to forgive the SEPTA loan.

Milwaukee Alternatives Analysis

House bill

Section 333 requires the Secretary to approve the undertaking of an alternatives analysis for the East-West Central Milwaukee Corridor.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

Conference agreement included the House provision.

House bill

The House bill would allow the New Jersey Transit Corporation to apply Petroleum Violation Escrow Account (PVEA) Funds as a credit toward the non-Federal match of transit projects.

The House bill would provide an additional $4,000,000 to the Niagara Frontier Transit Authority for service associated with the 1993 World University Games.

The House bill would increase the operating assistance limitation for the Staten Island Ferry by $2,700,000 in FY 1992.

Senate amendment

The Senate bill would amend the Surface Transportation and Uniform Relocation Assistance Act of 1987 Act to permit a commuter rail line (Tri-County Rail Authority) in south-eastern Florida to continue to receive federal operating assistance under section 9.

Conference substitute

The conference report includes the House and Senate provisions.

Petroleum Violation Escrow Account Funds

House bill

The House bill would allow the New Jersey Transit Corporation to apply Petroleum Violation Escrow Account (PVEA) Funds as a credit toward the non-Federal match of transit projects.

Operating Assistance

The House bill would provide an additional $4,000,000 to the Niagara Frontier Transit Authority for service associated with the 1993 World University Games.

The House bill would increase the operating assistance limitation for the Staten Island Ferry by $2,700,000 in FY 1992.

Senate amendment

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Conference substitute

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Senate bill

No comparable provision.

Conference substitute

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House bill

Section 333 requires the Secretary to approve the undertaking of an alternatives analysis for the East-West Central Milwaukee Corridor.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference agreement included the House provision.

Section 3—New Starts

House bill

The House bill included provisions that would require all new start projects to be authorized in statute in order to receive funds. The bill would require FTA to submit to Congress annually a report on new starts.

Senate bill

The Senate bill included provisions not included in the House bill that would revise the new starts criteria and project development process.

Conference substitute

The conference report contains provisions from both the House and Senate bills.

The Conferees want to make clear that, in establishing guidelines for construction of new fixed guideway systems or extensions to such systems, the Act's directive that the "degree of local financial commitment shall be considered acceptable only if—"(ii) each proposed local source of capital and operating funding is stable, reliable, and available within the proposed project timetable;" shall not prevent funding for projects for which there is a reasonable expectation of local funding. The conferees expect that the guidelines would include among the types of financial commitment that constitute an acceptable degree of local financing, state and local tax levies or assessments, annual state or local general fund appropriations, anticipated bond revenues, in kind contributions, and other possible funding sources.

3(C)(iii)—The Conferees want to make clear that, in establishing guidelines for construction of new fixed guideway systems or extensions to such systems, the Act's directive that the "degree of local financial commitment shall be considered acceptable only if—"local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project" shall not prevent funding for projects where such proposed projects would provide a substantially similar level of existing transit service. The conferees do not intend such guidelines to prevent initiation of fixed guideway projects that would provide a level of service similar to that already provided through other means.

New Jersey Urban Core Project

House bill

The House bill would prescribe terms and conditions which the Secretary must include in a full funding grant agreement for the construction of the New Jersey Urban Core Project.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

San Francisco Bay Area Rail Extension Program

House bill

The House bill would prescribe terms and conditions which the Secretary must include in a full funding grant agreement for the construction of an extension of BART to the San Francisco International Airport and for the construction of the locally preferred alternative for the Tasman Corridor Light Rail Project.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

Multi-Year Metro Rail Contract

House bill

The House bill would prescribe terms and conditions which the Secretary must include in a multi-year grant agreement for the construction of planned extensions to the Metro Rail Rapid Transit System in Los Angeles, California.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

Miscellaneous Multi-Year Contracts

House bill

The House bill would prescribe terms and conditions which the Secretary must include in various multi-year grant agreements for specified transit projects.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision with amendments.

The conferees expect the Connecticut Department of Transportation to continue to designate the Penquonnock (Peck) River Railroad Bridge project as a high priority project to be completed within available funds. The conferees concurrently direct the federal Urban Mass Transportation Administration, in acting on the Connecticut Department of Transportation's funding request for the Peck Bridge project, to take account of the importance the conferees place on the completion of this project for the state of Connecticut and the proper functioning of the entire Northeast rail corridor.

The managers direct that $250,000 of the funds made available under section 3 be used to initiate an analysis of the possible route, options and incremental phases for assistance necessary for a rail connection between North Station and South Station in Boston, Massachusetts.

This study should include an operating analysis, taking into consideration the option of connecting such service with existing or proposed rail services to and from Boston, including the connection's capability of meeting the regional, intrastate and interstate transportation demands.

This study should include an engineering and financial analysis, taking into consideration a regional commuter railroad service, Massachusetts intercity service and/Amtrak interstate service. UMTA is responsible for the overall study, but should conduct it in coordination, as deemed necessary, with the Federal Railroad Administration, Amtrak, private freight lines and regional transportation authorities.

The study is intended only as an assessment of feasibility, but shall include recommendations for possible federal assistance. This analysis shall be of rail link separate and distinct from the Boston Central Artery/Third Harbor Tunnel project and the Federal Highway Administration.

Of the funds authorized to be appropriated under this Act, the conferees intend that $750,000 be provided to assist the Research Triangle Regional Public Transportation Authority with a regional transit planning study to identify transportation system deficiencies, possible solutions, and evaluate transit technology alternatives.

AUTHORIZATIONS

House bill

The House bill would authorize the following amounts for FTA programs:

FEDERAL TRANSIT ADMINISTRATION

[In millions of dollars]

FTA Program		1992	1993	1994	1995	1996	1997
Sec. 9, 18	(G)	2,130	2,125	2,025	2,125	2,225	2,305
	(M)	0	555	555	555	555	1,555
(Blend)	(M)	180	300	400	300	200	275
Total Sec. 9, 18		2,310	2,980	2,980	2,980	2,980	4,135
Sec. 3	(M)	1,350	1,680	1,580	1,680	1,780	2,485
(Blend)	(M)	180	300	400	300	200	275
Total Sec. 3		1,530	1,980	1,980	1,980	1,980	2,760
Sec. 4(i), 16(b)	(M)	25	35	35	35	35	45
Sec. 16(b)	(G)	20	25	25	25	25	35
Planning[1]	(M)	67	123	123	123	123	158
UTC	(M)	7	7	7	7	7	7
Admin.	(G)	50	50	50	50	50	60
Total		4,009	5,200	5,200	5,200	5,200	7,200
UTC	(H)	7	7	7	7	7	7
Inter-Sub. Transit	(G)	160	160	0	0	0	0
Total		4,176	5,367	5,207	5,207	5,207	7,207

G=General Funds.
M=Mass Transit Account, Highway Trust Fund.
H=Highway Account, Highway Trust Fund.

[1] Combined Planning, Research, Training, and Human Resources program.

Senate amendment

MASS TRANSIT ACT

[Dollars in thousands]

	Fiscal year 1991	Admin 1992	Fiscal year— 1992	1993	1994	1995	1996
Sources of funds:							
Sec. 3 Capital Grants:							
Trust fund	$1,200,000	NA	$535,000	$580,000	$680,000	$750,000	$835,000
General funds	213,100	0	775,000	780,000	798,600	828,900	850,400
Subtotal section 3	1,413,000	NA	1,310,000	1,360,000	1,478,600	1,578,900	1,685,400
Formula grants and other:							
Trust fund—contract	200,000	NA	1,070,500	1,220,000	1,300,000	1,450,000	1,565,000
Trust fund—appropriation	0	0	450,000	525,000	550,000	400,000	300,000
General funds	1,581,483	0	990,000	862,000	801,000	981,000	1,160,000
Subtotal formula and other	1,781,483	NA	2,510,500	2,607,000	2,651,000	2,831,500	3,025,000
All Grants:							
Trust fund—contract	1,400,000	$350,000	1,605,500	1,800,000	1,980,000	2,200,000	2,400,000
Trust fund—Appropriation	0	2,899,499	450,000	525,000	550,000	400,000	300,000
General funds	1,794,583	0	1,765,000	1,642,000	1,599,600	1,810,400	2,010,400
Total FTA funds	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400
Use of funds:							
Sec. 3 capital grants:.							
Rail modernization	455,000	(Sec. 9)	524,000	544,000	591,440	631,560	674,160
New starts	440,000	300,000	524,000	544,000	591,440	631,560	674,160
Bus	220,000	(Sec. 9)	262,000	272,000	295,720	315,780	337,080
ADA and clean air	0	50,000	0	0	0	0	0
Subtotal sec. 3	1,115,000	350,000	1,310,000	1,360,000	1,478,600	1,578,900	1,685,400
Formula grants: Section 9 and 9B							
Rail modernization	(sec. 3)	600,000	(sec. 3)	(sec. 3)	(sec. 3)	(sec. 3)	(sec. 3)
Bus	1,156,427	1,446,106	1,330,032	1,382,219	1,507,265	1,610,313	1,720,820
Fixed guideway	578,214	419,802	665,016	691,109	753,633	805,157	860,410
Subtotal section 9 and 9B	1,734,641	2,465,908	1,995,048	2,073,328	2,260,898	2,415,470	2,581,230
Sec. 16(b) elderly/handicapped	35,000	45,000	58,508	60,705	63,144	67,356	71,856
Sec. 18 rural	65,359	89,000	127,343	132,340	144,313	154,179	164,759

MASS TRANSIT ACT—Continued

[Dollars in thousands]

	Fiscal year 1991	Admin 1992	Fiscal year— 1992	1993	1994	1995	1996
Subtotal formula	1,835,000	2,599,908	2,180,899	2,266,374	2,468,355	2,637,005	2,817,845
Planning and research:							
MPOs	45,000	(state)	52,657	54,635	56,830	60,620	64,670
State program		62,151	11,702	12,141	12,629	13,471	14,371
Transit cooperative		(state)	11,702	12,141	12,629	13,471	14,371
National program	8,000	31,075	35,105	36,423	37,886	40,414	43,114
University centers	5,000	6,000	5,000	5,000	5,000	5,000	5,000
Rural: RTAP	5,000	(TP&R)	5,851	6,071	6,314	6,736	7,186
Administrative Expenses	32,583	40,365	47,586	49,373	51,357	54,783	58,443
Interstate transfer	149,000	160,000	160,000	164,843	0	0	0
Total FTA program	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400

Conference substitute

	1992	1993	1994	1995	1996	1997
Transit account	1.90	2.88	2.98	2.88	2.78	4.80
General funds ..	1.75	2.36	2.15	2.25	2.35	2.45
Total ...	3.65	5.24	5.13	5.13	5.13	7.25
Capital grants .	1.35	2.03	1.98	1.98	1.98	3.18
Formula grants	1.91	2.61	2.67	2.67	2.67	3.43
Rural	0.06	0.15	0.16	0.16	0.16	0.20
All other	0.33	0.45	0.32	0.32	0.32	0.44

TITLE IV—MOTOR CARRIER ACT OF 1991

House bill

SECTION 401, SHORT TITLE

This title may be cited as the "Motor Carrier Act of 1991".

Senate amendment

This part may be cited as the Motor Carrier Safety Assistance Program Reauthorization Act of 1991.

Conference substitute

Retains the House title.

MOTOR CARRIER SAFETY ASSISTANCE PROGRAM AMENDMENTS

House bill

Amends section 402 of the Surface Transportation Assistance Act of 1982. The principal changes affect the purposes and goals of the program and the plan that must be submitted by the states participating in the program.

Subsection (a) permits new activities to be initiated in this program. It further provides that state plans must ensure that these new activities will not diminish other aspects of the program. In addition, subsection (a) requires the plan to ensure that fines imposed and collected will be reasonable and appropriate, and that the program will be coordinated with the state highway safety plan under section 402 of Title 23 of the United States Code.

Subsection (b) requires that the states initiating these new efforts must maintain current support for their programs for enforcement of size and weight laws, controlled substance laws and traffic law enforcement laws.

Subsection (c) amends the program to allow states to begin certain new activities and to incorporate these activities into their respective programs. States may incorporate motor vehicle size and weight enforcement, controlled substance interdiction activities, and enforcement of state traffic laws. The size and weight enforcement activities under this program must be directed at weighing vehicles at other than fixed-site weighing stations. The activities can include weighing activities at seaports and at locations such as steep grades or mountainous terrains where weight may cause more acute safety problems. These activities can be carried out only in conjunction with principal activity of this program; namely, roadside safety inspections.

Subsection (d) establishes funding levels for the Motor Carrier Safety Assistance Program established under section 404 of the Surface Transportation Assistance Act of 1982. The levels are $65 million for fiscal year 1992, $80 million for fiscal year 1993, and $100 million per fiscal year for fiscal years 1994, 1995, and 1996.

Subsection (e) provides that grants made under the program will be available to the states for three years, rather than for one year.

Subsection (f) provides that funds made available for this program are now available until expended.

Subsection (g) provides that the Secretary may use one percent rather than one-half of one percent for administrative purposes.

Subsection (h) provides earmarking of funds for training roadside inspectors in the hazardous materials regulations, for making grants to states to adopt uniform accident reporting forms for truck and bus accidents, for research, for essential administrative functions, for public education, and for several specified reports.

Subsection (i) authorizes appropriations for carrying out the motor carrier safety functions of the Federal Highway Administration.

Subsection (j) lists a number of reports which the Secretary is required to make. The reports are to be funded at $150,000.00 per year for fiscal years 1992 and 1993.

Senate amendment

This section amends Chapter 4 of title 23 of the U.S. Code by adding a new section 411. Subsection (a) of this new section authorizes the Secretary to make grants to eligible States for the enforcement of Federal or compatible State commercial motor vehicle safety rules, regulations, standards, and orders, as well as State and local traffic safety laws and regulations.

Subsection (b) of this new section requires the Secretary to formulate procedures for a State to use when submitting its annual Motor Carrier Assistance Program plan. This section requires States to adopt and assume responsibility for enforcing Federal motor carrier safety rules, regulations, standards, and orders, including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement (including interdiction of illegal shipments), or compatible State rules in these areas. This new section provides the Secretary with discretion to approve State plans which designate a lead State agency responsible for administering the plan, ensure qualified personnel and adequate funds to administer the plan, provide a right of entry and inspection and that the State will grant maximum reciprocity for inspections conducted pursuant to the North American inspection standard, provide for the adoption of uniform reporting requirements and use of uniform recordkeeping and inspection forms, ensure participation in databases on drivers, vehicle inspections, and driver compliance with traffic safety laws and regulations, and ensure that size and weight inspection activities will not diminish other safety initiatives. Additionally, this new section requires that a State plan give satisfactory assurances that the State would conduct effective activities in the area of drug and alcohol enforcement, provide training to Motor Carrier Assistance Program officials and employees in drug recognition techniques, promote Commercial Drivers' License enforcement, ensure adequate enforcement of traffic safety, improve the enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities and vehicle loads, promote drug interdiction activities, and attempt to ensure that fines imposed and collected by the State will be reasonable and that the State will seek to implement the recommended fine schedule published by the Commercial Vehicle Safety Alliance.

In the areas of commercial motor vehicle safety and drug and weight enforcement, this new section specifies that a State maintain an average of the expenditures for the last three years, exclusive of Federal funds or State matching funds, in order to receive Program funds for these purposes. If a State chooses to use Program funds for weight enforcement, a State must couple that enforcement with a safety inspection and conduct enforcement at locations other than fixed-weight facilities, such as at specific geographic locations, or on containers being loaded or unloaded at seaports.

Each fiscal year, this new section allows the Secretary to deduct up to 1.25 percent of the funds available for the administration of the Program, of which 75 percent is to be used for the training of non-Federal employees and development of training material. In order for this plan to be approved, a State must maintain a level of motor carrier safety expenditures which does not fall below an average of the previous 3 fiscal years, exclusive of Federal funds and State matching funds required to receive Federal funds. Funds made available to a State are to remain available for the fiscal year in which they were allocated and one succeeding fiscal year. If not expended by a State during those 2 years, the Secretary is to reallocate these funds. This section provides funding for the Motor Carrier Assistance Program at levels not to exceed $70 million in fiscal year 1993, $75 million in fiscal year 1994, $80 million in fiscal year 1995, and $85 million in fiscal year 1996.

Funding is increased to take into account inflationary costs that will raise the cost of the Program's current inspection and audit work. In addition, the new section's funding level recognizes the need for increased traffic-related enforcement efforts (not less than $7.5 million to be spent for this purpose annually, beginning in fiscal year 1993). The new section requires that each of the States should use Program funds to improve their existing traffic safety enforcement programs affecting operators of commercial motor vehicles, and therefore, each of the States should receive an appropriate portion of the earmarked funds.

Finally, section 2(b) of the bill amends the existing Motor Carrier Assistance Program provisions of the Surface Transportation Assistance Act of 1982. Under that amendment, funding of $65,000,000 is allocated for fiscal year 1982 and is not subject to the new State plan requirements. A State may, however, resubmit its fiscal year 1992 State enforcement plans and seek reimbursement for any of the new activities required in fiscal year 1993.

Conference substitute

The Conference substitute on the funding levels for the Motor Carrier Safety Assistance Program established under Section 404 of the Surface Transportation Assistance Act are $65 million for fiscal year 1992, $76 million for fiscal year 1993, $80 million for fiscal year 1994, $83 million for fiscal year 1995, $85 million for fiscal year 1996, and $90 million for fiscal year 1997.

The substitute retained the general structure of the House bill. The substitute permits new activities to be initiated in this program. It further provides that state plans must ensure that these new activities will not diminish other aspects of the program. In addition, subsection (a) requires the plan to ensure that fines imposed and collected will be reasonable and appropriate, that the program will be coordinated with the state highway safety plan under section 402 of Title 23 of the United States Code, and that the 48 contiguous states participate in SAFETYNET by January 1, 1994.

The substitute allows states to begin certain new discretionary activities and to incorporate these activities into their respective programs. States may incorporate motor vehicle size and weight enforcement, controlled substance interdiction activities, and enforcement of state traffic laws. The size and weight enforcement activities under this program must be directed at weighing vehicles at other than fixed-site weighing stations. The activities can include weighing activities at seaports and at locations such as steep grades or mountainous terrains where weight may cause more acute safety problems. These activities can be carried out only in conjunction with principal activity of this program; namely roadside safety inspections.

The substitute requires that the states initiating these new efforts must maintain current support for their programs for enforcement of size and weight laws, controlled substance laws and traffic law enforcement.

The substitute retains slightly altered House provision on the commercial motor vehicle information system, the truck and bus accident data grant program and the common carriers providing transportation for charitable purposes. It also incorporates amended language on the provisions in the Senate bill dealing with research and development, public education, and the new allocation formula. The Senate provisions on violations of out-of-service orders, intrastate compatibility, and FHWA positions are incorporated into the Conference Substitute.

The conferees expect that local governments receiving motor carrier assistance program funds from the States will continue their existing motor carrier safety and combined motor carrier safety and associated traffic enforcement efforts and use MCSAP funds to supplement their existing efforts.

COMMERCIAL MOTOR VEHICLE INFORMATION SYSTEM

House bill

Section 403 amends Part A of title IV of the Surface Transportation Assistance Act of 1982 by adding a new section 407.

New subsection 407(a) empowers the Secretary to review state motor vehicle registration systems for license tags in order to determine if such systems could be utilized in establishing a Commercial Motor Vehicle Information System. The system established by the Secretary should be designed to link state registration systems to the Department of Transportation's Safetynet System which contains essential data on the safety fitness of interstate motor carriers. The system is to be maintained by user fees.

The Commercial Motor Vehicle Information System could be operated by the Secretary, by a state or states, or a third party. Uniform data collection and reporting by all states would be required.

New subsection 407(b) provides that as part of the development of this program, the Secretary is empowered to carry out a pilot project with states in order to determine how to provide the needed linkage of the relevant systems and to determine types of sanctions which might be imposed on registrants to ensure safety compliance.

New subsection 407(c) authorizes the Secretary to issue regulations to implement this section.

New subsection 407(d) provides the funding necessary to carry out this section as provided in section 404(g)(2) of this title. The Secretary is provided $2 million per fiscal year for fiscal years 1992–1996 for carrying out the pilot project. The money is from the Motor Carrier Safety Assistance Program.

New subsection 407(e) defines a commercial motor vehicle for the purpose of this section.

Senate amendment

No comparable provision.

Conference substitute

The House bill, with one additional provision. The provision is that the Secretary of the Department of Transportation should prepare and submit a report assessing the costs, benefits, and feasibility of such a system. The report should include legislative recommendations on the nationwide implementation of such system, if the Secretary finds that such a nationwide system would be beneficial.

TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM

House bill

Section 404 amends Part A of title IV of the Surface Transportation Assistance Act of 1982 by adding a new section 408.

New subsection 408(a) authorizes the Secretary to make grants to states to assist them in adopting and implementing uniform reporting of accident data for trucks and buses.

New subsection 408(b) provides that grants may be made for assisting states in designing appropriate forms, in preparing instruction manuals, in training state and local officers, and for such other activities as are determined to be appropriate.

New subsection 408(c) requires the Secretary to coordinate grants made under this section with the highway safety programs under section 402 of title 23 U.S.C.

Under new subsection 408(d), the Secretary is authorized to make grants of up to $3 million per year for fiscal years 1993 through 1996.

Senate amendment

No comparable provision.

Conference substitute

The House bill, with several changes. The funding level is changed to $2 million per fiscal year for fiscal years 1993 through 1997. Another change adds training language pertaining to accident investigation techniques. Finally, it permits grant money to be used for analyzing and evaluating safety data.

SINGLE STATE REGISTRATION SYSTEM

House bill

Amends section 11506 of title 49 U.S.C.

Subsection 406(a) provides that effective January 1, 1994 states are prohibited from requiring motor carriers regulated by the Interstate Commerce Commission to file certificates or permits with the states in which they operate. It further eliminates the requirements for displaying a decal to indicate the possession of such a permit or certificate or the collection of a fee for such registration or decals.

States may continue the practice of requiring motor carriers to file and maintain proof of insurance.

Subsection 406(b) authorizes the Secretary to make grants to states to offset revenues lost as a result of subsection (a). A state is eligible if it had imposed and collected fees in 1991. The funding is established at $50 million for fiscal year 1994. Reimbursement is for one year only.

Senate amendment

No comparable provision.

Conference substitute

Section 405 repeals, effective January 1, 1994, the "bingo stamp" program authorized by Congress in 1965 through enactment of P.L. 89–170. The bingo stamp program allowed states to require interstate carriers to register their interstate operating authority with the state and charge a fee for doing so. The interstate carrier then received identification or "bingo" stamps from the state. Currently, 39 states require interstate carriers to carry such a stamp in the cab of each commercial motor vehicle operating within its borders.

The bingo stamp program authorized by P.L. 89–170 has been characterized as inefficient and has been an administrative burden on the trucking industry and the states. The trucking industry estimates that the program costs interstate carriers up to $250 million per year. Meanwhile, the 39 participating states collect only about $50 million under the program. The repeal of the bingo stamp program under Section 405 is intended to benefit the interstate carriers by eliminating unnecessary compliance burdens. It is the hope of the Conferees that, ultimately, consumers will also benefit from the cost savings associated with the elimination of the bingo program.

In order to preserve revenues for the states which had participated in the bingo program, Section 405 establishes a new annual fee system enabling such states to continue to collect funds from interstate motor carriers. The fee is based upon the carrier's filing of proof of required liability insurance. Fee revenues under this system must be collected through a streamlined administrative process established by Section 406 known as the "single state" or "base state" registration system. Under the single state registration system, a carrier will pay its annual fees to a single state (its base state) and that state will distribute the collections to other participating states in which the carrier's vehicles operate. This system is to be instituted by the Interstate Commerce Commission, in consultation with the participating states and the trucking industry, in such a manner as to eliminate as much of the paperwork and other compliance burdens as possible. Section 405 specifies that the only evidence of payment or other identification a vehicle must carry under this system is a copy of the receipt given the carrier by the base state.

States which did not collect bingo stamp fees under the former program will not be able to collect the new fees authorized by Section 405. Additionally, states must participate in the base state program in order to collect the fees authorized by Section 405. States are expressly prohibited from charging a fee for the registration of a carrier's interstate operating authority or for any other filings which may be required under Section 405.

The new fee system is to be based upon the number of vehicles which a carrier operates in a state and the number of states in which that carrier operates. States will not be allowed to charge a greater fee under Section 405 than the fee they charged under the former program as of November 15, 1991. The fee cannot exceed $10 per vehicle under any circumstances.

The Conference version of Section 405 does not authorize any funds to be distributed to the states from the Highway Trust Fund.

VEHICLE LENGTH LIMITATION

House bill

Section 407(a) amends the Surface Transportation Assistance Act of 1982 by adding a new subsection (j) to section 411.

New subsection (j)(1) prohibits a state from allowing operation of any commercial motor vehicle combination with two or more cargo carrying units (not including the truck tractor) which units as measured from the front of the first cargo carrying unit to the rear of the last carrying unit are a total length greater than were authorized by state statute or regulation and were being lawfully operated on or before June 1, 1991. The prohibition applies to the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid primary system highways as designated by the Secretary subject to subsection 411(e).

New subsection (j)(2) allows the operation of commercial motor vehicle combinations with two or more cargo carrying units (not including the truck tractor) to continue to operate on the relevant highway system if (A) the state determined on or before June 1, 1991 that such commercial motor vehicle combination could lawfully operate on such relevant system or highways pursuant to a state statute or regulation in effect on June 1, 1991; (B) the commercial motor vehicle combination was in lawful operation on a regular or periodic basis (including seasonal operation or operation pursuant to a permit issued by the state) on the relevant system or highways on or before June 1, 1991; and (C) if all operations of such commercial motor vehicle combinations on such relevant system and highways continue to be subject to, at a minimum, all state statutes, regulations, limitations and conditions (including routing-specific and configuration specific designations and all other restrictions) in effect on June 1, 1991; except that, subject to guidelines established by the Secretary, the state may make minor adjustments to route-specific designations and vehicle operation restrictions for safety purposes and for road construction purposes.

New subsection (j)(3) provides that in addition to the vehicles which may continue to operate in the State of Wyoming under (j)(2), such State may allow commercial motor vehicle combinations not in actual use on June 1, 1991 on the relevant system and highways by enactment of a State law on or before November 3, 1992. The State must notify the Secretary of enactment of such State law within 30 days and the Secretary must publish notice of the enactment of such law in the Federal Register.

New subsection (j)(4) provides that states may further restrict or prohibit vehicles covered by this provision, however, any such restriction or prohibition must be consistent with sections 412 and 416 of this Act. Any such changes must be submitted to the Secretary. Such change must be published in the Federal Register by the Secretary.

New subsection (j)(5) requires that within 90 days after the effective date of this subsection (October 1, 1991) states must complete and file in writing with the Secretary a complete list of all state statutes, regulations, limitations and conditions governing the operation of these types of vehicles.

If the state fails to file within the specified time, the Secretary is given the authority to complete and file the list for the state.

The state is further required to certify in writing that the state had determined pursuant to a state statute or regulation in effect on June 1, 1991 that such commercial motor vehicle combinations could lawfully be operated on such relevant system and highways, and such combinations were in operation on a regular or periodic basis on such system and highways on or before June 1, 1991.

The Secretary is required to publish the list in the Federal Register. After publication the Secretary is required to review the certifications and may commence a proceeding, on the Secretary's own initiative or pursuant to a challenge by any person, to determine whether or not the state's certification is inaccurate. The state has the burden of proof.

If the Secretary determines the certification is inaccurate, the Secretary is required to amend the list published in the Federal Register.

This subsection also provides that no state statute or regulation shall be included on the list published by the Secretary merely on the grounds that it is authorized, or could have authorized, by permit or otherwise, the operation of commerical motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 1991.

This subsection further provides the lists published in the Federal Register shall become final on the 30th day after publication, with the exception of adjustments made pursuant to paragraphs 2(C), (3), and (4) and subparagraph (D) of paragraph 5.

New subsection (j)(6) requires the Secretary to issue regulations establishing guidelines for states to follow in making minor adjustments for safety or road construction purposes.

New subsection (j)(7) provides that nothing in this subsection should be construed to allow operation on the relevant system or highways of any commercial motor vehicle prohibited under section 127(d) of title 23, U.S.C., or to affect in any way the operation of commercial motor vehicles having only cargo carrying unit.

New subsection (j)(8) defines cargo carrying unit.

Subsection 407(b) amends section 411(a) to include buses having lengths of 45 feet. States must allow buses of up to 45 feet to utilize the Interstate System and those classes of Federal-aid Primary System highways as designated by the Secretary pursuant to section 411(e). It also includes these vehicles in the access provisions of subsection 412(a).

Senate amendment

The Senate Amendment contains a similar length limitation. A state is prohibited from allowing the operation on the National System of Interstate and Defense Highways and designated Federal-aid Primary highways of any commercial motor vehicle combination with two or more cargo carrying units whose cargo units exceed the maximum state length limitation authorized by state law on or before June 1, 1991, or were not in actual continuing lawful operation in the state on or before June 1, 1991.

A state would not be prevented from further restricting commercial motor vehicle combinations consistent with parameters of current law. If a state further restricted the operations of commercial motor vehicle combinations, it would be required to so advise the Secretary within 30 days and the Secretary would publish a notice of the state's action in the Federal Register.

Combinations of commercial motor vehicles could continue to operate if such vehicles were in actual, continuing operation (including continuing seasonal operation) in that state on or before June 1, 1991, and were authorized pursuant to state law.

The provisions on the preparation of the list of state length limits differs under the Senate Amendment. Specifically, the Secretary would determine and publish within 60 days of enactment the list of applicable state length limitations as of June 1, 1991. The list would become final within 60 days after publication.

The Senate Amendment has no comparable provisions on length of buses as contained in the House bill.

Conference substitute

The Conference Agreement includes the length limitation for commercial motor vehicles as provided by both House and Senate versions. No state can allow by state law or any other means the operation on the National System of Interstate and Defense Highways and designated classes of qualifying Federal-aid primary system highways of any commercial motor vehicle combinations with two or more cargo carrying units whose cargo units exceed the length limitations authorized by state law on or before June 1, 1991, or whose cargo carrying units by specific configuration were not in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in the state on or before June 1, 1991. States could further restrict the operation of commercial motor vehicle combinations consistent with the parameters of current law. A state making such further restrictions must advise the Secretary within 30 days and the Secretary is required to publish notice of such action.

Limited narrow transitional rules for determining the applicable date of state law length limitations are included for the States of Wyoming and Alaska. In addition, a limited narrow exception is included for a 1-mile segment on Ohio State Route 7.

The Conference Agreement length limitation contains a narrow exception for nondivisible vehicles and loads which have been issued special permits under state law.

The Secretary is required to define by regulation nondivisible loads for purposes of this exception. The types of nondivisible loads envisioned by this provision are long loads, e.g., missiles or bridge section on two or more connected flat bed trucks. The Secretary should interpret this exception so as to ensure that no state allows any genuine divisible load to operate contrary to the length limit freeze. Permits issued under this provision shall be on a temporary and exceptional basis. This provision is more narrow than the House bill's original exception for special permits under state law. The Senate Amendment did not contain an express provision on special permits under state law.

The Conference Agreement also contains a modified and more narrow version of the House provision which allowed a state to make minor adjustments to routing-specific and vehicle operation restrictions in effect on June 1, 1991, for safety purposes and road construction. The Senate Amendment did not contain a similar provision. Under the Conference Agreement, a state can only make minor adjustments to route designations and vehicle operating restrictions if the minor adjustments are of a temporary and emergency nature. In addition, such adjustments would have to be for specific situations made necessary by safety purposes and road construction. The Secretary is required to issue regulations establishing criteria for states to follow in making such minor adjustments. Any state making such minor adjustments is required to notify the Secretary within 30 days. The Secretary is required to publish notice of such action.

Preparation of the list of state length limitations under the conference agreement proceeds in the following manner: Within 60 days of the date of enactment, each state is required to submit to the Secretary a complete list of its length limits under state law. This initial list is considered an interim list. No state statute or regulation is to be included on the list submitted by a state merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 1991.

Not later than 90 days after enactment, the Secretary is required to publish the interim list in the Federal Register. The Secretary is required to review the list for accuracy and also solicit public comment on the accuracy of the information in the interim list. Not later than 180 days after enactment, the Secretary is required to publish a final list after making any revisions to correct inaccuracies. After publication of the final list, commercial motor vehicle combinations with two or more cargo carrying units may not operate on the National System of Interstate and Defense Highways and designated Federal-aid primary system highways except as published on the list. A procedure is provided for the Secretary to correct any inadvertent mistakes which may later be discovered on the list.

In addition, the Conference Agreement includes the provisions in the House bill requiring states to allow passenger buses of up to 45 feet to utilize the Interstate System and designated classes of Federal-aid Primary System highways and related House language to include passenger buses within the access provisions of subsection 412(a).

Longer Combination Vehicle Regulations, Studies and Testing

House bill

Provides that the Secretary must begin and complete a rulemaking to establish minimum training requirements for operators of longer combination vehicles. A final rule is required two years after October 1, 1991.

New subsection 408(b) provides for a safety study on longer combination vehicles. The report on the study is due two years after October 1, 1991.

New subsection 408(c) requires the Secretary to study the effects on drivers, including driver fatigue, of driving longer combination vehicles. The report is due two years after October 1, 1991.

New subsection 408(b) directs the Secretary to conduct tests on the operation of longer combination vehicles in order to determine whether any modifications to the Federal safety regulations are needed for longer combination vehicles. The Federal safety regulations to be addressed are those contained in Subchapter B of Chapter III of Title 49 of the Code of Federal Regulations. The report is due 3 years after October 1, 1991.

New subsection 408(e) provides $1,000,000 a year out of the Highway Trust Fund for FY 1992–1996 for the Secretary to carry out this section.

New subsection 408(f) defines longer combination vehicles for purposes of this section.

Senate amendment

No comparable provision.

Conference substitute

The conference agreement includes the House (previously section 402 of the House bill) and Senate (previously section 241 of the Senate bill) requirement of a report by the Secretary of Transportation to Congress on the effectiveness of efforts of the private sector to ensure adequate training of entry-level drivers. The due date of the report has been changed to 12 months, with an additional requirement that a rulemaking by the Secretary on the need to require training of all entry-level drivers of commercial motor vehicles be completed not later than 24 months after the date of the enactment. If the Secretary determines that it is not in the public interest to require a rule that requires training for all entry-level drivers, a report on the reasons for such decision is required not later than 25 months after enactment.

The House bill language on the rulemaking to establish training requirements for operators of longer combination vehicles, the safety study and report on longer combination vehicles and the testing of the operations of these vehicles has been included, with several changes. The rulemaking on longer combination training requirements is due within 24 months of enactment of the Act.

The scope of the safety study is expanded to require an assessment of the adequacy of currently available data bases for the purpose of determining the safety of longer combination vehicles and recommendations for safety improvements. The economic and safety impact of these vehicles on shared highways also is to be a component of the study.

The safety report is due 2 years after the date of enactment. The testing language was expanded to include the study of fatigue with a focus on examination of driver stress, and characteristics of longer combination vehicles, including an assessment of on-board computers, anti-lock brakes, and anti-trailer under-ride systems to determine the potential safety effectiveness of those technologies as applied to such vehicles. This report is due not later than 3 years after the date of enactment of this Act. The funding of $1,000,000 to carry out this section remains unchanged.

The title of the section is changed to "Training of Drivers; Longer Combination Vehicle Regulations, Studies, and Testing".

Participation in International Registration Plan and International Fuel Tax Agreement

House bill

The House bill provides that after September 30, 1996, no State except those participating in the International Registration Plan, shall establish, maintain, or enforce any commercial motor vehicle registration law, regulation, or agreement which limits the operation of any commercial motor vehicle within its borders which is not registered under the laws of that state if the commercial motor vehicle is registered under the laws of a state that is a participant in the Plan.

The House bill further provides that after September 30, 1998, no State shall establish, maintain, or enforce any law or regulation which has fuel use tax reporting requirements (including tax reporting forms) which are not in conformity with the International Fuel Tax Agreement.

The House bill establishes a working group to establish procedures for resolving disputes among states participating in the Plan and the agreement and for providing technical assistance. It will be comprised of state and local officials, representatives from the National Governor's Association, the American Association of Motor Vehicle Administrator's and the National Conference of State Legislatures, the Federation of Tax Administrators, and the Board of Directors for the International Fuel Tax Administrators. The bill further provides $1 million per fiscal year for activities of the working group and $5 million per fiscal year for grants to states to facilitate participation in the Plan and Agreement.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute retains the House bill, but changes the preemption date for the International Fuel Tax Agreement from September 30, 1998 to September 30, 1996. It also allows for the continuation of the Regional Fuel Tax Agreement currently in effect in Maine, New Hampshire, and Vermont.

However, nothing in this section should be construed as Congressional authorization for the charging of fees for decals and other markings by RFTA members or as insulating RFTA from court challenge based on the constitutionality of the RFTA system. This statute is silent on those issues and does not disturb the status quo.

Grant funding available for the purpose of facilitating participation in IRP and IFTA may also be extended to those states participating in RFTA for purposes of technical assistance, personnel training, travel reimbursement, and technology and equipment associated with their participation in RFTA. Improvements to the fuel use tax administration in RFTA states benefit the motor carrier industry as well.

Violations of Out-of-Service Orders

House bill

No provision.

Senate amendment

The Senate amendment imposes new penalties and disqualifications for operators of commercial motor vehicles for violating out-of-service orders. Penalties are also imposed upon employers that allow or require an operator to violate such orders.

Conference substitute

Senate Amendment.

BRAKE PERFORMANCE STANDARDS

House bill

No provision.

Senate amendment

The Senate provision required the Department of Transportation to conduct a rulemaking on methods for improved braking performance for commercial motor vehicles. The required rulemaking would be comprehensive, addressing basic brake problems, such as the compatibility between tractor brakes and trailer brakes, methods of ensuring effective brake timing, and antilock braking systems. The Senate provision required such rulemaking to be initiated by July 1, 1991 and completed by April 1, 1992. Antilock brakes have been required on heavy trucks and buses in Europe since October 1, 1990 and will be required in Japan before the end of this year.

Conference substitute

Section 412 requires the Department of Transportation to inititate a rulemaking proceeding concerning methods for improving the braking performance of newly manufactured commercial motor vehicles with a gross vehicle weight of 26,001 or more pounds. This rulemaking is required to be initiated by May 31, 1992 and completed within 18 months after initiation unless the Secretary determines that a six month extension is necessary. The rulemaking proceeding must include an examination of antilock systems, means of improving brake compatibility and methods of ensuring effectiveness of brake timing.

The Conferees note that a critical component of rulemaking on truck brake performance is the issue of stopping-distance performance. On October 21, 1991 NHTSA published a notice in the Federal Register, Vol. 56. No. 203 indicating:

> Accidents involving heavy trucks have a disproportionate (higher) fatality rate than all other motor vehicles. This [planned] rulemaking proposes to reinstate stopping distance performance requirements in Standard 121 so as to help improve heavy vehicle braking performance and hence reduce the number of accidents involving these vehicles. Although a court decision found that Standard 121, as it then existed was unenforceable, additional accident data and technical review have persuaded NHTSA that the court's requirement can now be met.

NHTSA goes on to indicate that it intends to issue a notice of proposed rulemaking on stopping distance in October, 1991. Thus, the Conferees expect that the rulemaking in question under this section as it relates to stopping distance will be initiated through a NPRM rather than an ANPRM.

FEDERAL HIGHWAY ADMINISTRATION POSITIONS

House bill

No provision.

Senate amendment

The Senate amendment provides for two new positions as the Federal Highway Administration. The new personnel will be used to implement this Title.

Conference substitute

Senate Amendment.

COMPLIANCE REVIEW PRIORITY

House bill

No provision.

Senate amendment

The Senate amendment provides that the Secretary shall give priority to compliance safety reviews for motor carriers that have drivers who are found to have a pattern of violations of safety laws.

Conference substitute

Senate Amendment.

TRANSPORTATION DRUG AND ALCOHOL TESTING

House bill

No provision.

Senate amendment

The Senate bill provides a requirement for drug and alcohol testing of transportation workers in the aviation, railroad, motor carrier and mass transportation industries.

Conference substitute

Senate recedes to House. Sections 263 through 266 in Part C of S. 1204 would require drug and alcohol testing of transportation workers in the aviation, railroad, motor carrier and mass transportation industries. Identical provisions were signed into law on October 29, 1991, as a part of the Fiscal Year 1992 Department of Transportation Appropriations Conference Report (Public Law 102–143).

ENFORCEMENT OF BLOOD ALCOHOL CONCENTRATION LIMITS

House bill

No provision.

Senate amendment

The Senate amendment requires the Department of Transportation to initiate, within 3 months of the bill's enactment, and complete, within 12 months after enactment, a model program to enforce the .04 percent maximum blood alcohol concentration standard for commercial drivers which was established by the Department as required under the Commercial Motor Vehicle Safety Act of 1989.

Conference substitute

Senate recedes to House.

NEW FORMULA FOR ALLOCATION OF FUNDS

House bill

No provision.

Senate amendment

The Senate amendment requires certain modification of the allocation formula for the Motor Carrier Safety Assistance Program. It provides incentives based upon certain factors.

Conference substitute

The Senate amendment with language adding special language for states that conduct the discretionary traffic safety enforcement activities as provided for in Title IV.

RESEARCH, DEVELOPMENT, DEMONSTRATIONS AND TRAINING MANUALS

House bill

Section 405 amends Part A of title IV of the Surface Transportation Assistance Act of 1982 by adding a new section 409.

New subsection 409(a) authorizes the Secretary to make grants for research and for other specified purposes that will enhance commercial motor vehicle safety. In addition, the Secretary may utilize some of the funds authorized for educating the public on the use of highways with commercial motor vehicles.

New subsection 409(b) provides that grants must be announced publicly and awarded on a competitive basis whenever practicable.

New subsection 409(c) provides that some of the funds may be used to pay for the development, publication, and distribution of training manuals and other training devices for roadside inspectors involved in the Motor Carrier Safety Assistance Program.

New subsection 409(d) earmarks money for educating the public on the use of highways with commercial motor vehicles. Note, funding for this section is contained in 402(h). That section requires the Secretary to spend at least $500,000 annually for this program, but he or she may spend up to $2 million annually for this grant program.

Senate amendment

The Senate amendment provides for the same funding levels; however, it contains separate funding for driver education and includes training and training materials funding in its deductions permitted to be made by the Secretary for administrative purposes. The Senate amendment requires that grants be made on a competitive basis. The funding is at 100 percent.

Conference agreement

The Senate amendment with a cap placed upon research grants at $500,000.00 and driver education at $350,000.00 for each fiscal year. The provision is included in Section 402.

INTRASTATE COMPATIBILITY

House bill

No provision.

Senate amendment

The Senate amendment provides for the issuance of regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws with Federal safety regulations under the Motor Carrier Safety Assistance Program.

Conference substitute

Senate Amendment.

COMMON CARRIERS PROVIDING TRANSPORTATION FOR CHARITABLE PURPOSES

House bill

New section 410 amends Section 10723(b)(2) of title 49, U.S.C. to allow for animals trained to assist blind or disabled individuals to accompany them on common carriers or to allow dogs trained to assist a hearing impaired individual to accompany the individual at a rate equal to that of one individual.

Senate amendment

No comparable provision.

Conference substitute

House Bill.

DRUG-FREE TRUCK STOPS

House bill

No provision.

Senate amendment

The Senate amendment adds to the Controlled Substances Act (21 U.S.C. 801 et seq.), after section 408, a new section 409 entitled "Transportation Safety Offenses." This new section provides that any person who violates section 401(a)(1) or section 416 of that Act by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of a truck stop or safety rest area is subject to a maximum term of imprisonment, fine, or term of supervised release for a first offense that is twice that authorized by section 401(b). A term of imprisonment under this section does not apply to offenses involving 5 grams or less of marijuana.

Additionally, this new section specifies that after a prior conviction under the new section, a person who again violates section 401(a)(1) or section 416 of the Controlled Substances Act shall be subject to the greater of (1) a term of imprisonment of not less than 3 years and not more than life imprisonment, or (2) three times the maximum punishment authorized by section 401(b) for the first offense.

New section 409 prohibits the suspension or probation of any sentence imposed under section 409. Also, an individual convicted under this section is required to serve a minimum sentence prior to being eligible for parole.

The new section uses the term "safety rest area" as it is defined in part 752 of title 23 of the Code of Federal Regulations.

Also, new section 409 requires the U.S. Sentencing Commission, to promulgate or amend sentencing guidelines for a defendant convicted of violating section 409 of the Controlled Substances Act to provide that a sentence is two levels greater than the level that would have been assigned for the underlying controlled substance offense and not less than level 26. This new section also specifies that if the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission should use the instruction in paragraph (1) to achieve a comparable result. These offenses would be subject to only one enhancement as found under the guidelines.

Conference substitute

The Senate recedes to the House based on an understanding of the Conferees that the House and Senate Conferees on the Crime bill have agreed to include a drug-free truck stop provision in the conference report on that bill.

EXEMPTION OF CUSTOM HARVESTING EQUIPMENT

House bill

No provision.

Senate amendment

The Senate amendment provides that states may waive the commercial drivers license requirement with respect to drivers of certain types of vehicles. The vehicles are those used to transport farm supplies from retail dealers to or from a farm, vehicles used for custom harvesting, and to vehicles used to transport livestock feed, whether or not such vehicles are controlled and operated by a farmer.

Conference substitute

The substitute removes custom harvesting farm machinery from the Act. Operators of such machinery are not covered by the Commercial Motor Vehicles Safety Act of 1986. A state, however, may still impose a requirement for a commercial drivers license if it so desires. The change does not apply to vehicles used to transport this type of machinery.

TITLE V—INTERMODAL TRANSPORTATION

NATIONAL GOAL TO PROMOTE INTERMODAL TRANSPORTATION

House bill

The House bill establishes as a national goal the encouragement and promotion by the Federal government of an intermodal transportation system to improve energy-efficiency, productivity growth, international competitiveness and to obtain the optimum yield from the Nation's transportation resources.

Senate amendment

No comparable provision.

Conference substitute

Same as the House provision.

The fundamental transportation challenge facing the Nation today is the development of an intermodal transportation system that will accelerate, expedite, enhance and improve the movement of people and goods in an energy-efficient manner. Audacious and bold new approaches are needed if the nation is to transform the existing separate, balkanized transportation systems into a single, coordinated unit that will provide the foundation for the nation to confront the realities of the 1990s and the 21st century.

An intermodal transportation system—the use of connections between, and improved access to, different forms of transportation to enhance efficiency—will be the key to meeting the economic, energy and environmental challenges of the coming decades. The nation will not be able to meet all of those demands through continued reliance on separate, isolated modes of transportation.

Development of an intermodal transportation system will result in the increased productivity growth the nation needs to compete in the global economy of the 21st century. We can no longer rely on a transportation system designed for the 1950s to provide the support for American industry to compete in the international marketplace.

Since 1973, real wages and the American standard of living have been declining. Transportation advances using new innovative technology as well as better use of our existing transportation systems are essential to reversing this decline in the quality of life.

An intermodal transportation system will provide the means to confront the nation's energy vulnerability. With fully 63 percent of our oil resources devoted to transportation, two-thirds to automobiles, a transportation policy is an energy policy. Events in the Persian Gulf in 1990 and 1991 have shown that the nation can no longer afford to rely on volatile and insecure nations for our oil supply. If the nation is to reduce its dependence on foreign oil sources, reduced use of oil for transportation is required.

The Clean Air Act Amendments of 1990 made air pollution policy an overriding factor in transportation policy. The centerpiece of the plan to reduce air pollution is transportation control measures, many of which focus on reduced Vehicle Miles Traveled (VMT). States and Metropolitan Planning Organizations must develop Transportation Improvement Programs (TIPs) that comply with State Implementation Plans (SIPs) under the Clean Air Act Amendments.

DUTIES OF SECRETARY; OFFICE OF INTERMODALISM

House bill

The House bill creates as a duty of the Secretary of Transportation the coordination of Federal intermodal transportation policy and the initiation of policies to promote efficient intermodal transportation.

To carry out the intermodal responsibilities of the Secretary, an Office of Intermodalism is established within the Department of Transportation to be headed by a Director who must be appointed within six months of the date of enactment.

The Director is required to develop an intermodal transportation data base in coordination with states and metropolitan planning organizations. The compilation of such data, especially along state and regional lines, is crucial to the development of an efficient transportation system. The data base is to include information on the movement of people and goods by intermodal transportation, patterns of movements by intermodal transportation, and information on public and private investment in intermodal transportation facilities and services.

The Director must coordinate Federal research on intermodal transportation and must provide technical assistance to state and metropolitan planning organizations in urban areas with populations of 1 million or more to facilitate collection of data on intermodal transportation.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute adopts the House provision except that the Office of Intermodalism is created within the Office of the Secretary. The Director is required to collect, maintain and disseminate intermodal transportation data through the new Bureau of Transportation Statistics.

In addition, it creates an Intermodal Transportation Advisory Board consisting of the Secretary as Chairman and the administrators of the Federal Highway Administration, the Federal Aviation Administration, the Maritime Administration, the Federal Railroad Administration and the Federal Transit Administration to provide recommendations for furthering the implementation of intermodalism.

An intermodal transportation system is vitally needed to meet the economic realities of the 1990s. The American economy is no longer a separate entity but part of the larger global economy. New methods of shipment of goods and advanced marketing techniques, such as "just-in-time" deliveries, have replaced the outdated warehouse. Fully one-third of the nation's economic activity involves international commerce which is projected to be one-half of the economy in the next 10 to 15 years.

In 1989, 973 million short tons of cargo, worth $438 billion, moved through our nation's ports—an increase of 30 percent in the last half of the 1980s alone. The virtual explosion of trade with the Pacific Rim nations has produced unprecedented growth at many West Coast ports and the development of the "mini-land bridge" to bring imported Asian products to the Midwest and East Coast. East Coast ports are projecting similar substantive growth as a result of Europe 1992.

Air cargo shipments, now being referred to as "flying warehouses," grew by more than 10 percent annually during much of the 1980s. In less than a decade, air cargo tonnage at Newark International Airport, John F. Kennedy International Airport and LaGuardia Airport increased by 41 percent.

An intermodal transportation system is essential to move our goods expeditiously and efficiently to and from harbors and airport facilities. Without adequate landside access, first-rate airport and port facilities are wasted and the ability of U.S. industry to compete and capture our share of the global economy is seriously limited.

This title firmly establishes national intermodal transportation policy. It is intended to bring the need for intermodalism to the forefront of the nation's transportation and economic debate. It establishes the central focal point for intermodalism in the Department of Transportation where policy is currently set through separate administrators for each mode of transportation with very limited interaction and coordination.

The Office of Intermodalism will promote policies which will enhance intermodal connectivity and foster continued development of intermodal transportation systems.

The Office will create a national data base with information on flows of people and goods to and from major metropolitan areas, to indicate the mode of choice and where two or more modes are used. The Office should also maintain policy balance in the Department between transportation modes and work to ensure interconnectivity of all transportation modes.

MODEL INTERMODAL TRANSPORTATION PLANS

House bill

The House bill requires the Secretary to award grants of no more than $500,000 for the development of model state intermodal transportation plans. The grants must be awarded to a maximum of six states representing a variety of geographic regions and transportation needs, patterns and modes. States must complete the plans within 18 months of the grant award.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House provision except that the grants for model intermodal plans may be awarded to more than six states.

This title is designed to establish the essential process of developing transportation systems that will include the necessary interconnections and access to seaports, airports, urban centers and rural areas. Some regions have already started the process. In Southern California, the planned $800 million Alameda corridor to move cargo to and from the Ports of Los Angeles and Long Beach through the most efficient intermodal use of trucks and rail is an outstanding example.

SURFACE TRANSPORTATION ADMINISTRATION

House bill

The House bill directs the Secretary to enter into an agreement within 60 days of enactment with the National Academy of Public Administration to continue a study of options for organizing the Department of Transportation to increase the effectiveness of program delivery, reduce costs, and improve intermodal coordination among surface transportation-related agencies.

The Secretary must report to Congress on the findings of the study and recommend appropriate organizational changes no later than January 1, 1993. Organizational changes are prohibited unless approved by law.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House provision.

NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION

House bill

The House bill contains no provision.

Senate amendment

The Senate amendment authorizes a transportation assistance program to provide highway and transportation agencies in urbanized areas of 50,000 to 1 million population and in rural areas, access to modern highway technology.

Conference substitute

This section establishes a National Commission on Intermodal Transportation, consisting of 11 members selected to represent diversified transportation expertise on intermodalism, to develop a National Intermodal Transportation Plan with a specific agenda for implementation. The Commission is to submit the Plan and implementing agenda to Congress by September 30, 1993.

It is crucial for the development of an efficient intermodal transportation system that the Commission recognize the need for innovation through the maximum integration of transportation systems and the earliest possible application of advanced technology to increase efficiency. New approaches are needed for the economic, energy and environmental challenges of the 1990s and the 21st century to enhance the nation's leadership in the global economy.

The Commission should review the need for unified decision-making on transportation policy and implementation. The structure of existing modal administrations may no longer be the best means of developing transportation efficiency and advances.

In its Plan, the Commission should recognize the accelerated importance of foreign trade and international commerce to the nation's future economic growth and the finding in the 1990 Census that more than 50 percent of the nation's population now lives in metropolitan areas of more than 1 million. Both of these trends have enormous implications for future transportation policy.

It is important that the Commission pay special attention to economic productivity concerns. The intermodal research agenda should be oriented towards increasing our nation's productivity.

The Commission should focus on creating a public-private alliance to target intermodal projects that are essential to close obvious deficiencies and gaps in our transportation system.

International product standardization, both technological and administrative, is also vital to the promotion of intermodalism. The Commission should review issues such as international freight rates and customs procedures, as well as the development of standardized designs for containers and any other innovative technology to expedite and stimulate intermodal transfers of goods and people. The Commission should review innovative equipment and hub terminal designs to provide for maximum efficiency.

Intermodal use of urban terminals is especially important to make the most efficient use of space and congested transportation corridors in crowded environments. The Commission is to examine the status of intermodal transportation, identify problems, and determine the resources needed to implement policies to achieve the national goal of an efficient intermodal transportation system.

The Commission is specifically directed to investigate and study:

1. The benefits of and impediments to international intermodal standardization, in coordination with the National Academy of Science;

2. Capital investment for infrastructure development necessary to accommodate intermodal transportation, especially surface transportation access to airports and ports;

3. Legal impediments to efficient intermodal transportation, specifically regulation of individual modes of transportation;

4. Impediments to efficient financing of intermodal transportation, including the most efficient use of existing sources of funds to connect individual modes of transportation, to accommodate intermodal transfers. The Commission must address the use of innovative methods of financing, current methods of public funding and increased use of private sources of private funding;

5. New technologies and problems with incorporating new technologies in intermodal transportation;

6. Problems in documentation and the need to achieve uniform, efficient, and simplified documentation;

7. Areas for additional research and development with an agenda for carrying out the research and development program; and

8. The relationship of intermodal transportation to rates, costs and economic productivity.

The Commission will be composed of 11 members, three appointed by the President and two each by the Speaker of the House, the House Minority Leader, the Senate Majority Leader, and the Senate Minority Leader. The Commission members should include representatives of Federal, State and local governments, other public transportation authorities or agencies, transportation providers, shippers, labor, the financial community, and consumers.

The Commission is required to submit its final report to Congress by September 30, 1993.

The following projects in this title are considered by the Managers as necessary to meet the existing transportation needs of the area and are not dependent or conditioned on any future development in the area. Moreover, funds authorized to be appropriated for these projects may be interchanged so long as the Federal contribution on any one project does not exceed 80 percent.

Long Beach, California—Interchange at Terminal Island Freeway and Ocean Boulevard.

Wilmington/Los Angeles, California—Widening of Anaheim Street Viaduct.

Wilmington/Los Angeles, California—Grade Separation Project of Pacific Coast Highway near Alameda Street.

Compton City/Los Angeles County, California—Widening of Alameda Street and grade separation between Rt. 91 and Del Amo Boulevard.

Carson/Los Angeles Counties, California—Grade Separation Project at Sepulveda Boulevard and Alameda Street.

TITLE VI

RESEARCH AND TECHNOLOGY PROGRAM

House bill

The House bill amends the general research authority of the Secretary under Section 307(a) to clarify authority to conduct research on motor carrier transportation, highway planning, and highway operations. The Secretary is authorized to engage in cost-shared collaborative research with non-Federal entities, including state and local governments, foreign governments, colleges and universities, corporations, institutes, partnerships, sole proprietorships, and trade associations. The average Federal share may not exceed 50 percent unless it can be demonstrated that there is substantial public interest or benefit. Funds to carry out collaborative research under this section shall be derived from Section 104(a) administrative funds. Not less than 15 percent of the funds are to be used for long-term projects.

The House bill also directs the Secretary to conduct systems research for a short-haul passenger transportation system, an expansion of transportation infrastructure research and development and implementation of Strategic Highway Research Program results. The Secretary also must continue long-term pavement performance testing.

Section (f) of this section requires 1½ percent of state apportionments under Sections 104 and 144 be reserved to state research and planning purposes only, and requires that states use 25 percent of such funds for research, development, and technology transfer purposes.

Senate amendment

The Senate amendment directs the Secretary to establish a coordinated long-term program of highway research for the development, use and dissemination of performance indicators to measure the performance of the surface transportation system, including the indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system.

Conference substitute

The conference substitute combines the House and Senate provisions. Two percent of state apportionments are to be made available for state research and planning purposes.

EISENHOWER FELLOWSHIP PROGRAM

House bill

No comparable provision.

Senate amendment

The Senate amendment provides for the establishment of a transportation research fellowship program at a level of $2,000,000 per fiscal year.

Conference substitute

The conference substitute is the provision in the Senate amendment. Development of new and efficient combinations of transportation infrastructure requires that the nation's brightest minds be attracted to the transportation engineering and research professions. The Dwight David Eisenhower Transportation Fellowship Program is designed to accomplish this objective. The conferees recognize that the fellowship program will be most successful if it serves to attract critical masses of students and professors to evolve into centers of excellence. Therefore, the conferees intend that the program shall be limited to no more than fifty universities, to be selected by the Secretary on the basis of their academic reputation in the transportation engineering and research areas. The conferees intend that the fellowships should be awarded competitively, and be available only to students enrolled in work toward a graduate degree in transportation engineering or research, but exceptions can be made for students in the final year of undergraduate engineering degrees who can demonstrate that they intend to specialize in a transportation-related field following graduation.

NATIONAL HIGHWAY INSTITUTE

House bill

The House bill provides for the continuation of the National Highway Institute and removes the current limitation on training to allow for training of U.S. citizens and foreign nationals engaged in highway work of interest to the United States.

Senate amendment

The Senate amendment is the same as the House bill but provides for a 75 percent Federal share.

Conference substitute

The conference adopts the Senate amendment with an 80 percent Federal share.

INTERNATIONAL TRANSPORTATION OUTREACH PROGRAM

House bill

The House bill requires the Secretary of Transportation to conduct an international transportation outreach program to (1) seek, evaluate, and disseminate information about innovations abroad for application in the U.S.; (2) to encourage use of American goods and services abroad; and (3) to assist developing countries to improve their surface transportation technology and institutions. Funds provided by cooperating organizations or persons may be held in a special account and used in furtherance of the outreach program.

Senate amendment

The Senate amendment provides authority for an international outreach program but does not require it.

Conference substitute

The Conference substitute is the Senate amendment modified by a House provision requiring coordination with other appropriate Federal agencies.

EDUCATION AND TRAINING

House bill

The House bill continues the Rural Transportation Assistance Program (RTAP) to provide technical assistance to highway and transportation agencies in rural areas and urbanized areas of 50,000 to 1,000,000 in population.

Senate amendment

The Senate amendment contains two provisions continuing the Rural Transportation Assistance Program. Both continue the program as proposed in the House bill, but one expands RTAP activities to include tourism and recreational travel assistance. The provision also requires that four program centers be designated to provide training on intergovernmental transportation planning and project selection and tourism recreational travel for American Indian tribal governments. In 1992 $5 million is provided to fund tourism and recreational travel assistance, and $8 million is provided annually to fund the RTAP program and new services for American Indian tribal governments at a 100 percent share.

Conference substitute

The Conference substitute continues RTAP technical assistance programs and expands RTAP services to include assistance to urban areas between 50,000 and 1,000,000 in population and tourism and recreational travel technical assistance. Two centers must be designated to provide training on intergovernmental transportation planning and project selection and tourism recreational travel to American Indian tribal governments. The RTAP program is authorized at $6 million annually and services to American Indian tribal governments are funded at a 100 percent share. In addition, the Secretary of the Interior may reserve funds from the Indian reservation roads program to finance Indian technical centers.

APPLIED RESEARCH AND TECHNOLOGY PROGRAM; SEISMIC RESEARCH PROGRAM

House bill

The House bill amends Section 307 of Title 23 to require the Secretary to establish and implement an applied research and technology program. The purpose of the program is to accelerate testing, evaluation, and implementation of technologies that may improve the durability, efficiency, environmental impact, productivity, and safety of highway, transit, and intermodal transportation systems. Eighteen months after date of enactment, the Secretary must issue guidelines on selection of technologies, test locations, and collection and evaluation of test data. The Secretary is directed to carry out projects to assess the state of technology for heating bridge decks on a minimum of ten bridges being replaced or rehabilitated, to carry out a project demonstrating the environmental and safety benefits of elastomer modified asphalt, to conduct a program to demonstrate the safety benefits and durability of all weather pavement markings, to assess the state of technology of thin bonded overlay and surface lamination of pavement, and to demonstrate the durability and construction efficiency of high performance blended hydraulic cement. Highway projects carried out under this program must be conducted on the Federal-aid system.

The Secretary is required to transmit to Congress an annual report on the progress and findings of the applied technology program.

Funding for the applied technology program established under this section is derived from administrative and research funds set aside under section 104(a) of title 23 and section 21(h) of the Urban Mass Transportation Act of 1964 as amended at $35 million in fiscal year 1992, and $41 million per fiscal year for each of fiscal years 1993, 1994, 1995, 1996 and 1997. Not less than $4 million per fiscal year must be expended for projects related to heated bridge technologies, not less than $2 million must be expended for projects related to all weather pavement markings, and not less than $2,500,000 per fiscal year must be expended on thin bonded overlay projects.

A seismic research program must be carried out under this section in cooperation with a national earthquake engineering center to study the vulnerability of Federal-aid system highways, tunnels, and bridges to earthquakes and to develop and implement cost-effective methods of retrofitting highway facilities. Program progress and research findings are to be reported to Congress two years after date of enactment. Up to $2 million per fiscal year may be expended for carrying out seismic research under this section. The research is to be carried out in cooperation with the National Center for Earthquake Engineering at the University of Buffalo.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the provision in the House bill with clarification that in implementing the seismic research program the Secretary shall consult and cooperate with other Federal agencies participating in the National Earthquake Hazards Reduction Program and ensure the program is consistent with objectives and planning of the Federal Emergency Management Agency.

BUREAU OF TRANSPORTATION STATISTICS (SEC. 606)

House bill

No comparable provision.

Senate amendment

The Senate amendment amends sec. 303 of title 23 U.S.C. to create a Bureau of Transportation Statistics, to be headed by a Director appointed by the President, to collect information on the performance of the national transportation system, to produce annual estimates of the use, productivity, safety, durability, and environmental effects of transportation systems, and to report these results annually to Congress.

Conference substitute

The conference agreement accepts the Senate language, with several modifications. It changes the reporting interval to once every two years, requires the Bureau to collect data relative to intermodal transportation, and affirms that the existence of the Bureau does not relieve the modal Administrators from responsibility of data collection and dissemination. $90 million is authorized from the Highway Trust Fund to fund the operation of the Bureau.

The Bureau of Transportation Statistics shall be responsible for compiling, analyzing, and publishing a comprehensive set of transportation statistics of sufficient scope, quality, relevance, and reliability that Federal and nonfederal agencies and Congress have adequate and accurate information about the availability, reliability, costs, and benefits of alternative transportation technologies to make informed decisions about how best to allocate Federal funds among transportation projects and programs. Such information should include productivity in various portions of the transportation sector, traffic flows, travel times, vehicle weights, variables affecting the choices people make about travel (including the mode, time, and willingness to pay), the availability and number of passengers served by mass transit for each transit authority, the frequency of vehicle and infrastructure repairs and resulting losses of time and money, frequency of accidents, injuries and fatalities, damage to the environment resulting from transportation, and the condition of transportation infrastructure. All data shall, to the extent practicable, be comparable across transportation modes and intermodal transport systems. The conferees intend that all such statistics must have a sound scientific basis, be as free as possible from bias resulting from data collection or interpretation procedures, and they must be widely accepted by decision-makers as accurate and relevant.

The Director of the Bureau shall, in cooperation with the modal administrators, other federal agencies, the States, and other non-federal entities, pursue a comprehensive program for the collection and analysis of data relating to the performance of the national transportation system.

A necessary step in this process is developing better indicators for productivity, efficiency, energy use, air quality related to vehicle operation, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system. It is the intention of the conferees that the Director be directly involved in planning and review of the research to develop performance indicators for the national transportation systems. The most often reported indicators of productivity of transportation systems today are weight-miles or person-miles per employee-hour. While the underlying data are easily collected, these indicators are inadequate, because they convey little information about important issues such as the amount of fuel consumed, the cost of maintaining and repairing infrastructure and vehicles, the amount of pollution produced, the number of injuries, the reliability of timely arrival, and other factors that affect the costs and benefits of alternative decisions involved in transportation infrastructure planning. It is the intention of the conferees that the Director insure that such indicators are identified, and that data relative to their measurement are collected, analyzed, and reported.

The Director shall assure that data and other information are collected in such a manner as to maximize the ability to compare data from different regions, and over time, such that trends and regional differences, if they exist, can be detected and analyzed for statistical significance. The Director shall insure that the data are quality-controlled for accuracy, and promulgate guidelines for the collection of such information to insure that the information is accurate, reliable, relevant, and in a form that permits systematic analysis.

The Director shall coordinate the activities of the Bureau with related information gathering activities of other agencies. The conferees intend that data managed by the Bureau shall not be limited to highway transportation, but is extended to include rail, maglev, and intermodal transportation systems involving rail, highways, ships, and air transport. The purpose of this change in section 115 of the previous Act is to ensure that the efficiency and productivity of the transportation systems in the United States is maximized. This cannot be done by developing newer technology for highways alone. Strategic research planning must consider the importance of potential and actual products in the context of competing transport modes or economies of intermodal approaches to transport. The conferees intend that the Bureau integrate environmental effects and economics into transportation statistics, and that the Director coordinate data collection activities with those of the Environmental Protection Agency, the Department of Commerce, and other government agencies, wherever appropriate.

The Director shall make transportation statistics readily available to federal and non-federal agencies and other organizations. It is the intention of the conferees that data managed by the Bureau be accessible in computerized format, with adequate documentation and user-services.

The Director shall review information needs at least annually with the Advisory Council on Transportation Statistics and make recommendations to appropriate officials responsible for research programs in the Department of Transportation and other agencies involved in indicator research and development. The Director shall appoint an Advisory Council on Transportation Statistics, comprised of no more than six private citizens who have experience in transportation statistics and analysis (at least one of whom should have expertise in economics) to provide advice on the operation of the Bureau. The Council shall be subject to the provisions of the Federal Advisory Committee Act. It is the intention of the conferees that at least one of the Council members be a professional statistician. No later than one year after the start of Bureau operations, the Bureau shall enter into an agreement with the National Academy of Sciences for a study of the adequacy of the data collection resources, needs, and requirements, including data collection procedures and capabilities, data analysis procedures and capabilities, the ability of data bases to integrate with one another, computer hardware and software capabilities, information management systems (and their ability to integrate with one another, personnel, and budgets. The report shall be delivered within 18 months of initiation of the agreement, and should include recommendations for improving data collection systems, procedures, hardware, software, and information management systems. It is the intention of the conferees that this study serve as the first of the annual data reviews required of the Director.

Nothing in paragraph (1) shall authorize the Bureau to require the collection of data by any other monitoring Department, or to establish observation or monitoring programs. It is the intention of the conferees that the Director use Bureau resources to enhance data collection, analysis, and reporting by other organizations to fill identified data gaps, rather than to organize stand-alone monitoring programs, in order to insure the most cost-effective use of transportation monitoring resources.

The Bureau shall be under the direction of a Director of Transportation Statistics, who shall be appointed by the President, by and with the advice of the Senate. The Director shall have substantial technical experience in the compilation and analysis of transportation statistics. The term of the appointment shall be four years, to begin within 180 days of enactment of this Act. It is the intention of the conferees that the term of office of the Director overlap with that of the President. The Director shall report directly to the Secretary and be compensated at Level V of the Executive schedule. The conferees intend that the Director be given substantial latitude to insure that Bureau data and information are not biased in any way by political considerations, and that release of data shall not be subject to policy review.

Data collected by the Bureau shall not be disclosed publicly in a manner that would reveal the personal identity of an individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), or to reveal trade secrets and commercial or financial information provided by any person to be identified with such person. The conferees recognize that statistics may become biased if the very fact that a datum is being measured causes the object of measurement to change its characteristics or behavior. This may happen if data collected for the purpose of describing a system also can be used to cause harm to someone by legal or economic means. If this happens people may take great pains to conceal the true characteristics of the object. In order to avoid such bias, the conferees intend that the Director establish such procedures as necessary to ensure that all Bureau data are collected and stored in such a way that they cannot be used to prosecute individuals or reveal business information that could harm persons or corporations. The conferees intend that the Director consult with officials involved in other Federal data collection activities to identify the most appropriate means to meet the criteria.

The Director shall produce annual reports on transportation statistics and submit them to Congress, the states, and other interested parties. These reports shall compare transportation statistics among the states and regions, as well as reporting on trends at the state, regional, and national level. The conferees intend that if the statistics are based on estimates, rather than complete censuses, quantitative estimates of precision and statistical significance of trends and changes also shall be provided. The report shall include such indicators as are enumerated in section 303(b), indicators developed under section 115(a)(3), and other indicators, as appropriate for conducting cost-benefit analyses, prioritizing transportation system problems, and analyzing proposed solutions. In the estimation of costs and benefits, the conferees intend that it is not acceptable to set a cost or benefit at zero only because it cannot be quantified precisely. The conferees also intend that opportunity costs and costs such as decreased property values next to rights-of-way should be included, as well as benefits associated with increased reliability, more enjoyable travel, and other social costs and benefits.

The Director should, wherever feasible, use data already collected by the modal Administrators or other agencies. The Director should identify any additional specifications or quality assurance that must be applied to such data to ensure that it meets the needs of the Bureau.

$90 million is authorized to conduct the work of the Bureau. The conferees intend that the Bureau be funded at a minimum of $4 million during fiscal year 1992, plus $500,000 to begin the National Academy of Sciences study. It is the intent of the conferees that the Bureau be funded at no less than $25 million per year in the last year of this authorization.

ADVISORY COUNCIL ON TRANSPORTATION STATISTICS

House bill

No comparable provision.

Senate amendment

The House amendment provides for the establishment of an Advisory Council on Transportation Statistics to advise the Director of the Bureau of Transportation Statistics.

Conference substitute

The Conference substitute is the Senate provision.

DOT DATA NEEDS

House bill

The House bill requires the Secretary to enter into an agreement with the National Academy of Sciences to conduct a study on the adequacy of data collection procedures and capabilities of the Department of Transportation.

Senate amendment

The Senate amendment requires a similar data needs study but requires the Secretary to consult with the Director of the Bureau of Transportation Statistics in entering into the agreement with the National Academy of Sciences.

Conference substitute

The Conference substitute is the Senate provision.

SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLANNING

House bill

The Secretary is instructed to develop and submit to Congress an annual integrated national surface transportation research and development plan.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute includes the annual surface research and development plan from the House version. The plan's purpose is to more sharply focus research and development activities within the Department. It is to include all ongoing research and development activities throughout the Department, as well as those planned for future years. The plan shall also include a 10-year projection of Department-funded long-term research and development. A plan modelled after the Experimental Program to Stimulate Competitive Research (EPSCoR) at the National Science Foundation should be included to assure that university research efforts are broadly based geographically. Major contracts must be described. Through the plan, specific objectives are to be followed leading to advanced technologies being commercially developed by U.S.-based companies. The plan is being commercially developed by U.S.-based companies. The plan is to be complete, identifying specific scopes of work, organization of personnel, milestone schedules, estimated costs by phase of activity, current state-of-the-art, and accomplishments. Plans and organization for future activities should also be included. For new systems, broad scope preliminary cost estimates are acceptable the first year if followed a year later with firm cost estimates the Congress can use in making informed budget decisions.

NATIONAL COUNCIL ON SURFACE TRANSPORTATION RESEARCH

House bill

The House bill establishes a seven-member National Council on Surface Transportation Research, with three members appointed by the President and one each by the Speaker of the House minority leader, the Senate majority leader and the Senate minority leader, to investigate and study current surface transportation research and technology developments in the United States and internationally.

The Council is to identify gaps and duplication in current surface transportation research efforts, determine research and development areas which may increase efficiency, productivity, safety and durability in the nation's surface transportation systems, and develop a national surface transportation research and development plan for immediate implementation.

The Council is to survey current surface transportation research efforts in the United States and internationally, examine factors causing fragmentation of surface transportation research and determine how to achieve increased coordination, compare the role of the Federal Government with the role of foreign governments in promoting surface transportation, identify barriers to innovation in surface transportation research, examine funding arrangements for surface transportation research and the level of resources currently available and identify surface transportation research areas and opportunities, including opportunities for international cooperation, to develop a short-range and long-range national surface transportation research and development plan.

Council members are to be appointed from among individuals involved in surface transportation research, including all levels of government, other public agencies, colleges and universities, public, private and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community. One member appointed by the President shall serve as an international research advisor for the Council.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House bill provision.

RESEARCH ADVISORY COMMITTEE

House bill

The Research Advisory Committee (RAC) is established in the House bill to ensure that the Department takes maximum advantage of available outside advice in planning and evaluating its research program and projects, especially the long-term efforts. The Department's research must both feed and be fed by the research programs of other organizations and the results of the Department's research must serve the interests of the surface transportation community of the United States. Both these objectives will be furthered by the establishment of the RAC which is to be formed after the report by the National Council on Surface Transportation Research is submitted September 30, 1993.

Appointees to the RAC should be selected on the basis of their technical knowledge of the state-of-the-art and the requirements for the research, rather than as representatives of organizations, but inclusion of a representative sample of major Department constituencies is desirable. Members are to include representatives from labor and universities that have experience in developing the surface transportation technologies that are being examined by RAC. RAC members are not to be paid for their service, but in some instances, individuals can be reimbursed for the transportation and other expenses necessary to participate. The application of certain limitations clauses is intended to make appropriate staffing available to the RAC. There will be a need for certain research advice which is too specialized to be effectively considered by the full RAC. Subordinate committees composed of experts with specialized backgrounds may be used to deal with such issues.

Senate amendment

The Senate amendment contains no comparable provision.

Conference agreement

The Conferees accept the House provision.

COMMEMORATION OF EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

House bill

The House bill requires that a study be conducted to determine an appropriate emblem to be placed on highway signs referring to the Interstate System to commemorate the vision of President Dwight D. Eisenhower.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the provision in the House bill.

STATE LEVEL OF EFFORT

House bill

The House bill directs the Secretary to begin a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

The study shall examine data relating to state and local revenues collected and spent on surface transportation programs, including fuel taxes, toll revenue, sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and other state and local revenue sources.

The Secretary is to report to Congress within 12 months of enactment with recommendations.

Senate amendment

The Senate amendment is similar to the House provision except that it requires the study to be conducted jointly by the Secretary and the Director of the Bureau of Transportation Statistics. The report is to be submitted to Congress within nine months of enactment.

Conference substitute

The conference substitute contains the Senate amendment.

EVALUATION OF STATE PROCUREMENT PRACTICES

House bill

The House bill directs the Secretary to conduct a study of whether current procurement practices used by state departments and agencies are adequate to ensure the highest quality of materials and cost-effectiveness of projects. The Secretary is directed to report to Congress within two years with an assessment of the need for a national policy on quality assurance.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House bill provision.

BORDER CROSSINGS

House bill

The House bill provides for improvement and integration of intermodal transportation facilities, including methods of achieving the optimum yield from such systems.

Senate amendment

The Senate amendment directs the Secretary to assess the need for transportation infrastructure improvements to facilitate U.S. to Mexico and U.S. to Canada trade. The Senate amendment also directs the Secretary to determine whether U.S. to Canada border crossing are designed for future growth and expansion and whether they will accommodate greater commercial traffic resulting from free trade agreements and increased tourism traffic.

Conference substitute

The conference substitute combines the provisions of the House bill and Senate amendment.

FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS

House bill

No comparable provision.

Senate amendment

The Senate amendment requires the Federal Highway Administration to enter into a contract with a nonprofit organization for studies of the fundamental chemical properties and physical properties of petroleum asphalts and modified asphalts used in highway construction. Authorizations of $3 million per fiscal year are provided to fund the studies. A test strip must be implemented to demonstrate energy and environmental advantages of shale oil modified asphalts under extreme climatic conditions. Funds for the test strip are to be made available from funds for parks and park highway.

Conference substitute

The conference substitute directs the Administrator of the Federal Highway Administration to undertake fundamental studies of the performance of petroleum asphalts and modified asphalts used in highway construction. The conferees direct the Administrator to contract with the Western Research Institute, located in Laramie, Wyoming, a nonprofit organization, for purposes of complying with this section, as the prime organization responsible for carrying-out the technical and analytical support and related research. Based on previous research and the volume of performance data that must be considered, the conferees direct the Administrator to provide at least $3 million each year. This funding level will ensure that there is alignment between field performance characteristics of petroleum asphalts with diagnostic chemical and physical property tests designed to predict performance of petroleum asphalts. The conferees further direct the Administrator to enter into such contracts on the basis of the Western Reseach Institute's demonstrated expertise and experience in such related research programs in addition to the organization's past research activities on behalf of the Strategic Highway Research Program.

The Administrator is further directed, in coordination with the Western Research Institute, to implement a test strip of a shale oil-modified asphalt in Yellowstone National Park. The conferees direct this demonstration to be constructed with the expressed purpose of providing findings on whether such shale oil modified asphalt will provide a domestic asphalt feedstock alternative that provides enhanced performance characteristics, economic, and environmental advantages over current technologies. The conferees directed the selection of the demonstration site to ensure that such a test strip is subjected to severe and extreme climate conditions. Because of the importance of this demonstration, the conferees have directed a final report on the findings of this demonstration to be submitted to Congress not later than November 30, 1995.

RESEARCH AND DEVELOPMENT AUTHORITY OF SECRETARY OF TRANSPORTATION

House bill

Title 49 of the U.S. Code, subtitle I, lists the purposes of the Department of Transportation (DOT). The Department purposes should also include basic research if DOT is to promote and undertake research and development related to transportation. The House bill adds the requirement to ". . . include basic automotive highway vehicle science." This provides DOT with a mandate to conduct research in long-term, high-risk basic highway vehicle science.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conferees adopt the House provision.

PURPOSES OF DEPARTMENT OF TRANSPORTATION

House bill

This House bill amends Title 49, USC subchapter I on the duties of the Secretary of the Department of Transportation to include that the Department will stimulate technological advances in transportation "through research and development." Both basic scientific research and research in long-term, high-risk highway vehicle sciences, are very important. Accordingly, the House bill authorizes research to be included in the fundamental mandates of the Department.

Senate amendment

The Senate version contains no comparable House provision.

Conference substitute

The Conference substitute includes the House provision.

ADVANCED AUTOMOTIVE RESEARCH CONFERENCE AND AWARD

House bill

The House bill establishes an Advanced Automotive Research Conference and a National Award for the Advancement of Motor Vehicle Research. It does so through the Stevenson-Wydler Technology Innovation Act of 1980, which established a program to support industry's technology development efforts. The Act also established a National Technology Medal for companies that have made outstanding contributions to the promotion of technology.

In order to examine and analyze the strengths and weaknesses of the U.S. motor vehicle industry, a conference on advanced automotive research and development should be convened. Accordingly, the House bill amends the Stevenson-Wydler Act to mandate that the Department of Commerce convene a conference of automotive experts including representatives of labor and academia to examine ways in which technology transfer of research results from the federal laboratories can improve U.S. motor vehicle industrial competitiveness. The results of the conference would be published and submitted to Congress. The recommendations of the conference should focus on further research necessary to improve U.S. competitiveness in automotive technology. The House bill also amends the Stevenson-Wydler Act to establish a National Award for the Advancement of Motor Vehicle Research. The award consisting of a medal, and potentially a privately supported cash prize, will honor domestic motor vehicle manufacturers, suppliers, or Federal laboratory personnel who have substantially improved the domestic motor vehicle in safety, energy savings, or environmental impact.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference substitute contains the House provision.

UNDERGROUND PIPELINES

House bill

The House bill requires the Secretary to study the feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities.

Senate amendment

No comparable provision.

Conference substitute

Same as House bill.

BUS TESTING

House bill

Subsection (a) amends Section 12(h) of the Urban Mass Transportation Act of 1964 to clarify that new bus models required to be tested under that Act include buses using alternative fuels.

Subsection (b) amends 317(b)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 to require braking performance and emissions tests be conducted on new bus models. Funding of $1.5 million is provided to the bus testing center to purchase and install new testing equipment in accordance with new testing requirements.

Subsection (c) establishes a revolving loan fund of $2.5 million to fund bus testing facility operations and maintenance. In programming the use of the revolving loan fund, it is intended to allow the operators of the testing facility to borrow from the fund only to cover operating expenses brought on by a lack of vehicles to be tested.

Senate amendment

The Senate has no comparable provision.

Conference substitute

Same as House bill.

NATIONAL TRANSIT INSTITUTE

House bill

The House bill directs the Secretary to make grants for the establishment of a national transit institute to develop and administer training programs on a broad range of transit matters, techniques and procedures for Federal, state and local transportation employees engaged or to be engaged in Federal-aid transit work.

The Secretary is to make available $3 million per fiscal year for carrying out national transit institute activities.

States and public transit agencies may use up to one-half percent of section 3 and 9 funds for up to 80 percent of tuition and direct education and training expenses for state and local transportation department employees.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House bill provision, with a modification to provide that the National Transit Institute will be funded equally from the State and national research programs under section 26 of the Federal Transit Act of 1969.

UNIVERSITY TRANSPORTATION CENTERS

House bill

The House bill amends Section 11(b)(2) of the Urban Mass Transportation Act of 1964 to include transportation safety as an area of responsibility for University Transportation Centers. Section 11 is also amended to designate three new centers: a national center for transportation management, research, and development at Morgan State University; a center for transportation and industrial productivity at New Jersey Institute of Technology; and a national rural transportation study center at the University of Arkansas. The Secretary also is directed to make a grant of $2.42 million in fiscal year 1992 to Monmouth College for the James and Marlene Howard Transportation Information Center. Provisions of the 1964 Act requiring a National Advisory Council are deleted and replaced by a requirement that the Centers' studies be coordinated and disseminated by the Secretary. Up to one percent of funds provided for the University Transportation Center program are made available to the Secretary for its administration.

Senate amendment

The Senate amendment calls for the establishment of three new additional National Centers for Transportation Management, Research, and Development to accelerate involvement and participation on the part of minority individuals and women in transportation-related professions.

Conference substitute

The conference substitute in the House provision with the addition of a provision establishing a grant for a National Center for Advanced Transportation Technology at the University of Idaho.

This center shall be similar to the other national centers established under this section but it shall not be subject to all of the provisions of 49 U.S.C. 1607(b) such as the federal share. It shall be specifically funded for three fiscal years at 80% federal share and the funds shall not be subject to any obligation limitation.

UNIVERSITY RESEARCH INSTITUTES

House bill

Section 11 of the Urban Mass Transportation Act of 1964 is amended by the House bill to require the Secretary to make grants to establish and operate an institute for national surface transportation policy studies at San Jose State University, an infrastructure technology institute at Northwestern University, an Urban Transit Institute with the University of South Florida, and an Institute for Intelligent Vehicle Highway Concepts at the University of Minnesota. Funding of $250,000 per fiscal year is authorized for the Institute for National Surface Transportation Policy Studies; $3 million per fiscal year is authorized for the Infrastructure Technology Institute; and $1 million per fiscal year is authorized for each of the Urban Transit Institute and the Institute for Intelligent Vehicle Highway concepts.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute adopts the House provision and establishes at the University of North Carolina an Institute for Transportation Research and Education (ITRE). To support minority participation in urban transit research, grants will be made to North Carolina A&T State University in conjunction with the University of South Florida and a consortium of Florida A&M, Florida State University, and Florida International University for Interdisciplinary Study to address the diverse transportation problems of urban areas experiencing significant and rapid growth.

INTELLIGENT VEHICLE HIGHWAY SYSTEMS

House bill

The house bill establishes a program to research, develop, operationally test, and implement intelligent vehicle/highway systems. The bill requires development and implementation of a strategic plan and provides for planning grants to states and local governments, as well as assistance for operational technical projects. The bill establishes a program of financial and technical assistance for implementation of IVHS corridors.

Senate amendment

The Senate provisions are similar to those in the House bill, but establishes a "Congested Corridors" program for implementation of IVHS Technology.

Conference substitute

The conference substitute combines the provisions of the House bill and Senate amendment. Requirements for development of a prototype by 1997 may be satisfied through a test track, and implementation of IVHS technology in corridors and other areas must make a potential contribution to the Secretary's strategic plan.

ADVANCED TRANSPORTATION SYSTEMS

House bill

The House bill authorizes the Department of Transportation to award grants, matched on the state or local level, to set up capital manufacturing consortia dedicated to the development of cleaner transit systems and electric vehicles. The program provides seed money needed by small and medium size suppliers, larger manufacturers, universities and other research and manufacturing groups to collaborate on pushing an idea from laboratory to market. The program will give states maximum freedom in fostering public/private partnerships based on their own unique situations and recognizes the public benefits of solving mobility and energy problems with cleaner vehicles.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the provision in the House bill.

TITLE VII—AIRPORT AUTHORITY

Conference substitute

The Conference Substitute enacts the Metropolitan Washington Airports Act Amendments of 1991. The substitute is the same as H.R. 3762, passed by the House on November 18, 1991. The substitute restores the full authority of the Metropolitan Washington Airports Authority which operates Washington National and Dulles Airports.

The legislation is necessary because of the Supreme Court's decision in Metropolitan Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise, holding unconstitutional the provisions in the MWA Act of 1986 which established a Board of Review of nine Members of Congress with veto power over specified major decisions of MWAA's Board of Directors. As a result of this decision, MWAA, which runs National and Dulles Airports, is unable to take the actions over which the Board of Review held veto power, including adoption of a budget and authorization of the issuance of bonds for airport development.

The Conference Substitute makes the following changes in the 1986 Act and develops a constitutionally acceptable structure[1] which will ensure that decisions of the Airports Authority will take account of the interests of users of the airports.

(1) Under the 1986 Act, the Board of Review members were selected by the Airports Authority from lists provided by the Speaker of the House and the President pro tempore of the Senate. In its decision that the Board of Review procedure was unconstitutional, the Supreme Court criticized the requirements in the 1986 Act that the Board members must be Representatives and Senators from the authorizing and appropriating committees; the absence of a specific authorization for the Airports Authority to reject a list and request additional nominations; the absence of a requirement that the Board members be users of the airport; and the absence of power in the Airports Authority to remove Members of the Board of Review.

The Conference substitute continues the requirements for a Board of Review by directing the Airports Authority to establish a Board of Review of nine members; four from a list provided from the Speaker of the House, four from a list provided by the President pro tempore of the Senate, and one chosen alternately from a list provided by the Speaker and the President pro tempore. However, in response to the matters raised by the Supreme Court, the Conference substitute makes a number of changes in the requirements for the Board. The substitute gives the Airports Authority the right to reject a list and request additional recommendations. The individuals on the list submitted by the Speaker and the President pro tempore do not have to be Senators or Representatives. They are required to have experience in aviation matters and be frequent users of the Metropolitan Washington Airports. The Airports Authority Board of Directors is given authority to remove members of the Board of Review for cause by a two thirds vote.

(2) The 1986 Act requires the Airports Authority to submit to the Board of Review, at least 30 days before their effective dates (60 days in the case of a budget), the Authority's budget, authorizations for the issuance of bonds, actions on an airport master plan, actions on regulations, and appointment of a chief executive officer. The substitute continues the requirements that these actions be submitted to the Board of Review and requires that the following additional matters to be submitted to the Board of Review: amendments to the Airports Authority's annual budget; an annual plan for issuance of bonds and any amendments to such plan; the award of a contract (other than a contract in connection with the issuance or sale of bonds) which has been approved by the Board of Directors of the Airports Authority; any action of the Board of Directors approving terminal design or airport layout or modifications thereof; and an authorization for disposal of land or the grant of an easement.

(3) The 1986 Act is modified to end the Board of Review's authority to disapprove

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[1] See, for example, the opinion of the American Law Division of the Congressional Research Service that the legislation is constitutional, Congressional Record of November 18, 1991 at pp. H10347-10349.

actions submitted by the Airports Authority. Instead, the Board of Review would have authority to recommend changes in an action submitted by the Airports Authority (including recommendations that the Authority not take the proposed action). The time for Board of Review action would be changed from 30 days in existing law, to 30 calendar days or 10 legislative days, whichever period is longer.

If the Board of Review made a recommendation, the Authority could not take the proposed action until the Authority had evaluated and responded in writing to the recommendation of the Board of Review. If the Authority's proposed action followed the recommendations of the Board of Review, the action could be taken. If the Authority did not follow the Board of Review's recommendations, the proposed action could not be taken until the proposal had been submitted to the Congress and sixty legislative days had passed. During this period, Congress would be able to consider a joint resolution (which would have to be signed by the President) disapproving the proposed action.

The substitute establishes special Congressional procedures to ensure that procedural difficulties would not prevent Congress from passing a resolution of disapproval during the sixty day period. The special procedures for resolutions of disapproval are modeled on those in the D.C. Home Rule legislation. Under the procedures in the substitute, a resolution of disapproval of an action of the Airports Authority would be referred to the House Committee on Public Works and Transportation and the Senate Committee on Commerce Science and Technology. If the Committee to which a resolution had been referred had not reported it at the end of twenty calendar days, it would be in order to move to discharge the Committee from further consideration of the joint resolution. A motion to discharge would be highly privileged, and debate would be limited to not more than one hour. An amendment would not be in order, nor would it be in order to move to reconsider. Additional procedures are established for consideration by the Senate of resolutions of disapproval which have been reported or discharged. Debate on a resolution would be limited to not more than ten hours and amendments or motions to recommit would not be in order.

(4) The substitute includes a provision ratifying actions of the Airports Authority which were submitted to the Board of Review before the Supreme Court's decision. This provision basically clarifies existing law on the effect of an adverse court order on the Board of Review's powers.

(5) The substitute includes a provision that until the Airports Authority establishes a new Board of Review, and at any time the Airport Authority fails to fill more than four vacancies on the Board of Review, the Airports Authority will have no power to take the actions which must be submitted to the Board of Review. This will protect against the Airports Authority failing to comply with the statutory requirement that it appoint a Board of Review.

(6) A new provision is added to existing law directing the Comptroller General to review the Airports Authority's contracting procedures for consistency with sound government contracting principles and the provisions of existing law requiring the Authority to use competitive bidding procedures. The Comptroller General would be required to file periodic reports with the House and Senate Aviation committees.

(7) To supplement the new authority given the Board of Review to review contracts of the Airports Authority, the substitute adds a new requirement that every contract must include a provision that no member of the Board of Review may benefit from the contract.

(8) The substitute authorizes the Secretary of Transportation to amend the lease of the airports to the Authority to incorporate the new Board of Review procedures.

Several provisions in the Conference Substitute should be clarified; the exception in section 6007(f)(4)(B)(vi) which states that "a contract in connection with the issuance or sale of bonds" is not subject to review by the Board of Review. It should be clear that this exception applies only to those documents necessary for the bond issuance and not to any contract relating to the selection of underwriters or to contracts funded by the bond proceeds.

Section 6007(h) has been amended to clarify its original intent. Any interruption in the Airports Authority's power was meant to be prospective; actions taken before a court order were not to be invalidated by such an order.

In addition, the Conferees believe that an objective in the redesign of the Metropolitan Washington Airports should be to minimize walking distances between terminals and between terminals and parking facilities. At National Airport, the Authority should make every reasonable effort to construct a permanent system for transporting people between the new North Terminal, the principal on-airport public parking facilities and the southern-most passenger terminal facilities, using a continuous loop system or a system of moving sidewalks. The Authority should periodically report to the Board of Review on the progress of its efforts.

The Conferees have been concerned with the difficulties which new entrants and limited incumbents have faced in obtaining slots at National Airport. In recognition of these difficulties, the Federal Aviation Administration, on February 24, 1984, awarded an exemption to Braniff Airlines to conduct four daily operations at National. These operations were being conducted at the time of passage of the Metropolitan Washington Airports Act of 1986. On January 12, 1990, after Braniff had ceased operations, FAA awarded America West an exemption to operate the slots previously held by Braniff. The rationale for the exemption was "the Department's policy of promoting competition in the airline industry."

The original America West exemption was granted for 6 months. Since then, the exemption has been extended for two one-year periods.

The Conferees agree with the FAA's decision to award four slots to America West in the interest of competition. However, we are concerned that the relatively short term of each renewal of the exemption makes it difficult for the carrier to engage in long-term planning, and may limit the willingness of creditors to advance funds to America West. With the decline in competition and the financial difficulties of the airline industry, the survival of major carriers such as America West is of great importance. Accordingly, we urge FAA to consider a long-term exemption to America West to operate the four slots, subject, of course, to the same rights FAA retains for any of the slots at National Airport.

Another matter of concern to the Conferees has been the expiration of provisions in the 1986 Act guaranteeing to airport employees, for five years, continuation of the rates of pay and other employee benefits which were in effect on the date the airports were leased to the regional Airports Authority. Notwithstanding the expiration of these provisions we expect the Authority to continue to afford employees fair treatment with respect to wages and other conditions of employment. We expect to monitor employee relations at the Airport, and to take appropriate corrective action if necessary.

TITLE VIII—REVENUE-RELATED PROVISIONS

A. HIGHWAY-RELATED EXCISE TAX PROVISIONS

1. TAX RATES

Present law

Current highway motor fuels and other highway excise taxes (the "HTF taxes") are scheduled to expire after September 30, 1995. These taxes include: 11.5 cents per gallon on gasoline and special motor fuels (including motorboat and small engine fuels); 17.5 cents per gallon on highway diesel fuel; 12 percent of retail price on heavy trucks and truck trailers; graduated rates on heavy highway vehicle tires; and a graduated annual use tax on heavy highway vehicles. All revenues from these tax rates are deposited in the Highway Trust Fund ("HTF"), except that revenues from taxes on motorboat and small engine gasoline fuels deposited in the HTF are transferred to the Aquatic Resources Trust Fund ("Aquatic Fund").

Gasoline, special motor fuels, and diesel fuel (including diesel fuel used in trains) are taxed at 2.5 cents per gallon through September 30, 1995. Revenues from these taxes are retained in the General Fund. Further, a separate 0.1-cent-per-gallon tax applies to these fuels to finance the Leaking Underground Storage Trust Fund ("LUST fund").

House bill

The House bill extends current HTF taxes (and exemptions from these taxes) for four years, through September 30, 1999. Also, the House bill extends current trust fund taxes on motorboat and small engine fuels for that period.

The current 2.5 cents-per-gallon deficit reduction rate on motor fuels, including the train diesel fuel tax, is not extended beyond the current 1995 expiration. Thus, from October 1, 1995, through September 30, 1999, the motor fuels tax rates (not including the LUST fund rate) will be 11.5 cents per gallon for gasoline and special motor fuels and 17.5 cents per gallon for highway diesel fuel.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. DEPOSITS AND TRANSFERS OF REVENUES

Present law

Gross revenues from the HTF taxes are transferred to the HTF through September 30, 1995. Gross revenues from the 11.5 cents-per-gallon taxes on certain motorboat fuels and small-engine gasoline fuel are transferred from the HTF to the Aquatic Fund through September 30, 1995.

House bill

The House bill extends the transfers of gross revenues from the current HTF taxes to the HTF through September 30, 1999. The House bill also extends transfers from the HTF to the Aquatic Fund of the fuels taxes currently transferred to the Aquatic Fund through September 30, 1997 (to conform to the HTF expenditure authority termination date).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. HIGHWAY TRUST FUND PROVISIONS

1. TRUST FUND EXPENDITURE AUTHORITY

Present law

HTF expenditure authority is scheduled to expire on October 1, 1993.

The Aquatic Fund consists of two accounts: the Sport Fish Restoration Account for which there is no scheduled expiration date of expenditure authority and the Boat Safety Account for which expenditure authority is scheduled to expire after March 31, 1994.

House bill

The House bill extends HTF expenditure authority through September 30, 1997. Expenditure authority for the Aquatic Fund's Boat Safety Account is extended through March 31, 1998.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. TRUST FUND EXPENDITURE PURPOSES

a. Highway Account Generally

Present law

HTF Highway Account amounts are available, as provided in appropriations acts, to funds obligations incurred under the Highway Revenue Act of 1956, the Surface Transportation Act of 1982, the Surface Transportation and Uniform Relocation Act of 1987 ("1987 Act"), or for amounts for a general purpose authorized under these acts as in effect on the date of enactment of the 1987 Act.

House bill

The House bill adds to the permissible HTF expenditure purposes expenditures for purposes provided under the Intermodal Surface Transportation Infrastructure Act (H.R. 2950).

The House bill further provides that the permissible HTF expenditure purposes include only those specified in each Act cited above, as those Acts are in effect on the date of enactment of H.R. 2950.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

b. Mass Transit Account

Present law

Amounts in the Mass Transit Account of the HTF are available through September 30, 1993, as provided in appropriation acts, for making capital expenditures under section 21(a)(2) of the Urban Mass Transportation Act of 1964 ("UMTA"). UMTA section 21(a)(2) authorizes Mass Transit Account expenditures for construction and purchase of facilities and rolling stock, innovative techniques in public transportation services, planning and technical studies, and grants to assist elderly and handicapped needs.

House bill

The House bill provides that Mass Transit Account amounts are to be available for "capital" and "capital-related" purposes under UMTA sections 21 (a)(2), (b), (c), (g)(2), (h), or (j)(1), as in effect on the date of enactment of H.R. 2950.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

c. Highway Tax Compliance

Present law

Internal Revenue Service ("IRS") highway tax compliance expenditures are financed from General Fund appropriations.

House bill

Provisions contained in the non-revenue titles of the House bill authorize HTF amounts for grants to the IRS and/or States for motor fuels and other highway use tax enforcement activities. These provisions also provide for an Advisory Committee to the Secretary of Transportation (from the Federal Highway Administration, IRS, and the States) to prepare and coordinate the highway tax enforcement projects, with semi-annual reports to be made to the House and Senate authorizing committees ("Public Works") on the expenditure of such monies.

The House bill's revenue title provides that Department of Transportation may not impose any conditions on the use of any funds allocated to the IRS, and that the IRS must submit a report to the Ways and Means and Finance Committees at least 60 days before the start of each fiscal year (after FY 1992) on the projected use of any such funds it receives. Further, the revenue title provides that the semi-annual reports by the Advisory Committee also are to be made to these tax-writing committees.

Senate amendment

The Senate amendment authorizes HTF amounts for grants to the IRS and/or States, to be used only to expand motor fuel tax enforcement activities and to reduce other highway use tax evasion. Semi-annual reports are to be made to the House and Senate Public Works committees on the expenditure of these monies.

Conference agreement

The conference agreement follows the House bill's restrictions on monies allocated to the IRS.

C. NATIONAL RECREATIONAL TRAILS TRUST FUND

Present law

Gasoline used in off-highway business uses is exempt from the HTF and deficit reduction rates of the gasoline excise tax. Off-highway recreational (i.e., nonbusiness) use is not exempt.

Revenues generated at the HTF tax rate that are attributable to nonbusiness off-highway uses are transferred to the HTF. Revenues attributable to the HTF rate on gasoline in a nonbusiness use of small-engine outdoor power equipment are then transferred from the HTF to the Aquatic Fund's Sport Fish Restoration Account.

House bill

No provision.

Senate amendment

Establishment of trust fund and transfer of revenues

The Senate amendment establishes a National Recreational Trails Trust Fund ("Trails Fund") in the Trust Fund Code of the Internal Revenue Code (the "Code"). For the first year of the new Fund's existence, amounts equivalent to 0.3 percent of total HTF receipts and, after the first year, revenues corresponding to those received from "nonhighway recreational fuel taxes," are to be transferred annually from the HTF to the Trails Fund.

Nonhighway recreational fuel taxes are defined as those imposed on gasoline, diesel, and special motor fuels (at the HTF rates) for (1) fuel used in vehicles and equipment on recreational trails or back country terrain (including highway vehicles when used on recreational trails, trail access roads not eligible for Federal highway funding, or back country terrain) and (2) fuel used in camp stoves and other outdoor recreational equipment.

Expenditures from trust fund

The Senate amendment authorizes general expenditure purposes from the Trails Fund by cross-referencing Public Works' provisions of the bill.

The Public Works' provisions in the Senate amendment set specific rules for allocating monies to the States for use on trails and trail-related projects. Among the authorized uses of the funds are (1) acquisition of new trails and access areas, (2) maintenance and restoration of existing trails, (3) State environmental protection education programs, and (4) program administrative costs.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications:

(1) The conference agreement provides that the annual revenue transfers to the Trails Fund may not exceed the annual obligation ceilings contained in the bill; the Treasury Department must report annually the amount of revenues it determines to be attributable to nonhighway recreational fuels taxes to the Committees on Ways and Means and Finance;

(2) The conference agreement clarifies that revenues transferred to the Trails Fund do not include revenues currently transferred to the Aquatic Fund; and

(3) The conference agreement sunsets revenue transfers to and expenditure authority from the Trails Fund on October 1, 1997.

(4) The agreement also includes additional technical modifications to conform the Trails Fund to the Code trust funds.

D. NATIONAL HIGHWAY INSTITUTE FUNDING AND FEES

Present law

There is a National Highway Institute which (among its activities) conducts training programs for Federal, State, and local highway employees.

House bill

No provision.

Senate amendment

The Senate amendment expands the Institute's charter to authorize training programs for employees of private agencies. The Institute also is authorized to establish and collect fees from any entity and to place such fees in a special account to fund its operations.

Conference agreement

The conference agreement follows the Senate amendment, with the modification limiting fees that may be assessed to amounts charged to users of the Institute's training programs, not to exceed the costs of services provided.

E. RURAL TOURISM DEVELOPMENT FOUNDATION

Present law

The Code provides tax-exempt status for any corporation which is organized under an Act of Congress and is an instrumentality of the U.S., but only if the corporation is exempt from Federal income tax under (1) provisions contained in the Code (including sec. 501(e)), (2) the corporation's organizing Act (as in effect before July 18, 1984) or (3) a revenue Act enacted after July 17, 1984.

Contributions and gifts to or for the use of the United States for exclusively public purposes are deductible for Federal income, estate, and gift tax purposes.

House bill

No provision.

Senate amendment

The Public Works' provisions in the Senate amendment establish a charitable, nonprofit corporation to be known as the Rural Tourism Development Foundation to plan and implement projects and programs to attract foreign visitors to rural America. The provisions specifically provide that the Foundation and any income or property received or owned by it, and all transactions relating to such income or property, are exempt from all Federal, State, and local taxation.

The provisions also provide that contributions, gifts, and other transfers made to or for the use of the Foundation are regarded as contributions, gifts, or transfers to or for the use of the United States.

Conference agreement

The conference agreement follows the House bill.

F. SENSE OF THE CONGRESS RELATING TO COMMUTE-TO-WORK BENEFITS

Present law

Present law allows employers to provide employee benefits excludible from gross income of up to $21 per month (recently raised from $15 by the IRS) for mass transit use.

House bill

No provision.

Senate amendment

The Senate amendment includes a "Sense of Congress" resolution that the current dollar limit on the exclusion for employer-provided transit benefits unduly penalizes employer efforts to encourage mass transit use by employees. The Senate amendment urges that the amount excludible from employee gross income be increased.

Conference agreement

The conference agreement follows the Senate amendment.

G. BUDGET ACT COMPLIANCE

Present law

The 1990 Budget Enforcement Act provides "spending caps" for certain expenditures and a "pay-as-you-go" requirement for net increases in direct spending and revenues during FY 1991–1995. If net direct spending increases are not offset, a sequester (automatic across-the-board reduction) in non-exempt direct spending programs will occur.

House bill

The House bill provides that notwithstanding any other provision of the House bill, no new direct spending would be created by the bill. The bill requires a proportional reduction in highway and transit obligations for FY 1992 in the event that outlays pursuant to the FY 1992 obligations under the House bill exceed those contained in any transportation appropriations bill for FY 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

From the Committee on Public Works and Transportation for consideration of the entire House bill (except title VII), the entire Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
NICK RAHALL,
DOUGLAS APPLEGATE,
RON DE LUGO,
GUS SAVAGE,
ROBERT A. BORSKI,
JOE KOLTER,
JOHN PAUL HAMMERSCHMIDT,
BUD SHUSTER,
WILLIAM F. CLINGER,
THOMAS E. PETRI,
RON PACKARD,
SHERWOOD BOEHLERT,
HELEN DELICH BENTLEY,

From the Committee on Ways and Means, for consideration of title VII of the House bill, and secs. 140E, 141 through 144, 271(b)(12), and 305 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
GUY VANDER JAGT,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 5, 121(a), 123, 124, 134 (a) and (b), 143, 184, 209, 322(m), 335, title V (insofar as it addresses railroads), secs. 601(b), 608 through 610, 617, and 620 of the House bill, and secs. 103(b) (1), (2), and (9), 106(a), 107, 113, 114, 115 (a)(2) and (d), 116, 117, 122(b), 127, 128, 131, 140G, 140T, 140U, 239, 261, 262, 319, and 336 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
GERRY SIKORSKI,
NORMAN F. LENT,
DON RITTER,

Provided that Mr. Dannemeyer is appointed in place of Mr. Ritter for consideration of secs. 123 and 124 of the House bill, and secs. 103(b)(2), 106(a) (insofar as it addresses 23 U.S.C. 133(a)(10)), 107, 113, 114, and 319 of the Senate amendment:

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 140I, 140N, part A of title II (except secs. 204, 218, and 226), 264, and 271 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,
W.J. (BILLY) TAUZIN,
JIM SLATTERY,
RICK BOUCHER,
THOMAS J. MANTON,
TERRY L. BRUCE,
CLAUDE HARRIS,
MIKE SYNAR,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
MATTHEW J. RINALDO,
DON RITTER,
JACK FIELDS,
MICHAEL G. OXLEY,

As additional conferees from the Committee on the Judiciary, for consideration of sec. 409 of the House bill, and sec. 238 and title IV of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
BARNEY FRANK,
HAMILTON FISH, Jr.,
CARLOS J. MOORHEAD,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of secs. 141 (a) and (e), 202, 317, 405, 502, 601, 604 through 609, 616 through 618, 651 through 659, and 671 through 673 of the House bill, and secs. 103(b) (9) and (10), 106(a), 107, 115, 116, 127(g), 136(b), 203(e), 204, 232(a), 329, and 341 of the Senate amendment, and modifications committed to conference:

GEORGE E. BROWN, Jr.,
TIM VALENTINE,
DAN GLICKMAN,
TOM LEWIS
(Except Sections 103(b)(9) and 116),

As additional conferees from the Committee on Government Operations, for consideration of title IV of the Senate amendment and modifications committed to conference:

JOHN CONYERS, Jr.,
FRANK HORTON,
Managers on the Part of the House.

From the Committee on Environment and Public Works:

DANIEL PATRICK MOYNIHAN,
QUENTIN BURDICK,
GEORGE MITCHELL,
FRANK R. LAUTENBERG,
HARRY REID,
JOHN H. CHAFEE,
STEVE SYMMS,
JOHN WARNER,
DAVE DURENBERGER,

From the Committee on Commerce, Science, and Transportation:

J. JAMES EXON,
RICHARD H. BRYAN,
JOHN DANFORTH,
SLADE GORTON,

From the Committee on Banking, Housing, and Urban Affairs:

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
CHRISTOPHER S. BOND,
ALFONSE D'AMATO,

From the Committee on Finance:

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BOB PACKWOOD,
BOB DOLE,

From the Committee on Governmental Affairs, only for the consideration of the Uniform Relocation Act Amendment:

JOHN GLENN,
CARL LEVIN,
BILL ROTH,
Managers on the Part of the Senate.

Mr. ROE. Mr. Speaker, pursuant to the rule, I call up the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

Mr. ROE. Mr. Speaker, I would like to request, if I may, the balance of the time that is allocated to both sides.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. ROE] under his unanimous-consent request has 18 minutes remaining, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] has 17 minutes remaining.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the indefatigable chairman of our committee, the gentleman from New Jersey [Mr. Roe] whose relentless pursuit of this legislation has brought us to the successful conclusion we celebrate this morning.

Mr. Speaker, the key word and the key concept in this bill is intermodal. This is the first time in the history of transportation legislation that one bill brings together, knits and threads together in one conceptual and detailed piece of legislation, the several modes by which we move people and goods in this country.

As this legislation unfolds and is put into place in the many programs authorized under it, a person will be able to take a ride to an airport, unload his bicycle from the trunk, get aboard that airplane, fly to the destination, mount that bicycle on a car, take a drive on a scenic byway, dismount, and ride that bicycle on a bike path or on to an abandoned railroad bed that has been paved over for bicycling, dismount the bike and walk a beautiful vista along that pathway, get back into the car, and drive to his final destination and enjoy the beauty of this country through the several modes of transportation made possible.

Mr. Speaker, we chart a whole new course with this legislation. We will relieve urban congestion, we will improve rural transportation, we will improve the highways of this country, we will develop new concepts through the maglev that is included in this legislation, and we will indeed chart the course for transportation now through the beginning of the next century.

Mr. Speaker, I rise in support of H.R. 2950, the Intermodal Transportation Efficiency Act of 1991, and urge its passage. I also commend, in the strongest meaning of that word possible, the leadership of the House Committee on Public Works and Transportation, the indefatigable gentleman from New Jersey [Mr. ROE], the gentleman from California [Mr. MINETA], the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from Pennsylvania [Mr. SHUSTER], as well as the staff of the Subcommittee on Surface Transportation, for the truly heroic effort they have put into this bill over the last 6 months and more.

Along with its other landmark provisions, directing our Nation's transportation policy for the remainder of this century and into the next. H.R. 2950 contains two programs which I initiated, and in which I am particularly interested.

SCENIC BYWAYS

Section 147 of H.R. 2950 authorizes a Scenic Byways Program incorporating a substantial portion of my own bill, H.R. 2957, which my colleague, the gentleman from Oregon [Mr. DEFAZIO], the Senator from West Virginia [Mr. ROCKFELLER], and I developed in cooperation with a broad range of groups to meet the need of recreational Americans, particularly the recreational driver, as well as the bicyclist and hiker.

Growing numbers of recreational drivers, particularly, long to escape the fast lanes funded by most of this and past legislation, and to tour slowly the backways and byways of America, savoring at a leisurely pace the richness of America's scenic, recreational, historic, cultural, and archaeological treasures and bringing economic diversity to small towns bypassed by the mainarteries of our highway system.

Many States already have their own Scenic Byways Programs, such as the Blue Ridge Parkway in Virginia, or the 10-State Great River Road, which crisscrosses the mighty Mississippi River along its 2,000-mile course from Minnesota to the Gulf of Mexico.

H.R. 2950 authorizes $80 million, over 6 years, from the highway trust fund under contract authority, for scenic byways.

While the provision of our scenic byways bill authorized an Office of Scenic Byways, this provision was not adopted into H.R. 2950. A complete office may not be necessary, but I would insist that the Department of Transportation and the Federal Highway Administration devote adequate staff to administering this $80 million program. This is a substantial amount of public funds, but more important, the program needs the sensitivity, judgment, and time of a staff dedicated solely to it. If it simply becomes a part-time job, imposed on already overworked staff, the program will not be the success it could be.

Section 147 of H.R. 2950 establishes a Scenic Byways Advisory Committee, to develop and present to the Secretary of Transportation recommendations regarding minimum criteria for use by State and Federal agencies in designating highways as scenic byways and as All-American Roads. The section recognizes the need for flexibility in this Federal program, to accommodate State programs, some of which have existed for many years. At the same time, it is important to establish these minimum criteria, so that people's expectations are not disappointed when they make the long trip to travel a road with the scenic byways designation.

The advisory committee has 18 months to develop these minimum criteria and present their recommendations to the Congress and the Department of Transportation. I would expect the Secretary to take these recommendations fully into account in approving funding for projects on State-designated scenic byways. This is especially important because section 147, unlike our bill, makes no provision for the States to nominate, or the Secretary to designate, highways for the scenic byways and All-American Roads systems.

Section 147 does not define All-American Roads, but I would expect the Secretary to adopt the definition contained in H.R. 2957: "those highways designated as scenic byways * * * which are of national significance, are of outstanding natural beauty, are in areas of quintessential scenery, are of high cultural interest, or are of exceptional or unique value."

Section 147 also establishes a 3-year Interim Scenic Byways Program. Under this interim program, the Secretary is required to give priority consideration to certain projects. These priorities are designed to protect the scenic, historical, recreational, cultural, and archeological characteristics for which the byway is designated, while assuring the appropriate local and private roles in project funding. The section gives priority to projects with corridor management plans designed to protect scenic byway values, and to those with a strong local commitment to implementing the management plans and protecting the scenic and other characteristics.

Priority is also accorded to those eligible projects which are included in programs that can serve as models for other States to follow, and to eligible projects in multi-State corridors where the States submit joint applications.

Eligible projects are clearly spelled out. The conference added a provision permitting 10 percent of the funds to be used for billboard removal.

Mr. Speaker, I want to stress, as strongly as possible, that the purpose of the Scenic Byways Program is to maintain and enhance the values associated with scenic byways. These byways are more than concrete and asphalt; more than paving and pothole fixing. The Scenic Byways Program is to be an adjunct to, rather than a replacement for or duplication of, other programs in H.R. 2950.

Finally, section 147 provides specific protections for byways, by stipulating that the Secretary shall not fund any project that would not protect the scenic, historic, recreational, cultural, natural, and archeological integrity of the highway and adjacent area.

H.R. 2950 provides for a mid-term review of many programs. It is my clear understanding that scenic byways will be one of those programs reviewed, with the purpose of following the interim program with a full-fledged, adequately funded, permanent Scenic Byways Program.

BICYCLE AND PEDESTRIAN FACILITIES

Mr. Speaker, H.R. 2950 also contains important provisions to assure the construction of many more bicycle lanes, paths and trails, and more pedestrian walkways in urban and rural areas. Many of these provisions are patterned on H.R. 2267, my bicycle and pedestrian facilities bill.

Strategically placed throughout the highway provisions of H.R. 2950 are provisions relating to planning and location of bicycle and pedestrian facilities.

Section 132, bicycle transportation and pedestrian walkways, provides further direction to State Departments of Transportation to use funds apportioned under the National Highway System, the urban and rural mobility programs, the flexible program, and the Federal lands highway programs, for these facilities.

Section 132 also creates the position of State Bicycle and Pedestrian Coordinator in each State Department of Transportation. The coordinator would be responsible for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities. It is vitally important to have an advocate for bicyclists and pedestrians within each State DOT, providing the critical focal point for contact between bicycle and pedestrian groups and their agency.

The same section would provide that any bridge deck replacement or rehabilitating project would have to accommodate bicycles if they, the bikes, are permitted to operate at both ends of the bridge, as long as such accommodation can be provided at reasonable cost.

Finally, the use of motorized vehicles would be prohibited on these trails and walkways, unless State or local regulations permit snowmobiles and motorized wheelchairs, and under other circumstances as the Secretary deems appropriate.

The point I wish to stress is that Congress intends that more trails and walkways be built in conjunction with projects funded under this bill, and independent of these projects, to accommodate the legitimate needs of bicyclists and walkers—who are, for the most part, also drivers who contribute their fair share to the highway trust fund.

Section 217 of title XXIII, which this section amends, has for many years permitted the States to use highway funds for bicycle and pedestrian paths and trails, yet few have been built. It is thus highly appropriate, in the Intermodal Transportation Efficiency Act, to add provisions requiring accommodation of these modes which provide energy efficient, environmentally protective, cost-saving and congestion-lessening transportation to this bill.

As the bicycle and pedestrian provisions are implemented, I will observe closely how well State DOT's respond to citizen demands for bike lanes and trails, and pedestrian walkways. They have had a hard time being heard under the existing, voluntary, construction program. I hope the program established under H.R. 2950 will go much farther toward answering their needs, and toward providing the relief the Nation needs from transportation congestion, pollution, and costs to the taxpayer and the individual commuter.

□ 0500

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, first of all, I want to commend the leadership of our committee for the outstanding job that they have done in crafting this legislation which has taken weeks and months and endless hours of work to get to this point. It is absolutely imperative that we pass this bill tonight and get it to the President for signature.

Let me just give you about 34 reasons why we need to pass it tonight. Ten of them are the 10 States that have already run out of money for their highway programs, which means that the jobs involved in those programs are no longer there. The 10 States are Alabama, Arkansas, Connecticut, Florida, Nebraska, North Dakota, Oregon, Tennessee, Virginia, and Wisconsin. So those States at present are doing no highway construction because their funds have dried up. About 24 other States, if we do not pass this bill and move it to the President tonight, will run out of money within the next 3 weeks, and that means that their Highway programs will shut down. They consist of Delaware, the District of Columbia, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Michigan, Missouri, Nevada, New Mexico, New York, Ohio, Pennsylvania, South Carolina, Texas, Utah, and Washington.

My colleagues, these States are going to be out of business as of the 1st of January, if we do not pass this bill.

This is, as it has been said before, a jobs bill. It is a safety bill. It is a competition bill. It is a transit bill. It is all of these things. But most importantly, it is the only bill that we have before us and are going to have before us that really offers some measure of economic recovery and economic development, one that can go onstream immediately. It is going to put people to work. It is going to keep people working.

This is our economic growth bill that we can deal with in this session of this Congress right here, right now, and I urge support for this bill.

Mr. ROE. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in support of conference report on this bill, H.R. 2950, and particularly in support of those portions of the legislation on which our committee participated as conferees.

I want to especially commend chairman ROE and ranking Republican member HAMMERSCHMIDT of the full committee, as well as chairman MINETA and ranking Republican member SHUSTER of the subcommittee, for their extraordinary leadership in the House and in the conference on this bill and this agreement today.

I also want to thank them and the other members of the Committee on Public Works and Transportation, as well as the Public Works staff on both sides of the aisle, for their great cooperation in ensuring that matters of concern to the Committee on Energy and Commerce were fully protected and properly addressed by our committee.

In addition, I want to commend our committee members, particularly Mr. SWIFT, Mr. LENT, Mr. SIKORSKI, Mr. ECKART, Mr. RITTER, and Mr. OXLEY for their help in developing this compromise. I also want to thank Senators HOLLINGS, BRYAN, DANFORTH, EXON, and GORTON and their staff.

Mr. Speaker, this is a good bill. It preserves the agreements reached between our two committees and the Senate in the last Congress regarding the Clean Air Act and highways.

The conformity provisions of section 176(c) of the Clean Air Act will continue to apply in the same manner and to the same extent as the House and Senate conferees expected when we adopted the 1990 amendments to the Clean Air Act. I expect the Secretary of Transportation, the Environmental Protection Agency, the States, and metropolitan planning organizations to comply fully with section 176(c). In addition, I expect the congestion management program to be carried out in a way to further the purposes of the Clean Air Act.

Importantly, the Senate receded from two energy provisions that would have been inconsistent with our resolution in the Clean Air Act, last year of the reformulated gasoline and oxygenated fuels issues.

The conference report also gives a tremendous boost to high speed rail and magnetic levitation technologies and will help the United States catch up to—and hopefully surpass—the Germans, French, and Japanese in this field. By combining the best elements of Senator MOYNIHAN's maglev provisions and the provisions of our committee's high speed rail bill, H.R. 1087, authored by Mr. SWIFT and Mr. RITTER, the chairman and ranking Republican member of our Subcommittee on Transportation and Hazardous Materials, the Congress has for the first time demonstrated a genuine financial commitment to high speed ground transportation.

One important provision of this demonstration program prohibits grants and contracts from going to support high speed ground transportation projects or systems located in States that by virtue of their own State laws have prohibited State funds or revenues from contributing to the construction or operation of such projects or systems. It is not necessary that a State actually have a present commitment to funding such projects or systems; however, it would be grossly unfair to use the tax dollars of my constituents in Michigan for this purpose, or of taxpayers in any State for that matter, when the State in which the project is located affirmatively prohibits its own State taxpayer dollars from being used for that project.

In support of these efforts, the legislation also includes a new high speed ground transportation research and development program, based on the excellent work of the House Science Committee in this area. This program is authorized to expend $25 million and, coupled with the economic, financial, and technical assessments required by the bill, will provide a sound basis for future decisionmaking in this area. Putting a package of this magnitude required the cooperation of five congressional committees working within very tight time constraints, and I applaud the chairmen and members of all those committees, as well as their staffs, for working so well together.

Mr. Speaker, the House and Senate bills both contained provisions dealing with asphalt rubber paving. The United States discards approximately 242 million tires each year, which are presenting enormous disposal problems and health hazards for local governments. In addition, 2 billion discarded tires have accumulated in piles or dumps throughout the country. This legislation establishes a minimum utilization requirement on procuring agencies, as they are defined in section 1004(17) of the Solid Waste Disposal Act to use recycled rubber in asphalt pavement. This will help consume millions of old tires which are fouling our landscape and consuming valuable landfill capacity. Much more, however, needs to be done to develop markets for scrap tires. According to an October 1991 EPA report, the total usage of tires for recycling currently is estimated to be less than 7 percent of the annual generation. In the reauthorization of the Solid Waste Disposal Act, the Committee on Energy and Commerce will be pursuing further opportunities to address this troublesome health and environmental problem.

Mr. Speaker, as you know, the Senate added a non-germane amendment to this bill in the form of S. 1012, which the Senate had earlier passed separately and which relates to the activities of the National Highway Traffic Safety Administration, which is under the jurisdiction of this committee. There was no companion House provision.

The Senate committee report on S. 1012 notes that "no legislation" authorizing NHTSA funding has been enacted since 1982, which is true. It also points out that the Senate passed bills since 1986, authorizing such appropriations. That is also true. But those bills covered more than such authorizations. They made significant changes in the basic statutes administered by NHTSA. Until very recently, no similar House bills were introduced.

The lack of annual authorization has not affected NHTSA's duties and obligations under existing law. Moreover, Congress, through the appropriations process, has annually funded NHTSA.

As the Senate Committee on Commerce, Science, and Transportation report on S. 1012 observes, in 1986 both Houses passed separate versions of NHTSA authorization bills (S. 863 and H.R. 2248). Each also included significant changes in the existing NHTSA statutes. Efforts to reconcile informally the differences between the Senate and House proved unsuccessful before the 99th Congress adjourned sine die.

The bills introduced and passed in the Senate in subsequent Congresses did not include any of the provisions where agreements were reached in 1986. Indeed, they were nearly identical to the Senate version in the 99th Congress, which the House had rejected. They did not reflect any of the House view as expressed in H.R. 2248.

Because oversight is often quicker and more effective than legislation, our Committee, including the Subcommittee on Transportation and Hazardous Materials and the Subcommittee on Oversight and Investigations, worked closely with the Subcommittee on Transportation appropriations to commit NHTSA and the DOT to utilize in a timely fashion existing statutory authority to accomplish many of the safety objectives or requirements of S. 863 and H.R. 2248. Our view then and today was that the existing statutes—the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act—provided broad authority that needed to be used in a more timely and effective manner to resolve safety concerns expressed by both Houses in the 99th Congress. This could be done through rulemaking and other means, whether or not legislation was considered. We also urged the industry to be supportive of such rulemaking and its early resolution.

As the Senate committee report observes, much has been done since 1986 by NHTSA or is underway within timeframes that have proved realistic and sensible. I also note that more and more vehicle safety features are being heavily advertised by the manufacturers and dealers, which I applaud. Safety has become important from a competitive standpoint. That is good and should continue.

Indeed, I urge that the industry adopt this same approach for fuel economy and emissions. The industry has achieved much since 1975, in improving fuel economy. They are continuing to do so. I believe that fuel economy needs attention in light of the global warming debate. We need to continue to improve fuel economy without further mandates.

I believe that the House and Senate committees and subcommittees just mentioned, as well as NHTSA and the DOT, deserve credit for these achievements under existing law. Nevertheless, while there are successes, there is always more to be done, and I expect DOT and NHTSA to carry out their commitments to our committee. This conference agreement is in furtherance of them.

Mr. Speaker, I think it is appropriate that at this time I briefly addressed some of the activities of the National Highway Traffic Safety Administration since 1986.

At the outset, I want to make it very clear that the conference agreement today does not provide any new authority for NHTSA. All of the activities covered by this bill relative to auto safety can be carried out and are being carried out under existing law. We are not ploughing new ground. Indeed, in some respects the foreign and domestic manufacturers are being penalized for volunteering to install safety related devices. I am concerned that we not dampen that voluntary approach which stems from competition and good sense.

The conference agreement today which included the provision of S. 1012 when it passed the Senate authorizes appropriations for NHTSA.

In response to my inquiry about this background, NHTSA in its letter to me of November 7, 1991 said:

> It is NHTSA's view that the National Traffic and Motor Vehicle Safety Act of 1966 (Vehicle Safety Act) and the Motor Vehicle Information and Cost Savings Act (Cost Savings Act) give the agency ample regulatory authority to carry out the statutory purposes. Differences of opinion will inevitably arise as to whether a particular regulation should or should not be issued, but the existing statutory framework provides adequate means for interested parties to express their views and to ensure that the agency is acting in accordance with the statutory criteria. The committee oversight process has often helped to focus attention on specific issues and has influenced the general direction of agency rulemaking. We believe that the regulatory process has evolved satisfactorily within the existing statutory framework and that it is proved responsive to matters of Congressional concern.
>
> We believe the responsiveness of the regulatory process is evident in the case of the side impact rulemaking, which was the principal regulatory action debated during consideration of S. 863 and H.R. 2248 in the 99th Congress.
>
> Section 302 of S. 863 would have required the agency to: (1) establish performance criteria for improved occupant protection in side impacts for occupants of passenger cars; and (2) extend the applicability of such a standard to light trucks, vans, and multipurpose passenger vehicles. The agency has completed the following actions under FMVSS No. 214, Side Door Strength:
>
> May 28-29, 1986—Public meeting on upgrading side impact protection for passenger cars.
>
> January 27, 1988—NPRM proposing dynamic side impact test procedure and performance requirements for passenger cars.
>
> January 27, 1988—NPRM proposing side impact test dummy.
>
> August 19, 1988—ANPRM requesting comment on side impact protection for occupants of light trucks and multipurpose passenger vehicles.
>
> December 12, 1989—NPRM to include light trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less in the existing FMVSS No. 214 static test requirements.
>
> October 24, 1990—Final rules: (1) establishing dynamic side impact requirements for passenger cars; (2) reporting and record keeping for phase-in requirements; (3) specifications for side impact test dummy; and (4) specifications for side impact moving deformable barrier.
>
> June 14, 1991—Final rule extending FMVSS No. 214 static test requirements to light trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less.
>
> The agency estimates that once all passenger cars meet the dynamic side impact test requirements of FMVSS No. 214, the benefits will be a reduction of 512 fatalities per year, and a reduction of 2,636 moderate to critical (AIS 2-5) non-fatal injuries each year. The average consumer cost impact of this dynamic test requirement is estimated to be $51 per passenger car. This cost estimate includes lifetime fuel costs and secondary weight impacts.
>
> In extending the static test requirements of FMVSS No. 214 to light trucks and multipurpose passenger vehicles, the agency esti-

> mates that once all such vehicles complied with the requirements, the benefits would be a reduction of 58 to 82 fatalities per year and 1,569 to 1,889 hospitalized non-fatal injuries per year. The average consumer cost is estimated to be $47 to $59 per vehicle. These cost estimates include lifetime fuel costs and secondary weight impacts.

Mr. Speaker, I want to now discuss the provisions adopted by your conferees regarding NHTSA, as well as some of the Senate provisions not included in the final agreement before us today.

NHTSA APPROPRIATIONS

The bill adopts for fiscal years 1992 through 1994 the Senate dollar amounts. It adds another year, fiscal year 1995, and provides an increase. I note that in discussing the Senate's funding levels, NHTSA's November 7, 1991 letter to me said:

> Funding would not be a significant problem with the implementation of these bills, if they allowed the agency to proceed with the research and rulemaking schedule outlined in its priority plan. The authorization levels would provide adequate funds to carry out the plan. The difficulty arises in the imposition of fixed rulemaking schedules, most of which would distort the agency's current plans and require it to redistribute its research and regulatory resources. The agency would not have the manpower or contract research resources to complete the rulemaking actions dictated by the bills within the timeframes allowed.
>
> For example, the bills do not authorize funds to carry out the National Academy of Sciences study of automobile crashworthiness mandated by Section 202. The estimated $1 million required to conduct this study, whose value we question, would seriously compromise other projects that we believe to have a greater value for motor vehicle safety. Other research and regulatory actions dictated by the bills would have similar effects.

The conferees agreed not to include these crashworthiness provisions of the Senate bill in part due to this funding issue. As to the fixed rulemaking schedules of the Senate bill. I believe the conference agreement is more realistic and provides NHTSA with greater flexibility and should help to avoid deferral of other matters. I commend the Senators for this approach.

As to other funding concerns by our Committee, the NHTSA letter states:

> The article in the August 3, 1991 edition of Status Report discusses NHTSA's research and development budget in relation to a 5-year program plan developed by the agency and published in late 1990. * * *
>
> The article suggests that NHTSA's research and development budget is not sufficient for carrying out the research program described in the plan. This is not the case. The program plan describes the research needed to support the agency's priority safety initiatives. Further, the research budget requests to Congress are based on the funding needed for the research to support these priorities. Neither the safety initiatives nor the research to support them are constrained by any funding limitations. There are no important projects that are lying dormant as the article suggests.
>
> If there were a need to ask for increased funding to support a new safety initiative, the agency would not hesitate to make the request. An example is the request for increased research funding to support the new Intelligent Vehicle/Highway Systems program. We envision that the crash avoidance capability of motor vehicles can be improved substantially through the application of emerging electronics technology. Based on this opportunity, and the recognition of this opportunity by the automotive industry and the safety community, the agency has asked for large increases in its research budget. The agency has also asked for significant increases in other areas where it identifies a need.
>
> The dramatic increase in funding recommended in the Transportation Research Board report on Safety Research for a Changing Highway Environment referred to in the article is based on the research needs perceived by members of the committee rather than on any systematic development of safety initiatives and supporting research needs. The agency's priority safety initiatives and the research to support them were developed from such a systematic approach. While the agency endorses the report's recommendation that increased funding may be needed, the agency disagrees that increases of the magnitude recommended in the report are needed.
>
> Finally, the agency does not envision a drastic change in emphasis from crash protection to crash avoidance. The agency's priority plan and its research plan describe ambitious crash protection, crash avoidance, highway safety, and data collection and analysis activities. The balance between the areas as reflected in budget requests may change from time to time as programs end and new initiatives are needed, but the agency's commitment to all areas remains undiminished.

GENERAL PROVISIONS

Before proceeding to discuss the bill further, I take note of the fact that the motor vehicle is principally regulated by two agencies, namely the NHTSA and the Environmental Protection Agency. When I inquired about this legislation, I asked:

> As we try to resolve one problem relating to safety or emissions, we should not, at the same time, create by statute or regulation a new program that relates to an equally important regulated activity. How does Congress help to ensure that the Federal Government's regulatory actions under the various laws are not counterproductive in the area of emissions, safety, energy, and fuel economy? What are the priorities?

The NHTSA reply was:

> NHTSA is in full agreement with your view that the method used to resolve one problem should not create another. In our view, the appropriate means of resolving potential conflicts between regulatory activities is to include in the statutory authority for each activities a requirement that the regulatory agency must consider the effects of its activity on other problems. The corporate average fuel economy law offers a good example of this, since it requires the Secretary to "consider the effect of other Federal motor vehicle standards on fuel economy." (15 U.S.C. 2002(e)(4)) This requirement obliges the agency to consider safety and environmental issues in its fuel economy rulemaking, and has afforded persons objecting to the agency's action a basis for seeking corrective action in court.
>
> We believe that statutory criteria such as that cited above can be used effectively by Congress in the oversight process. If the Congress has plainly indicated that the agency should consider the effects of its actions in one area on other areas, Congress can act to ensure that the agency does so. In the particular case of fuel economy rulemaking, the agency has consistently taken safety into account in determining the appropriate fuel economy level. It is this experience that underlies our concern about efforts to legislate drastically higher fuel economy levels, since we believe that these levels will not be achieved except through size and weight reductions that will compromise the safety of vehicle occupants.

I fully agree that such a legislative provision could be helpful. But there was none in the Senate bill and of course, there was no House bill.

It is clear, however, that NHTSA, through its memorandum of understanding with the EPA, has the capability now to consider "the effects of its actions in one area on other areas." None of the laws administered by NHTSA preclude that. The Energy and Commerce Committee intends to ensure that NHTSA does this at all times.

The conference substitute provides in lieu of the above mentioned provisions a process for conducting rulemakings in accordance with the National Traffic and Motor Safety Act of 1966. It also provides that any resulting standards be enforced in accordance with the 1966 statute. The process includes procedure for initiating a rulemaking either as an Advanced Notice as Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM) at the discretion of the Secretary of Transportation. It also provides for completion of the rulemakings consistent with the 1966 statute and the Administrative Procedures Act. Completion could include promulgation of a rule with or without changes, abandonment of the rule, a deferral of the rule, or starting all over at some future time. The Department cannot, however, terminate the rule because it lacked time to complete the rule. Whatever action is taken it must be published in the Federal Register in accordance with the Administrative Procedure Act and the 1966 Act and must include the reasons for that action.

Section 2503 lists four priority matters for which the Secretary must initiate a rulemaking in accordance with these general procedures. They are as follows:

First, unreasonable risk of rollovers for cars, light duty trucks and multi-purpose passenger vehicles;

Second, extension of passenger car side impact protection to multi-purpose passenger vehicles and light duty trucks;

Third, safety of child booster seats in passenger cars; and

Fourth, improve design for safety belts.

The listing of these matters for initiating rulemaking decisions is not to be construed as a determination by Congress as to whether or not a rule shall be finalized or if it is finalized what it should contain. The objective of the conferees is to require that the Secretary give priority consideration to these matters without affecting other rulemakings or decisions pending at the Department.

For these four matters, the conferees expect the Secretary to initiate either an ANPRM or a NPRM by May 31, 1992. If the Secretary cannot begin any one of these by that date, he must give notice of the decision to initiate them and provide a date certain for the initiation of either an ANPRM or a NPRM but which date certain shall not extend beyond January 31, 1993. He must also explain the reasons for this delay. A decision to provide a new date for that decision will not be reviewable.

Once a rulemaking is initiated, the Secretary must complete the rulemaking within 26 months after initiation, in the case of an ANPRM, and within 18 months after initiation, in the case of an NPRM. However, in the case of an ANPRM, the Secretary may decide not to proceed to an NPRM after issuing the ANPRM if based on the ANPRM he decides and publishes this decision against publication of a rule. He must do this in a manner consistent with the APA and the 1966 act. The Secretary may in the case of an NPRM extend the 18-month period for an additional 6 months. That extension is not reviewable.

In the case of section 2503 which provides for improved head injury protection regarding interior components of passenger cars, that is, roofs, pillars, and front headers there is a special rule. Under that special rule the Secretary must complete the rulemaking and issue a final rule within 24 months after the date of publication of the ANPRM or the NPRM. That publication must occur either by May 31, 1992 or, as indicated above, by January 31, 1993. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date of completion by an additional 6 months and publish a notice thereof in the Federal Register. The conferees emphasize that in the case of this special provision that a final rule is to be promulgated within the timeframe specified. The bill does not set forth the content of the rule or what is to be covered. DOT must decide that.

Thus, with exception of the head injury protection issue, the conferees do not predetermine the outcome of these rulemakings. The Secretary is free to conclude the rulemaking in any manner consistent with the APA and the 1966 Act. The conferees expect the Secretary to act on these matters in accordance with the time schedule provided.

The conferees also expect NHTSA to move quickly on these matters and give preference to rollover protection, and to extension of passenger car side impact protection to light duty trucks and multipurpose passenger vehicles. In the case of rollovers, the conferees note that in a November 7, 1991 letter to the Committee on Energy and Commerce, the Secretary said:

> The rulemaking process will develop an advanced notice of proposed rulemaking (ANPRM) which will be published late this year. This will be followed by a notice of proposed rulemaking. If the comments and other information in the rulemaking record support the issuance of a final rule, the agency would adopt such a rule. * * *
>
> Since the late 1980s, the agency has conducted research to determine if vehicle attributes exist which are related to vehicle rollover. In a multi-contract effort, the agency has collected engineering data on approximately 60 different vehicles, including MPVs, vans, trucks, and passenger cars. In addition, the agency has collected and analyzed over 100,000 accidents associated with rollover and non-rollover crashes of these vehicles. These two data sets, the physical measurements of the vehicles and the rollover propensity of the vehicles as measured by their actual accident history, were analyzed to determine correlations between vehicle rollover propensity and accident involvement. Correlations were found when controlling for variations in the individual crashes, such as driver demographics, weather conditions, and road conditions. This analysis was completed in the spring of 1991 and will provide the basis for the forthcoming ANPRM.

The conferees would expect NHTSA to issue an ANPRM before May 31, 1992. Indeed, the conferees understand that an ANPRM has recently been submitted to the Office of Management and Budget.

In addition to the special provisions regarding head injuries just discussed, the conferees require a study and report to the Congress requiring additional types of protection against head injury which the Secretary is currently researching, including head injury prevention to occupants in various types of crashes, such as side impact. This report must also outline the Secretary's plans for initiating a rulemaking in these areas in fiscal year 1994 and 1995. Again, the conferees do not require a final rule or indicate what the rule, if any, would cover or do.

RECALL OF CERTAIN MOTOR VEHICLES

This provision was recommended by NHTSA. Indeed, in its November letter, NHTSA said:

> The Department requested the provision concerning reminder notices in recall campaigns on the basis of experience with campaigns in which such notices had significantly improved the percentage of vehicles returned for repair. We continue to believe that a second notice would be useful in campaigns where the response rate is particularly low. Other measures, such as newspaper publicity, have been attempted without appreciable success.
>
> The forwarding of copies of recall notices by lessors to their lessees will help ensure that leased vehicles are returned for repair. This will be of value not only to the lessees, who might not otherwise learn of a potential safety hazard, but to the subsequent purchasers of the leased vehicles. We do not regard the requirement as burdensome to the lessors, since they would routinely know the whereabouts of their lessees and could readily notify of any recall. From past recalls, NHTSA has noted that leased vehicles have a lower rate of return than other vehicles. This provision would help improve the rate.
>
> The provision relating to the remedy of defects and noncompliances in new vehicles and vehicle equipment before sale or lease also arises from the agency's experience with situations in which vehicles subject to recall were sold to consumers without remedying the condition that led to the recall. While the agency does not believe that this is a frequent occurrence, the potential consequences for a new car buyer could be serious. Section 108(a)(1)(A) of the Vehicle Safety Act currently prohibits the sale of a new vehicle that does not comply with all applicable standards, but there is no corresponding provisions for vehicles that have been determined to contain a safety-related defect. This provision would correct that situation. The provision would apply only to new cars held by dealers before the first sale or lease, and not to used cars, thereby addressing a concern voiced by dealers.

We note that subsection (b) includes an important disclaimer regarding "offers" for sale or lease as opposed to actual sale or lease.

STANDARDS OF COMPLIANCE TEST PROGRAM

This Senate provision was, in the view of our committee and NHTSA, unnecessary, NHTSA said:

> At this time, there are 50 Federal motor vehicle safety standards in effect. Of these, 40 are capable of being tested in a laboratory environment. The other 10 are evaluated by visual inspection. The attached table presents the 5-year plan for the 40 "testable" standards (41 standards are included, since FMVSS 131 will go into effect in September 1992).
>
> It is important to emphasize that we believe all testable standards should be selected for testing over a period of time. We construe this section as permitting us to consider a number of factors in determining the priority of standards for testing, and thus do not strongly oppose it. Beginning with fiscal year 1987, NHTSA revised its testing schedule to respond to recommendations in a General Accounting Office (GAO) report on NHTSA's enforcement program. A legislative remedy to impose the same revisions would be moot.
>
> You asked whether this provision is needed and if it is objectionable. We believe the provision is unnecessary, since we already have such a schedule. Based on test results for a given standard, however, our schedule may change in order to address important safety issues. For example, a compliance failure may dictate that we reallocate compliance test funds to address a critically important compliance problem that has a substantial real-world safety impact. A legislated test schedule would preclude this necessary flexibility. Accordingly, a rigid test schedule is objectionable.

The conferees listened to NHTSA. The conference substitute does not require a "rigid test schedule." The flexibility NHTSA wanted is provided.

REAR SEATBELTS

NHTSA's letter states:

NHTSA has undertaken a number of efforts to make the public aware of the benefits of retrofitting vehicles with rear seat lap/shoulder belts. These efforts include requiring information in owners manuals; encouraging manufacturers though direct telephone, letter, and personal contact to make retrofit kits widely available, publishing information directly; providing information to consumer and highway safety groups through NHTSA Regional Offices and State highway offices on the subject; and responding to consumer inquiries through the agency's toll-free Auto Safety Hotline.

However, we must point out that lap-only belts in the rear seat are proven safety devices. Studies of occupant protection from 1968 forward show that the lap-only safety belts installed in rear seating positions are effective in reducing the risk of death and injury, when worn properly. We estimate that there is a much larger potential safety benefit to be gained through working to increase belt usage than would be obtained through working to replace current equipment at today's usage rates. Thus, while lap/shoulder belts offers some increase in safety benefits over lap-only belts, we believe the greatest safety gain will be realized by increasing usage of whatever belt system is available.

In addition, no additional funds are authorized to the agency to cover the cost of an expanded effort in informing the public of the availability of rear seat lap/shoulder belts. In consideration of our current funding level, we believe that the agency is doing an effective job to inform the public of the availability of retrofitting vehicles with rear seat lap/shoulder belts.

Once again, the conferees listened. The program is for fiscal year 1993 only.

BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS

This is an area where the auto and truck manufacturers are voluntarily installing safety equipment. It is in the area of antilock braking systems or ABS. This bill recognizes this fact. ABS is already standard equipment, or at least available on all domestically produced light duty trucks. ABS is also being installed on many passenger cars today—including low-priced autos—as standard or optional equipment. The conference substitute recognizes this fact and requires the NHTSA Administrator to initiate an Advanced Notice of Proposed Rulemaking [ANPRM] to investigate the need for any additional brake performance standards for passenger cars, taking into account manufacturer's voluntary early application of economical and effective anti-lock brake systems on new cars.

AUTOMOTIVE CRASH PROTECTION AND SAFETY BELT USE

It is important to again note that the vast majority of the NHTSA authorization bill puts into law what the domestic auto and truck manufacturers are already doing. In a very real sense the old adage about never volunteering proves out to be true. This is even truer in the case of airbags.

This legislation mandates airbags for cars and light duty trucks and multi-purpose passenger vehicles—while the automakers are now voluntarily installing airbags in such vehicles. Consumers already have a wide range of choices in showrooms today of vehicles equipped with airbags.

All of the domestic manufacturers and many of the foreign manufacturers have announced plans for voluntarily installing airbags in their vehicles during this decade. As noted many have already done so and have taken advantage of that effort in their advertising. They have done so, in accordance with their plans which takes into consideration many factors that affect the well-being of their business which in turn effects the well-being of the people who work in this industry. It also reflects the fact that there have been considerable problems with insuring adequate supply of airbags to meet the need. According to a recent Ford paper, Ford suppliers "have gone from producing 70,000 airbags for the 1989 model year to over one million for the 1991 model year." Ford states that the "supply base is still fragile and will be for some time."

The Senate bill attempted to suggest to the manufacturers that Congress knows better and is going to tell the manufacturer exactly how to run their operation. I believe that, particularly in this time of great distress that the auto industry is in because of the economic recession in this country, that such an approach by the Congress is ill-conceived. This industry is faced with enormous problems, including significant regulations under the Clean Air Act and the potential of tighter requirements in the case of fuel economy. In short, this industry is under siege. We need to "let up" and allow the industry and its workers to survive and be productive and profitable.

There were a couple of major concerns with the Senate provisions.

First, there is the problem of a design standard. It is believed to be the first time under the Safety Act, which spans the last quarter of a century, that Congress has told automakers what equipment they must put on their vehicles. Congress has, in the past, told them what we wanted manufacturers to accomplish—we have required performance standards—leaving room innovative technologies to evolve and be installed to meet performance criteria.

Second, the Senate bill failed to address the issue of seat belts.

Third, the Senate bill did not address supply problems.

While I continue to be concerned about any mandate regarding airbags, I believe that the joint conference substitute we are adopting today is reasonable and doable, although not without difficulties for the foreign and domestic industry.

While the conference agreement provides, in essence, a design standard it is not intended to be precedent setting. It is a unique situation. It should be treated accordingly.

I remain concerned that with the installation of airbags, people will become complacent and fail to consistently use their safety belts. Domestic automakers, NHTSA, and others have spent millions of dollars since the mid 1980's to encourage people to wear their safety belts. It has been a tremendous success as we have seen belt use increase from 12 percent to almost 60 percent. That is still not enough.

I emphasize that Congress has a responsibility to ensure that safety belt use continues to increase. Airbags are not substitute for felt use and the conference substitute makes that clear. I applaud that.

Safety belts are needed to hold the occupants in the proper or correct seating position in order for an airbag to be most effective and to provide restraint in the type of accidents where airbags do not work. For example, airbags may not be effective in side and rear impact and rollover accidents.

I am also pleased that this bill does not undo the light truck passive restraint rulemaking that NHTSA promulgated this past March. The new airbag requirement of this conference report recognizes that the manufacturers' product plants have been developed based on the March 1991 Federal rulemaking. This is why it is important to recognize that manufacturers are already installing airbags—both driver and passenger—in many of their vehicles. But just as the rule provided for some limited flexibility by providing for the carrying forward of credits until all light duty trucks must have passive restraints for both the driver and the outboard front seat passenger, this law will provide that those same credits be extended until 100 percent airbags are required on and after September 1, 1998, for both the driver and outboard front seat passenger.

The conference substitute calls for the amendment of the FVMSS 208. That amendment will provide a schedule for passenger cars and for light duty trucks, buses, and multi-purpose vehicles to meet regarding the installation of airbags on both the driver side and the right front seat passenger side of the vehicle. That schedule is reasonable but certainly difficult. It is reasonable, particularly in the case of light duty trucks and multi-purpose vehicles because in amending FVMSS 208, it provides that the credits or incentives available under the rule today will continue to be available until the companies are required to achieve 100 percent front seat inflatable restraints. That is a significant and important provision because it provides the flexibility for the industry to achieve the goal within reasonable bounds. I commend my colleagues in both bodies for agreeing to this provision.

I am also quite pleased to see that the conference substitute recognizes fully that the airbag is only a supplemental device and that it does not suffice for the properly worn lap and shoulder belt. The manufacturers can provide protection and they try to do so in the development of the vehicle. However, if the occupants, including the driver, fail to avail themselves of the means to achieve such protection, they, in effect, endanger themselves and make it more likely that in an accident death or injury could occur. I believe that is sad and I am pleased to see that the Congress agrees that we cannot afford to not recognize the primary benefits of seatbelts.

I am also pleased to see that the conference substitute contains a finding of a need for States to adopt mandatory seat belt use laws. It is my hope that all the remaining States will, in the very near future, adopt such a law. It is also my hope that they will do so in a manner that ensures that they will be enforced on a primary basis. In this regard, I note from the NHTSA letter of November 7, 1991, that at least one State, namely Connecticut, has a rule that if the vehicle is equipped with an airbag the occupant does not have to wear seatbelts. The letter indicates that Connecticut plans to change that law. I certainly think such a change is urgently needed.

The conference substitute also finds that the Federal Government should universally adopt seatbelt use rules. Again, this is a good provision and is consistent with the efforts of this committee to require such rules by the National Park Service, the Bureau of Land Management and the Defense Department.

Subsection (d) contains two disclaimers. The first, in essence, recognizes that the provisions of this section establish a design standard but in doing so the Congress does not intend to alter or affect the existing statutes the Secretary administers regarding the safety of passenger cars, trucks, buses and multipurpose vehicles. It also is intended that this particular design standard provision does not establish any precedent regarding the development and promulgation of any Federal motor vehicle safety standard.

The second indicates that nothing in this section, or in the amendments made by this section, by FMVSS 208 is intended to be construed by anyone to affect, change, or modify in any way existing or future court decisions or other applicable law in regards to vehicles with or without airbags.

The substitute also provides a program regarding the purchase by the Federal Government of airbag-equipped vehicles.

HEAD INJURY IMPACT STUDY

The conferees understand that there are other head injury protection matters which are the subject of research at NHTSA and which are not covered by section 2503(5) of this bill. This could include head injury protection matters from various types of crashes, such as side impact.

This section of the bill directs the Secretary to report on the need for rulemaking regarding this research and the extent of that research. The report would be provided by the end of fiscal year 1993 and would identify research matters and their status. It would also include a statement of any actions planned by the DOT toward initiating rulemaking not later than fiscal year 1994 or 1995. Such a rulemaking would be either an ANPRM or NPRM and would be completed as soon as possible after proposal.

The conferees agreed not to include several provisions regarding such matters as bumpers, crashworthiness, and pedestrian safety that were in the Senate amendment.

In the case of pedestrian safety, NHTSA said:

> About 7,000 fatalities and an additional 21,000 serious injuries occur annually to pedestrians as a result of collisions with motor vehicles. In order of severe injury frequency, the extremities (arms and legs) are injured most frequently (49% of severe injuries), followed by the head/neck/face combined (34%) and the chest/pelvis/abdomen/back combined (17%).
>
> The agency currently is pursuing research activities in the pedestrian protection area. On April 10, 1991, the agency terminated rulemaking on pedestrian leg protection that it had begun in 1981. Based on research results, the agency determined that there were no workable techniques to improve pedestrian leg protection and that the proposal would therefore not lead to improved pedestrian protection.
>
> The agency held a public meeting on August 20, 1991 on the agency's pedestrian head impact protection research. Written comments on the subject of pedestrian head impact protection will be accepted by the agency until November 15, 1991. As noted in our priority plan, we will reach a decision on whether to pursue rulemaking further in this area by the end of this year.
>
> Research on pedestrian thorax protection is continuing and will probably not be completed until sometime in 1993. If the agency decides to pursue rulemaking in this area, a two-year timeframe now for completion is unrealistic.
>
> In activities under the Highway Safety Act, it should be noted that the agency, by notice of October 4, 1991, has expanded the list of most effective program areas under the Section 402 Program to include bicycle and pedestrian safety. The effect of this decision will be to provide simplified funding procedures for these programs.

I believe this is an important issue and observe that the Senate Appropriations Committee said recently:

> The National Highway Traffic Safety Administration Authorization Act of 1991, as passed by the Senate, requires NHTSA to complete a rulemaking in this area within 2 years of enactment. The Committee requests, therefore, that NHTSA submit a report on data it has collected and research conducted regarding ways of reducing pedestrian deaths and injuries through making vehicles more forgiving by removing sharp edges, softening the hood and cowl area, increasing the space between the hood and engine components, and other approaches, the cost of such designs in new cars, and on the numbers of deaths and injuries currently by type of injury and by vehicle type causing the injuries. The report shall include information on vehicle designs for pedestrian protection in other countries.

Although we have not adopted the Senate provision mentioned by the Senate Committee, I believe such a report could be helpful. I look forward to the NHTSA report. I expect, however, that the report will also identify and explain the relevant issues regarding the development and issuance of any possible future rule applicable to pedestrians. This would include the problems, costs and benefits in applying such a rule to passenger cars and light duty and heavy duty trucks, taking into account the extent to which the front end of such a vehicle would need to be changed or modified and the problems and costs of such change or modification, including effects on all actions taken by vehicle manufacturers to meet various Federal safety, fuel economy and emission requirements. The report should also explain the extent to which the Secretary's research and applicable dummy research adequately represents various children and adults and represents accidents that occur between motor vehicles and pedestrians and the extent to which head injuries are attributable, not to the vehicle, but to impacts (occurring after the pedestrian is struck by the vehicle) against roadways, curbs, sidewalks, fences, or other hard surfaces. I will be expecting such information.

In the case of bumpers, NHTSA said:

> Our view on the bumper system labeling disclosure provision of S. 1012 is that it would not be useful to consumers and might be misleading. Relating bumper performance only to impact speed does not account for accident frequency or the cost, including replacement costs, of any added protection attributed to higher speed damage-free bumper systems. In addition, a correlation between low-speed bumper impact tests and real world accident experience is not achievable because data sources for low speed accidents and costs do not exist, and would be extremely difficult, if not impossible, to develop. Data on low-speed damageability have failed to indicate that a viable consumer information program on bumpers could be developed, and the type of labeling proposed would not address the consumer costs associated with higher levels of bumper protection.
>
> With regard to the amendment to the impact speed of the bumper standard as proposed in S. 1012 and H.R. 1967, the bumper standard was lowered from 5 mph to 2.5 mph in 1982, based on extensive analysis of the costs and benefits of 5-mph bumpers. While the agency recognized that 2.5 mph bumpers would lead to more vehicle damage in low-speed crashes, it found that this increase would be more than offset by consumer savings in the original and replacement costs of such bumpers and in fuel savings due to lighter weight.
>
> Subsequently, in 1987 the agency conducted an extensive study comparing the benefits and costs to consumers of 5-mph and 2.5-mph bumper requirements. The study compared the collision damage experience and bumper

system costs of post-1982 passenger vehicles to bumpers on preamendment vehicles.

Among the conclusions of this agency study were that the net costs to consumers have not increased as a result of the modification of the standard from 5.0 mph impact resistance to 2.5 mph, and that the changed standard has not affected the protection of safety related parts. While a 2.5 mph bumper clearly gives a vehicle less protection than a 5 mph bumper in certain low-speed crashes, not every vehicle is involved in such low-speed crashes during its lifetime. Thus, only some car owners, particularly those in urban areas where low-speed crashes are more frequent, benefit from having 5 mph bumper requirements. A standard more stringent than the existing one would cause many passenger car owners to pay for protection that they would not need.

Accordingly, the agency determined that the modified 2.5 mph bumper standard best satisfies the Motor Vehicle Information and Cost Savings Act's mandate to "obtain the maximum feasible reduction of costs to the public and consumers," while considering other statutory factors. We are not aware of any data that would lead us to change this conclusion.

Question 16 also requested an explanation as to the safety nature of these provisions. Passenger car bumpers provide for a minimum level of damageability protection in low-speed impacts. (The bumper standard specifies no sheet metal damage or damage to safety systems when the vehicle is impacted at 2.5 mph.) However, this protection does not contribute significantly to reducing occupant injuries. At the higher crash speeds at which injuries are likely to occur, it is the structural performance of the vehicle as well as safety belts and/or other occupant crash protection equipment which provides occupant protection—not the bumper.

Next, question 16 asks to what extent the proposed amendments are related to insurance issues. The Insurance Institute for Highway Safety expends considerable effort to evaluate bumpers and report their findings in their Status Report. However, at the present time, insurance companies do not extend discounts to owners of vehicles with bumper systems that exceed our bumper standards' impact requirements, nor do they charge higher rates for bumper systems that just meet these requirements. This is an issue between the insurance industry and the auto manufacturers; the consumer, on average, is not affected.

Clearly in any consideration of bumpers, all of these matters must be considered.

In the case of crashworthiness, I think both NHTSA and the National Academy of Sciences have indicated that a study of the nature suggested by the Senate would be extremely costly and not provide the kind of information that all believe would be necessary in this area. However, as the conference report indicated this is a matter that should continue to be evaluated taking into consideration the above correspondence.

Mr. Speaker, I believe that the conferees have done a good job in coming up with a reasonable bill that is a vast improvement over the ones proposed in the Senate. I think it is important that we resolve these matters and put them behind us in the name of safety, and the need to provide some certainty and stability for the auto industry and its workers. I reiterate that this is an industry that is in difficulty. Many of its workers have lost their jobs. Today we know that plants are closed, some temporarily, some indefinitely. All of that has an impact not only on the manufacturers themselves but on the suppliers, who I dare say are located in all of your congressional districts.

I am pleased to be a supporter of this proposal. It will provide greater safety and while that will be costly to the consumer I think it is in the public interest.

I expect NHTSA to administer this program fairly and responsibly and I expect to maintain oversight over the agency in this regard.

Mr. Speaker, I urge adoption.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 4 minutes to the gentlewoman from Maryland [Mrs. BENTLEY], a distinguished member of the committee.

Mrs. BENTLEY. Mr. Speaker, I rise in strong support of the conference report on the transportation reauthorization bill.

I want to commend Messrs. ROSE and HAMMERSCHMIDT, the chairman and ranking minority member of the full Public Work and Transportation Committee, and Messrs. MINETA and SHUSTER, the chairman and ranking minority member of the Subcommittee on Surface Transportation, as well as all of my fellow conferees and the staff for their hard work and diligence during the past several weeks.

I want to assure all of our colleagues in this body, as well as the public, who will benefit from this legislation, that first and foremost, the conferees sought to achieve a compromise between the House and Senate versions of the transportation reauthorization bill that would be fair and equitable to all. I believe we accomplished that goal.

Mr. Speaker, the Intermodal Surface Transportation Efficiency Act indeed is a piece of Federal legislation for America.

It is, without question, the most significant and important public works bill this Congress has considered in the past two decades.

This transportation conference report provides an invaluable boost to the American economy, having an economic impact of $1.5 trillion; it will enable the return to the economy additional billions of dollars now lost to inefficiencies of our transportation network, and, more importantly, it will create almost 2 million jobs for Americans.

Furthermore, Mr. Speaker, the Buy-American clause—again providing many more jobs for Americans.

Improved safety features also are included—one of which I requested—namely to require installation of reflector lane markers so drivers know where their lane is on dark rainy nights.

Maryland is one of the 34 reasons which Mr. CLINGER cited as the reason why this should be approved.

The conference report, Mr. Speaker, will serve as the blueprint for America's transportation system that, in turn, will greatly aid America's productivity, efficiency, and competitiveness in the global arena.

Without its enactment, American businesses will continue to suffer, productivity will continue to stagnate, and gridlock will continue to cripple the movement of commerce and individual travel.

This Congress has invested billions of dollars in foreign aid at a time when our economy and budget deficit can ill afford it. With the use of Federal gas tax revenue and a spend down of the highway trust fund, now is the time for this Congress to invest in America. That is what this conference report does.

Mr. Speaker, I strongly urge my colleagues to vote for this conference report.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in strong support of the conference report on H.R. 2950, the Surface Transportation Act, including the financing title.

America needs renewed investment in infrastructure, and H.R. 2950 is a strong and welcome response to that need. It provides for much needed construction and repair of our Nation's roads and bridges, and strengthens America's mass transit network. It allows considerable transferability among the different transportation accounts, thus providing crucial flexibility for State and local officials to decide the best use of funding in their own locales. It funds infrastructure programs adequately over the next 6 years, but exhibits fiscal responsibility by spending only as fast as the funding allows.

The Public Works and Transportation conferees, under the able chairmanship of chairman ROBERT ROE, have labored long and hard over the last several weeks to present to this Congress a responsible, effective, fully-funded highway authorization bill.

It has been a difficult conference. But, in the end I believe they have successfully satisfied the competing goals of completing construction of the Nation's Interstate Highway System and repairing and maintaining our older well-used highways. They have balanced the needs of our wide-open rural areas with our heavily-populated urban areas. They have addressed safety, congestion, and pollution problems associated with surface transportation. They have produced an excellent bill. They deserve our praise and our thanks.

The Ways and Means conferees, along with those of the Senate Finance Committee, are happy to join our Public Works colleagues in completing this bill by adding a financing title that will ensure that the necessary funding is available for the improvements in our transportation system provided by H.R. 2950.

The tax conferees' financing title would extend the expiration date of current highway fuels taxes and allow for continued transfers into, and authority to spend out of, the highway trust fund. The financing title would also provide an anti-sequester safeguard mechanism to reduce 1992 obligations from the bill in the event that the official scoring of H.R. 2950 would otherwise create a pay-as-you-go sequester.

Currently, all highway trust fund taxes, as well as the taxes on motorboat and small engine fuels, are scheduled to expire on September 30, 1995. The financing title would extend these taxes through September 30, 1999, to fully fund this bill's new 6-year authorization. The full amount of gross revenues from these existing trust fund taxes would continue to be deposited into the fund.

The 2½-cent deficit reduction tax on motor fuels, enacted last year, is also scheduled to expire on September 30, 1995. The deficit reduction tax is not extended in the financing title.

Mr. Speaker, I believe this bill is important for our country. I also believe it is important for my city, Chicago. I believe this bill will bring jobs to the people of my district. It will allow completion of the badly needed reconstruction of the Kennedy Expressway, which is only a stone's throw from my home. It will fund many important local projects like the State Street Mall redesign and several bridge repair programs.

Mass transit, important to Chicago, will finally be funded at a reasonable level. For Chicago, this will mean the central city circulator can be built to move people around the loop.

Mr. Speaker, I urge that H.R. 2950, including the financing title, be enacted because it is a good, responsible bill that will provide needed improvements in America's transportation system. My colleagues, I strongly urge your support for H.R. 2950 including its fiscally responsible financing provisions.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LENT], the ranking member of the Committee on Energy and Commerce and a conferee.

Mr. LENT. Mr. Speaker, I rise today in support of the conference report and congratulate the Chairman, Mr. ROE, the vice-chairman, Mr. HAMMERSCHMIDT, and all members of the Committee on Public Works, for coming together on a bill that will most probably be signed into law by President Bush. While my colleagues have concentrated their remarks on the highway and transit portions of this bill, I would like to address my remarks to title II.

Highway safety is of great importance to each of us. Every day, hundreds of Americans die on our Nation's highways. I am pleased to report that our annual fatality rate is declining, but we still have much to do.

Title II reauthorizes the National Highway Traffic Safety Administration, which was last reauthorized in 1982. It also calls for the initiation of rulemakings designed to save lives. Under the terms of this legislation, by 1997, all automobiles sold in this country will be equipped with airbags. Head injury protection will be improved, and the National Highway Traffic Administration will undertake a major study for the improvement of braking systems.

While I realize that our domestic automobile industry is currently experiencing financial difficulty, I believe that the provisions of title II have been crafted in such a way as to avoid undue or burdensome regulation.

Mr. Speaker, both majority and minority staff have worked diligently to bring an agreement to us this morn. The balance struck is good for both those who use our highways, and those who make our cars. The legislation is overdue, but is before us tonight. I urge my colleagues to join with me in supporting the bill.

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Mr. ROE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a historic day. We are considering critical legislation that will be the single most important blow Congress will strike against the recession this year. If approved, we will invest $150 billion in improving the Nation's productivity, start rebuilding our once mighty transportation facilities, and create at least 2 million jobs.

We will also be looking ahead. In addition to caring for highway and mass transit needs, this bill takes the extraordinary step of contemplating transportation systems of the future. The conferees have agreed on a package of high-speed ground transportation programs that, if carefully developed, should link major metropolitan areas and transportation hubs of all regions together in a coherent, accessible matrix.

We've all known for some time that high-speed trains, both magnetic levitation and steel-wheel, pose solutions to traditional energy-gulping, polluting forms of transportation. The Transportation Research Board, Office of Technology Assessment, National Research Council, and even the Department of Transportation have all concluded that high-speed trains will move people quickly, safely, and competitively while minimizing pollution and energy consumption.

The package we have crafted ensures the balanced pursuit of both maglev and high-speed, steel-wheel technologies. We are creating a three-phase competitive design program culminating in the construction of a third-generation maglev prototype. We are amending an existing program to make high-speed, steel-wheel development projects eligible for Federal loan guarantees up to $1 billion. And we are creating a basic research and technology demonstration program that will draw together all available knowledge to help advance both technologies.

Industry and Wall Street have indicated significant interest in high-speed ground transportation. They have been waiting for Congress to give the word. Well, I'm pleased to say that Congress has put money where its mouth is: The total package is funded by a $1.8 billion combination of direct financial support and loan guarantees. Indeed, we can now say to States and consortia waiting to make high speed rail inventment decisions, "the word is given."

I am also pleased that we have been able to include some very important, very necessary automobile safety measures within this reauthorization of the National Highway Traffic Safety Administration. Rarely do we have the opportunity to pass a measure that will have such direct and immediate impact upon the health and welfare of the American public. But that is the case here. This legislation will save lives. Many men, women, and children in the future will survive otherwise serious accidents on the Nation's highways because of requirements in this legislation to mandate airbags, to improve head injury protection, to direct NHTSA to target resources to make child booster seats safer, to lower the risk of vehicle rollover, to protect against side impact collisions, and to improve the design of safety belts.

This legislation was crafted with the care and concern that it deserved by Members from both Houses, from both sides of the aisle. Very early in the process there was a unanimous acknowledgment by all conferees that this was an opportunity to pass important reauthorization legislation that has eluded us for many years. I think all conferees can take a great deal of pride in the work we have accomplished, but I would particularly like to single out Chairman DINGELL of the Energy and Commerce Committee for his commitment to this process, and to Senator GORTON for his consistent support for conference efforts to find practicable answers to difficult problems.

There are issues we deal with around here that are arcane or very narrowly crafted; there are issues where the anticipated results are far in the future or difficult to quantify. This legislation affects everyone, and the results will be seen every time someone walks away from a crash where before they would have suffered serious injury or death. Highway safety—protecting the public from injury and death—is one of the most important issues that can be addressed, and I think Congress should take a great deal of pride that we have addressed it in this legislation in a direct, effective, and responsible way. We will save lives because this legislation is on the books.

Finally, I would like to commend the conferees for including provisions in the conference report that address the specific congestion problems on the Interstate 5 corridor north of Seattle. The Marysville/Tulalip interchange and the Snohomish County HOV lanes will provide necessary—and long overdue—relief for commuters and businesses who have endured endless frustrations in I-5 snarls.

I would like to conclude by recognizing the herculean efforts that have formed the bedrock of this legislation. The chairman of the committee, Mr. ROE, the subcommittee chairman, Mr. MINETA, and the ranking Republican members, Messrs. HAMMERSCHMIDT and SHUSTER, have done a tremendous job pulling together the Nation's transportation policy for the next 6 years. I thank them for their efforts, and for working with me and the members of my committee in assuring that our repective jurisdictional concerns were addressed in a constructive and productive manner.

Mr. Speaker, the staff of the Committee on Public Works and Transportation has been particularly helpful, and for myself and my staff I want to let them know how much we appreciate that.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PACKARD], a very able member of our conference and our committee.

Mr. PACKARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to rise in strong support of this piece of legislation and start by congratulating my committee leadership for their magnificent work, the committee members, the conferees, and particularly the staff members. They have done a magnificent job in working this bill for the last several months.

Mr. Speaker, let me touch upon several macropolicy changes that are going to take place in transportation policy in this legislation. No. one, this will be $151 billion into a sagging economy in the next 6 years, over 40 percent more than we have spent in transportation in any other year. This is a magnificent effort in rebuilding this country's infrastructure.

Mr. Speaker, for the last 10 years I and our committee have been looking for the money and the will to start rebuilding the sagging and crumbling infrastructure in this country. This bill starts that process for the first time in the 10 years I have served on the committee. For the last 10 years we have been trying to spend down the highway trust fund and not been successful. This bill will start the process. During the next 8 years we will spend down the highway trust fund down to a safety net level.

This bill for the first time puts flexibility in the spending of our transportation dollars. I served at the local level on one of the local metropolitan planning organizations. We never had the flexibility to make our own decisions and develop our own priorities as to where transportation dollars go. This bill provides that flexibility and sends money directly, not through the States, but directly to the metropolitan and local planning agencies. This is the first time we have ever done that. That will be a magnificent effort.

Mr. Speaker, this bill provides the necessary dollars to fulfill the requirements of the Clean Air Act.

Mr. Speaker, I strongly urge my colleagues to support this bill and vote it into law.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, before us tonight is the most comprehensive highway bill this Congress has considered in 35 years. I remember being in this Chamber in 1956 when we overwhelmingly supported and passed President Eisenhower's plan to build a national Interstate System. Some people say that that was the most effective piece of legislation in the Eisenhower administration; still others say it was one of the most important pieces of domestic legislation ever enacted into law.

In pursuit of President Eisenhower's dream, we established the Federal highway trust fund in which States contributed according to ability and received according to need. Such a system meant that large, growing States would contribute more in order to supplement those less populated States that could not fund their own interstates alone.

Those States that contribute more than their fair share have become known as donor States. Mr. Speaker, my State of Florida is one of those, and I am here to tell you that we are proud of the contribution Florida has made in helping other States to complete the Interstate System.

But as proud as we are of our efforts, we are as adamant about the need to modernize the distribution formulas. You see, in 1956, we faced unique needs and we developed a unique solution, but no longer does that same need exist, and the solution must be changed. Unfortunately, this conference report does not do that. Instead, it attempts to address modern transportation needs through antiquated formulas.

We are stuck with a formula in this legislation that distributes money, in part, based on rural mail carrier route miles and a State's land area. This is not the way to distribute transportation money to States who are trying to maintain and construct eight-lane superhighways and high-capacity bridges.

Even more unfortunate is the fact that this legislation disregards the formulas we included in the House bill. So many of us from donor States fought vigorously for the inclusion of the so-called FAST formula, which distributed Federal highway trust funds on the basis of modern transportation needs. The new formula analyzed vehicle miles traveled per State, lane miles per State, and State-wide diesel fuel use—factors that truly reflect need. Donor States had high hopes going into conference that our formula would be protected, but that is not the case and I must oppose this conference report and urge my colleagues to do the same.

Mr. Speaker, over the last 48 hours, I have reviewed all available information from the conference and am not pleased by what I've learned. The conference report before us will mean only 82 cents per dollar for my State. That is unacceptable for its unfairness, especially when you consider that we will do worse under the conference report than we did under the Senate and House bills. Many of my colleagues from donor States can make the same claim.

I have been criticized by some Members for distributing inaccurate numbers. They are not. They just tell the whole story. Until 2 o'clock this last afternoon, there was confusion as to what the conference report said. Even now, we have tables produced by the Federal Highway Administration that I am told exceed the level we can spend. Even more disheartening is the fact that few, if any, of us have had the opportunity to read the report language, yet we are expected to vote on the bill. If there is confusion as to what this conference report says or how various States are treated, it's understandable. Because, Mr. Speaker, there has not been enough time to analyze what is before us.

It is my sincere understanding that this conference report is not good for donor States and does not establish a policy which is fair, equitable, or forward thinking. Claims to the contrary are simply an overeager attempt to pass this bill. I am not that eager, Mr. Speaker, to lock my State into a formula for the next 6 years which will force us to contribute so much more to the trust fund than we will receive and

which does not address the equity issue which donor States have fought for so earnestly.

I urge the defeat of this bill, not in an effot to be belligerent or to keep our Nation from funding its transportation system. Rather than looking out for the short-term needs of this country, I am looking out for the long-term needs for the greater good. Mr. Speaker, if we are successful in defeating this legislation, I would support a temporary extension of current law so that time would be available to try to work out a bill that is more fair to donor States. The bill will do a lot of good even if enacted in its present form but it is not fair to donor States.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have to say that the debate has been overwhelming and creates a strong urge to vote for this bill. But my colleague from Florida [Mr. BENNETT] earlier this morning made quite an eloquent statement as to the formulas used in the distribution of these funds.

It is important to me as one who is going to be called upon to vote and one who is concerned about fair treatment for a growth State like the State of Florida to know just exactly what the figures are.

The eloquent statement of the gentleman from Florida [Mr. BENNETT] was very convincing. I am wondering if one of the managers of the bill could respond to the issue of just how is a growth State like Florida treated in this regard?

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, first, I have before me a document published yesterday by the Federal Highway Administration which reports that Florida, for the past 5 years, in the existing law received 77 cents of return on dollars paid into the highway account for every dollar paid in.

In this conference report Florida will receive return on dollars paid in highway account, 92 cents, according to the Federal Highway Administration. So it is a very substantial increase.

Beyond that, Florida for the past 5 years received $2,471,000,000. Under this legislation Florida will receive $4,637,000,000 or an 87 percent increase in dollars.

Mr. BENNETT. Mr. Speaker, reclaiming my time, as I expressed before, the 92 percent is really very inaccurate. Actually the return is about 82 cents on the dollar. That is because of where the money is applied. The formula, the percentages are applied not across the board in this bill, and it is actually 82 cents, according to the information coming to me from the Department of Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, I rise in support of this conference report. It is a tremendous investment in America's future. It will enable us to be competitive in the year 2000. It is going to create over 2 million jobs.

Mr. Speaker, we have talked for the last several weeks and today particularly of progrowth. This is progrowth. It will help us get our economy moving again. It will have a strong economic impact.

Mr. Speaker, I urge Members to vote in support of this conference report. It is progrowth, it is projobs, it is pro-America. Let us get moving. Let us pass it.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. RAHALL], a member of our committee.

Mr. RAHALL. Mr. Speaker, I rise in strong support of the Intermodal Surface Transportation Act of 1991. I commend the bionic leadership of our chairman, the gentleman from New Jersey [Mr. ROE], and his partners in intermodalism, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the gentleman from California [Mr. MINETA], and the gentleman from Pennsylvania [Mr. SHUSTER]. This is truly an intermodal transportation act of profound ramifications for this country, well into the next century.

It has been said this morning that this bill may well be the most important piece of legislation of this Congress. I think it may be the most important piece of legislation in this decade.

This legislation will certainly cover this country as far as the concerns of the backpackers to the high tech mag lift projects, from the pedestrian walkways to high speed trains. It is indeed intermodal in its ramifications. It will have profound impact upon the workers of this country, providing, as we have already heard, over 2 million jobs over the next 6 years.

Mr. Speaker, I also reminded my colleagues, especially the gentleman from Florida [Mr. BENNETT], who just spoke before me, as well as those from donor States, that it is important to look at all of the ramifications of this legislation. Do not just look at the column in regard to highway legislation, because this is not a highway bill. It is a transportation bill. Look at the transit columns as well. Look at all of the formulas. Look at all of the transportation effects that this bill will have on your State before making any harsh judgments.

The transit funding, as the chairman of the subcommittee [Mr. MINETA] has so well said, is the highest transit spending that this country has ever embarked upon.

Mr. Speaker, I urge passage of the pending legislation.

□ 0520

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I would like to just join in some of the accolades and say that I have never been so proud in 30 elected years of serving with such leadership as the gentleman from New Jersey, BOB ROE; the gentleman from Arkansas, PAUL HAMMERSCHMIDT; the gentleman from California, NORM MINETA; and the gentleman from Pennsylvania, BUD SHUSTER, the staffs who did an outstanding job, tremendous, and the conferees that I had a chance to work with.

Democrats and Republicans are sparring around a little bit like Holyfield and Tyson. They are not getting anywhere either, as far as an economic growth package is concerned.

We are talking about tax cuts from the Democrat side, tax breaks from the Republican side. I tell my colleagues, if one does not have a job, one cannot get a tax break. One cannot get a tax cut.

Americans want jobs; they do not want the handouts.

This transportation bill, if my colleagues will listen to me, is the jump-start that the Nation's economy needs, and they need it now. It is $151 billion, 6 years, 2 million jobs, and I am not talking about these Wendy's jobs. I am talking about meat and potato jobs, jobs that will put something on the table.

It is a bill for all Americans, and it is one that I understand that the President is going to sign.

As America grows a million and a half people each year, by the year 2000 we are going to have a lot of people. And we will need the better roads of transportation. We will need the better infrastructure. We will need the building of our bridges to bring together everything to move into the 21st century.

I say this: That every State, every State is going to benefit by this to a great amount of money, much more than they have over previous years. Forty to fifty percent more money, we will be able to do a lot of things that we have not been able to do in the past.

America's economy needs this. The people want it. I say to my colleagues, do not go home without it.

Mr. ROE. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I want to thank the chairman. I want to thank him and his fantastic staff for doing such a great job, along with the minority side and others.

I am only sorry that we are debating this wonderful all-American job bill that will repair our infrastructures and provide transportation for the American people. And in Ohio alone, create about 40,000 jobs and sustain jobs for the people in my State and throughout the country.

Mr. Speaker, I want to tell my colleagues what it will do for Ohio because we are a donor State, but I will tell my colleagues with all of the discretionary funds that we anticipate getting, we think we are not going to be a donor State.

Over a 5-year period from 1987–91, we got $2.28 billion. Under this bill, we will have a 47-percent increase to $4.174 billion for the people of Ohio, return of their tax dollars that will generate into a new all-American spirit.

Congratulations, Mr. Chairman. You are terrific.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 1 minute.

I would not want this debate on this conference report to go by without acknowledging the great hope that we receive from the Department of Transportation under Secretary Sam Skinner, especially through Dr. Tom Larson, the Federal Highway Administrator and Bryan Clymer, the Administrator of the Federal Transit Administration.

They gave us invaluable help. They did computer run after computer run. I wanted to acknowledge that in this debate.

Mr. ROE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I rise to support this bill, although I agree with the gentleman from Florida [Mr. BENNETT] and the gentleman from Florida [Mr. YOUNG]. We still are really not fully satisfied.

If we add the trust fund money that will be spent to the money that Florida will add in and get back, we think it reduces it. But there is an overriding concern beyond that alone. The discretionary money which the gentlewoman from Ohio just talked about that Florida will get, which will create jobs and the rest of that.

People in Florida, like everywhere else in this country, are mobile. People in Florida expect when they drive to other States that there will be a better infrastructure in those States as well. They want the bridges and the roads and the tunnels and the highways to be good in other States, as they drive. They have paid their tax dollars in. They want to see other roads where they are participants, where they are users, to be safe and in satisfactory condition, not only for their residents but for us as well.

This will create jobs. In Florida the unemployment rate is over 8 percent. We need this as well.

We will come back and try to get parity on the formula eventually, but in the mean while America needs this bill. And so does Florida.

I urge my colleagues' support.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kansas [Mr. NICHOLS], a member of the committee.

Mr. NICHOLS. Mr. Speaker, I rise in strong support of the intermodal transportation bill. This bill is properly regarded as an investment, not an expense, in America.

The multiplier effect of the moneys ranging from 2 to 10 times as the dollars bounce around will move all of our States in a progress direction. It will help gear us all up for the 21st century.

I strongly urge its passage.

Mr. ROE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank the chairman for yielding time to me, and it is a pleasure to rise at this early hour and express my strong support for the work of the chairman and the gentleman from California [Chairman MINETA] and the ranking minority members.

I strongly urge my colleagues to support this legislation, which in my view is one of the great highlights of this session.

There has been a lot of talk about economic growth packages, but my friends, this is the economic growth package that this Congress is going to pass, $151 billion over a 6-year period that will create 2 million jobs, according to the White House 4 million jobs, that is good news for all Americans.

In addition to that, the correction in this legislation as it affects donor States is also good news for many donor States who in the past have contributed a lot more to the highway trust fund than they got back. So that is another very important change in the highway bill as far as I am concerned.

The last point I would make, that I think is very important, is that for the first time we are giving the States the flexibility they need to most efficiently utilize the money that this legislation will provide them.

I urge strong support for this legislation, and I commend all the Members who have worked to move this legislation through the process.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HASTERT], a distinguished member of the committee.

Mr. HASTERT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. EMERSON. Mr. Speaker, will gentleman yield?

Mr HASTERT. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I rise in strong support of this bill.

Mr. Speaker, the merits of this bill will be told for years to come through the improved infrastructure it will provide. More importantly, thousands of people will participate in implementing the provisions of the law, and that is very welcome. This is a real jobs bill for real people addressing real needs in making America more competitive.

Mr. HASTERT. Mr. Speaker, I want to extend my congratulations to the ranking member and the ranking member of the subcommittee and certainly the chairman of both the subcommittee and the committee for the great work that they have done. I think it is important that we say the statements in this bill, too, that will change the competitiveness of this country for decades to come, because it sets up a streamlining for our transportation industry, a one-stop shopping and something that will save consumers and shippers billions of dollars as well as the fine work that has gone in to work the highway system and the infrastructure of the country.

I commend the chairman and the ranking member and urge strong support of this bill.

☐ 1530

Mr. ROE. Mr. Speaker, I have no further requests for time, but I want to do something in honor of the staff who have worked, Members just have no idea of the extraordinary job that the staff on both sides of the aisle and also in the Senate have done to contribute to this effort. I am going to do something unusual and I am going to name them, and I hope Members will indulge me and give them a response.

They are:

Bob Bergman, John Doyle, Maureen Dubia, Cindy Elliot, Sante Esposito, Jack Fryer, Eunice Goldring, Kathy Guilfoy, Kathy Hoffman, Ken House, Pam Keller, Sheila Lockwood.

Cheryl McCullough, Jimmy Miller, Toby Mullvain, George Noblin, Pepper Riley, Caryll Rinehard, Jack Schenendorf, Jeff Shoaf, Roger Slagle, Dave Smallen, Suzanne Sullivan, Becky Weber, and Susan Byneder.

Mr. Speaker, I think we should give them a big hand.

Mr. GOSS. Mr. Speaker, this is an anxious time of year in Washington. As Congress rushes to complete action on unfinished legislation before we adjourn, I remain gravely concerned that the people of Florida and other donor States are being taken for a ride by the Transportation conference report without serious consideration of its consequences. Florida has historically been badly shortchanged by the funding formula, leaving us to export millions of dollars in jobs and transportation project to other States.

The conference report, brought to the floor sight-unseen and in the middle of the night, does nothing to improve Florida's situation and that of other donor States. Legislators were asked to take at face value committee assurances that the new bill would treat our States fairly, but in light of Florida's past treatment, and the fact that Florida transportation will receive no more than 83 cents for every $1 the Florida taxpayer pays into the highway trust fund, I could not support the bill. These decisions are simply too important to be railroaded through with no ability to analyze and verify the information we were asked to approve. Supposedly, the bill is good for America. We've been down that road before with the now infamous budget agreement, and unfortunately we can all now see what good that did the American people.

Make no mistake, there are some encouraging provisions in this legislation, and perhaps given time and some sleep, the negotiations could have produced a truly good bill. However, the long-term well being of Florida's transportation infrastructure cannot be traded for one-shot buyoffs, but requires a stable, fair funding formula that reflects Florida's position as one of the most populous, fastest-growing States in the country. By voting for this bill, I would have contributed to an effort to lock Florida and other donor States into 6 years of exporting close to $1 billion to pay for transportation projects in other States. This money is desperately needed within our own borders. It has been said that this is a jobs bill, but I fail to see much benefit for Florida in sending Florida dollars to pay for jobs in the District of Columbia, Alaska, and Hawaii over the next 6 years.

Am I frustrated? You better believe it. Once again rational, fairminded legislation was derailed by middle-of-the-night, backroom dealmaking. When I voted against this bill last month, I said Florida seemed to be choosing between getting hit by a Mack truck or a Honda. Well, this morning we got hit by the Mack truck after all, a Mack truck driven by the business-as-usual group in Washington. No wonder the American people are fed up with Congress.

Mr. DE LUGO. I rise to congratulate the distinguished chairman of the House Public Works and Transportation Committee for his efforts in bringing this Transportation conference report on H.R. 2950 to successful passage. As Senator MOYNIHAN said of Chairman ROE during the House-Senate conference proceedings of the last 2 weeks, "This man's energy and dedication are nothing short of a miracle." As a member of the conference I can personally attest to this as well as his extraordinary patience under incredible pressure.

I also want to commend the ranking minority member of the committee, JOHN PAUL HAMMERSCHMIDT, for his extraordinary efforts on this bill, as well as NORM MINETA, the chairman of the Surface Transportation Subcommittee, and its ranking minority member, BUD SHUSTER.

Indeed, this is landmark transportation legislation which will chart a new economic course in this country as it will in my own district, the U.S. Virgin Islands. The entire country owes a tremendous debt of gratitude to these gentlemen for their leadership and vision in enacting this legislation which will benefit the Nation for many years to come.

Finally, the staff of the House Public Works and Transportation Committee deserves special commendation. Their extraordinary skill and talent in working on this most complex bill was trully remarkable. During the final days of the conference on this bill, they performed in an outstanding manner literally around the clock.

Mr. Speaker, it was a privilage to serve as a conferee on this bill and to work with the leadership and staff of the House Public Works and Transportation Committee.

Mr. CONYERS. Mr. Speaker, I strongly support the conferees' deletion from the Intermodal Surface Transportation Infrastructure Act of 1991, H.R. 2950, of the Senate's provision that would have permitted the Attorney General to block any Government agency from issuing regulations if the Attorney General were to decide that the agency does not have adequate procedures for assessing whether its regulations may result in the taking of private property within the meaning of the fifth amendment of the Constitution. This proposal would unwisely give the Attorney General radically new veto powers without any attention given to the processes of openness and accountability that are now required by the Administrative Procedure Act [APA].

This proposal is just the latest saga in the effort by the administration to delay and block health and safety and other critical regulations that Congress has mandated and to do this in secret, behind closed doors, and out of public view contrary to the intent of the APA. In 1981 President Reagan established the Presidential Task Force on Regulatory Relief, which was headed by then-Vice President Bush. In June 1990 President Bush created the Council on Competitiveness to carry on the same functions as the task force and designated Vice President QUAYLE as its chairman.

Vice President QUAYLE has played an active role in orchestrating the current campaign to enact a proposal to permit the Attorney General to delay, perhaps indefinitely, any regulation of any agency. Documents supplied this spring to the Committee on Government Operations by the Council indicate that the Council considered this proposal at least twice. At its September 27, 1990 meeting the Council approved administration support for a "private property amendment." The Council explained that the bill is "an extension of Executive Order 12630—governmental actions and interference with constitutionally protected property rights that was developed by the task force on regulatory relief, chaired by then-Vice President Bush, and signed by President Reagan in 1988." At its December 19 meeting the Council reported that it "is working with the Department of Justice and OMB to develop a legislative initiative to protect constitutional property rights. * * * The Council requested that the legislation be expanded to include all agencies and be codified to define the nature of the individual right of action that would be provided."

Senator SYMMS introduced the Private Property Rights Act, S. 50, incorporating the principles articulated by the Council, and on June 12, 1991 he said that the Vice President had called him that morning and asked him to offer his bill as an amendment to the highway bill. The Senate adopted the bill as title IV of the highway bill.

Title IV affects the regulations of every agency. It would permit the Attorney General to delay indefinitely any regulation of an agency until the Attorney General certifies that the agency has established adequate procedures for assessing the potential of its regulations constituting a taking within the meaning of the fifth amendment.

Under this proposal, the Attorney General could, for example, block a regulation of the Department of Housing and Urban Development [HUD] helping low-income families acquire housing if the Attorney General determined that HUD did not have adequate procedures for deciding whether the loss of revenue to builders was a taking. Or the Attorney General could block Environmental Protection Agency [EPA] regulations dealing with the cleanup of Superfund sites to protect public health because the Attorney General had not approved EPA's procedures for assessing whether the disruption of business was a taking.

The Attorney General would exercise this veto power even if Congress has mandated the regulation. Moreover, the Attorney General would exercise this veto power exempt from the procedures for openness and accountability that Congress has carefully crafted in the APA. No Court would be able to determine whether the Attorney General's decision to block an agency's regulations was based on the public record or on a private telephone call.

Concerned about the sweeping implications of this proposal, the Committee on Government Operations asked the Office of Management and Budget [OMB] for information on the extent to which Government regulations have in fact been held by a court to be a taking within the meaning of the fifth amendment. OMB referred the committee's July 18 request to the Department of Justice [DOJ], which responded on October 11.

The DOJ data show that since January 1, 1988 DOJ has closed 106 cases involving an alleged regulatory taking. In only 27 of these 106 cases—(or 25 percent)—was money paid to the property owner, and the total amount of money awarded over this 3½-year period in these 27 takings cases was only about $28 million, excluding interest, or less than $9 million a year.

Moreover, these 27 cases involved only five Federal agencies: the Department of Agriculture, three cases; the Army, nine cases; the Department of Energy, one case; the General Services Administration, one case; and the Department of the Interior, 13 cases.

The $28 million awarded during the last 3½ years in these 27 regulatory cases is, of course, important to the particular property owners involved in the disputes, and we all want to ensure that regulatory actions pursuant to congressional action minimize encroachments on private property whenever possible.

But the information supplied by the administration makes it clear that there is no basis for believing that there is a significant risk that all regulations of all Federal agencies constitute a taking. It already takes far too long to implement health and safety regulations that Congress has authorized.

Title IV of the Senate highway bill was a radical solution in search of a problem at enormous cost to the protection of the health and safety of Americans, and I strongly support its deletion from the final bill.

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of the conference report.

I am not happy with the circumstances in which we find ourselves tonight. It is frustrating when this body constantly finds itself considering major legislation in the dead of night, with perhaps one copy available to the Members. How can we be surprised that the public is disenchanted with our performance. And I cannot help but think we would not be in this situation if we had not wasted months trying to raise gas taxes another 5 cents a gallon.

In late July and early August I joined the majority of this body in not supporting efforts to raise gas taxes by another 5 cents a gallon. Tonight we have to be prepared to accept the consequences of our decision. States are not going to get as much highway money as they would like. Nor will our projects receive as much funding as they deserve. But I believe sacrificing some highway dollars is better than the potentially devastating effect raising gas prices would have on our economy.

Having said that, let's look at the conference report.

Unlike some bills before this House in the last few weeks, it is not loaded with accounting gimmicks to raise the deficit. We spend what we have and no more.

The State of Iowa will receive approximately $1.456 billion in highway funds over the life of the bill. Iowa receives funding for projects of major importance to southeastern and southwestern Iowa. The completion of Iowa Highway 2 from Sydney, IA, to Interstate 29, will stimulate economic development and increase safety in southwest Iowa. The Valley View Drive project in Council Bluffs, IA, will allow the community to safely expand in the only viable direction.

Finally, the bill recognizes the Avenue of the Saints as a corridor of national significance. Funding provided in the bill will be a great help toward the completion of this major transportation project for eastern Iowa. I appreciate the leadership of the Public Works Committee for recognizing the importance of the Avenue of the Saints. But I would also like to pay tribute to the entire Iowa delegation. We worked as a team to keep the avenue where it belongs, in Iowa. All Iowa Members, from both sides of the aisle, gave this serious challenge their maximum effort. It just goes to show what we can do as a team.

I am disappointed the House did not recede to Senate language granting States the authority to waive commercial drivers license requirements for agribusiness. There is not one bit of evidence to indicate agribusiness drivers are any more of a safety hazard than the custom harvesters who did receive an exemption in the bill. This is an important issue in rural America and I will not give up the effort for agribusinesses to receive this commonsense waiver.

My friends, I had the honor to serve on the Public Works Committee for 7 years. No doubt in a week or two we will find provisions in this bill that need correction. But America cannot wait any longer for this major infrastructure bill. I know BOB ROE, JOHN PAUL HAMMERSCHMIDT, NORM MINETA, and BUD SHUSTER. They have worked hard and in a truly bipartisan fashion. They are trying to do right for America and this House and deserve our support tonight. I urge my colleagues to support the bill.

Mr. VENTO. Mr. Speaker, I rise in support of the conference report on the Intermodal Surface Transportation Act.

This conference report is a product of months of hard work by the chairman of the Committee on Public Works, Mr. ROE, his ranking member Mr. HAMMERSCHIMDT, the chairman of the Subcommittee on Surface Transportation Mr. MINETA, and his ranking member, Mr. SCHUSTER. I commend them for their leadership and perseverance in bringing his massive and complex piece of legislation to the floor. On the whole I believe the conference report is an important measure which will help repair our Nation's ailing infrastructure, stimulate economic growth and meet our surface transportation needs into the next century. The mass transit provisions and funding of this bill are particularly worthy.

I rise to express my concerns about a provision in this bill which would establish a new National Recreational Trails Trust Fund. I and several other members of the Interior Committee were conferees on this section of the bill since the recreational trail trust fund provision directly deals with matters under the jurisdiction of the Interior Committee. While I strongly support the overall conference report, I was not able to sign the conference report because of the outcome of the conference with regard to this recreational trail provision. This provision was not contained in the House-passed version of the surface transportation bill. The language adopted in the conference report was not even in the Senate-passed bill, and goes beyond the scope of the Senate bill. While well-intentioned, the trails fund as contained in the conference report is not responsive to the majority of trail users in the country, is administratively inefficient, and could have a negative impact on the natural resource values of out Nation's public lands. Alternatives were presented during the conference which would have resulted in greater funding for trails, greater flexibility for States and greater responsiveness to actual trail use and demand than the proposal finally adopted by the conferees.

As chairman of the Subcommittee on National Parks and Public Lands, I have been involved in recreational trail issues for a number of years. The subcommittee has jurisdiction over the National Trails System Act, the National Wilderness Preservation System Act, the Land and Water Conservation Fund Act and a number of other provisions of law dealing with trails and recreation. Our committee has worked for a number of years on expanding all outdoor recreation opportunities, and has taken a particular interest in trails as a form of outdoor recreation. In addition to bring the committee which authorizes all national scenic, historic and recreational trails, our committee has taken a lead role in investigating trail issues and working for increased funding for trail land acquisition, construction and maintenance.

The Subcommittee on National Parks and Public Lands held a joint hearing on recreational trails in America with the Subcommittee on Energy and the Environment on October 31, 1991. This hearing brought in witnesses representing the National Park Service, the Forest Service and the Bureau of Land Management, State recreation officials, State trails coordinators, trail researchers and a number of motorized and nonmotorized trail user groups. Although all of these witnesses were pleased about the prospect of new trails funding, a number of these witnesses expressed concerns about the specific provisions of the National Recreational Trail Trust Fund in the Senate-passed surface transportation bill. Based on the testimony at this hearing and other communications received regarding this provision, I and Chairman KOSTMAYER of the Energy and Environment Subcommittee began drafting an alternative proposal to address the many concerns that had been raised about this bill. This proposal was the basis for the bipartisan Interior Committee proposal discussed by the conferees on the surface transportation bill. This proposal contained several important advantages over the Senate-passed provision, including:

Requiring funds from the National Recreational Trails Trust Fund to go through the existing Land and Water Conservation Fund, thus providing substantial savings on administrative costs, a 50–50 Federal-State match for all trail projects and a process for prioritizing the recreational trail needs of each State through the State comprehensive outdoor recreation planning [SCORP] process. This approach was strongly favored by the National Park Service.

It allocated funds for recreational trails directly to the Federal land management agencies rather than having them go through States as in the Senate bill. This was appropriate since much motorized and nonmotorized recreational trail use occurs on Federal lands, and since there is a tremendous backlog of trail maintenance needs on Federal lands.

Rather than allocating funds along arbitrary percentages which had little to do with actual trail usage, the Interior proposal provided that funds were to be spent for the use and benefit of safer, more enjoyable and more environmentally sound trail opportunities for motorized and nonmotorized users alike. Trail research demonstrates that the vast majority of trail use is by hikers, bicyclists, horseback riders and other nonmotorized users. Data from the public area recreation visitor study [PARVS] suggest that of the 525 million trail uses on public lands which occur each year, 468 million or 89 percent are nonmotorized and 57 million or 11 percent are motorized. Because the Interior proposal left the allocation of trail funds up to the priorities of each State, it was more respective of States rights than the Senate-passed provision which imposed a mandatory percentage for spending funds on motorized and nonmotorized trail projects. I would have preferred language which would have allowed each State to decide its own trail priorities.

The Interior proposal also contained more strict language regarding construction and reconstruction of motorized trails through potential wilderness areas than the Senate proposal. This language was needed to prevent this legislation from prejudicing future congressional decisions about wilderness designation.

For these and a host of other reasons, the bipartisan Interior Committee proposal for a Recreational Trails Trust Fund was preferred over the Senate version by a number of trail and conservation organizations including the American Hiking Society, the Sierra Club, the National Wildlife Federation, the Wilderness Society, the National Parks and Conservation Association, the Rails to Trails Conservancy, the National Recreation and Parks Association and the National Association of State Outdoor Recreation Liaison Officers.

I would like to express my appreciation to the conferees on the surface transportation bill for their patience in discussing this matter which dealt with a relatively small level of funding in comparison to other programs in the bill. However, in the rush to complete the conference and the confusion which accompanied the vote on this matter in the conference I believe the conferees missed an opportunity to develop a recreational trails program that would have better served the needs of all recreational trails users.

I am particularly concerned that the conferees went beyond the scope of the bill passed by the Senate by designating the Secretary of Transportation to administer the recreational trails program. The Secretary of Interior is the appropriate Secretary to administer a program dealing with recreational trails. The surface transportation bill passed by the Senate designated the Secretary of Interior as the administrator of this program. The conferees recognized the importance of direct involvement of the Secretary of the Interior in this program by requiring the Secretary of Transportation to consult with the Secretary of the Interior. It is the clear intent of the conferees that the Secretary of Interior be consulted on all matters relating to the National Recreational Trails Trust Fund, including the appointments of the National Recreational Trails Advisory Committee, the establishment of the program for allocating money to the States and the review of the utilization of all funds allocated under this program.

Given the fact that funds can be used to construct and maintain trails on Federal public lands under this jurisdiction of the Interior Committee, I intend to exercise vigorous oversight of the program to ensure that Federal laws governing the management of these lands are fully complied with. Furthermore, I will work to ensure that no funds will be allocated under this Act in a manner that will prejudice the prerogative of Congress to designate as wilderness lands administered by the Forest Service, National Park Service or Bureau of Land management. It is my interpretation of the conference report language that funds made available by this report may not be used in a manner that will in any way impair the suitability of lands which are being reviewed for wilderness designation or which have been reviewed for such designation and have not been released for nonwilderness uses by act of Congress.

The Interior Committee will also be conducting close oversight of this program to ensure that the States shall not implement any shared trails use which may create unsafe conditions for any of the intended trail users. Corridor sharing referred to in the conference report may refer to corridor sharing among various types of nonmotorized trail users, and the States shall attempt to provide corridor sharing on fair and equitable fashion which is not prejudicial to the various user communities. Although the new trail trust fund is denominated "recreational" in nature, the conferees recognize that many bicycle and hiking trails serve important commuting objectives, especially in urban and suburban areas. Further, comparable trails in many parks and recreational areas can serve to reduce air pollution and foster similar environmental goals.

Mr. Speaker, as I previously stated the conferees had several alternatives which could have made this recreational trails proposal more environmentally sound and responsive to the diverse trail user needs which exist in this country. Besides this provision, I support the conference report and urge its prompt passage.

Mrs. BYRON. Mr. Speaker, last year, Americans spent more than $600 billion on health care. If we continue at this rate, we will spend $1.5 trillion on health care by the year 2000. I'm not so sure we can go on like this. As it stands, more than 33 million people have no health insurance, while millions more are underinsured. Those with insurance may be tempted to think that the problem doesn't affect us, well, it does. It is reflected not only in higher insurance premiums each year, but higher Medicaid costs—at the expense of other programs we enjoy. Rising infant mortality rates, and real-life problems with access to health services, are key problems.

I began talking about our health care system more than a year ago. During the summer of 1990, I sponsored four health care forums across my district. Frankly, I was surprised to see so little interest in health care. Beyond the 20 to 30 senior citizens at each stop, very few people seemed to care. Now that it's an election year, health care reform is the issue. I'm pleased to see this. We are fortunate enough to live in a country with one of the best health care systems in the world, but there are recognized shortfalls in access and affordability. We can do a better job here, and I am pleased to be able to participate in bringing it about.

As a member of the rural health care coalition, I have strongly supported efforts to improve preventive health care services. Staying healthy is the key to controlling health care costs. For example, I have cosponsored bills to establish a comprehensive, preventive, health program for Medicare beneficiaries, require States to cover breast and cervical screening for poor women, provide incentives for physicians to locate in rural areas, and encourage medical schools to have departments of family medicine.

I feel very strongly about our Nation's commitment to primary care. Beyond these legislative initiatives, this year I was able to resolve a bureaucratic tangle with the Appalachian Regional Commission to bring about the placement of a pediatrician in Washington County. We are very pleased to have Dr. (Maria) Younes in western Maryland and know that she is doing her part to keep our children healthy.

I also serve on the Leadership's AIDS Task Force and the Task Force on Health. We cannot ignore the impact of AIDS on our health care system. Several years ago, I worked very closely with my colleagues in bringing about the adoption of the Ryan White C.A.R.E. bill on AIDS. Education, prevention, research and development are essential in combatting this fatal disease. My efforts in this area will continue as we confront a rising number of AIDS cases in our cities as well as increases in our rural communities.

The health care discussions that are taking place give us a basis for health care reform to come. Before we simply dismantle what we have, however, we need to understand what shape our health care policy should take. What are we willing to pay for? We need to recognize that a government solution directly involves the taxpayers. We are the payers; and finally, we need to make sure that any reform takes into account the special circumstances of those seeking health care in rural areas. I am committed to finding acceptable changes in our health care system that will best meet the needs and budget of our Nation.

Mr. BROWN. Mr. Speaker, this bill's creation of a National Scenic Byways Program is an important step toward recognizing and protecting the scenic and historic values of qualified highways across America. Driving is one of our great national passions. At one time or another, we have all felt the pull of the open road, enjoyed driving along a curving byway under the canopy of vibrantly green trees, with clouds hovering overhead and a stream bubbling off the side of the road. Designation and protection of national scenic byways is environmentally sound policy and will provide economic benefits as well through increased tourism potential.

Equally important here is the conferees' decision that the Highway Beautification Act's provisions be modified to require a ban on new billboard construction along designated scenic roads. It is most appropriate that the public investment in designated scenic roads be protected by prohibiting the construction of large intrusive signs which would detract from scenic views. The billboard ban on interstate and primary scenic roads is a minimum response, of course. Nothing in this bill will limit States from enacting stronger controls on billboards on State designated scenic byways which are not on interstate and primary roads.

Finally, I am pleased that this bill will amend the Highway Beautification Act provisions to require illegal billboards to come down within 90 days of enactment. Some 33,000 of these illegal billboards line the Nation's highways, but have never been removed due to lax enforcement of the law. I would urge the Federal Highway Administration to structure its rulemaking to ensure that this requirement to remove illegal billboards is closely monitored and strongly enforced.

Mr. ALEXANDER. Mr. Speaker, I rise in support of this highway bill.

If America is to be competitive, we must make sure that our transportation system is up to the task.

Without an efficient transportation system, we will lose the race to countries such as Japan and Germany.

This legislation will begin the process of seeing that America does not fall behind.

Projects in my State are certainly badly needed.

In my State, money in this bill will begin construction planning for a bridge at DeValls Bluff, interchanges on the Highway 63 bypass in Jonesboro and it also identifies Highway 412 as a high priority corridor.

The bridge at DeValls Bluff is dangerous and it's replacement will eliminate one of the major traffic bottlenecks in this area.

The Highway 63 bypass program at Jonesboro has saved lives and made travel in that fast growing city much more efficient.

There is currently no four-lane system running east-to-west across the northern part of Arkansas. This inhibits growth in the area.

Improving the highway system in the area will foster economic growth.

Also, Mr. Speaker, in addition to its other benefits, this bill will create jobs—jobs which are badly needed to stimulate economic growth.

Mr. GALLO. Mr. Speaker, I want to voice my support for this 6 year national transportation blueprint.

In particular, I am pleased that the House was successful in protecting its $32 billion funding level for mass transit—$11 billion more than the Senate version of the bill.

We have to take the long-term view and I believe this bill does just that. It paves the way for major improvements in our Nation's mass transit systems and gives States greater flexibility to use these funds for projects of particular importance within each State.

In addition to providing increased mass transit funding, this bill also stimulates our nation economy by creating more than 4 million jobs. At a time when our economy is in need of a jump start, it is reassuring to support a piece of legislation that will help us to revitalize our Nation.

This $151 billion authorization provides about $5.5 billion for New Jersey highway and mass transit projects, including $634 million for the New Jersey urban core project for mass transit.

This bill represents a balanced approach. It identifies future needs and addresses them. But it also recognizes our more immediate priorities and allows for improvements in our current highway system, where they are needed.

I am also very pleased that the final bill contains funding to build new ramps to ease the flow of traffic on I–280 in Parsippany.

Mr. Speaker, today marks an important day for the future of transportation policy in America, and I am pleased to offer my support for the conference committee's bill.

This bill authorizes many programs and initiatives that will provide the flexibility to meet changes that have been occurring within our society. As a nation we have set a number of important priorities in order to clean up the air, to relieve traffic congestion, to promote mass transit, and to develop basic ways of providing for a healthier environment.

Last year, Congress passed the Clean Air Act which put in place new air quality standards that States must begin to meet by 1995. This will not be easy unless the Federal Government provides some type of guidance. It is my belief that H.R. 2950 will do just that.

Specifically, the House surface transportation bill includes $32 billion for mass transit construction and expansion programs—which is $11 billion more than the other body's bill. This increased funding will not only relieve traffic congestion that has become so prevalent in the Northeast corridor it will promote cleaner air by offering alternative modes of transportation.

This bill contains a number of demonstration projects designed to alleviate traffic problems. In my State of New Jersey we must concentrate on mass transit programs, but we must also find ways to relieve traffic bottlenecks. These projects will provide such relief and allow traffic to move easier.

In addition, we must have a bipartisan commitment to improve mass transit in New Jersey. This bill makes a major contribution to that effort.

As the author of H.R. 193, I have been pushing legislation in Congress to provide incentives for commuters to use mass transit, but these incentives must be accompanied by improvements in service, if we are to be successful in getting commuters to leave their cars at home.

A decade ago, New Jersey Transit inherited a fragmented and poorly maintained commuter rail network from Conrail and the goal since that time has been to complete missing links and upgrade current service. The New Jersey urban core project, including the Kearny Connection is the most critical part of those efforts.

Mr. Speaker, I commend Chairman ROE and all of the conferees for their dedication and hard work, and urge my colleagues to support this bill.

Mr. BROWN. Mr. Speaker, I rise in support of the conference report on Intermodal Surface Transportation Infrastructure Act of 1991. I want to congratulate the chairman of the Public Works Committee on his tenacity in processing this difficult piece of legislation which will reinforce our infrastructure and strengthen our economy in the forthcoming years.

I want to thank the chairman of the Public Works Committee for accommodating the Committee on Science, Space, and Technology by incorporating many of the research and development provisions reported by the committee which I believe will become assets to future generations.

I also want to thank the gentleman from North Carolina, chairman of the Subcommittee on Technology and Competitiveness, Mr. TIM VALENTINE, for his work in bringing together a carefully constructed program for near- and long-term R&D in the field of surface transportation.

Mr. Speaker, this bill marks a turning point in transportation technology which will provide future generations with models of travel we never dreamed of.

The bill includes research and development in intelligent vehicle highway systems. The objective of this R&D is to build and test a fully automated prototype of the highway of the future, one that cars would travel on between cities under automated guidance systems that would maintain safe spacing and speed control without driver assistance.

The bill also includes a number of other long-term and short-term research and development objectives, including research and development in the area of high frequency dynamic loadings on bridges. These loadings will result from high-speed rail and magnetically levitated systems. The research will also include the use of new data collection and computation methods. These methods will facilitate the design of structures to accommodate these new modes of transportation.

The bill includes the creation of an advisory board composed of members outside the government to assure that industry and Government can work together in rebuilding U.S. transportation systems.

High-speed rail is one of the most promising technologies to alleviate overcrowding at airports. It is technology that can put the United States back in the business of manufacturing its own rail systems. High-speed rail systems have attained speeds of 300 miles per hour, and a 200-mile-an-hour commercial system is achievable through the R&D program called for in this bill.

The bill also includes magnetically levitated train research and development which we hope will bring this technology to practicality by developing levitation and guidance systems which employ superconducting magnets. These systems will require shielding against electromagnetic forces, and we therefore plan to undertake R&D in this area as well as in aerodynamics to assure the stability of magnetically levitated trains under all wind conditions.

As a potential replacement for diesel buses we have called for a short-haul passenger transportation system to be powered by batteries or fuel cells. It is to be trackless, running on pneumatic tires with the capability of being recharged every few miles.

The R&D is also intended to extend the life of the surface transportation infrastructure. New concepts in radiography are expected to facilitate more thorough examination on bridge and highway structures.

The bill also contains provisions for advancements in research to protect the infrastructure against severe damage from earthquakes, and it calls for transportation research centers where minority students can enter the professions to design and build tomorrow's transportation systems.

Mr. Speaker, the R&D provisions in this act are intended to put U.S. industry back on the road to innovation and quality in transportation.

Mr. BLACKWELL. Mr. Speaker, I rise in strong support of H.R. 2950, the surface transportation bill. This legislation marks a true turning point for the urban centers of America. For the first time in nearly a decade, our Nation's mass transit systems will receive the funding that they so desperately need.

As a Representative from one of America's largest—and oldest—cities, I firmly believe that mass transportation systems are the backbone of our great cities. The problem is our backs are almost broken. Bridges are crumbling. Tracks are rusting. Our choice has never been more clearcut. We can pass this comprehensive bill that will benefit those in both rural and urban areas and secure the future of mass transit for our cities, or we can continue to watch these vital systems rot before our eyes.

I do not need to recite the advantages of mass transportation for you tonight—the environmental benefits, the service it provides for the disabled and for those who cannot afford to own cars, the jobs it provides, and so forth. But I will not remain silent while Congress has this prime opportunity to begin rebuilding our Nation's cities, starting with this most important service. I urge my colleagues to save our cities, and pass H.R. 2950.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOYER). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHUSTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 372, nays 47, not voting 15, as follows:

[Roll No. 440]

YEAS—372

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Barnard
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Orton
Oxley
Packard
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff

NAYS—47

Allard
Andrews (NJ)
Archer
Armey
Bacchus
Ballenger
Bennett
Boehner
Burton
Campbell (CA)
Coble
Condit
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dreier
Early
Fawell
Franks (CT)
Goss
Hancock
Hansen
Hefley
Herger
Jacobs
James
Johnson (TX)
Kyl
Long
Neal (MA)
Owens (UT)
Pallone
Penny
Ray
Rhodes
Roemer
Rohrabacher
Ros-Lehtinen
Schaefer
Solomon
Stump
Taylor (NC)
Walker
Washington
Zimmer

NOT VOTING—15

Collins (IL)
Dickinson
Dymally
Hertel
Lehman (FL)
Marlenee
Ortiz
Owens (NY)
Pastor
Pickett
Thomas (CA)
Towns
Traxler
Waxman
Yates

□ 0550

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Speaker, During rollcall vote No. 440 conference report to accompany the bill H.R. 2950 I was unavoidably detained, had I been present I would have voted "Yea."

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF CONFERENCE REPORT ON H.R. 2950

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Clerk have the authority to make the necessary technical, clerical, and clarifying changes in the conference report just adopted.

The SPEAKER pro tempore. (Mr. HOYER). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the conference report just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONFERENCE REPORT ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 301 and, pursuant to House Resolution 294, I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 301

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 3371) to control and prevent crime. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON]. Pending that, I yield myself such time as I may consume.

Mr. Speaker, during debate on House Resolution 301, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 301 is the rule providing for the consideration of the conference report on H.R. 3371, the Omnibus Crime Control Act. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as read. Mr. Speaker, this conference agreement is a comprehensive legislative response to the many facets of criminal activity in our society.

The agreement that the House will consider tonight would expand the Federal death penalty to 53 crimes—including murders in connection with terrorism, assassination of Federal officials, genocide, kidnapping resulting in death, and major drug trafficking offenses.

The conference agreement reforms the habeas corpus procedures by requiring prisoners under death sentences to file habeas corpus petitions within 1 year of their direct appeal; adopts the Seante's 5-day waiting period for handgun purchases; and authorizes $3 billion for hiring law enforcement officials on the Federal, State and local levels.

Mr. Speaker, this conference report is not without controvesy, there are provisions that Members have concerns about. However, I believe this agreement provides a strong Federal commitment to crime control, and I urge my colleagues to adopt this resolution and allow the House to proceed with this vitally important conference report.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this rule and to the conference report on the crime bill it makes in order.

First, at the rules meeting that produced this rule there had not been adequate time for Members to become familiar with the provisions of the conference report.

At the time of the Rules Committee meeting on this conference report, no copy of the text was even available to Members.

This is a major bill and Members should have at least a reasonable opportunity to be aware of what they are going to have to vote on.

At the time of the Rules Committee meeting, I put into the RECORD a letter from the Attorney General, William Barr, which described this conference report as a significant step backwards.

The conference agreement actually overrules several recent Supreme Court decisions favorable to law enforcement.

According to the Attorney General, this conference report does more for those convicted of crime than it does for those victimized by crime.

Mr. Speaker, the current system allows those guilty of the most serious crimes to avoid punishment by filing frivolous habeas corpus petitions that drag on for years. The conference agreement now provides new loopholes by which convicted criminals evade punishment.

The conference agreement would make the current situation worse by overruling certain reasonable limitations recently established by the Supreme Court on successive habeas corpus provisions.

The conference agreement also is a step in the wrong direction on reasonable reform of the exclusionary rule. By rolling back Court decisions which allow for the admissibility of evidence when police have acted on good faith, the conference agreement will handicap police and increase the number of real criminals who avoid punishment because of legal technicalities. The conference agreement rejects the proposal overwhelmingly adopted by the House 247-165.

Mr. Speaker, the conference agreement authorizes $3 billion for law enforcement programs, but the authorization is meaningless without appropriation.

The Congress failed this year to fully fund the President's request for law enforcement.

Congress cut 64 percent of the increases requested by the President. Making promises which are almost certain not to be fulfilled is not the right way to legislate.

Mr. Speaker, backing up the U.S. Attorney General's position, the National District Attorneys Association has also written to oppose this bill. Let me quote briefly from their letter, signed by prominent Democrats and Republicans: "The Nation's prosecutors strongly oppose the so-called "crime control" bill approved in Sunday's conference and urge both House and Senate to reject it."

They say, "This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens."

Who else is opposed to this procriminal bill: Federal judges across this country, including those in the Northern District of New York.

□ 0600

Finally, Mr. Speaker, I have been handed a letter from President Bush stating that he will veto this conference report if it is presented in its current form. I would ask unanimous consent that the President's letter be inserted in the RECORD at this point.

The SPEAKER pro tempore. (Mr. HOYER). It there objection to the request of the gentleman from New York?

There was no objection.

The letter from the President of the United States is as follows:

THE WHITE HOUSE,
Washington, DC, November 25, 1991.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR BOB: Since March, I have been calling on the Congress to pass a tough crime bill that will remove the handcuffs from law enforcement and end needless delays in the criminal justice system. For too long, the scales of justice have been tipped in favor of criminals instead of law-abiding Americans. The American people want a crime bill that will make the system tougher on criminals than it is on law enforcement and crime victims.

After months of delay, the Congress is now presented with a conference report drafted in the last hours of this session. Once again, just as they did last year, Democrat conferees from the Senate and House have demonstrated that they are willing to overlook the will of their colleagues and the American people. Clearly, the American people deserve better.

The crime bill produced by the Democrat-controlled conference is unacceptable. The bill rejects many of the primary goals the Administration set forth as necessary for an acceptable crime bill. One essential goal of our proposal is to end frivolous post-appeal challenges brought by convicted criminals, particularly death row inmates, through meaningful habeas corpus reform. By overturning critical Supreme Court decisions that have reduced the abuse of habeas corpus, the conference bill actually weakens current law by expanding a criminal's ability to frustrate the system.

Another goal of the Administration's bill is to ensure that criminals do not go free on legal technicalities when a police officer is acting in good faith. This conference report does just the opposite. Again, it retreats from current law by throwing out court decisions that recognize the legitimacy of such a good faith exception to the exclusionary rule.

Finally, although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed.

I will not accept any effort by the Congress to turn the clock back on the progress we have made in the courts on criminal justice reform. If this bill is presented to me, I will veto it and insist that Congress pass a crime bill that will strengthen our criminal justice system.

Sincerely,

GEORGE BUSH.

Mr. Speaker, I would like to cite just the opening paragraph of the President's letter:

"I have been calling on the Congress to pass a tough crime bill that will remove the handcuffs from law enforcement and end needless delays in the criminal justice system. For too long, the scales of justice have been tipped in favor of criminals instead of law-abiding Americans."

Mr. Speaker, that is the first paragraph. This letter goes on to cite all of his objections, but let me just read the last paragraph to my colleagues because this is what really gets to me.

"Finally," the President says, 'although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed.

"I will not accept any effort by the Congress to turn the clock back on the progress we have made in the courts on criminal justice reform. If this bill is presented to me, I will veto it"* * *

Mr. Speaker, this bill should never reach the President; it ought to be sent back to the committee, and let us do it right.

For all these reasons, Mr. Speaker, I must oppose this rule and the conference report it makes in order.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], my friend, for yielding, and I would simply like to underscore a point that my friend made at the opening of his statement, that being the fact that in the Committee on Rules; now keep in mind we are considering the crime bill under martial law at this point in the House; we got to the point where there was not a single paper that was before us when we were considering this rule, and I was told by members of the conference that they were operating under the exact same circumstance as they were trying to report this conference report to us.

So, it seems to me it is absolutely ludicrous to think we can move ahead with something when we did not even have the papers up in the Committee on Rules to consider it.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in opposition to the rule, and my colleague paid reference to the National District Attorneys Association. I would like to read the letter, and not only this, but I say to the chairman on the other aisle, "The eyes of Texas are on you." The attorney general from Texas, along with 31 other attorneys general, have signed a letter saying what a bad bill in its present form that this is, and this is, I quote, and I wish these were my words because they are so eloquent, but this is from the National District Attorneys Association:

> The American people have been mugged again, this time by the leadership of the leadership of the United States Congress. The Nation's prosecutors strongly oppose this so-called crime control bill approved in Sunday's conference and urge both House and Senate to reject it. This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens. In fact, passage of this bill is tantamount to handing the jail house keys to thousands of convicted State and Federal prisoners. The conference committee has nearly in every incidence chosen the weakest provisions with respect to law enforcement. It rejects the House Limitation on House application of the exclusionary rule. It overturns the Supreme Court Decision Arizona versus Fulminante through the provision that may have far-reaching effects and which was not even the subject of hearings. Finally, the conference chose the weakest provision on death penalty provisions and procedures.

Mr. Speaker, we have tried time and time again to even pass rules on drug testing for this House and Federal employees, and every single attempt has been turned down. Let us pay attention. Let us get tough on criminals. Let us defeat the rule.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I say to my colleagues that I fully support the rule, and I appreciate the courtesy and the trouble that the leadership and the Committee on Rules has gone to to get this brought to the floor at this time.

Mr. Speaker, as the Members well know, the rule before us provides for the consideration of the conference report on H.R. 3371, the Crime Control Act. This is a matter that has been before this body for weeks now, and the Members should be familiar with its provisions. Just 6 weeks ago, this body spent long hours considering in detail the provisions of the House bill, the abundant majority of which are reflected in the conference agreement before us this morning. The major issues in contention—habeas corpus, the death penalty, the exclusionary rule—have been debated throughout this process, and the Members have had the opportunity to become fully informed about the points of contention.

Mr. Speaker, if we are going to back up our rhetoric about crime with action, we must move H.R. 3371 through the process expeditiously. Everyone in this body feels that the status quo is inadequate for our citizens—that punishment and deterrence must be increased for abhorrent criminal activity. To take no action at this time is to validate the current state of affairs on the streets and on the books. I reject that, as I reject all the dilatory efforts on the other side of the aisle—from blocking the naming of conferees for weeks in the Senate to attempts to derail the conference.

Let us adopt this rule and pass the conference report on this effective and tough piece of anticrime legislation.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, what I have to say is, "Good morning, America. Wait until you see what the Congress of the United States and the House of Representatives has stayed up all night to bring you today, a bill that will make worse the criminal laws, a bill that will make worse the present criminal laws in the United States of America, and this was all done on Sunday in one conference committee meeting which I attended as a conferee, and I want to tell you it was done with another Hail Mary pass, a Hail Mary pass from the Democrats in the House to the Democrats in the Senate."

Mr. Speaker, the bill before my colleagues is what the Democrats agreed between themselves. We brought it to the House floor, and it is walking into a veto. Why? Because it selects provisions which, not only do not improve current law, they send current law back.

Now I want to say that I have heard on the news the outrageous statements that the President of the United States has threatened to veto this bill because it contains some gun control language. Now the President is a skeptic about the effectiveness of gun control. Who can blame him? New York and Washington, DC have the toughest gun control laws in the Nation, and my colleagues have all seen how much that has done for them. Nevertheless, let me debunk that nonsense right now.

Mr. Speaker, let us amend this bill to change the habeas corpus provisions. Let us amend this bill to change the exclusionary rule provision. Let us amend this bill to amend the confession provisions and see then if the President of the United States will veto the bill. I do not think so. These are the key provisions that have been added, that have been selected for the bill. These are the key provisions that weaken it.

Mr. Speaker, I urge defeat of the rule, defeat of the bill.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I do not want the impression to be given that the people in the front line of fighting crime, the police officers of this country, are against this bill. They are not. They are for it. Almost unanimously.

Mr. Speaker, I want to read from some supportive statements by police organizations and people who are responsible for fighting crime in this country in every State of America.

The Fraternal Order of Police:

"We call on the Congress to adopt, and for the President to sign, this bill. It is the toughest anti-crime legislation to emerge from Congress in recent memory and should become law."

The National Association of Police Organizations:

"NAPO believes the version which has been reported out of conference to be tough anti-crime legislation. We urge you to enact this badly needed anti-crime legislation immediately."

The International Brotherhood of Police Officers:

"America needs a crime bill now—in this session, passed by the Congress and signed by the President. IBPO represents rank and file officers on the front lines in the war on crime and drugs and we urge you to adopt the conference report and pass this important legislation."

The International Union of Police Officers:

"We recognized the real need for enactment of the conference committee version of the crime legislation and support it fully."

The same thing with the National Troopers Coalition, the Police Executive Research Forum, the National Association of Black Law Enforcement Executives.

Mr. Speaker, every police organization that is out there on the front lines in the State and local communities of this country say, "Pass this legislation."

I say to my colleagues, "It's tough on crime. Don't be mislead by this red herring of district attorneys appointed by the President or the Justice Department being against this bill. This is one of the most effective anticrime pieces of legislation that has ever passed this Congress. It is time to vote yes on this bill."

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. RIGGS] to speak on this farcical piece of legislation. He is a real policeman who just finished serving as a policeman and now is a Member of this House.

□ 0610

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding me this time.

I have listened to the last speaker with some amusement.

Granted, those law enforcement fraternal organizations which are for the most part labor organizations that I am very familiar with are looking for any kind of support from the U.S. Congress whatsoever in fighting the crime problem. My colleague, the gentleman from Kansas, knows full well that those ladies and men in uniform who, indeed, are in the front lines in the fight against crime, have no idea whatsoever of what is in this conference report.

Let me bring to the gentleman's attention a letter my office received yesterday from the California District Attorneys' Association, and unlike the sort of barbed or thinly veiled reference to attorneys appointed by the President, these are district attorneys for the counties in California who are the elected officials and who represent the people of the State of California in bringing prosecutions against law violators in the State of California.

This is a letter written to the Speaker and to the gentleman from Illinois [Mr. MICHEL]. It says:

CALIFORNIA DISTRICT
ATTORNEYS ASSOCIATION,
Sacramento, CA, November 26, 1991.

Hon. THOMAS S. FOLEY,
Hon. ROBERT H. MICHEL,
U.S. House of Representatives,
Washington, DC.

GENTLEMEN: The members of our association were appalled to read the latest version of the Omnibus Crime Control Bill approved in Sunday's conference. We urge the House to reject it.

The habeas corpus "reform" package reported out by the conference committee represents a gigantic step backwards. The adoption of this measure, which basically overturns *Teague* v. *Lane*, (1989) 489 U.S. 288, would have disastrous consequences to the interests of public safety and the criminal justice system.

We note with great concern the expansion of retroactivity, the expansion of the time period for the filing of writs for those under the sentence of death, and the expansion of the right to file multiple successive writs alleging technical defects having nothing to do with guilt or innocence. We note also the unbelievable qualification standards for appointed counsel in state capital cases.

Clearly, the present bill now serves only to further the interests of convicted criminals and opponents of the death penalty. We urge you to vote no on the present version of the Omnibus Crime Control Bill.

Very truly yours,
EDWARD R. JAGELS,
President.

Believe me, ladies and gentlemen, it is not the rhetoric of the U.S. Congress that the men and women, again, in uniform on the front lines in the fight against crime are going to listen to. It is this kind of very specific guidance and advice from the local prosecutors in California and in other States across the Union that will guide them in their ultimate determination as to whether or not this is good legisltion.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I am sure we are going to hear more from the opponents of this bill about the prosecutors being so strongly against the bill. Of course, most prosecutors are against this bill.

In our hearings, we found that in capital cases, 40 percent of the convictions of these prosecutors, the same prosecutors that are against this bill, are overturned in habeas corpus because they are defective. Nobody is released from prison, but their prosecutions are so defective that they have to be remanded or returned to the courts for rehearing, or retrial in some cases.

Of course, do not expect prosecutors to be for this bill, but ask your local bar association, I say to the gentleman from New York [Mr. SOLOMON]; ask your county bar, and I say to the gentleman from New York [Mr. SOLOMON], ask your State bar association.

Ninety percent of the State bar associations of this country are in favor of this bill. Ask the judicial conference of the United States. They have come out four-square against the President's bill and especially against the President's habeas corpus proposal which would eliminate habeas corpus altogether. That is a little bit like eliminating the Magna Carta, to eliminate it altogether. That is what they want to do.

Let us not hear any more about retroactivity. Section 204 of this conference report specifically prohibits retroactivity. Do not keep saying it does. Do not confuse it with a provision that was turned down in the committee. It happened to be the Berman proposal which did allow a certain amount of retroactivity.

So I really wish the opponents of this bill would look at the bill. As I sat here and listened, and I have read the bill. We wrote the bill.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], a member of the Committee on the Judiciary, and I would hope that at some time we would be enlightened as to what has happened to the gun provision. We understand that they may have changed since the bill left the Committee on Rules. I hope the gentleman from Texas [Mr. BROOKS] could enlighten us.

Mr. HYDE. Mr. Speaker, I just want to address at this point in the proceedings the policemen's letter.

If you want to know about the law, do not ask the prosecutors. Do not ask lawyers. Ask the policemen.

I do not quite follow that logic. I do know that in the bill there is $3 billion in grants to law enforcement. Now, that is a pot of money, and they want that money, because in this letter from the International Association of Chiefs of Police, that was sent to the distinguished junior Senator from Delaware, they applaud, "Additional funding support for State and local law enforcement." That is an attractive feature. However, they damn the bill by faint praise in the next-to-the-last paragraph. They say, "We recognize it does contain some elements that could be strengthened."

By the way, the Fraternal Order of Police says: "The NFOP certainly would have preferred certain language not presently found in the conference agreement such as the Senate provisions on habeas corpus reform, the police officers' bill of rights, semiautomatic assault weapons as well as the House language on good faith warrantless searches by police." That is some limp endorsement.

The problem is that they think they are going to get $3 billion. They say so.

I would point out that the Attorney General of the United States says: "Finally, in authorizing $3 billion for law enforcement, the bill offers only a mirage. Authorization of this funding when there is no appropriation is essentially meaningless. The irony here is that the Congress failed this year to fully fund the President's budget request for law enforcement, slashing it by $472 million, a 64-percent cut in the increase sought by the President."

So I suggest to the Members that the policemen are misled by the illusory carrot of $3 billion.

It is the lawyers, it is the States' attorneys general, and I might say Mary Sue Terry of the State of Virginia, no raving Republican, has signed the letter that says that this bill is an atrocity.

We will have more of that later. But do not be misled by the policemen's union who think they are going to get $3 billion when they are not.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Let me just say this before I yield.

You know, the policemen have been accused of not knowing what they are writing about and not knowing what the bill is about; let me tell you something: I know that the attorneys general do not either. They came into my office, several of them, and I found out they did not know what they were talking about either. After I talked to them and explained the bill to them, the habeas corpus provisions, they said, well, they thought that was fine, and they had no objections to it, so there are a lot of people who do not know about the bill.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, you know, it seems to be a fashion on the other side tonight, because police organizations do not agree with them, to knock them, to say they do not know what they are doing, et cetera, et cetera.

I think that the gentleman from Illinois correctly quoted the FOP. They said, and I will quote the same thing he did, "The NFOP would certainly have preferred certain language not currently found in the conference agreement." So would we all.

Every one of us, every one of the 435 of us, could look at this large bill that does so many different things and say, "I might change this, and I might change that, and I might change this."

□ 0620

But unlike us, who have the luxury of sitting here safely in this chamber, the police officers of the FOP and NAPO have their lives on the line every day. They do not have the luxury of playing political games. And if they see a bill, admittedly not perfect in anybody's eyes, that will do a heck of a lot of good to make them safer and make our streets safer and make our citizens safer, then they cannot afford to play the political games, and they step up to the plate and they say, "I am voting for this bill."

I would say that their cue is the one we should take in this body. They say it is not perfect. But the perfect is not going to be the enemy of the good, not when bullets are flying, not when people are being mugged, not when we are not doing enough against crime.

So I urge my colleagues, listen to the wisdom of that average cop on the beat, and vote for this rule and this bill.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, here we go again denying the American people laws they want to protect public safety and prevent more victims of crime.

The Democrat-run Congress plays this game year after year. We send a crime bill to conference and the Senate sends a crime bill to conference that at least reflects the will of the bodies. What comes back from conference does not reflect the will of the bodies or of the American people.

The conference is not a negotiation between the House and the Senate. It is a negotiation between the ACLU Democrats in the House and the ACLU Democrats in the Senate to get the most pro-criminal bill possible.

Doesn't someone, someone care about public safety or the victims of crime?

It is not a question of providing a death penalty which will never be enforced for a smorgasbord of crimes. It is a question of providing a death penalty which will be enforced for a few crimes.

It is not a question of putting in prison minor first time offenders. It is a question of putting in prison serious and repeat offenders and keeping them there.

It is not a question of handcuffing our police and freeing our criminals. It is a question of freeing our police and handcuffing our criminals.

It is not a question of providing expensive new courts. It is a question of unclogging our existing courts.

Victims of crime are crying out, "Help us." Frightened Americans are crying out, "Help us." Let's send this bill back to conference and respond to those cries.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, one of our colleagues whom I like very much made a statement a moment ago that there is $3 billion in this bill for police organizations—that is for law enforcement, actually—and, naturally, the police would be for it because of the $3 billion.

Well, it happens that I am a former police officer also, and I think that what the gentleman is saying in essence is ill-considered. I do not think that it honors our police to suggest that they have sold out.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Chairman, a moment ago, I asked you a question over here in the aisle whether or not this bill had been changed at all since it left the conference. You told me no. I certainly believed you at that point, but we have had a number of rumors around the floor that this has been changed. Particularly, we heard it may have been changed with respect to the firearms provision.

The concern we have is this: Out of the conference came a bill that set up a national registration, not of handguns, but of all firearms. That is a major concern, I think, for all of us who have listened to the rhetoric over the last several weeks and several months that we are only touching assault weapons or only touch handguns, that there was certainly not any intention on behalf of anyone to make this a massive sweep to all firearms.

Yet when we read this bill, when you move from the Brady provisions of the 5-day registration period to the instantaneous check provisions, all of a sudden the language changed. It is no longer handgun language. In the instantaneous check provisions in the bill it goes to all firearms, and throughout that provision it says all firearms.

So the fact is that we moved to a national registration system, a computerized registration system, not of handguns, but of all firearms.

If that is the same provision that left conference, it is at this point then a major change in everything that we had heard was the intent here in the Congress, and I think something which is a serious flaw in the bill.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I just want to say, in reply to my distinguished friend on that, that the gun provisions have not changed since it came out of the Committee on Rules. Obviously I like guns, too. Absolutely no change on ban on assault weapons is in this bill. That part of it is just like it came out of the House, out. That is where I wanted it. That is where this House wanted it. That is how you all voted for it.

The NRA and Senator BOB DOLE, a very distinguished friend of mine and yours in this other body, wrote the language on the Brady language that we did retain, that you are familiar with. I do not know whether you like it or not. I did not vote for it in the House, but the House did pass it.

We adopted the Senate language. They insisted on their language. They were cleared with the NRA. They looked at the McCollum amendment that had been put in the 1988 drug bill.

So you do not have to worry about that. That language is going to suit them all and suit me.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I have great respect for the gentleman. You say no changes were made. We really are concerned about this. We are just trying to get it cleared up. There were no changes made after it left the Committee on Rules. Were there any changes, not only on the guns, but anywhere in the bill after it left the conference on its way to the Committee on Rules and on its way to the floor here?

Mr. BROOKS. Mr. SOLOMON, that is a little bit insulting. I did not change a damn thing, and nobody else did.

Mr. SOLOMON. Well, I just wanted to make sure your staff did not, my friend. We just tried to clear it up.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, with all due respect to both sides of the aisle, both my colleagues in the Democrat Party and the Republican Party, let me just say two things.

First, I do not think it serves our purpose today to try to accuse either side of being weak or strong on crime. I have never met a colleague on the floor of the House, Republican or Democrat, who does not want to provide for the best protection of every citizen in this country. Though we may disagree on how that is accomplished, all of us believe that one of our major responsibilities is to provide safe streets. Second, I do not think it furthers the debate arguing who is for or against this bill. No one outside this Chamber has really read this bill.

That said, let me direct my attention to what you will have an opportunity to support compared to what the President offered in his own crime bill.

If you vote for this crime bill in the next hour, you will have an opportunity to apply the death penalty to 56 crimes, versus only 46 in the President's bill.

If you vote for this bill, in the violent drug area you will establish 10 regional prisons for Federal and State drug criminals. There were no similar provisions in the President's bill.

If you are from a rural area with rural crime and drugs, you will have an opportunity to add rural law enforcement and drug treatment prevention. There were no similar provisions in the President's bill.

With respect to drug emergency areas, you will have opportunity to authorize aid to cities in the hardest hit drug areas. There were no similar provisions in the President's bill.

With respect to drunk driving, you will have an opportunity to boost penalties for drunk driving when a child is in the vehicle, including common carrier vehicles. There were no provisions in the President's bill to do that.

With respect to child abuse, this bill will establish a system for background checks to prevent child abusers from working with children. Again, the President had no provisions to deal with this.

We will create programs and grants to aid in the fight, including safe schools and anticrime, certain punishments for young offenders, community substance abuse, trauma centers, cops on the beat, midnight basketball, the police corps, law enforcement scholarships, and a variety of other things. Not one of those provisions were available in the President's bill.

☐ 0630

If you vote for this bill in the next hour, you will have an opportunity to authorize $1.2 billion to aid State and local law enforcement, where 95 percent of the battle is being fought. There were no moneys in the President's bill. And for those who are very concerned about victims, this bill will boost aid to victims of crime and require victim impact statements. None of these provisions were available in the President's bill.

My colleagues, if you truly are committed to providing for safer streets and giving local law enforcement the tools by which to fight this battle, you will have only one opportunity and that is to support this conference report.

It is not only a good deal, it is a better deal than the one offered by the President of the United States. I urge my colleagues to support this conference report.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. The gentleman who just spoke said there are 56 instances in which the death penalty is imposed by this legislation. The President says, in his letter, and I will repeat it again: "Although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed."

I believe the President.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I wish we all had been present at the conference that took place between the Senate members and the House members of the Committee on the Judiciary. It was illuminating. I had my mouth drop open when I saw the fiercest opponents of the death penalty that this Chamber has ever seen sitting with me on the House side, on the Democratic side, and lifelong opponents of the death penalty on the Senate side almost enthusiastically support this death penalty bill, without a murmur, without a contest. They very suspiciously voted for this death penalty bill.

They did so because they knew that it was a meaningless piece of legislation. They were committing legicide. They were killing the bill by voting for a death penalty. And that is an important feature of what this argument is about.

Does this death penalty bill do what the American public really wants to happen to convict someone of murder who has viciously gunned down somebody in the street and then allow this man or woman to file appeal after appeal to avoid the final justice? If we want that kind of scenario, vote for this bill. If we want to try again for a crime bill that works, vote against the rule and the bill.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Speaker, I rise in support of this compromise piece of legislation. In this bill is an increase of $345 million for Federal law enforcement, an increase in authorization of $1 billion for the Safe Streets Act. There is more moneys authorized for the Cop on the Beat Program. We are going to put police officers back in hometown America. There is certainty of punishment for youthful offenders with alternative kinds of sentencing from boot camp to electronic monitoring to vocational and educational programs.

There is more dollars to train better police officers. There is 21st century tools to fight crime or to establish standards for the use of DNA identification.

There is substance abuse rehabilitation programs for people in prison so that when they get out they will not be robbing and burglarizing to support their drug habits.

Yes, there is reform to the habeas corpus laws of the United States, a compromise that was developed by the American Bar Association, developed and debated in the committee of the House and the Senate.

Essentially what it does, it is very simple. It says, if one is a criminal and has been convicted of a crime, they get one good fair shot under their Federal rights as a citizen in this country, you get one appeal and you only get 1 year.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. KOPETSKI. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, the gentleman from Oregon is a valued, able member of the subcommittee, and the gentleman in the well heard the previous speaker talking about multiple petitions. As a matter of fact, the opponents of the bill seem hipped on that idea that there are multiple applications for habeas corpus in this bill.

Let me ask the gentleman this: In the subcommittee we were careful to allow how many petitions?

Mr. KOPETSKI. Mr. Speaker, one.

Mr. EDWARDS of California. One, and the petition has a statute of limitations; is that correct?

Mr. KOPETSKI. Mr. Speaker, that is correct.

Mr. EDWARDS of California. One year?

Mr. KOPETSKI. Mr. Speaker, it is 1 year.

Mr. EDWARDS of California. So no petitions after 1 year?

Mr. KOPETSKI. Mr. Speaker, that is absolutely correct.

Mr. EDWARDS of California. Mr. Speaker, if the gentleman will continue to yield, how many again?

Mr. KOPETSKI. One appeal. There is 1 year to bring this petition. This is a compromise. If we vote against this bill, what we are saying is, "I am willing to continue the rights of unlimited appeals to criminals in this country."

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. ALLEN], a new Member of the House.

Mr. ALLEN. Mr. Speaker, I have just become a Member in a few weeks and we have been going all night long into the morning. Here we are at 6:30 in the morning, and I know we are tired. And we have had some tempers flaring and people all across America, or at least in the eastern standard time, are waking up. And I know we are tired, but we need to be awakened to this bill.

This is not a crime bill. This is a criminal bill.

In fact, what this bill ought to be called is the Criminal Relief Act of 1991.

We have heard the evidence. The evidence is that the prosecutors are opposed to it but the defense attorneys are in favor of it. I am not going to repeat all the allegations and so forth about habeas corpus, but there may be a few more cases in this which capital punishment may be imposed. But this conference committee report protects too many criminals and generally works against the law enforcement officials and law-abiding citizens.

I will not repeat all the various cumulative arguments we have heard on habeas corpus, the good faith exclusions, exceptions to the exclusionary rule, and other matters. But the bill does contain the continued gimmickry that would unnecessarily infringe upon the rights of law-abiding citizens to purchase a firearm, to protect themselves or for sport.

Finally, this bill also struck enhanced penalties for repeat rapists and child molesters. If we look at the recidivist rate, the repeat offenders rates are the highest among rapists. And to me that should not have been removed from the bill as it passed the House.

So this bill, Mr. Speaker, does more harm in this Criminal Relief Act of 1991, and certainly the harm outweighs whatever crumbs of good may come from it.

I respectfully request that we reject this rule and reject this bill.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, I rise today to speak in opposition to the conference report. I urge colleagues to vote against the rule.

This bill, as reported by the House and Senate conferees, is no longer deserving of the title that contains the words "crime control" or "crime prevention." In fact, to at least two segments of our society this bill is criminal. The two groups in our society who have no say in this conference on this crime bill: women and children.

Why am I not surprised by this, Mr. Speaker? Why am I not surprised that this came back from a conference essentially driven by the Committee on the Judiciary of the other Chamber? They will just do not get it.

The conferees have stripped key provisions which would have increased the penalties that could be applied to recidivist sex offenders. The House bill contains provisions which would have doubled the maximum penalty that Federal courts can impose for repeat sex offenders.

The conference report also deletes provisions for HIV testing of sex offenders. The conference report deletes provisions that authorized an increase in the compensation paid to victims of crime. These provisions would have expanded eligibility for compensation to different types of victims and would have covered additional types of expenses that were accrued during the criminal proceeding.

□ 0640

Again, the conference report sides with the accused. Also deleted in conference was an amendment I introduced to the Public Safety Officers Benefit Act that would have extended an entitlement to death and disability benefits to retired public safety officers who died or who were permanently and totally disabled while attempting to rescue or responding to a fire or other police emergency. This is a simple extension of an entitlement designed to provide relief for the families of those brave retirees who did not abandon their instincts or their training when a life-threatening situation presented itself and who unselfishly responded to that situation in the interest of public safety.

Mr. Speaker, I cannot go home and look into the eyes of a widow and tell her that her husband's courageous act will not be recognized by the U.S. Congress. I am not prepared to stand face to face with a victim of a sexual attack and tell her that I would not vote to keep her attacker in jail longer, and that I had a civil obligation not to test the attacker for AIDS.

I will not acknowledge the pain of a survivor of violent crime and say that America will not compensate you for your struggle, for your anguish.

Mr. Speaker, if this bill were to pass I do not believe our streets would be any safer or our children any more secure or our women any more liberated from the fear of sexual assault. I urge my colleagues to defeat this rule and defeat this conference report.

Mr. SOLOMON. Mr. Speaker, that is the best argument I have heard all night, the best reason to defeat this rule.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I think we ought to analyze just exactly what happened in the conference. In the death penalty the Senate passed the weaker provision and the conference adopted it. In the exclusionary rule the Senate passed the weaker provision and the conference adopted it. In habeas corpus the House passed the weaker provision and the conference adopted it.

Many key provisions that were accepted either in committee or on the floor without objection were stricken in the conference, such as enhanced penalties for recidivist sex offenders stricken by the conference, provisions strengthening the law on public corruption, which the Senate introduced into the bill were stricken in conference, a package of victims' rights provisions which the House put in the bill without debate in the Committee on the Judiciary were stricken in conference, and in each and every instance the conference went to the weaker provision relating to law enforcement and the stronger provision relating to criminals' rights.

It is no surprise that the gentleman from California [Mr. EDWARDS], said, "Talk to your bar associations, your State bars and your county bars and your local bars. They support this bill," and they do. But who comprises the bar association? It is the defense lawyers, whose job it is to keep people out of jail. The prosecutors, the district attorneys, and the attorneys general whose job it is to put the guilty in jail are all against this bill.

The Members should decide who to vote for, Mr. Speaker, the people who want to throw those who have violated the laws, who have mugged our constituents, in jail, or those whose job it is to keep people out of jail. I will cast my vote for the prosecutors, for the attorneys general, for the district attorneys by voting against this rule and by voting against this flawed, fatally flawed conference report.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I think perhaps we need a crime bill, if for no other reason than to address the crime that is being committed on this floor today, and that is the gross misrepresentation of this bill by the other side, for obvious political purposes.

Let me just read a quick list. I want to be quick about this because I would like us to proceed to a vote. You have misrepresented to this House, many of you, what this bill does with regard to the death penalty. I cannot imagine how you can sleep at night, or in the middle of the morning, after having done that. Let me read to you what some of the death penalty offenses that have been added to this bill are, and there are 56 of them: Killings by drug kingpins, that is not now in the law but it would be if this bill passed; killing law enforcement officials in connection with drug offenses, and that is not in the law now but it would be if this bill passed; murder in Federal jurisdiction, that is not in the law now but it will be if this bill passes; aircraft destruction where a death results; mailing dangerous articles where a death results; bank robbery where a death results. That is not now in the law but it would be if this bill passes.

I can go on and on and on. Murder for hire, murder in aid or racketeering, murder of an American national abroad, genocide, killing a juror or a court officer to obstruct justice, on and on and on, and even some nonhomicide offenses which have never been the subject of the death penalty: Espionage, treason, attempts to kill a President, attempts to kidnap a President, drug kingpins, based on the amount of drugs or money involved.

I submit that those kinds of people ought to face the death penalty. If the Members agree, vote for this bill and stop this demagoguery.

I urge the Members to vote for this rule and vote for this bill, and let us get on with it.

Mr. SOLOMON. Mr. Speaker, I am surprised at the gentleman from Texas [Mr. BRYANT] using the words "political" and "demagoguery." Let me show you a good Democrat from the State of Texas. His name is Dan Morales, attorney general of the State of Texas, and he is opposed to this bill. Here is his signature. Here is your so-called demagoguery.

Mr. Speaker, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, as we try to debate this at 6:45 in the morning, I think the most striking thing that hits me, and it has been just driven deeper and deeper every time I watch the evening news, is that this is an incredibly tragic time for America and for Americans. In virtually every major city the evening news increasingly could be called "Death Watch." We tune in, and all of us have done it, and we watch a 16-year-old killed in a drug gunfight; we watch a 3-year-old who dies in a drive-by killing; we see tragedy after tragedy after tragedy. We see violent criminal after violent criminal, people whose brutality and willingness to prey on other human beings is extraordinary.

Then we come with this bill, which I have to confess, until it came out of conference, I would not have thought possible. This bill manages to, if I may quote from the Department of Justice's analysis of it: "With remarkable consistency the conference committee has rejected the better option and has opted instead for provisions that harm law enforcement and reduce the public security against crime."

Now, what are people talking about? Why do district attorneys who prosecute criminals and the State attorney generals who try the cases and who make sure that the death penalty is applied, why do they matter? Why does the average citizen out here care what a prosecuting attorney says?

Let me give an example, a case that is going to become very famous in 1992. In 1987, a parole board prematurely released Arthur Shaw Cross, who was in prison for sexually molesting and killing two children, ages 8 and 10. This release occurred in spite of his parole officer's warnings against premature release. The parole officer wrote that Shaw Cross is a psychosexual maniac for whom prison walls could not be erected thick enough. Previous reports said he was a homicidal schizoid personality of abnormal character with psychosexual difficulties, including pedophilic fetishes.

The State first moved Shaw Cross secretly to Binghamton, where he was run out of town by outraged citizens. Then they deposited him secretly in Rochester, never alerting the local police. Then during 1988 and 1989, Shaw Cross murdered 11 women in Rochester in a killing spree that terrorized the community.

Now, why are citizens upset? They are upset because in this bill the liberals in this Congress on the House and Senate side gathered together to perpetrate a hoax, the death penalty, written deliberately so it will never be used, written in such a way that every opponent of the death penalty can gleefully vote yes, because they have managed to perpetrate upon the citizenry an absolute hoax.

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Who says it is a hoax? Well, let me give you a couple examples. The National District Attorneys Association—by the way, one of our earlier speakers said appointed by the President. Nonsense. I do not know what that person knows about how district attorneys are created, but in most places they are elected, elected by the people, Democrat or Republican.

What do they say? Let me read the text:

> DEAR GENTLEMEN: The American people have been mugged again—this time by the leadership of the United States Congress. The nation's prosecutors strongly oppose the so-called "crime control" bill approved in Sunday's conference and urge both House and Senate to reject it. This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens.

Let me repeat that sentence so that no one who votes today has any doubt about what the district attorney says:

> This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens. In fact, passage of this bill is tantamount to handing the jail house keys to thousands of convicted state and federal prisoners.
>
> The bill advances the rights of convicted criminals by providing golden opportunities for them to use new case law to overturn old convictions. This is accomplished through the repeal of several Supreme Court precedents in the habeas corpus provision approved by the conference. It also provides unworkable counsel standards in death penalty cases that violate the most basic tenets of federalism.
>
> The conference committee in nearly every instance chose the wealthiest provisions with respect to law enforcement. It rejected the House limitations on application of the exclusionary rule. It overturns the Supreme Court decision in *Arizona v. Fulminante* through a provision that may have far reaching effects and which was not even the subject of hearings. Finally, the conference chose the weaker provisions on death penalty offenses and procedure.
>
> It is a sad day when the will of American people to enact tougher criminal laws is so completely thwarted. We urge you to reject this poor excuse for a crime control bill.
>
> Signed: Thomas J. Charron, District Attorney, President, National District Attorneys Association.

So if you want to vote as seen by the elected district attorneys whose job it is to prosecute the Arthur Shawcrosses of the world, if you want to vote in favor of helping the criminals, of releasing convicted State and Federal prisoners, putting back on the street the kind of people who kill, who rape, who maim, then vote yes; but understand clearly that in the judgment of the district attorneys, Democrat and Republican, you are voting on behalf of the criminals if you vote yes.

Mr. Speaker, I urge you to vote no.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I rise today in strong support of the conference report on H.R. 3371, the Omnibus Crime Control Act of 1991. As a Representative from New York, I can attest that the growing scourge of crime in our Nation's cities cannot be tolerated any longer. Too many innocent people have lost their lives in random acts of violence, too many guns are in the hands of dangerous people, and too many criminals, guilty of repeated offenses, walk the streets freely.

According to the U.S. Bureau of Justice, last year 5 percent of the Nation's households, or about 4.5 million households, had at least one family member who was the victim of a violent crime. Almost 6.9 million households, or about 1 in 14, were affected by a rape, robbery, or an assault by a stranger or burglar during 1990.

We have a responsibility to the American people to pass the conference report on the omnibus crime control bill. This conference report will provide over $3 billion for much needed crime control programs. One of the most important parts of this conference report is the additional funding it provides for hiring more law enforcement officers on the Federal, State, and local levels.

The conference report on H.R. 3371 also takes a step in the right direction by including a 5 day waiting period for the purchase of handguns. This provision will give law enforcement officials the necessary time to run a background check to determine whether or not the prospective buyer holds a criminal record. This provision alone, will go a long way in helping to prevent the senseless murders that occur everyday.

I want to say to my colleagues, that we would be making a terrible mistake if we fail to pass this bill. Admittedly, this bill is not perfect. Many of us feel that there are provisions in the bill with which we are not happy, and others wish the bill contained some provisions which have been excluded in the final version. However, this is a good compromise bill. It moves in the right direction in terms of trying to combat crime, and sends a clear message to our constituents that we are aware of their concerns and are as troubled as they are by the rising crime rate in our country.

Mr. Speaker, in the past 2 years I have personally heard gunshots outside both my residence in my home district and my apartment here in Washington. Both gunshots resulted in murders, one drug-related and the other a street robbery. There's hardly an American who hasn't been affected one way or the other by violent crime. This bill strengthens the statutes in dealing with crime. Let's look at some of the other provisions that this bill offers:

It will provide 10 regional prisons for Federal and State drug criminals.

H.R. 3371 authorizes aid for cities hardest hit by the drug crisis.

It establishes new programs including grants for safe schools and antigang programs, and appropriates funding for prevention programs like additional cops on the beat, trauma centers, and law enforcement scholarships.

The legislation authorizes $1.2 billion in aid to State and local law enforcement agencies.

It boosts aid to victims of crime; requiring victim impact statements.

And finally, H.R. 3371 toughens penalties for gun use during violent crimes.

I urge my colleagues to vote in favor of the conference report on the omnibus crime control bill. The future safety of millions of Americans is riding on its passage.

Mr. DERRICK. Mr. Speaker, let me say before I move the previous question that it was not necessary for me to get a report from the DA's and so forth and so on. I have tried a number of cases in my career as an attorney. I prosecuted and I also defended many cases, capital cases and all other cases.

I have followed this bill very closely. We all know the matter of the death penalty does not really amount to a great deal, because we are talking about a very small part of the criminal case jurisdiction in this country; although it is important, it is not as major as many of our speakers would make it out.

Mr. Speaker, this is a strong crime bill, and if for no other reason, I recommend as a trial attorney this legislation, based on the habeas corpus provisions alone. This is the strongest reform that we have had of habeas corpus in modern times.

What it is going to mean to the American people is these people who run us all up a wall and we wonder why, what is going on in the legal system, when we see people 10 years after a conviction has been rendered in a lower court before the final execution of that conviction is brought about 10 years later.

This is going to be put to an end. There is going to be 1 petition and 1 year.

Mr. Speaker, if for no other reason, this is the reason to vote for this bill.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HOYER). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 160, answered "present" 1, not voting 41, as follows:

[Roll No. 441]

YEAS—232

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boxer
Brewster
Brooks
Browder
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Clement
Coleman (TX)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (TN)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Ray
Reed
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Waters
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yatron

NAYS—160

Allard
Allen
Archer
Armey
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CO)
Chandler
Clay
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Ford (MI)
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goss
Grandy
Gunderson
Hammerschmidt
Hancock
Harris
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Moran
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Parker
Paxon
Petri
Porter
Pursell
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sanders
Santorum
Savage
Saxton

Schaefer
Schiff
Schulze
Sensenbrenner
Shays
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—41

Applegate
Aspin
Baker
Boucher
Broomfield
Brown
Campbell (CA)
Chapman
Collins (IL)
de la Garza
Dickinson
Dixon
Dymally
Fish
Frank (MA)
Gaydos
Gradison
Hansen
Hertel
Jones (GA)
Kleczka
Lehman (CA)
Marlenee
Matsui
Nagle
Ortiz
Owens (NY)
Peterson (MN)
Pickett
Quillen
Roe
Shaw
Shuster
Stark
Thomas (CA)
Towns
Traxler
Washington
Waxman
Williams
Yates

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Mr. VALENTINE and Mr. SIKORSKI change their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, on rollcall 427, the rule for the supplemental; rollcall 428, the conference report on dire emergency supplemental; and 429, tax extensions, I was unavoidably absent and missed those votes. If I had been present, I would have voted in the affirmative on all three.

CONFERENCE REPORT ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 3371) to control and prevent crime:

CONFERENCE REPORT (H. REPT. 102-405)

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3371), to control and prevent crime, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Houses recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Law Enforcement Act of 1991".

SEC. 2. TABLE OF TITLES.

The following is the table of titles for this Act:

TITLE I—DEATH PENALTY
TITLE II—HABEAS CORPUS REFORM
TITLE III—EXCLUSIONARY RULE
TITLE IV—COERCED CONFESSIONS
TITLE V—FIREARMS
TITLE VI—OBSTRUCTION OF JUSTICE
TITLE VII—YOUTH VIOLENCE
TITLE VIII—TERRORISM
TITLE IX—SEXUAL VIOLENCE AND CHILD ABUSE
TITLE X—CRIME VICTIMS
TITLE XI—STATE AND LOCAL LAW ENFORCEMENT
TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS
TITLE XIII—FEDERAL LAW ENFORCEMENT AGENCIES
TITLE XIV—PRISONS
TITLE XV—RURAL CRIME
TITLE XVI—DRUG CONTROL
TITLE XVII—DRUNK DRIVING PROVISIONS
TITLE XVIII—COMMISSIONS
TITLE XIX—BAIL POSTING REPORTING
TITLE XX—MOTOR VEHICLE THEFT PREVENTION
TITLE XXI—PROTECTIONS FOR THE ELDERLY
TITLE XXII—CONSUMER PROTECTION
TITLE XXIII—FINANCIAL INSTITUTION FRAUD PROSECUTIONS
TITLE XXIV—SAVINGS AND LOAN PROSECUTION TASK FORCE
TITLE XXV—SENTENCING PROVISIONS
TITLE XXVI—SENTENCING AND MAGISTRATES AMENDMENT
TITLE XXVII—COMPUTER CRIME
TITLE XXVIII—PARENTAL KIDNAPPING
TITLE XXIX—SAFE SCHOOLS
TITLE XXX—MISCELLANEOUS
TITLE XXXI—TECHNICALS

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) FORSEEABILITY.—The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESI-

DENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c) of this title, as amended by this Act, the defendant—

(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use of attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act.

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant. For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section

3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than a lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§3598. Special provisions for Indian country.

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence.................3591".

SEC. 103. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(6) MURDER.—(A) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(B) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(7) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(8) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(9) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this

section, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) by death or imprisonment for any term of years or for life.".

(10) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(11) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(12) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(13) RACKETEERING.—(A) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(B) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

SEC. 104. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 105. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The table of sections at the beginnng of chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

SEC. 106. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 107. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

SEC. 108. DEATH PENALTY FOR DRUG KINGPINS.

(a) SHORT TITLE. This section may be cited as the "Death Penalty for Drug Kingpins Act of 1991".

(b) IN GENERAL.—Title 18, chapter 228, section 3591 of the United States Code (as created by this Act), is further amended by—

(1) striking the "(3)" before the words "any other offense for which" and inserting a "(6)";

(2) inserting after the words "death of the President; or", the following:

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section, which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B).

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, acting with a state of mind described in subsection (6), engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or"; and

(3) at the end of section 3592, title 18, United States Code, add the following:

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591(3)-(6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.".

SEC. 109. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) SHORT TITLE.—This section may be cited as the "Drive-By Shooting Prevention Act of 1991".

(b) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Drive-by shooting

"(a) OFFENSE AND PENALTIES.—

"(1) Whoever, in furtherance or to escape detection of a major drug offense listed in sub-

section (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, or by fine as provided under this title, or both.

"(2) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both: or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.

"(b) MAJOR DRUG OFFENSE DEFINED.—A major drug offense within the meaning of subsection (a) is one of the following:

"(1) a continuing criminal enterprise, punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) or punishable under section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).".

(c) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Drive-by shooting.".

SEC. 110. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Foreign murder of United States nationals

"(a) Whoever, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 111. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended by redesignating section 2245 as section 2246, and by adding the following new section:

"§2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and adding the following:

"2245. Sexual abuse resulting in death
"2246. Definitions for chapter.".

SEC. 112. DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 113. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§1120. Murder by escaped prisoners

"(a) IN GENERAL.—Whoever, having escaped from a Federal prison where such person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112 of this title.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings given those terms in section 1118 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1120. Murder by escaped prisoners.".

SEC. 114. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding after the subsections added by subtitle B of title V of this Act the following:

"(o) Whoever, in the course of a violation of subsection (c) of this section, causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder as defined in section 1111 of this title, be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter as defined in section 1112 of this title, be punished as provided in that section.".

SEC. 115. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended by—

(a) redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) respectively;

(b) in subsection (a), striking "(c)" and inserting "(d)"; and

(c) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.".

TITLE II—HABEAS CORPUS REFORM

SEC. 201. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 202. STATUTE OF LIMITATIONS.

Section 2254 of title 28, United States Code, is amended by adding at the end the following:

"(g)(1) In the case of an applicant under sentence of death, any application for habeas corpus relief under this section must be filed in the appropriate district court not later than one year after—

"(A) the date of denial of a writ of certiorari, if a petition for a writ of certiorari to the highest court of the State on direct appeal or unitary review of the conviction and sentence is filed, within the time limits established by law, in the Supreme Court;

"(B) the date of issuance of the mandate of the highest court of the State on direct appeal or unitary review of the conviction and sentence, if a petition for a writ of certiorari is not filed, within the time limits established by law, in the Supreme Court; or

"(C) the date of issuance of the mandate of the Supreme Court, if on a petition for a writ of certiorari the Supreme Court grants the writ, and disposes of the case in a manner that leaves the capital sentence undisturbed.

"(2) The time requirements established by this section shall be tolled—

"(A) during any period in which the State has failed to provide counsel as required in section 2257 of this chapter;

"(B) during the period from the date the applicant files an application for State postconviction relief until final disposition of the application by the State appellate courts, if all filing deadlines are met; and

"(C) during an additional period not to exceed 90 days, if counsel moves for an extension in the district court that would have jurisdiction of a habeas corpus application and makes a showing of good cause.".

SEC. 203. STAYS OF EXECUTION IN CAPITAL CASES.

Section 2251 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before the first paragraph;

(2) by inserting "(2)" before the second paragraph; and

(3) by adding at the end the following:

"(b) In the case of an individual under sentence of death, a warrant or order setting an execution shall be stayed upon application to any court that would have jurisdiction over an application for habeas corpus under this chapter. The stay shall be contingent upon reasonable diligence by the individual in pursuing relief with respect to such sentence and shall expire if—

"(1) the individual fails to apply for relief under this chapter within the time requirements established by section 2254(g) of this chapter;

"(2) upon completion of district court and court of appeals review under section 2254 of this chapter, the application is denied and—

"(A) the time for filing a petition for a writ of certiorari expires before a petition is filed;

"(B) a timely petition for a writ of certiorari is filed and the Supreme Court denies the petition; or

"(C) a timely petition for certiorari is filed and, upon consideration of the case, the Supreme Court disposes of it in a manner that leaves the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel qualified under section 2257 of this chapter and after being advised of the consequences of the decision, an individual waives the right to pursue relief under this chapter.".

SEC. 204. LAW APPLICABLE.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§2256. Law applicable

"In an action filed under this chapter, the court shall not apply a new rule. For purposes of this section, the term 'new rule' means a clear break from precedent, announced by the Supreme Court of the United States, that could not reasonably have been anticipated at the time the claimant's sentence became final in State court.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2256. Law applicable.".

SEC. 205. COUNSEL IN CAPITAL CASES; STATE COURT.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§2257. Counsel in capital cases; State court

"(a) A State in which capital punishment may be imposed shall provide legal services to—

"(1) indigents charged with offenses for which capital punishment is sought;

"(2) indigents who have been sentenced to death and who seek appellate, collateral, or unitary review in State court; and

"(3) indigents who have been sentenced to death and who seek certiorari review of State court judgments in the United States Supreme Court.

"(b) The State shall establish an appointing authority, which shall be—

"(1) a statewide defender organization;

"(2) a resource center; or

"(3) a committee appointed by the highest State court, comprised of members of the bar with substantial experience in, or commitment to, criminal justice.

"(c) The appointing authority shall—

"(1) publish a roster of attorneys qualified to be appointed in capital cases, procedures by which attorneys are appointed, and standards governing qualifications and performance of counsel, which shall include—

"(A) knowledge and understanding of pertinent legal authorities regarding issues in capital cases;

"(B) skills in the conduct of negotiations and litigation in capital cases, the investigation of capital cases and the psychiatric history and current condition of capital clients, and the preparation and writing of legal papers in capital cases;

"(C) in the case of counsel appointed for the trial or sentencing stages, 5 years of experience as a prosecutor or defense counsel in criminal felony cases; and

"(D) in the case of counsel appointed for the appellate, postconviction, or unitary review stages, 3 years of experience as a prosecutor or defense counsel in criminal felony cases;

"(2) monitor the performance of attorneys appointed and delete from the roster any attorney who fails to meet qualification and performance standards; and

"(3) appoint a defense team, which shall include at least 2 attorneys, to represent a client at the relevant stage of proceedings, promptly upon receiving notice of the need for the appointment from the relevant State court.

"(d) An attorney who is not listed on the roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with quality legal representation.

"(e) No counsel appointed pursuant to this section to represent a prisoner in State postconviction proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made, unless the prisoner and counsel expressly request continued representation.

"(f) The ineffectiveness or incompetence of counsel appointed pursuant to this section during State or Federal postconviction proceedings shall not be a ground for relief in a proceeding arising under section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal postconviction proceedings.

"(g) Upon receipt of notice from the appointing authority that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline the appointment, and whether the individual has knowingly and intelligently declined it.

"(h) Attorneys appointed from the private bar shall be compensated on an hourly basis and at a reasonable rate in light of the attorney's qualifications and experience and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases and shall be reimbursed for expenses reasonably incurred in representing the client, including the costs of law clerks, paralegals, investigators, experts, or other support services.

"(i) Support services for staff attorneys of a defender organization or resource center shall be equal to the services listed in subsection (h).

"(j) If a State fails to provide counsel in a proceeding specified in subsection (a), or counsel appointed for such a proceeding fails substantially to meet the qualification standards specified in subsections (c)(1) or (d), or the performance standards established by the appointing authority, the court, in an action under this chapter, shall neither presume findings of fact made in such proceeding to be correct nor decline to consider a claim on the ground that it was not raised in such proceeding at the time or in the manner prescribed by State law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2257. Counsel in capital cases; State court.".

SEC 206. SUCCESSIVE FEDERAL PETITIONS.

Section 2244(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting ", in the case of an applicant not under sentence of death," after "When"; and

(3) by adding at the end the following:

"(2) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was not presented in a prior application under this chapter, shall be dismissed unless—

"(A) the applicant shows that—

"(i) the basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application; or

"(ii) the failure to raise the claim in the prior application was due to action by State officials in violation of the Constitution of the United States; and

"(B) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law.".

SEC. 207. CERTIFICATES OF PROBABLE CAUSE.

The third paragraph of section 2253, title 28, United States Code, is amended to read as follows:

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. However, an applicant under sentence of death shall have a right of appeal without a certification of probable cause, except after denial of a second or successive application.".

SEC. 208. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new section:

"SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

TITLE III—EXCLUSIONARY RULE

SEC. 301. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The table of chapters at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant."

TITLE IV—COERCED CONFESSIONS

SEC. 401. COERCED CONFESSIONS.

The admission into evidence of a coerced confession shall not be considered harmless error.

For the purposes of this section, a confession is coerced if it is elicited in violation of the fifth or fourteenth articles of amendment to the Constitution of the United States.

TITLE V—FIREARMS

Subtitle A—Brady Handgun Violence Prevention Act

SEC. 501. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) INTERIM PROVISION.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that the Attorney General certifies under section 512(d)(1) of the Violent Crime Control and Law Enforcement Act of 1991 that the national instant criminal background check system is established (except as provided in paragraphs (2) and (3) of such section), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identity of the transferee by examining the identification document presented;

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law, except that this subparagraph shall not apply to a State that, on the date of certification pursuant to section 502(d) of the Violent Crime Control and Law Enforcement Act of 1991, is not in compliance with the timetable established pursuant to section 502(c) of such Act;

"(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(F) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

"(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement and any record containing information derived from the statement;

"(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

"(8) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.".

(2) HANDGUN DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a)(1) of this section, is amended by adding at the end the following:

"(t)(1) Beginning on the date that the Attorney General certifies under section 502(d)(1) of the Violent Crime Control and Law Enforcement Act of 1991 that the national instant criminal background check system is established (except as provided in paragraphs (2) and (3) of such section), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 503 of such Act;

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section or any State or local law; and

"(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1)

of this title) of the transferee containing a photograph of the transferee.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A)(i) such other person has presented to the licensee a permit that—

"(I) allows such other person to possess a firearm; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (u)(8)); and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) In addition to the authority provided under section 923(e), if the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $5,000.

"(5) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 502. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate subsection (g) or (n) of section 922 of title 18, United States Code, or any State or local law.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an event of activity within the last 5 years and continue to maintain such a system.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On the date that is 30 months after the date of enactment of this Act, and at any time thereafter, the Attorney General shall determine whether—

(A) the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an event of activity within the last 5 years on a national average basis; and

(B) the States are in compliance with the timetable established pursuant to subsection (c),

and, if so, shall certify that the national system is established.

(2) If, on the date of certification in paragraph (1) of this subsection, a State is not in compliance with the timetable established pursuant to subsection (c) of this section, section 922(s) of title 18, United States Code, shall remain in effect in such State and section 922(t) of such title shall not apply to the State. The Attorney General shall certify if a State subject to the provisions of section 922(s) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) of this subsection, and section 922(s) of title 18, United States Code, shall not apply to such State and section 922(t) of such title shall apply to the State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) of this section and if the State is not in compliance, section 922(s) of title 18, United States Code, shall apply to the State and section 922(t) of such title shall not apply to the State. The Attorney General shall certify if a State subject to the provisions of section 922(s) under the preceding sentence achieves compliance with the standards in subsection (c)(2) of this section, and section 922(s) of title 18, United States Code, shall not apply to the State and section 922(t) of such title shall apply to the State.

(e) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

(f) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code, or any State or local law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code, or any State or local law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer, licensed manufacturer, or li-

censed dealer under section 923 of title 18, United States Code.

(2) OTHER TERMS.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 503. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) IMPROVEMENTS IN STATE RECORDS.—

(1) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing with the Attorney General of all of the records described in paragraphs (1), (2), and (3) of this subsection and the records required by the Attorney General under section 502 of the Violent Crime Control and Law Enforcement Act of 1991, for the purpose of implementing such Act.".

(2) ADDITIONAL FUNDING.—

(A) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) WITHHOLDING STATE FUNDS.—Effective on the date of enactment of this Act the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 502(c) of this Act.

(c) WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 502(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 30 months after the date of enactment of this Act falls shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 42 months after the date of enactment of this Act falls shall be reduced by 10 percent on a monthly basis.

Subtitle B—Gun Crime Penalties

SEC. 511. ENHANCED PENALTY FOR USE OF A SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by striking "and if the firearm is a short-barreled rifle, short-barreled shotgun" and inserting "if the firearm is a semiautomatic firearm, a short-barreled rifle, or a short-barreled shotgun,".

(b) SEMIAUTOMATIC FIREARM.—Section 921(a) of such title is amended by adding after the paragraph added by section 501(a)(2) of this Act the following:

"(30) The term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 512. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "twenty".

SEC. 513. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(i) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 514. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsection added by section 513 of this Act the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 nor more than 10 years, and may be fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, or fined under this title, or both.".

SEC. 515. CONFORMING AMENDMENT PROVIDING MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code is amended by adding at the end the following:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 516. REVOCATION OF PROBATION.

(a) Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 517. INCREASED PENALTY FOR KNOWINGLY MAKING FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 518. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 519. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3) as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 520. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 521. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 522. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25 (relating to counterfeiting and forgery) of this title" after "for which he may be prosecuted in a court of the United States,".

SEC. 523. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) 1 PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsections (e)(2) (A) and (B) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years" before the period.

(b) 2 PRIOR CONVICTIONS.—Section 924 of such title is amended by adding after the subsections added by sections 513 and 514(a) of this Act the following:

"(k)(1) Notwithstanding subsection (a)(2) of this section, any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).".

SEC. 524. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 525. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 513, 514(a), and 523(b) of this Act the following:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding after the subsection added by section 514(b) of this Act the following:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 526. STUDY OF INCENDIARY AMMUNITION; REPORT TO CONGRESS.

(a) STUDY.—The Secretary of the Treasury shall conduct a study of the incendiary ammunition offered for sale under the brand name "Dragon's Breath" and also known as the "Three Second Flame Thrower", and all incendiary ammunition of similar function or effect, for the purpose of determining whether there is a reasonable sporting use for such ammunition and whether there is a reasonable use for such ammunition in law enforcement.

(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on the Judiciary of the House of Representatives a report containing the results of the study required by subsection (a) and recommendations for such legislative or administrative action, with respect to the ammunition referred to in subsection (a), as the Secretary deems appropriate.

SEC. 527. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 513, 514(a), 523(b), and 525(a) of this Act the following:

"(m) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer or licensed collector shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding after the subsections added by sections 514(b) and 525(b) of this Act the following:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer or licensed dealer, or from any permittee shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

SEC. 528. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 529. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) in subparagraph (B)(ii), by striking "and " at the end;

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 530. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 513, 514(a), 523(b), 525(a), and 527(a) of this Act the following:

"(n) Whoever, with the intent to engage in conduct which constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

TITLE VI—OBSTRUCTION OF JUSTICE

SEC. 601. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting "punished as provided in subsection (b).";

(3) by adding at the end the following:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

"(4) in subsection (a), as so designated by this section, by striking "commissioner" each place it appears and inserting "magistrate judge".

SEC. 602. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting after the section heading a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

SEC. 603. DEATH PENALTY FOR THE MURDER OF STATE OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 205 of this Act, is amended by adding at the end the following:

"§ 1119. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced according to the terms of section 1111 of title 18, United States Code, including by sentence of death or by imprisonment for life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1119. Killing persons aiding Federal investigations.".

SEC. 604. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder as defined in section 1111 of this title, the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112 of this title;".

TITLE VII—YOUTH VIOLENCE

SEC. 701. STRENGTHENING FEDERAL PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended as follows:

(1) at the end of subsection (b) by adding the following:

"(c) Notwithstanding any other provision of law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to violate any provision of this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to assist in avoiding detection or apprehension for any offense of this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, or fine, or both, up to triple that authorized by section 841(b) of this title.";

(2) in subsection (c) by—

(A) striking "(c)" and inserting in lieu thereof "(d)";

(B) inserting "or (c)" after "imposed under subsection (b)"; and

(C) inserting "or (c)" after "convicted under subsection (b)";

(3) in subsection (d) by striking "(d)" and inserting in lieu thereof "(e)".

SEC. 702. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than 5 years, or both" and inserting "and thereafter performs or attempts to perform (A) any of the acts specified in subparagraphs (1) and (3) shall be fined under this title or imprisoned for not more than 5 years, or both or (B) any of the acts specified in subparagraph (2) shall be fined under this title or imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life".

SEC. 703. COMMENCEMENT OF JUVENILE PROCEEDING.

Section 5032 of title 18, United States Code, is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until".

SEC. 704. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec.
"521. Criminal street gangs.

"§521. Criminal street gangs

"(a) Whoever, under the circumstances described in subsection (c) of this section, commits an offense described in subsection (b) of this section, shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. Such sentence of imprisonment shall run consecutively to any other sentence imposed.

"(b) The offenses referred to in subsection (a) of this section are—

"(1) any Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act) for which the maximum penalty is not less than five years;

"(2) any Federal felony crime of violence;

"(3) a conspiracy to commit any of the offenses described in paragraphs (1) through (3) of this subsection.

"(c) The circumstances referred to in subsection (a) of this section are that the offense described in subsection (b) was committed as a member of, or on behalf of, a criminal street gang and that person has been convicted, within the past 5 years for—

"(1) any offense listed in subsection (b) of this section;

"(2) any State offense—

"(A) involving a controlled substance (as defined in section 102 of the Controlled Substances Act) for which the maximum penalty is not less than one year after imprisonment; or

"(B) that is a crime of violence; for which the maximum penalty is more than 1 year's imprisonment; or

"(3) any Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(4) a conspiracy to commit any of the offenses described in paragraphs (1) through (3) of this subsection.

"(d) For purposes of this section—

"(1) the term 'criminal street gang' means any group, club, organization, or association of 5 or more persons—

"(A) whose members engage or have engaged within the past 5 years, in a continuing series of violations of any offense treated in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following:

"26. Criminal street gangs .... 521".

TITLE VIII—TERRORISM

Subtitle A—Terrorism: Civil Remedy

SEC. 801. SHORT TITLE.

This subtitle may be cited as the "Antiterrorism Act of 1991".

SEC. 802. TERRORISM.

(a) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (d) of this section, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332, and striking the heading for section 2332 as so redesignated and inserting the following:

"§2332. Criminal penalties";

(3) by inserting before section 2332 as so redesignated the following:

"§2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.";

(4) by adding immediately after section 2332 as redesignated the following new sections:

"§2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his person, property, or business by reason of an act of international terrorism, or his estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPED UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 1472 (i), (k), (l), (n), or (r) of title 49 App. shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPED UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this *title may be served in any other district where the defendant resides, is found, or has an agent.*

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of his whereabouts, shall not be reckoned within this period of limitation.

"§2336. Other limitations

"No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"§2337. Suits against Government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his official capacity or under color of legal authority.

"§2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections at the beginning of the chapter to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(b) TABLE OF CONTENTS.—The table of chapters at the beginning of part 1, title 18, United States Code, is amended by striking:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals .... 2331"

and inserting in lieu thereof:

"113A. Terrorism .... 2331".

(c) EFFECTIVE DATE.—This subtitle and the amendments made by this subtitle shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

Subtitle B—Maritime Navigation and Fixed Platforms

SEC. 803. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"§2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (6); or

"(8) attempts to do any act prohibited under paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results, from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) by a person engaged in terrorism or who acts on behalf of a terrorist group;

"(ii) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(iii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

"(iv) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) As used in this section, the term—

"(1) the term 'ship' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft; but such term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) the term 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (4); or

"(6) attempts to do anything prohibited under paragraphs (1) through (5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States, if—

"(i) by a person engaged in terrorism or who acts on behalf of a terrorist group; or

"(ii) if the activity is not prohibited as a crime by the State in which the activity takes place;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend be-

yond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 804. CLERICAL AMENDMENTS.

The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 805. EFFECTIVE DATES.

This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

Subtitle C—General Provisions

SEC. 819. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction, as defined in the statute enacted by subsection (b) of this section, gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, as added by the preceding section, is amended by inserting after section 2332 the following new section:

"§2332a. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following:

"2332a. Use of weapons of mass destruction.".

SEC. 820. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) SECTION 1705(b).—Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting"$1,000,000".

(b) SECTION 1705(a).—Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(c) SECTION 1541.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "five years".

(d) CHAPTER 75.—Sections 1542, 1543, 1544 and 1546 of title 18, United States Code, are each amended—

(1) by striking"$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "ten years".

(e) SECTION 1545.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "ten years".

SEC. 821. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress hereby declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 822. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended by—

(1) inserting after "title" in subsection (a) the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District"; and

(2) inserting at the end thereof the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 823. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 824. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
2340. Definitions.
2340A. Torture.
2340B. Exclusive remedies.

"§2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from: (a) the intentional infliction or threatened infliction of severe physical pain or suffering; (b) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) the threat of imminent death; or (d) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if: (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture .... 2340.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of enactment of this section; or

(2) the date the United States has become a party to the Convention Against Torture and

Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 825. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following:

"§3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding the provisions of section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1572 (i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 is amended by inserting below the item for:

"3285. Criminal contempt."
the following:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 826. F.B.I. ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director, may—

"(1) request the name, address, length of service, and toll billing records of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

SEC. 827. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"§36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious bodily injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport;
if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the prohibited activity takes place in the United States and—

"(A) the perpetrator of the prohibited activity engages in terrorism or acts on behalf of a terrorist group;

"(B) the activity violates subsection (a)(1) and the person against whom the violence is directed is engaged in international air travel;

"(C) the activity violates subsection (a)(2) and the facility or aircraft destroyed or damaged is owned by or leased by a foreign flag carrier or the services disrupted are primarily for the benefit of such a carrier; or

"(D) the activity is not prohibited as a crime by the law of the State in which the airport is located; or

"(2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.

"(c) For the purposes of this section, the terms 'terrorism' and 'terrorist group' have, respectively, the meanings given those terms in section 140 of Public Law 100-204 (22 U.S.C. 2656f).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 828. PREVENTING ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 37. Violations of Federal aviation security regulations

"Whoever willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) issued pursuant to section 1356 and 1357 of title 49, United States Code, shall be fined under this title or imprisoned for not more than one year, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"37. Violation of Federal aviation security regulations.

SEC. 829. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"Whoever, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,
if such act would constitute a violation of section 471, 473, or 474 of this title if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following:

"471. Counterfeit acts committed outside the United States.".

(c) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item for chapter 25 and inserting the following:

"25. Counterfeiting and forgery .... 470".

SEC. 830. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or his designee, and consist of the following members:

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act

shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

SEC. 831. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 832. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than three levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 833. ALIEN WITNESS COOPERATION.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (Q),

(2) by striking the period at the end of subparagraph (R) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(S) subject to section 214(j), an alien—

"(i) who the Attorney General determines (I) is in possession of critical reliable information concerning a criminal organization or enterprise, and (II) is willing to supply such information to Federal or State law enforcement authorities or a Federal or State court of law, and

"(ii) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise,

and the spouse and minor children of the alien if accompanying, or following to join, the alien.".

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of such Act (8 U.S.C. 1182(d)) is amended by inserting at the beginning the following new paragraph:

"(1) The Attorney General may, in his discretion, waive the application of subsection (a) (other than paragraph (3)(E) thereof) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General deems it in the national interest. Any such waiver shall be deemed a waiver of any comparable ground for deportation under section 241(a)(1)(A).".

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC..—Section 214 of such Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 100.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant (A) shall report not less often than quarterly to the Commissioner such information concerning the alien's whereabouts and activities as the Attorney General may require, (B) may not be convicted of any criminal offense in the United States after the date of such admission, and (C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status.

"(5) The Attorney General shall submit a report annually to the Committees on the Judiciary of the House of Representatives and of the Senate concerning (A) the number of such nonimmigrants admitted, (B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens, (C) the number of such nonimmigrants whose admission has not resulted in successful criminal prosecution or investigation, and (D) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of such Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of such Act (8 U.S.C. 1255), as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended by adding at the end the following new subsection:

"(h)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S) has supplied information described in clauses (i) and (ii) of such section, and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the successful prosecution of an individual described in clause (ii) of such section,

the Attorney General may adjust the status of the alien (and the spouse and child of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) Upon the approval of adjustment of status under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under section 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended by striking "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENDING PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of such Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(h))" after "five years".

SEC. 834. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than ten years, or both. For purposes of this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113A of title 18, United States Code, is amended by adding the following:

"2339A. Providing material support to terrorists.".

TITLE IX—SEXUAL VIOLENCE AND CHILD ABUSE

Subtitle A—Sexual Abuse

SEC. 901. SEXUAL ABUSE AMENDMENTS.

(a) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT FOR VICTIMS UNDER THE AGE OF 16.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting in lieu thereof "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

Subtitle B—CHILD PROTECTION

SEC. 911 SHORT TITLE.

This subtitle may be cited as the "National Child Protection Act of 1991".

SEC. 912. PURPOSES.

The purposes of this subtitle are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes

to the Department of Justice and other interested parties.

SEC. 913. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this subtitle;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, race, sex, date of birth, height, weight, a brief description of the child abuse crime or offenses for which the person has been arrested or is under indictment or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, under indictment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 914. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized criminal justice agency of a State shall report child abuse crime information to, or index child abuse crime information in, the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS THROUGH THE NATIONAL CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis through the national criminal background check system;

(B) establish guidelines for the reporting or indexing of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this Act; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of final case dispositions in computerized criminal history files for all identifiable child abuse crime cases in which there has been an event of activity within the last 5 years;

(B) continue to maintain at least 80 percent currency of final case dispositions in all identifiable child abuse crime cases in which there has been an event of activity within the preceding 5 years; and

(C) take steps to achieve full disposition reporting, including data quality audits and periodic notices to criminal justice agencies identifying records that lack final dispositions and requesting those dispositions.

(c) LIAISON.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim or alleged violator.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 3, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 915. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), which guidelines shall include the requirements and protections this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime; and

(ii) may not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a) be limited to the conviction or pending indictment information reasonably required to accomplish the purposes of this Act;

(F) that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge; and

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the provider who is the subject of a background check;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check;

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(K) that a State or Federal provider of criminal history records, and any employee thereof, shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a criminal background check, or due to a criminal history record's being incomplete.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this Act, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this Act and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) REGULATIONS.—(1) The Attorney General may by regulation prescribe such other measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 916. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 914 of the National Child Protection Act of 1991 with the Attorney General for the purpose of implementing the National Child Protection Act of 1991.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history record in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1992, 1993, and 1994.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 914 of this Act.

Subtitle C—Crimes Against Children

SEC. 921. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 922. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE F.B.I.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law

enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

SEC. 923. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement the provisions of this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

TITLE X—CRIME VICTIMS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1991".

SEC. 1002. AVAILABILITY OF FUNDS.

Section 1402 of the Victims of Crime Act of 1984, as amended, is amended—

(a) by striking subsection (c) and redesignating (d), (e), (f) and (g) as subsections (c), (d), (e), and (f), respectively; and

(b) by adding a new subsection (c) to read as follows:

"(c) Availability of funds for expenditure; grant program percentages

"(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Fund shall be available as follows:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(B) Of the first $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 10602 of this title;

"(ii) 45 percent shall be available for grants under section 10603(a) of this title;

"(iii) 1 percent shall be available for grants under section 10603(c) of this title; and

"(iv) 4.5 percent shall be available for grants as provided in section 10603a of this title.

"(C) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 10603a of this title.

"(D) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 10603(a) of this title.

"(E) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (D) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 10602 of this title;

"(ii) 47.5 percent shall be available for grants under section 10603(a) of this title; and

"(iii) 5 percent shall be available for grants under section 10603(c)(1)(B) of this title.".

SEC. 1003. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay, then—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 1004. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before "or the attorney for the Government."; and

(6) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

TITLE XI—STATE AND LOCAL LAW ENFORCEMENT

Subtitle A—Safer Streets and Neighborhoods

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1991".

SEC. 1102. GRANTS TO STATE AND LOCAL AGENCIES.

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 1103. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162) and section 601 of the Crime Control Act of 1990 (Public Law 101-647), is amended by striking "1991" and inserting "1992".

SEC. 1104. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(f)), is amended to delete the first word and insert the following: "Except for grants awarded to State and local governments for the purpose of participating in multi-jurisdictional drug task forces, no".

SEC. 1105. FEDERAL SHARE.

Section 504(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended by striking "not—" and all that follows through "per centum;" the last place it appears, and inserting the following: "not for any fiscal year be expended for more than 75 percent".

SEC. 1106. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (7) as redesignated by section 1153 of this Act and inserting the following:

"(7) There are authorized to be appropriated such sums as may be necessary for fiscal year 1991 and $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out chapter B of subpart 2 of part E of this title.".

SEC. 1107. LIMITATION ON GRANT DISTRIBUTION.

(a) AMENDMENT.—Section 510(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(b)) is amended by inserting "non-Federal" after "with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

Subtitle B—DNA Identification

SEC. 1121. SHORT TITLE.

This subtitle may be cited as the "DNA Identification Act of 1991".

SEC. 1122. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes.".

(b) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1123 of the DNA Identification Act of 1991;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iii) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1123 of the DNA Identification Act of 1991.".

(c) AUTHORIZATION OF APPROPRIATION.—For each of the fiscal years 1992 through 1996, there are authorized to be appropriated $10 million for grants to the states for DNA analysis.

SEC. 1123. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from state and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5. U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

SEC. 1124. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION

(a) The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) Such index may include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1123 of the DNA Identification Act of 1991;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1123 of the DNA Identification Act of 1991; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(C) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) The exchange of records authorized by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) of this section are not met.

SEC. 1125. FEDERAL BUREAU OF INVESTIGATION

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1123(b). Within one year of the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this paragraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For five years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests referred to in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes; or

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) CRIMINAL PENALTY.—(1) Whoever—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) willfully discloses such information in any manner to any person or agency not entitled to receive it;

shall be fined not more than $100,000.

(2) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 1126. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1992 through 1996 to carry out sections 1123, 1124, and 1125 of this Act.

Subtitle C—Department of Justice Community Substance Abuse Prevention

SEC. 1131. SHORT TITLE.

This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

SEC. 1132. COMMUNITY PARTNERSHIPS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(c) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

Subtitle D—Bindover System for Certain Violent Juveniles

SEC. 1141. BINDOVER SYSTEM.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 1002, is amended—

(1) in paragraph (21) by striking "and" at the end;

(2) in paragraph (22) by striking the period at the end and inserting "; and"; and

(3) inserting after paragraph (22) the following:

"(23) programs which address the need for effective bindover systems for the prosecution of violent 16- and 17-year olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 931 of title 18, United States Code." effective April 10, 1991.

Subtitle E—Community Policing; Cop on the Beat

SEC. 1151. SHORT TITLE.

This title may be cited as "The Community Policing; Cop on the Beat Act of 1991".

SEC. 1152. COMMUNITY POLICING; COP ON THE BEAT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following:

"PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"SEC. 1601. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities which have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in such community.

"SEC. 1602. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In such application, one office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1601;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan which contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1603. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1602(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75

percent of the total costs of the projects described in the application submitted under section 1602 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1604. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1602(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 1605. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1602(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year that shall contain a detailed statement regarding grant awards, activities of grant recipients, and an evaluation of projects established under this part.

"SEC. 1606. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"Sec. 1601. Grant authorization.
"Sec. 1602. Application.
"Sec. 1603. Allocation of funds; limitation on grants.
"Sec. 1604. Award of grants.
"Sec. 1605. Reports.
"Sec. 1606. Definitions.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

SEC. 1153. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) by redesignating the last 3 paragraphs as paragraphs (7), (8), and (9); and

(2) by adding after paragraph (9) the following:

"(10) There are authorized to be appropriated $150,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part P.".

Subtitle F—Drug Testing of Arrested Individuals

SEC. 1161. DRUG TESTING UPON ARREST.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1151 of this Act, is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following:

"PART Q—GRANTS FOR DRUG TESTING UPON ARREST

"SEC. 1701. GRANT AUTHORIZATION.

The Director of the Bureau of Justice Assistance is authorized to make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested and during the pretrial period.

"SEC. 1702. STATE APPLICATIONS.

"(a) GENERAL REQUIREMENTS.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) MANDATORY ASSURANCES.—To be eligible to receive funds under this part, a State must agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions.

"(c) CENTRAL OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1703. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1702(c).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1701 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1704. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in such State bears to the number of individuals arrested in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified in such State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1701, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702 for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 1705. REPORT.

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year that funds are received under this part regarding the effectiveness of the drug testing project.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1152 of this Act, is amended by striking the matter relating to part Q and inserting the following:

"PART Q—DRUG TESTING FOR INDIVIDUALS ARRESTED

"Sec. 1701. Grant authorization.
"Sec. 1702. State applications.
"Sec. 1703. Local applications.
"Sec. 1704. Allocation and distribution of funds.
"Sec. 1705. Report.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

SEC. 1162. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1153 of this Act, is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated $100,000,000 for the fiscal years 1992, 1993, and 1994 to carry out the projects under part Q.".

Subtitle G—Racial and Ethnic Bias Study Grants

SEC. 1171. STUDY GRANTS

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is au-

thorized to make grants to States that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this section.

Subtitle H—Midnight Basketball

SEC. 1181. GRANTS FOR MIDNIGHT BASKETBALL LEAGUE ANTICRIME PROGRAMS.

(a) AUTHORITY.—The Attorney General of the United States, in consultation with the Secretary of Housing and Urban Development, shall make grants, to the extent that amounts are approved in appropriations Acts under subsection (m) to—

(1) eligible entities to assist such entities in carrying out midnight basketball league programs meeting the requirements of subsection (d); and

(2) eligible advisory entities to provide technical assistance to eligible entities in establishing and operating such midnight basketball league programs.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Subject to paragraph (2), grants under subsection (a)(1) may be made only to the following eligible entities:

(A) Entities eligible under section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) for a grant under section 520(a) of such Act.

(B) Nonprofit organizations providing crime prevention, employment counseling, job training, or other educational services.

(C) Nonprofit organizations providing federally-assisted low-income housing.

(2) PROHIBITION ON SECOND GRANTS.—A grant under subsection (a)(1) may not be made to an eligible entity if the entity has previously received a grant under such subsection, except that the Attorney General may exempt an eligible advisory entity from the prohibition under this paragraph in extraordinary circumstances.

(c) USE OF GRANT AMOUNTS.—Any eligible entity that receives a grant under subsection (a)(1) may use such amounts only—

(1) to establish or carry out a midnight basketball league program under subsection (d);

(2) for salaries for administrators and staff of the program;

(3) for other administrative costs of the program, except that not more than 5 percent of the grant amount may be used for such administrative costs; and

(4) for costs of training and assistance provided under subsection (d)(9).

(d) PROGRAM REQUIREMENTS.—Each eligible entity receiving a grant under subsection (a)(1) shall establish a midnight basketball league program as follows:

(1) The program shall establish a basketball league of not less than 8 teams having 10 players each.

(2) Not less than 50 percent of the players in the basketball league shall be residents of federally assisted low-income housing.

(3) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):

(A) A substantial problem regarding use or sale of illegal drugs.

(B) A high incidence of crimes committed by youths or young adults.

(C) A high incidence of persons infected with the human immunodeficiency virus or sexually transmitted diseases.

(D) A high incidence of pregnancy or a high birth rate, among adolescents.

(E) A high unemployment rate for youths and young adults.

(F) A high rate of high school drop-outs.

(4) The program shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held at or near the site of the games.

(5) The program shall serve only youths and young adults who demonstrate a need for such counseling, training, and education provided by the program, in accordance with criteria for demonstrating need, which shall be established by the Attorney General in consultation with the Secretary of Housing and Urban Development and the Secretary of Labor, and with the Advisory Committee.

(6) Basketball games of the league shall be held between the hours of 10:00 p.m. and 2:00 a.m. at a location in the neighborhood or community served by the program.

(7) The program shall obtain sponsors for each team in the basketball league. Sponsors shall be private individuals or businesses in the neighborhood or community served by the program who make financial contributions to the program and participate in or supplement the employment, job training, and educational services provided to the players under the program with additional training or educational opportunities.

(8) The program shall comply with any criteria established by the Attorney General in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee established under subsection (i).

(9) Administrators or organizers of the program shall receive training and technical assistance provided by eligible advisory entities receiving grants under subsection (h).

(e) GRANT AMOUNT LIMITATIONS.—

(1) PRIVATE CONTRIBUTIONS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, may not make a grant under subsection (a)(1) to an eligible entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Attorney General and the Secretary that the entity will supplement the grant amounts with amounts of funds from non-Federal sources, as follows:

(A) In each of the first 2 years that amounts from the grant are disbursed (under paragraph (4)), an amount sufficient to provide not less than 35 percent of the cost of carrying out the midnight basketball league program.

(B) In each of the last 3 years that amounts from the grant are disbursed, an amount sufficient to provide not less than 50 percent of the cost of carrying out the midnight basketball league program.

(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term "funds from non-Federal sources" includes amounts from nonprofit organizations, public housing agencies, States, units of general local government, and Indian housing authorities, private contributions, any salary paid to staff (other than from grant amounts under subsection (a)(1)) to carry out the program of the eligible entity, in-kind contributions to carry out the program (as determined by the Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee), the value of any donated material, equipment, or building, the value of any lease on a building, the value of any utilities provided, and the value of any time and services contributed by volunteers to carry out the program of the eligible entity.

(3) PROHIBITION ON SUBSTITUTION OF FUNDS.—Grant amounts under subsection (a)(1) and amounts provided by States and units of general local government to supplement grant amounts may not be used to replace other public funds previously used, or designated for use, under this section.

(4) MAXIMUM AND MINIMUM GRANT AMOUNTS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, may not make a grant under subsection (a)(1) to any single eligible entity in an amount less than $50,000 or exceeding $125,000.

(5) DISBURSEMENT.—Amounts provided under a grant under subsection (a)(1) shall be disbursed to the eligible entity receiving the grant over the 5-year period beginning on the date that the entity is selected to receive the grant, as follows:

(A) In each of the first 2 years of such 5-year period, 23 percent of the total grant amount shall be disbursed to the entity.

(B) In each of the last 3 years of such 5-year period, 18 percent of the total grant amount shall be disbursed to the entity.

(f) APPLICATIONS.—To be eligible to receive a grant under subsection (a)(1), an eligible entity shall submit to the Attorney General an application in the form and manner required by the Attorney General (after consultation the Secretary of Housing and Urban Development and with the Advisory Committee), which shall include—

(1) a description of the midnight basketball league program to be carried out by the entity, including a description of the employment counseling, job training, and other educational services to be provided;

(2) letters of agreement from service providers to provide training and counseling services required under subsection (d) and a description of such service providers;

(3) letters of agreement providing for facilities for basketball games and counseling, training, and educational services required under subsection (d) and a description of the facilities;

(4) a list of persons and businesses from the community served by the program who have expressed interest in sponsoring, or have made commitments to sponsor, a team in the midnight basketball league; and

(5) evidence that the neighborhood or community served by the program meets the requirements of subsection (d)(3).

(g) SELECTION.—The Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee, shall select eligible entities that have submitted applications under subsection (f) to receive grants under subsection (a)(1). The Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee, shall establish criteria for selection of applicants to receive such grants. The criteria shall include a preference for selection of eligible entities carrying out midnight basketball league programs in suburban and rural areas.

(h) TECHNICAL ASSISTANCE GRANTS.—Technical assistance grants under subsection (a)(2) shall be made as follows:

(1) ELIGIBLE ADVISORY ENTITIES.—Technical assistance grants may be made only to entities that—

(A) are experienced and have expertise in establishing, operating, or administering successful and effective programs for midnight basketball and employment, job training, and educational services similar to the programs under subsection (d); and

(B) have provided technical assistance to other entities regarding establishment and operation of such programs.

(2) USE.—Amounts received under technical assistance grants shall be used to establish centers for providing technical assistance to entities receiving grants under subsection (a)(1) of this section and section 520(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(a)) regarding establishment, operation, and administration of effective and successful midnight basketball league programs under this subsection.

(3) NUMBER AND AMOUNT.—To the extent that amounts are provided in appropriations Acts under subsection (m)(2) in each fiscal year, the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make technical assistance grants under subsection (a)(2). In each fiscal year that such amounts are available the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make 2 such grants, as follows:

(A) One grant shall be made to an eligible advisory entity for development of midnight basketball league programs in public housing projects.

(B) One grant shall be made to an eligible advisory entity for development of midnight basketball league programs in suburban or rural areas.

Each grant shall be in an amount not exceeding $50,000.

(i) ADVISORY COMMITTEE.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall appoint an Advisory Committee to assist in providing grants under this subsection. The Advisory Committee shall be composed of not more than 7 members, as follows:

(1) Not fewer than 2 individuals who are involved in managing or administering midnight basketball programs that the Secretary determines have been successful and effective. Such individuals may not be involved in a program assisted under this subsection or a member or employee of an eligible advisory entity that receives a technical assistance grant under subsection (a)(2).

(2) A representative of the Office for Substance Abuse Prevention of the Public Health Service, Department of Health and Human Services, who is involved in administering the grant program for prevention, treatment, and rehabilitation model projects for high risk youth under section 509A of the Public Health Service Act (42 U.S.C. 290aa–8), who shall be selected by the Secretary of Health and Human Services.

(3) A representative of the Department of Education, who shall be selected by the Secretary of Education.

(4) A representative of the Department of Health and Human Services, who shall be selected by the Secretary of Health and Human Services from among officers and employees of the Department involved in issues relating to high-risk youth.

(5) A representative of the Department of Labor, who shall be selected by the Secretary of Labor.

(j) REPORTS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall require each eligible entity receiving a grant under subsection (a)(1) and each eligible advisory entity receiving a grant under subsection (a)(2) to submit for each year in which grant amounts are received by the entity, a report describing the activities carried out with such amounts.

(k) STUDY.—To the extent amounts are provided under appropriation Acts pursuant to subsection (m)(3), the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make a grant to one entity qualified to carry out a study under this subsection. The entity shall use such grant amounts to carry out a study of the effectiveness of midnight basketball league programs at reducing crime and increasing employability under subsection (d) of eligible entities receiving grants under subsection (a)(1). The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall require such entity to submit a report describing the study and any conclusions and recommendations resulting from the study to the Congress and the Attorney General and the Secretary not later than the expiration of the 2-year period beginning on the date that the grant under this subsection is made.

(l) DEFINITIONS.—For purposes of this section:

(1) The term "Advisory Committee" means the Advisory Committee established under subsection (i).

(2) The term "eligible advisory entity" means an entity meeting the requirements under subsection (h)(1).

(3) The term "eligible entity" means an entity described under subsection (b)(1).

(4) The term "federally assisted low-income housing" has the meaning given the term in section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) for grants under subsection (a)(1), $2,500,000 in each of fiscal years 1992 and 1993;

(2) for technical assistance grants under subsection (a)(2), $100,000 in each of fiscal years 1992 and 1993; and

(3) for a study grant under subsection (k), $250,000 in fiscal year 1992.

SEC. 1191. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(3) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic or artistic enrichment that also teach that drug and gang involvement are wrong;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls and boys clubs, scout troops, and little leagues;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide education and treatment programs for youth exposed to severe violence in their homes, schools or neighborhoods.

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 232(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) The purpose of this section is—

"(1) to provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime and drug and alcohol related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(2) to replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) to provide technical assistance and training to public or private organizations to implement similar programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles living at or near International Port of Entry or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) Of the total amount appropriated for this subchapter, 5 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 233(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs.

"AUTHORIZATION

"SEC. 234. There is authorized to be appropriated $100,000,000 in fiscal year 1992 and such sums as may be necessary in fiscal year 1993 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 235. Of the total amounts appropriated under this subpart in any fiscal year the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles of such State bears to the population of juveniles of all the participating States.

"APPLICATION

"SEC. 236. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 237. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508, respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

Subtitle I—Trauma Centers

SEC. 1195. TRAUMA CENTERS AND CRIME-RELATED VIOLENCE.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended by adding at the end the following new part:

"PART D—REIMBURSEMENT FOR UNCOMPENSATED TRAUMA CARE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence due to crime. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the trauma center demonstrates a significant incidence of uncompensated care debt as a result of treating a population of patients that has been served by the center for the period specified in subparagraph (B) for trauma, including a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PRIORITIES IN MAKING GRANTS.

"In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 5-year period specified in section 1241(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the two fiscal years immediately succeeding the fiscal year for which a grant is received;

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A); and

"(3) the center will establish a trauma registry not later than 6 months from the date on which the grant is received that shall include such information as the Secretary shall require.

"SEC. 1244. GENERAL PROVISIONS.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(c) LIMITATION ON AMOUNT OF GRANT.—The Secretary may not make a grant to any single trauma center in an amount that exceeds $2,000,000 in any fiscal year.

"(d) CONSULTATION.—Grants shall be awarded under section 1241(a) only after the Secretary has consulted with the state official responsible for emergency medical services, or another appropriate state official, in the State of the prospective grantee.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

SEC. 1196. CONFORMING AMENDMENTS.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

Subtitle J—Certainty of Punishment for Young Offenders

SEC. 1198. SHORT TITLE.

This subtitle may be cited as the "Certainty of Punishment for Young Offenders Act of 1991".

SEC. 1199. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1161 of this Act, is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following:

"PART R—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

"SEC. 1802. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 1802; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1803. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1801(a) to carry out the projects described in the application submitted by such applicant under section 1802 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1802 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1801(b) for young offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1804. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1802(b).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1801 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1805. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1801 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1801.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1801, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1806. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1162 of this Act, is amended by striking the matter relating to part R and inserting the following:

"PART R—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1801. Grant authorization.
"Sec. 1802. State applications.
"Sec. 1803. Review of State applications.
"Sec. 1804. Local applications.
"Sec. 1805. Allocation and distribution of funds.
"Sec. 1806. Evaluation.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 1421 of this Act, is amended by adding after paragraph (24) the following:

"(25) The term 'young offender' means an individual 28 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding after paragraph (11) the following:

"(12) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part R.".

TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS

Subtitle A—Law Enforcement Family Support

SEC. 1201. LAW ENFORCEMENT FAMILY SUPPORT.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1199 of this Act is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as 2001; and

(3) by inserting after part R the following:

"PART S—FAMILY SUPPORT

"SEC. 1901. DUTIES OF DIRECTOR.

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

"SEC. 1902. GENERAL AUTHORIZATION.

"The Director is authorized to make grants to States and local law enforcement agencies to provide family support services to law enforcement personnel.

"SEC. 1903. USES OF FUNDS.

"(a) In General.—A State or local law enforcement agency that receives a grant under this Act shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) Required Activities.—A law enforcement agency that receives funds under this Act shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(c) Optional Activities.—A law enforcement agency that receives funds under this Act may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"SEC. 1904. APPLICATIONS.

"A law enforcement agency desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this Act.

"SEC. 1905. AWARD OF GRANTS; LIMITATION.

"(a) Grant Distribution.—In approving grants under this part, the Director shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) Duration.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency for a period not to exceed 5 years. In any application from a State or local law enforcement agency for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) Limitation.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency may be used for administrative purposes.

"SEC. 1906. DISCRETIONARY RESEARCH GRANTS.

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency to study issues of importance in the law enforcement field as determined by the Director.

"SEC. 1907. REPORTS.

"(a) Report From Grant Recipients.—A State or local law enforcement agency that receives a grant under this Act shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) Report From Director.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) Such report shall contain—

"(A) a description of the types of projects developed or improved through funds received under this Act;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) the number of individuals served in each location and throughout the country.

"SEC. 1908. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) Conforming Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1199 of this Act, is amended by striking the matter relating to part V and inserting the following:

"Part S—Family Support

"Sec. 1901. Duties of director.
"Sec. 1902. General authorization.
"Sec. 1903. Uses of funds.
"Sec. 1904. Applications.
"Sec. 1905. Award of grants; limitation.
"Sec. 1906. Discretionary research grants.
"Sec. 1907. Reports.
"Sec. 1908. Definitions.

"Part T—Transition; Effective Date; Repeals

"Sec. 2001. Continuation of rules, authorities, and privileges.".

SEC. 1202. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1199 of this Act, is amended by adding after paragraph (11) the following:

"(12) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996. Not more than 20 percent of such funds may be used to accomplish the duties of the Director under section 1901 in part S of this Act, including administrative costs, research, and training programs.".

Subtitle B—Police Pattern or Practice

SEC. 1211. PATTERN OR PRACTICE CASES; CAUSE OF ACTION.

Chapter 21 of title 42, United States Code, is amended by adding the following new section:

"SECTION 1998. PATTERN OR PRACTICE CASES.

"(a) Unlawful Conduct.—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers that deprives persons of rights, privileges, or immunities, secured or protected by the Constitution or laws of the United States.

"(b) Civil Action by Attorney General.—Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.".

SEC. 1212. DATA ON USE OF EXCESSIVE FORCE.

(a) Attorney General To Collect.—The Attorney General shall, through the victimization surveys conducted by the Bureau of Justice Statistics, acquire data about the use of excessive force by law enforcement officers.

(b) Limitation on Use of Data.—Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of the victim or any law enforcement officer.

(c) Annual Summary.—The Attorney general shall publish an annual summary of the data acquired under this section.

Subtitle C—Police Corps and Law Enforcement Officers Training and Education

SEC. 1221. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 1222. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 1223. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) Establishment.—There is established in the Department of Justice, under the general

authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 1224. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 1236; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

CHAPTER 1—POLICE CORPS PROGRAM

SEC. 1231. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 1233;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 1236.

SEC. 1232. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 1234, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 1234; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(g) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 1233. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 1235(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 1235, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 1235, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 1234. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 1236 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 1235. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 1234 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 1232, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 1232(d)(1)(C) shall not apply.

(d) LAY-OFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 1232, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 1232(d)(1)(C) shall not apply.

SEC. 1236. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 1233;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 1237. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

CHAPTER 2—LAW ENFORCEMENT SCHOLARSHIP PROGRAM

SEC. 1241. SHORT TITLE.

This subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 1242. DEFINITIONS.

As used in this subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 1243. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 1244. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subtitle.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 1245. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 1246. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 1247. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 1248. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 1249. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 1250. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 1244(a)(1)(B) and 1244(a)(2).

CHAPTER 3—REPORTS

SEC. 1261. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic, racial, and gender dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

Subtitle D—Study Rights of Police Officers

SEC. 1271. STUDY ON OFFICERS' RIGHTS.

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;

(2) conduct of questioning;

(3) counsel;

(4) hearings;

(5) appeal; and

(6) sanctions.

Not later than one year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

TITLE XIII—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1301. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1991".

SEC. 1302. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, $345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include:

(A) not to exceed $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train and equip no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $20,000,000, to hire, train and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses;

(5) For the United States Marshals Service, $10,000,000;

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs;

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title; and

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

SEC. 1303. AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A UNITED STATES ATTORNEYS' OFFICE IN PHILADELPHIA, PENNSYLVANIA.

There is hereby authorized to be appropriated $35,000,000 to remain available until expended, to plan, acquire a site, design, construct, buildout, equip, and prepare for use an office building to house the United States Attorneys Office in Philadelphia, Pennsylvania, notwithstanding any other provision of law: Provided, That the site is at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center: Provided further, That the site selected for the Philadelphia United States Attorneys Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

TITLE XIV—PRISONS

Subtitle A—Federal Prisons

SEC. 1401. PRISONER'S PLACE OF IMPRISONMENT.

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following: "However, the bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment.".

SEC. 1402. PRISON IMPACT ASSESSMENTS.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§4047. Prison impact assessments

"(a) Any submission of legislation by the Judicial or Executive branch which could increase or decrease the number of persons incarcerated or in Federal penal institutions shall be accompanied by a prison impact statement, as defined in subsection (b) of this section.

"(b) The Attorney General shall, in consultation with the Sentencing Commission and the Administrative Office of the United States Courts, prepare and furnish prison impact assessments under subsection (c) of this section, and in response to requests from Congress for information relating to a pending measure or matter that might affect the number of defendants processed through the Federal criminal justice system. A prison impact assessment on pending legislation must be supplied within 7 days of any request. A prison impact assessment shall include—

"(1) projections of the impact on prison, probation, and post prison supervision populations;

"(2) an estimate of the fiscal impact of such population changes on Federal expenditures, including those for construction and operation of correctional facilities for the current fiscal year and 5 succeeding fiscal years;

"(3) an analysis of any other significant factor affecting the cost of the measure and its impact on the operations of components of the criminal justice system; and

"(4) a statement of the methodologies and assumptions utilized in preparing the assessment.

"(c) The Attorney General shall prepare and transmit to the Congress, by March 1 of each year, a prison impact assessment reflecting the cumulative effect of all relevant changes in the law taking effect during the preceding calendar year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 is amended by adding at the end the following new item:

"4047. Prison impact assessments.".

SEC. 1403. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each judicial district the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(2) The table of sections at the beginning of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"3608. Drug testing of Federal offenders on post-conviction release.".

(c) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and";

(3) by adding at the end the following new paragraph:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant."; and

(4) by adding at the end the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A defendant who tests positive may be detained pending verification of a positive drug test result. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(d) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the court as provided in section 3563(a)(4). The results of a drug test administered in accordance with the preceding subsection shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(e) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the Commission for any individual parolee if it determines that there is good cause for doing so. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

SEC. 1404. DRUG TREATMENT IN FEDERAL PRISONS.

(a) SHORT TITLE.—This section may be cited as the "Drug Treatment in Federal Prisons Act of 1991".

(b) DEFINITIONS.—

As used in this section—

(1) the term "residential substance abuse treatment" means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

(A) directed at the substance abuse problems of the prisoner; and

(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems; and

(2) the term "eligible prisoner" means a prisoner who is—

(A) determined by the Bureau of Prisons to have a substance abuse problem; and

(B) willing to participate in a residential substance abuse treatment program.

(c) IMPLEMENTATION OF SUBSTANCE ABUSE TREATMENT REQUIREMENT.—

(1) In order to carry out the requirement of the last sentence of section 3621(b) of title 18, United States Code, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall provide residential substance abuse treatment—

(A) for not less than 50 percent of eligible prisoners by the end of fiscal year 1993;

(B) for not less than 75 percent of eligible prisoners by the end of fiscal year 1994; and

(C) for all eligible prisoners by the end of fiscal year 1995 and thereafter.

(2) Section 3621 of title 18, United States Code, is amended by adding at the end the following:

"(d) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—

"(1) GENERALLY.—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provided under subsection (b) of this section, shall remain in the custody of the Bureau for such time (as limited by paragraph (2) of this subsection) and under such conditions, as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for drug abuse and discontinue such conditions on determining that drug abuse has recurred.

"(2) PERIOD OF CUSTODY.—The period the prisoner remains in custody after successfully completing a treatment program shall not exceed the prison term the law would otherwise require such prisoner to serve, but may not be less than such term minus one year.".

(d) REPORT.—The Bureau of Prisons shall transmit to the Congress on January 1, 1993, and on January 1 of each year thereafter, a report. Such report shall contain—

(1) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

(2) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible; and

(3) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1991 and each fiscal year thereafter such sums as may be necessary to carry out this title.

SEC. 1405. PRISON FOR VIOLENT DRUG OFFENDERS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The total population of Federal, State, and local prisons and jails increased by 84 percent between 1980 and 1988 and currently numbers more than 900,000 people.

(2) More than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs. Hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly.

(3) Drug-abusing prisoners are highly likely to return to crime upon release, but the recidivism rate is much lower for those who successfully complete treatment programs. Providing drug treatment to prisoners during incarceration therefore provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending September 30, 1992, the following amounts:

(1) $600,000,000 for the construction of 10 regional prisons; and

(2) $100,000,000 for the operation of such regional prisons for one year.

Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

(c) LOCATION AND POPULATION.—The regional prisons authorized by this section shall be located in places chosen by the Director of the Bureau of Prisons, after consulting with the Director of National Drug Control Policy, not less than 6 months after the effective date of this section. Each such facility shall be used to accommodate a population consisting of State and Federal prisoners in proportions of 20 percent Federal and 80 percent State.

(d) ELIGIBILITY OF PRISONERS.—The regional prisons authorized by this section shall be used to incarcerate State and Federal prisoners who have release dates of not more than 2 years from the date of assignment to the prison and who have been found to have substance abuse problems requiring long-term treatment.

(e) STATE RESPONSIBILITIES.—(1) The States shall select prisoners for assignment to the regional prisons who, in addition to satisfying eligibility criteria otherwise specified in this section, have long-term drug abuse problems and serious criminal histories. Selection of such persons is necessary for the regional prison program to have the maximum impact on the crime rate and future prison overcrowding, since such persons are the ones most likely to commit new crimes following release. Prisoners selected for assignment to a regional prison must agree to the assignment.

(2) Any State seeking to refer a State prisoner to a regional prison shall submit to the Director of the Bureau of Prisons (referred to as the "Director") an aftercare plan setting forth the provisions that the State will make for the continued treatment of the prisoner in a therapeutic community following release. The aftercare plan shall also contain provisions for vocational job training where appropriate.

(3) The State referring the prisoner to the regional prison (referred to as the "sending State") shall reimburse the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner, except that if the prisoner successfully completes the treatment program, the Director shall return to the sending State 25 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare treatment required by paragraph (2).

(f) POWERS OF THE DIRECTOR.—(1) The Director shall have the exclusive right to determine whether or not a State or Federal prisoner satisfies the eligibility requirements of this section, and whether the prisoner is to be accepted into the regional prison program. The Director shall have the right to make this determination after the staff of the regional prison has had an opportunity to interview the prisoner in person.

(2) The Director shall have the exclusive right to determine if a prisoner in the regional treatment program is complying with all of the conditions and requirements of the program. The Director shall have the authority to return any prisoner not complying with the conditions and requirements of the program to the sending State at any time. The Director shall notify the sending State whenever such prisoner is returned that the prisoner has not successfully completed the treatment program.

SEC. 1406. BOOT CAMPS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this section as "boot camps"). The boot camps will be located on closed military installations on sites to be chosen by the Director of the Bureau of Prisons, after consultation with the Director of National Drug Control Policy, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training as well as remedial education and treatment for substance abuse.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 200 and 300 inmates for periods of not less than 90 days and not greater than 120 days. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

(c) FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if—

"(A) the defendant—

"(i) is under 25 years of age;

"(ii) has no prior conviction for which he or she has served more than 10 days incarceration; and

"(iii) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine; and

"(B) the sentencing court finds that the defendant's total offense level under the Federal sentencing guidelines is level 15 or less.

"(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate to any other correctional facility in the Federal prison system.

"(4) Successful completion of assignment to a boot camp shall constitute satisfaction of any period of active incarceration, but shall not affect any aspect of a sentence relating to a fine, restitution, or supervised release.".

(d) STATE PRISONERS.—(1) The head of a State corrections department or the head's designee may apply for boot camp placement for any person who has been convicted of a criminal offense in that State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced. Such application shall be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by the head of the State corrections department or the head's designee that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 30 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons shall determine, on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted of a State criminal offense shall be eligible for assignment to a boot camp if he or she—

(A) is under 25 years of age;

(B) has no prior conviction for which he or she has served more than 10 days incarceration;

(C) has been sentenced to a term of imprisonment that will be satisfied under the law of the sentencing State if the defendant successfully completes a term of not less than 90 days nor more than 120 days in a boot camp;

(D) has been designated by the sentencing court as eligible for assignment to a boot camp; and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense if the defendant is eligible for assignment to a boot camp under State law.

(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate back to the jurisdiction of the State sentencing court.

(4) Any State referring a prisoner to a boot camp shall reimburse the Bureau of Prisons for the full cost of the incarceration of the prisoner, except that if the prisoner successfully completes the boot camp program, the Bureau of Prisons shall return to the State 20 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare supervision and services required by paragraph (e).

(e) POST-RELEASE SUPERVISION.—(1) Any State seeking to refer a State prisoner to a boot camp prison shall submit to the Director of the Bureau of Prisons an aftercare plan setting forth the provisions that the State will make for the continued supervision of the prisoner following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(2) The Bureau of Prisons shall develop an aftercare plan setting forth the privisions that will be made for the continued supervision of Federal prisoners following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1992, available until expended, of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

Subtitle B—State Prisons

SEC. 1421. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.

This section may be cited as the "Substance Abuse Treatment in State Prisons Act of 1991".

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1201 of this Act, is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following:

"PART U—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"SEC. 2001. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities.

"SEC. 2002. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State *shall submit an application to the Director in such form and containing such information as the Director may reasonably require.*

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, halfway house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 1902; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2003. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1901 to carry out the projects described in the application submitted under section 1902 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1902 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1902 for the fiscal year for which the projects receive assistance under this part.

"SEC. 2005. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1201 of this Act, is amended by striking the matter relating to part T and inserting the following:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2001. Grant authorization.
"Sec. 2002. State applications.
"Sec. 2003. Review of State applications.
"Sec. 2004. Allocation and distribution of funds.
"Sec. 2005. Evaluation.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) DEFINITIONS.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended by adding after paragraph (25) the following:

"(26) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1202 of this Act, is amended by adding after paragraph (10) the following:

"(14) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part T.".

SEC. 1422. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration, or statewide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy or in the case of an individual with a disability, achieves functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of tests that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a systemwide mandatory functional literacy program, as required by subsection (b), and if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies who elect to establish a program described in subsection (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General is authorized to make grants

to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section, the term "life skills" shall include, but not be limited to, self-development, communication skills, job and financial skills development, education, interpersonal and family relationships, and stress and anger management.

SEC. 1423. NATIONAL INSTITUTE OF JUSTICE STUDY.

(a) FEASIBILITY STUDY.—The National Institute of Justice shall study the feasibility of establishing a clearinghouse to provide information to interested persons to facilitate the transfer of prisoners in State correctional institutions to other such correctional institutions, pursuant to the Interstate Corrections Compact or other applicable interstate compact, for the purpose of allowing prisoners to serve their prison sentences at correctional institutions in close proximity to their families.

(b) REPORT TO CONGRESS.—The National Institute of Justice shall, not later than 1 year after the date of the enactment of this Act, submit to the Committees on the Judiciary of the House of Representatives and the Senate a report containing the results of the study conducted under subsection (a), together with any recommendations the Institute may have on establishing a clearinghouse described in such subsection.

(c) DEFINITION.—For purposes of this section, the term "State" includes the District of Columbia and any territory or possession of the United States.

SEC. 1424. STUDY AND ASSESSMENT OF ALCOHOL USE AND TREATMENT.

The Director of the National Institute of Justice shall—

(1) conduct a study to compare the recidivism rates of individuals under the influence of alcohol or alcohol in combination with other drugs at the time of their offense—

(A) who participated in a residential treatment program while in the custody of the State; and

(B) who did not participate in a residential treatment program while in the custody of the State.

(2) conduct a nationwide assessment regarding the use of alcohol and alcohol in combination with other drugs as a factor in violent, domestic, and general criminal activity.

SEC. 1425. NOTIFICATION OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) Application of Section.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1) of this subsection—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1) of this subsection, the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b)."; and

(5) by inserting after subsection (a), as designated by paragraph (1) of this subsection, the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) Except in the case of a prisoner being protected under chapter 224, the Bureau of Prisons shall, at least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, cause written notice of the release or change of residence to be made to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime, as that term is defined in section 924(c)(2); or

"(B) a crime of violence, as that term is defined in section 924(c)(3).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

SEC. 1426. APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.

In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

TITLE XV—RURAL CRIME

Subtitle A—Fighting Drug Trafficking in Rural Areas

SEC. 1501. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—The second paragraph (7) of section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking "(7)" and inserting "(8)"; and

(2) by striking "and such" and all that follows through "part O" and inserting "$50,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

SEC. 1502. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1503. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

SEC. 1504. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a) of this section.

Subtitle B—Rural Drug Prevention and Treatment

SEC. 1511. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereafter referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

SEC. 1512. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa–7) is amended—

(1) in paragraph (3), by striking "and" at the end thereof;

(2) in paragraph (4), by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

Subtitle C—Drug Free Truck Stops and Safety Rest Areas

SEC. 1521. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than 3 years and not more than life imprisonment or (B) 3 times the maximum punishment authorized by section 401(b); and

"(2) by at least 3 times any term of supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSS REFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409, the following new item:

"Sec. 409. Transportation safety
offenses.".

(c) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines described in paragraph (1), as promulgated or amended under this subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to this subsection is subject to not more than one such enhancement.

TITLE XVI—DRUG CONTROL

Subtitle A—Drug Emergency Areas

SEC. 1601. DRUG EMERGENCY AREAS.

Section 1005 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504) is amended by adding at the end the following:

"(e) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State or where the threat of a drug-related emergency exists to part of a State bordering part of a foreign country where a drug-related emergency is known to exist, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug smuggling, drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under subparagraph (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude, that Federal assistance is necessary to assure an effective response to save lives, and to protect property and public health and safety.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug smuggling, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

"(i) take appropriate action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining that government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on

the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—Assistance under this subsection shall be subject to annual audit by the Comptroller General.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1992, 1993, and 1994, $300,000,000 to carry out this subsection.".

Subtitle B—Precursor Chemicals

SEC. 1611. SHORT TITLE.

This subtitle may be cited as "The Chemical Control and Environmental Responsibility Act of 1991".

SEC. 1612. DEFINITION AMENDMENTS.

(a) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and by inserting in lieu thereof "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and by inserting in lieu thereof "list I chemical" and by striking "critical to the creation" and by inserting in lieu thereof "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting in lieu thereof "list II chemical" and by striking "that is used as a solvent, reagent, or catalyst" and by inserting in lieu thereof ", which is not a list I chemical, that is used";

(4) in paragraph (40) by striking "listed precursor chemical or a listed essential chemical" and by inserting in lieu thereof "list I chemical or a list II chemical" in both places it appears.

(b) Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)(A) by striking "precursor chemical" and inserting in lieu thereof "list I chemical";

(2) in subsection (a)(1)(B) by striking "an essential chemical" and inserting in lieu thereof "a list II chemical";

(3) in subsection (c)(2)(D) by striking "precursor chemical" and inserting in lieu thereof "chemical control".

(c) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting in lieu thereof "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.";

(3) in paragraph (39)(A) by striking "or exportation" and inserting in lieu thereof ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semi-colon and inserting in lieu thereof "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may be regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semi-colon and inserting in lieu thereof "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding a new paragraph as follows:

"(42) the terms 'broker' or 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing a buyer, seller and/or transporter together.".

SEC. 1613. REGISTRATION REQUIREMENT.

(a) Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting in lieu thereof "and to the registration and control of regulated persons and of regulated transactions.".

(b) Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" in each place it appears;

(2) in subsection (b) by inserting "or list I chemicals" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance with applicable Federal, State and local law;

"(3) prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) past experience in the manufacture and distribution of chemicals; and

"(5) such other factors as may be relevant to and consistent with the public health and safety.".

(d) Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" in each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) by redesignating subsection (c) as subsection (c)(1);

(2) by adding at the end the following:

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (5) of section 303(h) shall be considered.";

(3) in subsection (d)(3) by inserting "or list I chemical or chemicals," after "substances,";

(4) in subsection (d)(6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(5) in subsection (e) by striking "and 307" and inserting "307, and 310"; and

(6) in subsections (f), (g) and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following:

"(9) who is a regulated person to distribute, import or export a list I chemical without the registration required by this title.".

SEC. 1614. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by striking "(b) Each" and inserting "(b)(1) Each";

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" each place it appears and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" each place it appears and inserting "subparagraph (C)"; and

(6) by adding at the end the following:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by him.".

SEC. 1615. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the follow new subsection:

"(e) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical which is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, record keeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) Any person who knowingly or intentionally—

"(1) imports or exports listed chemical with intent to manufacture a controlled substance in violation of this chapter;

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this chapter;

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

shall be fined in accordance wth title 18, United States Code, or imprisoned not more than 10 years, or both.".

SEC. 1616. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(f)(1) The Attorney General may by regulation require that the 15 day advance notice requirement of subsection (a) of this section apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as "regular customers" if he finds that such action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party;

"(2) The Attorney General may by regulation waive the 15 day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If such advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15 day advance notice requirement for the importation of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If such advance notice requirement is waived, importers of such listed chemicals shall be required to either submit reports of individual importations or to submit periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) (as amended by section 1615(b)) is amended by—

(1) inserting "or" after the semicolon at the end of paragraph (4); and

(2) adding a new paragraph (5) as follows:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 1018(d)(1) or (2) of this title by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported;".

SEC. 1617. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended:

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraph (X) as (U), respectively;

(3) by inserting after subparagraph (U), as so redesignated by paragraph (2), the following:

"(V) benzaldehyde.

"(W) nitroethane.";

(4) by redesignating subparagraph (Y) as (X); and

(5) by striking "(M) through (X)" in redesignated subparagraph (X) and inserting in lieu thereof "(M) through (U)".

SEC. 1618. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended—

(1) in subsection (b)(1) by striking "regular supplier of the regulated person." and inserting in lieu thereof "to an importation by a regular importer.";

(2) in subsection (b)(2) by striking "a customer or supplier of a regulated person" and inserting in lieu thereof "a customer of a regulated person or to an importer" and by striking "regular supplier" and inserting in lieu thereof "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting in lieu thereof "regular importer".

SEC. 1619. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 303 of this title (or exempt from such registration under section 302(d) of this title or by regulation of the Attorney General), or a regulated person may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such activity are maintained.".

SEC. 1620. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended by inserting "a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount of multiple transactions".

SEC. 1621. MANAGEMENT OF LISTED CHEMICALS.

(a) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 310 the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921–6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property; and

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

Subtitle C—General Provisions

SEC. 1631. CRIMINAL PENALTY FOR FAILURE TO OBEY ORDER TO LAND.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following new section:

"§2237. Order to land

"(a)(1) A pilot or operator of an aircraft that has crossed the border of the United States, or

an aircraft subject to the jurisdiction of the United States operating outside the United States, who intentionally fails to obey an order to land issued by an authorized Federal law enforcement officer who has observed conduct or is otherwise in possession of information establishing reasonable suspicion that the aircraft is being used unlawfully in violation of the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act, or section 1956 or 1957 of this title (relating to money laundering), shall be fined under this title, or imprisoned not more than two years, or both.

"(2) The Secretary of the Treasury and the Secretary of Transportation, in consultation with the Attorney General, shall make rules governing the means by which a Federal law enforcement officer may communicate an order to land to a pilot or operator of an aircraft.

"(3) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 or another law the Customs Service enforces or administers, or the authority of a Federal law enforcement officer under a law of the United States to order an aircraft to land.

"(b) A foreign nation may consent or waive objection to the United States enforcing the laws of the United States by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(c) For purposes of this section—

"(1) the term 'aircraft subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, when that nation consents to United States enforcement of United States law; and

"(C) over the high seas, an aircraft without nationality, an aircraft of the United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the United States enforcement of United States law; and

"(2) the term 'Federal law enforcement officer' has the same meaning that term has in section 115 of this title.

"(d) An aircraft that is used in violation of this section is liable in rem for a fine imposed under this section.

"(e) An aircraft that is used in violation of this section may be seized and forfeited. The laws relating to seizure and forfeiture for violation of the customs laws, including available defenses such as innocent owner provisions, apply to aircraft seized or forfeited under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Order to land.".

SEC. 1632. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 481(c)(4) of Public Law 87-195 (22 U.S.C. 2291)(c)(4)) is amended by inserting ", and archipelagic waters" after "territorial sea".

SEC. 1633. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the following: "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting in lieu thereof "(d)".

SEC. 1634. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 1635. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting in lieu thereof "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act".

SEC. 1636. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(1) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(2) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony for a felony drug offense have become final".

(3) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";

(4) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

SEC. 1637. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 1638. ANABOLIC STEROIDS PENALTIES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following:

"(b)(1) Whoever, being a physical trainer or adviser to an individual, endeavors to persuade or induce that individual to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both. If such individual has not attained the age of 18 years, the maximum imprisonment shall be 5 years.

"(2) As used in this subsection, the term 'physical trainer or adviser' means any professional or amateur coach, manager, trainer, instructor, or other such person, who provides any athletic or physical instruction, training, advice, assistance, or other such service to any person.".

SEC. 1639. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISION OF PUBLIC LAW 101–516 WHICH CONDITIONS PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THAT STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of Public Law 101–516, section 333. This program shall notify the Governors and State Representatives of the requirements of Public Law 101–516, section 333.

SEC. 1640. ADVERTISING.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by inserting after subsection (b) the following:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term 'advertisement' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance."; and

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively.

SEC. 1641. INCREASED PENALTIES FOR DRUG-DEALING IN "DRUG-FREE" ZONES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking "one year" and inserting "3 years"; and

(2) in subsection (b), by striking "three years" each place it appears and inserting "5 years".

SEC. 1642. NATIONAL DRUG CONTROL STRATEGY.

(a) IN GENERAL.—Section 1005(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)) is amended by adding at the end the following:

"(5) Beginning with the first submission of a National Drug Control Strategy to Congress after the date of the enactment of the Violent Crime Control and Law Enforcement Act of

1991, the goals, objectives, and priorities of such Strategy shall include a goal for expanding the availability of treatment for drug addiction.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that among the long-term goals of the National Drug Control Strategy should be the availability of drug treatment to all who are in need of such treatment.

SEC. 1643. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE SUMS OF CASH IN EXCESS OF $10,000 IN WEAPON SCREENING.

Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of the enactment of this section, the Administrator shall issue regulations requiring employees and agents referred to in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers a controlled substance the possession of which may be a violation of Federal or State law, or any sizable sums of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.

SEC. 1644. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

TITLE XVII—DRUNK DRIVING PROVISIONS

SEC. 1701. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1991".

SEC. 1702. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 1703. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

TITLE XVIII—COMMISSIONS

Subtitle A—Commission on Crime and Violence

SEC. 1801. ESTABLISHMENT OF COMMISSION ON CRIME AND VIOLENCE.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the majority leader of the Senate and two of whom shall be appointed on the recommendation of the minority leader of the Senate.

SEC. 1802. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990's. The report shall include an estimated cost for implementing any recommendations made by the Commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State, Federal, and international border crime control efforts.

(5) To make a comprehensive study of the economic and social factors lending to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it.

(6) To recommend means of targeting finite correctional facility space and resources to the most serious and violent offenders, with the goal of achieving the most cost-effective possible crime control and protection of the community and public safety, with particular emphasis on examining the issue of possible disproportionate incarceration rates among black males and any other minority group disproportionately represented in State and Federal correctional populations, and to consider increased use of alternatives to incarceration which offer a reasonable prospect of equal or better crime control at equal or less cost.

SEC. 1802. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.

(4) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(7) Review all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

Subtitle B—National Commission to Study the Causes of the Demand for Drugs in the United States

SEC. 1821. SHORT TITLE.

This subtitle may be cited as the "National Commission to Study the Causes of the Demand for Drugs in the United States".

SEC. 1822. ESTABLISHMENT.

There is established a National Commission to Study the Causes of the Demand for Drugs in the United States (hereinafter in this Act referred to as the "Commission").

SEC. 1823. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) examine the root causes of illicit drug use and abuse in the United States, including by compiling existing research regarding those root causes;

(2) evaluate the efforts being made to prevent drug abuse;

(3) identify the existing gaps in drug abuse policy that result from the lack of attention to the root causes of drug abuse;

(4) assess the needs of Government at all levels for resources and policies for reducing the overall desire of individuals to experiment with and abuse illicit drugs; and

(5) make recommendations regarding necessary improvements in policies for reducing the use of illicit drugs in the United States.

(b) EXAMINATION.—Matters examined by the Commission under this section shall include the following:

(1) CHARACTERISTICS.—The characteristics of potential illicit drug users and abusers or drug traffickers, including age and social, economic, and educational backgrounds.

(2) ENVIRONMENT.—Environmental factors that contribute to illicit drug use and abuse, including the correlation between unemployment, poverty, and homelessness on drug experimentation and abuse.

(3) ASSOCIATIONS AND SOCIAL RELATIONSHIPS.—The effects of substance use and abuse by a relative or friend in contributing to the likelihood and desire of an individual to experiment with illicit drugs.

(4) CULTURE.—Aspects of, and changes in, philosophical or religious beliefs, cultural values, attitudes toward authority, status of basic social units (such as families), and traditions that contribute to illicit drug use and abuse.

(5) PHYSIOLOGICAL AND PSYCHOLOGICAL FACTORS.—The physiological and psychological factors that contribute to the desire for illicit drugs.

(6) EFFORTS OF GOVERNMENTS.—The current status of Federal, State, and local efforts regarding the causes of illicit drug use and abuse, including a review of drug strategies being promoted by Federal, State, and local authorities to address the causes of illicit drug use and abuse.

SEC. 1824. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall consist of 13 members, as follows:

(A) PRESIDENT.—Three individuals appointed by the President.

(B) SENATE.—Five individuals appointed jointly by the majority and minority leaders of the Senate. Not more than 3 members appointed under this paragraph may be of the same political party. At least 1 member appointed under this paragraph shall be a recovering drug user.

(C) HOUSE OF REPRESENTATIVES.—Five individuals appointed jointly by the Speaker, majority leader, and minority leader of the House of Representatives. Not more than 3 members appointed under this paragraph may be of the same political party. At least 1 member appointed under this paragraph shall be a recovering drug abuser.

(2) GOALS IN MAKING APPOINTMENTS.—In appointing individuals as members of the Commission, the President and the majority and minority leaders of the House of Representatives and the Senate shall seek to ensure that—

(A) the membership of the Commission reflects the racial, ethnic, and gender diversity of the United States; and

(B) members are specially qualified to serve on the Commission by reason of their education, training, expertise, or experience in—

(i) sociology,

(ii) psychology,

(iii) law,

(iv) bio-medicine,

(v) addiction, and

(vi) ethnography and urban poverty, including health care, housing, education, and employment.

(b) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—Each individual appointed under subsection (a) shall not be an officer or employee of any government and shall be qualified to serve the Commission by virtue of education, training, or experience.

(c) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed within 60 days after the date of the enactment of this Act for the life of the Commission.

(d) MEETINGS.—The Commission shall have its headquarters in the District of Columbia, and shall meet at least once each month for a business session that shall be conducted by the Chairperson.

(e) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—No later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson of the Commission.

(g) CONTINUATION OF MEMBERSHIP.—If a member of the Commission later becomes an officer or employee of any government, the individual may continue as a member until a successor is appointed.

(h) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(i) COMPENSATION.—

(1) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 1825. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—The Chairperson shall appoint a director after consultation with the members of the Commission, who shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the director may appoint personnel as the director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist in carrying out its duties under this Act.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress, as well as agencies and elected representatives of the executive and legislative branches of government. The Chairperson of the Commission shall make requests in writing where necessary.

(g) PHYSICAL FACILITIES.—The General Services Administration shall find suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 1826. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1827. REPORTS.

(a) MONTHLY REPORTS.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) REPORTS.—

(1) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress not later than 1 year before the termination of the Commission. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislative and administrative action based on the Commission's activities to date. A strategy for disseminating the report to Federal, State, and local authorities shall be formulated and submitted with the formal presentation of the report to the President and the Congress.

(2) FINAL REPORT.—Not later than the date of the termination of the Commission, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, and recommendations, including an assessment of the extent to which recommendations of the Commission included in the interim report under paragraph (1) have been implemented.

(c) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 1828. TERMINATION.

The Commission shall terminate on the date which is 2 years after the Members of the Commission have met and designated a Chairperson and Vice Chairperson.

Subtitle C—National Commission to Support Law Enforcement

SECTION 1831. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act".

SEC. 1832. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 1833. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this title as the "Commission").

SEC. 1834. DUTIES.

(a) IN GENERAL.—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) Information.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) Research and training.—The status of law enforcement research and education and training.

(5) Equipment and resources.—The adequacy of equipment, physical resources, and human resources.

(6) Cooperation.—The cooperation among Federal, State, and local law enforcement agencies.

(7) Responsibility.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) Impact.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) Consultation.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 1835. MEMBERSHIP.

(a) Number and Appointment.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the majority leader of the Senate;

(C) One shall be appointed by the minority leader of the House of Representatives;

(D) One shall be appointed by the minority leader of the Senate; and

(E) One shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the majority leader of the Senate;

(C) One shall be appointed by the minority leader of the House of Representatives;

(D) One shall be appointed by the minority leader of the Senate; and

(E) One shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) One shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate.

(B) One shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) One individual representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed by the Majority Leader of the Senate.

(9) One individual representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed by the Speaker of the House of Representatives.

(10) One individual representing a State or local governmental entity, such as a governor, mayor, or State attorney general, to be appointed by the President.

(b) Comptroller General.—The Comptroller General shall serve in an advisory capacity and shall oversee the methodology and approach of the Commission's study.

(c) Chairperson.—Upon their appointment the members of the Commission shall select one of their number to act as chairperson.

(d) Compensation.—

(1) In general.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) Travel expenses.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) Appointment Dates.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 1836. EXPERTS AND CONSULTANTS.

(a) Experts and Consultants.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) Staff of Federal Agencies.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) Administrative Support.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 1837. POWERS OF COMMISSION.

(a) Hearings.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) Delegation of Authority.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) Information.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) Gifts and Donations.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1838. REPORT.

Not later than the expiration of the eighteen-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 1839. TERMINATION.

The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under section 1838.

SEC. 1840. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (Public Law 101-647; 104 Stat. 4918) and title II, section 211 B of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2122) are repealed.

TITLE XIX—BAIL POSTING REPORTING

SEC. 1901. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 1902. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) In General.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) Criminal Offenses.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(4) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) Copy to Prosecutors.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) Regulations.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the enactment of this title.

(e) Effective Date.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (c).

TITLE XX—MOTOR VEHICLE THEFT PREVENTION

SEC. 2001. SHORT TITLE.

This title may be cited as the "Motor Vehicle Theft Prevention Act".

SEC. 2002. MOTOR VEHICLE THEFT PREVENTION PROGRAM.

(a) In General.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program (in this section referred to as the "program") under which—

(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

(A) states that the vehicle is not normally operated under certain specified conditions; and

(B) agrees to—

(i) display program decals or devices on the owner's vehicle; and

(ii) permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions; and

(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

(b) Uniform Decal or Device Designs.—

(1) In general.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

(2) Type of design.—The uniform design shall—

(A) be highly visible; and

(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

(1) clearly state that participation in the program is voluntary;

(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

(4) include any additional information that the Attorney General may reasonably require.

(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may not be based on race, creed, color, national origin, gender, or age. These conditions may include—

(A) the operation of the vehicle during certain hours of the day; or

(B) the operation of the vehicle under other circumstances that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

(e) MOTOR VEHICLES FOR HIRE.—

(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

(2) TYPE OF NOTICE.—The notice required by this subsection shall—

(A) be in writing;

(B) be in a prominent format to be determined by the Attorney General; and

(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

(f) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

(g) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 2002. ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

(a) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever, with intent to further the theft of a vehicle, knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined under this title or imprisoned not more than five years, or both.".

(b) EXCEPTED PERSONS.—Paragraph (2) of section 511(b) of title 18, United States Code, is amended by—

(1) striking "and" after the semicolon in subparagraph (B);

(2) striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(c) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(d) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

"§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

TITLE XXI—PROTECTIONS FOR THE ELDERLY

SEC. 2101. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1992, 1993, and 1994.

SEC. 2102. CRIMES AGAINST THE ELDERLY.

(a) IN GENERAL.—Pursuant to its authority under the Sentencing Reform Act of 1984 and section 21 of the Sentencing Act of 1987 (including its authority to amend the sentencing guidelines and policy statements) and its authority to make such amendments on an emergency basis, the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense.

((b) CRITERIA.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that—

(1) the guidelines provide for increasingly severe punishment for a defendant commensurate with the degree of physical harm caused to the elderly victim;

(2) the guidelines take appropriate account of the vulnerability of the victim; and

(3) the guidelines provide enhanced punishment for a defendant convicted of a crime of violence against an elderly victim who has previously been convicted of a crime of violence against an elderly victim, regardless of whether the conviction occurred in Federal or State court.

(c) DEFINITIONS.—As used in this section—

(1) the term "crime of violence" means an offense under section 113, 114, 1111, 1112, 1113, 1117, 2241, 2242, or 2244 of title 18, United States Code; and

(2) the term "elderly victim" means a victim who is 65 years of age or older at the time of an offense.

TITLE XXII—CONSUMER PROTECTION

SEC. 2201. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate com-

merce and, with the intent to deceive, knowingly makes any false material statement or report or willfully and materially overvalues any land, property or security—

"(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardizes the safety and soundness of an insurer.

"(b)(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardizes the safety and soundness of an insurer, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

"(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to—

"(A) deceive any person about the financial condition or solvency of such business, or

"(B) deceive any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person about the financial condition or solvency of such business,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardizes the safety and soundness of an insurer, such imprisonment shall be not more than 15 years.

"(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

"(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance, or

"(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'insurer' means any entity the business activity of which is the writing of insurance or the reinsuring of risks or any receiver or similar official or any liquidating agent for such an entity, in his or her capacity as such, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

"(3) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) all commerce between points within the same State through any place outside such State; or

"(D) all other commerce over which the United States has jurisdiction; and

"(4) the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"§1034. Civil penalties and injunctions for violations of section 1033

"(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of such title is amended by adding at the end the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

(c) MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.—(1) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;".

(2) LIMITATIONS.—Section 3293 of such title is amended by inserting "1033," after "1014,".

(3) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.".

SEC. 2202. CONSUMER PROTECTION AGAINST CREDIT CARD FRAUD ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Consumer Protection Against Credit Card Fraud Act of 1991".

(b) FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.—Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with one or more access devices issued to another person or persons, to receive payment or any other thing of value during any one-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidences or records of transactions made by an access device;".

(c) TECHNICAL AMENDMENTS.—Section 1029 of title 18, United States Code, as amended by subsection (b), is amended—

(1) in subsection (a) by striking "or" at the end of paragraph (3);

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e) by—

(A) striking "and" at the end of paragraph (5);

(B) adding "and" at the end of paragraph (6); and

(C) adding at the end thereof the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether it is affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 2203. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

TITLE XXIII—FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. 2301. SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. 2302. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 2303. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 2304. CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101–647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

TITLE XXIV—SAVINGS AND LOAN PROSECUTION TASK FORCE

SEC. 2401. SAVINGS AND LOAN PROSECUTION TASK FORCE.

The Attorney General shall establish within the Justice Department a savings and loan criminal fraud task force to prosecute in an aggressive manner those criminal cases involving savings and loan institutions.

TITLE XXV—SENTENCING PROVISIONS

SEC. 2501. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2502. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 2503. REVOCATION OF PROBATION.

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COOPERATE IN DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 2504. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place such term appears in such subsection and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release;

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

TITLE XXVI—SENTENCING AND MAGISTRATES AMENDMENTS

SEC. 2601. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 2602. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title.".

SEC. 2603. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

TITLE XXVII—COMPUTER CRIME

SEC. 2701. COMPUTER ABUSE AMENDMENTS ACT OF 1991.

(a) SHORT TITLE.—This title may be cited as the "Computer Abuse Amendments Act of 1991".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under section 1030(a)(5) of title 18, United States Code.".

(f) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

TITLE XXVIII—PARENTAL KIDNAPPING

SEC. 2801. SHORT TITLE.

This subtitle may be cited as the "International Parental Kidnapping Crime Act of 1991".

SEC. 2802. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Chapter 55 (relating to kidnapping) of title 18, United States Code, is amended by adding at the end the following:

"§1204. International parental kidnapping

"(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. International parental kidnapping.".

SEC. 2803. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701–10713) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

TITLE XXIX—SAFE SCHOOLS

Subtitle A—Safe Schools

SEC. 2901. SHORT TITLE.

This title may be cited as the "Safe Schools Act of 1991".

SEC. 2902. SAFE SCHOOLS.

(a) In General.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1421 of this Act, is amended—

(1) by redesignating part U as part Y;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following:

"PART U—SAFE SCHOOLS ASSISTANCE

"SEC. 2101. GRANT AUTHORIZATION.

"(a) In General.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) Model Project.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in English and in Spanish in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 2102. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

"SEC. 2103. APPLICATIONS.

"(a) In General.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) Requirements.—Each application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 2002;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within schools served by such local educational agency.

"(c) Comprehensive Plan.—Each application shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filed with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps;

"(5) a description of the system the applicant will establish to prevent and reduce crime problems; and

"(6) a description of educational materials to be developed in Spanish.

"SEC. 2104. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) Administrative Cost Limitation.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) Renewal of Grants.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 2003(c).

"SEC. 2105. AWARD OF GRANTS.

"(a) Selection of Recipients.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) Crime problem.—The nature and scope of the crime problem in the targeted schools.

"(2) Need and ability.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 2003(c).

"(3) Population.—The number of students to be served by the plan required under section 2003(c).

"(b) Geographic Distribution.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 2106. REPORTS.

"(a) Report to Director.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 2003(c).

"(b) Report to Congress.—The Director shall submit to the Committee on Education and Labor and the Committee on the Judiciary a report by October 1 of each year in which grants are made available under this part which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under 2003(b)(4), and an evaluation of programs established under this part.

"SEC. 2107. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) Conforming Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1421 of this Act, is amended by striking the matter relating to part U and inserting the following:

"Part U—Safe Schools Assistance

"Sec. 2101. Grant authorization.
"Sec. 2102. Use of funds.
"Sec. 2103. Applications.
"Sec. 2104. Allocation of funds; limitations on grants.
"Sec. 2105. Award of grants.
"Sec. 2106. Reports.
"Sec. 2107. Definitions.

"Part U—Transition; Effective Date; Repealer

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

SEC. 2903. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1421 of this Act, is amended by adding after paragraph (14) the following:

"(15) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part U.".

Subtitle B—Miscellaneous Provisions

SEC. 2912. RECORDS.

Section 438(a)(4)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

SEC. 2913. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

Subsection (c) of section 5122 of the Drug-Free Schools and Communities Act of 1986, as amended by section 1504(3) of Public Law 101-647, is amended by inserting "or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

TITLE XXX—MISCELLANEOUS

Subtitle A—Increases in Penalties

SEC. 3001. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) Certain Officers and Employees.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall";

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) Foreign Officials, Official Guests, and Internationally Protected Persons.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) Maritime and Territorial Jurisdiction.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "ten"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "six".

(d) Congress, Cabinet, or Supreme Court.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," both places it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 3002. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

SEC. 3003. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "more more than $1,000" an inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results";

(4) by striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) by inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) by inserting ", or both" after "life".

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death;";

(2) by striking "not more than $1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than $10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

Subtitle B—Extension of Protection of Civil Rights Statutes

SEC. 3011. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended—

(1) by striking "inhabitant of" and inserting "person in"; and

(2) by striking "such inhabitant" and inserting "such person".

Subtitle C—Audit and Report

SEC. 3021. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(a) STATE REQUIREMENT.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) INCLUSION IN ATTORNEY GENERAL'S REPORT.—Section 524(c)(6)(C) of title 28, United States Code, is amended by adding at the end the following flush sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).".

SEC. 3022. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

Subtitle D—Counterfeit Goods Traffic

SEC. 3031. INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by striking "imprisoned not more than five years" and inserting "imprisoned not more than 10 years"; and

(2) in the second sentence by striking "imprisoned not more than fifteen years" and inserting "imprisoned not more than 20 years".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

Subtitle E—Gambling

SEC. 3041. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.

(a) IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following:

"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

"§3701. Definitions

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization (including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5))) that has governmental authority within the territorial boundaries of the United States (including on lands described in section 4(4) of such Act (25 U.S.C. 2703(4))),

"(3) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more professional athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(4) the term 'person' has the meaning given such term in section 1 of title 1, and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

"§3702. Unlawful sports gambling

"It shall be unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographic references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

"§3703. Injunctions

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States, or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of such violation.

"§3704. Applicability

"(a) Section 3702 shall not apply to—

"(1) a lottery in operation in a State or subdivision of a State, to the extent that such a lottery actually was conducted by that State or subdivision at any time during the period beginning January 1, 1976 and ending August 31, 1990;

"(2) a betting, gambling, or wagering scheme in operation in a State or subdivision of a State, other than a lottery described in paragraph (1), where both—

"(A) such scheme was authorized by a statute as in effect on August 31, 1990; and

"(B) any scheme described in section 3702 (other than one based on parimutuel animal racing or jai-alai games) actually was conducted in that State or subdivision at any time during the period beginning September 1, 1989, and ending August 31, 1990, pursuant to the law of that State or subdivision;

"(3) a betting, gambling, or wagering scheme, other than a lottery described in paragraph (1), conducted exclusively in casinos located in a municipality, but only to the extent that—

"(A) such scheme or a similar scheme was in operation in that municipality not later than one year after the effective date of this chapter; and

"(B) any commercial casino gaming scheme was in operation in such municipality throughout the 10-year period ending on such effective date pursuant to a comprehensive system of State regulation authorized by that State's constitution and applicable solely to such municipality; or

"(4) parimutuel animal racing or jai-alai games.

"(b) Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) CLERICAL AMENDMENTS.—The table of chapters for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure .... 3001";

and

(2) by adding at the end the following:

"178. Professional and Amateur Sports Protection .... 3701".

SEC. 3042. CRIMINAL HISTORY RECORD INFORMATION FOR THE ENFORCEMENT OF LAWS RELATING TO GAMING.

A State gaming enforcement office located within a State Attorney General's office may obtain from the Interstate Identification Index of the FBI criminal history record information for licensing purposes through an authorized criminal justice agency.

SEC. 3043. CLARIFYING AMENDMENTS REGARDING SCOPE OF PROHIBITION AGAINST GAMBLING ON SHIPS IN INTERNATIONAL WATERS.

(a) DEFINITION OF GAMBLING SHIP IN TITLE 18.—The first paragraph of section 1081 of title 18, United States Code, is amended by adding at the end the following: "Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986).".

(b) CLARIFICATIONS OF, AND LIMITATIONS ON, GAMBLING DEVICES PROHIBITIONS.—

(1) TRANSPORT TO A PLACE IN A STATE, ETC.—Section 2 of the Act of January 2, 1951 (15 U.S.C. 1172; commonly referred to as the "Johnson Act"), is amended—

(A) by inserting before the first paragraph the following: "(a) GENERAL RULE.—";

(B) in subsection (a) (as so designated) by striking ", District of Columbia,";

(C) by inserting before the second paragraph the following: "(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—"; and

(D) by adding at the end the following:

"(c) EXCEPTION.—This section does not prohibit the transport of a gambling device to a place in a State or a possession of the United States on a vessel on a voyage, if—

"(1) use of the gambling device on a portion of that voyage is, by reason of subsection (b) of section 5, not a violation of that section; and

"(2) the gambling device remains on board that vessel while in that State.".

(2) REPAIR, OTHER TRANSPORT, ETC.—Section 5 of that Act (15 U.S.C. 1175) is amended—

(A) by inserting before "It shall be unlawful" the following: "(a) GENERAL RULE.—";

(B) by inserting before the period at the end the following: ", including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country"; and

(C) by adding at the end the following:

"(b) EXCEPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section does not prohibit—

"(A) the repair, transport, possession, or use of a gambling device on a vessel that is on waters that are not within the boundaries of any State or possession of the United States; or

"(B) the transport or possession, on a voyage, of a gambling device on a vessel in waters that are within the boundaries of any State or possession of the United States, if—

"(i) use of the gambling device on a portion of that voyage is, by reason of subparagraph (A), not a violation of this section; and

"(ii) the gambling device remains on board that vessel while within the boundaries of that State or possession.

"(2) APPLICATION TO CERTAIN VOYAGES.—

"(A) GENERAL RULE.—Paragraph (1)(A) does not apply to the repair or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) of this paragraph if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute the terms of which prohibit that repair or use on that voyage or segment.

"(B) VOYAGE AND SEGMENT DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) is a voyage or segment, respectively—

"(i) that begins and ends in the same State or possession of the United States, and

"(ii) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country.".

(3) BOUNDARIES DEFINED.—The first section of that Act (15 U.S.C. 1171) is amended by adding at the end the following:

"(f) The term 'boundaries' has the same meaning given that term in section 2 of the Submerged Lands Act (43 U.S.C. 1301).".

Subtitle F—White Collar Crime Amendments

SEC. 3051. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) PROCEEDS OF EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receiving the proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than three years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end the following new item:

"880. Receiving the proceeds of extortion.".

(b) RANSOM MONEY.—Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.".

SEC. 3052. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding at the end the following new subsection:

"(b) Whoever receives, possesses, conceals, or disposes of any money or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.".

SEC. 3053. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code or" before "the Antitrust Civil Process Act".

SEC. 3054. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 3055. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'savings and loan association' means (1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insur-

ance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.".

SEC. 3056. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666 of this title.".

Subtitle G—Other Provisions

SEC. 3061. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 3062. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or (4)(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3239 in the table of sections of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offense.".

SEC. 3063. UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§21. Stolen or counterfeit nature of property for certain crimes defined

"(a) Wherever in this title it is an element of an offense that—

"(1) any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated; and

"(2) the defendant knew that the property was of such character;

such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) For purposes of this section, the term 'official representation' means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 3064. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended to read as follows:

"(3) EFFECTIVE DATE—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 3065. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 3066. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" at the end of paragraph (d); and

(3) by adding after paragraph (d) the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511(b)-(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 3067. THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"§668. Theft of a major art work

"(a) Whoever steals or obtains by fraud any object of cultural heritage held in a museum, or knowing the same to have been stolen, converted, or taken by fraud receives, conceals, stores, sells, exhibits, or disposes of such goods, shall be fined under this title, imprisoned for not more than the maximum term of imprisonment for a class C felony, or both.

"(b) Notwithstanding section 3282 of this title, the statute of limitations for an offense under this section shall be 20 years.

"(c) The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982 of this title.

"(d) For purposes of this section—

"(1) The term 'museum' means an organized and permanent institution, situated in the United States, essentially educational or aesthetic in purpose with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public on some regularly scheduled period.

"(2) The term 'stolen object of cultural heritage' means an object stolen from a museum after the effective date of this title reported to law enforcement authorities as stolen and registered with the International Foundation for Art Research, or any equivalent registry.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"668. Theft of a major art work.".

SEC. 3068. BALANCE IN THE CRIMINAL JUSTICE SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) an adequately supported Federal judiciary is essential to the enforcement of law and order in the United States, and

(2) section 331 of title 28 provides in pertinent part that the Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation, and

(3) in 1990, in response to the recommendations of the Judicial Conference for additional judgeships, Congress enacted legislation creating 85 additional judgeships with an effective date of December 1, 1990, and

(4) only one of these vacancies has been filled, and

(5) during the current administration, it has taken an average of 502 days from the time a judgeship becomes vacant until such vacancy is filled, and

(6) the enactment of legislation providing additional funding for the invesigation and prosecution facets of the criminal justice system has a direct and positive impact on the needs and workload of the Judiciary, which is already severely overloaded with criminal cases, and

(7) recommendations by the Judicial Conference for the filling of judicial vacancies are currently made on the basis of historical data alone, and

(8) the General Accounting Office, pursuant to the 1988 Anti-Drug Abuse Act, has developed a computer model that measures the potential effect of fiscal increases on one or more parts of the criminal justice system on the Judiciary, and

(9) the General Accounting Office has established that an increase in the resources allocated to the investigative and prosecutorial parts of the criminal justice system, brings about an increase in the number of criminal cases filed, which in turn adds to the need for additional judgeships, and

(10) the allocation of resources to portions of the Federal criminal justice system other than the Judiciary contributes to the need for additional judgeships that cannot be anticipated by the use of historical data alone, and

(11) the use of historical data alone, because of its inability to project the need for additional judgeships attributable to the increase in criminal caseload adds to the delay in meeting the needs of the Judiciary.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Judicial Conference should be encouraged to make its recommendations to Congress for additional judgeships utilizing historical data and a workload estimate model designed to anticipate an increase in criminal filings resulting from increased funding in one or more components of the Federal criminal justice system, and to take into account the time expended in the appointive and confirmation process.

SEC. 3069. AWARD OF ATTORNEY'S FEES.

Section 519 of title 28, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "Except"; and

(2) by adding at the end the following new subsection:

"(b) AWARD OF FEES.—

"(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice or of any Federal public defender's office who was the subject of a criminal or disciplinary investigation instituted on or after the

date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

"(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice or of any Federal public defender's office who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as a result of such investigation.

"(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

"(A) the sufficiency of the documentation accompanying the request;

"(B) the need or justification for the underlying item;

"(C) the reasonableness of the sum requested in light of the nature of the investigation; and

"(D) current rates for legal services in the community in which the investigation took place.".

SEC. 3070. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

SEC. 3071. MISUSE OF INITIALS "DEA".

(a) AMENDMENT.—Section 709 of title 18, United States Code, is amended—

(1) in the thirteenth unnumbered paragraph by striking "words—" and inserting "words; or"; and

(2) by inserting after the thirteenth unnumbered paragraph the following new paragraph:

"Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 90 days after the date of enactment of this Act.

SEC. 3072. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 3073. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following:

"'Livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof;".

TITLE XXXI—TECHNICAL CORRECTIONS

SEC. 3101. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) CROSS REFERENCE CORRECTIONS.—(1) Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of",

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)",

(3) in subsection (e) by striking "or (e)" and inserting "or (f)",

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but", and

(ii) by striking "this subsection," and inserting "this subsection", and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "paragraphs (1) and (2) of subsection (a)", and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section", and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "paragraph (1) or (3) of section 515(a)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended in paragraph (3) by striking "and N" and inserting "N, O, P, Q, R, S, T, U, V, and W".

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in section 1201—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),", and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)",

(ii) by striking "personal", and

(iii) in the first proviso by striking "section" and inserting "subsection", and

(2) in section 1204(3) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant",

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications", and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) by striking "crime,," and inserting "crime,",

(2) in section 302(c)(19) by striking a period at the end and inserting a semicolon,

(3) in section 602(a)(1) by striking "chapter 315" and inserting "chapter 319",

(4) in section 603(a)(6) by striking "605" and inserting "606",

(5) in section 605 by striking "this section" and inserting "this part",

(6) in section 606(b) by striking "and Statistics" and inserting "Statistics",

(7) in section 801(b)—

(A) by striking "parts D," and inserting "parts",

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E",

(C) by striking "403(a)" and inserting "501", and

(D) by striking "403" and inserting "503",

(8) in the first sentence of section 802(b) by striking "part D," and inserting "subpart 1 of part E or under part",

(9) in the second sentence of section 804(b) by striking "Prevention or" and inserting "Prevention, or",

(10) in section 808 by striking "408, 1308," and inserting "507",

(11) in section 809(c)(2)(H) by striking "805" and inserting "804",

(12) in section 811(e) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance",

(13) in section 901(a)(3) by striking "and," and inserting ", and",

(14) in section 1001(c) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 3102. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031(g)(2) of title 18, United States Code, is amended by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions" in lieu thereof.

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma which follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293 of title 18, United States Code, is amended by striking "1008,".

(f) ELIMINATION OF DUPLICATE SUBSECTION DESIGNATION.—Section 1031 of title 18, United States Code, is amended by redesignating the second subsection (g) as subsection (h).

(g) CLERICAL AMENDMENT TO PART I TABLE OF CHAPTERS.—The item relating to chapter 33 in the table of chapters for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

(h) AMENDMENT TO SECTION 924(a)(1)(b).—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "(q)" and inserting "(r)".

(i) AMENDMENT TO SECTION 3143.—The last sentence of section 3143(b) of title 18, United States Code, is amended by striking "(b)(2)(D)" and inserting "(1)(B)(iv)".

(j) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to the chapter 113A added by section 132 of Public Law 102–27, but subsequently repealed.

(k) PUNCTUATION CORRECTION.—Section 207(c)(2)(A)(ii) of title 18, United States Code, is amended by striking the semicolon at the end and inserting a comma.

(l) TABLE OF CONTENTS CORRECTION.—The table of contents for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Child Victims' and child witnesses' rights.".

(m) ELIMINATION OF SUPERFLUOUS COMMA.—Section 3742(b) of title 18, United States Code, is amended by striking "Government," and inserting "Government".

SEC. 3103. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) SECTION 1791 OF TITLE 18.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) SECTION 1956 OF TITLE 18.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) SECTION 2703 OF TITLE 18.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) SECTION 666 OF TITLE 18.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) SECTION 4247 OF TITLE 18.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

(f) SECTION 408 OF THE CONTROLLED SUBSTANCE.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) MARITIME DRUG LAW ENFORCEMENT ACT.—(1) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(2) Section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) SECTION 2596 OF THE CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting "951(c)(2)".

(i) SECTION 3143 OF TITLE 18.—The last sentence of section 3143(b)(1) of title 18, United States Code, is amended by striking "(b)(2)(D)" and inserting "(1)(B)(iv)".

SEC. 3104. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by striking the seventh and thirteenth paragraphs;

(4) in section 711, by striking the second paragraph;

(5) by striking section 754, and amending the table of sections for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation,", and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160, by striking "white person" and inserting "non-Indian";

(10) in section 1698, by striking the second paragraph;

(11) by striking sections 1904 and 1908, and amending the table of sections for chapter 93 by striking the items relating to such sections;

(12) in section 1909, by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391, and amending the table of sections for chapters 105 and 115, respectively, by striking the items relating to such sections;

(14) in section 2257 by striking the subsections (f) and (g) that were enacted by Public Law 100–690;

(15) in section 3113, by striking the third paragraph;

(16) in section 3281, by striking "except for offenses barred by the provisions of law existing on August 4, 1939";

(17) in section 443, by striking "or (3) five years after 12 o'clock noon of December 31, 1946,"; and

(18) in sections 542, 544, and 545, by striking "the Philippine Islands,".

SEC. 3105. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2) is amended, in subsection (a)(3), by striking "issuer" and inserting in lieu thereof "domestic concern".

SEC. 3106. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 3107. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 3108. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4), by striking "association or persons" and inserting in lieu thereof "association of persons";

(2) in section 1956(e), by striking "Evironmental" and inserting in lieu thereof "Environmental";

(3) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking "provider for" and inserting in lieu thereof "provider of" in subsection (d);

(4) in section 3731, by striking "order of a district courts" and inserting in lieu thereof "order of a district court" in the second undesignated paragraph; and

(5) in section 151, by striking "mean" and inserting "means".

(6) in section 208(b), by inserting "if" after "(4)";

(7) in section 209(d), by striking "under the terms of the chapter 41" and inserting "under the terms of chapter 41";

(8) in section 1014, by inserting a comma after "National Credit Union Administration Board"; and

(9) in section 3291, by striking "the afore-mentioned" and inserting "such".

SEC. 3109. OTHER TECHNICAL AMENDMENTS.

(a) SECTION 419 OF CONTROLLED SUBSTANCES ACT.—Section 419(b) of the Controlled Substances Act (21 U.S.C. 860(b)) is amended by striking "years Penalties" and inserting "years. Penalties".

(b) SECTION 667.—Section 667 of title 18, United States Code, is amended by adding at the end the following: "The term 'livestock' has the meaning set forth in section 2311 of this title.".

(c) SECTION 1114.—Section 1114 of title 18, United States Code, is amended by striking "or any other officer, agency, or employee of the United States" and inserting "or any other officer or employee of the United States or any agency thereof".

(d) SECTION 408 OF CONTROLLED SUBSTANCES ACT.—Section 408(q)(8) of the Controlled Substances Act (21 U.S.C. 848(q)(8)) is amended by striking "applications, for writ" and inserting "applications for writ".

SEC. 3110. CORRECTIONS OF ERRORS FOUND DURING CODIFICATION

Title 18, United States Code, is amended—

(1) in section 212, by striking "218" and inserting "213";

(2) in section 1917—

(A) by striking "Civil Service Commission" and inserting "Office of Personnel Management"; and

(B) by striking "the Commission" in paragraph (1) and inserting "such Office";

(3) by transferring the table of sections for each subchapter of each of chapters 227 and 229 to follow the heading of that subchapter;

(4) so that the heading of section 1170 reads as follows:

"§ 1170. Illegal trafficking in Native American human remains and cultural items";

(5) so that the item relating to section 1170 in the table of sections at the beginning of chapter 53 reads as follows:

"1170. Illegal trafficking in Native American human remains and cultural items.";

(6) in section 3509(a), by striking paragraph (11) and redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively;

(7) in section 3509—

(A) by striking out "subdivision" each place it appears and inserting "subsection"; and

(B) by striking out "government" each place it appears and inserting "Government";

(8) in section 2252(a)(3)(B), by striking "materails" and inserting " materials";

(9) in section 14, by striking "45," and "608, 611, 612,";

(10) in section 3059A—

(A) in subsection (b), by striking "this subsection" and inserting "subsection"; and

(B) in subsection (c), by striking "this subsection" and inserting "subsection";

(11) in section 1761(c)—

(A) by striking "and" at the end of paragraph (1);

(B) by inserting "and" at the end of paragraph (3); and

(C) by striking the period at the end of paragraph (2)(B) and inserting a semicolon;

(12) in the table of sections at the beginning of chapter 11—

(A) in the item relating to section 203, by inserting a comma after "officers" and by striking the comma after "others"; and

(B) in the item relating to section 204, by inserting "the" before "United States Court of Appeals for the Federal Circuit";

(13) in the table of sections at the beginning of chapter 23, in the item relating to section 437, by striking the period immediately following "Indians";

(14) in the table of sections at the beginning of chapter 25, in the item relating to section 491, by striking the period immediately following "paper used as money";

(15) in section 207(a)(3), by striking "Clarification of Restrictions" and inserting "Clarification of restrictions";

(16) in section 176, by striking "the government" and inserting "the Government";

(17) in section 3059A(e)(2)(iii), by striking "backpay" and inserting "back pay"; and

(18) by adding a period at the end of the item relating to section 3059A in the table of sections at the beginning of chapter 203.

SEC. 3111. PROBLEMS RELATED TO EXECUTION OF PRIOR AMENDMENTS.

(a) Incorrect Reference and Punctuation Correction.—(1) Section 2587(b) of the Crime Control Act of 1990 is repealed, effective on the date such section took effect.

(2) Section 2587(b) of Public Law 101–647 is amended, effective the date such section took effect, by striking "The chapter heading for" and inserting "The table of sections at the beginning of".

(3) The item relating to section 3059A in the table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by adding a period at the end.

(b) Lack of Punctuation in Stricken Language.—Section 46(b) of Public Law 99–646 is amended, effective on the date such section took effect, so that—

(A) in paragraph (1), the matter proposed to be stricken from the beginning of section 201(b) of title 18, United States Code, reads "(b) Whoever, directly"; and

(B) in paragraph (2), a comma, rather than a semicolon, appears after "his lawful duty" in the matter to be stricken from paragraph (3) of section 201(b) of such title.

(c) Biological Weapons.—(1) Section 3 of the Biological Weapons Anti-Terrorism Act of 1989 is amended, effective on the date such section took effect in subsection (b), by striking "2516(c)" and inserting "2516(1)(c)".

(2) The item in the table of chapters for part I of title 18, United States Code, that relates to chapter 10 is amended by striking "Weapons" and inserting "weapons".

(d) Placement of New Section.—Section 404(a) of Public Law 101–630 is amended, effective on the date such section took effect, by striking "adding at the end thereof" each place it appears and inserting "inserting after section 1169".

(e) Elimination of Erroneous Characterization of Matter Inserted.—Section 225(a) of Public Law 101–674 is amended, effective on the date such section took effect, by striking "new rule".

(f) Clarification of Placement of Amendment.—Section 1205(c) of Public Law 101–647 is amended, effective the date such section took effect, by inserting "at the end" after "adding".

(g) Elimination of Duplicate Amendment.—Section 1606 of Public Law 101–647 (amending section 1114 of title 18, United States Code) is repealed effective the date of the enactment of such section.

(h) Error in Amendment Phrasing.—Section 3502 of Public Law 101–647 is amended, effective the date such section took effect, by striking "10" and inserting "ten".

(i) Clarification That Amendments Were to Title 18.—Sections 3524, 3525, and 3528 of Public Law 101–647 are each amended, effective the date such sections took effect, by inserting "of title 18, United States Code" before "is amended".

(j) Correction of Paragraph Reference.—Section 3527 of Public Law 101–647 is amended, effective the date such section took effect, by striking "4th" and inserting "5th".

(k) Repeal of Obsolete Technical Correction to Section 1345.—Section 3542 of Public Law 101–647 is repealed, effective the date of enactment of such Public Law.

(l) Repeal of Obsolete Technical Correction to Section 1956.—Section 3557(2)(E) of Public Law 101–647 is repealed, effective the date of enactment of such Public Law.

(m) Clarification of Placement of Amendments.—Public Law 101–647 is amended, effective the date of the enactment of such Public Law—

(1) in section 3564(1), by inserting "each place it appears" after the quotation mark following "2251" the first place it appears; and

(2) in section 3565(3)(A), by inserting "each place it appears" after the quotation mark following "subchapter".

(n) Correction of Word Quoted in Amendment.—Section 3586(1) of Public Law 101–647 is amended, effective the date such section took effect, by striking "fines" and inserting "fine".

(o) Elimination of Obsolete Technical Amendment to Section 4013.—Section 3599 of Public Law 101–647 is repealed, effective the date of the enactment of such Public Law.

(p) Correction of Directory Language.—Section 3550 of Public Law 101–647 is amended, effective the date such section took effect, by striking "not more than".

(q) Repeal of Duplicate Provisions.—(1) Section 3568 of Public Law 101–647 is repealed, effective the date such section took effect.

(2) Section 1213 of Public Law 101–647 is repealed, effective the date such section took effect.

(r) Correction of Words Quoted in Amendment.—Section 2531(3) of Public Law 101–647 is amended, effective the date such section took effect, by striking "1679(c)(2)" and inserting "1679a(c)(2)".

(s) Forfeiture.—(1) Section 1401 of Public Law 101–647 is amended, effective the date such section took effect—

(A) by inserting a comma after ", 5316"; and

(B) by inserting "the first place it appears" after the quotation mark following "5313(a)".

(2) Section 2525(a)(2) of Public Law 101–647 is amended, effective the date such section took effect, by striking "108(3)" and inserting "2508(3)".

SEC. 3115. AMENDMENTS TO SECTION 1956 OF TITLE 18 TO ELIMINATE DUPLICATE PREDICATE CRIMES.

Section 1956 of title 18, United States Code, is amended—

(1) in subsection (c)(7)(D), by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),";

(2) in subsection (a)(2) and in subsection (b), by striking "transportation" each place it appears and inserting "transportation, transmission, or transfer";

(3) in subsection (a)(3), by striking "represented by a law enforcement officer" and inserting "represented"; and

(4) in subsection (c)(7)(E), by striking the period that follows a period.

SEC. 3116. AMENDMENTS TO PART V OF TITLE 18.

Part V of title 18, United States Code, is amended—

(1) by inserting after the heading for such part the following:

"CHAPTER 601—IMMUNITY OF WITNESSES";

(2) in section 6001(1)—

(A) by striking "Atomic Energy Commission" and inserting "Nuclear Regulatory Commission"; and

(B) by striking "the Subversive Activities Control Board,"

(3) by striking "part" the first place it appears and inserting "chapter"; and

(4) by striking "part" each other place it appears and inserting "title"..

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except secs. 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference:

Jack Brooks,
Don Edwards,
John Conyers,
Charles Schumer,
William J. Hughes,
Harley O. Staggers, Jr.,

Provided that Mr. Kopetski and Mr. Schiff are appointed as additional conferees for consideration of secs. 701 through 709 of the Senate amendment, and that Mr. Feighan and Mr. Schiff are appointed as additional conferees for consideration of title XXIV of the House Bill:

Mike Kopetski,
Edward F. Feighan,

From the Committee on Ways and Means, for consideration of sec. 1719 of the House bill, and secs. 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
Charles B. Rangel,

Mr. Rostenkowski and Mr. Archer are appointed as additional conferees for consideration of sec. 702 of the Senate amendment:

Dan Rostenkowski,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 1502 and 1831 of the House bill, and secs. 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference:

Henry Gonzalez,
Frank Annunzio,
Steve Neal,

As additional conferees from the Committee on Education and Labor, for consideration of secs. 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except sec. 812(f)) and secs. 1511, 1512, 3601 through 3606, and 4301 of the Senate amendment, and modifications committed to conference:

William D. Ford,
Dale E. Kildee,
Matthew G. Martinez,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and secs. 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Henry A. Waxman,
J. Roy Rowland,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Al Swift,
Dennis E. Eckart,

As additional conferees from the Committee on Government Operations, for consideration of secs. 801, 802, 1509, and 1751 through 1758 of the House bill, and secs. 1701 and 1702 of the Senate amendment, and modifications committed to conference:

John Conyers, Jr.,
Bob Wise,
Edolphus Towns,
Frank Horton,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of secs. 1716, 1719, and 1722(b) of the House bill, and secs. 517, 4401, 4402, 4404, 4405, and 4411 through 4414 of the Senate amendment, and modifications committed to conference:

Walter B. Jones,
Gerry E. Studds,
Billy Tauzin,

As additional conferees from the Committee on Public Works and Transportation for consideration of secs. 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and secs. 502, 2901, and 4401-4403 of the Senate amendment, and modifications committed to conference:

Robert A. Roe,
Glenn M. Anderson,
James L. Oberstar,
Managers on the Part of the House.

Joseph R. Biden, Jr.,
Ted Kennedy,
Howard M. Metzenbaum,
Patrick Leahy,
Dennis DeConcini,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3371), to control and prevent crime, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—DEATH PENALTY

Procedures: The House recedes to Title II of the Senate amendment with the following modifications: (1) minimum age (18) adopted from the House bill; (2) victim impact statement language adopted from the House bill; and (3) technical language on catch-all mitigation factor adopted from the House bill.

Offenses: The Senate recedes to the House on including the following death-eligible offenses: (1) murder by an escaped prisoner (House only); (2) rape and child molestation murders (House only); (3) death resulting from the sexual exploitation of children (House only); (4) death penalty for gun murders during federal crimes of violence and drug trafficking crimes based on the amount of drugs or gross receipts (similar provisions in House bill and Senate amendment although House bill requires twice the amount of drugs or twice the gross receipts); and (5) murder of U.S. nationals abroad (similar provisions in House bill and Senate amendment).

TITLE II—HABEAS CORPUS

The Senate recedes to Title XI of the House bill, which, with one minor modification, is identical to the provision reported by the House Judiciary Committee.

TITLE III—EXCLUSIONARY RULE

The House recedes to section 2301 of the Senate amendment, which codifies the United States Supreme Court's decision in United States v. Leon.

TITLE IV—COERCED CONFESSIONS

The Senate recedes to section 901 of the House bill, which reverses the United States Supreme Court's decision in Arizona v. Fulminante, by declaring that the admission of a coerced confession into evidence in a criminal trial shall never be considered harmless error.

TITLE V—FIREARMS

SUBTITLE A—THE BRADY HANDGUN VIOLENCE PREVENTION ACT

The House recedes to sections 2701-2703 of the Senate amendment, with modifications. In section 2701(a) of the Senate amendment, the provision relating to the triggering of the waiting period is modified to provide that the period will begin when the 'transferor' furnishes notice of the contents of the statement to the chief law enforcement officer, rather than when the 'transferee' furnishes such notice. The provision in section 2701(a) that would have created a new section 922(a)(1)(B) of Title 18, United States Code, is replaced by the House version of its comparable section. The provision allowing an exemption based upon remote location and absence of telecommunications facilities is modified to also require a ratio of less than 2.5 law enforcement officers to 1,000 square miles of land area. The Senate provision requiring law enforcement to issue an exemption from the waiting period to a prospective handgun purchaser demonstrating a threat to his or her life is replaced by the comparable House provision. The Section authorizing grants for the improvement of criminal records is modified to be administered through the Bureau of Justice statistics. Several other technical and conforming modifications were adopted.

SUBTITLE B—GUN CRIME PENALTIES

The Conference substitute includes the following provisions:

Section 511—Enhanced Penalty for Use of a Semiautomatic Firearm During a Crime of Violence or a Drug Trafficking Crime: The Senate recedes to section 2001 of the House bill.

Section 512—Increased Penalty for second Offense of Using an Explosive to Commit a Felony: The Senate recedes to section 2002 of the House bill.

Section 513—Smuggling Firearms in Aid of Drug Trafficking: The House recedes to section 1223 of the Senate amendment.

Section 514—Theft of Firearms and Explosives: The House recedes to section 1224 of the Senate amendment.

Section 513—Possession of Explosives by Felons and Others: The House recedes to section 1228 of the Senate amendment.

Section 521—Prohibition Against transactions Involving Stolen Firearms Which Have Moved in Interstate Commerce: The Senate recedes to section 2015 of the House bill.

Section 522—Using a Firearm in the Commission of Counterfeiting or Forgery: The House recedes to section 1234 of the Senate amendment.

Section 523—Mandatory Penalties for Firearms Possession by Violent Felons and Serious Drug Offenders: the Senate recedes to section 2009 of the House bill.

Section 525—Firearms and Explosives conspiracy: The House recedes to section 1238 of the Senate amendment.

Section 526—Study of Incendiary Ammunition; Report to Congress: The Senate recedes to section 2016 of the House amendment.

Section 527—Theft of Firearms or Explosives from Licensee: The House recedes to section 1239 of the Senate amendment.

In addition, the Conference substitute includes the following provisions, which are identical in the House bill and the Senate amendment:

Section 515—Conforming Amendment Providing Mandatory Revocation of Supervised Release for Possession of a Firearm.

Section 516—Revocation of Probation.

Section 517—Increased Penalty for Knowingly Making False, Material Statement in Connection with the Acquisition of a Firearm from a Licensed Dealer.

Section 519—Summary Destruction of Explosives Subject to Forfeiture.

Section 520—Elimination of Outmoded Language Relating to Parole.

Section 524—Receipt of Firearm by Nonresident.

Section 528—Disposing of Explosives to Prohibited Persons.

Section 529—Clarification of 'Burglary' Under the Armed Career Criminal Statute.

Section 530—Increased Penalty for Interstate Gun Trafficking.

TITLE VI—OBSTRUCTION OF JUSTICE

The House recedes to sections 302, 2601, and 2602 of the Senate amendment, and the Senate recedes to section 2334 of the House bill.

TITLE VII—YOUTH VIOLENCE

Section 701—Strengthening Federal Penalties for Employing Children to Distribute

Drugs: The House recedes to section 1501 of the Senate amendment.

Section 702—Increased Penalty for Travel Act Violations: The Conference substitute includes this provision, which is identical in the House bill and the Senate amendment.

Section 703—Commencement of Juvenile Proceeding: The Conference substitute includes this provision, which is identical in the House bill and the Senate amendment.

Section 704—Criminal Street Gangs: The Senate recedes to section 1703 of the House bill with an amendment.

TITLE VIII—TERRORISM

SUBTITLE A—TERRORISM

Civil Remedy: The Senate recedes to sections 1734 and 1735 of the House bill, which create a civil cause of action for terrorism-related injuries.

SUBTITLE B—MARITIME NAVIGATION AND FIXED PLATFORMS

The Senate recedes to section 2329 of the House bill, as modified.

SUBTITLE C—GENERAL PROVISIONS

Section 819—Weapons of Mass Destruction: The Senate recedes to section 2331 of the House bill.

Section 820—Enhanced Penalties for Certain Offenses: The Senate recedes to section 1951 of the House bill.

Section 821—Territorial Sea Extending to Twelve Miles Included in Special Maritime and Territorial Jurisdiction: This provision is identical in the House bill and the Senate amendment.

Section 822—Assimilated Crimes in Extended Territorial Sea: This provision is identical in the House bill and the Senate amendment.

Section 823—Jurisdiction over Crimes Against United States Nationals on Certain Foreign Ships: The Senate recedes to section 1718 of the House bill.

Section 824—Torture: The Senate recedes to section 2333 of the House bill.

Section 825—Extension of the Statute of Limitations for Certain Terrorism Offenses: This provision is identical in the House bill and the Senate amendment.

Section 826—F.B.I. Access to Telephone Subscriber Information: The Senate recedes to section 1706 of the House bill.

Section 827—Violence at Airports Serving International Civil Aviation: The Senate recedes to section 2341 of the House bill, as modified to clarify that it is inapplicable to lawful picketing or demonstrations.

Section 828—Preventing Acts of Terrorism Against Civilian Aviation: This provision is identical in the House bill and the Senate amendment.

Section 829—Counterfeiting United States Currency Abroad: The House recedes to section 551 of the Senate amendment.

Section 830—Economic Terrorism Task Force: The House recedes to section 552 of the Senate amendment.

Section 831—Terrorist Death Penalty Act: This provision is identical in the House bill and the Senate amendment.

Section 832—Sentencing Guidelines Increase for Terrorist Crimes: This provision is identical in the House bill and the Senate amendment.

Section 833—Alien Witness Cooperation: The House recedes to sections 541–543 of the Senate amendment with a modification which provides that alien visas will be issued within the structure of the Immigration and Nationality Act.

Section 834—Providing Material Support to Terrorists: The Senate recedes to section 531 of the House bill.

TITLE IX—SEXUAL VIOLENCE AND CHILD ABUSE

SUBTITLE A—SEXUAL ABUSE

The Senate recedes to Section 1431 of the House bill.

SUBTITLE B—CHILD PROTECTION

The House bill and the Senate amendment include provisions relating to the reporting of crimes against children. The Conference substitute includes features of both provisions.

SUBTITLE C—CRIMES AGAINST CHILDREN

The Senate recedes to sections 1401–03 of the House bill.

TITLE X—CRIME VICTIMS

The House recedes to Title XX of the Senate amendment, with the exception of section 2003 of the Senate amendment and as modified by the addition of section 504 of the House bill.

The Senate recedes to section 1954 of the House bill, relating to victims' rights of allocution at sentencing.

TITLE XI—STATE AND LOCAL LAW ENFORCEMENT GRANTS

SUBTITLE A—SAFER STREETS AND NEIGHBORHOODS

The House recedes to sections 101–104 of the Senate amendment, relating to unallocated grants to state and local agencies, the continuation of the Federal-State funding formula, and grants for multi-jurisdictional drug task forces. The Senate recedes to sections 1802, 1804, and 1806 of the House bill, relating to authorization of appropriations, limitation on grant distribution, and the federal share of programs funded by federal grants.

SUBTITLE B—DNA IDENTIFICATION

The Senate recedes to sections 1001–1006 of the House bill.

SUBTITLE C—DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION

The House recedes to section 4921 of the Senate amendment.

SUBTITLE D—BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES

The Senate recedes to section 1723 of the House bill.

SUBTITLE E—COMMUNITY POLICING; COP ON THE BEAT

The Senate recedes to sections 101–103 of the House bill.

SUBTITLE F—DRUG TESTING OF ARRESTED INDIVIDUALS

The Senate recedes to sections 1701 and 1702 of the House bill.

SUBTITLE G—RACIAL AND ETHNIC BIAS STUDY GRANTS

The House recedes to section 4916 of the Senate amendment.

SUBTITLE H—MIDNIGHT BASKETBALL

The Senate recedes to section 1831 of the House bill, with minor modifications. This Subtitle also includes section 1511 of the Senate amendment relating to antigang grants, to which the House recedes as modified to allocate funds among participating States.

SUBTITLE I—TRAUMA CENTERS

The Senate recedes to the House provision with a modification.

SUBTITLE J—CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS

The Senate recedes to sections 601–604 of the House bill.

TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS

SUBTITLE A—LAW ENFORCEMENT FAMILY SUPPORT

The Senate recedes to sections 1241–1242 of the House bill.

SUBTITLE B—POLICE PATTERN OR PRACTICE

The Senate recedes to section 1202 and 1203 of the House bill with a modification deleting the provision on private cause of action.

SUBTITLE C—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

The House recedes to Title VIII of the Senate amendment, as modified.

SUBTITLE D—STUDY ON POLICE OFFICER'S BILL OF RIGHTS

The Senate recedes to section 1221 of the House bill.

TITLE XIII—FEDERAL LAW ENFORCEMENT AGENCIES

The House recedes to section 1002 of the Senate amendment, relating to additional funding for the Drug Enforcement Administration, the Immigration and Naturalization Service, the Federal Bureau of Investigation, the United States Attorneys, the Bureau of Alcohol, Tobacco, and Firearms, the United States Marshalls Service, the United States Courts, and the Federal Public Defenders.

TITLE XIV—PRISONS

SUBTITLE A—FEDERAL PRISONS

Section 1401—Prisoner's Place of Imprisonment: The House recedes to section 4920 of the Senate amendment.

Section 1402—Prison Impact Statements: The Senate recedes to section 1956 of the House bill.

Section 1403—Federal Prisoner Drug Testing: The House recedes to section 2401 of the Senate amendment, as modified to provide that drug testing requirements may be ameliorated or suspended by courts or parole commissions.

Section 1404—Drug Treatment in Federal Prisons: The Senate recedes to sections 201–205 of the House bill.

Section 1405—Prison for Violent Drug Offenders: The House recedes to section 1301 of the Senate amendment.

Section 1406—Boot Camps: The House recedes to section 1401 of the Senate amendment.

SUBTITLE B—STATE PRISONS

Section 1421—Residential Substance Abuse Treatment for Prisoners: The Senate recedes to sections 301–304 of the House bill.

Section 1422—Mandatory Literacy Program: The House recedes to Title XLIII of the Senate amendment.

Section 1423—National Institute of Justice Study: The Senate recedes to section 1958 of the House bill.

Section 1424—Study and Assessment of Alcohol Use and Treatment: This provision is identical in the House bill and the Senate amendment.

Section 1425—Notification of Release of Prisoners: This section is identical in the House bill and the Senate amendment.

Section 1426—Application to Prisoners to Which Prior Law Applies: This provision is identical in the House bill and the Senate amendment.

TITLE XV—RURAL CRIME

SUBTITLES A AND B—FIGHTING DRUG TRAFFICKING IN RURAL AREAS; RURAL DRUG PREVENTION AND TREATMENT

The House recedes to Title XVI of the Senate amendment, as modified to make cross-designation of federal agents permissive and to eliminate rural land recovery provisions.

SUBTITLE C—DRUG FREE TRUCK STOPS AND SAFETY REST AREAS

The House recedes to section 1641 of the Senate amendment.

Title XVI—Drug Control

SUBTITLE A—DRUG EMERGENCY AREAS

The Senate recedes to sections 1801–1802 of the House bill.

SUBTITLE B—PRECURSOR CHEMICALS

The House recedes to sections 3101–3112 of the Senate amendment, as modified.

SUBTITLE C—GENERAL PROVISIONS

Section 1631—Criminal Penalty for Failure to Obey Order to Land: The Senate recedes to section 1719 of the House bill, as modified to provide that the penalty applies only to orders to land based on a reasonable suspicion of illegal activity.

Section 1632—Amendment to the Mansfield Amendment to Permit Maritime Law Enforcement Operations in Archipelagic Waters: This provision is identical in the House bill and Senate amendment.

Section 1633—Enhancement of Penalties for Drug Trafficking in Prisons: The House recedes to section 4652 of the Senate amendment.

Section 1634—Close Loophole for Illegal Importation of Small Drug Quantities: This provision is identical in the House bill and the Senate amendment.

Section 1635—Clarification of Narcotic or Other Dangerous Drugs Under the RICO Statute: This provision is identical in the House bill and the Senate amendment.

Section 1636—Conforming Amendments to Recidivist Penalty Provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act: This provision is identical in the House bill and the Senate amendment.

Section 1637—Penalties for Drug Dealing in Public Housing Authority Facilities: The House recedes to section 4902 of the Senate amendment.

Section 1638—Anabolic Steroids Penalties: This section is identical in the House bill and the Senate amendment.

Section 1639—Program to Provide Public Awareness of the Provision of Public Law 101-516 Which Conditions Portions of a State's Federal Highway Funding on That State's Enactment of Legislation Requiring the Revocation of the Driver's Licenses of Convicted Drug Abusers: This Provision is identical in the House bill and the Senate amendment.

Section 1640—Advertising: The Senate recedes to section 1512 of the House bill.

Section 1641—Increased Penalties for Drug-Dealing in 'Drug-Free Zones: The Senate recedes to section 1705 of the House bill.

Section 1642—National Drug Control Strategy: The Senate recedes to section 1509 of the House bill.

Section 1644—Mandatory Penalties for Illegal Drug Use in Federal Prisons: The House recedes to section 2402 of the Senate amendment.

Title XVII—Drunk Driving Provisions

The House recedes to sections 1801–04 of the Senate amendment.

Title XVIII—Commissions

SUBTITLE A—COMMISSION ON CRIME AND VIOLENCE

The Senate recedes to sections 1741 and 1742 of the House bill, as modified to adopt the Senate provisions relating to the responsibilities of the Commission.

SUBTITLE B—NATIONAL COMMISSION TO STUDY THE CAUSES OF THE DEMAND FOR DRUGS IN THE UNITED STATES

The Senate recedes to sections 1751–1758 of the House bill.

SUBTITLE C—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

The House recedes to Title XXII of the Senate amendment, as modified to allow the Commission members to select a chairperson.

Title XIX—Bail Posting Reporting

The House recedes to sections 2801–2802 of the Senate amendment.

Title XX—Motor Vehicle Theft Prevention

The House recedes to Title XXIX of the Senate amendment, as modified to provide that race, creed, color, and national origin may not be used in developing stop procedures and to provide that the punishment for altering decals is applicable only when theft is intended.

Title XXI—Protections for the Elderly

Section 2101—Missing Alzheimer's Disease Patient Alert Program: The House recedes to Title XXX of the Senate amendment.

Section 2102—Violent Crimes Against the Elderly: The House recedes to Title XL of the Senate amendment, as modified to provide for enhanced guideline penalties.

Title XXII—Consumer Protection

Section 2201—Crimes By or Affecting Persons Engaged in the Business of Insurance Whose Activities Affect Interstate Commerce: The Senate recedes to section 1303 of the House bill, as modified.

Section 2202—Consumer Protection Against Credit Card Fraud Act of 1991: The House recedes to section 4912 of the Senate amendment.

Section 2203—Mail Fraud: The Senate recedes to section 1301 of the House bill.

Title XXIII—Financial Institutions Fraud

The House recedes to Title XXXVII of the Senate amendment.

Title XXIV—Savings and Loan Prosecution Task Force

The Senate recedes to section 1728 of the House bill.

Title XXV—Sentencing Provisions

The Senate recedes to sections 1901–04 of the House bill.

Title XXVI—Sentencing and Magistrates Amendments

The House recedes to sections 4612–14 of the Senate amendment.

Title XXVII—Computer Crime

The House recedes to section 4909 of the Senate amendment with modifications.

Title XXVIII—Parental Kidnapping

The Senate recedes to sections 1421–1423 of the House bill with modifications that adopted the affirmative defense and the Sense of the Congress resolution from the Senate amendment.

Title XXIX—Safe Schools

SUBTITLE A—SAFE SCHOOLS

The Senate recedes to sections 401–03 of the House bill regarding grants for reducing crime, drugs, and violence in schools.

SUBTITLE B—MISCELLANEOUS PROVISIONS

Section 2912—Records: the Senate recedes to section 1727 of the House bill.

Section 2913—Drug Abuse Resistance Education Programs: The Senate recedes to section 1807 of the House bill.

Title XXX—Miscellaneous

SUBTITLE A—INCREASES IN PENALTIES

The House recedes to sections 2501–03 of the Senate amendment.

SUBTITLE B—EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES

The House recedes to section 4646 of the Senate amendment.

SUBTITLE C—AUDIT AND RECORDS

Section 3021—Audit Requirement for State and Local Law Enforcement Agencies Receiving Federal Asset Forfeiture Funds: The House recedes to section 4924 of the Senate amendment.

Section 3022—Report to Congress on Administrative and Contracting Expenses: The Senate recedes to section 1808 of the House bill.

SUBTITLE D—COUNTERFEIT GOODS TRAFFIC

The House recedes to section 2507 of the Senate amendment, modified to delete all references to criminal fines.

SUBTITLE E—GAMBLING

Section 3041 of the Conference Substitute adds a new chapter 178 to title 28, United States Code, which makes unlawful and subjects to suits for injunctive relief any wagering or gambling scheme based on an amateur or professional sporting event. Exceptions are provided for parimutuel animal racing and jai-alai, as well as for sports wagering activities in the State of Nevada and the sports lotteries which have been conducted in recent years in the States of Oregon and Delaware; the State of New Jersey is given one year, if it so chooses, to have in operation sports wagering in its Atlantic City casinos.

Section 3043 of the Conference Substitute clarifies the prohibitions in existing law regarding gambling activities on foreign-flag vessels in international waters, and conforms the prohibitions regarding such activities on United States-flag ships. The term "segment of a voyage" is used in the new subsection (b)(2) of 15 U.S.C. 1175, as amended, to refer to an interval between two stops which is part of a longer overall voyage. Subsection (b)(2) works in conjunction with the other provisions of section 1175 to prohibit use or repair of a gambling device on voyages or segments of a voyage that begin and end in the same State (for example, between two islands of the State of Hawaii) if the State enacts a statute prohibiting such use or repair. A detailed explanation of the bill on which section 3043(b) is based appears in the report of the House of Representatives to accompany H.R. 3282 (H. Rept. 102-357).

SUBTITLE F—WHITE COLLAR CRIME AMENDMENTS

The House recedes to sections 4621–26 of the Senate amendment.

SUBTITLE G—OTHER PROVISIONS

Section 3061—Increased Penalty for Conspiracy to Commit Murder for Hire: The House recedes to section 2505 of the Senate amendment.

Section 3062—Optional Venue for Espionage and Related Offenses: The House recedes to section 4631 of the Senate amendment.

Section 3063—Undercover Operations: The Senate recedes to section 1704 of the House bill.

Section 3064—Undercover Operations—Churning: The House recedes to section 4655 of the Senate amendment.

Section 3065—Report on Battered Women's Syndrome: The House recedes to section 4903 of the Senate amendment.

Section 3066—Wiretaps: The House recedes to section 4913(a) of the Senate amendment, and the Senate recedes by dropping section 4913(b) of the Senate amendment.

Section 3067—Thefts of Major Art Works: The House recedes to section 4914 of the Senate amendment, with modifications that strengthen the knowledge requirement.

Section 3068—Balance in the Criminal Justice System: The House recedes to section 4915 of the Senate amendment.

Section 3069—Award of Attorney's Fees: The House recedes to section 4918 of the Senate amendment, with a modification that employees of a Federal public defender office are eligible.

Section 3070—Protection of Jurors and Witnesses in Capital Cases: The Senate recedes to section 2338 of the House bill.

Section 3071—Misuse of Initials 'DEA': The Senate recedes to section 1709 of the House bill, with a 90-day delay in the effective date.

Section 3072—Addition of Attempted Robbery, Kidnapping, Smuggling, and Property Damage Offenses to Eliminate Inconsistencies and Gaps in Coverage: The Senate recedes to section 1721 of the House bill.

Section 3073—Definition of Livestock: The House recedes to section 4632 of the Senate amendment.

TITLE XXXI—TECHNICAL CORRECTIONS

The Conference substitute includes minor technical amendments from the House bill and the Senate amendment.

The House conferees recognize the importance of funding drug treatment programs, and the Ways and Means Conferees pledge to move in a prompt and expeditious manner to hold hearings on the substance of section 4917 of the Senate amendment and to explore the merits of funding such programs out of the Customs Forfeiture Fund.

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except secs. 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
JOHN CONYERS,
CHARLES SCHUMER,
WILLIAM J. HUGHES,
HARLEY O. STAGGERS, Jr.,

Provided that Mr. Kopetski and Mr. Schiff are appointed as additional conferees for consideration of secs. 701 through 709 of the Senate amendment, and that Mr. Feighan and Mr. Schiff are appointed as additional conferees for consideration of title XXIV of the House bill:

MIKE KOPETSKI,
EDWARD F. FEIGHAN,

From the Committee on Ways and Means, for consideration of sec. 1719 of the House bill, and secs. 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
CHARLES B. RANGEL,

Mr. Rostenkowski and Mr. Archer are appointed as additional conferees for consideration of sec. 702 of the Senate amendment:

DAN ROSTENKOWSKI,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 1502 and 1831 of the House bill, and secs. 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEVE NEAL,

As additional conferees from the Committee on Education and Labor, for consideration of secs. 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except sec. 812(f)) and secs. 1511, 1512, 3601 through 3606, and 4301 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD
DALE E. KILDEE,
MATTHEW G. MARTINEZ,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and secs. 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
J. ROY ROWLAND,

As additional conferees from the Committee on Energy and Commerce for consideration of secs. 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,

As additional conferees from the Committee on Government Operations, for consideration of secs. 801, 802, 1509, and 1751 through 1758 of the House bill, and secs. 1701 and 1702 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
BOB WISE,
EDOLPHUS TOWNS,
FRANK HORTON,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of secs. 1716, 1719, and 1722(b) of the House bill, and secs. 517, 4401, 4402, 4404, 4405, and 4411 through 4414 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
BILLY TAUZIN,

As additional conferees from the Committee on Public Works and Transportation for consideration of secs. 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and secs. 502, 2901, and 4401-4403 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GLENN M. ANDERSON,
JAMES L. OBERSTAR,
Managers on the Part of the House.

JOSEPH R. BIDEN, Jr.,
TED KENNEDY,
HOWARD M. METZENBAUM,
PATRICK LEAHY,
DENNIS DECONCINI,
Managers on the Part of the Senate.

Mr. BROOKS. Mr. Speaker, pursuant to House Resolution 301, I call up the conference report on the bill (H.R. 3371) to control and prevent crime.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 301, the conference report is considered as having been read.

The gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

□ 0720

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the time has finally come for each of us to take responsibility as citizen-legislators and fight crime with actions, not slogans. It may be hard—very hard—for some to finally let go of what they perceive to be an election year issue, but our streets are flowing with blood and our constituents don't want any more words that fly ever so lightly into the atmosphere, signifying nothing. They are tired of promises; they are tired of politicians vying with each other to prove just who is tougher on crime; they are especially tired of purists who want 100 percent of one thing or nothing at all. Yes, crime is a wonderful issue for politicians. But crime is perhaps the most compelling social reality that threatens our daily lives. It is time to shed the issue and take on the problem.

Sunday, after 3 weeks of unconscionable political delay in the other body, the House and Senate conferees on the crime bill reached a final agreement that is historic in scope and approach. Without question, it is the toughest, most stringent crime control bill since the Federal Government was forced to take drastic steps to fight social anarchy in the 1920's and 1930's.

The bill creates 56 Federal capital punishment offenses, including the killing of law enforcement officials, death resulting from hijacking, terrorists, and drug kingpin activity, drive-by shootings, hostage taking resulting in death, child and sexual abuse resulting in death, and attempts to assassinate the President of the United States, to name just a few. These are heinous crimes, and must be dealt with appropriately. But, I ask my colleagues: Does it not serve our constituents to focus as well on preventing crime, rather than just ratcheting up the punishment after it occurs?

If we are going to take concrete steps to prevent crime, to cut down on recidivism, to support putting our police back on the streets where they belong and safeguarding our schools as learning environments, then we need programs to address these problems. And, we have them in H.R. 3371.

We have a program that puts the cop back on the beat, because there is no substitute for a direct enforcement presence. In another area, we require mandatory drug testing for all prisoners with a drug abuse history, in order to reduce repeat offender behavior.

Finally, we create a host of programs to further the use of DNA analysis and crime solving, to provide law enforcement scholarships to better train our police, to create antigang programs to combat this developing trend, and to set up boot camps for youthful offenders to learn the value of the straight and narrow before they become hardened career criminals.

Yet, in setting out harsh new penalties, and creating needed new prevention programs, we have been mindful that the very same constitution that guaranteed domestic tranquility for its citizens, also created a bill of rights for every American. This House has twice upheld this balance between individual rights and efficient law enforcement in its effort to restructure and streamline the doctrine of habeas corpus without gutting it completely. A strict statutory time period is set within which death row petitioners must file petitions, and there is a virtual prohibition of all successive habeas corpus applications aimed at delay, delay, delay. In addition, while we want all properly obtained evidence admitted into any criminal trial, that does not include the rack and the thumbscrew; and coerced confessions have no place in our system of justice. That is made clear in H.R. 3371. This is not a dictatorship.

In the howl of the crime bill debate, a few facts tend to become lost. Let us remember as we proceed that 95 percent of all serious crime cases in this country are the province of State and local officials. In other words, this bill, which deals with Federal offenses, involves not more than one-twentieth of the criminal activity out there in America. Let us be very precise in our statements before proclaiming any crime initiative—as meritorious as this one surely is—as a panacea for the end of crime.

Let us remember one last thing. Less than 6 weeks ago, on October 16, the House of Representatives voted 305 to 118 to adopt a crime bill; the Senate also passed a crime bill; and the two have now been reconciled. Compromise is an essential element of that process, and that means not everybody will be perfectly pleased with the product. But does that mean we keep to the status quo? The substantial majority of this body, as well as the other body, wants a crime bill now. We are not willing to continue quibbling for months and months more. We want to discharge our duties to the American public and we will do so today.

I ask you to support H.R. 3371.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a disastrous time to discuss a very complicated but nonetheless critical piece of legislation, and so I beg of you to try and stay awake, as I am, because what we do here is significant, not only to our own legislative records but to our communities back home.

Back about 380 B.C. a man named Hippocrates gave some advice to physicians. He said, "First, do no harm." That is good advice for Congressmen, too: Do no harm.

I suggest to you that this bill, which is the product of an absurdity called a conference committee—and you should have been there, because they could do a miniseries about the way that railroad ran—and that conference committee report is not an anticrime bill but rather it is a step back from present law.

I will try to demonstrate that to you, and I stipulate that nobody is pro-crime, nobody is pro-criminal, nobody, but out of ignorance, which we could call euphemistically a failure to understand, out of ideology, which is certainly present in this Chamber on both sides of the aisle, some people instinctively want to protect the accused rather than the victim or, simply out of being misled by people in whom you misplace your trust, but I know well meaning people are going to support this bill.

I suggest to you it is a terrible mistake. Crime is nonpartisan. It is not Democrat. It is not Republican.

One of the letters that we rely on is from the attorneys general of the States, 31 of them, 15 of them are Democrats, and 16 of them are Republicans, so we are talking about a professional view about crime.

Our cities are turning into Beiruts. Walking through a city used to be an exercise in life and liberty and the pursuit of happiness. Now it is an exercise in fear and in terror, and the pursuit of survival.

So we come here today in a spasm of spurious macho to prove to our constituents, as we beat our chests, that we are tough on crime.

If you want to be tougher on crime than this conference report, go back to your office and do not vote, because when you vote for this, you are retrenching. You are stepping back. You are retreating.

Because of its critical importance, let us examine the pretense this bill puts forward. Now, this is complicated. It is complicated for me, and I have been a lawyer since 1950.

But just to show you how misled you are, those who are within hearing of my voice, you have heard two things. You have heard there is no retroactivity, do not even use the word, said my friend from California. He said you are going to hear it. It is demagoguery. Then you heard from the member of the Committee on Rules, authority that only one petition for appeal is permissible under this conference report.

□ 0730

I submit to you both of these comments are way off the wall, much off the mark.

Let us talk about retroactivity, because that is one of the major flaws with the habeas corpus that emerges from this conference. Now, section 2256 discusses the retroactivity aspect. There is a case, Teague versus Lane, that holds that the law that was in effect at the time of the crime is the law that will control in all of these appeals, whether a direct appeal in the State courts, or a collateral appeal in the State courts, and then to the Federal court where you make another collateral appeal pursuant to habeas corpus laws.

The current law is that in all of these proceedings there shall be no retroactivity. The law that was in effect at the time is the law that controls.

Well, here is what they say, artfully, cleverly, to nullify that. Section 2256: "In an action filed under this chapter, the Court shall not apply a new rule."

Gee, that sounds great. Then they define "new rule" to make it almost impossible of attainment. What they give with one hand they take away with the other.

The description of a "new rule" now says, "For the purposes of this section, the term 'new rule' means a clear break from precedent announced by the Supreme Court of the United States that could not reasonably have been anticipated at the time the claimant's sentence became final in State court."

So under this definition, they issue a new rule, because most new rules are simply adjustments to the law and not a clear break from precedent announced by the Supreme Court of the United States that could not have been reasonably anticipated.

There is all kinds of retroactivity. Do not believe me, believe all the prosecutors in the country. Believe the 31 attorneys general, half of them Democrat, half of them Republican, the professionals. Yes, its true, they are not policemen, they are lawyers. They are prosecutors.

Now, as to successive Federal petitions, look at section 206.

If you get section 206 and you read it, you will find that you can have repeated petitions. Repeated petitions.

It says that a second or successive application that was not presented in a prior application shall be dismissed unless—unless, and that is the big word—unless the applicant shows the basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application or the failure to raise the claim in the prior application was due to action by the State officials, violation of the Constitution, and, get this, the facts underlying the claim would be sufficient if proven to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law. Again and again and again, reasons for additional petitions.

The attorney general of New Jersey, Robert J. Del Tufo, in a letter signed also by the attorney general of Pennsylvania, says, "This conference report is not a strong anti-crime bill. The proposals favor the convicted murderer, revictimizes the survivors of a murder victim, and penalizes the States. We urge you to reject it."

On and on and on. The prosecutors say that this conference report mugs the American people. It is a sad day when the will of the American people to enact tougher criminal laws is so completely thwarted.

That, my friends, is something you ought to consider.

The habeas procedures adopted by this conference are worse than current law. They overturn at least 14 U.S. Supreme Court decisions that are favorable to law enforcement. They create major new obstacles to the use of the State death penalty laws.

You see, that is the unfunny joke. They add to a list of death penalty circumstances, but then they adjust their procedures so you cannot really use them. They simply enlarge the opportunities for prolonging litigation and for overturning criminal judgments.

Now, I have told you that they overruled the Supreme Court decision in *Teague* v. *Lane*. The report limits the definition of new rule to those that are announced by the Supreme Court and involve a clear break from precedent.

This is a novel standard. Almost all later decisions would be retroactively applicable to overturn earlier convictions and sentences that were imposed in conformity with existing law.

There is a famous case out in California, Robert Alton Harris, who brutally murdered two teenage boys in 1978. He has filed eight State habeas petitions and three Federal habeas petitions to get additional rounds of Federal litigation based on rules that would not be applied under current law and were not even in existence at the time he originally litigated his case.

Fourteen years that man has been appealing and appealing and appealing. What we want, My colleagues, is finality. Finality. That is what the victims of crime want, the victims of crime and the families. They are torn and torn reliving those tragic events until they see justice done.

Now, in addition, the habeas provisions before us allow delays of up to a full year to file a Federal habeas petition, rather than 6 months, which is the recommendation of the Powell committee. It rejects the Powell committee recommendations, which limited second and successive petitions to claims addressing guilt or innocence. Instead, it allows successeive petitions to attack the validity of the sentence.

In addition, and here is something you have not heard, standards for the appointed counsel, you have to have competent counsel appointed to defend an indigent criminal defendant. But they are unworkably high in this bill.

Mandatory Federal standards for State capital trial appeals and collateral review are established that are very difficult to attain. Each defendant has to have two—two—attorneys, with years of criminal felony experience, to represent him at every stage of the process.

Now, incredibly, these attorneys are not appointed by the court, by a judge. Who appoints them? The defense bar. And if there are not enough lawyers to go around, the statute is tolled and you wait and you wait and you wait.

So if you have been sentenced to death and you cannot get two competent attorneys who have had over 5 years of criminal felony experience, and the defense bar does not want to appoint them, nothing happens. Nothing happens. A committee of criminal lawyers appoints the defense counsel, not the court.

Now, there are 50 additional offenses for the imposition of the death penalty, but the procedures are constitutionally questionable.

Let me tell you one thing: We could go on and on and take time, but you are exhausted and so am I at this hour.

There is a case, Arizona versus Fulminante. What it holds is very simple. In that case if a law enforcement official coerces a confession out of the defendant, an involuntary confession, that confession, of course, cannot be admitted at the trial.

This case holds, and it is a Supreme Court case, that if there is other evidence sufficient to convict, you may proceed with the other evidence to convict.

Not this bill. Not this tough-on-crime bill. This reverses the Supreme Court Arizona versus Fulminante case and says if there is a coerced confession, the whole case goes out. It is not harmless error.

So that is this tough-on-crime bill. You have got a murderer and you have got plenty of evidence to convict a murderer, but because some stupid or overzealous law enforcement official coerced a confession out of him, he walks. That is the tough bill that they are asking you to support.

The exclusionary rule. The courts have finally come around to understanding that a motion to suppress the evidence because the search and seizure may have been illegal should not result in the criminal walking free, the accused walking free.

That does not accomplish anything. The policeman who made the illegal search is not punished. The only people punished are society by having the evidence of guilt suppressed.

So we have developed a good faith exception. The courts are finally coming around to recognizing a good faith exception to the exclusionary rule.

□ 0740

What we wanted to do was to extend that to warrantless searches and seizures, if they were made in good faith. Not only has the conference report reversed that or taken that out, but now one must prove that the magistrate who issued the warrant was neutral and detached. The focus in this tough anticrime bill is on the mental attitude and status of the magistrate, not the conduct of the policeman. Is that crazy? Of course it is.

That is what they have given us. They have rolled back the exclusionary rule.

Look, explain this, my friends. When we go home and we mention tough issues, we talk about health care. We talk about education. We talk about the economy. We are going to talk about crime. I would love to hear the explanation, especially from my friend back there who is paying such rapt attention and nodding his head. I want to hear him explain why the conference stripped out provisions in the House bill providing enhanced penalties for drug distribution to pregnant women. Why did they strip out increased penalties for recidivist sex offenders? Why, explain why you stripped out HIV testing for sex offenders? You took out government payment for HIV testing for rape victims. You removed the retired public safety officer death benefit program. Explain how we are so tough on crime that we took out all of those provisions.

If you can explain that, I think that is great.

This is a victory for the ACLU, not law enforcement. I suggest we would do well to listen to the professionals, the prosecutors in a bipartisan, nonpartisan way if we pretend to care and want to do something effective about crime.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, the only thing I wanted to point out is, the gentleman is talking about this bill versus where he would like to be. I think we also have to look at this bill versus where we are. I think there is absolutely no question this bill tightens up habeas versus where it is today.

Mr. HYDE. Mr. Speaker, recapturing my time, I radically disagree with the gentlewoman.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from New Jersey [Mr. HUGHES], a distinguished chairman of one of our subcommittees.

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding time to me.

One of the most disappointing aspects of this session of Congress is that politics began about 2 months ago. Usually we have a few months, and already we are in an acrimonious debate. You would not recognize the legislation that we are debating because of the extreme rhetoric on both sides.

I was a member of the National District Attorneys Association for about 10 years. I loved it; good organization. I do not know what has happened to it. They seem to have left the reservation. They have left the reservation. I cannot imagine, with the attitude that is prevalent today, this association ever passing a bill of rights. I cannot imagine, with some of their views.

It is an old adage that a right without a remedy is nothing. And that is what habeas corpus provides.

Look, it is not about the capital offenses in here, and it is not about the provisions dealing with sex offenders, and it really is not about the exclusionary rule, as much as it is about habeas corpus. That is what we are debating. That is what it is all about.

The gentleman from Illinois [Mr. HYDE] indicated that the conference left a lot to be desired. I must say, I agree with that. But why? Why?

First of all, two Republican Senators had the crime legislation held up for 3 weeks. One of them had it held up because of the ratio, going to conference, Democrats and Republicans. And the other had it hung up over the gun legislation that was in there.

And the President had to bring them into the White House to unglue it so that we could begin to debate it. It was released on Friday, and we stayed here the weekend to try to resolve the differences.

There were a number of provisions that were dropped that I would have preferred to have held onto, which I felt would have strengthened the bill more. But unfortunately we had to drop a lot of provisions because we could not reach accommodation.

During that conference, as my colleagues on this side of the aisle know, there was a filibuster in process. And it was very difficult for us to resolve this conference. It is no way to legislate.

So I agree with my colleague from Illinois that it was not the best process, but it is the one that we were left with because on the one hand the President is demanding a crime bill and on the other hand the Republicans in the Senate are stonewalling.

Let us get right to the heart of habeas corpus. There are so many misstatements about what habeas corpus does.

First of all, the suggestion that the 1 year is unreasonable. That came from the National District Attorneys Association. That was their submission. I have their letter, their resolution. The 1 year came from them.

Second, insofar as successive petitions that my colleague from Illinois got into, read the legislation. In the first place, successive petitions, the difference between the Republicans and the President's plan and the Democratic plan is that in the Republican plan, a judge in a habeas corpus process could not reach an illegal sentence. If an individual had perjured himself in a bifurcated trial during the sentencing process and the 1 year had run, that prisoner would be executed because under habeas corpus the process had run. And they would not be able to reach him.

Insofar as retroactivity, the gentleman does a dance around that. There is no question but we redefine new rules, and I grant the gentleman that, but it is a reasonable manner in which to modify that retroactivity provision because it deals with a clear break from precedent announced by the Supreme Court.

Finally, the President's plan would have us have two systems for defendants in this country, the opt-in provision. If in fact a person was to take advantage of habeas reforms, we provide competent counsel. If a person did not want to provide competent counsel, they do not opt in. So we have a system for the rich and a system for the poor.

It is a good bill. It is a strong bill, and I urge my colleagues to support it.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, we've done it once again. Once again we have turned a crime bill into a criminals' bill. The bill is supposed to impose new Federal death penalties for heinous crimes—but with the habeas corpus provisions in this bill, these hardened criminals can't be executed—at least not without multiple appeals in both State and Federal courts. If we are going to have a death penalty for heinous crimes—and the will of the American people is demanding a death penalty—then let's have a death penalty and not a "we'll-execute-you-if-you-don't-die-of-old-age-first" penalty. Too many innocent people like Patricia Lexie are dying from senseless violence and the Congress is making it easier for criminals to get off the hook. This isn't the modestly reasonable bill on which the House worked its will. This is a compromise bill by liberals with liberals in conference. This certainly is not a bill manifesting concern for victims of crime.

We're making it easier for criminals to exclude evidence of their crimes from their trials, too. No matter if a police officer acting in good faith catches a criminal red-handed with kilos of cocaine; if the officer didn't have a warrant, those kilos of cocaine can't be used as evidence in a trial.

This bill also contains the "Brady Bill"—it requires an onerous process and waiting period for the purchase of a gun, and it requires local law enforcement to do a background check on every purchaser. Not only are we making life easier for criminals, we're making life more difficult for law-abiding citizens, who bear the real burden of these gun control provisions.

And if that's not enough, we're mandating official bilingualism in a crime bill. This bill requires the Bureau of Justice Assistance to develop models for the Safe School Antidrug Program in Spanish as well as in English. Moreover, each and every school that applies for an antidrug grant under this program must describe the Spanish-language materials it will use before it may even be considered for a grant. This applies to every school, whether or not the school even has any Spanish-speaking students.

The gentleman who authored this Spanish-language amendment will tell you that it only applies "where appropriate." That may well have been the gentleman's intent, but quite frankly, that is not what the bill itself does. Read it yourself. This legislation itself says that each school shall include these materials in its application—it makes no mention of "when appropriate" or "when a significant number of students speak Spanish."

I strongly support doing everything we can to reach all students with our antidrug message. But this language does absolutely nothing to reach Chinese-speaking students, Vietnamese-speaking students, German-speaking students, or anyone else who speaks any other of the 150 languages spoken in this country. This language only mandates that the Federal Government operate in two languages—Spanish and English. Let's not make the same mistake. I urge you to vote against this procrime bill.

Mr. HYDE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, the gentleman from New Jersey [Mr. HUGHES] has a very short attention span on who has been stalling the crime package. We may recall that on March 6th the President of the United States stood in this Chamber and challenged the Congress to pass a crime package within 100 days. The Committee on the Judiciary did not even hold a legislative hearing on any of the crime package during that 100 days. It took until September for the committee to mark up a bill and send it to the floor.

When it came to the floor, the rule that was requested by the gentleman from Texas [Mr. BROOKS] did not set up a conference immediately, which is the case usually when the other body passes a bill, so that we can get on with it. And the delay in setting up the conference was caused only in part by two Senators over on the other side. But in a far greater part by not asking to set up that conference at the time the House passed the bill in October.

On the merits of this proposal, this bill contains $3.1 billion of authorizations for various kinds of law enforcement assistant programs, including safe schools and cop-on-the-beat, but not one penny of appropriations. We all know here that under the budget agreement that any increase to fund new programs in domestic discretionary spending has got to be matched with either a tax increase or a dollar-for-dollar reduction in other domestic discretionary spending programs.

Quite frankly, that is not going to happen. This year the Congress reduced the President's request for law enforcement by $470 million. If we add $3.1 billion on top of that, we are simply not going to find the money. It is putting an illusion in front of the local officials and the sheriffs and the local police departments all around the country that there is going to be Federal money available when every one of us here knows that that is not going to be the case.

□ 0750

That is a fraud, Mr. Speaker. It is a fraud on a lot of people who think the Congress is acting in good faith when we know that very little of that $3.1 billion will be appropriated come appropriations bill time next year.

The second issue which I would like to bring to the attention of the Members, Mr. Speaker, is the firearms provision that is contained at the end of the Brady bill. As the Members may recall, when the House passed the Brady bill we rejected the Staggers instant check system by a rather substantial margin. A revised instant check system appeared in the conference committee version of the bill which emanated from the other body, and it says that once the instant check system in on line, the Brady bill, which applies to handgun sunsets, but the instant check system applies to all firearms purchases, not just handguns.

I have attempted to maintain an objective viewpoint on gun legislation, with my strong support of the Brady bill, but also my opposition to the semi-automatic weapons bill, which I did not think did the trick. The House agreed with my position on both of them. What I am here to tell the House this morning is that the permanent provisions relating to handguns are much broader than the Staggers provisions. It makes a provision that the gentleman from Florida, Mr. McCOLLUM, put in, the drug bill of 1988, permanent and it triggers it as of the sunset of the Brady bill.

This is back door gun registration, there is no way of getting around it, and it expands the instant check provision to all firearms, not just the handguns and perhaps the semiautomatic weapons that are causing the problem, but the hunting rifles, the hunting shotguns, and every other firearm that is transferred through a licensed gun dealer.

This is a blank check, and when someone asks, come campaign time about this, do not say "I did not know about it when it passed," because I am telling the Members about it now.

Mr. BROOKS. Mr. Speaker, would the gentleman from Wisconsin [Mr. SENSENBRENNER] give me his attention just a moment? I want to commend the gentleman, because he has studied this bill very carefully and I am delighted that he came back from Bermuda, though he missed the conference. He has shown great intelligence in reading the bill and in paying attention to it this day or two that we have had to evaluate it. I am very grateful for his attention.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], who is familiar with the gun allocations.

Mr. DINGELL. Mr. Speaker, as my colleagues know I have long been diligent in protecting the rights of firearms owners' enforcement from wrongful pieces of legislation. While I will observe that this legislation in that particular is not all that I would have liked it to have been, I will observe that it has been significantly improved by the distinguished gentleman from Texas in conference. I commend him for it.

I recognize that the other portions of the bill are good. I intend to vote for this legislation. I urge my colleagues to do likewise. The firearms provisions, which on many occasions were oppressive at different times during the career of this legislation as it went through the process, has been much improved and much cleaned up, and I believe it is a piece of legislation this body can support and I should support.

I commend the conferees and I commend my dear friend, the gentleman from Texas, for having presented this legislation to us today.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from California [Mr. EDWARDS], the distinguished chairman of the subcommittee.

Mr. EDWARDS of California. Mr. Speaker, this is an interesting debate and I will not take a long time. I think it is curious that the Members who are opposed to the bill have neglected completely the hard-hitting provisions in the bill to fight crime, one after another. I have not heard from this side of the aisle those mentioned once, and yet our chairman, the distinguished gentleman from Texas [Mr. BROOKS] has itemized them in his opening statement. Was no one listening?

This is a crime fighting bill, and people who vote against this vote against it at their peril. The Members will not get those provisions again easily.

Now, the ranking Republican on the subcommittee that I am honored to chair of course is the distinguished gentleman from Illinois [Mr. HYDE] and I was very interested in what he said about the exclusionary rule. He made a strong pitch for it.

Let us be very clear about what we mean by the exclusionary rule. It is to allow the police to use illegal evidence in criminal trials, illegal evidence, evidence illegally, against the law, gathered.

Now, in the House we approve it, I regret to say, but why was it excluded in the bill? Why was not the present law codified in the bill? Because Senator RUDMAN, the distinguished Senator from New Hampshire, a former prosecutor and a hard-line prosecutor, as he is always proud to say, said "Under no circumstance will the Senate of the United States legalize illegal evidence." That is why that provision is in the bill, illegal evidence, licensing the police of this country to use evidence in criminal trials illegally gathered. Does it not shock the Members even to think of it?

Now, last, habeas corpus. Let us just for a moment look at history. William French Smith was the Attorney General under Ronald Reagan. He made the statement in one of his opening speeches that they were determined to get rid of habeas corpus, they really wanted 50 different criminal laws throughout the country, because if we get rid of habeas corpus that is what we are going to have. We are going to have 50 different codes of criminal law, because there will be no appeals, no appeals, and some of the laws will never be able to be brought in line with the Bill of Rights to the Constitution.

I need to say once more I really do understand why the prosecutors are against the bill, not that any of them have read it, it is obvious. And as I say over and over again about all we have heard in the last couple of hours is our friends who are against the bill who just get up and read something from some prosecutor.

Of course, some prosecutor. Why would they not be against the habeas provisions? Because 40 percent of their convictions are overturned. They do not like to be reviewed and then have to remand back to the trial court or new hearings. Forty percent of them, those are the statistics. We had that evidence in the hearings.

Lastly, there is an emergency committee out there to save habeas corpus. Let me remind Members that four distinguished former Attorneys General of the United States are the chairmen, the co-chairmen, two Republicans and two Democrats; the two Democrats, Ben Civiletti, and Nick Katzenbach, and of course the Republicans, Ed Levy, and Elliot Richardson, all very distinguished, all good prosecutors.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank my chairman for yielding. I want to build on this a bit, and that is, first of all, we have eight different groups of police officers pushing for this bill. Those are the people I feel sorry for. They are the ones on the frontlines. I do not know, there may be more than eight groups in America, but here are eight of them that back it.

Second, I want everybody to deal with the facts and not fiction. We have heard a lot of fiction here. Please get this fact sheet where it shows what is in the Bush proposal and what is in the proposal we are talking about. If the Members want to prevent crime, this is the bill to vote for. None of these preventive measures is in the Bush proposal.

No. 1, all these different ideas that have come in, starting with $1.2 billion to go to State and local agencies to fight crime, that is where 95 percent of the crime is.

□ 0800

Every State and locality is under tremendous crunches. I think that is why the police really appreciate this bill because they see some help finally coming, rather than more and more lectures about this; plus we have put in some very creative programs.

I also want to point out there are some other things in here that if we do not pass, we will not have them. That is like the registry for people who have been guilty of child abuse and many other such things; very positive things. Deal with the facts. Do not deal with fiction and vote for this crime bill.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in strong opposition to this legislation.

I believe that we here in this Congress, many of us feel we must represent our sportsmen and hunters.

This legislation is bad for our sportsmen and hunters.

The Brady bill as contained in this legislation is worse than the Brady bill that was passed by this House. I cannot understand why anybody who is concerned about their sportsmen and their hunters would like to have that man who walks in and buys a shotgun, as the gentleman from Wisconsin has said, goes in and buys a shotgun and has to have a background check, nor do I think a person who goes in and buys just a hunting rifle, a 22, single shot 22 has to have a background check.

Those of you who are serious about protecting the rights of hunters and sportsmen, I say to you, vote against this legislation.

Mr. BRYANT. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I am glad to yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, if it is as the gentleman says, I say to the gentleman from Missouri [Mr. VOLKMER], why has the NRA not come out against this conference report?

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I rise in support of the conference committee report on the Omnibus Crime Control Act of 1991, H.R. 3371. Although the conference committee report includes several diluted provisions, it represents a compromise and a truly comprehensive anticrime package.

It is time for Congress to put public safety ahead of politics. As the president of the National Fraternal Order of Police said yesterday, "I don't think we can sit back and let partisan politics tear away at a piece of legislation we in law enforcement need right now."

In these final hours of this session of Congress, the choice is this anticrime package or no anticrime package. With violent crimes in America up 10 percent from last year, and new record numbers of murders and rapes, I believe Congress must address the rising and very serious crime problem now.

This conference committee report does contain significantly tougher penalties for criminals. It imposes the death penalty for some 50 Federal crimes, including drug kingpins. It triples the penalty for drug dealers who use minors and significantly increases sentences for violent crimes involving firearms. Further, the conference committee report provides tougher penalties for selling drugs in public housing and in other drug-free zones.

This conference committee report also includes a provision that is important to all Minnesotans, the Jacob Wetterling Crimes Against Children Registration Act. This legislation will require convicted child molesters to register with local law enforcement for 10 years after their release from prison. Given the extremely high recidivism rate for sex offenders against children, law enforcement needs this national registration law for child abduction cases.

Mr. Speaker, there are other positive provisions in this package, including $3 billion in fiscal year 1992 for hiring more law enforcement at the Federal, State, and local levels, and for local law enforcement to put more police on street patrols. As the president of the International Association of Chiefs of Police said, "We need that type of help because we're in such straits right now."

There is substantial aid for residential drug treatment and drug testing for prisoners. The bill also provides more resources for prosecutors and creates a police corps which would offer scholarships to college students who agree to serve as police officers after graduation.

Furthermore, the conference committee report restricts the appeals which State prisoners can file in Federal court. This habeas corpus reform sets a 1-year deadline on filing petitions and bars successive petitions unless new evidence emerges or a prisoner could not have reasonably included a claim in the first petition. While I share the President's concern about this diluted habeas corpus reform, I also know this provision has very little to do with removing violent criminals from our streets. Habeas corpus affects those criminals already convicted and behind bars.

In addition, the bill allows introduction of improperly seized evidence in Federal court cases if police acted in good faith while executing a search warrant. The conference committee rejected a broader House passed version, supported by the President, that would have allowed improperly seized evidence even if police had no warrant, as long as they acted in good faith.

Mr. Speaker, this conference committee report is far from perfect, and as a member of the Judiciary Subcommittee on crime, my support comes with several reservations. But given the tragic national crime and drug epidemic that is sweeping our Nation and tearing away at our social fabric, we must choose between an imperfect crime bill or no crime bill at all. In making that choice, I conclude that this compromise conference committee report deserves enactment.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. MAZZOLI], the chairman of the Subcommittee on International Law, Immigration and Refugees of the Committee on the Judiciary.

Mr. MAZZOLI. Mr. Speaker, I appreciate my friend yielding this time to me.

Mr. Speaker, I think what we are looking for at this late hour or really this early hour, is balance. I think on balance this is a good bill, not a great bill, but a good bill. It has some very important anticrime measures in it, preventive measures, which are not on the books today which I think are very worth supporting.

But most importantly, Mr. Speaker, the two elements I would like to speak about briefly, one is that we do finally have Brady type waiting language in this bill that has taken us years and years to achieve. I would think it would be terrible if we left this moment without adopting this legislation.

Lastly, there is made permanent in here a 75 percent Federal, 25 percent local share of anticrime money, and in a time when local law enforcement efforts have got to be ratcheted up to prevent crime and at a time when the revenues locally are ratcheting lower because of problems they have in revenues, this is a very valid concern. We are now responding to local concerns.

Mr. Speaker, on the whole this is a good bill. Please support this bill.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, sadly the bill before us is worse than present law in two out of the three major provisions that the President asked for in his initial crime package.

We do see enhanced death penalty provisions. There is no doubt about that, but in the area of habeas corpus, we beat a retreat because we do not provide the kind of relief that it is supposed to do. That was supposed to end the endless appeals from death row and others.

Instead, what we have done in this bill that came out of conference is to complicate matters so that the appeals time will be lengthened, and that is why this Member objects so strenuously in part to this bill.

The other thing that we do, or we were supposed to do in this bill and we do not do and we retreat from present law about it, we were supposed to allow more evidence in with respect to those cases like drug cases. We were supposed to make it easier by adopting the good faith exception to the exclusionary rule of evidence by expanding the Supreme Court decision and in principle and exception to this rule in those cases where a police officer reasonably and objectively believes that his search is legal in cases with search warrants to those cases where there are no search warrants, but he also reasonably believes that it is legal, as two circuit courts of appeal have done in this country; but instead of adopting that in the conference, which by the way we adopted on the floor of the House, this expanded exception, by a vote of 247 to 165 on the 17th of October, instead of doing that, not only do we not do that, we adopted a provision that narrows the existing Supreme Court exception and will make it more difficult to get evidence in cases where there are search warrants. That is what we have done with this situation.

We have reduced the scope of what you can get into evidence. We will have fewer convictions if you pass this bill as a result of this.

Is it any wonder prosecutors oppose this and any thinking American should oppose it, because we have beaten a retreat by lengthening the appeals time that you have from death row cases and by instead of allowing more evidence in, we have changed the rules of the Supreme Court so in search warrant cases you will have less evidence allowed.

Mr. Speaker, let us vote no on this bill. It is not a criminal justice bill.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. CHAPMAN], a member of the Committee on Appropriations.

Mr. CHAPMAN. Mr. Speaker, I could not disagree more with what the previous speaker said.

I say that from 8 years experience as a district attorney with hundreds of felony trials and experience as a capital murder case prosecutor.

I do not know how any Member of this body can in good faith say the habeas corpus provisions in this bill lengthen appeals in criminal cases. That is not true and every Member of this body knows it.

As a prosecutor, when you restrict the number of petitions of habeas corpus to one and impose a time limit of one year, when today there are no restrictions and no time limits, how you can say that is not a restriction of the right to habeas corpus is beyond me.

And as to successive petitions, to my friend, the gentleman from Illinois, yes, there are exceptions. There can be successive petitions, but instead of talking legal mumbo jumbo, let us talk about the real world of criminal prosecutions.

What are the exceptions? The exceptions apply when someone else confesses. Would you deny a man on death row his freedom when after his 1-year statute of limitations for habeas petition has expired, someone else confesses?

□ 0810

You would. If the State hides exculpatory evidence and does not reveal it at the trial, the defendant has no way of knowing it or getting it and you would deny him his freedom. Your position would.

When chemical or ballistic analysis years later, not available to the defendant at the trial, shows he was not guilty, would you deny him his freedom? You would. That is not reasonable.

As to the mandatory experience—and this is a prosecutor with hundreds of experiences—I cannot believe my friend from Illinois would find unreasonable that if the Government wants to take a life, that 5 years' experience by the defense attorney is unreasonable to represent him in that case. And to represent him on appeal, that 3 years of experience is unreasonable.

I have prosecuted a capital murder case. I know the onus when you as a Government lawyer want to take the life of someone. And it blows my mind that you should suggest that that should be done by defense counsel with no experience.

I think that is wrong.

Yes, there are parts of this bill that I would change, there are things that we could do better. But this is a crime bill. It limits habeas; it will prevent crime. It ought to be passed by this body.

I urge my colleagues to support it.

The SPEAKER pro tempore. (Mr. PANETTA). The gentleman from Texas [Mr. BROOKS] has 7 minutes remaining, and the gentleman from Illinois [Mr. HYDE] has 7½ minutes remaining.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, here we go again.

We need an effective crime bill, and I'm ready to vote for a real crime bill. But we can't seem to shake the notion that, by controlling the access of law-abiding citizens to gun purchases, somehow we'll reduce crime.

The Brady bill language in this crime bill isn't going to keep people from selling guns out of the trunks of cars; it isn't going to stop thefts of guns from law-abiding gunowners; and it sure isn't going to stop people from using guns for illegal acts, no matter where they got them!

If the Congress was really serious about fighting crime, the conferees would have chosen the tougher provisions from each bill and brought them to us. Instead, they adopted the weaker option in several instances, and kept the antigun language that punishes law-abiding citizens—not criminals.

Mr. Speaker, we need crime control, not gun control. This conference report just doesn't cut it on either.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I rise in opposition to the conference committee report. This is not an anticrime bill. This is not a law enforcement bill. This is not a victims' rights bill, it is the opposite of all those things.

If this is an anticrime bill, then why does the Department of Justice oppose it? If this is a law enforcement bill, then why does the National Association of District Attorneys oppose it? If this is an anticrime or law enforcement bill, then why have more than 30 State attorneys general signed a letter urging the President to veto this bill? If this is a victims' rights bill, then why are victims' groups unalterably opposed to it?

We hear much talk today about finality of judgment and about ending the intolerable delay in carrying out sentences, including capital sentences. This bill will not make things better. Instead, it will destroy what little finality of judgment we have, and it will multiply delay many fold. The most important action the Supreme Court has taken to ensure finality of judgment is its 1989 decision in Teague versus Lane, which limits the retroactive effect of new decisions on old cases. The Teague decision helps ensure that when State courts comply with existing constitutional law their judgments will not be upset years later because of changes in the law that could not be anticipated. This bill repeals the Teague decision with a vengence. In fact, this bill is written in such a way that the law on retroactivity will be even worse for law enforcement than it was before the Teague decision. If you want endless delay and never-ending relitigation of every criminal conviction, then you want this bill. However, if you believe, as I do, that we do not need more delay and more relitigation in our legal system, then you should join me in voting against this bill.

It is no answer to say that this bill contains a one-year statute of limitations for filing habeas corpus petitions. That requirement is so riddled with exceptions that it is worthless.

We also hear much talk today about the need for better counsel in the trial of capital cases, and I am all for ensuring competent counsel. However, the draconian counsel provisions of this bill are designed to obstruct, delay, and prevent the imposition of capital punishment. I cannot support that. This bill would also turn over to private groups, such as capital resource centers, the authority for appointing counsel and evaluating their performance. I cannot support that.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is aware that the attorney general of Texas disagrees with the gentleman from Texas [Mr. CHAPMAN] and the gentleman from Texas [Mr. BROOKS], the gentleman is aware of that?

Mr. HARRIS. I am.

Mr. Speaker, this bill seeks to effectively overrule the Supreme Court's Strickland versus Washington decision in capital cases. I cannot support that.

We also hear much talk today about women's rights and interests, and I am certainly for that. In fact, I welcome this vote, because it is an important test vote for our commitment in the area of women's rights. We sent the conference committee a bill requiring HIV testing of rapists, and a bill that would fund HIV testing for rape victims. The conference committee deleted those provisions. We sent the conference committee a bill that mandated enhanced punishment for repeat sexual offenders. The conference committee deleted that provision. How can anyone who believes in women's rights and in protecting women victims of violent sexual attack justify what the conference committee has done to our bill? How can anyone vote to approve such utter contempt for the rights and interests of women and of the victims of violent sexual attack?

The Association of National District Attorneys is right. The attorneys general of more than 30 States are right. The victims groups are right. This bill is not an anticrime bill. It will hurt, not help law enforcement. It will hurt, not help victims and survivors of crime. I urge a no bill.

Mr. BROOKS. Mr. Speaker, I yield 15 seconds to the gentleman from Texas, [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I think one of the many things that Mr. HYDE, failed to investigate before coming to the floor today and speaking about is the nature of the Texas attorney general's office.

I say the gentleman from Illinois, Mr. HYDE, he would be interested to learn that the Texas attorney general is a civil official who has no power to prosecute criminal cases whatsoever.

Mr. HYDE. Mr. Speaker, I knew Mr. Maddox real well, his predecessor.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Ohio, [Mr. FEIGHAN].

Mr. FEIGHAN. I thank the gentleman for yielding.

Mr. Speaker, I want to start by expressing my gratitude to you, to Mr. SCHUMER, and to each of your hardworking staffs. This crime bill would not have been possible without your leadership, dedication, and endurance.

Although I fear that we are laboring in the shadow of a senseless veto, the bill before us is a good crime bill. It is a bill that members can be proud to vote for.

We can be proud because action on crime is something our constituents have demanded for two decades, ever since a wave of violent crime began to seriously erode the American way of life.

As a result, our children are growing up in a more frightening world, not just in our cities but in our suburbs, our small towns, and now in rural America where the largest increases in crimes of violence are taking place.

The time for a crime bill is long past overdue and now we have one. Let's pass it and get it to George Bush's desk.

Mr. Chairman, I don't claim that this is a perfect crime bill. The fact is that we don't pass much legislation that is perfect.

We can try for several more months to achieve a bill that would come closer to perfection but that would be pitting the ideal against the good. That would accomplish nothing but delay. Delay while the senseless slaughter on our streets continues.

The President has threatened to veto this bill. This would be a serious mistake. Quite literally a deadly mistake.

Because the Brady bill provisions of this legislation alone would save thousands of lives. We know that because handgun waiting periods in the various States that have already enacted them have stopped tens of thousands of illegal handgun purchases.

Criminals, the mentally incompetent, and drug addicts have not been able to complete their gun purchases because a waiting period, and the background check allowed by that waiting period, showed that they just shouldn't be armed with a handgun.

And they have been denied a handgun. And because of those denials, there are people walking the streets today who are alive and well because some criminal or addict just wasn't able to buy a handgun the way he could buy a tube of toothpaste.

But there is another side to that coin. It is the thought of all the men, women, and children who will not be with us this Thanksgiving because there was no law in place to stop some felon from buying a gun and ending their lives. Men, women, children. All races, all colors, all creeds.

People who should be with their families but are, instead, wept over as victims. Victims of handgun violence and victims of a system that refuses to do anything about it. At long last, let's do something. Let's pass this bill.

There are other good reasons to support this legislation. It includes the Anti-Terrorism Act of 1991, which will finally provide the families of victims of terrorism with a civil cause of action to seize the assets of terrorist organizations.

It also includes the Law Enforcement Scholarship Act which, by providing scholarships for career police officers, will help improve police effectiveness and reduce the number of citizen complaints against officers.

In conclusion, there are numerous reasons to support this crime bill and there is not one good reason to oppose it. House passage of this rule and this bill will represent a rare victory in the war against crime. A defeat here today or a veto by the President will represent nothing less than a surrender to forces that threaten to destroy us.

Mr. HYDE. Mr. Speaker, I yield 1½ minutes to the learned gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Speaker, Members of the House, the reason that we oppose this bill, we who are proponents of the death penalty, of the exclusionary rule, of reform in habeas corpus, the basic reason we oppose this bill is the careless provisions and the flawed provisions contained therein.

For instance, how many will remember the drive-by shooting debate we had in the House for the last two sessions? This bill maintains that a drive-by killer can only be convicted and be subjected to the possibility of the death penalty if there would be an intentional killing.

All the drive-by shooter has to do, under the version presently before us, the drive-by shooter simply has to show that he did not intend to kill, because the verbiage talks about an intentional killing.

That is not what the House proposed before, that is not what the House agreed upon.

We know and the general society knows that a drive-by killer, which is a scourge on our streets, who has to be driven from our streets when he acts with reckless disregard for the lives of people who are in the streets, that individual should face the possibility of the death penalty, a big flaw in this bill.

Mr. BROOKS. Mr. Speaker, what is the time remaining?

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] has 5¾ minutes remaining, and the gentleman from Illinois [Mr. HYDE] has 3 minutes remaining.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished former member of the Committee on the Judiciary, now with the Committee on Appropriations, the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding, and I commend the Committee on the Judiciary.

Mr. Speaker, this is a test of will. This is not just an anticrime bill, of epic proportions for us, this is a test of will. Is the will of the collective American people in this country going to win or are the Republicans going to win? Are they going to say that this is a procrime bill and get away with it? Or are we going to deny them the chance to deny the American people the relief they have been asking us for for years?

This is a test of will. Will we pass this, send it to the Republican President and have him veto it, so that the American people will know once and for all who stands with them and who wants to play only a game, in name only, because they just want to win for show so that they can be perceived as being against crime? They have handled white-collar crime the most miserably of any administration in the history of this country.

We are not anticrime, according to them.

□ 0820

According to them we are pro-crime, but according to their record they are pro-crime. I say, You vote for this bill, you're going to tell the American people exactly where the Democrats stand, with them in the fight against crime.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished former sheriff the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I supported the bill in its original form. I oppose the bill now.

I say this to the Members of Congress as a former sheriff: We should attach a tax credit provision to this bill so every American citizen could go out and buy a flak jacket because this bill declares open season.

Mr. Speaker, I cannot believe that conference threw out the assault weapons, the ban on assault weapons. My colleagues, with all the death sentences we are talking about, we will be sentencing more Americans to the death penalty on the streets of America than we will criminals in court.

Now I am not going to take a lot of time, and I am not here to impress everybody or to maybe make a lot of friends. Congress is not going to deal with crime on the streets until they take a look at guns, and, if the NRA is going to write the gun laws of America and Congress is going to wimp out, we will never deal with the issue.

Now the NRA and the police should not be apart. They are both honorable groups. We have got to bring it together. We had an instrument. The President wants a death penalty. We backed off in Congress, and we declared open season on the American people.

How can I justify, as a former sheriff, having policemen on the streets when these bums have more firepower than they do?

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, as the gentleman from Ohio [Mr. TRAFICANT] knows, the President opposed the assault weapon bill.

Mr. TRAFICANT. I am not dealing with the President opposing it, and, if the gentleman from Texas [Mr. BROOKS] would yield me some time, I would explain my position.

Democrats and Republicans should be sitting down with the NRA. The NRA and policemen should be friends. We all stand for the same things, but, my God, you cannot have drive-by, drive-through, drive-in, drive-by murders.

Mr. Speaker, I would wish that we would consider that issue if this bill gets vetoed and we do not have the votes to override it.

I thank the gentleman from Illinois [Mr. HYDE] for yielding this time to me.

Mr. BROOKS. Mr. Speaker, I yield 2½ minutes to the gentleman from New York [Mr. SCHUMER], the distinguished chairman of the Subcommittee on Crime and Criminal Justice.

Mr. SCHUMER. Mr. Speaker, we have before us the toughest crime bill that has been before this body in 20 years, and we have a choice. Our choice is a simple one. Are we going to say, because the bill does not have this, or this, or this, I am going to oppose? Or are we going to vote for a bill that contains tough provision after tough provision?

I ask my colleagues, Do you want to go home and explain your vote against a bill that calls for the death penalty for drug kingpins? For child sex abuse? For terrorism? For killing cops? You going to explain that to your constituents? Do you want to go home and explain to your constituents and explain to yourself that you voted against increased penalties for using a gun on the street? Five years mandatory for the first penalty, 10 years mandatory for the second, 15 for the third? A provision written by the gentleman from New Mexico [Mr. SCHIFF] on that side of the aisle? Do you want to go home and explain to your constituents why you voted to allow those on death row to have 8, or 9 or 10 appeals rather than the one in this bill? Do you want to go home and explain to your constituents why you voted against more prisons so that the prisoners, the criminals, wouldn't be out on the streets? Do you want to go home and explain to your constituents why you voted against money for cops on the beat when in so many areas of this country we do not see a police man anymore? Do you want to go home and explain to your constituents why you voted against mandatory minimums for terrorists? Who frightened so many and killed some of us?

Mr. Speaker, I say to my colleagues, If you want to do all that, my colleagues, pick a little reason that you're opposed to this bill and vote no. But I would argue to you that you're doing the wrong thing substantively because you're preventing the American people from getting good anti-crime protection, and you're also doing the wrong thing politically because I can make a much better 15-second spot pinning on you why you voted against all these tough provisions than you can explaining the Teague decision to me.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF], the former state's attorney and a member of the ill-starred conference committee.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman from Illinois [Mr. HYDE] for yielding this time to me.

Mr. Speaker, I was a prosecutor for 14 years, and, as a member of the Subcommittee on Crime and Criminal Justice, I want to say there are some provisions, including provisions written by the gentleman from New York [Mr. SCHUMER] with which I approve. But this bill went wrong. This bill went wrong in conference when there was a Hail Mary pass from House Committee on the Judiciary Democrats to Senate Judiciary Democrats which selected the weakest possible position right down the line on priority issues, and my colleagues know that to be the case because that is why the National District Attorneys and the National Attorneys General opposed this bill.

In addition to that situation, there are provisions in this bill that Members of the House have never voted to approve. For example, this bill says that anyone who wants to buy a hunting rifle will have to go through a police background check, and the House, for all of its accepting the Brady bill, never accepted that. The point is that we do not have to choose between this bill and no bill.

Mr. Speaker, we will offer a motion to recommit to conference to cure the evils that we have described so that we can pass a crime control bill, not a crime encouragement bill.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, 1 month ago, I voted for H.R. 3371, not because I supported every provision of the bill, but because I felt that several important amendments added backbone to a bill introduced with weaknesses in major areas. It took 3 days, but this body was able to put teeth in this bill, extending the good faith exemption and turning back a criminal protection measure mistakenly described as a fairness in Death Sentencing Act. The Brady bill was included as well, demonstrating to me that the legislation, although still lacking strength in such important areas as habeas corpus reform, nonetheless was headed in the right direction.

I was optimistic that the conferees would continue in this vein, bringing us a truly tough on crime bill. It was not to be. These chosen few conferees set about dismantling much of the progress we had made, disarming some of the most significant portions of the bill. When faced with a choice, they repeatedly and deliberately chose the weaker provisions. The legislation we are left with today is nothing but a shadow. It's a big step backward and I cannot support it.

Mr. Speaker, this country is crying out for help. Our streets are unsafe, and an increasing number of juveniles have found that crime pays. Obviously we're failing in our efforts to deter violent crime. What astounds me is that the House and the other body did adopt strong stances on provisions to empower our police forces, streamline our judicial process, and protect victims with the same vigor that we use to protect criminals. So why then, with the tools available to them, and good legislation on the table, did the conferees gloss over other major provisions that would have made a difference to the American people? I am willing to compromise, but this is more like full surrender—I urge my colleagues, don't settle for next to nothing—vote "no" on the conference report.

Mr. BROOKS. Mr. Speaker, I yield myself 2¼ minutes.

Mr. Speaker, I would like to close with a few words of friendly advice for my fellow Texan down on Pennsylvania Avenue. My advice is simple: Mr. President, you don't need another civil rights bill fiasco right now. You don't need to be proclaiming your belief in a principle at one moment and then to be shown trying to undermine that principle that next moment. That only produces embarrassment—not just for the President but for our system of Government.

This President has expended tremendous energy over the past 3 years proclaiming how tough he want to be on crime. He has a chance to put those words into action by working with us here in the Congress to enact this bill. If the President really wants a crime bill, instead of just talking about crime, he can pick up the phone and ask his troops here and in the other body to get with the program. And then, he can pick up his pen and sign this tough and comprehensive anticrime measure.

If the President fails to do this, the burden is on him to tell the American people why he is against putting cops back on the beat, why he's against steering youthful offenders away from a life of crime, why he is against the death penalty for drug kingpins who kill, for torturers, rapists, and terrorists who kill. The President has quite enough to explain these days. He may not wish to explain why voting against a crime-fighting bill will somehow be in the best interest of the American people. I urge the Members to support this conference report.

□ 0830

Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I rise in opposition to this bill.

Mr. MCMILLEN of Maryland. Mr. Sepaker, no question exists that the rampage of crime continues in this country and that we must seek ways in which to stem this violence. The House Judiciary Committee has spoken wisely on a number of improvements to the U.S. Criminal Code, and I support the legislation we consider today. However, in our zeal to fight crime in the streets of America we must not lose sight of the fact that any changes made to the United States Code must be done with full respect for the U.S. Constitution.

My votes on H.R. 3371, the Omnibus Crime Control Act of 1991, have reflected my belief in the essential integrity of the Constitution. I believe that its directives are unassailable and that this body should not radically alter its direction.

I opposed the McCollum amendment which would expand the exclusionary rule to allow the admissibility of evidence into a criminal proceeding which is obtained illegally. The committee legislation allows certain "good faith" exceptions when evidence is obtained by a law enforcement officer with a warrant. The McCollum amendment extends the admissibility of such evidence to instances where no warrant is involved. I find this an abridgement of the rights of unfair search and seizure, as guaranteed under the fourth amendment of the U.S. Bill of Rights.

My votes on habeas corpus reform further demonstrated my belief in fundamental consitutional rights. A strong case is made that the extreme workload which inundates our Federal court system demands action. We need to take steps to curb excessive and unnecessary petitions and appeals; however, that does not mean we need to sacrifice the writ of habeas corpus for reasons of expediency. The committee legislation included significant reforms without destroying the fundamental right for a Federal review of a State court decision. For these reasons, I opposed the Hyde amendments on habeas corpus.

A particularly difficult vote for me was to support the Volkmer amendment on semiautomatic firearms. While I strongly agree with the need to address the issue of urban crime and spreading violence, I felt that in our efforts to break this downward cycle of violence, we must be careful to not inadvertently ignore the rights of law abiding citizens who seek to own guns for legitimate reasons.

All of my gun control votes have been consistent in one regard; they are based on the premise that we must make it as difficult as possible for criminals and the deranged to obtain illegal and dangerous firearms, while at the same time being respectful of the right of the responsible citizen to have unfettered access to a firearm. Unfortunately, the ban proposed in the original legislation was imprecise in its construction; it denied legitimate uses of certain guns, and it would unfairly and negatively impact domestic manufacturers.

If we really want to address the issue of criminal use of semiautomatic weapons and to limit violence, we should not try to simply ban certain categories of rifles, but, rather, look into other alternatives as cooling-off or waiting periods between the sale of a firearm and its transfer. This is a way in which we need not infringe upon legitimate gun owners' rights, while achieving the aim of controlling crime. Previously, I have supported a waiting period for handguns, and see potential in extending this to other areas. The effectiveness of this approach has been demonstrated by various States, including my home State of Maryland.

The Congress cannot ignore the plague of violence rippling through our society. Men, women, and children of all ages and of all races face the streets in fear of their own lives and property. This legislation we consider today is a positive step to addressing the problem of crime in America. By giving law enforcement officers and prosecuting attorneys more tools to catch and convict criminals, we are taking steps toward ridding our society of crime and returning the streets to the people.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of the conference report on H.R. 3371, the crime bill. I want to commend Chairman BROOKS for his leadership in bringing back to the House floor a conference report which fundamentally addresses the many complex and controversial issues which divided the two Houses.

I am particularly pleased that all of the revenue measures in the Senate amendment have been deleted from the conference report. It has been our consistent position that, in order to preserve the constitutional prerogatives of the House of Representatives, that revenue measures added by the Senate to a nonrevenue bill are not acceptable.

There is one such Senate provision, however, that I believe deserves further study. Section 4917 of the Senate amendment would authorize up to $30 million of unobligated funds to be transferred out of the Customs forfeiture fund to the Department of Health and Human Services to be expended for drug treatment for individuals under criminal justice supervision. I strongly believe that there is a great need to increase funding for drug treatment programs, and I have committed to holding a public hearing on this matter in the Committee on Ways and Means early next year to explore the merits of funding such programs out of the Customs forfeiture fund.

Mr. Speaker, this is an important matter and I want to assure my colleagues that it will receive the serious attention of the Committee on Ways and Means.

Mr. KOPETSKI. Mr. Speaker, I rise today in support of the conference report. Before I continue, I want to commend Chairman BROOKS for his diligent efforts and those of the Judiciary Committee staff in putting this conference report together in such a short period of time. I also want to recognize the efforts of Congressman CHUCK SCHUMER and Congressman DON EDWARDS for their efforts in this process.

This is my first crime bill as a Member of this body. I've heard a great deal of talk from

Members on both sides of the aisle that we need to be tough on crime. Well, I contend that this bill is tough on crime. This is a comprehensive crime prevention package—31 titles and over 900 pages. This is a package that Members can take home and of which to be proud.

Much attention has been given to the "big ticket" items such as the exclusionary rule, habeas corpus reform, a ban on assault weapons, and coerced confessions.

These are important but are only parts of the whole. Important parts of this bill are not being discussed. I meet on a regular basis with the law enforcement community in my district. Their primary concern is Federal assistance to the communities and strong prevention programs. Mr. Speaker, the bottom line is that this legislation goes a long way toward this end.

In this context, H.R. 3371 demonstrates clearly that this Congress is serious about waging the war on crime by engaging in a partnership with our States and local governments. Mr. Speaker, we need to dedicate ourselves to the war on crime in the same manner in which we mobilized for Operation Desert Storm. H.R. 3371 does this.

Mr. Speaker, the fact remains fighting crime costs money. Enhanced penalties, minimum sentencing, and the addition of new crimes to Federal jurisdictions requires additional judges, court personnel, court rooms, and personnel costs including an increase in the monies for indigent defense costs. If we increase the burden on the criminal justice system, let's make sure at the same time we increase the resources for the system to handle that burden. This bill does this by increasing the authorization for the Federal law enforcement agencies to $345.5 million and providing a $1 billion authorization for the Safer Streets and Neighborhoods Act.

Beyond this authorization, H.R. 3371 establishes a series of new grant programs that will promote the prevention of crime and will help end recidivism in the criminal justice system. I want to take this opportunity to highlight a few of these programs.

On the prevention end, H.R. 3371 establishes the Community Policing: Cop on the Beat Program; title XI, subtitle E. This program will put police officers back into the community through Federal-State-local cooperative grants. These grants will help State and local police departments and local community groups develop innovative, neighborhood-oriented policing programs.

H.R. 3371 also establishes an authorization to expand the successful Midnight Basketball Program, title XI, subtitle H, on a nationwide basis. This program keeps young people off the streets and away from drugs, alcohol, and crime during the hours of 10 p.m. and 2 a.m. It provides 80 young people in a given community with safe haven from the streets. The Midnight Basketball Program also requires that players attend employment counseling, job training, and education classes. This is a crime prevention measure that will have immediate impact on our communities.

Mr. Speaker, this bill also provides $200 million for grants to States and local governments to ensure certainty of punishment and promote reduced recidivism among young offenders. The Certainty of Punishment of Young Offenders title, title XI, subtitle J, encourages States and local governments to develop alternative methods of correctional and rehabilitation options including boot-camp prisons, community-based incarceration, weekend incarceration, intensive probation, electronic monitoring, home confinement, vocational and educational options, and restitution programs. I offered an amendment to this title on the floor that made sure that treatment and counseling of substance abuse include alcohol abuse, a serious problem to law enforcement officers in my district and I understand, across the country. This program will be an effective tool in turning young people away from a life of crime.

To facilitate the apprehension of criminals, H.R. 3371 works on two levels. First, H.R. 3371 provides $30 million for law enforcement scholarships to send rank and file members of our law enforcement agencies back to school for further professional development. This will help police officers better use the developing technologies of the 21st century in fighting crime.

Second, H.R. 3371 sets up a uniform program to deal with the latest technological breakthrough in fighting crime, DNA identification [title XI, subtitle B.] This program seeks to improve the quality and availability of DNA analyses for law enforcement identification purposes by setting uniform standards and establish a national index of DNA profiles of convicted offenders. H.R. 3371 will help State and local law enforcement agencies to use effectively this valuable technology.

To end recidivism, H.R. 3371 attacks the problem of drug abuse among individuals in the criminal justice system. I was appalled to learn that there are waiting lines in the Federal penal system for inmates attempting to obtain substance abuse treatment and counseling. Recent statistics show that 60 percent of all prisoners suffer from drug or alcohol abuse. Section 1404 of H.R. 3371 requires that Federal prisons provide residential substance abuse programs for all prisoners who seek such treatment by fiscal year 1995. Studies show that prisoners who undergo such treatment are much less likely to reenter the criminal justice system after release. H.R. 3371 also provides technical and financial assistance to States to establish a similar program for State corrections facilities.

These are but a few of the programs that will make a real difference in the war on crime. H.R. 3371 also offers tough sentences. For those who believe that death penalty is a deterrent, H.R. 3371 has 50 new death penalty offenses. This bill also strengthens sentences for crimes involving firearms, child abuse, sexual violence, and terrorism. These are tough provisions.

Lastly, Mr. Speaker, I want my colleagues to know that while being tough on crime, we must be responsible. Responsible to our Federal Constitution. H.R. 3371 provides a "good faith" exception to the exclusionary rule for seizures conducted under invalid warrants.

H.R. 3371 also streamlines the Federal habeas corpus process by establishing a 1-year statute of limitations for death penalty habeas corpus cases. Mr. Speaker, this habeas corpus reform is supported by Federal and State judges, attorneys general, the American Bar Association and over 370 law school professors.

Why is habeas corpus so important? The American Bar Association has found that in 40 percent of death penalty cases reviewed by the Federal courts, the State court conviction or sentence was based on serious violations of constitutional rights. This is not to say that 40 percent of these convictions were thrown out; it simply meant that the defendant was entitled to a new trial or new sentencing. After retrial or resentencing, some of these people were fairly retried, others were resentenced to life terms, others were acquitted of all charges, and yes, still others faced their original sentence.

Mr. Speaker, our founding fathers fought for the right of habeas corpus to ensure that the State will not wrongfully punish citizens. In this year of the bicentennial of the Bill of Rights, we are affirming the importance of habeas corpus.

Mr. Speaker, this bill represents a compromise. There are parts of this bill that I do not support including the waiting period on the purchase of handguns and the drastic increase in the number of death penalty offenses. I am supporting this legislation because the people of this country want this Congress to enact a comprehensive crime fighting package now. There is much good in it. Mr. Speaker, this is such a package. I urge my colleagues to support this conference report.

Mr. MORAN. Mr. Speaker, it is with great regret that I rise today in opposition to the conference report on H.R. 3371, the Violent Crime Prevention Act of 1991.

Our constituents are afraid. They are seeing their cities and their children being destroyed by senseless gun violence. They are seeing their schools and their communities pervaded by crack and other highly addictive drugs. They feel that their local police and courts have become powerless as more drug dealers and criminals are set free because our prison systems is too overcrowded. They are enraged that justice is not swift and that the same appeals system established by this Nation's Founding Fathers to protect individual liberties is now being used to tie up our courts and to escape punishment.

Our constituents, our police officers, our judges, and public attorneys turned to Congress asking for the tools to fight the war on crime. We have let them down.

Our constituents asked us to bring an end to the proliferation of high-powered assault weapons, fueling the ever rising homicide count. We let our constituents down. The conference committee failed to enact a ban on the domestic manufacture and sale of assault weapons.

Our court officials asked us to limit the numbers of habeas appeals choking our judicial system and preventing victimized families from resolving their pain. We let our constituents down. The conference committee failed to substantially reform the system of habeas corpus appeals.

Our constituents in the South and in urban enclaves across this country asked us to ensure that the death penalty was being administered fairly. We let them down. The conference committee struck the Fairness in

Death Sentencing Act which passed the House of Representatives.

In point after point as we go through this legislation, we see that this bill does little to protect our constituents. In page after page, as we go through this bill, we see that this legislation does not fight crime and will not make our streets any safer, our courts any more efficient, or our families and children any more secure.

It is thus, with regret that I am voting against this version of the Violent Crime Prevention Act of 1991. I hope that the Congress can readdress this issue next year and ensure that we develop a package that does protect our constituents and regains the offensive in our war on crime.

Mr. BLACKWELL. Mr. Speaker, we can't give life and we certainly don't have the God given right to take a life. This bill establishes 50 different reasons to take a life. But it does not and can not legislate a way to correct a mistake. No appeals can bring anyone back from the dead. Death makes all mistakes final.

I will never forget the case, many many years ago, of Corine Sykes, a black woman who was convicted and executed before her innocence was discovered. She died after being judged by a justice system that is not completely color blind, a justice system that is too often blinded by skin color and economic status. Repeated evidence continues to prove that the death penalty is applied in a racially biased manner. I point to the last year's General Accounting office study. It found that 82 percent of those convicted of murdering nonminority victims were more likely to be sentenced to death than those convicted of murdering minority victims.

For the life of me, I simply can not understand how we can consider, on one hand, the death penalty, and reject, on the other hand, legislation that will regulate the sale of assault type weapons. Are we saying that it is all right to sell a weapon that can only be used to kill people. But now, in fine print, we are saying if you kill, we will kill you? Today, we are debating a bill that calls for death sentencing for 50 crimes; 50 crimes. What's next, 100 crimes or 200 crimes?

I firmly believe that those convicted of committing the most heinous crimes should be incarcerated for as long as our penal system permits. But does this Congress or anyone have the right to decide when someone should live and when someone should die? No.

Does our justice system have the ability to fairly decide who should die? No.

Mr. Speaker, until we can answer yes to both of these questions with a clear conscience, I will continue to vote "no," on this and any future bills which call for the use of the death penalty.

Mr. VENTO. Mr. Speaker, I rise in opposition to the conference report to H.R. 3371.

I want to acknowledge the conferees for their work in attempting to develop an acceptable conference report. While I applaud the conferees action in including a compromise 5-day waiting period for handgun purchases and an associated background check by local law enforcement officials, nevertheless, I oppose the adoption of the conference report.

I remain concerned by the so-called habeas corpus reform provisions previously adopted in the House which purport to streamline the implementation of the death penalty on State prisoners. Of all the circumstances where the Government should be concerned with guaranteeing the highest standards of due process of law, certainly a prisoner facing the ultimate penalty in our society, the loss of their life, deserves the most thorough and searching scrutiny of the facts in his or her case. But the conference report before us today does not meet that strict standard. Instead, it unmistakably compromises the constitutional right of habeas corpus by adopting a totally arbitrary timetable which insists that in most instances the only legally or factually relevant issues in a capital case must be asserted by a defendant within 1 year after direct appeals have been exhausted. For the unfortunate defendant who discovers exculpatory facts after this 1-year period has run, it may simply be too late to correct an injustice if a judge makes a subjective finding that the facts could have been discovered through "due diligence" by the defendant earlier.

In summary, the provision on habeas corpus reform, despite the best intentions of its proponents, tampers with the Constitution. The writ of habeas corpus was considered so important to the founders of our country that it predated the Bill of Rights and was included in article 1, section 9 of the Constitution itself.

In the Civil War, when a civilian was sentenced to death by a court martial, even though the local grand jury had refused to indict him, his life was spared when the Supreme Court granted a writ of habeas corpus in the case of Ex Parte Milligan. When Americans of Japanese descent were confined against their will in internment camps during World War II, again it was the writ of habeas corpus that finally won their release in the case of Ex Parte Endo.

Today, some of the proponents of habeas corpus reform insist that too many habeas corpus petitions are frivolous and bog down the courts in seemingly endless paperwork. However, according to the American Bar Association, petitions for habeas corpus are granted in 40 percent of all capital cases. Surely, the constitutional right of habeas corpus is important enough to avoid shortcuts in the name of some vague notion claiming judicial efficiency or because it may be politically popular today.

Mr. Speaker, I also oppose the significant expansion of the list of Federal offenses where the death penalty may be imposed to some 50 crimes. No one would suggest that these offenses are not heinous crimes. In most instances of sentencing for serious crimes, judges and juries have considerable latitude in determining a proper sentence, many of which may be severe, such as life imprisonment without possibility of parole. However, there are still wide variations among different jurisdictions about those circumstances where a judge or jury may elect to impose the death penalty. I am concerned that the conference report will increase rather than minimize such arbitrary disparities based on race, socio-economic status, and the proficiency of a defendant's legal counsel. Indeed, when the House considered the Judiciary Committee's bill, H.R. 3371, a provision designed to protect against racial discrimination in capital sentencing was dropped from the bill altogether. There may be many aggravating factors which a judge or jury should weigh in assessing a criminal sentence, but the defendant's race should never be one of those factors. Regrettably, this conference report does not make that unequivocal statement.

Finally, I am concerned that the conference agreement codifies into law a judicially crafted good-faith exception to the exclusionary rule relating to illegally seized evidence or illegal police conduct. Under this 1984 Supreme Court ruling, evidence will not be excluded if it was obtained in good faith reliance on a warrant, even if the warrant is ultimately determined to be invalid. The reality of most criminal cases in Federal and State courts today is that convictions are won or lost on the weight of numerous exhibits of evidence rather than only one smoking gun.

A good faith exception to the warrant requirements of the fourth amendment invites police, prosecutors, judges, and juries to engage in a game of subjective speculation about what was in the minds of police when they occasionally may not act in accord with the full rights of the defendant being observed. At the same time, the so-called good faith exception will erode the prevailing standards for the overwhelming majority of police officials who have learned over the past quarter century since Mapp versus Ohio to comply with constitutional requirements. The most certain route to obtaining criminal convictions against guilty defendants is still good solid police work combined with strict adherence to the guarantees of the Bill of Rights.

For these reasons, Mr. Speaker, I oppose the adoption of this conference report.

The SPEAKER pro tempore (Mr. PANETTA). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT

Mr. HYDE. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. HYDE. Most definitely, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HYDE moves to recommit the Conference Report on H.R. 3371 to the Committee of Conference on the disagreeing votes between two Houses with the following instructions to the Managers on the part of the House to insist on the following provisions in the House bill:

Title V, Subtitle B, Restitution of Crime Victims;

Title V, Subtitle C, HIV Testing of Sex Offenders;

Title XII, Subtitle B, Retired Public Safety Officer Death Benefit;

Title XV, Section 1505, Drug Distribution to Pregnant Women;

Title XVI, Equal Justice Act;

Title XVII, Section 1714, National Baseline Study on Campus Sexual Assault;

Title XVII, Section 1720, Exclusionary Rule;

Title XVII, Section 1724, Increased Penalties for Recidivist Sex Offenders;

Title XXIII, Death Penalty Procedures;

Title XXIV, Death Penalty;

And to insist on the following provisions in the Senate bill:

Title V, Subtitle A, Aviation Terrorism;

Title V, Section 514, Offenses of violence against maritime navigation or fixed platform;

Title XLVIII, Public Corruption;

Title XI, Subtitle B, Death Penalty Litigation Procedures for Habeas Corpus proceedings, except for 2259(b);

And to disagree to the following House provision:

Title IX, Coerced Confessions.

And to insist that the text of H.R. 7, the "Brady Bill", as it passed the House, be included in H.R. 3371.

The SPEAKER pro tempore. The Chair would advise the Members that this motion is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HYDE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were yeas 174, nays 237, answered "present," 1, not voting 22, as follows:

[Roll No. 442]

YEAS—174

Allard
Allen
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Browder
Bunning
Burton
Byron
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Harris
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lehman (FL)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Moran
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shays
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—237

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (UT)
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Washington
Waters
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—22

Aspin
Barton
Bevill
Broomfield
Brown
Campbell (CA)
Collins (IL)
de la Garza
Dickinson
Fish
Hansen
Marlenee
Montgomery
Ortiz
Owens (NY)
Peterson (MN)
Pickett
Roe
Shaw
Shuster
Traxler
Waxman

□ 0856

Messrs. DREIER of California, ALLARD, LEACH, GINGRICH, CRAMER, PALLONE, and EDWARDS of Oklahoma changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LEHMAN of Florida. Mr. Speaker, I rushed in at the last minute. I thought I was voting on final passage. Instead I voted "yes" on the motion to recommit, and I should have changed the vote to "nay."

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. MICHEL was allowed to proceed out of order.)

Mr. MICHEL. Mr. Speaker, I yield to the distinguished majority leader for the purpose of determining how much more we have to do and how soon we get out of here and so forth.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding and I wish him good morning. I never said where the sun was going to come up.

We are moving now to the vote on the crime conference. We will then move to the banking bill. There will be a rule and then that matter under conference.

We will then move to a rule on RTC, and that bill, and we have one other matter that is a must to try to get done and has to do with the Medicaid legislation that affects many of the States.

That matter is now in conference and should be ready shortly.

□ 0900

It is impossible for me to give Members a definite, absolute firm time. Each of these matters could be done in 2 hours, could be done in less than that, and obviously we are going to press to move these matters as quickly as we possibly can so that Members can make their planes.

Mr. MICHEL. Might I inquire of the majority leader then, if everything falls into place as he has outlined, would it then be in order for us to pass an adjournment resolution that takes us to January 3, with the usual caveat that the leaders, in agreement, could within a 2-day notice call reconvene the Congress?

Mr. GEPHARDT. I believe the undertaking is to try to pass a resolution that calls for an adjournment to a date certain of January 3, with the ability of the leadership to call Members back if that needs to be done for any reason, and from the 3d then to the 23d of January, with the same caveat, and the ability of the leadership to call Members back.

Mr. MICHEL. The gentleman anticipated my next question, because I wondered whether or not we would do that adjournment resolution now? That is perfectly all right, and I guess there has to be a kind of a recess to the 3d to get the other leg of that accomplished.

Mr. GEPHARDT. If the gentleman will yield back to me, it would be a concurrent resolution, and we can go right to the banking bill and we will do that, and take up the adjournment resolution a little bit later in the schedule.

Mr. MICHEL. I thank the gentleman.

The SPEAKER pro tempore (Mr. HOYER). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 203, answered "present' 1, not voting 26, as follows:

[Roll No. 443]

AYES—205

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Annunzio
Anthony
Applegate
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Darden
DeFazio
DeLauro
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Morella
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Obey
Olin
Olver
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickle
Poshard
Price
Rahall
Ramstad
Ray
Reed
Richardson
Rose
Rostenkowski
Rowland
Russo
Sangmeister
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Stark
Stenholm
Studds
Swett
Swift
Synar
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Traxler
Unsoeld
Valentine
Visclosky
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Walsh
Waters
Weber
Weiss
Weldon
Williams
Wolf
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—203

Allard
Allen
Andrews (ME)
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Browder
Bunning
Burton
Byron
Callahan
Camp
Campbell (CO)
Chandler
Clay
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dellums
Dixon
Doolittle
Dornan (CA)
Dreier
Duncan
Dymally
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Flake
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Gilchrest
Gillmor
Gingrich
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Harris
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Kildee
Klug
Kolbe
Kolter
Kyl
Lagomarsino
LaRocco
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Moran
Morrison
Myers
Nagle
Nichols
Nussle
Oberstar
Orton
Owens (NY)
Oxley
Packard
Parker
Paxon
Payne (NJ)
Pease
Perkins
Petri
Porter
Pursell
Rangel
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sanders
Santorum
Sarpalius
Savage
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Serrano
Shays
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stearns
Stokes
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Towns
Traficant
Upton
Vander Jagt
Vento
Volkmer
Vucanovich
Walker

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—26

Aspin
Barton
Bevill
Broomfield
Brown
Campbell (CA)
Collins (IL)
de la Garza
Dickinson
Dwyer
Fish
Hansen
Marlenee
Montgomery
Ortiz
Peterson (MN)
Pickett
Quillen
Roe
Roybal
Sabo
Shaw
Shuster
Staggers
Washington
Waxman

☐ 0919

The Clerk announced the following pairs:

On this vote:

Mr. Ortiz for, with Mrs. Collins of Illinois against.

Mr. Waxman for, with Mr. Marlenee against.

Mr. Brown of California for, with Mr. Shaw against.

Mr. JAMES changed his vote from "aye" to "no."

Mr. FORD of Michigan changed his vote from "no" to "aye."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOYER). All time has expired.

On this vote, the yeas are 205, the nays are 202.

The Chair will announce there was a change. There was an additional "no" vote by card that was not indicated on the slip that was handed to the Chair. The Chair's announcement made a mistake.

The Clerk. Mr. MORAN. Mr. MORAN votes no.

The SPEAKER pro tempore. When the slip was handed to the Chair, the tally clerk had not registered the vote, so that when the Chair took the slip, the Chair read a slip that did not register a vote that was on the front desk here.

Mr. GINGRICH. From our side, Mr. Speaker, let us calm that down. It has been a long, long night. A few minor errors can occur.

We thank the Chair for trying to make sure that every Member is protected in a difficult time when we are all a little tired.

The SPEAKER pro tempore. There were 205 votes in the affirmative, 203 in the negative.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, unfortunately, I missed three rollcall votes. Had I been present, I would have voted "nay" on rollcall 437, House Resolution 309, passage of the rule on the fiscal 1992 supplemental appropriation conference report; "yea" on rollcall 438, passage of House Joint Resolution 157, the fiscal 1992 supplemental appropriation conference report; and "nay" on rollcall 444, on passage of House Resolution 320, the rule providing for consideration of H.R. 3435, a bill to provide funding for the Resolution Trust Corporation.

PERSONAL EXPLANATION

Mr. PICKETT. Mr. Speaker, I was unavoidably absent from the House of Representatives due to official business. I wish to have the RECORD indicate that had I been present and voting, I would have voted in the following manner:

On rollcall vote No. 437, "yes"; on rollcall No. 438, "yes"; on rollcall No. 439, "yes"; on rollcall vote No, 440, "yes"; on rollcall vote No. 441, "yes"; on rollcall vote No. 442, "no"; on rollcall vote No. 443, "yes"; and on rollcall vote No. 444, "yes."

PERSONAL EXPLANATION

Mr. ROE. Mr. Speaker, due to a meeting away from the Capitol, I was unable to be present during rollcall vote 442, motion to commit with instructions H.R. 3371 and No. 443, final passage of H.R. 3371, Omnibus Crime Control Act. Had I been present I would have recorded my strong support of this legislation by voting "nay" on rollcall No. 442, the motion to recommit and by voting "yea" on rollcall No. 443 final passage.

□ 0920

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have the rest of this session in order to revise and extend their remarks on the conference report just adopted.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Texas?

There was no objection.

DEFENSE PRODUCTION ACT OF 1950 EXTENSION

Mr. CARPER. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 3919) to temporarily extend the Defense Production Act of 1950, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to my friend and colleague from Delaware [Mr. CARPER] for purposes of an explanation.

Mr. CARPER. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Delaware.

Mr. CARPER. I thank the gentleman for yielding.

Mr. Speaker, the Defense Production Act has expired as of September 30 of this year. The purpose of this extension—and I will be asking for an amendment to this unanimous consent request in just a moment—what we really want to do is extend the Defense Production Act during our recess to March 1, 1992. During the next 2 months we will work out a conference report and bring it to the full House.

Mr. RIDGE. Is it my understanding that the gentleman has been in consultation with our colleagues in the other body and they have agreed to the extension of this period of time and they have also agreed and believe that we can finally come to a conclusion by March 1 of next year on the Defense Production Act, which we have been working on for well over a year now?

Mr. CARPER. If the gentleman will continue to yield, I think we have reached a meeting of the minds. One element that sort of kept us apart, fair trade and financial services, I think we are fairly close to an agreement on and we hope to reach that by March 1 and put this one to bed.

Mr. RIDGE. Mr. Speaker, I appreciate the gentleman's explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1991" and inserting "March 1, 1992".

SEC. 2. EFFECTIVE DATE.

This Act shall take effect on September 30, 1991.

AMENDMENT OFFERED BY MR. CARPER

Mr. CARPER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARPER: Page 1, line 7, strike out "March 30" and insert "March 1".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Delaware [Mr. CARPER].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will be pleased to recognize those Members who may want to address the House for 1 minute pending the arrival of additional business.

THE PRESIDENT WAFFLES ON HIS ECONOMIC PACKAGE

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, as we enter these final hours of this session, I think that we can be proud of this Congress in achieving significant goals, significant goals on crime that just passed, on banking reform, a number of areas.

But one of the things that troubles us is a President who cannot seem to get it straight. First, he wants an economic package brought to the Congress, then he does not; then he does, again, then he does not.

It seems to me if we are serious about resolving this economy, we need more than presidential press conferences or presidential photo ops, Mr. Speaker.

We need a President who comes up here and engages the real issues of the economy. From Connecticut to California, we have an economy where workers are losing their jobs, they are losing their homes, and they can no longer afford to send their children to school.

Mr. President, stop taking photo ops; Mr. Speaker, bring the President here to work with us to try to heal this economy.

FUTURE HEARINGS SET FOR ECONOMIC GROWTH DEBATE

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the Congress is going to embark on some hearings in the month of December on the subject of economic growth. We will have had by then a sufficient dose of partisanship and bickering back and forth across the political aisles, and I think the important thing for all of us to understand is that this country's economy is in serious trouble, probably more serious trouble than most of us understand.

I think what the American people who watch this process want most from us is to try to get from each side of the political aisle the best of whatever one has to offer, not the least of each of us. We need some mechanism whereby the President and the Congress, conservatives and liberals, Republicans and Democrats, will try to join together to try to put this country back on track.

Mr. Speaker, we face tough international competition. This country is losing its edge. I know there are some who say the problem is in the engine room of the ship of state. I do not believe that. I think the engine is fine. I think the problem is we have loaded this ship down with too much cargo and too much debt. I do not think the answer is sexy or fancy or anything like that. I think we need to get back to the basic virtues, the old ideas, paying your bills, putting America back on track.

I hope we see that kind of bipartisan spirit between the White House and the Congress because this country desperately needs it.

□ 0930

NO ONE REALLY LIKES A COMPROMISE

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, just a few minutes ago the people of the country saw a historic vote on a crime bill that was worked on very hard by Members of this Congress to bring forth a new crime bill that will help curtail the crime problems of this country.

Mr. Speaker, my colleagues heard a lot of arguments. They heard people on the far right who were against the bill because it did not go far enough, and, if my colleagues look at the Democrats who voted against it, they will find many Democrats from the far left who went against it because it went too far.

Mr. Speaker, it was a difficult bill. It was one that was crafted with compromise in mind, trying to find a bill that could pass this House. It was very difficult, and I commend the leadership of the Democrat Party, the majority party, for crafting that particular bill and working with the other body to get it done.

The people have to understand that many of us that supported the bill had other things that we would have liked in the bill, but, having practiced law for many years and having dealt with people on both sides of an issue, sometimes we had a compromise worked out that no one really liked, but it was a compromise that had to be done.

Mr. Speaker, we have to move forward to try to help the people of this country.

COUNTERANALYSIS OF THE VOTE ON THE CRIME BILL

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, having grabbed about 3 hours of sleep last night sitting up while the six couches were grabbed out of 166 Republicans, let me say that I appreciate the analysis of the crime bill we just voted on by the gentleman from Nevada [Mr. BILBRAY], my friend. Let me give a little counteranalysis.

Here is the readout: 205 to 203, 26 Members not here, some of them I saw a few hours ago, they must be asleep in their offices. Sorry they did not get over here for this vote. However our distinguished Speaker voted about 4 minutes before the end of the vote. I can appreciate that he did not want to have to come right up and break a tie, but, if we take his vote out, it is 204 to 203. That means every single vote was the margin of victory, and in our Republican Party the DMV, the Democratic margin of victory, was given to them by six Republicans. Each one of them was singularly the margin of victory.

Mr. Speaker, this is an easy veto for the President. He is obviously vetoproof. It will be sustained when he has got 203 people to draw from and there is only 145 needed.

Let me say that the most compelling thing was the letter the gentleman from Illinois [Mr. HYDE] read from the National Association of District Attorneys. They said this was a vote for criminals.

Did I hear cheering on death rows all across America? I am afraid so.

Mr. Speaker, I hope the President will veto this bill. It is an easy slam-dunk sustaining of the President's veto.

WHERE IS THE BILL TO ELEVATE THE EPA TO CABINET-LEVEL STATUS?

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, we have been in session for almost 24 hours, but that is what we are paid for, to do the people's business. Right now we are in a dead period, dead time between conference reports coming to this House so we can exercise the people's will, and during this time people like me can get up and say whatever we want for 60 seconds, speak to anybody about any subject.

Mr. Speaker, I want to speak to my colleagues on the Democrat side of the aisle. I want to ask them where the bill is to elevate the Environmental Protection Agency to cabinet-level status. I want to remind them that it was a Democrat in the Senate in cooperation with a Republican, Senator JOHN GLENN and Senator BILL ROTH, who passed that bill that now lays on the Speaker's desk ready to come up here by unanimous consent.

Mr. Speaker, the majority of Members in this House want it. Every single environmental group in America wants it. The President has said he will sign it. He has encouraged us to act on it, and yet it lays on the Speaker's desk.

Why? Because one person, the chairman of the Committee on Government Operations, refuses to act.

Mr. Speaker, the American people deserve better. They deserve someone who will act and not turn his back on a piece of legislation that the American people demand.

THINGS LIBERALS VOTE FOR BESIDES A WEAK CRIME BILL

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, as a freshman on this body, first time I was upset on this House is the same week that we came aboard, and that is when the Desert Storm vote came out, and many Members of this House turned their backs on the men and women, and I think that today, next to the civil rights bill, was the hardest for me to stomach.

Mr. Speaker, in every case the conferees took the weakest position of either the Senate or the House and put it into the crime bill. I ask, "Why can't we put the strongest position in and fight crime?"

Mr. Speaker, I would like to tie in the votes of the liberals with some of the other things, the same people that voted against Desert Storm, the same people that supported the Sandinistas, that voted to burn the flag, that voted for Mapplethorpe and obscene art, to destroy the family unit, to not take drug tests, not to be tough on crime. I think, if we compile these votes, we would find the same liberal votes.

PROUD TO SAY, I VOTED FOR THE CRIME BILL

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, I could not help hearing the last speaker attack people who voted for a crime bill.

Mr. Speaker, I am proud to say that I voted for the crime bill, and I say to the gentleman, "Of course in any bill you don't feel strongly about every provision, but the fact is overall it's a very fine bill."

One of the things that I think is an important aspect of that bill is that it finally gives assistance to the cities of this country by giving funds to the police department. We are seeing cities having less resources because we do not have an urban policy in this country, and one of the things that is on the minds and hearts of the American people is crime in the streets.

So, Mr. Speaker, I am delighted to see that there is a safe street program in this crime bill and that we funded the police departments across the country to give them the tools to work with to assist in their combating and arresting crime, which I think is among the top issues that affect the American people.

Mr. Speaker, people do not like to see their cars stolen. They do not like to see drug peddling. They do not like to see alcoholic drivers on the roads, and so on, and the police department cannot do it alone, and the cities and rural areas cannot do it alone.

So, I am proud of this bill, and I congratulate those who worked so hard on it.

CALLING ON OUR HEMISPHERE

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, as the House moves to complete its legislative business, I hope that we do not forget that there are thousands of people cast asea from Haiti without homes, without hope, and the President of the United States is only being restrained from sending these people back to Haiti by a Federal court judge in Miami. Some people may ask, "Well, what do we do with all these people? We can't absorb them in Miami; we can't absorb them in New York."

Well, God forbid that a country of our great wealth should even anticipate absorbing 5,000 Haitians, but it seems to me that we can use our Presidential and national influence to pick up the phone, as the President did so well in the Persian Gulf, and convince the neighboring countries that we would give them assistance, to call upon some of the industrial countries to pitch in.

Mr. Speaker, this is not just a question of poor black folks in Haiti. This is a question as to whether democracy can survive in the world, and specifically in our hemisphere.

So, while one may believe that we have asked certain portions of our country to assume too much of this moral responsibility which has a heavy fiscal burden with it, it seems to me that we have not done all that we can in reaching out to the United Nations, the Organization of American States, the Caribbean countries and say, "For God's sake, that can be your country. Pitch in and do something."

RECESS

The SPEAKER pro tempore. (Mr. HOYER). The Chair declares a recess for approximately one-half hour.

Accordingly (at 9 o'clock and 40 minutes a.m.), the House stood in recess for a period in excess of 30 minutes.

□ 1030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore at 10 o'clock and 31 minutes a.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills, a joint resolution and concurrent resolution of the House of the following titles:

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia.

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, Maryland;

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Aransas National Wildlife Refuge";

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri and for other purposes;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week"; and

H. Con. Res. 249. Concurrent resolution correcting a technical error in the enrollment of the bill H.R. 1724.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3595) "An Act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source" disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENTSEN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. PACKWOOD, and Mr. DURENBERGER, to be the conferees on the part of the Senate.

The message also announced that the Senate recedes from its amendment to the bill (H.R. 690) "An Act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 3029) "An Act to make technical corrections to agriculture laws."

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privilege report (Rept. No. 102-406) on the resolution (H. Res. 318) waiving all points of order against the conference report on the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulations of insured depository institutions, and against consideration of such conference report which was referred to the House calendar and ordered to be printed.

WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 318 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. REPT. 318

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

Mr. Speaker, all time yielded during debate on this House resolution is yielded for the purpose of debate only.

Mr. FROST. Mr. Speaker, House Resolution 318 is the rule providing for the consideration of the conference report on S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as having been read.

Mr. Speaker, this legislation will provide important borrowing authority for the FDIC. It includes a variety of provisions which would revise the Federal Deposit Insurance Program and strengthen the supervisory and regulatory processes to ensure against future crises.

The House has fully debated banking reform issues over the past few weeks. It is time to move forward and pass this legislation so that we can restore public confidence in banking system. I urge adoption of the rule and the conference report.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in reluctant support of this rule. My reluctance is not the result of what is in the rule but rather what is not in the conference report itself.

Mr. Speaker, I originally voted for H.R. 3768 in an effort to keep the process moving forward. I am concerned that while the process did move forward, the significance of this legislation headed in the opposite direction. I am referring to the fact that this banking bill does not include any of the President's structural reform proposals. Those proposals would help to restore the banking industry to profitability, and this would help to strengthen the bank insurance fund.

However, the fact remains, Mr. Speaker, that as many as 239 banks may fail next year, and the insurance fund needs billions of dollars in borrowing authority to guarantee the funds of nearly 110 million bank depositors. Once again I want to emphasize that this is not a taxpayer bill, and I underscore not a taxpayer bailout.

Mr. Speaker, in the Rules Committee, on Saturday, the chairman and ranking member of the Banking Committee provided assurances that in the next session of Congress, the Banking Committee will begin looking anew at the comprehensive legislation which we considered several weeks ago in the House. It is necessary that we overhaul the Nation's banking system.

Mr. Speaker, I want to commend the gentleman from Texas, the chairman of the committee [Mr. GONZALEZ], and the gentleman from Ohio [Mr. WYLIE], the ranking member, for their diligence in working on this bill. I hope very much that their committee will move forward so as to make sure that this will not become a taxpayer bailout.

I urge my colleagues to support the rule.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. WYLIE], the ranking member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. I thank the gentleman from California, a former important member of the Banking Committee. I certainly will not use the 5 minutes. I just want to rise in the strongest possible way to support the rule and the conference report which it makes in order.

As will be mentioned a little later on, we worked until 5 this morning on a banking bill. It is absolutely essential that we recapitalize the bank insurance fund, and that was the crux and the basis for our bill.

We do provide for $30 billion in new lending authority, which allows us to refund the recapitalization of the bank insurance fund to the tune of $25 billion. We do have a provision in here for early intervention, too-big-to-fail ends on January 1, 1995, a limit on broker deposits, and so forth. Essentially, the conference report we have before us includes the parameters of the House bill. I think our House conferees did an excellent job. I want to commend the gentleman from Texas, Mr. GONZALEZ, chairman of the House Committee on Banking, Finance and Urban Affairs, for the hard work and diligence he put into this. I will do that in his presence later on.

Mr. Speaker, I urge adoption of the rule.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I urge support of the rule.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question, on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. NEAL of North Carolina submitted the following conference report and statement on the Senate bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes:

CONFERENCE REPORT (H. REPT. 102–407)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 543), to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

SEC. 101. FUNDING FOR THE FEDERAL DEPOSIT INSURANCE FUNDS.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended by striking "$5,000,000,000" and inserting "$30,000,000,000".

SEC. 102. LIMITATION ON OUTSTANDING BORROWING.

(a) IN GENERAL.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

"(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—Notwithstanding any other provisions of this Act, the Corporation may not issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of obligations of the Bank Insurance Fund or Savings Association Insurance Fund, respectively, outstanding would exceed the sum of—

"(A) the amount of cash or the equivalent of cash held by the Bank Insurance Fund or Savings Association Insurance Fund, respectively;

"(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by the Bank Insurance Fund or the Savings Association Insurance Fund, respectively, other than assets described in subparagraph (A); and

"(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 14(a).

"(6) OBLIGATION DEFINED.—

"(A) IN GENERAL.—For purposes of paragraph (5), the term 'obligation' includes—

"(i) any guarantee issued by the Corporation, other than deposit guarantees;

"(ii) any amount borrowed pursuant to section 14; and

"(iii) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.

"(B) VALUATION OF CONTINGENT LIABILITIES.—The Corporation shall value any contin-

gent liability at its expected cost to the Corporation.".

(b) GAO Reports.—

(1) Quarterly reporting.—The Comptroller General of the United States shall submit a report each calendar quarter on the Federal Deposit Insurance Corporation's compliance with section 15(c)(5) of the Federal Deposit Insurance Act for the preceding quarter to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) Analyses to be included.—Each report submitted under paragraph (1) shall include—

(A) an analysis of the performance of the Federal Deposit Insurance Corporation in meeting any repayment schedule under section 14(c) of the Federal Deposit Insurance Act (as added by section 103 of this Act); and

(B) an analysis of the actual recovery on asset sales compared to the estimated fair market value of the assets as determined for the purposes of section 15(c)(5)(B) of such Act.

(c) Technical and Conforming Amendment.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraph (7).

SEC. 103. REPAYMENT SCHEDULE.

(a) In General.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by adding at the end the following new subsection:

"(c) Repayment Schedules Required for any Borrowing.—

"(1) In general.—No amount may be provided by the Secretary of the Treasury to the Corporation under subsection (a) unless an agreement is in effect between the Secretary and the Corporation which—

"(A) provides a schedule for the repayment of the outstanding amount of any borrowing under such subsection; and

"(B) demonstrates that income to the Corporation from assessments under this Act will be sufficient to amortize the outstanding balance within the period established in the repayment schedule and pay the interest accruing on such balance.

"(2) Consultation with and report to Congress.—The Secretary of the Treasury and the Corporation shall—

"(A) consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the terms of any repayment schedule agreement described in paragraph (1) relating to repayment, including terms relating to any emergency special assessment under section 7(b)(7); and

"(B) submit a copy of each repayment schedule agreement entered into under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before the end of the 30-day period beginning on the date any amount is provided by the Secretary of the Treasury to the Corporation under subsection (a).".

(b) Emergency Special Assessments.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) Emergency special assessments.—In addition to the other assessments imposed on insured depository institutions under this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of any such assessment—

"(A) is necessary—

"(i) to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under section 14(a) in accordance with the repayment schedule in effect under section 14(c) during the period with respect to which such assessment is imposed;

"(ii) to provide sufficient assessment income to repay obligations issued to and other amounts borrowed from Bank Insurance Fund members under section 14(d); or

"(iii) for any other purpose the Corporation may deem necessary; and

"(B) is allocated between Bank Insurance Fund members and Savings Association Insurance Fund members in amounts which reflect the degree to which the proceeds of the amounts borrowed are to be used for the benefit of the respective insurance funds.".

SEC. 104. RECAPITALIZING THE BANK INSURANCE FUND.

(a) In General.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended to read as follows:

"(C) Assessment rates for bank insurance fund members.—

"(i) In general.—If the reserve ratio of the Bank Insurance Fund equals or exceeds the fund's designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund as appropriate to maintain the reserve ratio at the designated reserve ratio.

"(ii) Special rules for recapitalizing undercapitalized fund.—If the reserve ratio of the Bank Insurance Fund is less than the designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(I) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(II) in accordance with a schedule promulgated by the Corporation under clause (iii).

"(iii) Recapitalization schedules.—For purposes of clause (ii)(II), the Corporation shall, by regulation, promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for the Bank Insurance Fund, culminating in a reserve ratio that is equal to the designated reserve ratio no later than 15 years after the date on which the schedule becomes effective.

"(iv) Amending schedule.—The Corporation may, by regulation, amend a schedule promulgated under clause (iii), but such an amendment may not extend the date for achieving the designated reserve ratio.".

(b) Assessment Rate Changes.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) Rate changes.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment. The Corporation may establish and, from time to time, adjust the assessment rates for such institutions.".

SEC. 105. BORROWING FOR BIF FROM BIF MEMBERS.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by inserting after subsection (c) (as added by section 103 of this subtitle) the following new subsection:

"(d) Borrowing for BIF From BIF Members.—

"(1) Borrowing authority.—The Corporation may issue obligations to Bank Insurance Fund members, and may borrow from Bank Insurance Fund members and give security for any amount borrowed, and may pay interest on (and any redemption premium with respect to) any such obligation or amount to the extent—

"(A) the proceeds of any such obligation or amount are used by the Corporation solely for purposes of carrying out the Corporation's functions with respect to the Bank Insurance Fund; and

"(B) the terms of the obligation or instrument limit the liability of the Corporation or the Bank Insurance Fund for the payment of interest and the repayment of principal to the amount which is equal to the amount of assessment income received by the Fund from assessments under section 7.

"(2) Limitations on borrowing.—

"(A) Applicability of public debt limit.—For purposes of the public debt limit established in section 3101(b) of title 31, United States Code, any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an obligation to which such limit applies.

"(B) Applicability of FDIC borrowing limit.—For purposes of the dollar amount limitation established in section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)), any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an amount borrowed from the Treasury under such section.

"(C) Interest rate limit.—The rate of interest payable in connection with any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall not exceed an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(D) Obligations to be held only by BIF members.—The terms of any obligation issued by the Corporation under paragraph (1) shall provide that the obligation will be valid only if held by a Bank Insurance Fund Member.

"(3) Liability of BIF.—Any obligation issued or amount borrowed under paragraph (1) shall be a liability of the Bank Insurance Fund.

"(4) Terms and conditions.—Subject to paragraphs (1) and (2), the Corporation shall establish the terms and conditions for obligations issued or amounts borrowed under paragraph (1), including interest rates and terms to maturity.

"(5) Investment by BIF members.—

"(A) Authority to invest.—Subject to subparagraph (B) and notwithstanding any other provision of Federal law or the law of any State, any Bank Insurance Fund member may purchase and hold for investment any obligation issued by the Corporation under paragraph (1) without limitation, other than any limitation the appropriate Federal banking agency may impose specifically with respect to such obligations.

"(B) Investment only from capital and retained earnings.—Any Bank Insurance Fund member may purchase obligations or make loans to the Corporation under paragraph (1) only to the extent the purchase money or the money loaned is derived from the member's capital or retained earnings.

"(6) Accounting treatment.—In accounting for any investment in an obligation purchased from, or any loan made to, the Corporation for purposes of determining compliance with any capital standard and preparing any report required pursuant to section 7(a), the amount of such investment or loan shall be treated as an asset.".

Subtitle B—Supervisory Reforms

SEC. 111. IMPROVED EXAMINATIONS.

(a) In General.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) Annual On-Site Examinations of All Insured Depository Institutions Required.—

"(1) In general.—The appropriate Federal banking agency shall, not less than once during

each 12-month period, conduct a full-scope, on-site examination of each insured depository institution.

"(2) EXAMINATIONS BY CORPORATION.—Paragraph (1) shall not apply during any 12-month period in which the Corporation has conducted a full-scope, on-site examination of the insured depository institution.

"(3) STATE EXAMINATIONS ACCEPTABLE.—The examinations required by paragraph (1) may be conducted in alternate 12-month periods, as appropriate, if the appropriate Federal banking agency determines that an examination of the insured depository institution conducted by the State during the intervening 12-month period carries out the purpose of this subsection.

"(4) 18-MONTH RULE FOR CERTAIN SMALL INSTITUTIONS.—Paragraphs (1), (2), and (3) shall apply with '18-month' substituted for '12-month' if—

"(A) the insured depository institution has total assets of less than $100,000,000;

"(B) the institution is well capitalized, as defined in section 38;

"(C) when the institution was most recently examined, it was found to be well managed, and its composite condition was found to be outstanding; and

"(D) no person acquired control of the institution during the 12-month period in which a full-scope, on-site examination would be required but for this paragraph.

"(5) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Paragraph (1) does not apply to—

"(A) any institution for which the Corporation is conservator; or

"(B) any bridge bank none of the voting securities of which are owned by a person or agency other than the Corporation.

"(6) CONSUMER COMPLIANCE EXAMINATIONS EXCLUDED.—For purposes of this subsection, the term 'full-scope, on-site examination' does not include a consumer compliance examination, as defined in section 41(b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 1 year after the date of enactment of this Act.

(c) TRANSITION RULE.—Notwithstanding section 10(d) of the Federal Deposit Insurance Act (as added by subsection (a)), during the period beginning on the date of enactment of this Act and ending on December 31, 1993, a full-scope, on-site examination of an insured depository institution is not required more often than once during every 18-month period, unless—

(1) the institution, when most recently examined, was found to be in a less than satisfactory condition; or

(2) 1 or more persons acquired control of the institution.

(d) EXAMINATION IMPROVEMENT PROGRAM.—

(1) IN GENERAL.—The appropriate Federal banking agencies, acting through the Federal Financial Institutions Examination Council, shall each establish a comparable examination improvement program that meets the requirements of paragraph (2).

(2) REQUIREMENTS.—An examination improvement program meets the requirements of this paragraph if, under the program, the agency is required—

(A) to periodically review the organization and training of the staff of the agency who are responsible for conducting examinations of insured depository institutions and to make such improvements as the agency determines to be appropriate to ensure frequent, objective, and thorough examinations of such institutions; and

(B) to increase the number of examiners, supervisors, and other individuals employed by the agency in connection with conducting or supervising examinations of insured depository institutions to the extent necessary to ensure frequent, objective, and thorough examinations of such institutions.

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) is amended to read as follows:

"(s) DEFINITIONS RELATING TO FOREIGN BANKS AND BRANCHES.—

"(1) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term by section 1(b)(7) of the International Banking Act of 1978.

"(2) FEDERAL BRANCH.—The term 'Federal branch' has the meaning given to such term by section 1(b)(6) of the International Banking Act of 1978.

"(3) INSURED BRANCH.—The term 'insured branch' means any branch (as defined in section 1(b)(3) of the International Banking Act of 1978) of a foreign bank any deposits in which are insured pursuant to this Act.".

SEC. 112. INDEPENDENT ANNUAL AUDITS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) ANNUAL REPORT ON FINANCIAL CONDITION AND MANAGEMENT.—

"(1) REPORT REQUIRED.—Each insured depository institution shall submit an annual report to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State).

"(2) CONTENTS OF REPORT.—Any annual report required under paragraph (1) shall contain—

"(A) the information required to be provided by—

"(i) the institution's management under subsection (b); and

"(ii) an independent public accountant under subsections (c) and (d); and

"(B) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the financial condition and management of the institution.

"(3) PUBLIC AVAILABILITY.—Any annual report required under paragraph (1) shall be available for public inspection.

"(b) MANAGEMENT RESPONSIBILITY FOR FINANCIAL STATEMENTS AND INTERNAL CONTROLS.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

"(2) a report signed by the chief executive officer and the chief accounting or financial officer of the institution which contains—

"(A) a statement of the management's responsibilities for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with the laws and regulations relating to safety and soundness which are designated by the Corporation or the appropriate Federal banking agency; and

"(B) an assessment, as of the end of the institution's most recent fiscal year, of—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with the laws and regulations relating to safety and soundness which are designated by the Corporation and the appropriate Federal banking agency.

"(c) INTERNAL CONTROL EVALUATION AND REPORTING REQUIREMENTS FOR INDEPENDENT PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—With respect to any internal control report required by subsection (b)(2) of any institution, the institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in such report.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

"(1) AUDITS REQUIRED.—The Corporation, in consultation with the appropriate Federal banking agencies, shall prescribe regulations requiring that each insured depository institution shall have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards and section 37.

"(2) SCOPE OF AUDIT.—In connection with any audit under this subsection, the independent public accountant shall determine and report whether the financial statements of the institution—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—The requirements for an independent audit under this subsection may be satisfied for insured depository institutions that are subsidiaries of a holding company by an independent audit of the holding company.

"(e) DETECTING AND REPORTING VIOLATIONS OF LAWS AND REGULATIONS.—

"(1) IN GENERAL.—An independent public accountant shall apply procedures agreed upon by the Corporation to objectively determine the extent of the compliance of any insured depository institution or depository institution holding company with laws and regulations designated by the Corporation, in consultation with the appropriate Federal banking agencies.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) FORM AND CONTENT OF REPORTS AND AUDITING STANDARDS.—

"(1) IN GENERAL.—The scope of each report by an independent public accountant pursuant to this section, and the procedures followed in preparing such report, shall meet or exceed the scope and procedures required by generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) CONSULTATION.—The Corporation shall consult with the other appropriate Federal banking agencies in implementing this subsection.

"(g) IMPROVED ACCOUNTABILITY.—

"(1) INDEPENDENT AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—Each insured depository institution (to which this section applies) shall have an independent audit committee entirely made up of outside directors who are independent of management of the institution, and who satisfy any specific requirements the Corporation may establish.

"(B) DUTIES.—An independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for the reports issued under subsections (b)(2), (c), and (d).

"(C) CRITERIA APPLICABLE TO COMMITTEES OF LARGE INSURED DEPOSITORY INSTITUTIONS.—In the case of each insured depository institution

which the Corporation determines to be a large institution, the audit committee required by subparagraph (A) shall—

"(i) include members with banking or related financial management expertise;

"(ii) have access to the committee's own outside counsel; and

"(iii) not include any large customers of the institution.

"(2) REVIEW OF QUARTERLY REPORTS OF LARGE INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—In the case of any insured depository institution which the Corporation has determined to be a large institution, the Corporation may require the independent public accountant retained by such institution to perform reviews of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) REPORT TO AUDIT COMMITTEE.—The independent public accountant referred to in subparagraph (A) shall provide the audit committee of the insured depository institution with reports on the reviews under such subparagraph and the audit committee shall provide such reports to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor.

"(C) LIMITATION ON NOTICE.—Reports provided under subparagraph (B) shall be only for the information and use of the insured depository institution, the Corporation, any appropriate Federal banking agency, and any State bank supervisor that received the report.

"(3) QUALIFICATIONS OF INDEPENDENT PUBLIC ACCOUNTANTS.—

"(A) IN GENERAL.—All audit services required by this section shall be performed only by an independent public accountant who—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, an appropriate Federal banking agency, and any State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) REPORTS ON PEER REVIEWS.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection.

"(4) ENFORCEMENT ACTIONS.—

"(A) IN GENERAL.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section.

"(B) JOINT RULEMAKING.—The appropriate Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) NOTICE BY ACCOUNTANT OF TERMINATION OF SERVICES.—Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the institution shall promptly notify the Corporation pursuant to such rules as the Corporation shall prescribe.

"(h) EXCHANGE OF REPORTS AND INFORMATION.—

"(1) REPORT TO THE INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such institution shall transmit to the auditor a copy of the most recent report of condition made by the institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by the institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided under subparagraph (A), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with such institution and any written agreement between such institution and any appropriate Federal banking agency or any appropriate State bank supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of any civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) REPORTS TO BANKING AGENCIES.—

"(A) INDEPENDENT AUDITOR REPORTS.—Each insured depository institution shall provide to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report within 15 days of receipt of any such report, qualification, or letter from the institution's independent auditors.

"(B) NOTICE OF CHANGE OF AUDITOR.—Each insured depository institution shall provide written notification to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor of the resignation or dismissal of the institution's independent auditor or the engagement of a new independent auditor by the institution, including a statement of the reasons for such change within 15 calendar days of the occurrence of the event.

"(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—Except with respect to any audit requirements established under or pursuant to subsection (d), the requirements of this section may be satisfied for insured depository institutions that are subsidiaries of a holding company, if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(j) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—This section shall not apply with respect to any fiscal year of any insured depository institution the total assets of which, as of the beginning of such fiscal year, are less than the greater of—

"(1) $150,000,000; or

"(2) such amount (in excess of $150,000,000) as the Corporation may prescribe by regulation.".

(b) EFFECTIVE DATE.—The requirements established by the amendment made by subsection (a) shall apply with respect to fiscal years of insured depository institutions which begin after December 31, 1992.

SEC. 113. ASSESSMENTS REQUIRED TO COVER COSTS OF EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) (as added by section 111(a)(1) of this subtitle) the following new subsection:

"(e) EXAMINATION FEES.—

"(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) may be assessed by the Corporation against the institution to meet the Corporation's expenses in carrying out such examinations.

"(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) may be assessed by the Corporation against each affiliate which is examined to meet the Corporation's expenses in carrying out such examination.

"(3) ASSESSMENT AGAINST DEPOSITORY INSTITUTION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(A) IN GENERAL.—Subject to subparagraph (B), if any affiliate of any insured depository institution—

"(i) refuses to pay any assessment under paragraph (2); or

"(ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

"(B) AFFILIATE OF MORE THAN 1 DEPOSITORY INSTITUTION.—If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

"(4) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(A) PENALTY IMPOSED.—If any affiliate of any insured depository institution—

"(i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) to conduct an examination; or

"(ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than $5,000 for each day that any such refusal continues.

"(B) ASSESSMENT AND COLLECTION.—Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2).

"(5) DEPOSITS OF EXAMINATION ASSESSMENT.—Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 13.".

(b) EXAMINATIONS OF APPLICANTS FOR DEPOSIT INSURANCE.—Section 10(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)(B)) is amended to read as follows:

"(B) any depository institution which files an application with the Corporation to become an insured depository institution;".

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 7(b)(10) of the Federal Deposit Insurance Act (as so redesignated by section 103(b) of this Act) is amended by inserting "or section 10(e)" after "under this section".

(2) Section 10(b)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(4)(A)) is amended by striking "insured" each place such term appears.

SEC. 114. EXAMINATION AND SUPERVISION FEES FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking the 4th undesignated paragraph and inserting the following:

"The Comptroller of the Currency may impose and collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the duties of the Comptroller. Such assessments, fees, and other charges shall be set to meet the Comptroller's expenses in carrying out authorized activities.";

(2) by striking "In addition to the expense of examination" and all that follows through "to cover the expense thereof.".

(b) TECHNICAL AMENDMENT.—Section 5240 of the Revised Statutes is amended in the 2d undesignated paragraph (12 U.S.C. 481)—

(1) by striking the 2d sentence;

(2) by striking the 3d sentence and inserting "If any affiliate of a national bank refuses to pay any assessments, fees, or other charges imposed by the Comptroller of the Currency pursuant to this section or fails to make such payment not later than 60 days after the date on which they are imposed, the Comptroller of the Currency may impose such assessments, fees, or charges against the affiliated national bank, and such assessments, fees, or charges shall be paid by such national bank. If the affiliation is with 2 or more national banks, such assessments, fees, or charges may be imposed on, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe.";

(3) in the 4th sentence, by inserting "or from other fees or charges imposed pursuant to this section" after "assessments on banks or affiliates thereof"; and

(4) in the 5th sentence—

(A) by inserting ", fees, or charges" before "may be deposited"; and

(B) by inserting "or of other fees or charges imposed pursuant to this section" before the period.

(c) ASSESSMENT AUTHORITY OF THE OFFICE OF THRIFT SUPERVISION.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) shall be assessed by the Director against each such savings association as the Director deems necessary or appropriate.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate that is examined as the Director deems necessary or appropriate.";

(2) by amending subsection (k) to read as follows:

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office as the Director deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Director.".

SEC. 115. APPLICATION TO FDIC REQUIRED FOR INSURANCE.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)) is amended by striking all that precedes subsection (b) and inserting the following:

"SEC. 5. DEPOSIT INSURANCE.

"(a) APPLICATION TO CORPORATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any depository institution which is engaged in the business of receiving deposits other than trust funds (as defined in section 3(p)), upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured depository institution.

"(2) INTERIM DEPOSITORY INSTITUTIONS.—In the case of any interim Federal depository institution that is chartered by the appropriate Federal banking agency and will not open for business, the depository institution shall be an insured depository institution upon the issuance of the institution's charter by the agency.

"(3) APPLICATION AND APPROVAL NOT REQUIRED IN CASES OF CONTINUED INSURANCE.—Paragraph (1) shall not apply in the case of any depository institution whose insured status is continued pursuant to section 4.

"(4) REVIEW REQUIREMENTS.—In reviewing any application under this subsection, the Board of Directors shall consider the factors described in section 6 in determining whether to approve the application for insurance.

"(5) NOTICE OF DENIAL OF APPLICATION FOR INSURANCE.—If the Board of Directors votes to deny any application for insurance by any depository institution, the Board of Directors shall promptly notify the appropriate Federal banking agency and, in the case of any State depository institution, the appropriate State banking supervisor of the denial of such application, giving specific reasons in writing for the Board of Directors' determination with reference to the factors described in section 6.

"(6) NONDELEGATION REQUIREMENT.—The authority of the Board of Directors to make any determination to deny any application under this subsection may not be delegated by the Board of Directors.".

(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)) is amended to read as follows:

"(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, the bank shall continue as an insured bank.".

Subtitle C—Accounting Reforms

SEC. 121. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 36 (as added by section 112 of this title) the following new section:

"SEC. 37. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

"(a) IN GENERAL.—

"(1) OBJECTIVES.—Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the capital of such institutions;

"(B) facilitate effective supervision of the institutions; and

"(C) facilitate prompt corrective action to resolve the institutions at the least cost to the insurance funds.

"(2) STANDARDS.—

"(A) UNIFORM ACCOUNTING PRINCIPLES CONSISTENT WITH GAAP.—Subject to the requirements of this Act and any other provision of Federal law, the accounting principles applicable to reports or statements required to be filed with Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

"(B) STRINGENCY.—If the appropriate Federal banking agency or the Corporation determines that the application of any generally accepted accounting principle to any insured depository institution is inconsistent with the objectives described in paragraph (1), the agency or the Corporation may, with respect to reports or statements required to be filed with such agency or Corporation, prescribe an accounting principle which is applicable to such institutions which is no less stringent than generally accepted accounting principles.

"(3) REVIEW AND IMPLEMENTATION OF ACCOUNTING PRINCIPLES REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall take the following actions:

"(A) REVIEW OF ACCOUNTING PRINCIPLES.—Review—

"(i) all accounting principles used by depository institutions with respect to reports or statements required to be filed with a Federal banking agency;

"(ii) all requirements established by the agency with respect to such accounting procedures; and

"(iii) the procedures and format for reports to the agency, including reports of condition.

"(B) MODIFICATION OF NONCOMPLYING MEASURES.—Modify or eliminate any accounting principle or reporting requirement of such Federal agency which the agency determines fails to comply with the objectives and standards established under paragraphs (1) and (2).

"(C) INCLUSION OF 'OFF BALANCE SHEET' ITEMS.—Develop and prescribe regulations which require that all assets and liabilities, including contingent assets and liabilities, of insured depository institutions be reported in, or otherwise taken into account in the preparation of any balance sheet, financial statement, report of condition, or other report of such institution, required to be filed with a Federal banking agency.

"(D) MARKET VALUE DISCLOSURE.—Develop jointly with the other appropriate Federal banking agencies a method for insured depository institutions to provide supplemental disclosure of the estimated fair market value of assets and liabilities, to the extent feasible and practicable, in any balance sheet, financial statement, report of condition, or other report of any insured depository institution required to be filed with a Federal banking agency.

"(b) UNIFORM ACCOUNTING OF CAPITAL STANDARDS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of depository institutions.

"(2) TRANSITION PROVISION.—Any standards in effect on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 under section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall continue in effect after such date of enactment until amended by the appropriate Federal banking agency under paragraph (1).

"(c) REPORTS TO BANKING COMMITTEES.—

"(1) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall annually submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(2) EXPLANATION OF REASONS FOR DISCREPANCY.—Each report submitted under paragraph (1) shall contain an explanation of the reasons for any discrepancy between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(3) PUBLICATION.—Each report under this subsection shall be published in the Federal Register.".

(b) REPEAL OF PROVISION SUPERSEDED BY SUBSECTION (a) AMENDMENTS.—Section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833d) is hereby repealed.

SEC. 122. SMALL BUSINESS AND SMALL FARM LOAN INFORMATION

(a) IN GENERAL.—Before the end of the 180-day period beginning on the date of the enactment of this Act, the appropriate Federal banking agency shall prescribe regulations requiring insured depository institutions to annually submit information on small businesses and small farm lending in their reports of condition.

(b) CREDIT AVAILABILITY.—The regulations prescribed under subsection (a) shall require insured depository institutions to submit such information as the agency may need to assess the availability of credit to small businesses and small farms.

(d) CONTENTS.—The information required under subsection (a) may include information regarding the following:

(1) The total number and aggregate dollar amount of commercial loans and commercial mortgage loans to small businesses.

(2) Charge-offs, interest, and interest fee income on commercial loans and commercial mortgage loans to small businesses.

(3) Agricultural loans to small farms.

SEC. 123. FDIC PROPERTY DISPOSITION STANDARDS.

(a) IN GENERAL.—Section 11(d)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(13)) is amended by adding at the end the following new subparagraph:

"(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of any insured depository institution for which the Corporation has been appointed conservator or receiver, including any sale or disposition of assets acquired by the Corporation under section 13(d)(1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

(b) CORPORATE CAPACITY.—Section 13(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1823(d)(3)) is amended by adding at the end the following new subparagraph:

"(D) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority described in subparagraph (A) regarding the sale or disposition of assets sold to the Corporation pursuant to paragraph (1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

Subtitle D—Prompt Regulatory Action

SEC. 131. PROMPT REGULATORY ACTION.

(a) ESTABLISHING SYSTEM OF PROMPT CORRECTIVE ACTION.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 37 (as added by section 121 of this Act) the following new section:

"SEC. 38. PROMPT CORRECTIVE ACTION.

"(a) RESOLVING PROBLEMS TO PROTECT DEPOSIT INSURANCE FUNDS.—

"(1) PURPOSE.—The purpose of this section is to resolve the problems of insured depository institutions at the least possible long-term loss to the deposit insurance fund.

"(2) PROMPT CORRECTIVE ACTION REQUIRED.—Each appropriate Federal banking agency and the Corporation (acting in the Corporation's capacity as the insurer of depository institutions under this Act) shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured depository institutions.

"(b) DEFINITIONS.—For purposes of this section:

"(1) CAPITAL CATEGORIES.—

"(A) WELL CAPITALIZED.—An insured depository institution is 'well capitalized' if it significantly exceeds the required minimum level for each relevant capital measure.

"(B) ADEQUATELY CAPITALIZED.—An insured depository institution is 'adequately capitalized' if it meets the required minimum level for each relevant capital measure.

"(C) UNDERCAPITALIZED.—An insured depository institution is 'undercapitalized' if it fails to meet the required minimum level for any relevant capital measure.

"(D) SIGNIFICANTLY UNDERCAPITALIZED.—An insured depository institution is 'significantly undercapitalized' if it is significantly below the required minimum level for any relevant capital measure.

"(E) CRITICALLY UNDERCAPITALIZED.—An insured depository institution is 'critically undercapitalized' if it fails to meet any level specified under subsection (c)(3)(A).

"(2) OTHER DEFINITIONS.—

"(A) AVERAGE.—

"(i) IN GENERAL.—The 'average' of an accounting item (such as total assets or tangible equity) during a given period means the sum of that item at the close of business on each business day during that period divided by the total number of business days in that period.

"(ii) AGENCY MAY PERMIT WEEKLY AVERAGING FOR CERTAIN INSTITUTIONS.—In the case of insured depository institutions that have total assets of less than $300,000,000 and normally file reports of condition reflecting weekly (rather than daily) averages of accounting items, the appropriate Federal banking agency may provide that the 'average' of an accounting item during a given period means the sum of that item at the close of business on the relevant business day each week during that period divided by the total number of weeks in that period.

"(B) CAPITAL DISTRIBUTION.—The term 'capital distribution' means—

"(i) a distribution of cash or other property by any insured depository institution or company to its owners made on account of that ownership, but not including—

"(I) any dividend consisting only of shares of the institution or company or rights to purchase such shares; or

"(II) any amount paid on the deposits of a mutual or cooperative institution that the appropriate Federal banking agency determines is not a distribution for purposes of this section;

"(ii) a payment by an insured depository institution or company to repurchase, redeem, retire, or otherwise acquire any of its shares or other ownership interests, including any extension of credit to finance an affiliated company's acquisition of those shares or interests; or

"(iii) a transaction that the appropriate Federal banking agency or the Corporation determines, by order or regulation, to be in substance a distribution of capital to the owners of the insured depository institution or company.

"(C) CAPITAL RESTORATION PLAN.—The term 'capital restoration plan' means a plan submitted under subsection (e)(2).

"(D) COMPANY.—The term 'company' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(E) COMPENSATION.—The term 'compensation' includes any payment of money or provision of any other thing of value in consideration of employment.

"(F) RELEVANT CAPITAL MEASURE.—The term 'relevant capital measure' means the measures described in subsection (c).

"(G) REQUIRED MINIMUM LEVEL.—The term 'required minimum level' means, with respect to each relevant capital measure, the minimum acceptable capital level specified by the appropriate Federal banking agency by regulation.

"(H) SENIOR EXECUTIVE OFFICER.—The term 'senior executive officer' has the same meaning as the term 'executive officer' in section 22(h) of the Federal Reserve Act.

"(I) SUBORDINATED DEBT.—The term 'subordinated debt' means debt subordinated to the claims of general creditors.

"(c) CAPITAL STANDARDS.—

"(1) RELEVANT CAPITAL MEASURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B)(ii), the capital standards prescribed by each appropriate Federal banking agency shall include—

"(i) a leverage limit; and

"(ii) a risk-based capital requirement.

"(B) OTHER CAPITAL MEASURES.—An appropriate Federal banking agency may, by regulation—

"(i) establish any additional relevant capital measures to carry out the purpose of this section; or

"(ii) rescind any relevant capital measure required under subparagraph (A) upon determining (with the concurrence of the other Federal banking agencies) that the measure is no longer an appropriate means for carrying out the purpose of this section.

"(2) CAPITAL CATEGORIES GENERALLY.—Each appropriate Federal banking agency shall, by regulation, specify for each relevant capital measure the levels at which an insured depository institution is well capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized.

"(3) CRITICAL CAPITAL.—

"(A) AGENCY TO SPECIFY LEVEL.—

"(i) LEVERAGE LIMIT.—Each appropriate Federal banking agency shall, by regulation, in consultation with the Corporation, specify the ratio of tangible equity to total assets at which an insured depository institution is critically undercapitalized.

"(ii) OTHER RELEVANT CAPITAL MEASURES.—The agency may, by regulation, specify for 1 or more other relevant capital measures, the level at which an insured depository institution is critically undercapitalized.

"(B) LEVERAGE LIMIT RANGE.—The level specified under subparagraph (A)(i) shall require tangible equity in an amount—

"(i) not less than 2 percent of total assets; and

"(ii) except as provided in clause (i), not more than 65 percent of the required minimum level of capital under the leverage limit.

"(C) FDIC'S CONCURRENCE REQUIRED.—The appropriate Federal banking agency shall not, without the concurrence of the Corporation,

specify a level under subparagraph (A)(i) lower than that specified by the Corporation for State nonmember insured banks.

"(d) PROVISIONS APPLICABLE TO ALL INSTITUTIONS.—

"(1) CAPITAL DISTRIBUTIONS RESTRICTED.—

"(A) IN GENERAL.—An insured depository institution shall make no capital distribution if, after making the distribution, the institution would be undercapitalized.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the appropriate Federal banking agency may permit, after consultation with the Corporation, an insured depository institution to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition—

"(i) is made in connection with the issuance of additional shares or obligations of the institution in at least an equivalent amount; and

"(ii) will reduce the institution's financial obligations or otherwise improve the institution's financial condition.

"(2) MANAGEMENT FEES RESTRICTED.—An insured depository institution shall pay no management fee to any person having control of that institution if, after making the payment, the institution would be undercapitalized.

"(e) PROVISIONS APPLICABLE TO UNDERCAPITALIZED INSTITUTIONS.—

"(1) MONITORING REQUIRED.—Each appropriate Federal banking agency shall—

"(A) closely monitor the condition of any undercapitalized insured depository institution;

"(B) closely monitor compliance with capital restoration plans, restrictions, and requirements imposed under this section; and

"(C) periodically review the plan, restrictions, and requirements applicable to any undercapitalized insured depository institution to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.

"(2) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized insured depository institution shall submit an acceptable capital restoration plan to the appropriate Federal banking agency within the time allowed by the agency under subparagraph (D).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify—

"(I) the steps the insured depository institution will take to become adequately capitalized;

"(II) the levels of capital to be attained during each year in which the plan will be in effect;

"(III) how the institution will comply with the restrictions or requirements then in effect under this section; and

"(IV) the types and levels of activities in which the institution will engage; and

"(ii) contain such other information as the appropriate Federal banking agency may require.

"(C) CRITERIA FOR ACCEPTING PLAN.—The appropriate Federal banking agency shall not accept a capital restoration plan unless the agency determines that—

"(i) the plan—

"(I) complies with subparagraph (B);

"(II) is based on realistic assumptions, and is likely to succeed in restoring the institution's capital; and

"(III) would not appreciably increase the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed; and

"(ii) if the insured depository institution is undercapitalized, each company having control of the institution has—

"(I) guaranteed that the institution will comply with the plan until the institution has been adequately capitalized on average during each of 4 consecutive calendar quarters; and

"(II) provided appropriate assurances of performance.

"(D) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 45 days after the institution becomes undercapitalized; and

"(ii) require the agency to act on capital restoration plans expeditiously, and generally not later than 60 days after the plan is submitted; and

"(iii) require the agency to submit a copy of any plan approved by the agency to the Corporation before the end of the 45-day period beginning on the date such approval is granted.

"(E) GUARANTEE LIABILITY LIMITED.—

"(i) IN GENERAL.—The aggregate liability under subparagraph (C)(ii) of all companies having control of an insured depository institution shall be the lesser of—

"(I) an amount equal to 5 percent of the institution's total assets at the time the institution became undercapitalized; or

"(II) the amount which is necessary (or would have been necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with a plan under this subsection.

"(ii) CERTAIN AFFILIATES NOT AFFECTED.—This paragraph may not be construed as—

"(I) requiring any company not having control of an undercapitalized insured depository institution to guarantee, or otherwise be liable on, a capital restoration plan;

"(II) requiring any person other than an insured depository institution to submit a capital restoration plan; or

"(III) affecting compliance by brokers, dealers, government securities brokers, and government securities dealers with the financial responsibility requirements of the Securities Exchange Act of 1934 and regulations and orders thereunder.

"(3) ASSET GROWTH RESTRICTED.—An undercapitalized insured depository institution shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless—

"(A) the appropriate Federal banking agency has accepted the institution's capital restoration plan;

"(B) any increase in total assets is consistent with the plan; and

"(C) the institution's ratio of tangible equity to assets increases during the calendar quarter at a rate sufficient to enable the institution to become adequately capitalized within a reasonable time.

"(4) PRIOR APPROVAL REQUIRED FOR ACQUISITIONS, BRANCHING, AND NEW LINES OF BUSINESS.—An undercapitalized insured depository institution shall not, directly or indirectly, acquire any interest in any company or insured depository institution, establish or acquire any additional branch office, or engage in any new line of business unless—

"(A) the appropriate Federal banking agency has accepted the insured depository institution's capital restoration plan, the institution is implementing the plan, and the agency determines that the proposed action is consistent with and will further the achievement of the plan; or

"(B) the Board of Directors determines that the proposed action will further the purpose of this section.

"(5) DISCRETIONARY SAFEGUARDS.—The appropriate Federal banking agency may, with respect to any undercapitalized insured depository institution, take actions described in any subparagraph of subsection (f)(2) if the agency determines that those actions are necessary to carry out the purpose of this section.

"(f) PROVISIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED INSTITUTIONS AND UNDERCAPITALIZED INSTITUTIONS THAT FAIL TO SUBMIT AND IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) IN GENERAL.—This subsection shall apply with respect to any insured depository institution that—

"(A) is significantly undercapitalized; or

"(B) is undercapitalized and—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (e)(2)(D); or

"(ii) fails in any material respect to implement a plan accepted by the agency.

"(2) SPECIFIC ACTIONS AUTHORIZED.—The appropriate Federal banking agency shall carry out this section by taking 1 or more of the following actions:

"(A) REQUIRING RECAPITALIZATION.—Doing 1 or more of the following:

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will be adequately capitalized after the sale.

"(ii) Further requiring that instruments sold under clause (i) be voting shares.

"(iii) Requiring the institution to be acquired by a depository institution holding company, or to combine with another insured depository institution, if 1 or more grounds exist for appointing a conservator or receiver for the institution.

"(B) RESTRICTING TRANSACTIONS WITH AFFILIATES.—

"(i) Requiring the institution to comply with section 23A of the Federal Reserve Act as if subsection (d)(1) of that section (exempting transactions with certain affiliated institutions) did not apply.

"(ii) Further restricting the institution's transactions with affiliates.

"(C) RESTRICTING INTEREST RATES PAID.—

"(i) IN GENERAL.—Restricting the interest rates that the institution pays on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the institution is located, as determined by the agency.

"(ii) RETROACTIVE RESTRICTIONS PROHIBITED.—This subparagraph does not authorize the agency to restrict interest rates paid on time deposits made before (and not renewed or renegotiated after) the agency acted under this subparagraph.

"(D) RESTRICTING ASSET GROWTH.—Restricting the institution's asset growth more stringently than subsection (e)(3), or requiring the institution to reduce its total assets.

"(E) RESTRICTING ACTIVITIES.—Requiring the institution or any of its subsidiaries to alter, reduce, or terminate any activity that the agency determines poses excessive risk to the institution.

"(F) IMPROVING MANAGEMENT.—Doing 1 or more of the following:

"(i) NEW ELECTION OF DIRECTORS.—Ordering a new election for the institution's board of directors.

"(ii) DISMISSING DIRECTORS OR SENIOR EXECUTIVE OFFICERS.—Requiring the institution to dismiss from office any director or senior executive officer who had held office for more than 180 days immediately before the institution became undercapitalized. Dismissal under this clause shall not be construed to be a removal under section 8.

"(iii) EMPLOYING QUALIFIED SENIOR EXECUTIVE OFFICERS.—Requiring the institution to em-

ploy qualified senior executive officers (who, if the agency so specifies, shall be subject to approval by the agency).

"(G) PROHIBITING DEPOSITS FROM CORRESPONDENT BANKS.—Prohibiting the acceptance by the institution of deposits from correspondent depository institutions, including renewals and rollovers of prior deposits.

"(H) REQUIRING PRIOR APPROVAL FOR CAPITAL DISTRIBUTIONS BY BANK HOLDING COMPANY.—Prohibiting any bank holding company having control of the insured depository institution from making any capital distribution without the prior approval of the Board of Governors of the Federal Reserve System.

"(I) REQUIRING DIVESTITURE.—Doing one or more of the following:

"(i) DIVESTITURE BY THE INSTITUTION.—Requiring the institution to divest itself of or liquidate any subsidiary if the agency determines that the subsidiary is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(ii) DIVESTITURE BY PARENT COMPANY OF NONDEPOSITORY AFFILIATE.—Requiring any company having control of the institution to divest itself of or liquidate any affiliate other than an insured depository institution if the appropriate Federal banking agency for that company determines that the affiliate is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(iii) DIVESTITURE OF INSTITUTION.—Requiring any company having control of the institution to divest itself of the institution if the appropriate Federal banking agency for that company determines that divestiture would improve the institution's financial condition and future prospects.

"(J) REQUIRING OTHER ACTION.—Requiring the institution to take any other action that the agency determines will better carry out the purpose of this section than any of the actions described in this paragraph.

"(3) PRESUMPTION IN FAVOR OF CERTAIN ACTIONS.—In complying with paragraph (2), the agency shall take the following actions, unless the agency determines that the actions would not further the purpose of this section:

"(A) The action described in clause (i) or (iii) of paragraph (2)(A) (relating to requiring the sale of shares or obligations, or requiring the institution to be acquired by or combine with another institution).

"(B) The action described in paragraph (2)(B)(i) (relating to restricting transactions with affiliates).

"(C) The action described in paragraph (2)(C) (relating to restricting interest rates).

"(4) SENIOR EXECUTIVE OFFICERS' COMPENSATION RESTRICTED.—

"(A) IN GENERAL.—The insured depository institution shall not do any of the following without the prior written approval of the appropriate Federal banking agency:

"(i) Pay any bonus to any senior executive officer.

"(ii) Provide compensation to any senior executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit-sharing) during the 12 calendar months preceding the calendar month in which the institution became undercapitalized.

"(B) FAILING TO SUBMIT PLAN.—The appropriate Federal banking agency shall not grant any approval under subparagraph (A) with respect to an institution that has failed to submit an acceptable capital restoration plan.

"(5) DISCRETION TO IMPOSE CERTAIN ADDITIONAL RESTRICTIONS.—The agency may impose 1 or more of the restrictions prescribed by regulation under subsection (i) if the agency determines that those restrictions are necessary to carry out the purpose of this section.

"(6) CONSULTATION WITH FUNCTIONAL REGULATORS.—Before the agency or Corporation makes a determination under paragraph (2)(I) with respect to an affiliate that is a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the agency or Corporation shall consult with the Securities and Exchange Commisssion and, in the case of any other affiliate which is subject to any financial responsibility or capital requirement, any other functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956) of such affiliate with respect to the proposed determination of the agency or the Corporation and actions pursuant to such determination.

"(g) MORE STRINGENT TREATMENT BASED ON OTHER SUPERVISORY CRITERIA.—

"(1) IN GENERAL.—If the appropriate Federal banking agency determines (after notice and an opportunity for hearing) that an insured depository institution is in an unsafe or unsound condition or, pursuant to section 8(b)(8), deems the institution to be engaging in an unsafe or unsound practice, the agency may—

"(A) if the institution is well capitalized, reclassify the institution as adequately capitalized;

"(B) if the institution is adequately capitalized, require the institution to comply with 1 or more provisions of subsections (d) and (e), as if the institution were undercapitalized; or

"(C) if the institution is undercapitalized, take any 1 or more actions authorized under subsection (f)(2) as if the institution were significantly undercapitalized.

"(2) CONTENTS OF PLAN.—Any plan required under paragraph (1) shall specify the steps that the insured depository institution will take to correct the unsafe or unsound condition or practice. Capital restoration plans shall not be required under paragraph (1)(B).

"(h) PROVISIONS APPLICABLE TO CRITICALLY UNDERCAPITALIZED INSTITUTIONS.—

"(1) ACTIVITIES RESTRICTED.—Any critically undercapitalized insured depository institution shall comply with restrictions prescribed by the Corporation under subsection (i).

"(2) PAYMENTS ON SUBORDINATED DEBT PROHIBITED.—

"(A) IN GENERAL.—A critically undercapitalized insured depository institution shall not, beginning 60 days after becoming critically undercapitalized, make any payment of principal or interest on the institution's subordinated debt.

"(B) EXCEPTIONS.—The Corporation may make exceptions to subparagraph (A) if—

"(i) the appropriate Federal banking agency has taken action with respect to the insured depository institution under paragraph (3)(A)(ii); and

"(ii) the Corporation determines that the exception would further the purpose of this section.

"(C) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until July 15, 1996, subparagraph (A) shall not apply with respect to any subordinated debt outstanding on July 15, 1991, and not extended or otherwise renegotiated after July 15, 1991.

"(D) ACCRUAL OF INTEREST.—Subparagraph (A) does not prevent unpaid interest from accruing on subordinated debt under the terms of that debt, to the extent otherwise permitted by law.

"(3) CONSERVATORSHIP, RECEIVERSHIP, OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall, not later than 90 days after an insured depository institution becomes critically undercapitalized—

"(i) appoint a receiver (or, with the concurrence of the Corporation, a conservator) for the institution; or

"(ii) take such other action as the agency determines, with the concurrence of the Corporation, would better achieve the purpose of this section, after documenting why the action would better achieve that purpose.

"(B) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by an appropriate Federal banking agency under subparagraph (A)(ii) to take any action with respect to an insured depository institution in lieu of appointing a conservator or receiver shall cease to be effective not later than the end of the 90-day period beginning on the date that the determination is made and a conservator or receiver shall be appointed for that institution under subparagraph (A)(i) unless the agency makes a new determination under subparagraph (A)(ii) at the end of the effective period of the prior determination.

"(C) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the appropriate Federal banking agency shall appoint a receiver for the insured depository institution if the institution is critically undercapitalized on average during the calendar quarter beginning 270 days after the date on which the institution became critically undercapitalized.

"(ii) EXCEPTION.—Notwithstanding clause (i), the appropriate Federal banking agency may continue to take such other action as the agency determines to be appropriate in lieu of such appointment if—

"(I) the agency determines, with the concurrence of the Corporation, that (aa) the insured depository institution has positive net worth, (bb) the insured depository institution has been in substantial compliance with an approved capital restoration plan which requires consistent improvement in the institution's capital since the date of the approval of the plan, (cc) the insured depository institution is profitable or has an upward trend in earnings the agency projects as sustainable, and (dd) the insured depository institution is reducing the ratio of nonperforming loans to total loans; and

"(II) the head of the appropriate Federal banking agency and the Chairperson of the Board of Directors both certify that the institution is viable and not expected to fail.

"(i) RESTRICTING ACTIVITIES OF CRITICALLY UNDERCAPITALIZED INSTITUTIONS.—To carry out the purpose of this section, the Corporation shall, by regulation or order—

"(1) restrict the activities of any critically undercapitalized insured depository institution; and

"(2) at a minimum, prohibit any such institution from doing any of the following without the Corporation's prior written approval:

"(A) Entering into any material transaction other than in the usual course of business, including any investment, expansion, acquisition, sale of assets, or other similar action with respect to which the depository institution is required to provide notice to the appropriate Federal banking agency.

"(B) Extending credit for any highly leveraged transaction.

"(C) Amending the institution's charter or bylaws, except to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Making any material change in accounting methods.

"(E) Engaging in any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Paying excessive compensation or bonuses.

"(G) Paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas.

"(j) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Subsections (e) through (i) (other than paragraph (3) of subsection (e)) shall not apply—

"(1) to an insured depository institution for which the Corporation or the Resolution Trust Corporation is conservator; or

"(2) to a bridge bank, none of the voting securities of which are owned by a person or agency other than the Corporation or the Resolution Trust Corporation.

"(k) REVIEW REQUIRED WHEN DEPOSIT INSURANCE FUND INCURS MATERIAL LOSS.—

"(1) IN GENERAL.—If a deposit insurance fund incurs a material loss with respect to an insured depository institution on or after July 1, 1993, the inspector general of the appropriate Federal banking agency shall—

"(A) make a written report to that agency reviewing the agency's supervision of the institution (including the agency's implementation of this section), which shall—

"(i) ascertain why the institution's problems resulted in a material loss to the deposit insurance fund; and

"(ii) make recommendations for preventing any such loss in the future; and

"(B) provide a copy of the report to—

"(i) the Comptroller General of the United States;

"(ii) the Corporation (if the agency is not the Corporation);

"(iii) in the case of a State depository institution, the appropriate State banking supervisor; and

"(iv) upon request by any Member of Congress, to that Member.

"(2) MATERIAL LOSS INCURRED.—For purposes of this subsection:

"(A) LOSS INCURRED.—A deposit insurance fund incurs a loss with respect to an insured depository institution—

"(i) if the Corporation provides any assistance under section 13(c) with respect to that institution; and—

"(I) it is not substantially certain that the assistance will be fully repaid not later than 24 months after the date on which the Corporation initiated the assistance; or

"(II) the institution ceases to repay the assistance in accordance with its terms; or

"(ii) if the Corporation is appointed receiver of the institution, and it is or becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(B) MATERIAL LOSS.—A loss is material if it exceeds the greater of—

"(i) $25,000,000; or

"(ii) 2 percent of the institution's total assets at the time the Corporation initiated assistance under section 13(c) or was appointed receiver.

"(3) DEADLINE FOR REPORT.—The inspector general of the appropriate Federal banking agency shall comply with paragraph (1) expeditiously, and in any event (except with respect to paragraph (1)(B)(iv)) as follows:

"(A) If the institution is described in paragraph (2)(A)(i), during the 6-month period beginning on the earlier of—

"(i) the date on which the institution ceases to repay assistance under section 13(c) in accordance with its terms, or

"(ii) the date on which it becomes apparent that the assistance will not be fully repaid during the 24-month period described in paragraph (2)(A)(i).

"(B) If the institution is described in paragraph (2)(A)(ii), during the 6-month period beginning on the date on which it becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(4) PUBLIC DISCLOSURE REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall disclose the report upon request under section 552 of title 5, United States Code, without excising—

"(i) any portion under section 552(b)(5) of that title; or

"(ii) any information about the insured depository institution under paragraph (4) (other than trade secrets) or paragraph (8) of section 552(b) of that title.

"(B) EXCEPTION.—Subparagraph (A) does not require the agency to disclose the name of any customer of the insured depository institution (other than an institution-affiliated party), or information from which such a person's identity could reasonably be ascertained.

"(5) GAO REVIEW.—The General Accounting Office shall annually—

"(A) review reports made under paragraph (1) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) verify the accuracy of 1 or more of those reports.

"(6) TRANSITION RULE.—During the period beginning on July 1, 1993, and ending on June 30, 1997, a loss incurred by the Corporation with respect to an insured depository institution—

"(A) with respect to which the Corporation initiates assistance under section 13(c) during the period in question, or

"(B) for which the Corporation was appointed receiver during the period in question,

is material for purposes of this subsection only if that loss exceeds the greater of $25,000,000 or the applicable percentage of the institution's total assets at that time, set forth in the following table:

"For the following period:	***The applicable percentage is:***
July 1, 1993–June 30, 1994	*7 percent*
July 1, 1994–June 30, 1995	*5 percent*
July 1, 1995–June 30, 1996	*4 percent*
July 1, 1996–June 30, 1997	*3 percent.*

"(l) IMPLEMENTATION.—

"(1) REGULATIONS AND OTHER ACTIONS.—Each appropriate Federal banking agency shall prescribe such regulations (in consultation with the other Federal banking agencies), issue such orders, and take such other actions as are necessary to carry out this section.

"(2) WRITTEN DETERMINATION AND CONCURRENCE REQUIRED.—Any determination or concurrence by an appropriate Federal banking agency or the Corporation required under this section shall be written.

"(m) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of an appropriate Federal banking agency, the Corporation, or a State to take action in addition to (but not in derogation of) that required under this section.

"(n) ADMINISTRATIVE REVIEW OF DISMISSAL ORDERS.—

"(1) TIMELY PETITION REQUIRED.—A director or senior executive officer dismissed pursuant to an order under subsection (f)(2)(F)(ii) may obtain review of that order by filing a written petition for reinstatement with the appropriate Federal banking agency not later than 10 days after receiving notice of the dismissal.

"(2) PROCEDURE.—

"(A) HEARING REQUIRED.—The agency shall give the petitioner an opportunity to—

"(i) submit written materials in support of the petition; and

"(ii) appear, personally or through counsel, before 1 or more members of the agency or designated employees of the agency.

"(B) DEADLINE FOR HEARING.—The agency shall—

"(i) schedule the hearing referred to in subparagraph (A)(ii) promptly after the petition is filed; and

"(ii) hold the hearing not later than 30 days after the petition is filed, unless the petitioner requests that the hearing be held at a later time.

"(C) DEADLINE FOR DECISION.—Not later than 60 days after the date of the hearing, the agency shall—

"(i) by order, grant or deny the petition;

"(ii) if the order is adverse to the petitioner, set forth the basis for the order; and

"(iii) notify the petitioner of the order.

"(3) STANDARD FOR REVIEW OF DISMISSAL ORDERS.—The petitioner shall bear the burden of proving that the petitioner's continued employment would materially strengthen the insured depository institution's ability—

"(A) to become adequately capitalized, to the extent that the order is based on the institution's capital level or failure to submit or implement a capital restoration plan; and

"(B) to correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the order is based on subsection (g)(1).

"(o) TRANSITION RULES FOR SAVINGS ASSOCIATIONS.—

"(1) RTC'S ROLE DOES NOT DIMINISH CARE REQUIRED OF OTS.—

"(A) IN GENERAL.—In implementing this section, the appropriate Federal banking agency (and, to the extent applicable, the Corporation) shall exercise the same care as if the Savings Association Insurance Fund (rather than the Resolution Trust Corporation) bore the cost of resolving the problems of insured savings associations described in clauses (i) and (ii)(II) of section 21A(b)(3)(A) of the Federal Home Loan Bank Act.

"(B) REPORTS.—Subparagraph (A) does not require reports under subsection (k).

"(2) ADDITIONAL FLEXIBILITY FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2), (f), and (h) shall not apply before July 1, 1994, to any insured savings association if—

"(A) before the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991—

"(i) the savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act; and

"(ii) the Director of the Office of Thrift Supervision had accepted the plan;

"(B) the plan remains in effect; and

"(C) the savings association remains in compliance with the plan or is operating under a written agreement with the appropriate Federal banking agency.".

(b) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) (and the Corporation, acting in the Corporation's capacity as insurer of depository institutions under that Act) shall, after notice and opportunity for comment, promulgate final regulations under section 38 of the Federal Deposit Insurance Act (as added by subsection (a)) not later than 9 months after the date of enactment of this Act, and those regulations shall become effective not later than 1 year after that date of enactment.

(c) OTHER AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) ENFORCEMENT ACTION BASED ON UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following:

"(8) UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY AS UNSAFE OR UNSOUND PRACTICE.—If an insured depository institution receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the appropriate Federal banking agency may (if the deficiency is not corrected) deem the institution to be engaging in an unsafe or unsound practice for purposes of this subsection.".

(2) CONFORMING AMENDMENTS RELATING TO FEDERAL BANKING AGENCIES' ENFORCEMENT AUTHORITY.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended—

(A) in the first sentence of paragraph (1), by inserting "or under section 38" after "section"; and

(B) in paragraph (2)(A)(ii), by inserting ", or final order under section 38" after "section".

(3) DEFINITION.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(y) The term 'deposit insurance fund' means the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate.".

(d) CONFORMING AMENDMENT TO SECTION 5(t)(7) OF THE HOME OWNERS' LOAN ACT.—Section 5(t)(7) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(7)) is amended—

(1) in subsection (A), by inserting "under this Act" before the period; and

(2) in subsection (B), by inserting "under this Act" after "imposed by the Director".

(e) TRANSITION RULE REGARDING CURRENT DIRECTORS AND SENIOR EXECUTIVE OFFICERS.—

(1) DISMISSAL FROM OFFICE.—Section 38(f)(2)(F)(ii) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to—

(A) any director whose current term as a director commenced on or before the date of enactment of this Act and has not been extended—

(i) after that date of enactment, or

(ii) to evade section 38(f)(2)(F)(ii); or

(B) any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(i) after that date of enactment, or

(ii) to evade section 38(f)(2)(F)(ii).

(2) RESTRICTING COMPENSATION.—Section 38(f)(4) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(A) after that date of enactment, or

(B) to evade section 38(f)(4).

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective 1 year after the date of enactment of this Act.

SEC. 132. STANDARDS FOR SAFETY AND SOUNDNESS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. STANDARDS FOR SAFETY AND SOUNDNESS.

"(a) OPERATIONAL AND MANAGERIAL STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards relating to—

"(A) internal controls, information systems, and internal audit systems, in accordance with section 36;

"(B) loan documentation;

"(C) credit underwriting;

"(D) interest rate exposure;

"(E) asset growth; and

"(F) compensation, fees, and benefits, in accordance with subsection (c); and

"(2) such other operational and managerial standards as the agency determines to be appropriate.

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards specifying—

"(A) a maximum ratio of classified assets to capital;

"(B) minimum earnings sufficient to absorb losses without impairing capital; and

"(C) to the extent feasible, a minimum ratio of market value to book value for publicly traded shares of the institution or company; and

"(2) such other standards relating to asset quality, earnings, and valuation as the agency determines to be appropriate.

"(c) COMPENSATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions, prescribe—

"(1) standards prohibiting as an unsafe and unsound practice any employment contract, compensation or benefit agreement, fee arrangement, perquisite, stock option plan, postemployment benefit, or other compensatory arrangement that—

"(A) would provide any executive officer, employee, director, or principal shareholder of the institution with excessive compensation, fees or benefits; or

"(B) could lead to material financial loss to the institution;

"(2) standards specifying when compensation, fees, or benefits referred to in paragraph (1) are excessive, which shall require the agency to determine whether the amounts are unreasonable or disproportionate to the services actually performed by the individual by considering—

"(A) the combined value of all cash and noncash benefits provided to the individual;

"(B) the compensation history of the individual and other individuals with comparable expertise at the institution;

"(C) the financial condition of the institution;

"(D) comparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location, and the complexity of the loan portfolio or other assets;

"(E) for postemployment benefits, the projected total cost and benefit to the institution;

"(F) any connection between the individual and any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the institution; and

"(G) other factors that the agency determines to be relevant; and

"(3) such other standards relating to compensation, fees, and benefits as the agency determines to be appropriate.

"(d) STANDARDS TO BE PRESCRIBED BY REGULATION.—Standards under subsections (a), (b), and (c) shall be prescribed by regulation.

"(e) FAILURE TO MEET STANDARDS.—

"(1) PLAN REQUIRED.—

"(A) IN GENERAL.—If the appropriate Federal banking agency determines that an insured depository institution or depository institution holding company fails to meet any standard prescribed under subsection (a), (b), or (c) the agency shall require the institution or company to submit an acceptable plan to the agency within the time allowed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—Any plan required under subparagraph (A) shall specify the steps that the institution or company will take to correct the deficiency. If the institution is undercapitalized, the plan may be part of a capital restoration plan.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide institutions and companies with reasonable time to submit plans required under subparagraph (A), and generally require the institution or company to submit a plan not later than 30 days after the agency determines that the institution or company fails to meet any standard prescribed under subsection (a), (b), or (c); and

"(ii) require the agency to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

"(2) ORDER REQUIRED IF INSTITUTION OR COMPANY FAILS TO SUBMIT OR IMPLEMENT PLAN.—If an insured depository institution or depository institution holding company fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the appropriate Federal banking agency, the agency, by order—

"(A) shall require the institution or company to correct the deficiency; and

"(B) may do 1 or more of the following until the deficiency has been corrected:

"(i) Prohibit the institution or company from permitting its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the institution or company may increase from one calendar quarter to another.

"(ii) Require the institution or company to increase its ratio of tangible equity to assets.

"(iii) Take the action described in section 38(f)(2)(C).

"(iv) Require the institution or company to take any other action that the agency determines will better carry out the purpose of section 38 than any of the actions described in this subparagraph.

"(3) RESTRICTIONS MANDATORY FOR CERTAIN INSTITUTIONS.—In complying with paragraph (2), the appropriate Federal banking agency shall take 1 or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

"(A) the agency determines that the insured depository institution fails to meet any standard prescribed under subsection (a)(1) or (b)(1);

"(B) the institution has not corrected the deficiency; and

"(C) either—

"(i) during the 24-month period before the date on which the institution first failed to meet the standard—

"(I) the institution commenced operations; or

"(II) 1 or more persons acquired control of the institution; or

"(ii) during the 18-month period before the date on which the institution first failed to meet the standard, the institution underwent extraordinary growth, as defined by the agency.

"(f) DEFINITIONS.—For purposes of this section, the terms 'average' and 'capital restoration plan' have the same meanings as in section 38.

"(g) OTHER AUTHORITY NOT AFFECTED.—The authority granted by this section is in addition to any other authority of the Federal banking agencies.".

(b) REGULATIONS REQUIRED.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall promulgate final regulations under section 39 of the Federal Deposit Insurance Act (as added by subsection (a)) not later than August 1, 1993.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the earlier of—

(1) the date on which final regulations promulgated in accordance with subsection (b) become effective; or

(2) December 1, 1993.

SEC. 133. CONSERVATORSHIP AND RECEIVERSHIP AMENDMENTS TO FACILITATE PROMPT REGULATORY ACTION.

(a) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER; CONSISTENT STANDARDS FOR NATIONAL, STATE MEMBER, AND STATE NONMEMBER BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended to read as follows:

"(5) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER.—The grounds for appointing a conservator or receiver (which may be the Corporation) for any insured depository institution are as follows:

"(A) ASSETS INSUFFICIENT FOR OBLIGATIONS.—The institution's assets are less than the institution's obligations to its creditors and others, including members of the institution.

"(B) SUBSTANTIAL DISSIPATION.—Substantial dissipation of assets or earnings due to—

"(i) any violation of any statute or regulation; or

"(ii) any unsafe or unsound practice.

"(C) UNSAFE OR UNSOUND CONDITION.—An unsafe or unsound condition to transact business.

"(D) CEASE AND DESIST ORDERS.—Any willful violation of a cease-and-desist order which has become final.

"(E) CONCEALMENT.—Any concealment of the institution's books, papers, records, or assets, or any refusal to submit the institution's books, papers, records, or affairs for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

"(F) INABILITY TO MEET OBLIGATIONS.—The institution is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business.

"(G) LOSSES.—The institution has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the institution to become adequately capitalized (as defined in section 38(b)) without Federal assistance.

"(H) VIOLATIONS OF LAW.—Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

"(i) cause insolvency or substantial dissipation of assets or earnings;

"(ii) weaken the institution's condition; or

"(iii) otherwise seriously prejudice the interests of the institution's depositors or the deposit insurance fund.

"(I) CONSENT.—The institution, by resolution of its board of directors or its shareholders or members, consents to the appointment.

"(J) CESSATION OF INSURED STATUS.—The institution ceases to be an insured institution.

"(K) UNDERCAPITALIZATION.—The institution is undercapitalized (as defined in section 38(b)), and—

"(i) has no reasonable prospect of becoming adequately capitalized (as defined in that section);

"(ii) fails to become adequately capitalized when required to do so under section 38(f)(2)(A);

"(iii) fails to submit a capital restoration plan acceptable to that agency within the time prescribed under section 38(e)(2)(D); or

"(iv) materially fails to implement a capital restoration plan submitted and accepted under section 38(e)(2).

"(L) The institution—

"(i) is critically undercapitalized, as defined in section 38(b); or

"(ii) otherwise has substantially insufficient capital.".

(b) CONFORMING AMENDMENT TO AUTHORITY TO APPOINT RECEIVER FOR NATIONAL BANK.—Section 1 of the Act of June 30, 1876 (12 U.S.C. 191) is amended to read as follows:

"SECTION 1. The Comptroller of the Currency may, without prior notice or hearings, appoint the Federal Deposit Insurance Corporation as receiver for any national banking association if the Comptroller determines, in the Comptroller's discretion, that—

"(1) 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist; or

"(2) the association's board of directors consists of fewer than 5 members.".

(c) CONFORMING AMENDMENT TO THE BANK CONSERVATION ACT.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended to read as follows:

"(a) APPOINTMENT.—The Comptroller of the Currency may, without prior notice or hearings, appoint a conservator (which may be the Federal Deposit Insurance Corporation) to the possession and control of a bank whenever the Comptroller of the Currency determines that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist.".

(d) CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 5(d)(2) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)) is amended—

(1) by striking subparagraphs (A) through (D) and inserting the following:

"(A) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR INSURED SAVINGS ASSOCIATION.—The Director of the Office of Thrift Supervision may appoint a conservator or receiver for any insured savings association if the Director determines, in the Director's discretion, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exists"; and

(2) by redesignating subparagraphs (E) through (I) as subparagraphs (B) through (F), respectively.

(e) ADDITIONAL PROVISIONS RELATING TO APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 11(c)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(9)) is amended to read as follows:

"(9) APPROPRIATE FEDERAL BANKING AGENCY MAY APPOINT CORPORATION AS CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTION TO CARRY OUT SECTION 38.—

"(A) IN GENERAL.—The appropriate Federal banking agency may appoint the Corporation as sole receiver (or, subject to paragraph (11), sole conservator) of any insured State depository institution, after consultation with the appropriate State supervisor, if the appropriate Federal banking agency determines that—

"(i) 1 or more of the grounds specified in subparagraphs (K) and (L) of paragraph (5) exist with respect to that institution; and

"(ii) the appointment is necessary to carry out the purpose of section 38.

"(B) NONDELEGATION.—The appropriate Federal banking agency shall not delegate any action under subparagraph (A).

"(10) CORPORATION MAY APPOINT ITSELF AS CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTION TO PREVENT LOSS TO DEPOSIT INSURANCE FUND.—The Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State supervisor (if any), if the Board of Directors determines that—

"(A) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(B) the appointment is necessary to reduce—

"(i) the risk that the deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(ii) any loss that the deposit insurance fund is expected to incur with respect to that institution.

"(11) APPROPRIATE FEDERAL BANKING AGENCY SHALL NOT APPOINT CONSERVATOR UNDER CERTAIN PROVISIONS WITHOUT GIVING CORPORATION OPPORTUNITY TO APPOINT RECEIVER.—The appropriate Federal banking agency shall not appoint a conservator for an insured depository institution under subparagraph (K) or (L) of paragraph (5) without the Corporation's consent unless the agency has given the Corporation 48 hours notice of the agency's intention to appoint the conservator and the grounds for the appointment.

"(12) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for acquiescing in or consenting in good faith to—

"(A) the appointment of the Corporation or the Resolution Trust Corporation as conservator or receiver for that institution; or

"(B) an acquisition or combination under section 38(f)(2)(A)(iii).

"(13) ADDITIONAL POWERS.—In any case in which the Corporation is appointed conservator or receiver under paragraph (4), (6), (9), or (10) for any insured State depository institution—

"(A) subject to subparagraph (B), this section shall apply to the Corporation as conservator or receiver in the same manner and to the same extent as if that institution were a Federal depository institution for which the Corporation had been appointed conservator or receiver;

"(B) the Corporation shall apply the law of the State in which the institution is chartered insofar as that law gives the claims of depositors priority over those of other creditors or claimants; and

"(C) the Corporation as receiver of the institution may—

"(i) liquidate the institution in an orderly manner; and

"(ii) make any other disposition of any matter concerning the institution, as the Corporation determines is in the best interests of the institution, the depositors of the institution, and the Corporation.".

(f) CONFORMING AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(p) AUTHORITY TO APPOINT CONSERVATOR OR RECEIVER.—The Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 11(c)(9) of the Federal Deposit Insurance Act.".

(g) EFFECTIVE DATE.—The amendments made by this section shall become effective 1 year after the date of enactment of this Act.

Subtitle E—Least-Cost Resolution

SEC. 141. LEAST-COST RESOLUTION.

(a) LEAST-COST RESOLUTIONS REQUIRED.—

(1) IN GENERAL.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended—

(A) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (8), (9) and (10), respectively;

(B) by redesignating subparagraph (B) of paragraph (4) as paragraph (5); and

(C) by amending paragraph (4) (as amended by subparagraph (B) of this paragraph) to read as follows:

"(4) LEAST-COST RESOLUTION REQUIRED.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this subsection or subsection (d), (f), (h), (i), or (k) with respect to any insured depository institution unless—

"(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in such institution; and

"(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the deposit insurance fund of all possible methods for meeting the Corporation's obligation under this section.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the deposit insurance fund, the Corporation shall comply with the following provisions:

"(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(I) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

"(III) retain the documentation for not less than 5 years.

"(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the deposit insurance fund.

"(C) TIME OF DETERMINATION.—

"(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

"(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for such institution;

"(II) the date on which a receiver is appointed for such institution; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

"(D) LIQUIDATION COSTS.—In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

"(E) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting—

"(I) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(II) creditors other than depositors.

"(ii) DEADLINE FOR REGULATIONS.—The Corporation shall prescribe regulations to implement clause (i) not later than January 1, 1994, and the regulations shall take effect not later than January 1, 1995.

"(iii) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this subparagraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

"(F) DISCRETIONARY DETERMINATIONS.—Any determination which the Corporation may make under this paragraph shall be made in the sole discretion of the Corporation.

"(G) SYSTEMIC RISK.—

"(i) EMERGENCY DETERMINATION BY SECRETARY OF THE TREASURY.—Notwithstanding subparagraphs (A) and (E), if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that—

"(I) the Corporation's compliance with subparagraphs (A) and (E) with respect to an insured depository institution would have serious adverse effects on economic conditions or financial stability; and

"(II) any action or assistance under this subparagraph would avoid or mitigate such adverse effects,

the Corporation may take other action or provide assistance under this section as necessary to avoid or mitigate such effects.

"(ii) REPAYMENT OF LOSS.—The Corporation shall recover the loss to the appropriate insurance fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) expeditiously from 1 or more emergency special assessments on the members of the insurance fund (of which such institution is a member) equal to the product of—

"(I) an assessment rate established by the Corporation; and

"(II) the amount of each member's average total assets during the semiannual period, minus the sum of the amount of the member's average total tangible equity and the amount of the member's average total subordinated debt.

"(iii) DOCUMENTATION REQUIRED.—The Secretary of the Treasury shall—

"(I) document any determination under clause (i); and

"(II) retain the documentation for review under clause (iv).

"(iv) GAO REVIEW.—The Comptroller General of the United States shall review and report to the Congress on any determination under clause (i), including—

"(I) the basis for the determination;

"(II) the purpose for which any action was taken pursuant to such clause; and

"(III) the likely effect of the determination and such action on the incentives and conduct of insured depository institutions and uninsured depositors.

"(v) NOTICE.—

"(I) IN GENERAL.—The Secretary of the Treasury shall provide written notice of any determination under clause (i) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(II) DESCRIPTION OF BASIS OF DETERMINATION.—The notice under subclause (I) shall include a description of the basis for any determination under clause (i).

"(H) RULE OF CONSTRUCTION.—No provision of law shall be construed as permitting the Corporation to take any action prohibited by paragraph (4) unless such provision expressly provides, by direct reference to this paragraph, that this paragraph shall not apply with respect to such action.".

(2) ANNUAL GAO COMPLIANCE AUDIT.—The Comptroller General of the United States shall annually audit the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to determine the extent to which such corporations are complying with section 13(c)(4) of the Federal Deposit Insurance Act.

(3) CLARIFICATION OF MANNER OF APPLICATION TO THE RTC.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(A) by striking "POWERS.—Except as" and inserting "POWERS.—

"(A) IN GENERAL.—Except as"; and

(B) by adding at the end the following new subparagraph:

"(B) MANNER OF APPLICATION OF LEAST-COST RESOLUTION.—For purposes of applying section 13(c)(4) of the Federal Deposit Insurance Act to the Corporation under subparagraph (A), the Corporation shall be treated as the affected deposit insurance fund.".

(b) SECURED CLAIMS IN EXCESS OF VALUE OF COLLATERAL.—Section 11(d)(5)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)) is amended to read as follows:

"(D) AUTHORITY TO DISALLOW CLAIMS.—

"(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against an insured depository institution which is secured by any property or other asset of such institution, any receiver appointed for any insured depository institution—

"(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the institution; and

"(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the institution.

"(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

"(I) any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

"(II) any security interest in the assets of the institution securing any such extension of credit.".

(c) DATA COLLECTIONS.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) is amended to read as follows:

"(8) DATA COLLECTIONS.—In addition to or in connection with any other report required under this subsection, the Corporation shall take such action as may be necessary to ensure that—

"(A) each insured depository institution maintains; and

"(B) the Corporation receives on a regular basis from such institution,

information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.".

(d) INDUSTRY IMPACT ANALYSIS REQUIRED.—

(1) IN GENERAL.—Section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is

amended by adding at the end the following new paragraph:

"(4) FINANCIAL SERVICES INDUSTRY IMPACT ANALYSIS.—After the appointment of the Corporation as conservator or receiver for any insured depository institution and before taking any action under this section or section 13 in connection with the resolution of such institution, the Corporation shall—

"(A) evaluate the likely impact of the means of resolution, and any action which the Corporation may take in connection with such resolution, on the viability of other insured depository institutions in the same community; and

"(B) take such evaluation into account in determining the means for resolving the institution and establishing the terms and conditions for any such action.".

(2) CLERICAL AMENDMENT.—The heading for section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by striking "LIQUIDATION" and inserting "RESOLUTION".

(e) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by redesignating paragraphs (8), (9), and (10) (as so redesignated by subsection (a)(1)(A) of this section), as paragraphs (9), (10), and (11), respectively, and by inserting after paragraph (7) the following new paragraph:

"(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assistance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

"(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

"(ii) OTHER CRITERIA.—The depository institution meets the following criteria:

"(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

"(B) PUBLIC DISCLOSURE.—Any determination under this paragraph to provide assistance under this section shall be made in writing and published in the Federal Register.".

(f) DEFINITIONS.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following new paragraphs:

"(3) UNINSURED DEPOSITS.—The term 'uninsured deposit' means the amount of any deposit of any depositor at any insured depository institution in excess of the amount of the insured deposits of such depositor (if any) at such depository institution.

"(4) PREFERRED DEPOSITS.—The term 'preferred deposits' means deposits of any public unit (as defined in paragraph (1)) at any insured depository institution which are secured or collateralized as required under State law.".

SEC. 142. FEDERAL RESERVE DISCOUNT WINDOW ADVANCES.

(a) REDESIGNATING SECTIONS 10(a) AND 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 10(a) (12 U.S.C. 347a) as section 10A; and

(2) by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATIONS ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as redesignated by subsection (a)) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

(2) by adding at the end the following:

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as critically undercapitalized under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED LOSS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any critically undercapitalized depository institution—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a critically undercapitalized depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of that 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period,

the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS LOSS.—The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

"(i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.

"(ii) The interest received on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A).

"(C) FEDERAL RESERVE TO PAY OBLIGATION.—The Board shall pay the Federal Deposit Insurance Corporation the amount of any liability of the Board under subparagraph (A).

"(D) REPORT.—The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(B) CRITICALLY UNDERCAPITALIZED.—The term 'critically undercapitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is undercapitalized, as defined in section 38 of the Federal Deposit Insurance Act; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE.—A depository institution is 'viable' if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

"(i) is not critically undercapitalized;

"(ii) is not expected to become critically undercapitalized; and

"(iii) is not expected to be placed in conservatorship or receivership.".

(c) BOARD'S AUTHORITY TO EXAMINE DEPOSITORY INSTITUTIONS AND AFFILIATES.—Section 11 of the Federal Reserve Act is amended by adding at the end the following:

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of enactment of this Act.

(e) CONFORMING AMENDMENTS REDESIGNATING SECTIONS 13a, 25(a), AND 25(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 13a as section 13A;

(2) by redesignating section 25(a) as section 25A; and

(3) by redesignating section 25(b) as section 25B.

SEC. 143. EARLY RESOLUTION.

(a) IN GENERAL.—It is the sense of the Congress that the Federal banking agencies should *facilitate early resolution of troubled insured depository institutions whenever feasible if early resolution would have the least possible long-term cost to the deposit insurance fund, consistent with the least-cost and prompt corrective action provisions of the Federal Deposit Insurance Act.*

(b) GENERAL PRINCIPLES.—In encouraging the Federal banking agencies to pursue early resolution strategies, the Congress contemplates that any resolution transaction under section 13(c) of that Act would observe the following general principles:

(1) COMPETITIVE NEGOTIATION.—The transaction should be negotiated competitively, taking into account the value of expediting the process.

(2) RESULTING INSTITUTION ADEQUATELY CAPITALIZED.—Any insured depository institution created or assisted in the transaction (hereafter the "resulting institution") and any institution acquiring the troubled institution should meet all applicable minimum capital standards.

(3) SUBSTANTIAL PRIVATE INVESTMENT.—The transaction should involve substantial private investment.

(4) CONCESSIONS.—Preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions.

(5) QUALIFIED MANAGEMENT.—Directors and senior management of the resulting institution should be qualified to perform their duties, and should not include individuals substantially responsible for the troubled institution's problems.

(6) FDIC'S PARTICIPATION.—The transaction should give the Federal Deposit Insurance Corporation an opportunity to participate in the success of the resulting institution.

(7) STRUCTURE OF TRANSACTION.—The transaction should, insofar as practical, be structured so that—

(A) the Federal Deposit Insurance Corporation—

(i) does not acquire a significant proportion of the troubled institution's problem assets;

(ii) succeeds to the interests of the troubled institution's preexisting owners and debtholders in proportion to the assistance the Corporation provides; and

(iii) limits the Corporation's assistance in term and amount; and

(B) new investors share risk with the Corporation.

(c) REPORT.—Two years after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to Congress analyzing the effect of early resolution on the deposit insurance funds.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

SEC. 151. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURER; DISCLOSURE BY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

"SEC. 40. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

"(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURERS.—

"(1) AUDIT REQUIRED.—Any private deposit insurer shall obtain an annual audit from an independent auditor using generally accepted auditing standards. The audit shall include a determination of whether the private deposit insurer follows generally accepted accounting principles and has set aside sufficient reserves for losses.

"(2) PROVIDING COPIES OF AUDIT REPORT.—

"(A) PRIVATE DEPOSIT INSURER.—The private deposit insurer shall provide a copy of the audit report—

"(i) to each depository institution the deposits of which are insured by the private deposit insurer, not later than 14 days after the audit is completed; and

"(ii) to the appropriate supervisory agency of each State in which such an institution receives deposits, not later than 7 days after the audit is completed.

"(B) DEPOSITORY INSTITUTION.—Any depository institution the deposits of which are insured by the private deposit insurer shall provide a copy of the audit report, upon request, to any current or prospective customer of the institution.

"(b) DISCLOSURE REQUIRED.—Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

"(1) PERIODIC STATEMENTS; ACCOUNT RECORDS.—Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

"(2) ADVERTISING; PREMISES.—Include conspicuously in all advertising and at each place where deposits are normally received a notice that the institution is not federally insured.

"(3) ACKNOWLEDGMENT OF RISK.—Receive deposits only for the account of persons who have signed a written acknowledgment that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.

"(c) MANNER AND CONTENT OF DISCLOSURE.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section.

"(d) EXCEPTIONS FOR INSTITUTIONS NOT RECEIVING RETAIL DEPOSITS.—The Federal Trade Commission may, by regulation or order, make exceptions to subsection (b) for any depository institution that, within the United States, does not receive initial deposits of less than $100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(e) ELIGIBILITY FOR FEDERAL DEPOSIT INSURANCE.—

"(1) IN GENERAL.—Except as permitted by the Federal Trade Commission, in consultation with the Federal Deposit Insurance Corporation, no depository institution (other than a bank, including an unincorporated bank) lacking Federal deposit insurance may use the mails or any instrumentality of interstate commerce to receive or facilitate receiving deposits, unless the appropriate supervisor of the State in which the institution is chartered has determined that the institution meets all eligibility requirements for Federal deposit insurance, including—

"(A) in the case of an institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act, all eligibility requirements set forth in the Federal Credit Union Act and regulations of the National Credit Union Administration; and

"(B) in the case of any other institution, all eligibility requirements set forth in this Act and regulations of the Corporation.

"(2) AUTHORITY OF FDIC AND NCUA NOT AFFECTED.—No determination under paragraph (1) shall bind, or otherwise affect the authority of, the National Credit Union Administration or the Corporation.

"(f) DEFINITIONS.—For purposes of this section:

"(1) APPROPRIATE SUPERVISOR.—The 'appropriate supervisor' of a depository institution means the agency primarily responsible for supervising the institution.

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution' includes—

"(A) any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

"(B) any entity that, as determined by the Federal Trade Commission—

"(i) is engaged in the business of receiving deposits; and

"(ii) could reasonably be mistaken for a depository institution by the entity's current or prospective customers.

"(3) LACKING FEDERAL DEPOSIT INSURANCE.—A depository institution lacks Federal deposit insurance if the institution is not either—

"(A) an insured depository institution; or

"(B) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

"(4) PRIVATE DEPOSIT INSURER.—The term 'private deposit insurer' means any entity insuring the deposits of any depository institution lacking Federal deposit insurance.

"(g) ENFORCEMENT.—Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.".

(2) EFFECTIVE DATES.—Section 40 of the Federal Deposit Insurance Act (as added by paragraph (1)) shall become effective on the date of enactment of this Act, except that—

(A) paragraphs (1) and (2) of subsection (b) shall become effective 1 year after the date of enactment of this Act;

(B) during the period beginning 1 year after that date of enactment of this Act and ending 30 months after that date of enactment, subsection (b)(1) shall apply with ", and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money" omitted;

(C) subsection (e) shall become effective 2 years after that date of enactment; and

(D) subsection (b)(3) shall become effective 30 months after that date of enactment.

(3) CONFORMING AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Effective 1 year after the date of enactment of this Act, section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(b) VIABILITY OF PRIVATE DEPOSIT INSURERS.—

(1) DEADLINE FOR INITIAL INDEPENDENT AUDIT.—The initial annual audit under section 40 (a)(1) of the Federal Deposit Insurance Act (as added by subsection (a)) shall be completed not later than 120 days after the date of enactment of this Act.

(2) BUSINESS PLAN REQUIRED.—Not later than 240 days after the date of enactment of this Act, any private deposit insurer shall provide a business plan to each appropriate supervisor of each State in which deposits are received by any depository institution lacking Federal deposit insurance the deposits of which are insured by a private deposit insurer. The business plan shall explain in detail why the private deposit insurer is viable, and shall, at a minimum—

(A) describe the insurer's—

(i) underwriting standards;

(ii) resources, including trends in and forecasts of assets, income, and expenses;

(iii) risk-management program, including examination and supervision, problem case resolution, and remedies; and

(B) include, for the preceding 5 years, copies of annual audits, annual reports, and annual meeting agendas and minutes.

(3) DEFINITIONS.—For purposes of this subsection, the terms "appropriate supervisor", "deposit", "depository institution", and "lacking Federal deposit insurance" have the same meaning as in section 40(f) of the Federal Deposit Insurance Act (as added by subsection (a)).

Subtitle G—Technical Corrections

SEC. 161. TECHNICAL CORRECTIONS AND CLARIFICATIONS.

(a) SECTION 11 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (d)(3)(A), by striking "(4)(A)" and inserting "(4)";

(2) in subsection (d)(11)(B), by striking "(14)(C)" and inserting "(15)(B)";

(3) in subsection (e)(3)(C)(ii), by striking "subsection (k)" and inserting "subsection (i)";

(4) in subsection (e)(4)(B)(iii), by striking "subsection (k)" and inserting "subsection (i)";

(5) in subparagraphs (A) and (E) of subsection (e)(8), by striking "subsections (d)(9) and (i)(4)(I)" and inserting "subsection (d)(9)";

(6) in subsection (n)(9), by striking "(13)" and inserting "(12)"; and

(7) in subsection (n)(11)(D), by striking "(8)" and inserting "(9)".

(b) CLARIFICATION OF FDIC POWERS IN FSLIC RESOLUTION FUND CONSERVATORSHIPS AND RECEIVERSHIPS.—Section 11A(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)) is amended by adding at the end the following new paragraphs:

"(4) RIGHTS, POWERS, AND DUTIES.—Effective August 10, 1989, the Corporation shall have all rights, powers, and duties to carry out the Corporation's duties with respect to the assets and liabilities of the FSLIC Resolution Fund that the Corporation otherwise has under this Act.

"(5) CORPORATION AS CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Effective August 10, 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any depository institution—

"(i) the accounts of which were insured before August 10, 1989 by the Federal Savings and Loan Insurance Corporation; and

"(ii) for which a conservator or receiver was appointed before January 1, 1989.

"(B) RIGHTS, POWERS, AND DUTIES.—When acting as conservator or receiver with respect to any depository institution described in subparagraph (A), the Corporation shall have all rights, powers, and duties that the Corporation otherwise has as conservator or receiver under this Act.".

(c) CLERICAL AMENDMENT TO SUBSECTION HEADING.—The heading for section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)) is amended by striking "HOLDING COMPANIES" and inserting "AFFILIATES OF DEPOSITORY INSTITUTIONS".

(d) FDIC REMOVAL PERIOD MADE CONSISTENT WITH RTC PERIOD.—Section 9(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1819(b)(2)(B)) is amended by inserting "before the end of the 90-day period beginning on the date the action, suit, or proceeding is filed against the Corporation or the Corporation is substituted as a party" before the period.

(e) CLARIFICATION OF FDIC AUTHORITY TO PAY DE MINIMUS CLAIMS.—The 2d sentence of section 11(i)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i)(3)(A)) is amended by striking "The" and inserting "Notwithstanding any other provision of Federal or State law, or the constitution of any State, the".

(f) CLERICAL AMENDMENT TO SECTION HEADING.—

(1) The heading for section 219 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "**FROM TAXATION**".

(2) The table of contents for the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "from taxation" in the item relating to section 219.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Enhancement Act of 1991".

SEC. 202. REGULATION OF FOREIGN BANK OPERATIONS.

(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by striking subsection (d) and inserting the following new subsections:

"(d) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without the prior approval of the Board.

"(2) REQUIRED STANDARDS FOR APPROVAL.—The Board may not approve an application under paragraph (1) unless it determines that—

"(A) the foreign bank engages directly in the business of banking outside of the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; and

"(B) the foreign bank has furnished to the Board the information it needs to adequately assess the application.

"(3) STANDARDS FOR APPROVAL.—In acting on any application under paragraph (1), the Board may take into account—

"(A) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(B) the financial and managerial resources of the foreign bank, including the bank's experience and capacity to engage in international banking;

"(C) whether the foreign bank has provided the Board with adequate assurances that the bank will make available to the Board such information on the operations or activities of the foreign bank and any affiliate of the bank that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal law; and

"(D) whether the foreign bank and the United States affiliates of the bank are in compliance with applicable United States law.

"(4) FACTOR.—In acting on an application under paragraph (1), the Board shall not make the size of the foreign bank the sole determinant factor, and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country. Nothing in this paragraph shall affect the ability of the Board to order a State branch, agency, or commercial lending company subsidiary to terminate its activities in the United States pursuant to any standard set forth in this Act.

"(5) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraph (2), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(e) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing and notice to any appropriate State bank supervisor, may order a foreign bank that operates a State branch or agency or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency, or subsidiary if the Board finds that—

"(A) the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; or

"(B)(i) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(ii) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Federal Deposit Insurance Act.

However, in making findings under this paragraph, the Board shall not make size the sole determinant factor, and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country. Nothing in this paragraph shall affect the ability of the Board to order a State branch, agency, or commercial lending company subsidiary to terminate its activities in the United States pursuant to any standard set forth in this Act.

"(2) DISCRETION TO DENY HEARING.—The Board may issue an order under paragraph (1) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall take effect before the end of the 120-day period beginning on the date such order is issued unless the Board extends such period.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) RECOMMENDATION TO AGENCY FOR TERMINATION OF A FEDERAL BRANCH OR AGENCY.—The Board may transmit to the Comptroller of the Currency a recommendation that the license of any Federal branch or Federal agency of a foreign bank be terminated in accordance with section 4(i) if the Board has reasonable cause to believe that such foreign bank or any affiliate of such foreign bank has engaged in conduct for which the activities of any State branch or agency may be terminated under paragraph (1).

"(6) ENFORCEMENT OF ORDERS.—

"(A) IN GENERAL.—In the case of contumacy of any office or subsidiary of the foreign bank against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary to comply with such order, the Board or the Comptroller of the Currency may invoke the aid of the district court of the United States within the jurisdiction of which the office or subsidiary is located.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with an order issued under paragraph (1).

"(7) CRITERIA RELATING TO FOREIGN SUPERVISION.—Not later than 1 year after the date of enactment of this subsection, the Board, in consultation with the Secretary of the Treasury, shall develop and publish criteria to be used in *evaluating the operation of any foreign bank in the United States that the Board has determined is not subject to comprehensive supervision or regulation on a consolidated basis. In developing such criteria, the Board shall allow reasonable opportunity for public review and comment.*

"(f) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank—

"(A) whose application under subsection (d) or section 10(a) has been disapproved by the Board;

"(B) against which the Board has issued an order under subsection (e) or section 10(b); or

"(C) against which the Comptroller of the Currency has issued an order under section 4(i) of this Act,

may obtain a review of such order in the United States court of appeals for any circuit in which such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition for review in the court before the end of the 30-day period beginning on the date the order was issued.

"(2) SCOPE OF JUDICIAL REVIEW.—Section 706 of title 5, United States Code, (other than paragraph (2)(F) of such section) shall apply with respect to any review under paragraph (1).

"(g) CONSULTATION WITH STATE BANK SUPERVISOR.—The Board shall request and consider any views of the appropriate State bank supervisor with respect to any application or action under subsection (d) or (e).

(h) LIMITATIONS ON POWERS OF STATE BRANCHES AND AGENCIES.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, a State branch or State agency may not engage in any type of activity that is not permissible for a Federal branch unless—

"(A) the Board has determined that such activity is consistent with sound banking practice; and

"(B) in the case of an insured branch, the Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the deposit insurance fund.

"(2) SINGLE BORROWER LENDING LIMIT.—A State branch or State agency shall be subject to the same limitations with respect to loans made to a single borrower as are applicable to a Federal branch or Federal agency under section 4(b).

"(3) OTHER AUTHORITY NOT AFFECTED.—This section does not limit the authority of the Board or any State supervisory authority to impose more stringent restrictions.".

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—

"(1) INITIAL FEDERAL BRANCH OR AGENCY.—Except as provided in section 5,"; and

(2) by adding at the end the following new paragraph:

"(2) BOARD CONDITIONS REQUIRED TO BE INCLUDED.—In considering any application for approval under this subsection, the Comptroller of the Currency shall include any condition imposed by the Board under section 7(d)(5) as a condition for the approval of such application by the agency.".

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(h) A foreign bank" and inserting "(h) ADDITIONAL BRANCHES OR AGENCIES.—

"(1) APPROVAL OF AGENCY REQUIRED.—A foreign bank"; and

(3) by adding at the end the following new paragraph:

"(2) NOTICE TO AND COMMENT BY BOARD.—The Comptroller of the Currency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(c) The Board shall" and inserting "(c) FACTORS FOR CONSIDERATION BY BOARD.—

"(1) COMPETITIVE FACTORS.—The Board shall";

(3) by striking "In every case" and inserting "(2) BANKING AND COMMUNITY FACTORS.—In every case";

(4) by striking "community to be served. Notwithstanding any other provision of law" and inserting "community to be served.

"(4) TREATMENT OF CERTAIN BANK STOCK LOANS.— Notwithstanding any other provision of law"; and

(5) by inserting after paragraph (2) (as so designated by paragraph (3) of this subsection) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board shall disapprove any application under this section by any company if—

"(A) the company fails to provide the Board with adequate assurances that the company will make available to the Board such information on the operations or activities of the company, and any affiliate of the company, as the Board determines to be appropriate to determine and enforce compliance with this Act; or

"(B) in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting " 'affiliate,' " after "the terms" the 1st place such term appears.

(2) DEFINITIONS.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by striking the period at the end of paragraph (14) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(15) the term 'representative office' means any office of a foreign bank which is located in any State and is not a Federal branch, Federal agency, State branch, State agency, or subsidiary of a foreign bank;

"(16) the term 'office' means any branch, agency, or representative office; and

"(17) the term 'State bank supervisor' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.".

SEC. 203. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES, AND AFFILIATES.—

"(A) IN GENERAL.—The Board may examine each branch or agency of a foreign bank, each commercial lending company or bank controlled by 1 or more foreign banks or 1 or more foreign companies that control a foreign bank, and other office or affiliate of a foreign bank conducting business in any State.

"(B) COORDINATION OF EXAMINATIONS.—

"(i) IN GENERAL.—The Board shall coordinate examinations under this paragraph with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State bank supervisors to the extent such coordination is possible.

"(ii) SIMULTANEOUS EXAMINATIONS.—The Board may request simultaneous examinations of each office of a foreign bank and each affiliate of such bank operating in the United States.

"(C) ANNUAL ON-SITE EXAMINATION.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination.

"(D) COST OF EXAMINATIONS.—The cost of any examination under subparagraph (A) shall be assessed against and collected from the foreign bank or the foreign company that controls the foreign bank, as the case may be."; and

(2) in paragraph (2), by inserting "REPORTING REQUIREMENTS.—" before "Each branch".

(b) COORDINATION OF EXAMINATIONS.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency shall coordinate examinations of Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board under such section.".

(c) PARTICIPATION IN COORDINATED EXAMINATIONS.—

(1) IN GENERAL.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) EXAMINATION OF INSURED STATE BRANCHES.—The Board of Directors shall—

"(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978; and

"(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Paragraph (6) of section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) (as so redesignated under paragraph (1) of this subsection) by striking "or (4)" and inserting "(4), or (5)".

SEC. 204. SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended to read as follows:

"SEC. 10. REPRESENTATIVE OFFICES.

"(a) PRIOR APPROVAL TO ESTABLISH REPRESENTATIVE OFFICES.—

"(1) IN GENERAL.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under this paragraph to estab-

lish a representative office, the Board shall take into account the standards contained in section 7(d)(2) and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the standards, procedures, and requirements applicable under paragraphs (1), (2), and (3) of section 7(d) with respect to branches and agencies.

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 205. REPORTING OF STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) REPORTING OF STOCK LOANS.—

"(A) REPORT REQUIRED.—Any financial institution and any affiliate of any financial institution that has credit outstanding to any person or group of persons which is secured, directly or indirectly, by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for such insured depository institution if the extensions of credit by the financial institution and such institution's affiliates, in the aggregate, are secured, directly or indirectly, by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) CREDIT OUTSTANDING.—The term 'credit outstanding' includes—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that extends credit or financing to the person or group of persons.

"(iii) GROUP OF PERSONS.—The term 'group of persons' includes any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) REPORT REQUIREMENTS.—

"(i) TIMING OF REPORT.—The report required under this paragraph shall be a consolidated report on behalf of the financial institution and all affiliates of the institution, and shall be filed in writing within 30 days of the date on which the financial institution or any such affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of shares of an insured depository institution.

"(ii) CONTENT OF REPORT.—The report under this paragraph shall indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any affiliate of such institution.

"(iii) COPY TO OTHER AGENCIES.—A copy of any report under this paragraph shall be filed with the appropriate Federal banking agency for the financial institution (if other than the agency receiving the report under this paragraph).

"(iv) OTHER INFORMATION.—Each appropriate Federal banking agency may require any additional information necessary to carry out the agency's supervisory responsibilities.

"(E) EXCEPTIONS.—

"(i) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and the affiliates of such institution shall not be required to report a transaction under this paragraph if the person or group of persons referred to in such subparagraph has disclosed the amount borrowed from such institution or affiliate and the security interest of the institution or affiliate to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956, section 10 of the Home Owners' Loan Act, or any other application filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN 1 YEAR.—Notwithstanding subparagraph (A), a financial institution and any affiliate of such institution shall not be required to report a transaction involving—

"(I) a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more; or

"(II) stock issued by a newly chartered bank before the bank's opening.".

SEC. 206. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if the Board, Comptroller, Corporation, or Director determines that such disclosure is appropriate and will not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Before making any disclosure of any information to a foreign authority, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision shall obtain, to the extent necessary, the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.".

SEC. 207. APPROVAL REQUIRED FOR ACQUISITION BY FOREIGN BANKS OF SHARES OF UNITED STATES BANKS.

Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) is amended by striking "thereto" and all that follows through the period and inserting "to such provisions.".

SEC. 208. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 15 (as added by section 206 of this subtitle) the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any office or subsidiary of a foreign bank, that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation prescribed or order issued under this Act, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), (H), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board and the Comptroller of the Currency shall each prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a foreign bank, or any office or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States), shall not affect the jurisdiction or authority of the Board or the Comptroller of the Currency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be an institution-affiliated party with respect to such foreign bank or such office or subsidiary of a foreign bank (whether such date occurs on, before, or after the date of the enactment of the Foreign Bank Supervision Enhancement Act of 1991).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure *continues or such false or misleading information is not corrected. The foreign bank, or the office or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.*

"(2) SECOND TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency pursuant to this Act, within the time period specified by such agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

SEC. 209. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking "(b) In addition to" and inserting "(b) ENFORCEMENT.—

"(1) IN GENERAL.—In addition to";

(2) by adding at the end the following new paragraphs:

"(2) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this Act) may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(3) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

"(C) FEES AND TRAVEL EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(4) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(5) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(6) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both. Each day during which any such failure or refusal continues shall be treated as a separate offense.".

SEC. 210. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) (as amended by section 202(d) of this subtitle) is amended by adding at the end the following new paragraph:

"(5) MANAGERIAL RESOURCES.—Consideration of the managerial resources of a company or bank under paragraph (2) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

SEC. 211. STANDARDS AND FACTORS IN THE HOME OWNERS' LOAN ACT.

Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)) is amended—

(1) in paragraph (1), by inserting after subparagraph (B) the following:

"Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(2) in paragraph (2)—

(A) by inserting after the second sentence "Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(B) by striking "or" at the end of subparagraph (A);

(C) by striking the period at the end of subparagraph (B) and inserting a comma; and

(D) by inserting after subparagraph (B) the following new subparagraphs:

"(C) if the company fails to provide adequate assurances to the Director that the company will make available to the Director such information on the operations or activities of the company, and any affiliate of the company, as the Director determines to be appropriate to determine and enforce compliance with this Act, or

"(D) in the case of an application involving a foreign bank, if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

SEC. 212. AUTHORITY OF FEDERAL BANKING AGENCIES TO ENFORCE CONSUMER STATUTES.

(a) AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT.—

(1) MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE.—Section 304(h) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) the Office of the Comptroller of the Currency for national banks and Federal branches and Federal agencies of foreign banks;"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;".

(2) ENFORCEMENT.—Section 305(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), insured State branches of foreign banks, and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(B) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(b) AMENDMENT TO THE TRUTH IN LENDING ACT.—Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(c) AMENDMENT TO THE FAIR CREDIT REPORTING ACT.—Section 621(b) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(d) AMENDMENT TO THE EQUAL CREDIT OPPORTUNITY ACT.—Section 704(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(e) AMENDMENT TO THE FAIR DEBT COLLECTION PRACTICES ACT.—Section 814(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(f) AMENDMENT TO THE ELECTRONIC FUND TRANSFER ACT.—Section 917(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693o(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(g) AMENDMENT TO THE FEDERAL TRADE COMMISSION ACT.—

(1) DEFINITIONS.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following new paragraph:

"'Banks' means the types of banks and other financial institutions referred to in section 18(f)(2)."

(2) ENFORCEMENT.—Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) ENFORCEMENT.—Compliance with regulations prescribed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, banks operating under the code of law for the District of Columbia, and Federal branches and Federal agencies of foreign banks, by the divisions of consumer affairs established by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks and banks operating under the code of law for the District of Columbia), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the division of consumer affairs established by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other banks referred to in subparagraph (A) or (B)) and insured State branches of foreign banks, by the division of consumer affairs established by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(B) by adding at the end the following:

"The terms used in this paragraph that are not defined in the Federal Trade Commission Act or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(h) AMENDMENT TO THE EXPEDITED FUNDS AVAILABILITY ACT.—Section 610(a) of the Expedited Funds Availability Act (12 U.S.C. 4009(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

SEC. 213. CRIMINAL PENALTY FOR VIOLATING THE INTERNATIONAL BANKING ACT OF 1978.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 16 (as added by section 208 of this subtitle) the following new section:

"SEC. 17. CRIMINAL PENALTY.

"Whoever, with the intent to deceive, to gain financially, or to cause financial gain or loss to any person, knowingly violates any provision of this Act or any regulation or order issued by the appropriate Federal banking agency under this Act shall be imprisoned not more than 5 years or fined not more than $1,000,000 for each day during which a violation continues, or both.".

SEC. 214. MISCELLANEOUS AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) SECTION 6.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsection (b) as subsection (b)(1);

(2) by designating the last undesignated paragraph as paragraph (2); and

(3) by adding at the end the following new subsection:

"(c) RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.—

"(1) IN GENERAL.—After the date of enactment of this subsection, notwithstanding any other provision of this Act or any provision of the Federal Deposit Insurance Act, in order to accept or maintain deposit accounts having balances of less than $100,000, a foreign bank shall—

"(A) establish 1 or more banking subsidies in the United States for that purpose; and

"(B) obtain Federal deposit insurance for any such subsidiary in accordance with the Federal Deposit Insurance Act.

"(2) EXCEPTION.—Deposit accounts with balances of less than $100,000 may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on the date of the enactment of this subsection.".

(b) SECTION 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(j) STUDY ON EQUIVALENCE OF FOREIGN BANK CAPITAL.—Not later than 180 days after enactment of this subsection, the Board and the Secretary of the Treasury shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report—

"(1) analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Supervisory committee of the Bank for International Settlements, foreign regulatory capital standards that apply to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks; and

"(2) establishing guidelines for the adjustments to be used by the Board in converting data on the capital of such foreign banks to the equivalent risk-based capital and leverage requirements for United States banks for purposes of determining whether a foreign bank's capital level is equivalent to that imposed on United States banks for purposes of determinations under section 7 of the International Banking Act of 1978 and sections 3 and 4 of the Bank Holding Company Act of 1956.

An update shall be prepared annually explaining any changes in the analysis under paragraph (1) and resulting changes in the guidelines pursuant to paragraph (2).

SEC. 215. STUDY AND REPORT ON SUBSIDIARY REQUIREMENTS FOR FOREIGN BANKS.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter referred to as the "Secretary"), jointly with the Board of Governors of the Federal Reserve System and in consultation with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General, shall conduct a study of whether foreign banks should be required to conduct banking operations in the United States through subsidiaries rather than branches. In conducting the study, the Secretary shall take into account—

(1) differences in accounting and regulatory practices abroad and the difficulty of assuring that the foreign bank meets United States capital and management standards and is adequately supervised;

(2) implications for the deposit insurance system;

(3) competitive equity considerations;

(4) national treatment of foreign financial institutions;

(5) the need to prohibit money laundering and illegal payments;

(6) safety and soundness considerations;

(7) implications for international negotiations for liberalized trade in financial services;

(8) the tax liability of foreign banks;

(9) whether the establishment of subsidiaries by foreign banks to operate in the United States should be required only if United States Banks are authorized to engage in securities activities and interstate banking and branching; and

(10) differences in treatment of United States creditors under the bankruptcy and receivership laws.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the results of the study under subsection (a). Any additional or dissenting views of participating agencies shall be included in the report.

Subtitle B—Customer and Consumer Provisions

SEC. 221. STUDY ON REGULATORY BURDEN.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Financial Institutions Examination Council, in consultation with individuals representing insured depository institutions, consumers, community groups, and other interested parties, shall—

(1) review the policies and procedures, and recordkeeping and documentation requirements used to monitor and enforce compliance with—

(A) all laws under the jurisdiction of the Federal banking agencies; and

(B) all laws affecting insured depository institutions under the jurisdiction of the Secretary of the Treasury;

(2) determine whether such policies, procedures, and requirements impose unnecessary burdens on insured depository institutions; and

(3) identify any revisions of such policies, procedures, and requirements that could reduce unnecessary burdens on insured depository institutions without in any respect—

(A) diminishing either compliance with or enforcement of consumer laws in any respect; or

(B) endangering the safety and soundness of insured depository institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Financial Institutions Examination Council shall submit to the Congress a report describing the revisions identified under subsection (a)(3).

(c) DEFINITIONS.—For purposes of this section, the terms "insured depository institution" and "Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 222. DISCUSSION OF LENDING DATA.

(a) PUBLIC SECTIONS OF COMMUNITY REINVESTMENT ACT REPORTS.—Section 807(b)(1)(B) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)(B)) is amended by inserting "and data" after "facts".

(b) OTHER COMMUNITY REINVESTMENT ACT AMENDMENTS.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended—

(1) in subsection (a)(1), by striking "depository institutions regulatory agency" and inserting "financial supervisory agency";

(2) in subsection (b)(1)(A)—

(A) by striking "depository institutions regulatory agency's" and inserting "financial supervisory agency's"; and

(B) by striking "depository institutions regulatory agencies" and inserting "financial supervisory agencies"; and

(3) in subsection (c), by striking "depository institutions regulatory agency" each place such term appears and inserting "financial supervisory agency".

SEC. 223. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following new sentence: "Each agency referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a). Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 701(a).".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following new subsection:

"(k) NOTICE TO HUD OF VIOLATIONS.—Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a)—

"(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this title has occurred;

"(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act; and

"(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

(d) APPRAISALS.—Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by adding at the end the following:

"(e) Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal.".

SEC. 224. HOME MORTGAGE DISCLOSURE ACT.

(a) IN GENERAL.—Section 309 of the Home Mortgage Disclosure Act (12 U.S.C. 2808) is amended—

(1) by striking "depository" before "institution";

(2) by inserting "specified in section 303(2)(A)" after "institution"; and

(3) by adding at the end the following: "The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.".

(b) EFFECTIVE DATE.—This section shall become effective on January 1, 1992.

SEC. 225. NOTICE OF SAFEGUARD EXCEPTION.

Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "(a)(2)," after "subsection";

(2) in subsection (c)(1), by striking "(F)" after "subsections (a)(2)";

(3) in subsection (d), by inserting "(a)(2)," after "subsections";

(4) in subsection (f)(1)(A)(i), by striking "day" and inserting "time period within which"; and

(5) in subsection (f), by adding at the end of paragraph (2) the following:

"(D) In the case of a deposit to which subsection (b)(1) or (b)(2) applies, the depository institution may, for nonconsumer accounts and other classes of accounts, as defined by the Board, that generally have a large number of such deposits, provide notice at or before the time it first determines that the subsection applies.

"(E) In the case of a deposit to which subsection (b)(3) applies, the depository institution may, subject to regulations of the Board, provide notice at the beginning of each time period it determines that the subsection applies. In addition to the requirements contained in paragraph (1)(A), the notice shall specify the time period for which the exception will apply.".

SEC. 226. DELEGATED PROCESSING.

18(f Section 328(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1713 note) is amended in the first sentence by inserting before the period "or other individuals and entities expressly approved by the Department of Housing and Urban Development".

SEC. 227. DEPOSITS AT NONPROPRIETARY AUTOMATED TELLER MACHINES.

(a) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended by striking paragraphs (1)(C) and (2).

(b) CONFORMING AMENDMENTS.—The Expedited Funds Availability Act (12 U.S.C. 4001 et seq.) is amended—

(1) in section 603(e) (12 U.S.C. 4002(e))—

(A) by striking the heading for paragraph (1) and inserting the following:

"(1) NONPROPRIETARY ATM.—"; and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in section 604(a)(2) (12 U.S.C. 4003(a)(2)) by striking "and (2)".

SEC. 228. NOTICE OF BRANCH CLOSURE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. NOTICE OF BRANCH CLOSURE.

"(a) NOTICE TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(1) IN GENERAL.—An insured depository institution which proposes to close any branch shall submit a notice of the proposed closing to the appropriate Federal banking agency not later than the first day of the 90-day period ending on the date proposed for the closing.

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include—

"(A) a detailed statement of the reasons for the decision to close the branch; and

"(B) statistical or other information in support of such reasons.

"(b) NOTICE TO CUSTOMERS.—

"(1) IN GENERAL.—An insured depository institution which proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) inclusion of a notice in—

"(i) at least one of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.

"(c) ADOPTION OF POLICIES.—Each insured depository institution shall adopt policies for closings of branches of the institution.".

Subtitle C—Bank Enterprise Act

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Bank Enterprise Act of 1991".

SEC. 232. REDUCED ASSESSMENT RATE FOR DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.

(a) QUALIFICATION OF LIFELINE ACCOUNTS BY FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and section 7(b)(10) of the Federal Deposit Insurance Act.

(2) FACTORS TO BE CONSIDERED.—In determining the minimum requirements under paragraph (1) for lifeline accounts at insured depository institutions, the Board and the Corporation shall consider the following factors:

(A) Whether the account is available to provide basic transaction services for individuals who maintain a balance of less than $1,000 or such other amount which the Board may determine to be appropriate.

(B) Whether any service charges or fees to which the account is subject, if any, for routine transactions do not exceed a minimal amount.

(C) Whether any minimum balance or minimum opening requirement to which the account is subject, if any, is not more than a minimal amount.

(D) Whether checks, negotiable orders of withdrawal, or similar instruments for making payments or other transfers to third parties may be drawn on the account.

(E) Whether the depositor is permitted to make more than a minimal number of withdrawals from the account each month by any means described in subparagraph (D) or any other means.

(F) Whether a monthly statement itemizing all transactions for the monthly reporting period is made available to the depositor with respect to such account or a passbook is provided in which all transactions with respect to such account are recorded.

(G) Whether depositors are permitted access to tellers at the institution for conducting transactions with respect to such account.

(H) Whether other account relationships with the institution are required in order to open any such account.

(I) Whether individuals are required to meet any prerequisite which discriminates against low-income individuals in order to open such account.

(J) Such other factors as the Board may determine to be appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

(A) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(C) LIFELINE ACCOUNT.—The term "lifeline account" means any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) which meets the minimum requirements established by the Board under this subsection.

(b) REDUCED ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.—

(1) REPORTING LIFELINE ACCOUNT DEPOSITS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) (as amended by sections 122, 123, and 141 of this Act) is amended by redesignating paragraphs (6), (7), (8), (9), and (10) as paragraphs (7), (8), (9), (10), and (11), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) LIFELINE ACCOUNT DEPOSITS.—In the reports of condition required to be reported under this subsection, the deposits in lifeline accounts (as defined in section 232(a)(3)(C) of the Bank Enterprise Act of 1991) shall be reported separately.".

(2) ASSESSMENT RATES APPLICABLE TO LIFELINE DEPOSITS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (10) (as so redesignated by section 103(b) of this Act) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Notwithstanding any other provision of this subsection, that portion of the average assessment base of any insured depository institution which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)) shall be subject to assessment at the assessment rate of ½ the maximum rate.".

(3) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(A) by striking subclause (II) of clause (i) and inserting the following new subclause:

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(B) by striking subclause (II) of clause (ii) and inserting the following new subclause:

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(C) by adding at the end the following new clause:

"(iii) the semiannual assessment due from any Bank Insurance Fund member or Savings Association Insurance Fund member with respect to lifeline account deposits for any semiannual assessment period shall be the product of—

"(I) ½ the assessment rate applicable with respect to such deposits pursuant to paragraph (10) during that semiannual assessment period; and

"(II) the portion of such member's average assessment base for the immediately preceding semiannual period which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)).".

(c) AVAILABILITY OF FUNDS.—The provisions of this section shall not take effect until appropriations are specifically provided in advance. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 233. ASSESSMENT CREDITS FOR QUALIFYING ACTIVITIES RELATING TO DISTRESSED COMMUNITIES.

(a) DETERMINATION OF CREDITS FOR INCREASES IN COMMUNITY ENTERPRISE ACTIVITIES.—

(1) IN GENERAL.—The Community Enterprise Assessment Credit Board established under sub-

section (d) shall issue guidelines for insured depository institutions eligible under this subsection for any community enterprise assessment credit with respect to any semiannual period. Such guidelines shall—

(A) designate the eligibility requirements for any institution meeting applicable capital standards to receive an assessment credit under section 7(d)(4) of the Federal Deposit Insurance Act; and

(B) determine the community enterprise assessment credit available to any eligible institution under paragraph (3).

(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

(A) any increase during such period in the amount of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase during such period in the amount of new originations of loans and other financial assistance made within that community, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan and other financial assistance by the bank or branch in the distressed community.

(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) for any insured depository institution, or a qualified portion thereof, for any semiannual period shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 235, and 15 percent, in the case of an institution, or a qualified portion thereof, which meets such requirements, (or any percentage designated under paragraph (5)) of the sum of—

(A) the amounts of assets described in paragraph (2)(A); and

(B) the amounts of deposits, loans, and other extensions of credit described in paragraph (2)(B).

(4) DETERMINATION OF QUALIFIED LOANS AND OTHER FINANCIAL ASSISTANCE.—Except as provided in paragraph (6), the types of loans and other financial assistance which the Board may determine to be qualified to be taken into account under paragraph (2)(A) for purposes of the community enterprise assessment credit, may include the following:

(A) Loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, the Administrator of the Small Business Administration, and the Secretary of Agriculture.

(B) Loans or financing provided in connection with activities assisted by the Administrator of the Small Business Administration or any small business investment company and investments in small business investment companies.

(C) Loans or financing provided in connection with any neighborhood housing service program assisted under the Neighborhood Reinvestment Corporation Act.

(D) Loans or financing provided in connection with any activities assisted under the community development block grant program under title I of the Housing and Community Development Act of 1974.

(E) Loans or financing provided in connection with activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act.

(F) Loans or financing provided in connection with a homeownership program assisted under title III of the United States Housing Act of 1937 or subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(G) Financial assistance provided through community development corporations.

(H) Federal and State programs providing interest rate assistance for homeowners.

(I) Extensions of credit to nonprofit developers or purchasers of low-income housing and small business developments.

(J) In the case of members of any Federal home loan bank, participation in the community investment fund program established by the Federal home loan banks.

(K) Conventional mortgages targeted to low- or moderate-income persons.

(5) ADJUSTMENT OF PERCENTAGE.—The Board may increase or decrease the percentage referred to in paragraph (3) for determining the amount of any community enterprise assessment credit pursuant to such paragraph, except that the percentage established for insured depository institutions which meet the community development organization requirements under section 235 shall not be less than 3 times the amount of the percentage applicable for insured depository institutions which do not meet such requirements.

(6) CERTAIN INVESTMENTS NOT ELIGIBLE TO BE TAKEN INTO ACCOUNT.—Investments by any insured depository institution in loans and securities that are not the result of originations by the institution shall not be taken into account for purposes of determining the amount of any credit pursuant to this subsection.

(b) QUALIFIED DISTRESSED COMMUNITY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "qualified distressed community" means any neighborhood or community which—

(A) meets the minimum area requirements under paragraph (3) and the eligibility requirements of paragraph (4); and

(B) is designated as a distressed community by any insured depository institution in accordance with paragraph (2) and such designation is not disapproved under such paragraph.

(2) DESIGNATION REQUIREMENTS.—

(A) NOTICE OF DESIGNATION.—

(i) NOTICE TO AGENCY.—Upon designating an area as a qualified distressed community, an insured depository institution shall notify the appropriate Federal banking agency of the designation.

(ii) PUBLIC NOTICE.—Upon the effective date of any designation of an area as a qualified distressed community, an insured depository institution shall publish a notice of such designation in major newspapers and other community publications which serve such area.

(B) AGENCY DUTIES RELATING TO DESIGNATIONS.—

(i) PROVIDING INFORMATION.—At the request of any insured depository institution, the appropriate Federal banking agency shall provide to the institution appropriate information to assist the institution to identify and designate a qualified distressed community.

(ii) PERIOD FOR DISAPPROVAL.—Any notice received by the appropriate Federal banking agency from any insured depository institution under subparagraph (A)(i) shall take effect at the end of the 90-day period beginning on the date such notice is received unless written notice of the approval or disapproval of the application by the agency is provided to the institution before the end of such period.

(3) MINIMUM AREA REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of 1 unit of general local government;

(B) the boundary of the area is contiguous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000, in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if at least 2 of the following criteria are met:

(A) INCOME.—At least 70 percent of the families and unrelated individuals residing in the area have incomes of less than 80 percent of the median income of the area.

(B) POVERTY.—At least 20 percent of the residents residing in the area have incomes which are less than the national poverty level (as determined pursuant to criteria established by the Director of the Office of Management and Budget).

(C) UNEMPLOYMENT.—The unemployment rate for the area is one and one-half times greater than the national average (as determined by the Bureau of Labor Statistic's most recent figures).

(c) ASSESSMENT CREDIT PROVIDED.—

(1) IN GENERAL.—Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—Notwithstanding paragraphs (2)(A) and (3)(A) and in addition to any assessment credit authorized under paragraph (2)(B) or (3)(B), the Corporation shall allow an assessment credit for any semiannual assessment period to any Bank Insurance Fund member or Savings Association Insurance Fund member satisfying the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board through regulation for such period pursuant to such section.

"(5) MAXIMUM AMOUNT OF CREDIT.—The total amount of assessment credits allowed under this subsection (including community enterprise assessment credits pursuant to paragraph (4)) for any insured depository institution for any semiannual period shall not exceed the amount which is equal to 20 percent, in the case of an institution which does not meet the community development organization requirements under section 235 of the Bank Enterprise Act of 1991, and 50 percent, in the case of an institution which meets such requirements, of the assessment imposed on such institution for the semiannual period.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(other than credits allowed pursuant to paragraph (4))" after "amount to be credited".

(B) Subparagraph (B) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(taking into account any assessment credit allowed pursuant to paragraph (4))" after "should be reduced".

(d) COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.—

(1) ESTABLISHMENT.—There is hereby established the "Community Enterprise Assessment Credit Board".

(2) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members as follows:

(A) The Secretary of the Treasury or a designee of the Secretary.

(B) The Secretary of Housing and Urban Development or a designee of the Secretary.

(C) The Chairperson of the Federal Deposit Insurance Corporation or a designee of the Chairperson.

(D) 2 individuals appointed by the President from among individuals who represent community organizations.

(3) TERMS.—

(A) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 5 years.

(B) INTERIM APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the period to which such member was appointed until a successor has been appointed.

(4) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson of the Board.

(5) NO PAY.—No members of the Commission may receive any pay for service on the Board.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the Board's members.

(e) DUTIES OF THE BOARD.—

(1) PROCEDURE FOR DETERMINING COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—The Board shall establish procedures for accepting and considering applications by insured depository institutions under subsection (a)(1) for community enterprise assessment credits and making determinations with respect to such applications.

(2) NOTICE TO FDIC.—The Board shall notify the applicant and the Federal Deposit Insurance Corporation of any determination of the Board with respect to any application referred to in paragraph (1) in sufficient time for the Corporation to include the amount of such credit in the computation made for purposes of the notification required under paragraph section 7(d)(1)(B).

(f) AVAILABILITY OF FUNDS.—The provisions of this section shall not take effect until appropriations are specifically provided in advance. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(g) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) BOARD.—The term "Board" means the Community Enterprise Assessment Credit Board established under the amendment made by subsection (d).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 234. COMMUNITY DEVELOPMENT ORGANIZATIONS.

(a) COMMUNITY DEVELOPMENT ORGANIZATIONS DESCRIBED.—For purposes of this subtitle, any insured depository institution, or a qualified portion thereof, shall be treated as meeting the community development organization requirements of this section if—

(1) the institution—

(A) is a community development bank, or controls any community development bank, which meets the requirements of subsection (b);

(B) controls any community development corporation, or maintains any community development unit within the institution, which meets the requirements of subsection (c);

(C) invests in accounts in any community development credit union designated as a low-income credit union, subject to restrictions established for such credit unions by the National Credit Union Administration Board; or

(D) invests in a community development organization jointly controlled by two or more institutions;

(2) except in the case of an institution which is a community development bank, the amount of the capital invested, in the form of debt or equity, by the institution in the community development organization referred to in paragraph (1) (or, in the case of any community development unit, the amount which the institution irrevocably makes available to such unit for the purposes described in paragraph (3)) is not less than the greater of—

(A) ½ of 1 percent of the capital, as defined by generally accepted accounting principles, of the institution; or

(B) the sum of the amounts invested in such community development organization; and

(3) the community development organization provides loans for residential mortgages, home improvement, and community development and other financial services, other than financing for the purchase of automobiles or extension of credit under any open-end credit plan (as defined in section 103(i) of the Truth in Lending Act), to low- and moderate-income persons, nonprofit organizations, and small businesses located in qualified distressed communities in a manner consistent with the intent of this subtitle.

(b) COMMUNITY DEVELOPMENT BANK REQUIREMENTS.—A community development bank meets the requirements of this subsection if—

(1) the community development bank has a 15-member advisory board designated as the "Community Investment Board" and consisting entirely of community leaders who—

(A) shall be appointed initially by the board of directors of the community development bank and thereafter by the Community Investment Board from nominations received from the community; and

(B) are appointed for a single term of 2 years, except that, of the initial members appointed to the Community Investment Board, ⅓ shall be appointed for a term of 8 months, ⅓ shall be appointed for a term of 16 months, and ⅓ shall be appointed for a term of 24 months, as designated by the board of directors of the community development bank at the time of the appointment;

(2) ⅓ of the members of the community development bank's board of directors are appointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws of the community development bank require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) COMMUNITY DEVELOPMENT CORPORATION REQUIREMENTS.—Any community development corporation, or community development unit within any insured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) if such corporation or unit were a community development bank.

(d) ADEQUATE DISPERSAL REQUIREMENT.—The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) DEFINITIONS.—For purposes of this section—

(1) COMMUNITY DEVELOPMENT BANK.—The term "community development bank" means any depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act).

(2) COMMUNITY DEVELOPMENT ORGANIZATION.—The term "community development organization" means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) LOW- AND MODERATE-INCOME PERSONS.—The term "low- and moderate-income persons" has the meaning given such term in section 102(a)(20) of the Housing and Community Development Act of 1974.

(4) NONPROFIT ORGANIZATION; SMALL BUSINESS.—The terms "nonprofit organization" and "small business" have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

Subtitle D—FDIC Property Disposition

SEC. 241. FDIC AFFORDABLE HOUSING PROGRAM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 39 (as added by section 228 of this title) the following new section:

"SEC. 40. FDIC AFFORDABLE HOUSING PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide homeownership and rental housing opportunities for very low-income, low-income, and moderate-income families.

"(b) FUNDING AND LIMITATIONS OF PROGRAM.—

"(1) DURATION OF PROGRAM.—The provisions of this section shall be effective, subject to the provisions of paragraph (2), only during the 3-year period beginning upon the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A).

"(2) ANNUAL FISCAL LIMITATIONS.—

"(A) IN GENERAL.—In each fiscal year during the 3-year period referred to in paragraph (1), the provisions of this section shall apply only—

"(i) to such extent or in such amounts as are provided in appropriations Acts for any losses resulting during the fiscal year from the sale of properties under this section, except that such amounts for losses may not exceed $30,000,000 in any fiscal year; and

"(ii) to the extent that amounts are provided in appropriations Acts pursuant to subparagraph (C) for any other costs relating to the program under this section.

"(B) DEFINITION OF LOSSES.—For purposes of this paragraph, the amount of losses resulting from the sale of properties under this section during any fiscal year shall be the amount equal to the sum of any affordable housing discounts reasonably anticipated to accrue during the fiscal year.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year during the 3-year period referred to in paragraph (1), such sums as may be necessary for any costs of the program under this section other than losses resulting from the sale of properties under this section.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph:

"(i) AFFORDABLE HOUSING DISCOUNT.—The term 'affordable housing discount' means, with *respect to any eligible residential or eligible condominium property transferred under this section by the Corporation, the difference (if any) between the realizable disposition value of the property and the actual sale price of the property under this section.*

"(ii) REALIZABLE DISPOSITION VALUE.—The term 'realizable disposition value' means the estimated sale price that the Corporation reasonably would be able to obtain upon the sale of a property by the Corporation under the provisions of this Act, not including this section, and any other applicable laws. Not later than the expiration of the 120-day period beginning upon the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A), the Corporation shall establish, and publish in the Federal Register, procedures for determining the realizable disposition value of a property transferred under this section, which shall take into consideration such factors as the Corporation considers appropriate, including the actual sale prices of properties disposed of by the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the prices of other properties sold under similar programs, and the appraised value of the property transferred under this section. Until such procedures are established, the Corporation may consider the realizable disposition value of any eligible residential or condominium property to be equal to the appraised value of the property.

"(3) EXISTING CONTRACTS.—The provisions of this section shall not apply to any eligible residential property or any eligible condominium property that is subject to an agreement entered into by the Corporation before the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A) that provides for any other disposition of the property.

"(c) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(2) OFFERS TO SELL TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—During the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to—

"(A) qualifying households (including qualifying households with members who are veterans); or

"(B) public agencies or nonprofit organizations that agree to (i) make the property available for occupancy by and maintain it as affordable for low-income families (including low-income families with members who are veterans) for the remaining useful life of such property, or (ii) make the property available for purchase by any such family who, except as provided in paragraph (4), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months.

The restrictions described in clause (i) of subparagraph (B) shall be contained in the deed or other recorded instrument. If, upon the expiration of such 180-day period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to low-income families and to low-income families with members who are veterans.

"(3) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in paragraph (4), if any eligible single family property sold (A) to a qualifying household, or (B) to a low-income family pursuant to paragraph (2)(B)(ii), subsection (j)(3)(A), or subsection (k)(2), is resold by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or low-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (i) the original sale price for the acquisition of the property by the qualifying household or low-income family, (ii) the costs of any improvements to the property made after the date of the acquisition, and (iii) any closing costs in connection with the acquisition.

"(4) EXCEPTIONS TO RECAPTURE REQUIREMENT.—

"(A) RELOCATION.—The Corporation may in its discretion waive the applicability (i) to any qualifying household of the requirement under paragraph (3) and the requirements relating to residency of a qualifying household under subsections (p)(12)(B) and (C), and (ii) to any low-income family of the requirement under paragraph (3) and the residency requirements under paragraph (2)(B)(ii). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or low-income family.

"(B) OTHER RECAPTURE PROVISIONS.—The requirement under paragraph (3) shall not apply to any eligible single family property for which, upon resale by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.

"(5) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of paragraph (2), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (A) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under paragraph (1), (B) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (C) the resident household intends to occupy the property as a principal residence for at least 12 months, and (D) the resident household certifies in writing that the household intends to occupy the property for at least 12 months.

"(d) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to eligible multifamily housing properties for purposes of inspection.

"(2) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under paragraph (1). The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(3) NOTICE OF READINESS FOR SALE.—Upon the expiration of the period referred to in paragraph (2) for a property, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(4) OFFERS BY QUALIFYING MULTIFAMILY PURCHASERS.—A qualifying multifamily purchaser receiving notice in accordance with paragraph (3) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase the property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation. If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.

"(5) EXTENSION OF RESTRICTED OFFER PERIODS.—The Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of paragraphs (1) through (4), any eligible multifamily housing property—

"(A) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in paragraph (2), or

"(B) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in paragraph (4),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in paragraphs (2) and (4) in offering any property for sale under this paragraph.

"(6) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(A) TIMING.—If, upon the expiration of the period referred to in paragraph (2), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(B) LIMITATION ON COMBINATION SALES.—The Corporation may not sell in combination with other properties any property for which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(C) EXPIRATION OF OFFER PERIOD.—If, upon the expiration of the period referred to in paragraph (4), no qualifying multifamily purchaser has made an offer to purchase a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(7) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under paragraph (4) or (5)—

"(i) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for low-income and very low-income families during the remaining useful life of the property in which the units are located; provided that

"(ii) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located.

"(B) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under paragraph (4) or (5) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation, with respect to which the purchaser intends to aggregate the low-income occupancy required under this paragraph over the total number of units so purchased—

"(i) not less than 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for low-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

"(ii) not less than 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and further provided that

"(iii) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the property in which the units are located.

The requirements of this paragraph shall be contained in the deed or other recorded instrument.

"(8) EXEMPTIONS.—

"(A) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of the meeting low-income occupancy requirement applicable to the property under paragraph (7). The purchaser shall be considered to be in compliance with this subsection if each newly vacant dwelling unit is reserved for low-income occupancy until the low-income occupancy requirement is met.

"(B) FINANCIAL INFEASIBILITY.—The Secretary or the State housing finance agency for the State in which an eligible multifamily housing property is located may temporarily reduce the low-income occupancy requirements under paragraph (7) applicable to the property, if the Secretary or such agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return low-income occupancy to the level required under paragraph (7), and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(e) RENT LIMITATIONS.—

"(1) IN GENERAL.—With respect to properties under paragraph (2), rents charged to tenants for units made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(2) APPLICABILITY.—The rent limitations under this subsection shall apply to any eligible single family property sold pursuant to subsection (c)(2)(B)(i) and to any eligible multifamily housing property sold pursuant to subsection (d).

"(f) PREFERENCES FOR SALES.—

"(1) IN GENERAL.—In selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income and low-income families and would retain such affordability for the longest term.

"(2) MULTIPROPERTY PURCHASES.—The Corporation shall give preference, among substantially similar offers made under paragraph (4) or (5) of subsection (d) to purchase more than one eligible multifamily housing property as a part of the same negotiation, to offers made by purchasers who agree to maintain low-income occupancy in each separate property purchased in compliance with the levels required for properties under subsection (d)(7)(A).

"(3) DEFINITION OF SUBSTANTIALLY SIMILAR OFFERS.—For purposes of this subsection, a given offer to purchase eligible multifamily housing property or combinations of such properties shall be considered to be substantially similar to another offer if the purchase price under such given offer is not less than 85 percent of the purchase price under the other offer.

"(g) FINANCING SALES.—

"(1) ASSISTANCE BY CORPORATION.—

"(A) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value, except that the Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to such property under subsection (d)(7). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.

"(B) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to any purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide the loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (i) a low-income family to purchase an eligible single family property under subsection (c), or (ii) a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to the purchase of an eligible residential property under subsection (c) or (d). The Corporation shall provide loans under this subparagraph in a form permitting sale or transfer of the loan to a subsequent holder. In providing financing for combinations of eligible multifamily housing properties under this section, the Corporation may hold a participating share, including a subordinate participation.

"(2) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, and the National Housing Act, to enable any organization or individual to purchase eligible residential property.

"(3) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(4) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under paragraphs (1), (2), (3), (4), (6), and (8) of subsection (d), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with section 202 of the Housing Act of 1959.

"(5) BULK ACQUISITIONS UNDER HOME INVESTMENT PARTNERSHIPS ACT.—

"(A) PURCHASE PRICE.—In providing for bulk acquisition of eligible single family properties by participating jurisdictions for inclusion in affordable housing activities under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed the fair market value of the property, as valued individually.

"(B) EXEMPTIONS.—To the extent necessary to facilitate sale of properties under this paragraph, the requirements of subsections (c) and (f) and of paragraph (1) of this subsection shall not apply to such transactions and properties involved in such transactions.

"(C) INVENTORIES.—To facilitate acquisitions by such participating jurisdictions, the Corporation shall provide the participating jurisdictions with inventories of eligible single family properties not less than 4 times each year.

"(h) COORDINATION WITH OTHER PROGRAMS.—

"(1) USE OF SECONDARY MARKET AGENCIES.—In the disposition of eligible residential properties, the Corporation (in consultation with the Secretary) shall explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

"(2) CREDIT ENHANCEMENT.—

"(A) IN GENERAL.—With respect to such properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for low- and moderate-income families.

"(B) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in subparagraph (A).

"(3) NATIONAL AFFORDABLE HOUSING ACT.—The Corporation shall coordinate the disposition of eligible residential property under this section with appropriate programs and provisions of, and amendments made by, the Cranston-Gonzalez National Affordable Housing Act, including titles II and IV of such Act.

"(i) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The

provisions of this section shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3), including any sale in connection with a transfer of all or substantially all of the assets of a closed insured depository institution (including such property) to another insured depository institution.

"(j) Transfer of Certain Eligible Residential Properties to State Housing Agencies for Disposition.—Notwithstanding subsections (c), (d), (f), and (g), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this subsection may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

"(1) Individual or bulk transfer.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

"(2) Acquisition price.—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this subsection shall be an amount agreed to by the Corporation and the transferee agency.

"(3) Low-income use.—Any State housing finance agency or State or local housing agency acquiring properties under this subsection shall offer to sell or transfer the properties only as follows:

"(A) Eligible single family properties.—For eligible single family properties—

"(i) to purchasers described under subparagraphs (A) and (B) of subsection (c)(2);

"(ii) if the purchaser is a purchaser described under subsection (c)(2)(B)(i), subject to the rent limitations under subsection (e)(1);

"(iii) subject to the requirement in the second sentence of subsection (c)(2); and

"(iv) subject to recapture by the Corporation of excess proceeds from resale of the properties under paragraphs (3) and (4) of subsection (c).

"(B) Eligible multifamily housing properties.—For eligible multifamily housing properties—

"(i) to qualifying multifamily purchasers;

"(ii) subject to the low-income occupancy requirements under subsection (d)(7);

"(iii) subject to the provisions of subsection (d)(8);

"(iv) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low- and low-income families and would retain such affordability for the longest term; and

"(v) subject to the rent limitations under subsection (e)(1).

"(4) Affordability.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this subsection more affordable to low-income families based upon the extent to which the acquisition price of a property under paragraph (2) is less than the market value of the property.

"(k) Exception for Sales to Nonprofit Organizations and Public Agencies.—

"(1) Suspension of offer periods.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of paragraphs (1) and (2) of subsection (c) and paragraphs (1) through (4) of subsection (d), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such subsections shall toll for the duration of any suspension under this paragraph.

"(2) Use restrictions.—

"(A) Eligible single family property.—Any eligible single family property sold under this subsection shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or made available for purchase by such families, (ii) subject to the rent limitations under subsection (e)(1), (iii) subject to the requirements relating to residency of a qualifying household under subsection (p)(12) and to residency of a low-income family under subsection (c)(2)(B), and (iv) subject to recapture by the Corporation of excess proceeds from resale of the property under paragraphs (3) and (4) of subsection (c).

"(B) Eligible multifamily housing property.—Any eligible multifamily housing property sold under this subsection shall comply with the low-income occupancy requirements under subsection (d)(7) and shall be subject to the rent limitations under subsection (e)(1).

"(l) Rules Governing Disposition of Eligible Condominium Property.—

"(1) Notice to clearinghouses.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in subparagraphs (A) through (D) of paragraph (2). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(2) Offers to sell.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(A) Qualifying households.

"(B) Nonprofit organizations.

"(C) Public agencies.

"(D) For-profit entities.

"(3) Low-income occupancy requirements.—

"(A) In general.—Except as provided in subparagraph (B), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of the property, or (ii) make the property available for purchase by any such family who, except as provided in paragraph (5), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(B) Multiple-unit purchases.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under subparagraph (A) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or (ii) made available for purchase by any such family who, except as provided in paragraph (5), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(C) Sale to other purchasers.—If, upon the expiration of the 180-day period referred to in paragraph (2), no purchaser described in subparagraphs (A) through (D) of paragraph (2) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(4) Recapture of profits from resale.—Except as provided in paragraph (5), if any eligible condominium property sold (A) to a qualifying household, or (B) to a low-income family pursuant to paragraph (3)(A)(ii) or (3)(B)(ii), is resold by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (i) the original sale price for the acquisition of the property by the qualifying household or low-income family, (ii) the costs of any improvements to the property made after the date of the acquisition, and (iii) any closing costs in connection with the acquisition.

"(5) Exception to recapture requirement.—The Corporation (or its successor) may in its discretion waive the applicability to any qualifying household or low-income family of the requirement under paragraph (4) and the requirements relating to residency of a qualifying household or low-income family (under subsection (p)(12) and paragraph (3) of this subsection, respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or low-income family.

"(6) Limitations on multiple unit purchases.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

"(7) Rent limitations.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(m) Liability Provisions.—

"(1) In general.—The provisions of this section, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property after it is conveyed by the Corporation.

"(2) Low-income occupancy.—The low-income occupancy requirements under subsections (c), (d), (j)(3), (k)(2), and (l)(3) shall be judicially enforceable against purchasers of property under this section and their successors in interest by affected very low- and low-income

families, State housing finance agencies, and any agency, corporation, or authority of the United States. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(3) CLEARINGHOUSES.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

"(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver, or any claimant against such an institution, because the disposition of assets of the institution under this section affects the amount of return from the assets.

"(n) AFFORDABLE HOUSING PROGRAM OFFICE.—The Corporation shall establish an Affordable Housing Program Office within the Corporation to carry out the provisions of this section and shall dedicate certain staff of the Corporation to the office.

"(o) REPORT.—To the extent applicable, in the annual report submitted by the Secretary to the Congress under section 8 of the Department of Housing and Urban Development Act, the Secretary shall include a detailed description of any activities under this section, including recommendations for any additional authority the Secretary considers necessary to implement the provisions of this section.

"(p) DEFINITIONS.—For purposes of this section:

"(1) ADJUSTED INCOME AND INCOME.—The terms 'adjusted income' and 'income' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.

"(2) CLEARINGHOUSE.—The term 'clearinghouse' means—

"(A) the State housing finance agency for the State in which an eligible residential property or eligible condominium property is located;

"(B) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

"(C) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(3) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation acting in its corporate capacity or its capacity as receiver.

"(4) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(A) to which such Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(5) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(6) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(7) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(8) LOW-INCOME FAMILIES.—The term 'low-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(9) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (A) any reductions in holding costs resulting from the expedited sale of a property, including foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (B) the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(10) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(A) no part of the earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Corporation as to financial responsibility.

"(11) PUBLIC AGENCY.—The term 'public agency' means any Federal, State, local, or other governmental entity, and includes any public housing agency.

"(12) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household—

"(A) who intends to occupy eligible single family property as a principal residence;

"(B) who agrees to occupy the property as a principal residence for at least 12 months;

"(C) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months; and

"(D) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(13) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means—

"(A) a public agency;

"(B) a nonprofit organization; or

"(C) a for-profit entity, which makes a commitment (for itself or any related entity) to comply with the low-income occupancy requirements under subsection (d)(7) for any eligible multifamily housing property for which an offer to purchase is made during or after the periods specified under subsection (d).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

"(16) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.".

(b) COORDINATION.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall consult and coordinate with each other in carrying out their respective responsibilities under the affordable housing programs under section 42 of the Federal Deposit Insurance Act and section 21A(c) of the Federal Home Loan Bank Act. Such corporations shall develop any procedures, and may enter into any agreements, necessary to provide for the coordinated, efficient, and effective operation of such programs.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended—

(A) in paragraph (2)(B), in the matter preceding clause (i), by inserting "(subject to the provisions of section 42)" before the comma; and

(B) in paragraph (2)(E), by inserting "(subject to the provisions of section 42)" before the first comma.

(2) HOUSING ACT OF 1959.—Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended by inserting "or from the Federal Deposit Insurance Corporation under section 42 of the Federal Deposit Insurance Act" after "Federal Home Loan Bank Act".

Subtitle E—Whistleblower Protections

SEC. 251. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF DEPOSITORY INSTITUTIONS.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution or any director, officer, or employee of the institution.

"(2) EMPLOYEES OF BANKING AGENCIES.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency which employs such employee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) DEFINITION.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) FEDERAL BANKING AGENCY DEFINED.—For purposes of subsections (a) and (c), the term 'Federal banking agency' means the Corporation, the Board of Governors of the Federal Re-

serve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.".

(4) EFFECTIVE DATE.—Paragraph (2) of section 33(a) of the Federal Deposit Insurance Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 33(b) of such Act shall be deemed to begin on such date of enactment.

(b) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF CREDIT UNIONS.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) EMPLOYEES OF THE ADMINISTRATION.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union the Administration;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the Administration.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(3) EFFECTIVE DATE.—Paragraph (2) of section 213(a) of the Federal Credit Union Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 213(b) of such Act shall be deemed to begin on such date of enactment.

(c) COVERAGE FOR EMPLOYEES OF RTC, OVERSIGHT BOARD, AND RTC CONTRACTORS.—

(1) COVERAGE ESTABLISHED.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC, OVERSIGHT BOARD, AND RTC CONTRACTOR EMPLOYEE PROTECTION REMEDY.—

"(1) PROHIBITION AGAINST DISCRIMINATION.—The Corporation, the Oversight Board, and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation or the Oversight Board may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation on assignment to the Corporation under this section or any personnel referred to in subparagraphs (C) and (F) of subsection (a)(5)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Oversight Board, the Attorney General, or any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation, the Oversight Board, or such person or any director, officer, or employee of the Corporation, the Oversight Board, or the person.

"(2) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) REMEDIES.—If the district court determines that a violation has occurred, the court may order the Corporation or the person which committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) LIMITATION.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

(2) EFFECTIVE DATE.—Subsection (q) of section 21A of the Federal Home Loan Bank Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on August 9, 1989, and for purposes of any cause of action arising under such subsection (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 21A(q)(2) of such Act shall be deemed to begin on such date of enactment.

Subtitle F—Truth in Savings

SEC. 261. SHORT TITLE.

This Act may be cited as the "Truth in Savings Act".

SEC. 262. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that economic stability would be enhanced, competition between depository institutions would be improved, and the ability of the consumer to make informed decisions regarding deposit accounts, and to verify accounts, would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest is paid and fees are assessed in connection with such accounts.

(b) PURPOSE.—It is the purpose of this Act to require the clear and uniform disclosure of—

(1) the rates of interest which are payable on deposit accounts by depository institutions; and

(2) the fees that are assessable against deposit accounts,

so that consumers can make a meaningful comparison between the competing claims of depository institutions with regard to deposit accounts.

SEC. 263. DISCLOSURE OF INTEREST RATES AND TERMS OF ACCOUNTS.

(a) IN GENERAL.—Except as provided in subsection (b), each advertisement, announcement, or solicitation initiated by any depository institution or deposit broker relating to any demand or interest-bearing account offered by an insured depository institution which includes any reference to a specific rate of interest payable on amounts deposited in such account, or to a specific yield or rate of earnings on amounts so deposited, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

(1) The annual percentage yield.

(2) The period during which such annual percentage yield is in effect.

(3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(5) A statement that regular fees or other conditions could reduce the yield.

(6) A statement that an interest penalty is required for early withdrawal.

(b) BROADCAST AND ELECTRONIC MEDIA AND OUTDOOR ADVERTISING EXCEPTION.—The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) if the Board finds that any such disclosure would be unnecessarily burdensome.

(c) MISLEADING DESCRIPTIONS OF FREE OR NO-COST ACCOUNTS PROHIBITED.—No advertisement, announcement, or solicitation made by any depository institution or deposit broker may refer to or describe an account as a free or no-cost account (or words of similar meaning) if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions during such period may not exceed a maximum number; or

(2) any regular service or transaction fee is imposed.

(d) MISLEADING OR INACCURATE ADVERTISEMENTS, ETC., PROHIBITED.—No depository institution or deposit broker shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 264. ACCOUNT SCHEDULE.

(a) IN GENERAL.—Each depository institution shall maintain a schedule of fees, charges, interest rates, and terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) INFORMATION ON FEES AND CHARGES.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charge, or penalty (or the method by which such amount will be calculated), and the conditions under which any such amount will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each such minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) INFORMATION ON INTEREST RATES.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any such annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) The information described in paragraphs (1) through (4) with respect to any period after the end of the period referred to in paragraph (2) (or the method for computing any information described in any such paragraph), if applicable.

(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how any such minimum balance is calculated.

(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(10) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) OTHER INFORMATION.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) STYLE AND FORMAT.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to allow consumers to readily understand the terms of the accounts offered.

SEC. 265. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall require, in regulations which the Board shall prescribe, such modification in the disclosure requirements under this Act relating to annual percentage yield as may be necessary to carry out the purposes of this Act in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate;

(4) multiple rate accounts; and

(5) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a stated term.

SEC. 266. DISTRIBUTION OF SCHEDULES.

(a) IN GENERAL.—A schedule required under section 264 for an appropriate account shall be—

(1) made available to any person upon request;

(2) provided to any potential customer before an account is opened or a service is rendered; and

(3) provided to the depositor, in the case of any time deposit which is renewable at maturity without notice from the depositor, at least 30 days before the date of maturity.

(b) DISTRIBUTION IN CASE OF CERTAIN INITIAL DEPOSITS.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 264(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account no later than 10 days after the date of the initial deposit.

(c) DISTRIBUTION OF NOTICE OF CERTAIN CHANGES.—If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 264(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account,

all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(d) DISTRIBUTION IN CASE OF ACCOUNTS ESTABLISHED BY MORE THAN 1 INDIVIDUAL OR BY A GROUP.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

(e) NOTICE TO ACCOUNT HOLDERS AS OF THE EFFECTIVE DATE OF REGULATIONS.—For any account for which the depository institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within 180 days after publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

SEC. 267. PAYMENT OF INTEREST.

(a) CALCULATED ON FULL AMOUNT OF PRINCIPAL.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this Act.

(b) NO PARTICULAR METHOD OF COMPOUNDING INTEREST REQUIRED.—Subsection (a) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting of interest.

(c) DATE BY WHICH INTEREST MUST ACCRUE.—Interest on accounts that are subject to this Act shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of such section.

SEC. 268. PERIODIC STATEMENTS.

Each depository institution shall include on or with each periodic statement provided to each account holder at such institution a clear and conspicuous disclosure of the following information with respect to such account:

(1) The annual percentage yield earned.

(2) The amount of interest earned.

(3) The amount of any fees or charges imposed.

(4) The number of days in the reporting period.

SEC. 269. REGULATIONS.

(a) IN GENERAL.—

(1) REGULATIONS REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board, after consultation with each agency referred to in section 270(a) and public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this Act.

(2) EFFECTIVE DATE OF REGULATIONS.—The regulations prescribed under paragraph (1) shall take effect not later than 6 months after publication in final form.

(3) CONTENTS OF REGULATIONS.—The regulations prescribed under paragraph (1) may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of accounts as, in the judgment of the Board, are necessary or proper to carry out the purposes of this Act, to prevent circumvention or evasion of the requirements of this Act, or to facilitate compliance with the requirements of this Act.

(4) DATE OF APPLICABILITY.—The provisions of this Act shall not apply with respect to any depository institution before the effective date of regulations prescribed by the Board under this subsection (or by the National Credit Union Administration Board under section 12(b), in the case of any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act).

(b) MODEL FORMS AND CLAUSES.—

(1) IN GENERAL.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this Act. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) USE OF FORMS AND CLAUSES DEEMED IN COMPLIANCE.—Nothing in this Act may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this Act if the depository institution—

(A) uses any appropriate model form or clause as published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this Act; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT.—Model disclosure forms and clauses shall be adopted by the Board after duly given notice in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 270. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);

(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) REGULATIONS BY AGENCIES OTHER THAN THE BOARD.—The authority of the Board to issue regulations under this Act does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this Act.

SEC. 271. CIVIL LIABILITY.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this Act or any regulation prescribed under this Act with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this Act if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this Act is not a bona fide error.

(d) NO LIABILITY FOR OVERPAYMENT.—A depository institution may not be held liable in any action under this section for a violation of this Act if the violation has resulted in—

(1) an interest payment to the account holder in an amount greater than the amount determined under any disclosed rate of interest applicable with respect to such payment; or

(2) a charge to the consumer in an amount less than the amount determined under the disclosed charge or fee schedule applicable with respect to such charge.

(e) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within 1 year after the date of the occurrence of the violation involved.

(f) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any regulation or order, or any interpretation of any regulation or order, of the Board, or in conformity with any interpretation or approval by an official or employee of the Board duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such regulation, order, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(g) NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.—A depository institution shall not be liable under this section or section 270 for any failure to comply with any requirement imposed under this Act with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(h) MULTIPLE INTERESTS IN 1 ACCOUNT.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this Act shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(i) CONTINUING FAILURE TO DISCLOSE.—

(1) CERTAIN CONTINUING FAILURES TREATED AS 1 VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) SUBSEQUENT FAILURE TO DISCLOSE.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term with respect to such account shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) COORDINATION WITH SECTION 270.—This subsection shall not limit or otherwise affect the enforcement power under section 270 of any agency referred to in subsection (a) of such section.

SEC. 272. CREDIT UNIONS.

(a) IN GENERAL.—No regulation prescribed by the Board under this Act shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) REGULATIONS PRESCRIBED BY THE NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this Act, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 273. EFFECT ON STATE LAW.

The provisions of this Act do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this Act, and then only to the extent of the inconsistency. The Board may determine whether such inconsistencies exist.

SEC. 274. DEFINITIONS.

For the purposes of this Act—

(1) ACCOUNT.—The term "account" means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(2) ANNUAL PERCENTAGE YIELD.—The term "annual percentage yield" means the total amount of interest that would be received on a $100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

(3) ANNUAL RATE OF SIMPLE INTEREST.—The term "annual rate of simple interest"—

(A) means the annualized rate of interest paid with respect to each compounding period, expressed as a percentage; and

(B) may be referred to as the "annual percentage rate".

(4) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(5) DEPOSIT BROKER.—The term "deposit broker"—

(A) has the meaning given to such term in section 29(f)(1) of the Federal Deposit Insurance Act; and

(B) includes any person who solicits any amount from any other person for deposit in an insured depository institution.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(7) INTEREST.—The term "interest" includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(8) MULTIPLE RATE ACCOUNT.—The term "multiple rate account" means any account that has 2 or more annual rates of simple interest which take effect at the same time or in succeeding periods and which are known at the time of disclosure.

TITLE III—REGULATORY IMPROVEMENT

Subtitle A—Activities

SEC. 301. LIMITATIONS ON BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (a), by striking "troubled institution" and inserting "insured depository institution that is not well capitalized";

(2) in subsection (c), by inserting "which is adequately capitalized" after "insured depository institution";

(3) in subsection (d), by striking all after "unsound practice;" and inserting the following:

"(2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and

"(3) is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.";

(4) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively, and inserting after subsection (d) the following:

"(e) RESTRICTION ON INTEREST RATE PAID.—Any insured depository institution which, under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker, may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds—

"(1) the rate paid on deposits of similar maturity in such institution's normal market area for deposits accepted in the institution's normal market area; or

"(2) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the institution's normal market area.";

(5) in subsection (f), as redesignated, by striking "troubled"; and

(6) by striking subsection (h), as redesignated.

(b) NOTIFICATION AND RECORDKEEPING.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 29 the following:

"SEC. 29A. DEPOSIT BROKER NOTIFICATION AND RECORDKEEPING.

"(a) NOTIFICATION.—

"(1) IN GENERAL.—A deposit broker, as defined in section 29(g), shall not solicit or place any deposit with an insured depository institution, unless such deposit broker has provided the Corporation with written notice that it is a deposit broker.

"(2) TERMINATION OF DEPOSIT BROKER STATUS.—When a deposit broker referred to in paragraph (1) ceases to act as a deposit broker it shall provide the Corporation with a written notice that it is no longer acting as a deposit broker.

"(3) FORM AND CONTENT.—The notices required by paragraphs (1) and (2) shall be in such form and contain such information concerning the deposit solicitation and placement activities of a deposit broker as the Corporation may prescribe as necessary or appropriate to carry out the purposes of this subsection.

"(b) RECORDS.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to maintain separate records relating to the total amounts and maturities of the deposits placed by such broker for each insured depository institution during specified time periods. Such regulations shall specify the format in which and the period for which such records shall be preserved, as well as the time period within which the deposit broker shall furnish to the Corporation copies of such records (or designated portions thereof) as the Corporation may request.

"(c) PERIODIC REPORTS.—

"(1) IN GENERAL.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to file with the Corporation separate quarterly reports relating to the total amounts and maturities of the deposits placed by such broker for each depository institution during the applicable quarter. Such regulations shall specify the form and content of such reports, as well as the applicable reporting period.

"(2) DESIGNATED AGENT.—The Corporation may designate another entity as its agent for the purpose of receiving and maintaining reports under this subsection. If the Corporation designates such an agent the Corporation may, through its agent, prescribe and collect an appropriate quarterly fee from each deposit broker that filed reports with the agent during the applicable quarter, in an amount sufficient to defray the Corporation's cost of retaining the agent and to reflect the proportionate amount of the deposits placed with insured depository institutions by each broker during the applicable quarter.".

(c) DEPOSIT SOLICITATION RESTRICTED.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended by adding at the end the following:

"(h) DEPOSIT SOLICITATION RESTRICTED.—An insured depository institution that is undercapitalized, as defined in section 38, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits—

"(1) in such institution's normal market areas; or

"(2) in the market area in which such deposits would otherwise be accepted.".

(d) DEADLINE FOR REGULATIONS.—The Corporation shall promulgate final regulations to carry out the amendments made under subsections (a), (b), and (c) not later than 150 days after the date of enactment of this Act, and those regulations shall become effective not later than 180 days after that date of enactment, except that such regulations shall not apply to any specific time deposit made before that date of enactment until the stated maturity of the time deposit.

SEC. 302. RISK-BASED ASSESSMENTS.

(a) RISK-BASED ASSESSMENT SYSTEM.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(b) ASSESSMENTS.—

"(1) RISK-BASED ASSESSMENT SYSTEM.—

"(A) RISK-BASED ASSESSMENT SYSTEM REQUIRED.—The Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) PRIVATE REINSURANCE AUTHORIZED.—In carrying out this paragraph, the Corporation may—

"(i) obtain private reinsurance covering not more than 10 percent of any loss the Corporation incurs with respect to an insured depository institution; and

"(ii) base that institution's semiannual assessment (in whole or in part) on the cost of the reinsurance.

"(C) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system for calculating a depository institution's semiannual assessment based on—

"(i) the probability that the deposit insurance fund will incur a loss with respect to the institution, taking into consideration the risks attributable to—

"(I) different categories and concentrations of assets;

"(II) different categories and concentrations of liabilities, both insured and uninsured, contingent and noncontingent; and

"(III) any other factors the Corporation determines are relevant to assessing such probability;

"(ii) the likely amount of any such loss; and

"(iii) the revenue needs of the deposit insurance fund.

"(D) SEPARATE ASSESSMENT SYSTEMS.—The Board of Directors may establish separate risk-based assessment systems for large and small members of each deposit insurance fund.

"(2) SETTING ASSESSMENTS.—

"(A) ACHIEVING AND MAINTAINING DESIGNATED RESERVE RATIO.—

"(i) IN GENERAL.—The Board of Directors shall set semiannual assessments for insured depository institutions—

"(I) to maintain the reserve ratio of each deposit insurance fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio as provided in paragraph (3).

"(ii) FACTORS TO BE CONSIDERED.—In carrying out clause (i), the Board of Directors shall consider the deposit insurance fund's—

"(I) expected operating expenses,

"(II) case resolution expenditures and income,

"(III) the effect of assessments on members' earnings and capital, and

"(IV) any other factors that the Board of Directors may deem appropriate.

"(iii) MINIMUM ASSESSMENT.—The semiannual assessment for each member of a deposit insurance fund shall be not less than $1,000.

"(iv) DESIGNATED RESERVE RATIO DEFINED.—The designated reserve ratio of each deposit insurance fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.

"(B) INDEPENDENT TREATMENT OF FUNDS.—The Board of Directors shall—

"(i) set semiannual assessments for members of each deposit insurance fund independently from semiannual assessments for members of any other deposit insurance fund; and

"(ii) set the designated reserve ratio of each deposit insurance fund independently from the designated reserve ratio of any other deposit insurance fund.

"(C) NOTICE OF ASSESSMENTS.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment.

"(D) PRIORITY OF FINANCING CORPORATION AND FUNDING CORPORATION ASSESSMENTS.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation under section 21 of the Federal Home Loan Bank Act against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(E) MINIMUM ASSESSMENTS.—The Corporation shall design the risk-based assessment system for any deposit insurance fund so that, if the Corporation has borrowings outstanding under section 14 on behalf of that fund or the reserve ratio of that fund remains below the des-

ignated reserve ratio, the total amount raised by semiannual assessments on members of that fund shall be not less than the total amount that would have been raised if—

"(i) section 7(b) as in effect on July 15, 1991 remained in effect; and

"(ii) the assessment rate in effect on July 15, 1991 remained in effect.

"(F) TRANSITION RULE FOR SAVINGS ASSOCIATION INSURANCE FUND.—With respect to the Savings Association Insurance Fund, during the period beginning on the effective date of the amendments made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and ending on December 31, 1997—

"(i) subparagraph (A)(i)(II) shall apply as if such subparagraph did not include 'as provided in paragraph (3)'; and

"(ii) subparagraph (E) shall be applied by substituting 'if section 7(b) as in effect on July 15, 1991 remained in effect.' for 'if—' and all that follows through clause (ii).

"(G) SPECIAL RULE UNTIL THE INSURANCE FUNDS ACHIEVE THE DESIGNATED RESERVE RATIO.—Until a deposit insurance fund achieves the designated reserve ratio, the Corporation may limit the maximum assessment on insured depository institutions under the risk-based assessment system authorized under paragraph (1) to not less than 10 basis points above the average assessment on insured depository institutions under that system.

"(3) SPECIAL RULE FOR RECAPITALIZING UNDERCAPITALIZED FUNDS.—

"(A) IN GENERAL.—Except as provided in paragraph (2)(F), if the reserve ratio of any deposit insurance fund is less than the designated reserve ratio under paragraph (2)(A)(iv), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(i) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(ii) in accordance with a schedule promulgated by the Corporation under subparagraph (B).

"(B) RECAPITALIZATION SCHEDULES.—For purposes of subparagraph (A)(ii), the Corporation shall by regulation promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for that fund, culminating in a reserve ratio that is equal to the designated reserve ratio not later than 15 years after the date on which the schedule is implemented.

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B), but such amendments may not extend the date specified in subparagraph (B).

"(D) APPLICATION TO SAIF MEMBERS.—This paragraph shall become applicable to Savings Association Insurance Fund members on January 1, 1998.

"(4) SEMIANNUAL PERIOD DEFINED.—For purposes of this section, the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.

"(5) RECORDS TO BE MAINTAINED.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of the institution's semiannual assessments. No insured depository institution shall be required to retain those records for that purpose for a period of more than 5 years from the date of the filing of any certified statement, except that when there is a dispute between the insured depository institution and the Corporation over the amount of any assessment, the depository institution shall retain the records until final determination of the issue.".

(b) CERTIFIED STATEMENTS AND PAYMENT PROCEDURES.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended to read as follows:

"(c) CERTIFIED STATEMENTS; PAYMENTS.—

"(1) CERTIFIED STATEMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall file with the Corporation a certified statement containing such information as the Corporation may require for determining the institution's semiannual assessment.

"(B) FORM OF CERTIFICATION.—The certified statement required under subparagraph (A) shall—

"(i) be in such form and set forth such supporting information as the Board of Directors shall prescribe; and

"(ii) be certified by the president of the depository institution or any other officer designated by its board of directors or trustees that to the best of his or her knowledge and belief, the statement is true, correct and complete, and in accordance with this Act and regulations issued hereunder.

"(2) PAYMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall pay to the Corporation the semiannual assessment imposed under subsection (b).

"(B) FORM OF PAYMENT.—The payments required under subparagraph (A) shall be made in such manner and at such time or times as the Board of Directors shall prescribe by regulation.

"(3) NEWLY INSURED INSTITUTIONS.—To facilitate the administration of this section, the Board of Directors may waive the requirements of paragraphs (1) and (2) for the semiannual period in which a depository institution becomes insured.".

(c) REGULATIONS.—To implement the risk-based assessment system required under section 7(b) of the Federal Deposit Insurance Act (as amended by subsection (a)), the Federal Deposit Insurance Corporation shall—

(1) provide notice of proposed regulations in the Federal Register, not later than December 31, 1992, with an opportunity for comment on the proposal of not less than 120 days; and

(2) promulgate final regulations not later than July 1, 1993.

(d) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

"(f) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Except to the extent that authority under this Act is conferred on any of the Federal banking agencies other than the Corporation, the Corporation may—

"(1) prescribe regulations to carry out this Act; and

"(2) by regulation define terms as necessary to carry out this Act.".

(e) CONFORMING AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 5(d)(3)(B)—

(A) by striking "average assessment base" and inserting "deposits"; and

(B) by striking "shall—" and all that follows through "(iii) shall be treated" and inserting "shall be treated";

(2) in section 7(a)(5) by striking "and for the computation of assessments provided in subsection (b) of this section";

(3) in section 7 by amending subsection (d) to read as follows:

"(d) CORPORATION EXEMPT FROM APPORTIONMENT.—Notwithstanding any other provision of law, amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or under any other authority."; and

(4) in the last sentence of section 8(q) by striking "upon" and inserting "with respect to".

(f) TRANSITION TO NEW ASSESSMENT SYSTEM.—To carry out the amendments made by this section, the Corporation may promulgate regulations governing the transition from the assessment system in effect on the date of enactment of this Act to the assessment system required under the amendments made by this section.

(g) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this section shall become effective on the earlier of—

(1) 180 days after the date on which final regulations promulgated in accordance with subsection (c) become effective; or

(2) January 1, 1994.

SEC. 303. RESTRICTIONS ON INSURED STATE BANK ACTIVITIES.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. ACTIVITIES OF INSURED STATE BANKS.

"(a) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the appropriate deposit insurance fund; and

"(2) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(b) INSURANCE UNDERWRITING.—

"(1) IN GENERAL.—Notwithstanding subsection (a), an insured State bank may not engage in insurance underwriting except to the extent that activity is permissible for national banks.

"(2) EXCEPTION FOR CERTAIN FEDERALLY REINSURED CROP INSURANCE.—Notwithstanding any other provision of law, an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, which was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

"(c) EQUITY INVESTMENTS BY INSURED STATE BANKS.—

"(1) IN GENERAL.—An insured State bank may not, directly or indirectly, acquire or retain any equity investment of a type that is not permissible for a national bank.

"(2) EXCEPTION FOR CERTAIN SUBSIDIARIES.—Paragraph (1) shall not prohibit an insured State bank from acquiring or retaining an equity investment in a subsidiary of which the insured State bank is a majority owner.

"(3) EXCEPTION FOR QUALIFIED HOUSING PROJECTS.—

"(A) EXCEPTION.—Notwithstanding any other provision of this subsection, an insured State bank may invest as a limited partner in a partnership, the sole purpose of which is direct or indirect investment in the acquisition, rehabilitation, or new construction of a qualified housing project.

"(B) LIMITATION.—The aggregate of the investments of any insured State bank pursuant to this paragraph shall not exceed 2 percent of the total assets of the bank.

"(C) QUALIFIED HOUSING PROJECT DEFINED.—As used in this paragraph—

"(i) QUALIFIED HOUSING PROJECT.—The term 'qualified housing project' means residential real estate that is intended to primarily benefit lower income people throughout the period of the investment.

"(ii) LOWER INCOME.—The term 'lower income' means income that less than or equal to the median income based on statistics from State or Federal sources.

"(4) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any insured State bank to divest any equity investment the retention of which is not permissible under this subsection as quickly as can be prudently done, and in any event before the end of the 5-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any insured State bank on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 which was lawfully acquired before such date, the bank shall be deemed not to be in violation of the prohibition in this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

"(d) SUBSIDIARIES OF INSURED STATE BANKS.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

"(A) the Corporation has determined that the activity poses no significant risk to the appropriate deposit insurance fund; and

"(B) the bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(2) INSURANCE UNDERWRITING PROHIBITED.—

"(A) PROHIBITION.—Notwithstanding paragraph (1), no subsidiary of an insured State bank may engage in insurance underwriting except to the extent such activities are permissible for national banks.

"(B) CONTINUATION OF EXISTING ACTIVITIES.—Notwithstanding subparagraph (A), a well-capitalized insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on November 21, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(C) EXCEPTION.—Subparagraph (A) does not apply to a subsidiary of an insured State bank if—

"(i) the insured State bank was required, before June 1, 1991, to provide title insurance as a condition of the bank's initial chartering under State law; and

"(ii) control of the insured State bank has not changed since that date.

"(e) SAVINGS BANK LIFE INSURANCE.—

"(1) IN GENERAL.—No provision of this Act shall be construed as prohibiting or impairing the sale or underwriting of savings bank life insurance, or the ownership of stock in a savings bank life insurance company, by any insured bank which—

"(A) is located in the Commonwealth of Massachusetts or the State of New York or Connecticut; and

"(B) meets the consumer disclosure requirements under section 18(k) with respect to such insurance.

"(2) FDIC FINDING AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1)(A).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to the insurance fund of which such bank is a member.

"(f) COMMON AND PREFERRED STOCK INVESTMENT.—

"(1) IN GENERAL.—An insured State bank shall not acquire or retain, directly or indirectly, any equity investment of a type or in an amount that is not permissible for a national bank or is not otherwise permitted under this section.

"(2) EXCEPTION FOR BANKS IN CERTAIN STATES.—Notwithstanding paragraph (1), an insured State bank may, to the extent permitted by the Corporation, acquire and retain ownership of securities described in paragraph (1) to the extent the aggregate amount of such investment does not exceed an amount equal to 100 percent of the bank's capital if such bank—

"(A) is located in a State that permitted, as of September 30, 1991, investment in common or preferred stock listed on a national securities exchange or shares of an investment company registered under the Investment Company Act of 1940; and

"(B) made or maintained an investment in such securities during the period beginning on September 30, 1990, and ending on November 26, 1991.

"(3) EXCEPTION FOR CERTAIN TYPES OF INSTITUTIONS.—Notwithstanding paragraph (1), an insured State bank may—

"(A) acquire not more than 10 percent of a corporation that only—

"(i) provides directors', trustees', and officers' liability insurance coverage or bankers' blanket bond group insurance coverage for insured depository institutions; or

"(ii) reinsures such policies; and

"(B) acquire or retain shares of a depository institution if—

"(i) the institution engages only in activities permissible for national banks;

"(ii) the institution is subject to examination and regulation by a State bank supervisor;

"(iii) 20 or more depository institutions own shares of the institution and none of those institutions owns more than 15 percent of the institution's shares; and

"(iv) the institution's shares (other than directors' qualifying shares or shares held under or initially acquired through a plan established for the benefit of the institution's officers and employees) are owned only by the institution.

"(4) TRANSITION PERIOD FOR COMMON AND PREFERRED STOCK INVESTMENTS.—

"(A) IN GENERAL.—During each year in the 3-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each insured State bank shall reduce by not less than ⅓ of its shares (as of such date of enactment) the bank's ownership of securities in excess of the amount equal to 100 percent of the capital of such bank.

"(B) COMPLIANCE AT END OF PERIOD.—By the end of the 3-year period referred to in subparagraph (A), each insured State bank and each subsidiary of a State bank shall be in compliance with the maximum amount limitations on investments referred to in paragraph (1).

"(5) LOSS OF EXCEPTION UPON ACQUISITION.—Any exception applicable under paragraph (2) with respect to any insured State bank shall cease to apply with respect to such bank upon any change in control of such bank or any conversion of the charter of such bank.

"(6) NOTICE AND APPROVAL.—An insured State bank may only engage in any investment pursuant to paragraph (2) if—

"(A) the bank has filed a 1-time notice of the bank's intention to acquire and retain investments described in paragraph (1); and

"(B) the Corporation has determined, within 60 days of receiving such notice, that acquiring or retaining such investments does not pose a significant risk to the insurance fund of which such bank is a member.

"(7) DIVESTITURE.—

"(A) IN GENERAL.—The Corporation may require divestiture by an insured State bank of any investment permitted under this subsection if the Corporation determines that such investment will have an adverse effect on the safety and soundness of the bank.

"(B) REASONABLE STANDARD.—The Corporation shall not require divestiture by any bank pursuant to subparagraph (A) without reason to believe that such investment will have an adverse effect on the safety and soundness of the bank.

"(g) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(h) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring or retaining any investment.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section shall not be construed as limiting the authority of any appropriate Federal banking agency or any State supervisory authority to impose more stringent restrictions.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The 13th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 330) is amended by striking ": Provided, however, That no Federal reserve bank" and inserting ", except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 24 of the Federal Deposit Insurance Act. No Federal reserve bank".

SEC. 304. RESTRICTIONS ON REAL ESTATE LENDING.

(a) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) REAL ESTATE LENDING.—

"(1) UNIFORM REGULATIONS.—Not more than 9 months after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall adopt uniform regulations prescribing standards for extensions of credit that are—

"(A) secured by liens on interests in real estate; or

"(B) made for the purpose of financing the construction of a building or other improvements to real estate.

"(2) STANDARDS.—

"(A) CRITERIA.—In prescribing standards under paragraph (1), the agencies shall consider—

"(i) the risk posed to the deposit insurance funds by such extensions of credit;

"(ii) the need for safe and sound operation of insured depository institutions; and

"(iii) the availability of credit.

"(B) VARIATIONS PERMITTED.—In prescribing standards under paragraph (1), the appropriate Federal banking agencies may differentiate among types of loans—

"(i) as may be required by Federal statute;

"(ii) as may be warranted, based on the risk to the deposit insurance fund; or

"(iii) as may be warranted, based on the safety and soundness of the institutions.

"(3) LOAN EVALUATION STANDARD.—No appropriate Federal banking agency shall adversely evaluate an investment or a loan made by an insured depository institution, or consider such a loan to be nonperforming, solely because the loan is made to or the investment is in commercial, residential, or industrial property, unless such investment or loan may affect the institution's safety and soundness.

"(4) EFFECTIVE DATE.—The regulations adopted under paragraph (1) shall become effective not later than 15 months after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991. Such regulations shall continue in effect except as uniformly amended by the appropriate Federal banking agencies, acting in concert.".

(b) CONFORMING AMENDMENT.—Section 24(a) of the Federal Reserve Act (12 U.S.C. 371(a)) is amended by striking "such terms," and all that follows through the period and inserting "section 18(o) of the Federal Deposit Insurance Act and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order.".

SEC. 305. IMPROVING CAPITAL STANDARDS.

(a) PERIODIC REVIEW OF CAPITAL STANDARDS GENERALLY.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) PERIODIC REVIEW OF CAPITAL STANDARDS.—Each appropriate Federal banking agency shall, in consultation with the other Federal banking agencies, biennially review its capital standards for insured depository institutions to determine whether those standards require sufficient capital to facilitate prompt corrective action to prevent or minimize loss to the deposit insurance funds, consistent with section 38.".

(b) REVIEW OF RISK-BASED CAPITAL STANDARDS.—

(1) IN GENERAL.—Each appropriate Federal banking agency shall revise its risk-based capital standards for insured depository institutions to ensure that those standards—

(A) take adequate account of—

(i) interest-rate risk;

(ii) concentration of credit risk; and

(iii) the risks of nontraditional activities; and

(B) reflect the actual performance and expected risk of loss of multifamily mortgages.

(2) INTERNATIONAL DISCUSSIONS.—The Federal banking agencies shall discuss the development of comparable standards with members of the supervisory committee of the Bank for International Settlements.

(3) DEADLINE FOR PRESCRIBING REVISED STANDARDS.—Each appropriate Federal banking agency shall—

(A) publish final regulations in the Federal Register to implement paragraph (1) not later than 18 months after the date of enactment of this Act; and

(B) establish reasonable transition rules to facilitate compliance with those regulations.

(4) DEFINITIONS.—For purposes of this subsection, the terms "appropriate Federal banking agency", "Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(c) CONFORMING AMENDMENT DEFINING FEDERAL BANKING AGENCIES.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(z) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

SEC. 306. SAFEGUARDS AGAINST INSIDER ABUSE.

(a) RECODIFICATION OF CURRENT LAW RESTRICTING EXTENSIONS OF CREDIT TO INSIDERS.—Section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) is amended to read as follows:

"(h) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS.—

"(1) IN GENERAL.—No member bank may extend credit to any of its executive officers, directors, or principal shareholders, or to any related interest of such a person, except to the extent permitted under paragraphs (2), (3), (4), and (6).

"(2) PREFERENTIAL TERMS PROHIBITED.—A member bank may extend credit to its executive officers, directors, or principal shareholders, or to any related interest of such a person, only if the extension of credit—

"(A) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank; and

"(B) does not involve more than the normal risk of repayment or present other unfavorable features.

"(3) PRIOR APPROVAL REQUIRED.—A member bank may extend credit to a person described in paragraph (1) in an amount that, when aggregated with the amount of all other outstanding extensions of credit by that bank to each such person and that person's related interests, would exceed an amount prescribed by regulation of the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) only if—

"(A) the extension of credit has been approved in advance by a majority vote of that bank's entire board of directors; and

"(B) the interested party has abstained from participating, directly or indirectly, in the deliberations or voting on the extension of credit.

"(4) AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER OR PRINCIPAL SHAREHOLDER.—A member bank may extend credit to any executive officer or principal shareholder, or to any related interest of such a person, only if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to that person and that person's related interests, would not exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes. For purposes of this paragraph, section 5200 of the Revised Statutes shall be deemed to apply to a State member bank as if the State member bank were a national banking association.

"(5) [Reserved.]

"(6) OVERDRAFTS BY EXECUTIVE OFFICERS AND DIRECTORS PROHIBITED.—

"(A) IN GENERAL.—If any executive officer or director has an account at the member bank, the bank may not pay on behalf of that person an amount exceeding the funds on deposit in the account.

"(B) EXCEPTIONS.—Subparagraph (A) does not prohibit a member bank from paying funds in accordance with—

"(i) a written preauthorized, interest-bearing extension of credit specifying a method of repayment; and

"(ii) a written preauthorized transfer of funds from another account of the executive officer or director at that bank.

"(7) [Reserved.]

"(8) EXECUTIVE OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF CERTAIN AFFILIATES TREATED AS EXECUTIVE OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF MEMBER BANK.—For purposes of this subsection, any executive officer, director, or principal shareholder (as the case may be) of any bank holding company of which the member bank is a subsidiary, or of any other subsidiary of that company, shall be deemed to be an executive officer, director, or principal shareholder (as the case may be) of the member bank.

"(9) DEFINITIONS.—For purposes of this subsection:

"(A) COMPANY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'company' means any corporation, partnership, business or other trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or other business entity.

"(ii) EXCEPTIONS.—The term 'company' does not include—

"(I) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act); or

"(II) a corporation the majority of the shares of which are owned by the United States or by any State.

"(B) CONTROL.—A person controls a company or bank if that person, directly or indirectly, or acting through or in concert with 1 or more persons—

"(i) owns, controls, or has the power to vote 25 percent or more of any class of the company's voting securities;

"(ii) controls in any manner the election of a majority of the company's directors; or

"(iii) has the power to exercise a controlling influence over the company's management or policies.

"(C) EXECUTIVE OFFICER.—A person is an 'executive officer' of a company or bank if that person participates or has authority to participate (other than as a director) in major policymaking functions of the company or bank.

"(D) EXTENSION OF CREDIT.—A member bank extends credit by making or renewing any loan, granting a line of credit, or entering into any similar transaction as a result of which a person becomes obligated (directly or indirectly, or by any means whatsoever) to pay money or its equivalent to the bank.

"(E) [Reserved.]

"(F) PRINCIPAL SHAREHOLDER.—The term 'principal shareholder' means any person that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company. For purposes of paragraph (4), if a member bank has its main banking office in a city, town, or village with a population of less than 30,000, the preceding sentence shall apply with '18 percent' substituted for '10 percent'.

"(G) RELATED INTEREST.—A 'related interest' of a person is—

"(i) any company controlled by that person; and

"(ii) any political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

"(H) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(10) BOARD'S RULEMAKING AUTHORITY.—The Board of Governors of the Federal Reserve System may prescribe such regulations, including definitions of terms, as it determines to be necessary to effectuate the purposes and prevent evasions of this subsection.".

(b) REQUIRING DEPOSITORY INSTITUTIONS TO FOLLOW NORMAL CREDIT UNDERWRITING PROCE-

DURES WHEN EXTENDING CREDIT TO INSIDERS.—Section 22(h)(2) of the Federal Reserve Act (12 U.S.C. 375b(2)), as amended by subsection (a), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) the bank follows credit underwriting procedures that are not less stringent than those applicable to comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank.".

(c) APPLYING TO DIRECTORS THE LIMIT ON LOANS TO ONE BORROWER.—Section 22(h)(4) of the Federal Reserve Act (12 U.S.C. 375b(4)), as amended by subsection (a), is amended—

(1) by inserting ", DIRECTOR," after "AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER"; and

(2) by inserting ", director," after "A member bank may extend credit to any executive officer".

(d) LIMITING DEPOSITORY INSTITUTION'S AGGREGATE EXTENSIONS OF CREDIT TO INSIDERS.—

(1) IN GENERAL.—Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)), as amended by subsection (a), is amended to read as follows:

"(5) AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ALL EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—

"(A) IN GENERAL.—A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors, principal shareholders, and those persons' related interests would not exceed the bank's unimpaired capital and unimpaired surplus.

"(B) MORE STRINGENT LIMIT AUTHORIZED.—The Board may, by regulation, prescribe a limit that is more stringent than that contained in subparagraph (A).

"(C) BOARD MAY MAKE EXCEPTIONS FOR CERTAIN BANKS.—The Board may, by regulation, make exceptions to subparagraph (A) for member banks with less than $100,000,000 in deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks. In no case may the aggregate amount of all outstanding extensions of credit to a bank's executive officers, directors, principal shareholders, and those persons' related interests be more than 2 times the bank's unimpaired capital and unimpaired surplus.".

(2) CONFORMING AMENDMENT.—Section 22(h)(1) of the Federal Reserve Act (12 U.S.C. 375b(1)), as amended by subsection (a), is amended by inserting "(5)," after "(4),".

(e) PROHIBITING INSIDERS FROM ACCEPTING UNAUTHORIZED EXTENSIONS OF CREDIT.—Section 22(h)(7) of the Federal Reserve Act (12 U.S.C. 375b(7)), as amended by subsection (a), is amended to read as follows:

"(7) PROHIBITION ON KNOWINGLY RECEIVING UNAUTHORIZED EXTENSION OF CREDIT.—No executive officer, director, or principal shareholder shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this subsection.".

(f) APPLYING UNIFORM RULES TO ALL COMPANIES CONTROLLING DEPOSITORY INSTITUTIONS.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(8)), as amended by subsection (a), is amended by striking "bank holding".

(g) APPLYING SAFEGUARDS TO INSIDER TRANSACTIONS WITH DEPOSITORY INSTITUTION'S SUBSIDIARIES.—Section 22(h)(9)(E) of the Federal Reserve Act (12 U.S.C. 375b(9)(E)), as amended by subsection (a), is amended to read as follows:

"(E) MEMBER BANK.—The term 'member bank' includes any subsidiary of a member bank.".

(h) APPLYING UNIFORM RULES TO ALL PRINCIPAL SHAREHOLDERS.—Section 22(h)(9)(F) of the Federal Reserve Act (12 U.S.C. 375b(9)(F)), as amended by subsection (a), is amended by striking the last sentence.

(i) LIMITING SAVINGS ASSOCIATIONS' EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—Section 11(b)(1) of the Home Owners' Loan Act (12 U.S.C. 1468(b)(1)) is amended by striking "Section 22(h)" and inserting "Subsections (g) and (h) of section 22".

(j) PREVENTING SAVINGS ASSOCIATIONS FROM MAKING PREFERENTIAL EXTENSIONS OF CREDIT THROUGH CORRESPONDENT INSTITUTIONS.—Section 106(b)(2)(H)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(H)(i)) is amended by inserting ", a savings bank, and a savings association (as those terms are defined in section 3 of the Federal Deposit Insurance Act)" after "mutual savings bank".

(k) LIMITING STATE NONMEMBER BANK'S EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS; CLARIFYING THE PROHIBITION ON PREFERENTIAL EXTENSIONS OF CREDIT TO INSIDERS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended to read as follows:

"(j) RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES AND INSIDERS.—

"(1) TRANSACTIONS WITH AFFILIATES.—

"(A) IN GENERAL.—Sections 23A and 23B of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(B) AFFILIATE DEFINED.—For the purpose of subparagraph (A), any company that would be an affiliate (as defined in sections 23A and 23B) of a nonmember insured bank if the nonmember insured bank were a member bank shall be deemed to be an affiliate of that nonmember insured bank.

"(2) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Subsections (g) and (h) of section 22 of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(3) AVOIDING EXTRATERRITORIAL APPLICATION TO FOREIGN BANKS.—

"(A) TRANSACTIONS WITH AFFILIATES.—Paragraph (1) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch.

"(B) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Paragraph (2) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch, but shall apply with respect to the insured branch.

"(C) FOREIGN BANK DEFINED.—For purposes of this paragraph, the term 'foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978.".

(l) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the earlier of—

(1) the date on which final regulations under subsection (m)(1) become effective; or

(2) 150 days after the date of enactment of this Act.

(m) REGULATIONS.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System shall, not later than 120 days after the date of enactment of this Act, promulgate final regulations to implement the amendments made by this section, other than the amendments made by subsections (i) and (k).

(2) LIMITING EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—The Federal Deposit Insurance Corporation and Director of the Office of Thrift Supervision shall each, not later than 120 days after the date of enactment of this Act, promulgate final regulations prescribing the maximum amount that a nonmember insured bank or insured savings association (as the case may be) may lend under section 22(g)(4) of the Federal Reserve Act, as made applicable to those institutions by subsections (k) and (i), respectively.

(n) EXISTING TRANSACTIONS NOT AFFECTED.—The amendments made by this section do not affect the validity of any extension of credit or other transaction lawfully entered into on or before the effective date of those amendments.

(o) REPORTING OF CREDIT BY EXECUTIVE OFFICERS AND DIRECTORS.—An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.

SEC. 307. FDIC BACK-UP ENFORCEMENT AUTHORITY.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) AUTHORITY OF FDIC TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

"(1) RECOMMENDING ACTION BY APPROPRIATE FEDERAL BANKING AGENCY.—The Corporation, based on an examination of an insured depository institution by the Corporation or by the appropriate Federal banking agency or on other information, may recommend in writing to the appropriate Federal banking agency that the agency take any enforcement action authorized under section 7(j), this section, or section 18(j) with respect to any insured depository institution or any institution-affiliated party. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

"(2) FDIC'S AUTHORITY TO ACT IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—If the appropriate Federal banking agency does not, before the end of the 60-day period beginning on the date on which the agency receives the recommendation under paragraph (1), take the enforcement action recommended by the Corporation or provide a plan acceptable to the Corporation for responding to the Corporation's concerns, the Corporation may take the recommended enforcement action if the Board of Directors determines, upon a vote of its members, that—

"(A) the insured depository institution is in an unsafe or unsound condition;

"(B) the institution is engaging in unsafe or unsound practices, and the recommended enforcement action will prevent the institution from continuing such practices; or

"(C) the institution's conduct or threatened conduct (including any acts or omissions) poses a risk to the deposit insurance fund, or may prejudice the interests of the institution's depositors.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—The Corporation may, upon a vote of the Board of Directors, and after notice to the appropriate Federal banking agency, exercise its authority under paragraph (2) in exigent circumstances without regard to the time period set forth in paragraph (2).

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Corporation shall, by agreement with the appropriate Federal banking agency, set forth those exigent circumstances in which the Corporation may act under subparagraph (A).

"(4) CORPORATION'S POWERS; INSTITUTION'S DUTIES.—For purposes of this subsection—

"(A) the Corporation shall have the same powers with respect to any insured depository institution and its affiliates as the appropriate Federal banking agency has with respect to the institution and its affiliates; and

"(B) the institution and its affiliates shall have the same duties and obligations with respect to the Corporation as the institution and its affiliates have with respect to the appropriate Federal banking agency.

"(5) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—A regional office of an appropriate Federal banking agency (including a Federal Reserve bank) that requests a formal investigation of or civil enforcement action against an insured depository institution shall submit the request concurrently to the chief officer of the appropriate Federal banking agency and to the Corporation.

"(B) AGENCIES REQUIRED TO REPORT ON REQUESTS.—Each appropriate Federal banking agency shall report semiannually to the Corporation on the status or disposition of all requests under subparagraph (A), including the reasons for any decision by the agency to approve or deny such requests.".

SEC. 308. INTERBANK LIABILITIES.

(a) REDUCING SYSTEMIC RISKS POSED BY LARGE BANK FAILURES.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 22 the following new section:

"INTERBANK LIABILITIES

"SEC. 23. (a) PURPOSE.—The purpose of this section is to limit the risks that the failure of a large depository institution (whether or not that institution is an insured depository institution) would pose to insured depository institutions.

"(b) AGGREGATE LIMITS ON INSURED DEPOSITORY INSTITUTIONS' EXPOSURE TO OTHER DEPOSITORY INSTITUTIONS.—The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other depository institution.

"(c) EXPOSURE DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (b), an insured depository institution's 'exposure' to another depository institution means—

"(A) all extensions of credit to the other depository institution, regardless of name or description, including—

"(i) all deposits at the other depository institution;

"(ii) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase; and

"(iii) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution;

"(B) all purchases of or investments in securities issued by the other depository institution;

"(C) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and

"(D) all similar transactions that the Board by regulation determines to be exposure for purposes of this section.

"(2) EXEMPTIONS.—The Board may, at its discretion, by regulation or order, exempt transactions from the definition of 'exposure' if it finds the exemptions to be in the public interest and consistent with the purpose of this section.

"(3) ATTRIBUTION RULE.—For purposes of this section, any transaction by an insured depository institution with any person is a transaction with another depository institution to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that other depository institution.

"(d) INSURED DEPOSITORY INSTITUTION.—For purposes of this section, the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(e) RULEMAKING AUTHORITY; ENFORCEMENT.—The Board may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purpose of this section. The appropriate Federal banking agency shall enforce compliance with those regulations under section 8 of the Federal Deposit Insurance Act.".

(b) TRANSITION RULES.—The Board shall prescribe reasonable transition rules to facilitate compliance with section 23 of the Federal Reserve Act (as added by subsection (a)).

(c) EFFECTIVE DATE.—The amendment made by this section shall become effective 1 year after the date of enactment of this Act.

Subtitle B—Coverage

SEC. 311. DEPOSIT AND PASS-THROUGH INSURANCE.

(a) EXCLUSION OF CERTAIN OBLIGATIONS FROM DEPOSIT INSURANCE COVERAGE.—

(1) IN GENERAL.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by adding at the end the following new paragraph:

"(8) CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS.—

"(A) IN GENERAL.—A liability of an insured depository institution shall not be treated as an insured deposit if the liability arises under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) BENEFIT-RESPONSIVE WITHDRAWALS OR TRANSFERS.—The term 'benefit-responsive withdrawals or transfers' means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974; and

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986.".

(2) EXCLUSION OF OBLIGATIONS FROM TREATMENT AS DEPOSITS FOR OTHER PURPOSES.—Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(b) INSURANCE OF DEPOSITS.—

(1) INSURED AMOUNTS PAYABLE.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) (as amended by subsection (a)(1) of this section) is amended by striking "(a)(1)" and all that follows through paragraph (1) and inserting the following:

"(a) DEPOSIT INSURANCE.—

"(1) INSURED AMOUNTS PAYABLE.—

"(A) IN GENERAL.—The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed $100,000 as determined in accordance with subparagraphs (C) and (D).

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in section 7(i)(1).

"(D) COVERAGE ON PRO RATA OR 'PASS-THROUGH' BASIS.—

"(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or 'pass-through' basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(ii) EXCEPTION.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or 'pass-through' basis pursuant to clause (i) with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

"(iii) COVERAGE UNDER CERTAIN CIRCUMSTANCES.—Clause (ii) shall not apply with respect to any deposit accepted by an insured depository institution described in such clause if, at the time the deposit is accepted—

"(I) the institution meets each applicable capital standard; and

"(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or 'pass-through' basis.".

(2) CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)) is amended to read as follows:

"(3) CERTAIN RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with—

"(i) any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;

"(ii) subject to the exception contained in paragraph (1)(D)(ii), any eligible deferred compensation plan described in section 457 of such Code; and

"(iii) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act, and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan,

shall be aggregated and insured in an amount not to exceed $100,000 per participant per insured depository institution.

"(B) AMOUNTS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount aggregated for insurance coverage under this paragraph shall consist of the present vested *and ascertainable interest of each participant under the plan, excluding any remainder interest created by, or as a result of, the plan.".*

(3) CERTAIN TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) INSURANCE OF TRUST FUNDS.—

"(1) IN GENERAL.—Trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed $100,000 for each trust estate.

"(2) INTERBANK DEPOSITS.—Trust funds described in paragraph (1) which are deposited by the fiduciary depository institution in another insured depository institution shall be similarly insured to the fiduciary depository institution according to the trust estates represented.

"(3) REGULATIONS.—The Board of Directors may prescribe such regulations as may be necessary to clarify the insurance coverage under this subsection and to prescribe the manner of reporting and depositing such trust funds.".

(4) EXPANDED COVERAGE BY REGULATION.—

(A) REVIEW OF COVERAGE.—For the purpose of prescribing regulations, during the 1-year period beginning on the date of the enactment of this Act, the Board of Directors shall review the capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Corporation.

(B) REGULATIONS.— After the end of the 1-year period referred to in subparagraph (A), the Board of Directors may prescribe regulations that provide for separate insurance coverage for the different capacities and rights in which deposit accounts are maintained if a determination is made by the Board of Directors that such separate insurance coverage is consistent with—

(i) the purpose of protecting small depositors and limiting the undue expansion of deposit insurance coverage; and

(ii) the insurance provisions of the Federal Deposit Insurance Act.

(C) DELAYED EFFECTIVE DATE FOR REGULATIONS.—No regulation prescribed under subparagraph (B) may take effect before the 2-year period beginning on the date of the enactment of this Act.

(5) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by striking "(m)(1)" and all that follows through paragraph (1) and inserting the following:

"(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'insured deposit' means the net amount due to any depositor for deposits in an insured depository institution as determined under sections 7(i) and 11(a).".

(B) Section 11(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)(A)) is amended by striking "his deposit shall be insured" and inserting "such depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in clause (ii), (iii), (iv), or (v) and the deposit of any such depositor shall be insured in an amount not to exceed $100,000 per account".

(C) The 2d subparagraph of section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended by striking "(b)" and inserting "(B)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) and paragraphs (2) and (3) of subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

(2) APPLICATION TO TIME DEPOSITS.—

(A) CERTAIN DEPOSITS EXCLUDED.—Except with respect to the amendment referred to in paragraph (3), the amendments made by subsections (a) and (b) shall not apply to any time deposit which—

(i) was made before the date of enactment of this Act; and

(ii) matures after the end of the 2-year period referred to in paragraph (1).

(B) ROLLOVERS AND RENEWALS TREATED AS NEW DEPOSIT.—Any renewal or rollover of a time deposit described in subparagraph (A) after the date of the enactment of this Act shall be treated as a new deposit which is not described in such subparagraph.

(3) EFFECTIVE DATE FOR AMENDMENT RELATING TO CERTAIN EMPLOYEE PLANS.—

(A) Section 11(a)(1)(B) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on the earlier of—

(i) the date of the enactment of this Act; or

(ii) January 1, 1992.

(B) Section 11(a)(3)(A) of the Federal Deposit Insurance Act (as amended by subsection (b)(2) of this section) shall take effect on the earlier of the dates described in clauses (i) and (ii) of subparagraph (A) with respect to plans described in clause (ii) of such section.

(d) INFORMATIONAL STUDY.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation, in conjunction with such consultants and technical experts as the Corporation determines to be appropriate, shall conduct a study of the cost and feasibility of tracking the insured and uninsured deposits of any individual and the exposure, under any Act of Congress or any regulation of any appropriate Federal banking agency, of the Federal Government with respect to all insured depository institutions.

(2) ANALYSIS OF COSTS AND BENEFITS.—The study under paragraph (1) shall include detailed, technical analysis of the costs and benefits associated with the least expensive way to implement the system.

(3) SPECIFIC FACTORS TO BE STUDIED.—As part of the study under paragraph (1), the Corporation shall investigate, review, and evaluate—

(A) the data systems that would be required to track deposits in all insured depository institutions;

(B) the reporting burdens of such tracking on individual depository institutions;

(C) the systems which exist or which would be required to be developed to aggregate such data on an accurate basis;

(D) the implications such tracking would have for individual privacy; and

(E) the manner in which systems would be administered and enforced.

(4) FEDERAL RESERVE BOARD SURVEY.—As part of the informational study required under paragraph (1), the Board of Governors of the Federal Reserve System shall conduct, in conjunction with other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals including the dollar amount of deposits held, the type of deposit accounts held, and the type of financial institutions in which the deposit accounts are held.

(5) ANALYSIS BY FDIC.—The results of the survey under paragraph (4) shall be provided to the Federal Deposit Insurance Corporation before the end of the 1-year period beginning on the date of the enactment of this Act for analysis and inclusion in the informational study.

(6) REPORT TO CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and legislative action as the Corporation determines to be appropriate.

SEC. 312. FOREIGN DEPOSITS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 40 (as added by preceding provisions of this Act) the following new section:

"SEC. 41. PAYMENTS ON FOREIGN DEPOSITS PROHIBITED.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Corporation, the Board of Governors of the Federal Reserve System, the Resolution Trust Corporation, any other agency, department, and instrumentality of the United States, and any corporation owned or controlled by the United States may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this Act or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 3(l) but for subparagraphs (A) and (B) of section 3(l)(5).".

"(b) EXCEPTION.—Subsection (a) shall not apply to any payment, assistance, guarantee, or transfer made or provided by the Corporation if the Board of Directors determines in writing that such action is not inconsistent with any requirement of section 13(c).

"(c) DISCOUNT WINDOW LENDING.—No provision of this section shall be construed as prohibiting any Federal Reserve bank from making advances or otherwise extending credit pursuant to the Federal Reserve Act to any insured depository institution to the extent that such advance or extension of credit is consistent with the conditions and limitations imposed under section 10B of such Act.".

SEC. 313. PENALTY FOR FALSE ASSESSMENT REPORTS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended by adding at the end the following new paragraph:

"(5) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT.—

"(A) FIRST TIER.—Any insured depository institution which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement; or

"(ii) submits the statement at a time which is minimally after the time required in such paragraph,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The institution shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured depository institution which fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement in a manner not described in subparagraph (A) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false and misleading information is not corrected.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository

institution knowingly or with reckless disregard for the accuracy of any certified statement described in paragraph (1) or (2) submits a false or misleading certified statement under paragraph (1) or (2), the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 8(h) shall apply to any proceeding under this subparagraph.".

(b) INSURED CREDIT UNIONS.—Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) is amended to read as follows:

"(2) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT OR TO PAY DEPOSIT OR PREMIUM.—

"(A) FIRST TIER.—Any insured credit union which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement under such subsection; or

"(ii) submits the statement at a time which is minimally after the time required,
shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured credit union which—

"(i) fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement in a manner not described in subparagraph (A); or

"(ii) fails or refuses to pay any deposit or premium for insurance required under this title,
shall be subject to a penalty of not more than $20,000 for each day during which such failure continues, such false and misleading information is not corrected, or such deposit or premium is not paid.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement under subsection (b)(1) or submits a false or misleading certified statement under such subsection, the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 206(j) shall apply to any proceeding under this subparagraph.

"(F) SPECIAL RULE FOR DISPUTED PAYMENTS.—No penalty may be assessed for the failure of any insured credit union to pay any deposit or premium for insurance if—

"(i) the failure is due to a dispute between the credit union and the Board over the amount of the deposit or premium which is due from the credit union; and

"(ii) the credit union deposits security satisfactory to the Board for payment of the deposit or insurance premium upon final determination of the dispute.".

Subtitle C—Demonstration Project and Studies

SEC. 321. FEASIBILITY STUDY ON AUTHORIZING INSURED AND UNINSURED DEPOSIT ACCOUNTS.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall study the feasibility of authorizing insured depository institutions to offer both insured and uninsured deposit accounts to customers.

(b) FACTORS TO CONSIDER.—In conducting the study required under subsection (a), the Corporation shall consider the following factors:

(1) The risk a 2-window deposit system would pose to the deposit insurance system.

(2) The disclosure standards which would be necessary to prevent customer confusion over the insured status of deposits and fraudulent or misleading practices with respect to such insured status.

(3) The extent to which accounting standards would have to be revised or changed.

(4) The manner in which a 2-window deposit plan could be implemented with the least disruption to the stability of, and the confidence of consumers in, the banking system.

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Corporation shall submit a report to the Congress containing the Corporation's findings and conclusions with respect to the study under subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

SEC. 322. PRIVATE REINSURANCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository institutions, or economics, shall conduct a study of the feasibility of establishing a private reinsurance system.

(2) PROJECT.—The study conducted under this subsection shall include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system, including—

(A) establishment of a pricing structure for risk-based premiums;

(B) formulation of insurance or reinsurance contracts; and

(C) identification and collection of information necessary to evaluate and monitor the risks in insured depository institutions.

(3) ACTUAL REINSURANCE TRANSACTIONS.—The Federal Deposit Insurance Corporation may engage in actual reinsurance transactions as part of a demonstration project conducted under paragraph (2).

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report on the study conducted under this section.

(2) CONTENTS.—The report under this subsection shall include—

(A) an analysis and review of the project conducted under subsection (a)(2);

(B) conclusions regarding the feasibility of a private reinsurance system;

(C) recommendations regarding whether—

(i) such a system should be restricted to depository institutions over a certain asset size;

(ii) similar systems are feasible for depository institutions or groups of depository institutions of a lesser asset size; and

(iii) public policy goals can be satisfied by such systems; and

(D) recommendations for administrative and legislative action that may be necessary to establish such systems.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

SEC. 401. FINDINGS AND PURPOSE.

The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) the efficient processing of such transactions is essential to a smoothly functioning economy;

(3) such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) the effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

SEC. 402. DEFINITIONS.

For purposes of this subtitle—

(1) BROKER OR DEALER.—The term "broker or dealer" means—

(A) any company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States; and

(B) to the extent consistent with this title, as determined by the Board of Governors of the Federal Reserve System, any company that is an affiliate of a company described in subparagraph (A) and that is engaged in the business of entering into netting contracts.

(2) CLEARING ORGANIZATION.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization—

(A) that provides clearing, netting, or settlement services for its members and—

(i) in which all members other than the clearing organization itself are financial institutions or other clearing organizations; or

(ii) which is registered as a clearing agency under the Securities Exchange Act of 1934; or

(B) that performs clearing functions for a contract market designated pursuant to the Commodity Exchange Act.

(3) COVERED CLEARING OBLIGATION.—The term "covered clearing obligation" means an obligation of a member of a clearing organization to make payment to another member of a clearing organization, subject to a netting contract.

(4) COVERED CONTRACTUAL PAYMENT ENTITLEMENT.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of a clearing organization of a covered clearing obligation.

(5) COVERED CONTRACTUAL PAYMENT OBLIGATION.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (other than clause (vii));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978;

(C) a corporation chartered under section 25(a) of the Federal Reserve Act; or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

(7) FAILED FINANCIAL INSTITUTION.—The term "failed financial institution" means a financial institution that—

(A) fails to satisfy a covered contractual payment obligation when due;

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) fails to satisfy a covered clearing obligation when due,

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings, or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term "futures commission merchant" means a company that is registered or licensed under Federal law to engage in the business of selling futures and options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which the covered contractual payment entitlements of a financial institution or member exceed the covered contractual payment obligations of the institution or member after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which the covered contractual payment obligations of a financial institution or member exceed the covered contractual payment entitlements of the institution or member after netting under a netting contract.

(14) NETTING CONTRACT.—

(A) IN GENERAL.—The term "netting contract"—

(i) means a contract or agreement between 2 or more financial institutions or members, that—

(I) is governed by the laws of the United States, any State, or any political subdivision of any State, and

(II) provides for netting present or future payment obligations or payment entitlements (including liquidation or close-out values relating to the obligations or entitlements) among the parties to the agreement; and

(ii) includes the rules of a clearing organization.

(B) INVALID CONTRACTS NOT INCLUDED.—The term "netting contract" does not include any contract or agreement that is invalid under or precluded by Federal commodities law.

SEC. 403. BILATERAL NETTING.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.

(b) LIMITATION ON OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institution, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution, and no such right shall exist if there is no net entitlement.

(d) PAYMENT OF NET ENTITLEMENT OF FAILED FINANCIAL INSTITUTION.—The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract.

(e) EFFECTIVENESS NOTWITHSTANDING STATUS AS FINANCIAL INSTITUTION.—This section shall be given effect notwithstanding that a financial institution is a failed financial institution.

SEC. 404. CLEARING ORGANIZATION NETTING.

(a) GENERAL NETTING RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract.

(b) LIMITATION OF OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract, and no such right shall exist if there is no net entitlement.

(d) ENTITLEMENT OF FAILED MEMBERS.—The net entitlement, if any, of any failed member of a clearing organization shall be paid to the failed member in accordance with, and subject to the conditions of, the applicable netting contract.

(e) OBLIGATIONS OF FAILED MEMBERS.—The net obligation, if any, of any failed member of a clearing organization shall be determined in accordance with, and subject to the conditions of, the applicable netting contract.

(f) LIMITATION ON CLAIMS FOR ENTITLEMENT.—A failed member of a clearing organization shall have no recognizable claim against any member of a clearing organization for any amount based on such covered contractual payment entitlements other than its net entitlement.

(g) EFFECTIVENESS NOTWITHSTANDING STATUS AS MEMBER.—This section shall be given effect notwithstanding that a member is a failed member.

SEC. 405. PREEMPTION.

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of otherwise enforceable netting contracts in accordance with sections 403 and 404.

SEC. 406. RELATIONSHIP TO OTHER PAYMENTS SYSTEMS.

This subtitle shall have no effect by implication or otherwise on the validity or legal enforceability of a netting arrangement of any payment system which is not subject to this subtitle.

SEC. 407. NATIONAL EMERGENCIES.

The provisions of this subtitle may not be construed to limit the authority of the President under the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.) or the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

Subtitle B—Right to Financial Privacy Act of 1978

SEC. 411. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(f)(2) (12 U.S.C. 3412(f)(2))—

(A) by inserting "for civil actions under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or for forfeiture under sections 981 or 982 of title 18, United States Code" after "purposes"; and

(B) by adding at the end the following new sentence: "No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.";

(2) in section 1113(h)(1)(A) (12 U.S.C. 3413(h)(1)(A)), by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)";

(3) in section 1113(h)(4) (12 U.S.C. 3413(h)(4)) by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)"; and

(4) in section 1113(l) (12 U.S.C. 3413(l)), by adding after paragraph (2) the following new sentence:

"No supervisory agency which transfers any such record under this subsection shall be deemed to have waived any privilege applicable to that record under law.".

Subtitle C—Final Settlement Payment Procedure

SEC. 416. FINAL SETTLEMENT PAYMENT PROCEDURE.

Section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended to read as follows:

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determinations of claims and review of such determination.

"(B) FINAL SETTLEMENT PAYMENT PROCEDURE.—

"(i) IN GENERAL.—In the handling of receiverships of insured depository institutions, to maintain essential liquidity and to prevent financial disruption, the Corporation may, after the declaration of an institution's insolvency, settle all uninsured and unsecured claims on the receivership with a final settlement payment which shall constitute full payment and disposition of the Corporation's obligations to such claimants.

"(ii) FINAL SETTLEMENT PAYMENT.—For purposes of clause (i), a final settlement payment shall be payment of an amount equal to the product of the final settlement payment rate and the amount of the uninsured and unsecured claim on the receivership; and

"(iii) FINAL SETTLEMENT PAYMENT RATE.—For purposes of clause (ii), the final settlement payment rate shall be a percentage rate reflecting an average of the Corporation's receivership recovery experience, determined by the Corporation in such a way that over such time period as the Corporation may deem appropriate, the Corporation in total will receive no more or less than it would have received in total as a general creditor standing in the place of insured depositors in each specific receivership.

"(iv) CORPORATION AUTHORITY.—The Corporation may undertake such supervisory actions and promulgate such regulations as may be necessary to assure that the requirements of this section can be implemented with respect to each insured depository institution in the event of its insolvency.".

Subtitle D—Miscellaneous Committees, Studies, and Reports

SEC. 421. AMENDMENTS RELATING TO FEDERAL RESERVE BOARD RESERVE REQUIREMENTS.

(a) STUDY ON PAYMENT OF IMPUTED EARNINGS ON STERILE RESERVES TO INSURANCE FUNDS.—The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly—

(1) conduct a study on the feasibility of assessing Federal Reserve banks an amount equal to the imputed earnings on reserves held at such banks by insured depository institutions under section 19(b) of the Federal Reserve Act; and

(2) assess the likely beneficial and adverse effects such an assessment would have on the Federal reserve banks, the deposit insurance funds, the insured depository institutions, and the Federal payment system, including a comparison of the effects on each such subject of the study.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly submit a report to the Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action which such agencies may determine to be appropriate.

(c) REPORT OF DISSENTING VIEWS.—Any agency described in subsections (a) and (b) which does not concur in the findings, conclusions, or recommendations referred to in subsection (b) or has additional findings, conclusions, or recommendations which were not included in the report may submit a report to the Congress describing—

(1) the reasons why the agency does not concur in the findings, conclusions, or recommendations referred to in subsection (b); and

(2) such additional findings, conclusions, or recommendations.

SEC. 422. PERMANENT AUTHORIZATION OF CREDIT STANDARDS BOARD.

(a) IN GENERAL.—Section 1205 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended by adding at the end the following new subsections:

"(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply with respect to the Committee.".

(b) CHAIRPERSON.—Section 1205(b)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended to read as follows:

"(3) CHAIRPERSON.—The Chairperson of the Committee shall be designated by the President from among the members appointed under paragraph (1)(F).".

Subtitle E—Utilization of Private Sector

SEC. 426. UTILIZATION OF PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services is practicable, efficient, and cost effective.".

SEC. 427. REPORTING.

Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) IN GENERAL.—In addition to the reports required under subsections (a), (b), and (c), the Corporation shall submit to Congress not later than April 30 and October 31 of each year, a semiannual report on the activities and efforts of the Corporation for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(2) CONTENTS OF REPORT.—Each semiannual report required under this subsection shall include the following information with respect to the Corporation's assets and liabilities and the assets and liabilities of institutions for which the Corporation serves as a conservator or receiver:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) A statement of the total amount expended on private contractors for the management of such assets.

"(E) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

Subtitle F—Emergency Assistance for Rhode Island

SEC. 431. EMERGENCY LOAN GUARANTEE.

(a) IN GENERAL.—

(1) PROVISION FOR GUARANTEE.—Subject to the terms and conditions established by or under this subsection, the Secretary of the Treasury shall guarantee the repayment of any amount not to exceed $180,000,000 borrowed by the State of Rhode Island and Providence Plantations (hereafter in this section referred to as the "State of Rhode Island"), or the Depositors Economic Protection Corporation established by such State, to expedite the repayment of depositors at State-chartered banks and credit unions in receivership in such State and to facilitate the resolution of such receiverships.

(2) LOAN COLLATERAL REQUIRED AS CONDITION FOR GUARANTEE.—The Secretary of the Treasury may not guarantee the repayment of any amount under paragraph (1) unless the amount of any loan for which the guarantee is sought is fully secured as follows:

(A) A first lien on assets held or controlled by the Depositors Economic Protection Corporation and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(B) If the lien and assets described in subparagraph (A) are insufficient to fully secure the guarantee, then a first lien on any assets held or controlled by the State of Rhode Island or any instrumentality of the State of Rhode Island and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(C) If the liens and assets described in subparagraphs (A) and (B) are insufficient to fully secure the guarantee, then any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the loan is irrevocably dedicated to the extent necessary to provide collateral for the guarantee.

(3) GUARANTEE FEES.—The Secretary may assess and collect with respect to loans guaranteed under this subsection an annual guarantee fee computed daily at a rate which may not exceed one-half of 1 percent of the outstanding principal amount of the guaranteed loan.

(4) PLEDGE OF CERTAIN INCOME FOR REPAYMENT.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless, for each fiscal year of the Depositors Economic Protection Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from, or attributable to, the assets pledged to the United States in accordance with this subsection, in excess of the amount necessary to pay the interest, or principal and interest on any loan to the Corporation guaranteed under paragraph (1) that is payable in such fiscal year are irrevocably pledged to be deposited into a sinking fund or defeasance fund maintained by the Corporation and are irrevocably pledged and dedicated to the repayment of the principal of such guaranteed loan in the inverse order of the maturity of such principal installments.

(5) INVESTMENT GRADE RATING.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the State of Rhode Island or the Depositors Economic Protection Corporation unless each such proposed loan has received a rating (for purposes of which the collateral securing the guarantee is considered to be securing the loan) of—

(A) the highest investment grade from a nationally recognized statistical rating organization;

(B) not less than 1 less than the investment grade rating from 2 nationally recognized statistical rating organizations; or

(C) not less than 2 less than the highest investment grade from 2 nationally recognized statistical rating organizations to the extent that—

(i) a rating of not less than 1 less than the highest investment grade rating from 2 nationally recognized statistical rating organization has not been achieved through the use of all of the collateral listed in subsection (a)(2)(A) and the available collateral under subparagraph (B) or (C) of subsection (a)(2) at the time of the State of Rhode Island's request for the loan guarantee; and

(ii) representatives of the State of Rhode Island and the Secretary are able to agree upon the lesser grade rating based on changes negotiated to other terms of this subtitle, including the purchase of bond insurance.

(6) TERMS.—

(A) IN GENERAL.—The guarantee provided for in this subsection shall be with respect to a loan which—

(i) is made not more than 1 year after the date of enactment of this Act;

(ii) will mature not later than 8 years after the date of such loan; and

(iii) is scheduled to be repaid in equal installments of principal during the last 4 years of the repayment term of such loan.

(B) AUTHORITY TO VARY TIME PERIODS.—The Secretary and the duly authorized representative of the State of Rhode Island may, by mutual agreement, modify any durational requirement specified in subparagraph (A).

(7) ADDITIONAL TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, the terms and conditions of any loan guarantee under this section shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

(b) APPROPRIATION OF AMOUNTS.—There are hereby appropriated to the Secretary of the Treasury such sums as may be necessary for any fiscal year to meet the obligation of the United States under subsection (a)(1).

Subtitle G—Qualified Thrift Lender Test Improvements

SEC. 436. SHORT TITLE.

This subtitle may be cited as the "Qualified Thrift Lender Reform Act of 1991".

SEC. 437. ADJUSTMENT OF COMPLIANCE PERIODS FOR PURPOSES OF QUALIFIED THRIFT LENDER TEST.

Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) (as in effect on July 1, 1991) is amended to read as follows:

"(B) the savings association's qualified thrift investments continue to equal or exceed 65 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.".

SEC. 438. INCREASE IN AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.

Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) (as in effect on July 1, 1991) is amended by striking "10 percent" and inserting "20 percent".

SEC. 439. ADDITIONAL INVESTMENTS INCLUDED IN DEFINITION OF QUALIFIED THRIFT ASSETS.

Section 10(m)(4)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)) (as in effect on July 1, 1991) is amended—

(1) by adding at the end of clause (ii) the following new subclause:

"(VI) Shares of stock issued by any Federal home loan bank."; and

(2) by adding at the end of clause (iii) the following new subclause:

"(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.".

SEC. 440. PRUDENT DIVERSIFICATION OF ASSETS.

(a) IN GENERAL.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) (as in effect on July 1, 1991) is amended by striking "5 percent" and inserting "10 percent".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(m)(4)(C)(iv) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iv)) (as in effect on July 1, 1991) is amended by striking "15 percent" and inserting "20 percent".

SEC. 441. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

(a) PERCENTAGE ADJUSTMENT.—Section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended in the second sentence by striking "30 percent" and inserting "35 percent".

(b) LOANS TO ORIGINAL OBLIGOR.—Section 5(c)(2)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)) is amended by inserting before the period at the end the following: ", provided however, that no amount in excess of 30 percent of the assets may be invested in loans made directly by the association to the original obligor, and the association does not pay finder, referral, or other fees, directly or indirectly, to a third party.".

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

SEC. 446. PROHIBITION ON ENTERING INTO SECRECY AGREEMENTS AND PROTECTIVE ORDERS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as conservator or receiver for an insured depository institution.".

Subtitle I—Bank and Thrift Employee Provisions

SEC. 451. CONTINUATION OF HEALTH PLAN COVERAGE IN CASES OF FAILED FINANCIAL INSTITUTIONS.

(a) CONTINUATION COVERAGE.—The Federal Deposit Insurance Corporation—

(1) shall, in its capacity as a successor of a failed depository institution (whether acting directly or through any bridge bank), have the same obligation to provide a group health plan meeting the requirements of section 602 of the Employee Retirement Income Security Act of 1974 (relating to continuation coverage requirements of group health plans) with respect to former employees of such institution as such institution would have had but for its failure, and

(2) shall require that any successor described in subsection (b)(1)(B)(iii) provide a group health plan with respect to former employees of such institution in the same manner as the failed depository institution would have been required to provide but for its failure.

(b) DEFINITIONS.—For purposes of this section—

(1) SUCCESSOR.—An entity is a successor of a failed depository institution during any period if—

(A) such entity holds substantially all of the assets or liabilities of such institution, and

(B) such entity is—

(i) the Federal Deposit Insurance Corporation,

(ii) any bridge bank, or

(iii) an entity that acquires such assets or liabilities from the Federal Deposit Insurance Corporation or a bridge bank.

(2) FAILED DEPOSITORY INSTITUTION.—The term "failed depository institution" means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver has been appointed.

(3) BRIDGE BANK.—The term "bridge bank" has the meaning given such term by section 11(i) of the Federal Deposit Insurance Act.

(c) NO PREMIUM COSTS IMPOSED ON FDIC.—Subsection (a) shall not be construed as requiring the Federal Deposit Insurance Corporation to incur, by reason of this section, any obligation for any premium under any group health plan referred to in such subsection.

(d) EFFECTIVE DATE.—This section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event under section 603 of the Employee Retirement Income Security Act of 1974 occurred before, on, or after such date.

Subtitle J—Sense of the Congress Regarding the Credit Crisis

SEC. 456. CREDIT CRUNCH.

(a) FINDINGS.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of the economy and grown increasingly severe, particularly for real estate;

(2) to date the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade first from tax rules that in 1981 stimulated excessive investment in real estate, and then in 1986 when rules were adopted that discourage capital investment in real estate, artificially eroding real estate values.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) immediate and carefully-coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors; and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) restore balance to the regulatory environment by considering the impact of risk-based capital standards on commercial, multifamily and single-family real estate; ending mark-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) rationalize the tax system for real estate owners and operators by modifying the passive loss rules and encouraging loan restructures.

Subtitle K—Aquisition of Insolvent Savings Associations

SEC. 461. AQUISITION OF INSOLVENT SAVINGS ASSOCIATIONS.

Section 4(i) of the Bank Holding Company Act (12 U.S.C. 1843(i)) is amended by adding at the end the following new paragraph:

"(3) ACQUISITION OF INSOLVENT SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, any qualified savings association which became a federally chartered stock company in December of 1986 and which is acquired by any bank holding company without Federal financial assistance after June 1, 1991, and before March 1, 1992, and any subsidiary of any such association, may after such acquisition continue to engage within the home State of the qualified savings association in insurance agency activities in which any Federal savings association (or any subsidiary thereof) may engage in accordance with the Home Owners' Loan Act and regulations pursuant to such Act if the qualified savings association or subsidiary thereof was continuously engaged in such activity from June 1, 1991, to the date of the acquisition.

"(B) DEFINITION OF QUALIFIED SAVINGS ASSOCIATION.—For purposes of this paragraph, the term 'qualified savings association' means any savings association that—

"(i) was chartered or organized as a savings association before June 1, 1991;

"(ii) had, immediately before the acquisition of such association by the bank holding company referred to in subparagraph (A), negative tangible capital and total insured deposits in excess of $3,000,000,000; and

"(iii) will meet all applicable regulatory capital requirements as a result of such acquisition.".

Subtitle L—Creditability of Service

SEC. 466. CREDITABILITY OF SERVICE.

(a) CHAPTER 83.—Section 8332 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(b) CHAPTER 84.—Section 8411 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(c) APPLICABILITY.—The amendment made by this section shall apply with respect to any individual who transfers to a position in which he or she is subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, on or after October 1, 1991.

Subtitle M—Other Miscellaneous Provisions

SEC. 471. PROVIDING SERVICES TO INSURED DEPOSITORY INSTITUTIONS.

Section 21A of the Home Owners' Loan Act (12 U.S.C. 1441a) is amended by adding at the end the following:

"(q) CONTINUATION OF OBLIGATION TO PROVIDE SERVICES.—No person obligated to provide services to an insured depository institution at the time the Resolution Trust Corporation is appointed conservator or receiver for the institution shall fail to provide those services to any person to whom the right to receive those services was transferred by the Resolution Trust Corporation after August 9, 1989, unless the refusal is based on the transferee's failure to comply with any material term or condition of the original obligation. This subsection does not limit any authority of the Resolution Trust Corporation as conservator or receiver under section 11(e) of the Federal Deposit Insurance Act.".

SEC. 472. REAL ESTATE APPRAISALS.

(a) CERTIFICATION AND LICENSING REQUIREMENTS.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) AUTHORITY OF THE APPRAISAL SUBCOMMITTEE.—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers, including a de minimus standard. Recommendations of the Subcommittee shall be nonbinding on the States.".

(b) USE OF STATE CERTIFIED AND STATE LICENSED APPRAISERS.—

(1) EFFECTIVE DATE FOR USE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking "July 1, 1991" and inserting "December 31, 1992".

(2) EXTENSION OF EFFECTIVE DATE.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the first sentence, by striking "leading to inordinate delays" and inserting ", or in any geographical political subdivision of a State, leading to significant delays"; and

(B) in the second sentence, by striking "inordinate" and inserting "significant".

(c) OMB STUDY OF DE MINIMUS STANDARDS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Director of the Office of Management and Budget shall conduct a study of whether there is a need to establish de minimus levels for commercial real estate.

SEC. 473. EMERGENCY LIQUIDITY.

Section 13 of the Federal Reserve Act (12 U.S.C. 343) is amended in the third paragraph by striking "of the kinds and maturities made eligible for discount for member banks under other provisions of this Act".

SEC. 474. DISCRIMINATION AGAINST REORGANIZED DEBTORS.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) A Federal banking agency may not, by regulation or otherwise, designate, or require an insured institution or an affiliate to designate, a corporation as highly leveraged or a transaction with a corporation as a highly leveraged transaction solely because such corporation is or has been a debtor or bankrupt under title 11, United States Code, if, after confirmation of a plan of reorganization, such corporation would not otherwise be highly leveraged.".

SEC. 475. PURCHASED MORTGAGE SERVICING RIGHTS.

(a) IN GENERAL.—Notwithstanding section 5(t)(4) of the Home Owners' Loan Act, each appropriate Federal banking agency shall determine, with respect to insured depository institutions for which it is the appropriate Federal regulator, the amount of readily marketable purchased mortgage servicing rights that may be included in calculating such institution's tangible capital, risk-based capital, or leverage limit, if—

(1) such servicing rights are valued at not more than 90 percent of their fair market value; and

(2) the fair market value of such servicing rights is determined not less often than quarterly.

(b) DEFINITION.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect at the end of the 60-day period beginning on the date of the enactment of this Act.

SEC. 476. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

The Securities Exchange Act of 1934 is amended by inserting after section 27 (15 U.S.C. 78aa) the following new section:

"SPECIAL PROVISION RELATING TO STATUTE OF LIMITATIONS ON PRIVATE CAUSES OF ACTION

"SEC. 27A. (a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation period for any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991, shall be the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991.

"(b) EFFECT ON DISMISSED CAUSES OF ACTION.—Any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991—

"(1) which was dismissed as time barred subsequent to June 19, 1991, and

"(2) which would have been timely filed under the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991,

shall be reinstated on motion by the plaintiff not later than 60 days after the date of enactment of this section.".

SEC. 477. MODIFIED SMALL BUSINESS LENDING DISCLOSURE.

The Federal Reserve Board shall collect and publish, on an annual basis, information on the availability of credit to small businesses. The information shall, to the extent practicable—

(1) include information on commercial loans to small businesses, agricultural loans to small farms, and loans to minority-owned small businesses;

(2) be given for categories of small businesses determined by annual sales and for small businesses in existence for less than 1 year; and

(3) be given for each geographic region of the United States.

In collecting the information, the Federal Reserve board shall take into consideration the need to minimize reporting costs, if any, on financial institutions.

Subtitle N—Severability

SEC. 481. SEVERABILITY.

If any provision of this Act, or any application of any provision of this Act to any person or circumstance, is held invalid, the remainder of the Act, and the application of any remaining provision of the Act to any other person or circumstance, shall not be affected by such holding.

TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

SEC. 501. MERGERS AND ACQUISITIONS OF INSURED DEPOSITORY INSTITUTIONS DURING CONVERSION MORATORIUM.

(a) IN GENERAL.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended to read as follows:

"(3) OPTIONAL CONVERSIONS SUBJECT TO SPECIAL RULES ON DEPOSIT INSURANCE PAYMENTS.—

"(A) CONVERSIONS ALLOWED.—

"(i) IN GENERAL.—Notwithstanding paragraph (2)(A) and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).

"(ii) HOLDING COMPANY SUBSIDIARIES.—If, in connection with any transaction referred to in clause (i), the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the prior written approval of the Board shall be required for such transaction in addition to the approval of any agency referred to in clause (i).

"(B) ASSESSMENTS ON DEPOSITS ATTRIBUTABLE TO FORMER DEPOSITORY INSTITUTION.—

"(i) ASSESSMENTS BY SAIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Bank Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(III) be treated as deposits which are insured by the Savings Association Insurance Fund.

"(ii) ASSESSMENTS BY BIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Savings Association Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Bank Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Savings Association Insurance Fund members; and

"(III) be treated as deposits which are insured by the Bank Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account for purposes of determining the amount of the assessment under subparagraph (B) for any semiannual period by any acquiring, assuming, or resulting depository institution in connection with a transaction under subparagraph (A) is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the annual rate of growth of deposits of the acquiring, assuming, or resulting depository institution minus the amount of any deposits acquired through the acquisition, in whole or in part, of another insured depository institution.

"(D) DEPOSIT OF ASSESSMENT.—That portion of any assessment under section 7 which—

"(i) is determined in accordance with subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund; and

"(ii) is determined in accordance with subparagraph (B)(ii) shall be deposited in the Bank Insurance Fund.

"(E) CONDITIONS FOR APPROVAL, GENERALLY.—

"(i) FACTORS TO BE CONSIDERED; APPROVAL PROCESS.—In reviewing any application for a proposed transaction under subparagraph (A), the responsible agency (and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board) shall follow the procedures and consider the factors set forth in section 18(c).

"(ii) INFORMATION REQUIRED.—An application to engage in any transaction under this paragraph shall contain such information relating to the factors to be considered for approval as the responsible agency or Board may require, by regulation or by specific request, in connection with any particular application.

"(iii) NO TRANSFER OF DEPOSIT INSURANCE PERMITTED.—This paragraph shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from 1 Federal deposit insurance fund to the other Federal deposit insurance fund.

"(iv) MINIMUM CAPITAL.—The responsible agency, and the appropriate Federal banking agency for any depository institution holding company, shall disapprove any application for any transaction under this paragraph unless each such agency determines that the acquiring, assuming, or resulting depository institution, and any depository institution holding company which controls such institution, will meet all applicable capital requirements upon consummation of the transaction.

"(F) CERTAIN INTERSTATE TRANSACTIONS.—The Board may not approve any transaction under subparagraph (A) in which the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company unless the Board determines that the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the Savings Association Insurance Fund member involved in such transaction was a State bank that the bank holding company was applying to acquire.

"(G) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(i) IN GENERAL.—Any application by a State nonmember insured bank to acquire another insured depository institution that is required to be filed with the Corporation by subparagraph (A) or any other applicable law or regulation shall be approved or disapproved in writing by the Corporation before the end of the 60-day period beginning on the date such application is filed with the Corporation.

"(ii) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in clause (i) may be extended for an additional 30-day period if the Corporation determines that—

"(I) an applicant has not furnished all of the information required to be submitted; or

"(II) in the Corporation's judgment, any material information submitted is substantially inaccurate or incomplete.

"(H) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any acquiring, assuming, or resulting depository institution is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such acquiring, assuming, or resulting depository institution assessed by the Bank Insurance Fund and the Savings Association Insurance Fund, respectively, under subparagraph (B).

"(I) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by any acquiring, assuming, or resulting depository institution to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) the acquiring, assuming, or resulting depository institution pays the amount of any exit and entrance fee assessed by the Corporation under subparagraph (E) of paragraph (2) with respect to such transaction.

"(J) ACQUIRING, ASSUMING, OR RESULTING DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'acquiring, assuming, or resulting depository institution' means any insured depository institution which—

"(i) results from any transaction described in paragraph (2)(B)(ii) and approved under this paragraph;

"(ii) in connection with a transaction described in paragraph (2)(B)(iii) and approved under this paragraph, assumes any liability to pay deposits of another insured depository institution; or

"(iii) in connection with a transaction described in paragraph (2)(B)(iv) and approved under this paragraph, acquires assets from any insured depository institution in consideration of the assumption of liability for any deposits of such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) to section 5(d)(3)(C) of the Federal Deposit Insurance Act shall apply with respect to semiannual periods beginning after the date of the enactment of this Act.

(c) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—If, under section 5(d)(3) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, the Director may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this Act.".

SEC. 502. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

(a) FEDERAL SAVINGS ASSOCIATIONS.—Section 10 of the Home Owners' Loan Act (12 U.S.C.

1467a) is amended by adding at the end the following new subsection:

"(t) MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.—

"(1) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act and all other applicable laws, any Federal savings association may acquire or be acquired by any insured depository institution.

"(2) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(A) IN GENERAL.—Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Director under section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the Director before the end of the 60-day period beginning on the date such application is filed with the agency.

"(B) EXTENSION OF PERIOD.—The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Director determines that—

"(i) an applicant has not furnished all of the information required to be submitted; or

"(ii) in the Director's judgment, any material information submitted is substantially inaccurate or incomplete.

"(3) ACQUIRE DEFINED.—For purposes of this subsection, the term 'acquire' means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.

"(4) REGULATIONS.—

"(A) REQUIRED.—The Director shall prescribe such regulations as may be necessary to carry out paragraph (1).

"(B) EFFECTIVE DATE.—The regulations required under subparagraph (A) shall—

"(i) be prescribed in final form before the end of the 90-day period beginning on the date of the enactment of this subsection; and

"(ii) take effect before the end of the 120-day period beginning on such date.

"(5) LIMITATION..—No provision of this section shall be construed to authorize a national bank or any subsidiary thereof to engage in any activity not otherwise authorized under the National Bank Act or any other law governing the powers of a national bank.".

(b) NATIONAL BANKS.—Chapter 1 of title LXII of the Revised Statutes of the United States (12 U.S.C. 5133 et seq.) is amended by adding at the end the following new section:

"SEC. 5156A. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

"(a) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act and all other applicable laws, any national bank may acquire or be acquired by any insured depository institution.

"(b) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(1) IN GENERAL.—Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency by section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

"(2) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in paragraph (1) may be extended for an additional 30-day period if the Comptroller of the Currency determines that—

"(A) an applicant has not furnished all of the information required to be submitted; or

"(B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

"(c) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing a national bank or a subsidiary of a national bank to engage in any activity not otherwise authorized under this Act or any other law governing the powers of national banks.

"(d) ACQUIRE DEFINED.—For purposes of this section, the term 'acquire' means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEPHEN L. NEAL,
CARROLL HUBBARD,
JOHN J. LAFALCE,
M.R. OAKAR,
BRUCE F. VENTO,
DOUG BARNARD, JR.,
CHARLES SCHUMER,
BARNEY FRANK,
BEN ERDREICH,
TOM CARPER,
GERALD D. KLECZKA,
CHALMERS P. WYLIE,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
RICHARD H. BAKER,
Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
CHRISTOPHER DODD,
JAKE GARN,
ALFONSE D'AMATO,

Solely for the purpose of consideration of title X of the Senate Bill:

QUENTIN BURDICK,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

JOINT STATEMENT OF CONFERENCE COMMITTEE

House and Senate conferees met for two days under a stringent deadline to consider H.R. 3768 and S. 543, bills to recapitalize the Bank Insurance Fund and to improve the Federal Deposit Insurance Corporation. On November 25, 1991, the House overwhelmingly passed a motion by a vote of 398 ayes to 3 nays to instruct its conferees to consider only issues addressed within the scope of H.R. 3768, rather than the more voluminous bill, S. 543.

The conferees exchanged several offers, and worked from these to combine parts of each bill to form this conference agreement. While the conferees certainly hold differing views about the long-term changes needed in the banking system, all agreed that in the short time available for forging this compromise, recapitalizating the BIF took top priority. The FDIC have the resources to honor its guarantee of insured deposits, so that Americans will know their funds are safe.

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEPHEN L. NEAL,
CARROLL HUBBARD,
JOHN J. LAFALCE,
M.R. OAKAR,
BRUCE F. VENTO,
DOUG BARNARD, JR.,
CHARLES SCHUMER,
BARNEY FRANK,
BEN ERDREICH,
TOM CARPER,
GERALD D. KLECZKA,
CHALMERS P. WYLIE,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
RICHARD H. BAKER,
Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
CHRISTOPHER DODD,
JAKE GARN,
ALFONSE D'AMATO,

Solely for the purpose of consideration of title X of the Senate Bill:

QUENTIN BURDICK,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Mr. NEAL of North Carolina. Mr. Speaker, pursuant to House Resolution 318, I call up the conference report on the Senate bill (S. 543 to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. STUDDS). Pursuant to House Resolution 318, the conference report is considered as having been read.

☐ 1040

The gentleman from North Carolina [Mr. NEAL] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is essentially very similar to the bill that has passed the House. My colleagues may be interested to know that the Committee on Banking, Finance and Urban Affairs conferees were in conference with the Senate conferees essentially from yesterday morning at 9:30, on and on all day, into the evening, until this morning at something like 5 o'clock, and we finally came to this agreement which, as I say, is in most major respects very much like the bill that passed the House recently by an overwhelming margin.

Mr. Speaker, I think the significant thing to say about this legislation is that it is essential. There is a problem.

The bank insurance fund needs money, and, if it were not for that problem, we would not be here.

Now this bill provides some money to fix that problem for the short term, but I will have to report to our colleagues that, as far as fixing the problem for the long term, we do not do it.

We do provide some very significant regulatory reform, a couple of hundred pages of it. That is all to the good. But we knew how to do much more, and we should have done much more.

Mr. Speaker, our Subcommittee on Financial Institutions Supervision, Regulation and Insurance, after many days of hearings and study over a long period of time, reported out legislation that would have in a major way reformed the banking system of this country. It would have made the system safer, and sounder and more competitive, would have provided for economic diversity in terms of services, products and services, would have provided geographic diversity for safety and soundness. That bill passed our subcommittee with no votes against it. I think the vote was 35 to zero, something like that.

Well, Mr. Speaker, we took it to the full committee. The full committee worked its will on it, found a few more little problems, and the bill, very much the same bill, passed the full committee by about a 60-40 margin. But because of a lot of little manipulations that I will not go into now, we never really got a chance to vote on that major reform package.

Now I mention it at this time because one of these days, I would say to my colleagues, we must return to that. We must modernize this system. If we do not modernize the system, we will be back here again sometime in the future looking for more money to bail out banks. I do not want to vote one penny to bail out banks.

Mr. Speaker, there is a way to fix this system. We should provide geographic diversity, we should provide product diversity for safety and soundness, we should modernize the system so that it serves our savers, and our consumers and the businesses of this country so that we can be competitive in world trade. Now that is the challenge.

Mr. Speaker, we are engaged now in a stopgap measure. It is necessary. We have no choice. But very soon we must return to this subject and engage in a major reform.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I rise in strong support of the conference report on H.R. 3768, the banking reform bill. As I do that, I want to compliment the distinguished chairman of the Committee on Banking, Finance and Urban Affairs who has worked so diligently, and so hard and so long. Without his persistent efforts we would not be here today. He encouraged us to work on this bill through the day yesterday, for almost 24 straight hours, until 5 o'clock this morning; and we came up with a very good bill in my judgment. Although the path has been arduous, the compromise before us encompasses pretty much the parameters of the House passed bill.

No one was completely satisfied with the product that we came out with, but clearly this is the most important issue that we have before the First Session of the 102nd Congress. Other important issues are not included: interstate banking, banking and commerce, modification of Glass-Steagall are still unanswered and will have to be revisited early next year. However the bill before us is a good compromise given where we started from when we went into our conference yesterday with Members of the other body.

First and foremost the bill provides the funding to recapitalize the bank insurance fund, and again I repeat again and again that this is not a taxpayer bailout. There is no taxpayer money authorized in this bill. This is a loan which will be repaid by the banking industry through an increase in premiums. This money will be used solely to protect depositors. Not one cent will be used to pay off any shareholders or any directors.

Mr. Speaker, we must recapitalize the bank insurance fund to show depositors that the government stands behind the promise to protect their deposits. We must show the American people that their money is protected by the full faith and credit of the United States Government. It would be irresponsible not to provide the FDIC with this crucial funding, as I have stated, before we adjourn.

Besides funding, Mr. Speaker, the bill does incorporate a number of very important reforms. It calls for annual examinations and independent audits. It implements a tripwire system of prompt early intervention to handle troubled institutions before they fail, and to minimize taxpayer losses. To further minimize the taxpayer liability, the bill limits brokered deposits to only those banks with the highest capital levels.

Furthermore, it establishes risk-based premiums. Risk-based premiums will reward well-capitalized and prudently managed institutions. Such a system will restore equity to the system and encourage high capital levels.

Although this legislation is not as comprehensive as some would like, it does make a number of important reforms. It is essentially the House bill which we passed by an overwhelming margin here last week. The capitalization, again I repeat, is must legislation, and I, therefore, urge my colleagues to approve the conference report on this crucial bill.

I would just add one other caveat, and that is that we did add to the bill a provision which was not before the Committee on Banking, Finance and Urban Affairs legislation, and that has to do with the so-called Lamp F decision. What it does is it extends the statute of limitations for securities and fraud cases. It is regarded as very important, and the distinguished chairman of the Committee on Energy and Commerce has signed off on that, according to the distinguished chairman of the House Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ]. We have a good package and I urge an aye vote.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that I may be permitted to assign the balance of the time to the various Members seeking recognition.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, essentially what we have, as the gentleman from Ohio [Mr. WYLIE] stated, is what we were under the mandate, because the bill overwhelmingly passed the House, to stick to the House version that passed with a vote of 344 to 64, and we did that. Essentially what we have here is more than just what has been referred to as a narrow bill. This is an achievement, and I just merely want to thank my colleagues on the Committee on Banking, Finance, and Urban Affairs.

□ 1050

We have walked the plank three times and, with this, four times.

Also, I wanted to compliment and thank, express my profound gratitude to the gentleman from Ohio [Mr. WYLIE] and people like the gentlewoman from New Jersey [Mrs. ROUKEMA] and the members of the minority as well as to our conferees from the State side who I think performed wonderfully.

We settled down 24 hours ago at 9:30 and kept going until 5:00 this morning when the conference rose. So I just merely wanted to express my profound gratitude. I am very proud of the Committee on Banking, Finance and Urban Affairs and of our colleague and of the House Members as a whole.

Mr. Speaker, I am pleased to report to the House that we have completed a successful House-Senate conference on the banking legislation. We have produced an excellent bill that will move us a giant step forward in restoring confidence in our Nation's financial system.

S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991, meets the priority of refinancing the bank insurance fund by providing an immediate line of credit of $30 billion at the Treasury Department. This ensures that depositors at the Nation's 12,300 banks will have protection for their funds.

The bill represents a new day for regulation of the Nation's banks. Key to this new approach will be a requirement for prompt intervention by regulators when the vital signs of a bank reach a critical point. This means that banks will no longer be allowed to slip away while the regulators wring their hands and hope for a better day—all at the expense of the taxpayer. S. 543 requires action to protect the bank and the insurance fund.

S. 543 also requires that the Federal Deposit Insurance Corporation resolve failed banks by the method least costly to the taxpayers. The discount window at the Federal Reserve, which dispenses below market interest rate loans to banks, will now operate under specific criteria that will prevent backdoor bailouts. Pouring money into sick financial institutions does more harm than good, as evidenced by a House Banking Committee study which showed that 90 percent of the banks that received loans from the discount window failed in the end anyway.

This conference report requires annual audits and annual examinations—both essential to a healthy banking system.

Not only our domestic banks, but foreign banking entities in the United States must now operate under a new set of regulatory requirements. The rogue banks like Banca Nazionale del Lavoro [BNL] and the Bank of Credit and Commerce International [BCCI] will no longer escape scrutiny in this Nation.

Mr. Speaker, I am also proud of the people issues we were able to deal with to make certain that consumers got a better break at insured institutions.

The conference report contains the House version of the Truth in Savings legislation that has languished through four Congresses without reaching final passage. This legislation, pushed through by our colleague, ESTEBAN TORRES, chairman of our Consumer Affairs and Coinage Subcommittee, puts an end to deceptive advertising and confusing information about savings rates. People who put their hard-earned dollars in financial institutions will know the terms precisely and will be in a position to shop for the best rates.

The conference report also contains important new steps forward in fair lending enforcement, including better requirements for more complete disclosure of banks' performance under the Community Reinvestment Act [CRA]. We've also closed a loophole that has let many mortgage banks escape reporting under the Home Mortgage Disclosure Act [HMDA]. The bill also provides protections against the willy-nilly closing of branches, particularly in innercity neighborhoods. Banks must now provide customers and the communities 90-day advance notice before closing branches and leaving neighborhoods without service.

Mr. Speaker, there are many who would have preferred that we had produced a bill with broader powers for banks—the right to expand into new activities and new markets. These provisions were brought to the House floor twice this month and they failed. This legislation would have failed again had the conferees been foolish enough to ignore the House's wishes.

But, I hope that the long fight over expanded powers for banks does not obscure the tremendous advances represented by this bill. It is a landmark piece of legislation that will serve the Nation and its financial system well.

Many will continue to mislabel the refinancing of the bank insurance fund as a bailout. This charge ignores the fact that the money provided from Treasury is a loan and the conference report requires that the funds be repaid by the banks on a specific schedule extending over 15 years. The prompt refinancing of BIF through this credit arrangement and the accompanying regulatory safeguards are the very best insurance against a taxpayer's bailout.

Mr. Speaker, S. 543 is extremely important legislation. The conference report should be adopted.

Mr. Speaker, I yield 5 minutes to our ranking majority member of the committee and the chairman of the Financial Institutions Subcommittee, the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, 8 months ago, the Subcommittee on Financial Institutions, which I chair, began hearings on a major banking bill. It was the beginning of a long legislative journey. This morning we are seeing the end of that journey and hopefully a new beginning in the commercial banking industry.

I strongly support the conference report before the House today. I want to commend the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] and the banking Republican, CHALMERS WYLIE for the leadership they have shown throughout the entire legislative process on this bill.

Mr. Speaker, I doubt if any bill in recent memory has been the subject of so much attention and scrutiny as this bill has been. But I think the turmoil that has surrounded this bill has actually made for a better bill. No section of this bill was won without hours of discussion and hundreds of votes. Too many cooks spoil the broth may be an old wives' tale, but the cooks of this legislative broth did a great job.

I am particularly proud of several provisions in this bill that I authored, including the requirement that every federally insured financial institution be examined at least once a year. The early intervention procedures will make certain that brain dead banks are not kept open on the misguided belief that they can grow into recovery.

The whistleblower section will make certain that those dedicated public servants who expose corruption and wrong-doing will not be punished for making that information pubic.

And most importantly, when the banks borrow $30 billion to replenish the bank insurance fund, my amendment will make certain that the banks, not the taxpayers will have to repay those loans.

Mr. Speaker, I urge adoption of the conference report.

Mr. WYLIE. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I will certainly try not to use all of the 5 minutes in rising to, regrettably, oppose this legislation, since it seems that everybody seems to be for it.

I do want to, first of all, commend the chairman of the committee and my friend, the gentleman from Ohio [Mr. WYLIE], and the subcommittee chairman and ranking members and everybody who has labored so diligently on this effort.

I know that this is probably the only bill that could come before the House. But I just want to state my concerns once again as I do when the House passed this measure, that I am afraid that we are simply not solving the problem. When this bill passed the House it was a non-reform bill. I said that then, and also predicted that the Senate would not improve on it. Sadly, I believe the bill before us now shows that I was correct.

This legislation, which does recapitalize the FDIC's bank insurance fund with a $70 billion loan from the taxpayers does nothing in the way of meaningful, significant reforms. I know that despite the considerable funds in this bill, we are going to be back here next year, and I think all of you know that too. Then we will really have to revisit the issue and approve some major reforms. We will be doing that in an election year, and that is going to be very, very difficult.

My first regret about this bill today is that it does nothing to maintain firewalls that keep bankers and the banking business out of everybody else's business, such as real estate, and insurance, and securities and everything else. Instead, it leaves those walls open so that they can continue to do what they have been doing in the past: losing money and being bailed out by the taxpayers of this Nation.

The second and more important problem that we have not dealt with at all in the bill is the issue of multiple deposit insurance guarantees available to investors. Despite today's $100,000 limit on deposit insurance, a family can effectively insure up to $1,400,000 of its savings in not just one bank but as may banks as they want. As long as that kind of system is in place, we will never solve this problem.

As I mentioned in our earlier debate on the bill, when I came to this Congress 13–14 years ago, I sold all of my stock and all of my businesses, as I had to. I took that money and put it into certificates of deposit. Since coming to Washington I have not only found that I am 100-percent Scotsman, tight with a dollar, but I also found myself instructing my wife by phone in upstate New York on how to go out and find whatever insured bank she could get with the highest possible return on our investment from dollars and certificates of deposit. Forgetting to look for a long-established conservative bank, even in our hometown, she did that and I did it. If we did that, ladies and gentlemen, everybody in this country did that, and that is how we got ourselves in the mess today. Unfortunately, in this bill we have totally ignored doing anything about it.

An amendment to this bill, which would have required only one insured deposit of up to $100,000 per individual, would have gone a long way toward solving this problem. Although we have not done that, we are going to have to do it, and you had better think about it too because in March or April we will be back here again doing the same thing.

I hesitantly oppose the legislation, but I do commend the gentlemen for the hard work that went into it.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. ANNUNZIO], for the purposes of a colloquy.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to take a minute to ask the distinguished chairman of the Banking Committee, Mr. Gonzalez to join me in a colloquy. I would like to ask the chairman if it is not true that under the new qualified thrift lender test in the conference report if it is the intent of the conferees that the increase from 30 to 35 percent of the consumer lending basket prohibits a savings and loan from placing loan application in an automobile or appliance showroom et cetera, and then have the sales people give their customers the loan applications. Is it not true that the intent of this provision is that consumers wishing to borrow money from the S&L for consumer loans under the increased loan authority are expected to deal directly with the S&L and not with a third party or middleman in any way whatsoever.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. ANNUNZIO. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, on both counts, absolutely, the gentleman is correct. That is right.

Mr. ANNUNZIO. I want to once again extend my thanks and appreciation to the chairman.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the chairman for yielding me this time.

I want to commend the committee. I think that we did a good job in terms of the conference. Certainly we had give and take with the Senate, but, frankly, we came in, we used the House bill, and while we made modfications with our Senate colleagues, I think that it is a good product, and it deserves the support of the House.

Candidly, it does not have the powers in the branch banking and the security power issues that were so contentious in this House.

We came up to the floor twice, and we sunk twice, and everyone can get involved in their own revisionist history as to why that happened.

Today I think the task is before us to improve the deposit system, to reform it, and I think we have done the best we can as a Congress of 535 Members with this problem.

We have written new prescriptive language in this law to guide the administration and the regulators. There is less flexibility, for the banking regulators, but I think our experience has indicated that such limits are necessary.

We have obviously capitalized the BIF fund which is a principal responsibility based on the statements of Mr. Taylor, the new Director of the FDIC, that is essential before the House adjourns to back the deposits of hundreds of millions of people across this country that have savings in our financial institutions.

□ 1100

This is a comprehensive bill. It is a solid foundation that we can build on next year. We can deal with the powers issues. We have a sound foundation of deposit insurance now, and limiting the powers and addressing the issues of too big to fail of banks. We cannot deal with the symbolic issue of $100,000 accounts, but I think, candidly, that is more symbolic than substantive. The central issue of cost is to get the banks off the track of too big to fail. There are problems remaining with systematic risk that is in this measure but hopefully that should be limited in terms of the safeguards and tripwires we put in this measure, including early intervention and other necessary approvals.

Mr. Speaker, I think this is a good bill and I hope Members will support it.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think I would be remiss if I did not publicly thank the minority members who participated in this conference last night and yesterday. I would like to say that the gentleman from Iowa [Mr. LEACH], the gentleman from Florida [Mr. MCCOLLUM], the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentleman from Nebraska [Mr. BEREUTER], the gentleman from Pennsylvania [Mr. RIDGE], the gentleman from Wisconsin [Mr. ROTH], the gentleman from California [Mr. MCCANDLESS], and the gentleman from Louisiana [Mr. BAKER] were in attendance throughout and gave of their best to this fine product we have before us.

I would also like to thank the minority staff and majority staff for all of the fine work they did do this legislation. It was a very difficult and trying experience.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I would ask the gentleman from Ohio [Mr. WYLIE], what about the gentleman from Louisiana [Mr. BAKER]?

Mr. WYLIE. Mr. Speaker, reclaiming my time, yes, I have Mr. BAKER's name on here. I add him to my list, also, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, first I would like to commend the gentleman from Texas [Mr. GONZALES] and the ranking minority member, the gentleman from Ohio [Mr. WYLIE], and all those that have worked tirelessly to bring this legislation to the floor today.

I think there are five basic reasons why we should be pleased with this legislation and support it. First of all, this legislation does provide for the recapitalization of the Bank Insurance Fund.

We are not bailing out the banks. We are merely honoring a promise and a commitment that was made to depositors in this country 50 years ago. We have no choice. We have to recapitalize the bank insurance fund.

The "too big to fail" doctrine that many of our small community banks across this country have been very, very concerned about has also been changed. I happen to believe the provisions in this legislation requiring the President, the Treasury Department, the Federal Reserve and FDIC to certify in writing that a bank would cause systemic risk if it was allowed to fail is going to have the effect of putting the brakes on the use of the too big to fail doctrine. I think that is a very important reform.

In addition to that, there are other regulatory reforms empowering the regulators to intervene at an early stage, to use least cost resolution and also have annual audits of banks across the country. As far as I am concerned, all of this is good.

Another important reform is the change in the area of brokered deposits. Under this legislation we would prohibit undercapilatized institutions from accepting brokered deposits, this is another very important reform.

Many people who have observed the banking crisis in this country believe very strongly that brokered deposits have played a big role in creating the mess we are in. That is being corrected.

In addition to that, we are empowering the Federal Reserve System to regulate much more carefully foreign banks operating in this country, to deal with future BCCI type problems. This is also good.

Mr. Speaker, I know some of my colleagues wish we would have repealed Glass-Steagall and empowered the banks to get involved in the securities industry. We did not do that. This is one Member who is glad that we did not do that.

I believe one of the big achievements of this session is the defeat of efforts to repeal Glass-Steagall. Over the long term this will serve the taxpayers and consumers of this country well.

Mr. Speaker, I strongly urge Members to support this reform package. I know that next year we will have the opportunity to come back and revisit the question of interstate branch banking and revisit the question of Glass-Steagall. But today this is as good as we can do.

Mr. Speaker, this is a significant step forward. It is good legislation. It is deserving of strong bipartisan support. So I strongly urge my colleagues to join me in supporting this legislation.

Mr. WYLIE. Mr. Speaker, I respectfully yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA], who was a very good member of our conference.

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman my ranking member, the gentleman from Ohio [Mr. WYLIE] for yielding. I do want to concur with some of the comments that have been made by the gentleman from Kansas [Mr. SLATTERY]. The gentleman alluded to the fact there are some very good parts to this bill. The tenor of his remarks were positive, and I want to underscore, that really we should not be ashamed of this product.

Mr. Speaker, we went through a procedure that resulted in the defeat of 2 bills that embodied more comprehensive reforms. Rightly or wrongly, the judgment was made by this body that we were not going to enter into new powers such as security and insurance powers with the attendant problems of how to define firewalls. Rightly or wrongly, that decision was made.

But I would suggest that when we are dealing with those kinds of complex issues that could have profound consequences that if we are going to err at all, we should err on the side of caution.

In this bill we have some excellent reforms with respect to capital requirements; with respect to early intervention and with respect to stronger, regulatory, requirements. There are reforms to be proud of. We must also say that with respect to new powers, firewalls, and interstate banking, we have some work to be done.

Mr. Speaker, because we could not come to those conclusions at this particular time, it does not mean that the product that we come out with in the new year will not be better for the time and effort that has already been expended on this matter.

Mr. Speaker, I do want to say, for those who are concerned, because I think there is a general tenor of regret that we have not reformed the deposit insurance fund, by limiting deposit insurance to $100,000 per customer.

Mr. Speaker, in my opinion, that was the correct decision to make. I understand that this decision is open to debate; but it is not open to debate to question the really fundamental reforms that we did put in this legislation.

It has already been mentioned that we have addressed in a very meaningful was "the too big to fail doctrine." I think that is quite a substantial accomplishment.

In addition, we have put limitations on brokered deposits. This particular issue of the brokered deposits and the level of capitalization that is needed in institutions that are permitted to use brokered deposits occupied a great deal of our time and effort. There was extended debate.

But the provision of brokered deposits is a meaningful one. It is restrictive, and it is a major reform in this bill.

Mr. Speaker, we have restrictions on pass-through insurance, the foreign deposits, and the risk-based premiums, in which I take some pride of authorship. I had a lot of help from others, but the fact is we are now basing the premium payments from the banks into the fund on the basis of the risks and the type of investments that they make.

Mr. Speaker, I think all in all there is nothing to be hesitant about here. We have meaningful reform. We are leaving to another day some of those questions that were more divisive, and merely more problematic in many ways, and for good reason. So we will have a number of engines that can lead us to the second level of reform next year.

In the meantime, we are protecting the depositors, we are restoring faith in the system, and, I think, Mr. Speaker, that the fact that we passed this bill 344 to 84 when it left the House the first time, and in this measure we have 95 percent of the House bill, that it is deserving of our support. Maybe we can get unanimous support.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just add that the gentlewoman from New Jersey [Mrs. ROUKEMA] deserves a high compliment for leading the charge on the risk-based premium issue. She has been very diligent on this. The amendment that was adopted is pretty much her handiwork and, in that regard, made a real contribution to our deliberations.

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. BAKER], who certainly made a very tremendous contribution to the conference deliberations.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding. I certainly appreciate his kind comments and extend to him and to the chairman of the Committee on Banking, Finance and Urban Affairs my appreciation for their hard work and diligence in bringing this measure to the House floor.

As we are all painfully aware, taxpayers of this country are indeed frustrated with the current condition of the financial marketplace. Everyone back home expects us to resolve the current problems without additional taxpayer dollars, to make sure our banks are operated in a safe and sound manner and that their deposits remain free from threat of loss.

□ 1110

The bill we have before us this morning goes a long way toward making important reforms. Certainly there is much yet to be done. The question of additional bank powers and commercial ownership of institutions were provisions contained in the bank bill as reported by the Committee on Banking, Finance and Urban Affairs earlier this session. And unfortunately they are not addressed in the measure before us now.

But equally important are those important regulatory tools necessary to intervene at an early time in a bank's business activities so that franchise value is preserved, so that taxpayer funds are protected and so that ultimately we are not called upon as a Federal deposit insuror to pay off losses of troubled institutions.

This legislation takes many progressive steps to allow regulators to do their jobs much more efficiently than they have been able to do in the past. It also makes some significant changes with regard to the operation of the thrifts. Provisions relating to the qualified thrift lender test which are included in this legislation will ensure that some 180, perhaps 200 thrifts in this country who were well-run, well-capitalized institutions will not arbitrarily be closed for their failure to meet a government standard relating to the construction of their lending portfolio, a technical change, for sure, but one very important in minimizing cost to the taxpayer.

I commend the bill and I hope the House will adopt it.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in strong support of the conference report, the FDIC Recapitalization and Improvement Act of 1991.

Mr. Speaker, this bill before us today is critical to protecting the millions of depositors throughout our banking system and it is needed to protect our economy. The only protection between depositors and the potential loss of their hard-earned money when a bank closes its doors is the FDIC's bank insurance fund, which is currently on the verge of insolvency. Make no mistake about it; a delay in recapitalizing the bank insurance fund will imperil the funds of depositors and our entire economy. It would not be responsible to vote against this bill and permit a return to the desperate economic times of our parents and grandparents.

This provides additional enforcement powers to bring foreign banks to comply with our regulations.

First, a provision I offered which I believe will limit the loss of the taxpayers which occurs when banks and savings and loans fail. In summary, this provision will permit any depository institution to combine with any savings association insurance fund member, and vice versa. This provision will encourage the use of private capital to acquire and merge financial institutions which may otherwise fail and end up costing the taxpayers a great deal of money.

The second provision which I strongly support will protect the retirement pensions of millions of Americans. The provision will continue the 25-year-old FDIC practice of providing pass through deposit insurance on a pro rata basis for pension plans. Again, this is good legislation since it will protect the pensions of millions of Americans at a time many of them are concerned about the safety of their deposits and investments in financial institutions. Stability of the banking system is also enhanced since, if deposit insurance for pension plans is discontinued, pension fund managers will probably move their pension fund deposits to financial institutions which they perceive as "too-big-to-fail". This movement of funds will undermine the stability of small banks. The amendment also provides fairness since so-called 401(k) plans—which are offered to management—will continue to receive pass through deposit insurance. It is only fair to also protect the retirement pensions of hard working Americans of all incomes.

Again, I want to commend Chairman GONZALEZ for his leadership regarding this legislation. I urge all Members to support the conference report.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

I would just say that I think the chairman and I have reason to be very proud of the product which came out of the conference last night, and I urge adoption of the conference report.

Mr. GONZALEZ. Mr. Speaker, I yield 2 mintues to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, first let me compliment the gentleman from Texas, Chairman GONZALEZ, and the gentleman from Ohio, [Mr. WYLIE], for their persistence in getting to this point. Obviously this is not a day for great celebration. We all tried to pass bills or we all believed there was a need for real reform, dramatic and sweeping reform. We could not agree on what that reform was.

I say to the reform-minded Members, our day will come. There will be real reform. The banking system is sick and demands it. But this bill, given the fact that we could not have reform, is the best that could have been done. Anyone who feels it does not have much reform is sadly mistaken. The higher capital standards, the early intervention, the too-big-to-fail, those are three significant changes in the way the banking system will work.

In my judgment, the system will still stay sick. These are measures that deal with the sickness after the disease. But they do not cure it. They do not remove it. They do not remove it. We have to deal with the inextricable relationship between insured deposits and what banks can do with them to cure the disease.

But if one is sick, and this system is, and we could not come up with a cure, then having this kind of medicine is the best and right way to go. And this demands, I think, that we pass it.

It is a comprehensive bill within those confines. As I said, the three reforms, major reforms in there, are very important. We should pass them.

Once again, I want to say, it took a lot of persistence and hard work on the part of the chairman and on the part of the ranking minority member and the members of the committee to come up with this package. It is a package no one has to hang their head low about. We will come back next year and we will try again to cure the patient, the banking system, of the awful disease that it has.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FLAKE], a member of the committee.

Mr. FLAKE. Mr. Speaker, certainly it is a good day for those of us who have shared, as a part of the Committee on Banking, Finance and Urban Affairs, as we are able to commend both our chairman, the gentleman from Texas [Mr. GONZALEZ] and the ranking minority member, the gentleman from Ohio [Mr. WYLIE]. They have been very fair in allowing us to put up our amendments before them and allowing the committee to make its decision.

Two particular areas that I am very pleased with are still in the bill; one of them—the gentleman from Pennsylvania [Mr. RIDGE] and I sponsored an amendment for green-lighting, which is our tempt to try to deal with the problem of "red-lighting" by many of our banks, which allows us to be able to create community development banks so that those communities where there is a need to create housing, it might be able to be done.

I think that this is worthwhile. I think it is a fair and just means of trying to solve that problem.

Second, the Freedom National Bank issue. We have been fighting ever since the closing of Freedom, asking for fairness and justice as it relates to the Freedom Bank issue.

It is now in the bill. We are thankful to the chairman for fighting to keep it there, and we are grateful for the opportunity to be able to stand today to commend them and to say that this is a bill that everybody in the House ought to support.

The Committee on Banking, Finance and Urban Affairs has worked hard on it, and it needs to pass this House.

Mr. WYLIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I rise in opposition to the legislation.

Mr. Speaker, I regret that I cannot support the measure before us. While we all recognize the urgent need to recapitalize the FDIC, the problem with this legislation is that it treats the symptoms of a weakened banking system rather than treating the root causes.

As Secretary Brady has indicated, simply putting funds into the FDIC without also strengthening the competitive position of the banking industry only invites the need for future appropriations. The record will show that I supported many of the reforms which insured better capitalization by the banks. It will also show, however, that I have been consistent in my belief that the administration was correct in insisting that broadened banking powers are essential to addressing the root problems of the banking industry.

Regrettably, the achievements taken by the Senate in this direction were undone by the House in its consideration of the banking legislation. And it is unfortunate that during the conference process, the Senate repudiated its former position. Hence, we are left with a bailout for the FDIC—but without meaningful reform which will allow banks to become profitable. Given that fact, I cannot support the current legislation.

Mr. GONZALEZ. Mr. Speaker, for the purpose of a colloquy, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, in section 451 of H.R. 3768, the Federal Deposit Insurance Corporation Improvements Act, referring to Rhode Island, references are made to investment grade ratings.

I understand that the highest grade rating means AAA; one less than the highest grade rating means AA; and two less than the highest grade rating means A.

Is my understanding correct?

Mr. GONZALEZ. Mr. Speaker, if the gentleman will yield; yes, it is.

Mr. REED. Mr. Speaker, I would also at this time like personally to commend the gentleman from Texas [Mr. GONZALEZ] for his extraordinary help to my home State of Rhode Island, and the gentleman from Ohio [Mr. WYLIE], the ranking minority leader, for his help, particularly the gentleman from Kentucky [Mr. HUBBARD] and the gentleman from Massachusetts [Mr. FRANKS] and the gentleman from Wisconsin [Mr. KLECZKA], who also helped us immensely.

With this help, with this loan guarantee, I hope we can help the people of Rhode Island. With this bill I hope we can help the people throughout the United States to avoid the crisis that we have faced in Rhode Island.

I close again by commending the gentleman from Texas, Chairman GONZALEZ, for his extraordinary help.

Mr. DINGELL. Mr. Speaker, I commend the gentleman from Texas [Mr. GONZALEZ] the chairman of the Committee on Banking, Finance and Urban Affairs for the conference report on the banking bill (S. 543). That conference report includes a compromise worked out between the chairman and ranking member of the Senate Banking Committee and the House Energy and Commerce Committee to reverse the retroactive application of the Supreme Court's decision in Lampf versus Gilbertson. This provision is urgently needed to avoid dismissal of securities fraud cases that were timely filed prior to the Court's decision. It is our intent that "any private civil action implied under section 10(b) of the Act that was commenced on or before June 19, 1991 (1) which was dismissed as time barred subsequent to June 19, 1991, and (2) which would have been timely filed under the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991" shall have their clear meaning and shall not be interpreted to exclude any private civil action falling squarely within the plain meaning of the words of this statute.

This provision is critically important because Lampf has resulted in the dismissal of many private rule 10b–5 actions against figures in major financial scandals, including Charles Keating, Michael Milken, and others. Those cases can now be reinstated on motion by the plaintiff not later than 60 days after the date of enactment of this section.

I would also note that the conference report includes in title IV amendments reported by the Committee on Energy and Commerce with respect to payment system risk reduction and nettling contracts (see H. Rept. 102–157, part 4). The definition of the term "broker or dealer" in section 402 in the conference report includes language worked out between the Senate Banking Committee and the Committee on Energy and Commerce to include "to the extent consistent with this title, as determined by the Board of Governors of the Federal Reserve System, any company that is an affiliate of a company described in subparagraph (A) that is engaged in the business of entering into netting contracts." It is our intent that the term "affiliate" shall have the meaning as determined by section 3(a)(19) of the Securities Exchange Act of 1934 and sections 2(a)(2) and 2(a)(3) of the Investment Company Act of 1940, and that the Federal Reserve Board shall exercise this authority to include these entities in order to reduce the credit exposure of these entities and thus to reduce systemic risk. It is our belief that this is consistent with this title. I commend the conferees for including this important provision.

I urge my colleagues to vote "aye" on the conference report.

SEC. 476. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

The Securities Exchange Act of 1934 is amended by inserting after section 27 (15 U.S.C. 78aa) the following new section:

"SPECIAL PROVISION RELATING TO STATUTE OF LIMITATIONS ON PRIVATE CAUSES OF ACTION

"SEC. 27A. (a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation period for any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991, shall be the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991.

"(b) EFFECT ON DISMISSED CAUSES OF ACTION—Any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991—

"(1) which was dismissed as time barred subsequent to June 19, 1991, and

"(2) which would have been timely filed under the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991,

shall be reinstated on motion by the plaintiff not later than 60 days after the date of enactment of this section.".

CONGRESS OF THE UNITED STATES,
Washington, DC, November 25, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As you know, the House-Senate conference on S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act, is under way to discuss the issues primarily within the jurisdiction of the respective Banking Committees. As was discussed on Friday, November 22, Members and staff of the Senate Committee on Banking, Housing, and Urban Affairs have been meeting with Members and staffs of other House Committees to resolve issues contained in the Senate bill that are outside the jurisdiction of the House Committee on Banking, Finance and Urban Affairs. We are pleased to report that agreement has been reached between the Chairman and Ranking Member of the Senate Banking Committee and the House Energy and Commerce Committee[1] on a provision to return the law regarding the statute of limitations for securities fraud cases that were pending on June 19, 1991 to that which applied in the jurisdiction on that date. This has the effect of reversing the retroactive application of the Supreme Court's decision in Lampf versus Gilbertson. This provision is urgently needed to avoid dismissal of securities fraud cases that were timely filed prior to the Court's decision.

In light of the agreement between the bipartisan leadership of the two committees of jurisdiction, we respectfully request that you appoint Members of the House Committee on Energy and Commerce (Messrs. Dingell, Markey, and Lent) as conferees to the banking conference for the purpose of including this provision in the Conference Report.

Sincerely,

DONALD W. RIEGLE, Jr., Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate.

JOHN D. DINGELL, Chairman, Committee on Energy and Commerce, U.S. House of Representatives.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, November 26, 1991.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs Washington, DC.

DEAR HENRY: I am writing to you in your capacity as Chairman of the House conferees on S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act, to advise you that this Committee has resolved its differences with the Senate Banking Committee on Section 1126 (Limitation on Securities Private Rights of Action). Consistent with the procedures outlined by the Speaker, we are writing to the Speaker to request appointment of Energy and Commerce conferees solely for the purpose of including this provision in the Conference Report.

On June 21, 1991, in a landmark 5-4 decision that alters the settled law of nine Circuits, the Supreme Court selected Section 9(e) of the 1934 Act (15 U.S.C. sec. 78i(e)) as the statute of limitations for private actions under Rule 10b-5 of the 1934 Act: one year from discovery, but in no event more than three years from the underlying violation. Lampf, Pleva, Lipkind, Prupis & Petigrow v. Gilbertson, No. 90-333 (U.S. June 20, 1991). Although the decision altered the law of the Circuit from which the case originated, the Court applied the new limitations period and dismissed respondents' claims as time-barred.

Moreover, in James B. Beam Distilling Co. versus Georgia, No. 89-689 (U.S. June 21, 1991), the Supreme Court changed the rules on retroactive application of civil decisions. This ruling portends full retroactive application of the new, shortened limitations period for private Rule 10b-5 actions established in Lampf, Pleva. In Beam, the Court ruled that where—as in Lampf, Pleva—the case announcing a new rule of federal law has applied that new rule to the litigants in the case, it is error for other courts to refuse to apply the rule retroactively. Thus, the Beam decision has resulted in dismissal of many currently pending private Rule 10b-5 actions against Charles Keating, Michael Milken and other figures in major financial scandals. According to a survey by our Telecommunications and Finance Subcommittee, suits totaling $652 million have been thrown out as a result of the Court's ruling. Motions to dismiss an additional $4.55 billion of suits are pending, and motions to dismiss a further $1.21 billion of suits are expected. As Arthur R. Miller, Bruce Bromley Professor of Law, Harvard University Law School, testified before the Subcommittee:

> As a result, a number of lower courts have dismissed as untimely many important securities cases that victims originally filed in a timely fashion and thereafter prosecuted for long periods of time and at great expense. In some instances, the Lampf decision threatens verdicts already rendered. This completely unfair result undermines the reliance of parties on precedent and significantly undermines the principle of stare decisis.

The compromise to be included in the Conference Report is urgently needed to allow timely filed cases to be reinstated and to avoid dismissal of further securities fraud cases that were timely filed prior to the Court's decision. In light of your Committee's extensive hearings on Charles Keating and the circumstances surrounding the failure of Lincoln Savings and Loan, we hope that you will support this result.

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[1] Messrs. Markey, Dingell, Wyden and Harris, the sponsors of companion House legislation (H.R. 3185) have approved the compromise language, as have Messrs. Lent and Rinaldo.

Sincerely,

JOHN D. DINGELL,
Chairman.

PUBLIC CITIZEN,
November 22, 1991.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We would like to commend you for co-sponsoring H.R. 3185, the Securities Investors Legal Rights Act of 1991, which would restore vital protections to consumers and investors that were taken away by the recent Supreme Court decision of Lampf v. Gilbertson. This proposal is critically important because it would establish a reasonable statute of limitations for securities fraud cases, while restoring lawsuits that were brought in reliance on the law as it stood prior to Lampf.

As you may know, the Senate Banking Committee added a similar proposal to banking legislation earlier this year. In a compromise made during floor consideration of the measure this week, the Lampf proposal was modified so that, while it continues to protect lawsuits pending when Lampf was decided, it does not change the statute of limitations for future cases. While we are disappointed that the proposal was weakened in this way, we strongly support the compromise to protect fraud victims who relied on pre-Lampf rules in bringing their lawsuits.

We are writing to urge you to accept the Senate compromise when the House and Senate banking bills are reconciled. We believe that it is critical to pass the retroactive piece of the Lampf legislation before it is too late to protect pending or recently dismissed lawsuits. We would like to work with you next year to enact the rest of the proposal, so that the securities laws can once again afford fraud victims a meaningful remedy against those who conceal their fraudulent activities.

Thank you again for your leadership in the fight against (in Al Capone's phrase) the legitimate rackets.

Sincerely,

MICHAEL WALDMAN,
Director, Congress Watch.
PAMELA GILBERT,
Legislative Director, Congress Watch.

LEGISLATIVE ALERT,
November 25, 1991.

Hon. EDWARD J. MARKEY,
Chairman, Subcommittee on Telecommunications and Finance, House Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the millions of workers and retirees whose retirement savings are invested by pension plans, the AFL–CIO supports H.R. 3185, the Securities Investors Legal Rights Act of 1991.

H.R. 3185 is needed to reverse Lampf v. Gilbertson, a recent Supreme Court ruling which could destroy claims by thousands of defrauded investors who had been pursuing their rights in court in a timely manner. The Court's 5–4 decision held that private actions pursuant to Section 10(b) and Rule 10b–5 of the Securities Exchange Act of 1934 must be brought within one year after the injured party discovers the fraud and no later than three years after the fraud has occurred. The majority disregarded years of lower court precedent and applied its new rule retroactively to all cases currently pending in federal courts nationwide.

The Lampf decision ignores the reality of financial fraud which is by its very nature complex, difficult to detect, and often perpetrated against the most vulnerable in society. Because of Lampf, victims of some of the worst financial scandals in recent history will be unable to recover their losses, a result particularly harmful for senior citizens dependent on pension and other retirement investment income. A shortened limitations period protects the most stealthy and sophisticated criminals, while punishing pension funds and other innocent investors. As Justice Kennedy wrote in his dissent to Lampf, the majority simply tips the scale too far in favor of wrongdoers.

Here is a sampling of just a few of the financial manipulators who will not need to compensate their victims because of the legal loophole created by Lampf:

Executive Life Insurance CEO Fred Carr and assorted securities firms that are the subject of eight consolidated fraud cases filed between April and December 1990 have already sought to have their cases dismissed under the new, shorter limitations period. Meanwhile, thousands of workers and retirees lost significant portions of their meager monthly pension checks because of that long concealed scandal.

In Anixter v. Home-Stake Production Co. the Tenth Circuit Court of Appeals recently dismissed a $310 million jury verdict against the perpetrators of one of the most widely publicized financial scandals of the 1970s. In that case thousands of investors were swindled by a Ponzi scheme, a sophisticated fraud that can maintain the illusion of a profit-making enterprise for many years. The Court cited Lampf and noted the draconian nature of the result in its opinion.

The Kansas Professional Employees Retirement System recently dscovered that it was the victim of a complex fraud that occurred over 3 years ago. That pension fund's beneficiaries will suffer a multi-million-dollar loss if the Lampf decision stands.

We agree with S.E.C. Chairman Richard Breeden that private fraud suits are an essential element in enforcing federal securities laws since the S.E.C does not have adequate resources to detect and prosecute all violations of the federal securities laws. Because Rule 10b–5 violations inherently involve fraud and concealment, the removal of a meaningful opportunity for private action by security holders is an invitation to abuse.

The purposes of the securities laws—to deter fraud and to preserve investor confidence in the market—are well served by this remedial legislation. We therefore support and urge swift Congressional approval of H.R. 3185.

Sincerely,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

Mr. BACCHUS. Mr. Speaker, I voted against S. 543 today because I am very concerned that this legislation opens the back door of the Treasury wide open to a taxpayer bailout of commercial banks that could rival the scandalous bailout of the savings and loans.

S. 543 recapitalizes the Ban Insurance Fund through a loan from the taxpayers that is supposed to be repaid from across-the-board increases in bank premiums. FDIC Chairman William Seidman recently stated that the banking industry could not sustain the increase in premiums needed to repay the loan. Significantly higher premiums would undoubtedly cause more bank failures, with the taxpayers footing the bill. And under the financing scheme included in S. 543, the only alternative to higher premiums would also be to have the taxpayers foot the bill. I would have preferred to have the most profitable banks, with the most capital, loan the needed money to the BIF, as they offered to do. We should go to the taxpayers as a last resort, not a first resort.

Mr. MACHTLEY. Mr. Speaker, it has now been almost a year since the closure of Rhode Island's credit unions. Thirteen institutions remain closed, over $1 billion remains frozen, nearly 20 percent of Rhode Island's citizens remain without their money.

Since that day in Rhode Island's history, times have gotten worse. Rhode Island's unemployment has skyrocketed to 9.8 percent. Our State deficit is among the highest in the Nation. To put it simply, We are in a depressed recession.

Travelling through my district, I have personally heard and received thousands of letters and calls since the crisis occurred from helpless citizens who have their life's savings frozen in the closed credit unions.

I constantly hear about the deep economic difficulties this crisis is causing in my State. My constituents want to know how do they pay for the basic necessities? Their rent? Their mortgages? Their children's education? Their medical bills? Their groceries? How can they go on if all of their money is tied up in institutions whose doors have not opened for a year?

Over the past 11 months, members of Rhode Island's congressional delegation have been working hard to create a Federal response which will not cost the American taxpayer one penny. With the strong support of Chairman Gonzalez, the conference report to H.R. 3768 includes a $180 million Federal loan guarantee for Rhode Island.

This provision, which has passed in the House in every prior banking reform bill, has been scored as budget neutral by the Congressional Budget Office. This provision to the conference report allows Rhode Island to borrow money for the sole purpose of repaying depositors whose accounts were frozen as a result of the insolvency of their private insurer.

I strongly support adoption of the conference report and urge other members to support it as well.

Mr. MARKEY. Mr. Speaker, I rise in support of S. 543, and seek to focus my remarks in particular upon Section 476, which is a compromise version of H.R. 3185, the Securities Investors Legal Rights Act of 1991, which I introduced earlier this year with Chairman DINGELL, and Messrs. WYDEN and HARRIS. The adopted compromise rights at least the most egregious wrong of last summer's Supreme Court decisions, Lampf versus Gilbertson. This section would reverse the Court's retroactive application of that decision to dozens of cases across the country brought in the Federal courts by defrauded investors.

For the last 4 years, I have worked with my colleagues at the Telecommunications and Finance Subcommittee to expand the rights of small investors and the sanction authority of the Securities and Exchange Commission in confronting securities fraud, through legislation on insider trading, stock market reform, enforcement remedies and penny stock reform among others. Yet with one stroke of the pen last spring, the Supreme Court of the United States plunged a sword directly at the heart of victims of securities fraud. In that one action, the case of Lampf versus Gilbertson, the Supreme Court signed over a multibillion dollar check to Michael Milken, Charles Keating, and a coalition of special interests which produced the financial wreckage of the 1980's. And threatened as well the recovery of billions of taxpayer dollars in S&L and bank failures attributable to securities fraud.

On November 21, 1991, I released a compilation of the effects to date of the Supreme Court's ill-considered decision to impose a severely restricted statute of limitations on securities fraud actions. As of today, over $650 million of securities fraud claims have been dismissed in suits brought all over the country long before the Supreme Court's decision. More shockingly, over $4 billion of fraud claims, including those against Milken, Keating, and Fred Carr, are threatened with pending dismissal motions solely as a result of Lampf, and that decision's retroactive application to every securities fraud case pending as of last summer.

For over 50 years, victims of securities fraud could file civil law suits pursuant to Section 10 of the Securities Exchange Act of 1934 under time limitations generally determined by appropriate State statutes, many with generous statutes of limitation. The Lampf decision reversed this long-standing practice. The Court ruled that any litigation instituted pursuant to section 10(b) of the Securities Exchange Act of 1934 and rule 10b-5 must be initiated within 3 years after the violation has occurred and within 1 year after discovery of the facts constituting that violation. Even more importantly, the Court applied its decision retroactively, denying thousands of victims whose cases are currently pending their rightful day in court.

In handing down its decision, the Court rejected the argument made by the Securities and Exchange Commission, among others, that it should have applied the explicit 5-year statute of limitations contained in the Insider Trader and Securities Fraud Enforcement Act, a piece of legislation I coauthored with Energy and Commerce Committee Chairman DINGELL and subcommittee ranking Republican member RINALDO In 1988. This 5-year limitation established an appropriate time frame for investors to uncover any wrongdoing while at the same time not punishing investors who may not discover the crime until a few years later.

The language of Section 476 unambiguously reverses the Lampf ruling's application of the 1-year and 3-year statute of limitations period to thousands of cases which were filed prior to June 19, 1991, and which were pending as of that data. Furthermore, it permits the reinstatement of any suit which may have been dismissed post-Lampf as a result of the Lampf decision.

As the statute specifically states, its application is to "any private civil action implied under section 10(b)" of the Securities and Exchange Act of 1934 "that was commenced on or before June 19, 1991." For all of those cases, without exception, the applicable limitation period is that "provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991." Thus, this language would apply directly to the case and parties of Lampf versus Gilbertson itself, insofar as that case was a "private civil action implied under section 10(b)" and was "commenced on or before June 19, 1991."

The 1980's left us a legacy of financial fraud unparalleled in its size and scope. From the crime factories run out of savings and loans to the chicanery in the junk bond market to consumer rip-offs in limited partnership rollups, we are only now beginning to sort through the financial damage done in that decade. The language contained in this bill will directly reverse an egregious Supreme Court decision and will prevent the stripping away of legal rights of thousands of Americans. While I hope and fully expect to address the broader concerns of H.R. 3185 early next year, at this time I urge the adoption of this compromise language to alleviate the immediate injustice posed by Lampf.

Mr. LEHMAN of California. Mr. Speaker, perhaps the most visible change to average bank customers in this comprehensive banking bill will result from provisions requiring banks and savings institutions to clearly and uniformly disclose the interest rate, fees, and terms of savings and checking accounts. In all of the protracted debate over interstate banking, deposit insurance reform, and insurance sales, it should not be overlooked that true bank reform is that which provides the consumer with the ability to make banks more competitive.

As the primary sponsor of truth-in-savings legislation through five Congresses, I have considerable interest in seeing this measure enacted. As you may be aware, truth-in-savings has been approved unanimously by the House since the 99th Congress. Final passage of the bill has been delayed over the years after being caught up in the ongoing struggle to enact broader banking reform. It seems appropriate that enactment of truth-in-savings legislation coincides with the culmination of this effort.

The truth-in-savings provision which I have shepherded through Congress will give consumers the necessary tools to comparison shop in what has become an increasingly confusing and complex financial services marketplace. The delay in enacting this legislation has only heightened the need for it. As the banking markets become more sophisticated and as new and innovative products and services are offered, the consumer's confusion continues to grow over where to invest, how yields are calculated, what fees will be incurred, and how minimum balances affect their interest. Simple and understandable disclosure of terms, fees, conditions, and yields will go far to improving customer awareness.

Passage of truth-in-savings reform is long overdue and I applaud its inclusion in this measure. Bank reform which serves the customer's interest is the most important bank reform of all.

☐ 1120

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. HOYER]. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

☐ 1130

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore [Mr. HOYER]. The Chair would simply advise the Members that the leadership is trying to work out some procedures with respect to legislation to be considered. That is the reason for the discussions that are ongoing. As soon as agreement is reached, the House will move forward.

ELEVATING EPA TO CABINET LEVEL

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute.)

Mr. BOEHLERT. Mr. Speaker, while we are waiting, I wonder if I might ask a question of the Chair.

The SPEAKER pro tempore. The Chair has not seen the bill on the calendar yet, just anticipating the gentleman's question.

Mr. BOEHLERT. Mr. Speaker, would the Chair like to borrow my glasses, because all of us would like to see on the calendar that bill which would elevate the Environmental Protection Agency to Cabinet level status, and we are quite concerned, Mr. Speaker, that it is unnecessarily being delayed.

The American people are being denied something that is very important that they want. Our colleagues in the House on a bipartisan basis are being denied something we very much want. Every single environmental group in the country is being denied something that they very much want. The Administration is being denied something that it has worked assiduously on for the past year with Democrats and Republicans.

Can we not, Mr. Speaker, have some hope that this will be on the agenda sometime before we take leave of this fine institution?

The SPEAKER pro tempore. Frankly, the Chair would advise the gentleman from New York that the only information the Chair can pass along to the gentleman is that it is not currently on the agenda that the Chair has before it.

Mr. BOEHLERT. I wonder, Mr. Speaker, if we might have a personal colloquy to discuss how we might get it on the agenda?

The SPEAKER pro tempore. The Chair has answered to the extent of the Chair's knowledge.

The Chair thanks the gentleman for his inquiry.

Mr. BOEHLERT. I am in good humor, Mr. Speaker, despite the fact that we first appeared here about 24 hours ago to call attention to this shortcoming of this session.

I am ever hopeful, ever optimistic, and I thank the Chair.

The SPEAKER pro tempore. It is a good attitude to have.

APPOINTMENT OF MEMBER TO BRITISH-AMERICAN INTERPARLIAMENTARY GROUP

The SPEAKER pursuant to the provisions of section 168(b) of Public Law 102–138, the Chair appoints the following Member to the British-American Interparliamentary Group on the part of the House: Mr. HAMILTON, Indiana, chairman.

□ 1140

The SPEAKER pro tempore (Mr. HOYER). Again the Chair would call to the attention of the Members and others who may be interested that the House is waiting for an agreement. In these last hours of the session, the leadership is trying to move a few bills. There are some agreements that have to be reached before they get to the floor.

TAXPAYER BILL OF RIGHTS ACT OF 1991

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, last week, I was joined by a number of my colleagues in introducing H.R. 3838, the Taxpayer Bill of Rights Act of 1991. This important legislation is a well-balanced and responsible package of reform measures that will provide taxpayers with long-needed and significant protections in their dealings with the IRS.

H.R. 3838 is a bipartisan effort and was introduced with the unanimous support of the Ways and Means Subcommittee on Oversight. The bill contains 33 provisions, and almost 80 recommendations, addressing inequities or problems that taxpayers experience in dealing with the IRS.

H.R. 3838 was developed after the Subcommittee on Oversight conducted an extensive investigation into the problems that taxpayers frequently encounter with the IRS. Many of these problems were brought to the subcommittee's attention by Members of this body who had heard of the difficulties from their constituents. Further, to develop this bill, the subcommittee held a series of hearings and visited IRS processing and taxpayer service offices around the country to review their operations, practices, and procedures. We considered numerous recommendations for improving the tax system which were made by individual taxpayers, tax professionals, and IRS employees.

H.R. 3838 is a good, pro-taxpayer reform package. With regard to certain issues, I recognize that this is an ongoing process, and therefore, intend to continue working with the IRS, Treasury, and others to fine-tune and improve the legislation. I urge you to join with me and my colleagues on the Committee in supporting the Taxpayer Bill of Rights Act of 1991.

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman for yielding.

Mr. Speaker, H.R. 3838, the Taxpayer Bill of Rights Act of 1991, I have had the opportunity to see the Dear Colleague letter of the gentleman from Texas, and I think it is a very fine piece of legislation and will be glad to support it.

Mr. Speaker, I wonder if the gentleman from Texas might join in supporting legislation that I am planning to introduce later today. It is called the Environmentalists Bill of Rights. It will give to the environmentalists and all those people across America, and our Republican and Democratic colleagues in this House, what they want and very much deserve, and that is cabinet-level status for the Environmental Protection Agency.

I think, as my colleague from Texas knows, the United States is the only developed Nation in the industrialized world that does not have cabinet or ministerial level for its top environmentalists in the Government. That is something I would like to correct.

I am sure my colleague would like to help in that.

Mr. PICKLE. I would be delighted to have a copy of the gentleman's bill and to join his name to the measure that we have introduced.

Mr. BOEHLERT. I thank the gentleman.

THE ADMINISTRATION, NOT CONGRESS, IS TO BLAME FOR THE DELAY IN FUNDING RTC

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, last week I received a letter from Peter H. Monroe, President of the Oversight Board of the Resolution Trust Corporation. In part, Mr. Monroe says that congressional delay in providing funds costs taxpayers $4 million for every day that funding is delayed.

I suggest that Mr. Monroe does not have his facts straight. It is the administration, not Congress, that has delayed RTC funding.

On May 28, I wrote to Secretary of the Treasury Brady asking him to send an RTC bill to the Congress immediately to avoid any last minute delays.

The administration did not send a bill to Congress for 129 days, and in fact, it was only after the gentlewoman from New Jersey [Mrs. ROUKEMA] introduced her own bill, that the administration finally sent up its bill. Using the administration's own figures, the 129-day delay means that the administration's unwillingness to forward a request to Congress amounts to a $516 million cost to the American people.

The RTC may not be good at placing blame, but it does know how to spend money. Only Imelda Marcos in a shoe store can spend money faster than the RTC.

□ 1150

THE RIGHT OF EVERY AMERICAN: COMPREHENSIVE HEALTH CARE

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, I hope when we return that we will address what I consider to be a crisis in our country, and that is that we have 37 million Americans who have no access to health care, and we have another 40 million who are underinsured, and 8 million who are in need of long-term care; that is, home care and nursing home care. In our country one must be dirt poor to be able to get quality nursing home care, and it demeans families who have children with chronic diseases, and it demeans elderly who have saved all their lives for their golden years and all of a sudden find themselves in a predicament to get the kind of care they need.

Mr. Speaker, I think we can do it cheaper and with higher quality than the average American has today, even if one has insurance. We spend $750 billion in this country on health care. We spend 12.5 percent of our GNP. Canada spends about 8.5 percent; France, and England, and Italy, and Australia, about 8 percent of their GNP, and yet we have all of these American people, most of whom are from working families, who have no access to health care.

Mr. Speaker, I have a bill that will do just that, H.R. 8. I think we can have a high standard of coverage with acute care, with preventative care, wellness programs for children, immunization, mammography, prostate screening for men, and all the other important early detection and preventative health care needs, and more dollars for research so that we find cures to diseases. We include long-term care with homemaker services and home services, and it costs about five-sevenths of what the American people pay today, so we can do it better in this country.

We should have, as every American's right, access to comprehensive, high-level health care. We are the only industrialized country, besides South Africa, that does not guarantee that right.

So, my colleagues, let us commit ourselves to listening to the American people. I do not think we are listening the way we should, and I certainly do not think the President has health care on his agenda. So, let us commit ourselves to what I think is a right of every American, comprehensive health care.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3435, RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 102–408) on the resolution (H. Res. 320) providing for the consideration of the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 320 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 320

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes. All points of order against consideration of the bill are hereby waived. Immediately after dispensing with the first reading, the bill shall be considered for amendment. No amendment to the bill shall be in order except: (1) the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill; and (2) the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution. Each amendment shall be considered as having been read and each shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. Neither amendment shall be subject to amendment, and all points of order against the amendments are hereby waived. If both amendments are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit, which may contain instructions if offered by Representative Michel of Illinois or his designee, or without instructions.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 320 is the rule providing for the consideration of H.R. 3435, the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. The rule provides no separate time for general debate. The rule makes in order only two amendments: First, the Banking Committee amendment in the nature of a substitute now printed in the bill, and second, the Barnard substitute now printed in the report to accompany the rule. Each substitute is debatable for 30 minutes.

The substitute amendments are considered under the king-of-the hill procedure. Under this procedure, only the last amendment adopted is finally adopted and reported back to the House. The substitutes are not subject to amendment, and all points of order are waived against the amendments.

Finally, the rule provides one motion to recommit without instructions, or one motion to recommit with instructions if offered by Representative MICHEL.

Mr. Speaker, this is a vitally important bill. It provides the funding needed to continue the work of the Resolution Trust Corporation and to make some needed improvements in the structure and operations of the Corporation.

Mr. Speaker, this rule permits the House to complete its business quickly, and fairly. I urge adoption of the resolution.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. speaker, given the controversial nature of the RTC funding bill and the time constraints we face, I believe this is an appropriate rule, and I will support it. The RTC has run out of funds to continue closing down as many as 400 insolvent institutions that remain open. Delaying this legislation will only add to the costs to the U.S. taxpayer, as much as $400 million by February.

In addition, the bill does not contain many of the objectionable provisions that worked to undermine the legislation reported out by the Committee on Banking, Finance and Urban Affairs on November 20. However it does include reforms to expedite the sale of assets of failed thrifts, which is very important. It also streamlines what many people have found is inefficient management at the Resolution Trust Corporation.

□ 1200

Mr. Speaker, I am deeply disappointed, however, that the rule does not make in order an important Republican amendment containing a package of economic growth incentives. That package would effectively reduce the cost of the savings-and-loan cleanup by addressing the economic problems that have contributed to thrift failures.

At the same time, it would help struggling families by lowering taxes, creating jobs, and expanding the economy. It acknowledges that the economic downturn is led by the real estate industry, and we are willing to provide the incentives to improve real estate values and lower the cost of the RTC's funding needs.

I am very heartened to know that the President will be working with us to submit a comprehensive economic growth package following his State of the Union Address. I believe, in light of the fact we have offered several Republican amendments in the Committee on Rules and failed in our effort to get those in, that we should proceed.

We have a number of requests for time. I will end up supporting this rule, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, during the debate on the RTC funding legislation, it will be alleged that congressional delay in passing the funding costs the taxpayers $4 million for every day that the legislation is not passed. There are figures that are put forth by the Resolution Trust Corporation itself.

While I do not want to dispute what delay costs the American taxpayers, I strongly challenge the assertion that the delay in getting funding for the RTC is the fault of the Congress.

The delay in gaining RTC funding is squarely on the back of the administration. It was the administration that delayed RTC funding, not Congress, and once Congress started an RTC bill moving through the Banking Committee, it was the RTC that lobbied against most of the reform provisions that were attempted to be placed in the RTC funding bill. In short, the RTC wants to money, but it does not want to do anything to make sure that the taxpayers are protected.

On May 28, I wrote to the Secretary of the Treasury in my capacity as chairman of the Financial Institutions Subcommittee, asking him not to delay in sending an RTC funding bill to the Congress. I pointed out that we could not wait until the last minute to deal with RTC because of the many needed reforms that had to be placed in the bill.

I promised the Secretary an immediate hearing on the legislation, but I had to wait 129 days before the administration sent up its funding request. In fact, the administration only sent up its funding request after the gentlelady from New Jersey submitted her own bill on RTC funding.

Apparently embarrassed that it had dropped the ball, the administration, shortly thereafter, sent up its own bill, but once again, 129 days after I had asked the Secretary of the Treasury to send a bill up immediately.

Mr. Speaker, if there was such urgency in the RTC funding, why did the administration wait nearly a quarter of a year before sending Congress a bill? Based on the RTC's own figures, the delay costs $4 million a day. The administration's delay in sending a bill to Congress has cost the taxpayer $516 million.

So if anybody wants to talk about delay during the debate let them talk about the administration's delay. Congress moved swiftly on an RTC bill after the administration delayed 129 days in sending it to the Congress. The administration must accept the blame for the delay, and it should not try to use Members of this House to shift the blame to the Congress where it does not belong.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. McCOLLUM], a hard-working member of the Committee on Banking, Finance and Urban Affairs, and the vice-chairman of the Republican conference.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise today to urge my colleagues to defeat this rule, to vote down the previous question, so an appropriate rule can be made in order, because what happened in the Committee on Rules, and I think in the committee as a whole as well, is a real travesty for the American taxpayer.

We were not allowed to make in order amendments that would save, in my judgment and the judgment of many others, anywhere from $25 to $35 billion from the cost in the loss of the RTC in resolving thrifts in this country, and in addition to that, I believe, and in connection with that, we could have saved and may still be able to save as many as 70 or 80 institutions or more that may otherwise be closed unnecessarily simply because they are not able to meet capital standards and simply because of supervisory goodwill.

Two amendments were offered before the Committee on Rules by the Republican leadership task force. One of them was a comprehensive substitute.

I want to say up front that this has nothing to do with the growth plan that you are going to hear discussed here in a minute that the Republicans authored. This is a comprehensive substitute that in and of itself, freestanding, could have saved these billions of dollars if we had had a chance to vote on it out here today, but we have not.

This particular comprehensive substitute would have brought back a substantial portion of supervisory goodwill that is on the books at many of these institutions today, and I want to explain that more in a minute. It would have given the Office of Thrift Supervision the discretion to save many more, because it would have allowed him some time to make up for capital that they do not have right now in their standards and delinked what is going to be an increase in the capital standards very shortly to much higher standards connected with banks here next year. It would have given the Office of Thrift Supervision the discretion to halt a lot of real estate sales that otherwise would have occurred.

It would have also provided three economic growth incentives in itself, a capital gains tax reduction, partial reinstatement of passive-loss rules for real estate, and penalty for use of IRA's for the purchase of primary residences.

The thing I want to focus on most of all was an independent freestanding amendment that I offered before the Committee on Rules that was held nongermane by the Democratic leadership both in the full committee and the Democratic leadership of the Committee on Rules that would, in my judgment, in one fell swoop have saved $25 to $35 billion. That concerns what is known as supervisory goodwill. That is what a lot of savings and loans took on the books in an agreement with the Home Loan Bank Board back in the decade of the 1980's, in return to take on some failing savings and loans.

These were healthy savings and loans we are talking about who took this on with the promise that they would have 40 years to pay it off. In 1989 we decided that that was not such a good idea. It probably was not. But instead of giving them a reasonable time to pay back that goodwill and pay it off and raise capital in other ways, we said you have got to get rid of that, or it cannot count towards capital over the next 5 years. We now have gotten rid of or closed through the RTC and the Thrift Supervision Office most of the really bad savings and loans. We now have quite a number of institutions out there with about $4 billion of this supervisory goodwill that are perfectly healthy, whose core earnings are good, who are in the black, under regular management, but we are about to close them.

We have no need to do that. We have no business to do that. For about $2 billion we can buy back supervisory goodwill from about 70 of these institutions.

The studies of the folks that are doing this closing can tell us, and have told us, that these institutions have about $180 billion in total assets. We also know that the closing costs to the RTC of closing these institutions is running now about 15 to 20 percent of total assets.

So it is very easy to see if we do not have to close those institutions you can save $25 to $35 billion, and the only cost is about $2 billion.

It does not make sense. There is one savings and loan in my area of Florida recently that was closed at a cost that was estimated by the Office of Thrift Supervision to be $170 million.

The cost of buying back supervisory goodwill from the otherwise healthy institution was running in the black on its core earnings would have been only $50 million, a savings to the taxpayers.

We could have saved the taxpayers at least $120 million in that one institution alone. That is an example of the folly of not buying back some supervisory goodwill when those are healthy institutions out there was only failing is the fact that they ar not going to be able to meet the capital standards we enacted in 1989, simply because of thise so-called supervisory goodwill that we contracted with them on that they took on at the request of the Goverment in the first place, a very egregious mistake.

I submit to my colleagues that it is a travesty for the Democratic leadership in the Committee on Rules not to allow us the opportunity today to save this kind of money.

We are being asked to vote for $80 billion in recapitalization of the RTC in order to take care of it over the next few years, in order to close down all of this.

We may get some other substitutes for short-term funding. We are talking about billions and billions of dollars. We do not need to be speding that. We could be saving a good hunk of that. We do not need to be closing all of those institutions.

We are making a horrible mistake here today by not having that kind of opportunity to have those savings.

I encourage my colleagues to vote against the rule; vote down the previous question. Let use have another opportunity at that, and if none of that succeeds, for gosh sakes, vote against the folly of what is out here today, and vote against the final passage of these bills.

□ 1210

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise merely to ask the nature of the rule. I have not had the chance to see the rule. My basic question is, what is the basic intent of the rule?

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, the basic text is the Banking Committee text.

Mr. GONZALEZ. As it was approved by the Committee on Banking and Urban Affairs?

Mr. DERRICK. That is right. Then Barnard is a substitute, and it is a king of the hill rule. In other words, you will vote on the original text, then vote on the Barnard substitute, and then there is a motion to recommit with or without instructions by the gentleman from Illinois [Mr. MICHEL].

Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in support of the rule. I want to thank the Committee on Rules for folding in an amendment that I offered which built upon an amendment that was offered in committee by the gentleman from Texas [Mr. GONAZALEZ] and the gentleman from Ohio [Mr. WYLIE]. One of the reasons why I am convinced at times the American people do not support this agency and Congress as well is because of the lack of accountability. We hear of huge legal fees, the 7,000 people employed, the lack of computerized database, et cetera, and we wonder what are they really doing.

On the other hand, they have an awesome job to do. It is not easy to provide for this cleanup of the S&L crisis.

It seems very clear to me that the operations of the RTC have not been fully supported by the Congress or the American people. I believe this is because the Congress has not had sufficient information which allows us to carefully monitor and understand the many complex activities of the RTC. Specifically, we have not had the benefit of receiving regular quarterly and semiannual reports from the RTC regarding the progress of the sales of RTC assets, the progress made in auction sales of assets, the funding activities of the RTC, the use of seller financing to encourage sales of RTC assets, or the many other activities of this corporation. These are critical elements of the RTC's operations which need to be more closely monitored.

My amendment today expands upon the good work done by Chairman GONZALEZ. In addition, as an indication of its bipartisan support, language very similar to my amendment was offered by Mr. WYLIE as part of a substitute amendment he offered during full committee consideration of the RTC bill.

The language of the amendment includes quarterly reports from the RTC to the Banking Committees of the House and Senate which describe the following:

First, the total value of sales of RTC assets during the quarter;

Second, the total book value of asset sales;

Third, estimated fair market value of assets;

Fourth, net RTC recovery on the assets sold;

Fifth, subtotals by category of assets (i.e., commercial real estate, residential real estate, performing loans, nonperforming loans, etc.);

Sixth, the progress made on auction sales of assets;

Seventh, the amount and effectiveness of RTC's seller financing program;

Eighth, Federal financing bank loans status and activities;

Ninth, activities of the RTC Board; and

Tenth, activities and plans of the RTC to eventually phase out its operations.

I firmly believe we need to receive more information which gives the Congress and the public a better understanding of the complex operations of the RTC. This is the only way we can monitor the activities and the progress of the RTC in its mission to dispose of hundreds of billions of dollars of assets or the implications of the many other activities of the RTC. This is commonsense legislation which will result in a better run RTC.

So I was very, very pleased that the Committee on Rules allowed an amendment that would allow for RTC to regularly report quarterly and semi-annually to the progress of the sales of RTC assets to Congress, the progress made in auction sales of their assets, the funding activities of RTC, the use of seller financing to encourage the sales of RTC assets by a Federal agency.

Although some will point out by delay it is a $4 million a day additional cost to the taxpayers, perhaps that is not as great a concern as the fact that at this moment there are some 88 institutions which are now under RTC control representing 4½ million depositors around this Nation who are waiting on funding of the RTC to get their money back as a result of our inability to fund RTC activities.

The average size of those deposits is about $9,700. They are not large depositors, but there are 4.5 million of them around the country.

Much will be said about the failure of the RTC to act responsibly. Of 670 seized institutions, 582 have been sold or closed. Of $358 billion worth of assets under their control, over 60 percent, $210 billion, have now been disposed of.

But the more important issue as to how we got into this mess in the first place, of 871 criminals charged, 661 convictions have been rendered.

During the first 6 months of 1991, for the first time since 1986, the thrift industry has shown a profit. Now is not the time to turn our back on the industry.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Speaker, this amendment is an attempt by myself, Mr. WYLIE, Mr. VENTO, Mr. MCCANDLESS, Mr. KLECZKA, and Mr. BAKER to provide an alternative for Members to consider on the floor. Given the very short time available to us to get a bill through the House and Senate, we have tried to develop an alternative whose major provisions are as close to the Senate language as possible with the exception of the RTC funding. The Senate bill provides $80 billion while our alternative provides such sums as are necessary until April 15, with a cap of $25 billion.

The RTC is a difficult vote for Members and this is our best judgment as to what Members of both parties can support on the floor. As you know, it is vital that we provide some funding for continued RTC operations, as costs rapidly escalate when insufficient funds are available to resolve institutions in receivership.

The amendment that we have crafted is designed to provide enough loss funding and working capital to carry the RTC through until at least the end of March. Hopefully we can reach a consensus on a longer term bill that will pass the floor by that time. As I just mentioned, we did not provide an absolute funding figure in the amendment, but instead provided a cutoff date of April 1 with a cap of $25 billion.

There are 88 thrifts in the resolution process and the RTC should resolve as many of these as possible to staunch the hemorrhaging and lower the cost to the taxpayer. Rather than try and guess precisely how much funding the RTC would need April 1, we decided to provide "such sums as necessary." This is not a blank check for the RTC by any means since the language we chose does not permit the RTC to obligate itself past April 1, effectively making it a drop dead date. Additionally, there are substantial operational constraints that prevent the RTC from excessive spending. They can handle only a certain number of institutions at any given time. A rough estimate of how much they would spend would be in the area of $20 billion.

In addition to the funding provisions, the amendment adopts the RTC restructuring provisions agreed to in the Senate which provide for a single board and which are a substantial improvement.

It retains the housing provisions of H.R. 3435 as adopted in the full committee. It retains the minority provisions adopted in the subcommittee print of H.R. 3435.

An alternative in this form would represent a good faith effort to acknowledge Congress's concern for the taxpayer and minorities as well as the need for affordable housing while getting on with the task at hand.

Thank you for considering my views and I hope that you will make this alternative in order.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], our chief deputy whip.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as we approach this rule, this will be our last chance to try to get an economic growth package in this particular session of Congress.

Let me talk about the parliamentary situation. By defeating the previous question to this rule, it would permit an amendment to be offered. That amendment would say within the rule that we would bring an economic growth package to the floor. That would give us a chance to debate that economic growth package.

Should we defeat the previous question, we would be recognized to offer such an amendment. We would be prepared to do that, and then we are also prepared to offer an economic growth package.

There has been some talk that no such package really exists. Here it is. It is 67 pages. It does in fact represent a significant attempt to get economic growth going in the country.

This is a bill where it makes sense to do it. The RTC would not need additional taxpayer funding in a growing economy. If you had a growing economy, the likelihood is that the recapitalization of real estate alone would ensure the solvency of RTC and we would not have to be here for large amounts of money.

This 67-page package that I talk about would save the taxpayers further bailout money and would put them back to work in those situations where they are unemployed. It would keep their jobs intact where they are working, but fearful of the future.

□ 1220

After all, that is what America really wants. It wants jobs and it wants confidence in our economic future.

We can start down the road toward that kind of situation today and we can do so by passing this package.

We are likely to hear in the course of the debate about this package that somehow it does not represent a middle-class package. I know that there is a table being circulated that was brought up on the floor yesterday indicating that a substantial portion of this does not go to the middle-class. The fact is that they are only telling us part of the story.

First of all, only 2 of the 12 provisions in this package were analyzed in that study. Meaning that five-sixths of the package was not analyzed, much of which goes to the middle-class.

Let me give one example, eliminating the earnings test on social security was not analyzed. Yet that helps middle-income senior citizens to a great extent. It brings them down from a 70-percent tax bracket that many of them are in. And yet that is not analyzed as part of the Democrats' package.

It is also interesting to note that even the analysis that they had done indicates that people making between $20,000 and $30,000 a year, almost 55 percent of them are going to get capital gains tax breaks in this particular package; people making between $30,000 and $40,000 a year, 72 percent of them. That is middle-class America. And what it means is that we are not getting a real story about the nature of this package as it affects middle-income America.

I would ask that we defeat the previous question. Help us bring about an economic growth package by bringing it to the floor today, and I hope that we can effect passage of that package and get the economy growing again.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield two minutes and 30 seconds to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, we have just heard another description of an economic growth package. It is the 11th hour, the 12th hour now of the legislative session. We see the construction of it in the 12th hour, of a 27- or 47-page bill that has been written in recent evenings and without hearings.

We are told that we ought to pass this bill in order to jump-start the American economy. Some of the bill has been analyzed. We understand that the engine of this bill is a classic approach to provide capital gains tax reductions.

The question is, who will receive those tax reductions? The answer is very simple. The folks that have capital gains. Who has capital gains? A lot of people have some. So a lot of people get a very small benefit. But a few people have a lot, and those few will get an enormous benefit. The fact is, no matter how you describe it, this is not new. This is not improved. This is classic tax policy proposed by our friends on the other side.

About 70 percent of the benefit will go to those folks whose incomes are above $100,000 a year.

The fact is, anyone who seriously looks at this as a package is going to score it to say that this loses revenue. I know the Treasury Department has conveniently told them it does not, but the CBO and joint tax and others say this is a loser. So the proposition we have before us is to say, let us increase the federal deficit in the 12th hour of the legislative session so they can offer the wealthiest of the country a tax break.

Is that the way to jump-start the American economy? It is not the way to put this American economy back on track to solve the real problems, and are not the real problems that we have too much debt? It is not a case that the rich are not rich enough. We do not have to offer them more largesse with deep tax cuts.

What we have to do, it seems to me, is propose an economic package that does the basics, restores the old virtues. Pay your bills. The best thing we could do for the American economy is decide as Democrats and Republicans that we are going to start paying our bills and reduce the deficit.

When we reduce the deficit, this ship of state will be back sailing on the seas to the road to economic health again. That is the way to improve the economy of this country.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. speaker, for those of us who have looked at the package, is it not a fact that 57 percent of the tax breaks go to people over $200,000?

Mr. DORGAN of North Dakota. Mr. Speaker, yes. And 70 percent goes to those over $100,000.

Mr. RUSSO. Mr. Speaker, if the gentleman will continue to yield, and for those people over $200,000, they will get $11,000 tax cut, and people under $50,000 will get a whopping $85.

Mr. DORGAN of North Dakota. Mr. Speaker, that is correct.

Yesterday, when I learned of this package, I called it the dollar and a quarter tax cut. A dollar and a quarter a week to the middle-income families so they save up for 5 or 6 weeks, maybe they chip together and send one person to a movie with this tax cut to middle-income families. Of course, they do not have enough left over for popcorn, just one movie ticket, 5 weeks of middle-class tax relief. The folks on the other end, $11,000 a year tax cut to those whose incomes are over $200,000 a year.

Listen, that is tired economic policy that has failed. That is not going to jump-start this economy. Let us come up with some new ideas that help middle-income families, give them something to work with.

They will be the engine for this American economy, to get this country moving again.

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. WEBER], the distinguished secretary of the Republican conference and a member of the Committee on Appropriations.

Mr. WEBER. Mr. Speaker, I rise in opposition to the rule. As has been stated quite well by the preceding speakers, the issue hanging over this Congress is indeed the economy. And this is the best of a bunch of poor vehicles available to us, admittedly at the 11th hour, to do something about it.

I oppose the rule because it does not afford us the opportunity to do something about the economy. Mr. Speaker, the economy needs help now. I am not going to talk about the details of the proposal. Other speakers are going to talk about that.

I would like to focus for a minute on something that I think Members on both sides of the aisle could agree on if we could get out of this supercharged last minute environment. Our economy is hurting a great deal. Yesterday we found that consumer confidence had dropped below the levels of the 1982 recession. I talk to people and they say they are puzzled by this. How can it be? After all, unemployment is not at levels that it was at at that time. We actually saw some small upturn in the economy in the last quarter.

Why is it that consumer confidence is going through the floor? There are a number of other indicators we have to look at to understand the depth of the economic problem we face right now.

The value of residential fixed assets has fallen 10 percent in this country in the last 18 months, Mr. Speaker. Why is that important? For the average middle-class American, the kind of people that my friend from North Dakota was just talking about, that is their only asset. Their only asset is their home and the possessions that are inside that home.

When they see the value of that asset falling, that sets off all sorts of red lights and warning signals in their minds about their own financial security.

I believe that that contributes materially to the drop in consumer confidence, even among people who are not unemployed and who do not have any great fear of being unemployed.

Housing starts are at the level of the 1920's. New business formation has fallen 5 years in a row, and that is where the engine of growth normally comes from in this economy.

We found out yesterday that the auto industry for all practical purposes has entered the double dip of this recession that many of us have been concerned would happen.

Mr. Speaker, all I am suggesting is, despite the fact that it is the 11th hour, we should act now. We should try to do something about the economy now.

The fact that it is the 11th hour, by the way, sort of does not state the fact that we have been here all 11 hours. It is not as if this issue crept up on us in the Congress.

We could go back over all the speeches in this well, and 1-minute speeches and special orders for the last year about the lack of action on a domestic agenda, lack of action on the economy. We knew there was a problem. We have been talking about a problem.

If we are now here incapable of acting at the 11th hour, we have no one to blame but ourselves.

Mr. Speaker, I further oppose this rule because of the issue itself, the narrow issue of the RTC. Look at the numbers. Eighty billion dollars so far has been spent on the RTC.

☐ 1230

Eight hundred thirty billion dollars so far, $830 billion more officially projected, of which we are going to authorize up to $25 billion, but the unofficial estimates range from $200 to $500 billion. What is that $300 billion swing all about? It is our inability to accurately predict the value of the properties held by the RTC. We are potentially playing with up to $300 billion more of our taxpayers' money.

We have to spend some of that. I understand that. I voted for the S&L bill. I feel it is a responsible thing to do. But today the responsible thing to do is to take those minimal steps necessary to assure that at least through tax policy we have enhanced the value of those properties to the maximum degree possible to minimize the cost to the taxpayers.

Mr. Speaker, I do not know if I am going to vote against this bill in the event that we fail to amend it. I do not want to vote for it, but I want to do the responsible thing. But I will tell the Members, beyond today I can guarantee them if we do not do some things like capital gains tax reduction and restoration of passive loss deductibility, which will enhance the value of those and all the other real estate properties in the country, this is one Member that feels that he has lived up to his obligation to help the savings and loan problem. I for one will not be voting for one more nickel down the RTC rathole as long as this Congress refuses to take those steps necessary to minimize the cost of that bailout.

Vote against the previous question. Vote against the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of this rule but will vote against the final bill, whether it has an open-ended appropriation in it or whether or not it specifies such sums as are necessary, or whether it says $80 billion or $60 billion more. I want to explain the reasons for that.

First of all, I think it is absolutely wrong that, as last year, we bring up such an important measure in the closing minutes of this session. I think it is absolutely wrong, and I do not thank the leadership on either side of the aisle for doing that to us and to the American people.

All of us here understand our responsibility to protect the depositors of this country. We understand that and we do not like being told that we do not understand that as part of this measure. But what is wrong about this bill is that it again asks the average taxpayers of our country to bear the costs of the S&L bailout. They have already paid up to $110 billion and the GAO estimates that overall they will end up paying over $371 billion. We have to ask the important question: If the taxpayers are going to be asked to pay the costs, what are the benefits that can go to the average taxpayer.

I have four proposals. All we are being asked to vote on here is the Bush bond bailout scheme. Basically the committees here gave to us the Bush proposal to vote on, which I do not support at all.

Alternative financing proposals have been offered. One involves the measure by the gentleman from Louisiana, BILLY TAUZIN, that would give tax exemptions to average depositors who put money into federally insured institutions, and it says to them if they put in up to $500 they do not have to pay Federal taxes on that. Revenue costs of that are about $1.2 billion, but it would help to promote savings inflows in institutions.

Mr. Speaker, I will give the other three proposals during a succeeding time.

All of those who serve here understand our obligation to protect the deposits of the American consumer in our Nation's saving and loans and banking institutions, but the question of a Member like myself is: At whose expense? Who should be paying to protect those deposits?

Mr. Speaker, essentially what has been happening is the administration's bill asks the taxpayers, the people listening, again to shoulder a S&L bailout. The U.S. taxpayer has already buoyed up failing S&L's to the tune of $110 billion. Our tax dollars are going to pay for the damage just in that industry, and economists estimate that taxpayers will be asked to add as much as $115 billion, not million, billion dollars more to that total, and then the General Accounting Office tells us that the overall cost of the bailout may rise just for the savings and loans as high as $371 billion before it is all over.

The pit truly seems bottomless. The focus should be on how to pay for the damage in this S&L debacle and do so on behalf of the American taxpayer.

The Bush bill is appallingly deficient on balancing taxpayer costs, the taxes the taxpayer is being asked to pay, with the benefits that go directly to the taxpayer. In essence what has been happening here in Washington is that the Bush administration and the banking industry, in alliance with powerful States that have the most to gain from this administration's proposal, have succeeded, succeeded in diverting public attention away from the cost of the taxpayer bailout and who is paying for it.

Meanwhile, the hidden interest payments on the Bush bond scheme to pay for the S&L mess and flow out of the Treasury to the tune of billions each year, and the American taxpayer has nearly forgotten that this in fact is going on.

Alternative financing proposals have been quashed in various congressional committees. The tax committees in both Chambers, the Committee on Ways and Means in this Chamber, essential to finding a fair solution to paying for this, have remained resoundingly silent.

Members of Congress like myself want a Democratic alternative bill that is fair to the average American taxpayer. They must benefit directly from the costs they are being asked to bear. There are plenty of ideas that hold promise. It is amazing to me that the financial press, the committees of jurisdiction, and brilliant economists have chosen to be so vastly uncreative in fashioning a fair answer for the American public who are paying the bill.

I want to just discuss four approaches that can be taken to resolve this serious financial crisis in the S&L industry. One part of the answer involves focusing on restoring healthy banks by encouraging more deposit inflows into those institutions. In this way, Federal policy could change from what it is today, merely propping up sick institutions and going bankrupt while you are doing it, to, rather, building healthy institutions.

For example, a proposal has been introduced in this House by my colleague, Congressman BILLY TAUZIN, called the Save America Act of 1989. This legislation exempts from taxable income interest up to a certain level earned in passbook savings accounts in federally insured institutions, so if you are a depositor out there and you put your money in a bank or a savings and loan or a credit union, up to a certain level the interest you earn would be tax free.

That tax incentive would create huge increased deposit flows to banks as well as savings and loans and other financial institutions like credit unions, and those very institutions would be able to improve their capitalization, they would be able to pay their assessments in taxes, they would be able to make safer investments, and most of all they would be able to cut their umbilical cord to the U.S. Treasury. Taxpayers would directly benefit from such an approach, and the costs that the taxpayers are currently paying would actually accrue back to them in the form of reduced tax payments to the Government of the United States.

Now, the institutions that would be benefiting from the deposit inflows would be asked to pay more in taxes, but that is only fair. And in this case the permission to remain in business and to receive increased deposit flows would be taxed by the Government and those taxes would go to pay for the bailout that is needed in the industry.

You do not hear much talk around here about how to make institutions more healthy. The talk always here is about how to prop up sick institutions.

A second set of choices involves how to democratize, and I like to use that word, the bond offerings that are currently in place to try to pay the cost of the bailout. Now, most of the American public does not realize that the way that this is being paid for currently is that every month the U.S. Treasury markets securities, and that the bailout bonds that are being used to pay for the insured accounts, depositors' accounts in institutions, are actually being floated by our Treasury Department.

In fact, these bonds are really not being sold to the average American taxpayers. What happens is that the majority of them are sold through 20 Wall Street bond houses which get really nice fees from the taxpayers for acting as intermediaries, and then those bond houses offer them to those who are in the buying public of bond buyers. Only about 10 percent of the people in our country currently purchase bonds. This certainly is not a very democratic system.

My idea would be to ask the Treasury Department to change the way that it markets and sells bonds, to make them broadly available to the American public. But I will tell you this, the Treasury Department will hate this idea. So will the Federal Reserve, because they have gotten real comfortable in dealing with those 20 bond houses, and you have seen recently how some of them have gotten in real trouble as a result of their finagling up on Wall Street and taking advantage of their special relationship.

But in view of the hemorrhage we are dealing with in this industry, U.S. taxpayers must be convinced that their sacrifices have a return, and if they are going to be asked to pay any of the bill on these banking messes, then by golly, the Treasury Department of this country which is asking them to pay for it should give them a benefit in the form of a bond that they can buy and earn the interest on. Business as usual at Treasury securities offerings can no longer prevail.

The average citizen of our country does not even know where to go to buy a Treasury security. In fact, only 25 percent, just one quarter of U.S. households, even own savings bonds, and the U.S. Treasury continues to sell bonds through its cozy relationship with about a dozen and a half bond houses up in New York. It is really time to democratize the sale of U.S. Treasury securities through banks, through savings and loan, through credit unions. My gosh, we could even do it through post offices.

Let average Jane and Joe Citizen earn the 8 to 9 percent interest the big bond buyers enjoy. You know, America used to do that, until our financial industry became so concentrated. We have all seen what happened with Salomon Bros. recently when they took advantage of their special relationship with Treasury and all their big CEO's and presidents had to resign up there in New York.

Would it not be wonderful if bonds in denominations of as low as $25 could be made available to the ordinary consumer? You would think that is what the U.S. Treasury Department, which collects taxes from every one of those consumers, you would think that would be the business they were in.

Not so. The U.S. Treasury, which loves to collect taxes from U.S. citizens, should be directed in a bill that comes out of this House, a Democratic bill, to design a bond offering to benefit the taxpayers footing this bill.

A third set of choices in how to dig ourselves out from under the S&L mess involves targeted taxes and plugging tax loopholes to raise the needed revenue. Over a 5-year period it would be reasonable to impose temporary surtaxes across the financial service industry which benefited from the S&L scam and bank transactions.

It is really amazing that no such idea has been offered yet. But if you watch the corridors of power in Washington, you can understand why. Instead, hardworking taxpayers struggling to get by in this recession. American people who are unemployed in my district and cannot even get the benefits of more than 6 weeks of unemployment compensation, are being asked to shoulder the load of this banking mess.

Two Members of the House Committee on Ways and Means, the gentleman from North Dakota [Mr. DORGAN], and the gentleman from New Jersey [Mr. GUARINI], have introduced a bill to plug tax loopholes for savings and loan owners that would recoup up to $5 billion by avoiding something called double-dipping in tax submissions by those institutions.

These funds could also then be applied to the amounts needed to salvage current problems within the banking industry. The gentleman from Massachusetts [Mr. DONNELLY], has introduced legislation to recapture overgenerous tax breaks which the S&L's received in 1988. I have been pushing legislation with the gentleman from Michigan [Mr. WOLPE], that passed in the Committee on Banking, Finance and Urban Affairs, but somehow never made it onto this floor, what would make States pay for the proportion of the cleanup which their own failed thrifts caused by requiring those States that incurred excessive costs to pay an extra Federal deposit insurance premium if the thrifts want to remain federally insured.

The gentleman from Pennsylvania [Mr. KANJORSKI] has introduced legislation to permit private civil suits to be filed to recover funds from those who have plundered our Nation's savings and loans. The gentleman from Massachusetts [Mr. KENNEDY] proposes to levy a tax on those who enjoyed the benefits of our financial system through the Fedwire and Clearing House Interbanks Payments system to raise billions annually.

Mr. Speaker, I bring up these examples in the tax system merely to point out that money could be raised in alternative ways to pay for the savings and loan and banking crisis. Those bills have not been permitted here on the floor.

A fourth set of solutions involves getting rid of weaknesses in the current financial system that caused the problems in the first place, most especially overly generous deposit insurance in multiple accounts. Let us put together a bill that helps our real constituents—average Americans, sick of paying for the high times and the cunning of the few during the 1980's.

Mr. DREIER of California. Mr. Speaker, I would like to respond to the statement made by my good friend, the gentlewoman from Ohio [Ms. KAPTUR], and state that the figures we have been hearing of $60, $70, and $80 billion are not in fact, on track. We got an amendment from the Committee on Rules which has this structured as "such sums as may be necessary, not to exceed $25 billion."

Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, 26 hours ago I came here at the beginning of the mother of all sessions, and before I get into my remarks I want to commend the chairman and the ranking members and all of those who worked very hard and diligently through the night on all of these conference reports to get them to the floor and to have them voted on, and I want to offer my congratulations on doing so. It was very important work.

I also want to comment on the civility of the debate throughout the evening. I am on a half hour's sleep tonight and a lot of Members likewise, and I think we have all handled ourselves very responsibly and respectably. As a freshman Member I want to comment on that, and encourage the action to continue. I will try to depart from that decorum.

But 26 hours ago I came here and asked in a 1-minute speech that we consider an economic growth package. This is our opportunity. This is the vote on the rule to allow us to have an opportunity to offer our economic growth package today here on the floor before we leave.

Many speakers have already gotten up on our side and talked about what is in the package, and those on the other side have responded. If I can make a couple of comments, the gentleman from North Dakota [Mr. DORGAN], just made the statement that we got the Treasury Department to score this and they will do whatever we want them to do. I would remind the gentleman from North Dakota that in the budget agreement of last year the Treasury Department is responsible for scoring. We accepted that. They scored at $400 million plus. We accept that.

The gentleman from North Dakota [Mr. DORGAN], also said that the real need is for budget reduction. In the next couple of months the Republicans are going to be, or at least some members of the Republican Party, are going to be offering an alternative package that makes a budget reduction, and I extend my hand to the gentleman from North Dakota and Members on the other side of the aisle to come back here next year and to try to do spending cuts and deficit reductions, because I agree with the gentleman that we do need to do something.

I want to compliment the chairman of the Committee on the Budget for the work he has been doing on trying to find areas where we can cut spending to reduce the deficit.

The other thing I would like to comment on is the chart that the gentleman from Illinois brought to the floor, and has been referred to about the redistribution effects of this proposal. This chart is irrelevant. I would say to the gentleman from Illinois that we are proposing an economic growth package to create jobs, not an economic redistribution to create votes. This is not a relevant chart. What is relevant is to show how many jobs are created.

I would agree with the gentleman from $100 to someone making $200,000 a year may not be a substantial amount of money, but a $25,000 job to someone who is unemployed is a very substantial amount of money, is important to those people, and that is what this package is about. He is arguing apples and oranges.

What we are talking about is jobs. What we are talking about is growth. We are not talking about the Government redistributing the income of this country. That is the relevant issue, not this.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding time to me. I rise to support the rule and the previous question. I would say that someone commented that the reason the S&L's are problems is because of our tax policy. Indeed that is the case. In 1981 we passed a tax policy that did not make business sense; it made tax sense one could receive a tax break, a big tax benefit by investing in buildings and overbuilding and doing a variety of things, and clearly the S&L's financed that, the banks financed that. Now we are sitting with 25 percent excess commercial property in most parts of the nation and such property is not occupied.

In 1986 we passed the tax bill to correct the 1981 tax law. We corrected it, all right, and the fact of the matter is overnight some of those investments that made tax sense and did not make business sense and went immediately into the red, and some of those S&L's lost money, and many investors across this country lost money.

Today we are being asked in the last minute here, without even the type of analysis that went into those other tax bills, which I think I have indicated that serious problems developed with such policy and some expect us to act on a package that was introduced just last night. Ideas, some of these have been around for a long time, that people are receptive to, many are new and unknown, I would just point out the folly of pursuing this type of policy. These issues, even when we think we know what we are doing, do not always come out with the right consequences. The examples of 1981 and 1986 stand as a caution. Hopefully we will heed it. Vote yes on the previous question and the rule before the house today.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, let me apologize to everyone who wants to catch a plane and get out of here. But do not blame those of us concerned about RTC. We are not the ones who scheduled it at 12:40 on Wednesday afternoon.

Let us understand why we are asking Members to vote no on a previous question in simple economics. We just by voice vote authorized the borrowing of $70 billion for FDIC. We now are going to commit $25 billion of taxpayer money to the RTC. That is $100 billion that this Congress is going to commit in less that 1 hour.

The reason we are concerned about what is happening is it is like providing blood transfusions to a bleeding patient without ever sewing up the wound. You cannot do enough if you do not solve the problem and only treat the symptoms.

□ 1240

The fact is the RTC and the FDIC have been told, liquidate your acquired properties as fast as possible. The net effect of that in a recession is to destroy literally the value of all other real estate around it.

What we are trying to do is get the opportunity to bring forth the economic growth package to restore some value in real estate so we do not have to come back next spring and add even more taxpayer dollars to the RTC.

First it was $50 billion, then it was $30 billion, up to $80 billion. Now we are going to provide $25 billion more to the RTC. That is $105 billion of taxpayers money to treat the symptom, not once trying to get at the disease.

Mr. Speaker, we have a chance to solve the problem if we vote no on the previous question. We beg you to do that, not in the interest of getting out of here, but in the interest of the taxpayers of this country and the economy that we are here to serve.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, as we approach the Thanksgiving season, I am sure that President Bush has visions of Camp David in his head. Instead, the President was badgered to think of Camp Gingrich, and to try to embrace this last-minute scheme by our Republican colleges to try to jump-start the economy.

The centerpiece of the Republican's so-called growth plan is a reduction of the capital gains tax rate, in effect a tax cut for the wealthy.

Let us be honest. Is this the right medicine at this time for our economy?

Take a look at the holiday season we now face, a season critical for our Nation's economy, particularly for our retailers. At this moment American consumers, American families are deep in personal debt. They fear layoffs and dismissals. There is real uncertainty about our Nation's economy and its future.

Can we overcome this recession mentality, this consumer reluctance, by giving an $11,000 tax break to people who make over $200,000 a year?

The Republicans would calm the fears of working families by giving massive tax breaks to millionaires.

In my mind, this is not the way to come out of this recession. A real growth plan does not put Donald Trump on Santa's knee with a longer wish list. A real growth plan goes back to the traditional Democratic approach which we favor and support in several pieces of legislation.

Give the tax break to working families. Have the wealthier Americans pay more. Give the spending power back to the working families who had to sacrifice through 10 years of Reagan-Bush supply side economics. That in my mind is more sensible. It is fair and it will work.

The so-called Republican growth plan is still unfair. It gives the tax breaks to the people who do not need them and sacrifices the kind of economic growth we need for America's working families.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the Republicans have a tax package and they think it is good. A first look says to us that it is a giveaway to those over $200,000 a year. Now, maybe it is better than that. Maybe it is only a giveaway to those with $175,000 a year and above.

The point is let us not rush. Let the Ways and Means Committee look at it, the Republicans and the Democrats.

I want to remind this body that the last time a Republican Member of the Senate had a good idea, which he got from the President, dealing with credit card caps, and maybe it is a great idea, it was acted on rashly. The market dropped 125 points. I used to be a stockbroker. I know how volatile that can be.

Let us not make political points here. Let the Ways and Means Committee do its job. Let us look at a true economic growth and investment and incentive package in a bipartisan way and get this country moving again.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. EDWARDS], the chairman of the Republican Policy Committee.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I oppose the ordering of the previous question because we have here a rule that excludes not only the economic growth package that some of us feel very strongly this Congress ought to deal with quickly, but because it excludes consideration of the McCollum amendment, an amendment that in my opinion is necessary to send a message that is the responsibility of the regulators not to rush into situations that close down thrifts, but to find ways to keep them open.

I have a situation in my part of the country where we are not only having property dumped on the market and destroying real estate values, but that we are finding thrift institutions could be forced out of business.

It seems to me that the people who are running the RTC need to get a clear signal from the Congress that that is not the way we want business done and we cannot do it with this kind of a rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in support of the rule and obviously in support of ordering the previous question.

I think all of us share a common concern and a deep concern about the state of the economy. We are, as has been pointed out by both sides, looking at the weakest economy in the postwar era, whether you are looking at growth, productivity, unemployment growth and the deficit.

The most important thing is that we are dealing with a very fragile and sensitive economy and something that we ought not to just take for granted.

It is a sensitive and fragile economy and not one that we ought to simply take for granted or try to play political games with at this point in time.

The worst thing we can do right now, the very worst thing we can do in the Congress, is to raise expectations of the public that somehow there is a quick fix or a magic solution to the problems that confront the economy. It is going to take a lot of hard work on both sides to develop the kind of comprehensive program that does not just try to provide some tax incentives, but also looks at meaningful investments within our economy that will provide the kind of long-term growth that all of us are interested in.

The worst thing we can do right now is to take up a tax proposal that has had absolutely no hearings in the Ways and Means Committee, that has had no one focusing on the consequences of this proposal. It is a 60-page proposal that was developed, obviously, within the last 24 hours in terms of legislative language. That is not a way to do business when you are facing a fragile economy.

Last, the worst thing we can do is repeat the mistakes of the past. I get very suspicious when the promise is made that somehow we can cut taxes for everyone, particularly the wealthy, and that it will not involve any increase in the deficit.

I heard that same promise in 1981 and we have reaped the whirlwind.

This is not the way to do business. We can do better. The American people expect us to do better. The President of the United States can do better.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from San Diego, California [Mr. HUNTER], the chairman of the Republican Research Committee.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is not a last minute Johnny-come-lately proposal.

I looked over the statistics the other night. President Bush in the last 24 months has brought up his economic growth plan in 95 speeches. He has given 27 press conferences in which he brought up his economic growth plan. We have worked long and hard to put this together.

Now, 8.6 million Americans are unemployed as we leave for the holiday. I think we have to conclude that an economic growth and jobs plan is the unfinished business of 1991 for this Congress.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

First, Mr. Speaker, let us be clear what we are doing. The RTC which was created in 1989 after the problems that the savings and loan industry had during the 1980's, what the committee and the Congress did was to give President Bush and his Treasury Department exactly the structure it wanted to have. That was the way that you wanted it structured and that is the way we have it.

Since then, there has been a drain on the Treasury that has come from having to pay off depositors; so the question is whether or not you want to pay off the depositors or not.

□ 1250

Now, one argument we had today was we should not vote for this now because it does not include supervisory goodwill.

Members should understand what supervisory goodwill is. It is from the "proof, you are a malted" school of creating capital. The man goes into the candy store and says, "Make me a malted." The man says, "Poof, you are a malted."

Supervisory goodwill is when somebody says, "I need some capital for my S&L," and you say in Congress, "Poof, you have some capital." There is no money there. Supervisory goodwill is not good currency; the ruble has a higher understanding. It is simply an artificial construct.

To defeat this bill as we have been asked to do because it does not restore supervisory goodwill is to express a very strong nostalgia for never-never land.

Then we have the tax package. And I agree with my friend who says, well, from the standpoint of the tax package, this is not the 11th hour; it is the 27th hour. We have passed the international dateline already.

This is a tax package which as far as distribution is skewed to the rich and the gentleman from Pennsylvania quite honestly said the chart was irrelevant. Irrelevant is something you say in a political debate, something which is embarrassing and true. You cannot refute it, you say it is irrelevant. So they have now stipulated to the truth of the distributional facts that Members on our side have talked about.

Then what they do, they brought the tax package up without any real support in their own administration, too late to do any good. I think the most carefully planned thing about this tax package is if we have been in such a terrible economic situation, where was it in May, June, July, when people say we needed unemployment compensation?

It is a tax package carefully crafted to be brought out too late to possibly be voted on.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the chairman of the Republican Study Committee, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding time to me, and I support defeat of the previous question.

Mr. DERRICK. Mr. Speaker, I reserve the right to close.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, let me yield myself such time as I may consume in order to make a brief remark before we move to close.

You know, in 1980 we were the largest creditor nation in the world; today we are the largest debtor nation in the world.

In 1980 we had an annual deficit around $60 billion. Now it is up between $300 and $400 billion.

In 1980 we had a debt, a total indebtedness of this Government of about $1 trillion; today it is about $3 to $4 trillion.

We did all of that in 10 years. We did that under two Republican administrations. And I do not give them all the blame for it. The Congress had to vote on it as well.

But I think we need to look at why that happened.

I think one of the reasons that that happened and one of the primary reasons is that someone always had a quick fix, starting out with Gramm/Latta in 1981, and moving on down through the 1980's.

The position that this country finds itself in today, and our country is hurting economically speaking, is that we are having to pay for the mistakes that we made during the 1980's.

I think it is really precipitous, and I cannot believe that anyone on the other side of the aisle is serious about taking up a growth package here at this late date when you have part of the economists who say it will cost the taxpayer $23 to $28 billion; you have other economists say that it is not going to cost anything.

You have some economists that say 70 percent of it will go to the very wealthy; others who disagree.

Mr. Speaker, these are things we need to have some reasonable certainty about before we move ahead with a package this far-reaching and this important. I do not say the package is all bad. Some of the parts of the package I have supported myself. But I think it would be very precipitous, very ill-advised and I think the people would look unkindly if we were to do that.

Mr. Speaker, having said that, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The Vote was taken by electronic device, and there were—yeas 248, nays 144, not voting 42, as follows:

[Roll No. 444]

YEAS—248

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Beilenson
Bennett
Berman
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Bruce
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson

Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—144

Allard
Allen
Archer
Armey
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Camp
Chandler
Clinger
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hastert
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Hunter
Hyde
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Ridge
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shays
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—42

AuCoin
Baker
Ballenger
Bevill
Brown
Bryant
Callahan
Campbell (CA)
Coble
Collins (IL)
Collins (MI)
Condit
Davis
de la Garza
Dickinson
Dingell
Donnelly
Dwyer
Dymally
Fish
Hansen
Hefley
Inhofe
Lancaster
Lent
Marlenee
Matsui
Mazzoli
Montgomery
Ortiz
Pelosi
Peterson (MN)
Pickett
Quillen
Rhodes
Ritter
Schulze
Shaw
Shuster
Smith (IA)
Waxman
Weiss

☐ 1313

Ms. MOLINARI and Mr. RAVENEL, changed their vote from "yea" to "nay."

Mr. CARDIN, Mrs. KENNELLY, and Mr. SANDERS changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The resolution was agreed to. A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 320 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3435.

☐ 1314

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes, with Mr. DURBIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time and shall be considered as read for amendment. No amendment to the bill is in order except the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill and the amendment in the nature of a substitute printed in the House Report 102–48.

Each amendment is considered as read, and will be debated for 30 minutes equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Neither amendment is subject to amendment. If both amendments are adopted, only the latter amendment adopted will be considered as finally adopted and reported back to the House.

The Clerk will designate the committee amendment in the nature of a substitute.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

Sec. 101. Thrift resolution funding provisions.
Sec. 102. RTC working capital borrowing limit.
Sec. 103. Appointment by Director of the Office of Thrift Supervision.
Sec. 104. Extension of Resolution Trust Corporation duty.
Sec. 105. Suspension of RTC funding upon the failure to provide an audited financial statement.

TITLE II—RESTRUCTURING AND IMPROVEMENT OF THE RESOLUTION TRUST CORPORATION

Subtitle A—RTC and Oversight Board Restructuring

Sec. 201. Accountability of Oversight Board.
Sec. 202. Restructuring of Oversight Board.
Sec. 203. Oversight Board duties and authorities.
Sec. 204. Limitation of Oversight Board authority.
Sec. 205. Duties of the Resolution Trust Corporation.
Sec. 206. Management of the Resolution Trust Corporation.
Sec. 207. Restructuring of the Resolution Trust Corporation Board of Directors.
Sec. 208. Staff of the Resolution Trust Corporation; chief executive officer.
Sec. 209. Rights of employees upon sunset of RTC.
Sec. 210. Additional whistleblower protections.

Subtitle B—RTC Improvements

Sec. 211. Annual independent audit.
Sec. 212. Uninsured depositors not covered.
Sec. 213. Minimization of costs for services; distribution of contracts.
Sec. 214. Management and disposition of property by local office which is closest to the property.
Sec. 215. Restrictions on nonsalary compensation and benefits for employees.
Sec. 216. GAO study of privatization of RTC functions.
Sec. 217. Prohibition on use of brokered deposits by conservators of insured depository institutions.
Sec. 218. Pay comparability.
Sec. 219. Disclosure of certain RTC and Oversight Board salaries.
Sec. 220. Report required with respect to 1988 deals.
Sec. 221. Misuse of RTC name and logo.
Sec. 222. Procedural provisions.
Sec. 223. Cross-guarantee provisions.
Sec. 224. Qualified financial contracts.
Sec. 225. Attorney-client privilege.
Sec. 226. Statute of limitations for receivership claims.
Sec. 227. Prohibition on RTC contracts with debarred or suspended contractors.
Sec. 228. Utilization of HUD multifamily insurance.
Sec. 229. Expansion of securitization program.
Sec. 230. Examination of asset management contracting process.
Sec. 231. Preservation of the value of partially completed real estate projects.
Sec. 232. Study methods to resolve disputes with borrowers.
Sec. 233. Study of liquidating trusts to sell real property assets.
Sec. 234. Restrictions on removal of employees performing liquidation functions.
Sec. 235. Asset management contracts.
Sec. 236. Criminal history records maintained by the Federal Bureau of Investigation.
Sec. 237. Substitution of RTC obligations for collateral on Federal home loan bank advances.
Sec. 238. Seller financing.
Sec. 239. Standard sales procedures.
Sec. 240. Regulatory requirements regarding
Sec. 241. Improvements to the list of legal counsel whose services are authorized to be retained.

Sec. 242. Technical and conforming amendments.

TITLE III—MINORITIES, WOMEN, AND SMALL BUSINESS PROVISIONS

Sec. 301. Increased participation of minorities and women in contracting process.
Sec. 302. Operation of branch facilities by minorities and women.
Sec. 303. Acquisition of failing majority associations by minority institutions.
Sec. 304. Statutory establishment of program.
Sec. 305. Goal for participation of small business concerns.

TITLE IV—REAL ESTATE PROVISIONS

Sec. 401. Real estate auction policy.
Sec. 402. Outreach program for State and local governments.
Sec. 403. Separate inventory of property with special significance.
Sec. 404. Disposition of property of special significance.
Sec. 405. Delegations of authority for the disposition of assets.
Sec. 406. Seller financing.
Sec. 407. FDIC property disposition standards.
Sec. 408. Risk-weighting for single family housing loans.
Sec. 409. Risk-weighting for multifamily housing loans.
Sec. 410. Real estate appraisals.
Sec. 411. Foreclosure powers.
Sec. 412. Utilization of brokers.
Sec. 413. Expedited title clearance procedures.
Sec. 414. Corporate powers relating to financing.
Sec. 415. Maintenance of properties in inventory.
Sec. 416. Reduction of multiple entities representing the RTC in cases of single assets.

TITLE V—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM

Sec. 501. Inclusion of eligible residential property under conservatorship.
Sec. 502. Time limitations on sale of eligible single family property.
Sec. 503. Active marketing of eligible single family property to lower-income veterans.
Sec. 504. Prevention of speculation on eligible single family property.
Sec. 505. Avoidance of displacement under single family property disposition program.
Sec. 506. Periods for expression of serious interest and restricted bids for eligible multifamily housing property.
Sec. 507. Lower-income occupancy requirements for eligible multifamily housing property.
Sec. 508. Extension of restricted offer period for eligible multifamily housing property.
Sec. 509. Sale price.
Sec. 510. Authority for RTC to participate in multifamily financing pools.
Sec. 511. Credit enhancement for certain tax-exempt bonds.
Sec. 512. Permanent effectiveness of exemption for transactions with insured depository institutions.
Sec. 513. Transfer of certain eligible residential properties to State housing agencies for disposition.
Sec. 514. Suspension of offer periods for sales of eligible residential property to nonprofit organizations and public agencies.
Sec. 515. Sale of eligible condominium property.
Sec. 516. Reports to Congress regarding affordable housing program.
Sec. 517. Definitions.
Sec. 518. Applicability.

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended by adding at the end the following new paragraphs:

"(3) ADDITIONAL INTERIM FUNDING.—In addition to amounts appropriated under paragraph (2), there is authorized to be appropriated to the Corporation for fiscal years beginning after fiscal year 1991 not more than $20,000,000,000 to carry out the purposes of this section.

"(4) CONDITIONAL AUTHORITY.—No amount is authorized to be appropriated to the Corporation under any provision of law other than paragraph (3) unless—

"(A) the President submits to the Congress a plan which has the agreement of the Speaker of the House of Representatives, the majority leader and the minority leader of the House, the President pro tempore of the Senate, and the majority leader and the minority leader of the Senate to finance the losses incurred by the Corporation after the date of the enactment of this paragraph;

"(B) the plan submitted—

"(i) provides for the payment of such losses over a period of not more than 5 years beginning on the date the plan is implemented;

"(ii) allows no increase in the public indebtedness of the United States after the end of such period with respect to such payments;

"(iii) ensures that the financing of the payment of those losses is carried out in a manner such that any liability of persons to make any payment, the proceeds of which will be used to finance the payment of those losses, is distributed among the persons in accordance with the ability of each person to pay;

"(iv) provides that no amount authorized to be appropriated shall be funded by increased tax revenues or revenue enhancements in any manner; and

"(C) the plan is submitted to the Congress not less than 30 days after the date on which the Comptroller General of the United States reports to the Congress that the Corporation is, or within 60 days will be, unable to meet losses.".

SEC. 102. RTC WORKING CAPITAL BORROWING LIMIT.

Section 21A(j)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(j)(1)) is amended to read as follows:

"(1) IN GENERAL.—The total amount of outstanding obligations of the Corporation may not exceed the lesser of—

"(A) $160,000,000,000; or

"(B) the amount that is equal to the sum of—

"(i) the amount of cash held by the Corporation; and

"(ii) 85 percent of the Corporation's estimate of the fair market value of other assets held by the Corporation.".

SEC. 103. APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) is amended to read as follows:

"(B) RECEIVER.—Whenever the Director of the Office of Thrift Supervision appoints a receiver under the provisions of section 5(d)(2)(C) of the Home Owners' Loan Act for the purpose of liquidation or winding up any State savings association's affairs—

"(i) before October 1, 1993, the Resolution Trust Corporation shall be appointed;

"(ii) after September 30, 1993, the Resolution Trust Corporation shall be appointed if the Resolution Trust Corporation had been placed in control of such savings association at any time on or before such date; and

"(iii) after September 30, 1993, the Corporation shall be appointed unless the Resolution Trust Corporation is required to be appointed under clause (ii).".

SEC. 104. EXTENSION OF RESOLUTION TRUST CORPORATION DUTY.

(a) IN GENERAL.—Section 21A(b)(3)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(A)) is amended to read as follows:

"(A) To manage and resolve all cases involving depository institutions—

"(i) the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or which are Savings Association Insurance Fund members (as defined in section 7(l)(5) of the Federal Deposit Insurance Act); and

"(ii) for which a conservator or receiver is appointed after December 31, 1988, and before October 1, 1993 (including any institution described in paragraph (6) or section 11(c)(6)(B)(ii) of the Federal Deposit Insurance Act).".

(b) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—Section 21A(b)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(6)) is amended to read as follows:

"(6) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—If the Corporation is appointed as conservator or receiver for any insured depository institution described in paragraph (3)(A) before October 1, 1993, and a conservator or receiver is appointed for such institution on or after such date for purposes of a resolution, the Corporation shall be appointed as conservator or receiver for such institution on or after October 1, 1993.".

SEC. 105. SUSPENSION OF RTC FUNDING UPON THE FAILURE TO PROVIDE AN AUDITED FINANCIAL STATEMENT.

(a) FINANCIAL STATEMENT FOR FY 91.—If no financial statement of the Resolution Trust Corporation for fiscal year 1991 which has been independently audited by a certified public accountant has been submitted to the Congress by the end of fiscal year 1992, no amount provided to the Resolution Trust Corporation under section 21A(i) of the Federal Home Loan Bank Act (as amended by section 101 of this title) shall be available for obligation until such audited financial statement has been submitted to the Congress.

(b) INDEPENDENT AUDIT PROVISION.—An audit of a financial statement of the Resolution Trust Corporation which has been conducted by the Comptroller General of the United States, using the services of certified public accountants, shall be treated as an independent audit for purposes of subsection (a).

TITLE II—RESTRUCTURING AND IMPROVEMENT OF THE RESOLUTION TRUST CORPORATION

Subtitle A—RTC and Oversight Board Restructuring

SEC. 201. ACCOUNTABILITY OF OVERSIGHT BOARD.

Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) is amended—

(1) by striking "and be accountable for"; and

(2) by inserting "and shall be accountable for the duties assigned to the Oversight Board by this Act" after "(hereinafter referred to in this section as the 'Corporation')".

SEC. 202. RESTRUCTURING OF OVERSIGHT BOARD.

Section 21A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking "5 members" and inserting "7 members";

(B) by striking "and" at the end of clause (iii);

(C) by redesignating clause (iv) as clause (vi); and

(D) by inserting after clause (iii) the following new clauses:

"(iv) the chief executive officer of the Corporation;

"(v) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) in subparagraph (E) by striking "3 members" and inserting "4 members".

SEC. 203. OVERSIGHT BOARD DUTIES AND AUTHORITIES.

Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) To review overall strategies, policies, and goals established by the Corporation for the Corporation's activities to determine the impact on the overall financial goals, plans, and budgets of the Corporation, including such overall strategies, policies, and goals as—

"(i) overall strategies, policies, and goals for case resolutions, the management and disposition of assets, the use of private contractors, and the use of notes, guarantees or other obligations by the Corporation;

"(ii) overall financial goals, plans, and budgets; and

"(iii) restructuring agreements described in subsection (b)(11)(B).";

(2) in subparagraph (B), by inserting "financial plans, budgets, and" after "implementation";

(3) by striking subparagraphs (C), (D), and (I); and

(4) by redesignating subparagraphs (E), (F), (G), (H), and (J) as subparagraphs (C), (D), (E), (F), and (G), respectively.

SEC. 204. LIMITATION OF OVERSIGHT BOARD AUTHORITY.

Section 21A(a)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)(A)) is amended—

(1) by striking "(i) involving" and inserting instead "involving (i)"; and

(2) by striking "provide general policies and procedures" and inserting instead "review overall strategies, policies, and goals established by the Corporation".

SEC. 205. DUTIES OF THE RESOLUTION TRUST CORPORATION.

(a) DEVELOPMENT OF OVERALL STRATEGIES AND GOALS.—Section 21A(b)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraphs:

"(D) To develop and establish overall strategies, policies, and goals for the Corporation, subject to review by the Oversight Board pursuant to subsection (a)(6)(A) of this section.".

(b) PROFIT PARTICIPATION PLAN.—Section 21A(b) of the Federal Home Loan Bank Act is amended by adding at the end the following new paragraph:

"(15) PROFIT PARTICIPATION PLAN.—

"(A) DEVELOPMENT OF PLAN REQUIRED.—Before the end of the 180-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall—

"(i) develop a profit participation plan under which the Corporation, subject to review by the Oversight Board, shall propose a method for increasing Federal profit participation in the subsequent resale, refinancing, or other disposition of commercial real estate sold by the Corporation; and

"(ii) submit a report on such plan to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) FEDERAL PROFIT PARTICIPATION REQUIREMENTS.—The plan required under subparagraph (A)(i) shall propose methods to include Federal profit participation requirements upon—

"(i) the subsequent resale, refinancing or other disposition of not less than 25 percent of the dollar volume of commercial real estate initially sold by the Corporation after the end of the 1-year period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991; and

"(ii) the subsequent resale, refinancing or other disposition of not less than 50 percent of the dollar volume of the commercial real estate initially sold by the Corporation after the end of the 18-month period beginning on such date of enactment.

"(C) FACTORS TO BE CONSIDERED.—In developing the profit participation plan required to be submitted under subparagraph (A), the Corporation shall take into consideration the following factors:

"(i) Profit participation models and formulas used by other Federal agencies.

"(ii) Profit participation models and formulas used in the private sector.

"(iii) Whether profit participation should be required in all commercial real estate sales or only in sales over a de minimis value.

"(iv) The length of time and number of subsequent sales that profit participation requirements should apply to, and whether or not the proportion of profit participation should decline over time.

"(v) Whether profit participation should vary depending on the amount of capital invested by the purchaser and the amount of financing, if any, provided by the Corporation.

"(vi) What a reasonable rate of return is for a purchaser.

"(vii) What a reasonable profit participation rate is for the Corporation.

"(viii) Whether purchasers should be offered one or several profit participation proposals which vary depending on purchase price, capital investment, length of time held, and level of government financing.

"(ix) Such other factors as the Corporation, subject to review by the Oversight Board, determines to be appropriate.".

(c) CREDIT ENHANCEMENT TO PROVIDE HOUSING OPPORTUNITIES FOR LOW-INCOME PERSONS.—Section 21A(b)(10)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(K)) is amended to read as follows:

"(K) To make loans and, with respect to eligible residential properties, develop risk sharing structures and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.".

SEC. 206. MANAGEMENT OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b)(1)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)(C)) is amended to read as follows:

"(C) MANAGEMENT BY BOARD OF DIRECTORS.—The Corporation shall be managed by a Board of Directors.".

SEC. 207. RESTRUCTURING OF THE RESOLUTION TRUST CORPORATION BOARD OF DIRECTORS.

(a) IN GENERAL.—Section 21A(b)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(A)) is amended to read as follows:

"(A) IN GENERAL.—Except as provided in subsection (m), the Board of Directors of the Corporation shall consist of—

"(i) the members of the Board of Directors of the Federal Deposit Insurance Corporation; and

"(ii) the chief executive officer of the Corporation.".

(b) CHAIRPERSON.—Section 21A(b)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(B)) is amended to read as follows:

"(B) CHAIRPERSON.—The chief executive officer of the Corporation shall serve as the Chairperson of the Board of Directors of the Corporation.".

SEC. 208. STAFF OF THE RESOLUTION TRUST CORPORATION; CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 21A(b)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) is amended—

(1) in subparagraph (A), by striking "Unless the Oversight Board exercises its authority under subsection (m), the" and inserting "The";

(2) by striking clause (i) of subparagraph (B) and inserting the following new clause:

"(i) FDIC.—Subject to subparagraph (D), the Corporation shall use employees of the Federal Deposit Insurance Corporation and shall select such employees in accordance with the personnel policies and procedures of the Federal Deposit Insurance Corporation."; and

(3) by adding at the end the following new subparagraphs:

"(C) CHIEF EXECUTIVE OFFICER.—

"(i) APPOINTMENT.—The Corporation shall have a chief executive officer appointed by the President, by and with the advice and consent of the Senate.

"(ii) COMPENSATION.—The chief executive officer of the Corporation and members of the staff of the chief executive officer shall receive such compensation and benefits as the Corporation's Board of Directors may determine.

"(iii) POWERS AND DUTIES DEFINED BY BOARD OF DIRECTORS.—The Board of Directors shall provide the chief executive officer with such duties and powers as shall be adequate for the chief executive officer's efficient management and administration of the Corporation's day-to-day affairs.

"(iv) SPECIFIC DUTIES AND POWERS.—In addition to the duties and powers provided by the Board of Directors under clause (iii), the chief executive officer shall have the following duties and powers, subject to the direction of the Board of Directors and the exercise by the Oversight Board of any duty or power under subsection (a) with respect to the Corporation:

"(I) To specify the duties and powers of other officers of the Corporation and the duties and powers of other persons, including employees of the Federal Deposit Insurance Corporation, acting on behalf of the Corporation.

"(II) To make and modify staffing plans and organizational and management structures of the Corporation to satisfy the goals of this Act and other applicable laws.

"(III) To direct all aspects of the Corporation's operations in a manner consistent with general practices of the private sector, this section, and other applicable law.

"(IV) To modify and implement existing standards, policies, principles, procedures, guidelines, and statements in order to optimize the Corporation's performance, including the Corporation's performance in the disposition of assets.

"(V) To develop, adopt, and implement new standards, policies, principles, procedures, guidelines, and statements in order to optimize the Corporation's performance, including the Corporation's performance in the disposition of assets.

"(VI) Subject to subparagraph (B)(iii), section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, section 218 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, and the pay practices of the Federal Deposit Insurance Corporation, to set and adjust the compensation and benefits of persons (other

than the chief executive officer or the staff of such officer) acting on behalf of the Corporation in accordance with laws and regulations applicable to the personnel practices of the Federal Deposit Insurance Corporation.

"(VII) To select employees of the Federal Deposit Insurance Corporation who are to be assigned by such corporation to the Corporation, to request the Federal Deposit Insurance Corporation to employ any such person and assign such employee to the Corporation, and, upon the employee's completion of the work assignment for which the assignment to the Corporation was made (and in the absence of any comparable work assignment in the Corporation) or upon mutual agreement of the chief executive officer of the Corporation and the Chairperson of the Federal Deposit Insurance Corporation, to reassign such employee to the Federal Deposit Insurance Corporation.

"(VIII) To appoint persons to staff positions within the office of the chief executive officer.

"(D) DUTIES AND POWERS OF THE FDIC.—

"(i) LIMITATION RELATING TO DUTY TO ASSIGN EMPLOYEES.—Subparagraph (B)(i) shall not be construed as requiring the Federal Deposit Insurance Corporation to assign to the Corporation any employee of the Federal Deposit Insurance Corporation who—

"(I) was employed by the Federal Deposit Insurance Corporation on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991; and

"(II) had not, before such date of enactment, been assigned to the Corporation by the Federal Deposit Insurance Corporation.

"(ii) DUTY TO HIRE AND ASSIGN NEW EMPLOYEES.—

"(I) IN GENERAL.—In addition to persons otherwise employed by the Federal Deposit Insurance Corporation, the Federal Deposit Insurance Corporation shall employ, and shall assign to the Corporation, such individuals as the Corporation may determine to be necessary in order for the Corporation to carry out this section.

"(II) TEMPORARY AND CONTRACT WORKERS.—To the maximum extent possible, the Federal Deposit Insurance Corporation shall employ individuals on a temporary basis or for an agreed upon period of time for purposes of assigning employees to the Corporation.

"(iii) DIRECTION OF ASSIGNED EMPLOYEES.—Any employee of the Federal Deposit Insurance Corporation who is on assignment to the Corporation shall be subject to the direction of the Corporation and may be reassigned to the Federal Deposit Insurance Corporation in accordance with subparagraph (C)(iv)(VII) or section 208(b)(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, as appropriate.

"(iv) REIMBURSEMENT FOR ASSIGNED EMPLOYEES.—The Corporation shall reimburse the Federal Deposit Insurance Corporation for the actual costs incurred by the Federal Deposit Insurance Corporation in connection with employees assigned to the Corporation.

"(v) REDUCTIONS IN FORCE.—In any reduction-in-force or reorganization within the Federal Deposit Insurance Corporation after the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, any permanent employee who is or had been on assignment to the Corporation shall compete with the same rights as any other permanent employee of the Federal Deposit Insurance Corporation.

"(vi) ADMINISTRATIVE SERVICES.—The Corporation—

"(I) may use any administrative service of the Federal Deposit Insurance Corporation; and

"(II) shall reimburse the Federal Deposit Insurance Corporation for the actual costs of providing any such service.

"(vii) MINIMUM EMPLOYMENT STANDARDS.—The Federal Deposit Insurance Corporation shall prescribe regulations establishing procedures for ensuring that employees of the Federal Deposit Insurance Corporation who are on assignment to the Corporation meet minimum standards of competence, experience, integrity, and fitness.

"(viii) INFORMATION REQUIRED TO BE SUBMITTED.—Any employment application submitted by an individual to the Federal Deposit Insurance Corporation with respect to employment on behalf of the Corporation shall include a list and description of any instance during the 5 years preceding the submission of the application in which the individual or company under such individual's control defaulted on a material obligation to an insured depository institution.

"(ix) PROHIBITION REQUIRED IN CERTAIN CASES.—The standards established under clause (vii) shall require the Federal Deposit Insurance Corporation to prohibit any person who has—

"(I) been convicted of a felony,

"(II) been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency,

"(III) demonstrated a pattern or practice of defalcation regarding obligations to insure depository institutions, or

"(IV) caused a substantial loss to Federal deposit insurance funds,

from employment on behalf of the Corporation.".

(b) TRANSITION PROVISIONS.—

(1) CONTINUATION OF FDIC BOARD OF DIRECTORS AS RTC BOARD OF DIRECTORS.—Notwithstanding the amendments made by subsection (a) and section 207, the Board of Directors of the Federal Deposit Insurance Corporation shall continue to serve as the Board of Directors of the Corporation, and the Federal Deposit Insurance Corporation shall continue to manage the Corporation, in accordance with paragraphs (1)(C) and (8) of section 21A(b) of the Federal Home Loan Bank Act (as in effect on the day before the date of the enactment of this Act) until the Board of Directors of the Corporation established pursuant to such Act (as amended by this title) first meets with a quorum present.

(2) EMPLOYEES ON ASSIGNMENT TO THE RTC.—

(A) CONTINUATION OF EMPLOYMENT.—Any permanent employee of the Federal Deposit Insurance Corporation who was on assignment to the Corporation immediately before the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall continue to be assigned to the Corporation after such date of enactment until such time as the employee's assignment to the Corporation terminates.

(B) RETURN TO FDIC.—Upon the termination of the assignment, to the Resolution Trust Corporation, of any employee referred to in subparagraph (A), the employee shall be reassigned to a position with the Federal Deposit Insurance Corporation with the same status, tenure, pay, and grade as that held by such employee immediately before the reassignment.

SEC. 209. RIGHTS OF EMPLOYEES UPON SUNSET OF RTC.

(a) IN GENERAL.—Section 404(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) by striking "section 21A(m)" and inserting instead "section 21A(o)";

(2) by striking "of such Corporation shall be transferred to" and inserting instead "of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within";

(3) by striking "of this subsection" and inserting instead "of this section"; and

(4) by striking "paragraphs (2) and (4) through (7)" and inserting "paragraphs (2) through (4)".

(b) GRADE RETENTION.—Section 404(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) by inserting "grade" after "status, tenure,"; and

(2) by inserting "or, if the employee is a temporary employee, separated in accordance with the terms of the appointment" after "cause".

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not be construed as providing any advantage to employees of the Federal Deposit Insurance Corporation who are on assignment to the Resolution Trust Corporation at the time of the termination of the Resolution Trust Corporation over other employees of the Federal Deposit Insurance Corporation in any subsequent reorganization or reduction in force.

(d) TREATMENT OF REORGANIZATIONS PURSUANT TO TERMINATION OF RTC.—Section 404(4) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended to read as follows:

"(4) If the Federal Deposit Insurance Corporation determines that a reorganization of the work force of such corporation is required upon the reassignment of employees of the Corporation pursuant to section 21A(o) of the Federal Home Loan Bank Act, the reorganization shall be deemed to be a 'major reorganization' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.".

SEC. 210. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF DEPOSITORY INSTITUTIONS.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution or any director, officer, or employee of the institution.

"(2) EMPLOYEES OF BANKING AGENCIES.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency which employs such employee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) DEFINITION.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) FEDERAL BANKING AGENCY DEFINED.—For purposes of subsections (a) and (c), the term

'Federal banking agency' means the Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.".

(4) EFFECTIVE DATE.—Paragraph (2) of section 33(a) of the Federal Deposit Insurance Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 33(b) of such Act shall be deemed to begin on such date of enactment.

(b) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF CREDIT UNIONS.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) EMPLOYEES OF THE ADMINISTRATION.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union the Administration;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the Administration.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(3) EFFECTIVE DATE.—Paragraph (2) of section 213(a) of the Federal Credit Union Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 213(b) of such Act shall be deemed to begin on such date of enactment.

(c) COVERAGE FOR EMPLOYEES OF RTC, OVERSIGHT BOARD, AND RTC CONTRACTORS.—

(1) COVERAGE ESTABLISHED.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC, OVERSIGHT BOARD, AND RTC CONTRACTOR EMPLOYEE PROTECTION REMEDY.—

"(1) PROHIBITION AGAINST DISCRIMINATION.—The Corporation, the Oversight Board, and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation or the Oversight Board may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation on assignment to the Corporation under this section or any personnel referred to in subparagraphs (C) and (F) of subsection (a)(5)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Oversight Board, the Attorney General, or any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation, the Oversight Board, or such person or any director, officer, or employee of the Corporation, the Oversight Board, or the person.

"(2) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) REMEDIES.—If the district court determines that a violation has occurred, the court may order the Corporation or the person which committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) LIMITATION.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

(2) EFFECTIVE DATE.—Subsection (q) of section 21A of the Federal Home Loan Bank Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on August 9, 1989, and for purposes of any cause of action arising under such subsection (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 21A(q)(2) of such Act shall be deemed to begin on such date of enactment.

Subtitle B—RTC Improvements

SEC. 211. ANNUAL INDEPENDENT AUDIT.

(a) IN GENERAL.—Section 21A(k)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(1)) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) ANNUAL INDEPENDENT AUDIT.—The Oversight Board shall contract with an independent certified public accountant to perform an annual audit of the Corporation's financial statement in accordance with generally accepted government auditing standards.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Subparagraph (C) of section 21A(k)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(1)) (as so redesignated by subsection (a) of this section) is amended by inserting "and the independent certified public accountant for purposes of the audits pursuant to subparagraphs (A) and (B)" before the period.

(c) CLERICAL AMENDMENT.—The heading for section 21A(k)(1)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(1)(A)) is amended by inserting "GAO" after "ANNUAL".

SEC. 212. UNINSURED DEPOSITORS NOT COVERED.

Section 21A(b) of the Federal Home Loan Bank Act is amended by inserting after paragraph (15) (as added by section 205 of this title) the following new paragraph:

"(16) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(A) IN GENERAL.—The Corporation may not take any action, directly or indirectly, with respect to any institution described in paragraph (3)(A) that would have the effect of increasing losses to the Corporation by protecting—

"(i) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(ii) creditors other than depositors.

"(B) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this paragraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any institution described in paragraph (3)(A) for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the Corporation does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.".

SEC. 213. MINIMIZATION OF COSTS FOR SERVICES; DISTRIBUTION OF CONTRACTS.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end the following new subparagraph:

"(H) MINIMIZATION OF COSTS FOR SERVICES; DISTRIBUTION OF CONTRACTS.—The Corporation shall adopt and follow procedures governing the procurement of legal, accounting, and investment banking services to assure that, to the extent reasonably practicable—

"(i) the costs of procuring those services are minimized, and

"(ii) there is a sufficiently representative geographic and size distribution of—

"(I) firms providing those services, and

"(II) contracts awarded for those services.".

SEC. 214. MANAGEMENT AND DISPOSITION OF PROPERTY BY LOCAL OFFICE WHICH IS CLOSEST TO THE PROPERTY.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by inserting after subparagraph (H) (as added by section 213 of this title) the following new subparagraph:

"(I) REAL ESTATE MANAGEMENT AND DISPOSITION.—The Corporation shall establish a procedure under which—

"(i) real estate assets of any institution described in paragraph (3)(A) shall be managed and disposed of by the Corporation through the office of the Corporation which is closest to the location of any such real estate asset; and

"(ii) the management and disposition of assets pursuant to clause (i) shall be properly accounted for to the office of the Corporation which is responsible for administering the receivership of the institution referred to in such clause, consistent with the fiduciary responsibility of the Corporation to the creditors of the institution.".

SEC. 215. RESTRICTIONS ON NONSALARY COMPENSATION AND BENEFITS FOR EMPLOYEES.

(a) RTC EMPLOYEES.—Section 21A(b)(9)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(B)) is amended by adding at the end the following new clause:

"(iii) COMPLIANCE WITH CERTAIN GSA RULES.—The Corporation shall issue directives with respect to the use of, and reimbursement for, alcoholic beverages, and furniture, fixtures, and equipment, and with respect to expenses for entertainment, which shall conform to the rules, regulations, and opinions issued by the General Services Administration and shall apply to all employees assigned to the Corporation.".

(b) OVERSIGHT BOARD EMPLOYEES.—Section 21A(a)(5)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)(E)) is amended by adding at the end the following: "and the Oversight Board shall issue regulations or directives with respect to the use of, and reimbursement for, alcoholic beverages, and furniture, fixtures, and equipment, and with respect to expenses for entertainment, which shall conform to the rules, regulations, and opinions issued by the General Services Administration and shall apply to the employees of the Oversight Board;".

SEC. 216. GAO STUDY OF PRIVATIZATION OF RTC FUNCTIONS.

(a) In General.—The Comptroller General of the United States shall conduct a study of the feasibility of transferring all or a substantial portion of the functions being performed by the Resolution Trust Corporation as of the date of the enactment of this Act to the private sector, the most efficient methods for accomplishing such transfer, and the potential benefits of the transfer to the Corporation and the United States Government.

(b) Report.—The Comptroller General shall submit a report to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act containing—

(1) the findings and conclusions of the Comptroller General in connection with the study conducted under subsection (a); and

(2) such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

SEC. 217. PROHIBITION ON USE OF BROKERED DEPOSITS BY CONSERVATORS OF INSURED DEPOSITORY INSTITUTIONS.

(a) In General.—Section 29(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(d)) is amended to read as follows:

"(d) Brokered Deposits Prohibited for Conservatorships.—Notwithstanding subsection (c), an insured depository institution for which a conservator has been appointed may not accept funds obtained, directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts.".

(b) Technical and Conforming Amendment.—Section 29(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(b)) is amended by striking "subsection (a)" and inserting "subsections (a) and (d)".

SEC. 218. PAY COMPARABILITY.

(a) Information Sharing Required.—The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration Board, the Federal Housing Finance Board, the Oversight Board, the chief executive officer of the Resolution Trust Corporation, the Farm Credit Administration, and the Office of Thrift Supervision, in establishing and adjusting schedules of compensation and benefits which are to be determined solely by each agency under applicable provisions of law, shall inform the heads of the other agencies and the Congress of such compensation and benefits and shall seek to maintain comparability regarding compensation and benefits.

(b) Pay Comparability Required.—

(1) In general.—In setting and adjusting compensation and benefits, each agency referred to in subsection (a) shall consult with and shall maintain reasonable comparability with the compensation and benefits programs of the other agencies.

(2) Documented comparisons required.—The consultation required under paragraph (1) shall include documented comparisons of representative job series and representative positions within each series.

(c) Limitation on Excessive Compensation.—No employee of any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Farm Credit Administration, the Oversight Board, or the chief executive officer of the Resolution Trust Corporation may receive a total amount of allowances, benefits, compensation, and pay differentials, including bonuses and other awards, in excess of the amount which is equal to 115 percent of the total amount of allowances, benefits, compensation, and pay differentials, including bonuses and other awards, which—

"(1) in the case of any such employee other than an employee described in paragraph (2), may be provided to any officer holding a position at level III of the Executive Schedule; and

"(2) in the case of any employee of the Board of Governors of the Federal Reserve System, may be provided to any officer holding a position at level II of the Executive Schedule.

(d) Savings Provisions.—

(1) Collective bargaining.—No provision of this section (other than subsection (c)) shall be construed as extinguishing or otherwise affecting any right or remedy under chapter 71 of title 5, United States Code, including the right, where applicable, to set employee pay through collective bargaining.

(2) No reduction in rate of pay.—No provision of this section (other than subsection (c)) shall be construed as allowing the reduction of base pay of any employee below those in effect on the effective date of this Act.

(3) Current employees.—Notwithstanding any other provision of subsection (c), no officer or employee of an agency referred to in such subsection, shall, as a result of subsection (c), have their total amount of allowances, benefits, compensation, and pay differentials, including bonuses and other awards, reduced below the amount in effect for that officer or employee on October 8, 1991.

(e) Compensation of Chairman of the Federal Reserve Board.—

(1) In general.—Section 5312 of title 5, United States Code, is amended by adding at the end the following new item:

"Chairman, Board of Governors of the Federal Reserve System."

(2) Technical and conforming amendment.—Section 5313 of title 5, United States Code, is amended by striking the following item:

"Chairman, Board of Governors of the Federal Reserve System."

SEC. 219. DISCLOSURE OF CERTAIN RTC AND OVERSIGHT BOARD SALARIES.

Section 21A(k)(5)(B)(iii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)(B)(iii)) is amended by inserting before the period the following: "the name of each employee of the Oversight Board, and each employee of the Federal Deposit Insurance Corporation assigned to the Corporation, whose rate of pay during the period on an annual basis exceeds the annual rate of basic pay payable for positions at level V of the Executive Schedule, the position and duty station of each such employee, and the amount of compensation paid to each such employee during the reporting period".

SEC. 220. REPORT REQUIRED WITH RESPECT TO 1988 DEALS.

The Corporation shall submit a report to the Congress before January 31, 1992, on the progress made in renegotiating the cases required to be reviewed under section 21A(b)(11)(B) as of December 31, 1991, and shall include—

(1) a detailed explanation of the reasons, if any, for not completing the renegotiation of all such cases by such date; and

(2) an assessment of the amount of money saved, if any, by resolving such cases in 1988.

SEC. 221. MISUSE OF RTC NAME AND LOGO.

Section 709 of title 18, United States Code, is amended by inserting after the 4th undesignated paragraph the following new paragraph:

"Whoever uses as a firm or business name the words 'Resolution Trust Corporation' or the letters 'RTC' alone or with other words or letters reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from the Resolution Trust Corporation, the Government of the United States, or any agency of the United States, which does not in fact exist; or".

SEC. 222. PROCEDURAL PROVISIONS.

(a) Removal of Cases.—Section 21A(l)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(l)(3)) is amended to read as follows:

"(3) Removal and remand.—

"(A) In general.—

"(i) Removal in any capacity.—The Corporation, in any capacity, may without bond or security, in addition to any other provision pursuant to which it would be otherwise eligible to remove, remove any action, suit, or proceeding from a State court to—

"(I) the United States district court embracing the place where the action, suit, or proceeding is pending;

"(II) to the United States District Court for the District of Columbia; or

"(III) to the United States district court embracing the principal place of business of an institution for which the Corporation has been appointed conservator or receiver if the action, suit, or proceeding is brought against the institution or the Corporation as conservator or receiver of such institution.

"(ii) Period for removal.—The removal of any such action suit or proceeding shall be instituted—

"(I) not later than 90 days after the date the Corporation is substituted as a party;

"(II) not later than 30 days after proper service of a summons and complaint on the Corporation, if the Corporation is named as a party in any capacity and if such suit is filed after August 9, 1989; or

"(III) not later than 30 days after the Corporation becomes a party in any other manner.

"(B) Substitution.—The Corporation shall be deemed substituted in any action, suit, or proceeding for a party upon the filing of a copy of the order appointing the Corporation as conservator or receiver for that party or the filing of such other pleading informing the court that the Corporation has been appointed conservator or receiver for such party.

"(C) Appeal.—The Corporation may appeal any order of remand entered by a United States district court.".

(b) Prohibition on Entering Secrecy Agreements and Protective Orders.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by inserting after paragraph (15) (as added by section 205(b) of this title) the following new paragraph:

"(16) Prohibition on entering secrecy agreements and protective orders.—The Corporation may not enter into any agreement or consent to or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in the Corporation's capacity as conservator or receiver for an insured depository institution.".

SEC. 223. CROSS-GUARANTEE PROVISIONS.

(a) In General.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(1) by striking "sections 11," and inserting "sections 5(e), 11,"; and

(2) by inserting before the period the following: "; and, for purposes of exercising authority under such section 5(e), the Corporation shall have such authority with respect to all insured depository institutions as specified in such section".

(b) Technical and Conforming Amendment.—Section 5(e) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)) is amended by adding at the end the following new paragraphs:

"(10) Corporation defined.—For purposes of this subsection, the term 'Corporation' includes, with respect to any loss incurred by the Resolution Trust Corporation or any loss which the

Resolution Trust Corporation reasonably anticipates incurring, the Resolution Trust Corporation.

"(11) CONCURRENCE REQUIRED.—

"(A) IN GENERAL.—Whenever the exercise of any right or power pursuant to this subsection by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation has the potential for causing a loss to the other corporation, the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be, shall obtain the concurrence of the other corporation before exercising any such right or power.

"(B) JOINT DETERMINATION.—In any such case, the Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall jointly determine a course of action which minimizes losses to the Bank Insurance Fund, the Savings Association Insurance Fund, and the Resolution Trust Corporation.".

SEC. 224. QUALIFIED FINANCIAL CONTRACTS.

Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) EFFECT OF NOTICE.—

"(i) IN GENERAL.—Paragraph (8)(A) shall not apply to any person who is a party to a qualified financial contract with respect to such contract if such person is notified by the Corporation, as receiver for an insured depository institution, by the close of business on the business day following the day on which the Corporation is first appointed as receiver of such institution that the Corporation has transferred to a single financial institution (other than an insured depository institution in default)—

"(I) all qualified financial contracts of the person, and all affiliates of the person, with the depository institution for which the Corporation has been appointed as receiver;

"(II) all claims of the person and the affiliates of the person under any such qualified financial contract against such depository institution (other than claims subordinated by any such qualified financial contracts to the claims of general unsecured creditors of such institution);

"(III) all claims of the depository institution against the person and affiliates of the person under all such qualified financial contracts; and

"(IV) all property securing such claims under all such qualified financial contracts.

"(ii) ADEQUACY OF NOTICE.—For purposes of this paragraph, the Corporation as receiver shall be deemed to have notified any person if the Corporation has taken steps reasonably calculated to provide notice to such person.".

SEC. 225. ATTORNEY-CLIENT PRIVILEGE.

(a) NONWAIVER OF PRIVILEGE.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following subsection:

"(s) PRIVILEGES.—The transfer by any appropriate Federal banking agency or the Resolution Trust Corporation (acting in any capacity) to any such agency, the Resolution Trust Corporation, or any other agency of the United States of any oral or written information which, but for the transfer, would be subject to a privilege of the transferring agency or corporation, shall not constitute a waiver of such privilege.".

(b) PRIVILEGE DEFINED.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following new subsection:

"(y) PRIVILEGE.—The term 'privilege' includes any governmental agency, work product, attorney-client, or other privilege recognized by Federal or State law.".

SEC. 226. STATUTE OF LIMITATIONS FOR RECEIVERSHIP CLAIMS.

(a) ESTABLISHMENT OF FILING PERIOD FOR CLAIMANTS NOTIFIED BY MAIL.—Section 11(d)(3)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(3)(C)) is amended to read as follows:

"(C) MAILING REQUIRED.—

"(i) IN GENERAL.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the institution's books—

"(I) at the creditor's last address appearing in such books; or

"(II) upon discovery of the name and address of a claimant not appearing on the institution's books within 30 days after the discovery of such name and address.

"(ii) FILING PERIOD LIMITED TO 30 DAYS.—The filing period for claimants notified under clause (i)(II) shall be the later of—

"(I) 30 days after the date established by subparagraph (B)(i); or

"(II) 30 days after the date of the notice mailed to the claimant under clause (i)(II).

"(iii) NOTICE OF FILING PERIOD.—Any notice provided pursuant to clause (i)(II) shall include a notice of the filing period established under clause (ii).".

(b) TIMELY FILING REQUIRED AS CONDITION FOR PAYING CLAIMS.—Section 11(d)(5)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(B)) is amended to read as follows:

"(B) ALLOWANCE OF PROVEN CLAIMS.—

"(i) IN GENERAL.—The receiver shall allow any claim by a claimant which is—

"(I) received on or before the date specified in the notice published under paragraph (3)(B)(i) by the receiver or is timely filed pursuant to paragraph (3)(C)(ii), as the case may be; and

"(II) proved to the satisfaction of the receiver.

"(ii) EXCEPTION.—Notwithstanding clause (i), any claim filed under paragraph (3)(C)(ii) shall be allowed only to the extent that such claim is filed in time to permit payment.".

(c) DISALLOWANCE OF CLAIMS FILED AFTER FILING PERIOD.—Section 11(d)(5)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(C)) is amended to read as follows:

"(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

"(i) IN GENERAL.—Any claim filed after the date specified in the notice published under paragraph (3)(B)(i) with respect to such claim or after the end of the filing period established under paragraph (3)(C)(ii), as the case may be, shall be disallowed.

"(ii) FINALITY OF DISALLOWANCE.—The disallowance of any claim pursuant to clause (i) shall be final and the claimant shall have no further rights or remedies with respect to such claim.".

SEC. 227. PROHIBITION ON RTC CONTRACTS WITH DEBARRED OR SUSPENDED CONTRACTORS.

Section 21A(p)(6)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(p)(6)(E)) is amended—

(1) by striking "or" at the end of clause (iii);

(2) by striking the comma at the end of clause (iv) and inserting "; or"; and

(3) by inserting after clause (iv) the following new clause:

"(v) been, and continues to be, debarred or suspended from doing business with any Federal agency, government corporation, or other instrumentality of the United States (unless the chief executive officer of the Corporation, or such officer's designee, determines in writing that a compelling reason exists for this clause not to apply to such person),".

SEC. 228. UTILIZATION OF HUD MULTIFAMILY INSURANCE.

The Resolution Trust Corporation shall examine the policies and procedures of the Corporation with respect to reliance on the multifamily insurance program established pursuant to section 223(f) of the National Housing Act and take such action as it deems reasonable and appropriate, consistent with the Corporation's duties under section 21A(b)(3)(C) of the Federal Home Loan Bank Act, to promote the use of such insurance.

(b) REPORT.—The Resolution Trust Corporation shall report to the Congress, on or before April 1, 1992, on the actions the Corporation has taken to comply with subsection (a).".

SEC. 229. EXPANSION OF SECURITIZATION PROGRAM.

The Resolution Trust Corporation shall conduct a review of the Corporation's securitization policies and procedures and make such reasonable modifications of such policies and procedures, to the extent necessary, to enhance the securitization of commercial mortgages.

SEC. 230. EXAMINATION OF ASSET MANAGEMENT CONTRACTING PROCESS.

(a) IN GENERAL.—The Corporation shall—

(1) examine the policies and procedures of the Corporation which govern its asset management contracting process; and

(2) take such steps as the Corporation determines to be reasonable and appropriate to make such process more expeditious, efficient, and effective.

(b) FACTORS TO BE EXAMINED.—The examination under subsection (a) shall include an exploration of ways to reduce paperwork, increase delegation of authority, improve targeting of bid solicitations, and preserve competition.

(c) REPORT.—The Corporation shall submit a report to the Congress before April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 231. PRESERVATION OF THE VALUE OF PARTIALLY COMPLETED REAL ESTATE PROJECTS.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine the policies and procedures of the Corporation concerning partially completed real estate projects under the Corporation's jurisdiction and take such steps as it deems reasonable and appropriate, consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act, to preserve the economic value of such projects.

(b) REPORT.—The Corporation shall report to the Congress on or before April 1, 1992, on the actions the Corporation has taken to comply with subsection (a).".

SEC. 232. STUDY METHODS TO RESOLVE DISPUTES WITH BORROWERS.

(a) IN GENERAL.—The Resolution Trust Resolution Trust Corporation shall—

(1) examine the policies and procedures of the Corporation governing the resolution of disputes with borrowers under loans acquired by the Corporation as a result of its appointment as conservator or receiver of an insured depository institution; and

(2) take such action, consistent with its duties under section 21A(b)(3)(C) of the Federal Home Loan Bank Act, as it deems reasonable and appropriate to accelerate the resolution process.

(b) REPORT.—The Resolution Trust Corporation shall report to the Congress, on or before April 1, 1992, on the actions the Corporation has taken to comply with subsection (a).

SEC. 233. STUDY OF LIQUIDATING TRUSTS TO SELL REAL PROPERTY ASSETS.

Before the end of the 180-day period beginning on the date of the enactment of this Act, the Resolution Trust Corporation shall conduct a study of the feasibility of using liquidating trusts to dispose of real property assets under the jurisdiction of the Corporation.

SEC. 234. RESTRICTIONS ON REMOVAL OF EMPLOYEES PERFORMING LIQUIDATION FUNCTIONS.

(a) TEMPORARY AND CONTRACT WORKERS EMPLOYED FOR ASSIGNMENT TO THE RTC.—Section

21A(b)(9)(D)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(D)(ii)), as added by section 208(a)(3) of this Act, is amended by adding at the end the following new subclause:

"(III) Section 9(c) of the Federal Deposit Insurance Act shall apply to individuals employed under this subparagraph on a temporary or contract basis.".

(b) OTHER EMPLOYEES OF THE FDIC.—Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended by adding at the end the following:

"(c) RESTRICTIONS ON REMOVAL OF EMPLOYEES PERFORMING LIQUIDATION FUNCTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Corporation shall not, except as provided in paragraph (2), remove any temporary or permanent employee who has been employed for at least 2 years in a position involving the performance of functions relating to—

"(A) liquidating the assets of any insured depository institution in conservatorship or receivership; or

"(B) paying the insured deposits at any such institution.

"(2) EXCEPTIONS.—The Corporation may remove an employee described in paragraph (1) if—

"(A) the employee's performance has been unacceptable within the meaning of chapter 43 of title 5, United States Code, or the employee has engaged in misconduct within the meaning of chapter 75 of such title, and the Corporation provides the employee with a detailed statement specifying the unacceptable performance or the misconduct that constitutes the grounds for the removal; or

"(B) the removal is necessitated by a reduction in the number of persons employed by the Corporation doing the same or similar work at the office or workplace where the employee is employed.

"(3) GRIEVANCE AND APPEAL RIGHTS.—Notwithstanding any other provision of law, an employee described in paragraph (1) with respect to whom action is taken in violation of this subsection shall be entitled to the same procedures and remedies to which excepted service employees are entitled under chapters 43 and 75 of title 5, United States Code.".

SEC. 235. ASSET MANAGEMENT CONTRACTS.

Any contract entered into between the Resolution Trust Corporation and any person on or after the date of the enactment of this Act, including any renewal of any contract (pursuant to the terms of the contract) which was first entered into before such date, shall contain all terms and conditions which—

(1) establish procedures and standards relating to performance which encourage the prompt disposition of any asset by such person on behalf of the Corporation; and

(2) were being included by such Corporation as of such date of enactment in initial contracts between the Corporation and any person providing for the disposition of assets.

SEC. 236. CRIMINAL HISTORY RECORDS MAINTAINED BY THE FEDERAL BUREAU OF INVESTIGATION.

Section 21A(p) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(p)) is amended by—

(1) redesignating paragraph (9) as paragraph (10); and

(2) by inserting the following new paragraph before paragraph (10), as redesignated:

"(9) FBI TO PROVIDE CRIMINAL HISTORY RECORDS.—

"(A) FITNESS AND INTEGRITY INVESTIGATIONS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, upon the request of the Corporation, the Federal Bureau of Investigation shall provide to the Corporation criminal history record information about any person or entity under investigation by the Corporation for the purpose of determining the fitness and integrity of such person or entity to be a purchaser of assets from the Corporation, contractor of the Corporation, or employee assigned to the Corporation.

"(ii) INFORMATION TO BE INCLUDED IN REQUEST.—Any request for information from the Corporation shall include the name and other descriptive information of the person or entity under investigation.

"(B) CONTENT OF RESPONSE.—In response to any such request of the Corporation, the Federal Bureau of Investigation shall provide to the Corporation, with respect to the person or entity under investigation, criminal history record information available to the Federal Bureau of Investigation, including all information contained in the Interstate Identification Index.

"(C) FEES FOR INFORMATION.—

"(i) REIMBURSEMENT OF BUREAU.—The Corporation shall reimburse the Federal Bureau of Investigation for providing such criminal history record information.

"(ii) LIMITATION ON EXCESSIVE FEES.—Fees paid by the Corporation to the Federal Bureau of Investigation under this paragraph shall not exceed—

"(I) the reasonable cost to the Federal Bureau of Investigation of providing such information; or

"(II) the fees charged by the Bureau to State or local agencies, other than criminal justice agencies, for such information.".

SEC. 237. SUBSTITUTION OF RTC OBLIGATIONS FOR COLLATERAL ON FEDERAL HOME LOAN BANK ADVANCES.

(a) IN GENERAL.—Section 10(d) of the Federal Home Loan Bank Act (12 U.S.C. 1430(d)) is amended by inserting after the 2d sentence the following: "Notwithstanding the preceding sentence, during the 2-year period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, in the case of any member of a Federal home loan bank for which the Resolution Trust Corporation has been appointed conservator or receiver, the bank shall release any security interest held by the bank in, and surrender possession of, any assets of such member which are securing the bank's advances to the member immediately upon the receipt by the bank from the Corporation of, at the bank's option (1) a replacement promissory note of the Corporation in its corporate capacity, in the same amount and with the same terms, conditions and interest rate as the member's outstanding note or obligation for which the Corporation's note is being substituted, or (2) a guarantee by the Resolution Trust Corporation in its corporate capacity, guaranteeing payment as provided in the member's outstanding note or obligation. Notwithstanding section 21A(j)(3), any such note or guarantee of the Resolution Trust Corporation shall not be an obligation which has the full faith and credit of the United States. The Resolution Trust Corporation shall establish a reserve out of the funds available under section 21A in an amount equal to the amount of any such note or guarantee. Such reserve shall be dedicated to repayment of notes and guarantees issued pursuant to this subsection. The Bank may demand payment on any such guarantee only in the event of a material default on the terms of the member's outstanding note or obligation. A Federal home loan bank is authorized to have advances that in lieu of being secured by eligible collateral referred to in subsection (a) are secured pursuant to this subsection. The Bank stock of a member in conservatorship or receivership with outstanding advances shall remain outstanding at the same level that would be required under subsection 6(b) as if the advance were still outstanding to the member.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(13)) is amended by striking "No provision of this subsection" and inserting "Except as provided in section 10(d) of the Federal Home Loan Bank Act, no provision of this subsection".

SEC. 238. SELLER FINANCING.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended in subsection (b), in paragraph (11), by adding the following new subparagraph:

"(C) SELLER FINANCING.—In marketing receivership assets, the Corporation is encouraged to use seller financing in cases where seller financing will maximize the return on such assets and where traditional financing arrangements or offers from buyers have not been forthcoming or acceptable to the Corporation prior to receivership.".

SEC. 239. STANDARD SALES PROCEDURES.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end the following new subparagraph:

"(G) STANDARD SALES PROCEDURES.—

"(i) IN GENERAL.—The Corporation shall, before the end of the 180-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, establish standard contracting procedures for all conservatorship and receivership sales of real estate.

"(ii) OFFERS TO PURCHASE REAL ESTATE.—The Corporation shall include within such procedures a specific policy to facilitate the receipt and processing of offers to purchase real estate marketed by the Corporation.".

SEC. 240. REGULATORY REQUIREMENTS REGARDING CAPITAL AVAILABILITY.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. REGULATORY REQUIREMENTS REGARDING CAPITAL AVAILABILITY.

"(a) IN GENERAL.—The Director of the Office of Thrift Supervision may grant limited and temporary exceptions to the separate capitalization required for certain subsidiaries pursuant to subparagraphs (A) and (D) of section 5(t)(5) of the Home Owners' Loan Act as the Director deems necessary and appropriate, if—

"(1) the Director determines, in writing, that extraordinary circumstances exist or that economic conditions at the national, regional, or local level are such that an insufficient opportunity exists for the association to divest a subsidiary engaged in activities not permissible for a national bank or any investment in or extension of credit to such subsidiary; and

"(2) the Director determines, in writing, that the standards set forth in paragraph (7)(C)(i) are satisfied (and for purposes of such determination, such paragraph shall be applied by substituting 'exception' for 'exemption');

"(b) SCOPE OF EXCEPTION.—Any exception granted under subsection (a) may only apply to the amount of the savings association's investments in or extensions of credit to a subsidiary as of April 12, 1989, and the amounts that have been or will be expended to complete projects or investments that were initiated by such subsidiary before the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.

"(c) DEDUCTIONS FROM CAPITAL.—In granting any exception pursuant to this paragraph, the Director shall require the same percentage deduction from capital for amounts invested and credit extended as of April 12, 1989, and for amounts invested and credit extended after such date.

"(d) LIMITATIONS.—

"(1) MAXIMUM EFFECTIVE PERIOD OF EXCEPTION.—No exception under this subsection shall be effective after July 1, 1995.

"(2) LIMIT ON DEDUCTION OF CAPITAL.—No exception under this subsection may reduce the percentage deduction from capital to a percentage less than that required as of the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 for investments and extensions of credit made prior to April 12, 1989.".

SEC. 241. IMPROVEMENTS TO THE LIST OF LEGAL COUNSEL WHOSE SERVICES ARE AUTHORIZED TO BE RETAINED.

(a) IN GENERAL.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall each establish and maintain procedures governing the use of the list maintained by the respective corporation of legal counsel whose services are authorized to be retained by such corporation.

(b) SPECIFIC PROCEDURES REQUIRED.—The procedures established under subsection (a) shall include the following requirements:

(1) The list of legal counsel referred to in subsection (a) shall be updated on a monthly basis to remove legal counsel whose services are no longer authorized to be retained by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be—

(A) because the counsel represents clients who are suing the corporation;

(B) because of other conflicts of interest involving such counsel;

(C) due to the failure of such counsel to meet reasonable performance standards established by the appropriate corporation for legal counsel retained by the corporation; or

(D) for any other reason as the corporation may determine to be appropriate.

(2) The list shall include information on any area of expertise of any counsel on the list and the billing rates of such counsel.

(3) Any minority- or woman-owned law firm on the list shall be identified as such.

(4) Any error or omission with respect to the list shall be corrected within 2 weeks of the date on which the appropriate corporation first learns of the error or omission, or as promptly as practicable, and reported to the regional offices.

(c) DEFINITIONS.—

(1) LAW FIRM.—For the purposes of this section, the term "law firm"—

(A) means any person who provides legal services for hire; and

(B) includes all partners, associates, employees, branch offices, and affiliates of such a person.

(2) MINORITY-OWNED LAW FIRM.—The term 'minority-owned law firm' means a law firm—

(A) more than 50 percent of the principals or members of, or partners in, are minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(3) WOMEN-OWNED LAW FIRM.—The term 'women-owned law firm' means a law firm—

(A) more than 50 percent of the principals or members of, or partners in, are women; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.

(4) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

SEC. 242. TECHNICAL AND CONFORMING AMENDMENTS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)(10)—

(A) by striking "establish and review the general policy of" and inserting "review overall strategies, policies, and goals established by"; and

"(B) by striking "standards, policies, and procedures necessary to carry out" and inserting "matters as pertain to";

(2) in subsection (b)—

(A) in paragraph (3), by striking "and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m))"; and

(B) in paragraph (12)—

(i) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—The Corporation may establish overall strategies, policies, and goals for its activities and may issue such rules, regulations, standards, policies, principles, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its duties."; and

(ii) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) REVIEW AND PROMULGATION.—Such overall strategies, policies, and goals, and such rules, regulations, standards, policies, principles, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Oversight Board; and

"(ii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.";

(3) in subsection (a)(11), by striking "United States District Court" the 1st place such term appears and inserting "United States district court";

(4) in subsection (b)(12)(E)(iv)(II), by striking "knowledgable" and inserting "knowledgeable";

(5) in subsection (c)(9)(B)(iii), by striking "organizations" and inserting "organization";

(6) in subsection (c)(9)(K), by striking "principle" and inserting "principal";

(7) in subsection (c)(9)(N), by striking "Secretary of the Housing" and inserting "Secretary of Housing";

(8) in subsection (e)(2)(B), by striking "shall"; and

(9) in subsection (p)(5), by striking "Government Corporation" and inserting "Government corporation".

TITLE III—MINORITIES, WOMEN, AND SMALL BUSINESS PROVISIONS

SEC. 301. INCREASED PARTICIPATION OF MINORITIES AND WOMEN IN CONTRACTING PROCESS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (s) (as added by section 225 of this Act) the following new subsection:

"(t) REVIEW AND EVALUATION PROCEDURE FOR CONTRACTS.—

"(1) IN GENERAL.—In the review and evaluation of proposals in accordance with this section and section 1216(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall provide additional incentives to minority- or women-owned businesses by awarding any such business an additional 10 percent of the total technical points and an additional 5 percent of the total cost preference points achievable in the technical and cost rating process applicable with respect to such proposals.

"(2) CERTAIN JOINT VENTURES INCLUDED.—Paragraph (1) shall apply with respect to any proposal submitted by a joint venture in which—

"(A) a minority- or woman-owned business performs at least 25 percent of the duties;

"(B) the minority- or woman-owned business is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture: and

"(C) the minority- or woman-owned business is contractually entitled to compensation that is reasonably proportional to the duties performed by the business.

"(3) AUTHORITY TO ADJUST TECHNICAL AND COST PREFERENCE POINTS.—The Corporation may adjust the technical and cost preference points applicable in evaluating proposals to the extent necessary to ensure the maximum participation level possible for minority- or women-owned businesses.

"(4) DEFINITIONS.—For purposes of this subsection.—

"(A) MINORITY-OWNED BUSINESS.—The term 'minority-owned business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN-OWNED BUSINESS.—The term 'women's business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.".

SEC. 302. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

(a) ACQUISITION OF BRANCH FACILITIES FROM THE RTC.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (t) (as added by section 301 of this title) the following new subsection:

"(u) ACQUISITION OF BRANCH FACILITIES IN MINORITY NEIGHBORHOODS.—

"(1) IN GENERAL.—In the case of any savings association for which the Corporation has been appointed conservator or receiver, the Corporation may make available any branch of such association which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution on the following terms:

"(A) The branch may be made available on a rent-free or reduced-rent lease basis for not less than 5 years.

"(B) Of all expenses incurred in maintaining the operation of the facilities in which such branch is located, the institution shall be liable only for the payment of applicable real property taxes, real property insurance, capital improvements, and utilities.

"(C) The lease may provide an option to purchase the branch during the term of the lease.

"(2) AVAILABILITY TO MINORITY-OWNED ASSOCIATION HAVING THE SAME ETHNIC IDENTIFICATION.—In the case of any savings association which is not a minority-owned institution and for which the Corporation has been appointed conservator or receiver, the Corporation shall, to the maximum extent practicable, make available any branch of such association which is located in any predominantly minority neighborhood to a minority-owned depository institution or minority investors having the same ethnic identification of the community or neighborhood being served by the branch.

"(3) CONSIDERATION OF FINANCIAL CONDITION OF MINORITY OR WOMEN'S DEPOSITORY INSTITUTION.—In determining whether to make available on a rent-free or reduced-rent basis a branch of a savings association to a minority depository institution or to a women's depository institution under this subsection, the Corporation shall consider the financial condition of the minority or women's depository institution.

"(4) ANNUAL REVIEW.—In the event the Corporation makes available to a minority deposi-

tory institution or to a women's depository institution a branch of a savings association under this subsection, the Corporation shall—

"(A) conduct annual reviews of the condition of the minority or women's depository institution to assess the financial health of the institution; and

"(B) adjust the amount of rent, if any, charged to such institution under this subsection to reflect changes, if any, in the financial condition of the minority or women's depository institution that are determined, as a result of such a review, to have occurred.".

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY DEPOSITORY INSTITUTION.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.

"(C) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

(b) COMMUNITY REINVESTMENT CREDIT FOR DEPOSITORY INSTITUTIONS PROVIDING ASSISTANCE.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 808. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

"(a) IN GENERAL.—In the case of any depository institution which donates, sells on favorable terms (as determined by the appropriate Federal financial supervisory agency), or makes available on a rent-free or reduced-rent basis any branch of such institution which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution, the amount of the contribution or the amount of the loss incurred in connection with such activity shall be treated as meeting the credit needs of the institution's community for purposes of this title.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MINORITY DEPOSITORY INSTITUTION.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(2) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(C) a significant percentage of senior management positions of which are held by women.

"(3) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

SEC. 303. ACQUISITION OF FAILING MAJORITY ASSOCIATIONS BY MINORITY INSTITUTIONS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (u) (as added by section 302 of this title) the following new subsection:

"(v) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—

"(1) IN GENERAL.—In addition to the assistance provided pursuant to the minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a), the Corporation may provide assistance for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(2) ADDITIONAL ASSETS.—In connection with the acquisition of any savings association for which the Corporation provides assistance under paragraph (1), the Corporation may transfer assets of other savings associations for which the Corporation has been appointed conservator or receiver.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) ACQUISITION.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act).".

SEC. 304. STATUTORY ESTABLISHMENT OF PROGRAM.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (v) (as added by section 303 of this title) the following new subsection:

"(w) MINORITY INTERIM CAPITAL ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—The minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a) is hereby established by law.

"(2) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—In addition to the assistance provided pursuant to the program established under paragraph (1), the Corporation shall provide assistance under such program for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(3) EXTENSION OF INTERIM FINANCING PERIOD.—The period for repayment of capital assistance provided under the minority interim capital assistance program shall be not less than 2 years.

"(4) INTEREST RATE.—The rate of interest imposed by the Corporation in connection with any interim financing provided under the minority interim capital assistance program may not exceed the average cost of funds to the Corporation as of the time such rate is established.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) ACQUISITION.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act).".

SEC. 305. GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.

Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended to read as follows:

"(14) GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.—The Corporation shall have an annual goal that presents the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts awarded by the Corporation.".

TITLE IV—REAL ESTATE PROVISIONS

SEC. 401. REAL ESTATE AUCTION POLICY.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine the Corporation's policies and procedures with respect to conducting auctions for the disposition of real estate assets and shall to the extent it deems appropriate, consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act, adjust the Corporation's threshold limitations with respect to dollar amounts of assets which may be disposed of through auction on an absolute basis.

(b) REPORT.—The Resolution Trust Corporation shall report to Congress not later than April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 402. OUTREACH PROGRAM FOR STATE AND LOCAL GOVERNMENTS.

(a) OUTREACH PROGRAM ESTABLISHED.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (w) (as added by section 304 of this title) the following new subsection:

"(x) OUTREACH PROGRAM FOR STATE AND LOCAL GOVERNMENTS.—

"(1) ESTABLISHMENT REQUIRED.—The Corporation shall establish and maintain an intergovernmental affairs branch within the office of governmental affairs or any successor to such office.

"(2) DUTIES.—The responsibilities of such branch shall include aggressive outreach to, and liaison with, State and local governments and any associations of State and local governments, as a means of enabling the Corporation to better take into account the concern of such governments and associations about the Corporation's policies and operations.

"(3) PRIMARY GOAL.—The primary goal of the outreach program shall be to inform State and local governments of the availability of real property assets within the jurisdiction of such governments and facilitating efforts by those governments to purchase real estate assets of institutions subject to the Corporation's jurisdiction.

"(4) REGIONAL OFFICE REPRESENTATIVES.—At least 1 representative of the intergovernmental affairs branch shall be employed in each regional office of the Corporation.".

(b) SELLER FINANCING FOR SALES TO STATE AND LOCAL GOVERNMENTS.—Section 21A(b)(12) of the Federal Home Loan Bank Act is amended by redesignating subparagraph (G) as subparagraph (H) and by inserting after subparagraph (F) the following new subparagraph:

"(G) SELLER FINANCING FOR SALES TO STATE AND LOCAL GOVERNMENTS.—

"(i) REVIEW OF SELLER FINANCING PROCEDURES.—Before the end of the 180-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall—

"(I) conduct a review of the Corporation's seller financing procedures; and

"(II) modify such seller financing procedures to ensure that the procedures consider the special needs of States, municipalities, and other political subdivisions in acquiring real property assets of the institutions described in paragraph (3)(A).

"(ii) MINIMUM REQUIREMENTS.—The seller financing procedures referred to in clause (i) shall provide that, to the extent consistent with the Corporation's mandate to maximize the return on the sale of assets, the Corporation will endeavor to arrange appropriate financing to States, municipalities, and other political subdivisions seeking to acquire real property assets of institutions described in paragraph (3)(A).".

SEC. 403. SEPARATE INVENTORY OF PROPERTY WITH SPECIAL SIGNIFICANCE.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended—

(1) in subparagraph (F), by striking the last sentence;

(2) by redesignating subparagraph (H) (as so redesignated by section 402 of this title) as subparagraph (K); and

(3) by inserting after subparagraph (G) (as added by section 402 of this title) the following new subparagraphs:

"(H) REAL PROPERTY INVENTORY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the inventory of real property assets required to be published under subparagraph (F) shall be updated and republished semiannually.

"(ii) INVENTORY OF PROPERTY OF SPECIAL SIGNIFICANCE.—In the case of real property assets of institutions subject to the jurisdiction of the Corporation which is property of special significance, the Corporation shall develop and maintain, in accordance with clause (iii), an inventory of such property separately from the inventory required under subparagraph (F) and shall update and republish such inventory at least once during each calendar quarter.

"(iii) CONSULTATION WITH AGENCIES WITH EXPERTISE.—In developing, maintaining, and updating the inventory of property of special significance, the Corporation shall consult with the United States Fish and Wildlife Service, the National Park Service, the Advisory Council on Historic Preservation, and other appropriate agencies or instrumentalities of the United States.

"(iv) PROPERTY OF SPECIAL SIGNIFICANCE DEFINED.—For purposes of this subparagraph, the term 'property of special significance' means real property with natural, cultural, or scientific values of special significance, including real property which is protected or eligible for protection or special status under any Federal law or Executive order, such as wetlands, floodplains, endangered species habitats, historic sites, archaeological sites, natural landmarks, wilderness areas, wild and scenic rivers, and coastal barriers.

"(I) PROPERTY MAINTENANCE AND MANAGEMENT.—

"(i) IN GENERAL.—The Corporation shall maintain any property identified in the real property inventory maintained by the Corporation under subparagraph (H) as property of special significance in a manner consistent with the preservation of the property's value of special significance.

"(ii) EMPLOYMENT OF QUALIFIED PERSONS.—The Corporation may employ, on a reimbursable basis, the services of any qualified person to provide technical assistance and to maintain and manage property referred to in clause (i) during such period as the property is subject to the jurisdiction or control of the Corporation.

"(iii) NO DUTY TO REHABILITATE PROPERTY.—Clause (i) shall not be construed as requiring the Corporation to rehabilitate, restore, or reclaim any property referred to in such clause with respect to any condition of the property which existed at the time the Corporation acquired jurisdiction of the property.".

SEC. 404. DISPOSITION OF PROPERTY OF SPECIAL SIGNIFICANCE.

(a) IN GENERAL.—Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by inserting after subparagraph (I) (as added by section 403 of this Act) the following new subparagraph:

"(J) LIMITATION ON TRANSFER.—

"(i) NOTICE OF AVAILABILITY.—The Corporation may not sell or otherwise transfer any covered property unless the Corporation causes to be published in the Federal Register a notice of availability of the property for purchase or other transfer that identifies the property and describes the location, characteristics, and size of the property.

"(ii) EXPRESSION OF SERIOUS INTEREST.—During the 90-day period beginning on the date that notice under clause (i) concerning a covered property is first published, any Federal land management agency, governmental agency, or qualified organization may submit to the Corporation a written notice of serious interest for the purchase or other transfer of a particular covered property for which notice has been published. The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(iii) PROHIBITION ON TRANSFER DURING SERIOUS INTEREST NOTIFICATION PERIOD.—During the period under clause (ii), the Corporation may not sell or otherwise transfer any covered property with respect to which a notice of availability has been published under clause (i). After the expiration of such period, the Corporation may sell or otherwise transfer any covered property for which notice under clause (i) has been published if no notice of serious interest under clause (ii) concerning the property has been timely submitted.

"(iv) PROHIBITION ON TRANSFER AFTER NOTIFICATION PERIOD.—Except as provided in clause (v), if a notice of serious interest in a covered property is timely submitted pursuant to clause (ii), the Corporation may not sell or otherwise transfer such covered property during the 90-day period beginning upon the expiration of the period under clause (ii), unless all notices of serious interest submitted pursuant to clause (ii) have been withdrawn.

"(v) REQUIRED TRANSFERS.—During the 90-day period referred to in clause (iv), the Corporation may sell or otherwise transfer a covered property for which any notice of serious interest has been timely submitted pursuant to clause (ii) only—

"(I) pursuant to notice of serious interest submitted by a Federal land management agency, government agency, or qualified organization for use of the covered property primarily for wildlife refuge, sanctuary, open space, historical, cultural, or natural resource conservation purposes; or

"(II) to any other such agency or qualified organization for any such purpose, except that the agency or organization which first submitted such notice of serious interest shall have a right of first refusal with respect to such property if such agency or organization matches any offer received under this subclause by the Corporation.

"(vi) REVERSIONARY INTEREST.—If any covered property sold or otherwise transferred under clause (v) ceases to be used for the purposes described in such clause, all rights, title, and interest in and to the covered property shall revert to the United States.

"(vii) DEFINITIONS.—For purposes of this subparagraph:

"(I) COVERED PROPERTY.—The term 'covered property' means any property to which the Corporation has acquired title in any capacity and that is identified in the inventory of property of special significance published under subparagraph (H)(ii).

"(II) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means any Federal agency that manages land or structures for use primarily for wildlife refuge, sanctuary, open space, historical, cultural, or natural resources conservation purposes.

"(III) GOVERNMENTAL AGENCY.—The term 'governmental agency' means any agency or entity of a State or local government that manages land or structures for use primarily for wildlife refuge, sanctuary, open space, historical, cultural, or natural resources conservation purposes.

"(IV) QUALIFIED ORGANIZATION.—The term 'qualified organization' has the meaning given the term in section 170(h)(3) of the Internal Revenue Code of 1986.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to any covered property held by the Resolution Trust Corporation at any time on or after the date of the enactment of this Act without regard to the date on which the Corporation acquired the property or was appointed as conservator or receiver. This subsection shall not apply to covered property that is subject to a contract to sell or otherwise transfer as of the date of the enactment of this Act.

(c) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—This section shall not take effect until sufficient funds are determined to be available to compensate the RTC for any losses resulting from its implementation.

(2) PUBLIC INDEBTEDNESS.—No funding described in paragraph (1) shall increase the public indebtedness of the United States.

(3) TAXES.—No funding described in paragraph (1) may be provided from increased tax revenues or revenue enhancements in any manner.

SEC. 405. DELEGATIONS OF AUTHORITY FOR THE DISPOSITION OF ASSETS.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine any delegation of authority which the Corporation has made with respect to the disposition of assets and shall further delegate such authority as the Corporation determines to be appropriate and to be consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act and prudent business judgment.

(b) REPORT.—The Resolution Trust Corporation shall report to Congress not later than April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 406. SELLER FINANCING.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine the policies and procedures of the Corporation with respect to seller financing and shall use its best efforts, consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act, to lower the Corporation's threshold limitations with respect to the size of transactions for seller financing.

(b) REPORT.—The Resolution Trust Corporation shall report to Congress not later than April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 407. FDIC PROPERTY DISPOSITION STANDARDS.

(a) IN GENERAL.—Section 11(d)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(13)) is amended by adding at the end the following new subparagraph:

"(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of any insured depository institution for which the Corporation has been appointed conservator or receiver, including any sale or disposition of assets acquired by the Corporation under section 13(d)(1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

(b) CORPORATE CAPACITY.—Section 13(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1823(d)(3)) is amended by adding at the end the following new subparagraph:

"(D) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority described in subparagraph (A) regarding the sale or disposition of assets sold to the Corporation pursuant to paragraph (1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

SEC. 408. RISK-WEIGHTING FOR SINGLE FAMILY HOUSING LOANS.

(a) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(1) IN GENERAL.—To provide consistent regulatory treatment of loans made for the construction of single family housing, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any single family residence construction loan described under paragraph (2) shall be considered as a loan within the 50 percent risk-weighted category.

(2) REQUIREMENTS.—Paragraph (1) shall apply to any construction loan—

(A) made for the construction of a residence consisting of 1 to 4 dwelling units;

(B) under which the lender has acquired from the lender originating the mortgage loan for purchase of the residence, before the making of the construction loan—

(i) documentation demonstrating that the buyer of the residence intends to purchase the residence and has the ability to obtain a mortgage loan sufficient to purchase the residence; and

(ii) any other documentation from the mortgage lender that the appropriate Federal banking agency may consider appropriate to provide assurances of the buyer's intent to purchase the property (including written commitments and letters of intent);

(C) under which the borrower requires the buyer of the residence to make a nonrefundable deposit to the borrower in an amount (as determined by the appropriate Federal banking agency) of not less than 1 percent of the principal amount of mortgage loan obtained by the borrower for purchase of the residence, for use in defraying any costs relating to any cancellation of the purchase contract of the buyer; and

(D) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(b) 100 PERCENT RISK-WEIGHTED CLASSIFICATION.—Not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that—

(1) any single family residence construction loan for a residence for which the purchase contract is canceled shall be considered as a loan within the 100 percent risk-weighted category; and

(2) the lender of any single family residence construction loan shall promptly notify the appropriate Federal banking agency of any such cancellation.

(c) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

SEC. 409. RISK-WEIGHTING FOR MULTIFAMILY HOUSING LOANS.

(a) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(1) IN GENERAL.—To provide consistent regulatory treatment of loans made for the purchase of multifamily rental and homeowner properties, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any multifamily housing loan described under paragraph (2) and any security collateralized by such a loan shall be considered as a loan or security within the 50 percent risk-weighted category.

(2) REQUIREMENTS.—Paragraph (1) shall apply to any loan—

(A) secured by a first lien on a residence consisting of more than 4 dwelling units;

(B) under which—

(i)(I) the rate of interest does not change over the term of the loan, (II) the principal obligation does not exceed 80 percent of the appraised value of the property, and (III) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 120 percent; or

(ii)(I) the rate of interest changes over the term of the loan, (II) the principal obligation does not exceed 75 percent of the appraised value of the property, and (III) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 115 percent;

(C) under which—

(i) amortization of principal and interest occurs over a period of not more than 30 years;

(ii) the minimum maturity for repayment of principal is not less than 7 years; and

(iii) timely payment of all principal and interest, in accordance with the terms of the loan, occurs for a period of not less than 1 year; and

(D) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(b) SALE PURSUANT TO PRO RATA LOSS SHARING ARRANGEMENTS.—Not later than the expiration of the 120-day period beginning on the date of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any loan fully secured by a first lien on a multifamily housing property that is sold subject to a pro rata loss sharing arrangement by an institution subject to the jurisdiction of the agency shall be treated as sold to the extent that loss is incurred by the purchaser of the loan. For purposes of this subsection, the term "pro rata loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on a pro rata basis.

(c) SALE PURSUANT TO OTHER ARRANGEMENTS FOR LOSS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to take into account other loss sharing arrangements, in connection with the sale by an institution subject to the jurisdiction of the agency of any loan that is fully secured by a first lien on multifamily housing property, for purposes of determining the extent to which such loans shall be treated as sold. For purposes of this subsection, the term "other loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis.

(d) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

SEC. 410. REAL ESTATE APPRAISALS.

(a) CERTIFICATION AND LICENSING REQUIREMENTS.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) AUTHORITY OF THE APPRAISAL SUBCOMMITTEE.—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers. Recommendations of the Subcommittee shall be nonbinding on the States.".

(b) USE OF STATE CERTIFIED AND STATE LICENSED APPRAISERS.—

(1) EFFECTIVE DATE FOR USE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking "July 1, 1991" and inserting "December 31, 1992".

(2) EXTENSION OF EFFECTIVE DATE.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the 1st sentence, by striking "leading to inordinate delays" and inserting ", or in any geographical political subdivision of a State, leading to significant delays"; and

(B) in the 2d sentence, by striking "inordinate" and inserting "significant".

SEC. 411. FORECLOSURE POWERS.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(1) in subparagraph (A), by inserting "and subparagraph (C)" after "or subparagraph (B)";

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) FORECLOSURE POWERS.—

"(i) IN GENERAL.—In addition to the powers provided to the Corporation as receiver or conservator under this paragraph, the Corporation, acting as receiver or conservator, shall—

"(I) have the same rights, powers, and obligations as those given to the Department of Hous-

ing and Urban Development under the Multifamily Mortgage Foreclosure Act; and

"(II) may utilize the procedures provided for in such Act, with respect to the foreclosure of mortgages on residential properties, other than 1- to 4-family residential property, and nonresidential properties held by the Corporation as receiver or conservator.

"(ii) AUTHORITY OF THE CEO.—For purposes of exercising the powers of the Corporation under clause (i), the chief executive officer of the Corporation shall be vested with all the rights, powers, and obligations given to the Secretary of Housing and Urban Development.

"(iii) RULE OF CONSTRUCTION.—This subparagraph shall not be construed as granting the Secretary of Housing and Urban Development any rights, powers, or obligations with respect to the disposition of real estate by the Corporation.

"(iv) REGULATIONS.—Before the end of the 180-day period beginning on date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall prescribe regulations providing for the implementation of the powers granted the Corporation under this subparagraph.".

SEC. 412. UTILIZATION OF BROKERS.

Section 21A(b)(11)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(A)) is amended—

(1) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively; and

(2) by inserting after clause (ii), the following new clause:

"(iii) UTILIZATION OF BROKERS AND AGENTS.—

"(I) IN GENERAL.—Before the end of the 180-day period beginning on date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall establish policies and procedures for the utilization of real estate brokers and agents.

"(II) PRIVATE BROKERS AND AGENTS.—The policies and procedures established under subclause (I) shall be designed to include, to the greatest extent practicable, private brokers and agents in the asset disposition activity of the Corporation.".

SEC. 413. EXPEDITED TITLE CLEARANCE PROCEDURES.

Section 21A(b) of the Federal Home Loan Bank Act as amended (12 U.S.C. 1441a(b)) is amended by adding at the end the following new paragraph:

"(15) CONVEYANCE OF TITLE AND RELATED CLAIMS.—

"(A) TITLE PRESUMPTION.—Any purchaser for value of real property from the Corporation acting as receiver for a depository institution shall be conclusively presumed to have acquired free and clear title to the real property described in the document of conveyance, subject only to covenants, conditions, restrictions, encumbrances, easements, rights-of-way and other matters specifically described in the document of conveyance.

"(B) CLAIMS.—Any person having an interest in real property conveyed by the Corporation as receiver in accordance with paragraph (i) shall have a claim against the proceeds derived by the Corporation as receiver from such conveyance for the proportionate value of such interest.

"(C) DETERMINATION OF CLAIMS.—Any claim under subparagraph (B) shall be filed and determined in accordance with section 11(d) of the Federal Deposit Insurance Act and regulations prescribed by the Corporation.

"(D) FILING PERIOD.—Any claim under subparagraph (B) shall be considered timely if filed within 90 days after the date of any conveyance giving rise to the claim.

"(E) NO CLAIM OR REMEDY AGAINST THE CORPORATION.—No provision of this subsection shall be construed as creating any claim or afford any remedy against the Corporation in its corporate capacity.

"(F) REGULATIONS.—Before the end of the 90-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall prescribe regulations regarding conveyancing procedures and forms to be utilized under subparagraph (A), the procedure for giving public notice of the conveyance, and procedures related to claims under subparagraph (B), including procedures for identifying and setting aside proceeds of sale subject to such claims and establishing priorities of such claims.

"(G) NO AFFECT ON PRIOR CLAIMS.—No provision of this subsection shall affect, reduce, or impair any claim which could have been asserted (if timely filed) before any conveyance, or the priority of any such claim as against other claims.".

SEC. 414. CORPORATE POWERS RELATING TO FINANCING.

Section 21A(b)(10)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(E)) is amended by inserting "using any legally available methods, including seller financing, securitizations of assets, negotiated sales, structured financings, partnerships, mortgage investment conduits, and real estate investment trusts," after "real and personal property,".

SEC. 415. MAINTENANCE OF PROPERTIES IN INVENTORY.

Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding after paragraph (17) (as added by section 401 of this Act) the following new paragraph:

"(18) MAINTENANCE OF PROPERTIES IN INVENTORY.—Any occupied residential real property assets of institutions for which the Corporation has been appointed as conservator or receiver shall be subject to any standards for housing quality or maintenance relating to safety, sanitation, or habitability, that are established under State or local law, regulation, or ordinance by the State or unit of general local government in which the property is located.".

SEC. 416. REDUCTION OF MULTIPLE ENTITIES REPRESENTING THE RTC IN CASES OF SINGLE ASSETS.

(a) IN GENERAL.—The Resolution Trust Corporation shall establish and maintain policies and procedures to consolidate representation on behalf of the Corporation in connection with any qualified single-asset transaction in as few entities as is consistent with minimizing operating costs of the Corporation (including administrative expenses of conservatorships and receiverships) and expediting the resolution of disputes regarding the sale of the Corporation's assets.

(b) QUALIFIED SINGLE-ASSET TRANSACTION DEFINED.—For purposes of subsection (a), the term "qualified single-asset transaction" means any litigation, negotiation, sale, or other transaction involving a single asset in which the Resolution Trust Corporation has acquired interests through more than 1 depository institution for which the Corporation has been appointed conservator or receiver.

TITLE V—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM

SEC. 501. INCLUSION OF ELIGIBLE RESIDENTIAL PROPERTY UNDER CONSERVATORSHIP.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) is amended—

(1) by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) CORPORATION.—The term 'Corporation' means the Resolution Trust Corporation.

"(D) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—

"(i) BASIC DEFINITION.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title either in its corporate capacity or as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under receivership, which subsidiary has as its principal business the ownership of real property), but not in its capacity as conservator; and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(ii) EXPANDED DEFINITION.—Notwithstanding clause (i), effective upon a determination by the Oversight Board that sufficient amounts are available (subject to clause (iii)) to compensate the Corporation for any losses resulting from this clause taking effect, the term 'eligible multifamily housing property' shall mean a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(iii) LIMITATIONS.—No amount shall be considered as available for purposes of clause (ii) if such availability would result in an increase in the public indebtedness of the United States. No amount shall be considered as available for purposes of clause (ii) if the amount is provided from increased tax revenues or revenue enhancements in any manner."; and

(2) by striking subparagraph (F) and inserting the following new subparagraph:

"(F) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).".

SEC. 502. TIME LIMITATIONS ON SALE OF ELIGIBLE SINGLE FAMILY PROPERTY.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)), as amended by Public Law 102-139, is amended by striking "3-month and one week period" each place it occurs and inserting "180-day period".

SEC. 503. ACTIVE MARKETING OF ELIGIBLE SINGLE FAMILY PROPERTY TO LOWER-INCOME VETERANS.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)) is amended—

(1) in clause (i) of the first sentence, by inserting "(including qualifying households with members who are veterans)" after "households";

(2) in subclause (I) of clause (ii) of the first sentence, by inserting "(including lower-income

families with members who are veterans)" after "lower-income families"; and

(3) in the fourth sentence, by inserting "and to lower-income families with members who are veterans" before the period.

SEC. 504. PREVENTION OF SPECULATION ON ELIGIBLE SINGLE FAMILY PROPERTY.

(a) Residency Requirements.—

(1) Qualifying households.—Section 21A(c)(9)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(K)) is amended by striking "and (ii) whose adjusted income" and inserting the following: "(ii) who agrees to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); (iii) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); and (iv) whose income".

(2) Lower-income families.—The first sentence of section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by striking "by such families." and inserting the following: "by any such family who, except as provided in subparagraph (D), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months.".

(b) Recapture of Profits from Resale.—Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding at the end the following new subparagraphs:

"(C) Recapture of profits from resale.—Except as provided in subparagraph (D), if any eligible single family property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (B)(ii)(II), paragraph (12)(C)(i), or paragraph (13)(B), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or lower-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(D) Exceptions to recapture requirement.—

"(i) Relocation.—The Corporation (or its successor) may in its discretion waive the applicability (I) to any qualifying household of the requirement under subparagraph (C) and the requirements relating to residency of a qualifying household under paragraphs (9)(L) (ii) and (iii), and (II) to any lower-income family of the requirement under subparagraph (C) and the residency requirements under subparagraph (B)(ii)(II). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(ii) Other recapture provisions.—The requirement under subparagraph (C) shall not apply to any eligible single family property for which, upon resale by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.".

SEC. 505. AVOIDANCE OF DISPLACEMENT UNDER SINGLE FAMILY PROPERTY DISPOSITION PROGRAM.

Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding after subparagraph (D) (as added by section 504(b) of this Act) the following new subparagraph:

"(E) Exception to avoid displacement of existing residents.—Notwithstanding the first sentence of subparagraph (B), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (i) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under subparagraph (A), (ii) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (iii) the resident household intends to occupy the property as a principal residence for at least 12 months, and (iv) and the resident household certifies in writing that the household intends to occupy the property for at least 12 months.".

SEC. 506. PERIODS FOR EXPRESSION OF SERIOUS INTEREST AND RESTRICTED BIDS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) in the first sentence of subparagraph (B), by striking the first comma and all that follows through "first";

(2) in subparagraph (C), by striking "determining that a property is ready for sale" and inserting the following: "the expiration of the period referred to in subparagraph (B) for a property,"; and

(3) in subparagraph (D), by inserting after the period at the end the following new sentence: "If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.".

SEC. 507. LOWER-INCOME OCCUPANCY REQUIREMENTS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) is amended to read as follows:

"(E) Lower-income occupancy requirements.—

"(i) Single property purchases.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under subparagraph (D)—

"(I) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

"(II) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located.

"(ii) Aggregation requirements for multiproperty purchases.—With respect to any purchase under subparagraph (D) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation, with respect to which the purchaser intends to aggregate the lower-income occupancy required under this subparagraph over the total number of units so purchased—

"(I) not less than 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

"(II) not less than 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and further provided that

"(III) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located.

The requirements of this subparagraph shall be contained in the deed or other recorded instrument.".

SEC. 508. EXTENSION OF RESTRICTED OFFER PERIOD FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) by redesignating subparagraph (G) as subparagraph (H); and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G) Extension of restricted offer periods.—Notwithstanding subparagraph (F), the Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of subparagraphs (A) through (D), any eligible multifamily housing property—

"(i) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in subparagraph (B), or

"(ii) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in subparagraph (D),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in subparagraphs (B) and (D) in offering any property for sale under this subparagraph.".

SEC. 509. SALE PRICE.

Section 21A(c)(6)(A)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(i)) is amended to read as follows:

"(i) Sale price.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value. The Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraph (3). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.".

SEC. 510. AUTHORITY FOR RTC TO PARTICIPATE IN MULTIFAMILY FINANCING POOLS.

Section 21A(c)(6)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(ii)) is amended by adding at the end the following new sentence: "In providing financing for combinations of eligible multifamily housing properties under this subsection, the Corporation *may hold a participating share, including a subordinate participation.".*

SEC. 511. CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.

Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(1) by striking "(B) CREDIT ENHANCEMENT.—With respect to" and inserting the following:

"(B) CREDIT ENHANCEMENT.—

"(i) IN GENERAL.—With respect to"; and

(2) by adding at the end the following new clause:

"(ii) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).".

SEC. 512. PERMANENT EFFECTIVENESS OF EXEMPTION FOR TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.

Notwithstanding section 203 of the Resolution Trust Corporation Funding Act of 1991, the amendment made by section 201(b) of such Act shall apply on and after the date of the enactment of this Act.

SEC. 513. TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

"(12) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.—Notwithstanding paragraphs (2), (3), (5), and (6), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this paragraph may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

"(A) INDIVIDUAL OR BULK TRANSFER.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

"(B) ACQUISITION PRICE AND DISCOUNT.—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this paragraph shall be an amount agreed to by the Corporation and the transferee agency.

"(C) LOWER-INCOME USE.—Any State housing finance agency or State or local housing agency acquiring properties under this paragraph shall offer to sell or transfer the properties only as follows:

"(i) ELIGIBLE SINGLE FAMILY PROPERTIES.—For eligible single family properties—

"(I) to purchasers described under clauses (i) and (ii) of paragraph (2)(B);

"(II) if the purchaser is a purchaser described under paragraph (2)(B)(ii)(I), subject to the rent limitations under paragraph (4)(A);

"(III) subject to the requirement in the second sentence of paragraph (2)(B); and

"(IV) subject to recapture by the Corporation of excess proceeds from resale of the properties under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—For eligible multifamily housing properties—

"(I) to qualifying multifamily purchasers;

"(II) subject to the lower-income occupancy requirements under paragraph (3)(E);

"(III) subject to the provisions of paragraph (3)(H);

"(IV) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term; and

"(V) subject to the rent limitations under paragraph (4)(A).

"(D) AFFORDABILITY.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this paragraph more affordable to lower-income families based upon the extent to which the acquisition price of a property under subparagraph (B) is less than the market value of the property.".

SEC. 514. SUSPENSION OF OFFER PERIODS FOR SALES OF ELIGIBLE RESIDENTIAL PROPERTY TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (12) (as added by section 513 of this Act) the following new paragraph:

"(13) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(A) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of subparagraphs (A) and (B) of paragraph (2) and subparagraphs (A) through (D) of paragraph (3), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such paragraphs shall toll for the duration of any suspension under this subparagraph.

"(B) USE RESTRICTIONS.—

"(i) ELIGIBLE SINGLE FAMILY PROPERTY.—Any eligible single family property sold under this paragraph shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or made available for purchase by such families, (II) subject to the rent limitations under paragraph (4)(A), (III) subject to the requirements relating to residency of a qualifying household under paragraph (9)(L) and to residency of a lower-income family under paragraph (2)(B)(ii), and (IV) subject to recapture by the Corporation of excess proceeds from resale of the property under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Any eligible multifamily housing property sold under this paragraph shall comply with the lower-income occupancy requirements under paragraph (3)(E) and shall be subject to the rent limitations under paragraph (4)(A).".

SEC. 515. SALE OF ELIGIBLE CONDOMINIUM PROPERTY.

(a) IN GENERAL.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (13) (as added by section 514 of this Act) the following new paragraph:

"(14) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in clauses (i) through (iv) of subparagraph (B). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(B) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(i) Qualifying households.

"(ii) Nonprofit organizations.

"(iii) Public agencies.

"(iv) For-profit entities.

"(C) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of the property, or (II) make the property available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(ii) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under clause (i) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or (II) made available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(iii) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in subparagraph (B), no purchaser described in clauses (i) through (iv) of subparagraph (B) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(D) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (E), if any eligible condominium property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (C)(i)(II) or (C)(ii)(II), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(E) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any

qualifying household or lower-income family of the requirement under subparagraph (D) and the requirements relating to residency of a qualifying household or lower-income family (under paragraph (9)(L) and subparagraph (C) of this paragraph, respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(F) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

"(G) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.".

(b) CONFORMING AMENDMENT.—Section 21A(c)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(11)(B)) is amended by striking "specified under paragraphs (2) and (3)" and inserting "applicable under paragraphs (2), (3), (12)(C), (13)(B), and (14)(C)".

SEC. 516. REPORTS TO CONGRESS REGARDING AFFORDABLE HOUSING PROGRAM.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (14) (as added by section 515 of this Act) the following new paragraph:

"(15) REPORTS TO CONGRESS.—

"(A) IN GENERAL.—The Corporation shall submit to the Congress semiannual reports under this paragraph regarding the disposition of eligible residential properties under this subsection during the most recently concluded reporting period. The first report under this paragraph shall be submitted not later than the expiration of the 4-month period beginning upon the conclusion of the first reporting period under subparagraph (B). Subsequent reports shall be submitted not less than every 6 months after such expiration.

"(B) REPORTING PERIODS.—For purposes of this paragraph, the term 'reporting period' means the 6-month period for which a report under this paragraph is made, except that the first reporting period shall be the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. Each successive reporting period shall begin upon the conclusion of the preceding reporting period.

"(C) INFORMATION REGARDING PROPERTIES SOLD.—Each report under this paragraph shall contain information regarding each eligible residential property sold by the Corporation during the applicable reporting period, as follows:

"(i) A description of the property, the location of the property, and the number of dwelling units in the property.

"(ii) The appraised value of the property.

"(iii) The sale price of the property.

"(iv) For eligible single family properties—

"(I) the income and race of the purchaser of the property, if the property is sold to an occupying household or is sold for resale to an occupying household; and

"(II) whether the property is reserved for residency by very low- or lower-income families, if the property is sold for use as rental property.

"(v) For eligible multifamily housing properties, the number and percentage of dwelling units in the property reserved for occupancy by very low- and lower-income families.

"(vi) The number of eligible single family properties sold after the expiration of the offer period for such properties referred to in paragraph (2)(B).

"(vii) The number of eligible multifamily housing properties sold after the expiration of the periods for such properties referred to in subparagraphs (B) and (D) of paragraph (3).

"(D) NUMBER OF PROPERTIES WITHIN WINDOWS.—Each report under this paragraph shall contain the following information:

"(i) The number of eligible single family properties for which the offer period referred to in paragraph (2)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).

"(ii) The number of eligible multifamily housing properties for which the 90-day period referred to in paragraph (3)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).".

SEC. 517. DEFINITIONS.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)), as amended by sections 501 and 504(a)(1) of this Act, is further amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) ADJUSTED INCOME AND INCOME.—The terms 'adjusted income' and 'income' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.";

(2) by redesignating subparagraphs (D) through (P) as subparagraphs (E) through (Q), respectively; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(i) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).".

SEC. 518. APPLICABILITY.

The amendments made by this title shall not apply to any eligible residential property or eligible condominium property of the Resolution Trust Corporation, that is subject to an agreement for sale entered into by the Corporation before the date of the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. GONZALEZ], will be recognized for 15 minutes, and the gentleman from Ohio [Mr. WYLIE], the Member opposed, will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

It is absolutely essential that the Congress provide further funding to the Resolution Trust Corporation. Unpleasant, distasteful as this may be, it is an inescapable responsibility.

Congress has insured deposits in the Nation's banks and savings and loan associations—we stand behind those deposits. Since our laws have made the commitment, we must honor it.

The Resolution Trust Corporation is necessary because the savings and loan insurance fund went broke. So what I bring to you is a report on the RTC bill reported by the Banking Committee and an urgent plea that you join in providing adequate financing not only for the bank insurance fund when it is considered later today, but that you join in providing the money needed to close out the business of the Resolution Trust Corporation.

The RTC has only one job—to pay off the insured deposits in failed savings and loan associations. In the process of doing that, it must incur losses because the assets of those institutions are not worth enough to cover the cost of the insured liabilities—the deposits. The cost of this operation has been greater than anyone expected, in large part because the economy has performed worse than expected. The poor economy has caused more institutions to fail, and it has also caused the value of the assets held by RTC to be lower than expected—meaning that there are more cases to handle, and that each one costs more than expected.

RTC has accomplished a great deal—it has resolved 587 dead thrifts and paid off almost 19 million accounts in 45 States.

What is left to be done? There are about 85 institutions in conservatorship now, and there are about 220 more that are likely to fail. These institutions have about $200 billion worth of assets. If losses in those institutions run to 40 percent of assets, we can expect RTC to spend about $80 billion to wind up its affairs. If losses are at a lower rate or there are fewer failures the need would be less. But one thing is certain: the job has to be done, and if we delay it will cost more. The final cost may be $65 billion, it may be $80 billion—but whatever the loss is, it must be covered, if we are going to keep faith with the insured depositors. The RTC is unpopular, its job is unpleasant, but it fulfills the Federal commitment to protect depositors. In short, like the mortician, it performs a necessary and unavoidable service. Once this job is done, the savings and loan insurance fund should again become self-sustaining, as it was for decades before the disaster of the eighties.

I would like now to report to you the action of the Banking Committee on

H.R. 3535, the RTC funding and reform bill.

Your committee reported this bill on a vote of 27 ayes and 25 nays. During the markup we considered 70 amendments, many of them difficult, and some of them very controversial.

The greatest controversy is of course about funding.

We considered one suggestion, a permanent, indefinite appropriation—a blank check to get the job done. This was rejected with only 7 votes in favor.

We considered another proposal, $80 billion—the sum estimated as necessary to finish the job outright, and that got only 17 aye votes.

As reported, the bill authorizes $20 billion. After that amount is consumed, any additional authorization would require that the President and the joint congressional leadership submit a pay as you go plan. However, as amended by Mr. WYLIE, that pay as you go plan could not include any taxes or revenue enhancements of any kind—it would all have to come from a spending reduction plan. This plan in turn would be predicated on an ability to pay basis.

In short, no funding option is easy. But the responsibility of adopting a bill that provides all that is required, is inescapable. We cannot leave without acting favorably.

In addition to funding, this bill contains provisions to make the operations of RTC more efficient, more accountable and more flexible. It greatly improves the operation of the RTC's affordable housing program. It improves other property disposition programs by encouraging greater flexibility in financing, for example. But the issue at hand is this: Do we want to finish the job? Will we provide the money to protect the depositors in those 300 or so institutions that have failed or soon will fail? That is the heart of the issue.

Let me reiterate this one thing: The money expended in this program is for the protection of innocent depositors. It does not help anyone else. If we fail to provide this funding, we will put in question the integrity of deposit insurance guarantees—and those guarantees are vital in today's very shaky economy. The truth is, if we don't protect those deposits, we will worsen the credit crunch, we will make things worse, and we will have reneged on the Federal guarantee.

It is not easy to honor this commitment—the vote in your committee demonstrates that. But honor it we must.

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Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. KENNEDY], a very active and very perminent member of the committee.

Mr. KENNEDY. Mr. Chairman, I rise in support of the committee bill, and in opposition to the Barnard substitute. The Barnard substitute fails to offer any real reform of the way in which this bailout is currently paid. And real reform is what the American people are screaming for.

As everyone knows, the bailout is currently funded entirely by deficit financing. This borrow and spend scheme roughly triples the cost of the bailout in interest. It adds hundreds of billions of dollars to the national debt. Worst of all, it sends the bill for this debacle to working families, their children, and even their grandchildren. They'll be paying for this mess for the next 30 years. That's why they're so upset: they are getting stuck with a tab for a party to which they were never even invited.

The Barnard substitute just continues this unfair, costly, borrow and spend policy. By contrast, the committee bill contains real reform. It would cut funding for the bailout from $80 billion to $20 billion, and require the President to fund all remaining losses on a pay-as-you-go basis. Right now there is an outrageous double standard at work in the way we pay for Government programs. We can't come up with even a few million dollars around here for food aid or housing or school loans without having to find offsetting revenues. Yet, the President and others have no trouble adding hundreds of billions of dollars to the country's debt to bail out failed thrifts. If pay-as-you-go is good enough for housing, for health care, for food stamps, and for education, then it should be good enough for the S&L bailout.

Now, I am well aware that the committee bill contains a Republican-sponsored measure that would prohibit any tax increases to fund thrift losses. Many of my Democratic colleagues say that this amendment confirms their worst fears about a pay-as-you-go bailout: that it will take funds from vital social programs. Let me just make a couple of points in response. First, I share their concerns. I don't think I take a back seat to anyone in this body when it comes to supporting social programs. That's why I suggested that the Rules Committee allow an amendment to permit us to tax the wealthiest 5 percent of the population to help pay for this problem. After all, the wealthy are the ones who most benefited from the thrift crisis, and they are best able to pay for it now. Beyond that, though, the money does not have to come out of social programs. It can come out of defense. And it can come out of the sale of the RTC's sale of its assets. Right now, the RTC is sitting on over $150 billion in assets. A lot of these assets could pay for losses.

The bottom line is that we who support social programs have got to realize that, by heaping this problem into the deficit, we are just hurting the programs we are trying to protect. Interest on our national debt will top $230 billion next year—more than all discretionary social spending combined. If we want to have money in the future to pay for social programs, we have go to stop this mindless deficit spending for unpopular programs.

In sum, the committee bill will end the morally indefensible and economically senseless way in which we currently pay for this bailout. It will require some tough choices, that's for sure. But we were not elected to make easy ones. I urge its adoption, and the defeat of the Barnard substitute.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose the substitute that is before us now because of the Kennedy proposal that is contained in it. It was referred to as pay-go. What it does is simply require that the President would have to submit a plan to Congress to pay for these funds over the next 5 years without increasing the deficit.

During the course of the consideration of this bill in the committee, I offered an amendment that said that the President could not offer in his proposal to pay for it with a tax increase. That amendment was adopted.

Now we are looking at what has commonly been referred to as cut-go. In other words, in order to pay for the $60 billion, other programs would have to be cut, but the President would have to come up with a recommendation as to how those other programs could be cut.

Now, this is in violation of the budget summit agreement which was entered into last year, which said that these funds would not go to reduce other programs.

Mr. Chairman, the words "bailout" were used several times by the gentleman from Massachusetts [Mr. KENNEDY]. I submit that that is a misnomer. Nobody is being bailed out. The people who are being paid or are receiving these moneys are the depositors in these failed institutions.

The U.S. Government has a clear obligation. We have said that we stand behind those deposits with the full faith and credit of the U.S. Government. What this money goes for then is to pay them off. But in order to pay them off, we have to have the money in the Resolution Trust Corporation fund. Right now that fund is broke. The Resolution Trust Corporation estimates that there is something like $4 million a day being lost to the taxpayer because they do not have the funds to close these institutions timely.

Mr. Chairman, the Kennedy amendment, as I suggest, would give the Resolution Trust Corporation $20 billion. Then before they could get any more money, this so-called pay-go provision would have to be eliminated.

Mr. Chairman, the committee bill is pretty good otherwise. I prefer the Barnard-Wylie substitute because it deletes the pay-go provision and deletes the provision which I had offered as an amendment which would say that none of these could be used from taxpayer money.

Mr. Chairman, I support that concept, that no new taxes should go to pay for these programs. On the other hand, we do need to get the money before us now, and we are not going to do it if this provision, the Kennedy pay-go provision, is in it.

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, the bill reported from the House Banking Committee, which is now being offered as an amendment to the bill before us, itself includes an amendment offered in committee by the gentleman from Florida, Mr. MCCOLLUM, that is designed to enhance the viability and lending capacity of certain thrift institutions. The McCollum amendment permits the Office of Thrift Supervision to grant exceptions from currently applicable capital requirements to institutions that own subsidiaries engaged in activities that are not permissible for national banks. Specifically, the provision authorizes exceptions from a schedule provided in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] phasing out the degree to which a thrift institution's interest in any such subsidiary may count toward the computation of the thrift's capital. These subsidiaries often hold investments defined by the Office of Thrift Supervision as equity investments, which include a wide variety of investments in real estate. Under the McCollum provision, thrifts with subsidiaries that hold such investments can receive exceptions if the strict criteria specified in the provision are met.

The case for the McCollum provision is a strong one. When Congress enacted the phaseout schedule of FIRREA, it assumed that thrifts with subsidiaries covered by the schedule would divest themselves of the subsidiaries or their nonconforming investments as the schedule increasingly reduced the regulatory capital position of the institution. It did not assume, however, that the weakness of the market for those subsidiaries and investments would make divestiture a practical impossibility for most thrifts. In light of the current market conditions, the House Banking Committee agreed with Congressman MCCOLLUM that some relief from the FIRREA schedule should be authorized on a case-by-case basis. The Office of Thrift Supervision, which would administer the exceptions provided by the amendment, also supported the provision and is a strong proponent of its enactment.

It is important to note, however, that the rationale for the amendment applies equally to a situation that differs marginally from the specific fact situation covered by the amendment. Some thrift institutions now own equity investments not indirectly through a subsidiary but rather directly through the parent itself. The Office of Thrift Supervision's regulations provide for capital treatment for such investments that closely parallels the treatment provided to thrifts with subsidiaries engaged in such investments. A thrift with equity investments must phase out the degree to which such investments may count toward meeting the institution's risk based capital requirement. The phaseout schedule is exactly the same as that provided by FIRREA for thrifts with subsidiaries that hold such investments. As with the subsidiaries, the schedule was constructed based on the assumption that the investments would be divested. As with the subsidiaries, it has now become apparent that the market for the investments is so weak as to preclude divestiture in most cases.

It follows that while the language of the McCollum provision does not specifically cover thrift institutions holding equity investments other than through a subsidiary, the policy of the provision is directly applicable to such institutions. If the provision is enacted, therefore, the Office of Thrift Supervision should revise its regulations as they relate not only to the subsidiaries specifically referred to in the provision but also to institutions that own equity investments directly. Any other course would create an imbalance in the capital regulatory system that cannot be supported by any legitimate public policy consideration.

□ 1330

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BROOKS], distinguished chairman of the Committee on the Judiciary and my distinguished fellow Texan and dean of the Texas delegation.

Mr BROOKS. Mr. Chairman, I have a question really.

Section 1133 of S. 543 which was accepted by the conferees on the banking bill is a pending antitrust issue that should rightfully be determined in the courts. Since the matter involves litigation between Sears and VISA, Congress should let the matter be determined by the tenth circuit. I would like to clarify for the record that nothing in the language of section 1133 is intended to interfere with the pending Sears-VISA litigation.

Mr. GONZALEZ. Mr. Chairman, I questioned that last night. Unfortunately, I wish I had had the aid of my chairmen, but I did not. To be specific, the date they have in that amendment, August 9, 1989, is the date of the enactment of FIRREA. FIRREA, which we are enacting now, it certainly was never the intention to retroactively abridge or restrict the legal rights of anybody.

Mr. WYLIE. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise opposed to the substitute. The theme that the Democratic Party has, that the economic growth package is only for the rich, is not true. They have marketed that very well. I will give that to them. But I would ask that we combine both the Democratic and Republican goods and bads and do something. In the desert bill, all the amendments except the Vento-Blaz amendment were bad on the Republican side. In the crime bill, all of the issues were wrong.

In the RTC, we are not allowed to offer any amendments. I just had a call from a boat builder in San Diego about 45 minutes ago. He said he called the gentleman from Illinois [Mr. ROSTENKOWSKI]. He called the gentleman from Missouri [Mr. GEPHARDT], and he has called on every Member he can because he employs 150 blue-collar workers that are going to lose their jobs.

So is it a luxury tax for the rich, or do we cut the tens of thousands of jobs and hurt the blue-collar workers? People change their buying habits. The luxury tax in the package, it takes the luxury tax out of the general fund. It costs more, and it was a mistake.

The Senate just did a straw man and would repeal the luxury tax.

What about the earnings test for the senior citizens? We do not call them senior citizens. They are chronologically gifted.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Chairman, I represent Texas' Third District, Dallas, one of the areas hardest hit by the S&L failures and the RTC. Fifty-five percent of the RTC-controlled property is in Texas, which just happens to be $10.4 billion of real estate. As far as the Texas real estate market is concerned, the RTC is the only show in town. And it's a horror show.

I have, here, a few of the over 3,000 responses to my RTC newsletter poll. It was no surprise that 99 percent of the Dallas-area residents who responded, said they don't want to give the RTC another red cent. Texans are tired of being held hostage by the RTC.

Mr. Speaker, I don't believe Congress realizes just where the taxpayer's money is going. The RTC says it spent the previous $80 billion only to bail out depositors, but that isn't true. Those dollars also go toward operating costs and other expenditures by the RTC.

Right now, the RTC's southwest region alone, is spending $50 million a year in salaries and $1.6 million a year in rent for office space in one of the plushest buildings in Dallas. You'd be hard pressed to find a more blatant abuse of tax dollars.

As a matter of fact, at the rate the RTC is going right now, we really don't know if the additional $80 billion will be enough to clean up the failed S&L's and guarantee the end of the RTC.

The RTC was created to accomplish two things—to salvage failing thrifts and, as quickly as possible, liquidate their assets. We've given the RTC plenty of money to do the first half of its job. But on the asset disposal side, cash offers sit for months at a time while tax dollars go down the drain. As America falters on economic recovery—the RTC is stockpiling its assets and inadvertently controlling entire real estate markets.

With this $80 billion, the RTC is going to shut down S&L's with a vengeance. I just wish they would use the same vengeance to sell off the assets they already control. The assets they stockpile are costing the taxpayers millions in maintenance fees and carrying costs. Mr. Chairman, we're pouring American tax dollars down a black hole. We're never going to get this S&L mess cleaned up, until the RTC understands that it is hamstringing any economic recovery for this Nation.

I can't say this any plainer—Congress must refuse to pay another penny to the RTC until we're given a specific agenda on how they plan to effectively dispose of real estate assets.

As if the incompetency and mismanagement isn't enough, last year, the RTC spent an estimated $300 million—some reports even say $500 million on private lawyers' fees and legal expenses.

Mr. Chairman, the taxpayers are being rolled. Americans don't want, don't need, and certainly don't deserve to have to pony-up another $80 billion for the RTC. I urge my colleagues to reject this bill and send a message to the RTC—This is not a permanent deal. The American taxpayers have had enough.

Mr. ORTON. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Texas. I yield to the gentleman from Utah.

Mr. ORTON. Mr. Chairman, could the gentleman describe for this group what percentage of the RTC assets were within his district and what percentage of the $160 billion of losses attributable to the RTC are found in Dallas? I am astounded that the people of Dallas say no more funding to bail out their real estate market.

Mr. JOHNSON of Texas. Mr. Chairman, they are fed up with it. That is what.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in support of a critical, anticredit crunch provision of H.R. 3435.

For many months, I have been deeply concerned about the credit crunch paralyzing our economy. Many economists and analysts agree that mortgage and construction financing has been largely cut off even for feasible, viable rental property and commercial projects. As one local developer recently told me, "Builders are finding it difficult to finance the construction of new homes, even when they have signed contracts from purchasers."

Mr. Chairman, an economy in trouble cannot recover if the building industry, which employs millions of people and spends billions of dollars on goods and services annually, cannot obtain financing for the construction of even presold homes—the safest investments in the building industry. For this reason, I asked my friend and colleague, Congressman WYLIE, the ranking member of the Banking Committee, to incorporate into H.R. 3435 language which would rationalize the regulatory process as it applies to construction loans on presold homes. As a result, H.R. 3435 stipulates that new construction loans for presold single and multifamily homes will carry a 50 percent, rather than a 100 percent, risk weighting. The banking committee unanimously adopted this proposal, which was already under serious consideration by the Office of Thrift Supervision.

I wish to thank Congressman WYLIE for his generous help in achieving this critical anticredit crunch measure. In addition, I would like to thank Mr. Bill Warfield, formerly of the professional minority staff of the Banking Committee, now with the Appropriations Committee, who provided invaluable assistance in this effort. My appreciation also to Joe Ventrone and Kyle Lundstedt of Congressman WYLIE'S staff for their thorough research and diligent follow-through on this important provision. To Mario Correa and Helen McDonald of my staff, thank you.

I urge my colleagues to take action against this debilitating credit crunch by supporting H.R. 3435.

□ 1340

The CHAIRMAN. The Chair advises at this point in the debate that the gentleman from Ohio [Mr. WYLIE] has 5½ minutes remaining, and the gentleman from Texas [Mr. GONZALEZ] has 3 minutes remaining. The gentleman from Texas [Mr. GONZALEZ] has the right to close.

Mr. WYLIE. Mr. Chairman, I yield myself 1 minute to comment on the statement by the gentlewoman from Maryland [Mrs. MORELLA]. She honed in on a very important provision in this bill, which is in there as a result of an amendment which I offered and it has to do with risk weighting on housing loans for purposes of capital requirements.

This issue came up in the Committee on Rules this morning, and what it does is direct the financial institution regulators to place single-family presold home construction loans in the 50 percent risk-weighted category of minimum capital standards, so they get a double advantage there. They are not rated 100 percent on risk weighting. This is the minimum standard as permitted by the BASL agreement, and for that reason would make the money go further.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding. We have been here for 27 hours. We are tired, and I fear that the significance and impact of what we are doing now is not fully appreciated.

Mr. Chairman, the taxpayers of this country have already been hit up for $80 billion and today we are talking about another $80 billion, and there may be more to come.

Very simply, Mr. Chairman, one, I cannot support legislation which simply dumps this $80 billion payback into the deficit. That is absolutely irresponsible. We must have the courage to go forward on a pay-as-you-go basis.

Secondly, Mr. Chairman, in the last dozen years the wealthiest people in this country have become much wealthier, are paying less in taxes, and the working people have become poorer and are paying more in taxes. The payback must be based on a progressive basis. We cannot ask the middle class and the working class to bail out the S&Ls.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just observe that I was a little bit taken aback by the statements from the gentleman from Texas [Mr. GONZALEZ], who is a very good member of the House Committee on Banking, Finance and Urban Affairs. As was pointed out by the gentleman from Utah [Mr. ORTON], most of the money going to failed thrifts have gone to the State of Texas. I think 80 percent of all the failed S&Ls are in that particular area of the country. I know that he would not want us to leave here today without voting more money to close down some more of those failed thrifts.

My position is a no vote on the substitute, an aye vote on the substitute offered by Mr. BARNARD that has been worked out with Members on the other side of the House here, and the amendment which is before us now is flawed because of the pay-go provision. The Members in the other body would not take this bill if that is contained in it. I urge a no vote now.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I just want to enlighten the Members about Texas. We heard about Dallas from the gentleman from Texas [Mr. JOHNSON].

I want to tell every one of my colleagues and fellow Americans that in San Antonio, my district, the only thing RTC has not gotten yet is the Alamo, and we have drawn the line and we are going to fight to the death.

Mr. WYLIE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. SLATTERY] to close the debate.

Mr. SLATTERY. Mr. Chairman, I rise today in support of the committee bill. I rise in support of the concept of pay as you go. I do so for one simple reason. That is that if we would agree next year to pay for this $60 billion over a 5-year period we would save the taxpayers of this country $100 billion in interest costs over the 30-year payment plan that the administration and probably the majority here today favor.

As far as I am concerned it is a simple concept. We have a moral obligation to pay our bills. This is not a pleasant thing to pay for. It will not be easy to pay for it next year, but it is right that we figure out how to pay for it next year even in an election year.

I know the hour is late and I am going to be very brief and just ask the Members to vote for the concept of pay as you go. We can find $60 billion in cuts in a $1.4 trillion budget over a 5-year period. That is $12 billion a year. That is not unreasonable. With all due respect to the gentleman from Ohio, Mr. WYLIE, it does not violate the budget agreement.

Any suggestion that by reducing the deficit further than the agreement called for last November, somehow we have breached the budget agreement I think is standing logic on its head. I think all of us understand that that agreement certainly was not an end-all in dealing with the deficit problem. This will help us solve that problem by requiring us to come together next year and develop a plan to pay for at least $60 billion of this terrible problem.

I believe so strongly that we have the moral obligation to do this for our kids and grandkids, and to stop handing them all these unpaid bills.

Mr. WYLIE. Mr. Chairman, if the gentleman will yield, I might join the gentleman. He says "we." I think he means we in Congress.

Mr. SLATTERY. Mr. Chairman, reclaiming my time, I would just observe that the President of the United States has told the people of this country that he can solve all these problems without any additional revenue. If he can do that I would like to see his plan. That is what this whole concept envisions. After he would lay his plan on the table the heat would be on us to produce. I think that given his leadership, this body could produce. I urge my colleagues to vote for the committee bill, vote for the concept of pay as you go, and to stop handling all these unpaid bills to our kids and grandkids.

The CHAIRMAN. Under the rule, all time has expired.

The question is on the committee amendment in the nature of a substitute.

The Committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. It is now in order to consider the amendment in the nature of a substitute printed in House Report 102-408.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BARNARD

Mr. BARNARD. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BARNARD: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991".

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended by adding at the end the following new paragraph:

"(3) ADDITIONAL INTERIM FUNDING.—In addition to amounts provided under paragraph (2), the Secretary of the Treasury shall provide to the Corporation such sums as may be necessary not to exceed $25 billion to carry out the purposes of this section until April 1, 1992.".

SEC. 102. APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) is amended to read as follows:

"(B) RECEIVER.—Whenever the Director of the Office of Thrift Supervision appoints a receiver under the provisions of section 5(d)(2)(C) of the Home Owners' Loan Act for the purpose of liquidation or winding up any savings association's affairs—

"(i) before October 1, 1993, the Resolution Trust Corporation shall be appointed;

"(ii) after September 30, 1993, the Resolution Trust Corporation shall be appointed if the Resolution Trust Corporation had been placed in control of the depository institution at any time on or before such date; and

"(iii) after September 30, 1993, the Corporation shall be appointed unless the Resolution Trust Corporation is required to be appointed under clause (ii).".

SEC. 103. EXTENSION OF RESOLUTION TRUST CORPORATION DUTY.

(a) IN GENERAL.—Section 21A(b)(3)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(A)(ii)(II) is amended to read as follows:

"(ii) for which a conservator or receiver is appointed after December 31, 1988, and before October 1, 1993 (including any institution described in paragraph (6)."

(b) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—Section 21A(b)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(6)) is amended to read as follows:

"(6) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—If the Corporation is appointed as conservator or receiver for any insured depository institution described in paragraph (3)(A) before October 1, 1993, and a conservator or receiver is appointed for such institution on or after such date, the Corporation may be appointed as conservator or receiver for such institution on or after October 1, 1993.".

SEC. 104. TERMINATION OF FICO BORROWING AUTHORITY.

Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2)) is amended to read as follows:

"(2) TERMINATION OF BORROWING AUTHORITY.—No obligation of the Financing Corporation shall be issued after the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991.".

SEC. 105 REQUIREMENT TO PAY RTC WORKING CAPITAL DEBT BEFORE TRANSFERRING FUNDS TO REFCORP.

Section 21A(o)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(o)(2)) is amended by inserting after "Thereafter" the following ", if there are no liabilities of the Corporation outstanding,".

SEC. 106. RTC REPORTS ON ASSET SALES, LOANS SECURED BY ASSETS, BUDGETS, AND OTHER MATTERS.

(A) QUARTERLY REPORTS.—Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) is amended to read as follows:

"(7) QUARTERLY REPORTS.—Not later than May 31, August 31, November 30, and the last day of February of each year, the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the following information for the quarter ending on the last day of the month ending before the month in which such report is required to be submitted:

"(A) ASSET SALES.—The report shall contain the following information with respect to assets of institutions described in subsection (b)(3)(A) which were disposed of by the Corporation during the quarter covered by the report:

"(i) The total amount of the actual sales of assets during the quarter.

"(ii) The value of the assets as determined on the basis of the amount at which each such asset was accounted for on the books of the institution.

"(iii) The fair market value of the assets as estimated by the Corporation for purposes of securing amounts borrowed from the Federal Financing Bank by the Corporation.

"(iv) The net recovery on asset sales during the quarter.

"(v) A subtotal of the value of the assets disposed of during the quarter in each of the following categories:

"(I) Cash and securities.

"(II) Mortgage loans for 1- to 4-family dwellings.

"(III) Construction and land loans.

"(IV) Other mortgage loans.

"(V) Consumer loans.

"(VI) Commercial loans.

"(VII) Real estate owned assets.

"(VIII) Other assets.

"(B) AUCTION SALES.—The report shall contain information regarding auction sales of RTC assets, including the following information:

"(i) The date and location of each auction sale during the quarter.

"(ii) The total value of the sales of assets sold during an auction during the quarter.

"(iii) The total value of assets sold at each auction, as determined on the basis of the amount at which each such asset was accounted for on the books of the institution.

"(iv) The total fair market value of assets sold at each auction, as estimated by the Corporation.

"(v) The total actual selling price of assets sold during each auction held during the quarter.

"(vi) The net recovery or loss on assets sold during an auction during the quarter, by category listed in subclauses (I) through (VII) of clause (vii).

"(vii) A subtotal of the value of the assets sold during an auction during the quarter in each of the following categories:

"(I) Cash and securities.

"(II) Mortgage loans for 1- to 4- family dwellings.

"(III) Construction and land loans.

"(IV) Other mortgage loans.

"(V) Consumer loans.

"(VI) Commercial loans.

"(VII) Real estate owned assets.

"(VIII) Other assets.

"(C) FEDERAL FINANCING BANK LOAN STATUS.—The report shall contain the following information with respect to loans from the Federal Financing Bank to the Corporation:

"(i) The total amount of loans outstanding at the beginning of the quarter.

"(ii) The total amount of loans originated during the quarter.

"(iii) The total amount of loans repaid during the quarter.

"(iv) The total amount of loans outstanding at the end of the quarter.

"(D) SELLER FINANCING.—The report shall contain information regarding the Corporation's use of seller financing to encourage the sales of assets during the quarter, including the following:

"(i) A total of the amount of funds used for seller financing purposes during the quarter.

"(ii) The number of applications received by the Corporation which requested seller financing.

"(iii) A breakdown of the type of assets sold, according to the categories listed in subclauses (I) through (VIII) of subparagraph (B)(vii).

"(iv) Projections of the total amount of seller financing which will be needed during the succeeding 2 quarters.".

(b) SEMIANNUAL REPORT ON NATIONAL AND REGIONAL ADVISORY BOARDS.—Section 21A)(k)(4)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a)(k)(4)(B)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting "; and"; and

(3) by inserting after clause (iv) the following new clause:

"(v) descriptions of the operations and activities of the national and regional advisory boards established under subsection (d) and financial statements detailing the expenses of such boards.".

(c) RTC AND OVERSIGHT BOARD BUDGET REPORTS.—Section 21A(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)) is amended by adding at the end the following new paragraph:

"(10) BUDGET REPORTS.—

"(A) IN GENERAL.—Before the end of each calendar quarter, the Oversight Board and the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the complete annual budget, as approved by the Oversight Board.

"(B) ACTIVITIES RELATING TO PHASING OUT RTC OPERATIONS.—Beginning with the report due in the 1st quarter of 1994, the report shall include information on the Corporation's activities to phase down its operations and reduce the number of employees and the amount of office space and other overhead as the Corporation completes its duties under this section and approaches termination.".

"(d) EMPLOYEE REPORTS.—Section 21A(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)) is amended by inserting after paragraph (10) (as added by subsection (c) of this section) the following new paragraph:

"(11) EMPLOYEE REPORTS.—The Corporation shall submit semiannual reports to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the following information:

"(A) The total number of employees of the Oversight Board and the total number of individuals performing services directly on behalf of the Corporation.

"(B) The total number of individuals performing services for the Corporation as an employee of the Federal Deposit Insurance Corporation or any other agency, including the Government Accounting Office and the number from each such agency.

"(C) The total number of individuals employed in each job classification and employment status, including employment on a temporary basis or for an agreed upon period of time.".

"(e) SUPPLEMENTAL UNAUDITED FINANCIAL STATEMENTS.—

"(1) INTERIM FINANCIAL STATEMENTS.—Section 21A(k)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)) is amended by inserting at the end the following new subparagraph:

"(C) SUPPLEMENTAL UNAUDITED FINANCIAL STATEMENTS.—In addition to the annual report required under paragraph (4), the Oversight Board and the Corporation shall submit to the Congress, not later than September 30 of each calendar year, an unaudited financial statement for the 6-month period ending on June 30 of such year.".

"(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to annual reports required to be submitted after the end of the 90-day period beginning of the date of the enactment of this Act.

TITLE II—RESTRUCTURING AND IMPROVEMENT OF THE RESOLUTION TRUST CORPORATION

SEC. 201. STAFF OF THE RESOLUTION TRUST CORPORATION; CHIEF EXECUTIVE OFFICER.

Section 21A(b)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) is amended—

(1) in subparagraph (B), by amending clause (i) to read as follows:

"(i) FDIC.—The Corporation shall use employees (selected by the Corporation) of the Federal Deposit Insurance Corporation and the Federal Deposit Insurance Corporation shall provide such personnel to the Corporation for its use. Notwithstanding the foregoing, the Federal Deposit Insurance Corporation need not provide to the Corporation any employee of the Federal Deposit Insurance Corporation who was employed by the Federal Deposit Insurance Corporation on the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 and who had not theretofore been provided to the Corporation by the Federal Deposit Insurance Corporation. In addition to persons otherwise employed by the Federal Deposit Insurance Corporation, the Federal Deposit Insurance Corporation shall employ, and shall provide to the Corporation, such persons as the Corporation may request from time to time. Federal Deposit Insurance Corporation employees provided to the Corporation shall be subject to the direction and control of the Corporation and any of them may be returned to the Federal Deposit Insurance Corporation at any time by the Corporation in the discretion of the Corporation. The Corporation shall reimburse the Federal Deposit Insurance Corporation for the actual costs incurred in providing such employees. Any permanent employee of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation immediately prior to the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 shall continue to be provided to the Corporation after that date unless the Corporation determines the services of any such employee to be unnecessary, in which case such employee shall be returned to a similar position performing services on behalf of the Federal Deposit Insurance Corporation. In any ensuing reduction-in-force or reorganization within the Federal Deposit Insurance Corporation, any such employee shall compete with the same rights as any other Federal Deposit Insurance Corporation employee. The Corporation may use administrative services of the Federal Deposit Insurance Corporation and, if it does so, shall reimburse the Federal Deposit Insurance Corporation for the actual costs of providing such services. Any employee or officer in the executive service of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation at level E-4 or above immediately prior to the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 shall continue to be assigned to perform substantially similar services on behalf of the Corporation after such date unless the Corporation—

"(I) determines that the services of any such employees are unnecessary, or

"(II) reassigns or substantially alters the responsibilities or duties of any such employees.

If an action described in subclause (I) or (II) occurs, any such employee with at least 20 years of service, as defined by chapter 83 or chapter 84 of title 5, United States Code, shall be entitled to an annuity under section 8336(d) or section 8414(b)(1) of title 5, United States Code, notwithstanding the fact that such employee has not attained the age of 50 years or has declined another position with the Federal Deposit Insurance Corporation, and the annuity of such employee shall not be reduced because of the age of such employee. The Federal Deposit Insurance Corporation shall reimburse the appropriate retirement insurance fund for any increased costs it incurs as a result of the annuities authorized pursuant to this clause."; and

(2) by adding at the end thereof the following new subparagraph:

"(C) CHIEF EXECUTIVE OFFICER.—There is established the office of chief executive officer of the Corporation. The chief executive officer of the Corporation shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.".

SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TREASURY PAYMENTS TO FUND.—Section 11(a)(6)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(E)) is amended—

(1) by striking "1992" and inserting "1993"; and

(2) by striking "1999" and inserting "2000".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 11(a)(6)(J) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(J)) is amended—

(1) by striking "1991" each place it appears and inserting "1992";

(2) by striking "1992" and inserting "1993"; and

(3) by striking "1999" and inserting "2000".

(c) FSLIC RESOLUTION FUND.—Section 11A(a)(2)(B) of the Federal Deposit Insurance

Act (12 U.S.C. 1821a(a)(2)(B)) is amended by striking "1991" and inserting "1992".

(d) SOURCE OF FUNDS.—Section 11A(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(b)(4)) is amended by striking "1991" and inserting "1992".

TITLE III—REFORM OF THE RTC

SEC. 301. SHORT TITLE.

This title may be cited as the "Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991".

SEC. 302. THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; AMENDMENTS TO REFERENCES IN THE FEDERAL HOME LOAN BANK ACT.

(a) REDESIGNATION.—The Oversight Board, as established by section 21A(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(1)), is redesignated the Thrift Depositor Protection Oversight Board.

(b) IN GENERAL.—Except as provided in subsection (c), the Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking "Oversight Board" each place it appears and inserting "Thrift Depositor Protection Oversight Board".

(c) EXCEPTION.—Subsection (b) does not apply to section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)).

SEC. 303. ACCOUNTABILITY OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) is amended—

(1) by striking "be accountable for" and inserting "monitor the operations of"; and

(2) after "(hereinafter referred to in this section as the 'Corporation')," by inserting "and shall be accountable for the duties assigned to the Thrift Depositor Protection Oversight Board by this Act.".

SEC. 304. MEMBERSHIP OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking "5 members" and inserting "7 members";

(B) by striking clause (iii);

(C) redesignating clause (iv) as clause (vi); and

(D) by inserting after clause (ii) the following:

"(iii) the Director of the Office of Thrift Supervision;

"(iv) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

"(v) the chief executive officer of the Corporation; and"; and

(2) in subparagraph (E) by striking "3 members" and inserting "4 members".

SEC. 305. DUTIES AND AUTHORITIES OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) To review overall strategies, policies, and goals established by the Corporation for its activities, which shall include such items as the Thrift Depositor Protection Oversight Board deems likely to have a material effect upon the financial condition of the Corporation, the results of its operations, or its cash flows, and such items as the Thrift Depositor Protection Oversight Board deems to involve substantial issues of public policy. After consultation with the Corporation, the Thrift Depositor Protection Oversight Board may require the modification of any such overall strategies, policies, and goals and their implementation. Overall strategies, policies, and goals shall include such items as—

"(i) overall strategies, policies, and goals for case resolutions, the management and disposition of assets, the use of private contractors;

"(ii) the use of notes, guarantees, or other obligations by the Corporation;

"(iii) financial goals, plans, and budgets; and

"(iv) restructuring agreements described in subsection (b)(10)(B).";

(2) in subparagraph (B), by inserting "financial plans, budgets, and" after "implementation"; and

(3) by amending subparagraph (C) to read as follows:

"(C) To review all rules, regulations, standards, principles, procedures, guidelines, and statements that may be adopted or announced by the Corporation. The provisions of this subparagraph shall not apply to internal administrative policies and procedures (including such matters as personnel practices, divisions and organization of staffing, delegations of authority, and practices respecting day-to-day administration of the Corporation's affairs) and determinations or actions described in paragraph (8) of this subsection.".

Section 305 is amended to add the following at the end of subsection (1) [amending subpart (A)]

". . . provided that if the Thrift Depositor Protection Oversight Board requires the modification of any overall strategies, policies and goals, it shall, within 30 days of the date at which it directs the RTC make such modification, provide the House and Senate Banking Committees with an explanation that identifies which ground justifies the review and giving reasons why the modification is necessary to satisfy these grounds."

SEC. 306. LIMITATION OF AUTHORITY OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)(A)) is amended—

(1) by striking "(i) involving" and inserting "involving (i)"; and

(2) by striking "provide general policies and procedures" and inserting "review overall strategies, policies, and goals established by the Corporation".

SEC. 307. OPEN MEETINGS.

Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended—

(1) by striking "4" and inserting "6"; and

(2) by adding a sentence at the end, to read as follows: "The Thrift Depositor Protection Oversight Board shall maintain a transcript of its open meetings.".

SEC. 308. STRATEGIC PLAN.

Section 21A(a)(14)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(14)(A)) is amended to read as follows:

"(A) IN GENERAL.—The chief executive officer of the Corporation is authorized to implement the strategic plan for conducting the Corporation's functions and activities submitted by the former Oversight Board to the Congress, dated December 31, 1989.".

SEC. 309. MANAGEMENT AND DUTIES OF THE RESOLUTION TRUST CORPORATION.

(a) MANAGEMENT.—Section 21A(b)(1)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)(C)) is amended to read as follows:

"(C) MANAGEMENT BY CHIEF EXECUTIVE OFFICER.—The Corporation shall be managed by or under the direction of its chief executive officer.".

(b) DUTIES.—Section 21A(b)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(B)) is amended to read as follows:

"(B) To develop and establish overall strategies, policies, and goals for the Corporation, subject to review by the Thrift Depositor Protection Oversight Board pursuant to subsection (a)(6)(A) of this section.".

(c) REAL AND PERSONAL PROPERTY.—Section 21A(b)(10(E) is amended by adding after "real and personal property," the following: "using any legally available private sector methods including without limitation, securitization of debt or equity, limited partnerships, mortgage investment conduits, and real estate investment trusts,".

SEC. 310. ABOLITION OF BOARD OF DIRECTORS OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by striking paragraph (8) and redesignating paragraphs (9), (10), (11), (12), (13), and (14) as paragraphs (8), (9), (10), (11), (12), and (13), respectively.

SEC. 311. POWERS OF CHIEF EXECUTIVE OFFICER OF THE RESOLUTION TRUST CORPORATION; CONSULTATION.

Section 21A(b)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)), as redesignated, is amended—

(1) in subparagraph (A), by striking "Unless the Oversight Board exercises its authority under subsection (m) of this section" and inserting "Except for its chief executive officer"; and

(2) by adding, after subparagraph (C), the following new subparagraphs

"(D) POWERS OF THE CHIEF EXECUTIVE OFFICER.—The chief executive officer may exercise all of the powers of the Corporation and act for and on behalf of the Corporation, and may delegate such authority, as deemed appropriate by the chief executive officer, including the power to subdelegate authority, to persons designated by the chief executive officer who are employees of the Federal Deposit Insurance Corporation utilized by the Corporation or who provide services for the Corporation.

SEC. 312. NATIONAL HOUSING ADVISORY BOARD.

Section 21A(d) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) NATIONAL HOUSING ADVISORY BOARD.—

"(A) ESTABLISHMENT.—The Thrift Depositor Protection Oversight Board shall establish a National Housing Advisory Board to advise the Thrift Depositor Protection Oversight Board on policies and programs related to the provision of affordable housing.

"(B) MEMBERSHIP.—The National Housing Advisory Board shall consist of—

"(i) the Secretary of Housing and Urban Development; and

"(ii) the chairpersons of any regional advisory boards established pursuant to paragraph (3).

"(C) MEETINGS.—The National Housing Advisory Board shall meet 4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board.".

SEC. 313. RIGHTS OF EMPLOYEES UPON SUNSET.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) in section 404(9)—

(A) by striking "of such Corporation shall be transferred to" and inserting "of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within"; and

(B) by striking "of this subsection" and inserting "of this section"; and (2) in section 404(2)—

(A) by inserting "grade," after "status, tenure,"; and

(B) by inserting "or, if the employee is a temporary employee, separated in accordance with the terms of the appointment" after "cause".

SEC. 314. TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)—

(A) in paragraph (7), by striking "(b)(12)" and inserting "(b)(11)";

(B) in paragraph (8)—

(i) by striking "(A)"; and

(ii) by striking subparagraph (B); and (C) in paragraph (10)—

(i) by striking "establish and review the general policy of" and inserting "review overall strategies, policies, and goals established by"; and

(ii) by striking "standards, policies, and procedures necessary to carry out" and inserting "matters as pertain to";

(2) in subsection (b)—

(A) in paragraph (3), by striking "and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m)";

(B) in paragraph (9) as redesignated—

(i) by striking subparagraph (B) and redesignating subparagraphs (C) through (N) as subparagraphs (B) through (M), respectively;

(ii) in subparagraph (M), as redesignated, by striking "on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager"; and

(C) in paragraph (11), as redesignated—

(i) by amending subparagraph (A) to read as follows:

"(A) STRATEGIES, POLICIES, AND GOALS.—The Corporation shall adopt the rules, regulations, standards, procedures, guidelines, and statements necessary to implement the strategic plan submitted by the former Oversight Board to Congress dated December 31, 1989. The Corporation may establish overall strategies, policies, and goals for its activities and may issue such rules, regulations, standards, principles, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its duties.";

(ii) by amending subparagraph (B) to read as follows:

"(B) REVIEW, ETC.—Such overall strategies, policies, and goals, and such rules, regulations, standards, principles, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Thrift Depositor Protection Oversight Board promptly or prior to publication or announcement to the extent practicable;

"(ii) shall be subject to the review of the Thrift Depositor Protection Oversight Board as provided in subsection (a)(6)(A) (with respect to overall strategies, policies, and goals); and

"(iii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code."; and

(iii) in subparagraphs (D) and (E), by striking "Board of Directors" each place it appears and inserting "chief executive officer";

(3) by striking subsections (m) and (n) and redesignating subsections (o), (p), (q), and (r) as subsections (m), (n), (o), and (p) respectively;

(4) in subsection (n), as redesignated, in paragraph (5), by striking "Directors, officers," and inserting "Officers"; and

(5) in subsection (o), as redesignated—

(A) in paragraph (1) by striking "director," and

(B) in paragraph (2)—

(i) by striking "—";

(ii) by striking subparagraph (A);

(iii) by striking the designation "(B)"; and

(iv) by striking "on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager".

SEC. 315. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) INSPECTOR GENERAL ACT.—Section 11(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "Oversight Board and the Board of Directors of the Resolution Trust Corporation" and inserting "; the Chairperson of the Thrift Depositor Protection with jurisdiction over the place where the action, suit, or proceeding is pending, to the United States district court for the District of Columbia, or to the United States district court with jurisdiction over the principal place of business of any institution for which the corporation has been appointed conservator or receiver if the action, suit, or proceeding is brought against the institution or the Corporation as conservator or receiver of such institution. The removal of any such suit or proceeding shall be instituted—

"(i) not later than 90 days after the date the Corporation is substituted as a party, or

"(ii) not later than 30 days after service on the Corporation, if the Corporation is named as a party in any capacity and if such suit is filed after August 9, 1989.

"(B) SUBSTITUTION.—The Corporation shall be deemed substituted in any action, suit, or proceeding for a party upon the filing of a copy of the order appointing the Corporation as conservator or receiver for that party of the filing of such other pleading informing the court Oversight Board and the chief executive officer of the Resolution Trust Corporation."

(b) THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.—Section 5313 of title 5, United States Code, is amended by striking "Oversight Board, Resolution Trust Corporation" and inserting "Thrift Depositor Protection Oversight Board".

(c) CHIEF EXECUTIVE OFFICER.—Section 5314 of title 5, United States Code, is amended by adding at the end the following: "chief executive officer, Resolution Trust Corporation.".

(d) RESOLUTION TRUST CORPORATION FUNDING ACT OF 1991.—Section 102(c)(1) of the Resolution Trust Corporation Funding Act of 1991 (12 U.S.C. 1441a note) is amended by striking "Chairman of the Resolution Trust Corporation" and inserting "chief executive officer of the Resolution Trust Corporation".

SEC. 316. REMOVAL AND REMAND.

Section 21A(l)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(l)(3)) is amended to read as follows:

"(3) REMOVAL AND REMAND.—

"(A) IN GENERAL.—The corporation, in any capacity and without bond or security, may remove any action, suit, or proceeding from a State court to the United States district court that the Corporation has been appointed conservator or receiver for such party.

"(C) APPEAL.—The corporation may appeal any order of remand entered by a United States district court."

SEC. 317. SAVINGS PROVISIONS.

(a) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—This title shall not affect the validity of any right, duty, or obligation of the United States, the Corporation, the Oversight Board, or any other person, that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board, with respect to any function of the Oversight Board, shall abate by reason of the enactment of this Act, except that the Thrift Depositor Protection Oversight Board shall continue as party to any such action or proceeding, notwithstanding the change of name of the Oversight Board.

(b) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—All orders, resolutions, determinations, and regulations that—

(1) have been issued, made, prescribed, or allowed to become effective by the Oversight Board (including orders, resolutions, determinations, and regulations which relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions under the Federal Home Loan Bank Act; and

(2) are in effect on the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991,

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations, and shall be enforceable by or against the Thrift Depositor Protection Oversight Board, or the Resolution Trust Corporation, by any court of competent jurisdiction, or by operation of law, notwithstanding the change of name of the Oversight Board.

SEC. 318. EFFECTIVE DATE OF THIS TITLE.

The effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991 shall be February 1, 1992.

TITLE IV—MINORITIES, WOMEN, AND SMALL BUSINESS PROVISIONS

SEC. 401. INCREASED PARTICIPATION OF MINORITIES AND WOMEN IN CONTRACTING PROCESS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection(s) (as added by section 227 of this Act) the following new subsection:

"(t) REVIEW AND EVALUATION PROCEDURE FOR CONTRACTS.—

"(1) IN GENERAL.—In the review and evaluation of proposals, the Corporation shall provide additional incentives to minority- or women-owned businesses by awarding any such business an additional 10 percent of the total technical points and an additional 5 percent of the total cost preference points achievable in the technical and cost rating process applicable with respect to such proposals.

"(2) CERTAIN JOINT VENTURES INCLUDED.—Paragraph (1) shall apply to any proposal submitted by a joint venture in which a minority- or woman-owned business has participation of not less than 25 percent.

"(3) AUTHORITY TO ADJUST TECHNICAL AND COST PREFERENCE POINTS.—The Corporation may adjust the technical and cost preference points applicable in evaluating proposals to the extent necessary to ensure the maximum participation level possible for minority- or woman-owned businesses.

"(4) DEFINITIONS.—For purposes of this subsection.—

"(A) MINORITY-OWNED BUSINESS.—The term 'minority-owned business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) Women-Owned Business.—The term 'women's business' means a business—

"(i) more that 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.".

SEC. 402. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

(a) Acquisition of Branch Facilities From The RTC.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (t) (as added by section 301 of this title) the following new subsection:

"(u) Acquisition Of Branch Facilities In Minority Neighborhoods.—

"(1) In General.—In the case of any savings association for which the Corporation has been appointed conservator or receiver, the Corporation may make available any branch of such association which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution on the following terms:

"(A) The branch may be made available on a rent-free lease basis for not less than 5 years.

"(B) Of all expenses incurred in maintaining the operation of the facilities in which such branch is located, the institution shall be liable only for the payment of applicable real property taxes, real property insurance, and utilities.

"(C) The lease may provide an option to purchase the branch during the term of the lease.

"(2) Definitions.—For purposes of this subsection—

"(A) Minority Depository Institutions.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) Women's Depository Institution.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.

"(C) Minority.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

(b) Community Reinvestment Credit for Depository Institutions Providing Assistance.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 808. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

"(a) In General.—In the case of any depository institution which donates, sells on favorable terms (as determined by the appropriate Federal financial supervisory agency), or makes available on a rent-free basis any branch of such institution which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution, the amount of the contribution or the amount of the loss incurred in connection with such activity shall be treated as meeting the credit needs of the institution's community for purposes of this title.

"(b) Definitions.—For purposes of this section—

"(1) Minority depository institution.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(2) Women's depository institution.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(C) a significant percentage of senior management positions of which are held by women.

"(3) Minority.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

SEC. 403. ACQUISITION OF FAILING MAJORITY ASSOCIATIONS BY MINORITY INSTITUTIONS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (u) (as added by section 302 of this title) the following new subsection:

"(v) Assistance Under Circumstances for Acquisition of Majority-Owned Institutions.—

"(1) In general.—In addition to the assistance provided pursuant to the minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a), the Corporation may provide assistance for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(2) Additional assets.—In connection with the acquisition of any savings association for which the Corporation provides assistance under paragraph (1), the Corporation may transfer assets of other savings associations for which the Corporation has been appointed conservator or receiver.

"(3) Definitions.—For purposes of this subsection—

"(A) Minority.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) Acquisition.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(c)(8) of the Federal Deposit Insurance Act).".

SEC. 404. STATUTORY ESTABLISHMENT OF PROGRAM.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (v) (as added by section 303 of this title) the following new subsection:

"(w) Minority Interim Capital Assistance Program.—

"(1) In general.—The minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a) is hereby established by law.

"(2) Assistance under circumstances for acquisition of majority-owned institutions.—In addition to the assistance provided pursuant to the program established under paragraph (1), the Corporation shall provide assistance under such program for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(3) Extension of interim financing period.—The period for repayment of capital assistance provided under the minority interim capital assistance program shall be not less than 2 years.

"(4) Interest rate.—The rate of interest imposed by the Corporation in connection with any interim financing provided under the minority interim capital assistance program may not exceed the average cost of funds to the Corporation as of the time such rate is established.

"(5) Definitions.—For purposes of this subsection.—

"(A) Minority.—The term 'minority ' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) Acquisition.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(c)(8) of the Federal Deposit Insurance Act).".

SEC. 405. GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.

Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended to read as follows:

"(14) Goal for participation of small business concerns.—The Corporation shall have an annual goal that presents the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts awarded by the Corporation.".

TITLE V—MISCELLANEOUS HOUSING PROVISIONS

SECTION 501.

(a) Credit Enhancement to Provide Housing Opportunities for Low-Income Persons.—

(1) In general.—Section 21A(b)(10)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(K)) is amended to read as follows:

"(K) To make loans and, with respect to eligible residential properties, develop risk sharing structures and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.".

(2) CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.—Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(A) by striking "(B) CREDIT ENHANCEMENT.—With respect to" and inserting the following:

"(B) CREDIT ENHANCEMENT.—

"(i) IN GENERAL.—With respect to"; and

(B) by adding at the end the following new clause:

"(ii) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organization pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).".

TITLE VI—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM

SEC. 601. INCLUSION OF ELIGIBLE RESIDENTIAL PROPERTY UNDER CONSERVATORSHIP.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) is amended—

(1) by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) CORPORATION.—The term 'Corporation' means the Resolution Trust Corporation.

"(D) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—

"(i) BASIC DEFINITION.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title either in its corporate capacity or as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under receivership, which subsidiary has as its principal business the ownership of real property), but not in its capacity as an operating conservator; and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(ii) EXPANDED DEFINITION.—Notwithstanding clause (i), to the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this clause taking effect, the term 'eligible multifamily housing property' shall mean a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas)."; and

(2) by striking subparagraph (F) and inserting the following subparagraph:

"(F) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).".

SEC 602. TIME LIMITATIONS ON SALE OF ELIGIBLE SINGLE FAMILY PROPERTY.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)), as amended by Public Law 102–139, is amended—

(1) in the first sentence, by striking "For" and inserting "Except as provided in the last sentence of this subparagraph, for"; and

(2) by adding at the end the following new sentence: "To the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this sentence taking effect, for purposes of this subsection the period referred to in the first and third sentences shall be considered to be the 180-day period following the date on which the Corporation first makes an eligible single family property available for sale.".

SEC. 603. ACTIVE MARKETING OF ELIGIBLE SINGLE FAMILY PROPERTY TO LOWER-INCOME VETERANS.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)) is amended—

(1) in clause (i) of the first sentence, by inserting "(including qualifying households with members who are veterans)" after "households";

(2) in subclause (I) of clause (ii) of the first sentence, by inserting "(including lower-income families with members who are veterans)" after "lower-income families"; and

(3) in the fourth sentence, by inserting "and to lower-income families with members who are veterans" before the period.

SEC 604. PREVENTION OF SPECULATION ON ELIGIBLE SINGLE FAMILY PROPERTY.

(a) RESIDENCY REQUIREMENTS.—

(1) QUALIFYING HOUSEHOLDS.—Section 21A(c)(9)(K) of the federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(K)) is amended by striking "and (ii) whose adjusted income" and inserting the following: "(ii) who agrees to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); (iii) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); and (iv) whose income".

(2) LOWER-INCOME FAMILIES.—The first sentence of section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by striking "by such families." and inserting the following: "by any such family who, except as provided in subparagraph (D), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months.".

(b) RECAPTURE OF PROFITS FROM RESALE.—Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding at the end the following new subparagraphs:

"(C) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (D), if any eligible single family property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (B)(ii)(II), paragraph (12)(C)(i), or paragraph (13)(B), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or lower-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(D) EXCEPTIONS TO RECAPTURE REQUIREMENT.—

"(i) RELOCATION.—The Corporation (or its successor) may in its discretion waive the applicability (I) to any qualifying household of the requirement under subparagraph (C) and the requirements relating to residency of a qualifying household under paragraphs (9)(L)(ii) and (iii), and (II) to any lower-income family of the requirement under subparagraph (C) and the residency requirements under subparagraph (B)(ii)(II). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(ii) OTHER RECAPTURE PROVISIONS.—The requirement under subparagraph (C) shall not apply to any eligible single family property for which, upon resale by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to by recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.".

SEC. 605. AVOIDANCE OF DISPLACEMENT UNDER SINGLE FAMILY PROPERTY DISPOSITION PROGRAM.

Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding after subparagraph (D) (as added by section 504(b) of this Act) the following new subparagraph:

"(E) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of subparagraph (B), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (i) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under subparagraph (A), (ii) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (iii) the resident household intends to occupy the property as a principal residence for at least 12 months, and (iv) and the resident household certifies in writing that the household intends to occupy the property for at least 12 months.".

SEC. 606. PERIODS FOR EXPRESSION OF SERIOUS INTEREST AND RESTRICTED BIDS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) in the first sentence of subparagraph (B), by striking the first comma and all that follows through "first";

(2) in subparagraph (C), by striking "determining that a property is ready for sale" and inserting the following: "the expiration of the period referred to in subparagraph (B) for a property,"; and

(3) in subparagraph (D), by inserting after the period at the end the following new sentence: "If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.".

SEC 607. LOWER-INCOME OCCUPANCY REQUIREMENTS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) is amended to read as follows:

"(E) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

"(i) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under subparagraph (D)—

"(I) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the property in which the units are located; provided that

"(II) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located.

"(ii) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under subparagraph (D) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation—

"(I) the provisions of clause (i) shall apply in the aggregate to the properties so purchased; except that

"(II) to the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, not less than (a) 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the property in which the units are located, (b) 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located, and (c) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located

The requirements of this subparagraph shall be contained in the deed or other recorded instrument.".

SEC 608. EXTENSION OF RESTRICTED OFFER PERIOD FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) by redesignating subparagraph (G) as subparagraph (H); and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G) EXTENSION OF RESTRICTED OFFER PERIODS.—Notwithstanding subparagraph (F), the Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of subparagraphs (A) and through (D), any eligible multifamily housing property—

"(i) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in subparagraph (B), or

"(ii) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in subparagraph (D).

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in subparagraphs (B) and (D) in offering any property for sale under this subparagraph.".

SEC. 609. SALE PRICE.

Section 21A(c)(6)(A)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(i)) is amended to read as follows:

"(i) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value. The Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraph (3). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.".

SEC. 610. AUTHORITY FOR RTC TO PARTICIPATE IN MULTIFAMILY FINANCING POOLS.

Section 21A(c)(6)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(ii)) is amended by adding at the end the following new sentence: "In providing financing for combinations of eligible multifamily housing properties under this subsection, the Corporation may hold a participating share, including a subordinate participation.".

SEC. 611. CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.

Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(1) by striking "(B) CREDIT ENHANCEMENT.—With respect to" and inserting the following:

"(B) CREDIT ENHANCEMENT.—

"(i) IN GENERAL.—With respect to"; and

(2) by adding at the end the following new clause:

"(ii) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).".

SEC. 612. PERMANENT EFFECTIVENESS OF EXEMPTION FOR TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.

Notwithstanding section 203 of the Resolution Trust Corporation Funding Act of 1991, the amendment made by section 201(b) of such Act shall apply on and after the date of the enactment of this Act.

SEC. 613. TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

"(12) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENTS FOR DISPOSITION.—Notwithstanding paragraphs (2), (3), (5), and (6), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this paragraph may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

"(A) INDIVIDUAL OR BULK TRANSFER.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

"(B) ACQUISITION PRICE AND DISCOUNT.—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this paragraph shall be an amount agreed to by the Corporation and the transferee agency.

"(C) LOWER-INCOME USE.—Any State housing finance agency or State or local housing agency acquiring properties under this paragraph shall offer to sell or transfer the properties only as follows:

"(i) ELIGIBLE SINGLE FAMILY PROPERTIES.—For eligible single family properties—

"(I) to purchasers described under clauses (i) and (ii) of paragraph (2)(B);

"(II) if the purchaser is a purchaser described under paragraph (2)(B)(ii)(I), subject to the rent limitations under paragraph (4)(A);

"(III) subject to the requirement in the second sentence of paragraph (2)(B); and

"(IV) subject to recapture by the Corporation of excess proceeds from resale of the properties under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—For eligible multifamily housing properties—

"(I) to qualifying multifamily purchasers;

"(II) subject to the lower-income occupancy requirements under paragraph (3)(E);

"(III) subject to the provisions of paragraph (3)(H);

"(IV) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term; and

"(V) subject to the rent limitations under paragraph (4)(A).

"(D) AFFORDABILITY.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this paragraph more affordable to lower-income families based upon the extent to which the acquisition price of a property under subparagraph (B) is less than the market value of the property.''.

SEC. 614. SUSPENSION OF OFFER PERIODS FOR SALES OF ELIGIBLE RESIDENTIAL PROPERTY TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (12) (as added by section 513 of this Act) the following new paragraph:

''(13) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

''(A) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of subparagraphs (A) and (B) of paragraph (2) and subparagraphs (A) through (D) of paragraph (3), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such paragraphs shall toll for the duration of any suspension under this subparagraph.

''(B) USE RESTRICTIONS.—

''(i) ELIGIBLE SINGLE FAMILY PROPERTY.—Any eligible single family property sold under this paragraph shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or made available for purchase by such families, (II) subject to the rent limitations under paragraph (4)(A), (III) subject to the requirements relating to residency of a qualifying household under paragraph (9)(L) and to residency of a lower-income family under paragraph (2)(B)(ii), and (IV) subject to recapture by the Corporation of excess proceeds from resale of the property under subparagraphs (C) and (D) of paragraph (2).

''(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Any eligible multifamily housing property sold under this paragraph shall comply with the lower-income occupancy requirements under paragraph (3)(E) and shall be subject to the rent limitations under paragraph (4)(A).''.

SEC. 615. SALE OF ELIGIBLE CONDOMINIUM PROPERTY.

(a) IN GENERAL.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (13) (as added by section 514 of this Act) the following new paragraph:

''(14) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

''(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in clauses (i) through (iv) of subparagraph (B). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

''(B) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

''(i) Qualifying households.

''(ii) Nonprofit organizations.

''(iii) Public agencies.

''(iv) For-profit entities.

''(C) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of the property, or (II) make the property available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

''(ii) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under clause (i) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property or (II) made available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

''(iii) SALE TO OTHER PURCHASERS.—If upon the expiration of the 180-day period referred to in subparagraph (B), no purchaser described in clauses (i) through (iv) of subparagraph (B) has made a bona fide offer to purchase the property the Corporation may offer to sell the property to any other purchaser.

''(D) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (E), if any eligible condominium property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (C)(i)(II) or (C)(ii)(II), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

''(E) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any qualifying household or lower-income family of the requirement under subparagraph (D) and the requirements relating to residency of a qualifying household or lower-income family (under paragraph (9)(L) and subparagraph (C) of this paragraph respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

''(F) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

''(G) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.''.

''(b) CONFORMING AMENDMENT.—Section 21A(c)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(11)(B)) is amended by striking ''specified under paragraphs (2) and (3)'' and inserting ''applicable under paragraphs (2), (3), (12)(C), (13)(B), and (14)(C)''.

SEC. 616. REPORTS TO CONGRESS REGARDING AFFORDABLE HOUSING PROGRAM.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (14) (as added by section 515 of this Act) the following new paragraph:

''(15) REPORTS TO CONGRESS.—

''(A) IN GENERAL.—The Corporation shall submit to the Congress semiannual reports under this paragraph regarding the disposition of eligible residential properties under this subsection during the most recently concluded reporting period. The first report under this paragraph shall be submitted not later than the expiration of the 4-month period beginning upon the conclusion of the first reporting period under subparagraph (B). Subsequent reports shall be submitted not less than every 6 months after such expiration.

''(B) REPORTING PERIODS.—For purposes of this paragraph, the term 'reporting period' means the 6-month period for which a report under this paragraph is made, except that the first reporting period shall be the period begining on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. Each successive reporting period shall begin upon the conclusion of the preceding reporting period.

''(C) INFORMATION REGARDING PROPERTIES SOLD.—Each report under this paragraph shall contain information regarding each eligible residential property sold by the Corporation during the applicable reporting period, as follows:

''(i) A description of the property, the location of the property, and the number of dwelling units in the property.

''(ii) The appraised value of the property.

''(iii) The sale price of the property.

''(iv) For eligible single family properties—

''(I) the income and race of the purchaser of the property, if the property is sold to an occupying household or is sold for resale to an occupying household; and

"(II) whether the property is reserved for residency by very low- or lower-income families, if the property is sold for use as rental property.

"(v) For eligible multifamily housing properties. The number and percentage of dwelling units in the property reserved for occupancy by very low- and lower-income families.

"(vi) The number of eligible single family properties sold after the expiration of the offer period for such properties referred to in paragraph (2)(B).

"(vii) The number of eligible multifamily housing properties sold after the expiration of the periods for such properties referred to in subparagraphs (B) and (D) of paragraph (3).

"(D) NUMBER OF PROPERTIES WITHIN WINDOWS.—Each report under this paragraph shall contain the following information:

"(i) The number of eligible single family properties for which the offer period referred to in paragraph (2)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).

"(ii) The number of eligible multifamily housing properties for which the 90-day period referred to in paragraph (3)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced)."

SEC. 617. DEFINITIONS.

Section 21A(c)(9) for the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)), as amended by sections 501 and 504(a)(1) of this Act, is further amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) ADJUSTED INCOME AND INCOME.—The terms 'adjusted income' and 'income' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.";

(2) by redesignating subparagraphs (D) through (P) as subparagraphs (E) through (Q), respectively; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(i) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).".

SEC. 618. RISK-WEIGHTING OF HOUSING LOANS FOR PURPOSES OF CAPITAL REQUIREMENTS.

(a) SINGLE FAMILY HOUSING LOANS.—

(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(A) IN GENERAL.—To provide consistent regulatory treatment of loans made for the construction of single family housing, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any single family residence construction loan described under subparagraph (B) shall be considered as a loan within the 50 percent risk-weighted category.

(B) REQUIREMENTS.—Subparagraph (A) shall apply to any construction loan—

(i) made for the construction of a residence consisting of 1 to 4 dwelling units;

(ii) under which the lender has acquired from the lender originating the mortgage loan for purchase of the residence, before the making of the construction loan—

(I) documentation demonstrating that the buyer of the residence intends to purchase the residence and has the ability to obtain a mortgage loan sufficient to purchase the residence; and

(II) any other documentation from the mortgage lender that the appropriate Federal banking agency may consider appropriate to provide assurances of the buyer's intent to purchase the property (including written commitments and letters of intent);

(iii) under which the borrower requires the buyer of the residence to make a nonrefundable deposit to the borrower in an amount (as determined by the appropriate Federal banking agency) of not less than 1 percent of the principal amount of mortgage loan obtained by the borrower for purchase of the residence, for use in defraying any costs relating to any cancellation of the purchase contract of the buyer; and

(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(2) 100 PERCENT RISK-WEIGHTED CLASSIFICATION.—Not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that—

(A) any single family residence construction loan for a residence for which the purchase contract is cancelled shall be considered as a loan within the 100 percent risk-weighted category; and

(B) the lender of any single family residence construction loan shall promptly notify the appropriate Federal banking agency of any such cancellation.

(b) MULTIFAMILY HOUSING LOANS.—

(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(A) IN GENERAL.—To provide consistent regulatory treatment of loans made for the purchase of multifamily rental and homeowner properties, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any multifamily housing loan described under subparagraph (B) and any security collateralized by such a loan shall be considered as a loan or security within the 50 percent risk-weighted category.

(B) REQUIREMENTS.—Subparagraph (A) shall apply to any loan—

(i) secured by a first lien on a residence consisting of more than 4 dwelling units;

(ii) under which—

(I)(a) the rate of interest does not change over the term of the loan, (b) the principal obligation does not exceed 80 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 120 percent; or

(II)(a) the rate of interest changes over the term of the loan, (b) the principal obligation does not exceed 75 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 115 percent;

(iii) under which—

(I) amortization of principal and interest occurs over a period of not more than 30 years;

(II) the minimum maturity for repayment of principal is not less than 7 years; and

(III) timely payment of all principal and interest, in accordance with the terms of the loan, occurs for a period of not less than 1 year; and

(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(2) SALE PURSUANT TO PRO RATA LOSS SHARING ARRANGEMENTS.—Not later than the expiration of the 120-day period beginning on the date of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any loan fully secured by a first lien on a multifamily housing property that is sold subject to a pro rata loss sharing arrangement by an institution subject to the jurisdiction of the agency shall be treated as sold to the extent that loss is incurred by the purchaser of the loan. For purposes of this paragraph, the term "pro rata loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on a pro rata basis.

(3) SALE PURSUANT TO OTHER ARRANGEMENTS FOR LOSS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to take into account other loss sharing arrangements, in connection with the sale by an institution subject to the jurisdiction of the agency of any loan that is fully secured by a first lien on multifamily housing property, for purposes of determining the extent to which such loans shall be treated as sold. For purposes of this paragraph, the term "other loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis.

(c) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

SEC. 619. APPLICABILITY.

The amendments made by this title shall not apply to any eligible residential property or eligible condominium property of the Resolution Trust Corporation, that is subject to an agreement for sale entered into by the Corporation before the date of the enactment of this Act.

TITLE VII APPRAISAL AMENDMENTS

SEC. 705. REAL ESTATE APPRAISALS.

(a) CERTIFICATION AND LICENSING REQUIREMENTS.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement

Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) AUTHORITY OF THE APPRAISAL SUBCOMMITTEE.—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers. Recommendations of the Subcommittee shall be nonbinding on the States.

(b) USE OF STATE CERTIFIED AND STATE LICENSED APPRAISERS.—

(1) EFFECTIVE DATE FOR USE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking "July 1, 1991" and inserting "December 31, 1992".

(2) EXTENSION OF EFFECTIVE DATE.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the first sentence, by striking "leading to inordinate delays" and inserting ", or in any geographical political subdivision of a State, leading to significant delays"; and

(B) in the second sentence, by striking "inordinate" and inserting "significant".

The CHAIRMAN. Under the rule, the gentleman from Georgia [Mr. BARNARD] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. WYLIE. Mr. Chairman, I am not opposed to the amendment, but I would like to claim the 15 minutes in opposition.

The CHAIRMAN. If there is no objection, and no Member rises in opposition, the 15 minutes which have been allotted to the opposition to the amendment can be allotted by unanimous consent to the gentleman from Ohio [Mr. WYLIE].

Without objection, the gentleman from Ohio [Mr. WYLIE] will be recognized for 15 minutes.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are about to make a very, very serious vote. I do not think anybody questions the fact that we have got to fund the Resolution Trust Corporation. It is very important. It is very vital that we do that.

The reason that our substitute is being offered this afternoon is not at all because of the fact that the committee did not do hard work. I want to congratulate the distinguished chairman of the House Committee on Banking, Finance and Urban Affairs for the very arduous task he went about in trying to structure this RTC bill.

Mr. Chairman, the reason we are here today is because the original bill contained 80-some-odd amendments. It was a very voluminous document. Unfortunately, the Senate bill is nowhere like the bill that we have just voted down. The bill that we are offering today has many similar features. No. 1, it does not have an $80 billion price tag.

□ 1350

We only put in this bill as much money as the RTC needs up until April 1, 1992, with a $25 billion cap.

We also have in here a restructuring of the RTC which is identical to the language in the Senate bill.

Believing that there are some very good features in the House bill, we have incorporated in our bill minority provisions as well as low-cost housing.

So I would say, please support this substitute. It will enable us to get a bill to the Senate and have early passage and that will also facilitate us going home.

Mr. Chairman, I yield to the gentleman from Minnesota [Mr. VENTO], a cosponsor of our amendment.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the bill.

I think it is disappointing, obviously, to see the total work product of the Banking Committee not receive an affirmative vote here, but I think the reality is that the Senate did not consider a comprehensive bill. They are unwilling to accept various substantial amendments that were in the House measure, and therefore were left with a narrower bill, a narrow bill that is 80 pages long.

I am very pleased with the restructuring that has been accepted by the Senate, been accepted by the Treasury, and the other provisions of this bill. I think we have forged some important provisions dealing with housing and some of the other products of the committee, such as the treatment of minorities and women.

I am especially pleased that we do meet our obligations. It does mean we will have to come back next April, but I think we can leave passing this assured that the savings and loan deposits and the savings of individuals in them will be safeguarded.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, I do not think this is a pleasant task today. This is not a pleasant task for us to do at all. None of us want to do it, but we have two choices. We either do not pass anything, go home, leave the RTC without money, and it will not be able to close down bankrupt savings and loans, will not be able to pay off depositors, and there will be a run on banks. There will be absolute chaos. We cannot let it happen. It is unfortunate, but we cannot let it happen.

Now, we have rejected a big bill, $80 billion, a so-called cut-as-you-go-provision. This bill cuts the money way back, gives them temporary funding. It means we will be back in here next April trying to do the job better.

Anyone who does not like this bill will have that opportunity in April to help improve on procedure.

The gentleman from Texas who spoke earlier frankly amazed me, a Republican Member. If he does not like the administration, talk to the administration, his own administration. They are the ones running this thing. If it is not being run right, talk to them, get them to run it better.

We ought to try to build some of that in our law.

Mr. Speaker, I do not believe we have a choice. We have to give this organization some short-term funding now or there will be runs on banks. That is our choice. It is an unpleasant one. This is a minimum amount of money. We must unfortunately pass it.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. NEAL of North Carolina. I am happy to yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I want to associate myself with the gentleman's remarks.

Also, I hope that we have noted the loss to the Treasury or the RTC over this time of $4 million a day with further delays.

Mr. NEAL of North Carolina. Mr. Chairman, the gentlewoman is correct.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Barnard-Wylie substitute which is before us now, a bill to provide such funds as may be necessary, but not to exceed $25 billion and it runs out on April 1; so, unfortunately, they have to come back to us on April 1, probably.

I would have preferred just having such funds as may be necessary with certain auditing restrictions, auditing requirements, et cetera, but that did not prevail.

This substitute also provides for a number of restructuring provisions. In particular, I would call attention of the Members to a provision which I was able to get in having to do with risk-weighting of housing loans for purposes of capital requirements.

This amendment directs the financial institution regulators to place seasoned low-risk family loans into the 50-percent risk-weighted category as permitted by the Basle Agreement.

I have here in my hand a letter from the National Association of Homebuilders, which says:

> In view of both the historic role that housing production has played in leading the nation out of past recessions and the credit crisis we continue to experience, it is critical that the true level of risk associated with the types of housing loans addressed by the Wylie amendments be reflected in the risk weighting of such loans.

That is a strong endorsement of my amendment.

The Barnard-Wylie substitute also contains a number of other reforms with reference to affordable housing. The program is opened up to eligible properties held in conservatorship.

Finally, the Barnard-Wylie substitute contains two provisions which I mentioned, one is the risk-weighting to combat the credit crunch, and the other is a presold single family and seasoned multifamily loans arrangement in the bill.

As I indicated a little earlier, this provision has been worked out with Members of the other body, so if we are able to send it to them they will receive it with no objection.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I will try to use less than the 2 minutes.

Let me just say this is perhaps the most anguishing vote any of us will make this year or any year in the Congress.

The background is very simple. The greatest public policy mistake of the century was made and this Congress was part of it, not exclusively; State legislatures, the executive branch also contributed.

But the issue today is not whether there are losses. They are there, they are real, they are inescapable, but whether we will have a recession turn into a depression. At risk with a vote of this nature is the understanding that taxpayers are going to take a hit. A far more onerous circumstance is that the country will take a wallop if we say no.

So Mr. Chairman, I would just simply urge my colleagues to vote yes on both the substitute amendment and final passage, with the understanding that you will not be voting with pride, but out of necessity.

Mr. WYLIE. Mr. Chairman, I yield 2½ minutes to the gentleman from Utah [Mr. ORTON].

Mr. BARNARD. Mr. Chairman, I also yield 2½ minutes to the gentleman from Utah.

The CHAIRMAN. The gentleman from Utah [Mr. ORTON] is recognized for a total of 5 minutes.

Mr. ORTON. Mr. Chairman, I do not think I will take the entire 5 minutes.

Mr. Chairman, I reluctantly must rise in opposition to this amendment.

I must say, the gentleman from Dallas, TX, has virtually convinced me that if the people of Texas, of all places, are in opposition to funding the RTC, then I find it very, very difficult to ask the people of my district to help put up hundreds of billions of dollars which have gone down the rat hole in Texas, and I am quite offended by that; but the reason I am standing in opposition today is not because of the impassioned pleas of the people in Dallas, but it is because of the last 10 months of my life that I have spent virtually sequestered in the Banking Committee working on these issues.

Now, we in the Banking Committee have worked very hard for months. We have had hearings. We have had committee markups. We have had subcommittee markups, and we labored mightily and came forth with a bill.

□ 1400

That bill was not perfect, but that bill contained a number of fairly noncontroversial structural amendments which passed by a majority of the vote of the subcommittee and the full committee; structural amendments which are aimed and directed specifically at improving the operation of the RTC, aimed at reducing the hundreds of billions of dollars of losses and reducing delays that the RTC has in operating and functioning and carrying out its mandate.

Now, I, like everyone here, realize that the RTC must be funded. I do not like doing it. The problem was created long before I got here. I was in Washington speaking out publicly about the failed policies that brought us to this point.

And in fact I would favor waiving some jurisdictional bounds and making some tax changes that are directly involved with regard to the RTC, the reduced value of real estate assets directly attributable to passive loss rules and the capital gains rules.

By doing a couple of kinds of those directed things, indeed we could show the people of America that we not only understand the problem but that we are willing to stand up and do something about it.

But what I am frustrated about here today is not that we cannot cross jurisdictional lines but that when a committee with jurisdiction comes forward with a bill that then we have as the substitute a bill which has not been marked up in our committee, which has not been debated in our committee, which includes the provisions which one gentleman on the committee and the Committee on Rules believe ought to be included in the final bill.

Now, if we are going to act in that fashion, I submit to you that we may as well abolish the Committee on Banking, Finance and Urban Affairs and turn it over to the Committee on Rules.

For this purpose, I must reluctantly rise in opposition to this amendment because I simply think it is the wrong way to go. Rushing in here at 2 in the afternoon on Wednesday, when everyone is trying to catch an airplane home, to go home to Thanksgiving, and bring this kind of substitute and push it through on a voice vote on the floor is the wrong way to go. And if I am the only person in this House who stands up in opposition to it, then I believe I will be vindicated in the future. It is the wrong amendment.

Mr. Chairman, early this morning the House and Senate conferees completed their efforts on the FDIC Recapitalization and Improvement Act, S. 543/H.R. 3768. I applaud the efforts of the Banking conferees to resolve the differences between the House and Senate versions of this critically important legislation. The resulting legislation is a very workable banking bill worthy of the support of Members of the House of Representatives. The bill recapitalizes the FDIC's bank insurance fund—making good on the Government's commitment to stand behind depositors in federally insured institutions. The bill also makes a number of other important changes to the regulation of the banking industry including ending the FDIC's current "too big to fail" doctrine, strengthening Federal supervision of banks, and requiring prompt intervention by Federal regulators for banks in financial difficulties.

In the course of the conference committee's deliberations, it adopted section 1133 of the Senate bill dealing with the transfer of assets by the RTC. While I agree with the thrust of the section, that the RTC should not be unduly impeded in its attempts to dispose or otherwise transfer the assets of failed depository institutions, this provision threatens to interfere with a current legal dispute. Specifically, it threatens an ongoing litigation between Sears and VISA in the U.S. District Court in Utah posing significant issues in antitrust and commercial law. Mr. Chairman, I do not believe this provision should be construed to interfere with that dispute. In particular, I think that adoption of this provision should not impede the court in dealing with the complex antitrust issues presented by the case. Further, it is clear that while section 1133 does require a person to continue to provide services to a transferee of the RTC, nothing in this section should be interpreted to require that person to increase or expand those services or otherwise modify those services in any way.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I yield respectfully to the gentleman from Georgia [Mr. BARNARD]. Mr. Chairman, I have worked with the gentleman from Georgia for days and weeks in the committee, and I appreciate the work that he has done. But this amendment is the wrong way to go.

Mr. BARNARD. I thank the gentleman for yielding.

Mr. Chairman, I would just like to assure the gentleman that this Member did everything possible to include every amendment, but we hit a roadblock. The roadblock roughly was from our colleagues from the North. We communicated with them. Their bill had no semblance at all to the bill that the committee passed out. We would have gotten nothing.

I do think it is dutiful——

Mr. ORTON. Mr. Chairman, reclaiming my time, I would submit then the proper way to act, this bill came out of subcommittee over a month ago and it came out of committee over a week ago and we have been sitting around waiting for a rule for a week. We have had time to get this to the floor to vote on it, to send it to them to have a conference committee and deal with it in a proper manner.

Mr. Chairman, I urge my colleagues to vote "no."

Mr. WYLIE. I yield myself such time as I may consume just to reply to the gentleman who was just in the well that every single provision in the Barnard-Wylie substitute was considered by the House Committee on Banking, Finance and Urban Affairs and approved. We took out some amendments which were approved by the House Banking Committee because they were controversial, and we tried to get an agreement with the Members on the other side of the Capitol as to what they would take. We think we have worked that out.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I reluctantly rise in opposition to this amendment and to this bill, and I associate myself with the remarks of the gentleman from Utah [Mr. ORTON].

I think passing something in the name of funding the RTC at this hour when we are talking about billions of dollars we do not have to be spending if we just have reforms in this whole process.

An amendment this gentleman wanted to offer, I discussed with the Committee on Rules. It was not allowed, either not allowed in the committee by the chairman or by the Rules Committee, that would literally save $25 to $30 billion, in my judgment, and that of quite a number of other people, simply by not having us close down all the institutions that are now on the list to be closed. They have already closed the bad ones that are out there. The ones that are in the black and are earning, fine, who do not meet certain capital standards we set up in 1979 because we were in a recession, and they cannot meet them now, simply should not be closed. We should not be dumping real estate on the market like we are.

We need fundamental reforms out here before this Member can come out and vote for the billions of dollars in this bill, and we are not having that chance.

Mr. Chairman, despite my strong reservation regarding the rule, I wish to highlight a particular provision in the amendment offered by the Banking Committee. That provision would assist certain thrift institutions in remaining healthy and viable institutions and will prevent a senseless dumping of real estate investments into already weakened markets. The Financial Institutions Reform, Recovery and Enforcement Act, which we passed 2 years ago, requires that the value of subsidiaries engaged in activities not permissible for national banks, such as owning real estate, be phased out of calculations of a thrift institution's capital. When we enacted this phaseout, we expected that institutions could simply divest the real estate owned by the subsidiary or divest the subsidiary itself. The Congress did not foresee the precipitous drop in real estate markets that has occurred in many areas. These depressed markets make divestiture of real estate a virtual impossibility for most thrifts. Divestiture in these circumstances would serve only to further depress current markets.

For these reasons, the House Banking Committee adopted the provision I am supporting when I offered it in committee as an amendment to the RTC legislation now before us. The provision would give the Office of Thrift Supervision authority to provide relief from the FIRREA phase-out on a case-by-case basis if certain narrowly defined criteria were met. The OTS strongly supports this authority.

It should also be noted that exactly the same practical and policy concerns apply to real estate owned directly by thrift institutions. The OTS now applies the FIRREA phaseout schedule to such directly owned real estate under its risk-based capital regulations. Inflexible administration of that schedule, as with the FIRREA schedule itself, will lead to divestitures that will severely damage institutions and unnecessarily aggravate the weakness of current markets. Therefore, it is my hope that the agency will revise its rules to allow case-by-case relief from its regulatory schedules for thrifts that own real estate directly. It is important to the health of the thrift industry that relief be granted thrifts in both categories, subsidiary investors and direct investors.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] has 8½ minutes remaining.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman's amendment would use goodwill as capital. We crossed that bridge a long time ago. That is why some of us had to oppose it.

Mr. Chairman, I would yield 2 minutes to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I will be very brief, make a comment or two, and then would like to propound a question to the distinguished majority leader.

Let me say, echo the remarks made by so many here today, that this is not a pleasant task to address ourselves to the subject matter at hand. But, as we have no alternative, then when one charges that we are out there with a bailout here and a bailout there, and, yes, we have salted away some, some private entrepreneurs out there who betrayed their public trust.

It is not always those in public life who are guilty of that. In the private sector it happens every once in a while, and it sure did in spades in the savings-and-loan and bank institution failures. But most of the money is not going to take care of the families of those who salted away. If I remember the figures correctly, 19 million depositors have their deposits guaranteed, an average of $9,700. Now, that is where the big buck and the big money goes, to reimburse those depositors whose deposits are guaranteed by law. And we have got to make them whole. We cannot default on that role and responsibility.

That is why I am supporting the Barnard/Wylie substitute and will vote for the bill.

I would like to conclude by simply propounding a rather critical question to the distinguished majority leader.

If the amendment of Representative BARNARD passes, which will set a date certain for the consideration of a second RTC recapitalization bill, is it the intention of the majority to schedule around the middle of March consideration of the economic growth packages, including one to be offered by, certainly, our side under fair procedures? That is the question I would like to propound.

Mr. GEPHARDT. Mr. Chairman, if the gentleman would yield, and I would ask the gentleman from Georgia [Mr. BARNARD] to yield 3 additional minutes to me.

Mr. BARNARD. I yield 3 minutes to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, it would be our intention to address the growth packages in this manner. I would say to the gentleman that we have had quite a debate over the last week about economic growth. It is obvious that on both sides of the aisle we have great concerns about the economy, great concerns about the loss of these savings-and-loan institutions and a desire on both sides to develop a growth package for our country.

The chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], in fact intends to have hearings in December and in January to hear testimony.

Mr. Chairman, it would be irresponsible, I think, on anyone's part to try to enter into, today or tomorrow, trying to develop on the floor a growth package. But obviously, with proper investigation and proper work, we ought to be able to do that.

Now, we have different ideas, fundamental differences sometimes on how this should be done. The tax measures that we favor are ones that are targeted at people in the middle. Sometimes we believe that yours are targeted in the wrong area. You have your own views. We have our views.

I would say to the gentleman: I would hope that in that this is very important to our country, and to issues like this one, that even though we will differ, we can find ways to resolve those differences even if it is by debate and vote. And where we can agree, I would hope we would agree and bring forth economic growth packages that have similarities—that have differences—bring them to this floor, decide them, and get them in a position where they can be put on the President's desk at an early date so that we can change the laws of our country to move this economy in a positive direction.

□ 1410

Mr. Chairman, I would finally say that I think this is a very important vote for all of us. It is a vote that, as I said on the banking bill a couple of weeks ago, nobody wants to make. This is an unpleasant task, but I hope we will all remember that we are not bailing out anyone other than our constituents who have their deposits in these institutions.

Mr. Chairman, it is my understanding that the average deposit in these institutions is around $9,000. We are not talking about millionaires in most cases. We are talking about average, middle-income Americans. If we vote for this, their deposits will be secure. If irresponsibly we vote against it, then they will not be secure.

I urge Members on both sides of the aisle to back this measure today with a large positive vote.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge an aye vote on the Barnard-Wylie substitute.

Mr. Chairman, I yield back the balance of my time.

Mr. BARNARD. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Georgia [Mr. BARNARD].

The amendment in the nature of a substitute was agreed to.

Mr. ANNUNZIO. Mr. Chairman, I rise in the strongest possible opposition to this and to any RTC funding bill without adequate safeguards and reforms. None of the bills that are before the House at the present moment contain those safeguards.

During our discussions of RTC, you will be told that the administration warns that any delay in immediately refunding the RTC will cause a $300 to $500 million additional cost to the taxpayers. Let me suggest that the administration has already cost the taxpayers $516 million in delays in seeking RTC funding. It is the administration, not Congress that has brought about this delay.

Let me explain. On May 28, I wrote to the Secretary of the Treasury pointing out that the administration would be asking for additional funding for the RTC during this session of Congress. I said that last year the administration waited until the final days of the Congress to ask for the funding and then blamed Congress for the delay. I asked the Secretary of the Treasury to forward the legislation seeking the additional funding immediately so that Congress could begin working on the problem and not have to wait until the final days, if not the final hours, of the current session.

Now remember, that letter was sent on the 28th of May. I still have not received a response to that letter, and I announced that unless there was a bill before the House, I would not hold a markup on the RTC funding bill. Finally, the gentlewoman from New Jersey, Mrs. ROUKEMA, introduced an RTC funding bill. Only after she had introduced her bill, did the administration send up an identical bill. And 3 days later, I scheduled markups on the legislation and promptly reported the administration's request from the Financial Institutions Subcommittee, which I chair.

The administration had delayed sending its request to Congress for 129 days. And using the administration's own figures that a delay costs $4 million for each day the funding is not passed, that means that the administration's unwillingness to forward a request to Congress amounts to $516 million. If the administration wants to talk about delays, let it first explain its own delays.

Mr. Chairman, I have never been a great fan of the RTC, and I have been opposed to additional funding for RTC, particularly because the Secretary of Treasury, when he first testified on the savings and loan crisis, indicated that it would only cost $50 million to solve the problem. We have already appropriated $80 million, and today we will be asked to appropriate anywhere from $20 to $80 billion more, and there is no end in sight.

I cannot support the funding request today because most of the reforms and safeguards that were put into the funding bill during the subcommittee markup were subsequently taken out of the bill when the full committee marked it up a few days ago. In short, we are being asked today to hand over billions and billions of dollars, with no changes from existing RTC operations, and with no guarantee that the money will be spent to pay off depositors at failed thrifts.

We will be told during these debates that the RTC needs the money to pay off depositors. And without additional funding, depositors might not receive their money back when an institution goes under. That statement is simply not true. I can assure Members of this body that no one knows how much of the funds will be used to pay off depositors, and I can also assure Members of this body that a portion of the money, perhaps a large portion, will be used to continue the empire building of the RTC.

Mr. Chairman, only Imelda Marcos, in a shoe store, spends money faster than the RTC. The money we are being asked to approve today is not necessarily to pay off depositors. It is for many other things. Although the legislative history of the RTC suggests that the agency will not have any employees, but rather will use employees borrowed from other agencies, the RTC already has some 7,500 employees, and its ranks are growing daily.

The RTC's monthly payroll is $37.3 million. The agency is topheavy with high-paying jobs. Twenty-eight employees of the RTC are paid in excess of $103,100 a year, and that is just their pay, without any bonuses. This agency has the highest per capita payroll of any agency in the U.S. Government. The average salary of the RTC is $76,000 a year.

At a time when your constituents and mine are losing their jobs, the RTC is making sure that its employees are treated to the best.

During subcommittee markup, I successfully authored an amendment to cap the number of RTC employees as of October 1 of this year. I wanted to make certain that any money that went to the agency would be used primarily to pay off depositors and not to pad payrolls. My amendment was adopted easily. To my astonishment, however, when the bill reached the full committee, the payroll cap was removed, primarily because the RTC said it had to have more employees.

In the subcommittee I was also successful in getting a cap on RTC salaries to prevent the obscene growth of this bloated bureaucracy. But in full committee, that cap was replaced by what literally can be considered a pay increase for RTC top employees, since it raised the pay ceiling to well above the current level for most RTC employees. The new pay level actually encourages RTC to give pay increases to its top level employees.

Now it would be bad enough if the RTC was doing an outstanding job and providing service to the American people, but I don't know of a single Member of this House who has not received numerous complaints from constituents about RTC. I am willing to bet there is not a single Member of the House who will come to this floor and say that they are completely happy with the operations of the RTC. I have received complaints from Members who said their constituents cannot get phone calls returned, they cannot get on the bidding list, and that when contracts are let out, they don't have a chance to be considered for any of the RTC work.

I have tried for the past 2½ years to get RTC to sell more of its assets. But the Agency is moving forward with very little speed in this area. I have repeatedly urged the agency to use the auction method to dispose of property. And the agency has consistently refused to go that route contending that it won't work, and would actually result in lower prices for RTC property.

Yesterday the RTC finally gave in to my demands and held a large-scale auction. And did the agency lose money—did the properties go for fire sale prices? Hardly. In fact, the agency got 28.6 percent more than current market value for the properties, and much more than it was asking for the properties on negotiated sale prices. It was cheaper and quicker to conduct the auction, yet RTC has fought me on auctions for 2½ years.

Despite the success of yesterday's auction, the agency continues to resist auctions. In the subcommittee I was successful in pushing for an amendment that would have required the agency to auction off any property that it held on its books for more than 6 months. In addition, any property that was currently in negotiations when the 6-month period expired, would receive an extra period of time that would have given the agency up to 11 months before it would have had to auction the property. And to prevent fire sale prices, I gave the RTC the right to set the minimum terms and conditions for the auction sale prices. When my amendment reached the full committee, it was voted out of the bill because the RTC did not want to use auctions.

I am convinced, Mr. Chairman, that the RTC does not want to sell properties, and some Members of this body support the RTC in its unwillingness to sell properties even at above-market prices. It is too simple to go to the taxpayers and say, "You pay." And when the payers and say, "You pay." And when the RTC runs out of money, the agency simply says to the taxpayers, "You pay again, and again, and again."

I would have voted for this bill had the safeguards I authored in subcommittee and other safeguards authored by other Members been contained in this legislation. But because they were stripped out of the bill, I cannot support this legislation.

We cannot ask the American taxpayer to continually pick up the bill for the RTC when much of the money that it spends is in a highly questionable, if not illegal, manner. We even had to adopt an amendment that prohibits the RTC from reimbursing its members for liquor purchases. Does that sound like an agency that is operating in the public interest?

The spending of the RTC and its sister agency, the Federal Deposit Insurance Corporation, has been so scandalous that I recently published a staff study outlining some of the questionable expenditures of the agency.

Here are some of the highlights of that study. I encourage Members to get a copy of that study before they vote on this bill.

FDIC purchased 3,000 copies of Asian cookbooks at a cost of $7,364.

Artwork in the individual hotel suites at the Seidman Center cost $84,353, while the remainder of the building houses at least $93,149 worth of art.

FDIC headquarters in Washington spent $6,330 over a 5-month period to purchase plants in addition to paying $1,303 per month to maintain them.

The RTC ordered 36 RTC coffee mugs and 12 RTC golf shirts for a total cost of $3,098.33. Earlier, the FDIC purchased 2,400 FDIC coffee mugs at a cost of $6,210.

Leather daily planners and refills were purchased for Washington FDIC and RTC executives for more than $6,000

FDIC paid a Washington company $31,274 to have various brass statues and certain brass leasehold improvements rubbed down with oil on four occasions.

Approximately 115 participants at a 4-day conference cost $65,724, including more than $2,000 in liquor charges.

In conclusion, let me point out that we are not voting to pay off depositors today, we are voting money to feed the lavish lifestyle of an agency that should be shut down and have its function turned over to the private sector.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HOYER) having assumed the chair, Mr. DURBIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes, pursuant to House Resolution 320, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SOLOMON. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SOLOMON of New York moves to recommit the bill H.R. 3435 to the Committee on Banking, Finance and Urban Affairs.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count. Two hundred twenty-one Members are present, a quorum.

Mr. DANNEMEYER. Mr. Speaker, on that, I demand a division.

On a division (demanded by Mr. DANNEMEYER) there were ayes—112; noes—63.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Is 175 a quorum?

The SPEAKER pro tempore. Clearly the Chair cannot force everybody to stand every time the Chair asks the person to stand. That is not within the power of the Chair.

Mr. DANNEMEYER. Does there seem to be some glue around?

May I ask for a recorded vote?

PARLIAMENTARY INQUIRY

Mr. THOMAS of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. THOMAS of California. Mr. Speaker, do Members have the right to vote or not vote?

The SPEAKER pro tempore. Yes.

Mr. THOMAS of California. And they could choose not to vote?

The SPEAKER pro tempore. Yes.

Mr. THOMAS of California. And that would be the discrepancy between the Chair's count on the quorum and the Chair's count for a division?

The SPEAKER pro tempore. The gentleman from California [Mr. THOMAS] is correct.

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

The bill was passed, and a motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent for rollcall vote No. 444, concerning passage of House Resolution 320, the rule for H.R. 3435, the Resolution Trust Corporation Restructuring Act. Had I been present, I would have voted "yea."

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 3435, RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that the Clerk may be allowed to make technical and conforming changes in H.R. 3435, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

□ 1420

PROVIDING FOR ADJOURNMENT OF THE HOUSE AND THE SENATE FROM WEDNESDAY, NOVEMBER 27, 1991, TO FRIDAY, JANUARY 3, 1992, AND ADJOURNMENT OF THE HOUSE FROM FRIDAY, JANUARY 3, 1992, TO WEDNESDAY, JANUARY 22, 1992

Mr. GEPHARDT. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 260) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 260

Resolved by the House of Representatives (the Senate concurring), That when the House and Senate adjourn on the calendar day of Wednesday, November 27, 1991, in accordance with this resolution, they stand adjourned until 11:55 a.m. on Friday, January 3, 1992, or until noon on the second day after Members are notified to reassemble, whichever occurs first.

SEC. 2. That when the Congress convenes on January 3, 1992, for the second session of the 102d Congress, the House shall not conduct organizational or legislative business and when it adjourns on that day, it stand adjourned until noon on Wednesday, January 22, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

LEGISLATIVE PROGRAM

Mr. GEPHARDT. Mr. Speaker, I ask for this time to explain the resolution and give the Members a sense of the schedule.

Let me first say on the schedule that there obviously could be a vote on this adjournment resolution in the next few moments. It is not debatable, and we will move to vote very rapidly if there is a vote.

After that, there is one additional matter that I am aware of that may require a vote, and that has to do with the Medicaid legislation which is here, and we will be coming forward with a rule, and there could be a vote on it at the end of its consideration.

Other than that, there should not be further votes, assuming the adjournment resolution passes.

Let me say this: This concurrent resolution provides that the House will, when we finish business today, recess until 11:55 a.m., January 3, 1992, at which time we will conclude the first session of this, the 102d Congress. At 12 noon that day, January 3, 1992, we will convene the second session of the 102d Congress and will then immediately proceed to recess until January 22, 1992.

During these recess periods, the House will be subject to the call of the Chair. If it becomes necessary or desirable to reconvene the two Houses to act on the President's returned veto of legislation we are sending to him for his consideration or because the scheduled work of the committees which has been described produces economic legislation which is ready for floor action or for other reasons, we will be able to reconvene in a timely manner.

Any such reconvening of the House will be done in the consultation with the leadership on both sides of the aisle.

That concludes my explanation of the concurrent resolution.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I have been asked how long a timeframe would we expect for that Medicaid proposition, or if it appeared to be interminable, then would we just give up, or is there a point there of no return?

Mr. GEPHARDT. I would say that we do have to pass a rule. It is my understanding that it will be very rapid. The consideration of the bill should not take more than 15 or 20 minutes, after which there could be a vote. I am not saying that there definitely will be, but I think there could be a vote. We do not expect other votes, however.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, I just wanted to point out that we have concluded the conference on the Medicaid moratorium legislation, and the chairman of the Subcommittee on Health, the gentleman from California [Mr. WAXMAN], has indicated to me that he would be willing to bring this final piece of legislation up under a unanimous-consent request without the necessity of going through the rule process.

I would ask the gentleman from California if that is a correct statement.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from California.

Mr. WAXMAN. I would like at the appropriate time to ask for unanimous consent so we could take this bill up without requiring the Committee on Rules to meet and report out a rule. It would not be my intention to ask for a rollcall vote on a rule or on final passage, but this is not only within my discretion. Other Members may want to have a vote. But I think that this is an issue we could dispose of with relatively little debate, and if my choice were to prevail, without a vote that would require all the Members to stay here.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I was not a member of the conference committee, but I am on the committee that had jurisdiction over this, the subcommittee, and I have no objection to having the matter come up on the floor by unanimous consent at this time without the necessity of going to the Committee on Rules.

Mr. GEPHARDT. May I state also to the Members one additional concern that they should be aware of. The other body is still in session, and there may be the need for votes. I do not know that there will be votes, I do not anticipate votes, but as long as they are in session, completing business that we have already completed, we never can be absolutely certain that they will not send something back here that will require some kind of a vote.

So if Members are very concerned about being absolutely guaranteed that they will not miss a vote, I cannot stand here at this moment and tell you that I can guarantee you that there will not be some further votes required this afternoon.

Mr. PACKARD. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from California.

Mr. PACKARD. Mr. Speaker, I simply want to remind the Members that we are now down to about the last flights of the day, and some of us may not get home if we do not catch that last flight. I hope that we are not playing games.

Mr. GEPHARDT. I share the gentleman's view, and I know that all Members will try to respect the needs of our Members.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, before the House concludes its business, I might just note that the House has been in continuous session now for about 26½ hours, and during that time we have had the very steady assistance of all of the staff of the Members of the Congress, of the committees, of the legislative counsel, of our pages, of all who serve the House and serve it so well, and I think we should express our appreciation to those who have worked consistently to bring this session to a completion.

The SPEAKER pro tempore. Without objection, the concurrent resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the first session of the 102d Congress until January 3, 1992, the speaker and the minority leader be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1430

AUTHORIZING MEMBERS TO REVISE AND EXTEND THEIR REMARKS IN THE CONGRESSIONAL RECORD

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks. But this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT AS DIRECTOR OF CONGRESSIONAL BUDGET OFFICE

The SPEAKER laid before the House the following appointment as Director of the Congressional Budget Office:

CONGRESS OF THE UNITED STATES,
Washington, DC, November 27, 1991.

Pursuant to section 201(a)(2) of the Congressional Budget Act of 1974, the Speaker of the House of Representatives and the President pro tempore of the Senate hereby appoint Dr. Robert D. Reischauer to serve as Director of the Congressional Budget Office for the term beginning on January 3, 1991, and expiring on January 3, 1995.

THOMAS S. FOLEY,
Speaker of the House of Representatives,
ROBERT C. BYRD,
President Pro Tempore of the Senate.

DESIGNATION OF HON. STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JANUARY 3, 1992

The SPEAKER laid before the House the following communication:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, November 27, 1991.

I hereby designate the Honorable Steny H. Hoyer to act as Speaker pro tempore to sign enrolled bills and joint resolutions through January 3, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

DO WE WANT ECONOMIC GROWTH? ENACTING NATIONAL ENERGY POLICY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. ALEXANDER. Mr. Speaker, the economy continues to sag under the heavy burden of an unguided economic policy and a $4 trillion national debt, $3 trillion of which was incurred during the past decade.

During the same 10 years, 1980 to 1990, the Department of Commerce reported that the United States paid about $1.2 trillion to import foreign energy.

Mr. Speaker, it is no wonder that the economy is sick and needs a transfusion. A majority of understandably alarmed Republicans have written the President to warn that the Nation is enduring "a stagnant economy and an uncertain future."

Do we want economic growth?

Early next year, we have the opportunity to pump new life into the economy by passing a national energy policy.

It should be a policy aimed at significantly reducing this Nation's dependence on foreign oil and stopping the flow of billions-upon-billions of our dollars into the coffers of foreign oil producers. In other words, we should adopt a policy which keeps this money at home.

I can think of no greater single economic stimulus than paying ourselves for our fuel.

In Sunday's Washington Post, Edwin Rothschild spelled out the benefits of a $5-per-barrell reduction in oil prices. The benefits were great.

The reduction would:

Have the effect of an immediate $300 billion tax cut.

It would increase the GNP by 1.4 percent.

It would reduce inflation.

It would increase disposable income.

It would reduce both the trade deficit and the budget deficit by stimulating economy activity.

Not bad for five bucks a barrel.

But, what oil producers give, they can take away.

The benefits to our Nation of the oil price reduction, in other words, will last only as long as certain foreign oil producers decide they will last.

It doesn't have to be this way.

We have the means to make these benefits permanent by changing directions in energy, by moving to depend more on our own natural resources and less on imported oil.

Yes, we have the means. But, we lack the will.

Admittedly, it is easier to continue to depend on foreign oil, at least until it runs out.

It is less work, less trouble, less mentally taxing to continue business as usual. It is also less patriotic.

We cannot afford business as usual.

I believe that the figures in Mr. Rothschild's article show clearly the folly of sticking our heads in the sand.

Those figures also show the benefits of rolling up our sleeves and going to work on this problem.

By increasing the use of farm-grown ethanol, for example, we can greatly improve the agricultural economy.

And, that will improve the economies of our Nation's rural areas which will, in turn, have a ripple effect in the cities.

It is also important to remember that American farmers will be more reliable fuel suppliers than foreign oil producers.

One of the problems in crafting a new agenda in energy, Mr. Speaker, is that we are a Nation of forgetters—at least when the gas tank is full.

We forget the oil embargoes.

We forget the huge price hikes.

We forget the tanker reflagging.

We forget going to war to protect our oil supplies.

We forget that our Nation, that America is being held hostage—to foreign oil.

But, our faulty memory is costing us—and costing us dearly in both lives and treasure.

It is cowardly to continue on this path because that will leave the solution of this problem to our children.

I believe it is up to us.

Mr. Speaker, a new national energy policy must have as its goal the breaking of our addiction to foreign crude.

And, the economic benefits from our efforts will be permanent, not a temporary gift bestowed by oil barons.

Yes, our economy needs help. And, we can give it a big shot in the arm by formulating a new energy policy which will make us more self-reliant.

I can think of no more lasting legacy this Congress could leave than an innovative energy policy which will make America and her people more free and more independent than they are today.

Again, it is important to remember that the economic benefits of a $5-a-barrel drop in oil prices will not be realized unless leaders in Saudi Arabia and Kuwait decree it.

Our Revolution was fought because we were being dictated to by a foreign power. The situation in energy today is no different.

America is being dictated to by those who supply her oil. Much of our economic, military, and foreign policy is established with oil in mind.

I do not want my country to be dependent on the decisions of foreign leaders.

We should be more independent.

We can be more independent.

Unless we resist the future and forget the past.

[From the Washington Post, Nov. 24, 1991]

AN OIL CARD UP HIS SLEEVE

(By Edwin S. Rothschild)

As President Bush watches the economy falter and public support for his domestic leadership erode, he may be considering the one option that can stimulate the economy and deliver his margin of victory next November: getting oil prices down. A reduction in world oil prices of $5 per barrel in 1992 would have the lubricating effect of an immediate $300-billion tax cut. This option would, of course, require the assistance of Saudi Arabia's King Fahd, the emir of Kuwait and other Persian Gulf producers, but all of these have been obliging in the past to White House entreaties and are in a good position to oblige Bush now.

It is well known that lower oil prices have an immediate, stimulative economic impact. On an annual basis, a $5 per barrel drop in oil prices would increase U.S. GNP by about 1.4 percent, reduce inflation and increase disposable income. Lower oil prices would directly reduce the huge U.S. trade deficit and the economic activity stimulated would also reduce the budget deficit because of higher tax revenues and reduced demand for public benefits.

In addition to lowering the price of gasoline to consumers, a $5 price cut would reduce operating costs for the airline, trucking and chemical industries. Even though an oil price decline would hurt domestic oil producers, Bush might well conclude that jump-starting the economy—and thus helping to reassure his reelection—is far more important than the complaints of a few noisy Texans.

In any event, other than hoping that consumers increase their spending—and so reduce their savings—to bring the country out of recession, the Bush administration does not have any domestic economy policy levers it can pull. Most economic analyst agree that the President's alternative policy options are blocked by either political or economic considerations.

Short-term interest rates are at their lowest level in 18 years. Lowering short-term interest rates much more would hamper the Treasury's ability to borrow. A tax cut for the middle class, while politically appealing, could not take effect soon enough and would increase the size of the already huge deficit.

By the same token, increasing government spending to stimulate the economy would increase the deficit as well as violate the budget agreement and Republican doctrine, so most observers rule out this option. Finally, stimulating U.S. exports by devaluing the dollar is not likely because the Japanese and Europeans, upon whom we are dependent to finance our trade and budget deficits, would resist such a move.

But domestic levers are not the only weapons in the president's arsenal. There are also his close friends in the Middle East, the most important of whom is King Fahd of Saudi Arabia.

There are several recent precedents for cooperation between the Saudi monarch and American presidents. For example, in 1986, the Reagan-Bush administration persuaded Fahd to open Saudi oil spigots to reduce world oil prices from $29 to $18 a barrel. Together with the devaluation of the U.S. dollar engineered by then-secretary of the treasury James Baker, the oil price crash boosted U.S. economic growth. (It also triggered an economic collapse in Texas, Louisiana and other oil-producing states and hastened the S&L crisis.)

King Fahd's commitment to U.S. oil and foreign policy was also shown during the Reagan administration's secret war against the Sandinistas. In February 1985, when he visited Reagan, the king agreed to contribute at least $24 million to the cause at the request of then-national security adviser Robert McFarlane.

In 1988, during the Iran-Iraq War, the administration sent the Navy to protect Saudi and Kuwaiti oil tankers. As a Washington Post editorial in May 1988 observed, "Because of the number of Navy ships now in the gulf, and their demonstrated readiness to hit back at Iranian provocation, America's standing among the gulf Arabs is currently high. One result is that the price of oil will for the present stay low." William Randol, a highly regarded Wall Street analyst, was even more direct, stating in a June 1988 analysis, "Some have maintained that there is a secret pact between the United States and Saudi Arabia that provides for the continued presence of the U.S. Navy in the Persian Gulf in exchange for Saudi Arabia's agreement to keep oil price down between now and the November presidential election."

For its part, the Bush administration has been highly supportive of the Saudi monarchy. The most salient example of that support was, of course, the Persian Gulf War, which was premised on protecting the Persian Gulf monarchies and U.S. access to the world's most abundant and cheapest source of crude oil. Recently the king, delighted with the war's outcome, was effusive in his praise of Bush saying, "A man of this caliber deserves to head the United States another time."

In the earlier election years 1986, 1988 and 1990, crude oil prices fell considerably. Market conditions during 1992 will be different from conditions in those years. (Between January and June of this year crude prices fell $5 a barrel). But Bush has reason to expect that he can rely on his Persian Gulf oil-producing friends to keep their oil output high enough to depress prices.

First of all, the International Energy Agency expects little near-term growth in world oil demand. Secondly, even though Soviet production and exports are expected to decline, the Kuwaiti oil industry is roaring back and should be producing about 500,000 barrels per day by early next year. The Saudis, for their part, are at work increasing production capacity and could probably produce 9 to 10 million barrels a day, if necessary.

In addition, it is likely that Iraq will be able to export about 500,000 barrels a day, an increasing likelihood as the Bush administration tones down its criticism of Iraqi non-compliance with U.N. resolutions. Analysts also expect increased production from North Sea producers. Finally, stocks of oil are quite high. All of these factors indicate that if Saudi Arabia, Kuwait and the United Arab Emirates decide to maximize their production, they could easily propel a $5 drop in world oil prices.

Fahd's willingness to pump extra oil to reduce oil prices in 1992 would be only a continuation of a close mutually supporting economic, political and military relationship that will ensure continued U.S. arm sales and military protection in the volatile Persian Gulf, and coincidentally help his friend George Bush. The only downside is that while an oil price drop would improve the president's—and the U.S. economy's—short-term prospects, it would not necessarily have a positive long-term effect on the economy. Once the election is safely over, the Saudis would, in all likelihood, reinstate their production policy to maintain world prices at or nearly $20 a barrel. Thus, unless the economy recovered for other reasons, higher oil prices in 1993 could simply resurrect the recession.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I just want to say that the gentleman from Arkansas [Mr. ALEXANDER] has been a leader on these energy issues, especially ethanol and other national energy policy issues, for a long, long time.

The point the gentleman makes is an important point to understand, that putting our country on the right track on an energy policy is an economic growth stimulus plan. It will strengthen this country from within if we begin to do the things we should do in energy policy to make this country move toward greater energy independence.

Mr. Speaker, I commend the gentleman from Arkansas [Mr. ALEXANDER]. He has a voice that has continued to be raised year after year after year.

Mr. Speaker, I hope all of us next year can work on an energy policy that strengthens this country.

Mr. ALEXANDER. Mr. Speaker, reclaiming my time, the gentleman from North Dakota [Mr. DORGAN] has likewise joined in as an early advocate of a national energy policy and in the development and use of alternative fuels, those that we can produce here in our own Nation.

Mr. Speaker, the benefits to our economy can be far beyond our imagination. Just imagine if we had, back in the early 1980's, developed a national energy policy and reduced our dependence on foreign oil by as much as 50 percent. We could have saved $500 billion.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

TRIBUTE TO BOB JOHNSON

(Mr. SANTORUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANTORUM. Mr. Speaker, this is the first opportunity I have had to come to the well since I found out some very tragic news in Pittsburgh yesterday afternoon. I come here with profound grief personally and for the city of Pittsburgh over the loss of the hockey coach for the Pittsburgh Penguins, a great hero, a sports hero, "Badger" Bob Johnson.

Mr. Speaker, Bob Johnson took a team of very gifted athletes in Pittsburgh that had never won anything and had high expectations every year, and, through his positive attitude, through his tirelessness and conviction that these people could achieve, molded this team and made it a winner.

Mr. Speaker, Bob Johnson impressed upon this team and impressed upon a community a can-do positive attitude. He was always upbeat. It was always a great day for Bob Johnson.

Mr. Speaker, even after he discovered after the season that he had inoperable brain cancer, Bob Johnson was upbeat. Bob Johnson was positive, and Bob Johnson was a winner. Pittsburgh will dearly miss that positive influence in their community. The kids in Pittsburgh who looked up to him and admired him will miss him.

Mr. Speaker, if I could take just a second to share my own personal experience with Bob Johnson. When the Penguins came here to Capitol Hill and to the White House to meet with the President, Bob and his tremendous wife Martha, who was with him, were there with the Penguins. But you would have thought Bob was the trainer or the water boy.

□ 1440

He stood in the background and allowed his team, his athletes to revel in the day and just for him to soak in their joy. And to marvel, to marvel in their success and not seek any attention for himself.

He was a great man. Pittsburgh will miss him. I will miss him, and this country will miss men like Bob Johnson.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Pennsylvania. It is my understanding that Bob Johnson is a native of Minnesota and that he has many friends back there. I appreciate the very moving remarks the gentleman has made and I would like to associate myself with those remarks.

Mr. SANTORUM. Mr. Speaker, I will be placing even further remarks in the RECORD at a later date.

FUNDING FOR HEAD START

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I must say I am very, very disappointed as we leave here that one more time I do not think we have treated America's children fairly. I am going to ask unanimous consent to put in the RECORD a Wall Street Journal article written this Tuesday by Herbert Stein, who is the former chairman of President Nixon's Council of Economic Advisers. I think it is very important what he said in this column.

What he said in there is that the proper way to have a growth package is to do things like fully fund Head Start, to fully fund things that are investments in human beings, because human beings are the ones that are going to be out and be competing in the future.

If we look at our history and the past growth charts of this budget in the 1980's, we have done exactly the wrong thing. We are investing in the wrong thing because it shows that the investment in children has only been one-tenth of any other investment anywhere else in the Federal Government.

I hope when we come back we can finally begin to remedy this oversight. I have been so hopeful that when both the House and the Senate had passed their commitment that at least that would stay in. It makes me very sad that we are leaving here and that was taken out. But let us hope that over the holiday we will have time to reflect upon this and get these priorities back into the budget.

I think Nixon's economic adviser is right. Head Start and programs like that are the way to get this country moving again, and it is very essential that we get refocused on it.

I include for the RECORD a copy of the article to which I referred.

[From the Wall Street Journal, Nov. 26, 1991]

WRONG REASONS TO OPPOSE A TAX CUT

(By Herbert Stein)

I am not in favor of a tax cut. I would like to write that on the blackboard 100 times, because what I say here will almost certainly be misinterpreted. But I am uncomfortable with bad reasoning, even when it sometimes leads to the right conclusion. I think that the common reasons about a tax cut today is bad.

No wisdom is more conventional these days than the proposition that the large budget deficit renders ineffective the traditional instruments of anti-recession fiscal policy—cutting taxes and increasing expenditures. The argument is that increasing deficits would undermine confidence, raise interest rates, depress investment and prolong the recession.

AS LOGICAL AS HOOVER

This argument may be correct. Sixty years ago, during the Depression, Herbert Hoover believed it. In fact, he followed the argument to its logical conclusion. If a tax cut would weaken confidence and worsen the Depression, a tax increase would inspire confidence and promote recovery. So, he raised taxes. President Hoover was not a dishonorable man or a foolish one. He was worse; he was unlucky. No one today is willing to be as logical as President Hoover, but many would go halfway. They would say that today's taxes are like Baby Bear's bed—"just right." To raise them or to lower them would be dangerous.

The confidence argument is very tricky. No one really knows what affects the confidence of investors, or by how much. The "how much" part is important. If, for example, taxes are cut, there will be a number of consequences other than the effect on confidence. The result will depend on the net of these consequences.

Suppose that income tax rates are cut by some large amount across the board, reducing federal revenue by, say, $50 billion a year. Shoppers return to the malls, cash registers are ringing, inventories are being worked down, profits are rising. Are investors going to bang their foreheads and say: "Egad, the deficit is rising. We better hunker down, sell bonds, and stop investing"? And if they do, will the negative effect be so great as to offset the positive effects of higher consumer spending? All one can honestly say is that one doesn't know.

When talk about a tax cut blossomed recently, long-term interest rates rose. This rise was commonly interpreted as due to the tax-cut talk, and as a sign that cutting taxes would have a negative effect on the economy. Aside from the fact that journalistic explanations of daily interest-rate moves are a weak reed for policy, this reasoning is seriously incomplete. The standard "textbook" description of the way in which a tax cut would stimulate the economy includes a rise of interest rates.

The increase in the budget deficit tends to raise interest rates, and that tends to restrain investment. At the same time, the cut in taxes raises consumers' spending, which tends to raise investment to meet the enlarged market for consumers' goods. Whether the net of these two tendencies is an increase or decrease of investment is unclear, but total spending—investment plus consumption—rises. The rise of interest rates contributes to the expansion of the total economy by reducing the demand for money. Possibly this textbook model does not work. But to jump from the fact or prospect of an increase of interest rates to the conclusion that stimulative fiscal policy is ineffective would require evidence and analysis that is surely absent in the present discussion.

Today's paralysis about the deficit is puzzling after the experience of the strong recovery from the deep Reagan recession in the face of, or perhaps led by, the soaring Reagan budget deficits. Perhaps the feeling is that although, as Adam Smith said, there is a great deal of ruin in a nation, the Reagan administration used it all up. Certainly many people are being misled by a simple-minded picture of the history and prospects of the deficit. They see an enormous increase in the deficit for the current fiscal year, to about $350 billion, and extrapolate that into an explosion.

The fact is that this year's deficit is heavily influenced by two extraordinary and temporary factors—the savings and loan bailout and the recession. Realistically, our long-run prospect, and it is the long-run that mainly counts, is for the deficit to level out around $180 billion and for both the deficit and the debt to be on a declining path relative to gross national product.

Nervousness today about the use of anti-recession fiscal policy is aggravated by an unrealistic view of the 1990 budget agreement. Although hardly anyone likes the 1990 agreement very much, there is a common feeling that it is the last barrier that keeps us from sliding down the easy descent to Avernus. (Ah, fourth-year Latin!) Any departure from the agreement, however small, is regarded as opening the door to uncontrollable, unlimited, expenditures and deficits. President Bush encourages this attitude by describing any budget proposal he dislikes as a "budget-buster." But that is not the way the world works.

Budgets may be bent, modified, or enlarged, but they are not busted. There remains a budget, and many more decisions to be made and lots of opportunities to undo what may be done today if it turns out to be the wrong thing to do. The president has a veto power, and none of his vetoes has been overridden. He does not have to worry that he cannot prevent a little pussycat of a tax cut from turning into a raging lion.

The 1990 budget agreement was a particular expression for a particular point in time of a few more durable principles. They were:

(a) That gradual reduction of the deficit was important.

(b) That limiting expenditures and increasing revenue were both eligible means for achieving that end.

(c) That because of certain unpredictable conditions, including the costs of the savings and loan bailout, the costs of various entitlements, and the state of the economy, a precise path for the total deficit could not be prescribed.

(d) That for some categories of expenditures, ceilings enduring for several years could be established.

(e) That the world is uncertain, and room has to be left for departure from some of the terms of the agreement when the president and Congress concur without the other terms being invalidated.

If our leaders would describe our policy in this way, they would be able to think of what needs to be done now without necessarily implying that any step they take is over the edge of a cliff.

Since I have gone this far, you may wonder why I am not in favor of a tax cut now. I have two reasons:

First, the recession so far has been moderate—milder than the average post-war recession—and I see no persuasive evidence that we will not have, with the assistance of active monetary policy, an ordinary recovery. In that case, extraordinary fiscal stimulus is unnecessary and a potential source of future inflation.

SEVERE AND PROTRACTED

Second, even if I thought the recession would be more severe and protracted, and monetary policy less potent, than I do, and fiscal stimulus therefore more indicated, I would not start by cutting taxes. I would ask what is the most important use of the tens of billions of dollars of potential output that is not being used and should be used if the economy is to recover.

My answer would not be to increase the consumption of Middle America, which would be the main consequence of cutting taxes. I would rather fund Head Start fully, make sure that states have the money to provide the training, social services and jobs called for by the new welfare program, beef up the struggle against crime, and keep the libraries and schools open. (A county neighboring Washington is planning to cut the school year because it is running out of money!) I would also accelerate public construction and military procurement, with the intent of bringing into 1992 some of the work that would otherwise be done in 1994 and 1995.

Of course, in saying this I am only saying what everyone else says. That is, everyone wants to do for the recession what he always wanted to do, recession or not. The people who want to cut particular taxes—such as the capital gains tax—always want to cut those taxes, in good times or bad. There is nothing wrong with that. But we should be candid and recognize that we are talking about competing priorities and values, and not about "neutral" means for curing a recession.

DEATH IN THE FOREST

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, several weeks ago, the National Geographic Society's "Explorer" program devoted important segments to the illegal poaching of black bears. Sickening indeed were the scenes of black bear corpses lying on the forest floor, with their gallbladders removed and paws chopped off.

Most people are unaware of the fact that our forests are silently being emptied in order to satisfy the heavy demand for bear body parts from customers in Korea, Japan, and Taiwan. In this gruesome business, Asian herbal dealers purchase bear gallbladders from poachers, and then ship them overseas where they are prized for various curative properties. The gallbladder is dried, pulverized, and sold in capsule form to those who believe that it will cure blood disorders, cancer, and even hemorrhoids.

According to law enforcement officials, the trade in bear gallbladders has become so frenzied that counterfeiters will often substitute pig and cow gallbladders for the real article. Some dealers now ask poachers to provide a videotape documenting the removal of the gallbladder—a bizarre "certificate of authenticity" if there ever was one. Mr. Speaker, this is an outrage and one that I plan to address in the form of legislation when the Congress reconvenes in 1992.

OCTOBER SURPRISE

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LIVINGSTON. I will be brief, but for the last 6 or 8 weeks I have been coming to the well of the House to chastise the Democratic leadership for its intent to proceed with an investigation known as the October surprise. That is the investigation of the alleged activities of the Reagan administration before they came to office to deal with the Ayatollah in order to keep our hostages—our American hostages—held hostage in Iran in order to gain political advantage.

That was an investigation based on myth and was totally debunked by the authors of the articles appearing in the New Republic and in Newsweek. It was thrown out by Members of the Senate. They chose not to investigate it.

The GAO said there was nothing to it, and yet Members of this House insisted that there was something there and they should go forward with the investigation.

I came day after day saying that there was nothing to it, and I just want to applaud the Democratic leadership for realizing there was nothing to it. There was no political advantage to go forward with that investigation, and we did not bring it to the floor of the House.

I think it is good for the country that we start thinking about the problems that face this country today and not mythical aberrations that might have transpired according to liars and con men some 12 years ago.

HAITIAN REFUGEES

(Mr. RANGEL asked and was given permission to address the House for 1 minute.)

Mr. RANGEL. Mr. Speaker, it is getting close to the end of this session and I do hope at the appropriate time that I will be able to make a unanimous-consent request hoping that we can agree that the President has done a remarkable job in striking out against the oppression that exists in Haiti and encouraging the Organization of American States to intervene to bring peace and to restore or reinstitute a legitimate government in Haiti and that we hope that he will continue to reach out to other countries to provide such type of safe haven for the poor wretched souls that are fleeing for their lives from an out-of-control bandit, vicious terrorist army that overthrew the legitimate government.

I want to thank the Republican side for cooperating. The effort still continues, and I hope that before we finally adjourn some agreement can be made with the White House, working with the legislative body, to say that with all of our efforts we would not have to return these people to Haiti.

THE ECONOMIC GROWTH PACKAGE

(Mr. SCHEUER asked and was given permission to address the House for 1 minute.)

Mr. SCHEUER. Mr. Speaker, we have heard a lot about an economic growth package these past couple of days. I think we have to ask ourselves, what constitutes an effective economic growth package. For the Republicans, we know it means a capital gains tax cut for the rich.

A capital gains tax is not the cure to all that ails us. Yes, we should index capital gains, and maybe make the holding period longer, but if we think that pushing through a capital gains tax cut at this late hour will solve our economic woes, we are only kidding ourselves.

Making our economy more conducive to economic growth is a long-term problem, and passing short-term solutions to long-term problems, as we all know, is not a good idea.

If we want to spur long-term growth we need to increase savings, investment, and productivity, and a capital gains tax cut is not a very effective way to do this.

The best way to spur savings is to reduce our national deficit. Soaring Federal spending continues to place an incredible drain on our economy. If you want to consider tax policy, then a targeted investment tax credit is a much more effective growth tool than a capital gains tax cut.

The other thing we must do is improve our productivity. To do this we must make our work force better prepared and better educated, and we must improve the efficiency of the equipment we use. A better educated, more skilled work force will make our industries more competitive and spur growth.

Before I close, I would like to read a couple of sentences from an Op Ed piece that appeared yesterday.

> I am not in favor of a tax cut * * * I would ask what is the most important use of the tens of billions of dollars of potential output that is not being used and should be used if the economy is to recover.

> My answer would not be to increase the consumption of Middle America, which would be the main consequence of cutting taxes. I would rather fund Head Start fully, make sure that States have the money to provide the training, social services and jobs, * * * beef up the struggle against crime, and keep the libraries and schools open.

This letter was not written by some left wing, Democratic yahoo. It was written by Herbert Stein, the conservative Chairman of President Nixon's Council of Economic Advisors, and currently a fellow at the American Enterprise Institute, and it was published in yesterday's Wall Street Journal on the Op Ed page.

□ 1450

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOYER). The Chair will announce that the Chair reserves the right and specifically puts on notice all Members that the House may, at any time, at the designation of the Chair, return to the regular order of legislative business.

BANKING LEGISLATION

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, we passed two important bills earlier this afternoon, a banking bill and the RTC refunding bill. I would like to talk a little bit about the relationship between those two bills at this time. I think this is an appropriate time to make the remarks that I would like to make, and I think are an important part of filling in the picture on those two bills.

The RTC bill that we just passed that authorizes borrowing up to an additional $25 billion underscores the reservations many Members have about the banking bill.

As we well know, because of failures in the late 1970's and early 1980's to deal properly and effectively with the problems of the thrift industry, failures here in Congress, failures at the State level, failures in the administration, we have already incurred since 1989, $80 billion in losses in institutions that we have taken over through the Office of Thrift Supervision and the Resolution Trust Corporation. That is in addition to the billions of dollars that we incurred before 1989 when we refunded the bank insurance fund to the tune of $15 billion in about 1987 and 1988, and also we had a series of year-end tax breaks for institutions that were being taken over in late 1988.

This experience with the savings and loan crisis once again today makes clear to us how tremendously expensive our failure to deal adequately with problems in the financial services institutions industry can be, how terribly costly they can be.

The banking bill we passed earlier today was the subject of some celebration by those who spoke before passage, and in fact it is a good bill as far as it goes. It is a good bill in that it enhances the regulatory structure of those organizations that oversee banks, the FDIC and the Office of Comptroller of the Currency, and the Associated Regulators, and it makes a lot of very positive changes in the regulatory structure. We have heard talk about early intervention, annual onsite examinations, and on and on, significant reforms. But we must point out also that that is not without considerable additional cost to the industry, because all of those additional regulatory features do cost the industry additional funds, some of which are passed on to the depositors and to the citizens of our country.

The point I would like to make is that, as has been stated so often before, the banking industry is in decline. It is losing market share. In the last 20 years it has made a series of investments in real estate or foreign countries that have turned out to be poor investments, and is suffering a number of structural problems. Many of those structural problems relate back to depression era statutes that are currently on the books that simply need to be revised, and we are not going to stem the decline in the banking industry if all we do is enhance the regulatory part of the equation.

We also have to take important steps to make the industry more competitive, to make the industry more profitable, and to make banking failures less likely. We need to do things like interstate branching which will provide millions of dollars of savings in the administration of banks around the country. We need to seriously consider giving the banks the ability to sell and make money off of additional products, products that their competitors currently use, large financial industry rates that banks cannot offer, a whole range of financial services that banks under the provisions of the Bank Holding Company Act and other Federal statutes are prohibited from offering. Until we make these fundamental structural changes, the industry is going to continue to decline.

In other words, regulatory enhancements alone like those we enacted today, are not going to be enough. I think it is very, very important for us to recognize that we do not want to be in a position 10 years from now to look back to this year, this August, September, October when the Banking Committee reported out a good bill, H.R. 6 that my colleague from New York [Mr. FLAKE], actively participated in, and that bill was emasculated on the floor, and a whole range of things were taken out of that bill that were intended to make banks more profitable and more competitive, because that ultimately is the thing that is going to stave off a sort of kind of recovery in the banking industry, taxpayer financed, that we have to implement in the savings and loan industry.

□ 1500

So let me just say in conclusion, Mr. Speaker, that yes, it was a good bill we passed today, but only as far as it goes. We have much, much more work to do and we simply have got to put back on the plate, back before this body, these very significant structural reforms.

Let me make one final point in closing. We have accomplished a great deal this year. The Banking Committee reported out a bill the likes of which the committee has never reported before, and that bill was debated on the floor of this House. These issues have not been debated out here before that in a long, long time.

So the silver lining is that they were debated.

Also, it is very important to get through any legislative body reforms in 1 year from the time we try it the first time.

We have to remember that we have got to come back time and time again until we get these changes made.

A TRIBUTE TO TWO GREAT TEACHERS

(Mr. FLAKE asked and was given permission to address the house for 1 minute.)

Mr. FLAKE. Mr. Speaker, I rise today to take advantage of this opportunity to pay tribute to two very special persons in my life. Both of them were teachers during my youth. I would suggest that without their involvement in my life and in my development, I would not be standing as a Member of the House of Representatives today.

The first person is Mrs. Gladys Grice, to whom I pay tribute posthumously today. She is a teacher I met in my third grade year. She was also my fourth grade teacher, because my early years of education started in a four-room classroom in which there were eight grades.

I entered into the third grade with Mrs. Grice, and the next year I moved across the room to the fourth grade.

In order to get to the Korhville Elementary School where Mrs. Grice taught, we had to pass three white schools so that we could go to the only black school in the district; but Mrs. Grice never allowed us to make excuses and alibis for the fact that we had to find our way to this little school in the country in order to be educated. Rather, she demanded of us a degree of excellence that made all her students realize that it was not about color, but it was really about whether one had a will to excel. She was a very creative woman who in 1 year of my life, my fourth grade year when I had to stay out of school for a whole semester, came each Friday to my house and brought me my homework, picked up homework from the previous week and she would mark it and then bring back another batch of homework.

It was a very good thing Mrs. Grice did, because she lived almost a hundred miles away from where the school was. She went 16 miles out of her way to extend herself to me as a student.

Today, I would like to pay tribute to her because I believe that she represents the epitome of what teachers can do and ought to do if they are seriously concerned about educating our students. It would be marvelous if our educational system had in it more persons like Gladys Grice who took the time to make the sacrifice to assure that students excelled to the degree of their potential.

The second person whom I would like to pay tribute is Mrs. Jewel Simpson Houston. I also met Mrs. Houston as a very young man. She was my history teacher in high school, and during my high school years I worked in the bookstore at school which turned out to be moments that she monitored and managed me as I did my homework. Without her guiding and directing my life, I suspect that I could not be standing here this day.

I saw her about a month ago. She said she never could have imagined that in her teaching of civics and history that she would have a student who would be a Representative in this body.

Mr. Speaker, I am very pleased to pay this tribute, because she took extra time with me. After school she took me to various places, taught me public speaking, and in due time I became the president of a number of church organizations throughout the State of Texas.

One of the things that I attribute to my success even as a pastor is the simple fact that she took time to teach me public speaking. She took time to take me to places where I aspired to and was accepted in positions of leadership, and it is out of those positions of leadership that I was blessed to be able to come forth as a pastor and as a Member of this House of Representatives.

Mrs. Jewel Houston went to a small college in Texas called Quinn. She went on to Texas Southern and received her master's degree. She still lives, though she has retired after 34 years of service both as a teacher and as a counselor in education in the Aldine-Carver School District in Houston, TX.

Mr. Speaker, I pay tribute to both these women because both of them have made sacrifices to improve the lives of so many hundreds of young people, and I stand as an example of what can be done when teachers are committed, dedicated, concerned, and willing to make the sacrifice, demanding of their students a degree of excellence which those students by nature would not believe they had.

Again, she would not allow us to make excuses about being black, but she told us that we could be the best that we could possibly be if we were taught enough for it.

Mrs. Grice, Mrs. Houston, thank you.

REPORT ON FISCAL YEAR 1992 REDUCTION IN TRAVEL AND TRANSPORTATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. RANGEL) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, November 27, 1991.)

A MOST SIGNIFICANT HIGHWAY BILL

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, as the session winds down, I think there has been a lot that is significant that has been accomplished in terms of economic recovery. The most significant bill that I have heard Members on both sides of the aisle address themselves to is the highway bill. I hope that is a harbinger of things to come, because what the highway bill does is to mark the first significant public investment that has occurred in probably a decade in this country. The 1986 highway bill was significant. This one takes that one even further. What this bill does is to put $151 billion over a 6-year period into a highway program; not enough, Mr. Speaker, it is not enough, but it is a healthy start.

So its most immediate result will be to create up to 2 million new jobs in construction in the industries that will benefit from this and flow from this.

But I hope just as the Congress has put itself into public investment, it will also look at other kinds in the months to come; aviation, for instance, water and sewer, construction grants programs, schools and other facilities, and I think very significantly telecommunications, because there is an infrastructure that needs to be developed.

Some quick statistics, Mr. Speaker. One is that Japan with half our population and half our gross national product is spending more today in real dollars in infrastructure development, in public infrastructure investment, than does the United States; quite a telling statistic.

Another interesting statistic I think, Mr. Speaker, is that studies are beginning to show that for the first time investments in infrastructure directly correlate with increases in productivity.

You may wonder why we have been running a flat line in this country for a number of years.

□ 1510

Because perhaps it is our infrastructure today, in terms of our gross national product, is exactly one-half of what it was 20 years ago.

So this highway bill today I hope and believe can mark a significant change from that.

I hope that we understand that a $1 investment in infrastructure is not like $1 spent in a transfer payment or buying something. That dollar comes back time after time after time. Indeed, it generates new tax revenues.

Whole portions of my State I can see an economic birth and sometimes a rebirth because of massive investments in infrastructure which permit the private sector to make the investments they need to make.

I am very encouraged and hope that this investment that we see today is a sign of things to come because our country is saying we want to be building again.

CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT 1991

Mr. RANGEL. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 261) and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER (Mr. FLAKE). Is there objection to the request of the gentleman from New York?

Mr. HUNTER. Mr. Speaker, reserving the right to object, I would ask my friend, the gentleman from New York, has this been cleared with the Republican leadership?

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Speaker, yes, it has been; not only with the leadership but with the minority, the Banking Committee on the Senate side as on the House side.

Mr. HUNTER. Mr. Speaker, I thank my friend, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The clerk read the concurrent resolution as follows:

H. CON. RES 261

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (S. 543) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) Strike section 1 and insert the following new section:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

(B) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

Sec. 101. Funding for the Federal deposit insurance funds.
Sec. 102. limitation on outstanding borrowing.
Sec. 103. Repayment schedule.
Sec. 104. Recapitalizing the Bank insurance Fund.
Sec. 105. Borrowing for BIF from BIF members.

Subtitle B—Supervisory Reforms

Sec. 111. Improved examinations.
Sec. 112. Independent annual audits of insured depository institutions.
Sec. 113. Assessments required to cover costs of examinations.
Sec. 114. Examination and supervision fees for national banks and savings associations.
Sec. 115. Application to FDIC required for insurance.

Subtitle C—Accounting Reforms

Sec. 121. Accounting objectives, standards, and requirements.
Sec. 122. Small business and small farm loan information.
Sec. 123. FDIC property disposition standards.

Subtitle D—Prompt Regulatory Action

Sec. 131. Prompt regulatory action.
Sec. 132. Standards for safety and soundness.
Sec. 133. Conservatorship and receivership amendments to facilite prompt regulatory action.

Subtitle E—Least-Cost Resolution

Sec. 141. Least-cost resolution.
Sec. 142. Federal Reserve discount window advances.
Sec. 143. Early resolution.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

Sec. 151. Depository institutions lacking Federal deposit insurance.

Subtitle G—Technical Corrections

Sec. 161. Technical corrections and clarifications.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

Sec. 201. Short title.
Sec. 202. Regulation of foreign bank operations.
Sec. 203. Conduct and coordination of examinations.
Sec. 204. Supervision of the representative offices of foreign banks.
Sec. 205. Reporting of stock loans.
Sec. 206. Cooperation with foreign supervisors.
Sec. 207. Approval required for acquisition by foreign banks of shares of United States banks.
Sec. 208. Penalties.
Sec. 209. Powers of agencies respecting applications, examinations, and other proceedings.
Sec. 210. Clarification of managerial standards in Bank Holding Company Act of 1956.
Sec. 211. Standards and factors in the Home Owners' Loan Act.
Sec. 212. Authority of Federal banking agencies to enforce consumer statutes.
Sec. 213. Criminal penalty for violating the International Banking Act of 1978.
Sec. 214. Miscellaneous amendments to the International Banking Act of 1978.
Sec. 215. Study and report on subsidiary requirements for foreign banks.

Subtitle B—Customer and Consumer Provisions

Sec. 221. Study on regulatory burden.
Sec. 222. Discussion of lending data.
Sec. 223. Enforcement of Equal Credit Opportunity Act.
Sec. 224. Home Mortgage Disclosure Act.
Sec. 225. Notice of safeguard exception.
Sec. 226. Delegated processing.
Sec. 227. Deposits at nonproprietary automated teller machines.
Sec. 228. Notice of branch closure.

Subtitle C—Bank Enterprise Act

Sec. 231. Short title.
Sec. 232. Reduced assessment rate for deposits attributable to lifeline accounts.
Sec. 233. Assessment credits for qualifying activities relating to distressed communities.
Sec. 234. Community development organizations.

Subtitle D—FDIC Property Disposition

Sec. 241. FDIC affordable housing program.

Subtitle E—Whistleblower Protections.

Sec. 251. Additional whistleblower protections.

Subtitle F—Truth in Savings

Sec. 261. Short title.
Sec. 262. Findings and purpose.
Sec. 263. Disclosure of interest rates and terms of accounts.
Sec. 264. Account schedule.
Sec. 265. Disclosure requirements for certain accounts.
Sec. 266. Distribution of schedules.
Sec. 267. Payment of interest.
Sec. 268. Periodic statements.
Sec. 269. Regulations.
Sec. 270. Administrative enforcement.
Sec. 271. Civil liability.
Sec. 272. Credit unions.
Sec. 273. Effect on State law.
Sec. 274. Definitions.

TITLE III—REGULATORY IMPROVEMENT

Subtitle A—Activities

Sec. 301. Limitations on brokered deposits and deposit solicitations.
Sec. 302. Risk-based assessments.
Sec. 303. Restrictions on insured State bank activities.
Sec. 304. Restrictions on real estate lending.
Sec. 305. Improving capital standards
Sec. 306. Safeguards against insider abuse.
Sec. 307. FDIC back-up enforcement authority
Sec. 308. Interbank liabilities.

Subtitle B—Coverage

Sec. 311. Deposit and pass-through insurance.
Sec. 312. Foreign deposits.
Sec. 313. Penalty for false assessment reports.

Subtitle C—Demonstration Project and Studies

Sec. 321. Feasibility study on authorizing insured and uninsured deposit accounts.
Sec. 322. Private reinsurance study.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

Sec. 401. Findings and purpose.
Sec. 402. Definitions.
Sec. 403. Bilateral netting.
Sec. 404. Clearing organization netting.
Sec. 405. Preemption.
Sec. 406. Relationship to other payments systems.
Sec. 407. National emergencies.

Subtitle B—Right to Financial Privacy Act of 1978

Sec. 411. Amendments to the Right to Financial Privacy Act of 1978.

Subtitle C—Final Settlement Payment Procedure

Sec. 416. Final settlement payment procedure.

Subtitle D—Miscellaneous Committees, Studies, and Reports

Sec. 421. Amendments relating to Federal Reserve Board reserve requirements.
Sec. 422. Permanent authorization of Credit Standards Board.

Subtitle E—Utilization of Private Sector

Sec. 426. Utilization of private sector.
Sec. 427. Reporting.

Subtitle F—Emergency Assistance for Rhode Island

Sec. 431. Emergency loan guarantee.

Subtitle G—Qualified Thrift Lender Test Improvements

Sec. 436. Short title.
Sec. 437. Adjustment of compliance periods for purposes of qualified thrift lender test.
Sec. 438. Increase in amount of liquid assets excludable from portfolio assets.
Sec. 439. Additional investments included in definition of qualified thrift assets.
Sec. 440. Prudent diversification of assets.
Sec. 441. Consumer lending by Federal savings associations.

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

Sec. 446. Prohibition on entering into secrecy agreements and protective orders.

Subtitle I—Bank and Thrift Employee Provisions

Sec. 451. Continuation of health plan coverage in cases of failed financial institutions.

Subtitle J—Sense of the Congress Regarding the Credit Crisis

Sec. 456. Credit crunch.

Subtitle K—Acquisition of Insolvent Savings Associations

Sec. 461. Acquisition of insolvent savings associations.

Subtitle L—Creditability of Service

Sec. 466. Creditability of service.

Subtitle M—Other Miscellaneous Provisions

Sec. 471. Providing services to insured depository institutions.
Sec. 472. Real estate appraisals.
Sec. 473. Emergency liquidity.
Sec. 474. Discrimination against reorganized debtors.
Sec. 475. Purchased mortgage servicing rights.
Sec. 476. Limitation on securities private rights of action.
Sec. 477. Modified small business lending disclosure.
Sec. 478. Special insured deposits.

Subtitle N—Severability

Sec. 481. Severability.

TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

Sec. 501. Mergers and acquisitions of insured depository institutions during conversion moratorium.
Sec. 502. Mergers, consolidations, and other acquisitions authorized.

(2) After section 477, insert the following new section:

SEC. 478. SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*) the deposits of the Freedom National Bank of New York and the deposits of the Community Bank and Trust Company of New York that—

(1) were deposited in the bank involved by a charitable organization, as such term is defined by New York State law; and

(2) were deposits in such bank on the date of the bank's closure by the Comptroller of the Currency,

shall be considered to have been insured deposits (as defined in section 3 of the Federal Deposit Insurance Act).

(3) In the heading to section 461, strike "AQUISITION" and insert "ACQUISITION".

(4) In section 441(b), strike "(c)(2)(B)" each place such term appears and insert "(c)(2)(D)".

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, during the conference, inadvertently certain technical corrections were omitted from the final package as well as certain financial institutions' coverage for the depositors. The gentleman from Texas [Mr. GONZALEZ], and the ranking members were in the process of preparing the papers, and they have asked me, since one of the banks is located in my district, whether or not I would present this concurrent resolution to the body.

Mr. Speaker, I immediately conferred with the minority, and there being no objection, I present this to the House for consideration and passage.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1530

RECESS

The SPEAKER pro tempore (Mr. RANGEL). The Chair declares a recess until approximately 4 p.m.

Accordingly (at 3 o'clock and 31 minutes p.m.), the House stood in recess until a time in excess of 4 p.m.

□ 1634

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HOYER) at 4 o'clock and 34 minutes p.m.

CONFERENCE REPORT ON H.R. 3595, MEDICAID VOLUNTARY CONTRIBUTION AND PROVIDER-SPECIFIC TAX AMENDMENTS OF 1991

Mr. WAXMAN submitted the following conference report and statement on the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

CONFERENCE REPORT (H. REPT. 102–409)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3595), to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991".

SEC. 2. PROHIBITION ON USE OF VOLUNTARY CONTRIBUTIONS, AND LIMITATION ON THE USE OF PROVIDER-SPECIFIC TAXES TO OBTAIN FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end of the following new subsection:

"(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

"(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

"(B) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

"(C)(i) Except as otherwise provided in clause (ii) subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

"(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

"(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

"(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(iii) In this subparagraph and subparagraph (E), the term 'impermissible tax' means a health care related tax for which a reduction may be made under clause (ii) or (iii) subparagraph (A).

"(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

"(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

"(F) In this paragraph in the case of a State—

"(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

"(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

"(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

"(2)(A) In this subsection (except as provided in paragraph (6)), the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (7)(B)),

"(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of subsection (a).

"(B) For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (included costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3)(A) In this subsection (except as provided in paragraph (6)), the term 'health care related tax' means a tax (as defined in paragraph (7)(F) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) In this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed or each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class or items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that is inconsistent with subclauses (I) and (II) of subparagraph (E)(ii) or providers for a hold-harmless provision described in paragraph (4).

"(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment is made under a State plan under this title or title XVIII, or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title or title XVIII.

"(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers or such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraphs (B) and (C). Permissible waivers many include exemptions for rural or sole-community providers.

"(ii) The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

"(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of this subparagraph.

"(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold-harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

"(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

"(B)(i) In subparagraph (A), the term 'State base percentage' means, with respect to a State, an amount (expressed as a percentage) equal to—

"(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

"(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

"(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

"(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

"(6)(A) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State university teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health

care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under this section.

"(B) For purposes of this subsection, funds the use of which the Secretary may not restrict under subparagraph (A) shall not be considered to be a provider-related donation or a health care related tax.

"(7) For purposes of this subsection:

"(A) Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(E) The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(t) of such Act (42 U.S.C. 1396a(t)) is amended—

(A) by striking "Except as provided in section 1903(i), nothing" and inserting "Nothing", and

(B) by striking "taxes (whether or not general applicability)" and inserting "taxes of general applicability".

(2) Section 1903(i) of such Act (42 U.S.C. 1396(i)) is amended by striking paragraph (10) inserted by section 4701(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990.

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect January 1, 1992, without regard to whether or not regulations have been promulgated to carry out such amendments by such date.

(2) Except as specifically provided in section 1903(w) of the Social Security Act and notwithstanding any other provision of such Act, the Secretary of Health and Human Services shall not, with respect to expenditures prior to the effective date specified in section 1903(w)(1)(F) of such Act, disallow any claim submitted by a State for, or otherwise withhold Federal financial participation with respect to, amounts expended for medical assistance under title XIX of the Social Security Act by reason of the fact that the source of the funds used to constitute the non-Federal share of such expenditures is a tax imposed on, or a donation received from, a health care provider, or on the ground that the amount of any donation or tax proceeds must be credited against the amount of the expenditure.

(3) The interim final rules promulgated by the Secretary of Health and Human Services on October 31, 1991 (56 Federal Register 56132), relating to the State share of financial participation under the Medicaid program, is hereby nullified and is no effect. No part of such rule shall be effective except pursuant to a rule promulgated after the date of the enactment of this Act and consistent with this section (and the amendments made by this section).

SEC. 3. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(A) REPEAL OF PROHIBITION OF UPPER PAYMENT LIMIT FOR DISPROPORTIONATE SHARE HOSPITALS.—Section 1902(h) of the Social Security Act (42 U.S.C. 1396a(h)) is amended by striking "to limit" the first place it appears and all that follows through "special needs or".

"(b) LIMITATION ON AGGREGATE PAYMENT ADJUSTMENTS.—

(1) IN GENERAL.—Section 1923 of such Act (42 U.S.C. 1396r–4) is amended by adding at the end the following new subsection:

"(f) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR PAYMENTS IN EXCESS OF CERTAIN LIMITS.—

"(1) IN GENERAL.—

"(A) APPLICATION OF STATE-SPECIFIC LIMITS.—Except as provided in subparagraph (D), payment under section 1903(a) shall not be made with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (4)(B)) for quarters—

"(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

"(I) the payment adjustments are made—

"(a) in accordance with the State plan in effect or amendments submitted to the Secretary by September 30, 1991,

"(b) in accordance with the State plan in effect or amendments submitted to the Secretary by November 26, 1991, or modification thereof, if the amendment designates only disproportionate share hospitals with a medicaid or low-income utilization percentage at or above the Statewide arithmetic mean, or

"(c) in accordance with a payment methodology which was established and in effect as of September 30, 1991, or in accordance with legislation or regulations enacted or adopted as of such date; or

"(II) the payment adjustments are the minimum adjustments required in order to meet the requirements of subsection (c)(1); or

"(ii) in a subsequent fiscal year, to the extent that the total of such payment adjustments exceeds the State disproportionate share hospital (in this subsection referred to as 'DSH') allotment for the year (as specified in paragraph (2)).

"(B) NATIONAL DSH PAYMENT LIMIT.—The national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under State plans under this title for medical assistance during the fiscal year.

"(C) PUBLICATION OF STATE DSH ALLOTMENTS AND NATIONAL DSH PAYMENT LIMIT.—Before the beginning of each fiscal year (beginning with fiscal year 1993), the Secretary shall, consistent with section 1903(d), estimate and publish—

"(i) the national DSH payment limit for the fiscal year, and

"(ii) the State DSH allotment for each State for the year.

"(D) CONDITIONAL EXCEPTION FOR CERTAIN STATES.—Subject to subparagraph (E), beginning with payments for quarters beginning on or after January 1, 1996, and at the option of a State, subparagraph (A) shall not apply in the case of a State which defines a hospital as a disproportionate share hospital under subsection (a)(1) only if the hospital meets any of the following requirements:

"(i) The hospital's medicaid inpatient utilization rate (as defined in subsection (b)(2)) is at or above the mean medicaid inpatient utilization rate for all hospitals in the State.

"(ii) the hospital's low-income utilization rate (as defined in subsection (b)(3)) is at or above the mean low-income utilization rate for all hospitals in the State.

"(iii) The number of inpatient days of the hospital attributable to patients who (for such days) were eligible for medical assistance under the State plan is equal to at least 1 percent of the total number of such days for all hospitals in the State.

"(iv) The hospital meets such alternative requirement as the Secretary may establish by regulation, taking into account the special circumstances of children's hospitals, hospitals located in rural areas, and sole community hospitals.

"(E) CONDITION FOR OPTION.—The option specified in subparagraph (D) shall not apply for payments for a quarter beginning before the date of enactment of legislation establishing a limit on payment adjustments under this section which would apply in the case of a State exercising such option.

"(2) DETERMINATION OF STATE DSH ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year (or, for fiscal year 1993, the State base allotment as defined in paragraph (4)(C)), increased by—

"(i) the State growth factor (as defined in paragraph (4)(E)) for the fiscal year, and

"(ii) the State supplemental amount for the fiscal year (as determined under paragraph (3)).

"(B) EXCEPTIONS.—

"(i) LIMIT TO 12 PERCENT OR BASE ALLOTMENT.—A State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year, except that, in the case of a high DSH State (as defined in paragraph (4)(A)), the State DSH allotment shall equal the State base allotment.

"(ii) EXCEPTION FOR MINIMUM REQUIRED ADJUSTMENT.—No State DSH allotment shall be less than the minimum amount of payment adjustments the State is required to make in the fiscal year to meet the requirements of subsection (c)(1).

"(3) STATE SUPPLEMENTAL AMOUNTS.—The Secretary shall determine a supplemental amount for each State that is not a high DSH State for a fiscal year as follows:

"(A) DETERMINATION OF REDISTRIBUTION POOL.—The Secretary shall subtract from the national DSH payment limit (specified in paragraph (1)(B)) for the fiscal year the following:

"(i) the total of the State base allotments for high DSH States;

"(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fiscal year 1993, the total of State base allotments) for all States other than high DSH States;

"(iii) the total of the State growth amounts for all States other than high DSH States for the fiscal year; and

"(iv) the total additions to State DSH allotments the Secretary estimates will be attributable to paragraph (2)(B)(ii).

"(B) DISTRIBUTION OF POOL BASED ON TOTAL MEDICAID EXPENDITURES FOR MEDICAL ASSISTANCE.—The supplemental amount for a State for a fiscal year is equal to the lesser of—

"(i) the product of the amount determined under subparagraph (A) and the ration of—

"(I) the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year, to

"(II) the total amount of expenditures made under the State plans under this title for medical assistance during the fiscal year for all States which are not high DSH States in the fiscal year, or

"(ii) the amount that would raise the State DSH allotment to the maximum permitted under paragraph (2)(B).

"(4) DEFINITIONS.—In this subsection:

"(A) HIGH DSH STATE.—The term 'high DSH State' means, for a fiscal year, a State for which the State base allotment exceeds 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year.

"(B) STATE.—The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(C) STATE BASE ALLOTMENT.—The term 'State base allotment' means, with respect to a State, the greater of—

"(i) the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1992 (excluding any such payment adjustments for which a reduction may be made under paragraph (1)(A)(i)), or

"(ii) $1,000,000.

The amount under clause (i) shall be determined by the Secretary and shall include only payment adjustments described in paragraph (1)(A)(i)(I).

"(D) STATE GROWTH AMOUNT.—The term 'State growth amount' means, with respect to a State for a fiscal year, the lesser of—

"(i) the product of the State growth factor and the State DSH payment limit for the previous fiscal year, or

"(ii) the amount by which 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year exceeds the State DSH allotment for the previous fiscal year.

"(E) STATE GROWTH FACTOR.—The term 'State growth factor' means, for a State for a fiscal year, the percentage by which the expenditures described in section 1903(a) in the State in the fiscal year exceed such expenditures in the previous fiscal year.".

(2) CONFORMING AMENDMENTS.—(A) Such section 1923 is further amended—

(i) in subsection (a)(2)(B), by striking "subsection (c)," and inserting "subsections (c) and (f),"; and

(ii) in subsection (c), by striking "In order" and inserting "Subject to subsection (f), in order".

(B) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "and section 1923(f)" after "of this section".

(c) LIMITS ON AUTHORITY TO RESTRICT DSH DESIGNATIONS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(4) The Secretary may not restrict a State's authority to designate hospitals as disproportionate share hospitals under this section. The previous sentence shall not be construed to affect the authority of the Secretary to reduce payments pursuant to section 1903(w)(1)(A)(iii) if the Secretary determines that, as a result of such designations, there is in effect a hold harmless provision described in section 1903(w)(4).".

(d) STUDY OF DSH PAYMENT ADJUSTMENTS.—

(1) IN GENERAL.—The Prospective Payment Assessment Commission shall conduct a study concerning—

(A) the feasibility and desirability of establishing maximum and minimum payment adjustments under section 1923(c) of the Social Security Act for hospitals deemed disproportionate share hospitals under State medicaid plans, and

(B) criteria (other than criteria described in clause (i) or (ii) of section 1923(f)(1)(D) of such Act) that are appropriate for the designation of disproportionate share hospitals under section 1923 of such Act.

(2) ITEMS INCLUDED IN STUDY.—The Commission shall include in the study—

(A) a comparison of the payment adjustments for hospitals made under such section and the additional payments made under title XVIII of such Act for hospitals serving a significantly disproportionate number of low-income patients under the medicare program; and

(B) an analysis of the effect the establishment of limits on such payment adjustments will have on the ability of the hospitals to be reimbursed for the resource costs incurred by the hospitals in treating individuals entitled to medical assistance under State medicaid plans and other low-income patients.

(3) REPORT.—Not later than January 1, 1994, the Commission shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives. Such report shall include such recommendations respecting the designation of disproportionate share hospitals and the establishment of maximum and minimum payment adjustments for such hospitals under section 1923 of the Social Security Act as may be appropriate.

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect January 1, 1992.

(2) The proposed rule promulgated by the Secretary of Health and Human Services on October 31, 1991 (56 Federal Register 56141), relating to the standards for defining disproportionate share hospitals under the medicaid program, shall be withdrawn and canceled. No part of such proposed rule shall be effective except pursuant to a rule promulgated after the date of the enactment of this Act and consistent with this section (and the amendments made by this section).

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

"(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

"(i) provider-related donations made to the State or units of local government during such fiscal year, and

"(ii) health care related taxes collected by the State or such units during such fiscal year.

"(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply fiscal years ending after the date of the enactment of this Act.

SEC. 5 INTERIM FINAL REGULATIONS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Health and Human Services shall issue such regulations (on an interim final or other basis) as may be necessary to implement this Act and the amendments made by this Act.

(b) REGULATIONS CHANGING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—The Secretary may not issue an interim final regulation that changes the treatment (specified in section 433.45(a) of title 42, Code of Federal Regulations) of public funds as a source of State share of financial participation under title XIX of the Social Security Act, except as may be necessary to permit the Secretary to deny Federal financial participation for public funds described in section 1903(w)(6)(A) of such Act (as added by section 2(a) of this Act) that are derived from donations or taxes that would not otherwise be recognized as the non-Federal share under section 1903(w) of such Act.

(c) CONSULTATION WITH STATES.—The Secretary shall consult with the States before issuing any regulations under this Act.

And the Senate agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
NORMAN F. LENT,
Managers on the Part of the House.

LLOYD BENTSEN,
JAY ROCKEFELLER,
DONALD W. RIEGLE,
BOB PACKWOOD,
DAVE DURENBERGER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3595), to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. USE OF VOLUNTARY CONTRIBUTIONS, PROVIDER-SPECIFIC TAXES, AND INTERGOVERNMENTAL TRANSFERS BY STATES TO RECEIVE FEDERAL MATCHING FUNDS UNDER MEDICAID

Current Law

The Technical and Miscellaneous Revenue Act of 1988, as amended by the Omnibus Budget Reconciliation Act of 1990, prohibits the Secretary from issuing any final regulation prior to December 31, 1991, changing the treatment of voluntary contributions or provider-paid taxes used by States to receive Federal matching funds. The Omnibus Budget Reconciliation Act of 1990 prohibits the Secretary from denying or limiting payments to a State from expenditures attributable to taxes, whether or not of general applicability, imposed with respect to the provision of medical services. The Secretary is permitted to deny matching funds for Medicaid payments made to reimburse a hospital, nursing facility (NF), or intermediate care facility for the mentally retarded (ICF-MR) for taxes imposed by a State solely with respect to such facilities.

House Bill

Extends the moratorium on issuance of new regulations through September 30, 1992. Permanently prohibits the issuance of regulations that change the treatment of public funds used as the State share of Medicaid, including funds contributed by an agency that provides Medicaid services. Provides that any regulation changing the treatment of voluntary contributions may not apply to contributions made before January 1, 1993, except that FY 1993 Federal financial participation (FFP) related to a State's use of contributions must not exceed the amount of FFP related to such contributions in FY 1991. Prohibits the Secretary from reducing payments to States based on quarterly State expenditure estimates because such estimates include amounts attributable to contributions, intergovernmental transfers, or provider-paid taxes, or from assessing any penalty or taking other regulatory action against a State related to its use of such contributions, transfers, or taxes. The prohibitions apply to payments for quarters beginning on or after January 1, 1992, and ending on or before September 30, 1992 (for intergovernmental transfers and provider-paid taxes) or December 31, 1992 (for voluntary contributions), and to actions taken by the Secretary during the same periods.

Senate Amendment

Provides that, for the purpose of computing Federal matching funds, State Medicaid spending for a quarter (other than in Arizona) is to be reduced by the amount of any revenues received by the State or a local government on or after January 1, 1992, from:

Provider-related donations (donations from a medical provider, related entity, or administrative contractor), except "bona-fide" donations, and donations in the form of payment for outstanding Medicaid eligibility workers. Beginning in Federal FY 1993, donations related to outstationing are limited to 10 percent of State administrative costs.

Health care related taxes (those related to provision of health services and 85% paid by providers or those not equally imposed on non-health items) that are not broad-based. Broad-based taxes are defined as those uniformly imposed on all non-Federal nonpublic providers in the same class in the State or locality or all items or services in the class furnished by such providers. A tax is imposed uniformly if the amount, rate, and or base for the tax is the same for all subject providers, and the tax does not provide for credits, deductions or exclusions that have the effect of refunding all or a portion of the tax. A tax may be uniform even if it applies only to services not covered under Medicaid or Medicare non-Medicare revenues. The Secretary may treat a tax as broad-based on application by the State if the tax and related spending are generally redistributive and the tax and Medicaid payments are not directly correlated. Waivers may include exemptions for rural or sole community providers.

Health care related taxes that are broad-based but to which a hold harmless provision applies. A hold harmless provision is one that provides for: a non-Medicaid payment to the provider that is correlated to the tax or to differences between the tax and Medicaid payments; Medicaid payment varying on the basis of taxes paid; or the State or locality guarantees that some or all of the tax will be offset in some way.

Broad-based taxes in amounts that exceed 25 percent of the State share of Medicaid or (if greater) the State's "base percentage" in all or part of State fiscal years beginning on or after January 1, 1992, and before October 1, 1995. The base percentage is equal to the total of provider donations and/or health care related taxes (whether or not permissible) projected to be collected during the State 1992 fiscal year, divided by the estimated State share of Medicaid spending for the year. In the case of a tax not in effect (or increased) during the full base year, the Secretary is to compute the base percentage as if it were in effect for the full year. Donations are to be counted only under a program in effect or reported to the Secretary by September 30, 1991; taxes are to be counted if they were in effect or legislation or regulations had been adopted, as of November 22, 1991.

Permits matching for certain otherwise prohibited revenues received before October 1, 1992 (for States with fiscal years beginning on or before July 1), January 1, 1993 (for States with fiscal years beginning after July 1), or July 1, 1993 (for a State that has an enacted provider tax on November 4, 1992, or whose legislature is not scheduled to meet in 1992 or 1993); prohibits a disallowance or withholding of FFP related to donations or taxes before the applicable date. Matching is permitted for donations only under a program in effect or reported to the Secretary by September 30, 1992. Countable donations for a State's 1993 fiscal year may not exceed those for the State's 1992 fiscal year. Matching is permitted for non-broad-based taxes, or broad-based taxes with a hold harmless provision, only if the taxes were in effect or legislation or regulations had been adopted, as of November 22, 1991. Increases after that dare are not permitted. The sum of allowed donations and taxes (including broad-based taxes) for the part of a State's fiscal year occurring in calendar year 1992, or for all of State fiscal year 1993 may not exceed 25 percent (or the base percentage) of the State share of Medicaid.

Prohibits the Secretary from restricting States' use of funds derived from State or local taxes (including funds appropriated to State-owned teaching hospitals) transferred from or certified by local government units (including units that are providers) unless the transfers exceed the 40 percent limit on local government sharing in Medicaid or stem from otherwise prohibited donations or taxes.

Conference Agreement

The agreement includes the Senate amendment with modifications. The Secretary is required to withdraw the October 31, 1991, interim final rule with respect to donations and taxes. The Secretary may not change current treatment of intergovernmental transfers except through the formal APA regulatory process (except as needed to deny matching for public funds described in section 1903(w)(6)(A) that are derived from donations or taxes that would not otherwise be recognized). Use appropriations made to State university teaching hospitals is to be treated as a permissible transfer. The conferees note that current transfers from a country or other local teaching hospitals continue to be permissible if not derived from sources of revenue prohibited under this act. The conferees intend the provision of section 1903(w)(6)(A) to prohibit the Secretary from denying Federal financial participation for expenditures resulting from State use of finds referenced in that provision.

2. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS

Current Law

Prohibits the Secretary from limiting payment adjustments made by States to hospitals serving a disproportionate number of low-income patients with special needs.

House Bill

No provision.

Senate Amendment

Effective January 1, 1992, establishes a national limit on disproportionate share hospital payment adjustments during each fiscal year equal to 12 percent to total Medicaid spending for that year. Limits a State's disproportionate share adjustment:

In the part of FY 1992 beginning on or after January 1, 1992, to those made under the State plan in effect or as submitted by September 30, 1991, or under a methodology established an in effect by that date, or legislation or regulation adopted by that date. A State plan amendment in effect or submitted by November 26, 1991, may be used if it designates only disproportionate share hospitals with a Medicaid or low-income percentage at or above the Statewide arithmetic mean. Higher payment adjustments are permitted if necessary to meet the minimum prescribed by Medicaid law.

For FY 1993 and subsequent fiscal years, to the amount of the State's disproportionate share hospital (DSH) allotment. The DSH allotment for a State is equal to the previous year's allotment (or, for FY 1993, its "base allotment"), increased by the State growth factor and the State supplemental amount for the fiscal year. The base allotment is equal to the greater of the State's payment adjustment during FY 1992 (subject to the limits for that year) or $1 million. The growth factor is the annual percentage increase in the State's Medicaid spending. The supplemental amount is an amount payable to States that are not high DSH States. (A State is a high DSH State for a fiscal year if its base allotment exceeds 12 percent of its total Medicaid spending for that fiscal year.)

The supplemental amounts are established from a pool whose size is determined by subtracting from the amount of the national DSH limit the amounts of: (a) the base allotment for high DSH States, (b) total allotment to non-high DSH States for the previous year, (c) total "growth amounts" for non-high DSH States for the current year, and (d) any additional amounts needed to bring State's payment adjustments up to statutory minimums. A State's growth amount is the greater of: the State's allotment for the previous year times the growth factor; or the difference between the allotment for the previous year and 12 percent of total current year Medicaid spending. The supplemental amount for each non-high DSH State is the lesser of (a) a share of the pool proportionate to the State's share of all Medicaid spending by non-high DSH States or (b) the amount that would raise the State's allowable payment adjustments to 12 percent of its Medicaid spending.

Requires the Secretary to publish State allotments and national limits for each fiscal year before the beginning of the year. Limits on payment adjustments do not apply in Arizona.

Prohibits a State from using DSH payment adjustments to hold providers harmless for health care related taxes after the effective date of limits on the use of such taxes. With this exception, prohibits the Secretary from restricting a State's authority to designate disproportionate share hospitals.

Conference Agreement

The agreement includes the Senate amendment, with modifications.

After January 1, 1996, a state will not be subject to the aggregate limit on payment adjustments if it designates as DSH's only facilities whose low-income or Medicaid utilization rate exceeds the state mean, that account for at least 1 percent of all Medicaid days in the state, or that meet other criteria established by the Secretary, taking into account the special circumstances of rural, sole community, and childrens hospitals.

This option will be available only after Congress has established limits in law on payment adjustments to DSH hospitals for states electing the option. The Prospective Payment Assessment Commission is required to submit a report to Congress by January 1, 1994, on appropriate methods for establishing appropriate minimum and maximum adjustment amounts and criteria for DSH designation.

3. REPORT

Current Law

No provision.

House Bill

Requires the Secretary to report to the House Energy and Commerce and Senate Finance Committees by February 3, 1992, on any regulations the Secretary intends to issue to limit the use of contributions and provider-specific taxes, the specific types of contributions and taxes that would remain permissible, and any legislation the Secretary thinks appropriate.

Senate Amendment

No provision.

Conference Agreement

The agreement does not include the House provision.

4. BUDGET COMPLIANCE PROVISIONS

Current Law

No provision.

House Bill

Provides that the applicable cost estimates for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 shall 0 in increased outlays and receipts for FY 1991 through FY 1995.

Senate Amendment

No provision.

Conference Agreement

The agreement does not include the House provision.

5. STATE REPORTS

Current Law

No provision.

House Bill

No provision.

Senate Amendment

Requires States to report annually on donations received and taxes collected by the State or local governments during each fiscal year and the amount of payment adjustments made to disproportionate share providers during the year, beginning with fiscal years ending after the date of enactment.

Conference Agreement

The agreement includes the Senate amendment.

6. INTERIM FINAL REGULATIONS

Current Law

No provision.

House Bill

No provision.

Amendment

Requires the Secretary, after consultation with States, to issue implementing regulations.

JOHN D. DINGELL,
HENRY A. WAXMAN,
NORMAN F. LENT,
Managers on the Part of the House.

LLOYD BENTSEN,
JAY ROCKEFELLER,
DONALD W. RIEGLE,
BOB PACKWOOD,
DAVE DURENBERGER,
Managers on the Part of the Senate.

Mr. WAXMAN. Mr. Speaker, I call up the conference report on the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source, and ask unanimous consent for its immediate consideration in the House and ask that it be considered as read.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LENT. Mr. Speaker, reserving the right to object, I do not intend to object.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield so I can say a few words about this conference report?

Mr. LENT. Mr. Speaker, I yield to the gentleman from California [Mr. WAXMAN], the distinguished chairman of the Subcommittee on Health and the Environment.

Mr. WAXMAN. Mr. Speaker, this conference report represents the agreement between the House and Senate conferees on what passed this House, a moratorium on regulations being proposed by the Department of Health Care Financing Administration in the Department of Health and Human Services. This whole issue began when the White House proposed new limits on Medicaid. This is the program that provides the only health insurance for 28 million poor Americans. Most of them are under 18, over 65, or totally disabled. In response to those proposals the House voted overwhelmingly to place a moratorium on any regulatory changes. With a threatened Presidential veto of the House passed moratorium over their heads, the Governors were told to negotiate a new package or face the original OMB regulation. They reached an agreement.

I want to put this in context. The administration put the Governors in an untenable position. They acted understandably to avoid the uncertainty of these court fights to declare invalid these proposed regulations and the uncertainty for their budgets.

But I want to tell my colleagues that the agreement that the administration forced upon the Governors is not a good agreement. I think it is going to do them well in a very short run, but it is going to do a great deal of disservice to the millions of Americans who are poor, elderly, disabled, women, and children who rely on the disproportionate share in institutions, the public hospitals, the children's hospitals, to give them care because in that agreement the Governors and the administration put limits on the reimbursement for those institutions.

Mr. Speaker, we worked on the framework of that agreement, and I regretted the fact that the Governors accepted this agreement rather than to call for moratoriums so the whole matter could be discussed and thought through rather than make an important and really quite fundamental change in the Medicaid Program without a lot of scrutiny and evaluation of the consensus.

But we are here today to enact legislation that I think we are going to all regret in a very short period of time, but we have very little choice before us.

So, I will present this conference report. I myself will vote against it because I do not want to be associated with it, but I know that this agreement will pass and will become law, and we will have to revisit these issues on another occasion.

Mr. LENT. Mr. Speaker, further reserving the right to object, I rise to strongly support the conference report on H.R. 3595, the Medicaid Moratorium Amendments of 1991. It reflects the agreement that we have just reached with the Senate conferees.

It is consistent with H.R. 3900, the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, introduced by Mr. MICHEL and myself on Saturday. That bill represented the agreement between the National Governors' Association and the administration as of that date.

Since then, further discussions have taken place among the administration, the NGA, and the Senate. I am very pleased that a final agreement was reached.

In terms of provider taxes, the legislation replaces the OBRA '90 provider-specific tax provisions with language stipulating that Federal money will be available only if the tax uniformly applies to all providers in a class, and to all the health-related business of the providers. A class of providers would be, for example, all hospitals, all physicians, or all nursing homes in the State. A tax on "all business of providers" would include taxes such as a gross revenues tax, a tax based on inpatient days, or a head tax on all patients.

And unlike the current financing scams, these taxes would in fact be bona fide taxes on all providers. These taxes would be truly redistributive. Tax revenues would flow from rich hospitals to public hospitals that serve the poor. And this legislation would forbid hold-harmless arrangements in which States rebate the tax revenue directly back to the providers, after the State has received the Federal matching payments.

In addition to the requirement that these taxes be bona fide taxes, the legislation also provides a percentage limit on their use. For purposes of calculating Federal matching, total revenues from these broad-based provider taxes may not exceed 25 percent. This provision ensures the integrity of the Medicaid Program by guaranteeing financial participation of both the States and the Federal Government.

The legislation prohibits the States from receiving Federal payments for revenues obtained from donations by or on behalf of providers. An exception to this rule is created for donations for moneys related to personnel costs for workers in hospitals and clinics who determine Medicaid eligibility of beneficiaries. The total amount of donations permitted under this exception may not exceed 10 percent of the State's total Medicaid administrative expenses.

Several States have raised concerns about the impact of the Health Care Financing Administration [HCFA] regulation on intergovernmental transfers. This bill provides that States may continue to use funds transferred to the State from counties, cities, or other governmental entities as the State share of Medicaid expenditures. The use of such transfers would, however, be disallowed if the source of the funds was donations or taxes that would not otherwise be recognized as the non-Federal share under this legislation.

Mr. Speaker, this is a reasonable compromise which has been agreed to by the conferees. It restores the basic tenet of the Medicaid Program—which is shared financial responsibility between the Federal Government and the States.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. LENT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois, the distinguished chairman of the Committee on Ways and Means, for the purpose of a clarification.

□ 1640

Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased to support the conference report on H.R. 3595, the Medicaid Moratorium Amendments of 1991.

The conference agreement would allow States to continue to receive essential matching payments for Medicaid costs funded with revenues from provider-specific taxes. It would also protect the current policy regarding intergovernmental transfers.

On September 12, 1991, the Health Care Financing Administration published interim final regulations that would have severely restricted Federal matching payments to States.

This regulation would have created financial chaos for many State Medicaid Programs. It is clearly contrary to the letter and spirit of the Medicaid provisions of the 1990 Budget Reconciliation Act.

If implemented, the regulation would have been devastating for the Medicaid beneficiaries and health care providers in many States. In my own State of Illinois, many hospitals would not have been able to survive.

Because the regulation would have taken effect in the middle of the 1992 fiscal year for most States, State governments would have had no choice but to cut payments for disproportionate share providers, eliminate important benefits, or restrict eligibility.

The State of Illinois acted responsibly in relying on Federal law when it enacted the provider assessment program, and the State, its hospitals, and its economy should not be thrown into disarray because of unwarranted and arbitrary Federal agency decisions.

Under this conference agreement, the current level of provider-specific taxes in Illinois would be allowed through 1995. Intergovernmental transfers may not be affected.

In addition, under the compromise payments to disproportionate share hospitals would be permanently limited to 12 percent. These hospitals provide health care services to our most vulnerable fellow citizens. While I understand that this cap is not a problem for hospitals in Illinois, I have serious reservations about any limit on payments for disproportionate share hospitals.

Until every American has health insurance, I would be concerned about a policy that may reduce payments to hospitals that provide critical health care services in Chicago and in other American cities.

This conference agreement represents a good compromise. Although I would have liked the Secretary to withdraw the regulations altogether, I support the provisions of the conference agreement.

I urge my colleagues to support this important conference report.

Mr. Speaker, I would ask if the gentleman from New York would yield further in order that I may engage in a colloquy with the gentleman from California [Mr. WAXMAN].

Mr. LENT. Mr. Speaker, further reserving the right to object, I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to request a clarification regarding the disproportionate share hospital provisions of current law and this bill.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. LENT. Further reserving the right to object, I yield to the gentleman from California.

Mr. WAXMAN. I would be pleased to respond to a question from the gentleman from Illinois.

Mr. ROSTENKOWSKI. I want to be sure that this agreement does not infringe on State flexibility with respect to determining the level of disproportionate share payments for a given hospital.

I would like to reaffirm that it was the intent of OBRA '90 to give States the option of taking other factors into consideration when determining payment adjustments for disproportionate share hospitals.

Is it your understanding that some of the other factors a State may take into consideration may include but are not limited to:

Intensity of care;

The provision of services essential to the Medicaid and low-income patients of a State;

The efficiency of hospitals as measured through occupancy rates or other factors reasonably related to efficiency;

Medicare, Medicaid, and/or low-income utilization levels;

The types of services that are predominantly furnished by a hospital;

Geographic location; or

Any combination of these and other factors?

Mr. WAXMAN. Mr. Speaker, if the gentleman will yield further, the answer is yes.

It was the intent of the Congress that the third payment option of section 1923(c) included in OBRA '90 would allow States to take into consideration these, and other factors when calculating disproportionate share hospital payment adjustments.

This would be true as long as the factors apply equally to all hospitals of each type and result in an adjustment that is reasonably related to the costs, volume, or proportion of services provided to low-income patients.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield further, I would like to thank the gentleman for his clarification. I know the gentleman from California is very learned in this area, and I particularly want him to realize the importance of these provisions to the State of Illinois.

Mr. LENT. Mr. Speaker, further reserving the right to object, in conclusion, I would like to address my gratitude to the two gentlemen from California, Mr. WAXMAN and Mr. DANNEMEYER, for their efforts, and also acknowledge the very fine contributions of some of the people on my staff: Howard Cohen, Mary McGrane, and Melody Houghton, and also Ed Grossman and Noah Woofsy, two attorneys in the Office of Legislative Counsel, for the excellent work that they have done in drafting this very complex agreement.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. LENT. Further reserving the right to object, I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I want to join with the gentleman in saluting our staff, and I want to single out Andy Schneider of our subcommittee staff who put in an enormous amount of effort in this legislation.

Mr. LENT. Further reserving the right to object, I thank the gentleman for his contribution and I extend thanks to those members of his staff.

Mr. RITTER. Mr. Speaker, we are faced with the difficult task of reconciling a ballooning Medicaid Program—one that has increased more than 2,000 percent since its inception in 1965, with States that are struggling just to maintain basic health care coverage for their poorest citizens.

All this at a time of economic stagnation.

How have we gotten into this horrendous situation? Because many in Congress have seen fit to push one Medicaid mandate after another to the point of diminishing whatever flexibility the States had for dealing with this situation on their own.

Now the States have come up with very creative financing schemes. Indeed, I do not condone the manner in which my own State, Pennsylvania, has dealt with its Medicaid funding problems. And it's obvious that such a system must change. But, I cannot in good conscience watch my State be immediately cut off from funds for certain prenatal care programs, drug and alcohol treatment, or catastrophic illness, for example. The States need a reasonable transition period to find other funding options. Pennsylvania is a prime example where administrative deficiencies cannot be allowed to harm large numbers of people.

So, as a Pennsylvanian concerned about fellow Pennsylvanians, I will support this legislation.

I commend the administration and the National Governors' Association for the rational agreement that they have reached. This agreement will give States enough time and flexibility to meet their Medicaid obligations in the coming years.

The bottom line is that we in Congress must reduce the pressure—the mandate madness that forces States to go around the spirit of the law.

Mr. LENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950), "An act to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the resolution (H.J. Res. 157), "Joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 83. Concurrent resolution to authorize a correction in the enrollment to S. 543.

RECESS

The SPEAKER pro tempore. The House will stand in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 47 minutes p.m.) the House stood in recess subject to the call of the Chair.

□ 1853

AFTER RECESS

The recess having expired, the House was called to order by the Speaker (Mr. GEPHARDT) at 6 o'clock and 55 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a concurrent resolution of the House of the following titles:

H.R. 355. An act to provide emergency drought relief to the Reclamation States, and for other purposes;

H.R. 3337. An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes; and

H. Con. Res. 260. Concurrent resolution providing for an adjournment of the Congress to a date certain.

The message also announced that the Senate recedes from its amendment to the bill from the House (H.R. 355), "An act to provide emergency drought relief to the Reclamation States, and for other purposes" with an amendment.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (S. 543), "An act to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2015. An act to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense of Corregidor Island, the Philippines, under General Wainwright;

S. 2034. An act to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; and

S. Con. Res. 84. Concurrent resolution to correct the enrollment of H.R. 3435 the RTC funding bill.

PROVIDING FOR THE ADJOURNMENT OF THE CONGRESS ON NOVEMBER 26, 1991, TO A DAY CERTAIN

The SPEAKER pro tempore, by unanimous consent, laid before the House the Senate amendment to the concurrent resolution (H. Con. Res. 260) providing for an adjournment of the Congress to a day certain.

The Clerk read the Senate amendment as follows:

On page 1, line 14, after "first" insert: "; and that when the Congress convenes on January 3, 1992, for the second session of the 102nd Congress, the Senate shall not conduct any organizational or legislative business and when it recesses or adjourns on that day, it stand in recess or adjournment until 11:30 a.m. on Tuesday, January 21, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first".

The Senate amendment was agreed to.

A motion to reconsider was laid on the table.

CORRECTING ENROLLMENT OF S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 83) to correct the enrollment of the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WELDON. Mr. Speaker, reserving the right to object, and I will not object, but I understand that our leadership is in support of the initiative as proposed by my colleague and friend, the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. WELDON. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, the gentleman from Pennsylvania [Mr. WELDON] is correct.

Mr. WELDON. Mr. Speaker, will the gentleman from New York explain the initiative, please?

Mr. RANGEL. Yes, Mr. Speaker.

When the conference was held this morning, inadvertently the language that is in this concurrent resolution specifically leaves out a banking institution. There was an attempt to restore it, and I then went through the leadership on both sides of the Committee on Banking, Finance and Urban Affairs, the counsel and the Speaker, and by unanimous consent I was able to pass the concurrent resolution that was supposed to remedy the defect that all of the conferees intended that would be included in the conference report. After that passed, that was sent over to the Senate. The Senate passed this concurrent resolution, which was resting at the House, and it was this resolution that I have just had taken from the Speaker's desk that was the intent of both the House and the Senate conferees.

As a result of the difficulty here, Mr. Speaker, the gentleman from Ohio [Mr. WYLIE] immediately went to the majority leader, the gentleman from Missouri [Mr. GEPHARDT], and counsel of both sides shared the information with the leadership on both sides, and they concurred that this was an inequity that could be corrected in this manner.

□ 1900

Mr. WELDON. Mr. Speaker, I thank the gentleman for his explanation, and I am happy that we were able to work with our distinguished colleague, the gentleman from New York, Mr. RANGEL, and the distinguished Senator from New York, Mr. D'AMATO, in this important initiative.

Mr. RANGEL. Mr. Speaker, I thank the minority for its consideration of this matter. It is very important. I thank the gentleman, and I thank the Chair.

Mr. WELDON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill, S. 543, the Secretary of the Senate shall make the following correction:

At the appropriate place, insert:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York and the deposits of Community National Bank and Trust Company of New York that—

(1) were deposited by a charitable organization as such term is defined by New York State law, or by a religious organization; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency, shall be fully insured notwithstanding any other provisions of the Federal Deposit Insurance Act.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ENGLISH: LET'S MAKE IT OFFICIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, I recently had the good fortune to meet with Dr. Robert M. Spiro, a member of the board of the American Security Council. In the course of our visit, Dr. Spiro expressed his grave concern about the increasing division of our society among racial and ethnic lines. He and I share the view that America's strength lies in our unity, and that the English language is the common thread that ties our many races, religions, and cultures together.

Dr. Spiro has written an excellent article outlining a few of the reasons why we need a common language. I respectfully request that the article be reprinted in the RECORD, and I commend the article to each of my colleagues. Please take a few minutes to read why America needs official English.

ENGLISH: LET'S MAKE IT OFFICIAL

(By Robert H. Spiro, Jr.)

It is a truism, accepted at home and abroad, that the United States of America is a diverse nation, pulsating with the heartbeats of a hundred ethnic groups, harking back to every other nation on the entire globe.

All continents, races, ethnic groups, languages, tribes, and families have contributed to the making of America.

America is a vast "melting pot" with ties to all humanity, and it is remarkable that despite 200 years of constant stirring and adding new ingredients to the brew, the pot does not boil over. The search for unity, harmony, order and tranquility was expressed eloquently in the Preamble to the Constitution, and has been a constant theme in American history.

Throughout two centuries of national history, this exciting Nation has searched for a central concept, unity. Midway in its history, a terrible Civil War, by far the bloodiest in the New World, tore the Nation apart. Twenty-two northern states, inspired by Lincoln, faced eleven seceding states. Four million men were mobilized and 600,000 died in fierce fighting. There were many "causes" for this conflagration, but the basic issue was the right to secede, to separate, to disrupt the unity of the Nation.

Diverse ethnic ties are constantly dividing the Nation, and cultural tensions frequently pull it apart. Its many religions are increasingly varied, while many citizens decry all religions. Nothing is more important than a single common language, spoken by all citizens.

A COMMON LANGUAGE IS THE CEMENT THAT BINDS THE NATION

A nation speaking one language is stronger, more firmly united, and more secure than a nation divided by language barriers and the consequences of those barriers—acrimony and ethnic conflict. It is apparent that the strongest of the many new immigrant nations of the modern world are those with a common language.

Canada, self governing since 1867, is officially bilingual, a fact which engenders bitter conflict. Martin G. W. King, a Canadian who edits an insurance industry magazine in Washington, D.C., has written eloquently about "O Canada! Coming Apart at the Seams?" Washington Post, May 27, 1990).

He laments, "And yet my country is falling apart . . . Throughout the 1960s and 1970s, Canadian governments tried to mend the country's increasingly tattered social fabric by promoting 'unity and diversity.' The country became officially bilingual, and new laws required that even cereal boxes be printed in both official languages. Civil servants were provided with crash courses in each other's language."

Yet the demands of separatists in Quebec have become increasingly strident, and there have been kidnapping and murders. And now, after the failure of the Meech Lake Accords of 1987, Canada is facing even greater discord and the possible secession of its second largest province, which also in 1987 adopted "laws that made Quebec a unilingual French province, with draconian provisions forbidding even public restaurant signs in anything but French." Canada has become unglued.

Belgium, another advanced western nation, features a French-speaking majority together with Flemish and German minorities. It is a nation bitterly divided and at war with itself.

Sri Lanka, formerly Ceylon, has seen sharp rivalry and civil war between its two language groups, the Sinhali and the Tamils.

India, with 123 languages and over 600 dialects, has severe conflicts among its ethnic components, greatly exacerbated by language differences.

But many say of the United States: "What's the problem? English has been our common language for more than 200 years. We have no problem." But we do have a problem. Puerto Rico, which has been officially bi-lingual for 89 years (since 1902), when the Official Language Act was passed by its legislature, has just voted (March 1991) to make Spanish the sole official language of the Commonwealth.

Yes, it is true that English has been our common language for more than 200 years. America has welcomed millions of immigrants from every nation under the sun. In the first decade of this century, more than one million a year came to these shores. Almost without exception, those immigrants eagerly, almost fiercely, embraced the English language, certain their future was dependent upon their learning English and adopting the "American Way of Life" in the exciting New World, to which they had voluntarily come.

Today, new waves are bringing immigrants from Central and South America, Mexico, the Caribbean, Cambodia, Vietnam, Japan, China and Korea, and many other places. Some—by no means a majority—resist Americanization, and which to create old-country enclaves in the United States. This is understandable, and is by no means a new phenomenon.

America must resist Balkanization, with its attendant hostilities and rivalries. It is wonderful to remember one's roots, to cherish one's native language and culture; but a permanent move to a new country symbolizes a fresh start, a new commitment—a new birth in a new world!

Surely the problem is a complex one. If America is to have a second language, which one shall it be? Waves of immigration throughout history occasioned by wars, persecutions, droughts and famines, earthquakes and floods, social and volcanic upheavals, have sent successive floods of immigrants to this land from four continents and the islands of the sea. If there is a second language, then there must be a third, fourth, and a fifth, ad infinitum.

Perhaps an excellent example of the complexity of the issue is to be found in a local high school in northern Virginia where there are thousands of new immigrants. In the JEB Stuart High School in Fairfax County, VA. are 1600 students. They represent 60 nations speaking 35 different languages. In fact, there are so many different ethnic contingents that JEB Stuart High offers four 4 levels of English as a second language.

How can the language problem affect you as an English-speaking U.S. citizen? Picture yourself applying for a business permit in a foreign language; or attending a city council meeting in which the council member speaks in another language; or dealing with a police officer who doesn't speak English; or fretting with an I.R.S. agent whose language is not English. This is not as far-fetched as one may imagine. It is said that the City Council of Sweetwater, Florida, does not conduct its meetings in English.

I know of no one supporting English as the official language who asserts the superiority of English. English is not necessarily "superior" to any other language. But it is the historic and common language of the United States, and a common national language is essential to national harmony and unity.

There are a few apparent exceptions, like Switzerland, but they are indeed few, and are in very special circumstances with a long evolutionary history. The strongest of the many new immigrant nations in the modern world are those with a common language, such as the United States, Australia, and New Zealand.

The point is obvious. The U.S. is derived from diverse ethnic, national, and religious groups, held together by the glue of a common language. The English language is for the United States the cement that bonds the Nation, unifies the people.

There is also an important security factor. As a reserve military officer, I am concerned about the effect of multiple language usages of military strength. Defeat in battle will surely result from the inability of men and women in the military forces to communicate in one common language. Only thus can clear, understandable, and unmistakable military orders be issued, understood, and carried out.

Here, then is a rational language policy, good for individuals and good for the nation:

1. The U.S. must remain united by one language, not divided by two.
2. Non-English speaking newcomers must be encouraged to learn English quickly, to develop fluency in English as soon as possible as the crucial first step in their integration into American life. This is in their best interest, and the nation's.
3. Bilingual education courses must aim toward moving students rapidly into standard, English-speaking classrooms as soon as possible, within one or two years, three at the most.
4. To be consistent with the English language requirement for U.S. citizenship, ballots for U.S. elections should be in English.
5. New Americans should be encouraged, in all constructive ways, to remember and honor their roots, which is a time-honored tradition deep in American history.
6. All U.S. citizens should be encouraged to study and use foreign languages both to enhance their personal growth and cultural understanding, and to promote better communication with all mankind.

The effort to make English official is a very positive program. It denigrates no ethnic group nor demeans any language. It is imperative that this great democratic and immigrant republic, devoted to human rights and dedicated to liberty, protect its unity by legally declaring the common language, English, to be the official language of the Republic.

The Congress has run hot and cold on the issue. But eighteen (18) states so far have amended their constitutions to make English official. This year, on January 3, 1991, Representative Bill Emerson of Missouri, with 38 co-sponsors, introduced House Resolution 123 declaring English the official language of the Government of the United States. At a September 1991 Capitol kickoff of the national campaign to make English official, members of Congress lauded English as the common bond among Americans and called for the passage of H.R. 123.

California, the largest state, with a very large percentage of new Americans, in 1986 passed Proposition 63. Exactly 73.2 percent of all voters approved the amendment to make English the official language of the state.

Florida, the fourth largest of the states, made English official in 1988 by a resounding affirmative vote of 83 percent. Other states with approved amendments are Arkansas, Arizona, Colorado, Georgia, Illinois, Indiana, Kentucky, Mississippi, Nebraska, North Carolina, North Dakota, South Carolina, Tennessee, Virginia, Alaska, and Hawaii.

Thus almost half of the requisite 38 states to amend the Federal Constitution have already approved the English Language Amendment. Let us hope that by the year 2000 we shall attain the approval of both 38 states and the Congress. With an approved English Language Amendment we shall assure the continuing unity and strength of the Nation in the 21st century.

THE ROUGE RIVER DEMONSTRATION PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, following the adjournment of the 1st session of the 102d Congress, numerous elected officials, community leaders, and dedicated volunteers will converge on the historic Henry Ford estate to celebrate a major funding victory for a critically important environmental project in southeastern Michigan: the cleanup of the Rouge River. The upcoming event will provide an opportunity to explain the expenditure of funding provided for the Rouge River national wet weather demonstration project in the fiscal year 1992 VA, HUD, and independent agencies appropriations legislation, Public Law 102–139. In advance of this event, it is my privilege today to formally outline the purpose of this project.

The $46 million appropriation, offered as a grant to the Wayne County Division of Public Works [DPW], represents what I hope will be the cornerstone of the Rouge River demonstration project outlined in the attached "Rouge River Basin Wide Water Quality Management Program: A National Demonstration Project." This outline is based on the Southeastern Michigan Council of Government's Remedial Action plan which enjoys the support of the Environmental Protection Agency, the Michigan Department of Natural Resources, and 48 communities representing 1.5 million people residing in the Rouge River Basin.

This project is a major step in an ongoing effort to make the Rouge River cleaner and safer for our communities. Over the past 4 years, the U.S. Environmental Protection Agency has worked with the State of Michigan, Wayne County, the Southeast Michigan Council of Governments [SEMCOG], local governments, and the Friends of the Rouge, a citizens group, to help perfect a design and engineering plan to accomplish the objectives of this innovative demonstration project..

Throughout the continuous and lengthy process to obtain funding, my colleagues, Representatives WILLIAM D. FORD and BOB TRAXLER, and I, have worked closely with Mr. James E. Murray, director of the Wayne County DPW to develop this project. We believe that the resulting Rouge River demonstration project will assist communities throughout the Rouge River Basin in reducing point source discharges, combined sewer overflows, and stormwater runoffs. It will also serve as national model for wet weather discharge for urban communities throughout the country in meeting nationally imposed standards.

The comprehensive Rouge River demonstration project will directly and indirectly assist established and independent efforts which serve the goal of improving the environmental quality of the Rouge River. These funds are intended to be used expressly for the purpose outlined in the statutory language of the legislation, committee report 102–94, conference report 102–226, and amplified by the attached "Rouge River Basin Wide Water Quality Management Program: A National Demonstration Project" outline prepared by the Wayne County DPW.

By cleaning up one of the greatest single sources of pollution to the Great Lakes, this important demonstration project will restore the Rouge River as a cleaner and more valuable resource, protect the health of millions of residents living in its proximity, and improve the environmental quality of the Great Lakes.

As this critically important project gets underway, I want to salute all of the elected officials and dedicated community leaders and volunteers who have assisted in Rouge River cleanup efforts. I thank them for their past contributions, and look forward to working with them as we proceed to strengthen and preserve the environmental quality of the Rouge River.

I insert into the RECORD, for the edification of my colleagues, the excellent "Rouge River Basin Wide Water Quality Management Program: A National Demonstration Project" outline. the plan follows:

ROUGE RIVER BASIN WIDE WATER QUALITY MANAGEMENT PROGRAM: A NATIONAL DEMONSTRATION PROJECT

The Rouge River Basin contains a wide range of urban, suburban and rural areas. The river has become increasingly stressed by the pollutants introduced by the urbanization process. Discharges from industry, waste treatment facilities, combined sewer wet weather overflows, and urban stormwater runoff combine to produce river reaches that continually fail to meet minimum water quality standards.

Past and current efforts have focused on the control or elimination of continual discharges to the river by industry and government. Yet, water quality within the basin has not shown significant noticeable improvement. Water quality within the Rouge River and similar urban watersheds is adversely affected by intermittent discharges of pollutants during wet weather events.

Current federal and state regulatory programs have begun to address the wet weather pollution problem on two separate fronts. The first is the required elimination or reduction of overflows from combined sewer systems. These sewage collection systems carry both sanitary sewage and stormwater runoff within the same network of pipes. During dry weather, all flows are transported to the wastewater treatment plant for treatment and discharge. In periods of rainfall, storm runoff is transported within portions of the same pipe network. Since wastewater conveyance and treatment facilities cannot be economically sized to transport or treat all storm flows, significant amounts of the combined flows overflow to the receiving waters. These flows contain pollutants associated with both domestic and industrial wastes as well as those from surface runoff.

The second program recently initiated by the US EPA deals with the reduction of pollutant loads from separate storm water collection systems within larger urban communities. It has been documented that significant quantities of pollutants are carried to rivers and streams by rainwater as it washes roadways, rooftops, parking lots, construction sites, and industrial facilities. Even after reduction of pollutant loads from point sources and CSOs large portions of the urban watershed will fail to meet water quality standards due to pollutant loads contained in stormwater runoff.

Within the Rouge River basin regulatory efforts are currently concentrating on the numerous CSO discharges which have been identified. Strict criteria for storage and treatment of all flows from these combined sewer overflows are being developed by the regulatory agencies. These standards are being incorporated into wastewater municipal permits issued by the Michigan Department of Natural Resources under delegation from the US EPA. These requirements have been developed apart from determination of cost effectiveness and without consideration of stormwater impacts on the receiving waters.

Reduction of pollutant loading to urban river systems which are of a scale large enough to impact water quality will be an exceptionally costly undertaking. Yet, thus far, no attempt has been made to assess the relative costs and benefits associated with various levels of CSO and Urban Non-Point control when they are applied to a common watershed. Current policies and regulations consider each of these components independently and do not recognize their common effects on urban water quality.

The Wayne County Department of Public Works has prepared a outline for a demonstration program which will use the Rouge River Basin to demonstrate the impacts of both CSO reduction technologies and urban non-point control strategies on receiving water quality. The program is intended to determine a method of selecting the most cost effective mix of controls while assuring maximum use of the resource.

The program is designed to provide the basis for final planning and implementation of remedial measures within the Rouge River Basin. Full scale construction of selected CSO retention basins as well as full implementation non-point strategies will take place as part of the program. Analysis and modeling of results obtained from these pilot studies will form the basis for development of a decision support system capable of assisting future planning efforts. Care will be taken in structuring the demonstration program and in developing the decision support system to assure transferability to other similar urban watersheds throughout the Great Lakes Region.

The Rouge River Basin Wide Water Quality Management Program will be composed of a number of closely interrelated components. These are outlined below.

1. Development of a basin wide Geographical Information System (GIS) which will become the basis for collecting, organizing, and analyzing data on Rouge River basin characteristics. The GIS will provide a link between historical watershed data, measured quality improvements at demonstration locations, and predictive modeling tools which can extend local resultant improvements to estimates of basin wide impact. Coupled with the data base will be a interactive decision support system designed to allow policy planners to readily ascertain the impacts of modifications to the overall basin management strategy.

2. Collection and verification of physical data on the drainage networks within the Rouge Basin. This information will be compiled for both the natural drainage courses making up tributary streams to the Rouge and the man-made modifications to the drainage network be they open drains or enclosed conduits.

3. Design and implementation of a comprehensive program of water quality sampling and analysis. This program will supplement previous efforts to quantify water quality problems within the Rouge. Permanent sampling stations will be located at key locations within the watershed where base line dry and wet weather samples can be taken. These stations will be located within the receiving waters both upstream and downstream of proposed improvement sites. This will allow site specific assessment of impacts achieved by the implementation of the control measures.

4. Development and implementation of predictive models of the watershed. Mathematical models of the watershed hydrology, the stream and drain network hydraulics, and the water quality impacts of planned improvements will be developed. Similar models dealing with the transport through the river network of polluted sediments will be developed. Finally, based on these modeling efforts, a risk assessment tool will be formulated which will be able to link these models of the physical system to the decision support tool provided above.

5. Establishment and Implementation of a series of Best Management Practices (BMPs) to reduce the effects of urban non-point pollution to the Rouge. These BMPs will be tested on three to six sub-watersheds within the Rouge Basin. They will consist of a mix of structural improvements such as end-of-pipe detention basins and nonstructural approaches such as street sweeping, catch basin cleaning, and land planning requirements. Water quality within receiving waters prior to and after implementation of the measures will be analyzed in order to quantify effects of the procedures.

6. Design and construction of CSO detention and treatment facilities. A major portion of the effort associated with this demonstration will be focused on the location, design and construction of CSO abatement facilities within the Rouge River Basin. A coordinated effort will be provided to assure that facilities which planned, designed and built by various operating agencies throughout the basin will cover a range of CSO remediation approaches. Designs will be varied between control structures to allow testing of different approaches. Standards will be put forth to provide for sufficient sampling and analysis of both influent and effluent water quality throughout the entire range of rainfall and runoff events.

7. Public information and Reporting. The program is intended to provide a sound basis for further remedial planning and implementation within the Rouge Basin. For this reason an intensive public information effort will be undertaken. Key findings and general information will be distributed to the local technical community for use in future planning and design. And the general public will be kept informed as to the progress being made toward improving the water quality within the Rouge River. Appropriate findings will be published for use by others dealing with similar urban wet weather pollution problems within the Great Lakes Area.

It is currently envisioned that the program will be funded by the US EPA with certain administrative oversite provided by the MDNR. Overall program execution proceed under the direction of the Wayne County Department of Public Works who will act as the Lead Agency in charge of all program activities.

Management support to the Lead Agency will be provided by a Program Management Team comprised of staff from the county and consultants. The US EPA Large Lakes Laboratory will provide leadership and direction in the development of the GIS and the decision support system. They will also play a significant role in the selection and implementation of the mathematical models used for prediction of future conditions. SEMCOG will coordinate the activities of a group of technical advisory groups assembled to oversee the activities of key program teams.

The responsibility for the majority of data collection, facility design, construction and operation will remain with the local Operating Agencies which currently have responsibility for sanitary sewers, storm drainage facilities and combined sewers. The Program Management Team will provide standards to be incorporated within local facility design, but final design, construction and operation will remain with the local units of government.

RAIDS ON CALIFORNIA PUBLIC RETIREMENT PLANS MUST BE BLOCKED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, last week, my distinguished colleague, Mr. ROYBAL of California, chairman of the Select Committee on Aging, and I as chairman of the Joint Economic Subcommittee on Investment, Jobs and Prices, chaired a hearing into the use of public employee pensions to balance State and local budgets and its impact on public employees, retirees, and taxpayers.

In the hearing, we heard testimony from elected public officials from Illinois and Rhode Island; from executives of labor organizations; from a labor economist, and from a noted trust lawyer.

What we learned from this hearing was that raids on public pension plans are becoming commonplace. State and local politicians are diverting funds obligated to be deposited into these retirement savings trusts to offset the financial requirements of current government operations. By these actions, these State and local officials are guaranteeing massive new public debt in the future. One of the witnesses, Arnold M. Schneider, executive director of the American Association of Classified School Employees, told us that "we are witnessing the disintegration of retirement savings trust funds through diversion and expropriation. It is not the same as the savings and loan crisis—it is worse."

He explained that there is no Federal program to guarantee losses—no Pension Benefit Guaranty Corporation coverage for State and local public worker pension plans. There are not even any Federal laws protecting these trust funds, such as the Employee Retirement Income Security Act [ERISA], which applies only to the private sector workers.

While witnesses brought up raids in Illinois, Rhode Island, and Texas and raised concern with regard to underfunding and diversions of assets in West Virginia and Oklahoma, grave concern was expressed about actions in my State of California.

The California Public Employees' Retirement System [CalPERS], serves 700,000 active employees of the State, the State universities, and 2,300 local government entities such as school districts, as well as 250,000 retirees and survivors who receive an average pension benefit payment of less than $700 a month.

Notwithstanding the fact that the funds to administer CalPERS comes from its earnings and not from the taxpayers or the State general fund, the legislature and the Governor control its budget.

Through most of the 1980's, the workload of CalPERS increased, but the size of the staff has not expanded at a rate to meet the challenge. For example, in the 1986–87 fiscal year, 765 CalPERS employees provided services to less than 800,000 persons in the plan. By the last fiscal year, only 44 more employees had been added to provide services to 150,000 more persons.

As a result, people—particularly the disabled and senior citizens—pay the price in the form of cruel delays. Elderly and disabled persons, for example, sometimes are off the payroll for at least 6 months before they receive their first retirement checks.

The short staffing of CalPERS is also resulting in the plan being defrauded. Actual retirement benefits—the pensions—that retirees receive are based upon a formula that involves their pay and length of service.

It is rare, but from time to time, some public employers, particularly small ones, such as fire districts, will inflate their payroll records so that a favored retiring fire chief, for example, can get a bigger pension.

CalPERS tries to prevent this kind of abuse, but there are today only 8 payroll auditors charged with reviewing the payrolls of 2,300 employers of 750,000 persons. Although additional auditors had been requested there has been a 1½-year delay in filling these positions.

This severe control by the State is impairing the exercise by the board and its staff of their fiduciary duties to administer the plan for the exclusive benefit of active workers and retirees. CalPERS is doing the best it can, but it needs help.

Last summer, the Governor took steps to assert even greater control over CalPERS.

He sought without success to sack the current board of trustees and stack it with his own puppets. Currently, a 13-member board oversees the operations and investments of CalPERS. This board consists of six members elected by active and retired employee groups, four members appointed by the Governor, one chosen by the State legislature and, finally, the elected State treasurer and controller.

The Governor said that the board was not accountable to the taxpayers. Mr. Schneider said that the record provides evidence of a different story. In 1966, for each dollar of revenue paid into CalPERS: 34 cents came from employees; 39 cents from employers; and 27 cents from investment income. Today, for each dollar of revenue paid into the plan: 11 cents comes from employees; 18 cents comes from employers; and 71 cents comes from investment income.

Indeed, in the past 5 years, employer contributions have been reduced by $2.1 billion because of CalPERS investment performance. In the past 10 years, the State employer's rate has decreased 38.5 percent.

With the help of the legislature, the Governor last summer eliminated two supplemental accounts containing $1.9 billion. The earnings in these accounts had been used to restore the purchasing power of pensions paid to the oldest and poorest retirees. Wilson did not actually remove the money from the trust fund. As the State employer, he claimed these funds as credits against future employer payments into the plan.

In addition to several other complex changes made in benefit structure formulas, the Governor was also successful in stripping from the CalPERS board the authority to choose its own actuary, and set assumptions which insure plan stability. Instead, this responsibility has been placed in the office of the Governor.

A public plan's actuary makes the critically important assumptions regarding investment income and benefit costs to the trust fund. The annual contributions to the fund by State and other public employers are calculated on the basis of these assumptions. With the actuary under the control of the employer, there is accountability to the plan, board, or the beneficiaries.

Thus, the actuary is free to make politically motivated assumptions regarding plan earnings, and thereby, give credence to reduced contributions into the fund by the State and local public employers.

In summary, witnesses before the hearing told us:

First, the government of the State of California controls the CalPERS budget and this is indirectly causing cruel delays in elderly and disabled people obtaining payments to which they are entitled and even fraud against the plan.

Second, the Governor also took control of CalPERS' actuarial functions.

Third, finally, he has diverted 41.9 billion in funds.

For all practical purposes, the Governor of California will dominate CalPERS if he can take control of the investment decisions, which is a power currently vested in the board of administration.

During the course of our research that led up to the November 20, 1991 hearing, we obtained information that a sponsor is being sought for legislation to be introduced in the California Legislature next month that would remove control of investment decisions from the CalPERS board.

I am troubled by this possibility and I am very concerned that it could lead to an absence of effective checks and balances within the governing structure of the trust fund. In the past, in California and other States, this absence has led to behavior that ultimately was harmful to the plan beneficiaries.

Several years ago, the Federal Bureau of Investigation conducted an investigation of an investment decision made by the California State Teachers' Retirement System. This California statewide retirement plan for teachers has a board that is essentially controlled by the Governor, in contrast to CalPERS which has 13 board members, only 4 of whom are appointed by the Governor and the majority of whom are either elected by beneficiary and employee groups or the public at large.

After evading investigators for 4 years, the former chairman of the State Teachers' Retirement System surrendered himself to Federal authorities and in September 1987 pled guilty to extortion, conspiracy, misuse of funds, and tax evasion in connection with a scheme involving the channeling of a loan of $50 million in teacher pension funds to a wildcat oil company owned by an ex-convict. A Federal grand jury had accused the former pension plan official of accepting a $1.5 million bribe in connection with the loan from which the ex-convict got $1.5 million of the retirement trust funds.

Elsewhere, Governors' appointees to public employee pension plans are running afoul of the law. On the day of our November 20, 1991, hearing, the press reported that former board members of the Kansas Public Employees Retirement System are the subject of an investigation by a special prosecutor appointed to handle potential criminal cases resulting from questionable investment decisions. The State securities commissioner filed felony fraud charges on November 18, 1991, against a former chairman on the board. All trustees of the Kansas plan are appointees of the Governor.

In another November 20, 1991, report, the Philadelphia Inquirer said that an internal investigation commissioned by the Pennsylvania Public School Employees Retirement System has developed allegations of kickbacks and other payments to a board member from investments consultants to the plan. Information, including reports of "the mailing of envelopes stuffed with cash," have been forwarded to law enforcement authorities.

In each of these instances of questionable conduct, the trust funds suffered losses of the workers' retirement savings.

CalPERS has never been the subject of even alleged improprieties in its 60-year history. It is the Nation's largest public employee trust fund containing $66 billion in retirement savings of almost 1 million working and retired public employees. Therefore, I hope that the Governor and legislature will not alter the effective, efficient, and accountable manner in which CalPERS is administered.

The witnesses before our November 20, 1991, hearing were nearly unanimous in their call for legislation. A few even called for new Federal criminal sanctions for trust fund tampering by elected officials.

The Select Committee on Aging and the Joint Economic Subcommittee Investment, Prices, and Jobs are going to continue congressional oversight of public employer conduct with regard to active and retired workers' retirement savings trust funds. Congressional staff will be continuing their inquiry through the upcoming recess and we will examine their findings early next year.

Mr. Speaker, to help further explain the importance of this issue and the abuses which are occurring in California, I would like to include in the RECORD at this point my opening statement at an August 19, 1991, hearing in California:

OPENING STATEMENT OF CONGRESSMAN PETE STARK

Last month, California's Governor took $1.6 billion from 900,000 active and retired members of the California Public Employees' Retirement System (CalPERS).

He took $1,800 from each police officer, fire fighter, school cafeteria worker and other public employees—and a quarter of million others who are retired.

But the Governor was unsuccessful in his effort to sack the CalPERS Board. He said the Board had to go because it was too responsive to employees, and not responsive enough to employers.

The State's Constitution and laws say that pension funds must be used solely for the benefit of active participants and retirees. This is known as the "exclusive benefit rule."

There's an exclusive benefit rule in the Federal Internal Revenue Code, too. The tax code says that pension plans administered for the exclusive benefit of workers and retirees may, as a result, enjoy exemption from Federal tax. That means employee contributions to such plans may be made with before-tax dollars.

The only Federal law protecting public employee pensions from being stolen by employers is in the Internal Revenue Code. The remedy for violation of this rule is loss of the tax exempt status of the plan.

Let's be clear. A public employer can steal money from a trust fund and the only Federal remedy would be take away the tax exempt status of the pension plan. Who pays? Not the thief. The workers would pay.

Contributions to their own retirement would then be made with after-tax dollars.

That is neither acceptable to me nor would it be acceptable to the members of the House of Representatives Ways and Means Committee or the majority of the House and Senate, for that matter.

The question is: Do public employees need Federal protection from expropriation and diversions of retirement savings by their employers?

The Chief Executive Officer of a corporation cannot rip off an employee pension fund. The CEO could go to jail. In the private sector, pensions are protected from employer thefts by the Employee Retirement Income Security Act (ERISA).

But no Federal crime was committed by the Chief Executive Officer of California when he expropriated the retirement savings of public employees.

Public employee pension funds are not covered by ERISA because the Congress was convinced that public officials—public employers—meet a higher standard of conduct than their private sector counterparts.

Not only are public employers accountable to taxpayers and the subject of press scrutiny, but also, it was argued, State laws would prohibit elected officials from engaging in the kind of conduct ERISA banned in the private sector.

I am not extolling the virtues of ERISA—especially its administrator. ERISA is administered by the Department of Labor. The Labor Department stood by and watched corporate crooks replace federally protected worker pensions with cheap annuities purchased from insurance companies that had to be taken over by regulators.

Beware of any proposal that would suggest that the Department of Labor will help working and retired people.

However, there is much in ERISA that is good:

ERISA contains a standard of conduct for fiduciaries. So does State law. But the Governor, who swore to uphold that law and others, broke it.

ERISA contains an exclusive benefit rule. The State law—even the constitution—does too. The Governor took an oath to uphold the law and constitution, but he has violated that oath.

The State courts will decide these issues.

Notwithstanding that decision, the Congress has an obligation to ask some questions:

Should public employees and their unions and associations have the right to go to Federal Court to protect their retirement savings?

Should government executives—from Governors to Mayors—be subject to ERISA-like civil and criminal penalties for stealing their employees' retirement money from trust funds?

Theft of trust funds—retirement savings—is a crime against senior citizens—a cruel and unusual one.

The purpose of this hearing today is to learn about the impact of Assembly Bill 702 on the retirement trust fund; the views of the people with regard to whether there should be a Federal role to protect those funds; and, if so, what that role should be.

SOCIAL SECURITY AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, as the 102d Congress completes its business for 1991, I am deeply disappointed that it did not approve the package of Social Security amendments that the Committee on Ways and Means proposed adding to H.R. 2967, the Older Americans Act Amendments of 1991. These amendments would have made life a bit more comfortable for thousands of senior citizens who need our help. They would have improved Social Security benefits for elderly widows—those widows who are the poorest of the elderly; and they would have liberalized the Social Security retirement earnings test in a way that provides maximum assistance to middle-income working seniors.

I am particularly disappointed that the amendments were not approved because they enjoyed such strong support. Clearances were received from members of the Senate Finance Committee who said they would accept our package if the House sent it to them. Moreover, several key House Republicans indicated that they found the package acceptable. In short, we came very close to enacting needed Social Security improvements with broad appeal and broad support. It is unfortunate for Social Security beneficiaries across the country that the Congress could not reach consensus on going the last mile and enacting this important legislation.

LEGISLATION TO AUTHORIZE THE STATE OF NEW YORK TO IMPOSE PILOTAGE REQUIREMENTS FOR THE HUDSON RIVER MORE STRINGENT THAN FEDERAL LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, today I rise to introduce legislation to empower the State of New York to enact pilotage requirements for the Hudson River that are more stringent than Federal law.

In March 1989, the most devastating oilspill in U.S. history taught Americans a cruel lesson: Pilotage is an issue of grave environmental significance. The captain of the *Exxon Valdez* left the bridge in the hands of an inexperienced mate, and a few mistakes later, millions of gallons of oil were gushing into Prince William Sound. In response, the Congress approved the historic Oil Pollution Act of 1990, a dramatic step forward in oilspill prevention and response.

Despite its broad scope, the OPA postponed needed action on one of the most important elements in accident prevention: Pilotage. The law calls for an examination of Federal pilotage standards as part of a comprehensive study of the causes of oilspills. But the Coast Guard says that up to 80 percent of all oilspills result from some kind of human error. The *Exxon Valdez* spill showed that having the wrong person at the wheel, even temporarily, can result in unprecedented environmental devastation.

Mr. Speaker, the Hudson River cannot afford to wait for another study.

In October of last year, the wrong person was at the helm of a tanker carrying 204,000 gallons of kerosene up the Hudson River. With virtually no experience on the river, the pilot grounded the vessel on Diamond Reef, one of the Hudson's most notorious hazards. Only luck prevented this spill, and over 60 like it on the Hudson since 1981, from being catastrophic.

The Hudson River is one of North America's most remarkable natural resources because of the breathtaking variety of activities it supports. It is home to perhaps our most important striped bass spawning area, contains thousands of acres of tidal wetlands, and provides drinking water to numerous communities including New York City. On top of all of that, it continues to support heavy commercial and recreational vessel traffic.

Yet, under current Federal law, a massive tank barge carrying thousands of gallons of oil on the Hudson River is not required to have a licensed pilot on board. In fact, in most cases, it is not subject to Federal pilotage requirements at all. The State of New York understands the value of this precious resource but is barred by Federal law from enacting more stringent pilotage requirements that would provide the Hudson with desperately needed protection.

It is time for the Congress to recognize that pilotage standards—first and foremost—are an environmental issue. While the need to preserve the ability of oil transport companies to operate profitably deserves careful consideration, the current system, locked in place by outdated Federal laws, virtually assures that mariners lacking adequate local knowledge will be at the helm of tank vessels brimming with oil. Resources like the Hudson River are too important to sacrifice to minimal Federal pilotage standards that often require no pilot at all.

Mr. Speaker, the existing pilotage statute turns environmental law on its head. The vast majority of environmental laws are drafted with the expectation that States will enact tougher standards to respond to local circumstances. The pilotage law makes that impossible. If the Clean Water Act were written like the pilotage statute, States would be barred from imposing water quality standards more stringent than Federal law in order to save endangered waterways and protect human health. That's absurd.

Federal pilotage laws are the product of a different era, before the American people fully realized that having the wrong person at the helm of a tank vessel can result in an environmental disaster. *Exxon Valdez* changed that forever. We should not wait for a *Valdez* on the Hudson to fix the pilotage statute.

The legislation I am introducing is a modest attempt to empower the State of New York, through which virtually all the Hudson River passes, to enact more stringent pilotage requirements within its borders. The State has the experience, the resources, and the commitment to work with the interests involved to craft additional pilotage requirements that will protect the river without impeding commerce.

New York, for example, is in the process of convening the first of a series of meetings with industry and environmentalists to examine pilotage in the New York area and to work on methods of raising the standard of practice on New York waterways. In addition, the Governor's Task Force on New York's coastal resources, on which I sit, today released its final report. It includes a recommendation that the State pursue efforts to strengthen pilotage requirements. Under existing Federal law, however, the State is hamstrung in attempting to implement this recommendation.

Mr. Speaker, a clear and present danger exists on the Hudson River and Federal law expressly prohibits the State of New York from responding. We must not wait for another disaster before we remove that barrier.

Mr. Speaker, I am including in the RECORD at this point the text of the bill I am introducing.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8501 of title 46, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) Notwithstanding any other provision of law, the State of New York may establish any requirement applicable to the pilotage of vessels on the Hudson River upstream of 41©00′00″ north latitude, that is more stringent than any requirements that apply to that pilotage under this title.".

CLOSE THE REVOLVING DOOR TO TOP TRADE OFFICIALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, McDonnell Douglas, one of the great pioneers of commercial aviation, last week announced it was selling a 40-percent stake in its commercial airliner business to Taiwan Aerospace Corp. This move should sound alarm bells in the White House and Capitol. What is wrong in this country when an industry giant like McDonnell Douglas is forced to go begging to the Far East for capital to stay in business?

It is no secret the Reagan and Bush administrations have failed to push for fair trade practices by our economic competitors. Diplomatic and strategic concerns related to the cold war always put the interests of American corporations on the back burner. Economic concerns have been considered by Presidents Reagan and Bush to be less important than maintaining friendly relations with a pro-western ally. Now, United States dependence on foreign capital to finance the deficit has withered any muscle we might use in trade negotiations with the Japanese. We need to change our approach to trade policy before we lose any more of our jobs and vital industries.

One symptom of our ailing trade policy is the revolving door which allows U.S. Government trade negotiators to represent the interest of U.S. corporations and industries, and then take the experience, knowledge and contracts they have developed and sell them to the highest bidder. All too often, U.S. corporate heads find the Commerce or USTR official, in whom they confided and trusted, sitting opposite them at the negotiating table or representing their opponents in an antidumping proceeding. This is wrong and should not be encouraged by U.S. policy.

The revolving door hurts our trade position in myriad ways. It results in constant turnover in personnel and loss of seasoned negotiators. it casts doubts on the notion that our Government zealously represents American interests in trade negotiations. It may also damage or inhibit the performance of a U.S. negotiator if he or she has in mind a job working for one of the foreign corporations or governments involved in the negotiations. Finally, the personal relationships between current U.S. Government employees and former employees working for foreign interests may taint the conduct of proceedings seeking an objective evaluation of a trade compliant.

The PBS show "Frontline" recently reported on an antidumping proceeding brought against Japanese producers of flat computer screens before the International Trade Commission. Representing a Japanese company accused of dumping was a former Chairman of the ITC. The economic analysis bolstering the defense of the dumping claim was prepared by another former Chair of the ITC. As much as I would like to believe their participation would have no influence on the proceeding, some people, including the former Chairmen, believe their services are more valuable than some other expert in trade law. There is a quality beyond expertise that makes a former Chairman of the ITC a very valuable advocate.

The same can be said of other former top U.S. officials, like agency heads and undersecretaries, who go to work for foreign interests after leaving Government service. One of the top executives of Airbus Industries, a French Government-subsidized airplane manufacturer that pushed McDonnell Douglas from the No. 2 position in the industry, is a former Secretary of Transportation. I cannot prove a link between the former Secretary's position and the U.S. Government's failure to attack the subsidies to Airbus which gave it an unfair advantage in the global aircraft market, but there could be one. Why did the administration allow unfair competition to so weaken McDonnell Douglas that it had to look for new capital from Taiwan?

The cold war is behind us, and we must use this opportunity to begin to exercise some economic nationalism on the trade front. My colleague, Representative ROD CHANDLER of Washington, and I are introducing legislation that would create a lifetime ban on working for a foreign government or foreign controlled corporation for level 1 and 2 appointees of the executive branch and officials involved in trade negotiations, which would involve people at USTR, ITC, Commerce Department, and Defense Department.

The purpose is manifold: To stop opportunists who use political influence to get trade jobs in the Government, blocking out people who would choose public service as a career rather than a pitstop; to remove the financial incentives for experienced trade negotiators to leave public service; to stop the flow of insider information about trade negotiations and individual corporations to foreign interests; and to remove the unfair advantage foreign competitors gain by having a former high-level U.S. official represent them before a Federal agency, tribunal, Congress, or the White house.

The message of this bill is clear; government service is public service, not a training program for financial self-enrichment. If that is not your interest, do not seek an appointment in the next administration or a job negotiating the most sensitive issues of U.S. economic survival. Someone must begin to realize the United States is being taken to the cleaners by the Japanese and other trading partners. We need to begin to fight for our own, to keep U.S. corporations strong, and to preserve American jobs.

RESOLUTION FOR ACTION ON YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am introducing legislation to urge the President to bring to bear the full force of the United States immediately to work toward a permanent peace in Yugoslavia and a negotiated settlement of the interethnic conflict in that fractured collection of republics. The resolution calls on the President to press the U.N. Security Council urgently to impose worldwide economic sanctions, including a halt in the shipment of oil, against Serbia and to work closely with the former Soviet Union to encourage that nation's critical participation in the effort to force the Yugoslav Federal Army to abandon its violent war on Croatia and to allow peaceful negotiations to resolve the conflict.

Additionally, the resolution implores the President to support the stationing of U.N. peacekeeping troops between Serbian and Croatian personnel, to withhold recognition of border changes achieved through violence, to extend humanitarian aid immediately to besieged civilians in Croatia and to refugees of the war, and to call for protection for minority enclaves within Croatia and Serbia.

Mr. Speaker, I have submitted statements on this crisis to the House of Representatives twice in the last month. Each time I have voiced my strongest concern that the President and the administration are simply not doing enough to resolve the Serbo-Croatian war. In fact, they have done very little. The President has not responded to the plethora of calls from the Congress and from around the Nation for his leadership and the resources and expertise of the State Department.

Over 7,000 people have died since the start of the war last spring. Serbia now occupies 40 percent of Croatia, and the Yugoslav Federal Army continues to attack other border cities, holding entire populations hostage in brutal sieges and fanning the flames of historic interethnic hatred and violence. The people of Yugoslavia are engulfed in the competing drives for power by Serbia's nationalist autocratic leadership and the Yugoslav Federal Army, beholden to no one and bound to retain if not expand its power.

How much more suffering and how many deaths must Yugoslavia endure before the United States Government becomes seriously involved in the effort to resolve the crisis? This war is the bellwether of future potential interethnic conflicts in Eastern Europe and the former Soviet Union. As Yugoslavia goes, so will go Nagorno-Karabakh. If the President truly intended to contribute to a new world order, he would seize this opportunity to prevent Yugoslavia's descent into disorder.

The United Nations and the U.N. Security Council have demonstrated their enormous new prestige and sway in international conflicts in the past several years, from El Salvador to the Middle East to Cambodia to Namibia. I know that many of my colleagues share my view that the President and Secretary of State ought to work closely with the U.N. Security Council, the European Community, and newly reappointed Soviet Foreign Minister Shevardnadze to arrange a comprehensive package of worldwide economic sanctions against Serbia and a framework for negotiations leading to a permanent cease-fire and a national settlement.

This resolution expresses the sense of Congress that the President should take these critical steps now. I would hope that the introduction of the resolution would spark the administration to action, and I invite my colleagues to join me in entreating the President to act now.

H. CON. RES.—

Whereas the American people share a strong desire for a permanent peace in Yugoslavia;

Whereas an expeditious resolution of the Serbo-Croatian conflict is in the national interest of the United States;

Whereas Serbo-Croatian violence has claimed the lives of over 7,000 people, most of whom were innocent civilians;

Whereas both Serbian and Croatian forces have broken 13 cease-fires arranged by the European Community within hours of their implementation;

Whereas the Yugoslav Federal Army has clearly joined forces with Serbian forces, violating its constitutional mandate to remain nonpartisan and to guarantee the peace;

Whereas nationalist leaders in Serbia and Croatia have greatly exacerbated the conflict through ad hominem appeals to historic ethnic tensions and incited the escalation of the conflict toward civil war;

Whereas Serbian forces have devastated and occupied the Croatian city of Vukovar, taken control of 40 percent of Croatia, and laid siege to the city of Dubrovnik;

Whereas the Helsinki Final Act, the Paris Charter, and other Conference on Security and Cooperation in Europe documents by which Yugoslavia is bound contain principles on human rights and fundamental freedoms, the equal rights and self-determination of peoples, and guidelines concerning the peaceful resolution of disputes;

Whereas the European Community has been unable to resolve the conflict;

Whereas the European Community and the United States have imposed economic sanctions on Yugoslavia;

Whereas the world community's response to the Serbo-Croatian conflict will be a bellwether of the outcomes of other potential inter-ethnic conflicts in Eastern Europe and Central Asia; and

Whereas the Yugoslav Federal Army continues to threaten to expand and escalate the conflict and a fresh approach to the conflict is required: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should—

(1) condemn the ongoing violence, the cycle of atrocities and retributions in Yugoslavia, in lieu of political negotiations;

(2) immediately bring to bear the full diplomatic force of the United States to work toward a permanent cessation of hostilities leading to a negotiated settlement and peace in Yugoslavia;

(3) urge the United Nations Security Council to impose worldwide economic sanctions (including petroleum shipments) against Serbia pending a permanent resolution of the conflict;

(4) work closely with the former Soviet Union to encourage its critical participation in efforts to impose sanctions against Serbia and to resolve the conflict;

(5) support the stationing of a United Nations peacekeeping force between Serbian and Croatian forces once a permanent cease-fire takes effect;

(6) withhold recognition of border changes in the region brought about by force;

(7) immediately extend humanitarian assistance to besieged civilians in Croatia and to refugees of the conflict; and

(8) call for protection for minority enclaves within Croatia and Serbia.

HONORING THE PRINCE GEORGES COUNTY PARKS AND RECREATION FOUNDATION, INC.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to the community service of Lucille C. Brogden, president of the Prince Georges County Parks and Recreation Foundation. This year represents the last year in her role as president of the foundation where she has been volunteering her invaluable services since 1987. In her role as president, Lucille Brogden has worked hard to raise funds to support parks and recreation, conservation, education and cultural activities within Prince

Georges County in an effort to enhance the quality of life for all citizens of the county.

Whether by telephone or in person, every day Lucille worked to improve the operation of the foundation. In her role with the board of the foundation, she was instrumental in raising the funds necessary to restore the historic Riverdale Mansion. Lucille Brogden has also taken the two annual fundraising activities and make them the most successful ever, allowing the foundation to issue more grants to help meet the crucial needs of the different communities within the county.

Additionally, Ms. Brogden has played an instrumental role in the creation of the National Fund for the Patuxent Wildlife Research Center, which is a special foundation created to assist in the funding of the operation of a national visitors center that will be build at the Patuxent Wildlife Research Center. As my colleagues know, this Congress has provided $15 million for the construction of this visitors center which will be a premier educational wildlife center for visitors to our Nation's capital. Ms. Brogden was instrumental in helping build the community consensus that led to the creation of this visitors center and which will be critical in sustaining the center.

Mr. Speaker, leadership is about stepping up to bat when you see a need. Lucille Brogden is a leader—and she has stepped up to bat time and time again and has hit more than a few home-runs. I congratulate her upon her service as president and commend her impressive record of community service and wish her every success in the future.

HOPES FOR PEACE IN YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, over last weekend, Cyrus Vance and Lord Carrington called Franjo Tudjman and Slobodan Milosevic to peace talks in Geneva which resulted in the 14th cease-fire in the current crisis.

The efforts of these two mediators have been herculean, and I believe that there is finally a light at the end of the tunnel, and none too soon.

All inhabitants of Yugoslavia long have tired of this senseless civil war that is tearing their country apart. The chance for a peaceful settlement is now, as a number of situations currently are looming that threaten even this chance for peace.

According to an article entitled "Yugoslav Army, Hailing Vukovar, Calls Its Own Tune", by correspondent Blaine Harden in Saturday's Washington Post, the Yugoslav National Army is out of control and fighting for its own gains, instead of acting in its capacity as a guarantor of the human rights of the Serbian minority in Croatia.

In addition, Franjo Tudjman, President of Croatia, has arrested Dobroslav Paraga, leader of the Croatian Party of the Pure Right, an opposition group in Croatia that is very vocal in its criticism of the Tudjman's regime, and advocates a greater Croatia encompassing parts of Serbia and Bosnia-Herzegovina, for planning an armed coup against his Government. Paraga slights Tudjman for even considering a settlement in the current crisis, believing instead that the war should be expanded.

On October 16, I spoke on the floor about Mr. Paraga, whose party appears to be thriving in Croatia, and who represents a very real threat to President Tudjman. While it is acknowledged that Tudjman is an unabashed nationalist, whose policies have aggravated the current crisis in Yugoslavia, these policies pale in comparison to those of the Croatian Party of the Pure Right, who openly base themselves on the Second World War Ustashe movement. If Mr. Paraga were to gain power, I shudder to think of the carnage that might take place at his hands.

These additions to the already complex situation in Yugoslavia could spell the end to any hope for an early peace.

A number of very good media analyses regarding the various players in Yugoslavia have come out over the last week in addition to Mr. Harden's article on the military. I would like to list some of these articles at the onset, and recommend them to anyone wishing to expand their understanding of the Yugoslav conflict. I will be quoting from them extensively, I also ask that they be included in the RECORD at the end of my text.

These articles are: "Why the 'Abominable Serbs' Do Have a Case," Nora Beloff, the European, November 21–28, 1991; "Croatia's Borders: Over the Edge," David Martin, the New York Times, November 22, 1991; "The Last Best Hope For Yugoslavia," Stephen S. Rosenfeld, the Washington Post, November 22, 1991; "Hope and History in Yugoslavia," Nora Beloff, the Washington Post, November 19, 1991; and "Yugoslavia Teeters on Brink of Cataclysm," Alan Ferguson, the Toronto Star, November 17, 1991.

The carnage in Yugoslavia must stop, Mr. Speaker. Unofficial estimates of the amount of casualties that I have received in my office are more than 20,000 since the outbreak of hostilities. The damage to the infrastructure of the disputed areas in Croatia, and cultural monuments, both Serbian and Croatian, is phenomenal. The economic damage to both the Republics is just as great, and long difficult winter lies ahead.

It is important to understand the concerns of the various players involved in the current conflict to understand how to resolve it. I would like to start with the Federal Army.

I quote from Mr. Harden's article:

> The federal army, with at least 100,000 men in arms and a well paid officers' corps, consumes more that half the federal budget. This year's disintegration of Yugoslavia, particularly the secession last summer of the republics of Croatia and Slovenia, is having a devastating economic effect on the military.
>
> Taxes from the two breakaway republics, by far the richest in the Yugoslav federation, were instrumental in allowing the army to provide its primarily Serbian officers with a privileged life of free housing, vacation villas and big pensions.
>
> As the army gears up for more territorial conquest in Croatia, questions are being raised, even among nationalist Serbian politicians, about what the generals are fighting for and who controls them. Is the army protecting the ethnic Serb minority in Croatia or its own privileges?
>
> What is not in question is that the army, in the name of saving Serbs from Croatian "genocide," is beginning to move against Croatian cities where there are very few ethnic Serbs to save.

Mr. Harden continues later in the article:

> While the army steps up its offensive, there are signs that Serbia's leadership may want to wind down a civil conflict that is ruining the republic's economy and turning Serbia into an international pariah.
>
> Serbia and the army have been criticized by the EC and the U.S. government as aggressors in the war. The EC singled out Serbia when it imposed economic sanctions on Yugoslavia this month, and it has called for the United Nations to impose an oil embargo that would cripple the federal army.
>
> Serbian President Slobodan Milosevic, a hard-line nationalist who is widely blamed in the west as the principal provocateur behind the Yugoslav civil war, now appears to be seeking a way to consolidate Serbian gains in Croatia and, at the same time, stop the fighting.
>
> This week he has showered support on a plan to bring U.N. peace-keeping forces into the Croatian war zone. Milosevic is scheduled to meet here on Saturday with U.N. envoy Cyrus Vance and EC peace mediator Lord Carrington for further discussions on how the peace-keepers would be deployed. It will be Milosevic's third meeting this week on the plan.
>
> Local Serb politicians inside Croatia have also met with Vance this week and reportedly have welcomed the U.N. plan as a way to stop the fighting. The plan would put the United Nations in charge of security inside a Croatian zone where neither Croatian nor Serbian armed units could operate.
>
> The army has been less than enthusiastic about the plan. General Marko Negovanovic, a deputy defense minister, has said the army would not pull out of Croatia to leave the protection of Serbs to foreigners.
>
> The war began here in June after Croatia declared its independence. The declaration frightened the 600,000 ethnic Serbs who live in that republic, and many of them participated in an insurrection backed by Serbia and the army. Serbian forces have since managed to seize control of one-third of Croatia's territory.
>
> As the war has continued, however, some Serbian politicians in Croatia have complained that the conflict is being directed by the army without regard to what local Serbs want.
>
> "At this moment, we do not want Osijek because ethnically it is a Croatian town," said Caslaz Ocic, who is the foreign minister of what is being called a Serbian autonomous zone that has been carved by fighting out of eastern Croatia. Ocic said there is little communication between politicians and the army, and that the military is trying to impose a simple armed solution on a complex political problem.
>
> Military analyst Milos Vasic, who writes for the liberal Belgrade magazine Vreme, said this week that the army is fighting a war for its own survival. "The army doesn't want to be commanded by anyone," Vasic said.
>
> He argued that an end to the civil war would force the army to withdraw into Serbia, whose collapsed economy cannot afford to pay the generals' bills."

Alan Ferguson also comments on the role of the Federal military in the current crisis. I quote from his article:

> But the assault on the ancient coastal city of Dubrovnik stripped away what little

> credibility the army retained. Even Serb journalists laughed out loud over an army communique which said it had entered a village near the city, "at the urging of citizens" who "came out into the streets and welcomed our soldiers heartily" and had "wondered why the army had not arrived even earlier to liberate them."
>
> Milosevic, whose interests have mostly coincided with those of the army, is now believed to be trying to distance himself from the Dubrovnik debacle. The battered port city does not figure in his plans to win autonomy for the swathes of Croatian territory already under Serbian control.
>
> The crafty ex-banker, who once said that foreign troops would never be welcome on Yugoslav soil, is now putting his money on a United Nations peacekeeping force to seal the gains in the Krajina. For the first time since the conflict began, Milosevic, Tudjman, and the army are all agreed: a peacekeeping force is necessary, though all have their different reasons.
>
> The negotiations led by Britain's Lord Carrington, chairman of the European community's Yugoslav peace conference, are taking place amid a number of significant developments.
>
> Support for the war in Belgrade, never strong, is fast ebbing away. Thousands of young Serbs have fled to avoid the draft and peace groups, muzzled by the official media, are at last making their voice heard.
>
> Economic activity has ground almost to a halt, particularly in Croatia where up to one-third of the republics's industrial infrastructure has been destroyed.
>
> Federal institutions are in limbo—the federal presidency, supposedly the commander-in-chief of the army, has virtually ceased to exist, leaving the army to operate outside of any political control.
>
> Cries for even more blood can still be heard from extremist groups in both Croatia and Serbia. But the brutalizing effect of the war has already exacted a heavy price—child psychologists find students writing essays beginning: "The war will only end when we kill all the Croats or they kill all of us."
>
> And most ordinary people, by far the majority, want peace.
>
> The most likely solution, the one now being worked on, would allow Croatia to secede, but with its Serb-dominated territories given autonomy under the protection of a U.N. peace-keeping force and allowed eventually to vote on their future allegiance.
>
> The alternative, if this peace effort fails, is a likely extension of the war into Yugoslavia's other republics with the potential of setting the whole Balkan peninsula alight. One senior Yugoslav diplomat in Belgrade said that if peace is achieved, "everything will change—Milosevic and Trudjman will be swept aside and the army in its present form will disappear."
>
> Others are less sure that the army, still a powerful political force, will surrender its authority so easily. Some predict a post-war struggle for power in Serbia in which the army launches a last-ditch bid for survival by crushing the emerging democracy in the republic.
>
> "I predict they'll be bombing Belgrade by January," said a prominent peace activist this week. She wasn't joking.

As you can see, Mr. Speaker, the Federal army's agenda is much different than that of Mr. Milosevic's wish to guarantee the human rights of the Serbian minority in Croatia. The lumping of the two together as seen in much of the press has done much to discredit the concerns of the Serbian minority in Croatia to live without being persecuted.

And Croatian President Franjo Tudjman did not do much to allay the feats of a repeated genocide against this much maligned minority. Tudjman is both openly anti-Semitic and a holocaust revisionist. In fact, a November 25 New Republic article by Robert D. Kaplan reviews one of his recent publications, "Wastelands—Historical Truth."

I quote from this article.

> Tudjman's primary concern is not the fate of the Jews, but the role of the Croats in the mass murder of Serbs. Yet the route his mind travels on the way to his destination is telling: "The estimated loss of up to 6 million dead is founded too much on both emotional, biased testimonies and on exaggerated data in the postwar reckoning of war crimes and squaring of accounts with the defeated . . . in the mid-'80s, world Jewry still has the need to recall its "holocaust" by trying to prevent the election of the former U.N. Secretary General Kurt Waldheim as President of Austria!"

Mr. Kaplan continues later in the article regarding the Jasenovac concentration camp:

> Jasenovac was a World War II concentration camp manned by the Croatian Ustashe in which Jews, Gypsies, and, more significantly, Serbs were murdered. For decades Serbs have maintained that "at least 700,000" people were killed at Jasenovac. Croats have long said that the number was more like 60,000. The discrepancy between these two sums is as good litmus test as any for the vastness of the psychological gulf separating Serbs from Croats * * *
>
> But for Tudjman, the figure of 60,000 given by Croat nationalists is still too high: he reckons no more than 40,000 inmates perished * * *
>
> As he explains it, even the figure of 40,000 overstates Ustashe crimes, since the liquidation apparatus was largely controlled by Jews * * *
>
> Therefore, according to Tudjman, the mass murder of Serbs by Croats during World War II is not an issue, since not all that many Serbs were killed in the first place, and those who were slaughtered were mainly done in by the Jews. Case closed.

Mr. Speaker, shades of David Duke.

President Tudjman also invited the return to Croatia of the Croatian Party of the Pure Right, by which he currently is being threatened, previously banned from Yugoslavia under communism.

Many of the Ustashe movement's principals escaped Europe and Nuremberg war crime trials after the war, and some members of the Croatian emigree community have openly sympathized with the movement, returning to join Dobroslav Paraga's reincarnated Party of the Pure Right, of which I spoke on October 16 of this year.

Tudjman, upon election, enacted a series of laws redesignating the Serbian minority in Croatia, which it previously had considered an equal, as a national minority. He denied their rights to the use of the Cyrillic alphabet, and while officially denied as Government policy, also forced ethnic Serbs living in Croatia to sign loyalty oaths to the Republic of Croatia under threat of termination of employment.

Serbs in Croatia were fired en masse from Government controlled jobs, and local political officials went to pains to mark Serbian homes with crosses, reminiscent of similar actions during the Second World War.

Even today, Serbs living in the metropolitan centers in Croatia still are forced to sign loyalty oaths, and frequently are harassed and discriminated against, their houses and churches subject to vandalism, themselves subject to threats of bodily harm and death. This has resulted in thousands of Serbs leaving Zagreb, which had a population of around 100,000 before the outbreak of hostilities.

Compare this to the approximately 100,000 Croats currently residing in Belgrade, who report very few, if any instances of this type focused toward them as Croats living in Serbia.

I quote Dr. John Lampe, specialist on Balkan affairs at the Woodrow Wilson Center, who was also a witness for a Helsinki Commission hearing on human rights here in Washington a few weeks ago, from his November 1991, report, "Yugoslavia from Crisis to Tragedy":

> [Western Journalists] have generally proved less sensitive to the failure of Croatia's democratically elected government to live up to the promises of free press, free markets, and the protection of minority rights that would have reassured its 600,000 Serbs and challenged the Serbian public to demand that their government follow the Croatian model. Instead we have seen less privatization in Zagreb than in Belgrade and the trumpeting of constitutional provisions and national symbols that make the Croats the only "nationality" (others are "pucanstva," or populations without recognized ethnic identity, or at best, "minority groups"). While the new government did not order the loyalty oaths to Croatia and the firing of Serbs at enterprise that has widely occurred, neither has it intervened to prevent such abuses.

I also quote David Martin, who I might add is an authority on Yugoslavia, having served there with the British Secret Service in the Second World War, and since having written many books on that area of the world, including "Web of Disinformation: Churchill's Yugoslav Blunder," a critical expose on the complicity of Kim Philby and his circle of Communists in allowing Tito to assume control of Yugoslavia.

> Franjo Tudjman, Croatia's President and former Tito general, has done little to alleviate Serbian's fear of an independent Croatia. He said last year that the Ustashe regime, which ruled occupied Croatia from 1941 to 1945, "reflected the centuries old aspirations of the Croat people." A recent article in The Guardian of London quoted Mr. Tudjman as saying he was thankful that his own wife did not have any Jewish or Serbian blood, and that for the Jews, "genocidal violence is a natural phenomenon, in keeping with the human-social and mythological-divine nature. It is not only allowed, but even recommended."
>
> Mr. Tudjman's treatment of the Serbs has gone beyond this unfortunate rhetoric. Since Croatia declared independence in June, the Serbs in Croatia have been the victims of a campaign of harassment. Serbs working for the Croatian government were dismissed. Serbian schools were banned. The Victims of Fascism Square in Zagreb was renamed the Square of the Sovereigns of Croatia. Mr. Tudjman's decision to adopt a flag modeled on the Ustashe flag has only made matters worse.

I also quote Mr. Ferguson again:

> Tudjman, a stiff and autocratic leader not prone to advice, gave Milosevic the ammuni-

> tion he needed. His "mupes"—interior ministry police—went barging into communities dominated by ethnic Serbs to raise the Croatian flag—an emblem closely identified by the Serbs with the hated insignia of the wartime Ustashe fascists.

Ms. Beloff says in the Washington Post:

> In Croatia and Slovenia, as in Serbia, the post-communist movements have been national rather than liberal, even though all three now brandish democratic and free enterprise slogans. In Croatia the ex-Partisan general Franjo Tudjman was elected president. He had fallen out with Tito and served two prison sentences on charges of nationalism. By the time I first met him in 1980, he was already pathologically anti-Serb. He has allowed himself to be surrounded by Ustasha sympathizers, many of them returning from Canada and Australia.
>
> Tudjman armed his followers, and though they were unable to break into the all-Serb regions, which were ferociously defended, in areas of Croat majority they made life for the Serbs impossible. With jobs denied and homes burnt down, tens of thousands fled long before the federal army and the international community intervened. On a smaller scale, the Serbs retaliated.
>
> In Dubrovnik, one year ago, a young Croat girl running her own travel agency described the ravages of the Tudjman regime. To her horror, this little Venice was being transformed into a nationalist stronghold, and she found herself ostracized by her fellow-citizens for rejecting ethnic hatreds which she felt were running the country

And in the European:

> When Tudjman came to power he misguidedly dispatched his armed followers to try to take over official buildings and police stations from Serb areas, where the right to autonomy had existed since the 17th century. The Hapsburgs had given land and home rule to Serb refugees from the Ottoman empire, in return for helping in defending them against the Turks.
>
> Armed Serb groups fighting in Croatia are motivated by memories of the wartime genocide and are as fanatically self-righteous as the Croats, now fighting to the death in Vukovar. These refuse to admit—and in the case of the younger generation, probably do not even know—the Ustashi holocaust * * *
>
> The monstrous behavior of the federal army of the Milosevic government and some Serb irregulars does not justify attributing all the violence to the 'abominable Serbs'. Since Tudjman became president, Serbs in mixed regions have been harassed, deprived of jobs, had their homes burnt down and more than 100,000 have been forced to flee.

In addition, Mr. Speaker, Mr. Tudjman has maintained a hard line stance on the Croatian border question that has been based on borders drawn under Tito's Communist regime. I regard these as illegal, as all actions under a totalitarian regime should be considered. If the border question must be addressed, let it be based on a Yugoslavia that was not gerrymandered under Nazi and Communist rule, using, as I have advocated, the borders that existed previous to 1941, or even 1936.

Ms. Beloff comments on the border question:

> The internal borders, which we treat as permanent features of Yugoslavia, were in reality drawn up secretly by Tito's men in 1943 and were designed as administrative boundaries, within a centrally planned Stalinist state. Tito himself was, of course, aware of the vitality of ethnic feeling, and after physically liquidating his enemies and potential enemies, he suspended terror and ruled primarily by playing off the communities against each other.

Mr. Martin does also:

> However well intentioned, the community and the U.S. are misguided in their approach. Yugoslavia's internal borders are recent inventions of a communist dictator and have no historical validity * * *
>
> The Serbs cannot be blamed for fearing the rebirth of an extremist Croatia. But one must ask the community and the U.S. why frontiers established by a communist dictator, no matter how much they may violate the more compelling concept of ethnic frontiers, must be considered legally valid for all time.
>
> Politically stability cannot be achieved by giving Mr. Milosevic ultimatums. Surely there is a more moral, humane and politically acceptable way of delineating frontiers. For example, shouldn't some provision be made for the use of a plebiscite or for arbitration procedures? Even now, it may not be too late for the community to shift its position in a manner that allows for frontier changes in both directions.
>
> There is much evidence that the Serbian public would favor a compromise settlement. Among other things, there has been little persecution of Croats in Serbia.

Mr. Speaker, I have said before, and I will say again, that Serbians—myself included—do not stand in the way for independence for Croatia. However, many questions must be addressed before recognition is taken. At the top of my list is the fact that Tudjman's government is considered "democratic." "Democratic" is a very unfortunate misnomer when applied to the current regime in Croatia.

Franjo Tudjman, President of Croatia, like Milosevic, was elected on a nationalist platform, which I may add, was virulently anti-Serb. Upon gaining power, he placed former Communists in the majority of his administration posts, and in fact, has replicated the institutional structure of the former Communist government down to the township level. Croatia is a one-party state, with any opposition openly suppressed by the current regime.

Despite having been elected in April 1990, he has enacted very little, if any democratic reform in the Republic of Croatia; no privatization of business, no viable opposition parties, no independent press.

And now we read in the news, of the arrest of Paraga and other officials within his party for "planning an armed rebellion." This has led to demonstrations for his release in Zagreb. According to AP wire reporter Richard Meares:

> The HSP has been winning support among despairing Croats, largely through the reputation for bravery and toughness which its paramilitary wing HOS has gained in war zones of the breakaway Yugoslav republic.
>
> Dressed in black and clutching machine guns, HOS fighters—who act as an army within the Croatian national guard—led small demonstrations in the rain on Zagreb's main square demanding Paraga's release.
>
> "If he is not freed, then Tudjman and the others have signed their own death certificates," one speaker told the 200-strong crowd on Sunday.
>
> Paraja says the HOS has 10,000 men who volunteered because they felt Tudjman was incapable of protecting Croatia, which has lost a third of its land to the Serb-led army in fighting which erupted after Croatia declared independence from Yugoslavia in June.
>
> The fall of Vukovar at the end of a three-month siege by Yugoslav forces last week has intensified public disillusionment with Tudjman * * *.

Mr. Speaker, questions must be asked such as, on one hand, the assassination of Ante Paradzik, second in command of the Croatian Party of Rights, said to have been shot to death by Croatian soldiers at a road block earlier this fall, or the arrest of Paraga, as is happening now.

On the other hand questions about such a ultra-nationalist leader, Paraga, who advocates all-out war against Serbia, and bases his movement on the World War II Ustashe, responsible for the murder of more than a half a million Serbs, Jews, and Gypsies.

But Tudjman's actions extend beyond these immediate instances. According to a November 15 UPI report by correspondent Nesho Djuric:

> The Croatian government arrested the party's chief of security two weeks ago after a gun battle in downtown Zagreb which left one Croatian national guardsman dead and one seriously wounded. The Croatian Party of Rights rejected government claims that its forces initiated the attack.

And, according to a Washington Post article Tuesday by correspondent Blaine Harden.

> In another development, a reliable source reported that six people were killed in three gunfights between police and other uniformed men in Zagreb.
>
> There was no official confirmation but police were presumably hunting members of the nationalist Party of Rights, whose leader, Dobrostav Paraga was arrested Friday on allegations of planning an armed rebellion. The party opposes any truce while the army occupies any of Croatia.

Not that a similar situation does not exist in Serbia as well, Mr. Speaker, I quote Blaine Harden in today's Washington Post.

> The nationalist bullies of Serbia are young, clean shaven and neatly dressed. They carry clubs and smash typewriters.
>
> Their targets are fellow Serbs who doubt the wisdom of an ethnic war.
>
> As Serbia's conflict with the breakaway republic of Croatia intensified this month, the kids with clubs have been busy harassing Serbian antiwar activists and busting up their office furniture.
>
> Since Serbia is an authoritarian state, anti-war activists say the bullies could not freely operate without the tacit approval of the government and the Serb-dominated federal army. These institutions, as the war has intensified, have manifested a ruling style that marries old-fashioned communist thuggery with latter day nationalist zeal.

Groups like these are responsible for the ransacking of the Yutel offices in Belgrade, which they considered too liberal, and for an active campaign of harassment against anybody who is not a fervent nationalist. Yutel is an independent television network.

The complicity of the Belgrade government in such actions ranks on that of Tudjman's involvement with Paraga's party. Neither is commendable, and both indicate the need for true democracy throughout Yugoslavia.

Mr. Speaker, as the war progresses, the actions of the main players are getting more and more outrageous. With a lack of total press freedom in both republics, the true voice of the people is not being heard. Instead the populus is being blasted with propaganda from their respective governments, widening the schism between two groups which lived in harmony for many years.

Atrocity reports abound on both sides of this unfortunate situation, and I do not doubt that they exist, fueled by the martial attitudes touted by their respective leaders.

In fact, Amnesty International has just published a report on these claims, and I would like to quote from a press statement on the report:

AMNESTY ACCUSES YUGOSLAVIA COMBATANTS OF TORTURE, MURDER

LONDON, Nov. 25—Amnesty International said on Monday that all sides in the fighting in Yugoslavia had tortured prisoners and deliberately killed non-combatants.

The London-based human rights group said: "Reports from the war zones of Yugoslavia over the past four months show that all sides in the conflict have blatantly flouted international human rights and humanitarian standards that explicitly forbid the murder and torture of captured combatants and civilians not actively involved in the fighting."

Amnesty called on all parties to stop deliberate attacks on unarmed civilians taking no part in the fighting and to spare the lives of combatants who surrendered.

Its statement said the many thousands killed in the fighting included unarmed civilians who were victims of summary executions and other deliberate and arbitrary killings and combatants captured by police, military and paramilitary forces.

"Information about such gross human rights abuses has often been contradictory and allegations frequently difficult to verify," Amnesty said.

But there have been a series of incidents well-documented in the media and by official sources showing clearly the deliberate killing of civilians and wounded or surrendered soldiers and the torture of prisoners.

Amnesty said it was impossible to judge the scale of human rights violations in Yugoslavia.

I added: "What is clear is that people not involved in the fighting are being arbitrarily and deliberately killed or tortured, and these outrages must stop."

Mr. Speaker, the basis of the current conflict is the human rights of the Serbian minority in Croatia. The Serbian minority's rights suffered previous to, and continue to suffer after, the outbreak of hostilities.

There are a host of questions to be addressed if there is to be a solution to the crisis. Blame can, and should, be addressed to both sides of the current conflict. Both Tudjman's and Milosevic's maintenance of hard-line stances regarding the recognized problems of minority rights and border resolution are doing nothing to lead to a peaceful end of the Yugoslav crisis.

The current overtures for peace by both parties, and willingness to allow peace-keeping forces into the disputed areas, are a step in the right direction to ending this senseless conflict.

Mr. Speaker, let us hope that with the latest attempts by Cyrus Vance and Lord Carrington to come to a resolution of, or at least halt the bloodshed, that the attitude of irrationality and unwillingness to compromise that defines the current conflict can be overcome, and a lasting peace taking into account the concerns of all parties can be forged. If it is not, we will be facing a situation that makes the current situation look tame in comparison.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED AFTER ADJOURNMENT

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

On December 3, 1991:

H.R. 525. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America;

H.R. 635. An act for the relief of Abby Cooke;

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the eastern and western districts of Virginia;

H.R. 948. An act to designate the U.S. courthouse located at North Henry Street in Madison, WI, as the "Robert W. Kastenmeier United States Courthouse";

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD;

H.R. 1009. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes;

H.R. 1724. An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge;

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3029. An act to make technical corrections to agricultural laws;

H.R. 3049. An act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws;

H.R. 3169. An act to lengthen from 5 to 7 years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia and its environs;

H.R. 3245. An act to designate National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3322. An act to designate the building in St. Louis, MO, which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building";

H.R. 3327. An act to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue Between the Capitol and the White House, and for other purposes;

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes;

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas;

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source;

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes;

H.R. 3709. An act to waive the period of congressional review for certain District of Columbia acts;

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, TN, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 157. Joint resolution making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, and for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day"; and

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month".

On December 9, 1991:

H.R. 2950. An act to develop a national intermodal service transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit program, and for other purposes.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[The following reports were filed November 27 (legislative day of November 26), 1991]

Mr. DE LA GARZA: Committee on Agriculture, H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; with an amendment (Rept. 102-89, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2637. A bill to withdraw lands for the Waste Isolation Pilot Plant, and for other purposes; with an amendment (Rept. 102-241, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 157 (Rept. 102-394). Ordered to be printed.

Mr. SLAUGHTER of New York: Committee on Rules. House Resolution 309. Resolution waiving all points of order against the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and against consideration of such conference report (Rept. 102-395). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1202. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes; with an amendment (Rept. 102-396). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1058. A bill to designate the Lake Tahoe Basin National Forest in the States of California and Nevada to be administered by the Secretary of Agriculture, and for other purposes; with an amendment (Rept. 102-397, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1182. A bill to authorize and direct the exchange of lands in Colorado; with an amendment (Rept. 102-398, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2624. A bill to amend section 721 of the Defense Production Act of 1950 to clarify and strengthen its provisions pertaining to national security takeovers; with an amendment (Rept. 102-399, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 787. A bill to amend the Trade Act of 1974 to strengthen and expand the authority of the U.S. Trade Representative to identify trade liberalization priorities, and for other purposes; with an amendment (Rept. 102-400, Pt. 1). Ordered to be printed.

Mr. WHEAT: Committee on Rules. House Resolution 316. Resolution providing for disposition of the Senate amendments to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe (Rept. 102-401). Referred to the House Calendar.

Mr. MOAKLEY: House Resolution 317. Resolution waiving all points of order against the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and against consideration of such conference report (Rept. 102-402). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3556. A bill to authorize the Food for Emerging Democracies Act of 1991; with amendments (Rept. 102-403, Pt. 1). Ordered to be printed.

Mr. ROE: Committee on conference. Conference report on H.R. 2950 (Rept. 102-404). Ordered to be printed.

Mr. BROOKS: Committee on conference. Conference report on H.R. 3371 (Rept. 102-405). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 318. Resolution waiving all points of order against the conference report on (S. 543) a bill to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and against consideration of such conference report (Rept. 102-406).

Mr. GONZALEZ: Committee of conference. Conference report on S. 543 (Rept. 102-407).

Mr. DERRICK: Committee on Rules. House Resolution 320. Resolution to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes (Rept. 102-408). Referred to the House Calendar.

Mr. DINGELL: Committee of conference. Conference report on H.R. 3595 (Rept. 102-409).

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 2, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Obstacles to Drug Development for HIV-Related Opportunistic Infections (Rept. 102-410). Ordered to be printed.

[Pursuant to the order of the House on November 26, 1991, the following reports were filed on December 4, 1991]

Mr. CONYERS: Committee on Government Operations. Report on The Fiesta Bowl Fiasco: Department of Education's Attempt to Ban Minority Scholarships (Rept. 102-411). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on Narcotics Control Recommendations for the Andean Region, 1987-1991: More Aggressive Congressional Followup is Necessary (Rept. 102-412). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 5, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Department of Justice Computer Security: Neglect Leads to High Risk (Rept. 102-413). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on November 26, 1991, the following reports were filed on December 6, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Short-Selling Activity in the Stock Market: Market Effects and the Need for Regulation (Part 1) (Rept. 102-414). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 191. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfer for works prepared under certain cooperative research and development agreements; with— amendment (Rept. 102-415, Pt. 1). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. Report on Interim Report on the Advisability of Imposing Flexible Interest Rate Ceilings on Insured Deposits in Combination with Core Banking (Rept. 102-416). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 3507. A bill to establish programs under the Technology Administration of the Department of Commerce, and elsewhere, to promote a skilled work force and U.S. industrial competitiveness; with— amendment (Rept. 102-418, Pt. 1). Ordered to be printed.

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 10, 1991]

Mr. CONYERS: Committee on Government Operations. Report on the Feasibility of Initiating a System for the Verification of Corporate Tax Returns Through an Information and Document Matching Program at IRS (Rept. 102-419). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 11, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Asleep at the Switch? Federal Communications Commission Efforts to Assure Reliability of the Public Telephone Network (Rept. 102-420). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 18, 1991]

Mr. CONYERS: Committee on Government Operations. Report on the Scourge of

Telemarketing Fraud: What Can Be Done Against It? (Rept. 102-421). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 6, 1991]

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 2941. A bill to authorize appropriations to the Department of Transportation for surface transportation research and development, and for other purposes; with an amendment; referred to the Committees on Energy and Commerce and Public Works and Transportation for a period ending not later than March 6, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of those committees pursuant to clause 1 (h) and (p), rule X, respectively (Rept. 102-417, Pt. 1). Ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. SANTORUM, for 60 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. DREIER of California, for 60 minutes, on December 10, 11, 12, and 23.

Mr. RIGGS, for 60 minutes, on December 10, 11, and 12.

Mr. EMERSON, for 5 minutes, today.

(The following Members (at the request of Mr. FLAKE) to revise and extend their remarks and include extraneous material:)

Mr. ALEXANDER, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Mr. STAGGERS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. HOAGLAND, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. OBEY, for 60 minutes each day, on December 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 23, 24, 26, 27, 30, and 31.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a Joint Resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 447. An act to recognize the organization known as The Retired Enlisted Association, Incorporated; to the Committee on the Judiciary.

S. 452. An act to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 455. An act to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; to the Committees on Energy and Commerce, Education and Labor, and Science, Space, and Technology.

S. 606. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 754. An act to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program; to the Committees on Interior and Insular Affairs and Ways and Means.

S. 1187. An act to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1528. An act to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1577. An act to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the Act, and for other purposes; to the Committee on Energy and Commerce.

S. 1595. An act to preserve and enhance the ability of Alaska Natives to speak and understand their native languages; to the Committee on Education and Labor.

S. 1707. An act to authorize the establishment of the Fort Totten National Historic Site; to the Committee on Interior and Insular Affairs.

S. 1743. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1770. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes; to the Committee on Government Operations.

S.J. Res. 23. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 794. An act to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River and for other purposes;

H.R. 848. An act to establish the Little Bighorn Battlefield National Monument;

H.R. 1988. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications construction of facilities, research and program management, and Inspector General, and for other purposes;

H.R. 3370. An act to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, Oklahoma;

H.J. Res. 201. Joint resolution designating the week beginning December 1, 1991 and the week beginning November 15, 1992, each as "Geography Awareness Week";

H.J. Res. 300. Joint resolution designating the month of May 1992 as "National Trauma Awareness Month"; and

H.J. Res. 346. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 272. An act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing;

S. 1284. An act to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts; and

S.J. Res. 187. Joint resolution to make a technical correction in Public Law 101-549.

ADJOURNMENT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 260 of the 102d Congress, the House stands adjourned until 11:55 a.m., Friday, January 3, 1992.

Thereupon (at 7 o'clock and 3 minutes p.m.), calendar day, Wednesday, November 27, 1991 (legislative day, Tuesday, November 26, 1991), at 7:03 p.m., pursuant to House Concurrent Resolution 260, the House adjourned until Friday, January 3, 1992, at 11:55 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee on Armed Services. H.R 2637. A bill to withdraw lands for the Waste Isolation Pilot Plant, and for other purposes; with an amendment (Rept. 102-241, pt. 2). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. Report on tax systems modernization: Some early observations on its progress (Rept. 102–388). Referred to the Committee of the Whole House on the States of the Union.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution. 306. Resolution waiving all points of the order against the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, and against consideration of such conference report (Rept. 102–389). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 307. Resolution waiving all points of order against the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, for other purposes, and against consideration of such conference report. (Rept. 102–390). Referred to the House Calendar.

Mr. ROSTENKOWSKI: Committee of Conference. Conference Report on H.R. 1724 (Rept. 102–391). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee of Conference. Conference Report on H.R. 2212 (Rept. 102–392). Ordered to be printed.

Mr. BROOKS: Committee on The Judiciary. Report on deficiencies in the Department of Justice award and management of its Project Eagle ADP procurement (Rept. 102–393). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN. Committee of Conference. Conference report on House Judiciary Resolution 157 (Rept. 102–394). Ordered to be printed.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 309. Resolution waiving all points of order against the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and against consideration of such conference report. (Rept. 102–395). Referred to the House Calendar.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2411. A letter from the Architect of the Capitol, transmitting the report of expenditures of appropriations during the period April 1, 1991 through September 30, 1991, pursuant to section 105(b) of Public Law 88–454; to the Committee on Appropriations.

2412. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–99, "Revocable Trust Tax Exemption Amendment Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2413. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–98, "Comprehensive Anti-Drunk Driving Amendment Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2414. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–107, "Uniform Disposition of Unclaimed Property Act of 1980 Clarifying Temporary Amendment Act of 1991", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2415. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–106, "Redistricting Procedure Amendment Act of 1991 Clarification Temporary Amendment Act of 1991", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2416. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–101, "Way of the Cross Church of Christ, Inc., Equitable Real Property Tax Relief Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2417. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–102, "Spring of Freedom Street Designation Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2418. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–103, "Sursum Corda Cooperative Association, Inc., Clarification Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2419. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–100, "Child Restraint Act of 1982 Amendment Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2420. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–104, "Queen's Stroll Place Designation Act of 1991", and report, pursuant to D.C. Code Sec. 1–233(c)(1); to the Committee on the District of Columbia.

2421. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–105, "District of Columbia Real Property Tax Rates for Tax Year 1992 and Real Property Tax Reclassification Amendment Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2422. A letter from the Inspector General, Department of the Interior, transmitting the Department's semiannual report on the activities of the Office of Inspector General for the period April 1, 1991, through September 30, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2423. A letter from the Chairman, U.S. Merit System Protection Board, transmitting the Board's fiscal year 1991 annual report as required by the Inspector General Act Amendments of 1988; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; with an amendment (Rept. 102–89, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2637. A bill to withdraw lands for the Waste Isolation Pilot Plant, and for other purposes; with an amendment (Rept. 102–241, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1202. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes; with an amendment (Rept. 102–396). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1058. A bill to designate the Lake Tahoe Basin National Forest in the States of California and Nevada to be administered by the Secretary of Agriculture, and for other purposes; with an amendment (Rept. 102–397, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1182. A bill to authorize and direct the exchange of lands in Colorado; with an amendment (Rept. 102–398, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2624. A bill to amend section 721 of the Defense Production Act of 1950 to clarify and strengthen its provisions pertaining to national security takeovers; with an amendment (Rept. 102–399, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 787. A bill to amend the Trade Act of 1974 to strengthen and expand the authority of the U.S. Trade Representative to identify trade liberalization priorities, and for other purposes; with an amendment (Rept. 102–400, Pt. 1). Ordered to be printed.

Mr. WHEAT: Committee on Rules. House Resolution 316. Resolution providing for disposition of the Senate amendments to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe. (Rept. 102–401). Referred to the House Calendar.

Mr. MOAKLEY: House Resolution 317. Resolution waiving all points of order against the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and against consideration of such conference report (Rept. 102–402). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3556. A bill to authorize the Food for Emerging Democracies Act of 1991; with amendments (Rept. 102–403, Pt. 1). Ordered to be printed.

Mr. ROE: Committee of conference. Conference report on H.R. 2950 (Rept. 102–404). Ordered to be printed.

Mr. BROOKS: Committee of conference. Conference report on H.R. 3371 (Rept. 102–405). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 318. Resolution waiving all points of order against the conference report on (S. 543) a bill to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and against consideration of such conference report (Rept. 102–406).

Mr. GONZALEZ: Committee of conference. Conference report on S. 543 (Rept. 102–407).

Mr. DERRICK: Committee on Rules. House Resolution 320. Resolution to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes (Rept. 102–408). Referred to the House Calendar.

Mr. DINGELL: Committee of conference. Conference report on H.R. 3595 (Rept. 102–409).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SISISKY:

H.R. 3932 A bill to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes; to the Committee on Education and Labor.

By Mr. GONZALEZ (for himself and Mr. Wylie);

H.R. 3933. A bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WYDEN:

H.R. 3934. A bill to amend the Solid Waste Disposal Act to provide for greater use of recycled materials in packaging; to the Committee on Energy and Commerce.

By Mr. GIBBONS (for himself, Mr. Crane, and Mr. Pease);

H.R. 3935. A bill to modernize and simplify the administration of the customs laws; to the Committee on Ways and Means.

By Mr. DREIER of California:

H.R. 3936. A bill to amend and establish certain laws relating to housing, community and neighborhood development and preservation, and housing assistance and self sufficiency programs, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. SWETT:

H.R. 3937. A bill to enhance the process for Federal agencies to enter into shared energy savings contracts, and for other purposes; to the Committee on Energy and Commerce.

By Mr. OWENS of Utah:

H.R. 3938. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on group health plans that fail to provide for preexisting conditions, and for other purposes; to the Committee on Ways and Means.

By Mr. SIKORSKI (for himself, Mrs. Collins of Illinois, Mr. Wyden, Mr. Boehlert, and Mr. Markey);

H.R. 3939. A bill to amend the Solid Waste Disposal Act to promote materials use reduction, reuse, and recycling; to the Committee on Energy and Commerce.

By Mr. WYDEN (for himself and Mr. Lent):

H.R. 3940. A bill to provide for the certification of embryo laboratories; to the Committee on Energy and Commerce.

By Mr. WYDEN (for himself and Mr. Synar):

H.R. 3941. A bill to protect employees who report violations at Department of Energy facilities; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. ABERCROMBIE:

H.R. 3942. A bill to amend title 46, United States Code, to establish requirements for manning and watches on towing vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. ANTHONY:

H.R. 3943. A bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Ways and Means.

By Mr. ANTHONY (for himself, Mr. Rahall, Mr. Alexander, Mr. Nagle, Mr. English, Mr. Sarpalius, Mr. Johnson of South Dakota, Mr. Chapman, Mr. Williams, Mr. Brewster, Mr. Evans, Mr. Espy, Mr. Glickman, and Mr. Grandy):

H.R. 3944. A bill to amend the Internal Revenue Code of 1986 to encourage parity giving in order to increase prices to farmers while assisting in feeding the starving of the world; to the Committee on Ways and Means.

By Mr. ARCHER:

H.R. 3945. A bill to amend the Internal Revenue Code of 1986 to allow gain recognized on the sale of a principal residence to be reduced by the aggregate losses which were not allowed on prior sales of principal residences; to the Committee on Ways and Means.

By Mr. AuCoin:

H.R. 3946. A bill to amend the Hazardous Materials Transportation Act to ensure that designations of hazardous materials made under that act are uniformly applicable to all modes of transportation, and for other purposes; jointly, to the Committee on Public Works and Transportation and Energy and Commerce.

By Mr. BACCHUS:

H.R. 3947. A bill to establish the High Speed Surface Transportation Development Corporation; to provide for high speed surface transportation infrastructure development, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. BEREUTER:

H.R. 3948. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 with respect to the farmer to farmer program; jointly, to the Committees on Foreign Affairs and Agriculture.

By Mr. BERMAN:

H.R. 3949. A bill to amend title 11 of the United States Code with respect to the rights of municipal employees; to the Committee on the Judiciary.

By Mr. BILIRAKIS:

H.R. 3950. A bill to amend title 38, United States Code, to provide reclassification of members of the Board of Veterans Appeals and to ensure pay equity between those members and administrative law judges; jointly, to the Committees on Veterans' Affairs and Post Office and Civil Service.

H.R. 3951. A bill to amend the Internal Revenue Code of 1986, titles XVIII and XIX of the Social Security Act, and the Public Health Service Act to provide a credit for health insurance expenses and to increase deductible health insurance cost for self-employed individuals, to make grants to States to establish risk pools to provide insurance to medically uninsurable individuals, to reduce excessive paperwork in the processing of claims for health insurance benefits, to reduce the costs associated with medical malpractice litigation, to promote preventive health care services, to improve access to long-term care services, and for other purposes; jointly, to the Committees on Ways and Means, Energy and Commerce, and the Judiciary.

By Mr. BOUCHER (for himself, Mr. Tauzin, and Mr. Olin):

H.R. 3952. A bill to amend the Solid Waste Disposal Act to require the owner or operator of a landfill, incinerator, or other solid waste disposal facility to obtain authorization from the affected local government before accepting waste generated outside the State; to the Committee on Energy and Commerce.

By Mr. BROWN (for himself and Mr. Scheuer):

H.R. 3953. A bill to establish national electromagnetic fields research and public information dissemination programs, and for other purposes; jointly, to the Committees on Science, Space, and Technology, and Energy and Commerce.

By Mr. CAMP:

H.R. 3954. A bill to amend the Social Security Act to clarify the Medicare geographic classification adjacency requirements; to the Committee on Ways and Means.

By Mr. CHANDLER (for himself and Mr. McDermott):

H.R. 3955. A bill to amend the Internal Revenue Code of 1986 to clarify that conservation expenditures by electric utilities are deductible for the year in which paid or incurred; to the Committee on Ways and Means.

By Mrs. COLLINS of Illinois (for herself and Mr. Hastert):

H.R. 3956. A bill to amend the Solid Waste Disposal Act and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide for the recycling and management of used oil, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CUNNINGHAM (for himself, Mr. Ballenger, Mr. Boehner, Mr. de Lugo, Mr. Hayes of Illinois, Mr. Jefferson, Mr. Klug, Mr. Martinez, Ms. Molinari, and Mr. Payne of New Jersey):

H.R. 3957. A bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 to require the Secretary of Education to carry out an advanced placement test fee payment program, and for other purposes; to the Committee on Education and Labor.

By Mr. DAVIS (for himself and Mr. Vander Jagt):

H.R. 3958. A bill to grant Federal recognition to the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians, to clarify the status of members of the bands, and for other purpose; to the Committee on Interior and Insular Affairs.

By Mr. DORGAN of North Dakota:

H.R. 3959. A bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States; to the Committee on Veterans' Affairs.

By Mr. ENGEL (for himself and Mr. Manton):

H.R. 3960. A bill to require the Federal Communications Commission to initiate rulemaking proceedings to improve multilingual radio broadcasting, and for other purposes; to the Committee on Energy and Commerce.

By Mr. EVANS (for himself and Mr. CONYERS):

H.R. 3961. A bill to amend title 31, United States Code, to require an unclassified report concerning the Nation's stockpile of nuclear weapons and fissile materials to be included by the President in the budget submitted to Congress; jointly, to the Committees on Government Operations, Armed Services, and Foreign Affairs.

By Mr. FASCELL (by request):

H.R. 3962. A bill to transfer the au pair program from the U.S. Information Agency to the Department of Justice; to the Committee on the Judiciary.

By Mr. FRANKS of Connecticut:

H.R. 3963. A bill to allow individuals to participate in voluntary prayer or a moment of silence in any public building supported in whole or in part through the expenditure of Federal funds; to the Committee on the Judiciary.

By Mr. GEJDENSON:

H.R. 3964. A bill to amend chapters 85 and 87 of title 28, United States Code, to provide that the U.S. District Court for the District of Columbia shall have original and exclusive jurisdiction over any civil action challenging an award of a defense procurement contract in an amount in excess of $25 million, and for other purposes; to the Committee on the Judiciary.

By Mr. GINGRICH (for himself and Mr. KASICH):

H.R. 3965. A bill to ensure that any peace dividend is invested in America's families and in deficit reduction; jointly, to the Committees on Government Operations, Ways and Means, and Rules.

By Mr. GLICKMAN (for himself, Mr. CHANDLER, Mr. CLEMENT, and Mr. MCCLOSKEY):

H.R. 3966. A bill to amend title 18, United States Code, to prohibit certain officers and employees of the Government from representing foreign entities after their Government service terminates; to the Committee on the Judiciary.

By Mr. GORDON:

H.R. 3967. A bill to amend the Higher Education Act of 1965 to prohibit prison inmates from receiving Pell grants; to the Committee on Education and Labor.

By Mr. GUARINI (for himself, Mr. TORRICELLI, Mr. RANGEL, and Mr. MCGRATH):

H.R. 3968. A bill to extend scholarship assistance to students from the Andean region; to the Committee on Foreign Affairs.

By Mr. HOCHBRUECKNER:

H.R. 3969. A bill to improve vessel navigational accuracy and enhance ship safety in order to protect the marine environment; to the Committee on the Merchant Marine and Fisheries.

By Mr. HUNTER:

H.R. 3970. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on capital gains and to allow a deduction for the use of American-manufactured highway vehicles and to amend the Social Security Act to repeal the limitation on outside earnings; to the Committee on Ways and Means.

By Mr. JONES of North Carolina:

H.R. 3971. A bill to establish a national research program to improve the production and marketing of sweetpotatoes and increase the consumption and use of sweetpotatoes by domestic and foreign consumers; to the Committee on Agriculture.

By Mr. JONES of North Carolina (for himself and Mr. STUDDS):

H.R. 3972. A bill to direct the Secretary of the Interior to make minor and technical corrections to maps depicting the Coastal Barrier Resources System; to the Committee on Merchant Marine and Fisheries.

By Mr. JONTZ (for himself, Mr. MILLER of California, and Mr. SHARP):

H.R. 3973. A bill to amend the Atomic Energy Act of 1954 to provide for the payment of the cost of decontamination and decommissioning of Department of Energy uranium enrichment facilities, and for other purposes; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. KENNEDY:

H.R. 3974. A bill to amend title XIX of the Social Security Act to convert the Medicaid Program to a federally administered program of medical assistance, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mrs. KENNELLY (for herself, Mr. LEWIS of Georgia, Mr. FORD of Michigan, Mr. EDWARDS of California, Mrs. SCHROEDER, Mrs. MINK, Ms. OAKAR, Ms. NORTON, Mrs. MORELLA, Mr. ROYBAL, Mr. ATKINS, Mr. AUCOIN, Mr. CAMPBELL of Colorado, Mr. MOODY, Mr. ACKERMAN, Mr. PANETTA, Mr. EVANS, Mr. STUDDS, Mr. ESPY, Mr. HAYES of Illinois, Mr. SERRANO, Mr. LEHMAN of Florida, Mr. TOWNS, Mr. HOCHBRUECKNER, Mr. MATSUI, Mr. MARTINEZ, Mr. COLEMAN of Texas, Mr. WHEAT, Mr. MCDERMOTT, Mr. DEFAZIO, Mr. NOWAK, Mr. STARK, Mrs. UNSOELD, Mr. JONTZ, Mr. DIXON, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. GREEN of New York, Mr. BERMAN, Mr. RICHARDSON, Mr. MILLER of California, Mr. SANDERS, Mr. NEAL of Massachusetts, Mr. MFUME, Mrs. BOXER, and Mr. MINETA):

H.R. 3975. A bill to amend section 1977A of the revised statutes to equalize the remedies available to all victims of international employment discrimination, and for other purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. KOSTMAYER:

H.R. 3976. A bill to amend the Federal Power Act; to the Committee on Energy and Commerce.

H.R. 3977. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. LAFALCE:

H.R. 3978. A bill to temporarily limit the number of motor vehicles that are products of Japan that may be imported into the United States; to the Committee on Ways and Means.

By Mr. LEVIN of Michigan:

H.R. 3979. A bill to amend the Internal Revenue Code of 1986 to allow a credit for payments or contributions to certain cooperative research organizations; to the Committee on Ways and Means.

H.R. 3980. A bill to amend title XVIII of the Social Security Act to require health maintenance organizations under the Medicare Program to determine whether individuals enrolled with the organization are entitled to medical assistance for Medicare cost-sharing under a State Medicaid plan; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LEVIN of Michigan (for himself, Mr. MCGRATH, Mr. GEPHARDT, Mr. DURBIN, Mr. HOUGHTON, Mrs. COLLINS of Illinois, Mr. WOLPE, Mr. ACKERMAN, Mr. ANTHONY, Mr. BOEHLERT, Mr. BRYANT, Mr. CARDIN, Mr. CARPER, Mr. DORGAN of North Dakota, Mr. DUNCAN, Mr. FLAKE, Mr. GILMAN, Mr. GRANDY, Mr. GREEN of New York, Mr. GUARINI, Mr. HOCHBRUECKNER, Ms. HORN, Mr. JONTZ, Ms. KAPTUR, Mrs. KENNELLY, Mr. MATSUI, Mr. MCMILLAN of North Carolina, Mr. MINETA, Mr. MOODY, Mr. OWENS of Utah, Mr. PEASE, Mr. REGULA, Mr. RUSSO, Mr. SARPALIUS, Mr. SPRATT, Mr. STARK, Mr. TRAXLER, Mr. VISCLOSKY, Mr. WISE, Mr. WOLF, Mr. WYDEN, AND Mr. ZELIFF):

H.R. 3981. A bill to authorize the Secretary of Commerce to establish a pilot program to promote United States goods and services through United States Commercial Centers; to the Committee on Foreign Affairs.

By Mr. LEVIN of Michigan (for himself and Mr. STARK):

H.R. 3982. A bill to amend title XVIII of the Social Security Act to expand the Secretary of Health and Human Services' authority to impose intermediate sanctions on health maintenance organizations participating in the Medicare Program for violation of any requirement of the program and to amend title XI of the Social Security Act to prohibit providers of services under the Medicare Program from offering certain inducements to beneficiaries or employees; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LEVINE of California:

H.R. 3983. A bill to expand eligibility for Pell grants and to increase the maximum amount of a Pell grant award; to the Committee on Education and Labor.

H.R. 3984. A bill to establish a program of Federal grants to assist local educational agencies to establish and provide for a school year of not less than 240 days; to the Committee on Education and Labor.

By Mr. LEVINE of California (for himself, Mr. FEIGHAN, and Mr. SCHIFF):

H.R. 3985. A bill to amend title 18, United States Code, to provide for longer prison sentences for convicts who commit a violent felony while under a criminal justice sentence, such as parole, furlough, or probation; to the Committee on the Judiciary.

By Mr. LEVINE of California (for himself and Mr. HYDE):

H.R. 3986. A bill to ensure that consumer credit reports include information on any overdue child support obligations of the consumer; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. LIPINSKI:

H.R. 3987. A bill to establish a National Industrial Revitalization Board to provide loans and loan guarantees to industries that are unable to obtain the financing needed to modernize, expand, or improve such industries; to the Committee on Banking, Finance and Urban Affairs.

H.R. 3988. A bill to amend the Water Resources Development Act of 1990 to require full Federal funding of the project to construct a lock at Sault Saint Marie, MI; to the Committee on Public Works and Transportation.

By Mrs. LLOYD (for herself, Mr. MARKEY, and Mr. RICHARDSON):

H.R. 3989. A bill to amend title XIX of the Social Security Act to provide for coverage of prostate cancer screening tests under the Medicaid Program; to the Committee on Energy and Commerce.

By Mrs. LLOYD (for herself and Mr. WYDEN):

H.R. 3990. A bill to amend the Public Health Service Act to establish a program for postreproductive health care; to the Committee on Energy and Commerce.

By Mrs. LLOYD (for herself and Mr. SCHIFF):

H.R. 3991. A bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mrs. LLOYD (for herself, Mr. MARKEY, and Mr. RICHARDSON):

H.R. 3992. A bill to amend title XVIII of the Social Security Act to provide for coverage of prostrate cancer screening tests under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. LOWEY of New York:

H.R. 3993. A bill to amend title 46, United States Code, to clarify the authority of the State of New York to regulate pilotage of vessels on the Hudson River upstream of Yonkers, NY; to the Committee on Merchant Marine and Fisheries.

By Mr. LUKEN:

H.R. 3994. A bill to direct the Secretary of Transportation to conduct a rulemaking proceeding to review and modify regulations issued pursuant to the Aviation Safety and Noise Abatement Act of 1979 on measuring noise in areas surrounding airports, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. McCANDLESS:

H.R. 3995. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 3996. A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such act; to the Committee on Ways and Means.

By Mr. McCURDY:

H.R. 3997. A bill to amend the Higher Education Act of 1965 to require applicants for Federal student financial assistance to prove a minimum level of academic achievement before receiving such assistance; to the Committee on Education and Labor.

H.R. 3998. A bill to establish a youth apprenticeship demonstration program, and for other purposes; to the Committee on Education and Labor.

By Mr. McGRATH:

H.R. 3999. A bill to amend the Internal Revenue Code to provide that a foster care provider and a qualified foster individual may share the same home; to the Committee on Ways and Means.

By Mr. JEFFERSON:

H.R. 4000. A bill to establish a scholarship program to encourage minority students to pursue doctoral degrees in mathematics, science, and engineering, and for other purposes; to the Committee on Education and Labor.

By Mr. McGRATH (for himself and Mr. JENKINS):

H.R. 4001. A bill to amend the Internal Revenue Code of 1986 to modify the individual alternative minimum tax to allow for the deduction of certain investment expenses and for other purposes; to the Committee on Ways and Means.

By Mr. MATSUI (for himself, Mr. GIBBONS, Mr. CRANE, Mr. DOWNEY, and Mr. McGRATH):

H.R. 4002. A bill to amend the Trade Act of 1974 to require the national trade estimate to include information regarding the impact of Arab boycotts on certain U.S. businesses; to the Committee on Ways and Means.

By Mr. MAVROULES and Mr. DINGELL:

H.R. 4003. A bill to repeal and amend certain postemployment rules relating to procurement and contract administration.

By Mr. MILLER of California:

H.R. 4004. A bill to assist in the development of tribal judicial systems, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of Ohio:

H.R. 4005. A bill to amend the Internal Revenue Code of 1986 to allow individuals credits for the acquisition of new passenger vehicles and first homes; to the Committee on Ways and Means.

By Mr. MILLER of Washington:

H.R. 4006. A bill to encourage the establishment of new domestic passenger cruise ship service between the Pacific Northwest United States and Alaska; to the Committee on Merchant Marine and Fisheries.

By Mr. MINETA (for himself, Mr. BERMAN, Mr. EDWARDS of California, Mr. CHANDLER, Mrs. MINK, and Mrs. SCHROEDER):

H.R. 4007. A bill to provide the children of female U.S. citizens born abroad before May 24, 1934, and their descendants, with the same rights to citizenship at birth as children born of male citizens abroad; to the Committee on the Judiciary.

By Mr. MOODY:

H.R. 4008. A bill to provide for temporary protected status for nationals of Yugoslavia; to the Committee on the Judiciary.

By Mr. MRAZEK:

H.R. 4009. A bill to establish a higher education loan program open to students of all income levels, and for other purposes; to the Committee on Education and Labor.

H.R. 4010. A bill to amend the Internal Revenue Code of 1986 to reinstate the 10-percent investment tax credit; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 4011. A bill to amend the Fair Labor Standards Act of 1938 to bring the minimum wage in American Samoa up to the wage in effect in the United States; to the Committee on Education and Labor.

By Mr. MURTHA:

H.R. 4012. A bill to extend eligibility for the homeowners assistance program established in section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 to members of the Armed Forces involuntarily separated as a result of reductions in the size of the Armed Forces and to provide additional mortgage loan flexibility to veterans, and for other purposes; jointly to the Committees on Armed Services, Veterans' Affairs, and Banking, Finance and Urban Affairs.

By Mr. MURTHA (for himself, Mr. MOLLOHAN, Mr. RAHALL, Mr. STAGGERS, Mr. WISE, and Mr. McCLOSKEY):

A bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provisions of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes; jointly to the Committees on Ways and Means and Education and Labor.

By Mr. OWENS of New York (for himself, Mr. FORD of Michigan, and Mr. GOODLING):

H.R. 4014. A bill to improve education in the United States by promoting excellence in research, development, and the dissemination of information; to the Committees on Education and Labor.

By Mr. OWENS of Utah:

H.R. 4015. A bill to direct the Secretary of the Interior to conduct a study of the Escalante Canyon region of Utah for potential inclusion in the National Park System; to the Committee on Interior and Insular Affairs.

By Mr. PANETTA:

H.R. 4016. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of; to the Committee on Energy and Commerce.

By Ms. PELOSI (for herself, Mr. ESPY, and Mr. DELLUMS, Mr. JEFFERSON, Mr. PETERSON of Minnesota, Mr. EVANS, Mr. DOWNEY, Ms. NORTON, and Mr. FOGLIETTA):

H.R. 4017. A bill to authorize the Administration of the Small Business Administration to make loans and grants to community-based organizations for the purpose of assisting in the startup and expansion of microenterprises; to the Committee on Small Business.

By Mr. PENNY:

H.R. 4018. A bill to amend title 38, United States Code, to revise the rules relating to crediting of third-party reimbursements received by the United States for the costs of medical services and hospital care furnished by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. PENNY (for himself, Mr. JOHNSON of South Dakota, and Mr. ZELIFF):

H.R. 4019. A bill to amend the Food Security Act of 1985 to eliminate abuses of the farm program payment limitations rule, and for other purposes; to the Committee on Agriculture.

By Mr. PETERSON of Minnesota:

H.R. 4020. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on passive activity losses and credits and to provide an accelerated depreciation schedule for real estate; to the Committee on Ways and Means.

By Mr. PETRI (for himself, Mr. MURPHY, Mr. GOODLING, Mr. PENNY, Mr. GUNDERSON, Mr. IRELAND, and Mr. ARMEY):

H.R. 4021. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the earned income tax credit for taxpayers with school age or preschool age children; to repeal the health insurance credit thereunder, and for other purposes; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 4022. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; jointly, to the Committee on Ways and Means, the Judiciary, Education and Labor, Energy and Commerce, and Banking, Finance and Urban Affairs.

H.R. 4023. A bill to reform the system under which compensation for overtime Customs inspectional services is determined; to amend chapters 83 and 84 of title 5, United States Code, to provide that Customs employees be treated as law enforcement officers for purposes of those chapters; and for other purposes; jointly, to the Committees on Ways and Means and Post Office and Civil Service.

By Mr. RAY:

H.R. 4024. A bill to amend provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 relating to Federal property transferred by Federal agencies, and for other purposes; jointly, to the Committees on Energy and Commerce and Armed Services.

H.R. 4025. A bill to indemnify States, political subdivisions of States, and certain other entities from liability relating to the release of hazardous substances at military installations that are closed pursuant to a base closure law; jointly, to the Committees on Energy and Commerce and Armed Services.

By Mr. RICHARDSON:

H.R. 4026. A bill to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4027. A bill to provide for the Secretary of the Interior and the Secretary of Housing and Urban Development to carry out a demonstration program to transfer control of federally assisted Indian housing to selected Indian tribes and to permit the tribes to use assistance received under the housing improvement program of the Bureau of Indian Affairs and Indian housing programs under the U.S. Housing Act of 1937 as the tribes determine appropriate; jointly, to the Committee on Banking, Finance and Urban Affairs and Interior and Insular Affairs.

By Mr. ROGERS:

H.R. 4028. A bill to amend title 38, United States Code, to repeal the $2 charge for outpatient prescription drugs required to be charged by the Department of Veterans Affairs in certain cases; to the Committee on Veterans' Affairs.

H.R. 4029. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for interest on education loans; to the Committee on Ways and Means.

By Mr. SANDERS:

H.R. 4030. A bill to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SANTORUM (for himself and Mr. GOSS):

H.R. 4031. A bill to impose certain restrictions on franked mass mailings by any Member of the House of Representatives who is a candidate for such office.

By Mr. SAXTON (for himself, Mr. DAVIS, Mr. HUBBARD, Mr. YOUNG of Alaska, Mr. HUGHES, Mr. LENT, Mr. TAUZIN, Mr. FIELDS, Mr. LIPINSKI, Mr. BATEMAN, Mr. BENNETT, Mr. WELDON, Mr. PALLONE, Mr. HERGER, Mr. LAUGHLIN, Mr. RAVENEL, Mr. TAYLOR of Mississippi, Mr. GILCHREST, Mr. ANDERSON, Mr. DOOLITTLE, Mr. LANCASTER, Mr. CUNNINGHAM, Mr. GALLO, Mr. BAKER, Mr. MILLER of Washington, Mr. DICKS, Mr. JACOBS, and Ms. KAPTUR):

H.R. 4032. A bill to amend title 46, United States Code, to require that any regulation establishing or increasing a fee or change for a person engaged in the carriage of goods or passengers by vessel for hire be issued after notice, hearing, and comment and on the record, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. SCHIFF:

H.R. 4033. A bill to amend the Internal Revenue Code of 1986 to permit amounts in individual retirement plans to be used for certain housing purposes; to the Committee on Ways and Means.

By Mr. SCHUMER:

H.R. 4034. A bill to deny nondiscriminatory most-favored-nation [MFN] treatment to countries that participate in, or cooperate with, the economic boycott of Israel; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H.R. 4035. A bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun; to the Committee on the Judiciary.

By Mr. SKAGGS:

H.R. 4036. A bill to provide for the transfer of certain public lands located in Clear Creek County, CO, to the U.S. Forest Service, the State of Colorado, and certain local governments in the State of Colorado, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of New Jersey:

H.R. 4037. A bill to require the redetermination of the boundaries of the metropolitan statistical areas, primary metropolitan statistical areas, and consolidated metropolitan statistical areas of the United States, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 4038. A bill to provide that any interim pay adjustment under the Federal Employees Comparability Act of 1990 which becomes payable to a Federal employee as a result of a revision in the boundaries of a metropolitan or other statistical area in calendar year 1992 shall be payable as if the revision had been effective as of the beginning of such year; to the Committee on Post Office and Civil Service.

H.R. 4039. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. HYDE, Mr. MOLLOHAN, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. DORNAN of California, Mr. HUNTER, Mr. HOLLOWAY, Mr. BOEHNER, Mr. EMERSON, Mr. DELAY, Mr. INHOFE, Mr. DANNEMEYER, Mr. BUNNING, Mr. HANCOCK, and Mr. WALKER):

H.R. 4040. A bill to protect religious freedom; to the Committee on the Judiciary.

By Ms. SNOWE:

H.R. 4041. A bill to establish a program to stimulate the U.S. economy; jointly, to the Committees on Public Works and Transportation, Small Business, Ways and Means, Armed Services, Science, Space, and Technology, and Foreign Affairs.

By Mr. STARK:

H.R. 4042. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain sales of assets of medical service organizations to managers, et cetera, of such organization; to the Committee on Ways and Means.

H.R. 4043. A bill to amend the Emergency Unemployment Compensations Act of 1991 to increase the number of weeks of eligibility for emergency unemployment compensation; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mrs. BOXER, Ms. PELOSI, Mr. MILLER of California, Mr. DELLUMS, Mr. DE LUGO and Mr. MATSUI):

H.R. 4044. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for certain disaster losses, and for other purposes; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. DINGELL, Mr. HUGHES, Mr. HERTEL, Mr. BENNETT, Mr. SOLARZ, Mr. BROWN, Mr. BEILENSON, Mr. SAXTON, Mr. RAVENEL, Mr. GILCHREST, Mr. DELLUMS, Mr. ROYBAL, Mrs. SCHROEDER, Mr. KOSTMAYER, Mr. VENTO, Mr. MARKEY, Mr. STARK, Mr. BERMAN, Mr. WEISS, Mr. EDWARDS of California, Mr. ACKERMAN, Mr. DWYER of New Jersey, Mr. ATKINS, Mr. JONTZ, Mr. MRAZEK, Mr. MFUME, Mrs. MINK, Mr. SMITH of Florida, and Mr. SIKORSKI):

H.R. 4045. A bill to reauthorize and amend the Endangered Species Act in order to strengthen programs for the conservation of threatened and endangered species, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. TALLON (for himself, Mr. DOWNEY, Mr. EMERSON, Mr. DE LA GARZA, Mr. JENKINS, Mr. LEWIS of Florida, Mrs. JOHNSON of Connecticut, Mr. HATCHER, Mr. ESPY, Mr. DURBIN, Mr. THOMAS of Georgia, Mr. DERRICK, Mr. SPRATT, Mr. RAVENEL, Mr. ROSE, Mrs. PATTERSON, Mr. SPENCE, Mrs. SCHROEDER, Mr. PANETTA, Mr. MCCLOSKEY, Mr. CLEMENT, Mr. HOYER, Mr. ARMEY, Mr. WHEAT, Mr. RAHALL, Mr. MCCURDY, Mr. BALLENGER, Mr. MCMILLAN of North Carolina, Mr. GLICKMAN, Mr. DELAY, Mr. GINGRICH, Mr. WISE, Mr. WAXMAN, Mr. ANDREWS of Texas, Mr. COMBEST, Mr. HARRIS, Mr. BUNNING, Mr. WOLF, Mr. STENHOLM, Mr. HUCKABY, Mr. ANTHONY, Mr. SLATTERY, Mr. COBLE, Mr. SARPALIUS, Ms. LONG, Mr. DELLUMS, Mr. KENNEDY and Mr. HALL of Ohio):

H.R. 4046. A bill to provide for a joint report by the Secretary of Health and Human Services and the Secretary of Agriculture to assist in decisions to reduce administrative duplication, promote coordination of eligibility services, and remove eligibility barriers which restrict access of pregnant women, children, and families to benefits under the food stamp program and benefits under titles IV and XIX of the Social Security Act; jointly, to the Committees on Agriculture, Ways and Means, and Energy and Commerce.

By Mr. TAUZIN:

H.R. 4047. A bill to extend the jurisdiction of the Mississippi River Commission to include an additional geographic area; to the Committee on Public Works and Transportation.

By Mr. TOWNS:

H.R. 4048. A bill to establish a program to assist fiscally distressed local governments in the provision of essential services, and for other purposes; to the Committee on Government Operations.

By Mr. UPTON:

H.R. 4049. A bill to deauthorize the turning basin portion of the navigation project of South Haven Harbor, MI; to the Committee on Public Works and Transportation.

By Mr. VANDER JAGT:

H.R. 4050. A bill to amend title VII of the Tariff Act of 1930 to include interim processors within industries producing processed agricultural products, and for other purposes; to the Committee on Ways and Means.

By Mr. VISCLOSKY (for himself, Mr. MURTHA, Mr. APPLEGATE, Mrs. BENTLEY, Mr. BEVILL, Mr. BROWN, Mr. GAYDOS, Mr. MOLLOHAN, Mr. NOWAK, Mr. OBERSTAR, Mr. RITTER, Mr. RUSSO, Mr. CAMPBELL of Colorado, Mr. CONYERS, Mr. COYNE, Mr. DAVIS, Mr. DINGELL, Mr. ECKART, Mr. EVANS, Mr. FEIGHAN, Mr. GUARINI, Mr. JONTZ, Mr. KANJORSKI, Ms. KAPTUR, Mr. KOSTMAYER, Mr. MCCLOSKEY, Mr.

McMillen of Maryland, Mr. Manton, Mr. Murphy, Mr. Owens of Utah, Mr. Payne of Virginia, Mr. Perkins, Mr. Rahall, Mr. Ridge, Mr. Santorum, Mr. Staggers, Mr. Stokes, Mr. Towns, and Mr. Traficant):

A bill to extend the application of the steel trade liberalization program; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 4052. A bill to prohibit export to, and imports from, Yugoslavia until the President certifies to the Congress that the Government of Yugoslavia has recognized the right of each of the Republics of Croatia, Slovenia, Macedonia, Bosnia, and Herzegonia to be an independent state; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Ms. WATERS:

H.R. 4053. A bill to provide for the minting of $1 silver coins in commemoration of the Year of the Vietnam Veteran and the 10th anniversary of the dedication of the Vietnam Veteran Memorial; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WEBER (for himself, Mr. Camp, Mr. Barrett, Mr. Machtley, Mr. Hancock, Mr. Ramstad, Mr. Boehner, Mr. Taylor of North Carolina, Mr. Solomon, Mr. Riggs, Mr. Nussle, and Mr. Doolittle):

H.R. 4054. A bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, and the Judiciary.

By Mr. WOLF:

H.R. 4055. A bill to provide for approval of a license for telephone communications between the United States and Vietnam; to the Committee on Foreign Affairs.

By Mr. YOUNG of Alaska:

H.R. 4056. A bill to amend the National Fish and Wildlife Foundation Establishment Act; to the Committee on Merchant Marine and Fisheries.

By Mr. BILIRAKIS:

H.R. 4057. A bill to require Members of Congress to pay for medical services and products from the Office of the Attending Physician; to the Committee on House Administration.

By Mr. DANNEMEYER:

H.R. 4058. A bill to amend the Endangered Species Act of 1973 to require the preparation of economic impact analysis with respect to certain actions to protect endangered species and threatened species, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. de la GARZA:

H.R. 4059. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. HOAGLAND:

H.R. 4060. A bill to require that the President transmit to Congress, that the congressional budget committees report, and that the Congress consider a balanced budget for each fiscal year; jointly, to the Committees on Government Operations and Rules.

By Mr. KOSTMAYER:

H.R. 4061. A bill to amend the Internal Revenue Code of 1986 to create and preserve American jobs; to the Committee on Ways and Means.

By Mr. MINETA (for himself and Mr. Gephardt):

H.R. 4062. A bill to require reauthorizations of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. OWENS of Utah (for himself, Mr. Orton, and Mr. Hansen):

H.R. 4063. A bill to amend the National Park Service Concessions Policy Act to clarify management of concessioners who solely operate outfitter services for backcountry recreation in the National Park System; to the Committee on Interior and Insular Affairs.

By Mr. SCHULZE:

H.R. 4064. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. STALLINGS (for himself and Mr. LaRocco):

H.R. 4065. A bill to amend the Federal Property and Administrative Services Act of 1949 and title 10, United States Code, to require as a term in each contract for property or services made by an executive agency that the contractor, and any subcontractors under that contract, shall comply with the workmen's compensation laws of each State in which the contract is performed; jointly, to the Committees on Government Operations and Armed Services.

By Mr. TAUZIN:

H.R. 4066. A bill to request from certain countries information concerning American servicemen and civilians missing in Southeast Asia during the Vietnam conflict and to require the heads of Federal departments and agencies to disclose to Congress information concerning such servicemen and civilians; jointly, to the Committees on Foreign Affairs, Ways and Means, and Intelligence (Permanent Select).

By Mr. TAUZIN (for himself, Mr. Slattery, Mr. Hayes of Louisiana, Mr. Ackerman, Mr. Tallon, Mr. Campbell of Colorado, Mr. Richardson, Mr. Wyden, Mr. Hutto, Mr. Hall of Texas, Mrs. Byron, Mrs. Lloyd, Ms. Oakar, Mr. AuCoin, Mr. Montgomery, Mr. Jones of North Carolina, Mr. Huckaby, Mr. McCurdy, Mr. Condit, Mr. Erdreich, Mr. Parker, Mrs. Patterson, Mr. Ireland, Mr. Hyde, Mr. Livingston, Mr. Lowery of California, Mr. Young of Alaska, Mr. Thomas of Georgia, Mr. Weber, Mr. Shaw, Mr. Glickman, Mr. Harris, Mr. Browder, Mr. Kostmayer, Mr. Jefferson, Ms. Kaptur, Mr. Cramer, Mr. Goss, Mr. Kasich, Mr. Nowak, Mr. Lent, and Mr. Laughlin):

H.R. 4067. A bill to provide that interest earned on certain passbook savings accounts shall be excluded from gross income of the taxpayer as an incentive to taxpayers to increase savings in local banks and savings institutions; to the Committee on Ways and Means.

By Mr. TAUZIN (for himself, Mr. Fields, Mr. Livingston, Mr. Holloway, and Mr. Laughlin):

H.R. 4068. A bill entitled: Coastal Communities Impact Assistance Act of 1992; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. FASCELL:

H.R. 4070. A bill to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HAYES of Louisiana:

H.R. 4071. A bill to amend the Consolidated Farm and Rural Development Act to prohibit the Secretary of Agriculture from making or enforcing any rule requiring all borrowers under such act to demonstrate a positive cash flow, without taking into account the individual characteristics of borrowers; to the Committee on Agriculture.

By Mr. PAXON (for himself, Mr. Martin, and Mr. Walsh):

H.R. 4072. A bill to amend the Solid Waste Disposal Act to prohibit the import into the United States of all solid waste except solid waste imported for the purpose of recycling; to the Committee on Energy and Commerce.

By Mr. ABERCROMBIE:

H.J. Res. 383. Joint resolution to consent to certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Interior and Insular Affairs.

By Mr. EWING:

H.J. Res. 384. Joint resolution proposing an amendment to the Constitution allowing an item veto in appropriations; to the Committee on the Judiciary.

By Mr. GREEN of New York:

H.J. Res. 385. Joint resolution designating the week beginning September 13, 1992, as "National Fragrance Week"; to the Committee on Post Office and Civil Service.

By Mr. KENNEDY (for himself, Mr. Richardson, Mr. Poshard, Mr. Murphy, Mr. Stenholm, Mr. Wilson, Mr. DeFazio, Mr. Bustamante, Mr. Campbell of California, Mr. Sarpalius, Mr. Owens of Utah, Mr. Neal of Massachusetts, and Mr. McMillen of Maryland):

H.J. Res. 386. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax and spending legislation; to the Committee on the Judiciary.

By Mr. KILDEE (for himself, Mr. Ford of Michigan, and Mr. Goodling):

H.J. Res. 387. Joint resolution designating February 9 through February 15, 1992, as "Vocational-Technical Education Week"; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H. Con. Res. 249. Concurrent resolution correcting a technical error in the enrollment of the bill, H.R. 1724; considered and agreed to.

By Mr. COSTELLO:

H. Con. Res. 250. Concurrent resolution to express the sense of the Congress that the U.S. Trade Representative must negotiate a tough but fair multilateral trade agreement regarding steel products before the expiration of the enforcement authority for existing bilateral arrangements governing steel product imports; to the Committee on Ways and Means.

By Mr. FAZIO (for himself, Mr. Atkins, Mr. Berman, Mr. Clay, Mr. Green of New York, Mr. Levin of Michigan, Mr. McDermott, Mr. Martinez, Mr. Matsui, Mr. Mfume, Mr. Torres, Mr. Waxman, and Mr. Weiss):

H. Con. Res. 251. Concurrent resolution expressing the sense of the Congress that the Fox Broadcasting Co. be commended for accepting paid advertising promoting the use of condoms as a method for preventing the spread of Acquired Immune Deficiency Syndrome [AIDS], that all other commercial broadcast networks should follow the example of the Fox Broadcasting Co., and that the Secretary of Health and Human Services should prepare, and encourage the preparation of, public service announcements, promoting the use of condoms as a method for preventing the spread of AIDS; to the Committee on Energy and Commerce.

By Mr. MRAZEK (for himself, Mr. Bereuter, Mr. Downey, Mr. Frost, Mr. McNulty, Mr. Scheuer, Mr. Smith of Florida, and Mr. Towns):

H. Con. Res. 252. Concurrent resolution in support of unity of the common state in the Czech and Slovak Federal Republic; to the Committee on Foreign Affairs.

By Mr. PANETTA:

H. Con. Res. 253. Concurrent resolution to express the sense of the Congress that the President should urge the United Nations Security Council to impose sanctions against Serbia and that the President should take a more active role in resolving the Serbo-Croatian conflict; to the Committee on Foreign Affairs.

By Mr. RIDGE (for himself, Mr. Murtha, Mr. Jenkins, Mr. Clinger, Mr. Ritter, Mr. Visclosky, Mr. Ravenel, Mr. Murphy, Mr. Applegate, Mr. Santorum, Mr. Gaydos, Mr. Jontz, Mr. Kolter, Mr. Perkins, Mrs. Patterson, Mr. Pease, Mr. Spratt, Mr. Rahall, Mrs. Lloyd, Mr. Traficant, Mr. Wise, Ms. Kaptur, Mrs. Bentley, and Mr. Evans):

H. Con. Res. 254. Concurrent resolution to request the U.S. Trade Representative to refuse to agree to certain provisions proposed to be included in the General Agreement on Tariffs and Trade; to the Committee on Ways and Means.

By Mr. SANTORUM (for himself, Mr. Downey, Ms. Kaptur, Mr. Allard, Mr. Bilirakis, Mr. Levine of California, Ms. Norton, Mr. Schiff, and Mr. Jefferson):

H. Con. Res. 255. Concurrent resolution expressing the sense of the Congress that the States, in order to expedite the dispute settlement process for grandparent visitation privileges, are encouraged to adopt uniform visitation rights laws, modeled after a federally commissioned American Bar Association report; to the Committee on the Judiciary.

By Mr. SCHEUER (for himself, Mr. Ackerman, Mr. Oberstar, Mr. AuCoin, Mr. Flake, Mr. Brown, Mr. Fawell, Mr. Andrews of Maine, Mr. Guarini, Mr. Johnson of South Dakota, Mr. Horton, and Mr. Kennedy):

H. Con. Res. 256. Concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant; to the Committee on Merchant Marine and Fisheries.

By Mr. VENTO (for himself and Mr. Ridge):

H. Con. Res. 257. Concurrent resolution expressing the sense of the Congress that the substantial changes implemented during 1991 by the Secretary of Housing and Urban Development to the single family housing mortgage insurance program of the Federal Housing Administration, pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1991, including the changes made to the pricing and structure of mortgage insurance premiums, should be reexamined to determine the effects of the changes on the affordability of home ownership, the long-term financial viability of the Mutual Mortgage Insurance Fund, and the composition of the FHA loan portfolio; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BENTLEY:

H. Con. Res. 258. Concurrent resolution expressing the sense of the Congress that the President should convene a White House conference on revitalizing American industry; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BENTLEY (for herself and Mr. Lightfoot).

H. Con. Res. 259. Concurrent resolution expressing the sense of the Congress that the Secretary of Labor, in cooperation with the ACTION Agency, should publicize and promote projects under the Retired Senior Volunteer Program and the Older American Community Service Employment Program that encourage and recruit older individuals to provide child care services in community-based child care centers; to the Committee on Education and Labor.

By Mr. GEPHARDT:

H. Con. Res. 260. Concurrent resolution providing for an adjournment of the Congress to a date certain; considered and agreed to.

By Mr. RANGEL:

H. Con. Res. 261. Concurrent resolution correcting technical errors in the enrollment of the bill (S. 543); considered and agreed to.

By Mr. de la GARZA:

H. Res. 305. Resolution concurring in the Senate amendment to H.R. 3029 with an amendment; considered under the suspension of rules and agreed to.

By Mr. HOYER:

H. Res. 308. Resolution electing Representative Blackwell of Pennsylvania to the Committee on Public Works and Transportation; considered and agreed to.

By Mr. BACCHUS (for himself and Mr. Zimmer):

H. Res. 310. Resolution to amend the Rules of the House of Representatives to allow open meetings and hearings to be closed only for reasons of national security; to the Committee on Rules.

By Mr. McCURDY (for himself, Mr. Stenholm, Mr. Sabo, Mr. Andrews of Texas, and Mr. Glickman):

H. Res. 311. Resolution to amend the Rules of the House of Representatives to provide for the election of the chairmen and ranking minority members of the standing committees and for other purposes; to the Committee on Rules.

By Mr. OWENS of Utah:

H. Res. 312. Resolution amending the Rules of the House of Representatives to limit the number of years a Member may serve as chairperson of a particular standing committee or subcommittee; to the Committee on Rules.

By Mr. PENNY:

H. Res. 313. Resolution expressing the sense of the House of Representatives that the President should initiate an appraisal of, and consider alternatives to, the current structure and membership of the U.N. Security Council in the context of recent changes in the world's economic and political realities; to the Committee on Foreign Affairs.

By Mr. SANTORUM (for himself, Mr. Pursell, Mr. Goss, Mr. Gallegly, Mr. Zeliff, Mr. McCandless, and Mr. Ballenger):

H. Res. 314. Resolution providing for motor vehicle leasing for the House of Representatives to be conducted through the General Services Administration; to the Committee on House Administration.

By Mr. SAXTON (for himself, Mr. Davis, Mr. Hubbard, Mr. Young of Alaska, Mr. Hughes, Mr. Lent, Mr. Tauzin, Mr. Fields, Mr. Lipinski, Mr. Bateman, Mr. Bennett, Mr. Weldon, Mr. Pallone, Mr. Herger, Mr. Laughlin, Mr. Ravenel, Mr. Taylor of Mississippi, Mr. Gilchrest, Mr. Anderson, Mr. Doolittle, Mr. Lancaster, Mr. Cunningham, Mr. Gallo, Mr. Baker, Mr. Miller of Washington, Mr. Dicks, Mr. Jacobs, and Ms. Kaptur):

H. Res. 315. Resolution to amend the Rules of the House of Representatives to require economic impact statements for reported bills and amendments that create or increase any taxes, duties, or other fees on the maritime industry, and for other purposes; to the Committee on Rules.

By Mrs. Kennelly:

H. Res. 319. Resolution supporting the activities of the Peace Corps in the republics of Armenia and Ukraine; to the Committee on Foreign Affairs.

By Mr. HOYER (for himself, Mrs. Boxer, Mrs. Morella, Mr. Ritter, Mr. Lehman of California, and Mr. Levine of California):

H. Res. 321. Resolution concerning the conflict between the Armenian and Azerbaijani populations of the Nagorno-Karabakh Autonomous Oblast in the Territory of Azerbaijan: to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. STALLINGS introduced a bill (H.R. 4069) for the relief of Rollins H. Mayer; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. Morrison.

H.R. 44: Mr. Shuster, Mr. Dicks, Mr. Perkins, Mr. Goss, Mr. Borski, Mr. Fawell, Mr. Payne of New Jersey, Mr. Kolter, Mr. Livingston, Mr. Barnard, Mr. Wise, Mr. Owens of Utah, Mr. Horton, Mr. Hyde, Mrs. Unsoeld, Mr. Dixon, Mr. de Lugo, Mr. Gallegly, Mr. Spence, Mr. Young of Alaska, Mr. Zeliff, and Mr. Young of Florida.

H.R. 53: Mr. Manton.

H.R. 66: Mr. Beilenson, Mr. Cox of Illinois, Mr. Fawell, and Mr. Pursell.

H.R. 81: Mr. Ackerman, Mr. Espy, Mr. Downey, Mr. Hastert, and Mr. Horton.

H.R. 83: Mr. Livingston.

H.R. 118: Mr. Gallo, Mr. Rohrabacher, and Mr. Mineta.

H.R. 123: Mrs. Meyers of Kansas.

H.R. 127: Mr. Wylie.

H.R. 246: Mr. Dornan of California, Mr. Doolittle, Mr. Martin, Mr. Zeliff, Mr. Boehner, Mr. Horton, and Mr. Klug.

H.R. 318: Mr. Swett.

H.R. 341: Mr. McNulty.

H.R. 381: Mr. Torricelli.

H.R. 415: Mr. Baker.

H.R. 430: Mr. Wheat, Mr. Alexander, and Mr. Oxley.

H.R. 467: Mr. Gallegly.

H.R. 501: Mr. Richardson, Mr. Erdreich, Mr. McNulty, Mr. Olver, and Mr. Eckart.

H.R. 544: Mr. Atkins.

H.R. 565: Mr. Nussle, Mr. Young of Florida, and Mr. Morrison.

H.R. 602: Mr. GINGRICH.

H.R. 608: Mr. BACCHUS and Mr. GALLEGLY.

H.R. 639: Mr. YOUNG of Florida.

H.R. 640: Mr. RHODES.

H.R. 643: Mr. BUSTAMANTE, Mr. NUSSLE, and Mr. BALLENGER.

H.R. 709: Mr. GILMAN.

H.R. 710: Mr. WOLPE, Mr. ESPY, Mr. RICHARDSON, and Mr. QUILLEN.

H.R. 784: Mr. THOMAS of Wyoming and Mr. OLVER.

H.R. 793: Mr. HUCKABY, Mr. KLECKA, and Mr. GALLEGLY.

H.R. 842: Mr. ASPIN, Mr. McMILLEN of Maryland, Mrs. MINK, Mr. BLACKWELL, and Mr. SWETT.

H.R. 858: Mr. RHODES.

H.R. 863: Mr. JOHNSON of South Dakota.

H.R. 917: Mr. SHARP, Mr. YOUNG of Florida, and Mr. STUDDS.

H.R. 951: Mr. MORRISON.

H.R. 976: Mrs. ROUKEMA.

H.R. 1048: Mr. ESPY.

H.R. 1063: Mrs. LOWEY of New York.

H.R. 1115: Mr. RICHARDSON.

H.R. 1120: Mr. SPENCE.

H.R. 1126: Mr. ROEMER.

H.R. 1145: Mr. GALLEGLY, Mr. RUSSO, Mr. WALKER, Mr. CARPER, Mr. SKAGGS, Mr. OBERSTAR, AND MR. DYMALLY.

H.R. 1154: Mr. KLUG, Mr. MOODY, Mr. LUKEN, and Mr. AuCOIN.

H.R. 1186: Mr. LUKEN, Mr. ROYBAL, Mrs. PATTERSON, and Mr. SPENCE.

H.R. 1200: Mr. MARTIN and Mr. YOUNG of Florida.

H.R. 1202: Mr. BERMAN.

H.R. 1218: Mr. YATES.

H.R. 1239: Mr. HAYES of Louisiana.

H.R. 1244: Ms. NORTON, Mr. JONTZ, Mr. LaFALCE, Mr. ROYBAL, and Mr. ESPY.

H.R. 1345: Mr. RITTER.

H.R. 1354: Mr. ANDREWS of Maine.

H.R. 1385: Mr. SMITH of FLORIDA.

H.R. 1408: Mr. ANDREWS of Maine and Mrs. BOXER.

H.R. 1411: Mr. JONES of North Carolina, Mr. EDWARDS of Oklahoma, Mr. GOODLING, Mr. WILSON, Mr. RAY, Mrs. BYRON, Mr. MONTGOMERY, Mr. FORD of Tennessee, Mr. HYDE, Mr. HERGER, Mr. BARRETT, Mr. SHUSTER, Mr. KASICH, Mr. BREWSTER, Mr. SABO, Mr. ESPY, Mr. HEFLEY, Mr. ROTH, Mr. MARTINEZ, Mr. HUTTO, and Mr. CUNNINGHAM.

H.R. 1458: Mr. LIVINGSTON.

H.R. 1472: Mr. BILIRAKIS, Mr. McMILLAN of North Carolina, and Mr. SISISKY.

H.R. 1473: Mr. MAVROULES, Mr. RIGGS, and Mr. TRAXLER.

H.R. 1481: Mr. HOLLOWAY.

H.R. 1500: Mr. BONIOR, Mr. FORD of Tennessee, Mr. HOAGLAND, Mr. PAYNE of Virginia, Mr. CONYERS, Mr. DE LUGO, Mr. COSTELLO, Mr. DWYER of New Jersey, Mr. CLAY, Mr. LEHMAN of California, Mr. JOHNSTON of Florida, Mr. FEIGHAN, Mr. GREEN of New York, Mr. LIPINSKI, and Mr. RICHARDSON.

H.R. 1506: Mr. HOCHBRUECKNER.

H.R. 1527: Mr. ALLEN.

H.R. 1531: Mr. BRUCE.

H.R. 1536: Mr. MORRISON.

H.R. 1547: Mr. HUTTO.

H.R. 1557: Mr. SOLARZ, Mr. COMBEST, Mr. OWENS of Utah, Mr. GALLO, Mr. DYMALLY, Mr. GILMAN, and Mr. YOUNG of Florida.

H.R. 1565: Mr. MACHTLEY.

H.R. 1566: Mr. ALEXANDER.

H.R. 1570: Mr. LEACH, Mr. CAMP, Mr. YOUNG of Florida, and Mr. LANTOS.

H.R. 1602: Mr. TOWNS, Mr. ECKART, and Mr. DIXON.

H.R. 1628: Mr. MARKEY, Mr. TORRES, Mr. WILSON, Mr. COBLE, Mr. BUSTAMANTE, Mr. SWIFT, Mr. ANDREWS of Texas, Mr. RUSSO, Mr. LEVIN of Michigan, Mr. SHAYS, Mr. HYDE, Mrs. MEYERS of Kansas, Mr. WALKER, Mr. PASTOR, Mr. ESPY, Mr. HOYER, Mr. NEAL of Massachusetts, Mr. CHANDLER, Mr. SKAGGS, Mr. ANNUNZIO, Mr. GLICKMAN, Mr. KILDEE, Mr. WAXMAN, Mr. YATES, Mr. DURBIN, Mr. KLECZKA, Mr. BERMAN, Ms. HORN, Mr. ROSTENKOWSKI, and Mr. MFUME.

H.R. 1637: Mr. TRAFICANT and Mr. EVANS.

H.R. 1663: Mr. SWETT.

H.R. 1664: Mr. MILLER of California.

H.R. 1730: Mr. ALLEN, Mr. DE LUGO, Mr. BUSTAMANTE, Mr. EMERSON, and Mr. SIKORSKI.

H.R. 1755: Mr. YOUNG of Florida.

H.R. 1856: Mr. EDWARDS of California, Mr. FRANKS of Connecticut, and Mr. MARKEY.

H.R. 1882: Mr. STENHOLM.

H.R. 1898: Mr. ZELIFF.

H.R. 1960: Mr. CONYERS, Mr. PARKER, Mr. DOWNEY, Mr. REGULA, Mr. BUSTAMANTE, and Mr. EVANS.

H.R. 1987: Mr. AuCOIN and Mr. VISCLOSKY.

H.R. 1992: Mr. HENRY and Mr. CAMP.

H.R. 2027: Mr. ATKINS.

H.R. 2037: Mr. RHODES.

H.R. 2071: Mr. MARTINEZ, and Mr. LANCASTER, Mr. DREIER of California, and Mr. FIELDS.

H.R. 2083: Mr. SWETT and Mr. FORD of Michigan.

H.R. 2086: Mr. YOUNG of Florida.

H.R. 2101: Mr. ESPY and Mr. FAZIO.

H.R. 2106: Mr. NEAL of North Carolina.

H.R. 2186: Mr. HERGER.

H.R. 2199: Mr. YOUNG of Florida.

H.R. 2223: Mr. DE LUGO, Mr. GEREN of Texas, Mr. DURBIN, Mr. SIKORSKI, Mr. SABO, Mr. KANJORSKI, and Mr. SMITH of New Jersey.

H.R. 2232: Mr. HAYES of Louisiana.

H.R. 2242: Mr. WEISS, Mr. COYNE, Mr. DICKS, Mr. ANDREWS of Maine, and Mr. JOHNSON of South Dakota.

H.R. 2244: Mr. FLAKE.

H.R. 2248: Mr. FROST, Mr. PETERSON of Florida, Mr. YOUNG of Florida and Mr. HATCHER.

H.R. 2336: Mr. STEARNS, Mr. MILLER of Washington, and Mr. DAVIS.

H.R. 2359: Ms. MOLINARI, Mr. MAVROULES, Mr. STUMP, Mr. YOUNG of Alaska, Mr. RHODES, Mr. HORTON, Mr. KOLBE, Mr. MARLENEE, Mr. TAUZIN, and Mr. COBLE.

H.R. 2401: Mr. ROEMER, Mr. MARLENEE, and Mr. JONES OF North Carolina.

H.R. 2410: Mr. HOBSON and Mr. YATRON.

H.R. 2419: Ms. NORTON and Mr. SWETT.

H.R. 2437: Mr. YOUNG of Florida.

H.R. 2453: Mr. MACHTLEY.

H.R. 2485: Mr. LaFALCE and Mr. EVANS.

H.R. 2489: Mr. FISH.

H.R. 2493: Mr. HUGHES.

H.R. 2534: Mr. PICKETT, Mr. LEHMAN of Florida, Mr. KOPETSKI, Mr. HOBSON, and Ms. ROS-LEHTINEN.

H.R. 2540: Ms. DeLAURO, Mr. LANCASTER, and Mr. RAMSTAD.

H.R. 2546: Mr. BOEHLERT.

H.R. 2571: Mr. SARPALIUS, Mr. MARKEY, Mr. OWENS of Utah, Mr. FEIGHAN, Mrs. BOXER, Mr. SABO, Mr. COYNE, Mr. BOUCHER, and Mr. WALSH.

H.R. 2598: Mr. BARTON of Texas, Mr. BUSTAMANTE, Mr. BORSKI, Mr. LANTOS, Mr. McNULTY, and Mr. TOWNS.

H.R. 2625: Mr. PURSELL, Mr. MONTGOMERY, Mr. McGRATH, Mr. GILCHREST, Mr. KYL, Mr. CHANDLER, Mr. EWING, Mr. UPTON, Mr. PAXON, Mr. SARPALIUS, Mr. ZELIFF, and Mr. HAYES of Louisiana.

H.R. 2643: Mr. HOBSON, Mr. GUNDERSON, and Mr. KLUG.

H.R. 2672: Mr. LENT.

H.R. 2797: Mr. ATKINS, Mr. BLACKWELL, Mr. BUSTAMANTE, Mr. GILMAN, Mr. HARRIS, and Mr. TALLON.

H.R. 2806: Mr. SKELTON, Mr. SMITH of Iowa, Mr. VOLKMER, Mr. PANETTA, Mr. CRANE, Mr. OWENS of Utah, Mr. MILLER of Washington, and Mr. ALEXANDER.

H.R. 2871: Mr. MILLER of Ohio.

H.R. 2880: Mr. DURBIN, Mr. DONNELLY, Mr. McMILLEN of Maryland, Mr. ANDREWS of New Jersey, and Mr. MINETA.

H.R. 2912: Mrs. MEYERS of Kansas.

H.R. 2915: Mr. YOUNG of Florida and Mr. CAMP.

H.R. 2922: Mr. OLIN, Mr. FORD of Tennessee, and Mr. McNULTY.

H.R. 2943: Mr. SOLOMON.

H.R. 2945: Mr. COLEMAN of Texas.

H.R. 2951: Mr. GORDON, Mr. JEFFERSON, Mr. RANGEL, Ms. PELOSI, Mr. LaFALCE, and Mr. EVANS.

H.R. 2966: Mr. JONTZ and Mr. OWENS of Utah.

H.R. 3006: Mr. ZIMMER and Mr. FISH.

H.R. 3026: Mr. BERMAN, Mrs. SCHROEDER, Mr. DELLUMS, and Mr. CAMPBELL of Colorado.

H.R. 3027: Mr. ABERCROMBIE.

H.R. 3042: Mr. DICKINSON, Mr. HARRIS, and Mr. ERDREICH.

H.R. 3051: Mr. FRANK of Massachusetts.

H.R. 3063: Mr. PETERSON of Florida, Mr. FROST, and Mr. MARTINEZ.

H.R. 3070: Mr. ANNUNZIO, Mr. LAGOMARSINO, Mr. MARKEY, Mr. YOUNG of Florida, and Mr. STEARNS.

H.R. 3071: Mr. YOUNG of Florida.

H.R. 3902: Mr. EMERSON.

H.R. 3112: Mr. FROST and Mr. DYMALLY.

H.R. 3140: Mr. ABERCROMBIE.

H.R. 3160: Mr. CONYERS, Mr. DIXON, Mr. LIPINSKI, Mr. MARKEY, Mr. MRAZEK, Mr. RUSSO, and Mr. STUDDS.

H.R. 3164: Mr. ALEXANDER.

H.R. 3189: Mrs. LOWEY of New York.

H.R. 3204: Mr. BERMAN, Mr. BOUCHER, Mr. BRYANT, Mr. CHAPMAN, Mr. COBLE, Mr. CONYERS, Mr. EDWARDS of California, Mr. ENGEL, Mr. FEIGHAN, Mr. FISH, Mr. GLICKMAN, Mr. JAMES, Mr. KOPETSKI, Mr. LEVINE of California, Mr. McCOLLUM, Mr. MOORHEAD, Mr. REED, Mr. SANGMEISTER, Mr. STAGGERS, Mr. SYNAR, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ANTHONY, Mr. BARTON of Texas, Mr. BONIOR, Mrs. BOXER, Mr. BRUCE, Mr. CARR, Mr. CLEMENT, Mr. COOPER, Mr. DOWNEY, Mr. GEREN of Texas, Mr. GORDON, Mr. GUARINI, Mr. HORTON, Mr. LEHMAN of California, Mr. LENT, Mr. LEWIS of California, Mrs. LOWEY of New York, Mr. MANTON, Mr. MATSUI, Mr. McMILLEN of Maryland, Mr. MICHEL, Mr. OXLEY, Mr. RICHARDSON, Mr. RINALDO, Mr. SCHEUER, Mr. SIKORSKI, Mr. SMITH of Texas, Mr. STARK, Mr. SUNDQUIST, Mr. TANNER, Mr. VANDER JAGT, Mr. WAXMAN, and Mr. WEISS.

H.R. 3216: Mr. ROTH and Mr. WISE.

H.R. 3219: Mr. STOKES, Mr. DELLUMS, Mr. DIXON, Mr. DYMALLY, Mr. OWENS of New York, Mr. WHEAT, Mr. HAYES of Illinois, Mr. FLAKE, Mr. PAYNE of New Jersey, Mr. WASHINGTON, Mrs. COLLINS of Michigan, Ms. NORTON, and Mr. JEFFERSON.

H.R. 3221: Mr. MICHEL, Mr. LAUGHLIN, Mr. HARRIS, Mr. RAY, and Mr. McMILLEN of Maryland.

H.R. 3236: Mr. NEAL of Massachusetts and Mr. BUSTAMANTE.

H.R. 3250: Mr. WOLPE.

H.R. 3253: Mr. BROWN and Mr. OWENS of Utah.

H.R. 3256: Mr. ECKART, Mr. BERMAN, Ms. KAPTUR, and Mr. RANGEL.

H.R. 3273: Mr. MARTINEZ, Mr. LANCASTER, Mr. BALLENGER, Mr. HANSEN, Mr. COX of California, Mr. KOSTMAYER, Mr. KOLBE, Mr. KOPETSKI, Mr. HORTON, Mr. BROWN, Mr. IRELAND, Mr. TAYLOR of North Carolina, Mr. COMBEST, Mr. ZELIFF, Mr. ACKERMAN, and Mrs. BOXER.

H.R. 3283: Mr. CAMPBELL of California, Mr. ENGEL, Mr. DICKINSON, Mr. SAXTON, Mr. BALLENGER, Mr. COBLE, Mr. TAYLOR of North Carolina, Mr. BEVILL, Mr. HERGER, Mr. CALLAHAN, Mr. ROHRABACHER, Mr. BURTON of Indiana, Mr. BROOMFIELD, Mr. WOLF, Mr. SMITH of New Jersey, Mr. DOOLITTLE, Mr. EDWARDS of Oklahoma, Mr. BARTON of Texas, Mr. SOLOMON, Mr. GOSS, Mr. LIGHTFOOT, Mr. WALKER, Mr. QUILLEN, Mr. ROGERS, Mr. PETRI, Mr. GEKAS, Mr. CUNNINGHAM, Mr. CRANE, Mr. GINGRICH, Mr. BOEHNER, Mr. HANCOCK, Mr. MILLER of Ohio, Mr. SCHAEFER, Mr. HASTERT, Mr. MONTGOMERY, Mr. WELDON, Mr. HUTTO, Mr. HAMMERSCHMIDT, Mr. GILCHREST, Mr. GALLEGLY, Mr. LAGOMARSINO, Mr. CAMP, Mr. HALL of Texas, Mr. HUNTER, Mr. JOHNSON of Texas, Mr. SKEEN, Mr. GILLMOR, Mr. NICHOLS, Mr. SANTORUM, Mr. COMBEST, Mr. BAKER, Mr. RAMSTAD, Mr. FRANKS of Connecticut, Mr. KYL, Mr. LOWERY of California, Mr. ALLEN, Mr. RIGGS, Mr. CHANDLER, Mr. WYLIE, Mr. THOMAS of Wyoming, Mr. YOUNG of Florida, Mr. SAWYER, Mr. ARMEY, Mr. DE LUGO, Mr. GUNDERSON, and Mr. WEBER.

H.R. 3285: Mr. JONTZ and Ms. NORTON.

H.R. 3286: Mr. CONYERS and Mr. OLVER.

H.R. 3326: Mr. FIELDS and Mr. GILMAN.

H.R. 3334: Mr. RANGEL.

H.R. 3337: Mr. ORTON, Mr. STENHOLM, Mrs. SCHROEDER, Mr. SISISKY, Mr. STUMP, Mrs. BYRON, Mr. CONDIT, Mr. SKELTON, Mr. VOLKMER, Mr. APPLEGATE, Mr. HAMMERSCHMIDT, Mr. SAXTON, Mr. GILMAN, Mr. HUBBARD, Mr. BENNETT, Mr. NATCHER, Ms. SLAUGHTER of New York, Ms. HORN, Mr. PARKER, Mr. TANNER, Mrs. LLOYD, Mr. CRAMER, Mr. JENKINS, Mr. HEFNER, Mr. ROWLAND, Mr. GEREN of Texas, Mr. SAWYER, Mr. ORTIZ, Mr. PASTOR, Ms. LONG, Mr. GLICKMAN, Mr. WYDEN, Mr. BROWDER, Mrs. PATTERSON, Ms. KAPTUR, Mr. VALENTINE, Mr. CARPER, Mr. PAYNE of Virginia, Mr. CHAPMAN, Mr. STUDDS, Mr. JONTZ, Mr. THORNTON, Mr. MCDADE, Mr. MURTHA, Mr. HUCKABY, Mr. REGULA, Mr. BOEHLERT, Mr. BOEHNER, Mr. RINALDO, Mrs. BENTLEY, Mr. BATEMAN, Mr. MOORHEAD, Mr. GOSS, Mr. MYERS of Indiana, Mr. IRELAND, Mrs. MEYERS of Kansas, and Mr. HOBSON.

H.R. 3342: Mr. RIGGS.

H.R. 3344: Mr. CARPER.

H.R. 3345: Ms. NORTON and Mr. FROST.

H.R. 3348: Mr. ARCHER, Mr. KOLTER, Mr. ROHRABACHER, Mr. KANJORSKI, Mr. NEAL of Massachusetts, Mr. LAROCCO, Mr. FRANK of Massachusetts, Mr. MARTINEZ, Mrs. JOHNSON of Connecticut, Mr. MILLER of Washington, Mr. GAYDOS, Mr. WILSON, Mr. COX of Illinois, Mr. HOCHBRUECKNER, Mr. MRAZEK, Mr. COX of California, Mrs. VUCANOVICH, Mr. ECKART, Mr. OLVER and Mr. STALLINGS.

H.R. 3349: Mr. ZELIFF.

H.R. 3360: Mr. MAZZOLI, Mr. PAYNE of Virginia, and Mr. NOWAK.

H.R. 3373: Mr. ABERCROMBIE and Mr. YOUNG of Florida.

H.R. 3376: Mr. ALLEN and Mr. CAMP.

H.R. 3412: Mr. WELDON.

H.R. 3420: Mr. SPENCE, Mr. OBERSTAR, Mr. BRYANT, and Mr. GUNDERSON.

H.R. 3422: Mr. SMITH of Florida.

H.R. 3423: Mr. LEVINE of California, Mr. STOKES, and Mr. POSHARD.

H.R. 3424: Mr. LEVINE of California, Mr. STOKES, Mr. POSHARD, and Mr. DIXON.

H.R. 3437: Mr. GOODLING.

H.R. 3438: Mr. MCCANDLESS.

H.R. 3439: Mr. MCCANDLESS.

H.R. 3440: Mr. MCCANDLESS.

H.R. 3441: Mr. MCCANDLESS.

H.R. 3442: Mr. MCCANDLESS.

H.R. 3451: Mr. ZELIFF.

H.R. 3452: Mr. APPLEGATE.

H.R. 3454: Mr. WILLIAMS, Mr. CHAPMAN, and Mr. GORDON.

H.R. 3484: Mrs. BOXER.

H.R. 3487: Mr. HOBSON and Mr. MORRISON.

H.R. 3501: Mr. JACOBS.

H.R. 3506: Mr. ZELIFF and Mrs. MEYERS of Kansas.

H.R. 3509: Mr. MCCLOSKEY, Mr. CONYERS, Mr. POSHARD, Mr. RANGEL, Mr. LIPINSKI, Mr. LAFALCE, Mr. GEJDENSON, Ms. NORTON, Mrs. BOXER, Mr. KLUG, Mrs. SCHROEDER, Mr. FORD of Michigan, and Mr. YATES.

H.R. 3515: Mr. VOLKMER and Mr. BUSTAMANTE.

H.R. 3528: Ms. SNOWE.

H.R. 3552: Mr. FOGLIETTA and Mr. DOOLEY.

H.R. 3553: Mr. Stokes, Mr. DE LA GARZA, Mr. RICHARDSON, Mr. ROYBAL, Mr. BUSTAMANTE, Mr. MORRISON, and Mrs. BOXER.

H.R. 3554: Mr. HUGHES.

H.R. 3560: Mr. WEISS.

H.R. 3561: Mr. SCHIFF and Mrs. MEYERS of Kansas.

H.R. 3568: Mr. EVANS and Mr. BUSTAMANTE.

H.R. 3571: Mr. BUSTAMANTE, Mr. RAY, and Mr. ZELIFF.

H.R. 3583: Mr. FOGLIETTA.

H.R. 3591: Mr. MCDERMOTT, Mr. VISCLOSKY, Mr. SHAYS, Mr. HYDE, Mr. GOSS, Mr. PAYNE of Virginia, Mr. ENGLISH, Mr. MCGRATH, Mr. JOHNSON of South Dakota, Mr. LEWIS of Florida, Mr. DELLUMS, Mr. TOWNS, Mr. LANCASTER, Mr. HORTON, Mr. STAGGERS, Mr. KOLTER, Mr. DWYER of New Jersey, Mr. SARPALIUS, Mr. STENHOLM, Mrs. KENNELLY, Ms. PELOSI, Mr. UPTON, Mr. ROSE, Mr. AUCOIN, Mr. CARDIN, and Mr. FOGLIETTA.

H.R. 3592: Mr. WALSH, Mr. HERGER, and Mrs. MEYERS of Kansas.

H.R. 3599: Mr. GEREN of Texas.

H.R. 3601: Mr. SCHEUER, Mr. MAZZOLI, Mr. DYMALLY, Mr. ENGEL, and Mr. JOHNSON of South Dakota.

H.R. 3605: Mr. MCCANDLESS.

H.R. 3619: Mr. STEARNS, Mr. DARDEN, Mr. CONYERS, Mr. DERRICK, Mr. JENKINS, Mr. BERMAN, Mr. FEIGHAN, and Mr. GLICKMAN.

H.R. 3620: Ms. COLLINS of Michigan and Mr. DAVIS.

H.R. 3627: Mr. DE LA GARZA, Mr. SPRATT, Mr. GOSS, Mr. SPENCE, Mr. BOEHNER, Mr. LUKEN, Mr. PARKER, Mr. MARTIN, Mr. HATCHER, Mrs. MORELLA, Mr. WOLF, Mr. NEAL of Massachusetts, Mr. MOODY, Mr. SKELTON, Mrs. BENTLEY, Mr. SOLARZ, Mr. HUGHES, Mr. SCHAEFER, Mr. ROSE, Mr. HUBBARD, Mr. PAYNE of Virginia, Mr. HALL of Texas, Mr. MURPHY, Mr. EMERSON, Mr. COX of California, Mr. PACKARD, Mr. MCCRERY, Mr. DELAY, Mr. ATKINS, Mr. MILLER of Ohio, Mr. LEWIS of California, Mr. YOUNG of Florida, Mr. YATRON, Mr. GUARINI, Mr. LENT, and Mr. SANTORUM.

H.R. 3630: Mr. HERGER, Mr. SANTORUM, Mr. BALLENGER, Mr. GILLMOR, Mr. FAWELL, and Mr. HYDE.

H.R. 3634: Mr. FROST, Mr. OWENS of Utah, Mr. LANCASTER, Mr. SWETT, and Mr. GILMAN.

H.R. 3636: Mr. PRICE, Mr. BOEHLERT, Mr. SHARP, Mr. MCNULTY, Mr. SAVAGE, Mr. BLACKWELL, Mr. SHAYS, Mr. GIBBONS, Mr. MANTON, Mr. COYNE, Mr. SANGMEISTER, Mr. GORDON, Mr. JACOBS, Mr. GREEN of New York, Mr. JEFFERSON, and Mr. KLECZKA.

H.R. 3639: Mr. GILMAN.

H.R. 3661: Ms. NORTON, Mr. KOSTMAYER, Mr. ROGERS, and Mr. FLAKE.

H.R. 3669: Mr. ABERCROMBIE, Mr. DIXON, and Mr. PANETTA.

H.R. 3672: Mr. ABERCROMBIE.

H.R. 3677: Mr. DE LUGO and Mr. GEREN of Texas.

H.R. 3681: Mr. COYNE.

H.R. 3688: Mr. DICKS, Mr. FASCELL, and Mr. MARKEY.

H.R. 3695: Mr. KOSTMAYER.

H.R. 3699: Mr. LAROCCO.

H.R. 3705: Mr. HASTERT.

H.R. 3706: Mr. LANCASTER and Mr. BUSTAMANTE.

H.R. 3718: Mr. FAZIO.

H.R. 3726: Mr. KOLTER, Mr. GUARINI, Mrs. LLOYD, Mr. JONTZ, Mr. LANCASTER, Mr. LEWIS of Florida, and Ms. KAPTUR.

H.R. 3732: Mr. WHEAT, Mrs. SCHROEDER, Mr. WOLPE, Mr. DYMALLY, Mr. MATSUI, Mr. FOGLIETTA, Mr. FUSTER, Mr. JONTZ, Mr. COX of Illinois, Mr. PRICE, Mr. DEFAZIO, Mr. FORD of Tennessee, Mr. RANGEL, Ms. PELOSI, Mr. STARK, and Mr. BACCHUS.

H.R. 3734: Mr. GOSS, Mr. GALLEGLY, Mr. ARMEY, Mr. BOEHLERT, Mr. ZELIFF, Mr. WELDON, Mr. MCCANDLESS, Mr. SOLOMON, Mr. BUNNING, and Mr. MCCRERY.

H.R. 3736: Mr. OLIN, Mr. KOLTER, Mr. COLEMAN of Texas, Mr. JOHNSON of South Dakota, Mr. WILSON, Mr. RAMSTAD, Mr. POSHARD, Mr. CAMP, Mr. PETERSON of Florida, Mr. YOUNG of Florida, and Mr. EVANS.

H.R. 3740: Mr. MCCANDLESS.

H.R. 3741: Mr. SISISKY, Mr. SHAYS, Mr. PRICE, Mrs. BOXER, Mr. FAZIO, Mr. RICHARDSON, Mr. ESPY, and Mr. SWETT.

H.R. 3744: Mr. Ritter, Mr. DREIER of California, Mr. BARTON of Texas, Mr. HUTTO, Mr. HANCOCK, Mr. HOLLOWAY, Mr. DORNAN of California, Mr. JOHNSON of Texas, Mr. RHODES, and Mr. EWING.

H.R. 3752: Mr. CLEMENT, Mr. MCHUGH, Mr. FAWELL, Mr. LAGOMARSINO, Mr. OWENS of Utah, and Mr. LOWERY of California.

H.R. 3753: Mr. FROST and Mr. YOUNG of Florida.

H.R. 3756: Mr. KOLTER, Mr. RANGEL, and Mrs. MEYERS of Kansas.

H.R. 3758: Mr. POSHARD and Ms. NORTON.

H.R. 3774: Mr. DWYER of New Jersey, Mr. ROGERS, Mr. KOLTER, Mr. TOWNS, Mr. RANGEL, Mrs. LLOYD, Mr. JONTZ, Mr. HUCKABY, Mr. ZELIFF, Mr. DAVIS, and Mr. RAHALL.

H.R. 3776: Mr. ACKERMAN, Mr. ANNUNZIO, Mr. SHAYS, Mr. MCGRATH, Mr. MANTON, and Mr. HOCHBRUECKNER.

H.R. 3777: Mr. HAYES of Louisiana, Mr. CALLAHAN, and Mr. ANTHONY.

H.R. 3779: Mr. DEFAZIO and Mr. SARPALIUS.

H.R. 3781: Mr. BUNNING and Mr. APPLEGATE.

H.R. 3782: Mr. ACKERMAN, Mr. HORTON, Mr. BOUCHER, Mr. GORDON, Mr. DELLUMS, Mr. MANTON, Mr. MATSUI, Mr. RICHARDSON, Mr. DICKS, Mr. APPLEGATE, Mr. SANGMEISTER, Mr. OLIN, Mr. NOWAK, Mr. PENNY, Mr. NEAL of Massachusetts, Ms. COLLINS of Michigan, Mr. PANETTA, Mrs. KENNELLY, Mr. DURBIN, Mr. YATES, Mr. COX of Illinois, Mr. HALL of Ohio, Mr. ANDREWS of Maine, Mr. ATKINS, Mr. SKAGGS, Mr. MAZZOLI, Mr. DIXON, Mr. LEHMAN of Florida, Mr. DEFAZIO, Mr. DORGAN of North Dakota, Mr. JEFFERSON, Mr. KENNEDY, Mr. EARLY, Mr. SANDERS, Mr. HOCHBRUECKNER, Ms. NORTON, Mr. KOSTMAYER, Mr. PALLONE, Mr. WOLPE, Mr. SIKORSKI, Mr. BEILENSON, Mr. KOPETSKI, Mr. BORSKI, Mr. GEJDENSON, Mr. TOWNS, Mr. BRYANT, Mr. ABERCROMBIE, Mr. SABO, Mr. EVANS, Mr. AUCOIN, and Mr. JOHNSON of South Dakota.

H.R. 3808: Mr. DWYER of New Jersey, Mr. KLUG, Mr. GUARINI, Mr. MAZZOLI, Mr. LIPINSKI, Mr. DELLUMS, Mr. CAMP, Mr. GALLEGLY, Mr. VALENTINE, and Mr. WOLF.

H.R. 3809: Mr. ECKART and Mr. GUARINI.

H.R. 3836: Mr. YATES.

H.R. 3838: Mr. CLEMENT, Mr. OWENS of Utah, Mr. GRADISON, Mr. STARK, Mr. AUCOIN, Mr. REGULA, and Mr. MCCANDLESS.

H.R. 3843: Mr. JOHNSON of South Dakota, Mr. GUNDERSON, and Mr. HENRY.

H.R. 3844: Mr. OBERSTAR.

H.R. 3845: Mr. WILLIAMS, Mr. PANETTA, Mr. TRAFICANT, Mrs. SCHROEDER, Mr. DELLUMS, Ms. NORTON, Mr. ANNUNZIO, and Mr. OWENS of New York.

H.R. 3864: Mr. HARRIS, Mr. LAUGHLIN, and Mr. BOEHLERT.

H.R. 3869: Mr. EMERSON, Mr. ZELIFF, Mr. BALLENGER, and Mr. JOHNSON of South Dakota.

H.R. 3876: Mr. MATSUI.

H.R. 3886: Ms. NORTON and Mr. HORTON.

H.R. 3891: Mr. HYDE and Mr. KLUG.

H.R. 3904: Mr. SANDERS, Mr. BLACKWELL, Mr. FLAKE, and Mr. OBERSTAR.

H.R. 3906: Mr. JOHNSON of South Dakota.

H.R. 3908: Mr. EVANS.

H.R. 3923: Mr. TAUZIN and Mr. BALLENGER.

H.J. Res. 22: Mr. SMITH of Oregon.

H.J. Res. 106: Mr. LIVINGSTON.

H.J. Res. 107: Mr. MARKEY.

H.J. Res. 159: Mr. ROYBAL, Mr. KOLTER, Mr. STUDDS, Mr. SISISKY, Mr. WHEAT, Mr. POSHARD, and Mr. BLACKWELL.

H.J. Res. 271: Mr. MILLER of Washington.

H.J. Res. 272: Mr. CAMP.

H.J. Res. 318: Mr. BALLENGER, Mr. MCDERMOTT, Mr. SAVAGE, Mr. GOODLING, Mr. FOGLIETTA, Mr. THOMAS of Wyoming, and Mr. NEAL of Massachusetts.

H.J. Res. 343: Mr. ABERCROMBIE, Mrs. COLLINS of Michigan, Ms. DELAURO, Mr. DOWNEY, Mr. EDWARDS of California, Mr. HYDE, Mr. JACOBS, Mr. JENKINS, Ms. LONG, Mr. MILLER of Washington, Mr. MINETA, Mr. NEAL of North Carolina, Ms. OAKAR, Mr. PICKETT, Mr. ROE, Mr. ROSE, Mr. SHAYS, Mr. STALLINGS, and Ms. WATERS.

H.J. Res. 353: Mr. ATKINS, Mr. BACCHUS, Mr. COOPER, Mr. DOOLITTLE, Mr. ENGEL, and Mr. VISCLOSKY.

H.J. Res. 356: Mr. GEKAS, Mr. GUNDERSON, Mr. SPENCE, Mr. SKEEN, Mr. YOUNG of Alaska, Mr. ROGERS, Mrs. BENTLEY, Mr. CARR, Mr. ROHRABACHER, Mr. CALLAHAN, Mr. DORNAN of California, Mr. RIGGS, Mr. BURTON of Indiana, Mr. SMITH of New Jersey, Mr. BILIRAKIS, Mr. CRANE, Mr. JOHNSON of South Dakota, Mr. MCDADE, Mr. VALENTINE, Mr. CAMPBELL of Colorado, Mr. CARDIN, Ms. MOLINARI, Mr. GEJDENSON, Mr. MCCLOSKEY, Mr. SOLARZ, Mr. LEVINE of California, Ms. PELOSI, Mr. WYDEN, Ms. OAKAR, Mr. HARRIS, Mr. SAVAGE, Mr. GEREN of Texas, Mr. FLAKE, Mr. DOWNEY, Mr. THORNTON, Mr. TALLON, Mr. OLIN, Mr. MOODY, Mr. JONES of North Carolina, Mr. TRAFICANT, Mr. MURTHA, Mr. YATRON, Mr. BARNARD, Mr. FRANK of Massachusetts, Mr. ATKINS, Mr. BREWSTER, Ms. LONG, Mr. ENGEL, Mr. RAVENEL, Mr. PAYNE of New Jersey, Mr. KENNEDY, Mr. SLATTERY, Mr. FEIGHAN, Mr. GIBBONS, Mr. GREEN of New York, Mr. CARPER, Mr. ROWLAND, Mr. LUKEN, Mr. ASPIN, Mr. BERMAN, Mr. SERRANO, Mr. SHAYS, Mr. OWENS of Utah, Mrs. PATTERSON, Mr. PARKER, Mr. OXLEY, Mr. NEAL of Massachusetts, Mr. SMITH of Florida, Mr. BACCHUS, Mr. MCHUGH, Mr. STOKES, Mr. RICHARDSON, Mr. DONNELLY, Mr. LANTOS, Mr. SYNAR, Mr. ECKART, Mr. COX of Illinois, Ms. SNOWE, Mrs. LOWEY of New York, Ms. SLAUGHTER of New York, Mr. DERRICK, Mr. SCHUMER, Mr. ALLEN, Mr. FISH, Mr. HAMMERSCHMIDT, Mr. HASTERT, Mr. LENT, Mr. ROBERTS, Mr. ROTH, Mr. WEBER, Mr. WELDON, Mr. RITTER, Mr. DELAY, Mr. RAMSTAD, Mr. WEISS, Mr. KOPETSKI, Mr. ROSE, Ms. HORN, Mr. BLACKWELL, Mrs. JOHNSON of Connecticut, Mr. FUSTER, Mr. CRAMER, Mr. EDWARDS of California, Mr. PETERSON of Florida, Mr. BUSTAMANTE, Mr. SKAGGS, Mr. EWING, Mr. RIDGE, Mr. HALL of Ohio, Mr. STUDDS, Mr. SWIFT, Mr. VOLKMER, Mr. HATCHER, Mr. WISE, Mrs. BOXER, Mr. OBERSTAR, Mr. HUTTO, Mr. PERKINS, Mr. ANDERSON, Mr. BARRETT, Mr. MCCOLLUM, Mr. PACKARD, Mr. SCHAEFER, Mr. SHUSTER, Mr. SOLOMON, Mr. GILLMOR, Mr. MOAKLEY, Mr. SWETT, Mr. LEACH, Mr. CLINGER, Mr. MINETA, Mr. KASICH, Ms. DELAURO, and Mrs. LLOYD.

H.J. Res. 357: Mr. MCCANDLESS.

H.J. Res. 363: Mr. KOLTER and Mr. WILSON.

H.J. Res. 366: Mr. DEFAZIO, Mr. MARKEY, Mr. KOLTER, Ms. NORTON, and Mr. TRAXLER.

H.J. Res. 368: Mr. ATKINS, Mr. MINETA, Mr. STARK, Mr. PETERSON of Florida, Mr. ALEXANDER, Mr. MURTHA, Mr. RUSSO, Mr. NOWAK, Mr. KLECZKA, Mr. COLEMAN of Texas, Mr. DORGAN of North Dakota, Mr. BRUCE, Mr. ORTON, Mr. BROOKS, Mr. KOPETSKI, Mr. HERTEL, Mr. TANNER, Mr. WILLIAMS, Mr. GEREN of Texas, Ms. HORN, Mr. ANTHONY, Mr. JEFFERSON, Mr. HUBBARD, Mr. PANETTA, Mr. PICKLE, Mr. SARPALIUS, Mr. BEVILL, Mr. LEWIS of Georgia, Mr. PERKINS, Ms. DELAURO, Mr. GIBBONS, Mr. FLAKE, Mr. DURBIN, Mr. GEJDENSON, Mr. GEPHARDT, Mr. DINGELL, Mr. ROSTENKOWSKI, Mr. MATSUI, Mr. CRAMER, Mr. PRICE, Mr. JONES of Georgia, Mr. FALEOMAVAEGA, Mr. LAROCCO, Mr. MANTON, Mr. NEAL of North Carolina, Mr. HANSEN, Mr. JOHNSON of South Dakota, Ms. NORTON, Mr. AUCOIN, Mr. WALSH, Mr. ROTH, Mr. OWENS of New York, Mr. ROE, Mr. PALLONE, Mr. SANDERS, Mr. ROYBAL, Mr. SAVAGE, Mr. SAXTON, Mr. SCHEUER, Mr. CAMPBELL of Colorado, Mr. FAZIO, Mr. SLATTERY, Mr. LEACH, Mr. JONTZ, Mr. NATCHER, Mr. ORTIZ, Mr. SABO, Mr. WHEAT, Mr. BONIOR, Mr. MAZZOLI, Mr. ROSE, Mr. WISE, Mr. BREWSTER, Mr. STAGGERS, Mr. KANJORSKI, Mr. MCCLOSKEY, Mr. HEFNER, Mr. FORD of Michigan, Mr. PEASE, Mr. DICKS, Mr. CLEMENT, Mr. ANDREWS of Maine, Mr. EVANS, Mr. MOODY, Mr. OBERSTAR, Mr. NEAL of Massachusetts, Mr. HUTTO, Mr. MCMILLEN of Maryland, Mr. MARKEY, Mr. MOAKLEY, Mr. GUARINI, Mr. DARDEN, Mr. DOWNEY, Mr. OLVER, Mr. SKELTON, Mr. MORAN, Mr. BACCHUS, Mr. EDWARDS of Texas, Mr. BLAZ, Mr. BENNETT, Mr. DEFAZIO, Ms. PELOSI, Mr. SAWYER, Mr. MCDERMOTT, Mr. TALLON, Mr. DELLUMS, Mr. DE LUGO, Mr. MONTGOMERY, Mr. DIXON, Mr. PASTOR, Mr. BLACKWELL, Mrs. LLOYD, Mr. ACKERMAN, Mr. SERRANO, Mr. RICHARDSON, Mr. DORNAN of California, Mr. KENNEDY, Mr. REED, Mr. COX of Illinois, Mr. SWIFT, Mr. GLICKMAN, Mr. GREEN of New York, Mr. BUSTAMANTE, Mr. LEHMAN of Florida, Mr. DE LA GARZA, Mr. STALLINGS, Mr. RAVENEL, Mr. STUDDS, Mr. ROBERTS, Mr. MCNULTY, Mrs. SCHROEDER, Mr. ROEMER, Mr. ANDERSON, Mr. BROWDER, Mr. ECKART, Mr. TAYLOR of Mississippi, Mr. POSHARD, Mr. SKEEN, Mr. TAYLOR of North Carolina, Mr. TRAFICANT, Mr. THOMAS of Georgia, Mr. VOLKMER, Mr. SYNAR, Mr. EDWARDS of California, Mr. HOYER, Mr. BILIRAKIS, Mr. ENGEL, Mr. MFUME, Mr. BRYANT, Mr. MILLER of California, Mr. SWETT, Mr. ASPIN, Mr. SISISKY, Mr. COSTELLO, Mr. STENHOLM, Mr. WHITTEN, Mr. CONDIT, Mr. MARTIN, Mr. BEILENSON, Mr. HOCHBRUECKNER, Mr. ROGERS, Mr. MCHUGH, Mr. INHOFE, Mr. SOLARZ, Mrs. VUCANOVICH, Mr. SMITH of New Jersey, Mrs. BENTLEY, Mr. LAFALCE, Mr. MORRISON, Mr. THORNTON, Mr. HYDE, Mr. FOGLIETTA, Mr. CARPER, Ms. MOLINARI, Mr. NAGLE, Mr. YOUNG of Florida, Mr. MAVROULES, Mr. RAHALL, Mr. BLILEY, Mr. VENTO, Mr. WASHINGTON, Mr. FRANK of Massachusetts, Mr. LANCASTER, Mr. ROWLAND, Mr. GORDON, Mrs. COLLINS of Illinois, Mrs. LOWEY of New York, Mr. BERMAN, Mr. SPRATT, Mrs. BOXER, Mr. LEHMAN of California, Mr. DOOLEY, Mr. VISCLOSKY, Mr. HORTON, Mr. KOLBE, Mr. CARR, Mr. OWENS of Utah, Mr. WAXMAN, Ms. SLAUGHTER of New York, Mr. WILSON, Mr. SMITH of Florida, Mr. LAUGHLIN, Mr. ANDREWS of New Jersey, Mr. MURPHY, Mr. DYMALLY, Mr. JONES of North Carolina, Mr. HAYES of Illinois, Mr. LIPINSKI, Ms. COLLINS of Michigan, Mr. TORRICELLI, Mr. CONYERS, Mr. DWYER of New Jersey, Mrs. BYRON, Mr. GILMAN, Mr. HAMILTON, Mr. CRANE, Mr. KILDEE, Mr. WOLPE, Ms. KAPTUR, Ms. WATERS, Mr. RAMSTAD, Mr. WEBER, Mr. HALL of Ohio, Mr. GILCHREST, Mr. HALL of Texas, Mr. RHODES, Ms. OAKAR, Mr. OBEY, Mr. BOUCHER, Mr. CAMP, and Mr. PAXON.

H.J. Res. 375: Mr. BEREUTER and Mr. BLAZ.

H. Con. Res. 11: Mr. SWETT.

H. Con. Res. 104: Mr. HALL of Ohio, Mr. EMERSON, Mr. RAVENEL, Mr. HORTON, Mr. VANDER JAGT, Mr. MARTINEZ, and Mr. EDWARDS of Oklahoma.

H. Con. Res. 145: Mr. YATES.

H. Con. Res. 156: Mr. BURTON of Indiana, Mr. DYMALLY, Mrs. MEYERS of Kansas, and Mr. JONES of Georgia.

H. Con. Res. 180: Mr. LEVINE of California.

H. Con. Res. 182: Mr. LENT.

H. Con. Res. 192: Mr. VANDER JAGT, Mr. SHAW, Mr. RUSSO, Mr. GOSS, Mr. OWENS of Utah, Mr. RHODES, Mr. BOEHLERT, Mr. MARTINEZ, Mrs. VUCANOVICH, Mr. HAMMERSCHMIDT, Mr. PAXON, Mr. GEREN of Texas, and Mr. DORGAN of North Dakota.

H. Con. Res. 210: Mr. CRANE.

H. Con. Res. 211: Mr. TAYLOR of Mississippi, Mr. MCDADE, Mr. SCHUMER, and Mr. DOWNEY.

H. Con. Res. 212: Mr. PAXON, Mr. MURPHY, Mr. WOLF, Mr. SHAYS, Mr. KYL, Mr. LEVIN of Michigan, Mr. YOUNG of Florida, Mr. SMITH of New Jersey, Mr. SCHAEFER, Mr. SOLOMON, Mr. KOSTMAYER, Mr. LEVINE of California, Mr. PURSELL, and Mr. ZELIFF.

H. Con. Res. 215: Mr. KOPETSKI.

H. Con. Res. 220: Mr. SCHEUER, Mr. DELLUMS, Mr. SMITH of Florida, Mr. OWENS of New York, Mr. FLAKE, Mr. TOWNS, Mr. DYMALLY, Mr. PAYNE of New Jersey, Mr. LEHMAN of Florida, Mr. DE LUGO, Mr. MFUME, Mr. FUSTER, Ms. NORTON, Mr. KOSTMAYER, Mr. ACKERMAN, Mr. FOGLIETTA, Mr. SERRANO, Mr. KENNEDY, Mrs. LOWEY of New York, Mrs. COLLINS of Michigan, Mr. WEISS, Mr. DIXON, Mr. JONES of Georgia, Mrs. KENNELLY, and Mr. LEVINE of California.

H. Con. Res. 222: Mr. SOLOMON.

H. Con. Res. 223: Mr. BATEMAN, Mr. BRUCE, Mr. BURTON of Indiana, Mr. DEFAZIO, Mr. EMERSON, Mr. FEIGHAN, Mr. FUSTER, Mr. GALLEGLY, Mr. GEJDENSON, Mr. GREEN of New York, Mr. HORTON, Mr. JONES of Georgia, Mrs. LOWEY of New York, Mr. PAXON, Mr. SERRANO, Mr. WAXMAN, and Mr. WEISS.

H. Con. Res. 224: Mr. RAMSTAD, Mr. ZELIFF, Mr. PAXON, Mr. SHAYS, Mr. HUTTO, Mr. NUSSLE, Mr. YOUNG of Florida, and Mrs. MEYERS of Kansas.

H. Con. Res. 229: Mr. LAGOMARSINO, Mrs. VUCANOVICH, Mr. HEFLEY, Mr. DOOLITTLE, and Mr. SMITH of Oregon.

H. Con. Res. 232: Mr. ENGEL, Mr. BUSTAMANTE, Mr. WEISS, Mr. LENT, and Mr. JONTZ.

H. Con. Res. 233: Mr. REGULA, Mr. APPLEGATE, Mr. KYL, Mr. DAVIS, Mr. ZELIFF, Mr. RAMSTAD, and Mr. BILIRAKIS.

H. Con. Res. 235: Mr. DIXON and Mr. ZELIFF.

H. Con. Res. 236: Mr. ENGEL, Mr. GUARINI, Mr. PACKARD, Mr. WALSH, Mr. CAMP, Mr. ZELIFF, Mr. BUSTAMANTE, Mr. LANCASTER, Mrs. MORELLA, Mr. GALLEGLY, Mr. FAWELL, Mr. ABERCROMBIE, Mr. MAVROULES, and Mr. LIVINGSTON.

H. Con. Res. 244: Mr. ACKERMAN, Mr. BLAZ, Mr. GONZALEZ, Mr. ENGEL, Ms. NORTON, Mr. HOCHBRUECKNER, Mr. TOWNS, and Mr. STARK.

H. Res. 107: Mr. KLUG.

H. Res. 130: Mr. Wolpe, Mr. Evans, and Mr. Dwyer of New Jersey.

H. Res. 161: Mr. Upton.

H. Res. 194: Mr. Annunzio, Mr. Mollohan, Mr. de Lugo, and Mr. Bustamante.

H. Res. 205: Mr. Reed.

H. Res. 215: Mr. Gallegly and Mr. Miller of Washington.

H. Res. 222: Mr. Slattery.

H. Res. 233: Mr. Klug, Mr. Zeliff, and Mr. Pallone.

H. Res. 234: Mr. Traficant, Mrs. Kennelly, Mr. Smith of Florida, Mr. Andrews of Maine, Mr. Lent, Mr. Lancaster, Mr. Bustamante, and Ms. Snowe.

H. Res. 237: Mr. Miller of California, Mr. Hubbard, and Mr. Weiss.

H. Res. 263: Mr. Lewis of Florida, Ms. Norton, Mrs. Boxer, Mr. Paxon, and Mrs. Meyers of Kansas.

H. Res. 272: Mr. Jontz, Mr. de Lugo, Ms. Norton, Mr. Poshard, Mr. Guarini, and Mr. Evans.

H. Res. 276: Mr. Ballenger, Mr. Lewis of Florida, Mr. Porter, Mr. Hefley, Mr. Solomon, Mr. Moorhead, Mr. Zeliff, Mr. Lent, Mr. Poshard, Mr. Shays, Mr. Fawell, and Mr. Klug.

H. Res. 293: Mr. Atkins, Mr. Dooley, Mr. Solomon, Mr. Roemer, Mr. Goodling, Mr. Stump, Mrs. Bentley, Mr. Young of Florida, Mr. Quillen, Mr. Whitten, Mr. Valentine, Mr. Skelton, Mr. Sisisky, Mr. Shaw, Ms. Norton, Mr. Rohrabacher, Mr. Clement, Mr. Moody, Mr. Ortiz, Mr. Oberstar, Mr. Hutto, Mr. Olver, Mr. Bacchus, Mr. Tallon, Mr. Pastor, Mr. Campbell of California, Mr. Crane, Mr. Ridge, Mr. Livingston, Mr. Skeen, Mr. Kyl, Mr. Machtley, Mr. Kildee, Mr. Taylor of Mississippi, Mr. Dellums, Mr. Kennedy, Mr. Neal of North Carolina, Mr. Johnson of South Dakota, Mr. Packard, Mr. Savage, Mr. Foglietta, Mr. Hyde, Mr. Darden, Mr. Bustamante, Mr. Riggs, Mr. Wolpe, Mr. Traficant, Mr. Yates, Mr. Miller of Washington, Mr. de Lugo, Mr. Smith of Oregon, Mr. Dornan of California, Mr. Slattery, Mr. McCloskey, Mr. Young of Alaska, Mr. Hansen, Mr. Ravenel, Mrs. Mink, Mr. Lancaster, Mr. Weiss, Mr. Vander Jagt, Mr. Myers of Indiana, Mr. Miller of California, Mr. Martin, Mr. Manton, Mr. McNulty, Mrs. Lloyd, Mr. Lewis of California, Mr. Kasich, Mr. Jones of Georgia, Mr. Ireland, Mr. Houghton, Mr. Harris, Mr. Hammerschmidt, Mr. Gonzalez, Mr. Gibbons, Mr. Gallegly, Mr. Frank of Massachusetts, Mr. Espy, Mr. Dickinson, Mr. Pursell, Mr. Gradison, Mr. Lewis of Florida, Mr. Roth, Mr. Wilson, Mr. Torres, Mr. Volkmer, Mr. Guarini, Mr. Hughes, Mr. Conyers, Mr. Rose, Mrs. Collins of Illinois, Mr. Owens of New York, Mr. Sanders, Mr. Matsui, Mr. Stark, Mr. Clinger, Mr. Nichols, Mr. Lightfoot, Mr. Richardson, Mr. Clay, Mrs. Lowey of New York, Mr. Mavroules, Mr. Stokes, Mr. Yatron, Mr. Murphy, Mr. Anderson, Mr. Emerson, Mr. Thornton, Mr. Rhodes, Mr. Gekas, Mr. Cox of California, Mr. Sabo, Mr. Moorhead, Mr. Brewster, Mr. Porter, Mr. Eckart, Mr. Spratt, Mr. Owens of Utah, Mr. Nowak, Mr. Andrews of New Jersey, Mr. Dymally, Mr. Sarpalius, Mr. Panetta, Mr. Browder, Mr. Feighan, Mr. Schumer, Mr. Hoyer, Mr. Ackerman, Mr. Campbell of Colorado, Mr. Zeliff, Mr. Goss, Mr. Applegate, Ms. Long, Mr. Cox of Illinois, and Mr. Dixon.

H. Res. 296: Mr. Ramstad, Mr. Shays, and Mr. Santorum.

H. Res. 297: Mr. Guarini, Mrs. Collins of Michigan, Ms. Kaptur, Mr. Feighan, Mr. Roth, Mr. Oxley, Mr. Kleczka, Mr. Kostmayer, Mr. Markey, Mr. Levin of Michigan, Mr. Mollohan, Mr. Kasich, Ms. Oakar, Mr. Mavroules, Mr. Zeliff, Mr. Costello, Mr. Evans, Mr. Kanjorski, Mr. McMillan of North Carolina, and Mr. Hoyer.

H. Res. 302: Mr. Jontz and Mr. McCloskey.

[Submitted November 27, 1991]

H.R. 12: Mr. Mineta.

H.R. 25: Mr. Olver and Mr. Pickle.

H.R. 81: Mr. Martinez.

H.R. 123: Mr. Whitten.

H.R. 246: Mr. Lent.

H.R. 353: Mr. Allen.

H.R. 840: Mr. Darden and Mr. Mineta.

H.R. 1277: Mr. McNulty, Mr. Olver, and Mr. Coleman of Texas.

H.R. 1473: Mr. Dixon, Mr. Morrison, and Mr. Espy.

H.R. 1485: Mr. Sundquist, Mr. Pickett, Mr. Gilchrest, Mr. Dellums, Mr. Peterson of Minnesota, and Mr. Zeliff.

H.R. 1490: Mr. Livingston.

H.R. 1692: Mr. Savage.

H.R. 1745: Mr. Riggs.

H.R. 1930: Mr. Schiff.

H.R. 2002: Mr. Hayes of Louisiana.

H.R. 2075: Mr. Fish.

H.R. 2164: Mr. McMillan of North Carolina.

H.R. 2223: Mr. Peterson of Minnesota.

H.R. 2363: Mr. Mazzoli and Mr. McMillan of North Carolina.

H.R. 2448: Mr. Traxler.

H.R. 2561: Mr. Yates, Mr. Annunzio, Ms. Kaptur, Mr. Kleczka, Mr. Richardson, and Mr. Lipinski.

H.R. 2598: Mr. Morrison, Mr. Serrano, and Mr. Manton.

H.R. 2695: Mr. Young of Florida.

H.R. 2721: Mr. Coleman of Texas.

H.R. 2776: Mr. Martinez, Mr. Skeen, Mr. Goodling, and Mr. Gonzalez.

H.R. 2880: Mr. Feighan.

H.R. 2895: Mr. Hayes of Louisiana.

H.R. 2923: Mr. Feighan.

H.R. 3030: Mr. Gilman.

H.R. 3056: Mr. Weiss, Mr. Johnson of South Dakota, Ms. Norton, and Mr. Towns.

H.R. 3058: Mrs. Patterson.

H.R. 3059: Mrs. Patterson.

H.R. 3128: Mr. Barton of Texas and Mr. Moorhead.

H.R. 3130: Mr. Rinaldo.

H.R. 3132: Mr. Weldon.

H.R. 3198: Mr. Boehlert, Mr. McEwen, Mr. Combest, Mr. Horton, and Mr. Franks of Connecticut.

H.R. 3202: Mr. Campbell of Colorado.

H.R. 3221: Mr. Coleman of Missouri.

H.R. 3429: Ms. Pelosi and Mr. Yates.

H.R. 3454: Mr. Burton of Indiana.

H.R. 3471: Mr. Zeliff, Mr. Hobson, and Mr. Boehner.

H.R. 3486: Mr. Panetta, Mr. Faleomavaega, Mr. Martinez, and Ms. Norton.

H.R. 3511: Mr. Weiss.

H.R. 3515: Mr. Hatcher and Mr. Vander Jagt.

H.R. 3553: Mr. McDermott, Mr. Rangel, and Ms. Kaptur.

H.R. 3627: Mr. Bustamante, Mr. Lehman of Florida, Ms. Ros-Lehtinen, Mr. Chapman, Ms. Oakar, Mr. Anderson, Mr. Dwyer of New Jersey, Mr. Panetta, Mr. Coyne, Ms. Horn, Mr. Manton, Mr. Towns, Mr. Foglietta, Mr. Andrews of New Jersey, Mr. Roemer, Mr. Dymally, Mr. Bruce, Mr. Hobson, Mr. McCandless, Mr. Allard, Mr. Miller of Washington, Mr. Bateman, Mr. Zeliff, Mr. Klug, Mr. Carr, Mr. Myers of Indiana, Mr. Murtha, Mr. McDade, Mr. Whitten, Mr. Mfume, Mr. Pursell, Mr. Henry, Mr. Doolittle, Mr. Camp, Mr. Shuster, Mr. Gallegly, Mr. Shaw, Mr. Bliley, Mrs. Roukema, Mr. McEwen, Mr. McCollum, Mr. Barton of Texas, Mr. Ravenel, Mr. Hefner, Mr. Rowland, Mr. Edwards of California, Mr. Dicks, Mr. Saxton, Mr. Cunningham, Mr. Hall of Ohio, Mr. Morrison, Mr. Hayes of Louisiana, Mr. Roberts, Mr. Rohrabacher, Mr. McGrath, Mr. Michel, Mr. Erdreich, Mr. Harris, Mr. Mineta, Mr. Bryant, Mr. Feighan, Mr. McCurdy, Mr. Olin, Mr. Penny, Mr. Price, Mr. Fish, and Mr. Bevill.

H.R. 3636: Mr. Jones of North Carolina.

H.R. 3639: Mr. Smith of New Jersey.

H.R. 3702: Mr. Wise, Mr. Hughes, Mr. Lancaster, Mrs. Patterson, and Mr. Ford of Michigan.

H.R. 3724: Mr. Campbell of Colorado.

H.R. 3725: Mr. Klug.

H.R. 3763: Mr. Berman.

H.R. 3825: Mr. Rogers, Mr. Zeliff, Mr. Guarini, Mr. Horton, Mr. Espy, Mr. Valentine, Mr. Rowland, Mr. Weldon, Mr. Gunderson, Mr. Jones of North Carolina, Mr. Lipinski, and Mr. Morrison.

H.R. 3838: Mr. Boehlert, Mr. Thomas of California, Mr. Jontz, Mr. Lehman of Florida, Mr. Cramer, Mr. Mavroules, Mr. Campbell of Colorado, and Mr. Andrews of Texas.

H.R. 3844: Ms. Pelosi.

H.R. 3848: Mr. Engel, Mr. Geren of Texas, and Mr. Nagle.

H.R. 3875: Mr. Ackerman.

H.R. 3886: Mr. Rangel.

H.R. 3904: Mr. Kennedy, Mr. Rowland, Mr. Lipinski, and Ms. Kaptur.

H.R. 3975: Mr. Levine of California, and Mr. Fazio.

H.R. 3981: Mr. Panetta, Mr. Lipinski, Mr. Fish, Mr. Payne of Virginia, Mr. Ritter, and Mr. Jenkins.

H.R. 4040: Mr. Tauzin, Mr. Lagomarsino, and Mr. Rinaldo.

H.J. Res. 293: Mr. Engel, Mr. Dickinson, Mr. Barrett, Mr. Traficant, Mr. Abercrombie, and Mr. Blaz.

H.J. Res. 318: Mr. Conyers.

H.J. Res. 343: Mr. Kopetski, Mr. Lent, Mr. Lowery of California, Mr. Moorhead, Mr. Panetta, and Mr. Wise.

H.J. Res. 369: Mr. Owens of Utah, Mr. Coleman of Texas, Mr. McMillen of Maryland, Mr. Edwards of Texas, Mr. Young of Alaska, Mr. Hancock, Mr. Chapman, Mr. Zeliff, Mr. Camp, Mr. Geren of Texas, Mr. Thomas of Georgia, Mr. Bunning, Mr. Sarpalius, Mr. Luken, Mr. Lancaster, and Mr. Machtley.

H.J. Res. 372: Mr. DeFazio and Mr. Hansen.

H. Con. Res. 180: Mr. Wolpe, Mr. Mfume, and Mrs. Meyers of Kansas.

H. Con. Res. 192: Mr. McMillan of North Carolina.

H. Con. Res. 212: Mr. Moorhead, Mr. Quillen, Mr. Jacobs, Mr. Peterson of Minnesota, Mr. Martinez, and Mr. Hughes.

H. Con. Res. 224: Mr. Oberstar, Mrs. Johnson of Connecticut, and Mr. Sangmeister.

H. Con. Res. 233: Mr. Fawell and Mr. Lipinski.

H. Res. 17: Mr. Shays and Mr. Goss.

H. Res. 26: Mr. Rogers, Mr. Gilchrest, Mr. Kolter, and Mr. Schaefer.

H. Res. 296: Mr. Oberstar, Mr. Frost, and Ms. Pelosi.

H. Res. 302: Mr. Jacobs, Mr. Lipinski, Ms. Kaptur, and Mr. Hamilton.

H. Res. 311: Mr. Penny and Mr. Swett.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of November 25, 1991]

H.R. 2824: Mr. Harris.

[Submitted November 26, 1991]

H.R. 585: Mr. OLIN.
H.R. 1572: Mr. MACHTLEY.
H.R. 2540: Mr. DEFAZIO.
H.R. 2797: Mr. HANCOCK, Mr. VOLKMER, and Mr. EMERSON.
H.R. 2824: Mr. LANCASTER.
H.R. 3816: Mr. DICKS.
H. Con. Res. 210: Mr. SMITH of Florida.

EXTENSIONS OF REMARKS

CRIME FORUM DEMONSTRATES CONCERN OF THE COMMUNITY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, recently, the number of homicides in my home county of Prince Georges surpassed the previous record. The number of murders and other serious crimes in Prince Georges County and the rest of the area is rapidly increasing.

This state of affairs is intolerable. Innocent citizens are afraid to walk the streets in many neighborhoods in Prince Georges County, in Washington, DC, and elsewhere. We must work hard to fight crime, and each community must work together to demonstrate that crime will not be tolerated. Mr. Speaker, we must all get up together and, as news anchorman Howard Beale said in the academy-award-winning film "Network", "I'm mad as hell and I'm not gonna take it anymore."

On Monday, my home county newspaper, the Prince Georges Journal, ran a full page of editorial comment on the crime wave. Besides a thoughtful editorial, the newspaper ran four articles under the headline, "What Can Be Done To Stop the Killing?"

At this point, Mr. Speaker, I would like to place in the RECORD the newspaper's editorial and two of the four articles, by the county's police chief, David Mitchell, and Dennis Sullivan, a criminologist at Prince Georges Community College.

I would like to place these articles in the RECORD. I hope my colleagues will read them thoughtfully, and we can continue to work together to fight the crime wave in this area and in our country.

The articles follow:

NOTHING BUT SHAME FOLLOWS THIS RECORD

The record nobody wanted broken has been broken. The morbid death watch is over.

With several weeks still to go, 1991 is officially the most murderous year in county history. More people have been murdered in the county this year than in any previous year.

This frightful development raises all sorts of questions. Why all the murders? When will they end? What can we do to stop them?

We don't have the answers to these questions. Maybe nobody does. But to get some insight into what is going on, we asked four people to comment on the current wave of violence.

The four people include the county's chief of police, a local sociologist and criminologist, a mother of three young children who operates a nursery school and after-school care program in Suitland, and a lifelong county resident who recently moved to the West Coast in order to escape the violence.

There comments, printed below, are instructive. While a diverse lot, their themes were remarkably similar.

When they wrote about the causes of violence, they wrote about the numbing, desensitizing effect of violent television programs and movies, especially on young people. When writing about the solutions, they wrote about boosting self-esteem. And most remarkably, all cited a crumbling family structure as a reason behind the violent trend—and, conversely, they pointed to stronger family ties as a key to turning the trend around.

Read their remarks. Consider what they have to say. Perhaps, together, all of us can make sure we never again must endure such a murderous year.

BANDING TOGETHER TO HALT VIOLENCE

(By David Mitchell)

Those of us who chose law enforcement as a career feel very strongly about protecting people's lives. Indeed, we think of ourselves as the public's protectors. To us, police work is not just a job. It is an opportunity to make a very important, meaningful contribution to society, and to be there for terrified victims in their hour of greatest need.

Although, as chief of police, I no longer routinely respond to calls, I still feel the same personal responsibility that most of our street officers feel. In some ways, I probably feel it even more. That is why the rising tide of violence in our county, indeed our entire nation, troubles me deeply.

The trend toward greater violence has been going on for several years, and during that time there was convincing evidence that it resulted from the drug trade. However, we are now seeing results from our efforts to deter drug abuse and its related crime. Fewer new inmates are testing positive for drug use, fewer overdoses are being reported at hospital emergency rooms, and homicide detectives are finding fewer murders motivated by drugs. Yet surprisingly, the violence continues to escalate.

The continuing violence results from a combination of factors: a general weakening of family and social values; an increasing acceptance of violence as a viable means of resolving conflict; and a desensitizing familiarity with violence resulting from violence-filled movies and television, graphic media reports of true crime, and our own personal experiences.

When coupled with a perceived inability of the criminal justice system to enforce society's rules and a frightening proliferation of handguns and assault weapons, the result is a national violence epidemic.

I believe the epidemic can be cured. But the police cannot do it alone.

Our overflowing court dockets, crowded prisons, and unmanageably high number of parole and probation cases result primarily from the arrests generated by the police. Simply increasing traditional police enforcement, therefore, will have no benefit.

That's why alternative police strategies are essential. In Prince George's County, we have adopted one such alternative, community-oriented policing, as the cornerstone of our future delivery of police service. Under this approach, our department will take an active role in motivating and assisting the community to apply problem-oriented solutions to crime's causes.

Other strategies must also be applied, including many that do not directly involve the police.

Our state and national governments must find a way to prevent dangerous weaponry from falling into the hands of teen-agers, known criminals, and emotionally unstable individuals.

Our entertainment industry must stop glorifying violence as a solution to problems, even in situations where violence might technically be justified.

And all of us must teach our young people—and remind ourselves—that the consequences of violence are real, that the victims portrayed on the evening news are real people with real families, and that they are truly suffering.

Sit down with your children tonight and discuss the seriousness of the problem. Consider joining your local Neighborhood Watch group, and if you witness a crime or have valuable information, please come forward. At the very least, report what you know to our anonymous Crime Solvers phone number: 735-1111.

There is hope. Together we can do something. We must do something.

(David Mitchell is the Prince George's County Police Chief.)

SOCIAL FACTORS BEHIND CRIME

(By Dennis Sullivan)

What makes some people become criminals and some engineers?

An environment marked by poverty and pervasive and chronic unemployment will produce extreme resentment, frustration and hostility. On top of this, the lack of security and stability that comes with the absence of a cohesive family structure makes it difficult to develop strong self-esteem and a sense of worthiness.

Still, considering that most of the disenfranchised do not become criminals, it would be reasonable to examine the factors that explain why some do.

Chief among these variables is instantaneous communication. A typical youngster today sees 20,000 fake murders and assaults, assorted other violence and, in general, decadence and degradation—all in the guise of "art."

If the decline of reading scores the last 25 years is any indication, television certainly is a factor in suffocating imagination and creativity. The ability to think clearly and logically is developed through hard work and determination. Children are conditionable. We are manufacturing criminals through a system that postures as "free," and the results are laid bare in your daily newspaper.

Then there is the problem of high expectations, a concept that has reached its apotheosis in America. Our society presents goals such as wealth and suggests that everyone could and should attain them. Yet society does not make these goals equally available, so those unable to attain them by legitimate means may be driven to use illegitimate means.

The desire to reach these goals through any means available helps explain vicious and brutal behavior, especially on the part of young people.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The number and quality of jobs available in lower and working class communities is a consistent influence on the crime rate.

To be without work, to be unable to take advantage of an opportunity when it comes along, to not possess the skill necessary to handle the job is a humiliation that is conveyed to the children of the individual—and often the children of the next generation. We need to make a commitment toward permanent employment that has the intensity and dedication used to win World War II.

Throughout history, the fundamental changes in societies have come not from the dictates of governments and the results of battles but through vast numbers of people changing their minds—sometimes only a little bit.

(Dennis Sullivan is a sociologist and criminologist who teaches at Prince Georges Community College.)

RALPH VINCENT WHITE NOTED ARCHIVIST OF BLACK HISTORY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Mr. Ralph Vincent White is not just an archivist of black history, he has helped to shape it. In September 4, 1944, Mr. White and four others were sworn in as Miami's first black policemen. The Miami Herald recently featured a story about Mr. White's rich experiences by staff writer Quentin L. Howard. That article follows:

Black archivist Ralph Vincent White has done more than chronicle black history in Dade County, he has made it.

"I get a kick out of telling the young and old our county's history because the stories are sentimental and motivating," said White, 75.

A Dade resident since 1935, White was one of the city of Miami's first five black police officers and one of its first black detectives.

"Our appointment as policemen made a major breakthrough for blacks around the county. Finally, we got our chance to prove that blacks could do practically anything if given the opportunity," he said.

White, a resident of Coral Gables by the Sea, retired from Miami's police force in 1976. Today, he spends much of his spare time counseling youths on law enforcement at Westview Elementary School.

White, also is a trustee for the Black Archives History and Research Foundation of South Florida, which will honor him at a luncheon at 11 a.m. Saturday at Joseph Caleb Center.

Dorothy Jenkins Fields, founder and chief archivist of the Black Archives, said White will receive the organization's Founders award, its most prestigious honor.

"He is one of our most faithful members, who leads the list of names that cares for our community," Fields said "He is a legend in his own time for his achievement and efforts."

White, a Jacksonville native, moved to Dade County in 1935.

In 1944, black activist Bishop John Culmer, for whom Miami's Culmer section is named, and dentist Ira Davis convinced Miami's City Commission to give blacks the opportunity to become police officers.

The commission asked World War I hero Capt. James E. Scott to recruit blacks to train secretly for the police jobs.

"Back then we had to train in secret in fear that whites would try to stop us from becoming policemen. We even had to keep our whereabouts secret from our wives," White said.

The five men trained at a Liberty City housing project, now the James E. Scott projects.

The other four black trainees were John Milledge, the first black police officer killed in the line of duty, the late Moody Hall, the late Clyde Lee and Edward Kimball.

On Sept. 4, 1944, the five were sworn in as Miami patrolmen.

"Thousands came out to see us sworn in, I was deeply touched," White said.

But their duties were limited.

"We were called patrolmen and we didn't have the authority white officers had. We couldn't even book white offenders. We could only detain them until white officers came to put them under arrest," White recalled.

As years passed, more blacks became police officers. In 1950, White and Ernest Hayes became Miami's first black detectives.

In the early 1960s, White and fellow black police officers fought for the right to become members of the Police Benevolent association, and asked the City Commission to let blacks train in the then all-white police academy.

In 1964, former Miami Police Chief Clarence Dixon was the first black graduate of the academy.

"Clarence's accomplishment let us know that our protesting wasn't in vain," White said.

In addition to his police work, White was manager and treasurer of St. James A.M.E. Church Savings and Loan from 1957 to 1989.

White, a member of St. James since the 1940s, was the savings and loan company's first manager and treasurer.

White credits much of his success to his family. His wife, Josephine Hamar White, recently retired from Perrine Elementary School after teaching 35 years in Dade Public Schools. The couple have three grown children; Shannon, 40, a social worker; Ralph Jr., 38, an insurance executive; and Avis, 36, a professor at the University of Florida.

"I don't know if I would have made it without my family's support," White said.

Mr. Speaker, I would like to commend Mr. White's leadership. His courage to become a police officer back in 1944, when many obstacles stood in his way, paved the path for many others. I wish him much success as he continues to tell the story of this important part of American history.

BROOKLAWN TEAM WINS AMERICAN LEGION BASEBALL WORLD SERIES

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, I would like to recognize the team from Brooklawn, NJ for winning the American Legion Baseball World Series. The 19 members of the team are a source of great pride to my district. I would like to include in the RECORD the names of the players and coaches of the team, as well as the text of an article from the South Jersey Courier Post.

1991 BROOKLAWN AMERICAN LEGION BASEBALL TEAM

Samuel Joseph Blocklinger.
Kevin Lee Cunane.
Kevin Fahy.
Eric Michael Filipek.
Derek Steven Forchic.
Michael Carl Harris.
Scott Michael Lavender.
Brett William Laxton.
John David Mader.
Jeffrey Manuola.
Ray Miller.
Michael Thomas Moriarty.
Brian McGettigan.
Brian Michael Obermeier.
Mario Olsen.
Thomas Edward Porch.
Nicholas Michael Rizzo.
Ronald William Trabosh.
Bryan Scott Wilson.

COACHES

Joe Barth, Sr.—Manager.
Joe Barth, Jr.
Dennis Barth.
Robert Barth.
Michael Mevoli—Mayor.

BROOKLAWN IS NATIONAL CHAMPION

(By Christopher Jones)

BOYERTOWN, PA.—It took 40 years but Joe Barth, Sr., and his Brooklawn baseball team finally won its first American Legion baseball national championship.

Brooklawn scored four runs in the sixth inning to ease a 3-0 deficit, and Scott Lavender hurled 6⅔ innings of two-hit relief en route to a 5-3 win over Newark, Ohio in the American Legion World Series final Sunday night at Bear Stadium.

"This is the greatest feeling in the world," said coach Joe Barth, Jr. "I'm just so happy for my dad. I didn't think this would ever happen. My dad has put so much time and so much money into this team, but it has been worth it."

"This makes up for 40 years of hardship," said Barth, Sr.

Brooklawn, 54-10-2 and the New Jersey Champion, started the game-winning rally when Mike Harris reached base to lead off the sixth after getting hit by a pitch. After Mike Morarity flew out, Kevin Cunane (2-for-3) walked and Lavender was hit by a pitch to load the bases. John Mader followed with a bloop single to score Harris, cutting the deficit to 3-1.

When Brett Laxton walked to force in a run, Newark Pitcher Troy Hupp was lifted by Manager Dave Froelich, who opted to bring in reliever Brad Hostetter.

Hostetter walked Jeff Manuolato to score Lavender, the winning pitcher, with the tying run before Derek Forchie walked to force the winning run.

Brooklawn added an insurance run in the seventh when Moriarity, who led off the inning with a single, scored on an error.

"These kids are a tough group of kids," said Barth, whose team defeated Newark 3-1 in it first game of the World Series behind the complete-game pitching of Lavender.

"It took a while for me to get in a groove this time," said Lavender, who went 20 with a 0.40 ERA in the regional and national competition. "But I knew we were going to come back. We were too hungry and wanted it too badly."

Brooklawn, whose previous best finish was national runner-up in 1984, got the most of its six hits and a combined five-hit performance by Laxton and Lavender.

"I was shook when we got down, 3-0, but I thought we would come back," said Barth Jr. "Our defense kept bailing out Laxton or it would have been worse. He was struggling so I had to make a move."

"I probably should have started Lavender, but we were worried that they would catch up to him after seeing him before. When I brought him in, all I expected was for him to keep us in the game. But he's a tough kid, and he did a lot more than that. He did a great job."

Newark, which finished 64-15 after its first trip to the Legion World Series, scored two runs off Laxton, due to three Brooklawn errors, to take a 2-0 lead before Laxton was replaced by Lavender.

Newark, a 10-7 winner over Gonzalez, La, in the afternoon semifinal game, got another run in the fifth on a lead-off home run by Ryan Beeney, the American Legion Player of the Year, before Brooklawn made its game-winning comeback.

Barth Sr. and coaches Barth Jr., Dennis Barth and Mike Mevoli received the tournament's Jack Williams Leadership Award while Lavender, Harris and Mader were named to the all-tournament team.

TRIBUTE TO GIRARD HIGH SCHOOL FOOTBALL INDIANS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to a determined and hard working football team in my 17th District in Ohio, the Girard High School football Indians.

This year the Indians worked tirelessly on the field. Under the direction of coach Joe Jeswald, the team achieved an outstanding record of 8–2 and made the school's first appearance in the playoffs. Finally, in their region 9, this group earned regional runners-up.

I congratulate this team of 37 members, 18 of which are letterman and 17 are seniors. I also extend my gratitude to the assistants whose contribution to the team is immeasurable as well as the athletic director, Ed Matkovich, and the assistant athletic director, Joe Cappuzello.

Mr. Speaker, it is my distinct pleasure to pay tribute to this outstanding group of young men, the Girard High School Indians.

THE CHEW LUN ASSOCIATION CELEBRATES 50 YEARS OF SERVICE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GREEN of New York. Mr. Speaker, I should like to bring to the attention of my colleagues an event in New York City worth special mention. On Sunday, December 8, 1991, the Chew Lun Association will celebrate its 50th anniversary.

With over 1,000 members, this large family association has been helping new Asian immigrants adjust to life in this country for the last 50 years. The Chew Lun Association provides various programs including daily meals for members who are not financially able, and a community area for gatherings and recreational functions. It also provides assistance to its members, a majority of whom are senior citizens, with daily problems they may face in the community. The primary function of the Chew Lun Association, however, is to assist all its members to become good American citizens.

As the Chew Lun Association has been instrumental in the assistance of immigrants and others in New York, I should urge all my colleagues to join me in extending the organization best wishes in its celebration of 50 years of service.

HONORING ARTHUR B. CLEMENS, FOR HIS DEDICATION AND SERVICE TO THE SUBURBAN KIWANIS CLUB OF SANTA BARBARA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Arthur B. Clemens, whose spirit of loyal community service to the citizens of Santa Barbara, CA, has been an inspiration and gift to a great many people for the past 40 years.

As a charter member of the Suburban Kiwanis Club of Santa Barbara since 1951, including a term as its president in 1959, Arthur B. Clemens has distinguished himself as a leader in numerous civic and charitable organizations. He has donated his time and effort over the past 40 years to such projects as Meals on Wheels, the Council of Christmas Cheer, Campus Crusades, the Santa Barbara Scholarship Foundation, the Rehabilitation Institute of Santa Barbara, and other endeavors too numerous to mention. He has also served with distinction as a Santa Barbara city councilman from 1957 to 1959.

By virtue of his work with the Suburban Kiwanis Club of Santa Barbara, Arthur B. Clemens has been chosen as their organization's Man of the Year an unprecedented three times.

It is my privilege and distinct pleasure to join with the members of the Suburban Kiwanis Club of Santa Barbara and the thousands of city residents who have been touched by his generosity and caring, to recognize and honor a great American, and a good friend of mine, Arthur B. Clemens, for a lifetime of commitment to the community of Santa Barbara.

DOMESTIC VIOLENCE MONTH

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CAMP. Mr. Speaker, it is tragic that over 4 million women in the United States report that they are abused, or have been abused. Unfortunately, there are many more who do not report these crimes and continue to be abused by their husbands and boyfriends. Congress, however, has passed legislation to designate October as Domestic Violence Awareness month. October has passed us by, but these battered women continue to live in fear. We need to join together to show our support not just in October, but all year long.

We need to recognize not only the victims of abuse, but also the dedication of those who work and volunteer their time with domestic violence victims. We can applaud those who work in the field and support further efforts to help victims of battery. Too many women throughout the country face violence every day and need to have access to shelter and services desperately needed during a domestic violence crisis.

Mr. Speaker, please join me in recognizing and supporting the many women who face daily violence as well as the kind people who dedicate their time to helping those in need. It is time that we, as Members of Congress, show our compassion and our understanding for these individuals.

CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WOLF. Mr. Speaker, the winds of change have blown through the Soviet Union, leaving behind only a semblance of what we had grown familiar with after years of heavy-handed, authoritarian rule. The changes even since the August coup attempt have been dramatic.

The prospects for a stable and secure Soviet Union, however, still hangs in the balance. As the old system gives way to the new, vestiges of the old system are crippling the efforts of many to propel the Soviet Union forward. Chauvinistic nationalism is taking hold in many areas of the former empire and with this development, the prospects for the recognition of human rights dwindle.

While reports regarding emigration status of Soviet Jews has been generally encouraging. I am concerned about the remaining long-term refusniks and the disturbing surge of anti-Semitic activities and publications.

In response to these reports and as part of the call-to-conscience vigil for Soviet Jews, I urge President Gorbachev and the leaders of the Soviet Republics to guarantee the respect for internationally recognized human rights and to promote fundamental freedoms, including the freedom of thought, conscience, religion, or belief.

SEIDMAN, STAY HOME

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of New York. Mr. Speaker, William Seidman, former Chairman of the Federal Deposit Insurance Corporation and other vital financial and protective national entities has finally retired. But the legacy of bold lying left by Mr. Seidman will live forever. He is the man who always had the right assurances to protect the White House before elections. Even when he finally released the honest bad news, he had a talent for arrogant obfuscation. Seidman, the butcher of Harlem's Freedom National Bank and numerous other small banks throughout the Nation, played Santa Claus to all of the banks that were classified by him as too big to fail. Seidman passed out FDIC dollars to Arab sheiks, speculators, Japanese billionaires, and any other proper people who kept their money in too big to fail banks. Seidman robbed charitable organizations in Brooklyn, NY, in order to guarantee that there would be enough money available to cover the deposits of foreigners who had accounts above the $100,000 limit. The law only allows for coverage of $100,000 per account. But Santa Claus Seidman gave away billions to depositors who were not covered by the law. Generous Godfather Seidman has retired but now he regularly appears as a public commentator. The guy who pandered to the billionaires while he raped the little banks is still being treated with respect in our confused society. Seidman has done enough damage to the economy of America. He should be graceful enough to stay home away from the op-ed pages and the television screens. Good advice is provided for Seidman in the following rap poem:

SEIDMAN STAY HOME

Seidman
Take a walk
No more poison
Official double talk
Pontificator of any
Absurd statistical thing
Among great liars
You are the King
Procurer
For the upper ranks
Godfather bagman
For too-big-to-fail banks
Power thirsty pirate
Passing for a kind
And gentle elf
Seems typical American
Despite your lying
Manipulative self
Seidman
Take a walk
No need for a
Long John Silver
With both his legs
Loitering around
To pick up the dregs
Procurer
For the upper ranks
Shorteyes who enjoyed
Molesting all the
Naked infant banks.

FARM PROGRAM PAYMENT LIMITATIONS REFORM ACT OF 1991

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PENNY. Mr. Speaker, I am today introducing legislation, along with Representatives JOHNSON and ZELIFF, the Farm Program Payment Limitations Reform Act of 1991, to plug the loopholes that have allowed wealthy farmers to circumvent farm program payment limitations.

Scandals have surrounded farm reorganization schemes to evade farm commodity program payment limitations since the first payment limitations legislation was enacted in 1970. Since then, agriculture policymakers have attempted to limit the amount of direct payments to farmers to stop subsidizing farm consolidation and to ensure that family farmers instead of nonfamily corporations or foreign and absentee landowners are the real beneficiaries of Federal farm programs. The general payment limit is $50,000 per person.

Perhaps the most famous case, and most egregious example of circumventing the payment limitations law, is the so-called "Mississippi Christmas Tree." This case involved six individuals who, through the formation of corporations, reorganized their farm to operate as a joint venture. The six persons involved then qualified as 21 persons for farm program purposes and received $1,050,000 in commodity subsidies. This scheme, amazingly, was within the letter of the 1970 law, but certainly was a blatant violation of the spirit of the law and the intent of the Congress.

The USDA and the Congress have made great progress toward closing these wasteful, unfair, and scandalous loopholes, but more needs to be done. During debate on the 1990 farm bill, I worked closely with the late Representative Silvio Conte on compromise payment limits language that would have addressed some of the outstanding shortfalls of current law. Unfortunately, our efforts were not entirely successful.

The legislation I am introducing today will finally, and once and for all, close these loopholes. For example, the USDA does not currently distinguish between artificial and real persons, and thus cannot identify all people who actually receive farm program payments. My legislation will require the attribution of payments to natural persons by social security number.

In July of 1990, OMB Director Richard Darman gave the administration's support for the attribution of farm program payments, and indicated that this action alone could save $1 billion over 5 years.

In addition, although there is much talk about the $50,000 limitation for commodity deficiency payments, what is not generally know is that large producers can still actually double this limit by participating in multiple farming operations. They can be considered as up to three entities by the USDA, and therefore increase their direct government payments to $100,000. My legislation will eliminate the three-entity rule and put the payment limitation where Congress intended it to be, $50,000 per real person. My legislation would also require payment beneficiaries to materially participate in the farming operation on a regular, continual, and substantial basis.

The savings from these truth in legislating amendments could be applied in various combinations to deficit reduction, improving farm conservation and environmental protection programs, and reducing previously authorized cuts in farm program payments to ensure the survival of family farms. Let's close these wasteful farm program loopholes, support family farmers, and save money at the same time by passing the Farm Program Payment Limitations Reform Act of 1991.

The text of the legislation follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Program Payment Limitations Reform Act of 1991".

SEC. 2. ATTRIBUTION OF PAYMENTS.

(A) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (5)(C) and inserting the following;

"(C) In the case of corporations, partnerships, and other entities included by subparagraph (B), the Secretary shall attribute payments to natural persons in proportion to their ownership interests in the entity and any other entity which owns or controls the entity receiving such payment.".

(b) Section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) is amended by striking subsections (c) and (d) and inserting the following:

"(c) In the case of corporations, partnerships, and other entities included in section 1001(5)(C) of the Food Security Act of 1985, the Secretary shall attribute payments to natural persons in proportion to their ownership interests in the entity.".

SEC 3. REPEAL OF 3-ENTITY RULE.

Section 1001A(a)(1) of the Food Security Act of 1985 is amended—

(1) in the first sentence by striking "substantial beneficial interests in more than two entities" and inserting "a substantial beneficial interest in any other entity" and by striking "receive such payments as separate persons" and inserting "receives such payments as a separate person"; and

(2) by striking the second sentence.

SEC 4. IMPOSITION OF MATERIAL PARTICIPATION REQUIREMENT.

Paragraph (5) of the section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended to read as follows:

"(5)(A) The Secretary shall issue regulations defining the term 'person', and prescribing such rules as necessary to assure a fair and reasonable application of the limitations established under this section, except that as the term applies to section 1001 (1) and (2) of this Act—

"(1) each person must meet the requirements of material participation within the meaning of section 469(h) of the Internal Revenue Code of 1986, and

"(ii) each person and any related terms, such as individual, joint operation, and entity shall be defined in such manner that no combination of farming or business organization shall result in any one natural person qualifying as more than one person.".

SEC. 5. REPORTING REQUIREMENT.

The Food Security Act of 1985 is amended by inserting after section 1001E the following new section:

"SEC. 1001F. REPORT.

"Not later than 180 days after the date of enactment of this section and annually thereafter, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes—

"(1) the number and size of payments described in section 1001(1) made to natural persons, entities, and farming operations (as defined by the Secretary on the date of enactment of this section) and by State and commodity that exceed $50,000 and an explanation of why the $50,000 payment limitation was exceeded;

"(2) the number and size of payments described in section 1001(2) made to natural persons, entities, and farming operations (as defined by the Secretary on the date of enactment of this section) that exceed $250,000 or would exceed $250,000 if all such payments were attributed to natural persons in proportion to their ownership interest in all such entities or operations and an explanation of why the $250,000 payment limitation was exceeded;

"(3) the number and size of payments made under the National Wool Act of 1954 (7 U.S.C. 1781 et seq.) for wool or mohair to natural persons, entities, and farming operations and by State and commodity that exceed the payment limitation prescribed in section 703(f) of such Act or would exceed the payment limitation if such payments were attributed to natural persons in proportion to their ownership interest in all such entities or operations and an explanation of why the payment limitation was exceeded;

"(4) for any commodity for which a marketing loan is in effect, the number and dollar amount of any gain realized, plus forfeitures, which exceed $250,000 if all such payments were attributed to natural persons in proportion to their ownership interest in all such entities or operations analyzed by the number of natural persons, entities, and farming operations, and by State and commodity;

"(5) the number of producers who cash rent their land from landowners and receive crop program payments and the number of acres involved, analyzed by the number of natural persons, entities, and farming operations, and by State and commodity; and

"(6) the number of landowners who can rent their land and receive crop program payments and the number of acres involved, analyzed by the number of natural persons, entities, and farming operations, and by State and commodity.".

SEC. 6. SENSE OF THE CONGRESS.

It is the sense of the Congress that, if provisions for the enforcement of deficit reduction contained in the Budget Enforcement Act of 1990 are modified or superseded, then—

(1) budget savings from implementation of the amendments made by this Act should be fairly and evenly applied to restore program payment cuts in fiscal years 1994 and 1995 to producers of wheat and feed grains as a result of change sin deficiency payment rate calculations under amendments made by subsections (a) and (b) of section 1102 of the Omnibus Budget Reconciliation Act of 1990; and

(2) any remaining savings should be applied to deficit reduction or for improving farm conservation and environmental protection programs, or both.

THE COAL INDUSTRY RETIREE HEALTH BENEFIT ACT

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MURTHA. Mr. Speaker, with the introduction of the Coal Industry Retiree Health Benefit Act of 1991, today, we continue the effort to provide a solution to the issue of retiree health care obligations for mineworkers.

I am pleased to introduce this legislation with my House colleagues Messrs. MOLLOHAN, RAHALL, STAGGERS, WISE, and MCCLOSKEY. This bill is identical with S. 1989 which Senator ROCKFELLER introduced in the Senate last week. I know that health care for all Americans weighs heavily on the minds of all of us and will surely be the major issue of the 1990's and one of the greatest challenges for Congress to confront.

Our concern today involves the principles of commitment and consistency which are the basis of agreements made some time ago to provide health care benefits for thousands of elderly people. The challenge we face is to insure that the previously established commitment to preserve health benefits for mineworkers is maintained while recognizing the need for financial stability of the trust funds that provide such benefits.

Make no mistake, these matters are complex and the decisions may be difficult. That is certainly the challenge we face as we begin this debate. I agree with Senator ROCKEFELLER in that we simply must see those commitments honored; to do otherwise is an abrogation of our responsibilities as elected officials.

In all of this, we must keep in mind that we are talking about people; people who took the physical risk to work in the mines of America; people who made a major contribution to our energy growth and the prosperity of this great Nation; people who exposed themselves to conditions that in some cases created health problems directly related to their professions; people who lived, worked, and retired with the expectation that they and their families would have health benefits—health benefits backed by a financially stable trust fund.

The legislation we are introducing recognizes the economic conditions where declining production by trust fund contributing coal companies—some 130 million tons since 1970—has dropped from 80 percent of national production to 30 percent today. The dropping of benefits by certain coal companies has resulted in shifting the health care obligations to the remaining contributing companies and thereby, placing an unfair burden on them at a time of economic adjustment.

Currently, about one-quarter of the retirees receive benefits from contributing companies while 75 percent are from companies no longer solvent or party to the current labor agreement. The combined operating deficit is currently $100 million and may reach $200 million by the end of next year. When the current contract expires, there is a potential of 120,000 people being left without health care benefits unless a government solution is offered.

In reviewing the history, there is a substantial case for Federal Government involvement beginning with the 1946 agreement and the Truman administration's role in the negotiations to the recent recommendations of the Dole Commission which examined health care in the coal industry. Since it is apparent that collective bargaining and additional layers of litigation will not resolve the issues in sufficient time, the way is open for the Congress to assist.

In proposing this legislation, allow me to commend the United Mine Workers of America and the Bituminous Coal Operators Association for reaching a historic and positive consensus of this initiative. We also would like to commend the Dole Commission and its important contributions to this debate.

The Coal Industry Retiree Health Benefit Act of 1991 would replace the current benefit funds with two new funds. One fund will cover beneficiaries affiliated with mining companies that still contribute to their retirees' benefits. The other fund would cover 72,000 orphan beneficiaries who worked for companies that no longer are in business and 18,000 people whose companies are still in business but don't contribute.

This second fund would be financed by hourly premiums on all production hours worked at U.S. coal mines and would be administered by the Federal Government. In addition, the excess assets from the UMWA 1950 pension fund would be used to help retire the current deficits of the health funds and to provide initial funding for the two new entities. Finally, the bill provides for state-of-the-art managed care techniques to improve quality of care and reduce costs.

To underscore what I mentioned earlier, the provisions of this legislation are aimed at saving health care benefits for people—retired coal miners and their widows who believe that one day soon the hospitals and doctors will no longer treat them for illnesses. One hundred twenty thousand decent and honest people who live in towns like Patton and Rockwood and Nanty Glo—people who worked hard all their lives and should not live in fear for their health care at this time in their lives. The promise and the commitment shall be kept. It is our duty in Congress to ensure that our actions fulfill both.

TRIBUTE TO WVSJ NEWS TALK RADIO

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, I would like to commend a radio station in my district for providing a weekly forum for the disabled. WVSJ News Talk Radio, which is fast becoming the voice of Southern New Jersey, is producing what is believed to be the only radio show in the country that is run by the disabled and focuses on issues of importance to the disabled.

The 40-minute show, cosponsored by the Center For Independent Living of South Jersey, airs every Saturday. Host Mike Kennedy, a quadriplegic who is head of the Gloucester County Disabled Center, and disabled guests discuss the needs of the disabled, legislative initiatives to improve the quality of their lives, discrimination against the disabled, recreation and sports for the disabled, and a number of other topics.

Gus Cawley, owner of WVSJ, says the show gives the disabled a rare opportunity to talk, laugh, and cry together. I wish Mr. Cawley and his pioneering show the best of luck. I am sure it will contribute to a greater understanding of the disabled.

TRIBUTE TO THE UNITED COMMUNITY FOOD BASKET

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TRAFICANT. Mr. Speaker, it is my great pleasure to rise on this day and pay tribute to the United Community Food Basket of my 17th District in Ohio.

This organization has demonstrated the utmost valiance in their endeavors to feed the needy. In 1978, this group embarked on a mission of kindness to distribute Christmas food baskets to those in need. Fifty baskets filled with turkey, bread, apples, and canned goods were distributed that year.

With increased donations from various individuals, churches, businesses, and the United Community Food Basket Committee, the annual distribution increased in 1990 to over one hundred and fifty food baskets including toys and mittens for four hundred children.

I congratulate this organization in their efforts to increase their output and I am proud to have been a part of their recent fundraiser at the Spread Eagle Tavern.

Mr. Speaker, it is my distinct pleasure on this day to pay tribute to the United Community Food Basket.

TRIBUTE TO THE ARNOLD CENTER

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly special center in Midland, MI.

The Arnold Center is a private nonprofit organization dedicated to offering vocational services designed for habilitation and rehabilitation of the disabled and disadvantaged persons in mid-Michigan.

Initially incorporated in 1967 as the Midland County Rehabilitation Center the center offered day care activities to a small group of adults with developmental disabilities.

After 25 years of service there have been numerous changes. The name has changed to the Arnold Center in honor of charter board member, James B. Arnold. Along with the name change has come a growth of services and operating space. The Arnold Center currently has facilities in Midland and Gladwin Counties occuping 45,000 square feet of specifically designed and constructed rehabilitation and manufacturing areas.

The programs that take up this space are seven accredited programs designed to meet the daily needs of the people the center serves. Through the center's services, hundreds of people have been able to utilize the programs and become productive individuals.

Mr. Speaker, on January 22, 1992, the Arnold Center will be celebrating its 25th anniversary. I know you will join with me in commanding and thanking all the individuals involved in the Arnold Center for their commitment and service to the people of mid-Michigan. They are truly outstanding people.

RESOLUTION ON THE STRUCTURE AND MEMBERSHIP OF THE U.N. SECURITY COUNCIL

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PENNY. Mr. Speaker, I am today introducing a resolution expressing the sense of the House of Representatives that the President should initiate an appraisal of, and consider alternatives to the current structure and membership of the U.N. Security Council.

In light of the changes in the world's economic and political structures that have occurred since World War II, it seems appropriate that the United States initiate a review of the functioning of the U.N. Security Council and also consider changes to the structure of the Council.

The permanent membership of the U.N. Security Council was established in 1945 and has remained unchanged, whereas the membership of the United Nations has more than tripled since then, and has increased by 50 percent since 1963, the last time the nonpermanent membership of the Security Council was expanded.

We face a world of nearly unbelievable political changes and exploding humanitarian challenges. At the same time that the cold war is ending and the Soviet-Eastern European block is crumbling, we face the stark reality that nuclear weapons are in the hands of more nations, and perhaps even terrorists, than ever before. While more people face hunger and malnutrition every day, sales of conventional arms to developing countries continue at an alarming pace, robbing the poor of needed investment in human capital. At the same time that Germany struggles to reunite and the European nations move toward economic unity, Yugoslavia faces disintegration and hundreds of ethnic and religious feuds flare up across the globe.

We saw during the conflict in the Persian Gulf that the actions of an aggressor can be thwarted by a unified and coordinated effort on the part of the U.N member nations and the United States. As we move toward the 21st century and unknown challenges to democracy and the peaceful rule of law, we need to face the realities of the new world.

I urge the President to work with the U.N. Security Council members to assess the current structure of the Council and develop options for improving the functioning of the United Nations. This is not a new idea. For example, the Italian Foreign Minister has proposed increasing the number of permanent and nonpermanent members according to a general formula that would include nations' population and wealth. Under such a plan, new permanent Council members might include Japan, Germany, India, Egypt, Nigeria, and Brazil.

Such and assessment and restructuring of the United Nations must proceed slowly and deliberately with the participation of all member nations. It does not seem, however, that a goal of reviewing and proposing such changes by the turn of the century is too ambitious. It is not too early to begin such an assessment—the future world order may depend on it.

Mr. Speaker, the text of my resolution follows:

H. RES. —

Whereas the permanent membership of the United Nations Security Council was established by the United Nations charter in 1945 at the end of the Second World War, and has since remained unchanged;

Whereas the nonpermanent membership of the Security Council was last expanded in 1963;

Whereas the membership of the United Nations has more than tripled since 1945 and has increased by 50 percent since 1963;

Whereas since the signing of the United Nations charter, the distribution of economic and political power has shifted significantly toward countries that do not presently have permanent seats on the Security Council;

Whereas to address the global problems of regional conflict, nuclear weapons proliferation, conventional arms buildup, poverty, hunger and malnutrition, and lack of medical treatment and potable water to millions of people and increasing numbers of refugees requires improved cooperation among United Nations members and increased financial commitment from member countries, particularly members of the United Nations Security Council;

Whereas the dissolution of the Soviet Union and the Eastern European alliance has completely altered the global political realities upon which the United States must act; and

Whereas global actions by the United Nations increasingly require the cooperation and support of countries which are not permanent members of the Security Council: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President should—

(1) initiate an appraisal of, and consider alternatives to, the current structure and membership of the United Nations Security Council; and

(2) consult with the other pemanent members of the United Nations Security Council and the allies of the United States on the possibilities for restructuring the United Nations Security Council to reflect the new global order and to increase its effectiveness in dealing with global peace and security issues.

INTRODUCTION OF THE HOMEOWNERS ASSISTANCE PROGRAM IMPROVEMENT ACT OF 1991

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MURTHA. Mr. Speaker, with recent developments in United States-Soviet relations and the shift in Eastern Europe toward democratic based governments, the restructuring of our defense posture is moving forward as we deal with this different environment. Part of the current restructuring involves the substantial drawdown of military personnel over the next 3 to 5 years.

There are many facets of this issue which our subcommittee will be addressing in the coming weeks. My concern today is how we deal with the impact of military personnel reductions on individuals who are involuntarily separated and are forced to sell their homes and seek employment elsewhere.

To date, we have taken action in the subcommittee by including conference report language in the recent DOD appropriations bill that request the Department of Defense to study the option of expanding the Homeowners Assistance Program (42 U.S.C. 3374 and 10 U.S.C. 2832) to include those homeowners who have been involvuntarily separated due to the drawdown. We expect to receive this report no later than May 15, 1992, and that it will be useful to our deliberations on this issue.

In expectation of this report, I am today introducing legislation which would directly address this issue and put us ahead of the curve. In my judgment, we need to be proactive in these matters if we expect to made this transition effective and with the least amount of stress to our dedicated military personnel.

To this end, the Homeowners Assistance Program Improvement Act of 1991 extends eligibility to members of the Armed Forces involuntarily separated as a result of reductions in size of our military and provides additional mortgage loan flexibility to veterans involved in the transition to civilian life.

As a voluntary program, military service personnel in this new category will have the ability to exercise this option only after having their home on the open market for a minimum of 6 months without sale at fair market value as determined by the Department of Veterans Affairs.

Two new features are proposed which we believe will assist veterans involved in the sale of their homes during the defense drawdown. First, the bill would expand the VA loan guarantee program to bridge loans when the veteran is close to sale of the existing home and the purchase of a new home. The bridge loan would be restricted to one point above the average market rate available for first mortgages.

In addition, it would establish flexibility with regard to accelerating the reinstatement of the VA loan entitlement when the veteran is close to settlement on the sale of the existing home and the subsequent purchase of a new home.

I believe this legislation is an important statement to our military personnel. A statement which simply indicates that we recognize the hardship they are preparing to undergo, that we must honor the mutual commitment of those who serve the Government both as civilians and in the military and finally, that in their time of need we will not abandon those who have served.

I urge my colleagues to join me in cosponsoring this important legislation and look forward to working with my colleagues to pass this measure into law.

THE 1992 ELECTION YEAR MAILING RESTRICTIONS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CLAY. Mr. Speaker, with the 1992 election year rapidly approaching, the House Commission on Congressional Mailing Standards wishes to remind Members of the House about the franking statutes, rules, and regulations governing mass mailings by candidates prior to elections.

Generally, Members of the House seeking reelection are prohibited from sending franked mass mailings during the 60-day period immediately before the date of any public election—whether primary, general, special, or runoff—in which the Member's name appears on the ballot.

Further, any Member who is a candidate for other public office may not frank any mailings outside of the congressional district from which the Member was elected, beginning at the time the Member is certified for candidacy.

Members should ensure that staff persons responsible for mass mailings are knowledgeable concerning State election laws as they affect mailing privileges during the period prior to primary and general election periods. Members' staff seeking advisory opinions from the Commission must certify that, to the best of their knowledge, the frankability of the proposed mailing is not adversely affected by applicable State election laws.

Mr. Speaker, I cannot emphasize strongly enough the importance of compliance with these regulations. I urge my colleagues to ensure that their staffs are familiar with the statutes, rules of the House, and pertinent regulations and guidelines governing the proper use of the franking privilege.

The Commission staff is ready to assist in every possible way.

A detailed explanation of the mass mailing provisions, along with a listing of cutoff dates for the congressional primaries in the various States, follows:

LIMITATIONS ON THE USE OF THE FRANK BY CANDIDATES FOR PUBLIC OFFICE

Pursuant to Public Law 101-163, the Legislative Branch Appropriations Act for Fiscal Year 1990,

39 U.S.C. 3210(a)(6)(A) provides that, "It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail—

(i) if the mass mailing is postmarked fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member is a candidate for reelection; or

(ii) in the case of a Member of, or Member-elect to, the House who is a candidate for any other public office, if the mass mailing—

(I) is prepared for delivery within any portion of the jurisdiction of or the area covered by the public office which is outside the area constituting the congressional district from which the Member or Member-elect was elected; or

(II) is postmarked fewer than 60 days immediately before the date of any primary election or general election (whether regular, special or runoff) in which the Member or Member-elect is a candidate for any other public office.

39 U.S.C. 3210(a)(6)(F) states that for purposes of subparagraphs (A) . . . if mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.

DEFINITIONS

Mass mailings

Mass mailings are defined by law (39 U.S.C. 3210(a)(6)(E)) as, with respect to a session of Congress, newsletters and other similar mailings (including town meeting notices) of more than 500 pieces in which the content of the matter mailed is substantially identical. Mail matter is deemed to be a mass mailing when the total number of pieces exceeds 500, whether in a single mailing or in cumulative mailings during the 60-day period.

Candidate for election or reelection to the House of Representatives

For purposes of the subject statutes and regulations, a Member of or a Member-elect to the House of Representatives is deemed to be a candidate for public office at any election if his or her name appears anywhere on any official ballot to be used in a public election.

Candidate for any other public office

For the purpose of 39 U.S.C. 320(a)(6)(A)(ii), "any other public office" means any local, State, or Federal office. (Examples: President, Governor, U.S. Senator, State Supreme Court Justice, State Senator, Assemblyman, etc.) "Candidate" means a Member who has qualified under State or local law for the official ballot in a primary, runoff, special, or general election, or who has been certified for candidacy by an appropriate State or local election official.

EXCEPTIONS

The subject statutes, rules, and regulations provide three exceptions to the mass mail prohibition prior to elections, as follows:

(i) mailings which are in direct response to inquiries or requests from the persons to whom the matter is mailed;

(ii) mailings to colleagues in Congress or to government officials (whether Federal, State, or local); and

(iii) mailings of news releases to the communications media.

The Commission believes the latter two exceptions are self-explanatory.

In application of the first exception, the Commission stresses the phrase "direct response to inquiries or requests". Therefore, response to a signed petition with a form or identical letter individually addressed to each of the signers of the petition is frankable. However, a follow-up letter to the same list of petitioners is not frankable under this section in that it would not be in direct response to an inquiry.

Similarly, follow-up letters to persons who had previously written and had been answered on a particular subject, if such letters by their form and volume constitute a mass mailing, are not frankable during the 60-day period prior to elections. Also, requests for questionnaire results or other material, when solicited by Members on questionnaire forms or newsletters, are not deemed to be in direct response to any inquiry or request.

The above restrictions on mass mailings by candidates do not apply to mass mailings by the chairman of any standing, select, joint or other official committee of the Congress, or subcommittee thereof, and which relate to the normal business of the committee [39 U.S.C. 3210 (a)(6)(B)]. The Commission emphasizes "normal and regular" committee business, i.e., press releases, hearing schedules, or committee documents.

TIME OF MAILING

Processing by a postal facility

Mass mailings as defined under 39 U.S.C. 3210 (a)(6)(E) may not be mailed as franked mail by a Member of or a Member-elect to the House of Representatives when the same is mailed at or delivered to any postal facility less than 60 days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member or Member-elect is a candidate for any public office.

Processing by the House Publications Distribution Service

Such mass mailings, if processed through the House Publications Distribution Service, hereinafter referred to as the House folding room, must be delivered to and received by the House folding room, in enough time to ensure their mailing by the 60-day cutoff date. The Commission urges Members to contact the House folding room with further questions regarding delivery of mass mailings to them for processing.

The House folding room will issue a receipt, which shall specify the date and time of mailing and a brief description of the matter to be processed.

1992 CONGRESSIONAL PRIMARY DATES—ALPHABETICAL LIST BY STATE

State	Primary date	60-day cutoff
Alabama	June 2	Apr. 3.
Run-off	June 30	May 1.
Alaska	Aug. 25	June 26.
Arizona	Sept. 8	July 10.
Arkansas	May 26	Mar. 27.
Run-off	June 9	Apr. 10.
California	June 2	Apr. 3.
Colorado	Aug. 11	June 12.
Connecticut	Sept. 15	July 17.
Delaware	Sept. 12	July 14.
Florida	Sept. 1	July 3.
Run-off	Sept. 29	July 31.
Georgia	July 21	May 22.
Run-off	Aug. 11	June 12.
Hawaii	Sept. 19	July 21.
Idaho	May 26	Mar. 27.
Illinois	Mar. 17	Jan. 17.
Indiana	May 5	Mar. 6.
Iowa	June 2	Apr. 3.
Kansas	Aug. 4	June 5.
Kentucky	May 26	Mar. 27.
Louisiana	Oct. 3	Aug. 4.
Maine	June 9	Apr. 10.
Maryland	Mar. 3	Jan. 3.
Massachusetts	Sept. 15	July 17.
Michigan	Aug. 4	June 5.
Minnesota	Sept. 15	July 17.
Mississippi	Mar. 10	Jan. 10.
Run-off	Mar. 31	Jan. 31.
Missouri	Aug. 4	June 5.
Montana	June 2	Apr. 3.
Nebraska	May 12	Mar. 13.
Nevada	Sept. 1	July 3.
New Hampshire	Sept. 8	July 10.
New Jersey	June 2	Apr. 3.
New Mexico	June 2	Apr. 3.
New York	Sept. 15	July 17.
North Carolina	May 5	Mar. 6.
Run-off	June 2	Apr. 3.
North Dakota	June 9	Apr. 10.
Ohio	May 5	Mar. 6.
Oklahoma	Aug. 25	June 26.
Run-off	Sept. 15	July 17.
Oregon	May 19	Mar. 20.
Pennysivania	Apr. 28	Feb. 28.
Rhode Island	Sept. 15	July 17.
South Carolina	June 9	Apr. 10.
Run-off	June 23	Apr. 24.
South Dakota	June 2	Apr. 3.
Run-off	June 16	Apr. 17.
Tennessee	Aug. 6	June 7.
Texas	Mar. 10	Jan. 10.
Run-off	Apr. 14	Mar. 10.
Utah	Sept. 8	July 10.
Vermont	Sept. 8	July 10.
Virginia	June 9	Apr. 10.
Washington	Sept. 15	July 17.
West Virginia	May 12	Mar. 13.
Wisconsin	Sept. 8	July 10.
Wyoming	Aug. 18	June 19.
American Samoa	Nov. 3	Sept. 4.
Run-off	Nov. 17	Sept. 18.
District of Columbia	May 5	Mar. 6.
Guam	Sept. 5	July 7.
Puerto Rico[1]		
Virgin Islands	Sept. 8	July 10.
1992 General election	November. 3	September. 4.

[1] Not available as of Nov. 25, 1991.

1991 CONGRESSIONAL PRIMARY DATES—Chronological List by Dates

State	Primary date	60-day cutoff
Maryland	Mar. 3	Jan. 3.
Mississippi	Mar. 10	Jan. 10
Texas	Mar. 10	Jan. 10.
Illinois	Mar. 17	Jan. 17.
Mississippi (run-off)	Mar. 31	Jan. 31.
Texas (run-off)	Apr. 14	Mar. 10
Pennsylvania	Apr. 28	Feb. 28.
Indiana	May 5	Mar. 6
North Carolina	May 5	Mar. 6.
Ohio	May 5	Mar. 6.
District of Columbia	May 5	Mar. 6.
Nebraska	May 12	Mar. 13.
West Virginia	May 12	Mar. 13.
Oregon	May 19	Mar. 20.
Arkansas	May 26	Mar. 27.
Idaho	May 26	Mar. 27.
Kentucky	May 26	Mar. 27.
Alabama	June 2	Apr. 3
California	June 2	Apr. 3.
Iowa	June 2	Apr. 3.
Montana	June 2	Apr. 3.
New Jersey	June 2	Apr. 3.
New Mexico	June 2	Apr. 3.
North Carolina (run-off)	June 2	Apr. 3.
South Dakota	June 2	Apr. 3.
Arkansas (run-off)	June 9	Apr. 10.
Maine	June 9	Apr. 10.
North Dakota	June 9	Apr. 10.
South Carolina (run-off)	June 23	Apr. 24.
Alabama (run-off)	June 30	May 1.
Georgia	July 21	May 22.
Kansas	Aug. 4	June 5.
Michigan	Aug. 4	June 5.
Missouri	Aug. 4	June 5.
Tennessee	Aug. 6	June 7.
Colorado	Aug. 11	June 12.
Georgia (run-off)	Aug. 11	June 12.
Wyoming	Aug. 18	June 19.
Alaska	Aug. 25	June 26.
Oklahoma	Aug. 25	June 26.
Florida	Sept. 1	July 3.
Nevada	Sept. 1	July 3.
Guam	Sept. 5	July 7.
Arizona	Sept. 8	July 10.
New Hampshire	Sept. 8	July 10.
Utah	Sept. 8	July 10.
Vermont	Sept. 8	July 10.
Wisconsin	Sept. 8	July 10.
Virgin Islands	Sept. 8	July 10.
Delaware	Sept. 12	July 14.
Connecticut	Sept. 15	July 17.
Massachusetts	Sept. 15	July 17.
Minnesota	Sept. 15	July 17.
New York	Sept. 15	July 17.
Oklahoma (run-off)	Sept. 15	July 17.
Rhode Island	Sept. 15	July 17.
Washington	Sept. 15	July 17.
Hawaii	Sept. 19	July 21.
Florida (run-off)	Sept. 29	July 31
Louisiana	Oct. 3	Aug. 4.
American Samoa	Nov. 3	Sept. 4.
American Samoa (run-off)	Nov. 17	Sept. 1.
1992 general election	Nov. 3	Sept. 4.

SALUTE TO SAL AND ANGIE CARO

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GALLEGLY. Mr. Speaker, I am pleased to rise today to honor two of my best friends, Sal and Angie Caro, as they celebrate their 50th anniversary.

In an era when far too many couples decide that divorce is better than working out the inevitable problems that every marriage faces, Sal and Angie are an inspiration.

Sal Caro, who worked for many years as an electrical foreman proudly served his country in World War II, although he still hasn't gotten over the fact that his unit was forced to serve under command of British Field Marshal Montgomery instead of our own Gen. George Patton.

Angie Caro raised three sons, and during the 1960's became more and more active in politics. Like Sal, a lifelong Democrat to that point, she became interested in the 1964 Presidential campaign of Barry Goldwater at the urging of her son, Denis. Then a few years later, at the urging of her son Rodney Wayne she began working for then-Governor Ronald Reagan's campaigns.

Eventually—like more and more Americans, Mr. Speaker, she and Sal both became Republicans. Angie, in fact, is a rock of the California Republican Party, having served as an officer with the Republican Women's Club, Federated, and having been a founder of the Conejo Republican Action Committee among her many party activities.

Mr. Speaker, although Angie and Sal don't want any fuss made over them, I believe a golden wedding anniversary is deserving of attention, and I ask my colleagues to join me in saluting them and wishing them a very happy anniversary.

AMERICAN INDUSTRY REVITALIZATION ACT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LIPINSKI. Mr. Speaker, today I submit legislation designed to curb the decline of American industry. Outside of armed conflict, I believe this decline is the most serious threat to the economic well-being of the United States. We have won the cold war with the Soviet Union, but are losing the economic war with Japan, Germany, China, Taiwan, and Korea. The Government's duty is to protect the security of this Nation, and so the Government must act now to protect America's economic security.

The current recession is aggravating the problems of our industries, but the problems are not new. America's position in the international market has been slipping for decades. It now stands at an all-time low. The auto industry finds foreign producers accounting for 26 percent of the U.S. market, compared to 6 percent three decades ago. In our troubled steel industry, imports account for 20 percent of the market, compared to 3 percent three decades ago. In one other depressed industry, machine tools, the U.S. world market share has diminished from about 35 percent three decades ago to less than 20 percent today.

This decline is the concern of every American. Millions of jobs are tied to America's manufacturing industries, which represent 20 percent of our gross national product. When these industries suffer, American workers suffer with them. They have lost an average of $1,000 of yearly income in the last decade and have seen 300,000 jobs disappear in the last 3 years. The United States is the only major industrial nation to bear such dramatic losses.

America still has the most productive manufacturing workers in the world, but our lead has almost disappeared in the last 20 years. It is only a matter of time before American productivity lags behind its competitors.

I recognize that the Government cannot by itself reverse the industrial decline facing America, but I believe it must play a more active role in protecting the welfare of American industry. The hands off policy of the Bush administration is not working and it is time to consider alternatives.

The legislation I propose centers around the concept of cooperative effort among Government, business, and labor. However, let me say at the outset that I do not envision a Japanese-style policy. American culture and American industrial practices are vastly different than Japan's. We can learn from their example, but American policy must be unique to America.

My bill addresses the deteriorating condition of the plants and equipment of our industries. American industries are using fifties technology to compete in the nineties marketplace. This is a recipe for disaster. The world market is increasingly dominated by competitors who are using the most modern, state-of-the-art equipment for the production of their goods. Our markets are bombarded by these competitors who offer materials and goods below prices we can match.

It is time to regroup, to bring our factories into the nineties. It is no coincidence that the decline of American industry has been accompanied by shrinking investment in our plants and factories. For the first time since World War II, in 1989 the United States did not lead the world in investment in plants and equipment. The distinction went to Japan, a nation with only two-thirds our GNP. Adjusted for the size of our economies, Japan spent more than double what we spent on plant modernization. It is no small wonder that our productivity is lagging.

To reverse the trend, my bill, the "American Industry Revitalization Act," will give the Government a direct role in making our industries competitive. It will establish a National Industrial Revitalization Board to provide loans and loan guarantees for companies to modernize, expand, and improve existing facilities. The board will have $5 billion to make these loans and will have the ability—with the agreement of the Secretary of the Treasury—to issue bonds to raise more.

The work of the board will be governed by three principles: to maximize potential for modernization of qualifying firms, to minimize interest group interference in determining where and how much assistance is granted, and to minimize Government interference in the marketplace, outside of preserving a viable industrial base. The board's eight members will be appointed by the President, upon recommendation from congressional leaders, and will be composed of a representative of labor, business, and academia.

While this bill represents a significant commitment of taxpayer funds, I believe this use of tax dollars is wise. At a time when we are sending billions of dollars annually to assist and stabilize our allies, we can find $5 billion to assist and stabilize American industries. Such assistance is absolutely essential if our industries are to continue competing effectively with their foreign counterparts.

The hard-working people of our Nation will not step aside and watch foreign firms continue to take over our markets and endanger our workforce, industrial base, and national security. A viable, sustaining industrial base is required for our future economic growth and the future health of this great democracy.

Mr. Speaker, I urge careful consideration of my legislation and seek a prompt review of all pending legislation concerning industrial policy. For our Nation, a prudent industrial policy is needed today.

TRIBUTE TO ROY C. BRIDGES

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to Roy C. Bridges, of Hummelstown, PA, upon his retirement as chief of police of the Hummelstown Police Department after 20 years on the job.

Chief Bridges has served the people of Hummelstown with honor and distinction during his long tenure as chief of police. He has worked long and hard to make Hummelstown a safer community for its residents, and has participated in numerous training seminars at schools and colleges to improve his ability to protect and serve the residents of the borough of Hummelstown.

Roy, an Army veteran who also served as a police officer in the Hampden Township [PA] Police Department, has received numerous awards and honors for his professional and civic conduct. He was honored as Hummelstown Lions Club Honor Citizen in 1980; American Society for Industrial Security Law Enforcement Officer of the Year in 1987; Respect for Law Award, Hummelstown Optimist Club in 1991; Hummelstown Lions Club Lion of the Year in 1990; and Dauphin County Chiefs of Police, President's Award in 1990. Chief Bridges has also served in a variety of local and professional organizations, including the Dauphin County Chiefs of Police Association, where he is currently president; the Hummelstown Lions Club; and the Crime Clinic of Harrisburg.

Mr. Speaker, I know that the people of Hummelstown will miss having Chief Roy Bridges at the helm of the police department. He has the respect and admiration of his family, friends, colleagues, local officials and residents for his many years of hard work and sacrifice to the local community. I ask all of my colleagues to join me in wishing Chief Bridges well in his future and to congratulate him on his many fine years of work in service to the borough of Hummelstown.

A TRIBUTE TO ANGELO K. TSAKOPOULOS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PORTER. Mr. Speaker, I rise today to commend and honor Mr. Angelo K. Tsakopoulos, who has made lasting contributions toward the development of culture and education in northern California and the United States.

Mr. Tsakopoulos has utilized his position as a founder, owner, and president of AKT Development Corp. to donate land for schools, art galleries, museums, hospitals, and senior citizens' facilities. Moreover, his resourceful planning has protected the environment while serving the needs of the growing Sacramento area. Furthermore, he has funded a new wing of the Crocker Art Museum in Sacramento and sponsored performances of the symphony, ballet, and theater groups at the Sacramento Community Center.

His leadership and continuous support of the American Lung Association, the United Way, Jesuit High School, the Golden Empire Council, Boy Scouts of America, the Roseville Art Center, the Folsom Historical Museum, and the Harry Truman Club has been outstanding.

Mr. Tsakopoulos has been recognized by the McGeorge School of Law with an honorary degree for his exceptional work as an entrepreneur, philanthropist, and community leader. He is also a founding member of the Sacramento Tree Foundation and is the primary sponsor of SUCCEED—Catholic Inner City Educational Program.

I recently had the pleasure of attending a banquet in honor of Angelo K. Tsakopoulos sponsored by the United Hellenic American Congress. Also in attendance were Andrew Athens, national chairman of the United Hellenic American Congress, Thomas Athens and Frank Kamberos, banquet chairmen, and Jack Mitsakopoulos, benefactor chairman. In addition to his philanthropic work, he is one of the most respected leaders in the Greek-American community and he has promoted Greek cause in Cyprus, the Aegean, and at the patriarchate.

He has been instrumental in the establishment of the S.B. Vryonis Center for the Study of Hellenism. Mr. Tsakopoulos was the honorary chairman of AHEPA's celebration on Ellis Island to honor the Greek immigrant in April 1991. He has inspired the establishment of the Kazantzakis chair for modern Greek studies at San Francisco State University. Furthermore, he has funded chairs at the University of California, Berkeley, the University of California, Davis, and Dartmouth College.

His achievements have not been solely recognized by the Greek community but also by the Anti-Defamation League which honored him with the Distinguished Community Service Award in 1990. Also, in 1990, he was the recipient of the Sacramento Regional Excellence Award. The previous year the AXIOS Foundation for Worthiness named him Man of the Year. Furthermore, in 1988, he was Man of the Year of the National AHEPA.

Mr. Speaker, I ask that you join me and our colleagues in paying tribute to the exemplary work that Mr. Tsakopoulos has accomplished. He has been dedicated and selfless in his work for the Greek-American community and the communities of northern California.

THE REALITY OF AIDS FUNDING

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BEREUTER. Mr. Speaker, I commend to my colleagues the following editorial from the November 26, 1991 edition of the Omaha World-Herald:

THE REALITY OF AIDS FUNDING

Bravo to the doctors and researchers who have taken on the AIDS lobby by questioning whether AIDS research is overfunded in relation to research into diseases that kill more people and cause more suffering.

It might not be considered politically correct to raise questions about the amount that is allocated to fight AIDS. Earlier this year, AIDS activists traveled to Kennebunkport, Maine, to demonstrate at President Bush's vacation home. They accused the government of not doing enough to fight the disease.

Activists made a similar accusation during the Sixth International Conference on AIDS, held in San Francisco in 1990. They rioted and disrupted meetings at the conference to protest alleged indifference to AIDS by government and the research community.

Such theater-of-the-streets behavior, supported by sympathetic commentators and public officials, has helped the activists create the impression that the government is doing little to combat AIDS because of bias against homosexuals and drug abusers. Most AIDS victims in this country come from those groups.

The fact is that the government and the scientific community are making a considerable effort to find a cure for the disease and to treat the victims. The government set aside $2 billion this year for AIDS research, testing and treatment, a sum, according to Dr. Louis Sullivan, secretary of health and human services, equaling the amount reserved for cancer research, testing and treatment.

The research portion of the AIDS budget consists of $850 million, which is more than the government allocates for any other disease except cancer.

Cancer research gets $1.8 billion. But cancer kills 500,000 people annually. Fewer than 27,000 died from AIDS in 1990. Heart disease, which receives less research money than either AIDS or cancer, kills about 1 million people annually.

A spokesman for the National Cancer Institute, said, "Diabetes and heart disease have taken a back seat to AIDS research."

* * * * *

Of course the search for a cure for AIDS should be carried on as aggressively as the government's priorities and funds permit. AIDS rightly deserves to be regarded as one of the more serious health threats of the 1990s. But it isn't THE most serious health threat. Not while other diseases are killing many more people and causing many more times the suffering, expenses and loss.

JOE BURNS, DADE SUPER TEACHER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, every school district has those teachers who stand out. Mr. Joe Burns is a teacher whose devotion to his students speaks for itself. He presently devotes himself to teaching calculus and computer science at Coral Park High School. The Miami Herald recently recognized him as one of Dade County's super teachers in a recent article by staff writer, Jon O'Neill. That article follows:

TO MANY KIDS, MATH TEACHER ALSO FRIEND

Joe Burns is a modern day Peter Pan: He may be growing older, but he is not really growing up.

That's one of the ways Burns, 40, reaches math students he teaches at Coral Park High School. To many students, Burns is like a friend who happens to know a lot about math and computers.

"He's one of us," said Gus Iglesias, 17, who takes two computer classes with Burns. "You can talk to him. I just met him last year, but I feel like I've known him for a long time."

That's fine with Burns. His relationship with the kids allows him to present subjects like calculus and computer science in an atmosphere that's fun and free of pressure. He tells his students that mistakes are OK and encourages them to build on their errors.

"If you teach in a way that's nonthreatening, the kids don't know it's a hard subject," Burns said. "When they're relaxed and not afraid to make a mistake, they can learn anything."

HIS STUDENTS TEACH

Burns will often let students become teachers, bringing them up to the chalkboard to work a problem and explain it to their peers. When he sees kids dissecting a problem, he knows they understand it.

He has other methods, too. Sometimes, when a tough lesson bogs down and the kids become frustrated, he drops it for a while. He also reviews previous lessons continually so students don't forget them.

"I try not to do anything difficult for a long period of time," he said. "We take little steps when we have to. You're dealing with confidence levels here. When they get down, it's sometimes hard to bring them back up."

Burns also lets students know he cares about them as people. He pushes them to apply for college and shares his own experiences as a student "who wasn't very well-rounded." The message gets through.

"You know he's interested in how you do and that he cares about you," said Esperanza Rodriguez, 18. "He's different than most teachers. You can also tell his class is fun, because it goes by so fast."

A ROLE MODEL

Burns fell in love with teaching shortly after he got out of college. Born in New York, he moved to Miami in 1968 and graduated from Coral Park. Although he once viewed teachers as the enemy, he credits an English teacher, Alan Bloom, with turning that perception around.

"I was always bad in English," said Burns. "But he taught me things, and I didn't even know I was learning. I sort of modeled my teaching style after his because he got through to me."

Burns has bachelor degrees from Florida International University in political science and computer science. He has a master's degree in math from Nova University. He spent nearly 10 years teaching in private schools before coming to Coral Park in 1983.

His wife, Gail, is also a math teacher in Coral Park, 8865 SW 16th St.

"YOU WANT TO WORK HARDER"

For Burns, the thrill of teaching hasn't faded. It comes when he sees kids grasping difficult concepts or as he helps them prepare for college. He is still having a blast in class, and his students know it.

"He takes hard subjects and makes them easier," said Esperanza. "With him, you want to work harder. If you fail a test, you feel really bad. Not just for yourself, but because you don't want to let him down either."

Mr. Speaker, I commend Joe Burns for his contribution to teaching in South Florida. He is a model educator. I have confidence that many teachers like Joe continue to believe that children are our future and that they are worth devoting our best to. I commend the leadership of Principal Carrell White for making Coral Park High School a place where teachers like Joe Burns and their students can thrive.

AMERICAN WORKERS DESERVE BETTER

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CLAY. Mr. Speaker, I wish to call to the attention of my colleagues the plight of 136 workers, the vast majority of whom are women, in Racine, WI. These workers are in the process of receiving a lesson in what passes for labor relations and the rights of American workers in the era of George Bush. They will not benefit from what they learn.

Until recently, these workers, employees of Rainfair, Inc. and members of Local 187 of the International Ladies' Garment Workers' Union, earned wages ranging from $4.25 to $12.50 an hour and averaging $6.60 per hour. Over the last 12 years, their wages have increased by only 25 cents an hour. This summer, these workers unsuccessfully sought to negotiate a new agreement with their employer. According to the union, the company's final offer would have provided for a 15 cents an hour increase on piecework and a 10 cents an hour increase for other workers over a 3 year period. The company offer also provided for an increase in the employees' contributions for health benefits from an existing level of $42 per month for family premiums to $100 a month in the first year of the contract with additional increases in the second and third year. In addition, the company insisted on the elimination of two paid holidays and the ability to schedule employees on weekends at regular pay. Finally, the company insisted on contract language that would permit the transfer of work to other facilities outside of Racine.

Not surprisingly given the employer's final offer, the employees were of the opinion that the company dismissed, if it ever considered, their aspirations and hopes to the jeopardy of their ability to support themselves and their families. In such circumstances, workers have but two options. They can continue to work, in which case an employer may unilaterally implement new terms and conditions of employment and has no incentive to seek any further accommodation at the bargaining table, or they can strike. As events have since shown, this amounts to no choice. On June 20, 1991, the employees struck their employer and their lesson in Bush era labor law began. Almost immediately, the employer sent notices to striking workers reminding them that they were subject to permanent replacement. Since then Rainfair has made good on the warning. Assuming the employer has not broken the letter of the law, these workers, who sought no more than to protect their standard of living by the only legal means available to them, have effectively been fired.

Our labor law fails to protect the right of Americans to exercise a voice in the determination of their working conditions. These workers have not been treated fairly, nor has the economic well-being of the Nation been served. Whether it is done quickly through the use of permanent replacements or more slowly through the implementation of wage and benefit reductions, destroying the ability of these workers to earn a living, to produce and in turn to purchase the products of others, does not serve the public interest.

ANCIENT FORESTS NEED PERMANENT PROTECTION

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ATKINS. Mr. Speaker, less than 15 percent of what once stood as ancient forests remains standing today. I consider that an alarming statistic. The issue of how to resolve the ancient forest issue, has for too long been framed as a stark either-or choice: The spotted owl or the logger. But that is incorrect.

The population decline of the northern spotted owl is just one indication of many losses. The wildlife, fish, birds, watersheds that are inextricably tied to the forests are destroyed when those old growth trees fall to a logger's chainsaw. In fact, we don't entirely know the consequences of what we have lost.

Scientists are only now beginning to understand the role that old growth forests play in stabilizing the topsoil, filtering the water, and moderating the climate. Who knows what other scientific breakthroughs might be found within the forest? No one. We do know, however, that if we keep on cutting, there will be no old growth forest left 10 to 15 years down the road.

Mr. Speaker, the debate over ancient forests should really be focused on how we got into this situation and what we can do to solve it. This debate can't be reduced to a simpler either-or choice, but if we just address the paradox of the owl versus the logger, we fail to look at what I see as the underlying problems: The enormous Federal subsidies offered to the timber industry and the budgetary incentives that encourage cutting public forests at any cost. And we would fail to prevent another crisis like this from happening.

Let me address these issues. First, across the country, the Forest Service gives away public timber at enormous cost to the taxpayer. The Forest Service itself admits that of the 122 national forests across the country, only 57 made money last year. Others estimate that number is really closer to just 20 money-making forests nationwide. It is hard to tell how much money is involved here, largely because of how the Forest Service accounts for these sales.

For example, in reports to the Appropriations Committee, the Forest Service estimates it earned about $650 million on timber sales in 1990. Yet when the costs for roads, reforestation, and administration are counted, The Treasury actually paid out closer to $100 million to give away that timber.

Add it up: In a report prepared for the Government Operations Subcommittee on the environment, Bob Wolf, a retired forester, calculated that the Forest Service may have lost over $6.3 billion of taxpayer's money since 1979 selling timber below cost. I'd say that is a huge taxpayer-supported subsidy to the timber industry.

The way the Forest Service gets its funds gives land managers clear economic incentives to support timber sales over all else. Instead of coming to the Congress for all of its budget requests, the Forest Service can sell timber to pay for just about anything it wants: Roads, reforestation, wildlife habitat, recreation projects, or add to your overhead budget. Under the current budget structure, Forest Service supervisors are required to return to the Treasury only 50 cents for every 1,000 board feet of timber sold.

So if you want to do a wildlife habitat restoration project, you offer timber for sale. Recreation, wildlife, watershed projects? Offer timber for sale. The problem is that in order to do these good things, you've got to destroy the forest. When funds are tight for such programs, that a huge incentive to continue advocating timber sales and ignore the evidence of environmental damage.

Mr. Speaker, Let's be clear about who benefits from these subsidies and perverse economic incentives: The timber industry. Together with the administration, the timber industry has been deceiving the communities that depend on these forests that the cutting can go on forever without damaging the environment. What the industry wants us to forget is that the logging and mill jobs were already on the decline before we noticed the population decline of the spotted owl. They want us to ignore that there are alternatives to cutting all the remaining old growth.

Mr. Speaker, the scientific evidence now shows that the artificially high timber harvests that were promoted through such subsidies and deceptions pushed the situation in the Pacific Northwest to the breaking point we see today. If Congress had acted earlier, there might have been a chance to protect the old growth forests without pushing a species to the brink of extinction. There might also have been time to start timber-dependent communities down the road of economic diversification and revitalization. But we did not. It is now time to offer these communities the economic assistance they need.

Mr. Speaker, I believe it is also time to say no to timber industry. Above all, we need to provide permanent protection to the ancient forests of the Pacific Northwest. But we also need to address the underlying problems of the Federal subsidies and economic incentives. We can begin by requiring the Forest Service to recover their costs or refrain from providing the timber for sale at a loss to the public.

We can also clean up the outdated budget structure which provides land managers with incentives that promote overcutting of the forests. The timber industry continues to press for a favorable solution to what they call the timber supply problem. Not even 2 months ago, the House and Senate Interior Appropriations Conference Committee considered adopting amendments supported by the timber industry.

These amendments would have released tracts of old growth forests for logging and mandated higher than normal harvest levels. A whole host of environmental laws would have been wiped out for the year with one small amendment. Fortunately, the conference committee resisted this temptation and instead we threw the problem back to the authorizing committees.

Mr. Speaker, there are several good bills introduced which go to the heart of all of these issues, including two bills introduced by my good friend from Indiana, Mr. JONTZ.

If the Congress is going to act, now is the time to do it.

SALUTE TO BERT BOECKMANN

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor one of our country's most outstanding businessmen as he is presented with a prestigious award by Pepperdine University.

Herbert F. "Bert" Boeckmann is truly an American success story, and is proof that hard work and talent does pay off.

Today, Bert Boeckmann is one of America's most respected and successful automobile dealers. In fact, for 21 of the past 25 years, his Galpin Ford dealership in Sepulveda, CA has been the most profitable nationwide. He also owns three auto dealerships in the San Fernando Valley, and is involved in interests as varied as diamond mining in West Africa to buffalo ranching.

Bert made his money the old-fashioned way, Mr. Speaker—he earned it. After attending the University of Southern California, he began selling cars in 1953. Four years later, he was Galpin Ford's general manager, and 3 years after that he began a buyout of the corporation, using his own earnings. By 1968, the buyout was complete.

Today, Bert Boeckmann is widely recognized as the most honored and successful automobile dealer in the Nation. He was elected by his fellow Ford dealers to serve as chairman of their National Dealer Council, is a member of the Automotive Hall of Fame, and was recognized by Time Magazine as its National Quality Dealer of the Year in 1985, an award given to the best of the country's 25,000 car dealers.

Bert and his wife, Jane, also give freely of their time and resources to the community, and Bert is the proud recipient of more than 1,000 awards and commendations for participating in national, civic, and community affairs.

Mr. Speaker, on December 5, Bert will earn one more honor when he is presented with the 1991 Pepperdine University Private Enterprise Award. I ask my colleagues to join me in saluting him for his accomplishments to his community, and to our free enterprise system.

SOO LOCK SYSTEM

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LIPINSKI. Mr. Speaker, I rise today to introduce a bill to establish full Federal funding for the construction of a new shipping lock at Saulte Saint Marie, MI.

The Soo Lock system is a vital part of the infrastructure of the Great Lakes. At present two of the locks in the system are closed due to old age and a third is too small for most commercial vessels. This leaves only one lock with full operational capabilities. Should anything occur to shut down this lock, it would be a great blow to lake commerce and the security of the Nation.

The Army put the lock system on alert during the gulf war, and for good reason. The interstate and international shipments that go through the Soo locks effect tens of thousands of jobs. Any disruption of service could be dangerous. Construction of a new lock in place of the two older locks must begin as soon as possible.

I urge my colleagues to join me in this important effort.

GOLDEN GIRLS DRILL TEAM PRIDE OF MIAMI SUNSET SENIOR HIGH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Golden Girls Drill team of Miami Sunset Senior High School has received invitations to perform at the grand opening of Disney World in Paris, France, and at the opening ceremonies of the 1992 Summer Olympics in Barcelona, Spain. The drill team was one of only eight squads nationwide to be offered this wonderful opportunity to perform in these major events. The Golden Girls deserve applause for so distinguishing themselves among performance groups across our Nation.

The Miami Sunset Golden Girls is a select group of high school young women, 15 to 17 years old, who perform dance and drill-team programs for shows, parades, sporting events, and competitions. In 1978, the Golden Girls was formed as a complement to Miami Sunset marching band. Over the years it has become a highly skilled and rigorously trained group of dancers, whose list of accomplishments is extensive.

The Golden Girls schedule for this academic year is indicative of their first rate talent. Among the events at which the group will be performing are: the Super Star Drill Team Competition, the Super Bowl half-time show, and the Orange Bowl Parade.

It is a great honor for the Golden Girls to be invited to the 1992 Olympics in Barcelona and the grand opening of Disney World in Paris. the cost of bringing this south Florida talent to the world's stage is high, however. The Golden Girls of Miami Sunset have the talent and the discipline to make us proud in both Barcelona and Paris, but without adequate financial resources the trip will not be possible. I encourage the group in its effort to fundraise in the south Florida community. I am sure that with the generous support of the people of Dade County the trip will be a wonderful success.

Mr. Speaker, I commend the Golden Girls and its leader Carolyn Ellis for their impressive achievements. I would like to congratulate each of the Golden girls. They are: Maxine Williams, Martica Aguirregaviria, Elizabeth Baum, Brenda Quinones, Amber Askins, Tracy Leon, Lauren Dalrymple, Adriana Baldoquin, Wesley Boas, Anamaria Reyna, Leslie Williams, Vanessa Suarez, Heather Levine, Christina Hernandez, Denise Dominguez, Maggie Antich, Jessica Stubbs, Maida Perrin, Leah Stefan, Maureen Eichinger, Nicole Edwards, Adriana Cuervo, Jennifer Emmett, Lori Jackson, Danielle Perez, and Megan Russell. I wish them much success with their exciting performance schedule, and with their efforts to make us proud in Paris, France, and Barcelona, Spain.

HONORING PEARL HARBOR SERVICEMEN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to the brave servicemen who were stationed at Pearl Harbor, HI, on the fateful day of December 7, 1941, when the Japanese attacked our forces there and catapulted our Nation into the Second World War. We all certainly honor the memory of those who lost their lives during that attack and send out our thoughts and prayers to their families.

Mr. Speaker, the Pearl Harbor Commemorative Medal has been awarded to all service personnel who were on the Island of Oahu on December 7, 1941. I want to pay special tribute to those servicemen who reside or whose survivors reside in the 17th Congressional District of Pennsylvania, which I am proud to represent. Among these honorees are the following: Girton H. Henry, of Harrisburg, who served the United States Army; Morris V. Hoffman, of Williamsport, United States Navy; Robert W. Leidhecker, of Montoursville, United States Army; Joseph E. Poplaski, whose brother Daniel resides in Harrisburg, United States Army; Paul E. Shiley, whose brother Clyde resides in Lykens, United States Navy; and Frank J. Valania, whose widow Olga resides in Shamokin, United States Navy.

I know that families and friends of these servicemen are proud of their loved ones' actions in defense of our country. I ask all of my colleagues to join me in honoring the memory of those no longer with us and in wishing the best to those who are still with us. We will never forget where they were on that "day of infamy."

PROGRESS IN SOUTH AFRICA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PORTER. Mr. Speaker, this week representatives of the ruling National Party and the two largest black political organizations in South Africa—the African National Congress and Inkatha—agreed to meet on November 29 to begin making arrangements for a formal multiparty conference envisioned to be held on December 20 and 21. This conference would begin the process of negotiating a constitution that would dismantle the present political system there and extend full political rights to South Africa's black majority. This is a vital and fundamental step toward freedom and equality for all of South Africa's 35 million people and I commend all parties for their commitment to working together to reach a common goal.

To facilitate the adoption of a new constitution by national referendum, the South African Parliament will consider as early as February a bill that will extend universal voting rights in referenda to all South African citizens over the age of 18 regardless of race. This will be the first time that the principle of one man, one vote will be given formal recognition in South African law and will allow any agreements that arise out of the multiparty constitutional meetings to be put before the general electorate for approval.

In addition, the South African Law Commission, on November 3, released a draft bill of rights which included guarantees for freedom of speech and association, the right to dignity and equality, freedom of worship, freedom of movement, and which carefully detailed the rights of South Africans upon arrest. The ANC constitutional committee has produced its own draft bill of rights highlighting its priorities, including personal and political rights, worker's rights, gender rights, and economic rights. While the details of a final version of the bill of rights are important and must be carefully worked out between the representatives of all the people in South Africa, it is as important not to lose the broader message of recent actions. While details of the two drafts differ, they represent a beginning, a point where the sides can come together and begin to negotiate as equals partners seeking to make their country a better place to live.

This is the beginnings of democracy and freedom and it appears to be taking hold in South Africa.

NICARAGUA'S SECOND PINATA

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BEREUTER. Mr. Speaker, when the forces of democracy in Nicaragua won their resounding electoral victory in February of 1990, it seemed that that war-torn nation was moving away from civil strife and conflict. There was hope that the vicious cycle of war and killing had finally come to an end. As a member of the Carter Center election observer team for the Nicaraguan election, this Member can testify to the widespread hope for a peaceful future that was evident at the time.

It is becoming clear that their hope has not yet been achieved. The Sandinistas, who were repudiated at the polls, are seeking to thwart the will of the people through force of arms. Egged on by Daniel Ortega, gun-toting Sandinista thugs have brazenly assassinated legitimate labor leaders, and continue to threaten any who oppose them. Intimidation and violence have once again become the norm in Nicaragua.

Mr. Speaker, this body cannot continue to turn a blind eye to the completely intolerable behavior of Daniel Ortega and his Sandinista goon squads. The Sandinista behavior must be condemned loudly, for it poses a fundamental threat to the domestic tranquility of Nicaragua.

Mr. Speaker, this Member would point to an insightful article by William C. Doherty in the November 22, 1991 edition of the Wall Street Journal. Mr. Doherty, the Executive Director of the AFL–CIO's American Institute for Free Labor Development and an experienced and astute observer of the Latin American scene, correctly demands that the Nicaraguan government must take a firm stand against this lawless behavior. According to Mr. Doherty, "If the Nicaraguan Government refuses to take a stand, and fails to mobilize against the new pinata, how much longer can its friends abroad continue to give it support and sympathy?"

This Member commends this insightful but troubling article to his colleagues.

[From the Wall Street Journal, Nov. 22, 1991]

NICARAGUA'S SECOND PINATA

(By William C. Doherty)

In the early-morning darkness on Friday, Nov. 1, 240 sugar workers advanced on the barricaded gates of the German Pomares Sugar Mill near Chinandega, Nicaragua. Armed only with megaphones, their purpose was simple: They wanted to go to work.

Blocking their way was a small group of heavily armed Sandinista "trade unionists." The Sandinistas are demanding 100% ownership of the mill. They had forcibly taken over the government-owned enterprise in October and sacked the modest office of the independent Confederation of Trade Union Unity, or CUS. Along with another independent union, CUS represents the vast majority of the 2,300 factory workers at the mill and the cane cutters.

A number of CUS workers made it over the fence. One who did was Obdullo Herrera, who CUS members allege was immediately shot by Francisco Somoza, the general secretary of the Sandinista "trade union." As Mr. Herrera lay bleeding on the ground, CUS members say that another Sandinista leader, David Echeverri, stabbed him four times with a bayonet, nearly severing his head. In a kind of posthumous "necklacing," Mr. Herrera's body was placed on a burning tire and left on display for five hours.

Other CUS members were beaten and wounded in the bloody fracas. But when the police finally arrived at 9 a.m. they did not arrest the murderers. Instead, they arrested the organizers of the peaceful demonstration. The police, like the military, are still controlled by the Sandinistas nearly two years after the Nicaraguan people voted them out of office. The regional military commander, called a meeting at 2 p.m. to denounce the independent workers for causing the confrontation.

Subsequently, on orders from Carlos Hurtado, the minister of government, two Sandinistas were temporarily detained, but not the one who CUS members claim wielded the bayonet. CUS will seek prosecution of the killers, but the judicial system is also largely controlled by the Sandinistas.

The incident at German Pomares is one of many such Sandinista assaults on the integrity of Nicaragua. Following their defeat in the February 1990 election, the Sandinista commanders carried out the biggest, most rapid "privatization" in Nicaragua's history. State-owned enterprises, government vehicles, equipment, buildings and homes were grabbed by Sandinista leaders for their own use. Former President Daniel Ortega "purchased" a mansion owned by a Mexican woman for a tiny fraction of its market value. This wholesale looting came to be known as the *pinata*, named after the Mexican papiermache figures stuffed with candy and hung up at Christmastime as targets for blindfolded children wielding sticks. In this case, the Sandinistas were not blindfolded, and they wielded guns.

Officials of Sandinista-controlled trade unions supported this plunder in the name of "defending the gains of the revolution." Yet many lower-ranking Sandinistas were appalled at the unfairness of this. Now they have embarked on a second pinata of their own. Squads of Sandinista militants are forcibly acquiring the country's remaining assets. The large Igosa meatpacking plant in Rivas was taken over in September, along with the Amerrisque slaughterhouse in Juigalpa. Workers have been locked out of several sugar mills, and holdover Sandinista managers repress independent union organizations in the time-honored tradition of former dictator Anastasio Somoza.

Looming over this growing chaos are the two faces of Daniel Ortega. Three weeks ago he toured the country as *agent provocateur*, trying to unify Sandinista ranks by egging on the thugs in their armed pinata. This week he called for a "peaceful solution" to his own provocation, and, putting on his statesman's hat, negotiated yet another settlement with the government that rewards the Sandinista unions for their murderous rampage by giving them ownership of more of Nicaragua's dwindling assets. Meanwhile, the independent unions, which have called for genuine worker participation in ownership, are cut out of the process altogether.

Nicaraguan workers are fed up. Sometimes described incorrectly as "pro-government," CUS and other independent unions in an umbrella group called the Permanent Congress of Workers (CPT) are outraged by government inaction. On Nov. 13 the CPT stated, "We deplore and condemn the passivity of the highest authorities, civilian and military, who have shown tolerance and complicity with the crimes and terror of the Sandinistas." CUS leader Jose Espinoza, attending the AFL–CIO convention in Detroit, warned that if the authorities fail to respect the Nicaraguan Constitution and evict the Sandinista goon squads, "Nicaragua runs the risk of becoming another Lebanon."

Those of us who have admired and helped these courageous workers throughout their years of struggle against Anastasio Somoza and the Sandinistas are beginning to wonder: Where is the moral courage and strength of their government leaders, elected with so much hope by these same workers nearly two years ago? If the Nicaraguan government refuses to take a stand, and fails to mobilize against the new pinata, how much longer can its friends abroad continue to give it support and sympathy?

LINCOLN INTERFAITH COUNCIL OBSERVES 40TH ANNIVERSARY IN 1992

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BEREUTER. Mr. Speaker, the Lincoln Interfaith Council will observe its 40th anniversary in 1992. It is my pleasure to recognize the anniversary of organized ecumenical and interfaith work in Lincoln, NE, during the Lincoln Interfaith Council's 40th anniversary year. I commend to my colleagues the following commendation on this worthy organization:

COMMENDING THE LINCOLN INTERFAITH COUNCIL UPON THE OCCASION OF ITS 40TH ANNIVERSARY

1992 is a year of anniversaries and observances. Both the City of Lincoln and the State of Nebraska celebrate their 125th Anniversary. It is also the 40th Anniversary of organized ecumenical and interfaith cooperation and service in Lincoln, Nebraska—a year that will feature a Festival of Faith on September 19, 1992 at the Devaney Center where congregations and religious organizations will portray the richness of their unity midst their diversity as members of the Lincoln Interfaith Council.

62 Baha'i, Buddhist, Christian (16 denominations of Catholic, Protestant and Orthodox), Jewish, Unitarian-Universalist, and Unity congregations plus the Lincoln Church Women United and Helping Hands religious organizations comprised the membership of the Lincoln Interfaith Council at its November 1991 Annual Meeting. Founded in March 1989 as an interfaith organization, the Council traces its roots to the February 18, 1952 founding of the Lincoln Council of Churches.

The Lincoln Council of Churches was the successor of the Lincoln Ministerial Association and the Lincoln Council of Church Women. The purpose of the newly—organized Lincoln Council of Churches was "to promote the welfare, fellowship and cooperation of churches and to foster religious movements and community betterment."

The Lincoln Interfaith Council was established as "an organization of religious communities, each preserving its integrity and respecting the integrity of others, which pledge themselves to cooperation and to the continuation of activities and services which foster faith, justice, reconciliation and understanding among the people of Lincoln, Nebraska area." It carries out ministries and services in practical ways where cooperative work can be more effective than work done by individual congregations, and oftentimes more effectively than similar work done by public or private groups.

Through service in administering, coordinating and sponsoring programs for feeding the hungry, working with prisoners, sheltering the homeless and creating affordable housing, empowering families, preventing child abuse and alcohol/drug abuse, welcoming and empowering refugees and immigrants toward self-sufficiency, and helping the elderly and persons with disabilities, the Lincoln Interfaith Council and its predecessors help participating congregations to serve in effective and creative ways.

Over the years, the Council's Boards of Directors, delegates from member congregations and organizations, staff, and volunteers have responded to needs of the community by venturing into program service areas and advocacy concerns that others were either unwilling or unable to address.

In the 1960s, the Council initiated its first Festival of Faith observances; promoted the creation of a separate Juvenile Court within Lancaster County; conducted a Reformation Festival at Municipal Auditorium; established Lincoln's observance of the Week of Prayer for Christian Unity; started a Lay School of Theology; and shared in the establishment of an Interfaith Job Corps Lounge.

During the 1970s and 1980s, the Council worked with the Lincoln Indian Center in programming, technical advice, legal aid, and community relations as a result of a program begun as a follow-up of special services offered during the Wounded Knee Trials of 1975, when the Lincoln Committee of Concerned People was created by the Lincoln Fellowship of Churches. This Committee offered food, clothing, shelter and transportation to Native Americans in Lincoln for the Wounded Knee Trials.

Police and Fire Chaplaincy Corps were instituted during the period with the help of the Council, and a "Campus/Community Dialogue" was held in response to concerns over the apparent polarization of attitudes between students and the general community. A Coffee House Ministry was also initiated for senior high school students.

In 1973, the Emergency Food Pantry System was established city-wide by the Council. In the period 1987 thru 1990, there was an 85.6% increase in the number of persons seeking emergency food—and that figure continues to increase into 1991. Eleven congregationally based Pantries, operated by volunteers, prepare seven-day emergency food boxes for persons in crisis, who receive this food via 14 human service agencies throughout the County. The human service agencies assure case management services to families in crisis. Through the October 16, 1991 World Food Day Observance, 892,416 emergency meals have been served since the beginning of this ministry!

Emergency services not provided by public or private human service organizations and agencies oftentimes fall to the Council and its constituent congregations. Because Lincoln does not have a Traveller's Aide Society, in 1991 the Council established a Families-in-Crisis Emergency Fund to be jointly administered by the Council's Lincoln Urban Ministries and The Salvation Army. Founded in May 1983 as a separate organization, Lincoln Urban Ministries merged November 1990 with the Lincoln Interfaith Council.

Over the years, the Council has continued to nurture many worthwhile programs to become independent, self-sustaining agencies with nonprofit status, or otherwise "spun-off" from its creating source at the Council. The Council was the catalyst for the creation of an independent Lincoln Interfaith Housing Coalition in 1991 because of the work of its urban Ministries. This nonprofit housing group used federal funds to purchase and renovate two downtown hotels to be used for low-income people; the hotels had been scheduled for demolition.

Education has always been a major focus of the Council, from its Lay School of Theology in 1967 to the present Center for Spiritual Growth. Many forums, dialogues, conferences and workshops have been offered over the years.

In 1965, the Council was recognized by the National Association for the Advancement of Colored People "for all of the work, prayers and sacrifices made in helping them advance this far." Civil Rights has always been an item high on the Council's agenda of concerns.

In January 1990, the Ku KLux Klan made itself visible once again in Lincoln, with a recruiting campaign—and the Lincoln Interfaith Council was a prime mover in creating the Coalition Against Racism & Prejudice. The Council and C.A.A.P. sponsored the city's first Rev. Dr. Martin Luther King, Jr. Interfaith Worship Service in January 1991. In 1968, the Council had "joined Catholic and Jewish congregations in Memorial Services for Dr. King."

Lincoln is fast becoming a global village with the recent influx of refugees and immigrants, particularly the large numbers of Southeast Asians, Amerasians, and Russians. In 1991, the Council helped organize the Lincoln/Lancaster County Refugee Resettlement Task Force and initiated steps to establish Community Gardens to be planted and operated by refugees themselves as a step towards self-sufficiency.

Recognition that the global village and all of its inhabitants were created by God, the Council sponsors such events as the annual Mayor's Interfaith Prayer Breakfast, the Interfaith Passover Seder, a Holocaust Memorial Observance, World Food Day events and activities, and Delegate Assemblies at which special programs are offered to help us understand better our differences so that we might learn how we can work more effectively together for the common good of our community, nation and world.

As a poineering agency, the Council also creates models of ministry and service. Two such programs are joint ventures with other agencies: Partnership Empowerment Program originating in 1990 is a family-empowerment model co-sponsored with the Community Child Abuse Prevention Council; Communities of Hope focuses upon issues of alcohol and other drug abuse in conjuction with the Lincoln Council on Alcoholism & Drugs, Inc. Both are congregationally-based programs which empower clergy and laity in their work with these important community problems facing our families.

To assure the continuity of ecumenical and interfaith service to our community, the Lincoln Foundation has established the Lincoln Interfaith Council Endowment Fund. Funding for the Council's activities and services comes from the generous support of its member congregations and religious organizations, as well as individuals, businesses, corporations, civic groups, and foundations.

The congregations and religious organizations of our community represent an awesome potential for creative change, for harmonious cooperation, and for meeting human needs. A tragedy of our American religious life is that our congregational and interfaith separatedness and diversity sometime prevents much of that potential for good from being realized. Through the Lincoln Interfaith Council, the congregations and religious organizations which comprise its membership seek to realize that potential more fully. We aim to do together that which we could not do well separately. It is proper stewardship—and it makes common sense!

SOME OVERLOOKED YUGOSLAV TRAGEDIES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, surrounding the crisis and conflict which we see today in Yugoslavia are important, controversial, and interrelated issues such as the self-determination of peoples, the changing of borders, civilian control of the military and the actions a State may take to prevent its own breakup. As chairman of the Commission on Security and Cooperation in Europe—the Helsinki Commission—I have already addressed these issues extensively, including here on the floor of the House of Representatives.

Today, however, I do not want to address these issues, or to prescribe any particular scheme which I feel could provide a just and lasting solution to the crisis in Yugoslavia. Instead, I want to raise one aspect of the many personal tragedies being experienced by those individuals caught up in the crisis, if not the conflict itself.

Consider what is confronting the many young people in Yugoslavia—with their hopes and dreams for a bright future in what is supposed to be the most united, prosperous, democratic, and peaceful Europe ever—who are now suddenly being mobilized to fight in a conflict they do not want. Many of them have fled rather than be drafted into the Yugoslav military and taken to the battlefield. Ethnic Hungarians from Vojvodina and ethnic Albanians from Kosovo in particular want to avoid being sent to fight in Croatia; they do not view this as a conflict of their making or as serving their interests. Indeed, many young Serbs feel the same way. They know that the use of force is not the way to resolve differences, even in regard to what may be very legitimate concerns regarding the situation of Serbs in Croatia, just as they know wide-scale repression is not the way to address what may have been legitimate concerns regarding Kosovo.

Unfortunately, the authorities have attempted to silence through intimidation those who seek to act upon their rights to free expression and assembly to protest the Yugoslav Army's waging of war in Croatia. Recently, organizers of and participants in peaceful gatherings in Vojvodina and Kosovo faced official intimidation, harassment, and detention. Independent voices in Belgrade have also been harassed, and their officers vandalized. As one Belgrade-based opponent of the war recently said in a Financial Times article "We Are Threatened; Any Opposition to the War Is Tantamount to Treachery."

More specifically, the events in Vojvodina are a telling example of this problem. In early

November, Nenad Canak of Novi Sad and Janos Szabo of Ada, who have been publicly critical of the fighting in Croatia and the calling up of reservists, were both arrested, possibly because of the antiwar protests. Five others also face charges for being involved in a meeting protesting the conflict. Canak allegedly was informed that he was going to be called up for military service, and Szabo was reported to be undergoing medical treatment for a heart condition. I am extremely concerned about these individuals, whose only crime appears to have been their protest of the war in Croatia. In Kosovo, Albanians are reportedly taken right off the streets and put into service. Meanwhile, more and more young people regardless of their ethnic background are going to the front and being killed.

This, Mr. Speaker, is not to say that fault for the current crisis can only be found on one side. Croatia's record in regard to press freedoms and respect for other basic human rights has had its share of shortcomings as well. But today I wanted to focus on this one issue: the young people who are being sent to the front against their will to fight in this senseless, evil war. Their particular plight, often overlooked, can be added to the tragedy of the thousands who have died in the battle and the hundreds of thousands who have lost their homes and possessions. Their loss on the battlefield is the loss of youthful and eager talents that could have been put to much better use in the creation of a new era of democracy and prosperity in the Yugoslav republics and provinces.

For their sake, and for the sake of future generations, I therefore strongly urge that those officials in Yugoslavia who are responsible for the continuation of the conflict to bring the fighting to a complete halt now. Recourse to force as a means to achieve political ends has been condemned by the international community, including the participating states of the CSCE process, and its continued use can only bring greater diplomatic isolation and economic decline. I cannot see how this is in the interest of anyone involved.

CORRECTIONS TO COASTAL BARRIER RESOURCES SYSTEM

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. JONES of North Carolina. Mr. Speaker, today, I introduced a bill which directs the Secretary of the Interior to make minor and technical corrections to maps depicting the Coastal Barrier Resources System. Last year, the Coastal Barrier Improvement Act of 1990 was passed into law (Public Law 101-591). This act made several changes to the Coastal Barrier Resources Act to make it a more effective statute. Among these amendments was a provision to prohibit flood insurance coverage for otherwise protected areas. An otherwise protected area is an undeveloped coastal barrier within the boundaries of an area established under Federal, State, or local law, or held by a qualified conservation organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. These areas have subsequently been depicted in official maps, therefore prohibiting Federal flood insurance coverage.

We now find, however, that in establishing these otherwise protected areas, some privately owned lands have been included. This would not be a problem, except for the fact that when we passed the Coastal Barrier Improvement Act last year we failed to give the Secretary of the Interior the authority to make revisions to the otherwise protected areas. This essentially prohibits owners of lands that were inadvertently incorporated into this system from construction of improvements on otherwise buildable areas.

This is exactly what has happened in the town of Pine Knoll Shores in my district. In this town, privately owned lands were included in an otherwise protected area. A letter I received from the Hon. Kenneth A. Hanan, mayor of Pine Knoll Shores, reviews his futile attempts to have these private lands removed from the maps by the Department of the Interior. Although the Department of the Interior recognizes that these are private lands and are included in the system maps by error, it is powerless to correct this mistake. This was explained by an opinion issued by the Solicitor's Office of the Department of the Interior.

It is for dilemmas such as this one that I introduce this legislation today. The bill provides the Secretary of the Interior with the authority to make such minor and technical corrections in the maps of otherwise protected areas which are necessary to ensure their accurate depiction. This authority is extended for 1 year only, and is meant to provide for changes to reflect only errors which existed at the time of the enactment of the Coastal Barrier Improvement Act of 1990. This legislation will not allow for modifications to be made to reflect changes in the status of lands since the enactment of that act. This bill calls for the Secretary of the Interior to request recommendations for corrections from State and local governments and to respond to each recommendation as to whether or not it will be implemented. Finally, the bill requires the Secretary to submit a report and copies of the revised maps to the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

Mr. Speaker, this legislation is needed to correct an oversight in existing law.

TRIBUTE TO ROBERT B. CHATTERTON

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly fine individual from Midland Township in Michigan, Mr. Robert B. Chatterton.

Mr. Robert B. Chatterton, married to Charlotte Chatterton, has been the Midland township supervisor for the past 25 years. In that quarter century he has led the township through numerous changes, including incorporation. He helped the rural township grow into an economically viable community.

He was a driving force in the formation of Midland County's economic development plan and a leader in a community wastewater treatment project. Even today he is active in negotiations to contract with Midland City for water and sewer services.

For his swift and sure response in the flood of 1986 that hit Midland Township, including an excellent flood control project, Mr. Chatterton received one of four awards from the National Association of Towns and Townships. He is also a lifelong member of the Michigan Township Association.

Mr. Chatterton is retiring from his post on December 5, exactly 25 years after he accepted the position. He once said that he never thought about how long he would do this job but that he was "just a young guy who wanted to find out what was going on, but I've enjoyed every minute of it."

Robert Chatterton is truly an outstanding citizen. Mr. Speaker, I know that you will join with me in recognizing the efforts of this fine man on behalf of Midland Township. His presence will be missed.

HONORING THE CHANNEL CITY CLUB OF SANTA BARBARA, CA ON THE OCCASSION OF ITS 45TH ANNIVERSARY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to the tradition and membership of of the Channel City Club of Santa Barbara, CA. The club, established by the late Mr. Louis Lancaster in 1946, was founded in order to provide a nonpartisan community venue for distinguished speakers to engage in the free expression of ideas for which our country is admired and respected around the world.

In the course of its distinguished 45-year history, the Channel City Club has worked diligently to present over 1,000 speakers of national and international prominence. Presentations have been given under the auspices of the club from future and past Presidents of the United States, Senators, Governors, Ambassadors, and corporate leaders. At one point or another in their careers such public leaders as Hubert Humphrey, Richard Nixon, Jimmy Carter, and Ronald Reagan among others too numerous to mention have addressed the Channel City Club. As these speeches are very often covered by the local media, the activity of the Channel City Club has served to enlighten not only their membership but the local community as well.

It is my privilege and distinct pleasure to congratulate the Channel City Club for 45 years of outstanding public service in promoting the competition of ideas.

FLORIDA INTERNATIONAL UNIVERSITY ENCOURAGES YOUNG ENTREPRENEURS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ROS-LEHTINEN. Mr. Speaker, Florida International University [FIU] of south Florida recently held an Entrepreneurship Day event to encourage future innovators in business. The university has sought to incorporate the entrepreneurial spirit into studies and student life. Three months ago, Bradley Scheel and Michelle Toledano founded the Association of Collegiate Entrepreneurs at FIU. The Miami Herald published an article by staff writer, Bea Moss, drawing attention to the Entrepreneurship Day event and a spark of creativity on the FIU campus.

That article follows:

> Two good friends went separate ways after graduation from Sunset High School, but their similar business philosophies brought them together again.
>
> Now closer than ever, Bradley Scheel and Michelle Toledano, both of Kendall, have their sights set on being entrepreneurs.
>
> "You have to think in terms of 'what if I had to run a corporation.' It's more of an independent factor, not just geared to getting a job when you get out of college," said Scheel, a junior business student at Florida International University.
>
> To be an entrepreneur you take an idea or a concept and use it to support yourself, Toledano said. "It teaches you to be self sufficient," said the senior business student.
>
> Scheel is president and Toledano, vice president of the Association of Collegiate Entrepreneurs, which was founded three months ago at FIU.
>
> During Entrepreneurship Day today at FIU, Schell and Toledano will be hosts and ushers along with other members of the association.
>
> They will interact with some of Florida's most successful entrepreneurs, including H. Wayne Huizenga, Blockbuster Entertainment chairman; Richard Tobin, president of Strategy Research Corp., and Bill McFarland, chairman of McFarland and Driet Inc.
>
> These students have the right idea, said FIU professor Jan Luytjes.
>
> "Like many students who are strongly entrepreneur oriented, the kind of traditional approach to education is somehow not very challenging," said Luytjes, a 20-year management professor who teaches a course on entrepreneurship. "They look for opportunities outside of the regular curriculum."
>
> Scheel, who said he became bored with the lack of entrepreneurial action as a beginning university student, took time out at one point to earn a real estate license and buy and sell foreclosed real estate.
>
> He also went to California, hooked up with a friend's professional development seminars and started training corporate sales teams.
>
> Meanwhile, Toledano signed up for the entrepreneurship course at FIU's College of Business Administration and told Scheel about it.
>
> Finally, Scheel thought, a reason to return to Miami.
>
> And with Luytjes' guidance, the pair established the Association of Collegiate Entrepreneurs. More than 35 members have joined the three-month-old club.
>
> "This program is geared to do everything a young entrepreneur needs. It has networking, education on how to operate a business, inspiration and ideas," Scheel said.
>
> Toledano already has a working knowledge of what it takes to run a business. She began helping run her family's clothing manufacturing business after her parents were injured in a car accident.
>
> Scheel hopes that by the time he's out of school he'll have his own company. In 10 years he wants to own a company doing at least $100 million in sales.
>
> "We make a good team," Scheel said of his close friendship with Toledano. "We have the same goals in life."

Mr. Speaker, entrepreneurship is in some ways the new frontier in America. Through hard work and innovation, these men and women help bring resources and know-how together to create wealth and jobs. I commend the self-motivation of Bradley Schell and Michelle Toledano in forming the Association of Collegiate Entrepreneurs and wish them much success. I would also like to recognize FIU Professor Jan Luytjes. It is teachers like her who help students reach for the stars. Dr. Modesto Madique, FIU's president, should be noted for making that school a place where learning can happen and dreams can become a reality.

TRIBUTE TO PSI BEARINGS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor PSI Bearings located in Simi Valley, CA.

PSI was among seven companies selected from more than 3,800 suppliers in 31 nations to receive Boeing Commercial Airplane Group's highest honor, the President's Award for Excellence for "exemplifying the continuing quest for quality improvement and finding ways to build a better airplane."

PSI Bearings, an operation of Rexnord Corp., based in Simi Valley, is a supplier of slotted entry bearings. The firm was chosen because it demonstrated superior performance in on-schedule deliveries, cost and price control, customer service, and continuous quality improvement.

Mr. Speaker, PSI Bearings and its fine employees demonstrate the caliber of dedication and care that is essential in the workplace if America is to remain competitive in the world community. I ask my colleagues to join with me in congratulating PSI Bearings for this fine achievement.

PHILLIP LATINSKI HONORED AS "PRINCIPAL OF THE YEAR"

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KANJORSKI. Mr. Speaker, I rise today to honor Phillip Latinski for his being named "Principal of the Year" by the Council of Chief State School Officers and the National Association of Secondary School Principals.

As principal of Wilkes-Barre's G.A.R. Memorial High School, Mr. Latinski has guided and advised many young people as they continue their journey, through education, on their way to becoming young adults.

Being an educator is a challenging job and particularly so today. As budgets and programs get cut due to financial restraints, our principals and teachers have had to become more creative to accomplish their mission—and remarkably, they are doing a tremendous job with what little they do have.

For Mr. Latinski, his students always come first. He would do almost anything to help his students and often does. His friends and colleagues all agree that Phil deserves this award. They describe him as "one terrific guy" and see him as both a good friend and mentor.

Phillip Latinski has been an administrator at G.A.R. Memorial for more than 15 years and has been dedicated to excellence in education for many more years. His commitment to his students is obvious in his involvement in the school and his initiating programs to help his students socially, mentally, and physically such as SADD, the Science Olympiad, and the award-winning school band.

Phil has served as the past president of the Pennsylvania Secondary School Administrators and is a newly elected Wilkes-Barre city councilman.

I am pleased to honor Phillip Latinski today as "Principal of the Year." Our educators are outstanding individuals and they deserve this recognition of excellence and Philip Latinski is one of education's shining stars.

HOUSE CONCURRENT RESOLUTION 188

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SMITH of Florida. Mr. Speaker, I rise in support of House Concurrent Resolution 188, concerning freedom of emigration and travel for Syrian Jews.

The facts about Syrian Jewry are all too well known. Today, more than 4,000 Jews live in terror. They are prevented from emigrating and can leave Syria only at great risk to themselves and their families. The few Jews who are permitted to travel abroad are required to put up huge fees as guarantees for their return, and their families are held as de facto hostages.

Pity those who try to cross the borders without permission. Those who are caught are usually tortured, imprisoned, and killed. And the few who succeed live with the knowledge that their families will be arrested and tortured if their escape becomes known.

Syria is a police state, and the attentions of the secret police, the Mukhabarat, are especially focused on this small and harmless minority. Syrian Jews are subject to round-the-clock surveillance. Their telephone conversations are monitored. Their mail is opened and read. Their conversations with foreigners are routinely monitored. For more than 20 years, the world has made entreaties to the Syrian Government to let this people go. Yet all we have received is a stony silence.

Mr. Speaker, how is it that in this day and age, we are still talking about the detention of an entire community? This is state hostage taking. It is medieval and barbaric.

The democratic revolutions that have been bearing fruit throughout the world began with an increased awareness of human rights. When that consciousness-raising process began in the 1970's, Syrian Jews were oppressed. Now that the revolutions have run their course in every region, except the Arab world, Syrian Jews are still oppressed.

Syria's mistreatment of its Jewish community is an indictment of the Syrian regime, of its legitimacy, of its professions of moderation, of its pretensions to leadership and respectability. Syria's willingness to victimize Syrian Jews demonstrates the degree to which its president, Hafez al-Assad, is out of touch with the international trend toward democratization and human rights.

Mr. Speaker Syria cannot be considered a member of the civilized world so long as it oppresses Syrian Jews. Certainly, it cannot be a serious participant in the peace process until it permits the Jews to emigrate. Moreover, freedom for Syrian Jews must not be contingent upon the peace process. On the contrary, freedom for Syrian Jews is a prerequisite for a successful peace process. It will test and demonstrate Syria's intentions.

I am pleased to cosponsor House Concurrent Resolution 188 and I urge its unanimous adoption. We must send an unambiguous message to Damascus: the Congress of the United States will not forget the Jews of Syria. We will not permit the remnants of this great and ancient community to be prisoners, or ghettodwellers, or diplomatic pawns.

OVERTOWN ADVISORY BOARD SEEKS TO REVITALIZE INNER CITY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, a community revitalization effort is being launched by the Overtown Advisory Board [OAB] and the city of Miami. The OAB provides general leadership and planning expertise to community renewal and economic development in the Overtown district of Miami. The specific revitalization plan being launched is called the Overtown Action Program and will be led by a steering committee of business and civic leaders, as well as elected officials.

The Overtown Action Program will seek to encourage economic growth in three Overtown employment and service centers including: The Civic Center/Jackson Memorial Medical Center, and the Omni Mid-Town, and downtown Miami central business districts. The program works to address the problems of poverty, unemployment, substandard housing, drug abuse, and crime. Utilizing the strength of Overtown residents in a grassroots campaign, the OAB hopes to tackle these problems and revitalize the area.

The steering committee for the Overtown Action Program is a model of diversity. The private sector will be represented by the media, charitable organizations, financial institutions, construction businesses, and the Miami Chamber of Commerce. From local and State government, both elected and unelected officials will be represented to address housing, education, health care, transportation issues. The Overtown community itself will be represented by the neighborhood and tenant associations, property owners, and community-based development organizations.

Mr. Speaker, I commend the initiative taken by the Overtown Advisory Board and its newly formed steering committee for aggressively seeking urban renewal in Miami. The officers of the Overtown Advisory Board should be noted for their leadership. These include: president, Rev. John F. White; vice president, Donald F. Benjamin; secretary, Jacqui Colyer; treasurer, Cleomie Bloomfield, and financial secretary, Wihelmenia Jennings. I also want to recognize the willingness of Ira Clark, Mary Doyle, and Jay W. Weiss to serve as cochairs for the steering committee. I wish them much success.

INTRODUCING A NATIONAL SWEET POTATO RESEARCH PROGRAM

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. JONES of North Carolina. Mr. Speaker, I rise today to introduce legislation which will have an important and far-reaching effect upon the sweet potato industry in this country and will also prove beneficial to the American public who, as a result of this legislation, will in the future consume more nutritious and better grown sweet potatoes. The legislation I am introducing today would establish a national research program aimed at improving the production and marketing of sweet potatoes throughout this country. Also, the initiative would mandate that research be conducted to find ways in which sweet potato consumption and use by both domestic and foreign consumers can be increased. I think it is only proper to introduce this legislation today, just 2 days before Thanksgiving. For many Americans, sweet potatoes constitute an important part of the traditional Thanksgiving meal.

I realize that many of my colleagues wonder why I am introducing this legislation. My home State of North Carolina is widely known as a large producer of tobacco, peanuts, and poultry products. However, many of my friends on both sides of the aisle do not realize that North Carolina is the largest sweet potato producing state in this country. While my State is deeply involved in the sweet potato industry, I introduce this legislation to promote the consumption and improve the production of this nutritious and tasty commodity.

Mr. Speaker, the bill provides the authorization for research in six major areas. These include research to develop widely adaptable cultivars with improved disease and pest resistance; better environmentally compatible management technologies to control and combat diseases, nematodes, insects, and problem weeds; integrated crop management practices that successfully combine cultural and biological controls, environmentally rational chemical usage, and host resistance; improved technologies for more efficient harvesting, grading, and storage of sweet potatoes; better technology for the processing of sweet potatoes for traditional and nontraditional food products; and the identification of ways to increase sweet potato consumption and uses here in the United States and abroad.

The research mandated by this legislation will be implemented by the Agricultural Research Service through land-grant colleges and institutions all across the country. As you know, the Agricultural Research Service already has the expertise and personnel to implement such a research program. I am sure that with the help of our nation's land-grant colleges and universities, this program will prove successful and will improve the quality, marketing, and promotion of an already extraordinary agricultural product. While there are some costs associated with this legislation, they are minimal and justified when one considers the vast benefits that will be derived from this research program by the general public, the agricultural community both here in this country and abroad, and the sweet potato industry. I wholeheartedly urge my colleagues to support this legislative initiative which I feel will prove vital to promoting the domestic and foreign use of a nutritious and tasteful American agricultural product. Thank you, Mr. Speaker, for allowing me to introduce this legislation and I would urge all of my colleagues to review it closely and support it in the future.

BOARD OF REALTORS OF CAMDEN COUNTY CELEBRATE 75TH ANNIVERSARY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, I would like to congratulate the Board of Realtors of Camden County, NJ, on its 75th anniversary.

Founded in 1916 by a group of 14 farsighted men, the board now represents some 1,500 commercial, industrial, investment, and residential real estate professionals countywide, an is a member of the National Association of Realtors, the Nation's largest trade association.

Members of the Camden County Board of Realtors subscribe to a strict code of ethics. The board serves its members with educational programming, legislative and industry support, networking opportunities, and a public relations program. Annually, the board and its members provide service to the community through special projects and fund raising efforts, as well as the ongoing development and support of Challenge Grove, a special county park facility designed for the physically challenged.

BEWARE OF THE WELFARE KINGS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of New York. Mr. Speaker, welfare is always a hot political issue in America. Often it is a cover for racist demagoguery. Most Americans don't realize that the overwhelming majority of the people on welfare are white. More than two-thirds of the persons on welfare are also children. Mention welfare, however, and the most primitive prejudices rise to the surface. Part of the reason for this misdirected anger by the taxpayers is that political leaders have failed to explain Federal subsidy distributions to all segments of the society. Through defense contracts the rich have always gotten the lion's share of the Federal dollar. As the cold war ends the rich have ripped off the second largest Federal expenditure, the banking bailouts to cover money that has been stolen and mismanaged. Before it all ends, the savings and loan association doles will cost more than $500 billion. Recently the House voted to place the commercial banks on the public dole starting with $70 billion. I voted against this welfare for the banks. Welfare queens are a favorite target for exaggeration and ridicule; however, I only hear kind and gentle talk about these banking welfare kings. The pennies some welfare queens might have stolen were a nuisance and they deserved punishment for sabotaging the integrity of a system designed to help those in greatest need. The billions of dollars that the banking welfare kings have stolen have set off a chain reaction that may destroy the economy of the country. These scoundrels deserve exposure and comparable punishment. David Duke and the other demagogues who crusade against welfare should focus their sights correctly and go after the banking welfare kings. An alert for America is provided in the following rap poem:

BEWARE OF THE WELFARE KINGS

Bankers on the dole
David Duke
Come play your role
Welfare for the rich
Is a public policy bitch.
70 billion
Down the drain
Leaves the homeless
In the rain.
Not the Queens but Welfare Kings
Had extravagant gourmet flings
70 billion
For the banks
Not a word
Of humble thanks
Crooked swindlers
Bear no pain
All the White House
Is insane.
Let the private sector strut
March us deeper
Down the rut
Not the Queens but Welfare Kings
Reign arrogantly supreme
Protected by hi-tech tanks
In their plush too-big-to-fail banks.
David Duke
Your aim is wrong
Time to sing
A smarter song
Welfare for the rich
Is the public policy bitch.

VOICES OF THE COMMUNITY TALK ABOUT CRIME

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, as I have mentioned in the past, a number of thoughtful articles recently appeared in the Prince George's Journal concerning the increasing murder and crime rate in our community. I would like at this point to include the text of two articles written for this series by local residents, Lisa Weathers of Fort Washington and Joanne Sales, formerly of Hyattsville.

RELIGHT "FLAME OF HOPE" FOR CHILDREN

(By Lisa Weathers)

The numbers seem to change as quickly as those on my car's odometer. And along the way, television news provides the visual images: the grief-stricken children and siblings of victims; sobbing mothers; pall bearers barely old or strong enough to lift a casket; baffled politicians and clergy at a loss to explain the demise of a generation that should have been our bridge to the future.

As frightening as they are, the numbers of murders in Prince George's County do not begin to hint at the loss they represent.

There is the loss of human potential, of talent and giftedness, of contributions to society these individuals might have made, had they taken a different road. There is the loss of relationships between the victim and his family. And what about the loss of innocence among children who live daily with the sounds of gunfire and ambulance sirens?

The carnage doesn't end there. What happens to the murderers? If caught, they further strain the seams of our judicial and penal systems. If not, they go on to wreak more havoc.

But more horrifying than all of this is the fact that as a society, we are unwilling to invest our resources in efforts to prevent 1992—and 1993 and 1994—from becoming even bigger record setters. We would rather build more prisons than invest in programs that prevent juvenile delinquency.

A murder seldom just happens. It is the explosive culmination of a series of life events that pose the most intense of emotions to be dealt with: powerlessness, frustration, anger, low self-esteem.

A murderer turned playwright once described on network television how it had taken a full seven years for him to realize the magnitude of his crime. He was unable, he said, to see value in another human life because he had seen no value in his own. And so he was, it seems, a ticking time bomb, just waiting for the right opportunity to explode.

Our record number of murders is proof of what is happening in the lives of our young people.

What is happening? Children are getting their values from television, videos, movies and the street corner rather than their parents and community leaders. Too often, television and idle mischief fill the hours when children should be listened to, challenged intellectually, read to and talked to. As parents we are often too preoccupied with the rat race to hear the ticking in our children.

Then there are the schools, where often the main priority is just keeping order. A parent told me recently how she told the principal of her child's high school how concerned she was about the child's failing grades. The principal brushed her off by telling her she had nothing to be concerned about because her child was not on his "list" of kids who had behavior problems. Apparently, he could hear the ticking in those on his list, but failed to recognize the importance of preventing academic failure.

If there is anything positive to be gained from reading the gruesome statistics of the day, it is the knowledge that we are not powerless.

When and where do we start? Right now, right there and right here.

At home, with the kid next door or down the street. We begin by caring, and listening and talking about ways to deal with those emotional rivers we must all somehow cross. We begin by providing positive outlets, and by providing opportunities for children to discover early that they are too talented and special to be wasted on a sidewalk.

It is never too early to start, but, all too often, it can be too late.

FINDING RELIEF FROM VIOLENCE

(By JoAnne Sales)

I grew up on Ager Road in Hyattsville when it was a narrow, country road, and when my husband and children and I moved back to Ager Road in 1981, the neighborhood had already seen many changes.

I wasn't afraid of change. But I became afraid.

When a body was found face down in the creek where my sons played, I was afraid. When a neighbor boy buying bubblegum got caught in the middle of gunfire, I was afraid. When we heard machinegun fire and screams just over the creek, and three people died, I was afraid.

What was it like to live there, settled in an old farmhouse between three large apartment complexes where drugs and violence had become a greater plague than roaches?

Well, my family unintentionally fell into a pattern in which we practically took shifts staying awake during the night. We never left the house unattended. Even with young children, I never went to the park without the safety of numbers. "Don't walk in the woods," a 7-year-old girl told me. "Too many people get raped in the woods." And, I was angry all the time.

We loved our old house, but by 1987 we knew we would rather live in a teepee than live in fear and anger any longer. In 1989 we sold the house and moved out.

After six months of searching for a home, we woke up one morning in a house in the rain. When I went out to the store I experienced culture shock. Strangers smiled and talked to each other. Drivers waved and took turns at stop signs, people were respectful and helpful on the phone.

Where am I? I wondered. It was Portland, Ore. At night, I had nightmares that I would have to "go back." But in the daytime, I smiled so much in the grocery stores that people kept offering me jobs. It was such a relief to look at a stranger and realize, "That person does not want to kill me. That person has no desire to knock my head in with a brick." After a few months of decompression, I even came to believe that these people wished me well.

Until you have lived in violence, you don't know how the violence clings to your skin like dark mist; you breathe it into your heart like poison gas. The violence becomes a part of your self-image and it shadows your best intentions.

For years, I had been part of the group that hung on in the old neighborhood and said, "Don't leave. Don't chicken out." Finally, I realized it was too big for me. I'd rather stop fighting and start raising chickens.

So now we raise chickens and never lock our doors. I don't even carry a door key on my key ring. My kids roam free and I know they are safe. The most annoying crimes are illegal dumping and mailbox bashing. For the moment, we feel safe.

Still, I wake in the night in fear of that shadow of crime. Life is being devalued. The sickening murder rate is only the ugly face of a huge network of violence and indifference.

Changes have to come from the top. Money has to come out of the defense budget and back into education and rebuilding spaces where life can flourish. We need to stop protecting the rich and the ethic of greed, and realize that democracy can only exist where the vast majority of the population is educated, economically self-sufficient, and appreciated.

But changes also have to come from the bottom. One day, on Ager Road, a 9-year-old girl carried her limp little sister Niki to me. "Her eyes keep rolling up in her head," she said. Niki was almost dead from pneumonia. Her mother was never home.

The children who wandered over to our old house on Ager Road were starving: emotionally, intellectually, and even nutritionally. They were trying to find their way virtually alone. I watched too many of these children go the way of poor role models, on television and on the street. Into violence.

Almost always, when I meet children in Oregon, I know somebody stands behind them. These children may be no more valuable, but they are more valued—as all children should be.

The whole society is involved in this. We need to rewrite our reasons for living.

CASTRO'S MOB VIOLENCE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, once again, Castro's tyrannical regime has demonstrated its total lack of respect and complete disavowal of human rights for the Cuban people.

Days ago, a gang of 200 people attacked a Cuban woman whose only crime has been to express a position contrary to those espoused officially by the regime.

Elena Cruz Vareda and six other persons were taken to a police station after being brutally attacked by these mobile gangs guided by Castro's regime.

We denounce this new aggression as a barbaric manifestation of official violence that the Cuban people are subjected to.

A TRIBUTE TO MAJ. EDMUND B. ANDERSON

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. VANDER JAGT. Mr. Speaker, I rise today to pay tribute to a man who embodied the American spirit, lived the American dream, and taught the American ideal.

Maj. Edmund B. Anderson, of Savannah, GA, was not familiar in the halls of our Nation's Capitol, but his spirit, his life, and his teachings have done more to build upon the foundation of America's greatness than many of the laws and resolutions which this body has enacted over the years.

President Bush said in his recent State of the Union Address, "The State of the government may be determined by those of us here in this chamber, but the State of America will be determined by all Americans, everywhere." Ted Anderson is one of those Americans who dedicated his entire life to making sure that the State of America was, and will forever, remain as strong as the mighty oak.

As a young man, Ted Anderson asked of a country in trouble, "What can I do to help?", and answered the call of his Nation by enlisting in the Army Air Corp. He was a common man of uncommon courage in the North African and European campaigns of World War II. He was a man who saw first hand the horror of war, the iron fist of tyranny, and the dark days of despair that gripped an uncertain world.

Throughout the battles of that war, Ted Anderson was one of the courageous American aviators who kept the flickering flame of freedom alive for us here at home, and for the occupied nations of Europe abroad. He risked his life countless times, not for his own glory, but so that his fellow man and generations yet unborn could continue to enjoy the fruits of liberty. Thanks to brave men like Ted Anderson, the American spirit never wavered and America remained the land of the free.

When he came home from that war, Ted Anderson never bragged about his achievements, and was soon again defending freedom over the choppy waters of the Pacific and in the jungles of Asia in the Korean war. In the decades that have since passed, few knew that in his 22 years of military service Major Anderson had received many of the Nation's top military honors. Among his many decorations, he was awarded the Distingushed Flying Cross, the Bronze Star, the Air Force Commendation Medal, and the Air Medal with 13 oak clusters, each one signifying additional heroic acts in defense of freedom.

After his service in two wars, Ted knew that this defense of freedom was not over. The post-war era brought a new threat to peace as an iron curtain descended across Europe, and communism threatened all that we Americans hold dear.

So Ted continued to serve his country in the Air Force and became one of the pioneers of the Strategic Air Command, established to guard America's freedom in those volatile postwar years.

But throughout his life, Ted Anderson's contribution to the greatness of America was not limited to the cockpit of a fighter jet or the flight deck of a B–52.

Throughout his entire adult life, Ted Anderson not only dedicated himself to serve his country, but also to serve his God and his fellow man.

And throughout those years the core from which his good works radiated was his special family, anchored by his bride of 46 years, Nadine. Together they raised six wonderful children: Maris, Nadine, Laurie, Paula, Ted, and Maggie. And today each one of those grown children is a tribute to the love, the values, and the ideals that were instilled into each of them by two wonderful parents.

But the Anderson example was not limited to the circle of the immediate family. Theirs was a house that was always open to strangers in need, a home filled with enough love to always take in one more. For years Dan Ailes has been a part of the extended Anderson family, and now today he carries on the examples taught by Ted and Nadine as he teaches young children.

Teaching was always important part of Ted Anderson's life, and his dedicated service to the Boy Scouts taught countless young men how to do their duty to their God and their Country, to help other people at all times. As a scoutmaster and a friend, his guiding hand helped steer many a young man down the path of adolescence and onto the road of an adult life filled with service to God, to country, and to fellow man.

Ted's influence was not just limited to Troop 16 and the boys he counseled. As a dedicated servant of St. James Catholic Church and the Benedictine Military School he had the opportunity to impact upon lifes thousands of young men and women.

What a fitting tribute it was to the example of Ted's life that upon his death this week Benedictine Military School dismissed classes and the Senior Corp of Cadets lined the aisle of St. James Church in a final tribute to a man who always was willing to give so much to others. Indeed, he may be gone from us, but the thousands of young men and women he influenced over the years ensures that his spirit will remain with us, and his values and ideals will continue to make America strong for many years to come.

Ted Anderson was a man who was fiercely proud of his nation and of his Scotish heritage. As the president of the Clan Anderson Society he was the embodiment of the international symbol of the Clan, the Mighty Oak surrounded by the words, "Stand Sure". Throughout his life, the faith of Ted Anderson in his country, his God and in his fellow man never wavered. whatever the crisis, Ted Anderson would remain as solid as the Mighty Oak, he would always "Stand Sure."

His death last week reminds me of an inscription to the Scotish Highlanders who were killed in the Battle of Magersfontein in South Africa, in 1899. That inscription reads: "Scotland is poorer in men, but richer in heros." Today, America is poorer in men but richer in heros for the quiet, yet heroic way in which Ted Anderson lived his life.

Ted was a man for whom the words freedom and democracy were not cliches, they were living truths. To him, the American flag was much more than a piece of cloth that fluttered atop our buildings. To Ted Anderson, the American flag was a reminder of the struggles endured by our Nation so that future generations could continue to enjoy the blessings of liberty. To Ted Anderson, that flag was the symbol of the freedom and democracy he had dedicated his life to preserving.

And I think that it was very fitting that upon his death a flag from this very building was lowered in his honor and sent to his family as a small remembrance for a man who never forgot what it means to be an American.

And for Ted Anderson, his association with this Capitol building goes back a long time. In 1866 the 39th Congress paid tribute to his ancestor, Charles F. Anderson, for preparing the plans and drawings for the extensions of the Capitol that resulted in the construction of our current House and Senate Chambers. How fitting it was that a flag which flew over the Chambers designed by his ancestor would accompany Ted to his final resting place.

Today we mourn Ted Anderson's death, but we are grateful for his life. At the end of his funeral mass the family shared a poem that was written by a 19-year-old pilot in World War II and served as a creed for American pilots all over the world. The poem "High Flight" describes the life of a pilot.

Oh, I've slipped the surly bonds of earth,
And danced the skies on laughter-silvered wings;
Sunward I've climbed and joined the tumbling mirth
Of sun-split clouds—and done a hundred things
You have not dreamed of—wheeled and soared and swung
High in the sunlit silence. Hov'ring there
I've chased the shouting wind along and flung
My eager craft through footless halls of air.
Up, up the long delirious burning blue
I've topped the wind-swept heights with easy grace,
Where never lark, or even eagle, flew;
And, while with silent, lifting mind I've trod
The high untrespassed sanctity of space,
But out my hand, and touched the face of God.

Major Ted Anderson has now slipped the surly bonds of earth to touch the face of God, but his time and service here will long be remembered.

Perhaps the Air Force Honor Guard summed it up best when they presented Nadine with the folded American flag at the end of his funeral service: "On behalf of the President of the United States and a grateful nation, we offer our humble thanks and deep sympathy on your loss." The honor guard then rendered this special man one long, final salute.

PROVIDING TELEPHONE COMMUNICATIONS BETWEEN UNITED STATES AND VIETNAM

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WOLF. Mr. Speaker, reaching out and touching someone in Vietnam has become a black-market commodity, illegally putting $1 million into the Vietnamese Government's coffers.

I have learned recently that dozens of small, black-market phone companies with names like FarEast Express Co., Viba Telecom Network Inc., and Dynasty Co. are charging ripoff rates for Americans to speak to their loved ones in Vietnam. The money lines the pockets of these black-market operators and the Vietnamese Government, which receives tribute from the black marketeers for allowing their monopoly.

Imagine for a moment that you wanted to make an overseas call to your family. But in order to do so, you had to first send your family mail telling them to be at a particular telephone at a particular time.

Then you had to send a large money order to a post office box in a third country. A black-market operator would then call you and patch your call through to your relative—if you were lucky enough to avoid dealing with a fly-by-night operator, who just cashed your check and disappeared.

That is what many in my district and across America are currently forced to do in order to speak to their loved ones in Vietnam.

I rise to redress this injustice, and to introduce a companion measure to legislation introduced by Virginia Senator CHARLES ROBB in the other body which would permit direct telephone service between the United States and Vietnam. This legislation serves the humanitarian purpose of allowing these people to legally and directly telephone their relatives using any U.S. long-distance carrier and be charged a reasonable and fair amount in the process.

This legislation would simply legalize direct phone service to Vietnam; revenues generated from the resulting phone service must be deposited in a United States-controlled escrow account, preventing Vietnam from collecting any of the funds subject to the discretion of the administration.

The legislation would prohibit the Vietnamese Government from receiving any of that money, and thus effectively tightens the economic embargo on the current government of Vietnam. At the same time, by allowing phone service to exist on a legal basis, the cost to the caller is dramatically reduced.

This bill would be of great humanitarian service to the Vietnamese-American population in this country and not effectively change the conditions set by the administration for lifting the embargo and normalizing relations with Vietnam. I welcome the support of my colleagues as cosponsors of this legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LICENSING TELEPHONE COMMUNICATIONS BETWEEN THE UNITED STATES AND VIETNAM.

(a) Approval of License.—Notwithstanding any other provision of law or regulation, pursuant to the Trading With the Enemy Act (50 App. U.S.C. 1 et seq.), the President shall approve application for a license to authorize the receipt and transmission of direct telephonic communications between the United States and Vietnam.

(b) AUTHORIZATION FOR TRANSFERS TO BLOCKED ACCOUNTS.—(1) Any payment or transfer of credit arising out of communications licensed under subsection (a) is authorized to be made to a newly created blocked account held by Vietnam or a national thereof in a banking institution in the United States.

(2) This subsection does not authorize any withdrawal or transfer of any funds or credit out of that blocked account.

(c) DEFINITION.—For purposes of this Act, the term "blocked account" means an account containing funds with respect to which transactions are prohibited pursuant to section 500.201 of title 31, Code of Federal Regulations.

PROJECT REACH OUT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, it is with great pride that I bring to your attention the results of an ambitious effort by the public television network in the great State of Maryland.

On Thursday evening, September 5, citizens of Maryland responded overwhelmingly to the call from Maryland Public Television [MPT] for volunteers for public service. During a live 3-hour event broadcast on the statewide network, callers pledged 896,843 hours of voluntarism to regional schools, libraries, and educational programs during the 1991–92 school year.

Project Reach Out, now in its fourth year, asks viewers of MPT to donate their time—not their money—for educational programs throughout the region. The project's goal is to bolster the number of volunteers and volunteer hours to respond to community needs in schools and libraries for educational tutoring, job-skill mentoring and literacy programs, as well as a myraid of other assistance opportunities.

Now, more than ever, as schools and municipalities struggle with limited resources, the need for volunteers takes on even greater significance.

This year's Project Reach Out total hours pledged increased more than 300 percent over last year's results, which then exceeded 295,000 hours. The live event was broadcast from MPT studios in Owings Mills from 8 to 11 p.m. and simulcast by commercial partners WJZ–TV/13 [Baltimore] from 8 to 9 p.m. and WJLA–TV/7 [Washington] from 9 to 10 p.m.

This year's special guest, Emmy Award-winning performer Ben Vereen joined Gov. William Donald Schaefer, Senator BARBARA MIKULSKI and others to encourage viewers to call the studio phone bank and pledge volunteer time to schools, libraries, and United Way-sponsored education programs throughout the region.

MPT first launched Project Reach Out in 1988 in an effort to use television to its fullest potential by reporting a need to thousands of viewers and offering to them the challenge to meet that need. And the people of Maryland responded terrifically.

The response was so positive that MPT has repeated Project Reach Out each year since with results that continue to double and triple.

Project Reach Out highlights Maryland Public Television's strong commitment to community service and educational excellence throughout the region and encourages new and continued volunteer participation in the many educational programs around the State that probably could not exist without volunteer support.

This year, for the first time, the public library systems of Maryland, Washington, DC, and northern Virginia joined with MPT for Project Reach Out. Approximately 260 libraries throughout the region were represented in this effort.

This example by MPT demonstrates how public television stations, working within their local communities, can help citizens find solutions to problems and become catalysts for positive change.

I applaud Maryland Public Television for this most worthwhile initiative, and urge my colleagues to consider recommending this kind of campaign in their own States.

DEDICATION OF SCHOOL PLAYGROUND AT COLLINGSWOOD'S TATEM ELEMENTARY SCHOOL

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, I would like to bring my colleagues' attention to a milestone event which took place Friday, November 22, in the borough of Collingswood, NJ.

In one sense, what took place at Collingswood's Tatem Elementary School was a purely local celebration like hundreds of others which occur around this country everyday: the dedication of a new school playground.

But what made this event nationally significant was that the people of Collingswood now have the country's first playground constructed primarily from recycled plastic. How this came to pass is a story as interesting as the playground itself.

As this Congress continues to grapple with our country's solid waste crisis, we recognize that, as a matter of Federal policy, we must do whatever we can to encourage the creation of economically viable, self-sustaining end-markets for recycled plastic and other commodities. Collingswood and its corporate supporter, Lever Brothers Co., together have shown that these markets can be developed, and that what we need are creative and dedicated individuals to help realize their potential.

I would also like to add to the record an article from the Philadelphia Inquirer.

[From the Philadelphia Inquirer]

PLASTIC PLAYGROUND: COLLINGSWOOD SCHOOL'S USE OF RECYCLABLES REALLY SWINGS

(By Alison F. Orenstein)

When most people look at empty plastic bottles, they think, "Trash." When students at Tatem Elementary School in Collingswood see empty plastic containers, they think, "Playground."

And rightfully so, because starting very soon they will be able to climb on and slide down what used to be, among other things, milk jugs and laundry detergent containers.

Tomorrow, officials from the Collingswood School District will unveil the first playground in the region, and possibly the first in the country, constructed primarily from recycled materials, according to school officials.

"I'm looking forward to it," said Tatem principal Joseph Sambuco last week while the project was still under construction.

The playground, in a roundabout way, is the result of a sixth-grade project from the spring of 1990.

The students had proposed a plastics recycling program to commemorate the 20th anniversary of Earth Day. With cooperation from other schools in the district and help from the district administration, they quickly raised enough money from their recycling efforts to purchase trees and plant them around all of Collingswood's public schools.

They also unwittingly planted the seed of an idea in the mind of Karen Jones, a member of the school's Parent-Teacher Association.

School officials and the PTA had been looking for a new playground to replace the outdated and rusty play set in back of the Tatem school.

With recycled plastic fresh on her mind, Jones began writing letters to companies involved in plastics recycling. She wanted to know if the Tatem school could get a playground made of recycled plastic.

In May 1991, Lever Bros. Ltd., based in New York City, makers of such products as Wisk detergent and Snuggle fabric softener, replied that they were not only interested but would supervise and help fund the project.

Lever Bros. gave the school $10,000, and the PTA was able to raise $14,000 more, enough to cover the cost of the proposed playground.

Help also came from other sources. Area companies, responding to Jones' letters, donated items such as park benches and a swing set, as well as the foundation materials. The Borough of Collingswood installed signs for the playground.

Lever Bros. brought in Playworld, a playground manufacturer in New Berlin, PA. ARW Polywood of Lima, Ohio, was chosen to supply the building materials—including an artificial lumber, made of recycled plastic.

Together the companies created a playground in which the foundation and structure are made primarily of recycled products.

The finished product includes a spiral slide and a straight slide, a horizontal ladder, bubbles to look through, tick-tack-toe walls, and several decks for students to climb on, according to site manager John Miller.

The foundation is made of a fabric called Fibar—which will hold the playground materials in place while allowing water to pass through—as well as stones that were taken from a demolition site and wood chips, which Miller says is for cushioning falls.

The plastic lumber is reinforced with a metal core. Other parts of the playground, such as slides, are made of new plastic that Miller says is easier to mold and holds its shape longer.

In all, Miller estimates that 95 percent of the playground is made of recycled materials.

Project manager Ted Grove, an engineer with Playworld, estimates that the playground can last as long as 25 years, versus 15 years for a wood playground.

"It's really been a combined effort, everybody's really doing their part to get things done," said Maria Langan, a spokeswoman for Lever Bros.

"What Lever Bros. is hoping," said Sambuco, "is to make it a model playground, and Collingswood a model community to show industry, government and schools working together to make a positive change for the environment."

COMMEMORATING THE ANNIVERSARY OF THE 26TH AMENDMENT TO THE CONSTITUTION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to include in the RECORD a statement by Mr. Edmond Bonnette, commemorating the anniversary of the 26th amendment to the Constitution:

18 YEAR OLD SUFFRAGE LONG A COMING

(By Edmund J. Bonnette, former chairman, L.U.V.-18 Committee, New Jersey)

The 26th Amendment to the U.S. Constitution lowering the voting age from 21 years to 18 years, holds the record for the speediest ratification of an amendment to the U.S. Constitution.

The whole process took just 3 months and 7 days. It was virtually a new speed record of wheels of bureaucracy. The nearest approach to that was achieved in 1804 when the 12th Amendment, requiring separate electoral college ballots for President and Vice-President, was ratified in 6 months and 6 days.

The ratification process for most amendments last a year or more. It took three and a half years to get the Federal Income Tax Amendment ratified.

The amendment most closely resembling the voting age issue was the 19th, extending the franchise to women. It took 1 year and 2 months to be ratified.

With the speed by which the 18 Year Old Amendment was passed, one might conclude that the 26th Amendment had great popular support and that it happened overnight. It didn't and was long a coming.

When the George H. Gallup public opinion poll first surveyed on this subject in 1939, only 17% voted in favor. By 1942 when Senator Jennings Randolph (D-W.V.), then a Representative, introduced the first resolution for 18 Year Old Suffrage, support for it only increased minimally. Georgia in 1943 and Kentucky in 1955, agreed to make citizens eligible to vote at the age of 18. When Gallup polled in July, 1953, 63% of persons 21 and older expressed support.

However, when the issue was placed before the voters, 12 states voted on and rejected proposals since 1952 to lower their voting ages.

When Alaska and Hawaii were granted Statehood in 1959 the minimum age for voting was set at 19 in the Constitution for Alaska and 20 for Hawaii.

Fully two thirds or 8 of those defeated referendums came in 1968 or later. The results were close in some states and overwhelming in others. South Dakota was 2 to 1 against the vote for 18 year olds in 1958. Its neighboring states of Nebraska and North Dakota opposed the vote for 19 year olds by margins of only 51% to 49%, 10 years later. Our effort in New Jersey tallied 60-40 against an 18 year old voting in 1969. Ohio that same year voted 50.5% to 49.5% against the vote for 19 year olds. In May 1970, during the campus unrest over the bombing of Cambodia, 62% of the Oregon voters opposed granting the vote to 19 years olds. Voter annoyance with student demonstrations was regarded as an important factor in the rejections.

After our 18 year old vote referendum was soundly defeated in New Jersey our "L.U.V.-18 Committee" (Let us Vote 18) and another student group called the "Voting Age Coalitation" determined to keep the issue alive, began lobbying the State Legislature for a new referendum seeking the enfranchisement of 19 and 20 year olds. (In New Jersey, direct petition referendums is not permitted and once the 18 year old issue was defeated we would have to wait 3 years to put it on the ballot again.)

While we in New Jersey were redirecting our campaign effort to the 19 year old vote, thousands of youthful activists around the country were brandishing petitions, ringing doorbells and buttonholing Legislators in a crusade to enfranchise approximately 12 million 18 to 20 year olds. In Florida a Tallahassee student organization formed calling itself "V.O.T.E." (Voter Opportunities to Eighteen year olds). In Michigan "Committee of Total Citizenship." A Massachusetts committee labeled itself "18 x 72" (lower the voting age to 18 by 1972.) In California "I.N.V.O.L.V.E." (Independent Volunteer for Vote Extension) sought half a million signatures to put the question on the ballot there.

In May, while Oregon voters were defeating their 19 year old question, the New Jersey State Senate passed a reolution 33-0, to put the 19 year old question on the ballot. Just 2 days later on May 14, 1970, despite the reluctance and open opposition of the powerful House Speaker William K. Dickey (R-Camden), the Assembly, at the 11th hour approved the ballot question 54-6. A day later and the question would have had to wait until the following year as a public question must clear the Legislature at least 90 days before an election.

Both major parties in the State lined up behind the question as did the AFL-CIO, NAACP and other influential groups. Gallup's poll once again showed 58% of voting adults favored the lower voting age. However, the most important poll of all, that at the ballot box, proved the pollsters wrong again. "Kidlash" (the word for reaction against student demonstrators and young activists in political campaigns) won out again.

In the meantime, the 1965 Voting Rights Act, which enfranchised over 800,000 southern blacks that had been denied the vote by poll taxes, English literacy and property ownership, was being voted on for a 5 year extension. Undaunted over defeat of the 1969 and 1970 referendums in New Jersey, our focus turned to Washington, D.C. and the new 1970 Voting Rights Act.

Our contention was that if 18 year olds were permitted to vote in Federal elections in Georgia and Kentucky, and Alaska and Hawaii had voters under age 21 then we in New Jersey and other states not afforded that same privilege were not receiving the same equal protection of the U.S. Constitution. We were being taxed by the Federal Government, sent off to fight in foreign lands, yet denied the right to participate in the selection of that Government.

With much lobbying in Washington and despite staunch opposition from 81 year old Emanuel Cellar (D-N.Y.), the powerful Senator James O. Eastland (D.-Miss.), we found champions for our cause in Senators Edward M. (Ted) Kennedy (D-Mass) and Birch Bayh (D-Ind). They, finding real merit in our argument, sponsored an Amendment to the 1970 Voting Rights Bill making 18 year old eligibility a part of that bill. After years of defeat and stonewalls, it finally appeared that our dream was becoming reality.

The Amendment passed and went on to be signed into law by President Richard M. Nixon. While Nixon signed the law, he preferred the lowering of the voting age to be done by Constitutional Amendment and asked the Supreme Court to rule on the legislation.

Since the Supreme Court had ruled in 1959 in the so-called "Lassiter" case on the basic power of the States to set qualifications for their voters and the High Court had upheld States' authority to establish such voters qualifications, we felt we were once again facing the prospects of having our hopes dashed.

A Constitutional Amendment requiring approval of two-thirds of the Senate and House, and three-quarters of the States, looked like an impossible task in light of the many defeats we suffered attempting to amend State Constitutions. It didn't look good. However, The Supreme Court surprised us all.

In reconsidering their 1959 ruling, the high court ruled that Congress had the power to set the voting age for Presidential and Congressional elections, but could not do so for State, County and Local elections without changing the Constitution.

In August of 1970, New Jersey's Governor William Cahill instructed county election officials throughout the state to preregister all youths who turn 18 before January 1971, so New Jersey would be in compliance with the new Federal Voting Rights Act. The unofficial feeling among county election officials was that they would register the new voters then hold the records until the constitutionality of the 18 year old vote law was tested. The High Court ruling still left them unsure as to how to proceed.

Confusion created by the Supreme Court's decisions actually spurred the movement to giving 18 year olds the right to vote across the ballot. The prospect of having to establish two sets of voting records, printing two kinds of ballots and the tremendous task and expense of providing separate voting machines for Federal and State Elections created a virtual stampede to ratify the 26th Amendment to the U.S. Constitution.

New Jersey after twice defeating 18 and 19 year old referendums in 1969 and 1970, became the 23rd State to ratify the Amendment.

Three months and 7 days after Congress proposed the Amendment, on March 23, 1971, Ohio's Senate rushed to beat Oklahoma for the honor of being the 38th State to put it over the top, though just 2 short years before they defeated an amendment to their State Constitution to lower the age for voters to 19. (Five other states approved it that same day.)

On this 20th Anniversary of the implementation of the 26th Amendment. I look on with pride as my daughters Melanie (18) and Desiree (19) cast their votes this November 5th. I realize that not all young people are participating, however, those that are genuinely interested in the well being of this great country of ours as well as their own futures and the security of their families, now have a right and a responsibility to participate in this great representative democracy.

INFORMATION SERVICES DEBATE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OXLEY. Mr. Speaker, there has been much debate already on the issue of Bell Co. entry into the information services business. Undoubtedly, this debate will continue during 1992. This new line of business for the Bell companies will provide the American consumer with more telecommunications choices and opportunities in the future.

At this point, I would like to insert in the CONGRESSIONAL RECORD a letter from Secretary of Commerce Mosbacher to Telecommunications and Finance Subcommittee Chairman ED MARKEY recommending a veto of H.R. 3515 if it is sent to the President in its current form.

THE SECRETARY OF COMMERCE,
Washington, DC, November 18, 1991.

Hon. EDWARD J. MARKEY,
Chairman, Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the views of the Department of Commerce on the "Telecommunications Act of 1991" (H.R. 3515). This legislation establishes a series of detailed restrictive rules governing Bell Company entry into information services. Accordingly, if the bill as currently drafted were presented to the President, I would recommend that he veto it.

As you know, the information services restriction of the AT&T Consent Decree was recently terminated in court proceedings, freeing the Bell Companies to enter the information services market. H.R. 3515 would, in effect, reverse substantial parts of the court's decision by establishing a number of preconditions on a Bell Company's provision of information services in its service area. Included among the preconditions is the presence of local exchange competition in the service area, based upon numerical formulae contained in the legislation. The immediate and, in our view, unwarranted effect of these threshold conditions would be to prohibit Bell Company entry into the information services market for the foreseeable future.

The Department of Justice has argued, and the courts have now ruled, that preconditions and restrictions of the type proposed by H.R. 3515 are not necessary as a matter of antitrust policy to allow the Bell Companies to offer information services. The Department of Commerce has reached similar conclusions on communications policy grounds in its recent Infrastructure Report: "Telecommunications in the Age of Information." While promotion of local exchange competition has merit, the overall approach of the bill is unduly restrictive with respect to Bell Company participation in information services.

Moreover, regulatory safeguards on Bell Company provision of information services are already in place. Regulatory safeguards aimed at preserving competition and preventing unlawful cross-subsidies are in place at the Federal Communications Commission, designed to ensure that the Bell Companies' unregulated businesses are appropriately separated from their regulated services. State regulatory agencies also maintain substantial oversight over the local exchange operations of the Bell companies. About three-fourths of the Bell Companies' telephone exchange services are regulated by the states. Thus, state regulation further reduces the need for extensive, restrictive measures such as those proposed in H.R. 3515. Legislatively mandating detailed safeguards can prove inflexible over time as conditions change. Therefore, the Department opposes these provisions of the bill as well.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of these views.

Sincerely,

ROBERT A. MOSBACHER.

LATIN BUSINESS AND PROFESSIONAL WOMEN CHOOSE WOMAN OF THE YEAR

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Latin Business and Professional Women held its 18th annual banquet on Tuesday, November 19. At the event, the women's group announced its choice for Woman of the Year from among six nominated. All six Hispanic women nominated for the award has shown leadership and service to the community. Also recognized was Lourdes Aguila, who received the Lifetime Achievement award for her work with the La Liga Contra el Cancer. The Miami Herald brought attention to this event in an article which follows:

Six women have been nominated for this year's Woman of the Year Award from the Latin Business and Professional Women.

The award, given by the organization in recognition of merit and achievement of a Hispanic woman in the community, will be presented to the winner at the group's 18th annual banquet at 6:30 p.m. Tuesday at the Rusty Pelican Restaurant.

The 1991 nominees are: Alicia Baro, West Miami, executive vice president of the Kendar Companies; Olga Connor, Southwest Dade, executive assistant for Health and Rehabilitative Services; Barbara A. Ibarra, Coral Gables, vice president and director of the Human Resources department of Citibank; Elba Pisano, Fontainebleau, executive director of the National Hispanic Commission for Bone Marrow Transplant; Carmen Portela, South Miami, president of Hands in Action/*Manos en Accion* and Bettina Rodriguez-Aguilera, Kensington Park area, administrative assistant for the Consumer Services Department of Dade County.

During the banquet, AT&T, sponsor of the event, will present the second annual Lifetime Achievement Award to Lourdes Aguila of Coral Gables, general coordinator of *La Liga Contra el Cancer*. She was selected for her volunteer service during the past 13 years.

The women's group also will present the 1991 Employer of the Year Award and a special award will be given to Herb Levin, vice president of WQBA Radio for his support of women in broadcasting.

Tickets are $45 for members, $50 for nonmembers. Proceeds will benefit a scholarship fund and *La Liga Contra el Cancer*. For tickets or more information, call Noemi Ricalo or Beatriz Junco at 856-7474 between 9 a.m. and 6 p.m.

Mr. Speaker, this article preceded the event and I have since been informed of the outcome of the annual banquet, which was a wonderful success. I wish to congratulate Carmen Portela who was chosen as Woman of the Year. I also want to recognize the other nominees, Alicia Baro, Olga Connor, Barbara A. Ibarra, Elba Pisano. Lourdes Aguila also deserves recognition for her lifetime commitment to service. The collective contribution of these women to the south Florida community has been significant. I encourage these women and the members of the Latin Business and Professional Women to continue their good work.

OBSERVING THE 10TH ANNIVERSARY OF THE GAY MEN'S HEALTH CRISIS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GREEN of New York. Mr. Speaker, January 4, 1992, will mark the 10th anniversary of the founding in New York City of the Gay Men's Health Crisis [GMHC], the first organization founded to help people with AIDS. During the 10 years of its existence, I have worked with GMHC and have much admiration for the excellent work it does. Because Gay Men's Health Crisis has set the standard for other AIDS organizations that provide services to people with AIDS, I should like to bring to the attention of my colleagues GMHC's valiant work of the past decade.

On that day in 1982, six gay men—Larry Kramer, Nathan Fain, Larry Mass, Paul Popham, Paul Rapoport, and Edmund White—gathered together and took upon themselves the task of helping other gay men who were dying from a disease that had no name. Although there were 400 cases in 1981 of what we now know as AIDS, it had not sparked a public outcry and hardly any information was available.

In a true grassroots tradition those men used the resources at hand to help their friends: Their address books and those of their friends, card tables outside gay discos to raise money, a volunteer's personal answering service to serve as a hot line. During the first night of operation the hot line received 100 calls. The calls ran the gamut from requests for information about AIDS and how to prevent it, to frightened calls from people with the disease who were languishing in hospitals because hospital personnel were too afraid to enter the rooms of AIDS patients. Volunteers manned the hotlines and did whatever they could to provide information, assistance and comfort to those who needed it.

We are now 10 years down the road and have seen he number of people with AIDS go from 400 in 1981 to 171,000 in 1991. Great strides have been made over those 10 years: we know the disease is caused by the human immunodeficiency virus, which respects no boundaries of sexual preference, race, class, gender, age or ethnicity; we now have treatments for people who are HIV-positive that will delay their developing full-blown AIDS; and we know how HIV is and is not transmitted.

Despite these advances a cure has not yet been found, discrimination against people with AIDS still exists, education efforts have been hamstrung by congressional language barring funding of educational materials that "encourage or promote" homosexual activity, and many people lose their jobs and/or their health coverage when they reveal their HIV-positive status.

So much more needs to be done in the struggle against AIDS and GMHC is still at the forefront of that struggle. GMHC provides to people with AIDS a wide range of needed services: emotional and practical support, representation in court, assistance in resolving problems with health care delivery, financial assistance, nutrition and recreation programs. While the name Gay Men's Health Crisis harkens back to its origins as an organization created to address a disease that was then affecting almost exclusively gay men, as the disease has progressed to all groups of people GMHC has opened its doors to all people with AIDS be they gay or straight, African-American, Hispanic, Asian or white, women, men and children.

I commend Gay Men's Health Crisis and its executive director Timothy Sweeney for their leadership and tireless commitment to the fight against AIDS. I should especially like to thank the many GMHC volunteers who help carry the burden of so many people who suffer from AIDS. There is much that we can learn from GMHC about addressing the AIDS crisis in a rational and compassionate manner. I should ask that we in Congress follow their example and dedicate as many resources as possible to bring about an end to the AIDS epidemic.

AN EFFECTIVE AUTOMOTIVE TRADE POLICY TOWARD JAPAN

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LAFALCE. Mr. Speaker, on November 14, I chaired a hearing of the Small Business Committee which confirmed my worst fears about United States automotive trade with Japan. Last year, the United States automotive trade deficit with Japan was an enormous $31 billion, which comprised 28 percent of the total United States trade deficit. And current projections indicate that the automotive trade deficit with Japan is not expected to improve any time soon.

I have been involved in the issue of United States automotive trade with Japan for the past decade. In 1983, I chaired hearings of the Economic Stabilization Subcommittee concerning voluntary restraint agreements on the import of Japanese cars. In 1987 and again 2 weeks ago I chaired hearings of the Small Business Committee on the U.S. auto parts industry. Each time I visit the issue I find that problem continues unabated despite U.S. trade policies designed to address the issue and despite other changes in the international economic landscape. The automotive trade deficit has persisted despite a 50 percent drop in the value of the dollar against the yen since 1985, despite voluntary restraint agreements on Japanese imports during the past decade, and despite the transplant to the United States of the production of millions of cars in recent years.

Last year Japanese auto imports accounted for 18.5 percent of the United States auto market, and the so-called "transplant" vehicles—cars produced in the United States by Japanese-affiliated automakers—accounted for another 11.6 percent of the United States market. In total, then, 30.1 percent of the cars sold in the United States last year were built by Japanese automakers, and if we eliminate fleet sales, the Japanese share rises to an incredible 48 percent.

It is no mystery why this problem exists. The United States has given Japanese automakers access to the enormous United States auto market, and Japan has not reciprocated. We can no longer stand idly by and watch high-paying U.S. jobs go overseas.

In contrast to the ineffective United States automotive trade policy, the European Community has dealt with the problem of Japanese auto imports in a relatively straightforward and effective way. Recently, they negotiated an agreement with Japan limiting Japanese car imports to 10.1 percent of the European market. Given that, I am today introducing a bill which will limit Japanese automobile imports to no more than 10.1 percent of the United States car market. This is a bill designed to ensure that we are treated equally with regard to international automotive trade. If 10.1 percent is satisfactory in the European market, it should be satisfactory here as well. And if the administration won't demand equal treatment, Congress should.

I am not a protectionist when it comes to international trade. I think that such an approach is ultimately self-defeating. But neither do I think that we can ignore reality and sacrifice tens of thousands of good American jobs on the altar of "free trade." That fact is that if the United States fails to respond, then the recent agreement to limit Japanese car exports to Europe will inevitably push the problem across the Atlantic. The Japanese auto industry has essentially two targeted auto markets. The largest is Europe, with over 300 million consumers and an expanding economy. The second is the United States, with 250 million people. If the Japanese cannot sell their cars in the bigger market, they will be forced instead to ship to North America, further hurting our already depressed domestic auto industry.

My bill is very simple, Mr. Speaker. It limits Japanese automobile imports to no more than 10.1 percent of total United States automobile sales. If it had been in effect last year, it would have reduced the number of Japanese auto imports by nearly 50 percent, from 1.7 million to 0.9 million. The bill also includes a sunset provision under which the U.S. quotas would cease after 3 years, absent further legislation. This will give us an opportunity to reassess our policy in light of any changes in Japanese and European policy over the interim period.

This legislation directly addresses the problem of automobiles manufactured in Japan and imported into the United States. But there is a related issue that we will have to come to grips with in the future—the problem of United States trade in auto parts with Japan. The United States auto parts trade balance with Japan is dismal. Last year, our deficit was $10 billions, and a recent University of Michigan study projected that our deficit could more than double by 1994 to $22 billion—if nothing is done. The source of this trade imbalance, as indicated in the recent Small Business Committee hearing on the issue, is a systematic tendency by Japanese automakers, including the transplants, to buy from Japanese auto parts suppliers rather than United States suppliers. For the U.S. suppliers, over 80 percent of which are small businesses, the result has been devastating.

When Michael Farren, Under Secretary for International Trade at the Commerce Department, testified before the Small Business Committee earlier this month, he reflected on past United States discussions with the Japanese regarding auto parts trade. He said that

"* * * in 1986, we were told by the Government of Japan that we needed to be patient and to wait for United States auto parts to be designed into Japanese vehicles, a process which can take several years. Well, its now 1991 and we have been patient. Not enough United States auto parts are being utilized in Japanes vehicles, despite significant efforts by the the United States auto parts industry and the administration."

Mr. Speaker, my patience has been worn out on the whole issue of United States automotive trade with Japan. Continued negotiations are not enough. The United States helped to rebuild Japan and Western Europe after World War II. It is unfortunate that now they take actions which will benefit their own economies at the expense of U.S. workers. I would urge you and all of our colleagues to join me in support of legislation to end this discrimination against our Nation and one of our most important industries. The text of my bill follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON IMPORTATION OF MOTOR VEHICLES THAT ARE PRODUCTS OF JAPAN

(a) IN GENERAL.—In each of the fiscal years 1993, 1994, and 1995, the total number of motor vehicles that are products of Japan that may be entered into the United States may not exceed the number that is determined by the Secretary to represent 10.1 percent of the total number of new motor vehicles sold in the United States during the preceding fiscal year.

(b) DEFINITIONS.—For purposes of this Act—

(1) The term "motor vehicle" means any article of a type described in heading 8703 of the Harmonized Tariff Schedule of the United States.

(2) The term "Secretary" means the Secretary of Commerce.

OPERATION FOOD SHARE SAVES LEFTOVER FOOD FOR THE HUNGRY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HALL of Ohio. Mr. Speaker, I would like to call to the attention of my colleagues the outstanding efforts of Bruce and DeNeal Feldman, owners of Economy Linen and Towel Service of Dayton, OH. The Feldmans are founders of Operation Food Share, an innovative program to salvage unused, leftover food from restaurants and food service providers for donation to the hungry.

My involvement with Economy Linen began as a result of my role as chairman of the Select Committee on Hunger. For many years, I was aware that tremendous amounts of food were being thrown away by restaurants and other food providers—food that is prepared, yet not served—in the course of a normal business day.

In August 1988, in cooperation with the Emergency Food Bank of the Dayton Chapter of the American Red Cross, I arranged for a refrigerated truck to pick up surplus food from several area restaurants for distribution to local low-income feeding programs and soup kitchens. While the project was saving nutritious food from being thrown in the trash can, I soon realized that the cost of paying a driver and renting a truck was almost as much as the value of the food being salvaged. We needed a new approach to solve this problem.

While I was discussing the problem on a program on Dayton's WHIO radio, Bruce Feldman, president of Economy Linen and Towel Service, heard me and got in touch with me to explain his idea.

Economy Linen leases linens and other textiles to restaurants, hotels, hospitals, and other establishments which prepare food, so the company regularly makes pick-ups and deliveries. Since the company's trucks were going to the restaurants anyway, Mr. Feldman proposed that he pick up the extra food and deliver it to our local food bank, where it could be distributed to food pantries and emergency shelters.

In May 1990, Economy Linen, the Emergency Food Bank, and I kicked off "Operation Food Share," the first organized effort in the country to utilize private industry to save perishable food for distribution to the hungry.

Under Operation Food Share, the Emergency Food Bank provides sanitized, insulated containers to donors who fill them with unused food. Economy Linen personnel, when making their regular clean linen deliveries, accept the food and replace the containers with new ones. All food is placed in large coolers located inside the Economy Linen trucks.

At the end of each day, the Economy Linen trucks deliver the food to the Emergency Food Bank, which distributes it to soup kitchens and feeding programs.

Operation Food Share solves the problem of transportation. It is the missing link between the restaurant donor who does not want to throw away this perfectly good food, and the many hungry people in this country who need to eat. It is also an economical and large-scale approach to the problem. Many food banks accept donations of prepared food from restaurants. However, most of these programs have high administrative costs due to paying for a refrigerated truck, insurance, and hiring staff. The Operation Food Share concept is distinctive because of its low cost and use of existing transportation networks.

To date, more than 40,000 pounds of food has been saved and distributed to Dayton-area low-income feeding programs through the successful implementation of Operation Food Share. This is food that would have ended up in the trash can. Moreover, Economy Linen's employees feel like they are making a difference by performing this service during their working day.

All across the United States today, food is being thrown away, food that should be going to our hungry people. An estimated 137 million tons worth $31 billion is wasted each year. Hunger relief workers from around the country are applauding Economy Linen's initiative.

The Feldman family is actively promoting Operation Food Share to other members of the Textile Rental Services Association [TRSA], the trade association for the textile rental industry. Members of TRSA have more than 30,000 trucks on the road nationwide every day. The line supply industry could save millions of pounds of food that normally would go to waste and could feed our Nation's hungry in the process.

Soon, Operation Food Share will kick off a program in our Nation's Capital. I plan to be there along with the cosponsors, Linens of the Week, a D.C.-based linen supplier, and the D.C. Central Kitchen. I look forward to the success of this program and I hope that it will pave the way to expand the concept in other cities.

Hunger is one of our most solvable problems. We have the means to feed our country's poor. Hunger will ultimately be solved through the efforts of individuals doing their part to reduce hunger. The Feldmans and Economy Linen and Towel Service are doing their part through the Operation Food Share and are the inspiration for what may be a new, nationwide approach to reducing hunger.

SUPPORT FOR THE UNIVERSAL HEALTH COVERAGE ACT OF 1991

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWIFT. Mr. Speaker, today our colleague from Wisconsin, DAVID OBEY, has introduced legislation which offers another approach to the continuing debate on health care reform. I am pleased to be an original cosponsor of the Universal Health Coverage Act of 1991. Simply put, the legislation seeks to move health care reform along by setting deadlines—that is, by January 1, 1994 every State in our Nation must have in place a health care system which will provide basic coverage for every person in that State.

Each State would have considerable flexibility in coming up with their own health plan as long as it provides basic health care services and meets minimum Federal standards. As such, those States that wish to pursue a single-payor plan can do so. Other States may wish to tackle the health care problem by implementing a "pay or play" plan for employers—States are free to choose that option as well.

The Department of Health and Human Services [HHS] would then take the next 3 years to evaluate the different State plans. Then in 1997, the Secretary of HHS would identify the foremost State models and make a recommendation as to whether universal health care coverage would be best administered at the State or Federal level.

I applaud DAVE OBEY's efforts to move this very important issue along. In my own State of Washington, State Representative Dennis Braddock was able to pass legislation which would provide universal acute and long-term care for Washington State citizens only to have it die in the State Senate. The Universal Health Coverage Act of 1991 would encourage State legislatures—not just in Washington State but all over the country—to actively participate in addressing this problem.

The fact that there are over 74 million Americans who are either underinsured or completely uninsured is a national disgrace and a downright crime. We can no longer sit around while millions of children go without proper immunization and preventive health care. Our senior citizens who have worked so hard for so many years deserve to have long-term care. And as young families are forced to put off care—minor illnesses become major—and the costs for care dramatically increase.

The Universal Health Coverage Act of 1991 is one of the health care reform proposals that I have cosponsored. I have also cosponsored H.R. 1300 which was introduced by Representative MARTY RUSSO and would provide universal health care coverage through a single-payor plan. I am supporting a number of proposals that will contribute to the debate and help establish a sound program. I firmly believe that we need a comprehensive approach to health care reform. And while the President has acknowledged that health care is on the minds of the American people, he has yet to put forward a legislative proposal which will address this critical situation. President Bush is apparently unwilling to provide any leadership on health care whatsoever. It is clear the American people need something other than a "take better care of yourself" attitude out of the administration.

We need to give serious thought to how much health care we want, can afford, and how this should be delivered. The present system of rationing health care—basically by how much can be afforded by those without health insurance—needs to be acknowledged and changed. I believe that all people deserve basic health care at a price they can afford. It may be that the final package will include bits and pieces of a number of different approaches. I sincerely hope that we can make meaningful progress on this most imminent and challenging problem.

H.R. 3341

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STOKES. Mr. Speaker, I rise in support of H.R. 3341 and strongly endorse its objective of easing the honoraria ban for lower paid employees throughout the Federal Government. I commend the gentleman from Texas [Mr. BROOKS] and the gentleman from Massachusetts [Mr. FRANK] for their hard work and sound judgment in crafting this useful legislation.

Mr. Speaker, I had the privilege of serving on the House Bipartisan Task Force on Ethics in the 101st Congress. The task force recommended that honoraria be banned. At the time, we were concerned with efforts by special interests to influence Members of Congress and other senior officials. The task force was not presented with any evidence suggesting abuses by lower level employees who wrote or spoke on matters unrelated to their official duties.

The bill being considered today would not ease restrictions on Members of Congress or other very senior noncareer officials. Instead, it would allow only lower paid staff—the making less than the executive level 5 rate of pay—to get paid for speaking or writing. Even then, safeguards and additional disclosure requirements have been included in the bill to avoid conflicts with official responsibilities.

Mr. Speaker, the Committee on Standards of Official Conduct, which I chair, is given responsibility under H.R. 3341 to interpret and apply its provisions in the House. The legislation amends the honoraria restrictions included in title 5 of the Ethics in Government Act, but does not make similar changes to provisions of House Rules—notably rule 43, clause 5, and rule 47, clauses 1 and 3—that also ban receipt of honoraria.

While the House clearly has the authority to establish rules with restrictions that go beyond the law, I do not understand that to be the intent in this instance. I understand that the intent of this legislation is to ease the ban on speaking, writing, and appearing by lower level employees of all branches when there is no conflict of interest. I expect that the Rules of the House will be modified accordingly at an appropriate time after enactment of H.R. 3341. Until that occurs, in view of the expressed intent of this bill, the Committee on Standards of Official Conduct would treat the most recently enacted legislation as controlling.

DADE'S COMMUNITY NEWSPAPERS SERVES AREA'S NEIGHBORHOODS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to recognize Miami's Community Newspapers which has been serving the Miami area since 1958 as an independent voice for metropolitan Dade County's communities.

The Community Newspapers was founded by Ron Miller in 1963, based on an earlier paper started in 1958 by James Martin of South Miami and Homestead. After a personal loss, in 1982, Ron Miller leased the Community Newspapers, the newspaper's names, the building, the newspapers presses, and furnishings to his two sons, Michael and Grant Miller. Since that time, Michael Miller has served as the editor, and Grant Miller has served as the publisher.

Originally, the Community Newspapers was published nine times a year. It has gradually increased over the years to become 14 different newspapers. Each one has a complete staff of reporters and photographers, and a professional editor. Altogether the Community Newspapers publishes three times a week, 34 editions a week, with a staff of close to 50 people.

The Community Newspapers' many different editions covers metropolitan Miami's neighborhoods. They include the South Dade News, the South Miami News, the Coral Gables News, the South West News, the Homestead-Florida City News, the Kendall News, the North Miami Beach News, the Miami Shores News, the North Miami News, the Hialeah-Miami Springs News, the Carol City-Opa Locka News, the Miami Beach News, the North Bay Village News, and the Aventura News.

Ron Miller said recently that his newspaper's employees had made an enormous investment in time, effort, and skills to provide a free and independent newspaper voice which would help express the voices of the people of the Miami area. The Community Newspapers is widely distributed at newspaper racks throughout the Miami area. It will publish press releases from many community groups who find it difficult to get publicity from large media.

I would like to take this opportunity to thank Ron Miller, his two sons, Michael and Grant, and the staff of the Community Newspapers for providing this much needed service to the people of the Dade County area.

PROGRESS AND PROBLEMS FOR THE TURKISH MINORITY IN GREECE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, while much attention is presently focused on ethnic upheavals in the Balkans, age-old friction between Greek and Turkish inhabitants of western Thrace persists largely unnoticed. And while tensions between these 2 communities infrequently erupt in violence and into the headlines, the problems confronting the approximately 100,000 ethnic Turks in Greece, and the Greek Government's response, strike at the heart of minority rights issues and should be addressed.

Mr. Speaker, difficulties in resolving problems confronting the Turkish minority are compounded by the rocky historical relationship between Greece and Turkey. The rights of both Turks in Greece and Greeks in Turkey are protected by terms of the 1923 Treaty of Lausanne; however, both communities often claim these rights are violated. Other contentious issues, such as Cyprus and Aegean mineral rights, sustain high levels of tension between the two nations and ethnic groups, making it more difficult to constructively address minority rights issues.

Human rights organizations and the staff of the Commission on Security and Cooperation in Europe, of which I am chairman, have identified a number of problem areas confronting the Turkish minority in western Thrace. Until recently, the Greek Government refused to even recognize the distinct Turkish minority, referring to them instead as Greek Muslims. This practice is reminiscent of another country, Bulgaria, which until the last days of Communist rule, refused to recognize its own Turkish minority, referring to them as Slavs forcibly converted to Islam.

A major source of discord concerns the appointment of Turkish religious leaders by Greek officials. When Turks attempted to elect and install their own Mufti, the Greek Government refused to recognize his authority and appointed a replacement over objections of the Turkish community. Other problems involve a shortage of adequate educational facilities for Turkish students and difficulties in obtaining Turkish language textbooks. Greek language requirements for minority students have also led to sharp declines in secondary school enrollment of Turkish children. Certain administrative regulations have made it difficult, if not impossible, for Turks to buy land and property, obtain commercial licenses and loans, repair or build mosques and schools, and obtain employment in state sectors. Members of the Turkish minority also complain that television signals from Turkey are jammed and that newspapers and literature from Turkey are often seized. On several occasions, editors of Turkish papers in Greece have been taken to court for printing articles critical of the Greek Government or its policies toward the Turkish minority. Numerous reports of police harassment and mistreatment have also been voiced by members of the Turkish community.

Two Turkish members of the Greek Parliament and leading advocates of Turkish minority rights, including Dr. Sadik Ahmet who met with the Commission last June, have also faced harassment, detention, and have had their Parliamentary immunity challenged in court. In 1990, while seeking election to Parliament, they were arrested, charged, and later convicted for openly or indirectly inciting citizens to violence or creating rifts among the population at the expense of social peace. They spent 64 days in jail for making reference to Turkish minority rights in campaign literature. While Dr. Ahmet and another Turkish minority member still remain in Parliament, the latest Greek electoral law mandates that independent candidates receive 3 percent of the nationwide vote. Turkish candidates running independently of major Greek political parties will almost certainly fail to be elected in the future as the population of Muslim voters is well below the 3-percent threshold.

Mr. Speaker, while serious problems facing the Turkish minority in Greece remain, the Commission is encouraged by significant improvements in the situation. Last May, while on a tour of western Thrace, Greek Prime Minister Mitsotakis made a number of promising remarks which seem to have heralded a new attitude on the part of the Government towards Turks in Greece. Since then, a number of positive developments have occurred. Turks in western Thrace are now able to purchase land and property and can more easily obtain commercial and driving licenses. Police harassment has reportedly diminished and new Turkish textbooks, teachers, and education facilities are expected to be in place shortly. In addition, reports indicate that no Turks have been deprived of their Greek citizenship for months.

Mr. Speaker, ethnic relations throughout the Balkans have for centuries been far from smooth. I believe it is vitally important that the Congress do all that is possible during this pivotal period in history to promote minority rights throughout the Balkans, and indeed the world. Greece and Turkey, two close and respected allies of the United States, warrant the attention of Congress and the American people and our good offices should be offered to help address the myriad of problems which strain relations between the nations. Preservation of ethnic heritage, respect for human rights and fundamental freedoms, and elimination of discrimination are universal goals which cannot be achived separately. And, while historical and cultural distinctions often make these goals elusive, it is the duty and obligation of nations to strive to achieve these ideals.

DEEP CUTS IN NUCLEAR WEAPONS

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McDERMOTT. Mr. Speaker, even as Congress concludes its legislative business for 1991, attention is turning toward the larger budget decisions that will confront Members when we return in the new year. One crucial question is how much we can and should spend for defense in a post-cold war era, especially when we have so many unmet needs here at home.

Representative CONNIE MORELLA, chair of the Arms Control and Foreign Policy Caucus, has written a timely op-ed that goes to the heart of this issue, pointing out that deep cuts in our nuclear arsenals could produce major savings and enhance our security in the process. As secretary-treasurer of the caucus, I commend Congresswoman MORELLA for this article, which draws on studies by the National Academy of Sciences and the Congressional Budget Office to make the case for major nuclear weapon reductions.

I look forward to working toward legislation to make these deep cuts a reality, beginning in the next session, and thank Representative MORELLA for her article, which I would like to enter into the RECORD at this point.

WHY DEEP CUTS IN NUCLEAR WEAPONS MAKE SENSE

(By Constance A. Morella)

President Bush's recent decision to store or destroy nearly 20 percent of the United States' 20,000 nuclear warheads, including most of our tactical nuclear weapons deployed worldwide, signaled a welcome shift in U.S. arms-control policy that should spur further debate and reevaluation of U.S. nuclear-deterrence strategy. Now, two institutions acclaimed for their objectivity have issued reports arguing that much deeper cuts would actually enhance our security further, as well as producing major savings.

One of these reports was issued by the National Academy of Sciences, which advises the government on scientific and technical issues. Starting from a baseline of 8,000 to 10,000 strategic warheads held by each superpower under the START treaty signed in July, the academy recommends that the superpowers reduce their arsenals to 3,000 to 4,000 warheads each in post-START negotiations, and ultimately to 1,000 to 2,000 apiece. The report holds that deep cuts would enhance security by reducing the risk of nuclear war and downplaying our reliance on nuclear weapons.

The nonpartisan Congressional Budget Office (CBO) notes that deep cuts also would allow for significant reductions in the defense budget. CBO's 170-page study calculates that reducing U.S. strategic warheads to 1,000 would save $17.4 billion a year over the next 15 years. Cutting warheads to 3,000 would save $15.5 billion a year, and cutting to 6,000 warheads would save $9.3 billion annually.

The U.S. now spends about $50 billion every year on nuclear weapons, nearly one-sixth of our military budget and more than the entire defense budget of any other country in the world aside from the Soviet Union. CBO notes that even if we reduced our nuclear arsenal to 1,000 warheads, we would still spend nearly as much on nuclear weapons as Germany, France, or Britain spend on their entire armed forces.

The end of the cold war and the collapse of communism in the Soviet Union and Eastern Europe give us an unprecedented opportunity to revise our nuclear policies. For decades, US warfighting plans have emphasized attacking a wide range of Soviet targets, including strategic forces, conventional military facilities, command and control systems, and the Soviet industrial base. These plans have required us to maintain a large and diverse nuclear arsenal.

CBO studied what smaller forces could accomplish, and its striking conclusion was that less is more. Deep cuts, to levels as low as 3,000 or 1,000 warheads, would produce Soviet and American nuclear forces more defensively configured, and better able to survive a first strike, than our current nuclear forces. This would reduce pressure on national leaders to launch weapons at the perceived warning of a nuclear attack.

Of course, smaller forces must still deter nuclear attack. CBO found that with an arsenal of either 3,000 or 1,000 warheads, military planners could still target enough key military and industrial facilities in the Soviet Union to launch an effective counterattack against a first strike.

Former Secretary of Defense Robert McNamara and other national security experts have advocated reducing to 1,000 or fewer warheads for years. In the post-cold-war era, their case is even more compelling. Besides reducing the budget deficit and funding other urgent priorities, deep cuts would help pay for cleaning up the nuclear-weapons production complex, a job that the Energy Department expects to cost $38 billion during the next four years.

Major superpower reductions would pave the way for stronger multilateral measures to control nuclear proliferation, which many experts see as a greater threat to US interests today than a superpower conflict.

Mr. Bush has spoken of building a new world order in which would defend their interests through cooperation and respect for international law, rather than through unilateral projections of power. Deep nuclear cuts would stabilize that order and free up funds for more constructive projects at home and abroad. One good cut deserves another. We can have our savings and security too.

CARL SANDBERG REFLECTS UPON LIFE OF LINCOLN

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DURBIN. Mr. Speaker, as Members of Congress adjourn from this first session of the 102d Congress, we will join our constituents reflect on our work product and consider the awesome challenges which lie ahead.

In only a few weeks we will return to this historic Chamber to try to find solutions to the problems which face our great Nation. It will not be an easy task. Legislative craftsmanship is complicated by elections and in 1992 our Nation will face the quadrennial contest for President.

Yet, the responsibility of Congress goes far beyond laying the political groundwork for the next campaign or election. More than anything, we are charged with the responsibility to solve the problems of our Nation.

I hope that my colleagues will take a moment to reflect on the words of Carl Sandberg who stood in this same hall on February 12, 1959, and addressed the character and life of one of our greatest Americans, Abraham Lincoln.

I want to thank my colleague, Mr. JACOBS of Indiana, for bringing this statement to my attention. It was truly one of the great moments in the history of the House of Representatives when Carl Sandberg was introduced by the Speaker of the House, SAM RAYBURN, who praised him highly. It is reported that Mr. Sandberg cleared his throat and said:

Before beginning this prepared address, I must make the remark that this introduction, this reception here, calls for humility rather than pride. I am well aware of that.

Then he began his quote on Abraham Lincoln.

Not often in the story of mankind does a man arrive on earth who is both steel and velvet, who is as hard as rock and soft as drifting fog, who holds in his heart and mind the paradox of terrible storm and peace unspeakable and perfect. Here and there across centures come reports of men alleged to have these contrasts. And the incomparable Abraham Lincoln, born 1809, is an approach if not a perfect realization of this character. In the time of the April lilacs in the year 1865, on his death, the casket with his body was carried north and west a thousand miles; and the American people wept as never before; bells sobbed, cities wore crepe; people stood in tears and with hats off as the railroad burial car paused in the leading cities of seven States ending its journey at Springfield, Illinois, the hometown. During 4 years he was President he at times, especially in the first 3 months, took to himself the powers of a dictator; he commanded the most powerful armies till then assembled in modern warfare; he enforced conscription of soldiers for the first time in American history; under imperative necessity he abolished the right of habeas corpus; he directed politically and spiritually the wild, massive turbulent forces let loose in civil war; he argued and pleaded for compensated emancipation of the slaves. Failing to get action on compensated emancipation, as a Chief Executive having war powers he issued the paper by which he declared the slaves to be free under military necessity.

In the month the war began he told his secretary, John Hay:

"My policy is to have no policy."

Three years later in a letter to a Kentucky friend made public, he confessed plainly:

"I have been controlled by events."

His words at Gettysburg were sacred, yet strange with a color of the familiar:

"We cannot consecrate—we cannot hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far beyond our poor power to add or detract."

He could have said "The brave Union men." Did he have a purpose in omitting the word "Union?" Was he keeping himself and his utterance clear of the passion that would not be good to look back on when the time came for peace and reconciliation? Did he mean to leave an implication that there were brave Union men and brave Confederate men, living and dead, who had struggled there? We do not know, of a certainty. Was he thinking of the Kentucky father whose two sons died in battle, one in Union blue, the other in Confederate gray, the father inscribing on the stone over their double grave, "God knows which was right"? We do not know. His changing policies from time to time aimed at saving the Union. In the end his armies won and his Nation became a world power. In August of 1864 he wrote a memorandum that he expected in view of the national situation, he expected to lose the next November election. That month of August was so dark. Sudden military victory brought the tide his way; the vote was 2,200,000 for him and 1,800,000 against him. Among his bitter opponents were such figures as Samuel F.B. Morse, inventor of the telegraph, and Cyrus H. McCormick, inventory of the farm reaper. In all its essential propositions the southern Confederacy had the moral support of powerful, respectable elements throughout the North, probably more than a million voters believing in the justice of the southern cause. While the war winds howled he insisted that the Mississippi was one river meant to belong to one country, that railroad connection from coast to coast must be pushed through and the Union Pacific railroad made a reality. While the luck of war wavered and broke and came again, as generals failed and campaigns were lost, he held enough forces of the North together to raise new armies and supply them, until generals were found who made war a victorious war has always been made, with terror, frightfulness, destruction, and on both sides, North and South, valor and sacrifice past words of man to tell. In the mixed shame and blame of the immense wrongs of two crashing civilizations, often with nothing to say, he said nothing, slept not at all, and on occasions he was seen to weep in a way that made weeping appropriate, decent, even you might say, majestic. As he rode alone on horseback near Soldiers Home on the edge of Washington one night his hat was shot off; a son he loved died as he watched at the bed; his wife was accused of betraying information to the enemy, until denials from him were necessary. An Indiana man at the White House heard him say, "Voorhees, don't it seem strange to you that I, who could never so much as cut off the head of a chicken, should be elected, or selected, into the midst of all this blood?" He tried to guide General Nathaniel Prentiss Banks, a Democrat, three times Governor of Massachusetts, in the governing of some 17 of the 48 parishes of Louisiana controlled by the Union armies, an area holding a fourth of the slaves of Louisiana. He would like to see the

State recognize the emancipation proclamation:

"And while she is at it, I think it would not be objectionable for her to adopt some practical system by which the two races could gradually live themselves out of their old relation to each other, and both come out better prepared for the new. Education for the young blacks should be included in the plan."

To Gov. Michel Hahn, elected in 1864 by a majority of the 11,000 white male voters who had taken the oath of allegiance to the Union, Lincoln wrote:

"Now you are about to have a convention which, among other things, will probably define the elective franchise, I barely suggest for your private consideration, whether some of the colored people may not be let in—as for instance the very intelligent gallantly in our ranks."

Among the million words in the Lincoln utterance record, he interprets himself with a more keen precision than someone else offering to explain him. His simple opening of the "house divided" speech in 1858 serves for today:

"If we could first know where we are, and whither we are tending we could better judge what to do, and how to do it."

To his Kentucky friend, Joshua F. Speed, he wrote in 1855:

"Our progress in degeneracy appears to me to be pretty rapid. As a Nation we began by declaring that "all men are created equal, except Negroes." When the know-nothings get control, it will read "all men are created equal except Negroes and foreigners and Catholics." When it comes to this, I shall prefer emigrating to some country where they make no pretense of loving liberty."

Infinitely tender was his word from a White House balcony to a crowd on the White House lawn:

"I have not willingly planted a thorn in any man's bosom."

Or to a military Governor:

"I shall do nothing through malice; what I deal with is too vast for malice."

He wrote for Congress to read on December 1, 1862:

"In times like the present men should utter nothing for which they would not willingly be responsible through time and eternity."

Like an ancient psalmist he warned Congress:

Fellow citizens, we cannot escape history. We will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us. the fiery trial through which we pass will light us down in honor or dishonor to the latest generation.

Wanting Congress to break and forget past traditions his words came keen and flashing: "The dogmas of the quiet past are inadequate for the stormy present. We must think anew, we must act anew, we must disenthrall ourselves."

They are the sort of works that actuated the mind and will of the men who created and navigated the marvel of the sea, *the Nautilus*, and her voyage from Pearl Harbor and under the North Pole icecap.

The people of many other countries take Lincoln now for their own. He belongs to them. He stands for decency, honest dealing, plain talk, and funny stories. "Look where he came from—don't he know all us strugglers and wasn't he a kind of tough struggler all his life right up to the finish?" Something like that you can hear in any nearby neighborhood and across the seas. Millions there are who take him as a personal treasure. He had something they would like to see spread everywhere over the world.

Democracy? We cannot say exactly what it is, but he had it. In his blood and bones he carried it. In the breath of his speeches and writings it is there. Popular government? Republican institutions? Government where the people have the say-so, one way or another telling their elected leaders what they want? He had the idea. It is there in the lights and shadows of his personality, a mystery that can be lived but never fully spoken in words.

Our good friend, the poet and playwright Mark Van Doren, tells us:

"To me, Lincoln seems, in some ways, the most interesting man who ever lived.

He was gentle but this gentleness was combined with a terrific toughness, an iron strength."

And how did Lincoln say he would like to be remember? Something of it is in this present occasion, the atmosphere of this room. His beloved friend, Representative Owen Lovejoy, of Illinois, had died in may of 1864, and friends wrote to Lincoln and he replied that the pressure of duties kept him from joining them in efforts for a marble monument to Lovejoy, the last sentence of Lincoln's letter, saying:

"Let him have the marble monument along with the well-assured and more enduring one in the hearts of those who love liberty, unselfishly, for all men."

Today we may say, perhaps, that the well-assured and most enduring memorial to Lincoln is invisibly there, today, tomorrow, and for a long time yet to come. It is there in the hearts of lovers of liberty, men and women—this country as always had them in crisis—men and women who understand that wherever these is freedom there have been those who fought, toiled, and sacrificed for it.

I thank you. (Applause, the Members rising.)

WELFARE SIMPLIFICATION LEGISLATION

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TALLON. Mr. Speaker, as the chairman of the subcommittee which has jurisdiction over the Food Stamp Program, I am concerned that this Nation's welfare system is drowning in a morass of bureacracy.

The welfare system is a vital safety net which, ideally, enables our citizens and their families to get through periods of hardship. It is truly an investment in people, so that in time the recipient can regain his or her footing, and become productive again.

However, our current welfare system which requires evermore dollars from the taxpayer to cover the cost of red tape, not services. Simply put, bureaucracy is getting in the way of providing services. Wasted resources which do not get to those most in need is a real tragedy.

Today, I am introducing a bill that is the first step in streamlining our welfare system. My bill simply requires that the Secretaries of Agriculture and Health and Human Services provide Congress with a report to delineate both the regulatory and statutory differences in program rules across the Food Stamp, AFDC, and Medicaid programs which could be changed in order to ease the complexity of the application process for both applicants and welfare agencies.

It is time that Congress and the administration push partisan and jurisdictional barriers aside to take a good, hard look at the Food Stamp, Aid to Families with Dependent Children [AFDC], and the Medicaid Program, and to come up with a comprehensive approach in streamlining program rules for the benefit of the recipients and taxpayers.

The fragmentation across Food Stamps, AFDC, and Medicaid begins at the Federal level and extends throughout State and local eligibility systems. Oversight is handled by three different committees in the House of Representatives and two committees in the Senate. There are three different Federal agencies in two different Federal departments which run Food Stamps, AFDC, and Medicaid.

While these programs are most often administered by the same agency at the State level, they generally operate very separately. Local level eligibility agencies generally find the complexity across the three programs to be too much for one case-worker so they continue the fragmentation of the process.

At every level of service, in Congress, in the administrative agencies, and at the State and local level, there have been noteworthy, but piecemeal, attempts at harmonization. Just last year, the 1990 farm bill commanded the U.S. Department of Agriculture to look at ways better coordinating the Food Stamp and AFDC programs. Moreover, USDA has taken considerable initiative on its own in exploring productive avenues of program uniformity. In addition, the Department of Health and Human Services just this year created the Administration for Children and Families.

However, what is still needed is an overarching effort that can combine the efforts of all key players in looking at a long-term comprehensive improvement of coordination between the programs. My simplification bill will provide for the first time a document from which both Congress and the administration can work to create meaningful and lasting changes to the programs for the benefit of recipients.

Program rules governing application policies and administrative procedures vary considerably among the programs. Therefore, the application process is swamped in complexity. This greatly increases the likelihood that individuals and families to be denied benefits on the basis of procedure rather than for actual income or resource reasons.

From the State agency perspective, the lack of uniform program rules across AFDC, Medicaid and food stamps is incredibly inefficient in terms of managing the programs. The complexity adds more paperwork, requires more resources and increases the likelihood of errors. It hinders efficiency of staff and places obstacles in the way of comprehensive service delivery.

The administrative burden is a nightmare for overworked caseworkers who want to serve. Increased errors and a stressful work environment are the results of too many administrative mandates and not enough time with clients. Since the caseworker often holds the life line for so many families, redtape must not impede a caseworker's ability to serve.

The benefits to the taxpayer are very clear. Better coordination means significant savings in future administrative costs. At a total Federal cost of about $120 billion, even the smallest simplification between these programs would result in a significant long-term savings. A significant reduction in the existing administrative duplication and an increase in program computerization will result in saved tax dollars.

Greater conformity is possible because food stamps, AFDC, and Medicaid serve many of the same persons, especially pregnant women, infants, and children. Why can't the same definition be applied across all programs? Why can't the same verification requirements apply across all programs? And, why can't resource limits on items like automobiles be the same value for all three programs?

To be denied assistance simply because Government bureaucracy cannot keep up with itself is a sin that we cannot tolerate in this country. Policymakers have a long way to go before we correct this wrong. I urge my colleagues to take the first step by signing on as a cosponsor of the Tallon Welfare Simplification Bill.

WELFARE SIMPLIFICATION REPORT BILL

The bill simply requires that the Secretary of Agriculture and Health and Human Services provide Congress with a report to delineate both the regulatory and statutory differences in program rules across Food Stamps, AFDC, and Medicaid which could be changed in order to ease the complexity of the application process for both applicants and welfare agencies.

The report will cover 1.) definitions of income and 2.) the many administrative rules which vary from program to program.

HOUSE COSPONSORS

Robin Tallon, Tom Downey, Nancy Johnson, Charlie Hatcher, Mike Espy, Richard Durbin, Lindsay Thomas, Butler Derrick, John Spratt, Arthur Ravenel, Tom Lewis, and Charlie Rose.

SENATE COSPONSORS

Senators Hollings, Thurmond, Fowler, Nunn, and Rockefeller.

ENDORSEMENTS

American Academy of Pediatrics.

National Association of Counties.

National Association of Eligibility Workers.

American Healthcare Systems Institute.

American Speech-Language-Hearing Association.

National Association of Public Hospitals.

THE INFILTRATION OF THE ZEBRA MUSSEL INTO THE INLAND WATERWAYS OF THE UNITED STATES

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DURBIN. Mr. Speaker, I rise today to call attention to a growing problem threatening my constituents in west-central Illinois and others throughout the Midwest. I am not referring to unemployment or the sluggish economy, both of which affect the day-to-day lives of almost every American citizen. Instead, I wish to alert my colleagues to a problem that threatens municipalities, industry, and recreational users of our country's inland lakes and rivers—the infiltration of the zebra mussel into the inland waterways of the United States.

Two weeks ago I held a public hearing in Quincy, IL, to address this serious problem. I invited witnesses from Government agencies, academic institutions, and private industry to share with me their insights on this potentially economic and ecologically threatening infiltration. Thirteen different zebra mussel experts answered that call, Mr. Speaker. Together, we formed three panels and discussed topics ranging from current inland distribution of the zebra mussel to biological, ecological, and economic impact to monitoring and control techniques. For over 3 hours we shared our opinions on this nonindigenous aquatic nuisance.

I began the November 11 hearing with three main goals in mind; to establish a means to share data, to highlight methods of improving the existing monitoring and control techniques, and to assist in alerting water users along the inland waterways of the serious threat posed by the zebra mussel. Since the conclusion of the public hearing, I believe we are well on our way to accomplishing all these goals.

As most of my colleagues know, zebra mussels (Dreissena Polymorpha) were first introduced to the Great Lakes from Europe, probably in ship ballast water in 1986. Since that time, these aquatic nuisances have reproduced prolifically and spread at a rapid pace. Zebra mussels attach themselves to solid surfaces, for example water intake pipes, which they consequently clog, thus creating havoc for water distribution systems used by water utilities, power plants, and municipalities. In addition to the physical blockage of pipes, zebra mussels can cause numerous other problems like accumulating on other stable surfaces exposed to freshwater environments and fouling our beaches and water supplies.

In the Great Lakes region of our country alone, zebra mussels have made themselves at home with over 10,000 miles of coast between Buffalo and Detroit. They combined with ice and other particles to totally shut down the city water system in Monroe, MI. The city of Monroe watched water rates increase 18 percent in order to pay for the removal of the mussels. In addition to the rate hikes, the city was forced to spend over a quarter of-a million dollars just to purchase equipment to protect their water pipes. And the stories go on. An Ontario, Canada, electric company recently spend $10 million on chlorine to keep zebra mussels out of power plant water intake pipes. Commonwealth Edison in Chicago estimates that they will spend between $17 and $20 million over the next 10 years to control the mussels in their Lake Michigan and area river facilities. The U.S. Fish and Wildlife Service estimates that controling the zebra mussel, if that is possible, in the Great Lakes alone will cost as much as $5 billion over the next decade. And a recent zebra mussel conference in Rochester, NY, revealed that these aquatic nuisances will have invaded nearly every waterway in North America within 20 years.

Zebra mussels were recently found in the Illinois, Mississippi, and Ohio Rivers, as well as in Kentucky Lake. All this is evidence that the inland distribution of zebra mussels is at least 1 or 2 years ahead of the previous best estimates.

A great deal of information came out of the recent public hearing. However, the single most important point that I would like to make today is the need for coordination of efforts to monitor and eventually control the zebra mussel. At this time I would like to share with my colleagues a letter that I recently wrote to the Honorable Manuel Lujan, Jr., the Secretary of the Interior and include it in the RECORD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 21, 1991.

Hon. MANUEL LUJAN, JR.,
Secretary of the Interior, Department of the Interior, Washington, DC.

DEAR MANUEL LUJAN: On November 11th I held a public hearing in my district on the infiltration of the zebra mussel into the inland waterways of the United States. I write to you today to share my findings with you and to encourage the Department of the Interior to assume a leadership role in dealing with this ecologically and economically damaging aquatic nuisance.

At the public hearing, I heard testimony from 13 different witnesses on three separate panels. Their testimony addressed vitally important aspects of the zebra mussel infiltration, specifically current inland distribution, impact, and monitoring and control initiatives. The witnesses represented academic institutions, private industry, municipalities, and government agencies. I was pleased to be joined by three distinguished members of the U.S. Fish and Wildlife Service, Dr. Don Schloesser of the National Fisheries Research Center in Ann Arbor, Michigan, Mr. Charles Suprenant from Carterville, Illinois' Fisheries Assistance Office, and Dr. Greg Cope of the National Fisheries Research Center in La Crosse, Wisconsin.

An area of emphasis that surfaced during the hearing was the need for a federal agency to take a lead role in coordinating research, monitoring, and control efforts. Currently, such systematic coordination does not exist. Instead, efforts focused on addressing the zebra mussel infiltration problem are divided between several government agencies like the U.S. Army Corps of Engineers, Environmental Protection Agency, and the Coast Guard. Couple the aforementioned government agencies with private industry, municipal and state groups, and academic institutions and the probability of miscommunication and duplication of efforts is greatly increased.

It is my understanding that the U.S. Fish and Wildlife Service has been making steady progress in the areas of monitoring and control of the zebra mussel. However, these efforts have been focused mainly on the Great Lakes region of our country. The threat posed by the current distribution of the zebra mussel has become a reality for several communities along the inland waterways of the U.S., namely the Illinois and Mississippi Rivers. As a push is made to monitor and eventually control these mussels along inland waterways, many different agencies and groups will likely join the battle. That is why it is important to establish a lead agency now to coordinate the efforts and work, in a cooperative fashion, toward the control of the zebra mussel.

At the November 11th hearing, I hoped to attain three specific goals; establishing a means to share data, highlighting ways of improving the existing monitoring and control methods, and alerting water users along the inland waterways to the serious threat posed by the zebra mussel. I firmly believe that these goals can be accomplished by establishing a lead agency to coordinate efforts concerned with the zebra mussel. I further believe that the Department of the Interior, through its Fish and Wildlife Service, can be an effective catalyst for shared efforts and coordination of future projects which deal with the zebra mussel infiltration quandary.

Thank you for considering my proposal that the Department of the Interior assume an increased role, that of lead agency, in efforts to curb the infiltration of the zebra mussel. I look forward to hearing your views on this important issue.

With best wishes,

Sincerely,

RICHARD J. DURBIN,
Member of Congress.

Mr. Speaker, the infiltration of the zebra mussel is a problem that will not simply go away. Instead, most experts believe that these mussels will become a permanent part of North American lakes and rivers. Thus, we must learn to live with the zebra mussel. However, it does not have to be a peaceful coexistence. By pooling our efforts, our resources, and our knowledge, we can discover effective ways to combat this aquatic nuisance and avoid duplication of efforts.

For assisting me in raising public awareness to a potentially devastating problem, I would like to take this time to thank those thirteen expert witnesses who participated in the public hearing. They are Dr. Donald A. Schloesser, Mr. K. Douglas Blodgett, Mr. William J. Elzinga, Mr. James S. Allen, Mr. Carl R. Schumacher, Colonel John R. Brown, Mr. Harry F. Bernhard, Nr. Charles Suprenant, Dr. J. Ellen Marsden, Dr. Robert J. Sheehan, Dr. Edwin Theriot, Mr. James W. Flannery, and Dr. W. Gregory Cope.

The problem of the infiltration of the zebra mussel is one that we will be debating for a long time in this country and probably in this House. I can only urge my colleagues and Americans living and working along our lakes and rivers not to take this problem for granted. The zebra mussel, Mr. Speaker, has invaded our country's waterways, they have prospered, and now they are here to stay.

RELIGIOUS LEADERS SUPPORT HAITIAN REFUGEES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RANGEL. Mr. Speaker, I rise to call to the attention of my colleagues the commendable action of many religious organizations during this time of crisis in Haiti.

These religious leaders are showing the kind of moral leadership that has been sadly lacking in our Government. Among the religious organizations that have come forward to express their support for the Haitian refugees are the Union of American Hebrew Congregations, the National Council of Churches of Christ in the U.S.A., the Evangelical Lutheran Church in America, the American Jewish Committee, the National Conference of Catholic Bishops, the Council of Jewish Federations, and the United States Catholic Conference.

I believe we should follow the example set by these religious leaders to open our hearts and extend a hand of assistance to the Haitian boat people. Letters expressing support from various religious organizations follow.

NOVEMBER 21, 1991.

Mr. GEORGE BUSH,
President, The White House
Washington, DC.

DEAR MR. PRESIDENT: We are writing as religious leaders to request a meeting with your office concerning the emergency situation of Haitian refugees now on the verge of being forcibly returned to their home country by the U.S. Coast Guard.

Over 1,800 Haitian asylum seekers aboard U.S. Coast Guard cutters and a Navy ship are now on the verge of being returned to Haiti, pending a temporary restraining order. This is despite the clear record of abuses and persecution inflicted upon the Haitian people by the armed forces since the military coup September 30, 1991. It has been widely reported that more than 300 innocent civilians have been killed in the violence since September 30. Hundreds more have been injured in these repressive acts.

The United States has rightfully opposed forced repatriation of Vietnamese refugees in Southeast Asia. Our government has no ground to stand upon in the international community if we now engage in this forced return of Haitians. It is furthermore disingenuous to claim, as officials of the State Department have done recently, that because Caribbean nations are not willing to provide a regional safe haven in sufficient numbers, these refugees now need to be forced back.

Mr. President, the contradictions in the treatment of Haitian refugees by the U.S. government during this present crisis are apparent. Has the United States returned any of the over 2,000 Cuban refugees who have fled in rafts and small boats? The answer is no; in fact, they have all been brought to the U.S. by the U.S. Coast Guard, allowed to remain and given at least a temporary safe haven while their claims before the Immigration and Naturalization Service are considered.

Haitian asylum seekers deserve no less. The United States government must end this forced repatriation now. We must lead by example, and provide safe haven to people who flee the illegitimate government that has usurped power in Haiti.

We hope to hear from your office soon to arrange a convenient time for this urgent meeting.

Sincerely,

RABBI DAVID SAPERSTEIN,
Director and Counsel, Religious Action Center of Reformed Judaism, Union of American Hebrew Congregations.

THE REV. JOAN B. CAMPBELL,
General Secretary, National Council of Churches of Christ in the USA.

BISHOP HERBERT W. CHILSTROM,
Evangelical Lutheran Church in America.

ALFRED H. MOSES,
President, American Jewish Committee.

WORLD RELIEF,
November 19, 1991.

President GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing in conjuction with other religious leaders to request a meeting with your office concerning the emergency situation facing Haitian refugees now being forcibly returned to their home country by the US Coast Guard.

Over 1200 Haitian asylum seekers aboard seven US Coast Guard cutters are now being returned to Haiti, despite the clear record of abuses and persecution inflicted upon the Haitian people by the armed forces since the military coup September 30, 1991.

The United States has rightfully opposed forced return of Vietnamese refugees in Southeast Asia. To apparently return to a policy of forced return for Haitians before the restoration of an elected government in Haiti seriously brings into question the credibility of the current policy of the US towards forced return in other areas of the world.

Mr. President, the treatment of Haitian refugees by the US government during this current crisis seems to be less than compassionate. Furthermore, the treatment of Haitian refugees is in stark contrast to our recent reception of 2,000 Cubans who fled in rafts and small boats and have been given at least temporary safe haven while their claims for asylum are being considered.

We respectfully request an immediate suspension of forced return and a complete review of US policy toward Haitian asylum seekers. It is our hope that possible solutions will minimize the potential of high risk boat departures.

The US has a long and distinguished history of protection for those fleeing political persecution. Does not our leadership in the international community call on us to provide at least temporary safe haven?

OFFICE OF THE PRESIDENT,
Washington, DC, November 20, 1991.

Hon. GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I write, as President of the United States Catholic Conference, to express our opposition to the forcible repatriation of the Haitians currently seeking to come to the United States.

Persons willing to risk their lives in the dangerous passage from Haiti to this country are not coming for frivolous reasons. They are coming to escape violence and oppression that has, once again, become intolerable. Even if the majority of these desperate people can not demonstrate that they qualify for political asylum, there are other legal remedies available to them, such as Temporary Protected Status (TPS), which they clearly merit.

The Haitian people have been beset by many tragedies, compounded most recently by the violent overthrow of the first democractically elected government in their history. Returning interdicted Haitians to Haiti at this particular time will only aggravate this already turbulent situation. Since the United States does not recognize the new military government of Haiti, I urge you to suspend the interdiction agreement.

I urge you to express the compassion and welcome to the stranger in need that is so deeply a part of our national tradition. I ask you to authorize more humane and flexible application of our immigration laws, to continue pressing other regional governments to provide safe haven for more of these refugees, and to halt the repatriation of interdicted Haitian refugees.

With my gratitude for your attention to this and assuring you of my prayers, I remain,

Yours sincerely,
Most Rev. DANIEL E. PILARCZYK,
Archbishop of Cincinnati,
President, NCCB/USSC.

MRS/USCC CALLS FOR END TO HAITIAN DEPORTATION; ENCOURAGES ADMINISTRATION TO RETHINK "UNJUST" POLICY

WASHINGTON.—Rev. Richard Ryscavage, S.J., Executive Director of the Office of Migration and Refugee Services of the United States Catholic Conference (MRS/USCC) announced today the USCC's support for the 11th Circuit Court of Appeals in Florida ruling upholding the temporary restraining order ending the forced repatriation of Haitians. "The Administration now has time to reexamine current U.S. policy toward Haitians. The present policy must be reversed to provide relief for Haitian boat people who take the extraordinary risks to escape violent and dangerous conditions in this country," said Rev. Ryscavage.

The order, halting the Administration from continuing to repatriate Haitians despite the increasingly deteriorating conditions there, provides the Administration with an opportunity to reconsider its interdiction policy. MRS/USCC has opposed the interdiction policy since its inception in 1981. MRS/USCC supports the efforts of Honduras and Venezuela, which have taken a total of 350 Haitians into their countries, and the efforts of Belize and Trinidad which have offered to take 100 Haitians each.

MRS/USCC strongly believes that the U.S. must do everything within the law to ensure that the lives of the Haitian people are not further endangered on the sea. Already, approximately 120 Haitian lives have been lost in their search for refuge. The U.S. should remain consistent with its policy in helping Vietnamese boat refugees by offering the same consideration for the Haitians. Possible steps include granting the Haitians Temporary Protected Status (TPS), as well as fairly considering their claims for political asylum and humanitarian parole.

Since the coup, 4,530 Haitians have been interdicted, 538 people have been repatriated, and 122 Haitians have been brought to Miami for asylum processing. The Catholic Legal Immigration Network, Inc. (CLINIC), is processing 61 of these 122 people. CLINIC is providing free legal and resettlement services, including employment and language assistance. For those without family members in the United States, CLINIC is working with the Haitian community in Miami to help find housing for those asylum-seekers now being housed in hotels.

MRS/USCC will continue to support legislation introduced by Senator Connie Mack and Representatives Charles Rangel and Romano Mazzoli, which call for granting TPS to Haitians and ending the U.S. interdiction policy.

However, the Catholic Church's effort alone are not enough. Rev. Ryscavage stated that "we must all, both nationally and internationally, act in the most just and humane ways possible to ensure the safety and well-being of all Haitian people. We must speak out against injustices which cause people to flee their countries. The U.S. government must work toward implementing policy which addresses and accommodates the needs of all people, regardless of where they originate. The lives of 4,000 Haitians at sea, and others whose numbers we do not yet know, depend on it."

Participants in today's press conference included: Rev. Charles S. Miller, Executive Director, Division for Church in Society of the Evangelical Lutheran Church in America; Rabbi David Sapperstein, Director of the Religious Action Center, Union of American Hebrew Congregations; Judy Golub, Legislative Director, American Jewish Committee; and Kay Bellor, Washington representative for the Church World Service.

The United States Catholic Conference is the public policy and social action agency of the Catholic Bishops of the United States. Within USCC, Migration and Refugee Services (MRS) is the lead office responsible for developing and implementing Conference policy on migration, immigration, and refugee issues. The Catholic Legal Immigration Network, Inc. (CLINIC) was established by the Bishops in 1988 to ensure that all newcomers have access to affordable immigration-related services.

HAITIAN REFUGEES NEED PROTECTION: RESCUE THE BOAT PEOPLE AND GRANT THEM SAFE HAVEN IN THE UNITED STATES

(Statement by the Rev. Charles S. Miller)

The United States government is currently holding about 3,000 Haitian refugees aboard Coast Guard cutters, a Navy ship and in beaches in Guantanamo Bay, Cuba. Until the federal courts stopped a wrongful policy of forced repatriation last Tuesday, the U.S. government forcibly sent over 500 Haitian refugees back to the anarchy and violence of Haiti.

The United States, under the guise of discouraging further boat departures from Haiti, has chosen to send refugees back to the persecution and violence we otherwise have condemned. This policy is wrong and must be changed.

The Evangelical Lutheran Church in America is deeply disturbed about this lack of compassion towards refugees from Haiti. Our country has welcomed many other persecuted peoples to our shores, why should we turn our backs on these refugees? During 1991 alone, the U.S. Coast Guard has rescued over 2,000 Cubans who have fled in small boats and rafts. All of these have been taken to the U.S. for processing of their asylum and immigration claims.

Why is it that we cannot offer the same protection to Haitian refugees? The current policy of the U.S. government is not only unfair but also contradictory. We want countries in the Caribbean region to accept Haitian refugees temporarily; in fact, there have been intense diplomatic initiatives through the United Nations and the Organization of American States to pressure countries to accept Haitians, while the United States is basically turning its back on these refugees.

This "not-in-my-back-yard" policy of neglect and rejection must end. We must subscribe to international law that says that when you rescue a refugee at sea you bring him or her to the nearest port of call. Otherwise our refugee policy is selective, and apparently discriminatory.

The Evangelical Lutheran Church in America and Lutheran Immigration and Refugee Service call upon the President to exercise humanitarian solutions to this refugee crisis. We cannot turn our back on these Haitian refugees, while we decry how refugees from Vietnam are treated by Hong Kong and Malaysia. The refugees aboard U.S. vessels, as well as those beached at Guantanamo Bay should be brought to the United States for temporary protection.

The U.S. government should also grant "Temporary Protected Status" to Haitians already in the United States. The law permits the Attorney General to grant this temporary safe haven to persons in the United States whose lands are in turmoil, and where it is not safe for nationals to return. Haiti now fits that legal "litmus test." Temporary Protected Status for Haitians will provide a temporary relief and send a strong signal to the international community that the United States is willing to do its part.

In the context of a "temporary regional solution," the United States should provide leadership and work with the United Nations High Commissoner for Reguees so that camps already set up in other countries are safe non-detention facilities. Refugees eligible for resettlement should be moved rapidly to a third country, such as the United States, Canada and France. Families must not be separated, and unaccompanied children should not be left unprotected.

We can ill afford a re-creation of the detention centers of Hong Kong, where families and children languish behind barbed wire and armed guards. The U.S. government must work with the United Nations and other agencies to assure this refugee crisis does not turn into another indefinite detention for Haitian refugees.

The Evangelical Lutheran Church in America and Lutheran Immigration and Refugee Service support congressional initiatives introduced by Senators Connie Mack (R-FL), Dennis DeConcini (D-AZ), and Representatives Charles Rangel (D-NY) and Romano Mazzoli (D-KY), that seek to assist Haitian refugees during this present crisis. The Administration could, if it chose, resolve this crisis without this legislation or other changes in the law.

It is our fervent hope that the President will chose to do the right thing: Help Haitian refugees by rescuing them and bringing them to safety in the United States. Grant Temporary Protected Status and provide a safe haven until the violence subsides, Haiti's constitutional government is restored, and conditions in Haiti are safe once more.

STATEMENT OF KENNETH BIALKIN, PRESIDENT, AND MICHAEL S. MILLER, EXECUTIVE DIRECTOR, ON THE HAITIAN REFUGEE PROBLEM

Political upheaval and tragic violence in Haiti has created a refugee crisis which speaks to our minds and our hearts. America was founded as a haven for the persecuted and on humanitarian principles which extend freedom and liberty to those in need.

Last week, a storm at sea claimed the lives of hundreds of Haitian "boat people" whose craft capsized. Their fate was reminiscent of German Jews who perished in the Holocaust after their ship was turned away from American shores. The misery of history must not be repeated.

As the Jewish community worldwide approaches the celebration of Hunakkah, the festival of freedom, we, as Jews and as Americans, identify with all peoples who strive to achieve that basic human right. It is morally imperative that our country provide a safe haven for those unfortunate individuals who have arrived here from Haiti and prohibit their deportation or repatriation from the United States or at sea. These refugees should be granted temporary protected status, at least until the political crisis in Haiti is resolved.

The Jewish Community Relations Council of New York, representing 63 major Jewish organizations in the New York area, supports H.R. 3844, known as the "Haitian Refugee Protection Act", introduced by Congressman Charles Rangel (D–NY), which seeks to "assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti."

We urge immediate support for this important measure.

Resolution adopted by the General Assembly of the Council of Jewish Federations, Baltimore, MD, Friday, November 22, 1991.

HAITIAN BOAT PEOPLE

The situation with the Haitian boat people reminds us of the *S.S. St. Louis*, carrying 936 German Jewish refugees, which left Hamburg in May 1939 for Havana. Turned away by Cuba, the passengers of the *S.S. St. Louis* were turned back to Europe after the U.S. Government denied their admission. Many subsequently perished in the Holocaust. There is a parallel here that speaks to Jews loud and clear.

Resolved: We congratulate Congressman Rangel and Senator Mack for their leadership on this issue. We urge a halt to the forced repatriation of the Haitian boat people, a halt to interdiction, and support for the granting of Temporary Protected Status to Haitians until the situation in Haiti is stable and there is assurance that they will not be threatened by persecution.

AMERICAN JEWISH COMMITTEE DEPLORES HAITIAN DEPORTATIONS

NEW YORK.—The following statement was issued today by E. Robert Goodkind, Chairman of the American Jewish Committee's National Affairs Commission and Gray Rubin, AJC's Director of National Affairs:

"The American Jewish Committee deplores the decision by the United States government to repatriate forcibly Haitians who have fled violent conditions in their country. Over 1200 Haitians aboard U.S. Coast Guard vessels now face involuntary return despite highly credible reports of widespread abuses in their homeland. Our country has proudly granted asylum to Cubans, and safe haven to Salvadorans, Lebanese, Liberians and others; we can, in view of both our traditions of welcome and international law, do no less for Haitians. We call on the Administration to cease immediately its repatriation policy, end the practice of interdiction of Haitians on the high seas, grant temporary protected status for Haitians during the time of the emergency in that country and join with Congress in supporting resolutions offered by Rep. Charles Rangel (D NY) and Sen. Connie Mack (R FL) that would further many of these objectives. We need to adopt a humanitarian policy to protect Haitian asylum seekers even as we continue to press for the restoration of Haiti's legitimately elected government."

The American Jewish Committee protects the right and freedoms of Jews the world over; combats bigotry and anti-Semitism and promotes human rights for all; works for the security of Israel and deepened understanding between Americans and Israelis; defends democratic values and seeks their realization in American public policy; and enhances the creative vitality of the Jewish people. Founded in 1906, it is the pioneer human-relations agency in the United States.

STATEMENT OF RABBI DAVID SAPERSTEIN, UNION OF AMERICAN HEBREW CONGREGATIONS, NOVEMBER 25, 1991

THE CRISIS IN HAITI

The Union of American Hebrew Congregations, representing 1.5 million Reform Jews in 850 synagogues nationwide, is gravely concerned about the situation in Haiti. We urge the United States government to respond to recent and ongoing events there without delay. The restoration of Haiti's democracy and, until such time as the military regime in Haiti is replaced by a democratic government, a sympathetic response to the Haitian citizens who are fleeing the current oppression, should be America's principal priorities.

As Jews and Americans, we understand the importance of democracy in ensuring the fundamental rights and freedoms to which all human beings are entitled. We do not regard democracy as a luxury to which only the world's advantaged people are entitled. We ourselves have too often been victimized by capricious regimes that do not know the rule of law and do not respect basic human rights. This nation has celebrated the emergence of democratic regimes in Europe; in our own hemisphere, we cannot calmly accept the restoration of government by junta.

In the meantime, we must confront the problem posed by the Haitian refugees. It is alleged that many of those who have chosen to flee Haiti, at great personal risk, have done so in order to improve their economic circumstances rather than because of "a well-founded fear" of political persecution. But in a nation whose government does not accept the rule of law, every citizen is a potential victim of political persecution. It is precisely the capriciousness of such a regime that threatens the individual. It asks too much of the citizens of Haiti that they wait until the regime has identified them by name as targets before they flee; in Haiti's present circumstances, today's obscure citizen may be arbitrarily classified as an enemy of the state tomorrow. Anyone who flees such circumstances is entitled to compassionate treatment and to the presumption that his/her flight is, indeed, based on well founded fears of persecution.

Here, too, we cannot forget our own experience. Time and again through history Jews sought to escape persecution only to find the gates of freedom closed to them. In 1939, the SS St. Louis, crowded with more than a thousand Jewish refugees, was ultimately forced to return to Germany, where they became part of the 6,000,000 Jews who were slaughtered in those dark days.

We recognize that the development of a coherent refugee policy is immensely complex. Ideally, the emergence of a new world order will render the problem of refugees obsolete. Ideally, even before that longed-for day, many nations would share in responding to the problem. But today's refugees cannot in conscience be held hostage to tomorrow's ideal solutions. Their lives are at risk now, and our response to them cannot be postponed. A cold and cruel response not only imperils them; it diminishes us, it dims the Statue's torch.

CROATIA AND YUGOSLAVIA DEMOCRACY AND SELF-DETERMINATION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. VANDER JAGT. Mr. Speaker, in 1776, the people of a faraway city-state that is today the proud old city of Dubrovnik were among the first of the community of independent states to recognize the independence of the 13 colonies which declared their union as the United States of America. As we continue the work of freedom in the capital of that nation, some 215 years later, that seat of a proud city-state is under seige as it seeks to renew its independence following years of enforced federation under a totalitarian regime.

Dubronvnik serves as the focal point and touchstone of a proud and freedom-loving Croation population. That population, particularly, seeks to establish its independence, and is joined in its efforts by the Slovenes and others whose presence in the Yugoslavian federation is an accident of history. The conflict, tragically, has resulted in thousands of Croatians and other ethnic populations killed and the destruction of the cultural heritage of a region which will rival the tragedies of World War II in Europe and Russia. The beauties of these old cities, and the way of life of these proud but simple peoples must not be lost to the senseless violence of Serbian dominated Yugoslavian army seeking to impose an unwanted confederation. If the Soviet Union can undergo a peaceful, if traumatic, devolution of its, central government hegemony, then so can—so must—the peoples of the Balkans, and the leadership of the Yugoslavian state.

Just as we in our cold war vision saw the Soviet Union not as a union but as Russia, and were surprised by the rush to independence of the Soviet states, we are unfamiliar with the history of the Yugoslav region and its federated status. The binding of Croatia, Serbia, and the other cultural and geographic components of Yugoslavia attempted to link historically different and often fiercely nationalistic rivals. Those rivalries were made more bitter by the events of the Second World War. Nearly 2 million Yugoslavs died then, many at the hands of their own countrymen, as in other nations of the region.

With the collapse of communism in Eastern Europe the fragile glue that held Yugoslavia together weakened significantly. Internal rivalries, repressed or controlled all those long years, have resurfaced in bitter fighting. As the United States prepares for the second round of the Mid-East Peace Conference, events in the Balkans reminds us of the potential for action on the part of world powers and international institutions to bring a halt to the bloodshed between the Croats and Serbs, which also threatens Albanians, Slovenes, Hungarians and other ethnic peoples who form the Yugoslavian federation.

Conflict over the retention of the Yugoslavian federation has resulted in unfortunate military action in the provinces of Kosovo and Vojvodina, and the suppression of ethnic populations. The orderly processes of governing have broken down and left the federation without a President or functioning government, and, at one point, caused the Republics of Slovenia and Croatia to declare the federation at an end. Federal army efforts, dominated by the Serbian majority, and mixed political alliances, have led to an appalling loss of life and property as towns such as the beautiful old city of Dubrovnik. Other historically and culturally vital centers such as Vukovar and Osijek are subjected to shelling and destruction in an effort to enforce the unity of an unwanted federation.

Because I believe in the right of all peoples to self-determination, and because, at the least, the United States has an obligation to lend its support to the struggle for freedom, I have joined our colleague, Congressman ELTON GALLEGLY, in cosponsoring H. Con. Res. 224, urging the President to recognize the independence of Croatia and Slovenia. This action would, of course, force a level playing field negotiation to seek a settlement of a dispute now characterized largely by nationalistic bitterness. Because of its majority domination of the Yugoslavian Government, the Serbian population bears the brunt of the burden for the conflict and violence which exists in that troubled nation.

To emphasize our commitment to forcing a cease-fire and negotiated resolution to the problems of not only the Croats, Slovenes, and Serbs, but all of the other, minority, ethnic and cultural groups, I also recently lent my cosponsorship to the efforts of our colleague, Congressman TOM LANTOS, in H.R. 3518, which would restrict United States assistance for any Serbian dominated function or area of Yugoslavia. While neither of these measures has moved in this Congress, I believe that lending our names to these efforts is a clear indication to the Serbian majority that the repression, destruction, and killing must stop. Let us hope so, and that the instability which is rapidly overtaking the region does not demand, at some point, stronger intervention.

This is the great tragedy of a federation whose constitution is modeled on our own and which would guarantee minorities equal rights, which rejects communism and embraces a free-market economy, and which protects personal and political freedoms. They say that those who refuse to learn from history are doomed to repeat it. Let us hope that the events of last year in Eastern Europe, the events earlier this year in the Soviet Union, and the history of the Balkan region provide a basis for seeking a settlement of the Yugoslavian conflict without the forced subjugation of cultures and peoples. We must have as much vision ourselves as the citizens of Dubrovnik had some 215 years ago. We must not abandon the search for a just solution for Croatia, for Serbia, for Slovenia, for each and all of the ethnic populations which seek to establish their right to freedom and independence. Recent events clearly indicate the potential for violence, a potential that certainly parallels the experiences which we have witnessed in the Middle East and Lebanon in the recent past.

Whatever the specifics of the past grievances of the parties, whatever the historical animosities and jealousies, whatever the political and cultural rivalries, the internatioanl community must make clear to the parties that they must abide by the cease-fires which are so painstakingly developed—and have, for more than a dozen times, been so readily violated. It may be that the international community will be called upon to play an active role in sorting out the solution for the Balkan region—let us hope with more sensitivity and foresight than demonstrated following past conflicts—but the first step must be taken by the parties. The United Nations, a new and weak institution following the earlier wars, has recently demonstrated a vitality and vision which may well contribute significantly to an equitable resolution for the Yugoslavian federation.

We are all devastated by the violence, the destruction, the loss of life which we read about each day as the Balkan conflict continues. I hope that the leaders of nations around the world will focus their attention on the terrible ordeal of the Croats and other ethnic populations and will aggressively act to encourage and support an effective solution. Let us all encourage that course, let us support the principle of freedom and self-determination. We pray for the inspired vision of Balkan leaders and the leaders of free nations and institutions around the world to see the path to a just and lasting peace for the region.

TRIBUTE TO JACK YOHE MANAGER, ALLENTOWN-BETHLEHEM-EASTON AIRPORT ON HIS RETIREMENT

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to my good friend Jack Yohe, as he prepares to retire as manager of the Allentown-Bethelehm-Easton International Airport at the end of 1991, ending a public service career spanning more than three decades and marked by accomplishments and awards testifying to the exceptional talents and spirit of this remarkable man.

I have had the distinct pleasure of working closely with Jack Yohe during my 13-year tenure in Congress. I have found him to be most able to handle complex issues; to deal with people with respect and leadership; to enjoy the idea of friendship and to always be the soft-spoken gentleman.

I'm proud to call Jack Yohe a good friend.

Jack Yohe began his professional career as a newspaperman with the Call-Chronicle newspapers in his home town of Allentown, PA, leaving in 1957 to become a copy editor with the Evening Star here in Washington, DC. In late 1960, he joined the staff of Congressman Francis E. Walter of Easton, PA, and held that position until Representative Walter's death.

In August 1963, Jack was named director of information for the Civil Aeronautics Board, the first of a number of positions he held during 17 years with that agency. Among those positions was consumer affairs director of the CAB, making Jack the first such official at a Federal regulatory agency. In 1973, he became the first consumer advocate at a Federal regulatory agency, and under his leadership that office was recognized in independent evaluations during the administrations of both President Ford and President Carter as the outstanding Federal consumer affairs office for management and responsiveness to the public.

In 1979, the CAB moved to combine its consumer interests with its enforcement authority, and Jack became project development director of the newly formed Bureau of Consumer Protection. He acted as the CAB liaison with the White House, Congress, Federal agencies, State and municipal officials, and the various segments of the transportation industry until his retirement from Federal service in January 1981.

Jack was named manager of the Allentown-Bethlehem-Easton Airport in January 1984 by the Lehigh-Northampton Airport Authority. He succeeded Wilfred M. (Wiley) Post, who over his 47 years of active service had been the driving force in the development and growth of the facility from a small airfield into a multi-million-dollar installation. At that time, Authority Chairman Sanford Wartell called Jack "uniquely qualified for the position he. . . has been for many years intimately involved with every segment of the air transport industry * * * and with the entire Lehigh Valley area."

The past 7 years have confirmed Chairman Wartell's high opinion of Jack's abilities and leadership. In that time, A–B–E earned the status of an international airport; it saw a 105 percent increase in passenger use; it more than doubled the number of airlines providing daily passenger service; and it became the east coast maintenance base for Continental Express as well as the home of the aviation divisions of Union Pacific Corp. and ITT Corp. and the U.S. Customs Service's first reimbursable fee port-of-entry.

This growth has been nurtured by an aggressive but responsible strategy of improvements, putting to best use the scarce resources of Federal and local government. The airport has secured more than $25 million in grants from the Federal Aviation Administration for various improvements and development activities—not including the $6.7 million from the Aviation Trust Fund for a new free-standing air traffic control tower—and thus A–B–E International has been able to forego asking county taxpayers to fund these essential projects. In place as Jack ends his tenure at A–B–E are plans for nearly $100 million more in capital improvements, in accordance with the master plan study and noise compatibility study now nearly completed. These steps are meant to encourage further growth at the airport, while making sure that residents in neighboring communities are not inconvenienced by that growth.

Throughout his career, Jack has accumulated a great deal of recognition and numerous awards. He received the Aviation/Space Writers Association award for outstanding service in public communications in 1968, and the Washington Aero Club Distinguished Service Award in 1972. As an official of the Civil Aeronautics Board, he won its Silver Medal for "meritorious service" in our Nation's Bicentennial year of 1976, and was the agency's nominee for the U.S. Civil Service Commission's "Most Distinguished Employee" award that year as well. More recently, Jack was named to the board of directors of the Airport Operators Council International in 1989, and elected to a 3-year term on the Council's board a year ago. And he was honored with a "Laurels of 1989" citation by Aviation Week and Space Technology magazine in January 1990—the only airport official to win recognition from a worldwide selection of editors.

I believe that Jack's lasting legacy may not be the awards and honors, nor the improvements and growth at A–B–E International, nor even the hundreds of his friends and admirers in our community. Instead, his legacy will be the economic strength of our area, which has been advanced immeasurably by his efforts to improve air service to and from the Lehigh Valley.

Jack Yohe is an example of the kind of visionary and leader that our cities, our regions, our States and our Nation must have in order to ensure prosperity and comfort for future generations. Mr. Speaker, as Jack and his lovely wife Ann prepare to move on to face new challenges—and to spend more time with their children and grandchildren—please join me in thanking this dedicated public servant for his many good ideas and good works, and in wishing him and his family all the best in the years ahead.

LUIS BOTIFOLL OF MIAMI'S REPUBLIC NATIONAL BANK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Luis Botifoll, chairman of the board of the Republic National Bank of Miami, who was recently featured in the American Banker. The article "Republic of Miami's Botifoll Foresees In-Market Growth," tells how his bank became the largest locally-owned bank in the Miami area:

Luis Botifoll, chairman of Republic National Bank of Miami, may be Florida's grand old man of banking at age 83, but he is not about to slow down.

"We're the biggest local bank in Dade County and the biggest Hispanic bank in the United States," he boasts. "And we've still got a market to expand in."

With First Union Corp.'s acquisition of Southeast Bank of Miami in September, the $1.3 billion-asset Republic became the biggest locally-owned bank in Dade Country, which includes Miami. (The company is unrelated to the much larger Republic National Bank of New York.)

PROFIT SURGE 74 PERCENT

And in a vibrant local economy, business is booming at Republic. Third-quarter profits were up 74% from a year ago, to $3 million. For the nine months, profits rose 21% to $7.2 million.

In the next three to four years, Mr. Botifoll predicted, Republic will probably double in assets and add at least five branches to its current 20.

Republic's strong performance comes amid an explosion in the number of Hispanic banks in Miami, broadly defined as those owned by Hispanic investors, run by Hispanic management, and catering primarily to the Latino community.

Since 1965, when Republic was founded, the number of Hispanic banks has risen to 23, or 39 percent of the 59 locally licensed banks in Miami.

At June 30, Hispanic banks held nearly 20 percent of some $26.9 billion in deposits in Dade County, which has a large population of Cuban emigres.

And while deposits at non-Hispanic banks in the county fell 2.9 percent, to $21.6 billion, in the six months through June 30, deposits at Hispanic banks climbed by $203 million, or 4 percent, to $5.27 billion.

Dade County's large Hispanic population, the bank's bilingual staff, and close relations with the local community all operate in Republic's favor, said Mr. Botifoll.

"We know who's who," he said. "We speak Spanish as well as English, we make decisions quickly, and you can walk in and see the president anytime you want.

"At other banks, you're just a number. People resent that."

Republic's success stands in sharp contrast to the recent collapses of Southeast Bank and Cen Trust Bank, a big Miami thrift.

It also underscores the remarkable economic rise of immigrants like Mr. Botifoll, who arrived in Miami in August 1960—shortly after Fidel Castro's revolution—with his wife, three children, and little more than the clothes on his back.

A FOE OF CASTRO'S

A former editor at El Mundo, a large daily newspaper in Havana, Mr. Botifoll spent his first three years in the United States campaigning to overthrow Castro. When funding for that movement ran out, Mr. Botifoll began working as a consultant on Latin America.

In 1970, three years after Republic had been acquired by Ecuadoran investors, Mr. Botifoll was asked to join its board and was subsequently to take over as chairman.

The first years in the United States were the toughest, he recalled. "It was difficult enough coming to a country without a cent in your pocket," he said.

You also have to remember that Miami was also a lot smaller, it was mainly a tourist town, and you didn't have a large community that spoke your language."

I am happy to pay tribute to Luis Botifoll and the Republic National Bank of Miami by reprinting this article from the American Banker. Mr. Botifoll's story is typical of the many successful immigrants who have helped make America what it is today.

FIFTIETH ANNIVERSARY OF THE ATTACK ON PEARL HARBOR

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DINGELL. Mr. Speaker, I rise today in recognition of the 50th anniversary of one of the most monumental events in our Nation's history: the surprise attack on Pearl Harbor.

This Veterans' Day, I had the privilege of meeting with a very special group of veterans and their families who are survivors of that infamous December 7 attack. To date, 21 16th Congressional District residents and survivors have been identified. They include: Michigan Pearl Harbor Survivors Association President, Mr. Gerald L. Lipscomb; Mr. Joseph Arnold; Mr. Leonard Anthony Balutis, Jr.; Mr. Milton J. Beaudry; Mr. Esrom Breeding; Mr. Andrew Carol; Mr. Charles G. Clark, Jr.; Mr. William K. Coffman; Mr. Stanley Czopek; Mr. Roman Grabowski; Mr. James P. Lambe; Mr. Joseph Machczynski; Mr. Emmett J. Pyles; Mr. Glenn M. Sharp; Mr. Frank G. Smalley; Mr. Ernest E. Smith; Mr. Marvin L. Strouss; Mr. Howard Thoma; Mr. William Thomas; Mr. Clair J. Thompson; and Mr. Alex F. Zawila.

These dedicated men served their country in its time of greatest need and survived as living testaments to the strengths and courage of the American spirit. They survived to witness the triumph of both America's military forces and its ideals.

In recognition of this historic anniversary, I am attaching President Franklin Delano Roosevelt's remarks to the U.S. Congress following the attack on Pearl Harbor.

ADDRESS BY THE PRESIDENT

To the Congress of the United States:

Yesterday, December 7, 1941—a date which will live in infamy—the United States of America was suddenly and deliberately attacked by naval and air forces of the Empire of Japan.

The United States was at peace with that nation and, at the solicitation of Japan, was still in conversation with its Government and its Emperor looking toward the maintenance of peace in the Pacific. Indeed, 1 hour after Japanese air squadrons had commenced bombing in Oahu, the Japanese Ambassador to the United States and his colleague delivered to the Secretary of State a formal reply to a recent American message. While this reply states that it seemed useless to continue the existing diplomatic negotiations, it contained no threat or hint of war or armed attack.

It will be recorded that the distance of Hawaii from Japan makes it obvious that the attack was deliberately planned many days or even weeks ago. During the intervening time the Japanese Government has deliberately sought to deceive the United States by false statements and expressions of hope for continued peace.

The attack yesterday on the Hawaiian Islands has caused severe damage to American naval and military forces. Very many American lives have been lost. In addition American ships have been reported torpedoed on the high seas between San Francisco and Honolulu.

Yesterday the Japanese Government also launched an attack against Malaya.

Last night Japanese forces attacked Hong Kong.

Last night Japanese forces attacked Guam.

Last night Japanese forces attacked the Philippine Islands.

Last night Japanese forces attacked Wake Island.

This morning the Japanese attacked Midway Island.

Japan has, therefore, undertaken a surprise offensive extending throughout the Pacific area. The facts of yesterday speak for themselves. The people of the United States have already formed their opinions and well understand the implications to the very life and safety of our Nation.

As Commander in Chief of the Army and Navy I have directed that all measures be taken for our defense.

Always will we remember the character of the onslaught against us.

No matter how long it may take us to overcome this premeditated invasion, the American people, in their righteous might, will win through to absolute victory.

I believe I interpret the will of the Congress and of the people when I assert that we will not only defend ourselves to the uttermost but will make very certain that this form of treachery shall never endanger us again.

Hostilities exist. There is no blinking at the fact that our people, our territory, and our interests are in grave danger.

With confidence in our armed forces—with the unbounded determination of our people—we will gain the inevitable triumph—so help us God.

I ask that the Congress declare that since the unprovoked and dastardly attack by Japan on Sunday, December 7, a state of war has existed between the United States and the Japanese Empire.

FRANKLIN D. ROOSEVELT.

The WHITE HOUSE, *December 8, 1941.*

HONORING PASTOR CURT HESS FOR 47 YEARS OF SERVICE TO GOD AND FAMILY

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. YOUNG of Florida. Mr. Speaker, participating in retirement programs is a mixed blessing for me because while there is celebration of an individual's lifetime of work, there is always a bit of sadness that they will no longer serve in the position for which so many have become accustomed.

Friday evening I had the honor to participate in one of these bittersweet celebrations when we paid tribute to Pastor Curt Hess on his retirement after devoting 47 years of his life to being a pastor-minister of churches—the last 36 years at the Central Christian Church in St. Petersburg, Florida.

At a time when some are questioning the moral fabric of our society, one need only look at the thousands of people Curt and his wife Jo have touched in their almost half a century of ministry at churches large and small to be reassured that there are still spiritual role models for our children and our families. The more than 500 people who turned out Friday night attest to the love and respect the community I represent has for the Hesses.

Mr. Speaker, following my remarks I will include for my colleagues a short reflection by Curt Hess entitled "I Am Thankful." From his words, you quickly gather the strength of his beliefs and his devotion to God and the people of the churches he has served. It also is a reassuring piece for me because he reaffirms that even though he is retiring as pastor of the Central Christian Church that he will continue his ministry to people and churches in need. As he says:

> Our plan is to be used by the Lord to encourage, inspire, and to aid in any way any younger minister or any small church that will allow us to help them. Fifty years ago I gave my life to Him for full-time Christian service so I will continue to serve him until I meet him in Heaven. Jesus instructed us, "Be then faithful unto death, and I will give thee a crown of life" (Revelation 2:10).

Mr. Speaker, God has given Curt Hess a crown of life and with that life he has touched more lives, including this member of Congress, than he will ever know. Curt and Jo Hess are God's gift to us and for that we will always be thankful.

[From the Christian Standard, Nov. 24, 1991]

I AM THANKFUL

(By Curt Hess)

May 3, 1926, was a special day for me. On that day I was born into the home of Bob and Tiny Hess, in Indianapolis, Indiana. My sister, Mary Frances (now Mrs. Paul Neal) had arrived two and one-half years earlier. Knowing the importance of bringing their children up in the nurture and the admonition of the Lord, Mother and Daddy soon placed their membership at the Englewood Christian Church and enrolled the family in Englewood's great Sunday school. What an impact their decision made on all of our lives!

Our minister, O. A. "Pappy" Trinkle, was in his late thirties, having begun his ministry at Englewood in July, 1923. What a dynamic man he was!

MENTOR

From those early days, Pappy Trinkle was my mentor, although I did not yet know that word. I stopped, looked, and listened to all he did and said and was. He was one of the pioneers of the North American Christian Convention which first convened in Indianapolis, October 12–16, 1927. Five of the first nine NACCs were held at Cable Tabernacle in Indianapolis and Pappy made certain that his young people were present at many of the sessions.

In those days there were no children's or youth sessions. So as a youth, I had the great experience of hearing the preaching of such spiritual giants and outstanding leaders as P. H. Welshimer, W. R. Walker, T. K. Smith, O. E. Whitehouse, B. W. Carrier, W. H. Book, P. H. Canary, P. C. and R. C. McCord, F. W. Messinger, W. N. Briney, J. D. Murch, W. E. Sweeney, R. C. Foster, R. E. Elmore, R. M. Bell, A. P. Benjamin, A. B. McReynolds, O. T. Sparrow, and the Payne Sisters. As a teenager I often wondered if all those giants of the faith had only initials rather than given names.

During Pappy's ministry, Englewood church always had a two-week revival meeting every spring and fall. Either the guest song leader or the evangelist almost always stayed in our home. What an experience for a kid who was pretty certain the Lord was calling him into the ministry!

For twenty-five years, O. A. Trinkle served as manager of the Rock Lake Christian Assembly, Vestaburg, Michigan. My Rock Lake experience began when I was eleven years old, and there I was mentored by a host of Christian church preachers including: Ray Harris, Hervey Sewell, Estal Taylor, Jack Anderson, Al Watterworth, R. C. Foster, Harry Poll, Floyd Pence, LaVern Taylor, and Ralph Woodard.

Pappy had baptized me into Christ as a lad at Englewood, and at a Galilean service on the shores of Rock Lake, at age 15, he received me as I dedicated my life to full-time Christian service.

Since its establishment, Pappy had been a trustee of The Cincinnati Bible Seminary so, in the fall of 1943 I enrolled as a student. There my life was shaped, molded, and mentored by Ralph Records, Ira M. Boswell, George Mark Elliott, Edsil Dale, Robert Drake, Albert Carver, Don Whitman, Frank Buck, and Louis Wetzel, among others.

What a wonderful heritage is mine!

MARRIAGE

In January, 1944, I met Joan West from Portsmouth, Ohio, who had just enrolled at CBS. When I first saw her, I told my roommate, Kenny Washburn, "I hope to marry that girl someday." That day finally came on September 1, 1946, and it was Pappy Trinkle and Donovan S. Hinkle who joined us together, as husband and wife.

Next to receiving Jesus Christ as my personal Savior and being baptized into Him, that marriage was the very best thing that ever happened to me. No minister has ever had a more beautiful, more talented, or finer "preacher's wife."

MINISTRY

On May 7, 1944, Pappy Trinkle and the elders of the Englewood Christian Church ordained me to the ministry. In November of that same year my pastoral ministry began.

Jo and I have served four churches: two student ministries (Cadiz, Indiana, and Xenia, Ohio) followed by a seven-year ministry with the Sciotoville church, Portsmouth, Ohio (1948–1955). On November 24, 1991, we will close more than thirty-six years of ministry with Central Christian Church, St. Petersburg, Florida.

In these 47 years of being a pastor-minister of a local church, there has never been a bad experience. Each one of our four congregations was the best yet.

On May 3, 1991, I celebrated my sixty-fifth birthday. Jo and I have decided it is time to pass the torch to Eddie and Billye Joyce Fine, who have been a part of our staff and faithful friends for twenty-three years.

MAINTENANCE

In April of this year I shared with our elders and congregation our plans to retire from Central, on December 31, 1991. Upon hearing of this decision one of our older members telephoned her daughter and asked, "Did you know that Curt and Jo have quit?"

It is true we are headed down the homestretch, but we haven't quit! Our plan is to be used of the Lord to encourage, inspire, and to aid in any way any younger minister or any small church that will allow us to help them. Fifty years ago I gave my life to Him for full-time Christian service, so I will continue to serve Him until I meet Him in Heaven.

Jesus instructed us, "Be then faithful unto death, and I will give thee a crown of life" (Revelation 2:10). Some time ago, longtime friends, Jim and Meg Pennington, gave me a coffee mug that carried this inscription: "Old ministers never die, they just go out to pastor."

For all of these opportunities and blessings, I am thankful!

TRIBUTE TO PEARL HARBOR VETERANS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a courageous group of Americans who on December 7, 1941, personally experienced "the day that will live in infamy." I am, of course, referring to those stationed at Pearl Harbor—our first veterans of World War II.

I would like to officially recognize 16 of these veterans who reside in Michigan's 12th Congressional District. These men will be receiving the Pearl Harbor Commemorative Medal this year:

Thomas Allen, Jr., Robert Boyd, John Brammell, John Fink, Homer Good, Harold Herpel, Lloyd Jaco, Anthony Karl, John Klucker, Arthur Noellert, Robert Paul, Gardner Pickering, Charles Sharrow, William Stroud, Jr., Marvin Villaire, and Preston Wolfe.

My deepest gratitude goes out to these proud veterans of Pearl Harbor.

It is appropriate this December 7 that we remember those who served at Pearl Harbor. Their battle was the first salvo in the long fight to bring an end to imperialism, fascism, and communism. Pearl Harbor has become a symbol of America's commitment to defend our values and interests. All our veterans deserve tremendous honor and respect for their efforts in maintaining this commitment. We owe them an enormous debt of gratitude for their valiant service which has made the world a better place to live for everyone.

Today, the veterans of Pearl Harbor can see that war they fought in, and so bravely won, helped, in time, bring freedom to the rest of the world. The sweeping changes in Eastern Europe and the former Soviet Union are a testament to our veterans' resolve to fight for freedom. With each new headline we see that our World War II victory was a victory for all of humanity.

The surprise attack Pearl Harbor veterans endured paved the way for our entry into World War II. In the 50 years since, the world has become a more secure place for freedom and democracy. This is the ultimate tribute to the brave men and women who fought that morning, and each morning thereafter, to keep our great sovereign Nation free.

INTRODUCTION OF THE TIMBER RESOURCE EMPLOYMENT ENHANCEMENT [TREE] ACT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWIFT. Mr. Speaker, I would like to share with my colleagues a recent article from the Seattle Post Intelligencer by Paul Shukovsky who writes of the "New Appalachia" in the Pacific Northwest. Mr. Shukovsky's piece accurately portrays the plight of many families dependent on the forest products industry for their livelihood, who now find themselves facing uncertainty and unemployment because of the declining timber industry.

Today I am joining with my colleague from the State of Washington, Mrs. UNSOELD, in introducing legislation, the Timber Resource Employment Enhancement [TREE] Act, that would provide jobs in severely depressed timber towns in the Northwest. Although it will not solve all of the problems facing timber workers, it is an attempt to provide opportunities for these hard-working men and women as the harvest levels on Federal timberlands come down. Now is not the time for the Federal Government—and that includes the President—to turn its back on these families.

I urge my colleagues to read Mr. Shukovsky's article and join Mrs. UNSOELD and me in supporting this legislation.

ONCE-PROUD LOGGERS NOW GRUB FOR MUSHROOMS TO STAY ALIVE

(By Paul Shukovsky)

AMANDA PARK—The decline of the timber industry is giving birth to a new underclass on the Olympic Peninsula, a western version of Appalachia where desperate people scratch a living from the forest by scavenging gourmet mushrooms, ornamental plants and cedar stumps.

As short on hope as they are on cash, former loggers, mill workers and their families are living in poverty in old cars and ramshackle trailers, some without electricity or running water.

Their unemployment insurance long since expired, these invisible people are not counted as part of the official jobless rate.

Men like Bob Foote, a proud "high climber" in his logging days, have been reduced to rooting around trees in search of mushrooms coveted by Japanese and European connoisseurs. Foote and eight other people live a stark existence amid the junk vehicles and debris strewn around an abandoned log-sorting yard a few miles north of this dying timber town in northern Grays Harbor County.

"We are developing a culture of people who are not resilient because they are falling into poverty and hopelessness," said Robert Lee, a University of Washington professor and an expert on timber-dependent communities.

"This is exactly what happened during the Depression" of the 1930s, Lee said.

The remote peninsula has long supported small numbers of people who glean subsistence livings from what they can gather in the woods. Their numbers now appear to be increasing rapidly, say social service workers, ministers and residents in the area.

Because this economy is underground, its meager profits often are not reported to the Internal Revenue Service. Government statistics documenting the trend do not exist.

But to those who live in timber country, the problem is all too obvious.

"There are tent cities all over Grays Harbor County," said Kay Bernethy, director of the Humptulips Food Bank. "People are living all along our Humptulips River. Right now the river is full of fish and people are getting what they can. People park their cars, throw a tarp up and live there. Or they have old trailers. It is very prevalent around here out in the woods. And it is getting more and more common. It is real depressing and getting worse."

The few statistics available paint a bleak picture of Grays Harbor County's economy:

The number of people receiving public assistance in the county's timber-dependent western portion rose to 5,932 in July, up 15 percent over a year earlier.

Food stamp recipients have risen 35 percent in the four years from April 1987 to April 1991.

The unemployment rate for September was 9.1 percent, up from 7.2 percent in September 1990.

The office serving displaced timber workers showed a 200 percent increase in service in September when compared to a year earlier.

Last month, the Humptulips Food Bank served 406 people—more than half the population of the town and the immediate vicinity, director Bernethy said.

The true picture is probably even worse. Proud timber workers, who place a premium on self-reliance, often refuse public assistance. And an unknown number of workers whose benefits have expired are no longer counted as part of the unemployment rate.

Jim Coates, an outreach worker for the International Woodworkers of America, has seen 37 mills close in Grays Harbor County since March 1990. That does not include logging and trucking outfits that have gone down, Coates says. Like everyone else, he looks to the approaching winter with a sense of dread.

"This will be the worst winter this county will ever see," he said. "Last year was bad, but there are so many more people on the street now."

Timber's decline in Grays Harbor has been long and painful. People have been losing jobs here throughout the 1980s as a result of the export of raw logs overseas and the automation of the mills. But the problem has exploded in recent years as recession takes its toll and vast tracts are set aside to protect the threatened northern spotted owl.

Lee predicted the massive social dislocation now occurring in timber country. Among the predictions in his June 1990 research paper was an increase in people living off the land.

"A permanent rural underclass will be created, with all the social, economic, and resource conservation problems found in other economically depressed rural regions: persistent poverty, substandard education and medical care, lawlessness, hostility toward outsiders, and unstable family structures," Lee's paper said.

"We are setting up a legacy of living off the land," Lee said this week. "It is the welfare function of the forest. The mobile homeless will move from campground to campground, live off the forest, take casual labor, take welfare."

There are no statistics to quantify the depth of the problem, Lee said. But he says it is clear that the social safety net is totally inadequate. "The money doesn't begin to compare with the need."

Rich Nafziger, head of Gov. Booth Gardner's timber-crisis team, agrees. Asked how much federal aid has gone to timber country, he said: "Almost none. There is little federal money."

Last year, the federal government gave Washington a $4 million discretionary grant to retrain displaced timber workers. But Nafziger complained that no provision was made to support the workers and their families while going to school.

State programs provide a few million dollars for mortgage payments and job retraining. Another program provides $20 million to extend unemployment benefits for timber workers in retraining.

"It's a drop in the bucket compared to the need," Nafziger said.

Washington legislators have introduced federal bills for more aid, but President Bush has opposed them, Nafziger said. He estimated the total need at roughly $100 million.

"We hope the Bush Administration will change its opposition," he said.

Nowhere is the need for assistance more evident than in the old log-sorting yard hidden off Highway 101 north of Amanda Park where Foote makes his home.

Foote has been living in his car amid several acres of junk vehicles, dilapidated trailers and garbage. But soon he will be moving into an abandoned trailer there through the generosity of Suzy Morganroth. Morganroth, 55, owns the yard and lives there with Merle King, her partner of 11 years and an unemployed timber worker.

Like Foote, the 52-year-old King manages to make a few bucks "cutting block"—salvaging cedar stumps and cutting them into 24-inch lengths to be processed at one of the few local shake mills still operating.

King works with Chuck Meers, another unemployed logger who is living in a trailer at the yard. In a very good week, they might make $200. But such weeks are rare.

"Cutting block only happens when you can find the wood to cut" King said.

That's why Meers supplements his income picking gourmet mushrooms. And that's why Morganroth is starting a mushroom-buying business. She plans to buy mushrooms from pickers and resell them to one of the export companies that serve the Japanese and European markets.

One damp, chilly morning last week, the 49-year-old Foote climbed out of his car and walked over to Suzy and Merle's trailer for a cup of coffee. As usual, it was a long wait. Without electricity, Merle had to stoke the wood stove to heat the water he had hauled in by hand.

Bobbi Jo Stevens, the mushroom queen, walked over from the bus where she and fiance Archie Emery spent the night. Stevens, 41, has lived in the woods her whole life and knows which mushrooms to pick. She also knows where to find the ornamental vegetation prized by East Coast and European florists—salal, bear grass, sword fern, huckleberry.

Stevens is helping Morganroth start her business. And she plans to start classes soon in how to collect mushrooms and ornamental brush.

The dispossessed timber workers sat in a semicircle in front of the stove. Foote clutched his cup with two hands and sipped.

"I never figured it would come to this," Foote said. "I started working in the woods in '58. I set chokers (log-hauling hooks) for Weyerhaeuser. It looked to me like it was going to be a good career. And I learned everything I could about the woods. It was just wasted. It was a waste of education."

"Now, if it wasn't for the food bank and food stamps I'd starve to death."

Last year, Foote left the peninsula to find work as a logger in Oregon. But the job got snowed out early and he came back home. His unemployment benefits have long since run out.

"In the last four years, it has gone down hill so fast that now I'm picking mushrooms, cones and just whatever I can do to get by. I tried the different programs that they've got. I went to the employment office but I don't qualify.

"Since then, I've just been living off the land. Doing whatever I can to get by. Lately I've been making $18, $20 a day. Just enough to keep eating."

Timber country is full of anger toward environmentalists and their campaign to save old-growth forests. But Foote sounds a populist theme that is becoming more common.

"I'm disappointed. All the big companies got rich and just packed up and moved on and left the rest of us sitting here starving. Somebody has got a lot of money in their pocket over this situation. But we sure haven't got it.

"I don't blame the environmentalists. I just want to know where were they 25, 30 years ago. Why wasn't they raising hell 30 years ago? I agree with saving the forest. You know we can log that forest out there without raping it.

"There is no excuse to just go in there raping the crop and moving on. They always wait until the damage is done and it's too late to fix it.

"Bobbi showed me spots out here were you used to go in and get a hundred pounds of mushrooms in three or four hours. They went in and logged it off and now the mushrooms don't grow there.

"I don't want to live in the city. I lived in Seattle before. Too many people."

MEDICARE HMO SANCTION REFORM AND ANTI-FRAUD AND ABUSE ACT OF 1991

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEVIN of Michigan. Mr. Speaker, it is my pleasure to introduce a significant piece of legislation today with Mr. STARK, chairman of the Ways and Means Health Subcommittee. The "Medicare HMO Sanction Reform and Anti-Fraud and Abuse Act of 1991" will help ensure the integrity of the health services received by Medicare beneficiaries. This bill will provide the Secretary of the Department of Health and Human Services with adequate authority to oversee the practices of health maintenance organizations [HMOs] and other Medicare providers.

The two components of this legislation have a significant history. The first component of this bill provides the Secretary authority to impose additional intermediate sanctions upon health maintenance organizations with Medicare contracts. The need for this authority has been well established. The Government Accounting Office [GAO] has identified problems with the Health Care Financing Administration's ability to adequately oversee health maintenance organizations for at least 5 years. In 1988, the GAO identified problems with the existing sanction authority concerning problems such as marketing practices or history of compliance problems. In 1991, GAO again issued two reports that addressed problems of quality and HCFA's sanction authority regarding Medicare HMOs. Specifically, a GAO report examining the peer review organizations [PROs] interaction with Medicare HMOs, recommended improvements in the PROs review of ambulatory care provided by Medicare HMOs, improvements in data collection by PROs, requiring PROs to report their quality reviews of HMOs, and for Congress to provide HCFA with the authority to impose civil monetary penalties for HMOs that fail to cooperate with the PROs.

In another report in 1991, the GAO re-issued these recommendations and further summarized the situation by stating: "As we reported in 1988, HCFA has limited authority to suspend an HMO's enrollment of Medicare beneficiaries. Under several circumstances specified in the enabling legislation, HCFA can suspend an HMO's enrollment or impose civil monetary penalties. We suggested that the Congress broadened HCFA's authority to deal with HMOs out of compliance with requirements. With broadened authority HCFA could more easily apply sanctions."

The need for expanded intermediate sanctions was again recommended in a GAO report requested by Mr. STARK, Mr. SMITH of Florida, and Mr. SHAW. This report, released earlier this month, outlined additional study the GAO has conducted of an HMO in Florida. In that report they stated, "we believe broadening HCFA's sanction authority along the lines that we recommended our 1988 report could help avert future problems by making any violations by an HMO subject to intermediate sanctions."

This report was the centerpiece of a hearing conducted by the House Energy and Commerce Subcommittee on the Health and the Environment on November 15, 1991. At that hearing the Administrator, and in the inspector general's comments about the GAO report, it was noted that HCFA's delay in developing regulations to implement their existing authorities for intermediate sanctions was caused by subsequent legislation that modified this authority. In addition, the IG's commmented that: "HCFA is very interested in the availability of sanctions, other than contract termination, for ensuring HMO compliance with Medicare contracts requirements. . ."

We have been investigating this issue for many months. I was fortunate enough to have the excellent assistance of Carolyn Cocotas, who worked in my office last spring and summer as a Legis fellow. She brought with her extensive knowledge of these issues from her tenure in HCFA's Office of Prepaid Health Care. Through her diligent work, we have identified several areas where existing authority would not adequately enable HCFA to sanction an HMO that was operating in a manner inconsistent with the best interests of Medicare beneficiaries. Specifically, these include the failure of HMOs to adequately address enrollee appeals, marketing abuses, and failure to provide required information about their operations to the Secretary. These are of course, in addition to the problems of quality of care and the HMOs' interaction with the PRO's that the GAO had repeatedly identified.

The "Medicare HMO Sanction Reform and Anti-Fraud and Abuse Act of 1991" will address these problems by increasing the Secretary's current authority to impose intermediate sanctions. His current authority allows for suspension of enrollments, suspension of payments, termination of the contract, and civil penalties for specific violations. This legislation would retain those authorities, and would add additional authority for civil penalties that are not already specified in statute. Existing authority is retained with this bill so as not to interfere with HCFA's implementation of its authority. As noted earlier, HCFA claims that continued changes in the law have delayed this process. Therefore, I would like to make it very clear that this bill would not modify the existing authority. Rather, it would create encompassing authority to impose intermediate sanctions where the violation is not already covered by existing intermediate sanction authority.

Further, this legislation would clarify several points regarding the interaction between HMO's and PRO's. Specifically, the legislation requires written agreements between HMO's and PRO's concerning quality reviews, and the development, by the Secretary, of a model agreement. The GAO is also required to conduct a study of the costs of the HMO's for fulfilling these agreements with the PRO's, and an analysis of how this information is used by the Department of Health and Human Services to assess the quality of care received by the Medicare beneficiaries.

My continued interest in these issues stems from my intense interest in increasing access to quality managed care for Medicare beneficiaries, eliminating fraud and abuse in the health care sector of the economy, and ensuring that Medicare beneficiaries receive the best quality care in the most appropriate setting possible. These combined objectives will help serve to further our progress towards insuring access to efficient coordinated systems of health care at the local, regional and national levels. As we can all agree, improving our Nation's health care and health insurance system is a national priority.

It is for this reason that included in this bill are two other provisions to help combat fraud and abuse in marketing practices of the health care industry. These provisions were included in OBRA-90 as it was reported out of the House of Representatives. These provisions are important. They clarify what is not allowed under the antikickback provisions previously enacted into law, and that the Medicare providers who link employee incomes to patient volume through "bounty payments" are subject to civil monetary penalties as provided for under existing Medicare statutes.

At this time I would also like to alert my colleagues to another bill I am introducing, the "Medicare Qualified Medicare Beneficiary Notification Act of 1991." This legislation relates to the previous bill in that it requires HMO's currently operating under contract with Medicare to determine whether their Medicare enrollees are eligible for the Medicare Qualified Medicare Beneficiary [QMB] Program. A recent Families USA study indicated that more than 50 percent of all eligible Medicare beneficiaries were not receiving the benefits entitled to them under the QMB program. In Michigan, this figure was approximately 75 percent. With over 1.3 million Medicare beneficiaries enrolled in HMO's, this is clearly a logical organizational entity for the dissemination of information about this program. Other distinguished Members have introduced legislation to have the Secretary or the States increase their outreach efforts to Medicare beneficiaries about the QMB program. Those efforts are good and appropriate, and should be enacted. But with the Medicare HMO's contractors there is already an organizational entity with which beneficiaries are intimately connected. This requirement of the HMO's would help strengthen the coordination of care, benefit the HMOs, and benefit the beneficiaries.

I look forward to working with my colleagues to see that we move forward with these pieces of legislation as we continue to improve the health care received by Medicare beneficiaries.

Mr. Speaker, I request that the text of these bills be included in the RECORD following my remarks.

A BILL To amend title XVIII of the Social Security Act to expand the Secretary of Health and Human Services' authority to impose intermediate sanctions on health maintenance organizations participating in the medicare program for violation of any requirement of the program and to amend title XI for the Social Security Act to prohibit providers of services under the medicare program from offering certain inducements to beneficiaries or employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare HMO Sanction Reform and Anti-Fraud and Abuse Act of 1991".

SEC. 2. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph.

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(ii) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists; and

"(iii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to occur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)) is amended by adding at the end of the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—(A) Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(B) Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—

(1) REQUIREMENT FOR WRITTEN AGREEMENT.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1993, the Secretary of Health and Human Services shall develop a model of the agreement that an eligible organization with a risk-sharing contact under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A).

(3) REPORT BY GAO.—

(A) STUDY.—The Comptroller General shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary of Health and Human Services to assess the quality of services provided by such eligible organizations.

(B) REPORT TO CONGRESS.—Not later than July 1, 1994, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance in the Senate on the study conducted under subparagraph (A).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1993.

SEC. 3. PROHIBITION AGAINST OFFERING INDUCEMENTS TO BENEFICIARIES OR EMPLOYERS.

(a) INDUCEMENTS TO BENEFICIARIES.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) transfers anything for less than fair market value to (or for the benefit of) a beneficiary in order to influence the individual to receive from a particular provider, practitioner, or supplier a covered item or service for which payment may be made under title XVIII or XIX;".

(b) INDUCEMENTS TO EMPLOYEES.—Section 1128A(a)(1) of such Act (42 U.S.C. 1320a-7a(a)(1)), as amended by subsection (a), is further amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) pays a bonus, reward, or other incentive to an employee to induce the employee to encourage individuals to seek or obtain covered items or services for which payment may be made under title XVIII or XIX where the amount of the incentive is in proportion to the activities of the employee in encouraging individuals to seek or obtain covered items or services;".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to transfers or payments made on or after the date of the enactment of this Act.

A BILL To amend title XVIII of the Social Security Act to require health maintenance organizations under the medicare program to determine whether individuals enrolled with the organization are entitled to medical assistance for medicare cost-sharing under a State medicaid plan

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare HMO Qualified Medicare Beneficiary Notification Act of 1991".

SEC. 2. REQUIRING MEDICARE HMOs TO DETERMINE WHETHER ENROLLED INDIVIDUALS ARE ENTITLED TO MEDICARE COST-SHARING UNDER MEDICAID.

(a) IN GENERAL.—Section 1876(c) of the Social Security Act (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(9) A risk-sharing contract under this section shall provide that the eligible organization shall determine whether individuals enrolled with the organization are entitled to medical assistance for medicare cost-sharing under section 1902(a)(10)(E) under a State plan under title XIX, and shall assist individuals entitled to such assistance in obtaining such assistance.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts under section 1876 of the Social Security Act for contract years beginning on or after January 1, 1992.

HONORING DR. JOHN HANSEN FOR HIS HEROIC WORK TO SAVE LIVES THROUGH MARROW TRANSPLANTATION

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. YOUNG of Florida. Mr. Speaker, many people from all walks of life have been brought together in a mission to establish the National Marrow Donor Program to give the living gift of life and hope to hundreds of families throughout our Nation and the world. They are all heroes in their own special way and from time to time I have shared with my colleagues their story.

Today I want to introduce you to Dr. John Hansen, of the Fred Hutchinson Cancer Center in Seattle, who has distinguished himself as being one of the world's foremost marrow transplanters. He was a major driving force behind the establishment of the National Marrow Donor Registry and through his work on its board of directors, continues to play a leading role in its dramatic growth.

Next Friday, December 6, he will be awarded the program's highest honor when the board presents him with the Laura Graves Award for distinguished service to the national registry and to advancing the field of unrelated marrow transplantation. As the recipient of the first Laura Graves Award earlier this year, I know what a special honor it is to be recognized by the friends and colleagues who are the heroes who dedicated themselves to the establishment of the national registry.

Dr. Hansen has touched so many lives and brought hope to so many families, but the Laura Graves Award will have a very deep and special meaning for him. Laura Graves was a patient of Dr. Hansen in 1979 when she became the first leukemic to receive an unrelated marrow transplant. Although Laura died of leukemic relapse, she was one of the primary moving forces that began the drive for the establishment of the national registry.

It has been a special honor for me to have the opportunity to work with Dr. Hansen and to have benefited from his special expertise and prominence in the field of marrow transplantation. He has been an invaluable teacher to me as I have acquired a deeper understanding of the intricacies of this procedure which is a modern medical miracle.

The presentation of the Laura Graves Award will take place in Denver at the annual meeting of the American Society of Hematology. It is a most appropriate forum because it will allow Dr. Hansen to be recognized and honored before his peers, who hold him in the highest regard. Dr. Robert Graves, the former chairman and now vice chairman of the National Marrow Donor Program and one of the greatest heroes of the program, will present the award which is named in memory of his daughter. Doctors Graves and Hansen have a very special and warm relationship that has bonded them together in their work to save lives.

Mr. Speaker, it is my hope that in receiving the Laura Graves Award, Dr. Hansen and his wife Mary Ann will take great strength in remembering the courage of Laura Graves who was the first in what has become a long line of heroes who have brought hope to families throughout the world. May her memory serve them well both now and in their future long life together. For Dr. Hansen, it is a life devoted to giving life to others.

A SPECIAL TRIBUTE TO ROBERT E. HUGHES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STOKES. Mr. Speaker, I am saddened to rise today to announce the recent death of Mr. Robert E. Hughes, who passed away on November 20, 1991, at the age of 63.

For 33 years, Bob Hughes served as Chairman of the Cuyahoga County Republican Party in Cleveland, Ohio. He was a talented politician who provided leadership and direction to his party. He was also a committed and caring individual whom we admired and respected. Even though he and I were on different sides of the political fence, we were friends.

Mr. Speaker, during his lifetime Bob Hughes made great contributions to his party, our community and the nation. I extend my deepest sympathy to his wife, Marguerite, his family and many friends. He was an extraordinary individual who will never be forgotten.

REPUBLICAN KINGPIN HUGHES FOUND DEAD

(By Steve Lutiner)

Political legend Robert E. Hughes died yesterday after he was found unconscious on the garage floor at his Lyndhurst home.

Hughes, chairman of the Cuyahoga County Republican Party for a record 23 years, was taken by ambulance to Meridia Hillcrest Hospital, where he was pronounced dead at 1:20 p.m. He was 63.

Cuyahoga County Coroner Elizabeth K. Balraj said a cause of death had not yet been determined. Balraj said the coroner's office investigates all unexpected deaths.

Hughes' body was found by his son, David, who stopped by his father's house about 12:30 p.m. yesterday. Lyndhurst Police Chief Sherwood Eldredge said police were investigating Hughes' death, but "it doesn't appear there was any foul play or anything strange."

"There was nothing to indicate anything out of the ordinary, to indicate suicide or foul play," Eldredge said.

Eldredge said Hughes' car was running when his son found the body. The police chief didn't know if the garage door was open or closed, but David Hughes said in a brief interview yesterday that the garage door was closed and his father was on the floor.

David Hughes also said the car's hood was up. Eldredge said Hughes may have been working on his car.

"I really don't know," David Hughes said when asked what his father was doing in the garage. Hughes' wife, Marguerite, was not at home when her son arrived.

The quick-witted, outspoken Hughes served as chairman of the Cuyahoga County GOP from 1968 until early this year, when he quit to form a consulting firm, Robert E. Hughes & Associates Inc.

Joseph Rice, executive vice president of the new firm, said Hughes was in good spirits when the two talked Tuesday and that Hughes had been in good health.

"The firm was doing very well," Rice said.

Hughes was a registered lobbyist in Columbus, where records show his clients included Bear Stearns Cos., Carat Co., the Cleveland law firm of Armstrong Gordon Mitchell & Damiani, Excel Management Systems, and Beachwood Dr. David Grischkan.

Rice said he expected the firm, which employed five people including Hughes, to stay in business.

Tributes were quick to arrive yesterday from a broad spectrum of political leaders who were influenced by Hughes during his three decades in politics.

A White House spokesman said yesterday: "We deeply regret that Bob Hughes passed away. He was a pivotal leader in Ohio Republican politics. We will miss his guidance."

Gov. George V. Voinovich said: "Bob Hughes truly became a legendary political leader in his own time. He was highly responsible for getting me involved in politics and government. Bob will be remembered for his wit, personal charm, media savvy, street smarts and uncanny sense of political timing."

Ohio House Speaker Vernal G. Riffe, a Democrat who enjoyed a long relationship with Hughes, said: "In partisan politics, Bob was a worthy adversary. However, most of all, Bob was a friend. He was a man who truly enjoyed life, and he will be missed."

Mayor Michael R. White, also a Democrat, said he had often sought Hughes' advice since he was elected mayor in 1989.

"He never failed to assist or advise me on a number of issues," White said.

Ohio Senate President Stanley J. Aronoff, R-8, of Cincinnati, said Hughes' "political instincts ran ahead of the public mood and were almost always on target."

Former Gov. Richard F. Celeste, a Democrat, said, Hughes "played the game of politics the best way—hard and clean."

Former Cleveland Mayor Dennis Kucinich said: "He understood politics better than most people I know who are party leaders. Many Democrats were quite envious of the leadership he provided for the Republicans."

But while Hughes affected a lot of politicians over the years, no political relationship was closer than the one he had with former Gov. James A. Rhodes. Hughes was at the top of his career in politics while Rhodes was governor, when the two talked almost daily by telephone.

"I was saddened to hear of the passing of one of my dearest friends, Bob Hughes," Rhodes said in a statement yesterday. "Bob was devoted and dedicated to Cleveland and Cuyahoga county and was without a doubt the greatest county political leader in the nation."

Born in Massillon, Hughes moved to Warren and graduated from Harding High School in 1946. He worked as a reporter at the Tribune Chronicle in Warren while he attended high school and college.

He graduated in 1950 from Ohio State University with a degree in journalism, then joined the Marines. A voracious reader, Hughes was a military history buff who had visited almost every major Civil War battlefield.

After his discharge from the Marines, where he rose to the rank of captain after seeing combat in Korea, Hughes worked for the Associated Press and Columbus. His exposure to the news business helped prepare him for his career in politics, when he often delighted reporters with glib quotes and concise political analysis.

After working for General Electric, Hughes in 1961 became vice chairman of the Cuyahoga County GOP. He became chairman in 1968. He also served on the Cuyahoga County Board of Elections until his death. The Cuyahoga County Republican Party will name Hughes' replacement on the elections board.

Although registered Democrats vastly outnumber Republicans in Cuyahoga County, Hughes played the minority role well when it came to generating headlines. But he was criticized by other county Republicans during the final years of his GOP chairmanship for failing to cultivate Republican candidates.

In the final year or so before he left the county GOP post, it was evident that Hughes yearned for the days when political parties had more impact than they do today. He detested the emphasis on television.

"When I came in 1961, you still had big meetings," Hughes said in an interview a month before he quit the GOP chairmanship. "Candidates came to meetings. Now, candidates running statewide don't want to go to meetings. they want to go to a cocktail party where they can raise money for TV. TV, TV, TV. That's all they talk about."

Hughes is survived by his wife; sons, David, Tim and Jonathan; a daughter Robin; and eight grandchildren.

Services will be at 11 a.m. Saturday in the United Methodist Church, 1534 S. Green Rd., South Euclid.

INTRODUCTION OF THE AMERICAN JOBS PROTECTION ACT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FORD of Michigan. Mr. Speaker, last Friday, with 25 cosponsors I introduced H.R. 3878, the American Jobs Protection Act. H.R. 3878 will provide assistance to thousands of hard-working Americans who will lose their jobs when the attraction of cheap labor and the unregulated workplaces of Mexico and other developing countries becomes too great for their employers to resist.

Last Spring, I joined with many of my colleagues in voting against granting the President fast-track trade authority. We feared that, without the Congress' specific right to guarantee health, safety, environmental, and labor standards in any trade agreement, those standards would either be compromised to the point of impotence or be ignored altogether.

Sadly, our fears are being realized every day. There is no evidence that we can trust this administration's negotiators to do what is necessary to mandate reasonable and enforceable labor, health, and environmental standards in the North American Free Trade Agreement or the GATT.

The President's promises to preserve the environment and to not weaken U.S. environmental and health laws are beginning to have the same hollow ring to them that so many other empty White House promises have had.

Mr. Speaker, the average working people of America are caught in the quagmire of this administration's inaction. Meanwhile, the President's determination not to fight for high standards and strong enforcement provisions is greasing the skids for more plant closings and mass-layoffs.

Hundreds of thousands of Americans have already lost their jobs because the attraction of unregulated workplaces and cheap labor has been too great to resist. The unemployment line is getting longer every day, and American jobs are on a fast-track south of the border.

The administration tells us that it is unwilling to press for those decent standards and effective enforcement provisions because they would interfere with Mexican Sovereignty.

I suggest that the time has come to stop worrying about Mexican Sovereignty. Let's leave that to the Mexicans.

The time has come to start worrying about the solvency of the American workforce.

We in the Congress cannot legislate away greed, but we can provide some protection and assistance to working people and their families who are victimized by it. H.R. 3878 accomplishes this goal.

The American Jobs Protection Act provides that when work is transferred to another country where the average wage is less than 50 percent of the average U.S. wage, or when work is transferred to another country where employment standards relating to issues like child labor, or workplace and employee safety, are substantially less effective than our own standards, the employer is required to provide protection to the people left behind.

H.R. 3878 mandates:

6 months prior notice to employees of a pending plant closing or mass layoff;

severance pay;

health care benefits;

reimbursement for retraining and relocation expenses; and

accelerated early retirement eligibility.

Mr. Speaker, I'll close by saying that this issue is not about trade. It's about fairness in investment and disinvestment policy and about protecting our already struggling workforce.

This Congress can make a statement by passing this legislation that says that we are unwilling to allow American workers to be victimized by grossly inadequate foreign labor, health, and environmental standards that we have fought for decades to prohibit here at home.

Finally, Mr. Speaker, there is much more that must be done before Congress agrees to any new trade agreement with Mexico.

The very least we can do is provide these protections for people who, through no fault of their own, get left behind when their employers abandon our communities and head South for cheap wages and lax regulation.

McDONNELL DOUGLAS/TAIWAN MD-12 VENTURE

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. INHOFE. Mr. Speaker, McDonnell Douglas announced on November 19 that they have signed a memorandum of understanding [MOU] with the Taiwan Aerospace Corp. [TAC] which outlines an equity partnership involving McDonnell Douglas' commercial aircraft business. The military segment of McDonnell Douglas—principally the C-17 program—will remain 100 percent wholly owned and operated by McDonnell Douglas.

This transaction accomplishes two goals for McDonnell Douglas: First, it provides a foothold in the Pacific Rim market and second, it provides McDonnell Douglas with $2 billion in cash up front for development of the aircraft. The combination of resources located in the United States and Taiwan will give the partnership a competitive edge in the Asian market. It is estimated that over the next 15-20 years there will be approximately 4,000 planes sold in that market and if McDonnell Douglas is to be a serious competitor they need to have an Asian partner.

There should be no concern with the loss of American technology as a result of this deal because commercial aircraft technology is not unique to the United States. Furthermore, the work done by the Taiwanese is not new technology. It will basically be metal bending. Also, this should not be characterized as giving American jobs away because without the financial backing, McDonnell Douglas will not be a real competitor in commercial aviation. Without a viable commercial side there will be a steady erosion of jobs at McDonnell Douglas. The MD–12 is McDonnell Douglas' chance to once again be a factor in the commercial aviation industry.

Finally, all three of the world's major aircraft manufacturers utilize some form of strategic alliance with foreign manufacturers. Boeing is working with the Japanese on commercial airliners. General Dynamics is working with Japan and Korea. Also, the auto manufacturing industry makes use of foreign investors and partners. Similar agreements within the auto industry include:

CHRYSLER

Chrysler holds a 31.4 percent interest in a joint venture with Beijing Automobile Works on a jeep. Beijing manufactures 4-wheel-drive vehicles in China, Chrysler Corp. supplies axles.

In buying out Renault's interest in American Motors Corp. in 1987, Chrysler entered into several agreements with Renault. Chrysler assembles the Renault-designed Premier cars, which use some Renault components.

FORD

Ford owns 25 percent of Mazda, relying on it for engineering assistance, components, and knock-down kits for assembly in overseas markets under Ford badges. Also, Ford—34 percent—and Mazda—39 percent—each hold equity in Autorama, Inc., the exclusive marketer of Ford products in Japan.

Ford owns 30 percent of Malaysia Associated Motor Industries Sdn. Bhd., which assembles Ford, BMW, Rover, Suzuki, and Mercedes-Benz vehicles.

Through a joint venture called Autolatina, Ford and VW have merged their auto operations in Brazil and Argentina. Ford owns 49 percent and VW owns 51 percent.

GENERAL MOTORS

GM owns 50 percent of Daewoo Motor, the other 50 percent held by a South Korean conglomerate, Daewoo Group. GM supplies designs, engineering, and components to Daewoo Motor. The main product is an Opel-derived subcompact exported to GM for sale as Pontiac LeMans in the United States and Optima in Canada.

GM owns 38.2 percent of Isuzu. Each provides vehicles for the other to distribute and use each other's components.

In late 1989, GM paid Saab-Scania $600 million for a joint venture which will develop new cars for Saab and GM. Saab dealers are expected to market the cars. Componentry likely will be shared between Saab and GM.

GM and Toyota have two 50–50 joint ventures: New United Motor Mfg., Inc., and each owns a stake in Budget-Rent-A-Car in Australia.

GM—24 percent—and Volvo—76 percent—have a joint venture which combines Volvo's North America class 8 truck business.

As these examples demonstrate, this arrangement is not unique and is in fact increasingly becoming the way business is done within a global economy. If the McDonnell Douglas/Taiwan deal is not made final, we should anticipate some type of Asian consortium, much like the European Airbus which is highly subsidized by European Governments. The facts are that the Taiwanese have the capital to develop an aircraft.

Naturally, I am prejudiced. Of all the United States operations of McDonnell Douglas, the plant in my district of Tulsa is the most underutilized and has the greatest potential. Their decision will keep them competitive in the global market and produce jobs here at home.

MRS. LOUISE W. PINKELTON NAMED 1991 NATIONAL TEXTILE CITIZEN OF THE YEAR

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. COBLE. Mr. Speaker, those of us who live in the Sixth District of North Carolina are very proud because the 1991 National Textile Citizen of the Year is a resident of our district. Mrs. Louise W. Pinkelton of Greensboro, NC, was afforded this high honor recently by the American Textile Manufacturers Institute.

Mrs. Pinkelton is an excellent example of how one person can make a difference, an example of people who care about others, one who goes out of her way to help those in need. She devotes her time to strengthening others and enriches the way of life in her community in the process. She illustrates what President Bush refers to as America's "thousand points of light."

Mrs. Pinkelton, a product development detail coordinator for Cone Mills Corp., was chosen to represent the more than 700,000 people who work in the U.S. textile industry. The annual Textile Citizen of the Year program was established to identify a textile worker each year whose outstanding work and civic and charitable contributions, best represent the spirit of the U.S. textile industry.

Mrs. Pinkelton devotes much of her time away from work in helping mentally and physically handicapped people in our community. A Cone Mills employee for 41 years, she works in local hospices and hospitals. She donates her time for bloodmobile, muscular dystrophy, Special Olympics, senior citizens and cerebral palsy programs. She also provides transportation for many of these groups. Mrs. Pinkelton serves on the credential committee for Civitan International, a community service organization which promotes good citizenship, leadership and service to others.

It was my pleasure to be with Louise Pinkelton and her husband Norman when Louise received the National Textile Citizen of the Year award here in Washington. It is a fitting honor for an employee of Cone Mills, which is a proud company celebrating its 100th anniversary this year. On behalf of the people of the Sixth District of North Carolina, I am proud to recognize Louise Pinkelton for her unselfish efforts, and for inspiring others to give back to their communities.

HEALTH CARE PROTECTION ACT

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of Utah. Mr. Speaker, today I am introducing H.R. 3938, the Health Care Protection Act, which will combat the problem of "job lock," by guaranteeing individuals retention of health care benefits when they move from one job to another, even if they have preexisting conditions. This idea was first formed by Senator BENTSEN in his better access to affordable health care legislation.

Due to skyrocketing health care costs, many Americans today are faced with tough decisions regarding health care: Small business owners must weigh the option of continuing employee health care coverage as premiums rise, physicians are turning away Medicaid patients, disgruntled by the low fees they are receiving, families are forced too often to choose between education for children or long-term care for their parents, and the elderly are compelled to choose between filling a prescription or paying their rent! There is something very sick about a system that places such weighty decisions on the shoulders of so many Americans throughout our country. It is no surprise that 90 percent of Americans would like to see our health care system revised or completely revamped.

The Health Care Protection Act which I am introducing will address another serious situation that many Americans must confront—the problem of "job lock." A recent New York Times/CBS poll stated that 30 percent of individuals say they or someone in their household had remained in a job they wanted to leave only to retain their health care benefits. Many Americans with preexisting conditions fear, and rightly so, they will be denied coverage in a new job if they or someone in their family has a chronic health problem.

Our current economic state is a major contributing factor to the increase of the uninsured in our country. Due to the recession many Americans are having difficulty finding jobs; not ony is job searching a tremendous burden, but it is even more difficult to find a job with adequate health care coverage, especially for those with preexisting conditions. It is no coincidence that the number of uninsured rose by 1.3 million from 1989 to 1990!

My legislation will allow individuals with a preexisting condition to switch jobs without losing health care coverage. If individuals were not previously covered, they could not be denied coverage for more than 6 months. A penalty would be imposed on anyone who does not comply.

Numerous proposals have been set forth for comprehensive reform of our health care system and I am hopeful that a major overhaul will soon be achieved. However, until we do reach a solution we must work toward decreasing the number of uninsured and underinsured and reducing our soaring health care costs. The Health Care Protection Act is obviously not a panacea to our health care woes, however it is clearly a step in the right direction.

TRIBUTE TO WEST VIRGINIA VETERANS OF PEARL HARBOR

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RAHALL. Mr. Speaker, I would like to take this chance to commemorate those West Virginians present at Pearl Harbor on December 7th, 1941. We are all aware that this is one of the most important days in the history of the United States. Correctly characterized by President Franklin D. Roosevelt as "a date which will live in infamy", the Japanese attack on Pearl Harbor marks the emergence of the United States as the leader of the free world.

On that day 50 years ago, World War II came to American's doorstep, and millions of our citizens mobilized to join in one of the most important periods in history. In the following years the entire Nation came together to face the adversity of war and was made stronger by the effort. The bravery demonstrated by those individuals at Pearl Harbor would be repeated a thousand times over by the end of the war. It was those Americans who set the standard of bravery and honor throughout the rest of the war.

The human tragedy of the Japanese attack on Pearl Harbor is one that will never be forgotten, and it should not be. In this one treacherous episode, 2,433 Americans were killed, many of them without ever knowing what had occurred. With the 50th anniversary of this day approaching, all Americans must remember the service and sacrifice of all who have served their country. These individuals understood that peace comes with a price, the taking of lives dear to us all. Those who survived, but with mental and physical scars too deep for us to understand their pain are also remembered here. Our Nation can be proud of their contributions to worldwide democracy and justice.

I have been notified that 106 native West Virginians or their survivors have been identified as eligible for the Pearl Harbor Commemorative Medal authorized by Public Law 101–501; 17 are from my Congressional District. I wish to commend all West Virginians who made a contribution of courage and selflessness on December 7th, 1941. You are not forgotten by this country or its citizens.

Mr. Speaker, following are the names of those servicemen or their survivors from my Congressional District: Mr. Kelly Elkins of Peach Creek; Mr. Ralph W. Evans of Princeton; Mr. Vernon V. Johnson of Huntington; Mr. George W. Kelly of Huntington; Mr. Jack H. Kinser of Huntington; Mr. Ted Kirk of Barboursville; Mr. John Landers of Huntington; Mr. Ajax Lilly of Princeton; Mr. Frank Nemeth of Whitman; Mr. Benjamin Harris Nicholson of Gauley Bridge, who was submitted by his son Bennie; Mr. John W. Price of Huntington; Mr. Dice M. Rimel of Buckeye, who was submitted by his widow Catherine; Mr. Wetzel R. Sanders; Mr. Ira W. Southern of Princeton; Mr. William H. Wall of Logan; Mr. William C. Washington of Huntington; and Mr. Tommy R. Wickline of Huntington.

IT WORKS IN ILLINOIS AND IT CAN WORK IN THE REST OF THE COUNTRY

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. EWING. Mr. Speaker, today I am introducing legislation which would give the President the same power which nearly every State Governor has, including the Illinois Governor—the line item veto power. In addition, my legislation would allow the President to reduce the amount of specific spending items, just as the Governor of Illinois may under our Constitution. Most of the constitutional proposals for the line item veto which have been introduced in the House do not include this important spending reduction provision. I say if it's good enough for Illinois, it's good enough for the rest of the country.

Mr. Speaker, the time has come to bring some responsibility to our budgeting process. I am painfully aware of the deep problems in the way we conduct our budget business. The President is forced to sign or veto multibillion dollar spending bills and has no control over the amount of special interest spending programs contained in these appropriation bills. Because he must either sign these bills or allow important programs to go unfunded, members of Congress know his hands are tied and therefore load excessive amounts of unnecessary and extravagant spending onto appropriations bills. My legislation would allow the President to veto or reduce these unnecessary programs.

Under my legislation, items vetoed or amounts reduced by the President could be reinstated by a three-fifths vote of both the House of Representatives and the Senate. This would ensure that truly important programs would be protected. Most importantly, it would force individual spending programs to stand on their own merits. I am convinced that if members of Congress were to vote specifically on certain programs, rather than allowing them to be buried in massive spending bills, many of them would never be funded. This would bring common sense and fiscal sanity to the budget of our Federal Government.

Despite endless rhetoric about balancing the budget, the Federal deficit is currently approaching $400 billion. In the last 10 years the Federal debt has increased from about $1 trillion to nearly $4 trillion. That is an increase of 400 percent. We are clearly moving toward fiscal collapse, and it is increasingly clear that we must take steps to cut unnecessary spending. The line item veto and spending reduction power contained in my legislation would help achieve this goal. I do not say that the line item veto and spending reduction will balance the budget on its own, but it will certainly set us on the path toward fiscal responsibility.

The line item veto and spending reduction powers of the Illinois Governor have been extremely important in cutting unnecessary and wasteful spending from our State budget. During the 14-year span of Governor Thompson's administration, some $1.6 billion of unnecessary spending was eliminated from the budget. In crafting the budget for fiscal year 1992, the Governor was able to trim some $17 million in needless spending. This power played an important role in balancing the Illinois budget this year. I am convinced that if the President had similar abilities, billions of dollars could be cut out of the Federal budget.

Mr. Speaker, let's begin to cut our deficit. Let's begin to eliminate wasteful and unnecessary spending. Let's give the President the tool he desperately needs, the line item veto and spending reduction authorities.

IN MEMORY OF MARTIAL-RIO WEINBERGER

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. WATERS. Mr. Speaker, Martial-Rio, one of Los Angeles' most outspoken, creative, dedicated and tenacious individuals, an AIDS activist, and beloved family member and friend, succumbed to complications due to AIDS on November 15, 1991.

As many of his friends and family noted at a memorial service held at Temple Beth Chayim Chadashim, Martial-Rio did not go gently into the night. His final thoughts and energies were dedicated to keeping alive the battle against AIDS, and its devastating impact upon our society. For the past several years, Martial-Rio provided leadership and activism on AIDS-related causes. He was a member of the group that fought for the establishment of an AIDS hospice in Los Angeles County, which lead to the opening of the Chris Brownlie Hospice. Martial-Rio was a member of the board of directors of the AIDS Healthcare Foundation, which supervises the hospice's operation. He also served as Person with AIDS [PWA] coordinator for two annual conferences of the Black Gay and Lesbian Leadership Forum.

Martial-Rio actively campaigned against California proposition 64, which sought to impose draconian mandatory reporting measures against persons infected with the HIV-virus, and he was an early volunteer for the Minority AIDS Project [MAP]. He used his talents as an accomplished hairstylist to raise funds for MAP projects.

The Los Angeles community is deeply appreciative of the many efforts Martial-Rio has made on behalf of the AIDS health crisis and the gay and lesbian community. His indomitable spirit and sharp-tongued wit will be sorely missed and fondly remembered. Martial-Rio's dedication to his community of friends and associates will be highlighted at the 1992 Black Gay and Lesbian Leadership Forum Conference to be held at Oakland in February. The conference is to be dedicated to his memory.

A recovering alcoholic, Martial-Rio was in his ninth year of sobriety. He lived in Los Angeles for over 20 years, where he worked as a hairstylist for Natalie Cole, Diahann Carroll, and the Pointer Sisters. He also had a public relations firm which represented small businesses and entrepreneurs that included Ms. Cole, Aid for AIDS and the Alliance of Gay and Lesbian Artists awards program.

Martial-Rio will always be an important part of the lives of his spouse, William Weinberger; his sister and brother-in-law, Phyllis and E.J. Lockett; sisters Marlo and Sonya Larry; brothers Warren and Morris Givens; nieces and nephews Tanika, Cief, Kareem, Quantel, Princess, and Damien; and uncles Leonard Simon and Gerald Ackerman. His life has also significantly influenced and enriched his friends, neighbors, and community.

Mr. Speaker, Martial-Rio was 41 years old when he died. His final wish is that the message of AIDS, and the need for increased AIDS services and education, as well as aggressive action on the part of our Government and all of society's institutions, until this devastating disease has been eradicated in his memory.

I stongly urge my colleagues and others to dedicate their activism and their leadership in the fight against AIDS In his memory.

HONORING PATRICIA CUZA, OUTSTANDING WOMAN IN PUBLIC SERVICE TO THE STATE OF MICHIGAN

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CARR. Mr. Speaker, there is no higher calling than those which serve others—whether it be your family, your community, your State, and your Nation. And those who do so unselfishly as a profession deserve our highest commendation.

One such person is Patricia Cuza. I met Pat in 1968 when I first went to work as a Ford Foundation Fellow in the office of my colleague from Michigan, then State Senator SANDER LEVIN. Pat was his administrative assistant and I was the "new kid on the block," having freshly arrived from law school at the University of Wisconsin.

I remember those days well and I remember Pat, always a teacher whether you were 8 to 80, keeping everyone around her on the straight and narrow. And always with a twinkle in her eye and a knowing smile.

Personally, I was grateful for all Pat taught me—and I want to thank her. But Pat was more than a teacher to two soon-to-be Members of this body. Her distinguished career has followed a remarkably varied and diverse course, beginning as a University instructor, through her service as founding executive director of the Michigan Women's Commission, to her role as director of the Office of Criminal Justice for the State of Michigan from 1983 to 1991.

During Pat's 5 years as the founding director of the Michigan Women's Commission, the State's first advocacy agency for women, she worked to ensure that the State's laws and policies promoted the status of women, both in the workplace and in society in general.

Through her efforts the Michigan Women's Commission became a national model of this type of program, and the State's primary resource on issues affecting women. Under her leadership, the Commission held the first statewide women's conference, developed the first coordinated network of State women's organizations, and the Nation's first series of statewide public hearings on domestic assault.

Her efforts on that last count led to extensive changes in Michigan's laws on domestic assault, and the establishment and funding of numerous local shelters offering protection to victims of domestic assault.

If this were her only public accomplishment, she would deserve the recognition of our entire Michigan delegation, all the Congress, and the American people. But she has served in other roles.

As director of the Office of Criminal Justice for the State of Michigan from 1983 to 1991 she oversaw numerous administrative functions in the State's criminal justice system, including the State Police, Department of Corrections, and the Military Affairs office. In addition, she was responsible for seven grant programs for the State's criminal justice agencies, including three Federal grant programs—Juvenile Justice and Delinquency Prevention Act, the Victims of Crime Act, and the Anti-Drug Abuse Act.

Not a law enforcement officer or attorney by training, Pat has during her long tenure won the respect of everyone in Michigan's Criminal Justice System during her directorship of the Office of Criminal Justice, and as administrator of the Crime Victims Compensation Board. As director of the Office of Criminal Justice, she continued to champion the role of women, urging their advancement in the criminal justice system.

In a recent magazine article, Pat exhorted women to not give up in their struggle to win higher positions in the criminal justice system. Saying that there were few women police chiefs and no women sheriffs in the State, she pointed to the advances women had made as wardens of major prisons, an advance only made in the last decade.

"There is no reason a woman cannot do that job," she said.

Moreover, during her directorship she oversaw the passage of a bipartisan victim's rights bill, extending legal safeguards and rights for victims of crime. And she worked to reverse 20 years of practices in the Juvenile Justice System that resulted in the inappropriate detention and placement of delinquent youth.

As director of the Crime Victims Compensation Board, Pat took the enabling legislation and from it built from scratch a statewide program for the filing, adjudication and appeal of claims, together with a program of public education about the availability of the Compensation Board. And she accomplished all this with the lowest administrative cost of any of the 40 programs existing nationwide.

As a friend, it was my great personal pleasure to have our paths cross again, when in 1983 I became a member of the House Appropriations Subcommittee on Commerce, Justice, State, and Judiciary. In that role, it has been my profound pleasure to work closely with Pat on many criminal justice issues, particularly increased funding for juvenile justice programs. I can personally attest to the commitment and talent she brought to her work.

As a personal friend, I am proud to have had the opportunity both to know her and to work closely with her, and it is as a friend that I wish her all the best in retirement.

THE EQUAL REMEDIES ACT OF 1991

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. KENNELLY. Mr. Speaker, the enactment of the Civil Rights Act of 1991 is an important achievement but, Mr. Speaker, we have left the job of ensuring equal justice unfinished.

In our effort to abolish discrimination in the workplace, we have codified discrimination in the law. With this act, we have placed caps on damages that can be received by victims of intentional discrimination based on disability, sex, and certain religious beliefs. This new two tiered system of justice is not just at all; it is unfair; it is unjust; it is just plain wrong.

It is time to treat all victims of discrimination equally before the law: if it is wrong to discriminate on the basis of race, it is just as wrong to discriminate on the basis of religion, disability, or sex.

To be fair to victims and employers, we must not make discrimination a predictable cost of doing business. We are doing the business community a grave injustice by putting them in the position of budgeting for discrimination.

That is why today we are introducing the Equal Remedies Act of 1991: to eliminate the unfair damages limit. We believe that victims of any form of discrimination deserve equality before the law.

I urge my colleagues to join us in this important legislative correction and cosponsor the Equal Remedies Act of 1991.

PROTECT STATE PARKS FROM DEVELOPMENT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KOSTMAYER. Mr. Speaker, today I am introducing two bills amending the Federal Power Act and the Federal Water Pollution Control Act. Each gives States more say in protecting water quality, State recreation areas, and outstanding free-flowing rivers from ill-advised decisions of the Federal Energy Regulatory Commission [FERC].

In 1987, FERC issued a license to develop a small hydropower project at a recreational dam site at the Nockamixon State Park in my district in Bucks County, PA. The license granted control over the project to FERC and the private licensee and even allowed condemnation of the State-owned dam, park land, and waters and conveyance of interests in these properties to third parties for the construction of industrial facilities.

FERC flatly asserted that the Federal Power Act preempts all State authority, even over a State park. Only through strenuous refusal to grant easements was Pennsylvania able to protect its State park from this unwarranted usurpation of State prerogatives. My bill would prevent FERC or its licensees from condemning State-owned lands or improvements in the future.

FERC also ignores State determinations that a river should remain free-flowing. For example, even though the State of Oregon chose to designate the Klamath River as part of that State's wild and scenic river system, FERC went ahead and processed an application up to issuance of a final EIS for a proposal to construct a dam on this river.

FERC has recently adopted a general policy stating, "We believe that, in all instances where economic, financial, and environmental considerations permit, it is in the best interest of the public to develop hydroelectric capacity whenever the capacity arises." As a matter of course, FERC considers applications for 30- to 50-year hydropower licenses even if the proposed projects are located in a State wild and scenic river corridor.

To rein in FERC's abuse of its power, a second section in my bill would prohibit this agency from issuing a permit, license, or exemption for the construction of any project located on any waterway on which hydroelectric development is prohibited under State law.

Although FERC has maintained all along that it does not grant approval for hydropower projects that would damage State-protected rivers, FERC continues to receive and process applications on such rivers. Thus, a change in Federal law is desperately needed.

Mr. Speaker, my second bill amends section 401(a) of the Federal Water Pollution Control Act to ensure States have adequate authority to deny or condition certifications for hydropower projects that may adversely affect water quality within their borders. The existing language of section 401 provides States with broad authority to protect water quality.

Unfortunately, some State courts, including the court of my home State of Pennsylvania in the Dock Street Dam case, have construed section 401 narrowly and ruled that States can only use this authority to enforce numerical water quality criteria. Other courts have construed section 401 correctly, I believe, and ruled that this section gives States the power not only to enforce numerical criteria, but also to protect and restore designated uses involved in such water quality standards. One example of this broad view of section 401 is the recent decision of the Maine Supreme Court in the Millford Dam case.

My bill will resolve these conflicting interpretations of section 401 and affirm the broader—and I believe better—understanding of section 401.

TRIBUTE TO JERRY "B" DORSEY AND MALACHI KNOWLES

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to Messrs. Jerry "B" Dorsey and Malachi Knowles on behalf of their efforts to feed several hundred of the District of Columbia's neediest families on Thanksgiving Day.

Thanksgiving Day is thought by many to represent our Nation's most important observance. It is a time when Americans settle down to enjoy bountiful and nourishing meals, putting aside the stress and troubles of the day. For many of our citizens, however, there are no celebrations, and Thanksgiving is just one more day of trying to survive. For this segment of our society, gentleman like Messrs. Dorsey and Knowles provide a temporary reprieve from the pain of hunger.

Now in their fifth year of operation, Messrs. Dorsey and Knowles, joined by Ms. Theresa Watson and several others in the Washington, DC community, have made it possible for hundreds of the less fortunate in our Nation's Capital to not only observe but celebrate Thanksgiving Day.

I applaud them and hope you will join with me in commending them for their kindness, their commitment, and for their caring.

IN HONOR OF MORRIS "MO" BERNSTEIN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. PELOSI. Mr. Speaker, I rise today to honor the memory, life and times of Morris "Mo" Bernstein, a civic and political leader of uncommon heart and compassion.

"Mo," as he was known by all, was born in New York City but came to California as a young man out of law school. After settling in San Francisco, he turned his energy and imagination to the retail market, starting as a "hotshot" salesman and eventually building upon that experience to pioneer the idea of discount merchandising with his GET [Government Employees Together] shopping complex.

Mo was not satisfied with building a retail empire; he began to devote his considerable skills to politics and civic and charitable good works. As one friend, Rabbi Martin Weiner, said of Mo: "He was an entrepreneurial genius—whose heart and soul seemed to understand everyone."

Mo was appointed to the board of fire commissioners by former Mayor Jack Shelley in 1965, and during his tenure, which included being named president of the board, he led the crusade to successfully integrate the then all-white fire department. He was named in 1976 to the Airports Commission, which he also served as president, and brought his talents as a businessman and entrepreneur to make San Francisco International Airport a model of profitability in the country. He also established an internationally renowned permanent arts program at the airport.

One of Mo's last, enduring memorials is being celebrated on December 5, 1991, when Glide Memorial Methodist Church is to honor Mo for his contributions and good works on behalf of the homeless and of Glide Church. Indeed, this benefit for Glide Church's Daily Free Meal Program is being held using the facilities of "Mo's Kitchen," named in honor of Mo Bernstein. Annually, over a million meals are prepared and served in "Mo's Kitchen" to the poor, the lonely, the outcast and the homeless of San Francisco.

Mr. Speaker, it is an honor and a privilege to recognize the achievements of Morris "Mo" Bernstein before the Congress. While I have touched upon his civic and charitable contributions, many who are here in this Chamber and who here before us knew Mo well. He was a Democratic Party activist and fundraiser of uncommon modesty and virtue. He was a friend, confidante, and advisor of five mayors of San Francisco. I will miss Mo's friendship, his warmth, and his compassion. San Francisco, and this Nation, have lost a great human being.

YOUTHS OF LINDA VISTA, CA, WRITE ABOUT THEIR CULTURAL CONNECTION

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CUNNINGHAM. Mr. Speaker, the residents of Linda Vista, CA held their seventh annual Multi-Cultural Fair and Parade on September 28, 1991.

Linda Vista is a unique community within the city of San Diego. African, Arab, Cambodian, Chinese, European, Laotian, Latino, Filipino, and Vietnamese are just some of the many diverse cultural heritages represented in this community and all shared their native customs, foods, history, and religions during the Fair.

As part of the opening ceremony, three young scholars were recognized for their essays on the cultural connection of this distinctive neighborhood. Alejandra Rojas, Rashanda Dinkins, and Shereen Bastani won first, second, and third places respectively, out of 200 essays entered from four local schools.

These charming observations, which only a child can describe, are reminders of what we can all learn if we only view the world through a child's more innocent perspective.

First Place—The Cultural Connection in Linda Vista

(By Alejandra Rojas, Grade 5, room 26, Linda Vista Elementary School)

To get along better, people from different cultures could share food and share toys and games from each other's culture. Get to know their family. You could talk about your feelings. If you speak another language you could teach them your language. Like if you speak American and they Chinese, they will teach you and you teach them American. You could work together with others. If you came out of the class early you could wait for them after school. Some of us are from different countries.

Second Place—Improving the Cultural Connection in Linda Vista

(By Rashanda Dinkins, grade 5, room 25, Linda Vista Elementary School)

I think that we should transfer different cultures of kids to different schools in Linda Vista. Like Russians, Jamaicans, Australians, and other people from different parts of the world. I also think that we should have some of the kids in our schools visit other schools that have different cultures, to see what they are like.

Also, if kids from a different school came to ours I hope that they would share what they do at their school. I also hope that they would share different things like the arts, music, foods, and clothes. I think that we should have a place where we would learn to play many games that they play and enjoy. If we could, I think that we should have a video pen-pal, and send letters to many different parts of the world.

I think that we should have more different cultures represented than in our school now, and the cultures that have a lot of, I think we should transfer them to a school that has not very many of them. I think we should celebrate the different holidays that different cultures celebrate to learn what they are like.

THIRD PLACE—HOW PEOPLE WOULD FEEL IF EVERYONE SPOKE A DIFFERENT LANGUAGE

(By Shereen Bastani, grade 5, Holy Family Catholic School)

How would you feel if everyone around you spoke a different language? You would probably feel weird and confused.

Well, my dad is from around the world, from a place called Iran and when he came here in 1974 with his friends, he didn't know that much English. He felt a little embarrassed and a little hungry too. After a while they went to a McDonald's and had some food but they were confused because they gave them wet wipes (that smell like lemon) and they thought it was dessert. So they ate them, but of course they spit it out and said, "Americans have bad taste." He might have felt embarrassed then but now he laughs about it.

That was one of his bad experiences in a new country when he only knew a little English. Just think if you were in his place how would you feel? Well, I would probably do something wrong too! So if you see someone from a different country, don't laugh; try to help them out.

TRIBUTE TO GEORGE G. TROUTMAN

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GEREN of Texas. Mr. Speaker, I rise today to honor George G. Troutman for 48 years of devoted service to our Armed Services and to the aviation industry. With the help of his hard work the United States has remained a leader in the field of military and civil aviation.

After 22 years of service as an Air Force pilot and research and development officer for missiles and space, he joined General Dynamics as a congressional liaison official. He later became director of operations overseeing the company's marketing offices nationwide. His hard work helped General Dynamics maintain an active F–111 production line and later in winning the F–16 program. These aircraft have remained a vital aspect of the U.S. air defenses.

In 1975, Mr. Troutman moved to General Electric to direct congressional relations for the aircraft engine group. He subsequently assumed the position of general manager of the Washington, DC, operations of the engine group. He played a major role in the continuation of the F–18 engine program and with the F–14 engine program. Again, with the help of Mr. Troutman's dedicated work the U.S. Air Force and Navy have remained leaders in the field of fighter aviation.

In 1980, Mr. Troutman joined Bell Helicopter Textron as vice-president of the Washington, DC, operations. This position presented him with his greatest challenge, the V–22 tiltrotor. He was the architect of and principal force behind the V–22 tiltrotor as a national asset strategy. He was instrumental in scheduling congressional hearings on civil tiltrotor applications, and working with Congress to produce legislation directing a joint study looking civil applications of tiltrotor technology.

Mr. Troutman tireless work has been recognized by his peers by electing him former president of the Washington Chapter of the Air Force Association and as a member of the National Security Industrial Association.

I ask my colleagues to join me in honoring George G. Troutman upon his retirement for his many years of outstanding service and dedication to maintaining the U.S. leadership in military aviation.

THE SPIES IN SPACE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BROWN. Mr. Speaker, Air and Space magazine, published by an agency of the U.S. Government, the Smithsonian Museum, has published an article in its latest issue which contains information which Members of Congress, and particularly those Members who are also members of the Intelligence Committees of the two Houses, are told they cannot discuss. The article is titled "The Spies in Space," and is about our satellite reconnaissance program. The material is classified Secret—some of it is even more highly classified—and the article itself has the stamp SECRET on each page just to make the point.

This magazine has published such material before and, in fact, the Smithsonian annually publishes a map of the sky showing each spy satellite which the United States has in orbit, its name, and when it was launched. The map also shows the Soviet spy satellites and the same information about them.

This is no big deal. All of the information in this article, written by a highly respected author and intelligence analyst, Jeffrey T. Richelson, has been published before in technical journals and books, in Federal court documents, and even in congressional proceedings.

What is totally stupid is that we have a classification system which persists in perpetuating the fiction that this material is secret and that such a fiction contributes to our national security.

I have made efforts in the past, both as an informed Member of Congress and as a member of the Intelligence Committee, to call attention to this matter and to bring about some rational changes through normal institutional processes. Neither the executive branch nor the leadership of the House has been willing to confront the issue, even though they recognize the irrationality of the system.

I am not bringing it up now to rehash old battles. The excessive and unnecessary system of secrecy which surrounds this program will fall of its own weight in the near future; and when it does, I will be accused of the crime of being prematurely right, a very serious crime indeed for a Member of Congress. It has ended many political career.

Instead, I bring it up to point out that the U.S. Civilian Space Program, as a whole, may be in very serious trouble. And the civilian Earth observing system, Landsat, may be in even more trouble. So much that the Committee on Science, Space, and Technology, which I have the honor to chair, held a hearing on its future yesterday, Tuesday, November 26, to determine if there is a way out of the problems we face.

At that hearing, we heard testimony from representatives of both the Department of Defense and NASA. None of the testimony, included any reference to the military space program, which is larger than the NASA Space Program, or to the classified Earth observing system, which is many times larger than the civilian system. Nor was there any reference to the question of how we could achieve a world-class U.S. Earth observing system if we were to relinquish the fiction that we don't have a military system, or that its existence must be kept so secret that we are precluded from discussing it in the context of one national world-class system.

No other country is so stupid. We can, and are, buying the product of other national systems, including the French and the Soviet systems, because of our shortsighted policies. Within 10 years, we will have ceded a multibillion dollar market to our competitors for the product of technology that we invented.

Where have we heard this story before?

Mr. Speaker, I suggest that if we are serious about maintaining a competitive position in emerging technological markets, then we must stop throwing away the fruits of our own inventions. A good place to start would be with the Landsat system. The United States needs a world-class Earth observation system that serves both military and civilian missions. We can no longer afford an exquisite yet classified system for the military and an antique and ailing system for the civilian users.

The Air and Space magazine article follows:

THE SPIES IN SPACE

(By Jeffrey T. Richelson)

In the middle of July 1990, American KH-11 satellites passing over the Middle East began transmitting disturbing imagery of the border between Iraq and Kuwait. The satellites' optical systems previously had seen only empty desert there, but now they showed an Iraqi division equipped with the modern T-72 tank. The next day the satellites' transmissions showed evidence of a formidable Iraqi force of 300 tanks and 10,000 men, plus a division of the Republican Guard. By the third day, the satellites' photo interpreters estimated that 35,000 Iraqi troops were poised on Kuwait's northern border.

Among those examining the imagery was Walter P. "Pat" Lang. A retired Army colonel, Lang was the Defense Intelligence Agency's officer for the Middle East and South

Asia. Fluent in Arabic, he had traveled to Iraq half a dozen times and served as military attaché in Saudi Arabia in the early 1980s. Lang was worried by what he was seeing, and he wasn't alone. Charles Eugene Allen, the national intelligence officer for warning, became convinced that Iraq's Saddam Hussein was preparing to attack Kuwait. On August 1 he warned the National Security Council's Middle East staff that Iraq would invade Kuwait by the end of the day.

But despite the satellite images and the warnings from Lang and Allen, the top intelligence and national security officials, including President Bush, felt that Hussein was bluffing. The satellites had made their contributions, but their human masters chose to interpret their images optimistically.

The intelligence failure before the Gulf war underscores one simple fact: spy satellites are only as effective as the people who use them, in part because they do not provide *information*, they provide data. It takes a human partner to glean information from that data and to act upon it, and it's the human side of the partnership that determines if the satellite is a success or a failure.

That satellites are valuable tools for intelligence gathering was demonstrated early in the Space Age. Satellite images of the Soviet Union taken in the early 1960s backed up evidence from U-2 flights that the feared missile gap was a myth that rather than having hundreds of intercontinental ballistic missiles aimed at the American heartland, the Soviets had, at most, ten.

Several years later President Lyndon Johnson told a group of educators, "I wouldn't want to be quoted on this, but we've spent 35 or 40 billion dollars on the space program. And if nothing else had come out of it except the knowledge that we've gained from space photography, it would be worth 10 times what the whole program has cost. Because tonight we know how many missiles the enemy has, and, it turned out, our guesses were way off. We were doing things we didn't need to do. We were building things we didn't need to build. We were harboring fears we didn't need to harbor."

Despite their great value, the early reconnaissance satellites were far from perfect. They returned their images by parachuting the film back to Earth in a capsule, sometimes days or even weeks after they were taken. That delay could be crippling. Both the 1967 Six-Day War in Israel and the Soviet invasion of Czechoslovakia in 1968 ended before the United States could obtain satellite imagery of the trouble spots.

After the 1973 Yom Kippur War, one analyst with the Central Intelligence Agency recalls, "we had wonderful coverage but we didn't get the pictures until the war was over." The lack of timely intelligence was judged by the Pike Committee (established in 1975 to investigate U.S. intelligence activities) a serious threat to the United States. The United States had been forced to rely on overly optimistic Israeli battle reports. As a result, reported the committee, "[t]he U.S. clashed with the better-informed Soviets on the latter's strong reaction to Israeli cease-fire violations. Soviet threats to intervene militarily were met with a worldwide U.S. troop alert. Poor intelligence had brought America to the brink of war."

The quantum leap needed to overcome such intelligence gaps was made in December 1976 with the launch of a satellite known by the top-secret program name Kennan and more widely as the KH-11 ("KH" being shorthand for KEYHOLE, the designation of an imaging satellite, and "11" indicating the 11th optical system used by the KH satellite series). Unlike earlier KH satellites, KH-11s can return imagery almost instantly. They also have relatively long lives, sometimes remaining active for several years. During daylight passes in good atmospheric conditions, the satellites can obtain clear pictures in which objects only six inches apart can be distinguished (see "The Vision Thing," page 78).

The KH-11s transmit their data to ground stations, where it is recorded on tape and shipped to imagery interpreters. Because the satellites can send back a picture about every five seconds, many of the images are simply stored. They can be scrutinized later if events require it. Others are viewed immediately and become one more piece of the larger intelligence picture. And still others become the catalyst for further collection efforts and eventually for action: political, diplomatic, or military.

Even in the post-Cold War era there is no shortage of reconnaissance targets. Satellite imagery of the Soviet Union is vital for arms control verification and for monitoring the volatile situation there. Satellites search for signs of new nuclear reactors or missile deployments in countries that buy arms and nuclear technology from China, including Algeria, Iran, Iraq, Pakistan, Saudi Arabia, and Syria. The United States' eyes in space even keep watch over sites in the Western Hemisphere, from drug production facilities in Bolivia and Columbia to possible advanced weapons in Argentina and Brazil.

Eventually all of this imagery will end up in a windowless building in the Navy Yard in Washington, D.C. The National Photographic Interpretation Center is run by the CIA and staffed by interpreters from the CIA, the Defense Intelligence Agency, and various Army, Navy, and Air Force intelligence organizations. The CIA, DIA, and military intelligence organizations also maintain their own interpretation divisions. Riding herd on the "exploitation" process, as it is called, is the director of the CIA's Committee on Imagery Requirements and Exploitation, which divides the imagery interpretation task among the different agencies.

Even if presented with the best overhead imagery, a layman would glean only a fraction of the intelligence extracted by skilled interpreters. In his book "Thirteen Days," Robert Kennedy recalled the photographs a high-flying U-2 spyplane took in 1962 of Soviet missile sites being set up in Cuba, images that sparked the Cuban Missile Crisis. "I examined the pictures carefully," Kennedy wrote, "and what I saw appeared to be no more than the clearing of a field for a farm or the basement of a house. I was relieved to hear later that this was the same reaction of virtually everyone at the meeting, including President Kennedy."

The people who analyze satellite pictures are trained to extract the maximum amount of information. They use interpretation keys—volumes that contain satellite-eye views of everything from submarines to aircraft. "Each weapons system has a signature," says retired CIA photo-interpreter Dino Brugioni. "An ICBM site, for example: the signature for an ICBM site is modern roads with wide-radius turns that end up at a secured area. The reason you have to have wide-radius turns is you're dealing with a missile that's about 100 feet long and you can't come up to a crossroad and turn the thing. The other thing is that you have a multimillion-dollar missile and you're not going to trundle it over bad roads."

Interpreters also examine the image in context, relating an object to its surroundings. Says Brugioni, "I always advocated that you take out picture books of the country that you're dealing with. A domed building in the United States is, in most probable cases, a radar dome. You can't apply that to the Middle East. In each case you work with a pattern and you begin to learn how people live and you take that and you develop a series of signatures about the particular country you're working with."

Even the most skilled interpreters can make mistakes. Shortly after the Six-Day-War, CIA photo interpreters were alarmed by a satellite photo of Israeli territory that clearly showed a circular excavation—the kind of digging associated with installation of a missile silo—near the Gaza strip. Closer study revealed that the excavation was, in fact, a watering trough.

When satellites used film to photograph their targets, the ability to manipulate and enhance the imagery was limited. The film could be scanned with a laser, converted into digital form, and then manipulated, but many times the very act of developing the film destroyed valuable information. When an image was cloaked in shadows, often all that was left after the film was developed was the shadow. With the arrival of the KH-11 and its digital imagery, image enhancement with computers became an enormously valuable tool in the interpreter's arsenal.

Though the details of intelligence image enhancement are secret, similar work is done at the Jet Propulsion Laboratory in Pasadena, California. JPL's image enhancement software includes nearly a thousand programs for enhancement work, according to Kevin Hussey of the image processing lab. For instance, when a target is partially obscured by cloud cover or haze, the computer can compensate by eliminating the clouds. Another technique allows computers to compare images of the same target taken at different times and immediately detect any changes, such as new construction, movements of motor vehicles, or excavation. it is also possible to improve resolution by using a computer to combine multiple images of a single scene. And a "de-spiking" program will automatically flag any pixels with values so bright or dark that they stand out from their neighbors, either replacing them with more average values, or alerting analysts of the discrepancy. Averaging two or more images of the same area also allows the computer to filter out any aberrant pixels and get a more realistic view of the target.

But even with computers, satellites alone cannot provide a full picture of what's going on below them. The KH-11 images from Iraq that had concerned Pat Lang and Charles Allen might have been more persuasive to others if they had been supplemented by two other forms of intelligence—human intelligence from old-fashioned spies and intercepted signal communications. But as former CIA director William Webster noted in late 1990, human intelligence concerning the intentions of world leaders "is often difficult to acquire and, frankly, very difficult to acquire in an autocratic environment." And Saddam Hussein's Iraq was more autocratic than most countries, with a fearsome secret police. Further, Hussein and his subordinates were well aware that the U.S. global eavesdropping network can snatch almost any communication out of the air. To avoid being overheard, the Iraqis transmitted much of their important information via fiber optic cables and other land lines, rather than transmitting through the air.

Nations may also attempt to foil a satellite with denial and deception operations. Denial methods may be as simple as stopping an activity or placing equipment under a cover or inside a building before a satellite passes overhead. Deception operations seek to mislead the imagery interpreters. The receivers may deploy dummy aircraft and tanks, paint patterns on buildings that suggest bomb or fire damage, or camouflage military hardware. But interpreters have ways to unmask the deception. According to Dino Brugioni, "If the Soviets put up dummy aircraft, you never see them being serviced. If they put up rubber dummies and decoys you see them smashed as the weather and seasons change."

Sometime around December 1987, a KH-11 detected a construction site 40 miles south of Tripoli, the capital of Libya. By July 1988 enough intelligence had been acquired from KH-11 and SR-71 photography, communications interceptions, and human sources (including Arab and Western workers at the site) to convince CIA analysts that Muammar Qaddafi was definitely building a chemical warfare facility.

Having been caught red-handed by the satellites, Qaddafi tried to use them to undo the damage. The buildings at the complex were painted with "burns" to support a report by the Libyan news agency that a fire had erupted at the complex, but U.S. intelligence analysts who examined the imagery were not fooled. "It clearly was an attempt at deception," one senior intelligence official told the *Washington Post*, and the attempt was "not particularly well done."

During the war with Iraq, the United States operated an unprecedented number of imaging satellites simultaneously—three KH-11s (launched in 1984, 1987, and 1988), three advanced KH-11s (launched in 1989 and 1990), and one LACROSSE (launched in 1988). In the five and a half months between the invasion of Kuwait in August 1990 and the beginning of the air war, U.S. satellites closely scrutinized Iraq for sites to target for attack.

The imagery arrived in the field either from Washington (after processing) via communications satellites or, according to Aviation Week and Space Technology, directly from reconnaissance satellites transmitting to small mobile terminals in the theater of operations. In a speech in August 1990, Air Force Brigadier General Donald Hard announced that imagery "is provided directly to the field, to allow informed and accurate decisions for mission planning and battle management."

But the war also demonstrated the limits of satellite imagery. One difficulty was effective damage assessment. Sometimes the results of a bombing raid were clear, but at other times the damage was out of the satellites' view: munitions, particularly "smart" bombs, could simply have punched a small hole in a roof or entered via a duct and done their damage inside. In such cases intelligence analysts would not consider the target destroyed.

The limitations of imagery and the utility of other forms of intelligence were tragically illustrated on February 12, when allied aircraft bombed a reinforced-concrete building in Baghdad. Intelligence had pinpointed the structure as a command and control facility and, according to some reports, a leadership shelter. But the facility also served as a civilian shelter, possibly for relatives of the Iraqi leadership. As many as several hundred civilians were killed in the attack.

Military briefers in Washington and Riyadh confirmed that satellite imagery played a key role, though not the sole one, in identifying the facility as a command and control center. Captain David Herrington, deputy director of intelligence for the Joint Chiefs of Staff, noted that the U.S. had observed that the building had "a camouflage roof [and] a security fence around it with barbed wire." Joint Chiefs of Staff director of operations Thomas Kelly recalled: "We saw military vehicles parked outside it, we saw military people going in and out of it.* * *" U.S. satellites also spotted communications equipment that had been hardened to survive a nuclear blast.

Other forms of intelligence supported the satellites' observations. Intercepted communications had indicated that the facility was being used for command and control purposes, and as Riyadh briefer Brigadier General Richard Neal noted, "We talked to folks that worked in the construction area" who described the installation of sophisticated equipment that was hardened against military attack. Unfortunately, there were no human sources to provide information on exactly how the facility was being used. If the civilians had entered the shelter in the middle of the night, it would have been difficult for satellites to detect them. The deaths of those civilians illustrated that, as Colonel Andrew Duncan of the International Institute of Strategic Studies observed, "No matter how many satellites you have overhead * * * nobody can see through a roof."

That is unlikely to change. Instead, the challenge is to be found back on Earth: in combining different types of imagery (visible light, infrared, and radar) and in developing better methods to ensure that the flood of imagery is processed, analyzed, and distributed efficiently, particularly in critical combat situations.

It is clear from their comments that U.S. military commanders in the Persian Gulf, including General Norman Schwarzkopf, found the system for producing and distributing overhead photography to be deficient. Among Schwarzkopf's complaints was that field commanders and pilots could not get reconnaissance photographs of potential Iraqi military targets that were less than a day old. "It was a void that all of us felt," the general said.

The delay was caused by two problems. Even with the large number of satellites in orbit, the United States was not able to image every target on a daily basis, particularly when cloud cover was present. In addition, interpreters were swamped by the volume of incoming imagery, resulting in 18-hour workdays at NPIC. But it is unlikely that this country will ever have the financial and human resources to ensure that all targets are monitored and the imagery analyzed every day.

William E. Burrows, the author of "Deep Black: Space Espionage and National Security," observes. "It's a paradox. Real-time imaging from several spacecraft, particularly in a crisis, can return an avalanche of information. That's the good news. But the more data you collect, the more you struggle to process, interpret, and move it. The bad news is that an avalanche can bury you alive."

STAFFING REQUIREMENTS OF TOWING VESSELS

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ABERCROMBIE. Mr. Speaker, today I am introducing legislation to dress the serious abuse of marine safety.

As is the case in many areas, the towboats in the Hawaiian Islands are currently running with only one staffer on the bridge and at times no one in the engine rooms. As you can imagine, this can create some hazardous situations. Although the majority of boats are equipped with an automatic pilot, these pilots can and often do malfunction. In addition, the person on watch in the wheel house has the responsibility to navigate the ship and transmit radio messages. On some of these vessels the chart room and radio room are away from the bridge. Consequently, there are times that the person on watch has to leave his position.

Additionally, we have been forced into a position where our crews are reacting to emergencies rather than taking action to prevent them. For instances, some enginerooms have had alarm systems installed and have been automated, but as we all know, machinery has been known to malfunction or break down. In any event, these alarms are not activated until after the emergency, but, if the engine room were staffed properly, someone would be able to see, hear or smell a problem and correct it before the situation grew out of control.

Mr. Speaker, I am concerned that a one-person watch may not be sufficient to comply with the lookout requirement under the navigation rules. For the last several years, staffing of towboats has been systematically reduced to the point of jeopardizing our crew and our environment. The way things stand now, staff are not only in jeopardy of unsafe practices which may cost them their licenses, but also their lives.

This legislation will put the priority where it belongs: on the safety and well being of towboat employees and the public. I would like to see the staff levels put back to a safe working level. Not only would these efforts eliminate some of the stress and fatigue of the crewmembers, but the lives and property of the general public would be further safeguarded. Many of the spills which have occurred off the coasts of our great States might have been prevented had adequate staff been aboard. I can assure you a large spill in Hawaii would have a devasting effect on our economy not to mention the fish, crabs, sea urchins, and seaweed which are the staple foods of the Hawaiian Islands.

I ask my distinguished colleague to give this legislation their full consideration and support. Mahalo.

THE HUMAN RIGHTS SITUATION IN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HAMILTON. Mr. Speaker, I wish to draw to the attention of my colleagues the latest in a series of letters exchanged with the Department of State regarding the human rights situation in Turkey. The last exchange appeared in the CONGRESSIONAL RECORD on Monday, October 7, 1991. In their current response, the State Department addresses a number of individual concerns raised by human rights groups regarding the earlier State Department letter on this issue.

Once again, I wish to reiterate that Turkey is an important friend and NATO ally of the United States. It is in our interest and in the interest of the future of the United States–Turkish relationship to ensure that serious human rights violations cease to occur in Turkey.

The correspondence follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 24, 1991.

Hon. JAMES A. BAKER III,
Secretary of State, Department of State, Washington DC.

DEAR MR. SECRETARY: I write to follow-up on our exchange of letters this summer on the human rights situation in Turkey. I recently received correspondence from the human rights organization Helsinki Watch regarding continued serious violations of human rights in Turkey. The Helsinki Watch letter paints a very different picture of this problem from that portrayed in the Department's August 5, 1991 response to me.

Helsinki Watch asserts that:

Premeditated torture of political detainees is a routine practice in Turkey today;

Twelve political prisoners have died in detention under suspicious circumstances since January 1—twice the number of deaths in detention in 1990;

In recent months 19 people have died in house-to-house police raids and 10 demonstrators have died as a result of indiscriminate use of live ammunition by Turkish security forces;

Restrictions on freedom of expression persist and the recent enactment of a broad Antiterror law represents a step backward in this area; and,

Human rights violations against the Kurdish minority continue. Despite the publicized repeal of the ban on Kurdish, it continues to be a crime to use the Kurdish language in official settings, including family visits to prison detainees.

I have enclosed a copy of the Helsinki Watch letter for your information. I would appreciate it if you would have your staff review the points made in this letter and get back to me.

I appreciate your prompt consideration of this matter and I look forward to hearing from you.

With best regards,
Sincerely yours,
LEE H. HAMILTON,
Subcommittee on Europe and the Middle East.

UNITED STATES DEPARTMENT OF STATE,
Washington, DC, November 22, 1991.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your letter of October 24 to Secretary Baker concerning allegations of human rights abuses in Turkey as reported to you by Helsinki Watch.

Torture of detainees in Turkey does occur—most typically during periods of incommunicado detention before a suspect is brought before a court. The government recognizes that torture occurs but asserts it is neither widespread nor systematic. The Justice Ministry maintains that the Turkish government is pursuing an all-out fight against torture and does not tolerate anyone who mistreats suspects and inmates. While the government has introduced some reforms that could contribute to a reduction of abuse, these reforms have not been effectively implemented. There were no known political killings attributable to the government or opposition political parties in 1991. However, figures compiled by the Human Rights Foundation show that as of October 31, eighteen persons have died while in police custody. At least some of these deaths may have been due to police torture.

Turkey has taken important steps recently to combat human rights abuses. Turkey has signed several international conventions against torture and the Turkish Constitution outlaws torture. In December 1990 the Turkish Grand National Assembly established a multi-party "Human Rights Commission," empowered to investigate any allegations of human rights abuses that are submitted to it. The Commission began operating early in 1991. In September 1991 the Justice and Interior Ministries announced that each would establish a Human Rights section within their respective ministries. The Parliament sponsored an October 4–5 symposium on "International Protection of Human Rights and the Turkish Grand National Assembly." The Police Academy announced in October that human rights is being taught as the first course in its fall semester.

The assertion by Helsinki Watch that 19 people have died in house-to-house police raids, and that 10 demonstrators have died as a result of indiscriminate use of live ammunition by Turkish security forces must be considered in the light of the dismaying frequency of political murders perpetrated by terrorists in Turkey. These have included in this past year, five retired generals, an Ankara physician, an archaeology professor, a British businessman, two American civilian contract employees, an American Air Force staff sergeant, and 20 Istanbul policemen. The radical left terrorist group Dev-Sol claimed to have committed many of the killings. The Kurdish Workers' Party (PKK) a Marxist terrorist separatist organization active in Turkey's southeast claimed to have murdered the archaeologist and also killed dozens of policemen, soldiers, teachers, and villagers in 1991. The PKK has fired rockets at night into the centers of Turkish towns, ostensibly aiming at security establishments or the homes of Turkish officials; in fact, the rockets frequently miss and cause death, injury or damage in surrounding neighborhoods. The PKK has also continued its attacks against the Turkish education system, killing or threatening to kill ethnic Turkish teachers in many districts. As a result, schools did not reopen in most rural areas of southeast Turkey at the beginning of the 1991–92 school year. The tense political situation leads to accusations of overreaction by security forces in crowd situations. The facts in such cases are disputed by different sources and are almost impossible to establish.

With some significant exceptions, the freedoms of speech and press are widely and vigorously practiced in Turkey. The privately owned press does not hesitate to criticize the government and reflects a broad range of opinion. Parliament passed a new "anti-terror" law in April 1991. While this law quashed previously-stipulated capital sentences, amnestied thousands of prisoners, commuted sentences, decriminalized the use of the Kurdish language and nullified articles 141, 142, and 163 of the Penal Code; it also introduced a broad and ambiguous definition of "terrorist" activities that could invite abuses of power by security authorities. The opposition Social Democratic Populist Party [SHP] submitted portions of the new law to the Constitutional Courts, asking that they be struck down as unconstitutional. As yet, the Court has rendered no opinion, but a decision is expected before the end of the year.

Concerning alleged human rights violations against the Kurdish minority, our embassy reports that it has never heard allegations that families are being denied the right to use Kurdish in conversations during visits to detainees. Millions of Turkish Kurds who have moved to industrialized cities in the western part of the country are by and large fully integrated into the political, economic, and social life of the nation. Most Parliamentary representatives from southeastern Turkey are ethnic Kurds, but representatives of Kurdish ethnic origin have been elected from districts far removed from the southeast. A number of cabinet ministers, as well as other government officials, claim an ethnic Kurdish background.

The Turkish Constitution proclaims Turkey to be a secular state, regards all Turkish citizens as equal, and prohibits discrimination on ethnic, religious, or racial grounds. It is legal to speak Kurdish, sing or record Kurdish songs and publish books, newspapers or other material in the Kurdish language. Materials dealing with Kurdish history, culture, and ethnic identity, however, continue to be subject to confiscation and prosecution under the "indivisibility of the State" provisions of the anti-terror law. The question of Kurdish cultural identity within Turkey is more and more openly debated, however, both in government and among the general public.

In summary, it is fair to say that much progress has been made with respect to human rights in Turkey. However, much remains to be done. The activities of terrorist groups and the Kurdish separatist movement in southeastern Turkey certainly complicate efforts at reform. The United States government continues to press the Turkish government to improve its human rights record, and the situation is closely monitored by Ambassador Barkley and his staff in Turkey.

Sincerely,
JANET G. MULLINS,
Assistant Secretary, Legislative Affairs.

THE ENTERPRISE COMMUNITIES ACT OF 1991

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RANGEL. Mr. Speaker, while the President and his economists debate whether the

Nation is technically in a recession, there are poor communities in this country already deeply ensnared in the vicious spiral of depression, decay and desperation. In these communities, crime is rampant; jobs have evaporated; clean, affordable housing has all but vanished; and the sale and acquisition of illegal substances are the only signs of a local economy. These are the communities on the very bottom rung of the domestic ladder.

I am talking about communities as diverse as parts of rural south Florida and the Mississippi delta, to east Los Angeles and sections of the Bronx and my own Harlem. Since 1980 these communities—which even then were marginal—have undergone a dramatic and astounding transformation—backward. These communities have seen the wholesale unraveling of their most basic social and economic fabric. Such underpinnings, taken for granted in most American neighborhoods, simply do not exist any longer in these.

Today we in Congress feel powerless to act. The deficit, coupled with the President's lack of a domestic policy, virtually precludes an aggressive, creative, classically American strategy to turn back this tide of domestic disintegration. The financial community, facing staggering losses itself, is hardly in a position to underwrite the kind of growth necessary to jump start revitalization efforts in poor neighborhoods. Corporations to which our system looks to carry forward economic change are overwhelmed with excessive debt and declining demand. Even foundations and other pillars of private wealth are groaning under enormous demands for their resources.

Mr. Speaker, today I am introducing "The Enterprise Communities Act of 1991" which contains the seeds of recovery for these destitute communities. It is necessarily limited in scope, but bold in vision. It extends hope, where there is now but a tenuous glimmer. It offers a hand up where there is now not even a hand out. It attempts to collect those things in our domestic economy which we know are working, and target them in ways that will bring back these destitute areas—neighborhood by neighborhood, block by block, family by family.

This bill combines the popular and, as yet, unfulfilled promise of enterprise zones with ideas of local initiative, social investment, and neighborhood leadership. It provides 50 communities in this country an opportunity to break free from the cycle of ubiquitous poverty, unemployment, violence, and drug abuse, and start back on the long, long road to self-sufficiency and prosperity. It does not rely on the direction of bureaucrats in Washington or even the state houses or city halls, but on the energies and wisdom of local leaders, their neighbors, and their institutions. The bill provides these communities with the tools and commitments necessary to rebuild and renew.

Mr. Speaker, the idea of enterprise zones is not new. It is a concept which has been championed by leaders as diverse as the Chairman of our Ways and Means Committee and the President's Secretary of Housing and Urban Development. It is my intention through this bill to provide for 50 enterprise zones—in both rural and urban areas—where special tax breaks and other fiscal incentives will be invested by Federal, State, and local governments in concert with leaders in the neighborhoods to create a framework for recovery.

A second key component of this measure is an investment of $300 million over 3 years in the efforts of local police, combined with anti-crime and anti-drug initiatives undertaken by local community organizations to provide alternative activities for high-risk young people. It is an idea being proven successful by the Justice Department even now in its efforts to "weed" criminals from the streets of designated high-crime neighborhoods and "seed" those neighborhoods with funds for successful alternative community-based programs.

A third component provides $150 million over 3 years for the creation of affordable housing through an expansion of the current programs of the Neighborhood Reinvestment Corporation. In 1990, Mr. Speaker, non-profit organizations emerged as the single largest provider of new affordable housing in the country. This section seeks to build on that record of success and enhance those efforts within enterprise zones.

Also, through the NRC, the bill would over 3 years infuse $300 million in important operating and programming capital into non-profit community development corporations, including community development loan funds, which operate in enterprise zones. This critical funding would fuel the growth of local enterprises and non-profit ventures in enterprise zones by increasing the supply of stable capital available for investment and reinvestment. During lean years of the 1980's, these groups demonstrated remarkable growth, imaginative leadership, and technical expertise to step in where the Federal government was stepping out.

The bill also makes available direct grants from the Federal government to community groups to provide such essential services as health care clinics, emergency medical services, afterschool activities, literacy programs, daycare, transportation, and other programs as are necessary for a fully functional community.

The bill includes a multi-faceted effort to target drug addicts and others whose use of illegal substances is at the core of the disintegration in these neighborhoods. It includes legislation I have cosponsored with my friend, Mr. TOWNS of New York, to provide Medicaid coverage for pregnant addicts; and that by my friend, Mr. OWENS of New York, to provide special educational initiatives for children whose neurological systems were damaged by exposure to drugs before birth; and that of Mr. STARK of California and Mr. GREEN of New York, to provide for the creation of a Substance Abuse Treatment Corporation to train professionals in the field of drug treatment and deploy them in key battlefront neighborhoods in the War on Drugs.

The bill also includes President Bush's request for $99 million for expanded drug treatment, which I have cosponsored with Mr. MICHEL of Illinois, and Mr. COUGHLIN of Pennsylvania; and increases in the Drug Free Schools and Communities act targeted at those communities designated as part of an enterprise zone.

IN RECOGNITION OF TWO OUTSTANDING FIRST-TERM DEMOCRATIC MEMBERS OF THE 102D CONGRESS

HON. THOMAS H. ANDREWS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDREWS of Maine. Mr. Speaker, at a time when it is easy to read criticism of the U.S. Congress, it is refreshing when the good work of Members of this institution is publicly recognized. I would like to draw attention to the following positive public recognition of two outstanding first-term Democratic Members. I heartily applaud their hard work in this challenging first year congressional careers and wish them continued success.

[From The Idaho Statesman, November 25, 1991]

NEW NORTHWEST MEMBERS STAND UP FOR CONGRESS

(By Larry Swisher)

Reps. Mike Kopetski, D-Ore., and Larry LaRocco, D-Idaho, who were elected for the first time in 1990, picked a terrible time to join Congress.

Public esteem for the institution—never very high—has hit bottom thanks to a series of disgraces and spectacles like the Clarence Thomas-Anita Hill daytime soap opera.

While being dismayed by some of the bad habits and bad apples, Kopetski and LaRocco have little truck with the Congressbashers.

At the same time, if the Northwest's newest members of Congress get their way, it will be harder for them to keep their own jobs and easier for challengers to take them on. That's because they advocate changes in the electoral system rather than term limits as the best way to clean house.

Both have long involvement in politics. LaRocco was an aide to the late Sen. Frank Church, D-Idaho, and Kopetski served in the Oregon Legislature. Still, their defense of Congress is noteworthy coming from candidates who, in Kopetski's case, unseated a Republican incumbent, and in LaRocco's case wrested his district away from 24 years of Republican control.

Probably the most sensitive members of the delegation to the public's angry mood, because of their recent elections, they nevertheless assert that politician is not a dirty word.

I understand the people of America are questioning out ability to govern," LaRocco said. "I am in touch with that. It makes me a better congressman.

But he took issue with those who are going so far as to seek random drug testing of members of Congress. "Some of the new members who are tearing down this institution I think are wrong. I really decry what some of them are doing."

Kopetski has introduced his own campaign finance reform bill, which would give challengers some of the same free mailing privileges as incumbents, even if that means giving a helping hand to his own opponent next year.

LaRocco recently praised the thrust of the House Democrats' reform bill, which limits campaign spending and PAC contributions and also includes free mailings for challengers.

Both men disagree with the notion of direct public financing.

Instead, Kopetski's bill would grant a federal tax credit of up to $50 per person for individual campaign contributions—but only those made to challengers. Donations to incumbents would continue to be non-deductible. That would benefit challengers but still force them to ask people to take part in democracy with their pocketbooks as well as their votes. "I think that's healthy," he said.

LaRocco is reserving final judgment on the reform bill, which may be voted on this coming week, depending on its final form. Rep. Richard Stallings, D-Idaho, and other members of the Conservative Democratic Forum have also come out against public financing, which would be funded by a voluntary income tax checkoff, like presidential campaigns.

With time running out on this session, it's doubtful Congress will enact a law this year because of fundamental differences between Democrats and Republicans, led by President George Bush.

Kopetski and LaRocco acknowledge the public has good reason to be disillusioned with politics and Congress.

But these two entrenched freshmen said voters should make their own judgments based on the individual candidates and the issues, and shouldn't let critics get away with only making sweeping generalizations.

"The end result of this institution-bashing could be David Dukes throughout the country," LaRocco said, referring to the former Ku Klux Klan leader who ran for Senate in Louisiana. Domination by extremists from the left or the right would only make voters even more apathetic and unwilling to participate, he argued.

"This is the people's House," Kopetski declared. "You can only get here by election. So you should be proud of it and make it the best institution on earth."

Larry Swicher, a former Statesman reporter, writes on Northwest issue from Washington, D.C.

INTRODUCTION OF REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STUDDS. Mr. Speaker, today I am introducing legislation to amend and reauthorize the Endangered Species Act for an additional five years. The ESA is one of our Nation's most important environmental laws, and I urge Members to support it.

It is now nearly 20 years since Congress first enacted this landmark piece of legislation that has served as a model for other nations endeavoring to prevent extinction of species within their borders. At that time, Congress recognized that "various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation."

The Endangered Species Act has brought us a long way toward solving that problem by focusing our attention on the spiraling rate of extinction and enabling us to make real progress in conserving vanishing species in the United States and abroad. The Endangered Species Act has been the basis for several impressive success stories—the condor, the whooping crane, and the black footed ferret would more than likely be extinct if not for the act. The bald eagle, peregrine falcon, and the brown pelican have made encouraging comebacks during the past two decades. The red wolf, which all but disappeared from the wild, has been reintroduced in North Carolina, with the support of neighboring farmers.

I am convinced that we can do even a better job of preserving species that are on the brink of extinction, and my bill includes several amendments to the act to achieve that end.

First, it would encourage states and localities to prepare to protect species identified as candidates for listing under the act, to avoid further declines and subsequent listings.

Second, it would rectify an anomaly under the act in which citizens can bring suit immediately seeking protection for unlisted species, but must wait 60 days, even in emergencies, to bring suit to protect listed species.

Third, it would authorize Federal agencies to promulgate regulations to implement resolutions adopted by the Convention on the International Trade in Endangered Species.

Fourth, it would ensure that recovery plans are prepared for all species listed as threatened or endangered. Currently only 40 percent of all species listed under the act have had recovery plans prepared.

Finally, it would substantially increase the funds for implementing the act.

The Endangered Species Act has been entwined in one of the more difficult natural resource issues in recent years—the protection of old growth forests in the Pacific Northwest. Some will cite the continuing controversy as evidence that the ESA is a bad law that needs changing. Nothing could be further from the truth.

The controversy over the timber program for the national forests of the Northwest continues because of the gross mismanagement of the national forests by the Forest Service and the Bureau of Land Management and because of the conscious and unconscionable decision by the Bush administration to disregard the requirements of Federal law. The White House has been playing politics with the well-being of the spotted owl and the timber dependent communities for 2 years, with the result that we continue to lose both habitat for the owl and a stable timber program for the communities. It is a shame, and it need not be so.

I am convinced that the vast majority of Americans support the continued protections for endangered species which are embodied in this bill. A recent poll, for example, found that three-quarters of the people in this country believe that the Government should keep environmental protection a priority. This bill offers a unique opportunity to demonstrate that environmental protection continues to be a high priority of the Congress, and both it and the act deserve broad support.

In closing, I am reminded of something the American naturalist, Charles William Beebe, once wrote: "When the last of a species breathes no more, another heaven and another Earth must pass before such a one can be again." The Endangered Species Act is our recognition that we do not have the luxury of waiting for another heaven and another Earth to pass. We must strive to conserve the diversity of life on this planet now, for our sake and that of those who will come after us. Toward that end, I look forward to working toward a strong Endangered Species Act reauthorization, and I urge Members to support this effort.

LOCAL GOVERNMENT INTERSTATE WASTE CONTROL ACT

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BOUCHER. Mr. Speaker, the Local Government Interstate Waste Control Act, which I am introducing today, offers a solution to the contentious issue of the interstate transportation and disposal of municipal solid waste. Last year, approximately 10.8 million tons of garbage was shipped out-of-state for disposal. All too often, this garbage has been dumped in unwanted private landfills in rural communities.

In recent years, private landfills in rural localities lacking comprehensive zoning have become depositories for urban America's garbage. Most of rural America lacks comprehensive zoning designating specified land uses which prohibit the operation of private landfills, a situation which invites private landfill operators to purchase farms and make substantial profits by importing garbage from urban centers.

In these circumstances, local governments have found themselves powerless to halt garbage importation. State law prohibits retroactive zoning, and Federal law prohibits the discrimination by any State against the commerce, including garbage, of another State. Accordingly, as long as the landfill operator complies with basic environmental requirements, neither the locality nor the State can prevent garbage importation from out of State.

This inability of localities to control their own destiny has given rise to a powerful national effort to give localities some say in the initial decision to create private landfills for out-of-State garbage importation. The Local Government Interstate Waste Control Act is a response to this clear need.

The bill grants the unit of local government having land use authority the power to approve or disapprove the siting of private landfills which would import out-of-State garbage. It would ensure that in the future no facilities are sited over local opposition. Marginal landfill operators would clearly get a red light under this provision.

However, the passage of this legislation would not put an end to interstate garbage movements. A large number of private landfills receiving out-of-State garbage are operated today with the blessing of local governments. Companies such as Waste Management, Inc., Browning-Ferris Industries, Chambers Development Corp. and Laidlaw, Inc. operate under the principle that no new landfill will be sited without local government approval. Under these practices, the terms and conditions of locating and operating the landfill are negotiated with the proper local government authorities. In the typical case, localities view these operations as another business investment providing economic opportunities. In sum, there will be private landfill space available for municipal garbage exports. This legislation would simply ensure that the landfills are not operated over the opposition of the citizens of the affected locality.

The legislation also provides that 42 months following enactment, waste may not be exported from a State which has not received EPA approval of its comprehensive solid waste disposal plan. Correspondingly, the disapproval power of importing localities would also terminate unless the States in which they are located have received EPA approval of that State's comprehensive plan within the same timeframe.

The legislation has been constructed in consultation with the major companies involved in the interstate solid waste transport business. They have endorsed its terms. In addition, the legislation is supported by the Environmental Transportation Association and many of the railroads which haul interstate waste. I look forward to working closely with the gentleman from Washington, Mr. Swift, and the other members of the Subcommittee on Transportation and Hazardous Materials of the Energy and Commerce Committee to enact legislation which resolves this difficult issue.

SUE ELLEN CAIN NAMED GEORGIA'S 1992 TEACHER OF THE YEAR

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DARDEN. Mr. Speaker, today I rise to recognize Sue Ellen Cain of Carrollton, GA, a talented educator who recently was chosen Georgia's 1992 Teacher of the Year.

A math instructor at Carrollton Junior High School, Mrs. Cain possesses a rare gift for making learning practical and interesting by incorporating schoolwork into the course of everyday life, such as studying percentages on a trip to the grocery store.

Mrs. Cain also is the author of several special programs for students who otherwise might fail or drop out. For example, her Mentor Reading Program requires eighth-graders who have failed a grade to tutor nine-year-olds. According to Mrs. Cain, both groups of students gain tremendous educational benefits from this program.

Mrs. Cain is respected and admired by students and teachers, and serves as a role model to both as well. I would like to congratulate Mrs. Cain on this exceptional honor, and commend her on her unselfish dedication to the betterment of the teaching profession.

Mr. Speaker, enclosed is an article which appeared November 15 in The Atlanta-Journal Constitution about Mrs. Cain which I believe my colleagues would find interesting. I would like to share the story with them at this time:

MAKING MATH CLASS FUN

(By Betsy White)

One of the best ways to teach hard-to-reach youngsters is to let them teach others.

That conviction, born of experience, is part of the award-winning educational philosophy that distinguishes Carrollton math teacher Sue Ellen Cain, 42, ushered in Wednesday as Georgia's 1992 Teacher of the Year.

"We all knew she would win," said eighth-grader Marcus Logan, who credits Mrs. Cain with a rare feat: making math class fun.

A faculty member at Carrollton Junior High, the eight-year classroom veteran is known not only for her cutting-edge approach to math instruction; she's also launched a host of special programs for students who otherwise might fail or drop out.

The mentor reading program she started, in which eighth-graders who had failed a grade were chosen to tutor 9-year-olds in need of help, proved a boon to both groups—particularly the eighth-graders, she said.

"It gives them the experience of being a teacher, and they immediately understood what it takes," she said. "It makes them more aware of what they do not know—and more aware of how much they do know."

"She asks us to be a role model, to be a leader," said eighth-grader Cedric Ridley, who tutors elementary pupils as part of Teens at Work, another volunteer program Mrs. Cain founded. "How do I know how to teach? I guess I got that from her."

Although Cedric says he wants to be a professional basketball player, "Watching her, you feel like, 'Yeah, I want to be just like her. I want to do just what she's doing.' "

Teaching math, Mrs. Cain stresses an interdisciplinary approach and lets students attack practical problems, instead of memorizing dry theories.

Last year, her pupils planned for and built a mile-long nature trail at the school as part of their math work. They also have gone to the bank to "apply" for loans and gone grocery shopping as part of a lesson on percentages.

"She has the students actively involved in their learning, and that's the key to good teaching," said Carrollton Superintendent Tom Upchurch.

A mother of two, Mrs. Cain credits her own parents and the many outstanding teachers she had in elementary school, high school and college for showing her how to be a master teacher. And she said the fact that she's never been a quitter is crucial to her success as well.

"I am a good teacher because I've had good teachers, both at school and at home," she told the state Board of Education in her acceptance speech Thursday. "I don't give up trying to remediate, motivate or create better students."

Selected by four Georgia principals who observed the finalists on the job and then interviewed them, Mrs. Cain won $2,000, a computer and printer, and a $5,200 grant to pay for her travel as Teacher of the Year. She will compete for the national title, to be announced in April.

The runner-up in the state contest was Margaret L. Schneider, a biology teacher at Clarke County's Cedar Shoals High School. Colleagues say Ms. Schneider works hard to make her classes compelling—even to students who say they don't like science.

[From the Rome News Tribune, Nov. 14, 1991]

TEACHER OF YEAR NAMED BY STATE

ATLANTA—Carrollton math instructor Sue Ellen Cain was named Georgia's 1992 Teacher of the Year today.

Mrs. Cain, who teaches at Carrollton Junior High, has launched several special programs for students who otherwise might fail school or drop out.

The "Mentor Reading Program" she started, in which eighth-graders who had failed a grade where selected to tutor 9-year-olds, proved a plus to both groups, especially the eighth-graders, she said.

In teaching math, she allows students to attack practical problems instead of making them memorize dry theories.

Mrs. Cain was selected by four Georgia principals who observed the finalists on the job and then interviewed them. She won $2,000 and was honored today by the State Board of Education.

Mrs. Cain will now compete for the national title.

Runner-up in the state contest was Margaret L. Schneider, a biology teacher at Clarke County's Cedar Shoals High School.

OCTOBER SURPRISE: A DEMOCRAT PARTY WITCH HUNT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CUNNINGHAM. Mr. Speaker, as the Democrat leadership of this House considers whether to order an investigation of the so-called "October Surprise," they would do well to read a letter printed in today's Washington Times.

Rear Adm. Frank C. Collins, Jr, USN, Retired, was the chief U.S. Navy adviser to the Shah of Iran during the turbulent period from April 1978 to February 1979. When he was in Tehran, the Shah himself was overthrown, and the Ayatollah Khomeini returned from his exile in France to take power and lay the groundwork for 52 Americans to be taken hostage in November 1979.

Rear Admiral Collins brings certain expertise to the situation—expertise which is clearly lacking in the partisan bickering which motivates this proposed "October Surprise" investigation

I would like his letter, printed in the November 26, 1991, issue of the Washington Times, to be entered into the permanent RECORD of this House.

LETTERS: WE DON'T NEED ANOTHER USELESS INVESTIGATION

It was indeed interesting to read your Nov. 18 piece "October hoax or cover-up?" on Gary Sick. The Democratic Congress is now considering spending more of the taxpayer's money on investigating his so-called "October Surprise" hoping to embarrass President Bush and former President Reagan, whom Mr. Sick claims negotiated the delay of return of the hostages until after the November 1980 elections. The timing of the article was ironic in view of the news last night that Terry Waite and Tom Sutherland had been released and their captors announced that the remainder of the hostages would be released by the end of the month. It appears that Mr. Sick's "October Surprise" is another desperate attempt by former members of President Carter's staff to atone for the poor job they did in preventing the fall of the Shah and loss of Iran as a friend and ally in that very critical part of the world. There is little question that had the Shah been supported by the Carter administration, neither the initial 1979 hostages nor the current ones would have been taken. Further, Saddam Hussein would have been less inclined toward his adventure in Kuwait, and there is even a possibility that Mr. Carter might have been re-elected.

As one who was in Iran during the critical period 1978–79, I still find it difficult to understand the proliferation of books on that period by people who were not in that theater.

The Democratic leadership would be well advised to consider the mood of the U.S. taxpayer regarding the $28 million-plus spent by special prosecutor Lawrence Walsh without result before they begin another witch hunt, which I can guarantee will backfire.—Rear Adm. F.C. Collins, Jr., U.S. Navy, retired, Alexandria.

DOMENS-TECHNIKUM BREWERIES

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, Nove 26, 1991

Mr. TRAXLER. Mr. Speaker, I rise to pay tribute to the Domens-Technikum Brewery, located in Munich, Germany, which has just opened a North American section in Frankenmuth, MI, which is located in my district. A constituent, Fred Scheer, who is a brewmeister at Frankenmuth Brewery, has been named president of the North American section of Domens-Technikum. I am very pleased that a corner of the global marketplace for brewing technique is now in Michigan. American brewery companies will receive the advice and benefit of Fred Scheer's expertise as they tap Domens-Technikum.

The Domens-Technikum is the largest university in the world that trains people in the art of brewing. The university also teaches the art of making soft drinks and providing food services. It teaches all phases of the beverage industry, including quality control, marketing, personnel management, and public relations.

The Michigan corner of the competitive beverage marketplace resides in Frankenmuth. I am proud to say this because American beverage companies will now send their staff under the tutelage of Fred Scheer. He will then recommend their continuing on to Munich to the Domens-Technikum campus for a full brewmeister education.

Please join me in saluting the expertise and good will of Fred Scheer as he adds another hat as head of the new North American division of Domens-Technikum.

THE POSTREPRODUCTIVE HEALTH CARE ACT OF 1991

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LLOYD. Mr. Speaker, I am pleased today to introduce the Postreproductive Health Care Act of 1991. My legislation will direct the Secretary of Health and Human Services [HHS] to provide grants to health clinics serving women to develop programs to better serve midlife and older women. Currently, health care provided at these clinics is mainly directed to younger women during their reproductive years, offering important services such as family planning and prenatal health care. These clinics often serve as some women's only contact with the health care system and can act as important referral sources for treatment for other conditions.

Unfortunately, as women approach menopause and their need for reproductive-related services ends, it is often the case that their contact with the health care system also ceases. Yet women's health needs do not end at menopause; they can actually increase. My legislation would enable clinics to offer services and train health professionals on midlife health issues such as menopause, hormone replacement therapy, second opinion on hysterectomy, cancer screening and preventive health strategies applicable to midlife and older women. These issues are also critical to younger women who experience premature menopause due to surgery.

One unique and valuable aspect of these clinics is that health counseling plays a fundamental role in their health care delivery model. This is especially worthwhile to the woman at menopause. Information and education are urgently needed because women over age 50 are at increased risk of heart disease, breast cancer, and osteoporosis. This makes regular cancer screening and improving poor health habits essential, especially for women living in poverty. While breast cancer risk increases with age, in 1987, only 22 percent of low-income women over age 40 had ever had a clinical breast exam and mammogram. Older, low-income women are also more likely to be diagnosed with late stage cervical cancer, but have the poorest record for receiving pap smears. Education and outreach are needed to reach these women.

Information on the menopause experience itself is vital for women. Although every woman, if she lives long enough, will experience menopause, it continues to remain a taboo subject of conversation. Unfortunately, jokes and colorful lore about women at menopause have managed to make their way into mainstream America, fueling not only harmful stereotypes and prejudice about middle-aged women, but also a great deal of misinformation. My legislation would offer women access to accurate information and health services specifically related to menopause.

Additionally, education and training of health professionals on midlife health issues would be provided. Outreach measures to this currently underserved population of women would also be a priority.

The Postreproductive Health Care Act is not intended to be a panacea for women's health care. Rather, it will enable clinics currently serving low-income women the ability to provide continuity of services through menopause. I urge my colleagues to lend their support and cosponsor this urgently needed, common sense approach to preventive health care for women.

HORROR IN EAST TIMOR

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LANTOS. Mr. Speaker, on Tuesday, November 12, Indonesian security forces rained death upon unarmed mourners during a memorial service and funeral procession in East Timor—a small territory that has been occupied by Indonesia since 1975. As many as 100 mourners, including children and the elderly, were massacred as they filed into a graveyard to lay flowers on the tomb of a 28-year-old man killed by Indonesian soldiers.

As the innocent mourners were being mowed down, Indonesian soldiers also severely beat several journalist, resulting in serious injuries to two American journalists and the death of a New Zealand national. Following the murderous incident, Indonesian officials are reported to have arrested up to 300 witnesses; dozens are believed to remain under detention.

Western observers report that the violence was entirely unprovoked. By chance, the events of November 12 were captured on video by a CBS news team. The images are shocking. The shooting continued for almost 10 minutes as the mourners rushed into the walled graveyard seeking refuge from the fire. Many were shot point-blank as they cowered behind tombstones.

Today Congressman JOHN PROTER and I cochaired a meeting of the congressional human rights caucus to investigate that ruthless display of force by the Indonesian military. The facts show that incident was not anomalous. Indonesia has consistently and systematically violated the human rights of the East Timorese. The filmed massacre was merely concrete evidence of the prolonged and institutionalized aggression against the people of East Timor.

For some time, human rights organizations around the world have reported on the pattern of abuse in East Timor. Arbitrary arrests, torture and mistreatment under detention, extrajudicial killings, and denial of the fundamental right of expression are extremely widespread. Since occupation, tens of thousands of East Timorese have perished as a direct result of extrajudicial killings, famine and disease.

Mr. Speaker, I would like to thank the Right Reverend Paul Moore, Jr., for his excellent statement before the congressional human rights caucus regarding the tragedy in East Timor. I would also like to thank Amy Goodman of Pacifica Radio News and Allan Nairn of the New Yorker magazine. As eyewitnesses to the massacre who were themselves beaten by those responsible for the slaughter, they provided the caucus with extremely moving and lucid testimony.

In the footage shot by the CBS news team, an East Timorese man, shot in the stomach, covered in his own blood, says to the camera, "Show this to the world." Minutes later he was dead.

Mr. Speaker, the world saw. Now let us act. Unfortunately, the administration's response to this outrageous example of human rights abuse has been appalling and I cannot express strongly enough my profound dismay with the State Department's decision not to send a representative to today's congressional human rights meeting.

While I am extremely disappointed with the administration's response, I cannot say that I am surprised. It reflects, I think, the administration's sad record of failing to respond forcefully to human rights abuses around the world.

Mr. Speaker, if this body does nothing else, let it send a strong and unequivocal message to the perpetrators of this unconscionable act that American people deplore the violence carried out against the people of East Timor. Let those who perpetrate such acts know that the civilized world will be watching, and that we will react vigorously and with dispatch to protect the rights of the people of East Timor.

SUPPORT COVERAGE FOR PROSTRATE SCREENING

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LLOYD. Mr. Speaker, this year, 122,000 men will be diagnosed with prostate cancer, and 32,000 men will lose their lives to this disease. Tragically, one of these men was our good friend and colleague, Representative Silvio Conte. Last year, Senator Spark Matsunaga died battling this cancer. While little is known about the causes of prostate cancer, we do know that early diagnosis is fundamental to successfully treating the disease.

While there is agreement on the value of regular cancer screening for individuals at increased risk, our current reimbursement policy under both Medicare and Medicaid remains something of a paradox in that they pay for the treatment of this disease, yet fail to reimburse for screening to detect the cancer at its earliest, and most easily treatable stage.

For this reason, today Congressman MARKEY and I are introducing legislation to allow reimbursement for digital rectal examinations and the prostate specific antigen (PSA) test under both the Medicare and Medicaid programs for the screening of prostate cancer for eligible men over age 40. The PSA test measures the level of blood protein called prostate-associated antigen found to be elevated in men with prostate cancer. Many experts feel that a digital rectal exam, and the PSA test, used in combination, is currently the most effective screening measure to detect early prostate cancer. This option for screening is also recommended by the American College of Radiology. Survival rates for prostate cancer have improved through the diagnosis of cancer at earlier stages of the disease, demonstrating the value of early detection.

Mr. Speaker, for the past few years, I have been active in pushing for increased research in women's health in order to develop a knowledge base to identify appropriate diagnostic, prevention and treatment methods in diseases prevalent in women. While much of our current research focuses on refining treatment strategies, there is also a pressing need for more basic research into understanding the causes of diseases. The same principles apply here. Prostate cancer rates have risen steadily since the 1970's, affecting 1 in 11 men, yet we still do not understand its causes. According to the American Cancer Society, cancer of the prostate is the second most common cancer in men, after skin cancer. This disease is also more prevalent in black American men, although again, the reasons for this remain unknown. Developing a research priority in this area will alleviate needless human suffering and the anguish of losing individuals unnecessarily to this disease. We must be diligent in our efforts to find the cause and cure for prostate cancer.

While we also work to increase awareness of the need for regular screening for prostate cancer, we must eliminate financial barriers which prevent individuals from seeking such tests. Not only will lives be saved, but unnecessary suffering and medical dollars will be spared by avoiding treatment of advanced stages of cancer. It is indeed a tragedy that our colleagues may still have been with us today had their cancers been diagnosed early.

Mr. Speaker, I urge my colleagues to join us in supporting both bills to allow for Medicare and Medicaid reimbursement of the best method for screening for early prostate cancer. The following abstract of a study published in the April 25, 1991, New England Journal of Medicine points to the value of the PSA test, used in combination with the digital rectal exam, as the best means for detecting early prostate cancer.

MEASUREMENT OF PROSTATE-SPECIFIC ANTIGEN IN SERUM AS A SCREENING TEST FOR PROSTATE CANCER

Background. Prostate-specific antigen (PSA) is secreted exclusively by prostatic epithelial cells, and its serum concentration is increased in men with prostatic disease, including cancer. We evaluated its usefulness in the detection and staging of prostate cancer.

Methods. We measured serum PSA concentration in 1653 healthy men 50 or more years old. Those with PSA values ≥4.0 µg per liter then underwent rectal examination and prostatic ultrasonography. Ultrasound-directed prostatic needle biopsies were performed in the men with abnormal findings on rectal examination, ultrasonography, or both. The results were compared with those in 300 consecutively studied men 50 or more years old who underwent ultrasound-directed biopsy because of symptoms or abnormal findings on rectal examination.

Results. Serum PSA levels ranged from 4.0 to 9.9 µg per liter in 6.5 percent of the 1653 men (107). Nineteen of the 85 men in this group (22 percent) who had prostatic biopsies had prostate cancer. Serum PSA levels were 10.0 µg per liter or higher in 1.8 percent of the 1653 men (30). Eighteen of the 27 men in this group (67 percent) who had prostatic biopsies had cancer. If rectal examination alone had been used to screen the men who had biopsies, 12 of the 37 cancers (32 percent) would have been missed. If ultrasonography alone had been used to screen these men, 16 of the 37 cancers (43 percent) would have been missed. Serum PSA measurement had the lowest error rate of the tests, and PSA measurement plus rectal examination had the lowest error rate of the two-test combinations.

Conclusions. The combination of measurement of the serum PSA concentration and rectal examination with ultrasonography performed in patients with abnormal findings, provides a better method of detecting prostate cancer than rectal examination alone.

VERY MILD ALZHEIMER'S DISEASE: INFORMANT-BASED CLINICAL, PSYCHOMETRIC, AND PATHOLOGIC DISTINCTION FROM NORMAL AGING

We compare clinicopathologic data from 10 subjects identified in the very mild stage of senile dementia of the Alzheimer type with findings from similar studies in four cognitively normal subjects. We based the diagnosis of very mild dementia in the 10 subjects on informant reports and the judgment of experienced clinicians. Deficits of some psychometric measures of memory, language, and speeded psychomotor performance were observed for these subjects. The histologic markers of Alzheimer's disease, including neurofibrillary tangles and both the "diffuse" and classic subtypes of senile plaques, were present in the neocortex in all 10 subjects but essentially were absent in the four controls. These findings indicate that even "questionable" dementia can be diagnostic for Alzheimer's disease. Furthermore, because truly normal aging may be unaccompanied by neocortical senile plaques and neurofibrillary tangles, the presence of these lesions should suggest the possibility of clinically undetected Alzheimer's disease.

ROLE OF M PROTEIN IN ADHERENCE OF GROUP A STREPTOCOCCI

The role of the M protein in adherence of group A streptococci to human epithelial cells was directly tested by using an isogenic pair of M^- and M^- strains. There was no difference between these strains in the number of streptococcal units that adhered to buccal or tonsillar epithelial cells, indicating the following: (i) that adhesins that are not dependent upon M protein expression are present on the surface of group A streptococci and (ii) that the M protein is not the primary streptococcal adherence ligand. However, the M^- strain adhered to tonsillar epithelial cells as aggregrates. This aggregation was dependent on the presence of the M protein, since the isogenic M^- strain did not clump. The coaggregation of streptococci suggests that the M protein plays an important role in promoting the formation of microcolonies after initial attachment. Binding to fibronectin, a potential epithelial cell receptor for group A streptococci, was also the same for the isogenic M^- and M^- strains as well as for an isogenic strain with a regulatory mutation that decreases the expression of M protein. In summary, the M protein is not the primary streptococcal adhesin, nor is it required to orient the streptococcal adhesin and/or fibronectin receptor.

NONINVASIVE DETECTION OF THE MORPHOLOGIC AND HEMODYNAMIC CHANGES DURING NORMAL PREGNANCY

To characterize the morphologic and hemodynamic changes during normal pregnancy, serial echocardiographic measurements ($n = 210$) of left ventricular (LV) dimensions and mass (M-mode), volumes and ejection fraction (two-dimensional), stroke volume, and cardiac output (Doppler: aortic, apical, and suprasternal) were performed in 15 patients (mean age 30 years) beginning as early as 12 weeks of gestation, at 2-week intervals through delivery, and up to 12 weeks postpartum. Left atrial size increased from 3.4 ± 0.4 (SD) to 3.8 ± 0.4 cm near term, decreasing to 3.4 ± 0.5 cm postpartum ($p = 0.006$ overall). LV mass changes correlated with increases in body weight. No consistent significant changes in LV volumes and ejection fraction were observed. LV outflow tract cross-sectional area increased significantly from 3.0 ± 0.2 cm^2 at baseline to 3.5 ± 0.3 cm^2 near term, decreasing to 3.2 ± 0.3 cm^2 postpartum ($p<0.002$ for both). Heart rate increased from 70 ± 7 to 77 ± 10 beats/min near term decreasing to baseline postpartum ($p<0.02$ for both). Accordingly, cardiac output increased significantly, as detected from both the apical and suprasternal positions averaging from 4.7 ± 0.6 to 6.5 ± 1.5 1/min near term, returning to 4.3 ± 0.6 1/min postpartum ($p<0.0005$ for both). Thus, in normal pregnancy, left artrial size increases significantly without significant changes in LV dimensions, volumes, and ejection fraction. Increased LV mass is related to increased body weight. Cardiac output changes result from increased heart rate and an increase in LV outflow area, which contributes to increased stroke volume. Doppler echocardiography permits accurate detection and timing of the morphologic and hemodynamic changes during normal pregnancy.

PONTIFICAL CONFERENCE ON DRUGS AND ALCOHOL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RANGEL. Mr. Speaker, I would like to recognize the tremendous effort made by some of our spiritual leaders in the war on drugs. A major international conference on drug abuse and alcoholism is being hosted by the Vatican in Rome.

A Select Committee on Narcotics Abuse and Control delegation had an audience with His Holiness John Paul II this August. He shared with us the plans for this conference, which includes participation of religious leaders as well as addiction and health care experts from around the world.

I would like to commend His Holiness for using his role as a spiritual leader to galvanize support for ending the human suffering caused by the abuse of illegal drugs and alcohol.

The committee has always encouraged religious leaders to become more active in the prevention of drug use as well as in the rehabilitative process. Indeed, many drug rehabilitation programs report that a spiritual element is often a critical part of the rehabilitative process.

It is so important for every facet of our communities, from religious leaders to school officials to community activists, to actively participate in this effort. I would like to encourage other religious leaders to also make fighting drug abuse an active part of their ministry.

I wish the conferees every success in their important goals of preventing the treating drug abuse.

RECESSION IN NEW ENGLAND

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. REED. Mr. Speaker, I recently hosted an economic development roundtable of city and town officials along with representatives of Rhode Island's State government and Federal agencies.

Sixteen of the 21 cities and towns in my district were represented, along with the Department of Commerce, Department of Transportation, Small Business Administration, Department of Labor and the Federal Reserve Bank of Boston.

The spokesperson for the Federal Reserve confirmed what we all know to be true. This country is in a recession. A recession that began in the summer of 1990, and which has not ended.

And the recession is worse in New England, including my home State of Rhode Island.

According to the Federal Reserve, New England has seen job loss of 8 percent during this recession—the worst job loss in any post-World War II recession.

The people around that table Saturday confirmed this with their experiences as city planners and administrators trying to meet the needs of their residents with declining Federal and State support.

I brought these officials together to talk about what Federal programs are available to help an economy rebound from recession and I hope that these city and town officials will be able to use what they heard on Saturday.

They asked for continuing support from programs like mortgage revenue bonds and low-income housing tax credits, an increase in community development block grant funds, and more flexibility in allocating funds for infrastructure development.

I hope and expect that in our final day of this session, we will be able to extend the Mortgage Revenue Bond Program, the low-income housing tax credit, the targeted jobs tax credit and other critical programs that give these local officials some support in their efforts to provide affordable housing and jobs within their communities.

But that won't be enough. We need support from the top, we need leadership from the White House.

A President whose veto has always been sustained has a lot of power. Today, I am calling on him to throw his support behind our efforts to help these communities and all our constituents recover from this recession.

TRIBUTE TO THE 100TH ANNIVERSARY OF THE YWCA OF BAY COUNTY

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TRAXLER. Mr. Speaker, I rise today to honor the Young Women's Christian Association of Bay County, MI as they celebrate their 100th anniversary on December 8, 1991. Bay County, located in my congressional district, has benefited from the fine programs of the YWCA. Just as Bay County has grown during the past one hundred years, so has the mission of the YWCA. Today it touches women's lives by many different programs such as family enrichment, parenting skills, day care, child abuse and neglect counseling, cancer recovery support, and other education services.

I am very proud of the YWCA, and its efforts to meet the changing needs of women in today's society. The home for the YWCA moved several times from its auspicious start in rented rooms at Sixth and Adams in 1891 where girls were taught classes on physical fitness. These sites provided housing for young women and served meals. A typical Saturday night menu for $0.10 included baked beans, brown and white bread, cake, and coffee.

In 1906, the association became a charter member of the YWCA of the United States of America. Five years later, the first Campfire Girls unit in Bay County conducted its organizational meeting at the YWCA and began its first summer camp. When 65 girls made their request for a camp, the board of directors rented a cottage near the Saginaw Bay shore on Killarney Beach. This venture was so successful that a campsite was purchased at Loon Lake, in Hale, MI. Camp Maqua opened on July 5, 1924 and operated until 1980. Today, the YWCA conducts Camp Meadows, a summer day camp program for children with special needs. The program affords youngsters the opportunity to participate in specially designed social, recreational, and educational activities.

After World War I, the YWCA board organized a committee to canvass house to house securing jobs for girls. Young men and women used the building as a rest hall result of the war. Time passed quickly to find that, in 1966, the name was changed to Young Women's Christian Association of Bay County, MI and its purpose was modified to more totally involve volunteers in its leadership and to include persons of all faiths and backgrounds.

To recognize the achievements made by women in career fields and community activities, a women's recognition dinner was established in 1982 and has been held every 2 years. A bronze bust of Princess Wenonah is a significant honor and one more example along with the enrichment programs and shape-up shop to help women successfully manage their lives.

The YWCA of Bay County offered something for everyone of all ages from day care center for young children to adults who are at risk for heart disease. In cooperation with Bay Medical Center Phase III, cardiac rehabilitation programs began; additionally, corporate memberships were offered to businesses to provide for employee wellness; Prevention of Abuse to Children was initiated by the YWCA to reduce the vulnerability of children to sexual abuse; the Mom and Me Program was developed to give pregnant and parenting teens educational opportunities in the areas of parenting and life management goals; the summer Family Enrichment Program provided parenting skills; the "Just Between Us," a monthly support group for women who have breast surgery was coordinated.

This is the YWCA of Bay County, today, responsive, visionary, and creative. Begun by pioneering women, it continues to function under the stewardship of insightful, talented people. To continue this progress, a capital campaign for $800,000 has begun with the theme "Celebrating Today * * * Shaping Tomorrow * * * The YWCA Second Century Initiative."

Please join me in wishing the YWCA of Bay County a very happy centennial celebration and best wishes for a prosperous future.

THE REFORM OF CUSTOMS INSPECTOR COMPENSATION, RETIREMENT, AND OVERTIME

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RANGEL. Mr. Speaker, I rise in support of a bill I have introduced to reform the compensation, retirement, and overtime provisions for customs inspectors.

These hard-working men and women stand as the front line in the war against the illegal importation of narcotics and dangerous weapons. We generally see them only when we reenter the country from an overseas trip, but what we probably do not appreciate when they are inspecting our luggage is that they make approximately 70 percent of the narcotics arrests of the Customs Service. This can be very dangerous work, but these men and women have proven to be up to the task.

They also work long and hard hours dealing with the ever growing international trade and travel. Shipping by air and sea increases every year and the complexity of the modes of transport have grown with this explosion. There are more and more international travelers on both coasts and on both borders. The job of a customs inspector has become harder and harder.

Nevertheless, we have failed to recognize the appropriate needs of these loyal government servants. Instead of providing a respectable compensation and retirement package as we try to do for all Federal employees, we have kept their base pay relatively low and found ourselves using an 80-year-old outdated statute to govern the overtime pay of the customs inspectors.

The 1911 Act governing overtime pay for customs inspectors was enacted when most of the customs inspections were made on incoming ships. More often than not these ships came in at irregular schedules and frequently with perishable items. There was a constant need to keep inspectors on duty at all times and to call back inspectors for special duty. As the shipping and air transport business developed, the provisions of the 1911 Act resulted in unfortunately inefficient anomalies. Customs inspectors were sometimes being paid for overtime well in excess of the work done. More often, the management of the Customs Service used the provisions of the 1911 Act to assure a competitive compensation for its inspectors.

The result has been that inspectors have only been able to achieve competitive pay by working overtime. Through this back door scheme they have been unable to earn decent retirement pay. Their retirement pay, unlike others who face the criminal element, is not based on the plan for law enforcement officers, but on the regular Federal employee plan. This means they receive no credit for their overtime even though it is clear that they consider overtime as an essential part of their compensation package. Without counting overtime the retirement benefits for customs inspectors is entirely inadequate. As a result customs inspectors stay on the job longer than any other comparable law enforcement position. The fact that customs inspectors have the shortest life span in retirement of any Federal employee proves the point.

The time has come to treat those in the war against narcotics with the dignity they deserve. That is why I am introducing this bill. It would: Consider customs inspectors as law enforcement officers; provide that compensation serving as the base for their retirement benefit as law enforcement officers would include their regular overtime, but not to exceed $12,500 of overtime; Require any customs inspector opting to retire under the 20-year plan—the inspector being at least 50 years of age—would have to contribute the difference between the 7 percent the 7.5 percent contributions made by law enforcement officers in anticipation of a 20-year retirement option; and have the increased cost of the retirement benefits paid out of the Customs User Fee Fund, i.e., COBRA.

It would also amend the 1911 act to have: All overtime paid at the double time rate; the calculation of the hours to be considered overtime governed by established rules in the Federal Employee Pay Act [FEPA] used to calculate overtime hours; for Sunday and holiday work inspectors paid for a minimum of 4 hours at double time. (Under the 1911 Act there is a minimum of 8 hours at double time); for all call-back work inspectors paid a minimum of 2 hours—under the 1911 Act the minimum is 4 hours—with commuting time of 2 hours at time and one-half to be added to each call back; and all work that is an extension of a regular shift and in excess of the Sunday, holiday, and call back minimums to be paid as per FEPA in quarter hour increments regardless of whatever day the extension is undertaken. Under the 1911 Act most of this overtime had a 2 hour minimum.

The savings from the changes in the 1911 Act would be used to pay for the changes in the retirement program.

I think that it is high time that we treated customs inspectors as we treat other Federal employees who are in the front line against criminal elements with dignity.

A TRIBUTE TO STELIOS A. HAGIPEROS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LANTOS. Mr. Speaker, today I rise and ask my colleagues to join me in paying tribute to Comdr. Stelios A. Hagiperos, a valued and respected leader of Foster City, CA, who will be retiring from that city's police department this year.

Commander Hagiperos joined the Foster City Police Department as a police officer on May 1, 1972, after a career spanning 20 years with the U.S. Marine Corps. For almost 20 years, he served the department with honor and distinction.

Commander Hagiperos served in both the Vietnam and Korean wars with the Marine Corps. He was awarded two Bronze Stars with Combat "V," the Purple Heart, the Navy United Commendation with Star, and the Navy Achievement with Combat "V."

After serving his country with valor, Commander Hagiperos joined the Foster City Police Department. His career has been exemplary. As he rose in rank from officer to commander, he was cited for his bravery and skill on many occasions.

In 1974, the commander received a commendation for evacuating a family from a home next to a burning house. He then attempted to enter the burning structure but was driven back by the flames.

He was again commended by the department in 1978 for saving the life of a teenage girl who had attempted to commit suicide by hanging. Upon discovering the girl, he cut her down and employed CPR and mouth-to-mouth resuscitation, thus saving the girl's life.

In 1980, Commander Hagiperos was again commended for professionalism in directing a double homicide investigation which resulted in the arrest and subsequent conviction of two suspects.

Mr. Speaker, Commander Hagiperos is a man who has made a difference. His commitment to his country and to his community is nothing short of praiseworthy. When Commander Hagiperos was needed, he was there. On the occasion of his retirement, I ask my colleagues to join me in paying tribute to this fine American and in wishing him all the best in the future.

TRIBUTE TO JUDGE ROBERT S. GILBERT

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TRAXLER. Mr. Speaker, I stand to honor Chief Circuit Judge Robert S. Gilbert, who is retiring on December 31. He is a friend of mine who has served Michigan superbly as a State legislator, as a juvenile judge, and as a circuit judge. Bob has dedicated his life as a public servant to improving the Saginaw community. Today, there are many grateful parents and children who are forever thankful for the wise decisions that came from the court of Judge Gilbert.

Bob's presence has been felt in Saginaw ever since he graduated from the University of Michigan Law School, starting as assistant prosecuting attorney, and then practicing law as a private attorney in his father's firm of Gilbert & Gilbert. He followed proudly in his father's footsteps as an elected State representative for Saginaw in the Michigan State Legislature, where he served for 3 years. He is a member of the Saginaw County Bar Association, Michigan State Bar Association, Michigan Probate and Juvenile Court Judges Association.

Many good words about Judge Bob Gilbert can be heard in the courtrooms of Saginaw. After making laws and practicing law, Bob directed his efforts to serve Saginaw County from the bench. He was first elected to the probate court in 1966 and served on the juvenile court continually until 1980. In 1981, he was overwhelmingly elected to the circuit court, where he became chief justice in 1989. He was dedicated to due process of law within the judicial system. Bob's even-handedness in rendering court decisions have been received by many families and individuals throughout the community.

Judge Gilbert is the son of Ellen Bernice Gilbert and the late Donald W. Gilbert. Bob made his home here after graduating from Arthur Hill High School in 1945 and matriculating from the University of Michigan in 1950. He received his LL.B degree from University of Michigan Law School in 1953. Bob served in the Army Air Force from 1946 to 1948. Bob and his lovely wife, Mary Lu, have raised a sterling family, Thomas, Nancy, and Patricia G. Weintraub. His strong ties to his Saginaw community are also rooted in his memberships with the First Congregational Church, Pioneer Club, Fordney Club, American Legion Post 439, and the Tawas Bay Yacht Club.

Please join me in saluting Bob Gilbert, a very fine public servant, and wishing him a prosperous future. I know the Saginaw legal community will miss you. I wish you and Mary Lu the best. May your future be filled with the health and happiness you so richly deserve.

PRIMARY HEALTH CARE INVESTMENT ACT OF 1991

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LLOYD. Mr. Speaker, today I am introducing legislation along with my colleague, Representative STEVEN SCHIFF, that will increase funding for community health centers over 5 years, and pay for the measure with a 0.2-percent cut in the Labor–HHS appropriation. The cost of the plan will total about $100 million a year. The legislation would extend primary coverage to an additional 8 million low-income Americans through community centers.

The legislation would also increase over 5 years the funding for the National Health Service Corps, which provides scholarships and loan programs to students entering medical school. Those students would agree to serve in areas experiencing shortages of doctors. It also would charge the incentives to teaching hospitals to encourage the hospitals to train more primary care physicians, as opposed to specialists.

Primary and preventative care services are those services normally seen to in a doctor's office and do not require hospitalization. They are the treatment of common illnesses before they become more serious.

Our health care system underinvests in these basic services. We need to reprioritize and invest more funding in primary and preventive care and build a better health care network. My bill will expand our primary care infrastructure to provide access to basic health care to over 8 million more Americans by 1996. Cost-effective primary and preventive services will no doubt help to reduce health care costs in the long run.

This Nation spends more on health care than any other industrialized country. Despite the alarming statistics, it has been documented that between 32 and 37 million Americans do not have access to health care because they do not have health insurance. In my own State of Tennessee, 644,000 fit this category. The uninsured are vulnerable to illnesses because they forego routine, but important, health care. Studies show that the uninsured are 50 percent less likely than the insured to seek certain primary and preventive services. Fortunately, in my congressional district, we have an effective program already in place. But the programs need additional resources if they are going to take up more of the huge unmet needs that exist. These centers are simply the most efficient primary care delivery systems available.

Finally, the bill would reorient certain payments to hospitals by Medicare for the costs of training medical residents. Payments would be based on a national average per resident amount, and hospitals would get 20 percent more for primary care residents than nonprimary care residents. This provision is budget neutral and would encourage hospitals to train more primary care physicians.

There is simply no other program that can reach so many people for so few dollars. This bill is only a small part of the health care package, but it is workable. Attached is a brief summary of the legislation.

PRIMARY HEALTH CARE INVESTMENT ACT OF 1991, SENATOR PETE V. DOMENICI—BRIEF SUMMARY

1. COMMUNITY HEALTH CENTERS

The proposal would increase authorized funding levels for Community Health Centers by about 20 percent each year over a five year period, effectively doubling the size of the program by 1996. The additional funding would allow health centers to serve over 8 million more patients by 1996.

COMMUNITY HEALTH CENTERS

[Dollar amounts in millions]

	1992	1993	1994	1995	1996
Funding	$580	$680	$830	$990	$1,200
Additional patients served (millions) [1]	.7	2.7	3.5	5.7	8.4

[1] Above 1991 levels.

2. NATIONAL HEALTH SERVICE CORPS

The proposal would also increase authorized funding levels for the National Health Service Corps by approximately 20 percent each year over a five year period, providing scholarships and loans to recruit an additional 620 physicians into the program in 1996.

NATIONAL HEALTH SERVICE CORPS RECRUITMENT

[Dollar amounts in millions]

	1992	1993	1994	1995	1996
Funding	$63.6	$76.3	$91.6	$109.9	$131.9
Additional scholarships[1]	50	110	180	260	350
Additional loans[1]	40	80	140	200	270

[1] Above 1991 levels.

3. REORIENT MEDICARE GRADUATE MEDICAL EDUCATION PAYMENTS

Medicare payments to hospitals for the costs of graduate medical education programs would be altered in a budget neutral manner. Payments would be based on a national average per resident amount, and payments for primary care residents would be 20 percent higher than payments for non-primary care residents.

THE MOSCOW SYNAGOGUE CHOIR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GILMAN. Mr. Speaker, yesterday, Congressman LARRY SMITH and I were pleased to host a performance of the Moscow Synagogue Choir in the Rayburn foyer. They came to the Capitol as an expression of gratitude to the Congress for the congressional support of Soviet Jewry. This marvelous choir was organized by the American Jewish Joint Distribution Committee in 1989, in conjunction with the creation of a cantorial academy in Moscow. Yesterday's performance was also sponsored by the National Conference on Soviet Jewry, while our Senate sponsors for this performance were Senators LAUTENBERG and SPECTER.

The Moscow Synagogue Choir is in the midst of its American debut, having performed in Israel, France, England, and Canada. In Moscow, the choir sang "Hatikva", Israel's national anthem, at the opening ceremonies of the Israeli Consulate in Moscow. Its members also performed before President Mikhail Gorbachev at the nationally televised memorial concert for the three Soviet citizens killed during the failed coup attempt this past August.

Composed of talented musicians and singers from across the Soviet Union, the choir has revived the rich tradition of Russian-Jewish liturgical music suppressed for over 70 years. The choir and cantorial academy have given the Soviet Jewish community the first opportunity to publicly rediscover its Jewish heritage and express a religious identity. The choir's existence is a very real symbol of the renewal of Jewish religious practices in the Soviet Union, and serves as an inspiration for Jews throughout the Soviet Union.

Mr. Speaker, I had the pleasure of first hearing the choir perform at the Moscow Chorale Synagogue this past Rosh Hashanah. With yesterday's performance I can assure my colleagues that the choir's voice was heard throughout the halls of the Rayburn Building, and that everyone in attendance found it a most enjoyable interlude.

A CONGRESSIONAL SALUTE TO MR. GARY BINGAMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to an exceptional member of the California real estate industry, Mr. Gary Bingaman. On Wednesday, December 11, 1991, the Rancho Los Cerritos Board of Realtors will honor their outgoing president, Mr. Bingaman, for his many years of outstanding and dedicated service.

Mr. Bingaman became a member of the Rancho Los Cerritos Board of Realtors in 1977, serving as president-elect in 1990, and as a director since 1987. During this time, he was also active in committee work, as a member of the BORPAC trustees and as chairman of the Budget and Finance, Education, Equal Opportunity, and Local Governmental Relations Committees. In addition, Gary has been a State director of the California Association of Realtors since 1988. As a State director, Gary has traveled extensively in California and the Nation attending all State and national conventions and quarterly meetings.

On November 30, 1990, Gary Bingaman was installed as president of the Rancho Los Cerritos Board of Realtors. Under his direction, the board has continued and expanded their community service programs. Gary was instrumental in establishing a project of which he is especially proud, the Canned Food Christmas Tree. President Bingaman encouraged each office within the board to construct a Christmas tree using canned goods, then the board donates these trees to the Salvation Army for distribution to needy families during the holidays. Another project undertaken by the board was the safety through songs program. This unique audiovisual program uses coloring books and cassette tapes to warn children of dangerous situations. This invaluable teaching aid has been endorsed by the Los Angeles County Sheriff's Department, as well as Mr. Bill Honig, the State Superintendent of Public Instruction.

The Rancho Los Cerritos Board of Realtors has grown and flourished under Gary Bingaman's tenure. He has increased their participation in community service programs and has maintained its high professional and ethical standards. On this very important occasion, my wife, Lee joins me in saluting Mr. Gary Bingaman, and offering our sincere thanks for his many contributions to the community. We wish him all the best in the years to come.

PROTECT AFRICAN ELEPHANTS—MAINTAIN THE IVORY AND ELEPHANT PARTS BAN

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SCHEUER. Mr. Speaker, today I am introducing a resolution to express the sense of Congress that we support the continued protection of the African elephant. The resolution calls on the United States to maintain its support for the international ban on all elephant parts and products.

The African elephant was near extinction because of killing by poachers and smugglers until 1989, when parties to the Convention on International Trade on Endangered Species (CITES) agreed to list the African elephant in its Appendix I, banning all international commercial trade in ivory and other elephant parts and products. Since the start of the ban, the ivory market has dropped significantly and the poaching of African elephants has declined. There is hope that the elephant population can recover, but only if the ban remains in place.

The fight to protect the African elephant is not over. At the next CITES meeting in March 1992, several countries may petition participating nations to allow a return of ivory trading in their countries. As a result, ivory prices have already increased and poaching is on the rise. Any legalized trade in ivory is an invitation to international dealers to revive the market for elephants which nearly drove them to extinction.

The resolution I am introducing today calls on the United States to continue its support for the unqualified listing of the African elephant in Appendix I of CITES. United States leadership in elephant protection was crucial to achieving the current ban on international trade in hides and other parts and products, and we must not let our support wane.

I urge all my colleagues to support and cosponsor this resolution.

A TRIBUTE TO YOUTH VOLUNTEERISM IN ORANGE COUNTY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GILMAN. Mr. Speaker, last week I rose in the well of the House in order to bring to the attention of my colleagues the work being accomplished by numerous youth volunteers in my congressional district in Orange County, NY. As I pointed out last week, it is indeed an honor during this holiday season to inform my colleagues that service to others and to the community is alive and well, and is in fact flourishing in the mid-Hudson Valley in the great State of New York.

The services provided by these young people have included peer counseling, fire and substance abuse prevention, church, sports, and other community activity services, as well as numerous youth-in-government programs. There are more than 100 Orange County volunteer youth participants, including: Jennifer Frey, Darin Rojas, Jackie Kornisch, Tom Crumenaver, Bill Kunkel, and Joe Monahan.

Mr. Speaker, it is indeed an honor to recognize these caring, outstanding young people from our Orange County communities. These dedicated young people are an inspiration and are an example of what lies ahead for the future of our Nation.

Mr. Speaker, I invite my colleagues to join with me in offering our congratulations to all those who have volunteered their time in Orange County and let us challenge them to keep up their good work.

TAX REFORM ACT OF 1986

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MRAZEK. Mr. Speaker, I rise today to discuss two measures I have introduced in the last week that will go a long way to spark long-term investment in our beleaguered economy. One is a cut in the capital gains tax rate and the other is a reinstitution of the investment tax credit.

As you are aware, the Tax Reform Act of 1986 revised the treatment of capital gains by taxing capital gains at ordinary income tax rates. My proposal—H.R. 3859—would provide a sliding scale for exclusion of long-term capital gains. The longer the asset is held, the lower the tax rate. The exclusion for investments held longer than 6 years would be 33 percent. For assets held between 2 and 4 years, the exclusion would be 26 percent and for assets held less than 2 years, the exclusion would be 19 percent. It also includes a provision for indexing of capital gains for inflation.

By reducing the multiple taxation of savings in the Federal income tax system, lower capital gains taxes will help raise our abysmally low national savings rate and encourage investment in new and innovative ventures. Most industrial nations tax capital gains lightly, or not at all. A reduced tax burden on business investments implicit in a capital gains tax cut will help reduce capital costs for American businesses. This tax rate will encourage long-term commitments of capital to stimulate entrepreneurial venture and innovation and the creation of new employment.

In addition, I have introduced a bill to reinstitute the investment tax credit that was repealed in the Tax Reform Act of 1986. I am proposing a credit of 10 percent. I believe this change will stimulate the kind of business investment and innovation this country needs to maintain an international competitive edge as well as to increase productivity. It is my hope that this incentive will encourage businesses to reinvest in new technology and equipment that will produce quality products and keep America competitive in world markets.

THE ONGOING CONFLICT IN CROATIA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. REED. Mr. Speaker, I rise today on an issue of great importance to many of my constituents—the wanton violence and destruction occurring in Croatia.

By now we are all aware of the fate of Dubrovnik and other ancient cities such as Vukovar. Once beautiful cities, villages, and towns now lie in ruin. Buildings that have stood since the days of the Roman Empire are among the latest casualties of the nationalist fervor sweeping Eastern Europe, serving to demonstrate the intransigence of the Serbian government and the Yugoslav Federal Army.

But the tragedy in Croatia involves much more than the desecration of historic and religious architecture, it involves the death of thousands, the creation of tens of thousands of refugees, and the wrenching apart of families. Each day brings more photos of elderly women struggling along rubble strewn streets; families fleeing their basement shelters which can no longer withstand the barrages of artillery shells; and the bodies of young and old who are the bloody results of this hatred and violence. This war is an altogether unfortunate reminder of the carnage of World War II and an affront to the principles democracy and freedom.

To this point, European Community mediators have been unsuccessful in their attempts to broker a cease fire, although they have brokered and announced a number of such agreements. It remains to be seen whether the United Nations' efforts to end the fighting will succeed. I pray that they are successful. I also hope that we here in the United States strongly and actively support efforts to resolve this conflict in a peaceful and equitable manner. Thank you, Mr. Speaker.

MARTIN LUTHER KING DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GILMAN. Mr. Speaker, next year on January 20, 1992, our Nation will once again take time to commemorate the birthday of one of our Nation's great leaders, Dr. Martin Luther King, Jr. Martin Luther King Day is a time for us to reflect and to appreciate the tremendous impact which Dr. King's leadership has had upon our Nation. It is a time to reflect that we must continually strive to protect and improve upon our nation's civil rights.

To list all of Dr. King's accomplishments would indeed be an extensive task; however, we have only to look at the situation in New York City, where there has been hostility and violence among the races, to know that Dr. King's work is far from over.

Martin Luther King Day is a time for rededication to carry on the mission essentially begun during the beginning of the civil rights movement with Dr. King's desire to achieve justice and equality through peaceful and nonviolent means. Martin Luther King Day, therefore, should not be only a time to reflect upon our past, but also a time to look to the future and to the changes that must be implemented to further the lofty ideals upon which our great Nation was founded—justice and liberty for all.

I would not presume to pretend that our Nation is a utopia of freedom and equality. The recent tragedy that took place in Jackson Heights, New York serves to remind us that the work of Dr. King is far from finished. Although we are deeply saddened that that situation could arise in our great Nation, it is hoped that we can learn from those tragic occurrences and continue to progress through education and the examples set for us by Dr. King.

In the words of Dr. Martin Luther King, Jr., "If you can't fly, run, if you can't walk, crawl. But by all means, keep on moving." Let us continue the great tradition of Dr. King's ideals both through appropriate commemoration of this national holiday and through legislation which reflects the ideals Dr. Martin Luther King, Jr., strove so valiantly and so diligently to achieve.

Accordingly, I urge my colleagues to encourage our constituents to join in participating in the many community activities in commemoration of the birthday of this notable leader, Martin Luther King, Jr., and to take the time to reflect on the many significant achievements of this inspirational civil rights leader, dedicating ourselves to more extensive civil rights progress in the days ahead.

A TRIBUTE TO BOBBY L. HILL

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BONIOR. Mr. Speaker, today I am privileged to congratulate an outstanding community leader and remarkable individual. On the evening of December 8th, Bobby Hill will be retiring from 20 years of service to the Mount Clemens Public Schools. I am proud to salute his fine accomplishments and even more proud to call Bobby Hill my friend.

As director of vocational and adult education for Mount Clemens Public Schools, Bobby Hill's dedication has proven to be a wellspring of hope and opportunity for people of all ages in our community.

For two decades, he has worked patiently and professionally to connect the classroom with the workplace. His strong faith in employment through education and training is underscored by his involvement with organizations such as the Macomb Area Work Education Council, Macomb County Community Housing Resource Board, the NAACP, and the Macomb County Employment and Training Advisory Council.

While a dedicated and thorough professional, Bobby Hill has been equally committed to the life of his community. He has served as a Mount Clemens city commissioner, Mayor Pro Tempore, and, among other responsibilities, remained active in the King School Parent Teacher Association and Kiwanis of Mount Clemens.

And, most recently, he became the first African-American to win a seat on Macomb County's Board of Commissioners. On all accounts, he has served our community with distinction, vision, and honor.

Mr. Speaker, through his dedication and commitment, Bobby Hill has touched countless lives as a teacher and an active, responsible citizen. On this special occasion, I ask that my colleagues join me in saluting the outstanding accomplishments of Bobby Hill and extend to him our best wishes for all his future endeavors.

HONORING STANLEY BLACK

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEVINE. Mr. Speaker, I rise today to congratulate my good friend Stanley Black on being selected to receive the Rabbi Edgar F. Magnin God and Country Exemplar Award from the Los Angeles Area Council of the Boy Scouts of America.

This prestigious award was established in 1981 to recognize Rabbi Magnin's life long dedication to America's youth. The award is presented by the Los Angeles Area Council to a citizen who best represents those qualities exemplar in the life and works of Rabbi Magnin, a man who imparted guidance to those he served and loved, and was noted for his continuous work for the good of all mankind. As a former Cub Scout and Boy Scout himself, Stanley knows firsthand the value of the Scouting experience. In recognition of the impact that Scouting can have on inner city youths, Stanley has given tremendous amounts of his time to chair and organize numerous events for the Los Angeles Area Council. He has helped to raise sufficient funds to enable the Boy Scouts to operate in neighborhoods where they are most needed, but which are least able to financially support an active Scout program.

Today, the Boy Scouts serve over 80,000 youngsters. Of these young people, 72 percent are minorities, 60 percent come from families at the poverty level, and 49 percent come from single parent households. Stanley has been extraordinarily supportive of the Boy Scouts in Los Angeles, and has been especially active in efforts to make scouting more accessible to youngsters in the inner city and from high-risk neighborhoods. The Boy Scouts offer these kids solid role models, and positive growth experiences.

In addition to his work with the Boy Scouts, Stanley is noted for his participation of numerous programs for the benefit of the Los Angeles community, and is well known for his time and support for organizations to help make the city a better place to live. He has been active in supporting many charitable organizations, including Vista del Mar, ORT, Cedars, Sinai, City of Hope, and Marymount.

Stanley is a lifelong resident of the Beverly Hills area, where he currently lives with his wife Joyce. They have three married children: Jack—also a former Boy Scout, Jill, and Janis.

Mr. Speaker, Stanley Black has made an exceptional commitment to the youth of Los Angeles. His tireless efforts to make the positive Scouting experience as accessible to as many boys as possible have had a tremendous impact on literally hundreds of young men. I urge my colleagues to join me in congratulating him receiving this great honor.

EXTENDING THE STEEL VOLUNTARY RESTRAINT AGREEMENT PROGRAM

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. VISCLOSKY. Mr. Speaker, today, I am introducing legislation to help save the jobs of American steelworkers and protect the U.S. steel industry against unfair foreign trade practices. My bill, the Steel Trade Liberalization Program Extension Act, calls for an extension of the steel voluntary restraint agreement [VRA] program for 2.5 years after March 31, 1992, or until such time as a Multilateral Steel Accord [MSA] is ratified and implemented.

In the fall of 1989, when the VRA program was extended for only 2½ years as part of the President's Steel Trade Liberalization Program, the Bush Administration claimed the VRA's would no longer be necessary after March 1992 because there would be in place a so-called "international consensus" to prevent dumping, subsidies, and other unfair trade practices in global steel trade. Obtaining an international consensus has since evolved into the MSA negotiations. However, these negotiations are currently stalled while primary attention is being focused on concluding a broader agreement in the Uruguay round of the General Agreement on Tariffs and Trade.

I am not convinced there will be a MSA agreement in place by the time the VRA program expires on March 31, 1992. Further, I believe it is essential to send a clear message to the President and our steel trading partners that we will not jeopardize American jobs or the health of our domestic steel industry by ending the VRA program until there is an acceptable MSA in place.

Specifically, my legislation calls for a maximum target import market share of 22.7 percent. Of this, 19.1 percent would be allocated to existing VRA countries and 3.6 percent to non-VRA countries; 22.7 percent represents the sum of the 20.2 percent market share in the original VRA program—which was also the congressional target share limit from 1984—plus 2.5 percent authorized in the extended VRA program for bilateral consensus agreement signers.

By setting a limit higher than the 20.2 percent, my bill enables Congress and the administration to maintain that an extension of the VRA program after March 31, 1992, represents a continued liberalization of steel trade. Fundamentally, this limit would put immense pressure on the non-VRA countries to come into the VRA program and/or to gain their support for a MSA that would eventually replace the VRA program. Setting such a target could also give leverage to the U.S. Trade Representatives in the ongoing MSA negotiations.

The 19.1 percent share for VRA countries represents a small decline in their allowable market share. Currently, they are permitted a 20.1 percent share of the U.S. market; however, 19.1 percent is the share the VRA countries had in 1989 when the VRA program was extended. While 19.1 percent represents a decreased market share for VRA countries, it should be noted that they have never reached their maximum under the extended VRA program. At present, their import penetration rate is about 15 percent of the U.S. market. Effectively, 19.1 percent would provide considerable leeway for VRA countries to expand exports to the U.S. without letting total U.S. imports increase dramatically in a stagnant and/or declining world market for steel. At the same time, the VRA countries could not become too comfortable with their shares, thus making them less supportive of achieving a MSA.

THE 25TH ANNIVERSARY OF THE NATIONAL HISTORIC PRESERVATION ACT

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEWIS. Mr. Speaker, Speaker, I rise today to recognize the 25th anniversary of the National Historic Preservation Act. Thanks to this act, many of this Nation's treasures have been preserved and made available to the public. Without it, many of these treasures would be lost.

During the 1996 summer Olympics, the eyes of the world will be on our city and State, Atlanta, GA. Because of this act, visitors will experience Georgia's important history.

Close to my heart is the Martin Luther King, Jr. historic district in Atlanta. What better place is there to learn about Dr. King's work than where he was born, where he worked and where he is buried.

It is the only historic district of its kind—dedicated to the history of the civil rights movement. It serves residents, business owners, and tourists. Last year, it was the tenth most frequently visited park service site in the country. Already this year, more than 2.6 million people have visited the King historic district. Within this historic district, important work in civil rights continues and is inspired by the legacy of Martin Luther King, Jr.

The National Historic Preservation Act will also be used to preserve 11 significant buildings on historically black colleges around the country—3 in Atlanta at Spelman, Morris Brown, and Morehouse Colleges.

In a rural area of our State the former Rosenwald School, which was built in the 1920's for the education and African Americans, will be restored as a community center and African-American history museum. This restoration preserves both a unique school building and the history of African Americans in the rural south. This restoration is made possible by the National Historic Preservation Act.

This act has made possible the preservation of stately homes, older urban residential districts, Indian ruins, and one-room school houses. It has made it possible that we all know more about country's history.

I am delighted to celebrate 25 years of work under the National Historic Preservation Act.

THE HOME SALE TAX FAIRNESS ACT OF 1991

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ARCHER. Mr. Speaker, today I am introducing legislation to correct a longstanding inequity in the tax treatment of home sales.

Under current law, if a taxpayer sells his or her principal residence at a loss, that loss may not ever be used to offset the taxpayer's income. On the other hand, if the taxpayer sells the same residence at a gain, that gain may be subject to tax. This is just another example of the "heads the government wins, tails the taxpayer loses" system of tax legislation

My bill, the Home Sale Tax Fairness Act of 1991, will rectify current law by permitting losses on the sale of a principal residence to be used to offset future gains on the sale of another principal residence.

THE FUTURE OF THE U.S. DEFENSE INDUSTRIAL BASE

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McCURDY. Mr. Speaker, on November 19, 1991, the Johns Hopkins Foreign Policy Institute sponsored a panel discussion on the future of the U.S. defense industrial base. As chairman of the Committee on Armed Services' special panel on the defense industrial base, I had the opportunity to participate in this discussion with Bernard L. Schwartz, chairman and chief executive officer of the Loral Corporation. Mr. Schwartz delivered an excellent speech on this important issue, and I think that my colleagues would be interested in his comments.

THE FUTURE OF THE U.S. DEFENSE INDUSTRIAL BASE

Thank you, Ambassador Nitze, and thank you, Congressman McCurdy, and ladies and gentlemen for joining us this evening for what I hope will be a provocative and constructive discussion about the U.S. defense industrial base.

As we look forward to Thanksgiving next week, we Americans have much to be thankful for. Above all, we are at peace, a blessed state not enjoyed by many of our fellow citizens around the world who are losing family and friends, home and homelands, in what seems like never ending regional strife.

Last Thanksgiving, this country was preparing for war. We feared biological and chemical weapons and the onslaught of a massive army inflamed by religious and ethnic fervor. Mercifully, Desert Storm was short lived and a resounding military and diplomatic success for the United States.

Many things contributed to our victory in the Gulf—public support, effective coalition building, superbly trained troops, and excellent win strategy, and finally, high tech weaponry that fit the mission and, critically important, worked. It all looked so easy that some might conclude that we do not need to insist on that much technology and that much readiness. Alas, the event proved the opposite.

Preparedness saved lives—and vigilance *is* the price of victory. The next regional conflict may not be so easy—we may not have six months to move our army or to train our troops. The next despot on the loose may *use* his Air Force, or *have* a Navy—or not mass his troops behind a fixed "Maginot" Line. It is ironic, therefore, that at the same time that our high tech weapons are the envy of the world, we are haphazardly dismantling the industrial base that created and produced them.

We have spent the last two years producing a hefty stack of studies documenting what many already knew viscerally—the defense industrial base is in trouble—the industry is financially ailing, investments in capital and research and development have been drastically reduced, talented people and capable subcontractors have quit doing business with the Pentagon, and many, including Secretary Dick Cheney and National Security Advisor Brent Scowcroft, are skeptical about our ability to maintain the high tech winning edge we displayed in Desert Storm.

To manage the industry right this time, we need a new partnership among the DOD, the Congress and the defense industry. This would create a new compact that would lead to a more effective deterrent force at lower levels of defense spending.

The problem is not a smaller defense budget per se, though less overall spending will be achievable. But the requirement should drive the budget, not the other way around. This country can afford a proper defense and reap a peace dividend too, but this requires each partner's active cooperation. Otherwise, business as usual in the defense arena will cause a meltdown of this country's industrial base and therefore our ability to defend our nation.

Meanwhile, the massive restructuring of the defense industrial base is already well underway.

According to Secretary Cheney, during his tenure he has cancelled outright or terminated production lines on over 100 programs, eliminated 85,000 civilian jobs from the DOD and is in the midst of closing 300 bases and cutting active military personnel by over 500,000.

If all goes according to the current plan, by 1995, defense spending as a percent of the federal budget will have fallen from 27 to 18 percent, and defense spending as a percent of GNP will have fallen from 6 to 3½ percent. The defense expenditure bite out of our economy, and the level of active duty military personnel, is the lowest it has been since Pearl Harbor. This is not a *bad* thing. The Soviet super-power threat has diminished, and this country rightly deserves a peace dividend.

This country overarmed in the 1980s. The industry now has excess personnel and excess capacity to meet the new threat, so downsizing is the right thing to do. But we are going about it all wrong.

To quote Secretary Cheney again, "The good news is * * * we can safely restructure our armed forces. The bad news is that we have never, ever before * * * gotten it right. We've always blown it. Every time * * * when we've significantly downsized the force, we've ended up in such a hurry to demobilize that we've forgotten the fact that nearly always, sooner or later, we once again find ourselves in the position where we once again have to go to war."

In fact, with the crumbling of the Eastern Bloc, the world is less dangerous, but nevertheless less stable. Eastern Europe and the Soviet Union are hotbeds of regional conflict and the Middle East continues to be unpredictable. Some 20 nations will have ballistic missile capability—some with range ability to reach the continental territory of the U.S.—by the end of the decade.

Conclusion: Our nation's military requirements have not all dissolved along with the disintegration of the Soviet Empire.

Before I get into some concrete suggestions about what each of the three partners can do to bring some rationality to the industry downsizing, let me first try to dispel four popular myths that are being bandied about as cure-alls for what ails the defense industrial base.

Myth number one: We can maintain a viable defense industrial base by funding R&D but not production. This works nicely in theory but falls apart in practice because it underestimates the interdependence between production and engineering. R&D not translated into production is pure science, lacking the vitality of application. Defense capability requires production technology and experienced technicians. Engineering creativity does not end with the beginning of production; emphasis on value engineering—to make the product smaller, with more power, less costly—continues throughout its manufacture. The positive impact that manufacturing has on engineering cannot be underestimated.

Myth number two: Foreign dependency is not a problem—that our allies will always put the U.S.'s national security interests before their own and sell us all the advanced technology that we need when we need it. If you believe that, I have several magnificent bridges in my hometown of New York that I'd like to talk to you about. But, in all seriousness, the problem extends far beyond components and subsystems. For example, by 1994, Turkey will be the largest producer and exporter of F-16 aircraft in the world. Four countries—Korea, Turkey, Belgium and the Netherlands—will be producing F-16s. The F-16 line in Ft. Worth will be stone cold if we follow current plans.

I find it curious that at a time when aerospace is one of our largest exports and an area where the U.S. remains supreme, we are curtailing our labs and factories and then teaching the Japanese, Koreans, Taiwanese and others how to develop an indigenous aerospace industry to compete with us. This will be particularly onerous if our foreign policy interests no longer coincide with that of our F-16 producing allies. This same concern applies to A/C engines, components and other major systems.

This *is* a superb example of the free market forces at work, serving neither our national security nor our economic best interests.

Myth number three: Diversification into commercial businesses will be successful for defense companies and allow them to quickly convert back to military production when need be. This is the DOD's position as stated in its *Report on the Defense Industrial Base* to Congress release last week. To quote, "The ability of the base to meet future DOD needs will depend in large measure on the ability of individual companies to shift from defense to commercial production—and then back again, when required."

My experience does *not* support his thesis, nor does the general experience of the industry.

Loral, for one, will not diversify into the commercial market except where our unique technology provides a proprietary, unique advantage. Such opportunities for defense companies will be rare and will not sustain a broad policy. Defense electronics is what we know well and do best. Defense companies generally do not have the marketplace experience to move successfully into the commercial market.

The past record is not reassuring. Defense companies who have ventured into the commercial market have met with dismal and costly failure across the board. The U.S. is not like the Soviet Union, where excess defense capacity may fill a consumer or industrial need which is otherwise not being addressed by that backward economy.

Myth number four: That industrial Darwinism, or letting the free market forces prevail, will lead to a downsized defense industry that will meet future DOD requirements.

Quite to the contrary, free-market restructuring is often motivated by profit and return on capital considerations with little regard for long-term investment, or performance, or serving the country's national security needs.

WHAT THE DOD CAN DO

The DOD must take the lead in turning its adversarial relationships with industry and Congress into a partnership. The DOD must take the lead in determining future defense needs and what we need to fulfill those needs. It must plan more and better and share that information with Congress and the industry.

To this end, DOD should make itself into a world class customer. That means the DOD should:

(1) Change atmosphere from adversarial and predatory to cooperative. Much progress has been achieved—we must continue to work this problem of mutual partnership—particularly at the working levels.

(2) Provide more information about future DOD requirements so that contractors can invest their limited resources in DOD priorities. Even more important, plan and implement more consistently, on a multi-year basis, eliminating start and stops, and on and off again program behavior which destroys industry planning and intelligent investment.

(3) Reward good program performance with incentives; penalize poor performance with cancellations. Abandon price only competitions. Take past performance into account. This best-value concept is beginning to work in the Air Force—it needs more support across all the services.

(4) Eliminate uneconomic second sourcing particularly as resources shrink and we can barely afford one source because quantity buys are being sharply reduced. Common sense procurement policies must supplant legislated competition when it is applied as a knee-jerk reaction.

(5) Help U.S. defense companies market overseas. Expanded markets for U.S. defense systems strengthen our relationships overseas; lower the per unit costs for the DOD and contribute to a healthier industrial base at home. Exports of military hardware, within the framework of international arms limitation agreements, strengthen our national security by providing our government with an influence in foreign affairs. They also promote allied hardware standardization and interoperability and help our country's balance of trade. But, our industry faces international competition reinforced by a wide array of foreign government support, including direct marketing, low interest loans and guarantees, exclusionary contract provisions, demands for offset and work share. I understand the State Department has proposed loan guarantees of defense exports—a most laudable initiative.

(6) Reform the U.S.'s foreign military sales (FMS) program process. When selling to a foreign government, we are at the mercy of a selection process that is unclear and largely uncontrolled, and the role of the DOD as intermediary is undefined and lacks regulation. There are no rules that clearly address the fairness or adequacy of the process. Proposals flow through the intermediary to the customer, creating ample opportunity to manipulate and misinterpret contractor information without the knowledge or permission of the contractor. The resulting confusion is not only inefficient and costly, it is often counterproductive to the interests of U.S. companies who should be supported in their efforts to sell equipment internationally on a commercial basis.

I recommend that DOD immediately establish a joint DOD/industry team to address this issue, and in the meantime, establish interim ground rules. I can envision two possible solutions: the first would permit contractors to bid directly to the foreign government on a commercial basis with no "help" from the DOD. If this is not possible for national security reasons, we should establish a firm set of rules on the roles and actions of the relevant DOD agencies so as to secure an equitable and fair competition among all U.S. companies.

(7) Build provisions for an export version of new weapons system produced in the U.S. into the original contract. DOD's cooperation in working with contractors to determine what is releasable for export, particularly in the area of software and source code, will speed these systems to market.

(8) And, finally, resist attempts to reduce progress payments to match the limited benefits of lower interest rates, at least until the defense industry is restored to a fair return on investment.

All of these actions, taken together, will result in a healthier defense industrial base which supports DOD priorities, even as we downsize our national capacity.

WHAT CONGRESS CAN DO

(1) Cut back on excessive oversight and micromanagement. There were many questions about whether this country was getting its money's worth from its investment in high tech weapons. Desert Storm proved irrefutably that our investment paid off in spades. We might similarly ask if this country is getting its money's worth from the excessive hearings, voluminous requests for information and committees and subcommittees who all have their fingers in the defense pie. These oversight excesses are very costly.

(2) Encourage DOD to cancel programs that are no longer needed because the threat has changed or programs are not performing. Real, lasting cost cutting requires program cancellation and base closings. I admire Secretary Cheney's courageous efforts in this area, and I recommend that Congress support him.

(3) Institute multi-year funding to eliminate the costly chaos now prevalent in any industry planning.

(4) Support DOD and industry efforts to promote the export of U.S. weapons systems while focussing arms control on weapons of mass destruction. Such support should include formulating rules for source selection in the FMS process and providing low interest rate loans for export sales.

(5) Support an acceleration of the new IR&D ceilings, presently proposed to kick in over 3 years.

(6) Propose a more constructive tax policy, particularly as the code applies to delaying liability on profit from long-term defense contracts.

WHAT INDUSTRY CAN DO

Industry must shape up—improve productivity, improve quality, and make sure our conduct is exemplary.

We must put our financial house in order. Contrary to popular belief, defense is not a not-for-profit industry. We must only bid on programs where we can make money and perform on those programs so that we do make money. We must understand that performance is the key to success. Sloppy program management, cost overruns and schedule slips will lead to program cancellations, not to bailouts.

New programs are so large, complex and costly that we must look to more teaming and shared research and development, not only here in the U.S. but with overseas partners as well. We must only invest in those programs and technologies for which there is a real, and preferably funded, requirement. We must vigorously resist procurement practices that prey on our industry. And, finally, we must work in good faith with the DOD to bring about the truly revolutionary transformation of our defense industrial base.

I am absolutely certain this partnership can work—we certainly saw it during Desert Storm as military and contractor personnel worked side by side around the clock—animosities, paperwork, rules and regulations temporarily thrown aside in the face of a common enemy, and a common cause.

Today the DOD and industry, as well as every American who cherishes our freedom, share a common goal—to transform our defense industrial base into a smaller, but healthier producer of the world's finest weaponry for the world's finest peacekeeping force.

Now is the time for a new compact among DOD, Congress and the industry. Now is the time to end adversarial relations.

Finally, there are two issues that must be addressed as we restructure our industry. One is our nation's obligation to soften the cost of conversion.

Millions of Americans invested their careers, their talents, their lives in the defense industry. As we realize our national victory, let us soften the cost of family dislocation, ended careers and dismal reemployment prospects, worsened by a low growth economy. Part of our peace dividend should be applied to retraining programs, to extended unemployment insurance payments and to family health and insurance benefits in order to ease the extra burden caused by the shift from defense activities.

Secondly, it is not in our best national security interest to allow a free fall in the downsizing of our industry. A free fall may result in the best companies departing because the investment return is not favorable or the risks too high. We cannot leave to free market forces how the industry will be restructured. We will want, at the end, a viable industry consisting of good performers, creative management and innovative technology. I do not advocate the DOD choose winners and losers. What I am advocating is an industry environment that allows for fair treatment that will in turn allow a fair return on investment thereby encouraging a well balanced industrial base. And I am calling for a DOD initiative to work with industry to examine industrial base issues as we proceed to a smaller defense capability.

A CONGRESSIONAL SALUTE TO COUNCILMAN AND MRS. JOHN ANSDELL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDERSON. Mr. Speaker, on November 4, 1991, city councilman and Mrs. John Ansdell celebrated their 50th wedding anniversary. It is with great pleasure that I rise today to pay tribute to such an extraordinary couple.

City councilman John Ansdell was born in Vancouver, British Columbia, CAN, and met his wife-to-be, Irene, a native of Alberta, CAN, while serving in the Canadian Navy. They were wed on November 4, 1941.

In 1952, while traveling on vacation through the state of California the Ansdell's car broke down in the friendly city of Bellflower. Few people can turn one of life's little misfortunes into such a positive event, both for the Ansdells and the city of Bellflower. This is typical of their theory on life. So impressed by the people and area, the Ansdells returned to Canada and packed their belongings and relocated to this pleasant California city where they established A&D Upholstery. It was here in Bellflower that they wanted to raise their two sons, Allan and Garry.

John and Irene retired from the upholstery business several years ago. Although officially retired, John's work has not stopped. He has obtained a real estate license and is currently selling residential and commercial properties for Realty World Western Properties.

In April of 1982, John expanded his service to the Bellflower community to include serving as an elected member of the city council of the city of Bellflower. He is now in his third term as council member. He and Irene have officially represented Bellflower at numerous functions in Sacramento and elsewhere with the League of California Cities, the California Contract Cities Association, and the National League of Cities. John and Irene are also involved with many community clubs and organizations.

Mr. Speaker, my wife, Lee joins me in congratulating John and Irene Ansdell on their 50th wedding anniversary. We wish them, their children, grandchildren, and great-grandchildren all the best in the years to come.

CONGRATULATIONS TO THE AMERICAN HORSE SHOW ASSOCIATION ON THEIR 75TH ANNIVERSARY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FISH. Mr. Speaker, seventy-five years ago, representatives of 50 horse shows under the leadership of Reginald C. Vanderbilt met in New York City to draw together the horsemen and horsewomen of the North, South, East, and West in a unity of intention to maintain clean competition and fair play in the show ring. Thus the AHSA was created, and in its fledgling years sported seven recognized divisions and such shows as the American Royal, Devon, and the National Horse Show as member competitions.

Today, the AHSA has 23 breeds and disciplines, 55,000 individual members and 2,500 member competitions. In the 75 years of its existence, the AHSA Rule Book has become the definitive guide to equestrian competition, and is so universal its specs are enforced even at unrecognized competitions. The Drugs and Medications office is a cornerstone to the AHSA's regulatory process, its program the model worldwide.

The awards program is one of the most extensive in the sports world, and includes a trophy collection that is unusually beautiful. An AHSA Horse of the Year Award or Zone award for many represents the pinnacle of excellence. AHSA-licensed judges, stewards, and technical delegates are the industry standard and are in demand for all types of equestrian competition.

As the Association approaches its 75th Aniversary on January 20, 1992, these accomplishments are an excellent reason for a celebration. I wish to commend the AHSA for its 75 years of commitment to upholding the welfare of horses, regardless of value, as a primary consideration in all activities; requiring that horses be treated with the kindness, respect, and compassion they deserve and never be subjected to mistreatment; ensuring that owners, trainers, and exhibitors or their agents use responsible care in the handling, treatment and transportation of their horses as well as horses owned and placed in their care for any purpose; providing for the continuous well-being of horses by encouraging routine inspection and consultation with health care professionals and competition officials to achieve the highest possible standards of nutrition, health, comfort, sanitation and safety as a matter of standard operating procedure; continuing to support scientific studies on equine health and stress-related issues; increasing education in training and horsemanship practices; requiring owners, trainers and exhibitors to know and follow their sanctioning organization's rules, and to work within industry regulations in all equestrian competitions; and reviewing and developing competition rules and regulations that protect the welfare of horses.

PITTSBURGH DESERVES ITS RECOGNITION AS AN EXAMPLE OF INTERNATIONAL EDUCATIONAL EXCELLENCE

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. COYNE. Mr. Speaker, I am pleased to inform the House that the Pittsburgh city school system has been singled out by Newsweek magazine as an example of international educational excellence for its innovative arts program.

In the December 2, 1991 issue of Newsweek, a very informative article reports on a survey of educational systems around the world which have been identified as pockets of excellence. While I regret that the schools of the United States only ranked in 2 of the top 10 rankings of the best educational programs, I am very proud that the city of Pittsburgh is ranked as one of the world's best school systems because of its efforts to make the arts an integral part of the academic program for all the city's middle and secondary schools.

Pittsburgh deserves its recognition as an example of international educational excellence because our city's schools have been willing to take up the challenge of making the arts an effective learning tool for American children. In 1983, Harvard University psychologist Howard Gardner, in his book "Frames of Mind," argued that artistic skills or talents are unique forms of intelligence which should be encouraged and developed along with other more traditional skills.

Leaders of the Pittsburgh school system recognized the potential this approach would have for unleashing the creative skills of the city's children. At a time when budgetary resources must be carefully targeted, the Pittsburgh school system has committed itself to making the arts a priority for the city's children. This effort has broken new ground in making the arts a part of every student's learning experience. The city of Pittsburgh has seized an opportunity to develop an innovative arts program that today provides the children of Pittsburgh with an improved ability to develop the cognitive skills needed in the modern world.

Mr. Speaker, I want to commend the efforts of Pittsburgh educators, parents and students for their dedicated efforts in support of the city's arts program. I hope that the Members of the House will take this opportunity to examine the Newsweek article on Pittsburgh's innovative educational artistic program. I request unanimous consent that this article be printed in the RECORD along with my statement.

[From Newsweek, Dec. 2, 1991]

SURELY FOR THE SPIRIT, BUT ALSO FOR THE MIND

In a section of Pittsburgh it would be ambitious to call lower-middle class, Westinghouse High School's concert choir gears up to rip apart a tape of its own work. "What did you hear?" asks teacher Linda Ross-Broadus. "We took breaths where we weren't supposed to," says one student. "And the correction?" "We should stagger our breathing." After a couple of minutes of critique, they try again. The differences are audible: clearer tone, better rhythm and pronunciation.

Helping students teach themselves is a major goal of Pittsburgh's innovative Arts PROPEL program. The name PROPEL is a loose acronym for production, perception and reflection—the three stages of learning in the PROPEL process. The program grew out of the work of Harvard University psychologist Howard Gardner, who argued in his 1983 book "Frames of Mind" that artistic "skills" or "talents" are actually separate forms of intelligence that should be nurtured in school along with more traditional subjects. Gardner was looking for a place to test his theories when Richard Wallace, Pittsburgh's superintendent of schools, offered his city as laboratory. PROPEL, Gardner says, is "art for art's sake and art for mind's sake."

In the five years since its inception, Arts PROPEL has turned the arts—often considered luxury subjects—into an essential ingredient of education. Pittsburgh is far from a rich district, but the city has nonetheless made a commitment to teaching three areas of the arts—music, visual art and creative writing—through PROPEL. The program is in place in all the city's middle and secondary schools. Students learn how to express themselves artistically and also how to solve problems and develop their work—what educators like to call "critical thinking." Teachers say they've learned as much as their students. "PROPEL has changed my teaching tremendously," says Ross-Broadus. "Before, I told them the problem and I corrected it—I did most of the talking. Now the students are taking charge of their work."

Training teachers in the PROPEL system is a major undertaking that won't be finished until the end of this school year, says program director Mary Anne Mackey. Teachers are no longer the sole judges of a student's progress. Key to the program is a portfolio that follows projects from first drafts to finished products. That's a much better indicator of progress, say PROPEL's boosters, than pop quizzes or projects alone. Karen Price, who teaches visual arts, has her students bring a "significant other"—be it boyfriend or girlfriend or parent—into class to help judge their progress. "I've had parents draw me a sketch of their child's work," she says. "They know and care what their kids are doing here."

No matter how it's measured, the work is impressive. One eighth grader, Hajara Bey, titled her portrait project "Puzzled." Half of the pencil drawing is a sober but realistic self-portrait. The other half of her face is composed of a drawing of jigsaw-puzzle parts with a few stray pieces headed toward the corners of the page. Her explanation: "I was very confused and heartbroken." She used pencil because "I trust it, and it makes me feel I have control over what I'm doing."

PROPEL has also injected new life into writing classes—a neglected part of the arts in many schools. Instead of routine assignments emphasizing grammar, students are asked to look to their experiences and imaginations. In a recent seventh-grade writing class at Greenway Middle School, the assignment was family stories. "There isn't anything we taught through drills, like grammar, that we can't teach through their own writing," says teacher Dan Macel. It was only the first week of the project and the students were still in the process of developing topics to write about. "We're painting pictures through words," Macel told his students. He asked if they had any interesting relatives. One girl mentioned her great-grandfather, an Indian. A boy talked about his great-grandfather, who came from England in 1889. A girl recalled her grandfather, who fought in World War II. Four boys with relatives in the military pulled their chairs together to brainstorm. At the end of the class, students eagerly shared ideas. It was a healthy workout for the mind—and the spirit.

LETTER OF AUNG SAN SUU KYI REGARDING HUMAN RIGHTS VIOLATIONS IN BURMA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LANTOS. Mr. Speaker, the United Nations' General Assembly is considering a resolution criticizing current human rights conditions in Burma, and the U.N. Commission on Human Rights is expected to adopt the resolution within a few days. The award of the 1991 Nobel Peace Prize to Aung San Suu Kyi, the leading Burmese dissident, has helped call attention to the lack of democracy in Burma and the tragic human rights abuses of the military regime.

In 1989 Aung San Suu Kyi wrote a letter to the United Nations Commission on Human Rights. That letter was written before she was placed under house arrest. Mr. Speaker, Aung San Suu Kyi remains under house arrest; she has not been permitted to communicate with the outside world.

Her letter has been published in today's issue of the New York Times. I ask that it be placed in the RECORD, and I urge all Members to read and give careful consideration to her courageous views. I also ask my colleagues in the Congress to join me in urging the U.N. Human Rights Commission to condemn the inhuman treatment of Aung San Suu Kyi and adopt a strong resolution condemning the violation of human rights by the Burmese regime.

PEACE-PRIZE WINNER: FREE MY COUNTRY

(By Aung San Suu Kyi)

I. The chief aim of the National League for Democracy (N.L.D.) and other organizations working for the establishment of a democratic government in Burma is to bring about social and political changes which will guarantee a peaceful, stable and progressive society where human rights, as outlined in the Universal Declaration of Human Rights, are protected by the rule of law.

II. Those working for democracy in Burma would wish to differentiate between the "rule of law," which would mean the fair and impartial administration of legal rules—i.e., measures passed by a legally elected assembly after free and open discussions and debate—and the process of law and order, which merely involves the enforcement of arbitrary edicts decreed by a regime which does not enjoy the mandate of the people.

III. Those who believe in the sanctity of human rights do not reject the concept of law and order as such but they would wish to ensure that the law is not just "the will of the dominant faction" and that order is not simply "the reflex of an all-pervading fear." The majority of the people in Burma desire a state which preserves dhamma and abhaya—righteousness and absence of fear.

IV. The claim that human rights considerations have to be balanced against respect for the law would be valid only if the law ensures that justice is done and seen to be done. Decrees designed to expedite repressive measures against those who resist the erosion of rights recognized by the United Nations as essential for the foundation of freedom, justice and peace cannot be said to have either the moral force or the legal sanction necessary to elevate mere edicts to the status of just laws.

V. It has been the consistent policy of the N.L.D. to respect and uphold all just laws. At the same time the N.L.D, in common with the majority of the people of Burma recognize that those who wish to build a strong and peaceful nation have a duty to resist measure which attack the very foundations of human dignity and truth.

VI. The large numbers of political prisoners held in Burma today have been charged with so-called criminal offenses because of their efforts to uphold Articles 19, 20 and 21 of the Universal Declaration of Human Rights. Further they have been subjected to the kind of treatment which runs contrary to Articles 5, 6, 7, 8, 9, 10, 11 and 12.

VII. Neither the N.L.D. nor the people who demonstrate their support for the N.L.D. desire the kind of conflict and confrontation which can only bring more suffering on a populace already troubled by much political and economic hardship. Seeking understanding through dialogue and negotiations is an accepted principle of the democratic tradition to which the N.L.D. has been unswervingly committed since its inception in 1988.

VIII. Those who wish for an early and peaceful transition to democratic government acknowledge the validity of the statement that "to deny human beings their rights is to set the stage for political and social unrest." Their efforts are thus directed towards bringing about conditions which will avoid social and political unrest. However, their efforts have been hampered by the refusal of the authorities to respect the will of the majority.

IX. It is hoped that it will be possible for the U.N. Commission on Human Rights to obtain such conditions as would enable those with an interest in promotion human rights in Burma (in particular political prisoners) to express their views frankly without fear of reprisals on themselves, their families or their associates.

X. While realizing that they must depend on their own powers of courage, perseverance and fortitude to bring their struggle for a political system which will guarantee their human rights to a successful conclusion, the people of Burma look to the U.N. Commission to support the justice of their cause.

HIS LEGACY LIVES ON

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MICHEL. Mr. Speaker, I want to bring to the attention of my colleagues, the recent passing away of a truly great man, Mr. Burrus Dickinson.

Burrus Dickinson served as President of Eureka College from 1939 to 1954. At the time Burrus joined Eureka College, it had barely begun its recovery from the Depression and was $50,000 in debt. Fifteen years later, as the result of Burrus Dickinson's foresight and leadership, Eureka College had achieved financial stability. Today it is an institution of academic excellence.

Mr. Dickinson continued his participation in the Eureka College larger community by purchasing two local newspapers in the mid-1950's. He followed the philosophy of a country newspaper "* * * eschewing investigative reporting for positive news." As he himself once remarked, "If I see a problem, I'll get it corrected. Since I know the people, I can take care of it without having to put it in the paper."

Mr. Speaker, on behalf of the many students of Eureka College who through his efforts found knowledge through education, and the many citizens of Eureka whose lives he touched with his journalistic flair, I say thank you.

Mr. Speaker, at this point in the RECORD, I wish to insert an article which appeared in the Peoria Journal Star on November 20, 1991, "Eureka College Legend Burrus Dickinson Dies".

EUREKA COLLEGE LEGEND BURRUS DICKINSON DIES—FORMER PRESIDENT OF COLLEGE ALSO WAS A MAJOR BENEFACTOR

Burrus Dickinson, a man who embodied Eureka College to many, will be remembered as a great supporter of the college he led for 15 years and as a true gentleman. He died Monday at age 86.

Dickinson, Eureka College president from 1939 to 1954, was the great-grandson of the college's first president and was himself a graduate.

"He was almost Eureka College," said G. Raymond Becker, chairman of the board of trustees. "He was very dedicated to Eureka College and a good friend of the college."

Eureka residents said Dickinson lived a simple life in the house he grew up in at 113 Major. All the better, Dickinson explained once, to donate to the college.

His contributions were generous and he achieved a great deal of recognition in 1979 when he gave a $100,000 challenge gift to the school.

"He more than anyone has supported the college. He will be deeply missed as a trustee and as a friend," a college spokeswoman said.

"He was a great gentleman," said Becker, who will be a pallbearer at Dickinson's funeral Thursday. "We will miss him."

College President George A. Hearne, who also will be a pallbearer, was out of town and unavailable for comment Wednesday.

Dickinson, whose family was among the founders of both the town and the college, graduated from Eureka College in 1926 and subsequently received his master's degree in English literature and a doctorate in economics from the University of Illinois.

The college was $50,000 in debt and not yet recovered from the Depression when Dickinson took over in 1939.

It achieved financial stability, along with $250,000 to the endowment and $40,000 to the student loan fund, by the time he left in 1954.

Dickinson purchased the Woodford County Journal in 1937 and the Roanoke Review in 1955. He was a bachelor, and his newspapers and the college were his family.

He employed what he called a "country newspaper" philosophy in his editing and publishing duties, eschewing investigative reporting for positive news.

"If I see a problem, I'll get it corrected. Since I know the people, I can take care of it without having to put it in the paper," he once said.

He wasn't in it for the money either, charging up 5 cents a word for classifieds and $6 for annual subscriptions.

TO CALL ATTENTION TO A SPEECH BY CHARLES C. COLSON

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MCEWEN. Mr. Speaker, I rise today to call attention to a speech which addresses the problem of ethics in today's society. Charles W. Colson, chairman of Prison Fellowship, delivered these remarks to the Harvard Business School on April 4, 1991. His comments on the crisis of character in America call attention to the loss of what Edmund Burke called the traditional values of republican citizenship.

At a time when violent crime is at an all-time high, when the American family is being divided by drugs and divorce, when the Nation is focusing on the scandalous and scurrilous in Washington, Mr. Colson's words ring with truth and resonance.

I believe it would be worthwhile for every Member of Congress to examine this speech, and I, therefore, submit these words into the RECORD.

THE PROBLEM OF ETHICS

(By Charles W. Colson)

I think Harvard well deserves the reputation it enjoys of being a very liberal university—liberal in the best sense of the word, because you would have as a lecturer in the university, today, someone who is an ex-convict. Maybe that is not so inappropriate after all, as you look at what is happening on Wall Street and in the business community.

Perhaps, in the courses here at the business school, they should devote a little attention to what is happening in prisons. I spent three hours last week with one of your distinguished alumni who is headed off for four years of free room and board, courtesy of the United States Government, as I did.

Harvard also deserves the reputation for being a liberal university, in the best sense of the word, for inviting me to speak. For, over the last three years, I have written articles—that here at Harvard could be considered quite impertinent—in which I have described my views on why it is impossible to teach ethics at Harvard. I may touch on that briefly today, and I hope you will all accept it in good spirit. I will be prepared for your questions.

I'm no longer in politics. I've done my time, literally and figuratively. But, it's awfully hard not to watch what is happening in the political scene without a certain sense of dismay when we see the Keating Five—five United States Senators—tried, in effect, by their own tribunal. Just before that, another Senator, who happens to be a good friend of mine, Dave Durenberger, was censured by the Senate. I spent some time recently with Marion Barry, the former mayor of the District of Columbia, who was arrested for drug use. You look at South Carolina and Arizona and see scams going on in the legislatures that have been exposed by federal prosecutors.

I saw a press release in which the Department of Justice boasted, last year, that they had prosecuted and convicted 1150 public officials, the highest number in the history of the republic. They were boasting about it, yet I read it with a certain sadness because it seems that kind of corruption has become epidemic in American politics.

We see Congressmen, one after another: Coehlo, Wright, Frank, Lukens—both sides of the aisle—either being censured or forced out of office. We see probably the most cynical scandal of all—the HUD scandal—where people were ripping off money from the public treasury that was designed to help the poor. Then, we've seen more spy scandals during the past 5 years than in all previous 195 years of American history combined—people selling their national honor for sexual favors or for money.

Business is not immune. The savings and loan scandals are bad enough on the face of them, but the fact that they're so widespread has fostered almost a looter's mentality. Mr. Boesky, speaking at UCLA Business School five years ago, said "greed is a good thing," and ended up spending 3 years in a federal prison. Just last week, one of the major pharmaceutical firms was fined $10 million for covering up violations of criminal statutes.

It affects athletics. If you picked up a newspaper this week, you saw that Sugar Ray Leonard was just admitted for drug use. He's been a role model for lots of kids on the street. Pete Rose spent time in prison for gambling.

Academia has been affected. You probably noted that Stanford University President Kennedy was charged with spending $7,000 to buy a pair of sheets—they must be awfully nice bed linens—and charging them improperly to a government contract. On one day, a Nobel Prize winner was exposed for presenting a fraudulent paper, and the very next day a professor at Georgetown University was charged with filing a fraudulent application for a grant from the National Institutes of Health—this all during the past two weeks. Probably saddest of all, at least from my perspective, are the cases of certain religious leaders like Jimmy Swaggart and Jim Bakker, Bakker—whom I've also visited in prison—was prosecuted for violating what should be the most sacred trust of all; to speak for God and to minister to people in their spiritual needs.

The first question that comes to mind is whether these are simply examples of rotten apples, or of better prosecutors. Maybe you can dismiss these by saying, "this is simply the nature of humanity." I think it was Bishop Fulton Sheen, in paraphrasing G.K. Chesterton, who once said that the doctrine of original sin is the only philosophy empirically validated by 3500 years of human history. Maybe you dismiss this, too, and say, "this is just the way people are."

"Is there something of a pattern here?" is the question I pose to you today.

Time magazine, in its recent cover story on ethics, said what's wrong: "Hypocrisy, betrayal and greed unsettle a nation's soul." The Washington Post said that the problem has reached the point where "common decency can no longer be described as common." The New Republic magazine said, "There is a destructive sense that nothing is true and everything is permitted."

I submit to you that when The Washington Post, The New Republic magazine and Time magazine—which have never been known as bastions of conservative, biblical morality—begin to talk about some sort of ethical malaise, a line has been crossed and that these aren't simply isolated instances, but, rather, a pattern emerging in American life.

No institution has been more sensitive to this than Harvard. Former President Bok has given some extraordinary speeches decrying the loss of ethics in the American business community. I think some of you have seen the recent polls finding that business school students across America, by a 2 to 1 margin, believe that businesses are generally unethical. It's a very fragile consensus that holds together trust in our institutions. When most business school students believe there aren't any ethical operations, you begin to wonder if something isn't affecting us a lot more broadly than isolated instances of misbehavior that have been exposed.

I believe we are experiencing today in our country what I choose to call a crisis of character; a loss of what traditionally, through Western civilization, has been considered those inner restraints and virtues that prevent us from pandering to our own darker instincts.

If you look back through the history of Harvard, you'll see that President Elliott was as concerned about the development of character as he was about education. Plato once said, if you asked why we should educate someone, "we educate them so that they become a good person, because good persons behave nobly." I believe we should be deeply concerned about the loss of what Edmund Burke might have called the traditional values of republican citizenship—words that will almost sound quaint when uttered in these surroundings; words like valor, honor, duty, responsibility, compassion, civility—words which have almost fallen into disuse.

Why has this happened? I'm sure many of you studied philosophy in your undergraduate courses and, if so, you are well aware that, through 23 centuries of Western civilization, we were guided by a shared set of assumptions that there was a transcendent value system. This was not always the Judeo-Christian value system, though I think the Judeo-Christian values were, as Christopher Dawson the eminent historian wrote, "sort of the heart and soul of Western civilization."

It goes back to the Greeks and Plato saying that if there were no transcendent ideals, there could be no concord, justice and harmony in a society. There is through the 23 centuries of civilization—the history of the West—a strain of belief in a transcendent value system. Whether it was the unknown god of the Greeks, the Christ of the Scriptures revealed to the Christian, Yahweh of the Old Testament revealed to the Jew, or, as Enlightenment thinkers chose to call it, natural law—which I believe to be not inconsistent with Judeo-Christian revelation, this belief guided our conduct for 23 centuries until a great cultural revolution began in America.

This revolution took place in our country in the 1960s. Some think it goes back further. Paul Johnson—who happens to be one of my favorite historians—wrote the history of Christianity, the history of the Jews, and a classic book called "Modern Times". If you're not too busy with your business school studies, it's a wonderful history of the 20th century. Johnson said all of this began in 1919 when Einstein's discovery of relativity, in the field of physical sciences, was confused with the notion of relativism in the field of ideas. Johnson says that gradually, through the 1920s and 1930s, people began to challenge what had been fixed assumptions by which people lived—the set of fixed and shared common values.

In the 1960s it exploded. Those of you who were on college campuses in the '60s will well remember that the writings of Camus and Sartre invaded American campuses. Basically, they were what Camus said when he came to America and spoke at Columbia University in 1947. To the student body assembled, he said, "There is nothing." The idea was introduced that there is no God and God is dead. In this view, there is no transcendent value; life is utterly meaningless and the only way that we can derive meaning out of life is if we overcome the nothingness of life with heroic individualism. The goal of life is to overcome that nothingness and to find personal peace and meaning through your own autonomous efforts.

Most of the people of my generation dismissed what was happening on the campuses as a passing fad—a protest, it was not. The only people who behaved logically in the '60s were the flower children. They did exactly what they were taught; if there was no other object in life than to overcome the nothingness, then go out and sniff coke, or smoke pot, make love and enjoy personal peace.

Then, America came through the great convulsion of Watergate and Vietnam—a dark era—and into the '70s. We thought we shook off those protest movements of the '60s. We did not—we simply embraced them into the mainstream of American culture. That's what gave rise to the "me" decade.

If you look at the bestsellers of the 1970s, it's very revealing. The bestselling books were "Winning Through Intimidation," "Look Out For Number One," and "I'm Okay, You're Okay." Each of these were saying, "don't worry about us." We emerged into a decade that Tom Wolfe, the social critic, called "the decade of Me." Very logically, that graduated into the 1980s and what some have cynically called "the golden age of greed."

Robert Bellah, a professor at the University of California, wrote a book—a take-off on the title from Tocqueville's classic work on American life—entitled "Habits of the Heart." Bellah tried to examine the values of a couple of hundred average middle-class Americans. He came to the conclusion that the reigning ethos in American life, in the '80s, was what he called "ontological individualism," a radical individualism where the individual is supreme and autonomous, and lives for himself or herself. He found that Americans had two overriding goals: vivid personal feelings and personal success.

Bellah tried to find out what people expected from the institutions of society. From business, they expected personal advancement. Okay, that's fair enough. From marriage, personal development. No wonder marriages are in trouble. And from church, personal fulfillment! But the personal became the dominant consideration.

Now, I would simply say—and I'll try to be as brief with this as I possibly can—that this self-obsession destroys character—it has to! All of those quaint-sounding virtues I talked about, that historically have been considered the elements of character, are no match for a society in which the exaltation and gratification of self becomes the overriding goal of life.

Rolling Stone magazine surveyed members of the baby boom generation, to which many of you emerging leaders in this room belong. 40% said there was no cause for which they would fight for their country. If there's nothing worth dying for, there's nothing worth living for. Literally, the social contract unravels when that happens, and there can be no ethics.

How can you have ethical behavior? The crisis of character is totally understandable when there are no absolute values. The word "ethics" derives from the Greek word ethos, which literally meant "stall"—a hiding place. It was the one place you could go and find security. There could be rest and something that you could depend upon; it was immovable.

"Morals" derives from the word "mores," which means "always changing." "Ethics" or "ethos" is the normative; what ought to be. "Morals" is what is. Unfortunately, in American life today, we are totally guided by moral determinations.

So, we're not even looking at ethical standards. Ethical standards don't change. It's the stall, it's the ethos, it's the environment in which we live. Morals change all the time. So, with shifting morals, if 90% of the people say that it's perfectly all right to do this, then that must be perfectly all right to do because 90% of the people say it is. It's a very democratic notion.

Ethics is not—cannot be—democratic. Ethics by its very definition is authoritarian. That's a very nasty word to utter on any campus in America, and particularly at Harvard, where Arthur Schlesinger has written a magnificently argued assault on the perils of absolutism.

In a relativistic environment, ethics deteriorates to nothing more than utilitarian or pragmatic considerations. If you're really honest with yourselves and look at the ethical questions you're asked to wrestle with in your courses here at Harvard, you will see that you are being taught how to arrive at certain conclusions yourself, and to make certain judgments yourself, that ultimately are going to be good for business. That's fine, and you should do that. That's a prudential decision that has to be made and that's being a responsible business leader. It isn't just ethics and shouldn't be confused with ethics.

I studied Locke, the Enlightenment, and social contract theories as an undergraduate at Brown, and had a great respect for the political process. I also had a well-above-average I.Q. and some academic honors. I became very self-righteous.

When I went to the White House, I gave up a law practice that was making almost $200,000 a year (and that was back in 1969, which wasn't bad in those days). It's kind of ordinary now for graduates of Harvard Business School, but then it was a lot of money.

I had accumulated a little bit of money and took a job in the White House at $40,000 a year. So I took everything I had and I stuck it in a blind trust at the Bank of Boston. Now let me tell you, if you want to lose money, that's the surest way to do it! After 3½ years, when I saw what the Bank of Boston had done to my blind trust, I realized I was a lot poorer when I came out of the government than I was when I went in to the government.

But there was one thing about which I was absolutely certain—that no one could corrupt me. Positive! And if anybody ever gave me a present at Christmas time, it went right to the driver of my limousine. They used to send in bottles of whiskey, boxes of candy and all sorts of things. Right to the driver of my automobile. I wouldn't accept a thing.

Patty and I were taken out on someone's boat one day. I discovered it was a chartered boat, and ended up paying for half of it because I didn't want to give the appearance of impropriety. Imagine me worried about things like that!

I ended up going to prison. So much for the categorical imperative. The categorical imperative says that with our own rational process we will arrive at that judgment, which, if everyone did it, would be prudential and the best decision for everyone. In other words, that which we would do, we would do only if we could will it to be a universal choice for everybody.

I really thought that way and I never once in my life thought I was breaking the law. I would have been terrified to do it because I would jeopardize the law degree I had worked four years at night to earn. I had worked my way onto the Law Review, Order of Coif and Moot Court—all the things that lawyers do—and I graduated in the top of my class. I wouldn't put that in jeopardy for anything in the world!

Yet I was so sure. But, you see, there are two problems. Every human being has an infinite capacity for self-rationalization and self-delusion. You get caught up in a situation where you are absolutely convinced that the fate of the republic rests on the reelection of, in my case, Richard Nixon. I'm sure that next year people will think the same thing about George Bush. There's an enormous amount of peer pressure, and you don't take time to stop and think, "Wait a minute. Is this right by some absolute standard or does this seem right in the circumstances? Is it okay?"

I had a great respect for the law. When I went through law school, I had a love for the law. I learned the history of jurisprudence and the philosophy underlying it.

I was taught to think clearly and carefully. As a lawyer that's what you do—you briefcase it, you spend four years in law school and you go like a monkey. You're briefing cases, briefing cases. We used the case method, as you use the case method here in business. The case method in law school, however, is a little bit different because you always have a fixed conclusion, so at least I knew there was a fixed law that you would arrive at. I had all the mental capacity to do that. I was capable of infinite self-delusion.

Secondly, and even more importantly—and this goes to the heart of the ethical dilemma in America today—even if I had known I was doing wrong, would I have the will to do what is right? It isn't hindsight. I have to tell you the answer to that is no.

The greatest myth of the 20th century is that people are good. We aren't. We're not morally neutral. My great friend, Professor Samenow, happens to be an orthodox Jew. I asked him one day, "Stan, if people were put in a room and no one could see what they were doing or no one knew what they were doing, would they do the right thing half the time and the wrong thing half the time? Would they do the wrong thing all the time, or would they do the right thing all the time?" He said they would always do the wrong thing.

We aren't morally neutral. I know that's a terribly unpopular thing to say in America today, but it happens to be true. The fundamental problem with learning how to reason through ethical solutions is that it doesn't give you a mechanism to override your natural tendency to do what is wrong. There's nothing that makes your will. This is what C.S. Lewis says—whose writings have had such a profound influence on my life.

Tom Phillips, my blessed friend who is with us today, gave me the book, "Mere Christianity," when I came to him in the summer of 1973 at a moment of great anguish in my life. I wasn't so worried about what was going on in Watergate, but I knew I didn't like what was going on in my heart. So, I went to see him and visited him one evening. Something was different about him.

I went, and that was the evening that this ex-Marine captain, White House tough guy, Nixon hatchet man (and all kinds of things you can't write about in print or wouldn't say in polite company that I was called in those days—much of it justifiably) found myself unable to drive the automobile out of the driveway when I left his home that night, after he had told me of his experience with Jesus Christ. I was crying too hard.

I took that little book he had given me, "Mere Christianity," and began to read that and study it as I studied for a case. I'd take my yellow sheets. I still use them. Yellow legal pad. Get down all the arguments—both sides. I was confronted with the most powerful mind that I had been exposed to, I saw the arguments for the truth of Jesus Christ and I surrendered my life 18 years ago. My life has not been the same since, and can never be the same again.

I discovered that Christ coming into your life changes that will. It gives you that will to do what you know is right, where even if you know what is right—and most of the time you won't—you don't have the will to do it. It's what C.S. Lewis wrote in that tremendous little book, "Abolition of Man." I'd love you to read "Mere Christianity," but if you had to read just "Mere Christianity" or "Abolition of Man" for today's cultural environment, read "Abolition of Man." Wonderful book.

I don't know how to say this in language that is inclusive, but he wrote a marvelous essay called "Men Without Chests." I can't say "men and women without chests." I can say "persons without chests," I guess. It's a wonderful article about the will. He said the intellect can't control the passions of the stomach except by means of the will—which is the chest—and that we make geldings and then bid them to multiply. We mock honor and then we are alarmed when there are traitors in our midst. He was talking about the loss of character, in 1947 and 1948, long before the results we are witnessing today of the loss of character in American life.

So much for the individual. What about society as a whole? Margaret Thatcher delivered what I consider to be one of the most remarkable speeches in modern times 2½ years ago before the Church of Scotland. You'll only find it reprinted in the Wall Street Journal. Margaret Thatcher said basically—and I'll paraphrase what was marvelous, eloquent speech—that the truth of the Judeo-Christian tradition is infinitely precious, not only because, she said, I believe it to be true—and she professed her own faith—but, she said, it provides the moral impulse that causes people to rise above themselves and do something greater than themselves, without which a democracy cannot survive. She went on to make the case—I think quite convincingly—that without Judeo-Christian values at the root of society, society simply can't exist.

Our founders believed this. We were not formed as a totally tolerant, neutral, egalitarian democracy. We were formed as a republic with a certain sense of republican virtue built into the citizenry, without which limited government simply couldn't survive. No one said it better than John Adams.

There are four ways in which that moral impulse works. Someone sent me a letter suggesting the topic for this speech, "Why Good People Do Bad Things." I didn't have time to write back and say I really think that it would be more appropriate to address "Why Bad People Do Good Things" because that's a more difficult question.

Why do we do good things? If we live in an age of ontological individualism, if radical individualism is the pervasive ethos of the day, if we simply live for the gratification of our senses, of our personal success and vivid personal feelings, why do anything good? Who cares? It won't make a particle of difference unless its important to your balance sheet. But that's pragmatism, that isn't doing good things. That's pure utilitarianism.

First, we do good things because there is something in us that calls us to something greater than ourselves.

I work in a ministry in prisons—not a very glamorous place to be. I visited three prisons this weekend. I was so moved in one prison because there were 600 inmates that came out and saw their lives change. Now those were people who were lost and forgotten. I also saw the 50 volunteers who go in there regularly. One man stood up and said, "Ten years ago I was in this prison and two of your volunteers came in, Mr. Colson, and they befriended me, this couple from Akron, Ohio." He said, "You know, they've been visiting me every month and writing to me ever since, for 10 years." He continued, "I get out of prison in September and they've invited me to live in their home." He said, "I'm going to make it."

Why do people do that? Why do they go to the AIDS wards? One of my friends goes into the AIDS wards of a prison all of the time, and people die in his arms. Do we do it because we have some good instinct? No! It's a moral impulse.

Why did William Wilberforce stand up on the floor of the Parliament in the House of Commons and denounce the slave trade? He said it was barbaric, and cost himself the prime ministership of England when he did it! But, he said, "my conscience is held captive to the revelation of God. I have no choice as a Christian!" He spent the next 20 years battling the slave trade and brought it to an end in England because of his Christian conscience. What informs our conscience?

What is it that makes us, as otherwise self-centered people disposed to evil—if my friend Stan Samenow and the history of the 20th century and civilization is correct—what is it that makes us do good?

Secondly, I think Margaret Thatcher's absolutely right. I believe that a society can not survive without moral consensus.

I tell you this as one who sat next to the President of the United States and observed our nation's fragile moral consensus during the Vietnam era. We did some excessive things, and we were wrong. But we did it feeling that if we didn't, the whole country was going to fall apart. It was like a banana republic having the 82nd Airborne down in the basement of the White House. One night my car was firebombed on the way home. They had 250,000 protesters in the streets and, with the smell of tear gas and busses, you almost wondered if the White House was going to be overrun.

The moral consensus which holds the country together was in great peril during that era, and during the entire Watergate aftermath of Vietnam. A free society can't exist without it.

Now, what gives it to us? Aquinas wrote that, without moral consensus, there can be no law. Chairman Mao gave the other side of that in saying that mortality begins at the muzzle of a gun. Every society has two choices; whether it wants to be ruled by an authorization ruler, or whether there can be a set of shared values and certain things we hold in common which give us the philosophical underpinnings of our value system in our life.

I submit to you that without that—call it natural law if you wish, call it Judeo-Christian revelation, call it the accumulated wisdom of 23 centuries of Western civilization—I don't believe a society can exist.

The reason we have the most terrible crime problem in the world in America, today, is a simple reason: we've lost our moral consensus. We're people living for ourselves.

We have doubled the prison population in America during the 1980s. We are today number 1 in the rate of incarceration per capita in the world. When I started in Prison Fellowship 15 years ago, we were number 3. We trailed the Soviet Union and South Africa. Today we're number 1! While we build more prisons and put more people in, the recidivism rate remains constant at 74%. Those people come right back out.

The answer to it is very simple. There are kids being raised today from broken families who are not being given values. Remember that Stanley Hauerhouse said the way you foster ethics is in tradition-formed communities. They're not being given values in the home, they're not being given values in the school, they're watching the television set for 7 hours and 36 minutes a day, and what they're seeing is "you only go around once, so grab for all the gusto you can." Now if that's the creed by which you live, then at 12 years old you're out on the streets sniffing coke. We arrest them and put them in jail. They think we're crazy. So do I.

Until you have some desire in society to live by a different set of values, we'll be building prisons in America until, as is the case today, 25% of the black inner-city population in America is either in prison or on probation or parole. Can't make it without that moral consensus. It will cost us dearly if we can't find a way to restore it.

Professor James Wilson, formerly at Harvard Law School, wrote one of the most telling pieces I've ever read, and I refer to it in one of my books, "Kingdoms in Conflict." He wrote a primer, while he was here at Harvard, about the relationship between spiritual values and crime. It is really interesting.

The prevailing myth is that crime goes up during periods of poverty. Actually, it went down during the 1930s. He found that, during periods of industrialization, it went up as what he called Victorian values began to fade. When there was a resurgence of spiritual values, crime went down. He saw a direct correlation. Crime was going up whenever spiritual values were declining; whenever spiritual values were going up, crime was going down. it's a lack of a moral consensus.

Third, I think we often miss the basis of sound policy because we have become secularized in our views in America, and afraid to look at biblical revelation. We're terrified of it.

When Ted Koppel gave the commencement speech at Duke University a few years ago, in which he said the Ten Commandments weren't the Ten Suggestions, and that God handed the Commandments to Moses at Mt. Sinai, you know what the press did to him. It was horrible. A fellow like Ted Koppel couldn't possibly say something like this! So we blind ourselves to what can often be truth.

I have spoken to over half of the state legislators in America. I just met with the Lieutenant Governor of Ohio last Friday, and have spoken with many of the political leaders around this country. I always make the same argument to them about our prisons. We have way too many people in prison. Half of the prison population is in for nonviolent offenses, which to me is ludicrous. They should be put to work. People should not be sitting in a cell at a cost of $20,000 a year to taxpayers while doing absolutely nothing, and while their victims get no recompense. Offenders ought to be put in a work program paying back their victims. Whenever I speak about that, the response I get from political officials is amazing. It really is.

In the Texas legislature, I gave that talk and they all applauded. Afterwards the Speaker of the House said, "Mr. Colson, wait here. I'm sure some of the members would like to talk to you." They came flooding in afterwards. They all said that restitution is a wonderful idea—where did that come from? I asked, "You got a Bible at home?" They said, "Have I got a Bible at home?" "Well," I responded, "you go home and dust it off and you'll see that's exactly what God told Moses on Mt. Sinai."

That's biblical truth. That's the lesson of Jesus and Zacchaeus. We blind ourselves to it because we think there's something wrong with that in today's tolerant society, a pluralistic society that ought not to be wrong. We ought to be seeking that out. If we can find wisdom, find it. So often we find wisdom in the teachings of the Holy Scripture.

Fourth, no society exists in a vacuum. Vacuums don't remain vacuums—they get filled. In a vacuum, a tyrant will often emerge. You've just seen 70 years of that crumbling in the USSR. Isn't it interesting that when it crumbles, it so often crumbles because people have an allegiance to a power above the power of that earthly potentate?

I remember when Pope John Paul II said that he would return to Poland if the Soviets invaded. Years earlier, Stalin had said, "Hah! The Pope! How many divisions does he have?" Well, as a result of the Solidarity movement we saw how many divisions he had—a whole lot more than the Soviets.

I remember getting on a plane and coming up to Boston to see our first grandson when he was born, back in 1981. A man got up in the aisle of the plane and was all excited to see me. He said, "Chuck Colson!" He was blocking the people coming behind me, so I finally got him into his seat. He looked oriental and I didn't know his background. He was talking so fast that I couldn't understand him. To make a long story short, he introduced himself as Begnino Aquino.

Aquino told me that when he was in jail for 7 years and 7 months, as a political prisoner of Marcos, he had read my book "Born Again." He was in a prison cell and had gotten down on his knees and surrendered his life to Jesus Christ. He said after that his entire experience in prison changed. Well, Nino and I became pretty good friends. We did some television programs together and we visited frequently.

He called me up one day and said "I'm going back to the Philippines." I said, "Nino, do you think that's wise?" He said, "I have to. I'm going back because my conscience will not let me do otherwise." He was safe here in America, he had a fellowship here at Harvard, he could lecture anywhere he wanted, and he lived here with his wife in Newton. They had everything they could possibly want.

But, he knew he had to go back to the Philippines. "My conscience will not let me do otherwise." He said, "If I go to jail, it'll be okay, I'll be president of Prison Fellowship in the Philippines." He said, "If there are free elections, I'll be elected president. I know I can beat Marcos. And if I'm killed, I know where I'll be with Jesus Christ." He went back in total freedom. He never got off the plane, as you know. He was shot and killed.

But, an extraordinary thing happened—what's known as people power. People went out into the streets. The tanks stopped. People went up and put flowers down the muzzles of guns and a tyrant was overthrown. A free government was reasserted because people believed in a power above themselves.

I was in the Soviet Union last year and visited five prisons, four of which had never been visited by anyone from the West. I met with Soviet officials. It was really interesting. I met with Vadim Bakatin, minister of interior affairs—who has since been sacked because he was too liberal. When talking about the enormous crime problem in the Soviet Union, he said to me, "What are we going to do about it? I said, "Mr. Bakatin, your problem is exactly the one that Fyodor Dostoyevsky, your great novelist, diagnosed. In "Brothers Karamozov," he had that wonderful debate between the older brother, who is unregenerate, and the younger brother, Alexis, who is the priest, over the soul of the middle brother, Ivan. At one point, Ivan yells out and says, "Ah, if there is no God, everything is permissible. Crime becomes inevitable." I said, "Your problem in the Soviet Union is 70 years of atheism." He said, "You're right. We need what you've got. How do we get it back in the Soviet Union?"

All I could think was how foolish we are in America to be squandering our heritage. In a country where they've ignored the king of greater power for seventy years, they're losing it all.

I can only leave you with a very simple message, as someone who had thought he had it all together and attained a position of great power. I never thought I'd be one of the half dozen men sitting around the desk of the President of the United States, with all of that power and influence. I discovered that there was no restraint on the evil in me. In my self-righteousness, I was never more dangerous.

I discovered what Solzhenitsyn wrote so brilliantly from a prison, that the line between good and evil passes not between principalities and powers, but it oscillates within the human heart. Even the most rational approach to ethics is defenseless if there isn't the will to do what is right. On my own—and I can only speak for myself—I do not have that will. That which I want to do, I do not do; that which I did, I do not want to do.

It's only when I can turn to the One who this past weekend we celebrated—who was raised from the dead—that I can find the will to do what is right as best that I'm able to discern it. It's only when that value and that sense or righteousness pervade a society that there can be a moral consensus. I would hope I might leave with you, as future business leaders, the thought that a society of which we are a part—and for which you should have a great sense of responsibility and stewardship—desperately needs those kind of values. And, if I might say so, each one of us do as well.

Thank you.

TRIBUTE TO MS. ARLINE M. NEAL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. NORTON. Mr. Speaker, today I rise to acknowledge the achievements of a remarkable person, Ms. Arline M. Neal, immediate past president of the Service Employees International Union's Local 82. Local 82 is a 4,000 member SEIU affiliate that represents a cross-section of the District of Columbia's service industry.

Ms. Neal joined Local 82 in 1946 and six months later became its secretary/treasurer, a post she held until the late 1960's. Because of her skillful and untiring organizing efforts, Ms. Neal is in large part responsible for the expansion of Local 82's membership from a few hundred in 1946 to its current membership.

In 1949 Ms. Neal eagerly participated in the campaign to desegregate the District's downtown restaurants. Her efforts were rewarded when in 1953 the Supreme Court affirmed the validity of the city's Equal Services Act. Ms. Neal's effort in this fight is particularly significant because her family lived in fear of direct reprisal.

Ms. Neal has experienced much that would defeat a person of less dedication and courage. In the late 40's, she participated in a strike that saw the police raid a house where strikers ate their meals, claiming it unlawful to serve blacks and whites together.

Ms. Neal also has given generously of her time and energy to support over 30 organizations providing valuable social services to the Washington community. She is the founder of the District of Columbia Foster Grandparents program; she has represented the District on the Mayor's Correctional Advisory Committee for DC Penal Institutions; the Model Cities Commission; the Washington Urban Coalition; Family and Child Services of Washington; DC Commission on the Status of Women; the Mayor's Task Force on Construction Problems; and the Minimum Wage Board.

Under Ms. Neal's leadership, Local 82 has worked on numerous civic and political projects, including a program to train and hire unemployed youth to provide services for the elderly. She helped open the building trades to minorities and women by establishing the preapprenticeship program, Project Build and served on the DC Central Labor Council and Human Resources Development Institute at the AFL–CIO.

Mr. Speaker, because of the many tangible improvements and great benefits Ms. Neal has unselfishly made to our society, I ask my colleagues to join me in recognizing a truly remarkable woman whose tireless efforts have improved the lives of many.

SUPPORT FOR THE VETERANS TRANSITION FRANCHISE INITIATIVE (VETFRAN)

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. EDWARDS of Texas. Mr. Speaker, as a Member of the House Veterans Affairs Committee, I rise in support of a new and unique initiative designed to assist America's veterans, who have sacrificed so much for our Nation, find opportunities in small business franchise ownership. The program is called the veterans transition franchise initiative [VETFRAN] and was created by one of my constituents, a Waco, Texas entrepreneur and Korean War veteran Don Dwyer.

VETFRAN is sponsored and supported by the International Franchise Association (IFA) and the Small Business Administration (SBA) and is designed to help the veteran make an easier transition from the military to the civilian sector.

On November 7, 1991, just prior to the first veterans day following the Persian Gulf War, this program, which can help millions of veterans, was announced at the National Press Club in Washington, D.C., to make each and every veteran in America aware of the opportunities presented by VETFRAN.

Under the program, more than 100 member companies of the International Franchise Association are offering veterans either a reduced franchise fee or market-rate financing for up to half the fee. The Small Business Administration will provide management and financial counseling and offer loans to eligible Vietnam and disabled veterans.

All veterans have until August 15, 1993, to apply to the program. Armed Forces members returning to civilian life between now and that date will have two years from the date of discharge to apply.

The Nation's franchise companies and more than 500,000 franchised businesses account for more than one-third of all retail sales in the U.S., and they should be commended for rising to the challenge of creating business opportunities, self employment and employment opportunities for the hundreds of thousands of armed services members who will be returning to private life in the near future.

I want to commend Don Dwyer for his vision and tenacity in bringing this far-sighted program into reality. He is an example of the kind of patriotic, can-do entrepreneur that has

made our country the greatest land of opportunity in the world.

I urge my colleagues to join me in strongly supporting this small business initiative, and to encourage our veterans to consider participating in this business opportunity.

NATIONAL ADOPTION WEEK 1991

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEHMAN. Mr. Speaker, Congress has once again passed legislation designating the week of Thanksgiving as "National Adoption Week." I strongly support this effort again this year to heighten awareness of the positive benefits of adoption.

All children deserve to grow up in loving families. Unfortunately, too many children in the U.S. continue to grow out of childhood without permanent, nurturing families. In this country, there are over 350,000 adoptable children, and an estimated 2 million individuals and couples hoping to adopt a child. Our inability to ensure the adoption of all legally available children with families is a national disgrace. We have failed to make placement of these children in adoptive homes a child welfare priority. Education is still needed to inform the public and those who work in the child welfare sector of the value of adoption for the well-being of children first, and second, to meet the desire of adoptive families to build a family through adoption or to enhance a "home-grown" family through adoption.

Since the mid-1980s, homelessness, AIDS, teen pregnancy, alcohol abuse, and the widespread crack cocaine epidemic have combined to overwhelm the child welfare system. Reports of child abuse and neglect have more than doubled over the past decade. Simultaneously, foster-care case loads have been rising while the number of available foster families has declined. "Boarder babies," the offspring of drug-addicted or AIDS-infected mothers are being abandoned in hospitals in horrifying numbers. Preventive and support services have grown by only 54 percent between fiscal years 1981 and 1990, while costs for the Federal Foster Care Program rose by 122 percent. In addition, the maze of adoption laws—in no two States are the laws exactly the same—inhibit prospective parents from adopting children supported by public agencies, provide disincentives to the State agencies for releasing children for adoption, and thereby increase the human and financial costs of adoption.

Yet even in the honest attempt to help these children there are further pitfalls. For instance, there is the so-called distinction between special needs and other adoptable children. I believe that all children without a home are special needs children. Physically healthy children at substantial child abuse and mental health risk have been relegated to second-class status by such false distinctions within an already overburdened child welfare system, where statistics on even the number of children in foster care are sketchy at best. As a result of a penny wise, pound foolish fiscal and social attitude, we are condemning thousands of children to hopeless childhoods in often serial temporary foster care homes, creating long-term emotional and psychological dysfunctions.

While the idea of helping these children and would-be parents has broad bipartisan appeal, meaningful Federal assistance has not yet been forthcoming. President Bush noted the urgency of the problem and promised, in his 1991 State of the Union address, to help create a tax deduction for special needs adoption expenses only; no action has been taken. Ten years ago I first introduced legislation addressing the costs of adoption. This legislation, "The Fairness for Adopting Families Act," H.R. 1515, which would allow a modest tax deduction for some adoption expenses, has been placed in limbo year after year. It is time for a major commitment on the part of the Federal Government, especially the legislative branch, to move in support of avenues which provide children with permanence and a sense of stability in their lives, enabling them—and our society—to thrive.

I believe that we should refocus our national priorities and take special interest in representing our children, with emphasis on their needs and rights. Child advocacy means that children, especially those without adults to advocate for them, have rights of their own.

We have not done very much to encourage the development of healthy families, despite a lot of lip service to this ideal. We forget that there are many children who do not live in permanent homes with loving, nurturing parents. Each child—whatever their needs—has a right to a home. And Thanksgiving, that traditional time of coming home to celebrate the joys of being a family, is the most appropriate time possible to commemorate the great successes which have evolved from that simple act of adopting a homeless child.

Mr. Speaker, as the President signs this legislation into law this week, let us urge him to support substantive legislation to really make a difference in the lives of our children and to save them from a life of despair that has already befallen too many.

FUND CAREER GUIDANCE AND COUNSELING

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DORGAN. Mr. Speaker, we have finally passed the Labor, Health and Human Services, and Education appropriations bill. While most of the vocal controversy surrounded Title X appropriations, I would like to address another issue—funding for career guidance and counseling.

No funding was provided for comprehensive career guidance and counseling programs. Although the National-State Occupational Information Coordinating Committees received $5 million, an increase of just over $100,000 from last year, we are still not providing the financial support to individuals who need help in making career decisions.

We know that such help is invaluable. The national survey of working America, a Gallup poll, noted that 65 percent of adults would get more information about job choices if they could go back and begin their work lives again. In particular, they would request help in identifying jobs in their communities, gaining job skills, and receiving job placement assistance.

As we face a poor economy and as jobs in this country continually become more complex, it is especially important that we provide job counseling to both young people and adults who are changing their career direction. If we do not provide career guidance and counseling programs, we are hurting both job seekers and the job market which demands highly skilled and trained workers.

I hope to see adequate funding for career guidance and counseling programs as we consider future appropriations.

THE PROCUREMENT AND CONTRACT ADMINISTRATION INTEGRITY ACT OF 1991

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MAVROULES. We all are aware that even the slightest perception of government employee abuse can affect public confidence in the Government and undermine support for Government programs. This real concern has led to the adoption of a complex maze of post-employment and procurement integrity statutes which are intended to ensure the integrity of the Government's decision-making processes by restricting former government employees' ability to influence their former associates, cash in on previous associations to get favorable treatment, or take advantage of information they gained while in Government to now aid the other side in negotiations or a proceeding against the Government. While well meaning, the various legislative enactments have not resulted in clear guidelines of ethical conduct in public service.

For this reason, we decided to attack this maze head-on, by attempting this year to reform and refine the statutes dealing with procurement integrity and post-employment restrictions. The committee spent over 6 months this year negotiating first with the House Committees on Government Operations, Judiciary and Energy and Commerce, to come up with a compromise we could put in the Fiscal Year 1992 DOD Authorization bill. Although they were reluctant to deal with this on the DOD Authorization bill, as opposed to separate legislation, they agreed, in the interest of trying to fix this maze once and for all, to negotiate a comprehensive package of amendments to the post-employment and procurement integrity provisions. The staff of the four committees spent endless hours drafting a comprehensive package that would stream-line and clarify the existing statutes, and make them Government-wide in application so that employees of one agency were not treated differently than those of another agency. The fruits of this initial drafting process were introduced by me earlier this year in the form of a bill, H.R. 3467, so that people could see where we were headed and provide comments to us on this approach.

Then we tackled trying to negotiate something with the Senate, and the silent third party to those negotiations—the executive branch. After 2 months of negotiating, providing the Department of Defense and other Government organizations copies of the drafts as they were developed, on the very eve of the close of conference on the DOD Authorization Act, DOD came back to us and said it preferred current law—the maze, to either the House or Senate proposal. At that point we were left with little time and DOD officials gave us no hope that we could negotiate something that DOD would find acceptable. Because of the Department's view that they preferred current law to the House or Senate proposals, we believed we had no choice but to drop all of the language that we had been negotiating.

I believe the Department made the wrong decision. It's true, there was some expansion in the scope of contract administration people covered by the provision—but there was a shrinkage as well. Yes, some of the provisions now currently applicable to the Department of Defense were made Government-wide—but we proposed repealing so that officials working in Defense and Energy would be treated the same as those in other agencies. Furthermore, both the DOD and Government-wide provisions were modified to make them less onerous than current law.

And, we made a number of very minor but significant changes to the procurement integrity statutes that clarified the application of the law—so everyone would have a clearer understanding of exactly what the rules were and how these rules would apply to them.

Was the House proposal perfect—no, of course not. But was it an improvement over current law? While not going as far as some would have hoped in balancing the interests of individual employees and their employment rights after leaving government service, others of my colleagues believed that the House proposal went too far—that it does not sufficiently protect the integrity of the procurement process. Yet, although it was not something they as individuals would have supported, in the interest of improving existing law and reaching a compromise of, in many cases, the very different views of how stringent the restrictions ought to be, my colleagues and I agreed to offer this compromise proposal.

For their efforts and cooperation I want to extend my deepest appreciation to the Chairmen of the Committees on the Judiciary, Government Operations, and Energy and Commerce, and to their staffs, who despite representing often conflicting member interest, met for hours on end to develop this proposal. All of these individuals met in good faith to do what they could to address the problems people had raised with existing law, and to make one last effort to offer a new statutory construct that protects the integrity of the procurement process in a way that was less burdensome on the individual government employee.

On balance, I believe this proposal to be a quantum improvement over existing law. But, as I have said, DOD believed otherwise. Maybe I am too close to this language to make an honest assessment. For that reason, I have today, along with Congressman JOHN KYL, who was also deeply involved in the resolution of this issue, introduced a bill that reflects the product of our work—the last House proposal aimed at resolving this issue.

I encourage everyone to review this language and determine for themselves whether this proposal was better than the current maze of laws and regulations. This year my colleagues and I made a special effort to reach a consensus on a proposal to resolve this issue. I'm not sure whether we'll be able to reach an agreement next year, or whether it will bear any resemblance to the proposal the House offered this year—that is the chance that people took in rejecting the offer proposed this year. But in the event Congress were to pursue reform again next year, I believe it is important to continue to seek comments from anyone who may have an interest in this complex issue and may have specific suggestions on how to further refine this proposal.

STATE MEDICAID FINANCING; PRESERVING A NECESSARY EVIL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDERSON. Mr. Speaker: The Medicaid system is facing a deep and systemic crisis. The escalating cost of health care, increasing Federal mandates on State Medicaid programs, and the rising number of poor receiving Medicaid have threatened to bankrupt States and push the Federal Government deeper into deficit spending. States, in an effort to meet the fiscal requirements of rising Medicaid costs, have turned to raising funds for Medicaid by collecting voluntary contributions and provide specific taxes from health care providers, such as hospitals. These funds are above and beyond regular Medicaid taxes. States then return this "tax" or "contribution" to the health care provider in the form of a Medicaid payment, which must be matched by the Federal Government. These contributions and taxes do not raise new revenues for Medicaid from providers, but merely re-classify existing resources to increase Federal matching funds.

The Health Care Financing Administration [HCFA] views these State financing schemes as means to defraud the Federal Government. Their proposed regulations would eliminate Federal matching payments for State funds raised through voluntary contributions and provider specific taxes. While I support restructuring the Medicaid system, HCFA's proposal would restrict Federal funds without reducing the costs associated with Medicaid. This proposal would put States between a rock and a hard place. The Federal Government would force States to comply with mandates on their Medicaid programs in order to receive Federal funds, while simultaneously restricting the States' ability to raise the money necessary to cover these expenses. HCFA thus attacks State financing schemes, but ignores the fundamental reason why Medicaid expenditures have risen; mandates on State health care coverage imposed by the Federal Government. I urge my colleagues to reject HCFA's one-dimensional reform by supporting H.R. 3595. This will give States and the Federal Government the time to work for true Medicaid reform.

HCFA's proposal would reduce Federal Medicaid funds from between $1 to $1.5 billion in 1991. My own State of California would be devastated by these regulations. Over the last two years, the number of eligible Medi-Cal beneficiaries has grown by 800,000, causing the cost of uncompensated care to rise to $4 billion in 1991. HCFA's regulations would reduce L.A County's Federal Medicaid funds by $300 million alone. California will have no choice but to reduce reimbursement rates for health care providers. As a result, hospitals that treat a disproportionate share of Medicaid patients will be forced to close. This will drastically restrict health care access for thousands of poor Californians.

The Federal Government should work with the States by encouraging them to develop innovative strategies that will reduce Medicaid spending. But effective reform must be comprehensive. The administration's proposal ignores this fact by attacking State financing schemes without considering ways to reduce Medicaid costs. Blaming the States for escalating Medicaid costs is not the answer to reducing Federal expenditures. This ill-conceived approach merely reflects the administration's failure to take responsibility for reforming our health care system. We must work with the States, not against them, to enact meaningful Medicaid reform.

THE FERTILITY CLINIC SUCCESS RATE AND CERTIFICATION ACT OF 1991

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WYDEN. Mr. Speaker, today, along with our colleague NORM LENT of New York, I am introducing legislation to correct problems Congress has been investigating for over 4 years—but which remain as fresh as this morning's newspaper. I am speaking of the need for accountability and regulation in the multi-million dollar testtube baby industry.

There can be no doubt that infertility has become a significant social problem. Each year, almost 5 million American families must cope with infertility, only half of whom will eventually succeed in bearing children. And if Nature's demands were not enough, today's Washington Post carries a four-page special article describing a daunting array of obstacles facing any couple who seeks medical assistance to have children.

While many fertility clinics are honorable and caring, too many have misrepresented professional credentials, engage in questionable advertising, and misused reproductive technology.

Mr. Speaker, based on the public record and sworn congressional testimony, I believe the public expects Congress to act to bring accountability to this burgeoning sector of the health care industry. Listen to the way this week's Time magazine closes its own article on abuses by a Virginia fertility doctor:

"The disturbing case of Dr. Jacobson underscores a problem that has plagued the booming field of infertility medicine. Doctors can claim to be experts on the basis of scant experience or training. There is no board certification and little regulation. Now [Dr.] Jacobson has single-handedly made it time for the Federal Government and organized medicine to crack down on those who prey on the infertile."

The infertility industry, particularly the practice of in vitro fertilization, has been booming, as Time put it, ever since the birth in 1978 of Louise Brown, the first test tube baby.

Today, as many as 1 in 6 American couples are infertile, and they spent an estimated $1 billion last year on infertility treatments.

Despite the incredible growth rate and pace of technical innovation, for many American couples this miracle of modern medicine deteriorates into a gambler's nightmare of financial losses and emotional anguish. Charges as high as $10,000 a month will buy only about a 1 in 10 chance of having a baby with in vitro fertilization. Congress has been told that some of the approximately 175 or so known IVF clinics have never produced a baby.

Many couples who are desperately seeking to conceive never hear these sobering statistics. Instead, they are bombarded with advertising claims which tout success rates of 30, 40, 50 percent or more. They don't know that only a handful of clinics are responsible for the vast majority of successful IVF births. They don't know that there's no one watching to make sure that these facilities meet even minimal quality controls.

As Chairman of the House Small Business Subcommittee on Regulation, I've held several hearings since 1988 that uncovered many disturbing examples of exploitation of couples made vulnerable by a lack of objective information. Testimony from these hearings has convinced me that even under the best of circumstances, infertile couples already face invasive medical procedures, the risk of dangerous complications, and low success rates. Frustrated couples, many at an emotional breaking point, should not also be forced to confront those who would exploit their faith in modern medicine.

In March 1989, the subcommittee published the first-ever list of success rates of fertility clinics across the country. The demand for this publication has exceeded anything this Member has witnessed in his years in Congress, attesting to the enormous public interest in this issue.

Shortly after the subcommittee's initial hearings, the Federal Trade Commission announced that it was opening an inquiry into the fertility business. The Federal Trade Commission moved quickly to charge two infertility clinics with misrepresenting their success rates in advertisements. Both of the companies, one of which was among the largest infertility programs in the United States, touted success rates of over 30 percent. The two companies signed consent agreements under which they agreed to stop using misleading success rates in their advertisements.

Clearly, since the congressional hearings, both the FTC and the American Fertility Society have taken steps in the right direction. But both AFS and the FTC have limited resources and little real authority to protect consumers from infertility fraud. The bottom line is that there's still little accountability at the fertility clinics, and many infertile couples still do not get clear, understandable, and unbiased information about the track record of the clinics they have put in charge of their hopes and dreams.

Today, I am pleased to be joined by the distinguished ranking member of the Energy and Commerce Committee, Mr. LENT, in introducing legislation that will directly address these problems. This legislation has gone through a great deal of analysis and revision over the last four years. I would like to offer my sincere thanks for the support of the American Fertility Society, the encouragement of Dr. Louis Sullivan, Secretary of Health and Human Services, and the very capable technical assistance of Centers for Disease Control Director, Dr. William Roper.

Our legislation, the Fertility Clinic Success Rate and Certification Act of 1991, would instruct the Secretary of HHS to establish model Federal standards for personnel, equipment, record maintenance, and quality control. The HHS Secretary would encourage all States to adopt these standards and either inspect these clinics, or contract with professional accreditation organizations to perform these duties. In addition, the bill would ask all embryo labs to report their success rates to the Secretary of Health and Human Services for publication in an annual report.

The legislation involves no unfunded Federal or State costs. States and the Secretary would be authorized to assess fees so the clinics would pay the cost of the quality assurance program.

Mr. Speaker, the need for action will only grow more acute each year. The use of fertility services will expand greatly in the years ahead, as couples put off having children until later in life, and as the incidence of sexually transmitted diseases grows. More and more couples will be looking to fertility clinics to help them obtain what they want most—a child. At the same time, as more and more insurance companies begin to cover infertility services, the lure of deep pockets will entice many entrepreneurs more interested in dollars than science.

In addition to urging my colleagues to support the legislation introduced by Congressman LENT and I, I would like to alert my colleagues to another area deserving of vigorous Congressional oversight—the $170 million artificial insemination industry.

A study by the Office of Technology Assessment has revealed a startling lack of oversight, particularly in doctor's offices, which could have significant adverse public health effects. More than half of the physicians who provide artificial insemination don't screen the donors for AIDS, and almost three-quarters don't screen for sexually transmitted diseases such as gonorrhea, and syphillis; half don't screen for genetic defects.

Failing to perform basic screens places the 80,000 women who undergo the procedure each year at needless risk of contracting serious, perhaps, fatal, diseases.

So far, only one case of possible AIDS infection through artifical insemination has been identified by the New York City Department of Health. But given the increasing incidence and long latency period of AIDS, it seems likely that more and more of these sorts of incidences will occur in the future. So the question becomes: What can government do to prevent this public health hazard from escalating?

Currently, AFS has guidelines for artificial insemination, but they're purely voluntary. While most large sperm banks now offer some screening protection, most physicians operating outside of sperm banks do not.

As far as government regulation is concerned, there is none. The Food and Drug Administration has expressed a willingness to develop regulations for artificial insemination, but so far none have been developed, and it's unclear if they have authority to do so without explicit instructions from Congress.

I intend to examine this issue as well in the days ahead.

The sponsors of this legislation look forward to continuing the excellent working relationship we've developed with the American Fertility Society, Dr. Sullivan, and Dr. Roper, and we will seek their counsel on the wide range of issues the ever-changing fertility field presents.

LEGISLATION TO PARTITION OFF CLEAN SITES OF CLOSING FEDERAL FACILITIES

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PANETTA. Mr. Speaker, today I am introducing legislation to require the Federal Government to identify Federal property free of hazardous waste for sale to the non-Federal interests at closing Federal facilities at the earliest opportunity.

The Comprehensive Environmental Response and Liability Act (CERCLA) mandates the environmental restoration of Federal facilities before they may be declared excess and sold to local governments or private entities. As many of my colleagues are painfully aware, however, current law does not compel the government expeditiously to identify portions of Federal facilities not in need of pollution cleanup. As a result, such properties may lie fallow, off limits to non-Federal interests until the last waste site has been restored.

Our communities' losses are doubled in this process. They are unable to reap the potential of closed Federal facilities even as they continue to suffer losses from the original closure. The legislation would amend CERCLA to require that the Federal Government identify land and properties on which no hazardous substances were stored, released or disposed of. To advance the process, such identifications would be made at least 6 months before the termination of operations at the facility. Once such an identification had been made, the Federal Government would be empowered to declare the property excess and arrange for its reuse. Local communities would be notified of property available for transfer to other interests.

The Federal Government's liability for hazardous substances remaining in lands formerly owned by the Federal Government is another community concern. Accordingly, the legislation mandates that the deed entered into for the sale or transfer of Federal property to a non-Federal interest must contain a covenant warranting that the Federal Government must conduct any remediation found to be necessary after the transfer of the property.

Finally, the legislation clarifies the Congress' intent with respect to environmental restoration efforts at closing Federal facilities. The bill sets forth the criterion that environmental cleanup at Federal facilities must be undertaken with a view to facilitating and advancing both environmental protection and the prompt transfer of excess property to mitigate the ill economic effects of the facility's closure to the greatest degree possible.

This legislation represents a response to an urgent problem. We are entering a period of more and more Federal property sales and installation closures. As we investigate the need for environmental protection at each such site, let us not forget the economic needs of the communities. This legislation allows us to address those concerns without sacrificing the quality of our environmental restoration effort one iota. It is an important change, yet it is easily made. I expect to receive strong support from my colleagues in both chambers early next year, and I anticipate the legislation's swift and easy passage in 1992. Mr. Speaker, I invite my colleagues to review the legislation and to cosponsor it at their earliest opportunity.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The closure of certain Federal facilities is having adverse effects on the economies of local communities by eliminating jobs associated with such facilities, and delay in remediation of environmental contamination of real property at such facilities is preventing transfer and private development of such property.

(2) Each department, agency, or instrumentality of the United States, in cooperation with local communities, should expeditiously identify real property that offers the greatest opportunity for reuse and redevelopment on each facility under the jurisdiction of the department, agency, or instrumentality where operations are terminating.

(3) Remedial actions, including remedial investigations and feasibility studies, at such Federal facilities should be expedited in a manner to facilitate environmental protection and the sale or transfer of such excess real property for the purpose of mitigating adverse economic effects on the surrounding community.

(4) Each department, agency, or instrumentality of the United States, in accordance with applicable law, should make available without delay such excess real property.

(5) In the case of any real property owned by the United States and transferred to another person, the United States Government should remain responsible for conducting any remedial action or corrective action necessary to protect human health and the environment with respect to any hazardous substance or hazardous waste that was present on such real property at the time of transfer.

SEC. 2. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCE WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property owned by the United States and on which the United States plans to terminate Federal government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which no hazardous substance was stored for one year or more, known to have been released, or disposed of. Such identification shall be based on an investigation of the real property to determine or discover the obviousness of the presence or likely presence of a release or threatened release of hazardous substances on the real property. The identification shall consist, at a minimum, of a review of each of the following sources of information concerning the current and previous uses of the real property:

"(i) A detailed search of Federal Government records pertaining to the property.

"(ii) Recorded chain of title documents regarding the real property.

"(iii) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(iv) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(v) An inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(vi) Reasonably obtainable State and local government records of each facility where there has been a release of hazardous substances and which is likely to cause or contribute to a release or threatened release of a hazardous substance on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to local government officials and made available to the public.

"(B) The identification required under subparagraph (A) shall be made—

"(i) at least 6 months before the termination of operations on the property; and

"(ii) with the concurrence of the Administrator or, in the case of real property that is not part of a facility on the National Priorities List, with the concurrence of the appropriate State official.

"(C) In the case of the sale or other transfer of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain—

"(i) a covenant warranting that any response action found to be necessary after the date of such sale or transfer shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a response action is found to be necessary after such date at such property, or such access is necessary to carry out a response action on adjoining property.".

SEC. 3. CLARIFICATION OF CONVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence of such paragraph the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to be operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the remedy has been demonstrated to be operating properly and successfully does not preclude the transfer of the property.".

(b) ACCESS TO PROPERTY.—Paragraph (3) of such section is further amended—

(1) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and "; and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which remedial action is found to be necessary after the date of such transfer.".

FEDERAL DISASTER LOSS LEGISLATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, disaster once again has wreaked havoc on my home State. Just 2 years after the Loma Prieta earthquake devastated California, a catastrophic fire swept through the hills of Oakland and Berkley destroying more than 3,500 homes and killing 25 people. The East Bay blaze was the most destructive urban wildfire in U.S. history.

The loss to California is particularly difficult because it comes before many businesses have received their disaster assistance from the earthquake damage. Yet natural disasters are not unique to California. South Carolina, the Virgin Islands, and Puerto Rico are still rebuilding from the damage caused by Hurricane Hugo in 1989. What with hurricanes, earthquakes, tornadoes, and floods, no State is immune from natural disasters. When a disaster occurs, we need to have mechanisms in place to provide assistance, both direct Federal aid and tax benefits, so communities can rebuild.

The assistance we have in place today is simply not adequate. For individuals, FEMA gives grant money of up to $10,400 per family for losses of clothing, cars, appliances, and general household goods, but this direct aid is available only to those with little or no income. SBA gives low interest loans of up to $100,000 for the repair or replacement of homes and loans of up to $20,000 for personal property losses. However, many who qualified for Federal assistance in 1989 have yet to receive their checks.

Current law gives taxpayers a casualty loss deduction for any unreimbursed losses which exceed 10 percent of the taxpayers adjusted gross income. I would like to expand upon this disaster loss assistance through the tax code because those burdened with losses should not have to wait for 2 years to get relief from FEMA and the SBA. The bill which I introduced today provides more generous relief through the tax code. For individuals, the disaster loss bill expands the casualty loss deduction by eliminating the 10 percent floor and creating a new refundable tax credit at the 28 percent rate for uncompensated losses resulting from a Federal disaster. The credit allows a taxpayer to get a credit of up to $50,000 for losses in excess of their tax liability.

As an example, an individual with an unreimbursed loss of $300,000 and a taxable income of $75,000 would get a casualty loss deduction of $75,000 by deducting the loss amount up to his or her taxable income. For losses in excess of taxable income, this taxpayer could claim a refundable tax credit of up to $50,000. The normal loss carryforward rules would apply in cases such as this where the loss exceeds taxable income plus the maximum credit.

This disaster loss bill provides relief for businesses as well because communities will not be able to help themselves until their economic foundations are restored.

Current benefits for businesses include low interest loans of up to $500,000 for economic injury and $500,000 for physical disaster but actual losses of a business in the path of a natural disaster can far exceed this amount.

This bill creates a new category of private purpose bonds to provide disaster loans to small- and moderate-size businesses so they can quickly repair or replace property damaged by a Federal disaster. Bonds could be issued up to the amount of actual damage minus other Federal relief. There would also be a maximum amount of loan per company similar to the per business limit for small issue IDB's. The bonds would be targeted at small- and mid-sized companies with a maximum average annual sales of $10 million. This new category of bonds will be outside the State volume cap as a way to making sure that the Federal tax subsidy is adequate relative to the amount of otherwise uncompensated damage.

My bill is as follows:

H.R.—

SECTION 1. REFUNDABLE TAX CREDIT FOR UNUSED PORTION OF CERTAIN DISASTER LOSSES.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

'SEC. 35. CREDIT FOR CERTAIN DISASTER LOSSES.

'(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 28 percent of the taxpayer's unused disaster loss for the taxable year.

'(b) LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall not exceed $50,000 ($25,000 in the case of a married individual (as defined in section 7703) filing a separate return).

'(c) UNUSED DISASTER LOSS.—For purposes of this section—

'(1) IN GENERAL.—The term 'unused disaster loss' means the excess (if any) of—

'(A) the amount allowable as a deduction under section 165 for the taxable year (determined without regard to subsection (d)(1)) with respect to any loss which is described in section 165(c)(3) and is attributable to a federally declared disaster, over

'(B) the taxable income of the taxpayer for such taxable year determined without regard to the amount so allowable.

'(2) FEDERAL DECLARED DISASTER.—The term 'federally declared disaster' means any disaster referred to in secton 165(i)(1).

'(d) SPECIAL RULES.—

'(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under section 165 for any disaster loss to the extent such loss is taken into account under subsection (a).

'(2) SECTION NOT TO APPLY TO TRUSTS OR ESTATES.—This section shall not apply to any trust or estate.

'(3) ELECTION TO HAVE SECTION NOT APPLY.—A taxpayer may elect for any taxable year to have this section not apply to such taxable year.

'(e) TERMINATION.—This section shall not apply to any loss attributable to a disaster occurring after December 31, 1992.

'(f) CROSS REFERENCE.—

For provision permitting disaster losses to be taken in account for the preceding year see section 165(i).'

(b) DISASTER LOSSES NOT SUBJECT TO 10-PERCENT FLOOR.—Paragraph (3) of section 165(h) of such Code is amended by adding at the end thereof the following new subparagraph:

'(C) EXCEPTION FOR CERTAIN DISASTER LOSSES.—The term 'personal casualty loss' shall not include any loss attributable to a disaster referred to in subsection (i) which occurs defore January 1, 1992.'

(C) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

'Sec. 35. Credit for certain disaster losses.
'Sec. 36. Overpayments of tax.'

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after July 31, 1989.

SEC. 2. SPECIAL RULES FOR DISASTER LOSSES INVOLVING RESIDENCES.

(a) CASUALTY LOSS DEDUCTION NOT LIMITED TO BASIS.—Subsection (i) of section 165 of the Internal Revenue Code of 1986 (relating to disaster losses) is amended by adding at the end thereof the following new paragraph.

'(4) DEDUCTION FOR CERTAIN CASUALTY LOSSES NOT LIMITED TO ADJUSTED BASIS.—

'(A) IN GENERAL.—In the case of any loss to which this paragrapoh applies—

'(i) subsection (b) shall not apply, and

'(ii) the amount of the loss shall be determined on the basis of the reduction in the value of the property resulting from the disaster.

'(B) LOSSES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any loss described in subsection (c)(3) of an individual if—

'(i) such loss is with respect to any dwelling unit of the individual, and

'(ii) such loss is attributable to a disaster referred to in paragraph (1) which occurs before January 1, 1993.'

(b) PENALTY-FREE WITHDRAWAL FROM RETIREMENT PLANS.—Paragraph (2) of section 72(t) of such Code (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

'(E) DISTRIBUTIONS WITH RESPECT TO CERTAIN DISASTER LOSSES.—

'(i) IN GENERAL.—Any payment or distribution under an individual retirement plan to any individual to the extent used by such individual before the close of the 60th day after the day on which such payment or distribution is received to repair, rehabilitate, or replace any property which is described in clause (ii) and which was damaged or destroyed by reason of any disaster referred to in section 165(i) which occurs after July 31, 1989, and before January 1, 1993.

'(ii) DESCRIPTION OF PROPERTY.—The property described in this clause is—

'(I) the principal residence of the individual, and

'(II) any personal effects of the individual located at the principal residence of the individual.

For purposes of the preceding sentence, the term 'principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed.'

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to losses attributable to disasters occurring after July 31, 1989.

(2) The amendment made by subsection (b) shall apply to amounts paid or distributed after the date of the enactment of this Act.

SEC. 3. TAX EXEMPTION FOR STATE AND LOCAL BONDS USED TO PROVIDE DISASTER LOANS TO SMALL AND MODERATE BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 141(e) of the Internal Revenue Code of 1986 (defining qualified bond) is amended by striking 'or' at the end of subparagraph (F), by redesignating subparagraph (G) as subparagraph (H), and by inserting after subparagraph (F) the following new subparagraph:

'(G) a qualified disaster relief bond, or'

(b) EXEMPTION FROM VOLUME CAP.—Subsection (g) of section 146 of such Code is amended by inserting after paragraph (2) the following new paragraph (and redesignating the following paragraphs accordingly):

'(3) any qualified disaster relief bond,'

(c) DEFINITION OF A QUALIFIED DISASTER RELIEF BOND.—Section 144 of such Code is amended by adding at the end thereof the following new subsection:

'(d) QUALIFIED DISASTER RELIEF BOND.—

'(1) IN GENERAL.—For purposes of this part, the term 'qualified disaster relief bond' means any bond issued as part of an issue 95 percent or more of the net proceeds of which is to be used to make qualified disaster relief loans. Such term shall not include any bond issued after December 31, 1992.

'(2) QUALIFIED DISASTER RELIEF LOANS.—

'(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified disaster relief loan' means any loan to a qualified business for use by such business in repairing, rehabilitating, or replacing property destroyed or damaged by reason of a federally declared disaster occurring after July 31, 1989.

'(B) REQUIREMENT THAT FUNDS NOT BE AVAILABLE FROM OTHER SOURCES.—A loan to any qualified business for use in repairing, rehabilitating, or replacing any destroyed or damaged property shall not be treated as a qualified disaster relief loan to the extent that the amount of such loan exceeds—

'(i) the reasonably expected cost of such repair, rehabilitation, or replacement, reduced by

'(ii) the sum of—

'(I) any reduction in tax imposed by this subtitle which has (or may be) realized by reason of any loss resulting from such destruction or damage, '(II) any loan made or guaranteed by any agency or instrumentality of the United States with respect to such destruction or damage (or which would have been so made or guaranteed if the business had applied therefor), and

'(III) any financing with respect to such destruction or damage provided from the proceeds of a qualified small issue bond (or which would have been so provided if the business had applied therefor).

'(C) LIMIT ON AMOUNT OF LOAN.—Any loan which (but for this subparagraph) would be treated as a qualified disaster relief loan shall not be treated as a qualified disaster relief loan to the extent that such loan (when increased by the amount of any outstanding prior qualified disaster loans to such business) exceeds $10,000,000.

'(3) QUALIFIED BUSINESS.—For purposes of this subsection the term 'qualified business' means any trade or business if the average annual gross receipts of such trade or business if the average annual gross receipts of such trade or business for the 3-taxable-year period ending with the taxable year precedent the taxable year in which the federally declared disaster occurs does not exceed $10,000,000.

'(4) CERTAIN RULES MADE APPLICABLE.—For purposes of this subsection, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

'(5) FEDERALLY DECLARED DISASTER.—For purposes of this subsection, the term 'federally declared disaster' means any disaster referred to in section 165(i).

'(6) SPECIAL RULE FOR APPLYING SECTION 147(b).—If any property repaired, rehabilitated, or replaced with the proceeds of any disaster relief loan is property described in section 1221(1), such property shall be disregarded in determining the average reasonably expected economic life of the facilities being financed with the net proceeds of the issue.'

(d) CLERICAL AMENDMENTS.—

(1) The section heading for section 144 of such Code is amended by inserting before the period at the end thereof the following:'; QUALIFIED DISASTER RELIEF BOND'.

(2) The table of sections for subpart A of part IV of subchapter B of chapter 1 is amended by inserting before the period at the end of the item relating to section 144 the following:'; qualified disaster relief bond'.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

INTRODUCTION OF THE FEDERAL ENERGY MANAGEMENT REFORM ACT OF 1991

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWETT. Mr. Speaker, today I am introducing H.R. 3937, the "Federal Energy Management Reform Act of 1991." This legislation is designed to encourage the implementation of energy conservation programs at Federal facilities. Although Congress and the executive branch agree that energy conservation is important, the lack of a standardized procedure for assessing the energy efficiency of Federal facilities has stalled the introduction of energy conservation measures.

H.R. 3937 standardizes the process of assessing the energy efficiency of Federal facilities, provides incentives for Federal managers to implement shared energy savings programs, and encourages private industry to enter into shared energy savings agreements with the Federal Government.

The beauty of this bill is that it doesn't cost the taxpayer money—it saves money. Energy efficiency improvements to Federal facilities are paid for by private investors, who receive repayment out of the savings that result from the installation of energy efficiency measures.

Conserving energy through increased energy efficiency will help reduce our dependence on imported fuels and will diminish the adverse environmental impact caused by fossil fuel consumption. The Federal Government is a major energy consumer. It should set an example for the rest of the country in energy conservation.

Mr. Speaker, I urge my colleagues to join me in cosponsoring this important and necessary legislation.

TRIBUTE TO DR. JAMES W. ROBINSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TOWNS. Mr. Speaker, once in a great while the world is gifted with an individual who personifies the time honored qualities of humanitarian service and community dedication. Dr. James W. Robinson is exactly that type of person. As he embarks upon his retirement from 26 years of service to the medical community in New York City, I proclaim November 22, 1991 as Dr. James W. Robinson Day.

Dr. Robinson's experiences epitomize the African American experience. Born in Wilmington, NC, he served in the military and was honorably discharged. He attended a Historically Black University and College where he received a B.S. from North Carolina College, and his medical degree from Meharry Medical School in Tennessee.

Committed to service, he worked in the Harlem community for 26 years. He has worked at Harlem, Joint Disease, Kinckerbocker, and Sydenham Hospitals. Additionally, he pioneered Beth Israel's Medical Center Methadone Maintenance Treatment Program, and advocated the opening of Harlem Hospital's Pregnant Mother's Detoxification Program. Dr. Robinson also advocated Methadone Maintenance Treatment in the course of attending to addicted patients to achieve detoxification.

After a long and illustrious career of selfless service, Dr. Robinson is retiring to Myrtle Beach, SC with his wife Carol. I and the citizens of New York, and particularly Harlem, express our heartfelt thanks to Dr. James W. Robinson for his labors, and wish him well in his retirement.

COMMUNITY SERVICE AWARD TO DR. BESSIE E. SWANN

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, I am pleased to rise to pay tribute to an outstanding constituent of mine, Dr. Bessie E. Swann of Southold Township, NY. Dr. Swann is the recipient of the Housing Assistance Council's [HAC] Skip Jason Community Service Award.

Dr. Swann is a humanitarian who founded the North Fork Housing Alliance on eastern Long Island in 1980. She worked for 3 years without pay to establish this comprehensive housing assistance agency in my district, which has generated over $10 million to assist low-income people. Dr. Swann is also director of Community Action of Southold Town, a local organization providing social services to low-income residents.

Through her efforts in her community, Dr. Swann has directly improved the lives of many people. She has secured assistance for needy local residents under HUD's Community Development Block Grant Program and section 8, as well as under FmHA section 515. For her efforts, the people of Southold Town owe a tremendous debt of gratitude.

The Skip Jason Community Service Award is given by the HAC to individuals whose efforts have improved the housing conditions of the rural poor. While most people do not think of Long Island as a rural area, in fact the north fork of eastern Long Island is still a largely rural area, where the farming and fishing industries are prevalent. Dr. Swann has appropriately been recognized with the Skip Jason Award for her significant efforts to improve the lives of low-income residents of the north fork area.

Mr. Speaker, I ask Members of the House to join with me in expressing the support of the Congress for the work of Dr. Bessie E. Swann.

ENVIRONMENTAL POLLUTION AND THE EARS, NOSE, THROAT, AND SINUSES

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DURBIN. Mr. Speaker, I rise today to call to the attention of my colleagues an important conference that will be held at the National Institute of Health on December, 6, 1991, which will be concerned with the impact of environmental pollutants on the ears, nose, throat, and sinuses. This conference, under the leadership of the National Institute on Deafness and Other Communication Disorders, and co-sponsored by the American Academy of Otolaryngology-Head and Neck Surgery, is entitled "The Impact of Pollution on the Upper Alimentary and Respiratory Tracts."

This national conference will discuss the effects that environmental pollutants have on individuals at different ages. It will bring together scientific experts from across the country in fields ranging from atmospheric pollution and environmental sciences to hearing sciences and otorhinolaryngology, and will discuss the nature of pollutants and how they affect the ears, nose, throats, and sinuses. This will be the first time such a wide range of experts will come together to discuss these aspects of pollution. I would also like to mention that the United States Surgeon General, Antonia C. Novello, M.D., will be the featured speaker.

I am pleased to say that the House Appropriations Committee report on the bill providing funds for the Departments of Labor, Health and Human Services, and Education, for fiscal year 1992, contained language supporting such a conference. That language states, "Studies of the effects of all types of pollution on the ear and upper alimentary and respiratory systems, including occupational and recreational factors, will continue to be supported by the NIDCD. A conference on this subject, sponsored by the Institute, will generate a monograph which will form the foundation for a live interactive satellite teleconference to sites around the country with scientist group leaders. The videotape of this teleconference and a leader workbook will be available to health science professionals, teachers and the public through the NIDCD Clearinghouse, as will a public information videotape on the effects of all types of pollution."

I believe that this is an excellent idea. The National Institutes of Health has a superb science base which may well be put to use to determine the impact of environmental pollutants upon various organ systems of the human body.

I commend the National Institute on Deafness and Other Communication Disorders for developing this program.

In addition, I comment the American Academy of Otolaryngology-Head and Neck Surgery for their cosponsorship for the conference. I also commend them for their program on environmental health which will educate their 9,200 physicians about pollution problems in workplaces and communities, help patients understand and identify medical problems in the head and neck region which are caused or aggravated by environmental pollutants, use their medical and scientific expertise to take a leadership role in environmental protection and pollution prevention, and create environmental education programs for physicians and the public.

The conference is open to the public at no charge.The program will begin at 8:30 a.m. in the Masur Auditorium, Warren Grant Magnuson Clinical Center, Building 10, National Institutes of Health, Bethesda, Maryland. For additional information, contact the National Institute on Deafness and Other Communication Disorders at (301) 496–7243.

VOCATIONAL-TECHNICAL EDUCATION WEEK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KILDEE. Mr. Speaker, today I am introducing, along with Mr. Ford and Mr. Goodling, a resolution designating the week of February 9 through February 15, 1992, as "Vocational-Technical Education Week."

This resolution recognizes the important role vocational-technical education plays in creating a competent and productive workforce. As we are all aware, America is now part of a global economy. Changing consumer demands dictate that businesses and industries be able to produce high quality goods quickly and efficiently. Vocational-technical education offers students the opportunity to attain the skills needed for today's workforce while emphasizing the importance of positive work attitudes and leadership abilities.

Mr. Speaker, this resolution recognizes that a strong vocational-technical education program carried out by trained vocational-educational educators and career guidance and counseling professionals is vital to the future of our Nation and to the well-being of its citizens.

THE INDIAN TRIBAL JUSTICE ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MILLER. Mr. Speaker, today I am introducing the Indian Tribal Justice Act. This legislation provides for the amelioration of tribal justice systems and the improvement of tribal courts. One of the fundamental maxims of Indian law is that Indian tribes retain any and all sovereignty that is not specifically divested by the Congress. One fundamental exercise of sovereignty is the ability of tribes to administer justice on tribal lands. In 1968, the Congress ensured that tribal justice systems would operate into perpetuity by passing the Indian Civil Rights Act. In this Congress, we affirmed the right of tribes to exercise jurisdiction over all Indians by enacting Public Law 102–137 which the President signed on October 28, 1991.

The funding requested by the Bureau of Indian Affairs for tribal courts is perennially inadequate. For example the fiscal year 1992 budget, proposed a reduction of $954,000 in funding for tribal courts under the tribe agency line item. The proposed funding level for fiscal year is $10,961,000. This funding is designed to support the personnel and administrative costs for the operation of 133 tribal courts and 22 courts of Indian offenses. The operation of a tribal judicial system includes the need for probation services, child counselors, and the development of legal research capacities. In addition, the Office of Judicial Services in the Bureau of Indian Affairs provides support, training and technical assistance to tribal courts. The fiscal year 1992 budget proposes a reduction of $216,000 for the Office of Judicial Support. These reductions are made in the face of increasing numbers of tribal court cases as well as the increasing numbers of tribal courts nationally. Finally, the funding made available to Indian tribes for their judicial systems is not based on need but rather the funds are based on historic funding levels.

On March 14 Senator MCCAIN introduced S. 667, the Tribal Judicial Enhancement Act. On June 5, 1991, the Senate Select Committee on Indian Affairs held a hearing on S. 667 and issues related to the legislation. On September 25, 1991, Senators INOUYE and MCCAIN introduced S. 1752, the Indian Tribal Courts Act. This legislation reflected many of the views expressed by tribal judges and tribal leaders in the Senate hearings. The Senate will hold additional hearings through the second session to focus on issues affecting tribal courts.

I have drafted the Indian Tribal Justice Act to build upon the previous drafts of legislation and to reflect the concerns and views of tribal court judges and tribal leaders. This legislation will statutorily create a tribal judicial conference which will be composed of representatives from each of the 12 area offices of the BIA. Members of the conference would be selected by tribal judges and serve for a term of 3 years. The conference shall advise the director of the office of tribal court administration on the development of the survey on tribal judicial systems. In addition, the conference would develop recommended standards for judicial administration and judicial performance. The conference would promote increased communication and cooperation among Indian, State and Federal judicial systems. The conference is authorized to carry on a continuous study and review of the operation of tribal judicial systems and report its findings to the Congress. The conference is authorized to organize regional judicial councils for each of the BIA areas and to organize committees made up of tribal court judges to study and address specific issues related to administration of justice on Indian reservations.

This legislation establishes an executive council of the tribal judicial conference. The executive council shall be composed of three members appointed by the President from the membership of the conference. The executive council shall supervise the director of the office of tribal court administration in the performance of his duties. The bill establishes an office of tribal court administration as an independent agency to further the development and enhancement of tribal judicial systems. The director of the office shall be appointed by the executive council from nominations made by the conference.

The office of tribal court administration shall be responsible for providing funds for the development, enhancement, and continuing operation of tribal judicial systems, for providing training and technical assistance to tribal judicial systems and to conduct research and study the operation of tribal judicial systems. In addition, the bill would require the office to provide staff, research, and planning assistance to the conference. It would further require the office to provide training and technical assistance to any Indian tribe upon request. It requires the director to establish an information clearinghouse on tribal judicial systems which shall include information on tribal court personnel funding, tribal codes, and court decisions.

The director is authorized to make a survey of the conditions of tribal judicial systems to determine resources needed to provide for expeditious and effective administration of justice. The director shall consult with the conference in the development of the survey and the conference shall review and make recommendations regarding the findings of the survey prior to final publication of the survey. The director shall report its findings to the Secretary and the Congress.

The Indian Tribal Justice Act provides for base support funding to tribal judicial systems which would be independent of the Indian priority system and based on objective criteria. It would require the executive council to develop in cooperation with the conference appropriate caseload standards and staffing requirements. It would also require the director with the participation of Indian tribes to develop a funding formula which considers funding needs based on objective criteria.

The Indian Tribal Justice Act authorizes $2,000,000 to be appropriated for fiscal years 1993 through 1997 for the tribal judicial conference and the executive council. It authorizes $5,000,000 for fiscal years 1993 through 1997 for the operations of the office of tribal court administration. Finally, the bill authorizes $30,000,000 to provide base support funding to tribal judicial systems for fiscal years 1993 through 1997.

Mr. Speaker, tribes clearly have the right and authority to operate justice systems. The United States clearly has the trust responsibility to ensure that these tribal courts are properly funded and provided with the proper technical assistance. The tribes have shown for years that they are capable of operating successful court systems on shoestring budgets. Now, it is of paramount importance that these courts receive the funding levels equal to the great task with which they are charged—the dispensation of fair and equal justice for Indian country.

The Interior Committee will be holding hearings on this important measure in the next session. I urge my colleagues to support this bill.

TRIBUTE TO PENNY DORSEY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TOWNS. Mr. Speaker, I want to acknowledge the efforts of Ms. Penny Dorsey. Ms. Dorsey has served as the assistant director for the Stuyvesant Heights Landmark Senior Citizen Center in Brooklyn for the past 4 years. She has been instrumental in designing, implementing, and supervising social service programs for elderly persons, in addition to providing valuable support services for their families.

Ms. Dorsey also serves as the vice chairperson for the Brooklyn Retired Senior Volunteer Program, in addition to functioning as a liaison between the seniors and the Community Police Officer Program of the 81st Police Precinct in Brooklyn. Her efforts to assist citizens experiencing the golden years of their lives should be duly noted. I am pleased to introduce Ms. Penny Dorsey to my House colleagues.

INMATES FILL FRONT LINES FOR TOURISM

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. IRELAND. Mr. Speaker, I rise to call my colleagues' attention to an article in the New York Times for Sunday, November 24, 1991, entitled "Inmates Fill the Front Lines for Tourism." The article tells of a program in the North Carolina State corrections system that uses inmates to help the State's Department of Tourism answer inquiries and send out information packets to would-be visitors to North Carolina. I have attached a copy of the article for insertion in the Record with this statement. This program and programs like it are an excellent example of how many States are dealing creatively with both their fiscal problems and their inmate rehabilitation problems. This program helps the State of North Carolina save over $150,000 a year and keeps the inmates working and productive.

There is, however, a reason—beyond praising the North Carolina corrections system—why I wish to bring this to the attention of my colleagues. I believe we should give serious thought to initiating such programs at the Federal level. Federal prison industries has stated a need to increase its work force to match an expanding prison population. Fine, but not at the expense of small business and its employees. Let's institute a similar program in the Federal prisons and get Federal prison industries out of the business of selling to the Federal Government and into the business of helping the Federal Government.

Surely there are phones that could be answered and information packets that could be sent out from the vast Federal bureaucracy through the Federal prison industries. Why couldn't inmates at Federal facilities send out the myriad of information the bureaucracy now sends out and at the same time reduce the size of the Federal work force and produce a real savings in the Federal budget?

Mr. Speaker, small business faces the challenge of the marketplace, incredible Federal regulatory and tax burdens, and competition from the Federal Government in the form of Federal prison industries. It's time we thought about what we are doing to the most vital sector of our economy and try to find ways to reduce the burden on small business. Why can't Federal prison industries try to help reduce the Federal bureaucracy instead of annihilating small business?

Inmates Fill the Front Lines for Tourism—In Prisons, States Find Way To Keep Up With Requests by Public

(By Edwin McDowell)

Raleigh, NC.—If North Carolina had a booster club, Cornelia Margaret Gonzalez would be well qualified to be its president. Instead, she channels her enthusiasm into answering inquiries from people who telephone North Carolina's toll-free number for tourist information.

Yet the 53-year-old Ms. Gonzalez had never set foot in this state until about four years ago, when she was brought here from Florida in handcuffs.

She still has not seen any of the state, except through bars or a barbed wire fence. But while serving a 22-year sentence for drug trafficking, the voluble Ms. Gonzalez is one of 10 inmates here at the Correctional Institution for Women who handle the almost 23,000 calls a month to the toll-free number, (800) VISIT NC.

Just down the hall from the telephone room, in the shadow of the death row building that currently houses six convicts, five other female inmates in this maximum-security prison are busy stuffing and labeling some of the 250,000 packets of tourist information that will go out his year. All the participants in the 4-year-old program are volunteers, as well as "long termers," felons sentenced to 15 years or more.

PLANS FOR TOURISM JOB

"I love this job, and I think I do it well because of my gift of gab," Ms. Gonzalez told a visitor recently. "When I get out of here the first thing I'm going to do is travel around the state; then I'm going to settle here and get a job in tourism."

While the prospect of rehabilitating prisoners helped inspire the program, budgetary considerations also played a part both in North Carolina and in about a dozen other states from Maryland to Oregon that have also turned to inmates to help with their travel and tourism inquiries or are considering doing so.

"We estimate we save about $150,000 a year in salaries and benefits," said Thomas Harper, supervisor of the inquiry section of North Carolina's Travel and Tourism Division, which has a 1991–1992 budget of $5.2 million.

There were other considerations as well. "Before this program, we just could never keep up with the inquiries," said Lynne Sizemore, the director of the division's visitor services. "Many phone calls went unanswered and we were days behind in mailing our travel packages."

NO MORE DELAYS OF PACKETS

Such delays were not only inconvenient for potential tourists but costly for North Carolina, which earned an estimated $7 billion from visitors in 1990, 70 percent of that from out-of-state visitors. Now most travel packets—as many as 2,000 a day from January through April—are shipped within two days.

Similarly, Oregon's Division of Tourism once used staff members to field telephone calls and mail promotional packets. "But we began getting so many requests that we started subcontracting parts of the program," said Julie Curtis, the assistant director. "Then we heard about programs in other states that used inmates, so in February 1990 we moved our fulfillment operation and our toll-free number to the Women's Correctional Center" in Salem.

Betty Allred, the assistant education director at the 650-inmate prison in this North Carolina city, said that while inmates volunteer for the program, telephone operators must have a friendly speaking voice and some knowledge of the state's geography. Hotel and airline reservation agents have come to the prison to help train the inmates.

Everyone connected with the program says problems with inmates have been minimal; two were dropped when their family members phoned them on the toll-free number. In a related program in California, an inmate received an additional two-year prison term for running up thousands of dollars worth of bills for jewelry and other purchases with stolen credit card numbers.

SOME PAY FOR INMATES

Turnover is low for most such programs, for obvious reasons, but some participants have been paroled, others have dropped out and still others could not keep pace.

Participants are paid from $1 a day in North Carolina to 45 cents an hour or less in Montana, and state officials said they had never received complaints from public employee unions. James Andrews, the secretary treasurer of the AFL-CIO in Raleigh, said his organization "might have taken action if it had been a bigger program or if they displaced employees who were part of our union."

Two states have even forged travel-related partnerships between prisoners and private enterprise: About 30 inmates in Phoenix are paid the minimum wage for helping to take hotel reservations in peak holiday periods on the toll-free line that Best Western set up in the Arizona Center for Women. And 70 inmates of the Ventura School in Oxnard, Calif., a correctional institution for youthful offenders of both sexes, earn a minimum of $5.67 an hour helping to book reservations by telephone for Trans World Airlines. About 20 of them have gone to work for the airline after leaving the institution.

At the mention of her $1 a day wage, a sum required by North Carolina law, Patricia Childress smiles at her work cubicle here in the prison, flanked by a state map and a hand-lettered reminder: "Be polite. Be patient. Have a smile in your voice."

"Everybody's wanting somebody to work without paying them," the 43-year-old former truck driver said with a laugh. But Ms. Childress, who is serving a life sentence for first-degree murder, said she was proud to answer calls from tourists.

"It brings me back into contact with the public, and that's important because I'd never been in prison before four years ago," said Ms. Childress, who earned a high school diploma here. "It was real shocking to me."

She and her four co-workers, dressed in the blue shirts of medium-security prisoners, usually greet each caller: "Thank you for calling North Carolina. How may I help you?" They enter callers' names and addresses in a computer, and they answer a range of questions.

As representatives of a state agency, inmates may not recommend one destination over another, but they can respond to inquiries. And since most questions are about temperature, distances or destinations, the answers are usually within easy reach in the listings of toll-free numbers for North Carolina cities, in weather and highway mileage charts, or in The North Carolina Gazetteer or a dictionary of geographical names and places.

Several cubicles are decorated with postcards from grateful users of the toll-free line, and Teresa Teasley's cubicle also displays a photograph of her 7-month-old son, who was born in prison. "That's the hardest part about being here, not being able to be with him," said the soft-spoken Ms. Teasley, 25, who is serving a minimum 15 years sentence on drug-related charges.

After answering a Florida caller's questions about the weather in Asheville, Ms. Teasley added: "But I enjoy this job. I'm always learning something new. A lot of girls in the dorm are asking, 'Do you have openings?' and I tell them no."

Because the inmates are prohibited from leaving the prison, tourism officials come here from around the state to familiarize the inmates with what they have to offer. On this day, 10 telephone operators and packers gather in a classroom to hear presentations by Jane Peterson, the president of the Cape Fear Coast Convention and Visitors Bureau in Wilmington, and Mary Webber Baggett, general manager of the Blockade Runner hotel in Wrightsville Beach Island, 10 miles from Wilmington.

Ms. Peterson showed a 12-minute tape of Wilmington's tourist attractions. And Ms. Baggett, who gave each inmate a colorful beach towel bearing the name of her family-owned resort, spoke of the island's 30 restaurants, its proximity to several of North Carolina's 400 golf courses, and told her audience that the Blockade Runner was on a north-south beach, "so that you can see both sunrise and sunset over the water."

Later the enthusiastic Ms. Baggett remarked, with no apparent irony, "It's so nice to go to a place where they want to hear you."

The inmates also look forward to such visits. "We're here, yes, but we're still people," Ms. Gonzalez said, "and we're trying to learn all we can so we never have to tell a caller we don't know something."

There was also an unexpected benefit to this visit. "When I was brought to North Carolina from Florida," Ms. Gonzalez said, "I was in jail near Wilmington. So I knew something about the city, at least what was in the papers, but I never really saw it. What I saw of it today is a pretty good substitute, at least until I get out and see it with my own eyes."

A BILL TO EXTEND THE JURISDICTION OF THE MISSISSIPPI RIVER COMMISSION

HON. W. J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TAUZIN. Mr. Speaker, I am today introducing legislation which will extend the jurisdiction of the Mississippi River Commission to include a part of Louisiana which is greatly affected by the waters of the Mississippi River. This area is situated between two formidable and at times life-threatening waterways, the Mississippi and Atchafalaya Rivers

A look at the map outlining the geographic jurisdiction of the Commission shows an awkward triangle carved out of the lower Louisiana area. Citizens of this geographic area wonder why neighbors on either side are included in the Mississippi River Commission's jurisdiction, while they, in fact, have been overlooked. These citizens deserve to have a voice in the planning of civil works and flood control projects which impact their lives and well-being.

The Commission's geographic area encompasses part of the Arkansas River Basin and Yazoo River Basin in Mississippi, and other areas. It is only fair that areas between the mouths of the two great rivers, the Atchafalaya and the Mississippi, are also included.

FACTS ABOUT IRAs FROM MERRILL LYNCH—ANYTHING BUT STRAIGHT

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PEASE. Caveat emptor—let the buyer beware.

This sage advice has long cautioned customers to consider a merchant and his wares carefully before making any purchase.

In the marketplace of ideas, those words of warning acquire a new importance. In more modern parlance, the proper caution might be: Don't believe everything you read, especially if you're reading a high-cost, full-page newspaper ad.

Last week I spoke on the floor of the House about misleading advertisements being run by Merrill Lynch on the merits of Senator BENTSEN'S Super IRA proposal. Since these original ads were run, Merrill Lynch has introduced a new ad that purports to provide some straight facts about IRAs. However, these straight facts are far from straight—in fact, they smack more of propaganda put out by Merrill Lynch to mislead the American public into believing that IRAs are the best thing to come along since sliced bread.

The first straight fact asserted by Merrill Lynch is that IRAs really did work. The claim is that if we expand the use of IRAs now, we will increase our national savings rate because that is what happened after 1981 when restrictions on their use were lifted. They cite the increase in IRA contributions between 1982 and 1986 to support this assertion. But the fact that IRA investments increased does not mean that total personal savings increased, as Merrill Lynch would have you believe. The truth is that during this time personal savings decreased by $34.5 billion when you compare personal savings in 1986 with personal savings in 1981.

What Merrill Lynch should be telling the American public is that Merrill Lynch benefitted from the tax subsidy provided to IRAs. More people invested in accounts which Merrill Lynch marketed—purely to take advantage of tax savings—so the firm's profits increased. But statistics reveal that, for the most part, these people didn't increase savings, they merely shifted existing savings into IRAs. Once the tax subsidy was curtailed, so did investment in IRAs. Merrill Lynch wants the tax subsidy to be expanded so that people will once again shift assets to the accounts that Merrill Lynch markets.

Another straight fact asserted by Merrill Lynch is that IRAs are for the middle class. While it is true that IRAs are available to low- and middle-income families, this availability is of limited value to them because they often don't possess the resources to take advantage of IRAs. On the other hand, wealthy families do have the resources to contribute to IRAs, so they are well positioned to take advantage of the tax subsidy as soon as it becomes available to them.

The facts seem to bear this out. The Joint Committee on Taxation found that taxpayers with income over $50,000 were more than twice as likely to contribute to an IRA than were taxpayers with income below $50,000. And if you review IRS return data you will see that in 1985 the average IRA deduction for taxpayers with more than $75,000 of income was almost $1,000 more than taxpayers with income of less than $50,000.

The Super IRA proposal is a lot like offering free gasoline to any family driving a Rolls Royce. Low- and middle-income families can take advantage of it. All they have to do is buy a Rolls Royce.

The Merrill Lynch advertisement is also misleading in that it implies that middle-income families cannot currently take advantage of IRAs. The fact is that only 13 percent of all taxpayers with earned income are excluded from making deductible contributions to IRAs. That means that the remaining 87 percent—roughly 94 million tax filers—can take advantage of IRAs.

Merrill Lynch must also be forgetting that IRA deductions are much more valuable to upper-income families than they are to low- and middle-income families. That is because the deduction provides far more tax savings to taxpayers in higher tax brackets than those in lower tax brackets. A $2,000 IRA deduction is worth $620 to a taxpayer in the 31 percent tax bracket, but only $300 to a taxpayer in the 15 percent tax bracket. So for the same $2,000 IRA contribution, the upper-income taxpayer gets more than twice the tax savings. Merrill Lynch is wrong when it states that Super IRAs should be viewed as middle-income benefits. Clearly the benefits flow far more heavily to the wealthy.

The slogan at the bottom of Merrill Lynch's advertisements is "A tradition of trust." Yet the firm's advertisements are filled with misrepresentations and unsubstantiated claims. Frankly, I don't trust their ads, and neither should the American people.

C.W. BILL YOUNG MARROW DONOR CENTER SAVES LIVES, GIVES HOPE

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEWIS of Florida. Mr. Speaker, this Thanksgiving, hundreds of families throughout our Nation and the world will give thanks that a loved one is alive and cured of leukemia as the result of a bone marrow transplant.

They may not know, however, what everyone of our colleagues in the House knows that it was the tireless work of my colleague from Florida, BILL YOUNG, who led the crusade to give those patients a second chance at life.

For more than 6 years, BILL YOUNG has devoted his time and energy to establish a national registry of volunteers willing to donate their bone marrow to a patient suffering from leukemia or one of more than 60 otherwise fatal blood disorders or cancers. Their only hope of survival is a bone marrow transplant, but the odds are that only one of four patients will find a genetically matched donor from their family. Before BILL YOUNG got involved, the other 75 percent would have died because there was no marrow donor for them.

He learned this lesson the hard way at the bedside of a 10-year-old little girl who died in St. Petersburg, FL because she had no marrow donor. BILL'S wife Beverly challenged him to do something so that other families would not have to stand helplessly by watching a loved one die.

He took on the cause and determined that our Nation needed a national registry of volunteers willing to donate their marrow to an unrelated patient. After searching a number of Federal agencies for a home, he found the U.S. Navy to be an interested and willing partner.

Through his work on the Appropriations Subcommittee on National Defense, he included the first $1 million in a 1986 Defense appropriations bill for the Navy to establish the registry. Relative to many other programs we fund, it was a small amount of money, but for the national registry it was a godsend with which the program was able to get its start and become operational.

Ironically, its first milestone occurred on December 16, 1987, BILL YOUNG'S birthday, when the first transplant took place with a donor found through the registry. In the almost 4 years since then, 1,000 patients have found their miracle match through the national registry, which has grown to 500,000 volunteers on the way to its goal of at least 1 million.

The dramatic growth and success of the program continues to be due in large part to BILL YOUNG'S work on the Appropriations Committee through which he has had appropriated more than $85 million for the program's operations, donor recruitment and testing, and research programs. The size of the registry doubled in the past year, spurred on by a national donor recruitment effort launched by BILL, who has traveled the country to increase public awareness about the need for marrow donors. He even has sponsored several donor recruitment drives here in the Capitol for Members and staff. He has encouraged businesses and corporations large and small to take part in the program and he has undertaken a yearlong effort aimed at increasing minority representation in the national registry. Over the past 12 months, that effort has resulted in a threefold increase in minority volunteers who have been greatly underrepresented in the donor rolls.

Although the National Institutes of Health now oversee the operations of the program, the majority of funding still is appropriated to the program through the Navy. In response to a request by BILL to President Bush last February, the Navy also has instituted a Department of Defense wide marrow donor recruitment campaign. In just the first few months of the program, more than 5,000 service members have volunteered and it is expected that an average of 20,000 will become a part of the program annually.

House and Senate conferees meeting last year on the 1991 Defense appropriations bill were so touched and impressed by the lifesaving work of the program that they directed in the legislation that the Navy rename its donor recruitment and research program the "C. W. Bill Young Marrow Donor Center" in honor of its champion's tireless efforts.

Following my remarks, Mr. Speaker, I will include for my colleagues a comprehensive feature article from the November 25, 1991 issue of the Navy Times which chronicles the growth of the program under the leadership of BILL YOUNG. It is a program that every Member of this body can take great pride in and it is an example of how one Member, through hard work and determination, did and continues to make a difference.

In this case, the success of BILL YOUNG'S work is measured in saved lives and it is that gift of life that hundreds of families throughout our Nation will be giving thanks for this Thanksgiving Day.

[From the NAVY TIMES, Nov. 25, 1991.]

NAVY KNOW-HOW NURTURES MARROW REGISTRY

(By Marc Zolton)

WASHINGTON.—Washington attorney Bart Fisher learned in 1983 that his 8-year-old son, Ivan, suffered from a deadly blood disorder, aplastic anemia. After doctors determined Ivan's brother was not a match to provide a life-saving bone marrow transplant, Bart Fisher got another tragic jolt.

Doctors told him there was no where else to turn.

No national bone marrow registry of potential donors existed for victims of aplastic anemia, leukemia, Hodgkin's disease or other fatal blood diseases. So time ran out on Ivan Fisher. Doctors were unable to find a non-relative donor, and the boy died within two months.

Fisher, a professional lobbyist, vowed to do something to help other families avoid the same tragedy for lack of a national registry.

In 1984, Fisher and Colorado rancher Bob Graves, whose daughter died three years after receiving the first bone marrow transplant from a non-relative in 1973, successfully pushed Congress to pass legislation calling for the establishment of a national registry of potential bone marrow donors.

But funding and a federal agency to run the effort remained undetermined, Fisher said.

At a May 1985 conference of scientists, Fisher urged the National Institutes of Health to take on the responsibility but he was turned down. Fisher and his congressional supporters, including Rep. C.W. "Bill" Young of Florida, got the necessary funding in a 1986 defense appropriation bill and channeled it to the lone willing sponsor—the Navy.

Today, the 4-year-old National Marrow Donor program has registered more than 420,000 potential donors, and provides an average of 40 bone marrow transplants a month.

Fisher now is a member of the NMDP's board of directors and the president of the Aplastic Anemia Association of America.

"I live with the realization that there could have been a different outcome [for my son] if there was a registry," Fisher said. "As a parent, it is very important to offer hope, even for people who don't ever find matches. The registry offers that hope. That is a big deal."

The Navy's willingness to start the national marrow donor program proved "critical . . . when NIH wouldn't touch it," said former Chief of Naval Operations and retired Adm. Elmo Zumwalt, who heads the board of directors of the national donor program.

With an appropriation of a little more than $1 million, Navy officials developed plans for the registry. In mid-1986, the Office of Naval Research awarded the first contract to the St. Paul, Minn., chapter of the Red Cross. And the National Marrow Donor Program and the registry were born. The first bone marrow transplant from a registered donor occurred in late 1987. After the Navy got the donor program running, NIH had a change of heart. The agency took it over from the Navy in 1989. NMDP is now run as a non-profit organization funded through a contract with NIH's Heart, Lung and Blood Institute.

Still, Navy's involvement in the program remains vital, officials said.

Navy scientists have helped develop a more efficient and less costly method of identifying the blood components that determine whether a match is possible. Navy research scientists are testing technology for more complete typing of all blood samples shortly after they are donated thus allowing for quicker, less costly bone marrow matches.

In 1990, the Department of Defense adopted a policy of encouraging members of the armed forces, their families and civilian DoD employees to join the growing national registry of potential donors. At the same time, it established the C.W. Bill Young Marrow Donor Center in Bethesda, Md. The center, run by the Navy under contract from DoD, tests all blood samples donated by military members and their families for inclusion in the national registry.

Participants who have had their blood tested, or typed, are listed in the computerized registry, awaiting a possible match between themselves and a patient.

"After a slow start, today it is going better than we could have ever hoped for," said Young.

Even with the meteoric growth of the registry, officials say they must push the numbers higher to increase the survival chances of the estimated 10,000 patients needing transplants each year.

"It is very exciting because we are saving lives," said Zumwalt. "But unfortunately, there will always be some for whom there isn't a match."

Scientists put the odds of finding a match from among non-relatives at 20,000 to 1, versus 4 to 1 among family members. Program officials, Zumwalt said, hope to see the registry grow to 1 million. This could increase the likelihood of finding a match to a 60-to-80-percent range.

Bone marrow transplants offer the best chance of recovery for thousands afflicted with such fatal blood diseases as aplastic anemia, several types of leukemia and immunological disorders. Marrow is the tissue inside certain bones that produces essential elements of blood—red blood cells, white blood cells and platelets.

Once a match is found, doctors kill a patient's bone marrow with radiation and chemotherapy and inject the healthy marrow from the donor. The transplants have produced long-term remissions.

The registry is now large enough to result in about 40 unrelated bone marrow transplants being performed each month across the country, officials said. Given its spiraling growth, officials hope the 40 per month will turn to 40 per week.

This year the Navy received $6 million to recruit and test military members and for the research into the new genetic testing of blood samples. NIH received $16 million in funding to run the NMDP. For 1992, NIH funding will stay about the same, but the Navy expects to receive $20 million. The $14 million increase will fund the Navy's role in helping the NMDP increase the recruitment of minorities into the registry and extend the new testing technology to civilian donor centers and labs nationwide.

The Defense Department's expanded involvement is expected to increase the size and ethnic diversity of the nationwide registry. The chance of matching donor and patient is higher between persons of the same race. A white donor might provide an exact match for a black patient, but that's more likely to occur among persons of the same race and ancestry, said Navy Capt. Robert Hartzman, a doctor of internal medicine and transplant expert who now heads an effort to recruit potential donors from the armed forces.

Since service members, dependents and DoD civilian workers were encouraged to participate, an estimated 5,000 have come forward to have their blood tested. The effort is now on a pace to register about 20,000 DoD-related potential donors a year, Hartzman said.

"The U.S. military is full of young, healthy men and women who would be ideal donors," Young said.

"The Navy's Medical Research Command in Bethesda oversees DoD's donor recruiting effort and the testing of all blood samples from the armed forces. The Navy tests all DoD-donated blood free of charge, (civilian labs usually charge the organizers of civilian blood drives about $75.00 for the initial testing of each sample). Navy scientists have developed a genetic testing method using DNA from the blood samples, which allows swifter, more accurate matches.

To search for a bone marrow match, scientists test, or type, for 14 antigens in the donated blood samples. Once a donor's antigens are known, doctors try to match as many of these genetic components as possible, usually at least 12, to increase the chances of transplant success.

A potential donor's blood samples are typed for one group of the 14 antigens and that information is placed in the registry. When doctors identify a potential match between a registry member and a sick patient, a second round of tests is conducted on the potential donor's blood to determine the identity of the remaining antigens. It can take up to six months to complete the entire process, and the second round of tests can cost the patient $200 to $250.

The technology being developed by Navy and other scientists will allow the labs to initially identify all 14 antigens, eliminating the second round of tests.

Once the technology is available to all testing centers, which should be in about three years, doctors should be able to call up the computerized registry and immediately receive all the match information they need on the screen.

Registering thousands of military members and their families has helped widen the ethnic composition of the donor pool, officials said. The ethnically diverse makeup of the armed forces makes them fertile ground to recruit more minority donors.

As of last year, less than 6 percent of volunteers were from minority groups. That percentage has risen to 16 percent. Still, given the current ethnic makeup of the registry, the chances of a match "are quite a bit smaller" for minorities, Hartzman said.

Of the 421,000 people registered, only 3.5 percent are black Americans, 5.4 percent are Asian, 3.1 percent Hispanic and 0.7 percent American Indians.

Donors are usually sought among healthy individuals between the ages of 18 and 55. Registering at an early age can mean remaining available as a potential donor for decades.

The initial effort is easy. Potential donors give about 40 milliliters, or four tablespoons, of blood at the donation drive. For military members, the blood samples are sent to the Navy's Medical Research Command where the tissue typing is done by lab technicians.

Should a potential donor be identified as a possible match for a dying patient, the donor then gives a second blood sample to determine how precise a match would be. Once the decision is made to proceed with the transplant, the potential donor undergoes both physical and psychological examinations.

To donate the bone marrow, the donor must be placed under general anesthesia while marrow is extracted from the pelvic bones. Such a procedure usually requires an overnight hospital stay and brings about 10 days of nagging pain. The small risk for donors primarily involves the possibility of an adverse reaction to the anesthesia, Hartzman said.

"I place it on the same level as jumping into a pond to save a drowning kid," Hartzman said.

Hartzman has found that most people who agree to be tested initially are willing to donate. But before the final decision, officials always call prospective donors confidentially.

Like Fisher, Young and Zumwalt know the pain of having a child fatally ill and in need of a potentially lifesaving transplant.

Zumwalt's son received a bone marrow transplant from a relative, which helped extend his life for several years after he was diagnosed with Hodgkin's disease.

"When my wife and I decided how to best honor his life, we decided [working with the National Marrow Donor Program] would make a good living memorial," Zumwalt said.

Young's daughter was diagnosed with terminal leukemia in 1990, years after Young's efforts to help start the national program. A bone marrow transplant from one of her relatives leaves her free of the fatal cancer.

"I know how other families feel when a child comes down with one of these diseases," Young said.

Young and Zumwalt both stressed that participation by service members and their families can save more and more lives every year.

HOW TO GET TESTED FOR THE NATIONAL REGISTRY

Military members, their families and DoD civilian personnel interested in volunteering to be potential bone marrow donors or more information on how to organize a drive at their military installations are asked to contact the C.W. Bill Young Marrow Donor Center at 1-800-MARROW-3. The center is located at 4720 Montgomery Lane, Suite 903, Bethesda, Md. 20814.

Navy officials said Gulf war veterans should continue to participate in the military drive despite the recent announcement by the Department of Defense that about 500,000 Gulf war veterans would be restricted from donating blood for the next two years because a handful had their blood infected by a parasite.

Navy officials said all blood samples donated when a military member joins the national bone marrow registry would undergo tests that could discover whether the parasitic infection is present.

In addition, at least a year usually passes from when a member is tested to when he or she might be called upon to donate bone marrow, said Navy Capt. Robert Hartzman, who directs the Navy's testing of all DoD blood samples for the bone marrow effort. In the unlikely event a donor had been infected, the condition probably would have disappeared well before a possible bone marrow donation might occur.

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NAVY DRIVE AIMS AT MATCH

WASHINGTON.—Julie Beaupre has given a lot of herself to her home town of Brunswick, Maine, and to the military community at the naval air station there.

Last month, the residents of both communities gave something back to Beaupre. Almost 2,000 of them agreed to have their blood tested so that Beaupre might see many more years of life.

Beaupre, 46, is fighting acute myelocytic leukemia. It is a battle many lose. It is a battle she too will lose if she doesn't find a match for a lifesaving bone marrow transplant.

When Navy officials, including her neighbor, Cmdr. John Farnham, the officer in charge of the medical clinic at Brunswick, learned of Beaupre's plight late last summer, they decided to see if they could enlist the Navy community to help. Indeed, the military had recently signed on as an active participant in a nationwide effort to test as many potential bone marrow donors as possible.

With the Department of Defense strongly endorsing such military and DoD civilian involvement, Navy officials in Brunswick took the idea from the drawing board to the laboratory in less than a month. In late September, leaders of the various commands at the air station met and were educated about the donor match process by a representative of the C.W. Bill Young Marrow Donor Center, run by the Navy in Bethesda, Md., where all testing of DoD blood samples takes place.

Flyers were printed and circulated around the facility. Stories were published in both the base and Brunswick newspapers. The fact that Beaupre was well known for her work with the Military Community Council also helped energize the military community. Beaupre and her husband, Dick, own and operate an auto supply shop in town. They have two college-age children.

Beaupre was working on organizing her second military community-civilian ball when the illness hit her. Through that work and her involvement with the Chamber of Commerce, Beaupre had made many friends in the small community.

"Julie is a known commodity," Farnham said. "She is a shaker and a mover in this community."

Three weeks later, the planning paid off as 792 military members, their dependents and DoD civilians, the most ever to participate in such a project at a single military installation, came forward to have their blood tested. Not to be outdone, on Oct. 10, about 1,200 Brunswick residents volunteered for testing.

"I wanted to help somebody out," said Navy Petty Officer Rose Thatcher, one of those who had their blood tested. "The least you could do is just get tested."

The high-profile publicity campaign at the naval air station caught fire, and personnel were eager to participate.

"This is something we did willingly," said DoD civilian employee Tammy Lane. "We didn't have to be reminded."

The response left Beaupre thankful and stunned.

"I just never dreamed people would come out like they did," Beaupre said. "It just sort of caught on like a forest fire and the enthusiasm swept through the community. It is incredibly heartwarming."

It is not yet known whether any of the donations will provide a match for Beaupre. With odds of 1 in 20,000 for an unrelated donor match, they probably will not. But each person tested is a potential future match for someone suffering from a similar terminal illness and Beaupre is glad for that also.

"Yes, they were doing it for me, but it isn't just for me," Beaupre said.

Beaupre, who underwent a painful five weeks of chemotherapy in a Boston hospital, was too weak to attend the testing drive. A nagging infection has weakened her physically, but drive organizers kept her updated over the phone. While the chemotherapy has put her leukemia in temporary remission, Beaupre will likely undergo some type of bone marrow transplant before the end of the year, she said.

Despite being physically weak from the persistent infection, Beaupre maintains an indomitable spirit, her friends say.

"The support here [in Brunswick] has been incredible," Beaupre said as she prepared for another round of chemotherapy treatments this month. "That is what keeps me going. I have to do it for myself, but I am also doing it for them because they are all rooting for me. I know I will get better, but first I am going to be very sick."

THE END OF AN ERA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TORRES. Mr. Speaker, I rise today to recognize the end of an era, the Country Squire Restaurant, a historic inn nestled in the woods of northern Virginia, is closing its doors after 35 years of serving the people, and some of the best cuisine, in Virginia.

Leonard and Doris Johnson first opened the Country Squire to the public in 1957. Whether you wanted the serenity of a romantic candlelight dinner or a homey, relaxed family setting, you could find it at the Country Squire. With its "Old World" rustic flair, this charming establishment has served such customers as President and Mrs. Ford, Senators CHUCK ROBB and JOHN WARNER, Air Force General Daniel James, and Mrs. Torres and myself.

The Country Squire Restaurant sits on historic Perkins Hill, site of the Munson/Perkins' Hill Civil War battlegrounds.

Many a couple (over two thousand) have celebrated their wedding in the restaurant's garden, and even more couples have treasured memories of hosting their receptions in one of the seven banquet rooms there.

Regular customers are greeted as treasured friends, and the service is unmatched in friendliness and care. The food is delicious and the prices are reasonable. Many diners have fond memories of escaping the hustle and bustle of everyday life once they have stepped through Country Squire's doors. Other visitors reminisce about Mr. Johnson building a cheery fire in the dining room's fireplace on cold winter days.

Since the passing of Mr. Johnson this last May, Mrs. Johnson, her daughter Roxane, family friend Carolyn Koombs, and the staff have been carrying on the family tradition of outstanding service and cuisine. But due to circumstances beyond their control, the Country Squire will have to close its doors on December 31, 1991. The Country Squire will be sorely missed by all of its loyal customers, including many Members of the Congress.

THE INTRODUCTION OF THE REDUCE, REUSE AND RECYLE FOR AMERICA ACT, H.R. 3939

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 26, 1991

Mr. SIKORSKI. Mr. Speaker, today I am introducing the Reduce, Reuse and Recycle for America Act.

Reduce. Reuse. Recylce. These are the new, fundamental three "R's" kids learn in school today.

And with this legislation, I am making a fundamental appeal to Congress, to the administration, and to corporate America—an appeal that I constantly hear from taxpayers. We need to change the way we think about waste in America. And save American taxpayers real money.

The 3 R's for America Act will reverse the skyrocketing amounts of trash Americans produce—using free market incentives to encourage reduction, reuse, and recycling.

Over the past 40 years, trash has exploded in America. We now generate 180 million tons per year—that's more than one ton of garbage per person—three times what's thrown away in West Germany, twice what's thrown away in Canada. In fact, 87 percent of our goods become garbage after a single use. Much of it is packaging that's discarded before we ever use the product.

Meanwhile, our traditional burn or bury methods of trash disposal—incinerators or landfills—are increasingly less viable—both environmentally and economically.

Our landfills are filling up fast. The number of usable landfills has plummeted from 20,000 to 6,000 in the last 12 years. Many become festering, toxic hazards that account for 21 percent of our Superfund sites and huge cleanup costs to taxpayers in those cities and States.

Municipal incinerators create additional problems—producing dangerous air pollutants and toxic ash. Incinerators waste energy by burning precious resources. And they compete with more environmentally sound and energywise waste management methods such as recycling and composting.

The rapidly increasing costs of both traditional options have resulted in tax and fiscal nightmares for already overburned local governments. New municipal incinerators cost up to $600 million each. The cost of disposing of a ton of garbage in Minneapolis has risen from $10 in 1980 to as much as $100 today—costs paid by my taxpayers.

Again, the solution is fundamental: Reduce. Reuse. Recycle.

Kids intuitively understand these simple principles. Use less, save more. Find ways to reuse. Sort out the rubbish so useful things can be recycled.

According to an Associated Press poll, more than 80 percent of the American people get it. Millions of Americans have taken to the business of bundling and recycling like ducks take to water.

Cities and States get it too. Neighborhoods, schools, and service clubs all over America have pitched in money, ingenuity, and hard work to make recycling a reality.

Recycling is all the rage—but it's nowhere as successful as it can be, needs to be, and is elsewhere in the world.

Second, it provides no incentive for industry and consumers to save resources and reduce waste. As long as American taxpayers continue to pick up the entire tab for managing garbage in America and give a free ride to polluters, as long as industry has no responsibility for the ultimate disposal of their products and packaging—companies will not produce goods from recycled materials or design recyclable goods. Even though we waste 400 million barrels of oil every year on useless packaging—more than the amount we import from Iraq and Kuwait combined—businesses will continue to overpackage products—like the ridiculous long box used to sell compact discs. Vendors will not collect products that can be used again or recycled. And investors—as Morgan Stanley and Sherson Lehman recently acknowledged in reports on recycling—will not invest money in recycling equipment in a totally unpredictable market. Eight States already know this and have enacted laws requiring those who make the bucks from the sale of the product to use recycled content in their products—to reduce disposal costs to American taxpayers.

We need a balanced approach to waste management that includes both sides of the recycling equation—supply and demand. Today, concerned Americans in their communities are spending money and working hard to supply. Those who make the cash that produces the trash should show a little demand. The Reduce, Reuse and Recycle for America Act builds on the enormous public support and leadership demonstrated by cities and States. It ensures a steady supply of recyclable material, but gives local governments the flexibility to choose the waste management systems that best fit their communities. It also provides broad incentives to corporate America to ensure that the markets for recyclable material will be strong and the Wall Street will want to invest in recycling. Finally, this legislation will create more jobs, reduce energy demand, conserve natural resources, and improve manufacturing efficiency—all by wasting less.

The Reduce, Reuse and Recycle for America Act includes provisions that would meet these objectives. It provides for:

Stripped-down packaging. The bill establishes an efficiency requirement for all consumer goods to reduce the use of nonessential packaging.

Re-use of vital materials. The bill requires a take-it-back program for all vendors of large appliances and motor vehicles. It provides incentives for packaging to be designed for reuse and set forth a deposit program for house batteries.

A jump start for recycled materials. The bill promotes markets for recycled products by establishing materials content standards for paper, plastics, glass, steel, and aluminum.

Procurement. The bill encourages Federal, State, and local government agencies to buy recycled and recyclable materials.

Cost-benefit waste management. The bill ensures the most environmentally benign and most cost-effective technologies for managing wastes.

Community recycling. The bill provides incentives to stimulate development of municipal and State recycling programs.

States and cities are to be commended for the job they've done. The American people are to be commended for the job they've done. It's now time for Corporate America to close the loop. Congress can build on America's progress by making the three R's—Reduce, Reuse, Recycle—a matter of national waste management policy.

Because corporate America doesn't get it.

As more and more communities recycle, prices for these collected scrap materials have crashed through the floor—leaving city and State waste officials and their taxpayers overwhelmed and in the hole.

In short, recyclable material is piling up from coast to coast. All separated. All sorted. All dressed but with no place to go.

We have 50,000 tons of surplus green glass. All separated. All sorted. But no place to go—because prices for glass fell by one-third last year.

We have warehouses and open pits of old newsprint—separated, sorted, but with no place to go—because prices fell from $10 in the late eighties to minus $10 or $20 last spring. That's right—taxpayers had to pay to have it collected and then pay again to have it carted away.

We even have aluminum beverage containers—again, separated, sorted but with no place to go—because by late 1989, prices had fallen 29 percent from a year earlier. By December 1990, they had fallen another 14 percent. By August 1991, they were down another 17 percent.

Wake up America. American taxpayers are spending over $20 billion a year to handle and dispose of trash. But we are completing only half of the cycle. The cycle in recycling is broken.

The problem with "sort and separate" is that it puts the cart before the horse. Somebody—usually States and cities and then taxpayers—always gets stuck with a lot of material nobody wants to buy. So taxpayers, thinking they are striking a blow for a cleaner environment, are really just spending money to collect recyclables, store them, and then to find someone to take them off their hands.

"Sort and separate" threatens to unravel the entire recycling effort. Already we are hearing people say, 'I don't know why we should recycle newspaper since it's just going to wind up in a landfill or incinerator anyway."

Recycling in America will never work without a change in our national policy—one that embraces the principles of free market and polluter pays.

I support a free-market approach. The costs of pollution, and pollution clean-up , should be reflected in the costs of goods and services that cause the mess in the first place. And for the first time, corporate America, as well as American communities, must be in the equation.

Until now, American taxpayers have paid all costs for managing garbage. They have paid for collection, transportation, disposal or incineration. They pay in lost energy and lost materials as valuable resources are buried or burned. And they pay for garbage mismanagement—in the form of Superfund sites, in the form of toxic ash and toxic air pollution.

The taxpayer-pay-all plan is wrong for two reasons. First, it's not fair. It conflicts with fundamental American principle for allocating the costs of pollution and encouraging the rational use of resources—"Polluter Pays."

FLASH: PRESIDENT EXPLAINS TO BLUE-COLLAR WORKER WHY THERE'S NOTHING TO FEAR IN A UNITED STATES-MEXICO FTA

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PEASE. Mr. Speaker, as the United States-Mexico Free Trade Agreement [FTA] negotiations proceed, concern and fear grow among our blue-collar manufacturing workers. Members of Congress may ask, how valid is this concern? Also, why pay attention to one interest group among many who will be affected by this agreement?

Perhaps the dialog below—developed through extrapolation of actual policy statements made by labor and the administration—will shed some light on the reasons for the American factory worker's aversion to this agreement. When dissected, these reasons prove well founded especially as they relate to the President's commitment to an adjustment assistance program for workers dislocated as a result of the United States-Mexico FTA.

President BUSH. The United States-Mexico FTA will be good for both countries, for consumers, for workers, for everyone.

WORKER. Pardon me, sir, but how about me? Even without an FTA, I lost my job when my company moved factory production and 500 jobs to Mexico.

President BUSH. Well, of course, there will be a few dislocations, but the loss of low-skill factory jobs will be made up by well-paid, high-skill jobs. That's a great trade-off.

WORKER. What kind of jobs are we talking about?

President BUSH. Good jobs all—in product design, engineering, accounting, computer science and marketing to name a few.

WORKER. The way I figure it, sir, those new well-paid, high-skill jobs will total only 10 or 20 percent of the number of low-skill, well-paid factory jobs we're losing. Other new jobs will be of the minimum wage variety, not good enough to raise a family.

President BUSH. Well, then, you'll just have to qualify yourself for one of the high-pay, high-tech jobs.

WORKER. Can I get training for that kind of job?

President BUSH. Of course, I pledged on May 1 that I will work cooperatively with Congress for an adequately funded adjustment program for workers who lose their jobs because of the FTA.

WORKER. What do you have in mind?

President BUSH. I strongly favor EDWAA [Economic Dislocation and Worker Adjustment Act], our existing adjustment program.

WORKER. How much training can I get?

President BUSH. Well, the average training period under EDWAA is 19 weeks.

WORKER. That's not long enough for me to train as a computer scientist, engineer, designer or accountant. Can't I go to college for two or four years.?

President BUSH. No, that wouldn't be cost effective. But EDWAA does offer some nice eight-week welding courses.

Worker. Welding is another disappearing blue-collar job. I want training for a good job with a future. What about a program called Trade Adjustment Assistance (TAA)?

President **Bush**. I'm sorry—TAA is not cost-effective.

Worker. Why not?

President **Bush**. Because it allows a laid-off worker to tailor his or her own individual training for up to two years.

Worker. Sounds good to me. Is that what makes it less than cost-effective?

President **Bush**. That's only the half of it. TAA also provides weekly checks for up to 78 weeks so workers can support their families while in training.

Worker. Then you're opposed to TAA?

President **Bush**. Absolutely, it's simply not cost-effective. With the same money, EDWAA can train many more people for 19 weeks at a time.

Worker. I still want a college degree or at least an associate degree. If I scrape up the tuition money, can I use unemployment benefits to feed, house and clothe my family?

President **Bush**. Only for 26 weeks plus additional allotments provided under the Emergency Unemployment Compensation Act of 1991.

Worker. Not longer?

President **Bush**. Probably not, I'm skeptical of including extended unemployment benefits in worker adjustment assistance programs.

Worker. Why?

President **Bush**. Because Dick Darman assures me that unemployment benefits only encourage laid-off workers to remain unemployed.

Worker. You promised to work with Congress for adequately funded adjustment assistance for workers who lose jobs when American factories move to Mexico. What if Congress wants to be more generous than you do?

President **Bush**. Well, under last year's budget summit agreement regarding domestic discretionary spending, Congress would have to pay for the new program by cutting some other domestic program.

Worker. What if Congress made the adjustment program an entitlement and raised taxes to pay for it?

President **Bush**. I'd have to veto that as a violation of my "no new taxes" pledge.

Worker. It looks to me like a no-win situation. American blue-collar workers will lose their jobs as factories close and move to Mexico, but they won't qualify for what few well-paid, high-skill jobs may be created because expanded adjustment assistance would not be cost-effective.

President **Bush**. Well, nothing's perfect.

INTRODUCTION OF RESOLUTION TO LIMIT CHAIRPERSON OF A PARTICULAR COMMITTEE OR SUBCOMMITTEE

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of Utah. Mr. Chairman, today I introduced a resolution which would, if implemented, limit the number of years a Member may serve as chairperson of a particular committee or subcommittee.

It would amend the rules of the House such that a Member of the House could not serve as chair of a particular committee or subcommittee for longer than 8 years, notwithstanding service performed as chair of the committee for less than a full session. Also, service as chair before the beginning of the 103d Congress shall be disregarded.

Mr. Speaker, many argue that term limits are needed to bring "fresh" ideas to the Congress. The truth is, the House is already full of innovation and diversity—and I say that in the spirit of bipartisanship. I suspect that the members of the House who argue on behalf of term limits would also argue that they themselves could turn things around if they had the chance. The problem, then, is not members themselves. The problem is the guidelines which govern the actions and incentives of Members. The problem lies in the means by which a bearer of those ideas can ascend to the position of authority necessary to enact them into law.

We are a body of 435 individuals as diverse as the nation we have been elected to help govern, and an effective committee system is vital in bringing these conflicting interests together. The system must strike a difficult balance. On one hand, we must structure the committee leadership in a manner that maintains discipline and institutional memory. On the other, the Congress must remain accountable to changes in the economic and political climate. The rules governing the structure and activities of committees are an important part of that balance.

By limiting a Member's service as committee or subcommittee chair to eight years, I feel that this balance is achieved. The average tenure of current committee chairman is 5.5 years. Thus, relatively few tenureships would be cut short. A member impacted by the limit could seek a position as chair of another committee or subcommittee. The incoming chair will also have had considerable committee experience. Thus, institutional memory is not lost while turnover of leadership is ensured.

For the most part, the committee chairs do a commendable job of moving important legislation through the House. Nevertheless, the calls for reform of the Congress cannot and should not be ignored. The gentleman from Indiana [Mr. HAMILTON] and some of our colleagues in the Senate are leading the effort for congressional reform. It is with this that I leap into this important debate, and I encourage my colleagues to join me in supporting this resolution.

It is not a cure-all, and does not have the emotional appeal of term limits. But a stringent review of the current committee system should be undertaken, and I feel this resolution should be a part of a broader, more comprehensive solution. Thank you, Mr. Speaker.

HELP AMERICANS SAVE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LIPINSKI. Mr. Speaker, not a day goes by that we don't hear about the worsening U.S. economy. "Economy Rattles Investors." "Coping With Recession." "Economic Worries." These headlines are all too common. We read about it in our newspapers and watch it on the evening news. The lack of savings in our country is one major, long-term economic problem that contributes to our troubled economy. For the last few years, the American public has hit a record low in savings. During the last few years, personal savings as a percent of disposable income only averaged 4.5 percent—the worst since World War II. Today, I am introducing legislation designed to help combat this problem and stimulate savings.

According to a recent Associated Press poll, two out of three Americans say the economy is getting worse, but they think the Government can help. This is a clear message to us that we must do something to assist the American public, and we cannot let them down.

My legislation would make it easier and more rewarding for people to save. Specifically, my bill would allow an individual to earn tax-free interest on his or her first $50,000 that is placed in any savings institution or earned on bonds. This would encourage people to start or increase their own personal savings.

We must keep in mind that there is no quick-fix solution for our economic difficulties; but instead we must think of long-term remedies. Increased savings would be a step in the right direction. I want to help Americans save for themselves and for the sake of the economy.

I urge my colleagues to join me in cosponsoring this important legislation by rewarding Americans who help boost the national savings rate.

BOUTROS BOUTROS GHALI: A "BORN" SECRETARY GENERAL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. MORELLA. Mr. Speaker, on January 1 the world will welcome Boutros Boutros Ghali as the new Secretary General of the United Nations. As the United Nations increases its role in international conflict resolution, Boutros Ghali is extremely qualified to meet the challenges of the changing world environment. As chair of the Arms Control and Foreign Policy Caucus, I would like to share with my colleagues an excellent profile by Judith Miller from the New York Times that provides an insightful look into Boutros Ghali's achievements and his vision for tomorrow's United Nations.

Mr. Ghali, an Egyptian, is known as a savvy and judicious diplomat with a history of bold support for peace initiatives, human rights, and environmental concerns. Not only was Mr. Ghali deeply involved in the Camp David peace accords, but he has been a strong advocate for institutions to develop Arab democracy and distribute wealth throughout the region. As an example of his forward thinking, Mr. Ghali warned of water and resource shortages in the region long before concern about ecology became fashionable.

The United Nations is at the most critical juncture since its inception—with integral roles in El Salvador, Cambodia, Iraq, and Angola, to name a few. Boutros Ghali, an admitted steadfast believer in strong United Nations participation in the new world order, is distinctly suited to the job as Secretary General of the United Nations.

[From the New York Times, Nov. 22, 1991]

A "BORN" SECRETARY GENERAL—BOUTROS BOUTROS GHALI

(By Judith Miller)

Of all the candidates for the post of Secretary General of the United Nations, none wanted the job as much, or campaigned for it as openly and as ardently, as the veteran diplomat who was chosen yesterday, Boutros Ghali, Deputy Prime Minister of Egypt for Foreign Affairs.

Mr. Ghali, the first from the Arab world or from Africa to head the organization, traveled throughout Africa and to China, Britain and the United States, calling in long-standing chips and upon old friends to win support for his bid. Unabashedly, he says he was "born" for this post. The United Nations, he says, can be critical in the "new world order," a concept in which Mr. Ghali steadfastly believes.

In his victory, Mr. Ghali, whose full name is Boutros Boutros Ghali, overcame complaints that he was too old and frail to serve the expected two five-year terms. Many diplomats argued that at age 69, and after suffering an abscess on the liver that incapacitated him for several months two years ago, Mr. Ghali lacked the stamina to reshape the United Nations' bloated, weary bureaucracy. But his indefagitable campaign, coupled with his ability to sketch an inspiring vision of a reorganized, reinvigorated peacekeeper able to meet the challenges of the 21st century, won over doubters, among them President Bush, whose last-minute support guaranteed his election.

Mr. Ghali was twice rejected for major United Nations posts. In the mid-1980's, he failed in his bid to head the United Nations Educational, Scientific and Cultural Organization and, partly because of strong Israeli opposition the United Nations refugee agency.

NO OPPOSITION FROM ISRAEL

Despite unease with the prospect of an Arab head of the United Nations during thorny peace negotiations with Arab countries. Israel did not oppose Mr. Ghali's election this time. Israeli officials, speaking on condition that they not be identified, said Mr. Ghali's support for the Camp David peace process led Israel to conclude that he could be "fair-minded" and "smart enough" not to intervene in the current peace talks in an adversarial way.

Though President Anwar el-Sadat of Egypt was the prime mover of the Camp David peace process, which culminated in 1979 in a peace treaty between Israel and Egypt, Mr. Ghali played an important role in negotiating the accords. After Egypt's Foreign Minister resigned rather than accompany President Sadat on his historic trip to Jerusalem in 1977, Mr. Ghali, then Deputy Foreign Minister, went along instead. And he was one of the few senior Egyptian officials at Mr. Sadat's side when the peace treaty was signed at the White House in 1979.

"He was always a strong supporter of the peace process," said William B. Quandt, a senior official in the Carter White House who helped broker the accords. "He is as international-minded as they come, a walking U.N. in his own personal experience, and very fair-minded."

Diplomats also recall that Mr. Ghali warned Israel early on that failure to address the Palestinians' grievances would damage the quality of the peace with Egypt. After Israel's invasion of Lebanon in 1982 and the breakdown of negotiations aimed at providing autonomy for Palestinians in the Israeli-occupied West Bank and Gaza, it was Mr. Ghali who coined the phrase "cold peace" to characterize the deteriorating relations between Jerusalem and Cairo.

While Mr. Ghali is associated primarily with the Camp David peace, he has helped mediate many a quarrel among African nations. In 1990, he was influential in helping win the release of Nelson Mandela, leader of the African National Congress, from a South African jail. While many African countries would have preferred a black African to head the United Nations, Mr. Ghali, representing Egypt, a member of the Organization of African Unity, was on that group's list of candidates for the post.

WARNING ON ENVIRONMENT

It was Mr. Ghali's strong African ties that helped bring Egypt back into the Arab fold after it was ostracized for having made peace with Israel. Mr. Ghali, a Coptic Christian who is married to a Jew from Alexandria, persistently lobbied for Egypt's readmittance to the Islamic Conference Organization, the 45-member Islamic group that had suspended Egypt. In 1984, it became the first international organization that included virtually all of the Arab countries to reinstate Egypt's membership.

Long before concern about ecology became fashionable, Mr. Ghali warned that the water shortages facing Africa and the Middle East would pose as great a threat to the region's stability as any political dispute. For more than a decade he has been responsible for negotiations among the nine countries that share the precious waters of the Nile.

Nor is he a stranger to bloated, inefficient bureaucracies. In Cairo, he was legendary for cutting through, ignoring, and evading red tape accumulated from Egypt's centuries-old tradition of very strong, very central government.

A tenured professor of international law, Fulbright scholar at Columbia University, and author of more than a hundred publications, Mr. Ghali, who was born on Nov. 14, 1922, never seems to rest. A committed diarist, he often rises at dawn to work on articles or another chapter of yet another book.

SUPPORT FOR THE U.S.

Exquisitely tailored, he seems equally comfortable in the tent of an African tribal chieftain as in Elysée Palace. An unabashed Francophone, who still speaks English with a distinctly French accent. He is known for his wit in three languages. Best of all, say friends, he does not take himself too seriously.

Boutros Boutros Ghali, or Peter Peter, as Israeli negotiators used to call him based on the English translation of his name, has patiently tutored generations of visitors to Cairo about the intricacies of Middle Eastern politics. A descendant of one of Egypt's most distinguished Coptic families, he believes passionately in the centrality of Egypt in the Middle East.

After Iraq invaded Kuwait, he worked assiduously to build support for the American-led coalition that ousted Iraqi forces. But soon after the allied victory, he urged the formation of an all-Arab parliament, something of an anachronism in a region with virtually no democracies, and of an Arab petrobank to transfer wealth from the Arab nations rich in oil to the poor ones like his own.

Asked whether he was frustrated by his neighbors' seeming disdain for both proposals, Mr. Ghali just smiled and counseled patience. "If I lost hope each time I proposed something offbeat," he said, "I would never have accomplished anything."

PUERTO RICO'S DEMOCRATIC REFERENDUM

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FUSTER. Mr. Speaker, I rise today to explain fully to my colleagues the referendum that will take place in Puerto Rico on December 8. A shameful campaign of distortions and falsehoods has recently been unleashed by antidemocracy forces in Puerto Rico and Washington, DC—with the gentleman from California, Mr. LAGOMARSINO, its congressional spokesperson—and a clarification is in order.

In January 1989, the Governor of Puerto Rico, Rafael Hernández Colón, formally requested Congress and the President of the United States to address the future of the relationship between the Commonwealth of Puerto Rico and the United States. During the following 26 months the people of Puerto Rico patiently but eagerly waited for Congress to enact legislation that would result in an eventual plebiscite in Puerto Rico by the end of 1991.

After thousands of hours of negotiations and meetings, including hearings in Washington, DC, New York and Puerto Rico, the Senate committee of jurisdiction was unable to mark up its bill authorizing the Puerto Rican plebiscite. The stalemate in the other body reflected Republican disarray over what to do with Puerto Rico. Many Republican Senators believed that President Bush made a big mistake in favoring statehood for Puerto Rico. The House of Representatives, following the leadership of Speaker TOM FOLEY, and Chairman MORRIS UDALL, of the Interior and Insular Affairs Committee, and RON DE LUGO, of the Subcommittee on Insular and International Affairs, however, approved legislation in late 1990. The process having stalled in the Senate, it is now well accepted that no negotiations on the future of the political relationship of Puerto Rico and the United States will take place, at the earliest, until the 103d. Congress convenes in 1993.

In light of this painful experience, Governor Hernández Colón and the legislature of the Commonwealth of Puerto Rico recently approved a referendum for December 8, 1991, that calls for the people of Puerto Rico to make an official statement on the most basic principles that should guide future congressional action on this matter, to simplify and expedite proceedings and to petition Congress on our self-determination expectations. We believe that there are some fundamental principles that all Puerto Ricans share regarding the future relations between Puerto Rico and the United States, and the December 8, 1991 referendum in the island clearly calls for Puerto Ricans to affirm those basic principles, as a statement of the will and aspirations of the people. The principles are: First, that any change in the relations between Puerto Rico and the United States must be ultimately approved by the people themselves; second, that any such change must be approved by a majority of voters; third, that in any congressional process to consult the people of Puerto Rico as to changes in the relationship all alternatives—commonwealth, statehood, and independence—should be included, and none can be colonial in nature; and finally, fourth, that the people of Puerto Rico should not be asked to give up either their Hispanic heritage or their United States citizenship as part of any change in the relationship. The referendum's enabling law clearly states that a yes or no vote on December 8 is not a vote in favor of one political status option over another, but only an opportunity to express, as a people, what they wish to have as a framework for any future congressional action on their political destiny.

The basic principles that the people of Puerto Rico are being asked to ratify in the December 8, 1991 referendum are eminently fair and democratic. An affirmative vote does not imply any disassociation with the United States as Mr. LAGOMARSINO so incredibly claims in his statement yesterday. It is hard to understand how any person of good will committed to democratic principles can find any fault in this process. That the Government of Puerto Rico is convoking the people to affirm and ratify these principles through a referendum is in and of itself an example of democracy.

Moreover, the self-governing Commonwealth of Puerto Rico is fully empowered to conduct such a referendum. The inalienable right of the people of Puerto Rico to self-determination has been endorsed by every President since Dwight Eisenhower, by the U.S. Congress, by the U.S. Supreme Court, by the United Nations, and is supported by international law. In addition, the United States has taken the position before the international community that the ultimate decision on the political status of Puerto Rico belongs to the people of Puerto Rico. The December 8 referendum is nothing but an attempt to articulate a legitimate expression of a people, democratically declaring the acceptable boundaries to be observed during any political status consultation. This referendum, moreover, is an exercise of the right of the people to petition Congress, as guaranteed by the U.S. Constitution.

In light of this background, Mr. Speaker, I find totally inappropriate Mr. LAGOMARSINO's statement yesterday in the CONGRESSIONAL RECORD. His grossly distorted and often erroneous description of the process that is about to take place in Puerto Rico can only be characterized as shameful. Mr. LAGOMARSINO's meddling in this process—an internal matter for the people of Puerto Rico—responds to his strong ties with the pro-statehood New Progressive Party in Puerto Rico, and to his never ending patronizing desire to tell the people of Puerto Rico what is best for them.

Moreover, Mr. Speaker, my colleagues in the Congress are owed a better explanation of Puerto Rico's referendum situation than the glib, facile, distorted and often erroneous description that Mr. LAGOMARSINO offered yesterday. The irony is that Mr. LAGOMARSINO knows better—or should know better. He, or the politically partisan staffer who normally writes his statements on this issue, knows for example that the Language Law enacted this year by the Government of Puerto Rico had nothing to do, as Mr. LAGOMARSINO said in the RECORD yesterday, with "stopping enactment of a plebiscite which would have offered statehood as an option to the people of Puerto Rico." That is a demonstrably untrue statement.

The Language Law was enacted months after the plebiscite process in the Congress had unfortunately ended in the Senate without a resolution of the issue. And Mr. LAGOMARSINO knows that the Puerto Rico Language Law did not outlaw English in the community nor did it create a Spanish-only environment, as he claims in his statement. It merely ratified what were existing realities in Puerto Rico, and I personally have gone to great lengths to explain this to my colleagues in several statements in the RECORD.

Another example of the false statements made by Mr. LAGOMARSINO is that some 70 percent of the Puerto Rican people object to Spanish as the language of the Government. There is no evidence to support this. In fact, some polls show just the opposite.

A third misleading statement is Mr. LAGOMARSINO's suggestion that a Federal judge in Puerto Rico last week somehow ruled against the December 8 referendum. In fact, the judge in question, who is a Republican pro-statehooder, as is Mr. LAGOMARSINO, did just the opposite: he ruled that the referendum could go on as scheduled December 8.

Also grossly misleading is Mr. LAGOMARSINO's attempt to show that the U.S. Justice Department, in a November 13 letter to Mr. LAGOMARSINO, has somehow come down against the referendum law enacted by Puerto Rico's Legislature. In fact, the letter noted how the Justice Department has a time-honored position not to provide opinions at the request of persons outside the executive branch. The letter, however, did indeed express highly controversial opinions about whether Puerto Rico falls under the plenary powers of the Territorial Clause of the Constitution, but in any case it is a mere opinion, and one totally contrary to the consistent rulings of Federal courts on this matter.

Mr. Speaker, it pains me to speak so bluntly about this issue and about a fellow Member of this body, but it would be grossly unfair to Puerto Rico and a blatant disregard for the truth to allow Mr. LAGOMARSINO's distortions to go unchallenged. I am confident that in the end it will be the people of Puerto Rico, and their political parties, who will decide their future, not a pro-statehood Member of Congress who is perennially disappointed that the people of Puerto Rico somehow do not follow his advice. I wonder how Mr. LAGOMARSINO would have reacted to a blatant attempt to deny the people of his State of California the right to participate in their many referenda.

And it will be the people themselves, mature and politically sophisticated as they are, who will democratically decide whether to vote in the December 8 referendum in favor of the principles discussed before. Mr. LAGOMARSINO's fantasy that he can affect the outcome is itself an arrogant disregard of the people's democratic capacity. But he might have misled some of his colleagues as to the true nature of Puerto Rico's referendum and that alone justified this reply.

GOVERNMENT SECURITIES REFORM OF 1991

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RINALDO. Mr. Speaker, Yesterday, Congressman MARKEY and I introduced major legislation, the Government Securities Reform of 1991, which would reauthorize the Government Securities Act and strengthen the law to prevent the kind of abuse that was uncovered earlier this year when the Salomon Brothers scandal came to light.

Our legislation, which is a bipartisan effort, contains several important provisions that will help to restore confidence in this critical market. Our bill would empower the Security and Exchange Commission to impose additional record-keeping requirements from government securities dealers or brokers; would grant the SEC enhanced authority to require reports from large trading customers; would require increased internal controls to prevent violations of securities laws, and it would also grant the SEC authority to oversee the dissemination of market price and trading information to the public.

The Telecommunications and Finance Subcommittee has been deeply involved in government securities issues since the Salomon Brothers incident this past summer, and Chairman MARKEY deserves tremendous credit for the leadership and initiative he has brought to this subject. I look forward to working with him over the next few weeks and months as we build a consensus behind our legislation.

That effort should, and I hope it will, include representatives from the government securities industry. We have already received input from a number of organizations, through hearings, testimony, informal meetings, and we are well aware that some of the provisions in the Markey-Rinaldo bill have raised concerns. I am sensitive to those objections, as I know Representative MARKEY is, and we both look forward to working with the affected parties in an expeditious fashion to iron out any particularly onerous or unnecessary provisions. I must say, however, to those who object to provisions of our bill, that I personally will be looking for constructive, helpful remarks that will improve the legislation, not scuttle it. With the reports of the pertinent Federal agencies due in only a few weeks, I hope we can set this legislation at the top of our calendar of business next year.

GWEN TILLEMANS

HON. ROBERT J. LAGOMARSINO

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LAGOMARSINO and Mr. GALLEGLY. Mr. Speaker, we rise today to jointly pay tribute to a woman who has worked tirelessly in the vineyard of Republican politics in Ventura County for more than two decades.

Gwen Tillemans, who stepped down this year from the chair of the Ventura County Central Committee, could well be called Mrs. Republican of Ventura County. Since she moved here 20-some years ago, she has served on virtually every executive board of the Federation of Republican Women at the local, county, southern division and State levels. She served 4 years as chair of the Ventura County Republican Women's Federation, and is currently serving the first year of a 2-year term as county president.

In addition, she served during that time as county chair of the Reagan campaign, county cochair of the Bush-Quayle campaign, and for 4 years as county chair of the Bob Lagomarsino campaign.

Politics has always been Gwen's first love, after her family, of course but she also loves sports, including swimming, bridge, and cheering for the Dodgers and the Lakers.

Gwen is a wonderful woman, always ready to take on a new task cheerfully and skillfully, and neither of us would be here, Mr. Speaker, without her support. So it is with gratitude and great affection that we publicly pay tribute to her for all that she has done for the party and for the county, State and Nation. Gwen, we salute you, and know that as long as you're around, we'll be in good hands!

ARMS CONTROL: A YEAR OF PROGRESS AND OPPORTUNITIES

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FASCELL. Mr. Speaker, in my capacity as chairman of the Foreign Affairs Committee and the Subcommittee on Arms Control, International Security, and Science, I and many Members have had a very active and interesting year focusing on a wide range of topical and pressing arms control and national security developments. Examples of such activities that both the committee and subcommittee have undertaken during 1991 include: New arms control agreements with the Soviet Union (START, CFE, and CW destruction); multilateral arms control developments—the Australia Group on CW, the Geneva CW negotiations, IAEA improvements, and conventional arms sales restraint talks by the Permanent Five Members of the U.N. Security Council; concerns over the proliferation of nuclear, chemical and biological weapons, and their associated delivery systems—ballistic missiles; reform and adaptation of United States security assistance programs and arms export control authorities to post-cold war realities; and congressional policy initiatives to promote stability and democracy within a changing Soviet Union.

Progress in arms control has been rapid, meaningful, and unprecedented. And yet, there are even greater opportunities if political leadership can be responsive and creative enough. New opportunities in arms control remain abundant in the post-gulf war, post-cold war, and post-failed Soviet coup environment.

The main arms control and national security actions taken on by the Committee on Foreign Affairs include: Reaffirming the proper and adequate role for Congress in war powers decisionmaking, proven again by responsible congressional action authorizing the activities of U.S. forces in the gulf war; rewriting foreign military and security assistance programs to produce a leaner program, authorizing $2 billion less than the peak year of 1985; maintaining and improving congressional oversight of U.S. arms transfer policy and proposed arms sales worldwide; initiating a new arms control policy of multilateral restraint versus a business as usual approach on conventional arms sales to the Middle East and throughout the world; continuing review and support for key arms control agencies such as the Arms Control and Disarmament Agency [ACDA] and the On-Site Inspection Agency [OSIA]; and focusing congressional oversight on proliferation issues through legislative initiatives imposing sanctions against users of chemical weapons and proliferators of nuclear, chemical, and ballistic missile capabilities.

These arms control and national security themes and issues will remain on the committee and subcommittee work agenda for 1992. For example, the longstanding U.S. arms control policy, as reflected in the ARM Treaty, to control and reduce offensive strategic nuclear weapons while not exacerbating or extending the arms race into defensive systems was a contentious issue in this year's defense authorization bill. Fortunately, the final compromise did not mandate any changes in this longstanding policy initiated by the Nixon administration. It is clear that the issue of strategic and theatre defense systems and its impact on the direction of an arms control policy raised during consideration of the defense bill this year will become a central element of the arms control debates during 1992.

The following is a brief legislative history of committee and subcommittee activities on these arms control and national security issues.

PERSIAN GULF WAR AND WAR POWERS

On January 12, 1991, Congress passed House Joint Resolution 77 authorizing the President to use force against Iraq upon determination by the President that all diplomatic and peaceful means to obtain Iraqi compliance with the 12 U.N. Security Council Resolutions had filed. House Joint Resolution 77—Public law 102-1—reaffirmed the responsibility, authority, and constitutional obligation of Congress to declare war, demonstrating the continued vitality and legality of the war powers resolution.

In addition, the committee was directly involved in legislation relevant to U.S. efforts associated with Operation Desert Storm. These included various resolutions related to the gulf war and other legislation that became law, specifically the state supplemental authorization (H.R. 1176, Public Law 102-20) and Israel emergency assistance (H.R. 1284, Public Law 102-21).

Recognizing that the end of the war in Iraq could not signal a return to arms business as usual, on January 31, the Subcommittee on Arms Control, International Security and Science held a joint open hearing with the Subcommittee on Europe and the Middle East to initiate an extensive examination of postwar United States policy in the Persian Gulf. On April 11, the subcommittees held another hearing on postwar issues in the gulf which focused on Soviet policy in the Middle East.

On June 4, the subcommittees heard testimony from four experts on United States-Soviet relations and the future of arms control to discuss United States arms control policy during a time of crucial domestic change inside the Soviet Union.

On June 20, the committee released a print entitled "The Persian Gulf Crisis" containing documents, executive correspondence, and reports relevant to committee and congressional legislative action during the Persian Gulf war.

FOREIGN ASSISTANCE AUTHORIZATION

The Subcommittee on Arms Control, International Security and Science is responsible for all foreign security and military assistance programs. On March 14, the subcommittee held a hearing during which administration witnesses provided an overview of security assistance programs and presented policy initiatives for foreign assistance legislation for fiscal years 1992 and 1993.

This hearing represented a continuation of committee and subcommittee efforts initiated over 2 years ago to achieve long overdue and necessary reforms of the laws governing our foreign security assistance and military sales programs. Legislation containing many of the recommendations of the Hamilton-Gilman Task Force (H.R. 2655) first passed the House on June 29, 1989 by a solid bipartisan vote of 314 to 101.

On April 25, the subcommittee made its recommendations on military assistance and arms sales legislation for fiscal years 1992–93 to meet four major objectives: to enhance the effectiveness of security assistance; to improve fiscal responsibility; to improve committee oversight; and to enhance major arms control and international security objectives.

The International Cooperation Act of 1991, H.R. 2508, embraced these objectives and included a rewrite of the basic authorities and policy guidelines of both the Foreign Assistance Act of 1961 and the Arms Export Control Act of 1968. This effort represents a legislative overhaul emphasizing economic over military assistance, multilateral over bilateral solutions, and United States-Soviet cooperation over confrontation, thereby making our security assistance programs more appropriate to the post-gulf war and post-cold war environment of the 1990's.

ARMS TRANSFER RESTRAINT POLICY

One of the most important priorities for the subcommittee in 1991 was to develop a plausible and effective arms transfer restraint policy for the Middle East and Persian Gulf. These efforts culminated in full committee support for an amendment calling for an indefinite moratorium on the sale of major military equipment of U.S. origin to the Middle East and Persian Gulf regions. The moratorium was to remain in effect until another arms supplier nation broke the moratorium by making a major sale to the region or until it was replaced with a multilateral arms restraint regime. This conventional arms control initiative represented a major part of the subcommittee's efforts to prevent a return to "business as usual" arms sales practices in the Middle East and Persian Gulf in the wake of Operations Desert Shield and Desert Storm.

This subcommittee initiative, geared toward stimulating the developing of a multilateral arms restraint policy and regime, was adopted on May 23 as section 242 title II in the foreign assistance authorization legislation fiscal year 1992—H.R. 2508. Six days later, President Bush called for restraint in conventional arms sales by the five major suppliers, as well as global elimination of all weapons of mass destruction—nuclear, chemical, and biological and their associated delivery systems, specifically ballistic missiles. The President's announcement opened the door to increased cooperation between the legislative and executive branches to develop an effective multilateral arms restraint regime. This announcement resulted in negotiations among the permanent five members of the United Nations Security Council in Paris and London on arms transfers to the Middle East. These negotiations will continue in Washington next year and will remain a primary focus of both the subcommittee and committee during the second session of the 102d Congress.

On June 27, the subcommittee held a joint hearing with the Subcommittee on Europe and the Middle East on U.S. conventional arms sales policy in the Middle East. Administration witnesses were asked to explain the apparent discrepancy between policy rhetoric on arms sales and the actual decisionmaking with regard to continued conventional arms sales to the Middle East.

The conventional arms restraint legislation, section 242 of H.R. 2508, also contained language committing the United States to multilateral negotiations among the five permanent members of the United States Security Council—the United States, U.S.S.R., France, Britain, and China—and other principle suppliers in an effort to establish a multilateral arms transfer restraint regime. The moratorium was a way for the United States to exercise world leadership and to jump-start the process toward such a multilateral commitment. As stated, the administration did engage in multilateral negotiations at the Paris Conference held on July 8 and again in London on October 17–18. These negotiations represented executive branch implementation of a congressionally sponsored and endorsed arms control policy objective.

The subcommittee held a closed briefing on July 24 with representatives of the Central Intelligence Agency to discuss the military balance in the Middle East and trends in arms sales to the region for the 1990s. On July 25 the subcommittee heard testimony from the administration on its arms transfer policy.

The committee's arms transfer restraint policy language can be found in the committee of conference report—102–225—which accompanied the bill—H.R. 2508. The conference report language paralleled that of the original committee bill and retained the definition of major military equipment with one modification.

The State Department authorization conference report contained an identical arms restraint policy provision in H.R. 1415 which was enacted on October 28—Public Law 102–138.

U.S. ARMS TRANSFERS

The committee, in conjunction with the relevant regional subcommittees, reviewed all arms sales worldwide giving special attention to the sale of Apache attack helicopters to the United Arab Emirates, the Korean fighter program, the transfer of F–15's to Israel, and the sale of Patriot air defense systems to Saudi Arabi.

On August 1 the Arms Control Subcommittee held a joint open hearing with the Asian and Pacific Affairs Subcommittee to discuss technology transfer issues and the effects of licensing and coproduction aerospace agreements to the U.S. economy and national security.

The subcommittee released a new study by the Office of Technology Assessment [OTA] on May 10 entitled "Global Arms Trade."The OTA report examines technologies and techniques for monitoring compliance with arms control agreements, and outlines options for improving the management and coordination of our verification efforts.

ARMS CONTROL AGENCIES: ACDA AND OSIA

The subcommittee met on March 13 with Director Ronald Lehman of ACDA to review ACDA's budget, personnel and management and the agency's contribution to U.S. arms policy efforts. On March 21, the subcommittee met with Maj. Gen. Robert W. Parker, Director of OSIA, and reviewed the Agency's arms control implementation activities.

House resolution 229 commemorating ACDA on its 30th anniversary was approved by the committee and passed the full House on September 26, the Agency's 30th anniversary.

NUCLEAR ARMS CONTROL AND DISARMAMENT

The subcommittee has jurisdiction over all aspects of arms control and disarmament with a particular emphasis on the evaluation of arms control and disarmament proposals and on the review of arms control negotiations and agreements. The subcommittee organized several briefings for members of the Foreign Affairs Committee and members of the House Observers Group on the status and progress of all the arms control negotiations and agreements. The subcommittee conducted a hearing on November 5 on President Bush's September 27 nuclear arms control initiative, President Gorbachev's October 5 response, and the implications of these announcements for the future of arms control.

NUCLEAR AND BALLISTIC MISSILE PROLIFERATION

The subcommittee continued to exercise its special interest and oversight activities relevant to the missile technology control regime [MTCR]. The subcommittee reviewed nuclear nonproliferation goals and examined recommendations to improve the effectiveness and consistency of nuclear export controls, to provide a more effective IAEA safeguards system, and to institute tough sanctions against companies or countries that assist would-be proliferators.

In this regard, the committee adopted an amendment that extends the scope of IAEA safeguards to include exports of dual-use items and nuclear-related components and technology that could foster nuclear material production abroad. The bill authorizes the United States to impose sanctions on countries exporting nuclear material and/or technology. The measure was adopted into title III of the Export Administration Act by the committee on October 17 and passed by the full House on October 10.

CHEMICAL AND BIOLOGICAL WEAPONS

Consideration and action on chemical and biological weapons sanctions legislation by the committee and the subcommittee over the past few years has been driven by three primary policy objectives: First, to stop the proliferation of chemical and biological weapons; second, to penalize the countries and companies using or transferring chemical and biological weapons; and third, to establish a meaningful, mandatory sanctions regime against country and company violators.

The subcommittee continued to take a comprehensive arms control approach to prevent chemical and biological weapons development and production. The major legislative activity by the subcommittee and the committee included two, almost identical, pieces of legislation on chemical and biological weapons sanctions. Chemical weapons sanctions legislation became part of the Foreign Relations Authorization Act for Fiscal Years 1992 and 1993 adopted by the House on October 8, 1991, and signed into law (Public Law 102–138) by the President on October 28, 1991. Chemical weapons sanctions legislation also became part of House Resolution 287 passed by the House on November 20, 1991. The difference between the two pieces of legislation is that House Resolution 287 includes import sanctions as an additional sanction that can be imposed on foreign countries and on foreign companies and individual violators.

The subcommittee has provided staff support to Members who were appointed by the Speaker of the House to be House Observers to the Chemical Weapons Talks in Geneva. Developments in the bilateral United States-Soviet Chemical Weapons Destruction Agreement and progress in the multilateral talks in Geneva for a worldwide ban on the production, use, and proliferation of chemical weapons have been followed by the subcommittee in briefings to Members and staff by ACDA Director Ron Lehman and other Government officials.

ARMS CONTROL IMPACT STATEMENTS FISCAL YEAR 1992

The fiscal year 1992 arms control impact statements on nuclear weapons and other arms programs were submitted for the 16th consecutive year to Congress by the President pursuant to section 36 of the Arms Control and Disarmament Act.

Annual impact statements are requested by Congress for the purpose of enhancing public awareness of U.S. weapons programs and arms control policies and negotiations. They are prepared by the executive branch in conjunction with its finding requests for defense, nuclear weapons and related programs, and are intended to assist the Congress in assuring that arms control considerations are reflected in our defense programs.

CONVENTIONAL FORCES IN EUROPE

Legislation to amend the Arms Export Control Act to authorize the transfer of CFE Treaty-controlled U.S. defense equipment to NATO allies—H.R. 3807—was approved by the full committee and passed the House on November 19. The transfer program authorized by this legislation enables the United States, Germany, and other allies to adjust their reduction liabilities under CFE as ratified by the Senate on November 25 and allows the alliance to achieve effective overall defense capability at lower levels. The transfers are consistent with the obligations incurred by the United States and other allies in connection with the CFE Treaty.

SUPPORT SCHOLARSHIPS FOR UNDERPRIVILEGED STUDENTS IN THE ANDEAN COUNTRIES

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GUARINI. Mr. Speaker, today I am introducing legislation to authorize scholarships for economically disadvantaged students in the Andean countries. This bill would allow students from Colombia, Bolivia, Peru, and Ecuador to compete for scholarships available under a program administered by the United States Agency for International Development.

These four Andean countries have been waging a life and death struggle against illegal drugs. They are also emerging democracies. Providing a sound education to the region's underprivileged citizens will foster goodwill, promote productive relationships between the United States and the Andean countries, and encourage close economic ties with the United States. It will also promote economic and social development throughout the Andean region, which will enable these countries to combat the narcotics problem more effectively and provide a standard of living for their people conducive to democratic development.

Mr. Speaker, in 1989 I offered an amendment authorizing scholarships for students from the Caribbean region as part of the Caribbean Basin Economic Recovery Act. Since 1985, 2,366 students from Central America and the Caribbean have received scholarships under this program. Since 1990, 810 scholarships have been awarded, 316 of which were for students in the Caribbean. Overall, over $34 million has been appropriated to fund these scholarships in fiscal years 1990 and 1991.

The funding for this program comes from a public-private partnership. The Federal Government pays at least 50 percent of the cost and the remainder comes from private educational institutions. This cost-sharing arrangement has leveraged another $6 million in scholarship funds for Central American and Caribbean students.

The scholarships provide $1,605 per student per month for 24 months, or $38,500 per student. The recipients are economically and socially disadvantaged. Many of the students come from families with annual incomes of less than $2,000 per year and would never be able to pursue their education without these scholarships. Students eligible for the program must have graduated from high school and demonstrated strong leadership potential.

Mr. Speaker, the scholarship program for the Caribbean countries has been a huge success. It should be extended to the Andean region. The scholarships will help implant strong democratic values in the minds of the Andean region's brightest and most promising young people. This type of assistance will be an investment not only in the future of the Andean countries, but in the future political and economic security of the United States.

I urge my colleagues to support this important legislation.

ARAB LEAGUE BOYCOTT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MATSUI. Mr. Speaker, I rise today to introduce legislation to require the United States Trade Representative to report on the trade impact of the Arab League boycott of American companies that do business with or invest in Israel. I am pleased that the distinguished chairman of the Ways and Means Subcommittee on Trade, Congressman SAM GIBBONS, is introducing this legislation with me.

The U.S. Trade Representative is required by law to outline significant foreign barriers to, and distortions of, trade in a report called the National Trade Estimate Report on Foreign Trade Barriers. This report is presented to the Congress and the President annually. It describes the practices of foreign countries that keep American products out of their market and thus put U.S. products and businesses at a competitive disadvantage.

In addition, the report, where possible, includes estimates of the impact that these trade barriers have on the volume of U.S. exports. The report also details the efforts our Government is making to eliminate these trade barriers.

Mr. Speaker, the Arab boycott is economic warfare against not only the state of Israel, but against all nations, companies, organizations, and individuals who maintain ties to Israel. It clearly impedes the exports of United States products and puts our businesses at a competitive disadvantage. Yet, the National Trade Estimate Report on Foreign Trade Barriers remains silent on the boycott. Nowhere does the report discuss the Arab boycott and its negative impact on U.S. exports.

The Arab boycott was initiated in 1946 and, since Israel's establishment in 1948, has been geared toward undermining Israel's economic viability. The boycott prohibits Arab peoples, states, and companies from buying from or selling to Israel or Israelis and prohibits Arabs from entering into any form of commercial transaction or trade with Israelis.

A secondary boycott attempts to prevent businesspersons and companies anywhere in the world from trading with Israel by threatening them with Arab economic retaliation. United States companies trading with Israel or investing with Israel are put on a blacklist, and consequently find themselves boycotted by American companies and governments. It is absolutely unacceptable for Arab League countries to boycott our products, especially after the United States defended so many of these nations in the Gulf War.

Currently, the United States is the only country in the world that has adopted effective and comprehensive antiboycott legislation. Section 8 of the Export Administration Act of 1977, prohibits any U.S. person from complying with a boycott against a country friendly with the United States. The Office of AntiBoycott Compliance [QAC] at the Department of Commerce keeps track of boycott requests and is charged with the mission of ensuring that American companies do not comply. As our chief negotiator, the U.S. Trade Representative should seek an end to these unfair trading practices, so that our businesses will be able to export their quality products to the countries of the Middle East.

It will be extremely difficult for the U.S. Trade Representative to effectively negotiate an end to the boycott however, if it does not have all the facts with which to make its case. The U.S. Trade Representative cannot effectively deal with this issue if its major report on barriers to trade does not recognize the Arab Boycott as significant barriers.

My legislation would correct this problem by requiring the U.S. Trade Representative to include the impact of the Arab boycott on American business in its National trade estimate. This legislation will make it clear to the Arab League countries that our government will not tolerate this destructive policy. It also will give the U.S. Trade Representative the information it needs to aggressively pursue the elimination of the Arab boycott which unjustly discriminates against American companies and their products.

Mr. Speaker, understanding the scope of the Arab boycott will be an important step toward bringing it to an end. I ask my colleagues to support this important legislation.

TRIBUTE TO DR. MARTIN LUTHER KING, JR.

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McDERMOTT. Mr. Speaker, on November 16 of this year my district of Seattle, WA, dedicated an important addition to our city—the Martin Luther King, Jr. Memorial Park.

The Martin Luther King, Jr. Memorial is the second largest such memorial to Dr. King in the United States. It was created to commemorate the remarkable life and work of Dr. King and to serve as a living testimonial to Dr. King's life and philosophy. The park offers an opportunity for each of us to remember Dr. King's eloquent message and to renew the dream for which he lived and died.

The 4-acre park has as its centerpiece a 30-foot-high sculpture, a mountain of black granite, mounted in a reflecting pool. The three parts of the work represent an African sculptural form, symbolizing the family unit and the Trinity, inextricably joined. Falling water symbolizes renewal and the return of Dr. King's teachings to all of us. The walkway surrounding the reflecting pool is embedded with 12 plaques identifying events from Dr. King's life.

Inspired by the mountain top speech Dr. King made in Memphis in 1968, the sculptor, the late nationally known artist Robert W. Kelly, conceived the idea of a symbolic mountain—difficult to climb, yet interspersed with plateaus of rest and reflection. Mr. Kelly attended Howard University in Washington, DC, and received his bachelor's and master's degrees in art education from New York University. He taught and lectured in New York and in Washington State at Shoreline, Bellevue, and South Seattle Community Colleges and at the University of Washington.

The memorial is endorsed by the King family, and will be the only one of its kind in the country. I am proud that my district has chosen to recognize Dr. King's great legacy to our country with such a moving and lasting tribute. I commend the efforts of those who worked so hard to complete this memorial. I know it will serve as a poignant reminder to us all of Dr. King's enduring vision of peace and justice in America.

I would like to acknowledge the hard work of the following individuals on this project:

Morrie Alhadeff, honorary chair, Herman L. McKinney, chairman, Freddie Mae Gautier, cochair, Bill McIntosh, cochair, Bill McIntosh, cochair, Rev. Dr. Samuel B. McKinney, cochair, John A. Gilmore, fundraising chairman, Leroy Arnold, Roy Avent, Lola Barkley, Buddy Brown, Darlene Downing, Malcolm Edwards, September George, Dr. Samuel E. Kelly, Brenda Miller, Julie Ross, Susannah Ross, Vivian Phillips-Scott, E. Diane Thompson, Steve Worthy, Fitzgerald Beaver, Chris Bennett, Herb Bridge, Kay Bullitt, Lee Carter, and Steven Dever.

Also George Fleming, Horace Francis, Dr. Robert Gray, Dr. Carver Gayton, Larry Gossett, Walt Hundley, Randy Johnstad, Donna Kelly, Rep. Mike Lowry, Gwen Knight Lawrence, Jacob Lawrence, Roberto Maestas, Jim Nicholson, Dr. Constance Rice, Dr. Millie Russell, K. Sugi Riley, Eddie Rye, Jr., Councilman Ron Sims, Bob Santos, Councilman Sam Smith, Rabbi Earl Starr, Lacy Steele, George Tsutakawa, Jeri Ware, James W. Washington, Jr., Dr. Rosalind Woodhouse, Rep. Jesse Wineberry, and Charlie James.

WASHINGTON PEACE TALKS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SCHEUER. Mr. Speaker, President Bush's decision to invite Israelis and Arabs to come to Washington for the second stage of the Middle East peace talks next week was ill-timed and unwise.

It was ill-timed because, by sending the invitations the night before he was to sit down for a meeting with Yitzhak Shamir, the President once again undercut the Israeli leader's credibility.

It was unwise, Mr. Speaker, because such a move implies direct U.S. involvement in the talks, which could very easily stymie the peace process. Such direct American involvement will encourage intransigence on the part of the Arab parties, who are relying on the United States to do their negotiating for them, and shove an unfavorable agreement down Israel's throat.

Mr. Speaker, I urge the administration to rededicate itself to the success of the process by staying out of the second stage of discussions between Israel and each of the Arab parties. Any move by the administration to play a dominant role in these talks will only serve to encourage Arab recalcitrance.

We should let the parties negotiate among themselves. That is what direct talks is supposed to mean.

It was unwise, Mr. Speaker, also because holding the talks in Washington will once again involve the President in a difficult international negotiation when domestic problems deserve his attention. With unemployment rising, the stock market tumbling, and the American people wondering where this Government's top priorities are, the President was ill-advised to commit himself to the formidable role of host. Indeed, the very fact that the talks will be in Washington promises to involve the President in all the attendant duties of hosting such a meeting.

If the meetings do take place in Washington, as it now appears they will, it is incumbent upon the President to ensure our Government plays the role of host only—providing the physical setting for the talks but leaving the negotiating up to the participants.

The President showed admirable determination and success in getting the peace conference process going to the stage of direct talks between the parties. Now it is time in this second stage for the American presence to recede to let the parties work out their problems directly and on their own. The Arab countries must not be encouraged to rely upon the American administration to do their negotiating for them.

PROTECTION FOR WHISTLEBLOWERS AT DEPARTMENT OF ENERGY FACILITIES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WYDEN. Mr. Speaker, last September, a Federal court in eastern Washington ruled that whistleblowers at Department of Energy facilities working for private contractors have no protection from employer retaliation under Federal law.

If this decision stands, it will create a major role in whistleblower protections at DOE sites. At a typical site, Government employees are a tiny minority, dwarfed by a huge private contractor work force. Literally thousands of employees at a site like Hanford in the Pacific Northwest or Savannah River in South Carolina are in danger of being stripped of basic job protections.

Whistleblowing employees at these sites perform a true public service. Whistleblowers can claim credit for many of the landmark safety actions at DOE facilities over the last 6 years, from the closure of outmoded and unsafe facilities to the implementation of new safety training and procedures.

Often their service comes at a high personal cost. The Energy and Commerce Oversight Subcommittee has heard DOE whistleblowers testify that they have been harassed, criticized, reassigned, and denied advancement by their private employers.

Today I am introducing a bill with the gentleman from Oklahoma [Mr. SYNAR] to ensure those dedicated employees who work at DOE sites have full protection and feel no hesitation in coming forward to correct problems.

The bill covers DOE contractor employees who blow the whistle on waste, abuse, mismanagement, and health and safety threats. It grants them the right to the same kind of grievance procedures and remedies that we promise most public employees. That includes the right to complain of harassment, to have an impartial investigator look into the complaint, to have an administrative hearing, to have access to the courts if necessary, and to get meaningful relief.

We owe it to the whistleblowers and to ourselves to enact sure and certain workplace protections. I encourage my colleagues to support this bill.

TRIBUTE TO STANLEY BALZEKAS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to pay tribute to an outstanding individual and dear friend, Mr. Stanley Balzekas of Chicago, IL. On December 8, 1991, Mr. Balzekas will be honored for his 25-year commitment with the Balzekas Museum of Lithuanian Culture, which he founded.

Mr. Balzekas' community involvement is admirable. He has served as president for the Ethnic Cultural Preservation Council, Archer International Advertising and Public Relations Agency, Ltd., and Balzekas Motor Sales. In addition, Mr. Balzekas directed the Ukrainian Institute of Modern Art and the American-Lithuanian Council. Moreover, he has served for 12 years with the Chicago Public Library as a board member.

His dedication to the Ukrainian culture is outstanding. He acts as a board member for the Illinois Consultation on Ethnicity in Education and the Chicago Consortium for Slavic and Eastern European Studies. He is also active in the city of Chicago's Department of Cultural Affairs and the Illinois Humanities Council.

Mr. Balzekas has been honored many times for his achievements. He is a holder of the Captive Nations Eisenhower Proclamation Medal and the Daughters of the American Revolution Medal. He has received awards from the American Jewish Committee, Illinois Department of Human Rights, the Illinois Bicentennial Commission, and was proclaimed 1991 University Alumni of the Year.

Stanley Balzekas' commitment to his community and culture is impressive and deserving of special recognition and honor. I am sure that my colleagues will join me in expressing congratulations to Stanley Balzekas for his many years of selfless dedication, loyalty, and priceless contributions to his community. I wish him well and hope his life continues to be an adventure.

REMEMBER PEARL HARBOR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SKELTON. Mr. Speaker, in a few days we will commemorate the 50th anniversary of the Japanese attack on Pearl Harbor. It will be a time of painful recollection for a few and thoughtful reflection for many others. As a boy of 9, I was riding in my father's Chevrolet between him and a close family friend when the news about Pearl Harbor came over the car radio that December 7.

There are some in Japan today who would like to forget, to overlook, to dilute the unpleasant facts about Japanese aggression in Asia from 1931 to 1945. They have even succeeded in revising Japanese high school history textbooks to reflect their viewpoint.

Others in Japan know that until they confront an unpleasant past in a direct and honest fashion, Japan will be unable to assume a greater role in world affairs. Such an exercise will be a very painful one. This was true for West Germany when it confronted the Nazi legacy.

Let us remember Pearl Harbor neither as an American military disaster, which it was, nor as a Japanese tactical victory, which it also was. Let us remember Pearl Harbor as a warning. It is a warning to those unwilling to acknowledge or confront the harsh, unpleasant facts of recent history.

ECONOMIC BRINKMANSHIP

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PACKARD. Mr. Speaker, we continue to play economic brinkmanship. Brinkmanship, in the days of John F. Kennedy and John Foster Dulles, was the tactic of bringing this country to verge of nuclear war in order to expedite our foreign interests. In this day and age, when communism has been dismantled, and the threat of nuclear war is diminished, we are still using brinkmanship, only in a different way.

Economic brinkmanship now pervades our domestic agenda, and has been elevated during this Congress to state-of-the-art politics. Instead of passing legislation to jumpstart the economy, we teeter on the brink of a dire situation. Each side watches as the country slides closer and closer to the abyss. Each side wonders who will blink first. My feeling is that the American people are taking a good look and are disgusted by what they see. Among the options that we face as legislators, inaction is our most damaging course.

The Republican leadership has proposed that we pass an economic growth package to help relieve the economic pressure Americans are facing today. This proposal was introduced in July. And yet, the Democratic leadership of this House has effectively blocked our attempts to pass this vital legislation. Last week, I joined with my Republican colleagues in a letter calling on Speaker FOLEY to keep Congress in session until we have enacted a progrowth bill. Mr. Speaker, this afternoon the President expressed his "enthusiastic support" of passing an economic growth package today.

Here on the brink, economic relief is held hostage to political advantage. If the Democrat-controlled leadership of the House will allow us to, it is in this Congress' power to reverse the dangerous slide of American productivity and prosperity. And yet, as we speak, this proposal has little hope of being considered in the full House before we adjourn. Instead of providing economic relief, bitter rhetoric and partisanship are firmly entrenched in this Congress. Only by taking decisive action can we pull back from these lines in the sand that we have drawn for ourselves in Washington.

FAMILY PLANNING GAG RULE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, I rise this evening to ask my colleagues if they have contemplated what will happen to many American women under the administration's family planning gag rule. The sad fact is that the gag rule will mean that more and more women will not be given sound health care guidance and referrals to physicians or clinics where they can find safe abortions.

Instead, I fear that many find themselves victimized as was Doris Olivo. Her story was published this past Sunday on the front page of the New York Times. At first reading, you would have thought that the report was written before the Roe v. Wade decision ensured the legality of abortion services in the United States. But, no, the report was about Ms. Olivo's botched abortion this year at the hands of an incompetent physician. The procedure was performed without counseling, without a preliminary examination, and without adequate anesthesia. Ms. Olivo's life was jeopardized and surgery was required to save her.

Last week's House vote very narrowly failed to override the President's veto of the labor-health and human services-education appropriations bill which would have blocked implementation of the gag rule. Many of those who voted to sustain the veto did so in the name of what they claim to be a pro-life position. I call on them to think seriously about the tragedy of Doris Olivo. And I tell them today, in all sincerity, that the failure of the House last week to remove the gag rule creates the very real likelihood that tragedies like Ms. Olivo's and worse will be more and more common.

If low-income women are already seeking illegal abortion services, what will they do when their doctors are gagged and cannot even direct them to a safe, legal abortion clinic? What will they do when, out of principle, title X clinics shut down rather than commit Government-mandated malpractice?

The answer is tragic. It will mean senseless physical and emotional harm to American women. It will mean death to some. It will create immense hardships on the families of those women.

Mr. Speaker, I ask unanimous consent that the New York Times article about Ms. Olivo's tragedy be included in the RECORD at the end of this statement. I do so with the hope that every one of my colleagues will read it carefully and that those who supported the gag rule will reconsider their position in light of the tragic implications of this policy.

Every day we wait to reverse the gag rule, the lives of more and more women are at risk. I call on my colleagues to join us in moving soon to end this policy so that women's lives will not be jeopardized and so that confidentiality of doctor-patient relationships in title X clinics will be restored.

ABORTION MILLS THRIVE PLAYING ON FEAR AND SECRECY—ONE WOMAN PAYS CASH IN ADVANCE, BUT SHE RECEIVES NO AID

(By Robert D. McFadden)

It is a shadowy business, the unregulated world of abortion mills, shabby clinics operating behind the facades of doctors' offices, often in poor neighborhoods. Its victims are women who know little about legal rights or medical options, who have seen an ad or heard a tip and come to this—driven by fear and loneliness or fates beyond invention—to risk butchery on a table.

No one knows how many such fly-by-night surgeries there are in New York City or how many abortions they produce. But law-enforcement officials and medical experts say dozens of these clinics are believed to be tucked away behind storefronts and in more ordinary-looking doctors' offices and they are believed responsible for scores or even hundreds of illegal or incompetent abortions annually.

And beyond the numbers, experts say, lies the suffering of women who seek illegal abortions—those in the last trimester of pregnancy with the mother's life not in danger—or who are victimized by incompetent abortionists because they are poor and uneducated, do not speak English or do not know how to find a good clinic, evaluate medical treatment or file a complaint if things go wrong.

NO QUESTIONS, NO ADVICE

"I would tell Hispanic women that when you have this procedure done, to check the place, check the circumstances," said Doris Olivo, a 29-year-old Dominican woman who says she was a victim of a botched abortion. She told of an ordeal in a filthy office with a doctor who asked no questions, administered no tests, demanded $150 in cash and was not available later when complications developed.

In recent days, after a Lower East Side doctor, Abu Hayat, was accused of severing the arm of a fetus in a botched, and illegal, abortion, a score of women like Ms. Olivo have filed criminal complaints and lawsuits and told of uterine and cervical cuts, hemorrhages, infections and other nightmares under the knife.

They have also turned a spotlight on the chilling secrets of sleazy abortion mills—most of them run by licensed doctors who use their offices as abortion "clinics," but are not licensed as full-fledged abortion clinics and are thus not subject to rigorous state standards and periodic inspections.

While the Manhattan District Attorney's office is investigating Dr. Hayat for another botched abortion that led to a young woman's death last year, and the State Health Department is considering a revocation of his medical license, the case has raised far deeper questions about the small but vampirish world of medicine that operates on the fringes of legality and the Hippocratic Oath.

And the experiences of women who have entered that world illustrate its perils and some weaknesses of the agencies responsible for policing the medical profession.

CHOOSING A DOCTOR FROM AN AD

Ms. Olivo, who is the mother of two children, became involved in 1989, when she decided to have an abortion because one of her sons had been born handicapped and because she was jobless and could not support a third child. Like many women, she learned of Dr. Hayat in an advertisement in El Diario.

Taking a doctor's name from an ad is hardly sufficient to find a good doctor or clinic. Peter Slocum, a spokesman for the State Health Department, said that in the absence of a family physician to make a recommendation, one can contact county medical societies, any hospital or the larger, better known clinics like Planned Parenthood for advice.

There are three legal options for a woman seeking an abortion, Mr. Slocum noted. In New York City, they may be performed only in hospitals or their outpatient clinics, in the offices of licensed physicians and in dozens of abortion clinics that are owned by 12 licensed corporations, like Planned Parenthood.

As defined by the state, licensed abortion clinics are not just places where several doctors join their practices. Rather, they are corporations that hire doctors; meet rigorous state standards for equipment, procedures, cleanliness and staff training, and must be inspected for licensing and have periodic inspections thereafter.

All licensed abortion clinics are required to have emergency backup plans to take a patient in distress to a local hospital. State officials stress that these legitimate abortion clinics should not be confused with abortion mills, where nearly all of the illegal or incompetent abortions occur.

These are usually private doctors' offices masquerading as clinics—that is, the doctors are licensed, but the clinics are not. Many of the mills, though not all, are situated in poorer neighborhoods, where immigrants, the uneducated and non-English-speaking residents form a core of clients.

Cost was a major factor for Ms. Olivo, who was attracted by Dr. Hayat's $150 price. Some abortion mills now charge $1,500 or more, patients say, while legitimate clinics charge $300 to $500. Many poor women are unaware that New York is one of the few states that covers abortions under Medicaid.

After reading the advertisement, Ms. Olivo telephoned Dr. Hayat's clinic, than located at 820 Broadway in the Williamsburg section of Brooklyn. "They said I didn't need an appointment," she recalled. The clinic, in a second-floor office, had little equipment.

LITTLE EQUIPMENT AND NO TESTS

The lack of equipment was a signal that something was wrong. Most mills, officials said, lack proper equipment, including sonogram or ultrasound machines that help determine the age, size, position and other vital data on a fetus. Sonograms are normally required after the 12th week of pregnancy.

No questions were asked, Ms. Olivo said, and no tests were administered—not even one to confirm she was pregnant, let alone one to learn the age of the fetus—and these were further signs that the clinic was not a good one, officials said.

Ms. Olivo said she believed she was in the first trimester of pregnancy. Abortions in New York are legal only in the first two trimesters, or 24 weeks of pregnancy. But officials say some abortion mills make no effort to determine the age of the fetus and illegally abort pregnancies in the third trimester. After the 24th week, a pregnancy may be ended only in a hospital and only if the mother's life is in danger.

Ms. Olivo paid cash in advance. After a 30-minute wait, she said, the nurse took her into a room, put her on an examining table and injected her with what proved to be an ineffective anesthetic. Then, she said, Dr. Hayat appeared and, without a word, began the abortion.

"It lasted two minutes," she said. "While he was doing it, I could feel everything." After a few minutes in a small recovery room, she said, she was sent home and told to call if she felt ill. There was pain in her abdomen, and later it became worse.

Four days later, the pain and cramps were still growing worse. She went to a hospital and was admitted with a 103 degree fever. A doctor examined her, found that she had endured an incomplete abortion and removed parts of the fetus that were still in her uterus. After five days, she went home.

Later, Ms. Olivo returned several times to Dr. Hayat's office "to tell him how I felt," but was told each time that he was not there.

Now, two years later, Ms. Olivo is still weak from the experience and dismayed by it. She said she was stunned by reports last week that the doctor had botched other abortions. She said she wanted to sue him, but knew now that she could never collect damages.

"I would never have imagined that a clinic wouldn't have insurance," she said. "I thought it was required by law that you have insurance." But Mr. Slocum said doctors are not required to have medical malpractice insurance, and other officials said it was unlikely that abortion mills had such insurance.

The realm in which Dr. Hayat operated is a largely hidden one. The State Health Department, which licenses doctors and dozens of legitimate abortion clinics in the city and investigates complaints of malpractice and negligence against physicians, acknowledges that it does not know enough about illegal incompetent abortion mills and says it needs more authority to regulate them.

"We don't know as much as we'd like to," Mr. Slocum said. "They're underground, unfortunately, and we learn about them only when someone files a complaint or ends up in an emergency room. All we can see is the surface, but that is troubling to us. We suspect there is a lot more we don't see."

More women who have abortions in New York encounter no problems. Of 150,000 abortions reported in New York State (95,000 of them in New York City) in 1989, the latest year for which figures were available, fewer than 2,800 or less than 2 percent involved any medical complications and only a handful of those may have involved actual negligence or incompetence.

But policing the incompetence is difficult. Only one doctor in 1989 had a license summarily suspended for gross misconduct in an abortion, Mr. Slocum said. Indeed, he said, there have been only four other summary suspensions—emergency actions invoked before hearings on charges—related to abortions in the last six years—one in 1985, one in 1990 and two earlier this year.

While the state regulates and inspects the legitimate clinics, it lacks the authority and staff to regulate and inspect doctors' offices, and can only challenge a doctor's license after a complaint and an investigation. And many clients, even if dissatisfied, are reluctant to file a complaint.

Some are illegal immigrants who want to minimize contacts with authorities. Others are minors reluctant to tell parents of their abortions. Others believe, erroneously, that they have done something illegal if they have an abortion late in pregnancy. In fact, it is illegal in New York to perform such late abortions, but not to obtain them.

And many victims do not know how to file a complaint. Criminal complaints should be made to the District Attorneys in each county. Complaints of medical malpractice should be sent to the Office of Professional Medical Conduct of the State Health Department in Albany. Under legislation this year, the department is setting up a way to inform the public about pending actions against doctors.

UNION ROTARY CLUB CELEBRATES 50TH ANNIVERSARY

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RINALDO. Mr. Speaker, I would like to take this opportunity to offer a special tribute and my personal congratulations to the Union (N.J.) Rotary Club which is celebrating its 50th anniversary. It continues to play a vital role in the community in supporting business, civic causes, education, fellowship, family and youth recreation, scholarships, and many charitable enterprises.

The club was formed in 1941 and was sponsored by the Rotary Club of Roselle-Roselle Park. The first president was Franklin Hardcastle. With America's entry into World War II following the attack on Pearl Harbor, its initial membership of 35 was soon reduced by military enlistments and the draft. By the fifth year of its operation, the war was over and membership increased sharply. Its program and record were so outstanding that the Union Rotary Club received the President's Award for the best district club.

During the 1950s, as the club's influence grew, it became a focal point for young men who aspired to community service and successful careers in business and the professions. By 1954, it had expanded to 60 members and became active in bringing a hospital to Union, now called Union Hospital. The club increased its scholarship program, and many of its scholarship winners went on to excel in their careers. The club also participated in organizing the Boy's Club of Union, which is now the Boy's and Girl's Club.

In 1962, the club sponsored the introduction of the YMCA into Union. It also was instrumental in sponsoring a Sea Scout Explorer Ship, and established the Rotary Park at Union Center. By 1971, the club expanded to 97 members under the leadership of Warren Hehl, whose son, Stephen, now fills the same office as Rotary Club president.

The range of activities that the club has been engaged in during the last half century is impressive. For example, working with other community organizations, the Union Rotary

Club contributed to Union's designation as an All-American City.

The original founders of the Union Rotary Club would be amazed by the impact the club has had on the community. It has been a source of ideas, cooperation between business and government, and community progress. To wear the badge of a Union Rotarian is a mark of pride and respect.

Mr. Speaker, I wish to offer my congratulations to its members, past and present, and to its officers, Stephen Hehl, president, and Gary Weiner, vice president; Raymond Worrall, treasurer; and Isabel Pizzolato, secretary. The Union Rotary Club is an outstanding example of community service and fellowship.

HAITIAN REPARATIONS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SERRANO. Mr. Speaker, I find it outrageous that this administration practices such inconsistent policies on issues concerning foreign affairs and human rights. For years, Haiti has been recognized as one of the poorest countries in the world. I find it absurd that the administration distinguishes these refugees as economic refugees and thus selectively denies them humanitarian relief.

The repatriation of our Haitian neighbors is without compassion, and contrary to our past policy which has allowed refugees from Cuba, Hungary, Salvador, Iraq, Vietnam, Liberia, Ireland, and most recently, the Soviet Union to seek refuge in this country. I am appalled that this administration continues to abide by an 11-year-old agreement negotiated with the deposed dictator "Baby Doc" Jean-Claude Duvalier.

Only last week this same administration condemned the British and Hong Kong authorities for their decision to forcibly repatriate Vietnamese refugees from Hong Kong.

Last year this Congress enacted legislation which gives the Attorney General the authority to grant temporary protected status to individuals fleeing emergency situations. Mr. Speaker, it is clear that the Haitian refugees are fleeing due to political persecution, why are they being denied temporary protected status?

During the Persian Gulf war, the President urged adoption of new world order that included international cooperation to support the fundamental rights of all citizens worldwide. I believe that he could best demonstrate his commitment to a new world order by granting our Haitian neighbors temporary protected status until we can be assured that they will not be forced into a life of hopelessness and despair.

Mr. Speaker, until a stable, legitimate government is restored in Haiti and the economic boycott is removed, it is imperative that our government extend humanitarian relief to the Haitian refugees.

THE BALANCED ECONOMIC AND ENVIRONMENTAL PRIORITIES ACT OF 1991 [BEEP]

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DANNEMEYER. Mr. Speaker, today I have introduced the Balanced Economic and Environmental Priorities Act of 1991 [BEEP], which amends the Endangered Species Act. This legislation, in short, would require the Federal Government to treat humans at least as well as it treats critters.

A rash of governmental intrusions into the California economy is threatening to destroy the State's economic base and has put tens of thousands of Californians out of work. Actual and proposed listings of critters and plants as endangered or threatened species have endangered the economy. The Endangered Species Act [ESA] was intrinsically flawed at its conception because it precludes the consideration of cost.

While the ESA adversely affects our entire nation, California is especially endangered. The Stephen's kangaroo rat, the gnatcatcher, the northern spotted owl, the least Bell's vireo, and the delta smelt are examples of endangered or threatened species in California, the preservation of which will destroy tens of thousands of jobs, consume entire business enterprises, and prevent many economically crucial development projects from going forward.

The listing are as follows: Critter, listing date, and counties affected—Stephen's kangaroo rat, September 1988, San Bernardino, Riverside; California gnatcatcher, proposed, Orange, San Diego; Northern spotted owl, June 1990, Del Norte, Humboldt, Trinity, Shasta, Siskiyou; least Bell's vireo, May 1986, Orange; and delta smelt, proposed, Contra Costa, Sacramento, San Joaquin, Solano.

I am certain that every Member of this body can tell similar stories of how the politics of listing endangered species has harmed the economies of their States.

Mr. Speaker, my act will amend the Endangered Species Act to require the Secretary to consider both the economic costs and the ecological benefits associated with designating a species as endangered or threatened. While some may oppose the injection of cost considerations into this process, I believe that we should subject all of our environmental laws to this sort of scrutiny and, ultimately, to the accountability that comes with cost-benefit analyses. Opponents of this approach, ironically, acknowledge that the current ESA would fail the test set forth in my bill.

The following is an outline of the provisions in my bill:

OUTLINE

ECONOMIC IMPACT ANALYSIS

The Secretary of the Interior must prepare and publish an Economic Impact Analysis (EIA) with respect to the costs and benefits associated with listing a species as endangered or threatened.

The EIA must include an assessment of the costs associated with: (1) the designation of a critical habitat, (2) the issuance of protective regulations, and (3) the implementation of a recovery plan.

The Secretary must review the EIA and determine whether the benefits of a designation outweigh the costs. A listing, and all the consequences of a listing, may proceed only where the Secretary determines that benefits outweigh costs.

ELEMENTS OF AN ECONOMIC IMPACT ANALYSIS

An EIA shall assess the economic and ecological consequences of implementing and enforcing the designation, regulation or recovery plan relating to a species. The EIA shall include aggregate statistical data describing:

1. Losses or diminishments of (1) jobs, (2) the value of real property, and (3) the value of business enterprises.

2. The effect that such actions would have on tax revenues received by Federal, State, or local governments.

3. The effect that such actions would have on outlays by Federal, State, or local governments, including the amounts of compensation required to comply with this Act and outlays required for unemployment compensation, Aid to Families with Dependent Children, Medicaid, and other Federal, State, or local programs.

4. The effect that such actions would have on the competitive position of any business enterprise or aggregate industry.

5. The ecological and economic consequence of the extinction of a species that such action is intended to prevent.

6. Any other potential economic, budgetary, or ecological effects that the Secretary considers appropriate.

COMPENSATION FOR ECONOMIC LOSSES CAUSED BY LISTING A SPECIES AS ENDANGERED OR THREATENED

The Secretary shall implement the Endangered Species Act in a manner that limits the economic losses incurred by persons from actions associated with listing a species as endangered or threatened.

The Secretary shall compensate any person who incurs an economic loss as a result of a species being included on a list of endangered or threatened species. Such compensation shall be in the full amount of (1) the diminishment in value of tangible or intangible property or (2) the loss resulting from the elimination or diminishment of a job.

The Secretary may not compensate any individual for de minimis or wholly speculative loss.

Persons denied payment may appeal adverse decisions in the appropriate federal district court.

Any person, or any State or local governmental entity, may intervene in a proceeding under this Act for the purpose of assisting the Secretary in issuing compensation to adversely affected parties.

REVIEW OF PRIOR LISTINGS

With respect to all species listed as endangered or threatened since January 1, 1986, the Secretary shall suspend the listing and complete an EIA pursuant to the provisions of this Act.

The Secretary shall maintain a species on the list when the EIA indicates that the benefit of doing so exceeds the cost. Where the EIA indicates that he cost outweighs the benefit, the species shall be removed from the list.

Mr. Speaker, we have reached a point in our society where we worship creation rather than the Creator. Passage of the Balanced Economic and Environmental Priorities Act will correct a fundamental flaw in the Endangered Species Act.

PUERTO RICO REFERENDUM BALLOT UNFAIR

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SCHULZE. Mr. Speaker, I am appalled to learn that the people of Puerto Rico will go to the polls on December 8 and be forced to cast a vote affecting the United States-Puerto Rico relationship with a ballot which a Federal district court judge has determined to be "unfair." The entire referendum measure is so convoluted and misleading—which apparently was the intent of those who crafted the measure—that, according to a recent poll, over 70 percent of the people do not understand what it means. The Federal judge called the referendum provisions "confusing, vague, contradictory, and deceptive."

This referendum has been promulgated by the same partisan groups who earlier this year repealed English as an official language of Puerto Rico and instituted a Spanish-only law. Their action has signaled a movement of Puerto Rico away from the United States.

Similarly, the pending referendum would ask the people of Puerto Rico if they want to be outside of the territorial clause under three options while retaining independence-like characteristics and U.S. citizenship. Only one of the three options, statehood, can actually guarantee U.S. citizenship while the other two options can only guarantee unique characteristics as an independent or quasi-independent country.

To force people who have been loyal U.S. citizens since as long as 1917 choose love of their Puerto Rico home and the guarantee of U.S. citizenship under independence-statuses, with the implication that these can legally and politically coexist, truly gives credence to the judge's opinion, "the ballot is unfair."

The people of Puerto Rico should reject such an unfair ballot if they do not want to further distance themselves from the United States.

The article from the San Juan Star, November 16, 1991, entitled "Lafitte's Ruling" follows:

LAFFITTE'S RULING

U.S. District Judge Héctor Laffitte's decision not to interfere with the Dec. 8 referendum on "democratic rights" was practical and correct.

He agreed with the group of pro-statehood groups and individuals who asked him for an injunction against the referendum that "some of the propositions" on the ballot are "confusing, vague, contradictory and deceptive."

But he concluded that "the sound constitutional course to follow is to defer to the voters and to the free competition of ideas. At this stage, it is for the voters, not this court, to decide whether 'yes' or 'no' on the ballot will prevail."

In essence, he found none of the objections raised by the plaintiffs presently merited the injunction relief they sought.

"Pre-election lawsuits challenging referendums inevitably draw the courts into the arena of highly charged political partisanship," he said. "Absent egregious circumstances, intrusion by federal courts into a local electoral matter is not warranted. The ballot is unfair. However, this unfairness does not rise to the level of a federal constitutional deprivation."

Laffitte made two noteworthy comments about the future.

He described the six propositions that the referendum lumps under one "yes" or "no" vote, as "log rolling" and said the Commonwealth Constitution "explicitly" rejects it, stating that no more than three proposed amendments may be submitted at the same referendum.

This might have been an oblique invitation for somebody to challenge the referendum as a violation of the Commonwealth Constitution.

He also cautioned those seeking an injunction that they were premature in claiming that the Dec. 8 referendum was a violation of the federal laws of the Commonwealth of Puerto Rico."

"If plaintiffs are saying that the approval in the referendum of the Declaration of Democratic Rights will alter the relationship created by Laws 600 and 447, their claim is not ripe for decision . . ."

He noted that a "yes" win in December would lead to a second referendum to amend the Commonwealth Constitution, and if that Constitution were ultimately amended "then the Court may address whether such amendments would contravene Laws 600 and 447."

The referendum is not a federal matter at this stage, he said. Plaintiffs must move in the Commonwealth arena with complaints. However, the day could come when the affair could fall under federal jurisdiction.

It was a sensible and practical decision.

THE SMALL BUSINESS STOCK EXCHANGE OF AMERICA

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BATEMAN. Mr. Speaker, in these times of uncertainty over the state of the economy, many small businesses are having difficulties finding and obtaining new investment capital for their business needs. For this reason, I rise today to call attention to efforts to assist the long-term growth and development prospects of small businesses nationwide through the creation of the Small Business Stock Exchange of America (SBEX). Also, I am pleased to note that after a year of searching and evaluating cities throughout the country to find one with the right entrepreneurial outlook, SBEX officials on November 7, 1991, proposed to locate this new exchange in the city of Hampton, VA, which I have the privilege to represent.

According to Ralph L. McNeal, founder and chairman of SBEX, the exchange will be the exclusive, specialized and dedicated marketplace for small businesses who are seeking capital, but are past the initial start-up phase, and not yet readily recognized, established corporations. In this intermediary stage where small businesses are beginning to go public, the SBEX could play a pivotal role in facilitating small business' efforts to raise the funds needed for future growth and expansion.

The new exchange is expected to provide financing opportunities for companies unable or unlikely to be listed on existing stock exchanges. Modeled on other small-stock exchanges in 12 industrially advanced countries—mostly in Western Europe—SBEX expects to list small businesses with annual sales from $1 million to $30 million that are seeking capital between $2 and $20 million. Such companies usually fail to meet the minimum capital standards of the large New York Stock Exchange [NYSE], the American Stock Exchange [AMEX] and the National Association of Securities Dealers [NASDAQ] system. As a result, these smaller companies and their stock offerings are quoted only in so-called "pink sheets." The stocks covered by the "pink sheets" are traded infrequently.

It is important to note that fewer than 3,000 companies are listed on the NYSE and AMEX exchanges and fewer than 5,000 companies on the NASDAQ system. Also, the "pink sheets" only quote prices for less than a third of the 40,000 "pink sheet" companies that issue and trade stock. This leaves thousands of companies out in the cold when it comes to finding money to continue their efforts to expand. Mr. McNeal believes that the establishment of a new small business exchange will increase the public visibility of thousands of small businesses making it easier for them to find investors and raise needed capital. I believe that this new exchange proposal certainly merits close consideration by all who are interested in helping small business continue to play their vital role in ensuring our Nation's future growth and prosperity.

It is no small undertaking to create a new stock exchange—none has been established in the United States within the last seven decades. Nevertheless, Mr. McNeal and a group of like-minded entrepreneurs have remained committed to the idea of creating a small business stock exchange. They have formed the Small Business Stock Exchange of America Development Corporation, a 501(c)3 not-for-profit organization, which has provided over 200 hours of educational instruction to the public and prospective SBEX seat applicants on how an exchange operates. They also have formed an association for broker-dealers called the American Association of Securities Dealers [AASD]. Under the SBEX business plan, brokers would have to pass the association's testing requirements, which will focus exclusively on how to analyze and market stocks of small businesses, in order to participate in the new exchange. A broker-dealer would not be able to trade on the new small business stock exchange unless he is licensed by the AASD.

The new SBEX will be structured as a 501(c)6 non-profit organization like all other stock exchanges. The SBEX also would be a self-regulating body with its rules and operations receiving approval and oversight from the U.S. Securities and Exchange Commission [SEC]. Funding of the new exchange would come from fees and charges from listed companies and permanent seat memberships. Mr. McNeal expects to sell 100 permanent seats on the new exchange and I am advised that 59 investors and small businessmen are interested in purchasing such seats.

A company that wants to have its securities listed for trading on the SBEX would have to have been in operation for 3 years, have adequate capital and be in sound financial condition according to SBEX organizers. Moreover, SBEX members would trade their security stocks daily and electronically, but also would meet quarterly for a week of floor activity. In creating the new small business stock exchange, its organizers are seeking to establish a "hybrid" exchange which would include the best elements of the broker-dealer system, combined with the best elements of the automated quotation system in order to provide products and services small businesses need in a cost-effective manner.

Any new stock exchange must be approved by the Securities and Exchange Commission and Mr. McNeal has stated that SBEX will file its proposal with the Securities and Exchange Commission by the end of the year. Pending approval by the Securities and Exchange Commission, SBEX hopes to begin operations in September 1992 in its new headquarters overlooking the Chesapeake Bay in Hampton, VA.

In addition to helping to bring investors and small businesses together from around the country, I am pleased to note that Mr. McNeal projects that the new exchange would employ more than 350 people within the first 5 years, with approximately 75 percent of these new jobs to be filled by local people in Tidewater Virginia. Those jobs would include a wide range of personnel including accountants, printers, researchers, lawyers, maintenance, security, and administrative staff personnel.

Mr. Speaker, once again, I want to commend the efforts of Ralph McNeal and his colleagues for working so hard to create the new Small Business Stock Exchange of America. I hope their plan to bring its new headquarters to Hampton, VA, will prove to be realistic and feasible. I believe that this proposed small business stock exchange may be a catalyst for economic growth and development in Tidewater Virginia as well as a major force in ensuring that our Nation's small businesses are able to meet the competitive challenges of the 1990's and beyond.

TRIBUTE TO MR. EDWARD M. SCHROEDER

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. COSTELLO. Mr. Speaker, I rise tonight in honor of a teacher in my district, Edward M. Schroeder. Mr. Schroeder, an English teacher at Coolidge Junior High in Granite City, is the recipient of the Outstanding English Teacher Award of 1991, one of 12 American Teacher Awards.

An eighth-grade teacher, Mr. Schroeder relishes the challenge of teaching this wild and crazy age because, as he has told many newspapers in my district, he views himself as a 51-year-old with the mental age of 16. He is a highly respected teacher with the imagination necessary to educate young Americans. For example, he dresses in costume to surprise his students and encourages them to be creative, individual thinkers. Mr. Schroeder has also arranged award programs for his students and then taken them there by limousine.

As they chart the future of our country's educational system, teachers all over America can learn from Mr. Schroeder's exemplary teaching efforts. I ask my colleagues to join me in commending Mr. Schroeder and all teachers who educate our youth.

COMMENDING THE VOLUNTEERS OF THE TAHOE RIM TRAIL ORGANIZATION

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FAZIO. Mr. Speaker, I rise today to honor the dedicated volunteers of the Tahoe Rim Trail. Since 1981, these generous individuals have worked side by side, without material compensation, to create a 150-mile trail encircling North America's largest and highest Alpine lake. Today, the trail is nearly complete and these individuals deserve our thanks and appreciation.

I was first introduced to these dedicated volunteers this past summer, while I was vacationing in the Lake Tahoe region of California. While hiking up one of Tahoe's scenic footpaths, I came across a group of young men and women literally blazing a trail across the alpine peaks. They were volunteers of the Tahoe Rim Trail organization. They explained that their mission was to see the beautiful land overlooking Lake Tahoe made more accessible to hikers, backpackers, horseback riders, and cross country skiers. From my personal experience, I can say that they have succeeded, so far, in giving the region's visitors a unique chance to view the lake in all of its natural splendor.

To date, over 1,500 volunteers have dedicated their time and their funds to ensure the timely completion and maintenance of the Tahoe Rim Trail. These volunteers serve on trail scouting, trail staking, and trail construction crews. They are also responsible for promoting events, raising funds, and finding new volunteers for the trail.

While all of these great people deserve our commendation, I must single out Glenn Hampton, the original president and founder of the project. As the former Recreation Officer for the Lake Tahoe Basin Management Unit of the Forest Service, Glenn saw the opportunity to share one of our country's greatest natural treasures with the adventurers of the world. For this, I, for one, am truly thankful.

Mr. Speaker, I am proud to highlight the accomplishments of these fine Americans. We must all strive to show such ingenuity in approach and dedication to vision, as exhibited by the Lake Tahoe Rim Trail volunteers over the last decade. I ask that all of the members of this body thank these brave volunteers, not only for what they have done for us, but for what they have done for future generations of visitors to Lake Tahoe.

SENIOR CITIZENS CAN BE USEFUL IN CHILD-CARE PROGRAMS

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BENTLEY. Mr. Speaker, throughout the United States, many child care centers continue to experience difficulty locating the experienced, trustworthy personnel necessary to keep their programs operational. Fortunately, the essential framework for redressing this shortage already exists, and, with a little imagination, a rich vein of experience can be tapped to suit this very purpose. I am referring, of course, to our retired senior citizen population.

I think it appropriate to equate precious metals with our senior citizens because they, too, are a valuable commodity whose breadth of knowledge and experience should be both treasured and fully utilized. Ours is a nation endowed with a large group of competent, retired senior citizens who are eager to put their collective talents to work. I think it is incumbent upon us to explore all available avenues for bringing the young and the aged together in a child care setting.

In Baltimore County there are approximately 200 licensed day-care centers. On the issue of staffing, the frequent refrain coming from many day care facility operators is that "they could always use some extra help." Well, Mr. Speaker, that extra help does exist, through a series of well-established Federal programs. The question is: How do people find out about them?

It is in response to this question that I am today introducing, with my colleague Mr. LIGHTFOOT from Iowa, a resolution that would have the positive effect of bringing older Americans and children together in child-care centers.

This sense of Congress resolution urges the Secretary of Labor and the director of the ACTION agency to promote two senior citizen programs as a source of employees for community-based child-care centers. Specifically, this resolution targets the Retired Senior Volunteer Program—currently administered by ACTION—and also the Senior Community Service Employment Program, under title V of the Older Americans Act.

More often than not, members of the older generation symbolize stability and continuity to our children. In return, the caregiver is rewarded by the love of a child and the support network of the child-care center.

The Senior Community Service Employment Program and the Retired Senior Volunteer Program, draw on a combined pool of approximately 500,000 retired senior citizen volunteers. With increased publicity at the community level I am convinced that these two programs can stiffen the backbone of an intergenerational working arrangement that benefits everyone involved: children, parents and grandparents. I hope that my colleagues will join us in supporting this initiative.

ENTRANCE FEE AT U.S. BORDERS

HON. AL SWIFT

OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWIFT. Mr. Speaker, in 1992 the border barriers between twelve European nations will come down, and largely unrestricted flow of goods and people will commence throughout the European Community. It is a matter of goodwill, but also a matter of economic necessity. The Europeans know that without this unfettered union, a union they have worked very hard to create, they will be left in an economic backwater, increasingly stagnant as compared to the world's more efficient trading blocs. Now the rest of the world will be hard pressed to keep pace with them.

Yet, here in the United States, we have a Government agency that thinks differently and is working at cross-purposes to a policy of open and active borders. The Immigration and Naturalization Service is vigorously pursuing a proposal that is so counterproductive as to be indefensible except in terms of fattening its own operating budget.

I am, of course, speaking of the Service's plans to make Americans who return, and our visitors who came here by land, pay to enter our country. The INS continues to promote plans for levying an involuntary fee on all automobiles entering the United States along its Canadian and Mexican borders.

Of course, it already has the authority to charge entrance fees to people coming into the country by air or sea. I oppose that as well. To charge an American citizen for simply coming home is a disgrace. But at least the mechanism for obtaining the payment is simple: INS has the carrier charge it and pass it on.

Applying a similar charge to land-based entry—just as obnoxious in principle—is inefficient, inconvenient and will interfere dramatically the ability to move traffic through the border in a timely fashion.

There are a host of practical problems. For example, U.S. agencies may only accept payment in American currency. What about foreign tourists who show up with only foreign money? On the Canadian border, citizens of both countries freely spend their own country's currency in the other country. All local businesses accept foreign currency. There is no reason for a Canadian, for example, to obtain United States money before heading to the border. Worse yet, what about an American citizen who may have no funds, or only Canadian money he's received in change? Same problem.

Another point. A border official pointed out to me that, You don't have employees handling cash without having someone watching them. And then, who watches the watcher? It will add a new layer of bureaucracy and will convert our officers into toll takers. He did not like the idea at all.

The problems go on. Suppose $200 million could be collected annually through such a user fee. What systems will be needed to ensure that this money is properly accounted for? How many additional office people will be needed to count, and account for, these fees? Even with such a system the potential for abuse is vast. In January of this year the General Accounting Office released a report of practices in the Service, one chapter of which is bluntly titled, "INS' Budget Process and Controls Over Revenue and Expenditures Are Deplorable." This analysis amounts to a giant red flag for anyone contemplating giving the Service this kind of money to play with.

The biggest single problem we currently face at our major land borders is the backup. For example, at Blaine, WA, cars are backed up in lines that take as much as 2 hours to get through the border. I have myself spent 45 minutes on a weekday at midday. The volume is growing at a rate of 10 percent per year. INS and Customs cannot keep up as it is.

All of this will be hugely exacerbated by a general border fee. At the Canadian border, the time a car spends with a border official now often averages mere seconds. Still the backups are huge. And the complications of money exchange and this INS plan will take a burgeoning problem and transform it into a massive crisis.

Furthermore, the argument that revenues generated by a general fee would eventually alleviate these additional delays is ridiculous. As this proposal could double the average time it takes for a car to pass inspection, we would need to double both the numbers of staff and the existing facilities just to maintain the previous processing rate.

I have no doubt our agencies can give 1,001 reasons for tackling all these difficulties in pursuit of more operating funds. I don't disagree that they are working with a sheet that is too short for the bed and that they need better budgets to do their jobs. But entry fees at our land ports are inefficient, more costly and simply a bad idea.

It is clear that a border fee will not help our traveling citizens. Our commerce will suffer as well. In one country in my district, it's estimated that foreign visitors—most of whom travel regularly across the United States-Canadian border—spend $600 million at local businesses. This is one example of the growing importance of cross-border commerce. In just gas taxes alone, Canadian motorists contributed $10 million to the Federal Treasury. There is no doubt that a general user fee at the borders will diminish all these benefits.

Our land-border staff needs help; there is no question about that. But there are ways to deal with border traffic without such an onerous fee. For starters, we can increase funds available for actual border inspection costs. We can also expand innovative projects like the Peace Arch Crossing Entry [PACE] program, in which frequent border crossers may voluntarily pay an annual fee to have access to a special express lane. Developed in cooperation with Canadian officials, the United States PACE lane opened in June of this year at the Blaine, WA Peace Arch crossing. Already thousands of American and Canadian travelers have joined the program, and the numbers continue to grow. This constructive effort is already paying dividends; the voluntary fee concept has great potential, and we should continue to promote it.

I also stand ready to work with colleagues, executive agencies, and bordering nations to develop other creative methods for easing border crossing delays. But we must all realize that an involuntary user fee will hurt our border staff. It will hurt the traveling public. It will hurt commerce. It will hurt our economy, and it will hurt our relationships with our international neighbors. What a high price to pay just so INS can increase its budget.

THE INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE EFFICIENCY ACT OF 1991

HON. RON PACKARD

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PACKARD. Mr. Speaker, I rise to offer my support to the mother of all surface transportation reauthorization. As a conferee on this bill let me just express my appreciation for the professionalism and cooperative spirit exhibited by the conferees. I would also like to commend conference committee Chairman ROE, as well as the leadership of the committee: Congressmen MINETA, HAMMERSCHMIDT, and SHUSTER. And finally thank you to all of the staff who worked so diligently.

To say that this has been a painstaking process is an understatement. The sheer hours and manpower which went into crafting this bill is matched only by the committee and conferees' determination and commitment to producing a bill to keep America great.

As America struggles through these difficult economic times, I believe that this legislation will send a positive signal to the American people. It signals our willingness to pass legislation which will create jobs, rebuild our crumbling infrastructure and create a more efficient transportation system.

Faced with strict budget constraints, I cannot emphasize enough the importance of the $151 billion authorized by this legislation. This action by Congress sends a clear signal that we are ready to begin making a capital investment in this country. Rebuilding our highways, roads and bridges represents a sound commitment to efficient infrastructure. It also represents a change in the way in which these funds are allocated, and who these allocations are made to.

Reliable infrastructure is the key to this country's economic competitiveness in the last decade of the 20th century, and beyond. I believe that this bill will enable us to satisfy the future transportation needs of our Nation.

This legislation will jump start economic recovery. Our struggling State and local economies can expect to receive a big infusion of transportation dollars within the next few months.

Furthermore, Congress for the first time has demonstrated its willingness to spend down the highway trust fund. In the past, the appropriations and budget committees have used the trust fund monies to mask the size of the Federal deficit. This represents a return to more honest accounting.

We reorient the direction of this country's transportation policy. We designate a large share of Federal dollars to cleaner, more efficient modes of transportation such as mass transit. In fact, the amount of money being spent on transit is doubled under this new bill. In effect, this legislation emphasizes our commitment to comply with air quality standards mandated by the Clean Air Act.

This bill designates that a portion of the dollars are allocated directly to state and local officials. They in turn decide how these allocations are spent. This is effectively placing monies which a state has paid into the highway trust fund, directly back into the pocket of the communities.

From the inception of this legislation, my goal was to transform some of the formulas which have guided the interstate highway system since 1956. Specifically, I believe that states, such as California, which contribute more funds to the trust funds than they get back, should now be able to collect a greater share of these funds.

The old formulas made sense when we were still building the interstate system. However, now that the interstate system is complete, these donor states should be able to recoup more of the trust fund dollars which they put in.

My goals were partially realized. The conference report offers a significant improvement from the current law, but it does not fully resolve the fairness issue—I want to give fair warning to my colleagues that I fully intend to continue the fight for equity.

Finally, I ask my colleagues to support this legislation. We have enumerated the facts. The sum of this bill is as good as its components. The 50 States, or components of this bill, receive funding to rebuild our infrastructure, create jobs, and allow State and local governments to share in the decisionmaking. The country as a whole is the beneficiary.

HONORING JIM VAGIM

HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DOOLEY. Mr. Speaker, on December 5, 1991, the Porterville Area Business Association, in Porterville, CA, will be honoring Jim Vagim in appreciation of his charitable contributions to the citizens of Tulare County.

Jim Vagim is responsible for establishing and organizing a countywide effort to provide assistance to families who fell victim to the December 1990 freeze. He encouraged all of the local businesses to participate, and collectively, they put together over 100 meal boxes of donated food and supplies. These boxes were then distributed throughout the county to families in need.

His commitment to helping people emerges not only in time of disaster, but year-round. Last year Jim was instrumental in helping feed over 700 people on Thanksgiving and Christmas, also by coordinating the efforts of local businessmen.

Jim Vagim has a lifelong commitment to helping people in his community. It is obvious why his efforts are deserving of recognition. Jim Vagim represents the best of Tulare County. He has given to his community and guided others to do the same.

Jim is not only a community activist, but he is my good friend. I am proud to help honor him and I ask my colleagues to join me, along with family, friends, and associates of Jim Vagim, in congratulating him for receiving this well-deserved honor.

THE SPIRIT OF GIVING IS ALIVE AND WELL IN NEW JERSEY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, the holiday season is rapidly approaching. It is a season of love and giving. It is a time when many will stop and assess their lives and those of others—family, friends and strangers. It is a time when many will put their fellow human being ahead of themselves. Mr. Speaker, in New Jersey there are many kind-spirited individuals who don't wait for the holiday season to express their kindness or love.

I had a young cousin, Duayne Clark, who recently expired, at the age of 30, after a long illness. Duayne was a remarkable young man. He was a student activist, a young man who truly loved his community and its residents. Just as Duayne loved those around him, he was loved. This expression of love has been displayed in many ways—Duayne's smile of encouragement, his ability to make those around him comfortable, his uplifting courage.

His debilitating disease required dialysis. Duayne was a candidate for a kidney transplant. Although he waited faithfully, a kidney never became available. He never complained about his fate in life. He was a joy to his family. He never let them down. His mother, Anita, and sister, Renee, greatly counted on him as the "man of the house." His father, Rufus, died of the same ailment more than 10 years ago. Duayne's faith—faith in God and faith in man—allowed him to take on his responsibilities seriously, affectionately and courageously. He was baptized, as a child, in Union Baptist Church of Montclair, NJ, by Rev. William H. Gray, III, our former colleague and majority whip.

Some of those who were responsible for making Duayne's last days comfortable are members of our law enforcement brigade. These individuals were towers of strength for Duayne and his family. They were take-charge friends, when take-charge friends were needed. These individuals—Det. Alex Schemetow, Sgt. Gary J. Dillon, Det. Charles Lagaltuta, and Det. Guy Trogani who are members of the Cedar Grove, NJ Police Department—are special people. Also Glen Ridge, NJ, Police Department's Det. Sheila Byron is to be commended.

Duayne's illness had worsened and there became a time when the use of a ramp at home was necessary to more easily transport him to and from his appointments. Duayne's mother, a member of the Juvenile Officers Association, mentioned to her fellow association member, Det. Alex Schemetow, that she needed a contractor to build a ramp and deck onto her home to help with Duayne and asked if he could recommend someone. That very day, he was back to her after speaking with fellow officer, Sergeant Dillon, who had built a deck for his parents. It turned out that Sergeant Dillon had shared a hospital room with Duayne and wanted to help. These gentlemen recruited the assistance of Detective Lagaltuta and Detective Trogani. They took care of everything from the drawing of the plans to the completion of the construction of the ramp and deck. They worked on this project on their regular days off, on their vacation days, during time that they usually spent with their children. They each refused to accept any kind of payment for their long hard work. Det. Sheila Byron had a real concern for Duayne. She would periodically stop by to visit with Duayne and to assist wherever needed. She was a true moral support.

Mr. Speaker, we are all fortunate to have friends and family near in time of need. As the season of love, faith and hope approaches, I am sure my colleagues will join me as I thank Sgt. Gary J. Dillon, and Dets. Alex Schemetow, Charles Lagaltuta, Guy Trogani, and Sheila Byron for being such good friends to Duayne and his family and just great members of our society.

AMERICAN JOBS PROMOTION ACT OF 1991

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KOSTMAYER. Mr. Speaker, today I am introducing legislation to create and preserve American jobs. My bill, the American Jobs Promotion Act of 1991, rewrites three key provisions in our tax code which have had the unintended effect of putting countless Americans out of work—at a cost of billions of dollars a year to the U.S. Treasury.

Over the past decade, thousands of United States workers have lost jobs with companies that have relocated their plants abroad to manufacture products to sell in the United States. Sadly and outrageously, this practice is subsidized by the U.S. Government, at a cost of hundreds of millions of dollars a year. Under current law, American companies are taxed less if they move their manufacturing operations to overseas tax havens such as Singapore, Ireland or Taiwan, and then import their products back into the United States for sale.

Why should the United States Tax Code give companies a tax incentive to set up runaway plants in tax-haven countries, rather than keeping their plants and jobs in the United States?

The tax break for runaway plants should be eliminated. Profits earned by American-owned companies from sales in the United States should be taxed—whether the products are made in the U.S.A. or abroad. My bill would end this wrong-headed subsidy by taxing profits on goods that are manufactured by American companies in foreign tax havens and imported back into the United States.

American companies may move plants that make goods for the U.S. market to foreign locations for many reasons—such as low wages or a lack of regulation—that the tax code can do little about. But we should not provide an additional inducement for such American-job-losing moves through our income tax policy.

In a related area, U.S. workers are also paying for billions of dollars in tax breaks that are costing them their jobs and closing down their factories. Under current law, U.S. companies are encouraged, through tax credits, to move U.S. plants and jobs to the possessions at the expense of established industrial communities on the mainland. Section 936 of the Tax Code allows U.S. companies to set up a 936 company to operate in the possessions. The section 936 tax credits essentially make the income earned by the 936 company free from U.S. tax.

This substantial tax break is working too well. Besides costing U.S. taxpayers $2.6 billion annually, it has drawn thousands of mainland jobs to the possessions. This includes the loss of 25 plants in 12 states. While I do not doubt that some depressed economies in the U.S. possessions could use a boost, I object to assistance given at the expense of established mainland jobs. My bill would repeal this costly subsidy, saving $13 billion over 5 years.

Finally, throughout the past decade, America was swept by a wave of hostile takeovers, leveraged buyouts and corporate mergers—fueled by junk bonds. Countless workers, shareholders, companies, and entire communities have been harmed in these battles for corporate control. Scores of jobs and businesses have been swallowed up, and corporate bankruptcies are skyrocketing as many companies simply cannot afford to make their interest payments on junk bonds. The toll on American workers and on the economy has been devastating.

Unbelievably, the United States Tax Code encourages and subsidizes such behavior. By making all those billions borrowed for corporate takeovers and leveraged buyouts tax-deductible, the U.S. Government provides a powerful incentive for risky junk bond financing—at a substantial cost to the U.S. Treasury. The leveraged buyout craze is now costing the Federal Government $20 billion a year—and it threatens to get worse. Some tough lessons were learned from the hostile takeover boom of the 1980s. While the deals that were struck in recent years cannot be undone, it is time for the U.S. Government to say that we will never again provide tax subsidies for such misguided purposes.

My bill would discourage hostile takeovers by restricting the junk bond financing that drives most of these deals. Specifically, it would deny the tax benefits for interest on the junk bond indebtness that fuels hostile takeovers. By denying the tax incentives that support these speculative transactions, this legislation aims to arrest the damage done to productivity and long-term economic growth over the past decade.

Mr. Speaker, the American Jobs Promotion Act of 1991 is the type of legislation required to get the U.S. economy back on track. The three tax provisions targeted in this bill have done serious harm to the American worker and the American economy. It is truly outrageous that countless U.S. jobs have been lost because of misguided tax policy—at a cost of billions of dollars a year to the U.S. Treasury. This is simply unacceptable.

We must rid our Tax Code of those provisions that reward American companies for setting up plants and factories overseas, and that encourage short-term speculation instead of productive, long-term investment. We must stop squandering scarce Government revenues. We must create and preserve American jobs. This is what my bill would do.

While even under the best government rule book, America will be engaged in an unprecedented economic battle in the 1990's and beyond, this legislation is an important step on the road to economic vitality and rising living standards.

THE OUTBREAK OF FREEDOM ACROSS EASTERN EUROPE

HON. JIM McCRERY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McCRERY. Mr. Speaker, 2 years ago, we watched the genesis of what would become the outbreak of freedom across Eastern Europe, as the Berlin Wall and the East German Communist government fell to the Earth and a democracy began to emerge.

Events that followed those first frenzied weeks, when the Iron Curtain began to unravel, continue to amaze us. Whole societies, whose young adults only knew the rule of communism, were finally tasting freedom. Those from other Communist countries, such as Romania, learned from these patriots and led revolutions which in the end ousted dictators and germinated fledgling democratic societies.

I had the distinct privilege of meeting one courageous young man who helped oust Ceausescu and lead Romania to democratic freedom. The Fulbright scholarship allowed for this noble revolutionary to study our democracy and the laws that govern our beloved Nation.

I was honored to have Lucian Mihai work in my office for a week to take a closeup look at the legislative branch. Lucian, who was the vice president of the Romanian 21st of December Association, the revolutionary group, details in a letter to Congress his American experience and offers his thanks for his Fulbright scholarship.

I proudly submit for the RECORD the entire text of Mr. Mihai's inspirational letter:

DEAR MR. SPEAKER, DEAR MR. PRESIDENT, DEAR MEMBERS OF THE HOUSE AND SENATE:

As one of the few Romanians having the opportunity to address you, distinguished representatives of this great Nation, I do not want to use this honor offered to me to speak about myself.

Yet, please allow me to start by saying that, perhaps, I belong to a lost generation. I will try to explain myself in a few words. I was born in Romania in 1953 (about one month before Stalin died). I grew up living in a totalitarian regime until my mid-thirties and I am now wondering if people like me have enough time left in our lifetime to live a normal life, like those of my generation living in some other countries. Unfortunately, more and more I do not think that is possible, because my doubts are reinforced by the kind and polite advice I have received in recent months: "You, the people of Eastern Europe, need to have patience. The road you have chosen is a long one, maybe taking several decades." But for my generation several decades is more time than we have.

Although I still do not want to speak about myself, please allow me to say to you that the happiest afternoon of all my lifetime was on December 21, 1989; the most horrible night of all my lifetime began at the end of that afternoon. As you know, on December 17, 1989, the heroic men and women of Timisoara had started their Revolt against the criminal dictatorship which was ruling my country at that time. In response, troops of the secret police, army and regular police were used for a bloody repression and Timisoara (a city of more than 200,000 inhabitants) was surrounded and isolated, in order to be destroyed as soon as possible. One city, however, could not win against such a terrible enemy, and the brave people of Timisoara desperately waited for the rest of the country to react.

On December 21, other cities rose. Among them was Bucharest—the capital of Romania, and my hometown. In the beginning, there were only several hundred courageous people in the streets. But in a couple of hours, several thousand (few, still) joined, protesting without violence. Instead they gave flowers and bread to armed troops, asking for the resignation and punishment of the dictator and his close accomplices. Most of the protesters were young people, including teenagers. The afternoon of December 21, 1989—a miraculously sunny day, unusual for that month of deep winter, with blue sky and no clouds—was the happiest of all my lifetime. I stood among those wonderful young people, singing our old (then, still forbidden) national songs in the main streets and squares of Bucharest. But in the evening, young Romanians dressed in military uniforms were ordered to fire at other young Romanians dressed in civilian clothes. Our barricade, quickly built in the University Square, could not defend us against tanks, and all night the troops hunted the demonstrators and killed many heroes. (Who knows how many? . . .). I will never forget that my life was saved by an unknown teenager who died in my arms in front of the troops while I was carrying his wounded body to a hospital.

The next morning, hundreds of thousands of people of Bucharest went in the streets, and so did people of many other cities and towns of Romania. Thus, the dictatorship was overturned, even though the fights continued for several more days.

After a couple of happy days, we realized that it was not enough to overturn the dictatorship in order for Romania to become a democratic country and to have an economic framework able to provide a decent life for Romanians. It is still unbelievable to us how much more needs to be done to this end, and unbelievable how much pain accompanies this process.

Of course, we, the Romanians, are liable for tolerating more than four decades of totalitarian rule and a state run economy in our own country, and, consequently, we must suffer this painful process of change. But, at the same time, history is a witness that at Yalta Conference, after World War II Romania and the other Eastern European countries were only pawns in a deal which sacrificed them to the communist bloc.

Therefore, it is understandable that the efforts of Romanians must constitute the most important factor in promoting democratization and economic development of Romania, and more and more Romanians are conscious of this duty. At the same time, more and more western countries are beginning to understand the importance of promoting in the efforts of the Eastern European countries (even if, sometimes, one can see an attempt to make an artificial distinction between the so-called "Central European" countries and the other countries of the former communist bloc). Helping is not only in the best interest of the Eastern European countries, but will serve the international community as well.

Obviously, the United States of America is counted among the nations which recognize their role in this process. I would say, however, that this is simply the natural confirmation of a decade's old certitude which has been expressed in Romania since the end of World War II: "The Americans will come!" This phrase has been repeated so many times, that it has become very much like a proverb.

Western countries can support changes in Romania in several ways, and America's leaders know best how America can do it.

I myself benefit from the support of the United States Congress, and I have always realized that, actually, this is not a help for me as an individual, but for my country, as a community of more than 23 million individuals who are proud of their origins, history and culture.

Maybe because some people have said that I have achieved good, and sometimes very good, professional results (in chronological order, as a law student, as a young judge, as a faculty member at the University of Bucharest Faculty of Law—teaching Civil Law and Intellectual Property Law, and publishing law books, articles and studies—and as an attorney-at-law), as well as because some English speakers can speak English so well that they are able to understand me when I try to speak their language, maybe for these reasons I have been fortunate enough to become the first Romanian lawyer awarded a Fulbright fellow (John Marshall grant) in this country.

"To increase mutual understanding between the people of the United States and the people of other countries"—this is the description which the Congress of this country worded for the basic purpose of the Fulbright Program. Based on my own experience and observations after almost one year in this country, I believe that this aim is realized in a wonderful manner by all those involved in the Fulbright Program to the extent that they are connected.

In addition to recognizing the fundamental role of the Congress in originating the Fulbright Program several decades ago, I would like to take this opportunity, distinguished members of the United States Congress, to enumerate (in chronological order and without any concrete references to individuals but only to official titles or names of bodies, institutions, structures, etc. to which individuals belong) those to which I am deeply grateful for their help in accomplishing the purpose of my Fulbright fellowship which I began in October 1990: Embassy of United States in Romania; United Stated Information Agency; Council for International Exchange of Scholars; Center for International Programs and Studies, and Law School of University of Missouri, Columbia (where I did research for nine months concerning the American judicial system); Supreme Court of Missouri; several American publishing houses (offering complimentary copies of valuable law books); Saint Louis Council for International Understanding; Virginia Commission on the Bicentennial of the United States Constitution; United States Institute of Peace; The American Friends of Romania, Inc.; Freedom's Light Foundation; Irvin, Ellis & Diedring, P.C. law firm; Office of the Republican Congressman for the 4th District, Louisiana; Central and East European Law Initiative, of the American Bar Association; Library of Congress. As one can see, the list is not at all short. Each of them have helped my work in their own way during this very busy year of my life.

As I emphasized, I do not intend to refer to specific names of individuals. Nevertheless, please allow me to not forget them, mentioning only that, during my stay in this country, many people have asked me "What have you enjoyed the most in the U.S.?"—which is, one must recognize, a very difficult question to answer, because America is such a large and beautiful country. Throughout my stay I have really enjoyed the friendly nature of Americans. Of course, before I came to the United States of America, I had read and I had been told that Americans are friendly, but now I myself am a witness, because I have a lot of friends in America, from Virginia or Maryland through Missouri to California, and from New York State through Arkansas to Louisiana.

Soon, I will be returning to my country to resume my work. Of course, I will do all that I can to ensure that the knowledge I have acquired as a Fulbright fellow in this land of Democracy will be used for a new democracy in Romania. This is not only my wish; I know very well that it is also the wish of my new friends. As some of my close American friends have told me, now Romania is no longer merely a spot on a world map to them, but a place where they know that they have a friend.

Because I am a member of my generation, I am not alone. And, of course, my generation itself is not alone among other generations of Romanians. My Romanian friends are working hard for a new future for our country.

But as I do, they have also the same reasons to wonder: "Perhaps, I belong to a new lost generation."

With deep appreciation,

LUCIAN MIHAI

H.R. 3341, ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1991

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FAZIO. Mr. Speaker, I rise in strong support of H.R. 3341, which modifies the Government-wide honoraria ban that was enacted as part of the Ethics Reform Act of 1989. I commend the gentleman from Massachusetts [Mr. FRANK], and the ranking Republican on his Judiciary Subcommittee, the gentleman from Pennsylvania [Mr. GEKAS], for their hard work and perseverance on this issue over the past year. They have crafted a bipartisan compromise that effectively balances the Government's interest in promoting the integrity of its work force, and the need to preserve the fundamental rights of Government employees.

It should be emphasized, first of all, that the bill makes no change in the honoraria ban for Members, judges, and the highest-ranking officials in all three branches of Government. They will continue to be subject to an absolute ban on honoraria for any speech, appearance, or article. And that is as it should be.

But in the case of career employees and all others paid less than about $100,000, the amendment provides an exception for their outside activities that do not interfere with their official duties or involve any potential conflicts of interest.

In short, the bill would restore for these Federal employees the same rules governing acceptance of honoraria that had applied to most executive branch employees before the ban took effect.

As the former chairman of the Bipartisan Task Force on Ethics in the 101st Congress, I can say unequivocally that this amendment to the honoraria ban achieves what was intended by the task force. We certainly did not expect the ethics offices to apply the ban, in the case of rank-and-file workers, to any speech or article even when there is no connection to the individual's Government employment.

Obviously, the task force did not intend to prohibit rank-and-file Government employees from writing book reviews or poetry, for example, or lecturing on their hobbies, or playing a musical instrument—and to receive the usual fee for those activities.

That is why the Ethics Reform Act specifically authorized the supervising ethics offices in each branch to implement the honoraria ban through regulations. It was expected that they would do so in a manner consistent with the commonly understood meaning of that term—namely, honorary payments made by virtue of the employee's Government position and office. Unfortunately, because of the act's broad definition of honorarium, the ethics offices believe they have no discretion to do so.

H.R. 3341 will do it for them. The bill makes it absolutely clear that payments for an employee's private activities, if unrelated to the individual's official duties or status, and if there is no conflict of interest with the source of the payment, are not prohibited by the honoraria ban.

Mr. Speaker, once again, I commend the gentleman from Massachusetts and the gentleman from Pennsylvania for their efforts in bringing this bill to the floor. The amendment to the honoraria ban will ensure that most Government employees may continue to pursue their private interests and avocations that do not interfere with their official duties, and will help restore public trust in Government by continuing an absolute ban on Members and the highest-ranking officials.

I urge support of the bill.

THE JAPANESE-AMERICAN RELATIONSHIP

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SCHEUER. Mr. Speaker, as the 50th anniversary of Pearl Harbor approaches, I would like to comment on how far the United States and Japan have come since that fateful day half-a-century ago that brought us into the Second World War.

The terrible tragedy of the attack on Pearl Harbor cost our Nation many lives and plunged us into the most costly war in human and material terms—of all time. We must remember, however, that the same war that began with the sudden, tragic loss of these American lives at Pearl Harbor ended with the detonation of atomic weapons over Japanese cities.

From these mutually inflicted wounds, our two great nations have made great strides toward fruitful cooperation and genuine friendship. I cite as evidence the remarks of Ms. Wakako Hironaka, a member of the House of Councillors of the Japanese Diet, which she recently made in Washington. Councillor Wakako Hironaka is a leading member of the Komeito Party, the Japanese good government party, and is a distinguished leader and spokesperson for GLOBE—Global Legislators Organized for a Balanced Environment—of which I served as the first chairman.

Her truthful, compassionate comments express truly admirable sentiments about the origins of World War II and the feelings of the Japanese people in its aftermath. She spoke from the wellsprings of her heart and soul in a most conciliatory and evocative language. We should all hope that the views she has expressed represent the tone and quality of the future United States-Japanese relationship.

I commend her remarks to my colleagues:

APPROACHING THE 50TH ANNIVERSARY OF THE OUTBREAK OF THE PACIFIC WAR

(By Ms. Wakako Horonaka)

Honored guests, ladies and gentleman, it is a pleasure and a great honor to have the opportunity to address such a distinguished audience this evening. I regret that many members of the Liberal Democratic Party could not be here to join us as the result of the upcoming election for Prime Minister.

As many of you may know, I am a relative newcomer to Japanese politics; in fact, this year will mark my sixth year in office. Before that, I had spent over 20 years in the U.S., first as a student, and later as a mother of two who, together with my family, led an ordinary middle-class American life. During this period, I was what you would call a participant observer of American society, witnessing first-hand the tremendous series of events, from the Vietnam War to the civil rights and women's liberation movements, which transformed the nation's political and moral agenda.

Because of this experience and the profound and lasting impressions it left on me, I entered Japanese politics with a background and perspective very different from those of most of my peers. It is with this privileged perspective that I hoped to contribute to the national debate and policy-making process as a member of the Japanese Diet.

Of course, I had no idea how much the world would change in these five years that I have been in the Diet. As our distinguished keynote speaker, Senator JAY ROCKEFELLER, pointed out, the decline of the East-West conflict and changes in the distribution of political and economic power have rendered much of our conception of the world up until recently obsolete. And, as the recent events in the Persian Gulf have illustrated so graphically, the new world that we enter is not necessarily any safer or more secure than the Cold War era from which we have just emerged. As we grope towards the so-called new World Order, each of us will have to agree upon what exactly that is, and what each of our individual roles in it will be.

Japan is no exception. Clearly, the role that Japan has been content to play—that is, the passive observer of world events, comfortably perched in the U.S. nuclear nest—is no longer suitable to the new political climate and to Japan's rising stature as a consequence of its economic strength.

In my opinion, developing coherent, principled policies in the context of a new and radically changed world order is the biggest, and truly the most important, challenge facing Japanese citizenry and government.

I would like to offer my own personal proposal for an appropriate program of contribution by Japan. My proposal stems from the assumption that Japan must play an active leadership role in realizing our common dreams of world peace, elimination of poverty, and the preservation of our environment.

I propose that Japan's actions in the global arena be guided by three basic and universally accepted principles. They are decency, fairness, and reciprocity. Decency requires that we respect the intrinsic values and aspirations of all peoples and cultures, regardless of color, ethnic origin, religion or socio-economic status. Fairness means that we treat others as we would like them to treat us. Reciprocity involves repaying favors we have received.

Using these principles as the cornerstone for Japanese policies, I propose four specific way in which Japan can contribute to the betterment of this planet, given our economic and political resources and constraints.

First, I propose that Japan's development assistance be expanded and redirected. Specifically, I would like to see Japan commit one percent of its GNP towards development assistance, three times what we commit at present. I would also like to see more of this aid being channeled through international organizations like UNESCO and through non-governmental organizations, and more of this aid being distributed on the strict condition that it be used to satisfy basic human needs, such as eliminating poverty, conflict, illiteracy and environmental degradation.

Second, I propose that Japan supplement its development assistance with an active policy of promoting technology transfers to developing countries. We should do this with a determined commitment to help build the industrial bases of developing countries while maintaining the integrity of the surrounding environment and natural resources. And we should do this without fear of the boomerang effect.

Third, I propose that Japan take active measures to promote private investment in and greater trading ties with developing nations. Specifically, I would like to see Japan take concrete steps to increase imports of goods manufactured in foreign countries. In this way, we can ensure that we are unleashing private sector as well as public sector initiative in our efforts to close the gap between the have and have-not nations.

Finally, Japan should take a more active role in international peace-keeping organizations, not only contributing with money but also with personnel and other resources. Specifically, I am advocating the contribution of Japanese personnel to the UN Peace Keeping Operations force. I want to stress that this is an extremely controversial issue within Japan, since this would represent the first time Japan would engage military personnel in outside areas. I believe, however, that participation in the PKO would be a suitable means for Japan to contribute to world safety in a manner consistent with our Peace Constitution and our long-standing renunciation of military force. I say this with the full knowledge that my party, the Komeito party, may hold the deciding vote in the Upper House of the Japanese Diet on the proposed legislation to authorize participation in the PKO.

If all of these measures were adopted, I believe Japan will finally be assuming an active and positive leadership role, implementing policies consistent with the principles of decency, fairness, and reciprocity that I mentioned before. Criticism of Japan's current policies would be silenced by the overwhelming approval of united voices around the globe.

I do not know to what extent my proposals are immediately practical from a political standpoint, but I can state with confidence that policies like those I mentioned are all firmly rooted in principles that resonate with the long-standing traditions and beliefs of the Japanese people.

I would like to add one further word about the nature of the third principle I mentioned, reciprocity. Throughout the postwar period, Japan has owed much of its success in rebuilding the economy and country to the generosity and benevolence of the American people. Now that Japan has become strong economic power, we should reciprocate this kindness, showing the same generosity towards countries struggling to develop today as America had done to us.

On the occasion that marks a half-century after Japan embarked on a full-scale Pacific War on December 7, 1941, we hereby express our unequivocal apologies to the people of many nations for the great pain and suffering which Japan caused them during this war.

While deeply regretting the war, we would like to reiterate our heart-felt appreciation to the people of the World for their generous and humanitarian treatment of us Japanese during the post war era in our struggle toward rebuilding our nation from ashes.

Words cannot adequately convey our gratitude especially to those countries for the magnanimity with which they helped us lay the foundation for a democratic and prosperous Japan.

We pledge to make every effort for Japan to contribute to everlasting peace and prosperity for all humankind in close cooperation and contact with other nations of the world.

THIRD-PARTY PAYMENT TO VETERANS

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PENNY. Mr. Speaker, several years ago, Congress passed legislation that allowed the Department of Veterans Affairs to collect third-party payments for non-service connected veterans covered by private insurance. Since enactment of that legislation (Public Law 99–272), third-party collections have accrued to the treasury. Today I am introducing legislation that would redistribute those collections directly to veterans programs. Since these are funds paid on behalf of insured veterans, they should be used to the benefit of veterans.

My legislation provides that third-party payments be disbursed by the Secretary of Veterans Affairs, with one-third of the collections deposited in the nursing home revolving fund, and the other two-thirds deposited to the credit of the VA medical center which rendered the treatment and collected the reimbursement. This will provide an added incentive to local medical centers to collect funds owed them. The contribution to the nursing home revolving fund recognizes the need and increasing demand within the VA as a whole for long-term care services and is a way that third-party collections can benefit veterans throughout the Nation.

This legislation is intended to give veterans' medical care a needed boost. It is meant to provide supplemental funding to VA programs and should not be looked at as a replacement for the increased appropriations necessary to keep the VA system delivering high quality medical care.

H.R. —

To amend title 38, United States Code, to revise the rules relating to crediting of third-party reimbursements received by the United States for the costs of medical services and hospital care furnished by the Department of Veterans Affairs.

Mr. PENNY introduced the following bill; which was referred to the Committee on——

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDITING OF THIRD-PARTY PAYMENTS RECEIVED BY DEPARTMENT OF VETERANS AFFAIRS.

Paragraph (4) of section 1729(g) of title 38, United States Code, is amended to read as follows:

"(4) The unobligated balance remaining in the Fund at the close of business on September 30 of any fiscal year which is in excess of any part of such balance that the Secretary determines is necessary in order to enable the Secretary to defray, during the next fiscal year, the expenses, payments, and costs described in paragraph (3) shall, not later than January 1 of the next fiscal year, be allocated as follows:

"(A) One-third shall be deposited in the Nursing Home Revolving Fund.

"(B) Two-thirds shall be deposited to the credit of appropriations available for the operation of Department medical centers, to be allocated to each medical center in proportion to the amounts credited to the Fund during the previous fiscal year that were attributable to care and services furnished through each such medical center.".

DETAILED OUTLINE OF PROPOSED PRESCRIPTION ACCOUNTABILITY AND PATIENT CARE IMPROVEMENT ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, at the beginning of the second session, I intend to introduce legislation known as the Prescription Accountability and Patient Care Improvement Act. To enable interested groups to comment and propose improvements during the recess period, I would like to enter the following detailed summary of the bill in the RECORD. Those interested in the actual draft language can obtain copies from my office, 239 Cannon HOB, Washington, DC 20515.

TITLE I—ASSISTING IN IMPLEMENTATION OF CONTROLLED SUBSTANCE ACCOUNTABILITY PRESCRIPTION SYSTEMS.

SECTION 101. FUNDING.

Secretary of HHS shall make $20 million available to at least 10 States, based on evidence of illegal diversion, indications of inappropriate prescribing, numbers of addicted patients, and undertreatment of needs like cancer pain, AIDS-related pain, and other medical needs. The 10 States with multiple-copy prescription programs can receive funds to transition to electronic data transfer systems. The $20 million is raised by reasonable fees imposed on pharmaceutical drug manufacturers.

SECTION 102. REQUIREMENTS FOR CONTROLLED SUBSTANCES ELECTRONIC ACCOUNTABLE PRESCRIPTION SYSTEM; CENTRAL REPOSITORY, DESIGNATION OF STATE AGENCY.

After funds are provided to the State, one year is provided to establish State's computer software and hardware, modifications of pharmacists computer hardware and software. Information, to include physician's DEA number, pharmacists DEA number, a unique identifier number determined by the State, the drug's NDC number, date of dispensation, quantity of substance dispensed, and prescriber's practice specialty, shall be provided to the designated State health agency on all Schedule II, III, IV and V prescriptions. Pharmacists must provide the data in computerized format, to include one-line, real-time, diskettes, tape, or batch processing format once every 14 days. Pharmacists must keep records for 2 years, in accordance with Controlled Substances Act. State must seek counsel of medical boards and societies, pharmacy boards and societies, law enforcement agencies, and privacy protection experts. Confidentiality is strict and enforced. Pharmacists must comply. A temporary exemption for pharmacists without electronic capabilities is allowed for one year, to be replaced by paper submission. Data errors are presumed to be accidental in nature, unless a pattern of errors occurs. State must designate a health agency to run the central repository, or data processing system, to provide on-line access. System must be secure against access by unauthorized persons. Director must choose the most overall cost effective and efficient computerization system, which can include State's Medicaid Management Information System or other computer facilities within health agency. State may contract out through a competitive bidding process or amendment to a pre-existing competitively bid contract. In the case that a system is run by an outside vendor, and the contract is terminated, vendor must provide all data to designated state health agency. Designated state health agency must oversee and administer the system, control access to the system, and produce exception reports. Exception reports are a report indicating that a schedule II–V controlled substance has been dispensed outside the expected norms for a prescriber, dispenser, or a recipient. Identification card is defined: a valid driver's license, valid military identification card, or other valid, state-issued identification card. Identification number is defined: Social Security number or a unique number contained on the individual's identification card. In the case of a minor, the parent's information is used. In the case of prescribing a controlled substance for an animal, the animal's owner information is used. Registration number for dispenser and pharmacist is defined.

SECTION 103. CONFIDENTIALITY OF INFORMATION; DISCLOSURE OF INFORMATION.

Information collected shall not be available to the public. Information can only be used for the purposes relating to illegal diversion or prescribing, relating to improving physician prescribing practices, or relating to working with physicians whose patients are addicted and in need of substance abuse treatment. Information will be managed and administered by a Board composed of 5 health agency officials, the director of the designated state health agency, and four appointees. The four appointees consist of two with health care and prescribing backgrounds, and two with investigative backgrounds. Cryptanalysis, or electronic scrambling techniques, guaranteeing individual privacy protections of patients, pharmacists, and licensed physicians and veterinarians is required. Only the director of the State designated health agency, or his designee, will know the full cryptanalysis code. The two "prescriber" appointees will know half the cryptanalysis code; the two "investigative" appointees will know the other half of the cryptanalysis code. The director is required to consult regularly with patient membership organizations and civil liberties organizations. Violations of confidentiality in this section are strictly enforceable, and anyone who knowingly discloses, attempts to disclose, or attempts to access or use, information illegally from this system shall be imprisoned for not more than 20 years, with automatic fines of $250,000 for individuals and $500,000 for corporations. State is required to purge patient data from the central repository no later than 2 years after the data is made available to the board, unless the information is part of an active investigation or effort to facilitate substance abuse counseling. In cases where the board determines the information in the system warrants reason for further inquiry into a possible violation of the Controlled Substances Act or State controlled substances act, the Board shall direct the director to seek the advice and counsel of the director of the Practice Parameter Advisory Panel in cases involving physicians or pharmacists, and seek the advice and counsel of the director of the Patient Care Advisory Panel in cases involving individual patients. Access to the system may be provided to members of the board, other than the director or designee, only when at least 3 of the board members are present. The Board shall meet regularly at the call of the director. Vacancies on the board must be filled within 30 days. State narcotics or law enforcement agencies may only have information provided to them by the board in cases, based on the practice parameters established by the State's Drug Utilization Review Board, there is reasonable cause for further inquiry into the illegal diversion of, or the illegal prescribing of, controlled substances. State medical boards and licensing boards may have information provided to them by the board, based on the practice parameters established by the State's Drug Utilization Review Board, when there is reasonable cause for further inquiry of a medically inappropriate prescribing of controlled substances, or for the purposes of developing rules and procedures to improve physician prescribing practices and patient care. Drug Utilization Review Practice Parameter Advisory Panel is established, consisting of the DUR Board and representatives of State boards of oncology, podiatry, psychiatry, dentistry, pharmacy, medical license and supervision, osteopathic examiners, and veterinary medical examiners, and any other representative physician group designated by the director as serving the interests of physicians who treat patients requiring the prescribing of controlled substances. DUR Practice Parameter Advisory Panel is given 1 year to develop and implement practice parameter advisory guidelines, notify and share relevant information with respective state medical societies for the purposes of improving physician prescribing practices and other medical needs, and working with state narcotics agencies for identifying and addressing illegal activity. After consultation with the members of the board, the State medical and licensure boards, and the State Medical Society, the Director shall develop procedures, based on the practice parameters, to address the needs of individuals in need of addiction or substance abuse treatment counseling for controlled substances. The procedures may include physician notification by the designated state health agency of cases of individual patients who, based on established practice parameters, may be addicted and at the discretion of the physician, may involve notification of the individual patient by the physician for the purposes of facilitating substance abuse counseling or other means of improving patient care. Patient Care Advisory Panel is established. Each Director shall seek the advice and counsel of representatives of patient membership organizations, so as to take into account cancer pain, AIDS-related pain, narcolepsy, epilepsy, attention deficit disorder, sickle cell anemia, mental health, or any other medical need deemed necessary. Patient Panel is given 1 year to develop advisory guidelines for the board, and work with narcotics agency to protect the needs of patients.

SECTION 104. COOPERATION AND TECHNICAL ASSISTANCE.

The Secretary of Health and Human Services, through the Inspector General and in cooperation with the Attorney General, shall maintain an active program to assist and cooperate with designated state agencies in carrying out this title. The Secretary, along with the Attorney General, shall assist those states with multiple-copy prescription programs which seek to implement electronic data transfer reporting systems.

SECTION 105. GENERAL DEFINITIONS.

The following terms are defined: board, central repository, controlled substance, designated state agency, director, dispenser, patient panel, schedule II–V controlled substance, Secretary, State, and system.

Dispenser is defined to not include inpatient hospitals, inpatient nursing homes, licensed nurse or medication aide who administers such a substance at the direction of a licensed physician, or wholesale distributor.

SECTION 106. EFFECTIVE DATE.

This title shall take effect 1 year after the date of the enactment of this Act.

TITLE II—REPORTS AND STUDIES

SECTION 201. NATIONAL PATIENT CARE IMPROVEMENT TELEPHONE HOTLINE.

Secretary shall establish through a competitively bidding process, a nationwide patient care improvement telephone hotline staffed by qualified physicians and other certified medical professionals. The hotline shall be available on a continuing basis for the purpose of responding to questions from patients, physicians, pharmacists, state health agency officials, and other medical health care practitioners. All calls must be confidential and the Secretary shall take all steps necessary to ensure the confidentiality of such calls. The Secretary shall take all means necessary to encourage publicity of the hotline, including working with pharmaceutical drug companies and importers, physicians, pharmacists, and available print, television, or radio media entity to publicize and educate the public on the availability of the hotline. The hotline shall be designed to be pay-as-you-go, using available '1-900' technologies to cover all costs associated with the hotline. The Secretary must ensure the costs to callers are affordable and reasonable and the system is available to patients at all times necessary.

SECTION 202. NATIONAL COMMISSION ON SPECIAL MEDICAL NEEDS.

Commission's objective is to develop new initiatives to address issues involving the appropriate prescribing of medically necessary prescription drugs for the treatment of cancer pain, AIDS-related pain, narcolepsy, epilepsy, sickle cell anemia, mental-health-related care, and any other medical specialty need as determined by the Secretary. The Commission shall develop new initiatives to address the problem of both underprescribing and overprescibing of medically necessary controlled substances. The Commission shall advise Congress and State and Federal health agency officials on the needs of these patients. The Commission shall work with nationally recognized medical membership organizations to establish a system for identifying physicians who need further education on the needs of severely ill patients.

SECTION 203. REGULAR CONSULTATION BETWEEN HHS AND DEA.

The Secretary, along with the directors of the National Cancer Institutes and National Institutes of Health and with the Administrator of the FDA, shall consult with the Administrator of the Drug Enforcement Administration of the issue of the annual quota for legal manufacture of schedule II controlled substances. The Secretary shall advise the DEA Administrator on continuing medical developments in the therapeutically-effective prescribing of schedule II controlled substances. The Secretary shall advise immediately the Administrator of any developing shortages of schedule II controlled substances for the medically necessary treatment of pain patients or narcolepsy patients.

SECTION 204. MODEL INITIATIVES WITH RESPECT TO FORGERIES OF PRESCRIPTIONS FOR CONTROLLED SUBSTANCES.

The Secretary, in cooperation with the Attorney General and the HHS Inspector General, shall study and develop model initiatives for States to address the problem of forgeries of prescriptions for controlled substances. At least 1 model initiative must be made available to States for consideration within 1 year after the date of enactment of this Act. The model initiative may include the use of single, serialized prescription pads which are printed, maintained and distributed to State licensed physicians, are printed using acceptable anticounterfeit printing techniques, and will be available to physicians who voluntarily choose to receive them. The Secretary shall make available sufficient resources to the State's director of the designated state health agency to administer the anticounterfeit initiative. States are encouraged to consult with medical societies and licensure boards, and all appropriate patient membership organizations, in implementing model initiatives.

SECTION 205. STUDIES OF ELECTRONIC DATA TRANSFER.

The Secretary, in cooperation with the Attorney General, shall undertake ongoing studies of the cost and benefits of existing electronic data transfer and multiple-copy prescription programs. The Secretary shall share necessary information with State health and law enforcement officials on the effect of the program under Title I (and similar programs) on the illegal diversion of controlled substances, arrests and convictions, asset forfeitures and seizures, improvements in the State's ability to direct patients in need of drug treatment, and cost savings or enhancements in law enforcement or health care delivery. The Secretary shall submit to Congress periodic reports on studies conducted under this section.

SECTION 206. IDENTIFICATION OF ILLEGAL DIVERSION SUBSTANCES.

The Secretary, in cooperation with the Attorney General, shall undertake ongoing efforts to identify those prescription drugs which are not Schedule II–V controlled substances but which are subject to illegal diversion or needless addiction. The Secretary shall make the identity of those drugs available to all State health agencies and provide a formal, written explanation on the merits of, and costs associated with, including these additional prescription drugs under the States' prescription accountability and patient care improvement programs.

SECTION 207. INFORMATION ON USE OF CONTROLLED SUBSTANCES.

The Secretary shall develop a brief information brochure which describes proper prescribing of controlled substances for the treatment of cancer pain, AIDS-related pain, narcolepsy, epilepsy, sickle cell anemia, mental-health-related care, and any other medical specialty need as determined by the Secretary. The Secretary shall provide for the distribution of such brochure with other appropriate mailings by Federal health agencies.

SECTION 208. DEVELOPMENT OF PRINTED PATIENT INSERTS.

The Secretary shall develop printed patient inserts which describe the proper use of controlled substances for the treatment of cancer pain, AIDS-related pain, narcolepsy, epilepsy, sickle cell anemia, mental-health-related care, and any other medical specialty need as determined by the Secretary. The brochure must also include the telephone number of the Patient Care Improvement Hotline, and advice on proper steps to take in case of improper use of controlled substances. The Secretary shall provide for the distribution of such printed patient inserts by Federal health agencies to prescribing physicians for the purposes of distribution to patients.

SECTION 209. DEVELOPMENT OF COMPUTER SOFTWARE.

The HHS Inspector General shall develop computer software for the purposes of administering this Act. The software shall be compatible with the MADAS programs currently made available to the States, and must be available for free within 180 days after date of enactment.

IN TRIBUTE TO SAMUEL RODNEY BROWNE: PIONEER JAZZ EDUCATOR

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DIXON. Mr. Speaker, I rise today to pay tribute to a true pioneer in jazz education.

Samuel R. Browne, who passed away November 15th at the age of 83, introduced jazz music to the Los Angeles public high school curriculum when the board of education approved jazz band as a legitimate course offering during the early 1940's.

But Browne was already a pioneer. In 1936, he became one of the first three African American secondary school teachers in Los Angeles when he integrated the all-white faculty at his alma mater, Jefferson High School—despite overt resistance from many of his new colleagues. As a student at McKinley Junior High and at Jefferson, Browne heard members of the all-white faculty use racial slurs to refer to him and other black students. "I never forgot," he said in a 1979 interview with the Los Angeles Times. "You carry that kind of scar with you for life."

Such painful incidents did not dampen Browne's desire to pursue his interests in music and teaching. Browne earned his bachelor of arts and master's degrees in music and education from the University of Southern California during the early 1930's—playing the organ at church and shining shoes to pay his way through. Upon graduation, Browne was unable to obtain a teaching job in Los Angeles. An accomplished musician and director, he opted to travel with the Cotton Blossom Singers as the quartet's pianist and arranger. No long afterward, he joined the faculty at Jefferson, where he was immediately popular.

Students from all parts of Los Angeles enrolled at Jefferson High School specifically to study with Browne, and the jazz band performed all over the city. Moreover, Browne introduced his students to legendary musicians such as Duke Ellington, Ethel Waters, Billie Holiday, and Nat King Cole who visited his classes at Jefferson at Browne's invitation.

Browne was more than a mere music teacher to his students, taking a sincere and uncommon interest in their lives and development. Over the years, Browne served as a teacher and mentor to numerous prominent Los Angeles jazz artists and innovators in the distinctive "cool" school of jazz which originated in Los Angeles. Dexter Gordon, Roy Ayres, Frank Morgan, Chico Hamilton, Buddy Collette, Jackie Kelso, Ernie Royal, Horace Tapscott, O.C. Smith, Joseph Gold, and Art Farmer are among the musicians who apprenticed in Browne's jazz band at Jefferson High.

In 1961, Browne transferred to Palisades High School, in part to avoid the brewing hostility in south central Los Angeles which erupted during the Watts riots a few years later. Browne retired from teaching in 1973, recalling for his last groups of students who were mostly both affluent and white the wonderful days when Ellington, Holiday and others colored the vital jazz nightlife which flourished along Central Avenue for years, beginning in the late 1930's.

Browne will be remembered as a quiet unassuming gentleman who never realized the full significance of his contribution to the music and the city he loved so dearly. Browne's teaching career at Jefferson High School and Palisades High School demonstrated his ability to transcend the barriers of race and class with his love of music and education. Browne received numerous awards for his accomplishments. In September 1985, he received the Educator's Award from the Los Angeles Jazz Society; in 1990 he was inducted into the Jefferson High School Hall of Fame; and in October 1991, the Samuel R. Browne Scholarship was established by the BEEM Foundation.

Mr. Speaker, Samuel Rodney Browne, who is survived by his daughter, Lisa, touched thousands of lives with his music and teaching. Please join with me in paying tribute to this pioneering jazz educator whose warm legacy continues to enrich the music, culture and education of Los Angeles.

CONCURRENT RESOLUTION ON THE GATT NEGOTIATIONS

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RIDGE. Mr. Speaker, today my distinguished Pennsylvania colleague [Mr. MURTHA] and I, along with a number of our colleagues in the House, will be introducing a concurrent resolution regarding the Uruguay round talks for the negotiation of a new GATT trade agreement. I take this opportunity to speak about the resolution and to also offer some remarks as to this Member's outlook on the GATT negotiations.

Let me first state that I am hopeful that the Uruguay round can be brought to a successful conclusion. I have been strongly supportive of President Bush's and our negotiators' objectives in the round, both as a member of the Republican Leadership Task Force on GATT and as a member of the President's Export Council.

I understand the benefits that flow from free trade. I firmly believe that the United States stands to gain a great deal if a comprehensive agreement can be achieved and if that agreement is a fair and balanced one.

A note of caution, however. Because as hopeful as I am for success, I would be unable and unwilling to support any new GATT agreement that seriously undermines and weakens the effectiveness of U.S. antidumping and countervailing duty trade laws. There would, in my mind, be neither fairness or balance in taking such a step.

These laws have been vital in helping American businesses to compete against subsidized, unfair foreign competition. It would, in my judgment, simply be unacceptable for Congress to permit their emasculation for the sake of achieving a consensus among our negotiating partners for a broader agreement. Speaking for this Member, a new GATT accord is not worth the price of sacrificing our Nation's industrial base.

So it is on this note of concern that I have put forward this resolution. The resolution outlines several very specific points currently on the table in the antidumping and countervailing duty negotiations, points that, were they to be adopted, would signal a retreat by the United States on maintaining the strength of our trade laws. The resolution urges our U.S. Trade Representative to refuse to agree to any provision that incorporates these points.

On this matter there must be no doubt, no question, no sign of wavering as to where the Congress of the United States stands. We must be unmistakably clear that maintaining effective U.S. trade laws against market-distorting dumping and subsidy practices is not an issue open to compromise. We must make clear to our negotiating partners that we would just as soon see no agreement at all than one that would pose serious harm to U.S. manufacturing interests. As I said before, a new GATT agreement is simply not worth the price.

ALTERNATIVE MINIMUM TAX AMENDMENT

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MCGRATH. Mr. Speaker, today I am introducing legislation to address a major shortcoming in the Internal Revenue Code. My bill would allow taxpayers to deduct so-called section 212 expenses for purposes of the individual alternative minimum tax. Those expenses are primarily investment advisory and management fees. The deduction cannot exceed an individuals net investment income and it is subject to the 2-percent floor on miscellaneous deductions.

I think that current law is unfair and inconsistent in this instance as tax policy generally provides an offset for expenses incurred in making money.

We have gone to great lengths to encourage investment activity and capital formation. This provision of the alternative minimum tax discourages more meaningful types of investment, which require greater management and advisory expenses. An anomaly that results from this situation is that the exact same expenses would be deductible if an activity was organized as a trade or business. If taxpayers used this technique to avoid the inequity in current law, I think that deductible expenses would be much higher, and the Treasury would lose money in the long run. This amendment takes on greater significance if we raise the AMT tax rate at some future date.

Testimony on this proposal was received last year by the Ways and Means Select Revenue Subcommittee, and the Treasury Department did not oppose it.

I plan to finance this change in the Internal Revenue Code by eliminating what is known among tax practitioners as the "debt-equity whipsaw." Corporations which sell ownership interests to investors prefer to classify those interests as indebtedness while purchasers would rather classifiy their interests as equity. Each party in the transaction is seeking to maximize advantages conferred by the Tax Code.

Internal Revenue Service officials attempting to enforce our tax laws are caught in the middle of this situation. Time consuming audits and enforcement activities are required, and the Treasury loses significant revenue. My legislation would require that a debt or equity designation made by an issuer would be binding on the purchaser of the shares of stock or bonds. This would bolster enforcement and reduce cheating. It would also increase Federal revenues in excess of the cost of the amendments this bill makes to the alternative minimum tax rules.

REDUCING THE TAX BURDEN ON AMERICA'S FARMERS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. McEWEN. Mr. Speaker, on November 22, 1991, I introduced H.R. 3877, legislation to eliminate an onerous provision included in last year's Omnibus Budget Reconciliation Act that requires the Secretary of Agriculture to charge a loan origination fee to all producers of oilseed crops.

For several reasons, the loan origination fee is bad policy. The U.S. Department of Agriculture has indicated that the farmer will pay the origination fee upfront by taking a 10-cent effective cut in the loan rate, which is set by the 1990 farm bill at a minimum $5.20. This makes the effective minimum soybean loan rate $4.92. Moreover, the fee effectively increases the cost of interest on the loan; it reduces farmer income protection when prices are low; it will not generate expected Federal revenues if producers leave the program; and it sets a precedent for future revenue options on other commodities.

In my view, this fee will discourage, perhaps even reduce significantly, farmer participation in the loan program. The American Soybean Association, which has expressed its full support for H.R. 3877, estimates that over 400,000 soybean producers across the country are being required to pay the loan origination fee.

Farmers today are already faced with numerous challenges, financial and otherwise. During my frequent visits with farmers across Ohio, farmers have voiced their concerns over many issues—the high cost of health insurance for the self-employed, high taxes on capital formation, and the challenge of complying with environmental regulations, to name just a few. With this in mind, I see no need for Congress to add yet another tax burden on America's agricultural sector.

Mr. Speaker, I urge all my colleagues to support this legislation, and thereby send a signal to the Nation's farmers that we are here to help them, not hinder them.

Thank you, Mr. Speaker.

HIGH-TECH CLEANUP

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RITTER. Mr. Speaker, my submission of this article for the RECORD is part of an overall effort to put technical hazards in national perspective prior to legislative and regulatory action

Our recent history is replete with failures on that account. The body blows to America's economy, our jobs and our manufacturing industries have been numerous. Our competitors look at us and shudder. They use us as the example of how not to regulate.

From Alar to Asbestos, to PCB's, to the way we do—or don't do—Superfund site cleanup, to the suppression of a critical $600 million, 10-year study on acid rain, to the politicization of the global warming debate, we have lost valuable jobs, economic growth opportunity, and crucial manufacturing industry.

This trend must stop or else we will impoverish ourselves. Chemicals are a natural part of bodies; Our modern society depends on them for health and for well being. To treat chemicals as Salem witches to be exorcised down to the last molecule is a prescription for closing factories, emptying shelves and impoverishing our country. That is the unhealthy reality of current trends.

I commend to the attention of my colleagues this article published in the Allentown Morning Call on November 1, 1991.

FIVE WAYS TO DETERMINE VALIDITY OF FORECASTS OF HIGH-TECH DOOM

BROOKLYN.—Alar, DDT, the ozone layer, nuclear power, asbestos, PCBs; all have had their Day of Terror in the media. We are constantly bombarded with such predictions of high-tech doom. It's time we learned to analyze them or we'll frighten ourselves right out of the high-tech society that gives us one of the highest living standards in the world. A few points of to consider, next time the doomsayers speak:

1. What are the facts? Get specific dates, places, amounts, and sources; don't accept emotional tirades or vague generalities. IF, for example, a movie star says Alar causes cancer, ask when and where and on what the study was done that reached that conclusion. In the case of Alar, the study was done on mice; a human would have to eat 28,000 pounds of apples daily for 70 years to get the same dose. A mere 14,000 pounds of apples a day wouldn't do; mice eating the equivalent of that amount didn't develop tumors.

2. Check your sources. If a source isn't given by the media, you have every right to ignore the allegation, as if someone had told you Pluto is made of rum-raisin ice cream. If a source is cited, do his credentials apply to the field he's discussing? A biologist, although he's a scientist, may know no more about PCBs than a piano teacher, and a pediatrician doesn't necessary know more about nuclear power than your plumber does.

3. Put potential risks into perspective. Few things are risk-free: drinking a quart of water may save your life, putting your head in it may kill you, If there is solid evidence of harmful effect, how does the possible risk compare with the possible gain? For example, the Three Mile Island accident, usually described as the worst in the history of U.S. nuclear power, resulted in no deaths and no measurable increases in the cancer level of the surrounding population. What a pity that the coal-mine collapses and gas explosions that have killed thousands in the past few decades haven't been so "disastrous"!

4. Play devil's advocate with the facts, once you have them: it's useful to see how facts can be distorted. It is common, for example, to confuse correlation with cause and effect. "Many people die while they're sleeping, so sleeping must be a leading cause of death." "Some people became ill after ingesting PCBs, so PCBs must be dangerous chemicals." (In fact, in the case usually cited to prove the danger of PCBs, they were mixed with chemicals from air-conditioning equipment that are known to be highly toxic.)

5. If a threat to human health does exist, what's the proper response: government intervention or private initiative? Given the abysmal record of government planning, one would think this question need not be asked. Individuals working and cooperating within the free market are the ones best equipped to deal with environmental problems; the individual is the only one who can consider all the relevant factors in his case and make the best decision. At present, for instance, the government has banned the use of DDT in all but a handful of cases. But DDT, according to the National Cancer Institute, is not a cause of cancer, and it is the most effective way to fight the mosquitos that cause disease and death from malaria. Why not let farmers in tropical climates decide for themselves whether to use DDT or risk malaria?

We pity someone who's "afraid of his own shadow." How much worse to be afraid of one's own mind, which is what the fear of technology amounts to! To reject the products of the mind on the grounds that they are not immediately perfect or 100 percent risk-free is to condemn man to perpetual fear, back-breaking labor, and premature death. To remain healthy, we must learn to view predictions of environmental doom critically, not accepting them until or unless they meet basic standards of proof. Then we must deal with them by the informed decisions of individuals in a free market, not by government intervention.

HIGH PERFORMANCE COMPUTING INITIATIVE

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GEPHARDT. Mr. Speaker, I would like to express my support for the concepts included in the High Performance Computing Initiative. However, at a time when we should be proud of such an accomplishment, I have deep concerns about the omission of important provisions from the Senate version of the bill which we are considering here today.

If we look back at the legislative history of this cornerstone technology initiative, we should be reminded that the House did its part to ensure that U.S. competitiveness in high performance computing and related technologies would be achieved. This summer, we passed H.R. 656, with a responsible provision that addresses important trade-related issues and the issue of who will be eligible to apply for and receive the Federal tax dollars that are authorized in this legislation.

These issues have grave economic implications for U.S. industries, which continue to be subject to unfair practices, including predatory pricing and lack of reciprocity, of our trading partners. Today, out of all of the links in the U.S. electronics food chain, we maintain superiority in only two areas—software and supercomputers—the focus of the legislation we are considering today. As such, it is vital that we not ignore the issues that have an adverse effect on other electronics sectors like semiconductors, and could undermine domestic programs, including the High Performance Computing Initiative.

Critics of the House version of this legislation, including the Bush administration, have forced the removal of the Brown amendment which deals with vital trade and economic issues. They have whittled down a responsible proposal to a mere reporting requirement, and in turn, have fostered less, not more, accountability for the administration in spending U.S. tax dollars.

Opponents of the Brown amendment have sold our Nation short. As a result, we are left with no legislative assurances that the funds in this bill will in fact reach those who have earned the opportunities which this bill will afford—American workers and industries. Quite simply and unfortunately, I believe that those who have encouraged the watering down of this important provision have failed our advanced technology industries, especially supercomputers and software, and our country.

At this time, I would like to clarify for the record that the Brown amendment would have allowed the administration to make any financial awards or buy what ever it desired with funds provided under the bill. If recipients of grant moneys were not located within our borders or procurements not American-made, the administration would have been required to tell Congress why such a decision was being made. In turn, Congress would have been entitled to review the decision, as it currently does with arms sales.

The Brown amendment would have enabled better oversight by Congress as to the use of government funds under the High Performance Initiative, which like other U.S. programs, will become the target of our trading partners, who do not offer U.S. entities or individuals fair treatment in their markets or reciprocal access to their government research, development and procurement programs. This reality has been observed in connection with Japanese computer makers, who continue to unfairly price their products abroad, and in the U.S. market as well, despite the existence of the 1990 United States-Japan Supercomputer Agreement which was designed to eliminate unfair trade practices.

In closing, I would like to commend Chairman Brown on his efforts to resolve the tough issues associated with the High Performance Computing Initiative. I regret that we were not able to come up with a more constructive approach to the problems that have been identified by myself, Mr. SABO and others regarding research, development and procurement programs funded by the U.S. Government.

It is my hope, and I have received assurances in writing from Chairman BROWN and Senator GORE that they will begin work early in the next session to more adequately address the concerns that I and others have raised. I believe that we must address gaps in the implementation of U.S. laws regarding procurement of advanced technology products by the Federal Government, generically and where national security concerns are involved.

In addition, Chairman BROWN and Senator GORE have committed to, and I strongly encourage, active oversight as the High Performance Computing Initiative advances. The actions of the administration in implementing this important initiative and ensuring that U.S. workers and industries are the true beneficiaries of the government funds must not go unchecked. It is only right that we make decisions involving U.S. tax dollars and advanced technology programs in America's interest first, not the interest of our trading partners.

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, November 18, 1991.
Hon. RICHARD A. GEPHARDT,
Majority Leader, U.S. House of Representatives, Washington, DC.

DEAR DICK: I was glad you, Congressman Sabo, and I were able to meet earlier this month to discuss the High-Performance Computing Act (S. 272, H.R. 656) and technology policy in general. As you know, that bill is designed to help ensure that the United States maintains its lead in high-performance computing, a critical technology finding application throughout the U.S. economy.

As a follow-up to that meeting, I wanted to reiterate that I share many of your concerns about the Federal government's procurement procedures regarding high-technology items like supercomputers. It is clear to me that regulations that make sense when an agency is buying pencils and paper may not make sense when it is buying a state-of-the-art computer system. In such cases, we need to consider more than just the cost and performance of the system. When the system is being used to develop advanced software in fields like aerospace, there are clearly national security and economic security issues involved as well. And, of course, we are all familiar with the story of how Cray delivered its first supercomputer to Los Alamos where researchers worked with Cray to debug and improve the system so they could use it to solve their computing problems. We need to encourage that kind of symbiotic relationship.

I believe strongly that the government can do a better job of using its massive purchasing power to advance American technology. Today, too often federal procurement regulations delay or discourage innovation, while the practices of other countries often help their companies in competition against ours. As chairman of the Science, Technology, and Space Subcommittee of the Senate Commerce Committee, I intend to hold hearings on this issue next year. In addition, the Subcommittee will oversee carefully the implementation of the High-Performance Computing Program created by S. 272.

I look forward to working with you in the future on these and other technology policy issues.

Sincerely,

ALBERT GORE, JR.,
Chairman, Subcommittee on Science, Technology, and Space.

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, RAYBURN HOUSE OFFICE BUILDING,
Washington, DC, November 20, 1991.
Hon. RICHARD A. GEPHARDT,
Majority Leader, U.S. House of Representatives, Washington, DC.

DEAR DICK: As you know, we have been working with the Senate and the Administration to reach agreement on H.R. 656 and S. 272, the High-Performance Computing Act of 1991. This is an important piece of legislation which not only helps ensure the continued leadership and competitiveness of the U.S. high-performance computing industry, but also marks the beginning of a major new investment in this nation's information infrastructure.

As passed by the House, H.R. 656 contained provisions intended to ensure that this investment would be expended for the benefit of U.S. industry and researchers. While those provisions would have permitted procurements from foreign companies and were therefore not intended to violate U.S. international obligations under the General Agreement on Tariffs and Trade, the Administration threatened to veto the bill. The Senate refused to include similar provisions. After long negotiations with the Administration and the Senate, I have reluctantly concluded that these provisions must be substantially changed in the remainder of the bill is to pass and be signed by the President.

I know that you have taken a leadership role in bringing disturbing aspects of the current trade relationship with Japan and other countries to the attention of Congress, particularly in the areas of high technology. While I share your concerns about unfair trade practices, the negotiations with the Administration have led me to believe that what is needed is not necessarily new laws or authority to deal with unfair competition, but a willingness to enforce the laws that are already on the books. Congress needs to do a better job of overseeing the Administration's lax enforcement of our present trade laws.

The substitute section which we plan to bring to the House floor in the near future is intended to help in this oversight process by providing a foundation for future review by this and other committees on the implementation of the High-Performance Computing Program, as well as trade issues relating to high technology in general. The annual reporting requirements on contracts and procurements made with foreign-owned companies and foreign educational institutions will assist Congress in its oversight of the High-Performance Computing Program. The review by the Technology Administration in the Department of Commerce of the U.S.-Japan Supercomputer Agreement will provide an opportunity for a different perspective—albeit from the Administration—on the effects of such an agreement on Japanese and U.S. supercomputer manufacturers. Finally, the substitute reasserts that procurements under the program would be governed according to the terms of existing law, which directs a preference for domestic manufacturers in many situations, and which forbids procurements from nations found by the President to maintain a persistent practice of discrimination against U.S. goods or suppliers.

With these tools, I can assure you that this Committee will maintain close oversight over the implementation of the high Performance Computing Program to ensure that the program is carried out for the benefit of U.S. industry and researchers, as the Administration has indicated it would be. Further, I intend to hold hearings in the next session of Congress on trade issues relating to high technology, and to review the report on the U.S.-Japan Supercomputer Agreement submitted by the Department of Commerce under this legislation. To further assist us in the review of the Supercomputer Agreement, I also intend to request a study by the General Accounting Office to review bidding procedures at federally funded entities procuring supercomputers. This study would cover both generic and national security/defense-related procurements; interagency processes and internal government mechanisms for presenting and reviewing intended procurements of supercomputers, generically and those with national security implications; and the application of existing U.S. laws governing such procurements. Since jurisdiction over Federal procurement laws in general rests in the Government Operations Committee, I will work with the Chairman of that Committee, Mr. Conyers, in framing the GAO study request, as well as with you and other Members who have been leaders on this issue. In addition, a similar study by the International Trade Commission could provide further valuable perspectives on these issues.

The concerns that you have raised in the course of the consideration of this legislation are significant, and while we were precluded by the Administration's opposition from addressing these issues in this bill as directly as we would have desired, I am confident that we can achieve many of the same goals through vigorous and aggressive oversight. I look forward to working with you on addressing these issues and others that have such importance for the future competitiveness of the U.S. high-technology industries, and I appreciate your support and efforts on this legislation.

Sincerely,

GEORGE E. BROWN, JR.,
Chairman.

LEGISLATION TO IMPROVE THE RECENT UNEMPLOYMENT COMPENSATION ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, the news across our country continues to show that the recession is not abating. More people are joining the ranks of the unemployed and long-term unemployed workers are discouraged as they continue search for work. We cannot wish and make this problem go away.

A little over a week ago, the Congress passed—and the President finally signed—an unemployment compensation bill. It is a help to those hurt by this long recession. But, Mr. Speaker, it is pretty small potatoes. In the original version, Californians would have qualified for 20 weeks of extra unemployment insurance. In the enacted version, it is nearly 2 months less—only 13 weeks. In my State, the bill that passed will once again drop tens of thousands of unemployed at the beginning of March, before the winter is over.

The winter won't be over, and I doubt the recession will be over before this bill effectively expires for the long-term unemployed. People who have exhausted their unemployment benefits and have been unable to find any kind of work are desperate. The heart-rendering stories of most of the people who successfully were processed on November 18—the first working day after the law became effective—speak of the great need for his financial relief.

In the Hayward, CA, Unemployment Office, which serves the southern part of my district, 225 applications were processed on November 18 and over 700 claims were handled the first week.

Every congressional office, I am sure, received dozens of calls asking how the new law would work, why it didn't cover people who lost their unemployment insurance a year ago and still were looking for work, where we thought they could find a job within 13 weeks before the new law stopped helping. These were tough calls to handle, Mr. Speaker. These were clearly people looking for work, people selling off assets, people seeing lifetime college savings for their kids being wiped out.

Unemployment insurance is no easy street. In my high-cost State, the average weekly payment is $131, about $46 per week below the poverty level for family of two.

The President has trouble admitting we're in a recession. For the people in it, it feels like a depression—and is terribly depressing. We should plan now to improve on the recent law and offer additional weeks of hope and help during this crisis.

Therefore, I am proposing today legislation that I hope can be considered at the very beginning of the second session. It is a very simple bill. It amends the three tiers of additional weeks of benefits recently passed in Public Law 102–164 from 6,13, or 20 weeks to 13, 20, or 24 weeks, respectfully.

The real challenge before this Nation is the creation of jobs. But until there are enough jobs out there for all the people who want them, we need to provide a safety net so the unemployed and their families don't become homeless.

As we enter this holiday season, I hope that all of us with comfortable jobs in Government—from the President, Darman, Sununu, and the Congress on down—will realize that the recent bill is woefully inadequate. I hope that we can all make as our New Year's resolution the passage of a more compassionate, adequate, and timely extension bill early in 1992.

FOSTER CARE LIVING ARRANGEMENTS

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MCGRATH. Mr. Speaker, today I am introducing the Foster Care Living Arrangements Act of 1991. This legislation is intended to enhance the options available to provide daily support services for elderly or handicapped adults in their homes. My proposal would amend section 131 of the Internal Revenue Code, which excludes certain foster care payments from a taxpayer's gross income. The bill would extend the benefits of that provision to shared living arrangements.

In essence, a shared living arrangement is an adult in need of foster care who has a roommate. Typically, roommates in these situations are independent contractors, who work under the auspices of nonprofit community service organizations. Roommates agree to provide certain services to the foster care adult, such as being available over night in the event the adult needs personal assistance. They provide companionship and guidance within and outside the home for cooking, cleaning, shopping, and recreation. These individuals also assist with personal hygiene and medical needs. They work cooperatively with family, friends, and neighbors and allow the foster care adult to live in dignity in his or her home and community.

This legislation is necessary to provide needed support services, and to encourage more citizens to participate in efforts to undertake foster care responsibilities in their communities. This is exactly the type of incremental approach that Members from both sides have advocated in the debate over long-term health care. Elderly and handicapped members of our society have diverse needs and abilities. By expanding the range of choices to meet their needs, we can enhance their abilities. At the same time, we can enable them to remain safely and comfortably in their homes and communities.

I urge my colleagues to join me in this proposal, and to support it in the second session of this Congress.

TRIBUTE TO CHAIRMAN MO UDALL

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DIXON. Mr. Speaker, I rise to pay tribute to our esteemed former colleague, Mo Udall. The 30 years Mo Udall spent in Congress has left a significant mark on the House of Representatives, the Nation, and the State of Arizona. Without his sincere dedication, ability to encourage people to work together and humor, many of the gains made in protecting the environment for future generations may not have materialized.

Throughout his life he took advantage of opportunities to make positive change. As a high school student, Mo Udall participated and excelled in everything from editor of the high school paper and first string on the basketball team to serving as the student body president. Even after graduating from the University of Arizona in 1949 with a bachelors of law degree, he excelled by receiving the highest score on the State bar exam. I understand that his years of practicing law in Arizona left and unmatched legacy for future trial lawyers.

But it is the years Mo Udall spent in the House of Representatives striving for protection of the environment that has inspired my colleagues and I to continue our work toward this goal. Mo Udall's chairmanship of the Interior Committee and his membership on the Post Office and Civil Service Committee will long be remembered.

Mo's appreciation of the land and his attitude toward responsible management of our natural resources was reflected in several major bills that passed during his chairmanship, including legislation on strip mining in 1977, which marked the first time that the mining industry was given guidelines for restoring mined land. Another measure is the Alaska lands bill, which added large tracts of land to the national refuge system and the national wilderness system.

Mo Udall has a unique and special concern for Arizona and its vast wilderness, which was demonstrated by efforts to pass both the Arizona Wilderness Act of 1984, which protected more than 1 million acres of State land, and the Arizona Public Land Wilderness Act, which set aside 2 million acres of Arizona wilderness. This work on the Arizona Public Land

Wilderness Act reflected his keen ability to get people with different goals to work together. Without this patience and leadership, the Arizona Public Land Wilderness Act could not have been passed.

Mo's outstanding contribution on environmental protection has set a standard for cooperation and reflects a special insight into our national land conservation needs. This unending determination, and organizational skills helped pass effective legislation to protect our scarce resources. I have for years admired these accomplishments and appreciated his helpfulness.

Mr. Speaker, his presence in the House of Representatives and dedication to this institution is sorely missed. All of us that had the privilege of serving with Chairman Mo Udall, however are far richer for that experience.

GOOD LUCK, EARL WILLIAMS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, after more than 27 years in public service, Earl Williams, the East Orange, NJ, city clerk is retiring. Earl, like many of us, has had the opportunity to do what he enjoys most, serving the residents of our communities.

Earl Williams is a native of East Orange. He is a veteran of the U.S Navy, serving in World War II. He played semi-pro football with the Jersey Bears. Earl worked for the Nopco Chemical Co., for more than 25 years and was an active member of the AFL–CIO.

Earl Williams has held both elected and appointed positions. He was first elected to the East Orange county committee more than 27 years ago. He was elected to the East Orange city council, representing the city's fourth ward, and served in that position for 13 years. His council colleagues selected him council chairman for three consecutive years.

In 1984, Earl Williams was appointed to the position of Municipal Clerk for the city of East Orange. He became the first black city clerk in the history of East Orange.

Mr. Speaker, I am sure my colleagues will join me in extending our best wishes to Earl Williams on his retirement.

TRIBUTE TO CADET JAMES SPENZER FORBES, AWARDED ARMY COMMENDATION MEDAL FOR COURAGEOUS ACTIONS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MCEWEN. Mr. Speaker, I rise today to pay tribute to cadet James Spenzer Forbes, whose bold and decisive action in saving the lives of two children recently earned him the Army Commendation Medal.

A senior at the U.S. Military Academy at West Point, Cadet Forbes and a friend were at Hampton Beach, NH, when they spotted two children drowning. Without regard for their own safety, the cadets rushed into the water, swam to the children, and pulled them to shore.

The men were awarded the Army Commendation Medal for their selfless, courageous act. Cadet Forbes' citation declares that his quick thinking, courage, and devotion to the preservation of life averted a possible tragedy and reflects the utmost distinction upon him, the U.S. Military Academy, and the U.S. Army.

After nominating Spenzer to West Point 4 years ago, I wrote to him: "I feel confident that you will conduct yourself in a manner that will reflect credit upon you and the United States of America should you ultimately be selected by the Academy for admission." He was selected for admission and he has reflected credit upon himself, his family, and his country. I congratulate him.

Spenzer is the son of Bill and Charlie Forbes of Miamisburg, OH. I am sure they are proud of their son for his actions, and I am sure they are looking forward to a future that will be filled with equally noble accomplishments in service of our Nation.

I ask my colleagues to join me in acknowledging this fine young man.

STARK SEEKS ADVICE ON DRAFT PRESCRIPTION DRUG ACCOUNTABILITY BILL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, after months of consultation with various health care groups—patient organizations, doctors, psychiatrists, pharmacists, State health agencies, law enforcement agencies, and pharmaceutical drug manufacturers, I have drafted legislation to address needs for improving the prescribing of controlled substances.

The measure allows State health agencies to access information on prescriptions of drugs that are controlled substances in schedules II, III, IV, or V through electronic data transfer and existing computer technology. The information, administered by a State's designated health agency, could only be used for addressing illegal activity, better educating physicians, or facilitating treatment for addicted patients. Comprehensive practice parameters are established for the purposes of protecting appropriate physician prescribing and patients' needs. Furthermore, the measure has strict confidentiality requirements and safeguards, is administered by health care agencies to protect the legitimate needs of patients, and provides for a new patient telephone hotline, printed patient inserts, educational brochures for physicians, and other means to improve patient care.

I am today requesting the advice and counsel of interested organizations in commenting on this draft legislation, and I expect to formally introduce the measure, with appropriate amendments, in late January, 1992 for its consideration during next year's legislative session. The following is a description of the legislation, and I also invite anyone who is interested in receiving a copy to contact my office at 202/225-5065, or to write me at 239 Cannon House Office Building, Washington, DC 20515.

Millions of Americans benefit from proper prescribing and administration of controlled substances for the treatment of problems such as cancer pain, AIDS-related pain, narcolepsy, epilepsy, sickle cell anemia, attention deficit disorder, mental health needs, and several other needs. These prescription drugs can be found in millions of medicine cabinets and do help improve, balance and save the lives of millions of our citizens every day. That's a given.

But, unfortunately, these drugs are also potentially dangerous if not taken as prescribed and intended. They are a measurable part of the illegal drug trafficking trade, and can be addictive. For example:

First, According to a Bush administration HHS Inspector General report, more than 2 million senior citizens are either addicted to or at risk to addiction to tranquilizers;

Second, According to another HHS report, Medicare had to pay for 250,000 rehospitalizations of senior citizens caused by needless adverse drug reactions;

Third, According to the National Institute of Drug Abuse [NIDA], controlled substances accounted for 88,000 hospital emergency room visits, right behind alcohol and cocaine, and more than heroin, LSD, and other illegal drugs;

Fourth, According to NIDA's most recent National Survey of High School Students, more than 50 percent of all high school seniors reported illegally using tranquilizers during the past year, more than crack and cocaine combined; and

Fifth, According to DEA, the street value of illegal controlled substances—the drugs intentionally diverted for resale to facilitate illegal drug activity—is $25 billion per year.

Obviously, these needs must be addressed. I believe this legislation can provide immediate benefits to society:

First, save millions in existing waste, fraud, and abuse in the Medicaid and Medicare Programs;

Second, help improve the prescribing practices of practicing physicians;

Third, address either the underprescribing or overprescribing of controlled substances;

(4) help those patients who are addicted to controlled substances by helping them get needed drug or substance abuse treatment and counselling, and

(5) help State health and law enforcement agencies better target the "scam artists" (Medicaid Mill doctors, "script" doctors, backdoor pharmacists, and "professional doctor shoppers") who illegally divert and resell controlled substances for significant profit (the "Valium for crack" market), thus enhancing our national "war on drugs".

Given the status of the Federal and 50 States' budgets, lawmakers, familiar with the TV show "Let's Make a Deal", are faced with a "Monty Hall's" choice: We can choose door No. 1, door No. 2, or door No. 3.

Behind No. 1 is "cut existing benefits for patients—seniors, the poor, and the handicapped." Of course, no one wants to choose this door.

Behind No. 2 is "cut reimbursement rates for health care providers—doctors, pharmacists, and hospitals." Again, no one wants to choose this door.

And behind No. 3 is "waste, fraud, and abuse." This is the door everybody wants.

I believe millions in existing waste, fraud, and abuse in illegal or inappropriate activity involving controlled substances are currently subsidized by taxpayers, insurance policyholders, and health care consumers in general. This measure addresses that problem.

I also believe patient care can be improved by better physician prescribing practices, better awareness of the proper taking of controlled substances through educational efforts, and establishing some means for State health care agencies to work with physicians whose patients may become addicted to these potentially dangerous drugs.

Controlled substances are one of the least understood, and most emotional, health-related subjects today. These are drugs which require a prescription from a physician, and are covered by the Controlled Substances Act, which places these drugs under various schedules, based on the addictive tendencies, potential danger to society, or probability of abuse or misuse. The Drug Enforcement Administration [DEA] classifies controlled substances as either schedule II, schedule III, schedule IV, or schedule V drugs. Schedule II includes the narcotics class, barbiturates, methamphetamines, codeine and other strong pain-killers; schedule III includes primarily Tylenol with codeine; schedule IV includes the benzodiazepine class (tranquilizers) along with meprobamate and chloral hydrate; and schedule V includes cough syrups with codeine.

It's worth referencing several anti-fraud initiatives currently in place at the Federal and State levels: ARCOS, MADAS, multiple-copy prescription programs, and electronic data transfer. The Federal Government, through the DEA and HHS Inspector General's office, have attempted to use existing computer and data systems to better address fraud and illegal diversion through the ARCOS and MADAS programs respectively. Ten States have multiple-copy prescription programs; one State, Oklahoma, has a model electronic data transfer system, with others planning to follow its lead.

The DEA's ARCOS system tracks manufacture and distribution of schedule II drugs, from point of manufacture to the wholesaler to the retailer. Manufacturers of schedule II narcotics are required to provide the DEA with report data on manufacture and sale, as are drug wholesalers on sales to retailers; DEA then enters the data in their computer system. So, the ARCOS system is paper-based, and serves best as an accounting system. The DEA is able to analyze distribution data to see if questionable activity or trends are occurring. The ARCOS system is but one piece of the puzzle, and given its paper-based nature, an antiquated one at that.

The HHS Inspector General's MADAS program, provided for free to States Medicaid programs, allows States to better address Medicaid fraud involving prescriptions for controlled substances. The MADAS program is limited to Medicaid claims only, and cannot address fraud schemes involving cash transactions or insurance claims.

These two programs are effective in addressing fraud and illegal diversion in their own way, but are not substitutes for a comprehensive program. I must say I support the idea of electronic ARCOS—allowing drug manufacturers to report electronically by computer, instead of by paper—expanding ARCOS to all schedules and providing MADAS to all 50 States.

Ten States, covering 44 percent of the Nation's population, physicians, and pharmacists, have some version of a multiple-copy prescription program, mostly for schedule II drugs. The 10 States are: California, New York, Texas, Illinois, Michigan, Indiana, Rhode Island, Idaho, Hawaii, and Washington. Only New York (benzodiazapenes, or tranquilizers) and Illinois (glutethemide, a schedule III) cover drugs other than schedule II drugs. Washington State requires only those physicians sanctioned by the State's medical licensing board to be covered. In 9 of the 10 States, physicians cannot write a schedule II prescription unless it is on a state-issued prescription pad, designed to address counterfeit prescriptions.

For those not familiar with multiple-copy prescription programs, imagine using a credit card receipt, where carbon-based forms allow one copy of the prescription to be kept by the physician, one by the pharmacist, and one sent to the designated State agency. In seven of the States, the designated State agency is the health agency; in three States, it's the law enforcement agency. These programs are not new; in California's case the program started in 1940.

As a followup to questions surrounding the efficacy of State's multiple-copy prescription programs, earlier this year I formally asked the General Accounting Office [GAO] to evaluate the programs to see if States can save Medicaid or Medicare funds, and what the impact on prescribing practices and patient care are. I expect the GAO, after careful, detailed review, will provide Members with a thorough evaluation and provide us with some proper perspective.

I believe multiple-copy prescription programs have merit, do not negatively impact on patient care—other than a small percentage of physicians who unfortunately change their prescribing practices to drugs other than those covered—and can save taxpayer funds. These programs, all State-based, were designed with the best of intentions, and for the most part are "good mousetraps." Nevertheless, multiple-copy prescription programs are historically opposed by a large majority of physicians' groups, pharmacists groups, and some patient membership groups.

Although they appear to allow States to save significant Medicaid funds and have no adverse, direct effect on patient care, multiple-copy prescription programs, if introduced this session as formal legislation, would face significant institutional obstacles, and would probably result in more heat than light being spread on the subject.

Thus, I am not planning on introducing multiple-copy prescription legislation. Period.

I am, however, intrigued and encouraged by the model program implemented this year in the State of Oklahoma, the OSTAR Program. The program, in simple terms, requires pharmacists to provide information on Schedule II prescriptions to the State narcotics agency. Patient confidentiality and informational security safeguards, of course, are ensured. The program enjoys the strong support of the Oklahoma Medical Society, the Oklahoma pharmacists, various patient organizations, and several large pharmaceutical manufacturers.

I believe the Oklahoma OSTAR Program is the prototype for a national effort to address illegal diversion, while also working to improve physician prescribing practices, and facilitating drug treatment for needy patients. Already, dozens of other States, squeezed by the need to find budgetary savings or improvements in "war on drug" efforts, have turned to Oklahoma for guidance in implementing similar systems. The eyes of the Nation are on Oklahoma, the "laboratory" in this area.

Prescription accountability and patient care improvement legislation will not affect the proper, legal and necessary prescribing of controlled substances for the treatment of these legitimate needs. The measure will not change medical practice or prescribing in any way, shape, or form. Nor would the legislation effect, nor change, the practice of pharmacy dispensing.

The privacy and confidentiality of patients, physicians, and pharmacists are secured. The State health agency administers the program, designed to address illegal diversion or illegal prescribing, improving physician prescribing practices, and helping addicted patients in need of drug treatment. The program only involves outpatient prescribing, and does not affect inpatient hospital or inpatient nursing home prescribing.

I welcome the involvement of interested parties who share a common interest in addressing the needs of patients and developing constructive programs to improve our health care delivery system. Again, I invite anyone who is interested in receiving a copy and who wants to make suggestions on how best to draft this legislation to contact my office at 202–225–5065, or to write me at 239 Cannon House Office Building, Washington, DC 20515.

CONGRESSMAN ZIMMER SALUTES ISABEL BENJAMIN

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ZIMMER. Mr. Speaker, last Tuesday Isabel Benjamin of Flemington, NJ was honored by the Thomas A. Edison Council of the Boy Scouts of America as its 1991 Distinguished Citizen Award honoree.

Mrs. Benjamin founded Camp Isabel, a tuition-free summer camp for physically and emotionally challenged children. After 28 years of service, Camp Isabel closed this summer.

Mrs. Benjamin and the Camp Isabel organization are moving into a new phase, providing for indigent and special needs children year-round. The organization plans to identify the children and assist them individually. Mrs. Benjamin's organization will sponsor programs ranging from placing special education teachers in schools to buying winter coats for children that need them.

Mrs. Benjamin's hard work and dedication to providing these children with a safe and nurturing environment has made the Camp Isabel organization a tremendous success. Staffed entirely by volunteers, the organization relies on private donations to meet its costs. Last weekend marked the highlight of its fund-raising campaign, its annual food festival.

In 1987, Mrs. Benjamin was presented with the Outstanding Woman Honorary Award by Woman's Day magazine. Ellen Lavine, editor-in-chief of the magazine, wrote "[Isabel Benjamin is] responding selflessly to the needs of children requiring special education with caring and dedication, and in the process, helping to make our world more decent and humane."

Mr. Speaker, I ask my colleagues to join me and her friends in saluting Isabel Benjamin for her invaluable contribution to her community.

ELECTROMAGNETIC FIELDS RESEARCH PROGRAM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BROWN. Mr. Speaker, today I am introducing the National Electromagnetic Fields Research and Public Information Dissemination Act. This legislation is designed to authorize a program of research and public information on the human health effects of electromagnetic fields [EMF]. It is my hope that the research program being proposed in this bill will help us to identify the human health effects, if any, of EMF.

Public concern over EMF is growing. People living under electric power lines, people working in close proximity to equipment generating EMF radiation, and people using electric equipment and appliances are concerned about the potential health effects of these EMF exposures. Because of the heightened public concern, because of the considerable ambiguity in the available medical literature, because a number of Federal and State government agencies are involved, and because this issue cuts across several scientific and engineering disciplines, getting a handle on this area has been difficult. This legislation is designed to take a significant step forward toward answering the unresolved questions on EMF by establishing a comprehensive research program involving a partnership between the Federal Government, State governments, and the private sector.

This last point is critical and this legislation seeks to establish a partnership with non-Federal entities who are concerned about EMF radiation. The private sector, particularly the electric utility industry has for many years made a considerable investment in EMF research—on the order of $6 million per year. In addition, there is considerable interest and potential research funding in the electric equipment manufacturing sectors. These research efforts do not enjoy complete public confidence, because the affected industry is funding the research.

Several Federal agencies, including DOE, the Department of Defense [DOD], the Environmental Protection Agency [EPA], and the Department of Health and Human Services [DHHS], have had research programs to address specific aspects of the EMF puzzle. The States, notably California and New York, have funded several significant research studies. All of these efforts have been deficient to the extent that they have not been part of a comprehensive agenda.

This bill would seek to join public and private funds and Federal and non-Federal funds into a common pool to be used to fund the research. Under this approach, the taxpayer gains the additional resources of the private sector in a credible, arms-length arrangement. The private sector also benefits, through a peer reviewed, comprehensive research program. And the public will get a comprehensive research and information program which addresses their concerns.

I am aware that the Department of Energy [DOE] held a research planning workshop last week to help the Department define its role as the lead Federal agency on EMF research. This bill is not meant to stop that process, but will help refine it and improve it. This bill would establish DOE as the primary Federal department with responsibility for EMF research. The bill also recognizes the particular expertise found within the Department of Energy's Office of Health with regard to issues related to epidemiology and human health.

This bill adds credibility and definition to the ongoing DOE process. I must point out to my colleagues that DOE is currently proceeding as the lead Federal agency on the EMF question under a mandate contained in the conference report language accompanying H.R. 2427, the Energy and Water Development appropriations bill for fiscal year 1992. This provision was inserted without benefit of debate and without the involvement of the authorizing committees. If we are to establish a credible program of research in this controversial area, we must conduct our legislative business in the open and with public involvement.

This bill seeks to make maximum use of expertise spread throughout the Federal Government by establishing an Interagency Committee which involves DOE, the EPA, DHHS, DOD, the Occupational Safety and Health Administration, and the National Institute of Standards and Technology. This committee will develop a comprehensive research agenda for EMF. In performing this task, the Interagency Committee will undoubtedly wish to take advantage of the analytic work of EPA, the National Academy of Sciences, and the White House Committee on Interagency Radiation Research and Policy Coordination. This research agenda will become the basis for the National EMF Research Program.

The bill establishes an Advisory Committee of experts on EMF. The Advisory Committee would consist of 12 individuals who by reason of their training or experience have expertise in EMF. It would include State officials, representatives of industry, unions, and public interest groups. This committee plays a central part in advising the Secretary of Energy on the conduct of the research program being established. It is my intent, that by establishing this committee and requiring it to determine both long- and short-term priorities in the research agenda developed by the Interagency Committee, public trust will be built in the research program. Lacking the critical elements of public trust and confidence, our efforts will be useless.

The Advisory Committee is also designed to bring a number of different points of view to bear on the problem. Since the issue involves a number of scientific and engineering disciplines, no single perspective will provide the answer to the question of how EMF radiation affects human health and how to mitigate and prevent any possible health effects. Cell biologists, epidemiologists, electrical engineers, and medical researchers all have a different perspective on the problem. A comprehensive national research program will serve to focus a variety of scientific disciplines on the same problem in a coordinated fashion and will provide us with the answers we need.

The proposed legislation seeks to leverage non-Federal funds by generally requiring a dollar-to-dollar match of Federal funds by non-Federal funds. The creation of a common pool of offsetting receipts from non-Federal partners will enhance the financial resources available to the project and will enable the private sector and State agencies to join the Federal Government in a partnership on EMF research without the appearance of controlling the research results. The funds available to the National EMF Research Program will be directed according to the priorities established by the Advisory Committee. Since all research will be rigorously peer reviewed and competitively awarded, the program is further removed from any potential manipulation or perception of bias.

This legislation is not perfect and does not represent the final answer. It is a starting place for what I hope will be a broad debate next year on how this important research should be conducted. I urge my colleagues and the affected and interested public to read this legislation and give me the benefit of your thinking. It is my expectation that the Science, Space, and Technology Committee will begin hearings on this program early in the next session of Congress and we will be seeking the broadest involvement in those hearings.

Finally, I must state that this area of research is far too critical to be left merely to administrative deliberations. EMF research is vital to both the public health and the health of large sectors of our economy. An enterprise of such importance demands to be more thoughtfully constructed than one line in a legislative report. In the spirit of open Government processes, I am introducing this legislation and urge my colleagues attention and support.

GRADE A EDUCATION ON A SHOESTRING

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HAMMERSCHMIDT. Mr. Speaker, there are those who insist the goal of a better education for elementary and high school students requires spending more Federal dollars.

To them and to all my colleagues I recommend as food for thought the following article from USA Today, November 18, 1991.

A personal note—the Harrison, AR, school system is my alma mater.

[From USA Today, Nov. 18, 1991]

GRADE A EDUCATION ON A SHOESTRING

(By Pat Ordovensky)

HARRISON, ARK.—The 9,567 folks in this north Arkansas mountain town like to call themselves frugal, especially about their schools.

Donna Braymer, mother of three, tells how teachers require students to write on both sides of a paper to save money. She says it as a complement to the teacher, not a complaint.

Superintendent Charles Adair reports the 1915 boiler system still works in the old school he uses for an office. "We have gas now," he says with a laugh. "We don't use coal any more."

Folks here are proud that they rank 272nd among Arkansas' 327 school districts in education taxes—one of the lowest-spending school districts in one of the lowest-spending states. And they're proud of what their frugality buys: test scores in the top 10% nationally; high school graduates off to places like Harvard, Princeton, Georgetown, MIT; a band that gets invited to Washington for presidential inaugurals.

"We have high expectations," says Adair. "You get better results if you expect better results—in science or math or reading or football or band."

Harrison is one of three school districts where test scores are in the nation's top 10%, per-pupil spending in the bottom 10%. The other two—which make heavy use of computers as teaching tools—are Decatur, Ala. (near Huntsville), and West, Texas (outside Waco).

They were identified for USA TODAY by School Match, a computer data base firm in Columbus, Ohio, that provides advice on schools to families who are relocating.

In Harrison, where they bought six used school buses a few years ago to save money, "expectations" are more than words:

Parents volunteer in their kids' classrooms. Almost 100 sign up for an hour a week at each of the town's five elementary schools. "I have three (kids) so I do three hours a week," says Braymer, a school board member. "I make copies, grade papers, work with students, listen to them read. Anything a parent can do to help the teacher save time."

Parents and teachers meet each year as school councils, to determine goals for the next year. Each school reports its goals with an ad in the *Harrison Times*.

Honor Cards, good for discounts or free services at 52 local businesses, are awarded for good grades. A student from seventh grade up wins a card by earning all A's and B's.

Teachers, administrators and parents encourage kids to start taking college admission exams—the American College Test and Scholastic Aptitude Test—in junior high. By the time they're seniors, the SAT and ACT are old friends.

"We start at the elementary level to teach test-taking skills," says Pam Jones, district counselor coordinator. "We let children practice filling in those little bubbles, so they're not frightened" when they face standardized tests. "We talk about breathing deeply, about watching the clock. We tell them when they should try to answer every item and when, if they don't know, they should leave the item blank. The little things. We try to give our students an edge."

Robyn Phelan and Michael Bishop, Harrison High seniors with all A's, have been taking the ACT since seventh grade. Each plans to take it at least three more times this year.

"I have a 28 (out of 36)," says Phelan. "I want to break 30."

Bishop marched with the high school band at an out-of-town football game a recent Friday night, and drove three hours to another town to take the SAT again Saturday morning.

"I take them whenever I can," he says.

Signs at the edge of Harrison, the seat of Boone County, call it the Crossroads of the Ozarks. What the signs don't say is that people who enter the crossroads rarely leave.

Superintendent Adair's ancestors homesteaded Harrison in 1830. Pam Jones' grandfather worked on the railroad here. Teachers are teaching second and third generations.

"People who come here want to . . . stay," says Jones.

In September, 172 of last year's 173 teachers returned. The one who didn't "was 65 and she didn't have a choice," says Adair. To fill that vacancy, in the third grade at Skyline Heights Elementary, principal Faye Tilley invited the two remaining third grade teachers to join her interviewing candidates. The one recommended by the teachers was hired.

Teacher salaries in Harrison average $23,461 (Arkansas average: $23,040). Adair and all seven principals make it clear teachers have a big say in how things are done. And teachers say they often can get things done without scarce tax dollars:

The high school football team, ranked No. 4 in the state, gets no school funds except coaches' salaries. New uniforms and new equipment are financed by gate receipts or booster club donations.

When high school teacher Tom Street decided the school should have 10 computers available for any student or faculty use, principal Terry Oswalt tells what happened:

"We put out the word. He spoke at a few civic clubs. It didn't take but a little while until we had $10,000."

When Skyline Heights librarian Kathy Dodson needed $1,200 for new books, she went to the PTA. Two book fairs quickly raised it.

"It's amazing what this town will do for a cause," says Robert Phelan, high school band director.

National school reform experts are amazed at what Harrison has been doing in obscurity. School reform buzzwords—parent involvement, teacher empowerment, site-based management—have been traditions here for years.

"You see a philosophy (in Harrison) that keeps coming through," says Frank Newman, president of the Education Commission of the States. "They're saying parents are important and teachers are important and they should be part of running the schools. Everybody knows this but nobody does it."

Gordon Ambach, executive director of the Council of Chief State School Officers, says, "You're obviously looking at a school district where parents have a strong ethic that education is valuable. You wouldn't have all these things going on if parents didn't have that ethic.

"I wish," says Ambach, "that we could have that in every school district in the country."

KURT WEISHAUPT, 1991 MAN OF THE YEAR

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ACKERMAN. Mr. Speaker, I wish to call the attention of my colleagues to the remarkable achievements of Kurt Weishaupt, a Queens County, NY, businessman and philanthropist. Kurt will be honored on Wednesday, December 4, by the Flushing Rotary Club as its 1991 Man of the Year.

The invitation to this gala event notes that Kurt is being feted "in recognition of his leadership, vision, and commitment to the needy children in Queens and around the world." Mr. Speaker, no description of Kurt Weishaupt could be truer, yet those words only begin to tell the tale of this decent, compassionate humanitarian.

I first met Kurt Weishaupt some 20 years ago when I was publishing a small community newspaper in Queens, and served on the board of the Flushing Boys' Club. Kurt's dedication to the youth of our community—and his generosity—were well known.

But there's more to Kurt than mere charity. Kurt starts where others stop. He'll write a check, but he'll also pick up the phone to realize the dreams of the children of our community, and, indeed the children of the world.

Kurt is a driving force behind the Flushing Rotary Club's famous Gift of Life Program, which provides vital medical care to children from around the world. Gift of Life flies these desperate youngsters and their parents to New York for life-saving surgery in the world's finest medical facilities. I can categorically state that there are many children, in countries near and far, who certainly would not be alive today without the heroic efforts of Kurt Weishaupt. I'm sure each of those children say a little prayer of thanks that Kurt was there for them.

Kurt Weishaupt's heroism is not a luxury that came by him at maturity; his personal courage and fortitude has been with him all his life.

Nearly six decades ago, Kurt fled the impending Holocaust of Nazi Germany. For 6 years, Kurt scrambled from country to country, often barely eluding his fascist oppressors. His luck seemed to run out when invading German troops captured him in France, and Kurt was sent to a concentration camp. But 11 months later, Kurt made a daring escape, after which he briefly settled in France before embarking for America.

Kurt and his first wife, Trude, put down roots in flushing, where they raised their three children, Carol, Hazel, and Robert. They founded Kurt Weishaupt & Co., a very successful family-run stamp wholesaler. Yet Kurt never forgot his own close calls and good fortune. Over the years, he has been a gift of life himself to the Rotary Club, Boys' Club, YMCA, March of Dimes, United Jewish Appeal, and Booth Memorial Medical Center, Queens' outstanding Salvation Army-run facility where just last year the Trude Weishaupt Memorial Dialysis Center was dedicated.

Kurt is now married to Ethel, who has taken Queens County by storm. Together they continue to do the good deeds, philanthropic works, and minor miracles for which the Weishaupt family is known.

The Flushing Rotary, one of the paramount organizations in New York State, is to be congratulated once again on its selection of Kurt Weishaupt as its Man of the Year.

Mr. Speaker, my words cannot begin to describe the goodness that is Kurt Weishaupt. I ask all my colleagues in the House of Representatives to join me now in paying tribute to this outstanding humanitarian.

EXEMPT ORGANIZATION TAX REFORM ACT OF 1991

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, today I rise to introduce a bill to impose a tax on self-dealing transactions involving medical service organizations. A recent transaction proposed in California demonstrates the need for this legislation.

Health Net, a not-for-profit health plan with 844,000 members, proposed a conversion to for-profit status. Conversion to for-profit status is not uncommon but, in this situation, the members of Health Net's board of directors approved an offer by many of the board members and key management personnel for significantly less than all other bidders. This self-dealing by the organization's insiders could reap a benefit of hundreds of millions of dollars and a significant loss in Federal revenues.

Health Net insiders, led by Health Net Chairman Roger Greaves, initially bid $108 million for Health Net. The bid was later increased to $127 million. The Health Net insiders deal called for $1.5 million in cash and a note for the balance owed to be paid out of the profits of the new entity. Tax law requires that the value of the assets at the time of conversion must go to a charitable organization. The insiders bid provided that $30 million in Health Net's reserves and the promissory note would go to the Wellness Foundation, also to be chaired by Roger Greaves.

When outsiders bid on Health Net, offers ranged from $130 to $300 million. Salomon Brothers appraised Health Net for one of the bidders and came up with an estimated value of between $252 and $302 million—more than twice the amount that the board agreed to accept from the Greaves group of insiders.

Health Net's stated reason for the conversion was to get access to capital and yet they summarily rejected a merger offer by Blue Cross of California which would have provided a substantial source of debt-free capital, significantly reduced administrative costs, and maintained the not-for-profit status as well.

What is troubling about this transaction is that while Health Net has enjoyed the benefits of tax exempt status for years, its board and management have created a situation whereby they can personally benefit from the conversion of this exempt organization.

At the time of conversion, the value of Health Net's assets or sales price must go to a charitable organization. By underestimating the value of these assets, Health Net's insiders will receive stock in the second largest HMO in California for $1.5 million and a promise of future profits. Should the new entity be sold within the next couple of years, analysts estimate that the stock would sell in the range of $450 million.

Section 501(c)(3) of the Internal Revenue Code provides that exempt organizations must operate exclusively for charitable purposes with no financial benefit to any private shareholder or individual. Financial benefit to individuals is called private inurement and is cause for the loss of tax exempt status under current law.

Under current law, the only sanction available to the IRS to combat private inurement is revocation of the organization's exempt status. Unfortunately, the IRS rarely imposes this sanction. In addition, even where it is imposed, it may not be effective because there are no penalties imposed directly on the persons responsible for the organization's loss of exemption. In the Health Net transaction, the purchasers have apparently provided that any taxes imposed on the organization by virtue of loss of exemption will simply reduce the amount they will be required to pay into the Wellness Foundation.

At a July 10, 1991, hearing before the Ways and Means Committee, the IRS testified that although its agents do find questionable transactions involving private benefit and private inurement, they revoke a hospital tax exemption infrequently. According to John Burke, Assistant Commissioner of the IRS Exempt Organizations Division:

> Agents are reluctant to propose revocation of exemption because the sanction of revocation of a hospital's exempt status greatly outweighs the private gain of a few individuals.

At the July 10 hearing the Treasury Department also testified that the sole sanction for noncompliance under current law—loss of tax exempt status—may merit reexamination. Treasury suggested that intermediate sanctions for tax exempt organizations may be needed. In the Treasury's view, such sanctions should be modeled on the private foundation excise tax provisions that impose monetary penalties on responsible persons. My legislation takes this approach. It is based on the private foundation rules applicable to self-dealing transactions.

EXPLANATION OF BILL

Under the Internal Revenue Code (the "Code"), a tax-exempt charitable organization described in section 501(c)(3) must be organized and operated exclusively for a charitable, religious, educational, scientific, or other exempt purpose specified in that section, and no part of the organization's net earnings may inure to the benefit of any private shareholder or individual. Organizations described in section 501(c)(3) generally are classified as either private foundations or public charities.

The Code provides for penalty excise taxes which may be imposed on managers of private foundations and certain disqualified persons for engaging in certain prohibited transactions (such as so-called "self-dealing" transactions in which foundations sell assets to disqualified persons at less than fair market value, see section 4941). However, in cases involving transactions engaged in by public charities (such as non-profit hospitals), even if the transaction results in prohibited private inurement, penalty excise taxes do not apply and the only sanction that may be imposed under the Code is revocation of the organization's tax-exempt status.

The bill would amend the Code to provide for an intermediate sanction of penalty excise taxes to be imposed in cases where a medical service organization sells, exchanges, or leases a medical asset to certain disqualified persons, unless the transaction: (1) is at arm's length and for fair market value, and (2) does not involve (and is not part of a series of transactions involving) the disposition of any medical activity (or a substantial portion of any medical activity). The bill would define a "medical service organization" as any tax-exempt organization described in section 501(c)(3) if the organization (either directly or through certain controlled subsidiaries) engages in any activity of providing medical or hospital care or medical education or medical research. The term "medical asset" would mean any tangible or intangible asset used in any activity of providing medical or hospital case or medical education or research.

Disqualified persons subject to the bill's provisions would include: (1) organization managers, (2) persons performing substantial professional medical services for the organization pursuant to an employment or other contractual relationship, and (3) certain relatives and controlled entities.

The bill would provide for a two-tiered penalty excise tax structure, similar to the excise tax penalty provisions applicable under current law to self-dealing transactions engaged in by private foundations. Under the bill, an initial tax would be imposed on disqualified persons equal to 5 percent of the amount involved in the improper self-dealing asset transaction. Organization managers participating in such a transaction, knowing that the transaction is governed by the bill's provisions, would be subject to a tax equal to 2.5 percent of the amount involved. Additional excise tax penalties would apply if the improper transaction is not "corrected," meaning the undoing of the transaction to the extent possible (but in any case the medical organization could not be placed in a financial position worse than it would be if the disqualified person were dealing with the highest fiduciary standards). If an improper transaction is not corrected within a specified time period, then the disqualified person would be subject to a tax equal to 200 percent of the amount involved, and any organization manager refusing to agree to correction would be subject to a tax equal to 50 percent of the amount involved.

The bill would be effective for transactions occurring after the date of introduction.

NATIONAL ADOPTION WEEK

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SMITH of New Jersey. Mr. Speaker, as the sponsor of this resolution in the House, I am pleased that Thanksgiving week will once again be designated as National Adoption Week. I have been proud to sponsor the House legislation since 1985.

By celebrating National Adoption Week we can focus public attention on the positive benefits of adoption for both children and families. At any given time, there are an estimated 30,000 children in the foster care system who are legally free to be adopted. At the same time, there are over 2 million people who are interested in adopting a child. The Federal Government must commit itself to helping these children find families.

Mr. Speaker, adoptions, especially unrelated domestic adoptions, have declined dramatically in the United States during the past two decades, a fact that is both tragic and unnecessary.

In 1970 for example, there were almost 90,000 unrelated domestic adoptions, but today it is estimated that there are only about 50,000 annually. A number of factors can be cited for this decline: persistent misinformation and negative opinions concerning adoption; the dramatic increase in abortion on demand—there is now only 1 adoption for every 30 abortions in the United States—as well as an increased social acceptance of single parenthood; and marked increases in welfare assistance to single female parents.

While we must all recognize that even in the most advantageous of circumstances, adoption can be a trying proposition for the birth mother, evidence suggests that the benefits to all concerned, including the birth mother, are overwhelmingly positive. In fact, some research indicates that those women who do choose to make an adoption plan for their children will be less likely to live in poverty, more likely to complete high school, and less likely to have additional unplanned pregnancies.

Adoption also provides a child who might otherwise face a bleak or less than positive childhood the prospect of having loving parents, a stable home, a higher standard of living, and enhanced career opportunities as the child matures into adulthood. In fact, according to the 1982 National Survey of Family Growth, only 2 percent of adopted children lived in poverty, compared to almost 62 percent of children living with mothers who have never been married.

Adoption also provides adoptive parents who earnestly desire to form a family the opportunity to fulfill that dream. Today there are approximately 2 million couples and individuals waiting to adopt a child, including children with special needs. In addition, the long waiting periods experienced by prospective parents have forced untold thousands to give up hope of ever adopting a child.

Mr. Speaker, it requires a tremendous amount of courage, selflessness, and a special love of children for a birth mother to make an adoption plan for her child. The heroism required of the birth mother in taking such a step should not be overlooked, trivialized, or minimized. Above all, these mothers deserve our deepest respect, our support, and all the tangible assistance a compassionate society can possibly provide.

For years the Congress, the administration, and State governments have talked about the positive benefits of adoption; however, little action has been taken. We must provide full Federal support for each of the parties involved in adoption—the adopted child, the adoptive family, and the birth mother.

Mr. Speaker, for over 2 years I have worked with other Members of Congress, public and private adoption organizations, and countless individuals connected with adoption in order to craft comprehensive adoption legislation. The result of these extensive consultations is H.R. 1753, the Omnibus Adoption Act of 1991. This bipartisan legislation—cosponsored by over 100 Members of Congress—would provide tangible Federal support for children waiting to be adopted, people interested in adopting children, and pregnant women considering the adoption option.

The Omnibus Adoption Act of 1991 would revise Federal employee and military personnel health insurance so that adopted children would receive coverage equal to that given biological children. In addition, it would expand their insurance coverage to include all prenatal and maternal health costs of children adopted by Federal employees and military personnel. The bill would also create new Federal programs to provide comprehensive maternal services to pregnant women lacking the means to pay for prenatal and maternity care.

New educational programs would be authorized to develop and disseminate information about the positive benefits of adoption. A Federal adoption tax credit would assist families in meeting the prohibitive costs that have prevented many families from adopting. In addition, the bill would establish a National Advisory Council on Adoption to assist in the implementation of the bill and to make additional recommendations to strengthen adoption.

Mr. Speaker, it's time for a major commitment on the part of the Federal Government in support of adoption. I urge my colleagues to support women, children, and families involved in adoption by cosponsoring H.R. 1753, the Omnibus Adoption Act.

TRIBUTE TO SECOND NEW ST. PAUL BAPTIST CHURCH

HON. ELEANOR HOLMES NORTON

OF DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. NORTON. Mr. Speaker, I rise today to pay tribute to the Reverend D. Edgar L. Williams, pastor of the Second New St. Paul Baptist Church of Washington, DC, as both the church and its pastor celebrate milestones. This month marks Dr. Williams' 33d year as pastor and the 68th anniversary of the founding of Second New St. Paul Baptist Church.

Pastor Williams is an active member of the National Baptist Convention, USA, Inc., The National Capital Baptist Convention, the Baptist Minister's Conference on Washington, DC, and the Mount Bethel Association. He has served as president of the National Capital Baptist Convention and State vice president of the National Baptist Convention, USA, Inc. Pastor Williams has also chaired the Annual Musical of the National Capitol Baptist Convention.

Dr. Williams and Second New Saint Paul Baptist Church have been spiritual and civic guideposts in this city.

I ask that my colleagues join me in recognizing the enormous contributions Rev. D. Edgar Williams has made to the citizens of Washington, DC.

TEMPORARY PROTECTED STATUS FOR YUGOSLAVIA

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MOODY. Mr. Speaker, today I am introducing legislation that would extend temporary protected status [TPS] to nationals of Yugoslavia who are in this country at the time the legislation is enacted. Congress established the TPS Program under the Immigration Act of 1990. This program permits foreign nationals of designated countries to remain in the United States temporarily if conditions in their country are such that they cannot safely return.

Yugoslavia clearly meets the requirements for designation under TPS. Under section 244A(b)(1)(A) of the Immigration Act of 1990, countries may be designated if "there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state—or any part of such foreign state—would pose a serious threat to their personal safety."

My office is currently trying to assist nationals of Yugoslavia for whom return to Yugoslavia would pose a serious threat to their personal safety. One family's house has been bombed since they left Yugoslavia. They literally have no home to which they can return. Their case is, sadly, all too typical.

A tragic, brutal civil war has broken out in Yugoslavia. Already over 3,000 have died. The pain and suffering of those who survive them will be immeasurable. The European Community has played an important role in seeking a cease-fire and, most recently, the United Nations has begun to play a larger role. But these efforts have not been successful. More than 14 cease-fires have failed to hold in Yugoslavia.

I believe that the United States must take a strong and visible leadership role in pursuing a cease-fire and helping all parties to seek a peaceful resolution of their differences. Our country has not done enough.

By approving the legislation I am introducing today, we can take one small step to acknowledge the devastation that has come to Yugoslavia and can help those nationals currently in our country.

Under the Immigration Act of 1990, the Attorney General has the authority to designate countries for TPS without new legislation. The United States has already designated Somalia, Liberia, Lebanon, and other countries. Clearly and tragically, Yugoslavia should join that group of nations. A designation by the Attorney General would eliminate the need for congressional action and would expeditiously achieve the result we seek. I will be urging the Attorney General to take this step, and I believe that many of my colleagues will join me in that effort.

NEED TO RECONSIDER CHANGES MADE TO THE FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAM

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. VENTO. Mr. Speaker, I rise tonight to urge my colleagues to cosponsor a resolution introduced by myself and Mr. RIDGE regarding the need to reconsider the changes made in the National Affordable Housing Act of 1990 and the regulations written for the Federal Housing Administration's Mutual Mortgage Insurance Fund.

This key housing program has had a difficult year. Applications to the FHA have dropped 35 percent. Insurance issued is down 25 percent for 30-year fixed rate mortgages. Consumers seeking to refinance their mortgages are leaving the program in droves. Unfortunately, these facts are not surprising. What is surprising is that the role of FHA mortgage insurance as a countercyclical tool is being overlooked by the administration, as the housing industry and the economy continue to slide.

Mr. Speaker, I, along with Mr. Ridge have introduced a resolution expressing the sense of Congress that the law and the even more restricting regulations be reconsidered in light of their impact on the program, and more importantly, on their impact on the ability of thousands of Americans to purchase affordable homes, now and in the future. The resolution calls for a reexamination of the 1990 and 1991 changes to determine the effect of the changes on the affordability of homeownership, the long-term effect on the solvency of the MMI fund, and any adverse effect of the changes on the composition of the FHA loan portfolio.

I urge our colleagues to join us in cosponsoring this resolution that recognizes the importance of FHA to homeownership across the country. We must reconsider both the FHA compromise from last year's housing law and the regulations on closing costs that followed have prevented tens of thousands of first-time and low- to moderate-income homebuyers from achieving their dreams.

DON'T IGNORE THE PLIGHT OF ALBANIA

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ATKINS. Mr. Speaker, I rise today to voice my concerns and sympathy with the Albanian people, both within their homeland and throughout Europe. Clearly, with a civil war gripping Yugoslavia and the breakup of the Soviet Union, Albanians do not have the visibility of other nationalities in Europe. However, I have heard from hundreds of Albanian-Americans and their friends from Massachusetts who are greatly concerned about the situation in Albania and Albania's neighbors.

Mr. Speaker, for years Albanians suffered under a Communist regime which had the dubious reputation of being more Stalinist than Stalin himself. Then a popular uprising in March toppled the government of Enver Hoxha. But that unprecedented event brought about even more chaos in Albania.

More than any other European people, the Albanians have always been divided. About 3.5 million live in Albania; but they also live in Greece, Turkey, and in subdivided, war-torn Yugoslavia. Now, tens of thousands of Albanians have poured into Italy, reminding us once again of how unsettling the post-Communist era really is.

Mr. Speaker, in August the New York Times ran a news story which portrayed the mood in Albania succinctly and accurately. "For Many Albanians," the headline said, "Freedom Means a Shot at Leaving Forever." Clearly, the economic situation in Albania is so unbearable that people who have wanted to flee that poor nation for years are finally doing so. And it is causing chaos among those refugees, within the Government of Italy, and in Albania itself.

Mr. Speaker, the United States has an important role to play. Earlier this month, the United States sent Albania humanitarian assistance, including desperately needed food aid and technical assistance for economic reform. Furthermore, I am encouraged by the fact that the Prime Minister of Albania's interim government, Ylli Bufi, recently signed an agreement with the United States' Overseas Private Investment Corporation and has expressed a commitment to free-market reforms.

Mr. Speaker, the American people rightfully want the Government to pay attention to the massive problems here at home. Our economy and our health care system is in shambles, and must be addressed. However, in our zealousness to achieve these various and important reforms at home, we must not forget our historic and moral commitment to help those trying to achieve democratic free-market reforms abroad. And we particularly must not ignore the smallest of these nations, Albania.

INTRODUCTION OF THE OIL RECYCLING AND SAFE HANDLING ACT OF 1991

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. COLLINS of Illinois. Mr. Speaker, today, I am introducing the Oil Recycling And Safe Handling Act of 1991. I am doing so for three reasons: To increase the amount of used oil that is recycled, to raise the safety standards for handling used oil, and to ensure that used oil cannot be burned until the lead and other harmful pollutants are removed from it.

Used oil has the potential to be valuable resource and commodity. But so far, the infrastructure for the recycling of used oil remains in its infancy. Of roughly 1.4 billion gallons of used oil generated each year in the United States, almost 500 million gallons, or 36 percent of the total amount, is dumped in landfills or sewers. This pollution of our land, waters, and aquifers has harsh environmental consequences and is both difficult and costly to clean up. If we don't change our national behavior, this practice will eventually catch up with us, creating a nightmare of damage.

Consequently, to encourage the recycling of used oil, I believe it necessary to stimulate the market for used oil. The Oil Recycling and Safe Handling Act, or ORSHA, includes provisions to establish a mandatory recycling program. It will feature a system of economic credits in which producers and importers of lubricating oil will participate. The result will be that used oil will become a valuable commodity and the demand for it will propel and increase collection efforts.

To further promote the collection of used oil, the bill directs the States to provide monetary aid to retailers, nonprofit organizations and others who voluntarily collect used oil. This is designed to offset some of the costs of collection which they incur and ensure that collection will be economically viable. The funds for this program will be raised through the collection of a fee of 5 cents per quart of oil purchased. Considering that autos typically receive only a few oil changes per year and only occasionally require additional quarts, most car owners will spend only about $1 more per year, per car under this program. The more cars one owns, the more dollars one pays; therefore, this fee is not only inexpensive but also progressive, rather than regressive.

The third way that the bill will increase the recycling of used oil is that, by helping car owners realize that used oil is a hazardous substance, it will awaken them to the need to bring it to a collection site. Presently, many do-it-yourselfers [DIY'ers] dump their oil because they are not aware of the hazards of doing so. This bill will heighten public awareness, yet exempt DIY'ers from the regulations usually associated with generating hazardous wastes. To encourage the establishment of new collection programs, the bill will also exempt curbside and retailer collection systems from the usual hazardous waste regulations.

However, there is great concern over the safety standards for the handling, storage, treatment, and processing of used oil once it leaves the collection sites. To date, contamination from improper management of used oil has led to the creation of 63 Superfund sites throughout the country, including 4 in my home State of Illinois. I see no reason to continue with the status quo of management standards until that number doubles. I have seen enough. I believe the time has come to attach to used oil the management standards that are environmentally appropriate, not those which are politically expedient.

Consequently, the ORSHA provides that, once used oil is picked up by a transporter, it is to be regarded as a hazardous waste. As of that point, it would receive the high standards of care that hazardous wastes regularly receive, with a few appropriate exceptions. Generally, once it leaves the collectors or generators, the transporters who haul it to recycling facilities would be under the hazardous waste regulations, although standards such as those regarding insurance and manifesting may be modified. The facilities to which the used oil is taken would be under full hazardous waste regulations. However, used oil which meets certain health and safety criteria, both when arriving at and departing from a facility, would be deemed to have never been hazardous. This will protect Americans against future contamination and Superfund sites stemming from used oil.

The third objective of the bill is to remove the lead and other metals from used oil before it can be burned, so as to prevent contamination of our air. Lead has been shown over the years to cause serious physical and mental impairments, mainly in our youth, especially in urban areas. We must no longer allow the learning and development of our children to be limited due to environmental recklessness. I fully agree with the recent declaration by Health and Human Services Secretary Dr. Louis Sullivan that lead is the No. 1 environmental threat to children.

The report titled "The Costs Of Used Oil Management," released on November 13, 1991, by the Natural Resources Defense Council, Sierra Club, Izaak Walton League of America, and Hazardous Waste Treatment Council solidly documents the presence of lead in our air and the primary sources of this lead. The No. 1 source of airborne lead emissions in the United States is the burning of used oil with high lead levels. Annually, about 588,000 pounds of lead are pumped into our air from the unregulated burning of used oil, and amount greater than any other source.

All across the country, Americans must be able to heat homes, schools, and hospitals without compromising our children's ability to learn, grow, and live healthy, prosperous lives. In Chicago, used oil with high lead levels is still used in certain large industrial boilers and processes. Although industry may not rely heavily on used oil as their fuel source, the amount they use propels enough lead into our air to cause our concern and call out for correction. We have a right to demand that our health not be sacrificed by industrial profit margins.

Thus, the bill also calls for the metals and other chemicals found in used oil to be reduced to negligible levels before the oil can be burned. In the case of lead, the current national standard is that there can be no more than 100 parts per million of lead, even though much smaller amounts are still considered dangerous. Even with this loose guideline, enforcement is very spotty, with oil burning often being entirely unregulated. The ORSHA would require that the lead content be decreased to no more than 2 parts per million before used oil could be burned.

Mr. Speaker, the link between the environment and public health cannot be taken lightly. The days are gone when corporate practices could slowly kill us with unseen poisons packing our air, land, and water. In Chicago, like everywhere, residents cannot choose which air to breathe and they don't know the chemical composition of their soil and water. As a matter of public health, we need the reforms of the Oil Recycling and Safe Handling Act of 1991, and I strongly urge my colleagues to join me in supporting this bill.

INTRODUCTION OF MICROLEND FOR THE FUTURE ACT

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. PELOSI. Mr. Speaker, today, I am introducing the Microlend for the Future Act. As we talk about how to get our country's economy back on the upswing, I believe that we must discuss steps to foster economic independence and self-sufficiency in our citizens. These steps are a vital part of increasing our international competitiveness and overall economic well-being. To do this, we must concentrate our energies at home and rebuild our own neighborhoods and communities. A very practical and cost effective means to achieving this is investing in microenterprises or small business concerns being started or expanded by low-income individuals. Microlending is an idea whose time has come.

The Microlend for the Future Act would establish a 5-year demonstration program to provide loan and grant funds to community-based organizations and financial intermediaries, which in turn would provide loans to low-income individuals starting or expanding a microenterprise. The vital element in this process is that eligible groups would also provide business training and technical assistance throughout the entire loan venture. It is the business training and assistance that will help low-income individuals gain the skills necessary to become and remain self-sufficient.

Mr. Speaker, I urge my colleagues to join me as a cosponsor of this important bill. Microlending is an investment in our communities and in the economic future of our Nation. Our action now will help low-income individuals help themselves and move from economic dependency to self-sufficiency.

ESCALANTE CANYONS STUDY ACT

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of Utah. Mr. Speaker, over 50 years ago, a proposal was made by Harold Ickes, Secretary of the Interior to President Franklin Roosevelt, to establish a national park that would have encompassed much of southern Utah. The centerpiece of this park was to be the Escalante River and its canyons. Since then, parts of this region have been protected in national parks and monuments. But the Escalante River and its tributary canyons, the focus of the original effort, have not been protected by national park status.

Today, I introduce a bill to direct the Secretary of the Interior to conduct a study of the Escalante Canyon region to be used to consider the establishment of a national park in the area. A national park in the Escalante Canyon region would protect unique natural, cultural, and historic resources that are an integral part of Utah's heritage.

I grew up in the shadow of the canyons and cliffs of the Escalante region. As a teenager herding cattle and sheep, I marveled at the canyon's spectacular beauty. It seemed peculiar to me then—and it still does now—that an area of such enormous beauty had not been designated as one of our national parks.

The establishment of a national park in the Escalante Canyon area is a good idea whose time has finally come. With good baseline information and planning, a strategy for tourism, and protected land that serves as a principal upon which we gain interest, we can enhance the State and local economies and protect our unique lands. As more and more land is developed in other parts of this Nation, future generations will look toward Utah and areas like Escalante to find vestiges of natural lands and their associated values. There is no boom and bust cycle associated with the public's appreciation of their natural and cultural heritage—the lure and the beauty of Utah country will remain, and continue to increase in importance with the passage of time. In this year of the 75th anniversary of our National Park Service, I believe it is time to consider a national park in the Escalante Canyon country of Utah.

DEATH IN THE FOREST

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BENTLEY. Mr. Speaker, several weeks ago, the National Geographic Society's Explorer program devoted important segments to the illegal poaching of black bears. Sickening indeed were the scenes of black bear corpses lying on the forest floor, with their gall bladders removed and paws chopped off.

Most people are unaware of the fact that our forests are silently being emptied in order to satisfy the heavy demand for bear body parts from customers in Korea, Japan, and Taiwan. In this business, Asian herbal dealers in these United States purchase bear gall bladders from poachers, after which they are shipped overseas where they are prized for ancient curative properties. Often, the gall bladder is dried, pulverized, and sold in capsule form to those who believe that it will cure blood disorders, cancer, and even hemorrhoids.

According to law enforcement officials, the trade in bear gall bladders has become so frenzied, that counterfeiters will often substitute pig and cow gall bladders for the real article. This, in turn, has led some dealers to request a videotape of the removal of the gall bladder as a macabre "certificate of authenticity." Mr. Speaker, this is an outrage and one that I plan to address in the form of legislation when the Congress reconvenes in 1992.

SUPPORT RELIGIOUS FREEDOM WITHOUT JEOPARDIZING THE UNBORN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing the Religious Freedom Act of 1991. It is intended to overcome the adverse impact on religious freedom in this country caused by the U.S. Supreme Court's decision last year in Employment Division versus Smith.

The practical result of the Smith case is that individuals or organizations whose religious practices are burdened by a particular law, regulation, or administrative action are placed at a great procedural disadvantage when pursuing relief from these sometimes capricious governmental intrusions. Under the Smith approach, almost any reason advanced by Government will justify restraining religious practices so long as the particular governmental action does not single out religion for adverse treatment.

From the founding of our Nation, religion has enjoyed a special position. The Smith decision places that special status in jeopardy. The ability of individuals and organizations to practice their religion without unnecessary governmental interference is guaranteed by the first amendment. Governments should be held to strict standards before they are allowed to interfere with or burden the practice of religion. That is what the Religious Freedom Act of 1991 would do. Where applicable, it would require governments to demonstrate that a policy or practice that burdens religious practice is essential to further a compelling governmental interest of the highest order and is the least restrictive means of furthering that compelling interest.

Earlier this year, my good friend STEVE SOLARZ introduced H.R. 2797, the Religious Freedom Restoration Act. While I believe this legislation was introduced with the best of intentions, some very notable legal scholars, religious organizations, and prolife groups have expressed serious reservations about its potential impact in the area of abortion policy. Some have also voiced concerns about H.R. 2797's possible effect on the tax-exempt status of religious organizations and their capacity to participate in Government-sponsored social service programs.

The bill I am introducing has a specific provision that makes it clear that the legislation cannot be used to secure a right to abortion or abortion funding. It also explicitly protects the tax status of religious organizations.

The Nation's preeminent free exercise litigator, William Bentley Ball, who litigated the famous Yoder free exercise case, has stated that, "We need legislation for the overriding" of the Supreme Court's Smith decision. However, he has told Congressman HENRY HYDE that he is totally opposed to a Religious Freedom Restoration Act [RFRA] that does not contain an exclusion for religiously based challenges to abortion-restrictive statutes.

The National Right to Life Committee, U.S. Catholic Conference, Americans United for Life, and Lutheran Church—Missouri Synod have all made it clear that a legislative remedy to Smith must include an abortion neutral amendment.

Free exercise of religion claims are currently being used by groups such as the ACLU and the Religious Coalition for Abortion Rights [RCAR] to attack pro-life laws in Utah, Guam, Louisiana, Michigan, and New York. Under current law and Supreme Court precedent, those attacks will undoubtedly fail. If H.R. 2797 is enacted, such attacks would be based on the new statute, and they would very likely succeed.

Marc Stern of the American Jewish Congress is a member of the drafting committee that developed H.R. 2797. In a May 9, 1991, memo which he transmitted on behalf of the committee, Mr. Stern proposed that the following language be inserted in the congressional committee report on the Solarz bill:

> RFRA could not be invoked to challenge the bare existence of restrictive or permissive abortion laws, but it could be invoked by persons who for religious reasons wish to obtain, or not participate in, abortion where a law imposed contrary restrictions or obligations.

The pro-life movement has labored long and hard to overturn the infamous Roe versus Wade and Doe versus Bolton Supreme Court decisions. The Court's 1989 Webster decision signaled that such a reversal might be imminent. It would be tragic if a new foundation for permissive abortion policies was created just as we were on the verge of a great victory for the unborn.

During my 11 years in Congress, I have spent a great deal of time fighting for religious freedom. I believe that this cause and the protection of innocent human life are entirely compatible. Therefore, I am proud to introduce the Religious Freedom Act today along with my colleagues HENRY HYDE, ALAN MOLLOHAN, HAROLD VOLKMER, BARABARA VUCANOVICH, BOB DORNAN, DUNCAN HUNTER, CLYDE HOLLOWAY, JOHN BOEHNER, BILL EMERSON, TOM DELAY, BILL DANNEMEYER, JIM BUNNING.

RELATIONS WITH THE COMMUNIST GOVERNMENT OF VIETNAM

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CAMPBELL of California. Mr. Speaker, I rise today to discuss United States relations with the Communist government of Vietnam. Now that the Cambodian peace plan has been signed, it appears that the United States is moving toward normalizing relations with Vietnam. While I welcome the Vietnamese decision to support the U.N. Comprehensive Settlement for Cambodia, they must continue to implement this agreement.

We should proceed with caution as we work toward a full normalization of relations with Vietnam. There are many issues that remain unresolved—humanitarian issues in particular—that should not go unnoticed, or unchanged. Most importantly, we must still receive a comprehensive, final accounting of the Americans missing in action.

Currently, 2,273 of our heroes are reported as missing. If we offer diplomatic recognition before resolving these cases, there will be little incentive for Hanoi to resolve them. No public official in this country should tell 2,300 American families that we intend to extend our friendship to a government that has failed to completely cooperate with our efforts to determine the fates of their loved ones. And I would fear for the safety of any of these MIA's if we recognize Vietnam prematurely; God forbid that we give any incentive to the Vietnamese Government to destroy evidence of MIA's by eliminating whomever might remain. Certainly their recent actions to prevent our chief of the POW/MIA Investigative Office in Hanoi from resuming his duties underscores this fear.

Vietnam's great need for Western assistance will never exceed America's need to resolve these human tragedies. The United States should take every opportunity to make clear to Hanoi that the resolution of these cases is, and will remain, a paramount concern of the United States.

LONG-TERM CARE INSURANCE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. COLLINS. Mr. Speaker, long-term care insurance is a very tricky, relatively new product that has come under scrutiny for certain practices which appear to be characteristic of the industry.

The policies and benefits which are being offered are still evolving and are experiencing growing pains. This explains some of the shortcomings of this market, and I anticipate that these kinks will be worked out over time.

But additionally, there are other problems which stem from insurers and regulators not taking steps which they already recognize would satisfy important needs of consumers. Still other problems stem from deliberate disregard for consumer interests and needs.

The subcommittee on Commerce, Consumer Protection, and Competitiveness, which I chair, held a hearing on Thursday, October 24, 1991, on long-term care insurance standards. The hearing focused on industry and agent practices and the current paltry efforts to regulate them. The subcommittee also had the advantage of comparing the status quo of regulation to the proposals embodied in three bills: H.R. 2378, introduced by Congressman BRUCE: H.R. 1916, introduced by Congressman WYDEN; and H.R. 1205, introduced by Congressman ROWLAND.

The hearing illustrated numerous problem areas, some of which occur with alarming frequency. While at this time, it is difficult to precisely identify all of the reforms which must be established in the immediate future, it is clear that action cannot be delayed. Every day that long-term care insurance is sold in absence of necessary reforms, more groundwork is laid which is likely to fester into full blown problems in the years to come. Many insurers and agents are entirely scrupulous, but there also are ones who are not. Unless we can put an end to abuses, the whole long-term care insurance field will suffer.

At the October 24 hearing, Ms. Betty Tyler testified that her father bought a long-term care insurance policy at age 82 and fully disclosed at the time that he was already suffering from high blood pressure, diabetes, and Parkinson's disease. The policy's premiums were $702 per year, which, considering his age and physical condition, were abnormally low. In fact, it was so low that it prompted a colleague on the subcommittee to observe that, "It would sound to me like they didn't expect to pay any claims."

Unfortunately, that appears to be the case. The claims which were first filed by Ms. Tyler on her father's behalf 3½ years ago still have never been paid.

I fear that Ms. Tyler's father is not alone in his continued quest to receive benefits under these policies. He is in a coma now. If not for Ms. Tyler or someone else to tenaciously pursue the claim, the insurer would be able to silently and completely disregard its obligations under this policy. Most people who need long-term care are no longer physically, medically, or emotionally able to chase after an unscrupulous insurer with all the letters, calls, and filing of complaints that it sometimes takes to get satisfaction.

This, of course, is only one case. Testimony at the hearing focused on many problems, such as those which relate to policy provisions and benefits. These include the absence of nonforfeiture benefits and inflation protection; the presence of complex eligibility requirements, or "gatekeepers," that craftily limit coverage; and the vagueness of terms which means that insurers are free to interpret them as they wish. Problems also surround the climate in which consumers make purchases. These include confusion as to what the product is, what it covers, and whether it is needed; the difficulty in comparative shopping and understanding highly technical, but important, language; and abusive sales techniques, fueled by outrageously high agent commissions.

As Ms. Janet Shikles, testifying on behalf of the GAO, noted on October 24, "I think the potential for abuse here is much, much greater than in the Medigap area." Congress acted responsibly by establishing concrete reforms for the Medigap market last year. With long-term care insurance the stakes are even greater. Let's embrace our duty to serve and protect America's older and elderly people. I encourage my colleagues to join me in moving forward on this just and necessary effort.

HEED MATILDA CUOMO'S ADVICE ON U.N. CONVENTION ON THE CHILD

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, it is with pleasure that I enter into the RECORD today an article by Matilda Cuomo, who is a tireless advocate for the children of this Nation and the world. Matilda Cuomo has spoken out time after time on behalf of children's basic needs and rights, and she has been active in implementing New York State's Decade of the Child by bringing attention to the lack of health care, food, and shelter faced by many of New York's children.

While we are privileged to benefit from her work in New York State, Matilda's efforts cross State lines and international borders. She delivered the keynote address at the second U.N. Special Session on the Rights of the Child, where over 200 educators from across New York State joined with students and others to develop strategies for integrating the ideals of the U.N. Convention on the Child into school curricula. She has made a personal commitment to programs that provide family nutrition, parental workplace support, school-based mentoring, and the prevention of child abuse and neglect. She has combined leadership and action to advance children's issues in an unprecedented manner. Now, in her article, Matilda Cuomo calls on the United States to ratify the U.N. Convention on the Child. We should heed her words.

I agree that United States participation in that convention, which has been ratified by over 90 U.N. member nations, is long overdue. There is not a treaty in existence with more worthy goals. It guarantees children rights which they should already have and calls on the nations of the word to solve problems which should no longer exist. The Convention guarantees children the right to survival, the right to protect from abuse, and the right to develop in a safe environment through the provision of education, health care, and religious and political freedom. Certainly, as the world's leading democracy, we should have no trouble in making these basic promises to our own children.

Last year, both the House and Senate passed a resolution calling on the President to send the Convention to the Senate for ratification. Still, the President has not acted. White House officials are still reviewing the treaty. While they waste time with their reviews, children are going to sleep without food and going to school without warm clothes. The review has gone on long enough. It is time for the United States to take its rightful place as a leader on children's policy, not a follower.

Matilda Cuomo's words say it best: "If the United States ratified now it would be more than a symbolic gesture. It would be a recognition of the vulnerability and poor status of children in our own country and a firm commitment to improve their quality of life." Let us follow the lead of a woman who is a staunch supporter and a champion for children around the globe. Her words ring loud and true.

Mr. Speaker, the article by Matilda Cuomo follows. I commend it to all of my colleagues.

MAKING A COMMITMENT TO OUR CHILDREN

(By Matilda R. Cuomo)

Surely the world has come to treasure its children.

In 1988, Governor Cuomo declared the Decade of the Child, launching a comprehensive ten-year agenda for helping to develop the future of our state's children. The programs and initiatives which have grown from that agenda are touching the lives of hundreds of thousands of New York's children.

And in 1990, millions of children, everywhere, were offered the promise of protection, of fundamental rights, of survival. In September 1990, the United Nations mounted a World Summit for Children. Led by 71 heads of State, it was the largest gathering of world leaders in history. During the same month, the UN General Assembly ratified the 1989 Convention On the Rights of the Child.

The Convention was drafted in response to crisis conditions that affect children throughout the world. By adopting this treaty, societies representing all ethnic groups and political systems agreed that children deserve empowerment and the cooperation of adults on their behalf. Here was historic international legislation, a legal codification of society's responsibilities to children, guaranteeing:

The right to survival through the provision of adequate food, shelter, clean water, and primary health care.

The right to protection from abuse, neglect and exploitation, including the right to special protection in times of war.

The right to develop in a safe environment, through the provision of formal education, constructive play, advanced health care and the opportunity to participate in social, religious, and political life, free from discrimination.

The Convention has been ratified by more than 90 member nations. Regrettably, the United States of America is not among them.

Implementing a worldwide commitment to child survival depends upon the active involvement of all nations, particularly our own. Shortly before the world Summit, Governor Cuomo sent President Bush a letter urging him to complete the Administration's review of the Convention and forward it to the Senate for ratification.

The Governor has continued to enlist support for ratification with personal letters to religious leaders and school administrators and to Governors of every state in the country. And he urged the National Governors' Association to approve a resolution voicing collective support for the Convention at the 1991 session.

Most importantly, New York State has led by example. Within its first four years, wide ranging Decade of the Child programs have affected the health and development, the very survival, of our State's most vulnerable children.

In 1988, an expanded Medicaid Program raised the level of basic health care. Since then, programs have been initiated that increase the availability of child health insurance (NYCHILD,) provide better quality doctors (Preferred Physicians and Children Program,) supply basic nutritional needs and education for women, infants, and children (Supplemental Nutrition Assistance Program,) and most recently, extend Medicaid eligibility to children in impoverished families.

Decade of the Child initiatives have addressed critical social and educational needs, as well as health needs, of our state's growing children. The Neighborhood Based Initiative Program and The Community Schools Program are two of these, providing vital services such as foster care prevention, extended school funding, and 24 hour crisis centers. And a recently increased welfare grant adds further support to these programs.

In addition to these far reaching initiatives, I have made a personal commitment to a series of ongoing programs on behalf of children. Programs in family nutrition and parental workplace support; programs in pre- and post-natal parent education; programs in adoption, school-based mentoring, and the prevention of child abuse and neglect.

Beyond the long term benefits these programs offer, short term gains are already apparent. In 1990, over 2,000 children were placed in adoptive homes. Currently, 1,000 mentor-mentee pairs are in place throughout the state. Nutrition education is available free to every public and private school in every school district. Parenting literature is provided to new mothers in every hospital with maternity units in New York State.

We believe that the basic needs of children must receive a high priority world-wide, and so we took an active role in convening two consecutive Special UN Sessions on the Rights of the Child. The first was convened in May of 1990. Over 200 educators from across New York State joined with students and representatives of non-governmental organizations. The goal of the Session was to emerge with strategies for incorporating the ideals of the Convention into a school's curriculum.

The second Special Session was convened in June of 1991. The timing was ideal, coinciding with a series of UN based events commemorating the memory of the uprising and massacre of children of Soweto on June 16, 1976. The commemoration is known as the "Day of the African Child" and there is no focus more fitting than Africa when seeking to improve the lives of children. Sixty percent of all Africans are children. That continent suffers the highest under-five mortality rate in the world and is the only continent where child deaths are projected to increase during the 1990s. African children are more likely to suffer from malnutrition, lack of safe drinking water, illiteracy, and exposure to armed conflict than children anywhere else in the world.

The day began with over 500 children gathering together at the United Nations. Children from Africa and children of African heritage shared their music, dance, and poetry. The UN formally celebrated the occasion with the special issue of a set of six Child Rights stamps by the United Nations Postal Administration. For the first time in UNPA history, the stamps were designed solely by children.

I was privileged to deliver the keynote address at the second special session, and was joined by Djubril Diallo, special assistant to the Executive Director of UNICEF, Carol Beck, principal of New York City's Thomas Jefferson High School and Adelaide L. Sanford, member of the NYS Board of Regents.

Ms. Sanford said: "We came here today to memoralize African children. To strategize and envision and construct places where the laughter of children can be heard again." Toward that end, teachers and students from across New York State once again gathered to address the issues of the Convention. Working in small groups, they re-examined the knowledge and skills required to improve efforts for child survival on a local as well as international level.

A day devoted to recognizing the needs of children in Africa, to reinforcing and reexamining the rights of children everywhere, ended with New York State students and classroom teachers developing strategies to assist the children of their own state. Efforts such as these recognize the critical need to create such strategies for improving the lives of children. But only when the international treaty on the Rights of the Child is universally ratified will society's responsibility to children be fulfilled as well as recognized.

If the U.S. ratified now, it would be more than a symbolic gesture. It would be a recognition of the vulnerability and the poor status of children in our own country and a firm commitment to improve their quality of life. The work of those in our own country who treasure children must progress with commitment, cooperation and courage.

A TRIBUTE TO HARRY GREENBERG

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. I am proud to pay tribute to a wonderful citizen in my congressional district, Mr. Harry Greenberg. In an article in the Harbour House newsletter entitled, "Spotlight Is on * * *." Harry's accomplishments include everything from Man of the Year awarded by the Harbour House to a founder of the Harbour House Arts Club. I am pleased to commend this article to my colleagues which focuses on the splendid achievements of Harry Greenberg:

Harry Greenberg, a most sincere and compassionate person, was presented with "Man of the Year" award by Karen Roberts, Executive Director of Harbour House, at last month's Men's Club Dinner Dance.

Harry is truly "a man for all seasons," Life could never be monotonous for someone like him with his lust for living, his enthusiasm for art and for all of his fine deeds to help his follow man.

A native of Newark, New Jersey, and later a resident of Orange, Greenberg worked for the Universal Match Company for 43 years in New York City. His artistic talents led him to design matchbook covers used by the company's main institutional clients—large hotels and chain stores.

Harry was painting more than match book covers. He participated in numerous shows and initiated art festivals in the Oranges and Maplewood. He started the annual art festival for the Daughters of Israel, which is a fund raiser. When Harry isn't running around helping others, he can be found upstairs in the Art Studio painting.

Some of the beneficiaries of his art, and recipients of proceeds from his sales, include the Daughters of Israel, Bayley Seton League of Seton Hall University, the Rutgers Hillel Campus, Veteran's Hospital and Miami Jewish Home and Hospital for the Aged at Douglas Gardens.

His non-artistic accomplishments includes 42 years on the New Jersey State Athletic Commission and 45 years with the State Boxing Commission. He also was chairman of the Milk Fund Boxing and Wrestling Shows during the depression as well as organizer for various fund raisers for the poor. He has been commended by New Jersey's Governor Brendan Byrne (then State Senator), for his humanitarian efforts and his devotion to his fellow men and women.

Harry was one of the founders of Harbour House Arts Club, which now has become a very popular group, visiting different museums each month and enjoys lunch at top restaurants. Besides his painting, Harry enjoys dancing (and he's a good one). Come down to our Thursday evening dance class and see for yourself.

Harry is truly a man of love and devotion, and we are proud to have him with us at Harbour House.

I am pleased to recognize Harry Greenberg, thank him for his tremendous work that he has done for the community, and wish him much success always.

THE HEALTH CARE ACCESS AND SECURITY ACT

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WEBER. Mr. Speaker, a rising tide of concern over health care is sweeping across my State of Minnesota and the rest of the Nation. Health care concerns dominate the mail I am receiving from constituents and the comments and questions at my town meetings.

The American people—even those who are well-insured by their employer—are concerned about the rising cost of health care. Increases in insurance premiums are pricing many self-employed individuals and small business employers and their employees out of health insurance. The costs to employers of providing health benefit plans increased 87 percent between 1985 and 1990, forcing employers to reduce benefits or raise employee contributions to the cost of care. In a recent survey of public attitudes toward the health care system, 52 percent of working households reported that their employers had either cut benefits or required them to pay more for their benefits.

Those with coverage are also very insecure about whether their insurance will be there when they really need it. Individuals with health problems or with spouses or children with health problems feel locked into jobs, aware that if they change jobs, they may face preexisting condition exclusions or be entirely ineligible for coverage through their new employer. They have heard firsthand from family and friends and have seen many stories in the media about individuals and families whose insurance failed to cover a catastrophic illness, about those who have been written out of their employer's policies, and about those who have been unable because of a bout with cancer or a disability to find coverage at any cost.

Most Americans believe that health care is a basic human right—that access to basic, high-quality care should not depend on one's income. They are concerned about a health care system that is the most costly in the world yet fails to cover 35 million Americans.

Reflecting this rising tide of concern in the Nation over our health care system, Congress is engaged in a debate over health care reform. Over 30 proposals for comprehensive reforms have been introduced, ranging from transplanting the Canadian system of Federal and State control over and administration of the health care system, to requiring employers to provide and pay for a substantial part of the cost of health care coverage for their employees or pay a tax to support a public plan, to severing the link between employment and health care and providing individuals and families with tax credits or vouchers to purchase their own coverage.

At the same time that we realize the weaknesses of our system we are concerned about how various proposals for reform would affect its strengths. Most Americans have timely access to the most sophisticated care in the world and enjoy the freedom to choose their doctors and hospitals. Our Nation leads the world in biomedical research and in innovations in treatment and technology.

We are far from achieving consensus, either in Congress or in the Nation, on comprehensive reforms or how to pay for them. But I have found consensus building around some major changes we could make today that would go a long way toward extending insurance to the uninsured, providing security for those who are insured, and restraining costs.

TAX FAIRNESS FOR THE SELF-EMPLOYED

I am today introducing a legislative package that will make these changes. First, my measure provides a 100-percent tax deduction to the self-employed for health insurance costs. This is a particularly important step for rural Americans and the rural health care delivery system. Rural Americans are more likely to be self-employed than urban Americans and less likely to be insured, increasing the uncompensated care burden on rural hospitals, physicians, and other health care providers already struggling under inadequate Medicare payments.

Extending a 100-percent tax deduction to the self-employed is also a matter of simple fairness. Those whose employers provide and pay for all or part of the cost of their health care coverage receive an unlimited indirect subsidy in the exclusion of that coverage from income taxes. The self-employed currently pay for their care in after-tax dollars and receive only a 25-percent deduction.

AFFORDABLE, BASIC HEALTH CARE COVERAGE FOR SMALL BUSINESSES

Second, my measure will extend coverage to many of the uninsured by making it affordable for small businesses to provide insurance for their employees and employees' dependents. We know that two-thirds of the uninsured are workers or the dependents of workers and that the smaller the business, the less likely its employees are to have job-based health insurance.

One of the major factors pricing insurance out of the reach of small businesses is the expansion of State mandates with regard to what the plans of insurers doing business in a State must cover. In 1970, there were about 50 State mandates. Today, there are over 800. Larger employers can self-insure and avoid these mandates, but small businesses cannot. My proposal preempts State mandates to allow insurers in the small employer market to offer basic benefit plans.

These plans and the insurers offering them must meet strict standards, including guaranteed renewability, guaranteed availability to all small employers in a State, nondiscrimination on the basis of the health status of any individuals within the small employer group, limitations on preexisting condition exclusions, limitations on premium variations among blocks of small employer business, and full disclosure of rating practices.

The plans must also cover such services as inpatient and outpatient hospital care; physician care; and preventive services, such a prenatal and well-baby care. They must have affordable premiums and deductibles relative to employee wages, and they must have out-of-pocket limits to provide protection against catastrophic costs.

PORTABLE EMPLOYER-PROVIDED GROUP COVERAGE

Third, provisions of the health care reform package that I am introducing will make employer-provided health insurance portable for all group plans, not just for small business plans. This provision limits preexisting exclusions to 6 months and reduces that exclusion of 1 month for every month that an employee was covered under a health care plan. A second provision requires that insurers in the group market write the entire group. They will be prohibited from excluding individuals from a group because they may pose a higher health risk.

Taken together, these provisions will protect employees when their current employer changes plans or when the employee changes jobs. Most Americans will no longer be locked into their jobs because they or their spouses or dependents have health problems.

REDUCING THE COST OF HEALTH CARE

These provisions will act to restrain health care costs by limiting insurers' ability to selectively cover individuals and groups which pose the lowest risk and exclude higher risk individuals. To compete and profit, insurers will have to focus on managing and restraining health care costs.

A second way in which my proposal attacks spiraling health care costs is through malpractice reforms. Most health policy experts and physicians agree that fear of malpractice suits leads to the provision of unnecessary services. The Pepper Commission estimated that defensive medicine constitutes about $11.7 out of the $82.8 billion paid to physicians. Other studies suggest that the total cost of defensive medicine to the system may be $30 to $40 billion.

My proposal provides grants to the States to establish alternative dispute resolution systems and establishes uniform Federal standards for malpractice claims. These standards include periodic payments for large damage awards; a cap of $250,000 on noneconomic damages; mandatory offsets for damages paid by collateral sources; a limit on attorneys' fees; a limit on punitive damages; a uniform statute of limitations; and other reforms. In addition, my proposal restricts punitive damages relating to medical product liability when the FDA has recognized the product as safe.

The proposal also provides an incentive for the establishment of a nationwide risk retention group for community and migrant health centers to reduce their liability insurance costs and free up more money for the care of the poor and uninsured.

My measure establishes a Health Care Cost Containment Commission charged with reporting annually on health care costs, the factors driving cost increases, and strategies for containing costs.

AFFORDABLE, ACCESSIBLE LONG-TERM CARE COVERAGE

One of the largest gaps in our Nation's health care system is lack of coverage for long-term home and nursing home care. While the elderly are most at risk of financial devastation by the cost of a disabling illness, working families are also at risk.

My proposal provides incentives for the expansion of affordable long-term care insurance plans for all Americans. First, the proposal clarifies that long-term care insurance should be treated as health insurance is now treated under the Tax Code—that is, excludable from employee income and deductible to employers. Second, the proposal allows long-term care insurance to be offered as an option in employer cafeteria plans. Third, it provides for the nontaxable exchange of life insurance contracts for long-term care insurance. Fourth, it treats life insurance death benefits paid to the terminally ill as death benefits for tax purposes.

In summary, the Health Care Access and Security Act will give the American people the kind of health care system they want: One which preserves their freedom of choice and access to state-of-the-art treatment and technology, makes health care insurance more affordable and accessible for working families, makes our tax treatment of insurance equitable for the self-employed, and expands coverage for long-term care.

INTRODUCTION OF LEGISLATION TO ASSIST FEDERAL EMPLOYEES

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing two bills which would address the needs of Federal employees working in regions adjacent to those three selected areas which are currently receiving the 8-percent interim geographic raises.

The first bill would mandate the retroactive payment of interim geographic raises to any Federal employee working in an area which, as a result of new census data, is included by the Office of Management and Budget [OMB] in one of the consolidated Metropolitan Areas [CMSA] currently receiving such locality pay adjustments.

Under this bill, if the 1990 census data does lead OMB to expand the current borders of the New York, Los Angeles, or San Francisco CMSA's, then those Federal workers employed in the newly included areas should receive the 8 percent interim geographic pay raises retroactive to January 1, 1992. the payments would be available to continually employed general schedule personnel or Federal law enforcement officers in the form of a lump sum. The funds would come from the salaries and expenses of the employing agency.

Mr. Speaker, I have sponsored this retroactive pay legislation in an effort to remedy an inequitable situation. If 1990 census data shows that a community should have been included in one of the CMSA's receiving the 8 percent, then it is clearly unfair that the Federal employees in these areas should not be paid 8 percent. Therefore, I have introduced this bill to provide at least a partial payment of the lost locality pay.

The second bill, Mr. Speaker, will establish a statutory deadline for the redefinition of CMSA's by OMB. Pursuant to standards published in the Federal Register, the Office of

Management and Budget determines Metropolitan statistical Areas [MSA's] and the borders of CMSA's based upon census data. The standards state that OMB will announce the new borders of the nation's CMSA's in June 1992.

My bill would codify the announcement date which appears in the regulations and would require the announcement prior to June 30, 1992.

Initially I had understood that the Census Bureau would have certain critical raw data available by the middle of this past October, with final delivery of the completed census products to OMB by January 1, 1992. Yet, I have recently learned that there have been significant delays which could jeopardize the timely delivery of this vital information to OMB

Mr. Speaker, Federal employees who qualify for the 8-percent pay raises should not have to wait any longer than absolutely necessary. In light of the unfortunate delays in the preparation of the needed census materials, I have introduced this legislation to simply require census and OMB to meet the timetable which they have already set for themselves in the regulations.

BOOST FOR ECONOMY

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MILLER of Ohio. Mr. Speaker, a few weeks back, I received a suggestion from a banker friend of mine, Frank Dillard of Lancaster, OH, discussing the need for immediate and unconventional action to get our economy into high gear. Frank shared a proposal with me that I felt had considerable merit. After discussing his proposal with the legislative counsel's office I decided to put it into legislative form and consolidate it with a few proposals of my own. The legislation I'm going to introduce today is aimed at jump starting the two sectors of our economy that I feel are in the most immediate need of attention, the automobile and housing industries.

Specifically, the measure calls for a 30-percent tax credit to be spread over 3 years to be granted for the purchase of a new American-made and energy-efficient vehicle, and a 20-percent credit, to be spread over 5 years, to be granted for the purchase of a new home. A one-time eligibility for such credits, would be open to all families with adjusted gross income [AGI] of no more than $60,000 and to a single wage earner whose AGI does not exceed $40,000. An eligible purchaser would have to make such purchases within 2 years of the bill's enactment. The credits, in the case of a vehicle purchase, could be applied against a purchase of up to $15,000 and would be spread over 3 years, with one-third total credit of the 10 percent being the maximum credit allowed in any 1 year. For a home, the 20-percent credit could be applied against $100,000 of the purchase price, and would be spread over 5 years, with a maximum credit of 4 percent being allowed in any 1 year.

I call on my colleagues to close political ranks and team with me in sponsoring this much-needed legislation. I have titled my bill the tax equity for America's middle class, team for short. We've got to get our economy back in full running order, and the quickest and most effective way to do that is to give it a strong push. Granting middle-income Americans a sizable on-time incentive to purchase a new car or home will not only provide the buyer with attractive purchase terms, but in so doing, it will put countless tradesmen back to work in the depressed automobile and home construction industries. The increased sales for new cars and homes that this bill will create will, in turn, generate new jobs and new tax revenues for the Federal Treasury while at the same time easing the social service caseload that has resulted from the large layoffs in these sectors.

HEROIC MEN AND WOMEN

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DEFAZIO. Mr. Speaker, 50 years ago, Japanese planes attacked Pearl Harbor and the next day President Franklin Roosevelt stood before this body and asked for a declaration of war. Today, I stand before the same body to thank and honor the heroic men and women who fought and died to keep the torch of democracy burning through the darkest days of this century.

The attack on Pearl Harbor left 2,403 Americans dead and 1,178 wounded. The attack on Pearl Harbor left behind a scene of devastation exceeding anything in American history. The attack on Pearl Harbor sunk the battleships *Arizona, West Virginia,* and *California.* But the attack on Pearl Harbor did not daunt the spirit of those who faithfully served in the Armed Forces of the United States.

The courage and sacrifice of our World War II veterans preserved freedom and democracy as a fundamental right of billions worldwide. Those Americans have earned a place of honor in history that time will never diminish.

THE NUCLEAR WEAPONS STOCKPILES INFORMATION ACT

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. EVANS. Mr. Speaker, today I am introducing the Nuclear Weapons Stockpiles Information Act.

As we approach the end of the 1st session of the 102d Congress, we should reflect on the changes that have taken place this year. This was the year communism disintegrated and that the forces of democracy overcame reactionaries within the Soviet Union. The Soviet threat has changed forever. So have the requirements for many of the forces and policies we maintained during the cold war.

Our armed services are undergoing one of the most dramatic downsizings in our country's history. Yet, these changes should not be limited to hardware. Many of our policies have also started to change. No longer do B–52's sit on alert status at strategic air command bases across the country. No longer do looking glass aircraft fly continuously to ensure a command post in the event of thermonuclear war. The threat that created them is long gone.

However, the more things change the more things stay the same. There are still aspects of our defense policy that remain untouched by the death of the cold war. One of these is the veil of secrecy we keep around the data on our nuclear weapons stockpile and materials production. During the nuclear arms race, the United States maintained a policy of keeping most of the information on its nuclear weapons stockpile classified.

Yet, today we face different realities. Congress will be making crucial decisions on the size of the nuclear arsenal and the modernization of the nuclear weapons production complex. Unlike the past, the American public will have to have a significant role in this debate. The mistakes made in the past at the complex—the environmental contamination at the facilities, the numerous health and safety incidents, and the secrecy surrounding these problems—have undermined the public's confidence in the DOE. As DOE strives to modernize the weapons complex, public support will be essential. If DOE is to garner this support, it will have to have a more open debate on the size of our arsenal and its requirements for nuclear materials. Without this, there is no chance for enlightened public debate on these issues or public understanding as to why we are modernizing in the first place.

The public's need to know is not the only reason we must have a new openness at DOE. We also face a possibility of a world filled with countries either entering the nuclear club or trying to attain nuclear weapons capabilities. Nuclear proliferation is perhaps the most important issue we will face in trying to maintain stability and peace in the world. Yet, while we implore countries to abandon their nuclear aspirations and reveal the extent of their nuclear capabilities, we still keep much of the data on our own nuclear stockpiles shrouded in secrecy. We cannot become a leader of the free world in making this call if we cannot disclose the same information about our own arsenal.

The current situation in the Soviet Union is perhaps the most glaring example of why we must do this. As the U.S.S.R. disintegrates, we face a number of risks: The risk of nuclear material leaving the sovereign control of the Soviet Union, the risk of nuclear warheads falling into hostile hands, and the risk of Soviet nuclear experts selling their expertise to the highest Third World bidder. We could be facing nuclear anarchy in the Soviet Union. We must call upon the Soviet Union to declassify their nuclear weapons stockpile so that the world can have a better idea of what they have and so we can make sure that it doesn't fall into the wrong hands. My legislation would do just this and also cut off any DOE or DOD assistance in helping the Soviets cope with their own troubled nuclear weapons production facilities if they fail to comply.

The bill I have introduced today would require an unclassified report from the President on our Nation's nuclear weapons stockpile. It would declassify the number of nuclear weapons in our arsenal and the amount of nuclear weapons materials currently in stock and planned for the future. The bill would not deal with sensitive information that could jeopardize our security or lead other nations to acquire nuclear weapons.

The Nuclear Weapons Stockpiles Information Act would be a good first step to eliminate the unnecessary secrecy that has surrounded our Nation's nuclear weapons stockpile. The public's legitimate need to know and the urgency of the nuclear proliferation crisis demand it. I urge my colleagues to sponsor this legislation.

PROSTATE SCREENING ACT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MARKEY. Mr. Speaker, today I join my colleagues, Representatives MARILYN LLOYD and BILL RICHARDSON in introducing the Prostate Screening Act, legislation which would allow for Medicare and Medicaid reimbursement for the prostate screening test. This test, known in the medical field as the digital rectal examination and the prostate specific antigen [PSA] test, is the most effective test doctors have to detect prostate cancer.

Prostate cancer, the second leading cause of cancer deaths in men, has claimed the lives of two of our colleagues—Senator Sparky Matsunaga and Representative Silvio Conte. We will see an estimated 122,000 new cases of prostate cancer in the United States in 1991 and approximately 32,000 men will die this year from prostate cancer.

Because the causes of prostate cancer are unknown, prevention of the disease is not yet possible. However, early detection greatly increases the chances of surviving prostate cancer. The cure rate for those who are diagnosed in the early stages of the cancer is 85 percent. The digital rectal exam and the PSA test are the two tests that doctors, the American College of Radiology, and the National Cancer Institute, recommend yearly for men over the age of 40. These tests, analogous to the mammography test in detecting breast cancer in women, can greatly increase the chances of surviving prostate cancer.

The problem that remains is that, while many private insurers cover the prostate cancer screening test, two Federal health programs—the Medicare and Medicaid Programs, which provide health coverage for millions of Americans, do not provide reimbursement for the prostate screening test. Ironically, Medicare and Medicaid do provide for treating prostate cancer, but fail to reimburse for the screening tests used to detect the cancer at the earliest stage.

I am pleased to join my colleagues today in introducing this important legislation and will work for its passage. Until we enact comprehensive health care reform emphasizing the need for preventive care, we must ensure that current Federal health care programs include screening measures that focus on preventive care and early diagnosis, which saves in lives and health care costs.

COOPERATIVE RESEARCH AND DEVELOPMENT CREDIT ACT OF 1991

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEVIN of Michigan. Mr. Speaker, I rise today to introduce legislation, the Cooperative Research and Development Credit Act, that I believe takes an important step in restoring U.S. competitiveness.

If the United States is going to remain a leading industrial country, we must provide a supportive economic environment for continuous innovation and technological advance. We must nurture our research and development activities because they are the best path to a prosperous future.

Mr. Speaker, this bill provides for our economic future.

Tax relief for middle-income Americans is needed, and I will work with the congressional leadership toward this end. But we also need to develop a long-term economic strategy that stresses economic growth as well and provides incentives to assure a better economic future for the next generation. We must have economic growth and tax fairness, not one or the other.

The United States wisely relies on competition in the marketplace to determine what innovative technologies reach commercial production. Other countries actively support and directly finance R&D in the precompetitive stage. We can do better in the United States and accomplish our goals without that direct Government intervention.

How? We can do better by emphasizing private sector collaboration and encouraging companies to share their R&D costs. Under cooperative research, our companies can share their R&D costs, and then make their own product development decisions based on the cooperative research findings. In this way, through cooperative research, several companies can push the resulting new ideas into the product development stage.

Mr. Speaker, nurturing cooperation will provide leverage for our private R&D dollars. Through collaboration, we will enhance our competitive position.

The Cooperative Research and Development Credit Act will promote cooperation in all phases of R&D, reduce duplicative efforts, and let the several participants decide which findings can be commercialized.

This bill provides that qualifying payments and contributions to cooperative research organization will be eligible for a tax credit of up to 50 percent. The bill includes stringent qualifying definitions and restrictions on the R&D expenditures to avoid multiple credit and to clarify interaction with other credit provisions of the Tax Code. For example, a qualifying cooperative research organization must: (a) be registered under the National Cooperative Research Act of 1984; and (b) must have at least five members, four of whom make significant financial contributions in support of the research effort.

Mr. Speaker, the United States still leads the world in basic research and science, but we lag behind other countries in technological development and application, particularly in manufacturing industries. Our companies seem hampered by an inability, unwillingness, and just plain slowness to commercialize innovative ideas. Basic research requires long and costly effort to be transformed into products and processes, which in turn are eventually commercialized.

Why help? The consensus view is that private firms, working individually, and the private market overall, are funding less R&D than is in the long-term national interest because short-term profit needs are too often paramount. U.S. companies are not doing enough R&D, nor are they moving what they do onto the market fast enough.

For U.S. companies, the R&D dollar is a long-term, risk-laden, disadvantaged investment dollar. To help them cope with the high cost of capital, shorted product development cycles, rapid diffusion of technological information, and the pressure to show profits, it is crucial to help these companies get more bang for their R&D buck.

Consequently, an incentive for cooperative R&D spending is warranted. I want to make clear that I support permanent extension of the existing credit for increasing research activities under section 41 of the Internal Revenue Code. But program reviews such as the 1989 GAO report raise questions about the adequacy of the existing credit to stimulate research.

Mr. Speaker, collaboration by private companies on R&D works. Over 200 collaborative research groups have registered under the provisions of the National Cooperative Research Act of 1984. The National Center for Manufacturing Sciences, one of the largest research consortia, reports that it leverages membership R&D dollars by as much as 10-to-1 and shortens the development cycle by 2 to 5 years. Others, such as the Microelectronics and Computer Technology Corp., report leverage factors of as high as 17-to-1.

While I do not have a revenue estimate for this legislation, the evidence suggests that efficiency savings through pooling of R&D efforts should minimize costs, and the credit itself should be more effective in generating technological improvements.

Mr. Speaker, I insert a preliminary section-by-section analysis in the RECORD following my remarks, and I would further ask that all interested parties review the legislation and give me any thoughts or suggestions they might have.

COOPERATIVE R & D CREDIT

SECTION-BY-SECTION ANALYSIS

Section A. Addition of Credit for Payments or contributions to certain cooperative research organizations.

Present law

Current tax law provides a credit for research and development expenses. Under current law, such expenses may, in fact, be expensed. Previous to December 31, 1991, Federal tax law permitted, on an interim basis, an incremental tax credit for research and development expenses aggregating above a three-year rolling basis. This credit is due to expire.

Explanation of Provision

Subsection (a) outlines the provision establishing that a credit be available for qualified cooperative research expenditures made by a taxpayer to a qualified cooperative research organization. Subsection (b)(1)(A) sets the general rule and related requirements defining the extent of the qualified expenditures. Subsection (B) defines the nature of the qualified amounts of expenditures, including cash, in-kind and expenditures of a property nature. Subsection (C) provides a clear exclusion from qualified expenditures of any amounts funded by grants or underwritten by Government entity. Subsection (D) establishes a separate rule for qualified expenditures for project specific contributions to qualified cooperative research organizations.

Section (b)(2) Qualified Cooperative Research Organization.

Explanation of Provision

Subsection (A) establishes a general rule defining a "qualified cooperative research organization" for purposes of the Act's tax credit. Subsection (B) requires registration by cooperative research organizations under the notice terms of the National Cooperative Research Act of 1984, filing registrations with the Attorney General of the United States as well as with the Federal Trade Commission. Additionally, such notice of registration must be published in the Federal Register on or prior to the last day of the organization's taxable year. Subsection (C) makes available the cooperative research tax credit only to qualified organizations having at least 5 or more members, and further requires that members share in the payments or contributions to the research organization, for organizations as small as those having five members, on an equal (20 percent) basis.

Subsection (l) requires each qualified cooperative research organization to file a report with the Secretary containing verification of the consortia's filing under the Cooperative Research Act of 1984, as well as a determination of the organization's applicable credit for the year, and other information which may be required by subsequent rulemaking. Subsection (2) requires that a copy of the report of the qualified organization to the Secretary be provided to each person who contributed to the organization during the year. Subsection (3) provides a rulemaking grant to the Secretary to promulgate timing and dissemination requirements for the reports.

Section B. Coordination of Credit with Deductions.

Current Law

Section 280C of the Code provides for the coordination of credits with deductions. No such subsection exists for the coordination of the proposed cooperative research credit with the current regulations and code requirements applicable to deductions.

Explanation of Section

Section B of the bills adds new subsection (c) to provide that any deduction allowable for a qualified cooperative research expenditure is to be reduced by the amount of the cooperative research credit allowable under the new cooperative research credit. A similar rule is provided for capitalization of such expenses, and special rules apply to groups of corporations under common control.

Section C. Conforming Amendments.

Explanation of Section

Existing Code requirements are amended where applicable to coordinate expansion of the Code to include the new cooperative research credit.

Section D. Effective Date.

Explanation of Section

The changes proposed in this bill will take effect and be made applicable to taxable years beginning after the date of enactment of this Act.

Section (b)(3) Determinations.

Explanation of Provision

Subsection (A) establishes the baselines for determining the availability of the consortia research credit. The general baseline sets the credit at the lesser of the taxpayer's qualified cooperative research expenditures for the current taxable year, or (i) the qualified expenditures for the current year multiplied by .5, or for the first preceding year multiplied by .3, or for the second preceding taxable year multiplied by .2. The provisions establish a policy of encouraging continuing, steady or increasing research expenditures, and the provision makes express that the provision expenditure limit is applicable to expenditures made prior to enactment in the immediately preceding years. Subsection (B) establishes an analysis to distinguish between Government and private secured research expenditures. As a general matter, the subsection provides that the credit will be applicable to privately funded research on a weighted average of such organization's non-Governmental support, and the rate for the credit is set at .5.

Section (c) Election and Coordination.

Explanation of Provision

Subsection (1) requires an affirmative election by taxpayer to treat research expenditures as subject to this credit section. Subsection (2) coordinates this election section with other credits claimed and elected by taxpayer in connection with the orphan drug credit applicable to clinical testing expenses for certain drugs for rare diseases or conditions. Subsection (3) specifically coordinates the election of the credit for consortia research with other research credit provisions. Election of the research credit may only be taken either under the original individual research and development credit of section 41 of the Code, or under this new cooperative consortia research credit. Further, this subsection and its subparts offers distinct methods for treating research expenses formerly claimed under other sections of the Code, as well as the treatment of income such as funds provided by grant, contract or otherwise previously claimed under section 41 of the Code. Subsections (4) and (5) indicate that the alternative minimum tax shall continue in force and effect.

Section (d) Reporting Requirements.

THE 75TH ANNIVERSARY OF THE RED CROSS IN FLORIDA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SHAW. Mr. Speaker, I rise today to offer my congratulations to the American Red Cross on the 75th anniversary of their service to the people of my home State, Florida. I especially want to commend the efforts of the Broward County Chapter of the Red Cross, which on November 22 celebrated their recent move into a new location in downtown Fort Lauderdale.

Their new name, the Caring Connection, indicates exactly what the Broward Red Cross' mission is—caring. That means aid for families in crisis and disaster relief, to be sure. Just as important, though, are the thousands of examples of personal caring shown by Red Cross volunteers through the years.

While we can't mention every name or list every good work, we certainly can and should say thanks. That is what happened Friday in Fort Lauderdale. Red Cross volunteers, workers and supporters, joined by Mrs. Norman Schwarzkopf, kicked off the Red Cross' next 75 years in Florida and a new era in Broward County.

On behalf of the people of Broward County, those who have been touched by the Red Cross in the past and those who will be in need in the future, I offer our sincere thanks on a job well done.

THE CELEBRATION OF HIS 90TH BIRTHDAY BY AL C. ROBBINS

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. THOMAS of California. Mr. Speaker, it is with great pleasure that I rise today to recognize my constituent Mr. Al Robbins upon the celebration of his 90th birthday.

Born on Christmas Day, 1901, Mr. Robbins has devoted almost his entire life to the study and preservation of reptiles and over the past 42 years has given lectures on reptiles to schools, service organizations, church groups, and many others. Using a mix of magic and vaudevillian showmanship, Mr. Robbins has presented his extensive collection of reptiles to eager audiences of all ages who leave with a greater understanding and appreciation of our cold-blooded friends. Even after 42 years, Mr. Robbins is scheduled almost a year ahead.

In addition to introducing hundreds of thousands of school children to the world of the reptile, Mr. Robbins has also made tremendous contributions to the scientific community in the area of Herpetology. Mr. Robbins was the first person to accurately draw to scale the anatomy of a Colubrid (Gopher) Snake, copies of which have been sold throughout the world; was one of the founding fathers of the "Central California Reptile and Amphibian Society", which has since been renamed the "Al Robbins Herpetological Society"; and was the cooriginator of a medical procedure known as Venomductecomy, which is used throughout the world to render poisonous reptiles safe to handle and display.

Mr. Speaker, Al Robbins has made a lasting impact on those who have had the pleasure of seeing one of his programs, as well as on the science of Herpetology. He has become a true legend and it is my honor to congratulate him on the celebration of his 90th birthday.

SALUTE TO NATION'S TOP FOUR "FAMILY-FRIENDLY" COMPANIES: AETNA, CORNING, JOHNSON & JOHNSON, IBM

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. JOHNSON of Connecticut. Mr. Speaker, I want to call to the attention of lawmakers, corporate executives, and working families everywhere in America the achievements of four major U.S. employers who have demonstrated uncommon corporate leadership and sensitivity on behalf of their employees.

They are: Aetna Life & Casualty of Hartford; Corning of Corning, NY; Johnson & Johnson of New Brunswick, NJ; and IBM of Rochester, NY. Each of these companies has demonstrated innovative strategies to respond to employee needs in the areas of child care, eldercare, health and wellness, and time off for family responsibilities.

In a groundbreaking study released by the Families and Work Institute, corporations were on a scorecard—the Family Friendly Index—against industry norms in seven categories, including flexible work schedules, family and medical leaves, financial assistance, corporate giving and community service, dependent-care services, management change, and stress management.

Aetna, Corning, Johnson & Johnson, and IBM all scored well among the Fortune 1000 as the four large corporations with the most enlightened policies. I was particularly pleased to note that 70 percent of Aetna's 43,000 employees, many of whom live in the congressional district I represent, are women.

In addition, there are other fine examples of corporate leadership—like Stride-Rite which converted part of its headquarters in Cambridge, MA, into an intergenerational daycare/activities center where employees can bring their young children or their elderly parents.

All of us who know the struggle of balancing work and family responsibilities understand the significance of this achievement and its recognition. While most businesses still have a long way to go, as does the Congress in prodding them, the institute's report provides a valuable service to working families everywhere and deserves its own praise and recognition.

A TRIBUTE TO YOLANDA E. RAMIREZ, OUTSTANDING HIGH SCHOOL TEACHER

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ORTIZ. Mr. Speaker, I rise today to commend and recognize Ms. Yolanda E. Ramirez of Robstown, TX.

Three years ago, she was asked to teach the first class of pregnant students in Robstown. Because these young women did not wish to be seen by their classmates at the regular school, Robstown High School, the class was held at another site.

Despite the extra responsibilities, the students worked hard to excel in their academics. Most of them made the A or A and B honor roll. As the school year came to a close, they did not feel as if they should march with the other students from Robstown High School to accept their diplomas. They believed they did not deserve such recognition because they had disappointed their parents; despite the fact they were all married.

To show them her pride in each of them, and to encourage them to continue their education, Yolanda composed and dedicated a song to them. After listening to her sing "Mañanitas a los Graduados" with the accompaniment of a guitar, the young women were filled with a sense of self-respect and dignity for their achievements. Over 80 percent of the women are now in college.

Yolanda's success and song spread quickly. Mariachi groups called her to play her song at graduation festivities. As the word spread, more people began to request copies. Since her message has had such immense impact, her family encouraged her to record this song and another song she composed for all the madrecitas—young mothers—that she had known while growing up.

I ask my colleagues to join me in extending congratulations to Yolanda E. Ramirez for her contribution to women in her community.

THE CLEAR CREEK COUNTY, CO PUBLIC LANDS TRANSFER ACT OF 1991

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SKAGGS. Mr. Speaker, I am pleased to introduce today the Clear Creek County, CO, Public Lands Transfer Act of 1991. This legislation will clarify land ownership questions in one of the Colorado counties I represent, will assist with open space and historic site protection, will help complete consolidation of Bureau of Land Management administration in eastern Colorado, and will save the Federal Government money.

As part of its plan to merge its eastern Colorado operations into one administrative office, the Bureau of Land Management intends to dispose of most of its surface lands in northeastern Colorado. This bill will help achieve that goal by transferring without further delay some 14,000 acres of land from the Bureau of Land Management to the U.S. Forest Service, to the State of Colorado, to Clear Creek County, and to the towns of Georgetown and Silver Plume, CO.

A cooperative working group of Federal, State, and local officials has studied the various parcels involved, and has suggested a distribution plan that works best for each of the agencies involved. The bill reflects their distribution agreement.

First, it transfers 3,500 acres of BLM land to the Arapaho National Forest, with the Forest Service responsible for its administration. This transfer clears up some clumsy boundary lines on the forest and relieves BLM of responsibility for small parcels that would be more appropriately managed as forest land.

Second, it transfers approximately 3,200 acres of land to the State of Colorado, the county, and the towns I've mentioned. Again, this is intended to clear up confusing boundaries, and will facilitate management of those lands for wildlife, recreation, and other public purposes.

A third category of lands, totalling some 7,300 acres, will be transferred to Clear Creek County. After it prepares a comprehensive land use plan for these lands, the county may resell some of the land—as BLM eventually could do itself if the lands stayed in Federal ownership. By having the county rather than BLM sell these lands, they will be made available for private use far quicker and without the Federal Government incurring major expense in surveying them. All net proceeds to the county from those land sales will be used for parks, open space, historical preservation and interpretation, and environmental education.

BLM has long intended to transfer these lands; however, under current law, the BLM must first complete detailed boundary surveys. Since the lands in question include many small, odd-shaped parcels, the BLM estimates that boundary surveys would take at least another 15 years to complete, and could cost as much as $3 million.

My bill would simplify this transfer and avoid that expense. Under this legislation, which is based on a draft proposed by local BLM officials and supported by local governments, the BLM could transfer the lands in question without final detailed surveys. Instead, the parcels would be defined only by range and township location and by existing maps. Any final surveys would become the responsibility of the agencies receiving the lands, and would be conducted only as needed after those transfers.

This bill will save the Federal Government money in at least three ways. First, it will greatly improve the efficiency of Federal land management in Clear Creek County, primarily by consolidating Federal management of intermingled Forest Service and BLM lands. Second, the BLM will avoid, as I've explained, at least $3 million in surveying expense. Third, transfer of lands to local governments will reduce the Federal payments in lieu of taxes [PILT] funding being paid to the counties in compensation for local services provided for these tax-exempt lands.

The new, practical process authorized in this bill may serve as a model for transfers in other areas. If this approach is ultimately used in two other counties where BLM is considering similar land disposal as part of its consolidation, the Federal cost savings in northeast Colorado will total nearly $19 million. That's compelling in and of itself.

Mr. Speaker, this bill is the culmination of over 5 years of work by the BLM, the Forest Service, Clear Creek County officials, the State of Colorado, and their citizen advisors. It is a well-reasoned, efficient approach that is supported by all of the parties involved. I urge prompt action by the House on this bill.

THE EAST BATON ROUGE RECREATION AND PARK COMMISSION RECEIVES THE NATIONAL SPORTING GOODS ASSOCIATION GOLD MEDAL AWARD

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BAKER. Mr. Speaker, this year in Baltimore, MD, the National Sporting Goods Association awarded the prestigious Gold Medal Award in the Class I—cities of 250,000 or more—category to the East Baton Rouge Recreation and Park Commission.

This award is the Nation's highest honor for municipal park systems and is awarded on the basis of service, improvement, continuing development, extent of future planning and degree of citizens involvement in the park programs. The East Baton Rouge Recreation and Park Commission was cited for the excellence of its programs for all age groups, particularly for the excellence of its programs for the mentally and physically handicapped.

The Gold Medal Award was accepted by Mr. Eugene Young, superintendent. In his acceptance speech, Mr. Young praised the citizens of East Baton Rouge Parish for their support of the park system, both financially and by volunteer work. Mr. Bill Cocreham, chairman of the East Baton Rouge Recreation and Park Commission, thanked for their support the mayor of East Baton Rouge Parish, Mr. Tom Ed McHugh, the members of the metro-council and the hundreds of residents who have assisted the commission by serving on committees, as docents, and as volunteers in the many programs.

I commend the East Baton Rouge Recreational and Park Commission for a job well done.

FAMILY LIVING WAGE ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PETRI. Mr. Speaker, today I introduced a new version of the Family Living Wage Act.

This bill would increase the current earned income tax credit [EITC] and vary it more by family size. Its objectives are to provide tax relief for middle-income families with children; to supplement wages according to need, as determined by family size; to help people support families by working rather than on welfare; and to help with the costs of child care, which are heaviest for preschool children.

The most recent reform of the EITC, contained in the Omnibus Budget Reconciliation Act of 1990 [OBRA], did increase the basic credit and adjust it slightly for families with a second child. In 1993, the EITC allows a maximum credit of $1,450 for a one child family and $1,529 for a family with two children. For 1994, the maximums are $1868 and $2,030, respectively. In addition, OBRA added a separate credit for children under the age of one and another credit for health insurance expenses.

Starting in 1993, the Family Living Wage Act would provide workers at, or near, the minimum wage a base credit of $1,600 and add an additional $800 for each preschool child and $400 for each school-age child, for up to four children. The maximum credit for a family with four preschool children would be $4,800 per year which is equivalent to an extra hourly wage, before any deductions, of $2.60. A low-wage worker with two preschoolers would receive $3,200, equivalent to an extra wage of $1.73. Moreover, these supplements are indexed to inflation and workers can receive them in their paychecks.

As family income rises above $10,000 per year, the credit phases down gradually until a minimum credit of $400 per preschooler and $200 per school-age child is reached at incomes in the mid-twenties, depending on family configuration. This minimum benefit applies to all middle-class families with incomes up to $50,000, after which it phases out by $61,000.

The Family Living Wage Act repeals the separate credit for children under one, the health insurance credit, and the dependent care credit [DCC]—collapsing four credits into one and radically simplifying credits for low-income people.

Although the bill repeals the current dependent care credit, its minimum EITC benefits provide more total help than the DCC does for middle-class families in the relevant income range. Moreover, the EITC spreads the money fairly across all these families, rather than giving all of it to the minority of families that pay others for child care. Since the dependent care credit unfairly discriminates against people who forgo work to take care of their children and is highly regressive—most of its benefits go to the highest income families—it is far better policy to eliminate it and fold its cost into the EITC as is done by the Family Living Wage Act.

This legislation is designed both to provide tax relief for middle-class families with children, and to help low-skilled people support families by working rather than through welfare. Although most people want to work, many find their skills do not enable them to earn as much as they could receive on welfare. Many of these people work anyway, hoping to improve their earnings over time, but they face great hardship in the meantime. Others remain caught in a welfare trap, facing financial penalties for trying to escape. Still others can earn slightly more than welfare would give them but not enough to pull them close to the poverty line. The basic problem is that economic need and, consequently, welfare payments vary by family size, but wages do not.

By directly supplementing the wages of low-income workers with children, the Family Living Wage Act achieves the broader objective of providing general help to these families based on economic need as determined by family size. It thereby achieves the same objective as an increase in the minimum wage but does it in a far better and more targeted way, while avoiding the job losses and inflation associated with minimum wage increases.

Mr. Speaker, I urge my colleagues to join me in extending greater, more permanent benefits to family heads through the Family Living Wage Act and ask that a copy of the bill and a summary be inserted into the RECORD.

FAMILY LIVING WAGE ACT [FLWA]—REPRESENTATIVE THOMAS E. PETRI

SUMMARY

Restructure existing earned income tax credit [EITC] as follows:

In 1993, for families with children, provide refundable credit against up to $8000 of annual earned income at percentage rates differentiated by family size as follows:

base credit—20% ($1600 max. base)

each pre-school child (age 0–5)—extra 10% (extra $800 max.)

each school-age child (6–15)—extra 5% (extra $400 max.)

Four child limit; maximum benefit for family with 4 preschool children is $4800 ($1600 base plus $800 for each child).

Reduce credit of 12% (for lowest credit level) to 20% (for highest credit level) of the amount of total income that exceeds $10,000.

Minimum credit of $400 per pre-school child and $200 per school-age child extends from mid-twenties up to $50,000 income, then phases out at 15%, ending (in highest case) at $60,667 income.

Repeal current dependent care credit (which is highly regressive and unfair to people who forgo outside income in order to work in the home), wee tot credit and health insurance credit—collapsing four credits into one and radically simplifying credits for low income people.

Index phase-in percentages and phase-out starting point for inflation.

People whose only children are over 15 receive only base credit.

COST

$2.7 billion, starting in FY '93

The minimum benefit provision costs $3.5 billion, slightly more than the cost of the dependent care credit (DCC) for people in the same income range. Under the current DCC, the maximum benefit for middle income families is $480 per child for 2 children if the parents spend $2400 per child on child care. The FLWA provides $400 per preschool child and $200 per school age child, for up to four children, to all middle income families, with no requirement for paid child care.

PURPOSES

Provide tax relief for middle income families with children.

Increase work incentives for welfare families according to the need for incentives, as determined by family size and welfare payment size.

Achieve the same objective as minimum wage increases (to help low skilled workers support families) directly and efficiently, targeting help to those who need it in proportion to their need, including millions already earning more than the $4.25 minimum wage, without the inflation and job losses associated with minimum wage hikes.

In particular, help families with the costs of child care (heaviest for preschool children), independently of whether others are paid to provide care or one family member forgoes income in order to provide care, and concentrating that help at the lowest income levels.

H.R. 4021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Living Wage Act".

SEC. 2. INCREASE IN EARNED INCOME TAX CREDIT

(a) GENERAL RULE.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of

1986 (relating to earned income tax credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the earned income for the taxable year as does not exceed $8,000.

"(2) LIMITATIONS.—The amount of the credit allowable to a taxpayer under this subsection for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of $8,000, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $10,000.

"(b) PERCENTAGES.—For purposes of subsection (a)—

"(1) CREDIT PERCENTAGE.—

"(A) IN GENERAL.—The credit percentage is the percentage equal to the sum of—

"(i) 20 percent,

"(ii) 5 percent for each school age qualifying child, plus

"(iii) 10 percent for each preschool age qualifying child.

"(B) NOT MORE THAN 4 CHILDREN TAKEN INTO ACCOUNT.—Not more than 4 children shall be taken into account under subparagraph (A), and preschool age qualifying children shall be taken into account before any other children are taken into account.

"(2) PHASEOUT PERCENTAGE.—

"(A) PHASEDOWN TO MINIMUM BENEFIT.—

"(i) IN GENERAL.—The phaseout percentage is the percentage determined in accordance with the following table:

If the combination of qualifying children taken into account under paragraph (1) is—	The phaseout percentage is—
1 S	13
2 S, or 1 P	14
3 S, or 1 S and 1 P	15
4 S, or 2 S and 1 P, or 2 P	16
3 S and 1 P, or 1 S and 2 P	17
2 S and 2 P, or 3 P	18
1 S and 3 P	19
4 P	20

"(ii) SYMBOLS USED IN TABLE.—For purposes of clause (i)—

"(I) S means school age qualifying child, and

"(II) P means preschool age qualifying child.

"(B) MINIMUM BENEFIT FOR TAXPAYERS WITH INCOMES BELOW $50,000.—Except as provided in subparagraph (C), subparagraph (A) shall not apply so as to reduce the credit allowed by this section to a taxpayer to less than the minimum benefit determined in accordance with the following table:

If the phaseout percentage applicable to the taxpayer is—	The minimum benefit is—
13	$200
14	400
15	600
16	800
17	1,000
18	1,200
19	1,400
20	1,600

"(C) PHASEOUT OF MINIMUM BENEFIT.—If the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year exceeds $50,000, the minimum benefit determined under subparagraph (B) shall be reduced by 15 percent of such excess.

"(3) SPECIAL RULES FOR INDIVIDUAL WHOSE ONLY CHILDREN HAVE ATTAINED AGE 16.—For purposes of this section, in the case of an individual who is an eligible individual solely by reason of children each of whom has attained age 16 as of the close of the taxable year—

"(A) the credit percentage shall be 20 percent,

"(B) the phaseout percentage shall be 12 percent, and

"(C) subparagraphs (B) and (C) of paragraph (2) shall not apply."

(b) PRESCHOOL AGE AND SCHOOL AGE QUALIFYING CHILDREN DEFINED.—Subsection (c) of section 32 of such Code is amended by adding at the end the following new paragraph:

"(4) PRESCHOOL AGE AND SCHOOL AGE QUALIFYING CHILDREN.—

"(A) PRESCHOOL AGE QUALIFYING CHILD.—The term 'preschool age qualifying child' means any qualifying child who has not attained age 6 as of the close of the taxable year.

"(B) SCHOOL AGE QUALIFYING CHILD.—The term 'school age qualifying child' means any qualifying child who has attained age 6 but not age 16 as of the close of the taxable year."

(c) ADVANCE PAYMENT PROVISIONS.—

(1) Subsection (b) of section 3507 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number and ages of qualifying children (as defined in section 32(c)) of the employee for the taxable year."

(2) Paragraph (2) of section 3507(c) of such Code is amended—

(A) in subparagraph (B)(i), by striking "(without regard to subparagraph (D)" and by striking "section 32(a)(1)" and inserting "section 32(a)",

(B) in subparagraph (B)(ii), by striking "section 32(b)(1)(B)(ii)" and inserting "section 32(a)(2)" and by striking "section 32(a)(1)" and inserting "section 32(a)", and

(C) by adding at the end the following new sentence:

"For purposes of this paragraph, the credit percentage shall be determined under section 32(b) on the basis of the number and ages of qualifying children specified in the earned income eligibility certificate and the determination of the amounts referred to in subparagraph (B)(ii) shall be made on the basis of the number and ages of qualifying children so specified."

(3) Clause (i) of section 3507(e)(3)(A) of such Code is amended by inserting before ", or" the following: "(or changing the percentages applicable to the employee under section 32(b) for the taxable year)".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 32(f) of such Code is amended—

(A) by striking "subsection (b)" each place it appears in subparagraphs (A) and (B) and inserting "subsection (a)(2)", and

(B) by adding at the end the following new sentence:

"Separate tables shall be prescribed for each of the phaseout percentages specified in the table contained in subsection (b)(2)(A)(i)."

(2) Paragraphs (1) and (2) of section 32(i) of such Code are amended to read as follows:

"(1) IN GENERAL.—In the case of any taxable year beginning after 1994, each amount referred to in paragraph (2) shall be increased by an amount equal to—

"(A) such amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting '1993' for '1989' in subparagraph (B) thereof.

"(2) AMOUNTS.—The amounts referred to in this paragraph are—

"(A) the credit percentages used for purposes of subsection (a),

"(B) the $10,000 amount contained in subsection (a)(2)(B), and

"(C) the $50,000 amount contained in subsection (b)(2)(C)."

(3) Section 213 of such Code (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(4) Paragraph (3) of section 162(1) of such Code is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992; except that the amendments made by subsection (c) shall take effect on January 1, 1993.

SEC. 3. DEPENDENT CARE CREDIT LIMITED TO HANDICAPPED DEPENDENTS AND SPOUSES.

(a) IN GENERAL.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 (defining qualifying individual and employment-related expenses) is amended by striking subparagraph (A), by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and by adding at the end of the following new sentence:

"In the case of an individual described in subparagraph (A) who has not attained age 16 as of the close of the taxable year, such individual may be treated as a qualifying individual for purposes of this section only if the taxpayer elects not to treat such individual as a qualifying child under section 32 for such year."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 21(b)(2) of such Code is amended by striking "care of—" and all that follows and inserting "care of a qualifying individual who regularly spends at least 8 hours each day in the taxpayer's household."

(2) Paragraph (2) of section 21(d) of such Code is amended by striking "subsection (b)(1)(C)" and inserting "subsection (b)(1)(B)".

(3) Paragraph (5) of section 21(e) of such Code is amended—

(A) by striking "is under the age of 13 or" in subparagraph (B), and

(B) by striking "subparagraph (A) or (B) of subsection (b)(1) (whichever is appropriate)" and inserting "subsection (b)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4. ELIMINATION OF PROPOSED CHANGES IN TREATMENT OF EARNED INCOME CREDIT IN DETERMINING CERTAIN WELFARE BENEFITS.

Paragraphs (1) and (2)(A) of section 402(c) of the Family Support Act of 1988 are repealed.

THE SAM GOLD AMPHITHEATER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BERMAN. Mr. Speaker, on Sunday, November 24, I had the pleasure and honor of dedicating the Sam Goldman Amphitheater at the William O. Douglas Outdoor Center in the Santa Monica Mountains of Los Angeles.

I'd like to share with my colleagues the remarks I made at this occasion so that they can know of my pride in this facility and in Sam and Sooky Goldman, whose hard work and tireless dedication made it possible.

Sam and Sooky Goldman—what a team!

They are an endless source of inspiration. Their lives, their dedication, their generosity and their commitment to the service of their friends and their community have been a magnificent example to me and to countless others.

We thank you, we salute you, and we are enormously proud to be a part of this ceremony to dedicate the Sam Goldman Amphitheater.

This amphitheater will add in countless ways to the many excellent environmental education programs and cultural activities that the William O. Douglas Outdoor Center has provided for over 10 years.

It will be—literally—another stage for creative WODOC programs to teach kids about the environment.

It will help inner-city children reach a stage where they can appreciate and protect nature, and enjoy the Santa Monica Mountains that lie just beyond the concrete and steel of their everyday lives.

Later this afternoon we will see firsthand the type of Workshops and events for which this amphitheater was designed.

It is so fitting that this wonderful stage—this wonderful theater—is to be known as the Sam Goldman Amphitheater.

What could be more appropriate than a theater named for a man who was once the star salesman for the legendary "Mad Man Muntz?"

Sam's humor and flair for living have delighted me for over 25 years. I still smile every time I call the Goldman home and hear Sam's voice on the answering machine saying, "This is Sooky's Secretary * * *"

Sam was only 18 years old when he came to California in search of the golden dream. He sold bread out of a Helms Bakery truck in those days.

After service in World War II, Sam returned to Philadelphia where he met and married his delightful wife, Sooky. If this had been his only accomplishment, it would have been enough to mark him as an extraordinary man.

But there was more: With amazing foresight, Sam started the first car leasing agency in Los Angeles: Executive Car Leasing. Clear back in 1965, he saw that the auto was going to be the driving force in California's future.

He's still there, running the place—and, I might add, supplying cars, vans and shuttles for all of WODOC's events.

Sam has been a loving parent to WODOC since the moment when this center was just an idea. He and Sooky hosted a long parade of breakfast meetings to plan the creation of a nature center where city kids could learn to love the earth, the trees, and the wildlife they knew only from pictures.

Sam Goldman is the best proof I know that a successful, well respected businessman can also be an ardent environmentalist.

We are here to dedicate this Amphitheater to the generations of children and citizens who will use it to learn to love and care for the environment. They will provide an extremely fitting and proper legacy for Sam Goldman, who endowed this wonderful facility and in whose honor was made the contributions for its construction. It is here because of the esteem in which this community holds Sam Goldman.

We are all grateful to him and to Sooky for their generosity, vision and tireless work in creating and nurturing this very special place. Thank you for the very great love that lives in your hearts.

INTRODUCTION OF THE FISCAL RESPONSIBILITY AND BUDGET FAIRNESS ACT OF 1991

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KENNEDY. Mr. Speaker, today I am introducing the Fiscal Responsibility and Budget Fairness Act of 1991. It is an effort to halt the growing crisis of debt which threatens our prosperity and our future as a nation.

The idea that we should balance our budget is not new. Forty-eight States already mandate a balanced budget. On the Federal level, people like Congressman Charles Stenholm have been warning us for years about the dangers of large yearly deficits, the inadequacy of statutory remedies, and the need for a constitutional mandate to prevent fiscal self-destruction.

However, though the idea is not new, it has taken on new advocates and a new urgency. Many of us, particularly liberals like myself, have an abiding faith in the ability of government to protect the weak and promote the common good. We believe in an activist government. But today we say that Government's ability to act is becoming paralyzed by debt. It is because of, not despite, our party's tradition of caring for poor and working families that we believe that a balanced budget is necessary.

Next year, net interest on the country's $3½ trillion debt will hit $230 billion. That amount will exceed, for the first time, all funds spent on domestic discretionary programs—programs like housing and education, cancer research and transportation, law enforcement and space exploration.

The truth of the matter is that we have a budget crisis of unprecedented proportions in this country. It is crippling our ability to meet the challenges of tomorrow. And it is literally robbing our children of the means to sustain a decent and affluent society. Many Democrats have tolerated massive deficits as the price of holding onto programs for poor and working families. However, it is time for us to recognize that, while we hoard the crumbs, the whole loaf is being taken right from under our eyes.

Democrats have long supported honest, pay-as-you-go budgeting. Taking our cue from Keynesian economics, we have historically endorsed deficits only when necessary to spur economic activity during a recession.

But in the last decade, the Republican party has ushered in a dangerous new era of large, fixed deficits. Long skeptical of deficits as the trademark of oversized government, the new Republican orthodoxy embraces deficits as the agent of lower taxes and reduced spending. The result of this rigid ideology has been disastrous: A national debt that has tripled in 10 years; a debt that has helped plunge our economy into a recession, and a debt that is stifling our children's ability to build a better future.

We as a party have been too passive in the face of Republican fiscal irresponsibility. Faced with tremendously popular Republican presidents, and rightly unwilling to abandon our poor and working class constituents, we have quietly accepted deficits as the cost of preserving the programs we care about most.

But now we are on the verge of seeing those programs strangled by a national debt that is devouring scarce funds. Furthermore, working class tax dollars are going into the pockets of the wealthy investors who buy the Government's debt. In the United States, that's the richest 10 percent. Increasingly, those investors are from Germany and Japan. To the extent that we depend on them to extend us credit, we compromise our own economic and geopolitical independence. The day is not far off when, if Japan or Germany sneezes, it will be the American worker who catches a cold.

And let us not overlook that these huge deficits drain identically huge sums from private capital markets. The result is more scarce, and more expensive, funds for our small businesses and entrepreneurs. That means fewer jobs and lower living standards for American workers.

The time has come for Democrats to rediscover their progressive fiscal discipline. If we want our children to build new businesses and better schools, to fight poverty and crime, to receive decent health care, then we must stop the mindless flow of tax dollars to pay off old debts.

None of us has any illusions about this legislation or similar proposals. It is not a panacea. But the immutable command of a constitutional amendment will force upon us the discipline which a series of well-intentioned laws have been unable to impose. It will help put an end to budget gimmicks that hide the true size of deficits. And it will require us to confront more honestly than ever before the tough choices we need to make.

This legislation differs from other balanced budget proposals in two significant respects. First, it would require that any amount by which outlays exceeds receipts be eliminated by equal amounts of spending cuts and revenue increases, unless three-fifths of each House decides otherwise because of a recession or other circumstances. This provision will ensure that the burden of deficit reduction is shared by all. That includes the wealthiest citizens, who have received deep tax cuts over the last decade, tax cuts that have contributed mightily to the Nation's current indebtedness. Requiring deficits to be made up in part by revenue increases also ensures that deficits will be as unattractive to conservatives as to liberals.

Second, this bill would permanently limit the size of Government. Federal receipts could increase by no more than the percentage increase in GNP, unless three-fifths of each House decides otherwise. Such a measure is needed to ensure that Federal receipts, which have risen from 2.9 percent of GNP to over 20 percent today, do not drain unhealthy sums from the private economy. There is no optimal level of Government spending. However, most Americans agree that it should not grow faster than our ability to pay for it.

Mr. Speaker, the time has come for us to stop sending our children the bills for a decade of waste, greed, and excess. We are at a crossroads. Either we change our ways now. Or we will surely stand shamed before history, remembered only as the first generation of Americans that left this country a poorer place than the last.

THE RECYCLED MATERIALS IN PACKAGING ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WYDEN. Mr. Speaker, today I am introducing a bill setting across-the-board minimum recycled content standards for a broad variety of packaging materials.

Next year, the Congress will be wrestling with revision of the Resource Conservation and Recovery Act, the Nation's central solid waste law. To promote safe, affordable handling of America's solid waste, both halves of the recycling issue must be addressed: There must be strong incentives to recycle and strong incentives for manufacturers to put that recovered material to productive use.

Each half of the effort—separating recyclables and reusing the material—supports and promotes the other. One creates a supply of material, the other creates a demand for it.

The bill I introduce today focuses on the second half of the problem by building markets for the recovered material. Though many solid waste issues have to be seen from the local level, promoting markets is a uniquely national and international concern. It is one area that must be addressed in any Federal solid waste bill.

When Congress reauthorized RCRA in 1984, I authored an amendment mandating increased Government purchase of recycled materials. This amendment directed EPA to establish new requirements for Federal agencies to buy recycled products. Though it required an Environmental Defense Fund lawsuit to enforce this provision, the law has significantly increased the use of recycled materials by Federal agencies. It has become a major influence in building markets for recycled products, and has also helped set standards for manufacturers' claims that products have recycled content.

In 1989, I proposed legislation to build on my 1984 law. The 1989 proposal encouraged new markets by proposing the Federal Government purchase additional types of recycled materials and required an interagency task force to promote innovative uses of recycled materials.

The bill I introduce today uses yet another approach to build markets: It requires packaging to be made with recycled materials.

The Recycled Materials in Packaging Act was inspired by legislation enacted this year by the Oregon Legislature. The Oregon bill sets standards for recycled content for various commodities and packaging in my home State.

But a State-by-State approach to this process has obvious limitations. One State has only limited influence in the national market. It's difficult for a State to enforce content standards on products manufactured or distributed out of State. The most effective program is obviously a national program, using the power of the national market.

Over the past several months, I have met repeatedly with representatives of the environmental community and various industries trying to reach consensus on an approach to minimum content standards for packaging. All parties offered constructive suggestions, but complete consensus was never reached. The bill I introduce today is not the last word on the issue, but a working document, which I hope we can continue to perfect.

I note too that several of my colleagues have introduced, or will soon introduce, bills with minimum content provisions. I hope to continue to work with them, and with the affected parties, to produce a provision we can generally agree to include in the coming Resource Conservation and Recovery Act reauthorization.

REFORM OF FISCAL YEAR RETENTION RULES

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANTHONY. Mr. Speaker, the Tax Reform Act of 1986 (TRA 1986) imposed a requirement that partnerships, S corporations, and personal service corporations adopt, in general, a calendar year for tax purposes. As a result of public outcry concerning the difficulties created by this requirement, the Revenue Act of 1987 modified TRA 1986 with the creation of section 444 which allowed retention or adoption of a fiscal year by partnerships, S corporations and personal service corporations if certain annual requirements were met. Section 444 provided a mechanism for relief. However, time has demonstrated that the original rules are overly restrictive and need modification.

The increased complexity of TRA 1986 has resulted in more time being devoted by taxpayers and their advisers to both planning and preparation of individual and small business tax returns. This increased workload has been further compounded by many taxpayers having switched from fiscal years to calendar years. More tax planning and preparation must now be done in a shorter period of time.

A nationwide survey conducted by a national organization of certified public accountants indicates that approximately 60 percent of the annual workload occurs during the first 3 to 4 months of the year. This has historically been a heavy workload period, but it has now become unacceptably heavy for taxpayers and their advisers.

Automatic extensions are available for many tax returns, but this provides only minimal relief to small business taxpayers and advisors. Extensions are costly and inconvenient. The tax liability must still be computed with great accuracy by the original due date. Further, it makes it difficult to obtain the information necessary to estimate the lax liability of owners in order for them to apply for an extension.

This workload compression problem is not limited to tax work. It has become an even greater problem with accounting and auditing work. Owners and creditors typically demand financial statements and audit reports within 90 days after year end. Now this work must also be done between January 1 and April 15.

On average, only about 20 percent of small businesses which were on a fiscal year prior to TRA 1986 remain on a section 444 fiscal year.

The administration of the tax system is also damaged by the resulting uneven workload experienced by the Internal Revenue Service. The IRS, taxpayers, and tax practitioners can better meet tax filing requirements if the demands are spread throughout the year.

With the enactment of the section 444 fiscal year retention rules, Congress acknowledged that there are legitimate business reasons for allowing fiscal years. Fiscal years are ordinarily chosen to coincide with the "natural business year" of the taxpayer. The year end conformity requirement of TRA 1986 unduly interfered with business operations, and the fiscal year retention rules of RA 1987 did not go far enough in remedying the problem.

The legislation I am introducing today modifies a portion of the rules for fiscal year retention in a way which addresses the continuing problems in this area without sacrificing revenue. The general rules of sections 444, 7519, and 280H would remain relatively unchanged. The proposed legislation would reopen the election process to allow existing entities to either elect, reelect, or modify an existing election for a fiscal year. An additional required payment to the Government during the transition period to a different fiscal year would be imposed. It is anticipated that the proposed changes to the law will sustain revenue levels. A revenue estimate on the proposal to confirm this neutrality has been requested. In the event that the revenue estimate is negative, certain technical modifications to this bill are available to retain neutrality. The Secretary of the Treasury would prescribe rules consistent with current IRS practices for the frequency of changes.

In addition, no restriction would be imposed on the length of the deferral period. Entities would be allowed to elect a fiscal year which ends in any month. The proposed legislation would also make minor technical corrections and administrative changes which will make the provision fairer and more administrable.

The proposed legislation addresses serious problems being encountered by small businesses and their tax advisers; it offers taxpayers greater flexibility and fairness; it adds to the administrability of the tax system; and, it sustains revenues in this difficult time of budget constraints.

INTRODUCTION OF THE ENERGY EFFICIENCY AND CONSERVATION ACT OF 1991

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CHANDLER. Mr. Speaker, I rise today to ask for my colleagues' support of an important piece of legislation to promote energy efficiency and conservation measures by our Nation's electric companies.

The legislation I am introducing today, the Energy Efficiency and Conservation Act of 1991 is backed by electric utility companies and local environmental groups.

It has such broad support because it would reasonably clarify provisions in the Tax Code to allow electric utilities to deduct the costs of their pro-conservation initiatives. As you might expect, the Internal Revenue Service is the primary obstacle in our effort.

Mr. Speaker, let me take a few moments to explain why this legislation is so important.

Around the country, electric companies are actively promoting measures to conserve energy. Typically, electric companies analyze the electricity their customers use on a monthly basis, and, if cost-effective, the company will pay to improve energy-efficiency by that customer.

At Puget Power, which serves thousands of consumers in my congressional district, such pro-conservation initiatives may be in the form of installing weatherization measures, lighting changes, altering industrial processes and many other programs.

For income tax purposes, Puget Power deducts its conservation costs in the year incurred. Such costs consist primarily of wages and salaries of employees who conduct and administer these programs plus other administration costs, as well as grants given to contractors or customers for energy-efficient measures.

The pro-conservation efforts at Puget Power have conserved countless amounts of energy, fostered a cleaner environment, and saved thousands of dollars for consumers because of lower electricity bills.

For those efforts, Puget Power is being attacked by the Internal Revenue Service.

Several years ago, in the course of a routine audit of Puget Power's 1979–80 Federal corporate income tax returns, the Seattle IRS office concluded that Puget's conservation expenditures should be capitalized for tax purposes rather than expensed.

The Seattle IRS office said that conservation expenditures should be treated the same for tax purposes as they are treated by the Washington Utilities and Transportation Commission [WUTC] for electric ratemaking purposes. For ratemaking purposes, the WUTC does amortize Puget's conservation expenditures over a number of years.

The effect of capitalizing the expenditures for tax purposes would be to spread the deductions now taken in a single year over 10 years, thus making it more expensive for electric companies to help consumers conserve energy.

Mr. Speaker, in light of these findings by the Seattle IRS office, I believe there are two good reasons we should clarify the Tax Code to allow yearly conservation expensing by utilities.

First, such a policy would encourage electric companies to continue their efforts to help consumers conserve energy. And, second, the conservation deduction actually results in a savings for American consumers because companies like Puget Power pass on the value of the deduction to their customers in the form of lower monthly bills.

Before coming to Congress for assistance, Puget Power contested the novel theory espoused by the Seattle IRS office.

This past spring, consumers and power-providers received a partial victory when the national office of the IRS issued a technical advice memorandum confirming that Puget Power had been correct in expensing its conservation expenditures for tax years 1979–80.

The memorandum rejected the Seattle IRS's position with respect to 1979–80 and made clear that Federal tax treatment is not determined by how the 50 different State public utility commissions establish electric rates.

But as I said earlier, the IRS memorandum was just a partial victory because the memorandum went on to say that the IRS was looking at ways to assert that Puget Power's conservation expenditures should be capitalized for tax purposes.

The memorandum suggested the IRS may adopt the "capitalization" theory for other tax years, 1981 and beyond, if it finds a casual link between the conservation expenditures and the utility's increased profitability.

In other words, if State utility commissions want to encourage electric utilities to maximize conservation by rewarding them with higher earnings for such achievements, the IRS will tax away the earnings and the incentives.

Such policy, in my opinion, penalizes consumers and electric companies for doing the right thing.

The threat contained in the IRS technical advice memorandum is particularly troubling for the electric consumers in my district because of ratemaking considerations being made right now by the Washington Utilities and Transportation Commission.

Under the WUTC proposal, Puget Power would be encouraged to continue its aggressive conservation initiatives through incentives that could result in higher profits for the company.

In my opinion, Mr. Speaker, such forward-thinking ratemaking policy is a winner for consumers, utility investors, and the environment.

We should not let the IRS ruin this innovative approach to electric ratemaking. State government officials, the utilities and environmental groups are solidly in favor of this proposal.

Mr. Speaker, there can be no doubt that our Nation needs a national energy policy that is both efficient and environmentally sound. I believe that the legislation I am introducing today, while only affecting electric companies and their consumers, is a good step in that direction. I urge its adoption.

VETERANS MOBILE HEALTH CARE CLINIC ACT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, today, I rise to introduce legislation that would establish a permanent mobile health care clinic program to provide health care assistance to veterans living in rural areas. Earlier this year Senator CONRAD introduced this initiative in the other body and the bill I am introducing today is the House companion to that legislation.

It is my understanding that the Department of Veterans Affairs plans to operate mobile health care clinics in a few States. However, this program is very limited and legislation is necessary to expand this pilot program so that many more States will be eligible to provide health care services to veterans living in rural areas.

The Department of Veterans Affairs has already identified more than 131,000 veterans living in counties that are at least 2 hours from the nearest VA health care facility. In North Dakota for example, over 34,000 veterans live in counties 100 or more miles from the State's only VA medical center in Fargo, ND. This figure amounts to more than 50 percent of all the veterans in North Dakota.

Establishing rural mobile health care clinics in the veterans health care system would allow many veterans to receive health care who usually forego medical attention because they live too far from a VA medical center. This legislation is very important to improving access to health care for veterans and I urge my colleagues to support this bill.

CONGRATULATING REPRESENTATIVE DEAN GALLO ON HIS NEW POSITION AS COCHAIRMAN OF THE NORTHEAST-MIDWEST COALITION

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HORTON. Mr. Speaker, I rise today to congratulate my colleague from New Jersey, Representative DEAN GALLO, on his new position as cochairman of the Northeast-Midwest Congressional Coalition.

I nominated DEAN for this position, which I have held since 1983, because I think he will provide a fresh and innovative component to the leadership of the coalition. DEAN is more than familiar with the problems faced by Northeastern and Midwestern States—such as our vulnerability to high energy costs and infrastructure problems. I believe he has the wisdom needed to find solutions to these problems and the enthusiasm to confront the many challenges that lie ahead.

As Congress debates issues critical to our region in the coming months, I believe DEAN GALLO will be a strong voice for the Northeast-Midwest region. His role will become even more important in the next years because of the region's loss of 14 congressional seats. This loss will increase the need for cooperation among Members from the region.

Over the years, I have enjoyed my work with the coalition and its many dedicated Members. In particular, I have enjoyed working with my colleague and friend, HOWARD WOLPE of Michigan. HOWARD has been my able and enthusiastic cochairman since 1985.

As one of the original founders of the coalition, I have seen it develop into an effective proponent of regional equity. I have no doubt that under the able leadership of DEAN GALLO and HOWARD WOLPE, the coalition will continue to grow in both size and effectiveness.

"NEW CREATION": BEEN NAMED THE 1991 McDONALD CORPORATION GOSPELFEST WINNERS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, today, I pay tribute to the members of the gospel group "New Creation," who along with the Third Baptist Choir represented Springfield, MA, in the regional finals of the New England Gospelfest held in Hartford, CT. Gospelfest is a national event sponsored by McDonald Corp. to benefit the United Negro College Fund.

As a result of winning the New England regional competition New Creation will be appearing on a nationwide gospel program. The individuals in the group, who are not only gospel singers but also role models and leaders to the young people of my district. The members of the group are Gary Bass, David Bass, Jesse Daniels, James Milner, Corey Milner, Tim Henderson, Benny White, and Denise Gore.

Mr. Speaker, as a former teacher and educator I know the importance of quality role models. These individuals are true assets to the City of Springfield. Once again I would like to extend my congratulations to the young people of New Creation for their well deserved award.

NATIONAL AMBUCS MONTH

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to the Reading, PA, Chapter of the National American Business Clubs, also known as AMBUCS. On January 27, 1992, the Reading Chapter of AMBUCS will hold its dinner to commemorate February 1992 as National AMBUCS Month.

National AMBUCS month will give us all a chance to recognize the fine contributions which AMBUCS makes to the Reading area and the entire United States. AMBUCS was founded in Birmingham, AL, in 1922, as a community and national service organization. The Reading Chapter was chartered in August 1925 to enhance the quality of life in the Reading area. AMBUCS was founded on the principles of Americanism, brotherhood and character. This organization represents the highest standards of excellence and is dedicated to the promotion of civil improvement and goodwill.

The Reading AMBUCS has made countless significant contributions to Berks County. The Reading Chapter's accomplishments include the founding of the Easter Seals Society of Berks County in 1949 for charitable fundraising and helping disabled persons, the initiation of the Easter Seals Golf Tournament, and the original sponsor of the Big Brother/Big Sister Program in Berks County. The Reading Chapter annually organizes the "Eyeglass Benefit Basketball Game" at Reading High School to help provide eyecare and glasses for needy children in the Reading area. Every summer, the Reading Chapter of AMBUCS also sponsors "Baseball Night with the Reading Phillies" and operates a food stand at the Reading Fair, and donates the proceeds to the Easter Seals Society and other charitable organizations. The Reading AMBUCS Chapter is an active participant in the national "Scholarships for Therapists" project. This program provides assistance to worthy therapy students in the fields of physical, occupational, speech and hearing audiology therapy. This program has assisted many students in helping to improve the lives of the less fortunate.

It is with great pleasure that I recognize the fine contributions of the Reading Chapter of AMBUCS and its members. These individuals represent the finest qualities of our great Nation. Their care and devotion to helping others has benefited many residents of Berks County. I hope that all Americans will follow the fine example for community service and involvement which is exemplified by AMBUCS. Their commitment to Americanism, brotherhood and character has helped to improve the Reading community. I ask all of my colleagues to join me in honoring the Reading AMBUCS Chapter and in wishing them the greatest success and good fortune in continuing their fine work in the future.

RESTORATION OF THE MEMBERS OF THE BOARD OF VETERANS APPEALS TO A STATUS COMPARABLE TO ADMINISTRATIVE LAW JUDGES

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BILIRAKIS. Mr. Speaker, today I introduced a bill to restore to members of the Board of Veterans Appeals, who decide veterans benefit cases, the status comparable to administrative law judges in other Federal agencies. The enactment of the bill will help retain a qualified and experienced Board of Administrative judges, who decide cases of vital importance to our Nation's veterans. The retention of experienced Board members is threatened by two recent changes in the law made by the Congress, whose impact on the Board was never considered when they were enacted.

Prior to the enactment of the Veterans Judicial Review Act of 1988 [VJRA], members of the Board of Veterans Appeals were the final decisionmakers in veterans benefit cases. Board members enjoyed the status as the final court for veterans appeals, but now their decisions may be appealed to the new Court of Veterans Appeals. When the VJRA was enacted, the status of Board members in the new statutory scheme was not reviewed by the Congress. This bill will provide the opportunity for such review.

As a consequence, from the period of 1988 to 1990, members of the Board of Veterans Appeals assumed a status comparable to administrative law judges in other Federal agencies. This comparability was ended by the enactment of the Federal Pay Act of 1990. The new act made all ALJ's in Federal service the same grade, as part of the Senior Executive Service, with a salary increase and schedule above that of BVA Board members. This was the first time that BVA members' salaries were not comparable to ALJ's deciding benefit claims for other agencies.

The veterans community deserves a forum where their appeals may be heard by a professional and experienced group of administrative judges. Just as ALJ's may only be removed for good cause, members of the Board were provided the same protections. The work performed by the Board is as complex as that done by ALJ's; both conduct hearings where they evaluate the testimony of lay and expert witnesses and rule on the admission of relevant evidence. They both consider oral argument and briefs. Findings of fact and conclusions of law are included in the decisions rendered by both judges. Of 44 current Board members, 38 have indicated they would take an ALJ position when the roster is open. Over the last few years, eight Board members have joined the ranks of ALJ's.

The legislation I introduced will serve as a vehicle for reviewing the current status of Board members in the statutory scheme. In fact, the BVA members have been placed at a disadvantage due to the enactment of laws that did not consider their impact on the future of the Board.

If my approach to solving the crisis presently faced by the Board is adopted, the costs would be modest to rectify the current disparity between Board members and ALJ's. It is estimated that the costs in the first year would be less than $400,000 and the total costs over 5 years are less than $5 million for salaries and benefits. This is a small investment to make in order to bring some stability to the adjudications of veterans claims. I urge my colleagues to consider the worthy goals achieved by the bill and join me in adopting this much-needed legislation.

SALVADORAN CRIME

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. DELAURO. Mr. Speaker, November 16 marked the second anniversary of one of the most brutal crimes in living memory. On that day 2 years ago, in the early morning hours, a detachment of Salvadoran soldiers belonging to the U.S.-trained elite Atlacatl batallion entered the campus of the University of Central America. The soldiers drove up a hill to the top of the UCA campus and blasted their way into the living quarters of six Jesuit priests. The priests were pulled out of bed and taken to a small garden behind their dormatory. There, the soldiers forced them to lay face down on the grass, then shot each one, point blank, in the head.

Next, the soldiers discovered the Jesuits' housekeeper and her daughter, huddled together in a small room. The two women were staying with the Jesuits for safety, and had left their own home because it was too near fighting that was taking place between Salvadoran troops and FMLN guerrillas. Seeing the two women, and under instruction to leave no witnesses, the soldiers raked the pair with automatic weapons fire, tearing them apart and killing them instantly.

Finally, the soldiers left crude signs in the garden where the bodies of the priests lay in an attempt to point the finger for the massacre at the FMLN guerrillas.

Mr. Speaker, these were not just more tragic deaths in a civil war that has claimed some 70,000 lives. This was as calculated and cold-blooded an act as any humans have ever conceived and carried out against their fellow man.

But here we stand, 2 years after that bloody morning, and many, many questions remain unanswered. The most disturbing of these is: Who ordered the murders of the Jesuits and at what level of the Salvadoran military?

The trial that ended in September concluded with the conviction of two Salvadoran officers, including a colonel. But it also acquitted seven subordinate members of the Army, including all those who confessed to the murders of the priests and the two women.

The trial itself did little to uncover many of the essential facts of the case. Judge Zamora labored under enormous constraints to make the recalcitrant Salvadoran justice system work, but he had little cooperation from his own government. In the end, the trial failed to solve many of the mysteries that still surround the murders.

This week, Chairman MOAKLEY, head of the Speaker's Task Force on El Salvador, issued a statement that provided new information supporting widespread assertions that high-ranking Salvadoran military officers, including Defense Minister Gen. Rene Emilio Ponce, were involved in the murders. His statement shows how little progress has really been made on the case, and how far we still have to go before we know the whole truth.

Mr. Speaker, we must continue to demand that the essential facts of this case be uncovered, and that those responsible be held accountable. We must do this not just to serve the ends of justice. But because, unless we do, neither the United States Government, nor the Salvadoran people, will be able to put their trust in the Salvadoran judicial system or the Salvadoran Government.

This country supported the Salvadoran Government at the time the Jesuits were murdered. It still does. And the United States trained the Atlacatl batallion that carried out these crimes. If anyone we supported was involved in these murders we must know. Our Government's credibility is undermined if we appear complicit in this kind of unbounded brutality.

If El Salvador is to end its civil war, and transform itself into a government that represents all its people democratically, it must purge itself of both the officials and the attitudes that allowed this crime to occur. No people can have faith in their government unless they see fairness prevail, nor can they trust a government that would cover up any crime as hideous as the murder of the Jesuits and the women.

I sincerely hope that we can stand here one day in the near future and congratulate the Salvadoran Government, the United Nations, and the United States for uncovering the truth behind the indescribably brutal events that took place 2 years ago in San Salvador. But until then, we must use all the influence we can to solve this case.

The United States should demand the full truth; it should support any and all U.N. efforts to broker peace in El Salvador; it should cut off all military aid to the Government of El Salvador; and it should ensure that any nonmilitary aid the United States does give serves the purpose of helping all Salvadorans live united in dignity.

Mr. Speaker, not far from the garden in which the Jesuits were murdered stands the small hut in which their housekeeper and her daughter once lived. In it lives the man who has, for many years, tended that garden. Now he cultivates a rosebush for each of the murdered priests, and one as well for his slain wife and daughter.

This man represents the dignity of which mankind is capable. It is in this spirit that we should determine to reach the truth in this case. The fallen Jesuits deserve this, and so, too, do the people of El Salvador and the United States.

JOE LIMARDI—AND A CITY'S GENEROSITY

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STUDDS. Mr. Speaker, I would like to call the attention of the House of Representatives to the work of one man, who by his tireless actions, is helping thousands of southeastern Massachusetts residents.

Joe Limardi, a radio personality with New Bedford, MA radio station WFHN–FM, decided to do something to fight hunger. Mr. Limardi's plan was to stay awake for 107 hours—representing the radio station's FM frequency—while asking his listeners to donate cans of food. Mr. Limardi anticipated that 5,000 cans would be turned over to the Hunger Commission of Greater New Bedford, which serves all of Bristol County.

Mr. Speaker, Joe Limardi met one and exceeded another of his goals. This past Friday at 5 p.m., he celebrated the completion of his 107th consecutive hour on the air. Much to his astonishment, the people of Greater New Bedford responded to his request and donated in excess of 35,000 cans of food.

The New Bedford, MA area has been hit hard by the recession. Unemployment has been mired in double figures. Providers of basic human services have been inundated with requests. Hard times have indeed hit home. Yet the people of this community responded to the plea of a remarkable young man to help those who are less fortunate. Many who opened their kitchen cabinets have little left in their own wallets.

Mr. Speaker, I commend the people of Greater New Bedford for their compassion and decency and I especially congratulate Mr. Joe Limardi for carrying on in the tradition of Harry Chapin and Bob Geldof, who used the gift of music to help fill empty cupboards.

TRIBUTE TO GENERAL ELECTRIC MEDICAL SYSTEMS

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TALLON. Mr. Speaker, I am very proud today to rise to commend General Electric Medical Systems in Florence, SC that has been awarded the Positive Employee Practices Institute 1991 Showcase Award.

This GE facility located in my district produces superconducting magnets that are used in medical imaging equipment. In 1988, they implemented a unique and far-sighted management practice that encourages employees to become intimately involved in setting their own goals and priorities. Dramatic increases in employee productivity and marked reductions in the cost of labor and material have brought forth the idea that self-management is the way of the future for American business.

Each year, the Positive Employee Practices Institute [PEPI] presents its showcase awards in three categories—a moderate sized majority U.S. owned business, a plant or division of a Fortune 500 type company and a division of a local, State, or Federal Government organization. The PEPI looks for organizations that exhibit forward thinking initiative that allows its employees to actively participate in the management and decisionmaking process within the organization.

The General Electric Medical Systems facility in Florence has met the challenge to make its employees its best resource. So often in business today, we forget to factor in that intangible resource that will make or break a company—employee morale and involvement. We all know that anyone will work harder toward a goal when given a say in setting that goal. The employees at General Electric Medical Systems, coupled with management willing to take a chance, made this experiment in self management work.

Not only has this innovative idea worked, but it has been wildly successful. Productivity has increased for 3 years straight without hiring additional workers. Per unit overhead costs have decreased 70 percent. Several new products have been rapidly developed and introduced. At the plant, production shuts down for 1 hour each week to allow employees at every level to meet and discuss goals and suggestions.

I am very pleased and proud to stand before you today to congratulate every employee at General Electric Medical Systems. I hope that other organizations will take a cue from GEMS to see that self management will be an important factor in the future of American business.

INTRODUCTION OF RUSSO EDUCATION TAX CREDIT

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RUSSO. Mr. Speaker, today I intend to introduce legislation which will help American families who have been shut out of Federal student aid programs. The bill would give middle-income families a $300 to $500 tax credit for interest paid on student loans.

Federal student financial aid policies have squeezed middle-class students who are ineligible for low-income grants and not wealthy enough to finance their education with cash. Former students who were forced to borrow thousands of dollars to pay for college would receive badly needed relief under this bill.

This legislation provides substantial, targeted tax relief to middle-income taxpayers. Former students, and parents paying for their children's loans, are eligible for a credit equal to 15 percent of their student loan interest paid each year, up to a maximum of $300. Students who borrowed a lot and are now working in low-paying government or community service jobs would get an additional $200 in tax savings. The credit is phased out between $50,000 and $75,000 for former students and $75,000 and $100,000 for parents.

Because a credit is much fairer than a deduction, the bill provides equal tax relief to taxpayers in all tax brackets. And taxpayers who itemize their deductions and those who do not both benefit from this bill.

This legislation will not only help former students and their parents, but will also be a step forward in tax fairness. I urge my colleagues to support the Russo education tax credit.

INTRODUCTION OF THE RONALD REAGAN PEACE DIVIDEND ACT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GINGRICH. Mr. Speaker, today, Rep. JOHN KASICH and I are introducing the Ronald Reagan Peace Dividend Act. This legislation, which is also being introduced in the Senate by PHIL GRAMM of Texas, will ensure that if and when America can further reduce defense spending, those savings will be fully and automatically invested in America's families through tax relief and deficit reduction.

Ronald Reagan's peacetime expansion of our military was a significant factor in bringing about the collapse of the Soviet Empire. In its futile race to match President Reagan's commitment and resolve to military preparedness, the economic resources of the Soviet Union were stretched beyond their limits. More than any other person, President Ronald Reagan created the potential peace dividend our citizens may now reap.

The Ronald Reagan Peace Dividend Act will:

Provide that any savings resulting from reducing defense spending below the defense spending caps specified in the budget summit agreement will be divided equally between tax relief and deficit reduction;

Provide tax relief through an increase in the personal exemption; in fact, one-half of any defense spending savings will be used for tax relief; and

Guarantee deficit reduction by lowering the maximum deficit amount specified under the Gramm-Rudman-Hollings law by half of the peace dividend, while keeping in place all nondefense spending caps specified in the Budget accord.

Real Americans, not government bureaucracy, should benefit from President Reagan's commitment to world stability and the demise of communism.

Mr. Speaker, I commend the Ronald Reagan Peace Dividend Act to your attention.

TRIBUTE TO MR. RALPH EMERY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CLEMENT. Mr. Speaker, I rise today to recognize Mr. Ralph Emery, an individual who has made an invaluable contribution to country music, not as a songwriter, performer, or producer, but as a broadcaster and the universally recognized "Voice of Country Music."

As an interviewer and DJ, Ralph Emery has set a standard of professionalism that today's radio personalities still strive to equal. Among his many achievements in broadcasting, possibly the most renowned was his live late night show carried on AM 650 WSM, a clear channel station broadcasting out of Nashville, TN and the radio home of the Grand Ole Opry. His shows were always filled with spontaneous humor, surprise guests from among the greats of country music, and a warmth and gentleness that made his listeners feel they had a soothing friend who would stay with them, no matter what, through the wee hours of the morning.

Today, as his hectic schedule slows toward retirement, he remains host of a syndicated radio show, WSMV-TV's "Waking Crew," and the Nashville Network's "Nashville Now" among other commitments. More significantly, he retains the loyalty and regard of country music fans everywhere because of his many years of support and dedication to the music they both love so well.

Mr. Speaker, I urge you and the rest of our colleagues to join me in honoring Ralph Emery, an outstanding personality, pioneer broadcaster, and unerring friend of country music.

TRIBUTE TO JAMES R. MOFFETT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BAKER. Mr. Speaker, I rise today to pay tribute to James R. Moffett, Chairman of the Board and CEO of Freeport McMoRan. Mr. Moffett will be honored by the Anti-Defamation League at its 78th Anniversary Dinner in New Orleans, Louisiana.

The invitation to this event explains the full extent of Mr. Moffett's contribution to Louisiana; it reads:

> "James R. Moffett, known to one and all as Jim Bob, has emerged as New Orleans' top civic leader since his arrival here in 1983. His ascension to the top of the civic ladder is a tribute to his energy, enthusiasm, concern, generosity, intensity and the respect that others have for his views. Seen with perfect hindsight, it was a historic moment for New Orleans in the early 1980's when Mr. Moffett decided to move the headquarters of Freeport-McMoRan from Wall Street to this city. What was clear then was that New Orleans was getting the corporate headquarters of one of America's Fortune 500 companies that was on the leading edge of natural resources development.
>
> What has become clear since then is that under Mr. Moffett's direction, Freeport-McMoRan is the ideal corporate citizen. Freeport-McMoRan is devoted to equal opportunity and education, aggressively seeking the best employees regardless of race, gender or religious beliefs while supporting dozens of educational programs from kindergartens to universities. At every level of the company, Freeport-McMoRan employees are encouraged to participate in the communities where they live. The company annually gives upwards of $7 million to worthy philanthropic endeavors throughout the Metro New Orleans area and Mr. Moffett personally donates $1 million or more each year to his favorite causes. But Mr. Moffett's most important contributions have been in the field of leadership. A founder of the New Orleans Business Council, he helped bring together the area's top corporate leaders to work for the public good. A former chairman of the Chamber of Commerce, Mr. Moffett played a critical role in opening up participation in this group to everyone in the Metro area. Recently, when New Orleans faced bankruptcy, Mr. Moffett's leadership was a critical factor in the passage of a refinancing plan that had previously seemed doomed to defeat.
>
> As ADL Board Chairman, Robert Kutcher says, the force of Jim Bob's personality, his dedication to the community, to human rights and equal opportunity, and to education have enabled him to make contributions to New Orleans that will pay dividends for the next 50 years. We all owe him a debt of thanks.
>
> Jim Bob, and his wife, Louise, are the parents of Crystal, 22, and James Jr., 19.

Mr. Moffett's leadership of Freeport-McMoRan and his work in the New Orleans civic community are true examples of dedication and determination that serve to inspire the many people who witness them.

TRIBUTE TO BERNICE K. ROSE UPON HER RETIREMENT

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MOODY. Mr. Speaker, I am privileged to honor Supervisor Bernice K. Rose on the occasion of her retirement from the Milwaukee County Board of Supervisors. Supervisor Rose was first elected to represent the first supervisory district in 1977, succeeding her late husband, Clinton E. Rose, and becoming the first black woman elected to the county board of supervisors. She has been reelected to serve the people of her district four times.

I am pleased that the Lincoln Park Community Center and its executive director, Ruth Varnado, have provided an opportunity for the citizens of the first supervisory district and from the Milwaukee community at large to express their appreciation for Supervisor Rose's many years of dedicated public service and community involvement. The tribute at the Lincoln Park Community Center on December 18, 1991, in which representatives from all segments of the Milwaukee community will join, has been earned through constant and devoted attention to the needs of all of the people of Milwaukee County.

As the chairperson of the county board's housing and community development committee, vice chairperson of the social services committee, and a member of the energy environment and extension education committees, Supervisor Rose's values, ideals and legislative skills have enlivened public debate and shaped public policy. Her intelligence and integrity have set high standards for her successors.

Mr. Speaker, I am pleased to offer my congratulations and best wishes to Supervisor Bernice K. Rose and to wish her good health and good fortune in her retirement.

EFFECT OF CARBON DIOXIDE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CRANE. Mr. Speaker, in a recent broadcast Paul Harvey provided some interesting information on a topic of concern to many of us—the effect of carbon dioxide on the population of this planet. I would like to place Mr. Harvey's broadcast in the RECORD.

TRANSCRIPT OF PAUL HARVEY-ABC NETWORK BROADCAST

The world is overheating. "Depleted ozone will cook us alive." Carbon dioxide will suffocate all of us. Now, such headlines sell a lot of books and magazines. Worse, they are likely to incite anxiety and invite unwise legislation.

Dr. Sherwood Idso is a research physicist for the United States Department of Agriculture. He's one of the world's leading experts on carbon dioxide and plant life, and at the water conservation laboratory of our agriculture research service in Phoenix, AZ, he has been nurturing two separate crops of our orange trees—sour orange trees. One batch has received a double dose of carbon dioxide and those grow three times faster than the others. Dr. Idso expanded his experiments to include an assortment of food crops; rice and wheat and soy beans. Sure enough, double levels of carbon dioxide increase yields an average 40 percent.

Our American farmers have been crediting increased yields per acre to improved fertilizers and pesticides. Perhaps they should also credit increased carbon dioxide in our atmosphere. Human life demands oxygen and food and produces carbon dioxide. Plant life however, demands carbon dioxide in order to produce oxygen and food. Much of the world's plant life, arid areas and the backward nations, have been starved for carbon dioxide. Advanced industrial nations, their industry producing carbon dioxide have enjoyed thriving agriculture. Fossil fuels reinforcing a natural cycle, have been revitalizing our agriculture.

Dr. Idso and his associates, in many fields related to climate change, are now increasingly convinced that any forced reduction in carbon dioxide would be in the worst interest of our planet Earth. Now the human race is soon to add about 3 billion people, and this is the pollution which threatens our planet. Both the United Nations and the Sierra Club agree that over-population is heading us toward mass starvation. Now, if Dr. Idso and his associates are correct, by throttling our use of fossil fuels we may accelerate global suicide. A headline, "The Sky is not Falling" will not sell nearly so many books, newspapers, or magazines. So, the Merchants of Fear will persist, and they will protest that this audit is lop-sided, that it does not include potential unknown negative affects, but all it says is that the scare-mongers have not been acknowledging the known benefits.

WASHINGTON REPORT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, November 27, 1991, into the CONGRESSIONAL RECORD:

EDUCATION REFORM

In recent meetings with top economists, I have been impressed by how often the topic of education comes up. A major challenge facing the United States today is improving productivity—output per hour worked—because that is the key to maintaining workers' standards of living. Economists increasingly believe that one of the most important ways to boost sluggish U.S. productivity is to improve the schools. And the concern goes beyond economics. Stronger schools mean Americans better able to participate in the workings of democracy, and, most importantly, an improvement in the quality of individual lives.

How Are The Schools Doing? The data on U.S. elementary and secondary education is incomplete and frequently poor. But the overall picture that seems to emerge is that American education declined in the 1970s and improved in the 1980s. Student performance is roughly back to the level of 1970, although SAT math and verbal scores are still lower than they were twenty years ago. High school completion is at an all-time high, and most young adults have mastered basic literacy skills. Indiana ranks 22nd in high school graduation rate; yet it ranks 19th of the 23 states using SAT tests to measure student achievement.

But merely getting back to past levels is no longer good enough. American students still do poorly in international comparisons, especially in higher-order thinking skills. Even our top students do not measure up. In today's increasingly competitive world, the wealth of nations is based more and more on information and knowledge than natural resources. Other countries are making major improvements in their educational systems. The United States needs to do more just to keep pace.

Is More Money The Answer? Some people say that the answer is more money, while others argue that the schools need structural change or just greater emphasis on values and discipline. My view is that the United States need to provide more money for education, but that must be done within an improved system of education—schools that utilize the best methods, are more effectively organized, and reward innovation.

yet significant increases in funding for elementary and secondary education are unlikely in the near future. Some 92 percent of education funding comes from the states and localities, and they have been hard hit by the recession. Many are cutting school funds. In this climate, efforts should at least go ahead with systemic reforms, to get schools organized so that future funding increases can be used efficiently

What Can The Federal Government Do? Improving schools remains primarily a state and local matter. The federal government can also play a role, in a variety of ways.

First, changes in school structure and teaching methods are needed. Many states are experimenting with longer school hours, stronger basic curriculum, cooperative learning, interactive video, magnet schools, more school choice for families, and clearer achievement standards and better assessment. Indiana's Discovery Schools program exempts K-12 schools from state school regulations, allowing them greater creativity and innovation, provided the changes are approved by a majority of parents and teachers, and the schools show positive results. The federal government can assist by publicizing what works, providing grants to states for system reform, looking into ways to narrow disparities in school financing, helping to forge a national consensus on what students should know, and helping to develop better methods for assessing student performance.

Second, top-notch teachers are crucial to improving the performance of schools. Indiana has boosted teacher salaries during the 1980s, and the average teacher salary is now $31,000, which ranks 17th nationally. The federal government can help to draw good students into teaching by helping to cover some of their higher education costs, and could expand its teacher training programs, particularly in math and science.

Third, student motivation is an important factor. Indiana has set up a program to motivate disadvantaged students by guaranteeing that if they stay in school, stay drug free, get good grades and apply for college financial aid, they will receive funding for four years at a state college. On the federal level, one proposal is to link student aid for higher education to assessment of high school performance.

Fourth, greater parental involvement and stronger home environments are needed. By one estimate as many as 40 percent of American youngsters begin school at risk of academic failure because of societal problems such as poverty, family instability, and substance abuse. Indiana has put a major emphasis on the very young—through a community-based program of maternal nutrition, child care, and health and family services—to help ensure students enter school ready to learn. The federal government can play a significant role by expanding its Head Start and other pre-school learning programs. In addition, various non-education federal programs—such as anti-drug efforts, teen pregnancy programs, and health an nutrition programs—have a major impact on the ability of students to succeed in school.

Fifth, more involvement by local business and community leaders will help. They can broaden support for school reform and help ensure that students are being taught the kinds of skills needed in the workplace. Indiana will be considering workforce preparation legislation this year. The federal government is helping to develop a list of skills employers think high school graduates should have.

Sixth, public attitudes toward education must be changed. Americans need to become more aware of how critical good schools are to the future of the country, and that investments in the young should not be the first place to make budget cuts. Federal policymakers should continue to focus attention on education policy, and demonstrate that commitment by providing adequate resources.

Finally, perhaps the most important thing the federal government can do is to help provide a strong and healthy economy. The current recession harms education efforts in several ways. It hurts the ability of states and localities to find education programs, weakens the ability of business to provide jobs for graduates, and causes stresses in families ranging from unmet health and nutrition needs to child abuse. The federal government should not just react to these symptoms but help provide an economic environment in which many of these problems do not develop.

BOB JOHNSON

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SANTORUM. Mr. Speaker, I would like to revise and extend my remarks by entering the following article from today's Pittsburgh Press as a further tribute to the late Bob Johnson.

HOCKEY MOURNS THE LOSS OF MAN WHO LOVED GAME

(By Dave Molinari)

Cliff Fletcher never will forget Jan. 7, 1986, no matter how hard he tries.

Fletcher, then general manager of the Calgary Flames, watched his team lose, 9-1, to the Hartford Whalers that night. The defeat stretched the Flames' franchise-record losing streak to 11 games. A season that began with much promise was going sour. Fast.

After the game, Fletcher walked into the visiting coach's office at the Hartford Civic Center. And immediately wondered if he had made a wrong turn.

"If someone had parachuted me into the coach's office and I didn't know the score, I'd never have known we lost that game," he said.

Of course not. The Flames' coach was Bob Johnson, who could find the bright side in the darkest of situations. Blindfolded. A man who considered an 11-game losing streak nothing more than a minor bump on the way to "the top of the mountain," his perpetual destination.

That is why Johnson scoffed at the Calgary media that night for dwelling on "our so-called slump." And maybe, just maybe, why he was able to do the unthinkable last season: transform the Penguins into Stanley Cup champions.

Johnson, 60, died yesterday of brain cancer at his home in Colorado Springs, Colo. He coached the Penguins for only one season but left an indelible imprint on the franchise.

"What he's done for this city and this hockey club in one year is pretty incredible," center Mario Lemieux said. "Nobody would have thought we'd win the cup last year, but with Bob Johnson, everything was possible."

Everything except beating the disease that claimed his life. Even so, those who know Johnson say he fought relentlessly against the cancer from the moment his brain tumors were discovered Aug. 29.

"The last couple weeks were real difficult but he just wouldn't give in until this morning," Penguins Coach Scott Boeman said yesterday.

Johnson died six months and one day after leading the Penguins to their first Stanley Cup, and less than three months after guiding Team USA through its pre-Canada Cup tournament schedule.

"It's hard to believe that three months ago he was behind the bench, coaching," said Fletcher, now general manager of the Toronto Maple Leafs.

True, but it's equally hard to imagine Johnson anywhere else. He was a self-proclaimed "career coach" who was happiest when teaching the game.

"Nothing gave him greater pleasure than being behind the bench and seeing us play well under his leadership," Penguins goalie Tom Barrasso said.

Johnson's coaching career began at Warroad (Minn.) High School in 1956 and stretched through this summer, with a three-year break that began in 1987 when he took over as executive director of USA Hockey, the game's governing body in this country.

Fletcher said he had dinner with Johnson in Bern, Switzerland, during the 1990 world championships and spent two hours trying to convince him to remain with USA Hockey. But the lure of coaching was too strong and on June 12, 1990, Johnson accepted General Manager Craig Patrick's offer to coach the Penguins. Less than 12 months later, there was a Stanley Cup rally at Point State Park.

"I'm sure glad he didn't listen to me." Fletcher said.

Johnson ignored Fletcher's advice because he had decided joining the Penguins would be a good move. Of course, his attitude was that everything falls into one of three categories: good, better and best. There was not a cynical or pessimistic cell in his body.

"I remember when he first came here, the first little while, saying to myself, 'Nobody can be like this. Nobody can be this positive. Up every day," Penguins Defenseman Paul Coffey said. "But he was like that for eight months."

Johnson's enthusiasm infected his players. Left winger Phil Bourque smiled as he recounted this exchange with Johnson at a Manhattan hotel Dec. 3, 1990, hours before a critical game against the New York Rangers at Madison Square Garden. The conversation centered on two of Johnson's passions: good nutrition and good hockey.

"Bourque, are you having your oatmeal?"

"Yeah, I got my oatmeal, coach."

"Good, I want you to be ready."

"Yeah, I'm ready, coach."

"No, I've got a challenge for you."

"A challenge?"

"I'm putting you with the big line tonight."

That meant an assignment alongside John Cullen and Mark Recchi for Bourque, whose confidence and production had been sagging. Bourque responded with three goals in a 9-4 victory.

"For him to put that kind of confidence in me really turned me around," Bourque said.

The Penguins had known for weeks Johnson's condition was terminal, but still were stunned when Patrick told them of his death after practice yesterday.

"There wasn't a word said for the longest time," center Ron Francis said. "The guys just sat there."

"There was just silence for 10 or 15 minutes," Coffey said. "Everybody was out in space, remembering their own Bob Johnson thing."

They were reflecting on the coach who not only taught them how to win, but how to improve the lives of those around them. He showed them the value of sacrificing for the sake of others, be they teammates or family.

"Bob pushed all of us to be the best people we could be, as well as the best players," Barrasso said.

"The bottom line is, Badger was a terrific person," Fletcher said.

"From my standpoint, it's like a relative passing away," said Wisconsin Coach Jeff Sauer, who played for Johnson when he coached the Badgers. "It's certainly a loss for hockey, but it's also a loss for a lot of people who knew him and respected him. He did so much for so many."

Johnson coached high schools in Warroad and Minneapolis and at Colorado College and Wisconsin before moving to the National Hockey League. He devoted his off-seasons to clinics and seminars that developed future generations of players and coaches.

"I owe a great deal of my career to him," Flames defenseman Gary Suter, a native of Madison, Wis., told the Calgary Herald. "As a kid going to his hockey schools, he was like a god to me."

Johnson's genuine love of the game made him one of hockey's most revered figures. Affection for "Badger Bob" transcended team loyalties and division rivalries.

A contingent of New York Rangers, led by General Manager Neil Smith and Coach Roger Neilson, visited Johnson in Colorado Springs the day before he died. The group included goalies Mike Richter and John Vanbiesbrouck, defenseman Brian Leetch and center Corey Millen, all products of the U.S. amateur hockey program.

"Bob was one of the most influential figures in the history of American hockey," said Baaron Pittenger, who succeeded Johnson as executive director of USA Hockey. "His efforts touched almost everyone associated with the game."

"Bob has been such a great influence on a lot of people," Patrick said.

That was particularly true of the Penguins, whom Johnson changed from chronic underachievers to champions.

"He created an atmosphere around our organization that was very family-like," Patrick said. "He was really like the father to our organization."

"A big part of us is gone now," said Bowman, hired as the Penguins' director of player development the same day Johnson joined the team. "What a wonderful relationship. It wasn't long enough."

But one year was enough time for Johnson to make a lasting impression on his players. His life ended yesterday, but his influence will endure.

"I don't think Bob's impact on any player he ever coached is going to be over," Coffey said. "I just feel lucky I had a chance to play for him."

"I don't think it's ever going to be over," left winger Kevin Stevens said. "As long as these guys who were here last year are on this team . . . maybe we should dedicate this season to him. We know he's watching.

"We know there's a place where he can see us . . . you can see him standing on that bench looking down on us, instructing us. That's a good feeling. We should maybe pull together and do it for Bob, because we know he's watching out for us. Hopefully, we can do the same for him."

But for now, hockey mourns the loss of one of its leading proponents, a man who embraced the game as a child and never let go. A man whose love of the sport will be his legacy.

"He always used to say, 'It's a great day for hockey,' " Calgary defenseman Neil Sheehy said, "And the guys would often look at each other and say, 'Well, when isn't it a great day for hockey?' "

The answer, Sheehy said, arrived with word of Johnson's death.

"Today, Today isn't a great day for hockey."

DAVID MARTIN ON YUGOSLAVIA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BENTLEY. Mr. Speaker, I would like to insert the following, written by David Martin, and published in the November 22, 1991, edition of the New York Times.

Mr. Martin is an authority on Yugoslavia, having served there with the OSS in the Second World War, and since has written many books on that area of the world, including "Web of Disinformation: Churchill's Yugoslav Blunder," a critical expose on the complicity of Kim Philby and his circle of Communists in allowing Tito to assume control of Yugoslavia.

[From the New York Times, Nov. 22, 1991]

CROATIA'S BORDERS: OVER THE EDGE—MEDIATORS IGNORE THAT TITO CHEATED SERBIA

(By David Martin)

The European Community, with the support of the U.S., has recommended to the U.N. that sanctions be imposed on Yugoslavia in order to stop the civil war between Serbia and Croatia. The sanctions will go into effect unless both sides agree to a ceasefire and accept the internal borders that existed with the crisis began this summer.

However well-intentioned, the community and the U.S. are misguided in their approach. Yugoslavia's internal borders are the recent inventions of a Communist dictator and have no historical validity.

After the German conquest of Yugoslavia in April 1941, a quisling regime was set up in Croatia under Ante Pavelic and his fascist Ustashe movement. the Ustashe declared an Independent State of Croatia, whose greatly enlarged frontiers extended into territory that had belonged to Serbia, and gave Mr. Pavelic power over a third of Yugoslavia's Serbian population. The Ustashe, not the Croatian people, then embarked on a campaign of terror that took the lives of more than 500,000 Serbs. In addition, many thousands of Jews and gypsies were massacred.

Franjo Tudjman, Croatia's president and a former Tito general, has done little to alleviate Serbians' fear of an independent Croatia. He said last year that the Ustashe regime, which ruled occupied Croatia from 1941 to 1945, "reflected the centuries-old aspirations of the Croat people." A recent article in The Guardian of London quoted Mr. Tudjman as saying he was thankful that his own wife did not have any Jewish or Serbian blood, and that for the Jews "genocidal violence is a natural phenomenon, in keeping with the human-social and mythological-divine nature. It is not only allowed, but even recommended.

Mr. Tudjman's treatment of the Serbs has gone beyond his unfortunate rhetoric. Since Croatia declared independence in June, the Serbs in Croatia have been the victims of a campaign of harassment. Serbs working for the Croatian government were dismissed. Serbian schools were banned. The Victims of Fascism Square in Zagreb was renamed the Square of the Sovereigns of Croatia. Mr. Tudjman's decision to adopt a flag modeled on the Ustashe flag has only made matters worse.

Both sides complain that the war has created large numbers of refugees. But it has been forgotten that the existing frontiers between Croatia and Serbia were arbitrarily drawn by Marshal Tito, a Croat, after he came to power in 1944. Though Tito's borders favored Croatia, they were substantially less expansionist that the Ustashe borders they replaced.

I hold no brief for President Slobovan Milosevic of Serbia—a Communist apparatchik who now calls himself a "socialist"—or for his decision to embark on military action. Mr. Milosevic would be in a much more defensible position today if he had, instead, embarked on a propaganda campaign focusing on the issue of human rights.

The Serbs cannot be blamed for fearing the rebirth of an extremist Croatia. But one must ask the community and the U.S. why frontiers established by a Communist dictator, no matter how much they may violate the more compelling concept of ethnic frontiers, must be considered legally valid for all time.

Political stability cannot be achieved by giving Mr. Milosevic ultimatums. Surely there is a more moral, humane and politically acceptable way of delineating frontiers. For example, shouldn't some provision be made for the use of a plebiscite or for arbitration procedures? Even now, it may not be too late for the community to shift its position in a manner that allows for frontier changes in both directions.

There is much evidence that the Serbian public could favor a compromise settlement. Among other things, there has been little persecution of Croats in Serbia.

It would also be proper for the community, the U.N. and the U.S. to address the question of human rights in both Serbia and Croatia instead of ignoring this question while protesting that they are interested only in greater regional stability.

NEED FOR BONE MARROW DONORS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GILMAN. Mr. Speaker, I am pleased to rise today to express my deepest admiration, for a constituent of mine, Jay Feinberg, who is desperately searching for a compatible bone marrow donor.

Jay Feinberg is 23 years old and in June 1991, he was diagnosed with chronic myelogenous leukemia. The only potential cure for this dreadful disease is a bone marrow transplant. Without one, Jay will die because chemotherapy does not alter the natural cause of this disease.

Mr. Speaker, an estimated 82,600 American children and adults are stricken each year with leukemia, aplastic anemia or other fatal blood diseases. For many, the only hope for survival is a marrow transplant. Nearly 70 percent of those afflicted cannot find a suitable match within their own families. These patients need to find unrelated donors—people who have offered to give the living gift of life to a specific patient in need. As the pool of potential marrow donors increases, so do the odds of a match for the thousands of patients in need. The chance that a patient will find a matching, unrelated donor in the general population is between one in a hundred and one in a million.

Currently, there are only 89,000 donors registered throughout our Nation. We need more than 100,000 donors to improve the odds of finding donors for the current list of potential beneficiaries.

It is crucial that the public be made aware that they have it within themselves to save lives. To be typed as a potential bone marrow donor only requires a small and simple blood test. If a volunteer is identified as a match, the donation itself requires only 2 to 5 percent of the body's marrow, which regenerates in full within 3 weeks.

The requirements to be a marrow donor are few. To be a marrow donor, you must be between 18 and 55 years old and be in good health. All it takes is 10 minutes and two tablespoons of blood to join the National Marrow Donor Program Registry. Those interested in becoming donors should contact the National Marrow Donor Program at 1–800–654–1247.

Mr. Speaker, I urge all of my colleagues to give this kind of a "living gift of life."

A TRIBUTE TO MRS. JEWEL SIMPSON HOUSTON

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FLAKE. Mr. Speaker, I rise to pay tribute to a woman who has spent the greater part of her life working to mold the lives of young people through her unselfish and tireless work as a teacher, counselor, missionary, mother, and friend.

I have known Mrs. Houston all of my life and would probably not be a Member of Congress had she not been such a positive influence in my development. As the supervisor of the Young People Department of the African Methodist Episcopal Church, during my youth in Houston, TX, she taught me public speaking so that I could participate in debates and other church-related activities throughout the State. She guided me into roles as conference branch president of the Young People Department, the Richard Allen Youth Council and the conference Sunday School.

When I entered high school at Aldine-Carver High School, Mrs. Houston was my history teacher and demanded excellence. She also required that I work for her in the school bookstore for 1 hour each day, where I learned both work skills and study habits. Most of this time was spent doing my homework under her watchful eyes. Many afternoons and Saturdays were spent traveling with Mrs. Houston throughout the State of Texas to participate in youth conferences, workshops, and other church-related activities. She represents the epitome of teaching excellence and Christian living and is a tremendous role model for many youth.

Mrs. Houston's commitment to youth is best expressed in this statement which she made on March 12, 1973:

"The thirty-four years of working with young people have not blurred my vision of seeing the gleam of hope in the eyes of every person who seeks and obtains knowledge. It is my strong belief that each individual has a need to be aware of his/her self worth and the contribution he/she can make to a wholesome society. To this end, I worked hard to have an understanding of human behavior and the motivations and emotional patterns underlying this behavior.

This philosophy helped to make my stay in the educational field pleasant and I am still excited about the growth and development of people.

Mrs. Houston, the wife of Melvon Lee Houston, Sr., is the mother of three children: Barbara Stewart and Avanell Demart, both public school instructors, and Melvon Lee Houston, Jr., a graduate of the University of Colorado. In her daily work as a high school counselor, Mrs. Houston served her students with love, justice, and compassion. She gives much credit to her late mother, Mrs. Pearl Simpson-Boyd for instilling in her the spirit of gratitude to the Supreme Father.

Mrs. Houston received her Bachelor of Science degree from Houston College for Negroes, Houston, TX. Her graduate education was completed at Texas Southern University where she received her masters of science degree. She furthered her studies at the University of Southern California in economics; San Francisco State and Prairie View A&M University, emphasis in guidance and counseling. She is certified and licensed by the Texas State Board of Examiners of Professional Counselors, Austin, TX.

Mrs. Houston's work experience includes the following jobs:

1951–1965—Elementary and secondary classroom teacher in the areas of English, math and social studies, Aldine School District;

1965–1975—Academic and vocational counselor, G.W. Carver High School, Aldine District;

1975–1985—Academic counselor, Eisenhower High School, Aldine District;

1985—Retired with 34-years of educational services;

I am pleased for this opportunity to pay tribute to a wonderful human being who has made many significant contributions to society by helping young people realize their full potential. Furthermore, I am proud to be one who has benefited by her guidance, love, and support in my personal pursuits.

BELL CO. RESTRICTIONS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWIFT. Mr. Speaker, last week the Secretary of Commerce wrote to the chairman and several members of the Energy and Commerce Committee in opposition to the bill H.R. 3515, declaring that if the bill as currently drafted were presented to the President, a veto would be recommended.

Efforts will continue to be made during the next several weeks to obtain cosponsors on this bill and on its Senate companion measure (S. 2112), and I wanted to call to the attention of my colleagues the details of the Mosbacher letter before they make a decision on whether or not to sign on to these bills.

As can be seen, the Secretary of Commerce agrees that promotion of local exchange competition has merit, but there should not be undue restrictions placed upon Bell Co. participation in information services. I continue to believe that safeguards are important and I would recommend going farther than Secretary Mosbacher recommends. But those in H.R. 3515 constitute a mutual ban on telcos participating fully in the vital, new technology.

I commend the text of the letter to my colleagues:

THE SECRETARY OF COMMERCE,
Washington, DC, November 18, 1991.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the views of the Department of Commerce on the "Telecommunications Act of 1991" (H.R. 3515). This legislation establishes a series of detailed restrictive rules governing Bell Company entry into information services. Accordingly, if the bill as currently drafted were presented to the President, I would recommend that he veto it.

As you know, the information services restriction of the AT&T Consent Decree was recently terminated in court proceedings, freeing the Bell Companies to enter the information services market. H.R. 3515 would, in effect, reverse substantial parts of the court's decision by establishing a number of preconditions on a Bell Company's provision of information services in its service area. Included among the preconditions is the presence of local exchange competition in the service area, based upon numerical formulae contained in the legislation. The immediate and, in our view, unwarranted effect of these threshold conditions would be to prohibit Bell Company entry into the information services market for the foreseeable future.

The Department of Justice has argued, and the courts have now ruled, that preconditions and restrictions of the type proposed by H.R. 3515 are not necessary as a matter of antitrust policy to allow the Bell Companies to offer information services. The Department of Commerce has reached similar conclusions on communications policy grounds in its recent Infrastructure Report: "Telecommunications in the Age of Information." While promotion of local exchange competition has merit, the overall approach of the bill is unduly restrictive with respect to Bell Company participation in information services.

Moreover, regulatory safeguards on Bell Company provision of information services are already in place. Regulatory safeguards aimed at preserving competition and preventing unlawful cross-subsidies are in place at the Federal Communications Commission, designed to ensure that the Bell Companies' unregulated businesses are appropriately separated from their regulated services. State regulatory agencies also maintain substantial oversight over the local exchange operations of the Bell Companies. About three-fourths of the Bell Companies' telephone exchange services are regulated by the states. Thus, state regulation further reduces the need for extensive, restrictive measures such as those proposed in H.R. 3515. Legislatively mandating detailed safeguards can prove inflexible over time as conditions change. Therefore, the Department opposes these provisions of the bill as well.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of these views.

Sincerely,

ROBERT A. MOSBACHER.

A TRIBUTE TO "EL REY," TITO PUENTE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a man who is the undisputed king of the Latin beat—Tito Anthony Puente. This exceptional musician, popularly known as "El Rey," which means "the King" in Spanish, has produced more than 100 albums over a period of four decades. Throughout this time, Tito Puente has made singular musical and cultural contributions not only to our nation but to the world.

Tito Puente is a highly talented man: He plays the piano, saxophone, vibraphone, marimba and the timbal. He first undertook the study of an instrument at the age of 7 when he began taking piano lessons. At 13, Tito Puente started working as a drummer and by the time he was 16 he played in a band full-time. Following his service in World War II, Tito Puente attended the Juilliard Conservatory of Music. Shortly thereafter, in 1948, he formed his first band, the Picadilly Boys. From this point on, Tito Puente's reputation as a master bandleader, composer and percussionist skyrocketed.

By combining jazz and Afro-Cuban music, Tito Puente created a unique sound that has attracted a large worldwide following over the past 40 years. Today, mambo and salsa are listened to and danced to everywhere and there is no question in anyone's mind that Tito Puente is the absolute king of this music. After all, very few musicians can claim more than 100 albums to their name within such a short period, if at all. Thus far, Tito Puente has received four Grammy awards, a New York City Music Award as well as a star on the Hollywood Walk of Fame for his outstanding musical achievements.

But through his music, Tito Puente has also made extraordinary cultural contributions. By fusing rhythms derived from different cultures, Tito Puente has helped weaken cultural barriers and thus encouraged intercultural relations. His music has always attracted a variety of people from differing cultural backgrounds who have come together to share their enjoyment of mambo or salsa; thereby providing a common ground upon which a mutual understanding among different cultural groups can develop. In addition, over the past 10 years, Tito Puente has sponsored a scholarship program that enables musically talented young people to attend Juilliard and other music schools.

Tito Puente has dedicated his life to music and in so doing he has brought a lot of joy to the lives of many people. He has not only made significant contributions to the evolution of music but he has also promoted an increased cultural awareness and understanding. Mr. Speaker, please join me in paying tribute to Tito Anthony Puente, the one and only "King of the Latin Beat."

A SALUTE TO THE RECYCLING PROGRAM AT MOUNT RAINIER NATIONAL PARK

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CHANDLER. Mr. Speaker, I would like to take a few moments to publicly congratulate the National Park Service for implementing an innovative recycling program at five of its national parks, including Mount Rainier National Park in my home State of Washington.

Each year, thousands of Americans visit Mount Rainier National Park. Some climb the mountain and hike its trails, while others enjoy the mountain's magnificent beauty over a picnic lunch.

No matter the reason for visiting the park, one thing most visitors leave is trash. To better serve the park's visitors, and promote recycling throughout our Nation, Mount Rainier National Park began its recycling program of plastics, glass and aluminum in late August—a step that has led to the recovery of more than 11,380 pounds of recyclable material.

In addition to being the impetus for other recycling projects in the Pacific Northwest, the recycling program is an example of how public-private partnerships can produce positive results for local communities.

The Dow Chemical Co. is fully funding and implementing the recycling programs at Mount Rainier National Park and four others around the Nation. Dow is committed to plastics recycling growth and to helping more Americans become involved in recycling efforts.

Mr. Speaker, I want to personally commend the National Park Service and the Dow Chemical Co. for its innovative recycling program at Mount Rainier National Park. It is my sincere hope that their leadership promotes other recycling programs around the Nation.

IN HONOR OF THE CHAMPION QUAKER VALLEY SOCCER TEAMS

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SANTORUM. Mr. Speaker, resting in the Ohio River Valley about 12 miles northwest of Pittsburgh, on the north shore of the river, are the communities of Osborne, Sewickley, Edgeworth, and Leetsdale. These communities, along with Sewickley Heights, Sewickley Hills, and Fair Oaks, make up the Quaker Valley School District. The enrollment at Quaker Valley High School this year was 375 students. As a comparison, many of the other high schools in the Pittsburgh area have enrollment numbers like 800, 1,500, even 3,000. How could this school hope to be competitive on the sports field with schools outnumbering them 2, 3, or even 5 to 1?

Well, there's one sport where Quaker Valley, or "QV" as they are locally known, packs a punch far outweighing their size. That sport is soccer. On any given late afternoon in September or October, if you were to drive down Route 65 south toward Ambridge, you might see a group of 30 or so young men darting around the grassy expanse behind Quaker Valley High School. There are no fancy stadiums for the Q.V. boy's soccer team, though they often visit them to play their opponents. The "home field advantage" at Quaker Valley is two splintered bleachers full of students and parents, plus whoever can line up around the sidelines.

This humble setting, however, has once again become the home of champions. A beat up, yellow kickboard in the corner of the Q.V. field reads, "Quaker Valley Soccer—1985 AA State Champions". Well, it is now time to add to that proud sign, "1991 AA State Champions". After losing their first game in early September, the Q.V. boy's soccer team posted 26 straight wins to capture the Class AA Section 9, WPIAL, and PIAA titles. But that's not all.

There's another soccer power in the valley this year, and they come from the same school. The 1991 Quaker Valley girl's soccer team has ended their season with a perfect 23–0 record, the WPIAL championship, and a final ranking by National Soccer Coaches Association of America as the No. 1 high school girl's soccer team in the Nation. The final victory for the year, the WPIAL title match, came against perennial girl's soccer power Mt. Lebanon. The winning goal was scored on a direct kick by Liz Gaadt with 13:07 remaining in the game. Head coach Dom Vezza said after the game, "It was a classic ending to the season."

The 1991 Q.V. girl's soccer team was captained by four-year letter winners Emily Bikowski, Julie Poister, and Bridget Sullivan. Goalkeeper Liz Neidlinger recorded 18 shutouts for the year, and Julie McDaniel came in as the leading scorer with 31 goals and 8 assists. Other members of the champion Quaker Valley girl's soccer team include fullbacks Tina Jordan, Kari Wheeler, Jill Moody, and Kathy Seymour. At halfbacks for the year were Ann Tirimacco, Angel Vezza, Christie LaForte, Jen Tedesko, Carrie Bikowski, and Christin Norris. The rest of the varsity roster includes Kara Gensich, Rachel Stroup, Katie Hayes, Ashley Hoehl, and Lisa Tirimacco. Head coach Dom Vezza was assisted throughout the season by Mr. Richard Clark.

For the Q.V. boy's soccer team, the road to the state title began behind the high school in the sweltering heat of August. Head Coach Gene Klein, who has now mentored and trained eleven Q.V. teams, knows that the road to excellence is not an easy one. From the first day of practice, Coach Klein keeps his players on a steady diet of timed runs, figure 8 drills, suicide sprints, and hill climbs. The fundamentals are emphasized again and again, and each activity is closely tied to an essential skill needed for the big game.

And this year the big games did come, and Q.V. was ready. After winning the WPIAL AA title with a decisive 4-0 victory over South Park, the Quakers set their sites on Shippensburg. After three preliminary state playoff victories, the pinnacle moment came against Holy Ghost Prep, a private school which draws talented athletes from all over Philadelphia. Holy Ghost showed impressive speed and determination, but the Q.V. defense held fast while the forwards kept the pressure going up front. The decisive action came after a Holy Ghost handball violation early in the second half. Q.V.'s Ben McKnight was called upon to step into the penalty box and rise to the occasion. His instep shot to the lower left corner notched the goal, the game, and the championship season for the Quakers.

The captain of the 1991 Quaker Valley boy's soccer team was defender Jeff Vorberger. McKnight was co-captain and leading scorer with 40 goals and 11 assists. Forward Phil Oxendine placed second in scoring with 31 goals and 10 assists. Goalkeeper Mike Birely allowed only one goal throughout the state playoffs, and was assisted by defenders Kevin Kress, Keith Kelly, and Peter Knoll. Starting midfielders included Seth Perkovich, Colin McLaughlin, and Dan Gebhardt, with Noah Rahm joining Oxendine at forward. Other varsity players included Justin Glessner, Arman Fenger, Chris Lockerman, Sean Galagher, Zander Shaw, Clint McFarland, Stevan Popovich, Pete Peduzzi, John Rickert, Jason Novak, and Frank Dickson. Assisting Coach Klein for the year was his brother, Mr. Steve Klein, as well as Mr. Scott Riemer, and Mr. Ron Hitchens. Kathy Finneran provided service as team trainer throughout the year.

To all the players, coaches, parents, and supporters of the 1991 Quaker Valley boy's soccer team and girl's soccer team, I again extend my warmest congratulations!

BLACKSTONE-MILLVILLE JUNIOR-SENIOR HIGH

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. EARLY. Mr. Speaker, I am pleased to bring to the attention of my colleagues in the House an outstanding achievement by the Blackstone-Millville Junior-Senior High School in Blackstone, MA. From September 14, 1974 through this date the school's cross country team has won 251 consecutive dual meets. This streak has been confirmed by the National Federation of High Schools of Kansas City, MO as the longest high school winning streak in history in this sport.

The accomplishments of almost two decades of students at this school are unique. Blackstone and Millville are small towns. They have established and nurtured a tradition of excellence which is best demonstrated by the achievements, over a 17-year period, of the school's cross country teams. During the lengthy streak there have been only two coaches: Michael Cronan and Kevin Maloney. It is hardly surprising that this team, unlike so many professional sports teams, has had little turnover in its coaching staff. The longevity of the coaching tradition is proof of the value of the axiom: "If it isn't broke, don't fix it."

I know that the residents of these two small towns are rightfully proud of what has been achieved. It is now a tradition of such longevity as to span generations and be a part of the social fabric which holds these communities together. Watching this team compete has been and remains a happy occasion for residents of both towns. It's always fun to watch the home team win.

In conclusion, I add my personal best wishes and congratulations to all the students, faculty, parents and friends, within these two small towns, who have contributed to this landmark achievement. Indeed, if this team is fortunate enough to extend this streak another 47 wins, the streak will become the longest win streak in history in any sport, by any high school team.

KODIAK NATIONAL WILDLIFE REFUGE

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SARPALIUS. Mr. Speaker, in Alaska, the Kodiak National Wildlife Refuge is the world's premier wildlife preserve for nearly 3,000 giant brown bears. Commonly known as Kodiak bears, these dark coated grizzlies have peacefully fed off the island's plentiful salmon for over 50 years. But, as he did 50 years ago, man is once again coming into conflict with the great Kodiak bear.

The continued poverty of the native peoples on Kodiak Island has caused them to begin to commercially develop their extensive land holdings within the refuge. Tragically, the commercial development of Kodiak Island threatens to destroy the habitat of Kodiak's famous bears. But, Congress can save the Kodiak bear without spending a lot of money. The option exists to swap native land on Kodiak Island for U.S. Government land holdings. This solution meets the demands of native land claims, but saves some of our vanishing wilderness for the Kodiak bear.

Too often, we wish we had acted to save our wilderness before it was too late. On Kodiak Island we have a chance—a chance to save the habitat of the Kodiak bear and a part of Alaska's untamed wild.

REFORM THE SUPERFUND PROGRAM

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ZIMMER. Mr. Speaker, nine years ago this month, the Environmental Protection Agency designated a farm owned by Neil Myers in Franklin Township, NJ, as a Federal Superfund site. Today, Mr. Myers is still waiting for the site to be cleaned up. And, based on current reports, it will be years before the cleanup is fully completed. As Mr. Myers says, "I was 40 when I bought the farm and I'll be 60 on my next birthday. I just hope they get it cleaned up in my lifetime."

The story is similar at the DeRewal Chemical Co. site and the Fried Industries site, and the JIS Landfill. In fact, there are 12 Superfund sites in my district, most of which have been on the National Priorities List for nearly 10 years. Yet, cleanup is completed at just one of them.

It is becoming clear that Superfund, however appealing in theory, is not working. Rather than cleaning up sites quickly and effectively, this hazardous waste cleanup law is leaving a bitter legacy of suspicion, cynicism, and anger among all who have been exposed to it.

The biggest losers are those who live near these sites. But there are other losers as well. Government loses as people become even more skeptical about its ability to tackle the great problems facing our Nation. Business loses as it spends limited resources in unproductive battles over who should pay how much to clean up these sites. The biggest loser is the environment as needed soil and groundwater cleanup actions are unconscionably delayed.

When Congress enacted Superfund, it thought it was passing a law to clean up hazardous waste sites. But instead of cleanup, a substantial portion of Superfund resources are spent trying to raise money from the private sector, municipalities, nonprofits, and others. Vast sums are frittered away in bureaucratic battles and lawsuits, all relating to what should be done, who should pay for it, and how much each party should contribute.

There is a lot of activity, lots of studying, lots of testing, lots of lawsuits, but precious little actual cleanup.

Mr. Speaker, it is time to fix Superfund. It is time to give the American people a program that works, rather than clinging to a failed theory.

In a recent opinion piece in the Washington Post, noted environmentalist Jessica Mathews, vice president of the World Resources Institute, said "too much of the money—in Superfund—is being wasted. To date, more has been spent on legal briefs than bulldozers. . ."

IN MEMORY OF FRED BEAR

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BOEHNER. Mr. Speaker, memorialized as the father of modern bowhunting, Fred Bear was a legend in his own time. Indeed, bowhunting's present day popularity is a measurement of Mr. Bear's long-term involvement in the sport. He was one of bowhunting's most eminent innovators, advancing the sport to unprecedented levels. Veritably, having been regarded as bowhunting's premier ambassador, Fred Bear is deeply missed by sportsmen the world over. Therefore let us commemorate the sport which so inspired Mr. Bear's complete commitment.

THE SPORT OF BOWHUNTING

Long ago, man's survival was contingent upon his hunting ingenuity. Consequently, the bow-and-arrow were first fashioned in ancient times, and bowhunting proved to be an effective means of obtaining food.

Today, the sport of bowhunting serves additional purposes. In its relationship to wildlife conservation, bowhunting is an indispensable to wildlife conservation, bowhunting is an indispensable tool. Game management is essential to the continuation of numerous wildlife species, and hunting is a time-tested method of controlling game. Without bowhunting, wildlife conservation would surely suffer.

The bowhunter's contribution to wildlife conservation, however, does not begin or end in the field. By purchasing hunting licenses, paying taxes on sporting equipment, and donating funds to the cause, the hunter further assists the effort to preserve wildlife. Annually, the hunting sports generate millions of dollars for wildlife conservation.

Throughout the year, bowhunters reap great rewards from their sport. Afield, the bowhunter enjoys a special proximity to nature. The sport of bowhunting enhances one's connection to the great outdoors, providing the participant with an opportunity to better understand his or her environment. At other times, the bowhunter may partake in the many varied activities associated with archery.

Around the world, bowhunting is an ever-increasingly popular sport. In the United States, there are more than two million bowhunters, and our nation's bowhunting community is expanding each year. Across the country, there are a monumental number of bowhunting clubs, affiliated organizations, and related wildlife conservation groups. Bowhunting events, held in most States on a regular basis, continue to attract people of all ages. Bowhunting target-shoot-tournaments are a favored form of family recreation.

Admirably, bowhunter education programs are available to the public in a widespread manner. Countless volunteer instructors, who are certified to teach hunter safety, give much of their time to this concern, exemplifying the bowhunter's dedication to our outdoor traditions.

Ultimately, having endured throughout the ages, bowhunting's future health and growth will be determined by man's own sense of his surroundings. In light of that fact, bowhunters persist in their endeavors to extend man's awareness of bowhunting's merits. Their goal is supported by wildlife conservationists everywhere, who know that bowhunting is a gratifying sport—a truth, with which the estimable Fred Bear was so well acquainted. The sport of bowhunting will forever be deserving of acclaim.

EUNICE LIBERTY: A LEGEND IN EDUCATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LEHMAN of Florida. Mr. Speaker, today I rise to honor a woman who has dedicated 40 years of her life to the most important task in our society—educating our children here in Dade County. Eunice Liberty has not only committed herself to teaching students the traditional subjects, but she has instilled a sense of history, culture, and character in those she has taught.

Eunice Liberty shines as an example of the ideal educator. She is one of the finest examples of a profession which by its very nature attracts caring and dedicated individuals. From my experience as a former high school teacher and as a member and chairman of the Dade County School Board, I can truly appreciate the magnitude of her achievements.

I would like to share with my colleagues an article detailing the distinguished accomplishments of my long-time special friend, Eunice Liberty, as an educator and as an active member of our community. She has had a positive influence on thousands of young people through her endeavors and is truly deserving of the title—Teacher.

FOR CHILDREN'S SAKE

(By Lydia Martin)

Eunice Liberty was barely 7 when she rolled up her sleeves to help her mother with the stack of laundry she took in daily.

She was 12 when she boarded a train in Plant City, waved goodbye to her family and left for Daytona Beach in search of an education.

She found a lot more than that at the Mary McLeod Bethune Normal Industrial Institute for Negro Girls. Liberty spent only seven months in Bethune's classroom, but she has dedicated a lifetime to carrying on the educator's legacy.

It is what keeps Liberty going—even now at 87, when she depends on a walker to get around.

For the 22nd year, Liberty is helping to coordinate a county-wide writing, speech and art contest that honors Bethune.

It used to be a project of the Miami chapter of the National Council of Negro Women, of which Liberty is president emeritus, but the chapter has been dormant for more than a year, said Georgia Jones Ayers, the last president to be elected by the group.

Liberty helps coordinate the contest with Dade County Public Schools. She does most of the work from her home.

For Liberty's contest, students base their entries on the words of Bethune's will, of which Liberty keeps a tape recording:

"I leave you love," Bethune said. "I leave you hope. I leave you the challenge of developing confidence in one another. I leave you a thirst for education. I leave you a respect for the use of power. I leave you faith. I leave you racial dignity. I leave you a desire to live harmoniously with your fellow man. I leave you, finally, a responsibility to our young people."

Though Liberty is a widow with no children of her own, the retired schoolteacher has never lost her sense of responsibility toward young people.

"What I do, I do for the children. I am trying to make sure they get the message, that they understand how important it is for them to become educated," Liberty said.

Ayers said of Liberty: "She loves the legacy of Mrs. Bethune. And she deserves accolades for what she has done over the years."

On Thursday, Liberty opened her Liberty City home to a group from Olinda Elementary School.

She talked to them about local black history and about Bethune, whose school for girls later became Bethune-Cookman College.

Liberty knows how hard it can be to secure a good education.

Liberty's mother took in load after load of laundry to make enough money to send Liberty to school. There were no schools for black girls in Plant City, near Tampa.

Seven months after arriving in Dayton Beach, Liberty became ill and the money her mother managed to scrape together started running out, so she went back home.

"My mother was the first of 16 children. She and my father separated when I was 5 years old. My sister was two years younger. We were poor, but my mother worked hard to make sure I got an education. You could say I came up the hard way."

But Liberty never gave up her dream of getting a good education. She eventually went to Florida A&M University in Tallahassee, became a teacher in 1927 and—in mid-career—earned a master's degree from New York City's Columbia University in 1950.

Liberty arrived in Miami in the early 1930s to take a teaching job. She retired after nearly 40 years in Dade schools, 23 at Douglas Elementary at Overtown.

Even now, she is concerned about the future of Miami's children and is looking for a way to pass on her work and Bethune's legacy. Liberty has spoken with her lawyer about finding a way to donate her house to charity, but no other plans have been made to turn the house into a historical site.

"I want to leave my house to the community," she said. "I want there to be a center here where the children can come to learn about their history and learn that no matter where we are from, we can learn to get along.".

A POSTHUMOUS TRIBUTE TO MRS. GLADYS L. GRICE

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FLAKE. Mr. Speaker, I rise to pay tribute to a woman who was my elementary school teacher in the third and the fourth grades. Mrs. Grice was an extraordinary human being by virtue of her ability to love each of her students as if they were her own.

Because of her fulfilling the function of an in loco Parentis, Mrs. Grice demanded discipline and excellence from each child. She did not accept excuses for lack of performance. Instead, she set high goals and standards which her students were required to reach. Her creativity was limitless as she taught her students to be more creative as they explored various educational pursuits. No student was allowed to work below their potential.

I met Mrs. Grice when I was 8 years old when my parents enrolled me in the third grade at the Korhville Elementary School. Korhville was a four-room school consisting of eight grades. Therefore, when I finished the third grade, I merely moved to the other side of the room to fourth grade. The school was the only one for Blacks in the Klein School District and therefore we rode a bus 16 miles, past three white schools, in order to get to Korhville. Thank God for Mrs. Grice who drove about 100 miles from Grapeland, TX to greet her students.

Although the books and materials at Korhville were second-hand (they had been previously used in the white schools first), the quality of education from the teachers, Mrs. Grice, Mrs. Dawson, Mrs. Valentine and Mrs. Livingston, who was the teaching principal, was first class.

In the second semester of my fourth grade year I was stricken by a severe rash which made it impossible to attend school. Mrs. Grice would make the sacrifice of driving 16 miles out of her way each Friday to deliver and pick up my homework and assignments, and then drive back through Korhville to Grapeland accompanied by her daughter, Edwina. She and my mother developed a very good relationship during this period and when my mother died, she came to support my family by driving our relatives to the wake and subsequent funeral. She was a very special person in my family's life.

Mrs. Grice was educated at Houston-Tillison College receiving a degree in home economics. She subsequently received her masters in special education from Prairie View A & M College. In addition, teaching at Kohrville, she taught at Aldine-Carver High School and as home demonstration agent in homes in the Shepherd, TX area during her 30-year career. She was skilled in homemaking, arts and crafts, upholstery and used these gifts to teach her students skills which would help them get jobs after school.

Most of all, Mrs. Gladys Grice was a good wife to her husband Edward, a loving mother to Edwina, Linda and Edward Jr., and a caring, compassionate, dedicated educator to me and the hundreds of other students who were privileged to know her.

TRIBUTE TO MRS. VALERIE NICHOLS-DABBS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TOWNS. Mr. Speaker, I am pleased to commend Mr. Valerie Nichols-Dabbs for her tireless efforts on behalf of senior citizens of Brooklyn. A native of Queens, NY, she graduated from Flusing High School and Brooklyn College, and began working for the New York Department of Welfare as a caseworker in 1965. In 1973 she went to work for the Diana H. Jones Senior Citizen Center as its assistant director, and became its director in 1983.

Mrs. Dabbs realized her goal of retirement in September 1991. She has remained active by serving as the program officer for the New York Department of Aging. She resides in Queens and is enjoying life with her husband and son. I am immensely proud to highlight the achievements of this truly outstanding human being. The lives of the senior citizens at the Diana H. Jones Senior citizen Center have truly been enriched as a result of her efforts.

NAGORNO-KARABAKH AUTONOMOUS OBLAST

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HOYER. Mr. Speaker, as we are all aware, the collapsing central authority of the former Soviet Union has brought about a demand by peoples throughout the country for observance of human rights and self-determination. Unfortunately, this collapse has also led to strife and armed conflict between various peoples of the former Soviet Union.

One of the most serious outbreaks of armed conflict has taken place in the Nagorno-Karabakh Autonomous Oblast, an enclave in the Republic of Azerbaijan with a majority Armenian population. Both Armenia and Azerbaijan claim historical rights to the region and, according to official statistics, over 450 civilians and 86 military personnel have died in the fighting over the past 4 years. Beginning in April 1990, the Armenian population of Nagorono-Karabakh has in particular suffered from attacks and deportations by the Soviet Army and para-military forces of Azerbaijan. Moreover, Armenian villagers living in Azerbaijani territory outside Nagorno-Karabakh have been forcibly deported to Armenia by Soviet Army transports.

Recently, the Governments of Azerbaijan and Armenia have stated a desire to resolve the Nagorno-Karabakh crisis, and, through the arbitration efforts of President Yeltsin of Russia and President Nazarbayev of Kazakhstan, signed the Zheleznovodsk Communique of September 23, 1991, the provisions of which are designed to lead to a favorable resolution of the conflict.

Though the recent peace initiative brokered by Presidents Yeltsin and Nazarbayev offered some hope of a settlement, fighting has been renewed on both sides. Moreover, recent moves by the Azerbaijani Government have not been encouraging. On November 4, 1991, the gas pipeline through Azerbaijan to Armenia was cut off, causing major energy shortages in Armenia. A representative of the Azerbaijani mission in Moscow stated openly that the move was done to force Armenia to recognize Azerbaijan's claim to Nagorno-Karabakh. And the possibility of even more serious conflict has been heightened by an unexplained helicopter crash over Nargorno-Karabakh that took the lives of at least 21 persons, including 2 high-ranking Azerbaijani officials. Already, there have been demonstrations in Azerbaijan calling for retaliation against Armenia, together with threatening statements by the President of Azerbaijan.

On October 23 of this year, the Helsinki Commission, of which I am pleased to serve as Chairman, held hearings on the Nagorno-Karabakh crisis. The hearing addressed the causes of the conflict and the further possibilities for a peaceful resolution of the dispute. Representatives of both the Armenian and Azerbaijani Governments testified, along with the prominent human rights activist, Baroness Caroline Cox, a deputy speaker of the British House of Lords, who has led three delegations of international observers to Armenia, Azerbaijan, and the Nargorno-Karabakh region.

In her testimony, Baroness Cox outlined a series of humanitarian proposals on Nagorno-Karabakh that should complement the Zheleznovodsk Agreement. Dr. Elena Bonner, another witness at our October 23 hearings, also provided her valuable suggestions. These proposals, if implemented, would go a long way toward alleviating the human suffering that has taken place in Nagorno-Karabakh. I would add also that these measures were endorsed by Mr. Mekhtiyev, a deputy of the Azerbaijani Supreme Soviet, who testified at the Helsinki Commission hearings.

I, along with my colleagues, Congresswoman BOXER, Congresswoman MORELLA, and Congressman RITTER, have introduced a resolution that calls upon the Government of the United States to support and encourage several steps based upon Baroness Cox' recommendations. As I noted above, we believe that this plan of action, if conscientiously followed, could do a great deal to help resolve the Nagorno-Karabakh situation, and we hope the Administration will lend its active support to these proposals.

I urge our colleagues to support this resolution.

IN SUPPORT OF H.R. 3909, EXTENDING CERTAIN EXPIRING TAX PROVISIONS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GUARINI. Mr. Speaker, I rise today in support of H.R. 3909, which extends for 6 months a group of 12 tax provisions scheduled to expire by or before the end of 1991. This legislation is similar to H.R. 3752, which I introduced on November 12, 1991, along with 12 of my colleagues on the Ways and Means Committee, except that my legislation would have extended these provisions for 1 year.

Given the current state of the economy, this legislation is crucial. Although legislation designed to stimulate economic activity has been introduced by the administration and by various Members of Congress, there is as yet no consensus—beyond agreement on a much needed extension of unemployment benefits—on how to bring the country out of this lingering recession. As a result, none of the bills that might be of benefit to the economy in creating new jobs and growth are likely to be acted on this year.

At the same time, the tax provisions that are the subject of this legislation are currently adding economic benefit by, among other things, encouraging research and development activities, stimulating the construction of low-income housing, assisting first-time homebuyers, educating our work force, and promoting the employment of the structurally unemployed. These significant economic benefits will be lost if we allow the tax incentives to expire.

One provision that is particularly dear to me is employee educational assistance. Right now, literally thousands of American workers are waiting to learn whether or not they can take classes that will enable them to improve their ability to support themselves and their families. These are not high rollers, but are hard-working, average Americans, most of whom earn less than $30,000 per year; over one-third earn less than $20,000.

One such worker that the Ways and Means Committee heard testimony from this year was Debbie Ireland of Hewlett-Packard. Ms. Ireland was a single mother earning about $15,000 a year as an assembly-line worker. With no training and no job skills, she couldn't find a higher paying job. Luckily, she worked for an employer who provided educational assistance under section 127. She will graduate from college next May and now makes about $20,000. This is what educational assistance can mean to average Americans.

Although I am pleased that we finally acted on these provisions, it was very unfortunate that we only extended these provisions for 6 months. Corporations will find it difficult to budget R&D expenses for just 6 months. Individuals going to school do not go for just 6 months. It makes no sense whatsoever to extend these programs for such a short period. It creates uncertainty and prevents rational planning.

We had sources of revenue available to pay for a longer extension, sources which enjoyed wide bipartisan support, both on the committee and by the administration. For example, my legislation, H.R. 1135, which ends double dipping by savings and loans, raises $1 billion, and has been cosponsored by 15 members of Ways and Means and endorsed by the administration. This legislation also ends an egregious tax abuse. Yet, the committee chose to bypass these revenues and allow the abuse to continue rather than opt for more than a 6-month extension.

I am also concerned that a 6-month extension requires us to deal with these provisions again next year. With a Presidential election looming, with all the partisanship that this entails, there is no guarantee that these tax incentives will not become a casualty of election-year politics. These circumstances are bound to have an adverse impact on technological innovation, employment, and construction. Once business opportunities are lost, they are often never fully recaptured.

Nonetheless, I am pleased that we have extended these important programs for at least 6 months. Six months is not ideal, but it is more than we might have expected when it appeared that the expiring provisions would be allowed to die. However, the significant support that my legislation, H.R. 3752, received, made it clear that we could not allow this to happen.

Let's not go through such a situation again. We should hold hearings and make those programs permanent that deserve it and let the ones that don't expire.

TRIBUTE TO ROGER ALLAN HERNDON

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to Roger Allan Herndon, age 21, who lost his life in a tragic airplane crash near New Paltz, NY, on August 2, 1991.

Roger Herndon was a cadet in his senior year at the U.S. Military Academy at West Point, NY. He was working toward a degree in aerospace engineering and was enrolled in a summer flight training program at the time of the accident. His flight instructor also perished in the crash.

I had the distinct honor of nominating Roger to the Academy. He was a bright and intelligent young man. He was the valedictorian of the 1988 graduating class of Calloway County High School, where he had been active in the school's ROTC program.

He is survived by his parents, Mr. and Mrs. Woody Herndon, Jr., his sister, Melissa Graves, and his grandparents, Mr. and Mrs. Clarence Woodrow Herndon, Sr. and Mrs. Virgil Grogan, all of Murray.

My wife Carol joins me in extending our sympathy to the family of this exceptional young man, Roger Allan Herndon.

SMALL BUSINESS LOAN DISCLOSURE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity to outline my support of the House Conference Report 102-407. At this point, it is necessary to recapitalize the bank insurance fund. We need to restore consumer confidence in the banking industry and the first step is to recapitalize the bank insurance fund. The responsible action is to support this conference report. The American people need to know their deposits are guaranteed by the U.S. Government.

The House Banking Committee has worked diligently to reach the best possible solution. Not all issues were addressed in their entirety. Several issues will have to be readdressed in the months to come. There is one issue that I would like to specifically address. This is section 122. Small Business Loan Data.

The language addressing small business loans takes a step in the right direction, but more needs to be done to help our small businesses. The appropriate Federal banking regulatory agencies will be required to promulgate regulations that are available to the public and provide information on loans made to small businesses and small farms.

Information on small businesses is invaluable. This information serves two primary purposes. First, it is essential for regulators to know what type of commercial loans are being made. Currently, real estate loans are broken down into several categories. Second, information on small businesses can help determine credit access and assist with the early detection of a credit crunch.

Many of us repeatedly have heard from our local businessmen that they are not able to obtain credit. We need to support our small businesses. The growth of small businesses is vital to our economic recovery. We must do all we can to end this credit crunch and this includes supporting the conference report.

NATIONAL GEOGRAPHY AWARENESS WEEK

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. MINK. Mr. Speaker, Geography Awareness Week is being celebrated December 1 to 6, 1991, throughout this Nation. By setting aside this week for this special recognition, we hope that our parents, students, and teachers will realize that it is an extremely important facet of our educational curriculum.

Now more than ever, it is critical that our students learn about the world and our relationship to it. It is no longer enough to study about ourselves, our city, our town, or our State. And it is not enough to study only our own country. We have to learn more about our neighbors, about people across the oceans, about those who have become our major trading partners, and about those who challenge our technological prowess and compete with us in the marketplace.

We also need to understand the situations that other people and nations find themselves in. We cannot appreciate the danger inherent in crises emerging in other parts of the world without being cognizant of their geographical dynamics. In this, it is terribly important to remember that many people in the world do not have friendly neighbors, like we do here in the United States, and they are not bordered by hundreds of miles of ocean like my constituents in Hawaii.

In fact, people in many parts of the world are threatened by nations that are very close by. This changes the nature of their politics, and their foreign policy. For instance, it is impossible to understand the Middle East without knowing how the nations there are situated with respect to each other. If Washington, DC, were Jerusalem, then Baltimore would be in Jordan and Beirut would be only as far away as Philadelphia. In my own district this is the same as the distance across Oahu, or between Oahu and the Island of Hawaii. Is it any wonder that the region is so volatile?

In a similar fashion, it is terribly significant that what was once the Soviet Union is now twelve republics that perceive of themselves as being independent; or that what was once two Germany's is now one.

At the same time, there are other international issues about which distance matters not at all. The greenhouse effect knows no boundaries and affects us all. So does the decline in the rainforest, the pollution of our oceans, and the escalating problem of overpopulation. In this time of increasing environmental problems, a perspective of the world grounded firmly in an awareness of the importance of geography provides a foundation for recognizing the critical relationship between human activity and the health of our planet.

We need to be sure that the American people understand these issues, and the people and regions of the world that contribute to them. Only then can we be sure that we make the correct response. In this, the credibility of our Nation's foreign policy largely depends on the support of a geographically informed public. But we fall dangerously short of this goal. In a 1988 Gallup poll, 75 percent of those surveyed could not locate the Persian Gulf on a map, and fewer than half could name Asia as the place that Christopher Columbus was hoping to reach when he discovered the New World. That Gallup poll also projected that 24 million Americans could not identify the United States on a map of the world, 58 million could not tell direction on a map, and 105 million did not know our Nation's population. This is a crisis of profound proportions, and we need to respond.

We need to be more aware of the importance of teaching and learning geography, and of developing teaching skills which cut across disciplines. Why not teach geography in a literature class? Or in a language class. Or in a science class? And of course, geography is history—and geography is government.

The more that we can accept the universal nature of place, and place name, in the context of the world, the better we will be able to realize how a geography lesson can be so easily incorporated in nearly everything we teach, and in nearly everything we learn and read about.

To hear the news on TV, to see the weather chart, to read the newspaper, and to read a book or magazine; all of these require that we have an understanding of the people we are hearing about, where they live, what their climate is like, what kinds of foods they eat, and how they survive. This is the living geography which we must make a complete part of our learning.

I urge all of my colleagues to take the time to make your community aware of geography, and of how deeply relevant its study and comprehension is in our educational pursuits. The

President listed competence in geography as one of our Nation's education goals for the year 2000. We need to begin now to bring this to the forefront. Begin December 1 and join the Nation in celebration of Geography Awareness Week.

IN RECOGNITION OF DONALD F. GODWIN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. OAKAR. Mr. Speaker, this month marks the 6 months of operation for the House of Representatives Office of Employee Assistance. We are all very pleased with the office and the support it is providing to the House of Representatives.

On this occasion, those of us who have been involved in the establishment of the House Office of Employee assistance would like to recognize an individual whose hard work and dedication to providing assistance to those in the workplace was instrumental in the formation of our program.

Donald F. Godwin came to us at a critical time in our program's development. The countless hours he spent in the selection process for our director, as well as the assistance he provided with other aspects of the program, have been rewarded with an operation we may all view with pride.

Mr. Godwin's work in the field of employee assistance spans a period of nearly 30 years. He began his work in West Virginia where he developed the first rural community mental health center in the United States. From there he moved to Baltimore where he served as the executive director of the Baltimore Area Council on Alcoholism. It was at this time that his leadership in developing worksite alcoholism programs contributed to the concept of employee assistance programs.

For the last 20 years Mr. Godwin has been employed with the National Institute on Alcohol Abuse and Alcoholism here in the Washington, DC area. His most recent position is that of Director of Occupational Programs in the Division of Clinical and Prevention Research. Currently, he is on assignment to the Department of Labor assisting the Department with grants designing employee assistance programs to reach employees working in small businesses. In addition, Mr. Godwin continues to support his colleagues in the EAP field, serving on the Certification Committee for the Employee Assistance Professional Association.

We in the House wish to extend our thanks to Don for his work on behalf of our Employee Assistance Program. His efforts will extend to countless members, employees and their families the support to address their problems and the hope for an even brighter future.

SENATE AMENDMENT TO H.R. 3670

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CONYERS. Mr. Speaker, I rise in support of the Senate amendments to H.R. 3670. I am particularly pleased, Mr. Speaker, that this legislation includes a provision that clarifies that aliens who have no nationality are eligible for Temporary Protected Status if they have habitually resided in a country that the Attorney General has designated for TPS.

This provision is necessary to protect, for example, stateless Palestinians who have habitually resided in Kuwait or Lebanon. The Attorney General has recently designated these countries for TPS, but until now TPS protections have been denied to Palestinians who have lived much of their lives in those countries. Under H.R. 3670, these persons would be eligible for TPS, even if they hold a travel document—such as a laissez passer or a Jordanian passport from another country.

TRIBUTE TO JOHN W. McHORSE

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PICKLE. Mr. Speaker, on this Veteran's day I was privileged to participate in the dedication of a grave marker for a great Texan, John W. McHorse, who served in the Texas army of the revolution. John W. McHorse lived a long life and contributed greatly to Texas as it grew in the 19th century.

At the grave marker service in Austin, Mr. Kennett L. Simmons made an excellent presentation about the life and times of John W. McHorse. I would like to submit his remarks for the RECORD, and I commend it to my colleagues. John McHorse was a great Texan and a great American, and I believe he deserves recognition and remembrance.

State representative Parker McCollough delivered an historic and meaningful history of Mr. McHorse. The ceremony was held in the picturesque State Cemetery.

JOHN W. McHORSE BIOGRAPHY

What we know today of John W. McHorse comes to us through family stories, legends, and the dry history of official records.

Our sense of him therefore is, of necessity, in the poet's words "partly truth and partly fiction" . . . but through that he becomes real to us.

He was most likely born in Tennessee in 1819 . . . and I say that standing near the firmness of his gravestone that says he was born in Alabama and with other sources saying South Carolina . . . others Scotland . . . and some the date as 1812.

But John W. told the census takers "Tennessee in 1819" . . . so that is probably the truth of it. He also reported in the census that his father was born in Scotland and his mother in Tennessee.

Of them we know nothing more yet . . . although family legend says the father's name was McHouse and that he came to America from the border regions of Scotland with a brother who later returned home.

John W. came to Texas . . . probably from Alabama . . . early in 1836 . . . at 17 years of age . . . we think alone.

In Nacogdoches on March 1 of the fateful year in Texas history he enlisted for 90 days service in Captain Hayden Arnold's Company of Col. Sherman's Regiment of Sam Houston's revolutionary army.

On April 21 on the field of San Jacinto he helped win the new Republic's independence. In doing so he suffered a gunshot wound to his left hand.

After the battle he completed his enlistment and was discharged at Victoria, Texas on June 1, 1836.

Those are the "facts" of his service of the Texas Army of the Revolution . . . but according to family legend we're told another thing occurred that left its imprint on our family. We're told that on a chance meeting in Bastrop, Sam Houston told young John McHouse that McHorse was a better name for a Texan . . . and so doing gave a new land's name to a new family.

After he left the army, we know he lived for two months in the home of Jesse Walling in Rusk County . . . who later was elected to the Texas legislature . . . and who also provided confirmation in 1870 of John's service to prove his eligibility for a pension. Jesse Walling's descendant, Dr. Albert Walling, founder of the San Jacinto Descendants, is here with us today.

John returned to Alabama and on October 26, 1837, this young warrior enlisted as a corporal in Captain Bryson's Company of the North Alabama Mounted Volunteers in the war with the Seminole Indians of Florida.

After a six month enlistment he was discharged on April 13, 1838, at Fort Mitchell, Alabama . . . ending his active military service.

In 1842, he actively entered the war between the sexes . . . marrying Elizabeth Wilson, daughter of James W. Wilson of Kentucky, in Jackson County, Alabama.

In 1844, their first child, Rebecca, was born in Mississippi.

In 1846, their second daughter, Delitha, was born back in Alabama. We know Delitha was named for Elizabeth's mother . . . and by Scottish naming patterns Rebecca would have been named for John's mother, but we don't know that for certain.

In 1849, a child named James (after Elizabeth's father) was born in Alabama . . . but we think he died in early childhood because he doesn't appear after the 1850 census of Fayette County, Alabama.

In 1851, Roda was born in Alabama . . . and shortly thereafter the family moved to Arkansas where in 1852, William Martin was born.

On July 8, 1853, John enlisted in another service . . . being ordained as a Baptist minister at the New Home Baptist Church in Clark County, Arkansas.

In 1854, Isaac was born . . . and in 1855 my ancestor John Calvin . . . two strong Christian tradition names . . . reflecting John W.'s new ministry.

John W. bought and sold several tracts of land while in Arkansas . . . including transactions with his wife's family, the Wilsons, and land he obtained from warrants received for service in the Indian War.

On October 25, 1858, he organized the Pleasant Hill Missionary Baptist Church in Sevier County, Arkansas . . . the church and adjoining McHorse Cemetery exist today.

December 16, 1860, his son Thomas Mason was born.

Also at an uncertain date and place, but we think in late 1860 or early 1861 in Sevier

County, Arkansas, Elizabeth Wilson McHorse died.

Later in 1861, John married Rutha Jane . . . who was born in Mississippi, but whose maiden name we don't know.

During the War Between the States, John W. did not bear arms nor to the best of our knowledge did any of his sons. John did serve as Commissioner of Relief for the families of Confederate soldiers during 1863.

In 1864, Mary Ellen was born to John and Rutha Jane . . .

In 1866, Elonzo David was born . . . still in Sevier County, Arkansas.

Between 1866 and 1870 the family moved to Texas where the 1870 census places them in Milam County.

In 1871, they were in Falls County, Texas where John joined the Masonic Lodge . . . and organization he remained active in until his death.

In 1874, he helped establish Macedonia . . . a farming village in Williamson County . . . and established the Masonic Lodge there.

Today all that remains of Macedonia is a pretty country cemetery where Rutha Jane, Mary Ellen and Elonzo rest . . . but in the 1870's, it was a thriving village centered around a cotton gin.

During the next decade, John prospered as a land trader, farmer and cattle trader.

In 1883, he was a founder of Circleville . . . north of Taylor . . . and again, the Masonic Lodge there.

Also in 1883, his service at San Jacinto was commemorated in a painting by Henry McArdle entitled "The Battle of San Jacinto" which hangs today in the Texas Senate Chambers.

In 1889, he divorced Rutha Jane.

And in 1890, he married Denisa Ann Harrison . . . granddaughter of President William Henry Harrison . . . and a woman prominent in Austin society.

In 1892 John and Denisa joined the New Hope Baptist Church in Cedar Park, Texas.

In 1896, however, one of the difficult days of his life occurred when he was dismissed from the church for "unchristian conduct".

We don't really know what occurred to cause the dismissal . . . although one family descendant has a story involving counterfeit money and some unsavory Yankees from New York. Perhaps even a hundred years ago Texans were having problems with real estate and banks!

In 1896, Denise divorced John W. . . . probably involving problems from the same source.

But 1896 wasn't all sadness, for in that year John travelled on April 20 to Galveston to attend his last reunion of the Texas Veterans Association . . .

On January 19, 1897, John W. McHorse died in his home in Leander, Texas.

On January 20, this warrior, minister, businessman, Mason and father was buried in Texas' most hallowed cemetery.

Today John W. McHorse belongs to the ages.

And we . . . his descendants . . . belong to him.

Thank you.

H.R. 3750, CAMPAIGN FINANCE REFORM

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. COLLINS of Illinois. Mr. Speaker, it has long been evident that we need to reduce the soaring costs of elections, and yesterday this body did. Our constituents believe that we spend entirely too much time chasing dollars instead of finding solutions to our Nation's problems. As the costs of campaigns soar, the public is becoming more and more disillusioned with the whole process. Perhaps if we can rein in ballooning campaign costs, the ordinary citizen will once again feel that his or her voice can be heard, and that each individual's vote counts. Perhaps then many voters will take an interest in elections and return to the voting booths.

In addition to helping to erase the perception that Congress is too concerned with fund raising, another positive outcome that may occur as a result of these reforms is the dismissal of the perception that Congress is for the wealthy. Hopefully, by bringing costs under control, more ordinary citizens may be encouraged to run. We would do well to relieve ourselves of the perception that only wealthy, well-connected individuals can seek to serve in the governing of our country and win. This body would do well to make the opportunity to become members of the House and Senate more possible for candidates who possess a genuine concern for, an interest in, developing policy and leading this Nation.

While I did not support every provision of this package, I agreed that the process was in need of reform. However, I am pleased to see that PAC contributions were not limited to the point of muffling the collective voices of individuals who make contributions to candidates of their choice.

It is my hope that these measures, if signed into law by the President, will allow us to put the subject of campaign financing behind us.

NORA BELOFF ON YUGOSLAVIA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BENTLEY. Mr. Speaker, I would like to insert the following pieces, written by Nora Beloff, and published in the November 19, 1991 edition of the Washington Post, and the November 22–28, 1991 edition of the European.

Ms. Beloff has written extensively on the Soviet Bloc and Yugoslavia.

[From the European, Nov. 22, 1991

WHY THE ABOMINABLE SERBS DO HAVE A CASE

Television brings home to all of us the horrors of civil war and there is a passionate and growing feeling here that harsh measures are needed to punish the Serbs for what looks to the outside world like a brutal war of communist aggression.

In considering appropriate measures, however, we need to distinguish three separate disturbers of the peace the federal army, the Serb Government, and the leaders of the Serb-inhabited regions of Croatia. The over-mechanised, miserably-led federal army is guilty of shelling Dubrovnik and of demolishing several Croat towns and villages. Its founder Tito was half-Croat, half-Slovene and the majority of senior officers—though by no means all—are from Serbia-proper or from Serb-inhabited regions of Croatia.

During the last war, hundreds of thousands of the people from these regions of Croatia were massacred by the Nazi-style Ustashi installed by the German occupiers. The Serb survivors fled to Tito's communist-led guerrillas, the only resistance force operating in that region. It is often assumed that all fights in Yugoslavia are ethnically based. In fact, these peasants formed the backbone of the Partisan army and found themselves forced to fight a long and bloody war against the Serb resisters from Serbia itself, who mainly backed Drazha Milhasilovic, loyal to the exiled king.

After the Russians freed Belgrade and the Allies gave unconditional support to Tito, he was well placed to seize power and kill off his enemies and potential enemies. Turning a blind eye to the slaughter, the West constantly supported Tito and his successors, lavishly supplying the federal army whose officers lived well and had enormous self-interest in preserving the system.

Last year a leading communist officer, Admiral Mamula, was given a hero's welcome when he addressed the Royal United Services Institute in London. He returned, no doubt believing that if the army intervened to preserve the Tito legacy, they could count on Western support.

A solid cause for intervention was supplied when the Slovenes provocatively hauled down the flag on Yugoslavia's internationally-recognized frontier with Austria. The officers, selected for politically rather than military qualities, were anxious, not to lose soldiers and sent heavy armour and aircraft with only a handful of troops. These were easily outnumbered by the Slovene local militia and the world was treated to a televised spectacle of David beating Goliath.

The Croat nationalist leader Franjo Tudjman, not to be outdone, implemented his own UDI by blockading all of the federal units on Croatian soil. These consisted mainly of conscripts stationed in strategic areas. Deprived of food, light and heating, local commanders appealed to Belgrade, giving the army a legal excuse for invading Croatia. In fact, as we know, from leaks in the amazingly free Belgrade Press, they were taking the occasion to reconquer as much of Tito's Yugoslavia as possible. They were also frequently colluding with Serb President Slobodan Milosevic, though his agenda was different—a greater Serbia under his own control.

Milosevic, like many communists in post-communist eastern Europe, had draped himself in national colors. Tito had always acted on the assumption a strong Serbia means a weak Yugoslavia and his successor Milosevic had plenty of accumulated Serb resentments to play on.

As Tito rigidly censored the media few know that in 1968 after riots, and disturbances, he had transferred power, patronage and most important of all, total police control, from the Serbs to a corrupt gang of Albanians loyal to himself. These enriched themselves from the then lavish development funds and won support by encouraging their compatriots to take revenge on the Serb minority which, in many villages, were put in fear of their lives.

Last year Milosevic whipped up the Serbs in Croatia, who pressed for inclusion in his Greater Serbia. The local military and irregulars from these regions constitute the third Serb participant in the present disorders. When Tudjman came to power he misguidedly dispatched his armed followers to try to take over official buildings and police stations from Serb areas, where the right to autonomy had existed since the 17th century. The Hapsburgs had given land and home rule to Serb refuges from the Ottoman empire, in return for helping in defending them against the Turks.

Armed Serb groups fighting in Croatia are motivated by memories of the wartime genocide and are as fanatically self-righteous as the Croats, now fighting to the death in Vukovar. These refuse to admit—and, in the case of the younger generation, probably do not even know—the Ustashi holocaust.

It would take a colossal international police force to stop the fighting in a country where there are so many weapons so widely and uncontrollably spread among soldiers, looters and mercenaries, some of them evidently enjoying the fray.

But though the extremists speak the loudest and their views dominate Western newspapers, there is no serious reason to doubt that the vast majority of Yugoslavs are appalled by the violence and eager for peace.

There is perhaps a flicker of hope in a deal currently being pressed by the European peacemaker Lord Carrington and apparently agreed, at least in principle, by Tudjman and Milosevic. The federal army would peacefully withdraw from Croatia while the Serb enclaves would be placed under international authority until calmer times when a plebiscite would then decide their future.

The monstrous behaviour of the federal army of the Milosevic government and of some Serb irregulars does not justify attributing all the violence to the abominable Serbs. Since Tudjman became president, Serbs in mixed regions have been harrased, deprived of jobs, had their homes burnt down and more than 100,000 have been forced to flee.

For this reason, Lord Carrington is right to insist that the Serbs within Croatia have a right to international protection, and however indignant we may feel about the behaviour of some of their compatriots, we should support him.

[From The Washington Post, Nov. 19, 1991]

HOPE AND HISTORY IN YUGOSLAVIA

(By Nora Beloff)

There is a strong and growing feeling, on both sides of the Atlantic, that the civilized world cannot stand idly by while a trigger-happy minority of Yugoslavs, some of whom evidently enjoy fighting, are allowed by Serb and Croat leaders to kill civilians and imperil some of Europe's most precious monuments.

Sanctions have been imposed, the United Nations has been asked to organize an oil embargo, and yesterday the West Europeans agreed to commit naval forces to protect Red Cross missions rescuing refugees from Dubrovnik and other Adriatic ports.

On the diplomatic side Lord Carrington, the European peacemaker, has outlined a possible deal. Croatia would be recognized, but its territory would exclude enclaves where the Serbs are a majority. These would be placed under international governance for 10 years or more with a view to a plebiscite in which the people themselves would decide their future.

All this could easily collapse, plunging the country into even greater violence, either because extremists sabotaged the deal or because the array of private militias, looters and mercenaries took it on themselves to shatter the peace. So far no country is willing to take on the human and material costs of a force sufficient to impose peace. But while there is talk there is hope, and we in the West could also help to dampen fanaticism by holding and conveying a balanced and sympathetic view to peoples in distress.

First, we must rid ourselves of the absurd and unhistorical proposition that Serbs and Croats cannot peacefully coexist. Under the Austro-Hungarian empire, the Orthodox Serbs were invited to settle in the imperial province of Croatia, to defend the territory against the Turks. After the creation of Yugoslavia, the Serb minority had amicable relations with the popular Croat Peasant Party and, under its leader Macek, ran joint electoral campaigns. In 1941 the Germans occupied Zagreb and installed the Ustashas, a Croat equivalent of the Nazis, previously an outlawed terrorist group. These were committed to a genocidal policy and proceeded to murder hundreds of thousands of Serbs.

All the Serbs were pro-allied, but whereas in Serbia proper the activists mostly joined Mihailovic's home army, loyal to the king, in Croatia, those who escaped the Ustashas joined Tito's guerrillas, the only locally accessible resistance force. They thus became the backbone of the Communist-led Partisans.

Mendacity has always been indispensable to Communist systems, and Tito's biggest lie, coercively imposed, held that virtually everyone had been Partisan and that any form of nationalism, however moderate, was treachery. As a consequence, whereas in Germany, the war was followed by systematic de-Nazification, Zagreb simply turned its back on the past. Today, again, the Ustasha flag has been raised, and whereas in Zagreb untaught youths deny the holocaust, in Belgrade figures are wildly exaggerated.

The internal borders, which we treat as permanent features of Yugoslavia, were in reality drawn up secretly by Tito's men in 1943 and were designed as administrative boundaries, within a centrally planned Stalinist state. Tito himself was, of course, aware of the vitality of ethnic feeling, and after physically liquidating his enemies and potential enemies, he suspended terror and ruled primarily by playing off the communities against each other. The Albanians in Kosovo, who in 1945–46 lost thousands of lives resisting forcible reincorporation into Yugoslavia, were at first subject to Stalinist repression by the federal police, locally enforced by Serbs. Then, after 1968 disturbances in Pristina (capital of Kosovo), Tito switched sides. He transferred power, which in a collectivized society also means effective ownership, to a corrupt group of Albanians. These used development funds to enrich themselves and gained popularity by allowing their compatriots to take revenge on the Serbs. As Tito banned news reporting, this phase of Kosovo's history was unknown to the outside world.

It was by draping himself in nationalist colors and leading a reconquest of Kosovo that in the late 1980s, Slobodan Milosevic, though a Communist leader, survived the East European revulsion against Communist rule. But we were by then in the glasnost era, everything was open, and international groups, including Amnesty, Helsinki Watch, groups of parliamentarians and congressmen, came in and reported that Albanians were being repressed. No one told them that previously it was the Serbs who had been at the receiving end.

In Croatia and Slovenia, as in Serbia, the post-Communist movements have been national rather than liberal, even though all three now brandish democratic and free enterprise slogans. In Croatia the ex-Partisan general Franjo Tudjman was elected president. He had fallen out with Tito and served two prison sentences on charges of nationalism. By the time I first met him in 1980, he was already pathologically anti-Serb. He has allowed himself to be surrounded by Ustasha sympathizers, many of them returning from Canada and Australia.

Tudjman armed his followers, and though they were unable to break into the all-Serb regions, which were ferociously defended, in areas of Croat majority they made life for the Serbs impossible. With jobs denied and homes burnt down, tens of thousands fled long before the federal army and the international community intervened. On a smaller scale, the Serbs retaliated.

In Dubrovnik, 1 year ago, a young Croat girl running her own travel agency described the ravages of the Tudjman regime. To her horror, this little Venice was being transformed into a nationalist stronghold, and she found herself ostracized by her fellow-citizens for rejecting ethnic hatreds which she felt were ruining the country.

The Slovenes also elected a nationalist government, and the new ministers deliberately provoked federal intervention by defiantly hauling down the Yugoslav flag on the Austrian frontier. Tudjman got in first with his independence declaration, and the federal army, heavily outmanned, left Slovenia to concentrate on their more formidable foe.

The misnamed People's Army is the one institution that has outlasted Tito. He had divided his armed forces into territorial units, many of which have now fallen under secessionist control, and a federal army, manned by professional officers, politically selected and committed to preserving Tito's federation. Confronted with massive desertions, they have relied on heavy guns, missiles and aircraft, madly inappropriate for local fighting but—thanks to their founder—lavishly available.

Carrington has grasped the complexities of the struggle. Although, like President Bush, he is under pressure to recognize Croatia and Slovenia in their present boundaries, he is holding back until there are adequate guarantees of safety for all the minorities in Yugoslavia, particularly for the Serbs in Croatia. After their recent experiences, these could not be expected to settle for Croat promises of good behavior.

Nora Beloff has written extensively on the Soviet bloc and Yugoslavia.

TRIBUTE TO CHARLES B. SICELOFF, JR.

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BORSKI. Mr. Speaker, I rise today to honor Charles B. Siceloff, Jr., for his commitment to his country and his invaluable contribution to aviation safety. Mr. Siceloff is heading for a well-deserved retirement this week from his position as Manager of the Federal Aviation Administration's Miami Flight Standards District Office, after faithfully serving the Federal Government for over 28 years.

Earlier this year, the Subcommittee on Investigations and Oversight, which I chair, began working closely with Mr. Siceloff during an investigation into loophole airlines. These airlines are controlled and operated by American citizens, but are flown under foreign flags to avoid the expense of adhering to safety regulations imposed on certified American carriers by the FAA. They need only to comply with the foreign country's regulatory authority, which is often far less rigid than that of the U.S. In many cases, the subcommittee found that loophole carriers essentially operate unregulated.

Fearing that one of these unsurveilled carriers would crash in downtown Miami, Mr. Siceloff stressed for years the need for a change in FAA regulations. He has devoted much time and energy to this issue, motivated only by his desire to guarantee the safety of U.S. airspace and his fellow Miami residents.

The Federal Aviation Administration has begun taking steps to assess the capabilities of foreign governments to oversee airlines flying under their countries' flag. However, much more still needs to be done. Without the unwavering cooperation of Mr. Siceloff, though, even this first measure may not have been possible.

Mr. Siceloff's dedication to his country extends beyond his service at the FAA. In 1950, he interrupted his college education to enlist in the U.S. Air Force, and in 1952, was sent to fight in the Korean war. He flew as a combat-fighter pilot and received two air Medals and a Distinguished Flying Cross.

Mr. Siceloff is highly respected and admired by those who have worked for him, and it will be a formidable task to find a suitable replacement. However, they are happy that he will be able to spend time with his family, including his wife Maggie, who he has been married to since 1954, his four children and two grandchildren. He will also have more time to pursue his favorite pastime—golf. May Mr. Siceloff be as successful in his golf game as he has been throughout his career!

I join the residents of Miami in wishing all the best to Mr. Siceloff as he retires, and ask my colleagues to accompany me in paying tribute for his outstanding dedication to aviation safety.

MISSOURI RESPONDS QUICKLY TO EMERGENCY UNEMPLOYMENT BENEFITS

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GEPHARDT. Mr. Speaker, I rise to commend the State of Missouri's Director of Unemployment Insurance, Clarence Veit, its chief of benefits, Jim Walker, and all of the employees of the Missouri Division of Employment Security for their vigilance and readiness to inform unemployed workers that they could apply for emergency unemployment benefits immediately after the President finally signed the Emergency Unemployment Compensation Act of 1991.

Mr. Speaker, the unemployed workers of Missouri were forced to wait many long weeks for these benefits when the President vetoed earlier versions of the bill. Because of this delay, we were pleased to see that these officials of the State of Missouri were able to act so quickly to help alleviate the pain of joblessness in these difficult economic times.

When Mr. Veit and Mr. Walker learned on Friday, November 15 that the President had finally agreed to sign this bill, they had worker notifications printed, addressed, and loaded onto trucks ready to drive to the Post Office. Moreover, they made special arrangements for the Post Office to receive the trucks immediately, and to expedite the processing of this vital mail. When they received word late Friday that the President had signed the bill, they ordered the trucks to move out and the Postal Service did the rest. Many of the 44,700 letters began arriving on Monday, November 18, and the unemployment insurance service took 8,400 claims by telephone on the same day.

Mr. Speaker, in this era of government bashing and blame shifting, we can be proud of the work done by these individuals, their colleagues, and the U.S. Postal Service. I might add, Mr. Veit is retiring next May after serving the State of Missouri since June 1947. I am certain the people of the State of Missouri are proud of his service. He and his colleagues have set an example all of us can follow.

I also want to bring to my colleagues' attention the following article from the St. Louis Post Dispatch which illustrates the positive benefits of this legislation on the lives of working families.

NEW BENEFITS EXTEND HOPE FOR JOBLESS

(By Linda Eardley)

Clinton Rush and Leanora Moore—jobless and out of unemployment checks—had something to smile about Monday. They were among hundreds who rushed to apply for extended unemployment benefits.

Monday was the first day to apply for the benefits, signed into federal law late Friday. Nearly 22,000 unemployed workers may be eligible in the St. Louis area, covering the city and nine counties in Missouri and Illinois.

Letters have gone out to 44,700 unemployed workers in Missouri and about 65,000 in Illinois notifying them to file a claim. Employment security offices were busy Monday taking applications by phone and in person.

"It hasn't stopped," said Jeanette Stein, who was greeting applicants as they walked into the St. Ann office.

Offices will continue to be busy through the week, but officials stress that most applicants needn't leave home. In Missouri, most can apply by phone. In Illinois, most can file by mail.

Telephone hours have been extended to 7 a.m. through 6 p.m., Monday through Friday.

"At 7 a.m., all 21 lines were lit up," said John Pendleton, manager of the St. Ann office, the busiest in the state. The telephones stayed busy through the day, and some applicants going to the office had to wait several hours to file their claim.

Officials in Missouri and Illinois say they will try to get the checks in the mail by Thanksgiving.

Under the law, those eligible will get 13 weeks of extra benefits if their standard benefits of 26 weeks expired after Feb. 28.

Less than a third of the area's unemployed get unemployment benefits, said Russ Sitgnorino, research analyst for the Missouri Division of Employment Security.

In September, about 82,900 people were unemployed in the St. Louis and nine-county area. Of those, only 23,400—about 28 percent—were collecting unemployment benefits, Signorino said. The remainder had exhausted benefits, had not filed or didn't qualify, he said.

Many of the unemployed are laid-off workers. The area lost 15,400 jobs in the last year. Signorino said.

Leanora Moore has been unable to find work since being laid off from McDonnell Douglas Corp. 14 months ago as a computer operator. Her unemployment benefits ran out in April. Since then, her family has been struggling to make ends meet on her husband's salary.

"It will help a lot," said Moore, of Breckenridge Hills. "I have a son in college. I have my mother with me. It'll help take some of the strain off us."

Several applicants at the St. Ann and downtown St. Louis offices said the new benefits would make Christmas brighter for their families.

The benefits will save the house of one St. Louis man from foreclosure. The man, who asked not to be identified, is a roofer who has not worked since April. He said he owed $450 on a house he was buying to rehab. He fell behind on payments, the loan company was threatening to foreclose.

"This will pay for my house and get me back on my feet," he said.

Clinton Rush, 51, of East St. Louis, said the benefits would help him "get through the winter." He has been jobless since March but expects to be back at work as a bus driver in January.

The unemployed need more than a few more weeks of benefits, he said.

"The federal government's got to provide more jobs, training and educational benefits," Rush said.

James Henderson, 56 of East St. Louis, said the news meant "I can get off of general assistance and make a go for myself."

Henderson lost his job as a machine operator in February. He said his unemployment insurance had run out three months ago. Since then, he has been on welfare.

Robert Leigh, an unemployed executive, has been living on his savings and part-time consulting work since he lost his job 13 months ago. His company, which made corrugated boxes, went out of business.

"I was general manager. I made 80-plus thousand plus a car and expenses," he said.

Leigh, 48 of Ladue, has a master's degree in business administration and is looking for an executive-level job in management. He waited most of the day to file his claim for the extended benefits.

"This gives me a little more time to land that job I'm looking for," he said.

Emery Cannon, a machinist from Jennings, has run out of savings and optimism. The new benefits will not cure what ails him, he said.

"Basically all this money is gone before you even touch it." he said. "It's something to help you keep your head above water. It's not going to give you dignity."

INDIAN ARMY IN PUNJAB

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BURTON. Mr. Speaker, I rise today to protest the India's deployment of the army in the Sikh homeland, Punjab. Nine divisions—over 180,000 soldiers—have been sent ostensibly to assure free and fair elections in the beleaguered state according to India Abroad. But the actions taken by the Indian Army display more a desire to quell any and all voices brave enough to speak out for freedom.

Extrajudicial killings are on the increase, and the army is conducting door-to-door searches of Sikh households. The Indian Government has empowered its soldiers with shoot-to-kill authority with full immunity from the law. Already progovernment forces, who obtained their weapons from the Indian Government this month massacred 18 Sikhs at a wedding ceremony—8 of the victims were women or children, according to the New York Times.

The Indian Government's declaration of the Punjab as a disturbed area is simply a pretext for army action and state sponsored terrorism. India has pulled this sort of stunt before. The Punjab has been placed under what they call "Presidential Rule" 10 times since 1947. But Presidential rule is nothing short of martial law where all democratic rights are suspended and violent oppression is the rule of law.

The Indian Government's commitment to free and fair elections should be met with skepticism. No poll date has been set, and the Indian Parliament is considering barring objectionable or unserious candidates from participating. In the past, when the Indian Government considered Punjab elections as undesirable, it has simply dissolved the Government and declared Presidential rule. Can we honestly call this a democracy?

Mr. Speaker, Sikhs are justified in their profound distrust of the Indian Government. Extrajudicial executions, torture, and disappearances are on the rise. These human rights violations must stop. I adamantly oppose the Indian Government's deployment of hundreds of thousands of troops to the Sikh homeland and strongly recommend that they be removed in the name of fairness, justice, and democracy. For those Members of Congress who would like more information which details India's treatment of the Sikhs, I command the following three articles.

[From the New York Times, Nov. 27, 1991]

INDIAN ARMY DEPLOYED IN PUNJAB

(By Sanjoy Hazarika)

Special to The New York Times

NEW DELHI, Nov. 26.—The Indian Army has been called out in Punjab State to assist security operations against Sikhs fighting for an independent state in a new Government campaign to help prepare the way for state elections, officials here say.

Yet the killings have persisted and in one incident a pro-Government Sikh and two others shot and killed 18 people near the city of Amritsar, news reports said. The attackers were arrested by the police, who said those killed included eight women and children.

Officials described the shootings as revenge killings by Piara Singh, a member of the fundamentalist Nihang sect, who was angered by militant attacks on his home.

SPECIAL MILITARY POWERS

Officials at Amritsar said Mr. Singh, his son and another relative were provided rifles for their security by the Government after militants began attacking his home. The state administration has armed villagers to resist terrorist assaults with mixed results. In several cases, the arms have been surrendered to militants.

The army is to take part in coming weeks in door-to-door searches of hundreds of villages along the India-Pakistan border where many militant groups have networks, and help free paramilitary troops from such operations so that they can concentrate on arrangements for the elections, which could be held before February.

The Punjab Government has decided to include three more districts under a special law that empowers security forces to arrest, interrogate and even shoot suspected terrorists without warrants or fear of legal retaliation. The latest move puts all 12 districts of the state under the disturbed Areas Act.

Thousands of heavily-armed troops are being transported across the prosperous but embattled state, in which more than 5,200 people have died this year.

"The army has been spread across the state so it is available to local authorities to use at short notice in the run-up to the elections," said I. Ramamohan Rao, a Government spokesman here. "The Government has to create conditions conducive for elections."

A date has not been set for a new round of voting. But Prime Minister P.V. Narasimha Rao's Government has pledged to hold the elections by February.

[From the Appeal Democrat, Nov. 5, 1991]

PUNJAB WILL WIN FREEDOM: SIKH LEADER SAYS DURING Y-S VISIT

(By Preston Gobel)

Bouyed by the radical changes sweeping across eastern Europe, Gurmit Singh Aulakh pledges a free and independent Sikh state of Khalistan by the year 1999.

Aulakh said the growing separatist movement in the Indian state of Punjab, in the northwestern part of the country bordering Pakistan, is the result of "tyranny and oppression" on the part of the Indian government.

"Three months ago we never imagined the Soviet Union would disintegrate," the president of the Council of Khalistan said yesterday. "Punjab is going to be free. There is no power on this earth that is going to keep us down."

Aulakh, who put aside his work as a Harvard research scientist in 1986 to fight for the independence movement, was in the Yuba-Sutter area in celebration of the 12th annual Sikh festival in Yuba City.

Intolerance of Sikhs by India's ruling majority, followers of the Hindu religion, fires the often brutal treatment Sikhs have been subjected to, Aulakh said.

"History is there. The Hindus do not tolerate any other religion," he said.

Sikhs are a majority of the Punjabi state, a rich agricultural area that supplies nearly half of the country's rice and 70 percent of its wheat, Aulakh said.

Since 1984 more than 100,000 Sikhs have been killed and 15,000 imprisoned by Indian police, Aulakh said.

A report by Asia Watch, a human rights group, entered into the U.S. Congressional Record states: "Throughout Punjab, torture is practiced systematically in police stations."

He said India's failure to allow another human rights watchdog organization, Amnesty International, into the country is further proof the government is trying to cover up its abuse of Sikhs.

"India is not the world's largest democracy," he said. "They haven't allowed Amnesty (International) to visit in 30 years. What do they have to hide? We know what they have to hide."

He said the "criminality" of the Indian government has been institutionalized in the 1985 Terrorist and Disruptive Activities (Prevention) Act which allows the government to detain anyone for up to two years without charging them with a crime.

The United Nations Human Rights Commission has called the act unacceptable, Aulakh said.

Further, India has refused to join the more than 80 nations that have signed the U.N.'s Convent Against Torture and other Cruel, Inhuman or Degrading Treatment, he said.

A free and independent state of Khalistan is "the only solution," Aulakh said.

No Sikh has ever signed India's constitution, which was adopted in 1950 following the end of British colonial rule, he said, adding that promises that the interests of Sikhs would be included in the document were broken.

Since 1987, when the Sikh nation formally proclaimed its independence, India has been an "occupying force in a foreign land," Aulakh said.

"Whenever we are oppressed, it is our responsibility to fight back," he said. "Our cause is right. When you don't fight back, you are slaves."

While the tenets of Sikhism are pacifist in nature, Aulakh said separatists are pledged to do whatever is necessary to free their state.

"The time has come to do everything possible," he said. "If there is a war, there are guns. But, the guns come with international support."

Aulakh said if war were to break out between Pakistan and India, Sikhs would fight on the side of Pakistan, adding they are seeking "freedom" not "suppression."

What is needed to make the Sikh dream of Khalistan a reality, Aulakh said, is for the United States to support the cause.

"One statement by President Bush that India should stop the oppression and tyranny would make them have to do something," he said.

Aulakh said there is growing support in this country to the economic aid to India with its record on human rights.

A letter signed by 20 members of Congress, including Rep. Wally Herger, R-Rio Oso, admonishes the Indian government for its violation of human rights.

Dated Oct. 1, the letter states: "We request that the Indian government cease its blatant discrimination against Sikhs."

While the movement to form an independent Khalistan has been an uphill struggle, Aulakh said Sikhs will find freedom because the "power of the masses is great."

"You are talking to the head of a state, but the state is occupied," Aulakh said. "It is my responsibility to see the creation of an independent state and hoist the Sikh flag. I hope this will be very soon."

[From India Abroad, Nov. 22, 1991]

ARMY MOVED TO PUNJAB TO AID POLL

(By Akhil Cautam)

CHANDIGARH.—In one of the biggest ever deployments of the Indian army, the central government has started moving nine divisions along the international border of Punjab and within the state to ensure a trouble free legislature election tentatively scheduled for the second week of February.

Hectic activities started after the announcement by Prime Minister P.V. Narasimha Rao that there would be no further postponement of elections in Punjab. Elections in the state were originally scheduled for May and then put off to the third week of June only to be called off hours before the polling was to take place. A series of meetings were held here, which were attended by senior civil officials led by Punjab Governor Surrender Nath. Officials of the western command of the Indian army also attended. Similar meetings were held in New Delhi to organize logistical support for the army which would begin taking positions from next week onwards. The entire process was expected to be completed by the first week of December.

An army official, talking on condition of anonymity, told *India Abroad* that the entire deployment within the state would be under the overall coordination of the Punjab police headed by its new chief Kanwar Pal Singh Gio. The army units would be available for civilian duty.

On the eve of deployment of security forces in large numbers, the militants stepped up their activities expecting heavy pressure on them in the days to come. On Oct. 15 the militants tried to kill Dr. Baldey Parkash, Vice President of the Bharatiya Janata Party (BJP) and one of the most respected leaders of the state. Parkash was seriously injured in a bomb attack on his car triggered by a remote controlled device. His body guards were among the six people killed in the attack.

Parkash's health had been a cause of concern to his family because he is a heart patient and had been refused bypass surgery by doctors in Madras on grounds that the problem was in "advanced" stage.

While the government was taking all steps to ensure a trouble free polling, it was apprehended that those militants who were opposed to participation in the election process would unleash violence against soft targets.

However, a section of the militants led by Bhindranwale Tiger Force chief Gurbachan Singh Manochail has condemned the killing of innocent Hindus and attacks on candidates contesting the polls. Significantly, Manochail also condemned the kidnapping of Romanian diplomat Liviu Radu from New Delhi a few weeks back. Manchaial's was one of those militant groups which favored participation in elections with the purpose of achieving a separate Sikh state through a resolution in the new state legislative Assembly.

Meanwhile Gurcharan Singh Tohra, the 69-year-old top ranking Akali leader has been elected president of the Shiromani Gurdwara Prabandhak Committee (SCPC), the Sikh shrines management body, for a record 18th time in the annual elections held in the Golden Temple complex in Amritsar on Nov. 13.

He defeated Harcharan Singh Dilli, a nominee put up by the Akali faction led by Simranjit Singh Mann by 91 votes to six votes. The defeat clearly indicates the declining fortunes of the Mann group, according to observers.

Tohra enjoyed the support of Akali groups led by former Punjab Chief Ministers Parkash Singh Badal and Surjit Singh Barnala. Two years back when Tohra had given up the top position in the Sikh papal hierarchy, he had declared that he would never occupy any public office again. However, as he said, the pressure put on him by various factions for service of the "panth" was too difficult to resist.

SCUTTLES A MOVE

Tohra succeeded Baldev Singh Sibia, considered by many as his protégé, whom he had proposed for the presidentship last year. But Sibia is said to have been supporting a section of the militants owing allegiance to Damdami Taksal, the Sikh seminary once headed by late militant leader Jamail Singh Bhindranwale. The Taksal and Sikh Students Federation led by Manjit Singh wanted Sibia to be given another one year term, but the move was scuttled by supporters of Tohra by preempting his removal through a resolution which was adopted a week before Sibia's term was to come to an end.

According to usually reliable observers, the differences between various militant factions had helped Tohra in his easy victory. It was a known fact that Babbars, one of the leading militant groups, were opposed to the growing influence of the Damdami Taksal and several militant outfits owing allegiance to it in the affairs of the Sikh shrines. A fortnight back, Sibia had allowed the Taksal to take over the work of karseva (voluntary reconstruction) of the alal takht the highest temporal seat, which had been damaged during the army action of 1984. The Taksal wanted Sibia to be allowed to continue to head the SGPC. The Babbars were reported to have preferred Tohra hoping that he would check the rise of Taksal's influence.

However, the general view was that Tohra had again fully exploited the situation through his constant maneuvers for which he had earned notoriety in the Sikh politics. Tohra had surrendered to the security forces during 1984 army operation along with the assassinated moderate leader Sant Harchand Singh Longowal for which militants never pardoned him. Tohra escaped a bid on his life two years back in which his close supporters and body guards were killed.

EXPEDITIONARY FORCES AND POWER PROJECTION: A CONGRESSIONAL PERSPECTIVE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SKELTON. Mr. Speaker, on November 21, I had the opportunity to speak at a seminar at the Fletcher School of Law and Diplomacy at Cambridge, MA, which was cosponsored by the U.S. Marine Corps University. My remarks dealt with our strategic past and future. We have crucial decisions to make in the days ahead concerning national security and I set forth my thoughts and concerns in my address, which is placed in the RECORD at this point:

EXPEDITIONARY FORCES AND POWER PROJECTION: A CONGRESSIONAL PERSPECTIVE CONGRESSMAN IKE SKELTON, CAMBRIDGE, MASSACHUSETTS NOVEMBER 21, 1991

INTRODUCTION

Let me thank Professor Pfaltzgraff and the Institute for Foreign Policy Analysis for inviting me to address you this afternoon. I feel honored to have been invited, and I look forward to seeing the book that is published on these proceedings. It was Henry Ford who observed that "thinking is the hardest work there is, which is the probable reason why so few engage in it." Those who have presented papers over these past two days well understand the hard work involved with the process of thinking, especially at this time of great change in the world.

I begin this talk by offering some praise of the Marine Corps. I then follow up by discussing the topic assigned to me, the Congressional view of expeditionary forces and power projection. And I conclude with some of my concerns about the support for defense in the Congress in the coming years.

TWO VICTORIES

Congratulations are in order for two recent victories in which the Marine Corps played an important role—victory in the Cold War and victory in the recent Persian Gulf War. Over a period lasting more than 40 years you and your comrades in the Army, Navy, and Air Force were there—in Korea, Lebanon (1958), The Dominican Republic, Vietnam, Lebanon again, Grenada, and a host of other crises. The ideals of freedom, democracy, and human rights have been affirmed throughout the world—in Eastern Europe, Central America, South Africa, and most dramatically, the Soviet Union. The "Long Twilight Struggle"—The words President Kennedy used to describe the bitter contest against Communist expansion—has come to an end. It is still hard to believe that this great contest has ended in the unexpected fashion that it did. Congratulations on a job well done.

We should also thank the American people for their steadfastness over the span of two generations. Their willingness to stay the course, to provide their sons and daughters to the struggle, and to pay the bills cannot be overstated.

Let me also express my pride and admiration for the victory won by America's armed services in the recent Persian Gulf War. Many of you here have helped to write another magnificent chapter in American military history.

Among other matters, the Persian Gulf war finally validated the Marine Corps concept of maritime pre-positioning. Marines also proved their flexibility and fighting value when the theatre commander-in-chief, General Schwarzkopf, kept in place the Marine expeditionary force deployed along the Eastern border between Iraqi-occupied Kuwait and Saudi Arabia even after the arrival of sufficient Army forces. While some purists would have withdrawn Marine Forces from their positions once sufficient Army Forces had arrived, General Schwarzkopf realized the turmoil that such a withdrawal would have caused. The Marines, on the other hand, showed their flexibility and fighting prowess by fighting the kind of land campaign that one normally associates with the Army.

The campaign also showed the value of jointness—the integrated operation of air, land, and naval forces. Maybe the greatest display of jointness shown by the Marine Corps was the amphibious deception it displayed with units aboard amphibious ships in the Persian Gulf. It fooled the enemy and saved lives. I complement those who resisted the temptation to stage an amphibious landing in Kuwait.

At the same time, Persian Gulf war showed areas where improvements can be made. The Marine Corps needs to improve its ability to fight at night. The value of "owning the night", being able to fight at night with the assistance of night vision devices, was well demonstrated by the Army. Improvements are also needed in the area of "IFF", identification of friend of foe, when ground forces are involved, both in air-to-ground and ground-to-ground situations. This is something to which all the services need to devote more thinking.

And finally, I would ask those assembled here to think harder on how we can do a better job in the termination phase of a conflict. The allied coalition did a superb job in the preparation phase of Desert Shield, and the subsequent execution phase of Desert Storm. Yet, to this day, Saddam Hussein remains in power. Don't misunderstand me, I supported the decision to end the fighting on February 27. And yet if we had it to do over how could we have done it better?

My impression is that political-military authorities paid a great deal of attention to:

(1) organizing an international coalition (2) deploying a credible military force to Southwest Asia, and (3) prosecuting a military campaign to secure the goals of the coalition. We paid less attention to how precisely to terminate the conflict.

The President announced that combat operations would stop 100 hours after the beginning of the ground war. The 100-hour figure might well have been more of a public relations decision than a military decision to terminate hostilities. For example, could American forces have headed to Baghdad, surrounded the city, offered the population food, water, and medical care, and posted a $2 million dollar reward for Saddam Hussein for whoever turned him in? Maybe, maybe not. But I am sure that there are other more workable options that some in this audience could offer. My point is to challenge you to devote equal attention to the problems of the endgame in such conflicts.

PME AND THE COMMANDANT'S PROFESSIONAL READING LIST

On a completely different subject, the matter of professional military education, I also want to complement the Marine Corps for taking to heart the recommendations made in 1989 by my panel on professional military education. We were pretty tough in our description of the failings of the Quantico Command and Staff College. We actually described the school as less an educational than a training institution.

My good friend, Al Gray, realized that our criticisms were right on the mark, and he resolved to change the situation. I am pleased to say that the changes that I have seen over the past two and a half years have been all to the good. It speaks well of the Marine Corps that it responded to the criticisms not in a defensive manner but in a positive an open fashion.

I am confident that the present Commandant, General Mundy, will keep up the good work. Let me also provide positive reinforcement for continuing the Commandant's professional reading list. This is a program that the other services would do well to adopt. The profession of arms has an ever expanding body of literature and both officer and enlisted members of the Marine Corps benefit by keeping up with new books coming out about warfare. I applaud the effort to also include books dealing with political, economic, and technological developments, since such matters also influence the military profession.

EXPEDITIONARY FORCES AND POWER PROJECTION

Let me now touch upon the topic you have assigned me—the congressional perspective on expeditionary forces and power projection. I will do so as part of a broader topic, the congressional perspective on defense in general. As you may know we have finished work on the fiscal years 1992 and 1993 Department of Defense authorization bill. One way to address the issue of the congressional perspective on defense is by touching on the work that took place on the 1992 defense budget.

The Congress has ratified the thrust of the Defense Department's effort to reduce the size of the Armed Forces by reducing those forces that had the NATO commitment during the cold war. In plain words, the Army and the Air Force will be cut to a greater extent than the Navy and the Marine Corps. The simple reason for this is the knowledge that expeditionary/mobility forces count for more in the post-cold war world.

The active duty personnel reductions for 1992 and 1993 proposed in the President's budget request went through without any change. If one looks at the proposed personnel end strength reductions for the period 1987–1995 the Army will experience a 32 percent reduction, the Air Force a 29 percent reduction, the Navy a 14 percent reduction and the Marine Corps a 15 percent reduction.

Another example of congressional support for expeditionary/mobility forces was the transfer of management responsibility for the maritime prepositioning program from the Navy to the Marine Corps. While the Secretary of Defense can transfer such authority back to the Navy, he has to certify that the Navy management of the program satisfies certain requirements.

The FY1992 Defense authorization bill also included a specific initiative to enhance modernization of the Marine Corps in which it had not kept pace with the other Services. This was the result of lessons learned from Desert Storm and extra help was provided in both R&D and procurement. The Marine Corps benefited in the following areas: Infantry, armor, night fighting capabilities, mine detection and clearance, and tactical intelligence.

Possibly the greatest example of congressional support for expeditionary forces, especially Marine expeditionary forces, was the continued support for the V–22. Support was maintained despite the opposition of the Secretary of Defense. We in the House kept the program alive earlier this year because the Senate took the administration position on the matter. Ultimately we prevailed in conference by deferring a decision on procurement but providing enough funds for development, manufacture, and operational testing of three production representative aircraft. Support for the program is strong in the Congress because of the need to replace the CH–46 and because of the promise tilt-rotor technology offers not just the Marine Corps but also the U.S. civilian aircraft industry.

OTHER EXPEDITIONARY AND POWER PROJECTION FORCES

Traditionally the Navy and the Marine Corps have been the Services called upon to perform the power projection mission. The Marine Corps is expeditionary by definition and tradition. You know far better than I the strengths and advantages the Navy/Marine Corps team contributes to this mission.

Let me see if I can make the case that other forces exist that can complement the Naval expeditionary forces in the power projection role.

The Air Force for example is undergoing substantial reorganization to meet the challenges posed by the post-cold war security environment. Its leadership has sent a series of memos to Members of Congress describing its efforts to reshape its overhead and support and its operational commands. Its strategic planning document—Global Reach-Global Power—describes the effort "to exploit airpower's inherent strengths of speed, range, flexibility, precision, and lethality." It makes the point that conventional airpower can contribute to the power projection mission. I agree.

As some of you may know, I am a strong supporter of the B–2. Yes, it will be based in my district at Whiteman Air Force Base. Let me say, even if it were to be based in some God-forsaken place, such as Kansas, I would still be a supporter of the program.

While it can help sustain nuclear deterrence, I really believe the utility of the B–2 lies in the conventional role. It combines the survivability of the F–117 with the payload and range of the B–52. One mission over Iraq required more than 65 aircraft to hit one target. More than half the airplanes involved in that mission were support aircraft-tankers, electronic aircraft, and fighter escorts. Two B–2's could have undertaken that operation. It can provide the kind of quick reaction that may be needed in the next military engagement into which we may find ourselves drawn. I commend the Air Force for establishing composite wings that will be able to intervene quickly anywhere in the world with bombers, F–15S, tankers, and AWACS aircraft.

Other forces that can complement the Navy/Marine Corps role in the power projection effort are found in the U.S. Army—light infantry and special operations forces. A few years ago the President sent the 7th Infantry Division from Fort Ord to Honduras. This was done to bolster the Government of Honduras against the previous Communist Government of Nicaragua.

CONGRESS AND DEFENSE IN THE COMING YEARS

The effort to strengthen the military in the 1980's was accomplished at great expense and sacrifice. New weapons, tough training, and, most important of all, excellent people were the ingredients that transformed the "Hollow Military" of the late 1970's into the victorious military of 1991. The American Armed Forces-enlisted and officer alike; active duty, National Guard and reservist—exhibited great skill, determination, and professionalism during the recent war to liberate Kuwait. The results of a decade's effort were made evident for all the world to see.

Maj. George C. Marshall.—The Future World War II Army Chief of Staff—noted in 1923 "The Regular Cycle in the doing and undoing of measures for the national defense." He observed that, "we start in the making of adequate provisions and then turn abruptly in the opposite direction and abolish what has just been done." Today, we are in the midst of making one of those changes in direction. This is now the seventh year of real defense budget cuts, and future years promise even more dramatic reduction in the defense budget.

Last year, I was troubled by the course set for Defense in the budget agreement. I am less troubled as a result of the favorable outcome of the coup in Moscow earlier this year. The present Department of Defense plan to reduce the size of the armed forces by 25 percent over the next five years is a reasonable plan. But I am troubled by the DOD conference bill which transfers $250 million from the readiness accounts to the personnel accounts. If we follow up on cuts in force structure with further cuts in readiness, then we will end up in the same situation of the late 1970's with a hollow military.

One of the keys to victory earlier this year in the deserts of Iraq and Kuwait was readiness. Over the past decade we have provided service men and women with sufficient funds so that adequate training could be accomplished. As one combat veteran once told me "The more you sweat in peacetime, the less blood you'll spill in war." The Army has the finest training facility in the world at Fort Irwin, California. At that 640,000 acre facility in the California desert I had the good fortune three years ago to witness battalion size units stage mock battles against 'red' forces trained in Soviet tactics. Hard training such as this, performed by each of the services, prepared our forces for the combat that took place earlier this winter in the Iraqi and Kuwaiti deserts.

If we continue with the precedent set in the action taken by the House-Senate conference this year we will do the services, our

Nation, and the cause of peace a great disservice. Our long range effort should be to save the one institution in America that works well—the United States military. While we have problems all across our country—health care, education, crime, environment—we really need to remember that the world is still a dangerous place. Predicting the future is like predicting the next pattern in a kaleidoscope. Iraq is a case in point. After the fall of the Berlin Wall, who would have thought that the United States would fight a major war in the Middle East a little more than a year later?

Secretary Cheney and General Powell have crafted a five-year plan that will result in a 25 percent reduction in the size of our forces and the size of the defense budget. They have put together a pretty good plan, not perfect but pretty good. But to readjust the plan every year as some would have them do, is simply more than the system can accommodate.

To look at this process in nautical terms might be helpful. The Defense Department is similar to a huge supertanker. It is big, massive, unwieldy, and slow to respond. It is not like a motorboat that can change course almost instantaneously. Those who would call for even greater budget cuts in a shorter period of time don't understand. They think that such an institution can respond like a motorboat. It can't.

If we try to get those massive cuts in a short period of time we will have set in motion a change in course that will be hard to reverse. We will end up in the same situation we have found ourselves after almost every other war we have fought in our history—with military force ill-prepared to fight. The reason that they will be in bad shape is that we will have made cuts in personnel, training, and maintenance. These are the only areas of the budget that allow for quick savings, quick cuts. We saw this after Vietnam.

I believe that the American public want a reduction in the size of our military and the size of spending devoted to defense. I don't believe that they want to put at risk the work of ten years that went into restoring the military after the tragedy of Desert One, the failed Iranian rescue mission of April 1980. The route travelled from Desert One to Desert Storm was a long, costly, and arduous one. We can save the one institution that works well in America if we are patient and wise in the decisions we make this year and the years to come.

A CONCLUDING THOUGHT

Almost two years ago I gave a speech calling for a new National Security Strategy. At that time, just after the fall of the Berlin Wall, I thought we had 12 to 24 months to craft a new strategy. I think that the President, the Secretary of Defense and the National Security Advisor have done a pretty good job in accomplishing that task.

In that speech I also called for developing the military component of the National Security Strategy. In fact in the FY 91 DOD bill we had a provision calling on the Secretary of Defense to submit to Congress a national military strategy report for fiscal years 1992, 1993, and 1994 covering a period of 10 years.

A crucial part of that report concerns the effects of alternate budget levels. In addition to that year's budget level the report is also to address the effect of an addition of $50 billion and a reduction of $50 billion. The difficult job concerns the reduction of $50 billion. I know that the joint staff is having a difficult time addressing the $50 billion cut.

Many of my colleagues in the Congress are sitting on the fence when we talk about defense cuts. Unless those of us who understand the issue can talk about the specific risks that we run by having such a cut, by citing the loss of capabilities that will take place, we will have a difficult time making our case not to cut the defense budget further than the 25% cut already agreed to.

The end of the cold war presents us with many tough decisions. The challenges are enormous. But at the same time so are the opportunities. We can fashion forces that will serve us well for the rest of the 20th century—and beyond. If we can make our case to the American people, I believe that they will support measures needed to maintain a strong military.

RESOLUTION OF RESPECT FOR THE LATE ARTHUR (PIPE) MONTGOMERY

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ESPY. Mr. Speaker, Arthur Montgomery, a highly respected and wonderful citizen of Holmes County, MS, in my district, and a resident of the Bowling Green community, died recently at the age of 97½ years. Mr. Montgomery was active in the affairs of the county until just a few months ago, when he became ill.

Because of his many contributions to our community, I submit the following resolution for insertion into the CONGRESSIONAL RECORD. The resolution, passed by the Holmes County Board of Supervisors, expresses the board's respect for the life of Mr. Montgomery:

RESOLUTION OF RESPECT FOR THE LATE ARTHUR (PIPE) MONTGOMERY

Whereas, Arthur Montgomery, affectionately known to his family and friends as "Pipe", departed this life on October 13, 1991, having been born in the Bowling Green Community on April 14, 1894, and having been a resident of said Community during his entire lifetime of 97 years, and

Whereas, throughout his adult life, he served the people of Holmes County by his devotion to his Church, his concern for the well being of all people, his inspiration and guidance to young people, his generousness to all persons in need of help, and his advice and judgment, which was often sought by his fellow men and given credence whenever received, and

Whereas, in particular, he served many Holmes Countians as a shipper of, and a consultant regarding, the products of the forest in the County by providing advice and even providing financial assistance to persons, which enabled such persons, who did not have any source of livelihood, to own and operate equipment for harvesting forest products, and in so doing, Arthur Montgomery, individually, elevated the economy of Holmes County, Mississippi; therefore be it

Resolved by this Board of Supervisors of Holmes County, Mississippi, That it express, and it does hereby express, its respect for the Late Arthur Montgomery, and be it further

Resolved, that this Resolution be published in a forthcoming edition of The Holmes County Herald; that a copy of this resolution, as spread on these minutes, be sent to the family of Arthur Montgomery, Deceased, as an expression of the sympathy of the members of this Board; and that Honorable Mike Espy, U.S. Congressman for the Second Congressional District of Mississippi, be requested to insert this Resolution into the Congressional Record of the United States of America.

CAMPAIGN FINANCE REFORM

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MFUME. Mr. Speaker, the financing of congressional campaigns cries out for overhaul. As so, I rise today in support of H.R. 3750, House Campaign Spending Limit and Election Reform Act.

H.R. 3750 includes spending limits in congressional races; limits on Political Action Committee [PAC] contributions; the means to combat escalating so-called independent expenditures; and spending limits on soft money. The legislation also contains the requirement that no taxpayer dollars may be used to finance congressional campaigns.

This legislation creates balance in the contribution pool which will allow for democracy in election participation in our country. Also limiting PAC contributions reduces the perception that special interests exert inordinate influence on the political process. Further, establishing spending limits on soft money is the best way to avoid any abuses of the current loopholes created by the use of soft money in elections as it would be impossible to completely curtail the use of soft money because funds for Federal and State elections cannot be completely segregated.

Mr. Chairman, I believe that spending limits are the key to actual campaign finance reform. H.R. 3750 addresses spending limits. Also, the voluntary matching funds would not come from tax revenues, but only from voluntary contributions from individuals and organizations. No matching funds would involve existing Federal programs or tax revenue and none of the funds would increase the Federal deficit.

Mr. Chairman, I believe that this legislation is a responsible, comprehensive, balanced and reasoned approach to provide more choice and better representation for our country. I encourage support for H.R. 3750.

GREGORY WATSON'S CAMPAIGN TO RATIFY THE ORIGINAL PROPOSED SECOND AMENDMENT TO THE U.S. CONSTITUTION

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PICKLE. Mr. Speaker, as I did on March 24, 1987, and again on September 25, 1989, I would like to update my colleagues in Congress and the Nation on the status of the ratification of the Congressional Compensation Amendment in 1789, one of the 12 proposed amendments to the U.S. Constitution, 10 of which became our Bill of Rights two centuries ago on December 15, 1791.

Mr. Speaker, the Congressional Compensation Amendment reads: "Article the Second . . . No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened" and has now been approved by the legislatures of 35 States, leaving only three yet to go for the required 38. Texas was the 32d State to pass a resolution of ratification on May 25, 1989. The recent progress of the ratification is the result of the efforts of my constituent, Gregory D. Watson of Austin, TX, who discovered this proposal in 1982 while conducting research at the University of Texas at Austin.

With the recent enactment of Public Law 102–90, despite the restrictions contained within Public Law 101–194, we have seen that the statutory approach simply does not work. Only via an amendment to the U.S. Constitution can it be assured that any change in the compensation of Members of either of the two Houses of the Congress will be delayed from taking effect until after the next ensuing biennial election.

Mr. Speaker, I would like to include in the RECORD an article from the March 26, 1991, issue of the Minot Daily News, a newspaper in Minot, ND, as well as a list compiled by Gregory Watson of the 15 States that have not yet ratified the 202-year-old Congressional Compensation Amendment of which only three more are needed. I ask that these materials be printed following my remarks.

[From the Minot Daily News, Mar. 26, 1991]

NORTH DAKOTA RATIFIES PAY AMENDMENT

(By Jill Schramm)

BISMARCK.—North Dakota became the 35th state to ratify a constitutional amendment delaying congressional pay raises Monday.

The House voted 84–18 in support of a constitutional amendment resolution. It earlier passed the Senate 49–4. The Senate narrowly defeated the resolution in the last two sessions.

"I am just delighted to hear that North Dakota has become the 35th state," said Gregory Watson, nationwide coordinator for ratification, Austin, Texas.

An amendment to the Constitution requires 38 states for ratification.

The resolution adopted by North Dakota and 34 other states provides that a proposed pay raise for senators and representatives in Congress should not take effect until an election of representatives first occurs.

The amendment was suggested by James Madison in 1789 but was never ratified.

"It is kind of fun to join hands with James Madison of 200 years ago," said resolution sponsor Sen. Ray David, R-Dickinson.

David credited the handy passage of the resolution to the healthy pay raise taken by Congress in January. "Even we free-spending legislators got the message," he said.

David also received a letter from U.S. Sen. Quentin Burdick, D-N.D., in support of the resolution.

Watson said he has hopes for Alabama, Rhode Island and Missouri to pass a resolution yet. A resolution was introduced in Nebraska too late for consideration this year.

It may take until 1992 to get the necessary states, but Watson believes once it is done, Congress will pass a resolution of acceptance.

"I believe this issue is so politically sensitive to Congress that they will not sweep it under the rug and ignore it," he said.

The only opposition on the House floor came from Rep. Bruce Anderson, D-Glenburn.

"I don't see the sense of having an amendment that delays the pay of a member of Congress when right now the election rate is 98 percent and they have been giving themselves pay raises. People aren't voting them out after that happens anyway," Anderson said. "I don't think this accomplishes anything. It just adds something to the Constitution to make us feel good."

Congress has the power to set its own salaries. Congress received a pay raise in January 1990 that was approved in November 1989, without an intervening election, Watson said.

LIST OF STATES THAT HAVE NOT YET RATIFIED THE CONGRESSIONAL COMPENSATION AMENDMENT OF 1789

(Compiled by Gregory D. Watson, National Coordinator)

Of these 15 states that have not yet ratified the Congressional Compensation Amendment of 1789, only 3 of them are needed to achieve full ratification:

1. Alabama;
2. California (passed Senate on June 30, 1989 and again on June 13, 1991):
3. Hawaii;
4. Illinois (passed House of Representatives on June 22, 1988 and again on May 24, 1989);
5. Kentucky;
6. Massachusetts;
7. Michigan (passed Senate on March 15, 1989);
8. Mississippi;
9. Missouri (passed House of Representatives on March 20, 1990 and again on March 13, 1991);
10. Nebraska;
11. New Jersey;
12. New York;
13. Pennsylvania;
14. Rhode Island; and
15. Washington.

NORTHEAST-MIDWEST CONGRESSIONAL COALITION

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GALLO. Mr. Speaker, I am very pleased to accept this important assignment as coalition co-chairman.

The Northeast-Midwest Congressional Coalition makes a vital contribution to congressional understanding of issues that effect our region.

I am particularly pleased to be assuming this leadership role at such an important time for our part of the country.

In the coming year, Congress will be considering many matters of particular concern to those of us in the Northeast and the Midwest.

Funding formulas, environmental issues, trade matters and population shifts are among the challenges that we will be confronting as a region.

We have the talent within the organization to creatively respond to the challenges we face.

I am looking forward to working closely with Cochair Howard Wolpe and the rest of the members of the coalition to have a positive impact on Federal policies as they relate to our region.

A CONGRESSIONAL SALUTE TO MR. DALE VAN NATTA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding man and a remarkable achiever whom I greatly admire, Mr. Dale Van Natta. After 24 years with TRW's Civic and Community Relations Department, Mr. Van Natta is leaving the Los Angeles area to join TRW Environmental Safety Systems in Las Vegas. He will be sorely missed by his colleagues and friends and will be honored for his years of service to our community on December 6, 1991.

Dale has four great loves in his life, his family, music, young people—(for they are our future)—and fishing. Before Mr. Van Natta began working for TRW, he was the director of music and Christian education at Calvary Presbyterian Church in Long Beach. He managed the Roger Wagner Chorale, accompanying them on a world tour that included the Soviet Union. Together with Mr. Roger Wagner, Mr. Van Natta cofounded the Los Angeles Master Chorale at the Music Center and served as the first general manager.

In 1958, Dale was the youngest foreman at Northrop Aircraft and from that moment his career skyrocketed. In 1959, he joined Ramo Wooldridge as a lab supervisor working on a highly sensitive and classified satellite program. Later at TRW, he began a long and distinguished career in marketing communications. His drive and determination were made apparent by his organization of a highly successful fund-raising campaign in Manhattan Beach to purchase the portable stage for the concerts in Polliwog Park. Mr. Van Natta was responsible for obtaining the 90th anniversary painting that now hangs in Redondo Beach City Hall. He started the Teen Involvement Program that provides summer jobs in nonprofit organizations through the South Bay San Pedro Volunteer Center.

Later in his tenure with TRW, Dale became intensely interested in holographic imagery and, working with Ralph Wuerker and Cameron Knox, arranged to have a hologram made of President Nixon. The President was so impressed that Mr. Van Natta was invited to the White House. Dale began holding hologram demonstrations in local schools, where he developed contacts with educators that would later become the foundation of the TRW Community Relations Education Program. His interest in the education of our Nation's youth continued with his initiation of a partnership called Project SEED, a collaboration between universities, schools, and industry in hands-on science experiments with computer simulations. He has written numerous articles, appeared on network television, and given presentations concerning business's involvement with education. Mr. Van Natta has been honored by the Native American Indian Science and Engineering Society for producing a video to motivate young native Americans to pursue higher education. In addition, he has labored tirelessly investigating the use of a systems engineering approach to solving school problems.

Mr. Dale Van Natta has received a multitude of awards for his outstanding citizenship, community service, and his support of higher education from the California State University Foundation, Cal State Dominguez, El Camino College Foundation, the Cities of Carson and Redondo Beach, the Centinela Valley School District, Partnerships in Education Journal, and the Community Report.

It is difficult to believe that these activities allow Dale any free time for fishing, directing the El Segundo Methodist Church Choir, or assisting his wife as co-director of music at the Westchester United Methodist Church, but somehow he finds the time and energy. What is surely TRW's loss in Los Angeles will be TRW's gain in Las Vegas.

Mr. Speaker, my wife, Lee, joins me in bidding farewell to an outstanding citizen and in extending this much deserved congressional salute. We wish Dale Van Natta and his family all the best in the years to come.

A TRIBUTE TO JOSEPH L. POSCH, M.D.

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute to Joseph L. Posch, M.D. Dr. Posch is being honored for his 30 years of service to Bon Secours Hospital, Grosse Pointe City, MI.

Dr. Posch's higher education began in 1938 at St. Thomas College in St. Paul, MN. After his undergraduate education, Dr. Posch attended medical school at the University of Minnesota and did his internship and general surgery residency at Receiving Hospital in Detroit, Michigan.

His residency was interrupted by World War II, when Dr. Posch served as a U.S. Army captain. Dr. Posch served throughout Europe and was the first doctor allowed into the Dachau Concentration Camp after it was liberated. In Dachau, he attended to the needs of the people there under extraordinary conditions. After World War II, he returned to Detroit, finished his residency, and then opened his own practice.

As a Detroit-area physician, Dr. Posch joined the Wayne State University Medical School where he started a fellowship for advanced training in surgery of the hand. This fellowship was, and still is, for doctors who complete residency in general surgery, plastic surgery, or orthopedic surgery. Dr. Posch has personally trained over 400 surgeons on surgery of the hand through this fellowship. In the 1960's, a group of hand surgeons from his training fellowship program formed the Joseph L. Posch, M.D., Alumni Association, and in the 1970's, this group became an international professional association known as the American Association for Surgery of the Hand.

As an educator, Dr. Posch has taught all over the world, including Germany, Japan, the Philippines, Indochina, France, and the United Kingdom. He is recognized as a world renowned hand surgeon and has been at the forefront in diagnostic and surgical innovations. He is published in national and international journals and has spoken at many conferences. He remains today on the teaching staff at Wayne State University Medical School and is on staff at the Detroit Medical Center, St. John's Hospital, and Bon Secours Hospital.

A devoted family man, Dr. Posch continually nurtured and appreciated the love and support of his family. He has two children, Mary Katherine Gebeck, and Joseph Louis Posch, Jr., and nine grandchildren. He lives in Grosse Pointe Shores with his wife, Geraldine E. Jackson. Spending time with his family in Michigan and his extended family in Minnesota is his favorite pastime and, along with his faith, play the most important role in his life.

Mr. Speaker, I join with Dr. Posch's family and friends on the occasion of his 30th anniversary with Bon Secours Hospital, and I extend my most sincere best wishes for many more years of success and friendship.

THE BEST FIGHTER UNIT IN THE WORLD

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BYRON. Mr. Speaker, I would like to pay tribute to a group of individuals who have won the honor to be called the best fighter unit in the world. These individuals are part of the Maryland Air National Guard's 175th Tactical Fighter Group. Flying the A–10, a plane built in Hagerstown, MD, the 175th captured the top team award in the 1991 Gunsmoke Competition. Gunsmoke in a biennial air-to-ground gunnery competition featuring the top 14 active-duty, Reserve, and Air National Guard teams.

The 175th's team was composed of 45 support personnel and 5 pilots, some full-time air technicians and some part-time guardsmen. The 175th not only defeated teams flying F–15E's, F–16's, F–111's, A–7's, and A–10's, it shattered the existing Gunsmoke record by over 200 points. This is a remarkable achievement for Col. Bruce Tuxill's mixture of full-time and part-time personnel. The citizens of Maryland should be proud of their Air National Guard—it is best fighter unit in the world.

HONORING WOLF COMPUTER OF LOS GATOS, CA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MINETA. Mr. Speaker, in Los Gatos, CA, the chamber of commerce has an excellent tradition of honoring those who have contributed selflessly to our community. The chamber of commerce calls their honor the "Top Cat Award," and the recipients are indeed the tops among their friends and neighbors.

One October 19, 1991, Don Wolf of Wolf Computer received one of this year's awards for its outstanding service which has enhanced the image and prestige of the Los Gatos community. The chamber said of Wolf Computer:

> Today, Wolf Computer is the largest independent retailer in the Silicon Valley. Wolf Computer has truly been an asset to the Los Gatos business community with their success, growth and generosity with support and contributions to many charitable organizations.
>
> Don Wolf, president of Wolf Computer, attributes the success to knowledgeable sales, training, and service staff. The success is also due to Don Wolf for his leadership, foresight, and involvement in the community.

Mr. Speaker, committed companies like Wolf Computer are invaluable to any community, for they do indeed enhance the image of the people who live and work there.

Mr. Speaker, at a time when some cynics say that America is starved for such community-minded companies, we know that there are Wolf Computer's in every community from coast to coast. I know I speak for my colleagues here in the House as I, too, congratulate Wolf Computer for their commitment to the people of Los Gatos.

H.R. 3909, TO EXTEND EXPIRING TAX PROVISIONS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SERRANO. Mr. Speaker, I rise in strong support of H.R. 3909, a bill to extend several tax provisions that mean a great deal to my community. I would like to thank the distinguished chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, for bringing this legislation to the House floor before the end of the session.

The low income housing tax credit [LIHTC] and the Mortgage Revenue Bond tax exemption are major spurs to the development of affordable housing and homeownership, which we desperately need in New York City and all our Nation's large cities. As a member of the Congressional Urban Caucus, I would like to thank the co-chairmen, Mr. FOGLIETTA, Mr. SHAYS and Mr. MCDERMOTT, for their leadership in uniting the caucus behind the effort to gather support for these measures.

The targeted jobs tax credit [TJTC] is also a very important instrument for employment training in my district. I have received countless letters from employers describing the importance of this incentive in their hiring and training of young, disadvantaged employees.

The exclusion of employer-provided education assistance will help workers to advance their careers and gain further employment qualifications by continuing their education after entering the workforce. This is important for those who must work to put themselves through school and cannot afford to attend full time. The exclusion of employer-provided group legal services is also a very important tool for employees with limited resources.

Also of great importance to many of my constituents is the tax deduction for health insurance costs of the self-employed. I recently surveyed the small business owners in my district and found that they are having great difficulty providing insurance for themselves, their families, and their employees. This Congress must deal with the larger issues of health care in America, but while we examine the larger problems and proposed solutions, we must do all we can to ease the burden of health care costs wherever we can. Small business is the backbone of economic development in my district, and I will be pleased to see this provision renewed.

This bill, H.R. 3909, effectively addresses some of the most urgent needs in my district: affordable housing, job training, higher education, small business development and health care. I hope that all these needs will be addressed comprehensively in the next session of Congress. Right now, we must ensure that activities which are driven by these tax incentives, such as construction of affordable housing and the hiring and training of the disadvantaged, are not allowed to come to a halt. We must immediately pass this legislation to renew the tax provisions before they expire.

I urge my colleagues to support this legislation.

PEACE CORPS PROGRAMS IN ARMENIA AND UKRAINE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. KENNELLY. Mr. Speaker, today, I submit a resolution supporting United States Peace Corps activities in the Soviet Republics of Armenia and Ukraine. These Republics have struggled through years of Communist oppression, years of disasters both natural and manmade, and years of isolation from the community of nations.

It is time to extend the gifts of democracy to these Republics. It is time to offer practical help. The Peace Corps can offer the technical and educational assistance that will help Armenia and Ukraine.

In 1989, I introduced legislation to help set up Peace Corps programs in Poland and Hungary. Over the past few years, the Peace Corps has established successful programs not only in Poland and Hungary, but in the Czech and Slovak Federal Republic, Bulgaria, Romania, and Albania. I know that the activities of the Peace Corps have made a difference in transforming these economies and improving the quality of life for their citizens.

The U.S. Peace Corps has made significant contributions throughout the world for 30 years. As the citizens of Armenia and Ukraine struggle to rebuild their nations, we can offer practical, meaningful help by establishing Peace Corps programs in those countries.

SAVE THE CITSNOQ!—PEOPLE MUST BE PART OF THE ENVIRONMENTAL EQUATION

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CHANDLER. Mr. Speaker, I welcome the opportunity today to share with my colleagues a report from the people of Snoqualmie, WA about a new species that could qualify for Federal protection under the Endangered Species Act.

Our concern today is for the citsnoq.

As described in the habitat preservation plan prepared by the city of Snoqualmie's Flood Task Force, the citsnoq is a "relatively large, partially furred mammalian creature." It is native to the Snoqualmie Valley in my home State of Washington.

Mr. Speaker, flooding threatens the citsnoq's habitat. In fact, this report concludes that the citsnoq's "houses are frequently destroyed, but the tenacious citsnoq continually repair their dwellings and communal structures, often returning to start this seemingly pointless task immediately after floodwaters recede."

By now, it should be clear to my colleagues that the species is not a new animal needing scientific study—we are talking about people.

I am talking about a community of people who live and work in my congressional district—a group of families who are waterlogged and frustrated with constant flooding in the Snoqualmie Valley.

Mr. Speaker, while the report I am submitting today is a humorous, tongue-in-cheek way of attracting attention, the people who prepared it are genuinely concerned about the fate of their community.

As State and local officials work to minimize flooding along the Snoqualmie River, families who live and work in the Snoqualmie Valley are concerned that their elected leaders are not paying close enough attention to their livelihoods, to the future of their community.

I share their concerns and believe that in this debate, as well as others that affect our natural resource base, our goal should be to seek a balance that takes into account the concern for the environment and our commitment for people and their families.

Mr. Speaker, thank you for giving me this opportunity to share this report with my colleagues. It is my hope that each and everyone of us will have a better understanding of how adversely American families can be affected by poor management of our natural resources:

HABITAT PRESERVATION PLAN—ENDANGERED CITSNOQ

SPECIES DESCRIPTION

The citsnoq is a relatively large mammalian creature, partially furred. Its habits are generally diurnal, although occasionally some nocturnal wildlife can be observed. The female bears live young, generally one to a litter, gestation approximately seven to nine months. Their family structure is intricate and of primary significance. A communal creature, the citsnoq are quite protective of one another, especially members of the family unit. Citsnoq generally mate for life, constructing small houses made of sticks in which to raise their young. Due to the severe annual flooding of their habitat, these houses are frequently destroyed, but the tenacious citsnoq continually repair their dwellings and communal structures, often returning to start this seemingly pointless task immediately after flood waters recede, wallowing in mud much like the hippopotamus, without complaint.

Like their distant relative, the beaver, the industrious citsnoq attempt to control their habitat, records of efforts to build dams and dikes, although unsuccessful, show the continued commitment of the species to its own survival.

HABITAT DESCRIPTION

The citsnoq is one of many species inhabiting the lowland maple-alder forests and riparian habitat of the upper Snoqualmie basin in Washington State. The species exists exclusively in this habitat, which is subject to severe annual flooding due to the combined effects of watershed logging and development as well as riverine development such as dams and fill which have reduced holding capacities in the basin. The habitat includes numerous wetlands and sloughs, the non-navigable Kimball Creek, as well as the main stem of the Snoqualmie River. Such direct connection with water in its various forms, coupled with annual rainfalls up to twice those generally experienced in the Puget Sound Area, create an ideal condition for floods.

Many other species are affected by this annual flooding. Deer and other smaller mammals have been seen washing over Snoqualmie Falls during periods of high water; after floods many such creatures are found drowned throughout the basin. Protection of the citsnoq habitat from flooding will also have a beneficial effect on these species, which live in harmony with the gentle citsnoq.

CONCLUSION

Since habitat preservation is of primary importance in survival of the citsnoq, a reprioritization of environmental policy is necessary within the habitat and adjacent areas. Suggested new priorities in policy include the following:

1. Non-native endangered species, notably the Sockeye Salmon, and non-native threatened species, notably the King, Coho, and Chum Salmon, must not be introduced into the riparian habitat of the citsnoq. Preservation efforts for these species will be in direct competition with the preservation of the endangered citsnoq.

2. Coordination of preservation efforts at the local, state, and federal levels is necessary for the development of effective habitat restoration for the citsnoq.

3. All private and public developments, notably the dam at Snoqualmie Falls, the SR 202 bridge, riverbank fill from the Falls upstream to cross-section U-12 (ref. Puget Power FERC Relicensing proposal 1991), and others which have contributed to the flooding of the citsnoq habitat must be restored to the natural pre-development condition or mitigated to approximate that condition.

4. Any future developments which may affect flooding in the upper Snoqualmie basin, restrict outfall of waters over the Falls, or cause filling in of the habitat itself should be subject to environmental review by a joint task force including all agencies involved in species protection efforts.

5. Protection of non-endangered native species (for example, beaver, otter, raccoon, blue heron, red-headed merganser, and wood duck), should be considered secondary to the

preservation of the citsnoq. Relocation efforts by county, state, and federal agencies should focus on these species rather than the citsnoq, since these species are represented in numerous other locales, whereas the citsnoq exists solely in the upper Snoqualmie basin and has been shown not to successfully survive relocation efforts.

6. The overbank excavation and channel widening proposal for the Snoqualmie area by the U.S. Army Corps of Engineers in 1986 should immediately be undertaken as a high-priority project for citsnoq preservation. Other projects which offer additional levels of flood reduction, such as lowering the level of the Weyerhauser Mill Pond, removal of the old sunken SR202 bridge from the river channel, removal of the PSRHA bridge, and relocation of the Kimball Creek outfall to a location downstream of the 202 bridge are also recommended by the Environmental Task Force for immediate implementation.

7. All current and future proposals for flood hazard reduction in the basin should be subject to the following criteria:

a. citsnoq habitat preservation should be the primary consideration.

b. other species, including expanded human habitat, or preservation of other threatened or endangered species, should be secondary to citsnoq preservation.

c. economic development should be permitted only if citsnoq habitat is preserved or enhanced by the proposal.

d. county, state, and federal agencies should adopt the above guidelines as part of their comprehensive planning process.

8. Declaration of the citsnoq as recognized endangered species should be immediately pursued by city, county, state and federal Environmental Protection Agencies. Standard and accepted means of preservation should be adopted subsequent to such declaration. The citsnoq should be considered a permanently endangered species, and, as such, deserving of permanent protected status.

TRAGEDY IN CROATIA

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HUGHES. Mr. Speaker, I rise to call my colleagues attention to continuing tragedy in Croatia. Despite the best efforts of the United Nations and the European Community, the 14th cease-fire agreement to date has failed to stop all of the shelling and the killing.

So much of this violence has been senseless. The town of Vukovar has been entirely demolished, and the medieval city of Dubrovnik has seen many invaluable treasures destroyed. The death toll for this conflict is approaching if not surpassing the 10,000 mark, and over 500,000 people have become homeless or otherwise displaced by the war.

The time has come for the killing to stop. The international community must also realize that there are similar ethnic tensions and territorial disputes brewing in other areas of the former Soviet block, such as the border between Armenia and Azerbaijan.

During the Persian Gulf war, many people questioned whether concern for democracy and human rights or a concern for cheap oil brought the international coalition together. Today the Croatian people, especially those innocent bystanders who have lost homes, and loved ones, are asking that same question.

INTRODUCTION OF THE COASTAL COMMUNITIES IMPACT ASSISTANCE ACT OF 1992

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. TAUZIN. Mr. Speaker, today I introduce the "Coastal Communities Impact Assistance Act of 1992." This bill will allow coastal States and communities impacted by off-shore oil and gas production to enjoy their fair share of revenues generated by off-shore development. Supporting off-shore oil production can burden a community's infrastructure and severely strain its ability to provide basic public services. This bill will help to remedy the present inequities in this Nation's Outer Continental Shelf [OCS] development policies.

This bill establishes an assistance fund from 37.5 percent of revenues generated by OCS rents, royalties, bonuses and other payments on both existing and future OCS leases. The fund will be divided evenly between State and local governments. Local governments will have the freedom to use the impact assistance in any way they deem appropriate. Coastal parishes and counties as well as communities within 60 miles of the coast and have significant OCS related impacts may benefit from the impact assistance.

This bill will help the coastal communities currently sacrificing their quality of life subsidizing domestic production of oil and gas. It is only fair that gulf coast communities be reimbursed for the expenses they incur supporting OCS development. The war against Saddam Hussein made it painfully obvious that we must increase domestic oil production. As we expand domestic production, we must ensure coastal communities are fairly compensated for the human and environmental costs they will have to absorb. I ask you to support the "Coastal Communities Impact Assistance Act of 1992".

NATIONAL PARK OUTFITTERS CONCESSIONS ACT

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OWENS of Utah. Mr. Speaker, for years, visitors to our national parks have been safely guided through the back country and down wild rivers by a unique group of people. Many of these people are second and third generation families who, through their years of exploring and adventuring in the region, know the rivers and back country better than anyone else.

These outfitters are an essential part of the national park experience, providing visitors safe guidance into the heart of our national parks, where they may not otherwise venture. Although these outfitters guide in the parks, most of them have no possessory interests in the park. Their businesses are generally small, family-run, and operated solely to provide back-country guiding. These outfitters are not large profit-making corporations.

Today, I am introducing a bill to amend the National Park Concessions Policy Act of 1965 to clarify management of outfitter concessioners who solely operate services for back-country recreation in the National Park System.

This bill, known as the "National Park Outfitters Concession Act," calls for the establishment of a standard concession fee for outfitters with no possessory interests. In addition, the bill would give a preference of renewal to concessioners who have a demonstrated record of safety and performance in the back country. The bill also clarifies that outfitter concessioners may transfer to a qualified person their contracts along with their business interests located outside of the parks.

America Outdoors, Outward Bound of Colorado, and many river guide concessioners strongly support this bill. I urge you to join me in supporting this bill that is important to many small businesses across the country that provide the public the opportunity to experience the essence of our national parks.

WIRE WAR

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SWIFT. Mr. Speaker, I would like to call my colleagues' attention to Michael Kinsley's column, "Wire War," which appeared in last Friday's Washington Post.

Given the pending battle between the newspaper publishers and the telephone companies over the delivery of information services, I think Mr. Kinsley's cogent comments are very timely and clearly outline the issues involved in this debate.

[From the Washington Post, Nov. 15, 1991]

WIRE WAR

(By Michael Kinsley)

Every now and then Washington newspaper readers are treated to a befuddling war of advertisements over some obscure piece of legislation. "Without H.R. 278," one might say, "America's rivers will run dry by 1997." *Au contraire*, rejoins another, Passage of H.R. 278 will mean certain death by cancer for every child under 12."

The first rule in understanding these battles is that there is usually less at stake than meets the eye. The lobbyists, ad agencies and trade association executives on both sides of the dispute share an interest in exaggerating its importance—not just to the citizenry but to the companies paying their fees. The second rule, though is that somebody is usually trying to get away with something.

One such dispute is going on now between the newspaper industry and the regional Bell phone companies. According to the Bells, the newspapers want to "prohibit the American public from receiving . . . valuable information services." According to the newspaper publishers, the phone companies want to invade your privacy. "Call a marriage counselor, and the next thing you know a divorce lawyer may contact you."

This is one of those endless regulatory controversies that fester quietly for year then erupt periodically, like herpes. The issue is whether the phone companies should be allowed to sell electronic "information services"—stock quotes, news headlines, computerized yellow pages etc.—over their own phone lines. The answer has always been "no," but in October an appeals court said "yes." According to the New York Times; "Unless Congress intervenes, this decision will allow the Baby Bells to exploit their monopolistic stranglehold over residential phone lines and dictate what information reaches nearly every home."

A third useful rule is that when an interest group asks for special legislation in the name of "competition," competition is usually what it is trying to prevent. In this case, the newspaper want to keep potentially powerful rivals out of the information business. Their case is twofold. First, they say, the Baby Bells will squeeze monopoly profits out of their phone customers and use the money to subsidize their entry into the information business. And second, the Bells will use their monopoly control over the phone lines to discriminate against competitors. Both arguments are 99 percent nonsense.

As monopolies, the phone companies will certainly charge customers as much as they can get away with. That is why their rates must be regulated. But whether they are allowed into the information business has nothing to do with how much they charge their phone customers. They will charge as much as they can in either event. And whether they put whatever monopoly profits they can extract into information services depends entirely on whether they can make money at it. They have no reason to run this side business at a loss just to keep rivals out.

Anyway, most newspapers are monopolies as well—unregulated at that—with rates of return on capital comparable to the Baby Bells. There are stringent rules to prevent the phone companies from discriminating against rivals in granting access to their lines. But they may not be so eager to discriminate. There is almost surely more money to be made in collecting access fees from all comers than in squelching a customer who may also be a potential rival.

In the decade since this controversy started, phone companies have been banned from the electronic information services business. And yet during that whole time the newspapers have done practically nothing to enter the business themselves, apart from a few primitive 900 numbers.

The newspapers are less interested in protecting the electronic revolution than they are in protecting themselves from the electronic revolution. In particular, they are protecting their classified advertising. Classified ads are a natural to go electronic. The fact that this hasn't happened in good evidence that bearing potential rivals has slowed progress, rather than speeding it.

Cathleen Black, head of the American Newspaper Publishers Association, says that allowing the phone companies to compete in information services "would be like saying The Washington Post could only be delivered by the Wall Street Journal." Pursuing the analogy, what the publishers want is for the government to tell the Wall Street Journal that it can't publish a newspaper.

Ah, but what about those cold calls from divorce lawyers? The argument is that the phone company knows who you call and could sell those records to businesses that might find them useful. That might be a danger. But logically, it has nothing to do with the question whether the phone companies should be allowed to sell electronic information on their phone lines. If the data are valuable to somebody, there are plenty of other ways to supply it. If its sale is to be banned, that can be done without banning the Bells from selling other information over their lines.

After a decade, I am a connoisseur of the arguments in this endless dispute, and I can't help feeling this latest one reeks of desperation. The end may be in sight.

HONORING RICK MILLER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MINETA. Mr. Speaker, in Los Gatos, CA, the chamber of commerce has an excellent tradition of honoring those who have contributed selflessly to our community. The chamber of commerce calls their honor the "Top Cat Award," and the recipients are, indeed, the tops among their friends and neighbors.

On October 19, 1991, Rick Miller received one of this year's awards for his volunteer efforts. The chamber issued him this citation:

> By definition a volunteer is one who enters into any service by choice. The volunteer also gives, bestows, and offers without being asked. With these thoughts in mind, the one person that immediately comes to the forefront is Rick Miller.
>
> A friend of the community he certainly is. Rick's leadership is only excelled by his giving and maybe his antics. Since the late 1970's when he stepped into the community through his involvement with the Los Gatos Chamber of Commerce and the Los Gatos Lion's Club he has not stopped contributing.
>
> One cannot measure or put a value on what Rick has given, the time committed, and his accomplishments * * *."

Mr. Speaker, selfless individuals like Rick Miller are invaluable to any community. They will help a family move, raise money for a worthy cause, or stop to help a stranger change a flat tire.

Mr. Speaker, at a time when some cynics say that America is starved for such individuals, we know that there are the Rick Miller's in every community from coast to coast. I know I speak for my colleagues here in the House as I, too, congratulate Rick for his volunteerism.

LUXURY TAX ON BOATS

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HUGHES. Mr. Speaker, we have spent a great deal of time in this body trying to draft a workable unemployment benefits bill. We have also heard a number of speeches extolling this tax break or that tax break as the key to spurring a recovery and increasing employment.

While there is a great deal of debate about which plan will work best, if any of them will work at all, there is one thing this Congress can do to create jobs before it adjourns. The step is to repeal the luxury tax on boats—a terrible mistake that grew out of last year's budget summit plan.

My district and the adjacent areas of southern New Jersey is, perhaps now I should say was, a center of custom boatbuilding and boat sales. These small entrepreneurs build quality boats, many to order. They employ welders, electricians, carpenters, and fiberglass workers. They build the best recreational boats in the world, they supply over 90 percent of the American market, and they often have a trade surplus in their industry.

I am watching a tragedy take place in my district. Egg Harbor Yachts, Jersey Yachts, and Topaz are in the throes of bankruptcy. I got a call today from a boat dealer and outfitter who sold over $10 million in new boats in 1990 and who has barely broken $200,000 this year. These companies survived the 1982 recession. Many of them have a very long history of quality work, but this luxury tax is killing them.

Certainly, the recession is contributing to our problems, but the tax, all of which must be paid up front, is turning the recession into a depression for this industry.

Mr. Speaker, in America, if you work hard, produce a good product, and contribute to the economy, you're supposed to be rewarded—not punished. In my district alone, thousands of people who kept their jobs through at least one previous recession have lost them due to a poorly conceived, arbitrary tax. The time has come to repeal this tax, and I urge my colleagues to join me and over 160 other Members in cosponsoring and supporting H.R. 951, the Boating Industry Jobs Preservation Act.

THE EMERGING ENVIRONMENTAL CONSENSUS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WOLPE. Mr. Speaker, I am pleased to join my colleagues Mr. BOEHLERT and Mr. SHARP to announce the release of Renew America's newest publication, the Emerging Environmental Consensus. This is the official report of the 1991 Environmental Leadership Conference held June 3–5 in Washington, DC. The conference assembled a diverse group of environmentalists, business leaders, and government officials to brainstorm on the secrets for the development of successful environmental programs. Renew America cosponsored the 3-day event along with the Smithsonian Institution, the U.S. Environmental Protection Agency, and the Council on Environmental Quality.

The 64-page report conveys the progress made and ideas formulated during this dynamic meeting. The challenge facing participants was twofold: first, to identify the basic elements of their successful projects and second, to outline priorities to be initiated within the next 12 months. The Emerging Environmental Consensus summarizes the results of both tasks and thus provides a formula for success while setting goals for an environmental agenda. The report serves as a roadmap to identify where we now stand and to determine where we want to go in our search for environmental solutions.

Mr. Speaker, we commend the report to our colleagues and would encourage them to contact Renew America for a copy by calling 202–232–2252 or writing to Renew America, 1400 16th St. NW., Suite 710, Washington, DC 20036.

CONFERENCE REPORT ON MOST-FAVORED-STATUS TO CHINA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WEISS. Mr. Speaker, I rise in strong support of the conference report to H.R. 2212, a bill that would condition most-favored-nation [MFN] trade status to the Government of China.

I would like to begin by commending the conferees for their hard and tireless work on this bill. But in particular, I would like to recognize the gentlewoman from California, Mrs. PELOSI, for her commitment and leadership on United States policy toward China.

As many of my colleagues know, Congress has been at the forefront of formulating an active and engaged United States policy toward China. Since the Tiananmen Square massacre in particular, Congress has passed a succession of bills that would have added teeth to U.S. policy. But in every instance each bill was met with a Presidential veto when it was sent to the White House.

Today Congress has an opportunity to once again vote on a MFN bill for China. It is a bill that I believe is a fair and reasonable statement of U.S. policy. It is based on three fundamental aspects of United States relations with China: that of human rights, trade and weapons proliferation. It is a narrow approach that has broad ramifications for future U.S. policy.

First, the bill requires that China release all pro-democracy prisoners in China and Tibet. Second, while it requires that China suspend the sales of missile technology to Syria and Iran, it also requires that China provide assurances that it will not sell nuclear technology to non-nuclear states and that it will abide by guidelines of the Missile Technology Control Regime [MTCR]. Finally, the bill would require that China eliminate certain trade practices. Specifically, the bill requires that China remove barriers to United States exports, end its export of prison-made goods, halt violations of international intellectual property law and eliminate the use of transshipments to evade U.S. import quotas.

Mr. Speaker, Secretary Baker's recent visit to Beijing was a failure in terms of soliciting concessions. Beijing's refusal to give on issues of wide international concern was a clear signal that the Chinese Government has no remorse for its human rights policies and no respect for the tenets of international law. But most relevant to this discussion, his visit proved that the President's policy has not worked, and clearly, a new aggressive policy is desperately needed.

H.R. 2212 is the right solution at the right time. It is a bill that can provide a united front between the White House and the Congress on United States policy toward China, and it is an opportunity that should not be wasted. I hope that my colleagues will, therefore, join me in supporting this bill, and sending a message to Beijing that the American people are now united behind one policy toward China.

HONORING TED SIMONSON

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MINETA. Mr. Speaker, In Los Gatos, CA, the chamber of commerce has an excellent tradition of honoring those who have contributed selflessly to our community. The chamber of commerce calls their honor the "Top Cat Award," and the recipients are, indeed, the tops among their friends and neighbors.

On October 19, 1991, Ted Simonson, principal of Los Gatos High School, received one of this year's awards for his professional excellence. The chamber said of him:

> During the years that Ted Simonson has served as principal there have been significant changes and outstanding accomplishments and new directions in local education. These things have happened because of Ted's dedicated and committed involvement. An estimated 50,000 students have received the influence, guidance, and leadership of Ted Simonson through the years of his involvement in education. Many of these students have remained in our community to further and apply that impact.
>
> Through Ted's guidance the school is currently involved in an intensive five-year plan to meet the challenges and set goals for a continued sound education program. Through Ted's administration the staff is allowed to develop and control their own programs. All these factors add up to the excellence in education in Los Gatos."

Mr. Speaker, committed professionals like Ted Simonson are invaluable to any community, for the investment they make is an investment in our future, in our children.

Mr. Speaker, at a time when some cynics say that America is starved for such individuals, we know that there are the Ted Simonson's in every community from coast to coast. I know I speak for my colleagues here in the House as I, too, congratulate Ted for his commitment to quality education in Los Gatos.

DR. FRANK MADISON REID III

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MFUME. Mr. Speaker, I rise today to pay tribute to Dr. Frank Madison Reid III for his 20 years of service in the ministry of the African Methodist Episcopal Church. Dr. Reid is the son of the late Bishop Frank Madison Reid, Jr., who served for many years as pastor of Bethel A.M.E. Church in Baltimore, MD. Currently Dr. Reid is pastoring that same congregation and has been an inspirational leader to his congregation.

Dr. Reid has worked diligently over the past 20 years, excelling in both academia, and community service. Over that time he has also developed a preaching style of his own. His unique eloquence and disposition have become known all over the world. It was not long ago that Dr. Reid became a resident of Maryland. In 1988, he accepted a reassignment that meant having to leave his flourishing congregation in Los Angeles, CA, to become the pastor of Baltimore's Bethel A.M.E. Church.

Since coming to Baltimore, Dr. Reid's 7,000-member congregation has been growing by leaps and bounds. Reverend Reid has expanded Bethel's Outreach Center, which offers jobs, clothing, and assistance to its community on a daily basis. He has also been widely commended for the Bethel Christian School, which educates grades K–5. In addition to having an elementary school Dr. Reid also has the Bethel Tee-Pep Center for unwed mothers. This center gives counseling to young mothers as well as providing a child day care facility.

Dr. Reid has long felt a special need to assist and direct black males. He has struggled with trying to find a remedy for the downward plight of black men. Dr. Reid has made several leaps in this battle. He instituted a bible study class for black men in which 500 men attend each week. He has also organized many marches within Baltimore in which over 1,000 men of African ancestry have stood together in solidarity and a shared hope for equality.

Dr. Reid has not only shared himself with Bethel Church, he has given countless hours to the community of Baltimore. He is not only a preacher and leader he is a family man as well. Dr. Reid speaks of having two families, his own nuclear family and a church family. Reverend Reid believes that every member of his congregation is as important as a member of his family. This type of belief is what clearly sets him aside from others and makes him even more special to the community he serves.

Mr. Speaker, once again I salute Dr. Frank Madison Reid III for his many achievements and for his commendable years of service within the ministry. I am glad to have him as an integral part of the Greater Baltimore area. I wish him continued success and many more years spreading the good news.

DEAN GALLO TO COCHAIR NORTHEAST MIDWEST CONGRESSIONAL COALITION

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WOLPE. Mr. Speaker, on December 1, my distinguished colleague from New York, FRANK HORTON will step down as cochairman of the Northeast-Midwest congressional coalition and representative DEAN GALLO of NJ will replace him.

Together, the gentleman from New York and I have lead the coalition through some tough times. Since 1985, when I joined FRANK HORTON as cochair, we have worked to assure that Federal policies were equitable in their treatment of different areas of the country. We've tried to look past partisan differences in an effort to solve the problems common to many older industrial States.

FRANK HORTON is one of the original founders of the Northeast-Midwest congressional coalition and has provided absolutely critical leadership over the years. I am confident that this strong leadership will continue with DEAN GALLO.

Mr. GALLO and I have had the pleasure of working together in the past and I have enormous respect for his sensitivity and for his effectiveness as a legislator and problem solver.

As a native of New Jersey, Mr. GALLO is very familiar with the problems facing our part of the country—problems such as a sagging infrastructure, a vulnerability to high energy costs, and a dwindling share of Federal funds. Few States have been hit as hard by recession as those in the Northeast and Mr. GALLO understands well the need for creative initiatives in the months ahead.

For this reason, I commend my colleagues from the Midwestern and Northeastern States for electing DEAN GALLO as the new cochairman of the Northeast-Midwest coalition.

END OF COLD WAR CALLS FOR REORIENTATION OF U.S. DEFENSE, TECHNOLOGY, RESEARCH, TRAINING, BUSINESS AND COMMUNITY EFFORTS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. OAKAR. Mr. Speaker, I want to commend the Armed Services Committee and its chairman, the gentleman from Wisconsin [Mr. ASPIN] upon the passing of the conference report on the Defense Department Authorization Act for fiscal year 1992 (H.R. 2100).

As a conferee from the Banking Committee on certain sections of that legislation, I wish to congratulate the committee for its cooperation to improve support for the technology infrastructure in this country. The Banking and Armed Services Committees worked with the Science and Commerce Committees to gain enactment of my amendment to section 824 of the bill. My provision would recognize the five existing regional manufacturing technology under section 278(k) of title 15 U.S. Code as potential participants in the Defense Department's new $50 million initiative to improve the Nation's industrial base.

As a result of my 4 years of service as chair of the Economic Stabilization Subcommittee, 1986–90, I have a continuing interest in maintaining a strong defense and a strong defense industrial base. Section 824 can make a contribution to both.

VALUE OF MANUFACTURING TECHNOLOGY CENTERS

The regional manufacturing centers help to upgrade U.S. industrial capabilities for both military and civilian purposes, and their capabilities ought to be recognized more widely. I have personal knowledge of this process from my exposure to the Great Lakes manufacturing center in Cleveland. The center was originally founded in 1985 by the State of Ohio as part of the Thomas Edison Partnership Program, and proved to be such a good idea that the city joined in sponsoring its programs through Cleveland Advanced Manufacturing Program [CAMP]. When the Federal Advanced Manufacturing Center Program was enacted in 1988, under the National Institute of Science and Technology of the Commerce Department, the Great Lakes center qualified as the first Federal center, while maintaining its ties with State and city governments and the private sector.

The Cleveland center has also been successful in attracting donations of advanced equipment for teaching purposes, and has extended its operations to western Pennsylvania, Indiana, and Illinois. In its 3-year evaluation, the Great Lakes center was rated as outstanding in all categories.

REACHING OUT TO THE INDUSTRIAL BASE

This kind of outreach is extremely important to the U.S. industrial base, because of the 350,000 manufacturing firms in the country, only 14,000 have more than 100 employees. In the nature of things, only the bigger firms can support sustained research and engineering programs. Thus, manufacturing technology centers serve a vital purpose in disseminating the latest state-of-the-art developments to a broad range of large and especially medium-sized and smaller firms that would not otherwise have access to them.

The other four existing regional advanced manufacturing technology centers are located in Troy, NY, South Carolina, Ann Arbor, MI, and Kansas City. In my opinion, the expertise and experience accumulated within these facilities are a material factor in U.S. industrial competitiveness.

Japan has gotten that message loud and clear. The Japanese central government provides half the funding for a national system of 185 technology extension centers, with the other half provided by prefectural and city governments. Funding in 1989 totaled almost $½ billion—$470 million—according to the Congressional Office of Technology Assessment "Making Things Better: Competing in Manufacturing," OTA, March 1990, page 18.

The Defense Department authorization bill moves in the right direction by supporting regional, State and local governmental and private sector technology extension programs.

In my opinion, a significant increase in these programs is vitally needed in this country, and I would like to cooperate with other interested members and committees in the House, to pursue this objective.

Such an initiative, in the area of technology, is the kind of shift in emphasis and resources that the Federal Government ought to be making on a major scale, now that the cold war has been successfully concluded and the former Warsaw Pact dissolved.

REORIENTING PRIORITIES FOR RESEARCH AND DEVELOPMENT

Another change of course should occur in the research area. According to the National Science Foundation, during a recent 15-year period—fiscal years 1966–80—the military and civilian proportions of the Federal research budget were just about 50–50.

Over the past decade, however, there was a sharp increase in the military share, which peaked at 69.3 percent of the Federal research budget in 1986. For the past 10 years—fiscal years 1982—the average division was almost two-thirds—65.4 percent—of the Federal R&D budget devoted to military purposes and about one-third for civilian purposes, "Federal R&D Funding by Budget Function," NSF 90–311, National Science Foundation, April, 1990, page 118.

As a result, many extremely promising civilian R&D projects have been starved for funds for the past 10 years. For example, funding for civilian energy research fell almost one third in absolute terms from $343.7 million in fiscal year 1980 to $221.6 million in fiscal year 1991. As a share of Federal R&D, civilian energy dropped from 8.3 percent in fiscal year 1982 to 4.0 percent in fiscal year 1991.

Similarly, funding for resource and environmental matters fell from 2.7 percent to 2.1 percent of Federal R&D over the same period. I ask unanimous consent that the relevant statistics, as assembled by the National Science Foundation, be inserted in the RECORD following my remarks.

These trends are summarized in the following table, based on pages 122 and 123 of the National Science Foundation Report:

SHARES OF NATIONAL RESEARCH BUDGET BY FUNCTION

[In percent]

	Fiscal year—	
	1982	1991
Defense research	61.1	60.7
Civilian research	38.9	39.3
Health	10.7	12.9
Energy	8.3	4.0
General science	3.8	11.1
Natural resources and environment	2.7	2.1
Transportation	2.2	2.0

It is incredible that, with the national security and economic problems we have with energy, the share of the Federal R&D budget for energy matters was reduced by more than half.

It is sad that, with so many promising opportunities in the health and medical field, financing constraints have limited us in many fields, such as womens' diseases, and many others.

It is ominous that, with all of the pressures of urban congestion and air, water, and soil pollution, transportation and environmental research declined as a proportion of the Federal R&D budget over the past decade.

In this age of dazzling progress of technology in solving human problems and serving human needs in nearly every field, we need to reassess the research priorities of the past decade and reorient these numbers to capture the golden opportunities of the future for our economy, our businesses and our citizens.

STATE OF THE ECONOMY

The depressing state of the economy make these changes of policy even more necessary and desirable than in normal times. For more than a year now, the U.S. economy has been in a recession. Unemployment now—8.4 million in September 1991—is almost 2 million higher than it was in 1989, 6.5 million in 1989. Those unemployed for more than 15 weeks rose from 1.4 million to 2.4 million during that period.

The official poverty rate rose from 12.8 percent in 1989 to 13.5 percent in 1990 and household income fell for the first time since 1982, "U.S. Poverty Rate Up; Median Income Falls, Census Finds First Increase in Poor Since 1983," Washington Post, September 27, 1991, page A1.

There is finally a debate on whether measures should be taken to stimulate the economy. The President's position is that nothing should be done until next year, and he will make his position known in the State of the Union Message in mid-January.

I believe we already know what the State of the Union is, and that we should be openly discussing alternatives to strengthen the economy, investment, and saving, expand jobs and exports, put people back to work and upgrade our physical and human infrastructure to make this country more competitive over the long term.

OPPORTUNITY FOR REORIENTING THE ECONOMY

Fortunately, this country has the opportunity of a century to reorient its economy. After 74 years of centralized, authoritarian and imperial government, the Soviet Union is embarked on a course toward a more decentralized and more open political and economic system. The Soviet empire has dissolved. The Baltic States have regained their independence. Eastern European nations have regained their sovereignty. The Warsaw Pact has disappeared as a military threat. These are historic developments.

As a result, both the executive branch and the Congress have been talking about a 25-percent cut in defense expenditures over the next 5 years. Defense expenditures have been running about $300 billion a year. If we phase the defense part of the budget down to $225 billion, and are able to do this, over some period of time, in increments of $15 billion per year, the total reductions over 5 years would amount to approximately $225 billion, $15 billion plus $30 billion plus $45 billion plus $60 billion plus $75 billion equals $225 billion. A reduction of anything like this magnitude would provide ample latitude to reduce the Federal deficit—and this takes pressure off of interest rates, credit, and financial institutions—and to redirect a modest amount of the savings to the most cost-efficient wealth-producing civilian activities.

EFFECT OF THE BUDGET SUMMIT AGREEMENT

Under the budget summit agreement of September 30, 1990, and the implementing statutes, the Omnibus Reconciliation Act of 1990 [OBRA] and the Budget Enforcement Act of 1990, included as title XIII of OBRA, there are three discrete budget categories of discretionary spending—defense, domestic, and international—and funds are not to be transferred between these categories.

In order to fully respect these provisions during the 3-year period when they apply—fiscal years 1991–93—and to operate in a climate of flexibility, new arrangements would begin to operate after those limitations expire, on October 1, 1993.

However, it is not too early to begin planning for the post-budget agreement era now. The Federal budget for the post-agreement period will be under consideration by Congress in February 1993—15 months from now—and by the executive branch, next spring, less than 6 months from now.

It is thus timely as well as healthy to take this long-term perspective because our planning for competitiveness should be on a long-term basis to be effective. The President and Congress should be starting right now to consider such new arrangements.

AGENDA FOR ECONOMIC GROWTH

I have five specific suggestions that will encourage both short-term and long-term economic growth and competitiveness.

Research: When we talk about agendas for the economy, and what can be done to make our Nation more competitive and make life better for the average citizen, research is where it all begins. In my opinion, we should phase our military research and civilian research back to a 50-50 division within a 5-year period, and then reappraise as to the next steps. This would involve redirecting about $8 billion of research funds from military to civilian research at current levels.

Technology: The technology extension centers have proved their worth. I believe we should follow the example of Japan and expand our system of supporting manufacturing technology to 50 centers within 5 years, and then evaluate the results.

Training: I feel that we should heed the dismal assessments of job training by the Massachusetts Institute of Technology study, and adopt a nationwide program of reforming our system of training and retraining along the lines of the "Made in America" recommendations by MIT, the 1990 report of the commission on the skills of the American work force, and the successful skills conversions projects of the 1970's.

Economic conversion adjustment: We should expand the program of assisting communities, businesses, and workers to adjust to reductions in the defense budget that was enacted in 1990 to a multiyear program to match the 5-year build-down in the defense establishment. My bill, H.R. 2366 proposes this. The Department of Labor, in implementing this program in August 1990, estimated that it would assist 80,000 to 90,000 unemployed workers to make the transition to civilian-oriented employment.

The total cost of this program was $200 million for 1 year. Funding this program on a multiyear basis on a cost-effective basis would take a miniscule fraction of the reduction in the defense budget. It would result in the soundest kind of investment in the optimum use of the excellent physical and human assets in the defense establishment and the defense industrial base.

Energy policy: This country should publicly adopt a set of rational energy goals for increasing national security, assuring ample energy supplies for economic growth, and accomplishing a 25-percent increase in end-use energy efficiency in the next 9 years, so that industry, businesses, and homeowners will have lower utility bills. I have introduced legislation—House Concurrent Resolution 53—that proposes a series of 10 such goals against which progress can be measured year by year.

This program is certainly not complete or perfect. Any economic policy for the long-term future should include consideration of such critical areas as health care, education, physical and human infrastructure, budget, tax, trade and financial policies. The point should be made that it is the President, who directs the efforts of 2 million employees in the executive branch of our Government and who is in the sole position of being able to formulate and present a set of policies that covers all of the relevant areas in this complex world.

But these suggestions, from my experience in the House, would constitute an extremely important new departure in Federal policy.

With the end of the cold war, our generation has a rare opportunity to shift the U.S. economy to a more civilian orientation. Our country can gain many benefits from such a change in course. Best of all, we can accomplish such a change in emphasis at no net cost increases. All we need to do is have the wisdom and the will to shift a small fraction of the amounts envisioned to be cut from the defense budget to deficit reduction and more productive civilian uses.

Let us think anew and act anew. Let us seize the moment and produce such an agenda. Let us reorient our research, training, technology, energy policy and enterprise toward the real peacetime concerns of our American industries, businesses and citizens.

THE RED PLANET

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MINETA. Mr. Speaker, Mars is an intriguing planet. Mars is more like Earth than any of the planets in our solar system. As a result, Mars has captured the imagination of generations of scientists, astronomers, and space enthusiasts.

A valuable speech about the red planet was given this summer by Arnold Aldrich, associate administrator of the Office of Aeronautics, Exploration and Technology for NASA during a conference in Williamsburg, VA. The speech examines the reasons why Mars intrigues us to such an extent and focuses on current and future exploration initiatives of the planet Mars.

I would also like to point out to my colleagues that Arnie Aldrich recently left the Office of Aerospace, Exploration and Technology to become associate administrator for the Office of Space Systems Development at NASA, where he will continue to provide expertise and direction to our Nation's space program.

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MARS: DESTINATION AND CHALLENGE

(By Arnold D. Aldrich)

The topic of discussion here in Williamsburg for the next three days will be the planet Mars. That seems most appropriate, for the Red Planet—in addition to being intrinsically interesting—enables us to coalesce past, present, and future exploration activities.

By focusing on Mars, we can recall with pride the Mariner and Viking missions; expeditions that reflect the technical ingenuity and intellectual vitality of our space program of earlier years. Decades from now, these six missions will continue to be looked back upon with respect and admiration by scientists and historians.

By focusing on Mars we can examine current exploration activities, most notably the Mars Observer Project. Now in development and the subject of Session 5 this afternoon, this spacecraft is keyed to providing a global data base of the planet. The Mars Observer represents the continuing commitment we have to planetary exploration. This commitment has had its ups and downs over the years, but no one should doubt that there is very strong support for exploring our solar system both in NASA and in our nation.

By spending 3 days discussing Mars, we should be able to characterize our strategy for future exploration. Mars is a key objective of the Space Exploration Initiative. This ambitious endeavor, set forth by President Bush in his speech commemorating the twentieth anniversary of the first Apollo lunar landing, envisions completion of Space Station Freedom in this decade, followed by a return to the Moon, this time to stay, and then—a journey on to Mars. The Initiative provides an over-arching goal for our space program, a goal that is specific, yet long term, in character. Thus SEI, which we'll hear about in detail on Thursday, is a strategic horizon that enables NASA to rationalize its investments and to focus current and emerging activities.

What is it about Mars that people find so compelling? Why does this particular planet have such a hold upon us? After all, Venus is brighter. The Moon is closer. Jupiter is larger, and Saturn has those marvelous rings.

Given that space is our chosen profession, the interest we have in the planet can be easily understood. Yet Mars captures the interest of many people outside our space community. And this interest apparently is timeless, as people have been fascinated by Mars since the beginning of astronomy.

I believe there are four reasons why Mars intrigues us to such an extent.

The first reason is, that of the eight other planets circling the sun, Mars is the most like our Earth. Though smaller than our own planet, Mars, is in many ways, similar to this planet we inhabit. Mars has an atmosphere. It has a 24 hour rotation period. Because the planet is tilted along its polar axis, Mars has four seasons, just as we do. The Earth has mountains, canyons, plateaus and volcanoes. So does Mars. Mars has winds, dust storms, and frost. So does Earth. Both planets have ice at the polar caps, both have climate cycles, and both have moons. In the case of Mars, there are two moons: Phobos and Deimos. In the case of Earth, there is but one and, interestingly enough, it has no given name. It is simply "the Moon."

By comparison, the other planets seem rather inhospitable. Mercury has practically no atmosphere. Venus has a surface temperature of 730° Kelvin, while Jupiter and Saturn have no solid surface. Uranus and Neptune are extremely cold and far away.

Thus, Mars seems rather inviting although there are, of course, key differences between Mars and the Earth. The principal components of the atmospheres are different as are the atmospheric trace elements. Barometric pressures are different. Surface temperatures are different, and so on. But despite these differences, and they are of course significant, the planets are similar. And that, I think, accounts for part of the interest we have in Mars. It is the planet most like our own, and that compels us to want to know it better.

A second reason for the hold that Mars has upon us is its location. As I have already pointed out, Mars is part of that special place which we call the solar system, with its planets, asteroids and single star. Mars is relatively close by, only 55 million kilometers away when the Earth and Mars are closest together. We can see the planet, and as John Noble Wilford has written, Mars beckons. With its unique reddish color Mars is a nearby, familiar object in the night sky. Cosmically speaking, Mars is part of the neighborhood.

The third reason has to do with exploration. Our fascination with Mars stems, in part, from the compulsion we have as human beings to explore. There is something inside us, something special, that drives us to find out about other places. At times, different motives come into play. These motives may be national pride, commercial advantage, or intellectual curiosity. But they are all wrapped up into an adventure we call exploration where the goal is to experience something that is distant and relatively unknown to us. We do not truly understand a place until we have been there. That is true of mountains, continents, oceans, and now, of planets. In effect, Mars has become a chapter in the story of exploration. The planet is intrinsically interesting, and we shall employ both robotic spacecraft and human beings to increase our knowledge of it. But Mars is also part of something that is larger and more fundamental. And that is the imperative to seek out whatever lies beyond our immediate horizon. Our fascination with Mars reflects this compulsion to explore.

So far, many of you may be in agreement with what I've said, as I've tried to explain, to myself as much as to you, why Mars is so compelling. Some of you, however, may be thinking that while the reasons I've advanced appear to be sensible, they could as well apply to the planet Venus.

After all, Venus, as the Magellan spacecraft illustrates, is also a chapter in the continuing story of exploration. Like Mars, it is part of the neighborhood, being one of the Inner Planets of the solar system. It too is relatively close by. Moreover, in some regards, Venus is also much like the Earth. Venus has an atmosphere. It has mountains and volcanoes. And it is about the same size as the Earth, with a diameter of 12,102 kilometers compared with 12,756 kilometers for the Earth.

Yet Venus does not hold our fascination the way Mars does.

What is it about Mars that we find so compelling? I believe the three reasons given so far are valid, and I will stick by them. But there is more to it than that. There is an additional aspect that is unique and special about Mars, something that draws us to it. Let me suggest that it is the following.

From our studies of Mars there are many indications that water in liquid form once existed on the surface of the Red Planet. Such water is absent today, a result of the low pressure of the atmosphere. But the atmosphere does contain water vapor, and while the quantity is not great, the Martian atmosphere normally holds nearly the maximum amount of water possible for its pressure and temperature. Thus, the relative humidity is high and, as a result, it is common for water clouds and fog to form at low elevation during the cold Martian night. At the north pole this atmospheric water vapor rises sharply above the cap. Scientists have concluded that the northern residual cap contains ordinary water ice as well as CO_2, unlike its counterpart to the south which is composed exclusively of frozen carbon dioxide.

Equally striking evidence of water comes from one of the more exciting geological discoveries on Mars. That is the widespread existence in the southern hemisphere of runoff and outflow channels. These are suggestive of rivers and floods that once contained great quantities of water.

We know too that the atmosphere of Mars was once considerably more dense than it is at present. With the warmer surface temperatures that we believe once existed, Mars would have had an environment in which liquid water could have flowed freely over the surface.

Thus we are reasonably certain that water once existed on Mars, probably in large quantity.

And, where there was water there could have been life. I think it is this that accounts for the continuing fascination people have with Mars. Of all the planets in the solar system other than Earth, only Mars admits to the possibility of life.

I do not know if life once existed on Mars.

But I believe that it is plausible to conclude from the evidence that conditions suitable for the formation of life once existed on Mars some 3.6 billion years ago at a time when similar conditions existed here on Earth. We can hypothesize that for a period of several hundred million years in its approximately 4.5 billion year history, Mars had an environment conducive to life. This was before the atmosphere and climate began to shift to their present inhospitable states. On Mars, billions of years ago, there was carbon and there was water and these are, after all, the building blocks of life.

It is this possibility of life that so intrigues us. We are fascinated with Mars because something extraordinary may once have occurred there, something that would force a kinship between us and this distant place.

Quite possibly, there lies on Mars evidence to indicate that the mysterious biochemical reaction that creates what we call life is not limited to planet Earth. If, on the other hand, as we continue the exploration of Mars we find no such evidence, that too would sharpen our understanding of living things. Moreover, it would increase our respect for life itself, and for the one planet in whose set journey around the Sun, life is able to flourish.

The possibility of "life on Mars" permeates the history of planetary observation as it relates to the fourth planet from the Sun. This history itself is a fascinating story, one replete with both the intellectual creativity and the fanciful dreams that so often characterize human adventures.

The intellectual creativity is represented by Johannes Kepler, the 16th Century astronomer who determined that the orbit of Mars around the Sun is not a circle, but an ellipse, an elongated circle along which the planet moves with nonuniform but predictable motion. The creativity is represented also by Giovanni Cassini who in the 17th Century was the first person to report sighting the white polar caps of Mars. And it is represented by William Herschel who, in the 18th Century, observed that Mars is tilted at an angle of 23.98 degrees to its axis of rotation, thus accounting for the planet's four seasons.

These three astronomers reflect a notable characteristic of past Mars exploration and, no doubt, a future dimension as well. And that is its international flavor. Kepler was a German who began his career in Denmark. Cassini was an Italian who became a citizen of France. And Herschel was a German emigrant who worked in England.

But if the study of Mars displayed great intellectual force, it also presented a fair amount of nonsense.

Unfortunately, it was an American who contributed the most to the scientific fiction that characterized much of the study of Mars at the turn of the last century. The American was Percival Lowell. A graduate of Harvard and a wealthy patrician with ample amounts of energy and enthusiasm. For awhile these were directed at the study of Japan, with very credible results. Then Lowell turned his attention to Mars, building a first-class observatory in the hills outside of Flagstaff, Arizona. There, his imagination got the best of him. Observing the "canals" first noted by Schiaparalli, Percival Lowell visualized a Martian world of cities and people. Expounding the view that Mars supported intelligent life, Lowell popularized the notion of life beyond Earth and created great interest in Mars among the general populace. Serious astronomers quietly disputed his findings, and gradually, their work dispelled his fantasies.

But Lowell's legacy was powerful and included two positive items: a heightened general interest in Mars, and the reenforcement of the special relationship that exists between that planet and Earth.

That relationship gained new meaning with the advent of the Mariner spacecraft. With a proximity that astronomers of old would have found astrounding, these spacecraft observed Mars closeup in the 1960's as the United States began a series of unprecedented missions from planet Earth.

Mariner spacecraft also visited Mercury and Venus, but it is their missions to Mars that is of interest to us here today. Mariner 4 was the first spacecraft to reach Mars. It flew by the planet on July 14, 1965, with a closest approach of about 9,844 kilometers. Twenty-two pictures were transmitted back to Earth. They showed lunar-like impact craters on the surface. On-board instruments registered an atmosphere less dense than had been expected.

Four years later, two more Mariners flew by the planet. Mariners 6 and 7 were more advanced spacecraft than Mariner 4, and they acquired considerable data from Mars with a visual imager, spectrometers, and temperature sensors. But like Mariner 4, they missed imaging some of the more interesting features of the Martian terrain: the volcanoes, canyons, and channels which we now take for granted.

It wasn't until Mariner 9, the first spacecraft to go into orbit about another planet, that we were able to see, for the first time, the full remarkable surface of Mars. In orbit for 349 days, Mariner 9 transmitted 7329 pictures of the Red Planet, mapping one hundred percent of the surface during its spectacular odyssey. Among the features identified was Olympus Mons, the largest volcano in the Solar System.

Following Mariner came Viking, whose fifteenth anniversary we celebrate this month. The exploration strategy was simple. First fly by the planet, then conduct an orbital survey and, finally, land on the planetary surface itself. Mariner had previously accomplished a flyby and a survey. But it was Viking, in a mission comparable to the great voyages of discovery of the 15th and 16th centuries, that placed two landers on the surface of Mars in July 1976.

In this conference we will recall much of the Mariner and Viking missions. Speakers will remind us of the technical challenges overcome in designing and building the spacecraft. They will remind us of the difficulties faced by program managers as they laid out integrated plans beset by political uncertainties over which they had no control. The demanding, unforgiving realities of mission operations will be recalled, as will be the excitement of discovery. These were missions of extraordinary achievement. They added to our storehouse of knowledge. They expanded human understanding and, as good science always does, they created a new set of scientific questions to challenge our intellect and test our ingenuity.

I will leave it to others at the conference to explore in detail the Mariner and Viking missions. What I would like to do is derive some exploration lessons for the present from these successes of the past.

There are several simple lessons upon which I would like to briefly expound:

The first is that setbacks inevitably accompany exploration. Exploring the planets is technically difficult, far harder than most people realize, and we will not always be able to conduct picture-perfect missions. So it will come as no surprise to recall that Mariner 3, the first U.S. spacecraft destined for Mars, did not reach its target. Nor that Mariner 8 failed as well, ending up in the Atlantic Ocean, 560 kilometers north of Puerto Rico. Of course, the lesson here is not that spaceflight is not always successful. We all well appreciate that, although I'm not sure the general public does. The real lesson is the exploration can succeed despite setbacks. And setbacks in space must not stop us from expanding our knowledge and experience.

The second lesson of exploration from Mariner and Viking concerns the unexpected. The very nature of exploration presumes a lack of knowledge about one's destination. When we start out, we don't know what we're going to find. But with our technical sophistication and our analytical skills, we've become pretty good at projecting what it is we're likely to discover. Mariner reminds us not to get too confident.

After Mariner 6 and 7, we had what we thought was a pretty good idea of what the surface of Mars was like. We believed it to be largely cratered terrain, apparently inactive geologically, and not too dissimilar from our Moon. How wrong we were. Mariner 9 revealed the unexpected, a world of remarkable and diverse features, a world of canyons, volcanoes, channels, and fault lines. Mariner 9 revealed a world we had not seen. It brought us the unexpected, as exploration always does.

Human presence is fundamental to space exploration, and that is the third lesson of Mariner and Viking. These were robotic spacecraft, representative of a mode of spaceflight that has provided our nation with tremendous scientific results. Robotic spacecraft will continue to perform yeoman service in the years ahead, even as we move forward to the human exploration of Mars. Robotic spacecraft are marvelous machines, and they can do things that humans cannot. But they have to be programmed. They lack the judgment and the ability to respond to the unexpected that humans can add to the experience.

A good example of that is found in the selection of the Viking landing sites. The critical criterion of course, was safety. Sites were selected that appeared to be flat. In addition, it was necessary to find locations at low elevation to ensure an atmospheric density high enough to support the descent parachutes. Upon examination by the Viking orbiters, the two sites initially chosen based upon Mariner 9 data were found to be too rugged. Smoother areas were needed, and these were ultimately identified and utilized. Both the decision to reject the initial sites and the decision to proceed with the locations where the landings eventually took place were human decisions; judgment calls, for which there was no mechanical substitution.

Another significant lesson of Mariner and Viking relates to the Soviet Union. That country has long had an interest in the exploration of Mars, an interest that continues today. Its Mars 1 spacecraft was launched in 1962, nearly thirty years ago, and the most recent flights to the Red Planet, Phobos 1 and 2, were Soviet missions. However, reflecting the misfortune that has accompanied Soviet encounters with Mars, these missions were not successful, although Phobos 2 did return data before it failed.

Better luck was achieved with the Mars 2 and 3 spacecraft which, in 1971, were placed in orbit around the planet where they performed close to expectation, providing data on the temperature and composition of the atmosphere. The two missions were similar to Viking in that they combined orbiters and landers. However, here again misfortune plagued the Soviets. While the two landers are believed to have touched down successfully, contact with the Mars 2 lander was lost shortly before landing, while the Mars 3 lander transmitted data for only 20 seconds upon conclusion of its descent. Nonetheless, these landers became the first manmade objects on the surface of Mars, an achievement that forever belongs to the Soviet Union.

I mention this to underscore the fact that the exploration of Mars is international in character. Mariner and Viking were triumphs of American technology, and it seems clear that the United States has been the leader in exploring the Red Planet. But Mars does not belong to us. Exploration is something that many nations do, and I suspect, that while the United States will continue to lead the way to Mars, our country will explore the planet in concert with other nations.

Let me now turn from the lessons of Mariner and Viking to the future exploration of Mars. Specifically, I'm referring to the Space

Exploration Initiative, aspects of which will be discussed here on Thursday and Friday.

I want to highlight but a few of the challenges we face in expanding human presence beyond low Earth orbit. I hope that in the discussions about SEI, you will address these challenges and confront the very real difficulties we must deal with in planning and carrying out a return to the Moon and the subsequent exploration of Mars.

But first let me say something more generic about the Space Exploration Initiative. SEI is absolutely critical to the future of NASA and to the future of the space program of the United States. This initiative provides us with a long sought vision, a vision of exploration that employs both robotic spacecraft and human beings. It provides a series of future goals; of completing Space Station Freedom, of returning to the Moon and then of proceeding on to Mars. And, perhaps, even more importantly, the Space Exploration Initiative provides a context for what we are doing in the space program today. By knowing where we are going, by defining our strategic horizon, we can effectively shape our near term plans, programs, and aspirations.

There are many challenges associated with the future exploration of Mars, but today I am only going to comment upon several of them. And I promise you that I will be brief, for we need to get on with today's sessions.

The first challenge is a technical one. It stems from the unyielding physics of interplanetary travel, and from a number of specific considerations. For example, the orbit of Mars exhibits significant eccentricity; the planet's distance from the Sun varies by 43 million kilometers as it travels along its orbit. Even at closest approach, Mars is 55 million kilometers from the Earth. The orbits of the two planets are not coplanar, which further complicates the transfer geometry. Finally, the transfer energy required exhibits a significant 15-year cyclic variation. The result is that a round-trip mission with a stop at Mars requires exceedingly complex and precise mission design work and long range planning. The challenge becomes one to fully define and understand the range of transfer strategies.

Of course, we have traveled to Mars several times, but the task becomes more complex when a return trip is involved and when humans are on board. What we must do, and what we will do, is to continue the work of the late Ed Lineberry of NASA, who, with great expertise and imagination, expanded our understanding of the myriad of complexities involved.

The second challenge concerns architecture. Until recently, I had always thought architecture was the art and practice of building structures. But in Washington words don't always mean what you think they mean and I've come to understand that the word architecture means the purpose, scope, and schedule for returning to the Moon and exploring Mars. Architecture tells us how and for what purpose the Exploration Initiative will be carried out. Session 6 on Thursday morning will discuss architecture; a discussion that can be more focused now that General Stafford's Synthesis Group has completed its work.

NASA's plan is to take the four Synthesis Group architectures, understand them fully, and build upon them. The challenge will be to conduct our analyses in such a way that we identify commonalties as we narrow the options. We hope to structure a step-by-step approach for SEI, in which each step represents a significant achievement and which lays the foundation for the decision to commit to the next. This will be done in the context of a strategy that envisions development of well-conceived ongoing program options. These options will enable decisions by present and future generations of our nation's political leadership as to how the United States will return to the Moon and continue on with the exploration of Mars.

The third challenge I wish to mention is also the subject of a session at this conference. The subject is science and the session is number eight, schedule for Friday morning. First rate science resulted form Mariner and Viking and, surely, similar results will take place as we once again focus upon the planet Mars. The challenge I see is not in defining a science plan for Mars. That is something we know how to do and I am certain we will excel in. The challenge is to capture the excitement of scientific discovery that is awaiting us on Mars in such a way that a majority of our citizens can fully understand and appreciate it. For NASA and the science community at large, that is a real and important challenge.

The final challenge that I wish to mention is the most important, and the most difficult of the four. It is the political challenge and one that we must overcome if we are to fully realize the potential for future discoveries of Mars. The challenge is to create and sustain a political base for exploration, to translate the excitement and commitment we here in this room have for exploring the planet Mars into a basis for action by those who make public policy in the United States. Enthusiasm alone will not do the job. Success will require political skill and a great deal of old-fashioned hard work.

It is a challenge we all must recognize and work to overcome.

And, if we succeed, then at a time not too far distant, Mars once again will play host to those who explore. Robotic spacecraft will return to the surface of Mars, to be followed this time by men and women. And one night, when the sky is clear and the stars are shining, we and our children will look up at the Red Planet and know that the story of exploration has continued.

DEBBIE BILL, DADE SUPERTEACHER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Gilbert Porter Elementary benefits each day from the efforts of superteacher Ms. Debbie Bill. She stands out because her special devotion to students speaks for itself. The Miami Herald recently recognized her as one of Dade County's superteachers in a December 5 article by staff writer, Jon O'Neill. That article follows:

Gilbert Porter Elementary teacher Debbie Bill spends as much time asking questions as she does answering them. Since Bill deals every day with a room full of inquisitive kindergarten kids, that's saying something.

Bill has a special knack for communicating with her young charges and she tries to find out what they know, then capitalize on their natural curiosity.

"She asks us a lot of questions, but she's very nice," said Michelle Diamond, 6.

"I love working with them, because they respond so enthusiastically to everything," said Bill, 43. "It keeps me going."

Bill started teaching in 1969 and has always taught either kindergarten or first grade. Her ability to relate to little ones has impressed her boss, principal Frederic Zerlin.

"If I had children, they would be in her class," he said. "She's very caring, very open with the children and their parents. They know she cares about them."

Bill's work habits are also the stuff of legend. She's frequently at work an hour before school starts and in no hurry to leave, either.

"She's every educator's dream," Zerlin said. "You have to literally chase her out of the school every day."

Bill takes the praise in stride.

"I really enjoy myself with them," she said. "Sometimes we just sit and talk about things. I love watching them progress and seeing their self-esteem and confidence grow. These kids are ready to learn. No one has ever told them they couldn't learn."

This year, Bill is getting the kids ready to read. They do a lot of writing, using "invented spelling," where the students sound out words they can't spell.

"It keeps them focused on getting their ideas on paper," she said. "They start to understand if they can say the words, they can read them or spell them. We don't want to scare them because reading and writing are not mountains they have to climb. After a while, they start bringing in their own books to read."

Teaching is something Bill has wanted to do all her life. As a kid growing up in Connecticut, she used to line up her dolls and teach them. After graduating from St. Joseph's College with a psychology degree, she started teaching in Boston.

Bill came to visit some friends in Florida a few years later, fell in love with the weather and decided to move. She worked in private schools until 1981, when she went to work at Little River Elementary.

She moved to Gilbert Porter last year. Bill says she feels lucky to work at the school, 15851 SW 112th St., because it's brand new.

"The kids here have everything they could ever want," she said.

Bill believes she does, too.

"This is fun for me," she said. "Each class is different, with all sorts of possibilities and challenges."

Mr. Speaker, Ms. Bill is a tribute to all those teachers who have given so much to their students. I wish Ms. Bill continued success. I also commend the leadership of Principal Frederick Cerlin for making Gilbert Porter Elementary a place where teachers like Debbie Bill and their students can thrive.

POLICE CHIEF HOWARD McCOY: A LIFETIME OF SERVICE TO MT. VERNON

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, there are many people who make Mt. Vernon, NY, a special place—religious leaders, elected officials, teachers, businesspeople, and ordinary citizens who work every day to make their community a better place. But there is one man without whom all of these efforts would go for naught. He is Police Chief Howard McCoy, whose department works to see that Mt. Vernon's people will not be victimized by the brutality of criminal predators. He is stepping down shortly, after 43 years of service, and he will be sorely missed.

Howard McCoy is a career law enforcement officer who knows every corner of Mt. Vernon as only a lifelong resident of that city can. He was born in New Rochelle, but his family moved to Mt. Vernon when Howard was only 4. He received his education at the William Penn and Nathan Hale Elementary Schools, Washington Junior High School, and Edison Vocational & Technical High School in the Mt. Vernon public school system. Later, while serving as a police officer, he attended Westchester Community College.

At the height of World War II, he became the first African-American from Mt. Vernon to join the U.S. Marine Corps. He served honorably in the Pacific, and was discharged following the Japanese surrender. To this day, he retains the toughness, the dedication, and the patriotism that are the Marines' hallmark. This, coupled with a remarkable compassion and love for the people of his city, has made him an exceptional leader.

Three years after his military service, he became only the second African-American officer to serve in the Mt. Vernon Police Department. He established himself early as a first-rate professional crime fighter, and in rapid succession became the first African-American to serve as a detective, sergeant, lieutenant, and captain in the Mt. Vernon force. At the beginning of 1977, he ascended to the pinnacle of his profession, attaining the office that he is now leaving.

Chief McCoy's tenure at the head of the Department has been marked by increased efforts to stem the tide of violence that has plagued urban America. As the crime epidemic mushroomed in the 1980's, the valiant police of Mt. Vernon, led by their devoted and able chief, have worked hard to keep pace and to protect their citizens.

Now, as he approaches the 15th anniversary of his appointment as chief, Howard McCoy is stepping down to enjoy private life. He can stand proud of all that he has accomplished for the people of his city. They, in turn, can be proud of their friend and neighbor, who has made their safety and well-being his life's work.

Saturday evening, Mayor Ronald Blackwood, the Mt. Vernon Police Association, and the whole city of Mount Vernon will be paying tribute to Chief McCoy. I join them in honoring this outstanding public servant, and I am sure that all of my colleagues join me in wishing him well on this noteworthy occasion.

THE QTL AND SAVINGS ASSOCIATIONS' ACQUISITION OF BANKS

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BAKER. Mr. Speaker, the House and Senate on November 27, 1991, passed S. 543, Federal Deposit Insurance Corporation Improvement Act of 1991 [FDICIA]. An important amendment to the qualified thrift lender test [QTL], which I offered and was overwhelmingly adopted by the House Banking Committee, was made part of that legislation. I strongly support the new QTL test.

The newly adopted QTL requirements should not act as an impediment to otherwise permissible acquisitions of banks by savings associations that are now facilitated by the FDICIA. Section 501—entitled "Mergers and Acquisitions of Insured Depository Institutions During Conversion Moratorium"—authorizes the Director of the Office of Thrift Supervision to permit an acquiring savings association to retain the nonconforming assets of an acquired bank for a limited period of time for purposes of the investment limits of the Home Owner's Loan Act. The Director should also afford the acquiring savings associations a similar, limited time within which to phase in recognition of these assets for purposes of the QTL test.

The recent improvements in the QTL test provide the needed flexibility in the test, consistent with the housing finance purpose of the test. It would undermine these results if savings associations were subject to rigid requirements to make rapid sales of assets, acquired in combination with banks, simply to meet the QTL test requirements.

JOSE CANCELA IS NAMED CHAIRMAN PUBLIC HEALTH TRUST OF DADE COUNTY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Mr. Joe Cancela has been named the new chairman of the Public Health Trust of Dade County, which oversees Jackson Memorial Hospital, one of the largest hospitals in the Nation. Mr. Cancela's meteoric rise to success is an inspiration. The Miami Herald ran a story on December 1, by staff writer Karen Branch, which tells the path taken by Mr. Cancela from paperboy to chairman. The article follows:

At 16-year-old Rosy Gonazalez's high school football game one night, there was one especially rowdy fan in the crowd. She took notice when she realized the screaming teen-age boy was new in town and didn't attend either school.

"He was so wild," she says. "It wasn't even his team, but there he was, controlling everything around him."

Jose Cancela has always plowed into unknown territory—noisily and successfully. The trait carried him from that football game to a meteoric career in Spanish-language television.

And it got him Rosy, his wife of eight years.

It also got him to where he is today: an executive vice president of the Univision network and the newly elected chairman of the trust overseeing Jackson Memorial Hospital's $615 million budget.

At 34, the community college dropout is short on experience and education. But he has compensated with extreme ambition, ego and an aggressiveness that borders on terrorism. He is a salesman.

As an 8-year-old delivering The Miami News each afternoon, he was always the last of the four Cancela kids to make it home to Little Havana. "It wasn't just showing up and tossing the newspaper," says his mother, Beatriz. "It was stopping to talk to every family."

It made for good business. He won a subscription sales contest at 11.

"I never looked at it as selling." Cancela says. "It was fun. It was a way to get out of homework."

And a way to turn on the charm. Like the day in 1978 when Cancela flashed the smile that got him into the home of WLTV-Channel 23 account executive Osvaldo Moran.

Cancela was peddling fire alarms. The Morans already had one. It was two days before Christmas. Mrs. Moran was conservative with money.

Lotsa luck kid, thought Mr. Moran, sitting back to watch the show.

"My wife bought the system. It was $900," remembers Moran. He took Cancela to see his boss.

Presto. From fire alarms to television commercials. A sales career took off.

Other moves followed. In 1984, he bounded from ad sales in Miami to general manager of Univision's Phoenix affiliate.

This month, just two years after he was named to the Public Health Trust, he became its chairman.

When Cancela made the jump to channel 23, he was never the average account executive. He showed up in the newsroom, volunteered for special events in the public affairs department, pitched in with programming. If his customers couldn't afford a spokesman for a commercial, he stepped in front of the camera. He knew the names of all the soap opera stars.

His whirlwind style blew open more doors—leading to the top spots at other Univision stations.

"He would be there at 11, 12 at night," said Joaquin Blaya, now Univision's president and the man behind Cancela's fast-track promotions. "So when the opening came in Phoenix, I figured that for all his restlessness, he could do it."

As general manager—first in Phoenix, then San Antonio, then Miami—Cancela controlled every department. He stepped out into community activism, especially when he came back home to Miami in 1988. Cancela and his wide grin appeared everywhere.

It paid off when people handed out appointments. Cancela got a lion's share: the Greater Miami Convention and Visitors Bureau, the Greater Miami Chamber of Commerce, the Orange Bowl Committee, the Public Health Trust.

Cancela says he accepted the trust position, the most high-profile, "for ego."

"But then I came to realize Jackson's importance," he says. He resigned positions with the Miami Sports and Exhibition Authority, the chamber of commerce and the convention bureau after the trust unanimously elected him chairman Nov. 14.

Cancela's rise at Jackson followed some major changes in the membership of the trust. His selection had its critics.

"He would not have been my choice," said ousted trust member Stanley Tate. "He's too young, too inexperienced."

Cancela's predecessor as chairman and his strong supporter, Jay Weiss, insists youth is a plus.

"He's indefatigable, unbelievably energetic," Weiss says. "He is not ashamed or reticent to ask advice from anybody. He isn't stiff-necked enough that he won't seek help."

Cancela has thrived on seeking advice—and always from the people on top.

During a shaky start in Phoenix, he phoned Blaya constantly.

"He not only called me every day, he called me crying sometimes," Blaya says. "After the first two or three months, the calls were few, and he took control."

Sales, as always, were his forte. During 3½ years in Phoenix, local billings increased from $825,000 a year to $2 million.

To boost advertising by reluctant companies, Cancela advocated what he then called "terrorist tactics" going over media buyer's heads, writing angry letters to company CEOs and canceling schedules for customers who he said tried to appease the Hispanic community with "token budgets."

"He does turn the screws," says Gustavo Godoy, Cancela's successor in Arizona and now the telemundo network's vice president for news. "And when he turns them, people feel them."

Cancela spreads his aggressive sales message wherever he goes. At his prodding, the Channel 23 sales staff doesn't spend much time with media buyers. His credo: Take your pitch to the top.

"We visit CEOs every day," says general sales manager Marisa Chaves. "Most salespeople don't deal on that level. That has been Jose, he has no limits."

Cancela pulls no punches when he wants to make a point. In January 1990, his station was competing in the Florida Emmys, given out each fall to English and Spanish stations statewide.

For years, a separate judging panel had considered Spanish-language entries. This time, the National Academy of Television Arts and Sciences decided the Spanish entries had to be translated to be considered.

Cancela, then a member of the Miami chapter's board of governors, threatened to resign and pull all of Channel 23's entries in protest.

The academy backed off.

Cancela's brashness has made him a hero of sorts.

"He has become a celebrity in Miami," says Alfredo Duran Jr., a former Spanish-language television executive and publisher of the weekly tabloid Exito. "He's fought for what he has and that's why he's not going to take baloney from people. There's a lot of people that resent that and envy his success."

He has taken the role farther as a crusader for the Cuban exile cause.

In March, he was one of 12 Cuban Americans who formed a commission to develop a list of principles that could unite Cuban American exiles. They excluded groups that propose negotiating with the Castro regime.

Cancela and other commission founders who work in the media—Miami Herald Publishing Co. President Roberto Suarez, radio personalities Armando Perez-Roura and Tomas Garcia-Fuste, Diario Las Americas reporter Ariel Remos—were criticized for joining a commission with a political agenda.

Jackson is Cancela's latest cause.

He chaired the political action committee that advocated a half-cent tax on the Sept. 3 ballot to help Jackson treat the county's poor. Cancela appeared on Spanish-language radio stations, promoting the tax as a trust member.

He used his editorial spots on Channel 23 to support the tax, appearing as the station's general manager but not mentioning his relationship to Jackson.

"I don't see any conflict of interest," Cancela says. "There are very few people who have the ability and the will to make changes. I have the opportunity to speak to viewers about an institution that plays a very important role in the community. My conscience is clear."

Weiss, the trust's former chairman, credits Cancela with helping dislodge Hispanics from their traditional anti-tax position.

"Certainly it is a plus, because you have virtually 50 percent of the population that are of the Latin extraction here," Weiss says. "And I'm sure they're pleased to see a Latin as chairman."

Cancela's own success story is the kind he loves to promote.

One of his early contributions as general manager at Channel 23 was the creation of a news segment, Cuando Yo Llegue (When I Arrived), featuring immigrants' rags-to-riches stories.

They are reflections of triunfadores—winners—who, like Cancela, fought hard for financial success. He, his mother and siblings left Cuba when he was 4 and waited a decade to see his father, a political prisoner. In 1971, Andres Cancela was released and left for Miami. Like his workaholic son, he took a newspaper route.

"When you want something, you have to put your shoulder to it," Andres Cancela often told his son, "and lift hard."

Jose Cancela won't say how much he earns today. It's enough to put his wife and two children in a half-million-dollar home in Coconut Grove.

His wife says money isn't what has him waking the family up with his singing at 6 o'clock every morning—and getting back home barely in time to kiss the kids good night.

"More than anything, more than money, more than position, he wants to leave his mark," she says. "He doesn't want to go through this life unnoticed."

Mr. Speaker, I wish to Cancela much success in his new and challenging post as chairman of the Public Health Trust. We all hope that under his leadership, south Florida will benefit from greater access and accountability in health care.

LEGISLATION TO ABOLISH THE SELECTIVE SERVICE SYSTEM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, when the Congress returns in January, I will formerly introduce legislation to abolish the Selective Service System.

Enactment of this legislation will save the taxpayers $28,316,000 in fiscal year 1993 and an estimated $146 million over the next 5 years.

At a time when Federal debt is increasing at the rate of $1 billion per day—about $11,000 a second—we need to reexamine the need for every single Federal agency and every dollar of expenditure. The Selective Service System is an example of an agency that can be terminated in a time of budget crisis and greatly reduced world tensions.

The Selective Service System currently has 277 full-time employees who are trained to maintain a nationwide data processing system to store registration records, and to issue them should the President and Congress reinstate the draft. It is headed by an Executive Level IV who is paid $108,300 a year. It allocates $6,598,000 for the maintenance of mobilization readiness, the agency's chief peacetime mission. $15,026,000 is spent on administrative expenses, including all personnel salaries, $2,486,000 on registration, $450,000 on registration improvement, $507,000 on compliance to registration, and $1,568,000 on automated data processing.

Why is this money being spent on an agency that serves as a stand-by organization?

The purpose of the Selective Service System is to be ready to supply the Armed Services with eligible personnel should the draft be reinstated. The Selective Service System has outlived its purpose. It has done a good job for the Nation over the years. But World War II is over, the Korean and Vietnam conflicts are over, the cold war is over. It has been almost 20 years and we have not seen the need to reinstate the draft. During the gulf war, the draft was not needed against Saddam Hussein. Indeed, if the Nation faces a serious threat, I am sure Americans will respond as they did on December 7, 1941 and on other occasions of national peril.

In the 20 years since the draft expired, we have seen no evidence that it will be reinstated. The Department of Defense is an all volunteer force. Indeed in recent years the Services have been turning men and women away. Of the 1 million people who came to recruiting offices with interest in joining the military, 490,000 made formal application. Only 1 out of 2 of these individuals were enlisted. If needed in a national crisis, I am confident that individuals will be there to volunteer for service.

The Selective Service System was established for good reason in 1940. The power to enforce registration was revoked in 1975 and reestablished in 1980. If we encounter serious problems in the future, it can be reestablished, or reinstituted once more. The times have again changed and it is time to retire the Selective Service System again—hopefully for a long, long time.

My legislation includes language to ensure the placement of Selective Service System employees in other Federal agencies which should not be difficult since on any 1 day the Federal Government has approximately 1,580 openings to fill Government-wide.

Congratulations on a job faithfully done—but it is time to move on.

RAY AND SALLY GUTIERREZ—50TH WEDDING ANNIVERSARY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to Ray and Sally Gutierrez on their 50th wedding anniversary, which they will celebrate on December 20, 1991. Ray and Sally have been involved in the community of the 16th Congressional District of California for many years, and I have come to know and appreciate their selflessness towards each other and those around them.

Ray and Sally were married in Salinas on December 20, 1941. Ray Gutierrez grew up in Salinas where he attended school and graduated from Salinas High School. In 1942, he was drafted by the U.S. Army to serve in Europe during World War II. At the invasion of Normandy, he was captured by the Germans and remained a prisoner until the end of World War II. Ray is a member of the Veterans of Foreign Wars and the American Disabled Veterans. He is retired from Spreckels Sugar Co. where he worked diligently for 40 years.

Sally Gutierrez grew up in Gilroy and then attended Hartnell College. Throughout the years, Sally has been commendably active with the Democratic party, receiving numerous awards for her contributions, including a certificate of recognition of "Who's Who Among Hispanic Americans." She has worked many years as a court interpreter, and presently works part-time in the Superior Court of Monterey County.

In the 50 years they have been married, Ray and Sally have proven to be honorable and dedicated citizens towards their family, friends, and neighbors. They have three loving children, Raymond, Jr., Anthony, and Monica, and six beautiful grandchildren. There are very few people that are able to experience the kind of love that Ray and Sally have shared for half of a century. This strength comes only from years of understanding and commitment. Their dedication to uphold the sacred marriage vows they pledged 50 years ago is truly an inspiration to those who know them. Mr. Speaker, I ask my colleagues to join me now in congratulating Ray and Sally on their 50th wedding anniversary. It is my hope that Ray and Sally will continue to share a lifetime of happiness in the 16th Congressional District of California for many years to come.

IN MEMORY OF HERBERT AMMONS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Herbert Ammons, a civic activist who dedicated more than 30 years of his life to improving his South Dade community passed away on November 24, 1991. A good friend of mine and my husband, Dexter Lehtinen, Herb was a wonderful individual who gave unselfishly of his time. In a Miami Herald article entitled, "Herbert Ammons, Richmond Heights Activist," Lydia Martin reports on Herb. I commend the following article to my colleagues:

> Herbert Ammons, a tireless civic activist who dedicated more than 30 years to improving his South Dade community, died Sunday at Cedars Medical Center after undergoing bypass surgery. He was 76.
>
> As a child, Mr. Ammons toiled with his family in Mississippi cotton fields. He promised himself early on to get an education so that he could give up the grueling work.
>
> And he managed it, serving three years in the Army during World War II as a member of one of three black tank battalions in Europe and then working his way through college.
>
> In 1952 he graduated from the University of Illinois with a master's degree in school administration.
>
> To make sure he never forgot where he came from, Mr. Ammons kept a patch of cotton plants growing in his front lawn in Richmond Heights—and the plow he used as a boy in Mississippi.
>
> After finishing college, Mr. Ammons worked as a principal of two high schools in Mississippi.
>
> He moved to Miami in 1958 to teach math and science for Dade public schools, retiring in 1980 after working at Mays Junior High, Mays Senior High, West Homestead Junior High and Homestead Junior High.
>
> Mr. Ammons started working for his Richmond Heights neighborhood from the time he moved in in the late 1950s.
>
> He founded the Richmond-Perrine Optimist Club, helped organize the South Dade Gray Panthers, was founding president of the South Dade branch of the National Association for the Advancement of Colored People, organized the Richmond Heights Crime Watch and served as chairman of the Metro-Dade Southwest Police station's citizen's advisory council.
>
> He also organized the first Boy Scout troops in Richmond Heights more than 20 years ago.
>
> He was influential in South Dade's black community and his support was sought by politicians, said state Sen. Larry Plummer, D-South Dade.
>
> "When he put your sign in his yard, you got every vote in his neighborhood," Plummer said. "Everybody loved him and highly respected his judgment."
>
> In 1976, Mr. Ammons founded the Richmond Heights Citizens Group, which met at his house weekly to figure out solutions for the neighborhood's problems.
>
> Every year before elections, members register voters.
>
> The group also persuaded Metro-Dade commissioners to resurface streets throughout much of the community and put a picnic shelter in Richmond Heights Park.
>
> "He was a legend in our community," said Larcenia Bullard, a South Dade activist who ran unsuccessfully for a state House seat in 1990. "When I wanted to get involved in South Dade, I asked people who to talk to and they said to contact Herbert Ammons."
>
> Mr. Ammons, who was former post commander for the South Dade-Monroe Chapter of the Veterans of Foreign Wars and president and post commander of the American Legion Henry Bethel Post 281, is survived by his wife of 42 years, Edna; sons Herbert Jr. and Collyer; and grandsons Brandon and Elliott.

On November 30, many devoted friends and neighbors attended Herb's memorial service at the St. Luke Missionary Baptist Church in Miami, FL. Rev. David Robinson led the service, and Pastor Michael Mitchell gave the invocation. Reflections were given by Representative DANTE FASCELL and Mr. Charles Blakely, and the eulogy was given by evangelist Jackie McCoy and Pastor J. Henley. Mrs. Ethel Bayley sang "If I Can Help Somebody."

I am saddened by the death of Mr. Herbert Ammons, and I would like to express to his family my deepest sympathy on their loss.

IN COMMEMORATION OF MAYOR GOODE'S ANNUAL CHRISTMAS PARTY FOR DISADVANTAGED YOUTHS

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BLACKWELL. Mr. Speaker, I rise today to commemorate a most special occasion in the city of Philadelphia. Tomorrow evening in the Philadelphia Civic Center, Mayor W. Wilson Goode will host his annual Christmas party for disadvantaged youths. This event will be attended by more than 3,400 children and their parents in the Philadelphia area.

In his tenure as mayor of Philadelphia, Mayor Goode has consistently strived to improve the quality of life for Philadelphians of all economic levels. During the past 8 years, the Mayor's Office of Community Services has expanded its programs to serve the disenfranchised citizens of Philadelphia in ways previously thought impossible. In particular, the homeless, single parents, and senior citizens have experienced new and enhanced levels of city services to assist them, and improve their overall quality of life.

Tomorrow evening's event at the civic center is a clear example of the mayor's continuing efforts to provide new opportunities for the citizens of Philadelphia. Children who would not ordinarily have the opportunity to celebrate Christmas will receive toys, books and lots of holiday food to mark this joyous season. In addition, the parents of these children will have the opportunity to meet with community service workers, and will receive a "stocking" filled with useful information on a wide variety of subjects for low-income families.

I ask my colleagues to join me during this season of giving, to commemorate this most special event, and pay tribute to Mayor Goode, a man who has given so much to the city of Philadelphia.

QUALIFIED THRIFT LENDER TEST IMPROVEMENTS

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BAKER. Mr. Speaker, the House and Senate on November 27, 1991, passed S. 543, Federal Deposit Insurance Corporation Improvement Act of 1991. During the summer, I offered a bill, H.R. 1718, the Qualified Thrift Lender Reform Act of 1991, as an amendment in the House Banking, Finance and Urban Affairs Committee markup of the House version of S. 543. The House Banking Committee overwhelmingly adopted this amendment, and the text of that amendment is the underlying text of subtitle G of title IV in the final version of S. 543 adopted by the House and Senate on November 27. The only difference between the final product and the bill I introduced is the percentage rate determination for qualified thrift investments. I strongly support this additional change from 70 percent to 65 percent.

The final banking bill, expected to be signed by President Bush in the days ahead, contains the following QTL test improvements in subtitle G of title IV: First, reduces from 70 percent to 65 percent the percentage of an association's portfolio assets that must qualify as qualified thrift investments; second, increases from 10 percent to 20 percent the amount of liquidity an institution may exclude from portfolio assets; third, allows an institution to include as a qualified thrift investment, without limitation, stock purchased in a FHLB; fourth, allows an institution to include as a qualified thrift investment, with limitation, stock in Fannie Mae and Freddie Mac; fifth, increases from 5 percent to 10 percent the amount of consumer loans an institution may include as qualified thrift investments; sixth, increases the entire consumer basket from 15 percent to 20 percent; and finally, seventh, changes the QTL reporting requirement from daily/weekly to a monthly average basis in 9 out of every 12 months.

In revising the QTL requirement from 70 percent down to 65 percent, it is the intent of Congress that thrifts initially, and on a continuing basis, be required to meet the 65 percent standard under the applicable 9 out of 12 month measuring period. Similarly, in requalifying as a qualified thrift lender, a thrift would no longer be required to meet the 70 percent test for the preceding 2-year period, but only the 65 percent test for the preceding 9 out of 12 months.

Another one of the more important additions is the inclusion of stock in the Federal home loan bank system as a qualifying thrift investment. FHLB stock qualified under the QTL in the Competitive Equality Banking Act [CEBA] but was disqualified under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 [FIRREA]. The new provision restores a valuable investment to the QTL test. The activity of the Federal home loan bank system is closely and uniquely related to the availability of credit for housing finance. Similarly, for the purposes of the QTL test, the Director of the Office of Thrift Supervision is encouraged to treat obligations of the Resolution Funding Corporation, whose obligations are indirectly supported by the Federal home loan banks, as qualified thrift investments for the same reasons.

These improvements will go a long way to keep healthy savings associations out of the RTC. The Office of Thrift Supervision and the thrift industry have indicated that these changes will prevent 100 to 200 thrift institutions from unnecessary Government control.

More importantly, I am hopeful the changes I sponsored will also afford savings institutions some flexibility in meeting the needs of all consumers in the ever changing financial marketplace. I truly believe these QTL improvements are a good beginning to restoring industry profitability and consumer confidence in the savings and loan industry.

A TRIBUTE TO MYRON "MIKE" BRODIE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the achievements of Mr. Myron "Mike" Brodie, an individual who has been inspiring the Jewish community since World War II. Mr. Brodie spent 24 years as the executive vice president of the Greater Miami Jewish Federation. In a Miami Herald article entitled, "Jewish Leader Leaving 'Adventure Unparalleled,'" Marilyn Garateix reports on the wonderful accomplishments of Mr. Brodie. I am pleased to commend the following article to my colleagues:

Myron "Mike" Brodie remembers when he decided to devote his life to preserving Jewish traditions. It was the summer of '45, and he was celebrating his bar mitzvah.

World War II was ending, and the world was just beginning to learn of the horrors of the Holocaust.

"It made a true impression on me," said Brodie. "That people were put through this horrible act simply because they were Jews. It could have happened to me."

Brodie spent 24 years promoting Jewish causes for the Greater Miami Jewish Federation, 20 of them as executive vice president. His journey ends when he retires this summer at the age of 60.

"It has been an adventure unparalleled," said Brodie, who wants to teach and spend time with his family. He will remain a federation consultant for five years.

"Sometime you get a feeling it's time to go. I think it's time to go."

Federation President Howard Scharlin said Brodie has often done what others couldn't: pull together segments of the Jewish community. "His presence casts a spell that makes things happen. He has a wonderful pool of patience and a wonderful ability to listen to your problems and help you solve them."

Brodie joined the federation in 1968, lured away from what is now called the South Broward Jewish Federation.

"I have a love affair with this community. I think it's one of God's great places," he said. "Our roots got planted here and our family has thrived."

Brodie and his wife of 39 years, Charlotte, have raised three children, all active in the Dade and Broward Jewish communities. He has four grandchildren.

At federation headquarters, 4200 Biscayne Blvd., Brodie's office wall is crammed with photos of himself with local and national leaders; the late Israeli Prime Minister Golda Meir, former Secretary of State George Schultz, Israeli President Chaim Herzog.

Among the milestones during Brodie's federation career:

A fund-raising campaign raised $36 million this year.

Two group trips to Israel drew 1,700 travelers from South Florida. The federation sponsored Mission 1000 and, in October, Miami Mega Mission II. Brodie himself has visited Israel at least 70 times.

The exodus of Soviet Jews to Israel and the United States accelerated. The federation has helped resettle many of them.

The federation helped build and still supports the Alexander Muss High School in Israel.

Brodie's desk is cluttered with papers on pending projects. He'll get through as many as possible before his summer retirement.

"It has been a totally absorbing position," he said. "It has consumed me. I'll feel sad to give all this up."

Mr. Brodie's contributions to society will be appreciated by many in the Jewish community. I am pleased to recognize Mr. Brodie and wish him much success with this future endeavors.

ORIAL REDD: A LIFETIME RECORD OF SERVICE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, Westchester County is losing one of its finest public servants with the retirement of deputy county clerk for records and archives, Orial Redd. Her presence in the county clerk's office will be missed, but I am sure that her long record of caring and making a difference in our community will continue for many years.

A graduate of Rye High School in Westchester and Bennett College in North Carolina, Orial Redd has always been tireless in her pursuit of a better life for all people. She has worked hard to achieve her goals and has made many of them into realities. Along with her husband, Paul, a prominent local publisher who is also noted for his service to the community, she raised two successful children before moving into the professional world. In the nearly 20 years since, she has accumulated a remarkable record of important achievements. As a housing specialist for the Urban League of Westchester, she helped the city of Yonkers and the State of New York to work together with private developers to create needed new moderate- and low-income housing units. Then, as the Urban League's programming director, she successfully managed a variety of important programs throughout Westchester County.

In 1974, Ms. Redd moved into government service. For nearly a decade, she made her mark as then-county executive, Al DelBello's assistant for human services. As the chief liaison between the county executive and all of the public and private human service agencies across Westchester, she played a vital role in helping thousands of families in need. She also took the lead in getting the first countywide office for the disabled and office for women in the New York State off the ground. Since 1983, she has served in her current capacity as deputy to our county clerk, Andy Spano. She oversees the invaluable county records center and archives, and, during her tenure, supervised construction of a significant addition to that facility. All of us who serve Westchester have come to know Orial as a dedicated and spirited public servant, as an effective community leader, and as a good friend.

In addition to her official responsibilities, Orial has made a significant difference through her work with groups such as the Westchester Black Women's Political Caucus, the Westchester County Association, the N.A.A.C.P., Zeta Phi Beta Sorority, Mount Zion Baptist Church, and the Urban League. She serves on the boards of Abbott House, the Northern Westchester Shelter, and the Manhattanville College Women's Leadership Council. Her efforts have been honored with an honorary doctorate in humane letters from Mercy College, the Zeta Phi Beta Finer Womanhood Award, the National Daughters of ISIS Woman of the Year Award, the New York State Black and Puerto Rican Caucus Community Service Award, the National Association of Minority Bankers Government Achievement Award, the United Hospital Medical Center Community Service Award, the Westchester County Board of Legislators Government Achievement Award, and the Operation PUSH Community Merit Award.

Mr. Speaker, I am proud to join the many whom I know are honoring Orial Redd. She is a remarkable woman with a record of commitment and achievement that all would do well to emulate. I am sure that my colleagues join me in wishing this remarkable woman all of the best as she leaves government service and continues to reach out to serve those around her.

AFFORDABLE HOUSING

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, I want to give an example of how the legislative process works at its best, and at the same time give credit where a good deal of credit is due.

This summer, while the House still had under consideration the bill to replenish the bank insurance fund, I was approached by a coalition of organizations interested in affordable housing in Massachusetts. They wrote me a letter asking why we had not included in the bill, when it passed out of the Banking Committee, a provision to provide for an affordable component as we had done in 1989 when we passed the bill dealing with the savings and loan crisis.

Such a program provides a first crack at the less expensive housing in our Federal inventory to people who are prepared to use it for low- and moderate-income housing—either for low-income home ownership in the case of individual units, or for occupancy by low and moderate individuals in the case of multifamily housing.

My answer to this very distinguished and committed group of people was that no one had brought it up. But it did not take me long after receiving their letter to realize that they were right, and that we should have included such a provision.

Fortunately, these people had gotten to us in time. I then began to work with them and with other housing advocates here in Washington to draft a proposal to create an affordable housing program within the FDIC. I am pleased to say that, with the cooperation of the ranking minority member of the Banking Committee [Mr. WYLIE], the ranking minority member of the Housing Subcommittee [Mrs. ROUKEMA], and the indefatigable and principled leadership of our chairman, the gentleman from Texas [Mr. GONZALEZ], such a provision was part of the bill that went to the President's desk last month.

The affordable housing program does not work miracles. What it does do is to maximize our ability to put existing Federal resources at the surface of people who badly need housing in a manner which will benefit the Federal Government, those in need of housing, and the private real estate industry.

Mr. Speaker, I am very grateful to the individuals and organizations who came together to suggest this to me, and to work closely together in a cooperative and creative fashion to see that the provision became law.

These people came together under the auspices of the Citizen's Housing and Planning Association, Inc. [CHAPA], they worked as a subcommittee of CHAPA, and their leadership is an example to people of how informed citizen advocates can have a major impact on the legislative process.

CHRISTOPHER DUNWORTH CHOSEN AS NEW MANAGER OF MIAMI'S NEW WORLD SYMPHONY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Christopher Dunworth has been chosen as the new chief executive of Miami's exciting New World Symphony. Mr. Dunworth brings to the symphony vast development experience as the former vice president in charge of fundraising for the Chicago Symphony. The Miami Herald recently reported on the appointment of Mr. Dunworth and the promising future of the New World Symphony in an article by staff writer James Roos. That article follows:

Symphony managers usually come equipped with strong musical backgrounds. They may be former orchestra players or musical educators, sometimes they're ex-concert agents who have specialized in classical music, sometimes former opera managers.

But Christopher Dunworth, the new chief executive of the New World Symphony, is the product of virtually an entire family of professional fund-raisers.

The 44-year-old administrator, who for the past three years has been vice president of development for Sir Georg Solti's lustrous Chicago Symphony Orchestra, says, "I grew up with an understanding of the philanthropic world by discussing it around the dinner table. My father was a fund-raiser, so are three of my four brothers—even my wife."

Dunworth was chosen to head the New World Symphony after a six-month search that finally narrowed down to eight candidates for the job. He succeeds Jeffrey Babcock, the New World Symphony's founding manager, who brainstormed its spectacular rise but who left last September to become cultural director of the 1996 Summer Olympic Games in Atlanta.

Babcock was not only an administrator, he was a composer and an educator with a Ph.D. in music; he combined artistic and administrative skills. But since the New World's first season four years ago, its budget has grown from $1 million to more than $7 million. The orchestra's supporters decided that now they needed someone to solidify its position.

Dunworth's orchestra development background seemed ideal. As a youngster growing up in New Jersey, he recalled during a brief visit to the New World's headquarters last week, "Whenever we had to fill out school forms, in the blank where they asked about your father's profession, most of my friends would write 'engineer, doctor or lawyer.' I always wrote 'director of development' and hardly anybody knew what that meant."

WHAT IT MEANS

Essentially, a development director raises money and oversees marketing to develop an institution, whatever its purpose. In Chicago, Dunworth directed a staff of 18 people and coaxed about $13 million annually from donors for the Chicago Symphony, which ranks with the Berlin Philharmonic and the Philadelphia Orchestra among the world's greatest orchestras.

Yet, surprisingly, "There just hasn't been much room for innovative fund raising" in tradition-bound Chicago, Dunworth says. Despite the CSO's worldwide reputation, "They don't seem to care much about going out of their own area to raise funds." Recently, he succeeded in getting a Salzburg bank to underwrite coming CSO appearances in Austria. it was something of a coup.

Dunworth believes lack of innovative cultural marketing is a serious problem for arts groups in America. "Symphony orchestras especially are a generation behind health care, sports organizations and universities in the way they go about getting donations," he observes. He intends to involve corporations in new ways of supporting the New World Sympony.

For instance, "Corporate partnerships with arts organizations haven't been fully explored," he notes. If you look at the sports leagues, you see major corporate sponsorships like the Virginia Slims Tennis Tournament or, say, the Kemper Financial Services Golf Tournament"—sponsorships that associate a product very directly with an event or institution.

The New World Symphony's chief mission is to bridge entrance into the professional music world for graduates of top American conservatories who are between the ages of 21 and 30. They receive fellowships while training in Miami. Dunworth plans to seek out corporate sponsors that are interested in being associated with it as an educational institution.

And not only corporations need be involved, he says.

SEEKING THE CONCERNED

"There are many well-to-do individuals who come to symphony concerts yet don't care about contributing to the orchestra's annual fund drive. What really excites them is when they can give money to help buy a violin for a deserving young violinist or helping someone to pursue their musical education. Those are the people we need to tap, internationally," he says.

For all his concentration on money, Dunworth is quick to add that he is fully aware of the New World Symphony's need to continue evolving creatively as an artistic group. He graduated from San Francisco State University with a degree in communications, film and the creative arts—though he began his career raising money for various hospitals and medical centers.

It was a decade ago, in fact, after working for a Cincinnati hospital, that Dunworth switched into the arts as development director for the Cincinnati Symphony. He subsequently spent six years as executive director of the Denver Symphony before moving to Chicago. He has always loved music, he says. 'My mother studied piano at Hunter College in New York and at Julliard; we always had music at home."

Still, Dunworth admits that he will likely need musical assistance. Though artistic director Michael Tilson Thomas and resident conductor Lief Bjaland plan most New World programs, Babcock's creative musicality also helped spur the symphony's development. Thus, after officially taking charge on Jan. 1, Dunworth may appoint an additional musical administrator to aid him.

Meanwhile, he is wasting no time getting to know the orchestra. Recently, he heard it play three successive concerts, and though he is occupied winding up Chicago Symphony business, he will inaugurate his new job a bit ahead of schedule this week by accompany the New World Symphony on its 10-day tour of Japan, which begins Monday in Osaka.

I am proud to pay tribute to Mr. Dunworth in his new position as head of the New World Symphony. I wish Mr. Dunworth; the artistic director, Michael Tilson Thomas; resident conductor, Lief Bjaland and the New World Symphony much success.

IN HONOR OF 50 YEARS—MONTEREY COUNTY HOUSING AUTHORITY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. PANETTA. Mr. Speaker, I rise today in honor of the Monterey County Housing Authority's celebration of 50 years of service in the 16th Congressional District of California.

The housing authority of Monterey County was created on March 21, 1941. Its original purpose was to provide low-income rentals in the county of Monterey as an independent public agency. However, in the last 50 years, the housing authority has gone well and beyond its original design.

The housing authority of the county of Monterey has proven to be an invaluable asset in times of both war and peace. At the close of World War II, the housing authority's performance was exemplary in locating emergency housing for returning veterans and their families, and they have continued to show this support for Monterey County for over five decades. The county has grown to a population of over 360,000, and the housing authority has worked diligently to increase their services to adequately meet the needs of the growing community. Throughout the years, the housing authority has expanded its program to include low-income rental apartments, low-income section 8 rental subsidy assistance to the private market, assistance with power, gas, and electric bills, weatherization for energy conservation, low-interest rehabilitation assistance, including earthquake recovery, repairs, and construction, tax credit certification for first-time home buyers, tax-exempt bond financing for housing construction, and eligibility certification for the Security Deposit Guarantee Program, County Inclusionary Housing Program, and the Farmers House Administration Program.

Reports indicate that the numbers of homeless people in our country are increasing at an accelerated rate. The factors for the increase in this development are many. However, it is important that actions are taken to provide adequate shelter for the homeless and assure that public areas can be used safely by all citizens. The housing authority has been active in responding to this increasing dilemma, including two transitional housing complexes, a migrant farm labor housing center and homeless shelter, and office space for those agencies servicing the homeless.

Homelessness in America is a national disgrace. We must treat it as such and provide the support these people so desperately need. It is our responsibility to ensure that housing remains affordable and that adequate assistance is available to those who need it. The housing authority of the county of Monterey has done just that. They have addressed the needs of the people for the last 50 years and it is my hope that they will continue for many more years to come.

Mr. Speaker, I now ask my colleagues to rise in recognition of the achievements of the housing authority of the county of Monterey. The housing authority has made endless contributions to Monterey County for the services it has provided for the residents of the 16th Congressional District of California.

BABI YAR REVISITED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LANTOS. Mr. Speaker, on September 30, 1991, my good friend and fellow Holocaust survivor, Benjamin Meed, received a call from the White House. He was told that President Bush requested that he join a Presidential delegation that would attend the memorial ceremonies at Babi Yar, the site where Nazis brutally massacred over 100,000 men, women, and children 50 years ago. The first, and most numerous, of those victims were Jewish.

Babi Yar, a ravine on the outskirts of Kiev, is a solemn and sacred place. To know the events of 50 years ago is to comprehend the true and vicious nature of the Nazi regime.

On September 19, 1941, the advancing German army captured Kiev, the capital of the Ukraine. Within a matter of days, the occupying Germans posted an order that commanded all the Jews of Kiev to gather their possessions and to assemble at the Jewish cemetery for deportation. When the Jews gathered, they were marched 2 miles to Babi Yar. There, they were stripped of their possessions and clothes. In groups of 10, they were marched to the precipice of the ravine and shot. Dance music was played to drown out their screams.

In just 2 days, over 33,000 Jewish men, women, and children were executed.

Mr. Speaker, Ben Meed has written a inspiring piece that recounts the ceremonies at the ravine in Babi Yar. The act of remembrance was difficult for him, and for all of those in attendance, but the events at Babi Yar demand to be remembered. I ask that Ben Meed's article be placed on today's RECORD and urge my colleagues to give it thoughtful attention.

[From the Forward, Oct. 25, 1991]

BABI YAR REVISITED

(By Benjamin Meed)

For many weeks I agonized over whether I really wanted to go to Babi Yar to participate in the ceremonies marking the 50th anniversary of those infamous days when our fellow Jews—men, women and children—were so brutally murdered. I could not forget what I saw there in 1979, when I was a member of a presidential commission on a fact-finding mission led by Elie Wiesel. I could not forget that when we were taken to the Babi Yar monument. I found that the site—the revine—was a place known to most Kievites even though it was then located on what were the outskirts of the city of Kiev.

Two questions burdened me: Where were the neighbors who could have spoken up? Where were the voices of the world that had allowed such a thing to happen? Although the eternal guilt for what happened in Babi Yar must remain with the German Nazi murderers, those who collaborated, as well as those who were silent bystanders, are also guilty.

For these reasons I hesitated to return there.

On Sept. 30, however, I received a call from the White House. President Bush requested that I join a presential delegation that would attend the memorial ceremonies in Babi Yar. One does not take such an invitation lightly, and I accepted.

The presidential delegation consisted of Miles Lerman, Abraham Foxman. John Pawlikowski and myself—all members of the United States Holocaust Memorial Council—and Taras Azmagala, who represented Ukrainian Americans. We left for Kiev on Oct. 3, along with the chairman of the delegation, Jonathan Bush, the president's brother, and his wife, Jody.

We spent Oct. 4 in cordial meetings with Sergei Komissarenko, the deputy prime minister of the Ukrainian Supreme Soviet, and Leonid Kravchuk, chairman of the Ukrainian Supreme Soviet. Mr. and Mrs. Bush sought to create an aura of togetherness and friendship, which succeeded in making us feel like a family, but we never forgot that we were representing the president of the United States. We understood the purpose of our mission and we anticipated, from our discussions with Ukrainian officials, that this time it would be different. The Ukrainians and Russians were now ready to admit their wrongdoings committed against the Jewish people.

In his words of greeting to the high-level officials, Jonathan Bush said: "I would like you to know what an important role our Jewish citizens play in the United States. They number only around 2% of our population, yet they represent 12% of those who contribute to Jewish and non-Jewish charities." He also spoke of the high regard in which he holds the Jewish people.

The four days of commemorative events included the inauguration of a Jewish School in Kiev—the first to open in more than half a century—and a series of roundtable discussions including Ukrainian, American and Israeli leaders. Yad Vashem, the official Israeli remembrance authority, held a ceremony honoring the Ukrainian righteous who helped save Jewish lives during the Holocaust.

As we traveled from one meeting to another, we could not help but notice the many banners in Ukrainian, English, Hebrew and Yiddish hanging above the streets and avenues stating that this was the week of events in Kiev remembering "The Tragedy of Babi Yar." Along the main avenue of Kiev were many well-organized exhibits of pictures depicting the tragedy of Babi Yar.

Yes, we were aware that those posters and banners could not revive those who perished in Babi Yar, but at least they put an end to the decades-old process of obliterating their memory and distorting the truth of the tragedy. Perhaps now the last screaming message of those who were being murdered—"You shall not forget what happened to us!"—will not have been in vain.

In deference to our Jewish religion, no official meetings were slated for the American delegates late Friday afternoon or Saturday. The Jewish delegates were invited to Sabbath services in the Danube hotel and afterwards, to a dinner arranged by Ronald Lauder, who was there with his wife, Jo-Carole. At the event were more than 200 young Russian Jews, most of them members of "Maccabi," the culture and sports club. In that hall young people sat together like brothers and sisters, enjoying the Sabbath and listening to the remarks of their American friends. One could sense the atmosphere of "Am Israel Chai"—The People of Israel Live. My emotions overwhelmed me that evening.

The following morning, the Jewish delegates attended Sabbath services in a synagogue, where Jonathan Bush joined us. Rabbi Arthur Schneier introduced Mr. Bush, who addressed the Jewish congregants on our behalf, conveying greetings from President Bush and our nation. Our Russian counterparts were greatly impressed.

The ceremonies at the ravine in Babi Yar were scheduled for after sundown that evening. Ambassador Robert Strauss and Mrs. Strauss arrived from Moscow to join the presidential delegation.

It was already night when we arrived at the site, and we lined up, preparing to lay wreaths on behalf of President Bush, the Holocaust Memorial Council and the American Gathering of Jewish Holocaust Survivors. The entire presidential delegation walked solemnly in Single file. We did not speak; we held each other's hands. I was tormented by the thought that this was the road where more than 100,000 people had walked to their deaths—never to return.

After laying the wreaths, we moved to the assembly area, where a huge stage was set up for speakers, singers and musicians. Our delegation sat in the front. I rose to observe what was going on. There were people of all ages with banners recalling the names of ghettos—dominating the banners were blue and white Israeli flags.

The program was convened by Sergei Komissarenko, chairman of the Babi Yar Commemoration Ceremony Organization. Messrs. Bush and Lerman delivered two very emotional speeches that were translated simultaneously into Ukrainian.

"Babi Yar demonstrates vividly where anti-Semitism, bigotry and hatred can lead," Mr. Lerman said in a speech frequently interrupted by applause. "It shows what can happen when hate-mongers get the upper hand, when peoples become divided, when they turn one against the other."

During his speech, President Kravchuk asked for forgiveness from the Jewish people for the appalling participation of some of his Ukrainian compatriots who had collaborated with the murdering German Nazi machine. The message from President Gorbachev, openly condemning anti-Semitism, was probably one of the most historic declarations ever made in the Soviet Union. Yevgeny Yevtushenko recited his poem, "Babi Yar," which was translated simultaneously into Hebrew and English.

Grigory Polyanker, a well-known Russian-Jewish author, delivered his speech in Yiddish. He spoke with great pain and emotion of the days when the Jews of Kiev were completely betrayed and abandoned.

To conclude the program Mr. Komissarenko announced that "This is the week of reading the Torah chapter of Genesis, so let it be a new beginning of a new cycle." He invited the young chief rabbi of Kiev, Yankel Bleich, to join him on stage and presented him with a new Sefer Torah for the congregation of Kiev. The rabbi took the Torah, and the Jewish speakers on the stage kissed it as the rabbi walked past.

A musical concert closed the evening, and we left, chilled by the cold night air, but nonetheless grateful to have participated in such a milestone. We had completed a mission and were witnesses to a historic promise.

THE WESTCHESTER CHILDREN'S ASSOCIATION: SPEAKING FOR OUR CHILDREN

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, there is no responsibility that should be taken more seriously by those of us in public life than the care of our Nation's children. They are our future. Nothing is more important than ensuring that they have the nurturing that they need to thrive and to grow into healthy, productive members of our society. Unfortunately, there are too many times when this simply isn't the case. All too often this is allowed to happen because there is no one to stand up for the children, no one to speak for those too young to be heard themselves.

For those of us who live in Westchester County, NY, since 1914, we have had the Westchester Children's Association [WCA], an independent nonprofit group which works to be the voice for all of our area's children, and who seek to ensure that innovative and effective programs are in place to serve their needs. WCA has indeed made a difference in helping to address this problem.

The exemplary fashion in which WCA has served our youth is exemplified by the work of the individuals who they have chosen to recognize with their annual humanitarian awards:

Carol Lipsky, the regional director of Effective Parenting Information for Children, works closely with WCA to provide support to the parents of young children in our area. She has provided vital assistance to tens of thousands of Westchester families.

Deborah Shields, General Foods USA's Manager of Community Affairs, is a tremendous example of the good that American businesses can do for the communities in which they operate. By working together with a wide range of local organizations, Deborah is able to make a real difference for children throughout the region.

Mary Rainey has dedicated her life to caring for young people. She has four children and five grandchildren of her own, but she has found the time to make a real difference in the lives of countless troubled youth as the resident manager of WCA's runaway and homeless youth shelter.

Sioux Taylor has been the executive director of the Mount Vernon Youth Bureau since 1977. In that capacity she has been a singularly successful advocate for the children of her city, and has brought together citizens and institutions of all types, including WCA, to make Mount Vernon a better place in which to grow up.

Jim Carnavale, as director of the Daily Bread Program at White Plains' Grace Church Community Center, has helped to keep thousands of Westchester children from going hungry. That so many young people in our area are homeless and hungry is a tragedy ignored by many. But Jim's work helps to alleviate that tragedy, and to give children in desperate need hope for the future.

The work that these individuals do is a testament to the spirit of concern and the deep commitment of WCA. By paying tribute to these five individuals, the Westchester Children's Association brings honor to itself as well. I join them in honoring Carol, Deborah, Mary, Sioux, and Jim, and I wish WCA and all of its supporters many more years of progress and success.

COMMUNITY SERVICE AWARD GIVEN TO H. WAYNE HILL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Miami businessman H. Wayne Hill, who received the Alonzo G. Decker Community Service Award from his company, Black & Decker.

Mr. Hill was one of 12 winners of the award given by Black & Decker at its corporate headquarters in Towson, MD. The Alonzo G. Decker, Jr., annual community service award gives recognition to Black & Decker employees who are improving the quality of life in their communities. The glass plaque award was presented by Alonzo G. Decker, Jr., the surviving founder of Black & Decker. Each award winner also selects a qualifying charitable organization to receive a $500 grant which Mr. Hill gave to the Miami Granada Rotary Club.

Black & Decker regional district center manager Ignacio Boladeres nominated Mr. Hill for his work as president of the Miami Granada Rotary Club. Black & Decker, in giving him the award, said that his tremendous involvement with the club exemplified exceptional levels of commitment, creativity, and achievement to worthy causes.

Among the projects Mr. Hill initiated and carried out was raising $10,000 to rebuild the San Juan Mission in Miami's Wynwood neighborhood. Mr. Hill also provided the Alberque San Vicente de Paul in Meridan, Mexico, with medical equipment and a cash donation of $3,000. During the holiday season, he distributed Christmas gifts to poor children at Miami Children's Hospital. Mr. Hill also distributed gifts on Three Kings Day—January 6, Epiphany, when children of Spanish descent receive their gifts—at Wynwood, the McClemore Center for Abused Children at Jackson Memorial Hospital, and to poor migrant workers in Homestead.

I also wish to commend Black & Decker for its community spirit in giving recognition to those employees who have performed community service. Especially at this time of year, it is good to see such excellent citizens as H. Wayne Hill given recognition for their service to our community and Nation.

NEED FOR AN EXTENDED UNEMPLOYMENT COMPENSATION BILL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, one of the things that I had hoped to do during the closing days of the session but was unable to because of the press of legislative business is to enter into the RECORD a petition which I received from a very large number of people in Fall River. This petition was drawn up by city councilor John Alberto of the city of Fall River, who is a leader in that community and who was one of the first to stress the need for an extended unemployment compensation bill.

While the bill has since become law, I think it is important to note that the delay which occurred before President Bush finally agreed to sign such a bill caused a great deal of distress. In my experience, few issues have drawn the kind of ardent support from citizens that the need for an extended unemployment bill drew in the late summer and early fall months this year.

I am particularly grateful to John Alberto for taking the initiative in organizing this effort. It is important that we have a record of public concern on issues of this sort and John Alberto's willingness to draft and circulate this petition is one of the reasons why I can point with absolute certainty to the very broad degree of support which this issue received in Massachusetts.

Here is the petition signed by over 1,000 people.

COUNCILOR JOHN ALBERTO PETITIONS TO EXTEND U.I. BENEFITS

PRESIDENT GEORGE BUSH: We respectfully ask you not to veto, but approve, the twenty (20) week extension of our Unemployment Insurance Benefits. The United States Senate and House of Representatives overwhelmingly voted to extend these benefits because they know what it means to the people of their districts. Empty stomachs, shut-off utilities, evictions and foreclosures will not contribute to the economic recovery of our country. For the unemployed, these are today's realities.

In the event that President Bush should veto this bill, we respectfully ask that you, our Senators and Congressmen, override his veto.

We, the undersigned, workers and families of workers, need leaders with a heart. Please say yes to our extended benefits.

WOMEN AND HUMAN RIGHTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LANTOS. Mr. Speaker, on November 18, the Congressional Human Rights Caucus held a luncheon to address the issue of women and human rights. It was the third such event in a series organized by the Human Rights Caucus and the Stanley Foundation in an effort to bring together congressional staff and staff of the United Nations.

Gender-specific torture and violence are often ignored in the struggle to end human rights abuses. Moreover, women frequently face economic discrimination, whether in development—where they are often overlooked by agricultural advisers and project developers—or in finance—where they find it difficult to secure loans. It is important that these issues take their rightful place on the international agenda.

Mr. Speaker, our colleague, Congresswoman JAN MEYERS of Kansas, issued a most eloquent statement on the occasion of that caucus luncheon. Her comments throw considerable light on the under-emphasized issue of human rights abuse against women. I include her remarks in today's RECORD.

STATEMENT OF REPRESENTATIVE JAN MEYERS

Human rights abuses against women is an issue that has long been ignored. The plight of an ethnic or religious minority that is subject to discrimination often generates considerable attention from Congress and the human rights community. Unfortunately, less attention is paid to abuses that are directed against women.

Too many people are willing to turn their heads away from the mistreatment inflicted upon women because they are justified in the name of religion or cultural practices. Women in the Middle East and Africa are subjected to female circumcision. In India, young women are burned to death because their dowries—which are supposedly illegal—are not large enough to satisfy their in-laws. In Pakistan, women who are raped then can be prosecuted for adultery and sentenced to up to 100 lashes. Female infanticide is common in much of the Third World. We, in the West, are often afraid to criticize the cultures that allow such vile customs, because that would be "ethnocentric." But the entire concept of human rights—the idea that people have worth as individuals rather than just as members of some political, social, or ethnic group—demands that we denounce these practices regardless of their foundation. Furthermore, this concept of human rights is one that the nations of the world voluntarily accepted when each agreed to the United Nations Charter and Universal Declaration of Human Rights.

Government's responsibilities for the protection of human rights go beyond forbidding state-sponsored terror. The primary duty of a government is to protect all of its citizens from aggression. After all, when human beings started organizing in tribes and other primitive governments, one of the primary reasons was for mutual protection. A state that tolerates the murder or mutilation of women for "cultural" reasons is just as much a violator of human rights as one that jails and tortures political opponents.

We must continually express our opposition and revulsion to these practices and attitudes.

A TRIBUTE TO THE ASSOCIATION OF CRITICS AND COMMENTATORS OF THE ARTS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to recognize the achievements of one of our community's most reputable and respected cultural institutions, the Association of Critics and Commentators of the Arts.

Since its founding in 1975 by a group of distinguished journalists and writers dedicated to the nurturing and development of all art forms within our growing Hispanic community, the association has become a haven for artists everywhere who yearn for an opportunity to further and enrich their individual talents.

Our State of Florida, situated at the gateway to the Americas, has always welcomed the proud heritage and cherished traditions of numerous cultures from all over Latin America, giving many renowned and aspiring artists from these areas of the world the opportunity to cultivate their respective abilities.

To promote artistic growth and recognize outstanding individual achievement, the association sponsors many events and programs throughout the year designed to introduce these aspiring artists to the general public.

In their efforts to help cultivate the arts in our ever-growing society, the association is currently embarking on their most ambitious project yet, the establishment of an international cultural center, where permanent exhibitions, cultural and musical pageants can take place, doubling as a recreation center for artists visiting or residing in our community.

Mr. Speaker, throughout its 16-year history, under the careful direction of president Dra. Josefina Rubio, vice president Mannix De Leon, as well as the rest of the dedicated members of the Association of Critics and Commentators of the Arts including: general director Ivan Guitierrez; public relations directors Maria Antonia Bode and Fabiola Naya; secretary general Dr. Nelson Hernandez; vice secretary general Laura Curbelo, secretary of organization Ubaldo Henriquez; and vice secretary of the Association Hall Estrada; treasurer Elvira Paches; vice treasurer Alsela Torres; and, executive assistants Hilda Alvarez and Maria Ofelia Garcia. Among the permanent members of the Association are past members and former executives, Jose Camacho Lagos, Pedro R. Herrera, Roberto Minagorri, and Adelfa Cantell.

Benefactor members are: Manny Herrera of Manny's Buffet, Humberto Rodriguez of Humberto Florist, and Carolina Weiss of Royal Tower. Honorary members are: Director of cultural relations Manny Soto; director of special events, Mirta Lopez Polacek; Celia Touzet of the commission on special events; and director of the commission on historical research, Dr. Armando Cobelo. Music department members are Solange Lasarte and Yolanda del Castillo Cobelo. Visual arts department members are Berta Randin, Orlando Acosta, Delio Liebrez, and Carlos Rafael Gonzalez. Literature department members are Dr. Jose E. Puente and Olga Gonzalez del Pico. Technical assistance members are musical director Professor Olga Martinez; theater director, Sergio Ponte; director of literature and director of photography, Asela Torres. Our community has gained a new and much needed appreciation toward the arts and I would like to extend to all members my very best and warmest wishes for continued success in all future endeavors.

IN MEMORY OF SHEILA BREMEN O'DONNELL

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BLACKWELL. Mr. Speaker, it is with great sadness that I rise to announce the passing away of Sheila Bremen O'Donnell, earlier this month. I would like to take this opportunity to pay tribute to this great woman whose contributions to the people of the city of Philadelphia are invaluable.

As the director of children's programming at Philadelphia's world renowned Annenberg Center, Mrs. O'Donnell was responsible for all activities involving young people. Among her multitude of duties, Sheila organized the annual Philadelphia International Theater Festival for Children, an event which attracts young theater groups from across the globe, and audiences numbering in the tens of thousands each year. Mrs. O'Donnell became codirector of the Philadelphia Theater Caravan in 1985, and joined the Annenberg Center in 1987 as an assistant of development and public relations. She had been the director of children's programming since 1988. Sheila O'Donnell had a profound love for children's theater and her dedicated efforts at the Annenbergy Center clearly reflected this. One need look no further than the fact that one of Mrs. O'Donnell's wishes, was that a fund be established in her memory to provide ongoing support for the International Theater Festival for Children.

In addition to her work at the Annenberg Center, Sheila O'Donnell was an active volunteer at the Germantown Friends School where her children attend. As a well respected parent leader at the Quaker institution, Mrs. O'Donnell could always be counted on, whether it was the publication of a cook book, or the production of a craft show program. Mrs. O'Donnell was also an accomplished flutist.

The passing of Sheila Bremen O'Donnell is a great loss for Philadelphia, and the world's youth theater community. I ask my colleagues to join me in extending our most sincere condolences to Sheila's husband John, her two sons, Ian and Peter, her mother Ruth, her sister Faith, and her brother Brian. We are lucky to have had such a strong presence in our community, and we will miss Sheila Bremen O'Donnell.

REV. J.O. FOWLER: A PASTOR YOU CAN COUNT ON

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, for the last 35 years, there has been at least one thing that everyone in Mount Vernon, NY, could count on: when Sunday morning rolled around, the Reverend J.O. Fowler would be in the pulpit of the White Rock Baptist Church. You could find him at the church most of the rest of the week, too—tending to his flock is a job to which this dedicated and inspiring pastor gives the full attention which it deserves.

White Rock has been a lower Westchester institution since the 1950's, and is a strong and vibrant part of the Mount Vernon community in which it now makes its home. By affiliating with the New York State, New England, and National Baptist Conventions, it has become part of one of the strongest nationwide churches in the country. The people of White Rock Baptist are proud of their church, and I am proud to be their Representative.

We are all proud as well of Reverend Fowler, whose service has been so exemplary. On the occasion of the 35th anniversary of his ministry, I join them in saluting him. That length of service is an accomplishment in itself. The quality of his service makes it even more impressive. I am sure, Mr. Speaker, that all of my colleagues join me in paying tribute to the Reverend J.O. Fowler, and in wishing him, his family, and everyone associated with the White Rock Baptist Church many more years of inspiration and dedication.

SOUTH FLORIDA COUNCIL OF BOY SCOUTS HONORS ED WILLIAMSON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today, George "Ed" Williamson II, who was honored by the South Florida Council of the Boy Scouts of America with the Good Scout Award. The award was presented on December 5 at a special lunch held in his honor at the Miami Marriott Dadeland.

Ed Williamson, who is well known in South Florida as the president of Williamson Cadillac, had his first experience as a boy Scout in Lake Wales, FL, where he was a Life Scout in Troop 135. When his son Trae became a Scout in 1978, Ed Williamson also became involved in Scouting. For over 6 years he served on the committee of Troop 457 in Coral Gables. Trae attained the rank of Eagle Scout in 1988, with the support and guidance of his father and mother. Ed Williamson continues to serve Scouting as a member of the executive board of the South Florida Council.

Ed Williamson has also demonstrated his service to the South Florida area in many other ways. He has provided leadership to many organizations including the Greater Miami Chamber of Commerce, the Beacon Council, the Rotary Club of South Miami, the Dade Foundation, United Way of Dade County, and the Orange Bowl Committee. Although a graduate of Auburn University, Ed serves as a trustee of and a member of the executive committee for his "adopted school"—the University of Miami [UM]. His commitment to the UM was recognized earlier this year when he received the Iron Arrow Award.

Ed Williamson began his career in the automobile business at the age of 12 working at a family-owned dealership in Lake Wales, FL. His is active with the South Florida Auto-Truck Dealers association, having served as president in 1986. He also is a member of the Florida Auto Dealers Association and the Cadillac National Dealer Council. In 1987, Time Magazine recognized his commitment to excellence by awarding him the Quality Dealer Award.

I wish to also commend those who have served with Ed Williamson in the important work that the Boy Scouts of America performs in molding the character of our youth. Among them are the co-chairman of the event honoring Ed Williamson:

Merrill W. Crews of Management Consultant; Robert E. Hoffman of Rolladen; Robert O'Malley of Kelley, Drye and Warren; L.W. Mandelbaum of First National Bank of South Miami; Mel Mendelsohn of Dadeland Mall; and Tom Williamson of Williamson Cadillac. I would also like to recognize Charles Babcock of King Charter, Scout Andy Simril and Scouts of Troop 457, Richard Green of Council President, and Ross McGill of Boy Scouts of America for their participation in the program.

THE COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BAKER. Mr. Speaker, early, this morning, the Conference Committee on the banking legislation, H.R. 3768, and S. 543 adopted a provision of the Senate banking bill, section 1133, that deals with the transfer of RTC property. I would like to make clear that the purpose of this provision is simply to facilitate the disposition of RTC property and not to interfere with any ongoing litigation.

Section 1133 of S. 543, states that no person obligated to provide services to an institution sold by the RTC "shall fail to provide those services unless the refusal to provide those services is based on the transferee's failure to comply with any material term or condition of the original obligation." The Senate Banking Committee report gave "membership rights in associations" as an example of an obligation which must be honored after a sale by the RTC.

It is my understanding that where applicable, this section requires a person to continue to provide services to a transferee of the RTC, however, it does not require that person to increase or expand those services or otherwise modify those services in any way.

There is now pending a very important lawsuit before the U.S. District Court in Utah, SCFC ILC, Inc. versus VISA, USA, Inc., Case No. 91–C–0047–S, regarding the antitrust issues of the right to membership in the Visa program and the issuance of Visa cards by an institution transferred by the RTC, and the impact of a Visa bylaw that prohibits competitors from participating in the Visa program. It is my view, and I believe that other members of the Committee also hold this view, that these issues should appropriately be decided by the courts, and that the litigation will go forward and will not be impeded by section 1133 of the banking bill.

HUMANITARIAN AID TO SOVIETS IS IN OUR NATIONAL INTEREST

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ASPIN. Mr. Speaker, articles continue to appear in the media depicting the deteriorating situation in the former Soviet Union.

A December 6 article in the Washington Times describes severe shortages of meat, butter, and milk in Moscow, where food riots have already taken place. "Moscow is in a hard, critical situation regarding food," Soviet President Mikhail Gorbachev said in the article. In addition, a December 6 article in the Washington Post subtitled, "Shortages abound in just about everything—especially food," goes into great detail about the lack of food, fuel, and medicine in the former Soviet Union.

A December 7 article in the Washington Times notes that individual republics "are refusing to ship food beyond their borders." In response, "hungry residents of Naryn, a city in Kazakhstan, were rustling livestock from nearby collective farms, stealing about 160,000 sheep."

A December 6 article in the Wall Street Journal forewarns that "with hyperinflation, rising unemployment and continued shortages, food riots could turn into havoc." Another December 6 article in the Washington Post reports rumors of a possible winter coup, and describes a plausible scenario envisioning "a steadily deteriorating economic situation leading to widespread popular disorders, which could in turn create a pretext for a group of politicians to attempt to use the military to impose order." A December 11 article in the Washington Post describes the additional instability due to the "appalling" living conditions currently forced on the members of the Soviet military.

Mr. Speaker, such impending social chaos could weaken command and control of the 30,000 nuclear weapons in the former Soviet Union, and in turn threaten our national security. I am pleased to see Secretary of State James Baker's announcement yesterday that the Bush administration will draw on the $500 million Congress recently approved to begin reducing nuclear danger in the former Soviet Union and to transport humanitarian aid. It is in our national interest to act now. This sentiment was echoed in a December 11 op-ed by Robert J. Samuelson in the Washington Post. "Our interest lies in checking the chaos that could loosen control over nuclear weapons, threaten the stability of Western Europe or lead to new right-wing governments," Samuelson said.

I insert these articles in the RECORD to remind my colleagues that the situation in the former Soviet Union continues to worsen;

[From the Wall Street Journal]

COUP TALK INTENSIFIES IN MOSCOW

(By Elisabeth Rubinfien)

MOSCOW.—As winter sets in and food lines grow longer, talk of another coup is rampant.

Foreign Minister Eduard Shevardnadze warns of another hardline Putsch, Leningrad Mayor Anatoli Sobchak worries about a fascist takeover, and respected analysts say disgruntled soldiers may take to the streets.

To some extent, the warnings are a display of a national flair for the dramatic, a penchant for the cataclysmic. And from some sources, the warnings are politically motivated: Supporters of a central government and a strong union hope to thwart independence drives in the remaining Soviet republics and discredit Russia's radical economic reform policy.

But other warnings reflect the concern that the current economic mess may provoke mass uprisings, leaving only the military able to take control.

"It would be a mass movement by layers of society—the *lumpen* masses—and groups like the old party members or conservative parts of the army could play a role," Moscow Mayor Gavriil Popov said in sketching one such scenario at a news conference yesterday.

Before the three-day coup attempt by hardline officials in August, liberals repeatedly warned of the possibility of such action to try to unify democratic opposition to it. Now, most predictions of an anti-government uprising say it will start from below, rather than among those near the top. While hyperinflation, rising unemployment and continued shortages, food riots could turn into havoc. Military officers furious over spending cuts and soldiers who returned from Eastern Europe to find no work and no apartments then could join in.

"When the people reach the limit of despair, the army—if it is not destroyed by that time—will have its say," said sociologist Tatyana Koryagina in an interview in Wednesday's issue of the official military daily, Red Star.

Defense Ministry spokesman Ivan Skrilnik said that Ms. Koryagina was expressing a personal opinion and that the ministry "doesn't think it necessary to comment." Some experts say the Soviet military is in such disarray that it couldn't lead a coup if it wanted to.

"It would be rather easy to use the armed forces now because a lot of people in them are not satisfied," says Vladimir Kumachov, a military analyst specializing in the Pacific region. "But someone else must push them to it; they won't start it themselves."

Soviet President Mikhail Gorbachev this week used the threat of another coup to bolster his pleas to republics to stick with the union. Mr. Shevardnadze, who also has a stake in a strong central government, warned that only a strong hand will satisfy the people if chaos ensues.

"The 'strong hand' can be opposed only by a strong, organized executive power," he told the weekly Megapolis-Express this week. "But that is precisely what we don't have."

Others worry that if the situation is chaotic enough, neo-fascists would step in to assert control. Mr. Sobchak, who has just published "For a New Russia," the story of his own role in building democracy, said that minimum living standards must be maintained to keep people off the streets. Otherwise, he said, "Communists are completely discredited, democrats are also fairly discredited, so the road will be open for national fascists and national socialists."

MOSCOW FOOD SHORTAGE IS 'CRITICAL'

MOSCOW.—President Mikhail Gorbachev said yesterday that the food situation in Moscow is "critical" and the capital needs urgent help.

In an interview broadcast on national television last night, Mr. Gorbachev said food deliveries from other republics to Moscow had been disrupted, creating severe shortages of meat, butter and milk.

"Moscow is in a hard, critical situation regarding food," the Soviet president said. "I think Muscovites and the Moscow leadership need help and support from the central government and the Russian republic."

"The capital needs urgent help," a tired-looking Mr. Gorbachev said after meeting privately with Russian President Boris Yeltsin to discuss the union treaty aimed at linking the splintering republics' economies.

"Muscovites need to be helped," Mr. Gorbachev said. "There are problems connected with the disruption of deliveries from other republics."

Moscow and St. Petersburg have been hard hit by the growing political and economic collapse of the country in the wake of the failed hard-line coup that failed to topple Mr. Gorbachev.

Other republics are keeping food within their borders for their citizens, and fuel shortages are delaying food deliveries.

STARVING SOVIETS RUSTLE LIVESTOCK

(By Wendy Sloane)

MOSCOW.—Mikhail Gorbachev appealed yesterday to leaders of four republics to send food to Moscow, while Soviet media reported hungry people in some areas raided farms to steal sheep and cattle.

Mr. Gorbachev's appeal and the alarming reports of popular desperation came a day after the Soviet president warned on national television that Moscow needed help to ease acute food shortages and urged other republics and cities to help.

The republics increasingly are refusing to ship food beyond their borders to prevent shortages among their own people. The breakdown of the country's transportation system also caused serious delays in food deliveries.

In a telegram sent yesterday to leaders of the republics of Ukraine, Kazakhstan, Byelorussia and Moldavia, Mr. Gorbachev warned that the worsening situation could trigger mass protests against economic reforms, Tass reported.

Meat, butter and sugar supplies here are sufficient for only a few days, and Muscovites are buying up all the city's bread supplies, Mr. Gorbachev said, according to Tass.

Russians got more bad news yesterday when the republic's parliament approved a 28-percent value-added tax (VAT) to help supplement the budget and finance social programs, Tass said. VAT is a form of indirect sales tax.

But the leaders of republics that intend to adhere to a new union treaty discussed setting maximum retail prices for necessities such as bread, milk, baby food, sugar and salt, a move that would go against Russia's intention to free most prices this month.

Meanwhile, hungry residents of Naryn, a city in Kazakhstan, were rustling livestock from nearby collective farms, stealing about 160,000 sheep, Tass said.

Near the Russian city of Krasnodar, farmers reported the theft of 25 cows, 44 horses and 15 calves, the report said.

In the Ural Mountains city of Ufa, bread is the only food not rationed, Komsomolskaya Pravda newspaper reported. In the Georgian capital of Tbilisi, the only items readily and cheaply available are cheese and beans, it said.

Meat has become so difficult to find in state-run stores and so expensive at the cooperative farmers' markets that seaweed has started to replace it in some Soviet Far East cities, the newspaper reported.

In his television interview Thursday, Mr. Gorbachev said food deliveries to Moscow from other republics were disrupted, creating severe shortages of meat, butter and milk. Muscovites suffered days of bread shortages last month.

"Moscow is in a hard, critical situation regarding food," he said. "I think Muscovites and the Moscow leadership need help and support from the central government and the Russian republic."

As the harsh winter sets in, many Muscovites are getting tired of waiting endless hours in line to buy basic food items. Starch has become a primary staple in lieu of meat and vegetables.

As part of Russian President Boris Yeltsin's radical reforms, his government plans to free prices from state control throughout the republic. By bringing prices in line with demand and production costs. Mr. Yeltsin hopes to increase supplies.

In the meantime, farmers are withholding food from the market, waiting for higher prices. The price increases are expected within a few weeks.

Food products that would retain their fixed prices include bread, milk, buttermilk, non-fat cottage cheese, vegetable oil, sugar, salt, vodka and baby food, the Moskovsksaya Pravda daily said yesterday.

In response to the food crisis, Moscow's Federation of Trade Unions and the Moscow Entrepreneurial Group sent an appeal to the Russian government yesterday for social programs to help the needy, Tass reported.

"If the mayor's office, the Moscow government and the City Council are unable to ensure stability in the city and create normal working conditions for Muscovites, we will demand their resignations," the appeal said.

[From the Washington Post, Dec. 6, 1991]

Desperate Days in the Soviet Union—Shortages Abound in Just About Everything—Especially food

(By Margaret Shapiro)

Moscow, Dec. 5.—An oral surgeon in the city of Chelyabinsk was forced recently to extract a patient's tooth by the light of matches held by his nurse. His hospital had run out of light bulbs.

In Asbest, a severe shortage of soap and detergents is preventing treatment of an outbreak of lice in local schools. A newspaper reminded people that they could resort to an older method for getting rid of the pests—kerosene—but that also is in short supply.

And in the far eastern city of Khabarovsk, frantic passengers, stranded at the airport because of lack of fuel for airplanes, blocked runways in angry protest, with many getting out only days later on special air force transports.

These are desperate days in the Soviet Union, or what remains of it. Every day, the newspapers are filled with reports of new shortages, worsening shortages or predicted shortages in everything from matches and weddings rings to hot water, newsprint and, most threatening of all, food.

Just today, St. Petersburg officials announced that only a one-day supply of meat is left in the city, while Moscow leaders warned of a "real catastrophe" in food supplies in the next 10 to 15 days. Soviet President Mikhail Gorbachev called the food situation in Moscow "critical."

People in the Soviet Union have always had to contend with some shortages, but nothing as widespread as what they face today. In some ways, the country seems to be hurtling back toward the Middle Ages, when people lit their houses with candles—as they must now do in many rural areas of Uzbekistan—and bartered for necessities, as they now do virtually throughout the land.

In the Siberian city of Yakutsk, for instance, a hospital desperate to fill its blood bank did so only after offering donors clothes for blood: a man's shirt and aftershave for 7 ounces of blood, a pair of women's winter boots for 14 ounces. And when the Dnepropetrovsk authorities recently began to run out of rubles, they got more by trading 5 tons of sugar and 1.5 tons of vegetable oil to the regional mint.

Perhaps surprisingly, the country has not collapsed of mass exhaustion, as it seems it should in these circumstances. People still go to work, though they spend a lot time scavenging for necessities. Children go to school and dream of upcoming winter holidays. Subways and buses in most cities work normally. And examples of capitalist initiative are emerging from the debris of the discarded old communist system.

But frayed trade networks among republics and cities have broken down amid the general political chaos. Aged equipment in factories across the country has fallen apart. The low harvest has led to shortages in everything from flour and animal grain to vegetables and bread. And across the country, corruption and a flourishing black market are siphoning off what is available and raising prices on what is left.

"It seems we are running out of everything. I'm not sure how much more people can cope with, but the situation gets worse every day," said Raisa Grisiena, an employee of an asphalt factory that this month has run out of sand to make cement.

Some of the worst shortages are in areas where ethnic or religious rivalries have disrupted the normal flow of goods.

In the capital of the disputed Nagorno-Karabakh region, where fighting between Christian Armenians and Muslim Azerbaijanis has recently intensified, there is no bread, water or fuel, according to news accounts from the area. Armenia itself has been virtually without fuel and with little food for weeks because of blockades by Azerbaijanis. A Moscow newspaper a few days ago reported that Yerevan, the capital of Armenia, now "is very quiet. There is no gas, hot water or electricity in the houses. Most of the factories are not working."

But it is not just war-torn areas that are suffering. In Moscow, St. Petersburg and Kaliningrad, for example, it has become an ordeal to find gasoline for cars, with even 10-hour waits sometimes proving fruitless. In Kiev, matches are hard to find. In a city near Lake Baikal in southern Siberia, television stations have closed for want of electricity, and newspapers are not being printed because there is no fuel to deliver newsprint. Everywhere, buildings are dim because of a shortage of light bulbs, and hospitals must survive without medicines or syringes.

Electricity and hot water, which have been cut off at times in the past, are now failing much more often. Moldavia will soon ration electricity. Georgia has just declared a five-hour workday to conserve dwindling oil and gas supplies.

In Volgograd, the newspaper Komsomolskaya Pravda reported many unheated schools and apartments, where children must "go to bed in their clothes." Seven time zones to the east, residents of Khabarovsk have been without heat and fresh water so long that they are now fleeing in droves, according to news reports. And in Petropavlovsk, public transport recently ground to a halt for lack of fuel.

The shortages have even hit the much-maligned Soviet currency, the ruble. Dollars have been in short supply for weeks now, but rubles until recently were plentiful. Now, with inflation galloping faster than government printing presses can keep up, banks are running short of rubles.

Moscow banks today even turned away customers who wanted to exchange highly prized foreign currency, saying they had run out of rubles. In the Altai area of southern Siberia, the government recently resorted to paying people in chits. All of the Ukraine will soon begin using coupons as an alternative currency, because it cannot get enough paper rubles from Moscow. But as Komsomolskaya Pravda reported, the shortage of rubles soon may not matter. Most people have already turned to barter to get what they need, with "a pail of potatoes [equaling] a kilo of meat or two chickens."

The shortages have produced a surplus of worries about social turmoil and rumors of new authoritarian coups or ultranationalist movements to store order to this society.

"I worry a lot," said Sergei Shakrai, an adviser to Russian President Boris Yeltsin. "It looks here like the situation in Germany after the war." But, he said, "If we can keep the situation under control for six to seven months, then I think there will be signs of relief."

Rutskoi criticized Yeltsin's plan to free prices, suggesting that it would lead to unnecessary hardship among workers. He depicted himself as a champion of the military-industrial complex, traditionally the most efficient sector of the economy, which faces particularly hard times if the Russian government pushes ahead with its plans to dismantle the system of centralized allocation of resources.

Rutskoi described the band of young economic reformers around Yeltsin as bumbling amateurs—"kids in pink trousers"—incapable of leading Russia out of its economic crisis. The head of the economic reform team, Russian Vice Premier Yegor Gaidar, called today for Rutskoi's resignation, saying his statements contradicted government policy.

[From the Washington Post, Dec. 11, 1991]

Coup Talk Abounds in Soviet Army

(By Fred Hiatt)

Moscow, December 10—A divided and demoralized Soviet military is facing the dangerous prospect of having to choose between commanders in chief as this onetime superpower reels toward an uncertain future without clear leadership.

Russian President Boris Yeltsin, who will hold a key meeting with top armed forces commanders Wednesday, has received general support from Soviet Defense Minister Yevgeny Shaposhnikov, Yeltsin sides said today. But at the same time, spokesmen for Soviet President Mikhail Gorbachev, who addressed senior officers at the defense ministry this morning, insisted that Gorbachev still controls the military and its nuclear arsenal.

Following the failed Kremlin coup in August, the Soviet military leadership vowed never to involve itself in civilian politics. But now—with army troops facing attacks by armed nationalist groups around the former Soviet Union, with living conditions for servicemen and their families deteriorating day by day, with rival political leaders competing for preeminence—talk of a military coup has become prevalent, not least among military officers themselves. A continuing shakeup in top echelons of the Soviet Defense Ministry has only added to the rumors.

Most officers still discount the likelihood of such a coup, in part because pervasive pessimism within the officer corps militates against any bold action, and in part because Russian military tradition holds little precedent for such action. But few are willing to predict the consequences for the military of the present anarchy in Moscow and the continuing fragmentation of the Soviet Union and of the army itself.

The official military newspaper Krasnaya Zvezda, while supporting democracy these days, also reflects a volatile mood among many officers of self-pity, nostalgia, humiliation at the shrunken status of Soviet might and anger at the ineptness of current political leaders.

"I think you can say that no one today is in charge of the armed forces," said Navy Capt. Vyacheslav Lukashevich, a Krasnaya Zvezda editor. "The army was faced with a choice during the August coup; we cannot rule out that it will face this choice again in the near future." Most army units did not support the reactionary Communist coup, even though the defense minister at the time, Gen. Dmitri Yazov, was among its leaders. After the putsch, Gorbachev replaced Yazov and other top generals with a reformist leadership, which pledged that the Soviet military would never set itself against the democratic aspirations of the citizenry.

One of those new leaders, Maj. Gen. Nikolai Stolyarov—who heads what until recently was the political section of the general staff—acknowledged in a newspaper interview today that "the situation in the country and in the armed forces is very tense," but he repeated that the military would remain a "stronghold of democracy." "I do not share the idea of a military coup," Stolyarov said. "The army will never turn its bayonets against its own people."

But other officers warned that military involvement in the continuing political struggle cannot be discounted, especially if Gorbachev and Yeltsin do not soon come to some understanding. "I think it's a real possibility, when we are on the threshold of a real civil war, and one that possibly could be fought with nuclear arms," said Capt. Lukashevich.

"The army is tired of suffering humiliation, tired of going half-hungry, tired of living in sublet apartments. It is tired of serving a country that is no more," said Maj. Leonid Kozhendayev, an armed forces' general staff officer, in a recent newspaper interview. "It is time to take measures—tough ones."

Some analysts say that wholesale dismemberment of the military is one issue that could bring the generals into the political arena. William C. Green, an authority on Soviet military matters at Boston University who spent the past two weeks interviewing officers here, said he found unanimity that "they do not want the central core of the military broken up among the republics."

But Green said he does not believe the military actually would try to seize power. "Not one of them wants the military actually to run the country, because they don't think the country can be run," he said. But he said he believes the military might intervene at Gorbachev's behest—"not on his behalf," but to save some unified component of the armed forces.

Green said he believes that Gen. Vladimir Lobov was cashiered as general staff chief on Saturday at Russia's insistence because, while he had agreed to dividing up ground and air-defense forces among the newly independent Soviet republics, he was "digging in his heels" to maintain unified navy, air force, nuclear, logistics and doctrinal units. Lobov was replaced by Gen. Viktor Samsonov, who refused to send troops into Lennigrad during the August coup. And in an apparent continuation of the power struggle within the Defense Ministry, a spokesman said today that two deputy ministers also have been replaced.

Other analysts here said they believe the army will support Yeltsin, if only because his Russian government now controls the central budget. "He who pays the piper calls the tune," Lukashevich said today, noting that Yeltsin promised recently to nearly double officers' salaries. Still others said they believe the military will simply hang back and hope the crisis is resolved without them. "The armed forces can make a political choice, or they can wait for the whole country to make its political decision," said Navy Capt. Vladimir Maryukha. "The military is trying not to lead, but to lag behind."

About 4 million men and women serve in the Soviet armed forces, which also controls about 27,000 nuclear warheads, many of them on intercontinental missiles still pointed at the United States. As the Soviet economy has deteriorated and its troops have been forced home from Eastern Europe, living conditions for many have become apalling, with some officers and families stuffed into squalid dormitories and others spending the frigid winter in tents.

In addition, central control over the military has gradually eroded as most of the Soviet Union's 15 republics declared independence. At first, the republics refused to send local conscripts on to the army; more recently, they have been claiming control over all military units stationed on their soil. In some outlying republics, army units have come under attack by nationalist militia groups as well as by ordinary criminals seeking weaponry. Incidents in which a major in Georgia was killed in front of his wife and child and an Interior Ministry officer was arrested in Russia and taken to newly independent Latvia on criminal charges have stirred outrage throughout the military.

Today's issue of Krasnaya Zvezda contains news of an appeal signed by 3,000 students and officers at the Frunze Military Academy in Moscow demanding that servicemen be given the right to defend themselves "against nationalist and other kinds of banditry." Another article describes the difficult life of a Soviet officer still serving in Latvia, where his 16-year-old-son has been denied a passport and must take his school exams in Latvian. And the lead editorial warns soldiers that "the one who is raising his weapon against you today will tomorrow be hailed as a hero of the people, while you will be a murderer and a criminal."

For many officers, the prospect of a dissolution of the Soviet armed forces into armies serving the various republics is extremely painful, quite apart from the prospect of immediate personal danger likely in areas of political tension or social turmoil. Maryukha, a Ukrainian serving in the Soviet navy, said he and his colleagues are "united by the sense that we are all Soviet officers."

"It will be very hard for people who were brought up on united ideals and values and loyalty," Maryukha said. "It will be akin to finding yourself without a motherland."

But Maryukha said that despite strong feelings throughout the armed forces on the need for a unified military, the officer corps remains set against involvement in any coup. "I think that every army officer has already made his own individual political choice—he's not going to take up arms and fight against his own people," he said. "This understanding is very strong in the army right now."

[From the Washington Post, Dec. 11, 1991]

Their Chaos—And Ours

(By Robert J. Samuelson)

Stanley Johnson, as well-known farm economist, is pessimistic. He thinks that parts of the former Soviet Union—including Moscow and St. Petersburg—could soon suffer crippling food shortages: the type of hunger that might trigger more political upheaval. His outlook differs sharply from the official U.S. view, which foresees scattered scarcities and endless lines. Johnson urges that we begin shipping extra food now to prepare for the worst. It's a sensible precaution considering the three to six weeks normally required to move grain to Soviet ports.

We aren't taking it.

Soviet society is now disintegrating at an alarming rate. The declared end of the "union"—and creation of a "commonwealth"—reflects the deep chaos. But the Bush administration's Soviet policy mirrors the chaos of Soviet society. We are reacting to events. Decisions are fragmented. The Agriculture Department deals with food. The Treasury deals with Soviet debt. The State Department deals with nuclear weapons. The result is that we are squandering our modest changes to check the growing anarchy.

Ideally, the president should appoint someone—a Soviet policy "czar"—to force decisions on critical issues. Time is of the essence, and everything is connected to everything else. The Soviet economy is collapsing; production is down 15 to 20 percent, and inflation exceeds 200 percent. The worse the economy gets, the harder it will be to negotiate control of nuclear weapons. New governments will be too preoccupied with their own survival. Severe food shortages could shatter relations among republics, because they would blame each other.

Our policy should make these connections. Russian President Boris Yeltsin is about to embark on a sweeping economic reform. He pledges to free prices, curb huge budget deficits and liberalize foreign trade. How should we help? (Writing in the New York Times, Swedish economist Anders Aslund, an adviser to Yeltsin, argues that Russia needs a $5 billion "stabilization fund.") Should economic aid be tied to specific steps to destroy nuclear weapons? Should food aid be tied to farm reforms or commitments among republics to maintain their trade?

These and other practical questions loom. We don't have the time to wait for events to clarify themselves. By then, it may be too late to help. Consider the food situation as a case in point.

The 1991 harvest was down. The reasons most often cited are poor weather and less use of fertilizer and pesticides. Writing in Choices, a farm magazine, economist Johnson of Iowa State University and Alexander Nikonov, president of the Soviet Academy of Agricultural Sciences, report that the grain crop was down 13.5 percent from average production between 1986 and 1990. The potato crop dropped 10.1 percent, meat production 4.1 percent and milk output 5.6 percent.

By themselves, these declines wouldn't trigger a crisis. Although food consumption would slip slightly, the Soviet diet is hardly a subsistence one. In calories, it roughly equals ours. The main difference is that it includes more potatoes and bread and only about half as much meat. The widely reported "shortages" of the late 1980s didn't reflect lower food consumption. Rather, shortages emerged because food prices were held down while wages soared. The result was that any food in state stores was bought almost instantly.

The danger now is that the food distribution system may break down. In 1991, farms have sold only about 60 percent as much grain to the state distribution network as last year. Some grain is going to private markets, some is being bartered for consumer and industrial goods, and some is being hoarded on farms. Presumably, some of the hoarded supplies might be sold after prices are freed. But no one really knows the amounts involved.

Cities like Moscow and St. Petersburg are vulnerable, because they're at the end of the supply chain. Only about 60 percent of their grain comes from nearby areas. People on fixed incomes (the old and students) are vulnerable, because they may not be able to afford free-market prices. Bureaucrats are vulnerable, because they have little to barter or wages aren't keeping up.

We are already sending a lot of food. Nearly $4 billion has been authorized under U.S. government-guaranteed loans in the past year. Is that enough? Someone has to decide—soon. In effect, the official U.S. view is that enough hoarded grain will get to market to prevent starvation or food riots; Johnson is skeptical. He would ship more now and store it in Soviet warehouses as insurance against hoarding. If not needed, the food would offset shipments that would normally occur later in 1992.

Everything we might now do (or not do) is a gamble. Under the best of circumstances, the Soviet economy will get worse before it gets better. Price liberalization will lead to a big burst of inflation. Cutting budget deficits will require slashing subsidies for state enterprises and firing many bureaucrats. The problems of privatizing industry are huge. The capitalist tradition is weak, as is the work ethic. A suspicion of profit runs deep. All we can offer is aid to cushion the suffering and technical advice to give reforms a chance of success.

More than humanitarian concerns are at stake. Mikhail Gorbachev warns that the Soviet Union's collapse could lead to conflicts that make Yugoslavia's civil war look like a "joke." This is not simply bombast. Our interest lies in checking the chaos that could loosen control over nuclear weapons, threaten the stability of Western Europe or lead to new right-wing governments. We can—along with Europe and Japan—afford aid: The amounts are small compared with past defense spending. The possibility of failure is not an excuse for not trying.

But the White House seems increasingly paralyzed. The president fears paying too much attention to foreign affairs. Policy is spliced together by bureaucrats. Meanwhile, the new Russian revolution races forward at breakneck speed. We ought to help keep it on the road; we aren't. We have won the Cold War, but victory will be hollow if it means an explosive peace.

[From the Washington Post, Dec. 6, 1991]

Moscow's New Worry: A "December Putsch"—Rumors of Possible Coup Sweep City Amid Winter's Gloom and Mounting Shortages

(By Michael Dobbs)

Moscow, Dec. 5.—It may be the time of year—the short, gloomy days when the sky seems perpetually overcast, snow turns immediately to mush and the list of shortages grows longer and longer—but Moscow is again rife with talk of a possible military coup.

So far, nobody has produced any concrete evidence that a coup is in the works. But that has not prevented the rumor mills from working overtime, sending shudders through the world's currency markets and providing grist for a flurry of diplomatic cables. After a brief spurt of optimism in the wake of August's unsuccessful coup by Communist hard-liners, pessimism has again become the order of the day here.

Over the past few weeks, the Soviet press has been full of scenarios for a future coup. Politicians, commentators and astrologers have come up with various dates for a "December putsch," some of which have already passed without incident. Possible coup leaders have been named, most notably Russian Vice President Alexander Rutskoi, a former Afghan war hero and leader of a group of reform Communists.

Soviet President Mikhail Gorbachev, who refused to believe repeated warnings last summer that his close aides were plotting to remove him, has joined in the latest round of speculation. In an interview this week with the newspaper Literaturnaya Gazeta, he said there were people "who are waiting for another putsch, possibly even organizing it."

Pressed to elaborate, he mentioned "someone from the military-industrial complex" or a member of the now disbanded Communist "party structures."

Similar warnings, all equally vague, have come from many other leading politicians, including Foreign Minister Eduard Shevardnadze and the mayor of Leningrad, Anatoly Sobchak. The French newspaper Le Figaro quoted Sobchak as saying that a military coup carried out in the name of rescuing the country from chaos would have a "chance of success," since it would now be supported by ordinary people disillusioned by growing economic hardship.

The coup rumors reflect an increasingly jittery political mood as the economic crisis deepens and the once monolithic Communist superpower splits up. There have been ominous rumblings from the military over atrocious housing conditions and drastic defense cutbacks. Officers stationed in the now independent Baltic states have threatened to defy orders to return to Russia on the grounds that there is no place for them to go there.

Despite the anger and frustration of many mid-level officers, a straightforward military coup strikes many observers here as improbable. Such overt political intervention is not in the tradition of the Russian or the Soviet military.

A more plausible scenario envisages a steadily deteriorating economic situation leading to widespread popular disorders, which could in turn create a pretext for a group of politicians to attempt to use the military to impose order.

"The biggest danger that awaits us is not so much a putsch, but an uprising of the destitute, the *lumpen* sections of the population, which will then be used by other forces," Moscow Mayor Gavril Popov predicted at a press conference today.

Shevardnadze, who electrified the Soviet parliament a year ago with warnings of approaching dictatorship, also appears to take the view that a coup could grow out of mass public disorders. He told the weekly Megapolis-Express that a sharp drop in industrial output, deteriorating living conditions and rapidly rising prices are feeding "nostalgia for a strong hand."

Many democratic politicians, including Shevardnadze and Popov, have used the coup rumors to argue the case for a stronger executive authority, particularly at a time when the Russian government is attempting to push through painful economic reforms. This has led some commentators to conclude that the democrats could be planning a state of emergency of their own on the pretext of forestalling a more draconian crackdown by the military or hardline Communists.

"The slow pace of economic reform is a recipe for uprisings and mutinies," said Popov, who has been accused of favoring authoritarian methods in his dealings with the popularly elected Moscow city council.

"I prefer to use necessary force earlier rather than later. It is better to use unarmed policemen than armed policemen. It is better to use the police than the army."

The political outlook has been further clouded by sharp divisions in the victorious democratic camp since the failure of the August coup. An open split has developed at the top of the Russian leadership, with Rutskoi clearly distancing himself from President Boris Yeltsin over the pace and scope of economic reform as well as policy toward non-Russian ethnic minorities.

A former army colonel, Rutskoi was chosen as Yeltsin's vice presidential running mate last spring to balance the ticket and reassure the military as well as appeal to progressive-minded Communists. But many now view him as a possible rival to Yeltsin—and a rallying point for former Communists, frustrated military men and disgruntled democrats.

The suspicions about Rutskoi surfaced today in an extraordinary front-page article in the independent newspaper Izvestia suggesting that he is well-positioned to lead any future putsch against Yeltsin. Rutskoi has dismissed the putsch rumors but suggested darkly that "you cannot endlessly play with people who bear arms" because it "may end in disaster."

In a speech in Siberia last week, Rutskoi criticized Yeltsin's plan to lift controls on prices, suggesting that it would lead to unnecessary hardship among workers. He depicted himself as a champion of the military-industrial complex, traditionally the most efficient sector of the economy, which faces particularly hard times if the Russian government pushes ahead with its plans to dismantle the system of centralized allocation of resources.

Rutskoi described the band of young economic reformers around Yeltsin as bumbling amateurs—"kids in pink trousers"—incapable of leading Russia out of its economic crisis. The head of the economic reform team, Russian Vice Premier Yegor Gaidar, called today for Rutskoi's resignation, saying his statements contradicted government policy.

A FUNNY WAY TO PICK A HOSPITAL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STARK. Mr. Speaker, yesterday, a fellow American, Clyde Mitty, bled to death in a most unusual way. It is a sad case, and I reprint the news report from the St. Petersburg, FL, Times Mirror as a warning to others:

ST. PETERSBURG, FL.—In what the County Coronor's office described as a bizarre case, Mr. Clyde Mitty of Treasure Island bled to death from a minor wound while trying to decide which hospital most lived up to its advertisements.

"Basically," said County Deputy Sheriff Perry Plumart, "he was touring around, checking out various hospitals for the quality of their food, how big the rooms were, what kind of color tvs they had. By the time his wife drove him to the fourth hospital, he had bled to death."

"Strangest case of consumerism I ever saw," said Dr. Mary Popit, who performed the autopsy. "I don't know why the wife didn't put a stop to it. The front seat of the car was just aslosh with blood."

Mrs. Anne Raffaelli Mitty was described as distraught and unavailable for comment. Her son-in-law, Tom Goldstein of Tampa, said that his father-in-law had always been fascinated with hospital advertisements.

"He had told me many a time after reading one of the local papers that he liked this or that hospital's ads and if he ever had to go to a hospital, that was where he was going to go," said Goldstein, "Trouble was, whatever ad he saw last, that was where he wanted to go. The ads were so confusing that he just couldn't decide which hospital really was best."

According to a statement Goldstein filed with the police, Mrs. Anne R. Mitty said that on Sunday afternoon, Mr. Mitty was peeling an orange with a common kitchen knife and slightly slit part of his wrist. Realizing that some stitches would be required and that there might be some nerve damage, they left their Treasure Island home about 2 PM and drove first to St. Benedict's Hospital in Tampa, some twenty miles distant and past three closer hospitals. St. Benedict's has recently run a series of full-page ads touting the quality of their meals and the artistic presentation of their dinner platters.

Mrs. Ella Mumphard, a cashier at the St. Benedict's Hospital cafeteria remembers seeing Mr. Mitty (identified through photos) around 3 PM.

"He looked a little pale, but was asking a lot of questions about the pastry desserts," said Mrs. Mumphard. "You know, how often they were baked, whether they used fresh fruit like the ads claimed, you know, real picky. Looked like a troublemaker to me."

Mrs. Mumphard said it was easy to recall Mr. Mitty because the maintenance staff started complaining about blood on the floor right after he left. "They had to get out a whole new bucket to swab it up," Mumphard said.

The police report indicated that the Mitty's recrossed the Bay and arrived at Pleasant View Hospital in St. Petersburg around 4:15.

Mr. Gerry Elliott of the hospital's social activities center remembered Mr. Mitty well.

"He was asking about our recent ads on tv where we talk about our wide range of video and audio entertainment in each private room. You know, the VCRs, the tapes, the stereo, not to mention the traveling book and magazine collections. It was good to see our ads having such an impact. He was clearly an informed consumer," said Mr. Elliott.

Mr. Elliott did recall asking Mrs. Mitty if everything was alright. "It looked like he needed a new towel around his arm. The one he had was all red. Looked like blood to me."

Mr. Mitty's trail then led to Jefferson Hospital, the area teaching hospital, which has been conducting an extensive radio advertisement campaign stressing the quality of its staff.

Ms. Tracy Spencer, assistant personnel director of Jefferson Hospital, vividly remembered seeing Mr. Mitty around 4:50.

"He sort of staggered into my office and flopped down in that stained chair over there. He was very pale, and was in some respiratory distress. I told him I'd call for a wheelchair to get him to emergency but he said no. Started asking me all kinds of questions about the degrees and the experience of the hospital staff, the floor nurses, how many RNs, all the kind of stuff we'd talked about in the ads but perhaps were not very specific about."

Ms. Spencer gave Mr. Mitty one of the hospital's promotional pamphlets that listed the staff's credentials, and he said he would read it over.

"I really did try to get him to stay and get treatment for the awful bloody arm he had," said Spencer, "but he said he had more shopping around to do."

The police report indicated that Mr. Mitty insisted on going to Coolidge Hospital back in Tampa, because of that day's full-page Sunday supplement ad insert in local papers which had stressed the quality of its emergency rooms.

"Unfortunately," said Pinellas County police officer Joe Henderson, "he didn't have enough blood left in him to check out the final hospital. So in a sense, it was his final choice."

Local health authorities could not remember a similar case in the Tampa Bay area. Dean Phil Graeter of the University of Florida Medical School said that hospital ads have become a major business:

"I don't know why. Picking a hospital in an emergency on the basis of ads is—and I don't want to speak ill of the deceased—pretty nutty." Dean Graeter said. "You could even call it stupid."

Communications expert Roxanne Verduzco, a professor of sociology at Tampa Community College said that "Each year, America's hospitals spend about $1 to $1.6 billion on advertising, with the average hospital spending about $150,000 a year on ads. They say it is to gain market share, but I really wonder if people shop for hospitals the way they shop for cars. If it's not an emergency, you usually go where your doctor suggests. Shopping for a hospital by reading ads is odd. I guess poor Mr. Mitty did—and look what happened to him."

Another son-in-law, John Edgell of Tarpon Springs, speculated on the sad end of his father-in-law. "He was always so worried about health care costs that he paid a lot of attention to things that talked about health Personally, I always sort of wondered, 'if they didn't advertise so much, maybe their costs wouldn't be so high.' Guess that thought never crossed old Clyde's mind. He sure loved those dumb ads."

EUGENE CONESE'S GREENWICH AIR SERVICES IS NATIONAL LEADER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Eugene Conese, Sr., who recently was featured in the Miami Herald, after his firm was given approval by the Metro-Dade County Commission to operate the huge jet engine service center at Miami International Airport recently vacated by Eastern Airlines. The article "Firm Hope To Grow Into Eastern Base" by Larry Birger tells how Mr. Conese has built the second largest independent engine overhauling company in the country.

As an accounting major in college, Eugene Conese Sr.'s goal was to become chief financial officer of a Fortune 500 company.

But his horizons widened considerably in graduate school when he fell under the influence of famed author and management consultant Peter Drucker. Drucker convinced Conese that he had the ability and vision to be a chief executive.

Conese met this goal and more.

Now, at the age of 62, when most people start thinking about slowing down, Conese is aiming for loftier heights. His goal is to build the "best" American company in the aviation-services field.

"That doesn't necessarily mean the largest, but certainly the best in terms of treating employees right, being fair with suppliers and, above all, servicing the customer better than anyone else," Conese says.

The opportunity to make it happen came recently when Conese's company—Greenwich Air Services—was given approval by the Metro-Dade Commission to lease and operate the huge jet engine service center at Miami International Airport vacated by the defunct Eastern Airlines.

It fell to Greenwich by default when its only competition—a consortium that included Federal Express and former Eastern President Phil Bakes—broke up at the 11th hour.

PURCHASED BATCH AIR

Not that Greenwich is that small.

When Conese purchased Miami-based Batch Air from George Batchelor in 1987, it was a $45 million-a-year business with 450 workers. Revenues are now $75 million annually with 750 workers. And estimates for 1992 range to $87 million, despite the soggy economy.

That ranks Greenwich second to Dallas-based Aviall Inc., a subsidiary of Ryder System, as the largest independent engine overhauling company in the country.

Greenwich revenues come from overhauling engines and air frames of planes owned by military, commercial and industrial companies and second-tier airlines. The major airlines mostly do their own maintenance.

A Who's Who of Greenwich's customers includes Airborne Express, Arrow Air, Avianca, The Boeing Co., DHL Airways, General Electric, MGM, Grand Air, the Air Force, U.S. Navy, Grumman Corp., Columbia Gulf Transmissions and Procter & Gamble Manufacturing Co. Industrial pump repair accounts for about 20 percent of total volume.

But industry sources generally agree that it's going to take a lot more than that to support a successful operation in the Eastern facility. The reasons:

At 400,000 square feet and with three buildings where engines are tested, it is far larger than Greenwich's present 180,000-square-foot plant on the southwest side of the airport. Greenwich also has an option to lease an additional 80,000 square feet.

Its costs will rise considerably. Rent alone will be $2.4 million annually, plus another $1 million for air-conditioning and other electric power needs. That compares to $1.3 million at the present facility, which isn't air-conditioned.

POISED FOR GROWTH

"The company is poised for real growth and it needs Eastern's facility to attain its objectives," says Charles Simons, Eastern's former vice chairman and chief financial officer who has known Conese a long time. "But it will certainly need additonal customers."

Former Eastern president Samuel Higginbottom was responsible in part for major expansions of the Engine Service Center during the 1960s when he persuaded the airline to do maintenance on jet engines for customers other than Eastern.

"When he moves into the Eastern facility, he'll be taking a big step upward in quality and productivity." Higginbottom says. "If he expects to become a first-class operator, he'll have to go after substantially more volume, and that includes airline business."

Conese is aware of the challenge, realizing he'll be stepping up not only in class but also in cost. It will be an operation where rent and power alone will rise from about 1.5 percent of total revenues to 3.4 percent, based on doing about $100 million annually. (Other major costs are payroll, taxes, water, etc.)

"We've already contacted some of the major airlines about doing their engine maintenance," Conese says. He declined to disclose any by name.

Big in stature—at 6 feet, 2 inches and more than 225 pounds—Conese has been entrepreneurial all his life.

A lifelong New Yorker, he was managing the largest restaurant in the Bronx Zoo at the age of 16 while attending high school. He helped pay his way through Iona College in New Rochelle, N.Y., by working in a bakery.

Conese received his MBA from New York University, where he met Drucker. "He was unbelievable, he influenced my life," Conese says.

PULP MILL COMPANY

After graduation and a stint in the military, Conese worked at a Big Six accounting firm for five years, then joined Parson & Whitmore, a company that built pulp mills. There he achieved his first objective, becoming chief financial officer. He also traveled extensively in Europe and Brazil, picking up valuable business skills.

His second goal was attained in 1970, when Conese joined Irvin Industries as president and chief operating officer and was promoted to chief executive. Irvin Industries, now out of business, was known for manufacturing aerospace, automotive and industrial products.

But with Irvin, Conese didn't have ownership, and he yearned for that. The opportunity came in 1980 when he was able to acquire Haskon Corp. from Hercules Powder Corp. in a leveraged buyout.

Haskon is a manufacturer of inflatable fire wall and entry seals for commercial and military aircraft, including the Space Shuttle. Conese came aboard as president and principal stockholder.

"I wanted to do something different before I reached the age of 50, and this was my opportunity," Conese says.

The price for Haskon was $10 million, but he only needed to put up $400,000 in cash.

GREENWICH IS BORN

Conese established a holding company—Greenwich Company Ltd.—to acquire Haskon. In 1982, it started Epco Technologies Inc. from scratch. Currently, it makes more than 500 million plastic rings a year that are inserted into toothpaste tubes to help them retain the flavor.

Last year, Haskon and Epco were sold by the Conese family to BTR, a British firm, for $22 million so that Greenwich could concentrate on the air-services business. It had paid more than $20 million to Batchelor's employees to buy Batch Air.

Family-held real estate is also in the holding company, which is being moved to Coral Gables. Conese's son, Eugene Jr., 34, handles most of Greenwich's day-to-day operations.

"All my life, I've been dealing with original equipment manufacturers such as McDonnell Douglas and Boeing and the engine makers, General Electric and Pratt & Whitney, so it's a business I think I understand," Conese says. "Besides, you get to smell the oil, and I like to do that."

While Greenwich won't move into Eastern's facility before 1992, executives are studying ways to expand sales and still do quality work.

Currently, Greenwich repairs Pratt & Whitney JD-3 and JD-8 engines that power narrow-bodied jets such as the 707, 727, DC-8 and DC-9. But the plan is to also repair engines used to power wide-bodied aircraft: P&W's JT9 engine, for Boeing 747s; General Electric's CF6-50s, for the DC-10 and Airbus jets; and Rolls-Royce's RB-211 engine, for the L-1011.

"We'll start with our existing customer base, people who know us and like our work," Conese says. "Then we'll go out after new companies and airlines that fly the wide-bodied equipment."

How sure is Conese of success?

"It won't be easy because this is a very competitive business. But we're planning for a 1,200 work force and $175 million in revenues by 1995," he says.

"While I'm generally conservative, I may be understating all this because there will be tremendous demand for what we have to offer and maybe not enough capacity."

FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. VENTO. Mr. Speaker, the passage of the Federal Deposit Insurance Corporation Improvement Act of 1991 was difficult; requiring around-the-clock meetings by House and Senate conferees as the first session of the 102d Congress came to a close. During the conference, agreement was reached to include a provision to allay fears that the systemic risk exception contained in section 141—requiring the FDIC to utilize the least-cost method in resolving failed financial institutions—would allow continuation of the too-big-to-fail policy. However, there was no time to prepare a conference report with more than the text of the bill. Therefore, I have worked closely with Chairman GONZALEZ and Chairman RIEGLE to prepare a joint statement for the RECORD. The joint statement will assure that the regulators do not have the opportunity to apply this exception more broadly than intended by the conferees. This statement has been prepared in consultation with Chairman GONZALEZ and Chairman RIEGLE.

The systemic risk exception was not included in the original House bill covering the use of the least-cost method of resolution. In the minds of some, that exception seemed to preserve the too-big-to-fail policies of the FDIC. The joint statement clarifies the exception and reiterates the Congress' determination that too-big-to-fail come to an end.

The doctrine of too-big-to-fail had several forms. The most explicit was that portion of the FDIC's statutory authority allowing them to declare a bank essential. As an essential institution, the FDIC could keep the bank open, merge it with another institution, and pay off all depositors, no matter how much of their deposits exceeded $100,000. Another method was the FDIC's use of a flexible-cost test that relied upon subjective estimates of asset values and didn't specify when in the process the valuation was to be made for purposes of comparing the alternative methods of resolution. A third method was the lavish use of lending from the discount window to cover not just temporary liquidity needs, but funding needs beyond this legitimate purpose. These and other methods were often used in combination.

Members of both banking committees have been concerned with these practices. Most economists oppose too-big-to-fail because they regard it as inimical to a free market, free enterprise system. The practice was the subject of national debate following the rescue of Continental Illinois. Regulators testified in the aftermath of that bailout that there were probably 11 banks in the country that were too big to fail. However, by the time we gathered to debate this year's banking bill, too-big-to-fail had been used to bail out banks with a quantity of assets small enough to make many more banks potentially eligible for too-big-to-fail status than merely the largest 11 envisioned earlier.

Open bank assistance was yet another form of forbearance used too often by the FSLIC to keep insolvent S&L's open during the 1980's and as such it has a dismal track record. Of course, we can all agree that if the closing of a bank actually leads to risk for the entire financial system, some method should be available to protect the public. But no agreement has been forthcoming on what standards should be used to decide when a bank failure is really a systemic risk. Without such standards, the determination becomes purely subjective.

Some members of the conference argued that systemic risk would not become open bank assistance. Yet, Treasury Department representatives said they would oppose any language to prohibit open bank assistance, so it was clear that the two forms of relief may well be linked in the view of the Treasury.

The systemic risk exception, as indicated in the joint statement should be viewed as a narrow exception for use in those rare instances in which failure could threaten the entire financial system.

Joint Statement on Systemic Risk Exception to Least-Cost Resolution—Section 141 of S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991

On November 27, 1991, the House and Senate adopted the conference report on S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991. Time did not permit filing a detailed explanation of the bill with the conference report. Accordingly, we wish to clarify the systemic risk exception in section 141.

Section 141 requires the FDIC to resolve depository institutions at the least possible long-term cost to the deposit insurance fund. Section 141 also prohibits the FDIC, after December 31, 1994, from protecting uninsured depositors or nondepositor creditors at the expense of any deposit insurance fund.

Section 141 gives the Secretary of the Treasury limited authority to make exceptions to those rules if compliance "would have serious adverse effects on economic conditions or financial stability" and assistance or other action by the FDIC would avoid or mitigate those effects. The Secretary can make exceptions only in consultation with the President, on the written recommendation of at least two-thirds of the members of the FDIC Board and two-thirds of the members of the Federal Reserve Board.

The systemic risk exception now in section 141 originated in section 220 of the Senate bill. The Senate Banking Committee's report on S. 543 described the predecessor provision as "a narrow systemic risk exception for those rare instances in which the failure of an institution could threaten the entire financial system." S. Rep. No. 167, 102d Cong., 1st Sess. 45 (1991). In the House Banking Committee's bill, section 141, relating to least-cost resolution, did not contain a systemic risk exception, but section 142, restricting a advances by the Federal Reserve banks, did contain such an exemption. H. Rep. No. 157, pt. 1, 102d Cong., 1st Sess. 22–27 (1991). The conferees included the systemic risk exception in section 141, but tightened it by making a written recommendation by the FDIC Board a precondition for any systemic risk exception. The exception in section 142 of the House bill was dropped.

The systemic risk exception is not intended to perpetuate the practices commonly known as "too big to fail"; the legislation responds to and largely ends those practices. Section 141 adopts a stringent least-cost test, requiring the FDIC to evaluate alternative resolution approaches rigorously and pursue the approach with the least possible long-term cost. The FDIC is no longer free to pursue a more costly approach simply because it is less costly than liquidation, nor can the FDIC use hazy, informal cost comparisons. Section 141 also repeals the "essentiality" exception, which made even the less-than liquidation test inapplicable to an institution that the FDIC determined to be essential to its community. Section 143 contains safeguards designed to keep discount-window lending by the Federal Reserve banks from being used not simply to cover temporary liquidity needs but as a substitute for FDIC action. Other provisions of the legislation reinforce these reforms. Section 308 and subtitle IV–A are intended to reduce systemic risk. Prompt regulatory action under section 131 applies to large and small institutions alike.

The systemic risk exception itself is narrowly drawn, with several layers of safeguards against misuse. It is intended only for those rare instances in which the failure of an institution could threaten the entire national financial system. The two Banking Committees must be notified promptly of any systemic risk determination.

Section 141—including the least-cost resolution requirement and the post-1994 prohibition against protecting uninsured depositors or nondepositor creditors—fully applies to open-bank assistance. Moreover, such assistance is permissible under the systemic risk exception only if it meets the stringent standards for that exception.

ALPHA PHI ALPHA FRATERNITY: MAKING A DIFFERENCE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, the Alpha Phi Alpha Fraternity has a long, distinguished record. It was the first fraternity of African-American men, founded at Cornell University in 1906. Through the years, this organization has offered encouragement and support to thousands of African-American men, and in the process they have played a formative role in the shaping of this Nation. Without a doubt, the men who have affiliated with Alpha Phi Alpha over the last 85 years have been leaders in much of the social change that has been important to the United States.

Indeed, the values and goals of Alpha Phi Alpha have been at the forefront of movements for social justice time and time again. Even today, as we continue to work for full civil rights in this Nation, Alpha Phi Alpha is working for the same goal. Likewise, as we work to address the problem of homelessness which has victimized millions of Americans, Alpha Phi Alpha is working tirelessly to expand affordable housing opportunities.

Alpha Phi Alpha embodies what is best about fraternal organizations. Its members enjoy the advantages and the benefits of long lasting friendships forged through their involvement with this celebrated organization. More importantly, the membership of this fine organization has given of itself for others. It has been courageous in taking the lead in working for a better nation for all of us.

It has been my privilege over the years to work closely with a number of Alpha Phi Alpha men. I have seen what a difference they can make through dedication, perseverance, and commitment. It is indeed a pleasure to stand here today to share with my colleagues my own high regard for this special organization. I know that many other Members of this House have known and worked with Alpha Phi Alphas as well, and I am certain that the entire House joins in extending best wishes on the occasion of the 85th anniversary of the founding of Alpha Phi Alpha.

THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

HON. JIM BACCHUS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BACCHUS. Mr. Speaker, I am extremely pleased that the H.R. 2950, the Intermodal Surface Transportation Efficiency Act of 1991, recognizes the role of high-speed and magnetic levitation rail systems in our transportation future.

As America's airports and urban highways become ever more congested, we must embrace high-speed rail transportation. High-speed rail is safe, efficient, and proven. Plus, high-speed rail is better for the environment, taking less land compared to highway travel and emitting less pollution.

H.R. 2950 establishes several national high-speed ground transportation programs. One program, the National Magnetic Levitation Prototype Development Program, will spur the development of new magnetic levitation technology. A second program, the Technology Demonstration Program, recognizes efforts that are already underway and will allow us to quickly establish a working high-speed rail system to provide data about safety, environmental impact, commercial viability, and integration with other transportation systems.

I am especially pleased that H.R. 2950 includes $97.5 million for land and right-of-way acquisition and guideway construction for the magnetic levitation project in Orlando, FL, which is in my district.

America once was the world's leader in high-speed rail research and development. But we put that effort on the shelves and let the Europeans and the Japanese put the trains on the track. Now is the time for America to regain its lead in transportation technology. The high-speed rail programs in H.R. 2950 are a tremendous step in that direction.

MIAMI-BASED DRYCLEAN U.S.A. GETTING EVEN BETTER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Dryclean U.S.A. which was featured in the Miami Herald. The article "Dryclean U.S.A. Thinks Small To Grow Big," by Charles Rabin, tells how this Miami-based firm has become the Nation's fastest-growing operator and franchiser of retail dry-cleaning stores:

> In trying to become the McDonald's of the dry-clean industry, Dryclean U.S.A. faces the challenge of competing with traditional mom-and-pop cleaners whose customers can be fiercely loyal.
>
> The Miami-based chain of 200 franchises and 80 company-owned stores was a public company until 1988, when it was purchased by British conglomerate Johnson Group Cleaners Plc.
>
> Through an intense, year-old customer-service campaign, the company is trying to

maintain that family feeling, even as it opens dozens of stores each year.

"We'd like to be the Bloomingdale's in quality and the McDonald's in expansion," said Eric Schwartz, Dryclean's president.

Competition, literally, is on every corner. Companies that don't do nearly the volume of Dryclean say they're comfortable with their niches.

"We feel our quality is superior," said store manager Tyrone Galdo, of Tysunn Enterprises in South Miami. "Basically, our operation is close-knit to the customers. We try to stay small. We all know our customers by name, and they know us."

CUSTOMER-SERVICE PROGRAM

To try to earn some customer loyalty, Schwartz is implementing a customer-service program that affects all 600 Dryclean corporate employees.

"We're going the extra mile to convince customers they're important to us," Schwartz said. "We're carrying their cleaning out to their cars, and with an umbrella when it rains. We're replacing buttons free of charge, providing discounts on future orders, and some of our stores are open Sundays."

The company also requires its employees to memorize a 49-word credo with lots of words like prompt, enthusiasm, professionalism and respect in it.

Schwartz founded the company in 1976 with one store on Bird Road in Coral Gables. By the end of 1987, it had grown to 174 stores—126 franchises and 48 company-owned stores—and $14.8 million in sales.

In February 1987, Dryclean linked up with an affiliate of Farm Stores, one of Florida's largest convenience food chains. At the time, Farm Stores agreed to open 248 dry-cleaning stores, each attached to a Farm Store, in Florida, Georgia, Tennessee and Alabama.

But no outlets were ever opened. Farm Stores has since filed for Chapter 11 bankruptcy protection, and Schwartz said Dryclean is no longer associated with the convenience store chain. He wouldn't say why the deal with Farm Stores fell through.

The following year, the company was purchased by the Johnson Group and taken private. It has since grown to 280 stores.

Schwartz would not disclose recent sales or profit figures, but said the company saw a 9 percent increase in sales over the previous year. He attributes the rise to the company's beefed-up marketing efforts and service program.

"Our internal response from the customer service program has been excellent," said Tom May, director of human resources. It's improved morale and created a mind-set. Now, we have a uniform way of looking at things."

The company has an unusual philosophy for hiring employees.

"We seldom hire people form within the industry. They generally have bad habits," Schwartz said. "It's easier to teach a new dog new tricks than an old dog new tricks."

May is quick to point out, however, that the company has a good track record of promoting from within.

For example, he said, Robert Denberg, vice president of operations in Broward and Palm Beach, was once an assistant manager in the Kendall Lakes store. He also noted that many store managers have been promoted from working the counter and that a number of district managers were once store managers.

Richard Lilly, an analyst with JW Charles in Boca Raton, said Dryclean was the nation's fastest-growing operator and franchiser of retail dry-cleaning stores when the Johnson Group purchased it.

45 FLORIDA OUTLETS

Dryclean has 45 Florida outlets, from Dade to Orlando, and stores in 12 other states. California, Virginia, Texas and Maryland are the most prominent. Despite the recession, Schwartz plans to open 50 to 60 stores through 1992.

The company recently opened an outlet in Santiago, Chile. Twenty-five more stores are planned for Santiago over the next five years. In addition, the company is nearing an agreement to open 60 stores in Mexico City over the next 10 years, Schwartz said.

Earl Fisher, editor of Chicago-based American Drycleaner magazine, said Dryclean sets a standard for dry-cleaning franchisers.

"It's fairly common to find a chain [of drycleaners] in any metropolitan area, and Dryclean U.S.A. is one of the leading and most-respected chains," he said.

Lilly said a typical Dryclean store purchased for about $200,000 with good management can expect a pretax annual profit of $60,000 to $80,000.

Dryclean franchises can be purchased for between $99,500 and $250,000, depending on location and store size, Schwartz said. Each franchise is required to pay royalties of 3 percent on gross sales the first year, 4 percent the second year and 5 percent each year thereafter.

STORES SET EXAMPLE

Dryclean Vice President Eddie Rodriguez said the company retains some stores to set an example for the franchises.

"The company base is used to develop and grow for success," he said. "If you can't do it right yourself, how are you going to teach it?"

Dryclean also sells master franchises that give a purchaser the right to set up franchises throughout a state. Schwartz said the concept has proved successful in Arizona and Virginia.

"That's what is going to give us quantity in stores in the next few years," he said.

It's the franchises as well as competitive pricing that make Dryclean a force in the marketplace, Rodriguez said.

Still, said Schwartz, the success of the business is predicated on keeping the client content.

"Customer service is where the war will be won in retail during the '90s," he said.

I am happy to pay tribute to Dryclean U.S.A. President Eric Schwartz, Vice President Eddie Rodriguez and the other employees of Dryclean U.S.A. by reprinting this article.

THE 50TH ANNIVERSARY OF THE BOMBING OF PEARL HARBOR

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HUGHES. Mr. Speaker, on December 7 we will stop to reflect on that terrible fateful day, when the Japanese bombed Pearl Harbor. We recall the shock and horror which gripped our Nation, and the fear and uncertainty which cloaked the world as we knew it. We recall too, how our reluctance to enter the war was forever transformed by Pearl Harbor's devastation. President Roosevelt's immortal words echo back to us, in which he called December 7, 1941 "a date which will live in infamy".

We remember the shock, and the headlines, and the speeches; we give thanks for our ultimate triumph, and rejoice in those who returned home safely. We pray that the horror of war will never again visit our Nation. Above all, we remember those who lost their lives.

The attack on Pearl Harbor claimed the lives of 2,433 brave American sailors and soldiers. It is these Americans to whom we pay tribute today. Never will we forget that historic tragedy, or their sacrifice in freedom's defense; 1,104 of those who lost their lives that fateful day were the sailors of the U.S.S. *Arizona*. To this very day those faithful sailors lie aboard their ship, beneath a now tranquil sea.

Mr. Speaker, I believe that Mr. Andrea Lippi of Cape May, NJ, said it well in his poem "U.S.S. 'Arizona' Memorial." I would like to share this poem with you, for it is a fitting tribute to those sailors who perished aboard the *Arizona*, as well as all those who have given their lives for their country.

U.S.S. "ARIZONA" MEMORIAL

Arizona. Be it ever remembered.
Let men just speak her name.
She has joined the fleets immortal
On the seas of undying fame.
Her memory survives (as always):
A part of our nation's pride;
Men will live to praise the sailors
Who struggled there and died.
There are no troubled waters,
For these men now lie in state.
God chose them to be his crewmen,
And sent them to heaven to wait.
Gabriel knows their number
And he calls them all by name,
When Crewmen up in heaven
Share Arizona's fame.

Mr. Speaker, the 50th anniversary of Pearl Harbor is indeed a time to remember those courageous Americans who made the supreme sacrifice in the defense of their country. It is also a time to remember those who, all through the ages, have left their homes and loved ones to defend America.

JACKSONVILLE'S 14TH KING'S DAY REGATTA

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. BENNETT. Mr. Speaker, on November 17, in the broad and beautiful St. Johns River in Jacksonville, FL, there was held the 14th annual King's Day Regatta, and John Fewell of that city won top honors with the first boat to finish. His feat was to cover a 12.97-nautical-mile course with the time of 2 hours, 20 minutes, and 7 seconds.

This regatta constitutes a revival of a British regatta last performed at the same location in 1775 during British Florida colonial years. Boats from distant home ports as well as from nearby Jacksonville compete in this event annually. The event also features a banquet in which contestants and others renew American and British ties and heritages. The event is further discussed in the following article from the Florida Times-Union of November 18.

[From the Florida Times-Union, Nov. 18, 1991]

FEWELL FINALLY GETS TROPHY IN KING'S DAY REGATTA

(By Lawrence Dennis)

John Fewell finally grabbed the brass ring yesterday.

More accurately, the crystal decanter that went to the winner of the Carl Z. Suddath Trophy for first boat to finish on corrected time in the 14th annual King's Day Regatta at the Florida Yacht Club.

"I've finally won this thing," an exultant Fewell said after his Morgan 27, Wendy, topped a 52-boat cruiser fleet by covering a 12.97-nautical mile St. Johns River course with a corrected time of 2 hours, 20 minutes, 7 seconds.

"In four years, I've always finished in the money but I never won it," Fewell said.

In finishing first in fleet on corrected, Fewell also kept another of the area's top captains from making King's Day history.

Rick Peper, on J–29 Easy, could have become the first racer to win the honor twice on the same boat and the first to take it on consecutive years. But Peper came in in 2:23:05, third behind Jay Cummings, who finished in 2:22:19 on J–27 Molly Brown. He won the trophy on J–24 Dixie in 1987.

Steve Suddath, whose Hobie 33, Duct Tape, was the first boat to cross the finish line last year, was also kept from repeating that feat. Suddath covered the course in 2:27:33, less than two minutes behind Dick Bastien on Farr 40 Vamp II, who came in in 2:25:37.

Ironically, Fewell got a little bit of help from a competitor at the start of the race—Bubba Ball on Lindenberg 28 Pere de Mer, who was first on corrected time in 1988 and was racing in St. Johns River races for one of the few times this year.

Ball, who was jockeying with Fewell for position at the start, was over early and was recalled.

"Bubba, like the good sportsman he is, went around and went back," Wendy crewman Tanner Schultz said. "That left us clean air, and we were able to sail against the boats we were with and concentrate on sailing the boat instead of worrying about who was where on the course."

Ball, who was expected to be a strong contender for the fleet honor, eventually made up lost ground and finished fourth with a time of 2:23:14.

A TRIBUTE TO DOMINGO LINALE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to pay tribute to Mr. Domingo Linale and his company, Dictiomatic, which makes portable translators for the English, Spanish, French, German, Italian, and Japanese languages. In a Miami Herald article entitled "Language Translator Can Speak for Itself," Jim McNair reports on Mr. Linale and the portable translator called the T1500. I commend the following article to my colleagues:

You've just finished a strenuous mountain climb in Guadeloupe, you're quite famished and you can't wait for dinner at your hotel. So you pull out your handy language guidebook, hail a passing goat farmer and try to say, "Où puis-je manger?"

An expression of extreme puzzlement comes over the goat farmer's face as he tries to make out your mangled pronunciation of the question. Only after you vacate your pride and imitate feeding motions does he finally offer to sell you one of his goats.

If only you had been carrying the new T1500 talking translator from Dictiomatic Inc. of Coral Gables. If you had, you would have known how to say "Where can I get something to eat?" in French. And if your tongue still didn't permit, you could have let the device say it for you.

The T1500 isn't the first pocket translator that actually says the word or phrase you're looking for, but it might be one of the best ones on the market. Packaged in a 3-by-5½-inch plastic case with a flip-down keyboard, the T1500 was introduced in October for people who want more than a dictionary or phrase book.

"There is nothing more frustrating than getting to a place where you can't communicate," said Dictiomatic owner Domingo Linale. "Most people want to mingle with the local people. With this unit, you will be able to express what you feel and whatever you like."

The T1500 contains 2,700 words, low for an electronic translator, but is accompanied by 170 common phrases. It comes in combinations of three languages, such as English, Spanish and French. Italian and German are also available. Units that contain Japanese offer only one other language.

The strengths of the unit are its voice synthesizer, which does a fair job of enunciating in spite of the distortion-prone speaker, and its ability to add specific words to any of 40 incomplete sentences. Thus, "I would like . . ." becomes "I would like to buy, (or try or to see) a souvenir (or room or a dress)."

Words can be called up by typing them in. Phrases reside in keys for circumstances such as dining, social or travel.

From there, the word or phrase appears on a liquid crystal display before it is read aloud. An earphone allows you to keep your ignorance to yourself. If ignorance brings no shame, you can simply aim the T1500 at a store clerk or ticket salesman, turn up the volume and let it do the talking for you. Not the greatest way to make a conversation, but conversation nonetheless.

The T1500 has its drawbacks. Longer phrases require more room than the LCD readout allows, so unless you have a good memory, you're almost certainly going to have to run it through again. The voice translation is also disturbingly fast, especially in French.

It also can't handle idiomatic phrases. Trying to tell a panhandler in Venezuela to "get lost" would come out as "obtener perder," which has no meaning.

"Remember that you're creating idiomatic phrases that get lost in translation," Linale said. "It's like saying it's raining cats and dogs. If you translated that in Spanish, it would come out as raining cats and dogs. People wouldn't understand you."

Linale, a 48-year-old former Ford dealer in La Paz, Bolivia, has been introducing language products ever since moving to Miami in 1982. His language game Polyglot sold in toy stores before it was pulled in 1988 for lack of interest. His multilingual dictionary Hexaglot generated $15 million in sales, he said, before competition compelled him to withdraw that, too.

Made in Singapore, the T1500 is available from Burdines department stores and downtown Miami electronics stores for a suggested $249. Linale said he expects further interest at the annual Consumer Electronics Show in Las Vegas Jan. 9–12.

Other talking translators are already on the market. A British company, Talking Products Ltd., sells its three-language Interpreter for $199. The leading maker of hand-held electronic linguistic products, Franklin Electronic Publishing Corp. of Mount Holly, NJ., also has a $199 talking translator, which only speaks when it goes from Spanish or French into English.

Peter Yianilos, a consultant who developed the technology behind Franklin's line of hand-held dictionaries, thesauri and translators, said voice translators are becoming more common.

"Their quality runs pretty much the full range from gimmick to pretty good," he said. "I think the world can expect more as microchips and memories continue their progress."

I am pleased to recognize Domingo Linale and his company, Dictiomatic, and wish him much success with his innovative product, the T1500.

IN RECOGNITION OF DR. WILLIAM DUNCAN ALLEN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. PELOSI. Mr. Speaker, I rise today to recognize and honor Dr. William Duncan Allen, musician and author, on the occasion of the celebration of his 85th year.

Born in Portland, OR, in 1906, Dr. Allen is not only lauded as a pianist par excellence, but stands as a dedicated champion of the causes of black music and black musicians. Dr. Allen has been an inspirational teacher and role model for students such as the distinguished Metropolitan coach and pianist, Sylvia Olden Lee. He has taught music at such institutions as Harvard, Fisk, and Tallageda, and served many other civic, social, and academic institutions, including as minister of music and organist at South Berkeley Community Church.

In the course of his rich career, Dr. Allen has served as accompanist for such renowned artists as Leontyne Price, Todd Duncan, Adele Addison, William Warfield, Betty Allen, William Parker, Paul Robeson, and numerous others in locations such as Lincoln Center and the White House.

Dr. Allen will be honored by the National Association of Negro Musicians at a gala celebration on Saturday, December 7, in Oakland, CA. Mr. Speaker, I join with the National Association of Negro Musicians and Dr. Allen's many friends and colleagues in the bay area in saluting his contributions to both the musical and black communities.

CONGRATULATIONS TO THE OREGON CITY, OR, SCHOOL DISTRICT

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. KOPETSKI. Mr. Speaker, I rise today to commend the Oregon City School District for their adoption of an educational program that is both creative and ambitious. Oregon City High School gives each student who graduates a warranty on their education. In this era of lost faith in our Nation's public school system, Oregon City has created this innovative program to ensure that each young person is provided a good education.

The warranty allows graduates of Oregon City High to go back to the school for educational assistance if the student did not receive the education needed to enter the work force or to go on to college. To use the warranty, a student must have a basic academic deficiency. Students agree to improve basic skills through tutoring at home, maintain good attendance in classes, and show progress toward established goals. Students that wish to take advantage of the warranty are assigned to a special committee of teachers and counselors that tailors a plan for each individual. The school district has tried to make it as easy as possible for students to take advantage of the warranty.

Mr. Gordon Boorse, the chairman of the Oregon City School Board and founder of the program, said that the school board is offering a warranty as a way to be accountable to district taxpayers. Mr. Boorse and the Oregon City School District have stopped waiting for education reform to come from the Federal or State Governments. They have taken action at the local level, and have improved their school district in a creative and effective manner through the means at their disposal. Oregon City has taken it upon themselves to ensure that its students have the opportunity to become participants in the community and work force. This initiative should be a model for school districts across the country. I applaud Mr. Boorse and the Oregon City School District for their efforts, and encourage others to follow their example of innovation and commitment to excellence in education.

DADE COUNTY'S SPECIALIZED DEVELOPMENT CENTER TURNS A GARDEN INTO A CLASSROOM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, in a cooperative effort between the Metro-Dade government and the Dade County Public Schools, the Specialized Development Center was formed to improve learning skills for mentally disabled students. The students are challenged by classes in math, social studies, science, language skills, art and music. The Miami Herald recently drew attention to the horticulture therapy portion of the program. That article by Ms. Laura M. Sanchez-Ramirez follows:

> In the simple but well-organized organic garden at the Specialized Development Center, a student can plant a seed and nurture it.
>
> As the 50 emotionally disturbed students watch their plants develop, the teachers help them develop as well.
>
> This is a special place where things and people grow.
>
> The center, at 11025 SW 84th St., is a joint project of the Metro-Dade government and the Dade County Public Schools to improve learning skills for emotionally disturbed and intellectually limited students.
>
> The free program, which began in 1983 serves students ages 5 to 21.
>
> Students learn math, social studies, science and language skills. They also participate in art and music classes.
>
> Linda Felton, who supervises the horticultural therapy program for students ages 15 to 21, said gardening is both science and art: "Not only do they learn academic and practical skills, but they also learn how to work cooperatively."
>
> SENSE OF ACCOMPLISHMENT
>
> Because gardening is concrete, said Felton, students know they are capable of accomplishing something creative.
>
> "They have respect of nature, of themselves," Felton said. "I have some students who have no reading and writing skills, but once they are out in the garden, they become very knowledgeable."
>
> Gardening is a relaxing job, said Pedro La Torre, 21, a student. "I'm going to find a job after I graduate."
>
> One goal of the program is to give students skills that will enable them to be employed as adults.
>
> Other vocational classes teach students to stuff envelopes, post labels and cook. In the kitchen, students use what they grow in the garden—bananas, papayas, strawberries, pineapples, spinach, carrots, celery and herbs—to make their favorite dishes.
>
> "Children get really excited about eating what they grow," Felton said.
>
> Dade County allocates $267,000 for the program, and the school system contributes about $400,000, said Mitchell R. Gordon, center director.
>
> The money enables the center to provide family therapy.
>
> PARENT PLEASED WITH RESULTS
>
> "Most of our families are of lower socioeconomic and various ethnic backgrounds," Gordon said. "Many of them are not familiar with the various opportunities offered by the county."
>
> Ana Rus enrolled her daughter Ana in the center in June 1990. She said she is pleased with the program and the attention her daughter gets.
>
> "This is the best program there is because of the small atmosphere they provide," Rus said.

Mr. Speaker, it is exciting to see how innovation can radically improve the educational experience for many students. I commend the leadership of center director, Mr. Mitchell R. Gordon and the supervisor of the horticulture program, Ms. Linda Felton for their contributions to the program. I am sure many teachers, students and parents feel great pride in a classroom that promotes both serious learning and tasty produce.

PUERTO RICAN VOTERS REJECT SEPARATION FROM THE UNITED STATES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. LAGOMARSINO. Mr. Speaker, the voters of Puerto Rico have in impressive numbers rejected the referendum of disassociation which was held yesterday, under the guise of a claim for democratic rights.

A hearty congratulations to the U.S. citizens of Puerto Rico who have by a vote of 53 to 44 percent reinforced their commitment for a full measure of citizenship and political rights as part of this great Nation.

In spite of a ballot that was deemed by one Federal district judge as patently unfair, an incumbent administration that used all of the power and resources at their disposal, and a massive campaign of disinformation, the people of Puerto Rico voted to defend their U.S. citizenship.

The Puerto Rican vote has sent a clear message to Congress. First, they have rejected the false notions that citizenship, culture, language, and international sports participation can be dealt with in the Puerto Rico Constitution. Second, they have ratified that they understand fully that Puerto Rico is an unincorporated territory of the United States subject to the plenary powers of the Congress, and third and most important, is that the people of Puerto Rico want to further their ties within these United States.

This is the first time that a proposal backed by those favoring closer ties with the United States has defeated a coalition of the pro-autonomist parties. This implied mandate of the people must be considered by the Congress in all matters affecting Puerto Rico.

I want to share with my colleagues the joy of receiving the news that the Puerto Rican electorate voted in such impressive numbers to reaffirm their commitment as citizens, albeit ones not yet under the full protection of the Constitution, of these United States.

Should the people express an explicit desire to have the U.S. Constitution fully extended, thus actually guaranteeing U.S. citizenship, steps must be taken to grant a full measure of political and citizenship rights.

TRIBUTE TO CHARLES E. RAY

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. SPENCE. Mr. Speaker, in a few days I will stand on the U.S.S. *Arizona* memorial with my colleagues to commemorate the 50th anniversary of the crippling attack on Pearl Harbor. That day of surprise burned itself into America's soul. There is no way we can forget it.

When taps sounds, I will struggle with my emotions remembering the 2,400 sailors, soldiers, Marines, airmen, and civilians killed that day. I will pray for them and thank them for the freedoms we enjoy today. My thoughts also will be with my Navy buddy, Chief Charles E. Ray, who died recently.

Chief Ray was not at Pearl Harbor. His brush with history would come 6 months later during the Battle of Midway aboard the aircraft carrier *Yorktown.*

Those were bleak days following the humiliation at Pearl Harbor. Only three aircraft carriers stood between us and disaster. And it was not until Jimmy Doolittle's morale-building raid on Tokyo and the pasting the Imperial Fleet took at the Coral Sea, that we began breaking Japan's grip in the Southwest Pacific.

The *Yorktown* fought well in the Coral Sea, but at a price. Dodging eight torpedos, the carrier evaded all but one bomb that pierced her flight deck, killing and injuring 66 men.

Limping back to Pearl Harbor for repairs, *Yorktown* had little time to lick her wounds. She put back to sea after 3 days, headed for a coral atoll called Midway. American intelligence broke the Japanese code and pieced together their plan to seize Midway and lure our forces into a devastating naval battle. This time, we would spring our own surprise.

God knows what seaman Ray was thinking the morning of June 4, 1942. Maybe he figured things couldn't get much worse after the Battle of the Coral Sea. He had no inkling he and his shipmates were poised to fight in the pivotal battle that would erase the stain of Pearl Harbor.

Around 8:30 a.m., he began to find out. Torpedo planes from the *Yorktown, Enterprise,* and the *Hornet* found and attacked the Japanese carrier task force. The results were disastrous: of the 40 planes in the strike force, only 4 returned. Luckily, our second wave of dive bombers caught the Japanese carriers in the midst of refueling and rearming their fighters. When the smoke cleared, the Japanese had lost three carriers. A fourth carrier, however, still roamed free, and sent its planes out to look for the American task force.

At about 1:30 p.m., *Yorktown's* radar picked up 40 Japanese planes 50 miles out. By that time, Charles Ray and the rest of his battery had manned their 50-caliber machine guns. He watched as *Yorktown's* fighters flew out to meet the attack, knowing that some Japanese planes would get through.

He was right. Despite the barrage of antiaircraft fire that was turning many Japanese aircraft into fireballs, the *Yorktown* took three direct hits. The first hit came after a flaming dive bomber cart-wheeled into the carrier, exploding as it hit the flight deck.

The next hit is the one Charles Ray never forgot. A bomb tore through the flight deck, rupturing *Yorktown's* boilers. The concussion slammed him against the bulkhead. When he regained consciousness, he saw his legs were twisted like pretzels, and felt stabbing pain where shrapnel had gouged his groin. Later, a corpsman came along, patched his wound and cleared him for duty. Before long, he was back at his machine gun spraying bullets into the sky at Zeros and dive bombers swarming over the *Yorktown.*

It's likely Charles Ray was unconscious when *Yorktown* was hit the third time. But he didn't miss the fireworks late that afternoon when two torpedoes slammed into the *Yorktown,* mortally wounding her. The abandon ship order came shortly after. *Yorktown* struggled to survive, but on the morning of June 7, after taking two more torpedoes from a Japanese submarine, she turned over and slipped into 3,000 fathoms, her battle flags still flying.

Charles Ray distinguished himself that day, as well as any 16-year-old could. He was like so many peach-fuzzed-faced youngsters back then who managed to slip past the recruiters eye. He fought as if tomorrow were not promised to him, and his heroism went unnoticed.

It is said we measure our Nation by its heroes. Then certainly, Charles E. Ray is that and much more.

As we remember this turning point in our history, I ask my colleagues to join me in paying tribute to an American who helped shape a legacy of freedom for his grandchildren and this Nation.

GEORGE OLIVER LITTLEFIELD WINS FOURTH TEACHER OF THE YEAR AWARD

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Mr. George Oliver Littlefield is to receive his fourth teacher of the year award. Just a handful of teachers are recognized in their lifetime as "teacher of the year" yet amazingly, Mr. Littlefield is being heralded for a fourth time. The Miami Herald recently ran an article by staff writer, Quentin L. Howard telling the history behind Mr. Littlefield's achievements. That article follows:

> George Oliver Littlefield, who is about to win his fourth teacher of the year award, has a simple explanation for why he has been recognized so many times.
>
> "Although it's a cliche, being firm and fair is the key to gaining respect and success from students as well as peers," said Littlefield, who has been teaching for nearly 30 years.
>
> Littlefield, 58, has been vice principal for 14 years at Douglas MacArthur Senior High, a school for troubled youths. He's also an adjunct professor at Florida Memorial College's outreach program in Richmond Heights.
>
> He will be honored again at the college's annual Christmas awards banquet in the school cafeteria at 7:30 p.m. Friday.
>
> Littlefield began his teaching career in 1962 at Orchard Villa Elementary School in Liberty City. Then he moved to Booker T. Washington Junior and Senior High, 1200 NW Sixth Ave., where he was twice named teacher of the year. At his next school—Ada Merrick Junior High in Coral Gables—he picked up another teacher of the year award.
>
> Littlefield said one of the reasons he was sent to MacArthur was to improve discipline.
>
> "When he was working with me at Booker T. Washington Junior High, he was a father figure and carried those traits to MacArthur," said Stacey Jones, principal at Booker T. Washington at the time.
>
> Before coming to MacArthur, Littlefield earned a nickname for his disciplinary methods.
>
> "In the days of paddling, they used to call me the rain maker because I used to bring a tear to a brother's eyes," he said.
>
> Littlefield received his bachelor's degree from Alabama A&M University and holds master's degrees in supervision and social studies. At Florida Memorial College, he teaches humanities and social studies.
>
> At Alabama A&M, Littlefield was captain of the basketball team in 1952. He said he didn't pursue a career in pro basketball because the NBA was just becoming integrated and opportunities were limited.

Mr. Speaker, Mr. Littlefield's 30-year commitment to teaching the children of south Florida is a gift that will not soon be forgotten. Mr. Littlefield is indeed a model for educators everywhere.

THE BANK ENTERPRISE ACT OF 1991

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. RIDGE. Mr. Speaker, the Bank Enterprise Act that was first adopted by the House Banking Committee, and has now been agreed to by the Senate, will do for the first time what no Federal law has done: It will put community groups and banks on the same footing, with the same goal in mind. The goal is more banking activity and more lending in underserved neighborhoods. The problem is that existing law pits these two groups against each other in a sea of bitterness and venom, producing more discord and mistrust than sound, long-term investment strategies.

This new legislation provides incentives for banks and thrifts to increase their deposit-taking, lending, and CDC activity in neighborhoods where a clear need exists. We have all seen the recent Federal Reserve report on mortgage lending. It confirms what many of us have felt in our gut: Some neighborhoods simply have no access to credit, and without it, they decline and the fortunes of the families within them decline. It is no secret that where commercial activity declines, there we will see complex social problems requiring expensive government intervention with no certain outcome. Far better it is to have investment activity and commerce to help these people lead productive lives. Many such residents are creditworthy; a bank or thrift or CDC studying the area and getting to know its inhabitants will make a profit. That is clear.

Let me provide some detail about the law. We provide incentives for banks to offer lifeline accounts to low-income residents. It's an important activity, but an unprofitable one for banks, so government should subsidize it. Even South Shore Community Development Corp., a model for national economic revitalization, said that lifeline-type accounts were too costly to maintain. This will be true no matter where the institution is located.

For banks located outside of distressed neighborhoods, we provide a 5-percent insurance premium credit for increased CRA-type lending to those distressed neighborhoods. The regulators will determine a base, and will have to do weighted averaging, but the bottom line is that we will directly encourage banks and thrifts to market themselves and seek qualified loan applicants.

For institutions and their branches within distressed communities, the incentives are more generous: We will provide the 5-percent credit for increased deposits taken from residents of the distressed neighborhood, and we will provide the 5-percent credit for increased loans of all types to the neighborhood. This means that while a bank outside a distressed neighborhood only receives the credit for CRA-type lending, a bank operating from within the distressed neighborhood receives credit for increased lending of all types to the neighborhood. Between this feature and the credit for increased deposits, we are providing an incentive for institutions to stay in or locate in underserved areas. I don't believe there is any similar policy in law today.

Finally, our goal is to nurture the community development corporation industry. These organizations have a community service orientation, a longer run outlook, and special expertise for the particular needs of neighborhoods seeking to turn themselves around. Therefore, community development banks—independently operated or controlled by a parent—and community development corporations controlled by one or more banks are eligible for a 15-percent premium rebate for increased deposits and increased lending. We also provide a 15-percent rebate to increased injections of funds from banks to CDC's. We also provide the 15-percent credit to increased injections of funds to community development credit unions in distressed communities.

Even with the Bank Enterprise Act written into law, we have some work to do next year. We need to secure sufficient appropriations to begin the program. We also must continue examining the incentive approach, identifying other incentives, including those not related to the Budget Act, that will spur more reinvestment activity. This is just the beginning of a long-term project.

In summary, the goals of the Community Reinvestment Act have always been laudable. We need more banking activity in our underserved neighborhoods. But the CRA is so inherently contentious that we are seeing almost constant warfare between the parties. When we're not seeing warfare, we're seeing banks pledge money to low-income lending primarily to get community groups to withdraw protests of banks' basic market decisions. In essence, the banks invest in low-income areas to get community groups off their backs—a short-term decision to avoid a negative when community reinvestment should be a long-term strategy to achieve a positive. I don't think we'll be able to reform the CRA due to the climate we're in, but the Bank Enterprise Act says let's provide those long-run incentives. This country has always worked best when differing groups cooperated rather than antagonized each other. As Federal legislators, we must lead and provide the framework for cooperation between the banks and the community groups.

I am happy to say Congress has agreed to provide the opportunity for cooperation; with more work from all parties, we will see this new opportunity build neighborhoods and bind those possessing the tools of success in a pleasing, productive marriage.

THE NATIONAL FILM PRESERVATION ACT OF 1991

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. CLAY. Mr. Speaker, I rise in support of H.R. 2372. H.R. 2372 was jointly referred to the Committee on House Administration and the Committee on the Judiciary. We share jurisdiction for title II of H.R. 2372 as that bill has been reported by the Judiciary Committee, establishing the National Film Preservation Board within the Library of Congress.

The National Film Preservation Act of 1991 accomplishes a number of significant reforms. It removes the Librarian of Congress from the controversy surrounding the issue of moral rights in the film industry and the conflicting views of film copyright owners and the creative artists who make the film concerning subsequent alterations to the film. While the Congress may well have a role in the resolution of this controversy, I agree with the Librarian of Congress and the author of H.R. 2372 that the efforts of the Library of Congress should focus on film preservation rather than moral rights and labeling.

H.R. 2372 directs the Librarian of Congress to develop a study of the status of film preservation and to develop a plan for the preservation of films. H.R. 2372 requires that the Librarian submit a report to the Congress regarding film preservation efforts not later than 1 year after the date of enactment. In my view, this is among the most important provisions of legislation. Over half of the feature films made in the United States since 1951 no longer exist. The Library of Congress is already well recognized for its film preservation efforts and is well positioned to undertake these responsibilities. The efforts of the Library of Congress to assess, coordinate, and enhance film preservation efforts should be of significant benefit and I look forward to reviewing the report of the Librarian.

H.R. 2372 retains and enlarges the National Film Preservation Board. This Board, initially authorized by the National Film Preservation Act of 1988—Public Law 100–446—is made up of representatives from organizations with special interests and expertise in film making and film preservation. H.R. 2372 expands the number of Board members from 13 to 18. Among the organizations that will now be represented on the Board are the National Association of Theater Owners, the American Society of Cinematographers and the International Photographers Guild, who will jointly submit one list of candidates to the Librarian, and the International Federation of Film Archives. In addition, the Librarian is authorized to appoint up to two at-large members and, in selecting one of the at-large members, shall give preference to individuals who are commercial film archivists. The National Film Preservation Board is authorized for 3 years in order that there may be timely congressional review of the implementation of this legislation.

Members of the National Film Preservation Board make recommendations to the Librarian regarding films to be included in the National Film Registry. The Librarian may select up to 25 films a year for inclusion in the Registry. H.R. 2372 retains the requirement that a film be at least 10 years old before being eligible for inclusion in the Registry. It also retains the requirements of the National Film Preservation Act of 1988 that films be selected on the basis of their historical, cultural, or aesthetic importance. H.R. 2372 corrects a significant omission providing for the inclusion of films other than features, such as shorts, documentaries, and cartoons, in the National Registry.

As chairman of the Subcommittee on Libraries and Memorials of the Committee on House Administration, I wish to commend the members of the Judiciary Committee and especially the chairman of the committee, Mr. BROOKS, and the chairman of the Subcommittee on Intellectual Property and Judicial Administration and author of H.R. 2372, Mr. HUGHES, for the work they have done to improve both film preservation activities and the National Film Preservation Board. The Library of Congress has played a significant role in preserving American cinematography. More needs to be done to preserve American films, however, and the Library of Congress can play an even larger role in that effort. In my view, H.R. 2372 enhances the film preservation efforts of the Library of Congress and the Nation. I commend H.R. 2372 inclusion to my colleagues and urge its adoption.

MUSEUM DIRECTOR RAUL OYUELA PROMOTES HISPANIC ART TALENT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Raul Oyuela, the Florida Museum of Contemporary Hispanic and Latin American Art director, actively seeks out undiscovered artistic talent in the Hispanic community. The newly formed museum features the work of little known artists. The Miami Herald recently featured Mr. Oyuela and the museum in article by staff writer, Cindy Ycaza. That article follows:

There are two kinds of international artists, said Raul Oyuela.

There are artists who are known in their countries and across the globe.

And then there are those sought by the Florida Museum of Contemporary Hispanic and Latin American Art. They must be natives of a Latin or Hispanic country or have parents who were born there. They must be young, poor and unknown.

Operating out of a Miami Beach office, the 2-month-old, nonprofit museum exhibits contemporary works in the gallery of Sterling Auctioneers, 2869 SW 27th Ave. Its first exhibit—monoprints by Cuban artist Victor Gomez—ended Nov. 25.

The next exhibit, featuring 50 Spanish artists, will be Jan. 10 to Feb. 5. Plans for 1992 include lectures, slide presentations and concerts. Admission to all events will be free.

It's all in the name of preserving artists' pride in their roots and teaching people about Hispanic art and culture, said Oyuela, director of the museum.

Oyuela moved to Miami recently from San Francisco, where he and partner Manuel Rufi-Gilbert founded and directed the San Francisco Museum of Contemporary Hispanic Art, now 3 years old.

He and Rufi-Gilbert established the Florida Museum of Contemporary Hispanic and Latin American Art to support a growing interest in Latin and Hispanic art in the Miami area, where a mixture of Caribbean, Spanish and South and Central American cultures meet.

"Miami is becoming the capital city of the Americas," Oyuela said. "People are coming over from Europe. We are seeing more Hispanic art here. We want to show people more of what they are missing."

The new museum has no permanent collection. Its mission is to seek out and promote works by Latin and Hispanic artists for special exhibits, to help them find gallery space and to maintain worldwide archives of the artists and their works.

"The most famous artists don't need us," Oyuela said. "People already know them. But there are no institutions for the young, poor and unknown artists. They are for-gotten in the marketing."

Besides helping promote the artists and their works, museum volunteers will research and catalog Latin and Hispanic culture.

"We can teach the difference between Latin American cultures and the 17 different states of Spain," he said. "The idea for the museum is to preserve these original cultures."

The Florida Museum of Hispanic and Latin American Art's board of directors includes 30 people from nine countries. They are artists, gallery owners, art collectors, business people and writers. Its curator is Carlos Gonzalez-Lopez, an art scholar from Madrid.

Most of them donate time, gallery space and experience to the museum.

David Diaz, vice president of the board and owner of Sterling Auctioneers, donated his gallery as a temporary home for the museum until it has a permanent location.

"These people are doing something to help people learn about other cultures," said Diaz, a Cuba native who specializes in auctioning corporate art. "That's good. We're proud to be part of it."

Mr. Speaker, Mr. Oyuela's work is exciting. In seeking to bring attention to and encourage the artistic talent of unknown Hispanic artists, he is adding the cultural richness of south Florida. I wish Mr. Oyuela and the Florida Museum of Contemporary Hispanic and Latin American Art much success.

OPPOSITION TO THE CONFERENCE REPORT ON THE CRIME BILL

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. WALSH. Mr. Speaker, I rise today to express my opposition to the conference report on the crime bill. I am deeply disappointed with this institution's lack of resolve in tackling the crime problem in our society. Just last month I voted for a tough anticrime bill with the hopes that House and Senate conferees would reconcile the major differences in the bill. Unfortunately, the House-Senate conferees in reconciling the differences in the bills consistently supported the language that was weaker on crime. Yet they have the nerve to try to tell the American public that they supported a tough anticrime bill.

While the bill would extend the death penalty to cover over 50 Federal crimes, the Congressional conferees dropped Republican proposals that would have limited death row appeals. These death row appeals are costly and can go on indefinitely. The administration's proposal, which was accepted by the Senate, was designed to limit inmates to one appeal in Federal court unless they raised an issue central to their guilt or innocence. While the protection of Federal rights through habeus corpus review must be preserved, abuses of habeas corpus undermines the criminal justice process and allows convicted capital murderers whose guilt is not in doubt to obstruct the execution of their sentences by endlessly raising alleged technical defects in their sentencing. This was not what our Forefathers had in mind when they formulated our Constitution.

Another problem I have with this conference report is the dropping of language that would logically extend the "good faith" exception to the exclusionary rule to unintentional mistakes by police officers, during searches without warrants, under circumstances justifying an objectively reasonable belief that the search conformed with the Constitution. Over and over again we hear stories of defendants convicted of heinous crimes who later have their convictions overturned because of some technicality even though the evidence against them was overwhelming. If a police officer finds drugs on a suspect after searching the suspect with reasonable cause, then those drugs should be considered as admissible evidence even if the police's warrant was invalid.

Last minute changes by the conferees on gun control language is also troubling. The conferees adopted the Senate Brady bill language with modifications. This language would require an instant background check on all firearms purchases, unlike the House language that would have limited the check to handgun purchases. This would have a significant and intrusive impact on sportsmen and their hunting privileges.

No one wants a tough anticrime bill more than I do. However, this bill would actually weaken current law by making it easier for criminals to frustrate the system by indefinitely appealing their sentences. The National District Attorneys Association strongly opposed this bill because of the inclusion of new safeguards for defendants' rights. Under this bill a death sentence would virtually never be imposed. If the people are not allowed more latitude in their "good faith" gathering of evidence, how is our country realistically expected to win the war on crime? We must get serious in our efforts to confront our Nation's crime problems. Unfortunately, this conference report is not tough enough on crime and therefore I felt obliged to oppose it.

CONGRESSIONAL TRIBUTE FOR LEON BARNIER

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. OBERSTAR. Mr. Speaker, it is with great pride that I rise today to pay tribute to Leon Barnier for his many years of dedicated service to the rural communities of Minnesota and to the rural electric cooperatives. Mr. Barnier has been very active in the rural electric program since 1947 when he began his career as a right-of-way engineer with the Anoka Electric Cooperative. Among his many responsibilities during his 32 years at Anoka, Leon served as the member services director, and the acting general manager. During this time, he was involved with the advisory groups of vocational, public, and private educational institutions. He served on the Industrial Development Committee for Coon Rapids and also served as president of the Anoka and Blaine Chambers of Commerce. Leon also was active in various industry groups, including chairman of the National Rural Electric Cooperative Member Relations and Load Management Committee, as well as the organizer and first president of the Minnesota Power Use Association.

Leon Barnier was appointed in 1979 as the general manager and chief executive officer of the Minnesota Rural Electric Association [MREA]. The Minnesota Rural Electric Association represents 47 rural electric cooperatives serving consumers in Minnesota plus 5 power generating cooperatives located in North Dakota, South Dakota, Iowa, and Wisconsin. MREA is responsible for educational programs for cooperative directors and employees, job training and safety instruction for cooperative employees, and legislative affairs on a State and National level.

Over the past 12 years at MREA, Leon has accumulated a lengthy list of achievements. These accomplishments include building a new office headquarters, establishing a prepaid education program, enhancing the legislative and government affairs program, bringing the loss control program into MREA when the State phased it out, writing a monthly column for the Rural Minnesota News, establishing the Women's Activities Committee, establishing a statewide rural electric political action committee, increasing participation in the national rural electric political action committee, and many others, which have made the lights in rural America burn a bit brighter.

While managing MREA, Leon served as a member of the State Board of Electricity, director of the North Central Electrical League, member of the SBA Regional Advisory Board, and executive secretary of the Minnesota Rural Electric Political Action Committee.

Leon has been familiar with the needs and problems of consumers throughout the 44 years of service to the rural electric cooperatives. His experience and capability went hand-in-hand with his outstanding commitment to the public. His work on behalf of the rural electric program has ensured rural Minnesota a share in the good life of the entire State.

For me, Leon has been more than a hardworking, dedicated and selfless worker in the service of rural Minnesota and rural America—he has been a treasured and very special friend. He and his wife Saira have been an exemplary couple, sharing a mutual love, as well as their extraordinary devotion to their children. I wish Leon and Saira many well deserved years of enjoyment, good health, and as they remember the accomplishments in his long career, they can look back at a job extremely well done. It is a personal pleasure and a great honor for me to commend and thank Leon Barnier for his fidelity to the cooperative program and principle. I wish Leon Barnier many enjoyable and fulfilling experiences in the years ahead upon his retirement on January 3, 1992.

HONORING GENE McBRAYER'S CAREER

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. ARCHER. Mr. Speaker, the Seventh District of Texas had a pleasant surprise last year when Exxon Chemical Co. announced it would move its headquarters from Connecticut to Houston. Heading up the move as president of Exxon Chemical Co. was an individual many of us got to know in 1990 and 1991 when he served as chairman of the board of directors of the Chemical Manufacturers Association, H.E. "Gene" McBrayer.

Gene has headed Exxon's worldwide chemical company since 1986, and his leadership of the chemical industry was, indeed, a fitting tribute to his illustrious career. However, Gene's year at the helm of CMA wasn't simply a well-deserved honor. He had a great deal of work to do, much of it on Capitol Hill. As the chemical industry's spokesman, he testified several times during the Clean Air Act reauthorization and worked with Congress on behalf of the industry in a constructive and responsible way. His approach was to be willing to consider requirements that yielded real results while at the same time not being bashful about telling us when proposals made no sense.

Gene also presided over "Responsible Care," the chemical industry's initiative to improve its health, safety, and environmental performance, from its infancy to a viable program now recognized on Capitol Hill as a serious effort to respond to the public's concerns and improve the industry's performance.

Thus, it was with great regret that I learned of Exxon Corp.'s October 14, 1991, announcement that Gene will be retiring on January 1, 1992, after 37 years of service. He and Fay, his lovely wife of 38 years, will be leaving Houston for a home in the Pacific Northwest, where they first lived in 1977 when Gene assumed the post of chief executive of Exxon Nuclear Co.

A native of Birmingham, AL, Gene is a chemical engineering graduate of Vanderbilt University. He began his Exxon career in 1953 as a student employee at the company's Baton Rouge, LA refinery. He returned to Baton Rouge after graduation in 1954 and advanced there through a series of increasingly responsible technical, supervisory, and administrative positions. Gene transferred to Exxon Corp.'s New York headquarters in 1964 as assistant manager of the New Investments Department. The next year, he was named president of the newly established Exxon Enterprises, and later served for 7 years as executive vice president of Exxon Chemical Co. before assuming his present post.

He is also active in a number of professional and industry organizations. Gene is a director of Clean Sites, Inc. and a trustee of the Malcolm Baldrige National Quality Award. He is also a member of the World Wildlife Fund and the Conservation Foundation National Council, the American Institute of Chemical Engineers, the American Chemical Society, and the Society of Chemical Industry—American Section.

Gene McBrayer is truly one of the finest business leaders I've ever had the privilege to know. He'll be greatly missed by the 18,000 worldwide employees at Exxon Chemical Co., a division of Exxon Corp. that would rank 42d on the Fortune 500 list if rated as a separate corporation. He is one of corporate America's good guys, and I would like to salute his wonderful career and wish Gene and Fay all the best in the years to come.

A TRIBUTE TO GEORGE FELDENKREIS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, on December 8, 1991, Dr. George Feldenkreis was honored by the American Society for Technion [ATS] Southern Region for his leadership in the Jewish community. I am pleased to recognize Dr. Feldenkreis for receiving ATS's highest honor, the Albert Einstein Award. An article entitled, "American Technion Society Salutes George Feldenkreis," ATS accounts Dr. Feldenkreis' extraordinary achievements in the Cuban and Jewish community. I commend the following to my colleagues:

> Business and civic leader Dr. George Feldenkreis, president of Carfel, Inc., will be honored by the American Society for Technion (ATS) Southern Region at its annual meeting on Sunday, December 8, 1991.
>
> "The American Technion Society is proud to recognize George Feldenkreis for his extraordinary leadership, dedicated efforts and creative vision on behalf of the Jewish people and the State of Israel," says Sam B. Topf, chairman of the ATS Southern Region.
>
> The American Society for Technion will honor Dr. Feldenkreis with its highest honor—the Albert Einstein Award. He will receive this award for his community leadership and for his commitment to Israel's scientific and technological progress, security and economic advancement through his support of Technion-Israel Institute of Technology.
>
> George Feldenkreis' commitment to the Jewish community began in his native city of Havana, Cuba, where he served as President of the First Federation of all Havana Jewish youth organizations and president of Betar.
>
> Dr. Feldenkreis graduated from Havana University with a doctorate in law. He moved to Miami in 1961 and organized Carfel, Inc., an importer of automobile parts for foreign and domestic cars, as well as hardware, electronic goods and parts for Japanese and European motorcycles.
>
> In the late 1960's Dr. Feldenkreis extended his business activities to the garment industry and founded Supreme International Corp., presently the largest importer of "guayabera" shirts in the world and the largest independent wearing apparel import operation in the Southeastern United States.
>
> Dr. Feldenkreis earned the Lincoln-Marti Award from the U.S. Department of Health, Education and Welfare for valuable cooperation in connection with the Cuban Refugee Program and for extraordinary and meritorious performance of civic duty. He has organized fund raising activities for the Combined Jewish Appeal (CJA) among the Cuban Jewish community and served as president of the CJA Cuban Hebrew Division for seven years.
>
> He was the first native Cuban to serve on the Greater Miami Jewish Federation board of directors. Dr. Feldenkreis was the first of his generation to receive the "David Ben Gurion" Award from the Cuban/Hebrew Bond Committee, and he earned Brandeis University's Distinguished Community Service Award. His other involvements include membership on the boards of directors of the Hispanic Heritage Committee, Hebrew Academy and Temple Menorah.

I am pleased to acknowledge Dr. George Feldenkreis for his contributions to the Cuban and Jewish communities and I wish him much success with all his endeavors.

PUERTO RICO REFERENDUM'S FALSE GUARANTEES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. YOUNG of Alaska. Mr. Speaker, in a few days, Puerto Rico will conduct a referendum which claims to guarantee democratic rights, including many tangible and intangible United States Federal rights and benefits, by ultimately amending unilaterally the Puerto Rico Constitution. The outcome of an affirmative vote may produce the opposite effect. unfortunately, according to polls in Puerto Rico, over 70 percent of the people do not understand what the referendum really means and what the long-term impact may be to them, their children, and their grandchildren. Never in the history of referenda in Puerto Rico have the people faced a vote with such an abbreviated time for education.

A San Juan Star editorial of November 15, 1991, entitled "RHC's 'guarantees,'" provides insight into the reckless use of power by a politician to use a referendum to serve narrow self interests. Taxpayers may be incensed, and rightly so, once they discover Puerto Rico Governor Harnandez Colon has launched what amounts to a personal campaign, demagogic, and deceptive, that will damage what should be a precious document held above the partisan battle, and which will cost taxpayers more than $10 million.

Sadly, the guarantees which the referendum promises to secure, may become at risk if the referendum succeeds. Full page advertisements in the papers link a "yes" vote to the continuance of Social Security, Medicare, and other assistance benefits. In reality, only one of the status options covered by the referendum can guarantee those benefits: statehood. The other two options would place Puerto Rico outside of the plenary powers of the Congress, in some form of independence.

The people of Puerto Rico should understand how the United States provides funding to those areas outside of the plenary powers of the Congress, as that is part of the referendum guarantees. U.S. benefits to residents of foreign countries are typically provided through foreign aid. Therefore, any continued assistance benefits to the people of Puerto Rico under one of the two independence statuses to replace Medicare, food stamps, unemployment, and Social Security, would most likely flow through the Department of State appropriations, as it does for the Dominican Republic, Jamaica, Nicaragua, and others: and, as it once did for Cuba and Haiti.

In the case of the free associated states in Micronesia, who chose a distinct sovereignty with a resulting separate citizenship rather than closer relationship with the United States, funding for Federal benefits and programs is through the Department of the Interior appropriations. However, although the Federal program assistance began at full funding levels upon the establishment of the Compacts of Free Association, the levels of assistance dropped significantly after 5 years. Compact funding will be further decreased in another 5 years and terminated in less than 10 years.

Those areas of the United States which are incorporated or are States of the Union receive funding through the many Federal department appropriations, such as the Department of Health and Human Services, Department of Commerce, et cetera. These areas are guaranteed equal treatment by the U.S. Constitution with funding levels generally proportionate to the population size. The full extension and application of the U.S. Constitution to an area the key to guaranteed benefits and payments to U.S. citizens.

However, if the people of Puerto Rico are willing to accept Federal assistance, program and benefit levels supplemented or replaced by local ones, then there is a reasonable basis to accept the assertions of guarantees from the "yes" advocates. Federal assistance may be provided in block grants which have been requested by autonomist advocates.

It is clear that the referendum cannot guarantee identity or culture. Nor can it guarantee U.S. citizenship which only the U.S. Constitution provides to areas integrated into the Union. Except under the statehood status option incongruously linked with autonomist options in the referendum, Puerto Rico could not enjoy the guarantees of the U.S. Constitution and U.S. citizenship outside of the plenary powers of the Congress. The referendum misleads the people by impossible combination of attributes of permanent union with the United States and those of a separate and distinct republic or nation.

If the people do not want to risk current Federal benefits and U.S. citizenship, they should reject the false guarantees of the December 8 referendum.

The article from the San Juan Star, November 15, 1991, entitled "RHC's 'Guarantees,'" follows:

[From the San Juan Star, Nov. 15, 1991]

RHC'S "GUARANTEES"

The people that Gov. Hernández Colón attempted to mislead Thursday, members of the Association of Financial Analysts, should know that he is using the Constitution of Puerto Rico to further his partisan political ends.

And that the referendum he has instigated for Dec. 8 is not in the least necessary for either procuring another plebiscite or for "guaranteeing" that Puerto Rico's culture, language and three status options would be taken into account if and when a plebiscite is held.

There is no possible way of not taking language and culture into account in a political status referendum. Furthermore, New Progressive Party candidate for governor Pedro Rosselló offered to negotiate that independence, commonwealth and statehood would appear on any plebiscite ballot, but was turned down.

In any event, public opinion would require a three-status choice.

Hernández Colón, nevertheless, is insisting on spending upwards of $5 million on this referendum, and, if his "yes" option wins, upwards of $5 million more on a second election to put his so-called guarantees into the Constitution's Bill of Rights—solely to raise obstacles to statehood, and to intimidate Congress with Puerto Rico's "distinctiveness" from the United States.

His amendments cannot guarantee identity or culture; no kind of legislation can.

His amendments cannot guarantee U.S. citizenship; only Washington and possibly the U.S. Constitution can.

What they can do, and are doing, is confusing and arousing and dividing people with a slick appeal to nationalism.

One example, the inclusion of a guarantee of Olympic sports representation in the Commonwealth Constitution, is the worst kind of nurturing of a bread-and-circus mentality.

Hernández Colón has launched what amounts to a personal campaign, demagogic and deceptive, that will damage what should be a precious document held above the partisan battle, and which will cost taxpayers more than $10 million.

Everything he wants to do in this affair, he has a perfect right to do as the leader of the Popular Democratic Party, but not as a supposed governor of all Puerto Ricans aiming to amend their Constitution for their common good.

His is a reckless use of power by a politician, not the endeavor of a statesman such as he pretends it to be.

LOST AMENDMENT MAY KEEP CONGRESS FROM RAISES

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. STENHOLM. Mr. Speaker, December 15, 1991, marked the ratification of the Bill of Rights, our Constitution's first 10 amendments. These amendments form the foundation of our democratic system based upon individual rights and limited and restricted government. Another amendment offered by, our future President and Drafter of the Constitution, James Madison provided that; "no law, varying the compensation for the services of the Senators and Representatives, shall take effect until an election of representatives shall have intervened." Although this amendment has yet to be ratified I have long felt that it has considerable merit.

In the 100th Congress I cosponsored, H.R. 759, legislation which deferred congressional pay increases until the following Congress. I also supported H.R. 3660, the Government Ethics Reform Act. This legislation which was passed and became law provided that no pay increase above and beyond a COLA could occur until after an election.

I am pleased to report that the principle of delaying congressional pay increases until after elections continues to enjoy widespread support. At the present time 35 State legislatures have ratified James Madison's constitutional amendment. Continued consideration of the amendment is consistent with the Supreme Court's ruling in Coleman vs. Miller that proposed constitutional amendments submitted by Congress to the States without a deadline remain pending business before the States. I am proud that my home, the great State of Texas ratified the amendment on May 25, 1989.

Mr. Speaker, on this bicentennial of the Bill of Rights, I would like to insert into the RECORD an article from the September 16, 1991, issue of one of the 17th District of Texas' newspapers, the Gainesville Daily Register. I will also include two commemorative resolutions adopted by the 72d Texas Legislature acknowledging the bicentennial of the Bill of Right ratification. I request that these materials are printed following my remarks.

[From the Gainesville (TX) Daily Register, Sept. 16, 1991]

LOST AMENDMENT MAY KEEP CONGRESS FROM RAISES

(By Tom Tiede)

WASHINGTON (NEA).—When Gregory Watson was a student at the university of Texas, in the early 1980s, he was asked to write a paper on government affairs for one of his classes. He says the Equal Rights Amendment to the Constitution was hot at the time, and he decided to report on whether it was correct for Congress to extend the deadline for ratifying the controversial measure.

The research soon led him to another topic, however. He says he learned that the nation's first Congress had proposed a constitutional amendment restricting the right of the body to raise member salaries, and no deadline was attached for ratification by the states. He thus dumped Equal Rights and wrote about the pay hike proposition.

As it happened, he got only a C for the effort. But never mind. Watson has received better marks on the work since then. He was so fascinated with the long forgotten congressional compensation amendment that he stated a one-man campaign to make it the law of the land, and, very remarkably, he's almost succeeded.

Watson began the campaign in 1982. To date, he has helped persuade 27 states to ratify what is sometimes called the "Lost Amendment." He says eight other states has ratified the language prior to his personal crusade. This means there are 35 states on record, at present, and only three more are needed for enactment.

Watson says it's therefore just a matter of time: "The American people are fed up with the sneaky, tricky and deceptive ways that Congress increases salaries. That's why my campaign has gone as well as it has. No one trusts the members to make their own pay raise reforms, so this old amendment is going to it for them."

Old indeed. The congressional compensation amendment has been collecting dust in the country for more than 200 years. It was in fact one of the original amendments in the Bill of Rights sent to the new states in 1789. Congress wanted to send 17 amendments to the states, but it settled on 12, of which 10 were ratified.

The first of the two amendments rejected by the states had to do with election apportionment and it is no longer viable. The Lost Amendment, however, seems as modern as today's news. It states: "No law varying the congressional compensation . . . shall take effect until an election of Representatives shall have intervened."

In other words, the amendment would prohibit members from taking immediate increases. They would only be allowed to boost the take of succeeding legislatures. Six states ratified the proposal between 1789 and 1791; the rest rejected it because it was not in keeping with the civil liberties temper of the Bill of Rights.

The amendment was more or less buried after that. But Watson points out that it did not actually die. He says the first Congress did not put a time limit on its early amendments, and he adds that the U.S. Supreme Court, sitting in 1939, decided that amendments do not have deadlines can be ratified at any time.

Watson is now a legislative aide in the Texas statehouse. He runs the Lost Amendment campaign on a postage stamp budget. He says he has written to most of the nation's state legislators over the past nine years, again and again in many cases; he says many lawmakers are skeptical at first, but come around in the end.

The lawmakers in North Dakota are an illustration. They approved the Lost Amendment last March after several years of debate. State Sen. Ray David says most of his colleagues had never heard of the amendment before, but, "one they did, once they thought about it, they voted overwhelmingly, 133 to 22, for ratification.

Sen. David says he gives much credit to campaigner Watson. The latter, for his part, says the Lost Amendment sells itself: "I have resisted turning the drive into a big time armtwisting lobby. I've done it quietly, by myself. Nobody knows who I am, nobody cares, and the amendment is considered on its own merits."

There is some criticism, however. Some members of Congress privately think Watson is meddling with a gimmick. They argue that the pay raise plan was rejected by the states during its initial consideration, and that should be that. They say it's risky to try to alter the Constitution with an obscure fragment of history.

The critics say they do not necessarily oppose a constitutional amendment regarding congressional compensation. Yet it should logically be freshly minted. They say if Watson fully succeeds, if he gets three-quarters of the states to ratify, the whole thing will probably land in bewildering confusion in the courts.

If so, Gregory Watson believes he will triumph anyway. He says he's got the law on his side. He says some congressfolk might stage a symbolic legal protest, but then the public relations would take over. "They are not going to fight the votes of 38 states. This amendment is going to be enacted.

And when? Watson says the date may be advanced every time Congress calls for more pay. And they've called for a total of $50,000 more in recent sessions alone. "I feel confident that Missouri, Nebraska and Rhode Island are getting ready to ratify," he goes on, "and I honestly believe that we can attach the 27th amendment to the Constitution in the next couple of years."

HOUSE CONCURRENT RESOLUTION 219

Whereas, The Bill of Rights of the Constitution of the United States protects and guarantees basic freedoms of all Americans; and

Whereas, These rights, which are the essential legacy of this nation's founders, are honored, cherished, and respected by the people of the State of Texas; and

Whereas, This year marks the 200th anniversary of the ratification of these first 10 amendments to the United States Constitution, and it is indeed an appropriate occasion for Texans to acknowledge, reaffirm, and celebrate their rights as citizens; now, therefore, be it

Resolved, That the 72nd Legislature of the State of Texas hereby designate December 15, 1991, as Bill of Rights Day and urge all Texans to commemorate the event.

HOUSE CONCURRENT RESOLUTION 228

Whereas, 1991 marks the bicentennial of the ratification of the Bill of Rights, and it is fitting that we should take time during this year to consider the privileges guaranteed by these 10 amendments and the duties that accompany such liberties; and

Whereas, When deliberating the Constitution, the founders of this great nation eloquently spoke of the need for a clearly delineated bill of rights; indeed, their concern for personal liberty was so great that the Constitution was ratified with the assurance that the new Congress would consider the protection of these rights a first order of business; and

Whereas, In the spirit of the Declaration of Independence, which recognizes that "all men are created equal, and endowed by their creator with certain inalienable rights," the Supreme Court has extended the scope of the Bill of Rights and assured that certain privileges of United States citizenship may not be violated by any local or state government; and

Whereas, Recent years have seen the people of many countries throw off the yoke of tyranny and dictatorship and begin their quest to understand how government of, by, and for the people can truly ensure the inalienable rights of life, liberty, and the pursuit of happiness; and

Whereas, These tremendous democratic uprisings have stirred the souls of all those who yearn for freedom, and the world now looks to the United States to hold high the light of liberty and to lead the way on the path of true representative democracy; and

Whereas, We stand eternally grateful to our forebears who have given so much so that we may have these precious liberties; and likewise, we accept the responsibility of preserving this magnificent legacy and striving to ensure that all humankind may enjoy such freedom; now, therefore, be it

Resolved, That the 72nd Legislature of the State of Texas hereby recognize 1991 as the Bill of Rights Bicentennial and urge all Texans to participate in the commemoration of this historic event; and, be it further

Resolved, That the state commissioner of education be encouraged to direct all school principals to devote at least one hour during the month of November 1991 to intensive study of the principles embodied in the Bill of Rights; and, be it further

Resolved, That an official copy of this resolution be prepared for the state commissioner of education as an expression of the sentiment of the Legislature of the State of Texas.

SPEECH BY CONGRESSWOMAN HELEN DELICH BENTLEY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. HUNTER. Mr. Speaker, I urge all my colleagues to read the following speech delivered by Representative Helen Bentley to commemorate the 50th anniversary of the attack on Pearl Harbor. As usual, she eloquently raises important issues regarding United States-Japan relations, as outlined in the following article from the New York Times by Kazuo Ogura of the Japanese Foreign Ministry.

SPEECH BY CONGRESSWOMAN HELEN DELICH BENTLEY ON PEARL HARBOR COMMEMORATION ABOARD U.S.S. "TANEY" DECEMBER 7, 1991

Good afternoon, Pearl Harbor Survivors and Americans all.

Today we meet aboard the last vessel still afloat that was at Pearl Harbor during the Japanese sneak attack of Dec. 7, 1941—the U.S. Coast Guard Cutter Taney.

It is truly wonderful to be here today—free Americans in a free country—indebted to the thousands who fought and died in WWII—to the men who served on this very ship on that December day 50 years ago—and, to the generations of brave men and women who served before them and who continue to serve.

Their sacrifices make me proud to say I am an American. I hope it will be said of me that I am a patriot—that I love my country, that I, too, serve my country. Outside of the church, there can be no higher or more honorable calling for a citizen of any nation.

To protect your nation and its people, in America, is to protect the wellspring of the ideals of self-government, the ownership of private property and, most importantly, the dignity and the sanctity of the individual.

These are ideals so identified with America that when the Iron Curtain finally broke apart we heard familiar names on the lips of the first generation of free men in Eastern Europe—Jefferson and Madison, Washington and Lincoln.

We discovered that no totalitarian night could put out the candles shining from the "Cradle of Democracy." Those candles, ignited over 200 years ago on this raw continent, are the light that still guides those who seek freedom and a better way of life. . .

If we ever lose this great country—the loss will not be ours alone.

That is what our great wars—ultimately—have been about: the preservation not only of our own freedom, but the preservation of the dream of freedom for every man and woman in the world: the hand extended, the hope held high.

Today, of all days in the year, of all days in the last 50 years—we must consider long and hard what America is, what it promises * * * and the responsibilities we have as Americans to guarantee that those promises are kept to our children and to future generations of children all over the world.

Fifty years after Pearl Harbor, in what condition do we find ourselves?

"* * * the economic strength and relative global position of the U.S. are not what they used to be." That is not my statement, it is the statement of Kazuo Ogura, director general of cultural affairs at the Japanese Foreign Ministry writing in the New York Times, Nov. 24th.

I doubt there is one of you in the audience who will not agree with Mr. Ogura's statement, and he moves from that premise to explaining the "cultural" differences between Japan and America by explaining that "Unlike Americans, for whom being American is a matter of faith or convictions, Japanese do not associate their identity with any faith or convictions."

At another place, Mr. Ogura states, "With regard to religious creeds and political principles, the Japanese do not claim to have any universal principles that they wish to spread around the world."

Now, if we are "not what we used to be" and Japan is assuming a position as a leading power surpassing us in economic strength, according to their own spokesperson they do it without any faith or convictions, without any guidance of religious creeds or political principles.

Think about what the world would have been like had they won the Pacific war! Think about what the world will be like over the next 50 years if they continue to eclipse the United States in the current economic war. Think about what will happen to the world under the Pax Japonica—or Japanese peace—when we are forced to give up our position as the leading peacekeeper in the world because the Japanese have won the trade wars and all of the wealth-making industries lost to that victory!

Not only will America be changed forever, but the standards of world order will be changed forever. There will be no universal values being espoused by the most powerful nation in the world * * * there will be no standard of enlightened behavior set * * * according to Mr. Ogura, the Japanese recognize none and cannot identify with the needs of other countries.

As shocking as it was to me to read a nation's declaration that it is a nation without faith and convictions, without religious creeds or universal values—knowing how Japan has attacked our markets, has broken law after law in pursuit of U.S. technologies—I am not surprised that they are guided only by national self-interest, that the ideals of Jefferson and Madison, Washington and Lincoln are alien to their culture.

If this indeed is the case, made by the cultural ministers of Japan, it is no wonder that there have been major difficulties in dealing with them under American law since our law is based on acceptance of a common values system.

To be successful in future negotiations with the Japanese, something more than a good translator is needed.

And now for the rest of the story.

There is criticism today over the atomic bombs dropped on Hiroshima and Nagasaki. We need to remember that we were not at war when the Japanese bombers attacked Pearl Harbor, but we were one day later, and on through the ensuing 44 months.

Despite a spate of current revisionist histories, many of them sponsored by Japan and Japanese interests, that try to cast Japan as a victim of international policies in the 1930s and as the innocent victims of Hiroshima and Nagasaki in 1945, in that same year, a German submarine was captured off the coast of Newfoundland headed for Japan with 1,200 pounds of deadly uranium oxide. This was enough uranium to build two atomic bombs!

Aboard the submarine, along with its German crew, were three Luftwaffe (Air Force) generals, and two Japanese who had committed suicide by hari kari rather than be captured alive.

The investigators at the time concluded that the Japanese were trying to build an atom bomb—just as we were. That they, like us, were fighting a war using whatever state-of-the-art weaponry they could procure.

After the war, evidence was discovered in Japan that there was an active nuclear weapons development program that in its progress was running only a year behind our own Manhattan Project.

Unfortunately, the story of the capture of the submarine was referred to only once in a report by the United Press on May 16, 1945, and seemingly—like most facts on their A-bomb project and other Japanese behavior in World War II—has been forgotten.

I am indebted to Pat Young for the UP report on the capture of the submarine. Mr. Young is including the incident in his new book, "Behind the Rising Sun . . . 50 Years Later," a sequel to a book published in 1941, and written by his father, who was a foreign correspondent in Tokyo.

I am told that the Navy officer to whom the Germans surrendered the sub was T. Kincaid Kimmel, son of Admiral Husband E. Kimmel, the Navy's commanding officer in 1941 at Pearl Harbor.

Today, Capt. Kimmel lives in Annapolis.

We still have rich resources on this critical time in history, many of them unexplored and unrecognized. It behooves us to seek them out, to learn everything we can about our relations with Japan over the last 50 years—to learn from this history lest, as Santayana warned—we will be condemned to repeat it!

To that end, be warned, the Japanese even now are a great nuclear nation. Much of their power is nuclear and, very recently, they purchased 40 tons of plutonium which will be shipped from Europe to Japan—a 17,000-mile journey—with only a Coast Guard cutter for escort.

Retired Admirals Stansfield Turner and Thomas Davis pointed out the danger in this proposal of the shipment possibly being hijacked by terrorists. There are grave responsibilities which go along with possessing nuclear materials—not only for your own nation, but for the rest of the world.

From one ton of plutonium there can be produced 150 nuclear bombs, and one has to wonder what Japan wants with 40 tons of plutonium. It is a valid question.

A nation, ultimately, must have a conscience about its behavior on the world scene. Japan had no conscience at Pearl Harbor. Japan had no conscience at Bataan and Corregidor. Remember our own valiant General James Devereux's suffering in captivity after, the Battle of Wake Island.

Today, Japan appears to have no respect for American law, as has been proven in case after case moving through our courts, from the deliberate destruction of our television manufacturing to the attempted theft of software from IBM.

I have great hope that we can deal successfully with the Japanese—but, only if we recognize their differences and deal with them.

Our unique government, with its guarantees of freedom to all, demands eternal vigilance. To be alert, to be concerned, to study our competition, to cry foul when the "competition" cheats on the rules is not bashing—it is being vigilant. It is guarding the flame. It is being an American exercising free speech.

It is what these brave men and women fought and died for 50 years ago today! God bless their memories, their families and every American today enjoying the freedom they bequeathed to us!!!

God bless America! Lest we forget!

[From the New York Times, Nov. 24, 1991]

JAPAN AND AMERICA: PRIDE AND PREJUDICE

(By Kazuo Ogura)

TOKYO.—America has various ideals and plans for a new world order. Yet the economic strength and relative global position of the U.S. are not what they used to be. The day is gone when America alone could shoulder most of the human and financial burden of achieving its ideals.

The Americans, however, have not adjusted to this situation. Far from becoming accustomed to dependence on other countries, many Americans want nothing to do with it, particularly if Japan is involved.

Ironically, an interdependent world is the natural outcome of the ideals of free enterprise, democracy and collective security that the U.S. has espoused since World War II.

This being the case, [one] approach would be to try to overcome American resistance to mutual dependence—especially with Japan—while still enabling Americans to feel independent and proud. From the U.S. standpoint, this would mean that Americans should not have to humble themselves as supplicants to Japan.

It is painful to have money bestowed on you by people whose ideals and ways of thinking differ from your own. In the anguish of the American people, who must ask that the gap between the strength of their ideals and their ability to realize them be filled in by Japan, a country that they are not particularly fond of, lies an enormous communications gap across the Pacific.

Whether one considers democracy, freedom or the market mechanisms, there are few countries anywhere in the world more committed to the values upheld in the United States than Japan. [But] the Japanese and Americans do not see eye to eye on where their shared values should take the Japan-U.S. relationship in the international scene.

Given the fact that the U.S. is a racial and cultural melting pot, Americans resist the notion that someone should be exempt from some joint activity just because that person happens to have different historical, ethnic or cultural roots.

Unlike Americans, for whom being American is a matter of faith or convictions, Japanese do not associate their identity with any faith or convictions. This difference is one fundamental cause of misunderstandings and disputes between Japan and the U.S.

For many Japanese, moreover, the concepts of freedom, democracy and the market economy do not have a home-grown feeling. Although they have taken deep root in Japan, they give us a vaguely unsettling sensation, as if we were wearing a new suit of Western clothes. The consequence is that it is very difficult for the Japanese to believe that fighting to the death for these concepts is their natural duty as Japanese.

The resulting feelings of discomfort and anguish are hard for the Americans to comprehend and even harder for them to condone. To many Japanese, meanwhile, the American approach to Japan comes across as an attempt to create a spiritual colony of the United States on Japanese soil. The American approach seems somehow to refute the Japanese way of life and to violate the fundamentals of friendly relations between countries.

We have set our sights on moving our country closer to the national norms in institutional, economic and social terms. On the security and diplomatic fronts as well, we have built up self-defense capabilities, shouldered much of the expenses of the U.S. troops stationed in Japan, cooperated in U.N. peace-keeping operations, and provided foreign aid guided by strategic considerations.

Of course, these efforts need to be extended further. From the viewpoint of many Japanese, though, the situation of their country now seems to have greatly changed. In some sectors, they feel, the structural problems lie not in Japan but on the American side. Henceforth, many Japanese agree, efforts to structurally improve U.S. industry and truly internationalize the U.S. economic system may be even more necessary than the efforts Japan must make.

As part of this view, people are saying that Japan is approaching the limits of what it should be doing in the world in the political and security fields. From now, it may have to part ways with the American course (though not with American ideals), charting its own course through unfamiliar seas. Japanese are also complaining that no matter how hard they work to please the U.S.-led community of the West, they are not given much credit for their efforts. This being the case, it hardly seems likely that Japan's reputation will suddenly rise higher even if the country pushes further along the road of Westernization. In fact, it is said, renewed efforts to satisfy the West might incur the antagonism of the Arab world and invite suspicion in other Asian nations, thereby harming Japan's interests.

The postwar Japanese way of life seems to have reached a dead end. We are plunging into an era in which the esteem of the international community cannot be won by holding aloft our war-renouncing Constitution, accommodating international demands and internationalizing the economy. Efforts in such areas served to give us our present peace and prosperity, but now they are inadequate.

In the give and take between Tokyo and Washington, though, people sense that the old pattern has yet to change. Those on the U.S. side are still leaning heavily on Japan, never reflecting on their own country's shortcomings, and those on the Japanese side are still bowing before the American demands, as if doing so was Japan's fate.

With regard to religious creeds and political principles, the Japanese do not claim to have any universal principles that they wish to spread around the world. No longer is there any patriotism so intense that people would gladly give their lives for the sake of their country's pride; all that remains is a slender sense of pride in the aesthetic sensibilities and artistic spirit of the Japanese.

We cannot expect a people with this background to start brandishing a set of principles simply to gain international respect, nor will they be making grand gestures at the cost of their lives.

Nonetheless, in the depths of the Japanese psyche resides a national aspiration, vague though it is, to gain an honorable status in the international community for Japan and its people. The question is how a nation can achieve such a status when its people lack an intense dedication to ideals, and when their patriotism does not inspire self-sacrificing ardor. Unable to answer this question, the Japanese have begun to despair. This is the cause of their anguish at the postwar Japanese way of life.

There is only one way for the Japanese to resolve the differences that separate them. Both peoples must take a harder, more serious second look at their own ways of life.

[The Americans] are apt to feel frustrated by their inability to realize all their ideals, but they must refrain from taking out their frustration on Japan, using it as a scapegoat for domestic problems.

America's way of life is not the world's. There would no problem, of course, if the entire world were Americanized, but if that is what Americans really want, it is nothing more or less than imperialism.

The communication gap between Japan and the U.S. is inextricably linked to the ways of life in the two countries. It is, we might say, a gap between a disoriented people and an idealistic empire.

What prevents Japan from developing a stronger political voice [is] the absence of a clear vision of what ideals the Japanese as a people want to uphold.

Due to its defeat in World War II, and the collapse of a code of previously held ethics, the Japanese have shied away from projecting their beliefs and ideals internationally. Indeed, even now, almost 50 years after defeat, they still appear to be apprehensive of even expressing one.

A TRIBUTE TO LYDIA DIAZ CRUZ DE LEÓN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is a distinct privilege for me to recognize the lifetime achievements of one of my homeland's most renowned and gifted of artists, Ms. Lydia Diaz Cruz de León.

Throughout her illustrious career as one of Cuba's most celebrated ballerinas, Ms. Cruz' devotion to this most precious of artforms, has become an inspiration not only to the countless of people who enjoy and appreciate the arts, but to the future generations of artists who seek to further and nurture this beautiful form of artistic expression.

All through her life, Ms. Cruz has delighted worldwide audiences by bringing only the finest performances of classical and contemporary ballets to the stages of the world, alongside internationally acclaimed dancers such as: Fernando Bujones, Royes Fernandez, Peter Martins, Jacques d'Amboise, Edward Villella, Ivan Nagy, Patrick Bissell and the great Dame Margot Fonteyn. Invited to dance with renowned international ballet companies, Ms. Cruz has had the privilege of performing in numerous principal roles including, Apollo, Patrushka, "The Nutcracker" Grand Pas de Quatre, Swan Lake, Cinderella, Paquita and the role that she is most identified with, The Dying Swan.

Ms. Cruz' invaluable artistic contributions to our society has earned her a very special place in our community. She is the founder and president of the Organization Pro-Performing Arts, as well as a founding member of the board of directors of the renowned Miami City Ballet. Ms. Cruz is also a distinguished member of the American Guild of Musical Artists and the Cuban Museum of Art and Culture.

In recognition of her numerous endeavors toward the cultural enrichment of our society, Ms. Cruz has had the distinction of being recognized by many distinguished members of our community's most reputable public and private institutions. On December 20, 1991, Ms. Cruz will have the privilege of being honored once again by our community's finest, when the Miami City Ballet, on the occasion of their annual production of George Balanchine's "The Nutcracker", the company will render a tribute to her lifelong accomplishments.

Mr. Speaker, I am privileged to have the opportunity of bringing to the attention of my fellow colleagues in the House of Representatives the work of this most outstanding member of our community, and I am delighted to be able to extend to her my very best and warmest wishes for many years of continued greatness.

FINANCIAL DISCLOSURE FOR 1990

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year in which I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial disclosure statements in May of each year, I also continue to file this more detailed family financial report as I have since 1971. In this way, my constituents are kept fully and completely informed concerning my financial status and that of my family.

Romano L. and Helen D. Mazzoli

INCOME, CALENDAR YEAR 1990

Interest, dividends, rents and distributions:	
Congressional Federal Credit Union No. 62976	$210.70
Congressional Federal Credit Union No. 84720 and on five certificates of deposit held in the account (Nos. 12831; 15913; 16541; 20744, and 21128)	829.84
Republic Bank & Trust Co., No. 20–556–7	30.77
The Cumberland No. 01–000–001–00610155499	12.67
Liberty National Bank & Trust No. 01–527329 (IRA)	1,692.28
Liberty National Bank & Trust No. 29–508132 (IRA)	1,174.83
Liberty National Bank & Trust CD No. 010090063046	356.47
First National Bank and Trust Co. No. 427–5518–4	85.37
Federal employee thrift savings plan (401K)	1,526.50
U.S. Treasury bills (No. 912794TP9; No. 912794UB8; No. 912794UD4; No. 912794UN2; No. 912794UR3; No. 912794UH4;)	2,316.60
939 Parkway Drive, Louisville, KY (rental property)	−425.00
Total: Interest, dividends, rents and distributions	7,811.03
Salaries:	
U.S. House of Representatives (R.L. Mazzoli)	90,645.82
Alexandria Drafting Co. (Helen Mazzoli)	27,321.20
Total salaries and fees	117,967.02
Gross Income	125,778.05

STATEMENT OF FINANCIAL WORTH DEC. 31, 1990

Cash and certificates of deposit:	
Congressional Federal Credit Union, CD's (No. 16541, No. 20744, No 21128)	6,038.94

Congressional Federal Credit Union No. 62976	5,997.29
Congressional Federal Credit Union No. 84720	10,227.46
The Cumberland No. 01-000-001-00610155499	254.25
Liberty National Bank & Trust CD No. 010090063046	4,873.95
First National Bank & Trust Co. No. 427-5518-4	1,894.47
House of Representatives Sergeant at Arms No. 5348	2,717.23
Total cash and certificates of deposit	32,003.59
Individual retirement accounts	
Liberty National Bank & Trust No. 01-527329	19,588.22
Liberty National Bank & Trust No. 29-508132	17,420.20
Total individual retirements accounts	37,008.42
Bonds and Treasury bills:	
U.S. Governemnt bonds, series E	2,583.92
U.S. Treasury bill No. 912794WF7	10,000.00
U.S. Treasury bill No. 912794WH3	10,000.00
U.S. Treasury bill No. 912794VT8	10,000.00
Total bonds and Treasury bills	32,583.92
Real property:	
939 Ardmore Drive, Louisville, KY (assessed value)	58,700.00
Less mortgage, the Cumberland S&L No. 15970	3,230.83
Subtotal	55,469.17
1030 Anderson St., Alexandria, VA (assessed value)	187,400.00
Less Mortgage, Cowger & Miller Co., No. 15184	35,991.35
Subtotal	151,408.65
929 Parkway Drive, Louisville, KY (assessed value)	44,660.00
Less Mortgage, Ms. Brad Valla	34,646.00
Subtotal	10,014.00
Total real property	216,891.82
Federal employees retirement system total contributions since 1971	91,814.74
Federal employee thrift savings plan (401K)	21,059.68
Automobiles:	
1965 Rambler (assessed value)	220.00
1973 Chevrolet (assessed value)	1,192.00
1985 Chevrolet (assessed value)	3,767.00
Total automobiles	5,179.00
Household goods and miscellaneous personal property	6,500.00
Total assets	443,041.17
Liabilities: Dec. 7, 1990 loan of $1,900 to R.L. Mazzoli campaign fund	1,900.00
Net assets	441,141.17

1990 INCOME TAX RECAPITULATION

Federal:	
Total income	122,591.00
Deductions and exemptions	34,026.00
Taxable income	88,565.00
Taxes due	21,088.00
Taxes withheld	25,436.00
Refund	4,348.00
Kentucky:	
Tax withheld	3,869.00
Tax due	4,564.00
Tax paid	695.00
Virginia:	
Tax withheld	1,166.00
Tax due	707.00
Refund	459.00
Occupational tax, Louisville and Jefferson County, Kentucky:	
Tax paid	548.00

COMPREHENSIVE CRIME LEGISLATION

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mr. GILCHREST. Mr. Speaker, I rise in opposition to the conference agreement on H.R. 3371, the Omnibus Crime Control Act. I do so reluctantly because the legislation does provide some innovations and $3 billion to fight crime at all levels, especially at the local level. But I cannot accept the logic that I should vote for the agreement because it is better than nothing. We can do better and next year we must enact a tough, effective crime control bill.

The conference report on H.R. 3371 would have applied the Federal death penalty to about 50 crimes, required prisoners under death sentences to file Federal habeas corpus petitions within 1 year of their direct appeals, narrowed the circumstances under which a prisoner may file a second or successive habeas petition and permitted the use of illegally obtained evidence if the police acted in good faith reliance on a search warrant.

I was concerned that provisions adopted by the conference overrule numerous U.S. Supreme Court decisions such as Arizona versus Fulminante. Some of these provisions would have prolonged litigation and overturned criminal convictions. Other provisions would have established unrealistic Federal standards for appointed counsel in capital trial appeals and collateral reviews. For instance, each defendant gets two attorneys to represent him and they are appointed by the defense bar, not the court.

I further object to certain provisions that were removed from the bill. Why did the conference strip out provisions to enhance penalties for drug distribution to pregnant women. Why did they strip out increased penalties for recidivist sex offenders. Why were HIV testing for sex offenders and Government payment for HIV testing for rape victims stripped out of the conference agreement? I object to the removal of the retired public safety officer death benefit program.

I particularly oppose the failure to include H.R. 2553, the National Child Abuser Registration Act of 1991, in the conference report. The bill sought to establish a nationwide system of registering convicted child abusers in order to reduce the number of repeat offenders.

I encourage my colleagues to return to the negotiating table and agree on a strong comprehensive crime bill.

NEWSPAPER ARTICLES CONCERNING PEARL HARBOR

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 26, 1991

Mrs. BENTLEY. Mr. Speaker, during the recent 50th anniversary commemorations of the Japanese sneak attack at Pearl Harbor of December 7, 1941, a number of significant articles appeared in the Nation's newspapers and magazines. I here present a sampling of some of them for inclusion.

[From the Washington Post, Dec. 1, 1991]

MEMORY AND INFAMY: WHY JAPAN WON'T REMEMBER

(By Ivan P. Hall)

TOKYO.—On Dec. 7, when Americans will pause briefly to honor and remember those who died at Pearl Harbor 50 years ago, I will be the sole American on a panel at Japan's oldest private university, Keio, where I recently taught. I am bracing myself for all the old self-exculpating bromides from former students, colleagues and friends of two decades' standing, knowing that they will be seeking an emotional ratification I won't be able to give.

For months, Japan's media have been seizing on isolated instances of anti-Japanese sentiment or behavior in the United States to create a broad public anxiety here that the commemoration may become the occasion for unprecedented "Japan bashing."

For weeks this summer Tokyo's media fretted over whether President Bush would attend the event ceremony in Honolulu, thereby giving it an official nationwide tone. They grasped hopefully at reports that some White House advisers were indeed counseling the president against participation, lest it fuel anti-Japanese sentiment. As the executive officer of one of the leading private American societies for U.S.-Japan friendship put it to me about a year ago, the greatest task over the months ahead would be to "contain" the Pearl Harbor anniversary.

Yet every year on Aug. 15, the day marking the end of the Pacific war, the Japanese undertake a national outpouring of self-consolation in ceremonies led by the emperor and prime minister. So it does seem a bit grudging of them to be hoping so hard for a non-event in Hawaii. Even more extraordinary have been the efforts of some Americans to minimize their countrymen's attention to this once-only historical remembrance—be it out of misplaced idealism or in the belief that healthy Japan-U.S. relations can brook no counterbrushing of Japanese sensitivities.

Sensibly, Bush decided to go. Sensibly, too, he reportedly plans to deliver an upbeat speech on Japan-U.S. ties. But if Americans are to manage those ties intelligently in a rapidly changing world, they should understand some of the emotional, conceptual and political reasons for Japan's intense allergy to the anniversary.

For ordinary citizens, it's mainly an emotional matter. Personal relations tend to be on an all-or-nothing basis here; when Japanese make up after a fight, the most important thing is to reestablish emotional rapport. Children after a spat will put an arm over a friend's shoulder, imploring, "Hey, it's really okay, isn't it? Tell me it's okay!"

The Japanese feel that they have long since made up with Americans. Many see

Pearl Harbor and Hiroshima-Nagasaki (where Japan suffered many times more damage) as canceling each other out as causes for recrimination. Indeed, Japan's annual atomic bomb remembrances have been conspicuously devoid of personal anti-Americanism—largely because most Japanese, despite the louder right-wing voices, can still make the cause-and-effect connection between their own aggression and disastrous defeat.

It may also reflect a certain Buddhist-derived sense of transience and letting-go, a deep-seated preference to forget unpleasant experiences quickly wherever the fault may lie—an attitude leading, respectively, to irresponsibility or tolerance.

"Once past the throat, you stop feeling the heat," as a Japanese proverb has it. A perfect illustration was the family-oriented monthly bulletin from my local ward office, which recently featured an anti-war issue for primary school children. Several pages went on about the horrors of the Tokyo air raids in 1945, but there was only one sentence suggesting some suffering by others: "Japan also burnt down Chinese homes and killed adults with guns." Odder still, there was not a word about where the bombers over Tokyo came from, not a single reference to America—just a generalized dread of "war."

As the Cold War ends, Americans should realize that there is no Japan-U.S. consensus on the nature of World War II—nothing resembling the one supporting U.S.-German and intra-NATO relations. Japan's education ministry has long since watered down school textbook references to Japan's aggression in Asia.

Meanwhile, ideologues like writer-politician Shintaro Ishihara have been reviving interpretations that were standard before and during the war—Japan as encircled by the Western powers, fighting to rid Asia of white colonialism, forced into a first strike by American intransigence. Such views are no longer beyond the pale. Rather, they are merely extreme versions of what increasingly passes for common sense among Japan's business and political center.

The Japanese government's current position on the Pearl Harbor attack was summed up by Chief Cabinet Secretary Misoji Sakamoto at a Diet session in June 1990: "The attack cannot be praised, because it wasn't a plus in terms of strategy and perspective . . . . The Japan-U.S. war belongs to a different dimension from Japan's invasion of Asian countries." Or, in the words of Deputy Cabinet Secretary Nobuo Ishihara last August, "Because the war could not be avoided, all those involved should reflect. It will take tens or hundreds of years before the correct judgment is delivered on who is responsible for the war."

Nationalists prefer to keep the public's mind focused exclusively on the war with America—specifically the losing war after Midway. This places their country in the defensive, underdog role, and helps to obscure Japan's earlier aggressions and atrocities against Asia, to say nothing of the domestic militarism, ultranationalism and cultural hubris that lay behind it tall.

Pearl Harbor is awkward for the nationalists not only because it recalls some injury to America (Americans never get any sympathy in war films or TV documentaries) but also because it stemmed directly from Japan's well-developed plans in 1941 to strike either north against the U.S.S.R. or south for Indonesian oil. By autumn the only question was which way to move, and how to knock Uncle Sam off of the sidelines as they did it.

Politically, many Japanese worry that Pearl Harbor may be used demagogically by the U.S. Congress to promote tougher trade legislation, or by Democratic presidential hopefuls in need of a foreign target. By accepting that argument, however, Americans simply fall for the latest version of Japan's most powerful ploy in its psychological tug-of-war with the United States—the allegation, or prediction, of "Japan bashing." This puts Americans (who love to be loved) on a guilt trip, stays our hand in negotiations, increases the Japanese public's sense of being "forced" to open markets under "unreasonable" U.S. pressures and lends credence to the companion ploy, which is to warn grimly of growing anti-Americanism in Japan.

In the 1960s, the effective bogey was the left wing; today, it is the reported growth of a "gut dislike of America" *(kenbei)* among youths as a result of our Gulf War criticisms. The trend is not without foundation, but this is just one of many intellectual eddies the establishment can chose to rev up or not—much as the Trade Ministry (MITI) earmarks certain industries for development. It is the cultivators of *kenbei*, rather, who should beware lest they lose control of their own Frankenstein monster.

The linkage of Pearl Harbor with "Japan-bashing" is just the latest twist in a 100-year process of cultivating a sense of victimization by the West, especially America. Where we disdain such postures as self-pitying, this mentality gets moral support from Japan's ethnic of sacrifice and self-abnegation.

And there may be a more subtle reason for collecting evidence of American hostility: if Japanese leaders are making contingency plans for a gradual shift away from America towards a new Greater East Asian regional bloc, and need to carry public opinion along. The end of the Soviet threat, the growth of economic regionalism and negative prognoses for the future of the U.S. economy and society could all help move Japan in that direction.

Finally, there is Japan's peculiar postwar time warp. Pearl Harbor is almost as far back for my Japanese undergraduate students as the Spanish-American War would have been for me as a collegian in the early 1950s. Occurring before even my parents were born, the U.S. frenzy to "Remember the Maine" was for Americans my age a mere historical footnote buried under the emotional and conceptual avalanches of two subsequent world wars.

Psychologically, however, the Japanese by virtue of their half-century insulation from military conflicts have been placed in an uninterrupted continuum of peace that perversely sustains the immediacy of the last great conflict. Selective recourse to the frozen images of World War II by jingoistic politicians and intellectuals can have a far greater impact on the public mind in Japan than in America, where the 50 years are crammed with competing memories of Korea, Vietnam, the Gulf, and the emotionally draining Cold War.

On Dec. 7, let us stand prayerfully above the sunken decks of the Arizona, without personal rancor or vindictive rhetoric towards a people most of who have been born and brought up under an American-sponsored democracy and alliance. But allow us to do so without meddling from the overly anxious spin doctors of Japan-U.S. harmony.

As warmly as possible, I shall tell my Japanese hosts that no country can come to terms with itself, much less others, or aspire to international leadership, without facing up to its own darker past—as the Germans have both personally and officially tried to do with respect to the Nazis, the Russians with Stalinism, the Americans with racial discrimination and the wartime Japanese-American internment camps.

That said, we shall all go out drinking together.

(Ivan Hall has spent 20 years in Japan. He teaches western and Japanese intellectual history at Gakushuin University in Tokyo and was associate executive director of the Japan-U.S. Friendship Commission from 1977 to 1984. He is the author of "Mori Arinori," a biography of Japan's first ambassador to the United States.)

[From the Baltimore Afro-American, Dec. 7, 1991]

PEARL HARBOR'S FORGOTTEN BLACK HERO

(By Douglas J. Neilson)

As America pauses to reflect on the 50th anniversary of the Japanese attack on Pearl Harbor, the actions of one African American that fateful day in 1941 should not be forgotten.

Twenty-two-year-old Doris "Dorie" Miller, a mess attendant 2nd Class in the U.S. Navy, was going about his daily routine on the morning of Dec. 7. In 1941, Blacks serving in the Navy were limited in the duties they could perform. Miller's job was to serve the White officers.

"The only time I saw an Afro-American, the only place they had them, was down in 'Officers Country,'" recalls Anthony DiLorenzo, chairman of Maryland's Pearl Harbor Survivors Association. "They cooked for the officers and did whatever they had to do, cleaned-up or whatever." Miller also shined shoes, collected laundry, and made beds.

The Japanese attack 50 years ago began just before 8 a.m. Miller's battle station on the USS *West Virginia* was at the antiaircraft battery magazine amid ship as an ammunition handler. As Miller made his way to his post, the battleship was hit by several Japanese torpedoes. Finding the magazine too damaged to use, he went topside.

On deck, the captain had been mortally wounded, but Miller, unaware of this, helped carry him to a safer location. He then manned a .50-caliber machine gun, firing at the attacking Japanese airplanes. Reports vary as to how many planes Miller shot down. Some accounts indicate that he shot down as many as four enemy planes.

What was so unusual about Miller's action back then was that the Navy strictly prohibited Blacks from practicing with and/or firing weapons in 1941. Fifteen minutes after manning the gun, Miller ran out of ammunition and had to be ordered to abandon the burning, sinking ship.

Six days later, Miller was assigned to the USS *Indianapolis* which led the search for the Japanese carriers that had launched the war planes for the earlier attack on Pearl Harbor.

On May 11, 1942, Doris Miller became the first African American to receive the Navy's highest honor, the Navy Cross, ordered by President Franklin D. Roosevelt. While pinning the medal on Miller, Admiral Chester W. Nimitz, commander of the Pacific Fleet, said, "This marks the first time in the history of the present conflict that such a high tribute has been paid in the Pacific fleet to a member of his race, and I am sure that the future will see others similarly honored for brave acts."

Over the following months, Miller traveled the country promoting war bonds, appeared on a Navy recruiting poster, and was asked to address the graduating class of noncommissioned officers at the Navy's Great Lakes Training School.

In Texas, Miller was honored with a hero's celebration in Dallas and in his hometown of Waco.

By November 1943, Miller had qualified to become a cook. He was assigned to the Liscome Bay, a small escort carrier. His ship sailed from Astoria, Oregon to Makin Island in the central Pacific by way of Pearl Harbor. On Nov. 24, at 5:10 a.m., Japanese submarine I–175 torpedoed the Liscome Bay. Ship's Cook 3rd Class Doris "Dorie" Miller, along with 645 others on board, died.

Miller's heroic actions at Pearl Harbor have been honored over the years since his death. The Navy commissioned the USS Doris Miller in 1973. A building at the Great Lakes Naval Station is named in his honor, as are a school in San Diego, Calif., an auditorium in Austin, Texas, a recreation center in Norfolk, Va., a New York City housing development, and a cemetery in Waco, Texas.

The USS Doris Miller was decommissioned on Oct. 15, 1991.

But one honor has escaped Miller, the Congressional Medal of Honor.

"That effort is still very much alive," according to Leroy Ramsey, a Pentagon historian, author, and publisher of [Black American Veteran] magazine. While doing research for a book in progress entitled "How The Black American Had To Fight Like Hell In Order To Die For His Country," Ramsey came across Miller's accomplishments.

"It was bugging me that no Blacks have received the Medal of Honor for World War I and World War II." He wrote to then President Reagan about his concern. "I mentioned the fact that 17 Blacks received the Medal of Honor during the Civil War, they were killing White Americans."

Ramsey has worked for nearly a decade in support of getting Miller his medal. An effort in Congress to get the statute of limitation lifted in Miller's case, with 133 cosponsors, including Maryland Representative Kweisi Mfume (D–7th) stalled in committee in 1988.

The Department of Defense authorized a study of African Americans in the military during both World Wars to determine the extent of racial discrimination. Ramsey says the study is continuing, but that it took a back burner during the recent Desert Storm conflict.

But Ramsey hasn't given up his quest.

"I'm still as vigilant now as before because I was determined that 1.) it would not be a political issue, 2.) it would not be an issue that was brought about and put forward by the (Congressional) Black Caucus, and 3.) I did not want an affirmative action Medal of Honor," say Ramsey.

Doris Miller was given his unusual name before he was born. His parents had two sons and were sure their third child was going to be a girl. When he was born, his mother refused to change his name.

Miller's friends in high school and in the service called him "Dorie." Ramsey says, "The Navy wanted to change his name after he became a Pearl Harbor hero, they wanted something more manly."

According to Ramsey, Miller's family never believed he was killed during the sinking of the Liscome Bay. Miller had told his family, while home on leave, that if the Japanese didn't kill him, a shipmate jealous of his heroics or an angry boxing opponent would.

Miller, at 6 feet 3 inches and 225 pounds, was the heavy-weight boxing champion on the USS West Virginia. His matches were often short and punishing to his opponents.

"As a biographer, I had to listen to the family," Ramsey explains from his office in Albany, NY during a recent exclusive AFRO interview. He has not been able to find any records that place Miller on the Liscome Bay in November of 1943. He plans to write the biography once he has completed his investigation.

Miller's last living relative, a younger brother who worked closely with Ramsey in his search, died in April 1990.

On Dec. 7, 1991, 50 years after Miller's heroism aboard the USS West Virginia, a celebration in his honor will be held in Waco, Texas. On Dec. 15, an exhibition assembled by Ramsey will open at Waco's Helen Taylor Museum. Plans for a television movie are reportedly under way, though the project has not begun filming.

Maryland has 250 living survivors of the attack on Pearl Harbor. "I know all our members and unfortunately we don't have an Afro-American in our group," says DiLorenzo. Although few African Americans were present at Pearl Harbor 50 years ago, Dorie Miller was.

Medal for War Hero

WASHINGTON.—The Navy Department announced Monday that President Roosevelt has awarded the Navy Cross to Dorie Miller, mess attendant, "for his distinguished devotion to duty, extraordinary courage and disregard for his own personal safety" during the Japanese attack on Pearl Harbor.

Miller, a native Texan, with no opportunity for technical training in the navy, nevertheless manned a machine gun during the attack on December 7 until his wounded commander ordered him to abandon the bridge of their stricken ship.

Eyewitness to History

The flag-raising ceremony was underway aboard the battleship Nevada on the morning of December 7, 1941 when the band's rendition of the National Anthem was drowned out by the sound of approaching Japanese planes. As the planes attacked, Ensign Joseph K. Taussig, Jr., officer of the deck, watched incredulously as his color guard and band were strafed.

Recalling the event years later, Taussig maintains that the element of surprise was not the reason the U.S. Pacific Fleet was defeated that day. According to Taussig, "In 45 seconds I was up the six ladders of the mast to my battle station. Even before I reached it, our anti-aircraft batteries were already firing! Our men were both well-trained and ready!"

Why did the U.S. Navy take such a dreadful licking? According to Taussig, our battleships were not outfitted with their full complement of anti-aircraft guns.

"It's remarkable that our batteries shot down any planes that day," says Taussig. Many of the ship's gun tubs were empty, those weapons still Stateside, bathed in protective grease and packed in crates, awaiting shipment to the Pacific.

"Once properly armed, American battleships were invulnerable to air attack," says Taussig. "For the remainder of the war, none were sunk by enemy aircraft." The real damage at Pearl Harbor, Taussig points out, was not caused by Japanese bombers, but by torpedo planes.

What would have happened if the Fleet had been warned and had time to sortie out to sea?

"All of the ships would have been sunk," says Taussig. "Those not killed in the attack would have drowned. Pearl was only 40 feet deep and the ships drew 35 feet, so when they sank they just settled on the bottom."

While at this battle station, Taussig was hit by a Japanese missile, which passed through is left thigh. "My left foot was grotesquely under my left armpit," Taussig remembers.

Taussig lost the leg but survived the war. He married, obtained a law degree, ran for Congress, taught military law at Annapolis (his alma mater) and became secretary-treasurer of the U.S. Naval Institute at Annapolis. After a career in industry, he was appointed Deputy Assistant Secretary of the Navy for Civilian Personnel Policy/Equal employment Opportunity.

Despite the loss of his leg and the subsequent four years he spent in military hospitals, Taussig holds no bitterness toward the Japanese. While teaching at Annapolis, Taussig was able to meet Captain Mitsuo Fuchida, the pilot who led the Japanese attack on Pearl Harbor. The occasion was a visit paid by Fuchida several years ago to address the midshipmen.

"He was apprehensive that I wouldn't want to talk with him," Taussig recalls, "because of the severity of my wound. I told him we were both professional naval officers, doing our jobs at the time."

[From the Japan Digest, Dec. 10, 1991]

Salomon and Nomura: Scandals of a Different Color

(By Chalmers Johnson)

The greatest mistake Americans could make in looking at the recent Salomon Brothers and Nomura financial scandals is to conclude that Japan and the U.S. have similar financial systems and similar problems of regulation. The Salomon affair was an episode of genuine corruption; the Nomura case was more one of a loyal samurai falling on his sword to protect his lord.

In the Salomon case, the U.S. government was suckered by private bond dealers who used inside knowledge and financial clout to manipulate U.S. Treasury auctions. In so doing, they threatened the integrity of the global financial system and the U.S. government, both of which depend on trust that the huge deficits run up by the U.S. government will be honestly financed.

Essence of Corruption: The cynicism and arrogance of the Salomon officials constituted the very essence of corruption, particularly when they were revealed to be smarter than the Treasury officials with whom they dealt. The beauty of their scheme was that while they enriched themselves they actually saved the Treasury money.

By contrast what happened in Japan was at most a course correction by the Ministry of Finance (MoF). Nomura, the world's largest securities house, is the protected agent of the Japanese government for international financial and investment policy. Nomura did nothing the government had not known about for years.

Policy Purposes: The scandal did reveal that MoF could not simultaneously be an official development agency and a good regulator. And it showed that Japan's markets are unregulated except to ensure the success of official policy. During the boom years of the late 1980s Nomura did some things—lent money to and rigged a market for an influential gangster, reimbursed the market losses of some big exporters and other investors—that MoF knew about but didn't stop until it served MoF's policy to do so.

Nomura's trouble had its roots in the Plaza Accord of 1985, when Americans pressured Japan to raise the value of the yen by more than 60%. The Americans believed that would solve their trade deficits with Japan by giving American products a price advantage. But price was never the main problem in penetrating Japan's closed markets.

Market Forces: Pursuing a misguided policy, the U.S. government did nothing to promote exports, leaving the revaluation to make itself felt through "market forces" alone. The Japanese by contrast, alarmed by their loss of price competitiveness, undertook a massive campaign of investment in new factories and technologies domestically and abroad that made Japan hyper-competitive.

MoF encouraged Japan's securities companies to finance that with trillions of yen raised at virtually no cost by inflating stock market and real estate values. But by 1989 the huge infusion of funds threatened a general inflation, and the government began to shut down the money machine.

One consequence of this was to leave Nomura and many lesser securities firms badly exposed: they had privately guaranteed that their big investors would suffer no losses in the stock markets. By exposing this so-called 'corruption,' MoF actually saved the company, by freeing it from its obligations to pay out huge rebates.

Bow of Contrition: In the process MoF had to shut up Nomura president Yoshihisa Tabuchi, who blurted that the rebates "took place with the approval of the Ministry of Finance." Tabuchi expressed contrition by bowing deeply, and some Nomura offices were closed for several weeks.

But no criminal charges were ever filed. This was not a corruption scandal but a virtuoso display of the Japanese developmental state in operation. Nomura remains Japan's champion in the international securities markets, and MoF has enlarged its jurisdiction by staffing a new and largely toothless agency to supervise the securities business. The lesson for Americans, as Japanese financial firms expand their activities in the United States, is that they will have to create an American government that can compete with the Japanese government in managing national economic strategies.

Chalmers Johnson teaches Japanese political economy in the Graduate School of International Relations at the University of California, San Diego.

THREE MYTHS ABOUT PEARL HARBOR

(Stanley Weintraub)

UNIVERSITY PARK, PA.—What didn't happen at Pearl Harbor?

What did not happen was a military catastrophe. Eighteen ships were indeed sunk, including eight battleships. At least 347 aircraft were destroyed or badly damaged. Nearly 4,000 men were killed or wounded. It looked very bad. Results even exceeded Japanese expectations.

Yet more than half the U.S. planes destroyed were obsolete, and battleships, the Navy's proud dinosaurs, played a minor role in the war. No aircraft carriers were lost at Pearl Harbor—none were there at the time of the attack. This was crucial.

Addicted to card-playing as well as versemaking, Adm. Isoroku Yamamoto, the planner of Pearl Harbor, wrote ruefully in a verse from his flagship in Hiroshima Bay.

What I have achieved
Is less than a grand slam. . . .

The U.S. and Britain possessed no secret foreknowledge of the attack. Allegations have long rested on the "Winds" message decoded in Washington on Nov. 28, in which Tokyo had warned its officials abroad that an alert would be concealed in a radioed weather forecast. "East wind rain" would mean an imminent "crisis" with the U.S. and "the cutting off of our diplomatic relations."

Such a message may never have been sent before the shooting started. No "East wind rain" message survives anywhere. Revisionists and conspiracy die-hards have labeled the ghostly message a "Winds execute," claiming it warned of war, and even identified Pearl Harbor as a target, but there is no hard documentary evidence to support these charges.

An American general who asserted that he had seen a "Winds" warning of Pearl Harbor also described an event that never happened there. In a memoir, Brig. Gen. Elliot Thorpe, the Lend-Lease representative in Java, recalled that the "next morning" after the Japanese had struck, a Maj. Gen. Van Oyen of the Dutch Air Force "came to my office and told me the first-hand story of the disaster in Hawaii."

"Van Oyen," Thorpe wrote, "and a group of Dutch pilots were flying a dozen PBY flying boats from the U.S. to the Indies and had arrived at Ford Island in Pearl Harbor early in the evening of Dec. 6. The attack the next morning destroyed about half of the Dutch planes ... Van Oyen took off with what was left ... and made [the rest of] the trip without meeting any hostile aircraft."

In an oral history taken from General Thorpe on his retirement, the number of imaginary planes rose to 50 and the casualties to 35. But no Dutch PBYs were there and none destroyed. And no plane at that time could have overflown enemy territory across the Pacific at a height and speed to get to Java at all. Distortions like this have long dogged the "Winds" story, which warned neither of war nor of Pearl Harbor.

Although President Franklin D. Roosevelt and his staff did not need to conceal Japanese movements to draw the U.S. into war, other accounts charge that the Pearl Harbor strike force was traced but the information suppressed. Yet messages to the Japanese fleet from Tokyo were deciphered only after the attack, and the enemy fleet maintained absolute radio silence as it sailed. Meanwhile, radio signal noise from home ports deliberately confused American intelligence gathering.

All conspiracy theories related to Pearl Harbor lack credibility. As Edward R. Murrow said later, having been backstairs at a chaotic White House on the evening of Dec. 7, the leadership from the top down was shocked. Consummate actors, Murrow thought, could not have shammed surprise on that scale.

Besides, even the most Machiavellian conspiracy scenario would not have required a calamity. A raid repelled at great loss to the other side would have done just as much to push a reluctant U.S. into war.

Machiavellian designs have also been attributed to Winston Churchill, who was accused of learning of an impending attack from JN-25, the Japanese naval code the British had cracked, and then withholding the data from the U.S. The Murrow rule applies here as well. The evidence is persuasive that Churchill and his top planners were genuinely surprised, some of them had no idea where Pearl Harbor was.

Pearl Harbor did not push Germany into war with the U.S. Having resisted F.D.R's provocations in the Atlantic for months, Hitler greeted Pearl Harbor with glee. Yet the attack was only the final precipitant—Hitler had already concluded that a war with the U.S. was necessary sooner rather than later.

Paradoxically, Hitler's decision to declare war on the U.S. grew out of a secret Army study of American military unreadiness that isolationists had leaked to The Chicago Tribune. On Dec. 4, the Anglophobic paper featured the story on its front page. It reported that the U.S. was preparing contingency plans to counter Hitler before Japan. The report conceded that the U.S. would likely have to reclaim Europe alone and that it would need a 10 million-man Army to begin the job by July 1943. (The projection's pessimism turned out to be over-optimistic by a year.) While the article hardly mentioned Japan, it convinced Hitler to declare war while America was confessedly weak.

Ironically, then, the isolationists, whose case had been wrecked by the Japanese attack, impelled Hitler into doing what Congress might have otherwise done. Shocked by what Hitler had wrought, his planning chief Gen. Walker Warlimont, confided to Gen. Alfred Jodl, "So far we have never considered a war against the United States and have no data on which to base [it]."

Back in Oahu, what finally didn't happen was the golf game that Adm. Husband E. Kimmel and Gen. Walter C. Short, both of whom had received war warnings from Washington on Nov. 27, had scheduled for Sunday morning at 8. Unexpected visitors from out of town had dropped in at 7:53.

SENATE—*Wednesday, November 27, 1991*

(Legislative day of Saturday, November 23, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *for there is no power but of God: the powers that be are ordained of God* * * * *For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? Do that which is good, and thou shalt have praise of the same: For he is the minister of God to thee for good* * * *—(Romans 13:1,3,4).

Almighty God, Lord of history, Ruler of the nations, as the Senators return to their home States, may they be reminded of their divine appointment, their accountability to God and their responsibility to lead the people as well as represent them. Give the Senators the wisdom and courage to tell the people what they need to hear, not simply what they want to hear. Give them the ability to communicate to their constituents their responsibility as a sovereign people to be involved in our political system, not just critics of it. To the extent that cynicism and criticism are based upon the Senators' failures, help them say that which will restore the confidence of the people. When the cynicism and criticism are based upon misinformation, help the Senators set matters straight.

Guide us in Your wisdom, O Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 27, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, and Members of the Senate, the House this morning completed action on the supplemental appropriations conference report. It is my intention that the Senate will take that up shortly and I hope enact it shortly.

The House also during the night completed action on the surface transportation bill, and it is my hope and intention that the Senate proceed to that bill this morning.

The House is now acting or has just acted on the crime bill. It will also be taking up RTC legislation, banking legislation, and we hope the Medicaid moratorium legislation. It is my hope that, as the House acts on these measures, they will be coming before the Senate for consideration and action during the day.

HONORING AMBASSADOR JOSEPH REED

Mr. WARNER. Mr. President, I rise today to add my commendation to the many being expressed on behalf of Ambassador Joseph Reed. A most distinguished public servant and diplomat, the Ambassador performed many critical assignments for our Nation. Ambassador Reed recently completed his tour as the Chief of Protocol of the White House.

On the 15th of October 1991, his Excellency Jacques Andreani, the French Ambassador to the United States, presented Ambassador Reed with the Le-

NOTICE

An interim December issue of the Congressional Record for the 102d Congress, first session, will be printed after the November 27, 1991, adjournment. Members may submit manuscript for printing to the Official Reporters of Debates not later than December 18, 1991. The interim issue will be dated December 18, 1991, and delivered on December 19.

None of the material printed in the Congressional Record during the recess may contain subject matter, or relate to any event, which occurred after the date the Congress officially adjourned.

No provision herein shall be construed to supersede the two-page rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates, Room HT-60 or S-220 of the Capitol. These offices are open Monday through Friday between the hours of 10 a.m. and 3 p.m.

Members of Congress desiring to purchase reprints of materials printed in the Congressional Record during the adjournment may do so through the Congressional Printing Management Division, located at the Government Printing Office. This office may be reached by telephoning 512-0224 between the hours of 8 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

CHARLIE ROSE, *Chairman.*

gion D'Honneur in the Rank of Officer from the French Republic.

I would like to take this opportunity to honor Ambassador Reed by inserting into the CONGRESSIONAL RECORD the remarks given by His Excellency Jacques Andreani and Ambassador Reed at the ceremony.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPEECH BY JACQUES ANDREANI, FRENCH AMBASSADOR TO THE UNITED STATES

It has always been a wonderful pleasure to be invited by Joseph Reed, but it is a real thrill to play host to him in these circumstances.

I am also deeply honored by the exceptional quality of the distinguished persons who came here tonight, because of Joseph, because he felt it would be good to have them with him today, and they came because they were his friends. It is as simple as that.

I hasten to add that I did not ask Joseph to invite all his friends to our party. This Embassy would have not been large enough. What we have here today is what Joseph likes to call "his very special friends". And it is indeed quite something to be among Ambassador Reed's very special friends.

These special friends, whom we are so glad to welcome here this evening, come from all walks of life: diplomacy, of course, business, law, the Congress, the press, the administration. This variety recalls to the mind the multiform professional and human experience of Ambassador Reed. He was assistant to the Chairman of the International Bank for Reconstruction and Development. Then he went over from the international financial institutions to the world of Finance proper, becoming Vice-President and assistant to the Chairman of the Chase-Manhattan Bank, David Rockefeller.

At this point it happened, the last event which was no doubt written in the great Book of Destiny: the encounter of Joseph Reed with Diplomacy, for who would not say that this very talented man, who was no doubt gifted for many various activities, was particularly gifted for the profession of Diplomat, which is not so much a Profession, as an Art? And who can say how much Diplomacy, and I am thinking of course not only of United States Diplomacy, but of Diplomacy at large, would have lost, if Joseph had not entered its ranks?

It is as Ambassador to Morocco that Mr. Reed became a diplomat, and he has retained from that assignment a love for this country which is still vivid today and which was very apparent when quite recently he organized the official visit of His Majesty King Hassan II in the United States. After his Moroccan years, Joseph Reed was selected to be permanent representative of the United States to the Economic and Social Council of the United Nations, a return to the sphere of the International Organizations which was going to be confirmed with his appointment as Under Secretary General of the U.N. for Political and General Assembly Affairs.

Finally, at the beginning of 1989, President George Bush appointed Ambassador Reed as Chief of Protocol, a high and difficult responsibility which he has exerted both efficiently and brilliantly.

In expressing my admiration and my gratitude for the performance of Joseph Reed as Head of Protocol, I speak for myself, most sincerely, but I speak also in the name of the numerous diplomats residing in the United States, and who have so widely benefited from his intelligent attention and his careful help.

I have just said that Diplomacy was an Art. It is true for all the specialized branches of our varied and exciting trade, but it is certainly particularly true concerning the Protocol.

The good Chief of Protocol must have very special gifts among which a perfect education and an exquisite politeness, but also a strong sense of organization, a firmness of steel, and a great reserve of cold blood, in case something threatens to go wrong, as it may always happen. But the truly trained Diplomats are aware of the fact that the Head of Protocol, who is, as the Captain of the ship, completely alone at the hour of the greatest peril, that is when the official visit, or the ceremony, has started, has no chance to come out with honor in the presence of his eternal enemy, that is the unexpected, if he is not endowed, not only with education, and politeness, and organization, and firmness and cold blood, but also with those qualities that the colleagues who do the political work boast for themselves, but would not always recognize in a Chief of Protocol, that is a complete understanding of political situations. Because finally, if you try to go just a little bit beneath the surface, what lies under such apparently futile things as the list of guests, and the sitting arrangements, and the gifts and the rest, is the political interests and the political disagreements.

But with Joseph things never go wrong. And the great Artist passed all the most difficult tests of diplomatic skills with flying colors. He also took the time and the trouble to give his attention, not only to the High and Mighty, our masters, but also to the most humble of their servants, that is to the most modest of diplomats—if ever these two words can go together. He had a way of catering to the needs of the diplomatic Corps which was quite exceptional. He really gave a collective life to the Diplomatic Community in a country in which the tendency had been traditionally that every one was a little bit for himself. What the Chief of Protocol achieved in this field was of great benefit, in particular, for the smaller Embassies, which had suffered most from the lack of general encounters. I understand that Ambassador Reed, noting that there were 220,000 foreign diplomats on the soil of the United States, compared his responsibilities to those of the Mayor of a fairly sized town. Would it be an exageration to suggest that he was in some way a father to these 220,000 children?

I seem to have been always receiving one thing or other from Joseph. One day, a nice invitation to Blair House or to a special preview of an exhibition or a show. The next day, a very nice letter, drafted in such a way that, while it seemed pretty obvious that the same letter exactly has been sent to 148 other Heads of Mission, there was still something there that made you believe that the author of the letter has been thinking particularly about you, and, mind you, after all, it was probably true. Another time, a photograph taken at the White House or elsewhere, and, there again although it could be fairly routine, you had always a sense that it was a friend caring about you in a particular way. Then, when it was neither invitation, nor friendly note, nor photo, it was a wonderful small jar of delicious Joseph's jelly.

Finally, all that being said, you reach the conclusion that Ambassador Reed must have a secret. What is Ambassador Reed's secret? It has something to do with class, but it is more than class. I believe it has something to do with the warmth of a personality: you feel well in life, and there is an excess of this joy, of this warmth, that overflow and that you want to share with your fellow human beings.

The Legion of Honor, which I shall bestow in a minute upon Ambassador Reed, was created by Napoleon Bonaparte to signal the merits of the warriors on the battlefield, but more generally high merit in all spheres. I am then tempted to list for you all the glorious places in which he illustrated himself. Fortunately, these are not battlefields, but quite in contrast, places of peaceful encounters: Kennebunkport, Paris, Saint Martin, Key Largo, Houston, la Guadeloupe, London, and I am certainly omitting one or two. It is the list of the meetings between our two Presidents, and, in all these places, Joseph Reed was the discreet and efficient stage-manager. A stage-manager who obtained the unequivocal admiration of the leading actors, and in particular of President Mitterrand. Because of this, and in recognition of his great qualities and outstanding accomplishments, President François Mitterrand decided to make him an Officier de la Légion d'Honneur.

SPEECH BY AMBASSADOR JOSEPH VERNER REED

Ambassador Andreani, Dean of the Diplomatic Corps, Excellencies, Colleagues, family and friends, this is a great honor!

To have the curtain come down on my tour as the Chief of Protocol of the White House with this bestowal by the French Republic of the Legion D'Honneur is thrilling and at the same time humbling.

I thank you Ambassador Andreani and I extend special thanks to President François Mitterrand for this extraordinary gesture—an elegant gesture which has touched my heart and soul.

Friends and colleagues,

For me, this evening, with its raison D'Etre being the awarding to me of the French Republic's Decoration, is in a real sense "a Bientot" but, friends, I hope it will not be "Au Revoir". I treasure you who have come from near and far. Thank you for your support and thank you for your encouragement. Thank you for your friendship. You will get the "big hello" in the Big Apple, the city of my birth, where, thanks to my friend President Bush I will be returning to the Parliament of man. I trust our paths will continue to cross . . . I hope so and I count on it.

My relationship to France, La Belle France, is lifelong—J'Adore La France! Yes! I am a Francophile. My father was born in Nice on the Riveria at the turn of the century, my grandfather had a chateau on the River Cher in the "Garden of France"—"The Valley of Kings". My wife Mimi's mother hailed from the Ile-De-France and my parents maintained a residence on a little square by the Bois De Boulogne. Paris—the city of light . . . A city that was and is a feast—culture, cuisine, sights and sounds; all the immortal attractions, Paris, like all of France epitomizes elegance, modernity, freedom, sophistication and humor.

During President Bush's Presidency a special relationship with President Mitterrand developed . . . A welcome turn in that France has a truly global presence. The tricolor flies from the Atlantic to the Pacific and the Indian Oceans; her presence is very real throughout Africa and in our hemisphere, France is in the Caribbean and the French language is in the air in our neighbor to the North. La Gloire De La France . . . I respect this concept as a marvel. It's not a boast, it's a statement of fact.

President Bush and President Mitterrand have met 9 times for official exchanges. I have been privileged with my colleague and friend Ambassador Andre Gadaud, Chief of Protocol of France, to help work on the logistics and the "setting of the scene" for these meetings of diplomacy. There have been more bilaterals between President Bush and President Mitterrand than President Bush has had with any other Chief of State. From the first trip overseas of President Bush to Tokyo for the funeral of the late Emperor Hirohito—to meetings in Kennebunkport, Saint Martin, Paris, Key Largo, London, Rambouillet, Houston . . . A patchwork of places.

With these meetings, the special relationship developed not only between the Presidents but extended as well to the official delegations and accompanying parties . . . a working atmosphere of "extended family" collegiality!

Our delegations have met bilaterally and in the multilateral forum during three economic summits. There was the celebration of the bicentennial of the French Revolution in 1989 with America's own Jessie Norman blazing forth the "La Marseillaise" on the Place De La Concorde. Then there was President Mitterrand's banquet at Versailles in the Hall of Mirrors, when 578 mirrors appeared to catch fire in the candlelight that celebrated the signing of the Treaty of Paris—all were highlights! They were orchestrated and executed with precision and panache by President Mitterrand, my counterpart Ambassador Andre Gadaud, and the dedicated teams of the Elysee Palace and the Quai D'Orsay.

The United States of America owes its independence to France. General Lafayette and his compatriots contributed enormously, indeed essentially, towards our Nation's struggle for freedom. America and France are allies and close friends; blood is comingled to seal our relations . . . in this century there was Verdun during the Great War to "D-Day" on the beaches at Normandy in World War II to our co-operation in the gulf with Desert Storm. On occasion, we may, like brothers quarrel, but every time there is a matter of value France and the United States of America are on the same side of the barricades.

As a Francophile, may I transport you on a flight to pleasure and treasure . . . to France . . . a country of visual riches of two millenia of art and architecture, the scent of the world's great perfumes, the majestic music of grand opera: four seacoasts, the alps; a land and a people of endless variety. France is a land of abundance in every sense: a feast for the senses.

My love and respect for La Belle France knows no bounds—not only do I treasure my destinations in the fabled land, but I love the Joie De Vivre of Les Francais as a way of life.

So . . . my friends, as you can tell from this ode of admiration to La Belle France, I am doubly moved to receive this noble order of the Legion D'Honneur created by the Emperor of France Napoleon I in 1802.

Again, my special thanks to you, Ambassador Andreani, for acting on behalf of President François Mitterrand. This reception in this dignified Ambassade De France in Kalorama created by you and Madame Andreani is splendid and once again a demonstration of the symbol of France's sense of elegance.

It is an honor, yes a privilege, to rally the call for the spirit of friendship and the ongoing fruitful relationship between the French Republic and the United States of America. Vive L'Amitie entre La France et les Etats Unis! Vive L'Amerique! Vive La France!

AMERICA'S WELFARE QUEEN FLEET

Mr. GRASSLEY. Mr. President, I would like to share with my colleagues an article entitled, "America's Welfare Queen Fleet, the Need for Maritime Policy Reform." This article was written by Rob Quartel, a Commissioner at the Federal Maritime Commission and was included in the recent publication of Regulation, "The CATO Review of Business and Government."

The title speaks volumes. Our Nation's maritime policies and programs, notwithstanding their good intentions, have transformed our once mighty, proud U.S.-flag commerical merchant marine into a pitiful, helpless ward of the State * * * not just dependent upon welfare from American taxpayers and consumers * * * but actually addicted to its drugs—the next taxpayer fix, or protectionist shipment of goods.

Our U.S.-flag merchant marine can no longer fend for itself in the real world. It cannot compete. Even if all the unfair foreign subsidies and policies were eliminated, the U.S.-flag merchant marine could not compete. This is why America's maritime unions and shipowners, and their allies in Congress, worked so hard to lobby the Bush administration to keep any discussion of maritime policies off the GATT table.

Unfortunately, our administration agreed to this nonsense. And now that the Nordic countries want to put shipping restrictions on the GATT table, an administration which advocates free trade embarrasses itself by leading the opposition to the Nordic proposal.

Why can't the U.S.-flag fleet compete? There are many reasons, which Commissioner Quartel points out. But a very large part of the reason is that U.S. union crews cost way too much.

The former commander of the Military Sealift Command, Vice Admiral Corroll, hit the nail on the head nearly 10 years ago when he testified, and I quote, "Why are we in such a mess? * * * One of the reasons is that U.S. crew costs continue to be the highest in the world. Monthly crew costs of U.S.-flag ships are as much as three times higher than those of countries with comparable standards of living, such as Norway."

Commissioner Quartel delineates other programs and policies which have contributed to the decline of America's merchant marine. This includes policies such as the Jones Act and cargo preference which in essence serve as entitlement programs allowing U.S.-flags to charge Uncle Sam and American business and consumers basically what they wish. Shipyard policies, antitrust exemptions, direct subsidies, manpower requirements, and conflicting national defense requirements all contribute to the demise of our merchant marine. Commissioner Quartel also outlines reforms that must be implemented if we hope to revive the U.S.-flag fleet.

Mr. President, I hope my colleagues will take a moment to read Commissioner Quartel's article in its entirety which I am asking unanimous consent to be included in the RECORD.

But I would like also share a few quotes from the Commissioner as follows:

> Only the S&L debacle respresents a bigger government—industry—special interest scam than that which today passes for a national merchant marine policy.
>
> By the end of the Gulf War, America's subsidized merchant fleet had directly contributed only six aging ships to the armadao of more than 460 that transported military materials into Saudi ports. Some eight U.S. merchant marine ships carried hundreds of thousands of tons of military goods to the vicinity of the war zone—Singapore, the United Arab Emirates, and Haifa. But many relied on foreign-flag feeders with their foreign crews to complete the runs to Saudi Arabia and thus exposed the bankruptcy of the man-American argument that underpins much of U.S. maritime policy.
>
> In short, the success of the military sealift—a brilliant feat of logistics—occurred DESPITE (rather than because of) 75 years of government subsidies, protectionism, regulation, and entry and management controls promoted as necessary for maintaining this so-called fourth arm of the nation's defense.

Commissioner Quartel continues by stating that—

> U.S. maritime policies should be based on more than emotion and the narrow parochial interest of drying labor unions, debilitated companies, and congressional PAC contributions. The needs of ocean transportation users (not just the needs of the carriers), real national security requirements (not empty rhetoric), and a realistic appraisal of the tough federal budget limits that will exist into the foreseeable future should drive decisionmaking.

Mr. President, those are tough words, but we have a tough problem. Sticking our head in the sand, allowing business as usual, seeking more drugs for the addiction, such as the recent efforts to siphon off the lifeblood of other programs such as food assistance to the Soviet Union or expanding cargo preference into the commercial trade arena through the foreign aid authorization bill, will do nothing to save our merchant marine.

I would also like to share with my colleagues an article printed in today's Wall Street Journal written by James Bovard. He, too, pulls no punches, and I would like to read some of his quotes as well.

Mr. Bovard states that:

> Since Congress has given U.S.-flag ships a captive market, congressmen feel entitled to force American shippers to hire American workers, and strong unions guarantee exorbitant salaries. U.S. ship crews cost six times more than Third World crews; American shipmasters routinely cost shipping companies $300,000 a year. The high pay

> breeds corruption: An FBI sting operation recently discovered that shipping jobs are illegally being sold by one maritime union.

Mr. Bovard continues:

> The Jones Act engenders a chain reaction of extortion—allowing American shipyards to charge stratospheric prices to American shipbuyers, allowing American-flag ships to charge shakedown shipping rates to American businesses, and allowing American congressmen to demand lavish campaign contributions from the American maritime industry (more than $1 million a year).

Mr. President, our Nation's maritime policies and programs have been justified on the basis of two objectives—to enhance America's foreign commerce and to maintain fleets of vessels and crews necessary for military sealift needs.

These policies and programs have failed miserably in meeting either of these objectives and therefore should be abolished and replaced. Everyone knows this is true. The facts don't lie. Simply look at the fruits of our maritime policies during the last 40 years.

At the end of World War II, America had the largest fleet—over 2,000 vessels. By 1950, our U.S.-flag fleet consisted of 1,050 vessels. Today, there are only about 360 vessels, and fewer than 100 remain in the oceangoing fleet.

In 1950, we had 56,629 seafaring jobs sailing under U.S.-flags. Today, we have fewer than 10,000.

In 1950, U.S.-flag vessels carried 43 percent of America's foreign trade. Today, U.S.-flags carry less than 4 percent of our foreign commerce.

Has America's foreign commerce depended upon the policies and programs supporting our U.S.-flag merchant marine? Obviously not. And in fact, our foreign commerce has thrived in spite of our wasteful merchant marine policies. From 1950 to 1985, our foreign trade skyrocketed from 117 million metric tons to 641 million metric tons.

So it is clear our merchant marine policies can no longer be defended and justified based upon our foreign trade interests. And, in fact, maritime policies such as the Jones Act which artificially increases the cost of waterborne transportation, actually makes our foreign trade less competitive.

So this leaves our U.S.-flag merchant marine programs and policies dangling precariously on the national defense justification * * * a justification which was exposed as a complete failure * * * a complete myth * * * by our recent Persian Gulf war.

That is one reason I think we now see 2 weeks ago, Warren Leback, the U.S. Maritime Administrator arguing that we must now shift back to the economic argument. It was reported in the Journal of Commerce on November 14, 1991, that Mr. Leback said that "Maritime support advocates must take their military argument and 'turn it toward the economic defense of our country.'" Mr. Leback goes on to complain about free traders who would repeal the Jones act and other maritime subsidies pointing out that there is no level playing field when it comes to global shipping because other nations support their maritime industries.

But what Mr. Leback did not mention, is the fact that it is the United States, at the strong, vocal insistence of U.S. maritime unions and companies, refuses to attack these so-called unfair foreign subsidies and policies at the GATT table.

You cannot have it both ways, although granted, the U.S. Maritime industry has enjoyed having it both ways in the past. I think the party is about over, however.

Mr. President, what are we getting for our money? One of the most overused defense arguments is that we must maintain a commercial seafaring force able to man our vessels during time of war. I say that's nonsense. I say we either devote a certain number of Navy personnel, or create a reserve, to handle cargo sealift needs. It could be done at a fraction of the cost.

What does it cost us to maintain those 10,000 seafaring jobs now working under the U.S.-flag?

Last year, I shared with my colleagues data from the Maritime Administration which breaks down these jobs into three categories based upon the maritime program which supports them. MARAD officials said that 2,024 seafaring jobs were supported by cargo preference; 2,333 seafaring jobs were supported by operating differential subsidies, and the remaining 5,000 seafaring jobs were supported by the Jones Act.

The Congressional Budget Office had also determined for Senator DOMENICI and I that cargo preference cost American taxpayers $825 million in fiscal year 1991, and operating differential subsidies cost $225 million.

Cargo preference, therefore, forces American taxpayers to spend over $400,000 per job for our high-priced commercial seafarers.

Operating differential subsidies force American taxpayers to spend about $120,000 per job, according to Commissioner Quartel.

So what do those 5,000 jobs supported by the Jones Act cost Americans. I did not know last year, but recently the U.S. International Trade Commission released a study which showed that the Jones Act is costing American consumers and businesses over $10 billion per year. Commissioner Quartel estimates that this figure could be as high as $20 billion.

Using the ITC's figures, that translates into $2 million per year. Using Commissioner Quartel's estimates, it costs $4 million per job.

But for U.S.-flag maritime supporters, price is no object. Americans, however, concerned about deficit spending are concerned.

And Americans concerned about revitalizing the economy certainly care about a $10 billion drag on the economy that destroys 2,000 jobs in agriculture, forestry, mining, and other industries.

It is something to think about during the recess. It will be something to act upon when we return for the second session of the 102d Congress.

Mr. President, one last note about the military need to spend up to $4 million per year to maintain one seafaring job for that day in the future when we need to man cargo vessels for a military sealift operation.

Here is some food for thought. Military Sealift Command officials told my office that at the outbreak of the Persian Gulf war effort, the union contracts for our seafarers contained no provision for war zone bonuses. So these high-priced union seafarers which have been living high off the hog thanks to Uncle Sam all these years, rushed to add war zone bonuses requiring that they get double pay while in the war zone.

Therefore, as an example, if captain of a commercial U.S.-flag vessel makes $14,000 per month, and served a month in the war zone, he would have received a war zone bonus of $14,000.

If a U.S.-flag commercial captain got $14,000 in a war bonus, what did a Navy captain get? $150.

I have said it earlier this year, I don't question the patriotism of our U.S.-flag merchant marine.

I just don't know, however, if we can afford this kind of patriotism.

GATT AGREEMENT

Mr. GRASSLEY. Mr. President, over the last couple of weeks, the press has begun to report significant movement toward a GATT agreement in all areas after President Bush's personal intervention. No one can doubt the stimulating effect a fair agreement will have on the world economy and I hope our dreams will not be dashed again by intransigence on behalf of the European Community. Word coming out of Geneva to me as early as this past Monday, from a person whose judgment I value, indicates that there is still considerable turmoil and uncertainty to the outcome and ultimate success of these discussions.

At the beginning of last week, most participants were feeling optimistic that a breakthrough in agriculture had been achieved, but by Wednesday pessimism was creeping back in. I also noted with interest a statement made by the French Agriculture Minister, Louis Mermaz in the November 19 edition of the French paper, Tribune De L'Expansion:

Referring to his recent talks with his American counterpart, Ed Madigan, the French Minister said, "While our paths are open, I don't see any agreement on anything."

Referring to a continuing disagreement with Washington on rebalancing, which the French want in the cereals sector. The French Minister stated, "Everything remains to be negotiated" and "no agreement is better than capitulation."

Mr. President, I can tell you that the statements made by the French Agriculture Minister concern me greatly. I can also tell you that commodity and agribusiness groups are concerned that the administration will become so enamored with an agreement in services and intellectual properties that it may be inclined to forsake agriculture. And based on what I have seen and heard discussed in our media, I remain skeptical of how far the EC has moved in relation to the U.S. position. To a degree, my discomfort revolves around the emphasis of the stories in the Popular Press; "Breakthrough in AG tied to movement in services and intellectual property." That is agriculture, rather than being the linchpin to a successful round, is becoming a secondary factor, a throwaway concession to enable larger agreement to be reached.

I have been telling farmers that it is difficult to conceive of an agreement being reached in other areas that would be so beneficial to this country's other sectors that it would outweigh a bad agreement in agriculture. I still stand by that assessment, although it may become necessary to remind the administration of our commitment to success in the AG sector and our willingness to vote against any agreement which does not allow for U.S. farmers to exploit their international competitive advantage.

It is my understanding that Director General Dunkel has asked for a revised draft of all sectors by December 20. One can only conclude that the pace of negotiations has slowed for all sectors. That being the case, will the negotiations spill over into next year or die a natural death next month? Whatever the outcome Mr. President, let me state that I concur with the French Agriculture Minister's statement of the 19th in which he says "No agreement is better than capitulation." I would also note with approval, and hope that the French Agricultural Minister Mermaz is aware of a letter sent to President Bush by Senators BENTSEN and PACKWOOD in which they have clearly articulated the position of many of us in this body, that, "No agreement is better than a bad agreement" for the United States of America.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today is the 2,447th day that Terry Anderson has been held captive in Lebanon.

TECHNICAL CORRECTIONS TO THE 1990 FARM BILL

Mr. DURENBERGER. Mr. President, for over 85 years, the Federal Meat Inspection Act [FMIA] has stood as a shield to protect the public health. The U.S. Department of Agriculture [USDA] requires that an inspector go into every plant processing meat products, such as pizza, everyday to guarantee only the highest standards of safety and sanitation are met.

In the technical corrections bill there is an amendment to the FMIA, which would mandate the Secretary of Agriculture to exempt certain pizzas from the public health inspections performed by the U.S. Department of Agriculture, if certain terms and conditions are met. There was a similar provision in the legislation which was earlier approved by both the House and the Senate. That legislation would have granted the Secretary the authority to exempt products, such as pizza, but only if the Secretary, following rulemaking, found such an exemption would be consistent with public health.

No rulemaking or hearing has been held since the earlier legislation was approved by the House and Senate. Nor has a scientific panel reviewed the public health implications of granting an exemption to pizza. Nevertheless, a decision has been handed down. The current provision now grants an exemption from inspection for pizza as a matter of law. To put this exemption into effect, the Secretary is required to establish terms and conditions as may be necessary to be certain of food safety. I am concerned about this provision.

However, because the exemption of pizza only takes effect upon the issuance of regulations that take into account public health safety, including the sanitary requirements imposed on custom operations, the public health may be protected. It is clear that if regulations specifying terms and conditions that guarantee protection of public health cannot be promulgated, the exemption will not go into effect.

I support final approval of the technical corrections bill. However, I will closely monitor the Departmental rulemaking on this important issue to public health.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. LEAHY. Mr. President, late last night, the Senate approved the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, H.R. 3029. As there was no report to accompany the legislation, I would like to set forth the intent underlying one section of the bill to you at this time.

Section 118(d) of the legislation amends section 326 of the Food and Agriculture Act of 1962. The provisions of this section are intended to cover circumstances where producers have relied in good faith on incorrect determinations rendered by local government officials. It is limited in scope. This section is not intended to allow the Secretary to hold harmless producers or local government officials in instances where determinations were made and relied upon although those determinations were obviously inconsistent with existing rules and regulations. Otherwise, the Secretary could exempt an entire pattern of illegal conduct carried out at the local level on the basis that the individual farmer relied on the bad advice of a local government official, which advice was obviously incorrect to both the official and the farmer.

VETERANS' COMMITTEE ACCOMPLISHMENTS

Mr. SPECTER. Mr. President, as a member of the Veterans Affairs Committee since I began serving in this body, and as a veteran myself, I understand the need for our Nation never to forget the debt it owes those who have worn the uniform.

I want to address for a few moments the activities of our committee during my first year as ranking Republican member.

As I prepared these remarks, I took the time to analyze veterans' legislation in terms of measures which actually became law—not simply introduced or reported out of the committee—since I began my service both in the Senate and on the committee in 1981 in the 97th Congress. I discovered, Mr. President, a rather startling fact: In this single session, we have had more veterans' bills signed into law than in any 2-year Congress since I have had the privilege to serve as a Senator. Indeed, in this first session of the 102d Congress, we have had nearly as many substantive bills become law as in the 100th and 101st Congresses combined. I have prepared a chart demonstrating this fact, and ask unanimous consent that it be inserted in the RECORD at this point in my remarks:

Congress	(I) Bills in committee jurisdiction signed into law	(II) Resolutions and bills limited to naming VA medical facilities	(I less II) Substantive bills signed into law
102d[1]	13	1	12
101st	7	3	4
100th	9	0	9
99th	6	0	6
98th	8	2	6
97th	7	0	

[1] First session only, through November 24, 1991.

That is a record in which we can take considerable pride. And I believe the proudest must be those of us fortunate enough to serve on the Committee on Veterans' Affairs.

I would like to spend some time discussing these new laws with my colleagues.

1991 COLA

Mr. President, my first priority this year as ranking Republican member was to ensure passage of the cost-of-living allowance for service-connected disability compensation and for dependency and indemnity compensation. There can be no more important class of citizens than those who have suffered disabilities or lost a spouse due to service. I felt a real sense of satisfaction when the Senate passed, and the President signed Public Law 102-3, the Veterans' Compensation Amendments of 1991, the bill which gave these most deserving beneficiaries a 5.4-percent increase.

AGENT ORANGE

Another priority for me was attempting to settle the questions surrounding the exposure of American troops in Vietnam to the herbicide known as agent orange. We worked long and hard to fashion a compromise which would take into account the widely varying views on this sometimes divisive issue. We did in fact pass that compromise, and I was pleased to represent my colleagues and my constituents at the White House on February 6 as President Bush signed Public Law 102-4, the Agent Orange Act of 1991.

TWO SPECIAL READJUSTMENT LAWS FOR PERSIAN GULF WAR VETERANS

As my colleagues know, I voted in January to support the President in his approach to the crisis in the Persian Gulf. On January 17, as the first air strikes began in Iraq, we knew that special legislation would be required to ensure that the veterans of Operation Desert Storm would receive all the benefits owed them by a grateful nation. We worked very hard on the Veterans' Committee to do just that, resulting in two important laws. On March 18, 1991, the President signed Public Law 102-12, the Soldiers' and Sailors' Civil Relief Act Amendments of 1991, which clarified reemployment rights for veterans and improved their rights in reinstatement of health insurance. On March 22, 1991, he signed Public Law 102-16, which will provide gulf war veterans with important education, employment and training benefits to ease their return to civilian life.

VA PHYSICIAN AND DENTIST PAY

No veterans' issue has higher priority with me than that of health care. It is critical that VA provide the best possible care, particularly to those who have been disabled in service. That was the key reason I fully supported the Public Law 102-40, the Department of Veterans Affairs Physicians' and Dentists' Compensation and Labor Relations Act of 1991, which the President signed on May 7, 1991. This bill, by increasing pay for physicians and dentists in the VA health-care system, will help attract and retain the kind of quality professionals our veterans deserve.

VETERANS' HOUSING

On June 13, the President signed what became Public Law 102-54, a measure which improves VA's housing programs, both for those who can afford it and those who cannot. In addition to making several worthwhile changes in VA's Loan Guaranty Program, the law also provides three important benefits for veterans struggling to regain their status as fully functioning members of society. First, in one of its most important provisions, the bill authorizes the Secretary to carry out a 3-year demonstration project of therapeutic transitional housing for veterans working under VA's compensated work therapy [CWT] and/or incentive work programs, involving up to 50 residences. Second, the Public Law 102-54 authorizes loans of up to $4,500 to nonprofit organizations to establish transitional therapeutic housing for veterans recovering from substance abuse disabilities. Finally, this new law extends, for 3 years, VA's authority to sell acquired properties for use as shelters primarily for homeless veterans and their families. These are all important provisions, Mr. President, which will help some of our neediest veterans to reenter the mainstream of society.

COURT OF VETERANS APPEALS

On August 6, the President signed H.R. 153—now Public Law 102-82—the Veterans' Judicial Review Amendments of 1991, which makes several important administrative and technical improvements in the operation of the U.S. Court of Veterans Appeals. As you know, Mr. President, the Court of Veterans Appeals is a Federal court created by Congress in 1988 with exclusive jurisdiction to review appeals of claims for veterans' benefits which have been denied by the Board of Veterans Appeals, an administrative tribunal within the Department of Veterans Affairs. As one who consistently championed external review of VA's benefits decisions, I think it is vitally important that we on the Veterans' Committee pay close attention to this important court. I was pleased we were able to act so quickly this Congress.

TECHNICAL REORGANIZATION OF VETERANS' LAWS

On August 6, the President also signed into law H.R. 2525—now Public Law 102-83—the Department of Veterans Affairs Codification Act, which provides technical changes in a variety of statutes, primarily title 38 of the United States Code, required by VA's elevation to Cabinet status. This technical effort was a major undertaking by the committee, Mr. President, in progress for more than a year. Its effect, I believe, will be to ease the interpretation of veterans' laws, and permit both the Congress and VA to serve veterans better.

COMPENSATION PROGRAMS IMPROVEMENT

President Bush signed Public Law 102-86, the "Veterans' Compensation Programs Improvement Act of 1991," on August 14. This important bill contains 21 provisions affecting the compensation and pension programs; life insurance programs; VA health care; and real property and facilities. These are provisions which will increase both fairness to individual veterans and the ability of VA to do its job. For example, the law prohibits VA from changing a veterans' disability rating based on an administrative change in its rating schedule unless an improvement in the veteran's disability is shown to have occurred. The new law also extends VA's contract authority for alcohol or drug-abuse treatment at community-based treatment facilities, and authorizes the Secretary to carry out a demonstration program of compensated work therapy and therapeutic transitional housing. The committee was able, in this bill, to ease somewhat the burden on surviving spouses otherwise entitled to DIC whose remarriages had ended, and to provide insurance coverage to the National Academy of Sciences to ensure that the agent orange review called for in Public Law 102-4 would in fact be performed.

EDUCATIONAL ASSISTANCE AMENDMENTS

On October 10, the President signed S. 868, the "Veterans' Educational Assistance Amendments of 1991." This measure, now Public Law 102-127, improves educational assistance and employment benefits for servicemembers and reservists who served us all so well in the Persian Gulf war. It ensures that their absence in defense of our country will in no way prejudice full use of their veterans' educational benefits. We owe these brave men and women nothing less.

NATIONAL CEMETERY OF ARIZONA

On November 5, the President signed S. 1823—now Public Law 102-151—which was a critically needed measure to ensure that the National Cemetery of Arizona could remain operational. This bill, while limited, demonstrates the remarkable bipartisan nature of our committee and its ability to get things done quickly.

1992 COLA

Finally, on November 12, the President signed Public Law 102-152, the "Veterans Compensation Rate Amendments of 1991." This measure—again representing swift and decisive action by the committee—authorized a 3.7-percent cost-of-living allowance in the rates of disability compensation paid to service-disabled veterans and of dependency and indemnity compensation [DIC] paid to the survivors of veterans who die as a result of service. The increase will be effective December 1, 1991. I am pleased to note that our ability to pass this unencumbered measure so quickly ensures that disabled veterans and their survivors will receive their increases in their January 1992 checks.

CONCLUSIONS: A RECORD OF LEADERSHIP AND DEVOTION TO VETERANS

Mr. President, the record of our committee this session in providing enacted laws for our Nation's veterans is unmatched by any full Congress convened in the decade I have had the honor to serve in this body. It speaks well of the devotion and respect we in the Congress—and particularly those of us fortunate enough to serve on the Veterans' Committees—hold for those who defend our Nation.

I am proud to have had the opportunity to be in a leadership position on the Senate Committee on Veterans' Affairs during this remarkable session. But I am most proud of what we have been able to accomplish in such a short period of time for such a deserving and special group of our fellow citizens.

I look forward to a second session of hard work and more results for veterans.

MEDICAID CONFERENCE REPORT

Mr. RIEGLE. Mr. President, the Conference Report on H.R. 3595 must be approved by the Senate today, otherwise regulations proposed by the Health Care Financing Administration [HCFA] on September 12 would be in effect in January 1992. These regulations would have a devastating impact on a State's ability to finance its portion of the Medicaid Program. Millions of vulnerable low-income families and children who need health care services in Michigan and other States could be affected.

As chairman of the Finance Subcommittee on Health for Families and the Uninsured which has jurisdiction over the Medicaid Program and a Member of the House-Senate Conference on this issue, I urge Members to support this conference report which embodies the proposal put forth by the National Governor's Association and the administration with some modifications that I consider improvements to the plan.

Mr. President, we are presented with this problem today because the administration refused to withdraw the HCFA regulation relating to the use of provider donations and taxes by State Medicaid programs. I would have liked to have more time to consider the options and their implications, as the Finance Committee recommended last Friday, but that proposal was unacceptable to the administration.

I am pleased that in the conference we were able to make some improvements for hospitals that serve a disproportionate share of low-income of Medicaid patients. Conferees agreed to a proposal to give States, in 4 years, the option of continuing under the 12-percent national expenditure cap in the NGA-administration proposal or following specific criteria relating to how a State designates its disproportionate share hospitals and not being subjected to the 12-percent cap. The agreement specifically ensures that Michigan can continue to designate disproportionate share hospitals in the manner they do today, if they choose to, and spend beyond the 12-percent expenditure cap.

We desperately need this type of flexibility in Michigan because many hospitals continue to serve low-income or uninsured people and many of these hospitals face additional burdens due to recent cuts in financing health care services made by Governor Engler. In Michigan, over one-third of our hospitals are disproportionate share hospitals and receive special payments under Medicaid because they serve many low-income, Medicaid or uninsured patients. It's also important to note that Michigan's program clearly meets Congress' intent of providing enhanced payments only to hospitals that serve a disproportionate number of Medicaid and other low-income patients.

Mr. President, I still have reservations about why we must address the issue of Medicaid's disproportionate share hospitals in the NGA-administration plan when the real problem of taxes and donations have been addressed by requiring taxes to be broad-based and capping their level of use at 25 percent of a State's Medicaid expenditures. The conference report, however, is the best we can do under the current circumstances and I urge my colleagues to support the conference report.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, are we in morning business?

The ACTING PRESIDENT pro tempore. There has been no order.

Mr. REID. I ask unanimous consent that I be allowed to proceed as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. REID. Mr. President, we spent considerable time on this floor last night talking——

Mr. SYMMS. If my colleague will yield, I have a parliamentary inquiry. Last night, and now this morning, the Senator from Nevada and others are going to be talking about the Surface Transportation Efficiency Act. Will those comments all be shown in the permanent RECORD as part of the debate on this conference report?

The ACTING PRESIDENT pro tempore. It would take unanimous consent.

Mr. SYMMS. I ask unanimous consent that when the permanent RECORD is done, that all of the remarks that were made yesterday and those today that were not actually on the debate on the conference report, because it was not present, be part of the debate on the conference report, because it would be easier for people doing research to look up that situation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I join with the Senator in that request.

We talked a lot last night, and we heard Senator MOYNIHAN give a historical narrative as to how this bill developed and how it has culminated in this piece of legislation, which will probably be the most important piece of legislation to come out of this Congress. It will provide jobs for millions of people and also do things that have needed to be done for years. That is, put emphasis on maintenance, not building new roads. This legislation puts a significant emphasis on repairing the deteriorating infrastructure that we have, rather than building new roads. As a result of the formula which is built into this legislation, that States will be able to repair roads cheaper than they can build new roads. The allocation will be 90–10 for reconstructing, repairing roads, compared to 80–20 on new roads.

There are all kind of things built into this legislation that were spoken about in detail yesterday. There was also significant talk on the Senate floor last night about how difficult it was to arrive at this place where we are now today. Since last night, the House has passed this overwhelmingly. The vote was 340 to 75, or something like that. It was passed overwhelmingly. That is as a result, I think, of a unanimous agreement among conferees. When I say unanimous agreement among conferees, I did not mean to say that the Democratically controlled Senate agreed and the Democratically controlled House agreed, but I am saying this was a bipartisan agreement. The Republicans in the Senate agreed with the Democrats in the Senate. The Republicans in the House agreed with the Democrats in the House, and the conference was unanimous, not a perfect piece of legislation, as we have talked about, but a fine piece of legislation.

Mr. President, the reason I take the floor today is I want to make sure the record is spread with a person who was instrumental in arriving at this piece of legislation. We see, and the American public sees, on almost a daily basis, the majority leader of the Senate, the senior Senator from Maine, Mr. MITCHELL. Senator MITCHELL is here every day trying to work out procedures in the Senate, trying to get things done, trying to move legislation, and trying to take care of problems that he has with his own Democrats, trying to placate the Republicans, and trying to get legislation moving. So we in the Senate and the American public have seen Senator GEORGE MITCHELL many, many times.

But something that people do not realize enough is that he is still a Senator from the State of Maine. There was never a better illustration of this than during the conference on the surface transportation bill. He was a conferee. He is one of the ranking members of the Environment and Public Works Committee in the Senate. He worked along with us to arrive at what I feel is national legislation of significance.

He was there to tell us that this Congress is not going to adjourn unless you conferees, of which he was a member, worked out an agreement. We could talk, we could talk, we could talk, but there came a time when it was necessary, according to the majority leader of the Senate, as one of the conferees, that we come up with legislation. It was as a result of his patience, leadership, and his deliberation and his wisdom that we were able to arrive at this conference, which I again say was approved unanimously by the conference. Easterners were on this conference, people who represented the Northeastern part of the United States, and people from the far West. No one group was more outnumbered than Western Senators. But we have a bill that we are not overjoyed with, but it is a bill we are happy with. It is good for the Western part of the United States and for the country. This would not have come about but for the leadership of one of the conferees—the senior Senator from the State of Maine, GEORGE MITCHELL.

So even though we are not going to talk a long time today, there are a lot of things that need to be done. I and the rest of the conferees, I am sure, recognize the importance of the majority leader as a conferee. He sat at the table with us and was one of the conferees and had but one vote. But the information he imparted really showed, and his ability really showed, during the 2 weeks of deliberations on this bill.

Mr. SYMMS. Mr. President, I would like to join my good friend from Nevada to also express my thanks to the majority leader for the role he played in this. I have said many times that I think being majority leader of the U.S. Senate, if it is not the second hardest job in the United States, it is certainly in the top four or five difficult jobs in the United States. The majority leader gets very, very little time away from work, because every day someone is calling him asking him to keep an area open for 2 hours here or 2 there. And there are 99 other Senators he has to deal with. It is difficult, and he has been very accommodating and has tried hard to help us get around difficulties that each one might have with respect to scheduling and other things. I thought it was notable that on Sunday, when many people think that the majority leader is probably one of the important people in the country and is having time to himself, he had been asked to be a guest at the Washington Redskins-Dallas Cowboys game.

While we were in conference he was unable to go because he was at a conference with the rest of us, and as the score trickled in I leaned over to him, because I was seated next to him. I said, "Well, GEORGE, maybe this might have been a good day that you were here instead of over there as a guest of the owner of the Redskins that day to see the game."

But I have to say that his dedication and his efforts have been very helpful to get this conference to come to an agreement and keep it moving. I share in the comments of my colleague from Nevada that we appreciate the efforts on behalf of the bill and I think Westerners appreciate the fact that he has helped us push this bill along.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. SYMMS. Certainly, I am happy to yield.

Mr. REID. As was mentioned last night, there is a lot being said about Congress, a lot of problems in the country and the world and we are getting blamed for a lot of them, some of them rightfully so.

But with the Senator's experience as a Member of the other body, and a Member of this body, does the Senator not think, based on his experience, that this highway bill, this surface transportation bill, is one of the finer moments of Congress? We were able to be bipartisan, set partisanship aside, set regionalism aside, and come up with a peace of legislation which I think is good for the country. Would the Senator's experience indicate the same?

Mr. SYMMS. I totally agree with that. I think the good Senator from Nevada knows it is a good piece of legislation. We have tried very hard to help those States that do not feel like they are getting quite as good a deal as they would like to get.

I point out to my colleagues that because of this conference, and all the Senators on the Environment Committee, primarily, we worked very hard to see that those States are doing better than they were before.

I invite Senators to look at some of the charts and look at how much money was spent on highways for the last 5 years, how much their State got, and then look at how much will be spent for the next couple of years and how much their State got and compare those percentages of the program. I think they will see that all of those donor States have come up and are doing better. There are a couple of instances where States may not look like they are doing as well because they had a big project that they now do not have, but in the overall program we have tried very hard to see that every State is doing better than they were, and there were a few States that are donee States that are not doing quite so well. That is where the conference comes. I agree with my colleague.

I see the majority leader is on the floor, and I think we both have expressed our appreciation for his efforts to make it possible we could get this conference report here.

I yield the floor.

INTERNAL REVENUE CODE OF 1986 AMENDMENTS

The PRESIDING OFFICER (Mr. WELLSTONE). Under the previous order, the Senate having received H.R. 3909, which is identical to the text of S. 2042 as reported by the Senate Finance Committee, the House bill is deemed read three times and passed, and the motion to reconsider is laid on the table.

So, the bill (H.R. 3909), was deemed read a third time and passed.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. DURENBERGER. Mr. President, I rise to compliment my colleagues on the Environment and Public Works Committee and the Public Works Committee of the House on the splendid work that has been done over the last year and a half, particularly the last few 17 and 18 days, on the Intermodal Surface Transportation Efficiency Act of 1991, and to urge all of my colleagues in this body to support the unanimous recommendations of the conference committee on the adoption of what used to be called the highway bill.

I have served on the committee since the early eighties. This is my second experience with a transportation reauthorization bill. Coming from the State of Minnesota, this bill is the one that comes closest to, I might say, meeting my own personal expectations, for what a national transportation bill ought to be.

I must say, not just because he is on the floor, it would not have been what it is nor would it be able to achieve what it promises by way of potential had it not been for our colleague from New York, Senator MOYNIHAN. The vision that he has for transportation in this country and the vision that he has for the role that transportation plays in commerce and in transporting people is without parallel in this body. It has been a pleasure to work with him.

I must also say that working, for the last time, apparently, with my colleague, STEVE SYMMS from Idaho, has been just another delight. It was in 1986, as I recall, that we last did a surface transportation bill. The Senator from Idaho, who at that time chaired the conference committee, had to go eyeball to eyeball with his very close friend and our President, Ronald Reagan, and say no to the President when he wanted to veto the bill. That was just one example of STEVE's courage, and we saw it again this year in a variety of ways. He has that rare ability to combine courage with a great sense of humor and the ability to laugh at himself and, on occasion, laugh at us in a way that is not offensive.

JOHN CHAFEE did a great job in chairing our Republican side as well, and the other conferees on both sides. Our majority leader, GEORGE MITCHELL kept this bill on track and pushed the conferees to act on the many tough decisions that were made. HARRY REID from Nevada was nice enough to compliment my work on the committee last night, and I must say that on both the Environment and the Public Works side of our committee, it has been a real pleasure to get to know him through his work as well.

It was a pleasure to again participate in a conference with my colleague from New Jersey, FRANK LAUTENBERG, with whom I try to carry on the work of the Subcommittee on Superfund and allied poisonous disposals across America.

The conference was not quite as difficult for him as it was for the rest of us because of the stellar role played by the chairman of the conference and the chair of the House Public Works Committee, the Congressman from New York, BOB ROE, who I would certainly single out in complimenting people, as well. I got to know Bob Roe in the National Water Alliance when we cochaired that particular effort with DENNIS DECONCINI. At that point, I began to appreciate his commitment to infrastructure in this country. I think all of us who spent time on this conference learned to appreciate his abilities and his skills and they all came out in his very first conference as chairman of that committee with a very, very difficult, almost impossible, task that I thought he handled very well.

The entire House leadership, JOHN PAUL HAMMERSCHMIDT, BUD SHUSTER, and NORM MINETA, worked diligently to produce a final product that moved us out of the interstate era. Each of them is an expert in the field.

I also thank our distinguished committee chairman, QUENTIN BURDICK, and Congressman TOM PETRI for their work in protecting the Midwestern States. Their input has ensured that Minnesota and its neighboring States benefit from the many jobs created by this bill and its tremendous boost to rural economic development.

Mr. OBERSTAR, the senior Congressman from Minnesota, is to be commended for his work on behalf of northern Minnesota, as well as his attention to matters that relate to the State as a whole. His work on the scenic byways, as well as his provisions benefiting bicyclists and pedestrians, will be appreciated as both a recreational and truly intermodal expansion from current transportation policy.

Our colleague, JOHN WARNER, handled his dual or triple role defending the Bentsen provisions or the FAST provisions for the so-called donor States, plus the interests of Virginia and the highways on which we ride all the time to and from work, in an incredible fashion.

Mr. MOYNIHAN. And the airports.

Mr. DURENBERGER. And National and Dulles Airports, as well. At this time, I also want to take the opportunity to thank the staff members who worked very hard and very long hours to complete this conference. I'd like to especially recognize the efforts and leadership of the committee staff Roy Kienltz, Mike Wiess, Jean Lauver, and Taylor Bowlden.

Mr. President, does my colleague with to speak?

Mr. MOYNIHAN. Yes.

Mr. President, I simply want to say it would be characteristic of the Senator from Minnesota that he would speak of what others have done in this legislation, which is epic legislation. Of the two or three transportation bills that passed this Senate in two centuries, this is surely one of the most important. And in it, we establish a national highway system, something we have not ever done, the logic of having creating the Interstate and Defense Highway System we would not take from our major roads the then primary arterial roads.

This was offered by the Senator from Minnesota here on the floor as an amendment, adopted, I think, unanimously by the Senate, and now part of this legislation. It is not going to be an easy thing to do. We are going to have to pick from among about 150,000 miles some 110,000 miles, perhaps a little more; there is a little leeway. Then we are going to have to define what we mean by this, what we want by it, what timeframe, what amounts of resources—lots of defining.

It took 40 years to build the interstate and longer than that to get it from the time it got started. It will not take 40 years to put the National Highway System together. Its roads exist now. But to put them in the shape we want them and in the design that we desire is a 20-year project. If you do not have 20 years to spare, do not get into transportation.

But it is for that reason I am particularly pleased that the Senator from Minnesota has made this his project, and I think it should be on notice that we expect him to stay here for 20 years in the U.S. Senate, to see to it being done, and when that time comes, I hope that he, as a very senior Senator, will speak to someone as I am now speaking to him, saying "Now, your job for the next 20 years is as follows."

But, Senator DURENBERGER, you are hereby assigned 20 years labor on the National Highway System, and in the end, they will—who knows—they will name a bypass for you. You have the great gratitude of your conferees, as you know, and the respect of this body.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Minnesota is recognized.

Mr. DURENBERGER. I appreciate the compliment. It seems to me somewhere within the last 20 to 24 hours I listened to somebody suggest that we name Superfund sites for Senators and now I have heard the possibility we will have bypasses named for Senators. I hope I am just fortunate enough to be here as long as PAT MOYNIHAN is here and to have the opportunity to continue working with him.

Yesterday, in the middle of all of this, I understand I thought I was too busy to go to the Finance Committee meeting on taxes, since they seemed to be irrelevant at this particular point in time. I did not know what was going on at the White House and with NEWT GINGRICH, but I understand the senior Senator from New York took about an hour to engage in a discourse with the Director of the Congressional Budget Office, Bob Reischauer, on the impact of the tax system on the economy and on the people of this country and to go into his usual concern about the families of America and the people of America, their earning capacity, the way in which the tax system relates to that capacity to their value systems to their ability to be families, the kinds of things that I have always enjoyed sitting and listening to him discourse with others as it relates to social policy, behavioral science, that apparently have not arrived here yet, other than in our own personal manifestations. I just think it is incredible in the middle of everything that he was doing and I thought we were doing yesterday, that he took that time to push our understanding a bit farther about the significance of tax and economic policy and fiscal policy and budget policy in this country as well. So I appreciate that.

Mr. President, it seems to me there are three ways for this Senator, at least, to look at a transportation bill.

One of them is personally, the way we have just done. The second way is as it relates to our constituencies. And a favorite way around here, Mr. President, as you are coming to know, is to wait for the sheet to come out. The sheet that has the names of our 50 States that we represent on the far left-hand side and then across a series of dollars and allocations.

There is probably not an elected Representative born or elected in this body or in the other body who, when handed one of these policy sheets, does not immediately find his State and run across the columns to find out how we relate, dollarwise, one to the other.

Unfortunately when we talk about highways and transportation and spending $119 billion of our gas taxes over 6 years on highways, too many people spend their time looking to see how they relate to somebody else rather than looking at the larger policy issues that are involved.

This is important, and I have done it for Minnesota. I am proud to say that Minnesota, from being a donor State last year—meaning we got back less than we put into the pot—will in the next 6 years be a donee State. We are going to get back more than we put into the pot.

But I would daresay that besides the efforts of JIM OBERSTAR and this Senator, who are both members of this conference committee, the more important issue is that Minnesota believes in a national policy and Minnesota believes it will benefit from a national policy.

Minnesota transportation planners push in the direction of intermodal transportation. It is because we are a State that thinks and plans ahead and has some vision and employs the kind of public servants in the State to do it, that we are moving in that direction. As the Nation moves in the direction of an intermodal surface transportation policy, we benefit from that as well.

That is the third way to look at these issues, as policy issues. I think, in effect, that is really what we were elected to do here. When you look at a surface transportation bill like this, there are three ways to look at it. Energy, environment, and infrastructure are the three principal policies here. We have had an energy bill floating around this place ever since I have been here, and we had no energy policy. We still have no energy policy. The so-called energy policy presented this year was not an energy policy bill and, appropriately, it was prevented from being acted on here on the floor.

So, as we come to a transportation bill, of course we are talking energy, and we ought to be talking about an energy policy in this country. The key to an effective energy policy is the way in which the efficient use of fuel-consuming transportation systems are developed and used in this country.

The second thing I mentioned was the environment. I think last year we did both energy policy and transportation policy in the Clean Air Act. There was a lot of environmental policy, and a certain amount of infrastructure work.

In this year's Intermodal Surface Transportation Efficiency Act we are going to find a whole new section entitled "Congestion and Air Quality," with a total expenditure of $6 billion nationwide. And then you are going to see the same kind of approach to the relationship between the Nation's environmental policy, its energy policy, and its transportation policy built into a variety of these other expenditures.

I am pleased to see that. It is one of those areas in which it gives me a great deal of pleasure to work in a nonpartisan or bipartisan way to develop national policy and use the expenditures that come from a gas tax fund to do it.

The third, of course, is infrastructure, and all of this is infrastructure maintenance, building, and rebuilding. Again, as we know from our colleague from New York, this Nation does not have a specific infrastructure policy. We go at it in sort of fits and spurts. And this is the fund that builds concrete and asphalt. We use the trust fund for that purpose, and we keep trying to expand its purpose for rail and other forms of transportation. But I think this year we have begun to make a breakthrough. The work in here on high speed rail, on magnetic levitation, on transit alternatives, all of that is an important expansion of the Nation's infrastructure policy.

A little known fact that I sometimes forget, I think I am still the chairman of the Japan-United States rail conference, and the chair of the France-United States rail conference, which comes from efforts in the early 1980's to bring Japan, France, and the United States closer together on high speed rail and then magnetic levitation.

This bill is going to do about three-quarters of a billion dollars of work in that regard.

Mr. President, I am pleased that the Senate will soon have the opportunity to vote on the Intermodal Surface Transportation Efficiency Act of 1991.

I want to commend the outstanding leadership of my conference chairman and friend, PAT MOYNIHAN, for his efforts to bring this measure through the process prior to adjournment.

Mr. President, as a member of the conference committee, I approached this legislation by asking the question: What should be the Federal Government's role in the postinterstate era? The construction and maintenance of our Nation's transportation infrastructure depend on the close cooperation and coordination of the Federal, State and local governments. Government intervention is vital in designing feasible routes, covering the cost of constructing public highways, and developing harbors and waterways. A safe and efficient transportation network is a necessary component of a competitive economy and a unified country.

The highway program as we know it, expired 2 months ago. It looked for a long time like this bill would not be finished before the end of the year. Passage of the bill before us has garnered national attention because State Departments of Transportation have been left with no Federal assurance of a continuing program. If this bill is not passed before Thanksgiving, more and more States will not be able to let contracts that will ensure construction schedules are met. This is especially critical in the State of Minnesota because of the short construction season. The bill before us means 81,700 Minnesota jobs over the next 6 years and with passage of this bill, Minnesota will be able to receive funds in a timely manner.

I believe we are taking the correct approach in providing States with greater flexibility to apply highway trust funds for multimodal uses. The purposes of a 6-year highway bill is more than just cutting up the pie, so to speak. This bill should define the role of the National Government in surface transportation. It should give direction. It should set priorities. And as only a national government can do, it sets out a standard of what our transportation system should look like into the next century.

There are four aspects of the national policy we are defining that I want to mention here at the outset.

The first is a National Highway System. This is one of the most significant changes in highway policy since the beginning of the Interstate System 35 years ago. I support the concept that we need a defined National Highway System as a focal point of our transportation planning. It ensures the taxpayer that a substantial portion of the highway trust fund will be spent on the rehabilitation of those highways which are most critical to interstate travel and commerce.

The second is safety. There can be no more basic Federal role than protecting public safety. This bill puts the Federal Government back into a leadership position on highway safety. I am pleased that the conference agreed to maintain a separate safety category for hazard elimination and rail-highway grade crossing projects.

The third is technology and innovation. The conference adopted the Lautenberg-Durenberger national intelligent vehicle highway system bill. Minnesota is a recognized leader in developing and implementing advanced technology to make highway travel faster, safer, and cleaner. We will benefit from the additional Federal investment in this field.

The final national objective in a highway bill should be flexibility. I frankly think the Congress wastes a lot of time and money micromanaging decisions within States that have nothing to do with national purposes. Before we start favoring urban over rural, maintenance over construction, or lower cost bridges over discretionary funds, we should remind ourselves that the best solutions come from those closest to the problem.

Mr. President, I think this is a good bill for America, but I also want to say a few words about what this bill means to Minnesota. In this respect, I commend my colleagues and fellow conferee, JIM OBERSTAR, for his hard work in protecting Minnesota's interests. I think Minnesota greatly benefited by having representation on both sides of the negotiating table.

The biggest battle for all involved has been in the determination of a new funding formula. The new funding formula will mean that Minnesota will now receive more highway funding than it puts into the trust fund through gas taxes. Last year, we only got back 94 cents on our tax dollar. Under this bill, we will receive $1.02 for every $1 put in by Minnesotans.

In this bill I established a Minnesota Safety Initiative Program which provides funds to the State Department of Transportation to carry out projects concerning cold weather pavements and retroreflective pavement markings and signs to demonstrate the safety benefits for nighttime driving. This bill also provides $6 million to the University of Minnesota, Center for Transportation Studies to establish and operate a national institute for intelligent vehicle-highway concepts.

As a member of the conference committee, I was able to convince my colleagues of the merits of six essential Minnesota projects: $40 million for the Bloomington Ferry Bridge; $36 million for Highway 610 in Brooklyn Park; $10 million for the south Mankato bypass; $3 million for a Highway 41 project in north Mankato; and $3.24 million for trunk Highway 15 in St. Cloud. I also commend my colleagues in the House, especially JIM OBERSTAR for several projects they were able to obtain funding for. These are priority projects that Minnesotans need to get to work and move their goods to market, and will make us stronger economically. This is a good bill for Minnesota, and is the product of many hands. It results from Governor Carlson and his Department of Transportation making their needs clearly known, a receptivity by the Secretary of Transportation to our requests, and the congressional delegation working together to get the job done.

Mr. President, the package before us exemplifies the customary leadership of the Senator from New York. I commend my colleagues and their staffs for their willingness to work through the problems to the satisfaction of everyone involved. A wide range of States were represented on this conference. Not only did the conferees bring an array of ideas and beliefs, but the individuals worked well together to produce the final product before us in such a short time.

Mr. President, the Intermodal Surface Transportation Efficiency Act of 1991 provides a strong commitment to transportation needs and a source of both productivity and jobs. I am proud to have been a part of a product that sets the transportation policy that will move this country forward.

The PRESIDING OFFICER. The majority leader is recognized.

MEDICAID VOLUNTARY CONTRIBUTION AND PROVIDER-SPECIFIC TAX AMENDMENTS OF 1991

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3595.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives;

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 3595) entitled "An Act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, that Mr. DINGELL, Mr. WAXMAN, and Mr. LENT be the managers of the conference on the part of the House.

Mr. MITCHELL. Mr. President, I move that the Senate insist on its amendments, agree to the request of the House for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. BENTSEN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. PACKWOOD, and Mr. DURENBERGER, conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, this will enable the conferees to proceed promptly with respect to the Medicaid moratorium bill. The Senator from Minnesota is one of the conferees and one of those principally involved in the writing of this legislation. I hope very much we are going to be able to get a conference report before the Senate today so that this important matter can be disposed of in a way that I think will be satisfactory to most concerned.

I thank my colleagues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I ask to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE HIGHWAY BILL

Mr. LIEBERMAN. Mr. President, as we come, soon, to vote on a conference report on H.R. 2950, the Surface Transportation Efficiency Act of 1991, I rise to extend my congratulations, my gratitude, my admiration, in some senses my awe, to our truly visionary leaders for their monumental effort in putting together this outstanding piece of legislation.

Above all, I congratulate my friend and esteemed colleague from New York, Senator MOYNIHAN, who has wisely referred to this legislation as an once-in-a-half-century opportunity.

When I was elected to the Senate, because of my interest in environmental protection, and my previous post of attorney general of Connecticut, I sought membership of the Environmental Committee. I was grateful to have an opportunity to become a member.

With that membership came a bonus, and that was the public works part of the committee and the opportunity to work under the leadership of the Senator from New York. Each of us, as we know, from our birth is special. But I would have to say the Senator from New York is particularly special, and in his service elevates this institution and every individual who serves in it. I think we saw the full range of his skills in his handling of this particular piece of legislation.

I remember once reading an article about the Senator from New York. Somebody had said he had gone from Hell's Kitchen to Harvard. I would say he took with him the best of both experiences and put both of those experiences to work in his remarkable handling of this bill.

The Senator from New York is at once an actor and a analyst. He, more than anyone I have met in my political life, both lives in the present and influences the present, but does so with a profound and extraordinary sense of the past, our history. Also, I think, with a prophetic reach for our future. All of that is seen in this bill.

When our committee began its consideration of this bill, though the last couple of weeks in which the Senate and House have focused on this surface transportation bill have focused very often on numbers and formulas, we did not begin with the numbers and formulas. He took us back a few steps to a vision, to examine what influence transportation policy, particularly over the last 40 years, has had on the development of America, and what effect what we were doing might have on the future of America. I think we all came to understand how intimately related transportation policy is to so many other parts of what we worry about in America: Our energy policy, our environmental policy, the quality of our lives.

One of the witnesses that the Senator from New York brought before our committee said, paraphrasing that wonderful movie, Field of Dreams, in which the voice says to the Kevin Costner character: If you build it, he will come. What we have found over the last 40 years of the great Interstate Highway System was if we built it, they would come.

It would affect the ways in which people would move around this country; it would affect the cities in which they live; it would affect the quality of our air; it would affect ultimately the quality of our lives.

I think the Senator from New York took us from that vision and that understanding of the impact of our work to the details of the proposal. That is truly extraordinary. I congratulate him on his leadership, and also add to that my thanks to Senators BURDICK, SYMMS, and CHAFEE. Because of their leadership, this Congress has seized this opportunity and truly has produced a bill that will take America into the 21st century and will have a lot to do with how America will look and how Americans will live for generations to come.

Mr. President, as time allows, before we proceed directly to the surface transportation bill, I would like to say a few words of explanation about why I think it is such a significant bill. Perhaps most importantly in the near term, this bill really will put people to work building and maintaining the bridges and roads in constructing mass transit systems and equipment.

In the short run, I think it is the strongest step that we can take to deal with the recession we are in now. Once those roads and bridges and systems are built or improved, this bill will put more people to work in the businesses that always grow when infrastructure is improved. That is one of the facts that we learned in the course that the Senator from New York led us through in our subcommittee.

This bill is one of the most effective actions Congress can take to help America not only out of the recession, but on to the higher road of long-term economic growth. Simply put, the bill will mean millions of jobs for American workers.

I would like to mention just a few elements of the legislation that I think are most important. First, the bill places a strong emphasis on maintaining the highway system that we have already built.

Today, we face a crisis in maintenance. The fact is that if our highways were a heart, we would be in intensive care today. Almost one-half of our bridges are structurally deficient or functionally obsolete. Disasters are quite literally waiting to happen. So the funding in this bill, which will be available for maintenance of our roads and bridge repair, will really help us to reverse that trend and avoid those disasters.

Second, recognizing that transportation is closely linked to the quality of life for the American people, this bill gives the States greater flexibility in using highway funds to solve their particular transportation needs. That is a dramatic shift from the past.

We do not seek to favor one form of transportation over another. Rather, we accept that different parts of our country have different priorities. For some, roads are necessary, new roads; for others, repair of existing roads is the No. 1 priority. And still others may wish to emphasize mass transportation.

This bill will let every State make the most of the transportation money this bill provides them.

Let me be more specific. My own State of Connecticut is faced with a serious air pollution problem that is directly linked to vehicular emissions, auto emissions. Under the Clean Air Act we passed last session, Connecticut and many other States risk the loss of all highway funds if we do not reduce smog. By providing that both funds from the surface transportation program and the national highway system are fully flexible for nonattainment areas, this bill will give my State of Connecticut and States with similar problems the ability and the discretion to better manage transportation demand and achieve our clean air goals.

Third, the bill provides for a much closer coordination between our efforts to tackle clean air and our efforts to move our people. Unfortunately, in the past these programs have often worked at cross purposes. For the first time this bill will result in transportation and clean air planning coming together.

Fourth, the bill ensures that the primary burden of highway spending will not be shifted to our already financially burdened States. The administration's proposal submitted at the beginning of this session would have required a dramatic increase in the State contribution for each Federal highway dollar—a proposal, I must say, which would have hit Connecticut's taxpayers particularly hard given the effects that the recession has already had on us. Congress, by enacting this bill, wisely rejected the original administration proposal.

And fifth, the bill will ensure—and this is a local and personal concern—that larger, twin-tandem trucks and triple tandems will not be allowed in States such as Connecticut that simply do not want them and do not allow them.

Mr. President, in my previous capacity as attorney general of Connecticut, I attempted to stop the entry of these first generation tandem trucks—smaller than the ones that now exist in many states. Unfortunately, that effort of ours was thwarted because of the existence of the Federal law that essentially preempted our ability to control the safety of our citizens on our highways.

It is a problem that has troubled me for a long time. I am particularly happy to be in the Senate at this moment as we ensure that people in States like Connecticut, that do not want larger tandem trucks on our highways because they represent a threat to public safety, will not have to accept them.

Mr. President, overall, this is a remarkable bill. It supplies the vision that has been too often lacking in the construction of America's transportation systems, the kind of vision that Senator MOYNIHAN has possessed and expressed for decades.

If I may be allowed this comment, I believe that had Senator MOYNIHAN been vested with the power to decide how transportation funds were spent for the last 40 years, America would be a vastly different place today. Our air would be cleaner, our cities would be more vibrant, certainly more integrated, and our highways would be less crowded.

We in Congress are often criticized for overstating the significance of our actions and very often that criticism is well taken, but when it comes to this bill I do not think it is possible to exaggerate its importance to this Nation.

Finally, Mr. President, I commend the outstanding work of the staff of the Environment and Public Works Committee and of Senator MOYNIHAN himself for their remarkably phenomenal efforts on this bill. In particular, I would like to thank: Roy Kienitz, Andrew Samet, Rob Connor, Richard Eaton, Tim Bernstein, David Strauss, Mike Weiss, Jean Lauver, George Schaener, Steve Shimberg, and Taylor Bowlden. Their efforts represent truly the best in public service.

I appreciate the unfailing courtesy and graciousness that they and their employers have extended to me and my staff in consideration of this bill.

Mr. President, I thank the Chair. I yield the floor.

Mr. MOYNIHAN. Mr. President, might I thank the Senator from Connecticut for his extraordinary generosity?

Characteristically, he omitted to mention the extraordinary contributions he has made to this legislation. He knows how grateful we are, and how even more grateful we will be when the leaders pass it by voice vote.

Mr. MITCHELL. Mr. President, I do want to associate myself with the remarks of the Senator from Connecticut about the Senator from New York. As one who has struggled with him through three highway bills over 12 years, including a very long weekend this past weekend, indeed, as we sat in a conference meeting just a few feet from here at midnight Saturday, I was sitting between the Senator from New York and the Senator from Idaho, and I wondered to myself about what we were doing here at midnight on a Saturday night.

Of course, it was under the leadership of the Senator from New York and the Senator from Idaho, acting on what I believe to be as significant a piece of legislation as we will act upon in this Congress, and by some measures, in many Congresses. It was due to the tremendous leadership and, I might say, persistence, perseverance, and patience of the Senator from New York and the Senator from Idaho that we were able to get to this point.

I join in a tribute to them and thank them for their tremendous leadership and generosity of spirit that has enabled us to reach this point. And we hope we are going to be able to agree to the conference report soon.

TECHNICAL CORRECTIONS TO CERTAIN APPROPRIATIONS ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on House Joint Resolution 157 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 26, 1991.)

Mr. BYRD. Mr. President, the conference agreement on House Joint Resolution 157, the dire emergency supplemental appropriation bill, contains appropriations totaling $6,889,600,000. Of this amount, $4,083,500,000 is provided for additional costs of Desert Shield/Desert Storm and will be derived by transfer from the defense cooperation account. In addition, language restricting arms sales to Saudi Arabia and Kuwait until these countries fulfill their commitments to the support of Operation Desert Shield is included in the bill. This prohibition would not go into effect until 120 days after enactment.

As a result of amendments attached to the Conventional Armed Forces in Europe Treaty, $400 million is available from defense funds for the destruction of nuclear weapons in the Soviet Union. An additional $100 million is available from defense funds for the transportation of humanitarian aid to the Soviet Union.

For the disaster assistance program of the Federal Emergency Management Agency [FEMA], total appropriation of $943 million is provided, of which $800 million will be designated as "emergency spending" by the President and an additional $143 million will become available upon receipt of an emergency budget request from the President. This amount will be sufficient to meet FEMA's costs for all outstanding prior year disasters and a normal level of disasters for the remainder of the fiscal year.

For the disaster payments to farmers and ranchers required to compensate them for losses suffered from natural disasters during 1990, 1991, and 1992, a total appropriation of $1.75 billion is provided. Of this amount, $995 million will be designated as "emergency spending" by the President for disaster payments authorized for crop year 1990 and crop year 1991. Payments are available for losses which occurred in either 1990 or 1991, at the producer's option. The remaining $755 million is for crop years 1990, 1991 and 1992, and shall be available only upon receipt of an official budget request. Of this $755 million, an amount of $100 million has been set aside to finance losses of crops planted in 1991 for harvest in 1992.

It was necessary for the conference to delete the $100 million for the Special Supplemental Food Program for Women, Infants and Children [WIC], the $1.2 billion for the Head Start Program, and the $90 million for the childhood immunization program because the administration refused to designate these funds as "emergency requirements" under the provisions of the Budget Enforcement Act. The administration indicated that its rationale was not that these programs lacked merit, but rather that there is no sudden or unanticipated requirement for the very large increases proposed which would constitute an emergency requirement under the Budget Act.

More specifically, the regular fiscal year 1992 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriation Act provided $2.6 billion for the WIC Program, an increase of $250 million or 10.6 percent over the fiscal year 1991 level. Moreover, I wish to point out that since 1980, Congress has increased WIC funding by 253 percent, resulting in average monthly participation increasing from 1.9 million persons in 1980 to 4.9 million persons in 1991.

With regard to the Childhood Immunization Program, the fiscal year 1992 Labor, Health and Human Services, Education Appropriation bill already includes $297.8 million for this purpose, an increase of $80.3 million over the fiscal year 1991 level.

The same bill includes $2.2 billion for Head Start, which was an increase of $250 million over fiscal year 1991. The administration indicated that an additional amount of $1.2 billion for the Head Start Program would constitute a 54-percent increase over the recently enacted fiscal year 1992 level of $2.2 billion. If the increases in the fiscal year 1992 appropriation and supplemental bills were combined, the administration argued that the increase from fiscal year 1991 to fiscal year 1992 would be 74 percent, at a time when appropriations for the Head Start Program had already increased by 78 percent from fiscal year 1989 to fiscal year 1992.

Consequently, in view of the tight budgetary constraints the administration refused to designate these additional funds as "emergency requirement."

In summary, I believe the Dire Emergency Supplemental Appropriation bill for fiscal year 1992 is a good bill. It does not provide everything each Member may have wanted. However, it was necessary in conference to compromise with the House and take into account the views of the administration. Nevertheless, I believe the supplemental provides the necessary dire emergency supplemental funds for Desert Shield/Desert Storm, including the assistance needed to dismantle Soviet nuclear weapons, and for emergency disaster relief for our citizens who have been hit hard by natural disaster.

Mr. HATFIELD. Mr. President, I would like to take this opportunity to raise an important matter with the distinguished Senator from West Virginia, who is the chairman of both the full Appropriations Committee and the Interior and Related Agencies Appropriations Subcommittee. As the chairman knows, my colleagues from the Pacific Northwest and I are in the midst of dealing with the application of the Endangered Species Act in the cases of the northern spotted owl and Columbia River Basin salmon. These listings are the cause of tremendous concern to the political leadership and residents of the Pacific Northwest, and we are struggling to resolve equitably many contentious issues associated with these listing decisions.

The implementation of the Endangered Species Act in the cases of the spotted owl and the Columbia Basin salmon has raised several legitimate questions which need to be pursued. Speaker FOLEY and I believe that an objective scientific study of various aspects of the Endangered Species Act, including the definition of species, conflicts between species, the role of habitat conservation, recovery planning, risk, and issues of timing, should be undertaken as a way to begin resolving these difficult issues. Accordingly, the Speaker and I, together with Congressman GERRY STUDDS, chairman of the House Subcommittee on Fisheries and Wildlife Conservation and the Environment, have requested that the National Research Council initiate a review of the Act.

Because the U.S. Fish and Wildlife Service is the lead agency in implementing the Endangered Species Act, I feel that it is most appropriate for this review to be funded from the Fish and Wildlife Service budget. Would the distinguished chairman agree that funding for the review come from the Fish and Wildlife Service's fiscal year 1992 appropriation, and that we should pursue this course of action?

Mr. BYRD. I would say to the Senator from Oregon that I understand many of the problems that he and his colleagues from the Pacific Northwest face with regard to the implementation of the Endangered Species Act, and believe that the Fish and Wildlife Service should cooperate to the greatest extent possible to fund this valuable review of the act.

Mr. HATFIELD. I thank the distinguished chairman.

Mr. President, the conference agreement on House Joint Resolution 157 that we bring to the Senate today is a great improvement over the measure we took to conference. It has been trimmed substantially, relieved of the burden of numerous provisions that would have prompted a veto from the President.

The resolution provides funding for additional costs of Operation Desert Shield/Desert Storm, agriculture disaster relief, and the disaster relief programs of the Federal Emergency Management Agency. The budget summit agreement exempts the Desert Shield/Desert Storm funding is exempted from the discretionary spending caps of that agreement. Funds for agriculture disaster and FEMA programs are will also be exempted as they are declared emergencies by Congress and the President. A portion of the funds provided for those programs will be available now and the remainder upon a subsequent determination by the President and the Congress that an emergency requirement exists.

I should emphasize, Mr. President, that section 202 of the Senate-passed resolution, pertaining to selective Presidential approval of the amounts provided, has been dropped.

The bill also contains a variety of legislative provisions adopted by the Senate in its consideration of the measure or brought to the conference for its consideration. Notable among these is the provision allowing up to $500 million in aid to the Soviet Union, pursuant to the Nunn-Lugar and Boren amendments to the CFE treaty implementing legislation.

Mr. President, I believe this conference agreement represents a satisfactory conclusion to a long process, and I urge its passage.

EXTENSION OF CERTAIN FERC LICENSING DEADLINES

Mr. BUMPERS. Mr. President, I would like to enter into a colloquy with the chairman of the Appropriations Subcommittee on Energy and Water Development.

When the Senate passed the fiscal year 1992 dire emergency supplemental bill, an amendment was adopted regarding an extension of certain FERC license deadlines for hydro power projects which have or are soon to expire. That amendment, which was identical to S. 1283 as passed by the Senate, was dropped during conference consideration of the bill.

I am aware that the appropriate House committee plans to take action on these proposed extensions en bloc in the near future. I seek clarification from the chairman that the conferees action to delete the amendment was in deference to the House authorization committee and in no way reflects on the merits of the proposed extensions.

Mr. JOHNSTON. That is correct.

Mr. BUMPERS. I thank the Chairman.

Mr. COCHRAN. Mr. President, we have before us the conference report on House Joint Resolution 157, a joint resolution making dire emergency supplemental appropriations for fiscal year 1992. This agreement was reached earlier today.

This conference agreement includes $1,750,000,000 for disaster payments to farmers to compensate them for losses suffered from natural disasters during crop years 1990, 1991, and 1992. More specifically, this agreement provides $955 million for disaster payments authorized by the 1990 farm bill for crop year 1990 and provides funding for crop year 1991 under the same terms and conditions. Payments are made available for losses which occurred in either 1990 or 1991, at the producer's option. Also, the conference agreement provides an additional $755 million for crop years 1990, 1991, and 1992 under the same terms and conditions, and these funds will become available when the Congress receives an official budget request.

Mr. President, there have been very serious weather problems throughout the country during the past 2 years. In Mississippi alone, it is estimated that in 1990 farmers lost $100 million. While some areas of my State escaped the effects of the terrible floods last spring and were able to achieve normal to above-normal crop yields, other have experienced significant losses in 1991.

As you know, Mr. President, I have been working on this critical issue for over a year. In fact, on July 10, 1991, I introduced a bill to provide assistance to those farmers hard hit by natural disasters in 1990 and 1991. This legislation was cosponsored by over 30 Senators. Also, we worked with the Secretary of Agriculture and other administration officials to try to identify things that could be done to address and respond to these problems. And, I must say they worked very hard to help us meet these needs.

Mr. President, I am pleased that the conference agreement before the Senate today provides the assistance that is long overdue and so desperately needed by our farmers. I urge my colleagues to support this supplemental appropriations conference report.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. DOLE. If the majority leader will yield, I am wondering about the scheduling for the balance of the day. It is my understanding the next item of business would be the surface transportation conference report followed by, I guess, banking, RTC, Medicaid, and the crime bill.

Mr. MITCHELL. The Senator is correct. I have discussed with him previously this morning briefly by telephone our schedule for the remainder of the day. It is my hope to personally discuss all of these matters in some further detail.

I want to thank the Senator from Oregon for his cooperation in permitting us to proceed on this important legislation.

Mr. President, I thank all of my colleagues for their cooperation. I look forward to a productive day today on the various matters we have. The surface transportation bill will be the next order of business, as soon as we can proceed to it, which I expect to be shortly.

Mr. President, I yield the floor.

Mr. BRYAN. Mr. President, during the course of the debate on the conference report as well as the earlier processing of this legislation as it emerged from this body in the first instance, the distinguished and able senior Senator from New York has characterized this legislation as a historical watershed in terms of the changes which we made in the Highway Program in this country. I think that characterization is apt. He has placed, in my view, in proper perspective where we have been with this program and where we intend to go in the future. I commend him and others for the leadership which they have shown in making this legislation possible for us to act upon today.

Let me suggest, also, Mr. President, that this is a historical occasion in another sense. The title II provisions, of which little has been said, deal with highway safety. The conference report that is before this body represents the most significant improvements in highway safety in easily more than a decade. I would like to cite just two examples, if I may.

This legislation will require, by September 1996, mandatory installation of airbags on 95 percent of all the new cars sold in America, not only on the driver's side but on the front seat passenger side, and by the following year, September of 1997, 100 percent of all vehicles, automobiles sold in America will have airbags on the driver's side and on the passenger side on the right in the front.

We all know that America's changing driving patterns indicate today that more people choose minivans and light trucks as a principal means of transportation, supplanting to some extent their heretofore expressed preference for automobiles, so for millions of Americans light trucks and minivans are family vehicles.

This legislation also requests that by September 1997, 80 percent of such vehicles—light trucks and minivans—will have airbags on the driver's side and on the passenger side on the right, and by the following year, September 1988, 100 percent of all such new vehicles sold in this country will have airbags on both the driver's side and the passenger side on the right in the front.

That has not been an easy achievement. The technology for airbags was first patented back in the 1950's, perfected for introduction in the 1960's, and, indeed, in the 1970's limited introduction had begun. There was strong industry opposition. Earlier Departments of Transportation had promulgated rules to require the installation of such airbags. That did not come about for a number of reasons. But today that will become a reality if this conference report is adopted.

I might say that what it means for motorists who travel along the highways in this country is each year we will save 9,000 lives, and 155,000 injuries can be avoided as a result of the mandatory installation of such airbags.

As is true with every significant undertaking, these things do not come about without the support of a number of people. I would like to mention some of them. First, I would like to express my appreciation to the chairman of the Senate Commerce Committee, the distinguished Senator from South Carolina [Mr. HOLLINGS] whose unswerving support both during the committee development of this piece of legislation and as it moved on the floor and as it emerged from conference has made this possible.

I would also like to acknowledge the support of the ranking member of the subcommittee, the distinguished junior Senator from the State of Washington, SLADE GORTON, a long-time personal friend of mine, whose skillful work at all stages of the proceeding and particularly his efforts at the conference level also have been invaluable. Without them, we would not have been able to achieve the incorporation of this provision in the conference report.

I would note, also, the efforts of Senator DANFORTH, who for many years has been a great crusader and advocate for highway safety and whose support of airbag legislation over the years paved the way for the legislation we are about to enact.

Senator EXON served as an important member of the conference committee as well, and I note his efforts and his support, and note that of several of my colleagues who served with me on the Senate Commerce Committee, who are also cosponsors, Senator KERRY, of Massachusetts; Senator MCCAIN, of Arizona, as well.

In addition, Mr. President, this legislation provides for the reauthorization of the National Highway Traffic Safety Administration. Not since 1982 has the reauthorization been approved by the Congress, notwithstanding the fact that on three prior occasions the Senate has approved such reauthorization.

This legislation includes such a reauthorization. And in so doing I note that it provides for a number of safety rules, rulemaking procedures, which will also enhance the safety of Americans traveling on our highway system.

This legislation mandates the final rule improving protection against head injury, and it provides that a series of rulemakings on other safety issues must commence. Included among those are improved rollover protection for cars, minivans, light trucks and jeeps; improved side protection for minivans, light trucks, and jeeps; antilock brakes; improved seat-belt design, particularly as it relates to children; and safety of child booster seats.

The responsibility of the National Highway Traffic Safety Administration can be simply stated. Its purpose is to save lives.

I believe that the title II provisions contained in this legislation and in this conference report that I hope the Senate will adopt today moves us a long way down the road in achieving that ultimate stated goal of improving highway safety in America and to protect those who drive along our highways from serious injury or death by improved design and by improved safety standards.

I thank the Chair. I yield the floor.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESPECT AND THANKS TO THE STAFF

Mr. SYMMS. Mr. President, we have heard many praises from many of our colleagues in the Senate for the work on this bill. But I personally, Mr. President, would like to pay my respect and thanks to the staff of the House and Senate, Republicans and Democrats, on this bill. These young people have worked long and hard and many, many hours.

I personally for my own staff am indebted to Taylor Bowlden, my legislative director, who also has specialized in transportation matters as a member of my staff in these past years; Angela Plott, his able assistant for this work on the highway side of this.

I also would like to pay thanks to the now State Director of the ASCS, Trent Clark, who worked with me in the formation of the National Trails Act which is a part of this conference report. I particularly appreciate him, and then his replacement, Tom LeClaire, Sue Fagan, and Mike Stinson, who worked on the National Trails Act.

Mr. President, we have a list of many very fine staffers in our committee, and I know at some point we want to list all of their names but Steve Shimberg heads up the Republican side, and David Strauss the Democrat side.

I ask unanimous consent that—if it does not get mentioned here as the day goes—those names be listed, all the people on our committee staff and personal staff that made it possible. We all owe them a debt of gratitude.

We on the conference think we work hard. But they have worked endlessly, nights with 1 or 2 hours sleep, for the last 2 weekends the conference met. Everytime, when the conference would finally break up at midnight, we would direct the staff to have more numbers prepared for us the next morning. This has gone on and on. These people have done a terrific job. I personally appreciate it.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, in the generous and altogether appropriate manner of my colleague, Senator SYMMS, cochairman of this legislation, I would like to acknowledge the exceptional work that the staff of the Committee on Environment and Public Works and the individual Senate, conferees, have done on this legislation. We hear oftentimes about the staff and how many there are. And yet, perhaps we do not fully appreciate, or the public does not fully appreciate, what extraordinary jobs they do. And how few there are of them, in fact, when you see them up against a Federal Government staff. These few hundred men and women have as much to do with actually writing our laws as any of us here who vote on them.

Let me, Mr. President, go back to my desk for 1 minute and get you a copy of this bill.

(Mr. SHELBY assumed the chair.)

Mr. MOYNIHAN. Mr. President, here is the bill. It is a feat of draftmanship, as well as legislative creativity. It will be one of the great statutes in the two-century history of Congress and transportation.

The bill would not be here this hour without the extraordinary efforts of Roy Kienitz, who is the lead staff member for the Committee on Environment and Public Works; Rob Connor, of whom it can be said this bill would not be here without him because of the critical moment this morning when the House of Representatives was about to act on the bill; the House discovered it did not have a copy. In the fastest 500 yard dash on record, Rob Connor made his way to the Dirksen Building and got it back to the well of the House of Representatives. Tim Bernstein, Mark Kadesh, Andrew Samet, and Dr. Jay Messer of my office have done wonders. David Strauss, the director of the staff of the committee, has been an unfailing asset, as has Mike Weiss, who worked himself to the point of exhaustion, something no one would ever dream possible in a man of his energies. Jean Lauver, Steve Shimberg, of Senator CHAFEE's staff were invaluable resources in environmental matter. So too were Kathy Ruffalo, George Schoenes, and John Grzebien of the committee staff, Taylor Bowlden and Angela Plott of my cochairman, Senator SYMMS' staff and were outstanding. Grace Reef of Senator MITCHELL's office was everything one can hope for in an ideal staff member. Grace interrupted the most personal possible plans of her own life to be available to this Senate for these purposes. Jeff Morales, John Ferry, George Cartagena, Ann Loomis, Sue Pihlstrom, they were incomparable. If the Nation is to be grateful for this legislation, it should be grateful to these men and women. Thank you.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

SURFACE TRANSPORTATION ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 2950 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transportation programs, and for other purposes, having met, after full and free conference, have agreed to recommend and to recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 26, 1991.)

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. COATS. Mr. President, as we are winding down here, perhaps one of the most far reaching and comprehensive highway bills that has ever been presented to the Congress is before us. There are many good things in this legislation. I commend those who have worked long and hard in crafting changes in the highway bill that are important to this Nation as we move into a new phase of highway construction and highway administration.

The battles have been long and hard. There have been victories and losses. There have been gains and pluses and minuses and, for the most part, some substantial improvements.

It is interesting to me, however, though, that in the end there still are inequities that exist and, for this Senator representing the State of Indiana, I find that those inequities in terms of how the State of Indiana is treated under this bill outweigh the good that will flow to our State as a result of this bill.

On May 29, 1956, the Senate debate over creating a national highway system was nearing an end. A large map was at the back of this Chamber marked with red lines representing over 40,000 miles of proposed new concrete and pavement in this country.

It was some of the largest spending programs in the history of the United States. I might add it has been one of the most successful infrastructure programs in the history of the United States. It was a creation of legacy to our former President Dwight Eisenhower.

Many in this Congress who preceded me fought very hard and had the foresight to go forward with then what was considered an extraordinarily ambitious plan. It has united our Nation. It has provided the means for commerce to flow between our States. It has been enormously successful.

During that debate, however, on May 29, 1956, debate, as often happens in this Chamber, turned heated, partly due to the persistent comments and questions and remarks of Senator Homer Capehart, then the senior Senator from Indiana. Over a 2-day period of time, again and again he raised his impressive girth to object, cajole, argue, and badger his colleagues.

As the vote neared, tempers began to fray and Senator Kerr of Oklahoma asked Senator Capehart what his real opinion of the bill was. "I will tell the Senator from Oklahoma what I think about the bill," Capehart replied. "I think it is an awful lot of pork barrel. I believe that the real purpose behind the formula in the bill is to provide certain States with some pork barrel money. That is what I have to say, if anybody wants my opinion of it."

Well, Hoosiers have, over the years since 1956, contributed significantly to Federal transportation bills. Invariably we have sent more money out of the State than we have received back. We have been known as what has come to be known here as a donor State, a polite way of saying that we have contributed more than our equitable share of money into the trust fund to build other people's roads.

Some of this made a great deal of sense. States like Montana, small in population, vast in area, could in no way afford to build their own roads. There is just too much ground to cover and too few citizens to tax. If we wanted a national highway system, these States would require help in the form of subsidies from other higher populated States. And America did want a national highway system, both for economic growth and to move supplies and troops for national defense. The road system approved by Congress in 1956 was actually called the National System of Interstate and Defense Highways.

But that was then. Today is today. Today we have completed 98.9 percent of the interstate highway systems, 42,795 miles, and that is a lot of miles open to traffic. The need to subsidize construction in the empty West has virtually ended. Yet we still find within this bill a new 6-year bill facing us, the use of Indiana highways and Indiana funds to continue to subsidize whose need for the most part has passed.

The use of Indiana highways is expected to increase 50 percent by the year 2000 and on June 19 of this year the Senate signaled that a new era of transportation policy may be beginning.

Today's most pressing problems are not really constructing new highways, but making the old ones fit for use. The Department of Transportation estimates that 40 percent of the pavement on Federal highways is in fair or poor condition. In Indiana we have our share of roads that need repair, but less than our share of resources to do that. The use of our highways has increased by 38 percent just since 1980.

Last year Indiana still received just 79 cents for every highway dollar we sent to Washington.

Between 1986 and 1990 alone over $389 million in Federal highway user fees collected in Indiana were sent to other States.

A transportation bill is very important to the economy, particularly at this time. But in our rush to reauthorize a program, it is important that we do not overlook a basic question of fairness.

This bill is about how Federal moneys are allocated to the States. As a representative of a State that has donated money to finance highway construction in other States for 40 years, I have to ask the question that Hoosiers are asking: Is this fair for Indiana?

The Nation's highway system, as I said, is virtually complete and yet the State of Indiana is asked to continue to bear the burden to finance road projects in other States. Under this bill Hoosiers will be 44th in the Nation in return of Federal dollars. That simply is not good enough, not for a State which for decades has contributed more than its share, without much complaint, to build a national system.

We have roads of our own which we want to build and repair. We want to build the Evansville, IN, highway which may cost up to $1 billion, the last link of our State between major metropolitan areas—Evansville being one of our largest cities—and lies incomplete because the decision was made to terminate or to scale back the amount of originally planned interstate. Evansville was to become the link to Indianapolis, Indianapolis north to Detroit and Canada, south to Memphis, completing a very important segment of the interstate highway system.

For some reason, the reasons that I do not fully understand, the decisions that were made before I became a part of this body, that decision to complete that link down from Indianapolis from Evansville and on to Memphis was canceled.

So now we find residents throughout southwest Indiana following a tortuous route to connect with the center hub of our transportation system and economic system in the State of Indiana.

One-quarter segment of the southwest corner of our State cannot develop fully economically without sound transportation access, and yet this has been denied to people of Evansville.

This bill contains some funding, roughly $30 some million, as Federal contribution over the next 6 years, and we are grateful for that. But this cannot begin to pay the cost and, in fact, will represent just a little over 3 percent of the total cost of completing that highway. Our State cannot afford to come up with the additional 97 percent.

We have other projects in the State, and I am grateful that funding for those projects is included in this bill. Lafayette railroad relocation, widening of Highway 67 to Muncie, the Hoosier heartland highway, Columbus interchange, are all important projects, and we are grateful that funds for those projects have been included here. We worked long and hard, and I thank my colleagues for being responsive to my efforts to include them.

Yet, we find that Indiana, which has a very small share of the demonstration project money, pales in comparison to a number of States, a handful, which receive an exorbitant, almost unbelievable share of demonstration projects, many of those States having long ago completed their interstate system.

Mr. President, it is difficult to support a bill which institutionalizes our State's second-class status in terms of receiving money back from what we pay into the highway trust fund. While this bill does show improvement, we will be well into the next century before Hoosiers start to receive an amount equal to what they are putting into the total fund.

I supported the Senate bill when it came through because of amendments added by Senator BYRD and Senator BENTSEN which brought some form of equity, particularly in terms of future dollars to our State. We operated on the principle not that we should receive more than our fair share, but that we should receive exactly what our fair share is. Hoosiers who had paid for decades into a fund which had not returned money equal to what we paid in felt like they had every right to ask that we at least get a dollar back for a dollar in. The Senate bill moved us substantially toward that goal. I was disappointed, therefore, when this conference report came back which now moves us back away from that goal. And, in fact, both the Senate bill and the House bill provided Indiana great equity than the conference report provides.

Indiana will be 44th in the rate of return of the dollar out of 50 States. We pay 2.5 percent of the Nation's highway bills; we receive back only 2.18 percent of its money. When you add mass transit, which Indiana receives only 35 cents on the dollar, Indiana receives only 1.9 percent of the highway pot, or 73 cents on the dollar.

At the current rate of growth for Indiana's rate of return, we will be a donor State until the year 2015, and that is just not fair. For 58 years we have been paying for highways in other States; $389 million just in the period 1986 to 1990; $389 million in Federal highway user fees collected in Indiana were spent in other States.

Ten States came out worse in the conference report in either the House or Senate bill. Indiana is one of them. Six States alone account for 50 percent of the $6.4 billion in demonstration or special projects funding.

President Reagan vetoed the last highway bill because of $1 billion in pork. This bill contains $6.4 billion. The bill also contains an extension of the 2.5 cent gas tax increase enacted in last year's budget compromise, despite the fact that the Senate overwhelmingly rejected the notion of a tax increase and supported a resolution which I offered putting the Senate clearly on record as opposing a gas tax increase for the purpose of funding this bill.

We all know the trust fund contains dollars that have not been spent in past years, dollars that were collected for the sole purpose of building highways and bridges and providing transportation means for Americans who willingly went to the pump, filled their cars with gas, and sent money to the highway trust fund under the belief that the money would just simply go and be returned back to the States for the building of highways and bridges and roads and transportation projects.

Yet, that money has not been fully returned to the citizens to pay for that specific purpose. And now we find that in order to fund this bill, we have to extend a gas tax increase in the amount of 2½ cents per gallon in future years. So in addition to not providing equity for citizens of Indiana, it requires that they continue to fund other States by increasing a tax that they pay at the pump. That simply is not acceptable to me, nor is it acceptable to the people that I represent.

The rate of return is being billed as better than it actually is. The conferees are saying that Indiana is receiving 94 cents on the dollar. But this is only applied to future contributions. With the spend-down from the trust fund, which includes significant contributions from Indiana calculated in the mix, we end up with a rate of return of roughly 84 cents on the dollar.

The bill is also $2.5 billion over budget. And I have not been able to secure an adequate answer from anyone as to where these funds will come from. What I am concerned about is that the numbers presented on the charts that have been given to us will not be translated into statutory language, and as a consequence of that, those categories which were used to help bring more equity to the donor States will be those categories which will be assessed to meet the budget goals.

And if we have to take $2.5 billion out of those categories, then we will lose even further.

Mr. President, I received a letter from the Governor of the State of Indiana.

Mr. SYMMS. Will my colleague yield?

Mr. COATS. I am happy to yield.

Mr. SYMMS. Mr. President, the junior Senator from Indiana has certainly been involved in this whole process in letting us on the committee and in conference know that he wanted a better share for Indiana. I believe we have done better for Indiana than any highway bill in the past that has gone through here. So I think the Senator has certainly represented his State very ably, and I compliment him for that.

He did make a comment, and I think we should answer that question, because it is a good question and it is a fair question. And that is, if the $114 billion in total in the bill is over what may come in in the trust fund on the calculations, the Byrd amendment that is part of the highway legislation—that is, the Byrd of Virginia, not West Virginia, amendment—states that we cannot overstate the trust fund.

This bill is trying to spend the trust fund down at the end of 6 years. The best we can estimate, it will spend it down. If you come to a point where it runs at cross-purposes with the Byrd amendment, automatically there will be a reduction across the board.

But Indiana or Washington State or Arizona, Missouri, or Idaho, no State will lose their share disproportionately. Everyone will get a reduction to see that we stay in balance. Now, what has happened in the past is that, as the country grows, if the economy is good and people are driving a lot, that will not happen at the 6th year, and there will be adequate revenues to fund it fully at this level.

But if it does not work out that way, for the State of Indiana, the answer is that it will be an across-the-board reduction, treating all people evenly. That is the answer.

That is a good question. The Senator asked me that yesterday. I have been checking to get the answer.

I thank the Senator for his interest and efforts.

Mr. McCAIN. Will the Senator yield?

Mr. COATS. I will be happy to yield to my colleague from Arizona, but let me first respond to the Senator from Idaho.

The Senator from Idaho and I discussed late into the night this question, and I very much appreciate the Senator getting that information and responding back to me.

It is sort of like good news and bad news. The good news is that we hope to be able to have enough money in the trust fund so that we do not have to make this reduction. But the bad news is that it is based on an assumption, an economic assumption, that may or may not come true.

I think those that are basing support for this bill, or making decisions about how much their States are going to get, need to understand that is not necessarily guaranteed in that full amount listed on the bill, because it is based on an economic assumption. Under the law, we are required to reduce that back under the Byrd amendment, reduce that back to a lower level, roughly $3 billion lower.

I am pleased to hear that if that happens, it comes out on an across-the-board basis. Obviously, I am distressed to hear that it might have to happen, because that then would further jeopardize the amount of funds coming to us. I was concerned that it might come out of specific categories, or that the language might specifically designate or target particular categories, and that those categories would have been the ones used to compensate donor States for the inequity.

I also want to again thank the Senator from Idaho for his willingness to work with me. He has been very patient, sometimes when I have been very impatient, to try to understand my concerns and to work with those.

And I am grateful and Hoosiers are grateful for the increases that do exist within this legislation. Indiana does do better, and we are appreciative of that. We will, over the next 6 years, receive about $2.5 billion. That is substantially higher than the $1.4 billion that we received over the last 5 years. But in proportion to what we pay in, and in relation to other States, we still find ourselves in the donor category and pretty far down the list, and that, we feel, is inequitable, given the fact that the national Interstate Highway System has been virtually completed.

Mr. SYMMS. I want to say again that, because of the efforts of my colleague from Indiana and the Senator from Missouri and both Senators from Florida, there has been a rising awareness of the donor-donee problem in this Congress. Not that it was not here. It started with the Bentsen amendment to move it to 85 percent. We have diligently worked in conference, both House and Senate Members, to make it very clear that all States will get a fairer return than they were getting before in those donor States. I believe in almost every instance the record will show and it will work out that those States like Indiana, like Missouri, like Florida, are going to do substantially better in this bill than they have in previous bills.

Mr. COATS. That is a true statement. We will do better. And I suppose beggers cannot be choosers, particularly when you do not have enough votes to change the formula. We are grateful for what we did get. But we still feel we need to make the point that the equity is not there and we are still struggling to bring ourselves to parity.

If Indiana or Florida or Missouri were asking to be put into a category of getting back more than they put in, then I think a valid argument might lie in terms of what are you guys trying to do? But that is not the case.

All we are asking for is parity. All we are asking for is equity. And having contributed, for decades, hundreds of millions if not billions of dollars more than we received back, understanding that the Interstate Highway System needed to be completed in the West and that those States could not generate enough funds to complete it and they needed support from other States, now that it is completed, all we are asking for is a dollar for a dollar. Having done more than our fair share in the past, we are asking for our fair share for the future.

We have taken steps forward in terms of addressing that problem. We have not, in this Senator's opinion, adequately addressed that problem to bring us to a position of equity.

I was going to yield to my colleague from Arizona who stepped off the floor for a moment. I will be happy to do that. I am winding up my remarks here. I know others are interested in speaking.

Let me just finish by saying that, one, we are pleased that, through a lot of hard work and negotiations and a lot of support from my colleagues, we were able to improve on the original versions which came from the conference committee. We have taken a step forward. We will receive an increase in highway funds over the next 6 years. Our rate of return does increase, and it is moving toward a historic high. It is higher than it was in the sixties and the seventies, substantially higher. But it also is not totally equitable.

We do have funds, albeit some of them limited, for a handful of projects, specific projects, those that I have been working on and others have been working on diligently. And we are pleased that that project funding is part of this bill. This will provide jobs for Hoosiers. This will improve the infrastructure in our State and help stimulate our State's economy. And it is important for all of that.

But there are some basic principles which have not been met, principles of equity, principles of whether we are going to add additional taxes to Hoosiers and Americans as they pull up to the pump, principles of providing equity throughout the bill, regardless of how funds are distributed, whether they are through demonstration projects or formula funding or whatever.

Mr. President, I received a letter late last night from our Governor, who has indicated that, while he is grateful for the work that has been accomplished here, Indiana still does not receive its fair share of funds under the compromise proposal, that this principle of equity is very, very important to Hoosiers, and for that reason he urges us not to support the bill. He comes to the same conclusions that I do.

Mr. President, I again thank my colleagues for their support, for listening to my arguments often late at night, who have been responsive in some measure to address some of those concerns. I appreciate the obstacles they were up against and the difficulties of addressing what I felt were serious inequities in the bill. They did take steps forward. They were responsive. I appreciate that. But I, in good conscience, cannot support a bill which does not provide a better sense of equity to the people that I represent.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I listened very intently to the interesting remarks of my friend and colleague from the State of Indiana. I sought recognition about the same time as the Senator from Indiana. I think he beat me, and the Chair properly recognized him first. I thank the Chair for the recognition I have just been given.

I believe the Senator from Indiana brought forth, for the first time in these lengthy discussions, a matter that I wish to address and will be addressing in my remarks, and that is the tax increase that are embodied in this bill that have been overlooked, basically, in the discussion up until this point. They have been totally ignored in the press, when the opposite is usually true when we talk about tax increases.

I realize that the steamroller is coming down the hill and will not be stopped by the conference committee proposal and, therefore, the agreement to H.R. 2950, the surface transportation reauthorization bill. But before it rolls over us, unless the President has the courage to veto—and I hope he will for lots of good reasons, and I do not know why he has not been saying more about the possibility of vetoing this bill which is veto bait if there ever was—I want to register my opposition to the measure. We were told that the funding formulas involved herein treated all States fairly as compared with the Senate-passed numbers in the Senate bill that was passed way last spring. That turned out to be not the case, at least with regard to my State of Nebraska.

We were told, also, Mr. President, that we had to accept this agreement coming out of the conference because this was the final offer from the House of Representatives. If we did not accept this, they would go on home and we would not have a bill of this nature that, obviously, is very, very necessary.

I am, frankly, a little weary of final offers that are basically caved into by the Senate from the House of Representatives. I still maintain we are supposed to be coequal branches and we have a right to stand up in conference for positions as previously passed in the Senate when we go into conference with the House.

I do not like to rain on the picnic parade of self-indulgence and the mutual admiration society that has been going on here, but I must. I just want to say that mutual admiration society is not universal. Yes, a lot of hard work has been done, and I know it has not been easy. So the fact that people worked hard on Saturdays and Sundays and sometimes almost all night has to be recognized. And we thank those who took part in those deliberations. At least we now have a bill, regardless of its fairness.

Yet the best-kept secret is that "T" word that is in this bill. It has always been an action word before whenever we raised taxes. But I must say that the fact that this measure increases taxes is something that has been basically overlooked. And, if for no other reason, that is why, in my view, the President of the United States should veto the measure.

The original Senate bill last June was a good bill. But something happened on the way to and from the conference. It passed the Senate with no tax increase and no earmarked, porkbarrel projects. It returned after the conference loaded with billions of porkbarrel specials in the form of House pet projects, according to the figures that we received late yesterday.

In that regard I might say that those of us who were to find out what was going on inside that room for the most part were not told what was going on in that room.

The State of Pennsylvania, for example, alone has $935 million in pork, more than the total allocation to Nebraska. That is just one example. The basis for my opposition is the part of the bill which allocates transportation funds to the States. The funding distribution in the conference agreement is fatally flawed. The funding formulas have been bent to fund pet projects rather than a State's transportation needs and financial ability to pay for those needs.

I should first note, Mr. President, that there are some good items in the other parts of this bill, including some provisions that I sponsored. I served as a Senate conferee for the Senate Commerce Committee on completely unrelated portions of the bill dealing with interstate matters and safety. Interstate transportation regulatory matters in the bill are good. That part of the bill has a number of desirable items, such as strength in Federal truck safety efforts; a new Federal truck limit to keep trucks from getting longer and heavier, those that travel on our interstate highways at least; major improvements in cutting paperwork burdens for the truckers who do interstate business and the exclusion for custom harvesters from the commercial driver's license requirement.

For our Nation's transport future, the bill includes the Hollings-Exon maglev and high-speed rail provisions, along with Senator MOYNIHAN's maglev provisions in a future-looking package to jump-start our Nation's efforts in this very important technology that for too long have been ignored.

All of those items I just mentioned on which I worked as a part of the conference separate and apart from the highway formula funding, but the funding distribution is the central core of the overall bill.

Mr. President, to say I am disappointed in the outcome of the House-Senate conference is an understatement. Under the original Senate-passed bill, Nebraska received 30 percent more than in the House bill, or an average of $200 million per year for 5 years, compared to the House passed average of $153 million per year for 6 years.

While I prefer the Senate numbers, I know that the conference committees must reach compromise solutions. I had hoped for at least some middle ground for my State. Unfortunately, the conference agreement allocates to Nebraska less—less, Mr. President—than under either the House or Senate authorization bill or $912.5 million over 6 years, according to figures that have been provided us at a very late date, yesterday afternoon.

In my view, getting less funds for Nebraska in either the Senate or the House version is no compromise. The arbitrary funding distribution formula to the States is long; it is the guts of the bill.

The funding distribution is a sufficient reason alone and by itself for Presidential veto. But in addition, this bill also raises the gas tax. Yes, it provides for a gas tax increase.

I realize that proponents say that this is simply an extension of the 1990 gas tax increase. However, as one who has voted against the 1990 nickel gas tax hike, I know that if this conference report becomes law, which it will, unless the President vetoes it, it amounts to an additional $100 million in higher taxes for Nebraskans. To me, that sure sounds like a tax increase.

Read my lips, the President should veto this bill if for no other reason that it again violates his famous "no tax increase" pledge. It should be vetoed and the Congress be recalled immediately to do it right by eliminating all of the House pork which clearly necessitated the tax increase that nobody wants to talk about.

Again, the original Senate bill correctly took the approach of leaving decisions on individual projects to State officials and highway planners. Unfortunately, the conference agreement follows the House-passed bill approach of Congress knows best.

According to figures of late yesterday made available to me, the conference agreement includes a record number of special porkbarrel earmark projects. I suspect it is no coincidence—I emphasize, Mr. President, I suspect it is no coincidence—that highly placed House conferees from Pennsylvania and Arkansas and New Jersey and California led in accumulating the largest percentage of such special projects.

Mr. President, unfortunately, my early fears about the direction of announced tax increase demands and pork projects in the House bill would lead to an unfortunate conference agreement, and here it is right now on the floor of the Senate.

I suggest, Mr. President, that this bill will, without question, provide disproportionate amounts of funds in the bill being diverted to porkbarrel projects in certain States of House Public Works Committee conferees, and Nebraska would be the loser in that process. Unfortunately, that is exactly what happened.

Nebraska already has one of the highest gas tax rates in the Nation and is clearly up against the wall in using its own fiscal resources along the lines, I might say, as outlined by the Senator from Indiana in his remarks preceding mine.

Mr. President, I wish to be recorded as no, a very definite no, on the highway funding conference agreement that is before the Senate.

Mr. President, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I suppose it comes as no surprise to my colleagues when I say that highways are vitally important to my State of Missouri. They are really the life's blood to our State. They are extremely important for our people, for their jobs and for our economy. It is for that reason that I, along with my colleagues from Florida and Indiana and Texas and Michigan have been so adamant about trying to get a fair share and a fair shake for our State.

I should begin by offering my apologies to colleagues whom I may have offended, whom I have imposed upon, but I did so because this is a critical economic program for our State. Without good highways, we cannot develop jobs, we will not see our State grow. In addition, we risk the lives of our citizens each day of the year that they travel on overcrowded highways, inadequate roads and unsafe bridges.

But under this bill, though clearly it is not what I would have drafted or I would have preferred, we have taken a major step forward, and for that I thank my distinguished colleague from Idaho, Senator SYMMS, my colleague from Rhode Island, Senator CHAFEE, our brother in the donor State category, Senator WARNER from Virginia and, most of all, the distinguished chairman of the committee, Senator MOYNIHAN. They have listened to us, they have been gracious in putting up with our continued demands and requests, and I want to express now my sincere appreciation to them.

When we began this exercise, there were a number of things we thought critical to be included in a new highway bill.

First of all, many of the donor States said it is time for a fair shake; we want a fair funding formula; we want a basis for allocating highway funds on a factual, responsible basis.

Second, we wanted to continue the National Highway System.

Third, we thought it was time we began to spend down the highway trust fund which has been used for too many years to mask the growing Federal budget deficit.

And, fourth, we wanted flexibility for States that have different needs.

I initially criticized, in this Chamber, some of the provisions in the bill which were designed to favor alternatives or nonhighway solutions to transportation problems. In some of the States, those are very important. In our State, the need for highways and roads and bridges is so great we cannot afford to do those extra things, to add those frills that would be nice.

To say that there are some things in this vital bill that are deeply disturbing, I guess, would be an understatement. I do believe we have made some strides forward, however. We have kept the National Highway System. We have agreed to spend down the highway trust fund. We did achieve some flexibility for the States so they can put the dollars where they are needed to meet the highway, road and bridge requirements in each State, and each State is different.

But there is no new formula. A formula was adopted in the House, but unfortunately the conferees gave up on that far too soon. I would hope that over the next few years, before we debate a highway bill again, we can come to some agreement that there is a better way than making a grab bag out of highway funds; that we can allocate those dollars so they will go where they are needed.

Mr. President, in my view, the need now is based on usage. For the donor States, I could say we gave at the office. We gave significantly so we could complete a National Interstate Highway System, the highways of defense. We understand that States with lower populations needed those extra dollars so they could be hooked up to a national system, but now that system is complete. I frankly think it should be declared complete and we ought to go about taking care of the needs of those States where the interstates are so crowded people cannot travel at a reasonable speed in a reasonable time, those States where bridges on four-lane highways have to be narrowed down to one lane each way because they are so inadequate. That formula did not survive.

I hope, as we discuss highway bills in the future, we will have some leadership from the Department of Transportation, we will have some leadership in Congress to show that there is a better way. Highways should not be just a political grab bag. We need to begin to allocate those dollars where they are needed. The bad news is that there is really no formula coming out of this bill. There have had to be ad hoc adjustments and the entire funding process seems to be a series of ad hoc adjustments.

The charts are truly interesting. Some anthropologist 1,000 years from now will look at those charts and say, is this the way the greatest country in the world allocated its transportation funds—according to 8, 10 columns? Certainly, there is nothing to look back on the next time we do a highway bill and say we had a great formula back in 1991; we managed to piece and patch and put it together.

I am no fan of demonstration projects, as my colleague just noted. There are some real questions about them. Demonstration projects make good reading back home. They do allocate some dollars and they do say what the Members of the legislative body think is important, but they are no substitute for good roads, good highways. Those come about by reason of the State departments of highway transportation determining where the needs are.

Prior demonstration projects in my State caused funds that have been designated for a project, but held up by environmental requirements or other legal technicalities, not to be spent. Clearly, that is not a good way to build highways.

But because the leaders in the Senate, on both the majority and minority side, did listen to the needs that we made known day and night over the weekend and all hours of the night in all manner of fora, the donor States were allocated more funds. In our State, we managed to increase the funding and therefore the spending on highways. We will be able to put people to work. Some 22,000 jobs will be created in the next year from the Federal share alone and over 6 years, 135,000 jobs will be generated.

This is not a jobs bill, Mr. President. But the failure to act on this bill was a negative jobs bill. It was a job-destroying inaction.

Again, I commend the leaders on the Senate side for having moved forward in June to get a highway bill through, and I am disappointed that our colleagues on the other side waited until October so that we are acting in the middle of the night making decisions and voting on the final terms that we have never seen and will not see for weeks now. Unfortunately, that is the only way we can get it done.

Mr. President, I again express my thanks to the leaders of the committee on both sides, to Senator SYMMS, to Senator CHAFEE, to Senator WARNER, in particular on our side, to Senator MOYNIHAN, about whom much has been spoken already, saying that he had a vision for a new kind of surface transportation program. We commend him for his farsightedness. I disagree with him on the application of certain principles, and he understood that. The louder I talked, the more patient he was. We did make changes in the bill. We did achieve significant adjustments so that the most serious inequities were addressed.

Missouri can probably never hope to get out of the donor State category. We do not expect that. But we do appreciate the fact that we will not be drained dry; that we will get a significantly increased share of our dollars back, and for that I express my sincere thanks to the leaders of the committee on both sides. I assure them that we look forward to working with them in the future. I hope that we will be able to come to an agreement in future years on how to allocate funds that will not depend upon a funding grab bag for projects or require last minute adjustments to work out the inequities.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. BOND. I will be happy to yield to my colleague from Idaho.

Mr. SYMMS. Mr. President, I want to say Senator BOND from Missouri and Senator GRAHAM of Florida and others working through "Pothole" JOHN WARNER made a tremendous contribution toward making this bill more equitable. I think that it was a bipartisan group. They were at odds with what some of us in the big Western States had in mind. We all took somewhat of a hit, more than we have in past highway bills, and they made a gain. I think they should be commended by their constituents for the efforts they have made and the persistence with which they have fought. They had their able friend, as we referred to him in the conference in the middle of the night. We started referring to Senator JOHN WARNER as "Pothole" John because he was so persistent about those States and equity in this program, and we do appreciate it.

I thank the Chair.

Mr. BOND. Mr. President, I conclude by again expressing my thanks to the Senator from Idaho. It was a bipartisan effort. We were offensive on a bipartisan basis and only the good humor and the patience of our colleagues permitted us to achieve this. I do not know what kind of sobriquets will be applied to my distinguished colleague from Virginia for the fights that he fought, but he ought to wear them with pride because he was a very strong voice for Virginia and for equity through this bill. I express my deep appreciation to him as well.

I yield the floor.

Mr. WARNER. Mr. President, will the Senator just yield for a comment?

I thank, Mr. President, all of those for my nickname after 10 years in this body. But had it not been for the steadfast leadership of the Senator from Missouri and the Senator from Indiana and others who were part of the sort of famous "FAST army" that was in the Senate at the time of the original Senate bill, we would not have been able to make the gains during the course of the conference that we did.

It was a bipartisan coalition. I happened to be, I believe, the only donor State conferee on the Senate side, but there were a number on the House side. I want to say it was leadership of the Senator from New York, Mr. MOYNIHAN, the Senator from Rhode Island, Mr. CHAFEE, the Senator from Idaho, who enabled us to make these gains and to finally recognize in the name of equity, not politics, that we had to go with the 90-percent guarantee which the distinguished Senator from Missouri referred to today.

I thank him for his kind remarks. But, again, it was his contribution, together with others, throughout this process, not just in the closing days but throughout the process. I thank the Senator.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, it is curious but gratifying that there are times—this is such a time—in which the clash of parochial systems can result in the national interest.

Individual Members of this body and the other body are, of course, primarily concerned with a bill like this with what it does for their own States or for their own congressional districts. But simply because there are so many voices, so many concerns, those who were primarily responsible for this transportation bill were required to consider with a degree of reason the needs and the demands of Members from each State in the United States.

So I want to join with the majority on this floor speaking in favor of the passage of this bill in expressing my thanks and admiration to the Senator from Idaho, to the Senator from New York, to the Senator from Rhode Island, to the Senator from Nevada, to all of those who worked countless hours to cause this bill to get before us, tardy as it may be, on what we all trust will be the last day of this session.

They have done a good job for the United States of America. They have done a good job for almost all of the 50 States. They have created a greater degree of fairness and balance than has been in existence in a number of previous bills. And they have offered to each State a greater opportunity to set its own priorities and to make its own choices within the highways and mass transit lanes in each of those States.

They have, for that matter, authorized much more for mass transportation than has been the case in the past.

Mr. President, I suppose it is somewhat easier for me to make these comments, as my State remains what is known as a donee State; that is to say, for every dollar in taxes which go into these programs out of the pockets of the citizens of my State, and their Federal gas taxes, that the State of Washington gets some $1.18 in return because it is in many portions of the State a thinly populated rural State, but in its urban areas it has particularly expensive highways and transportation systems because of various bodies of water and the constrictions and narrowness of the city of Seattle.

This bill takes some significant steps forward with respect to one form of transportation which is not quite unique to our State but on which it depends. It depends to a very significant degree on ferry projects, and that is to say there is a new program for $100 million that will be distributed among States with ferry projects on a competitive basis which is exactly the right way in which such money should be directed.

The primary beneficiaries are likely to be the States of Washington, Alaska, and New York, representing those States with the most significant amount of ferry traffic, but it is available to ferries in any State.

In any event, we find this to be a major plus in this legislation.

There are also various highway projects. There are demonstration projects in this bill for the State of Washington.

Personally, I believe I would have preferred all of the money to be distributed according to the formula more or less in the fashion of the original Senate bill. But at least the distribution of these demonstration projects has been smoothed out and made somewhat more fair by the efforts of the conferees from the South.

Most particularly this morning, however, Mr. President, I wish to speak to one portion of this bill which has been the subject of remarks so far today only by my close friend, the distinguished colleague, the junior Senator from Nevada, Mr. BRYAN.

This bill also includes the first reauthorization of the National Highway Transportation Administration since 1982. This body unanimously passed such reauthorization much earlier this year. Later when this bill was being debated here on the floor, the Senator from Nevada and I prevailed upon the body to attach it as an amendment to this surface transportation bill. That turned out to be a most fortunate circumstance, as it seemed highly unlikely that the House Committee on Energy and Commerce would every deal with the independent National Highway Transportation Administration reauthorization bill.

Even so, we felt that it was a long shot to get this conference to accept that bill or any portion of it as a part of this transportation legislation. Nevertheless, it did so due to the efforts of five members of the Commerce Committee of this body, who were conferees for that purpose. The junior Senator from Nevada, whom I have already spoken to, who led the effort to pass the original bill through the Senate and who wrote many of its provisions; the chairman of the Commerce Committee, the Senator from South Carolina; my good friend from Missouri, Senator DANFORTH, all put in yeomen effort in coming up with a set of safety proposals which will be of great importance and great benefit to the people of the United States.

However, I believe that I may say that much of the reason that we have these safety provisions on this bill came as a result of the fortuitous circumstance that the chairman of the House Subcommittee, which deals with this legislation, is a close friend of mine and a colleague from the State of Washington, Congressman AL SWIFT.

Congressman SWIFT worked long and hard and diligently on his own behalf and with the chairman of the Energy and Commerce Committee, Congressman DINGELL, to persuade that it was time to work for automobile and other passenger vehicle safety. As a consequence, we have a bill that is at least 90 percent of the proposal which was passed by this Senate so many months ago.

One of the leading traffic safety private organizations in the United States states that this bill may save as many as 12,000 lives a year when it is fully implemented—12,000 lives a year, Mr. President.

I simply want to say that is a striking, magnificent, and a gratifuly statistic, that we could take steps here in the Congress of the United States that would result in lowering so sharply the number of traffic deaths, and by thousands more the number of serious injuries in automobile and small truck accidents.

The bill does so by making certain requirements, the most important of which is mandating air bags on both the driver and passenger side of both passenger automobiles and light trucks well before the end of this century; then by mandating rulemakings which will almost certainly result in new requirements on passenger cars side impact, with respect to head injuries, with respect to child-restraining seats, and a number of other areas, all of which are important to the safety of the people in the United States as they travel in their automobiles; and, almost all, or all of which are really beyond their own control because they are matters which are built into the very designs of these automobiles themselves.

So this bill is worthy of support not only because of the great work of the members of the Committee on Environment and Public Works, but because it is also in addition to the transportation bill a transportation safety bill.

Finally, I should like to say, Mr. President, that it is the case in almost all bills of this sort that the great bulk of the work in the conference committee is done not so much by individual Members of this body or of the other body, but by their staffs.

In that connection, I particularly want to commend Scott Cooper and the staff of Congressman SWIFT, with whom we worked from the beginning of this process, both the majority and minority staffers from the Senate conference committee, and most of all, my own staffer, Terri Claffey, who continues her streak in my office of seeing to it that when we take a great deal of interest in something, it almost invariably finds its way into the Statutory Code of the United States of America.

Mr. President, this is a good bill, and it should be adopted with enthusiasm by the Members of this body.

Mr. WARNER. Mr. President, I rise today to support the conference report on the Intermodal Surface Transportation Efficiency Act of 1991.

It is critical that this conference report be adopted because many States, including Virginia, have frozen further contract work on many important projects including the high occupancy vehicle [HOV] lane extension on Interstate 95.

Mr. President, foremost today I want to commend my conference colleagues majority leader MITCHELL, Chairman MOYNIHAN, the Environment Committee Chairman BURDICK, Senators CHAFEE, SYMMS, LAUTENBERG, REID, and DURENBERGER, and the majority leader. Their determination and commitment to an innovative transportation policy have brought together a conference report which addresses our urgent transportation needs.

As one of the leaders of a bipartisan group of Senators in the fight to amend the Senate bill last June in accordance with the FAST formulas, I renewed that fight in the conference and together with other FAST supporters we improved the formula during the long negotiations of the conference.

Although many are not fully satisfied with the results, I can assure my colleagues that genuine attempts were made to provide relief to highly populated States.

Progress was made to give the so-called donor States—those States receiving far less dollars in return than their highway users contribute to the trust fund—a greater return on their contributions.

During the consideration of the Senate bill, objections were expressed by many who believed the formulas used to allocate Federal highway trust funds were outdated and unevenly distributed among the States. Virginia, like other States, simply was not getting a fair return for the dollars paid into the trust fund.

For Virginia this conference report provides over $2.6 billion to meet transportation demands in the next 6 years. This amount far exceeds the $1.5 billion Virginia received from the trust fund under the current bill.

It is my hope that this increase in funds will begin to meet the many highway demands across the Commonwealth.

A cornerstone of the Federal and Surface Transportation Act or FAST bill which I originally sponsored was a 90-percent minimum allocation of the dollars each State contributed to the trust fund.

The conference report represents a significant achievement for donor States by increasing the minimum allocation program from the current level of 85 percent to the 90-percent goal.

This program is important because it is the safety net for donor States. It guarantees that whatever the annual allocation, no State will receive less than 90 percent of what their highway users pay into the trust fund.

While so much of our debate has focused on the dollar return for each State, I believe the conference report represents a new and users era in transportation policy. This is innovative legislation which will carry our transportation infrastructure into the 21st century.

For the first time, States will be given maximum flexibility to use their funds to meet their own pressing needs—whether these needs are for the Interstate System, bridge repairs, or primary routes.

Flexibility will allow Virginia and particularly the metropolitan regions of northern Virginia, Tidewater and Richmond to transfer highway funds to transit activities if it is determined that rail or bus service will more effectively serve the needs of the traveling public.

A result of this flexibility will be increased efficiencies in the use of these funds and increased performance of the transportation system.

A second important policy issue in this bill is the commitment to a strong National Highway System. This program ensures the continuation of a national transportation policy by maintaining a system which links States with quality corridors.

With the completion of the Interstate System in the next 4 years, there is a continuing need to provide for uniformity and connectivity to all parts of the Nation for interstate commerce and national defense. A National Highway System fulfills this need.

Third, urban regions, like northern Virginia, Tidewater, and Richmond, will be given greater authority in the decision making and project selection process to address their critical congestion problems. Localities will now have the discretion to participate in directing highway dollars to specific highway needs or mass transit projects such as commuter rail or expanded bus service.

Fourth, the National Recreational Trails Trust Fund Act will provide funds to improve existing trails and build new trails for increased recreational opportunities. The structure of this program, which sends the funds directly to the States without Federal intervention, ensures the maximum use of these funds.

Mr. President, as a member of the conference committee, I wish to extend my appreciation to Chairman MOYNIHAN for his leadership and fairness in recognizing the concerns of the donor States. The conference report is a product of his vision to bring greater efficiencies to the existing transportation system, and to forge a new era in transportation policy.

I want also to recognize my Republican leaders on the committee, Senators CHAFEE and SYMMS, without whose fine work this conference report would not be completed tonight.

Mr. President, I would be remiss not to commend the Virginia Secretary of Transportation, John Milliken, and the many dedicated professionals at the Virginia Department of Transportation for their valuable assistance throughout this process.

Another critical project to Virginia and the Metropolitan Washington Area is the continuation of the Metropolitan Washington Airports Authority which operates Washington National and Dulles Airports.

The amendment which I offered is necessary because of the Supreme Court's decision holding unconstitutional the provisions of the MWA Act of 1986 which established a board of review with veto power over the decision making authority of the board of directors.

It is my full expectation that this amendment resolves these constitutional problems and allows the critical modernization projects currently under construction to continue at both Dulles and National.

For the safety and convenience of the traveling public, work that is approximately one-third complete must be allowed to move into the next phase of construction.

Mr. President, I believe the conference report on the Intermodal Surface Transportation Efficiency Act is a fair proposal. On the whole, it is good national policy—one that recognizes the legitimate interests of all regions of the country.

Mr. President, I urge the adoption of the conference report.

Mr. President, if there is any particular order, official or unofficial, I am glad to acquiesce. I intend to be here for a while to speak on the highway bill and participate in this colloquy. If any of my colleagues need to be recognized prior to the Senator from Virginia, I will so yield.

Not seeing anyone desiring that, I want to say that I was privileged to be a conferee on this bill. It was a very unusual and rewarding experience. I would like to recount some of the events that transpired in 14 days and 14 nights, 2 weekends, and perhaps the most painful for me, as others, a lot of forgoing of family time.

Anyway, it was worth it in the end. I would like to—before I refer specifically to the commendations of the conferees—I would like to refer to the staff. I have been here a number of years, but I have never seen a more consistent, hardworking staff of individuals than on this particular piece of legislation. It was complicated by the need continually to have access to computer runouts, and we were dependent in large measure on the infrastructure of various Federal departments and agencies to provide information, causing delays from time to time, but our staff was always there.

Turning, to my staff, Ann Loomis and George Cartagena, I thank them for their work for me and for my State, and for their work with the other staff members. Well done to all.

Turning to the conferees, and the most unusual leadership of the Senator from New York, Mr. MOYNIHAN, who has always taken what I call the 12 to 4 watch. He was there constantly on the bridge, and by his side, my lifetime friend, the Senator from Rhode Island, Senator CHAFEE. So it was a Navy and Marine Corps team. To strengthen the Marine Corps, we had the Senator from Idaho, Senator SYMMS.

We conducted this, in some ways, like a military operation, because Senator MOYNIHAN continuously announced there would be "attention on deck" as we started every one of our conferee sessions. In those private meetings in the majority leader's office, Senator MITCHELL was by our side throughout this conference, and his steady hand and his determination to see that this piece of legislation passed was unique.

This was a very rewarding experience for this Senator, and a very pleasing one. I got to know much better some of my colleagues as a result of this period, and I hope that the Senate recognizes that there was leadership at all times in this conference, leadership that not only was achieving a bill, but was trying to achieve equity among the several States.

I had been associated with those for some months in the Senate developing the consensus of what we call the FAST proposals. That was an effort to bring up to date the formula, to reflect a more current census, to try and allow the donor States to have a greater percentage of the funds that they contribute to the tax base.

And in the end, while we may not have achieved all that the donor States desired, it was through the leadership of this conference, House and Senate, which enabled us to achieve gains that I think, frankly, as the sole donor State on the Senate side, I had not anticipated we would achieve. But we did it, and I thank all.

Of the conferees, I have mentioned the three leaders, but I also thank our chairman, Senator BURDICK. He also was there on the 12 to 4 watch continuously. And while others may have taken the role of talking a little more, from time to time his incisive judgment and background were interjected at critical points.

Throughout the conference Senators LAUTENBERG and REID were in attendance exercising, at appropriate times, a turning of hand to keep the conference moving forward. Like all intensive meetings, often humor can be an effective tool—they were masters.

Senator LAUTENBERG, Senator REID, and Senator DURENBERGER, all gave of themselves and of their wisdom, and indeed, while they had in mind their own States, we were a team seeking equity, and equity we did achieve.

In particular, I want to thank Congressman PAYNE of the Virginia delegation. He is on the House committee, Chairman ROE's committee, maintaining constant contact with Chairman ROE, myself, and others. And together with our Highway Secretary, Secretary Milliken of Virginia, I think the three of us provided a voice for Virginia which enabled our State, I believe, to fare very well under this piece of legislation.

Mr. President, indeed, many are still somewhat unsatisfied. But I believe there were genuine attempts to try and close these gaps. Progress was made to give the so-called donor States, those States receiving less dollars in return than their highway users contribute to the trust fund, a greater return of their contributions.

During the consideration of the Senate bill, objections were expressed by many who believed that formulas used to allocate highway trust funds were unevenly allocated, and they simply were not getting that fair share in return for the dollar paid into the trust fund.

For Virginia, this conference report provides over $2.6 billion—far greater than the previous conference report—to meet transportation demands in the next 6 years. This amendment far exceeds the $1½ billion Virginia received from the trust fund under the current bill, which is now expired. It is my hope that this increase in funds will begin to meet the many highway demands across the Commonwealth of Virginia.

A cornerstone to the Federal Aid Surface Transportation Act, the FAST bill, which I originally sponsored with many others in this body, was a 90-percent minimum allocation for each State that contributed to the trust fund. The conference report represents a significant achievement for donor States by increasing the minimum allocation program from the current level of 85-percent to the 90-percent goal.

The program is important because it is the safety net for donor States. It guarantees that whatever the annual allocation, no State will receive less than 90 percent of what their highway users pay into the trust fund.

Mr. CHAFEE. Mr. President, I wish to take this opportunity to thank the distinguished senior Senator from Virginia for his substantial contributions to the conference which we held. First, I thank him for his kind comments about the role that I had and the part that all of us had who were involved with the conference, including, of course, the Senator from Virginia.

I do want to make a particular comment about his role. The Senator from Virginia, as he pointed out, was the only Senate conferee who came from a donor State, and thus he had a particular interest. And, as he pointed out, he was from one of the States that would have done better under the so-called FAST approach. But the Senator from Virginia understood the total problems that we are trying to resolve in there, and he certainly was a voice for equity. As a result of the efforts of the Senator from Virginia, we were able to make greater funding for those donor States than perhaps originally we could have contemplated achieving.

So I thank my good friend and longtime friend and very able colleague for his contributions, which were outstanding throughout the conference. In addition, it was always a pleasure to work with him.

Mr. WARNER. Mr. President, I thank my friend from Rhode Island.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, before the Senator from Virginia leaves the floor, let me first thank him for his generosity to us. It was the longest midwatch I have ever stood, but it is coming to an end. There is a light on the horizon.

But the Senator from Virginia typically left out one aspect of this legislation which is his and his alone, without which we would, all of us, be the lesser in the days ahead. That is that, thanks to him, part of this legislation enables the redevelopment of the National Airport, built in the 1930's, and Dulles Airport, that great sign of achievement of the 1950's, to go forward uninterrupted. A Federal court held that the authority building the project was unconstitutional. For some reason that escapes me, but it was clear to the court, and it was going to close down, not just putting the project and the efficiencies and the expenses at jeopardy, but putting the public at jeopardy. The safety issues were very real.

He did that. He persuaded a room full of House conferees that wanted to know what on Earth is this, that it was something that ought to be done. It was masterful. It was appreciated.

Mr. WARNER. Mr. President, I thank the distinguished Senator from New York. Again, it was his leadership that enabled us to get this bill. But I think Senator CHAFEE and I might well recommend to the Department of Navy that, for his contribution to the U.S. Navy through the years and now this particular bill, we should elevate him, I say to former Secretary CHAFEE, to the rank of commodore, Commodore MOYNIHAN, henceforth no longer lieutenant junior grade, Commodore MOYNIHAN.

And to my friend, Senator SYMMS, because Senator SYMMS will be departing the Senate after a distinguished career at the end of this term, and in recognition, all conferees—and I remember the moment during the course of the conference when it occurred—determined that we would name the trails program, which was a dream of this Senator for some 3 years, name it the Symms Trails Program.

STEVEN SYMMS is an outdoorsman. He comes from a State of outdoors persons. And he himself has enjoyed the use of his trails in his State and elsewhere in America for these many years, but he wanted to forge ahead, independently of what is in place today to work on trails, with a program which he fought tenaciously in this conference to keep isolated to itself so it can get done and the money would not be filtered through a large infrastructure of bureaucracy and thereby dwindled by the time dollars finally got down to the recipient. He kept it intact, the dollars intact, to flow to the States, and he also solved a rather delicate political balance, not Democrat and Republican, not Senate and House, but the politics of the trail, the politics of the users of the trail, be they walkers, horseback riders, motorized of several types. He was able to strike that balance, and, in recognition, the U.S. Senate, and, when this is signed into law, the President will name this program for our distinguished friend and colleague from Idaho. It was well done.

Mr. President, during the conference Senator SYMMS called me "Pothole Johnny" because of my determination to repair and maintain the roads in my State.

Senator SYMMS called me Pothole Johnny in this conference, but I know that his name will last forever once this program is named after my distinguished friend.

Mr. SYMMS. Mr. President, I thank my colleague for his kind words and I will just say that with WARNER, SYMMS, and CHAFEE, three marines, and our gunnery officer MOYNIHAN, there was no way we could lose this. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Florida, Mr. GRAHAM, is recognized.

Mr. MITCHELL. Mr. President, I inquire if the Senator will yield to permit me to make a unanimous-consent request.

Mr. GRAHAM. I yield.

Mr. MITCHELL. Mr. President, I thank my colleague.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, the unanimous-consent request I am about to make has been cleared by the Republican leader and by all Democratic Senators.

I ask unanimous consent that upon the disposition of the conference report on H.R. 2950, the surface transportation bill, the Senate proceed to the conference report on the crime bill, H.R. 3371, and that without any intervening action or debate, a vote occur on the motion to invoke cloture on the conference report at that time and that it be in order to file that cloture motion at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and I ask that it be read.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the conference report to accompany H.R. 3371, the Omnibus Crime Control Act.

George J. Mitchell, Lloyd Bentsen, Wyche Fowler, Richard Shelby, Charles S. Robb, Wendell Ford, Alan Cranston, Tom Daschle, Al Gore, Jeff Bingaman, J.J. Exon, John Glenn, J.R. Biden, Jr., Harry Reid, Sam Nunn, and Frank R. Lautenberg.

Mr. MITCHELL. Mr. President, Senators should, therefore, be aware that there will be two votes, one on the conference report on the surface transportation bill, immediately followed by a vote on the cloture motion on the conference report on the crime bill.

There is no time limit on debate on the surface transportation bill, but I hope that this debate can be concluded as soon as possible, giving every Senator ample opportunity to express his or her views. Those Senators who feel they can do so, I urge them to either put their statements in the RECORD or to make them following the votes so that we can proceed as promptly as possible and in a manner consistent with the schedules and demands upon as many of our colleagues as possible.

Mr. President, I thank the Chair.

Mr. LEVIN. Mr. President, will the majority leader yield on that point?

Mr. MITCHELL. I yield.

Mr. LEVIN. The majority leader asked me how much time I would be needing. I think I indicated to the majority leader that I would need about 20 minutes probably and I have some materials that I would like to put in the RECORD, and I would need the managers on the floor at that point to help me get certain information in the RECORD.

Mr. MITCHELL. I am going to yield the floor, and I thank the Senator from Florida. Is it possible at this time to consider a time limitation that would accommodate those Senators who wish to speak?

Mr. GRAHAM. Mr. President, I do not think so at this point.

Mr. MITCHELL. Mr. President, I thank my colleague, and I yield the floor.

Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Florida is recognized.

SURFACE TRANSPORTATION ACT—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. GRAHAM. Mr. President, this is much to commend in this legislation. It has been described as visionary. That is an appropriate description. The emphasis which this bill places on greater flexibility in terms of the use of funds blurring many of the former airtight compartments around modes of transportation to allow the process and the performance of transportation to be the guide, and to allow those decisions to be made more at the State and local level rather than in Washington are very positive.

Also positive is the interest in the question of where should our transportation system be not in the next 5 years but in the next 25 years. Clearly, the United States has completed one major epoch in the transportation history with the completion of the interstate system. We are now about to move on to some new period. What will it be? This bill suggests that that future should have as a major component the adaptation to America of the current and soon-to-be-developed state-of-high-speed surface rail transportation. I strongly support that movement. It is a movement which many of the States have been providing leadership in. The State of the Presiding Officer today has provided exemplary leadership in its interest with its neighboring State of California in developing such a system. The same has been true of States in the East, the wide West, and in my own State of Florida.

I strongly commend those positive provisions of this legislation.

However, I regret to say, Mr. President, that I would have to describe this bill as being a bill of missed opportunities, opportunities that were available and which were ignored. Of most significance in those missed opportunities were the opportunities to see this bill as a significant part of our Nation's immediate and longer term economic growth strategy.

We are now speaking a great deal about strategy. The President over the past several days has had different positions, but as of yesterday at least he said he enthusiastically supported the Congress adopting a growth program. I am personally very pleased the President has now taken that position, that we are not going to be asked to wait until January or February to consider the plight of millions of American families who are in deep pain as we stand on the eve of our national day of Thanksgiving, whose pain unfortunately is likely to be even more intense as we approach the great holiday seasons of the end of December.

Mr. President, this bill has the potential of being a significant part of our Nation's immediate and long-term economic growth program.

Let me suggest what I think have been the missed opportunities.

First, in terms of the short range, which I would define as the next 6 to 18 months. While it has been said—and I fear that it will be represented maybe on both ends of Pennsylvania Avenue—that we have contributed to a substantial expansion of job creation as a result of this bill, the facts do not support that assertion.

The facts are essentially these, Mr. President. We spent this year on highway funds approximately $16.5 billion; Federal highway funds, $16.5. This bill will propose to spend slightly less than $17 billion in 1992, virtually no increase in Federal funds, the increase being hardly what would be required in order to maintain equivalent purchasing power.

At the same time, Mr. President, the States, wracked with their own financial problems, are beginning to reduce their expenditures on transportation. It is unfortunate that the statistics are so inadequate and out of date, but what is available indicates that between 1989 and 1990, in terms of real dollars, the States actually reduced the amount of funds that they spend on the maintenance and expansion of their transportation system.

So here is an opportunity to create real jobs. We know from the Department of Labor's analysis that for every billion dollars spent on highway maintenance, some 40,000 jobs are created both directly in the project itself and those that are influenced at a secondary and tertiary level. We are not going to have any of that as a result of this bill. We essentially are going to continue to employ the number of people who have been employed, but the opportunity to use this bill as an engine for immediate stimulation for the American economy has been foregone. I am very distressed with that.

I am further distressed that so much of this money is being spent on projects that are likely to not have a contribution to the American job creation during this period when it is most needed. If you look at the list, Mr. President, of demonstration projects—a subject that I will return to at greater length later—those are not projects that are going to be started in the next 6, 12, 24 months. In fact, I understand that a substantial portion of the demonstration projects that were authorized 5 years ago have yet to commence. So, Mr. President, we are diverting funds into areas that are of suspect value and of almost no consequence in terms of stimulating our economy at this time of serious recession.

Then it might be said, well, although we missed the opportunity for an immediate contribution to restarting the economy, at least we are making an investment in our future. We are contributing to a better infrastructure, highway, mass transit system for the future.

That argument assumes what I think is clearly correct; and that is, if you were to ask the question, what could the Federal Government do over the next 25 years that would help to create the foundation for a competitive American economy, clearly one of the highest blocks on that foundation would be a major national commitment toward a strong transportation system. The studies are legion, linked the relationship between adequate expenditures on transportation and economic growth.

Are we, with this legislation, making that kind of contribution toward a stronger America? The answer, unfortunately, Mr. President, is no.

According to the U.S. Highway Administration, the current backlog of needs in our Federal-aid highway system is $491 billion. That is if we were to say, "Let's stop. Time out. As of today, let's concentrate on what is required to bring up the maintenance level of our existing highway system and to add the capacity necessary for the increased volume of use." How much would it cost to do that, Mr. President? Well, the best experts estimate $491 billion.

Well, those effects on our highway system, of course, are not going to stop. Every day there is a further gradual deterioration of the system. And anyone who rides on the Federal-aid system, from the best interstate to the most remote and distressed rural road, can give you plenty of examples of what is happening in our highway system. It is estimated that over the period of this bill from 1992 to 1997, we will add to that inventory of unmet needs, $223 billion. So that by the end of the period funded by this bill, our total unmet needs will be $714 billion, if we did nothing.

Well, we are not going to do nothing. In fact, according to this bill, we are going to spend $114.8 billion toward meeting that need.

Mr. President, when I subtract $114.8 billion from $223 billion, my conclusion is that the highway systems will be over $100 billion worse off, worse off, at the end of this bill than they are today. So we are—unless someone wishes to challenge these statistics, and I have stated them on this floor several times and no one has sought to do so—guaranteeing to America, a poorer, less adequate, less well-maintained highway system. We are guaranteeing to American drivers longer delays, less safe highways than we have today.

Unfortunately, Mr. President, it is not just in the highways that we are making such a guarantee. The American Public Transit Administration estimates today that the current backlog in public transit is $25 billion. That is, the amount required to maintain and bring up to a standard of adequacy of service in our public transit systems today is $25 billion; that over the next 5 years—I think this is an alarming figure because it indicates the rate which our public transit system is disintegrating—we are going to add $31.2 billion of additional needs for maintenance, modernization, and the replacement of the existing system, and $28.8 billion of need for capacity expansion, or a total of $60 billion of additional public transit needs over the period of this legislation.

What are we proposing to spend of Federal funds over this period? Thirty-two billion dollars.

So, again, the consequence of passing this legislation is going to be to add approximately another $50 billion in our Nation's unmet needs in terms of public transportation.

How can we purport that this bill is a contribution to America's economic strength when today it will create virtually no new jobs, when this type of program is one of the most potentially significant for stimulation of the economy, and where it guarantees that 6 years from now we will have worse highways and worse public transit systems?

I ask if anyone—and I see we have Senators who were on the conference committees, both on mass transit and highways, on the floor—if someone would like to challenge those statistics and make the case that we are, in fact, going to have an economic stimulation from this bill and that we are going to make better provisions for America's highways and public transportation systems over the next 6 years, I invite them at this point to interrupt and offer that contrary evidence.

Mr. President, as has happened repeatedly in the past, no one wishes to come forward and challenge that statement.

This is a missed opportunity because we could have done better. We could have, for instance, targeted these funds today to the area of highway activity that would have had the greatest contribution toward job creation, in which there are enormous needs in every State of America, and that is the rebuilding and maintenance of our Interstate System. That one program has one of the highest ratios of public funds expended to jobs created, doing things that will contribute demonstrably to a stronger, long-term economy for America. We eschewed that opportunity so we could pour more money into these suspect demonstration projects.

Mr. President, in summary, on point one, this is a bill of missed opportunities, a bill that, while it had great vision for the 21st century, has been blind to the opportunities immediately before us.

Second, I am deeply concerned about the process by which this bill comes before us. Three hours ago we met with staff to talk about the public transit provision in this bill. We asked could we see the language? Could we see the distribution of how these funds, $32 billion, will be spent? We are public stewards. Our constituents expect us to know what it is we are voting for.

What was the answer to our request for information within the shadow of the time we are going to be asked to vote on this bill? It will be available next Tuesday—available next Tuesday.

How are we supposed to adequately represent the interests of our citizens if we do not have the information until almost a week after we voted for the bill?

Last night, the House voted on a bill which it did not even have before it until the last second and could not possibly have read nor understood. We heard, earlier today, the Senator from New York applauding one of the staff members for his alacrity in being able to find the copy of the bill—that was residing on top of the filing case in the Dirksen Building—and rushing over at flank speed, so that it could be physically in the House, so that they could vote on the bill.

Is that not a travesty of how the legislative process is supposed to work?

Mr. President, there are parties who have deep interest in this who are not within a 100-yard radius of the U.S. Capitol. There are serious people back in the Tallahassees, the Carson Cities, the Santa Fes, the Albanys, the other State capitals who we are going to be looking to, to implement this bill, whose advice and counsel would be helpful to us in understanding whether this bill meets appropriate standards of public policy. They are completely shut out of this process, to say nothing of interested citizens, of which there are millions, who are concerned about how their tax dollars are being spent and what kind of effect that expenditure will have on the quality of their lives and their own economic futures. All those people have been effectively denied an opportunity to participate, to understand, to be a significant—not significant—to be even a trivial part. They were not even allowed to come into the stadium to sit at the farthest reach of the stands, much less be close to the field.

What does this say about America's confidence in our democratic process? If you want to know why some proposals, such as term limitation, are gaining so much public support, it is when they see responsible public bodies—this one, which has been known as the world's greatest deliberative body—function in the manner that we are today on this important legislation.

The third point is there are a series of serious, egregious problems with this legislation. Let me just mention a few.

A, the formula. It is hard to believe. I think there was a line in the movie "Casablanca" in which one of the characters in jest said that he was "shocked, shocked, shocked" to find out that some illegal activity was taking place in Humphrey Bogart's bar.

We should be shocked, shocked, shocked, to find out that we are about to vote on a transportation bill that will spend almost $150 billion of taxpayers' money from now through the year 1997 and we are going to do this using the 1980 census as the basis of distribution—shocked, shocked, shocked that we would do such a thing.

Mr. President, we should also be shocked, shocked, shocked because we were not required to do this. It has been stated that we just were without options, that we had to do this, that if we did not adopt this 1980 census we would not have any way in which to go about distributing these funds.

Quite to the contrary. In fact, 4 years ago the Department of Transportation for the States of America, recognizing that the formula that had been adopted in 1987 was neither equitable nor efficient in terms of meeting our future transportation needs, and anticipating the end of the interstate era—in fact, the senior Senator from New York has restated a speech that many of us heard him give in 1987 in which he said this bill, the 1987 bill, "will be the end of the interstate era. When we next return to this subject, we will be dealing with the postinterstate period of American transportation."

It is a rather sad commentary that we begin the postinterstate era by dragging in the last remnants of the old interstate era, all the way back to the 1980 census, and we did not have to do so.

Recognizing that these opportunities would be available, State departments of transportation began to develop ideas for future surface transportation programs. A year-long information gathering phase, which included public hearings in every State in the Union, was held. Numerous meetings occurred during which ideas were developed to set a new course for American surface transportation. The organization which initiated this activity was the American Association of State Highway and Transportation Officials, an organization whose members consist of the 50 State secretarys of department of transportation. Extensive supporting documentation was developed, including a set of recommendations, including a report entitled "New Transportation Concepts for a New Century"—a bold title for a bold report.

These recommendations were approved by 48 of the 50 States at a meeting held in late 1989. Mr. President, 48 of 50 States approved that document as recently as 1989. It represented the best ideas of the transportation professionals in this country.

Two new principles were recommended, a categorical program supporting a national highway system and a flexible system to address increasingly diverse and intermodal needs.

Several States took these recommendations further and developed a more specific funding formula for the categorical programs.

Mr. President, we had the option to adopt that program which was the result of extensive professional and public development. We rejected that option, and we now have the formula that is before us.

In addition to a formula which uses the 1980 census and, in fact—that fact being the cause and the effect of that being a formula, the formula that we are going to be adopting today, Mr. President, when it is reduced to computer columns has a total of 17 vertical numerical columns. Of those 17 columns, column No. 6 is labeled 90-percent minimum allocation. That is the column that is supposed to bring all of the States up to a minimum of 90 percent, a subject that I will discuss at more length later.

There are 20 out of the 50 States that have to be given a minimum allocation under this formula. If the Presiding Officer had been Governor of Nevada and an education finance formula had been presented from the legislature which causes 40 percent of the school districts in the State to have to get a minimum allocation because the basic formula was not sufficiently equitable to treat all of the school districts with some elemental fairness, that bill would have been vetoed and sent back to the legislature almost instantly.

The whole purpose of a formula is to be able to treat disparate entities with some level of policy equity. When you have a formula that ends up that 40 percent of the participants do not even meet what you had determined previously to be the minimum standards, you have a warped formula that requires not further massaging of minimum allocations but surgery on the formula itself.

But it does not stop there. That is column No. 6 out of 17, which is the so-called 90-percent minimum allocation. Move over to column No. 8. We have the Bentsen minimum allocation, another effort to bring equity to a formula which has failed to do so. We move over to column No. 11 and we have hold harmless, a third attempt to reconfigure an essentially distorted formula to meet some standard of equity.

That is not all, Mr. President, because then we move over to line No. 14 and we have a 90-percent of payments column.

So of the 17 columns, 4 are efforts to provide some degree of equity which the fundamental formula fails to do.

Those inequities are perverse.

In a conversation earlier today with the Senator from Michigan and the staff of the committee, we were told that one of the reasons why States that are supposed to get 90 percent in fact end up with 83, as is the case with the State of Florida, is because in order to fund all of those 4 columns that are supposed to be the rectifiers of the unfairness, you have to take money away from the very States who are supposed to be rectified. And so they end up losing a second time.

Mr. President, we have an odd thing that has happened in these formulas. We had a Civil War in this country from 1861 to 1865 and brought a number of States to the conclusion that they had to secede from the Union. I am not suggesting that we ought to return to those days, but I am saying that it is ironic that we have been able to come up with a formula in which every State, save one—and I might collaterally say that State happens to have the ranking member of the House Public Works Committee as a member of its congressional delegation—every member of the Confederacy, plus all of the border States—Missouri, Kentucky, Oklahoma—are losers, are donors under this formula.

The region of the country which has traditionally been thought of as the area that needed the greatest assistance in order to strengthen its economy, to become a full participant, the area of the country which Franklin Roosevelt identified as one requiring special attention, that is exactly the region of the country which, under past and current distribution of highway funds, has been for some perverse reson singled out for malicious mistreatment. The gentle statement becomes even more acute when you put it into a specific category.

Let me just use the example of a couple of States which I have used in previous debates. So the Senators from those States can be ready if they would like to respond if I misstate some fact. But the State of Connecticut is one of the wealthiest States in the country. The State of Alabama, unfortunately, has one of the lower per capita incomes in the country. The State of Alabama has 4,062,000 people, according to the 1990 census. Connecticut has 3,295,000 people. Alabama has a land area of 51,000 square miles; Connecticut has 5,000 square miles. Alabamians and their visitors consumed 2.102 billion gallons of gasoline in 1989; Connecticut, 1.493 billion. Highway taxes. Alabamians paid $260 million into the fund in 1990; Connecticut paid $142 million into the fund.

Those are just some general descriptions of those two States. With those kinds of numbers before you, how would you assume a highway bill would treat those two States? How do you think that Alabama and Connecticut ought to be treated?

I mentioned that Alabama contributed 2.09 percent of the total Highway Trust Fund last year. What is it proposing to get back under this bill? Alabama will receive 1.80 percent return. Connecticut, which contributed 1.14 to the highway fund, will receive 1.74 percent return.

Mr. President, I know there are some peculiarities. I know that Connecticut is getting some reimbursement for some interstate projects that have been authorized and not billed. There are some other refinements.

Mr. President, there is no logical justification for a formula that has that result in two States that are so disparate and where the result is so counterintuitive to exactly what you would think it would be based on size, population, contributions to the highway fund, economic status or other relevant considerations.

We are being told that this egregious formula, which has all of these perverse implications, is going to be papered over because we are going to get

90 percent of what we contributed to the fund. I have a sheet, Mr. President, which purports to say that the State of Florida, as an example, will, in fact, get back 92 cents on every dollar that we send to the fund.

That, Mr. President, I assert is a phony figure and it is phony for several reasons: First, because it almost treats us as being fools. That formula is based on taking the amount of money which your State will contribute to the Highway Trust Fund over the life of this bill which, in the case of Florida, is $5.045 billion and determining what percentage that is of the total that will be contributed by all 50 States, which is $102.852 billion.

In the case of Florida, it works out to be 4.9 percent. I am saying that if you get 90 percent of that amount that you contributed, you should be happy; that is your minimum allocation. Why not?

The reason why not, Mr. President, is because we are not spending $102 billion over the life of this bill. We are spending $114,784,000,000 out of the highway trust fund.

How can you spend more than you are taking in? The answer is, as has been stated earlier, because we have made the decision to begin to spend down the highway trust fund, a trust fund which has been growing over the last decade.

And with whose money has it been growing? It has not been growing with the money from the States that are getting back more than a dollar for a dollar. The trust fund has been built up because of States like Florida, which, according to this chart, using their same method of calculation, has been getting back 77 cents over the last 5 years of that 23 cents we did not get back, some of it was redistributed to other States. Some of it stayed in the highway trust fund and contributed to the fact that that trust fund now has almost $20 billion of accumulated surplus, and that $20 billion is now being spent down.

Mr. President, if we were to get the same proportion, 4.9 percent, of the dollars which are coming out of the trust fund, as we are supposed to get of the dollars that we are now going to be putting into the trust fund, the actual proportion of our return would not be the 92 cents as stated on this chart but would be 83 percent. We are being asked, Mr. President, for another 6 years to raise the taxes of our people in order to continue a tax which would otherwise lapse and then get back 83 cents on the dollar for the balance of a period of funding of this proposal.

Mr. President, I am, as the man in Casablanca, shocked, shocked, shocked that we would even consider such a proposal.

That is one egregious detail of this formula. Let us turn to another one, the demonstration projects. These foreseen inducements to passage have started as a small piglet and have now become a very large hog.

In fact, they grew substantially——

Mr. McCAIN. Will the Senator yield for a question?

Mr. GRAHAM. Yes, I will yield.

Mr. McCAIN. Mr. President, is the Senator aware that some of us who live in the West made plans to be with our family for Thanksgiving, and it takes a long time to get out there? We had planned on leaving yesterday, according to the direction that we were given. We have massaged this issue enormously, for tens and tens of hours before this body, and some of us would like to be with our families for Thanksgiving.

Now, if the Senator from Florida would like for us to come back on the day after Thanksgiving, or the following week, that is fine. But I would hope that Senators in this body who live in the East would show consideration for those of us who live in the West, who would like to get home with our families to celebrate this very important holiday.

I would appreciate the Senator from Florida answering my question.

Mr. GRAHAM. Mr. President, we would like to be home celebrating with our families at this very hour, but we have public work to do. After we complete this very important issue, we will be dealing with other questions important to the economy and the quality of life for the citizens of our State.

I deeply regret, as does the Senator, that we are now at the last hours before Thanksgiving considering this legislation. I would be perfectly happy to have this legislation deferred until a later date where we could give it the kind of close scrutiny which I think it deserves. That apparently is not an option that we have. And so whatever efforts we want to give to analysis, to let the people of America, who have been completely shut out of this process, have some idea of what it is we are about to do, seems to be only available to us now.

If the Senator has another suggestion of how we could proceed in order to inform the people before—not after—we have committed ourselves to this egregious proposal, I would be receptive to it.

In the absence of that, I would like to continue with what I consider to be the second major defect of this proposal, and that is the demonstration projects, these little piglets that have now become giant hogs.

When the House reported its bill, Mr. President, it had approximately $5 billion of specific demonstration projects. These are the sheets of those projects. The House also had $900 million that was in a fund they called minimum allocation. Theoretically, those States that did not get an equitable amount under some concept of equity of projects got some of that $900 million.

When the bill comes back from the conference committee, we do not have $5 billion of demonstration projects; we have $6.484 billion of demonstration projects and no minimum allocation. That is, we have added approximately $1.5 billion of specifically delineated demonstration projects over the course of this conference committee through a process that was largely behind a veil, a wall, a door of secrecy.

I would like to know—and maybe as we get further into the debate, somebody will answer the question—where is the beef? Where is that $1.5 billion that has apparently gone from somewhere into these additional demonstration projects?

There are some egregious things in these demonstration projects. I am not going to mention him by name, but there is a Congressman from a State not far north of here who has an important position in the House Public Works Committee. Let me just go down the list of projects that were in the original House bill. We cannot get the list of projects that came out of conference committee, so I cannot tell you whether there have been any additions since that.

But just to show you how well the House took care of its Congressman, he got $9.2 million for upgrading a highway, $103.6 million for improving another highway; he got $20 million to construct an access road off another highway—this is one Congressman. This is not a whole State, Mr. President. This is one congressional district—he got $4 million for highway improvements; $1.84 million for what appears to be a local road improvement; $8 million for another local road; $52 million to relocate a Federal highway around a particular community in his district; $1.6 million for safety improvements; $40.8 million to relocate another highway around another city; $35.1 million to construct a four-lane highway between two cities; $8.8 million to add a center turning lane on a particular road; $7.12 million to widen and extend Chestnut Avenue; $33.6 million to widen Route 30—that is not it, Mr. President—$.35 million for a timber bridge; $14.4 million to relocate a railroad; and that seems to be all.

Mr. President, I have not run the calculation, but I would suggest that that one congressional district probably got more demonstration projects than half the States in America. We are going to vote for a bill that says that is our priority of the appropriate expenditure of public funds?

Mr. President, we come to the third egregious aspect of this bill, and that is the item called "reimbursement." I mentioned earlier that we have a 17-column computer sheet. Number 10 is "reimbursement," and that distributes an even $4 billion.

The theory here, Mr. President, is that there were States that had made a contribution to the Interstate System before there was an Interstate System, States that had built stretches of highway that were later incorporated into the Interstate System, and therefore deserve to be reimbursed for that.

This is not a new issue. In fact, Mr. President, the original interstate bill, the 1956 Federal Aid Highway Act, section 115, instructed Congress to determine whether or not the Federal Government should equitably reimburse any State for a portion of a highway, toll or free, which completed construction or had contracted its construction between August 2, 1947, and June 30, 1956. The date of August 2, 1947 was specified in the act because it was the date of original designation of the Interstate System pursuant to section 7 of the Federal Aid Highway Act of 1944.

So in 1956, when the issue was fresh before the Congress, Congress was just about to launch this major national effort that had been first authorized during the last years of World War II—we are now about to start it. They said, let us look at this question of equitable treatment of States which have made such contributions.

The 1956 act study determined which highways were to be eligible for consideration for such reimbursement of their cost and their depreciation. The study found that of the 38,548 miles within the approved Interstate System, the miles which met the criteria for consideration for reimbursement totaled 10,859 miles, or 28 percent of the original toll. The cost of the eligible highways totaled $6.9 billion and depreciation totaled $174 million. Thus the total cost, less depreciation, for the highways eligible for consideration for reimbursement amounted to $5.92 billion, of which $2.5 billion was accounted for in toll roads, $3.4 billion in free roads.

After the completion of this study, which was in 1958, it was submitted to the Congress. Congress did not determine that the results mandated reimbursement to the States. So the Congress, which was most actively involved in the initiation of the Interstate System, made a decision in 1958 that reimbursement was not appropriate.

This issue was reopened in the Senate Surface Transportation Act by a provision which called for an update of this 1956 study to be conducted and transmitted to the Senate Environment and Public Works and the House Public Works and Transportation Committees by October 1, 1993. That is where the issue was as the bill left the Senate.

My understanding is there was no provision relative to this reimbursement issue in the House bill. So in that state what happens in the conference? What happens if the conference is, all of a sudden, a full-blown $4 billion reimbursement program emerges. And is it a program that, as the 1956 study had called for, closely analyzes cost and depreciation eligibility. Was the road built to the construction standards that were required for the interstate? Was it that?

Well, if it was such a study, it is rather curious. Just by sheer accident, the States of Alabama, Alaska, Arizona, and Arkansas each had exactly $20 million of those roads. Is not that a coincidence? I could go down the list.

There were lots of others that happened to have exactly $20 million, like Colorado for instance, like Wyoming, Wisconsin, and West Virginia, which all had just exactly $20 million of eligible roads with appropriate calculation for depreciation that could be included.

Mr. President, what word can one use to describe a process and a result as egregious as this? We bring appropriate public disrepute upon us when we act in this manner.

Mr. President, it has already been mentioned as one of the other aspects of the bill, that the bill is overfunded. We do not know whether it is overfunded by $1 billion or $2.5 billion. Both numbers have been suggested.

I understand that we may be getting a letter from the chairman of the Budget Committee later today suggesting a waiver of the Budget Act in order to be able to accommodate this bill. At a time when we are trying to operate with some sense of fiscal prudence, is it appropriate at the last hour before we recess to be passing a bill that is significantly over what we have agreed to be our budget limitation?

Let me suggest as a fifth egregious error that I believe that we really are undercutting the willingness of the American people to continue to support a national transportation system acting the way we are.

I happen to believe that there is an appropriate Federal role in transportation that has played an important part in building the strength of this Nation. That is not an opinion which has always been held. The man who at one time was the third President of the United States from the State of our Presiding Officer felt that it was inappropriate for the Federal Government to be involved in these types of public works. It was one of his major clashes with his political adversary, Alexander Hamilton.

As recently as the mid-1950's, the Interstate Program was defeated in Congress before it was finally adopted, defeated based on the proposition that the Federal Government should not be as engaged in highway finance as the Interstate Program contemplated.

I think that those who voted in 1944 to establish and in 1956 to fund the Interstate System deserve our applause and appreciation for what they did. I hope that we will be able to act as Federal legislators in ways that will justify the applause and respect of the American people. But this type legislation undercuts that essential quality.

Mr. President, as just a final point. Some of the very things that are pointed to as being the greatest strengths of this bill are undercut by the specifics of the bill. It is said that we are going to have a more flexible, more productive highway system, that we are going to be encouraging people to compete on performance, not on process, that we will be challenging—the State of Virginia will stand proud and show what it can do with greater productivity with its highways vis-a-vis Pennsylvania because it has greater smarts, greater commitment, greater ingenuity.

That is wonderful if both teams line up with 11 players on the field, and the same number on the bench. But, Mr. President, just to pick two examples, it happens one of those is my own State. Recently my State of Florida passed the State of Pennsylvania in population to become the fourth largest State in the Nation. Pennsylvania is still the State which is closest to Florida in population.

Florida, of course, is a very rapidly growing State. Pennsylvania is a State with a long industrial-agricultural tradition. We want to be able to compete with Pennsylvania and show that we can use public funds as effectively as Pennsylvania, and be able to do some of the things that this flexibility will allow us to do, to make our highways more effective, to enhance our public transit system.

Mr. President, under this bill, Pennsylvania will receive $5.663 billion. Florida, with the larger population, will get $4.637 billion. So we are going to be out competing with Pennsylvania with approximately $1 billion less money to be able to use to do all those good things that the flexibility is going to allow us to do.

So when we line up here 6 years from now and say who was the smartest, who was the most ingenious, who made the greatest contribution to innovation, I think I already pointed out that some of us are playing with only nine players on our team, and others were playing with a full 11.

Mr. President, for the Senator from Arizona and elsewhere, I am about to conclude my remarks. I wish I had not had to speak at such length. And, frankly, if there had been earlier opportunities for more serious discussions of what is in this conference report, it would not, hopefully, have been necessary.

But let us look to the future. Where do we go from here? The next step is going to be, assuming that the Congress passes this bill, that the President will have to make a decision. One of my colleagues has already suggested that the President ought to look negatively on this bill. That is going to be his decision. But I think there are some things that he ought to have in mind as he examines this bill.

Is this bill consistent with the pledge that he made to the American people in the summer of 1988 of "read my lips, no new taxes"? This bill contains a significant tax increase by extending for additional years a tax which is now scheduled to lapse and which, when it was adopted, was adopted on the premise that it was going to lapse.

Those are funds that many of us felt would have been picked up by the States when the Federal Government terminated its imposition of those taxes. We are now making the decision that we are going to levy that tax, we are going to demand of the American people that additional 2½ cents a gallon. We are not going to give an option for that to be used by officials at the State or local level.

The President ought to be concerned about fiscal prudence. Is this the way he thinks $150 billion of Federal funds ought to be spent? Is this the standard of the way in which the taxpayers' dollars should be used that he is willing to adopt as his own?

Finally, at the time when the President is apparently now concerned about economic stimulation, is this the bill that is going to do that? Or is it a bill that is going to divert money that could be used to put people to work immediately, into projects that are going to be building, projects of suspect worth over years into the future? Those are some questions I think the President ought to have in mind.

Second, I think there are some things we ought to have in mind. I hope we will come back here in December, because I cannot conceive of Congress going home for what will be perceived as a 2-month vacation, although I strongly dissent from that characterization. I do not see how we can, in a time of so much turmoil and distress, at a time when the American people are looking for leadership somewhere, absent ourselves from that stage.

I hope that when we do come back next month, we will relook at the issue of how transportation can play a key role as a stimulus. If we were to divert some of these funds that we currently have targeted for suspect project into an accelerated interstate program, we could put 250,000 people to work in the next 6 months. Would that not be a contribution we can make? That is the kind of opportunity we have, which we are about, at least for today, to decide to forgo.

Mr. President, there is some good, some suspect, much missed opportunity, and contribution to further erosion of public confidence in our ability to do our work. I am sad that we have reached this point, and I will have to vote against this bill.

I do so in the hopes that this experience will have some redemption in terms of the lessons that it will teach us, and that we will not be back here 6 years from now, maybe again dragging the 1980 census into the 21st century, that we will in the interim be involving, as they are asking to be involved, the public of America and the professionals of America, to help us in constructing a transportation system that will be worthy of this body, worthy of this Nation, and worthy of our contribution to the 21st century. Thank you.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, my intent here is to make a few brief comments and get some material in the RECORD, get some additional information, if I can, from the managers of the bill. I believe Senator MOYNIHAN is within earshot, and Senator SYMMS is on the floor. Perhaps between the two, they can given me the information that I will need.

Mr. President, the bill has a number of improvements, creative items. There is greater flexibility, less red tape. I congratulate the committee on really a vast number of improvements in the process which they have been able to accomplish.

The committee has worked hard. They have worked long, and even though there is a real problem left for many donor States, including my own, nonetheless, they have made some improvements from the perspective of many donor States, and we are grateful for those improvements.

The questions that I have I have tried to discuss with the staff of Senator MOYNIHAN. I think we can go through them very briefly to try to save some time. I have three charts, and I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL ASSISTANCE FOR CONFERENCE COMMITTEE—SUMMARY OF ESTIMATED APPORTIONMENTS OF FISCAL YEAR 1992–97 WITH NHS AND SURFACE TRANSPORTATION PROGRAM DISTRIBUTED USING FISCAL YEAR 1987–91 HISTORIC SHARE ADJUSTED TO 90 PERCENT MINIMUM ALLOCATION; ½ PERCENT MINIMUM INCLUDED IN CONGESTION/AIR QUALITY; HOLD HARMLESS PROVIDES EACH STATE AT LEAST ITS LOWER SHARE OF EITHER THE HOUSE OR SENATE BILLS

States	Interstate construction and substitution	Interstate maintenance	Bridge	NHS	Surface transportation program	90 percent minimum allocation	Federal lands	Bentsen minimum allocation	Congestion and air quality	Reimbursement	Hold harmless	Program total	Percent	90 percent of payments	Projects	Total	Percent
Alabama	51,408,000	324,228,599	342,046,110	387,140,265	440,602,492	95,733,200	5,882,652	103,195,392	35,400,000	20,000,000	68,014,448	1,873,651,158	1.74	59,766,096	133,329,627	2,066,746,881	1.80
Alaska	0	135,840,958	40,250,000	494,273,864	562,530,731	0	92,645,340	0	30,000,000	20,000,000	0	1,375,540,893	1.28	0	0	1,375,540,893	1.20
Arizona	0	372,465,724	40,250,000	296,604,212	337,563,842	192,849,368	320,279,352	0	66,000,000	20,000,000	(34,188,005)	1,611,824,493	1.49	0	31,919,587	1,643,744,079	1.43
Arkansas	0	181,534,238	211,119,300	233,905,327	266,206,539	216,254,652	10,159,260	63,550,701	30,000,000	20,000,000	60,635,864	1,293,365,881	1.20	13,149,179	328,784,682	1,635,299,742	1.42
California	751,138,988	1,673,746,044	524,149,990	2,154,081,426	2,451,549,813	1,015,420,192	120,773,076	448,829,544	835,800,000	216,800,000	0	10,192,289,073	9.45	0	334,703,047	10,526,992,120	9.17
Colorado	52,848,000	318,430,857	150,523,730	354,917,628	403,930,063	0	69,859,548	0	84,600,000	20,000,000	0	1,455,109,826	1.35	0	2,876,401	1,457,986,227	1.27
Connecticut	315,843,592	216,121,248	813,376,830	138,561,472	157,696,151	0	0	0	92,400,000	228,400,000	(40,759,422)	1,921,639,871	1.78	0	79,089,203	2,000,729,075	1.74
Delaware	0	85,000,000	45,973,550	125,407,303	142,725,454	0	0	0	30,000,000	28,000,000	(9,494,180)	447,612,119	0.41	0	0	447,612,119	0.39
District of Columbia	115,211,946	85,000,000	112,236,320	101,799,205	115,857,191	0	0	0	33,000,000	20,000,000	(12,111,199)	570,993,463	0.53	0	21,742,204	592,735,667	0.52
Florida	73,080,000	629,406,347	283,735,130	1,008,475,954	1,147,741,680	712,085,042	8,813,142	247,374,128	173,400,000	22,400,000	164,142,439	4,470,653,862	4.14	70,286,426	96,528,176	4,637,468,464	4.04
Georgia	158,544,054	602,184,213	317,009,000	625,061,677	711,379,718	367,695,527	3,166,674	181,727,941	88,200,000	33,600,000	120,819,491	3,209,388,295	2.97	67,883,836	77,547,815	3,354,819,946	2.92
Hawaii	159,192,000	85,000,000	43,518,300	130,959,582	149,044,476	0	0	0	30,000,000	20,000,000	0	617,714,358	0.57	0	0	617,714,358	0.54
Idaho	0	152,353,123	40,250,000	194,306,406	221,139,195	0	83,395,032	0	30,000,000	20,000,000	0	741,443,756	0.69	0	67,397,203	808,840,959	0.70
Illinois	0	592,955,564	465,576,580	921,398,422	1,048,639,156	208,633,072	1,482,996	213,674,597	300,000,000	344,800,000	(85,090,832)	4,012,061,555	3.72	0	437,771,509	4,449,833,064	3.88
Indiana	8,449,595	374,884,606	269,615,430	492,126,938	560,087,324	327,472,540	1,027,878	134,069,363	80,400,000	121,200,000	0	2,369,333,674	2.20	25,275,959	105,164,979	2,499,774,612	2.18
Iowa	0	245,489,565	295,837,500	318,083,069	362,008,827	0	676,134	0	30,000,000	20,000,000	73,607,550	1,345,702,645	1.25	0	110,660,236	1,456,362,881	1.27
Kansas	0	247,558,614	292,799,430	269,405,268	306,608,853	0	8,662,974	0	30,000,000	73,600,000	0	1,228,635,139	1.14	0	73,501,607	1,302,136,746	1.13
Kentucky	49,536,000	296,596,630	320,966,380	314,030,749	357,396,899	88,380,477	2,621,544	92,216,477	68,600,000	22,800,000	29,612,959	1,634,758,115	1.52	46,253,558	79,443,968	1,760,455,641	1.53
Louisiana	39,240,000	289,257,057	330,239,980	315,712,764	359,311,194	56,530,346	4,457,280	87,947,107	30,000,000	20,000,000	140,187,752	1,672,883,480	1.55	0	70,099,574	1,742,983,055	1.52
Maine	0	85,000,000	98,781,550	145,454,184	165,540,715	0	1,377,732	0	30,000,000	27,600,000	(11,501,584)	542,252,597	0.50	0	201,501,607	743,754,204	0.65
Maryland	325,983,962	283,007,196	198,656,290	347,122,672	395,058,660	0	0	0	160,800,000	111,600,000	0	1,822,228,780	1.69	0	104,267,219	1,926,495,999	1.68
Massachusetts	2,466,544,718	230,392,524	911,189,168	159,447,654	181,466,616	0	0	0	243,600,000	205,600,000	310,339,410	4,708,580,890	4.36	0	5,922,801	4,714,502,091	4.11
Michigan	74,160,000	562,406,581	354,750,620	594,137,305	676,184,837	282,062,089	13,243,002	155,821,688	156,000,000	165,600,000	0	3,034,366,122	2.81	0	122,213,185	3,156,579,307	2.75
Minnesota	67,680,000	326,861,207	202,256,250	388,175,982	441,781,236	0	32,027,670	0	89,480,000	20,000,000	131,898,353	1,700,080,698	1.58	0	244,896,838	1,944,977,536	1.69
Mississippi	0	206,401,926	227,637,900	252,125,081	286,942,355	29,341,431	9,449,892	57,176,904	30,000,000	20,000,000	122,838,054	1,241,913,543	1.15	0	33,966,907	1,275,880,458	1.11
Missouri	0	476,229,577	634,571,840	372,086,371	423,469,726	184,125,024	4,595,274	134,346,707	95,400,000	54,000,000	22,985,205	2,401,810,524	2.23	60,947,429	152,753,790	2,615,511,743	2.28
Montana	0	272,905,291	83,409,270	236,005,284	268,596,490	0	136,726,296	0	30,000,000	20,000,000	0	1,047,642,631	0.97	0	21,000,000	1,068,642,631	0.93
Nebraska	0	141,936,322	200,266,290	230,559,449	262,398,610	0	1,559,328	0	30,000,000	20,000,000	5,512,713	892,232,712	0.83	0	20,236,324	912,469,036	0.79
Nevada	0	151,924,732	40,250,000	189,152,346	215,273,384	0	48,427,758	0	30,000,000	20,000,000	0	695,028,220	0.64	0	93,273,048	788,301,268	0.69
New Hampshire	0	85,000,000	89,667,340	142,450,740	162,122,508	0	3,902,232	0	30,000,000	20,000,000	(11,073,482)	522,069,338	0.48	0	31,844,003	553,913,341	0.48
New Jersey	473,425,029	214,285,320	722,122,030	513,444,377	584,348,601	0	0	0	327,000,000	256,400,000	0	3,891,025,357	2.87	0	188,754,676	3,279,780,033	2.86
New Mexico	0	279,080,538	52,115,700	234,622,590	267,022,852	0	279,281,190	0	30,000,000	20,000,000	0	1,162,042,870	1.08	0	10,828,803	1,172,871,673	1.02
New York	379,906,509	589,995,743	1,610,000,000	964,579,444	1,097,783,272	0	690,222	0	593,400,000	675,200,000	(122,784,171)	5,788,771,019	5.37	0	356,505,532	6,145,276,550	5.35
North Carolina	106,416,000	320,178,219	324,735,390	622,865,938	708,880,759	270,849,224	15,689,016	140,762,399	103,200,000	26,000,000	217,664,325	2,857,241,270	2.65	0	147,086,424	3,004,327,694	2.62
North Dakota	0	133,864,051	58,172,520	181,838,354	206,940,259	0	33,674,874	0	30,000,000	20,000,000	0	664,482,058	0.62	0	73,943,803	738,425,861	0.64
Ohio	70,920,000	675,410,439	492,719,570	773,885,939	880,755,903	466,575,792	1,078,050	222,258,934	252,000,000	187,200,000	0	4,022,884,627	3.73	0	151,379,223	4,174,183,850	3.64
Oklahoma	0	235,970,258	344,071,490	285,830,574	325,302,415	94,939,254	82,398,636	3,081,704	30,000,000	66,400,000	58,992,931	1,526,987,262	1.42	0	29,474,646	1,556,461,988	1.36
Oregon	93,978,884	256,952,579	93,322,040	285,887,271	325,366,941	0	139,732,062	0	51,600,000	56,800,000	56,728,545	1,360,368,322	1.26	0	46,022,409	1,406,390,731	1.23
Pennsylvania	858,960,000	426,099,381	1,451,294,250	620,621,316	706,326,165	0	2,839,200	0	405,000,000	257,200,000	0	4,728,340,312	4.38	0	934,783,793	5,663,124,105	4.93
Rhode Island	127,764,740	85,000,000	40,250,000	129,853,961	147,786,174	0	0	0	34,800,000	20,000,000	2,341,143	587,796,018	0.54	0	57,384,001	645,180,019	0.56
South Carolina	46,152,000	287,576,730	125,082,510	345,195,426	392,865,270	142,905,738	3,066,570	85,980,474	30,000,000	20,000,000	37,954,318	1,516,779,836	1.41	61,587,105	54,688,005	1,633,054,146	1.42
South Dakota	0	164,552,678	76,842,088	188,420,907	214,440,938	0	75,821,316	0	30,000,000	20,000,000	0	770,077,919	0.71	0	23,451,125	793,529,044	0.69
Tennessee	59,823,983	434,785,651	410,442,130	408,040,141	464,388,541	85,685,092	3,990,672	119,842,847	97,200,000	20,000,000	136,975,717	2,241,174,774	2.88	0	60,209,832	2,301,384,606	2.00
Texas	153,216,000	1,276,268,575	609,869,610	1,606,376,578	1,828,209,535	296,102,670	4,039,458	379,460,942	561,000,000	145,600,000	0	6,860,143,368	6.36	0	269,958,654	7,130,102,022	6.21
Utah	0	273,314,555	40,258,000	198,755,658	226,202,867	0	26,619,702	0	42,000,000	20,000,000	0	827,142,782	0.77	0	10,828,803	837,971,585	0.73
Vermont	0	85,619,630	90,063,400	119,231,367	135,696,651	0	1,400,118	0	30,000,000	20,000,000	(10,011,467)	471,999,699	0.44	0	20,000,000	491,999,699	0.43
Virginia	340,848,000	485,943,212	361,747,680	401,953,020	457,460,817	40,854,801	9,545,880	129,284,719	108,000,000	80,400,000	34,892,287	2,450,930,416	2.27	9,853,299	155,350,239	2,616,133,954	2.28
Washington	395,136,000	372,926,658	399,705,040	281,191,007	320,022,146	0	112,655,604	0	99,600,000	52,000,000	188,226,012	2,222,262,467	2.86	0	129,337,618	2,351,600,084	2.05
West Virginia	0	139,564,104	447,047,090	173,179,170	197,094,389	0	4,486,170	0	30,000,000	20,000,000	0	1,011,370,923	0.94	0	311,603,230	1,322,974,153	1.15
Wisconsin	344,592,000	231,970,072	275,281,020	375,967,738	427,087,093	0	22,392,600	0	70,200,000	20,000,000	64,577,397	1,832,867,920	1.70	0	350,522,800	2,183,390,720	1.90
Wyoming	0	215,602,864	40,250,000	183,588,852	208,941,599	0	45,072,768	0	30,000,000	20,000,000	(15,441,730)	728,014,353	0.67	0	20,000,000	748,014,353	0.65
Total	8,160,000,000	17,000,000,000	16,100,000,000	21,000,000,000	23,900,000,000	5,174,496,331	1,850,100,000	3,000,602,568	6,000,000,000	4,000,000,000	1,700,000,000	107,885,198,899	100.00	415,082,885	6,484,548,353	114,784,750,138	100.00

RATIO—PERCENT OF APPORTIONMENTS TO PERCENT OF PAYMENTS

State	Fiscal year 1987–91 apportionments/allocations	Senate bill	House bill	Conference report
Alabama	106.28	83.23	89.19	86.21
Alaska	530.58	613.27	338.75	535.74
Arizona	82.28	95.40	87.18	90.76
Arkansas	75.54	85.02	101.28	100.94
California	77.97	84.11	86.63	84.08
Colorado	138.53	130.51	93.97	108.58
Connecticut	238.32	158.65	134.81	152.43
Delaware	121.61	140.85	130.76	133.47
District of Columbia	478.98	375.63	337.61	360.04
Florida	74.27	84.56	87.48	82.36
Georgia	75.95	84.11	87.06	82.55
Hawaii	523.38	208.47	222.10	210.96
Idaho	177.99	181.20	111.41	160.98
Illinois	90.50	83.70	88.52	94.10
Indiana	78.60	84.26	87.26	84.19
Iowa	114.75	107.92	100.75	101.53
Kansas	85.80	89.49	102.63	92.02
Kentucky	76.21	83.53	86.02	84.46
Louisiana	102.47	90.02	86.74	85.82
Maine	83.44	89.56	90.96	115.81
Maryland	139.05	91.99	92.66	92.02
Massachusetts	241.00	226.38	226.45	212.83
Michigan	80.21	83.81	87.71	84.95
Minnesota	112.91	94.19	96.45	101.18
Mississippi	77.14	92.48	88.81	87.13
Missouri	77.23	83.76	89.18	85.65
Montana	170.94	243.09	118.87	203.74
Nebraska	108.08	148.79	115.16	113.65
Nevada	105.97	114.30	88.49	119.40
New Hampshire	109.06	118.06	107.35	118.42
New Jersey	103.53	94.94	105.91	102.29
New Mexico	101.11	151.16	86.92	133.47
New York	113.74	110.93	114.75	118.77
North Carolina	78.86	88.82	87.40	87.37
North Dakota	161.98	188.54	153.18	189.21
Ohio	79.05	84.08	87.28	85.03
Oklahoma	82.89	86.56	89.72	82.84
Oregon	81.37	97.15	92.55	91.53
Pennsylvania	104.37	98.88	124.43	114.03
Rhode Island	251.12	211.86	169.63	181.68
South Carolina	83.66	82.54	84.71	83.44
South Dakota	166.21	212.17	145.45	194.04
Tennessee	79.14	87.70	87.27	84.55
Texas	82.83	84.46	87.44	84.59
Utah	129.34	126.84	87.01	102.26
Vermont	186.87	173.08	171.17	177.27
Virginia	79.22	85.55	88.23	85.74
Washington	135.94	108.18	105.16	105.89
West Virginia	120.02	149.45	126.31	144.94
Wisconsin	77.89	87.81	110.97	98.22
Wyoming	124.58	138.59	89.38	135.28

RETURN ON DOLLARS PAID INTO THE HIGHWAY ACCOUNT

State	Fiscal year 1987–91 apportionments/allocations	Conference report
Alabama	1.10	0.96
Alaska	5.49	5.98
Arizona	.85	1.01
Arkansas	.78	1.13
California	.81	.94
Colorado	1.43	1.21
Connecticut	2.47	1.70
Delaware	1.26	1.49
District of Columbia	4.96	4.02
Florida	.77	.92
Georgia	.79	.92
Hawaii	5.42	2.35
Idaho	1.84	1.80
Illinois	.94	1.05
Indiana	.81	.94
Iowa	1.19	1.13
Kansas	.89	1.03
Kentucky	.79	.94
Louisiana	1.06	.96
Maine	.86	1.29
Maryland	1.44	1.03
Massachusetts	2.50	2.38
Michigan	.83	.95
Minnesota	1.17	1.13
Mississippi	.80	.97
Missouri	.80	.96
Montana	1.77	2.27
Nebraska	1.12	1.27
Nevada	1.10	1.33
New Hampshire	1.13	1.32
New Jersey	1.07	1.14
New Mexico	1.05	1.49
New York	1.18	1.33
North Carolina	.82	.98
North Dakota	1.68	2.11
Ohio	.82	.95
Oklahoma	.86	.92
Oregon	.84	1.02
Pennsylvania	1.08	1.27
Rhode Island	2.60	2.03
South Carolina	.87	.93
South Dakota	1.72	2.17
Tennessee	.82	.94
Texas	.86	.94
Utah	1.34	1.14
Vermont	1.93	1.98
Virginia	.82	.96
Washington	1.41	1.18
West Virginia	1.24	1.62
Wisconsin	.81	1.10
Wyoming	1.29	

Note.—Both columns include interstate construction and substitution, which very greatly from State to State.

Reductions:	
Illinois	$50.0
Pennsylvania	50.0
Arkansas	12.0
Maine	15.0
New York	50.0
Total	177.0
Increases:	
Georgia	35.5
Oklahoma	58.8
Florida	82.7
Total	177.0

Mr. LEVIN. The first chart is entitled "Technical Assistance for Conference Committee," dated November 26, 1991, 3:16 a.m., which shows how hard the committee and staff have been working. That, as I understand it, is the best information available, except for——

Mr. MOYNIHAN. Mr. President, may I respectfully request that the Senate be in order? The Senator from Michigan has waited with great patience for this colloquy, and it needs to be carefully heard and clearly reported.

The PRESIDING OFFICER. The Senator retains the floor.

Mr. LEVIN. Mr. President, except for some modifications which were made last night, and I will make reference to them, entitled "Demonstration Projects Changes," this chart that I have just identified represents the best of our knowledge as to what is in the report State-by-State; is that correct?

Mr. MOYNIHAN. The Senator from Michigan is correct.

Mr. LEVIN. The fourth chart, Mr. President, entitled "Demonstration Projects Changes," is a modification to the chart entitled "November 26, 1991, 3:16 a.m.," as well as to the other two charts, entitled "Ratio–Percent of Apportionments to Percent of Payments;" and "Return on Dollars Paid Into the Highway Account."

I would like to inquire of the manager, our good friend from New York; I understand that the transit funding distribution by State is not available at this time?

Mr. MOYNIHAN. The answer is that it is implicit, of course, in the statute, but the charts are not available. The Senator is correct.

Mr. LEVIN. So that we are not able to determine how much each State gets at this point, right at this time; the Senator could not tell us how much each State will be getting in mass transit money?

Mr. MOYNIHAN. From the chart, no, sir. The formulas are there, and the result is implicit in the formula.

Mr. LEVIN. But the Senator is not able to tell us what that works out to.

Mr. MOYNIHAN. No.

Mr. LEVIN. I understand there is a total amount of mass transit money of $31 billion, and 58 percent of that is trust fund money.

Mr. MOYNIHAN. Yes, that is the case.

Mr. LEVIN. The next question is that the so-called Bentsen funding, I understand, is not contingent on full funding of other portions of the bill?

Mr. MOYNIHAN. The Senator is correct.

Mr. LEVIN. I also understand that the 90 percent minimum allocation is not reduced by demonstration project funding.

Mr. MOYNIHAN. That is correct.

Mr. LEVIN. On the first chart, the November 26, 1991 chart, time 3:16 a.m., which shows a reimbursement column, I understand that the principle behind that column is that a number of States had spent some money on interstate prior to the funding being available, and this is intended to be reimbursement principally for those States?

Mr. MOYNIHAN. The Senator is correct. We are following precisely a table prepared by the then Bureau of Public Roads in 1958, pursuant to instructions, to a provision of the 1956 statute. All States are entitled to some reimbursement, the Northeastern States more than others.

Mr. LEVIN. Is that true, though, even though those States did not expend money in some cases?

Mr. MOYNIHAN. It is simply the historical fact that States did contribute something, sometimes merely right of way, but the 1958 report so indicates, and we have provided a minimum for those States that provided very little.

Mr. LEVIN. Is it not true that every State is guaranteed $20 million, even though there may not have been an expenditure of $20 million?

Mr. MOYNIHAN. The Senator is exactly correct.

Mr. President, I ask unanimous consent to print the original table in the RECORD at this point so that will be clear as well.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Alabama	$9	0.50	$147
Alaska		.50	147
Arizona	20	.50	147
Arkansas	6	.50	147
California	298	5.42	1,591
Colorado	23	.50	147
Connecticut	314	5.71	1,676
Delaware	39	.71	209
Florida	31	.56	164
Georgia	46	.84	246
Hawaii		.50	147

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Idaho	5	.50	147
Illinois	475	8.62	2,533
Indiana	167	3.03	892
Iowa	5	.50	147
Kansas	101	1.84	540
Kentucky	32	.57	169
Louisiana	22	.50	147
Maine	38	.69	204
Maryland	154	2.79	820
Massachusetts	283	5.14	1,511
Michigan	228	4.14	1,218
Minnesota	16	.50	147
Mississippi	6	.50	147
Missouri	74	1.35	396
Montana	5	.50	147
Nebraska	1	.50	147
Nevada	2	.50	147
New Hampshire	8	.50	147
New Jersey	353	6.41	1,882
New Mexico	8	.50	147
New York	929	16.88	4,960
North Carolina	36	.65	191
North Dakota	3	.50	147
Ohio	257	4.68	1,374
Oklahoma	91	1.66	486
Oregon	78	1.42	417
Pennsylvania	354	6.43	1,888
Rhode Island	12	.50	147
South Carolina	4	.50	147
South Dakota	5	.50	147
Tennessee	7	.50	147
Texas	200	3.64	1,069
Utah	6	.50	147
Vermont	1	.50	147
Virginia	111	2.01	591
Washington	73	1.32	389
West Virginia	5	.50	147
Wisconsin	8	.50	147
Wyoming	9	.50	147
D.C	9	.50	147
Total	4,967	100.00	29,384

Mr. MOYNIHAN. The State of Michigan is entitled, under this, to $1.2 billion. The Senator's State is owed $1.2 billion and it is under the clear understanding that President Eisenhower had, Congress had, General Clay, specifically provided this in his report.

Mr. LEVIN. Was there a guarantee of one-half of 1 percent in that original commitment?

Mr. MOYNIHAN. No. That was the judgment of the conferees that——

Mr. LEVIN. That States would get a minimum of $20 million, whether or not they had expended $20 million?

Mr. MOYNIHAN. That is correct.

Mr. LEVIN. Just two other quick questions. As I understand it, on the column entitled "Projects," there is more money per projects by about $200 million in the conference report than existed in the House bill.

Mr. MOYNIHAN. The Senator is correct, approximately $200 million.

Mr. LEVIN. It is my understanding, also, that is above the amount which was allocated for Wisconsin because of a computer error?

Mr. MOYNIHAN. That is correct.

Mr. LEVIN. My last question is that some of the money in the "Projects" column, as far as we know, is not earmarked for specific projects but is simply cash which is put into that column later to be earmarked. I am wondering if the Senator could tell me approximately how much of that total represents unearmarked money.

Mr. MOYNIHAN. That is again the principle that there is a minimum for everyone. Some States, for example, the State of Wisconsin, in the House bill, had no project, it being the principle of their State government, they did not want any; they, nonetheless, got their minimum, not much, and, of course, all projects have to be matched by State funds.

Mr. LEVIN. Can the Senator from New York tell us how much money in the "Projects" column is not earmarked for a specific project?

Mr. MOYNIHAN. We have not done those out.

Mr. LEVIN. But there is some money.

Mr. MOYNIHAN. Yes, there is, and there is an obligation after 35 years the U.S. Congress records the fact that the State of Michigan is entitled to $1.2 billion. Let us not be vague—$1.218 billion.

Mr. LEVIN. I thank the Chair.

I again thank my friends from New York and Idaho and the other members of the committee for their courtesies. They have been consistently courteous to those of us particularly from donor States, and I must say this in conclusion: a number of us have improved our position. There is still a basic inequity, but a number of us, including Michigan, have improved our position. We appreciate that. We appreciate the response to our efforts of the 23 donor States that are shown as donor States by percentage basis on the chart entitled "Ratio-Percent of Apportionments to Percent of Payments." Of the 23 donor States, 20 have historically been donor States.

So there has not been a major change in the historic patterns as to which States are donors and which States are donees. The change that I do appreciate is that we, at least in my State of Michigan, have improved somewhat our negative position, and again we thank the Senator and our good friend from Idaho, and may I say he will not be with us next year and——

Mr. MOYNIHAN. He will be with us next year.

Mr. LEVIN. Next year he will, but next Congress he will not be with us. We worked together well. I not only appreciate my friend from New York, but my friend from Idaho more for the courtesies.

Mr. SYMMS. I thank my colleague.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. I now propound a unanimous-consent request which I am advised has been cleared by the Republican leader.

I ask unanimous consent that if the Senate fails to invoke cloture on the crime conference report, that the conference report be displaced, and there then be 30 minutes of debate on the subject of the crime conference report, equally divided between Senators BIDEN and THURMOND, and that upon the conclusion or yielding back of that time, the Senate proceed to the conference report on S. 543, the banking bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, there has been a lot of debate about this bill. I simply commend the managers of the bill. This is a tough bill. It is not easy. It took about $151 billion. You are talking about diverse needs. You are talking about mass transit needs. You do not need mass transit in certain areas of the country. But in other areas if you have to build a road or bridge, the cost is incredible, the cost of building and maintaining, whether in Alaska or the long stretches out in the West.

Let us understand that. Let us not practice the kind of fraticide that is going to bring great problems, I think, to this institution and to what our form of government is about. I have to tell you, I want to compliment Senator MOYNIHAN and the managers of this bill for attempting to balance the needs and recognize the political reality. All of sudden some people say "Oh, it is pork. It starts out as a piglet. The piglet becomes the pork." Let me tell you something. Let us understand what the body is about. There are people who say you want to be our Congressmen and Senators. What do you do to meet the special needs?

I think this has been an attempt to balance it. Perfect? Of course not. It is difficult. It is tough. There are always needs that are unfulfilled.

Again, we begin to talk about what committee does what and where and how, you know, better take a look and see. This operates that way in other committees as well—Defense and others.

So I am not going to continue on. I am going to say that this was an attempt to meet the diverse needs of this Nation, and let me tell you this: What we should have done is passed this bill 6 months ago—5 months ago. I understand there is about 17 billion dollars' worth of highway and bridge construction infrastructure that is desperately needed and is going to put Americans to work at the same time. That is the kind of things we need. So you can pick a $151 billion project; my gosh, of course there is room to say how come here and there and how come not someplace else. Do Senators want to do that to a defense bill?

I challenge Senators to stand up and talk about it. I will tell Senators, tell them about how programs and projects are knocked out that should be kept on merit and others we continue to build things that the military says we do not need, we do not want, do not do it, but it comes from somebody's own State and that is why. Let us not kid ourselves here.

I commend the managers of this bill and I say we would have had it out of here a long time ago if this Senate had its way. We would have passed this bill in June if it were not for the fact our colleagues on the other side kept us down to the last minute. We would have had numbers for Senators to run out and each could have done adjustments a lot earlier that can and should be done.

I commend my senior Senator for having done a heck of job in attempting to balance the realities of real life.

Mr. President, I rise today to congratulate my colleagues for the diligent and bipartisan efforts that have led to the completion of the historic Intermodal Surface Transportation Efficiency Act and as part of this legislation the Federal Transit Act Amendments of 1991.

I particularly commend my colleague from New York, Senator MOYNIHAN for his staunch commitment in creating a bold and innovative new direction in reauthorizing our surface transportation programs for the next 6 years.

I also want to thank my colleague Senator CRANSTON for his commitment to maintaining and strengthening Federal transit programs. The excellent Banking Committee staff deserves all our thanks. They include: Don Campbell, Eileen Gallagher, Kris Warren, and Jeanine Jacokes as well as my own staff of Anne Miano and Pam Ray Strunk.

Mr. President, this legislation provides $119 billion for highway and $32 billion in transit funding. Federal spending on highways and transit is a critical investment for our Nation. It maintains and strengthens our infrastructure, creates hundreds of thousands of jobs, and is essential to America's competitive position in the world.

This bill will prove to be a key component in jump starting the frozen economy of the Northeast, particularly New York State. It will literally get us moving again while helping to rebuild crumbling infrastructure. It will support 52,800 construction related jobs in New York and create nearly 320,000 new jobs in New York over the next 6 years—4 million jobs nationwide.

New York's highways and transit infrastructure are in dire needs of the shot in the arm that the billions of new dollars in this bill will provide. Our crumbling highways and bridges and aging mass transit systems need these dollars now. This bill brings home the bacon, not the bologna, for New York as well as other States with great infrastructure needs.

We have renewed America's commitment to safe and efficient mass transit systems by doubling transit funding from $16 billion over the last 5 years to $32 billion over the 6-year life of this bill. New York will get nearly a 100-percent increase in transit funding.

This bill preserves operating aid for large and small transit grantees and even permits inflationary adjustments. This means a continued $120 million a year to New York State and $720 million over the 6-year bill—MTA = $95 million a year; Buffalo = $6 million a year; other NY systems = $19 million a year.

The bill before us today places a greater emphasis on formula funding rather than previous years' discretionary funding in a broad attempt to stabilize Federal contributions to local transit agencies. This means a steady 35-percent share of the new rail modernization formula for New York City MTA providing $210 million in fiscal year 1992 increasing to $410 million in fiscal year 1997—$1.7 billion over 6 years. This is an increase of $1 billion over the last 5-year authorization. For the first time, the Buffalo transit system will share in this program. They will receive rail mod funds starting at $475,000 this fiscal year and rising to $1.1 million in fiscal year 1997—$4.4 million over 6 years.

This legislation includes $327 million in new starts project funds for New York State. It will provide $306 million to build the Queens connection to the 63d Street tunnel—probably the Nation's most cost effective new start transit project. It will increase ridership twelvefold.

Also, provided is: $12 million for two new Staten Island ferries providing new service to midtown Manhattan; $2 million for a metro bus center in Buffalo; $2.7 million for Staten Island ferry operating aid; and $4 million for operating aid to provide transportation services during the Buffalo World University transportation services.

Formula funds for New York for routine capital needs total $2.5 billion over 6 years. This is an increase of $1.4 billion in new formula funds over the life of the bill.

Funding for rural transit systems and elderly and handicapped programs would nearly double under this legislation.

We have also placed our transit systems on a level playing field with other forms of transportation. The creation of one 80/20 Federal/State match for both highway and transit projects will mean future transit projects will not be at a disadvantage when competing with highway projects.

Mr. President, again, I want to thank my colleagues who have worked so hard to bring us to this point. This is good for New York State and good for America.

Mr. MOYNIHAN. Mr. President, I thank my colleague my friend, and a friend of anybody who rides the subways in New York City or anywhere else in the country.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska, Mr. MURKOWSKI.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

Mr. President, I would like to thank my colleague from New York and my colleague from Idaho for the leadership and patience they displayed in crafting the highway bill that Congress is on the verge of passing. Enactment of his conference report is truly a must pass piece of legislation.

FUNDING FOR ALASKA

From the standpoint of my State, Mr. President, Alaska fared very well. As you know, transportation infrastructure is the cornerstone of a healthy economy, and this legislation will do much to promote the economic health of the Nation and of my State as well.

I am pleased to report that Alaska will be receiving $1.375 billion over the next 6 years, an average of $229 million per year, from the $151 billion total contained in this bill. This represents an increase over previous funding much needed in our State.

Mr. President, I think it is important that my colleagues understand why this funding level is warranted in Alaska and other Western States.

Unlike many of my colleagues from developed States, Alaska is a young State and a relative newcomer to the Union, 37 years. We do not have a sophisticated Federal Interstate Highway System—in fact, we have no true interstate system at all because Alaska is a noncontiguous State. On top of that, Alaska has a land mass that is fully one-fifth the size of the lower 48. Our transportation needs are great and our costs are even greater.

Mr. President, Western States are not attempting to get an advantage on other States. We simply want to have the same opportunities to develop the infrastructure and economic potential of our States that other States have already enjoyed for an extended period of time. This legislation will help us catch up.

Mr. President, this conference report contains several other provisions that are important for Alaska. The final report includes two amendments which this Senator offered when the Senate first considered this legislation.

ALASKA MARINE HIGHWAY

The first proviso permits the State to use Federal funds for the Alaska Marine Highway System in the same manner as it uses funds for other highways. Much of Alaska is made up of islands—the Alexander Archipelago in southeast Alaska and the Aleutian Island Peninsula in the southwest. All told, Alaska has more than 47,000 miles of coastline. The Alaska Marine Highway connects most of the small towns and villages along this coast line to the rest of Alaska. For many in Alaska, the Alaska Marine Highway is the only highway for many of the small villages and towns in coastal Alaska.

ALCAN HIGHWAY

The second amendment contained in this conference report restores authorization for the construction and maintenance of the Alaska Highway in Canada. Up north we refer to this highway as the Alcan, and this year represents the 50th anniversary of this highway's establishment. The Alaska Highway serves as a strategic transportation corridor between the lower 48 and defense installations in Alaska. The Alcan is the only land route available for transferring military goods and equipment to bases in Alaska.

Mr. President, I am pleased to report that this legislation also contains an important provision sponsored by the senior Senator from Alaska with regard to the Alcan. Under this provision, funds can be provided from the Defense Highway System for reconstruction and maintenance of the Alcan. The legislation authorizes funding for this purpose of up to $20 million per year.

CONCLUSION

Mr. President, there are many other provisions in this legislation that are important to the Nation and my State. Ferry maintenance funding and mass transportation programs are but two examples. All told, passage of this legislation is a great success and I encourage its adoption by my colleagues.

Mr. SYMMS addressed the chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I thank my colleagues from Alaska for his statement.

THE AVENUE OF THE SAINTS

Mr. GRASSLEY. Mr. President, I would appreciate the opportunity to join in a colloquy with my esteemed colleague from the State of Idaho, Senator SYMMS, regarding a transportation corridor of great importance to the Midwest, the Avenue of the Saints. The Avenue of the Saints is a four-lane highway corridor that will connect St. Louis, MO, and St. Paul, MN.

Mr. SYMMS. Mr. President, I would be pleased to accommodate the Senator from Iowa.

Mr. GRASSLEY. Let me begin by complimenting my friend from Idaho for his bold leadership as the ranking member of the Water Resource, Transportation and Infrastructure Subcommittee of the Senate Committee on Environment and Public Works. I commend him for his efforts.

Contained in this legislation are numerous items which are especially important to the Avenue of the Saints. First is the National Highway System of which the Avenue of the Saints is part. Also, there is a demonstration project of approximately $120 million for the Avenue of the Saints. And finally, there is considerable flexibility built into this bill which will allow the Iowa Department of Transportation to commit the dollars necessary to make the Avenue of the Saints a reality by the end of this decade.

I would inquire of my colleague, as the ranking member of the committee which produced this bill, whether he agrees with my assessment of the bill and its impact, the Avenue of the Saints.

Mr. SYMMS. I would like to say to the Senator from Iowa that I agree with his assessment. This legislation is a good bill that will directly impact the Avenue of the Saints. It will make it easier to complete this important corridor project.

I would also like to take this opportunity to commend the Senator from Iowa, Mr. GRASSLEY, for his tenacity in fighting for the Avenue of the Saints. Senator GRASSLEY and I have had many conversations about the importance of this project to the State of Iowa. No one has been more determined to make sure that this legislation was good for his State. When the Avenue of the Saints is completed at the end of this decade, the Senator from Iowa will get considerable credit for this accomplishment.

Mr. GRASSLEY. I thank my friend for his kind words and cooperation.

Mr. SYMMS. First and foremost, I am proud that the conference report before us is, in every important respect, virtually the same bill the Senate passed on a 91-to-7 vote last June.

The program structure—which places top priority on the preservation of our Interstate and Defense Highway System, establishes a new Surface Transportation Program, sufficiently flexible to meet the varying regional and demographic needs of our States, and establishes a new Congestion Mitigation/Air Quality Program to help solve the most pressing transportation problems of our large urban areas. That program structure of the Senate bill remains intact and virtually unchanged here.

In addition, the distribution of program funds in this conference report, although not as favorable for most Western States as that of the Senate-passed bill, remains much closer to the State-by-State program shares of the Senate bill, than to the disastrous urban orientated formulas adopted by the House. I went into this conference knowing I could protect Idaho's share of the total program through one means or another, but I felt a real obligation to try my best to protect the Western State formulas of the Senate bill, and while we've given ground to the donor States, I believe we've left our Western States in a defensible position to begin neogitations on the next bill.

Apart from program structure and formulas, I am very pleased to report that this bill to be the largest surface transportation bill in history. If the Appropriations Committee provides obligation authority sufficient to fund fully the authorized amounts over 6 years, this bill will draw the cash balance in the highway trust fund down to about $2.5 billion, which is the cushion required to meet cash flow demands in the highway program.

In addition, I am pleased and proud that my colleagues in the Senate and among the conferees, both House and Senate, have given such strong, bipartisan support to my efforts to establish a National Recreational Trails Program. This program, funded from fuel taxes already being paid by offhighway vehicle users, will provide a steady, reliable funding source to help States build and maintain a trails system for both motorized and nonmotorized trail users.

Also, I am pleased to report that this bill contains the largest Federal Lands Highway Program ever. This program provides funds to support transportation infrastructure improvements on Indian reservations, national parks, and federally owned lands across the country. We have made what I consider to be an important change by combining the existing forest highways and public lands highways into one account that will bring the State transportation departments, the Forest Service, and the Federal Highway Administration to the table with their competing interests to establish transportation priorities on our public lands.

Also, I want to mention the program efficiencies section of Senate bill which we have modified but preserved intact in this conference report. The program efficiencies section was drafted in large part by our transportation department in Idaho, based on consultations with their counterparts in States across the country, to allow the States greater authority to administer the highway program without burdensome and costly Federal oversight. The conference agreement on program efficiencies provides that States may design and construct projects off the National Highway System according to their own State standards, and provides that States may approve those projects without Federal approval if they so choose.

Projects on the National Highway System must be designed and constructed in accordance with standards that meet or exceed standards set by AASHTO, but States may, on a project-by-project basis, approve the design of pavement rehabilitation projects on the NHS without Federal approval.

This streamlined approval process is of vital importance to my State and I believe it will lead to a more cost-effective and much more productive highway program.

Finally, I want to say how disappointed I am that the Private Property Rights Act, which the Senate passed by a 55-to-44 vote, is not included in the final conference report. I wish we could have held that important measure in conference. But I want to say now, don't count us out. We'll be back.

Mr. CHAFEE. Mr. President, I want to congratulate the distinguished chairman of the Environment and Public Works Committee, Senator BURDICK, our distinguished subcommittee chairman on Water Resources, Transportation and Infrastructure, Senator MOYNIHAN and my distinguished colleague Senator SYMMS who is the ranking member of the subcommittee for the outstanding work they have done on the surface transportation bill.

The Intermodal Surface Transportation Efficiency Act of 1991 will bring major changes to the transportation program in this country. These are long overdue and very welcome. This bill contains enough money to complete the Interstate Highway System. But, the era of massive road building projects is over. This legislation signals a new era. The purpose of the transportation program is now the maintenance and more efficient use of the large capital investment this country has made in its transportation infrastrucure.

This bill has a number of provisions which will promote a better transportation system. First, it gives State and local officials flexibility to choose how to spend their transportation dollars. There are a variety of ways available to States in this bill to address their transportation problems. Approximately half the money this bill authorizes for the Federal aid highway program is available for transit projects. State and local officials will be able to choose between subway and light rail options, buses, HOV lanes, operational improvements to existing highways or additional lanes, for example. This legislation places all these choices on a level playing field which will encourage State and local officials to choose the best solution for their particular transportation problem.

Second, this bill recognizes the connection between transportation and the quality of our air. Transportation sources are a major contributor to this country's air quality problem, particularly in our major cities. This bill makes funds available to nonattainment areas specifically to address air quality problems. The Congestion Mitigation and Air Quality Program makes funds available to be used only on projects that will improve air quality. There are also major new planning provisions which require State and local officials to consider the effects of all transportation projects on air quality. The State's transportation improvement plan [TIP] must conform with its State implementation plan [SIP] under the Clean Air Act. Other innovative programs including a congestion pricing pilot program will provide us with more information and will move us towards meeting our air quality goals.

Third, this bill provides significant funds for research. Major new programs in the areas of magnetic levitation and intelligent vehicle highway systems are included. The potential for new technology advances are exciting both for transportation and other areas where this technology will provide benefits.

I am particularly pleased that this legislation includes safety belt and motorcycle helmet legislation which I introduced. This provision will encourage States to pass safety belt and motorcycle helmet laws. If they choose not to do so, States must spend additional money on safety activities. This will save lives and prevent serious injuries, and provide another benefit of saving this country money in medical costs.

This bill also contains a freeze on longer trucks. It is clear that the public's concern is growing over the bigger, heavier trucks using the highways. I was pleased to cosponsor with Senator LAUTENBERG the provision that put this freeze in place. Drivers of cars and trucks must share the highway but the equation is increasingly stacked against cars. It is time to stop increasing the size and weight of trucks and I am pleased that the conference bill adopts this freeze.

Mr. President, the surface transportation conference report that is being considered today contains provisions that require the use of rubberized asphalt in portions of the roadways that would be built with this legislation. Asphalt rubber pavement is our best bet to solve a significant environmental problem caused by the highway user. That problem is the accumulation of scrap tires in dumps all across the country.

SCRAP TIRE PROBLEM

Americans generate approximately 250 million scrap tires each year. That's about one scrap tire per year for each American.

Until the advent of the radial tire, most used tires were retreated or ground up and used to make new tires. Old tires were recycled into new tires. The radial design and the advent of inexpensive radial tire imports have limited the market for retreads and eliminated the possibility of reusing ground rubber to make new tires.

Retreading still consumes about 37 million tires, per year, mostly medium and heavy duty truck tires. Another 8 percent of the scrap tires are burned, 4 percent are exported, and 3 percent are recycled into various rubber products. But the other 180 million scrap tires generated each year are simply discarded. They are difficult to throw away. Landfills have become reluctant to take scrap tires because they "float" to the surface and create spaces for water infiltration and rodent habitat. Many States have passed laws prohibiting the disposal of scrap tires in municipal landfills.

Waste tires are now accumulating in large stockpiles and tire dumps. It is estimated that 2½ to 3 billion tires have accumulated in above ground stockpiles across the United States. Some of these stockpiles contain millions of tires. They present a serious threat of fire and disease.

Tire fires produce a toxic smoke and oily liquid residue. EPA received reports of 46 fires in 1987, 65 fires in 1988 and 87 fires in 1989 at tire stockpiles. Approximately 10 tire fires per year are considered major fires. A 1984 fire in Virginia burned for several months, was visible in seven States and cost $5.4 million to extinguish. Recently, the Northeast States watched with concern a similar fire just across the Canadian border.

Tire piles are also breeding grounds for encephalitis-carrying mosquitoes and rodents. Tires imported from the Far East brought the Asian tiger mosquito to the United States in the mid-1980's. It is now considered a serious health threat at tire storage sites. Eighty percent of the cases of Lacrose encephalitis reported in the United States are experienced by people living within 500 yards of a tire disposal site.

Several States have developed legislation directed at the waste tire problem. Approximately 31 States have tire disposal laws. A few States have begun efforts to burn, recycle, or dispose of existing tire stockpiles. The first and toughest law was enacted by Minnesota in 1984. So far, that State has disposed or recycled more than 5 million tires at a cost of slightly less than a dollar per tire. I am pleased to say that recently the State of Rhode Island adopted new regulations designed to reduce the fire and disease threat posed by these abandoned tire piles.

Scrap tires have a value. They contain more Btu's of energy per pound than most grades of coal and can be burned to produce electricity or as an industrial energy source. Many folks operating tire dumps are hoping higher energy prices in the future will give them a windfall for the scrap tires they have been storing. However, significant opposition to new waste combustion facilities has been evident in many communities across the country. Combustion now seems a less promising option to solve the scrap tire problem.

Tires may also be ground to a fine powder called crumb rubber and used in the manufacture of new rubber products. As I said, years ago this crumb rubber was used to manufacture new tires. But, tire manufacturers are concerned about the safety of radial tires made from recycled rubber. Congressional testimony from tire manufacturers indicates that only 1 percent of the rubber in new radial tires can be derived from recycled tires. Crumb rubber from tires can be used to make other rubber products, but 70 percent of all rubber produced in the United

States is used in tires. So, there is no current market for rubber products big enough to recycle this material, if it cannot be used in new tires.

One promising use for crumb rubber from scrap tires is asphalt pavement. Large quantities of asphalt are used in the United States each year. The United States uses 490 million tons of asphalt pavement to build highways, local roads, parking lots, airports, and other projects each year. About 40 percent of all asphalt produced is used in federally assisted highway projects. So, the highway program buys about 200 million tons of asphalt annually. If just a small portion of this pavement contained rubber from scrap tires, we could create a huge new market for the crumb rubber from recycled tires.

Tire rubber is being used in highway projects all across the Nation already. There are various processes for incorporating scrap tire material into asphalt. Generally, the tire is ground to a very fine powder and is heated and used to enhance the binder that holds the pavement together. A very small amount of rubber, 20 to 60 pounds per ton of finished pavement, is used to improve the performance of the asphalt. By improved performance, I mean that the roadway lasts longer, it does not crack and crumble as quickly when rubber is added to the binder.

Even considering the small amount of rubber included in a ton of pavement, a large number of scrap tires would be needed if asphalt rubber pavement was used to any significant extent. For instance, one process that uses 60 pounds of rubber per ton would consume 100 million scrap tires per year if it were used to build just 10 percent of our federally assisted roads.

California, Arizona, and other States have been experimenting with rubber additives to asphalt pavement for several years. California provided the following statement in written testimony to the Environment and Public Works Committee on the use of asphalt rubber pavement earlier this year:

> Since 1978, California has been testing the use of rubber modified, dense-graded asphalt concrete which makes use of recycled tires—tires that have in the past caused difficult disposal problems and have threatened the environment.
>
> Based on laboratory and field testing we have determined that rubberized asphalt concrete provides: better fatigue resistance than conventional asphalt concrete; better resistance to moisture which suggests that it will "weather" better than conventional asphalt concrete; better resistance to tire chain wear on the surface and better resistance to cracking from below than conventional asphalt concrete; and an alternative to land fill disposal of tires.
>
> California has been so pleased with the use of rubberized asphalt concrete that we no longer consider its use experimental when used in thicknesses equal to conventional asphalt concrete and have asked FHWA to remove both dense-graded and open-graded asphalt from its experimental classification. We believe that broader use of the material will help reduce the country's "tire disposal problem" in a sound and environmentally sensitive manner. We would urge legislation that will increase the use of rubberized asphalt concrete."

Mr. President, the one significant issue that is still raised with respect to asphalt rubber pavement is the cost. It is somewhat more expensive than conventional asphalt. California indicates that in their experience rubberized asphalt costs about 45 percent more than conventional asphalt. They are quick to point out, however, that those costs are based on experimental projects. And that the gap is likely to be much smaller when asphalt rubber pavement begins to be used on a broader scale.

TIRE RECYCLING, ABATEMENT AND DISPOSAL ACT

Mr. President, the tire recycling provisions in this bill are taken in part from legislation which I introduced earlier this year. I introduced two bills on tire recycling. One bill, S. 1038, created a waste tire management program and included a provision to encourage the use of rubber from scrap tires in highway construction. The other bill, S. 1039, imposed a Federal tax on passenger car and truck tires and created a trust fund to receive revenue from the tax.

The waste tire management program that is contained in my legislation has three purposes. First, is to assure that scrap tires are managed in a way that reduces the risk of fire and the spread of disease. Second, the bill would require the elimination of waste tire dumps by the year 2000. It requires that the 3 billion tires in stockpiles across the country be recycled or burned or shredded and buried by the end of the decade. Third, the management program is intended to encourage markets for recycled material from tires.

This management program is written as an amendment to the Resource Conservation and Recovery Act * * * or RCRA as it is called. It is a traditional partnership program between EPA and the States with the expectation that the States will take the lead in implementation. It is my hope that the Environment and Public Works Committee will consider this waste tire management program as we reauthorize the RCRA. That legislation is pending before the committee and I know that the distinguished Senator from Montana, Senator BAUCUS, has every hope of bringing a RCRA reauthorization bill to the floor of the Senate next this year.

EXPLANATION OF THE CONFERENCE REPORT

Mr. President, I would now like to describe the provisions of the conference report entitled "Use of Recycled Paving Material." As I have said, this section of the conference report combines provisions from both the Senate and the House bills.

Subsection (a) is called a demonstration program and is taken principally from the House bill. It removes an impediment to the use of recycled rubber in asphalt pavement that is found in current regulations. Highway construction regulations prohibit the use of patented processes. Many of the existing processes for recycling rubber into asphalt and obtaining an improved pavement material are based on patented processes and thus they have not been eligible for approval for some highway projects. The conference report lifts this prohibition with respect to patented processes that produce asphalt pavement containing recycled rubber and provides that projects using these processes would be eligible for funding in the same manner as a project using unpatented processes. People in the highway pavement business tell us that this provision alone will create new recycled rubber demand that will consume up to 8 million tires per year.

Subsection (b) of this legislation requires the Environmental Protection Agency and the Department of Transportation to conduct several studies. The studies are intended to answer some questions about asphalt pavement containing recycled rubber that continue to be raised. The first concern is air pollution from the asphalt manufacturing process using rubber may present greater risks to the health of highway construction workers than emissions from conventional pavement processes. Tire rubber contains compounds like styrene and butadiene that are not present or not present to the same degree in petroleum based asphalt. These compounds may be emitted into the air when tire rubber is cooked to make asphalt. I would note that the Canadian Government has recently completed a study on air emissions from rubberized asphalt manufacture that indicates no additional risk.

The second concern is that asphalt pavement containing recycled rubber may not be recyclable. Much of the pavement removed from highways today is recycled. It is remixed and put back into roads. The question is whether asphalt made with some recycled rubber can itself be recycled to substantially the same degree as conventional pavement? We certainly wouldn't want to create an asphalt disposal problem by trying to solve our tire disposal problem. A recent test in France seems to indicate that recycling the asphalt is no bar to using this material.

The third concern is one for the performance of asphalt pavement containing rubber as a safe road surface. Do all processes from incorporating rubber in asphalt work equally well? Are there climate or weather conditions that interfere with the performance of rubberized asphalt?

I am convinced that none of these concerns is well founded. In fact, many studies and demonstration projects using rubberized asphalt pavement addressing each of these questions have already been completed by private contractors, by State agencies, and by foreign nations. They show no additional environmental problems, full recycling potential and performance that is better than conventional asphalt pavements. But we included a study requirement in this bill to put these doubts to rest once and for all. This section will assure that the results of all of the studies that have already been done are pulled together and marshalled to firmly establish the benefits for the highway program that can be gained by using new construction materials like rubberized asphalt.

The Senate should know that appropriations for such as this study were included in the transportation appropriations bill that was enacted for fiscal year 1992. We would not expect that research be repeated where questions can be addressed adequately by existing studies. Further, we would expect that the Environmental Protection Agency would conduct the studies with respect to the environmental effects of asphalt pavement containing recycled rubber and would be a full partner with DOT on the study to determine whether asphalt pavement can be recycled.

With respect to the performance of asphalt pavement containing recycled rubber, I want to say that we are not looking for a cost-based evaluation here. Knowing something of the economics of asphalt pavement containing recycled rubber will be helpful, but it is a well-established fact that this special pavement will be somewhat more expensive than conventional pavements. The additional cost is attributable to the cost of grinding tires to crumb rubber consistency. Some portion of the cost differential may be bridged by the enhanced performance of asphalt that contains rubber. And some of the remaining differential may be closed, if the RCRA legislation that is enacted next year requires tipping fees to offset the costs of processing tires.

There are some working in the highway program who apparently believe that the only measure of success is the number of lane mile that get paved every year. Some have argued that fewer lane miles will get paved as the result of the tire recycling provisions in this bill. But all that highway out there is causing a substantial environmental problem. Three billion tires have piled up across the country and are now presenting fire and public health hazards. The highway program has a responsibility to contribute to the solution of that problem. I believe that we can build better highways that will last longer using recycled rubber as a binder in asphalt. If this paving material performs better than conventional pavement, we may actually save money and be able to pave even more miles of road.

However, that question turns out, asphalt pavement containing recycled rubber shall be deemed by the Secretary to meet the performance test, if processes can be identified that produce a pavement meeting highway specifications that would apply to conventional asphalt. It does not have to be better than conventional pavement. It does not have to be more cost-effective than conventional pavement. It may even be more expensive than conventional pavement on a life-cycle basis. All that is required to pass the test is that asphalt pavement containing recycled rubber meet the same minimum performance specifications that apply to conventional paving material.

It may be that only some of the processes tested can produce a rubberized asphalt meeting these specifications. Only those processes that can satisfy highway construction specs can be used by a State to meet the utilization requirements under subsection (d) which I will discuss in a moment.

A second part of these studies is to look into the use of other recycled materials in highway construction. This provision was taken principally from the House bill and was of special interest to Congressman MINETA. These other materials would include glass, plastic, and recycled asphalt.

Results of the studies required by this section are to be transmitted to the Congress within 18 months of the enactment of this legislation.

Subsection (c) is also taken principally from the House bill. It requires the Department of Transportation to issue guidance on the use of recycled materials in highway construction projects. With respect to asphalt pavement containing recycled rubber such guidance would be useful to the states prior to the time the utilization requirement is fully implemented.

Subsection (d) is taken from the Senate bill. It requires that each State use asphalt pavement containing recycled rubber in a portion of the highway projects completed in that State. It is a mandate. There is a sanction for States that fail to satisfy the requirements. But there is also considerable flexibility built into the provision, both for the States and for the Department of Transportation. Let me describe that flexibility.

First, the utilization requirement is phased in. It does not begin until 1994. It is not fully implemented until 1997. At that time and in each year thereafter, 20 percent of the pavement used in federally assisted highway projects should contain recycled rubber.

There are many different ways to state the minimum utilization requirement. We are fundamentally interested in how many pounds of recycled rubber are used in each State, not in the number of roads that have some rubber content. The utilization requirement is partly a function of how many pounds of rubber are added to each ton of pavement and partly a function of the portion of the pavement laid which must contain recycled rubber.

When I originally introduced my bill in the Senate, I proposed that 10 percent of the highway projects use pavement containing 60 pounds of rubber per ton. That is the largest amount of rubber per ton of hot mix pavement that is used in any process today. There is one specific process that reaches the 60 pound per ton ratio.

Unfortunately, folks got the impression we were mandating the use of that particular process. That is not true. The original bill contained a provision allowing States to modify the rubber content and pavement utilization requirements to any ratio they wished, just so long as highway projects in the State used as much rubber as they would if 10 percent of the pavement contained 60 pounds of rubber per ton of finished product. A State could use 6 pounds in 100 percent of the pavement, 30 pounds in 20 percent of the pavement, or 12 pounds in 50 percent of the pavement. All of those combinations would meet the minimum utilization requirement.

To stay away from the implication that we were endorsing a particular product, the Senate-passed bill contained an amendment of mine that stated the utilization requirement as 6 pounds of rubber per ton of pavement in 100 percent of the federally assisted projects. I don't know of any current process that uses 6 pounds per ton. Again, the States were authorized to change the components of that formula just so long as the same amount of recycled rubber was used in each year for highway projects.

I would point out that this level of utilization would consume about 100 million tires per year. That would be about 40 percent of the automobile tires that Americans discard annually. That we make a substantial dent in our growing tire problem.

A further consideration led us to make a further change and produced the formula that is in the conference report. The House conferees expressed concern with respect to the sanction that applies to States that do not meet the minimum utilization requirement. The sanction in the Senate-passed bill is loss of all Federal highway funds. That was too severe a sanction for the House. Loss of all funds for failure to use rubberized asphalt in only a percentage of the roads seemed draconian to our colleagues on the House side.

So, the Senate proposed that the sanction be tied to the utilization requirement and that the utilization requirement be restated as larger quantity of rubber in each ton of asphalt with a smaller portion of the highway projects covered. We settled on the formula which requires that 20 pounds of rubber per ton of asphalt pavement be used in 20 percent of the highway projects. Failure to meet this requirement would lead to a loss of 20 percent of the funds that would otherwise be apportioned to the State under section 104 of the act.

Mr. President, there is a great deal of sense in the compromise that we have reached. As it happens, 20 pounds is approximately the amount of rubber that is used in the most cost-effective formulations of hot mix asphalt pavement. States that fail to meet the requirement will lose Federal funds only for that portion of their roads that might appropriately and most cost-effectively have used this material. And the utilization requirement is small enough that it can be met with a reasonable expansion of the tire processing industry over the timeframe we have laid out in the bill. The combinations of 20 pounds per ton in 20 percent of the pavement used in federally assisted projects will consume about 70 million tires per year.

Finally, the flexibility for the States to modify the formula has been retained provided that the combination of pounds per ton and tons of utilization consumes as much recycled rubber as would be used, if 20 percent of the pavement contained 20 pounds of recycled rubber per ton.

There is a phase in period—5 percent in 1994, 10 percent in 1995, and 15 percent in 1996. The sanction for a State failing to meet the requirement is lesser during the phase in years, as well.

Another aspect of the flexibility that we have provided is authorization for the States to substitute other recycled materials for recycled rubber to meet the utilization requirement, if the DOT and EPA studies indicate that the alternative material is equally suitable for highway construction. Up to 5 percent of the total tons of pavement laid in the State which contain other suitable recycled material may be counted against the minimum utilization requirement for rubberized asphalt. There is no specification of the pounds of recycled material that must be contained in each ton of asphalt to qualify for the substitution. The Secretary should specify such a standard based on the study conducted under subsection (b) in a manner that is consistent with the overall objective of this section.

I have already mentioned the provisions in this legislation that would allow the Secretary to set aside the utilization requirement, if the studies indicate that asphalt pavement containing recycled rubber is not appropriate for use in highways. There are three factors the Secretary may consider in setting aside the requirement—the environmental risks associated with this material, the recyclability of rubberized asphalt and the performance of the material. On the first two items, DOT must have concurrence from EPA before the requirement can be set aside.

Performance is to be determined on an objective basis. Are there asphalt pavements containing recycled rubber that can meet highway construction specifications? If the answer to that question is yes, and I believe that we already know the answer is yes, then the Secretary has no basis to set aside the utilization requirement using the third prong of this test.

If the Secretary should make a determination to set aside the requirement, that determination has a 3-year life. The utilization requirement comes into force again at the end of the 3-year period. During that time, the asphalt pavement industry may find ways to modify processes and products to meet the concerns which prompted the Secretary's determination, should there be such a determination. If the utilization requirement is set aside and then subsequently comes into force because problems have been solved, the phase-in period for the bill would be applicable. The schedule of 5 percent in the first year, 10 percent in the second year, 15 percent in the third year, and 20 percent in the fourth year would begin in 1997 or 2000 or whenever the set aside established by the Secretary expires and problems have been solved.

Adding to the flexibility provided in the bill, the Secretary may set aside the utilization requirements for only some States or regions of the country. It has been suggested by some that rubberized asphalt does not perform well in cold climates. I doubt that is true. In fact, it has been thoroughly tested in cold climates and performs quite well. But suppose it were true. In that circumstance, the Secretary might set aside the utilization requirement for cold climate areas until such time as processes and products were developed that could meet specifications that would apply to conventional asphalt.

Mr. President, we have provided one additional measure of flexibility in this legislation that was included to answer concerns from the very few States that have developed alternative means to solve their tire problems. Take Connecticut for example. That State has allowed a tire incineration facility to be built and to go into operation. It is expected that the Oxford Energy plant in Sterling, CT will burn all of the tires that are discarded in that State.

If that is the case, Connecticut believes that they should not have to recycle tire rubber into their highways. And there is a provision in the legislation that allows DOT to set aside the requirement for any State that can demonstrate that all of the tires in the State have been processed and that future discards are committed to some other recycling or processing use.

We don't mean disposal here. A State cannot meet this alternative utilization standard by landfilling their tires. And so-called embankment stabilization is just another word for landfilling, in my view. To the extent that a State proposes to substitute a use that is not materially different from disposal, the Secretary cannot approve the alternative as processing or recycling. I must also emphasize that the State must show that there are no tires available for utilization in asphalt pavement containing recycled rubber. We are not talking here about a credit system where a State can avoid the requirement by burning an equivalent amount of tires. The recycling and processing uses must consume nearly all of the tires in the State to have an impact on the pavement requirement.

Using the national figures, if this bill would consume about 70 million tires per year that would be about 30 percent of the tires discarded. Assuming that same percentage would apply in a State and that the State has no tire stockpile remaining from previous years, then a State would have to show that more than 70 percent of its tires would be consumed in other recycling and processing uses, not including uses that are equivalent to disposal, before its utilization requirement would be modified under this provision.

Mr. President, this bill does not require that the rubber used in a State's roads actually come from tires discarded in that State. The crumb rubber may be purchased from processing facilities in another State. It also does not prohibit a State from shipping its tires to another State for processing and recycling. If all the tires are shipped out of the State for processing, not disposal but processing which may include energy recovery, then the State would not be subject to this utilization requirement just as it would enjoy an exemption if all of the tires were processed within the State.

Mr. President, I would make one final point with respect to the definition of asphalt pavement containing recycled rubber. Most of the crumb rubber currently used in rubberized asphalt comes from tire retreading facilities. At these plants old tires are ground down to a bald casing and then new tread is applied to recondition the tire. The rubber produced in the grinding process is then sold for other uses including road construction.

That's one way to make crumb rubber. But as demand for crumb rubber expands beyond the amount that retreading operations can supply, it would not be the preferable way. Grinding the tread off a tire leaves a round casing that must be disposed. It is the round casing that is the environmental problem. It creates the breeding ground for mosquitoes, the gaps in landfills for rodents, and the fire fighting problems that occur at tire piles. This legislation will not solve any environmental problem if it merely produces a pile of bald tire casings as large as the existing pile of scrap tires.

The crumb rubber consumed in response to the utilization requirements in this bill is to come from whole scrap tires. We mean by that phrase that casings and other round tire material cannot be left behind as a waste from the tire processing that produces crumb rubber for this bill. If there is a solid waste produced, it must be shredded material that will not hold water when stored above ground. We do not mean to say that shredded tire material cannot be used to produce the crumb rubber. That is not the meaning of the phrase whole scrap tires. Rather, the bill disallows credit toward the utilization requirement for any crumb rubber production process that leaves round tire material as a waste. Retreading operations that do not produce a waste would, of course, also qualify as sources of crumb rubber.

Mr. President, there were other definitions in the original Senate amendment for the terms processing and recycling. These items are not included in the conference report. We did not exclude these definitions from the conference report because of any disagreement about their substance. They were excluded because the House Energy and Commerce Committee felt they would be more appropriately established in solid waste than in highway legislation.

Scrap tires are a serious environmental problem—a rapidly growing problem now measured at 3 billion tires—that needs a creative solution. Highway construction with asphalt rubber pavement is a proven technology. Although somewhat more expensive, asphalt rubber pavement produces a better quality road that last for a long period of time. I am confident that this legislation can benefit both the environment and our highway users, if it is carried out in good faith by the Department of Transportation and the Nation's State highway agencies.

This bill reflects, in many respects, a revolution in our thinking about highways. The recycled rubber utilization requirement is just one of many fundamental changes in approach that we are asking to be made. I look forward to working with U.S. DOT and the States as this provision is implemented. They will be doing the country a great service if they take full advantage of the potential for good works that is incorporated in this bill. And that includes the tire recycling provision. Thank you, Mr. President.

I am disappointed that another provision I sponsored was not included in this bill. While the needed reforms to the Highway Beautification Act were not included in this bill, there are several positive steps that have been taken. States and localities are allowed to use their highway money to remove nonconforming billboards. In addition, the bill provides that no new billboards can be put up on interstate and primary scenic byways.

Mr. President, I would like to take this opportunity to discuss the provisions in the conference report that deal with the control of outdoor advertising. As the term control implies, the goal of these provisions is to remove illegal and nonconforming outdoor advertising on Federal highways, and on some scenic byways. While the provision contained in the bill reported earlier this year by the Committee on Environment and Public Works would have accomplished this goal—and more—in a manner more satisfactory to this Senator, the conference agreement does contain some positive points that I would now like to highlight for my colleagues.

First of all, Mr. President, I am extremely pleased that the conferees agreed to a provision that clearly prohibits the erection of any new billboards on scenic byways on interstate and primary roads. This is an important change in existing law.

Second, to further improve the view on scenic byways, the conference agreement provides that 10 percent of scenic byway funds can be used for billboard removal. This provision is an improvement over the House bill, which had prohibited the use of any scenic byway funds for this purpose. By making Federal money available, this provision will give States and localities much-needed assistance in removing billboards. And perhaps more importantly, it will move us closer to achieving the goal of making our scenic byways truly scenic, by allowing individuals to enjoy the beauty of nature without the clutter of billboards and other obstructions. In agreeing to both of these scenic byway provisions, the conferees intend to send a strong signal that billboards have no place on scenic byways.

Third, Mr. President, the conference report would require that either billboard owners or States remove billboards not lawfully erected. This requirement should bring about the removal of larger numbers of illegal billboards—a welcome result. This provision also correctly imposes the cost of billboard removal on owners, no matter who actually performs the work.

Finally, Mr. President, the conference report appropriately declines to interfere with the existing rights of States and localities to implement more stringent controls on billboards on all secondary and other roads not covered by the Federal highway program. States and localities also maintain complete authority to remove billboards according to their own laws on approximately 40 percent of the scenic highways in this country. In other words, States maintain their power, as repeatedly affirmed by a large number of State and Federal courts, to remove billboards by use of amortization if desired.

So in conclusion, Mr. President, while I would have favored a more aggressive billboard removal program, I am pleased that the conferees have chosen not to interfere with the important rights of State and local governments in this area. And, I am grateful for the commitment of scenic byway money to the task of billboard removal.

Mr. President, there are provisions in the Surface Transportation conference report that extend certain deadlines that were established for stormwater permit applications under the 1987 Water Quality Act.

Stormwater is one of our most serious water pollution problems. Up to 20 percent of the U.S. waters failing to meet water quality standards are impacted by polluted stormwater. The Environmental Protection Agency has been very slow to implement the requirements of the Clean Water Act as they apply to stormwater discharges. As long ago as 1974, the Federal courts ordered EPA to institute a permit program for stormwater under section 402 of the Clean Water Act. Despite the passage of 17 years there is still no permit program in place.

Responding to that discouraging record, in 1987 the Congress set deadlines for two classes of stormwater discharges, first, stormwater associated with industrial activities, and second, stormwater from municipally-owned storm sewer systems. The municipal requirements only applied to city and county storm sewer systems serving more than 100,000 people. The Congress put a so-called moratorium in place for the smaller cities—those under 100,000—setting aside the permit requirement until October 1, 1992, the expected date of the next Clean Water Act authorization.

EPA has developed a very complicated program to implement the 1987 stormwater amendments. It is very difficult for a busy city official or the owner of an industrial facility to figure out precisely what is required. One of the complexities is that EPA defined industrial activity in such a way as to require many cities with a population under 100,000 to make application for stormwater permits, notwithstanding the moratorium on permit requirements that the Congress thought it was putting in place.

EPA said that to the extent that a city of whatever size operates a facility of an industrial character like an auto maintenance yard or a powerplant or wastewater treatment facility, it is subject to the permitting requirements for industrial facilities. This requirement caught many city and county officials off guard and has generated considerable complaint.

When the highway bill was pending here in the Senate, I offered an amendment that would modify the permit application deadlines for small cities. I am pleased to say that this amendment has survived in the bill that has been returned from the conference. This legislation will clarify that small cities need not apply for permits associated with some of the industrial facilities they own or operate until October 1, 1992, date for the general moratorium on their permit requirement.

Small cities will be subject to industrial application deadlines for powerplants, airports, and some landfills. Cities with populations above 100,000 will continue to be subject to the full industrial permit application requirements. But the deadline for filing applications is extended beyond the dates that would otherwise have applied.

If a city is denied participation in a group or if the application of the entire group is rejected, these cities will be given 6 months from the date of denial to submit individual permit applications. I hope that these extensions will give cities an adequate opportunity to fulfill these requirements.

Mr. President, this bill extends deadlines that were established by statute. Congress puts these types of deadlines in the law to assure that a particular step, especially one that is overdue, is carried out by an executive branch agency. If the agency fails, the deadlines give citizen groups an opportunity to go to court to force action by a recalcitrant agency through court orders.

Just such a development has occurred in this case. EPA has failed to carry out mandated activities for stormwater permitting by the deadlines established in the 1987 Water Quality Act. A citizens group, the Natural Resources Defense Council, Inc., has sued EPA in Federal court to enforce the deadlines. When this bill becomes law, some part of the NRDC case will be set aside. We do not ordinarily change deadlines under these circumstances. It would be a foolhardy practice. We have included deadlines in statutes so that citizens can force implementation of the law. If we simply extended the deadlines whenever they sued, they would soon abandon their efforts to assure the diligent application of the law.

So, this limited extension is an extraordinary event and is taken only because the EPA definition of industrial activity to include facilities owned by small cities was a surprise, an outcome not intended by the Congress. The amendment only affects a limited portion of the overall stormwater program and it certainly would not be our intent to affect litigation with respect to any other deadlines for any other facilities. That litigation should be decided based on the language of the statute and the record which the Congress established at the time that it was enacted. I believe that full application of the Clean Water Act to stormwater discharges is long overdue and would encourage the most expeditious action to address this serious water quality problem.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Declaration of Policy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION OF POLICY: INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.

It is the policy of the United States to develop a National Intermodal Transportation System that is economically efficient, environmentally sound, provides the foundation for the Nation to compete in the global economy and will move people and goods in an energy efficient manner.

The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the Nations' preeminent position in international commerce.

The National Intermodal Transportation System shall include a National Highway System which consists of the National System of Interstate of Defense Highways and those principal arterial roads which are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.

The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to world commerce.

The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion and other aspects of the quality of life in the United States.

The National Intermodal Transportation Systems must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity growth and accountability. Practices that resulted in the lengthy and overly costly construction of the Interstate and Defense Highway System must be confronted and ceased.

The National Intermodal Transportation System shall be adapted to "intelligent vehicles", "magnetic levitation systems" and other new technologies wherever feasible and economical, with benefit cost estimates given special emphasis concerning safety considerations and techniques for cost allocation.

The National Intermodal Transportation System, where appropriate, will be financed, as regards Federal apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities and economically disadvantaged persons.

The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the Nation for the 21st century.

The Secretary shall distribute copies of this Declaration of Policy to each employee of the Department of Transportation and shall ensure that such Declaration of Policy is posted in all offices of the Department of Transportation.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California, Senator CRANSTON.

Mr. CRANSTON. Mr. President, my remarks, too, will be brief because I know we are trying to expedite this bill. I do want to say I am delighted the Senate is finally able to act on the Federal Transit Act Amendments, which make up a key title of the landmark transportation bill now before us.

Reaching this moment is an enormous achievement. And I want to thank the Members of this body who have brought about this achievement. Most of all, Senator PAT MOYNIHAN, whose leadership has been marvelous on the measure; Senator QUENTIN BURDICK, who likewise has been very strong and effective in regard to this measure; along with JOHN CHAFEE, DON RIEGLE, PAUL SARBANES, ALAN DIXON, AL D'AMATO, KIT BOND, and STEVE SYMMS.

The Federal Transit Act is the product of many transit leaders, here in Congress, nearby and across the country. Several months ago, the Senate Subcommittee on Housing and Urban Affairs, which I chair, invited policy recommendations from transportation leaders across the country. We convened a national symposium on public transportation. We have held hearings here in Washington and in other parts of the country. And we have turned those recommendations into landmark legislation. I am delighted to have played a part in all this.

With this bill, Congress recognizes that the country simply cannot achieve nationwide mobility solely by building bigger and better roads to accommodate more and faster motor vehicles. This bill shows that we are finally learning the costly lesson that more highways do not always bring mobility—particularly in our major population centers, new highways tend to generate new congestion.

The costs of highway construction have been far greater than the $129 billion in direct spending on the interstate system.

We have paid that cost through intolerable traffic congestion. Some 6,000 miles of California's main roads are choked to capacity in peak hours, and California's work force spends 300,000 hours each day in traffic gridlock. The same congestion is an unpleasant fact of life in many, many States.

We pay that cost through air pollution. Eight of every 10 Californians now live in areas with polluted air, much of it transportation related. The same pollution is an unpleasant and unhealthy fact of life in many, many States.

We pay that cost through overreliance on foreign oil. And each additional car we attract onto the road requires an extra 200 gallons of gasoline per year.

These problems can only worsen if we continue current transportation policies. California's freeway congestion is expected to rise by more than 400 percent during the next 20 years. Some States may not yet have the highway-related crisis that has already hit California, but the trends are ominous throughout the country.

For decades our narrow-viewed highway policy has been leading us up a blind alley. The conference agreement finds a better path.

This legislation launches an historic reform of American transportation—in both the highway and transit titles.

I believe this bill will enable the Nation to gain the efficient, integrated transportation system we will need for the future.

On the highway side, the landmark $24 billion Surface Transportation Program gives State and local officials more authority to decide how to use their transportation dollars to buy the most mobility for their people.

An increase in the minimum allocation from 85 to 90 percent ensures that donor States like my own State of California receive a more equitable return on the contributions they make into the highway trust fund.

The bill provides $16 billion to replace and rebuild the Nation's long neglected bridges. It provides major new assistance for a magnetic levitation trains, a new technology that holds enormous promise for the future.

I am particularly pleased with the transit title of this bill. Transit is ever more important to every part of the country. It serves millions of Americans—from the heavy rail transit that is expanding in our largest cities, to bus service in our medium-sized cities, to van-based paratransit services that meet special needs in smaller communities.

The conference report provides program funding levels that will reverse a decade of neglect and disinvestment in public transit systems.

It makes a commitment to better transportation. It sets a new, can do challenge for the administration. It will put an end to the no-can-do, antitransit attitude that has bottled up sound transit projects for the last decade.

The conference agreement makes a number of important changes in transportation policy.

First, the bill will provide a substantial increase in funding transit. Compared with last year, fiscal 1992 transit funding would increase by 12 percent and fiscal 1993 transit funding would increase by 60 percent. This increase is urgently needed after a decade in which transit was cut by 50 percent in real terms and transit needs have been ignored by the White House.

Second, the bill will fund both the discretionary grant program and the formula grant programs partly out of the transit account of the highway trust fund and partly out of general funds. That ensures a broader distribution of transit account funds.

Third, the bill opens up the highway trust fund so that highway and transit dollars can be used to improve mobility in the most efficient way—whether that is with roadways, or transit, or some multimodal solution. This is a vitally important aspect of the bill. The bill provides protections so that funds will not be drained from basic transit needs.

Fourth, the bill makes sure we get the most bang of transportation service for every transit buck that is made available. The bill improves full funding grant agreements to stretch available funding over more projects and enables transit operators to finance and manage long-term projects more efficiently. The bill also will permit operators to enter into long-term purchasing agreements for buses and rail cars to provide fleets of compatible vehicles that can be operated and maintained more efficiently. In addition, the bill will provide new authority that is need for turnkey procurement of high technology transit systems.

Fifth, the bill addresses differing needs of mass transit systems across the country—providing valuable reforms affecting new starts, system extensions, rail modernization, bus procurement, and paratransit services. The bill doubles transit assistance to rural areas—and significantly increases funding the transit services to persons with disabilities.

Sixth, the bill gives major metropolitan areas—those with populations over 200,000—substantially more power to develop comprehensive, long-range plans for meeting their long-term transportation needs. For the first time, we will closely link transportation planning with the actual budgeting of scarce resources.

Seventh, the bill removes the bias against the choice of transit when it is the most efficient use of Federal transportation funds. The bill provides a more level playing field between transit and highways. The Federal match will be a more uniform 80 percent, and some time consuming red-tape will be cleared away.

Eighth, the bill provides more timely review and more assured implementation of sound transit projects.

Ninth, the bill retains provisions in the existing law that require locally developed transportation plans and programs to encourage the participation of private enterprise to the maximum extent feasible. The conference agreement makes it clear that these provisions are not to be construed to impair local authority to determine the feasibility and benefits of private sector participation with respect to any program element or project.

The provisions unfortunately were abused to a completely unacceptable degree under the previous administration. For that reason the issue was the subject of explicit debate and decision by the conference committee. The current administration's recent action to jeopardize grants to St. Louis and Phoenix are specific and very alarming cases of attempted Federal intrusion in local affairs.

Senate conferees strongly opposed any hint that this new bill gives the Secretary a new weapon to extend Federal power in this regard. And the conference accepted that position. The conference agreement explicitly provides that the Secretary does not have authority to withhold certification of any metropolitan planning organization [MPO], which would cut off funding for transit grant recipients, based on any disagreement the Secretary may have with the policies and criteria that the local MPO or transit grant recipient establishes to determining the feasibility of private enterprise participation in accordance with section 8(e) of the Federal Transit Act.

And finally, the bill reinforces the country's ability to achieve the Clean Air Act, the Americans with Disabilities Act and other important national objectives.

The bill reflects the suggestions of many transit leaders across the country. The bill breaks some important new ground to provide for more effective mass transit. The bill offers the kind of advanced, integrated transportation system that the country desperately needs—a transportation system that cuts air pollution, conserves fuel, and clears roadway congestion.

The economy needs this bill. Construction workers need it. Commuters need it. Industry needs it. Families need it. The President should sign it promptly and ensure that it is implemented.

Mr. President, the hour is late. The bill is sound, and it is imaginative. I urge my colleagues to enact it promptly.

STAFF

Mr. President, I thank the following staffers, all of whom did great work on the transit section of this bill. Eileen

Gallagher of the Housing Committee staff who had key responsibility for the transit title. She performed her work with remarkable diligence, competence, and professionalism. Kris Warren of the Housing Committee staff, Jeannine Jackes with Senator RIEGLE, Fred Millhiser with Senator SARBANES, Pam Ray-Stronk with Senator D'AMATO, and Clarie Hefferman with Senator BOND.

Mr. President, the transit section of this bill is what I worked on in my capacity as subcommittee chairman. I just want to say that what we have accomplished for rapid transit as an alternative to more and more congestion, more and more pollution, more and more wasted hours in traffic jams all across the country—horrible in my State, horrible in other States, looming in virtually every State—is a tremendous accomplishment. We will be able to move our people much more rapidly on whatever missions they must undertake that involves travel.

We see a revolution in the way Americans move about our country in the course of time as a result of that part of the bill. I am proud to have worked on it and I am delighted that we have had such cooperation from Senator MOYNIHAN and Senator BURDICK and others who recognized the need for this change of direction in our transit policies.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina, Senator THURMOND.

Mr. THURMOND. Mr. President, I commend the chairman of the Transportation Subcommittee, the Senator from New York, and the ranking member, the Senator from Idaho for their hard work on this bill. But, as I look over the report I sense the only redeeming attribute of this legislation is that it will produce jobs and that South Carolina will receive more funding than when the last highway reauthorization bill was adopted, yet, there is still injustices in this legislation. The conference produced a bill that is very unfair.

I rise today in strong opposition to the conference report accompanying H.R. 2950, the surface transportation bill. This bill perpetuates—I repeat—perpetuates—and even exacerbates inequities in the distribution of highway funds over the past 35 years. I was a member of the committee in the Senate that wrote the interstate bill in 1956. The chairman of our subcommittee at that time was Senator Gore, father of Senator AL GORE, who is in the Senate today.

Under the conference report's formulation, South Carolina receives 1.4 percent of the total available funds. Yet in fiscal year 1990, the State contributed 1.7 percent into the trust fund. I ask you: Is that fair? I ask the chairmen and ranking member, is that fair.

Is it fair that South Carolinians should be asked to continue putting in so much more money than they get back? Of course, it is not fair. What justification can they offer my constituents in South Carolina for this kind of treatment?

This inequity is even more striking when you consider that South Carolina contributed more than it received from the trust fund from the time the interstate system was established in 1956 through 1991.

This bill also includes provisions which will reimburse States for four-lane highway system construction prior to 1956. States built these roads without any expectation at the time that they would be reimbursed. Why are we now, 35 years later, going back and reimbursing States for roads they built prior to 1956? We do well to pay for roads built today and in the future. Going back 35 years and reimbursing States; is that fair? Of course, it is not fair. And they know it is not fair.

I had one member of the Committee whose State was in the same position as South Carolina, and I asked him about this matter. I will not say whether he is a Senate or House Member. I asked him why he changed his position. He said, "Well, I was on the committee and the committee let me have more. Therefore, I changed my position." Is that a matter of principle?

Mr. President, everybody in the same position should be treated alike. That is not being done in this case.

This bill continues the inequities of the past by keeping the current donor-donee system in place. This unfairness should not continue. How much longer is it going to go on? How much longer is South Carolina going to contribute more than it receives? South Carolina is a small State.

This bill should not pass. It is going to pass because they worked it out to get enough support at the last minute and everybody is ready to go home.

This is an unfair bill. It is an unjust bill. I say to the chairman and the ranking member and every Member of this conference committee, this is not a fair bill. It is unjust.

Mr. President, I ask unanimous consent to have an article by Lee Bandy which appeared in the State newspaper printed in the RECORD.

There being no objection, the article was ordered to be printed in the as follows:

[From the State (SC), Nov. 27, 1991]

HIGHWAY BILL WOULD TAKE S.C. FOR A RIDE, OFFICIAL CHARGES

(By Lee Bandy)

WASHINGTON.—South Carolina officials say a $151 billion, six-year highway/mass transit bill shortchanges the state to help other regions.

"This bill continues more than 35 years of previous injustice," said Robert White, the state's chief highway engineer.

The bill was making its way through the House and Senate Tuesday night.

It authorizes $110.0 billion for highways and $91.0 billion for transit systems, a 40 percent increase in funding over previous years.

The state proposes to spend the bulk of its $1.6 billion to upgrade, widen and maintain its interstate highway system.

The measure authorizes three construction projects for the State; $25 million to replace the Cooper river Bridge, $6 million for the Southern Connecter in Greenville and $10 million for the Carolina Bays Parkway from Georgetown to North Myrtle Beach.

Another $500,000 is earmarked to study a proposed light-rail commuter line between Rock Hill and Charlotte. The bill also proposes a major highway from Charleston to Detroit.

South Carolina officials, however, are not satisfied with the funding formula. They said it denied the state a fair return on its investment.

South Caroline is one of 22 so-called "donor states" that traditionally have paid more into the Highway Trust Fund in taxes that they have received back for federal highway construction and maintenance.

To minimize the impact on donor states, negotiators accepted a provision guaranteeing that states would receive 90 percent of the funds they contribute to the trust fund in gasoline taxes.

Over the six-year period, South Carolina is scheduled to receive more than $1.5 billion for highways and transit programs.

"That's a lot of money," White said. "But over the same period of time, South Carolinians would put in a lot more than that."

Asked about the 90 percent guaranteed return for south Carolina, White said: "I'm skeptical. I just find that difficult to accept at this point."

Based on figures he had, White calculated that South Carolina would get only 0.3 percent return on its investment.

"That puts us 50th out of 50 states. We're dead damn last," White said.

White estimated South Carolina would be shortchanged about $327 million over six years.

The centerpiece of the new bill is a $38 million national highway system. It would consist of the current interstate high system and other major highways to be designated later.

Up to 50 percent of the funds for that project could be spent on other road programs or transit.

States would also have another $24 billion to spend on new surface transportation programs that could essentially go for anything from highways to transit. The bulk of it, however, would have to be spent in cities with more than 200,000 people.

The bill also authorizes funding for interstate maintenance ($17 billion), bridge repair ($16.1 billion) and congestion management and air quality ($6 billion).

The highway program will be financed by extending half of last year's 5-percent gasoline tax increase, which is scheduled to expire.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin [Mr. KASTEN].

Mr. KASTEN. Mr. President, I want to add my support to the conference report on the Intermodal Surface Transportation Efficiency Act of 1991. My primary purpose for doing so is that, on the bottom line, Wisconsin will see a historic increase in the return of Federal dollars to our State.

The $2.2 billion that will come to Wisconsin under this bill will more than double the $1.05 billion that we received under the last highway bill.

For the last 35 years, Wisconsin has suffered under the funding formulas that have seen our taxpayers paying $1.15 billion more into the Federal highway fund than we received in return. We had hoped that those underlying formulas could be changed as we entered a new post-interstate construction era. This has not happened, but for the next 6 years covered by this bill, Wisconsin will receive back $1.10 for each dollar we pay in gas taxes. We will be receiving $2.183 billion under the highway portion of this bill, and about $50 million under the transit provisions.

This higher dollar return is due to the fact that we are finally spending down the highway trust fund at a higher rate over the next 6 years. It is time that these accumulated balances are now being applied to our infrastructure needs.

Even when we look at the return to Wisconsin based upon the amount of the overall pot that we receive compared to the amount that we pay in, we have increased Wisconsin's return from a historic rate of 74 cents to a 98 cents return for each dollar paid in under this compromise legislation. That is a 32-percent increase which has been a long time coming.

I have fought hard to see that the overall rate of return to Wisconsin reflected the equity that Wisconsinites deserve. Under this highway bill Wisconsin will receive 1.9 percent of the total highway funds.

I am also pleased that we are not delaying any longer, this important legislation that authorizes the highway programs that have been in limbo since October 1. In Wisconsin, the Department of Transportation and the 120,000 persons whose jobs depend on this funding can now get to the business of improving our roads, bridges, and transit infrastructure, rather than worrying about the future.

In the transit portions of the bill, Wisconsin will benefit from the increased funding devoted to transit, as well as the increased flexibility in the legislation for the State to utilize highway funding for transit projects. Wisconsin's small and medium-sized transit programs will benefit from increased funding and the cap on Federal operating assistance for the Milwaukee and Madison systems has been lifted.

I am also pleased that the transit title includes a provision that will enable Milwaukee to obtain $200 million for the light rail project, assuming that it is approved by the alternatives analysis now underway. This is a tremendous win for southeastern Wisconsin and the State as a whole.

All in all, we have accomplished a lot for Wisconsin in this legislation. Most importantly we have obtained for our State the equity in the return of Federal dollars that has penalized us since the highway trust fund was established in 1956. We have won small increases along the way, but what we achieve in this legislation marks a historic improvement for Wisconsin that will serve our surface transportation needs for the next 6 years.

Mr. SYMMS. Mr. President, it has come to my attention that a technical change is needed to correct the route number designation of a particular project contained within the bill. At section 1014(c)(2), page 73 of the bill at lines 2 and 4, U.S. 81 has been mistakenly listed as U.S. 91. In order to properly designate this project, this change needs to be made.

Mr. MOYNIHAN. Mr. President, I agree, this change must be made. We urge the House under its authority to make technical and conforming corrections to address this error and make these corrections.

Mr. MOYNIHAN. Vote.

Mr. SYMMS. Vote.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, the Senator from Nebraska is from a Western State. The Senator from Nebraska would very much like to be home with my family for Thanksgiving. I simply want to echo the remarks of some of my colleagues who have spoken since I addressed this matter earlier in the day.

We set a terrible precedent each and every year when we come up against an adjournment timetable. I am not sure, but I have suspicions that these, like other controversial bills, are, by design, put off and put off and put off until people start wanting to catch airplanes to go home.

I have listened with great interest to several of my colleagues who have risen in support of this piece of legislation. For the most part, I suspect if I were similarly situated to them, I, too, would be up applauding the efforts.

I just heard a very excellent address by my great friend and colleague from South Carolina. There is no Member in the Senate that I have more respect for than the senior Senator from South Carolina because of his knowledge, and because we worked together for years on the Armed Services Committee. And I like it when he feels things from his heart.

I was interested in hearing the discussions between the Senator from Michigan and the distinguished chairman of the Subcommittee on Jurisdiction. I also listened with keen interest to the Senator from Alaska, who indicated he supported the bill because Alaska came out very well. In fact, I could not help but notice, indeed, Alaska, which is a sparsely settled State, needs some special consideration. They have been a good donee State for a long, long time, and justifiably so, as expressed by the junior Senator from Alaska.

I could not help but recognize, though, another point of the unfairness; that is, that Alaska gets more total dollars in this bill than does Nebraska. Nebraska is in the heart, the center of our country. It is a major transportation link across the United States. Yet, under this bill, we are spending more money in Alaska than we are in Nebraska.

I think that is rather interesting.

I would like to make inquiry of the managers of the bill as to these formulas that brought about this grand compromise that, as the Senator from South Carolina has clearly indicated, came up with some rather amazing figures, give and take.

I listened with interest to the comments by the Senator from Michigan about $20 million, minimun, somehow being put into the bill for each State. I suspect that that $20 million gift is in the Nebraska totals. But I could not imagine what our totals would be without it.

I would simply like to see if I could understand, whether or not there is somewhere printed, or if it could be explained in detail before we go ahead with a vote on this measure, as to exactly what formula was used? What is the formula that brought about the final listings, at a very late date, as to what State gets what?

Mr. MOYNIHAN. I am happy to respond.

Mr. EXON. I am happy to yield, without losing my right to the floor, to my friend from New York for the answer to the question.

Mr. MOYNIHAN. May I say, no one is trying to test the Senator's right to the floor, but by all means.

The Senator asked a good question to which there is a complicated answer. The net return per State begins with interstate construction and substitution.

It will take us 4 years to finish out the Interstate System finally and for good; to write the last check. The Senator from Massachusetts is here. The last major project of the Interstate System will be in Massachusetts, and in 4 years' time, that will be paid for and done. Whether the project is finished or not, the money will be paid.

In Nebraska, all of its projects were built years ago, and it is 1 of about 15 States that gets zero. Wyoming gets zero; Virginia gets zero; and Texas gets $153 million.

California, which gets three quarters of a billion, has one more project, the Anderson Freeway in Los Angeles. It is just about finished. That is three quarters of a billion. Massachusetts, the third tunnel and the central arterial, that comes to about $2.5 billion. That is just finishing the Interstate System.

Then we have interstate maintenance, which depends on the amount of miles you have. It is just a direct function of the miles of interstate, lane miles.

Then we have a bridge program which is allocated by the number of defective bridges.

Then we have the National Highway System, which is allocated by State, since we do not have an actual mileage in the NHS yet. We hope to have, in 2 years' time, when the Secretary of Transportation will recommend—out of the 150,000 miles, roughly, they will give us 121,000.

Then we have a surface transportation formula which is based on your historical receipts. Then we have a 90-percent minimum allocation. Then we have Federal lands.

On Federal lands, the State of Nebraska, which has a great deal of Federal lands, gets $136 million. The State of Maine gets zero dollars. The State of New York, for some strange reason, gets $690,000; we get $690,000. Nebraska gets $136 million. I think we probably get some credit for Bedloe's Island, or something like that.

Then we have the congestion and air quality, which is a formula directed to the number of nonattainment areas in your State.

Southern California and northern New Jersey are one vast nonattainment area. Then we have the reimbursement formula, which was provided for in the 1956 legislation.

Then we have a hold-harmless to help people see that nobody gets less than they used to get. Then we have a 90-percent attainment, and we have projects. In this bill, Mr. President, I say to my dear friend, for every dollar in gasoline tax paid by the State of Nebraska, the State of Nebraska will get back $1.27 cents. In the period, your total dollars will go up 70 percent more than the last program. You get $1.27 cents for every dollar, and in this program, being the largest program in history, in the next 6 years you will get 70 percent more than you got in the last 5. More I cannot say.

Mr. EXON. I thank my friend from New York for his explanation. At least we have it on the RECORD now as to what this formula is, and I suspect that there was more to some of the negotiations that went on than meets the eye. At least, though, we do have some written explanation at the present time as to what it is based on.

Mr. MOYNIHAN. Can I add one point?

Mr. EXON. Sure.

Mr. MOYNIHAN. We are very much aware that the formula that built the interstate highways will not take us easily into a postinterstate era. We have done the best we can because we are still partly in the interstate era. We have 4 years of payments, too. We have asked the General Accounting Office to give us its best estimate of how to go forward now. And in 6 years' time, you will not recognize this sheet. It will, I hope, in 6 year's time, if we are still here, or our successors—there will be somebody here—it will have three columns. One will be interstate maintenance; the other will be National Highway System; the third will be surface transportation.

Mr. EXON. I thank my good friend and colleague from New York. The figures he cited with regard to Nebraska and how much more we are getting is the typical pitch that has been made to the House Members and the Senate Members. The facts of the matter are all States are getting a whole lot more money than they had in the last 5 years; is that correct?

Mr. MOYNIHAN. Yes.

Mr. EXON. Since the Senator from New York brought up the matter of donor-donee States—and I certainly recognize and accept the fact that Nebraska has traditionally been a donee State, a la the reference made to this earlier in the day by the Senator from Indiana. Certainly, it was not said by the junior Senator from Alaska, but also, obviously, Alaska has, I suspect, always been donee State.

Since we are talking about that, that brings me to the question with regard to the fairness of the formula. There are several donee States that I am about to mention with some figures that, like Nebraska, are donee States and yet those donee States, other than Nebraska, while most of them are more donee than Nebraska, do much better than Nebraska in the funding formula.

Example. And I use these figures, which are honest figures, and since we had a 5-year authorization bill in the Senate and a 6-year authorization bill in the House—and I might stop for a minute and say, how did that happen? I think that all gets tied up in the increased tax measure that is in this bill. Originally, the House of Representatives had a 5-year authorization bill, also, with an immediate increase of 5 cents on the gasoline tax on top of the 5 cents that was embodied in the Andrews grand summit deal last year where the President's lips quivered. There was so much opposition to that, the 5-cent-gas-tax increase, that the House recognized that they could not have all of their pork barrel projects that have been alluded to by this Senator and others time and time again, and they backed off and said, what can we do? The first thing we do is stretch it out to 6 years. The second thing we do is not have a 5-cent gas tax to go into effect now. We will take half of that, or 2½ cents, and add it on to the end of the bill that was passed last year that otherwise would have allowed the full 5-cent gas tax to expire in 1996. With all that combination, the House was able to fool the Senate into thinking that they were basically adopting the Senate bill when, in fact, in my opinion, we have not.

But getting back to the matter of the figures that I am about to cite, since there are differences between the House bill and the Senate bill, obviously, the key difference between the two bills, as I addressed earlier was that we provided significant increases to all the States, including 70 percent or more as opposed to the last 5-year program in the bill that passed the Senate.

What we have now come back with, I suggest, is a different bill altogether. It is kind of the Dr. Jekyll and Mr. Hyde proposition. We had a Dr. Jekyll bill that went out of here. It comes back into this body as Mr. Hyde. And yet we are trying to hide some things in that bill that are not fully understood, which, if for no other reason, is why I think the President should veto the bill. Once again, as I did earlier, I call upon the President to veto the bill, call us back into session immediately and redo it.

The figures then that I cite—and the only way that we can look at this honestly and accurately is to talk about a 1-year average figure under the two bills passed, one in the House, one in the Senate, and now how that figure matches up in the conference report that is before us.

All of these States that I am about to cite have precious little to do with the donor-donee proposition. Again, Nebraska is and will continue to be, because of our sparse population and large land mass, a donee State.

New York is also a donee State and has been for some time. I simply point out that on a 1-year average basis, New York was allocated $960 million on the average of each year in the Senate bill. It was allocated less, $917 million, in the House-passed bill. The final conference report that we are being asked to support jumps it up to $1.24 billion. New York, a donee State, does very well, indeed. Maybe it is justified, but I am pointing out the differences.

Ms. MIKULSKI assumed the chair.

Mr. EXON. Madam President, Idaho got $105,451,000 under the Senate bill. It really got killed in the House bill. They dropped Idaho down to $97,182,000. The conference report comes back with $134,806,000 for Idaho. I have to say, Madam President, in all due respect and appreciation for the Senator from Idaho, who played a key role in putting this all together, I do not think he took advantage of the situation with regard to Idaho. It seems to me that the Idaho compromise that I have just outlined is a good one.

North Dakota, $123,000 in the Senate bill, down to $97,000 in the House bill. They come right back up to $123,000 in the compromise.

Montana, $213 million in the Senate bill, down to $102 million in the House bill. It comes back out at $178 million in the compromise, again a compromise on the upper side of the scale favoring Montana, which I do not necessarily object to. New Mexico, $222 million in the Senate bill—wow, down to $130 million, Madam President, in the House bill, and back up to $195 million in the bill before us, the conference report. Nevada, $126 million in the Senate bill, $90 million in the House bill, $131 million in the conference report before us. Nevada did very well, indeed. South Dakota, $145 million in the Senate bill, down to $94 million in the House bill. They got $132 million in the bill before us, another compromise on the upper side of the scale. Iowa, $259 million in the Senate bill, $235 million in the House bill, $242 million in the final measure before us, again a compromise in that case slightly on the down side. Minnesota, $303 million in the Senate bill, down to $291 million in the House bill, jumped all the way up to $324 million in the version before us. And just to put everything in perspective, Nebraska, $199 million in the Senate-passed bill, down to $153 million in the House bill, and down even below both the Senate and House figures to $152 million in the measure before us.

I think that if anyone took a look at those donee States as separated from the donor States, which have a different and special problem that I recognize, I would think the formula just outlined to us can be proven as not only unfair but unworkably unfair from the standpoint of many of us.

Madam President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I will speak just briefly on this matter that is of considerable importance to my State.

I commend the Chairman of the Transportation Subcommittee, Senator MOYNIHAN, and the ranking Republican member, Senator SYMMS, for their leadership and bipartisan cooperation in developing this far-reaching and farsighted legislation. I also commend Senator CRANSTON and Senator D'AMATO for their leadership on the mass transit issues in this important measure.

I give my strong support to this farreaching transportation measure that will help to bring our economy back to health in the short run, and help in the longer run to move our country into the 21st century with a better, more efficient, safer, and cleaner transportation system.

This bill is one of the most significant public works and infrastructure measures ever enacted by any Congress. It will provide a major boost for the construction industry and for the national economy, at a time when the stimulus is most urgently needed.

In addition, it will provide an immediate and continuing economic stimulus for the Massachusetts economy, which has been suffering especially heavily from the current endless recession. It will help to get thousands of workers back on their feet and back on the job.

The major provisions for Massachusetts include $2.55 billion over the next 4 years for construction for the Central Artery-Third Harbor Tunnel, to improve and upgrade what is now the single most dangerous and congested stretch of the entire Interstate Highway System.

The bill also contains substantial funds for development of a new bus tunnel to link downtown Boston with the fast-growing South Boston Piers area and the new Federal courthouse now under construction there. This key transit project will be especially helpful easing the urban congestion in Boston and reducing pollution.

The bill also contains $911 million for much needed bridge repairs and maintenance throughout the Commonwealth. In addition, it includes major funding for research and development on high-speed rail technologies, and for other innovative programs such as smart roads that use sophisticated computer technology to anticipate traffic problems and prevent gridlock.

The legislation provides large amounts of new Federal dollars directly to States and local communities, and gives them greater flexibility to decide their own transportation priorities—whether for mass transit, construction of new roads, or maintenance of current roads and bridges.

Finally, on a related issue, I believe that Congress should stay in session next month in order to deal in a more comprehensive way with the recession and the festering and complex challenges facing our economy.

This transportation legislation is an important first step in fashioning the stimulus we need to end the recession as soon as possible. But it is far from the only step we must take.

It would be irresponsible for Congress to adjourn for 2 months, with the economy in trouble.

President Bush is being buffeted by his economic and political advisers. All he proved yesterday is that he has no policy of his own. He lunged too quickly for a right-wing House Republican proposal that would be unfair to the vast majority of middle-class and working American families.

It is Alice-in-Wonderland economics at its worst-vote first, think later.

In the coming month, it should be our goal to fashion the more comprehensive, fair, and fast-acting stimulus needed to pull the Nation out of this continuing recession. I believe we can meet that challenge, and do so in a bipartisan, constructive way that will be good for the economy, good for the country, and fair for all the American people.

Mr. GRASSLEY. Madam President, I will be voting for the conference report on the 1991 surface transportation reauthorization legislation. I do so with some enthusiasm and with some reservation.

Let me begin on a positive note. One of the reasons I am supporting this legislation is the fact that we have this legislation at all. There has been much discussion that we might not have a bill. And that would have been tragic.

According to the American Association of State Highway Transportation Officials, an estimated 409,000 jobs and $27.8 billion in output could be lost if this legislation does not pass. The impact of these jobs lost would be devastating just as we are trying to move out of the recession. My home State of Iowa would share in this loss, totaling over 4,000 lost jobs with over $70 million in reduced spending. So I am pleased to see that we are able to consider this legislation today.

Another reason I am supporting this bill is the question of fairness. It is my assessment, and the assessment of officials it is my assessment, and the assessment of officials with the Iowa Department of Transportation, that the State of Iowa is treated fairly under this bill. Would I like to have seen Iowa get more money than is provided in this legislation? The answer is yes. But, do I think Iowa is treated equitably under this bill? I do.

I am also pleased to see that certain demonstration projects are included in this bill * * * projects that are very important to my State. These include the Avenue of the Saints corridor, the Highway 63 corridor, the extension of Highway 2, the Mason City bypass, and the Valley View project in Council Bluffs.

I would like to take a moment to discuss the Avenue of the Saints project. To refresh my colleagues' memories, the Avenue of the Saints is a major north-south highway which would connect the cities of St. Paul, MN and St. Louis, MO.

The Avenue of the Saints study committee, which consisted of the departments of transportation from Iowa, Illinois, Wisconsin, Missouri, and Minnesota as well as the Federal Highway Administration, was commissioned to determine the best route for the Avenue of the Saints. Last year, after exhaustive study, this study committee released their findings. They determined that the best route for the Avenue of the Saints would start in St. Louis and pass through the following communities: Hannibal, Keokuk, Mt. Pleasant, Iowa city, Cedar Rapids, Waterloo/Cedar Falls, Mason City and up to Minneapolis/St. Paul.

In late July of last year, Secretary Sam Skinner sent me a letter stating that the Department of Transportation fully supports this route for the Avenue of the Saints.

The entire Iowa congressional delegation has worked diligently over many years in an effort to complete the Avenue of the Saints. This legislation will go a long ways toward making the Avenue of the Saints a reality. In addition to the inclusion of the demonstration project, this legislation gives unprecedented discretion to States and metropolitan planning organizations to make transportation decisions. The Iowa Department of Transportation and Gov. Terry Branstad have publicly stated that the Avenue of the Saints is the transportation project for the State of Iowa. They will have the discretion to allocate the needed moneys to make the Avenue of the Saints a reality in the very near future. With this discretion, the Iowa Department of Transportation estimates that the Avenue of the Saints will be completed as a four-lane expressway by the end of the decade.

Another element of this legislation that I support is the inclusion of the National Highway System. The National Highway System is a network of primarily existing major highways throughout the country. The National Highway System will include the Interstate System and would connect major population centers, rural areas, major ports, airports, and international border crossings.

The idea of a National Highway System is critical to maintain the integrity of an efficient transportation system throughout the United States. I believe it is essential to dedicate a substantial portion of Federal highway dollars into a system that will meet national needs. A National Highway System would connect those highways that serve national commerce, travel, and defense needs.

Mr. President, "flexibility" and "national purpose" are not diametrically opposed to one another. They can work hand-in-hand. The flexible nature of the Surface Transportation Program will only work to better enhance the National Highway System * * * The National Highway System will give a national focus to the flexible funding decisions on the part of the States and metropolitan planning organizations.

It is for these reasons that I will vote for this legislation. But I do so with one reservation and that is the gas tax extension of 2.5 cents for 4 additional years.

Nevertheless, I believe that we can claim a substantial victory in one sense. We were able to successfully fight the nickel gas tax that the House of Representatives supported earlier this year. For that I am grateful.

Though I will vote for this bill, I wanted to make note that the extension of the gas tax is one element that I do not support and have actively opposed. But because this bill is so important to the entire Nation's transportation system, and specifically to my home State of Iowa, I am willing to support its passage despite my reservations with this specific provision of the bill.

And finally, Madam President, let me congratulate Senator SYMMS and Senator MOYNIHAN for their valiant efforts. Without their thoughtful leadership, commitment, industry, and patience, we would not be here today. I would like to thank them and honor them for their work.

Mr. CRAIG. Madam President, I rise in support of the Conference Report on H.R. 2950, the Intermodal Surface Transportation Efficiency Act. It is a forward-looking and much needed piece of legislation which will go a long way toward building and maintaining the roads and bridges of America as we head into the 21st century. The legislation will provide $154 billion for our Nation's infrastructure over the next 6 years, more than $811 million of which will go to my State of Idaho.

Although Congress has failed to meet the President's 100-day deadline for the transportation bill by some six months, largely due to bickering in the other Chamber about increasing the gasoline tax another nickel, I know I speak for all in Idaho when I say this bill is badly needed.

The credit for this legislation and its being passed this year belongs to Senator MOYNIHAN and the senior Senator from Idaho, STEVE SYMMS. I would like to thank them for their hard work. As we have already acknowledged here on the Senate floor, the Senior Senator from Idaho will be sorely missed when the 103d Congress convenes in 1993. I especially praise him for his leadership.

This legislation has many positive features. I would like to mention and comment on a few.

Without a doubt, the most important aspect of the conference report, as with the Senate passed version, S. 1204, is its flexibility. As a member of the House Committee on Public Works and Transportation, I spent much of the last session of Congress listening to testimony from State transportation officials. What I heard them saying was that they need flexibility; they do not need Federal strings tied to the Highway Trust Fund moneys.

Nevertheless, House conferees insisted on the inclusion of so-called demonstration projects and a certain number of these have been included. To the extent that these projects have been reviewed and proposed by the various State departments of transportation around the Nation, I believe they are justifiable. However, for those projects that are not the product of some type of process at the State level, I cannot speak so favorably. Fortunately, the projects included for Idaho were included only through close consultation with the Idaho Department of Transportation. Most importantly, they were included without imposing the 5-cent gasoline tax increase advocated by some in this Congress.

In any event, it is time to turn more of the surface transportation program over to the States. By and large, this bill will effectively do that.

The State matching requirements of this legislation recognize the difficult financial position of many States by enacting an 80–20 match—80 percent to be provided by the Federal Government, largely through the Highway Trust Fund and 20 percent to be provided by the States. This is a step toward greater responsibility for the States—the 1986 bill provided a 90–10 match—without going to the 60–40 or even 75–25 extremes contained in other proposals, including the President's.

Across America, bridges are beginning to crumble. Along Idaho's principal north/south link, highway U.S. 95, a single bridge near Riggins, ID, connects much of the State's population. Its condition is in serious question, but because of the lack of funds provided for bridge replacement and rehabilitation, it is not slated for action until 1995.

Similar problems exist throughout the Nation and need to be addressed. The conference report provides a large part of the solution by allowing States the flexibility to spend more money on bridges, providing a $16 billion program to replace and rebuild our Nation's bridges, and expanding what has been a very efficient timber bridge program to $7.5 million.

Funding for highways running through national forests and other Federal lands is more than doubled in this bill. This will increase and improve access to our Nation's public lands for millions of Americans and help get timber and other valuable natural resources to the people and businesses that need them. Funding is also increased for Indian reservation roads.

I am most pleased about the inclusion in the conference report of Senator SYMMS' National Recreational Trails Trust Fund Act. I am a cosponsor of this measure and believe it is an important step in enhancing and maintaining the current recreational trails of America, as well as constructing new multiple-use trails through the user fee concept.

The bill has many other important provisions including State design and approval of pavement rehabilitation projects without Federal approval, a repeal of speed limit sanctions on the States and others too numerous to mention here. Suffice it to say that they are all part of what will prove to be a most efficient and effective surface transportation program for our Nation.

Even with my support of the conference report, I must mention a few concerns about the legislation. These include the helmet and seatbelt provisions and long-combination vehicle size freeze contained in the bill. These are significant infringements on the rights of States to regulate safety within their own borders and I oppose their inclusion in this legislation, as I did when they were included in S. 1204.

In addition, I am disturbed about the conference committee's decision to strike the Private Property Rights Act from the bill. It was included in the Senate approved legislation and would have gone a long way toward assuring the private property owners of America that their livelihoods will not be threatened by the regulators in our bureaucracy. That battle, however, is far from over and will continue to be fought.

Finally, Mr. President, I would once again like to thank Senators MOYNIHAN and SYMMS for their fine leadership on this important legislation and express my strong support for the conference report.

Mr. SANFORD. Madam President, we are obliged by our duties as Senators to bring to the Nation a surface transportation reauthorization bill. The Nation needs this bill. The Nation needs its highways and interstates maintained, it needs to begin construction on its newly planned highways, and it needs its transit systems running.

The infrastructure system of the United States is the greatest in the world, and we should all be proud of that fact. And crafting legislation which authorizes funds to keep this system operating is one of the most important responsibilities of Congress. The surface transportation legislation authorizes the spending of vast sums of money—billions of dollars—which in turn creates jobs for countless individuals in industries ranging from engineering to construction to sales to manufacturing, and so many other fields. The highways, bridges, and transit systems authorized by this bill keep the Nation moving and working. None of us could survive in this modern world without the transportation systems which are the lifetimes to our jobs, to our homes, to the stores, restaurants, and businesses of America. Indeed, our Nation would go nowhere without this system.

The Nation is therefore at the mercy of Congress to bring forth legislation to provide funding for the transportation systems. The issue of equitable funding is critical to our debate on this legislation.

Going into this reauthorization cycle, North Carolina was receiving only 74 cents back for every dollar it put into the highway trust fund—an extreme iniquity. When we first began our debate of this transportation legislation, I was adamant about seeing a better return for North Carolina's dollars. While this bill is not revolutionary in that regard, I believe I have achieved some success. After the enactment of this legislation, North Carolina will be receiving 87.5 cents back for every dollar it sends to the Federal highway trust fund. This is clearly a step in the right direction.

During the debates in the Senate earlier this year, I was very outspoken about the need to change the funding formula for the Federal-aid highway programs. I pointed out the need to move away from the formula used during the interstate construction period, and toward a more equitable formula based on use and maintenance factors. I am disappointed that this legislation does not include such changes in the formula, but I am certain that we have been successful in heightening the donor State issue in both the House and the Senate.

There was a time when it was necessary for some States to receive a larger percent of the trust fund than others as all States were working together to fund the construction of the interstate system. However, the period of interstate construction is over and we are now moving into a new era, one that will focus on maintenance and use. We therefore should not maintain the old funding formula to carryout our new directives. To that end I was successful in adding a provision to the legislation which requires the General Accounting Office to study the surface transportation funding formulas and recommend to Congress a formula which would treat all States equitably. I believe that having an objective body, such as the GAO, study the issue and recommend the necessary changes is the best way to ensure fair formulas are adopted in the future.

I have found that those States which have historically received more per dollar under the interstate construction formula do not want to give up the large returns their States have been receiving. During this highway debate we have all done a very good job watching out for the interests of our States, but have not acted in a manner to benefit the entire United States. We all want a bigger slice of the pie for our State, but there just is not enough pie to go around. We need to base our Federal-aid highway allocations on need, not greed. Therefore, I am hopeful that the GAO study and recommendations will help to eliminate this difficult funding formula debate which tears apart regions, Senators, and the interests of the entire United States.

While I have concerns about this legislation's funding formula, it does contain great measures for the Nation and for North Carolina. The safety features of the bill are enhanced. There is an emphasis on transit systems, which will allow North Carolina to pursue transit planning in both urban and rural areas. And the bill includes an increase in the minimum allocation from 85 to 90 percent.

I will offer my support for this legislation. I believe it is a big step in the right direction for transportation in North Carolina.

Mr. RIEGLE. Madam President, this is a historic juncture in Federal transportation policy. Today, with construction of the Interstate Highway System largely complete and many of our Nation's oldest and largest transit systems upgraded, we are entering a new era. The Intermodal Surface Transportation Efficiency Act of 1991 charts a fresh and forward-looking approach to transportation policy. As a conferee on the bill, I would like to thank my colleagues who participated in the conference for all of their hard work. Furthermore, I would like to commend all of my colleagues for the high degree of cooperation demonstrated between Members on both sides of the aisle which made this major initiative happen. The bill goes a long way toward renewing our Federal commitment toward a strong national transportation infrastructure and improving the state of our economy. This $151 billion package will pump much needed Federal dollars into local economies across the Nation. The timing of this bill couldn't be better—at a time when millions of Americans are feeling the pinch of the recession.

Today we have the opportunity to commit our Nation to a coordinated Federal transportation policy. The transit title will ensure that our communities have the resources necessary to reduce congestion, enhance the mobility of transit-dependent populations, and reduce our dependence on foreign oil. I believe the highway title does a better job than the previous surface transportation program in making sure that all States receive a fair share of Federal dollars. Both the highway and transit dollars are urgently needed in communities across the Nation—such as my home State of Michigan.

Most importantly the bill creates—for the first time—a much needed mechanism to help the Federal Government, States, and localities to look at the big picture. The metropolitan planning provisions will provide a formal mechanism for cities and states to strike an appropriate balance between highways and transit needs. This bill puts decision making into the hands of the States and local communities who best understand their own needs.

The transportation policy we develop will have a direct impact on the quality of life of the American people for years to come. This bill will enhance our economic prosperity and competitiveness, ensure adequate investment in our existing highways, road and transit infrastructure, and decrease the congestion in our cities and on our roadways.

Madam President, I believe this bill will promote the continued development and proper maintenance of our national transportation network, which in turn will improve the quality of life for Americans today and into the next century.

Mr. BURNS. I made a statement yesterday expressing my support for this bill and my appreciation to the bill's managers for their assistance. I would now like to take a few minutes to talk about some of the provisions in this bill which I authored. During Senate consideration of S. 1204, the "Surface Transportation Efficiency Act of 1991," I offered five amendments that were passed unanimously by the Senate. Four of those five amendments are in this bill in one form or another. The fifth, the "Rural Tourism Development Foundation," was dropped from the bill at my request after Congressman SWIFT agreed to include it in a broader tourism bill that will move next year.

The primary thrust of my amendments goes to my goal of revitalizing the economy of rural America through the three T's—tourism, transportation, and telecommunications. Obviously, this bill is primarily a transportation bill. It is a bill that goes beyond the traditional definition of a highway bill and implements a comprehensive transportation infrastructure to support the changing economy in America and in Montana. Specifically, in the area of tourism, a growing segment of rural America's economy, this bill makes some important changes in our transportation policies to provide an infrastructure that will support that growth. The bill emphasizes the need for comprehensive planning that incorporates all modes of transportation and takes into account both the commercial and recreational needs of the traveling public. At my request, that planning effort must specifically include the consideration of recreational travel and tourism and other infrastructure investments that will improve State and local roads that support rural economic growth and tourism.

The important facts is that the planning requirements in this bill are backed with funding. In particular, my amendment to the Federal lands category will allow funds allocated through this category to be spent on roads that are on or provide access to Federal lands. It also makes amenity-related projects such as interpretative signage, parking facilities, and visitor centers eligible for Federal land category funds. These funds will play an important role in the West where large portions of our land and many of our recreational areas are on Federal land. The States be able to tap these funds in order to develop an infrastructure that supports tourism on the county and local level.

I am also pleased that the conference committee adopted my version of the Education and Training Program, a program that provides technical assistance to rural areas through the Rural Technical Assistance Program [RTAP]. Under my amendment, the RTAP Program will develop a tourism and recreational travel technical assistance program to help counties and localities take advantage of the programs in this bill. At least two of the RTAP centers will also provide this same assistance to American Indian Tribal governments thus giving them the opportunity to capitalize on the tourists' interest in the American Indian culture.

There are other important provisions in this bill relating to tourism and recreation, and I want to take a moment to mention Senator SYMMS' Recreational Trails Fund Act. I have been a longtime supporter of Senator SYMMS' efforts to redirect some Federal highway funds to the construction and rehabilitation of back country trails, with the intent of improving motorized access to nonwilderness areas. The recreational trails fund will give those people who buy gas for their snowmobiles, motorbikes, and ATV's a return for the money they are contributing to the highway trust fund. This is an important step forward in improving recreational opportunities to many Americans.

The transportation policy changes and funding increases for surface transportation provided in this program will also provide the economic underpinnings for the Nation to compete in the 21st century global economy. My amendment to require a border crossing study was combined with other provisions in the House and Senate bills into a comprehensive study identifying the infrastructure needed to facilitate trade between the United States, Canada, and Mexico. Since 1980, United States trade with Canada and Mexico has more than doubled and has grown 56 percent faster than our exports to the rest of the world. A cooperative North American economy will require major infrastructure improvements and efficient transfer between rail, highways, waterways, and air freight centers.

The border crossing and infrastructure assessment in this bill will identify projects and transportation policy barriers to North America trade. The Secretary is required within 18 months to investigate and develop priorities and recommendations for rail, highway, water, air freight centers, and border crossings improvements necessary to facilitate trade between the United States, Canada, and Mexico. The investigation would be based on existing and emerging trade corridors and transportation subsystems that are integral in moving goods across our common borders. Trade and transportation corridors are used as a study framework because interregional trade trends to concentrate along favorable routes or preferred modes of transportation that link resources with manufacturers, supply distribution centers, and large consumer markets.

Historically, trade has moved north-south but as national boundaries became fixed, transportation systems in Canada and the United States were developed to move goods along east-west lines. As a result, north-south intermodal connections are lacking, especially in the rural West. The West, according to the University of Montana's Bureau of Economic Reserach, is developing three general trade corridors to accommodate expanding north-south trade. One is the Pacific Coast corridor, stretching from British Columbia to southern California, but largely concentrated between the cities of Vancouver, Seattle, and Portland. Another is the Upper Great Plains, Great Lakes corridor, stretching from Saskatchewan to the upper Midwest region of the United States, but focused between Winnipeg and Minneapolis-St. Paul along the Red River Basin. And of particular interest to me is the third corridor which Larry Swanson of the University of Montana says will develop along the Rocky Mountains.

The State of Montana, and its neighboring States and the Province of Alberta will benefit from a regional assessment for the emerging northern Rocky Mountain trade corridor. This corridor forms a triangle between Edmonton, Alberta, Salt Lake City, and Denver and serves the smaller urban centers and outlying rural areas of Montana, Wyoming, southeastern Utah, and the western edge of the Dakotas. Plans are underway within this corridor to establish a regional public-private partnership to develop the trade corridor based on similar economics, mutual interests in lowering freight costs, and improving access to more global markets. A regional strategy makes sense because the north-south distances between the large urban centers within this corridor are about 1,000 miles apart. Like the 1944 interstate route selection, the decision to upgrade major highway routes requires a regional investment strategy because our states have a highway user fee revenue base about one-fourth the national average and some of the highest State gas taxes in the country.

I would like to insert into the RECORD at this point a letter from the chairman of the Salt Lake County Commission in support of the regional assessment. This letter illustrates how joint border cooperation between the province of Alberta and Montana on the new inland port facility at Shelby has impacted the trade corridor. Opposite of Salt Lake City, is Denver which anchors the east side of the corridor. The State of Colorado is a regional, national, and international transportation hub. The State of Colorado would like to see a transportation study examining the Rocky Mountain corridor and its role in north-south trade movement. Gov. Roy Roemer of Colorado has informed me that he will send a letter to the Secretary of Transportation in support of these studies.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SALT LAKE COUNTY, UT,
November 26, 1991.

Hon. CONRAD BURNS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BURNS: The House-Senate conference amendment that directs the Secretary of Transportation to identify infrastructure improvements along existing and emerging North America trade corridors is important not only for Salt Lake County but for state and regional growth in the changing global economy.

Salt Lake County and the Utah Department of Community and Economic Development undertook initial development of the Utah Intermountain Port Authority to serve as a supply and distribution center. Port authority status was sought as a valuable economic development tool because it provides a U.S. customs "port of entry" for goods to enter and exit the commerce of the region and the United States. The Salt Lake port would not provide direct transportation services, but instead work with the public and private sector to expand markets, improve transportation services, and industrial, warehousing and distribution facilities. As envisioned by the County, full development of the port's potential could generate thousands of jobs, enhance small business growth by identifying international marketing niches, and increase Salt Lake's prominence as an international trade center.

The port's feasibility study concluded that "cooperative intermountain regional efforts are essential to identifying and exploiting opportunities to optimize international trade efforts and overseas trade missions." Regional analysis of trade corridors and transportation services will enhance multistate public-private efforts to develop regional trading blocks for the global markets. Interest in developing a regional trade and investment strategy for the emerging Northern Rocky Mountain Trade Corridor is unfolding. This corridor would form a triangle between Edmonton, Alberta, Salt Lake City and Denver and serve the small urban centers and outlying rural areas of Montana, Wyoming, southeastern Utah and the western edge of the Dakotas.

Transportation services such as the recent unprecedented agreements between Alberta-Montana for joint customs inspection and authority for heavy trucks to travel on a 36-mile stretch of I-15 to Shelby, Montana's inland port are already producing local, state, regional and national benefits. The Shelby port provides the Canadian province with the only major rail-highway connection to U.S. domestic markets. The Shelby-Salt Lake connection could result in complimentary marketing strategies to encourage trade development. Those strategies may also include public-private cooperative efforts to assist rural areas along the corridor who now lack access to a broad range of export assistance, lower freight rates and quick and reliable transportation services necessary to compete in the global economy.

I encourage the Secretary of Transportation to include the Salt Lake region in the regional trade corridor studies. In addition, I appreciate your efforts and those of the House and Senate conferees in developing this amendment to the 1991 surface transportation program.

Sincerely,

E. JAMES BRADLEY,
Chairman,
Salt Lake County Commission.

Mr. BURNS. The Secretary of Transportation is also required to assess the adequacy of every border crossing to accommodate increased trade and tourism traffic. The Sweetgrass border crossing that serves the Shelby, MT, port is woefully inadequate on the U.S. side and long truck delays are encouraging trucks to take alternative routes. It is my hope that the Secretary of Transportation could complete the review of this situation within 60 days from enactment of this legislation.

Finally, I would like to mention one last provision that is unrelated to these other matters, but very important to the No. 1 contributor to Montana's economy, the agricultural community. The original Senate bill included my amendment to allow States to waive the commercial drivers license [CDL] requirements included in the Commercial Motor Vehicle Safety Act of 1986 for vehicles used to transport farm supplies from retail dealers to or from a farm, for vehicles used for custom harvesting and for vehicles used in feedlot operations. I am very pleased that the conferees agreed to include an exemption from the CDL requirements for the custom harvesters. These are hardworking people who travel the country harvesting crops for farmers who for one reason or another have not invested in combining equipment. Custom harvesters only operate on a seasonal basis and they primarily use part-time, student labor. This exemption will provide some much needed regulatory relief to the custom harvesters and will alleviate their fears with regard to their labor pool. I am naturally very disappointed that the conferees did not include the farm retailers and feed lot operators in this exemption. I get a real sense that many people up here do not understand the way rural America works. I intend to continue changing and making laws that accommodate rural America and the farming community in particular.

Madam President, overall this is a very good bill for Montana and for the Nation. I have already thanked my colleagues so I won't to go into that again. I will look forward to working with them in the years to come as this program is implemented.

Mr. DOLE. Madam President, when President Bush asked Congress to complete critical surface transportation legislation in 100 days, I do not believe he imagined it would take an additional 166 days to get the job done. However, we are finally here and on the verge of completing action on this historic 6-year bill.

It is equally important that as we close out the 20th century, we do so by completing the interstate and recognizing and honoring the driving force behind the world's largest public works project: President Dwight David Eisenhower. It it appropriate that this legislation include suitable provisions to study and develop a fitting emblem honoring the "Dwight David Eisenhower Interstate System and Defense Highways" to be affixed to all interstate highway signs so that generations of the Nation's travelers will recognize the contribution of the great President from Kansas.

I am also pleased that we were able to craft a bill that takes into account the needs of all States and provides adequate funding and flexibility so that State departments of transportation will be able to meet the unique needs of their own State surface transportation requirements.

This bill is good news for Kansas—for our States infrastructure, for motorists, and most importantly for Kansas jobs. Overall program funding for Kansas is $1.3 billion, up from the 1987–91 program where Kansas received approximately $735 million over the 5-year period. I am also happy that we find ourselves more balanced in the ratio of dollars paid out and dollars received for the highway program. Kansas will receive $1.03 for every dollar expended rather than the 89-cent return of the previous program.

DOLE AMENDMENTS

I am particularly pleased the conferees added three special projects at my direction: Completion of the $48.8 million Hutchinson Bypass project; completion of the $8.6 million west Leavenworth Trafficway; and up to $56.2 million to continue—and hopefully complete—the four-lane expansion effort to Nebraska along U.S. 81. All are important projects to Kansas and need to be completed. I would note for the record that in the bill as printed, U.S. 81 has been mistakenly designated as U.S. 91. I have addressed this in a concurrent resolution to correct this technical error.

Other amendments that I sponsored or supported include commercial drivers license regulatory relief for custom harvesters; relaxed and expanded homebound meal delivery provisions for DOT transportation providers; funding to improve rural intercity to improve rural intercity bus service; and funding to defray the costs of urban mass transit administration bus testing requirements affecting several Kansas small bus manufacturers.

I am also pleased that the conferees provided $33 million in startup funding for several projects that I supported including the Riverton to I–44 project in southeast Kansas; the Oakland Expressway in Topeka; the U.S. 54 interchange at Oliver and Kellogg in Wichita; the interchange along I–435 and Nall Avenue in Overland Park; and the Lawrence East-West Bypass.

Madam President, it is important to recognize that the National Highway System—as called for by the President—will be funded at an adequate level to provide this Nation with a truly integrated transportation strategy. Secretary of Transportation Sam Skinner and Federal Highway Administrator Tom Larson have done a great job making sure the administrations program was well represented and explained to Senators every step of the way.

Madam President, as we move toward completion of the Eisenhower Interstate, I believe we as a nation have taken a very positive step toward achieving the policy goals this legislation seeks; namely, construction, maintenance, congestion relief, environmental protection, and job creation. I congratulate my colleagues on the conference committee for the good job they have done completing this legislation.

Mr. LAUTENBERG. Madam President, I am pleased to join my colleagues today in supporting the conference report on H.R. 2950, the Intermodal Surface Transportation Efficiency Act of 1991.

At the outset, I again want to commend my good friend and colleague from across the Hudson, Senator MOYNIHAN. His vision and leadership moved this bill through the Senate, and then through conference.

The result is a piece of legislation that is truly responsive to the transportation needs of this country.

I again want to note the efforts of Senator SYMMS. He is leaving the Senate next year. But, he has put a tremendous amount of time and effort into this legislation.

His leadership on behalf of the Western States was crucial to our reaching this point with a bill that makes fundamental changes in the way that we will look at our transportation programs.

This is legislation that we can all be proud of. It is not an extension of the same old highway bills that this Nation has seen for the last 35 years. It is innovative. It is creative. And, it is responsive to the diverse needs of every region of this country.

The cornerstone of this bill is its flexibility. That flexibility is essential if we are going to give States the tools they need to address their transportation needs, and meet national goals.

I say that because, if there is one thing that has become more and more evident over the course of developing the concepts behind this legislation, it is that local actions and national goals are inextricably linked.

Providing better mass transit in New Jersey is not just for the benefit of Newark, Trenton, Camden, or the Hudson waterfront. It helps improve the productivity of a vast work force. It helps our State, and our region, work toward compliance with clean air goals.

Those are national goals and, the nation benefits when we achieve them. But we must achieve them on the local level.

Our bill recognizes that transportation needs around the country are different: Idaho is different from New York; North Dakota is different from New Jersey. Well, even northern New Jersey is different from southern New Jersey.

This legislation takes those differences into account. Through enhanced planning requirements, flexibility of funding, and significant increases in funding, this bill will help all of these areas.

Madam President, I am pleased to note that the conference report includes provisions that I sponsored, to create a comprehensive Intelligent Vehicles-Highways Systems Program, and to freeze the use of longer combination vehicles.

An emphasis on IVHS is absolutely consistent with the overall theme that we have stressed throughout the consideration of this legislation—greater productivity out of existing transportation infrastructure.

With IVHS, based on field tests, we can look to reduce fuel consumption, improve air quality, cut down on the billions of hours wasted each year by Americans stuck in traffic, and help improve productivity.

The conference bill also contains a provision that I sponsored allowing States like New Jersey to get credit for the tremendous amounts of money they invest into toll facilities. This provision is very important to New Jersey, and other States with toll facilities.

Madam President, there are many specific items in this legislation of importance to New Jersey. Funding for needed improvements such as widening of route 21 in Newark; authorization of and funding for the urban core transit project, which will open up mass transit for thousands of commuters.

In June, our Environment and Public Works Committee brought to the Senate a bill that stressed flexibility, mobility, and productivity.

I am proud to report to our colleagues that the bill we brought back from conference retains those fundamental principles.

In the package before us, we have a comprehensive surface transportation bill. It is a plan that can take this country through the 1990's and beyond, into the next century. I urge my colleagues to support it.

Mr. ROBB. Madam President, I rise in support of the Metropolitan Washington Airports Act Amendments of 1991 and in support of their inclusion in the Intermodal Surface Transportation Infrastructure Act.

Congress, in the Metropolitan Washington Airports Act of 1986, authorized the creation of the Airports Authority, and the operation of National and Dulles International Airports under a 50-year lease between the Authority and the Federal Government.

On June 17, 1991, the Supreme Court held unconstitutional the provision of the act that created a Board of Review composed of nine Members of Congress. As a result of this decision, the Authority has been unable to authorize the issuance of bonds needed to continue its Capital Development Program at National and Dulles Airports.

The Metropolitan Washington Airports Act Amendments of 1991 is an important piece of legislation designed to correct the constitutional flaws. The proposed amendments will reconstitute the Board of Review, establish new procedures for approving actions of the Airports Authority, and eliminate the delegation of congressional veto power to the Board. The legislation also includes several relatively minor, technical changes.

SELECTION OF BOARD OR REVIEW

The legislation retains a Board of Review; however, the Authority is directed to reconstitute the Board with nine Members to be selected from lists provided by the President pro tempore of the Senate and the Speaker of the House. Additionally, in response to the issues addressed by the Supreme Court, the legislation makes a number of changes in the requirements for selection to the Board. The bill gives the Airports Authority the right to reject a list and request additional recommendations. The individuals on the lists submitted by the President pro tempore and the Speaker do not have to be Senators or Representatives. They are required to have experience in aviation matters and be frequent users of the Metropolitan Washington Airport. The Airports Authority Board of Directors is given authority to remove members of the Board of Review for cause by a two-thirds vote.

ACTIONS SUBJECT TO REVIEW

The 1986 act requires the Airports Authority to submit to the Board of Review its annual budget, authorization for the issuance of bonds, adoption or revision of the airport master plan, actions on regulations, and appointment of a chief executive officer. The bill adds requirements to submit airport terminal designs, modifications of airport layout, and authorization for disposal of land or the grant of an easement to the Board.

PERIOD OF REVIEW

The amendments modify the 1986 act to end the Board of Review's authority to veto actions submitted by the Airports Authority. Instead, the Airports Authority's Board of Directors will be required to submit specific actions for consideration by the Board of Review which then will make recommendations to the Airports Authority's Board of Directors. If the Airports Authority does not agree with the Board of Review's recommendations, a written report to the Board of Review will be required.

In such cases of disagreement, the bill will require the action to be submitted to the Congress, under a process much like that used for matters relating to the District of Columbia. Congress will then have 60 days to decide whether to disapprove the action. Expedited procedures will be used, debate will be limited, and amendments will not be permitted.

BOARD VACANCIES

The bill includes a provision that until the Airports Authority establishes a new Board of Review, or if at any time the Authority allows more than four vacancies on the Board of Review, it will have no power to take the actions which must be submitted to the Board. This provision will provide a safeguard against the Authority failing to comply with the statutory requirement that it appoints a Board of Review.

CITIZENS ADVISORY COMMITTEE

During the debate on the Airports Authority, local community leaders expressed frustration with the current decisionmaking process that provides few opportunities for citizen participation. The communities directly impacted by National and Dulles operations are concerned with noise and other environmental issues, traffic congestion, and the preservation of the Abingdon Plantation ruins. In response to this request, the Airports Authority will recommend creation of a Citizens Advisory Committee to the Board of Directors during its December 4, 1991, meeting.

Several other airport related issues were brought to my attention during the lengthy debate on how to resolve the Board of Review dilemma, including issues important to workers at the airports. While it was possible to resolve many of the points of dispute raised during consideration of the bill, it was not possible to resolve the concerns articulated very compellingly by some airport employees. I plan to carefully review these employee concerns, along with several other unresolved issues, in the weeks and months ahead.

In closing, allow me to thank those individuals who contributed to the success of this legislation.

My colleague, Senator JOHN WARNER, carried the ball against a mighty defense, through the conference of the highway bill.

Representatives OBERSTAR, MINETA, and HAMMERSCHMIDT supported our objectives throughout the process.

Senator FORD recognized the emergency of the situation and was key to allowing inclusion of the amendments in the surface transportation bill.

Senator HOLLINGS demonstrated his strong leadership by focusing on the objective: Completing the airports' capital development program and restoring National to its once grand status.

Mr. SIMPSON. Madam President, I rise to heartily congratulate the Senate conferees on completing a highway bill before we adjourn for Thanksgiving. That was not a simple accomplishment by any means. The House and Senate bills were as different as one could imagine—different in terms of program length, different in the overall amount of funding and method of distribution of funds, and different in the vision of how this country should address our surface transportation needs for the next 6 years. But you did it. You produced a Senate bill in June, you waited—patiently—for the House to act after the August recess, and then you went to work. You have diligently defended many of the provisions included in the Senate bill and you have represented the needs and consensus of those of us in the Senate so very well. I applaud you.

I have a sense for what you must feel right now. You have been through the ringer for weeks, you have produced a good bill that includes sound, prudent surface transportation policy, and yet most folks just want to know how much money is in it for them. We are all like that. Each of our States have incredible needs—for our roads, as well as for employment. I do not underestimate these needs. Nor do I underestimate the very thoughtful policy direction that this final bill now establishes for this country as we face the coming decade.

The bill fairly reflects the immensity of this country, and the very diverse needs in each of our States. We are a country with urban areas which desperately need traffic congestion relief—HOV lanes, additional traffic lanes, mass transit rail lines, to name but a few. Our rural areas are in tremendous need of road reconstruction and maintenance moneys in order to keep commerce flowing and to keep the local economies vital and productive.

This bill fairly distributes the moneys from the Federal highway trust fund throughout the 50 States. Some States will feel shortchanged. But our Nation's highway program is not a clearinghouse for 50 separate highway departments. Our roads and interstates across this Nation are like the threads of a fabric that is spread across our country. Good interstates, highways, and bridges allow efficient transport and distribution of the industrial goods produced everywhere. Good roads permit the freeflow of goods and services from the producing sectors of the country to the consuming sectors. Efficient transportation systems are vital to a strong economy, and are essential in order to maintain this Nation's productivity.

There is such great concern these days about our domestic policy and agenda. Here is a bill that has been agreed to by the House and Senate, and is wholly endorsed by President Bush, and it speaks directly to the domestic agenda. This is in effect a $153 billion jobs bill. It creates jobs—and these jobs will go forward in turn to spur increased productivity for the taxpayers. What has been accomplished here today can not be underestimated.

There are so many provisions in this bill, I will not comment on my particular thoughts on each one. I do want to express my disappointment that a provision included in the Senate bill which would have protected private property rights was rejected by the House of Representatives. My able good friend and colleague, Senator SYMMS—a true warrior on this bill argued very effectively on the floor of the Senate to codify an executive order which requires Federal agencies to consider the implications of proposed rulemakings on the rights of private property owners. This is a basic and fundamental principle for our citizens. The provision was not covert or misleading—in fact, it was refreshing in its straightforwardness.

Avid environmentalists were concerned that this provision would have placed a higher priority on the protection of private property rights than on the protection of some environmental regulations as they apply to private property. But, if one believes that private property rights are protected by our Constitution, and vital to the strength and integrity of this Nation, then that priority system is surely not out of line. I do sincerely question the motives of those groups which opposed this particular amendment. As a member of the Environment and Public Works Committee, I support many of our Nation's environmental laws and regulations. But this country is gradually allowing a certain mentality to prevail which erodes private property rights—and I fear that along with that will go a glimmering number of other rights.

But, all in all, this is a good bill. I stand ready to cast my vote in support of it. I thank Don Diller, the capable director of the Wyoming Department of Transportation, for his good counsel and assistance during this process. I want to thank Senators BURDICK and MOYNIHAN, Senator CHAFEE, and Senator SYMMS once again for all their good efforts to ensure that the needs of the rural West were addressed. I particularly commend the interepid and persistant Senator PAT MOYNIHAN and the steady and thoughtful Senator JOHN CHAFEE for the tireless hours of negotiations that they put forth in recent weeks to protect the interests of a region of this country that they do not directly represent. Hundreds of staffers have dedicated hours to this bill, but I want to specifically thank Jean Lauver, Steve Shimberg, Taylor Bowlden, Angela Plott, Roy Kienitz, and Jeff Morales for their good efforts and assistance—with special and sincere thanks to Laurie Goodman of my staff. She has been superb and is very effective. A job well done. All around.

SUPPORT OF EMERGING TRADE CORRIDORS PROVISION

Mr. SIMPSON. Madam President, I rise in support of this most important provision authored by my fine colleague, Senator CONRAD BURNS. It requires the Secretary of Transportation to identify existing and emerging trade corridors and transportation subsystems that facilitate trade between the United States, Canada, and Mexico. I am most optimistic that this initiative will provide the necessary foundation for the future success of the North American Free Trade Agreement.

In the next 18 months, the Secretary of Transportation will develop recommendations for the improvement of rail, highway, water, air freight centers, and border crossing facilities to facilitate trade between the United States, Canada, and Mexico. Although this will be a large undertaking, it is a top priority in order to increase our trade between States and our closest foreign neighbors.

My fine State of Wyoming is served primarily by the North American Rocky Mountain corridor which runs through Edmonton, Alberta, Canada, Salt Lake City, and Denver, CO. Canada is the United States' largest export market. Transportation systems—across the board—must be improved to continue and strengthen this valuable relationship. Although most of the trade between the United States and Canada is concentrated in eastern trade corridors, the Rocky Mountain region has seen tremendous growth in the last few years. By concentrating our efforts on expediting trade through transportation alternatives and improvements, exporters will view Canada as a more user friendly market.

We must not neglect to mention the many opportunities that exist on our southern border. Wyoming recorded the greatest percentage increase in trade growth of any State with Mexico in 1990—up 210 percent from the previous year. Because of the increasing importance of Mexico as one of the United States most open markets, concentrating our energy on expanding north-south trade is in our best national interest.

I am optimistic that the findings of this investigation will shed valuable light on the importance of transportation in the expansion of trade between our Canadian and Mexican neighbors. I look forward to working with my friend, the Governor of Wyoming, Mike Sullivan, to help establish a State and Federal strategy to promote interstate and interregional trade, as well as foreign trade. I ask unanimous consent that a letter from Governor Sullivan in support of this issue be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Cheyenne, WY, November 26, 1991.
Hon. ALAN SIMPSON,
U.S. Senator, Dirksen Building, Washington, DC.

DEAR ALAN: I am writing to offer my support for the Canadian-Rocky Mountain States-Mexico transportation corridor study to be included in the current proposed federal highway legislation. I believe that this study will result in long term trade benefits. It also represents an excellent opportunity for our offices to work together toward increased trade in Wyoming.

The single largest trading partner for Wyoming manufacturers today is Canada. I know from discussions with your office that we both realize the tremendous growth that the markets in Mexico represent. Greater efficiency in transportation for our region can only mean increased trade with both countries.

We have jointly worked hard to increase trade with Canada in the past and we plan to expand our marketing efforts with your assistance in Mexico. In addition, I am convinced that our state efforts will be bolstered by your work and support of the North American Free Trade Agreement (NAFTA).

These factors, our combined commitment to trade in Canada and Mexico and your support of the NAFTA negotiations and its potential, give us strong reason to see that the transportation corridor study becomes a reality. I encourage the inclusion of the study in highway bill and look forward to working with your office to promote international trade in Wyoming.

With best regards, I am

Very truly yours,

MIKE SULLIVAN,
Governor.

Mr. KOHL. Madam President, I will support the conference report before us. But I do so reluctantly, because I am frankly concerned about voting on this measure based on the limited information we have regarding its content.

We are being asked this morning to consider legislation that represents a 6-year, $151 billion investment in our Nation's highways, transit systems, and infrastructure. It is one of the most important pieces of legislation that the Senate has considered this year. Yet, as of this morning, most of us have not received copies of the conference report, let alone had a chance to review its contents. And I find that very troubling.

We are being asked this morning to give our approval to a measure based only on an explanation of its contents by the managers of the bill and a table we received yesterday showing the expected allocations to each State from each funding category under the highway portion of the bill. While I have no doubts about the accuracy of the former, I am concerned about the accuracy of the latter.

The chart we are being asked to rely on—dated November 26, 1991, at 3:16 a.m.—shows that Wisconsin will receive a total level of funding under the highway portion of this bill of $2,183,390,720. This funding level is broken down as follows: For interstate construction and substitution—$344 million; For interstate maintenance—$231 million; $275 million under the bridge program; $375 million under the National Highway System; $427 million under the Surface Transportation Program; $22.3 million for Federal lands; $70.2 million for congestion and air quality; $20 million under the reimbursement program; $64.5 million under the hold-harmless provision; and $350.5 million for projects.

Now, Madam President, if these numbers in fact represent what Wisconsin will receive over the next 6 years, then the rate of return on Federal gas tax dollars to the State will be approximately 98 percent—and that is a vast improvement from the 81-percent return we have seen over the past 5 years.

However, Madam President, I am not entirely confident that these numbers in fact represents what Wisconsin will receive over the next 6 years. For one thing, this chart includes $2.5 billion in funding that we simply do not have. And it is less than clear that we have addressed this $2.5 billion shortfall and if so, how. I understand that the managers of the bill have said that it is their intent, if necessary, to take an across-the-board cut in highway program spending to correct the problem. I must say that I would have preferred to have had this issue definitively addressed and reflected in new charts before being asked to vote on this measure.

Second, Madam President, we are being asked to assume that the legislative language contained in the conference report codifies the intent of this chart. Now I know that this is not the first time that we have been asked to vote on a measure without the benefit of legislative language. But just because we have done so before does not make the practice any more acceptable. I would have preferred to see us delay this debate to allow time to review the language. But there was clearly not sufficient support within either party to withhold consideration of this measure until some time next week.

So, Madam President, we are being asked this afternoon to make a judgment call on this bill based on what we know today. And, in my mind, it is a close call.

If I thought that voting against this conference report here today would result in a better bill ultimately, I would be inclined to do so. Because there are significant flaws in this bill. I am very disturbed by the conference committee's decision to create a reimbursement program—not contained in either the House or Senate bill—that provides a windfall for donee States like New York. I am very disappointed that members of the conference committee chose to increase—not decrease—the level of funding for demonstration projects. On this point, I am extremely unhappy with the conference committee's decision to provide $350 million of Wisconsin's allocation under the project category because it suggests that the Wisconsin delegation requested this level of funding. Nothing could be further from the truth. With one $1.5 million exception, we had no demonstration projects in the House bill. We did not request demonstration projects. We asked only that Wisconsin be treated equitably under the bill. And unfortunately, the conference committee chose ultimately to provide this equity payment under the project category rather than the hold-harmless category where it had been included earlier.

But, Madam President, I am not at all sure that this measure would improve demonstrably should it be sent back to the conference committee. Sadly, there is widespread support for the two programs I find objectionable—the reimbursement program and demonstration projects. I suspect, therefore, that the defeat of this conference report here today would sadly not accomplish a great deal.

There is no doubt, Madam President, that this measure is a vast improvement over current law—not just for Wisconsin but for the country as a whole. It offers needed flexibility. It rewards planning. It encourages mass transit. It reduces the disparity between donee and donor States. And it reshapes the direction of Federal transportation policy to recognize the emerging needs and demands of America in the postinterstate era. For that reason, Madam President, despite my lingering concerns over the process by which we have been asked to consider this measure, I will support this conference report.

Mr. HATFIELD. Madam President, I rise today to support the surface transportation conference report that is now before the Senate. I first want to commend the conferees, especially Senators MOYNIHAN and SYMMS, who labored for so many weeks and months on this vital legislation. Speaking for my State of Oregon, I can say that we will see a significant improvement over prior law and I appreciate the efforts of the conferees in bringing this about.

This legislation puts a healthy emphasis on mass transit projects. By establishing more equitable balance between the match ratios offered for transit and those offered for highways, this new law will make mass transit a more appealing option for transportation planning groups. Removing this inequity eliminates a blinder on the ability of planners to take positive steps to eliminate transportation problems.

For most Americans, the emerging transportation crisis in this country is symbolized by the increasing number of traffic jams, potholes, and delays in both urban and suburban areas. Oregonians are no less afflicted by these growing problems as those in the rest of the Nation. As frustrating as they are, they represent only the tip of the iceberg.

Many do not realize the true importance of our tremendous network of roads and bridges to our economy, national security and way of life. The health of our citizens, the education of our children, the movement of our perishable food and access to employment depend upon a reliable and efficient transportation network.

By allowing our infrastructure to deteriorate, we are putting our Nation at risk. Yesterday, Oregonians were given a small but telling reminder of our potential problems when a section of the Santiam Bridge on Interstate 5 came loose and fell into the river below. I-5 is a major north-south corridor in the Western part of this country. Thankfully, no one was hurt. But now the southbound lanes of I-5 are cut down to one lane. Truck traffic will continue to be detoured through the small town of Jefferson. This will translate into a negative economic impact that, while small, will nonetheless echo through a number of Oregon communities.

I should point out that refurbishment of this bridge was prioritized for funding in the fiscal year 1991 transportation appropriations bill but was not chosen for funding by officials at the Federal Highway Administration, despite its structural rating of 2 on a scale of 100. This underscores the fact that resources are inadequate to meet the increasing need for infrastructure repairs.

At present funding levels, three-quarters of Oregon's roads will be in poor condition by the year 2005. I am pleased to say that Oregon will increase its funding levels significantly under the bill before the Senate today. Oregon's donor status is significantly minimized under this legislation. Oregon is on line to receive $1.406 billion over the life of this legislation, which translates into an increase of $110 million per year under this bill when compared to the prior highway law.

All of this does not include funds secured for the westside light rail project in Portland, OR. This is a project that is of supreme importance to the transportation needs of Oregon. It is appropriate to thank Senators CRANSTON and D'AMATO for their help in making this project a reality. I must also thank officials at the Tri-County Metropolitan Transportation District of Oregon for their continuing tireless efforts toward completion of this project.

I would also like to take this opportunity to recognize the good efforts of the Oregon Department of Transportation in this legislation. The Scenic Highways Program included in this legislation, and sheparded by the very able Senator from Rhode Island, Senator CHAFEE was initiated in great measure from the efforts of the Oregon transportation officials. Funds for innercity bus programs are also included in this bill thanks in large part to the good efforts of Oregon Department of Transportation.

Madam President, we all take tremendous pride in our Nation's wealth and freedom. But the status of a superpower cannot be claimed by a nation which consistently ignores the long-term needs of its population. We must begin to rebuild this country and if possible, learn a lesson from the problems we see now in the Soviet Union. Very real threats to our quality of life and national security are created by the deterioration of our infrastructure.

Again, I compliment the conferees for their efforts and look forward to following the beneficial effects of this important legislation as moneys are appropriated.

Mr. WIRTH. Madam President, I support the conference report we are considering today and would like to take this opportunity to thank Senator MOYNIHAN and his colleagues on the Environment and Public Works Committee for the leadership they displayed in producing this legislation.

With the completion of the Interstate Highway System, it is important that we reevaluate our transportation system. Now that the central goal of finishing our highway system is largely accomplished, we need a transportation bill that provides the flexibility for States to support building new roads, maintaining existing ones, or increase our mass transit efforts. We need to produce a package that provides for the roads and bridges that we need and also helps support other elements of the transportation infrastructure that is so important to our economy.

The bill before us today does provides greater flexibility. At a time when we need to reevaluate our transportation network and priorities, we have produced legislation that will help the States do so. I believe the legislation is forward looking at a time when we could easily have stuck to the type of programs that have been popular and, in many ways successful, in the past.

Passage of this legislation will also allow many important projects to go forward, avoiding the possibility of further unemployment during an economic slowdown. And in the long term, it will allow us to make important investments in our future economic growth by promoting more efficient transportation of people and goods. I am pleased to support the surface transportation legislation and look forward to its passage.

Mr. MACK. Madam President, I strongly oppose the final version of H.R. 2950, the Surface Transportation Act.

Dividing up gas tax dollars has become a political game. Politics has replaced funding formulas. The political game played in the transportation bill is appalling. This is unfair. This is wrong.

The Senators in control of the bill, mostly from low growth States, have taken the money—Florida's money—and run. Jesse James would have been proud.

I encourage my colleagues to closely study the final bill, if it ever arrives here in the Senate Chamber before the vote today, and look at the $6.48 billion being divided up by members of the Environment and Public Works Committees. In addition, I still fail to see the need for Federal reimbursement for States who built their roads prior to the creation of the interstate system. I find it incredible that Florida taxpayers are paying for roads which New Jersey and New York built, operate, and have collected tolls on for 30 years.

Congress' failure to enact new highway formulas leaves will result in further disparity among the States. The disparity is so great even the minimum allocation program will not be able to make up the difference.

We had an opportunity to create a new funding formula. An equitable formula. A fair formula for all 50 States. Yet we are taking the easy way out by not addressing the issue of a new formula. We are legislating the status quo, perpetuating our outdated allocation formulas for another 6 years. By doing this, we guarantee to be revisiting this issue once again in 1997.

The fight is over Florida's fair share. It is wrong to expect Florida taxpayers to foot the bill for highway needs of other States when we have our priorities. Thousands of people are moving to Florida every week to enjoy our sunshine and admire our State's natural beauty. Yet, Congress refuses to understand that we need to improve our highways to keep pace with our tremendous growth.

Madam President, Congress has failed here today. We could have corrected the inequities of the present system. Congress chose not to act.

Mr. HOLLINGS. Madam President, after careful deliberation, I want to express my opposition to the highway conference report today. The reasons are numerous. But before I get into the many reasons why the actual legislation is unacceptable, let be begin with the actual process by which this bill was conferenced and brought back to the Senate for consideration.

It is utterly ridiculous for the managers of this bill to insist that the Members of the Senate vote on major legislation impacting our States when we have had absolutely no time to digest the substance of the conference. Oh sure, we've all been handed charts that reflect as many different scenarios as there are charts floating around. Every third hour, there has been a new chart with new numbers magically spun from air.

Now, we are expected to take one of these charts at face value without seeing the bill language the numbers allegedly represent. This legislation is much too important to ramrod through without allowing sufficient time to ensure that the numbers are real. I for one do not believe they are realistic, which possibly explains why it is being pushed through in such a frantic manner.

Let me explain why I do not believe the charts to be accurate and why I oppose this bill. Of course, I welcome the managers of the bill to produce evidence which proves the contrary. But they cannot. They can only produce charts that say what they want them to say.

Let me begin with the fact that South Carolina is a donor State. Along with 15 other States, we have been paying into the highway trust fund for the last 30 years substantially more than we have been receiving for road projects. We were told we must accept this designation as donor State for the good of the country, that less populous States in the West would not generate enough revenue to pay for the elaborate Interstate System which connects this country from coast to coast and provides us with an efficient means of transporting goods. We accept that designation for the good of the country.

But, Madam President, the Interstate System is now all but completed, and it is high time and only fair that the formula be changed to reflect that fact. However, the managers of this bill have not seen fit to do so. They acknowledge the inequity of the current formula which has provided some donor States as little as 60 cents return on the dollar at times while providing other States $5 or more return on the dollar at times. Yet the committee has refused to do the right think, the fair thing, which would be to reform this erroneous formula.

The latest charts indicate that South Carolina will receive 93 cents on the dollar. I believe this amount to be grossly inflated. First, this amount is based on a drawdown of the current trust fund, which has over $16 billion. I do not believe this will happen, as I will explain later. Second, this same chart indicates that South Carolina received an average of 87 cents on the dollar over the past 5 years. That is definitely overestimated. South Carolina has received approximately 77 cents on the dollar during the past 5 years. It is logical to assume that if one column is inflated to present a rosy picture then the other column is inflated.

Third, there is a $2.5 billion shortfall. According to the last chart, the total is $114.7 billion although the bill is supposed to be approximately $112 billion. A reduction of $2.5 billion will have to be found somewhere, and most discussions indicate that it will come in the form of an across-the-board cut of approximately 2.3 percent.

Fourth, current law requires that funding for specific earmarks be offset by a reduction in that State's minimum allocation. However, the chart that has been circulated by the committee indicates that a State will receive its specific earmarked projects in addition to the minimum allocation funds. Although the charts imply that current law will be changed, I have seen no bill language tonight which supports this contention.

Fifth, the last chart indicates that South Carolina will receive $54 million in projects. However, we only received $32 million in projects in the House bill and according to charts on the House side, South Carolina was only receiving $24 million in projects after cuts during the conference. So the numbers just do not add up.

Madam President, I have been in contact with the highway department in the State. After trying to work with the numerous charts that are floating around and after many discussions with them, it is my belief that, at best, South Carolina will receive 82.5 percent of the money it pays into the trust fund—at best, 82.5 percent.

South Carolina is a growth State, a State dependent on highways to move goods to and from its ports and dependent on highways to facilitate its tourism industry. Yet, we cannot replace a $400 million bridge that links two sections of Charleston. Replacement of this bridge is on the national priority list but, to date, we have not received any funding.

We have a section of interstate in the northern part of the State that carries more trucks per mile than any other interstate in the United States. We do not have the funding to complete a bypass around Greenville to increase safety and reduce the gridlock in the city. Traffic to the beaches of the Grand Strand is backed up for hours during spring and summer. And the day before Hurricane Hugo ripped through South Carolina, the people of the Grand Strand area were told to stay home and bunker down because it would take them over 8 hours to leave the coastal area because the highways could not handle the traffic. It was safer for them to weather the worst storm in U.S. history than to be trapped in the gridlock of the several inadequate roads which head inland.

Yet, despite these crying needs, South Carolina will get, at best, only 82 cents return on the dollar.

I have named specific projects desperately needed in my State. Well Madam President, Let's look at how South Carolina faired in the projects section of the conference report. The House bill provided South Carolina only a $16.8 million earmark to fund our $400 million bridge in Charleston. And a meager $4.2 million was earmarked to assist in constructing the Greenville Connector. All totaled, South Carolina received only $32 million in specific earmarks on needed projects in the State. That amount was reduced to $24 million in conference.

The catch, however, Madam President, is that South Carolina will have to pay over $200 million into the trust fund as a result of the 2½ cents gas tax extension. The committee calls it an extension, I call it a tax increase because if we were honest with the American people we would remove this 2½ cents tax at the end of next year as we promised, and we would spend the billions that are already sitting in the trust fund being misspent for deficit reduction.

So the bottom line is that if I voted for this bill, I would basically be voting for the drivers of South Carolina to pay over $200 million into the trust fund in exchange for $24 million in projects. Let me put this in a sharper perspective. This same 2½ cents tax will provide over $900 million in highway projects for Pennsylvania for projects like the Ambridge Bridge, upgrading U.S. 220, constructing truck lanes on U.S. 219, various projects in Aliquippa, widening U.S. 15, Pennsylvania industrial park access in Washington County, U.S. Route 219 Meyersdale Bypass, U.S. Route 22 improvements in Monroeville, Route 33 extension, and the list goes on and on and on and on like a who's who list in highway construction. This same 2½ cents tax will provide Illinois with over 55 projects costing over $400 million. New York stands to gain over $500 million in mass transit and highway projects from specific earmarks which are to be paid for with the 2½ cents tax.

Madam President, President Bush originally indicated that he would veto this bill if it contained a tax increase and a significant number of demonstration projects. Like everything else dealing with the economy, he is flip-flopping on his position because this bill is now being sold as a jobs bill. Well, I am not flip-flopping. I agree that we need a highway bill, but I am not going to support a bill that places a fat additional tax on the people of South Carolina when over $16 billion is sitting in the highway and mass transit trust funds already, and it is not going to be spent.

When is the House proposing and the Senate conferees and administration accepting this 2½ cents tax increase if we already have over $16 billion in the trust fund? Well the junior Senator from Texas has expounded upon the fraudulent practices of the past two administrations and of Congress when he noted that trust fund surpluses are "already spent." Senator GRAMM made this argument with respect to the unemployment trust fund, and I quote his exact statement:

> Let me say that we are going to have Members here who will hold up a chart that shows all this money that we are supposed to have in this unemployment trust fund. But let me note that we have already spent that money on something else and now we want to spend it again.

The same argument is being made with regards to the highway trust fund. The Treasury has already borrowed and spent every dime of the $16 billion on the deficit. Once again, there is no trust and there is no fund. Now if the Government wants to spend more on highways, it has to raise the gasoline tax because the administration and a majority of the House and the Senate agreed last year that the trust fund would be used for deficit reduction.

Basically, we are taxing motorists twice while forcing them to drive on submarginal highways. I adamantly opposed the budget deal last year because of the shennanagins involved. And I oppose this bill because it carries on that ludicrous tradition of double taxation which has emerged from the budget deal—first unemployment benefits, now the highway bill—and it will continue. The managers of the bill know it will continue. That is why they used the trust fund to inflate the amount States will receive in funding, yet when it comes to specific projects, they insist on a gas tax. The shennanagins continue.

Worse, Madam President, this bill will tax the motorists of South Carolina twice with the new funds going to special projects in Pennsylvania, New York, New Jersey, and Illinois. The junior Senator from New Jersey stated earlier tonight that people are "begging for work" and this bill will bring jobs. Well, Mr. President, I am not going to vote for a bill that further taxes the drivers of South Carolina to build highways and create jobs in Pennsylvania, New York, New Jersey, and Illinois. I am not going to do it.

South Carolina has lost over $660 million to the trust fund since becoming a donor State. This bill will make us No. 48 in funding, and we will lose over an additional $321 million into the trust fund over the next 6 years. South Carolina would benefit far more by putting a 2½ cents tax on gasoline at the State level. At least then, the money would be spent on roads in Greenville, Charleston, and the Grand Strand and not in Long Island, NY, or Philadelphia, PA, or Chicago, IL. At least then, the jobs that would be created as a result of the tax would be in South Carolina and not in Beaver County, PA, or Utica, NY, or Williamson County, IL. Furthermore, the State would not have to levy an additional State tax to fulfill the match requirement necessary to receive the very money it will send to the Federal trust fund.

Let me mention quickly that I am listed as a conferee on the highway bill; however, I am a conferee only on those issues which are within the jurisdiction of the Commerce Committee, such as motor carrier issues, high speed ground transportation, and highway safety. I could not participate on those issues addressing demonstration projects and formula funding.

On that note, Madam President, I would like to comment on one final issue in the conference. At first it was very difficult to understand why the Senate, which had zero demonstration projects, would accept the 450-plus projects which were in the House bill plus the 2½ cents tax increase that came with the projects. It appears that a compromise was reached in which the demonstration projects were accepted in exchange for a $4 billion reimbursement proposal for those States which built highways prior to the Interstate Act of 1956. Interestingly, there are only six States that actually benefit from this $4 billion proposal: New York, Pennsylvania, New Jersey, Illinois, Massachusetts, and Connecticut. It is interesting that the very States that receive the vast majority of demonstration projects are the States that benefit most from the $4 billion reimbursement proposal. That is a deal they could not refuse in conference. However, Madam President, that is a deal I will not accept here on the Senate floor.

Mr. SPECTER. Madam President, I am pleased to support the conference report to the Surface Transportation Act. This legislation is a significant accomplishment that will greatly assist in providing our Nation with a strong infrastructure into the next century.

In the short term, this legislation will assist in the development of new jobs and retention of existing jobs through new construction and maintenance of our Nation's infrastructure. While highway, bridge, and transit construction is not a panacea for economic recovery of our Nation's economy, this legislation will ensure job growth in the construction trades. In the long term, it will guarantee that our county will continue to advance interstate commerce of goods, which has made this country strong.

The bill, while maintaining the needs for new construction of our highway networks, advances new technology and innovative approaches to resolving this Nation's transportation needs. In this regard, the bill greatly advances the use of our mass transit systems. The bill increases the amount of funds to our Nation's transit systems while providing added flexibility to State and local authorities in using these funds most effectively.

Madam President, during consideration by the Senate of its bill, I offered an amendment to remove the transportation trust funds from the unified budget. Having the trust funds off-budget would remove the opportunity to use these dedicated funds to mask the actual size of the Federal deficit and therefore allow for their expenditure. The conference report, while not removing the trust funds from the unified budget, does allow for a greater use of the funds contained in the trust fund. However, it remains the belief of this Senator, Madam President, that only through accurate accounting of the trust funds will the public be ensured of the proper use of these funds.

The conference report will greatly enhance Federal transportation programs in Pennsylvania. The Commonwealth, like other States in the East, suffer from a decaying infrastructure. Its highways, bridges, and transit facilities demand major repair or reconstruction to maintain acceptable service levels. This bill will allow the Pennsylvania Department of Transportation to implement its 12-year plan for construction projects and guarantee a sufficient level of maintenance of the existing system.

Madam President, this bill contains excellent results for Pennsylvania. Under the terms of the bill, Pennsylvania's annual share of Federal transportation funds will rise from approximately $634 million annually to $944 million. In turn, this translates to a return of $1.27 on every $1 contributed to the trust fund by Pennsylvanians.

Further, the bill contains a number of important highway and transit demonstration projects. The Pennsylvania House of Representatives' delegation did an excellent job in providing projects that represent the needs of Pennsylvanians across the Commonwealth. Each of these projects for Pennsylvania has merit and is worthy of this conference report. In fact, the majority of these projects are within the Pennsylvania Department of Transportation's 12-year plan for construction, as testament to the value and importance of these projects. In turn, I am pleased that the Senate conferees recognized the importance of these projects to Pennsylvania by accepting their inclusion in this report.

Madam President, I cannot discuss the value of this legislation without recognizing the efforts by Representative BUD SHUSTER of Pennsylvania and the other Pennsylvania House Members who served as conferees. Their efforts have produced a bill which is critical to economic future of Pennsylvania and the Nation.

Mr. WELLSTONE. Madam President, I rise to support the conference report on the Surface Transportation Efficiency Act.

To begin with, I wish to thank all of the conferees for completing action on this legislation. Like many of my colleagues, I was opposed to completing this legislative session without achieving final action on a surface transportation bill.

This is landmark legislation, which makes bold strides in positive new directions for transportation, environmental, economic development, and energy policy. This legislation provides important funds for addressing these vital national concerns.

When we talk about energy, we cannot ignore the impact of our dependency on the automobile. This is the root cause of our Nation's dependency on foreign sources of oil—but for many people there are no choices, no alternatives, to the automobile. This legislation will allow States and cities the flexibility to begin developing and investing in alternative transportation choices, and hopefully begin to provide the many people who are now dependent upon the automobile, as their only means of transportation, with some real alternatives.

As the Congress recognized in passing the Clean Air Act last year, if we seek to improve the quality of our environment—to ensure that the air we all breath does not jeopardize the health of the elderly, our children, and others vulnerable to air pollution—then, we must address the urban haze which engulfs America's cities. This haze is produced by the tailpipes of our trucks, buses, and automobiles. This legislation will complement and build upon the initiatives of the Clean Air Act to support new, less polluting vehicles and modes of urban transportation.

When we discuss economic development, there can be no question that one of the immediate problems undermining the Nation's economy is our deteriorating infrastructure, particularly our roads. We can no longer afford to ignore the fact that our roads and bridges are simply falling apart—this is an urgent problem for all Minnesotans, urban and rural, as well as the entire Nation. This legislation represents a major investment in rebuilding Minnesota's, and our Nation's, critical transportation infrastructure.

Our roads, bridges, and transit systems are critical to other factors, such as personal mobility and our sense of freedom, which are sometimes not adequately recognized. As I reviewed the final Surface Transportation Act, I felt there were several particular concerns which needed to be addressed:

First, the transit needs of our farms and rural communities: Keeping our agricultural products accessible to domestic and international markets through an efficient transportation system—including completing and maintaining the interstate highway system—and providing increased mobility for rural residents.

Second, the transportation needs of urban commuters and businesses: Reducing congestion and the growing length of urban commuting, and providing efficient and reliable transportation for our factories and businesses.

Third, the mobility problems of the poor, elderly, and disabled: More and more people today are finding themselves trapped in their homes unable to enjoy basic freedom of movement.

I supported the legislation passed by the Senate earlier this year because I believed it addressed each of these concerns. In reviewing the House-Senate conference agreement, I conclude that it also succeeds in meeting these critical needs.

This legislation also addresses some issues of particular concerns to Minnesotans. Minnesota will receive nearly $2 billion in transportation funds under this 6-year program. This level of funding means that Minnesota will receive $1.13 for every dollar it pays in Federal highway taxes. Minnesota will not be a donor State.

Many critical Minnesota transportation programs will be authorized by this legislation. It will ensure completion of several projects including the approaches to the Bloomington Ferry Bridge, construction of Hiawatha Avenue, Highway 212, Forest Highway 11, and others.

This legislation will also help address the critical employment needs of Minnesotans. According to estimates by the State's Department of Transportation, the transportation projects authorized by this bill will provide nearly 15,000 jobs for Minnesotans.

In conclusion, Madam President, I wish to commend the extraordinary work of my distinguished colleague from New York, Senator MOYNIHAN. It was his sense of vision which is reflected in the many progressive elements of this legislation. I also wish to recognize the work of the senior Senator from Minnesota, Senator DURENBERGER. His efforts were critical in formulating both the national policies of this legislation as well as ensuring that Minnesota's particular concerns were addressed. Finally, I wish to thank all of the House-Senate conferees, particularly Representative JIM OBERSTAR, for their long and hard work on this legislation.

Mr. LIEBERMAN. Madam President, I would like to take a few moments to respond to the complaint raised by Senator GRAHAM earlier today about the funds Connecticut will receive under this bill when compared to other States, particularly Alabama.

Madam President, there are two basic problems with looking at simply the percentage of money that a State gives through gas taxes to the highway fund and comparing it with the percentage a State gets back. First, that approach ignores the true needs of individual States and the Nation as a whole. Second, it stands in stark contrast to how we allocate Federal money more generally across the board.

At present, we allocate Federal spending for housing, social welfare, defense, agriculture, and every other purpose of Government on the basis of perceived needs and the appropriateness of governmental support on a national basis. That is a deliberative, and in many ways, a painful process. But after all, it seems to have served this Nation pretty well for over 200 years now.

Madam President, if we applied the philosophy espoused by the Senator from Florida to money from the highway trust fund, let's apply it across the board. That would mean that between fiscal years 1981 and 1988, if each State's share of allocable Federal expenditures—not adjusting for inflation—were equal to its share of tax burden, Alabama would have received $23.019 billion less, Florida would have received $42.325 billion less, South Carolina would have received $14.159 billion less, and Virginia would have received $72.380 billion less.

What impact does such an enormous fiscal stimulus have on these States? For one, it allows them to cut State taxes. The nonpartisan Advisory Commission on Intergovernmental Relations [ACIR] measures relative tax capacity and tax effort. According to ACIR data for 1986, Florida has a tax capacity of 105—this means 5 percent greater than the national average—but a tax effort of just 77—23 percent below the national average. Florida has one of the lowest tax efforts in the country. Missouri has a tax capacity of 93, but a tax effort of 82. Virginia has a tax capacity of 101, but a tax effort of just 85.

I wonder if Senators from the highway trust fund donor States would support the principle of a dollar-back-for-ever-dollar-in when it comes to all Federal taxes? It's a logical extension of their argument.

One additional point, Madam President. Senators mistakenly argue that per capita income is the only measure of a State's fiscal capacity. That is plain wrong. The ACIR has studied this issue for 30 years. Per capita income is one measure of—but not a substitute for—fiscal capacity. Part of Texas' fiscal capacity, for instance, is the severance tax the State imposes on oil and gas. This is a wonderful tax because it is exported out of the State and borne by consumers elsewhere. Because the severance tax is such a revenue-raiser for Texas, its capacity is 104 and its effort just 79.

Per capita income is a relatively meaningless figure unless one also factors in cost of living. People in my State of Connecticut earn more because they have to pay more to live. If anything, States such as Connecticut that have higher per capita incomes are the ones treated unfairly. We have a national poverty threshold. People in my State above the threshold can be considerably worse off than people below the threshold in the rural South, because of the high cost of living in Connecticut.

I think, Madam President, my friends from so-called donor States ought to be apprised of these facts.

Mr. SEYMOUR. Madam President, today I rise to comment on and support the conference report to the Intermodal Surface Transportation Efficiency Act of 1991.

Simply put, this is a good bill for California. It addresses a broad range of issues vital to the health of our Nation's transportation and economic infrastructure, and integrates a much-needed flexibility to the process.

It is not all that we had hoped and worked for—namely, the funding formulas continue to be skewed to the detriment of the donor states—but it is a marked improvement over previous surface transportation bills.

I want to commend Senators SYMMS and MOYNIHAN for their tireless efforts to bring this $151 billion transportation legislation to the floor of the Senate. What began on March 6 of this year with the President's 100-day challenge is now about to be voted on and sent to the President for his signature.

Madam President, this is a jobs bill, and it will give our ailing economy a needed boost. Moreover, it will be instrumental as States move to address local and regional transportation needs. We are now moving beyond the superhighways phase in our Nation's transportation program. Anyone who has observed this debate has witnessed the emergence of a common theme: Our Nation's transportation policy stands at a crossroads. The Interstate System is largely complete. This bill allows us to turn our attention to the very serious problems of local gridlock, clean air, and the development of alternative modes of transportation.

With this task—this first phase—completed, we now undertake the next phase in the process: Making the current system work to its maximum potential. Let's start moving people, but not just across State lines or over vast distances. Rather, we must focus our attention and priorities to the growing needs of congested communities, and put the choice of how we are going to address these problems back into the hands of the local decisionmakers, the States and local governments.

In terms of funding, this bill represents an unprecedented step toward reducing my State's role as a donor State. Of the $151 billion in the overall bill for both highway and transit programs, California's share will be over $15 billion, more than 10 percent of the bill total. And in terms of jobs, when you consider that $1 billion in transportation funds will generate approximately 52,000 jobs, one cannot dispute that this is a needed stimulant for California's stagnant economy.

Madam President, all of the donor States worked very hard to reverse the inequities of previous transportation bills to ensure that our States receive a more equitable return on the funds we pay into the highway trust fund. As a rule of thumb, California contributes 11 percent of all funds in the highway trust fund. Previously, California received less than 9 percent of its contributions in the form of apportionments. This new law will begin to address this longstanding imbalance between funds received for transportation and our contributions. This is a good first step. More action will be required, and I can assure all Members of the body that the debate will be joined once again in the coming years.

One aspect of this bill that cannot be overlooked is the flexibility it affords States and local decisionmakers. Accordingly, States and local jurisdictions will now be empowered to make better and more cost-effective transportation decisions, more so than at any other time in the history of this Nation's transportation policy.

Another feature recognizes the critical need to begin addressing the serious congestion and air quality problems in our urban areas. I am pleased the bill before us provides $6 billion for congestion and air quality mitigation. California's share in this important fund is $835 million. My State's work force spends a growing portion of its day in traffic, hindering productivity and contributing to decreasing air quality. During peak hours, some 6,000 miles of California's main roads are at a virtual standstill. This situation is repeated in numerous States; no major urban center is immune from gridlock and its associated consequences.

The provisions in this conference report will help local decisionmakers mold a transportation program that is consistent with our overriding goals to improve air quality and to avoid the terrible losses in productivity in my State owing to the millions of hours lost in gridlock.

This bill will stimulate greater private investment in public transportation through provisions that encourage public-private partnerships. To my knowledge, no level of government has resources sufficient to meet all of its transportation and infrastructure needs. This new partnership will help bridge the gap between demand and our ability to pay.

Finally, this bill's $31.5 billion transit title is particularly strong, and I commend the conferees for responding to my concerns regarding California's transit needs. I want to point out that this bill's strong support for Los Angeles, Bay Area, Sacramento, and other new-start projects is especially important to their efforts to put into place cost-effective, environmentally sound modes of transportation.

On one final note, I want to comment on that aspect of the debate that has overshadowed virtually everything else. I am speaking of course of the donor state versus recipient state situation. Madam President, my friend from Virginia, Senator WARNER, indicated the other day that this entire debate had become a battle of the charts. In fact, it has been my experience that just when you thought you knew what was happening, a different chart would surface, and every Member would scramble to see who would be the winners or losers.

Clearly, the one determinant or bottom line driving every Member's decision on this bill will be dollars, pure and simple. To that, I hope all Members of this body will recall that lost behind these charts is the fact that this bill contains historic changes in public policy that will impact our Nation's transportation system long after this debate and the ever-present charts have been forgotten.

Mr. LEVIN. Mr. President, while this conference report represents a step forward for Michigan and some other donor States, it is still not equitable. It is an improvement over what we've gotten in the past, but Michigan is still shortchanged by about $200 million. Furthermore, we are prevented from improving our return with discretionary funding.

This bill ends some of the highway robbery, but too much unfairness remains for about 20 States, including Michigan. I cannot give my approval to a bill that will simply rob us less. Under this bill, Michigan will go from an 80 percent return to an 85 percent return while other States will have a 200 percent and higher return.

To Michigan's detriment, too much money will still be distributed based on the same antiquated formulas and gimmickery. On principle, I cannot support it.

Mr. BIDEN. I will vote for the highway bill conference report. As the comments of several of my colleagues made clear, there are improvements that some of us wish had been included in the conference report which were not. But on the whole, the bill that will be sent to the President reflects a good balance of the dozens of interests that had to be taken into account.

For each of our States, the highway bill allocates funds that are crucial for the economy. For Delaware, the conference agreement will result in nearly $450 million in highway and mass transit funding over the next 6 years. That expansion of support for Delaware's infrastructure is important up and down the State. From poultry farmers in Kent and Sussex Counties to auto workers in New Castle County, a solid road system is vital to keeping costs down and markets accessible.

But this bill is about more than roads. It is transportation legislation in a broader sense of the word. It includes important provisions to address the pollution problems from transportation that afflict many of our Nation's cities. The bill provides stronger support for alternatives to single occupancy cars, particularly mass transit. The bill allows for greater flexibility by States in determining how best to meet their transportation needs.

It must also be recognized that despite the tremendous sums in this bill, $115 billion in total, our Nation's transportation system will remain under tremendous pressures. Demands on our Nation's roadways will not abate. As welcome as this bill is, I have no doubt we will have to continue to look for ways to meet those rising demands in ways aside from adding new lanes.

This bill does much more than previous law to encourage and reward innovative approaches to transportation. Now it will be up to State and local governments to use that authority to the greatest extent possible.

I commend the Senator from New York [Mr. MOYNIHAN] for his leadership on this massive bill, and the other conferees for their efforts in resolving the differences in the House and Senate bills in time prevent disruption to State transportation programs across the Nation.

HIGHWAY BILL CONFERENCE REPORT

Mr. NUNN. Mr. President, I rise today to express reluctant support for the highway bill conference report. I had no such reluctance in voting for the Senate version of the highway bill. When this bill left the Senate floor, it was something of a landmark.

It represented a historic shift in national transportation policy away from new highway construction and toward maintenance and rehabilitation of often-crumbling existing roads and bridges. It acknowledged the increasing importance of urban mass transit in many States' overall transportation planning, a step of enormous importance in addressing not just our transportation problems, but our environmental and energy needs. It made great strides toward equity in transportation funding, reducing what had become truly outrageous disparities in rates of return many States were securing on their collections of dedicated highway taxes.

Most of all, it reversed a decades-old trend of Federal micromanagement of State and local transportation priorities. While the bill may not have gone quite far enough in that respect, it did re-establish the basic principle of federalism in transportation policy, against which both the executive and legislative branches in Washington have been habitual offenders.

In general, we had a highway bill that looked a lot more like a thoughtful effort to invest in our country's tattered infrastructure, and a lot less like a scramble for Federal cash, than any such bill in my memory.

We now have a conference report that is disappointing in some respects. It retreats from the Senate bill on funding equity. For every dollar taxpayers from my State of Georgia contribute to the highway trust fund they would receive about 80 cents, as compared to the minimum of 90 cents per dollar contributed contained in the Senate bill. Georgia currently receives about 74 cents on the dollar. It contains a new $4 billion program that was not in either the House or Senate bill, with half—that's right, half—of these funds going to just seven States. It uses 1980 census data, rather than 1990 figures, to distribute highway funds, for no apparent reason other than the advantage it gives certain States which have lost population during the last decade.

Still, Mr. President, the conference report does preserve the shift toward a more balanced allocation of funds among transportation functions—it does get Congress out of the business of deciding where each road or bridge will be built—and it does provide more funding equity than the current system. Though Georgia will still be a donor State, we will rank 9th in allocation of dollars while only ranking 11th in population and 24 in land mass.

Finally, Mr. President, I will vote for this conference report, with all its flaws, because of its importance to the economy, not just as a short-term infusion of cash, but as a long-range investment in the capital infrastructure we need to regain and sustain economic growth. The jobs created by this bill are enormously important, particularly as our Nation struggles to get out of our current recession.

I want to thank the Senate conferees, and especially Senators MOYNIHAN, CHAFEE, BURDICK, and SYMMS for all their hard work in committee, on the Senate floor, and in conference. It is due to their influence that this conference report ultimately represents a step forward the kind of transportation policy we truly need.

The PRESIDING OFFICER. Is there further debate?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Is there further debate?

The Senator from Arkansas.

Mr. BUMPERS. Madam President, I know everybody is in a great sweat to get going, and I am too. I will just take a moment.

I had a sense-of-the-Senate resolution, which I will not offer, which simply said what has been said by a lot of Senators this afternoon about the economic activity that can be stimulated under this bill. My resolution, might I say to my distinguished friend from New York, the manager of this bill, would have urged the Highway Administration to get all the States to advance their projects and start getting the $11.1 billion that is in the trust fund out across this Nation as quickly as possible.

In my opinion, that is one thing the Congress can do quickly that would have a dramatic effect.

I heard the Senator from Florida say earlier today that every billion dollars of that trust fund we put out creates 40,000 jobs. The information I have is that it creates 52,000 jobs. So if you could quickly put out $7 or $8 billion within the next 3 or 4 months—and I do not think that is unattainable—think of the kind of impact that would have on reducing unemployment in this country and help to get our economy wired again.

So I am not offering the resolution today, but that is where my heart is. You make that investment in the economy, and maybe an investment tax credit, and I think you could really get something going in the country.

I also want to compliment the chairman on the bill. My State comes out extremely well. I could not be more pleased.

Mr. MOYNIHAN. Madam President, let that be considered part of the statement of the managers.

Madam President, I believe there is no more debate.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I strongly support the surface transportation bill before us. Many of my colleagues have taken to the floor to speak about making the infrastructure investments that are necessary to relieve congestion, improve our air quality, revitalize the economy, improve our commerce, and make structurally deficient bridges and roads safe.

This bill will be our blueprint for the next 6 years. It is a significant piece of legislation. With the virtual completion of the National Interstate System, Congress faced the challenge of writing a bill that not only provided highway and transit funding, but also solved some longstanding problems.

Our economic well-being demands that our traffic congestion problem be relieved so that people and goods may move freely. This is important not only on a State or regional level, but is also necessary if we are to compete internationally. Forty percent of our bridges and primary highways are classified as poor—a situation which cannot be tolerated if we are to have any chance for growth and increased productivity.

Our air quality is deteriorating, and this bill allows the States and local planning bodies the flexibility necessary to alleviate pollution for the health and comfort of our citizens. There is a commitment to highway safety. Unsafe roads and bridges must be fixed and funding provided to begin those very serious and vital improvements. These are basic tasks that must be undertaken before our infrastructure crumbles beyond all hope of repair.

I am pleased that there is a recognition of the need for a national highway system. This system, called by some the post-Interstate System, recognizes that there are many primary roads—both urban and rural—that have a critical role in moving people and goods.

This bill keeps the promise to the people that the taxes collected and dedicated for highway and transit purposes will be spent as intended. The balances in both the highway and transit funds will be drawn down and put to use, as they should be.

As chairman of the Appropriations Committee, I, along with Senator LAUTENBERG who is chairman of the Transportation Subcommittee, have worked hard the past several years on our infrastructure problems. I am proud that in 2 years we were able to raise the Federal-aid highway obligation ceiling from slightly over $12 billion in fiscal year 1990 to $16.8 billion for fiscal year 1992.

This bill and its strong statement in support of investing—investing to solve today's problems and investing to provide a better future—certainly aids our efforts in the appropriations process.

This is a large and diverse Nation. Yet, a great nation's transportation policy must address that diversity, facilitate that interdependency, and allow for future growth and changing technology.

I applaud the conferees. In their deliberations, the goal of equity was always a top priority. The problems faced by Appalachia are different from those of the New York City region or those of the Sun Belt cities—but I believe this bill strikes a balance that should make for a stronger economy nationwide.

It is important that we appreciate that this bill creates jobs. That should not be minimized. This legislation may be just the tonic needed to begin to pull our economy out of the nose dive it has taken. The unemployment situation demands that we enact this important job-creating legislation. We should applaud the many benefits of this bill and its welcome contributions to our economic well-being.

In closing, let me say that, though my level of effort program did not survive, I am satisfied with the effort and consideration given my concerns. The framework is there to move us forward, and I support the product of the conference.

The PRESIDING OFFICER. If there is no further debate, the question is on adoption of the conference report. The yeas and nays have been ordered. The clerk will now call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr. KERREY], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. BROWN], the Senator from Missouri [Mr. DANFORTH], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

On this vote, the Senator from North Carolina [Mr. HELMS] is paired with the Senator from Colorado [Mr. BROWN].

If present and voting, the Senator from North Carolina would vote "nay" and the Senator from Colorado would vote "yea."

The result was announced—yeas 79, nays 8, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—79

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gore
Gorton
Grassley
Harkin
Hatch
Hatfield
Heflin
Inouye
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Lott
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Symms
Wallop
Warner
Wellstone
Wofford

NAYS—8

Coats
Exon
Graham
Hollings
Levin
Mack
Roth
Thurmond

NOT VOTING—13

Breaux
Brown
Danforth
Gramm
Helms
Jeffords
Johnston
Kassebaum
Kerrey
Pryor
Simon
Stevens
Wirth

So the conference report was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT—CONFERENCE REPORT OF 1991

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of the conference report on H.R. 3371.

The report will be stated.

The assistant bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3371) to control and prevent violent crime, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 26, 1991.)

CLOTURE VOTE

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the conference report to accompany H.R. 3371, the Omnibus Crime Control Act.

George J. Mitchell, Lloyd Bentsen, Wyche Fowler, Richard Shelby, Charles S. Robb, Wendell Ford, Alan Cranston, Tom Daschle, Al Gore, Jeff Bingaman, J.J. Exon, John Glenn, J.R. Biden, Jr., Harry Reid, Sam Nunn, Frank R. Lautenberg.

QUORUM CALL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, is it the sense of the Senate that the debate on the conference report accompanying H.R. 3371, the omnibus crime bill, shall be brought to a close.

The yeas and nays are required.

The clerk will call the roll.

The assistant bill clerk called the roll.

(Disturbance in the visitors' galleries.)

The PRESIDING OFFICER. The Senate will be in order. The Senate will suspend until the Sergeant at Arms has restored order in the galleries.

The clerk will now continue to call the roll.

The assistant bill clerk resumed the call of the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr. KERREY], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. BROWN], the Senator from Missouri [Mr. DANFORTH], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mr. KASSEBAUM], and the Senator from Alaska [Mr. STEVENS], are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS], and the Senator from Colorado [Mr. BROWN] would each vote "nay".

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 38, as follows:

{Rollcall Vote No. 278 Leg.}

YEAS—49

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hollings
Inouye
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Wofford

NAYS—38

Bond
Burns
Coats
Cochran
Cohen
Craig
D'Amato
Dole
Domenici
Durenberger
Garn
Gorton
Grassley
Hatch
Hatfield
Heflin
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Symms
Thurmond
Wallop
Warner
Wellstone

NOT VOTING—13

Breaux
Brown
Danforth
Gramm
Helms
Jeffords
Johnston
Kassebaum
Kerrey
Pryor
Simon
Stevens
Wirth

The PRESIDING OFFICER. On this vote there are 49 yeas and 38 nays.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have consulted with the distinguished Republican leader. It is my determination that the best way to proceed now would be to take up the banking conference report and the RTC bill under a unanimous-consent agreement which would provide for 15 minutes of debate equally divided on each of the two. And then at the conclusion or yielding back of the 30 minutes, back-to-back votes on the two measures.

I will, therefore, now—

Mr. DOLE. That is 30 minutes for the two, or each of the two?

Mr. MITCHELL. Total. I will now read the unanimous-consent request.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 15 minutes equally divided on the banking conference report, S. 543; that at the conclusion or yielding back of time the conference report be laid aside and the Senate proceed to the consideration of H.R. 3435, the RTC bill; that there be 15 minutes for debate on that bill with no amendments or motions in order thereto, and that at the conclusion or yielding back of time on that bill, the Senate vote without any intervening action or debate on adoption of the conference report on S. 543, the banking bill, to be followed immediately without any intervening action by third reading and final passage of H.R. 3435.

Mr. DOMENICI. Reserving the right to object, might I ask the majority leader, I am not sure that I will but I have not had a chance to read one provision in the RTC bill. I certainly do not want to delay things. I am concerned that one provision may be too narrowly drafted with reference to the authority of the RTC. The provision deals with the closing down of institutions.

Do you have a suggestion on how I might be accommodating to you, and yet preserve some opportunity to review this provision?

Mr. MITCHELL. The only way I can think of, which takes more time and inconveniences more Senators, is do the first one and vote on that.

Mr. DOMENICI. It is a flexibility amendment.

Mr. MITCHELL. My response was the only way I could think of is to limit the agreement to first the conference report on the banking bill and vote that. I am trying to accommodate as many Senators as possible.

This agreement was proposed by the Republicans.

Mr. GARN. Would the leader yield?

I might say to my good friend from New Mexico we finished the Banking Committee conference report at 5 a.m., so I expect that to go quickly. The RTC is not to my liking, not for any one provision but because the House of Representatives only put $25 billion in it rather than $80 billion. So I would like to object to the whole thing.

The point of it is, if we took the time to amend it with more money, go back and do the responsible thing, the House is going to be gone. So from a practical standpoint even though I totally agree with what the Senator wants to accomplish, I do not know how we could possibly amend the House-passed RTC bill and get them to considering anything. I say that as a practical problem. I do not know how to get at your problem any more than my problem, so I suggest we go ahead.

Mr. DOMENICI. I have no objection, Mr. Leader.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. Leader, we have a technical corrections amendment that has been signed off on both sides. It does affect the banking bill.

I only ask it be considered first—I do not know of any objection—so it can be sent back for enrollment purposes to the House before it goes out of session.

Mr. SEYMOUR. Mr. President, reserving right to object.

Mr. GARN. Senator RIEGLE has cleared this amendment. This was an amendment that was approved in conference last night and not enrolled by the House. It was left out in error. It was approved by both conferees.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. Mr. President, reserving the right to object, could I ask the distinguished majority leader, if in fact this unanimous-consent agreement is approved, will there be any other unanimous-consent agreements that are necessary before we adjourn?

Mr. MITCHELL. Certainly. There will be a very large number of them.

Mr. SEYMOUR. Thank you.

The PRESIDING OFFICER. Is there objection? The Senator from Alaska.

Mr. MURKOWSKI. Reserving the right to object, if I could make an inquiry on behalf of the managers of the bill, the Senator from Alaska had a technical amendment relative to the ability to purchase RTC debt. I wonder if that is included in the House bill that came over, or if there is any consideration of the disposition of that? It cleared our side.

Mr. GARN. If the Senator would yield. I cannot answer his question until staff gets here with the materials. We were in session for over 15 hours. There were dozens and dozens of amendments dealt with, give and take on both sides. So I cannot answer my colleague's question, but if you let us go ahead we can answer.

Let us get on the bill and then we will be happy to deal with this.

Mr. MURKOWSKI. I withdraw my reservation.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Reserving the right to object, does the UC vote include a voice vote or rollcall?

Mr. MITCHELL. The unanimous-consent request by itself does not provide for the form of voting. But our intention is to have a recorded vote, as requested by the Senator from Minnesota.

Mr. WELLSTONE. Thank you.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991—CONFERENCE REPORT

Mr. GARN. Mr. President, I submit a report of the committee of conference on S. 543 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their receptive Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 26, 1991.)

SENATE CONCURRENT RESOLUTION 83 TO AUTHORIZE A CORRECTION IN THE ENROLLMENT TO S. 543

Mr. GARN. Mr. President, while we are waiting for the distinguished chairman of the Banking Committee, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill, S. 543, the Secretary of the Senate shall make the following correction:

At the appropriate place, insert:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York and the deposits of Community National Bank and Trust Company of New York that—

(1) were deposited by a charitable organization as such term is defined by New York State law, or by a religious organization; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be fully insured notwithstanding any other provisions of the Federal Deposit Insurance Act.

Mr. GARN. Mr. President, this is the one I just referred to. This was an amendment that was agreed to by both House and Senate conferees last evening unanimously. It was inadvertently left out in the printing.

Senator RIEGLE has agreed to this. I ask it be immediately agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 83) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I say to my colleagues who want to catch airplanes, including this Senator, that conversations on the floor impede that progress. So I hope we could have the consideration so we can finish this expeditiously.

There is no need for me to use 15 minutes on this side of the aisle. We discussed the banking bill last week and produced what I thought was a very good bill, and the Senator from Michigan is to be commended for his efforts, but it was not possible in the conference to prevail.

So we have what many on this floor wanted in the beginning, a narrow bill that does not deal with any powers, with interstate banking, all of those sections have been removed. We have the recapitalization of the BIF fund and the safety and soundness issues that go with that recapitalization.

The House passed this unanimously.

I hope my colleagues will overwhelmingly approve this bill. The BIF fund does need recapitalization. The protections that surround it, I think, are good. I reserve the remainder of my time.

Mr. GRAHAM addressed the Chair.

Mr. MITCHELL. I yield 5 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, we come another time today to one of those measures that will have a significant impact on both the immediate- and long-term economic well-being of this Nation. There is probably no factor that has had a more adverse effect and has deepened and extended the current recession more than the difficulty of American entrepreneurs and business people and individual consumers to have access to credit, not because they were not worthy of receiving credit, not because they do not meet standards that have traditionally been accepted as prudent, but because of restrictions within the system, some of which were restrictions that we have imposed.

Mr. President, I believe we have, again, missed the opportunity to use this legislation as a means of providing some economic relief and stimulation on to our Nation's economy.

So my reason for opposing this bill is, in large part, not what it is but what it could have been and if this were to be defeated what it might be when we return I hope in December for focused consideration.

Frankly, we have not been thinking about this bill from the perspective of what could it mean to energize America's economy. This bill has not been debated or shaped from the perspective of what does it mean to the users of the system—what does this mean to the small business person, to the person engaged in international export, to the farmer, to all those people who look to the financial system as a fundamental source of nourishment for their ability to accomplish their own commercial economic goal.

But more than a missed opportunity, Mr. President, I suggest, like we did 4 or 5 years ago when we started down the slippery slope of the savings and loan industry, if you remember, the first bills we had were not going to be a taxpayer bailout. This is going to be a program in which all of the costs will be borne by the industry—exactly the representation that is being made on this bill.

Two days ago, we had the head of the FDIC before the Banking Committee and gave a very dire assessment of the situation, the subject of a front page story in Monday's New York Times. I believe if we go down this path, we need to do so with a clear understanding that this is going to be another taxpayer bailout. I believe that in that context, the basic structure of financing this bill needs to be rethought. A proposal to finance this over a 20- to 30-year bonding basis may be appropriate if you think the commercial banks are going to be able to pay sufficient premiums to repay those loans. I do not think it is an appropriate means of financing when we recognize the likelihood that this is ultimately going to be paid by the American taxpayers.

Mr. President, there are other issues. I think we have not done an adequate job of protecting the deposit insurance fund which, frankly, was the reason that dove us to this bill in the first place; that we continue to be vulnerable to further charges against the fund and eventually against the American taxpayers.

So, Mr. President, I reluctantly suggest to my colleagues that the prudent vote today on this bill is no. I hope that within a month we will have an opportunity to look at this bill from a different perspective and incorporate a different, more economically enlightened bill as part of a program that we can submit to the American people as the Federal Government's program for economic stimulation.

Thank you, Mr. President.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Michigan has 3 minutes remaining.

Mr. RIEGLE. I have to say to my colleague I only have 3 minutes under the time agreement by which to comment on this bill. I can yield 20 seconds, and I will do so if that is helpful to the Senator.

Mr. CONRAD. Mr. President, in order to make my vote in opposition to this bill clear, let me for a moment recount some history. A little over 2 years ago, the Senate passed the Financial Institutions Reform, Recovery and Enforcement Act [FIRREA] just before the Congress adjourned for the August recess. Despite the fact that that legislation was the biggest single taxpayer bailout in history, there was no recorded vote on the conference report. At the time, we were told that the bailout was only a temporary loan to the savings and loan industry. We were told that $50 billion would be sufficient to resolve the failures of thrifts and make good on the Government's commitment to insured depositors.

At the same time, Mr. President, I do not think there was a single Senator in this body who truly believed that the taxpayers would ever be repaid, who truly believed that $50 billion would be sufficient, or who truly believed we had found the most cost effective way of making whole the insured depositors of failed S&L's.

Mr. President, I was one of only eight Senators who voted against the Senate version of FIRREA, and I objected vigorously to the conference report. Since then, it has become clear that FIRREA did not solve the problems of the thrift industry, and that the taxpayers will have to pay closer to $500 than $50 billion for the S&L bailout. And in the next few hours, we will be asked to throw another $80 billion of the taxpayers' money down the same rathole.

Now, Mr. President, I am afraid that we are now making the same mistake with the bank insurance fund. We have been told that the $70 billion we are providing to the fund is only a loan, that it will be repaid entirely by the banking industry at no cost to the taxpayer. But, Mr. President, I do not believe that the banks will ever repay this loan. A recent Washington Post article began, "America's largest banks are in bigger trouble than Government officials and the banks themselves have publicly admitted * * *." The article goes on to say that the country's largest banks have gotten into such trouble through a series of bad decisions to lend money to the Third World, to corporate takeover artists, and to real estate developers that the industry may ultimately need an infusion of over $200 billion. The $70 billion in this legislation may not even be enough to last the bank insurance fund until the 1992 elections—especially if the economy fails to recover quickly and strongly, as now seems likely, and more banks fail than is currently projected.

In fact, Mr. President, 2 weeks ago when the Senate passed an amendment limiting credit card interest rates to a generous 7 percentage points above the prime rate—and nearly 10 percentage points above the discount rate—the banks howled that this action would destroy the banking industry. Mr. President, if the banks are so weak that they cannot survive without charging credit card rates nearly 15 percentage points above the rate at which they borrow funds, can we honestly believe that they are strong enough to repay a $70 billion loan?

Clearly, Mr. President, the answer must be no. Under these circumstances, I do not think that it is fair to the American taxpayer to pretend that we have solved the problem and that it will cost them nothing. That is why I am registering my opposition to this legislation.

Mr. RIEGLE. Mr. President, this is an urgent problem facing the country, namely, the insolvency, pending insolvency, of the bank insurance fund. If we are going to maintain Federal deposit insurance, the fund has to be recapitalized, and the legislation before us accomplishes that goal. It provides $25 billion in additional borrowing authority for the FDIC, as well as $45 billion in borrowing for working capital.

In addition to providing the funds necessary to keep the insurance fund solvent, we have in this legislation a number of essential reforms in the banking system that raise the standards with respect to how banks are supervised and how we monitor and build greater strength within the banking system.

Those improvements, such things as annual onsite inspections, eliminating brokered deposits by institutions that are in trouble, requiring that institutions that are failing be taken over before they finally exhaust their capital—a long series of very important reforms in that area.

We also move with respect to the problem of foreign banks so that situations like the BBCI case cannot arise again in the future.

We also include the Truth in Savings Act so that financial institutions will have to use uniform measures in indicating the rates of interest that they pay on accounts and that those be accurate.

We have overturned the Lampf decision with respect to pending securities fraud cases so that those cases that have now been filed are protected and can go forward. It is my understanding that this provision is not intended to apply to or in any way affect the parties or the claims in the Lampf decision itself. Nonetheless, all other cases that were pending on June 19, 1991 shall have the statute of limitations that existed in the applicable jurisdiction on that date.

The problems in our banking system cannot be solved by one single legislative package. This package is designed to restore on a loan basis the solvency of the deposit insurance fund and to put major, new banking reform into the regulatory system. The larger problem of the difficulties that have accumulated over several years in the banking system require a much bigger solution, a much stronger economic strategy, and I think other steps will be needed to try to allow us to handle large bank problems on an orderly basis, and we will have to take up that legislation, I think, before very much more time passes.

I will speak at greater length later in the afternoon when we are not under this time pressure at the moment. At that time, I will go on in much greater detail about the nature of this problem. There is no interstate branch, no repeal of Glass-Steagall, no merging of commerce in this bill.

Mr. President, I reserve the remainder of my time.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Utah has 6 minutes.

Mr. GARN. Mr. President, I yield 1 minute to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. D'AMATO. Mr. President, we did the best we could with this banking bill in the short period of time that we had, facing the constraints of time. We saw to it that the bank insurance fund was recapitalized, and that is important. We made some steps as it relates to soundness, safety of the institutions, gave the regulators some additional authority. And there are a lot of other areas that have to be and should be addressed in order to make this system one that is truly competitive.

This Senator introduced legislation dealing with that issue: The lack of competition in the area of interest rates charged on credit cards. I am not suggesting that that legislation was perfect, but I am suggesting that we have a lack of free competition in this area and that we would be remiss to simply go home and say that all is well and turn our head, in the other direction.

I hope that the regulatory agencies and the Justice Department, and the Federal Trade Commission will not allow this matter to continue unabated.

I thank the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Utah is recognized.

Mr. GARN. Mr. President, I yield the Senator from Michigan 2 minutes.

Mr. RIEGLE. Mr. President, I thank the Senator. We are under a very tight time agreement here under the need to finish our business today.

I want to say to my colleagues that this is truly an urgent measure that is before the Senate. Should we not enact this legislation, based on information that I have received from the regulators, we are going to find ourselves with a situation where we will have an insolvent deposit insurance fund and that bank failures, which are immediately in front of us, could not be handled, and we would find ourselves in a situation where we would not be able to honor the Federal deposit guarantee.

We just cannot allow that to happen. There is enough uncertainty in the economy now. There is enough weakness in the economy now. Confidence is way down. It dropped again in the last month. It is essential that this legislation be put in place. This is safety and soundness legislation that will allow us to maintain a major degree of stability in the system that is absolutely essential at this time.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Will the Senator yield for 30 seconds?

Mr. GARN. Mr. President, I would yield a minute to the Senator from Connecticut.

Mr. DODD. Mr. President, I rise in support of the banking bill, which was hammered out over the past 2 days and nights in a grueling conference.

I must say that I do so with some regret. I believe we need much broader reform of banking law than is included in this bill if we are to address the root causes of the problems now facing banks.

The truth is that the bank franchise has been eroded over the past 20 years as securities firms and commercial firms have gotten into banking—while banks have had no reciprocal opportunities. Deprived of profits from their traditional lines of business by increased competition, and deprived of other alternatives, banks have relied with greater frequency on riskier types of lending.

If banks are to be healthy in the long run, they need to have profitable alternatives to risky lending. At a minimum, they need to be able to branch interstate and to affiliate with securities firms. Without those powers, their franchise will continue to erode, their profitibility will continue to decline, and the danger that they will go the way of the thrifts increases.

Unfortunately, those essential reforms fell victim to intransigence on the part of the House of Representatives. Consistent with past history, the Senate rolled the rock up the hill in Sisiphean fashion, only to have to House push it back down again.

Notwithstanding that outcome, however, I look forward to revisiting the financial modernization issue when Congress reconvenes. Particularly after the Senate passed a broad bill here last week, and after narrow losses on the House side, I am convinced we can reach our goal if we make a serious effort. To this end, I plan to reintroduce interstate banking legislation as soon as we return.

I am also distressed that the bill closes neither the comptroller's town of 5,000 insurance agency loophole, nor the Delaware insurance agency loophole. It is bad public policy to permit such nationwide insurance sales from small launching pads. These provisions got caught up in the sweep of other events, and I plan to rectify the problem next year.

Despite these regrets, Mr. President, I do believe that the conference banking bill before us is a good second-best solution:

It arranges for the bank insurance fund to borrow $25 billion from the Treasury to cover the losses from protecting depositors at failed banks. This is critical, because failure to provide this funding would force the Federal Government to renege on its solemn pledge to protect insured depositors, and could cause financial panic. Equally important, this bill requires the banks themselves to repay every penny of this $25 billion.

It includes language I developed with others to encourage the regulators to use open bank assistance in carefully circumscribed cases. Open bank assistance is an important tool in addressing the credit crunch that is devastating Connecticut and New England because it enables troubled but viable banks to remain open and make loans to creditworthy borrowers. It also has a successful track record when used properly. Open bank assistance was used during the 1930's by the reconstruction Finance Corp., and the RFC made a profit. More recently, when used in the proper circumstances—as in the Continental Illinois case and elsewhere—it has met with similar success.

It includes the Truth-in-Savings Act I authored that has passed the Senate three times in the past 3 years. This measure will help consumers make sense of the wide variety of terms and conditions on accounts offered by depository institutions. In essence, it would require disclosure of that information in a standard format to enable consumers to comparison shop for the best deal.

It closes a loophole in the law that earlier this year permitted one State in the country to set itself up as a launching pad for banks that wanted to underwrite insurance nationwide. The provision I secured enactment of allows banks to continue their underwriting within the State that authorizes it, but nowhere else.

It also includes a provision I offered to give the Federal Reserve greater flexibility to respond in instances in which the overall financial system threatens to collapse. My provision allows the Fed more power to provide liquidity, by enabling it to make fully-secured loans to securities firms in instances similar to the 1987 stock market crash.

It also permits State chartered banks in Connecticut and other States to continue to invest small portions of their assets in corporate equity securities. The truth is that these banks have had this power for nearly a century, and no problems have resulted—and in fact, over the past several years, it has been a more profitable line of business than mortgage lending.

Finally, I would just like to say a few words about the provision of the conference agreement which will preserve the right of State-chartered savings banks to sell savings bank life insurance. This will enable thousands of consumers in Connecticut to continue to have this as a choice to meet their life insurance needs. The effect of this portion of section 303 is to permit a State savings bank that currently offers savings bank life insurance that is purchased by, or converts to, a federally chartered bank to continue to sell savings bank life insurance.

Mr. President, to summarize, I regret that we were not able to pass a broad financial modernization package this year. It was and is desperately needed. But the bill before us today is a good deal given the inflexibility on the part of the House. I urge my colleagues to support it.

Mr. President, I just want, very briefly, to express my deep appreciation as a member of the conference committee to Senator RIEGLE and Senator GARN, who did, I think, a fabulous job over 3 or 4 days, intensely last evening for some 16 straight hours, to produce not the best of all pieces of legislation. I would have much preferred interstate banking to be a part of that legislation. I would have much preferred that we had our commission on insurance and a number of other things. But obviously we do not all prevail in these debates.

The fact is that we have the reforms necessary to deal with the bank insurance fund. We have a variety of other provisions in there which we think strengthen the entire banking structure from a consumer standpoint, from a taxpayer's standpoint. And they are to be highly commended for their effort.

When I hear someone take the floor and suggest that they did not get some individual piece of this they would have liked to have had, they do themselves and this effort a great disservice. This is absolutely essential legislation. There has been a herculean job done to produce it.

I would just say to my colleagues here today who have not had the opportunity to read every detail in this legislation, this was a very fine piece of work. It is needed legislation. The other issues we will have to come back to.

I commend them for their efforts.

Mr. GARN. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, let me emphasize the seriousness of this problem. If either one of these bills fail, we will not only cause problems in the system but we will be back in a week or so to deal with it. We cannot leave session, because in 1986 I stood on this floor, passed $15 billion of FSLIC recapitalization, the House turned it down and that cost the taxpayers $70 billion to $80 billion.

Everybody who wants to play games with this issue and say they were against these loans better realize that if this goes down, they will be the ones who are responsible for a vast increase in the cost.

I yield back the remainder of my time.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. Time is yielded back.

Mr. KASTEN. Mr. President, I rise today to express my deep disappointment with the conference report on the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

I belive that this report not only fails to fulfill our mission to restore health to the banking industry, but will ultimately cause more banks to close. During debate on this bill, I reviewed and analyzed the committee's bill and the subsequent amendments to it. I sought to balance the interests of both the large and small banks in Wisconsin and to assess what can be done to protect the taxpayer from a potentially insolvent industry. With this in mind, I cannot vote for this report in good conscience.

After consulting with my banking constituents, industry leaders, and Wisconsin taxpayers—I found that the general consensus among all parties was that this bill did not make sense for Wisconsin.

Any real banking reform requires the elimination of the too-big-to-fail doctrine. I firmly believe that no bank should be too big to fail. Protecting hundreds of billions of uninsured deposits is a burden never intended to be borne by the FDIC. Not only does it strain the insurance fund's resources, it also burdens the regulatory agencies with the entire responsibility for detecting and controlling excessive risk taking. But most important, it cost taxpayers money for a problem they did not create.

In addition to failing to eliminate too big to fail, this bill favors foreign depositors over American taxpayers. We are elected to serve our American constituents—not some foreign interest. I am disappointed that this bill did not access premiums on foreign deposits. The exclusion of foreign deposits from premium assessments is a huge loophole that needs to be closed. This bill did not address this issue.

These specific issues that I raise in my remarks force me to cast a vote against this package. This bill does not address the current problems of the banking industry adequately. It creates more paperwork for the banks with very little positive return to the industry, and it makes the American taxpayer pay more for a system of inequality that they did not create.

Mr. BRADLEY. Mr. President, I rise to make two points in opposition to the conference report on the banking bill.

First, we have settled on the least common denominator. Instead of using this opportunity to modernize our financial industry and make it more competitive in the world, we are entering the 21st century with laws and regulations from the 1930's. A sound financial sector is one of the keys to growth in the American economy, and I believe the American people deserve legislation that presents a clear vision of the role that banks should play in our Nation's economy and lays out a strategy for achieving that vision.

Second, the $70 billion we are pouring into the bank insurance funds will not be enough. In an eerie replay of the S&L bailout, the administration and the Congress are portraying this as a self-financing loan that will solve the problem, but the economic reality is that this may be only the beginning of another taxpayer bailout.

Indeed, today, with no substantive debate, the Congress will approve another $80 billion for the botched S&L cleanup.

I opposed the bill when it passed by voice vote last week, I will oppose the RTC bailout and I will oppose this conference report.

The least common denominator is not enough.

Mr. WIRTH. Mr. President, although the bank reform package has a number of important elements, I opposed the legislation when it was reported by the committee and when it passed the Senate. I believe the conferees, given present circumstances, were right to narrow the package in order to increase the likelihood of enacting legislation. Nevertheless, many of the concerns I cited in opposing S. 543 still hold with respect to the conference report we are now considering.

While I support elements of the legislation, I believe there are other areas in which S. 543 needs significant improvement. BIF funding and recapitalization and deposit insurance reform should be our priorities in crafting this legislation. I'm not convinced the legislation as it now stands does enough in either area.

The legislation provides funds to allow BIF to address the current problems in the banking industry and includes provisions to promote rebuilding the fund. However, I am concerned that the plan does not rely enough on industry resources and raises the very real prospect of a taxpayer bailout of the industry if the economy doesn't recover and banks are unable to repay the Treasury. I am also concerned that the recapitalization approach could leave BIF in dangerously weak condition which in turn could enable weak and failing banks to remain open, ultimately increasing the costs to taxpayers.

The economy has remained weak since we began developing the bank reform package last winter. The longer the recession lasts, the deeper my concerns about the possibility of an eventual taxpayer bailout and the effectiveness of the recapitalization plan.

The deposit insurance reform title makes a number of important improvements to current law. However, I am concerned that it does not go far enough to bring more market discipline into the process. Risk-based deposit insurance reform premiums are a step in this direction as are the provisions designed to attack the too-big-to-fail problem. However, I think we can and should do more. For instance, I believe we should include a haircut that would supplement the too-big-to-fail provisions by ensuring that uninsured depositors and creditors are never fully protected in a bank or thrift failure.

S. 543 lacks substantial regulatory restructuring. In markup, the committee deleted my proposal to establish a new, independent regulator for both banks and thrifts. The legislation did include other provisions I had proposed to repeal the exemption bank and thrift securities have from Securities and Exchange Commission registration and reporting requirements.

At a time when the bank and thrift industries are in turmoil, I think regulatory authority over their securities should lie with the agency that has the most expertise in that area. Investors deserve that protection. And when billions of tax dollars are being spent to cover bank and thrift losses, with the ultimate scope of the problem still unclear, taxpayers deserve the protection of an improved regulatory structure. I'm not sure that a bank reform package that doesn't include the regulatory restructuring we need is worthy of the name.

In addition to these and other concerns that I have previously voiced, there are several new factors that contribute to my decision to oppose the conference report.

First, is the concern that Senator RIEGLE cited in a recent letter to President Bush about the increasing problems in the bank insurance fund and the inadequacy of the $70 billion loan to the fund. Senator RIEGLE indicated that is increasingly unlikely the banks will be able to repay this loan and that we may be on the road to a taxpayer bailout of the insurance fund. Senator RIEGLE'S reassessment of the troubles in the banking system and insurance fund reinforce the concerns I had earlier in the year. My doubts about the FDIC recapitalization provisions in the package have only increased as the legislation moves closer to enactment.

I am also troubled by the loss of several important provisions in conference. The Senate legislation included a provision I offered with Senator GARN to direct regulators to adopt uniform real estate lending standards. That provision included specific loan-to-value ratios that would take effect if the regulators do not act within 15 months. The conference report simply directs the regulators to adopt uniform real estate lending standards.

My problem with that is we have tried it before and the regulators ignored us. Given the importance of the problem, the history of regulatory inaction, and the links between bank and thrift failures and the condition of our real estate markets, I think we need to give them an incentive to act. Specifying standards that go into effect if regulators do not act will force them to examine the issue and determine what sort of standards are appropriate.

The legislation passed by the Senate also included provisions that I had sought to require the public disclosure of examination reports of failed financial institutions if taxpayer dollars are used to resolve the failure or assist the institution, as well as the disclosure of settlements of Government lawsuits related to such institutions. Senator GARN and I put a great deal of effort into this issue and were able to resolve our differences on the proposal and incorporate a number of safeguards to protect customer privacy.

Unfortunately, the conference report only includes the narrow disclosure provision that the House adopted. This provision would prohibit the FDIC from entering into confidential settlements of claims it brings as a conservator or receiver for a failed institution. However, the provision would not apply to the RTC and would not require the release of any settlements that have already been reached.

In addition, the conference report would not require that examination reports be made public in any form. It also would not require the FDIC and RTC to identify insider borrowers who default on a loan and cause a loss to an insured institution that has failed at taxpayer expense.

It is important that taxpayers have access to more information about bank and thrift failures if public funds are used to resolve the failure. The legislation we passed last week would have provided access to additional information about bank and thrift failures while protecting customer privacy. The conference report will not.

These developments reinforce my reluctance to support the conference report. The changes made to the legislation in conference do not give me reason to alter my position on the legislation and I will oppose it.

Mr. GRASSLEY. Mr. President, I am pleased to support the report on the banking bill from the conference committee. This conference strikes a good compromise on the issues of importance to our Nation.

I am particularly pleased that the interstate branching provisions were dropped from the bill. For our Nation to be economically strong, we must be strong from our rural communities to our metropolitan cities. This bill is sensitive to the need for rural economic development. It does not exalt large interstate banks at the expense of small community banks. I am pleased with the balance.

I remain concerned about the need for assessing foreign deposits for the purpose of the Bank Insurance Fund. However, this conference report begins to address that issue and takes a step in the right direction.

I support this compromise and thank my colleagues for the long hours they labored to work it out.

Mr. SANFORD. Mr. President, I am voting against this banking bill because it fails to do what is needed as a minimum. Many regard recapitalizing the Bank Insurance Fund [BIF] as the essential goal. I disagree. What is essential is recapitalizing the fund and providing the opportunities to banks to achieve long-term profitability, competitiveness, and self-sufficiency which will in turn enhance our economy—and assure the soundness of the fund.

This is now nothing more than a rescue bill, and this attempted rescue could actually deplete banking capital, which will increase the risk to the taxpayers. There is no excuse for the Treasury Department, out of timidity, to flake out on modernizing the banking industry. There is no excuse for the House of Representatives to permit a handful of Congressmen to thwart the sound legislation passed by the Senate. The measure to recap the BIF, under the auspices of a taxpayer guaranteed loan, will result in increased bank premiums. Without expanded powers to adequately compete in the current financial environment, many sound banks will be unable to meet the premium requirement and may face the distinct possibility of failure.

We will not have a strong economy without a strong banking system. At the very least, the banking system needs two things.

First, banks need the ability to diversify beyond State boundaries. Even the people who believe that we should not give banks greater diversity in terms of the products and services they could sell agree that allowing greater geographic diversification through interstate banking and branching would result in a safer, sounder banking system. Alan Greenspan, Chairman of the Federal Reserve, noted, for example, that:

> What interstate banking promises is wider consumer choices at better prices and, for our banking system, increased competition and efficiency, the elimination of unnecessary costs associated with the delivery of banking services, and risk reduction through diversification.

Second, we must have as a policy, a firm determination that we will not allow a bank to fail if there is sound reason to prevent it. This policy should go beyond the concept of either early intervention or forbearance. I view impending bank failures with far more apprehension than most people. I view bank failures with such a magnitude that I believe that they could turn a recession into a depression. Bank failures have more to do with damaging the economy than just costing the taxpayer additional money to pay off depositors. Allowing a marginally capitalized, but otherwise sound bank to fail is like scuttling a ship loaded with cargo. Pulling the plug on a bank swamps or sinks the community. It affects jobs, real estate, all businesses, and credit—essentially the fundamentals of the economy.

Earlier in the session, I suggested legislation that would essentially create a 1990's version of the Reconstruction Finance Corporation, one of the major tools used for reversing the depression of the 1930's. The RFC, in its Depression-era years, spent some $10 billion, a lot of money then, and returned all of it to the Treasury with about $500 million in profits. I think this kind of investment now could have the same result. Certainly, the need is there, and the danger of unnecessary bank failures is there.

This idea was modified and inserted in the banking bill as a sense-of-the-Congress provision. Current law, section 13(c) of the Federal Deposit Insurance Act gives the FDIC and the Office of Thrift Supervision [OTS], the authority to make direct equity investments in or take other steps necessary to address the problems of troubled but viable institutions. The intent of this sense-of-the-Congress measure is to encourage regulators to assist prudently troubled banks in order to stave off massive numbers of bank failures and to produce the least possible long-term cost to the Bank Insurance Fund and the Savings Association Insurance Fund—and the taxpayers ultimately. Although the FDIC and the OTS have had this authority for some time, they have been reluctant to use their open assistance programs for fear of disapproval from Congress in light of the negative repercussions from the days of forbearance during the mid- to late-1980's in the thrift system. I am talking about something different, and I hope the leaders of the FDIC and OTS will have the courage to step up to the job and save the banks, the communities, the economy, and the taxpayer's money.

This resolution contemplates the investment of equity capital—real money—both by the FDIC and private investors. It calls for a careful strategy of appropriate open bank assistance to be used to lower the expected cost to the insurance fund, not simply to prop up a bank for the sake of keeping it open. It not only allows the regulators to invest new capital in profit-oriented banks, it gives them the authority to change management or insist on a merger to facilitate a healthier industry.

Earlier this week, I was encouraged to hear Chairman Taylor's comments on his ideas for a banking hospital. I think the principle is the same; in certain cases it may be better and less costly not to liquidate and close a bank and destroy its good loans to the community, but give it assistance in such a way that it returns to being a healthy and viable institution. I encourage him to exercise independent judgment and use creative means when necessary to reverse present trends. It is through a combination of creative and prudent management that we will reduce the number of bank failures and relieve the pressures that currently plague the BIF. The Treasury Department and the Congress, however, have failed to provide the penicillin needed for Taylor's hospital.

We have an ailing industry, and as the banking industry goes, so goes the economy of the Nation. I am simply not willing to vote for bailout money without passing legislation to make a sounder banking industry. If banks keep failing, there will not be enough money in the entire country to pay off the losses. This stripped-down legislation will pass without my vote, but it will not strengthen the economy by strengthening the banking system. We are not doing our duty if we are not addressing the heart of the problem. We have an outdated banking regulatory system which is in need of reform. Crafting reform and passing it is essential, Mr. President, not just replenishing the insurance fund. Without this reform, the guaranteed taxpayer loan to the BIF will turn into nothing but a bailout.

I believe that the best tool in anybody's economic package is a strong banking system. I hope that the Congress will revisit the issues in the Senate banking bill first thing in the new year.

I am going to insist that the Senate Banking Committee meet the first week of our return in 1992 to turn again to the task of redeeming the banking industry's competitive position. Completing this work in a timely manner is imperative for the health of the banking industry as well as the entire economy.

Mr. SIMPSON. Mr. President, I rise in support of the conference report to S. 543, the banking reform legislation, and I urge my colleagues to vote for its passage.

In doing so, I would like to express a few words of commendation and a few words of caution as well.

The caution that I urge is against complacency—the legislation which we are about to pass will do some very important things. It will restore some incentives for proper investment behavior to our Federal deposit insurance regulations, incentives which are badly needed for the health of our financial system.

However, we must not delude ourselves about the very real problems in the banking system—those which led to the current necessity of borrowing $70 billion—those have not gone away.

I hope that there will not be any misunderstanding of that. We did not enact reform measures as comprehensive as those originally proposed by the administration, nor as those crafted so carefully by the distinguished chairman and ranking member of our Banking Committee.

We should not have any illusions about why that is so. The House of Representatives on two occasions this year killed any comprehensive banking reform legislation. I agreed with their decision to kill their first banking bill—it was not a good bill, and I would have voted against such a bill had it come before the Senate.

However, their consistent willingness to pour $70 billion into a system which suffers serious dangers of insolvency, without attempting to correct some of the problems that made that $70 billion loan necessary, strikes this Senator as the very height of irresponsibility.

Because that is what a "narrow" bill is—it is forking over $70 billion, and doing nothing to reduce the amount of similar expenses in the future.

This is why I believe that the managers of our bill—Senators RIEGLE and GARN—are so greatly deserving of commendation. The extent to which our banking system will be reformed by this legislation—however insufficient—is entirely due to their determination, and that of the administration, to produce meaningful reform.

Banking reform is not a "sound bite" issue—let's fact it. Few Senators are going to be able to go home and impress voters with these often arcane and esoteric policy decisions. There is every incentive to stay away—the $70 billion which will be loaned to the banking system by this bill has "political poison" stamped all over it.

But that issue has to be faced, because we're talking about potential losses to the taxpayers of billions of dollars. Senators RIEGLE and GARN have faced up to it, and I commend them for that.

It would have been very easy to duck this issue—the House was clearly not interested in passing comprehensive reform, and the Thanksgiving target date for recess was fast approaching.

Moreover, the banking bill didn't seem to be going anywhere. Getting this body to cooperate to act on this legislation was like pulling teeth. I distinctly recall a moment last week when Senator RIEGLE and Senator GARN seemed almost alone here on this floor in their willingness to "stick it out" and to get the job done.

Many will look at the fact that this bill has been considerably narrowed in conference and wonder whether the effort to enact comprehensive reform was worth it. I say that it was. Given the amount of money at stake in this area, it was absolutely our obligation to try—to get as much comprehensive reform as was possible. If in the end we did fail to get as much as we would have liked, it ought not to be because we failed to make the maximum effort.

My personal belief is that we will be standing here again on the floor at some time in the future, attempting to enact the financial system reform that this country desperately needs. I do not know whether we will be facing a crisis at that time. However, if we are facing new crises and new costs, they will be reduced in magnitude thanks to the tireless efforts of Chairman RIEGLE and Senator GARN, the ranking member, relative to what those costs would have been without this legislation.

At that time the House of Representatives will have to wake up and pass at long last some financial system reform. When they do, I hope they will remember the example of Senators RIEGLE and GARN, and will emulate their spirit of bipartisan cooperation, and determined sense of responsibility—in what will surely be a thankless task.

And let me say how much we will miss our dear friend from Utah, Senator GARN. He is a real force in this Senate—a man of fierce loyalty to his cause. A man with a total grasp of our financial institution laws.

Had we listened to this sincere and dedicated man—and passed the legislation he always pressed for—we could have avoided most of the debacles of the recent past as they relate to America's financial structures. God bless his efforts.

I thank my colleagues and I yield the floor.

Mr. HOLLINGS. Mr. President, today the Senate passed the conference report for the banking bill. I want to make it clear why I voted against the banking bill. I specifically oppose title I of the bill which authorizes a $70 billion loan for the FDIC to recapitalize the bank insurance fund. The banks have neither the capital nor the resources to pay back this loan and mark my words this is only the beginning of more requests for bailout funds for the banks. The administration assures us that this loan will be paid back by the banks, but this legislation includes no taxpayer protections to ensure that the taxpayers aren't left holding the bag. Mr. President, there is a district difference between the banks in South Carolina and the banks on a national level. Our banks in South Carolina have invested prudently, responsibly and remained financially stable, while at the same time making sure the needs of their surrounding communities are met. However, once again, the people of South Carolina are being asked to help cover the excesses of other parts of the country.

Mr. President, being a child of the Depression, I understand the necessity of insured deposits to maintain economic stability and consumer confidence in savings institutions.

However, it seems to me that it has become all too easy to look to the Government and to the taxpayers to pick up the tab for risky and unsound investment gone bad. First the S&L's, and now the banks have bankrupted their insurance funds. And where does that leave us, Mr. President? With a $160 billion taxpayer tab for the S&L mess; with a CBO estimate that another $30 billion will be needed on top of that—for a grand total of $190 billion. And this is only actual losses, if we include interest on the $190 billion, the total amount for S&L cleanup is well over $500 billion. I can only wonder what the final tab will be for the banks. We are giving them $70 billion to start with, and it's a sure bet that this is only the first installment with the full bill to come in 1993 after the elections.

Mr. President, what we need to do is pay the depositors of failed institutions their $100,000 that is insured and leave it at that. We should have learned that from the S&L's. No more keeping afloat these too-big-to-fail institutions only to allow them to make more bad loans. What we've got here, Mr. President, is a government bureaucracy sending good money after bad, with no end in sight. There is no reason to put the American taxpayer at risk to bear another financial burden of this magnitude. The banking community in this country could use the same type of leadership that our banks in South Carolina are blessed with. Until I see some indication, Mr. President, that responsibility will be the banks' watchword and not recklessness, I intend to vote no whenever this issue comes before the Senate.

Mr. RIEGLE. Mr. President, I want to make a few comments about certain provisions, of the banking bill, whose conference we concluded early this morning, which deal with the regulation and supervision of foreign banks. I am very pleased that the conference agreed to the legislation which the Federal Reserve Board sent to the Congress last May in response to my March 25, 1991 letter to Chairman Greenspan seeking the Fed's recommendations for improving supervision of foreign bank operations in this country in light of the BCCI revelations. This section of the bill will ensure that banks that are not subject to comprehensive supervision and regulation on a worldwide basis will be kept out of this country. It also permits the Fed to terminate the activities of foreign banks now operating in this country that lack such consolidated supervision.

Another section of the conference report foreign bank subtitle ensures that foreign banks, that wish to accept or maintain insured deposit accounts, do so only in subsidiary banks incorporated in the United States. Although the taking of retail deposits in insured branches is not presently a widespread practice by foreign banks, I pushed for enactment of this provision as a safeguard against any future expansion of this practice in order to better safeguard the bank insurance fund from losses by branches of banks whose full operations we do not oversee or control. In the past the FDIC has expressed concerns that in the event of insolvency of a foreign bank, assets could easily be shifted from the U.S. branch and out of U.S. jurisdiction while deposits could be shifted to the U.S. branch. Such practices, of course, would create new risks for the bank insurance fund and taxpayers who stand behind it. During his September 24, 1991 confirmation hearing William Taylor, Chairman of the FDIC, endorsed this provision.

Another provision in the conference bill which I authored requires the Treasury and Federal Reserve to do a joint study describing the methodology the Federal Reserve Board should use in making determinations that foreign banks have capital equivalent to that required of U.S. Banks that wish to engage in securities or other activities in this country. The Federal Reserve should ensure that in reviewing applications by foreign banks under the International Banking Act and the Bank Holding Company Act that it not approve them unless it can clearly judge that the foreign bank has capital equivalent so that it would require of a U.S. Bank to engage in a similar activity. The United States can not afford to give foreign banks competitive advantages in our own market and it is not fair to U.S. institutions if the Fed does so. Having the methodology used by the Fed in making such judgments will help our oversight of the Fed's actions in relation to foreign bank applications.

I also note that the subtitle contains a requirement that the Treasury Department and Federal Reserve Board jointly, in consultation with the Justice Department and OCC, examine various facets of foreign bank operations in the United States to determine whether they should as a general rule be required to operate through subsidiary banks incorporated in this country rather than direct branches of the foreign bank. I certainly expect this study will comprehensively review the assigned factors and will provide a basis for the Congress to fully consider what is the proper U.S. policy for regulating foreign banks within our borders. It will provide the Banking Committee with the basis for oversight and perhaps legislative hearings in this area.

I very much appreciate the assistance Chairman GONZALEZ and other House conferees gave us in getting these much needed foreign bank provisions enacted into law.

Finally I am pleased to note that although House Banking Committee conferees could not agree to put the fair trade in financial services provisions into the conference bill, because it would have required the agreement of committees not part of the conference, the House conferees did agree to help get those provisions conferenced early next year in the conference on the Defense Production Act. Members from all the relevant committees have already been named to that Conference. Senator GARN and I look forward to getting this much needed legislation enacted into law early next year.

Mr. BRYAN. Mr. President, I rise to express my strong support for an important provision included in the Comprehensive Deposit Insurance Protection Act of 1991 (S. 543) that dramatically affects the lives of tens of thousands of American who have been the victims of securities fraud cases. The provision I refer to overturns a recent Supreme Court decision, Lampf versus Gilbertson that retroactively and unfairly shortened the statute of limitations in securities fraud cases.

This bill before us today includes portions of bipartisan legislation I filed with 13 of my colleagues earlier this summer, S. 1533. While I would have preferred all of S. 1533 be included, I am pleased that Congress is overturning the most egregious part of the Court's decision.

Mr. President, as respected economist Felix Rohatyn recently noted, "We have just seen the end of the greatest decade of speculation and financial irresponsibility since the 1920's." Unfortunately, the Court's decision has the effect of rewarding financial wrongdoers.

The Court ruled in Lampf that anyone seeking to recover losses because of securities fraud must sue within 3 years of the time the fraud occurred and within 1 year of discovering the fraud. Previously, the time period for filing was based on the laws in the States and judicial jurisdictions which were generally more generous than the periods specified in Lampf.

This shortening of the current statute of limitations makes it nearly impossible to sue those guilty of fraud, since most fraud remains hidden for many years. As Securities and Exchange Commission Chairman, Richard Breeden testified at our hearing last month, "An unrealistically short limitations period would in many such cases effectively immunize the perpetrators of deliberately fraudulent schemes from liability to private investors."

The Supreme Court compounded its mistake by applying its decision retroactively. In effect, Lampf changed the rules in the middle of the game for thousands of fraud victims who already had suits pending—applying a shorter statute of limitations than when they brought their suits.

The Supreme Court's decision in Lampf, June 20, 1991, in effect frees Michael Milken and scores of other felons and defendants of responsibility to pay back the people they have swindled. It would be a monstrous injustice that the icons of creed in effect escape responsibility by reason of a Supreme Court decision that is given a retroactive application. All we seek is to give the victims a fair day in court.

The Court's decision could adversely impact the government's efforts to recover losses in court from S&L executives who have stolen from their institutions. The fewer cases the Federal Deposit Insurance Corporation and Resolution Trust Corporation can bring, the higher the S&L bailout costs will be on the taxpayers.

Opponents of my legislation tried to make this a referendum on frivolous lawsuits. This was a red-herring. Financial fraud cases are complex, protracted, aggressively defended and risky. It is almost invariably years before a trial is even scheduled. If the defendant wins, the plaintiff's attorney usually receives no compensation. Therefore, there are very substantial incentives already built in not to engage in frivolous or even marginal litigation.

With time running out for this session of Congress, we were forced to compromise with opponents of S. 1533 in order to take care of the most egregious part of the Lampf decision. We dropped portions of our legislation that would have extended the statute of limitations for cases filed after June 20, 1991. At this time, we are only addressing the most immediate problem—the unfair application of the Supreme Court's Lampf decision to cases that were pending at the time that the decision came down.

Many courts across the country are applying Lampf to cases that were timely when filed, but are now said to be untimely. With respect to those cases, it is our intent to go back to the state of law as it existed before Lampf. It is my understanding that most Federal courts "borrowed" statutes of limitations, including principles of equitable tolling, from State law. With respect to cases filed in courts that adopted this "borrowing" practice, the borrowing approach would continue to apply.

A few Federal courts had begun to adopt a federalized statute of limitations. The law in those circuits would be the law as it existed on June 19, 1991, including "principles of retroactivity." A number of courts had switched from a "borrowing" approach to a federalized and shortened statute of limitations, but had declined to apply the uniform federalized approach retroactively because of the obvious unfairness of doing so. In those circuits that had declined to apply the shortened statute retroactively, the courts would continue to be obliged to decline to apply the new rule. That is the meaning of the phrase "including principle of retroactivity."

In effect, this provision in S. 543 overrules the retroactive effect of Lampf and applies the law as it would have been applied in particular circuits the day before the Lampf decision was decided. That would of course include interpretative principles such as retroactivity and equitable tolling.

In a sense this is a moment both bitter and sweet. I am disappointed that we could not reach an agreement on the statute of limitations prospectively. I continue to believe that a longer statute of limitations is necessary and appropriate. On the other hand, I think we are correcting some of the most serious adverse affects the Lampf decision has wreaked upon pending cases.

I request that two recent articles about this issue be included in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 19, 1991]

STOP THE CLOCK ON SWINDLERS

(By Barbara Roper)

WASHINGTON.—The Supreme Court has come to the rescue of Michael Milken and others accused of stock fraud. Unless the Senate includes strong anti-fraud measures in its banking bill this week and they are ultimately approved, people like Mr. Milken will be free from responsibility for repaying the hundreds of thousands of people who lost billions of dollars in stock scams.

The Court's ruling on June 20 in the case of Lampf, Pleva v. Gilbertson was met with glee by financial swindlers and dismay by law enforcement officials. The Court ruled that anyone seeking to recover losses because of securities fraud must sue within three years of the time the fraud occurred and within one year of finding out about the offense.

The decision was made retroactive, telling victims who have suits pending that the statute of limitations is now shorter than when they brought their suits.

Some members of Congress are working to remedy the situation. Senator Richard

Bryan, Democrat of Nevada, has added a provision to the banking bill now being put together that would reverse the Lampf ruling. He has proposed limits of two years after the discovery of fraud and five years after fraud occurred in which to file suits. Although such legislation was not included in the House banking measure, and independent bill that would similarly aid fraud victims has been introduced by Edward Markey, Democrat of Massachusetts.

The Lampf decision will frequently make it impossible to sue people who are guilty of investment fraud, because fraud is usually not discovered until years after it takes place. In testifying against the Court's decision at a Senate hearing last month, the Securities and Exchange Commission chairman, Richard C. Breeden, said "An unrealistically short limitations period would in many cases effectively immunize the perpetrators of deliberately fraudulent schemes from liability to private investors."

The retroactive power of the Lampf ruling is a bonanza for corporate predators facing massive liability suits. Michael Milken and the Executive Life Insurance Company's chief executive, Fred Carr, and other defendants filed legal motions in Federal district court last month to have eight bondholder suits dismissed because of Lampf's new statute of limitations. Mr. Milken is serving a 10-year sentence for Federal securities violations, but his victims are pursuing civil lawsuits to gain reimbursement from his schemes.

The general counsel of the Federal Deposit Insurance Corporation, Alfred J.T. Byrne, said the Court's decision could undermine the F.D.I.C.'s cases aimed at recovering losses from savings and loan executives who bilked their institutions. The result: U.S. taxpayers will pay an even larger share of the S. & L. bailout costs, now estimated at about $250 billion.

This month, Charles Keating of Lincoln Savings and Loan and his accountants followed Mr. Milken's lead. They are trying to free themselves from legal responsibility to reimburse the thousands of people, many of them elderly, who bought worthless bonds at the California thrift.

The major securities houses and accounting firms have a team of high-priced Washington lobbyists (headed by Ivan Boesky's former defense lawyer, Harvey L. Pitt) to stop the legislation against Lampf. These lobbyists are solemnly telling lawmakers of their concern for the legal process and the need to stop frivolous lawsuits. But it takes little insight to figure that their intent is to avoid paying damages to people who have lost their life savings.

Congress can show some courage by ignoring the mouthpieces of wrongdoers and undoing the Lampf ruling as soon as possible.

[From the Wall Street Journal]

Many Securities-Fraud Suits Are Likely To Go Unheard After High Court Ruling

(By Kevin G. Salwen)

WASHINGTON.—Billions of dollars of lawsuits against Michael Milken, Charles Keating, Fred Carr and other figures in financial scandals of the 1980s have been or are likely to be dismissed as a result of a Supreme Court ruling handed down in June.

The 5-4 high court decision imposed federal time limits on securities-fraud suits filed by shareholders. Such suits previously were subject to state-law time constraints. The court decision also set the limits retroactively, giving lower courts a mandate to dismiss pending lawsuits.

In the past five months, according to a study by the House Telecommunications and Finance Subcommittee, suits totaling $652 million have been thrown out as a result of the court's ruling. Motions to dismiss an additional $4.55 billion of suits are pending, and motions to dismiss a further $1.21 billion of suits are expected, according to the survey. Subcommittee staffers said the survey is incomplete and could ultimately show higher numbers.

Legislators are fuming over the ruling's effect. "In its ill-considered decision, the Supreme Court signed over a multibillion check to Michael Milken, Charles Keating and a coalition of special interests which have produced the financial wreckage of the 1980s," said Rep. Edward Markey (D., Mass.), chairman of the subcommittee.

"I think it would be a monstrous injustice that the icons of greed in effect escape responsibility by reason of a Supreme Court decision that's given retroactive application," said Sen. Richard Bryan (D., Nev.), sponsor of a Senate bill that would reinstate the cases. "All that is sought is to give these people a fair day in court."

The June ruling said suits must be filed within one year of the time the fraud is discovered and three years of the actual fraud. Senate and House members are scrambling to push through bills that would lengthen the period to two or three years after discovery and five years from the actual fraud.

But the bills face significant opposition from large corporations, accounting firms and the securities industry. The opponents argue that the court's ruling provided needed relief from uncertainty over possible litigation.

The Bush administration, including Treasury Secretary Nicholas Brady, has agreed to support the pending legislation, but only if it includes provisions to block what the administration considers frivolous suits. That stipulation probably is a deal-breaker, as supporters of the legislation contend that the frivolous-suit language would prevent legitimate actions against some cases of fraud by companies and individuals.

The Securities and Exchange Commission and other regulators are backing the bills. They contend that the new time limits won't give investors enough time to bring fraud cases, as it often takes the SEC more than three years to uncover fraud. The legislation would restore properly filed suits that have been dismissed, sponsors and plaintiffs' lawyers say.

Among cases that have been dismissed or have dismissal motions pending, possibly the biggest is one originally filed against now-defunct Wall Street house Drexel Burnham Lambert Inc. and the firm's former junk-bond king Mr. Milken, as well as Mr. Carr and most major firms on Wall Street. The plaintiffs bought Executive Life Insurance bonds that lost value when the large California insurer, which was headed by Mr. Carr, failed. The plaintiffs say they were defrauded because they weren't told that their money was going into junk bonds.

In addition to Messrs. Milken and Carr, defendants filing dismissal motions are securities firms that sold the $1.85 billion of Executive Life securities. They include Merrill Lynch & Co., Salomon Inc.'s Salomon Brothers, First Boston Corp. and Mr. Brady's former firm, Dillon, Read & Co. Another of the defendants, Morgan Stanley Group Inc., is scheduled to testify before Mr. Markey's subcommittee this morning.

Lawyers also have filed for dismissals of suits against Mr. Milken and Thomas Spiegel, the former head of Columbia Savings & Loan Association, which has been taken over by the Resolution Trust Corp. Because the government is bailing out the thrift, it would stand to share in any compensation paid in the suits. "The court decision has threatened the recovery of millions of taxpayer dollars in S&L and bank failures that are attributable to securities fraud," Mr. Markey said.

Another motion is pending in a case involving Mr. Keating's American Continental Corp. Some 23,000 plaintiffs contend they were defrauded of $300 million to $400 million when they bought Lincoln Savings & Loan Association junk bonds in the thrift's branches, thinking they were federally guaranteed. Those securities collapsed when the thrift became insolvent.

Lawyers who back the Supreme Court action shrug off the criticism as sour grapes from plaintiffs' attorneys seeking big awards. "The court isn't deciding what the law shall be; that's the legislature's job," said Theodore Olson, who argued the high court case on behalf of the law firm that won it. "I certainly don't have any misgivings about this."

But that's not the view of Washington lawyer Stephen Silbiger. He represented some plaintiffs in a group that lost a $130 million judgment when an appeals court reversed the jury award in light of the Supreme Court ruling. The case, which had been tied up in the courts for 18 years, stemmed from what Mr. Silbiger calls a "Ponzi scheme" in which Home-Stake Oil & Gas Co. allegedly bilked investors from 1958 to 1973. The award now won't stand because it was filed more than one year after the discovery of the fraud.

"I think everybody agrees that this is outrageous—except for the people who would have to pay," he said.

Mr. ROTH. Mr. President, I rise to address certain provisions of S. 543, the bill to recapitalize the bank insurance fund, which are of particular interest to me. The dual banking system is of critical importance to the continued vitality of the banking industry. The term—the dual banking system—is nothing more than the banking industry's description of the doctrine of federalism in operation in the area of banking. The genius of federalism is that individual States can serve as the laboratory for innovation without the risk of a national experiment.

Delaware has taken the lead, in recent times, in authorizing its banks to sell and underwrite insurance products. Actually, Delaware's effort is not unprecedented. About a half dozen States allow their banks to underwrite insurance and nearly half of the States allow their banks in some way to sell insurance. And some of these authorizations go back beyond the memory of anyone here.

What is unusual about the Delaware initiative is its timing. The insurance industry is changing. Computers have given the industry control of large data bases critical both to underwriting and to selling. For the first time large banks will be able to compete and to make a difference.

The conference report before us is absolutely silent on the issue of the sale of insurance by banks. Therefore, there are no Federal restrictions being placed on State authorizations for the sale of any insurance products by banks or their subsidiaries. This stands in sharp contrast to the provisions reported by the Senate Banking Committee and, in some respect, to the compromise adopted on the Senate floor. This total silence is intended to leave the States totally free of Federal restrictions regarding insurance sales.

Regarding insurance underwriting, one must look to the conferees' revision of section 303 of the House amendment. Originally, section 303 included a general prohibition on insurance underwriting by State banks and their subsidiaries. Last night, the House accepted the Senate offer to grandfather the existing activities of State banks and their subsidiaries, thereby providing an important exception to the general prohibition.

The grandfather exception resembles the provision the Senate adopted on November 21, 1991. But there are two differences worth noting. First, the Senate grandfather clause was amended by Representative FRANK to require that the insured State bank, which may be underwriting insurance either in the bank or through a subsidiary, must be well capitalized to continue doing so. All the banks in Delaware currently underwriting insurance, as far as I know, meet this requirement.

The other difference is what is left out. The Senate language adopted on November 21, 1991, also contained a transition rule, giving banks underwriting insurance 1 year to terminate that activity if not protected by the grandfather clause. The transition rule was adopted in the Senate Banking Committee because the grandfather clause was written in a way specifically to exclude Delaware from its benefits. Thus, the transition rule basically meant that Delaware banks had 1 year to stop underwriting.

The action taken on the Senate floor had the effect of voiding the discrimination against Delaware and allowed Delaware banks the very same grandfather rights enjoyed by banks in other States which authorize their banks to underwrite insurance. Since all existing underwriting by banks was therefore grandfathered by the Senate action, the Senate offer to the House in conference did not include a transition rule.

The subsequent adoption of the Frank amendment, it might be thought, created a new reason for a transition rule; but it was not known at the time if the Frank amendment disqualified any institution, and still is not known. As a practical matter, the Frank amendment was offered and agreed to immediately before conference agreement on the issue with no discussion of its consequences.

So we go back to the point that the transition rule was omitted from the Senate offer because it was unnecessary. And it was unnecessary because current activities were grandfathered.

Had the grandfather clause protected only some current activities but not all, a transition rule would be necessary. But the grandfather clause does not appear to impose any limits on current activities. It does definitely limit future activities—but not current activities. The provision clearly protects current activities in any State. It is not confined to Delaware's boundaries or the boundaries of any other State.

Apparently, the grandfather clause, which was drafted originally to exclude Delaware, did not and does not limit its protection to the home State, so to speak, but rather covers any State in which the bank was providing insurance it underwrites. Thus, when Delaware was included within the grandfather clause, its banks obtained the same rights as others. Those rights are described as the "continuation of existing activities" in the head note preceding the text in the Senate bill.

That text states that underwriting activities that were ongoing as of November 21, 1991, may continue in the future in those States where the underwritten products are being provided. The limits are designed to insure that the grandfather clause does not provide a basis for expanded underwriting activity. Those limits are reasonable and fair.

Therefore, the conference agreement preserves the rights of State banks authorized to underwrite insurance to continue to underwrite the same type of insurance in any State in which they provided such insurance as of November 21, 1991.

Congress has acted wisely. By allowing Delaware to continue its effort to show how banks can become more competitive and more profitable, we will all be able to watch and learn from Delaware's leadership. There has never been a single bank failure in Delaware that has cost the FDIC a single penny. It is time that others learn to copy our example rather than seek to restrict our success.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator asks for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

RESOLUTION TRUST CORPORATION REFINANCING ACT OF 1991

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 3435, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, and so forth.

The PRESIDING OFFICER. Who yields time? There are 15 minutes equally divided. The Senator from Utah is recognized.

Mr. GARN. Mr. President, it was my understanding that we were—I thought we were proceeding to a vote, and then 15 minutes and a vote on the RTC.

The PRESIDING OFFICER. Under the previous order, we were to proceed to H.R. 3435.

Mr. GARN. Very well. I misunderstood the unanimous-consent agreement.

The PRESIDING OFFICER. Will the Senator be willing to yield back time?

Mr. GARN. Mr. President, not yet. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Utah.

SECTION 1133

Mr. METZENBAUM. Mr. President, with regard to the conference report on S. 543, the banking legislation that is before the Senate today, I want to ask a few questions to Senator GARN, the ranking minority member of the Senate Banking Committee. I understand that section 1133 of the Senate banking bill dealing with the transfer of certain obligations of the failed institutions sold by the RTC is included in the conference report on S. 543. Am I correct about this?

Mr. GARN. The distinguished Senator from Ohio is correct that section 1133 was adopted as part of the conference agreement on the banking bill. This provision is intended to help the RTC dispose of its assets in order to be able to sell such assets at the best possible price, the RTC must not only be able to transfer them without obtaining any third-party consents, as FIRREA already provides, but it must also be able to provide assurance to purchasers that the assets will have value in the purchasers' hands. It is this concern that section 1133 addresses.

Mr. METZENBAUM. It is also my understanding, based on my conversation with the distinguished Senator from Utah last week on the floor of the Senate, that this provision does not prejudice antitrust claims that are in dispute in any litigation currently pending in Federal court. Is my understanding with the Senator on this point correct?

Mr. GARN. Yes, Mr. President, the Senator is correct that I stated to him last week that this legislation addresses only the ability of a services provider to refuse to honor servicing rights purchased from the Resolution Trust Corporation. It would not affect any legal claims or any Federal antitrust litigation.

Mr. President, may I just continue to say that while I am not happy with the House-passed bill, because it only has $25 billion in it, may I remind my colleagues that this money has already been charged. It is very much as if we said you run up your credit card and now you are going to refuse to pay the bill. As regrettable as it is, we must provide this money to the RTC or we will simply dramatically run up the costs of the S&L bailout. So I hope no one would play games with this, run home and say "I voted against that." I would love to run against somebody who increased the costs by playing games with this. As difficult as it is, it must be done, and we cannot repeat the mistakes of 1986, and cause the dramatic increase in the cost of the RTC and the S&L bailout.

Mr. President, I reserve the remainder of my time.

Mr. DOMENICI. Will the Senator yield some time to the Senator from New Mexico?

Mr. GARN. I am happy to yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. Will the Senator yield 3 minutes?

Mr. GARN. I will be happy to yield 3 minutes.

Mr. DOMENICI. Let me first say, at the request of the leadership, I will not object. But, frankly, I have some serious reservations about the new structure of the RTC. I have some serious reservations about the affordable housing provisions unless it was made subject to appropriations. It may have been. I do not know. I still do not have the bill to look at. It would be a very serious departure from past practices if these affordable housing provisions were not subject to appropriations.

In addition, one of the most severe problems we are having in real estate market is that many of these federally chartered institutions are causing real estate to be dumped on the market where it could be held. If you can hold it for a reasonable period of time you have a chance of bringing the market back up instead of flooding it more.

I would have offered an amendment that I am sure the Senate would have adopted giving more flexibility to the OTS and RTC and others in regulatory positions so that S&L's would be allowed to restructure their real estate portfolios and would not have to sell real estate that they are holding. Thrifts are faced with a statutory deadline to divest of real estate subsidiaries by 1994. Under the amendment the regulators could allow thrifts to hold on to real estate development portfolios under regulation for a longer period of time without matching dollar for dollar capital against these investments. This would allow thrifts to continue their business and have more capital to lend. This would mean more credit for mortgage loans thereby easing the credit crunch, increasing the availability of credit for affordable housing, and a stimulating the economy.

We are not going to be able to do this. We do not have any other vehicle to amend the regulatory authority. But we will try as soon as possible.

With that in mind, I am going to send the amendment to the desk, showing what we would have offered had we had the time and had this amendment been in order. I am going to send it up for those purposes.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place in the bill insert the following:

SEC. . CREDIT AVAILABILITY.

Section 5(t)(5) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)) is amended by adding at the end the following new subparagraph:

"(F) EXCEPTIONS GRANTED BY DIRECTOR.—

"(i) IN GENERAL.—The Director may grant such limited and temporary exceptions from subparagraphs (A) and (D) as the Director deems necessary and appropriate, if the Director determines that—

"(I) extraordinary circumstances exist or that economic conditions at the national, regional, or local level are such that an insufficient opportunity exists for the association to divest a subsidiary engaged in activities not permissible for a national bank or any investment in or extension of credit to such subsidiary; and

"(II) the conditions set forth in paragraph (7)(C)(i) of this subsection are satisfied.

"(ii) LIMITATION.—An exception under this subparagraph applies only to the amount of the savings association's investments in or extensions or credit to a subsidiary as of April 12, 1989, and the amounts that have been or will be expended to complete projects or investments that were initiated by such subsidiary prior to the date of enactment of this subparagraph. In granting an exception pursuant to this subparagraph, the Director shall require the same percentage deduction from capital for amounts invested and credit extended as of April 12, 1989, and for amounts invested and credit extended thereafter.

"(iii) DURATION.—No exception under this subparagraph shall be effective after July 1, 1999.

"(iv) AMOUNT.—No exception shall reduce the percentage deduction from capital to a percentage less than that required as of the date of enactment of this subsection for investments and extensions of credit made prior to April 12, 1989.".

Mr. GARN. Mr. President, I yield 1 minute to the Senator from New York and thank the Senator from New Mexico for his cooperation.

Mr. D'AMATO. Mr. President, let me suggest that the Senator from New Mexico has hit upon an area that we must act on to save taxpayers billions of dollars—billions. As a matter of fact, because of the inflexibility that exists presently, we are forcing institutions that otherwise could make it, that could be profitable, we are going to continue to force them needlessly to become children of the RTC and the taxpayers of America. It does not make sense.

For the first time we have a regulator who says, yes, I could use additional flexibility—Mr. Taylor at the FTC. My gosh, let us wake up.

I hope that we enact this legislation as a priority when we come back. We need it to save the taxpayers some money and also prop up the real estate market instead of forcing divestiture.

I commend the Senator from New Mexico.

The PRESIDING OFFICER. Who yields time? The Senator from Utah has 3 minutes and 12 seconds.

Mr. GARN. I reserve the remainder of my time.

Mr. RIEGLE. Mr. President, this again is a piece of legislation that has to be enacted. This is to provide funds to liquidate failed institutions, and to make good on the deposit insurance guarantees of individuals who put their savings in federally insured institutions.

The bill is a compromise bill in the sense that it provides only partial funding, carrying over into the early part of next year. It does importantly revise the managerial structure at the RTC. There have been a lot of problems there, as the repossessed assets from failed S&L's come into that organization.

They have been very slow and sluggish in many respects, in being able to turn those assets around and sell them off efficiently to get full value. They have made some progress, and things have improved to some degree. But part of the problem has been established in our committee record in hearings that a major failure of the engineering design of the managerial structure itself has been in part responsible.

We saw that coming in the beginning, and tried to change it at the outset. The administration resisted those ideas. So we now make those changes here in this legislation.

So I can say to my colleagues that we think this will provide a more efficient decisionmaking process with respect to the RTC.

It is still a difficult job. They still have a lot of work to do. But this is essential legislation. It must be passed today. I urge my colleagues to support it.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, might I have 30 seconds?

Mr. RIEGLE. I yield 1 minute to the Senator.

Mr. CONRAD. Mr. President, I was one of only eight Senators to vote against final passage of the original Senate version of the Financial Institutions Reform, Recovery and Enforcement Act [FIRREA] in 1989, and I spoke out against the passage of the conference report when it was rammed through this floor by voice vote in August 1989.

That original act provided long-term financing of $50 billion for the RTC. But that was not enough.

The Administration was back for more money at the beginning of this year. The Resolution Trust Corporation Funding Act of 1991 provided another $30 billion of taxpayer assistance to the bailout effort.

And again, that wasn't enough. Now the Administration is back again, this time for another $80 billion.

For the reasons I will make clear in this statement, I will cast a "no" vote on this request for additional funding for the Resolution Trust Corporation.

COST OF CLEANING UP THE S&L MESS

This latest appropriation puts the cost to the taxpayer at $160 billion for the S&L's that have failed since August 1989. Keep in mind, as huge as this figure is, it does not include the funding for the behind-the-scenes bailout deals made in 1988—those cost over $65 billion. Nor does it include any of the funding for the banks that are going under—that funding is contained in the Banking bill that is being passed separately for another $70 billion. Nor does it include funding for any of the 100's of S&L's expected to go under after August 1992, when the RTC is supposed to be out of the takeover business.

From start to finish, this has been a debacle of the worst order.

There is no question that we have to make good on the insured deposits of depositors. I believe that, and so does every other member of this body.

However, it is only now becoming apparent how widespread the criminal activity was among the operators of the now defunct S&L's. The General Accounting Office recently reported that criminal activity played a role in the failure of 58 percent of the S&L's taken over as of June 30 of this year. Talk about being asleep at the switch. Had this Administration no idea what was going on in this Nation's financial institutions?

But I did not come here today to review the past.

Instead, I am here to warn that the free and loose attitude that led to the mess still exists and is making the mess worse.

Last week, I came to this floor to report on never-released-before audit reports of the FDIC's contracts with law firms. Those reports revealed a disturbing pattern of double charges, padded billings, and other rip-offs by attorneys hired by the Government to help clean up the S&L mess.

However, additional reports have surfaced in other areas that suggest an unending trail of mismanagement and abuse throughout the bailout system.

Not all employees of the RTC are bad—most are hardworking and honest. But there are some bad things going on. I will say, here, that I am grateful to Senator RIEGLE and his staff for working to include an extension of whistleblower protection to employees of the RTC and other banking agencies and to the employees of conservatorships, receiverships, and its contractors in the conference report on the banking bill. I was prepared today to offer an amendment to this bill to make the whistleblower protection retroactive, but in working with Sen. RIEGLE'S staff we were able to have that provision added last night in conference.

GAO AUDIT OF RTC'S FINANCIAL STATEMENTS REVEALS MISMANAGEMENT

From the very beginning, the General Accounting Office has been critical of the bailout effort and has called for tighter controls in RTC's operations.

Let me read a few statements from the General Accounting Office's most recent audit of the RTC's books. This review of RTC's 1990 financial statements was released just 4 weeks ago. I must say I have never read as harsh a financial statement audit as this. These are direct quotes from the audit report:

> Our work indicates that the Corporation's estimated recoveries from receivership assets could be overstated due to the lack of strong internal controls over receivership operations, flaws in the Corporation's methodology for determining the recovery value of receivership assets, and significant uncertainties related to the performance of the economy in general and real estate markets in particular.
>
> Based on our limited control testing performed in early 1991, we found that receiverships lacked strong controls during 1990 in many key areas related to cash receipts, disbursements, and beginning balances. As a result, we cannot be reasonably sure that the amounts the receivershisp reported are accurate or that receiverships have collected all that they should.
>
> The appropriateness of the Corporation's accounting for transactions related to the purchase of assets and assumption of liabilities at resolution is questionable * * *. We question the Corporation's current policy of offsetting the escrowed fund balances against a portion of the receivables due from receiverships for depositor liabilities paid. This treatment reduced the Corporation's assets and liabilities by $32 billion on its December 31, 1990, balance sheet.
>
> The Corporation could be overstating the amount it will recover from its receiverships because it did not have strong internal controls over receivership operations in 1990. Without internal controls over receivership systems, receiverships might not recover all that they should due to fraud, mismanagement, or theft of assets.
>
> * * * offices did not adequately separate key duties for handling receipts.
>
> * * * officers lacked adequate controls to ensure that duplicate payments were not made to vendors, servicers, or other recipients of funds from receiverships.
>
> * * * offices lacked documentation to support receiverships' beginning financial statement account balances. As a result, some receiverships' opening account balances for assets and/or liabilities could not be verified. For example, for 3 of the 17 account balances we tested for a receivership in one consolidated office, receivership personnel could not locate any information.
>
> The methodology used by the Corporation to determine the recovery value of individual receivership assets at December 31, 1990, was not statistically valid * * *. Our review of the 1990 methodology indicated weaknesses that could have resulted in material differences to expected recoveries from receivership asset sales.

This audit report really says it all. To me, it says that the agency that was created to clean up the mess is a part of the mess.

RTC EMPLOYEES REPRIMANDED FOR CRITICISM OF BULK SALE

During the past 2 months, disturbing news reports have surfaced which suggest irregularities in at least one of the RTC's so-called bulk sales, Significant questions have surfaced regarding the RTC's recent deal with Patriot American Investors—a partnership of 2 Canadian and 2 American investors.

News organizations have reported in recent weeks that at least 3 RTC employees have been reprimanded because the employees expressed concerns that the Government would lose taxpayer money on the deal with Patriot.

The controversies within RTC began late this summer when RTC officials in Washington approved 3 bulk sales deals: one with Patriot, one with General Electric Capital Corp., and one with Tishman Portfolio Partners. While concerns have been raised about all three deals, most of the complaints have been about the deal with Patriot.

And a sweet deal it is.

For starters, Patriot was allowed to go around the country and pick and choose the properties it wanted on a noncompetitive basis.

It did not matter if local officials already had contracted to sell the properties to other buyers, Washington is going to let Patriot have the buildings.

Patriot is going to get an office building in Houston for $5 million even though a cash contract had been signed with another buyer that was willing to pay $8.5 million.

Patriot is going to get the Bourbon Orleans hotel in New Orleans for $3 million less than the $11.1 million offered by another buyer.

And in San Antonio, Patriot is going to get the Bexar Savings building even though the city employee's pension fund had made a better offer of $9.85 million.

And in Dallas, Patriot is going to get an apartment complex that a local firm was working to buy for $10.5 million.

In total, Patriot is getting a package of projects worth nearly half-a-billion dollars at fire sale prices. They did not have to compete. They did not have to bid. All they had to do was go around the country and pick them out. It didn't matter that the properties were already under contract to other buyers.

But sadly, when RTC workers complained about the handling of these deals the employees got reprimands.

The New York Times reported on October 7 that two regional employees wrote a memo to Washington that said "The Government stood to lose tens of millions of dollars if it sold the properties under the Patriot agreement."

The article went on, "Senior agency officials in Washington have acknowledged that they purged the memo in which the complaint was made and punished the officials who wrote it." The Times said the RTC officials, "acknowledged in interviews that the Patriot deal had involved delays, misstatements and suppression of internal criticism. But they called these matters insignificant."

The RTC management really got this one backward.

The ones that should be reprimanded are the ones that let this deal go through. Not only was Patriot allowed to go around the country and pluck prime properties already under contract at higher prices to other buyers. Patriot also got risk free, interest free financing for its purchases. No interest for the first 7 years, and if the property loses money, Patriot can give it back to the government at no loss to themselves.

Who put this sweetheart deal together?

Patriot's Washington dealmaker is Richard Hohlt, a lobbyist and fundraiser that the President appointed to the board of the Student Loan Market Association last year. The New York Times reported in early October, "L. William Seidman, the chairman of the Resolution Trust Corporation, described Mr. Hohlt as a good friend who has been trying to hire him after he retires later this month."

Sales commissions ranging from $5 to $10 million on the package will go to the brokerage firm with ties to Frank Carlucci and Fred Malek. Both are close to the administration.

Against power like that, the concerns expressed by the employees about this deal are simply being snuffed out.

In fact, it was reported on November 13 that a third employee now faces disciplinary action or termination for his part in attempting to keep the Bourbon Orleans property out of the package going to Patriot.

Because of these reported reprisals, I have felt very strongly that whistleblower protections be applied retroactively.

NEW INVESTIGATIVE REPORTS REVEAL OTHER ABUSES

Let me turn to other recent reports that raise new concerns with RTC's operations.

The inspector general of the RTC has been given the responsibility by Congress to investigate specific contracts and expenditures for waste, fraud and abuse. The Office is completing its first investigations.

I have sought and received individual audit reports done by the inspector general and summaries of investigative activity. Generally, the cases that I have reviewed and am about to to discuss have not been released to the press.

Keep in mind that the cases I am about to discuss do not involve actions that led to the S&L failures. Instead, they involve the operations of the RTC itself or involves firms that the RTC has hired at taxpayer expense to help clean up the S&L mess.

The bailout effort has fostered get rich quick schemes at the taxpayer's expense.

A real estate firm that was hired by the RTC found a buyer willing to pay $800,000 for an RTC property. However, the firm figured it could make more money by selling the property for $560,000 to a third party investor. It worked this way: The investor turned around and sold the property to the original buyer at the original $800,000 price. Out of the difference, the investor paid a $50,000 "finders fee" to the real estate firm. The contractor came out fine, but the government lost $240,000.

A $12,000/month computer database contract for maintaining lists of RTC contractors was expanded to $450,000 per month without competitive bidding and without any documentation or justification as required by FIRREA and stated in RTC policies.

LACK OF OVERSIGHT RESULTS IN IRREGULARITIES IN CONSERVATORSHIP

In a major audit of the managing agent hired by the RTC to serve as the conservator of the failed TaylorBanc S&L in Texas, investigators found the following irregularities (Note—the quotations are taken directly from an inspector general's report dated August 19, 1991):

> High risk loan programs were aggressively expanded without proper controls over accounting lending practices, or documentation, "resulting in questionable loans and undetermined losses."
>
> A $30 million loan portfolio was split into 13 separate loan portfolios in order to fall within the $2.5 million reporting threshold. The bidding process also appeared to involve irregularities. The loans were sold to one purchaser, Bluebonnet Savings Bank.
>
> A property sale appeared to involve insider dealing and a special financing deal. "TaylorBanc foreclosed on and sold a commercial property based on inadequate appraisals and poorly documented case files." * * * "Also, the file documentation indicates that the purchaser may have had prior knowledge of RTC's acceptance price." "This sequence of events implies that the sale may not have been an arms-length transaction."

The inspector general found the RTC's oversight of the TaylorBanc agent to be at fault:

> RTC's oversight of TaylorBanc was not effective in assuring that the managing agent's actions were consistent with conservatorship objectives. As a result, RTC has incurred additional expenses, liabilities, and risk."
>
> We found no evidence that RTC oversight personnel questioned the management or expansion of the loan programs through the review of the operating plan or RTC's site visitation * * *
>
> Oversight was minimal * * * However, with the degree of autonomy that RTC management provides its managing agents, strong and effective oversight is RTC's only defense to prevent irregularities and poor management by its agents. * * * Overall, we found that RTC's oversight of the TaylorBanc conservatorship was cursory and insufficient to ensure that its fiduciary responsibilites were met and its employees were operating consistent with RTC's mission.

RTC OFFICE MANIPULATES BIDDING PROCESS

In an audit completed just last week, on November 18, significant irregularities were identified in the bidding process for asset management contracts operated by RTC's Northeast Consolidated Office [NECO] outside of Philadelphia. This is the first audit of any of RTC's asset management contracting operations. The details of this audit have not previously been released to the press.

This RTC office is 1 of 8 offices around the country that hands out the contracts for asset management. As of July 1, these offices had awarded 130 contracts for the management of $24 billion of assets.

In the audit of the Northeast office, the handling of six such contracts was reviewed by the Inspector General. The fees awarded range from $780,000 in the smallest contract to $12.2 million for the largest contract. In the audit, the Inspector General has found:

> "In brief, NECO did not follow or effectively apply RTC contracting policy in soliciting and evaluating firms for Standard Asset Management and Disposition Agreements [SAMDA's]. Specifically, we noted problems in the development of the Solicitation of Services [SOS], selection of firms for solicitation, overall assessment of firms' technical capabilities, actual scoring of technical proposals, and the internal controls over the solicitation and evaluation processes.
>
> "The most significant of these weaknesses related to (1) not allowing all eligible firms to submit bids, (2) not considering cost as a factor in awarding contracts, and (3) not awarding bonus points to a minority and women-owned business firm, thereby inappropriately excluding the firm from consideration * * * these weaknesses affected the actual selection and competitiveness of contract awards. Taken as a whole, they raise doubts as to the fairness of NECO's solicitation, evaluation, and award processes."
>
> The office reduced competition on two bids when the office simply photocopied a company list from a previous bid and used that list for the other two solicitations. Nine firms were excluded from consideration this way on the other two solicitations.
>
> Incoming bids were improperly documented thus making the settlement of any disputes difficult. For example, bid proposals did not get date stamped, or held and date stamped after the proposal deadline date.
>
> "The NECO contracts group significantly modified the standard solicitation of services. * * * These modifications ultimately affected the outcome of one contract award and created the appearance of favoritism in the selection of the contract awardee." The loser—the company that offered the lowest bid—was a minority-owned firm. The 3-year contract was awarded for $7.85 million.

ADMINISTRATION ENGAGED IN PUBLIC RELATIONS EFFORT TO IMPROVE IMAGE OF RTC

Recently, the administration has embarked on a public relations mission to put a good face on the problems of the bailout effort.

The new CEO of the Resolution Trust Corporation, Albert Casey, had an op-ed in the New York Times on Friday. Casey said:

> We're performing our mission ahead of schedule, selling or closing thrifts efficiently, selling undesirable assets despite a sluggish economy, establishing sound record-keeping and recovering taxpayers' dollars promptly * * *. In short, the Resolution Trust Corporation has an outstanding record and should be given the money it needs to complete its job.

And Monday, Peter Monroe, the president of the RTC Oversight Board, said in a column in the Washington Post:

> While no one wants the responsibility of cleaning up the S&L's, Congress must realize that if resolutions are put on hold, there will be no one to blame but Congress itself for increased taxpayer costs and the denial of protection for individual depositors.

I have news for Mr. Monroe. Congress isn't to blame. Congress doesn't like voting for this because it is a mess created by the free and loose attitude of this administration. The regulatory oversight of the institutions was free and loose—58 percent of the failures have involved criminal activity.

Now, the administration's handling of the bailout effort is free and loose.

As far as I know, I am the only Member of Congress to have reviewed the recent audit reports by the Inspector General. But I can tell Mr. Casey and Mr. Monroe, that a Member of Congress doesn't have to read those reports to come to the same conclusion. All they have to do is read their mail or read their newspapers.

NO RESPONSE ON VALLEY CITY BANK BUILDING

We have all heard countless stories about the mismanagement of the RTC—how someone makes an offer on an RTC property, the RTC turns it down, only to sell it a few days or weeks later for substantially less than that original offer.

I am from a State where people watch their money very carefully. We've had severe economic problems, especially in our agriculture and energy sectors. We've had just three institutions fail.

But even in North Dakota I have witnesses some classic mistakes in operation by the RTC. Let me read from a letter I received from the president of a small, local bank in Valley City, ND, on June 21 of this year:

> You will note by the copies of the enclosed letters that the Farmers and Merchants Bank of Valley City has attempted to express an interest in the former Midwest Federal Savings building here in Valley City, ND. The fact that we have received no responses from any of these communciations or telephone calls has been very frustrating to myself and the Board of Director's of the bank. We frankly have outgrown our present facilities and had hoped to negotiate with the RTC on the acquisition of the Midwest building.
>
> On June 1 we broke ground for an addition to our existing facility and the attached RTC sales proposal announcing the sales price of the building in question appeared in our local newspaper on June 6, 1991. The frustrations continue, we question whether the taxpayers are being well served by the procedures that RTC has elected to follow.

Talk about inefficiency. This firm had tried for 9 months to talk to the RTC about the purchase of the building without ever even getting a response to its inquiries. One of the inquiries was sent on their behalf by the State banking commissioner. Even he could not get a response out of the RTC.

This may seem like a small example to some, but to the local bank in Valley City that is doing its best to survive, and indeed, prosper in the face of untold challenges, it is a very real example of a system that simply does not work.

COUNTLESS NEWS STORIES RECITE EXAMPLES OF MISMANAGEMENT

We have all seen the endless headlines. There has been story after story telling of the mismanagement of the bailout by the administration.

The headlines have read:

"Thrift Agency Sends Co-Op Projects Into Default on Underlying Mortgages," Wall Street Journal, 11/15/91.

"RTC Office Art Stirs a Storm in Kansas: Regional Chief Adorns Headquarters With $26,000 in Paintings, Sculpture, Prints," Washington Post, 6/12/91.

"Thrift Cleanup Called Slipshod by GAO," Washington Post, 6/11/91.

"S&L Asset Fire Sale May Lose 40 Cents Per Dollar," Los Angeles Times, 7/14/91.

"Bad Bets: Many Big S&L Losses Turn Out to Be Due to a Financial Gamble," Wall Street Journal, 8/9/91.

"Thrift Rescue Plan In Southwest Creates New Group of Victims: Homeowners, Firms Contend Federal Aid Encourages S&L Neglect of Properties," Wall Street Journal, 7/10/91.

"Fight Brews Over RTC's Operations," Washington Post, 6/20/91.

"CBO: Failure to Close S&L's Added $60 Billion to Rescue," Washington Post, 6/20/91.

"Peat Marwick Is Subject of Probe Over Partner Loans," Wall Street Journal, 5/23/91.

"Government Checking S&L Audits: Peat Marwick Faces Probe for Favoritism," Washington Post, 5/23/91.

"Ernst & Young Faces Lawsuit From the SEC: Charges Center on Loans Received by Accountants During Audit of Bank," Wall Street Journal, 6/14/91.

"Control Faulted in New England Bank's Failure," Wall Street Journal, 6/14/91.

"Real Estate Industry Hisses at RTC Property Auction," Wall Street Journal, 9/12/90.

"RTC's Many Miscues In Selling Off Property Rattle Local Markets: Battered in S&L Mess, People in Phoenix Say Agency Is Too Slow and Bureaucratic," Wall Street Journal, 3/28/91.

"Sale of Failed Thrifts' Assets Sometimes Leaves Regulators Advised by Parties With Most to Gain," Wall Street Journal, 4/3/91.

"RTC Drops Contractor Over Lawsuit, Loan-Default Disclosure," Washington Post, 6/27/91.

"U.S. to Seek Damages From Jones Day, Alleging It Concealed Thrift's Problems," Wall Street Journal, 4/3/91.

"Regulators Review Salomon Contract: Brokerage Made $3 Million From RTC Work," Washington Post, 8/28/91.

"Minorities Shortchanged in S&L Bailout," Los Angeles Times, 7/25/91.

"Bank Bailouts Are Bonanza for Lawyers," Wall Street Journal, 11/21/91.

PROOF IS IN THE BOTTOM LINE: RTC'S POOR PERFORMANCE IS ADDING TO THE COST OF BAILOUT

There is absolutely no question that the RTC and its employees are under intense pressure.

Given the underlying responsibility of the RTC and the billions and billions of dollars involved, the risk and potential of waste, fraud and abuse is extreme. While the General Accounting Office has repeatedly warned of the need for tight controls, the free and loose attitude of the Administration has continued.

We are throwing bad money after bad money.

Mr. President, I ask unanimous consent that a table I am submitting be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type[1]	Assets at resolution	Liabilities at resolution	Resolution cost[2]
45	2/02/90	Peoples Sav. Assoc., F.A	St. Joseph	MI	P&A	73,636	83,633	5,579
46	2/02/90	Bright Banc Sav. Assoc.	Dallas	TX	P&A	2,683,036	3,685,369	1,383,879
47	2/06/90	Skokie Fed S&L Assn., FA	Skokie	IL	P&A	732,750	751,203	168,414
48	2/09/90	Community S&L Assoc.	Fond Du Lac	WI	P&A	130,456	150,837	36,744
49	2/09/90	Colorado S&L Assoc.	Englewood	CO	P&A	43,770	51,761	18,207
50	3/02/90	Centennial Fed S&L Assoc.	Greenville	TX	P&A	50,969	74,403	30,968
51	3/09/90	San Antonio Sav Assoc. FA	San Antonio	TX	P&A	2,221,110	2,642,205	891,600
52	3/16/90	Bankers S&L Assoc.	Galveston	TX	P&A	88,657	103,864	22,698
53	4/12/90	Columbia Fed. Savings Bank	Westport	CT	P&A	112,282	139,942	30,341
54	4/13/90	Meridian Savings Assoc.	Arlington	TX	IDT	114,231	498,456	417,833
55	4/20/90	First Fed. S&LA of Hutchinson	Hutchinson	KS	P&A	122,349	175,212	71,993
56	4/20/90	Baltimore Fed Financial FSA	Baltimore	MD	IDT	1,078,364	1,320,202	323,215
57	4/20/90	Bedford Savings Assoc.	Bedford	TX	P&A	88,702	119,508	59,842
58	4/27/90	First Fed. S&LA of the Florida	Key West	FL	P&A	162,097	203,076	65,662

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991—Continued

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type[1]	Assets at resolution	Liabilities at resolution	Resolution cost[2]
59	4/27/90	Libertyville Fed S&L Assn.	Libertville	IL	P&A	64,652	79,923	9,395
60	4/27/90	Financial Fed. S&L Assoc.	Joplin	MO	P&A	138,990	174,887	57,937
61	4/27/90	Mid Missouri S&L Assn. FA	Boonville	MO	IDT	29,008	47,586	15,311
62	4/27/90	Heritagebanc Sav. Assoc.	Duncanville	TX	P&A	135,320	174,411	56,385
63	4/27/90	Westco Savings Bank, FSB	Wilmington	CA	IDT	107,143	134,425	26,055
64	4/27/90	The Guardian Fed S&L Assn.	Bakersfield	CA	IDT	16,031	27,548	18,726
65	4/27/90	New Guaranty Fed S&L Assn.	Taylor	MI	P&A	174,250	187,827	25,479
66	4/27/90	First Fed. S&L Assoc.	Bakkersfield	CA	P&A	98,535	112,466	15,817
67	5/04/90	Guaranty Fed. S&L Assoc.	Birmingham	AL	P&A	269,301	322,129	86,356
68	5/04/90	Arrowhead Pacific Fed Sav Bank	San Bernardino	CA	Payoff	54,213	88,782	35,916
69	5/04/90	Peoples S&L Assn.	Parsons	KS	IDT	50,242	59,539	14,727
70	5/04/90	Mid-America Fed S&L Assoc.	Parsons	KS	IDT	65,014	71,433	9,906
71	5/04/90	The Barber County S&L Assn.	Medicine Lodge	KS	IDT	40,241	44,371	15,262
72	5/04/90	Fidelity Fed. Sav. Bank	Corinth	MS	P&A	66,168	142,102	90,733
73	5/04/90	United Guaranty Fed Sav Bank	Tullahoma	TN	IDT	6,329	8,215	2,646
74	5/04/90	First State Fed Sav Assn	San Antonio	TX	P&A	214,674	382,528	271,276
75	5/04/90	Mission SA of Texas	San Antonio	TX	Payoff	44,276	96,861	64,755
76	5/04/90	La Hacienda Savings Assn	San Antonio	TX	IDT	53,744	133,191	94,743
77	5/04/90	First Fed. Savings Bank	East Alton	IL	IDT	35,517	40,359	8,286
78	5/04/90	American Interstate Sa. Fa	Los Angeles	CA	Payoff	19,872	20,528	2,061
79	5/04/90	Sierra S&L Assoc., FA	Beverly Hills	CA	P&A	16,170	30,484	7,718
80	5/04/90	Security Fed. Savings Associat	Garden Grove	CA	IDT	60,910	64,042	2,934
81	5/08/90	Home FS & LA of Centralia	Centralia	IL	IDT	34,394	37,872	6,733
82	5/08/90	Peoples S&L Assoc. FA	Streator	IL	IDT	31,224	35,483	17,600
83	5/11/90	Washington S&L Assoc.	Stockton	CA	IDT	67,224	71,430	4,653
84	5/11/90	Royal Oak S&L Assoc.	Manteca	CA	IDT	20,370	23,145	2,751
85	5/11/90	Sun Savings Assoc., F.A.	Kansas City	KS	IDT	137,583	174,691	65,500
86	5/11/90	Topeka Sav., A FS&LA	Topeka	KS	IDT	92,503	117,089	47,439
87	5/11/90	First Fed. S&L Assoc.	Eunice	LA	IDT	11,397	15,438	7,539
88	5/11/90	Peoples FS & LA of Thibodaux	Thibodaux	LA	IDT	17,355	20,039	9,964
89	5/11/90	State Mutual Fed S&L Assn	Jackson	MS	P&A	6,270	8,793	5,866
90	5/11/90	Platte Valley Sav., A FS&LA	Gering	NE	IDT	242,864	338,757	169,145
91	5/11/90	Ameriway Savings	Houston	TX	P&A	97,232	247,850	173,444
92	5/11/90	First Equity Savings Assoc., F	Tomball	TX	P&A	66,378	140,169	79,764
93	5/11/90	Cabrillo Fed Savings Bank	San Jose	CA	P&A	40,821	43,282	2,025
94	5/11/90	Cross Roads, FS&LA, FA	Checotah	OK	IDT	11,541	20,232	11,150
95	5/15/90	Amerimac Sav. Bank, FS	Hillsboro	IL	IDT	14,234	23,130	10,358
96	5/16/90	Hallmark S&L Assoc., FA	Plano	TX	Payoff	119,854	193,300	117,046
97	5/18/90	Phenix Fed S&L Assn, F.A	Phenix City	AL	P&A	125,659	162,281	74,364
98	5/18/90	City Federal S&L Assoc	Oakland	CA	IDT	16,311	27,584	11,897
99	5/18/90	Madison County Fed S&L Assn	Granite City	IL	IDT	95,215	109,475	27,292
100	5/18/90	Shawnee Fed. S&L Assoc	Topeka	KS	P&A	201,383	210,236	18,200
101	5/18/90	Horizon Fed. S&L Assoc	Metairie	LA	Payoff	361,581	499,122	442,180
102	5/18/90	First Fed. S&LA of Southeast M	Cape Girardeau	MO	P&A	253,642	310,033	68,321
103	5/18/90	Midwest Fed. S&L Assoc	Nebraska City	NE	IDT	100,092	127,888	37,143
104	5/18/90	Community Fed S&L Assn	Newport News	VA	P&A	8,694	10,042	1,606
105	5/18/90	American Sav. of Colo. A FS&LA	Colorado Springs	CO	P&A	791,128	876,877	338,847
106	5/18/90	Germantown Trust Sav Bank	Germantown	TN	IDT	101,754	117,071	34,570
107	5/18/90	Broadview Federal Sav Bank	Cleveland	OH	P&A	1,196,358	1,246,808	187,967
108	5/18/90	Pioneer Savings, F.A	Plymouth	IN	P&A	69,247	80,596	9,264
109	5/18/90	Peoples S&L Assoc., F.A	Hampton	VA	P&A	20,275	21,850	4,092
110	5/18/90	Cornerstone Fed Sav Assn	Houston	TX	P&A	74,949	88,747	24,270
111	5/22/90	North American FSA	San Antonio	TX	Payoff	51,518	86,454	43,121
112	5/25/90	Financial Security S&L Assn	Delray Beach	FL	P&A	76,343	107,847	46,519
113	5/25/90	First Fed. S&L Assoc	Atlanta	GA	IDT	158,946	185,508	35,302
114	5/25/90	Family Saving Bank, F.S.B	Sapulpa	OK	IDT	48,380	48,832	3,053
115	5/25/90	Deseret S&L Assoc., F.A	Salt Lake City	UT	P&A	128,417	220,690	99,204
116	5/25/90	Durand Fed. S&L Assoc	Durand	WI	IDT	75,910	106,705	49,448
117	5/25/90	Mountainwest S&L Assn, A FS&LA	Ogden	UT	P&A	156,864	204,510	67,159
118	5/25/90	Otero S&L Assoc	Colorado Springs	CO	IDT	389,953	516,540	256,880
119	5/25/90	Horizon Financial, FA	Southampton	PA	P&A	1,746,685	2,010,917	332,758
120	5/25/90	Hearne Building & Loan Assn., F	Hearne	TX	Payoff	23,345	24,938	5,263
121	5/25/90	First Fed. S&LA of Brenham	Brenham	TX	IDT	104,298	120,622	36,799
122	5/29/90	Concordia Fed Bank for Savings	Lansing	IL	P&A	348,770	398,276	89,817
123	5/31/90	Sun Country SB of New Mexico	Albuquerque	NM	Payoff	120,330	189,690	44,655
124	5/31/90	Western S&L Assoc, FA	Phoenix	AZ	P&A	4,083,411	4,525,423	1,728,119
125	6/01/90	First Venice S & LA	Venice	FL	P&A	49,220	55,705	5,339
126	6/01/90	First of KS Savings, a FS & LA	Hays	KS	IDT	30,836	35,819	6,493
127	6/01/90	Fontainebleau Fed Sav Bank	Slidell	LA	IDT	31,508	45,790	26,582
128	6/01/90	Spindletop Sav. Assn, F.A	Beaumont	TX	IDT	181,967	344,209	250,078
129	6/01/90	FSA of the Southwest	Kilgore	TX	IDT	32,114	39,949	14,960
130	6/01/90	Lafayette S&L Assn., FA	Gretna	LA	IDT	22,802	24,155	7,779
131	6/01/90	New Braunfels S&L Assn, FA	New Braunfels	TX	IDT	38,864	76,588	43,764
132	6/01/90	Saratoga FS&LA	San Jose	CA	IDT	82,793	76,175	11,133
133	6/01/90	Financial FS & LA	Fresno	CA	Payoff	28,539	29,237	4,690
134	6/08/90	Gateway Fed Savings Bank	San Francisco	CA	P&A	30,469	97,975	68,864
135	6/08/90	First Fed. S&L Assoc	Largo	FL	IDT	262,180	346,831	106,063
136	6/08/90	Brickellbanc Sav. Assoc.	Miami	FL	IDT	30,228	40,709	12,073
137	6/08/90	American S&L Assoc., FA	New Orleans	LA	IDT	54,450	63,859	33,537
138	6/08/90	Gibraltar S&L Assoc., FA	Annapolis	MD	P&A	27,786	31,179	9,644
139	6/08/90	American Fed. S&L Assoc.	Albuquerque	NM	P&A	134,506	165,836	50,969
140	6/08/90	Valley Savings Bank, FSB	Roswell	NM	Payoff	129,693	249,603	130,502
141	6/08/90	Murray Fed. S&L Assoc.	Dallas	TX	P&A	894,486	1,193,646	504,185
142	6/08/90	Southside Fed. S&L Assoc.	Austin	TX	Payoff	39,753	47,543	17,415
143	6/08/90	American Savings, A FS&LA	Salt Lake City	UT	P&A	1,600,630	1,788,431	284,421
144	6/08/90	Lincoln S&L Assoc., FA	Miami	FL	IDT	181,694	200,511	59,418
145	6/08/90	Royal Palm Fed S&L Assoc.	West Palm Beach	FL	IDT	492,136	520,367	153,679
146	6/08/90	East Texas S&L Assoc., FA	Tyler	TX	P&A	234,649	260,178	86,393
147	6/08/90	Guadalupe S&L Assoc., FA	Kerrville	TX	Payoff	23,900	25,256	5,402
148	6/08/90	Aspen Savings Bank F.S.B.	Aspen	CO	IDT	115,367	128,919	31,848
149	6/15/90	Blue Valley Fed S&L Assoc.	Kansas City	MO	IDT	610,705	724,713	223,614
150	6/15/90	Lincoln Fed. S&L Assoc.	Mt Carmel	TN	IDT	41,137	49,847	15,982
151	6/15/90	Gill Savings Assoc.	San Antonio	TX	P&A	954,639	1,921,311	1,238,087
152	6/15/90	First FS&LA of Estherville & E	Estherville	IA	P&A	43,003	44,722	9,797
153	6/15/90	Family Fed. S&L Assoc.	Shreveport	LA	IDT	23,689	28,674	15,122
154	6/15/90	Century Fed. Sav. Bank	Trenton	TN	P&A	47,616	64,773	20,750
155	6/15/90	Bexar Savings Assoc.	San Antonio	TX	P&A	783,013	987,644	482,614
156	6/15/90	New Mexico FSA	Albuquerque	NM	P&A	174,381	200,311	48,745
157	6/15/90	Home Fed. S&L Assoc.	Memphis	TN	P&A	151,022	176,086	34,555
158	6/15/90	Plano S&L Assoc., FA	Plano	TX	IDT	253,958	275,797	131,338
159	6/15/90	First S&L Assoc., FA	Waco	TX	P&A	318,224	405,190	137,564
160	6/15/90	Unifirst Bank for Sav., A FS&L	Jackson	MS	P&A	536,956	601,095	121,601
161	6/15/90	First Savings of Laredo, FA	Laredo	TX	Payoff	127,641	160,594	69,587
162	6/15/90	First Federal Savings Bank	Diamondville	WY	Payoff	20,892	20,538	11,326
163	6/15/90	Sentinel FS & LA	Phoenix	AZ	IDT	161,299	160,221	27,486

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991—Continued

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type[1]	Assets at resolution	Liabilities at resolution	Resolution cost[2]
164	6/19/90	American Security FS & LA	Chicago	IL	P&A	29,452	35,875	5,726
165	6/22/90	Landmark Sav. Bank, FSB	Hot Springs	AR	P&A	111,727	163,684	81,381
166	6/22/90	Unipoint Fed Savings Bank	Trumann	AR	P&A	12,324	29,250	17,637
167	6/22/90	Alpine Savings, A FS&LA	Steamboat Sprin	CO	Payoff	42,539	49,403	10,888
168	6/22/90	Rocky Mountain S&L Assoc.	Woodland Park	CO	P&A	10,075	16,818	6,634
169	6/22/90	First Fed. S&L Assoc.	Summerville	GA	P&A	24,680	30,549	7,180
170	6/22/90	Midwestern Sav. Assoc.	Macomb	IL	P&A	72,390	93,243	25,966
171	6/22/90	Anchor Federal S&L Assoc.	Kansas City	KS	P&A	503,749	564,592	64,519
172	6/22/90	Central S&L Assoc., FA	New Orleans	LA	IDT	45,534	65,813	34,893
173	6/22/90	Cass FS & LA of St. Louis	Florissant	MO	IDT	47,861	58,248	15,123
174	6/22/90	Occidental Nebraska SB, FSB	Omaha	NE	P&A	567,162	628,852	148,119
175	6/22/90	Universal Sav. Assoc.	Houston	TX	IDT	125,164	301,678	222,940
176	6/22/90	First Fed. S&L Assoc.	Americus	GA	P&A	49,038	50,579	10,665
177	6/22/90	Great Southern Fed. S&L Assn	Savannah	GA	P&A	534,217	638,743	183,030
178	6/22/90	Home S&L Assoc., F.A	New Orleans	LA	Payoff	28,645	33,540	18,711
179	6/22/90	Taylorbanc Fed. S&L Assn	Taylor	TX	P&A	91,356	116,849	36,499
180	6/22/90	Citizens S&LA of Springfield	Springfield	IL	P&A	64,613	70,212	4,966
181	6/22/90	Metropolitan Financial FS&LA	Dallas	TX	P&A	645,912	826,991	259,321
182	6/22/90	Denton Federal S&L Assoc	Denton	TX	P&A	153,732	150,051	28,487
183	6/22/90	First Garland Fed. S&L Assn	Garland	TX	P&A	107,884	121,824	22,969
184	6/22/90	Family Federal Savings Assoc	Dallas	OR	P&A	88,800	95,118	9,024
185	6/22/90	First Fed. Sav. Assoc. of York	York	NE	P&A	50,763	54,005	7,604
186	6/22/90	Wilshire FS&LA	Los Angeles	CA	Payoff	66,270	68,667	2,781
187	6/22/90	Equitable FS&LA	Columbus	NE	P&A	60,427	62,362	8,427
188	6/22/90	Peninsula S&LA	South San Franc	CA	IDT	31,816	35,113	772
189	6/22/90	Huntington FS&LA	Huntington Beach	CA	P&A	107,561	109,807	4,464
190	6/22/90	Frontier FSA	Walla Walla	WA	P&A	136,971	133,695	3,402
191	6/28/90	St. Louis County Savings Assoc	Ferguson	MO	P&A	75,033	79,964	3,833
192	6/28/90	Sun Federal Savings Association	Fort Dodge	IA	P&A	19,743	19,586	2,162
193	6/29/90	Centrust Federal Savings Bank	Miami	FL	P&A	6,626,291	6,931,075	1,704,818
194	6/29/90	Marshall FS&LA	Marshall	TX	P&A	52,270	56,443	21,837
195	6/29/90	Republic Bank for Sav., FA	Jackson	MS	IDT	27,802	89,569	65,685
196	6/29/90	Delta Fed. S&L Assoc	Drew	MS	IDT	7,326	11,735	7,497
197	6/29/90	Elysian Fed. Savings Bank	Hoboken	NJ	P&A	104,685	111,481	33,487
198	6/29/90	Rusk Fed. S&L Assoc	Rusk	TX	IDT	24,729	41,625	23,954
199	6/29/90	First Fed. S&LA of Colorado Sp	Colorado Spring	CO	P&A	256,075	338,886	138,049
200	6/29/90	General Savings Assoc	Henderson	TX	P&A	32,746	47,748	18,428
201	6/29/90	Gibraltar Savings, F.A	Simi Valley	CA	P&A	6,428,792	6,327,583	521,619
202	6/29/90	Gibraltar Savings Bank F.S.B	Seattle WA	WA	P&A	1,304,796	1,242,222	106,125
203	6/29/90	Colorado Savings Bank, F.S.B	Sterling	CO	IDT	8,553	10,305	1,775
204	6/29/90	Black Hawk S&L Assoc. F.A	Rock Island	IL	P&A	52,325	53,688	2,211
205	6/29/90	Capital Fed. S&L Assoc	Little Rock	AR	IDT	53,233	69,912	23,441
206	6/29/90	Valley Federal Sav. Assoc	McAllen	TX	P&A	475,707	546,123	209,297
207	6/29/90	Constitution Federal Savings A	Tustin	CA	Payoff	66,989	61,623	1,484
208	7/06/90	United Savings Bank, F.S.B	Windom	MN	IDT	128,015	140,329	31,400
209	7/06/90	First Federal Savings Bank and	Kansas City	MO	IDT	26,590	25,592	3,313
210	7/20/90	United FS&LA	Vidalia	LA	P&A	18,437	18,398	0
211	7/20/90	Sun S&L Assoc	Parker	CO	Payoff	226,583	292,861	156,760
212	8/10/90	Colonial Federal Savings Assoc	Prairie Village	KS	P&A	73,112	91,687	25,381
213	8/10/90	Baldwin County Fed. Sav. Bank	Robertsdale	AL	P&A	140,016	150,245	20,773
214	8/10/90	Citizens of Texas S&L Assoc	Baytown	TX	P&A	53,534	126,076	80,157
215	8/10/90	Permian S&L Assoc	Kermit	TX	Payoff	6,482	8,439	2,371
216	8/10/90	Banc Iowa Fed. Sav. Bank	Cedar Rapids	IA	P&A	115,877	129,019	27,969
217	8/10/90	The Garnett S&L Assoc	Garnett	KS	P&A	13,662	14,265	1,317
218	8/17/90	First Federal Savings Associate	Warner Robins	GA	P&A	141,692	138,602	25,896
219	8/17/90	Miami Savings Bank	Miami	FL	P&A	86,059	125,909	53,745
220	8/17/90	First Fed. S&L Assoc	Baton Rouge	LA	IDT	36,005	54,587	33,943
221	8/17/90	Illinois Savings Bank, FA	Peoria	IL	P&A	32,551	41,476	9,403
222	8/17/90	The Duncan S&L Assoc.	Duncan	OK	P&A	119,521	129,713	32,094
223	8/17/90	Great Plans Savings Assoc., F	Weatherford	OK	P&A	70,135	78,019	18,988
224	8/17/90	Security Fed. S&L Assoc.	Peoria	IL	P&A	142,825	171,619	46,046
225	8/17/90	Texas Western Fed. Savings Ass	Houston	TX	Payoff	50,558	66,317	16,477
226	8/17/90	Provident SA, FA	Casper	WY	P&A	160,462	177,098	21,729
227	8/17/90	Salamanca Federal Savings Assoc	Salamanca	NY	P&A	26,085	26,266	1,8873
228	8/17/90	Westport Federal Savings Bank	Hanford	CA	Payoff	139,509	141,216	19,609
229	8/22/90	Sweetwater FS & LA	Rock Springs	WY	P&A	11,684	11,177	761
230	8/22/90	Fidelity Savings Bank, F.S.B.	Danville	IL	P&A	10,249	11,350	1,672
231	8/24/90	Lakeland Savings Bank, F.S.B.	Detroit Lakes	MN	IDT	73,713	76,931	11,376
232	8/24/90	Westwood S&L Assoc.	Los Angeles	CA	P&A	272,619	444,052	259,467
233	8/24/90	Chillicothe Fed S&L Assn.	Chillicothe	IL	P&A	32,546	37,946	5,948
234	8/24/90	Jefferson S&L Assoc.	Beaumont	TX	IDT	67,605	138,484	76,965
235	8/24/90	Golden Circle SA, FSB	Corsicana	TX	Payoff	12,988	14,532	2,739
236	8/24/90	Heritage Savings Assn, FA	Jerseyville	IL	P&A	19,884	21,778	1,197
237	8/24/90	Investment FS & LA	Woodland Hills	CA	P&A	192,098	205,138	10,435
238	8/31/90	Spring Branch S&L Assoc	Houston	TX	P&A	85,592	168,831	100,402
239	8/31/90	City Savings Assoc.	League City	TX	IDT	12,266	31,175	20,252
240	8/31/90	Western Empire FS & LA	Yorba Linda	CA	IDT	116,851	134,723	24,049
241	8/31/90	Caguas-Central Fed Sav Bank of	Caguas	PR	P&A	1,372,188	1,365,611	119,625
242	9/07/90	The Benj. Franklin FS & LA	Portland	OR	P&A	3,147,575	3,256,389	104,939
243	9/07/90	Gem City FS & LA	Quincy	IL	P&A	193,904	208,700	19,918
244	9/07/90	Firstcentral Federal Savings B	Chartion	IA	P&A	80,435	82,526	7,518
245	9/07/90	Independence Fed S&L Assn.	Bateville	AR	IDT	170,945	376,920	291,369
246	9/07/90	Community Fed S&L Assoc	Tampa	FL	Payoff	6,725	16,703	11,622
247	9/07/90	First City Fed S&L Assoc.	Baton Rouge	LA	P&A	13,546	19,049	8,654
248	9/07/90	Missouri Sav. Assoc., FA	Clayton	MO	P&A	428,187	472,114	94,640
249	9/07/90	Midland-Buckeye Sav., A FS&LA	Alliance	OH	P&A	153,022	175,316	38,619
250	9/07/90	Fairmont Federal Savings Assoc	Fairmont	MN	P&A	32,109	34,236	3,681
251	9/07/90	Enterprise Federal, F.S.A.	Clearwater	FL	P&A	40,623	42,315	814
252	9/07/90	Home Owners Savings Bank F.S.B	Boston	MA	P&A	2,872,263	3,134,530	805,795
253	9/12/90	American Home S&L Assoc., F.A.	Edmond	OK	P&A	44,587	57,207	19,390
254	9/14/90	City Fed. S&L Assoc.	Birmingham	AL	P&A	427,732	478,689	86,408
255	9/14/90	Equity Fed. Savings Bank	Denver	CO	Payoff	697	2,311	1,584
256	9/14/90	French Market Homestead FSA	Metairie	LA	IDT	165,032	207,760	81,830
257	9/14/90	Meritbanc Savings Assoc.	Houston	TX	c0	181,996	354,133	210,665
258	9/14/90	Suburban Savings Assoc.	San Antonio	TX	P&A	31,870	48,361	21,688
259	9/14.90	Capitol City FSA	Austin	TX	P&A	284,460	379,750	151,206
260	9/14/90	Community Fed Sav. Assoc.	Bridgeport	CT	IDT	27,706	30,685	4,653
261	9/14/90	Sooner Federal Savings Assoc.	Tulsa	OK	P&A	1,076,360	1,101,571	148,698
262	9/14/90	Crest Fed. S&L Association	Kankakee	IL	IDT	112,532	110,633	12,975
263	9/14/90	Williamsburg FS & LA	Salt Lake City	UT	P&A	255,657	270,442	36,537
264	9/14/90	First Network Federal Savings	Los Angeles	CA	Payoff	384,285	383,431	138,702
265	9/21/90	Great American S&LA, FA	Oak Park	IL	P&A	580,046	598,019	71,845
266	9/21/90	First Savings Association, F.A	Bismarck	ND	IDT	79,804	87,762	10,919
267	9/21/90	Heritage Fed. S&L Assoc	Monroe	NC	P&A	170,157	219,926	59,255
268	9/21/90	First Fed. S&LA of Seminole	Seminole	OK	IDT	21,330	26,193	8,631

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991—Continued

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type [1]	Assets at resolution	Liabilities at resolution	Resolution cost [2]
269	9/21/90	Caprock Fed. S&L Assoc	Lubbock	TX	Payoff	341,497	551,878	298,994
270	9/21/90	Midwest Federal Savings Bank 0	Minot	ND	P&A	471,471	571,877	156,586
271	9/21/90	Mercury FS & LA	Huntington Beach	CA	P&A	1,700,748	1,764,835	33,716
272	9/21/90	North Carolina S & LA, F.A	Charlotte	NC	P&A	458,274	468,166	48,275
273	9/28/90	Empire of America FSB	Buffalo	NY	P&A	5,899,018	6,733,888	1,717,897
274	9/28/90	Arlington Hghts Sav Assn, F.A	Arlington Height	IL	P&A	331,422	366,030	21,536
275	9/28/90	Security Federal Savings Assoc	Richmond	VA	P&A	221,882	252,251	41,124
276	9/28/90	Bannerbanc FS & LA	Garland	TX	IDT	33,338	53,549	19,718
277	9/28/90	Delta S&L Assoc., F.A	Kenner	LA	IDT	134,856	166,506	73,121
278	9/28/90	First Fed. S&L Assoc	New Iberia	LA	IDT	43,332	54,291	13,603
279	9/28/90	Central S&L Assoc	Jackson	MS	IDT	26,072	66,207	42,387
280	9/28/90	Metropolitan Fed S&L Assn	Denville	NJ	P&A	141,048	149,086	12,793
282	9/28/90	American S & LA of Brazoria	Lake Jackson	TX	Payoff	162,440	326,916	216,168
282	9/28/90	Savings of Texas Assoc	Jacksonville	TX	Payoff	51,163	93,705	56,568
283	9/28/90	Seasons Federal Savings Bank	Richmond	VA	P&A	143,622	173,409	47,915
284	9/28/90	Yorkridge-Calvert FSA	Pikesville	MD	IDT	467,469	483,698	43,946
285	9/28/90	Merabank Federal Savings Bank	Phoenix	AZ	P&A	3,951,164	4,288,023	1,023,425
286	9/28/90	United Federal Savings, F.A	New Orleans	LA	IDT	46,850	50,644	26,699
287	10/05/90	Midwest Sav. Assn., FA	Minneapolis	MN	IDT	1,966,791	2,450,425	826,253
288	10/05/90	First FS&LA of Central Indiana	Anderson	IN	P&A	143,689	157,473	16,766
289	10/12/90	Golden Triangle S & LA	Bridge City	TX	Payoff	16,341	66,241	50,465
290	10/19/90	Unvalde FS&LA	Uvalde	TX	Payoff	12,694	14,821	4,558
291	10/19/90	Fortune Financial Fed. S&L Ass	Copperas Cove	TX	Payoff	62,055	73,442	27,447
292	10/26/90	Summit First S & LA, FA	Summit	IL	P&A	51,555	49,222	638
293	10/26/90	First State Sav. Bank FSB	Mountain Home	AR	IDT	80,304	99,873	52,727
294	10/26/90	Southmost S&L Assoc	Brownsville	TX	Payoff	80,043	43,881	55,817
295	10/26/90	Southeastern Sav. Assoc	Dayton	TX	Payoff	63,136	116,932	61,978
296	11/02/90	First Standard Federal Savings	Fairmont	WV	P&A	59,266	61,075	8,319
297	11/02/90	Community Federal Savings Bank	East Moline	IL	P&A	67,750	0	8,861
298	11/02/90	First Fed. S&L Assoc	Fayetteville	AR	P&A	83,818	110,051	32,971
299	11/02/90	Central Texas S&L Assoc	Waco	TX	P&A	136,714	200,042	104,047
300	11/02/90	Deep East Texas Sav Assn	Jasper	TX	P&A	39,323	51,873	18,427
301	11/08/90	Western Gulf S&L Assoc	Bay City	TX	IDT	101,923	299,289	211,980
302	11/09/90	Colonial S & LA, F.A	Cape Girardeau	MO	P&A	97,134	112,054	21,497
303	11/09/90	Home Savings, A FS&LA	Joliet	IL	P&A	105,991	124,342	18,025
304	11/09/90	Valley Savings, A FS&LA	Hutchinson	KS	P&A	132,874	182,848	89,208
305	11/09/90	Home F.S.B. of Worcester	Worcester	MA	IDT	211,198	218,538	94,118
306	11/09/90	First Federal Sav. Assoc. of B	Bluefield	WV	P&A	27,716	27,368	5,127
307	11/09/90	Grand Prairie FS & LA	Stuttgart	AR	Payoff	19,794	25,157	5,763
308	11/09/90	Bank USA Savings Association	Silvis	IL	IDT	19,779	19,108	0
309	11/16/90	Pioneer FS & LA	Marietta	OH	Payoff	8,724	6,991	340
310	11/16/90	The Hiawatha Federal Sav. Assoc	Hiawatha	KS	P&A	46,107	55,479	26,093
311	11/16/90	Nassau S & LA	Brooklyn	NY	P&A	215,233	257,944	47,004
312	11/16/90	Whitestone FS & LA	Whitestone	NY	P&A	253,605	284,151	9,306
313	11/16/90	New Athens FS & LA	New Athens	IL	P&A	19,192	21,171	2,947
314	11/16/90	Equitable Fed. Sav. Bank	Fremont	NE	P&A	144,804	167,560	30,910
315	11/16/90	Resource Savings Assoc.	Denison	TX	Payoff	285,729	482,461	278,447
316	11/16/90	Southwest Fed. Savings Assoc	Los Angeles	CA	P&A	491,038	589,829	118,470
317	11/16/90	Fidelity Federal Sav. Assoc	Galesburg	IL	P&A	237,885	284,931	57,897
318	11/16/90	Brookside Federal S&L Assoc	Los Angeles	CA	Payoff	450,062	468,521	62,882
319	11/16/90	Security Federal Savings Bank	Carlsbad	NH	IDT	22,242	31,107	9,705
320	11/29/90	Frontier Federal Savings Bank	Belleville	IL	P&A	31,185	33,956	5,058
321	11/30/90	Heritage FSB of Omaha	Omaha	NE	P&A	138,201	146,862	24,468
322	11/30/90	Madison Guaranty S&L Assn	McCrory	AR	P&A	81,879	119,365	47,655
323	11/30/90	Midwest Home FSB	Belleville	IL	P&A	66,662	82,200	21,550
324	11/30/90	First Louisiana Fed. Sav. Bank	Lafayette	LA	IDT	57,550	86,052	48,622
325	11/30/90	First Sav Assn of Southeast TE	Silsbee	TX	P&A	33,350	44,709	17,816
326	11/30/90	Fidelity Fed. Sav. Assoc	Port Arthur	TX	P&A	170,658	256,539	110,031
327	11/30/90	Sun State S&L Assn., FSA	Phoenix	AZ	IDT	639,680	784,760	397,254
328	11/30/90	Parish Fed. S&L Assoc	Denham Springs	LA	Payoff	10,021	11,368	3,478
329	11/30/90	St. Charles FSA	St. Charles	IL	P&A	67,417	80,794	12,236
330	11/30/90	Hendereson Home S & LA, F.A.	Henderson	KY	P&A	8,997	37,226	3,149
331	11/30/90	First American FSB	Santa Fe	NM	Payoff	90,177	106,376	38,179
332	12/07/90	Commonwealth S&L Assoc	Osceola	AR	P&A	18,495	28,844	13,227
333	12/07/90	First Fed. S&L Assoc	Shreveport	LA	Payoff	141,431	209,388	135,436
334	12/07/90	Terrebonne S&L Assoc, FA	Houma	LA	IDT	14,786	18,926	5,794
335	12/07/90	Security Fed. Savings Assn	Texarkana	TX	Payoff	204,689	590,199	468,228
336	12/07/90	Vision Banc Sav. Assoc	Kingsville	TX	Payoff	41,443	99,765	63,524
337	12/07/90	Karnes County FS & LA	Karnes City	TX	IDT	40,249	53,723	18,937
338	12/07/90	First America Savings Bank, F	Fort Smith	AR	P&A	372,006	366,492	53,370
339	12/07/90	Charter Savings Bank, FSB	Newport Beach	CA	IDT	212,994	229,511	34,433
340	12/07/90	Deposit Trust Federal Savings	Monroe	LA	IDT	52,534	62,539	21,446
341	12/07/90	Haven S & LA, F.A.	Winter Haven	FL	P&A	128,150	151,442	32,616
342	12/13/90	United Savings, FSB	Patterson	NJ	Payoff	188,292	190,798	24,523
343	12/14/90	Frontier SA	Las Vegas	NV	P&A—ARP	254,687	246,951	0
344	12/14/90	Community FS & LA	St. Louis	MO	P&A—ARP	1,999,918	2,294,481	372,071
345	12/14/90	Peoples FSA	Bartlesville	OK	IDT	71,502	74,588	8,341
346	12/14/90	First FSB of Kansas	Wellington	KS	IDT	104,688	158,248	74,859
347	12/14/90	Excel Banc Sav. Assoc	Laredo	TX	Payoff	93,468	125,686	63,788
348	12/14/90	Great American S & LA, F.A.	Corinth	MS	Payoff	78,175	88,897	16,205
349	12/14/90	Mississippi Savings Bank, F.S.	Batesville	MS	Payoff	147,488	147,984	38,893
350	12/14/90	Hometown Savings Bank, FSB	Delphi	IN	P&A	48,394	53,846	8,385
351	12/15/90	Mid-America FS & LA	Columbus	OH	P&A—ARP	960,195	1,010,749	39,148
352	12/27/90	Enterprise Savings Bank, FA	Chicago	IL	P&A—ARP	419,022	469,879	55,000
353	1/04/91	Royal Oak FS & LA	Randallstown	MD	P&A—ARP	27,539	29,266	2,158
354	1/04/91	First FS & LA of Pittsburgh	Pittsburgh	PA	P&A—ARP	2,771,833	2,816,486	191,808
355	1/04/91	Liberty Savings Bank, FSB	Randallstown	MD	IDT	20,173	26,193	14,210
356	1/04/91	Moultrie Savings Bank, FSB	Moultrie	GA	P&A	50,998	52,414	3,766
357	1/04/91	First FS & LA	San Antonio	TX	P&A—ARP	530,461	544,229	60,674
358	1/11/91	City Savings, F.S.B.	Bedminster	NJ	IDT	5,550,581	6,233,465	1,531,213
359	1/11/91	Padre Federal Sav. & Loan	Corpus Christi	TX	Payoff	21,314	35,717	18,839
360	1/11/91	General Federal Savings Bank	Miami	FL	IDT	298,738	307,510	77,785
361	1/18/91	Founders Federal S&L Assn.	Los Angeles	CA	IDT	94,858	144,115	64,313
362	1/18/91	Silver Savings Assoc., FA	Silver City	NM	IDT	27,347	28,690	4,931
363	2/08/91	American Fed. Sav. Assoc. of I	Des Moines	IA	P&A	454,885	491,180	56,695
364	2/15/91	Mid Kansas S&L Assoc. F.A.	Wichita	KS	P&A	369,184	407,569	142,745
365	2/15/91	Security Federal Savings, FSB	Columbia	SC	P&A	438,140	500,984	109,165
366	2/15/91	Pima FS&LA	Tucson	AZ	P&A	1,511,473	1,573,519	319,204
367	3/01/91	Statesman Federal Savings Bank	Waterloo	IA	P&A	410,428	394,762	31,001
368	3/01/91	ABQ Federal Savings Bank	Albuquerque	NM	P&A	846,300	1,161,590	476,429
369	3/01/91	Pioneer Federal Savings Bank	Clearwater	FL	P&A	1,321,823	1,432,458	322,285
370	3/01/91	Sandia Fed. Sav. Assoc.	Albuquerque	NM	P&A	743,562	1,295,701	909,969
371	3/08/91	Horizon Savings Bank, F.S.B.	Wilmette	IL	P&A	527,202	647,407	176,012
372	3/08/91	Lincoln S&L Assoc, FA	Irvine	CA	P&A	2,226,392	4,125,738	2,824,170
373	3/08/91	Commonwealth FS&LA	Fort Lauderdale	FL	P&A	735,040	875,753	324,922

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991—Continued

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type[1]	Assets at resolution	Liabilities at resolution	Resolution cost[2]
374	3/15/91	Security S&L Assoc.	Scottsdale	AZ	IDT	553,677	1,100,756	844,128
375	4/19/91	Imperial Federal Savings Assoc.	San Diego	CA	P&A	5,873,730	5,871,984	1,647,062
376	5/03/91	First FSB of Annapolis	Annapolis	MD	IDT	559,930	649,300	291,907
377	5/03/91	Alamo FSA of Texas	San Antonio	TX	Payoff	415,481	787,940	564,298
378	5/10/91	Capitol Federal Bank for Savin	Chicago	IL	P&A—ARP	38,103	33,073	0
379	5/10/91	First Bankers & SA, F.A.	Midland	TX	Payoff	64,893	77,668	26,254
380	5/17/91	Palo Duro FS&LA	Amarillo	TX	P&A	41,211	49,836	14,079
381	5/17/91	Red River S&L Assoc.	Coushatta	LA	P&A	3,484	5,116	2,973
382	5/17/91	Time FS & LA	San Francisco	CA	P&A	36,455	38,993	6,246
383	5/22/91	Texas FSA	San Antonio	TX	Payoff	32,181	63,896	47,367
384	5/24/91	Boonslick S & LA	Boonville	MO	P&A	54,890	56,314	4,183
385	5/24/91	Security Homestead FSA	New Orleans	LA	IDT	315,988	397,407	102,559
386	5/30/91	Remington Federal Savings Asso	Elgin	TX	Payoff	67,491	89,214	62,867
387	5/31/91	Heritage FSA	Lancaster	PA	P&A	40,246	41,967	1,277
388	5/31/91	North Texas FSA	Wichita Falls	TX	IDT	65,592	74,879	18,567
389	5/31/91	First FSA of Nacogdoches	Nacogdoches	TX	P&A	51,251	52,581	20,387
390	5/31/91	Hometown FSA	Winfield	IL	P&A	40,685	43,823	10,576
391	5/31/91	Greenwood FS & LA	Greenwood	MS	IDT	11,545	15,719	4,900
392	5/31/91	Sabine Valley S&L Assoc.	Center	TX	Payoff	13,797	22,626	10,123
393	5/31/91	Commercial S&L Assn., FA	Hammond	LA	Payoff	50,141	61,641	36,684
394	5/31/91	Clyde Federal Savings Associat.	North Riverside	IL	P&A	312,526	370,614	71,758
395	5/31/91	Tennessee FSB	Cookeville	TN	P&A	27,719	30,535	9,224
396	5/31/91	Southeastern Federal Savings B	Laurel	MS	IDT	18,878	22,209	9,994
397	6/07/91	American Sa of Mt. Carmel, FA	Mt, Carmel	IL	P&A	6,216	6,935	*1,473
398	6/07/91	First Federal Savings, F.S.A.	New Braunefels	TX	IDT	220,862	205,116	56,607
399	6/07/91	First FS & LA of Wichita Falls	Wichita Falls	TX	Payoff	69,270	77,561	18,053
400	6/07/91	Broken Arrow Savings Assoc., FA	Broken Arrow	OK	P&A	20,682	22,535	5,795
401	6/07/91	North Jersey Federal Savings A	Passaic	NJ	P&A	189,432	297,861	157,248
402	6/07/91	Citizens Homestead FSA	New Orleans	LA	Payoff	73,133	95,432	42,343
403	6/07/91	Surety Federal Sav. Assoc.	El Paso	TX	Payoff	217,717	246,540	104,463
404	6/07/91	Liberty Federal Savings Bank	Huntington Park	CA	P&A	36,658	39,030	5,317
405	6/07/91	Investors Federal Savings Bank	Deerfield Beach	FL	P&A	192,607	225,851	80,893
406	6/07/91	Investor Savings Bank, FSB	Nashville	TN	P&A	40,834	46,280	14,580
407	6/07/91	First FSA of Tuscola	Tuscola	IL	P&A	17,019	17,967	2,613
408	6/07/91	Rancho Bernardo Fed. Savings B	San Diego	CA	P&A	67,945	70,169	14,896
409	6/14/91	Texas Commercial Sa	Sulphur Springs	TX	P&A	24,516	22,368	6,911
410	6/14/91	Atlanta FSA	Atlanta	TX	P&A	78,875	78,742	17,373
411	6/14/91	South S&L Assoc., F.A.	Slidell	LA	IDT	87,732	137,811	103,656
412	6/14/91	Jasper Fed. S&L Assoc.	Jasper	TX	Payoff	89,567	140,040	72,660
413	6/14/91	Southern Federal Savings A	El Paso	TX	Payoff	63,919	104,540	77,230
414	6/14/91	Guaranty Savings Bank, FSB	Fayetteville	NC	P&A	23,816	29,106	11,960
415	6/14/91	First Guaranty FS & LA	Hattiesburg	MS	P&A	123,147	165,147	98,207
416	6/19/91	Financial Savings of Hartford,	Hartford	CT	P&A	14,286	14,763	3,385
417	6/21/91	Ambassor FS & LA	Tamarac	FL	P&A	110,671	126,622	52,488
418	6/21/91	First Federal Savings Assoc.	Las Vegas	NM	P&A	45,231	45,453	13,612
419	6/21/91	Commonwealth Fed Sav Assn	Houston	TX	IDT	803,434	1,970,042	1,433,331
420	6/21/91	Travis FS & LA	San Antonio	TX	P&A	234,269	240,088	63,210
421	6/21/91	Capitol-Union FSA	Baton Rouge	LA	Payoff	181,778	270,270	133,314
422	6/21/91	First FSA of Breaux Bridge	Breaux Bridge	LA	P&A	16,145	17,864	2,334
423	6/21/91	Great Life F.S.A.	Sunrise	FL	P&A	24,019	27,611	7,926
424	6/21/91	Charter Fed. Sav. Assoc.	Stanford	CT	P&A	87,923	97,479	45,164
425	6/26/91	Austin FS&LA	Austin	TX	Payoff	41,263	55,085	28,281
426	6/28/91	Amigo FS&LA	Brownsville	TX	P&A	13,009	15,188	4,875
427	6/28/91	Vermont SA, FA	Timonium	MD	P&A	118,314	165,311	64,378
428	6/28/91	Southeast Texas FSA	Woodville	TX	Payoff	18,663	22,926	7,454
429	6/28/91	First FSA	Borger	TX	P&A	46,553	53,681	16,446
430	6/28/91	Coral S&LA, FA	Coral Springs	FL	P&A	25,127	25,300	5,005
431	6/05/91	Heritage FSB	Richamond	VA	P&A	574,399	586,663	196,041
432	6/05/91	International FS&LA	North Miami Bea	FL	Payoff	46,613	52,053	17,723
433	6/05/91	George Washington FSA	Jonesboro	TN	P&A	12,707	12,156	1,309
434	6/05/91	Vanguard SB, FSB	Vandergrift	PA	P&A	115,420	122,521	33,040
435	6/05/91	Colonial FSA	Roselle Park	NJ	IDT	189,768	245,577	118,949
436	6/12/91	Citizens & Builders FS, FSB	Penscola	FL	P&A	72,607	81,994	33,329
437	6/12/91	Capitol FS&LA	Aurora	CO	P&A	513,369	739,480	340,420
438	6/12/91	Mutal FS&LA	Weatherford	TX	Payoff	75,280	80,131	21,472
439	6/12/91	Commonwealth FSA	New Orleans	LA	IDT	21,238	34,976	18,259
440	6/12/91	Commerce FSA	San Antonio	TX	P&A	337,807	775,172	603,986
441	7/12/91	First South FSA	Port Neches	TX	Payoff	127,451	522,200	456,610
442	7/12/91	Atlantic Permanent FSB	Norfolk	VA	IDT	135,006	177,883	94,218
443	7/12/91	Brookhaven	FS&LA	MS	P&A	22,351	29,017	10,685
444	7/12/91	First Jackson FSB	Jackson	MS	P&A	30,736	47,212	22,439
445	7/12/91	Pacific Coast FSA of America	San Francisco	CA	P&A	659,072	635,256	59,418
446	7/12/91	Windsor FSA	Austin	TX	Payoff	78,959	95,795	45,547
447	7/19/91	Family S&LA, FA	Seattle	WA	P&A	43,160	46,211	5,564
448	7/19/91	First City FSB	Lucedale	MS	P&A	28,207	29,370	10,550
449	7/19/91	Malibu SB, FSB	Malibu	CA	P&A	121,610	125,152	24,895
450	7/19/91	Beach FSB	Huntington Beach	CT	P&A	62,827	62,517	5,229
451	7/19/91	First S&L Company, FA	Massillion	OH	P&A	115,138	121,329	23,294
452	7/19/91	First FSA of Conroe	Conroe	TX	P&A	120,563	141,822	34,669
453	7/19/91	Clinton S&LA	Clinton	OK	P&A—ARP	21,833	21,805	898
454	7/19/91	Superior SB, FSB	Nacogdoches	TX	IDT	48,239	56,349	12,571
455	7/19/91	Liberty County FS&LA	Liberty	TX	P&A	13,022	26,833	15,529
456	7/19/91	Southwest S&LA, FA	Phoenix	AZ	P&A	1,110,848	1,538,051	948,413
457	7/19/91	Certified FSA	Georgetown	TX	Payoff	58,393	103,253	58,015
458	7/19/91	Ensign FSB	New York	NY	P&A	1,081,334	1,318,446	567,502
459	7/26/91	Germaniabank, A FSB	Alton	IL	P&A	383,314	420,553	124,556
460	7/26/91	First SB of Hemphstead, FSB	Hempstead	TX	Payoff	25,848	25,896	2,590
461	7/26/91	Sentry SB, FSB	Hynnis	MA	P&A	555,349	559,554	166,973
462	7/26/91	Fulton FSA	Atlanta	GA	P&A	1,214,843	1,312,845	301,872
463	7/26/91	Westland FS&LA	Rawlins	WY	P&A—ARP	31,699	31,137	4,105
464	7/26/91	Southwest FSA	Dallas	TX	P&A	5,483,427	5,103,317	688,075
465	7/26/91	First SAV of Arkansas, FA	Little Rock	AR	P&A	709,102	1,181,386	863,372
466	7/26/91	First SB of New Orleans, FSB	Metairie	LA	Payoff	58,324	90,020	52,077
467	7/26/91	Charter SB, FSB	Hattiesburg	MS	P&A	25,792	40,764	24,205
468	8/02/91	Mercer FSB	Trenton	NJ	P&A	42,359	47,975	23,505
469	8/02/91	First FSA of Wewoka	Wewoka	OK	P&A	25,312	24,879	5,322
470	8/02/91	Atascosa SA	Jourdanton	TX	Payoff	24,801	28,430	6,867
471	8/02/91	Trident FS&LA, FA	Newark	NJ	P&A	38,224	38,392	8,500
472	8/02/91	Unity FS&LA	Beverly Hills	CA	P&A	356,319	338,739	57,328
473	8/02/91	First Northern Cooperative BAN	Keene	NH	P&A	73,543	84,901	19,592
474	8/02/91	Florida FSB, FSB	St Petersburg	FL	P&A	2,169,243	2,354,018	554,982
475	8/02/91	Jennings FSA	Jennings	LA	IDT	28,049	34,589	12,959
476	8/02/91	Timberland FSA	Nacogdoches	TX	IDT	11,318	22,993	13,881
477	8/02/91	Civic FSB	Portsmouth	OH	P&A	51,537	59,788	19,516
478	8/02/91	People's Homestead SB, FSB	Monroe	LA	IDT	118,130	174,378	98,407

RESOLUTION TRUST CORPORATION—INSTITUTIONS RESOLVED THROUGH SEPTEMBER 30, 1991—Continued

[In thousands of dollars]

OBS	Date of resolution	Name of institution	City	State	Resolution type[1]	Assets at resolution	Liabilities at resolution	Resolution cost[2]
479	8/02/91	Texasbanc FSB	Conroe	TX	IDT	100,543	374,170	308,131
480	8/09/91	First FSA of Waynesboro	Waynesboro	TN	P&A	15,847	16,172	2,075
481	8/09/91	Larchmont FS&LA	Larchmont	NY	P&A—ARP	122,697	122,119	0
482	8/09/91	Hidalgo S&LA	Edinburg	TX	P&A	141,751	143,088	52,369
483	8/09/91	Executive Banc SA, FA	New Braunfels	TX	IDT	9,628	9,778	4,190
484	8/09/91	Peoples FSA	Bay St. Louis	MS	P&A	39,655	39,289	2,358
485	8/09/91	Santa Barbara FS&LA	Santa Barbara	CA	P&A	1,728,348	1,742,696	270,486
486	8/09/91	First FS&LA of Thief River Fal	Thief River Fal	MN	P&A—ARP	54,863	55,338	4,558
487	8/09/91	The Federal Savings Banc, FA	Arlington	TX	Payoff	52,930	82,422	38,684
488	8/09/91	Continental FS&LA, FA	Oklahoma City	OK	P&A	259,967	407,929	232,405
489	8/09/91	Freedom SA, FA	Columbus	OH	P&A	169,316	216,403	49,422
490	8/16/91	Citizens Security Bank, FA	Borger	TX	P&A	18,834	19,686	7,402
491	8/16/91	State FSA	Tulsa	OK	P&A	218,937	278,920	104,389
492	8/16/91	Continental Savings, A FS&LA	Bellaire	TX	P&A	768,733	714,976	677,726
493	8/16/91	Duval FSA	Jacksonville	FL	IDT	303,320	426,044	155,242
494	8/16/91	Nowlin FSA	North Richland	TX	P&A	106,803	147,622	65,850
495	8/16/91	Mutual Aide S&LA	Manasquan	NJ	P&A	56,644	62,646	25,539
496	8/16/91	Great West, A FSB	Craig	CO	P&A	23,595	25,888	6,784
497	8/16/91	Jonesboro FSA	Jonesboro	LA	Payoff	25,879	35,457	21,655
498	8/16/91	Southern FSB	Gulfport	MS	P&A	59,887	78,371	35,596
499	8/23/91	First FS&LA	Mt Vernon	OH	P&A—ARP	68,754	69,553	4,680
500	8/23/91	Gold Coast FSB	Plantation	FL	IDT	96,173	108,126	49,279
501	8/23/91	Progressive SB, FSB	Natchitoches	LA	Payoff	7,447	21,254	17,179
502	8/23/91	Old Borough FS&LA	Trenton	NJ	IDT	81,482	85,630	19,715
503	8/23/91	Nassau FS&LA	Princeton	NJ	P&A	142,516	159,713	68,046
504	8/23/91	First Southwest FS&LA	Tyler	TX	P&A	27,405	30,000	7,221
505	8/23/91	Merchants and Mechanics FS&LA	Springfiled	OH	P&A—ARP	202,595	213,894	28,518
506	8/23/91	Heritage FSA	Lamar	CO	P&A	31,476	34,150	12,642
507	8/26/91	Standard FSA	Houston	TX	Payoff	9,953	13,988	6,643
508	8/30/91	Future FSB	Louisville	KY	P&A—ARP	390,138	403,579	45,924
509	8/30/91	Edison FSA	New York	NY	P&A	119,293	119,427	11,110
510	8/30/91	Columbia Fed. Homestead Assoc.	Metairie	LA	IDT	53,343	67,948	30,924
511	8/30/91	Texarkana FS&LA, FA	Texarkana	AR	P&A	31,968	31,898	13,757
512	9/04/91	City S&LA	San Antonio	TX	Payoff	116,575	124,549	40,882
513	9/06/91	Desoto FS&LA	Mansfield	LA	Payoff	39,717	42,903	9,662
514	9/06/91	First FS&LA	Temple	TX	P&A	248,924	280,028	55,166
515	9/06/91	United Home Federal	Toledo	OH	P&A—ARP	427,339	438,962	24,754
516	9/06/91	Peoples FSB	New Kensington	PA	P&A	85,256	85,457	6,419
517	9/06/91	First FSA	Winnfield	LA	Payoff	31,341	33,360	8,265
518	9/06/91	Andrews S&LA, FA	Andrews	TX	IDT	59,009	60,139	10,489
519	9/06/91	Benjamin Franklin FSA	Houston	TX	P&A	693,198	1,440,982	975,652
520	9/06/91	Heartland S&LA	La Mesa	CA	P&A—ARP	121,400	120,356	14,974
521	9/06/91	Arkansas FSB, FA	Little Rock	AR	P&A	35,596	36,767	19,444
522	9/06/91	United S&L of Trenton, F.A.	Trenton	NJ	P&A	148,658	170,396	53,233
523	9/13/91	First Jersey Savings, FA	Wyckoff	NJ	P&A	226,563	232,325	45,626
524	9/13/91	Comfed SB, FA	Lowell	MA	P&A	839,589	930,751	386,061
525	9/13/91	Alexander Hamilton FS&LA	Paterson	NJ	P&A	182,632	181,174	20,187
526	9/13/91	First FSB	Huron	SD	P&A	41,643	39,734	6,158
527	9/13/91	Columbia S&LA, FA	Beverly Hills	CA	IDT	4,252,897	4,327,261	1,149,473
528	9/13/91	Sovereign SB, FSB	Palm Harbor	FL	P&A	22,572	23,571	4,063
529	9/13/91	First SA, FA	Paragould	AR	P&A	47,001	48,232	21,706
530	9/13/91	Home FSB, FA	Waukegan	IL	P&A	135,615	137,271	34,424
531	9/13/91	Columbia, FS&LA	Webster	TX	Payoff	36,047	58,658	32,296
532	9/13/91	American FSB	Sanford	ME	IDT	22,026	30,470	13,957
533	9/13/91	Louisiana SA	Lake Charles	LA	IDT	244,027	316,509	134,987
534	9/13/91	First Atlantic FSA	Plainfield	NJ	P&A	556,094	722,690	246,835
535	9/13/91	Louisiana SB, FSB	Kenner	LA	Payoff	26,628	32,608	9,315
536	9/13/91	First America FSB	Longmont	CO	IDT	34,234	65,023	65,470
537	9/20/91	Arcanum FSA	Arcanum	OH	P&A	36,696	38,471	3,727
538	9/20/91	Center S&LA, FA	Clifton	NJ	P&A	102,045	106,701	22,098
539	9/20/91	United FSB	Vienna	VA	P&A	283,482	339,942	111,621
540	9/20/91	Amerifederal SB, FSB	Lawrenceville	NJ	IDT	77,064	79,928	29,390
541	9/20/91	Southeastern FSB	Charlotte	NC	P&A	210,397	218,253	85,304
542	9/20/91	Yorkville FS&LA	Bronx	NY	P&A	283,345	285,325	79,893
543	9/20/91	Savers SA, A FS&LA	Little Rock	AR	P&A	373,977	852,754	638,515
544	9/20/91	Bancplus FSA	Pasadena	TX	P&A	325,577	896,918	702,239
545	9/20/91	Bayshore FSA	La Porte	TX	P&A	19,110	44,351	27,939
546	9/20/91	First Citizens SLA, FA	Fort Pierce	FL	P&A	149,157	167,778	45,855
547	9/20/91	American Pioneer FSB	Orlando	FL	P&A	880,889	1,189,838	538,034
548	9/20/91	El Paso FSA	El Paso	TX	Payoff	244,913	330,091	179,452
549	9/27/91	Santa Paula S&LA	Santa Paula	CA	P&A—ARP	258,465	257,390	35,589
550	9/27/91	Southern FS	New Orleans	LA	P&A	192,076	191,342	39,055
551	9/27/91	Superior FSA	Cleveland	OH	P&A	49,234	51,833	21,869
552	9/27/91	Home FS&LA of Harlan	Harlan	IA	P&A—ARP	88,815	87,288	12,479
553	9/27/91	Eastern FS&LA of Sayville	Sayville	NY	P&A—ARP	258,872	263,425	36,246
554	9/27/91	Mainstay FS, FSB	Red Bank	NJ	P&A	160,077	158,883	54,542
555	9/27/91	San Jacinto SA, FA	Bellaire	TX	P&A	2,228,358	2,873,029	1,423,801
556	9/27/91	First FS&LA	Dallas	GA	P&A	27,589	28,709	3,411
557	9/27/91	Preferred SB, FSB	High Point	NC	P&A	147,035	145,938	34,352
558	9/27/91	First FS&LA of Toledo	Toledo	OH	P&A	847,852	810,407	128,329
559	9/27/91	Gold River SB	Fair Oaks	CA	P&A—ARP	20,013	20,244	2,893
560	9/27/91	First FS&LA of Andalusia, FA	Andalusia	AL	P&A	27,893	30,927	6,698
561	9/27/91	United Savings of America	Chicago	IL	P&A—ARP	1,027,004	1,105,215	118,427
562	9/27/91	Nutley S&LA	Nutley	NJ	P&A—ARP	187,785	191,606	25,489
563	9/27/91	First FS&LA	Beaumont	TX	P&A—ARP	257,355	252,460	21,581
68,106,738						176,404,651	208,533,649	

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[1] IDT=insured deposit transfer, P&A=purchase and assumption; Payoff=depositor payout, P&A—ARP=accelerated resolutions program.

[2] Estimated cost of resolution at time of resolution.

NOTES TO TABLE

The table provides for each of the 563 institutions resolved by RTC from its inception through September 30, 1991:

(1) the name of the institution resolved,

(2) the location of the institution,

(3) the type of resolution,

(4) total assets booked at resolution,

(5) total liabilities booked at resolution, and

(6) the total cost (loss) estimate booked at resolution.

RTC's year-end 1989 audited financial statements accounted for estimated losses of approximately $44 billion for institutions that were closed in 1989 and those that were to be closed in 1990. However, cost estimates booked for each institution at the time of each resolution during 1990 were lower than the aggregate estimates carried in the 1989 statements. The asset valuation process conducted early in 1991 in order to prepare year-end 1990 statements indicated that loss estimates should be increased from those booked at the time of resolution by approximately $6.4 billion—back up to about the same level originally included in the 1989 statements for the same set of institutions. The $6.4 billion adjustment accounts for the difference between the $68.11 billion total estimate of costs through September 1991 booked at the time of each resolution (shown in the attached table) and the current estimate of $74.55 billion in total costs incurred for cases resolved through September (shown in the September 1991 RTC Review).

About 75 percent of the $6.4 billion revision reflected a one-time adjustment to correct an underestimate of operating losses in failed thrifts through the time of resolution and to reserve adequately for all future expenses associated with liquidating thrifts asset portfolios. Procedures were then put in place to make sure that cost estimates made at the time of each subsequent new resolution accounted for these factors in order to lessen the possibility of future large increases in estimates.

The remaining 25 percent of the $6.4 billion adjustment was due to a revision of asset values stemming from a reassessment of economic and real estate market factors. Since these factors are uncontrollable and uncertain, it is always possible that RTC in the future might have to revise its loss estimates for institutions resolved (and for those yet to be resolved) as part of its recurring asset valuation process.

The asset valuation process conducted to prepare June 1991 RTC financial statements indicated no reason to raise loss estimates at mid-year. RTC is currently conducting its third quarter 1991 review of assets in resolved thrifts.

Also attached is a table included in former FDIC/RTC Chairman Seidman's testimony to the Financial Institutions Subcommittee of the House Banking Committee on September 12, 1991. It provides estimates of total losses that vary according to the size of the caseload ultimately transferred to the RTC. The estimate of $160 billion in total loss funds required ($80 billion currently authorized plus $80 billion in new funds) accounts for the possibility that a substantial number of troubled thrifts currently included in the office of Thrift Supervision's Group III categories will eventually be transferred to the RTC and require taxpayer funds to protect the depositors in those institutions.

Mr. CONRAD. Mr. President, the listing that I have acquired lists the loss that the Government will incur for each S&L that has been resolved since the passage of FIRREA. For the 563 S&L's that have been resolved through the end of September, the taxpayers will lose $74.5 billion. This does not include the expected loss for the roughly 100 institutions now in conservatorship or the losses on another 350 or more institutions now expected to be taken over by the Government. Inclusion of estimated losses on these additional institutions accounts for the additional taxpayer funds that we are being asked to approve in this bill.

The institution by institution listing I am submitting casts some daylight on what has to most people been a rather dark process. However, what is seen in this daylight is not a pretty picture.

What you see in case after case where the current bailout process has turned 10 or 15 percent on depositors' funds into a 35- or 40-percent loss to the taxpayer, or more. That additional loss is occurring because we are simply throwing more bad money after bad money. The RTC openly admits that it will lose 40 cents on the dollar for all of the remaining assets it must sell.

Let me give you a few examples from the list:

The first big institution taken over by the RTC, on October 13, 1989, was University Federal Savings in Houston. At the time of resolution, there were $4.4 billion of deposits and other liabilities versus over $3.7 billion assets, for a difference of nearly $700 million. The RTC says it will spend $2.5 billion of taxpayer funds to clean up University Federal.

Peoples Heritage Savings & Loan in Kansas, a $1.5 billion institution with a shortfall at resolution of $70 million, will take nearly $1 billion of tax funds to clean up.

Western S&L in Phoenix, a $4.5 billion institution at resolution with a shortfall of $440 million, will take $1.7 billion of tax funds to clean up.

In the biggest takeover to date, CenTrust in Miami was a $6.9 billion institution at resolution with a difference between assets and liabilities of $300 million, but now the RTC will spend at least $1.7 billion of tax money to clean it up.

Imperial Federal Savings Association of San Diego was resolved in April of this year. Its liabilities matched its assets of $5.8 billion, but the taxpayers will be asked by the RTC to dole out over $1.6 billion to clean it up.

These are the bottomline numbers. Add it all up and the RTC is planning to spend over $74 billion on the resolutions to date, with losses on hundreds more institutions to be added in the months ahead.

It is a sorry mess; 58 percent of these institutions went under at the hands of criminals while the administration slept.

Now we are throwing bad money after bad. If you look at the headlines and look at the audit reports, the handling of the cleanup has been a mess. Report after report of insider information, sweetheart deals, conflicts of interest, padded bills, this cleanup has been a mess.

I thank the Chair.

Mr. RIEGLE. Mr. President, let me ask unanimous consent that a colloquy be entered in the RECORD which I will have with Senator METZENBAUM at the appropriate point in the debate on the banking reform bill. After we have concluded the voting process, we will actually engage in that colloquy on the floor.

Mr. SEYMOUR. Mr. President, I object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. GARN. I yield 1 minute to the Senator from California.

Mr. SEYMOUR. Mr. President, I rose to object to the unanimous consent, and apparently the President did not hear me.

The PRESIDING OFFICER. The unanimous consent was to include material.

Mr. SEYMOUR. I am well aware of that, Mr. President.

The PRESIDING OFFICER. There was an objection, and I will rescind the unanimous-consent request.

Mr. SEYMOUR. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, if there are no further requests for time at this time, there is essential legislation that must be passed, and I am going to move in a moment to yield back our time so the vote can occur.

Mr. KASTEN. If the chairman will yield, I would like to speak very briefly in opposition to the legislation. I do not know; I assume both Senators are in favor of the legislation. Will either of them yield to me 1 minute?

The PRESIDING OFFICER. Who yields time?

Mr. GARN. I yield 1 minute to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, once again we are being asked to give the RTC an additional $25 billion in taxpayer money for the S&L cleanup. In March 1991, the Senate voted to give the RTC $30 billion to do the same, and during consideration of FIRREA the Senate appropriated $50 billion for the S&L cleanup.

After the last debate on this issue, the administration told Congress that the total cleanup cost will total $175 billion over 30 years. Well, in 3 short years we will have spent over $125 billion for the cleanup. We still have 27 years to go and no end in sight. Therefore I cannot support this latest cash infusion to this losing proposition.

This multibillion dollar S&L bailout bill represents a massive wealth transfer from States with well-managed S&L's like Wisconsin to States with high flying and often fraudulent S&L speculators like Texas and California.

This is patently unfair. Wisconsin should pay their fair share for the cost of the cleanup because we all benefit from the Federal deposit insurance. But this outrageous mess is not Wisconsin's fault because our S&L's are well managed and conservatively run.

I recognize the importance of funding the RTC, but I cannot in good conscience support this measure unless we do something to raise real estate values and strengthen our financial institutions. This appropriation of $25 billion is a waste of taxpayer dollars.

The value of an asset is determined by the income you can expect to earn from it when you sell it. The higher the capital gains tax, the lower the expected future income, and hence the lower the value of the asset.

Because of the high capital gains tax and the elimination of passive loss incentives for real estate, the Government—through the RTC—has inherited a portfolio of devalued property.

Declining real estate prices have pushed more S&L's—and community banks—into insolvency.

The capital gains tax cut and restoration of passive loss incentives for real estate investors in the Kasten-Weber growth package would allow the RTC to sell its portfolio of real estate assets at higher prices.

The less the Government has to pay to hold on to these assets, the more revenue we get from them, and the less taxpayers will have to pay.

Periodic cash infusions from Congress will add to the ultimate costs of resolving the S&L debacle. In 1989, we were assured during consideration of FIRREA that only $50 billion would be needed to cleanup this mess. Yet here we are, adding another $25 billion, and I can confidently predict that cost will grow.

Before we commit one more dime of taxpayer money to the S&L bailout, we ought to do something to raise real estate values.

According to former Treasury economist Gary Robbins, a 15 percent indexed capital gains tax would lower the cost of the S&L bailout by $23.2 billion.

Let me repeat: American taxpayers would save $23.2 billion.

We need to address the underlying disease of falling real estate values. Economist Paul Craig Roberts points out that "Bankers forced to write down their real estate loans and to establish reserves against them aren't anxious to lend anyone."

This is a major contributing factor to the current credit crunch, which is hurting small businesses. My proposal—the Kasten-Weber tax incentive plan—says that we ought to take direct action to stem further bailout losses, and to encourage lending.

Handing the RTC a check for $25 billion will not help solve the problem. Strengthening the U.S. Tax Code to enhance real estate values through a capital gains tax cut will. Therefore, I vote no for policy rooted in the past. Let us move forward and enact pro-growth legislation so that we can get this debacle behind us.

SEVERAL SENATORS addressed the Chair.

Mr. RIEGLE. I yield 1 minute to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, given the fact there was objection to the colloquy by the Senator from California, I guess I will have to go through it orally and tie up the Senate a little bit, and I am sorry to do that.

Last weekend, I asked the Senator from Michigan—the Senate passed legislation authorizing the bank insurance fund to borrow up to $70 billion from the Federal Government, $45 billion of which would require the backing of assets required in the process of resulting failed banks.

I expressed my concern about where the money would come from to be made, that working capital debt, if the assets backing eventually sold are less than the amount borrowed.

I offered language which the managers of the bill were kind enough to include in an amendment to the bill that requires any such shortfall be covered by assessments on banks.

Is that language included in the conference report?

Mr. RIEGLE. Mr. President, let me say to the Senator from Ohio that precise language is not in the report because it was concluded by the conferees that the language in the bill already provided the same taxpayer protection and bank liability.

Mr. METZENBAUM. Does that mean taxpayers will be liable for proceeds from sales if assets by the bank insurance fund do not meet expectations?

Mr. RIEGLE. No, it does not. The bill reported by the conferees provides all possible protections, that the borrowing it authorizes is fully intended and required to be repaid by the industry and not the taxpayer. The bill requires that once the bank insurance fund starts borrowing from the Treasury to cover losses, the FDIC must set, and when necessary revise, a schedule of future assessment rates on banks sufficient to repay these borrowings and rebuild the net balance of the bank insurance fund to its target level of 1.25 percent of insured deposits within a 15-year period.

If assets are sold for less than their expected value, the bank insurance fund must recognize a loss. That loss would place the fund deeper in the hole and force assessment rates up in order to maintain the scheduled rebuilding of the fund within the 15-year deadline.

So indirectly, but inevitably, any loss on asset sales will be made up and must be made up by higher assessment rates on the banks themselves, and not upon taxpayers.

Mr. METZENBAUM. I thank the Senator from Michigan. I have been concerned, as he knows, about the taxpayers being forced to pay any of the $70 billion. With that assurance, I have no further questions.

Mr. RIEGLE. I thank the Senator.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. I wonder, what is the parliamentary situation on time?

The PRESIDING OFFICER. The Senator from Michigan has 2 minutes 20 seconds; the Senator from Utah has 1 minute 48 seconds.

Mr. BUMPERS. Mr. President, additional parliamentary inquiry. Is this bill susceptible to being divided through a division?

The PRESIDING OFFICER. There is no precedent for dividing the bill in the Senate.

Mr. BUMPERS. Will the Senator from Michigan yield 1 minute?

Mr. RIEGLE. Yes. I yield 1 minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I fully intended to vote against the bill as it left the Senate. I am troubled by this: Even though it is obviously based on—what my staffer can glean from it—it seems to be infinitely preferable to what we passed out of here.

I am just looking here, title I of this bill has 142 pages; title XII has 1,567 pages; title III has 79 pages; and then the next title is about something like 60 pages, also.

Mr. SARBANES. Would the Senator yield?

Mr. BUMPERS. I would be happy to. I have 1 minute left.

Mr. SARBANES. It is a long bill.

Mr. BUMPERS. It is a long bill.

I invite everybody in the Senate who has looked through this very carefully and knows what is in it and is satisfied with it, to vote"aye.

If you do not, if you have not read it, then what I would really like to have done is—the reason I asked about the division, Mr. President, was I do not mind voting for the FDIC recapitalization, and most of the items I was most concerned about had been taken out.

Mr. RIEGLE. Mr. President, I say to the Senator, I do know what is in every page of that bill because we were working on it until 5 a.m. this morning, as was the Senator [Mr. SARBANES]. This bill has been constructed with great care.

The essence of the bill is to provide the loans to the deposit insurance fund, but there are a whole series of new bank regulatory standards and safeguards that are much stronger than what have been in place in the past, which we think are going to stop the pattern of abuses and allow us to go in and shut down failing banks before they finally exhaust their capital and become a charge against the fund. We move against abuse by foreign banks, as we saw in the BCCI case.

It is long, but the law in the area of banking regulation is very complex. In order to do it in sufficient detail, it requires a bill of this size. As the Senator knows, many of the bills we have here are lengthy because of the nature and complexity of the law in that area.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator for Utah has 1 minute, 40 seconds.

Mr. GARN. Mr. President, I simply say to my colleague, if he reads the bill, he would want to vote for it, because he would not want to vote for $70 billion unless we put the safety and soundness features in it. All of the extraneous provisions in the Senate bill on powers are all gone. I would not vote, as he said, for just title I, without giving the regulators some powers to make sure that that $70 billion is paid back by the banks and not by the taxpayers.

So I suggest that he do read it, and I tell my colleagues that if they read it, it would make them much more comfortable in voting for the bill.

Mr. BUMPERS. Have any changes been made in this bill on the rights of banks in the selling of insurance?

Mr. GARN. They were tightened—unfortunately, for this Senator's standpoint. They were tightened. I would have preferred that they not be. Any changes in insurance are tightened. The Senator from Connecticut can verify that.

I yield the remainder of my time.

RESOLUTION TRUST CORPORATION FUNDING

Mr. WIRTH. Mr. President, I cannot support the Resolution Trust Corporation [RTC] funding package that is now before the Senate. The RTC needs additional resources to do its job and close insolvent thrifts. Delay will only increase the eventual costs of resolving S&L failures.

But inefficiency increases those costs as well. The RTC has not won praise for its efficiency. I believe the structure of the RTC is too cumbersome and has contributed to the Corporation's problems thus far. I cannot support additional RTC funding unless the legislation includes meaningful reforms to ensure the new resources are efficiently spent.

I have been concerned with the structure and operations of the RTC since its inception and introduced legislation to revamp its structure during the last Congress and again earlier this year. This legislation, the Savings and Loan Simplification Act or SALSA, would consolidate the Oversight Board's policy guidance role and the RTC Board's responsibility for day-to-day operations. I believe this structural change would be more efficient and lead to swifter decisionmaking and implementation at the RTC.

Support for RTC restructuring has grown since I first put forward that proposal and the administration, after months of resistance, recently offered its own modest plan to reform the RTC. A consensus developed that some type of RTC restructuring is necessary and the question before us became not whether to restructure the Corporation but how to do it.

At a recent Banking Committee hearing, several experts supported an RTC restructuring proposal I developed with Senator KERREY of Nebraska to revamp the RTC's dual board structure. That proposal would abolish the Oversight Board and create one Board for the RTC. The President would appoint a Chief Executive Officer for the Corporation who would also chair the Board. The Secretary of the Treasury, Chair of the FDIC, and two independent members named by the President would also serve on the Board. The witnesses indicated that plan was the best of the various proposals outlined at the hearing and was a quantum improvement over the present RTC structure.

After that hearing, Senator RIEGLE introduced legislation (S. 1943) that included an RTC restructuring plan that largely tracks the Wirth-Kerrey proposal. I was an original cosponsor of that legislation which reflected the consensus that those of us pursuing the issue developed as we held hearings on the RTC and examined its structure and operations.

Unfortunately, the package before us today does not include this proposal. It includes some elements of S. 1943, such as prohibiting the RTC from paying off uninsured depositors or creditors, strengthening the affordable housing program, and disclosure of the highest salaries at the RTC. However, it does not include the restructuring reforms that are the heart of the consensus legislation developed in recent months.

I cannot support the RTC restructuring proposal that is included in the legislation before us today. I do not believe it represents meaningful and effective reform. While the proposal purports to eliminate the dual board structure, as a practical matter, I think it will do little to improve the RTC's operations.

The package eliminates the RTC Board while retaining a restructured Oversight Board. The new Board generally retains the present Oversight Board members while making some marginal improvements such as replacing the Secretary of Housing and Urban Development with the Director of the Office of Thrift Supervision.

The legislation does make some changes to the RTC's operating structure by getting rid of the RTC Board and establishing a CEO to run the RTC. However, under current law, the Oversight Board could appoint a CEO to run the day-to-day operations, and could remove the FDIC as exclusive manager of the RTC and the FDIC Board from its role as the RTC Board. New legislation is not needed to do this and Albert Casey is already on board directing the RTC's day-to-day activities.

In many ways, the reform included in this package is just a reshuffling of the deck chairs. The new structure would retain the split between the oversight functions and the day-to-day operations that we see in the dual board structure. We still would have a very muddled line of responsibility at the RTC where it is unclear just who is running the Corporation. Maybe that's what the administration wants. But I do not think that's the way it should be.

The new Board would still include the Secretary of the Treasury and the Chairman of the Federal Reserve Board. The Secretary would serve as Chairman of the new Board. Both these individuals have a wide range of responsibilities not related to the S&L industry and have little time to devote to the RTC. Nevertheless, they are on the Oversight Board and consequently their offices do monitor the RTC and form an additional layer of bureaucracy that the RTC must contend with.

I recognize the administration's desire to have input into the RTC's activities and a presence in the RTC leadership. But we can do that without having to put some of the busiest people in the Government on the Board. Four of the seven members of the new Board will have other full-time Government positions and are unlikely to spend a great deal of time overseeing the RTC.

If we are going to simply reshuffle the deck chairs without changing the basic RTC structure, why bother making a change at all? There have been fewer reports of disorder at the RTC recently and there is no question the Corporation has improved its operations. If the change is just cosmetic and unlikely to improve efficiency, why risk any disruption to the progress the RTC has made?

I believe the administration does not really want to change the RTC's structure but is supporting this plan in order to deter a more substantive restructuring. While, I do think we need RTC reform, I would perfer the status quo to a change that is only being for the sake of making a change.

The S&L debacle is arguably the largest financial crisis since the Great Depression. Losses are mounting at a rate of several million dollars a day and resolving the S&L crisis will be among the most expensive undertakings in U.S. history. We have to provide the resources needed to resolve thrift failures and clean up this problem. But we have a responsiility to clean it up at the lowest possible cost to the American taxpayer. The RTC will do much of the job. If it does not operate efficiently the costs of the S&L rescue could climb higher.

Unfortunately, I do not think the RTC is operating as efficiently as possible and I think its cumbersome structure contributes to its problems. That's why I have sought to reform the RTC. This legislation does not include the structural changes that I believe must be part of any meaningful reform package.

I also have serious reservations about the funding portion of the package. We should give the RTC a specific sum that is expected to fund their activities for a period of time. Instead, the package includes what can be described as an "interim blank check" approach. Rather than do what we should do, we have merged the two alternatives to the one year funding the administration requested.

The result is an approach that just might be worse than any of the three other options. We only provide resources until April, requiring that further legislation be enacted. Given the difficulty and delays that have accompanied RTC funding in the past, there is a chance that the RTC could run out of funds for a while in April under this package. Beyond a doubt, RTC officials will have good reason to be uncertain about their funding.

Right now, similar uncertainty has forced the Corporation to adjust its plans. If we pass the current package that limits the duration of spending authority but not its level, we will give the RTC a perverse incentive to move as quickly as possible during this window to reduce the need for future funding requests and the uncertainty of our prompt response. The RTC will be inclined to expend resources up front while they have funding even if that is not the most efficient way to operate. That can only increase the ultimate cost of resolving the S&L crisis.

Another concern is that, if we enact this funding mechanism today, we probably will see it again. It is easy to imagine us not being prepared to approve funding when the authority expires and instead put the RTC on a diet of short term blank check funding measures while we debate the full package. Each fall, we pass continuing resolutions to keep the government operating while we complete work on appropriations legislation. We may wind up doing the same thing for the RTC in April, keeping the incentive in place for the RTC to accelerate spending regardless of the long-term costs.

Mr. ADAMS. Mr. President, today, Congress is once again authorizing the expenditure of billions of dollars for the Resolution Trust Corporation [RTC]; $25 billion to be exact.

Earlier this year, the Senate debated and passed legislation which provided $30 billion for the RTC. I opposed that bill because it failed to include any controls over the RTC to ensure that it wisely spent taxpayers dollars.

The savings and loan crisis occurred because of the failure to exercise sufficient oversight and control over the industry a decade ago. Throughout the early 1980's, reform and regulation were not practiced by the Reagan administration. Though I did not return to Congress until 1987, I saw from the sidelines how rampant and unchecked deregulation overran anything and everything in its path. It is tragically ironic that the same logic—deregulation and lax oversight—that brought us the savings and loan debacle is now being used by some to argue for more taxpayers' dollars for the RTC.

The best way to ensure that the RTC becomes part of the solution, instead of part of the problem, is to learn from the mistakes of the 1980's and start exercising even greater oversight and reform of the RTC.

In recent months, hearings have been held and suggestions made to correct these problems. But the bill before us does too little, too late to reform the RTC.

American taxpayers, who are footing the bill for the savings and loan cleanup, have so far failed to get a good return on the money invested in the RTC. They deserve better. They deserve strong oversight over how their money is spent.

We all have a responsibility to ensure that hard-earned taxpayer's dollars are not wasted by simply throwing good money after bad at the savings and loan crisis.

I will vote against this legislation and urge my colleagues to do the same.

Mr. LEVIN. Mr. President, I will vote for this legislation with reservations and distress. I am distressed by the amount of taxpayer money needed to shore up the bank insurance fund, and I am distressed by the fact that the Congress has no option but to recapitalize the insurance fund.

This is not a bailout for bankers. If it was, I would not support it. It is, rather, legislation necessary to guarantee that the promises that have been made to individual Americans by the U.S. Government will be kept. American workers and families have been promised that when they deposit their money in a Government insured bank, their deposits will be protected and guaranteed, even if that bank fails. If a bank fails—through no fault of the depositors or the customers—the Government promise is to make good on those funds.

This is a sound and appropriate guarantee, and it has served our Nation well for three generations. But now the insurance fund that backs this promise is out of money because of the distressingly large number of banks that have failed in recent years.

Further, this legislation will enable more oversight of banks by regulators, and new authority for them to seize ailing institutions before they become completely insolvent, costing the taxpayers even more. Ailing banks needs to be closed earlier, and more responsible oversight is needed. This bill does that.

In addition, title I retains an amendment I authored that requires regulators to eliminate excessive compensation by bank and S&L insiders. My amendment will give bank examiners clear direction to use the full range of enforcement tools to halt excessive compensation and set standards prohibiting this unsafe and unsound practice of federally insured banks and S&Ls.

For these reasons, I will vote for this legislation.

Mr. DODD. Mr. President, first of all, I want to commend the chairman of the Banking Committee, Mr. RIEGLE, and the ranking minority member, Mr. GARN, for their prodigious efforts on this legislation. It is worthy of note that this bill was produced at the same time as a 15-hour conference on the banking bill was under way, and I applaud them for their hard work.

In particular, I want to commend the chairman and the ranking minority member for the structural reforms contained in this bill. These important reforms should increase the efficiency of the RTC operations.

However, while I commend the authors of this legislation for their hard work, I will not be able to vote for this bill. Allow me to explain.

Unlike the banking bill we passed earlier today, this bill was never considered by the Senate Banking Committee. Nor did we have time to examine the details of the House bill before voting on it. I cannot in good conscience vote for a bill that provides $25 billion of taxpayer money without having had the opportunity to examine the bill closely.

Second, the bill contains some amendments that were laid aside during the conference on the banking bill only last night. These amendments were carefully considered and rejected, Mr. President, because they were not based on sound banking policy. The take it or leave it nature of the House-passed legislation did not leave the Senate adequate time to remove these amendments, much less debate them.

Finally, the bill does not contain any provisions to control the extraordinary overhead costs of the RTC, particularly with respect to attorneys fees. In my view, that is a glaring omission.

Mr. President, every place I have traveled in the State of Connecticut over the last year, I have heard numerous complaints about the inefficient operations of the RTC. While the legislation before us makes some improvements, the hasty nature of this process has denied the Senate the opportunity to assure the American taxpayers that these problems will be resolved.

Accordingly, Mr. President, I will vote against this bill.

Mr. GRAHAM. Mr. President, have the yeas and nays been ordered on the second bill, the RTC refinancing bill?

The PRESIDING OFFICER. They have not.

Mr. GRAHAM. I request the yeas and nays on the RTC refinancing bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report on S. 543, the banking bill.

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr.

KERREY], the Senator from Wisconsin [Mr. KOHL], the Senator from Arizona [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] and necessarily absent.

Mr. SIMPSON: I announce that the Senator from Colorado [Mr. BROWN], the Senator from Idaho [Mr. CRAIG], the Senator from Missouri [Mr. DANFORTH], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that, if present and voting the Senator from Colorado [Mr. BROWN], would vote "nay."

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 15, as follows:

The result was announced—yeas 68, nays 15, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—68

Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Cranston
D'Amato
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Grassley
Hatch
Hatfield
Heflin
Inouye
Kennedy
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Riegle
Robb
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Seymour
Simpson
Smith
Specter
Thurmond
Wallop
Warner
Wofford

NAYS—15

Adams
Bradley
Conrad
Daschle
DeConcini
Graham
Hollings
Kasten
Kerry
Metzenbaum
Murkowski
Reid
Sanford
Shelby
Wellstone

NOT VOTING—17

Breaux
Brown
Craig
Danforth
Gramm
Harkin
Helms
Jeffords
Johnston
Kassebaum
Kerrey
Kohl
Pryor
Simon
Stevens
Symms
Wirth

So the conference report was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, on behalf of the majority leader, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REID). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DIXON. I have to object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. It is for a unanimous-consent request.

Mr. SEYMOUR. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed and put the vote aside for the moment.

The PRESIDING OFFICER. Is there objection?

Mr. SEYMOUR. I object.

The PRESIDING OFFICER. The Senator from Michigan is——

Mr. SEYMOUR. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. RIEGLE. Will the Senator withhold for a moment? I am trying to explain what we are going to do next, so we can resolve this issue and Senators who need to vote and leave can do so.

Mr. SEYMOUR. That is what I am afraid of, Mr. President; Senators are going to leave and leave California high and dry relative to the drought legislation. That is why I object, because they are going to leave.

Mr. RIEGLE. Mr. President, will the Senator withhold his objection? He has plenty of opportunities to prevent a vote. I just want to explain what the parliamentary situation is. Will the Senator object to my at least using this time for that purpose?

Mr. SEYMOUR. I object.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, we now are going to proceed in a manner that I hope will permit the Senators to leave shortly. I am going to ask unanimous consent that the pending matter be temporarily laid aside, and that four matters be taken up en bloc and approved; that upon the completion of those four matters Senator RIEGLE be recognized to make a statement with respect to the pending measure, the RTC funding resolution, following which the vote on that legislation will occur.

The only other major matter after that will be the Medicaid moratorium legislation. We have received no request for a rollcall vote on that measure, to my knowledge on either side. Therefore, unless someone asks for a rollcall vote now on that, we are going to assume that no rollcall vote will be necessary. I believe that matter has been resolved to the satisfaction of all concerned. If that is the case, then the vote on the RTC resolution which will follow the four matters en bloc should be the final rollcall vote.

Mr. President, I now ask unanimous consent that the pending measure be set aside to permit consideration of measures by Senators SEYMOUR, McCAIN, and FOWLER; that those measures be considered en bloc—and—Mr. President, I amend my request to add Senator DOLE to that. So there would be five measures, Senators SEYMOUR, CRANSTON, McCAIN, FOWLER, and DOLE.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECLAMATION STATES EMERGENCY DROUGHT RELIEF

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 355.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 355) entitled "An Act to provide emergency drought relief to the Reclamation States, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Interior and Insular Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. MILLER of California, Mr. MARKEY, Mr. RAHALL, Mr. VENTO, Mr. de LUGO, Mr. GEJDENSON, Mr. KOSTMAYER, Mr. LEHMAN of California, Mr. YOUNG of Alaska, Mr. HANSEN, Mrs. VUCANOVICH, Mr. RHODES, and Mr. THOMAS of Wyoming.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 102(d), 104(a), 203(a)(4), and 303(6) of the House bill, and sections 102(d), 203(a)(4), 203(c), and 302 of the Senate amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS and Mr. DAVIS.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate recede from its earlier amendment and that it be in order to further amend with a substitute amendment which I now send to the desk in behalf of Senator Johnston.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1451

Mr. MITCHELL. Mr. President, I send an amendment in behalf of Mr. JOHNSTON to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. JOHNSTON, proposes an amendment numbered 1451.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete all after the enacting clause and substitute the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation States Emergency Drought Relief Act of 1991".

SEC. 2. DEFINITIONS.

As used in this act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The Term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388) and Acts supplementary thereto and amendatory thereof.

(3) The term "Federal Reclamation project" means any project constructed or funded under Federal Reclamation law. Such term includes projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044).

TITLE I—DROUGHT PROGRAM

SEC. 101. ASSISTANCE DURING DROUGHT; WATER PURCHASES.

(a) CONSTRUCTION, MANAGEMENT, AND CONSERVATION.—Consistent with existing contractual arrangements and applicable State and applicable Federal law, and without further authorization, the Secretary is authorized to undertake construction, management, and conservation activities that will minimize, or can be expected to have an effect in minimizing, losses and damages resulting from drought conditions. Any construction activities undertaken pursuant to the authority of this subsection shall be limited to temporary facilities designed to minimize losses and damages from drought conditions, except that wells drilled to minimize losses and damaged from drought conditions may be permanent facilities.

(b) ASSISTANCE TO WILLING BUYERS AND SELLERS.—In order to minimize losses and damages resulting from drought conditions, the Secretary may provide non-financial assistance to willing buyers in their purchase of available water supplies from willing sellers.

(c) WATER PURCHASES BY BUREAU.—In order to minimize losses and damages resulting from drought conditions, the Secretary may purchase water from willing sellers, including, but not limited to, water made available by Federal Reclamation project contractors through conservation or other means with respect to which the seller has reduced the consumption of water. Except with respect to water stored, conveyed or delivered to Federal and State wildlife habitat, the Secretary shall deliver such water pursuant to temporary contracts under section 102: *Provided*, That any such contract shall require recovery of any costs, including interest if applicable, incurred by the Secretary in acquiring such water.

(d) WATER BANKS.—In order to respond to a drought, the Secretary is authorized to participate in water banks established by a State.

SEC. 102. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

(a) GENERAL AUTHORITY.—In order to mitigate losses and damages resulting from drought conditions, the Secretary may make available, by temporary contract, project and non-project water and may permit the use of facilities at Federal Reclamation projects for the storage or conveyance of project or non-project water, for use both within and outside an authorized project service area.

(b) SPECIAL PROVISIONS APPLICABLE TO TEMPORARY WATER SUPPLIES PROVIDED UNDER THIS SECTION.—

(1) TEMPORARY SUPPLIES.—Each temporary contract for the supply of water entered into pursuant to this section shall terminate no later than two years from the date of execution or upon a determination by the Secretary that water supply conditions no longer warrant that such contracts remain in effect, whichever occurs first. The costs associated with any such contract shall be repaid within the term of the contract.

(2) OWNERSHIP AND ACREAGE LIMITATIONS.—Lands not subject to Reclamation law that receive temporary irrigation water supplies under temporary contracts under this section shall not become subject to the ownership and acreage limitations or pricing provisions of Federal Reclamation law because of the delivery of such temporary water supplies. Lands that are subject to the ownership and acreage limitations of Federal Reclamation law shall not be exempted from those limitation because of the delivery of such temporary water supplies.

(3) TREATMENT UNDER RECLAMATION REFORM ACT OF 1982.—No temporary contract entered into by the Secretary under this section shall be treated as a "contract" as that term is used in sections 203(a) and 220 of the Reclamation Reform Act of 1982 (Public Law 97-293).

(4) AMENDMENTS OF EXISTING CONTRACTS.—Any amendment to an existing contract to allow a contractor to carry out the provisions of this title shall not be considered a new and supplemental benefits for purposes of the Reclamation Reform Act of 1982 (Public Law 97-293).

(c) CONTRACT PRICE.—The price for project water, other than water purchased pursuant to section 101(c), delivered under a temporary contract entered into by the Secretary under this section shall be at least sufficient to recover all Federal operation and maintenance costs and administrative costs, and an appropriate share of capital costs, including interest on such capital costs allocated to municipal and industrial water, except that, for project water delivered to non-project landholdings, the price shall include full cost (as defined in section 202(3) of the Reclamation Reform Act of 1982 (Public Law 97-293; 96 Stat. 1263; 43 U.S.C. 390bb)). For all contracts entered into by the Secretary under the authority of this title,

(1) the interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs expended pursuant to this Act shall be at a rate to be determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with remaining periods to maturity of one year occurring during the last month of the fiscal year preceding the date of execution of the temporary contract or,

(2) in the case of existing facilities the rate as authorized for that Federal Reclamation project or,

(3) in the absence of such authorized rate, the interest rate as determined by the Secretary of the Treasury as of the beginning of the fiscal year in which construction was initiated on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which were neither due nor callable for redemption for fifteen years from date of issue: *Provided*, That for all deliveries of water for municipal and industrial purposes from existing facilities to non-project contractors, the rate shall be as set forth in paragraph (1) of this subsection.

(d) FISH AND WILDLIFE.—The Secretary may make water from Federal Reclamation projects and non-project water available on a nonreimbursable basis for the purposes of protecting or restoring fish and wildlife resources, including mitigation losses, that occur as a result of drought conditions or the operation of a Federal Reclamation project during drought conditions. The Secretary may store and convey project and non-project water for fish and wildlife purposes, and may provide conveyance of any such water for both State and Federal wildlife habitat and for habitat held in private ownership. The Secretary may make available water for these purposes outside the authorized project service area. Use of the Federal storage and conveyance facilities for these purposes shall be on a nonreimbursable basis. Water made available by the Secretary in 1991 from the Central Valley Project, California, to the Grasslands Water District for the purpose of fish and wildlife shall be nonreimbursable.

(e) NON-PROJECT WATER.—The Secretary is authorized to store and convey non-project water utilizing Federal Reclamation project facilities for use outside and inside the authorized project service area for municipal and industrial uses, fish and wildlife, and agricultural uses. Except in the case of water supplied for fish and wildlife, which shall be nonreimbursable, the Secretary shall charge the recipients of such water for such use of Federal Reclamation project facilities at a rate established pursuant to section 102(c) of this Act.

(f) RECLAMATION FUND.—The payment of capital costs attributable to the sale of project or non-project water or the use of Federal Reclamation project facilities shall be covered into the Reclamation Fund and be placed to the credit of the project from which such water or use of such facilities is supplied.

SEC. 103. LOANS.

The Secretary of the Interior is authorized to make loans to water users for the purposes of undertaking construction, management, conservation activities, or the acquisition and transportation of water consistent with State law, that can be expected to have an effect in mitigating losses and damages, including those suffered by fish and wildlife, resulting from drought conditions. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate: *Provided*, That the Secretary shall not approve any loan unless the applicant can demonstrate an ability to repay such loan within the term of the loan; *Provided further*, That for all loans approved by the Secretary under the authority of this section, the interest rate shall be the rate determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with periods to maturity comparable to the repayment period of the loan. The repayment period for loans issued under this section shall not exceed fifteen years. The repayment period for such loans shall begin when the loan is executed. Sections 203(a) and 220 of the Reclamation Reform Act of 1982 and sections 105 and 106 of Public Law 99-546 shall not apply to any contract to repay such loan. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives in writing of any loan which the Secretary intends to approve not less than 30 days prior to granting final approval.

SEC. 104. APPLICABLE PERIOD OF DROUGHT PROGRAM.

(a) IN GENERAL.—The programs and authorities established under this title shall become operative in any Reclamation State only after the Governor or Governors of the affected State or States, or on a reservation, when the governing body of the affected Tribe has made a request for temporary drought assistance and the Secretary has determined that such temporary assistance is merited, or upon the approval of a drought contingency plan as provided in title II of this Act.

(b) COORDINATION WITH BPA.—If a Governor referred to in subsection (a) is the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a).

(c) TERMINATION OF AUTHORITY.—The authorities established under this title shall terminate ten years after the date of enactment of this Act.

TITLE II—DROUGHT CONTINGENCY PLANNING

SEC. 201. IDENTIFICATION OF OPPORTUNITIES FOR WATER SUPPLY CONSERVATION, AUGMENTATION AND USE.

The Secretary is authorized to conduct studies to identify opportunities to conserve, augment, and make more efficient use of water supplies available to Federal Reclamation projects and Indian water resource developments in order to be prepared for and better respond to drought conditions. The Secretary is authorized to provide technical assistance to States and to local and Tribal government entities to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

SEC. 202. DROUGHT CONTINGENCY PLANS.

The Secretary, acting pursuant to the Federal Reclamation laws, utilizing the resources of the Department of the Interior, and in consultation with other appropriate Federal and State officials, Indian tribes, public, private, and local entities, is authorized to prepare or participate in the preparation of cooperative drought contingency plans (hereinafter in this title referred to as "contingency plans") for the prevention or mitigation of adverse effects of drought conditions.

SEC. 203. PLAN ELEMENTS.

(a) PLAN PROVISIONS.—Elements of the contingency plans prepared pursuant to section 202 may include, but are not limited to, any or all of the following:

(1) Water banks.

(2) Appropriate water conservation actions.

(3) Water transfers to serve users inside or outside authorized Federal Reclamation project service areas in order to mitigate the effects of drought.

(4) Use of Federal Reclamation project facilities to store and convey non-project water for agricultural, municipal and industrial, fish and wildlife, or other uses both inside and outside an authorized Federal Reclamation project service area.

(5) Use of water from dead or inactive reservoir storage or increased use of ground water resources for temporary water supplies.

(6) Water supplies for fish and wildlife resources.

(7) Minor structural actions.

(b) FEDERAL RECLAMATION PROJECTS.—Each contingency plan shall identify the following two types of plan elements related to Federal Reclamation projects;

(1) those plan elements which pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Federal Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project; and

(2) those plan elements that pertain to projects, purposes, or activities not constructed, financed, or otherwise governed by the Federal Reclamation law.

(c) DROUGHT LEVELS.—The Secretary is authorized to work with other Federal and State agencies to improve hydrologic data collection systems and water supply forecasting techniques to provide more accurate and timely warning of potential drought conditions and drought levels that would trigger the implementation of contingency plans.

(d) COMPLIANCE WITH LAW.—The contingency plans and plan elements shall comply with all requirements of applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321), section 715(a) of the Water Resource Development Act of 1986 (33 U.S.C. 2265(a), and the Fish and Wildlife Coordination Act, and shall be in accordance with applicable State law.

(e) REVIEW.—The contingency plans shall include provisions for periodic review to assure the adequacy of the contingency plan to respond to current conditions, and such plans may be modified accordingly.

SEC. 204. RECOMMENDATIONS.

(a) APPROVAL.—The Secretary shall submit each plan prepared pursuant to section 202 to the Congress, together with the Secretary's recommendations, including recommendations for authorizing legislation, if needed.

(b) PACIFIC NORTHWEST REGION.—A contingency plan under subsection (a) for the State of Washington, Oregon, Idaho, or Montana, may be approved by the Secretary only at the request of the Governor of the affected State in coordination with the other States in the region and the Administrator of the Bonneville Power Administration.

SEC. 205. RECLAMATION DROUGHT RESPONSE FUND.

The Secretary shall undertake a study of the need, if any, to establish a Reclamation Drought Response Fund to be available for defraying those expenses which the Secretary determines necessary to implement plans prepared under section 202 and to make loans for nonstructural and minor structural activities for the prevention or mitigation of the adverse effects of drought.

SEC. 206. TECHNICAL ASSISTANCE AND TRANSFER OF PRECIPITATION MANAGEMENT TECHNOLOGY.

(a) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance for drought contingency planning in any of the States not identified in section 1 of the Reclamation Act (Act of June 17, 1902, 32 Stat. 388), and the District of Columbia, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship, the Republic of Palau, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

(b) TECHNOLOGY TRANSFER PROGRAM.—The Secretary is authorized to conduct a Precipitation Management Technology Transfer Program to help alleviate problems caused by precipitation variability and droughts in the West, as part of a balanced long-term water resources development and management program. In consultation with State, Tribal, and local water, hydropower, water quality and instream flow interests, areas shall be selected for conducting field studies cost-shared on a 50-50 basis to validate and quantify the potential for appropriate precipitation management technology to augment stream flows. Validated technologies shall be transferred to non-Federal interests for operational implementation.

TITLE III—GENERAL AND MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in section 303 of this Act (relating to temperature control devices at Shasta Dam, California), there is authorized to be appropriated not more than $90,000,000 in total for fiscal years 1992, 1993, 1994, 1995, and 1996.

SEC. 302. AUTHORITY OF SECRETARY.

The Secretary is authorized to perform any and all acts and to promulgate such regulations as may be necessary and appropriate for the purpose of implementing this Act. In carrying out the authorities under this Act, the Secretary shall give specific consideration to the needs of fish and wildlife, together with other project purposes, and shall consider temporary operational changes which will mitigate, or can be expected to have an effect in mitigating, fish and wildlife losses and damages resulting from drought conditions, consistent with the Secretary's other obligations.

SEC. 303. TEMPERATURE CONTROL AT SHASTA DAM, CENTRAL VALLEY PROJECT.

The Secretary is authorized to complete the design and specifications for construction of a device to control the temperature of water releases from Shasta Dam, Central Valley Project, California, and to construct facilities needed to attach such device to the dam. There is authorized to be appropriated to carry out the authority of this section not more than $12,000,000.

SEC. 304. EFFECT OF ACT ON OTHER LAWS.

(a) CONFORMITY WITH STATE AND FEDERAL LAW.—All actions taken pursuant to this Act pertaining to the diversion, storage, use, or transfer of water shall be in conformity with applicable State and applicable Federal law.

(b) EFFECT ON JURISDICTION, AUTHORITY, AND WATER RIGHTS.—Nothing in this Act shall be construed as expanding or diminishing State, Federal, or Tribal jurisdiction or authority over water resources development, control, or water rights.

SEC. 305. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43

U.S.C. 523), for the impounding, storage, and carriage of non-project water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes using any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California, the Truckee Storage Project, and the Washoe Project, California and Nevada. The Secretary is further authorized to enter into contracts for the exchange of water for the aforementioned purposes using facilities associated with the Cachuma Project, California.

SEC. 306. REPORT.

There shall be included as part of the President's annual budget submittal to the Congress a detailed report on past and proposed expenditures and accomplishments under this Act.

SEC. 307. FEDERAL RECLAMATION LAWS.

This Act shall constitute a supplement to the Federal Reclamation laws.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SEYMOUR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. I rise to urge immediate passage of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991 as amended. Passage is long overdue. After all, there is a drought; and to people who are trying to live with less than enough water, it is an emergency. Precisely because this bill should have been passed easily this spring, so some drought relief could be made available this summer, certain Members seemed to think it could be used to accomplish other ends. In the Senate, drought relief was delayed to try to force action on the central valley project legislation and we have been treated in the last week to an effort by the chairman of the House Interior and Insular Affairs Committee to delay action unless the Senate took up reclamation reform and the other elements of the House's social agenda. Those actions, and the insensitivity they demonstrate, are simply unconscionable.

I want to commend Senator BURNS, the ranking member of the Subcommittee on Water and Power, for his efforts. When this legislation was being held hostage in the subcommittee, he forced in onto the committee's agenda and circulated amendments in July. The committee managed to delay consideration until the end of September, but Senator BURNS finally prevailed and deserves the credit for this measure escaping the committee.

Mr. President, I urge my colleagues to look at the calendar. It may come as a surprise to those whose concept of a food chain begins at the grocery store, that a whole growing season has passed. A whole growing season during one of the most severe droughts in memory. We have reached an agreement. It is not totally to anyone's satisfaction but at least it clears the way to provide some measure of drought relief to citizens in the reclamation States. Let me pass this bill and allow the Secretary of the Interior to begin to do what he should have been allowed to do last July or earlier.

There are some fundamental disagreements between the House and the Senate about what the nature and extent of the Federal role, particularly that of the Secretary of the Interior, should be in drought situations. The Senate has acquiesced to the House, not because we agree with their position, but because that was the only way to get this bill passed. In the West, there are certain immutable inevitabilities. One of those is that droughts will continue to occur. We have passed drought relief legislation twice before in the last 15 years, and we're doing it again. It would seem only sensible to make drought relief authority for the Secretary of the Interior a permanent one but the House insisted on a sunset provision. The only plausible explanation that I can imagine for wanting to limit the length of time that these authorities are available is to guarantee that there will be a future opportunity to pursue other agencies under the mantle of emergency drought relief. Either they believe there will never be another drought anywhere in the West or they simply enjoy using people's pain to extort their personal tribute.

The House insisted on a 10-year limitation on the Secretary's authority. It will be truly ironic if the next drought emergency is a 2-year occurrence beginning 10 years hence. In the 10th year, the Secretary can immediately take steps to deal with it but the following year we'll be right back here arguing to extend his authority. If present experience is any example, the rains will come before the bill is passed.

Similarly, there was a disagreement over whether or not farmers should be allowed to defer payments owed to the Secretary during drought years. It stands to reason that if you are a farmer; and your income is from the crops you grow; and there is not enough water to grow your crops; you might have severely reduced income. This was recognized and accepted over 4,000 years ago in the first agricultural civilization. In the Code of Hammurabi, it says:

> If a man is liable for interest, and the god Adad has flooded his field, or the harvest has been destroyed, or the corn has not grown through lack of water; then in that year he shall not pay corn to this creditor.

Even with this legal precedent, the House feels somehow that is ought not to apply in 20th century America. The Senate disagrees, but viewing the prospect of another drought year with no authority for the Secretary to assist farmers in trouble, we went along.

It is also ironic that it is the chairman of the House committee who objects so strongly to this provision. He is quick to denounce any water being used for agriculture, but objects to a provision which would have given the Secretary authority, during a drought, to have water users forego their contractual entitlement so that the water could be made available to urban areas and for wildlife habitat.

This is not a bad bill. If it were, I would not support it. There are many worthy provisions in it. It authorizes the construction of temporary facilities, allows the Secretary to purchase water from willing sellers, authorizes non-financial assistance to willing buyers and sellers, and authorizes temporary water contracts. It authorizes the use of reclamation facilities to assist in the transport of water even outside the project service area. It authorizes loans at Treasury rates to assist in ameliorating drought impacts. It authorizes the preparation of comprehensive drought contingency plans. These are needed authorities which should help mitigate some of the effects of drought in the West. This is a good bill. It could have been a better bill had the House simply accepted the Senate amendments. It could have been a more timely bill if the Energy and Natural Resources Committee had not held it up for 4 months. Someday we may stop the hostage taking and start serving the public. This is at least a start.

Mr. President, there are people out there who need such help as can be provided and they need it now. I urge my colleagues to sense the urgency, place aside any other agendas and support and pass this compromise so that the Secretary of the Interior can get about the business of government which is to help its citizens.

Mr. SEYMOUR. Mr. President, I am pleased that at long last this emergency drought bill is before the Senate for final passage.

This important legislation is critical not only to the State of California but also to many other Western States suffering from continued drought.

California, in particular, has suffered through 5 years of drought and everything seems to point toward a 6th year. Losses to agricultural production, decreases in urban supplies and severe damage to fish and wildlife resources from the prolonged drought have been devastating. The Bureau of Reclamation has already announced that even a year of normal rainfall will not provide the storage, water supply or environmental recovery necessary for my State. The Bureau has also indicated that further reductions of water supplies to agricultural contractors are likely should this drought persist.

On October 31, 1991, the Senate passed H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991. I was pleased to support the Senate bill, as it incorporated many of the provisions from S. 711, the drought relief bill which I introduced on March 21 of this year.

H.R. 355 as passed by the Senate was good legislation. In fact, two of the provisions in this bill would have been particularly beneficial to citizens in California. These included providing the Secretary of the Interior with permanent authority to assist States suffering from drought and allowing the Secretary to defer payments from water users whose deliveries were cut back due to drought induced shortages.

Unfortunately, these two provisions were struck from the bill during negotiations with the House. The bill pending now for final passage in the Senate provides a sunset limitation of 10 years on the Secretary's authority. As I understand, drought conditions seem to hit California in 9-year cycles. Now, if in 7 or 8 years another 5-year drought returns, under the provisions in this bill, the Secretary's authority to assist the Western States would expire in the middle of the drought. I don't know the reasoning that went into placing this limitation on the Secretary's authority, but it insures that California and other Western States will be held hostage by Congress to extend the Secretary's authority should another drought occur.

Experience has shown that the time for drought assistance is often past before this body can act. This occurred during the western region's drought in 1977–78 and again in 1982. It has happened again this year. Providing permanent authority to the Secretary of the Interior will enable him to prepare for and to respond to any future drought. Anything less will leave the Secretary unable to respond in a timely manner. I think it is unfortunate that he has been denied this permanent authority.

I am pleased to note, however, that Public Law 102–27 appropriated $25 million to meet emergency drought needs in the United States. Of this amount, over $4.5 million has been designated for emergency projects in California. Three-quarters of California's share will be used on fish and wildlife projects.

Mr. President, despite the shortcomings in this bill, California is in dire need for assistance. Therefore, I support its passage and hope that the Department of the Interior will implement the regulations and begin helping those in need as soon as possible.

Mr. BURNS. I rise today in support of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991. When I requested back in July that this legislation be placed on the committee agenda for immediate action, I intended the word immediate to mean what it means to most people. I am truly perplexed that we are now considering this emergency bill in the closing days of this session. Without going into specifics, let me just point out that this emergency bill has been held hostage both by the chairman of the Senate Subcommittee on Water and Power and by the chairman of the House Committee on Interior and Insular Affairs as a means to pursue their personal agendas while thousands of hard working families were denied relief from the drought that this bill would provide.

I have been in agriculture. I know what it means to need water and not have it. I am embarrassed that a few individuals in this Congress are so insensitive to the people in the West affected by the current drought. A whole summer has gone by. A whole crop season. Now, I sincerely hope that we will not face another dry year. But the West being the West, we can be sure of a few things and another drought is one of them. That is why I am very disappointed that the House feels that there ought to be a limit to how long the Secretary's drought authority will last. It just does not make sense to me. That is why I tried to make this drought authority permanent. The House compromised on 10 years. That is not a compromise, that is a guaranteed instant replay of this present sorry situation.

Mr. President, my colleagues in the Senate recognized that this authority ought to be permanent. We should all be on our guard if there's a drought in 2002—at least those of us who are still here—because somehow I just suspect that there will be something else added to the drought reauthorization bill on its way by. I am an old livestock trader. I know how to get the best of a deal. I can assure those individuals who have obstructed this legislation that they will be in for some seriously hard bargaining the next time around. The people who elected us to serve them deserve better than they got this time and I will do everything I can to make sure they get a better deal next time.

We also had to compromise on the deferment of repayments, if you can call deleting that section a compromise. It just makes sense to allow a farmer who has suffered income loss because of drought to defer payments to the Government. It was not forgiveness, just deferment to a later time when the farmer could better afford it. We heard "When there's a drought, times are tough." It makes no sense to me for the Government to make things tougher, but that's what we had to do to get a bill. Actually it would be funny if it weren't so sad. The deferment of payments would have made it relatively easy for a farmer to choose to take no water and just not plant that year. The water could have been made available for urban use or for fish and wildlife. Without payment deferment, a farmer is going to have to use what water he can get and grow what he can, whether he wants to or not, just to make his operation and maintenance payments. This situation was brought to you by the people who are so vocal about water conservation. I am sorry, Mr. President, but this only makes sense to me if you are trying every way you can to drive farmers out of business.

Mr. President, there was a bumper sticker out several years ago that said "If you want to complain about farmers, don't do it with your mouth full." I'd like to paraphrase it. If you want to vote to make life for farmers as difficult as possible, don't vote with your mouth full. This emergency drought relief bill got caught up in the ongoing western water wars. It was used as a pawn in a large social agenda chess game. A lot of hard working families who could have been helped by this bill weren't, this year. Now is the time to pass it so they can be helped, at least for the next 10 years.

Even with the compromises this is still a good bill. It provides important authorities for the Secretary of the Interior to help alleviate some of the hardships of drought in the reclamation States. It authorizes comprehensive drought contingency planning. It should have been passed in July. We should pass it now. We should, at the same time, recognize that the taking of hostages anywhere, anytime will hurt someone. The people who got hurt this time did not deserve it but some of our colleagues will deserve it if they decide to get even.

BRONZE STAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of S. 2015 regarding the Bronze Star, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2015) to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense of Corregidor Island, the Philippines, under General Wainwright.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Without objection, the bill is read three times and passed.

The bill (S. 2015) was deemed read the third time, and passed as follows:

S. 2015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARDS OF THE BRONZE STAR TO NAVY AND MARINE CORPS PERSONNEL WHO SERVED ON CORREGIDOR, THE PHILIPPINES, UNDER GENERAL WAINWRIGHT.

(a) FINDINGS.—Congress finds:

(1) United States Army personnel under the command of General Jonathan Wainwright who fought in and were captured during the defense of Corregidor Island, the Philippines, at the outbreak of World War II were awarded the bronze star.

(2) Approximately 3,000 United States Navy and Marine Corps personnel, serving in various units under the overall command of General Wainwright, fought in the defense of Corregidor Island.

(3) These Navy and Marine Corps personnel were not awarded the bronze star pursuant to Navy policy not to award medals for gallantry to all personnel in a unit.

(4) The Navy and Marine Corps personnel demonstrated courage, endurance, and intrepidity in battle and in suffering the privations of battle, capture and internment after capture that was every bit exemplary as their Army counterparts.

(5) An award of the bronze star medal to Navy and Marine Corps personnel who served under General Wainwright in the defense of Corregidor Island provides appropriate recognition of and honor for the courage, endurance, and intrepidity of such personnel.

(b) AWARD OF BRONZE STAR MEDAL.—The President is urged and requested to require that the Secretary of an appropriate military department award the bronze star medal to each member of the United States Navy or Marine Corps who served under General Jonathan Wainwright during the defense of Corregidor Island, the Philippines, during World War II.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SEYMOUR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CHATTAHOOCHEE NATIONAL FOREST PROTECTION ACT OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3245, the Chattahoochee National Forest Protection Act of 1991 just received from the House; that the bill be deemed read three times and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

PHOENIX INDIAN SCHOOL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. 2034, relating to the Phoenix Indian school, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2034) to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1452

(Purpose: To establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk on behalf of Senator MCCAIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR], for Mr. MCCAIN, proposes an amendment numbered 1452.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete Section 1 of the bill in its entirety and substitute therefor the following:

"SECTION 1. The Secretary of the Interior shall remove, at the earliest possible date, all asbestos within buildings and related infrastructure, including underground pipes, located on the 110 acre parcel of Federal property known as the Phoenix Indian School. The obligation of the Secretary to carry out these activities shall continue beyond the date of transfer of the Phoenix Indian School property from Federal ownership."

Mr. SIMON. Mr. President, would the distinguished vice-chairman of the Select Committee on Indian Affairs yield for a colloquy?

Mr. MCCAIN. I would be pleased to yield to the distinguished Senator from Illinois.

Mr. SIMON. I understand that S. 2034 is intended to resolve an uncertainty that has arisen regarding the Indian school land exchange. I am also aware that the exchanges are extremely complex and that their successful conclusion will bring about substantial benefits for the United States, the city of Phoenix, and the Indian tribes in Arizona. I certainly support the goals of the exchange. However, I am concerned that under S. 2034 the Secretary of the Interior may seek to fund any asbestos cleanup by utilizing funds otherwise appropriated for other Indian programs. Is that the intention of the Senator from Arizona?

Mr. MCCAIN. I thank my friend from Illinois. It is absolutely not our intention that the Secretary use funds intended for other Indian programs to effectuate any cleanup of the asbestos. Preliminary cost estimates prepared by the Department of the Interior place the cost of asbestos abatement at the school at about $770,000. It is our intention to seek a separate appropriation for the abatement once the Department has provided us with a firm cost figure. In addition, I would note for the Senator from Illinois that the only way the Secretary could utilize funds appropriated for other Indian programs would be through a reprogramming request approved by the Appropriations Subcommittees on Interior and Related Agencies of both the House and Senate because the amount involved exceeds $250,000. I can assure my friend that were the Secretary to make such a request I would strongly oppose it as I believe would all members of the Select Committee on Indian Affairs, several of whom also serve on the Appropriations Committee. I thank my friend for his question and appreciate his service on the committee and commitment to the welfare of Native Americans. I would note that resolution of the asbestos cleanup question will enable us to secure a $35-million Indian Education Trust Fund which is critical.

Mr. SIMON. I appreciate the response of the Senator from Arizona. I can certainly assure him that this Senator would join in opposing any such reprogramming request.

The PRESIDING OFFICER. Without objection, the amendment (No. 1452) is agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SEYMOUR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE WHITE HOUSE COMMEMORATIVE COIN ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3337, the 1992 White House Commemorative Coin Act, just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3337) to require the Secretary of the Treasury to mint a coin in commemoration of the two hundredth anniversary of the White House, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1453

(Purpose: To modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Bill of Rights, and other purposes)

Mr. MITCHELL. Mr. President, on behalf of Senators CRANSTON, WALLOP, KENNEDY, and HATCH, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. CRANSTON (for himself, Mr. WALLOP, Mr. KENNEDY, and Mr. HATCH) proposes an amendment numbered 1453.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

TITLE ____—COINS

SEC. ____01. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. ____02. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the two hundredth anniversary of the ratification of the Bill of Rights to the United States Constitution for a period of 2 years after issuance. After the 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. The minting of the first selected coin shall begin January 1993, and the issuance shall begin as soon as practical thereafter. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. ____03. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. ____04. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following concepts from the Bill of Rights: freedom of speech and assembly; freedom of the press; the right to due process of law; and other appropriate themes. The designs shall be selected by the Secretary upon consultation with the United States Commission of Fine Arts.

SEC. ____05. REDUCTION OF THE NATIONS DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

TITLE ____—JAMES MADISON COINS

SEC. ____01. SHORT TITLE.

This title may be cited as the "James Madison—Bill of Rights Commemorative Coin Act".

SEC. ____02. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 300,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the five dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 900,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.5 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The obverse design of the one dollar coins shall be emblematic of James Madison, the fourth President of the United States. The reverse design shall be emblematic of James Madison's home, Montpelier, between the years 1751 and 1836. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the one dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(c) HALF DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 1,000,000 half dollar coins each of which shall—

(A) weigh 12.50 grams;

(B) have a diameter of 30.61 millimeters; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the half dollar silver coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the half dollar coin beginning not later than 3 months after the date of the enactment of the Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(d) INSCRIPTIONS.—All coins minted and issued under this Act shall bear a designation of the value of the coin, an inscription of the year of issue and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(e) DESIGN PANEL.—The Design Panel referred to in subsections (a), (b), and (c) shall consist of the following members:

(1) The Chairperson of the Commission of Fine Arts.

(2) The president of the James Madison Memorial Fellowship Foundation.

(3) The Executive Director, National Numismatic Collection, the Smithsonian Institution.

(4) A representative member of the American Numismatic Association.

(5) A representative member of a national sculpture society or association.

(6) Two representatives of the United States Mint selected by the Director of the United States Mint.

The Secretary shall reimburse the members of the Design Panel for per diem expenses and other official expenses from the revenues received from the sale of the coins. The Design Panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and shall terminate following the selection process set forth in subsections (a), (b), and (c).

(f) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. ____03. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. ____04. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR COINS AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this title may be issued beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this title after December 31, 1993.

SEC. ____05. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price at least equal to the face value, plus the cost of minting and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $30 per coin for the five dollar coins, $6 per coin for the one dollar coins, and $3 per coin for the half dollar coins.

SEC. ____06. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

(c) REPORTS TO CONGRESS.—Not later than fifteen days after the last day of each month, the Secretary shall transmit to the committee on Banking, Finance, and Urban Affairs of the House of Representatives and the committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this title during such month. The report shall include a review of all marketing activities and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping. No report shall be required after January 15, 1994.

SEC. ____07. DISTRIBUTION OF SURCHARGES.

The surcharges received by the Secretary shall be transmitted promptly to the James Madison Memorial Fellowship Trust Fund established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.). Such transmitted amounts shall qualify under section 811(a)(2) of that Act as funds contributed from private sources. In accordance with the purposes of the James Madison Fellowship Program, the funds transmitted to the Trust Fund shall be used to encourage teaching and graduate study of the Constitution of the United States, its roots, its formation, its principles, and its development.

SEC. ____08. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts transmitted under section ____07 of this title. The expenditures and audit of surcharge funds deposited in the James Madison Memorial Fellowship Trust Fund under section ____07 of this Act shall be done in accordance with section 812 of the James Madison Memorial Fellowship Act (20 U.S.C. 4511). Annual reports shall be submitted by the Chairman of the James Madison Memorial Fellowship Foundation to both Houses of Congress on all expenditures of surcharge funds.

SEC. ____09. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1453) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SEYMOUR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRECEDENT AND CAPACITY

Mr. CRANSTON. Mr. President, I thank my friend and colleague, Senator MALCOLM WALLOP, for the important part he has played in advancing this amendment. I thank many others for their contributions. The United States has changed coin design 65 times before in our Nation's history. Every change has made a profit for the Government.

This legislation would require new designs on the reverses—tail sides—of the penny, nickel, dime, quarter, and half dollar. The Presidents on the obverses—face sides—would remain on the coins. The size, shape, weight, color and metallic content would remain the same. All inscriptions including "In God We Trust" will remain on the coins.

The 1975–76 Bicentennial reverses of the quarter, half dollar, and dollar minted in celebration of the 200th anniversary of our Nation's independence were very favorably received by the public and raised substantial profit for the Treasury.

Every Western nation changes its coins with great regularity. The former Mint Director, Donna Pope, testifying before the House Subcommittee on Consumer Affairs and Coinage on July 12, 1990, said that the Mint has "sufficient capacity to implement the 6-year coinage redesign legislation".

PROVEN REVENUE RAISER

The Post Office changes stamp designs 24 times every year. It makes a huge profit because of purchases by 10 million stamp collectors. The 1989 profit was approximately $200 million.

The Nation's 10 million coin collectors insure that coin design change will produce huge profits. On June 23, 1988, a conservative CBO study estimated that the proposed six new designs will produce a total profit of $155 million through above-normal seignorage in 4 years: $36 million in year 1, $42 million in year 2, $47 million in year 3, $30 million in year 4. CBO estimated that this increased seignorage will also reduce Federal interest costs by $29 million in the first 4 years. CBO additionally stated that there will be $18 million profit in collector sets sales over a 6-year period. This money will go directly to the Treasury to reduce national debt. Seigniorage is the difference between the cost and the sales price of a coin. Example: It costs 2.5 cents to make a quarter for a seignorage profit of 22.5 cents.

CONGRESSIONAL SUPPORT

Senate support: The coin redesign bill was approved by the Senate unanimously six times in the last Congress. It had 68 cosponsors.

House support: The coin redesign bill had 278 cosponsors.

Opponents of this legislation erroneously state that the public disfavor in 1978 over the Susan B. Anthony dollar indicates that the public will not accept proposed coin redesigns. The Anthony dollar was not a design change. It was different in shape and size. It was not the design on the coin to which the public objected. The Anthony dollar also failed because the dollar bill was not taken out of circulation, and because it was so similar in size, shape, and appearance to the quarter.

HISTORY

Historically, coins have played a great part in the lives of the people of our country. They are the most tangible symbols of our Nation in our daily lives. We touch them, examine them, carry them around in our pockets and purses.

Beth Deisher, editor of Coin World, testified eloquently on November 22. She said:

> Our founding fathers understood the importance of a federal coinage. Benjamin Franklin, Robert Morris, Thomas Jefferson and Alexander Hamilton—leading thinkers of their day—each suggested coinage systems for the new United States.
>
> Coinage and the establishment of a Mint, in fact, were so important that President George Washington spoke about coinage issues and the need for a national Mint in his first three addresses to Congress—in 1789, 1790 and 1791.
>
> Our founding fathers had very definite ideas with regard to the designs depicted on our coins.

More recently, when President Theodore Roosevelt was asked what he thought was the most important contribution of his administration he replied, "the coinage of the United States Mint." One of Roosevelt's top priorities upon assuming office was improving the quality of the designs of American coins.

TODAY

I am concerned, however, with the direction the mint has taken over the past decade. Rather than carry out its responsibility for promoting and initiating coin redesign and marketing programs, as undertaken by many foreign mints around the world, the U.S. Mint has taken a do-nothing attitude unless mandated otherwise by Congress. I have heard many complaints about a lack of leadership at the mint.

I hope that under a new Director's leadership—David J. Ryder if he is confirmed—our coins will be redesigned more effectively to represent themes regarding the bicentennial of the Bill of Rights and individual amendments that comprise that great document—ideals which are the essence of our freedoms and our system of justice. I hope that the mint's age of resistance to change will come to an end.

Mr. President, I ask unanimous consent that the full text of the testimony of Coin World editor Beth Deisher at Mr. Ryder's November 22 confirmation hearing appear at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF COIN WORLD EDITOR BETH DEISHER BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS CONFIRMATION HEARING OF DAVID J. RYDER AS DIRECTOR, U.S. MINT—NOVEMBER 22, 1991

Mr. Chairman, my name is Beth Deisher. I am editor of Coin World, the world's largest news weekly serving the field of numismatic collectibles. Published in Sidney, Ohio, Coin World is in its 31st year of publication.

Thank you for inviting Coin World to present testimony on the historical role of the Mint in the production of coins and for the opportunity to present our views on the Mint's responsibility for redesigning U.S. coins.

Our founding fathers understood the importance of a federal coinage. Benjamin Franklin, Robert Morris, Thomas Jefferson and Alexander Hamilton—leading thinkers of their day—each suggested coinage systems for the new United States.

Coinage and the establishment of a Mint, in fact, were so important that President George Washington spoke about coinage issues and the need for a national Mint in his first three addresses to Congress—in 1789, 1790 and 1791. By resolution passed on March 3, 1791, the U.S. Mint was established and little more than a year later, the enabling law, the Mint Act of April 2, 1792, was approved, setting forth the denominations, specifications and legal tender status for the first U.S. coins. The coinage system which gained approval was based on the decimal plan advocated by Hamilton, the nation's first Secretary of the Treasury.

That Act of April 2, 1792, also authorized the construction of a minting facility, which became the first building to be constructed by the federal government. The Act of April 2, 1792, also specified the positions that would be required, outlined their responsibilities and set their salaries.

It is significant that our founding fathers tapped David Rittenhouse to be the nation's first Mint Director. At the time of his appointment, Dr. Rittenhouse was widely considered to be America's top scientist. Our founding fathers sought the very best for such an important assignment.

It is also significant that our founding fathers had very definite ideas with regard to the designs depicted on our coins. If fact, the design parameters set forth in 1792 still affect designs of our coins today because therein embodied are the mandates for the word Liberty and the year of issue to appear on all of our coins. Many in Congress thought President Washington's portrait should be on our coins, but Washington vehemently opposed it. He did not want to be perceived as a king. The prevailing wisdom of that time was not to elevate any mortal to such lofty heights, but rather to require that all coins depict an impression symbolic of Liberty. Indeed, Liberty was personified as an allegorical figure for more than 115 years thereafter.

Dr. Cornelius Vermeule, Curator of Classical Art at the Museum of Fine Arts in Boston and author of Numismatic Art in America, brings perspective here:

"A nation fashioned as was the United States needed a coinage as different from the immediate past as the ideals of sovereignty and forms of government with which the country first developed. . . . It is to the credit of the Revolutionary leaders that, from the beginning, they sought designs and styles for the coinage which would be original and expressive of the nation's intellectual aspirations. Ten years were necessary, from 1782 to 1792, to bring a true federal coinage into being. The founding fathers thought and wrote extensively about the symbolism involved in the designs, and they were able to reject nearly all visual reliance on the long-established coinages of major European nations. The problems of a new coinage were iconographic and aesthetic. As a result, sources for obverse and reverse compositions, from figures to lettering and secondary decoration, had to come from contemporary European and American art of all forms. . . . Coins from 1793 through 1836 manifest all the symptoms of a young republic striving to find its iconographic and artistic identity, and, therefore, have always been objects of charm and, at worst, primitive beauty. The Neoclassic designs instituted in the years following 1836 gave United States coins a dignity and originality worthy of any struck pieces in any age. It is only unfortunate that a mediocre version of these types persisted for too long—over fifty years—until the eve of the Chicago World's Fair of 1892. Part of the reason for this was no doubt the fact that the nation was torn apart by civil war from 1861 to 1865.

"The artistic upheaval that began in 1892 led to one of the most beautiful regular coinages ever conceived, but it did not become effective until the decade from 1906 to 1916."

It is clear from the historical record and the coins and pattern coins which have survived that Mint officials and the artists in their employ during the Mint's first 100 years were striving to create a coinage of quality in design and content. It is equally clear that in 1892 as the U.S. Mint began its second century of service those in charge believed they must take a leadership role in ensuring the quality of coinage design for the United States.

Let us pause here for a U.S. Mint Centennial Report:

The Fall of 1891 was a time of great excitement. Mint engravers were at a feverish pitch as they worked on the dies for the new designs which were to be introduced in January 1892. No one was more excited than Mint Director Edward O. Leech. At his urging, legislation had been approved by the Fifty-first Congress and signed into law September 26, 1890, granting authority to the Mint Director and the Secretary of the Treasury to change the designs of circulating coins after they had been in circulation for 25 years. As noted in his Report of the Director of the Mint for Fiscal Year Ended June 30, 1890, Leech was concerned that "the designs upon many of our coins date back a period of half a century." An accompanying table showed all six gold denominations, three of the four silver coins and one of the minor coins were eligible immediately for new designs.

The ability to bring new designs to the nation's coinage every 25 years represented a major triumph for the U.S. Mint. As early as December 5, 1883, the chairman of the Senate Finance Committee, Sen. Justin S. Morrill, in a floor speech had criticized the artistic execution, as well as other characteristics of our coinage, and pointed out to his fellow lawmakers that the then current law only allowed for new designs at such time as new denominations were approved. He noted that "the Director of the Mint, the coiner and engraver, do not appear to have any discretion in regard to existing coins."

James P. Kimball of Pennsylvania became Mint Director in July 1885. In his Report of the Director of the Mint for Fiscal Year Ended June 30, 1887, Kimball began laying the groundwork for new designs, using just over six pages of his official report for a historical overview and statement of need:

"Having become aware of what I believe to be a popular desire for an improvement of the coinage in respect to the present designs (distinguished from devices) as prescribed by law, I deem it my duty to here invite attention to this matter, and to offer such suggestions as seem to be proper to the office now held by me.

"It is sometimes considered that Congress has advisedly omitted to provide for the execution of its coinage in keeping with the art of the day, for the reason that any unnecessary change of design is contrary to the interests of the public. Whether this is so can hardly be said. It is open to question, however, how far artistic merit in coins should be sacrificed to custom."

We learn from Kimball's 1888 report that by that time he had drafted a legislative proposal, with the approval and support of Secretary of the Treasury C.S. Fairchild, and Sen. Morrill introduced it March 15, 1888.

In giving his support to the legislative initiative Fairchild, in a letter to Sen. Morrill, noted:

"The designs at present employed on our older coins date from periods of thirty to fifty years, and are commonly recognized as far behind the state which the arts of design and sculpture have since attained."

In the text of his report Kimball would advocate the ability to change designs even more fervently:

"The designs impressed upon the coins of any nation, ancient or modern, are accepted as an expression of the art of their time. But few citizens, who, with an artistic sense, have carefully scrutinized the current coins of this Republic, would consent to accept as a standard of excellence for their own day and generation almost any of the present compositions of statutory devices. . . ."

Optimistic that his drive to change the designs would find favor in Congress, Kimball noted his preference of having the ability "to engage the services of artists distinguished in their respective departments of art as opposed to public design competitions." He elaborates:

"The question now arises, who shall decide between the claims of artists more or less distinguished? . . . In selection of designs, however, this responsibility might be further divided, not necessarily by law, so as to admit also of the service of judges distinguished for their discernment in matters of art and design; such judges, on the invitation of the Secretary of the Treasury, to act with the Director of the Mint in the acceptance or rejection of designs submitted. The above suggestions are made not without full recognition of the fact that the voice of every citizen of the United States is heard upon a matter of art or aesthetics such as a design employed on a familiar coin of the Republic; or of the fact that while distinguished artists stand ready to offer designs, no public officer could reasonably be called upon alone to pass upon the professional merit of artists or the art value of their productions."

When Kimball left office in October 1889 his proposal had not yet gained passage in the House of Representatives. However, his successor, Edward O. Leech of the District of Columbia, embraced the cause and pressed ahead. Within a year, Kimball's goal had been accomplished.

In his 1891 Leech noted:

"To help make the coins of the United States worthy, from the point of view of the beautiful, of our country, at the beginning of the second century of its existence, is the object of my recommendations as to new and improved designs."

Under Leech's direction a design competition was held and a jury comprising sculptor Augustus Saint-Gaudens, outside engraver Henry Mitchell, and Mint Engraver Charles E. Barber reviewed the submitted designs or models. The jury concluded that none of the submissions were worthy. Leech then directed Barber to prepare new designs for the half dollar, quarter dollar, and dime.

It is clear from the historical record that the legislative authority to change designs after 25 years was viewed as a mandate by Leech's successors at the Mint and those most concerned with coinage matters. Mint officials in 1915 clearly believed the law compelled them to act when time had run out on Barber's designs. Mint officials announced their intentions:

"Twenty-five years having nearly elapsed since the adoption of the present designs of half-dollar, quarter-dollar and one-dime pieces, under the law coins with new designs will have to be issued."

Indeed, the design changes beginning in 1907, continuing to 1913 and into 1916 are still regarded as the zenith of American coinage art.

Were our founding fathers with us today at this hearing—namely Washington and Jefferson—they would no doubt be amazed to find their portraits on our circulating coinage.

The trend toward presidential portraits being placed on U.S. circulating coins started with Lincoln in 1909. Numismatic historians tell us that sculptor Victor David Brenner suggested honoring the 100th anniversary of Lincoln's birth with a portrait to replace the Indian Head cent. President Theodore Roosevelt was so impressed with Brenner's work he personally commissioned Brenner to do the portrait.

With the precedent in place, it is not surprising to learn that Washington's portrait was placed on the quarter dollar to commemorate the 200th anniversary of his birth in 1932. As the Indian Head 5-cent coin reached its 25th year in circulation in 1938, Jefferson's portrait was placed on the obverse and his home, Monticello, was selected to grace the reverse of the five-cent coin.

When President Franklin D. Roosevelt died in 1945 the Winged Liberty Head dime had been in circulation for 29 years, so the dime was an immediate candidate for a Roosevelt portrait. Roosevelt—a victim of polio—was very much associated with the 10-cent coin because of March of Dimes campaigns in behalf of the Infantile Paralysis Fund, so public sentiment favored the change.

The Walking Liberty half dollar was in circulation for 31 years before being replaced in 1948 by a portrait of Benjamin Franklin. However, Franklin had been on the half dollar only 15 years when the young and popular John F. Kennedy was assassinated. An outpouring of public sentiment led President Johnson to ask Congress for special legislation to replace Franklin's portrait with that of his predecessor in 1964.

On December 31, 1970, President Nixon signed into law banking legislation containing an amendment calling for the reissuance of the dollar coin, specifying that it contain the likeness of the late President Dwight D. Eisenhower, whom he had served as vice president for eight years. The Eisenhower design on the dollar would last only eight years.

A study conducted by the North Carolina Research Triangle Institute on behalf of the Mint in 1976 identified the need for a small-sized dollar coin. After a long and bitter Congressional fight, feminist Susan B. Anthony's portrait was selected for the obverse of the new, small-size dollar coin. The small-dollar coin was minted for only three years—and for circulation, only two of those years—due to the public's rejection of it because of its size being confused with the quarter dollar. So effectively, no dollar coin is in general circulation today in the United States.

Most researchers and historians attribute both the executive and legislative branches' reluctance to embrace new circulating designs to political gridlock. Few are willing to speak out publicly in support of removing presidential portraits from our circulating coins, despite the overwhelming historical record supporting the desire and need to have our nation's coins reflect the ideals and aspirations of current generations.

Were they with us today, Mint Directors Kimball and Leech would surely be distressed to learn that our cent has not had an obverse design change for 82 years, our 5-cent coin design has been with us for 53 years, our 10-cent design for 45 years, our quarter dollar design for 59 years and our half dollar for 27 years. Except for the updating of the Lincoln reverse in 1959 and the brief 1976 Bicentennial reverse designs for our dollar, half dollar, and quarter dollar, designs of our circulating coins have been allowed to stagnate.

In view of this design stagnation, we must characterize the later half of the 20th century as a time of benign neglect when we examine the Mint's role in and responsibility for initiating new designs for our circulating coins.

Historically, the Mint's primary role has been to produce enough coinage to assure that the nation has an adequate supply for commerce. Implicit is the responsibility to ensure that the coin denominations are functional. Again, an examination of the record during the last decade shows a major failure. Instead of seeking ways to correct the Anthony dollar debacle of 1979, the Mint for more than a decade has chosen to ignore the need for a small-size dollar coin and the possible elimination of the cent. Consequently, the United States' circulating coins have the least purchasing power of any major nation in the world community. The United States should be on the leading edge when it comes to keeping its coinage modern, both in terms of design and usefulness to its citizens. Sadly, this is not the case today.

Congress has during the last decade greatly expanded the U.S. Mint's mission. Historically, the U.S. Mint was simply a manufacturer of coins, including the commemorative issues from 1892 until 1954. However, the Mint's role changed dramatically with the passage of legislation authorizing the 1983–84 Los Angeles Olympic Coin Program. For the first time in its history the U.S. Mint was charged with the responsibility for the sales and marketing of commemorative coins. That precedent has been carried forth in subsequent commemorative coin programs as well as the bullion coin programs, launched in 1986.

With the mandate to be a marketer as well as a manufacturer, the U.S. Mint occupies a possibly unique place in U.S. government. Because of its authorized monopoly in manufacturing and marketing of legal tender coins for sale to collectors and investors, the Mint has the ability to earn profits for the U.S. government. In addition, the Mint adds to the government's bottom line through seigniorage (the difference between the face value and the cost of production) of circulating coins, which for accounting purposes is used as a means of financing government debt. (When seigniorage increases, the amount the Treasury has to borrow decreases, and the government avoids paying the associated interest costs.)

We find it helpful to think of the U.S. Mint in terms of a manufacturing corporation. As such, the taxpayers of the United States would be its shareholders, Congress would be its corporate board and the Mint Director would be its CEO. In terms of sales volume and profits, the U.S. Mint has been likened to a Fortune 500 company.

Regrettably, Congress and the Mint's management have not bought into the term concept. For the past decade Congress has overindulged with intense micromanagement, mandating commemorative programs based on perceived needs to generate surcharges to fund special-interest projects. Congress appears to pay little attention to appropriateness of theme or marketability of the coins. The Mint's management throughout has behaved much like a sullen teenager, doing only what it is told it must do, without enthusiasm and seemingly devoid of any interest in becoming market-oriented. The result is a dramatic decline in U.S. commemorative and bullion coin sales. (See accompanying charts.) But of even greater concern is the fact foreign competitor Mints, realizing the potential of the vast U.S. market, are successfully gaining market share at the expense of the U.S. Mint. They are aggressively vying for U.S. coin collector dollars by marketing reasonably priced, historically significant, and aestically beautiful coins.

The approach of the U.S. Mint's bicentennial and the appointment of a new Director offer an unparalleled opportunity to revitalize the U.S. Mint and forge a new working relationship with Congress as well as the numismatic community. It is our understanding that major legislation intent upon reforming the Mint and equipping it to become market-oriented is now being drafted in the House of Representatives.

We believe that it is critical for the next Director to have the management expertise and the necessary vision to lead the U.S. Mint as it matures and is empowered to become a market-oriented entity. There is an implicit need for long-range planning and market sensitivity. Equally important will be the willingness to tap and use available expertise, whether in the public or private sectors. Candor and trust must be restored. Above all, the Mint must affirm its commitment to quality, in both terms of product and service to constituents as it enters its third century.

Mr. President, the second part of this amendment would require the Secretary of the Treasury to mint coins in commemoration of James Madison and the bicentennial of the Bill of Rights. Exactly 200 years ago, the Virginia Bill of Rights was ratified—and the first 10 amendments became part of our Constitution.

This amendment was originally introduced as S. 1672, with 55 cosponsors. It will ensure that we—the people—

have the opportunity to observe and learn about this great document, the Bill of Rights.

The amendment provides for broad public participation by establishing a nationwide open competition for the selection of the commemorative coin designs—a competition for the people. The Secretary of the Treasury will select the final coin designs from the competition.

Mr. President, this amendment is strongly supported by the numismatic community. The surcharge that is added to the price of these three commemorative coins will be less than the levels for previous coins. The high price of some commemorative coins raised concerns in the coin collecting community. The U.S. Mint indicated that lower surcharges as well as lower levels of mintage would make these commemorative coins more likely to sell out.

The surcharges from these commemorative coins will be used to help endow the education programs of the James Madison Fellowship Foundation. These programs are designed to strengthen teaching and study of the U.S. Constitution.

I urge adoption of this coin redesign and James Madison, Bill of Rights, amendment and the adoption of H.R. 3337, as thus amended.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 3337), as amended, was passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I yield to the distinguished chairman of the Banking Committee, the Senator from Michigan.

RESOLUTION TRUST CORPORATION REFINANCING ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. RIEGLE. Mr. President, I will take only a short amount of time. We are ready to vote on the RTC funding measure.

In reading the House bill, there was a provision that had been added on the House side that was not agreed to ahead of time by those of us in the Senate. That provision in question would have lowered the current capital standards for real estate construction loans on either single or multifamily housing.

We know from past experience that that would be a mistake to do. The House has agreed to take that out at the first moment they have the chance to do so when they reconvene. We have that assurance from the sponsor of the amendment, Mr. WYLIE from Ohio, and also the Speaker of the House has given us that assurance.

We are going to pass the RTC funding bill now in its present form. Upon the disposition of that vote, I will send a freestanding bill to the desk which will remove the section I referred to in there that was added on the House side. They will, at their first opportunity, pass that bill. And so that part of the bill will be stricken in that fashion.

I also have an assurance from the administration that they will not act to implement this in the interim period of time until this particular section can be removed.

Mr. DOMENICI. Mr. President, we agree on this side. We have a slightly different explanation. Actually, without the provision, the 8 percent will be reduced to 4 percent for residences that are pre-sold. That is very good for the housing market. If you leave the provision in, you are apt not to get it, because it will be contested internationally. We think it should come out.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill (H.R. 3435) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. BURDICK], the Senator from Nebraska [Mr. EXON], the Senator from Iowa [Mr. HARKIN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr. KERREY], the Senator from Wisconsin [Mr. KOHL], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. BROWN], the Senator from Idaho [Mr. CRAIG], the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arizona [Mr. MCCAIN], the Senator from Delaware [Mr. ROTH], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

On this vote, the Senator from Arizona [Mr. MCCAIN] is paired with the Senator from Colorado [Mr. BROWN].

If present and voting, the Senator from Arizona would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 44, nays 33, as follows:

{Rollcall Vote No. 280 Leg.}

YEAS—44

Bentsen
Bingaman
Bond
Boren
Bryan
Bumpers
Chafee
Cochran
Cohen
Cranston
Dixon
Dole
Domenici
Ford
Glenn
Gore
Gorton
Grassley
Hatch
Hatfield
Inouye
Kennedy
Levin
Lott
Lugar
Mack
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Pell
Pressler
Riegle
Robb
Rudman
Sanford
Sarbanes
Sasser
Seymour
Simpson
Thurmond
Warner

NAYS—33

Adams
Akaka
Baucus
Bradley
Burns
Byrd
Coats
Conrad
D'Amato
Daschle
DeConcini
Dodd
Durenberger
Fowler
Graham
Heflin
Hollings
Kasten
Kerry
Lautenberg
Leahy
Lieberman
Murkowski
Nunn
Packwood
Reid
Rockefeller
Shelby
Smith
Specter
Wallop
Wellstone
Wofford

NOT VOTING—23

Biden
Breaux
Brown
Burdick
Craig
Danforth
Exon
Garn
Gramm
Harkin
Helms
Jeffords
Johnston
Kassebaum
Kerrey
Kohl
McCain
Pryor
Roth
Simon
Stevens
Symms
Wirth

So the bill (H.R. 3435) was passed.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. If I could have the attention of the Senate, it is my understanding there will be no more votes today.

SENATE CONCURRENT RESOLUTION 84—CORRECTING THE ENROLLMENT OF H.R. 3435

Mr. RIEGLE. Mr. President, I am going to send to the desk a concurrent resolution, and also accompanying that, a separate bill to deal with the portion of the RTC legislation just passed that I referred to earlier. That is the part of the RTC bill that needs to come out, and we have asked and I have given the assurance to the Senate, based on representations by Mr. WYLIE in the House and by the Speaker of the House, that the House will delete that provision at its earliest opportunity. That may be able to be done in terms of a correction to the enrollment of H.R. 3435.

So I now ask unanimous consent that the Senate proceed to the concurrent resolution, and then I am going to ask for its immediate adoption.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 84) to correct the enrollment of H.R. 3435, the RTC funding bill.

The PRESIDING OFFICER. Is there objection to the request of Senator from Michigan?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I ask the distinguished chairman, I understand that a corrective matter that was requested by Senator MURKOWSKI, a definitional matter, was going to be included.

Mr. RIEGLE. Yes; that is right. And I suppose it ought to be included on both of them.

Mr. DOMENICI. I think that is right.

Mr. RIEGLE. I ask unanimous consent, then, that the Murkowski amendment be sent up to the desk and added to the motion that is now pending.

AMENDMENT NO. 1454

(Purpose: To clarify the definition of "property"

Mr. MURKOWSKI. I send an amendment to the desk and ask for its immediate consideration.

Mr. RIEGLE. Mr. President, I ask unanimous consent that it be modified to take account of the Murkowski amendment.

The PRESIDING OFFICER. If there is no objection, without objection, that will be the order.

Mr. RIEGLE. I yield back my time and move the passage of the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1454.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . Subsection 12(b)(7)(vii) of Pub. L. No. 94-204, as amended, and subsection 9102(e) of Pub. L. No. 101-165, as amended, are each amended further by deleting in the appropriate place the phrase "real, personal," and substituting in lieu thereof the phrase "real, personal (including, but not limited to intangible assets such as financial instruments, notes, loans bonds, and licenses),".

SECTIONAL ANALYSIS

Both subsection 12(b)(7)(vii) of Pub. L. No. 94-204, as amended, and subsection 9102(e) of Pub. L. 101-165, as amended, contain an identical definition of "property" for the purpose of identifying those items available for purchase by the Cook Inlet Region, Inc. using the appropriated funds contained in the "Cook Inlet Region, Incorporated property account" established by the Secretary of the Treasury pursuant to section 12(b) of Pub. L. No. 94-204. Inasmuch as funds were appropriated to the property account in 1989 without fiscal year limitation, obligations from the property account will have no budgetary impact.

While the existing statutory definition of "property" appears to be all-inclusive, and includes the words ". . . real, personal, or mixed-owned . . .", some question has been raised as to whether the definition is broad enough to include purchases of intangible instruments, (e.g. Treasury Bills, RTC or FDIC paper, etc.). This amendment will clarify the all-inclusiveness of the original definition and ease CIRI's purchase of Government paper in addition to the already well accepted purchase of Government real property.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1454) was agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (S. Con. Res. 84), as amended, was agreed to.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

Mr. DOMENICI. Did the distinguished majority leader ask whether we had an understanding with the House regarding the Murkowski amendment?

We do not. I spoke with them regarding the basic amendment, which is curative. However, the Senator asked and we included it, and I assume that he will attempt to achieve it; and, if not, it would be dropped.

Mr. RIEGLE. I think we ought to have that understanding in there in light of the fact we have not been able to clear it on the House side.

Mr. DOMENICI. We did not clear it.

Mr. MURKOWSKI. It is my understanding, Mr. President, it will be in as part of the amendment.

Mr. RIEGLE. Yes; and it is acceptable to this side. But I am simply saying there is no understanding on the House side that they will be prepared to take it.

Mr. MURKOWSKI. I understand.

Mr. MITCHELL. Mr. President, just so there is no misunderstanding, I discussed the matter personally with the Speaker. At that time, I was unaware of any amendment by the Senator from Alaska. So the representation regarding the House's acceptance of this freestanding bill relates solely to the contents of the bill. And it is understood, then, by the Senator from Alaska, if we do not get this cleared on the House side, this amendment would be dropped from this bill because we do not want it to interfere with the acceptance by the House of this freestanding bill.

Mr. MURKOWSKI. I am wondering, Mr. President, what is the difference in the status of the technical amendment of the Senator from Alaska and the Domenici amendment.

Mr. DOMENICI. I did not put my amendment in. No; I did not.

Mr. RIEGLE. Does the Senator agree to that understanding so we move ahead?

Mr. MURKOWSKI. I agree. It is part of the amendment, recognizing the House obviously may make an adjustment to it. I did mention it to——

Mr. DOLE. They may drop it.

Mr. MITCHELL. Will the Senator agree under those circumstances just to two separate concurrent resolutions? Then this one is done. We have an agreement. The House and Senate is free to work separately on the other resolution to get the House to agree to it. We do not endanger this resolution, which has not been the subject of any discussion with anyone in the House.

Mr. MURKOWSKI. Mr. President, I respectfully remind the majority leader it was discussed on both sides, passed, and it was approved by the Energy Committee, both the minority and the majority. I briefly mentioned it to the majority leader, but I am sure he was distracted, but I mentioned it to both floor managers.

I will agree to have it go in as part of the amendment, recognizing the House may—it is so technical in nature. Perhaps in 5 seconds I can explain the amendment. The regional corporations in the State of Alaska—there are 12. One of them in particular, traditionally, had a right to buy all surplus property offered by the Federal Government under RTC. All we are asking in this technical amendment is that they may have the right to buy their debt instruments as well.

It is a very minor technical adjustment.

The Senator from Alaska agreed not to object previously with the understanding I would be able to offer it under this proposal. And I am going to abide by that.

This is a noncontroversial matter.

Mr. MITCHELL. Mr. President, I knew nothing about the amendment of the Senator from Alaska. And I take fully his word that it is noncontroversial.

That being the case, why does the Senator insist that it be added as an amendment to this measure, which we have already cleared with the House? They have accepted. I would be prepared to try to get the House to agree to his amendment separately. Just if he understands, if there is objection in the House to doing this, we are not going to permit the current underlying measure to be defeated because of this, because it is important in terms of representations made on the RTC funding bill.

Mr. MURKOWSKI. The Senator from Alaska understands that. But I am not going, necessarily, to eliminate my amendment from this one and have it as a freestanding amendment.

Mr. SARBANES. Will the Senator yield? Is the Senator willing to do it both ways? Is the Senator willing to have a concurrent resolution without his amendment and to have one with his amendment? In that case, if there is no objection on the House side to the proposal of the Senator, that one can be taken. If there is, then the other one can be taken.

What has happened here, of course, is the representation was made to Members of the Senate when they voted on the RTC bill that what was perceived as a deficiency in the RTC bill would be corrected. On the basis of that representation, I think at least some Members, maybe many Members, voted for the legislation.

The problem is that the proposal, without the Senator's technical amendment, is what was cleared—without the Senator's amendment is what was cleared with the House.

We have no assurance, although one would hope so—it is being accepted on this side—that the House would not raise a problem. But you have no assurance on this score. Could we not do two resolutions, one that has the Senator's amendment in it and one that does not?

Mr. MURKOWSKI. In response to my friend from Maryland, I am afraid I just do not see the detraction, necessarily, from the standpoint of the discussion that we previously had that this would go on the amendment going over to the House. It is of such a technical nature it simply is a vehicle. The Senator from Alaska is very reluctant to separate it out at this time.

Mr. SARBANES. I understand that, but the fact of the matter is——

Mr. MURKOWSKI. If the House takes it out, I understand.

Mr. MITCHELL. Mr. President, if the Senator persists, just so there is no misunderstanding, if there is any objection to this in the House, this provision will be jettisoned because we have to get the underlying legislation done. If that is agreeable with the Senator, then I suggest we so proceed.

Mr. MURKOWSKI. That is agreeable with the Senator from Alaska.

Mr. DOMENICI. There is no question on our side. That is the only reason we gave it.

It is very technical, and there is a very good chance, if they look at it, they will take it, but if they do not—strip it off as deemed by the House—and we will have the bill passed.

Mr. MURKOWSKI. I thank the majority leader and the floor leaders.

Mr. RIEGLE. I will yield all time back. Can we act on this matter?

The PRESIDING OFFICER. The concurrent resolution has been adopted.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPEALING SECTION 618 OF THE RTC ACT OF 1991

Mr. RIEGLE. I now send to the desk a bill, in the event that the correction just passed is not able to be adopted in the enrolling.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2131) to repeal section 618 of the Resolution Trust Corporation, Refinancing, Restructuring, and Improvement Act of 1991.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1455

Mr. REIGLE. Let me now send an amendment to it, a modification to it. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. MURKOWSKI, proposes an amendment numbered 1455.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . Subsection 12(b)(7) of Pub. L. No. 94-204, as amended, and subsection 9102(e) of Pub. L. No. 101-165, as amended, are each further amended by deleting in the appropriate place the phrase "real, personal," and substituting in lieu thereof the phrase "real, personal (including, but not limited to intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation such as financial instruments, notes, loans, and bonds).".

Mr. RIEGLE. This bill is designed to correct, in bill form, the deficiency in the RTC legislation just enacted a few minutes ago. We are sending it forward in that form as well. I ask we now move on this issue.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1455) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there is no further amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, has the legislation been enacted?

The PRESIDING OFFICER. The majority leader is correct. It has been passed.

Mr. MITCHELL. Has the motion to reconsider been laid upon the table?

Mr. RIEGLE. I move to table the motion to reconsider.

The PRESIDING OFFICER. Without objection, the motion to lay on the table the motion to reconsider is agreed to.

MEDICAID VOLUNTARY CONTRIBUTION AND PROVIDER-SPECIFIC TAX AMENDMENTS OF 1991—CONFERENCE REPORT

Mr. MITCHELL. I submit a report of the committee of conference on H.R. 3595 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3595), to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source; having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 26, 1991.)

The PRESIDING OFFICER. If people could clear the Chamber who have no business in the Chamber?

Mr. DOLE. We yield back our time.

The PRESIDING OFFICER. Is there further debate on the conference report?

The Senator from Texas.

Mr. BENTSEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BENTSEN. Mr. President, the Senate has now before it the conference report on H.R. 3595, the Medicaid moratorium amendments of 1991. I supported the Senate amendment to the House bill, and I intend to support this conference agreement, albeit with reservations. This legislation is critical because it will stop from going into effect the administration's October 31 regulation relating to provider donations and taxes. If it were allowed to take effect, this regulation would be devastating to State Medicaid Programs and to the low-income pregnant women, children, elderly, and disabled individuals who rely on Medicaid for their health care needs. In my own State, for example, Texas Children's Hospital last year incurred $43 million uncompensated care costs. Failure to enact this conference report would have the effect of increasing substantially the amount of uncompensated care at this facility. The bill addresses the abuses in State revenue raising as identified by the inspector general. In addition, H.R. 3595 will give clear guidance to the States about what Medicaid financing mechanisms will be permitted, thereby facilitating long-term budget planning by public officials in each of the 50 States.

The Governors and the NGA staff, especially Ray Scheppach and Alicia Pelrine, deserve special recognition for their hard work in crafting the compromise with the administration which is the basis for this bill.

As I indicated earlier, however, I am concerned that this agreement may potentially affect legitimate longstanding financing arrangements by States and localities. Accordingly, I will monitor implementation closely and evaluate on an ongoing basis its impact on States, localities, providers, and beneficiaries through oversight hearings in the Finance Committee during the coming year.

I encourage my colleagues in the Senate to lend their support to this conference agreement.

Mr. President, the development of this complex bill was contentious, and grueling for the staff. I want to commend especially Janis Guerney, whose careful analysis and attention to detail was critical to reaching the final agreement. In addition, I want to thank Roy Ranthum with the Senate Finance Committee. Minority Chris Williams with Senator MITCHELL, Debbie Chang with Senator RIEGLE, and Mary Ella Payne with Senator ROCKEFELLER for their excellent work on behalf of the leader and the conferees. Alexander Polinsby with Senator DURENBERGER deserves special mention. While he is usually at Senator DURENBERGER's side on tax matters, his quick grasp of highly technical Medicaid provisions was as outstanding an example of the fine staff work as I have ever seen.

Finally Mark Merlis of the Congressional Research Service, Tom Streitz of the Office of Legislative Counsel, as well as Don Johnson and Daryl Grinstadt provided outstanding technical support during the development of the legislation and throughout the conference negotiations.

Mr. KOHL. Mr. President, I rise today to express my reservations with the conference report on H.R. 3595, the Medicaid Moratorium Amendments of 1991. My reservations are based on both the bill content and the process through which this legislation was developed.

I understand the fiscal difficulties facing the States, particularly with regard to burgeoning pressure on the Medicaid Program caused by unfunded mandates and increased need. The Medicaid system is in total disarray. But that being said, I am outraged by the ways in which some States have been gaming the Medicaid system. I am dismayed at the widespread willingness to funnel money around and expect a Federal match. The practice has been called a fraud and a scam. And it is. It is a highly communicable virus that has proliferated through the Nations' State capitols this past year and the National Governors Association/Health Care Financing Administration proposal is an antidote. I appreciate that.

My concern with the conference report content is twofold: it is a package of accomodations to various States and we have no idea how it will work. During Senate consideration of the NGA/HCFA compromise, deal after deal has been made for this State or that. It's not an unusual thing in the political process, but in this instance the deals were so vast and so numbered, that we can't even define what the real rules are. For example, I've asked about the transition rules. Explain to me the transition rules, I've said. The only way any one can explain them to me is to itemize all the exceptions to those rules. And that is telling, Mr. President.

In the midst of all the bargaining for exceptions, we lost track of some pretty important policy issues. One is the massive redistribution of Medicaid funds that I think will occur under this bill. Another is the issue of disproportionate share hospitals. It is a serious concern particularly for children's and inner city hospitals. It is a legitimate policy issue that we were not able to thoughtfully address during Senate consideration, despite the efforts of several of my colleagues. And I am pleased that the House Energy and Commerce Subcommittee chairman succeeded in creating a mechanism for some States to be allowed a higher cap in the fourth year. The colloquy between him and the chairman of the House Ways and Means Committee should serve to clarify that it is congressional intent that States retain flexibility with regard to the designation and reimbursement of disproportionate share hospitals. And the ProPac study called for in the legislation will help us to move forward on defining disproportionate share and establishing national ceilings.

Cost is another issue of concern to me. When I've looked for a comparative cost figure, I've been told the changes won't be scored and that it will not result in a sequester. My concern is for real costs and savings, not budget games. Does this cost more or less than the interim regulations, and what will the impact of each be on the people who are to be served by this program? And, under the moratorium that passed the House of Representatives, might we end up with even worse and more costly public policy? The President threatened to veto on that basis, and as a result the proposal never had a chance for serious discussion and debate.

Mr. President, there is also a problem with the process. I understand the timeliness of this issue and the impact that inaction would have on the majority of States. I want to praise the people who have worked around the clock for at least 4 days to present us with something that is doable before adjournment. They have done an incredibly fine job with a very difficult and technical proposal.

But frankly, the process that has brought us to this threshold is deeply disturbing. While I find myself in agreement with HCFA and OMB on the policy goal of stopping this raid on the Federal Treasury, how is it that we found ourselves presented with legislation that was marketed as a compromise between OMB/HCFA and the NGA? Despite the fact that hospitals, physicans, child advocates, States legislatures, counties and scores of other players in the health care arena will be dramatically affected by this plan, they were locked out of the policy debate. And to a great extent, so was Congress. Some Senators were just flatly given the impression that their concerns didn't matter because their governor has signed off already.

So here we are in the final hours of the session. We have a serious problem with the Medicaid Program, we have a consensus that the practice of gaming the system cannot be allowed to continue, and I believe, a consensus among the majority that implementation of the interim final regulations of January 1, 1992, would create chaos in both State budgets and the Medicaid system itself. We must pass this legislation. But we need not wholeheartedly endorse it. And I do not.

CONFERENCE REPORT ON THE MEDICAID VOLUNTARY AND PROVIDER TAX AMENDMENTS OF 1991

Mr. CRANSTON. Mr. President, I rise to voice my concerns with the conference report on H.R. 3595, the Medicaid Voluntary and Provider Tax Amendments of 1991 which the Senate passed today.

Although I did not oppose its passage, I have conerns with the conference report which remain unresolved. This report fails to clarify that certain mandatory transfers from public hospitals to the State may be used as matching revenues and places an arbitrary cap of 12 percent on the amount States may provide hospitals that serve a disproportionate number of low-income patients. I understand that the conference report has slightly reformed this language, however, the cap has not been removed and a number of conditions have been attached.

Mr. President, I ask unanimous consent that my letter to the conferees be printed in the Record as follows:

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,

Washington, DC, November 27, 1991.

Dear Conferee: As you consider H.R. 3595, the Medicaid Voluntary and Provider Tax Amendments of 1991, I would like to express my concerns regarding certain provisions contained in the Senate-passed bill.

First, I am concerned with Section 2 which clarifies that certain State funds may be used for receiving matching grants. My concern is that California's proposed plan amendment which requires mandatory intergovernmental transfers from public hospitals will not be considered state funds that may be used properly for receiving matching grants. I urge the conferees to include language in the bill clarifying that state and local governmental entities are not prohibited from using revenues derived from legitimate sources as part of the state's share of Medicaid expenditures.

In a related matter, I am concerned with the provision in Section 2 which defines the term "health care provider" as "an individual or person that receives payments for the provision of health care items or services." It is not clear that states, local and other units of government are not "health care providers." Without clarifications, transfers from cities, counties and hospital districts may be considered as provider taxes which are limited under the bill.

I am concerned especially with a provision that places an arbitrary 12 percent national aggregate cap on the percent of funds that states may devote to payment adjustments for hospitals that serve a disproportionate number of low-income patients. I understand that the bill allows states above the cap to continue doing so, however, I am concerned that this cap was arbitrarily placed and the impact of such a cap is unclear. As you know, the OMB identified provider taxes as the source of Medicaid abuse. The bill provides for a 25% limitation on the use of provider tax revenues which sunsets in three years. I would ask the conferees to include a similar three-year sunset on the 12 percent cap on disproportionate share hospitals at which time Congress may review the impact of this cap and/or raise the cap to 15 percent.

I appreciate your consideration of my concerns.

Cordially,

Alan Cranston.

The PRESIDING OFFICER. Is there further debate?

Mr. DOLE. Mr. President, I will take 30 seconds to thank the chairman of the committee, the Senator from West Virginia, Senator Rockefeller, the Senator from Minnesota, Senator Durenberger, Gail Wilensky, members of our staff, and all the Nation's Governors, who have been helpful in working out this agreement. The chairman has properly outlined the problem. This is a very important piece of legislation we are passing, and I am glad it has come to this conclusion.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBMISSION OF LEGISLATION TO AMEND THE TAXATION OF HOUSING COOPERATIVES

Mr. MOYNIHAN. Mr. President, I rise today to submit legislation designed to resolve the confusion surrounding the proper tax treatment of cooperative housing corporations.

The IRS has with mounting frequency been challenging the tax returns of housing cooperatives, particularly, low- to moderate-income cooperatives, which are a principal source of affordable housing in New York and many other areas of the country. The controversy concerns the cooperatives' treatment for tax purposes of various types of income, including interest earned on reserve funds maintained to provide for major repairs, net proceeds from laundry and parking facilities in the building and the like. The question is a bit arcane, but comes down to whether section 277 of the Internal Revenue Code applies to housing cooperatives, or not. If section 277 applies, then items like interest income from reserves may be fully taxable, rather than being eligible to be offset by the cooperative's expenses, such as operating costs and depreciation. The IRS has increasingly been taking the position that section 277 applies, and the result can be substantially increased tax liabilities for cooperatives.

Section 277 was enacted in 1969 and was designed to address the problem of membership organizations such as country clubs using the gains from transactions with nonmembers to defray part of the cost of providing goods and services to members, so that members receive them below cost. If a membership organization is allowed to consolidate its operations in this way, then the taxes due on the profits from transactions with nonmembers are avoided, and the members receive goods and services below cost that they would otherwise have to purchase with after-tax dollars.

Section 277 attempts to prevent this tax abuse by requiring that transactions with members and nonmembers be accounted for separately. Any deductions attributable to the furnishing of goods or services to members can only be taken against income from members; such deductions cannot be used against income from transactions with nonmembers.

Whether section 277 applies to a corporation operated on a cooperative basis has been a matter of some uncertainty and dispute, because there are other provisions of the Internal Revenue Code, grouped in subchapter T, which are specifically directed at cooperatives and also seek to deal with the problem of segregating member and nonmember transactions so that the latter do not cross-subsidize the former.

Which should apply to housing cooperatives, section 277 or subchapter T? How does one deal with the overlapping aspects of each? Should both apply? Even the IRS seemed to have trouble sorting this out—at least initially. The first set of proposed IRS regulations interpreting section 277, published in May 1972, included a section specifically addressed to the effect of section 277 on cooperatives subject to subchapter T, as follows: "Section 1.277-3 Interrelationship with cooperatives subject to the rules contained in subchapter T, chapter 1 of the Code. [Reserved]." By citing the issue in a section heading, and then "reserving" discussion on it, the IRS suggested that there was indeed an interpretative problem to be resolved, but postponed any resolution or guidance until some future date. That resolution never came, because the proposed regulations were later withdrawn in their entirely.

The issue has been litigated and a few court decisions have held that section 277 does apply to housing cooperatives (though in one case the taxpayer had conceded the issue). Some observers have also found persuasive the fact that committee report language accompanying a Senate Finance Committee-passed bill in 1976 asserted the drafters' understanding that section 277 applied to housing cooperatives. It was not until 1990, however, that the Internal Revenue Service published an official position on the matter, holding in Revenue Ruling 90-36 that section 277 applies to housing cooperatives.

Whether Revenue Ruling 90-36 is a correct statement of existing law could of course be left to the courts to resolve. It is my belief, however, the Congress should step in with affirmative legislation and settle the matter. Congress could do so more expeditiously, and with the latitude to set sound policy here. My reasons for advocating a legislative solution are twofold.

First, I believe the result of applying section 277 to housing cooperatives is bad policy. To cite one result: if section 277 applies to housing cooperatives, then any interest earned on reserves for major repairs—whether set aside in compliance with law, or required by the lender, or merely as prudent management—would be fully taxable at the top corporate rate. This result would not comport with the general congressional policy with respect to housing cooperatives, which has been to put co-op unit owners in as near as possible the same tax position as homeowners who own their dwelling outright. For example, section 216 of the Internal Revenue Code allows co-op unit owners to deduct on their individual tax returns their proportionate share of the building's mortgage interest and real estate taxes.

It should not be surprising that section 277 produces odd results when applied to housing cooperatives because such cooperatives were not, I think it is fair to say, the principal focus of Congress when section 277 was enacted—if indeed housing co-ops were considered at all. Nor, for that matter, were housing cooperatives the principal focus when Congress enacted the provisions of subchapter T governing the taxation of cooperative organizations generally. I believe we need tax code provisions tailored to the particular circumstances of housing cooperatives, so that the policies applied are deliberate, not inadvertent.

The second reason I believe legislation is necessary concerns fairness to taxpayers. The language of section 277 and its legislative history are far from clear concerning housing cooperatives. As suggested earlier, the IRS's implementation of section 277 with respect to housing cooperatives has itself been a cause of uncertainty about the law. More recently, the IRS has stepped up auditing of housing cooperatives and, despite the uncertainty surrounding section 277 and the lack of official guidance until 1990, is asserting substantial liabilities for back taxes, interest and penalties. The cooperatives are resisting. Many of the cooperatives being challenged by the IRS provide low- and moderate-income housing, and are a significant contributor to the region's stock of affordable housing. I do not believe that it is in the best interests of the Government or the housing cooperatives to settle the section 277 question through protracted and expensive litigation. Not is it fair to subject co-op residents, who must bear the cost of any adverse judgment, to the uncertainty and financial risk of this course of action. Moreover, due to turnover, co-op residents who are required to pay off a judgment may not have owned units in the cooperative during the periods when the taxes were incurred. There is also a risk that many of the low- and moderate-income cooperatives—which maintain their affordability by organizing as "limited equity" cooperatives whose tenants agree to substantial restrictions on the resale prices of their units—will be forced to convert to "market rate" cooperatives in order to garner the funds to pay off an adverse tax judgment.

For all of these reasons, I am today introducing legislation designed to settle the matter once and for all—by setting aside section 277, and establishing a set of rules for housing cooperative taxation—under subchapter T of the Internal Revenue Code—that are clear, certain and fair. These clarifications of the general subchapter T rules for cooperatives are crafted specifically for housing cooperatives, both to insure clarity and to prevent abuses.

The bill that I introduce today would first clarify that section 277 is not intended to apply to a cooperative housing corporation—as defined in section 216 of the Internal Revenue Code. Instead, the provisions of subchapter T of the Internal Revenue Code will provide the rules for determining the appropriate taxation of certain types of income not directly received from tenant-shareholders. The legislation also clarifies and tightens the subchapter T rules, insofar as they apply to housing cooperatives, to make clear that there can be no setoff of losses related to the provision of housing against unrelated income.

The bill provides new rules under subchapter T, applicable to housing cooperatives, that deem the following to be patronage income—and therefore eligible for offset by losses related to the provision of housing—First, interest on reasonable reserves, and second, income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

In addition, there is a special rule for "limited equity" housing cooperatives, which, generally speaking, are housing cooperatives which restrict the price at which a tenant-stockholder can resell his or her unit, in order to maintain the co-op unit prices at levels affordable to low- and moderate-income purchasers. The special rule for limited equity housing cooperatives permits rents received from commercial and professional tenants of the co-op building to be treated as patronage income.

Finally, the bill is not intended to affect in any way the tax treatment of any corporation operating on a cooperative basis which is not a housing cooperative. If modifications are necessary to make sure this intent is effectuated, such modifications will be made.

Mr. President, Congress is very close to adjourning this session, and I realize it will not be possible to take action on this bill in this session. But I anticipate that we will turn to tax measures early next year, and I hope that this legislation can be considered then.

Mr. President, I ask unanimous consent that the text of the legislation appear in the RECORD immediately after my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SECTION 277 NOT TO APPLY TO COOPERATIVE HOUSING CORPORATIONS.

Section 277(b) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1) (determined without regard to section 143(k)(9)(E)).

SEC. 2. APPLICATION OF RULES RELATING TO TAX TREATMENT OF COOPERATIVES TO COOPERATIVE HOUSING CORPORATIONS.

(a) NONPATRONAGE EARNINGS OF COOPERATIVE HOUSING CORPORATIONS MAY NOT BE OFFSET BY PATRONAGE LOSSES.—Section 1388(j) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) PATRONAGE LOSSES MAY NOT OFFSET NONPATRONAGE EARNINGS.—In no event shall any patronage losses of an organization described in section 277(b)(5) be used to offset earnings which are not patronage earnings."

(b) PATRONAGE EARNINGS AND LOSSES OF COOPERATIVE HOUSING CORPORATIONS.—Section 1388(j)(5) of such Code (as redesignated by paragraph (1)) is amended to read as follows:

"(5) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The terms 'patronage earnings' and 'patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(B) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATION.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(i) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(ii) Income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(iii) In the case of a limited equity cooperative housing corporation, rental income from other than tenant-stockholders to the extent attributable to any housing project operated by the corporation.

"(C) DEFINITIONS.—For purposes of subparagraph (B)—

"(i) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given such term by section 216(b)(1) (without regard to section 143(k)(9)(E)).

"(ii) LIMITED EQUITY COOPERATIVE HOUSING CORPORATION.—The term 'limited equity cooperative housing corporation' means a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year.

"(iii) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

(b) ELECTION TO HAVE AMENDMENTS APPLY RETROACTIVELY.—Any corporation may elect to have the amendments made by this Act apply to any taxable year, whether beginning before, on, or after the date of the enactment of this Act, to which such amendments do not otherwise apply if the corporation was a cooperative housing corporation during such taxable year.

(c) NO INFERENCE.—Nothing in the provisions of this Act shall be construed as a change in the treatment of income derived by any cooperative housing corporation or any corporation operating on a cooperative basis under section 1381 of the Internal Revenue Code of 1986, and the treatment of such income for any year to which the amendments made by this Act does not apply shall be made as if this Act had not been enacted.

DEATH OF JAMES DENNIS O'CONNOR

Mr. DODD. Mr. President, I rise to say farewell to a close personal friend and a truly great man, James Dennis O'Connor, whose inspiring life, to my profound sorrow, ended on November 11 of this year.

As an attorney in Hartford, Jim brought integrity and nobility to the practice of law. As a superior court judge, he affirmed the durability and vitality of our system of justice and the principles and laws which sustain it. And as a friend, Jim touched the lives of all who were fortunate to know him with his sense of compassion, decency, understanding, and warmth.

It is very difficult for me to accurately express what Jim has meant to me and my family over the years, Mr. President. Jim O'Connor was not like a member of my family. He was a member of my family. His timeless qualities of integrity and sincerity allowed him to bridge the gap between generations, to be a friend to my parents and a friend to me, and my brothers and sisters.

To Jim's wife, Mary Ellen, and his six children, Dennis, Edward, Ellen, Martha, Joan, and Dorothea, I share their grief. I know Jim will be deeply missed. But I am equally sure his legacy will endure, and be a source of comfort.

Judge O'Connor's life began in Hartford in 1928, just before the onset of the Depression. The memory of those early years, when strife and human struggling was a common facet of everyday life, left him with a keen understanding of the value of justice and compassion. He learned early that we need laws that are wiser and better than ourselves, laws that will safeguard us from the vagaries of tyrants and the oppression of the powerful. Through every element of his career, Jim never lost sight of the basic premise that laws are for the benefit of people.

I remember one particular case in which a man was injured by three colliding cars while walking to work one morning. The man, who had lost part of his foot and was unable to work, brought suit against the insurance company of one of the drivers involved. Impatient with the dilatory tactics of the attorneys for the insurance company, Jim finally refused to hear the case another day without first requiring the company to make provisions for the man's family. No legal precedent compelled him to take such action, just a clear simple sense of fairness and justice.

Jim brought to his role on the bench not just an intuitive sense of justice, but a disciplined intellect, acquired at Hartford's Trinity College and the Georgetown University Law School.

He served his Nation with distinction as a naval officer during the Korean conflict.

Those of us who knew Jim O'Connor as a friend, a father, a husband, a counselor, and a brother, will miss him dearly. But far from being impoverished by his death, Mr. President, we are enriched by his life. Jim's character and integrity made each and every one of us a better person for having known him, and for that we will always be thankful.

REGARDING SECTION 8126 OF H.R. 2521, THE FISCAL YEAR 1992 DEFENSE APPROPRIATIONS BILL

Mr. STEVENS. Mr. President, last week Congress adopted the 1982 Defense appropriations bill conference report. Section 8126 of the bill provides a mechanism for Calista Corp., an Alaska Native corporation, to exchange valuable lands and land selection rights it has in national wildlife refuges for other surplus Government property.

Subsection 8126(a) provides that property—as defined in section 8133 of the 1991 Department of Defense Appropriations Act—which is not scheduled for sale prior to 1997, will be available for transfer at the request of the Secretary of the Interior for the purpose of entering into equal value property exchanges with Calista.

Calista owns lands, interests in lands, and entitlements to select additional Federal lands. In addition, through an agreement it has with certain village corporations to act as their agent in these land exchanges, it has the right to convey surface estate owned by the villages.

The provision enables Calista to enter into exchanges with the Secretary of the Interior to convey 210,000 acres of surface and subsurface lands and land entitlements identified in the Calista Conveyance and Relinquishment Document dated October 28, 1991.

Once the Secretary has identified property for exchange, the administering agency should ensure that the property is not wasted or transferred elsewhere. Furthermore, the administering agency should continue to hold and manage the property until title is conveyed, via an authorized exchange, to the Native corporation.

The Secretary has 9 months from the date of enactment to conduct appraisals of the land and interests in land identified in the conveyance document. If disagreements with Calista arise regarding the valuation of the lands package, they may be resolved through the processes established by the 1988 Federal Land Exchange facilitation Act.

For fiscal reasons, this provision includes a cap on the maximum average value per acre of $300 for the entire package of lands identified in the Conveyance and Relinquishment Document, dated October 28, 1991. However, according to a recently conducted appraisal, certain tracts of Calista's lands—including entitlement—possess values substantially greater than $300 per acre. The $300 cap is intended to provide an upper limit on the average value per acre that the Secretary may assign to the entire lands package as he appraises the values of individual tracts.

In making the determination, the Secretary is to use, first the fair market value of the lands using the Uniform Appraisals Standards; second, public interest values, and third, comparable acquisitions and exchanges authorized or mandated by law.

The Uniform Appraisal Standards for Federal Land Acquisitions have been revised recently and are expected to be republished some time in the near future. Federal Government appraisers traditionally have relied on this document in their efforts to determine the fair market value of property. In the past, however, when Federal land acquisition appraisers have attempted in-house to value remote lands and interest in lands within the boundaries of conservation system units in Alaska, these Uniform Appraisal Standards have proven to be inadequate.

The problem arises because, among other factors, the standards deal only with a traditional market or income approach to valuation. In addition the process provides considerable latitude to exclude comparable sales as being not comparable and fails to give proper weight and consideration to public interest values of land and statutorily mandated or authorized exchanges and acquisition of land. Public interest values are distinct from commercial value, such as the value of timber or minerals for economic use, or values ascribed to land which can be developed for housing or municipal facilities. For example, while certain lands may have little value in the traditional economic sense, they may have great value as critical habitat for endangered or threatened species or as nesting grounds for plummeting waterfowl populations.

Consequently, in 1976, Congress reinforced a statutory direction regarding public interest values and authorized and directed Federal agencies to consider public interest values in land exchanges and acquisitions. In other land exchanges and land valuations authorized or mandated by law since then—most recently in the Superfund law—The Congress has expressed the view that there are clearly other public values to be considered in such exchanges. It is the intent of this property exchange provision that these other values be properly factored into the appraisals of the lands and interests in lands involved in the Calista land exchange.

Public interest values include, but are not limited to, conservation, biological, environmental, cultural, historical, archaeological, user and other values of land located within national wildlife refuge boundaries in Alaska. Such values contribute toward making the lands of national significance.

The land and interests in lands offered for exchange by Calista located within the Yukon Delta National Wildlife Refuge will, by operation of law, become part of that refuge once they are transferred to the Secretary of the Interior. The lands within the refuge, including Calista's lands, were deemed by Congress through the Alaska National Interest Lands Conservation Act to be national interest lands worthy of being set aside for their intrinsic value as a national wildlife refuge. The national interest nature of the Calista lands and their public interest values should be given appropriate weight in the appraisal process.

In addition, the Secretary is required to consider as comparables other exchanges authorized or mandated by law between the Federal Government and private parties and acquisition of lands and interests in lands by the Federal Government in Alaska, including acquisitions of lands from Native corporations. The Secretary is expected to rely on professional appraisals which utilize the factors required to be considered in section 8126.

Section 8126 also provides that properties conveyed by the United States under this section be treated as conveyances of land entitlement under 43 U.S.C. 1601–162 except for several subsections. Because of concerns expressed by the House Ways and Means Committee, the tax provisions in 43 U.S.C. 1620, 1627, and 1636 were excepted.

Mr. President, I ask unanimous consent to insert in the RECORD at the conclusion of my remarks an analysis of section 8126, the Calista Conveyance and Relinquishment Document dated October 28, 1991, which the legislation references, a letter from Mr. Robert D. Reischauer, Director, Congressional Budget Office.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION 8126 ANALYSIS

Section 8126(a). This subsection identifies the property of the U.S. Government which is authorized to be made available for exchange between the Secretary of the Interior and the Calista Corporation once certain terms and conditions are met. Such property is defined in Section 8133 of the Department of Defense Appropriations Act for Fiscal Year 1991 (104 Stat. 1909). The lands, interests in lands and entitlements to lands to be exchanged are identified in "The Calista Conveyance and Relinguishment Document,' dated October 28, 1991. The subsection also provides that the Secretary of the Interior will determine the value of those lands no later than nine months after the enactment date. In determining the value of the Calista lands, the Secretary is required to consider the "Uniform Appraisal Standards for Federal Land Acquisitions," the public interest values of the lands and interests in lands, and previously authorized or mandated exchanges with or acquisitions of lands and interest in lands in Alaska by the Federal government. The process outlined in the 1988 Federal Land Exchange Facilitation Act will be used to resolve any disagreements regarding the valuation of the land package. The subsection also provides that the average per acre value of the lands and interests in lands is not to exceed $300. It also provides the property exchanged with Calista is to be treated the same as property conveyed to other Native corporations under 43 U.S.C. 1601–1642 (except for subsections 1620(a)–(c), (f)–(j); subsection 1627(b) and 1636(d)).

(b). This subsection provides that property held for sale by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation may not be transferred to the Secretary for purposes of an exchange until after October 1, 1996.

(c). This subsection directs the Secretary of the Interior to maintain an accounting record of the value of the lands and interests in lands available to be conveyed by the Calista Corporation. The Secretary is directed to establish a property account on October 1, 1996, with an initial balance equal to the value of the lands and interests in lands that the Calista Corporation has not, at that time, conveyed or relinguished to the U.S. Government. Whatever amounts remaining on that date could be used to acquire by exchange or purchase property identified in Subsection 9102(a)(2) of the Department of Defense Appropriation Act 1990 (103 Stat. 1151).

THE CALISTA CONVEYANCE AND RELINQUISHMENT DOCUMENT, OCTOBER 28, 1991—LANDS, INTERESTS IN LANDS, AND ENTITLEMENTS TO LANDS TO BE CONVEYED RELINQUISHED TO THE U.S. GOVERNMENT

OVERVIEW

The purpose of this document is to identify the lands, interests in lands, and entitlements to lands which are to be exchanged, pursuant to an agreement with the Calista Corporation, for properties of equal value held by the U.S. Government.

The general areas and acreages (210,355 total acres) involved in the exchange are as follows (see enclosed Map #1): Hamilton—8,000 acres of surface and subsurface lands; Dall Lake—10,000 acres of surface and subsurface lands; Tuluksak River Drainage—5,600 acres of subsurface lands; Hooper Bay—27,074 acres of subsurface lands; Scammon Bay—88,507 acres of subsurface lands; Kusilvak—61,174 acres of subsurface lands; Calista 14(h)(8) entitlements—10,000 acres of full fee entitlements (surface and subsurface) to Federal lands.

The acquisition by the U.S. Government of Native inholdings (lands and interests in lands) and land selection entitlements comprising this exchange will provide significant legal rights to the Federal government, which will in turn, enhance the protections afforded to the Yukon Delta National Wildlife Refuge, Alaska. It will help reduce the potential for adverse development of surface and subsurface lands within the boundaries of the Refuge. It will permit public access to surface estates which are not presently permitted. It will reduce future losses of Refuge lands to underselected Native Corporations. It will eliminate the potential disturbance of the surface lands, and their values from development of the subsurface estate. It will provide cost savings to the Bureau of Land Management in avoided conveyance and survey activity which would otherwise take place, and to the Fish and Wildlife Service in managing these inholdings.

The importance of this world class waterfowl habitat is demonstrated by the fact that part of this area was one of the first National Wildlife Refuges in the Nation: President Theodore Roosevelt set aside the first wildlife reserve in the Yukon-Kuskokwim Delta in 1909, in recognition of the value and importance of the land to migratory birds, especially waterfowl. Additional areas were added over the years and, in 1980, Congress combined and enlarged the existing wildlife ranges and refuges to establish the Yukon Delta National Wildlife Refuge.

While the Refuge has moderate populations of mammals, including small furbearers, moose, caribou, and recently re-established musk-ox, the primary wildlife resource is the enormous populations of ducks, geese, swans, shorebirds, and water birds that nest on the Delta. An estimated 100 million waterfowl, shorebirds, and sea birds representing over 50 species use the Delta for nesting and for resting and feeding during migration. A large percentage of the migrating birds of the Pacific Flyway originate from the Yukon Delta.

The importance of the Delta as nesting grounds for North American waterfowl increases yearly as productive prairie pothole nesting habitats in the United States and Canada are drained for agriculture or are lost to drought.

DESCRIPTION OF THE LANDS, INTEREST IN LANDS, AND ENTITLEMENTS TO LAND TO BE CONVEYED

Hamilton/Yukon Delta area—8,000 acres

Location

The Hamilton parcel is located near the delta complex at the mouth of the Yukon River between Apoon Pass and Nanvaranak Slough. It is approximately 20 miles south of Norton Sound.

General description

The Hamilton parcel consists of 8,000 acres of combined surface and subsurface estate. The lands are part of the wet muskeg coastal plain with slough, lake and pond habitats. Several small sloughs head in the parcel and dozens of small lakes and ponds and their adjacent marshes and wetlands are scattered throughout the parcel. Most of the land is less than 20 feet above sea level and the dwarf tundra vegetation is underlain by sand and silty flood plain material. The southern part of the parcel contains some areas of deciduous shrub land and has more extensive grassy marshlands and riverine habitats. The parcel is five miles south of the Yukon River Delta unit of the historic Clarence Rhode Wildlife Range and the abandoned Village of Hamilton.

Refuge values

The chief habitat and wildlife value of the parcel is waterfowl nesting. The parcel is contiguous to coastal plain habitat to the north and west, and is used by geese, swans, sandhill cranes, ducks, loons, and numerous shorebirds, including curlews, sandpipers, and plovers. Maps of species distribution by density blocks, produced by U.S. Fish and Wildlife, show the area to have medium range densities for pintail ducks, scaup, and tundra swans: one to four birds per square mile, and up to one per square mile densities for Canada geese, arctic loons, and sandhill cranes. Other nesting birds include white-fronted geese, scoters, shovellers, and mallards. Shorebirds of several species are common to abundant. Whitefish, sheefish (inconnu), and northern pike are common in the sloughs and larger lakes. Furbearers such as mink, otter, muskrat, beaver, Arctic and red fox are abundant, but large mammals are rare due to the lack of protective cover.

Hamilton subsurface

The subsurface beneath the Hamilton surface lands is part of the Yukon Delta/Norton Sound Sedimentary Basin. Calista leased the Yukon Delta subsurface lands to Amoco Exploration in 1978. These lands have also had several generations of seismic survey work since the early 1970's and the area continues to receive oil industry attention.

Hamilton parcel land description

Seward Meridian, Alaska, (Unsurveyed).

T. 31 Fl R. 77 W.—Secs. 29 and 30.

T. 31., R. 78 W.—Secs. 1, 2, 11, 12, 13, 14, 23, 24, and 25.

T. 32 N., R. 78 W.—Sec. 35 (fractional); Sec. 36.

Dall Lake Area—10,000 acres

Location

The Dall Lake parcel is located along the southeastern border of Dall Lake southeast of Bethel, Alaska, about 30 miles from Bering Sea waters of Etolin Strait. It borders the eastern boundary of the Nelson Island unit of the Clarence Rhode National Wildlife Range.

General description

The Dall Lake parcel is a surface and subsurface selection of approximately 10,000 acres. The parcel is 12 miles across and extends about eight miles northeasterly into Dall Lake along a series of peninsulas and islands. This parcel consists of low elevation wetlands and islands dotted with innumerable lakes and ponds along the southeastern border of Dall Lake, an extremely large inland lake covering more than 150 square miles. Wet muskeg tundra vegetation and sedge meadow islands and lake margins characterize the habitat at Dall Lake.

Refuge values

The Dall Lake parcel lies within the Yukon-Kuskokwim lowlands unit of the Yukon Delta NWR. This unit is largely wetlands, habitat for a diversity of fish and wildlife including geese, ducks, swans, shorebirds, moose, caribou, many species of furbearers, ptarmigan, and many other bird and mammal species.

The area is an important producer of ducks and is significant as a staging area for thousands of snow geese migrating to and from their nesting grounds on Wrangell Island in the Soviet Far East. U.S. Fish & Wildlife Service has indicated high scaup nesting densities of four to 12 birds per square mile, and pintail and scoter densities of one to four per square mile in the area. Also occurring at densities of one to four birds per square mile are tundra swans, Canada geese, arctic loons, and sandhill cranes. Other species noted in aerial surveys within the parcel area were red-throated loons, white-fronted geese, oldsquaw ducks, and mallards. Both shorebirds and ptarmigan are common in the area.

Approximately 30 musk oxen use the Dall Lake area year around. These musk oxen are part of the growing 100-head mainland herd established on Nelson Island which is currently expanding its range to inland parts of the refuge. Furbearers such as mink, otter, muskrat, and red fox are common in the Dall Lake area and are important subsistence resources. The lakes and waterways contain resident Arctic char, whitefish, northern pike, cisco, and burbot, all used by villagers for subsistence.

Subsurface values

The subsurface beneath the Dall Lake surface lands is in the central portion of the Bethel/Kuskokwim Delta Sedimentary Basin. Calista leased the Bethel Basin lands to Shell Exploration in 1974. Like the Yukon Delta area, these lands have had several generations of seismic survey work since the early 1970's and the area continues to receive oil industry attention. In 1962 a single test well was placed on the flank of what is now defined as the Bethel Basin. In the future it is likely that this sedimentary basin, which is nearly the size of Oklahoma, will receive more exploration.

Dall Lake parcel land description

Seward Meridian, Alaska Unsurveyed.

T. 1 N., R. 82 W.—Secs. 23 to 36, inclusive.

T. 2 N., R. 82 W.—Secs. 6, 7, 18, 19, 20, 21, and 30.

T. 1 N., R. 83 W.—Secs. 2 through 36, inclusive.

T. 2 N., R. 83 W.—Secs. 25 through 35, inclusive.

Tuluksak River Drainage—5,600 acres

Location

The Tuluksak River parcel is located within the eastern border of the Yukon Delta National Wildlife Refuge and extends four miles into the refuge on both sides of the Tuluksak River.

General Description

The Tuluksak River parcel is a subsurface selection of 5,600 acres within the Yukon Delta National Wildlife Refuge. The surface is owned by the U.S. Government. It is the downstream extension of a large gold mineralized placer mining district at Nyac, Alaska. Approximately 10 federal placer mining claims are located within the parcel and the subsurface selection was made on the basis of its mineral potential. The nearest tailings are one mile upstream from the eastern boundary of the parcel. The parcel is located at the point where the Tuluksak River leaves the Kuskokwim Mountain range and flows across the subdued topography of the delta plain toward the Kuskokwim River. The river valley is 250 to 300 feet in elevation, and elevations rise to approximately 900 feet on the perimeter of the parcel. The vegetation consists of mixed white spruce, birch, and poplar forests, with willows and alder along the river and tundra vegetation on the upland benches.

Refuge Values

The Tuluksak River parcel is part of the Kilbuck Mountains unit of the Yukon Delta NWR. This unit is characterized by mountains with narrow deep valleys and small canyons, rock outcrops and bluffs along the rivers and streams, a pattern of tundra and upland habitats, and a number of lakes. The only rainbow trout fisheries identified in refuge waters are found in the major rivers draining the Kilbucks. The unit also contains excellent raptor habitats with gyrfalcons, rough-legged hawks, and golden eagles among the most common nesting species. Large mammals found in the unit include moose, caribou, black and grizzly bear, wolves, and wolverines.

The north bank of the river has two rock bluffs that are suitable raptor nesting habitat. The Nyac area has documented nesting of golden eagles, goshawks, gyrfalcon, merlin, and great horned owls (BLM Open File Report, 1980; Technical Report 8, 1983). Raptors use the river valley for hunting and brood rearing. Both spruce grouse and willow ptarmigan occur here.

The Tuluksak River valley has excellent populations of mammals. Alder and willow have grown up around old mining areas and support increased populations of snowshoe hares, fox, moose, and bear. Beaver have colonized the dredge ponds and are abundant throughout the valley. Presently, 12 radio-collared moose are being monitored as part of an ongoing population study project in the Tuluksak River valley.

The Tuluksak River runs for four miles through the length of the parcel. It is a clear running river and is an anadromous salmon spawning area within the parcel boundaries. Chinook, chum, and coho salmon plus grayling, Dolly Varden/Arctic char, and rainbow trout are present in the river and the area has been the subject of BLM fisheries enhancement projects.

Subsurface Values

This parcel, which has significant gold reserves, includes 5,400 acres of Calista subsurface lands underlying YDNWR surface lands and 200 acres of patentable Federal Placer Mining Claims within the YDNWR.

The Tuluksak In Lieu selections include a major placer gold deposit which will be dredge-mined in the near future. Plans for the extraction of the gold reserves in this area are in the advanced stages. While this dredge mining can and must be conducted in a manner consistent with all environmental regulations, some degradation of the habitat is inevitable. Federal acquisition of these mineral-rich lands will remove the threat of potential adverse environmental impacts on the area from gold mining and eliminate the refuge-versus-development conflict inherent in the split estate. It is significant to note that these are the only remaining Federal Placer Claims in the YDNWR. Mining activities on the Tuluksak River have been identified in the YDNWR Plan as a major threat to the water quality of the refuge.

This parcel contains 13 Federal Placer Claims totaling over 200 acres. Federal acquisition of these claims totally removes this threat of mining within the refuge.

Tuluksak Parcel Land Description, Seward Meridian, Alaska Unsurveyed.

T. 10 N., R. 61 W.—Secs. 7 and 8; Secs. 16, 17, and 18.

T. 10 N., R. 62 W.—Sec. 11; Sec. 12 excluding Native Allotment FF–17230; Secs. 13 and 14.

Hooper Bay Area—27,074 acres

Location

The Hooper Bay parcel is located on Dall Point with Kokechik Bay on the north and Hooper Bay on the south and the Bering Sea to the west. It is adjacent to the Clarence Rhode National Wildlife Range unit of the Yukon Delta National Wildlife Refuge on its eastern border.

General Description

The Hooper Bay parcel consists of subsurface estate. The surface is owned by Sea Lion Corporation and is not part of this conveyance. The parcel is coastal plain with innumerable small ponds and lakes and several small sloughs. Most of the parcel is below 50 feet in elevation. Longshore sand spits form northern extensions of the land, and dunes form Dall Point itself. The village of Hooper Bay is located at the mouth of Napareayak Slough on Hooper Bay.

Refuge Values

The Kokechik Bay frontage of this parcel has some of the highest value habitat rankings on the Yukon Wildlife Delta. These lands are biologically productive, tide-influenced marshlands critical to the artic nesting geese species. High densities of nesting emperor, whitefronted, and cackling Canada geese utilize this rich marshland, and it is also important for nesting swans, cranes, ducks, loons and abundant numbers of several species of shorebirds. Northern pintails in the coastal zone occur at three times the density that they occur in the interior delta, averaging four to 12 per square mile in F&WS aerial surveys. Scaup also occur in these densities and other ducks such as oldsquaw, spectacled and common eider, scoters, shovellers, and mallards also utilize the habitat. The mudflats and sand spits in both bays are vital feeding and staging areas for vast numbers of migrating waterfowl and shorebirds. The largest breeding colony of Brant geese on the refuge is located on the south shore of Kokechik Bay.

Subsurface Values

These lands have been subject to oil and gas leases twice in the recent past. The geology is permissive of several mineral deposit types—however, there are no known occurrences of minerals in this poorly explored region.

Hooper Bay Parcel Land Description

Interim conveyance No. 511: Seward Meridian, Alaska (Unsurveyed).
T. 17 N., R. 93 W:
Secs. 1 to 4, inclusive;
Secs. 5 and 8 (fractional);
Secs. 9 to 14, inclusive;
Secs. 15 and 16;
Secs. 17, 18, and 20 (fractional);
Secs. 21, 22, and 23;
Sec. 24, excluding Native allotment F–14703 Parcel C;
Sec. 25 (fractional), excluding Native allotments F–13207 and F–19116 Parcel A;
Sec. 26, excluding U.S. Survey No. 2026, U.S. Survey No. 4052, and U.S. Survey No. 4420;
Sec. 27, excluding U.S. Survey No. 4420 and U.S. Survey No. 3774;
Sec. 28, excluding U.S. Survey No. 3774;
Sec. 29 (fractional);
Sec. 32 (fractional), that portion outside Public Land Order 2213;
Sec. 35 (fractional), excluding U.S. Survey No. 4420.
T. 18 N., R. 93 W:
Secs. 4 and 9 (fractional);
Secs. 11 to 16 (fractional), inclusive;
Secs. 21 and 22 (fractional);
Secs. 23 to 27, inclusive;
Secs. 28 and 33 (fractional);
Secs. 34, 35, and 36.
T.16 N. R. 94 W
Secs. 1, 2, and 3 (fractional);
Sec. 4 (fractional), that portion outside Public Land Order 2213 excluding U.S. Survey No. 3774;
Secs. 10, 11, and 12 (fractional), those portions outside Public Land Order 2213.

Interim conveyance No. 579: Seward Meridian, Alaska (Unsurveyed)
T. 17 N. R. 93 W.
Sec. 33 (fractional) that portion outside Public Land Order 2213, excluding U.S. Survey No. 3774;
Sec. 34, excluding U.S. Survey No. 3774 and U.S. Survey No. 4420.

Scammon Bay—88,507 Acres

Location

The Scammon Bay parcel is located on the Bering Sea coast at Scammon Bay on the Yukon-Kuskokwim Delta.

General Description

The Scammon Bay parcel is a large tract (25 miles long by up to 12 miles across) of subsurface estate, whose surface estate is privately owned by Askinuk Corporation, the Native corporation of Scammon Bay village and not involved in this conveyance. The parcel includes 80,420 acres of conveyed subsurface estate and 8,087 acres of remaining subsurface entitlements at Scammon Bay. The parcel includes about 20 miles of Bering Sea coastline.

The surface overlying this subsurface parcel consists of several distinct habitats. There is a prominent, rocky, mountainous upland to the south which is used by upland ground-nesting birds such as ptarmigan, rock sandpipers, golden and semi-palmated plovers, short-eared owls, and jaegers. Steep rocky bluffs, fast, clear streams, and small sheltered bays characterize the parcel's 14 miles of Bering Sea shoreline on the southern shore of the bay. The mountains rise to an elevation of 1,465 feet within the parcel. The intrusive volcanic rock that forms the mountains is useful as quarry material and is currently being extracted for an airport improvement project at the village of Scammon Bay. The southern border of the parcel is adjacent to the Kokechik Bay/Paimuit unit of the Clarence Rhode National Wildlife Range which has some of the most significant habitat values on the Yukon-Kuskokwim Delta National Wildlife Refuge due to its intensive use by arctic nesting geese species.

To the north, the overlying habitat is a flat coastal plain utilized by arctic nesting geese such as the endangered white-fronted, emperor, and cackling Canada geese. The coastal plain is dissected by the large, shallow meanders of the Kun River and several small tributaries including the Kikneak and Ear Rivers. Habitats includes tidal sloughts and estuaries, beach ridges and swales, lake and pond shores, and sedge meadows important to nesting and brood-rearing.

Refuge Values

The Scammon Bay parcel is located in the delta coastal plain unit of the Yukon Delta NWR. The dominant feature of this unit is vast wetlands characterized by thousands of thaw lakes and ponds underlain by permafrost. The freeze-thaw cycle coupled with regular tidal and riverine flooding maintain a herbaceous wetland that is excellent waterfowl habitat. It is considered the best goose-brant nesting area in North America. Historically, one half of the continental populations of brant nested on the coastal fringe, as do nearly the entire populations of cackling Canada and emperor geese. Most of the Pacific flyway population of white-fronted geese also nest here. In addition to cackling Canada geese, two other subspecies of Canada geese—both Taverner's and lesser Canada geese—are also found within this unit. The three subspecies appear to favor slightly different zones with cacklers nesting in a ten mile wide band closest to the sea, Taverner's moving inland slightly, and lessers somewhat more inland. These zones, however, do overlap. The area is also considered part of the largest and most important shorebird habitat in the Pacific Flyway. It is the largest single expanse of intertidal habitat in North or South America, and provides the major breeding grounds for North American populations of black turnstone, dunlin, western sandpiper, rock sandpiper, and bar-tailed godwit, as well as being an important staging area for bristle-thighed curlews.

The periodic flooding of the tidal marshes of the coastal plain creates a rich food source for nesting and rearing young and contributes to goose, swan, and crane densities of one to 12 per square mile, with heaviest nesting densities along the coast (US Fish & Wildlife aerial surveys). Pintail and scaup (four to 12 per square mile), scoter (one to four per square mile), oldsquaw, spectacled eiders, loons (up to 12 per square mile), and shorebirds also nest on the coastal plain. Mink, otter, muskrat, beaver, and Arctic and red fox are common to abundant.

Subsurface Values

These lands have been subject to oil and gas leases twice in the recent past. The geology is permissive of several mineral deposit types—however, little is known of the occurrence of minerals in this poorly explored region. The value of the subsurface in the Scammon Bay is based to a large extent on the ready supply of sand, gravel and rock. This area is the only local source for these materials in a region where such materials are scarce and costly.

Scammon Bay Parcel Land Description

Interim conveyance No. 573: Seward Meridian, Alaska (Unsurveyed)
T. 20 N., R. 88 W:
Secs. 5 and 6;
Secs. 7 and 8, excluding Native allotment F–19234;
Sec. 18, excluding Native allotment F–19228 Parcel A;
Secs. 19, 20, 26, and 27;
Secs. 28 and 29, excluding Native allotment F–15947;
Secs. 30 and 35.
T. 21 N., R. 88 W:
Secs. 9 to 16, inclusive;
Secs. 21 to 31, inclusive;
Sec. 32, excluding Native allotment F–19043 Parcel B;
Sec. 33, excluding Native allotment F–19229 Parcel A;
Sec. 34, excluding Native allotment F–18977 Parcel B;
Secs. 35 and 36.
T. 20 N., R. 89 W:
Secs. 1 to 6, inclusive;
Secs. 7 and 8, excluding Native allotment F–19233;
Sec. 9;
Sec. 10, excluding Native allotment F–19045;
Secs. 11 to 16, inclusive;
Secs. 17 and 18, excluding Native allotment F–19233;

Sec. 19;

Sec. 20, excluding Native allotment F–19231 Parcel B;

Sec. 21;

Sec. 22, excluding Native allotment F–19043 Parcel A;

Sec. 23, excluding Native allotment F–19241;

Secs. 24 to 28, inclusive;

Sec. 29, excluding Native allotment F–19231 Parcel B;

Secs. 30, 31, and 32.

T. 21 N., R. 89 W:

Secs. 5 to 10, inclusive;

Secs. 15 to 18, inclusive;

Sec. 19 (fractional);

Secs. 20 to 23, inclusive;

Secs. 25 to 28, inclusive;

Secs. 29 and 30 (fractional);

Secs. 32 and 33 (fractional);

Secs. 34, 35, and 36.

T. 20 N., R. 90 W:

Secs. 1 and 2;

Sec. 3, excluding townsite petition application F–391;

Sec. 4 (fractional), excluding townsite petition application F–391;

Secs. 7 and 8 (fractional);

Sec. 9 (fractional), excluding townsite petition application F–391;

Secs. 12 to 30, inclusive;

Sec. 31, excluding Native allotment F–14759 Parcel C;

Secs. 32 to 36, inclusive.

T. 20 N., R. 91 W:

Sec. 11 (fractional), excluding Native allotment F–19041;

Sec. 12 (fractional);

Sec. 13;

Sec. 14, excluding Native allotment F–19223 Parcel B;

Sec. 15 (fractional);

Sec. 16 (fractional), excluding Native allotment F–19039 Parcel B;

Secs. 17 and 18 (fractional);

Secs. 19 and 20;

Sec. 21 (fractional), excluding Native allotments F–15023 Parcel A and F–19224;

Sec. 22 (fractional), excluding Native allotment F–19224.

T.20 N., R. 92 W:

Sec. 13 (fractional), excluding Native allotments F–19033 Parcel A and F–19044 Parcel B;

Sec. 14 (fractional), excluding Native allotments F–19039 Parcel A, F–19056 Parcel A, and F–19221 Parcel B;

Secs. 23 and 24.

Interim Conveyance No. 959: Seward Meridian, Alaska (Unsurveyed)

T.20 N., R. 90 W:

Sec. 3, those lands formerly within townsite petition application F–391;

Secs. 4 and 9 (fractional), those lands formerly within townsite petition application F–391;

Sec. 10, excluding U.S. Survey No. 4099, U.S. Survey No. 5050, and Alaska Native Claims Settlement Act Sec. 3(e) applications AA–39616 and AA–39617;

Sec. 11.

Interim Conveyance No. 1058:

A tract of land located within lot 1 of U.S. Survey No. 4099, and additional unsurveyed lands in Sec. 10, T. 20 N., R. 90 W., Seward Meridian, more particularly described as:

Beginning at a point for corner No. 1, identical with corner No. 1, U.S. Survey No. 4099.

From corner No. 1, by metes and bounds, N. 83° 29′ E., 149.80 ft., to corner No. 2, a point on the 1–2 line of U.S. Survey No. 4099; thence S. 6° 31′ E., approximately 375 ft., to corner No. 3; thence N. 83° 29′ E., 300 ft., to corner No. 4; thence S. 6° 31′ E., 75.12 ft., to corner No. 5; thence S. 83° 29′ W., 449.80 ft., to corner No. 6, identical with corner No. 8, U.S. Survey No. 4099; thence N. 6° 31′ W., 450.12 ft., to corner No. 1, identical with corner No. 1, the true point of beginning.

Patent No. 50–84–0792: U.S. Survey No. 4099, Alaska, lot 3, situated near the mouth of the Kun River in the village of Scammon Bay and the designation of U.S. Location Monument No. 4099.

Kusilvak Parcel—61,174 acres

Location

The Kusilvak parcel is located on the Black River several miles west of the Kusilvak Mountains and approximately twenty miles from the Bering Sea.

General Description

This parcel is a subsurface estate and subsurface entitlement of 61,174 acres. It includes 45,458 acres of conveyed subsurface estate and 15,716 acres of remaining subsurface entitlements. The surface estate is owned by Sea Lion Corporation and is not part of the lands to be conveyed. The Black River, a major waterway, runs for about 15 miles through the parcel. The parcel is characterized by coastal lowlands and river floodplains with many large lakes and innumerable small lakes and ponds. The Black River has formed numerous sloughs, oxbows, and cutoff channels.

Refuge Values

The chief habitat and wildlife value of the parcel is waterfowl nesting. It is used by Canada geese, swans, loons, cranes, and many species of ducks, as well as shorebirds. Population densities of northern pintails and tundra swans have been mapped at 4 to 12 per square mile based on USF&W aerial surveys. Canada geese, scaup, scoter, cranes, and loons are common. Whitefish, sheefish (inconnu), and northern pike are important resources of the Black River and are heavily used for subsistence by nearby villages. Furbearers such as mink, otter, arctic and red fox are abundant in the parcel. There is moderate potential for summer and winter range for the expanding mainland musk-ox herd, which is occasionally seen in the southern part of the parcel.

Subsurface Values

These lands have been subject to oil and gas leases twice in the recent past. The geology is permissive of several mineral deposit types, however, there is little known about mineralization in this poorly explored region. The value of the subsurface in the Kusilvak area is based to a large extent on the ready supply of sand, gravel and rock.

Kusilvak Parcel Land Description

Interim conveyance No. 511: Seward Meridian, Alaska (Unsurveyed).

T.21N., R.84W.—Sec. 6, excluding Native allotment F-17513 Parcel A.

T.22N., R.84W.—Sec. 31.

T.21N., R.85W.—Secs. 2 to 7, inclusive; Sec. 18.

T.22N., R.85W.—Secs. 3 to 10, inclusive; Secs. 15 to 22, inclusive; Secs. 27 to 36, inclusive.

T.23N., R.85W.—Secs. 30, 31, and 32.

T.21N., R.86W.—Sec. 4; Sec. 5, excluding Native allotment F-19237; Sec. 6, excluding Native allotment F-19238 Parcel A; Secs. 13 and 14.

T.22N., R.86W.—Secs. 19 to 25, inclusive; Secs. 28 to 31, inclusive; Sec. 32, excluding Native allotment F-19237; Secs 33 and 36.

T.23N., R.86W.—Secs. 11 to 15, inclusive; Sec. 21; Sec. 22, excluding Native allotment F-18248 Parcel A; Secs. 23 to 26, inclusive; Secs. 27 and 28, excluding Native allotment F-18248 Parcel A; Sec. 29; Secs. 32 to 36, inclusive.

Calista 14(h)(8) entitlements—10,000 acres

These entitlements are to surface and subsurface estate and can be selected from Federal lands within the Calista Region. As in the case above, these entitlements are based on an underselection currently affecting Calista. Like the in Lieu lands, these entitlements will be used to select Federal lands which contain prospective oil and gas horizons, potential mineral deposits, or surface estate development potential, such as developable real estate, hydro power, and commercial uses such as fish processing. Calista is currently leasing several 14(h)(8) tracts to various mineral exploration companies. Calista believes that Federal acceptance of these entitlements will help limit potential adverse impacts on the Refuge.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC., November 13, 1991.

Hon. TED STEVENS,
Committee on Appropriations, U.S. Senate,
Washington, DC.

DEAR SENATOR: As you requested, the Congressional Budget Office has reviewed a possible amendment to the fiscal year 1992 Defense Appropriations bill regarding a land exchange with the Calista Corporation. We estimate that enactment of this amendment would not affect the federal budget over the 1992–1996 period. Additional direct spending in the form of monetary credits could be incurred after fiscal year 1996; however, we are currently unable to estimate the magnitude of such costs.

The amendment would require federal agencies, when requested by the Secretary of the Interior, to provide land not otherwise scheduled for sale prior to November 1, 1996, to the Department of the Interior to be used in an equal value exchange with the Calista Corporation. Property held by the Resolution Trust Corporation (RTC) and the Federal Deposit Insurance Corporation (FDIC) would not be subject to transfer prior to October 1, 1996. Information from Calista indicates that the corporation would like to exchange about 200,000 acres of land. The Secretary of the Interior would be required to determine the value of these lands within nine months of the date of enactment. The value of any Calista lands not exchanged by the end of fiscal year 1996 would be converted to monetary credits, which could be used to acquire federal properties, including those held by the RTC and FDIC.

Under the land exchange provisions authorized to occur over the 1992–1996 period, we expect that the federal government would give up title to land that it otherwise would not sell. CBO estimates that such a transaction would have no direct budgetary impact because we expect that the federal government would relinquish capital assets that would not otherwise have generated income for the federal Treasury.

The value of any monetary credits would count as direct spending budget authority and outlays in the year they are issued. There is no certainty, however, that monetary credits would be issued. Furthermore, such credits could not be provided until fiscal year 1997.

Monetary credits have a budgetary impact because they can be used in lieu of cash to acquire federal properties and would therefore result in forgone receipts to the federal Treasury. Because the Calista Corporation would be authorized to use its credits to acquire any federal properties, including those held by the RTC and FDIC, we believe that it is very likely that these credits would displace cash receipts in future land sales. While the value of monetary credits issued to the corporation could be significant, we have no basis for predicting how much of the value of the Calista lands would not be covered by land exchanges prior to 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

PRESIDENTIAL ELECTION SYSTEM

Mr. MITCHELL. Mr. President, I am disappointed that Congress could not pass legislation this year to correct a technical problem with the Presidential campaign finance system. The problem arises as a result of Treasury Department regulations issued earlier this year that are politically motivated and inconsistent with the law.

The effect will be to prevent Democratic Presidential candidates from receiving matching funds on a timely basis. In a crassly cynical move that has absolutely no policy justification, President Bush and his Republican colleagues in Congress have blocked legislation to clarify the law.

As a result, it is quite likely that next January when Presidential candidate George Bush submits his request to the Federal Election Commission, he will claim most of the funds available in the Presidential campaign trust fund. The FEC estimates that only a fraction of the matching payments will be available in February and March for the election campaigns of the Democratic candidates.

So what we have here is a case of the Bush administration's Treasury Department issuing an unwarranted regulation, not supported by the law, that creates a situation that enables President Bush to claim the bulk of the trust fund money to the exclusion of Democratic candidates. Then, when Congress considers a minor clarification of the law to permit anticipated receipts to be taken into account, President Bush blocks consideration of the legislation. He even goes so far as to issue a veto threat.

We are led to believe the President does not necessarily oppose this legislation, he simply does not believe it should be done the year before the election. It should be done in 1993 instead. That is an absurdity. This problem was created when the President's Treasury Department issued the regulations this year. It should be corrected this year. It affects the 1992 elections. It makes no sense to wait until after the election is over to fix the problem.

This should not be a partisan issue. All six members of the Federal Election Commission, including the three Republican members and the three Democratic members, support this legislation because they know it simply enables the Presidential public-funding law to work as intended. There is no substantive argument in opposition to the provision. People who oppose this provision are opposed to the Presidential system. If so, they should attempt to repeal that law directly, not interfere with the proper operation of the law.

If the Republican Party and George Bush are opposed to the Presidential public-financing system they should work to repeal the law. At a minimum, candidate George Bush should not accept public funds. It is inconsistent for him to both oppose this provision and take millions of dollars of public funds under the Presidential system.

In fact, George Bush has received more public financing for Presidential elections than anyone in history. As a primary and general election candidate for President and Vice President in 1980, 1984, and 1988, George Bush has received approximately $140 million in public financing under the Presidential-election finance system; far more than any other individual who has ever run for President. He is expected to receive another $70 million for the 1992 election campaign. Does he support this system or is he opposed? If he is opposed he should not be taking the money. If he supports the system, there is no justification for his opposition to this provision to make the system work as intended.

It should be pointed out that the proposed legislation is a minor change that only affects the timing of matching payments in Presidential election primary campaigns. It does not affect the amount of such payments or the recipients of such payments.

The Treasury Department regulations that were issued earlier this year deal with an anticipated temporary shortage of funds for the Presidential election system. Three types of payments are made from the Presidential election fund; for the general election, for the nominating conventions, and for the primary elections. Treasury has interpreted the statute in a manner that requires that amounts from the Presidential election fund first be set aside for the cost of the nominating conventions and the general election even though that is the last of these events which will occur.

After this prepayment is made, payments will be made to the primary candidates based on the amount of money available in the Presidential trust fund. Most checkoff funds are received in March, April, and May, but the Treasury regulations do not permit such funds to be taken into account in making matching primary election payments earlier in the year. As a result, after the initial January 1, 1992, matching payments, it is expected that February and March payments to candidates will only be about 75 percent of what the candidate is entitled to. The difference would be made up later in the year as the checkoff funds are received.

According to the FEC, as of January 1, 1992, there will be approximately $128 million in the Presidential election fund. As a result of the Treasury regulations, $111 million must be set aside for the general election and nominating convention payments, leaving only $17 million as of January 1, 1992, for primary campaigns. The FEC estimates that approximately $14 million in payments will be made to primary candidates on January 1, 1992, leaving insufficient funds for February and March payments. The Treasury appropriations provision simply permits the $33 million in anticipated 1992 tax checkoff receipts to be taken into account according to standard budget procedures.

Depending on when and how candidate Bush raises primary election campaign money, he is likely to receive $14 million in matching payments from the Presidential election fund. The FEC estimates that 80 percent of those payments will be made in January and the remainder in February and March. Democratic candidates are expected to become entitled to matching primary payments later in the year. This provision would assure timely payments both to candidate Bush and to Democratic primary candidates.

HOUSE HELD UP CONFERENCE ON OLDER AMERICANS ACT

Mr. McCAIN. Mr. President, this is not a proud day for our Nation's seniors. The House of Representatives has just left for the holidays while failing to appoint conferees so that action could be completed on the Older Americans Act reauthorization bill—which includes an amendment of mine adopted in the Senate that would repeal the Social Security earnings test. This is a travesty.

On November 12, the Senate adopted the Older Americans Act reauthorization bill and appointed conferees in the hope that this important legislation might be conferenced and signed into law before Congress recessed for the year. It is of great concern to this Senator, who is a sponsor and strong supporter of the Older Americans Act reauthorization bill, that the House appears to be holding up final action on this critical legislation for our Nation's seniors by not appointing its conferees.

As my colleagues know, the Older Americans Act provides for a number of programs that are essential to the livelihood of our Nation's most vulnerable elderly. It provides for an array of programs on which millions of older Americans depend—vital services including nutrition programs, seniors centers, community and social services, legal services, nutrition and health promotion programs, and care for frail and homebound seniors. In addition, the act provides job opportunities and protects the basic rights of seniors.

While current law certainly will continue if the reauthorization bill is not signed into law before the end of the year, the effect of this bill's delay will be very serious. For example, delay blocks an additional $70 million in funding for the commodities program that is the nutritional lifeline for low-income seniors. Delay also blocks a critical new home health care program that was to have served as an alternative to institutional care. And, delay blocks the critical new elder-rights program that was to tackle the tragedy and disgrace of elderly abuse.

Mr. President, this reauthorization bill is critical to improving the lives and well-being of millions of older Americans. It is unconscienable, in my view, that this legislation is being held up as a result of the House not appointing conferees.

Mr. President, initially, I thought the fact that the House did not appoint conferees was an oversight, but that simply was not the case. Plain and simple, it was a ploy to avoid having to deal with the Senate's proposal to repeal the last bastion of age discrimination—the Social Security earnings test.

Mr. President, my earnings test proposal was adopted unanimously in the Senate and enjoys the support of a majority in the House. What's more, just as is the case with the Older Americans Act reauthorization bill, this proposal enjoys the support of seniors all over this country and of virtually all of our Nation's major seniors organizations. Accordingly, Mr. President, it was my sincere hope that the House would have appointed its conferees so that we could have completed consideration of this critical legislation and send it to the President for his signature before we recessed for the year. But, unfortunately, that will not happen because the House has turned its back on our Nation's seniors.

PENSION AMENDMENT TO H.R. 3543

Mr. HATCH. Mr. President, the Senator from Missouri has previously emphasized the narrowness of this particular amendment. I wonder if he could comment further on whether he views this amendment as setting any kind of a precedent for further changes to ERISA or in connection with the activities of any other carrier.

Mr. DANFORTH. Let me assure the Senator from Utah, and all of my colleagues, that I do not regard this amendment as setting a precedent of any kind with respect to changes in ERISA or with respect to the activities of any other airline. On the contrary, this amendment was narrowly drafted to apply and respond only to an unprecedented set of circumstances that I think are highly unlikely to recur in other contexts.

S. 474, A BILL TO STOP STATE-SPONSORED SPORTS GAMBLING

Mr. SPECTER. Mr. President, it is with great pleasure that I note that the Senate Judiciary Committee on November 21, voted to report favorably S. 474, a bill to stop the spread of State-sponsored sports gambling. I applaud this resounding vote to support a bill which is now cosponsored by over 59 Senators.

Sports gambling is bad for sports. State involvement in sports gambling puts the imprimatur of government behind the discredited proposition that sports gambling is a public good. Sports gambling can only be profitable if it exploits the popularity of athletics to tempt many additional people to gamble.

The simple fact is that gambling and athletics do not mix. For government to bring them together would be unwise public policy. That is why hundreds of church, youth, and law enforcement organizations throughout the country support the antigambling provision. In the end, it is our youth who will be harmed by the negative values imparted and legitimized by States that authorize sports gambling.

Federal legislation to bar sports lotteries has been pending for 2 years. Indeed, both Houses of Congress independently passed anti-sports-lottery measures last year. Now is the time to pass this important legislation.

I understand that an amendment may be offered to provide a 2-year window for States to exempt themselves from the bill. This amendment would create a great loophole. It would encourage States to rush into authorizing sports lotteries without proper consideration and adequate safeguards simply in order to keep their options open in the future. Then, once such programs were authorized, powerful special interest groups would ensure that those State-sponsored lotteries remained in place. The result would be not only more States with sports lotteries, but more States with hastily conceived sports lottery programs.

I urge my colleagues to support S. 474's purpose of keeping sports and gambling separate by voting against this amendment.

SPORTS GAMBLING

Mr. DECONCINI. Mr. President, it is unfortunate that the Senate will not have the opportunity to enact legislation prohibiting sports gambling this year. We have put together a strong bill that effectively would prevent the legitimization of sports gambling through State seals of approval. S. 474, the Professional and Amateur Sports Protection Act of 1991, would prohibit all sports gambling, by Government entities or individuals, conducted pursuant to State law. It would cover any lottery, sweepstakes, or other betting, gambling or wagering scheme based on competitive games in which amateur or professional athletes participate.

Hearings were held in the subcommittees of both the House and Senate Judiciary Committees this year. During these hearings, the case was made that legislation is needed to stop the spread of State sponsored sports gambling. My bill, S. 474, has been approved by the full Judiciary Committee. The House bill, H.R. 74, was reported out of subcommittee and then passed as part of the House crime bill. The conference committee on the crime bill agreed to include a ban on sports betting in its final report. Fifty-nine of my Senate colleagues have cosponsored my bill, S. 474. Clearly, this is a matter of importance to the Congress.

Swift action is imperative to prevent the proliferation of sports gambling. I fear that States desperate for revenue, whatever the costs, are enlisting the aid of the gambling and lottery industries to bring sports gambling to their States. Technological advances will soon allow these States to effectuate systems where bets could be made through 900 numbers, with wagers paid by credit cards.

States must know explicitly, without reservation, that Congress' failure to enact a sports gambling prohibition this year does not mean that Congress has dropped the ball on this issue. With diligence and vigor, we will move rapidly on this bill at the beginning of next year.

There is widespread support for this legislation. I have heard from many national and local organizations, sports teams, colleges, high school educators, legislators, and many others who have expressed strong support for a ban on sports gambling. Few can disagree with the strong antisports gambling message that has been heard. Mr. President, the future of America's favorite pastime, sports, is threatened. It is imperative that we act quickly.

Although I am disappointed that it appears the crime bill which incorporates the Professional and Amateur Sports Protection Act of 1991 will not become law this year, I am confident that with the broad base of support for this bill, that it will become law early next year.

In the meantime, I urge those States which are considering legislation to enact sports betting to think long and hard about the message they're sending to the young people in America. The revenues it may generate are not worth destroying the reputation of sports and sports heroes. I ask unanimous consent that immediately following this state-

ment five editorials in support of the bill be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

A Losing Bet

(By William F. Reed)

Whenever I go to the racetrack, which is considerably more often than the average citizen, I bet on almost every race. I like the action. I like having a personal rooting interest. What's more, I see absolutely no contradiction between my betting at the track and the fact that I'm dead-flat opposed to any further legalization of gambling on baseball, football, hockey and basketball.

Sure, I've heard all the seductive arguments in favor of legal sports gambling. The main one is that because illegal gambling on sports events is already at least a $38 billion-a-year industry, why not take it away from criminals and put it into the hands of the states? That would remove the stigma from gambling, put illegal bookmakers out of business and give cash-starved state governments a lucrative source of revenue. Simple, huh? Well, don't believe it. I say such a plan would be opening new cans of worms.

The way I see it, there's already too much legal gambling. As recently as 15 or 20 years ago the only places in this country where you could get a bet down without breaking the law were racetracks and the Nevada casinos. The gaming industry was so limited that many people who had no business gambling were discouraged from doing so. To go to a track, for example, you had to have the money for transportation, admission, a program and the Daily Racing Form. In addition to the cost, not everyone could afford the time or the trouble. Sure, there were bookies, but many people were—and are—reluctant to indulge in an illegal activity.

Now, however, we are a nation of gamblers, mainly because legal betting has become so readily available. Off-track betting, which operates in 11 states, is as much a part of some neighborhoods as the convenience store. Casino gambling in Atlantic City is within a day's drive of 60 million people, and you can even play craps and blackjack on riverboats in Iowa and soon in Illinois. Most insidious of all are the various state lotteries, which expose government at its greedy worst.

Even though a lot of lottery tickets are sold to the people who can least afford them, states shamelessly pour millions of dollars into promoting and glamorizing their lotteries instead of emphasizing that the chances of winning are umpteen million to one. The longest shot at the racetrack is far more likely to be a winner than a ticket in most lottery jackpots, yet the public keeps pouring billions down the drain. And to this we're going to add betting on games?

Aside from concerns that the passion to get rich quick through gambling is replacing devotion to hard work and saving as the American way, here are five reasons to oppose further expansion of legalized sports gambling.

Expansion of legalized gambling would induce even more people to become bettors. That, in turn, would only lead to a higher incidence of compulsive gambling. If the sad case of Pete Rose served any useful purpose, it was to emphasize that addiction to gambling can be just as ruinous as addiction to alcohol or drugs. At least Rose could afford his habit better then many others can. How about the thousands of families that are destroyed each year because the breadwinner taps out? How do we reconcile the notion that government is supposed to protect the public welfare with the idea of its simultaneously promoting an activity certain to increase a debilitating addiction?

Fan hostility toward athletes, already a growing concern, would only increase. With more people having their hard-earned cash at risk, there would be more second-guessing, especially about crucial decisions and plays that affect the point spread. My hunch is that legal betting on soccer in Europe has to be one of the factors behind the many riots that mar matches there.

Increased gambling on baseball, football, basketball and other sports would have a serious negative impact on horse racing and dog racing simply because team sports are so popular. Some may shrug this off as the law of the marketplace, and of course it is. But do states really want to risk further damaging industries that have proven their ability to generate thousands of jobs and millions of dollars in revenue but are already showing signs of weakness?

Legalized gambling would not drive the illegal bookmakers out of business because state-run betting operations would not be able to issue credit, which is one of the bookies' major enticements to gamblers.

Legalized gambling just doesn't make sense from a practical standpoint. For openers, who would establish the betting line? Are states willing to trust some guy in Las Vegas? How would the states know that the oddsmaker would not be susceptible to a bribe? What would a state do if it suddenly found itself taking a bath because of a bad line? A bookmaker can balance his books by laying off bets with other bookies. I'm not sure states would be willing or able to do the same thing.

Oh, yes. I also should mention the moral contradictions. Let me see if I've got this straight. The numbers racket is illegal if it's run by mobsters but perfectly all right if the states run it and call it a lottery. And betting on games is illegal if you call your friendly neighborhood bookie, but it's O.K. if the government gets into it. Everybody see the difference? If so, there are a lot of guys in jail for illicit gambling—most of whom have been apprehended at considerable cost to the taxpaying public—who would like an explanation.

[From the New York Times, Nov. 22, 1991]

Shame of the States

(By William Safire)

Harper's Ferry, W. Va.— In Deadwood, S.D., where in 1876 Wild Bill Hickok was shot in the back during a poker game while holding a hand of aces and eights, gambling was re-introduced in 1989. Despite a betting limit of $5, the amount wagered by tourists and other suckers in the once-moribund town has already passed a third of a billion dollars.

That's only for openers. South Dakota's state lottery, reaching for the youth market, has also invested in video games, the modern equivalent of state-sponsored slot machines. West Virginia is experimenting with video machines at racetracks.

New York and Connecticut up the ante with telephone off-track betting, likely to spread to taxes and computer moderns for hacker-touts. And liberal Iowa, on the pretense of reviving interest in the less savory elements of its history, has launched riverboat-gambling on the Mississippi—retaining 20 percent of casino winnings, which longtime gamblers grumble is too much vigorish.

All this means that Americans at the state level are deciding that gambling is good—not just a tolerable evil, but a positive value. Gambling has become a goal of public policy.

Only a few years ago, proponents of state lotteries were claiming that state control would channel the profits of an unstoppable human frailty toward good ends. Why let numbers racketeers and Mafia casino operators bilk the public, their argument went—why not steer those ill-gotten gains into public schools?

The answer is spreading like a poison through state and local governments: immoral means have never led to moral ends. We are no longer skimming the profits from a criminal activity: we are putting the full force of government into the promotion of moral corruption.

What am I, some kind of stiff? Is a friendly game of gin rummy at a penny a point to be frowned upon, or a church social that raises its costs at a bingo game to be condemned, or a privately owned gambling yacht catering to rich drunks cause for conservative concern?

I'm a libertarian. If people want to titillate themselves with a game of chance, or delude themselves into thinking they can beat the odds, that's their private business. I just do not think it should be the public business.

Gambling promotion has become a key to state budget-balancing. Card-carrying right-wingers are not supposed to mind taxing the poor, but really soaking the poor—as this excessively regressive taxation does—sticks in my craw.

Why? Because it is wrong for the state to exploit the weakness of its citizens. It is the most unfair and painful form of "painless" taxation. The money isn't coming from a few big bookies and croupiers, but from the pockets of millions.

And gambling taxation feeds on itself. We cannot give up the state income from betting, say legislators who feel guilty about pretending that gambling is good, because the states have become dependent on the money, or because other states will use casinos to lure their tourism. They have become as hooked on gambling as a source of revenue as any compulsive gambler betting the milk money.

Here's what you can do to stop the explosion of government-sponsored gambling:

Tell your local television anchor you've had it with media hype of gambling. Features of giggling lottery winners or hoohahing over million-dollar jackpots is cheap-shot journalism, show us some people impoverished by gambling, or expose the cost of the state bureaucracy pushing it.

Apply truth-in-advertising to state-sponsored slots, lotteries and video games. Display prominently the odds against winning; state the number of losers for every winner. Demand stations make free equal time available for anti-gambling messages.

Demand that gubernatorial gamesters stop using their "take" for advertising; the creation of fresh demand for gambling by a public agency is against the public interest.

Tell your kids that gamblers are life's losers. Private gambling, like prostitution, should not be illegal, but it should not be treated as a value. And to make the state hustling of gambling profits the basis for state education is like shooting Marshal Hickok in the back.

[From the Cincinnati Enquirer, Aug. 20, 1991]

Gambling

Prohibition is the best thing that could happen to the idea of lottery betting on sports events. And that is exactly what U.S. Rep. John Bryant, D-Texas, is trying to do with a bill that would make the practice illegal nationwide.

How ridiculous for professional sports to work so hard to stay free of the taint of gambling only to have state governments undermine the efforts. There will always be some illegal gambling. But that is limited, and will never convey the legitimacy of state-sponsored lottery betting.

The pros realize this. The Cincinnati Reds and Bengals have joined a coalition of Ohioans Against Sports Gambling to lobby for passage of Congressman Bryant's bill. Meanwhile, the group is working to keep Ohio legislators fully apprised of the harm that sports gambling would do.

The Bengals' Mike Brown said it well: "We feel legalized sports gambling promotes the wrong reason for rooting for the home team. We want people to cheer for us to win, not to cover the spread."

State lotteries are big business. There's no doubt about that. They are lucrative and competitive. And, because that's so, there is growing concern that the desire for growth is smothering good judgment.

State-sponsored sports gambling would undermine all the care and caution that have gone into keeping pro sports clean. It might even jeopardize an industry that cities such as Cincinnati and Cleveland depend on. That is simply too much to risk.

The Bryant bill should pass. And with a groundswell of public support.

CONGRESS SHOULD HALT LEGALIZED SPORTS BETTING

Commissioners of major league baseball, basketball, and football urged Congress this week to halt the spread of legalized sports betting across the nation. Representatives of revenue-hungry states, and of casinos eyeing millions of dollars in new profits, are complaining. But Congress should ban new state schemes to sponsor gambling on football or other sports. Legalized gambling could corrupt professional athletics. The United States already has too many forms of betting. The last thing the nation needs is a new enticement to gamble.

Paul Tagliabue of the National Football League, Fay Vincent of Major League Baseball, and David Stern of the National Basketball Association all testified before a congressional subcommittee Wednesday. "We do not want our games used as bait to sell gambling," said Mr. Tagliabue.

Mr. Tagliabue knows as well as anyone that illegal betting on football is already something of a national passion. But he and other commissioners argue that there's no reason to make gambling opportunities even more available.

As the recession forces states to search for new revenue, legalized sports betting looks like the next stop on government's eternal search for a painless fiscal cure. Oregon has a lottery tied to the outcome of pro sports, and Nevada allows sports betting in casinos.

Jack Gallaway, president of TropWorld Casino an entertainment resort in Atlantic City, says sports betting should be the next major item on the New Jersey casino industry's agenda. And Steven Perkins, chairman of the Casino Control Commission, sounds favorable to the idea. Race track operators, fearing even stiffer competitors, fearing even stifer competition from casinos, say they would want a piece of any new action. The pressure is on, and building.

Sen. Bill Bradley, a star with the New York Knicks before he entered the Senate, is among the cosponsors of the bill to ban new sports betting. As the commissioners testified, legal sports gambling leads to a situation in which fans start cheering to beat the spread, not just for the home to win. "When our fans begin to leave games feeling disappointed or cheated even though 'their' team has won, that spells trouble," said the NBA's Mr. Stern. Legal betting would also make it more likely that underworld types would try to fix a game. Even if that didn't happen, fans would be suspicious.

Gambling fever has gripped the United States. Almost every state in the nation now has some form of gambling, from jai alai to greyhound racing to casinos. For people who like to gamble, and who can bet sensibly, there are abundant opportunities.

But some people can't bet sensibly. Encouraged by billboards and TV ads, they bet—and lose—their mortage money, or the family food money. The time to call a halt is now. Congress should enact a federal ban on new forms of sports betting.

[From the USA Today, June 26, 1991]

STATES SHOULD KEEP OUT OF SPORTS BETTING

States are becoming addicted to gambling.

Gambling is big business: $290 billion is bet each year. Like high rollers deeply in debt, states are relying more and more on games of chance to lift them out of their fiscal ruts.

Iowa, closely followed by Illinois, is leading the charge down the Mississippi with riverboat gambling.

Thirty-three states and the District of Columbia have joined in the lottery craze.

New Jersey, Nevada, and South Dakota allow casino gambling.

A USA Today survey shows 13 states have considered or are considering joining Oregon and Nevada in legalizing betting on sporting events.

That concerns the heads of all the professional sports leagues as well as amateur athletics. Today, they'll tell a Senate panel they want to keep sports gambling from spreading to other states.

Despite the views across the page, the commissioners are right.

In previous editorials, USA Today has opposed states' spending large sums on lottery promotions; it has also opposed a national lottery that would complete with the states.

Sports gambling is another bad bet for states—

Because it encourages gambling particularly among our youth.

Because it can lead to crime, one study showed 10% of teen-agers committed crimes to support their habit.

Because money doesn't always go where it is intended; in Oregon, for the first two years, much of the revenue went into the general fund instead of college sports.

Because the odds are poor, the odds of winning Lotto America, for example, are 13 million to 1.

And because it preys upon the poor.

Gambling is especially bad for sports because it would raise concerns about the fixing of games. Fans would root for their bets rather than for their home teams.

States see gambling as a way to fill their coffers, but too many people see it as a way to fulfill their dreams.

Look across the USA, and you'll see the broken lives and unfulfilled dreams of those who took the risk—and lost.

Art Schlichter's promising National Football League career was cut short when he was suspended for gambling.

Chet Forte was at the pinnacle of the TV industry at ABC Sports until sports gambling destroyed his life.

Pete Rose was headed for baseball's Hall of Fame.

Compulsive gamblers have doubled in the last decade to 8 million—a million of them teen-agers.

YOUNG GAMBLERS

A study of college students in six states found:

Students who had gambled sometime in their lives: 87%.

Gambled weekly: 26%.

Gambled more than $100 in one day: 11%.

Fit criteria for pathological gambler: 5.7%

William C. Smith, counseling coord., Bryant College, R.I.

Gambling is already reaching the saturation point. States should not be using sports to try to make a big score.

SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, I hereby submit revised budget authority allocations to the Senate Committees on Environment and Public Works and Banking, Housing, and Urban Affairs and aggregates under section 9 of the concurrent resolution on the budget, House Concurrent Resolution 121.

Section 9(e) of the budget resolution states:

> (e) TO FUND SURFACE TRANSPORTATION.—
>
> (1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding for surface transportation within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously-passed deficit reduction) in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.
>
> (2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.
>
> (3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to section 302(b) and 602(b) to carry out this subsection.

The report of the Senate Budget Committee to accompany the budget resolution makes clear one of the available applications of this language. On page 55, the report states:

> The Surface Transportation Act reserve fund is designed to cover, among other initiatives, deficit-neutral Federal-Aid-Highway, Section 3 Mass Transit Capital Grant, and Highway Safety Grant initiatives.

On June 4, 1991, the Environment and Public Works Committee reported S.

1204. S. 1204 qualified as "legislation that increases funding for surface transportation within such a committee's jurisdiction," in the words of the budget resolution, addressed matter discussed in the report of the Budget Committee, and met the other requirement of section 9 of the budget resolution that

> * * * to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit * * * in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

As S. 1204 complied with the conditions set forth in the budget resolution, under the authority of section 9(e)(2) of the budget resolution, on June 11, 1991, I filed with the Senate appropriately revised budget authority allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out section 9 of the budget resolution. These revised budget authority allocations under sections 302(a) and 602(a) and revised functional levels and aggregates appear at page 14173 of the CONGRESSIONAL RECORD for June 11, 1991.

The Senate passed and went to conference with the House of Representatives on the House companion measure, H.R. 2950. Just this morning, the committee of conference on H.R. 2950 submitted a conference report on the legislation. As did S. 1204, the conference report on H.R. 2950 plainly qualifies as "legislation that increases funding for surface transportation within such a committee's jurisdiction," in the words of the budget resolution. It addresses matter discussed in the report of the Budget Committee. The conference report on H.R. 2950 also meets the other requirement of section 9 of the budget resolution that:

> * * * to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit . . . in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

As the conference report on H.R. 2950 complies with the conditions set forth in the budget resolution, under the authority of section 9(e)(2) of the budget resolution, I hereby file with the Senate appropriately revised budget authority allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out section 9 of the budget resolution.

There being no objection, the allocations were ordered to be printed in the RECORD, as follows:

REVISED RESOLUTION TOTALS PURSUANT TO SECTION 9(e) OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR 1992

[Dollars in millions]

	Fiscal year	Dollars
Budget authority allocation to Environment and Public Works	1992	$18,911
	1992–96	110,885
Budget authority allocation to Banking, Housing, and Urban Affairs	1992	107,394
	1992–96	246,509
Transportation budget authority function total	1992	35,912
Resolution budget authoority total	1992	1,270,612

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 157

Ms. MIKULSKI. Mr. President, I rise in support of this conference report and urge its adoption by the Senate. This conference report contains language with respect to FEMA's disaster program which should help obviate the need for future emergency supplementals. The language reflects an agreement with the administration regarding what the average, and therefore predictable, need for FEMA disaster assistance is—$320 million per year.

Under the language, if the President requests and Congress appropriates this amount—but natural disasters occur which result in a need greater than $320 million—any amount above the $320 million would be designated as an emergency and therefore would not score against the domestic discretionary spending cap. If the President requests less than the $320 million, then the administration has agreed that any amount required above the President's request will be designated as an emergency.

If, on the other hand, Congress appropriates less than the historical average of $320 million—or the President's request, whichever is less—and requirements for FEMA disasters exceed the amount appropriated, then only the amount above $320 will be declared an emergency.

Mr. President, I know this sounds confusing, but I believe that by reaching agreement with the administration on an appropriate amount for the average need for FEMA, we can avoid in the future the kind of situation in which we now find ourselves—an $800 million backlog of needs for FEMA funding. This supplemental will take care of that backlog, but it will also help make sure that FEMA won't run out of money for disasters in future years.

CRIME BILL CONFERENCE REPORT

Mr. DOLE. Mr. President, as Yogi Berra once said, "It's deja vu all over again."

Last year, the House passed a tough antianti crime bill. The Senate passed a tough anticrime bill. And the Democrat-controlled conference committee threw them both away, and reported out a bill that did nothing to help law-abiding Americans.

This year, the House passed a tough anticrime bill. The Senate passed a tough anti crime bill. And, in the spirit of the season, the Democrat-controlled conference committee has sent the American people a turkey.

My friends on the other side of the aisle point to the good things in this bill—to the new Federal death penalty—to more money—money that is authorized, but not appropriated, by the way—for America's law enforcement community.

And no doubt about it, this bill does have some good provisions in it. But just because the radio works, does not mean that you should keep a car that is a lemon. And this bill is a lemon.

On March 11, President Bush challenged Congress to pass tough, anticrime legislation within 100 days.

Today, 260 days later, we are asked to pass legislation which falls far short of what President Bush requested, and falls short of what the American people demand, in at least five very important areas.

First, President Bush asked for legislation to limit the unreasonable appeals used by convicted criminals to delay their sentences.

The bill before us, however, would allow convicted criminals to use new laws to overturn old convictions. Indeed, in the words of the National District Attorneys Association, "passage of this bill is tantamount to handing the jail house keys to thousands of convicted State and Federal prisoners."

Second, President Bush asked for legislation that would impose an enforceable Federal death penalty on the most heinous of crimes. And the Senate and House did just that.

The bill before us, however, creates the Federal death penalty with one hand, and takes it away with the other, as it contains no safeguards to prevent the obstruction of the Federal death penalty through endless collateral litigation.

Third, President Bush asked for legislation which would stop obviously guilty criminals from being set free on a technicality.

The bill before us simply codifies existing exclusionary rule law, and through skillfully written language, would actually require the exclusion of more evidence than the existing rules.

Fourth, President Bush asked for legislation which would come down on the side of victims of crimes of sexual violence. The President proposed, and both Houses of Congress passed legislation to do just that—legislation that threw the book at recidivist rapists and child molesters.

The conference committee, however, did the following:

It threw out provisions requiring increased maximum penalties for rapists and child molesters.

It threw out provisions requiring HIV testing of Federal sex offenders, with disclosure of test results to the victim.

It threw out provisions mandating that the Government pay the cost of HIV tests for victims of Federal sexual crimes. Instead, the committee wants victims to pay the cost out of their own pocket.

It threw out provisions requiring restitution to victims of rape, child molestation, and child sexual exploitation, whether or not physical injury results from the crime.

And, by the way, it also threw out provisions which increased the penalties for selling drugs to pregnant women.

And, finally, Mr. President, the bill before us would overturn the Supreme Court decision of Arizona versus Fulminante.

The practical effect of this action is that confessed killers, rapists, drug traffickers, and other criminals, will have their convictions overturned.

For these reasons—and many more—President Bush has pledged to veto this bill. It's a veto that is in the best interests of law-abiding citizens. And it's a veto that will be sustained.

Mr. President, if the Democrats are looking for a campaign issue, they have got it. I will be perfectly willing to put the President's proposal and the one the Democrats rammed through the conference committee sight unseen, side-by-side, and let the American people decide who's in their corner.

ON PASSAGE OF H.R. 3327

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to support the passage of H.R. 3327.

This bill would require the Secretary of Veterans Affairs to designate one of the Assistant Secretaries in the Department of Veterans Affairs [VA] as the chief minority affairs officer of the Department. That individual would be required to investigate VA's policies as they affect beneficiaries who are members of minority groups; assess the needs of those beneficiaries; and to advise the Secretary on the effect of VA policies on such beneficiaries to ensure that minority group beneficiaries are afforded an opportunity to participate fully in VA's activities and benefits.

This is an important provision, Mr. President, and very similar to a provision the Senate recently passed in S. 869. By placing this duty at the Assistant Secretary level, this provision demonstrates the commitment of the Congress to equality in opportunity for all of our veterans.

I urge my colleagues to support this important bill.

CRIME BILL CONFERENCE REPORT

Mr. BIDEN. Mr. President, today, the Senate Republicans took the final step in the legislative process, and killed what would be the toughest anticrime law in U.S. history.

In brief, the highlights of this package include: The Senate-passed Brady bill, imposing a national 5-day waiting period for handgun purchases, and a system of background checks for those seeking to buy handguns; a vast expansion of the death penalty—to 53 offenses—including the murder of a police officer, murder in the course of rape or child exploitation, drive by shootings, and the death penalty for drug kingpins; a $1 billion authorization for local police; a new drug emergency areas plan to help hard-hit cities; a program for prisons to hold drug criminals; boot camps at old military bases to hold youthful offenders; a police corps, to put more police officers on the streets; new gun-crime penalties for using a gun during a crime, stealing a gun, for owning a gun if you are a felon—and even the death penalty for Federal gun murders; aid for crime victims; reform of habeas corpus and the exclusionary rule; initiatives to fight gang violence and rural crime; and measures to protect our children from abuse, and from drunk drivers.

It was a vast bill and a comprehensive approach to fighting crime in America today.

The conference report received much praise, but also, much criticism. Let me start with the latter.

One set of criticisms came from my friends on the left. Many are death penalty opponents; a position I respect tremendously, even if it is one I do not share. Others fear that the habeas corpus and exclusionary rule provisions go too far in cutting back on civil liberties.

To these people I say, "yes, the bill does restrict some liberties." It limits your right to buy a gun on demand. It limits your freedom, if you commit certain crimes, by imposing new, higher, mandatory sentences. It limits the right to endless appeals.

These are limits on civil liberties. But the basis for the civil liberties of all Americans is a Nation governed by the rule of law. And the lawlessness in our streets today is undermining the public's confidence in that system.

When confidence in the rule of law erodes, sweeping measures—which threaten to wipe out civil liberties altogether, gain in credence. We can see this happening already: Compare the bill the Senate votes on today to the one that the President of the United States proposed, just 6 months ago. His bill: permitted deportation of U.S. residents without a hearing and without legal representation; allowed the use in evidence of any gun, however seized by police—even if the police broke down every door on a block on a whim; totally eliminated any Federal court review of death sentences, as long as State courts heard the case.

And the list goes on. Unless we take steps to control crime, I say to my progressive friends, the more draconian proposals that we have successfully resisted in this bill—proposals that would strip liberties without making our streets safer—will gain acceptance.

This bill would have served to fight crime, while doing the least possible damage to legitimate civil liberties concerns. It is always a balance, and I believe we should have accepted the balance struck here.

The more vocal criticism of this bill has come from the right—largely from the President, and from other allies of the National Rifle Association.

I understand the position of the allies of the NRA. They don't like the Brady bill. They never have. And even though polls show that 80 percent of NRA members, and 90 percent of the American public support the Brady bill, these die-hards will not quit.

But, of course, they do not want to come right out and say, "We oppose this tough crime bill because we oppose the Brady bill." So instead, they reach into their bags and pull out a label that is so tired, and so worn—and they say: "This bill is pro-criminal."

Frankly, I am sick and tired of hearing this. Pro-criminal? I do not know anyone in the Senate who is "pro-criminal." The very term is offensive; it demeans our debate; it is the cry of those so bereft of arguments of substance that they fall to using shrill attacks, instead of reasoned appeals.

Well, let's lay our cards on the table. I supported this bill. Am I "pro-criminal?" The Fraternal Order of Police supported this bill. Are they "pro-criminal?" The National Association of Police Organizations supported this bill. Are they "pro-criminal?"

No one should be throwing labels around like "pro-criminal." If you called this bill pro-criminal, you called its supporters pro-criminal. And I defy—no, I dare—any of my colleagues to take this floor and call the major police organizations of this country pro-criminal.

The supporters of this bill—the police who wanted us to pass this bill—don't stand on the Senate floor to fight crime. They put their lives on the line to fight crime.

So I say to my Republican friends: the police don't want your tough on crime speeches anymore. They don't want to hear you say, "I voted against this crime bill to wait for another one with a better habeas."

America's police want your help, they wanted your vote for this bill. And we owed it to them.

A "pro-criminal" bill, the critics say? A bill with 53 death penalty offenses, "pro-criminal"? A bill that required background checks before gun purchases, to keep guns away from criminals, "pro-criminal"? A bill to add more police, more prosecutors, more DEA and FBI agents, more prisons, more boot camps, "pro-criminal"? A bill to raise the penalties for gun crimes, for drug dealing, for drunk driving, "pro-criminal"?

"Oh, but what about habeas corpus," the critics say. This bill limited prisoners to one Federal appeal, within 1 year—an unprecedented limit on the great writ. What about exclusionary rule? This bill provided a good faith exception to that rule, where police have a warrant. What about coerced confessions? All this bill would have done was make it illegal to use at trial confessions obtained through unconstitutional coercion.

There they are, the so-called pro-criminal provisions in this bill: limited appeals, limited exclusionary rule, no coerced confessions. To even claim that this bill was pro-criminal is to see what garbage that charge is.

The administration always complains about criminals getting off on technicalities. But in using habeas corpus as a reason to kill the Brady bill, the President got the NRA off on a technicality.

Yes, the district attorneys said this bill was soft on crime, because they put habeas reform first on the list of what they wanted done to fight crime.

With all due respect, the only risk district attorneys take each day is the danger of a paper cut from a habeas petition. Habeas reform might make them safer.

But our police risk their lives each day from bullets and guns. They want the Brady bill. They want death penalty for cop killers. They want stiffer penalties for gun crimes. They want more prisons to keep the criminals off the streets. They want training and equipment.

That's what this bill would have done. So if you voted "no" you can say it was to protect DA's from paper cuts from habeas petitions. To protect cops from handgun killers, you must have voted "yes."

What did the police say about this bill? The Nation's largest police group, the F.O.P., said: We "call on Congress to adopt, and for the President to sign, this bill. It is the toughest anticrime legislation to emerge from Congress in recent memory, and should become law."

The Nation's second largest police group, the National Association of Police Organizations, said: We "support—prompt enactment of the crime bill as reported out of conference—[it is] tough anti-crime legislation."

And they concluded with: "We urge you to enact this badly needed anticrime legislation immediately."

The International Association of Chiefs of Police—the police chiefs—wrote that they "support the conference report," saying, "the net effect of—the conference report will benefit the public at large as well as those who are charged to protect them."

If you voted against these men and women who are asking for your help, you can tell them you did it because you want to protect the NRA more than you want to protect our police; or because you care more about the technicalities of habeas corpus reform than you do about the death penalty and putting more cops on the street.

Tell them what you will. I will say only this, in conclusion.

We are in the midst of the third straight year, under this President, of a national record for murders. A record every year of this Presidency.

We are in the midst of an all-time record for rapes. More Americans are addicted to cocaine and heroin today than ever before.

Today, we could have done something about this—we could have expanded the death penalty, required background checks for handgun buyers, we could have beefed up our police departments and prisons.

But this bill was voted down, killed by the Republicans in the Senate at the behest of the President.

There will be no Brady bill. There will be no death penalty. There will be no added police, prisons, prosecutors. There will be no increased penalties.

People will die as a result. That's the truth. People will die from crimes that we could have stopped with this bill. People will die while we are waiting for another crime bill.

Tell the folks back home that you voted this bill down because you wanted a better habeas corpus. Say you voted against it because you wanted a better exclusionary rule, or because you think we need to use coerced confessions—not police or prisons—to fight crime.

Say what you will. But the fact is this: We could have passed a tough anticrime bill today if the President and the Republicans in the Senate had wanted to do so.

Mr. President, I ask unanimous consent that assorted documents in support of the crime bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAW ENFORCEMENT SUPPORTS THE CRIME BILL

Law Enforcement support for the Crime Bill Conference Report has been overwhelming. Here is what the nation's largest police organization are saying:

Fraternal Order of Police: We "call on Congress to adopt, and for the President to sign, this bill. It is the toughest anti-crime legislation to emerge from Congress in recent memory, and should become law."

National Association of Police Organizations: "We believe that the Bill's positive response to the need for overall improvement in law enforcement far overshadows any possible disagreement over individual provisions. * * * As a significant body of law enforcement officers who risk life and limb daily to protect the American public, we urge you to enact this badly needed anticrime legislation immediately."

International Association of Chiefs of Police: "The[] provisions in the Conference Report will benefit the public at large, as well as those who are charged to protect them * * * we support the Conference Report."

International Brotherhood of Police Officers: "America needs a crime bill now—in this session, passed by the Congress and signed by the President. * * * As the President of [IBOP], I urge you to adopt the conference report and pass this important legislation."

Police Executive Research Forum: "The Crime Bill provisions that mandate a waiting period between the purchase and receipt of a handgun and support for state and local law enforcement agencies * * * are signs to law enforcement that Congress is ready to help police do their jobs. * * * [T]he Crime Bill will advance law enforcement's commitment to protecting our nation's citizens. * * * PERF supports passage of this legislation. * * *

International Union of Police Associations: "[W]e recognize[] the real need for enactment of the Conference Committee version of the Crime Legislation and support it fully."

National Organization of Black Law Enforcement Executives: "The National Organization of Black Law Enforcement Executives is grateful to you and your colleagues for recognizing the necessity to propose the Crime Bill. NOBLE, an organization representing 2,500 law enforcement executives, who in turn, represent the populations in most major urban cities in our nation, is pleased to endorse this proposed legislation."

Mothers Against Drunk Driving: "Mothers Against Drunk Driving looks forward to the passage of [the Conference Report] and the implementation of the Drunk Driving Child Protection Act."

FRATERNAL ORDER OF POLICE,
Columbus, OH, November 26, 1991.

Hon. JOSEPH BIDEN,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: I have had the opportunity to review the contents of the compromise reached by the House and Senate conferees who met on November 24 regarding H.R. 3371, the Omnibus Crime Control Act of 1991. On behalf of the 230,000 members of the National Fraternal Order of Police (NFOP), the largest organization of law enforcement professionals in this country, I am pleased to advise you of our support for the conference agreement.

Clearly, the legislative process is the art of the possible triumphing over perfection. The NFOP certainly would have preferred certain language not presently found in the Conference agreement such as the Senate provisions on corpus reform, the "Police Officers' Bill of Rights," and semiautomatic assault weapons as well as the House language on "good faith" warrantless searches by police. However, the conference agreement also has much to recommend it, including the so-called "Brady" language on handgun purchases, reinstatement of the federal death penalty for a variety of federal crimes, the establishment of a police corps program, and the funding of vitally needed local anticrime initiatives nationwide, just to name a few.

Those of us charged with enforcing the laws of this nation need good legislation to help us do our job, not endless finger-pointing and jockeying for some temporary partisan political advantage. Although the

NFOP is prepared to continue to work for enactment of legislation in the areas not adequately covered in the conference agreement, let us move forward on that which is attainable. Accordingly, I call on the Congress to adopt, and for the President to sign, this bill. It is the toughest anti-crime legislation to emerge from Congress in recent memory and should become law.

With kind personal regards, I remain

Sincerely,

DEWEY R. STOKES,
National President.

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.,
Washington, DC, November 25, 1991.
Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing on behalf of the 135,000 rank-and-file police officer members of the National Association of Police Organizations ("NAPO"), to express our support for prompt enactment of the Crime Bill as reported out of conference on Sunday.

First, let me say that NAPO has followed the development of the Crime Bill closely during this congressional session and believes the version which has been reported out of Conference to be tough anti-crime legislation which goes a long way toward meeting the acknowledged need for substantial improvements in America's criminal justice and crime detection and prevention systems. While we do not agree with each and every provision of the Conference version, and especially regret the deletion in Conference of the Senate-passed Assault Weapons Ban and Law Enforcement Officers Bill of Rights, we believe that the Bill's positive response to the need for overall improvement in law enforcement far overshadows any possible disagreement over individual provisions.

Further, as we have said repeatedly in the past, we do not believe that so critical a national priority as the battle against crime should be mired in political partisanship. Hence, the sooner the current Crime Bill is enacted, the sooner the many reforms and innovations that it contains can be implemented.

As a significant body of law enforcement officers who risk life and limb daily to protect the American public, we urge you to enact this badly needed anti-crime legislation immediately.

Very truly yours,

ROBERT SCULLY,
President.

INTERNATIONAL ASSOCIATION OF
CHIEFS OF POLICE,
Arlington, VA, November 25, 1991.
Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: I have always felt it important that our federal legislators hear from representatives of the law enforcement community on critical issues facing the country in a clear and timely manner. It is out of this concern that I, as President of the International Association of Chiefs of Police, write to you at this vital time. Members of the Senate and House of Representatives have conferenced the Crime Bill and it is now awaiting ratification by both chambers in preparation for sending it on to the President for his signature.

The Conference Report addresses many issues of concern to the Law enforcement community. Some of these elements are reflective of IACP's longstanding legislative agenda and we are pleased to see them incorporated into this proposal. Key among them are: a national waiting period for the purchase of a handgun; expansions of death penalty provisions in federal law; additional funding support for state and local law enforcement; and, increased support for federal law enforcement efforts. The Conference Report also incorporates many salutary provisions such as anti-gang violence programs; rural crime initiatives; expansion of aid to victims of crime; establishment of funding for emergency crime areas; and, measures designed to protect our children from abuse.

The net effect of the changes of these provisions in the Conference Report will benefit the public at large as well as those who are charged to protect them.

As you know, Mr. Chairman, IACP has been on record as supporting the President's Crime Bill. It is important to note that we also have advocated other provisions not contained in that measure. While we support the Conference Report, we recognize that it does contain some elements that could be strengthened. We hope to have the opportunity in the months ahead to work with you and representatives of the Administration to address these issues.

I appreciate having this opportunity to share my views with you and look forward to working with you in the future on these and other issues of mutual concern.

Sincerely,

C. ROLAND VAUGHN III,
President.

INTERNATIONAL BROTHERHOOD OF
POLICE OFFICERS,
Arlington, VA, November 26, 1991.
Hon. JOSEPH BIDEN,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN BIDEN: I am writing on behalf of the thousands of rank-and-file police officer members of the International Brotherhood of Police Officers (IBPO), to express our support for prompt enactment of the conference agreement to accompany H.R. 3371, the Crime Bill.

Throughout this session, both the Senate and the House of Representatives devoted considerable time and attention to developing proposals aimed at reducing crime in this country. Both the House and the Senate approved crime legislation (H.R. 3371 and S. 1241) by wide margins. Overall, we believe that the conference agreement attacks the substantive problems of crime in America by providing increased resources to the front lines, including state and local officers. Once enacted, we hope that the Congress will swiftly appropriate the $1 billion that Senator Biden's provision authorizes for state and local aid.

America needs a crime bill now—in this session, passed by the Congress and signed by the President. While the IBPO does not agree with each and every position to which the Conferees agreed, overall the bill is tough and fair. Faced with the prospect of no bill at all, there is no doubt that this crime legislation should be approved quickly.

Political shell games are of no use to the American people, who wish to remain safe in their homes, or to the professional law enforcement practitioners who fight crime in this country.

As the President of an organization that represents rank and file officers on the front lines in the war on crime and drugs, I urge you to adopt the conference report and pass this important legislation.

Sincerely,

KENNETH T. LYONS,
National President.

INTERNATIONAL UNION OF
POLICE ASSOCIATIONS, AFL–CIO,
Alexandria, VA, November 26, 1991.
Senator JOSEPH R. BIDEN, Jr.,
Chairman, U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: The International Union of Police Associations, I.U.P.A., AFL–CIO which represents over 40,000 working street level police officers and over 140 local police unions throughout the country, worked long and hard with your staff and the staff of the supporters of the current crime legislation in the House to achieve the best possible end result. We do support the final result.

We have some concerns with the Crime Bill as approved by the Conference Committee. A Police Officer's Responsibility Act on the Moran model meets a serious need in the effort to modernize and reform American policing; and the Police Corps seems to us to be wrong headed in its use of a corps of well meaning college students as a replacement or partial replacement for long term professional working cops. The Police Corps should be made of working professional cops. It should be designed to provide educational benefits to young people with a proven record of police work; not to attract college students who would otherwise be uninterested in police work to that career. We also have some concern about the lack of assault weapon protection in the final bill.

However, even with all these concerns, we recognized the real need for enactment of the Conference Committee version of the Crime Legislation and support it fully.

Sincerely,

ROBERT B. KLIESMET,
International President.

POLICE EXECUTIVE
RESEARCH FORUM,
Washington, DC, November 26, 1991.
Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: On behalf of the members of the Police Executive Research Forum (PERF), I would like to thank you for your efforts on the Crime Bill. PERF members represent the largest jurisdictions in this country, serving more than 30 percent of the nation's population. They are overwhelmed by the crime-related violence and decay they see destroying their communities. We applaud attempts by you and your colleagues to do something about it.

The Crime Bill provisions that mandate a waiting period between the purchase and receipt of a handgun and support for state and local law enforcement agencies, in particular, are signs to law enforcement that Congress is ready to help police do their jobs.

It is true that PERF members do not support every provision of this comprehensive package, but on balance we believe the passage of this bill will advance law enforcement's commitment to protecting our nation's citizens. While there are issues raised by the Crime Bill that can be more adequately addressed in the future, PERF supports passage of this legislation and appreciates your efforts to meet law enforcement's needs.

Sincerely,

DARREL W. STEPHENS,
Executive Director.

NATIONAL NETWORK FOR
VICTIMS OF SEXUAL ASSAULT,
Arlington, VA, November 25, 1991.
Hon. JOSEPH BIDEN,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to thank you for your help in ensuring that the crime bill conference report includes provisions important to victims of crime.

We are particularly grateful for your help in preventing House amendments to the Victims of Crime Act which would have made serious cuts in federal funding for crime victim assistance. Those cuts could have resulted in reduced services to victims of crime at a time when violent crimes against American women and children are at an all-time high.

We look forward to Congressional passage of the crime bill; and, to a more secure and stable future for crime victim assistance efforts as a result of your work.

Sincerely yours,

MARY ANN LARGEN,
Executive Director.

NATIONAL ORGANIZATION OF BLACK
LAW ENFORCEMENT EXECUTIVES,
Washington, DC, November 26, 1991.
Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: The National Organization of Black Law Enforcement Executives (NOBLE), is grateful to you and your colleagues, for recognizing the necessity to propose the Crime Bill. NOBLE, an organization representing some 2,500 law enforcement executives, who in turn, represent the populations in most major urban cities in our nation, is pleased to endorse this proposed legislation.

There are issues contained in the Bill that we, along with other law enforcement organizations, wish could be modified, however, they are not sufficient to prolong the enactment of this much needed legislation.

Let me take this opportunity again, to thank you for your participation in our 15th Annual Conference in Philadelphia last August. Your stirring and informative remarks fell on attentive ears, and we consider ourselves to be your ally in the struggle for justice.

Sincerely,

CASSANDRA E. JOHNSON, J.D.,
Executive Director.

MOTHERS AGAINST DRUNK DRIVING,
Irving, TX, November 25, 1991.
Hon. JOSEPH H. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Mothers Against Drunk Driving is pleased to note the inclusion of the "Drunk Driving Child Protection Act" as an element of the conference agreement on H.R. 3371. As you well know, this legislation, which enhances the penalties for drunk driving on federal property when a minor child is in the vehicle, was included in the Senate-passed anti-crime package as Title XVIII of S. 1241.

The Drunk Driving Child Protection Act will send a clear signal to the states as regards to their own penalties for drunk driving when minor children are involved. Drunk driving is a crime. Drunk drivers chose to commit this crime, but children who have no option but to get in a car with an impaired father, mother or guardian are its innocent victims. Once again, you have demonstrated leadership in proposing and passing legislation sensitive to the needs of the victims of the crime of drunk driving.

Mothers Against Drunk Driving looks forward to the passage of H.R. 3371 and the implementation of the Drunk Driving Child Protection Act.

Sincerely,

MILO KIRK,
President.

U.S. CONFERENCE OF MAYORS,
Washington, DC, November 26, 1991.
Hon. JOSEPH BIDEN,
Chairman Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Congratulations on shepherding a crime bill through the Conference Committee which will work both to prevent crimes from occurring in the first place and to strengthen and enforce the laws against those crimes which do occur. The bill includes several provisions of particular importance to cities, including the waiting period in handgun purchases, direct funding to cities for community policing, and an increased authorization for the enforcement block grant.

Typical of most compromises, the crime bill does not satisfy the needs of all parties. It does include, however, enough of the provisions included in the House and Senate-passed versions and called for by the Administration, that it should be enacted into law.

America's mayors urge the Congress to pass the conference report on the crime bill and the President to sign it. Should the President veto the bill, as he has indicated he will do, we urge the Congress to override that veto. Attached is a statement on the crime bill which our President, Boston Mayor Raymond Flynn, is issuing today.

Sincerely,

J. THOMAS COCHRAN,
Executive Director.

NATIONAL LEAGUE OF CITIES,
Washington, DC, November 26, 1991.
Hon. JOSEPH BIDEN,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 16,000 cities and towns represented by the National League of Cities, I would like to express NLC's support for the immediate passage of two provisions contained in the 1991 Anti-Crime Conference Report. One would require a five-day waiting and cooling-off period for handgun purchases. The other would call on the Attorney General to study the procedures followed in internal, noncriminal investigations of local law enforcement officers.

NLC believes that the Senate-passed handgun provisions contained in this legislation would provide a modest, yet critical step towards reducing the incidence of crime and violence that plagues cities and towns across the country. The House-passed study provisions would provide essential documentation of effectiveness and fairness of the policies and practices used to conduct noncriminal internal investigations of state and local law enforcement officers.

These provisions should be approved by the Congress and signed into law by President Bush before the Congress adjourns for the year.

Sincerely,

DONALD J. BORUT,
Executive Director.

NATIONAL WOMAN ABUSE
PREVENTION CENTER,
Washington, DC, November 25, 1991.
Senator JOSEPH BIDEN,
Chairman, U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: The National Woman Abuse Prevention Center would like to express our support of The Violent Crime Control and Law Enforcement Act of 1991, the "Crime Bill," which has just emerged from Conference Committee. We believe that the Conference Report takes some very strong measures that are urgently needed for increased protection and services for victims of domestic and sexual crimes.

We are particularly pleased with the Conference version of the amendments to the Victims of Crime Act removing the "cap" from the VOCA Fund, making the Crime Victims Fund a permanent account, and establishing a fine collection center which will aid in the collection of up to a billion in federal fines going to the Fund. In addition the bill strengthens the consideration of "Victim Impact Statements" at trial and offers victims the chance to speak at the sentencing of their assailant.

In particular, we are encouraged by the inclusion of the Brady Bill in the Conference Report. As you know, hand guns play a significant factor in the three to four thousand domestic violence deaths annually. The Brady Bill is one small, but critical, step toward curbing that violence.

We were disappointed that Senator Biden's Violence Against Women Act, which we believe is critical to improved safety and protective services for battered women and sexual assault victims across this country, could not be included in the Crime Bill. We know his commitment to that bill remains strong, and look forward to its continued progress. And although neither our organization individually, nor the Domestic Violence Education and Legislation Coalition, the coalition of national and state domestic violence organizations, support the death penalty, we believe that the prevention provisions and the increased penalties under the Crime Bill are very strong, and we support the Conference Report for that reason.

If there is anything we can do to be of assistance, please let us know.

Sincerely,

MARY PAT BRYGGER,
Executive Director.

MIDNIGHT BASKETBALL LEAGUE INC.,
Hyattsville, MD., November 25, 1991.

Re section 1831 of the House version of the Crime bill.

Hon. JOSEPH R. BIDEN,
U.S. Senate, Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN: The bi-partisan sponsorship of this bill is reflective of the wide-spread support for the concept and goals of the Midnight Basketball League, a sports linked life skills training program.

The league was named by the President as one of the "Thousand Points of Light." The National Association of Midnight Basketball Leagues (NAMBL) has been established to insure a uniform national network in order to be attractive to national corporate sponsors.

The NAMBL expects to match the federal funding dollar for dollar in order to assure the viability of the public-private partnership at the national level.

The number of cities joining the Association is increasing at an accelerated rate.

This letter requests your support in the continuing struggle to slow down the transition of many of our young adults from high-risk to the Criminal Justice System.

Very truly,

G. VAN STANDIFER,
President.

DEPARTMENT OF JUSTICE,
New Orleans, LA, November 26, 1991.
Hon. J. BENNETT JOHNSTON,
U.S. Senator,
Washington, DC.

DEAR BENNETT: I write to you because I understand that the House will shortly consider the conference report on H.R. 3371, the crime bill. I oppose the habeas corpus provision passed by the Senate, which embodies the Administration's proposal, and support the House habeas corpus provision, which is contained in the conference report. I urge you to do the same.

I am a member of the Emergency Committee to Save Habeas Corpus, which was formed to oppose the habeas corpus provision in S. 1241, the Senate crime bill. You should receive a separate letter from the Emergency Committee on this issue.

My reasons for urging you rejection of the Senate habeas corpus proposal and your support of the conference report are set forth in the attached letter that I sent to Don Edwards, Chairman of the House Judiciary Subcommittee on Civil and Constitutional Rights.

As Attorney General, I am convinced and I hope you will agree with me on these three issues. First, habeas corpus must be reformed. Second, habeas corpus is a fundamental right that must be protected. Third, the House habeas provision best meets these goals. The Administration proposal contained in the Senate bill, by contrast, would actually increase litigation, delay finality and dispense with fundamental rights.

If you have any questions about this issue, please feel free to call on me.

Sincerely,

WILLIAM J. GUSTE, Jr.,
Attorney General.

NOVEMBER 26, 1991.
Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. SPEAKER: I am writing to express my strong support for the habeas corpus reform provisions contained in the Conference Report to H.R. 3371. These provisions significantly improve and streamline the habeas process while retaining the right to federal review of unconstitutional state court convictions. Contrary to the contentions of the Administration, this bill is not more liberal than current law on habeas corpus.

As you know, I was the Attorney General of the State of Texas for eight years. I was known as a tough law enforcement officer. I was a strong advocate of the death penalty. I believe that the criminal justice system should function efficiently. Nevertheless, I feel that H.R. 3371, not the Administration's more extreme approach, is the appropriate solution to the problems with the process. In a word, this legislation would reform habeas corpus; it would not end it.

There is clearly a need for reform, especially with respect to capital cases, but I believe that H.R. 3371 addresses the real problems with the present system; inadequate representation by trial counsel, no time limits on petitions, successive petitions, and retroactive applications of new rules of law. This reform can and must be accomplished without sacrificing the right to habeas corpus review, which is one of our most basic protections against the imprisonment or execution of innocent persons.

Because of these concerns, I have joined with more than 90 others, many of whom are present or former prosecutors like myself, in forming the Emergency Committee to Save Habeas Corpus. I think I can safely say that all of us want to fight crime. We all agree that we, and our elected representatives, must not squander our precious constitutional rights in our zeal to appear "tough on crime."

Sincerely,

JIM MATTOX,
Attorney and Counselor.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, November 27, 1991.
Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: After reviewing the contents of the recent compromise reached by the House and Senate conferees, I, as president of the National Sheriffs' Association, would like to inform you that the sheriffs of this nation wish to go on record as supporting the 1991 Crime Bill.

We are aware that the Conference Report addresses many issues of great concern to the law enforcement community. Among them include: the national waiting period for the purchase of a handgun; additional funding support for state and local law enforcement; expansion of the death penalty provision in federal law; and, the rural crime initiatives.

Additionally, it is our opinion that the Bill is negligent in other areas, such as: provisions on habeas corpus reform, semi-automatic assault weapons, as well as the language on "good faith" warrantless searches by police.

This bill is the toughest anti-crime legislation to surface in many years. We are convinced it should become law.

Respectfully,

MARSHALL E. HONAKER,
President,
National Sheriffs' Association.

Mr. THURMOND. Mr. President, I rise in strong opposition to this conference report on the crime bill. This bill is a travesty which does more to advance the interests of convicted criminals than it does to protect victims of violent crime. The Attorney General has recommended that this sham bill be vetoed and President Bush has written the Senate Republican leader stating his intention to veto the measure if it ever reaches his desk.

The average American today is no stranger to the volume of violent crime ravaging our cities and towns. Every citizen knows that a principle reason for the growth of violence is that our criminal justice system has become soft on heinous criminals, failing to impose swift, effective punishment. Offenders who commit violent offenses no longer expect to be held accountable for their actions. Incredibly, this feeble conference report continues this trend by siding with the criminal.

Over the last several years, many of us have been engaged in an ongoing effort to redress these inadequacies in the criminal justice system. This effort resulted in the passage of a Senate bill and a House bill containing proposals on the death penalty, habeas corpus reform, and the exclusionary rule. Yet, these proposals were substantially different in the two bills and, unbelievably, a number of provisions in the bills expanded the rights of criminal defendants.

Prior to convening the crime conference, I had expressed concerns about the ratio of Democrats to Republicans. Frankly, I felt that there was an effort to stack the deck in favor of death penalty opponents and in favor of a weak crime bill. Unfortunately, I was correct. The conference was unfairly balanced, and rigidly scripted by the majority, where the views of Republican conferees were ignored. Although this report is being called a compromise by some, it is no such thing. With remarkable consistency, the Democrat controlled conference committee rejected the tougher option on these major points and opted instead for provisions that handcuff law enforcement and reduce the safety of law abiding citizens. While I truly want a crime bill, I will not accept a bill which expands the rights of criminals. This bill is not an anti-crime bill. It is a procriminal bill.

HABEAS CORPUS

For example, the most troubling provision in this bill is the habeas corpus language. Although the Senate passed tough habeas corpus reform by a vote of 58 to 40 as part of S. 1241, this conference report adopts the liberal House language on this subject. It systematically reverses over 14 Supreme Court decisions favorable to law enforcement and, according to the Department of Justice, will throw the prison doors wide open for thousands of dangerous criminals throughout the Nation. Standing alone, this provision is enough to compel the Senate to reject this conference report.

Those who support this report have stated that the habeas provision in the Senate bill is tough. Yet, they claim the conference report still limits appeals. This is not correct. Without question, this provision expands the rights of death row inmates. This death row inmates' wish list is opposed by President Bush, the Attorney General of the United States, the National District Attorneys Association which represents our city and county prosecutors, the State attorneys general, the National Association of Attorneys General, the Conference of Chief Justices, numerous law enforcement organizations, and crime victims groups.

Thirty-one State attorneys general, 16 Republicans and 15 Democrats, recently wrote President Bush urging him to protect the American people and veto any bill which contains this habeas corpus proposal. They stated that any bill containing this weak proposal, and I quote: "cannot be described accurately as an anti-crime bill but would instead be a pro-criminal bill and particularly a pro-convicted murderer bill." We must not ignore and dismiss out of hand the concerns of these law enforcement officials who clearly understand the devastating and adverse effect of this conference report.

Mr. President, I strongly concur with their assessment. There are currently over 2,500 individuals on death row. Yet, since 1972, only 159 brutal murderers have had their sentences carried out. This is due to the continued abuse of habeas corpus law by the death row inmates and their liberal lawyers who are set on eliminating the death penalty de facto.

DEATH PENALTY

Mr. President, although this conference report sounds tough, it is not. Another example of this is the death penalty. Although the report authorizes the death penalty for over 50 Federal offenses, the trial procedures make it extremely unlikely that the death penalty would ever be imposed. Furthermore, the habeas proposal contained in this report renders the death penalty meaningless since virtually no sentence will be implemented. In addition, the report rejects a Senate passed provision which made murders committed with a firearm a Federal death penalty offense.

EXCLUSIONARY RULE

The House crime bill, as well as the President's bill, responded to some of the serious problems caused through application of the exclusionary rule. All too often in violent crime and drug cases, evidence is excluded at trial simply because the law enforcement officer innocently violated search and seizure rules. The House passed provision codifies and expands upon the good faith exception to the exclusionary rule as embodied in U.S. versus Leon. It provides that when an officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial.

The conference report rejects this important measure and instead rolls back court decisions to the detriment of law enforcement. It substantially narrows the good faith exception to the exclusionary rule. This provision handcuffs law enforcement in their efforts against criminals. It is yet another provision which expands the rights of criminals.

ADMISSABILITY OF CONFESSIONS

Unbelievably, this report contains a board provision which mandates automatic reversal of criminal convictions based on improper admission of a defendant's statements or confession at trial. This new rule applies even in cases where it is shown beyond a reasonable doubt that the error was a harmless error and could not have affected the outcome of the case. It overturns the Supreme Court case of Arizona versus Fulminante which correctly allows the "harmless error" rule to apply to confessions by criminals. According to the Department of Justice, the result of this pro-criminal provision will be the release of an untold number of murderers and other violent criminals. The decision of the conference to include this measure in the report reflects an arbitrary determination on the part of liberal members to free criminals on the basis of technicalities.

SEXUAL VIOLENCE AND VICTIMS' RIGHTS

This report also rejects several provisions aimed at fighting sexual violence and increasing victims' rights. For example, this report rejects a proposal which increases the penalties for repeat rapists and child molesters. In addition, the House bill contained mandatory restitution requirements for victims of rape, child molestation, sexual exploitation, and other crime victims. The Senate bill contained mandatory restitution requirements for all crime victims. The conference report rejects both of these measures. Incredibly, this report also drops language which required HIV testing for Federal sex offenders with disclosure of the test results provided to the victim. Apparently, the privacy of an accused rapist is more important to this report's advocates than the peace of mind of a rape victim.

Mr. President, the Republicans only recently saw the conference report. It is over 500 pages long. The report has undergone numerous changes since the conference last met and contains provisions which were in neither the House nor the Senate bill. Yet, a cursory review of this measure reveals numerous other troublesome provisions which coddle criminals. For example, the bill includes a measure which will require treatment on demand for prisoners and reduces their sentence for participating. It mandates that the Department of Justice consider facilitating the interests of violent criminals by incarcerating them closer to their home. Numerous mandatory minimum penalties for serious offenses such as selling drugs to children and violent firearm crimes have been stripped from the bill. In addition, the conference report weakens measures passed by both bodies aimed at fighting terrorism. Incredibly, it also subjects individual law enforcement officers and their agencies to Federal lawsuits for violating criminals' rights. How can anyone claim this is a tough crime bill?

In closing, this so called crime bill conference report is a travesty which undermines the interests of law enforcement, prosecutors and victims. It makes promises it cannot deliver on and virtually eliminates the death penalty. It sounds tough, but it isn't. Although this bill contains many provisions which I strongly support, these provisions cannot overcome the damage the rest of the bill does to our Nation's criminal justice system.

The advocates of this liberal, procriminal bill will argue that they are supporting a tough crime bill. They will claim to be spending more money on law enforcement while failing to provide a means to come up with the $3 billion it promises to them. The irony here is that, according to the Attorney General, Congress failed this year to fully fund the President's budget for law enforcement, slashing it by $472 million.

This bill should be seen for what it is, a travesty. It expands the rights of criminals at the expense of the law abiding, the prosecutors, law enforcement and crime victims. The American people are demanding that the Congress pass real reform. Anything less is not acceptable. If this bill passes, the only people celebrating will be death row inmates and other violent criminals. A vote in favor of this report is a vote against the death penalty. A vote in favor of this bill is a vote against the law abiding and victims of crime.

The American people are calling for a tough crime bill which punishes those who choose a life of crime. This conference report is anything but that. For this reason, and the other reasons I have mentioned, it must be rejected.

Mr. President, I ask unanimous consent that numerous statement and letters expressing opposition to this conference report be made a part of the record immediately following my remarks. These letters include a letter from President Bush, a letter from Attorney General Barr, 31 State attorneys general and numerous prosecutors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Nov. 27, 1991]

* * * AND ON CAPITOL HILL

The tale of Henry "Little Man" James has gripped the nation's capital like few others. "I feel like killing somebody," he told his companions, who related the story to police. Police say he then went on to do just that, opening fire with a 9mm handgun and killing Patricia Diann Lexie instantly.

The police caught him, but it will hardly matter. This week in Washington a House and Senate conference committee agreed to an "Omnibus Crime Bill." Although it purports to be something different, the bill perpetuates the criminal justice status quo in this country—ensuring that people who commit crimes like the one Little Man is accused of never feel the sting of society's ultimate sanction, capital punishment.

The major issue of the crime bill has been reform in habeas corpus, the process by which capital felons appeal state death sentences in federal courts. As it now stands, convicted murderers have numerous opportunities to appeal their conviction or sentence. President Bush and congressional conservatives wanted to reform the process so that a convicted murderer would have just two fair shots at a federal appeal. According to the president's plan, originally passed by the Senate, a capital felon could appeal his conviction once on technical grounds and then again on the basic question of guilt or innocence.

But the final bill actually liberalized habeas corpus procedures. It tosses out 14 Supreme Court cases that have already imposed marginal limitations on death-penalty appeals. It allows serial appeals; it bars state courts from appointing counsels to defendants in capital cases, requiring instead that lawyers be appointed by criminal rights advocates; and it permits confessed and convicted murderers to go free if there is a technical flaw in their confession, even if the independent evidence of guilt is overwhelming.

Some Democrats, nonetheless, are trying to claim that their bill proves they are tough on crime and Mr. Bush is not. In a fatuous political provocation, the Democrats used the bill to add 50 new crimes to the list of federal capital offenses. "Although this bill purports to permit imposition of the death penalty for several new Federal offenses," Mr. Bush wrote to Sen. Bob Dole Monday, "it adopts procedures that virtually ensure the death penalty will never be imposed."

Cold-blooded murderers deserve to die. Mr. Bush shouldn't stop emphasizing this point or struggling to reestablish the legitimacy of capital punishment in the American system of justice. Capital punishment not only serves the practical purpose of permanently removing dangerous criminals from the streets, it reaffirms our faith in the moral order that makes civilized society possible. When a nation's elite loses the political will and moral courage to protect the lives of innocent people by imposing a proportional and just punishment on murderers, life becomes cheap.

If the proponents of the Omnibus Crime Bill want to know just how cheap, they can find out this evening when the shadows begin spreading across the city. They should pick any direction and try walking out 10 or 12 blocks from the Capitol, alone. Then they should remember that the late Patricia Diann Lexie was out one evening last week in a car, with her husband by her side. She at least had some reason to think she was safe.

THE WHITE HOUSE,
Washington, DC, November 25, 1991.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR BOB: Since March, I have been calling on the Congress to pass a tough crime bill that will remove the handcuffs from law enforcement and end needless delays in the criminal justice system. For too long, the scales of justice have been tipped in favor of criminals instead of law-abiding Americans. The American people want a crime bill that will make the system tougher on criminals than it is on law enforcement and crime victims.

After months of delay, the Congress is now presented with a conference report drafted in the last hours of this session. Once again, just as they did last year, Democrat conferees from the Senate and House have demonstrated that they are willing to overlook the will of their colleagues and the American people. Clearly, the American people deserve better.

The crime bill produced by the Democrat-controlled conference is unacceptable. The bill rejects many of the primary goals the Administration set forth as necessary for an acceptable crime bill. One essential goal of our proposal is to end frivolous post-appeal challenges brought by convicted criminals, particularly death row inmates, through meaningful habeas corpus reform. By overturning critical Supreme Court decisions that have reduced the abuse of habeas corpus, the conference bill actually weakens current law by expanding a criminal's ability to frustrate the system.

Another goal of the Administration's bill is to ensure that criminals do not go free on legal technicalities when a police officer is acting in good faith. This conference report does just the opposite. Again, it retreats from current law by throwing out court decisions that recognize the legitimacy of such a good faith exception to the exclusionary rule.

Finally, although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed.

I will not accept any effort by the Congress to turn the clock back on the progress we have made in the courts on criminal justice reform. If this bill is presented to me, I will veto it and insist that Congress pass a crime bill that will strengthen our criminal justice system.

Sincerely,

GEORGE BUSH.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, November 25, 1991.

Hon. ROBERT DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR MR. MINORITY LEADER: I join men and women of law enforcement around the country and victims of crime in voicing my strenuous objections to the so-called "crime bill" reported by the House and Senate conferees this weekend. While law enforcement groups and victims of violent crime cry out for the Congress to move forward aggressively on criminal justice reform, the conferees now propose that we take a significant step backwards. The proposed legislation actually overrules several recent Supreme Court decisions favorable to law enforcement. This conference report does more for those convicted of crimes than it does for those victimized by them.

The American people know that our criminal justice system is failing because convicted criminals are able to escape just punishment through endless delays and repetitive technical legal maneuvering. This abuse has deprived our criminal justice system of any finality: convicted criminals can perpetually reopen and relitigate their cases even when their appeals have been completed and when there is no question as to their guilt. The guilty thus avoid punishment by filing frivolous habeas corpus petitions that drag on for years, consume valuable law enforcement resources, and reopen the wounds of victims and survivors. State law enforcement agencies demand relief. And yet, the conferees now propose that we actually create broad new avenues and new loopholes by which convicted criminals can exploit the system and evade punishment. The conferees propose to make the current situation worse by: (1) overruling certain reasonable limitations recently established by the Supreme Court on successive habeas corpus petitions; (2) imposing substantial costs on the states to fund these frivolous challenges while offering no prospect of finality and no relief to their already overburdened systems; and (3) offering criminals wider opportunities for continued frivolous delays than are allowed even under existing law.

The conferees also propose to step backwards on reasonable reform of the exclusionary rule. By rolling back court decisions which allow for the admissibility of evidence when police have acted in good faith, the conference report will handcuff police and increase the number of criminals who escape justice on legal technicalities.

Finally, in authorizing $3 billion for law enforcement programs the bill offers only a mirage. Authorization of this funding when there is no appropriation is essentially meaningless. The irony here is that the Congress failed this year to fully fund the President's budget request for law enforcement, slashing it by $472 million—a 64% cut in the increases sought by the President. Dangling the empty promise of more grant programs before the eyes of state law enforcement cannot camouflage a weak crime bill.

In sum, the conferees have let down law enforcement, let down victims, and let down those in Congress who voted for tough anti-crime measures. This "whirlwind weekend conference" cannot obscure the fact that the Congress has again failed to deliver on serious criminal law reform. If this bill comes to the President's desk, I will urge him to veto it.

Sincerely,

WILLIAM P. BARR.

NATIONAL DISTRICT
ATTORNEYS ASSOCIATION,
Alexandria, VA, November 25, 1991.

Re. Vote on Crime Bill

Hon. GEORGE J. MITCHELL,
Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.
Hon. THOMAS S. FOLEY,
Hon. ROBERT H. MICHEL,
U.S. House of Representatives,
Washington, DC.

DEAR GENTLEMEN: The American people have been mugged again—this time by the leadership of the United States Congress. The nation's prosecutors strongly oppose the so-called "crime control" bill approved in Sunday's conference and urge both House and Senate to reject it. This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens. In fact, passage of this bill is tantamount to handing the jail house keys to thousands of convicted state and federal prisoners.

The bill advances the rights of convicted criminals by providing golden opportunities for them to use new case law to overturn old convictions. This is accomplished through the repeal of several Supreme Court precedents in the habeas corpus provision approved by the conference. It also provides unworkable counsel standards in death penalty cases that violate the most basic tenets of federalism.

The conference committee in nearly every instance chose the weakest provisions with respect to law enforcement. It rejected the House limitations on application of the exclusionary rule. It overturns the Supreme Court decision in *Arizona* v. *Fulminante* through a provision that may have far reaching effects and which was not even the subject of hearings. Finally, the conference chose the weaker provisions on death penalty offenses and procedure.

It is a sad day when the will of American people to enact tougher criminal laws is so completely thwarted. We urge you to reject this poor excuse for a crime control bill.

Sincerely,

THOMAS J. CHARRON,
President.

NOVEMBER 21, 1991.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As the chief legal or law enforcement officers of our states, we are writing to express our alarm at the habeas corpus provisions contained in H.R. 3371, as it was passed by the U.S. House of Representatives, and to urge you to veto any legislation containing those provisions.

We need legislation that will support law enforcement, promote finality of judgment, and ensure fairness to crime victims and their survivors. In spite of that need, a bare majority of the House of Representatives has passed habeas corpus provisions that would have the opposite effect. Those provisions are so inimical to law enforcement, are so unfair, and would have such a devastating effect on the interests of victims and survivors of violent crimes, that we urge you to veto any so-called anticrime bill containing any of the principal provisions relating to habeas corpus that are now found in H.R. 3371.

One of those provisions would effectively repeal the non-retroactivity doctrine of *Teague* v. *Lane*, 489 U.S. 288 (1989, and related Supreme Court decisions, thereby drastically undermining finality of judgment and increasing relitigation and delay manyfold. The House bill accomplishes this result by defining more narrowly than *Teague* the class of "new rules" that do not apply to cases on habeas review, and thus it provides more grounds for litigation after the conviction is final. The *Teague* doctrine, however, acknowledges that federal habeas corpus is not intended "to provide a mechanism for the continuing reexamination of final judgments based upon later emerging legal doctrine."[1]

Without the *Teague* doctrine, and under the House provision, Robert Alton Harris, who brutally murdered two teenagers in 1978 near San Diego, California and who confessed seven times, would be able to perpetuate his case under federal habeas corpus.[2] This House provision also overturns *Buter* v. *McKellar*.[3] These are only two examples, as any effort to undercut *Teague* would affect capital and non-capital judgments in nearly every state. Moreover, *Teague* doctrine must be viewed in the context of *Griffith* v. *Kentucky*, 479 U.S. 314 (1987). *Griffith* holds that "new rules" are always applied retroactively at any stage during direct review, i.e., before the conviction becomes final. The Senate already rejected a measure which would have undermined the *Teague* doctrine. In the event the conferees fail to follow the Senate lead, we urge you to veto any bill containing any provisions, such as those in H.R. 3371, which reverse the *Teague* non-retroactivity doctrine in any way.

Another provision of H.R. 3371 would impose draconian requirements concerning appointment, qualification, performance, and compensation of counsel in capital cases. Those provisions are so onerous, are so contrary to basic notions of federalism, and depart so significantly from what the Constitution requires, that they are obviously an attempt to indirectly impede, obstruct, or abolish capital punishment. For example, under H.R. 3371, if the state fails to satisfy each of the counsel requirements, three harsh penalties are imposed: (1) an indefinite stay of execution is granted; (2) the traditional presumption of correctness afforded to state court findings of fact is eliminated; and (30 the presentation and consideration of new claims in federal court in disregard of the well-established exhaustion and procedural default doctrines is permitted. H.R. 3371 therefore encourages "sandbagging" of state courts, disrespects comity and federalism interest, and promotes more litigation on whether the state has satisfied each of the technical counsel requirements.

In contrast, the Senate-passed legislation rejected a compulsory approach on the states and allows states to opt-in to the reforms. In this manner, the Senate bill contains the recommendation of the Powell Committee which recognized that "it is more consistent with the federal-state balance to give the States wide latitude to establish a mechanism" for the appointment of counsel.[4] In the unexpected even that any state, which opts in to the reforms, failed to promulgate an adequate appointment of counsel mechanism, the Powell Committee left that final determination with the federal judiciary.[5] We urge you to veto any so-called anti-crime bill which contains extra constitutional requirements concerning counsel in any case or class of cases, such as those provisions found in H.R. 3371.

Finally, in the name of placing reasonable limits on "successive petitions," H.R. 3371 instead promotes more, not less, litigation. H.R. 3371 is broader than the Senate-passed legislation, which is based upon the Powell Committee recommendation, because the House measure includes vague language permitting successive petitions concerning "the validity of the sentence under Federal law."

There is nothing in the habeas corpus provisions of H.R. 3371 that is favorable to any interest other than convicts' interests. Any bill containing the provisions discussed above cannot be described accurately as an anti-crime bill but would instead be a pro-criminal bill and particularly a pro-convicted murderer bill. The habeas corpus provisions contained in H.R. 3371 stand in stark contrast to those which the Senate passed in July. We do wholeheartedly support the habeas corpus provisions contained in Title XI of S. 1241. Those provisions, unlike the ones contained in H.R. 3371, would promote finality, fairness, and prompt resolution of litigation.

There are some other provisions in H.R. 3371 and in S. 1241 which would aid law enforcement and promote the interests of victims and survivors of violent crime. However, there are no provisions in either bill, and none that the Conference Committee could report out, that would justify signing into law any bill containing habeas corpus provisions similar to those contained in H.R. 3371.

We appreciate your interest in this matter and hope that, if it becomes necessary, you will exercise your veto power to protect the American people from pro-criminal legislation such as the three provisions discussed above relating to habeas corpus that are contained in H.R. 3371.

Sincerely,

Daniel E. Lungren, Attorney General, California; Mike Moore, Attorney General, Mississippi; Don Stenberg, Attorney General, Nebraska; Robert T. Stephan, Attorney General, Kansas; Marc Racicot, Attorney General, Montana; Ernest D. Preate, Jr., Attorney General, Pennsylvania; Grant Woods, Attorney General, Arizona; Charles E. Cole, Attorney General, Alaska; Elizabeth Barrett-Anderson, Attorney General, Guam; Joseph B. Meyer, Attorney General, Wyoming.

Linley E. Pearson, Attorney General, Indiana; Mary Sue Terry, Attorney General, Virginia; Robert J. del Tufo, Attorney General, New Jesey; John P. Arnold, Attorney General, New Hampshire; Dave Frohnmayer, Attorney General, Oregon; Gale A. Norton, Attorney General, Colorado; Frankie Sue del Papa, Attorney General, Nevada; James H. Evans, Attorney General, Alabama; Ken Eikenberry, Attorney General, Washington; Mark W. Barnett, Attorney General, South Dakota; Jeffrey L. Amestoy, Attorney General, Vermont; Michael J. Bowers, Attorney General, Georgia.

Larry Echohawk, Attorney General, Idaho; Richard N. Palmer, Chief State's Attorney, Connecticut; Richard P. Ieyoub, Attorney General-elect, Louisiana; Mario J. Palumbo, Attorney General, West Virginia; Lacy H. Thornburg, Attorney General, North Carolina; J. Joseph Curran, Jr., Attorney General, Maryland; T. Travis Medlock, Attorney General, South Carolina; Charles M. Oberly, III, Attorney General, Delaware; Dan Morales, Attorney General, Texas.

COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF ATTORNEY GENERAL,
Harrisburg, PA, November 25, 1991.

Re: Habeas Corpus Provisions of H.R. 3371

DEAR MEMBER OF CONGRESS: Today you will be asked to vote on a conference report on the Crime Bill. We urge you to vote to reject this proposal.

From the states' perspective, the most important provision in this report is the reform of federal habeas corpus. This report does nothing to further that reform and is, in effect, a step backwards. The report essentially reverses a major Supreme Court ruling, *Teague v. Lane*, which discourages relitigation, successive petitions and delay, and encourages prosecutors and the public to believe that there is finality in state criminal court judgments. This report language turns back the clock. It gives the defendant new grounds for an appeal and does nothing to end frivolous and successive appeals which plague the criminal justice system and which this crime bill was intended to rectify.

The very reasons for our opposition to H.R. 3371 are the reasons we support S. 1241. We support this Senate habeas corpus reform measure because it is wrong for our government to allow a seemingly endless series of federal court appeals from state criminal convictions by murderers. The Senate bill would bring finality to those appeals; we support these changes.

This conference report is not a strong "anti-crime bill." This proposal favors the convicted murderer, revictimizes the survivors of a murder victim, and penalizes the states. We urge you to reject it.

We attach for your information a recent letter to the President signed by 31 state Attorneys General, which further explains our position.

Very truly yours,

Ernest D. Preate, Jr., Chair, Criminal Law Committee, National Association of Attorneys General.

Robert J. Del Tufo, Attorney General of New Jersey, Vice Chair, Criminal Law Committee, National Association of Attorneys General.

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[1] *Sawyer v. Smith*, 110 S. Ct. 2822, 2827 (1990).

[2] *Harris* v. *Vasquez*, No. 90-55402,—F.2d—(9th Cir. Aug. 21, 1991).

[3] 110 S. Ct. 1212 (1990).

[4] Judicial Conference of the United States, Report and Proposal of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, at (Aug. 23, 1989).

[5] *Id.*

NOVEMBER 15, 1991.

Hon. GEORGE J. MITCHELL.
Hon. JOSEPH R. BIDEN, JR.,
U.S. Senate, Washington, DC.
Hon. THOMAS S. FOLEY,
Hon. JACK BROOKS,
U.S. House of Representatives, Washington, DC.

GENTLEMEN: As elected Democratic prosecutors from across the nation representing tens of thousands of crime victims, we call upon you for help. For months we have supported a workable crime bill designed to help the crime fighters and victims, not the criminals. We managed to get such a bill through the Senate, only to have it eviscerated in the House of Representatives. As state and local leaders of the Democratic Party, it is hard to explain to our constituencies why our Democratic leaders in Congress continually hamstring our efforts to combat crime.

The House Bill (H.R. 3371) contains several provisions which are repugnant to law enforcement efforts. If these provisions remain in the crime bill, prosecutors of both parties nationwide will ask the President to veto it, and we have every indication that the President will do so. To make the bill palatable, we urge the conference committee to adopt the Senate version, and specifically:

(1) Strike the language in Title XXI, Section 1104 that overturns existing retroactivity standards as defined in Teague v. Lane, 489 U.S. 288 (1989) and Butler v. McKellar, 110 S. Ct. 1212 (1990). The practical effect of this section would be to allow state prisoners much greater latitude in applying new legal precedents to overturn old convictions.

No conviction would ever become final. It would further aggravate the already critical problems of delay and abuse in capital cases and continue to undermine the faith of the American people in the criminal justice system.

(2) Strike or substantially modify the counsel standards for capital cases in Section 1105 of Title XI. These standards are unworkable and violate the most basic tenets of federalism. The proposal would bar state court judges from appointing counsel in capital cases. The power to appoint would be placed either in a state-wide defender organization, a death penalty resource center, or a committee of lawyers appointed by the highest court in the state. The qualifications for death penalty lawyers, beginning with two lawyers at the trial stage and on through certiorari in the U.S. Supreme Court, are so stringent that the pool of eligible counsel would be so limited as to thwart and delay death penalty litigation, not improve it. In addition, the appointment of counsel provision appears to interfer with state's rights, where eighty percent of all cases are litigated. Apparently no thought has been given to the financial obstacles in funding such an approach.

(3) Strike the language in Section 1106 that allows successive federal habeas petitions if proven facts undermine a court's confidence in the "validity" of a capital sentence under federal law. This provision is ambiguous and is an invitation to procedural abuse.

(4) Institute the same time limits and statutes of limitations for federal habeas corpus proceedings approved by the Senate in July.

In summary, these few provisions in the House bill are so damaging that we prosecutors would prefer no crime bill unless changes are made. All of us have a lot at stake in this matter. We are very close to having a good crime bill of which persons on both sides of the aisle can be proud. A lot of study, research, and effort has been expended and should not be wasted. On a more partisan note, we, as local Democratic leaders believe in the power of good government to improve and protect the quality of each citizens life, regardless or race, creed, color or socio-economic status.

Pervasive, invidious, violent crime, which strikes disproportionately at the poor and minorities is the single greatest threat to our citizens lives. Hopefully our Democratic Party will send side by side with our law-abiding citizens—*not* with convicted criminals.

Thank you for considering our views.

Sincerely,

Robert H. Macy, District Attorney, Oklahoma City, OK; Edwin L. Miller, Jr., District Attorney, San Diego County, San Diego, CA; Carl K. Kirkpatrick, District Attorney General, Kingsport, TN; Newman Flanagan, District Attorney, Suffolk County, Boston, MA; Robert E. Colville, District Attorney, Allegheny County, Pittsburgh, PA.

Michael P. Barnes, Prosecuting Attorney, St. Joseph County, South Bend, IN; William C. O'Malley, District Attorney, Plymouth County, Brockton, MA; William L. Murphy, District Attorney, Richmond County, Staten Island, NY; William E. Davis, County Attorney, Scott County, Davenport, IA; Arlo Smith, District Attorney, San Francisco County, San Francisco, CA; Arthur C. Eads, District Attorney, Bell County, Belton, TX.

Robert L. Deschamps, County Attorney, Missoula County, Missoula, MT; Stephen D. Neely, County Attorney, Pima County, Tucson, AZ; Danny E. Hill, District Attorney, Potter County, Amarillo, TX.

CONFERENCE OF CHIEF JUSTICES,
November 6, 1991.

Hon. STROM THURMOND,
U. S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: I am writing on behalf of the Conference of Chief Justices to ask your support for adoption of the Senate habeas corpus provisions during the upcoming House-Senate Conference on the Omnibus Crime Control Act of 1991. The Senate provisions represent true reform of habeas corpus; the House provisions do not.

The Conference has expressed its position on habeas corpus reform in a number of resolutions over the last several years, the most recent having been adopted at the Conference's Forty-Third Annual Meeting in Philadelphia on August 8, 1991.

I enclose copes of the several resolutions for your consideration. As you will note, the resolutions highlight the Conference's support for the recommendations of the Powell Committee and for the preclusive effect of a full and fair adjudication of a prisoner's habeas claims by a state court.

The August 1991 resolution reaffirms the Conference's "long standing position in support of limiting federal habeas corpus in death penalty cases when state proceedings have rendered a full and fair adjudication of the claim." The resolution also makes clear that the Conference "considers the language of the Senate Judiciary Committee 'full and fair' standard as including a determination by the federal courts of whether the claim was (1) decided on the merits, (2) met a minimum standard of reasonableness, and (3) conformed to federal procedural requirements." Finally, the resolution states that the Conference expresses no opinion on any other parts of the Omnibus Crime Control Act of 1991.

I respectfully request your favorable consideration of the Conference's position and urge you to appoint to the Conference members who are serious about habeas corpus reform. If you should desire further information on the matter, please do not hesitate to call on me.

Sincerely,

HARRY L. CARRICO,
Chairman, Committee on State-Federal Relations.

CITIZENS FOR LAW AND ORDER, INC.,
Oakland, CA, November 26, 1991.

STATEMENT ON CRIME BILL CONFERENCE COMMITTEE REPORT

Our organization, together with its national coalition partners and our more than 100,000 members, stand in firm opposition to the alleged "anti-crime" bill which Senate-House conferees agreed upon Sunday evening. As concerned citizens and as victims/survivors of violent crime we reject this crime package in its entirety due to its lethal anti-victim provisions contained in its so-called habeas corpus reform provisions. These provisions attack the very heart of the criminal justice system and thus fatally infect all other sections of the conferees' crime package. Congress must reject it!

Our organization has always been convinced that genuine habeas corpus reform in capital cases is a fundamental and indispensable element in the battle against violent crime in our nation. The conferees' choice on Sunday evening of the House version of habeas reform over that of the Senate dealt a severe body-blow to the legitimate needs and concerns of our country's homicide victims/survivors. It absolutely nullifies any hope of real reform of current abuses. Furthermore, it makes the current situation worse by allowing retroactive application of Supreme Court decisions in habeas proceedings.

The worst torment that homicide survivors must endure after the loss of their loved ones is the lack of closure to grief and the lack of finality of judgment. The House version of habeas reform, adopted by the conferees on Sunday evening, does nothing to alleviate these matters but instead accentuates them. The conferees' adopted version of habeas reform now insures continued victimization and re-victimization of survivors of murdered loved ones.

True habeas reform demands time limits on Federal Court deliberations; it must mandate priority treatment for capital cases in habeas proceedings; it must restrict successive petitions to issues of guilt/innocence; it must maintain the current *Teague* v. *Lane* doctrine of non-retroactivity. Any purported reform without all these elements is a sham and a charade. The conferees' version lacks them all!

For too many years, victims/survivors have been ignored by the criminal justice system while primary focus has been directed to defendants/prisoners. Nowhere has this been more flagrant than in Federal habeas proceedings. Survivors wait for years for jury verdicts and sentences to be actualized while death-row killers abuse the system with impunity through the endless filing of baseless and repetitive appeals. This is neither fair, just, or equitable. Yet the conferees' version of habeas reform will not only perpetuate this situation, it will aggravate it! Congress must say no to this bill!

JACK COLLINS,
Eastern Regional Director, CLO.

CONCERNED CITIZENS
EQUAL JUSTICE,
Greenville, SC, September 12, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

This is to urge support of House Bill 1400. While we are all concerned about what appears to be an increase in crime in this country. We are equally concerned with encroachment on the Constitution to deal with it. The proposed Senate changes in habeus corpus places our personal liberties in jeopardy, weakens the federal court system, and increases the risk of innocent defendants being executed due to lack of adequate counsel nor review.

We urge you to actively support House 1400 habeas reform, rather than the Senate version.

Sincerely,

J.M. FLEMMING,
Chairperson.

ROBERT H. MACY,
District Attorney,
Oklahoma County, November 25, 1991.

Hon. DAVID BOREN,
U.S. Senate, Washington, DC.

DEAR SENATOR BOREN: As a veteran prosecutor with over thirty years in the criminal justice system and as President-Elect of the National District Attorney's Association, I am appalled at the action of the Conference Committee on the Crime Bill. In almost every instance, the conferees voted for the version that most favored the criminal element, not the prosecutors and victims. While pretending to pass a tough crime bill with additional application of the death penalty, the conferees included provisions which will prevent the death penalty from ever being carried out. The provisions on Habeas Corpus will perpetuate endless delays in all capital litigation. In its present form, this bill is totally unacceptable to the prosecutors of this nation.

Those of us who have dedicated our lives and careers to protecting the innocent victims of crime and prosecuting violent vicious criminals are better off under the present state of the law than we will be if this bill is enacted. On behalf of the nation's prosecutors, I respectfully request that you vote against passage of this bill.

Respectfully,

ROBERT H. MACY,
District Attorney.

NINTH CIRCUIT STATE ATTORNEYS GENERAL ASSOCIATION ON PENDING FEDERAL HABEAS CORPUS REFORM LEGISLATION—ADOPTED JUNE 17, 1991

Whereas, the Ninth Circuit State Attorneys General Association is an association of the elected Attorneys General from the nine western states within the jurisdiction of the U.S. Court of Appeals for the Ninth Circuit, which is the largest federal appelate court in the nation. The states within the Ninth Circuit include Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Orgeon, and Washington;

Whereas, each of these State Attorneys General offices has an active case load and day-to-day involvement on federal habeas corpus cases in the U.S. District Courts of their respective states and in the U.S. Court of Appeals for the Ninth Circuit;

Whereas, the U.S. Congress is currently considering legislation which would reform the general federal habeas corpus process;

Whereas, seven of the states within the U.S. Court of Appeals for the Ninth Circuit have adopted procedures for the imposition of capital punishment for aggravated murder which each respective state Attorney General office has obligations to defend in Federal court. These states included Arizona, California, Idaho, Montana, Nevada, Oregon and Washington; Now, therefore, be it

Resolved, That the Ninth Circuit State Attorneys General Association, by unanimous vote of each Attorney General after evaluating the impact of pending reform legislation, including S. 19, S. 618, S. 635, and S. 1241:

(1) concludes that meaningful federal habeas corpus reform is necessary to promote the finality of state court judgments, curb repetitious and unnecessary litigation, and restore public confidence in the criminal justice process;

(2) strongly endorses the provisions of S. 635, Title II & X, as the best legislative package currently before the U.S. Senate to remedy the problems of lack of finality and unnecessary and incessant litigation currently experienced under the federal habeas corpus process;

(3) strongly urges Congress to adopt a reform package which contains general habeas corpus reforms, along the lines of S. 635, Title IIA, which includes:

(a) reasonable time limits for the filing of habeas petitions;

(b) deference to state court rulings which are the product of full and fair state adjudication; and

(c) authority for federal courts to dismiss frivolous claims when state remedies have not otherwise been exhausted;

(4) strongly endorses the full and fair adjudication standard contained in S. 635 and urge Congress to adopt for this federal standard of review the full and fair opportunity standard employed in *Stone* v. *Powell,* 428 U.S. 465, 494 (1976);

(5) strongly endorses the adoption of a statute of limitations for the filing of habeas corpus petitions, and recommends that a petitioner have 90 days to file the petition with up to a 90-day extension for a showing of good cause and that a court be required to enter a written order articulating the grounds for the good cause extension;

(6) strongly supports a provision which mandates that capital cases shall be given priority in federal court and a provision which adopts time limits for federal court review of these cases. If a federal court failed to timely act, we recommend that the automatic stay would expire so that the presumptively valid state court judgment could be enforced. Any time limits on federal appellate court review should include a 30-day time limit for a determination on whether to rehear a case or rehear a case en banc;

(7) strongly supports legislation which maintains the limits on successive petitions adopted by the U.S. Supreme Court in *McCleskey* v. *Zant,* 59 U.S.L.W. 4288 (1991) and which would build upon this standard, as proposed in S. 635;

(8) strongly supports capital case reforms which include an appointment of counsel mechanism:

(a) which is limited to post-conviction review;

(b) allows states to develop appointment of counsel standards;

(c) reserves the unitary review processes (for the simultaneous state appellate court consideration of the direct appeal and state habeas petition) for those states which have adopted such procedures;

(d) develops a mechanism which precludes repetitious litigation of the adequacy of the appointment of counsel mechanism once the mechanism has been judicially upheld or certified as adequate by a judicial or non-judicial entity;

(e) adopts a remedy for the technical or inadvertent noncompliance with any such appointment of counsel mechanism which preserves judicial determinations as long as the effective assistance of counsel was otherwise rendered;

(9) strongly supports legislation which preserves the exhaustion doctrine, which as a matter of comity, respects the integrity of state processes;

(10) strongly supports legislation which preserves the procedural default doctrine;

(11) strongly opposes any provisions which would erode or modify the non-retroactivity doctrine of *Teague* v. *Lane,* 489 U.S. 288 (1989), or otherwise expanded the two exceptions to this doctrine;

(12) supports legislation which would allow the certificate of probable cause requirement, under 28 U.S.C. §2253, to serve the screening function intended under *Barefoot* v. *Estelle,* 463 U.S. 880 (1983);

(13) strongly opposes legislation which would undercut principles of finality, disrespect state processes, and encourage repetitious litigation, such as the provisions of S. 1241 which includes undefined "miscarriage of justice" standards for successive petitions and allows new federal claims which were not raised in state court "due to the ignorance or neglect of the prisoner or counsel;"

(14) strongly opposes any habeas corpus reform package which contains any version of the so-called Racial Justice Act, which:

(a) overturns the U.S. Supreme Court decision in *McCleskey* v. *Kemp,* 481 U.S. 279 (1987);

(b) is based upon an unsound statistical premise;

(c) alters the traditional focus of our criminal justice system on whether the charged crime was committed by permitting statistics and information from unrelated cases to be considered; and

(d) most importantly, would have the practical effect of abolishing capital punishment in those states which have adopted constitutional procedures for capital punishment while doing nothing to promote racial justice.

Charles E. Cole, Attorney General, Alaska; Daniel E. Lungren, Attorney General, California; Larry Echohawk, Attorney General, Idaho; Frankie Sue Del Papa, Attorney General, Nevada; Ken Eikenberry, Attorney General, Washington; Grant Woods, Attorney General, Arizona; Warren Price, III, Attorney General, Hawaii; Marc Racicot, Attorney General, Montana; Dave Frohnmayer, Attorney General, Oregon.

THE DEPARTMENT OF LAW,
STATE OF GEORGIA,
November 25, 1991.

Hon. WYCHE FOWLER, JR.,
U.S. Senator, 204 Russell Building, Washington, DC.

Re: Conference Committee Proposals on Habeas Corpus Reform.

DEAR SENATOR FOWLER: I have just learned that on Sunday, Novemer 24, 1991, the Senate/House Conference Committee met and reported out the Conference version of the Omnibus Crime Control Bill. Insofar as habeas corpus reform issues are concerned, I understand that this Bill adopts the House version of these so-called reforms. As I have expressed on numerous occasions, in my opinion, the adoption of these House habeas corpus measures, particularly that measure which would result in the overturning of the principles in *Teague* v. *Lane*, would have disastrous consequences insofar as the operation of the writ of habeas corpus and thus the operation of the criminal justice system.

The overruling of *Teague* insures that courts are free to apply new rules of constitutional interpretation to old cases, thus changing the rules of the game for the state long after the trial occurred and the conviction became final. This undermines the essentials of fairness to both sides as well as finality.

I urge you to attempt to defeat the House version of "habeas corpus reform," as it overturns the hard won victories and landmark court cases in this area which have already been achieved in the Courts.

Sincerely,

MICHAEL J. BOWERS,
Attorney General.

THE FOLLOWING LIST OF VICTIMS GROUPS, STATE ATTORNEYS GENERAL, DISTRICT ATTORNEYS, LOCAL LAW ENFORCEMENT AGENCIES, AND LAW ENFORCEMENT ORGANIZATIONS HAVE EXPRESSED THEIR SUPPORT FOR A TOUGH CRIME BILL

ATTORNEY GENERAL

The attorneys general of the following 31 States have called upon President Bush to veto this "pro-criminal" bill:

California, New Jersey, North Carolina, Connecticut, Idaho, Nevada, Vermont, Nebraska, Alabama, Wyoming, Alaska, South Dakota, Indiana, Virginia, South Carolina, Delaware, Mississippi, Colorado, Pennsylvania, Texas, Arizona, Montana, West Virginia, Washington, Kansas, Oregon, New Hampshire, Georgia, Guam, Maryland, and Louisiana.

THESE PROSECUTORS OPPOSE THIS "PRO-CRIMINAL" BILL WITH ITS WEAK HABEAS CORPUS REFORM

National District Attorneys Association, California District Attorneys Association, Conference of District Attorneys, Oklahoma City, Oklahoma District Attorney, San Diego, California District Attorney, Kingsport, Tennessee District Attorney, Boston, Massachusetts District Attorney, Pittsburgh, Pennsylvania District Attorney, South Bend, Indiana District Attorney, Brockton, Massachusetts District Attorney, Staten Island, New York District Attorney, Davenport, Iowa District Attorney, San Francisco, California District Attorney, Belton, Texas District Attorney, Missoula, Montana District Attorney, Tucson, Arizona District Attorney, and Amarillo, Texas District Attorney.

VICTIMS GROUPS

Concerned Citizens Equal Justice, Citizens Against Violent Crime, Memories of Victims Everywhere, The Joey Fournier Anti-Crime Committee, Survival, Inc., Justice for Murder Victims, Justice for Homicide Victims, Inc., League of Victims and Empathizers, Inc., and Citizens for Law & Order.

LAW ENFORCEMENT ORGANIZATIONS WHO OPPOSE THIS BILL'S HABEAS CORPUS AND EXCLUSIONARY RULE

National Law Enforcement Council, Fraternal Order of Police, National Troopers Coalition, National Sheriffs Association, Federal Investigators Association, Federal Criminal Investigators Association, International Narcotic Enforcement Officers Association, Airborne Law Enforcement Association, Society of Former Special Agents of the F.B.I., Commission on Accreditation for Law Enforcement Agencies, Inc., Massachusetts Association of Italian American Police Officers, Massachusetts Crime Prevention Officers Association, California Correctional Peace Officers Association, and Greater Boston Hotel Security Directors Association.

Mr. CHAFEE. Mr. President, before the Senate today is the conference report for S. 1241, the omnibus crime measure, approved by the Senate in July. I have mixed feelings about this bill; but I will give my support to it. I do so for one major reason: The inclusion of the provision, known as the Brady bill, that establishes a national 5-day waiting period for the sale or purchase of a handgun.

Frankly, I am disappointed with many aspects of the conference's work. First, the lack of the provisions on firearms. I am disappointed that both the limitations on magazine capacity and the ban on certain semiautomatic assault weapons were stricken from the bill.

To my view, these provisions make sense. I do not believe that gun controls are the sole answer to crime. But they can help. And it simply does not make sense to craft crime-fighting measures that do not include stricter controls on guns. Too many times this Nation has heard what one witness to the recent slaughter in Killen, TX, called "that terrible stillness of death." In Oklahoma, Kentucky, California, and recently in Texas and in Michigan—all over the country we have seen senseless loss of life by guns.

It is clear that we have a big problem in this country, and it is guns. We have far too many and they are too available. Stricter controls on guns simply are no sacrifice compared to the grief caused by such deaths.

That is why I am sorely disappointed that the Senate assault weapons ban was deleted from the final report. However, there is a bright note: the retention of the Brady provisions.

The Brady provisions included in this bill take us closer to the goal of preventing the senseless loss of life by ensuring that guns do not fall into the wrong hands. Pursuant to this measure, a national five-business-day waiting period before the purchase of a handgun will be established; during this time, local law enforcement will be required to carry out a background check on the prospective buyer to make sure that he or she is not a felon or other person prohibited by law from carrying a gun. Meanwhile, the Attorney General will set up a system for a national instant criminal background check that, once certified to be in place, will cause the national waiting period to be repealed.

Frankly, I would have preferred that the waiting period remain in place ad infinitum in order to provide a cooling off period for those buying a gun while in the grip of a strong emotion, or drugs or alcohol. Many individuals commit gun-related crimes in a moment of anger or rage, or when they are affected by drink or drugs. Also, persons suffering from depression are often tempted by easy accessibility to a gun to do harm to themselves or others. So I would have preferred that the waiting period be permanently established. But this is a compromise measure, and it is still a significant one that will do a great deal of good.

The fact that the waiting provisions are included in this bill is itself a tribute to the two people who have worked so hard and long for a national waiting period, and for whom the bill is named: Sarah and Jim Brady. They have logged thousands of hours over the past few years chasing down legislators, talking to them, and getting attention focussed on the bill; and their tireless efforts have paid off. My hat is off to both Jim and Sarah.

Now to the other elements of the bill. Clearly I have serious objections to the bill's death penalty provisions. I do not support capital punishment. Countless studies have shown that it does not deter would-be criminals from committing a crime. Furthermore, it is a form of punishment that can never be undone, even if the accused is later found to be innocent of the crime for which he or she was put to death.

While the conference report is better than the Senate-approved legislation, in that it does not provide for the option of capital punishment for homocides involving firearms, and does not impose the death penalty on the District of Columbia, it remains a bill chock-full of new death-eligible crimes.

I noted during last year's debate on crime that the Senate seems to want to apply the death penalty to every crime but school truancy! There are 50-odd new death-eligible crimes in this bill, and they include such so-called threats to public safety as murder of Federal egg inspectors. They also include such rare crimes as genocide and train wrecking. I fail to see how providing for the option of capital punishment for these crimes will stem street crime. I suspect that they won't, and that this exercise in toughness boils down to rhetoric, pure and simple.

Other provisions in the bill include those on the exclusionary rule, and on habeas corpus proceedings. During Senate debate, I voted against extending the good faith exception of the exclusionary rule to warrantless situations, and am pleased that the conference report holds to this view. On habeas corpus, the report's provision is noticeably different than the Senate version, and has many imperfections. This is a difficult and complex issue: how to ensure that the great writ of habeas corpus is not weakened and constitutional rights not violated, while at the same time striving to prevent costly and time-consuming abuses.

In sum, this conference report is far from perfect. To my view, there is only one provision that I think will make a real difference to Americans, and that is the Brady bill—a bill we have been trying to pass for several congressional sessions now—and for that reason alone, I will support this measure.

Mr. HATCH. Mr. President, in February, the President sent us a strong, comprehensive crime bill. In July, this Senate passed the essential elements of the crime bill. It contained some of the finest, toughest anticrime provisions that I have seen in my 15 years in this body.

But where are those tough crime provisions today? You won't find them in this conference report.

If you want those tough anticrime provisions you will have to go get them out of the waste paper baskets of the House Judiciary Hearing Room in the Rayburn House Office Building.

This is a sham bill—a soft-on-crime bill, embodying virtually all of the objectionable provisions that responsible law enforcement agencies, prosecutors, and Attorneys General oppose.

My colleague Senator KENNEDY and my colleague Senator METZENBAUM voted for this so-called crime bill. They approved of it. And we know that they are longstanding, earnest, principled opponents of the death penalty.

Yet, the chairman of the Judiciary Committee wants to claim that the bill we are considering today is the toughest death penalty bill in years. If that is true, then why did longstanding opponents of the death penalty vote for it? Why, because this bill's obvious purposes are not to provide for an enforceable death penalty, but to make sure that there never will be one.

I do not think that these distinguished legislators were fooled into supporting a bill so opposed to their deeply held principles. And I do not think that any one in this Chamber or in the nation will be fooled either by the futile attempt to call this liberal wish list an anticrime bill.

Christmas has come early for the liberals in America. The House and Senate conferees have granted them their entire Christmas list. Just do not try to walk down the streets of your own neighborhood at night.

RETROACTIVITY PROVISION

Mr. President, this bill contains a dangerous innovation in criminal law. It is section 204 of the habeas corpus title. This section governs the retroactive effect of Supreme Court decisions.

Even though this Senate rejected a similar retroactivity provision last summer, the Senate Democratic conferees agreed to accept House-passed language on this subject.

The question of whether a decision of an appellate court shall have prospective or retroactive effect is intimately connected with the question of whether a criminal conviction can ever be final.

All habeas petitioners are prisoners whose cases are considered final. They are attempting to reopen long-finished cases.

Under current law, a defendant whose appeal is pending can generally take advantage of any recent or new court decision that is favorable to him. However, once his direct appeal is finished, and his case is considered final, he cannot avail himself of newly-announced court decisions that are designed to govern the proceedings in future cases.

This sensible rule is the only one that allows a criminal case to achieve any degree of finality. The rule, moreover, is a salutary one because it encourages the courts to develop new and more fair rules of criminal procedure free from the fear that a newly-prescribed rule will have the effect of opening the jailhouse doors.

The Miranda case is a good example of how these principles work in action. When the Supreme Court laid down new rules which all future defendants could claim, the Court specifically held that the rules would only apply prospectively. How could they have held otherwise? To say that the specific Miranda rules must have been given before the Miranda case had even been decided would have meant that virtually every prisoner in America would have had to be let out of prison. Had the Supreme Court not have possessed the power to specify that its decision would apply only prospectively, we can certainly assume that it would never have decided Miranda as it did. The same is true of Escobedo versus Illinois and any number of other leading cases in the field of criminal procedure.

But those who advocate congressionally mandated retroactivity would take this power away from the Supreme Court. They would instead give to an individual Federal district court hearing a habeas petition the power to overrule the holding of the court on the question of retroactivity. They would, moreover, allow the district court to apply new rules retroactively to criminal cases that have already become final—thus opening up for review cases that may have been settled for years or decades.

As Attorney General Thornburgh observed last year, this innovation would overrule several leading Supreme Court cases and would "resurrect the chronic problems of unpredictability and lack of reasonable finality of judgments" which those decisions put to rest—Letter of Dick Thornburgh to Senator THURMOND, March 15, 1990, page 7.

No efficient system of criminal justice can function under such an arrangement. If nothing else, the retroactivity rule contained in this bill would encourage prisoners to file repetitious petitions simply on the hope that their petition may be heard by a new district judge—one who may decide the retroactivity issue differently than the previous judge. At least under the current system, the Supreme court sets the rules and they apply nationwide.

Congressionally mandated retroactivity is not designed to achieve justice—it has two objectives: to prevent the execution of persons who have been otherwise unsuccessful in preventing the carrying out of their death sentences and, in noncapital cases, to extend and perpetuate the pernicious influence of the liberal decisions of the Warren Court.

The best thing about the Warren Court is that it came to an end. But this bill would allow key Warren Court decisions to be applied to criminal cases where even the Warren Court said they should not apply.

But there is another, more fundamental objection to congressionally legislated retroactivity. The Supreme Court's rulings on retroactivity should not be overruled by a single Federal trial judge whenever that judge determines, on whatever basis, that it is just to give the defendant the benefit of a law that the Supreme Court has ruled the defendant should not receive the benefit of. I question whether Congress even has the power to create article III courts that can overrule the decisions of the Supreme Court established by the Constitution. But, even if we do possess that power, it is clearly unwise to exercise it. The decisions of the Supreme Court must be followed by the lower Federal courts; otherwise, there will be chaos in our judicial system.

Let me illustrate how the Supreme Court's retroactivity doctrine works in practice and the benefits which flow from it. The doctrine has recently been addressed and clarified by the Supreme Court in the leading case of Teague versus Lane, February 22, 1989. There the Court reaffirmed the long-standing rule—which is also the law in most States—that newly announced rules of criminal procedure do not apply to cases that have already become final. That is the only workable standard of retroactivity in the criminal law. Congress should not now confuse a subject which the Supreme Court has so recently straightened out.

No habeas reform is worth reversing the Teague case. No habeas reform is worth reopening the long-final convictions of every prisoner in America, which is what reversing Teague will do.

Section 204 of the habeas title proposes to set up criteria by which judges not on the Supreme Court can determine that decisions of the court should have an effect directly contrary to that which the Court has concluded they should have.

That is clearly unconstitutional. The Supremacy clause of article V clearly establishes that the Supreme Court is the final arbiter of such matters, not the 700 or more federal district court judges.

More importantly, consider the precedent that this bald-faced attempt to tamper with already decided Supreme Court cases establishes. If Congress does have the power to determine when certain Supreme Court decisions shall apply and when they shall not—despite the Court having determined otherwise—then Congress will surely have the power to determine who shall be bound by those decisions, what precedential effect they shall have, or any other aspect of the holding with which it might disagree. Why don't we alter the amount of damages if we think the Court has given too little or too much? It would be no more absurd than for Congress to say, as this bill does, that Federal trial judges must follow our standards, and not the Court's standards, in deciding when the Court's decisions shall be applied prospectively and when they should be applied retroactively.

This clearly unconstitutional provision is going to be bounced quicker than any law Congress has ever previously passed. Congress simply has no power to tell the Supreme Court what its decisions mean.

Nor do we have the power to create article III courts that can overrule the decisions of the Supreme Court established by the Constitution. The decisions of the Supreme Court must be followed by the lower Federal courts; otherwise, there will be chaos in our judicial system.

Section 204 of the habeas corpus title would encourage prisoners to file repetitious petitions simply on the hope that their petition may be heard by a new district judge—one who may decide the retroactivity issue differently than the previous judge. Under current law, the Supreme Court sets the rules and they apply nationwide.

There is another important point to be made about retroactivity. If the Supreme Court cannot adopt new rules of criminal procedure that are prospective only, then it is certain the Court will be less likely to adopt new rules to control the abuses of State and local police which we all agree are essential. The Court's retroactivity doctrine is essential to the development and growth of our law of criminal procedure.

Consider the Miranda case, or Escobedo versus Illinois. Both of those cases announced unprecedented new rules of criminal procedure, but the Court specifically noted in each case that the rules were prospective only. They would apply to all cases on appeal but not to those that had already become final; meaning, of course, that Miranda violations would not provide a ground for relief on habeas corpus. How could the Court have ruled otherwise? Had it not possessed the flexibility to make Miranda prospective only, the Court's ruling in that case would have opened an unimaginable floodgate of new demands for the release of State prisoners already in confinement. The Court would never have issued the Miranda opinion had it not possessed the authority to make its new rule prospective only. We should consider what other similar unforeseen consequences to the development of the law of criminal procedure in this country may lie in store if we adopt today this revolutionary restriction on the authority of the Supreme Court.

It is difficult, I admit, to explain what the retroactivity issue is all about. But imagine how much more difficult it will be to explain to our constituents why it is that infamous criminals will be receiving new trials decades after their convictions: Does either Senator from Arizona know how he will be able satisfactorily to explain to citizens of that State why he may have voted for a provision that would probably allow the Tison Brothers to receive new trials?

How will the Senators from California explain the new trials that will be sought for Charles Manson and Sirhan Sirhan; for Juan Corona and the Hillside Strangler—new trials that will be sought and, in many cases, mandated by this bill's provision that Supreme Court cases never before considered relevant to their trials now must be applied to give them new rights.

I know that I cannot now explain to my own constituents why it is that one man, William Andrews, has been on death row in Utah for 17 years. The whole point of starting this habeas debate was to shorten the ordeal for my State and for the victims of Andrews' unspeakable crimes.

But section 204—the retroactivity provision—makes the Andrews prosecutors go back to square one. To start all over again.

This is not mere conjecture on my part. Just last year, Andrews' defense attorney announced that he would be asking a Federal court in Utah to free Andrews based on a recently decided 1991 Supreme Court case relating to the composition of juries.

The Supreme Court has already held that this 1991 decision does not apply to persons such as Andrews who were convicted in 1974. Therefore, we know that Andrews will not succeed in being freed from his death sentence on this basis—or do we?

If the bill before this body today is passed, then it is a whole new ball game for William Andrews; it is a whole new ball game for the Charles Mansons and Ted Bundys of the world. This bill tells them that their cases will never be over, so long as the Supreme Court continues to issue new opinions.

Before we get lost in the abstractions of habeas corpus law, before we wear out our hands wringing them over the supposed constitutional rights of vicious murderers, we need to remember the real consequences of serious criminal cases—the deaths, the shattered lives of those left behind, the families who must go on without their fathers or other loved ones.

Most importantly, for today, we must understand how these cases will continue to blight peoples' lives if the retroactivity provision of the conference report, section 204, becomes law.

William Andrews continues to appeal his sentence and has so far succeeded in delaying his execution for 17 years.

But today, at last, the end is in sight. But not if we are so unwise as to pass the conference report. If the retroactivity provision of this bill passes, the Andrews case will never end. Of that I am certain.

In 17 years of appeal, William Andrews has not raised one single meritorious issue on appeal. Not one. But the supporters of this bill now propose to allow Andrews to go back in time to 1978, when his criminal conviction became final, to let him see if he can't find one more case, one more argument, one more chance to avoid his death sentence.

The proposed repeal of the Supreme Court's retroactivity cases is the greatest gift to prison inmates in America—and it applies to all State prisoners—that has ever been proposed.

That's why the President will veto it. That is why every attorney general of every State that I know of opposes it.

That is why on June 25, 1991, 16 of the elected State attorneys of the State of Florida wrote their Senators, urging them not to vote for any amendment that would repeal or restrict the Supreme Court decision in Teague versus Lane.

Only one habeas amendment considered by this body met the criteria for their support—it was the habeas title of S. 1241 that now lies in the trash bin of the Judiciary Committee conference room, replaced by the entirely unacceptable House habeas provisions.

Mr. President, since 1976, over 3,000 persons have been sentenced to death row, yet only slightly more than 100 of these sentences have been carried out. I am continuously asked by Utah citizens, in letters too numerous to count, what is going on here? What is wrong with our criminal justice system? Well, I think we all know what is wrong—it is the Federal habeas corpus system.

We all know what is wrong—we all know how to fix it. And if we do not know then we've got the attorney generals, the prosecutors, and the law enforcement personnel of virtually every jurisdiction on record to tell us.

They all say one thing: pass habeas reform, but do not overturn the good decisions of the Supreme Court. Do not let the House liberals overturn Teague versus Lane and reopen cases that have been closed for decades.

If any Senator today has any question about whether this conference report is truly a crime bill, they do not have to take my word on it. Call your own State's attorney general and ask him or her. They know the issue, and I am confident as to what their response will be. They know this is no crime bill and that is what most will tell you—Democrat and Republican alike.

I hope, Mr. President, that at sometime in the future I may finally provide a favorable answer to my constituents who ask what is wrong with the criminal justice system. I hope I can someday finally tell them that Congress has acted to end the absurdity of endless 15- and 18-year appeals.

I certainly hope that I do not have to tell them that Congress has actually acted to make things worse by passing the conference report. I know that I will never be able to explain that one to them.

Reversing Teague versus Lane, as the conference report does, will be the greatest gift to prison inmates in years. Every convict will immediately want to subscribe to U.S. Law Week, so that on Monday mornings he or she can look to see what new decisions have been handed down by the Supreme Court—what new case can be cited in a new habeas petition seeking release from jail and return to the streets.

This issue is not about whether State prisoners are to have one bite of the apple. Every convicted prisoner gets eight or nine bites of the apple on direct appeal and through State postconviction procedures before he even turns to Federal habeas.

William Andrews has already received 27 bites—but the crime bill conferees have decided to give him just as many chances to appeal again. Reversing the Supreme Court's retroactivity decisions will, in effect, allow William Andrews to start his appeals all over again.

I will allow convicted prisoners a second bite of the apple, and a tenth bite too. But I will not give them the whole orchard as the conference report does.

Let us be frank about what is going on here. My friends on the other side of the aisle calculated that they could throw anything they want into a bill, slap the word crime on the cover, and that the President would sign it. They realized that the President would recognize it as a procriminal anticrime bill, but they were gambling that he would not be able to explain to the American people the important but somewhat technical reasons why this is so.

Well, it may be true that the statutory changes in the habeas statute that the President and I so strongly object to are obscure, but the effects of those changes are easily understood by anyone. In fact, those changes present very simple direct questions such as the following:

Do you think that Charles Manson, who was sentenced to death in the late 1960's, should be given new rights to file new appeals at this time?

That is a very simple question. So is this one: Do you think that Richard Speck, who was sentenced to death for murdering eight nurses in Chicago in 1966, should be given new rights to reopen his case at this time? How do the Senators from Illinois feel about that one—I am sure that their constituents would like to know.

If you think that these brutal murderers, as well as their cohorts on the Nation's death rows, should be given such new rights, then vote for the conference report. If you do not, then oppose it and demand from the Senate conferees that they stand by the strong habeas bill that passed this body by a 20-vote margin last July.

By all means, if you want to open up new unlimited avenues of appeal for all felons in America, here is your chance: The conference report provides a golden opportunity. But if you are truly interested in dealing with the crisis of endless appeals and the resulting misdirection of our Nation's crime-fighting resources, then join me in opposing this pernicious bill.

THE SO-CALLED VIOLENT CRIME CONTROL ACT

Mr. SEYMOUR. Mr. President, the 311 inmates on California's death row can sleep easy tonight. The majority party presiding over the crime bill conference committee has insured that these heinous criminals will have numerous—or I should say endless—opportunities to delay their sentences.

For more than 5 years, leaders of criminal justice reform have attempted to make sense out of our Federal habeas corpus process. As my colleagues know, this process is designed to ensure an individual has received a fair trial, but it also works to encourage never-ending appeals that delay the imposition of the death penalty and prolong the agony that families and friends of crime victims are forced to endure. In July 1990, a bipartisan majority of the Senate passed a comprehensive crime bill that included meaningful reform of the habeas corpus process—reform based largely on the recommendations of the reform commission chaired by retired Supreme Court Justice Lewis Powell. However, the Democrats scuttled these reforms at the 11th hour of the 101st Congress.

We took up crime legislation again this year to finish the job, to finally enact habeas reform that ensures finality in the criminal justice system, and ends the years of frivolous appeals that is at the heart of the public's lack of faith in the criminal justice system.

Californians have reason to be of little faith. Since the Supreme Court reversed its previous decision on the constitutionality of capital punishment in 1976, not one single condemned criminal has realized the full extent of the sentence imposed by a jury of his peers. In fact, nationally only 3 percent of all those sentenced to death since 1976 have been executed—3 percent.

Californians have more than lost faith. They are fed up. Frankly, so am I. Overwhelming majorities of Californians have passed countless initiatives that reaffirm their support of capital punishment. They even have ousted two State associate justices and the chief justice of the California Supreme Court largely because of their refusal to effectively enforce capital punishment. And now the majority of the crime conference committee rightly deserves the scorn of law-abiding Californians because they have single-handedly denied my State the ability to truly enforce capital punishment.

Earlier this year, Californians had reason to be hopeful that Congress finally would reform the habeas system. For the second consecutive year, a bipartisan majority in the Senate passed effective habeas reform. However, the House of Representatives darkened their hopes and enacted so-called habeas reform that would actually be even worse than current law.

If there was any doubt that members of the majority were really serious about enacting true habeas reform, it ended last Sunday, when the majority steamrolled a conference report that contained the House habeas corpus provisions.

Just how bad is the House's habeas reform proposal?

Bad enough to reverse 14 years of responsible Supreme Court decisions, including the landmark Teague ruling, that limit endless delays and frivolous appeals in death penalty cases.

Bad enough to allow condemned prisoners to delay a full year before applying for Federal habeas corpus.

Bad enough to reject the Senate's proposal that habeas petitions for condemned criminals be limited to new claims that have not been "fully and fairly" heard in State courts.

More importantly, bad enough to contain enough loopholes, legal trapdoors, and other broad definitions that promote new, unnecessary litigation, rather than finality and fairness.

Despite all of this, Democrats will continue to claim they've offered comprehensive reform of the habeas system.

Reform for who? Law enforcement? The leaders of law enforcement certainly do not think so. In fact, 31 of the Nation's 50 attorneys-general signed a letter to the President urging him to veto any crime bill that contains the House's habeas provisions.

Let me repeat that: More than a majority of the State's chief law enforcement officers in the Nation—16 Republicans and 15 Democrats—concluded that this so-called reform bill is a sham. In fact, California's top cop, Attorney General Dan Lungren, called the conference report "a fraud on the people of California and most particularly on the crime victims of the State of California." Mr. President, I will ask unanimous consent that the remarks of the attorney general be placed in the RECORD following my remarks.

Furthermore, every district attorney in my State wrote to the California congressional delegation in an unprecedented, bipartisan show of support for the Senate's habeas reform provisions and strong opposition to the pseudo-reforms offered by the majority in the House.

Let me repeat that: Every single one of my State's 58 leading law enforcement officials wrote to me and my California colleagues to state that the Senate passed the true reform bill. I have a copy of this letter and I will ask unanimous consent that a copy of the California district attorney's letter be printed in the RECORD following my remarks.

I have also heard from local prosecutors, police chiefs, sheriffs, and members of rank and file law enforcement—the men and women on the front lines of violent crime—and they are virtually united in their support for the Senate's provisions.

So let us be clear about the rhetoric that is being passed around here. The Democrats are not reforming the habeas process. They are deforming it. Indeed, the Democrats are not kidding when they say theirs is a tough crime bill. The problem is it is tough on law enforcement.

That is why I cannot vote for this conference report. Though it contains some measures that enhance existing law or create new anticrime programs, this conference report loses sight of why we considered crime legislation in the first place. We were to finish the job of the 101st Congress and pass a bill to restore the Federal death penalty and reform the habeas process. Yes, this bill authorizes the death penalty for more than 50 Federal crimes. And many Democrats—some for the first time—can go back to their districts and say they supported a bill that has a death penalty. They'll say: I can be tough on crime, too." Well, do not be fooled by these anticrime wannabes. This conference report may have a death penalty on paper, but without true reform of the habeas system, we can never have a death penalty in fact.

The people of California know this all too well. We have had a death penalty on paper for years, but never-ending, often-frivolous habeas appeals have made the death penalty nonexistent.

In fact, absent true habeas reform, the phrase "capital punishment" is liberalspeak for "life in prison."

And nothing in this conference report will change that. An analysis of the habeas provisions in this conference conducted by Attorney-General Lungren concluded that these provisions hardly can be called reform. In fact, he concluded that these provisions would actually promote more litigation, more delays, more frivilous abuses of our criminal justice system than current law. And his conclusions are shared by a majority of his fellow State attorneys general.

In short, Mr. President, this conference report does not lend a hand to law enforcement. It handcuffs law enforcement.

Our State has a living symbol of this tragic problem: Robert Alton Harris. My colleagues have heard his story before. I do not think a majority of the conference committee listened. In 1978, Robert Alton Harris brutally murdered two youths in San Diego. He not only confessed to his crime, he laughed about it. No remorse, Mr. President, for the vicious crimes he committed. But for more than 10 years, Mr. Harris has effectively used the Federal habeas process to delay his sentence. He has delayed his execution for more than 10 years. He has abused a process designed to ensure fairness. No doubt, he has not stopped laughing. This conference report gives this murderer one more reason to laugh at this system.

Harris' story is more than enough to demonstrate the need for the Senate's habeas reforms—reforms that have bipartisan support; reforms that are overwhelmingly supported by law-enforcement; reforms that should not have been rejected. The conference report's habeas procedures will not bring Harris and other thugs any closer to execution than current law. Even a majority of State attorneys-general concluded that Robert Alton Harris "would be able to perpetutate his case under the Federal habeas corpus."

So how can I or any of my colleagues in good conscience vote for this conference report when it fails to achieve what we set out to do? How can I explain my vote to crime victims' friends and family members who for years have been calling for finality and fairness to this process when this legislation falls far short of that goal?

Therefore, let me make this clear. A vote for this crime bill is a vote for business as usual—for delays and frivolous litigation. A vote for this crime bill is a vote to deform, not reform, our criminal justice system. A vote for this crime bill is a vote to effectively deny a State's ability to enforce the death penalty. A vote for this crime bill is a vote to prolong the agony that plagues victims' friends and family. A vote for this crime bill is a vote to insure that the number one cause of death for condemned criminals like Robert Alton Harris will continue to be old age.

The American people will not be fooled by the efforts of some Democrats to draft foolhardy legislation and call it a crime bill compromise. Sure it is a compromise. Law enforcement, crime victims' survivors, and law-abiding citizens—all are compromised by this conference report.

Let us not send this bill to the President. Why waste time? Let us send it back to the conference committee. After all, their job was to reach an agreement on comprehensive legislation that helps, not handcuffs, law enforcement in their fight against violent criminals.

Their job is not finished.

I ask that the material to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL CRIME BILL A FRAUD, LUNGREN SAYS

SACRAMENTO.—At a Capitol news conference today, Attorney General Dan Lungren called on President Bush to veto the federal crime bill that was reported out of a conference committee in Washington yesterday. Lungren criticized the conference committee for adopting, in a hasty three-hour closed session, provisions that would extend the ability of death row inmates to delay and relitigate their cases, making a situation already in need of reform much worse.

The Attorney General's Statement to Capitol reporters follows:

"I feel duty bound to inform you of probably the greatest fraud that I have seen in my first year as Attorney General and frankly, in my ten years as a member of Congress. The Federal Crime Bill produced by the Conference Committee late yesterday is a fraud on the people of the State of California and most particularly on the crime victims of the State of California. In fact, this legislation, in its current form, is a slap in the face of all victims.

"The voters of California may have removed Rose Bird from the California Supreme Court but the spirit of Rose Bird is alive and well in the Halls of Congress.

"Accordingly, I have today personally contacted the White House to urge the President to veto this shameless bill. This bill does nothing to assist with the problem of violent crime in the United States. Rather, it is a retreat from law enforcement's efforts to do something about violent crime. It is a major retreat in the area of habeas corpus because it overturns approximately 15 U.S. Supreme Court decisions including the most important one, the Teague case.

"This has a direct application to those of us in California, specifically in death penalty cases and in the Robert Alton Harris case. It looked like we were seeing some light at the end of the tunnel in the Harris case. We thought we might finally have the judgment of the people of California carried out. Now, we see this shameless Crime Bill coming out of the Congress of the United States.

"There is really nothing positive one can say in support of this bill in its current form. This legislation would impact California more dramatically than any other state in the union. It is time that the people of California know how their Representatives voted on this matter. They ought to ask Representatives Matsui, Fazio, Pelosi, Boxer, Miller, Dellums, Stark, Edwards, Lantos, Mineta, Panetta, Beilenson, Waxman, Roybal, Berman, Levine, Dixon, Waters, Dymally, Anderson and Torres why they have voted for the habeas corpus provisions now contained in the conference report.

"I have respect for members of Congress who are against the dealth penalty and say that up front. But it is very difficult to accept people who at home say they are for the death penalty and vote continually in the Halls of Congress to make sure it is impossible to have the death penalty carried out in California or anywhere else.

"We are not going to stand for this in California. We have urged the President to send a veto message as soon as possible. The stories that have come out of Washington so far have suggested that this is a tough crime bill. This is not a tough crime bill, this is not even a soft-time crime bill. This is a pro-convicted murderer bill."

Lungren, along with 30 of his colleagues from other states, sent President Bush a letter on November 22, detailing their serious concerns about the House version of the crime bill and urging the President to veto any bill containing habeas corpus provisions that will allow convicted death row inmates to delay and relitigate their cases.

All 58 district attorneys in California have also joined Lungren in support of reasonable habeas corpus reforms. In addition, today the National District Attorneys Association blasted the bill reported out of the conference committee as a "poor excuse for a crime bill," which "does far more to advance the interests of convicted criminals than it does to protect the victims and law-abiding citizens."

STATE OF CALIFORNIA,
OFFICE OF THE ATTORNEY GENERAL,
September 20, 1991.

DEAR CALIFORNIA CONGRESSIONAL DELEGATION MEMBER: Collectively, as the Attorney General and as District Attorneys from each of the 58 counties in California, we handle every aspect of a criminal case, including the trial, appeal and habeas corpus proceedings in state and federal court. Because of the effect federal habeas corpus reform has on our operations and the State of California, we are sending you this joint letter to stress the urgency of congressional action and to request your support for meaningful federal habeas corpus reform.

It is now beyond any doubt that the habeas corpus process is in dire need of reform. Unnecessary delay and repetitious litigation permitted under our habeas corpus process has resulted in a lack of finality in our criminal justice system. In turn, this has caused a loss of public confidence in the ability of our criminal process to impart fair and certain justice. Further, under the current process, reasonable state court determinations are not accorded due deference in federal court and the deterrent effect of the death penalty and other criminal punishment has been blunted.

It is no wonder that the calls for federal habeas corpus reform have been heard from all levels of state and federal government. On March 13, 1991, President George Bush asked that within 100 days, Congress pass his omnibus crime bill, which contains habeas corpus reforms. Former U.S. Supreme Court Justice Lewis F. Powell, Jr., has chaired a committee, consisting of other federal judges, which proposed specific reform recommendations which now provide the primary framework for congressional legislation. In his last Year-End Report of the Federal Judiciary, Chief Justice William H. Rehnquist asked Congress to "give serious attention to badly needed reforms in this area, with a view to assuring counsel to capital defendants and assuring to the states the necessary degree of finality, in federal habeas proceedings." California Supreme Court Chief Justice Malcolm M. Lucas has stressed the need for reform as cochairman of the American Bar Association Task Force on Death Penalty Habeas Corpus and in other statements. In March of this year, former state legislator and judge and now U.S. Supreme Court Justice Sandra Day O'Connor noted the need for reform in a speech at the Crime Summit in Washington, D.C. California Governor Pete Wilson emphasized reform in his State of the State Address and, more recently, made it the subject of his weekly radio address. On May 23, 1991, and July 29, 1991, the California District Attorneys Association Board of Directors unanimously adopted three resolutions urging the California congressional delegation to adopt habeas corpus reforms similar to those included in H.R. 1400, Titles II & X, and S. 1241, Title XI & §4923. On June 17, 1991, more than half the state Attorneys General sent a joint letter to members of the U.S. Senate Judiciary Committee supporting the reform provisions contained in these measures. Also on June 17, 1991, the Ninth Circuit State Attorneys General Association, consisting of state Attorneys General from the nine western states, also adopted a unanimous resolution urging Congress to adopt habeas corpus reforms and supporting these bills. On July 11, 1991, the Senate adopted meaningful habeas corpus reforms by a substantial, bipartisan vote in S. 1241 Title XI & §4923.

With so much agreement on the need for reform, the key public policy question before the House of Representatives is what specific reform provision should be adopted. At a minimum, we believe meaningful habeas corpus reform should include:

(1) An appointment of counsel mechanism which preserves the California unitary review process and permits states to determine competent counsel standards for post-conviction review;

(2) Provisions which retain and build upon the rational limits on successive petitions recently recognized by the U.S. Supreme Court;

(3) A standard of federal court review which respects "full and fair adjudications" in state courts;

(4) Reasonable time limits for the filing of a habeas petition and for the determination of a petition in federal court; and

(5) General habeas corpus reforms (similar to H.R. 1400, Title II(A), and S. 1241, Title XI(A)).

These reforms are required because they restore reasonableness to our criminal justice process. Further, the deterrent effects of criminal punishment can be reinstated by these reforms which ensure finality to state court judgments.

Significantly, relief under the statutory writ of habeas corpus is not eliminated by the adoption of these reforms. Instead, a state prisoner is guaranteed one full, fair and adequate round of post-conviction review. Any subsequent review will be permitted whenever a showing of factual innocence is made. Appropriate time limits also ensure that federal review will not be unduly postponed by the filing or judicial consideration of the petition.

We oppose legislation which would add or promote unnecessary delay and repetitious litigation to the criminal justice system. We are also against any measure which would effectively abolish the death penalty, such as H.R. 2851, The Fairness in Death Sentencing Act (formerly entitled the "Racial Justice Act"). This legislation would permit a claim of discrimination based upon a statistical showing on the prosecutor. We believe this statistical approach is unsound and detracts from the traditional criminal justice focus on the particular circumstances of whether the individual committed the charged crime. Finally, we oppose any effort to undermine the non-retroactively rule of *Teague* v. *Lane*, 489 U.S. 288 (1989). Newly established judicial rules are and should be applied during direct review; they should not be applied for the first time on collateral review, as the U.S. Supreme Court has repeatedly recognized.

We also wish to stress that the current habeas corpus reform proposals do not affect the Great Writ in the Constitution. To the contrary, as Justice Powell and others have noted, the reforms involve the non-constitutional post-conviction remedy first adopted by the Congress in 1876. Since habeas corpus reform is a statutory matter, we look to Congress to adopt these reasonable and long overdue reforms. Concomitantly, only Congress has the power to restore reasonableness to and public confidence in our criminal justice system. We urge your action and support for meaningful habeas corpus reform along the lines of the reform provisions contained in H.R. 1400 during this session of Congress.

Sincerely,

Daniel E. Lungren, Attorney General;
John E. Martin, County of Calaveras;
John J. Meehan, County of Alameda;
Henry G. Murdock, County of Alpine;
Larry Dixon, County of Amador;
Michael L. Ramsey, County of Butte;
John R. Poyner, County of Colusa
Mike Nail, President, 1990–91, California District Attorneys Association and District Attorney, Solano County;
Gary T. Yancey, County of Contra Costa;
William A. Cornell II, County of Del Norte;
Walter J. Miller, County of El Dorado;
Edward Hunt, County of Fresno;
Robert Holzapfel, County of Glenn;
Terry R. Farmer, County of Humboldt;
William E. Jaynes, County of Imperial;
L.H. Gibbons, County of Inyo;
Edward R. Jagels, President, 1991–92, California District Attorneys Association, County of Kern;
Garry R. Consalves, County of Kings;
Steve Hedstrom, County of Lake;
Mark Nareau, County of Lassen;
Ira Reiner, County of Los Angeles;
David Minier, County of Madera;
Jerry Herman, County of Marin;
George Griffith, County of Mariposa;
Susan Massini, County of Mendocino
Gordon Spencer, County of Merced;
Ruth Sorensen, County of Modoc;
Stan Eller, County of Mono;
Dean Flippo, County of Monterey;
Anthony Perez, County of Napa;
Mike Ferguson, County of Nevada;
Michael Capizzi, County of Orange;
Paul Richardson, County of Placer;
Mike Crane, County of Plumas;
Grover C. Trask II, County of Riverside;
Steve White, County of Sacramento;
Harry J. Damkar, County of San Benito;
Dennis Kottmeier, County of San Bernardino;
Edwin L. Miller, County of San Diego;
Arlo Smith, County of San Francisco;
John Phillips, County of San Joaquin;
Barry LaBarbera, County of San Luis Obispo;
James P. Fox, County of San Mateo;
Thomas W. Sneddon, Jr., County of Santa Barbara;
George Kennedy, County of Santa Clara;
Arthur Danner, County of Santa Cruz;
Dennis Sheehy, County of Shasta;
Wesley Travis, County of Sierra;
Pete Knoll, County of Siskiyou;
Gene L. Tunney, County of Sonoma;

Donald N. Stahl, County of Stanislaus;
Carl V. Admas, County of Sutter;
Thomas Hilligan, County of Tehama;
David L. Cross, County of Trinity;
Gerald F. Sevier, County of Tulare;
Eric Du Temple, County of Tuolumne;
Michael Bradbury, County of Ventura;
David C. Henderson, County of Yolo; and
Charles O'Rourke, County of Yuba.

THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991

Mr. SPECTER. Mr. President, for the second time in 2 years, we are confronted with complex and technical anticrime legislation reported by a conference committee in the waning hours of a session. The 1990 anticrime bill conference had dropped many of the most contentious provisions even though versions of many of them had passed both Houses. Even though many of the toughest provisions were dropped from last year's bill, I was able to support it. Regrettably, I am unable to support this conference report. In any event, I am opposed to cloture at this time. So that extensive debate is necessary at a minimum.

As far as I am concerned, the core issue on this bill is how we handle Federal intervention in State capital cases, which means that we must make meaningful reform to the process of Federal court review of State death sentences under habeas corpus petitions.

The death penalty is a vital and valuable tool of law enforcement. Based on my long experience as an assistant district attorney and then as district attorney of Philadelphia, I am convinced that the death penalty is a deterrent to violent crime.

Unless and until we make meaningful reform in Federal habeas corpus procedures, however, the imposition of the death penalty will be delayed interminably by Federal judicial intervention. These delays have made the death penalty, the most severe sanction a society can impose, the laughing stock of the criminal justice system. Endless delays in Federal court and the constant bucking of habeas corpus cases between State and Federal judicial systems for as many as 18 years, leads to disrespect for the death penalty and ultimately the entire criminal justice system.

For many years, we have been struggling to reform habeas corpus to make Federal intervention in State criminal convictions fairer, less onerous to the States, and more sensible. I believe that last year the Senate passed a sensible approach when it adopted an amendment I had coauthored with Senator THURMOND. I think that the reforms proposed in that legislation would reduce delay and make the process fairer to petitioners.

First, any reform proposal needs to impose strict time limits on the filing of habeas corpus petitions and on the time for Federal court consideration of these petitions. Both the Specter-Thurmond amendment of last year and the provisions of the Senate-passed habeas reform in S. 1241 this year contained such time limits. Counsel for the petitioners and for the State must be prepared to give these cases priority. It is not too much to demand that counsel be prepared to move forward on these cases with dispatch. Likewise, the courts must be prepared to advance capital habeas petitions to the top of their dockets and to give them the highest priority. Imposing stringent time limits on all actors in the process would go a long way to reducing the delays.

Next, comprehensive and sensible habeas corpus reform ought to mandate or encourage the elimination of State post-conviction proceedings as a prerequisite for getting into Federal court. From personal experience, I do not believe that State postconviction review is ever truly effective. Typically, in Pennsylvania, the matter is heard by the same judge who tried the case and who has already ruled on postverdict motions. Then, the appeal in the State system goes back to State supreme court, which would have already upheld the conviction once. Only one issue typically cannot be raised on direct review, and that is the adequacy of trial counsel.

The answer, it seems to me, is to require or at least encourage States to adopt the unitary review procedure followed by California, in which a convicted defendant files a petition for postconviction relief prior to the direct appeal being heard. During the consideration of this petition, the State trial court may consider a claim of ineffective assistance of counsel. An appeal from a denial of that claim can then be consolidated with the direct appeal.

Allowing Federal intervention after one direct appeal through the State judiciary in which all issues are presented would do away with much of the confusion that exists from the current exhaustion doctrine. No finer example of the ridiculous state of the law on this issue can be found than Peoples versus Castille. In Peoples, a defendant in a noncapital case, raised an issue for the first time in a direct appeal to the Pennsylvania Supreme Court for discretionary review. That court denied review without stating reasons. The defendant then sought habeas relief. The matter went all the way to the Supreme Court, which decided that the claim had not been exhausted because the reasons for the Pennsylvania Supreme Court's denial of review were not stated, thus making it impossible to determine whether the issue had been adjudicated in the State courts. This ping-pong game between State and Federal courts must stop, even if it means encroaching on States' authority to correct the errors of their own courts. In the long run, allowing early Federal intervention, but allowing it only once, will improve rather than detract from Federal-State comity.

After a single appeal through the State judiciary in which all issues are presented for adjudication, a petitioner should get one review through Federal habeas corpus relief at which all issues can be raised. Thus, I do not accept a narrow reading of the Senate-passed bill's preclusion of Federal habeas relief if a claim has received a full and fair adjudication in the State courts. Everyone sentenced to death in a State court is entitled to have all constitutional claims affecting his conviction and sentence fully adjudicated once, but only once, in Federal court.

After a petition for habeas corpus is denied, successive petitions ought not be permitted except for the most compelling reasons, such as newly discovered evidence that undermines the court's confidence in the defendant's guilt, that could not have been obtained at the time of trial through the exercise of due diligence. Successive petitions should be permitted only by leave of the circuit court of appeals.

If we establish tight timeframes for filing petitions and for their consideration and do not allow successive petitions to be filed, one of the most vexing issues becomes much less important. The issue that has caused the greatest amount of debate on this issue is the retroactive applicability of new constitutional rules created by the Supreme Court during the now-lengthy pendency of habeas corpus petitions. Under existing law, it takes years to conclude these proceedings, and courts frequently create new constitutional rights in the interim. In 1989, however, the Supreme Court severely restricted the ability of habeas corpus petitioners to take advantage of new constitutional rights in Teague versus Lane.

Of course, a strict timetable on habeas petitions alleviates this problem. It is unconscionable to carry out the death penalty where that result might be altered had a constitutional right created by an intervening Supreme Court decision been applied. The Specter-Thurmond amendment, which was adopted by the Senate in 1990, struck the right balance.

Finally, if the process is to work smoothly and to ensure a full and fair exposition of all issues at trial, on appeal, and during the presentation of the habeas corpus petition, I believe that comprehensive reform requires that competent counsel be provided to indigent defendants at all stages of the process, from trial through habeas review.

Last year's Specter-Thurmond amendment and my bill this year, S. 19, would have accomplished the goals I have outlined. It represents what I believe to be a commonsense approach to habeas corpus reform. I supported the Senate-passed habeas reform proposal because in most respects I supported its provisions. I was deeply concerned, however, about the restriction of habeas review when an issue had received a full and fair adjudication in the State courts.

I regret not being able to support the habeas reform proposal in the conference report. The conference report does not establish a sufficiently strict timetable for filing the habeas petition. It includes no time limits on Federal court consideration of capital habeas petitions. It would leave the law unclear on successive petitions.

This conference report does not reform the elements of current habeas corpus law that are most in need of reform: the delay and the ping-ponging of cases between State and Federal courts.

Mr. President, I am prepared to keep on trying to reform habeas corpus practice until we get it right. I do not think that this conference report gets it right. Although there are other important issues—some of which I agree with and others of which I disagree—the habeas corpus issue is so important that the bill should be rejected so that we do get it right in reconsideration.

Mr. **GRASSLEY**. Mr. President, despite my high personal regard for my Senate colleagues on both sides of the aisle who worked on this conference report, I rise in strong opposition to the crime bill conference report.

My strong feelings against this product are in no way a commentary against the hard work and effort expended.

Indeed, I regret that I was not permitted to join the conference.

This is not a crime bill, although it is a crime. The majority of the conferees simply adopted whichever body's provision on a particular area was weaker. Just as the Holy Roman Empire was neither holy, Roman, nor an empire, this Crime Control Act has little to do with crime, provides precious little control, and even less action.

The report does skillfully exploit a situation—the end-of-the-session need for the Democrats to pass something for public relations purposes to blunt a Presidential attack on a Congress that is not interested in fighting crime. It would be a cruel hoax to pass this ineffectual bill.

This report fails to protect the first civil right of every American: To be free—in person, in home, and in the neighborhood—from the threat of violent crime. How does this bill fail to do that?

Mr. President, let me count the ways.

There is no reform of Federal habeas corpus procedures. This means that lengthy, spurious, and repetitious claims by inmates will continue to thwart the imposition of valid State death penalties. The fact is—the death penalties supposedly created by one hand of this bill are taken away with the other. Year after year, overzealous lawyers will essentially defeat the death penalty by delaying its imposition, turning a death sentence into a life sentence combined with endless petition filings.

The conferees could have remedied the situation by adopting Senate language that would have provided one chance for habeas corpus, with limited exceptions. The Senate language also would have confined habeas petitions to claims that were not fully and fairly considered by State courts. In addition, the Senate bill would have eliminated the exhaustion of State remedies requirements, permitting Federal courts to dismiss frivolous claims as they arose, rather than seeing the same petition many times until exhaustion was completed.

But the conferees were interested only in the weaker House bill. That bill contained none of these reforms. In fact, the House bill adopted by the conferees is worse than current law. It would permit prisoners to apply new decisions retroactively to their case. No matter how irrelevant or trivial, those cases will produce a flood of new petitions. This is not only unfair from a legal perspective, but it also will lead to prisoners filing new petitions forever. Yogi Berra may have said, "It's never over til it's over," but then he never filed a habeas petition.

Under this bill, habeas corpus will never be over. The convicted criminal will never be stopped from filing petitions, and the criminals' victims and their families will never heal their wounds.

This bill creates no good-faith exception to the judge-made exclusionary rule. An objective good-faith exception to the exclusionary rule would allow reliable evidence—including narcotics seized from a drug trafficker—to be admitted into evidence in a criminal trial. The conferees adopted the weaker Senate version.

As is well known, the exclusionary rule is not a constitutional guarantee. It is a judge-made rule to deter abusive police practices. The overtechnical use of the exclusionary rule has resulted in criminals being set free, not because they are innocent, but because the evidence necessary to convict has been seized by an honest mistake.

There should be room to distinguish between a wholly unreasonable search of one's person or home and the simple and honest mistake—made in good faith—of a law enforcement officer conducting a search under sometimes life-threatening circumstances. that is just common sense.

Once again, the conferees rejected the good House language on this point, and adopted the weaker Senate language. And once again, the conference report is worse than existing law. Under current law, a facially valid warrant is sufficient to trigger the good-faith exception unless the basic provisions are absent. A reviewing court can easily determine if this test, as well as the test of a neutral and detached magistrate, are met.

The conference report is worse because it creates loopholes if the magistrate was intentionally or recklessly misled. Every defendant will claim that the warrant was issued in those circumstances. That claim will require hearings and delay and expense to resolve—to the detriment of our criminal justice system.

Can we really expect—as this report seems to demand—that an officer should crossexamine the issuing judicial officer as to possible deficiencies in the warrant?

The conference report's exclusionary rule excludes the possibility of reform.

The conference report will exclude evidence of confessions. The conference report will exclude so-called coerced confessions even if the error is harmless beyond a reasonable doubt to the issue of guilt.

Once again, the conference report overrules a Supreme Court decision that is tough on crime.

I am not advocating that police beat confessions out of arrestees. That's not the issue here. The concern relates only to police informers in prison cells whose status is not disclosed to the defendant.

The conference report is nonsensical as it relates to guns. The bill makes innocent, law-abiding citizens want to purchase a gun.

At the same time, it is weak on provisions that affect the role and use of guns in the commission of crimes. For instance, the report dropped the Senate provision that would have permitted a penalty increase for possessing a firearm in a crime of violence or drug trafficking. It also dropped the Senate bill's provision that would revoke probation for anyone found in possession of a firearm. Similarly, it rejected the Senate proposal to criminalize the possession of a stolen firearm and it dropped a provision to try juveniles as adults on firearms and drug offenses.

The conference report is weak on the issue of child abuse. It fails to adopt doubled penalties for repeat sex offenders, as well as restitution for victims of sex offenders. It drops a proposed enhanced penalty for offenders who know they are HIV positive and engage in criminal conduct creating a risk of transmission of the virus to the victim.

The conference report does not do enough to protect victims of crime. While it permits victims the right of allocation to the courts at the time of sentencing, the conference report struck a House provision that would have allowed the court, after a hearing, to suspend the defendant's Federal benefits if the defendant was delinquent in making restitution to his victim.

Finally, the conference report contains an objectionable sports lottery provision. It will prohibit all but a few States to have sports lotteries. Why this is in a crime bill I do not know. But it is a terrible piece of legislation.

It grandfathers States that already engage in millions of dollars of legal sports gambling. It violates States rights to enact whatever lotteries they choose. And it comes at a terrible time. States are faced with massive federally mandated spending. They face recession and severe fiscal problems. This bill would interfere with a State's choice as to how it chooses to raise its income.

The one regret I have, Mr. President, is that this bill includes the Antiterrorism Act, which would create civil remedies for American victims of terrorism.

I have been working on this bill for 3 years now, and the Senate has passed it twice. The House included the ATA in their version of the crime bill, and it is included in the conference report. I urge the House to pass the ATA as a separate bill so that the President can sign it into law. It won't become law as part of this so-called crime bill.

In conclusion, Mr. President, this conference report does not offer us a real opportunity to enact a truly tough and effective anticrime package. If anything, it is an anti-anticrime package.

This report is a hollow bill. I urge the President to veto this bill. He should force the Congress to work with him to see to it that real anticrime legislation is enacted and signed into law.

Mr. KOHL. Mr. President, I rise today for several purposes: first, to express my disappointment with the Senate's failure to invoke cloture on the strong anticrime package worked out between the House and the Senate; second, to assure my colleagues that I will continue to work for enactment of this measure; and third, to reiterate my enthusiastic support for the conference provisions on the Brady bill. Like the Senate-passed proposal, the conference report combines the best elements of both the Brady and Staggers approaches.

It is not news to anyone that violent crime has become a fact of life in American cities. For example, last week a woman driving in the District of Columbia was ruthlessly gunned down because a young hoodlum carrying a handgun just "felt like killing someone." The sad fact is that it may be more dangerous to live in America than to serve our country in a foreign war. Less than 300 Americans died during the Persian Gulf conflict, yet 450 people have already been murdered this year in our Nation's Capital.

Mr. President, no single legislative change will make our streets safer. A comprehensive approach is needed—more police, tougher laws, more certain punishment. But while there is no panacea for our crime problem, there is a crucial step we can take today to reduce the carnage. We can enact the provisions of the Senate-passed Brady bill—a mandatory background check and a uniform waiting period of 5 business days for anyone seeking to buy a handgun. Under our proposal, the waiting period would be in effect for at least 2½ years and it could only be repealed when an accurate instant check system is in place that would apply to all firearms purchases. In addition, the measure would authorize $100 million to help States upgrade their computerized criminal records.

In the United States, firearms violence is simply out of control. Guns were responsible for more than 10,000 murders in 1991—a 20-percent increase over 1987. Guns were used in more than 600,000 violent crimes last year. No State is immune to gun-related violence. Last year Wisconsin set a record with more than 200 senseless killings, and most of those murdered were killed with guns.

Mr. President, not all of these weapons were acquired illegally. Indeed, according to the Department of Justice, more than 20 percent of all criminals—roughly 120,000 people a year—obtain their handguns through licensed dealers. That is why the Brady bill is so vital—it would help keep guns out of the hands of criminals and drug traffickers.

But don't just take my word for it; look at who else supports it. Brady has been endorsed by every living President—including former President Reagan. It is supported by every major law enforcement organization. and even the NRA believes it makes sense. Its 1976 publication entitled "On Firearms Control" says:

> A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

The Brady approach also enjoys wide support because of what it would not do—it would not take anyone's guns away. A criminal records check guaranties that lethal weapons are not sold to individuals with track records of dangerous behavior. A waiting period ensures that we let people consumed by violent passion "cool-off." In short, Brady will create little inconvenience to law-abiding gun buyers, but it will help save lives.

The Senate passed the Mitchell-Kohl-Gore amendment to Senator METZENBAUM's Brady bill by a vote of 67–32. The provision which has come out of conference is essentially the Senate bill with technical corrections and few minor changes. It is not a perfect proposal, nor is the crime bill itself perfect—a compromise seldom is. But we do the American people a disservice when we allow the struggle for perfection to become the enemy of the good.

Mr. President, although we did not complete action on this measure today, I will continue to work for enactment of a comprehensive crime package—one that includes the Brady bill.

Mr. SIMPSON. Mr. President, this body, when we passed the Senate crime bill last July, expressed its strong bipartisan concern about the excessive deals in habeas corpus. That is the process by which convicted murderers appeal State court convictions in Federal courts.

In its vote on strong habeas corpus reform, the Senate sent a pretty strong message that truly reflected the will of the American people: That we are sick and tired of the obscene delays in implementing capital punishment.

During the debate, we heard many accounts of the most gruesome and heinous crimes. Instances where the convicted murderer has delayed his execution for many years. That is the injustice that has been forced upon the American people and which the habeas corpus title in the Senate crime bill would have corrected. Now, Mr. President, we are presented with a conference report which is a slap in the face to law-abiding citizens all across this country.

Mr. President, allow me to draw the attention of this body to another provision in this "criminal rights" crime bill: the provision overruling Arizona versus Fulminante regarding so-called coerced confessions.

The average ax murderer on death row now consumes 8 to 10 years in habeas appeals. Besides vicious murderers, there are countless violent rapists and others of that ilk lounging in our prisons thinking of new and creative ways to try and convince an appellate court that they were railroaded or that they are really innocent.

Under the provisions of title VI, each and every one of those who at one time confessed, can now go back and get a new trial. This title defines a "coerced confession" as simply one that was elicited in violation of the 5th and 14th amendments. All a criminal has to do in a habeas petition is "allege" a violation and he will get a new trial.

I urge my colleagues to stop and think of what that can mean. Imagine "Joe the Ax-Murderer" who "confessed" without an attorney present.

Under this title, that could be a coerced confession. Consider also that in Joe's case, he was convicted because there were also two eye witnesses. On his latest of a dozen or so appeals, the court ruled that admission of the confession didn't matter, because there was overwhelming additional evidence of guilt.

That's what the law is today: It's harmless error to allow a jury to hear a so-called coerced confession if there is overwhelming additional evidence of guilt. Title VI in the bill overrules that, and allows Joe the Ax-Murderer to get a new trial.

What if the evidence has been destroyed in the intervening 8 to 10 years? Or what if the witnesses have died or disappeared? If that were to happen, there's a good chance that Joe the ax-murderer will plea bargain to a lesser sentence. He could get credit for time served and even be eligible for parole. Isn't that absurd?

Just whose interests are being served by this bill? Who stands to benefit?

Not the courts: They will be flooded with new habeas petitions alleging a coerced confession!

Not the public: The public will be at risk if even one of these vicious criminals gets out even one second early!

Not the victims or the witnesses: They have to live through still another trial.

Only the criminals benefit from this title—murderers, rapists, and that sort.

And, Mr. President, that is only a single title of this 500-page monstrosity! Think about title III, regarding the exclusionary rule. This version, as I read it, is even worse than we originally thought when we voted on this in the Senate last June.

In 1984, the Supreme Court recognized that there was a good faith exception to the exclusionary rule. The court said that search warrants which later turned out to be technically defective could not be used to throw out a conviction. This exception to the exclusionary rule has been incorporated into the case law of our country.

This bill would codify that into the unchanging—and inflexible—body of our statutory law.

All this appears to take great steps in making a real difference to fight crime, but hold on!

By making this exception part of the statutory law—codified law—the real effect will be to overrule appeals court decisions which have been applying the good faith exception to the exclusionary rule for evidence that was obtained in warrantless searches.

We need to give the police a wider good faith exception to the exclusionary rule: An exception that could be used on evidence that was obtained without a warrant. Law enforcement officials say this is not only a far more common occurrence, but is more productive in waging a successful fight against crime and criminals.

The bill would restrict police discretion—we would be handcuffing the police, not the criminals.

In an attempt to appear to solidify the good faith exception, this bill actually narrows it. The bill gives with one hand, while it snatches away with the other.

The exclusionary rule, grounded in fourth amendment protections, prohibits the use of evidence obtained in "unreasonable" searches and seizures. It does not protect against the use of evidence that has been obtained as the result of a "reasonable" search and seizure.

That is what the Supreme Court has preserved with is definition of the exclusionary rule. The Court declared that evidence obtained under a technically defective warrant—during the course of a reasonable search or seizure—could be used if it was taken in good faith.

Appeals courts have permitted the use of evidence taken reasonably even without a warrant if the police acted in good faith. As the law stands now, evidence obtained in good faith on a warrant is admissible. This legislation will have the effect of prohibiting that evidence.

So again, Mr. President, I ask my colleagues to consider whose interests are being served. I can tell you it's not the interests of the police, the courts, or especially, the American public. This bill is pure and simple a criminal rights bill and I strongly urge its rejection by the Senate.

Mr. ROTH. Mr. President, I rise in opposition to the conference committee report on the crime bill. This so-called crime bill, to quote the words of the President of the National District Attorneys Association, "Does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens."

As the U.S. Department of Justice has pointed out, the conference committee consistently rejected the better option from either the House or Senate crime bills and invariably selected the option most likely to assist criminals and harm law enforcement.

The attorney general of my home State of Delaware, for example, has written me to urge support of the original Senate language regarding habeas corpus reform, and the original House language regarding the Federal death penalty and the exclusionary rule. Unfortunately, the conference committee has done the exact opposite in all three cases.

In short, Mr. President, if this conference committee report were a person, it would be subject to arrest for fraud or for criminal impersonation of an anticrime bill.

The legislation before this body contains habeas reform that in many ways is worse than the current abuse ridden system. The habeas provisions in this bill place new burdens on the States and fail to address the injustices that the existing system of endless litigation and repetitive review inflicts on the families of murder victims and the law-abiding public. This body approved real habeas reform but it was rejected by the conference committee.

While it is true that this legislation provides for the death penalty for a wide range of offenses—which I support—it is also true that this legislation contains provisions that gut the effectiveness of the death penalty. Moreover, this legislation contains no provisions guarding against the obstruction of the Federal death penalty through endless collateral litigation.

Concerning the exclusionary rule, this legislation does nothing to aid law enforcement in its fight against crime. In fact this legislation is more restrictive than existing law and would require the exclusion of more relevant evidence.

This bill also increases the range of cases in which criminal convictions will be reversed on the basis of harmless errors. And it does little to combat rape and child molestation, or to protect the rights of crime victims.

On top of all this, the taxpayers are asked to shell out more than $3 billion in this bill. Perhaps we should add highway robbery to the charge of fraud.

As we all know, an effective criminal justice system requires maintaining public confidence in that system. I believe that this legislation will do great harms to the already low level of public confidence in the system.

For these reasons I urge my colleagues to join me in opposing this legislation.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991

Mr. NUNN. Mr. President, we are here today to decide how this body will address the spiraling problems of drugs, guns, and criminal activity which continue to plague this Nation. From Los Angeles, CA, to Portland, ME; from Detroit, MI, to Macon, GA; drugs and crime threaten us all, our communities, our neighborhoods, and our families.

Only yesterday, Mayor Sharon Pratt Dixon of Washington, DC described the crime problem in our Nation's Capital as a "war of values."

She is exactly right. The fundamental test of any civilized society is its ability to make law-abiding citizens secure in their persons and property, without taking measures that themselves threaten the well-being of law-abiding citizens.

Striking that balance properly is the real challenge we face in enacting any anticrime legislation. While it is hardly perfect, this bill does contribute to the safety of law-abiding citizens without endangering their rights, and merits our support.

We should not, however, mislead the American people into believing this bill will have an immediate impact on crime statistics.

The real day-to-day struggle against crime is not centered in the Federal courts, the Federal prisons, or Federal law enforcement officials, important as they all are. It is in our communities, and in the State and local law enforcement officers who are our front-line troops in the war on crime.

Our role in the war on crime is first to concentrate on those aspects of law enforcement where the Federal Government does play a unique role, such as drug enforcement, interstate criminal investigations, organized crime, many white-collar crimes, and criminal appeals; and then to ensure that we help, not hinder, State and local officials in their particular jurisdictions as much as we can.

The massive bill before us addresses both aspects of the Federal role in law enforcement. This bill represents a tremendous effort on the part of the Judiciary Committee and I commend the members of the committee, and in particular the committee's distinguished chairman, for all of their efforts in attempting to address these often intractable problems.

Without going through the entire bill, I would just like to highlight some of its major provisions. In terms of addressing criminal behavior, this bill provides new minimum penalties for offenses committed with guns, for gun possession by felons, and for theft of guns. It imposes a 5-day waiting period for the purchase of handguns until a national instant check system is developed, and it requires police background checks of gun purchasers in order to keep guns out of the hands of criminals.

The bill includes new efforts to combat gang violence, creates new penalties for terrorist acts, and increases existing penalties for repeat drug offenses, assault, manslaughter, crimes against the elderly, and violent crimes. In addition, the bill expands the Federal death penalty to include such offenses as murder in the course of rape, murder for hire, and drive-by shootings.

In terms of aid to law enforcement, this bill would authorize $1 billion in new aid to local police departments and prosecutors for anti-drug law enforcement efforts, as well as special aid and training for rural police departments. It would create an ROTC-style program to encourage students to serve as police officers, and authorize hundreds of new FBI, DEA, Border Patrol agents, and U.S. attorneys to combat crime and drug trafficking.

In terms of reducing the ability of criminals to abuse the legal process, the bill would codify current rules as annunciated by the Supreme Court to provide for a good faith exception to the exclusionary rule in cases where a search is conducted pursuant to a warrant which later proves defective. In addition, it would limit the number of habeas corpus petitions a death row inmate could file to one, and require that such petition be filed within 1 year.

The bill has been endorsed by organization such as the Fraternal Order of Police, the International Associations of Chiefs of Police, the International Brotherhood of Police Officers, the National Organization of Black Law Enforcement Executives, and the National Association of Police Organizations. All of these groups represent those who are on the front lines of the battle against crime and violence, those whose ability to successful do their jobs is most directly affected by what we do today in this body.

While this is a good bill, it is far from perfect. In this regard I would like to take particular note of concerns expressed by the National District Attorneys Association [NDAA]. The NDAA has raised objections to certain provisions contained in those sections of the bill dealing with the exclusionary rule, habeas corpus reform, and the death penalty.

I have given serious consideration to these objections and I agree with some of their concerns. I particularly agree that the habeas corpus provisions do not sufficiently restrict the much abused process which causes so much delay in our criminal appeals. In the final analysis, however, I believe that there is too much good contained in the close to 500 pages of this bill to let it go down to defeat on the basis of disagreement over a few individual provisions.

The ability to govern is found in the art of compromise. We could reject this bill and attempt to fashion the perfect crime bill—one on which all sides could agree and one which would strike just the right balance on every issue. Yet, as we nobly set about that task, how many more lives would be touched by crime and violence, how many more neighborhood and streets would be lost to those who prey on the innocent?

Let us not delude ourselves. This bill will not end our nation's crime problem. No legislation we pass and no war on crime will ever accomplish this feat. Ultimately, the war on crime depends on the outcome of the "war of values" that Mayor Dixon spoke of so eloquently. The strength of our families, the cohesiveness of our communities, the influence of our religious institutions, and the wisdom of our leaders and educators—these factors will contribute to the war on crime more than all the legislation we could ever enact.

For those upon whom the war of values would be lost, however, we must assure that detection, pursuit and punishment is swift, certain, and severe. That is what I believe this bill accomplishes. It is for that reason that I shall support this bill, and I urge my colleagues to do likewise.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 345, 346, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 473, 475, 476, 477, 478, 479; all nominations placed on the Secretary's desk in the Air Force, Army, and Navy.

I further ask unanimous consent that the Senate proceed to the following nominations reported today by the Committee on Armed Services: Donald C. Fraser, to be Deputy Under Secretary of Defense for Acquisition,

James Roderick Lilley, to be an Assistant Secretary of Defense; and

Victor H. Reis, to be Director of Defense Research and Engineering.

Mr. President, I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Alice M. Batcheler, of Ohio, to be United States Circuit Judge for the Sixth Circuit.

Harold R. DeMoss, Jr., of Texas, to be United States Circuit Judge for the Fifth Circuit.

DEPARTMENT OF STATE

Robert Stephen Pastorino, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

Curtis Warren Kamman, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

George Fleming Jones, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Co-operative Republic of Guyana.

William Edwin Ryerson, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

John R. Davis, Jr., of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Frederick Vreeland, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

John Hubert Kelly, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Jose E. Martinez, of Texas, to be Director of the Trade and Development Program. (New Position)

INTER-AMERICAN FOUNDATION

William Kane Reilly, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994.

EXECUTIVE OFFICE OF THE PRESIDENT

Clair W. Burgener, of California, to be a Member of the Advisory Board for Cuba

Broadcasting for a term expiring October 27, 1994.

AIR FORCE

The following officers for appointment in the United States Air Force to the grade of brigadier general under the provisions of section 624, Title 10 of the United States Code:

To be brigadier general

Col. George P. Cole, Jr. [redacted] Regular Air Force.

Col. Eldon W. Joersz, [redacted] Regular Air Force.

PANAMA CANAL COMMISSION

William Carl, of Texas, to be a Member of the Board of the Panama Canal Commission.

John J. Danilovich, of California, to be a Member of the Board of the Panama Canal Commission.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

John W. Crawford, Jr., of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1996. (Reappointment)

DEPARTMENT OF ENERGY

Leo P. Duffy, of Pennsylvania, to be an Assistant Secretary of Energy (Environmental Restoration and Waste Management).

ARMY

The United States Army National Guard Officer named herein for appointment in the Reserve of the Army of the United States in the grade indicated below, under the provisions of Title 10, United States Code, sections 593(a), 3385 and 3392:

To be major general

Brig. Gen. Nathaniel H. Robb [redacted]

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY

Air Force nominations beginning Clifton D. Daniel, and ending Jack H. Morgan, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Air Force nominations beginning Scotoliff Hector A. Arroyo, and ending Gunther A. Mueller, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Air Force nominations beginning Maj. Michael T. Allen, [redacted] and ending Maj. Earl R. Harrison, Jr [redacted] which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Air Force nominations beginning Ronald M. Adams, and ending Wilbur T. Workman, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Army nominations beginning Charles G. Abbott, and ending Donald J. Copley, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Army nominations beginning James D. Hallums, and ending John H. Grubbs, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Army nominations beginning Bruce A. Adams, and ending Mark E. Zirkelbach, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

Navy nominations beginning Thomas H. Adair, and ending Paul A. Yetmar, which nominations were received by the Senate and appeared in the Congressional Record of October 31, 1991.

Navy nominations beginning Kevin T. Aanestad and ending Kimberly A. Zych, which nominations were received by the Senate and appeared in the Congressional Record of November 15, 1991.

DEPARTMENT OF DEFENSE

Donald C. Fraser, to be Deputy Under Secretary of Defense for Acquisition,

James Roderick Lilley, to be an Assistant Secretary of Defense, and

Victor H. Reis, to be Director of Defense Research and Engineering.

STATEMENT ON THE NOMINATION OF LEO P. DUFFY

Mr. WALLOP. Mr. President, on November 20, 1991, the Committee on Energy and Natural Resources unanimously reported the nomination of Mr. Leo Duffy to be Assistant Secretary for Environmental Restoration and Waste Management for the Department of Energy.

Mr. Duffy has served as the Director for this office since 1989, and has extensive previous experience in the area of hazardous waste cleanup. Prior to joining the Department, he served in several senior managerial positions—vice president and project director, Roy F. Westin, Inc.; general manager, Westinghouse Waste Technology Services Division, Westinghouse Electric Corp.; and manager of EG&G Idaho, Inc. Waste Management Group. Mr. Duffy holds a B.S. degree in mechanical engineering form New York University and attended the Bettis Reactor Design School.

Mr. President, the recent battle in this body over the Federal facilities bill and the impossibility of compliance confronting the Department of Energy with respect to mixed waste underscores the significance of the responsibilities Mr. Duffy is undertaking. He is faced with the formidable task of assessing and mitigating the environmental legacies from an era that was focused almost exclusively on national security.

As our knowledge of the environmental consequences peripheral to the country's defense production has increased, we have recognized that we must make provisions for cleaning up our defense production sites. But a commitment to that endeavor is more than simply throwing a pot of money after the problem. Someone must make intelligent decisions about the extent of the problem, the methods of dealing with it, and the benefits achievable relative to the costs.

The magnitude of the job cannot be underestimated, and I admire Mr. Duffy for being willing to undertake that task. At the same time, as I indicated during the confirmation hearing, I intend to keep a close eye on the progress of this program.

Mr. President, I urge my colleagues to join me in supporting this nomination.

Mr. FORD. Mr. President, I ask unanimous consent that the following nominations be discharged from the Agriculture, Nutrition, and Forestry Committee, and that the Senate proceed to their immediate consideration: Gary C. Byrne, to be a member of the Farm Credit Administration Board, Farm Credit Administration; Charles R. Hilty, to be an Assistant Secretary, Department of Agriculture.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF AGRICULTURE

Gary C. Byrne, to be a Member of the Farm Credit Administration Board, Farm Credit Administration; and

Charles R. Hilty, to be an Assistant Secretary, Department of Agriculture.

Mr. FORD. Mr. President, I ask unanimous consent that the following nominations be discharged from the Committee on Labor and Human Resources, and that the Senate proceed to their immediate consideration: Patrick J. Cleary, to be a member of the National Mediation Board; David Alan Heslop, Marjorie Arsht, and Kenneth H. Bastian, Jr., to be members of the National Advisory Council on Educational Research and Improvement; Barbara J.H. Taylor, and James E. Lyons, to be members of the National Commission on Libraries and Information Science; Ian M. Ross, to be a Member of the National Science Board; Eunice B. Whittlesey, Lisa A. Hembry, and Ruth K. Watanabe, to be members of the National Museum Services Board; and Anne C. Seggerman, Mary M. Raether, and Anthony H. Flack, to be members of the National Council on Disability.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

Patrick J. Cleary, to be a Member of the National Mediation Board;

David Alan Heslop, Marjorie Arsht, and Kenneth H. Bastian, Jr., to be members of the National Advisory Council on Educational Research and Improvement;

Barbara J.H. Taylor and James E. Lyons, to be members of the National Commission on Libraries and Information Science;

Ian M. Ross, to be a member of the National Science Board;

Eunice B. Whittlesey, Lisa A. Hembry, and Ruth K. Watanabe, to be members of the National Museum Services Board; and

Anne C. Seggerman, Mary M. Raether, and Anthony H. Flack, to be members of the National Council on Disability.

Mr. FORD. Mr. President, I ask unanimous consent that all nominations received by the Senate remain in status quo, notwithstanding the provisions of rule XXXI 31, paragraph 6, with the following exceptions: James D. Watkins, Richard T. Kennedy, Jane E. Becker, Ivan Selin to be U.S. Representative and Alternate Representatives to the 35th Session of the General Conference of the International Atomic Energy Agency, Department of State; Karl C. Rove of Texas, to be a Member of the Board for International Broadcasting, for a term expiring April 28, 1991, vice Edward Noonan Ney, term expired; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON REDUCTION IN TRAVEL AND TRANSPORTATION—MESSAGE FROM THE PRESIDENT—PM 98

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Appropriations:

To the Congress of the United States:

In accordance with section 523A of the Treasury, Postal Service and General Government Appropriations Act, 1992, I transmit herewith a report specifying my determination of the uniform percentage necessary to reduce outlays for travel, transportation, and subsistence by $15.7 million. As required by law, this reduction will be applied to all accounts within this appropriations act in FY 1992 with the exception of the Committee for Purchase from the Blind and Other Severely Handicapped. Federal agencies covered by this appropriations act have been instructed to make the required reductions.

GEORGE BUSH.

THE WHITE HOUSE, *November 27, 1991.*

MESSAGES FROM THE HOUSE

At 9 a.m., a message from the House of Representatives, delivered by Mr. Jenkins, one of its clerks, announced that the House agrees to the report of the committee of conference of the Senate to the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, or highway safety programs, and for mass transit programs, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance or naturalization.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WAXMAN, and Mr. LENT as managers of the conference on the part of the House.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, without amendment:

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes; and

S. 2098. An act to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3638. An act making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge; and

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 272. An act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing;

S. 1284. An act to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts;

H.R. 1988. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes;

H.R. 3370. An act to direct the Secretary of the Interior to carry out a study and make recommedations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, Oklahoma;

S.J. Res. 187. Joint resolution to make a technical correction in Public Law 101-549; and

H.J. Res. 346. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 3:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 260. Concurrent resolution providing for an adjournment of the Congress to a date certain.

The message further announced that pursuant to the provisions of section 168(b) of Public Law 102-138, the Speaker appoints Mr. HAMILTON to the British-American Interparliamentary Group on the part of the House.

The message also announced that pursuant to the provisions of section 2702 of 44 United States Code, as amended by Public Law 101-509, the Speaker appoints Mr. Richard F. Fenno, Jr., of Rochester, NY, as a member from private life of the Advisory Committee on the Records of Congress on the part of the House.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 3:47 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 794. An act to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River, and for other purposes;

H.R. 848. An act entitled the "Little Bighorn Battlefield National Monument";

H.J. Res. 201. Joint resolution designating the week beginning December 1, 1991, and the week beginning November 15, 1992, each as "Geography Awareness Week"; and

H.J. Res. 300. Joint resolution designating the month of May 1992 as "National Trauma Awareness Month."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 9:38 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

At 12:00, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3371) to control and prevent violent crime.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950.

At 5:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3595) to delay until September 30, 1992, the issuance of regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 261. A concurrent resolution correcting technical errors in the enrollment of the bill S. 543.

At 7:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution; without amendment:

S. Con. Res. 83. A concurrent resolution to authorize a correction in the enrollment to S. 543.

The message also announced that the House agrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 260) providing for an adjournment of the Congress to a date certain.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent and referred as indicated:

H.R. 1104. An act to declare certain portions of Pelican Island, TX, nonnavigable; to the Committee on Commerce, Science, and Transportation.

H.R. 1592. An act to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit; to the Committee on Energy and Natural Resources.

H.R. 1688. An act entitled the "Omnibus Insular Areas Act of 1991"; to the Committee on Energy and Natural Resources.

H.R. 2141. An act to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2263. An act to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2450. An act to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions; to the Committee on the Judiciary.

H.R. 2502. An act to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2732. To amend title 17, United States Code, with respect to copyright renewal, to reauthorize the National Film Preservation Board, and for other purposes; to the Committee on the Judiciary.

H.R. 2929. An act to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2977. An act to authorize appropriations for public broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3048. An act to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants; to the Committee on the Judiciary.

H.R. 3237. An act to extend the terms of office of members of the Foreign Claims Settlement Commission from 3 to 6 years; to the Committee on the Judiciary.

H.R. 3638. An act making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge; to the Committee on Energy and Natural Resources.

H.R. 3359. An act to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1027), and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3666. An act to amend title 28, United States Code, to provide for an additional place for holding court for the Eastern District of Texas; to the Committee on the Judiciary.

H.R. 3670. An act to make certain technical corrections relating to the immigration laws; to the Committee on the Judiciary.

H.R. 3686. An act to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina; to the Committee on the Judiciary.

H.J. Res. 372. Joint resolution designating December 1, 1991, as "World AIDS Day"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3341. An act to amend the Ethics in Government Act of 1978 with respect to honoraria, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, November 27, 1991, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 272. An act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing;

S. 1284. An act to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts; and

S.J. Res. 187. Joint resolution to make a technical correction in Public Law 101-549.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 353. A bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes (Rept. No. 102-253).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1581. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfer for works prepared under certain cooperative research and development (Rept. No. 102-254).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1623. A bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Donald C. Fraser, of Massachusetts, to be Deputy Under Secretary for Acquisition;

James Roderick Lilley, of Maryland, to be an Assistant Secretary of Defense; and

Victor H. Reis, of the District of Columbia, to be Director of Defense Research and Engineering.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PACKWOOD:

S. 2120. A bill to amend the Internal Revenue Code of 1986 to stimulate economic growth in the United States, and for other purposes; to the Committee on Finance.

By Mr. DURENBERGER:

S. 2121. A bill to establish a policy with respect to corrective action and financial assurance for certain class of facilities under subtitle C of the Solid Waste Disposal Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BENTSEN:

S. 2122. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself and Mr. DURENBERGER):

S. 2123. A bill to provide for enhanced reporting to the public of release of toxic chemicals, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BUMPERS:

S. 2124. A bill entitled the "Ballistic Missile, Nuclear, Chemical, and Biological Weapons Nonproliferation Support Act of 1991"; to the Committee on Foreign Relations.

By Mr. MCCONNELL:

S. 2125. A bill to lift the trade embargo against Vietnam if certain conditions are met; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SPECTER:

S. 2126. A bill to extend the temporary suspension of duties on L-alanyl-L-proline, also known as Ala Pro; to the Committee on Finance.

S. 2127. A bill to suspend temporarily the duty on {3R-{3-alpha(R),4-beta}}-4(acetyloxy)-3-{{(1,1-dimethyl ethyl) dimethyl-siyl}oxy}ethyl}-2-azetidinone; to the Committee on Finance.

S. 2128. A bill to suspend temporarily the duty on 3-chloro peroxybenzoic acid; to the Committee on Finance.

S. 2129. A bill to suspend temporarily the duty on composite vials of timolol maleate/pilocarpine solutions and diluents; to the Committee on Finance.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 2130. A bill to amend title 35, United States Code, to permit separate patent extensions for each product under a patent which is subject to full regulatory review and approval; to the Committee on the Judiciary.

By Mr. RIEGLE:

S. 2131. A bill to repeal section 618 of the Resolution Trust Corporation, Refinancing, Restructuring and Improvement Act of 1991; read the first time.

By Mr. MOYNIHAN:

S. 2132. A bill to require the Administrator of the Environmental Protection Agency to seek ongoing advice from independent experts in ranking relative environmental risks; to conduct the research and monitoring necessary to insure a sound scientific basis for decisionmaking; and to use such information in managing available resources to protect society from the greatest risks to human health, welfare, and ecological resources; to the Committee on Environment and Public Works.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2133. A bill to provide for the economic conversion and diversification of industries in the defense base of the United States that are adversely affected by significant reductions in spending for national defense; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. NUNN (for himself and Mr. FOWLER):

S. 2134. A bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY:

S. 2135. A bill to amend the Federal Food, Drug, and Cosmetic Act to enhance the enforcement authority of the Food and Drug Administration, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CONRAD:

S. 2136. A bill to authorize construction of the northwest area water supply/Fort Berthold integrated water supply project, hereinafter referred to as the "Na chiin Huun-Dakota Project," and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 238. A resolution for Rules Committee report on plan to deal with Senate perquisites; to the Committee on Rules and Administration.

By Mr. CHAFEE (for Mr. HATFIELD):

S. Res. 239. A resolution reauthorizing the Albert Einstein Congressional Fellowship Program; considered and agreed to.

By Mr. FORD (for Mr. BYRD):

S. Res. 240. A resolution to temporarily suspend for the sole and specific purpose of permitting the United States Capitol Preservation Commission and its designated agents to conduct activities in accordance with the purposes of the Commission on such dates and times, and in such manner as determined by the Senate Co-chair of the Commission or his designee; considered and agreed to.

By Mr. FORD (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 241. A resolution to authorize testimony by and representation of former employee of the Senate in United States v. Peter MacDonald, Jr., et al.; considered and agreed to.

By Mr. GARN:

S. Con. Res. 83. A concurrent resolution to authorize a correction in the enrollment of S. 543; considered and agreed to.

By Mr. RIEGLE:

S. Con. Res. 84. A concurrent resolution to correct the enrollment of H.R. 3435, the R.T.C. Funding Bill; considered and agreed to.

By Mr. FORD (for Mr. DECONCINI):

S. Con. Res. 85. A concurrent resolution to correct a technical error in the enrollment of the bill (H.R. 3531), and for other purposes; considered and agreed to.

By Mr. CHAFEE (for Mr. DOLE):

S. Con. Res. 86. A concurrent resolution to correct the enrollment of H.R. 2950; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD:

S. 2120. A bill to amend the Internal Revenue Code of 1986 to stimulate economic growth in the United States, and for other purposes; to the Committee on Finance.

GREATER RECOVERY OPPORTUNITY FOR WORKERS ACT OF 1991

• Mr. PACKWOOD. Mr. President, today I am introducing legislation to help hard-working Americans weather these tough economic times. The sad fact is that the recession is lasting much longer than anyone anticipated.

Americans have had to tighten their belts and dip into savings to get by. Others less fortunate have been laid off and are having difficulty finding work. I am glad we were able to enact legislation this year to extend unemployment benefits for these workers. But more needs to be done.

When Congress returns in January, I believe we should act quickly to enact measures to help our economic recovery. That's why I'm introducing this legislation, the Greater Recovery Opportunities for Workers Act of 1991—known as GrowAmerica.

It seems like everyone in Washington is talking about some kind of tax cut. I think it's time to put some money back into the pockets of hard-working Americans so they can recover from the recession. There are lots of meritorious proposals in the hopper. My bill takes a slightly different approach by giving a 2-year across-the-board 10-percent tax cut for middle-income Americans.

And there a few other things we can do that make sense right now.

First, we should make it easier for small businesses to offer a retirement savings plan to their workers. Today, one of the largest gaps in retirement savings is that of small employees. Less than 20 percent of these workers are covered by an employer-sponsored savings plan. This is because the current pension rules are overly complex. My bill would make it easier for small businesses to offer a retirement savings plan by establishing a new, simplified pension plan, called the PRIME Retirement Account.

Second, Americans should not be penalized for saving. My bill allows people to withdraw money penalty-free from individual retirement accounts and 401k retirement plans for the purchase of a first home, to cover expenses during long periods of unemployment, and to pay for college education and large medical bills.

Third, we should give smaller businesses a little help in modernizing their businesses. My bill doubles the amount of equipment purchases that small businesses can deduct from their taxes and indexes this for inflation.

Finally, I think the time has come to rework the passive-loss rules to make them more equitable for the real estate industry. I am convinced that the passive-loss rules hit the real estate industry too hard and we need to act now to correct this so that the industry can pull out of the tailspin it has been in. When we drafted the passive-loss rules in 1986, we were trying to eliminate tax shelters and we did. We did not intend to hit bona fide losses of someone actively running a business. Unfortunately, that was the effect of the passive-loss rules on the real estate industry. My bill corrects this inequity by allowing those whose primary business is real estate to prove they materially participate in rental real estate activities.

No doubt about it—these ideas cost money. But I think we can afford them through cuts in spending. Changes in Eastern Europe and the Soviet Union make defense cuts feasible in the future. And, if additional revenue is needed, wealthy Americans should be asked to pay a little more in income taxes. Although no one is exempt from a recession, wealthy individuals tend to weather hard economic times better than others.

It's time to put politics and partisan differences aside and work together on responsible tax relief legislation to give hard-working Americans a break.

Mr. President, I ask unanimous consent that a detailed description of my GrowAmerica proposal and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF PACKWOOD GROWAMERICA PROPOSAL

1. Middle-income tax cuts. For 1992 and 1993, the income taxes of middle-income Americans will be cut by 10 percent.

Married couples—filing a joint tax return—will receive a 10-percent tax cut if their taxable income is $40,000 or less. Married couples with taxable incomes between $40,000 and $50,000 will receive a smaller tax cut—10 percent minus 1 percent for each $1,000 of taxable income over $40,000.

Single heads of households will receive a 10-percent tax cut if their taxable income is under $30,000. Single heads of households having taxable income between $30,000 and $40,000 will receive a smaller tax cut—10 percent minus 1 percent for each $1,000 of taxable income over $30,000.

Anyone else will receive a 10-percent tax cut if their taxable income is under $20,000. Those having taxable income between $20,000 and $30,000 will receive a smaller tax cut—10 percent minus 1 percent for each $1,000 of taxable income over $20,000.

2. The PRIME Retirement Account. Beginning in 1992, a new simplified, easy to administer retirement plan—known as the PRIME Retirement Account—will be available for workers employed by small businesses.

Employers with under 100 employees will be able to offer a PRIME Retirement Account to full-time employees—those expected to work at least 1,000 hours a year.

Employees who choose to have a PRIME Retirement Account can make pretax contributions to the PRIME account, through payroll deductions, of up to $3,000 a year.

Employers must match each employee's contribution dollar-for-dollar up to the first 3 percent of compensation—maximum total contribution of $3,000 a year.

Once employee and employer contributions are deposited in the PRIME Retirement Account, the contributions are fully vested and the account operates very much like an individual retirement account.

The PRIME Retirement Account plan does not have the various IRS and ERISA filing requirements and recordkeeping burdens that apply to current law employer sponsored retirement plans, which discourages small businesses from offering a retirement savings plan to their workers.

3. Savings without penalties. Beginning in 1992, Americans will have the option of withdrawing funds penalty free from an individual retirement account or a 401k retirement plan for the following purposes:

Purchase of their first home, or their children's or grandchildren's first home.

College education for themselves and their spouse, children, and grandchildren.

Large medical bills.

Periods of unemployment extending longer than basic unemployment benefits.

Amounts withdrawn because of unemployment may be recontributed within 1 year of reemployment.

4. Expensing for small businesses. Beginning in 1992, the amount of equipment purchases that can be deducted by small businesses in the year of purchase is increased from $10,000—under current law—to $20,000. The $20,000 amount is also indexed for inflation occurring in the future.

5. Passive losses for real estate. Beginning in 1992, individuals whose primary business is in the real estate industry will be allowed to prove that they materially participate in rental real estate activities.

An exemption is made to the current law rule that losses from rental real estate activities are always treated as passive losses, no matter how much work someone does. To qualify for the exemption:

An individual must materially participate in one or more real property trade or business and the time spent so materially participating must be more than one-half of the total time spent working in all trade or businesses.

A closely held corporation must materially participate in one or more real property trade or businesses and more than 50 percent of the corporation's gross receipts must come from such real property trade or businesses.

Those qualifying for the exemption must prove that they materially participate in the rental real estate activity in order to deduct losses from such activities. At the election of the taxpayer, all rental real estate activities of the taxpayer may be aggregated for this determination.

S. 2120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Greater Recovery Opportunity for

Workers Act of 1991", to be known as the "GrowAmerica Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—REDUCTION IN INDIVIDUAL INCOME TAXES

SEC. 101. REDUCTION IN TAX RATES FOR LOW AND MIDDLE INCOME TAXPAYERS FOR 1992 AND 1993.

(a) IN GENERAL.—Part I of subchapter A of chapter 1 (relating to tax on individuals) is amended by inserting after section 3 the following new section:

"SEC. 4. REDUCTION IN INDIVIDUAL INCOME TAXES FOR 1992 AND 1993.

"(a) GENERAL RULE.—In the case of an individual, the tax imposed under section 1 (or any tax imposed in lieu thereof) for any taxable year beginning in 1992 or 1993 (determined without regard to this section) shall be reduced by an amount equal to the applicable percentage of such tax.

"(b) APPLICABLE PERCENTAGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'applicable percentage' means 10 percent, reduced by 1 percentage point for each $1,000 (or any fraction thereof) by which the taxable income of the taxpayer exceeds the applicable limit.

"(2) APPLICABLE LIMIT.—For purposes of paragraph (1), the term 'applicable limit' means—

"(A) $40,000 in the case of a taxpayer to whom section 1(a) applies,

"(B) $30,000 in the case of a taxpayer to whom section 1(b) applies, and

"(C) $20,000 in the case of any other taxpayer.

"(c) SPECIAL RULES.—

"(1) SECTION NOT TO APPLY TO ESTATES AND TRUSTS.—For purposes of this section, the term 'individual' shall not include any estate or trust taxable under section 1.

"(2) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section—

"(A) shall be applied after the application of section 1(h), but

"(B) before the application of any other provision of this title which refers to the amount of the tax imposed by section 1.

"(3) TABLES.—In order to reflect the amount of the reduction in tax under this section for different levels of taxable income, the Secretary may—

"(A) modify the tables under sections 1, 3, and 3402, or

"(B) prescribe such other tables as the Secretary determines necessary."

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 is amended by inserting after the item relating to section 3 the following new item:

"Sec. 4. Reduction in individual income taxes for 1992 and 1993."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SECTION 15 NOT TO APPLY.—The amendments made by this section shall not be treated as a change in rates of tax to which section 15 applies.

TITLE II—SAVINGS INCENTIVES

Subtitle A—Private Retirement Savings

SEC. 201. ESTABLISHMENT OF PRIME RETIREMENT ACCOUNTS FOR EMPLOYEES OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) PRIME ACCOUNTS.—

"(1) IN GENERAL.—For purposes of this title, the term 'prime account' means an individual retirement plan—

"(A) with respect to which the requirements of paragraphs (3), (4), (5), and (6) are met; and

"(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer under which—

"(i) an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the prime account on behalf of the employee, or

"(II) to the employee directly in cash,

"(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $3,000 for any year, and

"(iii) the employer—

"(I) is required to make a matching contribution to the prime account for any year in an amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed 3 percent of compensation, and

"(II) may make no other matching contribution.

"(B) ELIGIBLE EMPLOYER.—For purposes of this subsection, the term 'eligible employer' means an employer who normally employs fewer than 100 employees on any day during the year.

"(C) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or amounts were accrued, for any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

"(ii) SERVICE CREDIT.—A qualified plan maintained by an employer shall provide that, in computing the accrued benefit of any employee, no credit shall be given for service during a year for which such employee was eligible to participate in a qualified salary reduction arrangement of such employer.

"(iii) QUALIFIED PLAN.—For purposes of this subparagraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(D) NO FEE OR PENALTY ON EMPLOYEE'S INITIAL INVESTMENT DETERMINATION.—An arrangement shall not be treated as a qualified salary reduction arrangement unless it provides that no fee or penalty will be imposed on an employee's initial determination with respect to the investment of any contribution.

"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a prime account if the employee's rights to any contribution to the prime account are nonforfeitable. For purposes of this paragraph, the rules of subsection (k)(4) shall apply.

"(4) PARTICIPATION REQUIREMENTS.—The requirements of this paragraph are met with respect to any prime account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who are reasonably expected to work at least 1,000 hours during such year are eligible to make the election under paragraph (2)(A)(i).

"(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any prime account if, under the qualified salary reduction arrangement—

"(A) an employer must make the elective employer contributions under paragraph (2)(A)(i) and the employer matching contributions under paragraph (2)(A)(iii) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made,

"(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so elects, the employee may not elect to resume participation until the beginning of the next year, and

"(C) each employee eligible to participate—

"(i) may elect, during the 60-day period before the beginning of any year, to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year, and

"(ii) may elect, within 30 days of commencing employment during any year, to participate in the arrangement.

"(6) SPOUSAL CONSENT.—The requirements of this paragraph are met if requirements similar to the requirements of section 401(a)(11) are met. For purposes of applying section 401(a)(11)(B)(iii), the arrangement shall be treated in the same manner as a defined contribution plan.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).

"(B) YEAR.—The term 'year' means the calendar year."

(b) PRIME ACCOUNTS NOT TREATED AS PENSION PLANS.—Notwithstanding any other provision of law, a prime account or qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986 shall not be treated as an employee benefit plan or pension plan for purposes of the Employee Retirement Income Security Act of 1974.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 202. TAX TREATMENT OF PRIME ACCOUNTS.

(a) DEDUCTIBILITY OF CONTRIBUTIONS.—

(1) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR PRIME ACCOUNTS.—This section shall not apply with respect to any amount contributed to a prime account established under section 408(p)."

(2) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (iv) and by adding at the end thereof the following new clause:

"(vi) any prime account (within the meaning of section 408(p)), or".

(b) CONTRIBUTIONS AND DISTRIBUTIONS.—

(1) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end thereof the following new subsection:

"(k) TREATMENT OF PRIME ACCOUNTS.—The rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a prime account under section 408(p)."

(2) Section 408(d)(3) is amended by adding at the end thereof the following new subparagraph:

"(G) PRIME ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a prime account (as defined in section 408(p)) unless it is paid into another prime account."

(3) Clause (i) of section 457(c)(2)(B) is amended by striking "section 402(h)(1)(B)" and inserting "section 402(h)(1)(B) or (k)".

(c) PENALTIES.—

(1) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR PRIME ACCOUNTS.—In the case of any amount received from a prime account (within the meaning of section 408(p)) during the 3-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2), paragraph (1) shall be applied by substituting '25 percent' for '10 percent'."

(2) FAILURES TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) PENALTIES RELATING TO PRIME ACCOUNTS.—

"(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $100 for each day on which such failures continue.

"(2) TRUSTEE PENALTIES.—A trustee who fails—

"(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $100 for each day on which such failures continue, or

"(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $100 for each day on which such failures continue."

(d) REPORTING REQUIREMENTS.—

(1)(A) Section 408(l) is amended by adding at the end thereof the following new paragraph:

"(2) PRIME ACCOUNTS.—

"(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

"(B) SUMMARY DESCRIPTION.—The trustee of any prime account established pursuant to a qualified salary reduction arrangement under subsection (p) shall prepare, and provide to the employer maintaining the arrangement, each year a description containing the following information:

"(i) The name and address of the employer and the trustee.

"(ii) The requirements for eligibility for participation.

"(iii) The benefits provided with respect to the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals from the arrangement.

"(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B)."

(B) Section 408(l) is amended by striking "An employer" and inserting—

"(1) IN GENERAL.—An employer".

(2) Section 408(i) is amended by adding at the end the following new flush sentence:

"In the case of a prime account under subsection (p), only one report under this subsection shall be required to be submitted to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar quarter, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar quarter."

(e) CONFORMING AMENDMENTS.—

(1) Section 280G(b)(6) is amended by striking the "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or" and by adding after subparagraph (C) the following new subparagraph:

"(D) a prime account described in section 408(p)."

(2) Section 402(g)(3) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any employer contribution under section 408(p)(2)(A)."

(3) Subsections (b) and (c) of section 414 are each amended by inserting "408(p)," after "408(k),".

(4)(A) Section 415(a)(2) is amended by striking "or" at the end of subparagraph (B), by inserting "or" at the end of subparagraph (C), and by adding after subparagraph (C) the following new subparagraph:

"(D) a prime account described in section 408(p),"

(B) Section 415(a)(2) is amended—

(i) by striking "or pension" and inserting "pension, or account", and

(ii) by striking "or 408(k)" and inserting "408(k), or 408(p)".

(C) The second last sentence of section 415(c)(2) is amended—

(i) by inserting a comma after "408(d)(3))", and

(ii) by inserting ", and without regard to contributions to a prime account which are excludable from gross income under section 408(p)" after "408(k)(6)".

(D) Section 415(e)(5) is amended by inserting "or prime account" after "simplified employee pension".

(E) Section 415(k)(1) is amended by striking "or" at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ", or", and by inserting after subparagraph (F) the following new subparagraph:

"(G) a prime account described in section 408(p)."

(5) Section 4972(d)(1)(A) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding after clause (iii) the following new clause:

"(iv) any prime account (within the meaning of section 408(p))."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Savings Without Penalties

SEC. 211. PENALTY-FREE DISTRIBUTIONS FROM CERTAIN RETIREMENT PLANS.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES OR DURING PERIODS OF UNEMPLOYMENT.—

"(i) IN GENERAL.—Distributions to an individual from an eligible individual retirement arrangement—

"(I) which are qualified first-time homebuyer distributions (as defined in paragraph (7)),

"(II) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (8)) of the taxpayer for the taxable year, or

"(III) which are made during a period of involuntary unemployment described in paragraph (9).

"(ii) DISTRIBUTIONS MAY BE INCREASED TO REFLECT TAX LIABILITY.—The amount of distributions to which subclause (I) or (II) of clause (i) apply for any taxable year shall be increased by other distributions to the extent that the amount of such other distributions does not exceed the product of—

"(I) the amount determined under subclause (I) or (II) of clause (i) (without regard to this clause), multiplied by

"(II) the highest rate of tax applicable to the taxpayer under section 1.

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) TECHNICAL AMENDMENT.—Section 72(t)(2)(B) is amended by inserting "and without regard to any amounts includible in gross income for such taxable year by reason of such distributions" after "taxable year".

(c) DEFINITIONS.—Section 72(t), as amended by section 202, is amended by adding at the end thereof the following new paragraphs:

"(7) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)(I)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the child or grandchild of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—

"(I) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(II) ROLLOVER CASES EXCLUDED.—An individual shall not be treated as a first-time homebuyer if the residence acquired is treated as a new residence for purposes of section 1034. This subclause shall not apply if the individual elects not to treat the residence as a new residence for purposes of section 1034.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in subparagraph (A), and

"(ii) by reason of a delay in the acquisition of the residence, the requirements of subparagraph (A) cannot be met,

the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(8) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(i)(II)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH OTHER PROVISIONS.—

"(i) REIMBURSED EXPENSES.—No amount shall be treated as qualified higher education expenses if a scholarship or grant is received for such expenses or such expenses are otherwise reimbursed to the taxpayer.

"(ii) SAVINGS BONDS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.

"(9) PERIOD OF INVOLUNTARY UNEMPLOYMENT.—For purposes of paragraph (2)(D)(i)(III)—

"(A) IN GENERAL.—The term 'period of involuntary unemployment' means the consecutive period beginning on the 180th day after an individual becomes unemployed and ending with the date on which the individual begins any employment which would disqualify the individual from receiving unemployment compensation.

"(B) EMPLOYEE MAY RECONTRIBUTE AMOUNT WITHDRAWN.—For purposes of this title, if, during the 1-year period following the close of any period of involuntary unemployment, an employee makes 1 or more contributions to eligible individual retirement arrangements in amounts not greater than amounts to which paragraph (2)(D)(i)(III) applied during the period of involuntary unemployment—

"(i) the employee may elect to treat such contributions (or any portion thereof) as recontributions of the amounts withdrawn,

"(ii) such contributions shall not be taken into account in determining any excess contributions of the taxpayer, and

"(iii) in the case of any deduction or exclusion with respect to contributions for which an election is made under clause (i)—

"(I) such deduction or exclusion shall only be allowed for contributions with respect to which the amount withdrawn was included in gross income, and

"(II) any limitation on the amount of such deduction or exclusion shall be increased by the amount of contributions described in subclause (I).

The Secretary may issue such regulations as may be necessary to carry out the provisions of this subparagraph, including additional reporting requirements to ensure compliance with such provisions.

"(C) UNEMPLOYMENT COMPENSATION.—For purposes of this paragraph, the term 'unemployment compensation' has the meaning given such term by section 85(b).

"(10) ELIGIBLE INDIVIDUAL RETIREMENT ARRANGEMENT.—For purposes of this subsection, the term 'eligible individual retirement arrangement' means—

"(A) an individual retirement plan,

"(B) a qualified cash or deferred arrangement (as defined in section 401(k)),

"(C) an annuity contract described in section 403(b) purchased under a salary reduction agreement (within the meaning of section 3121(a)(5)(D)), or

"(D) an arrangement described in section 501(c)(18)(D)."

(d) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(7)), distributions for qualified higher education expenses (as defined in section 72(t)(8)), or distributions during a period of involuntary unemployment (as defined in section 72(t)(9)), are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified first-time homebuyer distributions (as defined in section 72(t)(7)), for the payment of qualified higher education expenses (as defined in section 72(t)(8)), or for distributions during a period of involuntary unemployment (as defined in section 72(t)(9))."

(3) Section 1034(l) is amended by inserting "(1)" before "For" and by inserting at the end the following new paragraph:

"(2) For election not to have section apply, see section 72(t)(7)(C)(i)(II)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after the date of the enactment of this Act.

TITLE III—ADDITIONAL ECONOMIC GROWTH INCENTIVES

SEC. 301. INCREASE IN AMOUNT OF DEPRECIABLE ASSETS WHICH MAY BE EXPENSED.

(a) IN GENERAL.—Section 179(b)(1) (relating to dollar limitation on election to expense certain depreciable assets) is amended to read as follows:

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $20,000.

"(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, the dollar amount under subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment under section (1)(f)(3) for the calendar year in which the taxable year begins, determined by substituting '1991' for '1989' in subparagraph (B) thereof."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 1991, in taxable years ending after such date.

SEC. 302. APPLICATION OF PASSIVE LOSS RULES TO RENTAL REAL ESTATE ACTIVITIES.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Section 469(c) (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS.—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(C) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee (other than as an owner-employee) shall not be treated as performed in real property trades or businesses."

(b) CONFORMING AMENDMENT.—Section 469(c)(2) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

By Mr. LAUTENBERG (for himself and Mr. DURENBERGER):

S. 2123. A bill to provide for enhanced reporting to the public of releases of toxic chemicals, and for other purposes; to the Committee on Environment and Public Works.

RIGHT TO KNOW MORE ACT OF 1991

• Mr. LAUTENBERG. Mr. President, today, along with Senator DURENBERGER, I am introducing the Right to Know More Act of 1991, a bill that provides enhanced reporting to the public of releases of pollutants into the environment.

Mr. President, in 1986, I worked long and hard for the enactment of this reporting program. My goal was clear: to give the citizens of this Nation the right to know what pollutants were being released into the environment.

My goal today is just as simple: to provide a right to know more.

Representatives of industry, the environmental community, and the administration agree—the right-to-know program is moving the Nation forward in the effort to achieve a cleaner environment.

The most recent data, released earlier this year by EPA, showed decreases in reported releases and transfers of right-to-know chemicals into the environment. This is further evidence that the law can encourage voluntary emission reductions and pollution prevention.

We knew in 1986 that we could enhance the benefits of right to know by covering more facilities and more chemicals. That's why we provided EPA with the power to do so in the 1986 law. We are now in the fifth year of the right-to-know program.

But EPA has not taken steps to require additional types of facilities to report under the law. And it has required emissions data on only an additional 16 chemicals.

EPA's inaction denies industry, the public, the Government, and the Nation as a whole the greater benefits possible under right to know. For example, the recent Clean Air amendments require 189 chemicals to be regulated as air toxics; 16 of these chemicals are not covered by the current right-to-know reporting requirements.

There are additional chemicals currently regulated under other Federal and State laws which are not subject to the reporting requirements.

As a recent report by environmentalists showed, facilities that fall outside the right-to-know requirements contribute to the Nation's pollution problems.

The 1986 right-to-know law took an important first step. Congress provided EPA with initial mandates about types of facilities and specific chemicals. But recognizing that the program would require some startup time, Congress deferred to EPA to take the next steps. EPA's inaction, coupled with the clear benefits of the right-to-know program, convince us that it is time to expand the law. The public has a right to know more.

On June 6, 1991, I, along with Senator DURENBERGER, directed staff to circulate a discussion draft of legislation that would expand the emissions reporting requirements of the current law. The thrust of this draft was to require reporting on more chemicals and by other types of facilities. The additional chemicals the discussion draft included were primarily substances listed under other environmental programs.

The discussion draft was circulated to various interested parties—representatives from industry, environmentalists, the administration, States, and others. On June 27, 1991, the Subcommittee on Superfund, Ocean and Water Protection, which I chair, held a hearing on the discussion draft and the expansion of the right-to-know program. The hearing gave us an opportunity to hear the views of some of these parties about right-to-know expansion and the discussion draft. In addition, at the hearing I welcomed additional comments from other interested parties.

Generally speaking both GAO's June report and testimony, as well as the report by environmentalists and their testimony, lent strong support for expanding the coverage of the right-to-know program. Although comments from industry as well as EPA raised questions about the specific proposals in the discussion draft, what was generally lacking in the criticism of the draft was concrete alternative proposals aimed at achieving the same goals of more comprehensive reporting. Although EPA indicated it would be completing analyses of factors relevant to the expansion of right to know, as of this date we have not received any such analyses.

In some of the comments, however, a strong case was made for providing a mechanism for giving industry an incentive to reduce emissions of chemicals that presented higher relative risks than other alternative substances. The bill therefore in addition to the current reporting requirements imposed on EPA under the current law and the other additional requirements of the legislation, adds a provision requiring EPA to the extent practicable, to categorize chemicals by relative hazard or to rank chemicals by hazard within a category of chemicals. This provision is based on section 112(g) of the Clean Air Act as revised in 1990. This section requires EPA to rank hazards of air toxics. EPA would exclude increases in emissions of an air toxic from being classified as a "modification" if it is offset by an equal or greater decrease of emissions of another air toxic which is ranked by EPA as being more hazardous.

This idea is incorporated into the bill to differentiate between hazards posed by the expanded list of chemicals which would be subject to reporting. The right-to-know and pollution prevention programs are designed to encourage decreases in the emissions and generation of toxic chemicals. But to the degree that different chemicals present different relative risks, and a manufacturer can choose between using a lower-risk substance, we should not discourage the more environmentally sound choice. This is not to say that the release of any substance covered by this law would be welcomed. But where the manufacturer can legally emit a substance, and where reporting requirements can be designed to encourage emissions that are more protective of the health and environment, we are attempting to accomplish this goal.

In addition, the bill addresses mass accounting. Mass accounting involves data about the use of toxic chemicals in industrial facilities and the generation of pollution to determine the efficiencies of use of toxic chemicals. Mass accounting can enhance pollution prevention efforts, lead to improved reporting under the right-to-know program and the Pollution Prevention Act, as well as stimulated companies to reduce their use of toxic chemicals.

Identifying the relative efficiency of the use of toxic chemicals by an industrial operation is valuable for pollution prevention efforts. It identifies less efficient operations that may need additional pollution prevention efforts. This will allow pollution prevention officials to identify priorities for pollution prevention efforts.

Mass accounting allows Federal and State agencies as well as industries to make more accurate toxic chemical release and toxic pollution generation reports. Officials can relate use data to pollution generation and release information to assist in determining the accuracy of the generation and release information.

Mass accounting information also provides information about the amount of toxic chemicals stored at the facility during the year and present in the product manufactured at the facility. This may help to reduce accidents involving toxic materials, worker exposure to toxic materials, and consumer exposure to products containing toxics.

I first authored provisions on mass accounting in the original right-to-know measures passed in the Senate in 1985. That provision was based on the New Jersey program, which has required facilities to report on their use of toxic chemicals as part of its right-to-know program, enacted in 1983. Although the Senate passed my mass accounting provision as part of the overall right to know and emergency planning legislation I authorized, due to pressure from the House, the mass accounting requirement was dropped in conference. Instead, the National Academy of Sciences was required to prepare a report on the utility of mass accounting.

That report, which was released earlier this year, concluded that mass accounting relies on information which is routinely collected. Moreover the report concluded that mass accounting can help identify waste reduction progress at individual facilities, can help guide additional reduction techniques, and could be useful for assessing the reasonableness of reported released estimates. The report cited the New Jersey experience as a basis for its conclusions.

A few months ago, New Jersey passed the Pollution Prevention Act, which expanded the original New Jersey requirement by mandating that facilities report on their use of chemicals and generation of toxic pollutants not only at a facility-wide level, but also on a targeted production process level. This requires the New Jersey Department of Environmental Protection and Energy to develop criteria for determining which production processes should report mass accounting information. Having use and generation data at each targeted production level will provide a better level of precision than reporting on a facility-wide basis for facilities with numerous production processes.

The discussion draft of the Federal Right To Know More Act included a facility-wide mass accounting provision taken from the 1985 Senate passed measure to which I have referred. In light of the New Jersey experience, I decided to expand this provision along the lines of the New Jersey approach.

The mass accounting provisions in the bill are based on the new New Jersey Pollution Prevention Act. This State law was widely hailed by both environmentalists and industry as an effective mechanism of reducing toxic pollution. It also included provisions to require industry to prepare pollution prevention plans. I have consponsored S. 716, which was introduced by Senator LIEBERMAN, and which contains a pollution planning requirement. I look forward to working with Senator LIEBERMAN in moving this measure forward.

Testimony in the hearing raised some concerns from industry, which we heard during the 1985-86 drafting of the original right-to-know program, about the impact of mass accounting on the confidentiality of business information. This concern is addressed in two ways. First, the bill makes the trade secrets provisions from the right-to-know law applicable to information reported under the legislation. Second, as was the case with the New Jersey law, to protect confidential business information, the bill requires use information at the targeted production process level to be reported on a per unit of production basis. This masks the total amount of toxic chemicals and the level of production at the production line.

Another modification that I made to the discussion draft relates to the newly created release-transfer threshold for reporting. In addition to the thresholds currently in the law, the discussion draft proposed a threshold based on the release of chemicals to the environment or to an offsite facility. The discussion draft sought comments on the actual numerical threshold. Staff discussions with representatives from the environmental community showed some interest in pursuing the levels of 100 pounds per year for metals and metal compounds, and 2,000 pounds per year for the other chemicals subject to reporting under the bill. These were the thresholds used in the House bill H.R. 2880, the right-to-know expansion provisions of which were modeled on our discussion draft.

Seeing some value in developing additional information on the thresholds as well as the need to make sure thresholds are promptly in place, I modified the discussion draft based on the approach we took in section 302 of the Emergency Planning and Community Right to Know Act. The net result is that the bill requires facilities to report if they discharge into the environment or transfer to offsite facilities amounts of the expanded list of chemicals—that is the current section 313 chemicals and those chemicals added by this act—greater than a threshold set by EPA within 90 days of enactment. EPA would be required to use the criteria currently in section 313(d)(2) for listing and delisting chemicals to set such new thresholds, and could set such thresholds based on classes of chemicals or categories of facilities. Failure to publish an interim final rule within 90 days setting such thresholds would result in the immediate application of the previously noted legislatively mandated thresholds—100 pounds per year for metals or metal compounds; 2,000 pounds per year for other chemicals.

Another modification to the discussion draft responds to the concern about how quickly the new reporting requirements would take effect, a concern that was voiced by both EPA and industry. The discussion draft was generally effective upon enactment. But the bill as modified will not become generally effective until the submission of forms for calender year 1993, which is required on or before July 1, 1994. This will allow one complete reporting cycle to pass before the new measures take effect. In the case of the requirements relating to targeted production process reporting, these will not take effect until the July 1, 1995 submission of forms, following the requirement for EPA to develop the regulation on targeting criteria. In the case of the chemicals listed pursuant to section 3(a)(3)(F) and (H), subject to the conditions articulate in section 3(a)(4), these would not be subject to reporting requirements until calender year 1994, with the submission of forms required on or before July 1, 1995, unless such chemicals are delisted prior to the application of the reporting requirements.

A final issue raised in the discussion draft was the notion of some kind of national security waiver potentially applicable to Federal facilities, all of which are explicitly subjected to right to know reporting requirements under this bill. Although we received no specific comment on what was essentially just a section heading raising this issue in the discussion draft, I added language to allow the President to waive compliance with reporting requirements only if the President determines the waiver is necessary in the paramount interest of the United States. This provision, which is modeled on section 6001 of the Solid Waste Disposal Act, is meant to create an extremely heavy burden to achieve such a waiver. The provision makes such waivers expire after each reporting period, and requires the President to make new determinations each time such a waiver is sought. In addition, the provision requires Federal Register notice each time a waiver is granted. It also allows any person to petition for review of a waiver decision, and requires the President to act on such a petition within 45 days, including publishing such action, along with reasons for such action, in the Federal Register.

Federal facilities should be treated essentially the same as private facilities under the right-to-know program, and with the very narrow paramount interest waiver I have drafted, I believe this goal will be achieved by the bill.

Finally, I would like to note section 5 of the bill, which requires EPA to establish and implement a grants program, aimed at assisting States, and particularly local entities, in implementing the requirements of the Emergency Planning and Community Right to Know Act, as well as the bill itself. This grants provision is modeled on a similar provision I authored in the fiscal year 1988 Senate appropriations bill for the Department of Housing and Urban Development—Independent Agencies, H.R. 2783. This provision, which was adopted in committee, and passed by the Senate, was aimed at helping our States and localities get the job done on emergency planning and right to know. Unfortunately, during conference the House succeeded in deleting this provision. But I am hopeful that we can successfully pursue such a program in this new legislation.

Mr. President, in putting together this bill we have tried to take account of the concerns that were raised by the interested parties from all sides. As is often the case in drafting legislation, it is difficult to accomodate fully all the positions that are advocated. When and if EPA finishes the promised analysis to which I previously referred, we will certainly want to examine it. In addition, should the introduction of this bill prompt more in industry to develop concrete alternative proposals to the bill's provisions, we will take a close look at them. And should the environmentalists and others have additional ideas on ways to improve the measure, our minds and doors are open to all good ideas.

Mr. President, as the Senate author of the original right-to-know law, I am eager now to advance improvements to that program. I look forward to working with Senator DURENBERGER, as well as the other Members of the Committee on Environment and Public Works to move the measure forward. In addition, I look forward to continued collaboration with Congressman SIKORSKI, who as previously noted, has modeled the right-to-know provisions of H.R. 2880, on the discussion draft we used to develop the bill today.

As the Committee on Environment and Public Works considers the reauthorization of the Resource Conservation and Recovery Act, I look forward to working with Senator BAUCUS and others on the committee to incorporate the bill in that vehicle, and to reviewing carefully any additional ideas on how to improve the measure.

Mr. President, I ask unanimous consent that a section-by-section analysis, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Right to Know More Act of 1991".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "byproduct" means all chemicals that are subject to the reporting requirements under this Act, and that enter any waste stream (or are otherwise released into the environment) prior to recycling, treatment, or disposal.

(3) The term "environment" has the meaning given such term under section 329(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11049(2)).

(4) The term "facility" means all buildings, equipment, structures, and other items which are located on a single site or contiguous or adjacent sites and which are owned or operated by the same person (or by a person which controls, is controlled by, or under common control with, such person). For the purposes of this Act, the term includes any Federal facility and any facility used in the transportation of chemicals and storage incident to such transportation, including any facility used in the transportation of natural gas.

(5) The term "Federal facility" means any facility owned or operated by a department, agency, or instrumentality of the United States.

(6) The term "offsite waste management facility" shall include any facility that recycles waste chemicals or burns such chemicals as a fuel.

(7) The term "release" has the meaning given such term under section 329(8) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11049(8)).

(8) The term "toxic chemical" means a substance on the list described in section 313(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(c)).

(9) The term "person" has the meaning given such term under section 329(7) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11049(7)).

(10) the term "SIC codes" refers to the 2-digit code numbers used for classification of economic activity in the Standard Industrial Classification Manual.

SEC. 3. RIGHT TO KNOW MORE.

(a) SUPPLEMENTAL REPORT TO TOXIC RELEASE INVENTORY.—

(1) IN GENERAL.—(A) Subject to subsection (e) of this section, and except as provided in subsection (a)(4) and subsection (d)(4), notwithstanding any other provision of law, each owner or operator of a facility subject to the requirements of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) that meets the applicable requirements of paragraph (2) of this subsection shall include, with each such filing (beginning with the submission of forms for calendar year 1993 that is required on or before July 1, 1994), comparable supplemental information.

(B) The comparable supplemental information described in subparagraph (A) shall be submitted in the same manner and in a format substantially similar to the format of the form required under such section 313 (as determined by the Administrator) with respect to releases and transfers from such facility of any chemical—

(i) described in paragraph (3) of this subsection if such chemical is not otherwise listed pursuant to such section 313; or

(ii) listed pursuant to such section 313 with respect to which—

(I) an owner or operator of a facility does not use, manufacture, or process (as described in such section 313) at a level that meets the applicable threshold requirement for reporting under such section 313 (as described in regulations promulgated pursuant to such section 313); but

(II) releases to the environment or transfers to an offsite facility in an amount described in paragraph (2)(B).

(2) CHEMICALS SUBJECT TO REPORTING.—(A) Notwithstanding any other provision of law, with respect to any chemical described in paragraph (3), any facility that—

(i) uses, manufactures, or processes (as described in such section 313) the chemical at a level that meets the applicable threshold requirement for reporting under such section 313 (as described in regulations promulgated pursuant to such section 313); or

(ii) releases to the environment or transfers to an offsite facility any such chemical in an amount described in subparagraph (B),

shall be required to submit a supplemental report under this subsection.

(B)(i) Within 90 days after the date of the enactment of this Act, the Administrator shall—

(I) publish an interim final regulation that establishes a threshold quantity for releases to the environment or transfers to an offsite facility for each chemical subject to reporting requirements under this Act, taking into account the criteria described in section 313(d)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)(2)); and

(II) initiate a rulemaking in order to publish final regulations that establish such a threshold quantity for each such chemical.

(ii) At the Administrator's discretion, such threshold quantities may be based on classes of chemicals or categories of facilities.

(iii) If the Administrator fails to publish an interim final regulation that establishes such a threshold quantity for a chemical subject to reporting under this Act within 90 days after the date of the enactment of this Act, in the case of a metal or metal compound, the threshold quantity for the chemical shall be 100 pounds per year, and in the case of any other chemical, such threshold quantity shall be equal to 2,000 pounds per year.

(iv) The Administrator may revise such threshold quantities under this subparagraph from time to time. Any such revision shall take into account the criteria of section 313(d)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)(2)).

(3) DESCRIPTION OF CHEMICALS.—The chemicals described in this paragraph are the following:

(A) Priority pollutants listed under regulations relating to steam electric power point source pollutants under the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.) (as listed in Appendix A of section 423 of title 40, Code of Federal Regulations, as in effect on the day before the date of the enactment of this Act, subject to any subsequent modifications of the list).

(B) Certain hazardous wastes identified and listed under regulations promulgated under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (as listed in sections 261.33(e), 261.33(f), and Appendix VIII of part 261 of title 40, Code of Regulations, as in effect on the date of the enactment of this Act, subject to any subsequent modifications of the lists).

(C) Any chemical listed under section 112(b)(1), 112(r)(3), 602(a), or 602(b) of the Clean Air Act (42 U.S.C. 7412(b)(1), 42 U.S.C. 7412(r)(3), 42 U.S.C. 7671a(a), and 42 U.S.C. 7671(b), respectively).

(D) A pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 (u))—

(i) with respect to which the registration has been denied, cancelled (including voluntary cancellation following the Special Review process, as described in part 154 of title 40, Code of Federal Regulations, as in effect on the day before the date of the enactment of this Act), or is under suspension;

(ii) that is undergoing Special Review (as described in clause (i)) or is undergoing other administrative review (including for cancellation of use pursuant to section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d)); or

(iii) that is classified as a restricted use pesticide under section 3(d)(1) of such Act (7 U.S.C. 136a(d)(1)).

(E) Chemicals listed under certain regulations and proposed regulations under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) for which maximum contaminant levels have been proposed or promulgated, as listed—

(i) under section 141.11, 141.12, 141.51, or 141.61 of title 40, Code of Federal Regulations, (as in effect on the day before the date of the enactment of this Act, subject to any subsequent modifications); or

(ii) in the proposed regulations relating to national primary drinking water regulations published at 55 Federal Register 30370 on July 25, 1990, and at 54 Federal Register 22062 on May 22, 1989.

(F) Subject to paragraph (4) of this subsection, chemicals identified by the Carcinogen Assessment Group of the Environmental Protection Agency, the International Agency for Research on Cancer, or the National Toxicology Program as a known or probable human carcinogen.

(G) Extremely hazardous substances listed pursuant to section 302(a)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11002(a)(2)).

(H) Subject to paragraph (4) of this subsection, chemicals listed in 90 California Regulatory Notice Register 990 (July 1990) as reproductive toxins.

(4) CONDITIONS FOR SPECIFIED LISTS.—Any chemical described in subparagraph (F) or (H) of paragraph (3) of this subsection that is not otherwise listed pursuant to such paragraph (3) or section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023), shall be subject to the reporting requirements under this Act beginning with the submission of forms for calender year 1994 that is required on or before July 1, 1995, unless, in accordance with the list revision procedures and criteria described in subsection (d) or (e) of section 313 of the Emergency Planning and Community Right-to-Know Act, the Administrator, by rule, deletes any such chemical from the lists of chemicals for which reporting is required under this Act.

(b) PARALLEL REPORT FOR CERTAIN FACILITIES NOT COVERED UNDER THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986.—Notwithstanding any other provision of law, any facility that employs 10 or more full-time employees that is not described in the Standard Industrial Codes listed in section 313(b) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 1023(b)), or that is otherwise exempt under section 313 of such Act from the reporting requirements of such section—

(1)(A) that meets the threshold requirements for reporting under such section 313 (as described in regulations promulgated pursuant to such section 313); or

(B) that releases to the environment or transfers to an offsite facility any chemical listed pursuant to section 313 in an amount greater than or equal to the applicable threshold quantity specified in subsection (a)(2)(B) of this section; or

(2)(A) that uses, manufactures, or processes (as described in such section 313) a chemical described in subsection (a)(3) of this section that is not listed pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 at a level equivalent to the applicable threshold requirement described in such section 313; or

(B) releases to the environment or transfers to an offsite facility any chemical described in subparagraph (A) of this paragraph in an amount greater than or equal to the applicable threshold quantity specified in subsection (a)(2)(B) of this section,

shall be required under this section to submit a report to the Administrator of releases to the environment of the chemicals listed under such section 313 in the same manner and in a format substantially similar to the format of the form required under such section (except that such report shall incorporate the additional reporting requirements described in this section).

(c) EXTENSION OF REPORTING REQUIREMENTS WITH RESPECT TO TRANSFERS TO OFFSITE WASTE MANAGEMENT FACILITIES.—Notwithstanding any other provision of law, any facility subject to the reporting requirements under this section or section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) shall be required to report all transfers of chemicals listed under this section or such section 313 to offsite waste management facilities.

(d) ADDITIONAL INFORMATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any facility subject to the reporting requirements under this section or section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) shall provide, at the time of reporting, the following additional information:

(A) The maximum hourly rate of release of emissions to the air or discharges into the water or discharges on the land of each chemical subject to reporting requirements during the reporting period.

(B) The cause, source, and frequency of releases that result in such maximum hourly rate being achieved.

(C) A compilation of annual input, accumulation, and output quantities of each chemical subject to reporting requirements under this Act at the facility, including the quantities produced, used, generated as byproduct, consumed, recycled onsite but out-of-process, transferred as product, or transferred as a constituent in products.

(D) For each targeted production process of the facility—

(i) the amount of each chemical used per unit of product and generated as byproduct per unit of product;

(ii) the amount present in the product per unit of product;

(iii) a description of the production unit, including the production process, product, and unit of product; and

(iv) the amounts manufactured (or otherwise created) and used, expressed as a range.

(E) Two-year and five-year goals for reduction in—

(i) each amount reported under clause (i) of subparagraph (D); and

(ii) the amounts manufactured, processed, otherwise used, and generated as byproduct at a facility.

(F) Identification of the type of toxics use reduction technique, or other factor, that reduced by 10 percent or more from the previous year any amount reported under clause (i) or (ii) of subparagraph (D).

(2) ADDITIONAL REPORTING REQUIREMENT.—In any case in which the owner or operator of a facility submits a report under this subsection for a calendar year which omits a chemical (subject to the reporting requirements under this Act) contained in a report for such facility for the calendar year preceding the calendar year being reported on, the owner or operator, for purposes of allowing the Administrator to track the availability or risks of alternative chemicals, shall—

(A) identify in the report any substance which is a replacement for the omitted chemical; and

(B) state whether the substance is a chemical subject to reporting requirements under this Act.

(3) CERTIFICATION.—Each report submitted under this subsection shall contain a certification signed by a senior management official of the facility with direct operating responsibility. The certification shall state that, subject to a penalty of perjury, the official has read the reports and such reports are, to the official's best knowledge and belief, true, complete, accurate, and prepared under a proper data accounting and planning system.

(4) DEADLINE FOR FIRST REPORTS.—The owner or operator of a facility with a targeted production process shall submit the information required under paragraph (1)(D) and paragraph I(E)(i) at the time of submission of any form required to be submitted for calendar year 1994 pursuant to this Act, on or before July 1, 1995.

(5) CRITERIA FOR TARGETED PRODUCTION PROCESSES.—Within 18 months after the date of enactment of this Act, the Administrator shall establish, by regulation, criteria pursuant to which an owner or operator of a facility shall identify targeted production processes for the purpose of focusing pollution prevention strategies on such targeted production processes. The criteria for the identification of targeted production processes shall be based on a consideration of the toxicity of specific chemicals used, generated, or released at the targeted production process, and shall require that a targeted production process be a production process that makes a significant contribution to the use, generation, and release of chemicals.

(e) MODIFICATION OF REPORTING FORM.—The Administrator shall modify the form required for purposes of reporting information under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) to the extent that he or she considers such modification necessary to include the additional information required. In addition, the Administrator shall, after notice and opportunity for comment, and not later than 18 months after the date of enactment of this Act, publish an identification, to the extent practicable, of the relative hazard to human health and the environment resulting from chemicals subject to reporting requirements under this Act, by or within category of the level of the hazard. In publishing data on amounts of such chemicals, the Administrator shall also report the data with respect to each chemical by or within category of hazard.

(f) REPORTING PROVISIONS.—The provisions of sections 322, 325(c), and 326 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11042, 11045(c), and 11046, respectively) shall apply to the reporting requirements under this section in the same manner as for the reports required under section 313 of such Act (42 U.S.C. 11023).

(g) AVAILABILITY OF DATA.—Subject to the requirements relating to trade secrets described in section 322 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11042), the Administrator shall make data collected under this section publicly available in the same manner as for the data collected under section 313 of such Act (42 U.S.C. 11023).

(h) PROVISION OF INFORMATION TO HEALTH PROFESSIONALS.—

(1) IN GENERAL.—The supplying of information to health professionals under this section shall be carried out in the same manner as required with respect to health professionals under section 313 of such Act (42 U.S.C. 11023).

(2) SPECIAL ENFORCEMENT PROCEDURES.—Special enforcement procedures relating to a violation of requirements related to the provision of information to health professionals, described in section 325(e) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11045(e)) shall apply to any such violation under this section in same manner as required under such section.

(i) FRIVOLOUS CLAIMS.—Civil and administrative penalties assessed for frivolous claims under this section shall be assessed in the same manner as for assessments of such penalties under section 325(d) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11045(d)).

(j) PROCEDURES FOR ADMINISTRATIVE PENALTIES.—The procedures for administrative penalties described in section 325(f) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11045(f)) for violations under such Act, shall apply in the same manner to administrative penalties under this section.

(k) STUDY OF ELECTRONIC METHODS TO IMPROVE REPORTING.—

(1) IN GENERAL.—The Administrator shall conduct a study of methods of encouraging the reporting of information under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023)) and this Act through the use of computer telecommunication and other means. Such study shall identify methods to—

(A) increase the rate at which such information is made available to the public;

(B) improve the accuracy of such information;

(C) improve public accessibility to such information; and

(D) enhance the overall efficiency of the information reporting and collection process.

(2) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Administrator shall submit a report of the findings of the study described in paragraph (1) and plans for implementing methods to improve reporting to the appropriate committees of the Congress.

(l) EXEMPTION FOR FEDERAL FACILITIES BASED ON PARAMOUNT INTEREST.—

(1) IN GENERAL.—The President may waive compliance with the reporting requirements of this Act if the President determines that the waiver is necessary in the paramount interest of the United States. Any such waiver shall be for a period of not more than one annual reporting period under this Act, except that additional waivers may be granted upon new determinations by the President.

(2) NOTICE.—Upon issuance of such waiver, the President shall publish in the Federal Register a notice of the granting of the waiver and an explanation of the reasons for granting the waiver, unless the President determines that such publication would be contrary to the paramount interest of the United States. If the President makes such determination, the President shall provide notice to the Congress of such determination.

(3) PETITION.—Any person may petition the President to rescind any waiver granted under this subsection. The President shall, within 45 days after receipt of the petition, accept or deny the petition, and publish in the Federal Register notice of the decision to accept or deny the petition. Such notice shall include the reasons for the decision.

SEC. 4. TOXIC RELEASE INFORMATION STUDY.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Director of the Office of Technology Assessment (hereafter in this section referred to as the "Director") shall, in consultation with the Administrator, conduct and complete a study of all matters relating to the provision to the public of toxic release inventory information described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023), and reports required under this Act (hereafter in this section referred to as "toxic release information").

(b) CRITERIA OF STUDY.—The study conducted by the Director shall include the following:

(1) A review of the methods by which toxic release information is made available to the public, with a concentrated emphasis on the computer data base described in section 313(j) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(j)).

(2) A review of the efficacy and cost-effectiveness of each method described in paragraph (1).

(3) The development of recommendations for more effective means to disseminate toxic release information, and to promote ease of public access to such information.

(4) The development of recommendations for alternatives to basing the publicly accessible data base in the T.O.X.N.E.T. system of the National Library of Medicine.

(c) REPORT.—Upon completion of the study described in subsection (a) of this section, the Director shall submit to the Administrator and to the appropriate committees of the Congress a report containing a detailed statement of the findings and conclusions of the study, together with such recommendations for such regulations and administrative actions as the Director, in consultation with the Administrator, considers appropriate to make improvements in the provision of toxic release information to the public.

SEC. 5. GRANT PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—(A) The Administrator shall establish a grant program to assist States, local governments, local emergency planning committees and State emergency response commissions (as described in section 301 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001)) in carrying out the provisions of subtitles A, B, and C of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 through 11005, 11021 through 11023, and 11041 through 11050, respectively) and this Act.

(B) The Administrator shall implement the grant program under this section in coordination with the various offices of the Environmental Protection Agency having responsibilities for the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 and this Act (including the Office of Pesticides and Toxic Substances and the Office for Solid Waste and Emergency Response), and the Administrator shall ensure that the grant program established under this section shall be implemented in coordination with State emergency response commissions.

(2) APPLICATIONS.—(A) Not later than 2 months after the date of the enactment of this Act, the Administrator shall accept applications for grants under this section.

(B) The Administrator shall make a determination on a grant application not later than 45 days after the Administrator receives the application.

(b) GRANT REQUIREMENTS.—

(1) DISTRIBUTION.—The Administrator shall ensure that States shall make available to local governments or local emergency planning committees (as described subsection (a)) an amount equal to 75 percent of the amount of the grant to the State under this section for the purposes of assisting local governments and local emergency planning committees in carrying out the provisions of subtitles A, B, and C of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 through 11005, 11021 through 11023, and 11041 through 11050, respectively).

(2) MATCHING.—(A) The amount of any grant awarded under this Act shall not exceed an amount equal to 80 percent of the cost of carrying out the activities authorized under the grant program.

(B) The remaining percentage of such costs shall be funded from non-Federal sources. Such sources may include amounts appropriated by the State for State activities or to finance activities of local governments or local emergency planning committees in carrying out subtitles A, B, and C of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 through 11005, 11021 through 11023, and 11041 through 11050, respectively).

(3) CRITERIA.—The Administrator shall award grants under this section in proportion to State and local needs, as measured by such factors as the extent to which chemical substances and mixtures are manufactured, processed, used, and disposed of in a State, the extent of potential exposure in a State of human beings and the environment to chemical substances and mixtures, and the population density of a State. The Administrator shall assure that State awards to localities or local emergency planning committees are in proportion to local needs as measured by factors similar to those described in the preceding sentence, including such factors as presence of substances, extent of potential exposure, and population density.

(c) STATUTORY CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed so as to preempt the ability of any State government or the government of a political subdivision of a State from funding activities conducted under subtitles A, B, and C of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 through 11005, 11021 through 11023, and 11041 through 11050, respectively) by other and additional means.

(2) OTHER PROGRAMS.—Nothing in this section shall affect the availability of appropriations to any Federal agency for any programs conducted by such agencies other than to the Environmental Protection Agency for the grant program described in subsection (a).

SEC. 6. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 7. EXTENSION OF POLLUTION PREVENTION REQUIREMENTS.

Notwithstanding any other provision of law, in addition to those owners or operators subject to requirements of section 6607 of the Pollution Prevention Act of 1990 (42 U.S.C. 13106), any owner or operator of a facility subject to any reporting requirement under this Act shall be subject the requirements of such section 6607. For the purposes of this section, in addition to the chemicals subject to the requirements of such section 6607, any chemical described in section 3(a)(3) of this Act shall be deemed a chemical subject to the reporting requirements of such section 6607.

SEC. 8. STATUTORY CONSTRUCTION.

Nothing in this Act shall be construed or interpreted—

(1) as preempting in any State or political subdivision of a State from imposing any additional liability or requirements; or

(2) to displace or diminish the responsibilities and liabilities under any other Federal law (whether statutory or common).

SECTION-BY-SECTION ANALYSIS OF RIGHT TO KNOW MORE ACT OF 1991

Section 1. Short Title: Right to Know More Act of 1991.

Section 2. Definitions.

Section 3—Subsections (a) and (b). Subsections (a) and (b) of section 3 are the core of the bill. These subsections impose requirements that supplement those already imposed by section 313 of Title III of SARA. These supplemental requirements would become generally effective beginning with the submission of forms for calendar year 1993 that is required on July 1, 1994 and would apply to facilities currently covered and to facilities outside the current SIC Codes of 20–39, including facilities currently exempt pursuant to the transportation exemption of section 327 (see section 2 definition of "facility"). These subsections apply these supplemental requirements in the following ways:

A. Impose New Requirements for Facilities Already Covered. Those facilities currently subject to Right to Know (e.g. those with 10 or more employees, that fall in the Manufacturing SIC Codes 20–39, and use/manufacture/process specified amounts of the currently listed chemicals), would also be required to do the following:

1. New Substances. These facilities would be required to report on their emissions of an additional list of chemicals of which they manufacture/process more than 25,000 pounds annually, or use 10,000 pounds annually. The additional list of chemicals consists of those chemicals currently not listed under section 313 but listed under the following environmental programs:

a. Priority Pollutants listed pursuant to the Federal Water Pollution Control Act.

b. Certain hazardous wastes identified and listed under specified regulations promulgated under the Solid Waste Disposal Act.

c. Chemicals listed under specified sections of the Clean Air Act.

d. A pesticide 1) with respect to which the registration has been denied, cancelled (including voluntarily following Special Review), or is under suspension; 2) that is undergoing Special Review (as described in 40 CFR Part 154) or undergoing other administrative review pursuant to FIFRA section 6; or 3) that is classified as a restricted use pesticide under section 3(d)(1) of FIFRA.

e. Chemicals listed under specified regulations of the Safe Drinking Water Act.

f. Effective for calendar year 1994 and required for the submission of forms due on or before July 1, 1995, chemicals identified as a known or probable human carcinogens by the Carcinogen Assessment Group of EPA the International Agency for Research on Cancer, or the National Toxicology Program, unless in accordance with the list revision procedures and criteria of section 313(d) or section 313(e) of SARA Title III, unless the Administrator by rule deletes any such carcinogen (not otherwise listed) from the list of chemicals for which reporting is required under this Act.

g. Extremely Hazardous Substances listed under section 302 of Title III of SARA.

h. Effective for calendar year 1994 and required for the submission of forms due on or before July 1, 1995, chemicals listed as reproductive toxins by the California Safe Drinking Water and Toxic Enforcement Act of 1986, unless in accordance with the list revision procedures and criteria of section 313(d) or section 313(e) of SARA Title III, unless the Administrator by rule deletes any such reproduction toxins (not otherwise listed) from the list of chemicals for which reporting is required under this Act.

2. New and Additional Threshold for Reporting. Currently covered facilities would also be subject to a new threshold for reporting. In addition to the current threshold, facilities would be required to report if they discharge into the environment or transfer to offsite facilities amounts of the expanded list of chemicals (i.e. the current section 313 chemicals and those chemicals added by this Act) greater than a threshold set by EPA within 90 days of enactment. EPA would be required to use the criteria currently in section 313(d)(2) for listing and delisting chemicals to set such new thresholds, and could set such thresholds based on classes of chemicals or categories of facilities. Failure to publish an interim final rule within 90 days setting such thresholds would result in the immediate application of legislatively mandated thresholds (100 pounds per year for metals or metal compounds; 2000 pounds per year for other chemicals).

B. Bring in a New Universe of Facilities. Section 3 would also require an additional universe of facilities, including Federal facilities (see definitions section of bill), regardless of which SIC Codes they fall under, to report the same information under the same conditions (e.g. minimum 10 employees, same chemical thresholds) as those manufacturing facilities reporting under Right to Know, including the new transfer-release threshold discussed above.

Section 3—Subsections (c)–(k). Subsections (c) through (k) of section 3 make a number of other modifications to the reporting requirements, the primary ones being the following:

A. Transfer Offsite. Closing the so-called recycling loopholes, subsection (c) would require reporting of transfers to all offsite waste management facilities.

B. Additional Information. Subsection (d) would require reports of peak air, water and land releases—i.e. the maximum hourly rate of such releases—and the cause, source, and frequency of such releases. Subsection (d) also requires reporting the compilation of annual input, accumulation, and output quantities of each chemical subject to reporting requirements at the facility, including the quantities produced, used, generated as byproduct, consumed, recycled onsite but out-of-process, transferred as product, or transferred as a constituent in products. This subsection also requires that for each targeted production process of the facility that additional specified information be reported for calendar year 1994 with the submission of forms required on or before July 1, 1995.

Section 4. This section requires the Director of the Office of Technology Assessment [OTA], in consultation with EPA to conduct a study of ways to enhance the provision to the public of the national emissions data.

Section 5. This section requires and authorizes EPA to make grants for each of the years FY 1992–96 to assist States, local governments, local emergency planning committees, and State emergency responses commissions in carrying out all subtitles of the Emergency Planning and Community Right to Know Act, as well as the requirements of the bill. Such grants must be awarded in a manner that assures that States make 75 percent of all such grant receipts available to local governments or local emergency planning committees.

Section 6. This section authorizes such sums as be necessary to carry out this Act.

Section 7. This section specifies that the reporting requirements under the Pollution Prevention Act of 1990, in addition to their current application to the current section 313 universe of owners, operators, and chemicals, will also be applicable to all owners or operators as well as chemicals subject to the expanded reporting requirements under the Right to Know More legislation.

Section 8. This section makes clear that the bill is not preemptive of State law, and that it does not diminish or displace requirements under other Federal law.•

By Mr. BUMPERS:

S. 2124. A bill entitled the "Ballistic Missile, Nuclear, Chemical, and Biological Weapons Nonproliferation Support Act of 1991"; to the Committee on Foreign Relations.

BALLISTIC MISSILE, NUCLEAR, CHEMICAL, AND BIOLOGICAL WEAPONS NONPROLIFERATION SUPPORT ACT OF 1991

• Mr. BUMPERS. Mr. President, today I am introducing the "Ballistic Missile, Nuclear, Chemical, and Biological Weapons Nonproliferation Support Act of 1991." I ask unanimous consent that the bill and some explanatory language be printed in the RECORD at the conclusion of my remarks.

This bill is a modification of the amendment that I offered to the Defense appropriations bill in September and which was accepted. Sadly, that amendment was dropped for jurisdictional reasons in conference, though the conferees made it quite clear that they supported the intent of the amendment. I ask unanimous consent that the text of the fiscal year 1992 Defense appropriations conference report dealing with this subject be printed in the RECORD at this point.

Mr. President, I have expanded the scope of my earlier amendment in two ways. First, I include ballistic missile technology as well as nuclear, chemical, and biological weapons. While not weapons of mass destruction themselves, ballistic missiles are a force multiplier for other weapons of mass destruction. Had Saddam Hussein's Scuds carried nuclear warheads, no one would be talking about the great success of the Patriot missile.

Second, I am including North Korea as well as Iraq. Recent press reports about North Korea's nuclear potential have been very disturbing. These nuclear developments have led Defense Secretary Cheney to delay the implementation of phase II of United States troop withdrawals from South Korea. Even more disturbing have been reports that German companies are assisting North Korea's nuclear weapons program. We were fortunate in stopping Iraq. We may not be so lucky with North Korea.

My bill would bar imports from those companies that have knowingly provided assistance or support to the missile or nuclear/chemical/biological weapons programs of Iraq or North Korea. It also urges the President to get other countries to adopt a similar restriction, and to halt the actions of companies within their borders that are providing such assistance.

It is my hope that the Senate will act on this bill early in 1992 and give the President this powerful new weapon to fight one of the most important security threats of this post-cold war era. My bill will not solve the whole problem, but it will make an important start. I urge my colleagues to join me in this effort.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ballistic Missile, Nuclear, Chemical, and Biological Weapons Nonproliferation Support Act of 1991."

SEC. 2. LIMITATION.

Notwithstanding any other provision of law, no goods or services shall be imported into the United States or its territories or possessions that are produced or provided by companies that the President certifies to the Congress pursuant to the passage of this bill as having knowingly participated in the Iraqi or North Korean programs to develop ballistic missiles or nuclear, chemical, or biological weapons.

SEC. 3. INTERNATIONAL COOPERATION.

The President should request that other countries enact similar restrictions and take other appropriate steps, and strongly encourage the governments of those countries in which companies have provided such assistance to Iraq or North Korea to halt further such assistance.

SEC. 4. DURATION OF THE ACT.

This limitation shall remain in force for a period of 10 years after the date of enactment of this Act.

REPORT ON ASSISTANCE TO IRAQ

Amendment No. 192. Deletes Senate provision prohibiting certain imports to the United States. The conferees are concerned over reports that Western companies provided assistance to Iraq in its nuclear, biological, chemical (NBC), and ballistic missile programs. The Senate bill contained language giving the President the authority to bar for a period of 10 years the imports of companies that knowingly assisted Iraq in its programs for the development of weapons of mass destruction. The conferees reluctantly decided to drop this language for jurisdictional reasons only. The conferees wish to express their strong support for the intent of this provision and hope that it will be adopted on a suitable vehicle.

To further underscore their concern, the conferees request that the President provide, in both classified and unclassified versions, a report to the Appropriations Committees of the House and the Senate based on recent information, that includes an assessment of the contribution that these companies made to Iran's NBC and ballistic missile capabilities and a listing of these companies. The companies should include those that provided financial services, transportation, and other essential services as well as hardware and software support.•

By Mr. MCCONNELL:

S. 2125. A bill to lift the trade embargo against Vietnam if certain conditions are met; to the Committee on Banking, Housing, and Urban Affairs.

UNITED STATES-VIETNAM TRADE RELATIONS ACT

• Mr. MCCONNELL. Mr. President, although I hardly expect the Senate to take up this legislation now that we have come to the end of the session, I hope it offers a beginning point for discussion between the administration, the business community, and Members of Congress interested in Indochina and particularly Vietnam.

The bill I am introducing attempts to bridge the differences between those members of the business community who would like to see the trade embargo lifted tomorrow to further American commercial interests in an emerging market and those in the administration and Congress who would like to continue to use the embargo and normalization of relations as leverage in encouraging the Vietnamese on important policy priorities.

My legislation explicitly defines the expectations we have of the Vietnamese Government and requires the President report that these conditions have been met prior to lifting the embargo. However, my bill injects certainty into the process by establishing a date when the embargo will be lifted if the conditions are met.

There are three principle conditions which I have asked the President to report on. The first issue bears on the status of American POW's and MIA's. I cannot think of any issue which evokes a stronger and more emotional response than the question of our POW-MIA's. I was glad to see the select committee established to pursue the matter and believe the Members are off to a strong start in their inquiry. I am also committed to guaranteeing that the Vietnamese fully cooperate in resolving all outstanding cases and returning recovered and recoverable remains.

I also think progress on identifying and releasing those people held in political reeducation camps must be addressed. While we are no longer looking at the thousands of victims we were a matter of years ago, every person who is being detained because of an association with or loyalty to the United States must be released.

Finally, the Vietnamese must continue to actively support the U.N. peace agreement and transition to democracy in Cambodia. Their role and responsibility to see the process through to successful elections should be a factor in any changes in their political or economic relationship with the United States.

Having laid out the conditions, I also must add that I think the business community has legitimate concern about being shut out of an important emerging Asian market. Without some confidence that they will be given an opportunity to act on contracts—to really close deals—they are at a distinct disadvantage compared with many of America's trade competitors. The Japanese, French, Canadians, the British to name just a few do not observe a trade embargo with Vietnam. In fact, foreign investment in Vietnam is estimated to be as high as $5 billion.

Mr. President, offering a date when business will be allowed to move into Vietnam does not compromise our short- or long-term leverage. There are other important international lending and trading privileges such as most-favored-nation status which might be extended at some point in the future. We will continue to have options and opportunities available to offer Vietnam an incentive to make serious progress on the agenda of concern to this country.

However, given our major trade deficit, I think we should do what we can to assure American companies have access to a market where they have obvious strengths. Vietnam needs what American companies are good at—telecommunications, energy exploration and development, banking and infrastructure, and construction projects. American companies simply are not players in this important trade game—they are benched as they watch time and opportunity slip by.

I am hopeful that this legislation will guarantee the Vietnamese stay engaged in the peace process as they fulfill their absolute obligations to resolve POW-MIA cases and release political detainees. Should these conditions be met, it would seem reasonable to offer the American business community the assurance that they will have an opportunity on a specific date to close negotiations and begin to trade with Vietnam.•

By Mr. SPECTER:

S. 2126. A bill to extend the temporary suspension of duties on L-alanyl-L-proline, also known as Ala Pro; to the Committee on Finance.

S. 2127. A bill to suspend temporarily the duty on {3R-{3-alpha(R); 4-beta}}-4(acetyloxy)-3-{{(1,1-dimethyl ethyl) dimethyl-siyl}oxy}ethyl}-2-azetidinone; to the Committee on Finance.

S. 2128. A bill to suspend temporarily the duty on 3-chloro peroxybenzoic acid; to the Committee on Finance.

S. 2129. A bill to suspend temporarily the duty on composite vials of timolol maleate/pilocarpine solutions and diluents; to the Committee on Finance.

SUSPENSION DUTY ON CERTAIN CHEMICALS

Mr. SPECTER. Mr. President, today I am introducing legislation that will suspend temporarily the respective duty on the following chemicals or materials: L-alanyl-L-proline, also known as Ala Pro; acetoxy azetidinone; 3-chloro peroxybenzoic acid, also known as MCPBA; and composite vials of timolol maleate/pilocarpine hydrochloric solution. Merck & Co., Inc. is seeking these duty suspensions for its operations in West Point, PA, and Danville, PA in order to allow it to remain competitive in the world marketplace with its respective products, namely Vasotec, PRIMAXIN/TIENAM, Prilosec, and Timpilo.

With regard to these products Mr. President, I am informed that Vasotec is one of the world's leading medicines for the treatment of hypertension. For many patients, Vasotec is also highly effective adjuntive therapy in management of heart failure.

Merck represents that its PRIMAXIN/TIENAM formulations have a broad spectrum of activity against gram-positive and gram-negative aerobic and anaerobic bacteria including strains resistant to penicillin, cephalosporins, and aminoglycosides.

As for Prilosec, I am informed that it is for a new class of gastrointestinal drug called acid pump inhibitors. It is approved for use in treating poorly responsive gastroesophageal reflux disease [GERD], severe erosive esophagitis, and conditions such as Zollinger-Ellison syndrome.

I am also informed that Timpilo is a combination formulation not manufactured by anyone in the U.S. and is used to lower intraocular pressure in the treatment of glaucoma.

As you are aware, Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Merck & Co., will not gain any such advantage by any of the bills that I am introducing today. My staff has consulted with the Commerce Department's Office of Industrial Trade, the House of Representatives' Ways and Means Subcommittee on Trade, which has jurisdiction over the respective companion bills, H.R. 1857, H.R. 1942, H.R. 1935, and H.R. 3719, and with the offices of Representative LARRY COUGHLIN, the sponsor of H.R. 1857 and H.R. 3719, Representative GEORGE GEKAS, the sponsor of H.R. 1935, and Representative PAUL KANJORSKI, the sponsor of H.R. 1942. Each such office has informed my staff that there is no domestic opposition to Merck & Co.'s duty suspension requests.

Mr. President, Merck & Co. represents that without the requested duty suspensions, it is faced with operating at an economic disadvantage vis-a-vis its respective European and Japanese competitors because none of the chemicals or materials for which it seeks duty suspensions are manufactured here in the United States. For instance, Merck represents that it must pay a duty on Ala Pro that it imports from French and Japanese manufacturers. Similarly, acetoxy azetidinone is imported from Japan; MCPBA is imported from Belgium; and the composite vials of timolol maleate/pilocarpine hydrochloric solution and diluent are imported from France. Each of these, I am told, are also subject to import duty.

In sum, Mr. President, without these duty suspensions, the ability of Merck & Co., Inc. to preserve its integrity and continue to compete in the world marketplace while maintaining its facilities in West Point and Danville, Pennsylvania is made more difficult.

For the foregoing reasons, Mr. President, I, therefore, urge my colleagues to join me in supporting this legislation.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 2130. A bill to amend title 35, United States Code, to permit separate patent extensions for each product under a patent which is subject to full regulatory review and approval; to the Committee on the Judiciary.

PATENT REVIEW AND APPROVAL

• Mr. DECONCINI. Mr. President, I rise today to introduce with my distinguished colleague from Utah, Senator HATCH, a narrow but important amendment to one of the most significant pieces of legislation enacted by Congress in many years—the Drug Price Competition and Patent Restoration Act of 1984. That legislation will ultimately save American consumers billions of dollars. Besides providing massive savings to our citizens, especially elderly citizens, who must of necessity consume an inordinate share of prescription drugs, the act increases incentives to the innovative, research-based pharmaceutical community to develop new drugs that would not otherwise become available.

It has been almost 7 years since the act's passage and there have been no amendments to it. The bill we offer today in no way modifies or disturbs that most delicate balance between research-based pharmaceuticals, generic products, and the public. We believe that it rectifies a narrow consequence of the act that was unintended in that it was unanticipated.

At the heart of the 1984 act lies an elegantly simple quid pro quo. In return for additional years of patent life to compensate for the difficult, expensive, and time-consuming FDA drug-approval process, the pharmaceutical industry agreed to support wholesale changes in both the law and the rules surrounding the approval by FDA of generic versions of off-patent drugs.

Surrounding that seemingly simple core stands an extremely complex legislative edifice. While making patent extensions available to offset legitimate delays and loss of patent life, Congress also wanted to ensure that companies would not be able to use the law to extend a patent forever and thus unnecessarily prolong their market position on pharmaceuticals covered by these patents.

Toward this end, the act provides that any patent can receive only one extension. This was done to avoid the possibility of old patents being kept alive by claiming new uses for the same drug. This, of course, is only one of the elements in the 1984 act designed to prevent evergreening. However, it is the focus of the legislation that Senator HATCH and I are introducing, today.

In crafting the 1984 act, it was assumed that any particular patent would cover only one drug. It was certainly not anticipated that one patent would actually encompass two or more separate new drugs that is, new chemical entities each requiring a full, separate and independent review by the FDA. Indeed, such situations rarely occur.

Mostly, they arise within university research departments where the researchers are conducting seminal research leading to broad, landmark inventions. These researchers are more interested in pursuing their basic conceptual research and publishing their results for the benefit of the scientific community than they are in pursuing the various potential commercial applications. Because of this, they must file patent applications promptly to protect rights that would be lost or forfeited by publication.

Rarely do these researchers direct their work to identifying particular commercial embodiments that enable them to file separate patent applications on the various commercial embodiments of their broad invention.

Thus, university researchers tend, therefore, to patent these fundamental discoveries early, too early to appreciate the full commercial implications of their discoveries. These pioneer patents will contain broad claims that will cover many potential commercial embodiments. When the university later tries to find companies willing to commit the millions required to take additional embodiments of the broad invention through the process of becoming a drug, these efforts are stymied by the 1984 act preventing any patent—regardless of the fact that it may encompass more than one drug—from having more than one extension.

One of the first questions a company will ask is whether the drug will ultimately qualify for patent extension. Given the high risks, long lead times and large sums of money involved, the few years of patent extension created by the 1984 act often spell the difference between financial success and failure. If, for example, a university has a patent encompassing two separate drugs, only the one that is first granted patent extension can be extended. The other is out of luck. As a practical matter, this means simply that the university will not find a company willing to risk the sums required to bring the second drug to market. The university loses and thus the public loses.

This measure seeks to correct this anomaly by allowing a university held patent to be extended for more than one new drug if the new drug otherwise qualifies for patent extension. It should be well understood that we are not talking about extensions on top of extensions. If a patent, for example, expires in 1994 nothing in this bill can extend it beyond 1999 since the 1984 act allows a maximum of 5 years extension. The only difference my amendment would make is that more than one separate drug under that patent could receive an extension.

My objective, as well as that of Senator HATCH, is to see as many promising new drugs come to the American people as possible. And since this particular provision of the 1984 act hinders rather than promotes that process, we seek to change it.

Mr. President, our constitutionally mandated patent system provides for a 17-year life for a patent. It is rigid but predictable. Indeed, with the exception of the terms of the 1984 act, the patent system provides no flexibility with regard to the 17-year period.

Earlier this year, the Judiciary Subcommittee on Patents, Copyrights and Trademarks of which I am chairman, held a hearing on the issue of private patent extension requests. Unlike those measures, which require compelling circumstances and strict scrutiny, this legislation provides uniform and limited protection to a particular but important inventive sector—universities.

It is for that reason that I believe this legislative measure is reasonable. Most importantly, it promotes the objectives of the 1984 act without disrupting its delicate balance. It will promote the development of new drugs to benefit the American people and the world. Let me add that this measure will gain support throughout the university community in this country. I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 156 of title 35 is amended—

(1) in subsection (a):

(A) in paragraph (2), by inserting ", except as otherwise provided in subsection (i)" after "extended"; and

(B) in the second sentence, by inserting ", and in subsection (i)", after "and (5)"; and

(2) by adding at the end the following new subsection:

"(i)(1) Notwithstanding the provisions of subsection (a)(2), if a claim or claim of any patent on an invention that was conceived or reduced to practice substantially in the performance of work at a qualified nonprofit organization cover more than one drug product, each of which is subject to a regulatory review period before its commercial marketing or use, the term of such patent may be separately extended for each such drug product.

"(2) For each extension obtained under this subsection (i), the rights derived from any patent the term of which is extended shall be limited to the drug product for which extension is sought.

"(3) As used in this subsection, the term "qualified nonprofit organization" means a university or other nonprofit institution of higher education incorporated or formed under the laws of a State, territory or possession of the United States".•

By Mr. MOYNIHAN:

S. 2132. A bill to require the Administrator of the Environmental Protection Agency to seek ongoing advice from independent experts in ranking relative environmental risks; to conduct the research and monitoring necessary to insure a sound scientific basis for decisionmaking; and to use such information in managing available resources to protect society from the greatest risks to human health, welfare, and ecological resources; to the Committee on Environment and Public Works.

ENVIRONMENTAL RISK REDUCTION ACT

• Mr. MOYNIHAN. Mr. President, on January 25 of this year I presided over a rather extraordinary hearing before the Committee on Environment and Public Works. Before us were Mr. Reilly, the capable Administrator of the U.S. Environmental Protection Agency, and Prof. Raymond C. Loehr, the Chairman of EPA's Science Advisory Board. Mr. Reilly and Professor Loehr told us of the results of months of study by three blue ribbon panels of scientific experts on environmental risk. The fruits of their efforts was a three-volume report entitled "Reduction Risk."

This report told us that our perception of risks, and our emphasis on reducing it, did not necessarily accord with the professional judgement of the experts. This is important, if true. We now believe, although it is difficult to calculate exactly, that we spend considerably more than $115 billion each year to protect the environment, and to clean it up where we failed to protect it in the past. If we are not spending this considerable sum on the most egregious risks, protecting the largest number of people, we need to consider soon how to do better.

To do this, we need to do two things. First, we need to consult the scientists to get the facts about how pollutants in the environment create risk and, not incidentally, which cause the greatest risk. Second, we need to have environmental statistics to tell us how the concentrations of pollutants in the environment are changing, and where, and what impact this is actually having on human health and natural resources.

We took an important step toward this goal last month when we passed S. 533, the Department of the Environment Act. In that bill, we created a Bureau of Environmental Statistics to be housed in a new Department of the Environment. Unfortunately, the measure was deficient, in that it failed to provide adequately for data collection, and I rose on that occasion to say that I would remedy that deficiency.

Today I am offering a bill, the Environmental Risk Reduction Act of 1991, that directs the Administrator of the Environmental Protection Agency to continue the process begun by Professor Loehr's panel, to constitute expert panels to advise the Administrator and Congress periodically on the best scientific assessment of relative risks, and the potential benefits of alternative ways of reducing such risks. The bill also creates an Environmental Monitoring and Assessment Program to be conducted by the EPA and coordinated with the activities of other Federal agencies with health and natural resource management responsibilities. This program would collect data on the exposure of humans, plants, and animals to pollutants and the resulting health of people and natural resources.

I look forward to working with my colleagues in the Senate to make sure that we are using our environmental protection resources wisely, and that we are getting what we pay for.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Risk Reduction Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the cost of protecting the quality of the environment currently exceeds $115 billion per year;

(2) protecting society from global climate change, stratospheric ozone depletion, loss of biological diversity, and waste products from an ever-increasing population will cause these costs to increase in the future;

(3) although these costs are not necessarily excessive, they are too high to be used ineffectively or inefficiently;

(4) funds can only be used most effectively when they protect the largest number of people from the most egregious harm;

(5) ecological resources are extraordinarily valuable, and risks to them either directly or indirectly degrade human health and the economy;

(6) ranking of relative risks to human health, welfare, and ecological resources is a complex task, and is best performed by technical experts free from interests that could bias their objective judgment;

(7) applying technology and resources at the highest ranked risks within the intent of existing environmental statutes and identifying highly ranked risks not addressed by current statutes can significantly reduce risks to human health, welfare, and ecological resources;

(8) better risk assessment methodologies and a long-term commitment to collecting monitoring data on the condition of ecological resources and exposure of humans and ecosystems to pollutants are necessary to insure that the greatest risks can be identified, and that environmental statutes are accomplishing their intended results;

(9) ranking risks must be an ongoing process and reflect improvements in environmental data and scientific understanding; and

(10) effective and efficient strategies to reduce risks must quantify significant costs and benefits to the greatest extent possible.

(b) POLICY.—It is the policy of the United States that—

(1) Federal environmental protection activities administered by the Environmental Protection Agency shall attain the greatest risk reduction possible with the resources available; and

(2) the ability to reduce risks requires—

(A) accurate, quantitative estimates of the exposure of humans and ecosystems to all important risk factors;

(B) accurate techniques for predicting the effects of such exposures;

(C) an adequate understanding of technical, economic, social, and legal alternatives to reduce exposure to risk factors; and

(D) accurate estimates of the costs and benefits of alternatives for reducing risks.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Agency" means the Environmental Protection Agency;

(2) "Administrator" means the Administrator of the Environmental Protection Agency;

(3) "risk" means the probability of the occurrence of an event;

(4) "stressor" means a physical, chemical, or biological factor resulting from human activity and capable of causing an effect on human health, welfare, or ecological resources;

(5) "exposure" means the juxtaposition in time and space of some stressor with a human or other living thing or a non-living thing important to human welfare, such that an effect could result;

(6) "effect" or "response" mean a deleterious change in the condition of a human or other living thing, including but not limited to death, cancer or other chronic illness, decreased reproductive capacity, or disfigurement, or in the condition of a non-living thing important to human welfare, including but not limited to, destruction, degeneration, loss of intended function, and increased costs for maintenance;

(7) "ecological resources" means nonhuman living things and their interactions, including, but not limited to, lakes, streams, forests, wetlands, deserts, tundra, oceans, estuaries, beaches, grassland, agricultural areas, and vegetated urban and suburban areas;

(8) "sustainable" means the ability of ecological resources to maintain diverse, self-reproducing biological communities, capable of meeting current needs of mankind without compromising the ability of future generations to meet their own needs, including natural resources such as food, fiber, lumber, fish, and game; environmental services such as flood mitigation, water storage, and regulation of the chemistry of the atmosphere, oceans, and inland waters, and opportunities for recreation, scientific study; and appreciation of the beauty and diversity of nature;

(9) "likelihood" means the estimated probability that an effect will occur;

(10) "seriousness" means the intensity of effect, independent of the magnitude;

(11) "magnitude" means the number of people or the amount of ecological resources or other resources contributing to human welfare affected by exposure to a stressor;

(12) "irreversibility" means the extent to which a return to conditions prior to the occurrence of an effect are either very slow or will never occur;

(13) "uncertainty" means the quantifiable and unquantifiable potential error in the estimation of risk which is caused by the quality of data, or the assumptions used in risk estimation;

(14) "environmental statutes" means the environmental laws administered by the Agency which include within their intent protection of the environment, including but not limited to—

(A) title XIV of the Public Service Health Act (the Safe Drinking Water Act),

(B) the Clean Water Act,

(C) the Clean Air Act,

(D) the Federal Insecticide, Fungicide, and Rodenticide Act,

(E) the Toxic Substances Control Act,

(F) the Solid Waste Disposal Act,

(G) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and the Superfund Amendments and Reauthorization Act of 1986,

(H) the Marine Protection, Research, and Sanctuaries Act of 1972, and

(I) laws dealing with protection from sources of radiation.

SEC. 4. EXPERT ADVISORY COMMITTEES.

(a) IN GENERAL.—The Administrator shall act to use available resources under all environmental laws to reduce the most likely, most serious, most irreversible, highest magnitude risks to human health, welfare, and ecological resources through the careful assessment and ranking of relative risks and options for their management. In order to insure that such action is based on the best available scientific understanding, the Administrator shall establish and seek advice from two expert advisory committees to be established within the Science Advisory Board.

(b) COMMITTEE ON RELATIVE RISKS.—

(1) The Administrator shall establish a standing Committee on Relative Risks within the Science Advisory Board to provide expert advice on ranking the relative risks of different stressors to human health, welfare, and ecological resources.

(2) The Committee on Relative Risks shall consist of 15 experts selected by the executive committee of the Science Advisory Board. In the case of the initial selections, 5 shall be selected for a term of 2 years, 5 for a term of 4 years, and 5 for a term of 6 years. Thereafter, each individual selected shall serve for a term of 6 years.

(3) Such experts shall be chosen to represent a broad and balanced spectrum of experience in the areas of human health effects, ecological effects, and welfare effects.

(4) Members of the Committee on Relative Risks shall elect a chairperson who shall serve for a term of 24 months.

(5) After establishing appropriate criteria and guidelines, the Committee on Relative Risks shall—

(A) identify and rank the greatest environmental risks to human health, welfare, and ecological resources; incorporating the overall likelihood, seriousness, magnitude, and irreversibility of each risk;

(B) identify a common list of the greatest risks to human health, welfare, and ecological resources;

(C) assess the state of pertinent scientific understanding and other factors contributing to uncertainty in the ranking of relative risk.

(6) Risks shall be identified by the Committee on Relative Risks in such a way that the need for new laws, and priorities within the intent of existing laws, can be identified.

(7) As a Federal advisory committee, the Committee on Relative Risks shall hold open public meetings to solicit input from the public and other sources in accordance with the Federal Advisory Committee Act.

(c) COMMITTEE ON ENVIRONMENTAL BENEFITS.—

(1) The Administrator shall establish a standing Committee on Environmental Benefits within the Science Advisory Board to provide expert advice on estimating quantitative benefits of reducing risks.

(2) The Committee on Environmental Benefits shall consist of 15 experts selected by the executive committee of the Science Advisory Board. In the case of the initial selections, 5 shall be selected for a term of 2 years, 5 for a term of 4 years, and 5 for a term of 6 years. Thereafter, each individual selected shall serve for a term of 6 years.

(3) Experts shall be chosen to represent a broad and balanced spectrum of experience in areas including but not limited to economics, engineering, public administration, and health care.

(4) Members shall elect a chairperson initially, and at 24-month intervals after each major change in the Committee membership.

(5) After establishing appropriate guidelines and criteria, the Committee on Environmental Benefits shall estimate the value of—

(A) avoiding premature mortality;

(B) avoiding cancer, diseases, birth defects, and other health effects that reduce the quality of life;

(C) preserving biological diversity and sustainable ecological resources;

(D) an aesthetic environment;

(E) services performed by ecosystems (such as flood mitigation, provision of food or materials, or regulating the chemistry of the air or water) that, if lost or degraded, would have to be replaced by technology; and

(F) avoiding other risks identified by the Committee on Relative Risks.

(6) As a Federal advisory committee, the Committee on Environmental Benefits shall hold public meetings to solicit input from the public and other sources in accordance with the Federal Advisory Committee Act.

(7) The Committee on Relative Risks and the Committee on Costs and Benefits shall report their findings to the Administrator and to the appropriate committees of Congress on or before August 1, 1992, and prior to the expiration of each 24-month period thereafter.

(d) REIMBURSEMENT.—Members of the committees established under this section shall be reimbursed for travel, as authorized by section 5703 of title 5, United States Code, subsistence, and other necessary expenses incurred in the performance of the duties of the committees.

(e) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there is authorized to be appropriated $3,000,000 for fiscal year 1992, and each of the next following 6 fiscal years.

SEC. 5. RISK ASSESSMENT GUIDELINES.

(a) IN GENERAL.—The Administrator shall act to protect human health and the environment on the basis of careful assessments of risk and evaluation of options for reducing risks. In making decisions about the conduct of risk assessments, the Administrator shall balance the costs of such assessments and of damage to human health or the environment that might be caused by such delays against the savings to society expected to result from more cost-effective risk reduction options identified through the risk assessment process.

(b) RISK ASSESSMENT GUIDELINES.—The Administrator shall develop, and revise as appropriate, guidelines to ensure consistency and technical quality in risk assessments by specifying minimum standards for different risk assessment approaches, depending on the scale of the problem, the level of scientific understanding, and the available data.

(c) INITIAL GUIDELINES.—The initial set of guidelines shall include risk assessments involving—

(1) human mutagenicity;

(2) human carcinogenicity;

(3) human developmental toxicants;

(4) human reproductive effects;

(5) human systemic toxicants;

(6) ecological effects of sources of pollutants from single sites;

(7) ecological effects of pollutants that originate from many sites;

(8) ecological effects from physical alteration of the environment;

(9) ecological effects of introducing non-native or genetically engineered organisms;

(10) pollutants affecting man-made materials; and

(11) pollutants affecting the productivity of soils.

(d) ADDITIONAL GUIDELINES.—The Administrator shall develop additional risk assessment guidelines as warranted by the state of pertinent scientific understanding and the need for sound decisions to protect human health, welfare, and the environment.

(e) MINIMUM REQUIREMENTS.—Risk assessment guidelines developed under this section shall include the following components:

(1) a hazard identification which demonstrates whether exposure to a stressor is or is not causally linked to an effect;

(2) an assessment that measures or estimates the exposure of well-defined individuals, populations, or materials to a stressor;

(3) an assessment which determines or estimates the magnitude of response of affected individuals, populations, or materials associated with different levels of exposure to a stressor under representative environmental conditions; and

(4) a risk characterization which provides an overall description of the nature and magnitude of probable effects resulting from alternative risk management options (including no action), together with a quantitative estimate of the attendant uncertainties.

(f) PUBLICATION IN THE FEDERAL REGISTER AND REPORTS TO CONGRESS.—The Administrator shall—

(1) publish all initial risk assessment guidelines in subsection (c) in the Federal Register within 60 months following the date of the enactment of this Act, and shall report annually to Congress on progress toward this goal; and

(2) publish new and revised guidelines in the Federal Register as necessitated by subsection (d).

SEC. 6. RISK ASSESSMENT RESEARCH.

(a) IN GENERAL.—The Administrator shall conduct a long-term core research program in environmental risk assessment research in order to insure that the risk assessment process is based on adequate environmental data and scientific understanding, in order to provide the most cost-effective use of environmental protection resources.

(b) ENVIRONMENTAL MONITORING AND ASSESSMENT PROGRAM.—The Administrator shall conduct a research program to—

(1) design and evaluate methods and networks to collect monitoring data on the current and changing condition of the environment (including, but not limited to, human health, ecological resources, materials, and exposure to environmental stressors relevant to making decisions at the Federal level about alternative risk assessment and risk reduction options;

(2) implement such monitoring programs, in cooperation with relevant programs in other Federal agencies;

(3) manage data from such monitoring programs in forms and formats readily accessible to the scientific community and the public; and

(4) provide annual statistical reports and periodic interpretive reports of the results of such monitoring programs to Congress and the public.

(c) ENVIRONMENTAL RISK ASSESSMENT RESEARCH PROGRAM.—The Administrator will conduct a long-term core program to establish a firm scientific basis for initial and subsequent risk assessment guidelines, including methods for—

(1) assessing exposure of humans, ecological resources, and materials to stressors, including methods for determining the environmentally effective level of the stressor that actually initiates the effect;

(2) accurately predicting the effects of exposure to stressors on human health, ecological resources, and materials;

(3) quantifying statistical uncertainty in exposure and stress-response estimates; and

(4) quantifying the social and economic values of effects on human health, welfare, and ecological resources.

(d) LONG-TERM RESEARCH PLANNING.—At least one-half of the research conducted under this Act shall be under contracts or assistance agreements with universities and other nonprofit or not-for-profit organizations awarded under full and open competition, under which full funding for at least 3 years of the contract will be obligated at the beginning of the contract or agreement.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the sum of $80,000,000 for fiscal year 1992, $130,000,000 for fiscal year 1993, and $200,000,000 for each of the fiscal years 1994 through 1998, to carry out the provisions of this section.

SEC. 7. INTERAGENCY PANEL ON RISK ASSESSMENT AND REDUCTION.

(a) ESTABLISHMENT.—There is established an Inter-agency Panel on Risk Assessment and Reduction (hereafter in this Act referred to as "Interagency Panel") for the purpose of coordinating Federal research, data gathering, and implementation of environmental risk assessment and risk reduction activities.

(b) MEMBERSHIP.—The Interagency Panel shall consist of one representative each from—

(1) the Environmental Protection Agency;

(2) the Department of the Interior;

(3) the Department of Health and Human Services;

(4) the Department of Energy;

(5) the Department of Commerce;

(6) the Department of Agriculture;

(7) the Corps of Engineers;

(8) the Council on Environmental Quality; and

(9) any other Federal department or agency that the President, or the Chairman of the Interagency Committee, considers appropriate.

Each such representative shall be designated by the head of the entity named.

(c) CHAIRMAN.—The member of the Interagency Panel representing the Environmental Protection Agency shall serve as the Chairperson of the Interagency Panel.

SEC. 8. REPORTS TO CONGRESS.

(a) ASSESSMENT OF ENVIRONMENTAL RISK REDUCTION OPTIONS.—Within 24 months following the date of enactment of this Act, the Administrator shall prepare and submit a report to the Congress which identifies—

(1) a prioritized list of the human health, welfare, and ecological resource risks considered by the Committee on Relative Risks;

(2) public awareness of the likelihood, seriousness, magnitude, and irreversibility of each risk;

(3) alternative options for reducing risks and corresponding estimated costs and benefits to society, including costs to Federal agencies and the private sector, and any adverse effects that cannot yet be quantified in monetary terms;

(4) the time required for reducing risks through each option;

(5) evaluation of the uncertainty associated with relevant aspects of the assessment process; and

(6) research or data collection that would significantly reduce the uncertainty in any assessment within 24 months of the submission of the report to Congress.

(b) INTENT OF CONGRESS.—It is the intent of Congress that the information contained in the annual report be used to assist in directing the activities of the Agency so as to result in reducing the most serious and probable risks to the greatest number of people and sustainable ecological resources. The Administrator shall carry out this Act in a reasonable and prudent manner so as to insure the protection of public health and the environment, and in a manner open to public inspection, but he shall not be delayed in carrying out his responsibilities under other environmental laws by his responsibilities under this Act.

(c) ONGOING ASSESSMENT.—The Administrator shall revise and update the report submitted under this section at least every 24 months to reflect new data or scientific understanding.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in sections 4 and 6, nothing in this Act shall constitute a new authorization for the appropriation of funds.•

By Mr. DODD (for himself and Mr. LAUTENBERG):

S. 2133. A bill to provide for the economic conversion and diversification of industries in the defense industrial base of the United States that are adversely affected by significant reductions in spending; to the Committee on Banking, Housing, and Urban Affairs.

DEFENSE INDUSTRIAL STABILIZATION AND COMMUNITY TRANSITION ACT OF 1991

• Mr. DODD. Mr. President, I rise today to introduce the Defense Industrial Stabilization and Community Transition Act of 1991, a bill to provide economic adjustment assistance to industries, communities and dislocated workers impacted by cuts in defense spending.

There can be no doubt, Mr. President, that the past few years have brought sweeping changes across the globe. In the Soviet Union, communism has collapsed. In Eastern Europe, democracy and free market ideology have taken root. In Angola, Cambodia, and other tortured regions around the world, the end of the cold war has given people an opportunity to lift themselves from war and build for themselves a better life.

We would be fooling ourselves, however, if we believed that there are no more threats left in the world. The instability in the Soviet Republics and the Civil war in Yugoslavia are proof of that. We still need an active, vigilant defense, equipped with the best available technologies and armed with the best available weaponry. And we must view any prospective cuts in our defense budget with a tempered, cautious eye.

But the fact is the cascade of world events nearly assures that cuts will eventually come to the defense budget. Our task is to see to it that those cuts are careful, measured, and responsible. Most importantly, however, it is our responsibility to ensure that those cuts are carried out with the least possible disruption to our economy.

The bill I am introducing today is a first step, Mr. President, in meeting that important mandate.

Mr. President, during my 17 years in the U.S. Congress I have spoken often about the need for communities and industries to diversify their production. That is a conviction I held in 1978, when I sponsored defense diversification legislation in the House of Representatives. It is a conviction I held when, over a decade ago, I hosted a conference in Connecticut on the defense diversification issue.

And it is a conviction I hold even more firmly today.

The legislation I am introducing today will not cure the problem of dislocated workers. It is not a panacea for the plague of closed plants or dormant production lines. But it is a vital first step to give defense-dependent communities and industries the resources to help themselves. And it is an attempt to provide defense workers with the same sense of stability and security they have helped create for all Americans.

As 1991 draws to a close, whom do we thank for our victory in the cold war? Certainly we must honor the brave Americans who risked their lives in combat for the price of freedom. And we owe a debt of gratitude to the U.S. ground forces and air patrols that for decades have kept a vigilant watch in Europe and the Pacific.

But as we take the roll of honor in the struggle against communism, as we sum up the achievements of the glorious and the proud, as we hand out the placards and the awards and the trophies, there is one aspect of the battle we must never forget.

It is a capable sector of our economy known as the defense industry, Mr. President, that makes it all possible.

Mr. President, I have long believed that the workers in our defense industry are the veterans of the cold war. Whether in Groton, CT, or St. Louis, MI, or Fort Worth, TX—indeed in communities all across the Nation—the defense industry has given our fighting men and women the best armaments that money can buy. This vast army of workers and engineers answered the call of patriotism and rose to their Nation's defense in the way they knew how—with machine tools and carbon welds, drafting boards and blueprints.

As veterans of the cold war, Mr. President, these defense workers deserve more than our debt of gratitude. We owe them our pledge that their jobs and their livelihoods will not be jeopardized by the very peace they helped bring about.

In communities across the Nation, a sudden drop in Federal defense expenditures threatens to slam shut the doors of factories, dry up local resources, and cast workers and managers alike onto the street. The very people who devoted their souls to the preservation of this Nation's defense may face the horrible prospect of being forced from their jobs, victims of their own success.

But Mr. President, the potential threat goes deeper than that. Let me cite one example within my State. Just yesterday, I was approached by a representative of Colt Manufacturing, the firearms producer that employs nearly 1,000 people in Hartford. I was told that due to declining expenditures, the company may be forced to shut down its entire production line, both commercial and military, within two months.

The loss, of 1,000 employees, in an economy such as Connecticut's, would be staggering. But even more disturbing is the fact that the Nation's leading manufacturer of firearms—and one that has been in my State for over 100 years—would be lost forever. The skill and experience developed over more than a century would simply evaporate, never to be regained.

In the global economic competition of the 21st century, the loss of a manufacturer with such expertise would be terribly damaging. And in a world that still remains dangerous—despite the dramatic transformations of the past few years—our ability to retool our industries for defense production must be preserved.

We must not repeat the experience after World War II, when we let our defense industrial base collapse and found ourselves unprepared for the outbreak of the Korean war. We must remain vigilant and prepared to meet any contingency. We must apply the same expertise and ingenuity to the transition of the defense economy as we did to its creation, or we will lose forever these technologies, this industrial base, and important jobs.

These are the problems we face, Mr. President, as we prepare to adapt the economy of the United States. It is a daunting challenge—but it must be met head on. The restructuring of budget priorities provides us with a unique opportunity to assess our technological strengths, and a challenge to solidify our gains.

Sadly, we have not met this challenge to date.

President Bush maintains that economic adjustment is not necessary. He says the reduction in the deficit caused by lower defense spending will stimulate the economy to create new opportunities. But the President misses the trees for the forest. I fail to see how New London County—which received over $9,000 per capita in defense dollars last year and by one estimate stands to lose over 21,000 jobs by 1996 due to defense cuts—will gain from a reduction in the deficit.

It is for this reason, Mr. President, that I have chosen to introduce this bill. I am pleased to be joined by Senator LIEBERMAN in this effort. And I am pleased to join him on the bill he has introduced, the Industrial Diversification and Economic Adjustment Act of 1991.

In drafting the bill I am putting forward today, I followed a few simple guidelines.

First, any effort at diversification must be coordinated. This bill calls for the establishment of a Presidential Council on Economic Adjustment. Among the duties of this council will be the planning and evaluation of Federal adjustment initiatives, the carrying out of studies on technology transfer and marketing potential for newly developing industries, and the maintaining of a clearinghouse for Federal and State initiatives.

But the most important aspect of this council, Mr. President, is that it serve as a liaison—a vital link between companies and communities that are endangered by defense cuts, and the Federal programs that can help them adjust to those cuts. There are a host of programs already available, whether oriented toward technology transfer, export assistance, economic development, job training, or small business. The Presidential Council on Economic Adjustment shall be responsible for ensuring those resources are amply used.

Second, companies and communities must have the flexibility to utilize those measures appropriate for them. The bill rejects the use of mandates or other requirements that industries or communities must meet. Rather, this legislation provides a panorama of options from which those in need can choose.

Defense companies may receive Federal matching grants for the establishment of alternative use committees to explore other ways to utilize their production lines. They will become eligible under the Defense Production Act for loans, loan guarantees, and joint Federal-private initiatives aimed at diversification. And to help smooth out the transition, defense companies shall become eligible for State Department-backed loan guarantees for the export of military goods to NATO countries, plus Japan, Israel, Australia, or New Zealand.

The goal of these provisions is simple: to encourage defense contractors to keep their lines open, commercialize their products and keep skilled labor in place. When companies stay open, job security is maintained. It is as simple as that.

But we do not focus entirely on companies in this bill. Flexibility must apply to the individual and the community, as well. That is why we provide additional funding for assistance to paid off defense workers through the Job Training Partnership Act. And it is why we allow defense-dependent communities to apply for additional assistance under Title IX of the Public Works and Development Act. There is truly something for everyone in this bill.

Third, the bill adheres to the fundamental premise regarding an ounce of prevention. It requires the Presidential Council to identify on an annual basis not only those communities that are currently at risk due to planned defense cuts, but those communities that are potentially at risk in the future due to a heavy concentration of defense-dependent industries. Such communities would also be eligible for assistance under this bill.

Finally, the bill recognizes that a program of this scope is not without its costs. To pay for its provisions, it sets aside 10 percent of the approximate savings from reductions in the defense budget. This provides an ample and responsible funding base.

Mr. President, as I have said before, I certainly do not regard this bill as a panacea. It is not the final say on this matter. But with it we are laying down a marker—stating firmly and unequivocably that the issue of defense economic adjustment deserves attention and debate. We owe it to our defense industry. We owe it to our defense industry workers. And ultimately, we owe it to ourselves.

If we are to take some responsibility for our future capabilities in production and engineering, if we are to start planning today for the economy of tomorrow, we must reinvigorate the debate on this fundamentally important issue. This is not about rewarding the defense industry, or subsidizing the defense worker. It is not preserving the basic technological developments that brought us into this decade—and seeking the technologies to catapult us into the next one.

I look forward to working with Senator LIEBERMAN and the leadership of the Congress on this important legislation.•

By Mr. NUNN (for himself and Mr. FOWLER):

S. 2134. A bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic games and the programs of the United States Olympic Committee; to the Committee on Banking, Housing, and Urban Affairs.

1996 ATLANTA CENTENNIAL OLYMPIC GAMES COMMEMORATIVE COIN ACT

• Mr. NUNN. Mr. President, I rise today to join my colleague from Georgia, Senator WYCHE FOWLER, in introducing legislation to honor and assist the centennial Olympic games being held in Atlanta in the summer of 1996 by authorizing a special commemorative coin. This is an exact counterpart to a House bill already introduced by Representative DOUG BARNARD, who is the Georgia congressional delegation's lead member on this issue.

This legislation follows the precedent established when the United States last hosted the Olympics, in Los Angeles in 1984. As in 1984, we are establishing a 2-year commemorative coin program to culminate in the Olympic year, with proceeds divided between the Olympic Organizing Committee and the U.S. Olympic Committee.

The 1984 Olympic coin helped make the Los Angeles Olympics a financial success, raising $73 million. The Atlanta Committee for the Olympic games hopes to raise a total of $100 million with its commemorative coin, a small but crucial element in its projected budget of $1.2 billion.

Aside from its financial aspects, this commemorative coin program provides both American citizens and international supporters of the Olympic movement a means of participating in the centennial games.

From the moment last autumn in Tokyo when Atlanta concluded its upset victory in the bid for the 1996 games, there has been an exceptional air of excitement about this event. It has galvanized not just Atlanta but the entire southeastern region. As the first summer games ever held on the east coast of the United States, the 1996 games will be the most widely broadcast in history, and one of the most heavily attended, with more than 150,000 people per day expected.

Mr. President, I urge my Senate colleagues to express their support for America's centennial games by supporting establishment of this commemorative coin program.•

By Mr. KENNEDY:

S. 2135. A bill to amend the Federal Food, Drug, and Cosmetic Act to enhance the enforcement authority of the Food and Drug Administration, and for other purposes; to the Committee on Labor and Human Resources.

FOOD, DRUG, COSMETIC, AND DEVICE ENFORCEMENT AUTHORITIES ACT

Mr. KENNEDY. Mr. President, today I am pleased to introduce the Food, Drug, Cosmetic and Device Enforcement Authorities Act of 1991. The legislation will finally provide the Food and Drug Administration [FDA] with the same enforcement tools granted to other regulatory agencies, and will enable the FDA to more effectively carry out its critical responsibilities under the Food, Drug and Cosmetic Act.

The FDA regulates products which account for 25 cents of every dollar spent in this country—a statistic about the agency that is cited often. However, more important than the sheer volume of products subject to FDA oversight is the degree to which these regulated products affect the lives of every American in vital ways each day. Ineffective oversight by the FDA exposes the public to substantial risks from unsafe or defective products.

The stark reality is that the FDA simply does not have the necessary means to enforce the law. The enforcement provisions in the Food, Drug and Cosmetic Act are more than 50 years old. The enforcement authorities were written prior to the first therapeutic use of Penicillin, and have been rendered obsolete by the development of products unimagined half a century ago. The FDA has a unique mission as both a scientific agency, and an agency charged with consumer protection. The FDA cannot fulfill its mandates without enforcement authorities which give it the ability to obtain essential information concerning regulated products in an efficient and timely manner.

Earlier this year the Edwards Committee, a blue ribbon panel of FDA experts, criticized what it called the FDA's mixed bag of enforcement tools and recommended that "the Agency should be armed with the same tools for all products that it regulates." Last year, passage of the Safe Medical Devices Act gave the Agency the ability to impose administrative civil penalties for medical device violations. However, for violations relating to foods, drugs or cosmetics, FDA must still rely solely on the harsh sanction of criminal penalties, which is a severe limitation of FDA's ability to institute appropriate sanctions. Last year Congress also provided FDA with the authority to recall medical devices which posed unacceptable risks, but FDA cannot institute mandatory recalls of foods, drugs or cosmetics. The FDA has record inspection authority to inspect the records of drug and medical device manufacturers, but that authority does not extend to food or cosmetic facilities.

In contrast to the FDA, the enforcement authorities of other U.S. regulatory agencies have been improved over time. For example, the FDA does not have authority to subpoena documents and witnesses in connection with investigations, unlike the Environmental Protection Agency, the Federal Trade Commission, and the Consumer Product Safety Commission. There is no reason for the FDA, with its enormous responsibilities, to have enforcement authorities inferior to those of other regulatory agencies.

While there is an urgent need to increase FDA's enforcement authorities, the regulated industries have raised concerns about the scope of these authorities. As a result, these new enforcement powers are carefully circumscribed in this bill.

The legislation would grant the following authorities:

The Federal courts would be able to recall products which were in violation of the Food, Drug and Cosmetic Act. This provision reflects the standard included in an original health and human services bill on enforcement authorities;

The administrative recall provision employs the same standard for food, drug, or cosmetic recalls as current law for medical devices. Administrative recall could be instituted if there was a reasonable probability that a food, drug, or cosmetic will cause serious adverse health consequences or death;

The seizure authority of the agency would be refined, and the agency would be given the authority to embargo products while a seizure order is being obtained. Currently, there is no Federal embargo authority for food, drugs, or cosmetics, and the FDA must rely on state embargo authority; and

The agency would be granted subpoena authority in connection with an administrative investigation. Subpoenas could only be issued by the Commissioner, the Chief Counsel of FDA, or an administrative law judge in connection with a hearing.

The bill identifies a variety of special protections for formulas and other trade secret information, certain types of financial information and patients names in medical or research files. The legislation also directs the Secretary, to the extent appropriate, to follow the requirements of the Federal Trade Commission Act when issuing guidelines on the use of subpoenas, and on the protection of confidential information obtained by subpoena. The Federal Trade Commission statute has proven to be a model in protecting the confidentiality of commercial information obtained in investigations, and it should serve as a helpful example to the Commisssioner.

The bill would provide the agency with administrative civil money penalty authority for violations involving all the products that it regulates. This is another area where the most recent revision of the medical device amendments provided such administrative civil money penalties, but such authority must be agency wide to permit maximum flexiblity.

The inspection authority of the agency would be strengthened, making food facilities subject to the kinds of inspections to which other drug and device facilities are already subject. The legislation imposes explicit limitations on this general inspection authority.

The agency would be authorized to order the destruction of imported products determined to be hazardous to health, preventing the port shopping which currently allows many hazardous products to successfully evade current inspection efforts.

The bill would define all products affecting interstate commerce as subject to the new enforcement laws, making the FDA enforcement activities more efficient and effective. Under current law, FDA must waste valuable resources preparing to prove that products move in interstate commerce.

The FDA cannot maintain its credibility as an enforcement agency without enforcement tools that allow it to regulate aggressively and consistently. We cannot continue to handcuff the agency responsible for assuring the safety and efficacy of essential products with antiquated enforcement laws. I look forward to an early hearing on this legislation next year.

I also look forward to pursuing other important FDA reforms. As the Edwards Committee report made clear, the FDA needs broad reform in several areas, including the need to assure the independence of the FDA commissioner, the need to remedy the crippling short-fall in FDA resources, and the need to improve utilization of existing facilities and personnel. I will be introducing legislation next year which will address these issues. While improved enforcement is crucial to FDA's mission, the agency cannot meet the unprecedented challenges it faces without fundamental change in many areas.

By Mr. CONRAD:

S. 2136. A bill to authorize construction of the northwest area water supply/Fort Berthold intergrated water supply project, hereinafter referred to as the "Na chiin Huun—Dakota Project," and for other purposes; to the Committee on Energy and Natural Resources.

NA CHIIN HUNN—DAKOTA PROJECT ACT OF 1991

Mr. CONRAD. Mr. President, I rise today to introduce legislation to provide much needed water supplies to the Fort Berthold Reservation and northwestern North Dakota.

This legislation was developed after a number of years of study. The first study of how to meet the water needs of northwestern North Dakota was conducted in 1988. Dramatic water quality and supply needs were identified in nearly all of the region. The three affiliated tribes were also studying ways to meet their own significant water quality and supply needs.

The State and the three affiliated tribes decided to combine their efforts into one overall integrated water supply system serving regional demands. This bill implements their proposals.

This legislation was developed through a consultative process within the State of North Dakota. I understand it will be amended as we move through this process, and I look forward to receiving comments on this legislation and hearings on this subject.

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. BOREN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 493

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 493, a bill to amend the Public Health Service Act to improve the health of pregnant women, infants and children through the provision of comprehensive primary and preventive care, and for other purposes.

S. 747

At the request of Mr. PRYOR, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 891

At the request of Mr. MACK, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 891, a bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests.

S. 1257

At the request of Mr. BOREN, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1261

At the request of Mr. DOLE, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1521

At the request of Mr. MCCONNELL, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1521, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material.

S. 1557

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1557, a bill to improve the implementation and enforcement of the Federal cleanup program.

S. 1597

At the request of Mr. HATFIELD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1597, a bill to amend the Public Health Service Act to provide grants to entities in rural areas that design and implement innovative approaches to improve the availability and quality of health care in such rural areas, and for other purposes.

S. 1627

At the request of Mr. FORD, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1627, a bill to amend section 615 of title 38, United States Code, to require the Secretary of Veterans Affairs to permit persons who receive care at medical facilities of the Department of Veterans Affairs to have access to and to consume tobacco products.

S. 1647

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1647, a bill to amend the Internal Revenue Code of 1986 to provide that the deduction for State and local income and franchise taxes shall not be allocated to foreign source income.

S. 1698

At the request of Mr. SARBANES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1774

At the request of Mr. BRYAN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1774, a bill to establish a silver congressional commemorative medal for members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1786

At the request of Mr. BAUCUS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1786, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment.

S. 1788

At the request of Mr. WIRTH, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1788, a bill to establish the National Air and Space Museum Expansion Site Advisory Panel for the purpose of developing a national competition for the evaluation of possible expansion sites for the National Air and Space Museum, and to authorize the Board of Regents of the Smithsonian Institution to select, plan, and design such site.

S. 1877

At the request of Mr. BOND, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1877, a bill to require the use of child restraint systems on commercial aircraft.

S. 1886

At the request of Mr. MCCONNELL, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1886, a bill to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source.

S. 1931

At the request of Mr. STEVENS, the names of the Senator from Washington [Mr. GORTON] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 1950

At the request of Mr. DANFORTH, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1950, a bill to amend the Internal Revenue Code of 1986 to extend for 1 year certain expiring tax provisions.

S. 2015

At the request of Mr. DOLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2015, a bill to urge and request the award of the Bronze Star to Navy and Marine Corps personnel who served in the the defense of Corregidor Island, the Philippines, under General Wainwright.

S. 2065

At the request of Mr. DIXON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was withdrawn as a cosponsor of S. 2065, a bill to federalize the crime of child molestation for repeat offenders.

S. 2089

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 2089, a bill to repeal exemptions from civil rights and labor laws for Members of Congress.

S. 2091

At the request of Mr. DECONCINI, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 2091, a bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti.

S. 2117

At the request of Mr. SASSER, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Nevada [Mr. BRYAN], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2117, a bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses.

SENATE JOINT RESOLUTION 113

At the request of Mr. LAUTENBERG, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution designating the oak as the national arboreal emblem.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. DODD, the names of the Senator from Washington [Mr. GORTON], the Senator from Tennessee [Mr. SASSER], the Senator from Mississippi [Mr. COCHRAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Virginia [Mr. WARNER], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution concerning the emancipation of the Baha'i community of Iran.

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE CONCURRENT RESOLUTION 75

At the request of Mr. REID, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Concurrent Resolution 75, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Unit Citation to the crew of the U.S.S. Nevada for their heroism and gallantry during the attack on Pearl Harbor on December 7, 1941.

SENATE RESOLUTION 230

At the request of Mr. D'AMATO, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Resolution 230, a resolution in support of Machine Tools VRA.

SENATE CONCURRENT RESOLUTION 83—CORRECTING THE ENROLLMENT OF S. 543

Mr. GARN submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill, S. 543, the Secretary of the Senate shall make the following correction:

At the appropriate place, insert:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York and the deposits of Community National Bank and Trust Company of New York that—

(1) were deposited by a charitable organization as such term is defined by New York State law, or by a religious organization; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be fully insured notwithstanding any other provisions of the Federal Deposit Insurance Act.

SENATE CONCURRENT RESOLUTION 84—CORRECTING THE ENROLLMENT OF H.R. 3435

Mr. RIEGLE submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 84

Resolved by the Senate (the House of Representatives concurring), The Clerk of the House is directed to make the following changes in the enrollment of H.R. 3435:

Strike Section 618.

SENATE CONCURRENT RESOLUTION NO. 85—CORRECTING A TECHNICAL ERROR IN THE ENROLLMENT OF THE BILL (H.R. 3531)

Mr. FORD (for Mr. DECONCINI) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 85

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 3531), an Act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 8 of the bill insert a semicolon immediately after the first quotation marks.

(2) In section 5(d)(2)(C) insert quotation marks immediately before "CHAPTER 4—PATENT FEES;".

SENATE CONCURRENT RESOLUTION NO. 86—CORRECTING THE ENROLLMENT OF H.R. 2950

Mr. CHAFEE (for Mr. DOLE) submits a concurrent resolution; which was considered and agreed to:

S. CON. RES. 86

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House is directed to make the following changes in the enrollment of H.R. 2950, section 1014(e)(2).

At page 73, line 2, strike "91" and insert "81";

At page 73, line 4, strike "91" and insert "81".

SENATE RESOLUTION 238—RELATIVE TO SENATE PERQUISITES

Mr. SPECTER submitted the following resolution; which was referred to the Commitee on Rules and Administration:

S. RES. 238

Whereas, there is an important open issue on the propriety of perquisites enjoyed by members of the Senate, including but not limited to medical services, dental services, gymnasium facilities, cut rates for barber/beauty shop services, limousine service for the leadership, use of artwork, and airport parking;

Whereas, an objective evaluation should be made as to appropriate payment for such services for purposes of computing overall compensation as well as taxable income: Now, therefore, be it

Resolved, That the Committee on Rules and Administration shall report to the full Senate on or before June 30, 1992 on a plan to deal with Senators' perquisites with a view toward having Members of the Senate pay full market value for such perquisites or having such value of such perquisites included in the overall compensation of each Member of the Senate.

Mr. SPECTER. Mr. President, recent events in the U.S. Congress have raised questions as to the propriety of certain perquisites and privileges available to Members of Congress. Such events in this Senator's view, are facilitating a loss of public confidence in Congress. Accordingly, I believe there is an urgent need for this body to review its practices and procedures in order to bolster public confidence in Congress.

To this end Mr. President, today I am introducing a resolution calling on the Senate Rules Committee to perform an objective evaluation of perquisites for Members of the Senate and to report back to the full Senate by June 30, 1992, with a plan to deal with those perquisites that are not required for performing the constitutional duties of a U.S. Senator. In particular, I believe that those perks that are required for performing our duties should be paid for by Senators and not subsidized by American taxpayers.

Mr. President, as Senators we receive a number of perquisites that are incidental and integral to the performance of our official duties. These perks include among others, the franking privilege and our office allowances. However, there are a number of other perquisites such as medical and dental services, gymnasium privileges, airport parking, and the use of artwork from the National Gallery of Art, for which we do not pay and which are not integral to the performance of such duties.

In view of these latter perquisites, my resolution calls on the Rules Committee to evaluate all of the perquisites which members of this body receive to determine which are appropriate payment or otherwise be included in such members' overall compensation.

SENATE RESOLUTION NO. 239—RELATING TO THE ALBERT EINSTEIN SENATE FELLOWSHIP PROGRAM

Mr. CHAFEE (for Mr. HATFIELD) submitted the following resolution; which was considered and agreed to:

S. RES. 239

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be referred to as the "Albert Einstein Senate Fellowship Program Resolution".

SEC. 2. REAUTHORIZATION.

The authority provided in Senate Resolution 173 of the One Hundred-second Congress (agree to on August 2, 1991), as amended by Senate Resolution 208 of the One Hundred-second Congress (agreed to on October 25, 1991), and further amended by Senate Resolution 228 of the One Hundred-second Congress (agreed to on November 21, 1991), is hereby reauthorized in accord with the provisions of this resolution.

SEC. 3. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—The President pro tempore of the Senate is authorized to enter into an agreement with the Triangle Coalition for Science and Technology Education (hereafter in this resolution referred to as "Coalition") to establish an Albert Einstein Senate Fellowship Program (hereafter in this resolution referred to as the "fellowship program"), which, beginning with the fiscal year 1991, provides for two fellowships in the Senate for each fiscal year.

(b) RESPONSIBILITIES.—The President pro tempore of the Senate may enter into the agreement described in subsection (a), and authorize the expenditure of funds pursuant to section 4(e), only if the Coalition—

(1) undertakes the application responsibilities referred to in section 4(a);

(2) participates in the evaluation referred to in section 5; and

(3) provides the funding for administration and evaluation costs referred to in section 6(b), and partial compensation referred to in section 4(e)(1)(A).

SEC. 4. SELECTION PROCESS.

(a) APPLICATION RESPONSIBILITIES.—The Coalition shall—

(1) develop and administer an application process in accord with subsection (d);

(2) publicize the fellowship program; and

(3) conduct an initial screening of applicants for the fellowship program.

(b) SELECTION.—Each fiscal year the President pro tempore of the Senate, upon the recommendation of the Majority Leader, in consultation with the Minority Leader, shall select the two recipients of the Senate fellowships from among the applicants processed under subsection (a).

(c) PLACEMENT OF FELLOWSHIPS.—

(1) The President pro tempore of the Senate, upon the recommendation of the Majority Leader, in consultation with the Minority Leader, and the chairmen and ranking minority party members of the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate, may place one

fellowship recipient on the staff of the Committee on Labor and Human Resources, and may place one fellowship recipient on the staff of the Committee on Commerce, Science, and Transportation.

(2) Notwithstanding paragraph (1), either or both fellowship recipients may instead be placed on the personal staff of a member of the Senate.

(d) Eligible Recipients.—Applicants screened under subsection (a) shall be from among a pool of nationally recognized outstanding secondary school science and mathematics teachers. The pool shall include teachers who have received Presidential Awards for Excellence in Science and Mathematics Teaching, as established by section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b), or other similar recognition of skills, experience, and ability as science or mathematics teachers.

(e) Compensation.—

(1) Each recipient of a Senate fellowship shall be compensated—

(A) in part by the Coalition;

(B) in part from funds made available under section 6(a).

(2) The President pro tempore of the Senate shall fix the compensation of each recipient authorized in paragraph (1)(B) at not to exceed one-half of the funds authorized to be available for each respective fiscal year under section 6(a).

(f) Length of Term.—Each fellowship recipient shall serve for a period of ten months.

SEC. 5. EVALUATION.

The Chairman of each committee or the member of the Senate in whose office a fellowship recipient is placed, and the Executive Director of the Coalition shall submit to the President pro tempore of the Senate an annual report evaluating the fellowship program, and shall make recommendations concerning the continuation of the program.

SEC. 6. FUNDING.

(a) Fellowships.—For fiscal years 1991, 1992, and 1993, the funds authorized to compensate Senate fellowship recipients under section 4(e) shall be paid from the contingent fund of the Senate, but not to exceed a total of $40,000 in fiscal year 1991 with such funds to remain available through September 30, 1992, $42,500 in fiscal year 1992, and $45,000 in fiscal year 1993 for the Senate fellowships.

(b) Administration and Evaluation.—The Coalition shall provide the funds necessary for the administration of the fellowship program, and for evaluations conducted pursuant to section 5.

SEC. 7. SUPERSEDING PREVIOUS AUTHORITY.

This resolution supersedes the resolutions referred to in section 2.

SEC. 8. TERMINATION DATE.

The provisions of this resolution shall terminate September 30, 1993.

SENATE RESOLUTION NO. 240—RELATING TO THE UNITED STATES CAPITOL PRESERVATION COMMISSION

Mr. FORD (for Mr. Byrd) submitted the following resolution; which was considered and agreed to:

S. Res. 240

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol be temporarily suspended for the sole and specific purpose of permitting the United States Capitol Preservation Commission and its designated agents to conduct activities in accordance with the purposes of the Commission on such dates and times, and in such manner as determined by the Senate Co-chair of the Commission or his designee.

Sec. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements to facilitate activities authorized by this resolution.

SENATE RESOLUTION NO. 241—RELATING TO THE UNITED STATES VERSUS PETER MACDONALD CASE

Mr. MITCHELL (for himself and Mr. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 241

Whereas, in the case of *United States* v. *Peter MacDonald, Jr., et al.*, No. CR-91-087-PCT-EHC, pending in the United States District Court for the District of Arizona, counsel for defendant Peter MacDonald, Jr., has requested the testimony of Kenneth M. Ballen, a former employee of the Senate on the Staff of the Special Committee on Investigations of the Select Committee on Indian Affairs;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate, can, by administrative or judicial processs, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Kenneth M. Ballen, and any other employee or former employee of the Senate from whom testimony may be necessary, are authorized to testify in *United States* v. *Peter MacDonald, Jr., et al.*, except concerning matters for which a privilege should be asserted.

Sec. 2. That the Senate Legal Counsel is authorized to represent Kenneth M. Ballen, and any other employee or former employee of the Senate from whom testimony may be necessary, in connection with their testimony in *United States* v. *Peter MacDonald, Jr., et al.*

AMENDMENTS SUBMITTED

RESOLUTION TRUST CORPORATION REFINANCING ACT

DOMENICI (AND OTHERS) AMENDMENT NO. 1450

(Ordered to lie on the table)

Mr. DOMENICI (for himself, Mr. Rudman, Mr. Symms, Mr. Chafee, Mr. Mack, Mr. Danforth, and Mr. McCain) submitted an amendment intended to be proposed by them to the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

SEC. . CREDIT AVAILABILITY.

Section 5(t)(5) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)) is amended by adding at the end the following new paragraph:

"(F) Exceptions granted by director.—

"(i) In general.—The Director may grant such limited and temporary exceptions from subparagraphs (A) and (D) as the Director deems necessary and appropriate, if the Director determines that—

"(I) extraordinary circumstances exist or that economic conditions at the national, regional, or local level are such that an insufficient opportunity exists for the association to divest a subsidiary engaged in activities not permissible for a national bank or any investment in or extension of credit to such subsidiary; and

"(II) the conditions set forth in paragraph (7)(C)(i) of this subsection are satisfied.

"(ii) Limitation.—An exception under this subparagraph applies only to the amount of the savings association's investments in or extensions or credit to a subsidiary as of April 12, 1989, and the amounts that have been or will be expended to complete projects or investments that were initiated by such subsidiary prior to the date of enactment of this subparagraph. In granting an exception pursuant to this subparagraph, the Director shall require the same percentage deduction from capital for amounts invested and credit extended as of April 12, 1989, and for amounts invested and credit extended thereafter.

"(iii) Duration.—No exception under this subparagraph shall be effective after July 1, 1999.

"(iv) Amount.—No exception shall reduce the percentage deduction from capital to a percentage less than that required as of the date of enactment of this subsection for investments and extensions of credit made prior to April 12, 1989.".

RECLAMATION STATES EMERGENCY DROUGHT RELIEF

JOHNSTON AMENDMENT NO. 1451

Mr. MITCHELL (for Mr. Johnston] proposed an amendment to the bill (H.R. 355) to provide emergency drought relief to the reclamation States, and for other purposes, as follows:

Delete all after the enacting clause and substitute the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation States Emergency Drought Relief Act of 1991".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388)

and Acts supplementary thereto and amendatory thereof.

(3) The term "Federal Reclamation project" means any project constructed or funded under Federal Reclamation law. Such term includes projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044).

TITLE I—DROUGHT PROGRAM

SEC. 101. ASSISTANCE DURING DROUGHT; WATER PURCHASES.

(a) CONSTRUCTION, MANAGEMENT, AND CONSERVATION.—Consistent with existing contractual arrangements and applicable State and applicable Federal law, and without further authorization, the Secretary is authorized to undertake construction, management, and conservation activities that will minimize, or can be expected to have an effect in minimizing, losses and damages resulting from drought conditions. Any construction activities undertaken pursuant to the authority of this subsection shall be limited to temporary facilities designed to minimize losses and damages from drought conditions, except that wells drilled to minimize losses and damages from drought conditions may be permanent facilities.

(b) ASSISTANCE TO WILLING BUYERS AND SELLERS.—In order to minimize losses and damages resulting from drought conditions, the Secretary may provide non-financial assistance to willing buyers in their purchase of available water supplies from willing sellers.

(c) WATER PURCHASES BY BUREAU.—In order to minimize losses and damages resulting from drought conditions, the Secretary may purchase water from willing sellers, including, but not limited to, water made available by Federal Reclamation project contractors through conservation or other means with respect to which the seller has reduced the consumption of water. Except with respect to water stored, conveyed or delivered to Federal and State wildlife habitat, the Secretary shall deliver such water pursuant to temporary contracts under section 102: *Provided*, That any such contract shall require recovery of any costs, including interest if applicable, incurred by the Secretary in acquiring such water.

(d) WATER BANKS.—In order to respond to a drought, the Secretary is authorized to participate in water banks established by a State.

SEC. 102. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

(a) GENERAL AUTHORITY.—In order to mitigate losses and damages resulting from drought conditions, the Secretary may make available, by temporary contract, project and non-project water and may permit the use of facilities at Federal Reclamation projects for the storage or conveyance of project or non-project water, for use both within and outside an authorized project service area.

(b) SPECIAL PROVISIONS APPLICABLE TO TEMPORARY WATER SUPPLIES PROVIDED UNDER THIS SECTION.—

(1) TEMPORARY SUPPLIES.—Each temporary contract for the supply of water entered into pursuant to this section shall terminate no later than two years from the date of execution or upon a determination by the Secretary that water supply conditions no longer warrant that such contracts remain in effect, whichever occurs first. The costs associated with any such contract shall be repaid within the term of the contract.

(2) OWNERSHIP AND ACREAGE LIMITATIONS.—Lands not subject to Reclamation law that receive temporary irrigation water supplies under temporary contracts under this section shall not become subject to the ownership and acreage limitations or pricing provisions of Federal Reclamation law because of the delivery of such temporary water supplies. Lands that are subject to the ownership and acreage limitations of Federal Reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies.

(3) TREATMENT UNDER RECLAMATION REFORM ACT OF 1982.—No temporary contract entered into by the Secretary under this section shall be treated as a "contract" as that term is used in sections 203(a) and 220 of the Reclamation Reform Act of 1982 (Public Law 97–293).

(4) AMENDMENTS OF EXISTING CONTRACTS.—Any amendment to an existing contract to allow a contractor to carry out the provisions of this title shall not be considered a new and supplemental benefit for purposes of the Reclamation Reform Act of 1982 (Public Law 97–293).

(c) CONTRACT PRICE.—The price for project water, other than water purchased pursuant to section 101(c), delivered under a temporary contract entered into by the Secretary under this section shall be at least sufficient to recover all Federal operation and maintenance costs and administrative costs, and an appropriate share of capital costs, including interest on such capital costs allocated to municipal and industrial water, except that, for project water delivered to non-project landholdings, the price shall include full cost (as defined in section 202(3) of the Reclamation Reform Act of 1982 (Public Law 97–293; 96 Stat. 1263; 43 U.S.C. 390bb)). For all contracts entered into by the Secretary under the authority of this title,

(1) the interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs expended pursuant to this Act shall be at a rate to be determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with remaining periods to maturity of one year occurring during the last month of the fiscal year preceding the date of execution of the temporary contract or,

(2) in the case of existing facilities the rate as authorized for that Federal Reclamation project or,

(3) in the absence of such authorized rate, the interest rate as determined by the Secretary of the Treasury as of the beginning of the fiscal year in which construction was initiated on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which were neither due nor callable for redemption for fifteen years from date of issue: *Provided*, That for all deliveries of water for municipal and industrial purposes from existing facilities to non-project contractors, the rate shall be as set forth in paragraph (1) of this subsection.

(d) FISH AND WILDLIFE.—The Secretary may make water from Federal Reclamation projects and non-project water available on a nonreimbursable basis for the purposes of protecting or restoring fish and wildlife resources, including mitigation losses, that occur as a result of drought conditions or the operation of a Federal Reclamation project during drought conditions. The Secretary may store and convey project and non-project water for fish and wildlife purposes, and may provide conveyance of any such water for both State and Federal wildlife habitat and for habitat held in private ownership. The Secretary may make available water for these purposes outside the authorized project service area. Use of the Federal storage and conveyance facilities for these purposes shall be on a nonreimbursable basis. Water made available by the Secretary in 1991 from the Central Valley Project, California, to the Grasslands Water District for the purpose of fish and wildlife shall be nonreimbursable.

(e) NON-PROJECT WATER.—The Secretary is authorized to store and convey non-project water utilizing Federal Reclamation project facilities for use outside and inside the authorized project service area for municipal and industrial uses, fish and wildlife, and agricultural uses. Except in the case of water supplied for fish and wildlife, which shall be nonreimbursable, the Secretary shall charge the recipients of such water for such use of Federal Reclamation project facilities at a rate established pursuant to section 102(c) of this Act.

(f) RECLAMATION FUND.—The payment of capital costs attributable to the sale of project or non-project water or the use of Federal Reclamation project facilities shall be covered into the Reclamation Fund and be placed to the credit of the project from which such water or use of such facilities is supplied.

SEC. 103. LOANS.

The Secretary of the Interior is authorized to make loans to water users for the purposes of undertaking construction, management, conservation activities, or the acquisition and transportation of water consistent with State law, that can be expected to have an effect in mitigating losses and damages, including those suffered by fish and wildlife, resulting from drought conditions. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate: *Provided*, That the Secretary shall not approve any loan unless the applicant can demonstrate an ability to repay such loan within the term of the loan; *Provided further*, That for all loans approved by the Secretary under the authority of this section, the interest rate shall be the rate determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with periods to maturity comparable to the repayment period of the loan. The repayment period for loans issued under this section shall not exceed fifteen years. The repayment period for such loans shall begin when the loan is executed. Sections 203(a) and 220 of the Reclamation Reform Act of 1982 and sections 105 and 106 of Public Law 99–546 shall not apply to any contract to repay such loan. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives in writing of any loan which the Secretary intends to approve not less than 30 days prior to granting final approval.

SEC. 104. APPLICABLE PERIOD OF DROUGHT PROGRAM.

(a) IN GENERAL.—The programs and authorities established under this title shall become operative in any Reclamation State only after the Governor or Governors of the affected State or States, or on a reservation, when the governing body of the affected Tribe has made a request for temporary drought assistance and the Secretary has determined that such temporary assistance is merited, or upon the approval of a drought contingency plan as provided in title II of this Act.

(b) COORDINATION WITH BPA.—If a Governor referred to in subsection (a) is the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a).

(c) TERMINATION OF AUTHORITY.—The authorities established under this title shall terminate ten years after the date of enactment of this Act.

TITLE II—DROUGHT CONTINGENCY PLANNING

SEC. 201. IDENTIFICATION OF OPPORTUNITIES FOR WATER SUPPLY CONSERVATION, AUGMENTATION AND USE.

The Secretary is authorized to conduct studies to identify opportunities to conserve, augment, and make more efficient use of water supplies available to Federal Reclamation projects and Indian water resource developments in order to be prepared for and better respond to drought conditions. The Secretary is authorized to provide technical assistance to States and to local and Tribal government entities to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

SEC. 202. DROUGHT CONTINGENCY PLANS.

The Secretary, acting pursuant to the Federal Reclamation laws, utilizing the resources of the Department of the Interior, and in consultation with other appropriate Federal and State officials, Indian tribes, public, private, and local entities, is authorized to prepare or participate in the preparation of cooperative drought contingency plans (hereinafter in this title referred to as "contingency plans") for the prevention or mitigation of adverse effects of drought conditions.

SEC. 203. PLAN ELEMENTS.

(a) PLAN PROVISIONS.—Elements of the contingency plans prepared pursuant to section 202 may include, but are not limited to, any or all of the following:

(1) Water banks.

(2) Appropriate water conservation actions.

(3) Water transfers to serve users inside or outside authorized Federal Reclamation project service areas in order to mitigate the effects of drought.

(4) Use of Federal Reclamation project facilities to store and convey non-project water for agricultural, municipal and industrial, fish and wildlife, or other uses both inside and outside an authorized Federal Reclamation project service area.

(5) Use of water from dead or inactive reservoir storage or increased use of ground water resources for temporary water supplies.

(6) Water supplies for fish and wildlife resources.

(7) Minor structural actions.

(b) FEDERAL RECLAMATION PROJECTS.—Each contingency plan shall identify the following two types of plan elements related to Federal Reclamation projects;

(1) those plan elements which pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Federal Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project; and

(2) those plan elements that pertain to projects, purposes, or activities not constructed, financed, or otherwise governed by the Federal Reclamation law.

(c) DROUGHT LEVELS.—The Secretary is authorized to work with other Federal and State agencies to improve hydrologic data collection systems and water supply forecasting techniques to provide more accurate and timely warning of potential drought conditions and drought levels that would trigger the implementation of contingency plans.

(d) COMPLIANCE WITH LAW.—The contingency plans and plan elements shall comply with all requirements of applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321), section 715(a) of the Water Resource Development Act of 1986 (33 U.S.C. 2265(a), and the Fish and Wildlife Coordination Act, and shall be in accordance with applicable State law.

(e) REVIEW.—The contingency plans shall include provisions for periodic review to assure the adequacy of the contingency plan to respond to current conditions, and such plans may be modified accordingly.

SEC. 204. RECOMMENDATIONS.

(a) APPROVAL.—The Secretary shall submit each plan prepared pursuant to section 202 to the Congress, together with the Secretary's recommendations, including recommendations for authorizing legislation, if needed.

(b) PACIFIC NORTHWEST REGION.—A contingency plan under subsection (a) for the State of Washington, Oregon, Idaho, or Montana, may be approved by the Secretary only at the request of the Governor of the affected State in coordination with the other States in the region and the Administrator of the Bonneville Power Administration.

SEC. 205. RECLAMATION DROUGHT RESPONSE FUND.

The Secretary shall undertake a study of the need, if any, to establish a Reclamation Drought Response Fund to be available for defraying those expenses which the Secretary determines necessary to implement plans prepared under section 202 and to make loans for nonstructural and minor structural activities for the prevention or mitigation of the adverse effects of drought.

SEC. 206. TECHNICAL ASSISTANCE AND TRANSFER OF PRECIPITATION MANAGEMENT TECHNOLOGY.

(a) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance for drought contingency planning in any of the States not identified in section 1 of the Reclamation Act (Act of June 17, 1902, 32 Stat. 388), and the District of Columbia, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship, the Republic of Palau, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

(b) TECHNOLOGY TRANSFER PROGRAM.—The Secretary is authorized to conduct a Precipitation Management Technology Transfer Program to help alleviate problems caused by precipitation variability and droughts in the West, as part of a balanced long-term water resources development and management program. In consultation with State, Tribal, and local water, hydropower, water quality and instream flow interests, areas shall be selected for conducting field studies cost-shared on a 50-50 basis to validate and quantify the potential for appropriate precipitation management technology to augment stream flows. Validated technologies shall be transferred to non-Federal interests for operational implementation.

TITLE III—GENERAL AND MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in section 303 of this Act (relating to temperature control devices at Shasta Dam, California), there is authorized to be appropriated not more than $90,000,000 in total for fiscal years 1992, 1993, 1994, 1995, and 1996.

SEC. 302. AUTHORITY OF SECRETARY.

The Secretary is authorized to perform any and all acts and to promulgate such regulations as may be necessary and appropriate for the purpose of implementing this Act. In carrying out the authorities under this Act, the Secretary shall give specific consideration to the needs of fish and wildlife, together with other project purposes, and shall consider temporary operational changes which will mitigate, or can be expected to have an effect in mitigating, fish and wildlife losses and damages resulting from drought conditions, consistent with the Secretary's other obligations.

SEC. 303. TEMPERATURE CONTROL AT SHASTA DAM, CENTRAL VALLEY PROJECT.

The Secretary is authorized to complete the design and specifications for construction of a device to control the temperature of water releases from Shasta Dam, Central Valley Project, California, and to construct facilities needed to attach such device to the dam. There is authorized to be appropriated to carry out the authority of this section not more than $12,000,000.

SEC. 304. EFFECT OF ACT ON OTHER LAWS.

(a) CONFORMITY WITH STATE AND FEDERAL LAW.—All actions taken pursuant to this Act pertaining to the diversion, storage, use, or transfer of water shall be in conformity with applicable State and applicable Federal law.

(b) EFFECT ON JURISDICTION, AUTHORITY, AND WATER RIGHTS.—Nothing in this Act shall be construed as expanding or diminishing State, Federal, or Tribal jurisdiction or authority over water resources development, control, or water rights.

SEC. 305. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of non-project water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes using any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California, the Truckee Storage Project, and the Washoe Project, California and Nevada. The Secretary is further authorized to enter into contracts for the exchange of water for the aforementioned purposes using facilities associated with the Cachuma Project, California.

SEC. 306. REPORT.

There shall be included as part of the President's annual budget submittal to the Congress a detailed report on past and proposed expenditures and accomplishments under this Act.

SEC. 307. FEDERAL RECLAMATION LAWS.

This Act shall constitute a supplement to the Federal Reclamation laws.

ENVIRONMENTAL CLEANUP AT THE PHOENIX INDIAN SCHOOL PROPERTY

McCAIN AMENDMENT NO. 1452

Mr. SEYMOUR (for Mr. McCAIN) proposed an amendment to the bill (S. 2034) to establish certain requirements for the Secretary of the Interior to un-

dertake environmental cleanup at the Phoenix Indian School property, as follows:

Delete section 1 of the bill in its entirety and substitute therefor the following:

SECTION 1. The Secretary of the Interior shall remove, at the earliest possible date, all asbestos within buildings and related infrastructure, including underground pipes, located on the 110 acre parcel of federal property known as the Phoenix Indian School. The obligation of the Secretary to carry out these activities shall continue beyond the date of transfer of the Phoenix Indian School property from federal ownership."

MINTING OF COINS IN COMMEMORATION OF THE 200TH ANNIVERSARY OF THE WHITE HOUSE

CRANSTON (AND OTHERS) AMENDMENT NO. 1453

Mr. MITCHELL for Mr. CRANSTON, for himself, Mr. WALLOP, Mr. KENNEDY, and Mr. HATCH) proposed an amendment to the bill (H.R. 3337) to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes, as follows:

At the appropriate place in the bill, insert the following:

TITLE ____—COINS

SEC. ____01. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. ____02. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the two hundredth anniversary of the ratification of the Bill of Rights to the United States Constitution for a period of 2 years after issuance. After the 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. The minting of the first selected coin shall begin January 1993, and the issuance shall begin as soon as practical thereafter. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. ____03. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection."

SEC. ____04. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following concepts from the Bill of Rights: freedom of speech and assembly; freedom of the press; the right to due process of law; and other appropriate themes. The designs shall be selected by the Secretary upon consultation with the United States Commission of Fine Arts.

SEC. ____05. REDUCTION OF THE NATIONS DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

TITLE ____—JAMES MADISON COINS

SEC. ____01. SHORT TITLE.

This title may be cited as the "James Madison—Bill of Rights Commemorative Coin Act".

SEC. ____02. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 300,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the five dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 900,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.5 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The obverse design of the one dollar coins shall be emblematic of James Madison, the fourth President of the United States. The reverse design shall be emblematic of James Madison's home, Montpelier, between the years 1751 and 1836. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the one dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(c) HALF DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 1,000,000 half dollar coins each of which shall—

(A) weigh 12.50 grams;

(B) have a diameter of 30.61 millimeters; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the half dollar silver coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the half dollar coin beginning not later than 3 months after the date of the enactment of the Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(d) INSCRIPTIONS.—All coins minted and issued under this Act shall bear a designation of the value of the coin, an inscription of the year of issue and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(e) DESIGN PANEL.—The Design Panel referred to in subsections (a), (b), and (c) shall consist of the following members:

(1) The Chairperson of the Commission of Fine Arts.

(2) The president of the James Madison Memorial Fellowship Foundation.

(3) The Executive Director, National Numismatic Collection, the Smithsonian Institution.

(4) A representative member of the American Numismatic Association.

(5) A representative member of a national sculpture society or association.

(6) Two representatives of the United States Mint selected by the Director of the United States Mint.

The Secretary shall reimburse the members of the Design Panel for per diem expenses and other official expenses from the revenues received from the sale of the coins. The Design Panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and shall terminate following the selection process set forth in subsections (a), (b), and (c).

(f) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. ____03. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. ____04. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR COINS AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this title may be issued beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this title after December 31, 1993.

SEC. ____05. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price at least equal to the face value, plus the cost of minting and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $30 per coin for the five dollar coins, $6 per coin for the one dollar coins, and $3 per coin for the half dollar coins.

SEC. _____06. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

(c) REPORTS TO CONGRESS.—Not later than fifteen days after the last day of each month, the Secretary shall transmit to the committee on Banking, Finance, and Urban Affairs of the House of Representatives and the committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this title during such month. The report shall include a review of all marketing activities and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping. No report shall be required after January 15, 1994.

SEC. _____07. DISTRIBUTION OF SURCHARGES.

The surcharges received by the Secretary shall be transmitted promptly to the James Madison Memorial Fellowship Trust Fund established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.). Such transmitted amounts shall qualify under section 811(a)(2) of that Act as funds contributed from private sources. In accordance with the purposes of the James Madison Fellowship Program, the funds transmitted to the Trust Fund shall be used to encourage teaching and graduate study of the Constitution of the United States, its roots, its formation, its principles, and its development.

SEC. _____08. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts transmitted under section ____07 of this title. The expenditures and audit of surcharge funds deposited in the James Madison Memorial Fellowship Trust Fund under section ____07 of this Act shall be done in accordance with section 812 of the James Madison Memorial Fellowship Act (20 U.S.C. 4511). Annual reports shall be submitted by the Chairman of the James Madison Memorial Fellowship Foundation to both Houses of Congress on all expenditures of surcharge funds.

SEC. _____09. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

CORRECTIONS IN THE ENROLLMENT OF H.R. 3435

MURKOWSKI AMENDMENT NO. 1454

Mr. MURKOWSKI proposed an amendment to the concurrent resolution (S. Con. Res. 84) to correct the enrollment of H.R. 3435, the RTC funding bill, as follows:

SEC. . Subsection 12(b)(7)(vii) of Pub. L. No. 94–204, as amended, and subsection 9102(e) of Pub. L. No. 101–165, as amended, are each amended further by deleting in the appropriate place the phrase "real, personal," and substituting in lieu thereof the phrase "real, personal (including, but not limited to intangible assets such as financial instruments, notes, loans bonds, and licenses).".

REPEAL OF A SECTION OF THE RESOLUTION TRUST CORPORATION LEGISLATION

MURKOWSKI AMENDMENT NO. 1455

Mr. RIEGLE (for Mr. MURKOWSKI) proposed an amendment to the bill (S. 2131) to repeal section 618 of the Resolution Trust Corporation, Refinancing, Restructuring and Improvement Act of 1991, as follows:

Insert at the end:

SEC. . Subsection 12(b) (7) of Pub. L. No. 94–204, as amended, and subsection 9102(e) of Pub. L. No. 101–165, as amended, are each further amended by deleting in the appropriate place the phrase "real, personal," and substituting in lieu thereof the phrase "real, personal (including, but not limited to intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation such as financial instruments, notes, loans and bonds).".

HEALTH PROMOTION AND DISEASE PREVENTION ACT

KENNEDY AMENDMENT NO. 1456

Mr. FORD (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and human services, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Promotion and Disease Prevention Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—HEALTH PROMOTION AND DISEASE PREVENTION ASSISTANCE

Sec. 101. Short title.

Subtitle A—Preventive Health and Health Services Block Grant

Sec. 110. Reauthorization of preventive health and health services block grant.
Sec. 111. Reporting and data collection improvements.
Sec. 112. Establishment of block grant requirement to address health promotion and disease prevention related to women's health.
Sec. 113. Reauthorization of State planning functions.
Sec. 114. Health promotion and disease prevention research centers.
Sec. 115. Use of allotments.
Sec. 116. Training of State and local public health personnel.

Subtitle B—National Health Objectives Project Grants to States

Sec. 121. National health objectives project grants to States.

Subtitle C—Categorical Programs

Sec. 131. National demonstration projects for women's health.
Sec. 132. Increased injury prevention activities.
Sec. 133. Establishment of an Office of Adolescent Health.
Sec. 134. Improvement in lead poisoning screening and prevention.
Sec. 135. Prevention and control of sexually transmitted diseases.
Sec. 136. Screening and early detection of prostate cancer.
Sec. 137. Special regional and national demonstration projects for minority health promotion and disease prevention.

TITLE II—COORDINATION OF HEALTH PROMOTION AND DISEASE PREVENTION ACTIVITIES

Sec. 201. Short title.
Sec. 202. Health information and health promotion.
Sec. 203. Interdepartmental Coordinating Council.
Sec. 204. Dissemination of health information.
Sec. 205. Report on national health status improvement.
Sec. 206. Health education curriculum.
Sec. 207. State offices of minority health.

TITLE III—PREVENTABLE CASES OF INFERTILITY

Sec. 301. Establishment of program of grants regarding preventable cases of infertility arising as result of sexually transmitted diseases.

TITLE IV—COMPREHENSIVE MATERNAL AND EARLY CHILDHOOD HEALTH CARE

Sec. 401. Short title.
Sec. 402. Migrant and community health center initiatives.
Sec. 403. Expansion of immunization programs for young children.
Sec. 404. Project grants for maternal and child preventive health and health care services.
Sec. 405. Birth defects proposal.

TITLE V-MISCELLANEOUS

Sec. 501. Establishment of an Advisory Council on Health Promotion and Disease Prevention.

Sec. 502. Responsibilities of members of the Commissioned Corps for health promotion and disease prevention.
Sec. 503. Responsibilities of the Surgeon General for disseminating information and recommendations.
Sec. 504. Change in name of Centers for Disease Control.
Sec. 505. Study concerning the reduction of the risk of bloodborne disease transmission.

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—HEALTH PROMOTION AND DISEASE PREVENTION ASSISTANCE

SEC. 101. SHORT TITLE.

This title may be cited as the "Health Promotion and Disease Prevention Assistance Act of 1991".

Subtitle A—Preventive Health and Health Services Block Grant

SEC. 110. REAUTHORIZATION OF PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT.

Section 1901 (42 U.S.C. 300–w) is amended—

(1) in subsection (a), by striking out "$95,000,000" and all that follows through the end thereof and inserting the following: "$275,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.";

(2) in subsection (b), by striking out "at least $3,500,000" and inserting in lieu thereof "at least $7,000,000"; and

(3) by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this subtitle and subject to the provisions of subsection (b), if amounts appropriated under subsection (a) for any fiscal year exceed $150,000,000 all of such amounts shall be used to carry out subpart 2 for such fiscal year.".

SEC. 111. REPORTING AND DATA COLLECTION IMPROVEMENTS.

(a) ANNUAL REPORTS.—Subsection (a) of section 1906 (42 U.S.C. 300w–5(a)) shall be amended to read as follows:

"(a)(1) Each State receiving an allotment, and each entity receiving a grant, under this part shall prepare and submit to the Secretary an annual report concerning the activities carried out by such State or grantee with amounts received under this part. Such reports shall describe the services provided using such amounts in accordance with subsections (a) and (e) of section 1904.

"(2) The Secretary, acting through the Centers for Disease Control and Prevention and in consultation with the States and the National Health Objectives Advisory Committee, shall develop uniform data items and data formats for the annual reports required under paragraph (1). Such uniform data items and formats shall constitute the minimum requirements that States must meet in submitting annual reports under paragraph (1).

"(3) In addition to complying with the uniform data item and format requirements of paragraph (2), an annual report submitted under paragraph (1) shall specifically provide if readily available—

"(A) the number of individuals provided with services in the service areas designated under subsections (a) and (e) of section 1904;

"(B) the percentage of minorities and disadvantaged individuals served within each of the service areas described in subparagraph (A); and

"(C) any other demographic information that the Secretary, after consultation with the States, determines appropriate.".

(b) INVESTIGATIONS.—Subsection (d) of section 1906 (42 U.S.C. 300w–5(d)) is amended to read as follows:

"(d) The Secretary, in consultation with the States and the National Health Objectives Advisory Committee, shall periodically update a set of priority national health status indicators, to be used to evaluate and monitor the overall health of the United States and of selected subgroups within the United States.".

(c) HEALTH STATUS REPORTS.—Section 1906 (42 U.S.C. 300w–5) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall determine the capability of each State to evaluate and submit a report, in a uniform format, concerning the health status of the State as measured in terms of the health objectives parameters as described in subsection (d).

"(2)(A) Except as provided in subparagraph (B), with respect to a State that is determined by the Secretary under paragraph (1) to be unable to adequately evaluate its health status, such State shall be required to utilize not more than 10 percent of the amounts paid to the State under section 1903 for a fiscal year to develop the capacity to make such an evaluation. Amounts under section 1903 shall be so utilized until such time as the Secretary determines that such capacity has been achieved by the State.

"(B) The Secretary may waive the requirement of subparagraph (A) in the case of a State, territory or Indian tribe that is determined by the Secretary to be unable to develop the capacity required under paragraph (1) through the utilization of the funds required under such subparagraph.

"(3) With respect to entities that are eligible to receive grants under this part, that apply for such grants, and that the Secretary determines do not have the resources to efficiently establish the capacity for evaluating their health status as provided for in paragraph (1), the Secretary, in consultation with the State agencies, may provide technical assistance to enable such entities to make such evaluations and such entities shall be exempt from the requirements of paragraph (1).

"(4) An entity described in paragraph (3) shall indicate in the annual report submitted by such entity under subsection (a) the status of such entity under such paragraph and the Secretary shall review such status once during every 3-year period.".

(d) REPORT TO CONGRESS.—Section 1906 (42 U.S.C. 300w–5(b)) (as amended by subsection (a)) is amended—

(1) by striking out paragraph (6) of subsection (b); and

(2) by adding at the end thereof the following new subsection:

"(f) Not later than 3 years after the date of enactment of this subsection, and every 3 years thereafter, the Secretary shall prepare and submit a report to Congress concerning the activities of the States that have received funds under this part. Such report shall include State compilations of the information contained in the reports prepared under subsection (a), and any recommendations for appropriate changes in legislation necessary to facilitate improvement in the health status indicators described in subsection (d), facilitate the implementation of the State plans described in subsection (a)(3)(A) and ensure compliance with section 1905(c)(8), and to facilitate other changes determined appropriate by the Secretary under this part.".

(e) APPLICATION.—Section 1905 (42 U.S.C. 300w–4) is amended—

(1) in subsection (c)—

(A) by striking out "and" at the end of paragraph (6);

(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) agrees that continuing education credits in the utilization of universal precautions, and infection control procedures for the prevention of bloodborne disease transmission, shall be required as part of those credits required for health professional relicensure."; and

(2) in subsection (d), by striking out the last sentence and inserting in lieu thereof the following new sentences: "The description shall include, a summary of the manner in which the funds will be allocated under section 1904(a)(1), and which health status indicators (as described in section 1906(d)) such allocations are intended to address. The description shall also include prior year information concerning the State's health status according to the health status indicators (as described in section 1906(d)).".

SEC. 112. ESTABLISHMENT OF BLOCK GRANT REQUIREMENT TO ADDRESS HEALTH PROMOTION AND DISEASE PREVENTION RELATED TO WOMEN'S HEALTH.

Section 1904 (42 U.S.C. 300w–3) is further amended by adding at the end thereof the following new subsection:

"(e) Each State that receives payments under section 1903 shall demonstrate that a portion of such payments are being utilized in each fiscal year for health promotion and disease prevention activities related to women's health problems, such as osteoporosis, physical abuse, diabetes and tobacco use.".

SEC. 113. REAUTHORIZATION OF STATE PLANNING FUNCTIONS.

Section 7 of the Year 2000 Health Objectives Planning Act (Public Law 101–582) is amended to read as follows:

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this Act and for the establishment and operation of State Health Objectives Advisory Committees under section 19101(b) of the Public Health Service Act, there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 114. HEALTH PROMOTION AND DISEASE PREVENTION RESEARCH CENTERS.

Section 1706(e) (42 U.S.C. 300u–5(e)) is amended by striking out "$3,000,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 115. USE OF ALLOTMENTS.

Section 1904(a)(1) (42 U.S.C. 300w–4(a)(1)) is amended in the matter preceding subparagraph (A) by striking out "and (c)" and inserting in lieu thereof "(c), (e), and (f)".

SEC. 116. TRAINING OF STATE AND LOCAL PUBLIC HEALTH PERSONNEL.

Part A of title XIX (42 U.S.C. 300w et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1910A. TRAINING.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, to the extent appropriations are available, provide assistance for the professional training of public health personnel, including—

"(1) the identification of new knowledge bases and skills for State and local public health personnel that are reasonably necessary and appropriate to permit the States to achieve the national health priorities; and

"(2) encouraging the training and education of appropriate numbers of such personnel, including racial and ethnic minority personnel, in such knowledge bases and skills, including cross cultural skills, by establishing cooperative agreements with schools of public health, schools of nursing, schools of medicine, and other institutions that train and educate such personnel; and

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

Subtitle B—National Health Objectives Project Grants to States

SEC. 121. NATIONAL HEALTH OBJECTIVES PROJECT GRANTS TO STATES.

Part A of title XIX (42 U.S.C. 300w et seq.) is amended—

(1) in the part heading, to read as follows:

"PART A—PREVENTIVE HEALTH AND NATIONAL HEALTH OBJECTIVES GRANTS";

(2) by inserting after the part heading the following:

"Subpart 1—Preventive Health and Health Services Block Grant";

and

(3) by adding at the end thereof the following new subpart:

"Subpart 2—National Health Objectives Project Grants to States

"SEC. 1910D. OPERATION OF SUBPART.

"The Secretary, in accordance with subsection (c) of section 1901, shall use amounts appropriated under subsection (a) of such section for a fiscal year to carry out this subpart in such fiscal year.

"SEC. 1910E. DEFINITIONS AND ADMINISTRATION.

"(a) DEFINITIONS.—As used in this subpart:

"(1) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the National Health Objectives Advisory Committee established under section 1910K(a).

"(2) CORE PRIORITIES.—The term 'core priorities' means the three national health priorities that are designated by the Secretary as 'core national health priorities' and that must be included in the State health objectives provided in the State health objectives plan of each State.

"(3) NATIONAL HEALTH PRIORITIES.—The term 'national health priorities' means the priorities established under section 1910K(b).

"(4) STATE AGENCY.—The term 'State agency' means the department, agency, commission, or other entity designated and vested with authority under State law over matters concerning public health.

"(5) STATE PLAN.—The term 'State plan' means the health objectives plan of a State submitted under section 1910I.

"(6) STATE REPORT.—The term 'State report' means the annual report of a State required under section 1910J.

"(b) ADMINISTRATION.—The Secretary shall carry out this subpart through the Centers for Disease Control and Prevention.

"SEC. 1910F. ALLOTMENTS.

"(a) IN GENERAL.—Amounts available pursuant to section 1910D for each fiscal year shall be utilized to make allotments in accordance with subsections (b), (c), and (d).

"(b) FORMULA.—The amount of an allotment to a State under subsection (a) shall be equal to the amount of the allotment for such State under section 1902 for fiscal year 1992.

"(c) REMAINDER.—From the remainder of the amounts available pursuant to section 1910D, the Secretary shall allot in each fiscal year to each State an amount that equals—

"(1) $12,500, if the population of the State does not exceed 50,000;

"(2) $37,500, if the population of the State exceeds 50,000 but does not exceed 450,000;

"(3) $500,000, if the population of the State exceeds 450,000 but does not exceed 1,000,000;

"(4) $750,000, if the population of the State exceeds 1,000,000 but does not exceed 3,000,000;

"(5) $1,000,000, if the population of the State exceeds 3,000,000 but does not exceed 6,000,000;

"(6) $1,250,000, if the population of the State exceeds 6,000,000 but does not exceed 10,000,000;

"(7) $1,500,000, if the population of the State exceeds 10,000,000 but does not exceed 15,000,000; and

"(8) $2,000,000, if the population of the State exceeds 15,000,000.

"(d) RELATIVE POPULATION.—To the extent that all amounts available for allotment under subsection (a) for each fiscal year are not otherwise allotted to States under subsection (c), such excess shall be allotted to each State in an amount that bears the same ratio to such excess amount for such fiscal year as the total population of the State bears to the population of all States.

"(e) ADJUSTMENT.—If for any fiscal year the amount available under section 1910D is less than the total of all amounts listed under subsection (b), the amount allotted to each State shall be an amount that bears the same ratio to the total of all amounts available for allotment under such section as the amount of the allotment that the State is entitled to under subsection (b) bears to the total of all such amounts under such paragraph.

"(f) INDIANS.—

"(1) IN GENERAL.—If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization; and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this subpart;

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for the fiscal year the amount determined under paragraph (2).

"(2) ELIGIBILITY.—For an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"(3) DEFINITIONS.—As used in this subsection, the terms 'Indian tribe' and 'tribal organization' shall have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"SEC. 1910G. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—

"(1) PLAN REQUIREMENT.—For each fiscal year, the Secretary shall make payments from amounts available under section 1910D for that fiscal year, as provided for in section 6503(a) of title 31, United States Code, to each State, if such State has submitted an approved State plan, from its allotment under section 1910F.

"(2) CARRYOVER FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"(b) SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) IN GENERAL.—

"(A) AIDING GRANTEE IN CARRYING OUT DUTIES.—Upon the request of a grantee under subsection (a), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the grantee in carrying out such subsection and, for such purposes, may detail to the grantee any officer or employee of the Department of Health and Human Services.

"(B) LIMITATION.—With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of the grant to the grantee involved by an amount equal to the costs of detailing personnel and fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(2) USE OF REDUCTION.—The amount by which any payment is reduced under paragraph (1) shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be considered to be subpart of the payment and to have been paid to the State.

"SEC. 1910H. USE OF ALLOTMENTS.

"(a) STATE PLAN.—A State shall utilize amounts paid to it under section 1910G, from the allotment of such State under section 1910F, to develop and implement a State plan, in accordance with section 1910I, in order to—

"(1) develop and collect data to assess the public health needs and health status of the individuals, including minorities, that reside in the State;

"(2) provide assistance for planning necessary to assist projects and programs to be included in the State plan;

"(3) provide assistance to projects and programs described in the State plan; and

"(4) make appropriate State data and the State plan available to local health departments to facilitate improved local planning.

"(b) LIMITATIONS.—A State shall not use amounts paid to it under section 1910G, to—

"(1) provide inpatient services;

"(2) make cash payments to intended recipients of health services;

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(c) ADMINISTRATION.—Not more than 10 percent of the total amount paid to a State under section 1910G from the State allotment under section 1910F for any fiscal year shall be used for administering the funds made available under section 1910G. The State shall pay from non-Federal sources any additional costs of administering such funds. For purposes of this subsection, the term 'administration' shall not be construed to include collection or assessment of data or assistance provided by States for the planning or implementation of projects and programs.

“SEC. 1910I. STATE HEALTH OBJECTIVES PLAN AND DESCRIPTION OF ACTIVITIES.

“(a) IN GENERAL.—To receive a payment under section 1910G from the State allotment for a fiscal year under section 1910F, a State shall prepare and submit, to the Secretary, a State health objectives plan at such time, in such manner, and containing such information as the Secretary shall require. Such State plan shall—

“(1) be developed by the State health agency in consultation with the State Health Objectives Advisory Committee established under subsection (b);

“(2) meet the requirements of subsection (c); and

“(3) contain assurances satisfactory to the Secretary that the State will meet the requirements of subsection (d).

“(b) ADVISORY COMMITTEE.—

“(1) ESTABLISHMENT.—Not later than 6 months after the enactment of this subpart, each State shall establish a State Health Objectives Advisory Committee, that shall be chaired by the State health officer, and shall consist of members of the public and health directors that represent local health departments.

“(2) REPRESENTATIVES.—States are encouraged to include entities receiving grants under this subpart, representatives of community-based organizations including minority community-based organizations, and a representative of an academic institution that trains public health professionals, as part of the State committee established under paragraph (1).

“(3) MEETINGS.—The State Health Objectives Advisory Committee shall meet not less than twice each year.

“(4) RESPONSIBILITIES.—The Advisory Committee established under paragraph (1) shall review and make recommendations to the State health agency concerning—

“(A) health assessment and policy development and assurance functions associated with the program established under this subpart; and

“(B) State plans, data collection efforts, the establishment of State health objectives, coordination of efforts funded under this subpart, coordination with other similar programs, public hearings, and the allocation of funds within the State annual report.

“(c) REQUIREMENTS.—A State plan submitted under subsection (a) shall—

“(1) be developed in consultation with the State Health Objectives Committee;

“(2) contain a specific set of not less than five State health objectives that shall be chosen from the national health priorities described by the Secretary under section 1910K, and that shall include all core priorities identified under such section;

“(3) contain an annual budget that describes the manner in which the payments made under section 1910G are to be used by the State, and such budget shall—

“(A) specify the portion of such funds that are to be used at each level of the State or local government, and the portion of such funds that are to be allocated for grants to local agencies of public health, community-based organizations, including minority community-based organizations, voluntary nonprofit health organizations, and other entities selected by the State help meet State objectives under paragraph (7); and

“(B) commit the State to use not less than 80 percent of such payments to meet State objectives that, as determined by the State agency after an analysis of the national health priorities, and based on the available State data described in paragraph (4), are critical to improving the health status of the individuals who reside within the State;

“(4) in terms of each State objective—

“(A) provide assurances satisfactory to the Secretary that there is a minimum set of data available to satisfactorily measure the health status of individuals including racial and ethnic minorities, who reside within the State;

“(B) utilize the data described in subparagraph (A) to identify the improvement that the State expects to make in the health status of individuals who reside within the State during the term of the State plan;

“(C) specify the particular strategies, projects and programs intended to be used by the State to improve the health status of individuals who reside within the State;

“(D) specify the methods intended to be used by the State to evaluate the progress made by the State in improving the health status of individuals who reside within the State; and

“(E) provide services targeted at improving the health status of individuals who reside within the State at the level of State or local government that the State determines are most likely to be effective in achieving the State objectives especially with respect to addressing inner city and rural disparities in health status indicators;

“(5) provide for the establishment of practices and procedures through which the State shall assist local health agencies in the development of community health plans and to monitor the progress of local health agencies, community-based organizations, including minority community-based organizations, and health organizations in implementing the State objectives;

“(6) identify public health personnel requirements that the State determines are reasonably necessary and appropriate to permit the State to achieve the State objectives;

“(7) identify the mechanism by which the State shall select, and allocate assistance provided under this subpart to local units of government, local agencies of public health, community-based health, including minority community-based organizations, voluntary nonprofit health organizations, and other entities within the State to help meet the State objectives;

“(8) contain a description (that may be revised throughout the year as may be necessary to reflect substantial changes in the projects and programs assisted by the State) of the intended use of the payments the State will receive under section 1910G for the fiscal year for which the State plan is submitted, including information concerning the projects and programs to be supported and services to provided, which shall be made available to the public within the State in a manner that will facilitate comment from any individual during the period of the development of the description and after the transmittal of such; and

“(9) contain a plan for conducting health education and disease prevention programs for identifiable racial and ethnic communities. .

“(d) ASSURANCES.—As part of the State plan required under subsection (a), a State shall provide assurances satisfactory to the Secretary that such State—

“(1) shall use the amounts allotted to it under section 1910F in accordance with the requirements of the State plan and of this subpart;

“(2) shall establish reasonable criteria for the evaluation of the effective performance of entities that receive assistance from the allotment to the State under this subpart;

“(3) shall identify those populations including racial and ethnic minorities, areas, and localities in the State that demonstrate a need for the services for which funds may be provided by the State under this subpart;

“(4) shall use amounts made available under section 1910G for any period to supplement and increase the level of State, local, and other Federal assistance that would, in the absence of amounts available under section 1910G, be made available for the programs and activities for which funds are provided for under this subpart, and shall not use funds made available under this subpart to supplant such State, local, and other Federal funds; and

“(5) shall require the State Health Objectives Advisory committee to consult with community-based minority organizations.

“SEC. 1910J. STATE HEALTH OBJECTIVES REPORT.

“(a) IN GENERAL.—Not later than 120 days after the end of each fiscal year for which assistance is provided under this subpart, each State, in cooperation with participating local units of government, shall prepare and submit, to the Secretary, an annual State health objectives report concerning the activities of the State under this subpart, that meets the requirements of this section.

“(b) REQUIREMENTS.—A State report submitted under subsection (a) shall be in such form and contain such information as the Secretary determines, after consultation with the heads of the State agencies and the Comptroller General, to be necessary—

“(1) to determine whether funds were expended by the State in accordance with this subpart and consistent with the needs within the State as proscribed in the State plan;

“(2) to secure a description of the projects and programs within the State operated or assisted with amounts provided under allotments made under this subpart; and

“(3) to secure a record of—

“(A) the purposes for which amounts provided under this subpart were expended;

“(B) the recipients of such funds; and

“(C) the progress made toward achieving the purposes for which such funds were provided.

“(c) UNIFORM DATA ITEM.—A State report submitted under subsection (a) shall include information concerning at least one uniform data item on each national health priority described in section 1910K(b) to be determined in consultation with the Secretary.

“(d) UNIFORM DATA SETS.—Each State shall report uniform data sets, as prescribed by the Secretary under section 1910K(f), for each national health priority addressed in the State plan that shall commence not later than 4 years after the date of enactment of this subpart.

“(e) ADDITIONAL CONTENTS.—The Secretary may require States to include additional information in the State report submitted under this section.

“(f) AVAILABILITY.—The State shall ensure that the State report is available for public inspection within the State, and the State Health Official shall provide copies at cost, on request, to any interested individual.

“SEC. 1910K. RESPONSIBILITIES OF THE SECRETARY.

“(a) ADVISORY COMMITTEE.—

“(1) ESTABLISHMENT.—Not later than 3 months after the enactment of this subpart, the Secretary, acting through the Assistant Secretary for Health, shall establish an advisory committee, to be known as the ‘National Health Objectives Advisory Committee’, to advise the Secretary concerning national health priorities.

"(2) Composition.—The Advisory Committee shall be composed of 12 members, of which—

"(A) one member shall be the Assistant Secretary for Health, who shall serve as the chairperson of the Advisory Committee;

"(B) two members shall be appointed by the Secretary from the general public;

"(C) one member shall be appointed by the Administrator of the Environmental Protection Agency;

"(D) two member shall be appointed by the Association of State and Territorial Health Officials;

"(E) one member shall be appointed by the National Association of County Health Officials;

"(F) one member shall be appointed by the United States Conference of Local Health Officials;

"(G) one member shall be appointed by the Association of Schools of Public Health;

"(H) one member shall be appointed by the American Public Health Association;

"(I) one member shall be the Director of the Centers for Disease Control and Prevention; and

"(J) one member shall be the Director of the Office of Disease Prevention and Health Promotion.

"(3) Meetings and duty.—The Advisory Committee shall meet not less than once each year for the purpose of providing advice to the Secretary concerning the selection, revision, implementation, and evaluation of the national health priorities, and the development and adoption of the uniform data set.

"(b) National Health Priorities.—The Secretary, in consultation with the heads of other Federal agencies and the Advisory Committee, and taking into account the 'Year 2000 Health Objectives' developed by the United States Public Health Service, shall establish—

"(1) national health priorities that shall form the basis for all activities that receive assistance under this subpart;

"(2) from the priorities established under paragraph (1), a set of three core priorities that shall be included in each State plan; and

"(3) in cooperation with other appropriate national organizations, an estimate of the personnel and training that will be needed throughout the United States to accomplish the priorities established under paragraph (1).

"(c) Review of State Plans.—The Secretary shall review each proposed State plan, and each proposed amendment thereto, submitted by a State under section 1910I, and approve each such plan or amendment, or each portion of such plan or amendment, that the Secretary determines complies with the requirements of this subpart.

"(d) State Report.—The Secretary shall receive and review each State report submitted by a State under section 1910J, and shall compile, evaluate, and prepare and submit, every 3 years, to the appropriate Committees of Congress and the President, an annual national health objectives report concerning the data and information contained in such State report.

"(e) Other Assistance.—The Secretary shall provide consultation, guidance, and technical assistance to State, and through State to local units of government, and to other entities participating in the programs created under this subpart, to—

"(1) assist in the development of data sets as required under section 1910I, and uniform data items required under section 1910J; and

"(2) assist States with the development of local and State plans, or amendments to such plans, that the Secretary determines does not comply with the requirements of this subpart, in revising such plans or amendments to comply with the requirements of this subpart.

"(f) Uniform Data Sets.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with State and local health officials and the National Health Objectives Advisory Committee, shall establish uniform data sets for each of the national health priorities described in subsection (b). Such data sets shall be consistent with those established under section 1906 and shall be adopted not later than 2 years after the date of the enactment of this subpart.

"(g) Implementation.—In implementing the provisions of sections 1910I, 1910J and this section, with respect to data sets and data items, the Secretary shall, to the extent practicable, rely on previously developed uniform data sets, systems and indicators.

"(h) Report to Congress.—Not later than 3 years after the date of enactment of this subpart, and every 3 years thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities of the States that have received funds under this subpart. Such report shall include State compilations of the information contained in the reports prepared under section 1910J, and any recommendations for appropriate changes in legislation necessary to facilitate improvement in the health status of the United States and of selected subgroups within the United States, facilitate the implementation of the State plans described in section 1910I and to facilitate other changes determined appropriate by the Secretary under subpart 2.".

Subtitle C—Categorical Programs

SEC. 131. NATIONAL DEMONSTRATION PROJECTS FOR WOMEN'S HEALTH.

Section 317(k) (42 U.S.C. 247b(k)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4)(A) The Secretary shall award grants to States, and in consultation with State health agencies, to political subdivisions of States, community based organizations, and other public and nonprofit private entities for—

"(i) the establishment of demonstration projects for the prevention of conditions or diseases that adversely affect women;

"(ii) the establishment of demonstration projects for the promotion of women's health; and

"(iii) the development and dissemination of information for health promotion and disease prevention related to issues of women's health.

"(B) The projects and activities carried out under this subsection shall have an emphasis on, but not be restricted to the prevention or control of osteoporosis, coronary heart disease, diabetes, obesity and tobacco use.

"(C) There are authorized to be appropriated to carry out this paragraph, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 132. INCREASED INJURY PREVENTION ACTIVITIES.

(a) Injury Control Activities.—Section 392 (42 U.S.C. 280b–1) is amended by adding at the end thereof the following new subsections:

"(c) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may establish a national information clearinghouse to facilitate the exchange and dissemination of information concerning the prevention and control of injuries in homes, schools, public buildings and other such locations not otherwise covered by the Occupational Safety and Health Act of 1970.

"(d) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may award grants to, or enter into contracts with, State departments of health and education, and in consultation with State authorities, to local departments of health and education, for the purposes of helping public schools to implement effective programs to prevent injuries and behaviors associated with unnecessary risks for injuries. As a condition of awarding a grant under this subsection to a State or local department of education, the Secretary shall require that such department of education coordinate with the relevant department of health in utilizing amounts received under such grant.

"(e)(1) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants to States, and in consultation with State health agencies, to political subdivisions of States, community based organizations, and other public and nonprofit private entities for the establishment of 10 demonstration projects for the prevention and control of injuries in homes, schools, public buildings and other such locations not otherwise covered by the Occupational Safety and Health Act of 1970.

"(2)(A) Not more than 50 percent the amount appropriated under section 394 for fiscal year 1993 that exceeds $30,000,000, but in no event in excess of $2,000,000, shall be used to establish five demonstration projects under paragraph (1) in such fiscal year.

"(B) Not more than 50 percent of the amount appropriated under section 394 for fiscal year 1994 that exceeds the amount appropriated under such section for fiscal year 1993, but in no event in excess of $2,000,000, shall be used to establish the remaining five demonstration projects required under paragraph (1) in such fiscal year. Additional projects may be established under such paragraph if appropriations remain available.

"(3) The projects and activities carried out under this subsection shall place an emphasis on, but not be restricted to, childhood injuries, particularly injuries to children under five years of age, prevention of motor vehicle injuries, violence and falls.".

(b) Report and Recommendations.—Section 393 (42 U.S.C. 280b–2) is amended—

(1) in the section heading to read as follows:

"REPORT AND RECOMMENDATIONS";

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end thereof the following new subsection:

"(b) The Director of the Centers for Disease Control and Prevention shall biennially prepare and submit to the Secretary a report, together with recommendations and guidelines, concerning new technologies and practices based on established research findings of efficacy for injury prevention and control. The Secretary shall consider such recommendations and guidelines in determining whether to approve the purchase or lease of equipment, including vehicles, for use by the Department of Health and Human Services. The Secretary shall forward such recommendations and guidelines to the Congress, the Director of the General Services Administration, and any other agency head or State Governor that requests a copy of such recommendations and guidelines.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 394 (42 U.S.C. 280b–3) is amended—

(1) by striking out "$10,000,000" and all that follows and inserting "$40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.";

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end thereof the following new subsection:

"(b) The Secretary shall only make grants under section 392(e) for a fiscal year if amounts appropriated under subsection (a) for such fiscal year are in excess of the amount appropriated under this section for fiscal year 1991.".

SEC. 133. ESTABLISHMENT OF AN OFFICE OF ADOLESCENT HEALTH.

Title III (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"Part M—Adolescent Health

"SEC. 399F. OFFICE OF ADOLESCENT HEALTH.

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Adolescent Health (hereafter referred to in this part as the 'Office') and provide administrative support and support services to the Director of such Office.

"(b) DIRECTOR.—The Office shall be headed by a Director (hereafter referred to in this part as the 'Director') who shall be appointed by the Secretary.

"(c) PURPOSE AND DUTIES.—It shall be the purpose of the Office to ensure the sufficiency of the efforts of the Federal government to improve the health status of adolescents. The Office shall—

"(1) coordinate all activities within the Department that relate to the monitoring of trends in the health status of adolescents through data collection;

"(2) coordinate all activities (including research) within the Department concerning the design of, support for, and evaluation of, adolescent health services;

"(3) establish a national information clearinghouse to facilitate the exchange of information concerning all Federal research activities and initiatives as such relates to adolescent health and to facilitate access to such information;

"(4) oversee multidisciplinary disease, injury, and disability prevention research projects concerning conditions and diseases unique to, more prevalent in, or neglected in adolescents;

"(5) coordinate the training of health providers who work with adolescents, particularly nurse practitioners, physician assistants, social workers;

"(6) establish within the Office an advisory committee under section 399H to be known as the National Advisory Committee on Adolescent Health;

"(7) provide advice to Congress concerning adolescent health issues; and

"(8) in collaboration with the National Adolescent Health Advisory Commission, develop a national strategic plan to access adolescent health issues.

"SEC. 399G. ADOLESCENT HEALTH INITIATIVES.

"(a) GRANTS.—The Secretary, acting through the Office of Adolescent Health, shall award grants to, or enter into contract with, State health agencies and other eligible applicants to assist such applicant in funding activities authorized under an application approved under section (d).

"(b) USE OF AMOUNTS.—Amounts provided under a grant or contract under subsection (a) shall be used by the recipients of such amounts to fund multidisciplinary projects based on established research findings of efficacy that are designed to—

"(1) use new and innovative methods to train health care practitioners to provide services to adolescents; and

"(2) demonstrate and evaluate innovative multidisciplinary methods and models designed to prevent adolescent violence.

"(c) ELIGIBLE APPLICANTS.—To be eligible to receive a grant or contract under this section an entity shall be a State or local health department, nonprofit organization and public or nonprofit college, university or school of, or program that specializes in, adolescent medicine, nursing, medicine, osteopathy, social work, psychology, public health, and programs that train physician assistants and shall prepare and submit to the Secretary for approval an application under subsection (d). Eligible entities shall not include for-profit entities, either directly or through a subcontract or subgrant.

"(d) APPLICATIONS.—

"(1) SUBMISSION.—To be eligible to receive a grant or contract under subsection (a) an entity shall prepare and submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require.

"(2) REQUIREMENTS.—Applications submitted under this subsection shall—

"(A) be submitted by a coalition or consortium of at least three eligible applicants with the express purpose of establishing long-term collaborative relationships with adolescent health care providers; and

"(B) provide any additional information required by the Secretary.

"(e) PEER REVIEW.—

"(1) IN GENERAL.—Each application for a grant or contract under this section shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application.

"(2) ESTABLISHMENT.—The Secretary shall establish such peer review groups as may be necessary to carry out paragraph (1). The Secretary shall make appointments to the peer review groups from among appropriately qualified persons who are not officers or employees of the United States.

"(3) REPORT OF FINDINGS.—With respect to applications referred to in paragraph (1), a peer review group established pursuant to such paragraph shall report its finding and recommendations to the Secretary. The Secretary may not approve such an application unless a peer review group has recommended the application for approval, and awards should be made in the order of priority from the peer review process.

"(4) ADMINISTRATION.—This paragraph shall be carried out by the Secretary.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.

"SEC. 399H. NATIONAL ADOLESCENT HEALTH ADVISORY COMMISSION.

"(a) COMPOSITION.—The Advisory Commission (hereafter referred to in this section as the 'Commission') established under section 399F(c)(6) shall be composed of—

"(1) the Assistant Secretary of Health;

"(2) the Assistant Secretary of Education for Elementary and Secondary Schools;

"(3) a representative of the Health Resources and Services Administration to be appointed by the Secretary;

"(4) a representative of the Centers for Disease Control and Prevention to be appointed by the Secretary;

"(5) a representative of the National Institute of Health to be appointed by the Secretary;

"(6) five individuals appointed by the Secretary from among physicians, practitioners, scientists, and other health professionals whose clinical practice and research specialization focus on adolescent health; and

"(7) a parent of an adolescent to be appointed by the Secretary.

"(b) APPOINTMENTS.—Not later than April 1, 1992, the Secretary shall appoint the members of the Commission in accordance with subsection (a).

"(c) MEETINGS.—The Commission shall meet not less than twice annually to provide advice and make recommendations to the Secretary and to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, with respect to—

"(1) priority research needs;

"(2) appropriate research activities to be supported by the Office;

"(3) deficiencies and needs for improvements in existing data bases concerning adolescent health status and steps that should be taken to eliminate such deficiencies; and

"(4) identify problems in adolescent health and make recommendations for the resolution of such problems.

"(d) REPORTS.—

"(1) INTERIM REPORTS.—Not later than 1 year and 3 years after the date on which the initial meeting of the Commission is held, the Commission shall prepare and submit to the individual and entities described in subsection (c) a progress report concerning the activities of the Commission.

"(2) FINAL REPORT.—Not later than April 1, 1996, the Commission shall prepare and submit to the individuals and entities described in subsection (c) a final report concerning its activities.

"(e) STAFF SUPPORT FOR THE ADVISORY COMMISSION.—The Director of the Centers for Disease Control and Prevention, acting through the Division of Adolescent and School Health, shall provide the staff support for the Commission.".

SEC. 134. IMPROVEMENT IN LEAD POISONING SCREENING AND PREVENTION.

(a) AUTHORITY FOR GRANTS.—

(1) IN GENERAL.—Section 317A(a) (42 U.S.C. 247b–1(a)) is amended to read as follows:

"(a) AUTHORITY FOR GRANTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to public and nonprofit private entities (including States and political subdivisions of States) for the initiation and expansion of community programs designed—

"(A) to provide, for infants and children—

"(i) screening for elevated blood-lead levels;

"(ii) referral for treatment of such levels; and

"(iii) referral for environmental intervention associated with such levels; and

"(B) to provide education about childhood lead poisoning.

"(2) PROVISION OF ALL SERVICES AND ACTIVITIES THROUGH EACH GRANTEE.—In making grants under paragraph (1), the Secretary shall ensure that each of the services and activities described in such paragraph is provided through each grantee under such paragraph. The Secretary may authorize such a grantee to provide the services and activities directly, or through arrangements with other providers."; and

(2) CONFORMING AMENDMENTS.—Section 317A (42 U.S.C. 247b-1) is amended—

(A) by redesignating subsections (b) through (j) as subsections (d) through (l), respectively;

(B) in subsection (h) (as so redesignated)—

(i) in paragraph (1), by striking the comma after "recipient" and inserting a semicolon; and

(ii) in paragraph (2), by striking the comma at the end and inserting a semicolon; and

(C) by inserting before subsection (d) (as so redesignated) the following:

"(c) PRIORITY IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give priority to applications for programs that will serve areas with a high incidence of elevated blood-lead levels in infants and children.".

(b) ESTABLISHMENT OF REQUIREMENT REGARDING STATUS AS MEDICAID PROVIDER.—Section 317A, as amended by subsection (a)(2)(A), is further amended by inserting after subsection (a) the following new subsection:

"(b) STATUS AS MEDICAID PROVIDER.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not make a grant under subsection (a) unless, in the case of any service described in such subsection that is made available pursuant to the State plan approved under title XIX of the Social Security Act for the State involved—

"(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the applicant will enter into an agreement with a provider under which the provider will provide the service, and the provider has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

"(A) In the case of a provider making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the provider does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

"(B) A determination by the Secretary of whether a provider referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the provider accepts voluntary donations regarding the provision of services to the public.".

(c) GRANT APPLICATION.—

(1) COORDINATION.—Section 317A, as amended by subsection (a)(2)(A), is further amended—

(A) by striking out subsection (f); and

(B) in subsection (d)(1)—

(i) by inserting ", including the sources of lead exposure, the immediate risk of lead-based paints, other sources of lead including drinking water and soil, the potential dangers of lead exposure during home renovations, the importance of screening young children for lead, and the preventive steps that parents can take in reducing the risk for lead poisoning," after "infants and children" in subparagraph (B);

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following new subparagraph:

"(E) Assurances satisfactory to the Secretary that the program to be provided under the grant applied for will include educational programs designed to communicate to health professionals and paraprofessionals updated knowledge concerning lead poisoning and research, the health consequences, if any, of low-level lead burden, the prevalence of lead poisoning among all socioeconomic groupings, the benefits of expanded lead screening, and the therapeutic and other interventions available to prevent and combat lead poisoning in affected children and families.".

(2) REPORT.—Section 317A(d)(2), as redesignated by subsection (a)(2)(A), is amended to read as follows:

"(2) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to Congress, a report on the effectiveness during the preceding fiscal year of programs carried out with grants under subsection (a) and of any programs that are carried out by the Secretary pursuant to subsection (l)(2). Such reports shall, include in addition to any other information that the Secretary shall require a description of the number of individuals screened, age distribution of individuals screened, minority representation of the screened population, number of screening sites, percentage of children screened with blood levels greater than 10 micrograms per deciliter, and prior years information for these categories where available. Recipients of grants under this section that are required to report equivalent information to the Secretary under other sections of this Act shall be exempt from the requirements of this subsection.".

(3) TECHNICAL AND CONFORMING AMENDMENTS.—Section 317A(d)(1), as redesignated by subsection (a)(2)(A) and amended by subsection (c)(1)(B)(i), is further amended—

(A) by striking out "(d) GRANT" and all that follows through "No grant" and inserting the following:

"(d) GRANT APPLICATION.—

"(1) IN GENERAL.—No grant";

(B) by moving each of subparagraphs (A) through (F) 2 ems to the right; and

(C) in subparagraph (C), by striking out "effectiveness" and all that follows and inserting in lieu thereof "effectiveness.".

(d) ESTABLISHMENT OF PROVISION REGARDING RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—Section 317A, as amended by subsection (c)(1)(A), is further amended by inserting after subsection (e) the following new subsection:

"(f) RELATIONSHIP TO SERVICES AND ACTIVITIES UNDER OTHER PROGRAMS.—

"(1) IN GENERAL.—A recipient of a grant under subsection (a) may not make payments from the grant for any service or activity to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service or activity—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis.

"(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.—Paragraph (1) shall not apply in the case of a provider through which a grantee under subsection (a) provides services under such subsection if the Secretary has provided a waiver under subsection (b)(2) regarding the provider.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 317A(l), as redesignated by subsection (a)(2)(A), is further amended—

(1) by striking out "There are" and all that follows through "not more than" and inserting in lieu thereof the following: "For the purpose of carrying out this section, there are authorized to be appropriated";

(2) by striking "and" after "1990,"; and

(3) by inserting before the period the following: ", $40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

(f) NATIONAL EDUCATION PROGRAM.—Title III is amended by inserting after section 317A (42 U.S.C. 247b-1) the following new section:

"SEC. 317B. NATIONAL LEAD POISONING PREVENTION EDUCATION PROGRAM.

"The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish and implement a national program designed to educate health professionals and paraprofessionals and the general public concerning lead poisoning. As part of such educational program the Secretary shall ensure that such individuals have access to information concerning the health effects of low-level lead toxicity, the most serious causes of lead poisoning, and the primary and secondary preventive measures that may be taken to combat the problem of lead poisoning.".

(g) RESEARCH AND DEVELOPMENT.—Title III (as amended by subsection (f) is further amended by inserting after section 317B the following new section:

"SEC. 317C. NATIONAL LEAD POISONING TECHNOLOGY ASSESSMENT AND EPIDEMIOLOGY PROGRAM.

"The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish and implement a concerted technology assessment and epidemiology program to—

"(1) develop improved testing measures that may be administered to children to detect lead toxicity using methods that are sufficiently reliable, sensitive, applicable and cost-effective;

"(2) more accurately assess the prevalence of lead poisoning by State, socioeconomic grouping, and health care insurance status; and

"(3) conduct any applied research necessary to improve the effectiveness of childhood lead poisoning prevention programs.".

(h) TASK FORCE TO COORDINATE EFFORTS TO PREVENT LEAD POISONING.—Title III (as amended by subsections (f) and (g) is further amended by inserting after section 317C the following new section:

"SEC. 317D. INTERAGENCY TASK FORCE ON THE PREVENTION OF LEAD POISONING.

"(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish a task force, to be known as the 'Interagency Task Force on the Prevention of Lead Poisoning', to coordinate the efforts of Federal agencies to prevent lead poisoning.

"(b) COMPOSITION.—The task force established under subsection (a) shall be composed of—

"(1) the Secretary, who shall serve as the chairperson of the task force;

"(2) the Secretary of Housing and Urban Development;

"(3) the Administrator of the Environmental Protection Agency; and

"(4) senior staff selected by the Secretary of Health and Human Services, Secretary of

Housing and Urban Development and Administrator of the Environmental Protection Agency.

"(c) DUTIES.—The task force established under subsection (a) shall—

"(1) review, evaluate and coordinate current strategies and plans formulated by the Department of Health and Human Services (including the Strategic Plan for the Elimination of Lead Poisoning of February 21, 1991), the Department of Housing and Urban Development (including the Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing of December 7, 1990) and the Environmental Protection Agency (including the Strategy for Reducing Lead Exposures of February 21, 1991) and develop a unified implementation plan for programs related to the prevention of lead poisoning that receive assistance from the Federal Government;

"(2) establish a mechanism for sharing and disseminating information among and to agencies participating in the task force;

"(3) identify the most promising areas of research and education concerning lead poisoning;

"(4) identify the practical and technological constraints to expanding lead poisoning prevention;

"(5) annually carry out a comprehensive review of Federal programs providing assistance to prevent lead poisoning, and prepare and submit not later than May 1 of each year to the Committee on Labor and Human Resources and the Committee on the Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report that summarizes the review conducted under this paragraph and contains any program, policy and budgetary recommendations of the task force; and

"(6) annually review and coordinate departmental and agency budgetary requests with respect to all lead poisoning prevention activities of the Federal Government.".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1991, or upon the date of the enactment of this Act, whichever occurs later.

SEC. 136. SCREENING AND EARLY DETECTION OF PROSTATE CANCER.

Title III is amended by inserting after Section 318 (42 U.S.C. 247c) the following new section:

"SEC. 318A. PROSTATE CANCER SCREENING AND EARLY DETECTION.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States, academic medical centers, or other public or nonprofit private entities—

"(1) to determine the prevalence, incidence and mortality rates and stage at diagnosis of prostate cancer, nationally, within regions and within subgroups of the population; and

"(2) to determine the state of current practices for the screening and diagnosis of prostate cancer and the effectiveness of such practices in reducing mortality.

Such grants shall be awarded on the basis of an established competitive review process.

"(b) COORDINATION WITH THE NATIONAL INSTITUTES OF HEALTH.—The Director of the Centers of Disease Control and Prevention shall coordinate with the Director of the National Institutes of Health to—

"(1) evaluate existing methods for the screening and diagnosis of prostate cancer in order to develop more sensitive and specific, less expensive screening and diagnostic methods;

"(2) evaluate and improve reporting of surveillance data relative to prostate cancer;

"(3) disseminate information concerning such methods to health professionals; and

"(4) collaborate to expedite the review of research and development of technologies that insure early detection of prostate cancer.

"(c) APPLICATION REQUIREMENTS.—The Secretary may not make a grant under subsection (a) unless an application for such grant is submitted to the Secretary. Such application shall be in such form, submitted at such time, and contain such information as the Secretary determines to be appropriate to carry out this section, including a description of the activities, as described in subsection (a), that the applicant intends to use the amounts received under such grant to carry out.

"(d) DESCRIPTION OF INTENDED USE OF GRANTS.—The Secretary may not make a grant under subsection (a) unless the applicant for such grant submits to the Secretary a description of the purposes for which the applicant intends to expend the amounts received under the grant that—

"(1) identifies the populations, areas and locations to be assessed under the grant; and

"(2) provides assurances that the grant funds will be used in the most cost-effective manner practicable.

"(e) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance with respect to the planning, development and operation of activities carried out under grants awarded under this section.

"(f) REPORTS.—Not later than 18 months after the awarding of grants under this section, and annually thereafter, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce in the House of Representatives, a report that contains—

"(1) a summary of the findings derived from the activities carried out under grants awarded under this section during the preceding fiscal year; and

"(2) recommendations for administrative and legislative initiatives to improve the public health based upon the findings described in paragraph (1) that the Secretary determines to be appropriate.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 137. SPECIAL REGIONAL AND NATIONAL DEMONSTRATION PROJECTS FOR MINORITY HEALTH PROMOTION AND DISEASE PREVENTION.

Title XVII (42 U.S.C. 300u) is amended by adding at the end thereof the following new section:

"SEC. 1708. SPECIAL REGIONAL AND NATIONAL DEMONSTRATION PROJECTS FOR MINORITY HEALTH PROMOTION AND DISEASE PREVENTION.

"(a) GRANTS.—The Secretary, acting through the Assistant Secretary of Health, shall award grants to States, political subdivisions of States, public or nonprofit community-based organizations, and other public and nonprofit private entities for the establishment of demonstration projects for the prevention of diseases that disproportionately affect minorities.

"(b) PRIORITY.—In awarding grants for projects under subsection (a), the Secretary shall give priority to projects that are designed to address the leading causes of death, disease and disability in minority populations, including cancer, cardiovascular disease, diabetes, violence, homicide, and tobacco use.

"(c) APPLICATION.—To be eligible to receive a grant under this section, an entity of the type described in subsection (a) shall prepare and submit to the Secretary an application, at such time, in such form, and containing such information as the Secretary determines appropriate.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

TITLE II—COORDINATION OF HEALTH PROMOTION AND DISEASE PREVENTION ACTIVITIES

SEC. 201. SHORT TITLE.

This title may be cited as the "Health Promotion and Disease Prevention Coordination Act of 1991".

SEC. 202. HEALTH INFORMATION AND HEALTH PROMOTION.

(a) OFFICE OF DISEASE PREVENTION AND HEALTH PROMOTION.—Paragraph (11) of section 1701(a) (42 U.S.C. 300u(a)(11)) is amended to read as follows:

"(11) establish in the Office of the Assistant Secretary for Health an Office of Disease Prevention and Health Promotion, to be headed by a director appointed by the Secretary, that shall—

"(A) ensure interagency and interdepartmental coordination of all activities related to health promotion and disease prevention, specifically including nutrition, physical fitness, children and school health, worksite health promotion, health promotion for special populations at risk for preventable disease and disability, and other matters that involve various agencies of the Department or collaboration with other Federal departments and agencies;

"(B) coordinate Federal activities of the type described in subparagraph (A) with similar activities conducted by the private sector and encourage the establishment of additional activities of this type in the private sector;

"(C) establish a national information clearinghouse to—

"(i) facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(ii) facilitate the access of health care providers, other providers of health information, and health care consumers to such information; and

"(iii) facilitate and assist entities in the access of such information and the analysis of issues and problems relating to such matters;

"(D) support projects, conduct research, and disseminate information relating to health promotion, disease prevention, preventive medicine and physical fitness and exercise;

"(E) coordinate, in collaboration with agencies within the Department and other Federal Departments and agencies, a national effort to promote health and prevent disease through the enhancement of health related behavior, improve access to preventive health services, and health information, communication and education with respect to the appropriate use of health care; and

"(F) report to the public, through the publication of a short, easy-to-understand annual report on key Healthy People 2000 objective indicators and on progress made toward achieving the Healthy People 2000 objectives, to—

"(i) focus attention on an easily identifiable and understandable set of core health objective indicators;

"(ii) highlight national, State, and individual health status indicators and cite specific examples;

"(iii) stress quality of life indicators;

"(iv) maximize the use of the print and electronic media to promote the health status of the United States and the Healthy People 2000 objectives;

"(v) highlight priority areas where additional efforts are needed, either at the national, State, or individual level, to attain specific Healthy People 2000 objectives; and

"(vi) report on the current ranking of the United States with respect to the infant mortality and life expectancy rates.".

(b) Authorization of Appropriations.—Subsection (b) of section 1701 (42 U.S.C. 300u(b)) is amended to read as follows—

"(b) For the purpose of carrying out this section and sections 1702 through 1705, there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

(c) Target Populations.—Section 1701 (42 U.S.C. 300u) is amended by adding at the end thereof the following new subsection:

"(d) With respect to activities carried out with amounts appropriated under this title, particular emphasis shall be placed on the target populations under each grant, contract or other activity under this title to ensure that appropriate priority is provided to populations and groups with documented historically poor health.".

(d) Literacy Requirements.—Section 1701(a)(3) (42 U.S.C. 300u(a)(3)) is amended—

(1) in subparagraph (B), by striking out "and" at the end thereof;

(2) in subparagraph (C), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new subparagraph:

"(D) ensure that, after January 1, 1992, at least one-half of all new or revised health education and promotion materials developed or funded by the Department is in a form that does not exceed a level of functional literacy, as defined in the National Literacy Act of 1991 (Public Law 102–73);".

SEC. 203. INTERDEPARTMENTAL COORDINATING COUNCIL.

Section 1701 (42 U.S.C. 300u) (as amended by section 202(c)) is further amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary, in consultation with the Secretary of Education, shall establish an interdepartmental group for coordinating activities and fostering cooperation with respect to programs concerning multidimensional school health programs, including school health education. Multidimensional school health programs may include—

"(A) school health education;

"(B) school-linked or school based health services designed to prevent, detect and address health problems;

"(C) programs to create a healthy and safe school environment;

"(D) physical education;

"(E) healthful school food services;

"(F) psychological assessment and counseling to promote child development and emotional health;

"(G) schoolsite health promotion for faculty and staff; and

"(H) integrated school and community disease prevention and health promotion efforts.

"(2) The group established under paragraph (1) shall foster cooperation in linking national health objectives established by the Secretary with national education goals established by the Secretary of Education, and promote the establishment of multidimensional school health programs, particularly comprehensive school education, to improve the health of American youth.

"(3) The Secretary and the Secretary of Education, shall serve as co-chairpersons of the group established under paragraph (1). The Secretary shall appoint individuals to serve as a members of the group from among representatives of appropriate components of the Department of Health and Human Services and the Department of Education. The co-chairpersons may solicit appropriate representation from other Federal departments and agencies. The Public Health Service shall provide staff support for convening the group established under paragraph (1).".

SEC. 204. DISSEMINATION OF HEALTH INFORMATION.

(a) Research.—Section 1702(a) (42 U.S.C. 300u–1(a)) is amended—

(1) in the matter preceding paragraph (1), by striking out "health information and";

(2) striking out paragraph (2);

(3) redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively; and

(4) in paragraph (5) (as so redesignated), by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)".

(b) Information.—Section 1704 (42 U.S.C. 300u–3) is amended by adding at the end thereof the following new paragraph:

"(6) A determination of the most effective methods of disseminating information concerning personal health behavior, preventive health services and the appropriate use of health care and of affecting behavior so that such information is applied to maintain and improve health, and prevent disease, reduce risk, or modify its course or severity.".

SEC. 205. REPORT ON NATIONAL HEALTH STATUS IMPROVEMENT.

Subsection (a) of section 1705 (42 U.S.C. 300u–4(a)) is amended to read as follows:

"(a) The Secretary shall annually prepare and submit to the President, for subsequent transmittal to the appropriate committees of Congress, a report concerning the status of the nation's health. Each such report shall include—

"(1) a description of the activities carried out under this title for the period for which the report is being submitted and the extent to which each such activity achieves the purpose of the title;

"(2) a description of the goals and strategy formulated pursuant to section 1701(a)(1), the model standards developed under this title, and the results of the study conducted under subsection (b) of this section;

"(3) an analysis of the manner in which the health status of the nation has changed since during the period for which the report is submitted, including information concerning the nation's health status according to the national health status indicators developed under section 5 of the Year 2000 National Health Objectives Planning Act (Public Law 101–582); and

"(4) such recommendations as the Secretary considers appropriate for legislation with respect to health promotion, disease prevention, health information, preventive health services, and education in the appropriate use of health care, including recommendations for revisions and extensions of this title.".

SEC. 206. HEALTH EDUCATION CURRICULUM.

Section 1707(b)(6) (42 U.S.C. 300u–6(b)(6)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by adding "and" after the semicolon in subparagraph (E);

(3) by adding at the end thereof the following new subparagraph:

"(F) the development of model curricula and programs for health information and education for use in community and workplace settings.".

SEC. 207. STATE OFFICES OF MINORITY HEALTH.

Title XVII (42 U.S.C. 300u et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1709. GRANTS TO STATES FOR OPERATION OF OFFICES OF MINORITY HEALTH.

"(a) In General.—The Secretary, acting through the Deputy Assistant Secretary for Minority health (as established under section 1707), may make grants to States for the purpose of improving the health status in minority communities, through the operation of State offices of minority health established to monitor and facilitate the achievement of the Health Objectives for the Year 2000 as they affect minority populations.

"(b) Certain Requirement for States.—

"(1) Minimum qualifications.—The Secretary may not make a grant to a State under subsection (a) unless such State receives, under any provision of this Act other than subsection (a), one or more grants, cooperative agreements, or contracts for the fiscal year for which the State is applying pursuant to subsection (g) to receive a grant under subsection (a).

"(2) Administration of program.—The Secretary may not make a grant to a State under subsection (a) unless such State agrees that the program carried out by the State with amounts received under the grant will be administered directly by a single State agency.

"(c) Certain Required Activities.—The Secretary may not make a grant to a State under subsection (a) unless such State agrees that activities carried out by an office operated under the grant received pursuant to such subsection will—

"(1) establish and maintain within the State a clearinghouse for collecting and disseminating information on—

"(A) minority health care issues;

"(B) research findings relating to minority health care; and

"(C) innovative approaches to the delivery of health care and social services in minority communities;

"(2) coordinate the activities carried out in the State that relate to minority health care, including providing coordination for the purpose of avoiding redundancy in such activities; and

"(3) identify Federal and State programs regarding minority health, and providing technical assistance to public and non-profit entities regarding participation in such program.

"(d) Requirement Regarding Annual Budget for Office.—The Secretary may not make a grant to a State under subsection (a) unless such State agrees that, for any fiscal year for which the State receives such a grant, the office operated under such grant will be provided with an annual budget of not less than $50,000.

"(e) Certain Uses of Funds.—

"(1) RESTRICTIONS.—The Secretary may not make a grant to a State under subsection (a) unless such State agrees that—

"(A) if research with respect to minority health is conducted pursuant to the grant, not more than 10 percent of the amount receive under the grant will be expended for such research; and

"(B) amounts provided under the grant will not be expended—

"(i) to provide health care (including providing cash payments regarding such care);

"(ii) to conduct activities for which Federal funds are expended—

"(I) within the state to provide technical and other non-financial assistance under subsection (m) of section 340A;

"(II) under a memorandum of agreement entered into with the State under subsection (h) of such section;

"(III) under a grant under section 388I;

"(iii) to purchase medical equipment, to purchase ambulances, aircraft, or other vehicles, or to purchase major communications equipment;

"(iv) to purchase or improve real property; or

"(v) to carry out any activity regarding a certificate of need.

"(2) AUTHORITIES.—Activities for which a State may expend amounts received under a grant under subsection (a) include—

"(A) paying the costs of establishing an office of minority health for purposes of subsection (a);

"(B) subject to paragraph (1)(B)(ii)(III), paying the costs of any activity carried out with respect to recruiting and retaining health professionals to serve in minority communities in the State; and

"(C) providing grants and contracts to public and non-profit private entities to carry out activities authorized in this section.

"(f) REPORTS.—The Secretary may not make a grant to a State under subsection (a) unless such State agrees—

"(1) to submit to the Secretary reports containing such information as the Secretary may require regarding activities carried out under this section by the State; and

"(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

"(g) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant to a State under subsection (a) unless an application for the grant is submitted to the Secretary and the application in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(h) NONCOMPLIANCE.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(i) DEFINITIONS.—For purposes of making grants under subsection (a) there are authorized to be appropriated $3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1996.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(k) TERMINATION OF PROGRAM.—No grant may be made under this section after the aggregate amounts appropriated under subsection (j)(1) are equal to $10,000,000.".

TITLE III—PREVENTABLE CASES OF INFERTILITY

SEC. 301. ESTABLISHMENT OF PROGRAM OF GRANTS REGARDING PREVENTABLE CASES OF INFERTILITY ARISING AS RESULT OF SEXUALLY TRANSMITTED DISEASES.

Title III (42 U.S.C. 241 et seq.) (as amended by sections 133 and 302), is further amended by adding at the end the following new part:

"PART O—PREVENTABLE CASES OF INFERTILITY

"SEC. 399N. INFERTILITY ARISING AS RESULT OF SEXUALLY TRANSMITTED DISEASES.

"(a) GRANTS.—The Secretary may make grants to States, political subdivisions of States, and any other public or nonprofit private entities for the purpose of carrying out the activities described in subsection (c) regarding any treatable sexually transmitted disease that can cause infertility in women if treatment is not received for the disease. The Secretary shall carry out this section acting through the Director of the Centers for Disease Control and Prevention.

"(b) SPECIFICATION OF RELEVANT DISEASES.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall make a determination specifying all sexually transmitted diseases that are diseases described in subsection (a).

"(2) DISEASES APPLICABLE WITH RESPECT TO GRANTEE INVOLVED.—In making a grant under subsection (a) to an applicant for the grant, the Secretary shall make a determination in order to select, from among the diseases specified for purposes of paragraph (1) for the fiscal year involved, the particular diseases with respect to which the grant is to be made to the applicant. The Secretary may select, for purposes of the determination, any or all of the diseases so specified. The Secretary may not make such a grant unless the applicant agrees to carry out this section only with respect to the disease or diseases selected for the applicant through the determination.

"(c) AUTHORIZED ACTIVITIES.—With respect to any sexually transmitted disease described in subsection (a), the activities referred to in such subsection are—

"(1) providing counseling to women on the prevention and control of the disease, including, in the case of a woman with the disease, counseling on the benefits of locating and providing such counseling to any individual from whom the woman may have contracted the disease and any individual whom the woman may have exposed to the disease;

"(2) screening women for the disease and for secondary conditions resulting from the disease;

"(3) providing treatment to women for the disease;

"(4) providing for the provision of necessary medical services to women screened pursuant to paragraph (2), and referrals for evaluation and treatment regarding acquired immune deficiency syndrome and other sexually transmitted diseases;

"(5) providing follow-up services to determine the outcomes of medical services;

"(6) in the case of any woman receiving services pursuant to any of paragraphs (1) through (5), providing to the partner of the woman the services described in such paragraphs, as appropriate;

"(7) providing outreach services to inform women of the fact that the services described in paragraphs (1) through (6) are available from the grantee involved;

"(8) providing to the public information and education on the prevention and control of the disease, including disseminating such information;

"(9) providing training to health care providers in carrying out the counseling and screenings described in paragraphs (1) and (2);

"(10) in the case of services and activities described in this subsection, coordinating the services and activities in accordance with subsection (g); and

"(11) collecting, in accordance with subsection (k), data on the incidence and prevalence of the disease in order to assist in carrying out activities for the prevention and control of the disease, including activities to educate the public regarding the disease.

"(d) REQUIREMENT OF AVAILABILITY OF ALL SERVICES THROUGH EACH GRANTEE.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that each authorized service will be available through the applicant. With respect to compliance with such agreement, the applicant may expend the grant to provide any of the services directly, and may expend the grant to enter into agreements with other public or nonprofit private entities under which the entities provide the services.

"(e) REQUIRED PROVIDERS REGARDING CERTAIN SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that, in expending the grant to provide authorized services, the services described in paragraphs (1) through (7) of subsection (c) will be provided only through entities that are State or local health departments, grantees under section 329, 330, or 1001 or are other public or nonprofit private entities that provide health services to a significant number of low-income women.

"(f) QUALITY ASSURANCE REGARDING SCREENING FOR DISEASES.—For purposes of this section, the Secretary shall establish criteria for ensuring the quality of screening procedures for diseases described in subsection (a). The Secretary may not make a grant under such subsection unless the applicant involved agrees, with respect to any disease selected in the determination made under subsection (b)(2) for the applicant, to carry out screenings for the disease in accordance with such criteria.

"(g) COORDINATION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees to coordinate all authorized services provided through the applicant for the purpose of ensuring efficiency in the provision of the services.

"(h) CONFIDENTIALITY.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees to maintain the confidentiality of information on individuals regarding screenings of the individuals for sexually transmitted diseases, subject to complying with applicable law.

"(i) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income of the individual involved; and

"(3) will not be imposed on any individual with an income of less than 150 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(j) Limitations on Certain Expenditures.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that—

"(1) in the case of the first fiscal year for which the applicant receives payments under the grant, not more than 20 percent of the grant will be expended for the purpose of carrying out paragraphs (8) through (11) and subsection (c); and

"(2) in the case of any subsequent fiscal year for which the applicant receives payments under any grant under subsection (a), not more than 15 percent of the grant will be expended for such purpose.

"(k) Reports to Secretary.—

"(1) Collection of data.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to any disease selected in the determination made under subsection (b)(2) for the applicant, to submit to the Secretary, for each fiscal year for which the applicant receives such a grant, a report providing—

"(A) the incidence of the disease among the population of individuals served by the applicant;

"(B) the number and demographic characteristics of individuals in such population;

"(C) the types of interventions and treatments provided by the applicant, and the health conditions with respect to which referrals have been made pursuant to subsection (c)(4);

"(D) an estimate by the applicant of the effect of the services provided under the grant on the community in which the services have been provided; and

"(E) providing such other information as is available to the applicant and determined by the Secretary to be relevant regarding the prevention and control of the disease.

"(2) Utility and comparability of data.—The Secretary shall carry out activities for the purpose of ensuring the utility and comparability of data collected pursuant to paragraph (1). The Secretary may not make a grant under subsection (a) unless the applicant involved makes such agreements as the Secretary determines to be necessary for such purpose.

"(l) Maintenance of Effort.—

"(1) In general.—With respect to activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not, subject to paragraph (2), make such a grant for any fiscal year unless the applicant agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the first fiscal year for which the entity receives such a grant.

"(2) Applicability to private entities.—In the case of a nonprofit private entity making an agreement under paragraph (1), the Secretary may require the entity to comply with the agreement only to the extent of the amount of non-Federal amounts that are available to the entity for the activities to which the agreement applies.

"(m) Submission of Plan for Program of Grantee.—

"(1) In general.—The Secretary may not make a grant under subsection (a) unless the applicant involved submits to the Secretary a plan describing the manner in which the applicant will comply with the agreements required as a condition of receiving such a grant, including a specification of the entities through which authorized services will be provided and a specification of the manner in which such services will be coordinated for purposes of subsection (g).

"(2) Participation of certain entities.—The Secretary may not make a grant under subsection (a) unless the applicant provides assurances satisfactory to the Secretary that the plan submitted under paragraph (1) has been prepared in consultation with an appropriate number and variety of—

"(A) representatives of entities in the geographic area involved that provide services for the prevention and control of sexually transmitted diseases, including programs to provide to the public information and education regarding such diseases; and

"(B) representatives of entities in such area that provide family planning services.

"(n) Requirement of Application.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary, the application contains the plan required in subsection (m), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(o) Duration of Grant.—The period during which payments are made to an entity from a grant under subsection (a) may not exceed 3 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments in such year. The preceding sentence may not be construed to establish a limitation on the number of grants under such subsection that may be made to an entity.

"(p) Technical Assistance, and Supplies and Services in Lieu of Grant Funds.—

"(1) Technical assistance.—The Secretary may provide training and technical assistance to grantees under subsection (a) with respect to the planning, development, and operation of any program or service carried out under such subsection. The Secretary may provide such technical assistance directly or through grants or contracts.

"(2) Supplies and services in lieu of grant funds.—

"(A) Upon the request of a grantee under subsection (a), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the grantee in carrying out such subsection and, for such purpose, may detail to the grantee any officer or employee of the Department of Health and Human Services.

"(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of the grant to the grantee involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(q) Evaluations and Reports by Secretary.—

"(1) Evaluations.—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to subsection (a) in order to determine the quality and effectiveness of the programs.

"(2) Report to congress.—Not later than 1 year after the date on which amounts are first appropriated pursuant to subsection (t), and annually thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report—

"(A) summarizing the information provided to the Secretary in reports made pursuant to subsection (k), including information on the incidence of sexually transmitted diseases described in subsection (a); and

"(B) summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year.

"(r) Coordination of Federal Programs.—The Secretary shall coordinate the activities carried out under the program established in this section with any similar activities regarding sexually transmitted diseases that are carried out under other programs administered by the Secretary, including the coordination of such activities of the Director of the Centers for Disease Control and Prevention with such activities of the Director of the National Institutes of Health.

"(s) Definitions.—For purposes of this section, the term 'authorized service' means any service or activity described in subsection (c).

"(t) Authorization of Appropriations.—For the purpose of carrying out this section, other than subsections (q) and (u), there are authorized to be appropriated $50,000,000 for each of the fiscal years 1992 through 1996.

"(u) Separate Grants for Research on Delivery of Services.—

"(1) In general.—The Secretary may make grants for the purpose of conducting research on the manner in which the delivery of services under subsection (a) may be improved. The Secretary may make such grants only to grantees under such subsection and to public and nonprofit private entities that are carrying out projects substantially similar to projects carried out under such subsection.

"(2) Authorization of appropriations.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 through 1996.".

TITLE IV—COMPREHENSIVE MATERNAL AND EARLY CHILDHOOD HEALTH CARE

SEC. 401. SHORT TITLE.

This title may be cited as the "Comprehensive Maternal and Early Childhood Health Care Act".

SEC. 402. MIGRANT AND COMMUNITY HEALTH CENTER INITIATIVES.

(a) Migrant Health Centers.—Paragraph (2) of subsection (h) of section 329 (42 U.S.C. 254b(g)) is amended to read as follows:

"(2)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist, and expand the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where Migrant Health Centers are currently operating Comprehensive Perinatal Care Programs. The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to Migrant Health Centers to assist such Centers in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such Programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services shall include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary for the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at the health center (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and through others) to ensure access and coordination.".

(b) COMMUNITY HEALTH CENTERS.—Subsection (g) of section 330 (42 U.S.C. 254c(g)) is amended:

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(C) Of the amounts appropriated under subparagraph (A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such subparagraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year to make grants under subsections (c) and (d) for the planning and development of health centers to serve medically underserved populations. New community health centers shall be equitably distributed between underserved urban and rural areas with satellite models used where appropriate."; and

(2) in paragraph (2) to read as follows:

"(2)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for—

"(i) the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist; and

"(ii) expanding the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where community health centers are currently operating Comprehensive Perinatal Care Programs in areas with high infant mortality.

The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to Community Health Centers to assist such Centers in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services shall include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center-based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at the health center, (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and by others) to ensure access and coordination.".

(c) PROGRAMS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.—Subsection (q) of section 340 (42 U.S.C. 256(q)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for—

"(i) the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist; and

"(ii) expanding the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where grantees under this section are currently operating Comprehensive Perinatal Care Programs.

The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to grantees under this section to assist such

grantees in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such Programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services should include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center-based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at a health center, (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and by others) to ensure access and coordination.".

SEC. 403. EXPANSION OF IMMUNIZATION PROGRAMS FOR YOUNG CHILDREN.

(a) Vaccine Bulk Purchase Program.—Part B of title III (as amended by section 134) is further amended by adding after section 317D the following new section:

"SEC. 317E. VACCINE BULK PURCHASE PROGRAM.

"(a) In General.—The Secretary acting through the Director of the Centers for Disease Control and in accordance with the preventative health grant provisions of subsections (a) and (j)(1)(B) of section 317, shall provide to the health department of each State or large city that is operating an immunization project, vaccines for immunization purposes.

"(b) Distribution.—Vaccines provided to grantees with existing immunization projects under subsection (a) shall be made available for distribution and immunization services through the public health departments of such States or cities, recipients of grants under section 329, 330, and 340 in the State or city, Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act operating in the State or city, and public health professionals.

"(c) Quantity.—In determining the quantity of vaccine that is needed by a grantee under subsection (a), the Administrator of the Health Resources and Services Administration shall make available to the Director of the Centers for Disease Control data from annual reports submitted by recipients of grants under section 329, 330, and 340 and from entities certified as Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act. The Director of such Centers shall direct the health department of the State, county or city to equitably allocate vaccines made available under the bulk purchase program among those recipients described in subsection (b) who are providing immunization services to children, except that the amounts received by each provider on the date of enactment of this section shall not be diminished relative to the population served, and that grantees shall receive not less than the amount such grantees received under their bulk vaccine allotment as of January 1, 1991.

"(d) Maintenance of Supply.—The provisions of this section shall be effective only to the extent to which the Secretary, acting through the Director of the Centers for Disease Control, provides assurances that the implementation of this section will not result in a reduction in the supply of vaccines available to grantees receiving vaccine allotments under the bulk purchasing programs as of January 1, 1991.".

(b) Immunization Demonstration Projects for Outreach Programs.—Subsection (b) of section 2 of the Vaccine and Immunization Amendments of 1990 (Public Law 101–502) is amended to read as follows:

"(b) Demonstration Projects for Outreach Programs.—

"(1) In general.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to States for the purpose of carrying out demonstration projects—

"(A) to provide, without administrative charge, immunizations for vaccine preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low income individuals, increasing the capacity of public health departments to deliver vaccines and facilitating outreach activities to improve the percentage of fully immunized children;

"(B) to expand the capacity of public health departments, recipients of grants under sections 329, 330, and 340 of the Public Health Service Act, and other health provider entities that are co-located with centers providing services under section 17 of the Child Nutrition Act of 1966 in order to provide immunizations to participants in the program established under such section 17 during regular hours, and to enable State health departments working through State directors of the program established under such section 17 to make available to such centers vaccines and adequate funds to administer immunizations; and

"(C) to maintain private provider participation in the provision of immunization services and to encourage private physicians to provide such services to infants and children enrolled for benefits under title XIX of the Social Security Act.

"(2) Authorization of Appropriations.—For the purposes of carrying out paragraph (1), there are authorized to be appropriated $25,000,000 in fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.".

SEC. 404. PROJECT GRANTS FOR MATERNAL AND CHILD PREVENTIVE HEALTH AND HEALTH CARE SERVICES.

Section 314 (42 U.S.C. 246) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary is authorized to award grants to eligible entities for the development and operation of Comprehensive Perinatal and Early Childhood Health Programs, to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development.

"(2)(A) To be eligible to receive a grant under this subsection, an entity shall be a public health department or public or private nonprofit health entity that—

"(i) does not receive assistance under section 329 or 330;

"(ii) is located in a medically underserved or health professional shortage area not served by an entity receiving funds under section 329 or 330; and

"(iii) has demonstrated a commitment to serving low income and uninsured individuals and families.

"(B) Notwithstanding subparagraph (A), entities located in areas served by grantees under section 329 or 330 may apply for and receive a grant under this subsection, if such 329 or 330 grantees do not intend to apply for expanded funding for prenatal and early childhood health care services, and if such entities can demonstrate that—

"(i) the women and children to be served, or the services to be provided, using funds provided under the grant are in addition to those populations served and services offered by such existing section 329 or 330 grantees; and

"(ii) the entity will not use funds provided under this subsection to supplant State expenditures.

"(3) Services to be provided with funds under a grant awarded under this subsection shall be delivered in a culturally sensitive manner and made accessible to the population to be served. Such services shall include—

"(A) public information, outreach, or case finding services provided through the use of media, community canvassing (including the use of volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(B) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(i) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(ii) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(C) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children and families;

"(D) substance abuse screening, outpatient substance abuse counseling services, or referral to substance abuse treatment services for women with substance abuse problems;

"(E) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(F) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both counseling provided directly by the grantee, and through distribution of the Maternal Child Health Handbooks as available.

Services described in subparagraphs (D), (E) and (F) shall be provided by grantees under this subsection to the maximum extent practicable.

"(4) To the maximum extent practicable, services provided under this subsection shall be delivered in a single location by the grantee, except that such may include multiple sites if mobile health care provider units are utilized (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act, by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966, by drug treatment service providers, and by others) to ensure access and coordination.

"(5) The Secretary may not award a grant under this subsection unless—

"(A) the applicant for the grant has entered into, or will enter into, a participation agreement within 180 days of the date of the grant award with the State agency administering funds under title XIX of the Social Security Act and is qualified to receive such payments for services provided;

"(B) the applicant for the grant has prepared a schedule of fees or payments for the provision of services under paragraph (3) consistent with locally prevailing rates or charges, and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, such discounts to be adjusted on the basis of the patient's ability to pay;

"(C) the applicant for the grant provides assurances that every reasonable effort will be made to secure from patients and third party reimbursement entities, including any State compensation program, health insurance entity, any entity providing health services on a prepaid basis, or any Federal or State health benefits program, full payment for the services provided under paragraph (3).

Amounts awarded under this subsection shall be used as the payment source of last resort for services provided.

"(6) In addition to providing the services required under paragraph (3), a grantee may use amounts provided under the grant for minor remodeling and rehabilitation of the facilities needed to support the delivery of such services. No funds may be used for the construction of new buildings or the acquisition of properties.

"(7) A grantee shall not use in excess of 5 percent of the amounts received under a grant awarded under this subsection for administration, accounting, reporting and program oversight functions.

"(8) To be eligible to receive a grant under this subsection, an entity, in addition to meeting the requirements of paragraph (2), shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

"(A) that funds received under a grant awarded under this subsection will be utilized to supplement not supplant State funds made available to the entity for the provision of maternal and child health and social services, with identification of funding received from other sources for such purposes;

"(B) that prenatal and early childhood health care will be provided under a case management model, that continuity of care will be provided for all individuals, and that services to be provided are accessible to the target population to be served;

"(C) that the entity will serve low income women and children in the service delivery area, and have a plan for outreach to those at risk of inadequate health care services;

"(D) that the entity has outlined a needs assessment of the health care delivery system in the service delivery area, to include health status indicators for women of childbearing age and young children, and identification of other health care provider groups in the area;

"(E) that the entity has reviewed the application for a grant under this section with the State agency administering amounts received under title V of the Social Security Act and the local health department, and that such application is consistent with the State plan for the delivery of maternal and child health services; and

"(F) that the entity will submit a report to the Secretary and to the State and relevant local health departments that will include demographic data on the number of individuals served and those services provided with funds provided under this subsection, and a description of the manner in which services provided by the entity are integrated with those services provided by other health care agencies or provider groups in the service delivery area.

"(9) In awarding grants under this subsection, the Secretary should give priority to—

"(A) those applications submitted by entities that are an association of one or more public, and one or more nonprofit private health care and social service providers, except that in areas where such an association would not be possible as a result of the absence of more than one provider entity, no such priority shall be given; and

"(B) those applications providing evidence of local investment (such as State, health care provider, local charity, and volunteer organization contributions) in maternal and child health initiatives, through a 10 percent local contribution to match Federal funds, in cash or in kind, fairly evaluated, not including any portion of any service subsidized by the Federal Government or other copayments under paragraph (5).

Grants under this subsection shall be awarded on an equitable basis among eligible rural and urban applicants.

"(10) Not later than 30 months after the date of enactment of this subsection, the Secretary shall prepare and submit, to the Senate Committee on Labor and Human Resources, the Senate Finance Committee, and the House Committee on Energy and Commerce, an evaluation of the program established under this subsection, that shall include—

"(A) an analysis of the manner in which funds provided under this subsection have been used by grantees, with a review of the services provided;

"(B) the infant mortality rates and immunization rates in the communities served by grantees prior to the receipt of such a grant and at the time such evaluation is prepared, and an assessment of the impact of enhanced services on such rates;

"(C) an analysis of the manner in which entities receiving grants under this subsection have integrated the services provided under such grants with other available health and social service providers in the service delivery area; and

"(D) recommendations concerning any modifications necessary to improve program effectiveness in reaching the stated goals of the program in a cost-effective manner.

"(11) There are authorized to be appropriated for each of the fiscal years 1992 through 1994, such sums as may be necessary to carry out this subsection.".

SEC. 405. BIRTH DEFECTS PROPOSAL.

Part B of title III (42 U.S.C. 243 et seq.) (as amended by section 403) is further amended by inserting after section 317E, the following new section:

"SEC. 317F. COORDINATION OF BIRTH DEFECTS SURVEILLANCE AND EPIDEMIOLOGY RESEARCH PROGRAMS.

"(a) FINDINGS.—Congress finds that—

"(1) birth defects are the leading cause of infant mortality, directly responsible for one out every five infant deaths;

"(2) thousands of the 250,000 infants born with a birth defect annually face a lifetime of chronic disability and illness; and

"(3) there is no national effort to record birth defect data and perform epidemiologic surveillance even though such data would aid research efforts to understand and reduce the incidence of preventable birth defects.

"(b) PLAN FOR IMPLEMENTING A NATIONAL BIRTH DEFECTS MONITORING SYSTEM AND SURVEILLANCE PROGRAM.—

"(1) DEVELOPMENT.—The Secretary, acting through the Centers for Disease Control, shall develop a plan to establish regional birth defects monitoring programs to serve all States for the purpose of collecting and analyzing data on the incidence of birth defects with relevant epidemiologic data. Such plan shall specify how collaborative efforts between the Centers for Disease Control and responsible State agencies will be carried out, and may include the provision of grants or cooperative agreements, and technical assistance.

"(2) CLEARINGHOUSE.—The Centers for Disease Control shall develop a program plan to serve as the national clearinghouse of the collection and storage of data and information generated from birth defects monitoring programs developed under paragraph (1). Functions of the clearinghouse will include facilitating the coordination of birth defects research.

"(3) REPORT.—The Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the plan required under paragraph (1), together with recommendations to facilitate the immediate implementation of such plan, on or before July 1, 1993.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

TITLE V—MISCELLANEOUS

SEC. 501. ESTABLISHMENT OF AN ADVISORY COUNCIL ON HEALTH PROMOTION AND DISEASE PREVENTION.

Title XVII (42 U.S.C. 300u et seq.) (as amended by sections 137 and 207) is further amended by adding at the end thereof the following new section:

"SEC. 1710. SECRETARY'S ADVISORY COUNCIL.

"(a) IN GENERAL.—The Secretary shall establish an advisory council on health promotion and disease prevention to be known as the Secretary's Advisory Council on Health Promotion and Disease Prevention (hereafter referred to in this section as the 'Council').

"(b) COMPOSITION.—The Council shall be composed of—

"(1) the Secretary;

"(2) recognized leaders in health promotion, academia, industry, non-profit private organizations and representatives of health care consumer groups, to be appointed by the Secretary;

"(3) ex officio members who shall include representatives of—

"(A) the Department of Health and Human Services as designated by the Secretary;

"(B) the Departments of Education;

"(C) the Department of Agriculture;

"(D) the Office of Science and Technology Policy;

"(E) the Surgeon Generals of all of the uniformed services; and

"(F) the chief medical officer of the Department of Veterans Affairs; and

"(4) the members of the National Health Objectives Advisory Committee established under section 1910K.

"(c) DUTIES.—The Council shall provide advice and recommendations to the Secretary concerning the goals and priorities of the Department relating to health promotion, disease prevention, preventive health services and the objectives established by the Secretary for the health status of the population of the United States under section 1906(d). The Council may also direct that recommendations for changes in priorities or programs be prepared and submitted to the Congress and the President.

"(d) FUNDING.—The Secretary is authorized to transfer not to exceed one percent of any appropriation authorized under this Act to provide the funds necessary for the operation of the Council. The total amount transferred under this subsection shall not exceed $400,000 for each fiscal year.".

SEC. 502. RESPONSIBILITIES OF MEMBERS OF THE COMMISSIONED CORPS FOR HEALTH PROMOTION AND DISEASE PREVENTION.

Section 204 (42 U.S.C. 205) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) The Surgeon General shall notify all active members of the Commissioned Corps concerning any guidelines and recommendations for clinical practice that are developed or issued by the Public Health Service. The Surgeon General shall also ensure that members of the Commissioned Corps who are engaged in clinical practice are properly utilizing such guidelines and recommendations.".

SEC. 503. RESPONSIBILITIES OF THE SURGEON GENERAL FOR DISSEMINATING INFORMATION AND RECOMMENDATIONS.

Title XVII (42 U.S.C. 300u) (as amended by sections 137, 207 and 501) is further amended by adding at the end thereof the following new section:

"SEC. 1711. DISSEMINATION OF PREVENTION RECOMMENDATIONS.

"The Secretary, in consultation with the Assistant Secretary for Health, the Director of the Office of Disease Prevention and Health Promotion, the Surgeon General of the Public Health Service, and the Director of the Agency for Health Care Policy and Research, shall inform the Surgeon Generals of all the uniformed services, the Secretary of Veterans Affairs, and the Administrator of the Office of Personnel Management concerning any guidelines or recommendations for clinical practice that are developed by the Public Health Service. The Secretary shall annually prepare and submit to the appropriate committees of Congress, a report describing all such recommendations transmitted under this section.".

SEC. 504. CHANGE IN NAME OF CENTERS FOR DISEASE CONTROL.

(a) COMPREHENSIVE SMOKING EDUCATION ACT.—Section 3(b)(1)(A) of the Comprehensive Smoking Education Act (15 U.S.C. 1341(b)(1)(A)) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(b) EDUCATION AMENDMENTS OF 1978.—Section 1121(b)(2) of the Education Amendments of 1978 is amended by striking out "Federal Center for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(c) VETERANS' BENEFITS AND SERVICES ACT OF 1988.—Section 123(b)(1) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 210 note) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(d) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 227 (42 U.S.C. 236) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(2) in section 317A(a) (42 U.S.C. 247b–1(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(3) in section 319(a) (42 U.S.C. 247d(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(4) in section 391 (42 U.S.C. 280b) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(5) in section 392 (42 U.S.C. 280b–1) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(6) in section 393 (42 U.S.C. 280b–2) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(7) in section 430(b)(2)(A)(i) (42 U.S.C. 285c–4(b)(2)(A)(i)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(8) in section 442(b)(2)(A) (42 U.S.C. 285d–7(b)(2)(A)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(9) in section 464D(b)(2)(A) (42 U.S.C. 285m–4(b)(2)(A)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(10) in section 494(a) (42 U.S.C. 289c(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(11) in section 508(b)(6) (42 U.S.C. 290aa–6(b)(6)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(12) in section 509B(a) (42 U.S.C. 290aa–9(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(13) in section 1706(c)(2)(B) (42 U.S.C. 300u–5(c)(2)(B)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(14) in section 2102 (42 U.S.C. 300aa–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(15) in section 2119(a)(2) (42 U.S.C. 300aa–19(a)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(16) in section 2126(b)(2) (42 U.S.C. 300aa–26(b)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(17) in section 2301(b)(4) (42 U.S.C. 300cc(b)(4)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(18) in section 2303 (42 U.S.C. 300cc–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(19) in section 2315(b) (42 U.S.C. 300cc–15(b)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(20) in section 2317 (42 U.S.C. 300cc–17) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(21) in section 2320 (42 U.S.C. 300cc–20) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(22) in section 2341(a) (42 U.S.C. 300cc–31(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(23) in section 2521 (42 U.S.C. 300ee–31) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(24) in section 2522(a) (42 U.S.C. 300ee–32(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(25) in section 2524(b)(2) (42 U.S.C. 300ee-34(b)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(26) in section 2601 by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(27) in section 2602(a)(1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(28) in section 2603(a)(3)(B)(i) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(29) in section 2607(2) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(30) in section 2617(d)(3)(A) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(31) in section 2618(c)(1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(32) in section 2641(a) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(33) in section 2643(c)(1)(A) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(34) in section 2649 by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention"; and

(35) in section 2675(a) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

(e) HEALTH OMNIBUS PROGRAMS EXTENSION OF 1988.—The Health Omnibus Programs Extension of 1988 is amended—

(1) in section 161 (42 U.S.C. 241 note) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(2) in section 252 (42 U.S.C. 300ee–1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention"; and

(3) in section 253 (42 U.S.C. 300ee–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

(f) HEALTH RESEARCH EXTENSION ACT OF 1985.—Section 5(b)(1)(G) of the Health Research Extension Act of 1985 (42 U.S.C. 281 note) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(g) PAINT POISONING PREVENTION.—Section 501(3)(B)(i) of Public Law 91–695 (42 U.S.C. 4841(3)(B)(i)) is amended by striking out "Center for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(h) COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980.—Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9604) is amended by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

SEC. 505. STUDY CONCERNING THE REDUCTION OF THE RISK OF BLOODBORNE DISEASE TRANSMISSION.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, acting through the Institute of Medicine, to conduct a study concerning surgical technique, including oral surgery, and medical device innovation to further reduce the risk of bloodborne disease transmission in the health care setting. The study shall review techniques and medical devices used in performing various surgical and dental procedures that present a risk of percutaneous injury and examine mechanisms, such as improvements in technique and product design modification, to enhance injury prevention during such procedures to further reduce the risk of bloodborne disease transmission.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the results of the study conducted under subsection (a).

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

BREAUX AMENDMENT NO. 1457

Mr. FORD (for himself Mr. BREAUX) proposed an amendment to the bill (H.R. 3866) to provide for the designation of the Flower Garden Banks National Marine Sanctuary, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—NATIONAL MARINE SANCTUARY

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

SEC. 101. Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))—

(1) the Secretary of Commerce shall, on January 17, 1992 (or as soon thereafter as is practicable), publish under that Act in the Federal Register a notice of designation of the Flower Garden Banks National Marine Sanctuary, as described in the notice of designation submitted to the Congress on November 20, 1991; and

(2) that designation shall take effect on January 1, 1992.

TITLE II—MERCHANT MARINE PROVISIONS

NON-VESSEL-OPERATING COMMON CARRIERS

SEC. 201. (a) SHORT TITLE.—This section may be cited as the "Non-Vessel-Operating Common Carrier Act of 1991".

(b) PROHIBITED ACTS.—Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended—

(1) in paragraph (14), by inserting ", insurance, or other surety" after "bond"; and

(2) in paragraph (15), by inserting ", insurance, or other surety" after "bond".

(c) SURETY FOR NVOCC'S.—Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721), is amended—

(1) in the section heading by striking "BONDING OF" and inserting in lieu thereof "SURETY FOR";

(2) by amending subsection (a) to read as follows:

"(a) SURETY.—Each non-vessel-operating common carrier shall furnish to the Commission a bond, proof of insurance, or such other surety, as the Commission may require, in a form and an amount determined by the Commission to be satisfactory to insure the financial responsibility of that carrier. Any bond submitted pursuant to this section shall be issued by a surety company found acceptable by the Secretary of the Treasury.";

(3) by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d), respectively;

(4) in subsection (b), as so redesignated—

(A) by striking "BOND" in the subsection heading and inserting in lieu thereof "SURETY";

(B) by inserting ", insurance, or other surety" after "bond"; and

(C) by inserting "under this Act" after "transportation-related activities"; and

(5) in subsection (d), as so redesignated—

(A) by inserting ", insurance, or other surety" after "bond"; and

(B) by striking "subsection (d)" and inserting in lieu thereof "subsection (c)".

(d) INTERIM RULES AND REGULATIONS.—The Federal Maritime Commission may prescribe interim rules and regulations necessary to carry out the amendments made by this section.

(e) CONFORMING AMENDMENT.—The item relating to section 23 in the table of contents in the first section of the Shipping Act of 1984 is amended by striking "Bonding of" and inserting in lieu thereof "Surety for".

(f) EFFECTIVE DATE.—This section shall become effective 90 days after the date of its enactment.

CLARIFICATIONS OF, AND LIMITATIONS ON, GAMBLING DEVICES PROHIBITIONS

SEC. 202. (a) TRANSPORT TO A PLACE IN A STATE, ETC.—Section 2 of the Act of January 2, 1951 (15 U.S.C. 172; commonly referred to as the "Johnson Act"), is amended—

(1) by inserting before the first paragraph the following: "(a) GENERAL RULE.—";

(2) in subsection (a) (as so designated) by striking ", District of Columbia,";

(3) by inserting before the second paragraph the following: "(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—"; and

(4) by adding at the end the following:

"(c) EXCEPTION.—This section does not prohibit the transport of a gambling device to a place in a State or a possession of the United States on a vessel on a voyage, if—

"(1) use of the gambling device on a portion of that voyage is, by reason of subsection (b) of section 5, not a violation of that section; and

"(2) the gambling device remains on board that vessel while in that State.".

(b) REPAIR, OTHER TRANSPORT, ETC.—Section 5 of that Act (15 U.S.C. 1175) is amended—

(1) by inserting before "It shall be unlawful" the following: "(a) GENERAL RULE.—";

(2) by inserting before the period at the end the following: ", including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country"; and

(3) by adding at the end the following:

"(b) EXCEPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section does not prohibit—

"(A) the repair, transport, possession, or use of a gambling device on a vessel that is not within the boundaries of any State or possession of the United States; or

"(B) the transport or possession, on a voyage, of a gambling device on a vessel that is within the boundaries of any State or possession of the United States, if—

"(i) use of the gambling device on a portion of that voyage is, by reason of subparagraph (A), not a violation of this section; and

"(ii) the gambling device remains on board that vessel while the vessel is within the boundaries of that State or possession.

"(2) APPLICATION TO CERTAIN VOYAGES.—

"(A) GENERAL RULE.—Paragraph (1)(A) does not apply to the repair or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) of this paragraph if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute the terms of which prohibit that repair or use or that voyage or segment.

"(B) VOYAGE AND SEGMENT DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) is a voyage or segment, respectively—

"(i) that begins and ends in the same State or possession of the United States, and

"(ii) during which the vessel does not make an intervening stop within the boundaries of another State or possession of the United States or a foreign country.".

(c) BOUNDARIES DEFINED.—The first section of that Act (15 U.S.C. 1171) is amended by adding at the end the following:

"(f) The term 'boundaries' has the same meaning given that term in section 2 of the Submerged Lands Act.".

STEVENS (AND MURKOWSKI) AMENDMENT NO. 1458

Mr. CHAFEE (for Mr. STEVENS, for himself and Mr. MURKOWSKI) proposed an amendment to the bill H.R. 3866, supra; as follows:

At the appropriate place, insert the following new title:

TITLE —IMPLEMENTATION OF MARITIME BOUNDARY AGREEMENT

AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

SEC. 1. (a) PURPOSES.—Section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 180(b)(1)) is amended by inserting ", and fishery resources in the special areas" immediately before the semicolon at the end.

(b) DEFINITIONS.—Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (24) through (32) as paragraphs (25) through (33), respectively; and

(2) by inserting immediately after paragraph (23) the following new paragraph:

"(24) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured."

(c) UNITED STATES MANAGEMENT AUTHORITY.—(1) Section 101(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(a)) is amended by inserting "and special areas" immediately before the period at the end.

(2) Section 101(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)) is amended by inserting immediately after paragraph (2) the following new paragraph:

"(3) All fishery resources in the special area.".

(d) FOREIGN FISHING.—Section 201 of the Magnuson Fishery Conservation and Management (16 U.S.C. 1821) is amended—

(1) in subsection (a)—

(A) by inserting "within the special area," immediately before "or for anadromous species"; and

(B) by striking "beyond the exclusive economic zone" and inserting in lieu thereof "beyond such zone or areas";

(2) in subsection (e)(1)(E)(IV), by inserting "or special areas" immediately after "exclusive economic zone";

(3) in subsection (i)—

(A) by inserting "or special areas" immediately before the period at the end of paragraph (1)(A);

(B) by inserting "or special areas" immediately after "exclusive economic zone" in paragraph (2)(A); and

(C) by inserting "or special areas" immediately after "exclusive economic zone" in paragraph (2)(B); and

(4) in subsection (j)—

(A) by inserting ", special areas," immediately after "exclusive economic zone"; and

(B) by inserting ", areas," immediately after "such zone".

(e) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended—

(1) in subsection (b)—

(A) by inserting "or special areas" immediately after "February 28, 1977)"; and

(B) by striking "such zone or area" and inserting in lieu thereof "such zone or areas";

(2) in subsection (c)—

(A) by inserting "or special areas" immediately after "February 28, 1977)"; and

(B) by striking "such zone or area" and inserting in lieu thereof "such zone or areas"; and

(3) by adding at the end the following new subsection:

"(g) FISHERY AGREEMENT WITH UNION OF SOVIET SOCIALIST REPUBLICS.—(1) The Secretary of State, in consultation with the Secretary, is authorized to negotiate and conclude a fishery agreement with the Union of Soviet Socialist Republics of a duration of no more than 3 years, pursuant to which—

"(A) the Union of Soviet Socialist Republics will give United States fishing vessels the opportunity to conduct traditional fisheries within waters claimed by the United States prior to the conclusion of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, west of the maritime boundary, including the western special area described in Article 3(2) of the Agreement;

"(B) the United States will give fishing vessels of the Union of Soviet Socialist Republics the opportunity to conduct traditional fisheries within waters claimed by the Union of soviet Socialist Republics prior to the conclusion of the agreement referred to in subparagraph (A), east of the Maritime boundary, including the eastern special areas described in article 3(1) of the Agreement;

"(C) catch data shall be made available to the government of the country exercising fisheries jurisdiction over the waters in which the catch occurred; and

"(D) each country shall have the right to place observers on board vessels of the other country and to board and inspect such vessels.

"(2) Vessels operating under a fishery agreement negotiated and concluded pursuant to paragraph (1) shall be subject to regulations and permit requirements of the country in whose waters the fisheries are conducted only to the extent such regulations and permit requirements are specified in that agreement.

"(3) The Secretary of Commerce may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the provisions of any fishery agreement negotiated and concluded pursuant to paragraph (1).".

(f) PERMITS FOR FOREIGN FISHING.—Section 204(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824 (a)) is amended—

(1) by inserting "within the special areas," immediately before "or for anadromous species"; and

(2) by inserting "or areas" immediately after "such zone".

(g) CONTENTS OF FISHERY MANAGEMENT PLANS.—Section 303(b)(1)(A) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(1)(A)) is amended—

(1) by inserting "or special areas," immediately after "exclusive economic zone"; and

(2) by inserting "or areas" immediately after "such zone".

(h) PROHIBITED ACTS.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (1)(K), by inserting "or special areas" immediately after "exclusive economic zone";

(2) in paragraph (2)(B)—

(A) by inserting "within the special areas," immediately after "exclusive economic zone";

(B) by inserting "or areas" immediately after "such zone";

(3) in paragraph (3), by inserting "or special areas" immediately after "exclusive economic zone"; and

(4) in paragraph (4), by inserting "or special areas" immediately after "exclusive economic zone".

(i) ENFORCEMENT.—Section 311(b)(2) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(b)(2)) is amended by inserting "and special areas" immediately after "exclusive economic zone".

AMENDMENTS TO NORTHERN PACIFIC HALIBUT ACT OF 1982

SEC. 2. (a) DEFINITIONS.—(1) Section 2(c) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773(c)) is amended to read as follows:

"(c) 'Exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.".

(2) Section 2 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773) is amended by adding at the end the following new subsection:

"(h) 'Special areas' means the areas referred to as eastern special areas in Article

3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(b) UNLAWFUL ACTS.—Section 7(b) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e(b)) is amended by striking "fishery conservation zone" and inserting in lieu thereof "exclusive economic zone and special areas".

AMENDMENTS TO FUR SEAL ACT OF 1966

SEC. 3. Section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) is amended—

(1) by redesignating subsections (f) through (m) as subsections (g) through (n), respectively; and

(2) by inserting immediately after subsection (e) the following new subsection:

"(f) 'Jurisdiction of the United States' includes jurisdiction over the special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(24)).".

AMENDMENTS TO MARINE MAMMAL PROTECTION ACT OF 1972

SEC. 4. Section 3(14) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(14)) is amended to read as follows:

"(14) the term 'waters under the jurisdiction of the United States' means—

"(A) the territorial sea of the United States;

"(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

"(C) the areas referred to as eastern special areas in Article 3(1) of the agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the United States-Soviet Maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

RELATIONSHIP TO ENDANGERED SPECIES ACT OF 1973

SEC. 5. The special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(24)) shall be considered places that are subject to the jurisdiction of the United States for the purposes of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

AMENDMENTS TO PACIFIC SALMON TREATY ACT OF 1985

SEC. 6. (a) DEFINITIONS.—Section 2 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631) is amended—

(1) by redesignating subsections (h) through (j) as subsections (i) through (k), respectively; and

(2) by inserting immediately after subsection (g) the following new subsection:

"(h) 'Special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(b) RULEMAKING.—Section 7(a) of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3636(a)) is amended by inserting "and special areas" immediately after "Exclusive Economic Zone".

NATIONAL SEA GRANT COLLEGE PROGRAM

SEC. 7.(a) DEFINITIONS.—Section 203(6) of the National Sea Grant College Program Act (33 U.S.C. 1122(6)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting immediately after subparagraph (E) the following new subparagraph:

"(F) the special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (18 U.S.C. 1802(24)); and".

(b) INTERNATIONAL PROGRAM.—Section 3(a)(6) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(a)(6)) is amended by inserting "and special areas" immediately after "exclusive economic zone".

EFFECTIVE DATES

SEC. 8.(a) IN GENERAL.—The amendment made by section 1(e)(3) takes effect on the date of enactment of this Act, and the amendments made by the other provisions of this title, except as provided in subsection (b), shall be effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.

(b) AUTHORITY TO PRESCRIBE REGULATIONS.—The authority to prescribe regulations to implement the amendments made by this title shall be effective on the date of enactment of this Act, but no such regulation may be effective until the date on which the Agreement described in subsection (a) enters into force for the United States.

AMERICAN TECHNOLOGY PREEMINENCE ACT

HOLLINGS AMENDMENT NO. 1459

Mr. FORD (for Mr. HOLLINGS) proposed an amendment to the bill (S. 1034) to enhance the position of U.S. industry through the application of the results of Federal research and development, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "American Technology Preeminence Act of 1991".

SEC. 2. DEFINITIONS.

As used in the Act—

(1) the term "high-resolution information systems" means equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound;

(2) the term "advanced manufacturing technology" means numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial processes;

(3) the term "advanced materials" means a field of research including the study of composites, ceramics, metals, polymers, superconducting materials, materials produced through biotechnology, and materials production technologies, including coated systems, that provide the potential for significant advantages over existing materials;

(4) the term "Institute" means the National Institute of Standards and Technology'

(5) the term "Secretary" means the Secretary of Commerce; and

(6) the term "Under Secretary" means the Under Secretary of Commerce for Technology.

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101.SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1991".

SEC. 102. STATEMENT OF POLICY.

Congress finds that in order to help United States industries to speed the development of new products and processes so as to maintain the economic competitiveness of the Nation, it is necessary to strengthen the programs and activities of the Department of Commerce's Technology Administration and National Institute of Standards and Technology.

SEC. 103. TECHNOLOGY ADMINISTRATION.

(a) FISCAL YEAR 1992—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000.000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1993, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000,000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Informtion Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item to not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(c) Operating Costs.—Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

(d) Report and Certification to Congress.—Within 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD-024-0-001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan for the National Technical Information Service which includes detailed profit and loss analysis for groups of products and services and for major market segments; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant or equivalently experienced accountant with experience in the dissemination of scientific and technical information; and

(B) begun taking reasonable steps toward strengthening its accounting system in response to the Inspector General's report described in paragraph (1).

(e) Technical Amendment.—Section 5422(a) of the Omnibus Trade and competitiveness Act of 1988 (15 U.S.C. 4603a(a)) and section 273(c)(4) of the National Defense Authorization Act for Fiscal years 1988 and 1989 (15 U.S.C. 4603(c)(4)) are each amended by striking "Economic Affairs" and inserting in lieu thereof "Technology".

SEC. 104. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) Fiscal Year 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $210,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $33,700,000.

(B) Manufacturing Engineering, $13,500,000.

(C) Chemical Science and Technology, $22,000,000.

(D) Physics, $27,000,000.

(E) Materials Science and Engineering, $30,000,000.

(F) Building and Fire Research, $12,300,000.

(G) Computer Systems, $16,000,000.

(H) Applied Mathematics and Scientific Computing, $6,500,000.

(I) Technology Assistance, $11,000,000.

(J) Research Support Activities, $38,000,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $2,700,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,565,000 are authorized only for the technical competence fund.

(b) Fiscal Year 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $221,200,000 for fiscal year 1993, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $36,000,000.

(B) Manufacturing Engineering, $16,000,000.

(C) Chemical Science and Technology, $22,500,000.

(D) Physics, $28,700,000.

(E) Materials Science and Engineering, $39,400,000.

(F) Building and Fire Research, $12,000,000.

(G) Computer Systems $20,600,000.

(H) Applied Mathematics and Scientific Computing, $6,300,000.

(I) Technology Assistance, $10,800,000.

(J) Research Support Activities, $25,000,000.

(K) Pay Raise, $3,900,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $5,000,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,223,000 are authorized only for the technical competence fund.

(3) In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated to the Secretary for fiscal year 1993 $34,800,000 for the renovation and upgrading of the Institute's facilities.

(c) Transfers.—(1) Funds may be transferred among the line items listed in subsection (a)(1) and among the line items listed in subsection (b)(1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a)(1) or subsection (b)(1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

(d) Relation to Other Authorizations.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 102 Stat. 1448), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5101 et seq.), this Act contains the complete authorizations of appropriations for the Institute for fiscal years 1992 and 1993. This subsection shall not limit the authority of the Institute to accept funds appropriated to any other Federal agency or to perform work for others.

(e) Pilot Program.—Pursuant to the authorizations contained in subsections (a)(1)(I) and (b)(1)(I), the Secretary is authorized to pay the Federal share of the cost of establishing and carrying out a standards assistance pilot program under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note). The purpose of the pilot program is to assist a country or countries that have requested assistance from the United States in the development of comprehensive industrial standards by providing the continuous presence of United States personnel on-site for a period of 2 or more years to provide such assistance and by providing, as necessary, additional technical support from within the Institue. Such funds shall be made available for such purpose only to the extent that matching funds are received by the National Institute of Standards and Technology from sources outside the Federal Government.

(f) Construction of Facilities.—Section 14 of the National Institute of Standards and Technology Act (15 U.S.C. 278d) is amended by striking "herein" and all that follows, and inserting in lieu thereof "herein.".

(g) Fire and Building Programs.—The fire research and building technology programs of the Institute may be combined for administrative purposes only, and separate budget accounts for fire research and building technology shall be maintained. No later than December 31, 1992, the Secretary, acting through the Director of the Institute, shall report to Congress on the results of the combination, on efforts to preserve the integrity of the fire research and building technology programs, on the long-range basic and applied research plans of the two programs, on procedures for receiving advice on fire and earthquake research priorities from constituencies concerned with public safety, and on the relation between the combined program at the Institute and the United States Fire Administration.

(h) Educational Programs.—(1) Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-1)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof ", and to United States citizens for research and technical activities on Institute programs.".

(2) Section 17 of the National Institute of Standards and Technology Act (15 U.S.C. 278g) is amended by adding at the end the following new subsection:

"(d) For any scientific and engineering disciplines for which there is a shortage of suitably qualified and available United States citizens and nationals, the Secretary is authorized to recruit and employ in scientific and engineering fields at the Institute foreign nationals who have been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act and who intend to become United States citizens. Employment of a person under this pragraph shall not be subject to the provisions of title 5, United States Code, governing employment in the competitive service, or to any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them.".

(i) Core Program Funding.—It is the sense of the Congress that the intramural scientific and technical research and services activities of the National Institute of Standards and Technology should share fully in any funding increases provided to the Institute.

SEC. 105. EXTRAMURAL PROGRAMS OF THE INSTITUTE.

(a) Fiscal Year 1992.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 2781, and 278n), $217,500,000 for fiscal year 1992, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $100,000,000.

(b) Fiscal Year 1993.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 2781, and 278n), $127,500,000 for fiscal year 1993, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology and Satellite Manufacturing Centers, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $100,000,000.

(c) Limitation.—No funds are authorized under this section for any project under the extramural programs of the Institute which have not been competitively reviewed through the merit review processes required by the National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.).

(d) Amendments to Extension Program.—Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note) is amended by striking paragraph (5).

(e) Amendments to Extension Activities.—(1) Section 25(c)(6) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(6)) is amended by inserting before the period at the end the following: "except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director".

(2) Section 25(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(d)) is amended to read as follows:

"(d) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support Centers. Any Center which is supported with funds which originally came from other Federal departments and agencies shall be selected and operated according to the provisions of this section.".

(f) Advisory Committee.—Section 5142(f) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4632(f)) is amended by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993".

SEC. 106. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal years 1992 and 1993 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 107. METRIC AMENDMENT.

(a) The Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) is amended—

(1) in sections 4(a)(2), (4), and (5), 4(b), and 5(c)(1), by striking "weight" and inserting in lieu thereof "weight or mass";

(2) in sections 4(a)(5) and 5(d), by striking "weights" and inserting in lieu thereof "weights or masses";

(3) in section 4(a)(2), by inserting ", using the most appropriate units of the SI metric system as the primary system for measuring quantity" after "panel of that label"; and

(4) in section 4(a)(3)(A)—

(A) by striking "containing" and inserting in lieu thereof "that also displays the avoirdupois system of measure, and that contains" in clause (i);

(B) by striking "that also displays the avoirdupois system of measure" after "random package" in clause (ii);

(C) by inserting "that also displays the avoirdupois system of measure" after "linear measure" in clause (iii); and

(D) by inserting "that also displays the avoirdupois system of measure" after "measure of area" in clause (iv).

(b) This section shall take effect 2 years after the date of enactment of this Act.

SEC. 108. TRANSFER OF FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION.

(a) Transfer.—The head of each Federal executive department or agency shall transfer in a timely manner to the National Technical Information Service unclassified scientific, technical, and engineering information which results from federally funded research and development activities for dissemination to the private sector, academia, State and local governments, and Federal agencies. Only information which would otherwise be available for public dissemination shall be transferred under this subsection. Such information shall include technical reports and information, computer software, application assessments generated pursuant to section 11(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(c)), and information regarding training technology and other federally owned or originated technologies. The Secretary shall issue regulations within one year after the date of enactment of this Act outlining procedures for the ongoing transfer of such information to the National Technical Information Service.

(b) Annual Report to Congress.—As part of the annual report required under section 212(f)(3) of the National Technical Information Act of 1988, the Secretary shall report to Congress on the status of efforts under this section to ensure access to Federal scientific and technical information by the public. Such report shall include—

(1) an evaluation of the comprehensiveness of transfers of information by each Federal executive department or agency under subsection (a);

(2) a description of the use of Federal scientific and technical information;

(3) plans for improving public access to Federal scientific and technical information; and

(4) recommendations for legislation necessary to improve public access to Federal scientific and technical information.

SEC. 109. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 110. REPORT ON FACILITIES NEEDS.

By March 1, 1992, the Director of the Institute shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on what renovations and upgrades of Institute facilities are necessary over the next decade. The report shall include a ranking of facilities needs in order of priority, an estimate of costs, and the Director's plan for meeting these needs.

SEC. 111. BUY-AMERICAN PROVISIONS.

(a) Restrictions on Contract Awards.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harms to United States businesses, ad identified by the President pursuant to subsection (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with such section 305.

(b) Prohibition Against Fraudulent Use of "Made in America" Labels.—If it has been finally determined by a court or a Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of Commerce, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(c) Buy-American Requirement.—(1) The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(2) This subsection shall not apply to the extent to which—

(A) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General

Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This subsection shall apply only to contracts made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this subsection—

(A) entered into with foreign firms pursuant to a determination made under paragraph (2) of this subsection; and

(B) awarded to domestic firms pursuant to paragraph (1) of this subsection, in fiscal years 1991 and 1992.

(5) For purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGIES RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technologies and Advanced Technology Program Amendments Act of 1991".

(b) FINDINGS AND PURPOSES.—(1) The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the ability of the United States to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) the Department of Commerce has reported that the United States is losing or losing badly, relative to Japan and Europe, in many important emerging technologies and risks losing much of the $350 billion United States market and $1 trillion world market expected to develop by the year 2000 for products based on emerging technologies;

(D) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(E) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no single company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(F) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacturing in fields such as high-resolution information systems, advanced manufacturing, and advanced materials; and

(G) the Advanced Technology Program, established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as high-resolution information systems, advanced manufacturing technology, and advanced materials, and can help encourage United States industry to work together on problems of mutual concern.

(2) The purposes of this section are—

(A) to strengthen the Advanced Technology Program created under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), and to provide improved guidelines for the allocation of Advanced Technology Program funds appropriated under the authorizations contained in section 105 of this Act;

(B) to promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(C) to improve the competitive position of United States industry by supporting industry-led research and development projects in areas of emerging technology which have substantial potential to advance the economic well-being and national security of the United States, such as high-resolution information systems, advanced manufacturing technology, and advanced materials; and

(D) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation.

(c) ADVANCED TECHNOLOGY PROGRAM.—(1) Section 28(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(a)), is amended by adding at the end the following new sentence: "In operating the Program, the Secretary and Director shall, as appropriate, be guided by the findings and recommendations of the Biennial National Critical Technology Reports prepared pursuant to section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683)."

(2) Section 28(b)(1) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(1)), is amended by inserting "industry-led" immediately after "aid".

(3) Section 28(b)(1)(B) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(1)(B)), is amended by inserting "by means of grants, cooperative agreements, or contracts" immediately after "such joint ventures".

(4) Section 28(b)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(2)), is amended to read as follows:

"(2) provide grants to and enter into contracts and cooperative agreements with United States businesses (especially small businesses), provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;".

(5) Section 28(d)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(2)), is amended to read as follows:

"(2) In the case of joint ventures, the Program shall not make an award unless the award will facilitate the formation of a joint venture or the initiation of a new research and development project by an existing joint venture.".

(6) Section 28(d) of the Act of National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(7)), is amended—

(A) by striking paragraph (7);

(B) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively; and

(C) by adding at the end the following new paragraphs:

"(9) A company shall be eligible to receive financial assistance under this section only if—

"(A) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded by any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(10) Grants, contracts, and cooperative assignments under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary the requisite ability in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.

"(11)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.".

(7) Section 28(e) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(e)), is amended to read as follows:

"(e) The Secretary may, within 30 days after notice to Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to satisfy any of the criteria set forth in subsection (d)(9), and that it is in the national interest of the United States to do so.".

(8) Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), is amended by adding at the end the following new subsections:

"(f) When reviewing private sector requests for awards under the Program, and when monitoring the progress of assisted research projects, the Secretary and the Director shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary and the Director are authorized to work with the Director of the Office of Science and Technology Policy, the Secretary of Defense, and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(g) In order to analyze the need for the value of joint ventures and other research projects in specific technical fields, to evaluate any proposal made by a joint venture or company requesting the Secretary's assistance, or to monitor the progress of any joint venture or any company research project which receives Federal funds under the Program, the Secretary, the Under Secretary of Commerce for Technology, and the Director may, notwithstanding any other provision of law, meet with such industry sources as they consider useful and appropriate.

"(h) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development and technical activities by the Institute in support of the purposes of this section.

"(i) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support awards under the Program. Any Program award which is supported with funds which originally came from other Federal departments and agencies shall be selected and carried out according to the provisions of this section.

"(j) As used in this section—

"(1) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative finding or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture; and

"(2) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States."

(d) EFFECTIVE DATE.—The amendments in subsection (c) shall take effect immediately upon enactment; however, the amendments shall not apply to applications submitted before the date of enactment of this Act.

(e) MANAGEMENT COSTS.—Section 2 of the National Institute of Standards and Technology Act (15 U.S.C. 272) is amended by adding at the end thereof the following new subsection:

"(d) In carrying out the extramural funding programs of the Institute, including the programs established under section 25, 26, and 28 of this Act, the Secretary may retain reasonable amounts of any funds appropriated pursuant to authorizations for these programs in order to pay for the Institute's management of these programs.".

(f) COMPREHENSIVE REPORT. The Secretary shall, not later than 4 years after the date of enactment of this Act, submit to each House of the Congress and the President a comprehensive report on the results of the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), including any activities in the areas of high-resolution information systems, advanced manufacturing technology, and advanced materials.

TITLE III—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

(a) Section 11(e)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(2)) is amended by inserting "senior" after "Consortium and a".

(b) Section 11 (e)(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(6)) is amended by adding at the end the following: "Such report shall include an annual independent audit of the financial statements of the Consortium, conducted in accordance with generally accepted accounting principles.".

(c) Section 11(e)(7)(B)(ii) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)(B)(ii)) is amended by striking "or 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, or 1996".

(d) Section 11(e)(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(8)) is repealed.

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," after "equipment," both places it appears.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of funds.

SEC. 303. RESEARCH EQUIPMENT.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended by adding at the end the following new subsection:

"(i) RESEARCH EQUIPMENT.—The Director of a laboratory, or the head of any Federal agency or department, may give research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. Title of ownership shall transfer with a gift under the section.".

SEC. 304. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" after "of such title".

SEC. 305. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out responsibilities under this Act.".

SEC. 306. UNDER SECRETARY.

Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) serve as a focal point for discussions among United States companies on topics of interest to industry and labor, including discussions regarding manufacturing and discussions regarding emerging technologies;".

TITLE IV—NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

SEC. 401. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the "Commission"), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investments in research, the development of new process and product technologies, and the production of those technologies.

(b) ISSUES.—The function of the Commission shall be to address the following issues:

(1) How has the overall cost of capital paid by United States companies differed during the past decade from that paid by companies in other industrial economies such as Germany, Japan, and the United Kingdom?

(2) To what extent has the cost of capital faced by technology companies differed from the overall cost of capital in each of these nations during the same period?

(3) To what extent do high capital costs in general inhibit investment in projects with long-term payoffs, such as the development and commercialization of new technology?

(4) To what extent does the structure of the financial services industry in the United States affect the flow of capital to advanced technology investment, and to what extent do current practices in the equity markets raise the cost of capital and inhibit the availability of capital to fund research and development, purchase advanced manufacturing equipment, and fund other investments necessary to commercialize advanced technology?

(5) In what ways do Government regulations influence the cost of capital in the United States?

(6) To what extent have national differences in capital costs facilitated the foreign acquisition of technology-based United States companies?

(7) What macroeconomic and other policies would promote greater investment in advanced manufacturing techniques, in research and development, and in other activities necessary to commercialize and produce now technologies?

(8) What specific policies should the Federal Government follow in order to reduce the cost of capital for United States companies to levels that are near parity with those

faced by the Nation's principal trading partners?

(c) MEMBERSHIP.—(1) The Commission shall be composed of 9 members who are eminent in such fields as advanced technology, manufacturing, finance, and international economics and who are appointed as follows:

(A) 3 individuals appointed by the President, one of whom shall chair the Commission.

(B) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(C) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(2) Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PROCEDURES.—(1) The Chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(2) Recommendations of the Commissions shall require the approval of three-quarters of the members of the Commission.

(3) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

(4) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) REPORTS.—The Commission shall, within 1 year after the date of enactment of this Act, submit to the President and Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

(f) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Technology and Procurement established by section 505 of this Act.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (e).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

TITLE V—STUDIES AND REPORTS

SEC. 501. HIGH-RESOLUTION INFORMATION SYSTEMS ADVISORY BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Directory of the Office of Science and Technology Policy shall establish within that office a High-Resolution Information Systems Advisory Board (hereafter in this section referred to the "Board") to monitor and, as appropriate, foster the development of United States-based high-resolution information systems industries.

(b) DEFINITION.—As used in this title, the term "high-resolution information systems" means the equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound.

(c) FUNCTIONS.—The board shall—

(1) collect and analyze information on the range of factors which will determine whether United States-based high-resolution information systems industries will develop and become competitive, including such factors as technology policies, specialized financial problems, international standards and foreign trade practices, Federal regulations and procurement policies, and licensing practices;

(2) identify areas where appropriate cooperation between the Federal Government and the private sector, including Government support for industry-led joint research and development ventures, would enhance United States industrial competitiveness in this area, and provide advice and guidance for such cooperative efforts;

(3) provide guidance on what Federal policies and practices, particularly in such areas as procurement and the transfer of federally-funded research, are necessary to help establish United States-based high-resolution information systems industries;

(4) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies in the field of high-resolution information systems into commercial products; and

(5) generally develop recommendations for guiding Federal agency activities related to the development of United States-based high-resolution information systems industries.

(d) MEMBERSHIP AND PROCEDURES.—(1)(A) The Board shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Director of the Office of Science and Technology Policy, the Secretary, the Directory of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(C) The President, acting through the Director of the Office of Science and Technology Policy, within 90 days after the date of enactment of this Act, shall appoint as additional members of the Board—

(i) 5 members from the private electronics manufacturing sector, drawn from such sectors as semiconductors, display equipment, computers, consumer electronics, and telecommunications, with 1 member also representing labor;

(ii) 3 members from the private nonmanufacturing sector, including 1 representative from the transmission delivery the software industry, the entertainment industry, and the investment community; and

(iii) 1 member from academia.

At least 1 member appointed under this subparagraph shall be from small business.

(2) The Director of the Office of Science and Technology Policy or the Director's designee shall chair the Board.

(3) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(4) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(5) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) The Board shall submit a report of its activities once every year after its establishment to the President, the Committees on Science, Space, and Technology and on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(e) LIMITATION ON FUNCTIONS.—Nothing in this section or any other provision of this Act shall be construed—

(1) to authorize the Board to investigate or provide advice or guidance with respect to standards or other regulations or policies related to the transmission, delivery, or receipt of broadcast television or cable television signals subject to regulation by the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(2) to limit, modify, or affect in any manner the authorities, functions, or responsibilities of the Federal Communications Commission or the National Telecommunications and Information Administration.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

SEC. 502. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended by adding at the end of title II the following new section:

"MAJOR SCIENCE AND TECHNOLOGY PROPOSALS

"SEC. 209. The Director shall identify and provide an annual report to Congress on each major multinational science and technology project, in which the United States is not a participant, which has a total estimated cost greater than $1,000,000,000.".

SEC. 503. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683) is amended—

(1) in subsection (a), by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies" after "may not exceed 30";

(2) in subsection (b), by striking "national security and" and inserting in lieu thereof "national security or";

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) Each such reaport shall include—

"(1) an identification of the types of research and development needed to close any significant gaps of deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 504. CRITICAL INDUSTRIES.

(a) IDENTIFICATION OF INDUSTRIES AND DEVELOPMENT OF PLAN.—The Secretary shall—

(1) identify those civilian industries in the United States that are necessary to support a robust manufacturing infrastructure and critical to the economic security of the United States; and

(2) list the major research and development initiatives being undertaken, and the substantial investments being made, by the Federal Government, including its research laboratories, in each of the critical industries identified under paragraph (1).

(b) INITIAL REPORT.—The Secretary shall submit a report to the Congress within 1 year after the date of enactment of this Act on the actions taken under subsection (a).

(c) ANNUAL UPDATES.—The Secretary shall annually submit to the Congress an update of the report submitted under subsection (b). Each such update shall—

(1) describe that status of each identified critical industry, including the advances and declines occurring since the most recent report; and

(2) identify any industries that should be added to the list of critical industries.

SEC. 505. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, shall establish a Commission on Technology and Procurement (hereafter in this section referred to as the "Commission"), for the purposes of analyzing the effect of Federal Government procurement laws, procedures, and policies on the development of advanced technologies within the United States and making recommendations on how Federal policy could be changed to promote further the development of advanced technologies.

(b) ISSUES.—The Commission shall address the following issues:

(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and initial market penetration for new technologies?

(2) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

(3) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

(4) How can the Federal Government ensure that its supplies adopt the principles embodied in the Malcolm Baldrige National Quality Award?

(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commerical basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the Institute in such an effort?

(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 15 members, 8 of whom shall constitute a quorum.

(2) The Secretary, the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, shall serve as members of the Commission.

(3) The Secretary shall appoint as members of the Commission, from among individuals not employed by the Federal Government—

(A) 4 members who are eminent in advanced technology business representing manufacturing and services industries, including at least 1 member representing labor;

(B) 3 members who are eminent in the fields of technology and international economic development; and

(C) with the concurrence of the Administrator of the Office of Federal Procurement Policy, 3 members who are eminent in the field of Federal Government procurement.

(4) The Secretary shall appoint a Commission chairman from among the members of the Commission. The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(5) The Secretary and the Administrator of the Office of Federal Procurement Policy shall provide such staff as may be required by the Commission to carry out its responsibilities.

(6) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(d) REPORTS.—(1) The Commission shall, within 1 year after the date of enactment of this Act, submit to the Secretary, the Administrator of the Office of Federal Procurement Policy, the President, and Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

(2) The Commission shall, within 2 years after the date of enactment of this Act, submit to the Secretary and Congress a final report containing final recommendations with respect to the issues addressed under subsection (b).

(e) CONSULTATION.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992, 1993, and 1994.

SEC. 506. REPORT ON INFORMATION COLLECTION AND DISSEMINATION.

(a) REPORT.—Within 270 days after the date of enactment of this Act, the Secretary shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authorizative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Under Secretary and the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the Institute, and with representatives of the public, for their views on the optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for establishing and operating FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

(b) FUNDING.—The Director of the National Technical Information Service may retain and use all monies received, including receipts, revenues, and advanced payments and deposits, to fund obligations and expenses through the end of fiscal year 1993.

(c) ELECTRONIC FORMAT.—Section 212(e)(5) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(e)(5)) is amended by inserting ", including producing and disseminating information products in electronic format" after "engineering information".

SEC. 507. NATIONAL QUALITY COUNCIL.

(a) ESTABLISHMENT AND FUNCTIONS.—There is established a National Quality Council (hereafter in this section referred to as the "Council"). The functions of the Council shall be—

(1) to establish national goals and priorities for Quality performance in business, education, government, and all other sectors of the nation;

(2) to encourage and support the voluntary adoption of these goals and priorities by companies, unions, professional and business associations, coalition groups, and units of government, as well as private and nonprofit organizations;

(3) to arouse and maintain the interest of the people of the United States in quality performance, and to encourage the adoption and institution of Quality performance methods by all corporation, government agencies, and other organizations; and

(4) to conduct a White House Conference on Quality Performance in the American Workplace that would bring together in a single forum national leaders in business, labor, education, professional societies, the media, government, and politics to address Quality performance as a means of improving United States competitiveness.

(b) MEMBERSHIP.—The Council shall consist of not less than 17 nor more than 20 members, appointed by the Secretary. Members shall include—

(1) at least 2 but not more than 3 representatives from manufacturing industry;

(2) at least 2 but not more than 3 representatives from service industry;

(3) at least 2 but not more than 3 representatives from national Quality not-for-profit organizations;

(4) two representatives from education, one with expertise in elementary and secondary education, and one with expertise in postsecondary education;

(5) one representative from labor;

(6) one representative from professional societies;

(7) one representative each from local and State government;

(8) one representative from the Federal Quality Institute;

(9) one representative from the National Institute of Standards and Technology;

(10) one representative from the Department of Defense;

(11) one representative from a civilian Federal agency not otherwise represented on the Council, to be rotated among such agencies every 2 years; and

(12) one representative from the Foundation for the Malcolm Baldrige National Quality Award.

(c) TERMS.—The term of office of each member of the Council appointed under paragraphs (1) through (7) of subsection (b) shall be 2 years, except that when making the initial appointments under such paragraphs; the Secretary shall appoint not more than 50 percent of the members to 1 year terms. No member appointed under such paragraphs shall serve on the Council for more than 2 consecutive terms.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Secretary shall designate one of the members initially appointed to the Council as Chairman. Thereafter, the members of the Council shall annually elect one of their number as Chairman. The members of the Council shall also annually elect one of their members as Vice Chairman. No individual shall serve as Chairman or Vice Chairman for more than 2 consecutive years.

(e) EXECUTIVE DIRECTOR AND EMPLOYEES.—The Council shall appoint and fix the compensation of an Executive Director, who shall hire and fix the compensation of such additional employees as may be necessary to assist the Council in carrying out its functions. In hiring such additional employees, the Executive Director shall ensure that no individual hired has a conflict of interest with the responsibilities of the Council.

(f) FUNDING.—There is established in the Treasury of the United States a National Quality Performance Trust Fund, into which all funds received by the Council, through private donations or otherwise, shall be deposited. Amounts in such Trust Fund shall be available to the Council, to the extent provided in advance in appropriations Acts, for the purpose of carrying out the functions of the Council under this Act.

(g) CONTRIBUTIONS.—The Council may not accept private donations from a single source in excess of $25,000 per year. Private donations from a single source in excess of $10,000 per year may be accepted by the Council only on approval of two-thirds of the Council.

(h) ANNUAL REPORT.—The Council shall annually submit to the President and the Congress a comprehensive and detailed report on—

(1) the progress in meeting the goals and priorities established by the Council;

(2) the Council's operations, activities, and financial condition;

(3) contributions to the Council from non-Federal sources;

(4) plans for the Council's operations and activities for the future; and

(5) any other information or recommendations the Council considers appropriate.

SEC. 508. STUDY OF TESTING AND CERTIFICATION.

(a) CONTRACT WITH NATIONAL RESEARCH COUNCIL.—Within 90 days after the date of enactment of this Act and within available appropriations, the Secretary shall enter into a contract with the National Research Council for a thorough review of international product testing and certification issues. The National Research Council will be asked to address the following issues and make recommendations as appropriate:

(1) The impact on United States manufacturers, testing and certification laboratories, certification organizations, and other affected bodies of the European Community's plans for testing and certification of regulated and nonregulated products of non-European origin.

(2) Ways for United States manufacturers to gain acceptance of their products in the European Community and in other foreign countries and regions.

(3) The feasibility and consequences of having mutual recognition agreements between testing and certification organizations in the United States and those of major trading partners on the accreditation of testing and certification laboratories and on quality control requirements.

(4) Information coordination regarding product acceptance and conformity assessment mechanisms between the United States and foreign governments.

(5) The appropriate Federal, State, and private roles in coordination and oversight of testing, certification, accreditation, and quality control to support national and international trade.

(b) MEMBERSHIP.—In selecting the members of the review panel, the National Research Council shall consult with and draw from, among others, laboratory accreditation organizations, Federal and State government agencies involved in testing and certification, professional societies, trade associations, small business, and labor organizations.

(c) REPORT.—A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contract with the National Research Council.

SEC. 509. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than 120 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly—

(1) analyze recent steps to use the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in several other Federal departments and agencies which fund research and development; and

(2) examine the feasibility and advisability of using that program as a model for Federal research and development agencies which do not currently have similar programs.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 510. INTERAGENCY COORDINATION.

The Secretary shall, within 180 days after the date of enactment of this Act, submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high-resolution information systems, including research and development activities.

TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT

BRYAN AMENDMENT NO. 1460

Mr. FORD (for Mr. BRYAN) proposed an amendment to the bill (S. 1392) to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes, as follows:

On page 4, strike "or" on line 5, strike "(C)" on line 6 and insert in lieu thereof "(D)", and insert between lines 5 and 6 the following:

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

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NEW YORK CITY ZEBRA MUSSEL MONITORING ACT OF 1991

GLENN (and others) Amendment No. 1461

Mr. FORD (for Mr. GLENN, for himself, Mr. KASTEN, Mr. KOHL, Mr. LEVIN, and Mr. DIXON) proposed an amendment to the bill (S. 36) entitled the "New York City Zebra Mussel Monitoring Act of 1991", as follows:

At the end of the bill, add the following section:

SEC. . EXOTIC AQUATIC ORGANISMS.

(a) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary, in consultation with the Task Force—

"(A) shall provide that the regulations issued under this subsection shall apply to vessels that carry ballast water and that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River where water is characterized as having a salinity less than 18%, and

"(B) may provide that such regulations apply to vessels operating in other rivers, canals, lakes, and waterways where discharge of ballast water could result in the introduction and spread of aquatic nuisance species into the Great Lakes."

(b) SHIPPING STUDY.—Section 1102(a)(3) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(a)(3)) is amended by striking "other than" and inserting "including".

NEZ PERCE NATIONAL HISTORICAL PARK

BUMPERS (AND CRAIG) AMENDMENT NO. 1462

Mr. FORD (for Mr. BUMPERS, for himself, and Mr. CRAIG) proposed an amendment to the bill (H.R. 2032) to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes; as follows:

On page 2, line 26, strike "and".

On page 3, line 1, strike "Montana;" and insert in lieu thereof: "Montana; and

(13) Hasotino Village, Idaho;".

On page 3, lines 12 through 25, strike paragraph (3) in its entirety and insert in lieu thereof:

"(3) In section 3, strike the proviso in the first sentence and insert in lieu thereof, ": *Provided*, That lands or interests therein owned by a State or a political subdivision of a State may be acquired only by donation or exchange: *Provided further*, That with respect to sites designated as components of the Nez Perce National Historical Park after November 1, 1991, no lands or interests therein, or other property, may be acquired without the consent of the owner thereof.".

ADJOURNMENT TO A DATE CERTAIN

MITCHELL AMENDMENT NO. 1463

Mr. FORD (for Mr. MITCHELL) proposed an amendment to the concurrent resolution (H. Con. Res. 260) providing for an adjournment of the Congress to a date certain; as follows:

At the end of section 2, strike the "period" and insert in lieu thereof, the following: "; and that when the Congress convenes on January 3, 1992, for the second session of the 102d Congress, the Senate shall not conduct any organizational or legislative business and when it recesses or adjourns on that day, it stand in recess or adjournment until 11:30 a.m. on Tuesday, January 21, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BINGAMAN. Mr. President, I would like to announce for my colleagues and the public the following correction pertaining to upcoming field hearings before the Mineral Resources Development and Production Subcommittee of the Committee on Energy and Natural Resources.

The hearing scheduled in Bayard, NM, on December 19, 1991, has been canceled and will be rescheduled at a later date. The hearing previously announced for December 18, 1991, in Salt Lake City, UT, will proceed as scheduled. An exact time and location for the hearing will be announced.

The purpose of the hearing is to receive testimony on S. 433, the Mining Law Reform Act of 1991.

Testimony will be by invitation only. For further information, please contact Lisa Vehmas of the subcommittee staff at 202–224–7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session on Wednesday, November 27, 1991, at 9 a.m., to consider the nominations of Donald C. Fraser, to be Deputy Under Secretary of Defense for Acquisition; Victor H. Reis, to be Director of Defense Research and Engineering; and James R. Lilley, to be Assistant Secretary of Defense for International Security Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ROCKO M. FASANELLA, M.D.

• Mr. LIEBERMAN. Mr President, it is my great pleasure to bring to the attention of the Senate, Rocko M. Fasanella, M.D., medical scholar, educator, administrator, and humanitarian.

Dr. Fasanella's hard work and dedication have advanced the field of ophthalmology and saved the eyesight of countless numbers of individuals. He gives more than research results however, he also gives of himself. He devotes much of his time to sharing his expertise and experience with the community. To a man of such great humanitarian character, the world is his community.

After receiving his medical degree from Yale, Dr. Fasanella served during and following World War II as a surgeon—both on the battlefield and in general hospitals—in France and Germany. In 1951, he returned to Yale and, at 35 years of age, was appointed chief of ophthalmology at Yale-New Haven Hospital, the youngest chief of staff in the hospital's history.

Dr. Fasanella's reputation as an eye surgeon quickly received international recognition. He was a founder of the Caribbean Ophthalmological Society and is also a member of professional bodies in France, Spain, and Peru. Four of his textbooks on eye surgery have been translated into several languages including Russian and Chinese.

Dr. Fasanella's most recent efforts have focused on a more lasting cure of blepharospasm—a debilitating disease of the eye—and a continuation of research that he conducted earlier in his career on the regeneration of the optic nerve.

On December 8, the Italian-American Historical Society of Greater New Haven will pay tribute to Dr. Fasanella at its Annual Distinguished Service Award Dinner. An honor he richly deserves.

Mr. President, I hope my distinguished colleagues will join me today in rising to add our own voices to those around the world who pay tribute to Dr. Fasanella. He has demonstrated his dedication to the highest ideals of the medical profession, and his commitment to these principles serves as an inspiration to us all.•

TRIBUTE TO HENRY CAMPBELL

• Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky educator who recently retired from his 27-year post as president of one of Kentucky's most successful community colleges. Prestonsburg Community College has prospered under the leadership of Henry Campbell, thanks to his dedication to the students and the people of the Big Sandy Valley.

A familiar face is absent at Prestonsburg Community College this semester. Henry Campbell, recently retired as PCC president because of failing health. However, Mr. Campbell has more than left his mark on Prestonsburg. Under his leadership, the 2-year college has grown from a single building facility to a campus of eight buildings. According to University of Kentucky President Charles Wethington, Prestonsburg Community College probably has the longest unbroken string of enrollment growth records in Kentucky's community college system. When Mr. Campbell was hired in the early sixties, the Prestonsburg school had 325 students; today, more than 2,600 are enrolled.

Mr. Campbell's greatest pride at Prestonsburg Community College is not in its admirable enrollment statistics. He would much rather brag about individual students who have passed through the college during the past 27 years. Mr. Campbell says the real indication of how successful PCC is can be measured by its graduates. The community college has provided the initial postsecondary classrooms for lawyers, judges, teachers, nurses, doctors, and people in just about any other career field. In a recent interview, Mr. Campbell said, "One of the greatest success stories is that if I go into any hospital in this area, I'd see some of our graduates, and I have utter confidence in them."

Mr. Campbell has been described as one of the Nation's most colorful college presidents. Wethington calls him "the last of the old guard * * * someone who never gets hung up on taking himself too seriously." Except in off-campus meetings where he represents the college, Mr. Campbell never worries about wearing formal three-piece suits and ties; rumor has it that he was even mistaken for a janitor on one occasion. However, his good spiritedness and dedication transcend his style of dress, which ranges from presidential to mountaineer.

Although Henry Campbell would never accept such praise, all of the successes of Prestonsburg Community College over the past 27 years can be attributed, at least in part, to his strong leadership. I ask that an article from the Ashland Daily Independent, be printed in the RECORD.

The article follows:

[From the Daily Independent, July 8, 1991]

RETIREE LEAVES RICH LEGACY AT 2-YEAR COLLEGE

(by Roger Alford)

PRESTONSBURG.—Henry Campbell, described as one of the nation's most colorful college presidents, has given up his 27-year reign at Prestonsburg Community College.

Campbell, a white-haired chain smoker, has reached the mandatory retirement age of 65. But he said he would have had to give up the presidency anyway because of failing health.

"In many respects, he's kind of the last of the old guard," said University of Kentucky President Charles Wethington.

"He certainly can be considered a colorful character, but he's also a president who has led that community college to probably the longest unbroken string of enrollment growth records in the system."

The two-year college has prospered under Campbell's leadership, growing from a single building to a campus of eight buildings on the northern boundary of Prestonsburg.

While many college presidents want to appear scholarly and distinguished, Campbell "never gets hung up on taking himself too seriously," Wethington said.

Except in off-campus meetings where he represents the college, Campbell never worries about wearing formal three-piece suits and ties. He has been mistaken for a janitor, said Robert Allen, academic dean at the college.

Former Gov. Bert T. Combs, said at a roast honoring the retiring president that—because of the way he dressed—he didn't expect Campbell to last three years when he was hired in 1964.

His dress varies from presidential to mountaineer.

At a recent interview, Campbell wore a blue-striped, button-up shirt, with the collar open, and suspenders to hold up his loose-fitting slacks.

Recently he attended a leadership conference wearing a Scottish kilt—and he enjoyed the notoriety of being the only man there in a knee-length pleated skirt.

The same good-spiritedness has shone through even during campus controversies—like one that arose during the Persian Gulf war.

It seemed that the American flag wasn't being flown during the first few days of Operation Desert Storm.

Students noticed, and called WSAZ-TV in Huntington, W.Va., to do a story about it. They told a television reporter that the college has taken Old Glory down because administrators feared it would offend two Iraqi instructors there.

What about this claim, the reporter asked Campbell.

"Bull," came his reply.

Campbell said the real reason the flag wasn't being flown was that a woman in the college's maintenance department who has raised the flag each day for years had undergone a hysterectomy and was unable to do it.

No one remembered to cover for her, so the flag wasn't raised.

Campbell smokes filterless Pall Malls constantly and keeps oxygen tanks in his office and home for those times when his emphysema is especially bothersome.

Besides the emphysema, an eye disease has stolen most of his vision. He doesn't see well enough to recognize friends more than 5 feet away, and he has given up driving.

The disease, hystoplasmosis, was diagnosed last fall when he was examined for new glasses and it has gotten progressively worse. By the time he received the glasses, he needed stronger lenses.

He is now legally blind and had to be chauffeured to and from work in his last months as president. A tough man, Campbell seems to take his failing health in stride.

He has suffered before, as a victim of trench foot in World War II. Both feet froze from standing in foxholes under the European command of Gen. George Patton in the 87th Infantry Division.

The routine treatment for trench foot was to amputate the feet. Campbell didn't lose his feet, but he still feels the effects of the ailment when he tries to carry heavy items.

Campbell was born in Washington state in 1925 but grew up in eastern Kentucky. His father, a coal miner, was from Pulaski County. His mother was from Pike County.

A graduate of Wheelwright High School and the University of Kentucky, Campbell earned his master's degree from New Mexico College of Agriculture and Mechanical Arts. He earned his doctorate from the University of Texas.

Debra Floyd, a college administrator from Texas, has been hired to succeed Campbell. She will be only the second president at Prestonsburg Community College when she takes over July 29.

Campbell taught high school math early in life, then moved directly into a college presidency. He has headed Crowder College in Nesho, Mo., Alamo Gordo College in Texas and helped to launch Hazard Community College.

Funding never has been adequate for Kentucky community colleges, he said. Growth has been so dramatic since the mid-1980s that the schools have been spending all available money on teachers' salaries.

When Campbell was hired to head the Prestonsburg college, it has 325 students. Now it has 2,674 students. That growth can be attributed to Campbell, Wethington said.

But the growth is not the real indication of how successful the college is. Campbell points to the more than 40 doctors who graduated there as the true measure of success.

"One of the greatest success stories is that if I go into any hospital in this area, I'd see some of our graduates," he said. "And I have utter confidence in them."

The community college has provided the initial postsecondary classrooms for lawyers, judges, teachers, nurses, people in just about any career field, Campbell said.

Allen said Campbell's primary concerns truly are for the students and the people of the Big Sandy Valley. And, he said, as a good natured leader, Campbell has won victory after victory for them in higher education.

And now Campbell boasts of having the most beautiful campus in Kentucky's community college system.

"It gives you a feeling that you've really played a part in the growth of the area," he said.●

THE SILVER MEDALLION

● Mr. BRYAN. Mr. President, I rise today in honor of our dedicated members of the U.S. Armed Forces who so courageously served in the Persian Gulf conflict. In recognition of our troops' valiant efforts and the sacrifices they endured, I have urged my colleagues to join me in supporting S. 1774 and H.R. 1107 authorizing the creation of a silver medallion to be given to U.S. military personnel who served in combat zones in the Persian Gulf conflict. Since its introduction, this silver medallion legislation has received strong support and has been incorporated with other worthy commemorative measures into H.R. 3337. I am certainly pleased by the favorable reception and strong support the silver medal for Persian Gulf veterans and H.R. 3337 have received.

I must commend my friend Congressman LAROCCO of Idaho for his tireless efforts in support of this measure commemorating our troops. His leadership on the Subcommittee of the House Banking, Finance and Urban Affairs Committee has been instrumental in paving the way for this worthy piece of legislation.

The Silver Congressional Medal for Persian Gulf veterans authorizes the Secretary of the Treasury to design and strike a silver medal for eligible members of the Armed Forces, and authorizes the striking of a bronze replica medallion for sale to the public. The striking of the silver medallions will be at no cost to the taxpayers, as proceeds from the sales of the publicly sold bronze replicas would fund the minting of the silver congressional medallions for our troops.

Mr. President, earlier this year Congress authorized gold medals for Generals Powell and Schwarzkopf. Having recognized these two great generals, it is only fitting that we pay similar respects to the troops who served under them in the Persian Gulf. This legislation will authorize a silver medallion for the military men and women without whom the efforts of our generals could not have succeeded.

Operations Desert Shield and Desert Storm confirmed the U.S. military to be the best trained, best equipped, most fully capable Armed Forces in the world. The American men and women who performed in the Persian Gulf served their country well and made us proud. However, the sacrifices they endured were many and must not be forgotten. Indeed Mr. President, 141 Americans were killed in the gulf conflict, paying the ultimate sacrifice to their country, and another 357 were wounded in action. The long, exhausting hours in unfamiliar desert battle conditions, the trying period away from family and loved ones, and the ultimate sacrifice paid by our fallen and casualties deserve our acknowledgment.

Mr. President, the men and women of our Armed Forces are deserving of recognition and honor for their gallant efforts in the Persian Gulf conflict. The offering of a commemorative silver medallion is one small way of demonstrating our national gratitude for their courageous service.●

TRIBUTE TO MARY HELEN BYCK

• Mr. McCONNELL. Mr. President, I rise today in memory of a remarkable woman whose energy and ideas enriched the cultural, educational, and civic life in Kentucky's largest city for 6 decades. Mary Helen Byck died after a lengthy illness in July. However, throughout most of her lifetime her name was synonymous with community giving in Louisville, and her contributions will be remembered for decades to come.

Mary Helen Byck was chairman of the board of Byck's department stores, a family-owned business that began as a shoe store in 1902. Although she'll be missed by the business community, Mrs. Byck was best known for her civic contributions which covered an extraordinary range of interests.

Mrs. Byck was extremely dedicated to improving health care in the Louisville area. She sponsored a pediatric residency program at the University of Louisville School of Medicine, was a board member of the Louisville Medical Research Foundation for Physicians and Researchers, and served as vice president of the Regional Cancer Center Corp. Mrs. Byck worked relentlessly to improve cancer treatment. She was a member of the board of governors of the Brown Cancer Center; officials at the center plan to dedicate a new patient-education area in her honor.

Mrs. Byck also took an active role in furthering the cultural offerings of the Louisville area. She helped found the Louisville Philharmonic Orchestra in 1987, and was a major force behind the Greater Louisville Fund for the Arts. She was instrumental in developing Actors Theatre, and was a leader in the effort to create the Kentucky Center for the Arts in 1983.

Mrs. Byck devoted much of her time to civil rights issues. She was an original member of the Kentucky Human Rights Commission, and served on the Louisville-Jefferson County Urban Renewal Commission. She was also a major force behind the 1966 passage of the Kentucky civil rights law.

For more than a quarter of a century, Mary Helen Byck was a driving force in business, the arts, humanitarian causes, and health care in Jefferson County. Those of us who knew her also know that she always attempted to downplay her accomplishments. In a 1982 interview, Mrs. Byck said, "I don't want to be glorified * * * I've been very blessed in life to be able to do what I've done." With her passing, the Louisville community has lost not only a leader, but a dear friend. I ask that an article from the Louisville Courier-Journal be printed in the RECORD.

The article follows.

MARY HELEN BYCK: 1907–1991—Retail Clothier Whose Work Enriched City Dies at Age 84

(By Holly Holland and Helm)

Mary Helen Byck, the retail clothier whose energies and ideas enriched Louisville's cultural, educational and civic life through six decades, died at her home yesterday after a lengthy illness. She was 84.

Byck, who was diagnosed with inoperable lung cancer a year ago, slipped into a coma two days ago and died quietly at 2:40 p.m., said her daughter, Betty Goodman.

Goodman said her mother had had radiation treatment last summer and seemed to rebound. But after returning from a trip to California in March, Byck contracted bronchitis and "couldn't throw it off," Goodman said. She said her mother had been bedridden for about two months.

Goodman said Byck's other daughter, Lucy Shapero, and a granddaughter, Cathy Dreszer, were with her when she died at her home at 332 Penruth Ave. in the Crescent Hill neighborhood.

Byck was chairman of the board of Byck's, a family enterprise that was founded as a shoe store in 1902 and later operated women's apparel stores in Louisville and Lexington. The last three stores, which were in Louisville, closed Tuesday.

Goodman said the timing of the company's closing and her mother's death were coincidental.

"It just happened that way," Goodman said. "This has been a pretty emotional week."

Friends and colleagues expressed sadness at the passing of a woman whose name had become nearly synonymous with community giving.

"You don't ever replace someone like this," said Wilson Wyatt Sr., who led the effort with Byck to start the J. Graham Brown Cancer Center. "She was never one to simply advise others what they should do. It was always what we should do. * * *"

Buddy Thompson, chairman of Glenmore Distilleries Co. and chairman of the Brown Cancer Center's board, said it was ironic that cancer killed a woman who had done so much to improve cancer treatment for the entire community. Thompson said he wrote Byck last month informing her that the cancer center planned to dedicate a new patient-education area in her honor.

Byck's contributions to the community covered an extraordinary range of interests.

During World War II, when it was rare for a woman to be an executive, she served as president of Byck's while her husband, Dann Byck Sr., served his country. She was described then as "one of the best merchant people in this city." She became president of Byck's again when her husband died in 1960.

Byck enjoyed hunting, fishing and golfing, and she wore a red jacket to University of Louisville basketball games until ill health kept her home.

Byck grew up in downtown Louisville, the only daughter of Mr. and Mrs. Cyrus Adler. She and Dann Byck were married June 27, 1931, the day before her 24th birthday.

Her public commitments were both exciting and exacting for her three children. Goodman said it was sometimes difficult to grow up in her mother's shadow.

"As little kids it was just fascinating, meeting interesting people," Goodman said. "As we got older it was an effort to establish our own identify because people assumed that you did and felt everything that both parents did and felt. It was difficult establishing our own place."

Byck was a member and chairman of the U of L Board of Overseers and for five years sponsored a pediatric residency program at the U of L School of Medicine. She was a board member of the Louisville Medical Research Foundation for physicians and researchers. She was vice president of the Regional Cancer Center Corp. and a member of the board of governors of the Brown Cancer Center.

Byck was longtime chairman of the Louisville Gardens board of directors, and the Garden's arena was named in her honor.

Byck helped found the Louisville Philharmonic Orchestra in 1937. And she was a major force behind the Greater Louisville Fund for the Arts, and having Actors Theatre included. She was a leader in the effort to create the Kentucky Center for the Arts in 1983.

Byck also was an original member of the Kentucky Human Rights Commission, and she served on the Louisville-Jefferson County Urban Renewal Commission. She helped establish the Park DuValle Community Health Center, financed the first Planned Parenthood Center for black Louisvillians and was one of the Southwick Youth Club's largest financial backers.

"The civil rights movement she supported, the feminist movement she supported, all of the things associated with liberal causes," said Woodford Porter Sr., past chairman of the U of L board of trustees.

Byck's ran a newspaper ad supporting open housing, and Byck was instrumental in the passage of the 1966 Kentucky Civil Rights Law, which had failed two years earlier.

"Anyone that needed any help, why they'd call (Byck), especially in the minority community," said Katherine Peden, an industrial consultant and former state commerce commissioner who had been friends with Byck for about 30 years.

"She was always speaking out for young people to become more vocal in the political process," Jefferson County Judge-Executive Dave Armstrong said.

Louisville Mayor Jerry Abramson said, "There are very few things in this community that are good that she has not played a role into bringing into existence."

A 1928 graduate of Vassar College, Byck took a job in 1930 with the national convention of the League of Women Voters, beginning a productive stint in politics. She was Democratic national committeewoman from Kentucky in 1964, served on the Democratic State Central Executive Committee and worked for the party on the local level for many years.

In 1982 she helped lead the county schools' unsuccessful drive for a tax increase and later said, "When you fail in something you've worked hard on, stop, get your breath, review what has happened and start all over again. Get your strength up if you believe it's right."

Asked about her accomplishments in a 1982 interview, Byck said: "I don't want to be glorified. * * * I've been very blessed in life to be able to do what I've done. I'll get it all back."

Survivors in addition to her daughters include a son, Dann C. Byck Jr. of Los Angeles; nine grandchildren; and five great-grandchildren.

MARY HELEN BYCK * * *

Mary Helen Byck was, quite simply, one of Louisville's great citizens. For more than a half century she was a key force in business, the arts, humanitarian causes and health care in a city that sorely needed the kind of enlightened leadership she provided.

Though she had been in declining health for some time, there was a Dickensian aura about the timing of her passing, one day after the Byck's stores in Louisville closed. (See editorial, below.)

Her association with that business, over which she presided during World War II and again after the death of her husband, Dann C. Byck Sr., in 1960, was only one facet of a life that a friend once compared to a fine diamond. She was keenly interested in public affairs, especially Democratic Party politics. An original member of the Kentucky Commission on Human Rights, she was a firm supporter of open housing and equal rights for all.

She was instrumental in the building of the J. Graham Brown Cancer Center at the University of Louisville and the Park-DuValle Health Center. She and her husband—who was president of the Board of Aldermen from 1947 to 1953—were founders of the Louisville Orchestra in 1937, and she was among the key figures in the endowment campaign that led to the construction of the Kentucky Center for the Arts.

That was the public side of this remarkable woman. But there was a private side, too, that was able to make anyone she met feel at ease, who delighted in her children and grandchildren and who was never one to flaunt her success or power. It was the side that offered encouragement to cancer patients after her store became one of the first to carry breast prosthesis products, in an era when many only whispered about cancer.

And it was the side that could confide how important friends were to her: She once told a young acquaintance how moved she was by a note of condolence written upon the death of an old friend. You see, Mrs. Byck explained, at such times the family gets all the attention, but they do not grieve alone.

With Mary Helen Byck's death, many of us share the sentiment she expressed that day, for the community has lost not only a leader, but a dear friend.

* * * AND HER STORE

Byck's: a name so long respected in this city that it's hard to imagine that the stores that bore its name have closed.

It was a name associated with quality—sleek leather, fragrant perfumes, chic dresses, stylish shoes and Easter bonnets. Generations of Louisville children waited countless hours while their mothers tried on dresses or hats or shoes at Byck's. Children also were fitted for shoes there with the kind of attention appropriate for a business that had started as a shoe store.

More than a few of us can remember the last-minute shopping dash to pick up a Christmas or birthday present—knowing that Byck's would have the perfect thing. And the pink boxes with silver ribbon were always a sign that a gift of quality was inside.

Like the people who owned the store, there was a progressive quality aout Byck's. Although the downtown branch was the anchor, suburban branches, beginning with the one in St. Matthews, symbolized the change in shopping patterns in Lousiville beginning in the 1950s.

Keeping a family-owned business alive isn't easy. And as Steve Goodman, Mrs. Byck's son-in-law and the current president of the company, noted, these are very difficult times for retail stores. The ghosts along Fourth Avenue are too plentiful, names—like Stewart's, Selman's, Kaufman's, Sutcliffe's and Levy Bros.—that we used to take for granted are gone. And now, sadly, Byck's joins the list.•

LETTER FROM THE MAYOR OF KRAKOW TO VICE PRESIDENT DAN QUAYLE

• Mr. COATS. Mr. President, I urge my colleagues to take the time to read a letter, which I am submitting for the RECORD, from Tadeusz Piekarz, the mayor of Krakow, Poland, to Vice President DAN QUAYLE. As the mayor explains, the Bush administration, Vice President QUAYLE, and the United States Congress can all take pride in assisting Poland to deal with its very substantial environmental problems. With a small investment of funds, the United States is helping the citizens of Krakow to assess and deal with the ecological mess left behind after four decades of Communist mismanagement and neglect.

Mr. President, I ask that the letter from the mayor of Krakow to Vice President DAN QUAYLE be printed in the RECORD.

The letter follows:

> DEAR MR. VICE PRESIDENT, I would like you to accept our deepest thanks to the Congress of United States for undertaking the decision allocating funds to Krakow for environmental protection. I am doing the above full of gratitude for the funds granted and emboldened by our meeting in Krakow during the CSCE Conference in June. Could you kindly pass these words of thanks to the American people.
>
> The assistance executed thanks to the decision of the Congress, functioning under your guidance, creates a significant contribution to the environment of Krakow where—among other things—in 1794 Tadeusz Kosciuszko took an oath to the Polish nation, fighting for independence and democracy. Later he continued to serve both our countries. It is symbolic that it is here, close to the place commemorating his oath, where we are opening today one of the automatic air-monitoring stations which would enable us to measure the exact level of air pollution in Krakow.
>
> I would like to express my sincere hope that the American assistance will develop into a partnership becoming an example for the other nations of the Eastern and Central Europe.
>
> I remain sincerely yours,
>
> TADEUSZ PIEKARZ.•

NATIONAL HISTORIC PRESERVATION

• Mr. ROBB. Mr. President, this year marks the 25th anniversary of the National Historic Preservation Act, the law that defined the national preservation program. Congress passed, and President Johnson signed, this law in large part because of a report of the U.S. Conference of Mayors, called "With Heritage So Rich." This report is probably best remembered for its visionary call to save the fabric of everyday life, not just the occasional mansion. It is also known for setting out what a national preservation program would look like. Congress took the advice of this report and today's preservation program is remarkably similar to that recommended in "With Heritage So Rich."

I know a little about this book because my mother-in-law Lady Bird Johnson wrote the foreword. She talked about how she had learned the truth that the buildings which express our national heritage are not simply interesting. They give a sense of continuity and of heightened reality to our thinking about the whole meaning of the American past. She also urged that:

> We must preserve and we must preserve wisely. As the report emphasizes, in its best sense preservation does not mean merely the setting aside of thousands of buildings as museum pieces. It means retaining the culturally valuable structures as useful objects: a home in which human beings live, a building in the service of some commercial or community purpose. Such preservation insures structural integrity, relates the preserved object to the life of the people around it, and, not least, it makes preservation a source of positive financial gain rather than another expense.

The Commonwealth of Virginia is, of course, one of the Nation's most historic States, with resources from the historic mansions of the Founding Fathers to the small towns settled along railroad routes, to old farmsteads, to historic urban commercial centers and neighborhoods.

Virginia has one of the Nation's finest historic preservation programs; Bryan Mitchell, Virginia's State historic preservation officer, is now the president of the National Conference of State Historic Preservation Officers. The office carries out some of the most important mandates of the National Historic Preservation Act, namely documenting the State's significant historic structures and districts, working with governmental agencies to see that federally assisted projects do not unnecessarily harm these historic places, and certifying the quality of historic rehabilitation projects which use the Federal historic rehabilitation tax credit.

This is precisely the work plan set out in "With Heritage So Rich." Continuing to do more and better to preserve historic places is the mandate for the next 25 years.•

CANYON PROTECTION—A NATIONAL DISGRACE

• Mr McCAIN. Mr. President, in just a few hours Congress will adjourn. With great disappointment and frustration I inform my colleagues that apparently we will do so without passing needed legislation to protect the greatest natural wonder in the world—the Grand Canyon.

The Grand Canyon Protection Act, which I introduced at the beginning of the 102d Congress, continues to languish in committee where it is held hostage to competing agendas and institutional roadblocks.

It strikes me as somewhat ironic that practically every day around here, Senators take the floor of the Senate to orate on the importance of the environment. Great speeches are delivered about our natural heritage. Heads nod in righteous agreement. But when it comes right down to it, we can't even pass a bill—one which has been agreed to by the affected parties—to take care of our most spectacular natural resource.

It's no wonder the American people are so skeptical of Congress, and the ability of this institution to conduct our national affairs.

I first introduced the Grand Canyon Protection Act in the 101st Congress. I did so in response to a Department of the Interior report that Grand Canyon resources have been harmed by operations at Glen Canyon Dam.

As you can imagine, the question of how the dam is operated affects a number of interests, including downstream resources, water management and power generation. Measures calling for change in the status quo can provoke serious controversy. However, the need to protect the Grand Canyon demanded action.

Accordingly, in August 1990, I convened a meeting of the affected constituencies with the challenge of producing a consensus bill—one that would provide full protection for our park resources. Those meetings were fruitful and produced a consensus which was embodied in the Grand Canyon Protection Act.

Last year, after hearings in both the House and the Senate, the Energy Committee approved the bill and inserted it into an omnibus reclamation package. The Senate approved the measure in the waning hours of the 101st Congress. However, because of controversy over titles which had nothing to do with the Grand Canyon, the legislation was killed, and Congress adjourned before the bill could be enacted.

Disappointed but determined, I reintroduced the bill as soon as the 102d Congress convened. I was confident that it would be acted upon expeditiously considering the importance of the issue and the fact that the Senate had approved the measure just a short time before.

I thought surely the Senate would not hold up protection for the Grand Canyon. Certainly, the bill could not be held hostage again by linking it with other more controversial legislation.

Those expections, however, were dashed when it was announced that, once again, Grand Canyon protection would be tied to a large reclamation projects bill. I argued that the Grand Canyon bill was a park protection measure, not a water project, and it should be allowed to pass on its merits. I was told my worries were misplaced and assured the bill would be acted upon by the end of spring. Well, spring came and went. No action was taken.

Concerned about the delay, I visited the chairman of the Water and Power Subcommittee. Once again, I was assured—this time that the bill would pass before the August recess or shortly thereafter. The summer turned to fall. Still, no action was taken on the bill.

Finally on September 13, seeing that an entire year was slipping away without action, I offered the Grand Canyon Protection Act as an amendment to the Interior appropriations bill. I did not relish asking the Senate to legislate on a spending bill, but protecting the Grand Canyon was more important than rigid adherence to instutional procedures.

A lengthy debate ensued. Senators came to the floor and spoke out on the importance of Grand Canyon National Park and our need to protect its invaluable resources.

But I was told that adding the bill as an amendment was not the right way to go. The distinguished chairman of the Water and Power Subcommittee, for whom I have great respect and admiration, argued against the amendment because, he assured the Senate, the committee was poised for action. He indicated that I was impatient, unable "to wait a few weeks," and trying to end run the committee. The amendment was defeated on procedural grounds.

Mr. President, I was skeptical about these new assurances. I had good reason to be. The year was littered by timelines come and gone, with assurances and reassurances. But I hoped fervently that the committee would fulfill its commitment.

Mr. President, with sadnesss and regret I inform the Senate that the commitment has not been kept.

I point no fingers and I cast no blame on any individual Senator. I can understand the complications and competing agendas of the committee process. They can frustrate the best of intentions. But, good intentions are not enough. The American people should be outraged that another session of Congress has slipped away without action. They would expect that the interests of the Grand Canyon—one of the seven wonders of the world—would motivate and move Congress to act with dispatch and resolve. But, no, it's business as usual.

Mr. President, let no one be mistaken. This legislation is critical. The scientific data is clear. The operation of Glen Canyon Dam has adversely impacted natural, cultural and recreational resources within the Grand Canyon. Over half of the Colorado River beaches which existed prior to construction of the dam have vanished. Archeological sites have been destroyed. Native fish species and recreation have been adversely impacted—all within our Nation's premiere natural treasure.

The good news is that changes in dam operations, and perhaps other reasonable measures, can be implemented to halt this damage.

The Grand Canyon Protection Act would statutorily require those changes to be made and establish a permanent standard of Canyon protection in law.

That's why I submit that this legislation is urgently needed. That's why practically every conservation organization in the Nation believes that it's urgent.

I would like to reiterate, the Grand Canyon Protection Act is not draconian legislation. Glen Canyon Dam will continue to supply abundant and economical electrical power. It will continue to provide water critical to the region.

The bill will merely ensure that our constructive use of one resource will not become an abuse of another—particularly the Grand Canyon. It's worth repeating that the affected parties agree this is the right thing to do, including the conservation community, the Colorado River Basin water authorities, and regional public power officials.

The essence of what this issue is all about was best described by former Secretary of the Interior Stewart Udall when he wrote the following:

> Because the hand of man now controls the flow of water through the . . . Grand Canyon, Congress, acting for the American people, has a responsibility to ensure that our hand is guided firmly by the ethics of stewardship . . . We must conserve and protect those resources and values that caused Congress to designate the Grand Canyon as a national park and to make its special qualities available to the American people for all time.

Profound and compelling words, indeed.

This year we celebrate the 75th anniversary of the National Park Service. It's a travesty that the Senate has chosen to leave the protection of our flagship national park for another day.

I'm sure we will hear that the committee intends to bring the measure up early next year. We are left to ponder past experience and wonder whether next year will slip away as well under cover of good intentions and placating assurances. I cannot and will not allow that to happen. I want my colleagues to know that I will be on the floor the day we reconvene and every day thereafter if necessary to see that we meet our responsibility to pass the Grand Canyon Protection Act and end this national disgrace.●

CONGRATULATION TO THE 2D BATTALION, 222D FIELD ARTILLERY

● Mr. GARN. Mr. President, I rise today to offer my congratulations to the 2d Battalion, 222d Field Artillery, located in Cedar City, UT, for receiving the Walter T. Kerwin Readiness Award.

I am very proud of this fine group of men and women. This trophy is awarded each year to the most "combat ready" unit of the National Guard for the entire Nation. Not only has the 2d Battalion demonstrated outstanding capabilities for combat readiness, but this is the second time they have won the prestigious Kerwin Award, the last time being in 1984. It is a distinct honor for them and for the State of Utah.

The 2d Battalion from Cedar City has had a long and distinguished career. It began as an outgrowth of the Nauvoo Legion, organized on February 3, 1844, by Mormon pioneers in the State of Illinois. It has seen service in the Mexican War, the Civil War, World Wars I and II, and the Korean war for which it received a Presidential Unit Citation. The battalion has been honored with numerous other awards including the Milton A. Reckord Trophy in 1984, 1986, and 1990 for outstanding battalion unit size in the 6th Army area; and the Eisenhower Trophy Award, 1989, for the best company size unit in the State of Utah.

Today, the battalion is commanded by Lt. Col. Mark Fuellenbach. He and the battalion are a shining example of the National Guard at its best. I am very proud to have such a distinguished, capable and well-trained unit in the State of Utah.

I am sure my colleagues will join me in commending Lieutenant Colonel Fuellenbach, each member of the 2d Battalion of the 222d Field Artillery, and the individual families who support them, for their noteworthy and dedicated service to the United States of America.●

SUSPENSION OF WITHDRAWAL OF UNITED STATES TROOPS FROM KOREA

● Mr. BUMPERS. Mr. President, I rise today to speak about the recent announcement by Defense Secretary Cheney that we are suspending phase 2 of our plans to reduce United States troop levels in South Korea because of the growing concern over the developing North Korean nuclear threat. As the Members of this body know, I have been very outspoken over the last few years in my belief that the United States should reduce its troop deployment level in Korea and allow South Korea to shoulder a greater share of the responsibility of defending itself. South Korea has twice the population of North Korea, and a GNP that is over 10 times larger. They are fully capable of defending themselves, and our presence could be safely reduced to a lower, though still significant, level.

Last August, the Senate agreed to my amendment calling on the Department of Defense to consider further reductions in United States force levels in South Korea. I ask that the text of this amendment, No. 1061, be inserted in the RECORD at the conclusion of my remarks.

Despite this background, I am supporting Secretary Cheney's decision to delay, at least for a while, because the North Koreans are capable of anything, and their nuclear development program is worrisome. But we should be clear in our own minds why we are delaying this troop reduction, and not hesitate to resume it, indeed to accelerate it, once the reason for the suspension has gone away. And we should press harder to get the South Koreans to pay a greater share of the $2.5 billion cost to maintain the United States troop presence.

The rationale for suspending the troop withdrawals is solely to put pressure on the North Koreans, to serve as both a carrot and a stick, to encourage them to comply fully with the Nuclear Nonproliferation Treaty and agree to full International Atomic Energy Agency [IAEA] inspections of their nuclear facilities. When this is achieved, there will no longer be any credible reason to delay major drawdowns of United States force levels on the Korean peninsula.

It has been widely reported in the press that the United States is now removing its nuclear weapons from South Korea. If these reports are correct, I believe we are doing the right thing. By this action, we are taking away the flimsy excuse that the North Koreans have used for years as an excuse not to open their nuclear facilities to international inspection. For many years, it was North Korea who called for the Korean peninsula to be a nuclear free zone, and who denounced the United States for thwarting this goal.

Now we have wisely turned the tables on North Korea. South Korea is nuclear free, and it is North Korea that is threatening to nuclearize the Korean peninsula. And fortunately the rest of the world sees this hypocrisy, especially the Japanese, who hardly relish the thought of a nuclear North Korea. As one Japanese diplomat explained: "Remember, you Americans have nuclear weapons. We don't."

I congratulate President Bush, Secretary Cheney, and Secretary Baker for turning up the diplomatic and military heat on the Kim-Il-Sung regime to come clean on its nuclear activities. At the same time, I encourage them to keep this effort up. I note that the United States has met quietly with North Korean diplomatic representatives 17 times since late 1988 to discuss issues of mutual interest and according to reports in the press this morning, it seems to be paying off. I encourage President Bush to use these meetings and other means to underscore to the North Koreans that they will not achieve the security they seek if they keep with their current policies.

We have too recently seen in Iraq that it is possible for a country to be further along the road to acquiring a nuclear weapons capability than external evidence would suggest, and that older, out-of-date technologies can still be utilized by technologically less sophisticated countries to provide the means for developing a nuclear weapon. After all, technology that today is over 45 years old permitted the United States to develop atomic weapons. And I hope the Bush administration is hard at work making sure that the European and other companies that were helping Iraq develop its nuclear weapons are not now working for the North Koreans.

In this light, I am disturbed by a report in Germany's Der Speigel magazine that German companies are involved in North Korea's nuclear weapons program. I ask that a copy of "German Help for Korea's Bomb" from the November 4, 1991, issue of Der Spiegel be placed in the RECORD immediately following my remarks.

And it is distressing to read that China has thrown a monkey wrench into Secretary Baker's diplomatic initiative to have Asia's leading powers join together to pressure North Korea to abandon their attempts to develop nuclear weapons. Once again, the diplomatic benefits that the Bush administration promised in return for our treating the hardliners in Beijing with kid gloves despite the Tiananmen Square massacre have eluded us. China must recognize that it is in their own best interest to join with others to halt the threat of North Korean nuclear wepons.

I urge President Bush to take appropriate and forceful steps to deal with these serious concerns.

I want to emphasize that I believe that relations between the United States and the Republic of Korea are very good, and I am pleased about that. Our two countries are allies. We are also friends. We share many common economic, political, and security concerns. However, our policy toward Korea seems mired in the mists of the world of four decades past.

We have had about 43,000 troops in South Korea for a number of years, a figure that has actually grown from the 33,000 level of 10 years ago. Under the plan announced in early 1990, U.S. troop levels were supposed to reach 36,000 by the end of 1992. There had been hints in the Korean press that the second phase of reductions would reduce a further 6,000 troops, to 30,000, by the end of 1995. It is this reduction that has been delayed. Of course, if the North Koreans revise their nuclear policy and allow inspections, there need not be any delay at all.

Despite my support for the temporary delay in reducing our troop levels, let us remind ourselves that the arguments in favor of such reductions remain valid. Our current troop levels are higher than they were a decade ago. We are acting as if South Korea is a very weak country needing a large United States military presence to protect them from a more powerful neighbor. And that was true in the fifties and probably the sixties. But it certainly is not true today.

South Korea has twice as large a population as the North. Its economy is 10 times as large, and it is growing 3 to 4 times as fast as the north. It has grown to such a point that the amount by which South Korea's economy grows each year is equal to the entire size of the North Korean economy. Last year, South Korea's economy grew by about 9 percent, while the Wall Street Journal reports that North Korea's economy shrank by 4 percent. On a per capita basis, the fall was more than 5 percent. In addition, North Korean grain production fell 12 percent last year, according to the Korea Times, and is now 25 percent below the level needed to feed themselves.

Economic prospects for North Korea are bleak—the Soviet Union has been their major trading partner, and the collapse of the Soviet economy means the North Korean economy will probably shrink more, while the South Korean economy remains an economic powerhouse. And I salute them for their success. Of course, they should open their markets to more imports—their current trade barriers are serious. But they have done well.

Sadly, South Korea seems not to fully realize its economic strength. Keeping trade barriers up is one aspect of this. But another is how they address their security situation. South Korea rightly warns of North Korea's strengths, but they seem unwilling to do more to defend themselves. They spend a smaller share of their GNP on defense than we do, 4.2 percent versus 4.9 percent for us. They could do more, but they don't. We shouldn't be a party to them having it both ways. They can't warn how terrible the North Korean threat is, and then turn around and devote less of their economy to defense than we.

A graphic example of this is South Korea's decision in September to stop conscripting short-term soldiers and to shorten the military service term of regular service people by 2 to 5 months beginning in early 1993. I ask that the article "Military Service Term to be Cut by 2 to 5 Months" from the September 14, 1991, Korea Newsreview be placed in the RECORD at the conclusion of my remarks. It is estimated that cost savings is one of the reasons for this cut, as well as the desire to increase the size of the labor pool to satisfy the labor requirements of South Korea's booming economy.

The United States should maintain a presence in South Korea as long as the South Koreans want us, but it doesn't need to be as large as it is. And it should end at some point. General Menetrey, former head of Allied forces in South Korea, said in 1989 that he thought the mid-1990's would be about right if current trends continued. With the exception of the nuclear threat, which justifies the temporary delay, these trends have continued, and become even stronger.

By deciding to reduce our troop levels to 36,000 in South Korea, we have made some progress, but not nearly enough. Once we have resolved the North Korean nuclear problem, we should at a minimum put the Phase II reductions down to 30,000 personnel back into effect. My preference would be to go further, and reduce troop levels down to closer to 10,000 to 15,000 troops.

Mr. President, there is one area that doesn't have to wait for the resolution of the North Korean nuclear problem for us to act. And that is in the area of the level of host nation support that South Korea provides us. South Korea doesn't come close to matching the level of host nation support provided by Japan. Even with the increase to $430 million, which is about $10,000 per troop, South Korea lags far behind Japan, which supports our forces at over $50,000 per troop. And the cost of our presence is about $2.5 billion per year, far more than we receive. At a minimum, South Korea can do much better with its level of host nation support. If South Korea paid for the same fraction of troop costs as Japan does, this would add about $750 million to their level of support and would cut our deficit by a like amount.

If we can take on the extra financial burden of delaying troop reductions for South Korea, the least the South Koreans can do after reducing their armed force levels to save money is kick in more to support our troops.

Let's look at the geopolitical situation on the Korean peninsula. Almost everyone agrees that North Korea would need major assistance to invade the South. That means the Soviet Union or China. But the Soviets have greatly improved relations with the South Koreans. For the first time in decades, they have diplomatic relations. They are angling for economic aid from South Korea, which as we all know, they sorely need. The Soviets have supported South Korea's entry into the United Nations. In addition, there are press reports that the Soviets have cut off the transfer of offensive weapons to North Korea, "causing confusion in Pyongyang's military planning," according to the International Herald Tribune. So the Soviet Union, or what is left of it, is hardly a candidate for backing North Korean aggression.

China's relations with South Korea are better than ever, for economic and political reasons. In fact, the Korean media reports that the South Koreans are discussing normalizing relations with China. Neither the Soviet Union nor China is going to help North Korea invade the South. The only reason for worry is the North Korean nuclear weapons program. When that problem is resolved, we can safely reduce our troops. In fact, it would be unsafe for us to keep such a high level of troops there.

We pay a political price for keeping our troops in South Korea. Our troop presence creates social problems in the communities in South Korea where they are located. A while back there were street fights that led to U.S. troops facing off-limits restrictions for several months. There are other tensions as well, as exemplified by an editorial in a Seoul paper, which claimed that the United States presence provides the "means of dominating South Korea's political, economic, military, and cultural fields." Of course this isn't true, but our excessive presence there feeds such mistaken beliefs.

A poll taken in August in Korea found that 32 percent of South Koreans believe the United States should withdraw its forces whether or not Korea is reunified, up from 20 percent in 1989. And 34 percent said United States forces should only remain as long as the Koreas are divided. The poll also showed that the younger people, the future of Korea, are less supportive of the United States presence than their elders.

In conclusion, I encourage President Bush to do all he can to resolve the North Korean nuclear problem, and to get South Korea to do more in their own defense. Let me repeat, South Korea and the United States are good friends, and I hope we will remain that way. But I believe that South Korea needs to more fully recognize its growing role in the community of free nations, and part of that includes shouldering a greater share of the burden of their own defense.

The material follows:

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . U.S. TROOPS IN KOREA.

A. Congress finds that:

(1) The Department of Defense plans to reduce the United States troop presence in the Republic of Korea to 36,500 personnel by the end of 1992.

(2) The Department has announced no specific plans for further personnel reductions below that level.

(3) The National Unification Board of South Korea estimates the GNP of North Korea to have been $21 billion in 1989, while the Bank of Korea estimates the economy of the Republic of Korea's economy to have been $210 billion in 1989, a factor of ten larger. At its current growth rate, as estimated by its Economic Planning Board, just the annual expansion of the economy of the Republic of Korea is nearly equivalent in size to the entire North Korea economy.

(4) The Republic of Korea faces a substantial military threat from North Korea that requires a vigorous response on both military and diplomatic levels.

(5) The Republic of Korea has decided to increase its level of host nation support, although such support still falls short of the actual cost involved, and short of the relative level provided by the government of Japan.

(6) While recognizing that the Republic of Korea has consistently increased its defense budget in real terms by an average of about 6 percent annually for the past five years, at 4.2 percent of GNP, the Republic of Korea devotes a smaller share of its economy to defense than does the United States, at 4.9 percent.

B. It is the sense of the Senate that:

(1) The Republic of Korea remains an important ally of the United States, with the two countries sharing important political, economic, and security interests.

(2) Commensurate with the security situation on the Korean peninsula and the size and vitality of the economy of the Republic of Korea:

(a) the Department of Defense should seriously consider future reductions of United States military personnel from the Republic of Korea beyond those now planned to be completed by the end of 1992.

(b) the Republic of Korea should undertake greater efforts to meet its security requirements, particularly in the area of force modernization.

(3) The Government of the Republic of Korea should increase the level of host nation support it provides to United States forces in the area so that its relative level more closely approximates that of Japan.

C. The President shall report to Congress, either separately or as part of another relevant report, on or before June 30, 1992, in both classified and unclassified form, on the overall security situation on the Korean peninsula, the implications of relevant political and economic developments in the area for the security situation there, and United States policy for the area. Issues covered in the report should include, but not be limited to, a qualitative and quantitative assessment of the military balance on the Korean peninsula, the material requirements of the Republic of Korea, United States military personnel requirements, the state of United States-ROK, China-ROK, and Soviet-ROK relations, and prospects for change within North Korea.

HELP FOR IRAN'S, NORTH KOREA'S NUCLEAR PROGRAMS

[Unattributed report: "German Help for Korea's Bomb"]

[Text] According to information from the Federal Intelligence Service (BND), German enterprises also are involved in the construction of nuclear weapons in North Korea. In a report to the Chancellor's Office dated 23 October (file number: 30-31c-0326-91), BND President Konrad Porzner writes that relevant hints from the U.S. Secret Service are to be taken seriously. However, only one suspicious company is known to the intelligence service in Pullach: The Berlin firm Leis Engineering GmbH supplied silicium alloyed steel—a material that is excellently suited for the construction of containers for radioactive materials—to North Korea.

The Director of the company, Guenther Leis, confirmed the delivery of so-called Nicroter sheet metal to Pyongyang. Reportedly, the sheet produced by the Duisburg VDM Nickel Technology Company (order volume: 100,000 German marks) had been sent to North Korea as parts for the repair and expansion of a fertilizer factory at the end of last year and the beginning of this year. The sheet metal business passed a customs examination in the middle of this year, it is stated.

Together with enterprises of the ex-GDR, North Korean companies also tried to dodge the barriers of the Coordinating Committee for Multilateral Export Controls of the Western industrial countries against the export of High-technology goods, Porzner further reported. North Korea denies IAEA [International Atomic Energy Agency] inspectors access to its nuclear facilities, which allegedly serve peaceful purposes. According to the findings of "friendly secret services," North Korea will have enough material for the construction of two to three nuclear bombs as early as "in the middle of the nineties,"the BND report continues. A reactor "in the Yongbyon area" clearly serves noncivilian purposes—the production of plutonium for making weapons. An indication is the complete absence of cables or lines to carry off the electricity produced.

The BND also presents new findings on the stage of the Iranian efforts to produce the bomb—which are denied by Tehran. In contrast to the general assessment, Iran has advanced as far on the road toward producing the nuclear bomb as Iraq had before the beginning of the Gulf war, a secret service man reported to the Chancellor's Office the week before last. The fact that Tehran really wants to become a nuclear power also became evident during a talk by Alfred Dregger, chairman of the Christian Democratic Union/Christian Social Union Group, with Iranian Foreign Minister 'Ali Akbar Velayati. In response to Dregger's inquiries about the nuclear program, Velayati stated that Iran has one nuclear power in the West (Israel) and two nuclear powers in the East (India and Pakistan). Thus, "everything was clear to us," one of Dregger's advisers said.

[From Korea Newsreview, Sept. 14, 1991]

MILITARY SERVICE TERM TO BE CUT BY 2 TO 5 MONTHS

The Defense Ministry will stop conscription of short-term soldiers, or bangwi-byong, and shorten the military service term of regular servicemen by two to five months beginning early 1993.

Defense Minister Lee Jong-koo said last week that the compulsory service for the Army soldiers and Marines will be reduced to 26 months from the current 30 months, sailors to 30 months from 32 months, and airmen from 35 months to 30 months.

The Armed Forces now have some 174,000 short-term soldiers, or 27 percent of the combat forces of the nation's 830,000 standing forces, which will be reduced to 700,000 when conscription of the short-term soldiers, who serve six to 18 months, is stopped, Lee said.

Lee said improvement of the military manpower system is intended to actively cope with the changing international security environment and to contribute to inter-Korea dialogue and arms reduction.

Minister Lee said the ministry could consider further reducing the size of standing forces and the term of military service once the tension between the South and North is eased.

Lee made the announcement of the new military manpower system shortly after President Rob Tae-woo approved it.

The new system will enhance balance of military duty among servicemen and save a considerable sum in the defense budget.

Maintaining the 174,000 short-term soldiers costs about 65.1 billion won annually. With that money, the military can draft 50,000 more regular servicemen to improve defense capability, said Minister Lee.

The changes will not weaken the military's war capability, he said.

Soldiers in the North Korean forces are compelled to serve seven or eight years, and in the South, military service is also compulsory.

Lee said the ministry will reduce draft of short-term soldiers on a gradual basis beginning July next year finishing Jan. 1, 1993. Those conscripted on that day and after will be subject to the new reduced military service terms.

Lee said the new system is also intended to meet the growing popular demand for a lighter military service burden for youths and improve the Armed Forces' defense capability toward a quality-oriented system.

Lee said that the short-term soldiers, who usually reside at home and work at military bases or ward offices, caused 62.5 percent of the trouble between servicemen and civilians and noted that there is a serious imbalance between urban and rural areas in resources for short-term-term soldiers.

The Military Manpower Administration began to draft short-term soldiers in April 1964. Most of them were engaged in auxiliary work for defense of local areas.

Short-term conscripts include youths with physical problems and only sons.•

NO HOLD ON PUBLIC TELECOMMUNICATIONS ACT—S. 1504

• Mr. SIMPSON. Mr. President, there is a bill on the Senate Calendar, S. 1504, which would authorize appropriations for the Public Broadcasting System. Yesterday my office began receiving a number of calls to pursue the rumor that I had personally placed a hold on this legislation. Frankly, until yesterday, I was not aware that this bill, which had been placed on the Calendar on November 19, was working its way up the stack. I wish to fully dispel that rumor—which at this time of the year, in this line of work can rise to epidemic proportions, that somehow I had placed any impediment to the passage of this legislation.

In these latter days, I did have a most interesting interchange with one of the intrepid reporters of National Public Radio—and apparently that may be the reason for the calls. But this is not so. I do not do business in that fashion. I have not in the past, nor I do not currently have any hold on this bill, nor do I intend to place one on this legislation.•

PASSAGE OF H.R. 543, A BILL TO ESTABLISH THE MANZANAR NATIONAL HISTORIC SITE

• Mr. CRANSTON. Mr. President, I rise in support of H.R. 543, a bill to establish the Manzanar National Historic Site in the State of California. This measure is a companion to S. 621, which I introduced earlier this year.

Mr. President, Manzanar was one of the 10 permanent Japanese-American relocation camps used during World War II. By designating Manzanar as a National Historic Site, we honor the memory of the Japanese-Americans who were deprived of their basic constitutional rights and provide a reminder of the grave injustice done to them. We also help ensure that this unfortunate period in our history is not forgotten and that we learn from it.

Located at the foot of the eastern slope of the Sierra Nevada Mountain range approximately 175 miles north of Los Angeles, the Manzanar War Relocation Center was occupied from the spring of 1942 to the end of 1945. The entire Manzanar Reservation covered some 6,000 acres, with a 500-acre living area and adjacent agricultural land, a reservoir, airport, cemetery, and sewage treatment plant. Although only the camp auditorium and a few other structures remain. National Park Service believes that Manzanar offers the best opportunity among the camps for interpretation of the World War II relocation program.

H.R. 543 designates a 500-acre Manzanar National Historic Site, encompassing the entire living area of the camp, the camp auditorium, and the cemetery. The entire 500 acres is owned by the city of Los Angeles. The city has expressed concerns about the impact of the designation on its water rights and on the city's lands and activities outside the boundaries of the historic site. The city obtains a significant amount of its water from the Owens Valley watershed which includes the Manzanar area. Therefore the bill includes language to protect the city's water rights.

Additionally, the bill includes language to ensure that the designation of the Manzanar National Historic Site does not create, expand or diminish any authority of the Secretary of the Interior over lands or activities of the city of Los Angeles outside the boundaries of the site. In other words, the Secretary's authority over lands and activities outside the boundaries of the site is not altered as a result of enactment of this bill. The bill is entirely neutral in this regard.

Mr. President, I urge passage of this important legislation.●

EDWARD LEE HOWARD

● Mr. MCCONNELL. Mr. President, I would like to take a brief moment to comment on an article that appeared in yesterday's Washington Times. Entitled "CIA Defector Now Unguarded," it details the apparent diminishing KGB interest in Edward Lee Howard, a former CIA employee wanted by the FBI on charges of selling United States secrets to the Soviets.

I cannot image the future Howard envisioned for himself in the Soviet Union when he defected in 1986. He gave up everything he had—including his wife and son—to settle what appears to be a personal score with the CIA. Surely he didn't think the loving embrace he received by the KGB would last forever. If he did, his vision of a guarded life must certainly be changing with each day.

I can only imagine Howard is currently of limited use to Soviet authorities, having had several years to reveal his knowledge of United States intelligence operations and procedures. In short, Mr. President, Edward Lee Howard is no longer an asset to that intelligence organization. In the months to come, I anticipate that Howard will feel more than the Moscow winter—he will realize a definite chill in his relationship with his Soviet protectors.

Mr. President, in closing let me just add that I intend to continue to follow developments in this case. In the near future, Mr. Howard might very well find his welcome in the Soviet Union has worn thin.

In order that my colleagues become more familiar with this case, I ask that a New York Times Magazine article by David Wise and a copy of the Washington Times article appear in the RECORD following my remarks.

The material follows:

CIA DEFECTOR NOW UNGUARDED

REPORTER FINDS HIM IN MOSCOW APARTMENT

(By Bill Gertz)

CIA defector Edward Lee Howard has lost the round-the-clock protection provided by the KGB in Moscow and worries that he could be turned over to U.S. authorities for prosecution, according to Bush administration intelligence officials.

A Western reporter recently approached Howard at his Moscow apartment and the defector tried to have the reporter thrown out, said officials who spoke on condition of anonymity.

However, no security guards were present or came to Howard's aid in trying to oust the journalist from the apartment building, the officials said.

The officials said the incident was a clear sign the Soviets have abandoned the blanket protection once afforded their prize CIA defector.

FBI spokesman Bill Carter declined to comment on whether Howard has lost his security protection. But he said the former CIA operative still is wanted on espionage charges.

In Moscow, Alexi Zakharov, a spokesman for the Soviet security police, said of Howard: "I don't know the man, but in our country everything is possible."

Asked if someone like Howard might leave the country someday, the spokesman said of the spy business; "In these days, ours leave, and yours come, so in general everything is possible."

Howard, a CIA operative from 1981 to 1983, slipped away from FBI surveillance agents watching his New Mexico home in September 1985. Several months later he was granted political asylum in Moscow.

Trained as a Moscow case officer, he is the first CIA officer ever to defect to the KGB, and U.S. officials have said his disclosures caused the deaths of several agents working secretly in Moscow.

The KGB, a central pillar of Soviet power, was disbanded following disclosures that its chairman, Vladimir Kryuchkov, and several top aides helped engineer the abortive coup last August.

In its place, several new organizations were set up. The internal security and counterintelligence police is called the Inter-republican Security Service. A separate foreign espionage branch was renamed the Central Security Service.

Howard told The Washington Post last year that he lived in a country house outside Moscow with two KGB guards who provided 24-hour protection against possible kidnapping by Western spy services.

At the time the defector said he regularly played chess with his guards.

David Wise, author of the 1988 book on Howard, "The Spy Who Got Away," said the defector also lives in an apartment provided by the KGB near the Arbat, a shopping area of Moscow.

It was at this second-floor apartment where the recent confrontation between Howard and a Western correspondent took place, the officials said.

"He worries a lot about being abducted," Mr. Wise said in an interview.

According to Mr. Wise, Howard told him during a series of interviews in Hungary several years ago that he feared the CIA would abduct him or poison food sent to him from abroad.

"I have to worry that the agency might try to kidnap me," Howard was quoted as saying in the Wise book, "It wouldn't take much, a hypodermic needle, throw me in the trunk of the car, and it's only two hours to the [Austrian] border."

Thomas DuHadway, the late chief of the FBI's intelligence division, said in September that the United States should press the Soviets to extradite Howard in exchange for U.S. economic assistance.

THE SPY WHO GOT AWAY

(By David Wise)

(Edward Lee Howard was a C.I.A. recruit bound for Moscow. Dismissed, he eluded the F.B.I., defected and left U.S. intelligence efforts compromised. Now it has been learned that another ex-C.I.A. agent was aware of the betrayal.)

In the silence just before twilight in the desert near Santa Fe, the sky changes colors, shading to pinks and reds, and the sunset casts an orange glow on the golden snakeweed, the prickly pear cactuses and the juniper trees. The Sangre de Cristo mountains turn purple, then swiftly black. Suddenly, the first stars appear and the night belongs to the coyotes, the chirping toads and the owls.

On just such a night a little more than a year ago, with the clouds racing past a quarter-moon, Edward Lee Howard, a 33-year-old former officer of the Central Intelligence Agency, slipped away from agents of the Federal Bureau of Investigation and vanished.

On Aug. 7 of this year, he surfaced in Moscow, granted political asylum by the Russians. According to intelligence officials, Howard betrayed the methods used by the C.I.A. to contact its spies—"assets" in intelligence jargon—in the Soviet Union, leading directly to the arrest of one such C.I.A. asset, Soviet defense researcher Adolf G. Tolkachev, whose execution was announced a week and a half ago by Tass, the Soviet news agency. Howard's information also may have led to the expulsion from Moscow of several American intelligence agents and the detention of other Soviet citizens who were working for the C.I.A.

Howard is the first known C.I.A. man to have defected to the Soviet Union in the 39-year history of the agency. His defection was, perhaps, the greatest embarrassment ever suffered by the C.I.A. But a second former C.I.A. man, whose identity and role have been a tightly guarded secret, is also a key figure in the case. The second man is William G. Bosch.

F.B.I. agents tracked Bosch down on South Padre Island, at the southernmost tip of Texas, near the Mexican border. For four days, they interrogated him, even as other agents maintained a 24-hour surveillance on Howard in Santa Fe, N.M. According to intelligence sources, Bosch finally told the F.B.I. that on a visit to the island, Howard confided to him that he had sold secrets to the K.G.B. in Europe and sought to enlist him in further espionage plans. The officials said Bosch also told the F.B.I. that the two men discussed taking a trip to the Soviet Embassy in Mexico.

But in a day of high drama, at the very moment that F.B.I. agents were questioning Bosch, Howard was planning his successful escape from his home in the New Mexico desert.

Edward Lee Howard has been charged with conspiring to violate the espionage laws by his visit to South Padre Island. Bosch, who, like Howard, left the C.I.A. under a cloud, has not been charged. But his statements provided the key evidence that enabled the Department of Justice to file a criminal complaint against Howard. Bosch, who lives in the Los Angeles area, has declined to comment.

Former Director of Central Intelligence Stansfield Turner has said that United States intelligence was "very badly hurt" by Howard, who had "very critical information about operations inside the Soviet Union."

Another intelligence official put it more bluntly: "He wiped out Moscow station."

To understand the Howard case, one must step through the looking glass into the murky world of counterintelligence, where nothing is quite what it seems and not every question has an answer.

One thing is clear, however. The Howard case vastly embarrassed the C.I.A. and the F.B.I. Behind the scenes, there has been a good deal of finger-pointing between the two agencies—each blaming the other.

The existence of a second man in the case is only one of many startling aspects that surround the affair. While many facets of the case remain unclear, an in-depth investigation, including dozens of interviews with Howard's family, friends, associates, neighbors and Government officials, among them a number of persons in the intelligence agencies, has revealed other surprising information, much of which has not previously been disclosed.

Edward Howard and his wife, Mary, were both employed by the C.I.A.'s Directorate of Operations, the agency's clandestine arm. They were trained by the agency to operate in Moscow as a husband-and-wife spy team.

Only one F.B.I. agent was watching the Howards' house on Sept. 21, 1985, as Mary Howard helped her husband escape by driving home with a dummy in the front seat, a dummy made of clothes shaped in a human form and topped with a wig stand for its head. In the darkness, the agent apparently mistook the dummy for Howard—a ruse that gave the ex-spy a 24-hour head start.

Mary Howard further aided her husband's escape by playing a tape recording of his voice over their telephone that fooled F.B.I. agents, who were wire-tapping the phone, into believing he was still at home.

Mary Howard was with her husband at a Austrian ski resort near the Swiss border on Sept. 20, 1984, during a trip when the F.B.I. believes he met with K.G.B. agents. But she insists he was only gone from their hotel room for a short time and maintains she never had any knowledge of his alleged spying for the Russians. For a year after her husband vanished, Mary Howard declined to talk to the press. She broke her silence and agreed to be interviewed for the first time by this reporter.

Both the C.I.A. and the F.B.I. were sharply criticized by the President's Foreign Intelligence Advisory Board for their handling of the Howard case, and both agencies have officially reprimanded a number of employees involved.

The Howard case did more than compromise on-going clandestine operations. To the C.I.A., it remains a skein that, if unraveled, could expose flaws in both the conduct of the agency's secret operations and its bureaucratic procedures. Inevitably, the defection of Edward Howard has raised larger concerns about C.I.A. security, recruitment and personnel policies, and about the overall United States counterintelligence effort.

This case also brings up a number of intriguing and unanswered questions which, presumably, officials of the C.I.A. and F.B.I. are asking themselves. Why did Edward Howard feel secure in going to William Bosch to tell him he was betraying his country? Why didn't Bosch come forward and inform the authorities when he was first approached by Howard? And does this case indicate the existence of larger cracks in the armor of American intelligence?

On the morning of Aug. 1, 1985, Vitaly Yurchenko, deputy chief of the K.G.B.'s First Department, which is responsible for operations in the United States and Canada, told colleagues at the Soviet Embassy in Rome that he was going to take a walk and visit the Vatican Museum. Yurchenko, then 49, had arrived in Rome a week earlier.

When he did not return by dinner time, embassy officials were frantic. Not until the next day did they file a missing persons report with the Italian police. But the K.G.B. resident in Rome must already have suspected the worst: Vitaly Yurchenko, a trusted "general-designate" in the K.G.B. with 25 years of service in the Soviet intelligence agency, had defected.

Yurchenko, a big catch for the C.I.A., was whisked to a safe house near Fredericksburg, Va., for questioning. Before he escaped his C.I.A. handlers and redefected to Moscow three months later, leaving a trail of recrimination and confusion within the intelligence community, he provided vital information. The first order of business when a defector is interrogated is to learn whether he knows of any penetrations of United States intelligence. Yurchenko said he knew of two. He provided details that led the F.B.I. to Ronald W. Pelton, a former employee of the National Security Agency, who was convicted of espionage in June 1986.

Yurchenko said the other mole had worked for the C.I.A. and was known to him only by the code name "Robert." Yurchenko had never met Robert and could provide no physical description. But he had two crucial clues to his identity: Robert had met with senior K.G.B. agents in Austria in the fall of 1984 and sold them C.I.A. secrets. Moreover, Robert had been prepared for posting to Moscow and was familiar with the complex techniques used by the C.I.A. for contacting its agents there, perhaps even their code names or identities.

The news horrified Yurchenko's C.I.A. interrogators. If true, it meant there had been a mole in their inner sanctum, the most sensitive part of the agency, the Soviet European division. There had already been disturbing intimations that something was wrong in Moscow; at least one major operation had been blown, and the C.I.A.'s Soviet contact, Adolf Tolkachev, arrested. If Robert had talked to the K.G.B., the C.I.A.'s entire Soviet network might be in danger.

It did not take C.I.A. officials long to zero in on the man who fit Yurchenko's profile. In the spring of 1983, he had been getting ready for assignment to the C.I.A.'s Moscow station, his first overseas post, when at the last moment some troubling polygraph results and a security investigation disclosed drug use and petty theft, C.I.A. officials have said. Instead of sending the officer to Moscow, the agency took the unusual step of firing him.

His name was Edward Lee Howard.

He had applied to the C.I.A. in 1980. At the time, he was 28, married and working as manager of the Chicago regional office of a firm called Ecology and Environment Inc. It occurred to Ed Howard that there might be something more challenging in life than looking for toxic waste dumps. "He just mentioned one day that he had applied for a job in the agency," Mary Howard said. "I think that's what he wanted to do for a long time."

Mary Cedarleaf Howard, a quiet, intelligent woman of 36, with brown hair and blue eyes, now lives in seclusion with her young son and her parents near St. Paul, Minn. In a series of conversations, Mary Howard said nothing critical abut Edward Howard, except to confirm that he had a drinking problem that was the cause of arguments between them. At the same time, she appeared to be loyal to her former employer, the C.I.A. She said she was still fond of her husband, although she has refused his request that she and their son join him in Moscow.

To the C.I.A., Howard had apparently looked like an ideal recruit, He had a graduate degree, work experience, and both he and his wife were accustomed to living overseas. Howard was fluent in Spanish and German, a smooth, well-spoken man who collected guns and knew how to use them. Although born in New Mexico, he had grown up in Europe, his father, Kenneth Howard, had been an Air Force electronics specialist who worked on guided missiles and had been stationed at bases in Germany, Texas and England.

"He played Little League and everything," Kenneth Howard said of his son. "He was in the Boy Scouts, up to Explorer." Ed Howard graduated from high school in Branden, England, then enrolled at the University of Texas, where he belonged to the karate club and graduated cum laude in 1972, the same year his father retired from the Air Force.

Ed Howard and Mary Cedarleaf met in the Peace Corps in 1973, both in their early 20's and fresh out of college. Mary had grown up in St. Paul, the daughter of an insurance executive and a physician. In the Peace Corps, "we started out in the same town in Colombia, called Bucaramanga," she said. They were married three years later, at a Lutheran church in St. Paul.

That same year, Ed Howard earned a master's degree in business administration from the American University in Washington, and joined the Agency for International Development. In February 1977, the Howards left for two years in Lima, Peru, where he worked on loan projects for A.I.D. Although the C.I.A. sometimes uses A.I.D. as diplomatic cover, there is no evidence to suggest that Howard was anything but a loan officer. After Peru, the Howards returned to the United States, and he landed the environmental job in Chicago.

In January 1981, the C.I.A. hired Edward Howard as a career trainee in the Directorate of Operations, also known as the D.D.O. (in reference to the Deputy Director for Operations) and as the Clandestine Services. Mary stayed at their home in Barrington, a Chicago suburb, while Ed reported to C.I.A. headquarters at Langley, Va. He was sent for several months to the Farm, a secret C.I.A. installation at Camp Peary, Va., near Williamsburg. There, Howard learned the "tradecraft" of intelligence, practicing the recruitment of agents and the use of "dead drops" to pass messages. He was given five aliases. He also learned from F.B.I. agents at the Farm how to detect and evade surveillance.

In the spring, Mary came east to join him. They purchased a house on Scotch Haven Drive in Country Creek, a development of single-family town houses in suburban Vienna, Va.

When Robert Magee, the C.I.A.'s director of personnel, later reviewed the Howard case, he discovered that there had been one blip on the security screen even at the start. Every candidate for the C.I.A. who passes the two initial screenings is given a polygraph test—"fluttered" in C.I.A. jargon. Patti Volz, a C.I.A. spokesman, said Howard's initial polygraph indicated "some drug use." But C.I.A. applicants who admit to using drugs are not automatically disqualified, if they agree to end the practice when hired. Patti Volz said nothing about Howard's alcohol problem. The agency was apparently unaware of it.

In Country Creek, the young couple kept to themselves. Howard told the neighbors that he worked for the State Department. He jogged regularly on the path behind his house and was seen walking his dog, a German shepherd that he had bought as a pup in Lima. Howard named the dog Whisky.

In the fall of 1981, Mary joined the C.I.A. as a regular, full-time employee and, like her husband, was assigned to the agency's clandestine arm. "I wasn't a case officer like Ed," she said. "I was more a secretary. I worked for the D.D.O." The C.I.A. is a closed society, and it is not unusual to find married couples working for the agency.

The agency's covert operators also tend to choose their friends among colleagues in the D.D.O. It was there that Howard met William G. Bosch, a 6-foot, 3-inch, blond, balding C.I.A. veteran who had served in the agency's administrative side, then switched to the D.D.O. shortly before Howard joined the C.I.A. They shared a common background. Howard had worked in Lima; Bill Bosch, who was three years older, had served the agency in Bolivia, and, like Howard, spoke Spanish. The two became good friends.

Howard's career was progressing well. He was chosen for a singular honor, service in the Soviet European division (S.E.), which covers the Soviet Union and Eastern Europe. "S.E. is the holiest of holies," one veteran case officer explained. "They're a closed, cliquish, incestuous bunch of people. Nobody looks over their shoulder. S.E. screens their own and thumbs their nose at anybody else."

By late 1982, Howard had been selected for the most prestigious duty in the D.D.O., assignment to the Moscow station for a two-year term. His cover: diplomat in the American Embassy.

Why did the C.I.A. choose to send to its most sensitive post a newcomer with no previous experience working as an intelligence officer overseas? William J. Casey, Director of Central Intelligence, and other C.I.A. officials have declined, for the most part, to comment publicly on the Howard case. But Casey has defended privately the decision to send a rookie to Moscow as a common agency practice.

The chief of the S.E. division, in a rare appearance before a secret session of the Senate Select Committee on Intelligence, gave the agency's standard explanation of what has emerged as a major question in the Howard case. In order to make it more difficult for the K.G.B. to identify C.I.A. officers assigned to the Moscow station, the S.E. chief said, the agency chooses junior officers who are not known. Howard, he added, was the first one who had gone bad.

Howard was given special training for his Moscow assignment. He received careful instruction in the arcane techniques of maintaining the delicate and difficult contact with the C.I.A.'s assets.

Mary Howard, too, received training from the C.I.A. to work with her husband in Moscow as a spy. "They like to give some training to wives, short courses," she said. Asked whether it might have included counter-surveillance—such as sitting in a car and acting as a lookout while her husband met with an agent—she replied: "It could have been something like that."

Early in 1983, Ed Howard told neighbors he was studying Russian; the State Department was sending him to the Soviet Union. The Howards bought a new car and prepared to ship it to Moscow.

To build his cover, the C.I.A. gave Howard a certificate identifying him as a Foreign Service officer and appointing him "a Consular Officer and a Secretary" in the diplomatic service. It was dated March 11, 1983, and signed by Ronald Reagan and George P. Shultz.

Eight days later, the Howards' son, Lee, was born. Spring was on the way, and the future looked bright.

Then the bottom fell out of Ed Howard's life.

A second lie-detector test suggested that some of Howard's answers were deceptive. The second polygraph "picked up drugs and petty theft," the C.I.A.'s Patti Volz said. (Howard's family insists that, although he drank, he did not use drugs.) An investigation was launched.

Two years later, when Howard fell under suspicion of spying for the Soviets, the C.I.A. ordered an internal report by its then-Deputy Inspector General Carroll Hauver. Those who have read the secret report say that Howard, when confronted after the polygraph test, admitted using drugs, stealing from vending machines and taking money from a woman's purse aboard an airliner.

The C.I.A. decided it could not send Howard to Moscow. In fact, it decided it did not want him in the agency at all. Howard was fired. By June 1983, he was out of a job. He was now walking around with detailed knowledge of the agency's most sensitive operations in Moscow in his head. He was also furious at the C.I.A.

To Curtis R. Porter, staff director of the finance committee of the New Mexico state legislature, the young professional who showed up in his office unannounced to answer an advertisement in The Albuquerque Journal seemed an ideal prospect. The Legislative Finance Committee was looking for an economic analyst, and Edward Howard has the right credentials. Moreover, he was a native of New Mexico. On his résumé, he had put down "U.S. Department of State January 1981-June 1983." He was hired.

By August, the Howards had sold their house in Virginia and bought a home in El Dorado, a development 12 miles out in the desert southeast of Santa Fe. With their new baby, they settled down to life in the Sun Belt.

Howard's job was to estimate state revenues. Late in October, he flew to Washington for an economics conference. Apparently still seething at the agency, he spent several hours near the Soviet Embassy, trying to decide whether to go inside and reveal classified information.

Meanwhile, Howard's drinking was getting worse. On Feb. 26, 1984, a Sunday night, he was involved in a shooting incident with three young men. According to the police report, Howard said he had met the men "at a bar and had followed them home as they had promised him a girlfriend for the night and a good time."

But Peter Hughes, then 24, said that he, a friend and their two female companions were never inside the bar, but were in their Jeep, backing out of a motel parking lot, when Howard stared at one of the women, then followed in his own Jeep.

Hughes and his friend, joined by a third man, were waiting as Howard walked into the courtyard of Hughes's apartment building. "Suddenly from his back, he pulls out this cannon," Hughes said. "I mean a silver chrome .44 Magnum. An awesome gun. He says to me, 'Get back in the Jeep.'"

To Hughes, Howard seemed to have been drinking; his speech was slurred. "I'm inside the Jeep and he's pointing the gun at me. His eyes get this blazing look and he starts walking toward me with the gun, pointing it at my head. I think, *He's about to pull the trigger. He's going to shoot.* The barrel of the gun is coming in the window. So I duck. I grabbed for the gun and it fired, putting a hole in the roof."

With Howard disarmed, the youths beat him up; one threw a rock, hitting him on the head. They forced him back to his own Jeep, kicking the door several times for good measure. Then they called the police, who found Howard, bloodied, a block away. He was placed under arrest for aggravated assault with a deadly weapon.

For Santa Fe District Attorney Eloy F. Martinez, the case was a problem. On the one side was Peter Hughes, whose family was well known in the city—his father, who had been a prisoner of war in Vietnam, had run, albeit unsuccessfully, for the Republican nomination for Governor a decade earlier. On the other side was Howard, who produced letters of support from powerful state legislators and officials in Washington. Martinez said that he briefly considered prosecuting Howard for attempted murder. But Howard hired Santa Fe attorney Morton S. Simon who, by working out a plea bargain, managed to keep the case almost entirely out of the papers. On April 25 Howard pleaded guilty to charges of aggravated assault before Judge Bruce E. Kaufman, who sentenced him to five years probation and ordered that he pay $7,500 to Hughes. Both Martinez and Kaufman denied published reports that the C.I.A. contacted them or tried to influence the case on Howard's behalf.

Howard had voluntarily entered a counseling program for state employees, where Neil Berman, a clinical social worker, treated him for alcoholism for the next year and a half. Psychologist Elliot J. Rapoport conducted a court-ordered psychological evaluation; his report found that Howard had been through a period of unusual stress and "problem drinking," but was "not otherwise criminally oriented." He recommended that Howard remain in the state counseling program.

On Sept. 18, the Howards left for a one-week trip to Europe. According to Vitaly Yurchenko, it was in the fall of 1984 that "Robert" met the K.G.B. in Austria and sold C.I.A. secrets. The F.B.I. established that the Howards were in St. Anton, Austria, on Sept. 29, 1984, although the bureau has not said whether it believes that was the date Howard met with the K.G.B.

Mary Howard said they first visited friends in Switzerland. "We visited Zurich and Lucerne and then decided to go to Austria and then Milan." But she insisted that they chose St. Anton at random. "We were just driving around, and it was getting toward dusk and it looked like a pretty little town," she said. "I'm not aware of any goings-on in St. Anton."

"We had a disagreement," she said. "Our fights were usually over his drinking. He took off in the car. I could see him drive away from the window. He drove around in the car." Could Howard have met the Russians then? "He was only gone a short time," she replied, "perhaps 10 or 15 minutes." She added that they did not stay overnight anywhere else in Austria.

The Howards were back in the United States on Sept. 24, for on that date, Howard met with two current C.I.A. employees—perhaps at C.IA. headquarters—and told them how he had lingered outside the Soviet Embassy almost a year earlier, in October 1983, but did not enter.

Now Howard, a former C.I.A. officer with knowledge of top-secret data, had admitted that he had contemplated betraying his country. The C.I.A. insists that the two employees reported Howard's story to the proper agency officials. But for almost a year, those officials sat on that explosive information and failed to pass it on to the F.B.I. The C.I.A. will not say whether disciplinary action was taken against the officials.

Howard may have confessed the embassy incident as part of a plea to the C.I.A. to pay for psychiatric treatment. Howard did see a private psychiatrist in Santa Fe for a period of time and the C.I.A. paid for his visits.

Howard was still acting like a man under a great deal of stress. On a business trip to Boston the next month, Curtis Porter of the finance committee found Howard in his hotel room with a bandaged head; he claimed he had walked into a glass door and been given pain killers at the hospital. Later, Howard abruptly left a banquet and Porter found him packing and on the phone trying to make plane reservations to Austria. Recalled Porter: "He said, 'Sorry, I got crazy with the pain killers and booze. Don't worry, Mary knows every time I get drunk I try to go to Vienna.'" But Howard did not go; he realized he had no passport with him.

Kate and Bob Gallegos worked in Howard's office and lived in El Dorado; the two couples were friends. Bob Gallegos said that Howard once showed him a stack of Krugerrands worth perhaps $2,400. Gallegos also claimed that Howard "was having several affairs" with women in the office. Other friends say they were unaware of Howard's alleged womanizing, although one said he knew of a single "sporadic" affair.

In the spring of 1985, friends say, the Howards visited Europe again. Dennis Hazlett, a co-worker, said Howard came back with a Rolex watch and intimated he had been to Vienna.

On June 14, 1985, Tass, the Soviet news agency, announced that Paul M. Stombaugh, a "second secretary" at the United States Embassy in Moscow, was being expelled as a spy. Three months later the Russians disclosed that they had also arrested Tolkachev, the Soviet researcher, as he attempted to pass secret documents to Stombaugh.

American intelligence officials later confirmed that Tolkachev was an expert on "stealth" technology to conceal aircraft and missiles from radar, and had been one of the C.I.A.'s most valuable assets in Moscow. They also claimed that Tolkachev had been betrayed by Edward Lee Howard.

In July, Howard went to South Padre Island, to visit Bill Bosch. Bosch, too, had gotten into trouble with the C.I.A. after questions had been raised about alleged currency transactions in South America, according to intelligence officials. "He was dismissed by the C.I.A., or left before they could fire him," a senior intelligence source said.

It was on this visit, Bosch was later to tell the F.B.I., that Howard confessed his spying for the Russians and discussed plans for future contacts with Soviet officials. According to intelligence officials, the two ex-C.I.A. officers discussed taking a trip to the Soviet Embassy in Mexico City, a trip that Bosch said did not take place.

Bosch now lives in Laguna Beach, Calif., a resourt about one-and-a-half hours south of Los Angeles. Although an old and established town, Laguna Beach is also known as a home to young singles and transients—a place where people can come and go with relative ease and not attract attention.

Bosch rents a small, inexpensive room on the first floor of an old, two-story brown-shingle house that has been converted into apartments and is set back from the street, surrounded by trees, two blocks from the Pacific Ocean.

According to a neighbor, Bosch is "a nice guy, a quiet guy," who drives a Porsche and is "here at night sometimes, but not here often." Other neighbors in his building and adjacent houses said they did not know him. Attempts to contact Bosch in person proved unavailing; reached by telephone, he declined to be interviewed. "I have no comment," he said, "either on or off the record."

On July 27, 1985, the Gallegoses went to the Howards' home for dinner. Howard and his son Lee modeled two fur hats, Bob Gallegos said. "They were in a box with Russian writing. He said he had asked a friend in the State Department to send them to him." Gallegos said he has an indelible memory of Howard standing inside the house "wearing gym shorts and a fur hat, smoking a cigar and drinking a St. Pauli Girl."

Five days later, Vitaly Yurchenko vanished in Rome. The C.I.A. called in the F.B.I.

The case could not have come at a worse time for James H. Geer. On Aug. 5, 1985, his first day as assistant director of the F.B.I. in charge of the intelligence division, the Howard case landed on his desk at bureau headquarters in Washington. It was Geer's job to catch foreign agents. Geer, then 45 and a 21-year veteran of the F.B.I., was confronted with a major and potentially explosive counterintelligence case.

Geer called in Phillip A. Parker, the division's deputy director for operations. Parker, 49, had worked on foreign counterintelligence cases for most of his 20 years in the F.B.I., and he had been the No. 2 man in the division for three years.

Parker notified William D. Branon, who had just taken over the F.B.I.'s Albuquerque office. F.B.I. agents from several other cities were brought in to assist him. Within a few days, a small army of F.B.I. agents was deployed in Albuquerque and in Santa Fe, 60 miles to the north.

The F.B.I. began watching Howard, but there were problems. The Howards lived at 108 Verano Loop, a circular road of widely spaced, mock-adobe houses, where strangers are quickly spotted. Ironically, Thomas (Bill) Gillesple, one of the four resident F.B.I. agents in Santa Fe, lived two houses away from the Howards, at 112 Verano Loop. It was a perfect location for surveillance. But Gillespie had just sold his house, and the new owners had moved in on Aug. 4, the day before the F.B.I. got the case. So the house was not available. The F.B.I. did not, in fact, use any house as an observation post. Whether it employed "special coverage"—agents posing as a street repair crew, telephone linemen or the like—is not known. What is known is that the Howard residence was placed under surveillance.

The legal problem was even more formidable. "We had no probable cause to arrest Howard," Geer explained. Yurchenko's evidence was not enough. "Yurchenko never saw him," Geer said. "He didn't know him by name. It was a circumstantial case. You have to have much more than one man's word. Yurchenko did not even have a physical description." Parker, now retired, was equally emphatic that the F.B.I. had no immediate basis for arresting Howard.

The F.B.I. needed more evidence. The bureau applied for and got a wiretap warrant from a special seven-member court established in 1978 by the Foreign Intelligence Surveillance Act.

By the beginning of September, wiretaps were in place on the Howards' home telephone. The results were disappointing. Howard said nothing incriminating.

By Thursday, Sept. 19, the F.B.I. had made the decision to confront Howard directly. Still lacking probable cause to arrest the ex-C.I.A. man, the bureau hoped that Howard himself might provide the necessary evidence. The decision to approach Howard was made by Parker. There was a risk, he knew, that Howard might run, although it seemed minimal, given the round-the-clock surveillance then in place. The interview technique had worked in the past, and was used to convict Ronald Pelton, the other man named by Yurchenko.

That morning, an F.B.I. agent telephoned Howard at his office and asked to interview him. Within the hour, Howard met with the agent at the Hilton Inn, but he refused to say anything of substance.

The F.B.I. now switched to what it calls a "nondiscreet" surveillance. The agents following Howard no longer tried to blend in with the crowd. On Friday, Sept. 20, Howard walked up to one of the now-obvious agents on the street and asked to see the agent who had tried to interview him the day before. Another brief meeting took place, and Howard sounded more cooperative. He told the agent that he wanted time to get a lawyer and would meet with the F.B.I. the following week. Word was sent back to F.B.I. headquarters that Howard might be getting ready to talk.

That Friday morning, Phillip M. Baca was getting nervous. Baca, the new director of the Legislative Finance Committee, had been visited the day before by two F.B.I. agents, who asked for records on Howard. The 8:30 A.M. staff briefing of the committee, to prepare the lawmakers for a 9 A.M. public hearing, was about to begin and Ed Howard was uncharacteristically late. He finally arrived at the office at 8:25 A.M. "He did a beautiful briefing on the 18-month economic outlook," Baca said. "He had graphs. During the hearing, some questions came up on the price of oil. He answered them and was completely calm."

On the morning of Saturday, Sept. 21, Howard went into his office at the capitol. F.B.I. agents followed him. What they did not yet know was that he would write two letters in his office that day.

"We did a lot of talking that weekend," Mary Howard recalled. Howard had told her of the approach by the F.B.I. It was, she said, the first she knew he was in trouble. "It was like a nightmare," she said. "It's very traumatic still." But, she added, "I don't have any knowledge he spied."

At 3 P.M., Rosa Carlson got a telephone call from her neighbor, Mary Howard. As they had the same baby sitter that afternoon, would it be all right if the sitter walked over with Lee to the Carlsons and combined the job? Mrs. Carlson said that would be fine.

At 4 P.M., 16-year-old Gina Jackson arrived at the Howards'. Mary Howard did not stop to chat with her in her usual friendly manner. Instead, she led Gina and Lee directly out back to the patio.

"As I went through the house," Gina Jackson said, "I thought I heard two people talking. Out of the corner of my eye I saw a completely bald-headed person standing in the entranceway between the den and living room."

Later, Gina said, "the F.B.I. told me it wasn't two men talking, it was Ed Howard with a tape recorder and a dummy."

On the patio, Mary Howard seemed distracted. She did not provide the sitter with a phone number but told her the name of a Spanish restaurant in Santa Fe where they would be. In a few moments the sitter heard the car pull out of the garage.

What happened next is baffling, either a mix-up in communication, or human error. Only one F.B.I. surveillance agent was on duty, several hundred feet from the Howard house. Although it was about 4:30 P.M. and broad daylight, the Howards drove away in their dark red 1979 Oldsmobile undetected.

Ed and Mary Howard left El Dorado and swung onto Interstate Highway 25, heading northwest for Santa Fe. Other F.B.I. agents were spread out in cars a few miles away, awaiting word by radio to move out and follow the Howards. The signal never came.

Around 6 P.M. Gina Jackson walked a block to the Carlsons with Lee. She watched while Lee and the two young Carlson boys, Zac and Jonathan, played with water in the bathtub.

An hour later, around 7 P.M. the Howards drove from the restaurant where they had dined. In the darkness, somewhere in the downtown area, Ed Howard jumped from the slowly moving car into a "blind spot," as he had been trained to do at the Farm. It was the last time Mary saw him.

When Mary Howard arrived back home around 7:20 P.M. there was a dummy in the passenger seat in place of her husband. It was made of clothes shaped into a human form, topped with a faceless wig stand. Atop the wig stand was some sort of headgear. (Mary Howard said published reports that she had used an inflatable dummy were "not true.")

The surveillance agent on duty was surprised to see the Howards returning, since he had not seen them leave—surprised but relieved, since they were together. Ed Howard seemed to be wearing a hat, but in the dark, the F.B.I. man could not be sure.

The automatic garage door opened, and Mary Howard drove inside. She drove out a few minutes later, alone. She arrived at the Carlsons' house at 7:30 P.M. to pick up Lee, then drove back to their house and into the garage. The surveillance agent dutifully logged them in.

That night, Mary Howard carried out another ruse that her husband had planned with her. The ex-C.I.A. man had recorded his voice on the tape recorder. Following his instructions, Mary dialed a business office where the Howards knew she would reach an answering machine. At the beep, Mary held the tape recorder next to the telephone and pressed the "play" button. F.B.I. agents listening in "live" heard Howard confirm an upcoming appointment and were reassured; their target was still at home and staying in town.

Back in Washington that Saturday evening, F.B.I. agents in the intelligence division were excited; it appeared they might finally be getting the evidence they needed to seek a warrant for Howard's arrest.

The F.B.I. had tracked down William Bosch on South Padre Island. The bureau had discovered that Howard had been in touch with Bosch, located him with the help of long-distance toll-call records, and learned of his background from the C.I.A. F.B.I. agents had moved in and begun questioning him intensively in midweek. Gradually, Bosch's story was unfolding.

According to intelligence officials, Bosch said that Howard had made more than one trip to South Padre Island to see him; in July, Howard had come to the island and told Bosch he had sold C.I.A. data to the Russians, and the two men had had the discussion of Howard's plan to visit the Soviet Embassy in Mexico City.

There was no secure phone line on South Padre Island, so the electrifying reports of Bosch's interrogation had to be driven 300 miles to the F.B.I. office in San Antonio, then teletyped to the intelligence division on the fourth floor of F.B.I. headquarters.

James Geer said it was midnight in Washington, two hours later than in Santa Fe, before the F.B.I. decided it now had probable cause to seek a warrant for the arrest of Edward Howard. It could not be obtained at that hour, on a weekend, but there was no reason to worry. The lights had gone out at 108 Verano Loop. The surveillance was still in place in the desert, and the Howards were safely tucked away for the night.

Late on Sunday afternoon, Phil Baca went into the office unexpectedly. On his desk, he found an envelope, and, inside it, a letter of resignation from Ed Howard, along with the keys to the office and a smaller envelope addressed to Mary, which Baca did not open. He called the F.B.I. "I told them Ed Howard had resigned," Baca said. The F.B.I. was stunned.

Agents rang the doorbell at Howard's house and learned from Mary that Howard was gone. Mary Howard turned her husband's letter over to the F.B.I. One cryptic line in the letter, not previously known, said: "National security is like holding a royal flush in Santa Fe." The note also said, in part: "Well, I'm going and maybe I'll give them what they think I already gave them," and instructed Mary to "sell the house, Jeep, etc., and move with one of our parents and be happy." Howard also told Mary to tell Lee that "I think of him and you each day until I die."

By the time the F.B.I. realized that Howard had vanished, he had a 24-hour head start. Bureau officials believe he flew from Albuquerque, to New York, to Helsinki, and then crossed the border into the Soviet Union.

On Monday, Sept. 23, the F.B.I. finally got its arrest warrant from a United States magistrate in Albuquerque.

Howard called Mary once, the following month, but did not say where he was. In the spring, he sent her a letter, postmarked Vienna. On Aug. 7, 1986, Howard surfaced in Moscow.

Edward Howard has been charged with espionage. Intelligence officials say the damage he did to the C.I.A.'s Soviet operations was enormous. Some sources have suggested that the damage continued beyond Tolkachev, the C.I.A. agent executed by Moscow on March 14 of this year. Tass announced that Michael Sellers, Second Secretary of the United States Embassy in Moscow, was being expelled for espionage. On May 7, the Russians said, Erik Sites, listed as a civilian employee of the embassy's military attache office, strolled along Malaya Priogovskaya street to contact a Soviet C.I.A. asset when the K.G.B. closed in. Sites's wife, Ursula, was waiting nearby as a lookout, the Russians said. Sites, too, was expelled.

Certainly, the Howard case exposed major flaws inside the C.I.A. The agency hired a man who drank heavily and, according to the agency at least, used drugs. It ignored early warnings on his first polygraph test. It selected him for its most sensitive post, despite his lack of experience. Then, when it discovered he had serious character defects and problems, it fired him instead of easing him into another job where he might have posed less of a security risk. It paid for his psychiatric counseling after it was too late. Most astonishing of all, when Howard confessed to the agency that he had contemplated entering the Soviet Embassy in Washington to sell secrets, the C.I.A. sat on that information for almost a year before telling the F.B.I. Finally, after Howard was fired, the C.I.A. neglected to recover both his diplomatic passport and a false-name passport he had been issued by the Clandestine Services.

Within the intelligence community, some of the heat in the Howard case has been taken by Clair E. George, the C.I.A.'s Deputy Director for Operations, and certainly the affair suggests that the agency's clandestine arm performed sloppily. But the case also appears to illustrate loopholes in the agency's personnel and hiring policies and a lack of coordination between its medical and security offices. It suggests that, in order to avoid embarrassment, the agency attempted to suppress at any cost what eventually turned into a major spy scandal.

For its part, the F.B.I. was vastly embarrassed that Howard got away, a fact that F.B.I. director William H. Webster calls an "aberration." James Geer, the head of the F.B.I.'s intelligence division, while conceding a mistake "at our on-the-scene operations," sees "no institutional weakness," and cites the F.B.I.'s success in rounding up several other spies in the same year that Howard escaped.

Howard's motive remains unclear. He was angry at the C.I.A., but had no apparent ideological sympathy for the Soviet Union. Dennis Hazlett, his friend, said Howard seemed, if anything, conservative, patriotic," a little Reaganite in his views."

"I love my country," Howard said on Soviet television on Sept. 14 of this year. "I have never done anything that might harm my country."

If Howard was paid large amounts of money for his information, the F.B.I. has been unable to trace it. "We just don't know where the money is, if he got it," one senior F.B.I. man said. Mary Howard said: "I never saw unusual amounts of money," nor any Krugerrands. They lived on her husband's $33,012-a-year salary, she said.

"If he did anything," Kenneth Howard said, "it was through revenge or anger at what the agency did to him." Edward Howard's father has even wondered whether the C.I.A. "might be playing some strange games," whether perhaps his son was still working for the agency. Others have also wondered if Howard was allowed to escape and is a double agent. But F.B.I. officials scoff at that idea.

Edward Howard is a man caught between the superpowers. He faces a bleak future in an alien land, joining the dubious roll call of defectors who have refuge behind the Iron Curtain: Kim Philby, Guy Burgess, Donald Maclean, George Blake. None are ever fully trusted by the K.G.B. Or Howard can come home one day, if the Russians will let him, to face a possible sentence of life imprisonment.

The bottom line, however, is that he has escaped. The F.B.I. is bitter about that, although it takes a certain perverse pride in Howard's skill at countersurveillance, which he had learned at the Farm from the bureau's instructors. "After all," one F.B.I. agent said, "we trained him."●

MOST-FAVORED-NATION STATUS FOR ESTONIA, LATVIA, AND LITHUANIA

● Mr. BRADLEY. Mr. President, I rise today to mark the extension of most-favored-nation status to the Baltic States of Estonia, Latvia, and Lithuania. On July 31, 1991, I introduced legislation extending MFN status to Estonia, Latvia, and Lithuania. At the time, this was an important political demonstration of the independence of the Baltic States. Today, MFN is a tangible means for the three States to expand their economic ties to the United States and begin the process of restoring their economies to the status they enjoyed in the 1920's.

All three States are building institutions that will facilitate trade and economic activity, they are working with the international financial institutions to establish sound separate currencies, and are passing trade laws that establish the authority of the independent governments of Estonia, Latvia, and Lithuania over their customs territory. Most-favored-nation status is a necessary step in furthering the economic transformation that is underway.

The economic consequences of the Baltic MFN treaties stands in sharp contrast with the extension of most-favored-nation status to the Union of Soviet Socialist Republics. The most significant impact of that treaty, I pointed out last night, is to encourage the existence of a potemkin central government that exists only in the minds of a handful of economists and politicians in Moscow.

Let me also point out once again the irony of granting MFN to a Soviet Union that exists only as a legal construct. In July, the administration refused to assert the Baltic States' right to a separate MFN, even though there were existing, enforce MFN treaties between each of the Baltic States and the United States, and even though we never recognized the incorporation of the Baltic States into the Soviet Union. They said that the Baltic States could not have MFN because they did not control their borders and could not regulate trade within their customs territory. They were de jure states under American and international law, but not de facto ones, the administration told me, and we could not grant MFN to a de jure state. Now, only a few months later, we are being asked to approve a trade agreement with something called the Union of Soviet Socialist Republics. It seems to me that the argument the administration used to deny MFN to the Baltic States now applies to the Soviet Union. The U.S.S.R. is a de jure, not de facto, state. It cannot effectively determine its borders, or set trade and economic policy. It is not even clear what Soviet political institution will ratify the agreement.

It is clear, however, that for Estonia, Latvia, and Lithuania, most-favored-nation status is not only the definitive statement of the Baltic States' independence from the Soviet Union, but marks the return of the Baltic States to the community of free nations.●

TRIBUTE TO JAMES THOMAS RYAN

● Mr. LAUTENBERG. Mr. President, I rise today to recognize a distinguished individual from Maple Shade, NJ, James Thomas Ryan. On December 7, Chief Ryan will be honored by friends and family at the Knights of Columbus 11th Annual Humanitarian Award Banquet.

Mr. President, Chief Ryan was born and raised in Maple Shade, NJ. He graduated from Moorestown High School in 1951. As a high school student, he belonged to both the Civic and Monitor Clubs. He also excelled in athletics, and played varsity football and baseball. In his junior and senior year, he found time to manage the baseball team.

After graduating from high school, Chief Ryan trained to be a plumber while employed at E.C. Worrell Plumbing in Moorestown, NJ. During this time, he also played semipro baseball for the Mount Laurel team in the Rancocas Valley League. In 1952, he played semiprofessional football for the Mount Holly Moose in the Pop Warner League out of Philadelphia.

In 1953, Chief Ryan joined the Marine Corps. After attaining the rank of sergeant, he completed his military career when he was honorably discharged in 1956. He then returned home and worked in his father's heating and fuel oil business until 1962.

It was at this point of his life that Chief Ryan joined the Maple Shade Police Department, where he has served his community for 30 years. In 1970, he earned the rank of sergeant and 3 years later he was promoted to lieutenant. In 1975, he was made captain. On November 20, 1981, Jim Ryan was named chief of the Maple Shade Police Department.

While at the police department, Chief Ryan went on to pursue a higher education. He first attended Temple University from 1966 to 1967, then Trenton State College in 1970, and finally Camden County College from 1975 to 1976.

Mr. President, throughout his life, Chief Ryan has been committed to his community and country. Beyond his service with the Marine Corps and the Maple Shade Police Department, he has been active with the Maple Shade Jaycees, the South Jersey Police Chief's Association, the Rotary Club—he is a past president, the Maple Shade Advisory Board of Commerce, and the Salvation Army. Chief Ryan also is a member and a Sir Knight of the Maple Shade Knights of Columbus. In addition, he is dedicated to many youth organizations throughout Burlington County.

Mr. President, I am pleased to join Chief Jim Ryan's colleagues and friends as he is honored by the Burlington County Chapter of the Knights of Columbus for his humanitarian efforts. His many years of public service, and his lifelong commitment to his community, are an inspiration to all of us.

I extend my warmest regards to Chief Ryan and his family, and my best wishes for good health and happiness.●

SUPPORT OF FULL FUNDING FOR THE AMERICAN MEMORIAL PARK AND THE WAR IN THE PACIFIC PARK TO COMMEMORATE THE 50TH ANNIVERSARY OF THE MARIANAS CAMPAIGN

● Mr. AKAKA. Mr. President, December 7 marks the 50th anniversary of the Japanese attack on Pearl Harbor, an event which catapulted the United States onto the world stage and forever changed the shape of modern history. As is proper, numerous highly publicized events marking that date will take place throughout the Nation, most notably and appropriately in Hawaii. I am honored to be a member of the delegation, headed by my colleague from Hawaii, Senator INOUYE, which will represent the U.S. Senate at the Pearl Harbor ceremonies.

But in the publicity surrounding Pearl Harbor, we should not forget another important semicentenary that will occur less than 3 years hence, in the summer of 1994, when we mark the liberation of Guam and the capture of the Northern Marianas Islands, including Saipan and Tinian, from Japanese forces during the latter stages of World

War II. These dearly bought victories, in which thousands of soldiers and civilians on both sides gave their lives, are representative of the island-hopping campaign which characterized the unique, ferocious war in the Pacific theater, and which led to the eviction of enemy forces from strategic island groups in the Central and Southwest Pacific and, eventually, to the surrender of Japan.

With my colleagues' forbearance, I would ask consent that a precis of the Marianas operations written by Robert Goldich, of the Congressional Research Service, be inserted in the RECORD following my remarks.

Mr. President, as a reminder of the personal face of war, and in particular the courage and sacrifice exhibited by our forces who fought in the Marianas, it would be instructive to relate the heroic actions of Lt. Col. William J. O'Brien, of the 1st Battalion, 27th Infantry Division, one of two who were awarded the Congressional Medal of Honor for acts of gallantry above and beyond the call of duty in the taking of Saipan. The citation accompanying the award reads:

> When assault elements of his platoon were held up by intense enemy fire, Colonel O'Brien ordered three tanks to precede the assault companies in an attempt to knock out the strongpoint. Due to direct enemy fire the tanks turrets were closed, causing the tanks to lose direction and to fire into our own troops. Colonel O'Brien, with complete disregard for his own safety, dashed into full view of the enemy and ran to the leader's tank, and pounded on the tank with his pistol butt to attract two of the tank's crew and, mounting the tank fully exposed to enemy fire, Colonel O'Brien personally directed the assault until the enemy strongpoint had been liquidated. On June 28, 1944, while his platoon was attempting to take a bitterly defended high ridge in the vicinity of Donnay, Colonel O'Brien arranged to capture the ridge by the double envelopment movement of two large combat battalions. He personally took control of the maneuver. Colonel O'Brien crossed 1,200 yards of sniper-infested underbush alone to arrive at a point where one of his platoons was being held up by the enemy. Leaving some men to contain the enemy he personally led four men into a narrow ravine behind, and killed or drove off all the Japanese manning that strongpoint. In this action he captured five machine guns and one 77mm field piece. Colonel O'Brien then organized the two platoons for night defense and against repeated counterattacks directed them. Meanwhile he managed to hold ground. On 7 July 1944 his battalion and another battalion were attacked by an overwhelming enemy force estimated at between 3,000 and 5,000 Japanese. With bloody hand-to-hand fighting in progress everywhere, their forward positions were finally overrun by the sheer weight of the enemy numbers. With many casualties and ammunition running low, Colonel O'Brien refused to leave the front lines. Striding up and down the lines, he fired at the enemy with a pistol in each hand and his presence there bolstered the spirits of the men, encouraged them in their fight and sustained them in their heroic stand. Even after he was seriously wounded, Colonel O'Brien refused to be evacuated and after his pistol ammunition was exhausted, he manned a .50 caliber machine gun, mounted on a jeep, and continued firing. When last seen alive he was standing upright firing into the Japanese hordes that were then enveloping him. Some time later his body was found surrounded by enemy he had killed.

Mr. President, to commemorate the bravery exemplified in the highest degree by men such as Colonel O'Brien, Congress, in 1978, established the War in the Pacific Park, in Guam, and the American Memorial Park, in Saipan. Public Law 95-348 authorized a total of $19 million for park development; unfortunately, Mr. President, despite the significance of the Marianas campaign, and in spite of the rivers of blood spilled there by American servicemen, only $3 million has thus far been appropriated.

Mr. President, I have been informed of the state of these alleged national parks. Reports of rust corroding the tanks and cannon that are on public display; of weeds and grasses covering roads, walkways, and fences; of historic battlefields disappearing under dirt and vegetation; of graffiti scrawled on park signs and on the walls of the few existing park buildings. Mr. President, is this how we honor our war dead? Is this our tribute to those who fought for the freedom we now enjoy?

Mr. President, Guam's and Saipan's legitimate needs are often neglected by Washington because they lie thousands of miles from the west coast, in the middle of the Pacific Ocean, and because they either have limited representation in Congress, in the case of Guam, or no representation at all, in the case of the Northern Marianas Islands, a commonwealth under U.S. sovereignty. This is a natural, if unfair, state of affairs given the geographic and political realities under which these islands labor.

However, what is not natural, what is not to be excused, is that the parks to which I am referring are national parks, so designated by Congress, that ostensibly honor the memory of the approximately 5,700 U.S. troops killed or missing and the 21,900 wounded in the Marianas campaigns, men like Colonel O'Brien and our own distinguished colleague from Alabama, Senator HEFLIN, who participated in these operations. Their families and descendants, as well as the thousands of marines and soldiers who survived unscathed, for whom the words Saipan, Tinian, and Guam are synonymous with courage, duty, and sacrifice, live in every corner of our Nation. Each of us probably has many constituents whose lives were directly affected by the fight to free Guam and invade Saipan and Tinian. Thus, each of us has a duty to ensure that those who fought for freedom in our behalf are properly honored—albeit belatedly, but honored nonetheless.

Mr. President, from now through 1994, I intend to join several other colleagues in a concerted effort to secure such funding for the Guam and Saipan parks as is required to render them presentable for the 50th anniversary of the Marianas campaign. I urge all my colleagues who believe that what was worth fighting for in the Marianas in 1944 is now also worth honoring nearly 50 years later, who believe that the manner in which we treat those who fought and died in our behalf is a reflection of our own character, and who are convinced that the quality of our remembrance of things past, to paraphrase Proust, also determines our behavior as a nation in the future.

THE U.S. SEIZURE OF THE MARIANAS, JUNE–AUGUST 1944[1]

(By Robert L. Goldich, Specialist in National Defense, Foreign Affairs and National Defense Division, Congressional Research Service, the Library of Congress)

INTRODUCTION AND SUMMARY

Between June 15 and August 10, 1944, U.S. forces captured the Japanese islands of Saipan and Tinian, and liberated the U.S. territory of Guam—all together comprising some of the larger Mariana Islands—from the Japanese. U.S. casualties totalled approximately 5,700 killed and missing in action (KIA/MIA) and 21,900 wounded in action (WIA). The Japanese garrisons on all three islands were virtually annihilated, losing 54,000 dead and 2,900 prisoners. At the time of the ground operations, a major naval battle—the Battle of the Philippine Sea—was fought, which largely eliminated remaining Japanese naval airpower as well as sinking several major Japanese naval combatants.

The seizure of the Marianas severed Japanese lines of communication between Japan proper and those remaining Japanese bases and forces in the Central Pacific south of the Marianas and in the South Pacific as well. It provided, for the first time, island air bases from which U.S. land-based airpower could reach Japan itself. It provided large island areas on which advance bases could be constructed to support further operations against Japanese possessions and conquered territories such as Iwo Jima and Okinawa, the Philippines, Taiwan and the south China coast, and ultimately against Japanese home islands. Finally, the recapture of Guam liberated one of the few pieces of U.S. territory that was actually conquered by the enemy during World War II and restored U.S. government to over 20,000 native Guamanians.

BACKGROUND

The Marianas were Spanish possessions prior to the Spanish-American War of 1898. In the aftermath of that war, the victorious United States annexed Guam, and the other two islands were sold by Spain to Germany in 1899. Japan, which participated in World War I on the side of the Allies, captured Saipan and Tinian from Germany in 1914 and retained control of them after World War I ended.

Planning for the possibility of a U.S.-Japanese conflict became a major preoccupation of the U.S. Armed Forces as soon as the United States became a major territorial power in the Pacific in 1898, with the acquisition of the Philippines, Guam, American Samoa, and Hawaii. It had long been recognized that the Marianas occupied a critical strategic location in any contingent naval war between the United States and Japan, occupying as they do the center of a quadrilateral whose defining points are the Japanese home islands, the Philippines, Hawaii, and New Guinea.

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[1] See Major Works Consulted, below, for basic sources used in preparing this report.

There was little doubt, therefore, after the swift Japanese advance into the South and Central Pacific in 1941–1942 that U.S. forces would have to seize the Marianas. The islands were a significant Japanese defensive bastion, and their central location, as well as their desirability as sites for U.S. bases, made it impossible to bypass them. The issue was when they could be attacked and taken. The Cairo-Teheran Conferences of late 1943, held between President Franklin D. Roosevelt, British Prime Minister Churchill, and Soviet leader Joseph Stalin, resulted in a planning schedule for invasion of the Marianas on October 1, 1944.

However, several U.S. Pacific victories enabled this schedule to be advanced by several months. Between November 1943 and February 1944 U.S. forces seized key Japanese bases in the Gilbert (Tarawa, Makin) and Marshall (Kwajalein, Roi-Namur, and Eniwetok) Islands, bringing U.S. bases to within slightly over 1,000 miles of the Marianas. It was also decided to bypass rather than attack major Japanese strongholds at Truk, in the Caroline Islands, south of the Marianas. Accordingly, in March 1944 the Joint Chiefs of Staff ordered that the Marianas attack begin on June 15, 1944. The invasion plans finalized in May 1944 called for Saipan to be assaulted on June 15; once Saipan was secure, Tinian, only three miles south of Saipan, would be seized. Tentatively, Guam would be invaded on June 18, 1944, only three days after the landings on Saipan.

SAIPAN

After the fall of the Marshall Islands in February 1944 the Japanese realized that the Marianas would almost certainly be the next American objective in the Central Pacific. Between February and May 1944 the weak Japanese garrisons on Saipan, Tinian, and Guam were heavily reinforced with combat troops. U.S. submarines prevented some, but not most, Japanese troops and equipment sent to the islands from reaching their destination.

To seize Saipan from an estimated 18,000 Japanese (31,000 were actually on the island), the U.S. had earmarked the 2nd and 4th Marine Divisions. The Army's 27th Infantry Division was in general reserve for all Marianas operations, but most planning assumed it would probably be employed on Saipan. The three divisions plus supporting units totalled 71,000 Marines and soldiers. The two Marine divisions would attack across beaches on the southwestern corner of the island. Once securely ashore, the 2nd Marine Division, on the left (north) would turn northwards and conquer northern Saipan, while the 4th Marine Division on the right (south) would seize the southern third of the island.

By June 15, 1944, 25,000 Japanese Army and 6,000 Navy troops were on Saipan. Those beaches deemed suitable by the Japanese for a U.S. amphibious landing were heavily fortified and mined, and guarded by powerful forces. At this stage of the war, Japanese defensive doctrine still stressed defeat of American landings on the beach, rather than fighting a costly delaying action against the Americans once they had landed (as would be the case later in the war in the Palau Islands, the Philippines, Iwo Jima, and Okinawa).

After two days of naval gunfire and aerial attacks on the Japanese fortifications and troop dispositions, the two Marine divisions made their amphibious landing on the Saipan beaches on the morning of June 15. Despite the preparatory bombardment, it soon became apparent that Japanese resistance was formidable. In fact, D-Day on Saipan involved some of the heaviest casualties sustained by any U.S. division, Army or Marine Corps, in a single day during the entire war. Japanese artillery, mortars, machine guns, and small arms, fired from well-fortified positions largely invisible to the Marines, took a heavy toll of the assault Marines. The 2nd Marine Division sustained about 1,600 casualties on June 15. This was almost as many as it lost on the first day at Tarawa, November 20, 1943, more than the 1st Marine Division lost on the first day at Peleliu on September 15, 1944, and comparable to the number of Marines killed or wounded in the 4th and 5th Marine Divisions on the first day at Iwo Jima, February 19, 1945. The 4th Marine Division lost "only" 900–1,000 men killed or wounded on the first day at Saipan. Nonetheless, the Marines were on the island to stay, and Japanese counterattacks the first night failed to dent their beachhead.

Between June 16 and June 21, the American forces seized the southern third of Saipan, except for a small pocket of Japanese resistance on the southeastern tip of the island at Nafutan Point. The two Marine divisions were then reoriented northwards, to attack and destroy the formidable Japanese positions in central Saipan. The Army's 27th Infantry Division was landed to reinforce the Marines, largely due to the heavy casualties suffered by the Marine divisions. In six days of battle, the 2nd Marine Division had sustained 2,500 casualties and the 4th Marine Division over 3,600.

Between June 22 and June 30, the three U.S. divisions slowly fought their way through heavily wooded, hilly areas which constituted the heart of Japanese resistance on Saipan. The 2nd Marine Division seized Mount Tapotchau, the commanding geographical feature on Saipan, in moving roughly 1½ miles in eight days; the 27th Division and the 4th Marine Division gained between two and five miles through terrain with accurate, unpleasant characterizations such as Death Valley and Purple Heart Ridge. In addition, on the night of 26–27 June, the Japanese pocketed at Nafutan Point broke out in a desperate *banzai* charge, attacking rear areas and artillery units and ultimately losing over 550 dead in a suicidal assault far behind the front lines of the main battle.

By June 30, the backbone of Japanese resistance in central Saipan had been broken. The Japanese withdrew to their final defensive lines in northern Saipan; patrols ranged several thousand yards to the front of the American lines but found only small groups of the enemy. However, the two Marine divisions had paid dearly for their successes. In two weeks of combat, the 2nd and 4th Marine Divisions had each sustained 4,500 casualties. Because 80–90% of all losses were incurred by the 6,400 Marines in each division's 27 rifle companies—the basic close-in infantry fighting units—these figures indicate that those rifle companies had lost almost two-thirds of their men since D-Day. Because no Marine infantry replacements had yet arrived, Marines from support units were channeled into the infantry to replace casualties. Although the Army's 27th Division had not participated in the costly D-Day landing, it had lost almost 1,900 men itself.

Between July 1 and July 7, the 2nd Marine Division was withdrawn from combat, because the U.S. command wanted it to begin preparing for the invasion of Tinian. The 4th Marine Division and the 27th Division continued attacking the Japanese, and pocketed those remaining in the northern tip of the island. The last days of the Saipan battle were marked by two horrific developments. First, early on the morning of July 7, thousands of Japanese launched a suicidal mass attack on two isolated battalions of the 27th Division. "The soldiers fought for their lives as tremendous masses of the enemy flooded into a 300-yard gap between the battalions, discovered by enemy patrols the night before."[2] Overrunning the two battalions, the Japanese charged south into American artillery positions; the Americans fired their guns pointblank into the Japanese until they ran out of ammunition and the numerical weight of the Japanese assault was too great. The artillerymen then disabled their guns and retreated south, where they reached blocking positions held by other Army troops and Marines. The *banzai* charge cost the two Army infantry battalions 400 dead and 500 wounded (probably well over 50% of their strength); over 4,300 Japanese corpses were counted.

Second, in the aftermath of the continuing advance of the Marines (the Army's 27th Division was withdrawn into reserve after the *banzai* charge), with virtually all of the island in American hands, the Japanese repeated their World War II propensity for suicide rather than surrender. Not only did the few remaining Japanese soldiers and sailors kill themselves with their weapons as often as they would fire on U.S. Marines, but the Marines witnessed terrible sights of suicidal Japanese civilians. At Marpi Point on the northwestern corner of the island, "Hundreds of Japanese civilians, fearful of the Americans, committed suicide by jumping from the seaside cliffs. Some took their children with them. Efforts to stop them fell upon ears deafened by Japanese propaganda. Fortunately, many civilians had previously surrendered amicably, entrusting their fate to Marine and Army civil affairs officers, and were grateful for the care and safety found in the internment camps."[3]

On July 9, after 25 days of battle, the U.S. command declared the island secured, although Japanese stragglers continued to be rounded up or killed until the end of the war—and for many years thereafter. U.S. casualties totaled 3,600 KIA and MIA and 13,100 WIA. About 2,000 Japanese prisoners were taken; the other 29,000 Japanese troops on the island were killed. Both U.S. and Japanese leaders tended to agree about the significance of the American victory. Marine Lt. Gen. Holland M. Smith, commander of the Saipan landing force, stated that the capture of Saipan was "the decisive battle of the Pacific offensive" and that its seizure "breached Japan's inner defense line, destroyed the main bastions, and opened the way to the home islands."[4] The verdict of Japanese Prime Minister Hideki Tojo, whose government was soon to fall—partly in response to the loss of the Marianas—was more succinct; "Hell is on us."

TINIAN

There was never any doubt that Tinian would have to be seized by U.S. forces. Only three miles south of Saipan, its continued possession by the Japanese would have left U.S. bases and facilities on the former island vulnerable to bombardment and raids. In addition, Tinian was relatively flat, and therefore the best suited of the Marianas for airfields from which U.S. long-range bombers could strike the Japanese home islands.

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[2] Henry I. Shaw, Jr., Bernard C. Nalty, and Edwin T. Turnbladh. "Central Pacific Drive. History of U.S. Marine Corps Operations in World War II. Volume III." Washington, Historical Branch, G–3 Division, Headquarters, U.S. Marine Corps, 1966: 340.

[3] Ibid.: 345.

[4] Gen. Holland M. Smith, USMC (Ret.), and Percy Finch, "Coral and Brass," New York, Charles Scribner's Sons, 1949: 181.

U.S. plans called for the 2nd and 4th Marine Divisions, after a two-week respite from the costly Saipan campaign, to launch an amphibious attack against Titian. In reserve, also similar to the Saipan order of battle, was the 27th Infantry Division.

The major problem confronting the U.S. command was where on Titian the assault Marines should land. The island has only three beaches "worthy of the name."[5] The largest and best-suited for amphibious operations is on the southwestern corner of the island, near Titian Town, the major "city" on the island. A much smaller beach lies directly across Tinian from the southwestern beaches, on the southeastern side of the island. On the far northwestern corner of Tinian are two small beaches, one 60 and the other 160 yards wide. After great deliberation and careful clandestine reconnaissance, the Marine and Navy amphibious planners decided to land on the northern beaches, on the assumption that the Japanese would not believe that U.S. forces could support a massive amphibious assault across such narrow beaches. In addition, the northern beaches were very close to southern Saipan, easing movements of supplies and troops between the two islands, and enabling Saipan-based U.S. artillery to support the initial U.S. assault. The decision to attack the northern beaches was a gamble, because determined Japanese opposition, combined with the narrowness of the beaches, could lead to disaster, with the Marines jammed into the beaches and unable to move beyond them under Japanese fire.

To maintain the element of tactical surprise, the Marines and other services were careful to do nothing which would lead the Japanese to believe that the attack would come across the northern beaches. Artillery and air support, air and ground reconnaissance, were directed at all areas of Tinian, not just the northern beaches. The U.S. decision was fully justified by events. The Japanese commander of the 8,900 Japanese troops on Tinian expected the Americans to come across the southwestern beaches, possibly the southeastern ones, and had constructed fortifications and disposed his troops accordingly.

U.S. artillery began firing on Tinian only five days after the initial landings on Saipan, on June 20. On July 12, it was agreed that D-Day for Tinian would be July 24. On July 23, heavy U.S. artillery bombardments and air strikes against targets all over the island began, and the assault components of the 4th Marine Division boarded landing craft for the short journey of a few miles from Saipan to Tinian.

D-Day at Tinian, July 24, was an immense contrast to the bloody D-Day on Saipan over five weeks earlier. Two regiments of the 4th Marine Division landed on the northern beaches and rapidly pushed inland against light resistance. Marine casualties totalled 15 dead and 225 wounded, less than a tenth of D-Day losses on Saipan. On the night of July 24–25, a hastily-mounted Japanese counterattack was utterly smashed; over 1,200 counted Japanese dead in front of the 4th Marine Division's positions constituting fully one-seventh of the entire Japanese force on the island. The American decision to land on the narrow northern beaches had been fully vindicated.

On July 25–26, the 2nd Marine Division was landed and joined the 4th Marine Division in a steady drive south. While Japanese resistance was fierce in some places and at some times, from the perspective of higher commanders the battle went much more smoothly than the conquest of Saipan. By July 31, remaining Japanese organized resistance had been compressed into a small, thin strip of land against the southeastern coast of Tinian. After two more days of combat, marked by occasional last-ditch *banzia* charges, but mercifully not be the mass suicide of Japanese civilians seen on Saipan, Tinian was declared secure on August 1, 1944.

"A statement like that, however, was a sort of partial truth on any Pacific territory captured from the Japanese. On Tinian, even more than elsewhere, the residue of the enemy force was troublesome. Some of the Japanese soldiers preferred self-destruction to surrender, but the proportion of soldiers and civilians that committed suicide was smaller than on Saipan. The Japanese soldier that chose to live was a die-hard type, able to hide out for months."[6] Thus, one regiment of the 2nd Marine Division that remained on the island to flush out Japanese stragglers lost about 40 killed and 125 wounded between August 1, 1944 and January 1, 1945, killing 500 Japanese after the official "securing" of the island.

Total U.S. casualties on Tinian totalled approximately 300 KIA and 1,600 WIA; although figures vary depending on the sources consulted, it appears that all of the 8,900 Japanese on the island were eventually killed except for slightly over 300 prisoners taken. The least costly of the three Marianas islands battles, Tinian arguably resulted in the greatest dividends for the further prosecution of the war, due to its suitability for airfield construction to support the strategic air offensive against Japan.

GUAM

It had originally been planned that U.S. forces would assault Guam on June 18, 1944, only three days after the initial landings on Saipan. However, several developments required the postponement of the Guam operation for over a month. First, by June 15 the prospects of an approaching naval battle with the Japanese—what became the American victory in the Battle of the Philippine Sea during June 19–20—forced U.S. naval commanders to redeploy their ships away from the Marianas to meet the approaching Japanese fleet. The Japanese naval threat had to be neutralized before the U.S. Navy could cover and support a major amphibious landing on Guam. Second, the ferocity of Japanese resistance on Saipan required the commitment of the entire 27th Infantry Division, in reserve for the entire Marianas operation. Another Army unit—the 77th Infantry Division, in Hawaii—would have to be committed to Guam. Finally, it was not clear until early July that the 77th Division, or parts of it, would not be needed on Saipan as well. All of these factors led to the postponement of the invasion of Guam until July 21, 1944.

In preparing for the liberation of Guam, American planners had to take several factors into account which did not apply to Saipan and Tinian. "Guam is the largest island north of the equator between Hawaii and the Philippines. With an area of 225 square miles, it is three times the size of Saipan and measures 30 miles long by 4 to 8½ miles wide."[7] Its size posed both problems and opportunities for maneuver, delay, and logistical support not found on the smaller islands.

As a U.S. possession, Guam was going to be liberated, not conquered by U.S. forces. There were about 24,000 native Guamanians on the island in 1944, and the U.S. command had to be prepared to provide for the restoration of services and adequate living standards to people who had remained almost uniformly loyal throughout almost three years of Japanese occupation:[8]

"Slightly over a hundred were of mixed American and Chamorro [native Guamanian] parentage and had been jailed as soon as the Japanese occupied the island. The rest of the population suffered some organized maltreatment and abuse in the early days of Japanese rule, but this appeared to have gradually tapered off. However, rigid food rationing, forced labor, confiscation of property without compensation, exclusion from business enterprises, and a score of lesser deprivations and humiliations kept the native population sullen and restive during the period of Japanese occupation. In June 1943 all able-bodied men between the ages of fourteen and sixty were forced to work for the occupation army, and women were ordered to replace the men in the fields. After the American air raid of 11 June [1944], large numbers of natives fled to the hills. Many were rounded up by Japanese military police and placed in camps. . . . The Guamanians were clearly poor raw material for collaborationism, and there is no evidence that the Japanese made any successful attempt to reconstruct them to that end."

As was the case with Saipan and Tinian, the Japanese did not begin preparing to defend Guam against American assault until February-March 1944, after the fall of the Marshall Islands. Japanese defensive preparations were not as extensive as those on Saipan—certainly not in proportion to the size of the island. By late July 1944, the Guam garrison totalled about 18,500 Japanese troops, compared to the 30,000 that had been on Saipan. Unfortunately for the Marines making the assault landings on Guam, however, the terrain of the island—the locations of suitable beaches, harbors, and airfields—limited American options. Furthermore, having invaded the island themselves in December 1941, the Japanese had studied Guam from the point of view of likely objectives for an amphibious assault. When the Marines came ashore, therefore, they would do so into the heart of Japanese defensive positions, fortifications, and troops on Guam.

All of the beaches to be attacked were on the western side of Guam. Those beaches north of the Orote Peninsula, which jutted out into the ocean in a western direction from the center of western Guam, would be the objectives of the 3rd Marine Division. The 1st Provisional Marine Brigade, composed of two Marine infantry regiments and supporting arms and services, and therefore consisting of the equivalent of ⅔ of a division (a Marine division having three infantry regiments at full strength), would attack the beaches south of the peninsula.

The D-Day air and naval bombardment of the Guam beaches was both heavier and more precise than that directed against the Saipan beaches, due to the disappointing results of the Saipan bombardment and the heavy losses the Marines sustained on Saipan D-Day. However, the Japanese on both the northern beaches (being attacked by the 3rd Marine Division) and the southern beaches (the 1st Marine Brigade) still had plenty of fight left in them when the first amphibious assault vehicles headed for the shore the morning of July 21, 1944.

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[5] Shaw, Nalty, and Turnbladh, "Central Pacific Drive": 358.

[6] Ibid.: 421.

[7] Ibid.: 439.

[8] Philip A. Crowl. "Campaign in the Marianas. The War in the Pacific. United States Army in World War II." Washington, Office of the Chief of Military History, Department of the Army, 1960; 332.

Resistance was heaviest on the left flank and the center of the 3rd Marine Division's attack zone. Here the Marines had to attack up steep cliffs that rose just behind the beaches—cliffs that included many caves which proved impervious to the preassault air and naval bombardment. Nonetheless, by the end of D-Day the 3rd Marine Division was ashore all along the line at the cost of about 160 Marines KIA and MIA and 540 WIA. Supplies and supporting artillery were ashore, and the troops of the 3rd Marine Division began bracing themselves for the usual Japanese counterattack.

Resistance was less intense, but still substantiantial, on the southern beaches. Although the 1st marine Brigade was not facing the cliffs and caves of the 3rd Marine Division, numerous Japanese defenders made its task a difficult one. Japanese artillery and mortars inflict many casualties on the beaches, and the artillery fire continued as brigade troops moved inland. However, by early evening the two Marine regiments of the brigade were ashore at the cost of about 350 Marine casualties, and one of the three regiments of the Army's 77th Infantry Division, as well as both Marine and Army artillery, was ashore by the early morning of July 22.

Surprisingly, it was the southern beachhead that was hit by a full-scale Japanese counterattack on the night of July 21-22, not the more vulnerable positions of the 3rd Marine Division in the north. By dawn of July 22, the 1st Marine Brigade had killed over 600 Japanese at the cost of about 50 dead and 100 wounded of its own, and virtually annihilated an attacking Japanese regiment.

Between July 22 and July 24 the 1st Marine Brigade turned north, reinforced eventually by the entire 77th Infantry Division, and sealed off the Orote Peninsula, which separated the northern and southern beachheads. At the same time, the 3rd Marine Division gained very little ground due to extremely rough terrain and fierce Japanese resistance. By the close of July 24, the first four days of battle on Guam had cost the Marine brigade 220 KIA and MIA and 700 WIA. The 3rd Marine Division had lost over 400 KIA and MIA and almost 1,300 WIA.

By the evening of July 25, the 3rd Marine Division was in bad shape. It had sustained almost two thousand battle casualties since landing on Guam; "the division lines had been stretched more than 9,000 yards. The regiments and battalions had almost no reserves to call on, and even [the] division had only one depleted battalion in reserve. Should the enemy choose this time and place for an organized counterattack, the situation for the Marines could hardly have been worse. Unfortunately the Japanese did so choose."[9]

During the night of July 25-26, the equivalent of two-thirds of a Japanese division struck the lines of the 3rd Marine Division in a characteristic *banzai* charge. At the same time, a smaller Japanese counterattack was launched from the Orote Peninsula against the 1st Marine Brigade. Although the fighting was heavy, and seesawed back and forth in the 3rd Marine Division sector, by the morning of July 26 the Japanese attackers had been virtually annihilated. An estimated 3,500 Japanese were killed on Guam during the few hours of the counterattack. This Japanese failure "broke the back" of Japanese resistance on Guam, as the Japanese commander acknowledged in radio messages to Tokyo.

The rest of the battle for Guam consisted of two main actions. Between July 25 and July 30 the 1st Marine Brigade captured the Orote Peninsula from stubborn Japanese defenders who, cut off from their fellows on the rest of the island, nonetheless went down fighting, losing over 1,600 dead (compared to 150 Marine KIA and MIA and 720 WIA) in the process. Simultaneously, the 3rd Marine Division and the Army's 77th Infantry Division, committed as a full division for the first time, swung to their left and drove toward the northern end of Guam. Once 77th Division reconnaissance patrols had determined that there were no substantial Japanese forces in southern Guam, both American divisions attacked northwards. By August 10, 1944, the island had been secured, although stragglers continued to surrender—or be killed—until the end of the war, and some did not come out of the jungles until the 1960s and 1970s. U.S. casualties on Guam totalled 1,900 KIA/MIA and 7,100 wounded; although precise figures vary, it appears that with the exception of about 500 prisoners, the entire Japanese garrison of 18,500 was killed or died.

CONCLUDING OBSERVATIONS

The successful capture of Saipan and Tinian, and the liberation of Guam, represented the maturation of U.S. amphibious warfare doctrine and techniques. These operations marked the culmination of decades of careful thinking by U.S. Marine planners about how to wrest heavily-defended island targets from a determined Japanese foe. By the time Guam was secured, there was confidence that *any* Japanese-held island—including any of the Japanese home islands—could be attacked and taken by American forces, albeit frequently at very high cost in American casualties.

The seizure of the Marianas, therefore, did more than (1) breaching another set of Japanese defenses that stood between U.S. forces and the Japanese home islands and (2) providing air bases from which U.S. land-based bombers could strike at Japan proper. The Marianas operations ended with the U.S. Armed Forces confident about ultimate victory—confidence they would need for the even more costly, and more ferocious Central Pacific island battles yet to come—Peleliu in September-December 1944, Iwo Jima in February-March 1945, and Okinawa in April-June 1945. That confidence would have been put to the greatest test of all had the United States been required to invade and capture the southern Japanese home island of Kyushu on November 1, 1945, as planned in the summer of 1945, or even occupy the central island of Honshu, with an invasion tentatively planned for March 1, 1946.

Most believe that what made the invasion of Japan proper unnecessary was, in large part, the strategic air offensive against Japan staged from the Marianas. Massive airfield development on all the islands, but especially Tinian, provided the bases from which U.S. Army Air Forces B-29 bombers mounted huge air raids against Japanese cities and economic infrastructure, beginning in late 1944 but accelerating in February-March 1945. The catastrophic effects of this conventional bombing campaign, combined with the atomic bombings of Hiroshima and Nagasaki in August 1945 (also staged from Tinian), ultimately tipped the scales within the Japanese government in favor of surrender in mid-August.

MAJOR WORKS CONSULTED

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NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Richard D. Finn, Jr., a member of the staff of Senator NUNN, to participate in a program in China sponsored by the Chinese People's Institute of Foreign Affairs in conjunction with the United States-Asia Institute on November 30 to December 15, 1991.

The committee has determined that participation by Mr. Finn in this program, at the expense of the Chinese People's Institute of Foreign Affairs in conjunction with the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Laurie Schultz Heim, a member of the staff of Senator JEFFORDS, to participate in a program in China sponsored by the Chinese Cultural University on December 9-16, 1991.

The committee has determined that participation by Ms. Heim in this program, at the expense of the Chinese Cultural University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule

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[9] Ibid.: 363-64.

35 for Robert Tyrer, a member of the staff of Sentor COHEN, to participate in a program in Taiwan sponsored by the Soochow University on December 4–10, 1991.

The committee has determined that participation by Mr. Tyrer in this program, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Wayne Abernathy, a member of the staff of Senator RIEGLE, to participate in a program in Austria sponsored by the Austrian Federal Economic Chamber on December 7–14, 1991.

The committee has determined that participation by Mr. Abernathy in this program, at the expense of the Austrian Federal Economic Chamber, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Richard Kessler, a member of the staff of Senator PELL, to participate in a program in Korea sponsored by the Korean Ministry of Foreign Affairs on December 7–14, 1991.

The committee has determined that participation by Mr. Kessler in this program, at the expense of the Korean Ministry of Foreign Affairs, is in the interest of the Senate and the United States.•

ALBERT EINSTEIN CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. CHAFEE. Mr. President, I send a resolution to the desk on behalf of Senator HATFIELD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 239) reauthorizing the Albert Einstein Congressional Fellowship Program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the resolution.

The resolution (S. 239) was agreed to as follows:

S. RES. 239

SECTION 1. SHORT TITLE.

This resolution may be referred to as the "Albert Einstein Senate Fellowship Program Resolution".

SECTION 2. REAUTHORIZATION.

The authority provided in Senate Resolution 173 of the One Hundred-second Congress (agreed to on August 2, 1991), as amended by Senate Resolution 208 of the One Hundred-second Congress (agreed to on October 25, 1991), and further amended by Senate Resolution 228 of the One Hundred-second Congress (agreed to on November 21, 1991), is hereby reauthorized in accord with the provisions of this resolution.

SECTION 3. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—The President pro tempore of the Senate is authorized to enter into an agreement with the Triangle Coalition for Science and Technology Education (hereafter in this resolution referred to as "Coalition") to establish an Albert Einstein Senate Fellowship Program (hereafter in this resolution referred to as the "fellowship program"), which, beginning with the fiscal year 1991, provides for two fellowships in the Senate for each fiscal year.

(b) RESPONSIBILITIES.—The President pro tempore of the Senate may enter into the agreement described in subsection (a), and authorize the expenditure of funds pursuant to section 4(e), only if the Coalition—

(1) undertakes the application responsibilities referred to in section 4(a);

(2) participates in the evaluation referred to in section 5; and

(3) provides the funding for administration and evaluation costs referred to in section 6(b), and partial compensation referred to in section 4(e)(1)(A).

SECTION 4. SELECTION PROCESS.

(a) Application Responsibilities.—The Coalition shall—

(1) develop and administer an application process in accord with subsection (d);

(2) publicize the fellowship program; and

(3) conduct an initial screening of applicants for the fellowship program.

(b) SELECTION.—Each fiscal year the President pro tempore of the Senate, upon the recommendation of the Majority Leader, in consultation with the Minority Leader, shall select the two recipients of the Senate fellowships from among the applicants processed under subsection (a).

(c) PLACEMENT OF FELLOWSHIPS.—

(1) The president pro tempore of the Senate, upon the recommendation of the Majority Leader, in consultation with the Minority Leader, and the chairmen and ranking minority party members of the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate, may place one fellowship recipient on the staff of the Committee on Labor and Human Resources, and may place one fellowship recipient on the staff of the Committee on Commerce, Science, and Transportation.

(2) Not withstanding paragraph (1), either or both fellowship recipients may instead be placed on the personal staff of a member of the Senate.

(d) ELIGIBLE RECIPIENTS.—Applicants screened under subsection (a) shall be from among a pool of nationally recognized outstanding secondary school science and mathematics teachers. The pool shall include teachers who have received Presidential Awards for Excellence in Science and Mathematics Teaching, as established by section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b), or other similar recognition of skills, experience, and ability as science or mathematics teachers.

(e) COMPENSATION.—

(1) Each recipient of a Senate fellowship shall be compensated—

(A) in party by the Coalition;

(B) in part from funds made available under section 6(a).

(2) The President pro tempore of the Senate shall fix the compensation of each recipient authorized in paragraph (1)(B) at not to exceed one-half of the funds authorized to be available for each respective fiscal year under section 6(a).

(f) LENGTH OF TERM.—Each fellowship recipient shall serve for a period of ten months.

SECTION 5. EVALUATION.

The Chairman of each committee or the member of the Senate in whose office a fellowship recipient is placed, and the Executive Director of the Coalition shall submit to the President pro tempore of the Senate an annual report evaluating the fellowship program, and shall make recommendations concerning the continuation of the program.

SECTION 6. FUNDING.

(a) FELLOWSHIPS—For fiscal years 1991, 1992, and 1993, the funds authorized to compensate Senate fellowship recipients under section 4(e) shall be paid from the contingent fund of the Senate, but not to exceed a total of $40,000 in fiscal year 1991 with such funds to remain available through September 30, 1992, $42,500 in fiscal year 1992, and $45,000 in fiscal year 1993 for the Senate fellowships.

(b) ADMINISTRATION AND EVALUATION.—The Coalition shall provide the funds necessary for the administration of the fellowship program, and for evaluations conducted pursuant to section 5.

SECTION 7. SUPERSEDING PREVIOUS AUTHORITY.

This resolution supersedes the resolutions referred to in Section 2.

SECTION 8. TERMINATION DATE.

The provisions of this resolution shall terminate September 30, 1993.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3635, a bill to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1456

(Purpose: To provide for a substitute amendment)

Mr. FORD. Mr. President, I send on behalf of Senator KENNEDY a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. KENNEDY, proposes an amendment numbered 1456.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

• Mr. HARKIN. Mr. President, I rise in strong support of the Health Promotion and Disease Prevention Amendments of 1991. I want to commend the distinguished chairman of the Labor and Human Resources Committee for his continuing leadership in efforts to improve the health care available to Americans. I also want to thank him for his willingness to work with me to bring this major package of health promotion and disease prevention initiatives before the Senate. S. 1944 is among the most important pieces of health legislation the Senate will consider this session.

Mr. President, I believe that the most fundamental flaw in our health care system today is its preoccupation with patching and mending and its virtual neglect of prevention and health promotion. What we really have is not a health care system but a sick care system. Over half of the $700 billion we will spend this year on health care will go to treat conditions that are preventable. Yet, only a tiny fraction, estimated by some to be less than 1 percent, of our health care budget is spent on keeping people healthy and preventing the need for this expensive treatment. As a result of this flaw, the quality and length of the lives of many Americans are needlessly reduced and billions of dollars are needlessly wasted. We need to overhaul our sick care system into an American health care system of which we can all be proud. This takes us a step further toward completing that weighty task.

I am very pleased that a number of my ideas and components of my "Prevention First" initiative are contained in this bill. A major element is its reauthorization of the Preventive Health and Health Services block grant. This important program is the backbone of State and local public health efforts. It funds a full range of key disease prevention and health promotion services provided to Americans in every State and locality—from hypertension screening, to health education, to breast cancer screening to smoking cessation programs. S. 1944 would expand and strengthen this program, building upon my legislation of last year, the Health Objectives 2000 Act. This legislation, signed into law by the President, paved the way for implementation of the National Health Promotion and Disease Prevention Objectives.

This part of S. 1944 first provides increased capacity and resources to States and localities to assist them in achieving the Year 2000 National Health Objectives, addressing improvements in health status, risk reduction, public and professional awareness, health services and protective measures, and surveillance and evaluations. Second, it creates and develops and effective partnership of Federal, State, and local health agencies, voluntary health organizations, and other health groups, including minority community-based organizations, to develop initiatives for preventing disease and disability. Third, it enables States and localities to address national health policy issues. All of these provisions will greatly improve our public health system and the health of Americans. They are long overdue.

S. 1944 also incorporates S. 507, the Lead Poisoning Prevention Act, legislation I introduced on behalf of myself and a number of our colleagues. Inclusion of S. 507 attacks the No. 1 preventable disease among children—lead poisoning. Conservative estimates indicate that more than 3.5 million American children from all walks of life have dangerous levels of lead in their blood. And we know the devastating impact lead poisoning can have on our children. We know that even healthy appearing children with modest lead elevations often display poor academic performance, low IQ scores, impaired hearing, unsatisfactory speech and language development, and disruptive classroom behavior. A recent study found that lead poisoned children are seven times more likely to drop out of school before graduating from high school.

The costs of lead poisoning are staggering and the cost effectiveness of screening for it is clear. The annual cost of remedial education and health care needed as a result of childhood lead poisoning alone totals over $1 billion. Screening and early detection for lead poisoning saves by more that 50-fold the immediate cost of treatment. Yet, there is a sorrowful lack of awareness regarding the perils of lead poisoning, the benefits of screening and the resulting preventive and treatment measures that can be taken to combat this problem.

S. 507 attacks this problem by expanding support to States and localities to screen children, establishing a national education program to increase awareness among children, parents, teachers, and health professionals about lead poisoning, developing a more cost effective accurate test to screen for lead poisoning, and finally to make certain that the actions of different Federal agencies responding to the problem of lead poisoning are properly coordinated. These steps will save lives and money.

Mr. President, S. 1944 also incorporates the provisions of S. 505, another component of my "Prevention First" legislative package. This bill would change the name of our Nation's flagship Federal agency on prevention, the Centers for Disease Control [CDC], to the Centers for Disease Prevention and Control [CDC]. This change appropriately recognizes CDC's central role in our national efforts to prevent disease and disability and will give greater national visibility to these efforts. This simple change will also demonstrate our commitment to increasing the focus of our efforts in health care on prevention and elevate prevention to its appropriate high level within the structure of government health care programs. I want to commend CDC for their strong work and commitment to improving the public health. I want to especially commend Dr. Bill Roper who I think is doing a fine job heading up CDC. I am very pleased to have his support for making this change.

I have been placing top priority in my capacity as chairman of the Senate subcommittee that funds health, education, and social services programs on programs that prevent disease and disability. In the fiscal year 1992 funding bill which is now in the President's hands, we have provided significant increases in funding for prenatal care, chronic and environmental disease prevention, disability prevention, childhood immunizations, and many other critical preventive programs. At my urging, and particularly relevant to the bill before us today, the fiscal year 1992 funding bill contains a more than tripling of funds aimed at lead poisoning prevention and a 40-percent increase in the prevention block grant program.

So through these appropriations and through adoption of this authorizing legislation, we are making a downpayment on what needs to be done to turn our "sick" care system into an American "health" care system of which we can be proud.

Mr. President, I again commend you for bringing this legislation before us. I hope that we can move without hesitation to send it to the President for final approval.•

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 1456) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3635), as amended, was passed.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Presiding Officer (Mr. CONRAD) appointed Mr. METZENBAUM, Mr. HARKIN, Mr. HATCH, and Mrs. KASSEBAUM to be conferees on the part of the Senate.

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3866, a bill to provide for the designation of the Flower Garden Banks National Marine Sanctuary just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3866) to provide for the designation of the Flower Garden Banks National Marine Sanctuary.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. INOUYE. Mr. President, this measure would make fundamental changes in a longstanding law which deals with a very serious subject—gambling aboard U.S. passenger cruise vessels. Because it does, I would have preferred that the Senate Merchant Marine Subcommittee give H.R. 3282 the same extensive study and analysis which the House committee gave it.

Nevertheless, in a spirit of cooperation in the closing days of this session I will put aside my misgivings based on my understanding that the text of H.R. 3282 as included in the amendment to H.R. 3866 prohibits gambling aboard U.S.-flag and foreign-flag passenger cruise vessels during segments of their voyages among the Hawaiian Islands, even when those segments are on the high seas; and that gambling aboard vessels on voyages among the islands of Hawaii, such as currently undertaken by the SS *Independence* and the SS *Constitution*, continue to be prohibited.

Specifically, it is my understanding based on the House report to accompany H.R. 3282, that gambling on voyages between two points in a State would be prohibited if the State in which they are operating has a law prohibiting gambling activities on these voyages.

For example, the State of Hawaii has enacted a law—chapter 72 of the Hawaii Revised Statutes—prohibiting gambling activities on a vessel that embarks from any point within the State, and disembarks at the same or another point within the State, except on travel from the continental United States or a foreign country. Therefore, under H.R. 3282 gambling would be prohibited on any U.S.- or foreign-flag vessel that is on a voyage, or a segment of a voyage, that sails from a place in Hawaii to another place in Hawaii.

The types of segments of a voyage covered under these restrictions are those legs of a larger voyage during which the vessel leaves one point in a State and arrives either at the same point or another point in the same State, without an intervening stop in another State or a foreign country. This segment may include periods of time during which the vessel is operating in international waters.

Therefore, a vessel leaving either California or Mexico, for example, could have gambling activities on board until the vessel reaches Hawaiian waters. Then, the gambling facilities must be closed. The vessel would not be allowed to have gambling operations during the segments of the voyage during which it is sailing to other islands in Hawaii, even though segments of the interisland voyage are on the high seas.

May I ask the junior Senator from Louisiana if my understanding is correct?

Mr. BREAUX. The Senator from Hawaii is absolutely correct.

Mr. INOUYE. I thank the Senator from Louisiana, and with that understanding I shall not object to consideration of the provisions of H.R. 3282.

AMENDMENT NO. 1457

(Purpose: To make an amendment in the nature of a substitute)

Mr. FORD. Mr. President, I send a substitute amendment to the desk on behalf of Senator BREAUX.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BREAUX, proposes an amendment numbered 1457.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—NATIONAL MARINE SANCTUARY

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

SEC. 101. Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))—

(1) the Secretary of Commerce shall, on January 17, 1992 (or as soon thereafter as is practicable), publish under that Act in the Federal Register a notice of designation of the Flower Garden Banks National Marine Sanctuary, as described in the notice of designation submitted to the Congress on November 20, 1991: and

(2) that designation shall take effect on January 17, 1992.

TITLE II—MERCHANT MARINE PROVISIONS

NON-VESSEL-OPERATING COMMON CARRIERS

SEC. 201.(a) SHORT TITLE.—This section may be cited as the "Non-Vessel-Operating Common Carrier Act of 1991".

(b) PROHIBITED ACTS.—Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended—

(1) in paragraph (14), by inserting ", insurance, or other surety" after "bond"; and

(2) in paragraph (15), by inserting ", insurance, or other surety" after "bond".

(c) SURETY FOR NVOCC'S.—Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721), is amended—

(1) in the section heading by striking "BONDING OF" and inserting in lieu thereof "SURETY FOR";

(2) by amending subsection (a) to read as follows:

"(a) SURETY.—Each non-vessel-operating common carrier shall furnish to the Commission a bond, proof of insurance, or such other surety, as the Commission may require, in a form and an amount determined by the Commission to be satisfactory to insure the financial responsibility of that carrier. Any bond submitted pursuant to this section shall be issued by a surety company found acceptable by the Secretary of the Treasury.";

(3) by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d), respectively;

(4) in subsection (b), as so redesignated—

(A) by striking "BOND" in the subsection heading and inserting in lieu thereof "SURETY";

(B) by inserting ", insurance, or other surety" after "bond"; and

(C) by inserting "under this Act" after "transportation-related activities"; and

(5) in subsection (d), as so redesignated—

(A) by inserting ", insurance, or other surety" after "bond"; and

(B) by striking "subsection (d)" and inserting in lieu thereof "subsection (c)".

(d) INTERIM RULES AND REGULATIONS.—The Federal Maritime Commission may prescribe interim rules and regulations necessary to carry out the amendments made by this section.

(e) CONFORMING AMENDMENT.—The item relating to section 23 in the table of contents in the first section of the Shipping Act of 1984 is amended by striking "Bonding of" and inserting in lieu thereof "Surety for".

(f) EFFECTIVE DATE.—This section shall become effective 90 days after the date of its enactment.

CLARIFICATIONS OF, AND LIMITATIONS ON, GAMBLING DEVICES PROHIBITIONS

SEC. 202. (a) TRANSPORT TO A PLACE IN A STATE, ETC.—Section 2 of the Act of January 2, 1951 (15 U.S.C. 1172; commonly referred to as the "Johnson Act"), is amended—

(1) by inserting before the first paragraph the following: "(a) GENERAL RULE.—";

(2) in subsection (a) (as so designated) by striking ", District of Columbia,";

(3) by inserting before the second paragraph the following: "(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—"; and

(4) by adding at the end the following:

"(c) EXCEPTION.—This section does not prohibit the transport of a gambling device to a place in a State or a possession of the United States on a vessel on a voyage, if—

"(1) use of the gambling device on a portion of that voyage is, by reason of subsection (b) of section 5, not a violation of that section; and

"(2) the gambling device remains on board that vessel while in that State.".

(b) REPAIR, OTHER TRANSPORT, ETC.—Section 5 of that Act (15 U.S.C. 1175) is amended—

(1) by inserting before "It shall be unlawful" the following: "(a) GENERAL RULE.—";

(2) by inserting before the period at the end the following: ", including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country"' and

(3) by adding at the end the following:

"(b) EXCEPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section does not prohibit—

"(A) the repair, transport, possession, or use of a gambling device on a vessel that is not within the boundaries of any State or possession of the United States; or

"(B) the transport or possession, on a voyage, of a gambling device on a vessel that is within the boundaries of any State or possession of the United States, if—

"(i) use of the gambling device on a portion of that voyage is, by reason of subparagraph (A), not a violation of this section; and

"(ii) the gambling device remains on board that vessel while the vessel is within the boundaries of the State possession.

"(2) APPLICATION TO CERTAIN VOYAGES.—

"(A) GENERAL RULE.—Paragraph (1)(A) does not apply to the repair or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) of this paragraph if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute the terms of which prohibit that repair on use on that voyage or segment.

"(B) VOYAGE AND SEGMENT DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) is a voyage or segment, respectively—

"(i) that begins and ends in the same State or possession of the United States, and

"(ii) during which the vessel does not make an intervening stop within the boundaries of another State or possession of the United States or a foreign country.".

(c) BOUNDARIES DEFINED.—The first section of that Act (15 U.S.C. 1171) is amended by adding at the end the following:

"(f) The term 'boundaries' has the same meaning given that term in section 2 of the Submerged Lands Act.".

The PRESIDING OFFICER. Are there amendments to the substitute?

AMENDMENT NO. 1458

Mr. CHAFEE. Mr. President, I send to the desk an amendment to the substitute on behalf of Senator STEVENS.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. STEVENS, for himself and Mr. MURKOWSKI, proposes an amendment numbered 1458:

At the appropriate place, insert the following new title:

TITLE —IMPLEMENTATION OF MARITIME BOUNDARY AGREEMENT

AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

SEC. 1. (a) PURPOSES.—Section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(1)) is amended by inserting ", and fishery resources in the special areas" immediately before the semicolon at the end.

(b) DEFINITIONS.—Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (24) through (32) as paragraphs (25) through (33), respectively; and

(2) by inserting immediately after paragraph (23) the following new paragraph:

"(24) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(c) UNITED STATES MANAGEMENT AUTHORITY.—(1) Section 101(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(a)) is amended by inserting "and special areas" immediately before the period at the end.

(2) Section 101(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)) is amended by inserting immediately after paragraph (2) the following new paragraph:

"(3) All fishery resources in the special areas.".

(d) FOREIGN FISHING.—Section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821) is amended—

(1) in subsection (a)—

(A) by inserting "within the special areas," immediately before "or for anadromous species"; and

(B) by striking "beyond the exclusive economic zone" and inserting in lieu thereof "beyond such zone or areas";

(2) in subsection (e)(1)(E)(IV), by inserting "or special areas" immediately after "exclusive economic zone";

(3) in subsection (i)—

(A) by inserting "or special areas" immediately before the period at the end of paragraph (1)(A);

(B) by inserting "or special areas" immediately after "exclusive economic zone" in paragraph (2)(A); and

(C) by inserting "or special areas" immediately after "exclusive economic zone" in paragraph (2)(B); and

(4) in subsection (j)—

(A) by inserting ", special areas," immediately after "exclusive economic zone"; and

(B) by inserting ", areas," immediately after "such zone".

(e) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended—

(1) in subsection (b)—

(A) by inserting "or special areas" immediately after "February 28, 1977)"; and

(B) by striking "such zone or area" and inserting in lieu thereof "such zone or areas";

(2) in subsection (c)—

(A) by inserting "or special areas" immediately after "February 28, 1977)"; and

(B) by striking "such zone or area" and inserting in lieu thereof "such zone or areas"; and

(3) by adding at the end the following new subsection:

"(g) FISHERY AGREEMENT WITH UNION OF SOVIET SOCIALIST REPUBLICS.—(1) The Secretary of State, in consultation with the Secretary, is authorized to negotiate and conclude a fishery agreement with the Union of Soviet Socialist Republics of a duration of no more than 3 years, pursuant to which—

"(A) the Union of Soviet Socialist Republics will give United States fishing vessels the opportunity to conduct traditional fisheries within waters claimed by the United States prior to the conclusion of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, west of the maritime boundary, including the western special area described in Article 3(2) of the Agreement;

"(B) the United States will give fishing vessels of the Union of Soviet Socialist Republics the opportunity to conduct traditional fisheries within waters claimed by the Union of Soviet Socialist Republics prior to the conclusion of the Agreement referred to in subparagraph (A), east of the maritime boundary, including the eastern special areas described in Article 3(1) of the Agreement;

"(C) catch data shall be made available to the government of the country exercising fisheries jurisdiction over the waters in which the catch occurred; and

"(D) each country shall have the right to place observers on board vessels of the other country and to board and inspect such vessels.

"(2) Vessels operating under a fishery agreement negotiated and concluded pursuant to paragraph (1) shall be subject to regulations and permit requirements of the country in whose waters the fisheries are conducted only to the extent such regulations and permit requirements are specified in that agreement.

"(3) The Secretary of Commerce may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the provisions of any fishery agreement negotiated and concluded pursuant to paragraph (1).".

(f) PERMITS FOR FOREIGN FISHING.—Section 204(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(a)) is amended—

(1) by inserting "within the special areas," immediately before "or for anadromous species"; and

(2) by inserting "or areas" immediately after "such zone".

(g) CONTENTS OF FISHERY MANAGEMENT PLANS.—Section 303(b)(1)(A) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(1)(A)) is amended—

(1) by inserting "or special areas," immediately after "exclusive economic zone"; and

(2) by inserting "or areas" immediately after "such zone".

(h) PROHIBITED ACTS.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (1)(K), by inserting "or special areas" immediately after "exclusive economic zone";

(2) in paragraph (2)(B)—

(A) by inserting "within the special areas," immediately after "exclusive economic zone";

(B) by inserting "or areas" immediately after "such zone";

(3) in paragraph (3), by inserting "or special areas" immediately after "exclusive economic zone"; and

(4) in paragraph (4), by inserting "or special areas" immediately after "exclusive economic zone".

(i) ENFORCEMENT.—Section 311(b)(2) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(b)(2)) is amended by inserting "and special areas" immediately after "exclusive economic zone".

AMENDMENTS TO NORTHERN PACIFIC HALIBUT ACT OF 1982

SEC. 2. (a) DEFINITIONS.—(1) Section 2(c) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773(c)) is amended to read as follows:

"(c) 'Exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.".

(2) Section 2 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773) is amended by adding at the end the following new subsection:

"(h) 'Special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(b) UNLAWFUL ACTS.—Section 7(b) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e(b)) is amended by striking "fishery conservation zone" and inserting in lieu thereof "exclusive economic zone and special areas".

AMENDMENTS TO FUR SEAL ACT OF 1966

SEC. 3. Section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) is amended—

(1) by redesignating subsections (f) through (m) as subsections (g) through (n), respectively; and

(2) by inserting immediately after subsection (e) the following new subsection:

"(f) 'Jurisdiction of the United States' includes jurisdiction over the special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(24).".

AMENDMENTS TO MARINE MAMMAL PROTECTION ACT OF 1972

SEC. 4. Section 3(14) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(14)) is amended to read as follows:

"(14) The term 'waters under the jurisdiction of the United States' means—

"(A) the territorial sea of the United States;

"(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

"(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the United States-Soviet Maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

RELATIONSHIP TO ENDANGERED SPECIES ACT OF 1973

SEC. 5. The special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(24)) shall be considered places that are subject to the jurisdiction of the United States for the purposes of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

AMENDMENTS TO PACIFIC SALMON TREATY ACT OF 1985

SEC. 6. (a) DEFINITIONS.—Section 2 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631) is amended—

(1) by redesignating subsections (h) through (j) as subsections (i) through (k), respectively; and

(2) by inserting immediately after subsection (g) the following new subsection:

"(h) 'Special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the United States-Soviet maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(b) RULEMAKING.—Section 7(a) of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3636(a)) is amended by inserting "and special areas" immediately after "Exclusive Economic Zone".

NATIONAL SEA GRANT COLLEGE PROGRAM

SEC. 7. (a) DEFINITIONS.—Section 203(6) of the National Sea Grant College Program Act (33 U.S.C. 1122(6)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting immediately after subparagraph (E) the following new subparagraph:

"(F) the special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (18 U.S.C. 1802(24)); and".

(b) INTERNATIONAL PROGRAM.—Section 3(a)(6) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(a)(6)) is amended by inserting "and special areas" immediately after "exclusive economic zone".

EFFECTIVE DATES

SEC. 8. (a) IN GENERAL.—The amendment made by section 1(e)(3) takes effect on the date of enactment of this Act, and the amendments made by the other provisions of this title, except as provided in subsection (b), shall be effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.

(b) AUTHORITY TO PRESCRIBE REGULATIONS.—The authority to prescribe regulations to implement the amendments made by this title shall be effective on the date of enactment of this Act, but no such regulation may be effective until the date on which the Agreement described in subsection (a) enters into force for the United States.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1458) was ageed to.

The PRESIDING OFFICER. Are there further amendments to the substitute? If not, the question is on agreeing to the amendment.

The amendment (No. 1457), as amended, was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAMM. Mr. President, I rise in support of the provisions in H.R. 3866 which seek to expedite approval of the National Oceanic and Atmospheric Aministration's recommendation that the Flower Garden Banks Coral Reef, located off the Texas and Louisiana coasts, be designated as a National Marine Sanctuary. This will be the first national marine sanctuary in the Gulf of Mexico, and the designation will help protect and manage the ecological, recreational, research, and esthetic resources of this area.

The Flower Garden Banks consists of two separate areas of submerged land totaling 41.7 square nautical miles. This land includes the reefs in the northwest corner of the Gulf of Mexico. They comprise the northermost living coral reefs on the U.S. continental shelf. Isolated from other reef systems by over 300 nautical miles, the Flower Garden Banks offer a combination of aesthetic appeal, recreational uses, and research opportunities matched in few other ocean areas.

The plan for managing the proposed sanctuary contains guidelines to ensure that all management actions undertaken in the first 5 years are coordinated to meet sanctuary objectives. Heavy anchoring by large vessels has damaged the banks. The new sanctuary status will prohibit heavy anchoring of most vessels in the designated area and is supported by the environmental community, the regional governments, and coastal business interests.

This sanctuary designation of the Flower Garden Banks has been made within the agency's National Marine Sanctuary Program, created in 1972. Currently, there are eight other designated areas located off the coasts of Florida, Georgia, North Carolina, California, and American Samoa.

I encourage my colleagues to approve this designation and further ensure the environmental health and safety of this precious natural resource.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H. R. 3866), as amended, was passed.

Mr. FORD. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMERICAN TECHNOLOGY PREEMINENCE ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 232, S. 1034, a bill to enhance the position of U.S. industry.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1034) to enhance the position of U.S. industry through the application of the results of Federal research and development, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Technology Preeminence Act of 1991".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "advanced manufacturing technology" means numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, concurrent engineering processes, and other technology for improving manufacturing and industrial processes;

(2) the term "advanced materials" means a field of research including the study of composites, ceramics, metals, polymers, superconducting materials, and materials production technologies, including coated systems, that provide the potential for significant advantages over existing materials;

(3) the term "high-resolution information systems" means equipment and techniques required to create, transmit, receive, display, process, record, store, recover, and play back high resolution images and accompanying sound;

(4) the term "Institute" means the National Institute of Standards and Technology;

(5) the term "Secretary" means the Secretary of Commerce; and

(6) the term "Under Secretary" means the Under Secretary of Commerce for Technology.

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1991".

SEC. 102. STATEMENT OF POLICY.

Congress finds that in order to help United States industries to speed the development of new products and processes so as to maintain the economic competitiveness of the Nation, it is necessary to strengthen the programs and activities of the Department of Commerce's Technology Administration and National Institute of Standards and Technology.

SEC. 103. TECHNOLOGY ADMINISTRATION.

(a) FISCAL YEAR 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $9,700,000 for fiscal year 1992, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $3,700,000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may not be transferred among the line items listed in paragraph (1) (C) and (D) and may not be used except for the purpose stated in each such line item.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1993, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000,000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may not be transferred among the line items listed in paragraph (1) (C) and (D) and may not be used except for the purpose stated in each such line item.

(c) OPERATING COSTS.—Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

(d) REPORT AND CERTIFICATION TO CONGRESS.—By September 30, 1992, the Secretary shall submit to Congress a report which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD-024-0-001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan which includes detailed profit and loss analysis for groups of products and services and for major market segments; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant or equivalent; and

(B) begun taking reasonable steps toward strengthening its accounting system in response to the Inspector General's report described in paragraph (1).

SEC. 104. THE INSTITUTE.

(a) FISCAL YEAR 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $211,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Electronics and Electrical Engineering, $34,000,000.

(B) Manufacturing Engineering, $13,000,000.

(C) Chemical Science and Technology, $21,000,000.

(D) Physics, $27,000,000.

(E) Materials Science and Engineering, $29,000,000.

(F) Building and Fire Research, $11,000,000.

(G) Computer Systems, $15,500,000.

(H) Applied Mathematics and Scientific Computing, $6,500,000.

(I) Technology Assistance, $16,000,000.

(J) Research Support Activities, $38,000,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (d); and

(iii) $6,200,000 are authorized for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the amount authorized under paragraph (1)(J) of this subsection, $7,223,000 are authorized only for the technical competence fund.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $241,495,000 for fiscal year 1993, which shall be available for the following line items:

(A) Electronics and Electrical Engineering, $36,647,000.

(B) Manufacturing Engineering, $18,064,000.

(C) Chemical Science and Technology, $21,585,000.

(D) Physics, $27,302,000.

(E) Materials Science and Engineering, $32,978,000.

(F) Building and Fire Research, $10,972,000.

(G) Computer Systems, $15,991,000.

(H) Applied Mathematics and Scientific Computing, $6,284,000.

(I) Technology Assistance, $20,413,000.

(J) Research Support Activities, $33,532,000.

(K) Additional Initiatives, $17,727,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $10,000,000 are authorized for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the amount authorized under paragraph (1)(J) of this subsection, $7,223,000 are authorized only for the technical competence fund.

(3) In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated to the Secretary for fiscal year 1993 such sums as may be necessary for the renovation and upgrading of the Institute's facilities.

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsections (a)(1) and (b)(1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsections (a)(1) and (b)(1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

(d) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 102 Stat. 1448), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5101 et seq.), this Act contains the complete authorizations of appropriations for the Institute for fiscal years 1992 and 1993.

(e) PILOT PROGRAM.—Pursuant to the authorizations contained in subsections (a)(1)(I) and (b)(1)(I), the Secretary is authorized to pay the Federal share of the cost of establishing and carrying out a standards assistance pilot program under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note) for the purpose of aiding nations that have requested assistance from the United States in developing their standards. As part of that program, the Secretary is authorized to work with appropriate United States and foreign private and public organizations. The Secretary is authorized to expend resources which match the private sector contribution to the program.

(f) CONSTRUCTION OF FACILITIES.—Section 14 of the Act of March 3, 1901 (15 U.S.C. 278d), is amended by striking "herein:" and all that follows, and inserting in lieu thereof "herein.".

(g) FIRE AND BUILDING PROGRAMS.—The fire research and building technology programs of the Institute may be combined for administrative purposes only, and separate budget accounts for fire research and building technology shall be maintained. No later than December 31, 1991, the Secretary, acting through the Director of the Institute, shall report to Congress on the results of the combination, on efforts to preserve the integrity of the fire research and building technology programs, on the long-range basic and applied research plans of the two programs, on procedures for receiving advice on fire and earthquake research priorities from constituencies concerned with public safety, and on the relation between the combined program at the Institute and the United States Fire Administration.

(h) PERSONNEL.—Notwithstanding any other provision of law, the personnel management system for the Institute, established as a demonstration project under section 10 of the National Bureau of Standards Authorization Act for Fiscal Year 1987 (15 U.S.C. 275 note), shall become the permanent personnel management system for the Institute. The Director of the Institute shall carry out all responsibilities to execute and manage the personnel management system.

(i) EDUCATIONAL PROGRAMS.—(1) Section 18 of the Act of March 3, 1901 (15 U.S.C. 278g–1), is amended by striking the period at the end of the first sentence and inserting in lieu thereof ", and to United States citizens for research and technical activities on Institute programs.".

(2) Section 17 of the Act of March 3, 1901 (15 U.S.C. 278g), is amended by adding at the end the following new subsection:

"(d) For any scientific and engineering disciplines for which there is a shortage of suitably qualified and available United States citizens and nationals, the Secretary is authorized to recruit and employ in scientific and engineering fields at the Institute foreign nationals who have been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act and who intend to become United States citizens. Employment of a person under this subsection shall not be subject to the provisions of title 5, United States Code, governing employment in the competitive service, or to any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them.".

SEC. 105. EXTRAMURAL PROGRAMS OF THE INSTITUTE.

(a) FISCAL YEAR 1992.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the Act of March 3, 1901 (15 U.S.C. 278k, 278l, and 278n), $137,500,000 for fiscal year 1992, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $110,000,000.

(b) FISCAL YEAR 1993.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the Act of March 3, 1901 (15 U.S.C. 278k, 278l, and 278n), $185,000,000 for fiscal year 1993, which shall be available for the following line item:

(1) Regional Centers for the Transfer of Manufacturing Technology and Satellite Manufacturing Centers, $35,000,000.

(2) State Technology Extension Program, $10,000,000.

(3) Advanced Technology Program, $140,000,000.

(c) LIMITATION.—No funds are authorized under this section for any project under the extramural programs of the Institute which have not been competitively reviewed through merit review processes.

(d) AMENDMENTS TO EXTENSION ACTIVITIES.—(1) Section 25(c)(5) of the Act of March 3, 1901 (15 U.S.C. 278k(c)(5)), is amended by inserting immediately before the period at the end the following: ", except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director".

(2) Section 25(d) of the Act of March 3, 1901 (15 U.S.C. 278k(d)), is amended to read as follows:

"(d) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support Centers. Any Center which is supported with funds which originally came from other Federal departments and agencies shall be selected and operated according to the provisions of this section.".

(3) Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278l note) is amended by striking paragraph (5).

(e) ADVISORY COMMITTEE.—Section 5142(f) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4632(f)) is amended by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993".

SEC. 106. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal years 1992 and 1993 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 107. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 108. REPORT ON FACILITIES NEEDS.

By March 1, 1992, the Director of the Institute shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on what renovations and upgrades of Institute facilities are necessary over the next decade. The report shall include a ranking of facilities needs in order of priority, an estimate of costs, and the Director's plan for meeting these needs.

SEC. 109. BUY-AMERICAN PROVISIONS.

(a) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this Act may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harms to United States businesses, as identified by the President pursuant to subsection (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with such section 305.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or a Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of Commerce, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(c) BUY-AMERICAN REQUIREMENT.—(1) The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(2) This subsection shall not apply to the extent that—

(A) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This action shall apply only to contracts made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this subsection—

(A) entered into with foreign firms pursuant to a determination made under paragraph (2); and

(B) awarded to domestic firms pursuant to paragraph (1), in fiscal years 1991 and 1992.

(5) For purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGIES RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technologies and Advanced Technology Program Amendments Act of 1991".

(b) FINDINGS AND PURPOSES.—(1) The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the ability of the United States to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) the Department of Commerce has reported that the United States is losing or losing badly, relatively to Japan and Europe, in many important emerging technologies and risks losing much of the $350 billion United States market and $1 billion world market expected to develop by the year 2000 for products based on emerging technologies;

(D) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(E) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(F) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacturing in fields such as high-resolution information systems, advanced manufacturing, and advanced materials; and

(G) the Advanced Technology Program, established under section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as high-resolution information systems, advanced manufacturing technology, and advanced materials, and can help encourage United States industry to work together on problems of mutual concern.

(2) The purposes of this section are—

(A) to strengthen the Advanced Technology Program created under section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), and to provide improved guidelines for the allocation of Advanced Technology Program funds appropriated under the authorizations contained in section 105 of this Act;

(B) to promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(C) to improve the competitive position of United States industry by supporting industry-led research and development projects in areas of emerging technology which have substantial potential to advance the economic well-being and national security of the United States, such as high-resolution information systems, advanced manufacturing technology, and advanced materials; and

(D) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation.

(c) ADVANCED TECHNOLOGY PROGRAM.—(1) Section 28(a) of the Act of March 3, 1901 (15 U.S.C. 278n(a)), is amended by adding at the end the following new sentence: "In operating the Program, the Secretary and Director shall, as appropriate, be guided by the findings and recommendations of the Biennial National Critical Technology Reports prepared pursuant to section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683).".

(2) Section 28(b)(1) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(1)), is amended by inserting "industry-led" immediately after "aid".

(3) Section 28(b)(1)(B) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(1)(B)), is amended by inserting "by means of grants, cooperative agreements, or contracts" immediately after "such joint ventures".

(4) Section 28(b)(2) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(2)), is amended to read as follows:

"(2) provide grants to and enter into contracts and cooperative agreements with United States businesses (especially small businesses), provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;".

(5) Section 28(d)(2) of the Act of March 3, 1901 (15 U.S.C. 278n(d)(2)), is amended to read as follows:

"(2) In the case of joint ventures, the Program shall not make an award unless the award will facilitate the formation of a joint venture or the initiation of a new research and development project by an existing joint venture.".

(6) Section 28(d) of the Act of March 3, 1901 (15 U.S.C. 278n(d)(7)), is amended—

(A) by striking paragraph (7);

(B) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively; and

(C) by adding at the end the following new paragraphs:

"(9) A company shall be eligible to receive financial assistance under this section only if—

"(A) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(10) Grants, contracts, and cooperative assignments under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary the requisite ability in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.

"(11)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.".

(7) Section 28(e) of the Act of March 3, 1901 (15 U.S.C. 278n(e)), is amended to read as follows:

"(e) The Secretary may, within 30 days after notice to Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to satisfy any of the criteria set forth in subsection (d)(9), and that it is in the national interest of the United States to do so.".

(8) Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), is amended by adding at the end the following new subsections:

"(f) When reviewing private sector requests for awards under the Program, and when monitoring the progress of assisted research projects, the Secretary and the Director shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary and the Director are authorized to work with the Director of the Office of Science and Technology Policy, the Secretary of Defense, and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(g) In order to analyze the need for the value of joint ventures and other research projects in specific technical fields, to evaluate any proposal made by a joint venture or company requesting the Secretary's assistance, or to monitor the progress of any joint venture or any company research project which receives Federal funds under the Program, the Secretary, the Under Secretary of Commerce for Technology, and the Director may, notwithstanding any other provision of law, meet with such industry sources as they consider useful and appropriate.

"(h) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development and technical activities by the Institute in support of the purposes of this section.

"(i) In addition to such sums as may be authorized and appropriated to the Secretary and

Director to operate the Program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support awards under the Program. Any Program award which is supported with funds which originally came from other Federal departments and agencies shall be selected and carried out according to the provisions of this section.

"(j) As used in this section—

"(1) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative finding or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture;

"(2) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States; and

"(3) the term 'foreign-owned company' means a company other than a United States-owned company.".

(d) EFFECTIVE DATE.—The amendments in subsection (c) of this section shall take effect immediately upon enactment; however, those amendments shall not apply to applications submitted in response to any Federal Register Invitation for Proposals dated prior to the date of enactment of this Act, or awards or other assistance granted pursuant to that notice.

(e) MANAGEMENT COSTS.—Section 2 of the Act of March 3, 1901 (15 U.S.C. 272), is amended by adding at the end the following new subsection:

"(d) In carrying out the extramural funding programs of the Institute, including the programs established under sections 25, 26, and 28 of this Act, the Secretary may retain reasonable amounts of any funds appropriated pursuant to authorizations for these programs in order to pay for the Institute's management of these programs.".

(f) COMPREHENSIVE REPORT.—The Secretary shall, not later than 4 years after the date of enactment of this Act, submit to each House of Congress and the President a comprehensive report on the results of the Advanced Technology Program established under section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), including activities in the areas of high-resolution information systems, advanced manufacturing technology, and advanced materials.

(g) COMMERCE DEPARTMENT REPORTS ON SEMATECH.—Section 273(c)(4) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603(c)(4)) and section 5422(a) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4603(a)) are each amended by striking "Economic Affairs" and inserting in lieu thereof "Technology".

TITLE III—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

Section 11(e)(7)(B)(ii) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)(B)(ii)) is amended by striking "1987, 1988, 1989, 1990, or 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, or 1996".

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) PROVISION OF INTELLECTUAL PROPERTY.—Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," immediately after "equipment," both places it appears.

(b) REPORT.—Within 6 months after the date of enactment of this Act, the Secretary shall report to Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of funds.

SEC. 303. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" immediately after "of such title".

SEC. 304. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out responsibilities under this Act.".

SEC. 305. UNDER SECRETARY.

Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(2) by inserting immediately after paragraph (12) the following new paragraph:

"(13) serve as a focal point for discussions among United States companies, trade associations, and labor unions on topics of interest to industry and labor, including discussions regarding issues of manufacturing and emerging technologies;".

TITLE IV—STUDIES AND REPORTS

SEC. 401. HIGH-RESOLUTION INFORMATION SYSTEMS ADVISORY BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a High-Resolution Information Systems Advisory Board (hereafter in this section referred to as the "Board") to monitor and, as appropriate, foster the development of United States-based high-resolution information system industries.

(b) FUNCTIONS.—The Board shall—

(1) collect and analyze information on the range of factors which will determine whether United States-based high-resolution information systems industries will develop and become competitive, including such factors as technology policies, specialized financial problems, international standards and foreign trade practices, Federal regulations and procurement policies, and licensing practices;

(2) identify areas where appropriate cooperation between the Federal Government and the private sector, including Government support for industry-led joint research and development ventures, would enhance United States industrial competitiveness in this area, and provide advice and guidance for such cooperative efforts;

(3) provide guidance on what Federal policies and practices, particularly in such areas as procurement and the transfer of federally-funded research, are necessary to help establish United States-based high-resolution information systems industries;

(4) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies in the field of high-resolution information systems into commercial products; and

(5) generally develop recommendations for guiding Federal agency activities related to the development of United States-based high-resolution information systems industries.

(c) MEMBERSHIP AND PROCEDURES.—(1)(A) The Board shall be composed of 13 members, seven of whom shall constitute a quorum.

(B) The Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Director of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(C) The President, acting through the Director of the Office of Science and Technology Policy, within 90 days after the date of enactment of this Act, shall appoint as additional members of the Board—

(i) five members from the private electronics manufacturing sector, drawn from such sectors as semiconductors, display equipment, computers, consumer electronics, and telecommunications, with one member also representing labor;

(ii) three members from the private nonmanufacturing sector, including one representative from the transmission delivery systems sector and two representatives drawn from such areas as the software industry, the entertainment industry, and the investment community; and

(iii) one member from academia.

At least one member appointed under this paragraph shall be from small business.

(2) The Director of the Office of Science and Technology Policy or the Director's designee shall chair the Board.

(3) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(4) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(5) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) The Board shall submit to the President and Congress a report of its activities once every year after its establishment.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

SEC. 402. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end of title II the following new section:

"MAJOR SCIENCE AND TECHNOLOGY PROPOSALS

"SEC. 209. The Director shall identify and provide an annual report to Congress on each major multinational science and technology project, in which the United States is not a participant, which has a total estimated cost greater than $1,000,000,000.".

SEC. 403. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

(a) EMERGING CIVILIAN TECHNOLOGIES.—Section 603(a) of the National Science and Technology Policy, Organization, and Priorities Act *of 1976 (42 U.S.C. 6683(a)) is amended by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from those emerging civilian technologies" immediately after "may not exceed 30".*

(b) PANEL DETERMINATION.—Section 603(b) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6883(b)) is amended by striking "national security and" inserting in lieu thereof "national security or".

(c) COMPARISON OF TECHNOLOGY BASES.—Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683) is amended by redesignating subsection (d) as subsection (e) and by inserting immediately after subsection (c) the following new subsection:

"(d) Each such report shall include—

"(1) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 404. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, shall establish a Commission on Technology and Procurement (hereafter in this section referred to as the "Commission"), for the purposes of analyzing the effect of Federal Government procurement laws, procedures, and policies on the development of advanced technologies within the United States and making recommendations on how Federal policy could be changed to promote further the development of advanced technologies.

(b) ISSUES.—The Commission shall address the following issues:

(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and in initial market penetration for new technologies?

(2) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

(3) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

(4) How can the Federal Government ensure that its suppliers adopt the principles embodied in the Malcolm Baldrige National Quality Award?

(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commercial basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the Institute in such an effort?

(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 15 members, eight of whom shall constitute a quorum.

(2) The Secretary, the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, shall serve as members of the Commission.

(3) The Secretary, with the concurrence of the Administrator of the Office of Federal Procurement Policy, shall appoint as members of the Commission, from among individuals not employed by the Federal Government—

(A) four members who are eminent in advanced technology businesses representing manufacturing and services industries, including at least one member representing labor;

(B) three members who are eminent in the fields of technology and international economic development; and

(C) three members who are eminent in the fields of Federal Government procurement.

(4) The Secretary shall appoint a Commission chairman from among the members of the Commission. The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(5) The Secretary and the Administrator of the Office of Federal Procurement Policy shall provide such staff as may be required by the Commission to carry out its responsibilities.

(6) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(d) REPORTS.—(1) The Commission shall, within 1 year after the date of enactment of this Act, submit to the Secretary, the Administrator of the Office of Federal Procurement Policy, the President, and Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

(2) The Commission shall, within 2 years after the date of enactment of this Act, submit to the Secretary and Congress a final report containing final recommendations with respect to the issues addressed under subsection (b).

(e) CONSULTATION.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992, 1993, and 1994.

SEC. 405. REPORT ON INFORMATION COLLECTION AND DISSEMINATION.

(a) REPORT.—Within 270 days after the date of enactment of this Act, the Secretary shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authoritative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Under Secretary and the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the Institute, and with representatives of the public, for their views on the optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for establishing and operating FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

(b) FUNDING.—The Director of the National Technical Information Service may retain and use all monies received, including receipts, revenues, and advanced payments and deposits, to fund obligations and expenses, including capital equipment and inventory, through the end of fiscal year 1993.

(c) ELECTRONIC FORMAT.—Section 212(e)(5) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(e)(5)) is amended by inserting ", including the production and dissemination of information products in electronic format" immediately after "engineering information".

SEC. 406. STUDY OF TESTING AND CERTIFICATION.

(a) CONTRACT WITH NATIONAL RESEARCH COUNCIL.—Within 90 days after the date of enactment of this Act and within available appropriations, the Secretary shall enter into a contract with the National Research Council for a thorough review of international product testing and certification issues. The National Research Council will be asked to address the following issues and make recommendations as appropriate:

(1) the impact on United States manufacturers, testing and certification laboratories, certification organizations, and other affected bodies of the European Community's plans for testing and certification of regulated and non-regulated products of non-European origin;

(2) ways for United States manufacturers to gain acceptance of their products in the European Community and in other foreign countries and regions;

(3) the feasibility and consequences of having mutual recognition agreements between testing and certification organizations in the United States and those of major trading partners on the accreditation of testing and certification laboratories and on quality control requirements;

(4) information coordination regarding product acceptance and conformity assessment mechanisms between the United States and foreign governments; and

(5) the appropriate Federal, State, and private roles in coordination and oversight of testing, certification, accreditation, and quality control to support national and international trade.

(b) MEMBERSHIP.—In selecting the members of the review panel, the National Research Council shall consult with and draw from, among others, laboratory accreditation laboratories and organizations, Federal and State government agencies involved in testing and certification, professional societies, trade associations, small business, and labor organizations.

(c) REPORT.—A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President,

and Congress within 18 months after the Secretary signs the contract with the National Research Council.

SEC. 407. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than 120 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly—

(1) analyze recent steps to use the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in several other Federal departments and agencies which fund research and development; and

(2) examine the feasibility and advisability of using that Program as a model for Federal research and development agencies which do not currently have similar programs.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 408. INTERAGENCY COORDINATION.

The Secretary shall, within 180 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate, and to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high-resolution information systems, including research and development activities.

AMENDMENT NO. 1459

(Purpose: To make an amendment in the nature of a substitute)

Mr. FORD. Mr. President, on behalf of Senator HOLLINGS, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. HOLLINGS, proposes an amendment numbered 1459:

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE

This Act may be cited as the "American Technology Preeminence Act of 1991".

SEC. 2. DEFINITIONS.

As used in the Act—

(1) the term "high-resolution information systems" means equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound;

(2) the term "advanced manufacturing technology" means numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and othe technology for improving manufacturing and industrial processes;

(3) the term "advanced materials" means a field of research including the study of composites, ceramics, metals, polymers, superconducting materials, materials produced through biotechnology, and materials production technologies, including coated systems, that provide the potential for significant advantages over existing materials;

(4) the term "Institute" means the National Institute of Standards and Technology'

(5) the term "Secretary" means the Secretary of Commerce; and

(6) the term "Under Secretary" means the Under Secretary of Commerce for Technology.

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1991".

SEC. 102. STATEMENT OF POLICY.

Congress finds that in order to help United States industries to speed the development of new products and processes so as to maintain the economic competitiveness of the Nation, it is necessary to strengthen the programs and activities of the Department of Commerce's Technology Administration and National Institute of Standards and Technology.

SEC. 103. TECHNOLOGY ADMINISTRATION.

(a) FISCAL YEAR 1992—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000.000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may be transferred among the line items listed in paragraoh (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1993, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000,000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Informtion Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item to not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(c) OPERATING COSTS.—Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

(d) REPORT AND CERTIFICATION TO CONGRESS.—Within 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD-024-0-001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan for the National Technical Information Service which includes detailed profit and loss analysis for groups of products and services and for major market segments; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant or equivalently experienced accountant with experience in the dissemination of scientific and technical information; and

(B) begun taking reasonable steps toward strengthening its accounting system in response to the Inspector General's report described in paragraph (1).

(e) TECHNICAL AMENDMENT.—Section 5422(a) of the Omnibus Trade and competitiveness Act of 1988 (15 U.S.C. 4603a(a)) and section 273(c)(4) of the National Defense Authorization Act for Fiscal years 1988 and 1989 (15 U.S.C. 4603(c)(4)) are each amended by striking "Economic Affairs" and inserting in lieu thereof "Technology".

SEC. 104. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) FISCAL YEAR 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $210,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $33,700,000.

(B) Manufacturing Engineering, $13,500,000.

(C) Chemical Science and Technology, $22,000,000.

(D) Physics, $27,000,000.

(E) Materials Science and Engineering, $30,000,000.

(F) Building and Fire Research, $12,300,000.

(G) Computer Systems, $16,000,000.

(H) Applied Mathematics and Scientific Computing, $6,500,000.

(I) Technology Assistance, $11,000,000.

(J) Research Support Activities, $38,000,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $2,700,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,565,000 are authorized only for the technical competence fund.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $221,200,000 for fiscal year 1993, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $36,000,000.

(B) Manufacturing Engineering, $16,000,000.

(C) Chemical Science and Technology, $22,500,000.

(D) Physics, $28,700,000.

(E) Materials Science and Engineering, $39,400,000.

(F) Building and Fire Research, $12,000,000.

(G) Computer Systems $20,600,000.

(H) Applied Mathematics and Scientific Computing, $6,300,000.

(I) Technology Assistance, $10,800,000.

(J) Research Support Activities, $25,000,000.

(K) Pay Raise, $3,900,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $5,000,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,223,000 are authorized only for the technical competence fund.

(3) In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated to the Secretary for fiscal year 1993 $34,800,000 for the renovation and upgrading of the Institute's facilities.

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a)(1) and among the line items listed in subsection (b)(1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a)(1) or subsection (b)(1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

(d) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 102 Stat. 1448), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5101 et seq.), this Act contains the complete authorizations of appropriations for the Institute for fiscal years 1992 and 1993. This subsection shall not limit the authority of the Institute to accept funds appropriated to any other Federal agency or to perform work for others.

(e) PILOT PROGRAM.—Pursuant to the authorizations contained in subsections (a)(1)(I) and (b)(1)(I), the Secretary is authorized to pay the Federal share of the cost of establishing and carrying out a standards assistance pilot program under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note). The purpose of the pilot program is to assist a country or countries that have requested assistance from the United States in the development of comprehensive industrial standards by providing the continuous presence of United States personnel on-site for a period of 2 or more years to provide such assistance and by providing, as necessary, additional technical support from within the Institue. Such funds shall be made available for such purpose only to the extent that matching funds are received by the National Institute of Standards and Technology from sources outside the Federal Government.

(f) CONSTRUCTION OF FACILITIES.—Section 14 of the National Institute of Standards and Technology Act (15 U.S.C. 278d) is amended by striking "herein" and all that follows, and inserting in lieu thereof "herein.".

(g) FIRE AND BUILDING PROGRAMS.—The fire research and building technology programs of the Institute may be combined for administrative purposes only, and separate budget accounts for fire research and building technology shall be maintained. No later than December 31, 1992, the Secretary, acting through the Director of the Institute, shall report to Congress on the results of the combination, on efforts to preserve the integrity of the fire research and building technology programs, on the long-range basic and applied research plans of the two programs, on procedures for receiving advice on fire and earthquake research priorities from constituencies concerned with public safety, and on the relation between the combined program at the Institute and the United States Fire Administration.

(h) EDUCATIONAL PROGRAMS.—(1) Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-1)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof ", and to United States citizens for research and technical activities on Institute programs.".

(2) Section 17 of the National Institute of Standards and Technology Act (15 U.S.C. 278g) is amended by adding at the end the following new subsection:

"(d) For any scientific and engineering disciplines for which there is a shortage of suitably qualified and available United States citizens and nationals, the Secretary is authorized to recruit and employ in scientific and engineering fields at the Institute foreign nationals who have been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act and who intend to become United States citizens. Employment of a person under this pragraph shall not be subject to the provisions of title 5, United States Code, governing employment in the competitive service, or to any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them.".

(i) CORE PROGRAM FUNDING.—It is the sense of the Congress that the intramural scientific and technical research and services activities of the National Institute of Standards and Technology should share fully in any funding increases provided to the Institute.

SEC. 105. EXTRAMURAL PROGRAMS OF THE INSTITUTE.

(a) FISCAL YEAR 1992.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 2781, and 278n), $217,500,000 for fiscal year 1992, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $100,000,000.

(b) FISCAL YEAR 1993.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 2781, and 278n), $127,500,000 for fiscal year 1993, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology and Satellite Manufacturing Centers, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $100,000,000.

(c) LIMITATION.—No funds are authorized under this section for any project under the extramural programs of the Institute which have not been competitively reviewed through the merit review processes required by the National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.).

(d) AMENDMENTS TO EXTENSION PROGRAM.—Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note) is amended by striking paragraph (5).

(e) AMENDMENTS TO EXTENSION ACTIVITIES.—(1) Section 25(c)(6) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(6)) is amended by inserting before the period at the end the following: "except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director".

(2) Section 25(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(d)) is amended to read as follows:

"(d) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support Centers. Any Center which is supported with funds which originally came from other Federal departments and agencies shall be selected and operated according to the provisions of this section.".

(f) ADVISORY COMMITTEE.—Section 5142(f) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4632(f)) is amended by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993".

SEC. 106. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal years 1992 and 1993 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 107. METRIC AMENDMENT.

(a) The Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) is amended—

(1) in sections 4(a)(2), (4), and (5), 4(b), and 5(c)(1), by striking "weight" and inserting in lieu thereof "weight or mass";

(2) in sections 4(a)(5) and 5(d), by striking "weights" and inserting in lieu thereof "weights or masses";

(3) in section 4(a)(2), by inserting ", using the most appropriate units of the SI metric system as the primary system for measuring quantity" after "panel of that label"; and

(4) in section 4(a)(3)(A)—

(A) by striking "containing" and inserting in lieu thereof "that also displays the avoirdupois system of measure, and that contains" in clause (i);

(B) by striking "that also displays the avoirdupois system of measure" after "random package" in clause (ii);

(C) by inserting "that also displays the avoirdupois system of measure" after "linear measure" in clause (iii); and

(D) by inserting "that also displays the avoirdupois system of measure" after "measure of area" in clause (iv).

(b) This section shall take effect 2 years after the date of enactment of this Act.

SEC. 108. TRANSFER OF FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION.

(a) TRANSFER.—The head of each Federal executive department or agency shall transfer in a timely manner to the National Technical Information Service unclassified scientific, technical, and engineering information which results from federally funded research and development activities for dissemination to the private sector, academia, State and local governments, and Federal agencies. Only information which would otherwise be available for public dissemination shall be transferred under this subsection. Such information shall include technical reports and information, computer software, application assessments generated pursuant to section 11(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(c)), and information regarding training technology and other federally owned or originated technologies. The Secretary shall issue regulations within one year after the date of enactment of this Act outlining procedures for the ongoing transfer of such information to the National Technical Information Service.

(b) ANNUAL REPORT TO CONGRESS.—As part of the annual report required under section 212(f)(3) of the National Technical Information Act of 1988, the Secretary shall report to Congress on the status of efforts under this section to ensure access to Federal scientific and technical information by the public. Such report shall include—

(1) an evaluation of the comprehensiveness of transfers of information by each Federal executive department or agency under subsection (a);

(2) a description of the use of Federal scientific and technical information;

(3) plans for improving public access to Federal scientific and technical information; and

(4) recommendations for legislation necessary to improve public access to Federal scientific and technical information.

SEC. 109. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 110. REPORT ON FACILITIES NEEDS.

By March 1, 1992, the Director of the Institute shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on what renovations and upgrades of Institute facilities are necessary over the next decade. The report shall include a ranking of facilities needs in order of priority, an estimate of costs, and the Director's plan for meeting these needs.

SEC. 111. BUY-AMERICAN PROVISIONS.

(a) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harms to United States businesses, and identified by the President pursuant to subsection (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with such section 305.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or a Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of Commerce, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(c) BUY-AMERICAN REQUIREMENT.—(1) The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(2) This subsection shall not apply to the extent to which—

(A) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This subsection shall apply only to contracts made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this subsection—

(A) entered into with foreign firms pursuant to a determination made under paragraph (2) of this subsection; and

(B) awarded to domestic firms pursuant to paragraph (1) of this subsection, in fiscal years 1991 and 1992.

(5) For purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGIES RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technologies and Advanced Technology Program Amendments Act of 1991".

(b) FINDINGS AND PURPOSES.—(1) The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the ability of the United States to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) the Department of Commerce has reported that the United States is losing or losing badly, relative to Japan and Europe, in many important emerging technologies and risks losing much of the $350 billion United States market and $1 trillion world market expected to develop by the year 2000 for products based on emerging technologies;

(D) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(E) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no single company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(F) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacturing in fields such as high-resolution information systems, advanced manufacturing, and advanced materials; and

(G) the Advanced Technology Program, established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as high-resolution information systems, advanced manufacturing technology, and advanced materials, and can help encourage United States industry to work together on problems of mutual concern.

(2) The purposes of this section are—

(A) to strengthen the Advanced Technology Program created under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), and to provide improved guidelines for the allocation of Advanced Technology Program funds appropriated under the authorizations contained in section 105 of this Act;

(B) to promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(C) to improve the competitive position of United States industry by supporting industry-led research and development projects in areas of emerging technology which have substantial potential to advance the economic well-being and national security of the United States, such as high-resolution information systems, advanced manufacturing technology, and advanced materials; and

(D) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation.

(c) ADVANCED TECHNOLOGY PROGRAM.—(1) Section 28(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(a)), is amended by adding at the end the following new sentence: "In operating the Program, the Secretary and Director shall, as appropriate, be guided by the findings and recommendations of the Biennial National Critical Technology Reports prepared pursuant to section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683)."

(2) Section 28(b)(1) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(1)), is amended by inserting "industry-led" immediately after "aid".

(3) Section 28(b)(1)(B) of the Act of March 3, 1901 (15 U.S.C. 278n(b)(1)(B)), is amended by inserting "by means of grants, cooperative agreements, or contracts" immediately after "such joint ventures".

(4) Section 28(b)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(2)), is amended to read as follows:

"(2) provide grants to and enter into contracts and cooperative agreements with United States businesses (especially small businesses), provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;".

(5) Section 28(d)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(2)), is amended to read as follows:

"(2) In the case of joint ventures, the Program shall not make an award unless the award will facilitate the formation of a joint venture or the initiation of a new research and development project by an existing joint venture.".

(6) Section 28(d) of the Act of National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(7)), is amended—

(A) by striking paragraph (7);

(B) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively; and

(C) by adding at the end the following new paragraphs:

"(9) A company shall be eligible to receive financial assistance under this section only if—

"(A) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded by any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(10) Grants, contracts, and cooperative assignments under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary the requisite ability in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.

"(11)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.".

(7) Section 28(e) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(e)), is amended to read as follows:

"(e) The Secretary may, within 30 days after notice to Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to satisfy any of the criteria set forth in subsection (d)(9), and that it is in the national interest of the United States to do so.".

(8) Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), is amended by adding at the end the following new subsections:

"(f) When reviewing private sector requests for awards under the Program, and when monitoring the progress of assisted research projects, the Secretary and the Director shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary and the Director are authorized to work with the Director of the Office of Science and Technology Policy, the Secretary of Defense, and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(g) In order to analyze the need for the value of joint ventures and other research projects in specific technical fields, to evaluate any proposal made by a joint venture or company requesting the Secretary's assistance, or to monitor the progress of any joint venture or any company research project which receives Federal funds under the Program, the Secretary, the Under Secretary of Commerce for Technology, and the Director may, notwithstanding any other provision of law, meet with such industry sources as they consider useful and appropriate.

"(h) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development and technical activities by the Institute in support of the purposes of this section.

"(i) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support awards under the Program. Any Program award which is supported with funds which originally came from other Federal departments and agencies shall be selected and carried out according to the provisions of this section.

"(j) As used in this section—

"(1) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative finding or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture; and

"(2) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States."

(d) EFFECTIVE DATE.—The amendments in subsection (c) shall take effect immediately upon enactment; however, the amendments shall not apply to applications submitted before the date of enactment of this Act.

(e) MANAGEMENT COSTS.—Section 2 of the National Institute of standards and Technology Act (15 U.S.C. 272) is amended by adding at the end thereof the following new subsection:

"(d) In carrying out the extramural funding programs of the Institute, including the programs established under section 25, 26, and 28 of this Act, the Secretary may retain reasonable amounts of any funds appropriated pursuant to authorizations for these programs in order to pay for the Institute's management of these programs.".

(f) COMPREHENSIVE REPORT.The Secretary shall, not later than 4 years after the date of enactment of this Act, submit to each House of the Congress and the President a comprehensive report on the results of the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology act (15 U.S.C. 278n), including any activities in the areas of high-resolution information systems, advanced manufacturing technology, and advanced materials.

TITLE III—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

(a) Section 11(e)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(2)) is amended by inserting "senior" after "Consortium and a".

(b) Section 11 (e)(6) of the Stevenson—Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(6)) is amended by adding at the end the following: "Such report shall include an annual independent audit of the financial statements of the Consortium, conducted in accordance with generally accepted accounting principles.".

(c) Section 11(e)(7)(B)(ii) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)(B)(ii)) is amended by striking "or 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, or 1996".

(d) Section 11(e)(8) of the Stevenson—Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(8)) is repealed.

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," after "equipment," both places it appears.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of fund.

SEC. 303. RESEARCH EQUIPMENT.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended by adding at the end the following new subsection:

"(i) RESEARCH EQUIPMENT.—The Director of a laboratory, or the head of any Federal agency or department, may give research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. Title of ownership shall transfer with a gift under the section.".

SEC. 304. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" after "of such title".

SEC. 305. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out responsibilities under this Act.".

SEC. 306. UNDER SECRETARY.

Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) serve as a focal point for discussions among United States companies on topics of interest to industry and labor, including discussions regarding manufacturing and discussions regarding emerging technologies;".

TITLE IV—NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

SEC. 401. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the "Commission"), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investments in research, the development of new process and product technologies, and the production of those technologies.

(b) ISSUES.—The function of the Commission shall be to address the following issues:

(1) How has the overall cost of capital paid by United States companies differed during the past decade from that paid by companies in other industrial economies such as Germany, Japan, and the United Kingdom?

(2) To what extent has the cost of capital faced by technology companies differed from the overall cost of capital in each of these nations during the same period?

(3) To what extent do high capital costs in general inhibit investment in projects with long-term payoffs, such as the development and commercialization of new technology?

(4) To what extent does the structure of the financial services industry in the United States affect the flow of capital to advanced technology investment, and to what extent do current practices in the equity markets raise the cost of capital and inhibit the availability of capital to fund research and development, purchase advanced manufacturing equipment, and fund other investments necessary to commercialize advanced technology?

(5) In what ways do Government regulations influence the cost of capital in the United States?

(6) To what extent have national differences in capital costs facilitated the foreign acquisition of technology-based United States companies?

(7) What macroeconomic and other policies would promote greater investment in advanced manufacturing techniques, in research and development, and in other activities necessary to commercialize and produce now technologies?

(8) What specific policies should the Federal Government follow in order to reduce the cost of capital for United States companies to levels that are near parity with those faced by the Nation's principal trading partners?

(c) MEMBERSHIP.—(1) The Commission shall be composed of 9 members who are eminent in such fields as advanced technology, manufacturing, finance, and international economics and who are appointed as follows:

(A) 3 individuals appointed by the President, one of whom shall chair the Commission.

(B) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(C) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(2) Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PROCEDURES.—(1) The Chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(2) Recommendations of the Commissions shall require the approval of three-quarters of the members of the Commission.

(3) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

(4) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) REPORTS.—The Commission shall, within 1 year after the date of enactment of this Act, submit to the President and Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

(f) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Technology and Procurement established by section 505 of this Act.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (e).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

TITLE V—STUDIES AND REPORTS

SEC. 501. HIGH-RESOLUTION INFORMATION SYSTEMS ADVISORY BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Directory of the Office of Science and Technology Policy shall establish within that office a High-Resolution Information Systems Advisory Board (hereafter in this section referred to the "Board") to monitor and, as appropriate, foster the development of United States-based high-resolution information systems industries.

(b) DEFINITION.—As used in this title, the term "high-resolution information systems" means the equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound.

(c) FUNCTIONS.—The board shall—

(1) collect and analyze information on the range of factors which will determine whether United States-based high-resolution information systems industries will develop and become competitive, including such factors as technology policies, specialized financial problems, international standards and foreign trade practices, Federal regulations and procurement policies, and licensing practices;

(2) identify areas where appropriate cooperation between the Federal Government

and the private sector, including Government support for industry-led joint research and development ventures, would enhance United States industrial competitiveness in this area, and provide advice and guidance for such cooperative efforts;

(3) provide guidance on what Federal policies and practices, particularly in such areas as procurement and the transfer of federally-funded research, are necessary to help establish United States-based high-resolution information systems industries;

(4) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies in the field of high-resolution information systems into commercial products; and

(5) generally develop recommendations for guiding Federal agency activities related to the development of United States-based high-resolution information systems industries.

(d) MEMBERSHIP AND PROCEDURES.—(1)(A) The Board shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Director of the Office of Science and Technology Policy, the Secretary, the Directory of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(C) The President, acting through the Director of the Office of Science and Technology Policy, within 90 days after the date of enactment of this Act, shall appoint as additional members of the Board—

(i) 5 members from the private electronics manufacturing sector, drawn from such sectors as semiconductors, display equipment, computers, consumer electronics, and telecommunications, with 1 member also representing labor;

(ii) 3 members from the private nonmanufacturing sector, including 1 representative from the transmission delivery the software industry, the entertainment industry, and the investment community; and

(iii) 1 member from academia.

At least 1 member appointed under this subparagraph shall be from small business.

(2) The Director of the Office of Science and Technology Policy or the Director's designee shall chair the Board.

(3) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(4) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(5) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) The Board shall submit a report of its activities once every year after its establishment to the President, the Committees on Science, Space, and Technology and on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(e) LIMITATION ON FUNCTIONS.—Nothing in this section or any other provision of this Act shall be construed—

(1) to authorize the Board to investigate or provide advice or guidance with respect to standards or other regulations or policies related to the transmission, delivery, or receipt of broadcast television or cable television signals subject to regulation by the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(2) to limit, modify, or affect in any manner the authorities, functions, or responsibilities of the Federal Communications Commission or the National Telecommunications and Information Administration.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

SEC. 502. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended by adding at the end of title II the following new section:

"MAJOR SCIENCE AND TECHNOLOGY PROPOSALS

"SEC. 209. The Director shall identify and provide an annual report to Congress on each major multinational science and technology project, in which the United States is not a participant, which has a total estimated cost greater than $1,000,000,000.".

SEC. 503. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683) is amended—

(1) in subsection (a), by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies" after "may not exceed 30";

(2) in subsection (b), by striking "national security and" and inserting in lieu thereof "national security or";

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) Each such report shall include—

"(1) an identification of the types of research and development needed to close any significant gaps of deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 504. CRITICAL INDUSTRIES.

(a) IDENTIFICATION OF INDUSTRIES AND DEVELOPMENT OF PLAN.—The Secretary shall—

(1) identify those civilian industries in the United States that are necessary to support a robust manufacturing infrastructure and critical to the economic security of the United States; and

(2) list the major research and development initiatives being undertaken, and the substantial investments being made, by the Federal Government, including its research laboratories, in each of the critical industriews indentified under paragraph (1).

(b) INITIAL REPORT.—The Secretary shall submit a report to the Congress within 1 year after the date of enactment of this Act on the actions taken under subsection (a).

(c) ANNUAL UPDATES.—The Secretary shall annually submit to the Congress an update of the report submitted under subsection (b). Each such update shall—

(1) describe that status of each identified critical industry, including the advances and declines occurring since the most recent report; and

(2) identify any industries that should be added to the list of critical industries.

SEC. 505. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, shall establish a Commission on Technology and Procurement (hereafter in this section referred to as the "Commission"), for the purposes of analyzing the effect of Federal Government procurement laws, procedures, and policies on the development of advanced technologies within the United States and making recommendations on how Federal policy could be changed to promote further the development of advanced technologies.

(b) ISSUES.—The Commission shall address the following issues:

(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and initial market penetration for new technologies?

(2) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

(3) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

(4) How can the Federal Government ensure that its supplies adopt the principles embodied in the Malcolm Baldrige National Quality Award?

(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commerical basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the Institute in such an effort?

(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 15 members, 8 of whom shall constitute a quorum.

(2) The Secretary, the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, shall serve as members of the Commission.

(3) The Secretary shall appoint as members of the Commission, from among individuals not employed by the Federal Government—

(A) 4 members who are eminent in advanced technology business representing manufacturing and services industries, including at least 1 member representing labor;

(B) 3 members who are eminent in the fields of technology and international economic development; and

(C) with the concurrence of the Administrator of the Office of Federal Procurement Policy, 3 members who are eminent in the field of Federal Government procurement.

(4) The Secretary shall appoint a Commission chairman from among the members of the Commission. The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(5) The Secretary and the Administrator of the Office of Federal Procurement Policy shall provide such staff as may be required by the Commission to carry out its responsibilities.

(6) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(d) Reports.—(1) The Commission shall, within 1 year after the date of enactment of this Act, submit to the Secretary, the Administrator of the Office of Federal Procurement Policy, the President, and Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

(2) The Commission shall, within 2 years after the date of enactment of this Act, submit to the Secretary and Congress a final report containing final recommendations with respect to the issues addressed under subsection (b).

(e) Consultation.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

(f) Termination.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992, 1993, and 1994.

SEC. 506. REPORT ON INFORMATION COLLECTION AND DISSEMINATION.

(a) Report.—Within 270 days after the date of enactment of this Act, the Secretary shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authorizative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Under Secretary and the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the Institute, and with representatives of the public, for their views on the optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for establishing and operating FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

(b) Funding.—The Director of the National Technical Information Service may retain and use all monies received, including receipts, revenues, and advanced payments and deposits, to fund obligations and expenses through the end of fiscal year 1993.

(c) Electronic Format.—Section 212(e)(5) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(e)(5)) is amended by inserting ", including producing and disseminating information products in electronic format" after "engineering information".

SEC. 507. NATIONAL QUALITY COUNCIL.

(a) Establishment and Functions.—There is established a National Quality Council (hereafter in this section referred to as the "Council"). The functions of the Council shall be—

(1) to establish national goals and priorities for Quality performance in business, education, government, and all other sectors of the nation;

(2) to encourage and support the voluntary adoption of these goals and priorities by companies, unions, professional and business associations, coalition groups, and units of government, as well as private and nonprofit organizations;

(3) to arouse and maintain the interest of the people of the United States in quality performance, and to encourage the adoption and institution of Quality performance methods by all corporation, government agencies, and other organizations; and

(4) to conduct a White House Conference on Quality Performance in the American Workplace that would bring together in a single forum national leaders in business, labor, education, professional societies, the media, government, and politics to address Quality performance as a means of improving United States competitiveness.

(b) Membership.—The Council shall consist of not less than 17 nor more than 20 members, appointed by the Secretary. Members shall include—

(1) at least 2 but not more than 3 representatives from manufacturing industry;

(2) at least 2 but not more than 3 representatives from service industry;

(3) at least 2 but not more than 3 representatives from national Quality not-for-profit organizations;

(4) two representatives from education, one with expertise in elementary and secondary education, and one with expertise in postsecondary education;

(5) one representative from labor;

(6) one representative from professional societies;

(7) one representative each from local and State government;

(8) one representative from the Federal Quality Institute;

(9) one representative from the National Institute of Standards and Technology;

(10) one representative from the Department of Defense;

(11) one representative from a civilian Federal agency not otherwise represented on the Council, to be rotated among such agencies every 2 years; and

(12) one representative from the Foundation for the Malcolm Baldrige National Quality Award.

(c) Terms.—The term of office of each member of the Council appointed under paragraphs (1) through (7) of subsection (b) shall be 2 years, except that when making the initial appointments under such paragraphs; the Secretary shall appoint not more than 50 percent of the members to 1 year terms. No member appointed under such paragraphs shall serve on the Council for more than 2 consecutive terms.

(d) Chairman and Vice Chairman.—The Secretary shall designate one of the members initially appointed to the Council as Chairman. Thereafter, the members of the Council shall annually elect one of their number as Chairman. The members of the Council shall also annually elect one of their members as Vice Chairman. No individual shall serve as Chairman or Vice Chairman for more than 2 consecutive years.

(e) Executive Director and Employees.—The Council shall appoint and fix the compensation of an Executive Director, who shall hire and fix the compensation of such additional employees as may be necessary to assist the Council in carrying out its functions. In hiring such additional employees, the Executive Director shall ensure that no individual hired has a conflict of interest with the responsibilities of the Council.

(f) Funding.—There is established in the Treasury of the United States a National Quality Performance Trust Fund, into which all funds received by the Council, through private donations or otherwise, shall be deposited. Amounts in such Trust Fund shall be available to the Council, to the extent provided in advance in appropriations Acts, for the purpose of carrying out the functions of the Council under this Act.

(g) Contributions.—The Council may not accept private donations from a single source in excess of $25,000 per year. Private donations from a single source in excess of $10,000 per year may be accepted by the Council only on approval of two-thirds of the Council.

(h) Annual Report.—The Council shall annually submit to the President and the Congress a comprehensive and detailed report on—

(1) the progress in meeting the goals and priorities established by the Council;

(2) the Council's operations, activities, and financial condition;

(3) contributions to the Council from non-Federal sources;

(4) plans for the Council's operations and activities for the future; and

(5) any other information or recommendations the Council considers appropriate.

SEC. 508. STUDY OF TESTING AND CERTIFICATION.

(a) Contract With National Research Council.—Within 90 days after the date of enactment of this Act and within available appropriations, the Secretary shall enter into a contract with the National Research Council for a thorough review of international product testing and certification issues. The National Research Council will be asked to address the following issues and make recommendations as appropriate:

(1) The impact on United States manufacturers, testing and certification laboratories, certification organizations, and other affected bodies of the European Community's plans for testing and certification of regulated and nonregulated products of non-European origin.

(2) Ways for United States manufacturers to gain acceptance of their products in the European Community and in other foreign countries and regions.

(3) The feasibility and consequences of having mutual recognition agreements between testing and certification organizations in the United States and those of major trading

partners on the accreditation of testing and certification laboratories and on quality control requirements.

(4) Information coordination regarding product acceptance and conformity assessment mechanisms between the United States and foreign governments.

(5) The appropriate Federal, State, and private roles in coordination and oversight of testing, certification, accreditation, and quality control to support national and international trade.

(b) MEMBERSHIP.—In selecting the members of the review panel, the National Research Council shall consult with and draw from, among others, laboratory accreditation organizations, Federal and State government agencies involved in testing and certification, professional societies, trade associations, small business, and labor organizations.

(c) REPORT.—A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contract with the National Research Council.

SEC. 509. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than 120 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly—

(1) analyze recent steps to use the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in several other Federal departments and agencies which fund research and development; and

(2) examine the feasibility and advisability of using that program as a model for Federal research and development agencies which do not currently have similar programs.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 510. INTERAGENCY COORDINATION.

The Secretary shall, within 180 days after the date of enactment of this Act, submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high-resolution information systems, including research and development activities.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1459) was agreed to.

Mr. FORD. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering S. 1034, the American Technology Preeminence Act of 1991, which I introduced earlier this session. This important legislation will reauthorize the programs of the Department of Commerce's [DOC] Technology Administration, including its National Institute of Standards and Technology [NIST], and will ensure that DOC's important new initiatives to help strengthen U.S. industrial competitiveness are continued and expanded. The substitute version now before the Senate incorporates the provisions of the bill reported in September by the Commerce Committee and provisions in H.R. 1989, a similar bill passed earlier this year by the House.

THE NEED FOR INDUSTRY-GOVERNMENT PARTNERSHIP ON TECHNOLOGY ISSUES

The need for Government and business to work together to strengthen America's position in industrial technology has never been greater. The United States may have won the cold war, but it is losing the economic war. American companies are losing market share in many sectors, and some industries such as consumer electronics almost have been lost entirely. Equally disturbing, our position in the new technologies that will underpin the industries and markets of the future is much weaker than most Americans realize. A spring 1990 DOC report concluded that the United States is either losing or losing badly relative to Japan in 10 of 12 key emerging technologies. These 10 include such technologies as advanced semiconductor devices, superconducting materials, and high-performance computing. By the year 2000, according to DOC's estimate, the annual world market for products based on the 12 technologies will reach $1 trillion, with the U.S. market alone reaching $350 billion per year. Clearly, the economic stakes here are great. The companies and countries which dominate these new markets will reap great wealth; the countries which lag will see their standards of living stagnate.

Other countries are not sitting on the sidelines. There is a new world economic order, and one key feature is that other governments actively work with their companies to develop these new basic technologies. By sharing costs and risks, Germany, Japan, and now smaller countries such as South Korea have helped to create major economic strength. Yet in the United States, Government support for new technologies relevant to industry has long been a low priority. The Federal Government spends some $70 billion a year to support research and development [R&D]. But according to official Government statistics, the U.S. Government spends only 0.2 percent of that total for the purpose of assisting industrial development. The comparable 1988 figure for the German Government was 14.5 percent. Our U.S. priorities are from a different era, heavy on defense and big science projects.

At a Commerce Committee hearing last March, a leading private group, the Council on Competitiveness, released a report on why the United States no longer can afford to neglect new technologies.

> The United States is already losing badly in many critical technologies. Unless the nation acts today to promote the development of generic industrial technology, its technological position will erode further, with disastrous consequences for American jobs, economic growth and national security. The federal government should view support of generic industrial technologies as a priority mission. ("Gaining New Ground," pp. 3–4).

Clearly, we must act to promote new technologies before it is too late.

THE BILL

Mr. President, since the early 1980's Congress has tried to respond to this serious and growing problem. In 1980, and again in 1986 and 1989, we passed legislation to make exising Federal research in universities and Government laboratories more accessible to private companies. We have increased the National Science Foundation's support for engineering and boosted Defense Department funding for so-called dual-use technologies which are important to both the military and the commercial sector. And in 1988, in adopting provisions which I authored, Congress created a true civilian technology agency, DOC's Technology Administration.

Under the supervision of an Under Secretary for Technology, the Technology Administration includes both a policy office and NIST, the one Federal laboratory whose primary mission is to assist U.S. industry. The 1988 legislation not only strengthened NIST's long-respected internal research and technical services programs but also created new technology extension activities to help small manufacturers modernize a new Advanced Technology Program [ATP] to provide seed money for industry-led efforts to develop the key new technologies of the future.

The substitute bill now before the Senate would continue these important efforts by reauthorizing these Technology Administration programs for fiscal years 1992 and 1993. It also would amend some provisions regarding the ATP, make a change in metric policy, make five small amendments in the Stevenson-Wydler Technology Innovation Act, and require several studies.

In my view, NIST remains an underfunded and undersupported agency. This bill represents a strong congressional endorsement of the Technology Administration and NIST and its programs. However, we cannot stop here. While I applaud the administration's proposal to double the budget of NIST's internal laboratory program over the next 5 years, I hope that the administration also will work with us to expand further the external programs created in the 1988 law.

RELATED ISSUES

Several important issues have arisen in the review of this bill. First, this bill, like an earlier version reported during the last Congress, requires companies to meet certain basic criteria before becoming eligible to apply for funding under NIST's ATP. All companies, whether domestically owned or foreign owned, must have investments in the United States and must employ Americans. In addition, a foreign-owned company must demonstrate that its government offers comparable access and intellectual property protection to American firms. I feel strongly that in exchange for being eligible to receive taxpayer funds, any company, whether domestic or foreign, must meet these basic conditions.

Second, the bill raises the important issue of manufacturing and manufacturing technology. Having the finest new inventions in the world is not enough unless American companies can use such inventions to successfully manufacture products—and manufacture them with quality, speed, and at competitive prices. The United States remains an accomplished manufacturing country, but we are not doing as well as we should. We seriously lag the Japanese, for example, in adopting new manufacturing technologies. NIST already does much to help industry develop and deploy new manufacturing technologies and techniques, but more needs to be done. For that reason, on June 19 of this year I, along with Senator Gore and several of our colleagues, introduced S. 1330, a bill to expand DOC's programs to assist U.S. manufacturing. The Commerce Committee approved this new bill on October 3. S. 1330 complements S. 1034, and I intend to seek full Senate consideration of that bill soon.

Third, the substitute deletes a provision in the reported bill concerning NIST's personnel system. The personnel provision is no longer needed. It had been included in the bill in order to extend a personnel demonstration project at NIST, an experiment which has given the agency great flexibility in hiring new scientists and engineers and which is providing valuable information to the Office of Personnel Management [OPM]. OPM, however, has been conducting its own review of the NIST program and has now decided to grant an administrative extension of the project through September 30, 1995. Thus, no legislative extension is necessary.

The OPM decision comes with the encouragement and approval of the chairman and ranking Member of the Committee on Governmental Affairs, Mr. Glenn and Mr. Roth, and the chairman and ranking member of the Subcommittee on Federal Services, Post Office, and Civil Service, Mr. Pryor and Mr. Stevens. I am grateful to them for their assistance in this matter. I will ask unanimous consent that the extension letter from OPM be printed at the conclusion of my remarks.

Lastly, the proposed substitute drops all ATP loan and recoupment proposals. Congressman Mineta, Senator Rockefeller, and I all support creating a $10 million pilot loan program, in affiliation with the ATP, to help companies refine and demonstrate the feasibility of new products and processes. This work would still be pre-competitive; we are not talking about subsidizing the manufacture of products. Nonetheless, the White House strongly opposes the provision. In the interest of passing the bill, we will drop the provision for now. The proposed substitute now before the Senate also drops a loan provision in the House-passed bill. This recoupment provision would require all organizations which make money from ATP-assisted inventions to reimburse the Government. There is concern that turning the entire ATP effort into a loan program would place a great regulatory burden on ATP winners and deter applications. In addition, the administration opposes the recoupment provision. For these reasons, we have not included this provision in the proposed substitute before the Senate.

CONCLUSION

In closing, Mr. President, I thank my colleagues who have worked with me on this legislation, including both the members of the Commerce Committee and the distinguished chairman and members of the House Committee on Science, Space, and Technology. I also want to thank the growing number of associations and companies which have provided suggestions and support. I especially want to express my appreciation to the new Advanced Technology Coalition, which includes groups such as the American Electronics Association, manufacturing organizations, and the Industrial Union Department of the AFL–CIO. I commend these organizations for their vision of a country that does not have to settle for second-best technology and stagnating wages, a country where government, industry, and labor can work together to promote economic growth.

This bill should have the support of everyone—we can never do too much to promote U.S. economic competitiveness. When I served as South Carolina's Governor, economic development was my highest priority, and this legislation represents my continued commitment to this issue. I look forward to working with my colleagues and administration officials as we proceed with this and other important technology legislation.

Mr. President, this is a sound and important bill, and I urge our colleagues to support it.

I ask unanimous consent that the letter from OPM that I referred to earlier be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Office of
Personnel Management,
Washington, DC, October 7, 1991.

Mr. John W. Lyons,
Director, National Institute of Standards and Technology, Gaithersburg, MD.

Dear Mr. Lyons: This is in response to your letter of August 23, 1991, regarding the National Institute of Standards and Technology (NIST) personnel management demonstration project. Your letter requests an extension of the project, which is scheduled to end on December 30, 1992.

OPM's statutory authority to continue a demonstration project beyond 5 years is limited. Title 5 of the United States Code, which sets the 5-year time limit on all demonstration projects, grants OPM the authority to extend a project "to the extent necessary to validate the results of the project" [5 U.S.C. 4703(d)(1)(B)].

Significant changes to the NIST performance management system have been implemented this year, and we agree that they cannot be fully evaluated within the original 5-year timeframe. Therefore, we are extending the NIST demonstration project until September 30, 1995.

Because, in our opinion, the Total Compensation Comparability (TCC) component of the demonstration project does not warrant further evaluation, the TCC report as described in Section 10(c) of Public Law 99-574 need not be included in the extension.

One effect of this extension will be increased evaluation costs for OPM. We anticipate at least two additional reports and additional expenses of approximately $700,000. In light of the fact that we would not extend the costly TCC report requirement, we would appreciate NIST making a contribution to the cost of the extended evaluation. We commend you on your commitment to innovation and hope that the NIST project will continue to make positive contributions to our efforts to improve Federal human resources management.

My staff will contact your staff regarding the appropriate public notification requirements for the extension.

Sincerely,

Constance Berry Newman,
Director.

Mr. GORE. Mr. President, as chairman of the Subcommittee on Science, Technology, and Space I want to express my strong support for the bill now before the Senate, S. 1034, the American Technology Preeminence Act of 1991. This bill provides needed reauthorizations and a strong congressional endorsement for the technology programs of the Department of Commerce [DOC].

All of us in the Senate know that the American economy is lagging, that American companies are losing market share in many sectors, and that American wages are stagnating even in manufacturing and high technology. Americans now face the most intense world economic contest in our history, and every middle-class American family is now feeling the chill from our Nation's lagging economic performance. As a country, all of us—business leaders, workers, academia, and government—must work together to restore American economic competitiveness and long-term national growth.

S. 1034 is a modest but badly needed step in the right direction. At a time when the U.S. Government spends only 0.2 percent of its $70 billion annual research and development budget to promote industrial development, this bill expands DOC's support for industry-led efforts to develop and deploy important commercial technologies. The bill will help industry develop new basic technologies in such critical areas as intelligent manufacturing, superconductivity, semiconductors, fiber optics, high-resolution systems, and biotechnology. According to DOC's own estimate, products based on these and other key emerging technologies will, by the year 2000, generate $1 trillion in worldwide annual sales. These technologies will shape the future, and the United States cannot afford to be the loser.

Mr. President, I am pleased to join Chairman HOLLINGS in proposing this bill to the full Senate. It deserves speedy passage.

Mr. ROCKEFELLER. Mr. President, I really regret that the minority, on behalf of the President, has objected to even considering the amendment I had intended to offer to this bill. It would have been an important step toward restoring America's competitiveness. It would have presented us with a choice. Do we want to continue to focus the Government's efforts on behalf of critical technologies exclusively on R&D, or do we want to help turn our R&D support into an engine that leads to manufacturing and jobs our economy desperately needs? Federal research support is critical to innovation. We all support that. But competitiveness means being able to move those innovations from the showcase to the market place by translating them into products, into efficient production, and into jobs.

The amendment is simple. It would authorize the Commerce Department's Technology Administration to provide long-term, relatively low-cost loans to U.S. companies to develop and commercialize critical technologies. The program is intended for small and medium sized companies and would focus in such areas as electronics, biotechnology, and advanced materials.

Since the amendment would simply redirect a small portion of the money authorized for the National Institute of Standards and Technology's (NIST) Advanced Technology Program, which is a research program, it would not provide for new budget authority or additional outlays. I estimate that, under credit reform, this $10 million allocation would support a loan program of $50–100 million.

The reasoning behind this amendment is equally straightforward. It is designed to refocus Federal efforts on what we don't do well, and there is no shortage of experts who have come to the conclusion that that is precisely what we need. Even the administration's technology experts make the same point, acknowledging the problem at the same time he opposed doing anything about it:

> The U.S. is a leader in research on advanced manufacturing technology, but slower with respect to its development, deployment and use.

Thus, Mr. President, for many of us the debate on these issues is over and the solution clear. The President, apparently, still does not get it. I had hoped to use the opportunity of this amendment to try to persuade him that the Government needs to show some leadership on technology commercialization, but the minority has prevented that debate from taking place.

In the interest of getting the NIST authorization enacted—because it is an important bill—I am not going to press the amendment at this point. But I want to say very clearly that I will be back early next year. I hope the chairman of the committee will join me in requesting a study of this problem by the General Accounting Office so that we can make even more clear to those who apparently have not gotten the message why commercialization assistance is so important.

I also want Senators to know early that this will be an issue early next year on an appropriate vehicle. We have wasted 10 years on the foolish assumption that the private sector can solve this problem on its own. By the time the President learns the futility of that strategy, there will be no one left to save.

It is ironic that the administration's blindness extends only to industry. Just last year Congress passed and the President signed a farm bill containing an agricIture commercialization loan program very similar to what I intended to propose today. The administration did not seem to have any problem with that—indeed its author, then-Representative Madigan has moved onto bigger and better things in the administration.

Mr. President, we should rise to the challenge again. The erosion of our manufacturing and critical technology base is accelerating. It directly jeopardizes our national security and our ability to retain the world's economic leadership, which is increasingly the key element of national security. If we cannot compete globally in economic terms then we will not be able to sustain our foreign policy objectives either. We will simply have no credibility. That is why I will return with this issue in 1992. And that is why ultimately those of us who care about competitiveness will win.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. FORD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of the House companion, H.R. 1989; that the Senate proceed to its immediate consideration; all after the enacting clause be stricken, the text of S. 1034, as amended, be substituted in lieu thereof; that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that S. 1034 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1989), as amended was deemed read a third time, and passed.

PATENT AND TRADEMARK OFFICE

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3531, the Patent and Trademark Office Authorization Act of 1991 just received from the House, that the bill be deemed read three times, passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3531) was deemed read three times and passed.

Mr. BIDEN. Included in the Patent and Trademark Office authorization bill is a provision modifying the authority of the Commissioner of the Office. I authored this provision and believe it represents a needed change in the operations of the Office.

The provision I authored will allow the Commissioner greater authority to establish programs to help inventors demonstrate the characteristics of their patented products. The authority is rather broad, and the Commissioner is expected to assure that any new programs operate within the broader mission of the PTO. However, within that mission, there is a great deal that could be done, in a cost effective method, to help inventors.

This new authority reflects technological changes that have taken place over the years and the type of products that are of increasing importance to our economic strength. For example, under existing authority the Commissioner is limited to creating libraries to disseminate patent information. But there are limits to what can be shown on paper, or more recently computer, files on patents. The information is detailed to be sure, but the Patent and Trademark Office can help create more practical demonstrations of new products without treading upon its neutral role in patent proceedings. That is the opportunity this new authority presents.

To illustrate, PTO will now have the authority to create laboratories with equipment appropriate to demonstrating the characteristics of a particular technology, advanced ceramics or composite materials for example. The laboratories would not advocate any particular product and would be available to all who could make use of the equipment. A laboratory of this type would be of tremendous assistance to smaller companies, allowing them access to machinery and customers that they might not otherwise have. This would be a step beyond the library system that exists now, but is far short of an advocacy role that PTO must avoid.

The market for most companies is not just starting to become international, it is well into that transition. It is an intensely competitive market, in which American companies need all the information they can get to remain in the forefront of developments in their industry. The new authority of the Commissioner will increase the dissemination of patent information, but in a way that is of much greater utility to inventors and customers.

I would like to thank the chairman of the Patents, Copyrights and Trademarks Subcommittee, Mr. DECONCINI, for his assistance and cooperation in seeing this provision included in the authorization bill. I also look forward to working with the Commissioner of the Patents and Trademark Office in putting this new authority to the fullest use possible.

CORRECTION OF H.R. 3531

Mr. FORD. Mr. President, I now send to the desk on behalf of Senator DECONCINI a correcting resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 85) to correct a technical error in the enrollment of the bill H.R. 3531, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Is there further discussion? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 85) was agreed to.

(The text of Senate Concurrent Resolution, 85 as agreed to, will be printed in a future edition of the RECORD.)

Mr. FORD. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 1392 regarding telemarketing fraud; that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1392) to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with the telephone, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1460

Mr. FORD. Mr. President, I send an amendment by Senator BRYAN to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BRYAN, proposes an amendment numbered 1460.

On page 4, strike "or" on line 5, strike "(C)" on line 6 and insert in lieu thereof "(D)", and insert between lines 5 and 6 the following:

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1460) was agreed to.

Mr. FORD. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRYAN. Mr. President, I am pleased that the Senate is considering S. 1392, the Telemarketing Consumer Fraud and Abuse Prevention Act. I also ask that a technical amendment correcting an inadvertent omission in one of the definitions in the bill as introduced be included in the Senate's consideration of this bill.

I believe telemarketing fraud is a serious problem that deserves immediate attention. This legislation, with one clarifying addition, already passed the Senate in June of this year as an amendment to the crime bill. Unfortunately, the crime bill conferees were not able to reach agreement on the measure given the short time constraints of the crime bill conference. I believe we need to move as expeditiously as possible to complete work on this legislation in this Congress, and am pleased that the Senate is considering the bill as a freestanding measure.

Telephone sales have become an important part of American business and, when properly carried out, are a convenience to consumers, allowing them to shop at home. However, telemarketing fraud is the deceptive peddling of goods and services over the telephone. Typically, a consumer is contacted and offered goods and services at discount prices or of a nature "too good to be true." Payment is generally required in advance, often by credit card. When the goods or services arrive, the consumer finds that the bargain doesn't exist, or is not of the promised value. A related problem is the abuse of the telemarketing process by telephone calls that are made at unreasonable hours, by machines that cannot be disconnected by the person called, or utilizing other techniques of harassment.

As telephone sales have become an increasingly popular and convenient way for consumers to purchase goods and services, it is, perhaps, inevitable that unscrupulous individuals will utilize the system to defraud consumers. Testimony before the Consumer Subcommittee, which I chair, has indicated that telemarketing fraud is costing American consumers at least $1 billion per year. On a more personal scale, the subcommittee has received testimony from citizens of my own State of Nevada describing fraudulent practices that threatened to deprive unsuspecting citizens of their life savings.

Telemarketing fraud is indeed a national problem, although some States, including my State of Nevada, often become havens for such activity. I am pleased that the State government in Nevada has taken what appear to be very successful steps to address this problem at the State level. However, because the fraudulent activity often is conducted across State lines, the States and the Federal Government must work together on this issue to develop an effective solution. I know that the Federal Trade Commission and the State attorneys general have begun this process by instituting a joint databank to share information about telemarketing fraud trends. The bill we are considering today is an effort to further that cooperation and to maximize consumer protection.

The bill would require the Federal Trade Commission to promulgate specific rules governing telemarketing activity, including a definition of telemarketing fraud, which would be prohibited by the act. The bill also contains a definition of "credit card laundering" which would be included in the telemarketing fraud prevented by the bill. Credit card laundering is the practice of submitting credit card charges through legitimate merchants in order to hide the identity of the fraudulent telemarketer. In addition to the losses suffered by consumers due to fraud, both the legitimate merchants and the credit card companies may end up taking significant losses as a result of this practice.

Other areas in which the FTC would be required to consider rulemaking include a cooling off period in which consumers could rescind telephone purchases; a requirement that delivery of goods ordered be made within a specified time period; restrictions on the hours and types of machines that can be used to made telemarketing calls, and recordkeeping requirements.

Additionally, the bill would permit the States and the FTC to work together to enforce the Federal law, by permitting the State attorneys general to bring suit under the Federal law. The States would have to notify the FTC of such actions, and the FTC would have the absolute right to intervene in such actions. Because some States, like Nevada, have enacted State laws to address this problem, my bill would provide for the continued applicability of that State law upon application to the FTC.

The bill would also permit actions by private parties to enforce the Federal law, but only when the amount in controversy exceeds $50,000. This provision is intended to provide for maximum enforcement of the law, but to prevent frivolous and unnecessarily burdensome lawsuits.

Finally, the bill would provide for expanded venue and service of process for those enforcing the law. This will address the problem that currently exists when fraudulent telemarketers move their operations rapidly across State lines to avoid enforcement.

Mr. President, telemarketing fraud is a difficult problem, and finding a legislative solution is challenging. I believe that this bill strikes the proper balance between Federal and State enforcement, and between the needs of legitimate telemarketers and the fullest protection of consumers. I urge my colleagues to support me and the bill's cosponsor, my Commerce Committee colleague Senator McCAIN, in enacting this legislation.

Mr. President, I ask unanimous consent that the text of the bill and technical amendment be printed in the RECORD.

Mr. McCAIN. Mr. President, telemarketing is one of the fastest growing industries in the United States. This industry has provided American consumers greater options for obtaining information, entertainment, and home shopping opportunities. A great many of these telemarketing companies are legitimate, and operated by honest businessmen and women. Unfortunately, the expansion of the industry has also led to the emergence of telemarketing and consumer fraud.

Consumer fraud has been the focus of my attention for some time, particularly the issues of health and consumer fraud targeted at the elderly. On March 16, 1988, I testified before the Federal Trade Commission [FTC] on the issue of fraud and the elderly. On that occasion, I spoke of my concerns about the increase in cases of health care and consumer fraud by scam operators who prey on the vulnerability of senior citizens, leaving behind unsatisfied, and in some cases, physically harmed seniors who relied on fraudulent products and health care schemes. Later that year, I introduced S. 2326, the Consumer Fraud Prevention Act. The following year, in 1989, I introduced S. 1441, which incorporated S. 2326. Sharing the same concerns as I have about consumer abuse, my colleague from Nevada, Senator BRYAN, introduced S. 2494, the Telemarketing Fraud and Abuse Prevention Act, in the last session of Congress. I was very pleased to have worked with him on a compromise which consolidates both of our bills, and our efforts were embodied in S. 2494, the Telemarketing and Consumer Fraud and Abuse Protection Act, which was passed in the Senate by unanimous consent in the fall of 1991.

I am pleased to be working with Senator BRYAN again this Congress in sponsoring S. 1392. This legislation is identical to S. 2494 with one exception. S. 1392 prohibits credit card laundering, a technique frequently used by those peddling worthless goods to increase sales.

Telemarketing and consumer fraud cost American taxpayers tens of billions of dollars per year, and, in the case of health fraud, can cost lives as well. Such fraud is often committed by individuals who escape legal action by dismantling their operation and relocating to begin the operation again. In the cases of these boilerroom scams, both the victims and the perpetrators are difficult to locate since the operations often consist of nothing more than phone banks which do not readily provide detailed evidence of illegal activity.

There are several areas of fraud to which the elderly are particularly susceptible.

One area, health fraud, is one of our Nation's leading consumer fraud and health care problems. Older Americans as a group experience deteriorating health and a greater number of terminal illnesses than the rest of the population. In searching for a way to prolong life and combat illness, the elderly are prone to believe the claims of scam operators.

Health care fraud can be life-threatening. In some cases, the so-called cure may be deadly as well. In other cases, the product may be harmless, but a victim may be led to choose the product for treatment of an illness instead of a physician-recommended course of treatment. Again, the result could be quite serious.

Not only is such fraud dangerous to the consumer's health, it is also costly. Current projections by the National Council Against Health Fraud indicate that this activity is costing Americans close to $25 billion per year.

A few examples from my own State of Arizona illustrate the magnitude of the problem.

An advertisement was placed in the Arizona Republic and Phoenix Gazette newspapers that read: "Alzheimers' disease—symptoms of senility. At last—now there is hope! Call [this number] for help. Free—no charges—no fees."

Another case involved a phony cancer cure called Tumorex. The ad read:

> Cancer patients undergo a six-day therapy of daily tumorex injections administered by a licensed M.D. or R.N. This is augmented by amino acid capsules taken ½ hour before each meal. Treatment is given Monday through Saturday. Any enzyme program must be discontinued 24 hours before the first day of treatment. In most cases, six days of treatment are sufficient; however, 12 days or more are required for some severe cases. Colon cleansing is important before treatment and imperative after treatment. $2,500 includes the 6- or 12-day treatment, and transportation (meals and lodging not included). We suggest cashier's or traveler's checks, however, MasterCard and Visa are acceptable.

Mr. President, Tumorex is really the amino acid L-Arginine, which can be purchased at local health food stores at a cost of $5.50 for 100 tablets.

A second issue of particular concern to older Americans is consumer fraud via the television or telephone. Consumer items for purchase, and medical and health services are commonly marketed in this manner. These sellers, and their merchandise, appear legitimate on the surface. The consumer often loses, however, by not receiving the ordered item, receiving a copy rather than an authentic item, or by suffering some financial or health loss.

One example of this type of telemarketing scam in Arizona involved a nationwide, shop-at-home program. This program, which was aired over nationwide television, involved a listing of various items for sale. The money for these items was sent to the company which, in turn, cashed the checks and never delivered the merchandise. The operation generated over 1,300 complaints.

A third area of great concern is that of life care communities, some of which cause the elderly to suffer financial loss as a result of fraud or mismanagement. While life care communities can be a practical solution to the problem of assuring constant care for the elderly, there have been several occasions where senior citizens have lost their investments due to fraud or mismanagement. This has occurred in the misrepresentation of financial risks, mortgage-lender's interests in the life care community, and the misuse of the entrance fee financing.

The structure of the life care industry facilitates such abuses, and it is time that we take a close look at the industry's practices and ensure that life care communities remain safe alternatives for senior citizens.

Another area of fraud that is emerging as a great threat to both consumers and the banking community is that of credit card laundering in telemarketing. This is exemplified by the situation where a fraudulent telemarketer uses the credit card privileges of a merchant to obtain legitimate credit card drafts as records of transactions to receive payment from the unsuspecting customer's bank.

Consumers fall prey to the attractive descriptions of an item by a telemarketer, and provide their credit card members to the so-called seller. The telemarketer then submits that number to a willing merchant with legitimate credit card privileges, who submits the credit card drafts to the corresponding bank. This activity often results in a customer not receiving the item or receiving any item which is different from the promised item. An additional effect on the banking institutions is that, upon receiving the complaint from the consumer, or upon acquiring the accounts of telemarketing merchants who went out of business, the institutions must settle the chargebacks against their own accounts when the merchants are unable to pay them.

This exact scenario played out in my State of Arizona. On February 15, 1990, Gateway National Bank in Phoenix was declared insolvent by the Office of the Comptroller of the Currency. Just 1 year prior to insolvency Gateway, claimed assets of $11 million. One of the main reasons attributed to its demise was the overwhelming number of chargebacks the bank had to absorb because of merchants' failure to pay. These chargebacks ate away at the bank's equity capital, depleting it so as to render the bank insolvent.

The message here is clear: With credit card fraud, the consumer and the banking community are the big losers.

In addressing these many issues, this legislation would combat telemarketing, consumer and credit card fraud in the following ways:

It offers a solution to the problems facing law enforcement officers working toward bringing scam operators to justice, by expanding the venue and service of process provisions in the Federal Trade Commission Act. Thus, authorities will be permitted to summon and serve process upon any party, regardless of where they live or conduct business. This way, law enforcement officials will be able to bring scam operators to justice even if they have packed up their operation.

Next, it enhances the enforcement authority of the Federal Trade Commission [FTC] by amending the Right to Financial Privacy Act of 1978 to permit access to financial records of consumer fraud suspects, without providing advance notice to the suspects, with court approval, if the FTC can show that the funds are likely to disappear during an investigation.

Further, it identifies credit card laundering as a fraudulent telemarketing act or practice.

This legislation offers protection to consumers against telemarketing fraud and abuse by requiring the FTC to develop telemarketing rules protecting consumers. The rules would include: First, refunds for untimely delivery of goods or services; second, order cancellations; third, time restrictions on unsolicited sales calls; fourth, a prohibition on the use of equipment that does not allow the person called to hang up and disconnect the call immediately; and fifth, requirements for proper recordkeeping for the purposes of establishing evidence of proper business practices. The bill also directs the FTC to promulgate a rule to combat fraudulent telemarketing acts and practices. This rule is intended to be flexible in order to reflect on the changing nature of these illegal practices. These provisions would protect unsuspecting consumers from both unwelcome, and unsolicited goods or services, and, more importantly, fraud.

Further, it will allow enforcement assistance by the States by permitting State attorney's general to enforce the proposed FTC telemarketing rules after first notifying the Commission. After receiving a copy of the State's complaint, the Commission may intervene as a matter of right in the proceeding. This provision assures joint enforcement efforts by both State and Federal authorities without precluding one or the other.

Next, it permits private individuals to sue for violation of the FTC telemarketing rules when the amount in controversy exceeds $50,000. As in the case of the State attorney's general, a plaintiff would be required to notify the FTC prior to bringing suit.

These last three provisions are subject to sue for violation of the FTC telemarketing rules when the amount in controversy exceeds $50,000. As in the case of the State attorney's general, a plaintiff would be required to notify the FTC prior to bringing suit.

These last three provisions are subject to a 5-year sunset clause, at which time they will cease to be effective. This will allow Congress the opportunity to evaluate the reasonableness and effectiveness of the telemarking fraud and enforcement rules before continuing them indefinitely.

Another important provision amends the Federal Trade Commission Act to clearly set forth that it is unlawful to disseminate any false advertisement for the purpose of inducing the purchase of services, such as health care or home repair services. This provision addresses the problems and dangers of health care fraud by further amending the Federal Trade Commission Act to expand the definition of "physical evidence" for the purposes of bringing these cases to court. The definition of "physical evidence" should be expanded to include services, as well as medical devices, food products, nutritional or cosmetic products, or audio or video recordings, all things which are often pivotal evidence in consumer fraud cases generally, and health care fraud in particular.

It also permits the FTC to bring an action for criminal contempt for violation of an FTC order, it is presently authorized to institute a proceeding for civil contempt.

In addition, the legislation further requires the FTC to establish a clearinghouse for telemarketing inquiries to be made available to the public.

Finally, it requires the FTC to conduct a study of unfair or deceptive acts or practices in the life care home industry and report to Congress on the results of that study. This would be a starting point toward ensuring that the elderly are not misled when choosing a life care community, and can feel confident when making this very important decision.

Mr. President, this legislation is an important step toward minimizing the practice of telemarketing, consumer, and credit card fraud, and helps protect senior citizens in particular, who are all too often targeted as victims of fraud, and I ask for the support of my colleagues on this important legislation.

The PRESIDING OFFICER. The quesion is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

S. 1392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "attorney general" means the chief legal officer of a State;

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(D) such other acts or practices defined in the rules of the Commission as credit card laundering.

TELEMARKETING RULES

SEC. 3. (a) Rules on Telemarketing Activities.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) Prohibition of Fraudulent Telemarketing Acts or Practices.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) Deadline; Administrative Procedure.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) Treatment of Rule Violations.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) Effect on State Law.—The rules promulgated under this section shall not be construed as preempting State law.

ACTIONS BY STATE ATTORNEYS GENERAL

SEC. 4. (a) Authority of States.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this Act, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this Act, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) Court Jurisdiction.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) Rights of Commission.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) Venue; Service of Process.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) Effect on State Powers of Attorneys General.—For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) Effect on Actions Under State Statute.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) Civil Action by Commission.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

ACTIONS BROUGHT BY PRIVATE PERSONS

SEC. 5. (a) Definition.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) Private Right of Action.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this Act may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this Act, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have ex-

clusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such case may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

VENUE

SEC. 6. Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served wherever the person, partnership, or corporation may be found.".

SUBPOENA

SEC. 7. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b–1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

FALSE ADVERTISEMENTS CONCERNING SERVICES

SEC. 8. Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

CLEARINGHOUSE

SEC. 9. The Commission shall establish a clearinghouse for inquiries made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquiries respecting persons engaged in telemarketing or direct such inquiries to the appropriate Federal or State agency.

FINANCIAL DATA

SEC. 10. Section 1109(a)(3) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409(a)(3)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reason of having been obtained in violation of law; or".

CRIMINAL CONTEMPT AUTHORITY

SEC. 11. Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

ADMINISTRATION AND APPLICABILITY OF ACT

SEC. 12. (a) ENFORCEMENT.—Except as otherwise provided in sections 4 and 5 of this Act, this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) EXEMPTION.—(1) No provision of this Act shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this Act shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the terms "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a) (4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the In-

vestment Company Act of 1940 (15 U.S.C. 80a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)).

LIFE CARE HOME STUDY

SEC. 13. (a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SUNSET

SEC. 14. The provisions of sections 3, 4, and 5 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

Mr. FORD. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEW YORK CITY ZEBRA MUSSEL MONITORING ACT OF 1991

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 274, S. 36, relating to zebra mussel monitoring.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 36) entitled "New York City Zebra Mussel Monitoring Act of 1991."

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are printed in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 36

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 101. SHORT TITLE.

This title may be cited as the "New York City Zebra Mussel Monitoring Act".

SEC. 102. DEFINITIONS.

For the purposes of this Act:

(a) The term "Secretary" means the Assistant Secretary of the Army for Civil Works.

(b) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(c) The term "Zebra Mussel" means the species Dreissena polymorpha.

SEC. 103. FINDINGS.

The Congress finds that—

(1) New York City has operated a public water supply system since the late 1700's:

(2) the current water supply system supplies over 95 per centum of all water used in New York City, providing service to millions of residents;

(3) the water supply system obtains its water from three upstate reservoir systems: the Croton, Catskill, and Delaware systems, which include eighteen reservoirs and three controlled lakes;

(4) it is likely that within the coming two decades, the zebra mussel will have infested the entire surface water system of the United States and Canada and that this migration is irreversible and cannot be quarantined; and

(5) introduction of the zebra mussel into the New York City water supply system posses a unique public health threat to millions of citizens.

SEC. 104. PURPOSE.

The purpose of this Act is to establish a program of monitoring and technological development to prevent the introduction and subsequent infestation of Zebra Mussels into the New York City water supply system.

SEC. 105. MONITORING AND PREVENTION.

(a) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the City of New York, shall—

(1) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system.

(2) develop appropriate zebra mussel prevention and removal technologies for the New York City water supply system; and

(3) provide technical assistance to the State of New York and the City of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.

SEC. 106. COST SHARING.

The Secretary shall not initiate any monitoring, prevention, and or technical assistance project or program under section 105 until appropriate non-Federal interests agree, by contract, to contribute 25 per centum of the cost for such projects during the period of such projects.

SEC. [106] *107.* **AUTHORIZATION OF APPROPRIATIONS.**

(a) For the purposes of carrying out section 105 of this Act, there is authorized to be appropriated to the Secretary of the Army $2,000,000 for each fiscal years 1991, 1992, 1993, 1994, and 1995. Such sums shall remain available until expended.

AMENDMENT NO. 1461

(Purpose: To control certain exotic aquatic organisms)

Mr. FORD. Mr. President, on behalf of Senator GLENN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. GLENN, for himself, Mr. KASTEN, Mr. KOHL, Mr. LEVIN, and Mr. DIXON, proposes an amendment numbered 1461.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following section:

SEC. . EXOTIC AQUATIC ORGANISMS.

(a) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary, in consultation with the Task Force—

"(A) shall provide that the regulations issued under this subsection shall apply to vessels that carry ballast water and that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River where water is characterized as having a salinity less than 18 o/oo, and

"(B) may provide that such regulations apply to vessels operating in other rivers, canals, lakes, and waterways where discharge of ballast water could result in the introduction and spread of aquatic nuisance species into the Great Lakes."

"(b) SHIPPING STUDY.—Section 1102(a)(3) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(a)(3)) is amended by striking "other than" and inserting "including".

Mr. GLENN. Mr. President, I rise today to offer an amendment to S. 36, the New York City Zebra Mussel Monitoring Act. I am joined in offering this amendment by Senator KASTEN, and several others from the Senate Great Lakes Task Force, including Senators DIXON, KOHL, and LEVIN. This important amendment expands the geographic scope of the Nonindigenous Aquatic Nuisance Prevention Program contained in Public Law 101-646, the Non-Indigenous Aquatic Nuisance Prevention and Control Act of 1990, to include additional freshwater conduits of exotic species into the Great Lakes.

Title I of the Public Law 101-646, signed into law last year, is a program to prevent exotic species from entering the Great Lakes. As you know, the zebra mussel provides an example of how devastating and destructive nonindigenous species can be. Since it initially established itself in the basin—probably around 5 years ago—the zebra mussel has spread to all five

Great Lakes. It has already wreaked havoc on the ecology and economy of certain portions of the region, including the Ohio shore of Lake Erie. This mollusk from Eastern Europe is crowding out native species of freshwater clams, and has changed the complexion of Great Lakes beaches. In addition, it is costing raw water users in the basin millions of dollars in removal and cleaning costs. Moreover, the zebra mussel is not going to stop with the Great Lakes. It threatens to spread to two-thirds of the Nation's fresh water.

While we manage the problem that is already here, let's prevent the next one from arising. The next nonindigenous invader could be even more destructive than the zebra mussel. Fortunately, prevention is possible. All that is needed to substantially reduce the probability of another infestation by a nonindigenous species is a minimal amount of ballast management by incoming ships, the leading vector of nonindigenous aquatic species.

The prevention program in Public Law 101-646 currently requires that any ship en route to a Great Lakes port from a point of origin outside the U.S. exclusive economic zone must exchange its ballast water in the high seas—with due regard for safety. At the time the bill was passed, it was believed that ships passing through the St. Lawrence Seaway to Great Lakes ports were the sole avenues of entry for nonindigenous hitch-hikers. However, current research shows that nine nonindigenous species have entered the Great Lakes from the Hudson River—via the Erie Canal. These species include such noxious pests as the sea lamprey, the white perch, and the alewife. As a result, ballast dumping at Hudson River ports such as Albany, as well as ports within other connecting freshwater systems, may also threaten the Great Lakes.

The Great Lakes Fishery Commission has recommended that the prevention program established in Public Law 101-646 to protect the Great Lakes be extended to include ships destined for ports on the Hudson River and other freshwater systems connected to the Great Lakes, as needed. The Coast Guard, which is the lead agency responsible for implementing the program, stated that it would need additional statutory authority to expand the geographic scope of its program.

My amendment requires that the Coast Guard extend its ballast management regulations to include ships destined for ports on the Hudson River, and provides statutory authority to the Coast Guard to further increase the geographic scope of the program as needed to protect the Great Lakes from nonindigenous invaders. It also requires that the shipping study required by Public Law 101-646 include an assessment of the need for ballast controls on vessels entering ports other than Great Lakes ports as a measure to protect the Great Lakes from unintentional introductions of these species.

I wish to thank my colleagues on the Senate Great Lakes Task Force, especially Senator MOYNIHAN and Senator KASTEN, for their support and involvement in this effort. Senator MOYNIHAN's continuing interest in aggressively managing the zebra mussel problem will greatly reduce the cost that infestations by nonindigenous species invariably impose. Senator KASTEN, a member of the Commerce Committee of the Senate, has been a key supporter of forward-thinking prevention efforts. I urge adoption of this amendment.

Mr. HOLLINGS. Mr. President, I rise today to discuss an amendment that is being offered to S. 36, the New York City Zebra Mussel Monitoring Act of 1991. I am speaking of the amendment sponsored by Senators GLENN, KASTEN, DIXON, KOHL, and LEVIN. As such, I would appreciate it if my good friend and chairman of the Committee on Environment and Public Works, Mr. BURDICK, would be willing to discuss the provision.

Mr. BURDICK. Mr. President, it would be a pleasure to discuss this matter with the Senator from South Carolina, the distinguished chairman of the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. I have carefully reviewed S. 36, the New York City Zebra Mussel Monitoring Act of 1991. The legislation directs the Army Corps of Engineers, in consultation with the Environmental Protection Agency and the city of New York, to develop zebra mussel monitoring and removal programs for the New York City water supply system. I congratulate the chairman for the committee's fine work on this important legislation.

Further, let me state that in reviewing the reported bill, I believe it is entirely within the jurisdiction of the Committee on Environment and Public Works. However, the amendment that Senator GLENN and others are offering addresses Coast Guard regulation of marine and ocean navigation and safety. As such, the amendment falls within the jurisdiction of the Committee on Commerce, Science, and Transportation. Nonetheless, I strongly support the provision and urge the chairman to accept it. It will strengthen the Nonindigenous Aquatic Nuisance Prevention and Control Act on which our committees worked last year.

Mr. BURDICK. I agree with the chairman of the Commerce, Science, and Transportation Committee regarding the jurisdictional matters and welcome his support of the legislation. I also support Senator GLENN's amendment and believe it should be adopted.

Mr. HOLLINGS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1461) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

S. 36

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 101. SHORT TITLE.

This title may be cited as the "New York City Zebra Mussel Monitoring Act".

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For the purposes of this Act:

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The Congress finds that—

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The purpose of this Act is to establish a program of monitoring and technological development to prevent the introduction and subsequent infestation of Zebra Mussels into the New York City water supply system.

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(a) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the City of New York, shall—

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SEC. 106. COST SHARING.

The Secretary shall not initiate any monitoring, prevention, and or technical assistance project or program under section 105 until . appropriate non-Federal interests agree, by contract, to contribute 25 per centum of the cost for such projects during the period of such projects.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purposes of carrying out section 105 of this Act, there is authorized to be appropriated to the Secretary of the Army $2,000,000 for each fiscal years 1991, 1992, 1993, 1994, and 1995. Such sums shall remain available until expended.

SEC. 108. EXOTIC AQUATIC ORGANISMS.

(a) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary, in consultation with the Task Force—

"(A) shall provide that the regulations issued under this subsection shall apply to vessels that carry ballast water and that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River where water is characterized as having a salinity less than 18 o/oo, and

"(B) may provide that such regulations apply to vessels operating in other rivers, canals, lakes, and waterways where discharge of ballast water could result in the introduction and spread of aquatic nuisance species into the Great Lakes."

(b) SHIPPING STUDY.—Section 1102(a)(3) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(a)(3)) is amended by striking "other than" and inserting "including."

Mr. FORD. I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEZ PERCE HISTORICAL PARK

Mr. FORD. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 2032 regarding the Nez Perce Historical Park and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2032) to amend the act of 1965 authorizing historic park in the State of Idaho, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1462

Mr. FORD. Mr. President on behalf of Senators BUMPERS and CRAIG, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BUMPERS, for himself and Mr. CRAIG, proposes an amendment numbered 1462.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 26, strike "and".

On page 3, line 1, strike "Montana;" and insert in lieu thereof: "Montana; and (13) Hasotino Village, Idaho;".

On page 3, lines 12 through 25, strike paragraph (3) in its entirety and insert in lieu thereof:

"(3) In section 3, strike the proviso in the first sentence and insert in lieu thereof, ": Provided, That lands or interests therein owned by a State or a political subdivision of a State may be acquired only by donation or exchange: Provided further, That with respect to sites designated as components of the Nez Perce National Historical Park after November 1, 1991, no lands or interests therein, or other property, may be acquired without the consent of the owner thereof."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1462) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 2032), as amended, was passed.

Mr. FORD. I move to reconsider the vote by which the bill as amended, was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TELEPHONE CONSUMER PROTECTION ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1462.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1462) entitled "An Act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment", do pass with the following amendment: Strike out all after the enacting clause, and insert:

S. 1462

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Consumer Protection Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals' privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

(10) Evidence compiled by the Congress indicates that residential telephone subscribers consider automated or prerecorded telephone calls, regardless of the content or the initiator of the message, to be a nuisance and an invasion of privacy.

(11) Technologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer.

(12) Banning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

(13) While the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless of the type of call, the Federal Communications Commission should have the flexibility to design different rules for those types of automated or prerecorded calls that it finds are not considered a nuisance or invasion of privacy, or for noncommercial calls, consistent with the free speech protections embodied in the First Amendment of the Constitution.

(14) Businesses also have complained to the Congress and the Federal Communications Commission that automated or prerecorded telephone calls are a nuisance, are an invasion of privacy, and interfere with interstate commerce.

(15) The Federal Communications Commission should consider adopting reasonable restrictions on automated or prerecorded calls to businesses as well as to the home, consistent with the constitutional protections of free speech.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

(a) AMENDMENT.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

"(B) to dial such numbers.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity (A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

"(3) The term 'telephone solicitation' means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person's prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax exempt nonprofit organization.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

"(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—

"(1) PROHIBITIONS.—It shall be unlawful for any person within the United States—

"(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

"(i) to any emergency telephone line (including any '911' line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);

"(ii) to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

"(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

"(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by rule or order by the Commission under paragraph (2)(B);

"(C) to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine; or

"(D) to use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

"(2) REGULATIONS; EXEMPTIONS AND OTHER PROVISIONS.—The Commission shall prescribe regulations to implement the requirements of this subsection. In implementing the requirements of this subsection, the Commission—

"(A) shall consider prescribing regulations to allow businesses to avoid receiving calls made using an artificial or prerecorded voice to which they have not given their prior express consent; and

"(B) may, by rule or order, exempt from the requirements of paragraph (1)(B) of this subsection, subject to such conditions as the Commission may prescribe—

"(i) calls that are not made for a commercial purpose; and

"(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

"(I) will not adversely affect the privacy rights that this section is intended to protect; and

"(II) do not include the transmission of any unsolicited advertisement.

"(3) PRIVATE RIGHT OF ACTION.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

"(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

"(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater, or

"(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

"(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

"(A) compare and evaluate alternative methods and procedures (including the use of electronic databases, telephone network technologies, special directory markings, industry-based or company-specific 'do not call' systems, and any other alternatives, individually or in combination) for their effectiveness in protecting such privacy rights, and in terms of their cost and other advantages and disadvantages;

"(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

"(C) consider whether different methods and procedures may apply for local telephone solicitations, such as local telephone solicitations of small businesses or holders of second class mail permits;

"(D) consider whether there is a need for additional Commission authority to further restrict telephone solicitations, including those calls exempted under subsection (a)(3) of this section, and, if such a finding is made and supported by the record, propose specific restrictions to the Congress; and

"(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

"(2) REGULATIONS.—Not later than 9 months after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

"(3) USE OF DATABASE PERMITTED.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, and to make that compiled list and parts thereof available for purchase. If the Commission determines to require such a database, such regulations shall—

"(A) specify a method by which the Commission will select an entity to administer such database;

"(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

"(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

"(D) specify the methods by which such objections shall be collected and added to the database;

"(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

"(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

"(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

"(H) specify the methods for recovering, from persons accessing such database, the costs involved in identifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

"(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with the regulations prescribed under this subsection;

"(J) be designed to enable States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

"(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

"(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

"(4) CONSIDERATIONS REQUIRED FOR USE OF DATABASE METHOD.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

"(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

"(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

"(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

"(ii) reflect the relative costs of providing such lists on paper or electronic media; and

"(iii) not place an unreasonable financial burden on small businesses; and

"(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

"(5) PRIVATE RIGHT OF ACTION.—A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State—

"(A) an action based on a violation of the regulations prescribed under this subsection to enjoin such violation,

"(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater, or

"(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations prescribed under this subsection. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(6) RELATION TO SUBSECTION (B).—The provisions of this subsection shall not be construed to permit a communication prohibited by subsection (b).

"(d) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) PROHIBITION.—It shall be unlawful for any person within the United States—

"(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system, that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards; or

"(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

"(2) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after one year after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business, other entity, or individual.

"(3) ARTIFICIAL OR PRERECORDED VOICE SYSTEMS.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

"(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business, other entity, or individual; and

"(B) any such system will automatically release the called party's line within 5 seconds of the time notification is transmitted to the system that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

"(e) EFFECT ON STATE LAW.—

"(1) STATE LAW NOT PREEMPTED.—Except for the standards prescribed under subsection (d) and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

"(A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

"(B) the use of automatic telephone dialing systems;

"(C) the use of artificial or prerecorded voice messages; or

"(D) the making of telephone solicitations.

"(2) STATE USE OF DATABASES.—If, pursuant to subsection (c)(3), the Commission requires the establishment of a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, a State or local authority may not, in its regulation of telephone solicitations, require the use of any database, list, or listing system that does not include the part of such single national datebase that relates to such State.

"(f) ACTIONS BY STATES.—

"(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls or other transmissions to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) DEFINITION.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "Except as provided" and all that follows through "and subject to the provisions" and inserting "Except as provided in sections 223 through 227, inclusive, and subject to the provisions".

(c) DEADLINE FOR REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by this section not later than 9 months after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The requirements of section 228 of the Communications Act of 1934 (as added by this section), other than the authority to prescribe regulations, shall take effect one year after the date of enactment of this Act.

SEC. 4. AM RADIO SERVICE.

Section 331 of the Communications Act of 1934 is amended—

(1) in the heading of such section, by inserting "AND AM RADIO STATIONS" after "TELEVISION STATIONS";

(2) by inserting "(a) VERY HIGH FREQUENCY STATIONS.—" after "SEC. 331."; and

(3) by adding at the end the following new subsection:

"(b) AM RADIO STATIONS.—It shall be the policy of the Commission, in any case in which the licensee of an existing AM daytime-only station located in a community with a population of more than 100,000 persons that lacks a local full time aural station licensed to that community and that is located within a Class I station primary service area notifies the Commission that such licensee seeks to provide full-time service, to ensure that such a licensee is able to place a principal community contour signal over its entire community of license 24 hours a day, if technically feasible. The Commission shall report to the appropriate committees of Congress within 30 days after the date of enactment of this Act on how it intends to meet this policy goal.".

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HOLLINGS. Mr. President, I am pleased to report that we have come to an agreement with the House on a bill to restrict invasive uses of telephone equipment. The amendment version before the Senate today of S. 1462, which I introduced earlier this year, is the result of negotiations with the industry and Members on both sides of the aisle in the House and the Senate. This amendment incorporates the principal provisions of S. 1462 and S. 1410, which passed the Senate on November 7, and H.R. 1304, which passed the House on November 18. I believe that this revised bill responds to all the major concerns of the parties involved, and I urge my colleagues to support it.

The bill includes provisions to restrict telephone calls that use an automated or computerized voice. These calls are a nuisance and an invasion of our privacy. The complaints received by the Federal Communications Commission [FCC] and my office indicate that people find these calls to be objectionable regardless of the content of the message or the initiator of the call. Restricting such calls is constitutionally acceptable as a reasonable place and manner restriction.

At the same time, there may be certain types of automated or prerecorded calls that are not as invasive of privacy rights as others. I use the term privacy rights to include the concepts of privacy invasion and nuisance. Therefore, this bill includes a provision that allows those who use automated or prerecorded voice systems to apply to the FCC for an exemption from this prohibition. The bill gives the FCC the authority to exempt from these restrictions calls that are not made for a commercial purpose and categories of calls that the FCC finds do not invade privacy rights. If the FCC determines that such an exemption is warranted based on the record it develops, the FCC may grant such an exemption, subject to whatever conditions it determines to be appropriate.

The phrase "calls that are not made for a commercial purpose" is intended in the constitutional sense and is intended to be consistent with the court decisions which recognize that noncommercial speech can receive less protection than commercial speech. This phrase is intended to allow the FCC to design rules to implement this bill that are consistent with the free speech guarantees of the Constitution if it finds that a distinction between commercial and noncommercial calls is justified and can be supported by the record.

The FCC is given the authority to exempt certain types of calls, and the FCC is not limited to considering existing technologies. The FCC is given the flexibilty to consider what rules should apply to future technologies as well as existing technologies.

Some telephone companies are beginning to offer a voice messaging service which delivers personal messages to one or more persons. A person calling from a pay telephone at an airport, for instance, may call and leave a recorded message to be delivered later if the called line is busy or no one answers the call. Some debt collection agencies also use automated or prerecorded messages to notify consumers of outstanding bills. The FCC should consider whether these types of prerecorded calls should be exempted and under what conditions such an exemption should be granted either as a noncommercial call or as a category of calls that does not invade the privacy rights of consumers.

In considering whether to exempt certain calls, however, the bill states that the FCC may not exempt telephone solicitations. These calls are certainly commercial calls and the evidence before the Congress leaves no doubt that these types of calls are an invasion of privacy and a nuisance.

As stated earlier, this bill prohibits automated or prerecorded telephone calls to the home, unless the called party consents to receiving such a call, or unless the call is initiated for emergency purposes. The FCC must determine what constitutes an emergency purpose. In defining this term the FCC could find that "emergency purpose" includes any automated telephone call that notifies consumers of impending or current power outages, whether these outages are for scheduled maintenance, unscheduled outages caused by storms or similar circumstances, cut off of power due to late payment of bills, power interruptions for load management programs, or other reasons. Power interruptions can be detrimental to the public health and safety. Therefore, the FCC should consider whether all or certain types of outages should be considered an emergency.

Section 227(e)(1) clarifies that the bill is not intended to preempt State authority regarding intrastate communications except with respect to the technical standards under section 227(d) and subject to section 227(e)(2). Pursuant to the general preemptive effect of the Communications Act of 1934, State regulation of interstate communications, including interstate communications initiated for telemarketing purposes, is preempted.

I want to clarify a couple of other changes to the bill that we have made in response to some concerns of the telemarketing industry. We have included a private right of action for consumers harmed by authomated or prerecorded calls and a different private right of action for consumers who receive telemarketing solicitations. We have amended this provision in order to give telemarketers an affirmative defense in court so that this provision does not impose strict liability on any telemarketer that might violate the provisions of the bill.

Finally, I want to clarify how this bill applies to carriers who might unknowingly transmit calls made in violation of this bill. It is not our intention that a carrier should be held liable for transmitting over the carrier's network any call or message in violation of this legislation made by an entity other than the carrier. This intention is consistent with our policy that carriers should not be responsible for the content of messages delivered over their networks. If carriers were held responsible for such transmissions, they might be forced to monitor telephone conversations, which would not be in the public interest. To the extent carriers are responsible for initiating or placing telephone calls or messages, however, they must comply with the terms of this bill.

I thank my counterparts on the House side, Chairman DINGELL of the House Energy and Commerce Committee, Chairman MARKEY of the House Telecommunications and Finance Subcommittee, and the ranking minority member of the Telecommunications and Finance Subcommittee, Mr. RINALDO. I also recognize the efforts of Senator DANFORTH, the ranking member on the Senate Commerce Committee, Senator INOUYE, chairman of the Senate Communications Committee, and Senator PRESSLER, the author of S. 1410, in assisting in the development of this compromise. I am pleased that we were able to accommodate the interests of all Members in a bipartisan way.

TELEMARKETING

Mr. PRESSLER. Mr. President, I support Senate passage of S. 1462. This legislation is the result of a House and

Senate conference on comprehensive telemarketing legislation. It incorporates legislation Congressman MARKEY introduced in the House of Representatives and I introduced earlier this year in the Senate, and legislation introduced by Senator HOLLINGS. S. 1462 contains the provisions I first suggested in S. 1410, which passed the Senate earlier this year. I introduced this legislation in response to the national outcry over the explosion of unsolicited telephone advertising. I want to thank Chairman HOLLINGS and Chairman MARKEY for their efforts both to forge an agreement on our three bills.

Mr. President, consumers in my home State of South Dakota are fed up with the annoyance of unwanted telephone solicitations. Unlike other communications media, the telephone commands our instant attention. Junk mail can be thrown away. Television commercials can be turned off. The telephone demands to be answered.

People are increasingly upset over this invasion of their privacy by unrestricted telemarketing. In fact, the consumer backlash that has arisen from the cost and the interference of unsolicited telemarketing calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. The complaints of consumers have been heard.

This past June, we held hearings in the Commerce, Science, and Transportation Committee on S. 1410. During these hearings, we received testimony from consumer advocates, private citizens, and representatives of the telemarketing industry. The testimony we received was clear. The Federal Government needs to act now on uniform legislation to protect consumers.

The primary purpose of this legislation is to develop the necessary ground rules for cost-effective protection of consumers from unwanted telephone solicitations. These rules should allow responsible telemarketers to reach consumers who are most responsive to this form of solicitation, while eliminating the cost and time of contacting those individuals who would be least responsive.

To accomplish this balanced approach, the substitute we have before us today directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider is the use of a telephone electronic database that would allow consumers to have their phone numbers protected from unsolicited advertising. This type of consumer protection has already been used with great success in the State of Florida. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange.

Some objected to the original legislation because of the extent to which it outlined the safeguards necessary for the creation of a national database. While I personally believe that an electronic database will give the most promising protection for consumers, we recognize that newer technologies could be used more effectively in the future. It is important to note that certain anticompetitive questions may arise as a result of the form of protection the FCC chooses. For this reason, it is important for the FCC to keep a close watch on the impact of its rulemaking on businesses that compete with larger monopolies.

We included in this substitute a provision that directs the FCC to examine whether local telephone solicitations by small businesses and second-class mail permit holders should be subject to the same FCC regulations that would apply to all other telemarketers. Many small businesses conduct responsible telemarketing in the local areas they serve. Since their business depends upon their good standing in the community, they conduct their own telemarketing in a very respectable way.

We include in this bill an exemption for businesses that have an established business relationship with their customers. For example, if Citibank's credit card operation needed to inform customers about new services it intended to provide to their credit card customer, clearly this contact would be allowed.

The effect of this legislation will be to prohibit cold calls by any telemarketer to the telephone of a consumer who has no connection or affiliation with that business and who affirmatively has taken action to prevent such calls. Many responsible telemarketers have told me that this will save them both time and money by reaching only those people who are most likely to respond positively to their solicitations.

S. 1462 also addresses problems arising from computerized calls. Due to advances in auto-dialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers.

This results in calls to hospitals, emergency care providers, unlisted numbers, and paging and cellular equipment. There have been many instances of auto-dial machines hitting hospital switchboards and sequentially delivering a recorded message to all telephone lines. In some cases, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phones inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, the substitute requires auto-dialer machines to release the phone line automatically after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number or address of the person or business initiating the call.

This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising—the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. The substitute bill requires that autodial fax machines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

While our substitute will not end all unsolicited calls, it will give back to consumers the freedom to choose how their telephones are used. The balanced approach we take in the Pressler-Markey-Hollings legislation, will finally give consumers relief from modern door-to-door salesmen who now have the unrestricted ability to invade the privacy of our homes at any time.

Mr. President, I ask unanimous consent that several articles in support of this legislation be placed in the RECORD immediately following my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Nov. 22, 1991]

PUTTING LIMITS ON AUTODIALERS

Ever had a pleasant diner interrupted by a telephone call, only to hear a tape-recorded voice greet you with an offer of something to buy? Then you may think there is nothing but good in congressional efforts to put a stop to such annoyances.

That reaction is perfectly understandable but but not entirely wise. Autodialers may not be to everyone's liking, but they have value to some buyers and sellers—otherwise, they would vanish on their own. Fortunately, there are ways to deal with the aggravations and abuses without barring the machines altogether.

Autodialers have grown in use because, as a New York Times story put it, "they don't eat, they don't sleep and their feelings never get hurt when people curse them or hang up on them. They just call and call and call—each one up to 1,500 times a day."

By one estimate, these gadgets make 20 million calls a day in the United States, flogging a wide variety of goods and services. Most consumers, no doubt, hang up within seconds, if not milliseconds, but enough stay on the line to listen—and buy—that many companies wouldn't think of doing business without them.

They create problems beyond the interrupted meal. They can tie up phone lines, even after victims hang up, overwhelm electronic paging services and inflict unwanted expenses on cellular phone owners, who pay for incoming as well as outgoing calls.

The Senate recently passed two measures dealing with autodialers—one good and one bad. The good one, sponsored by Larry Pressler (R-S.D), directs the Federal Communications Commission to either let consumers shield themselves by registering their numbers or to put the autodialers all on one exchange, enabling consumers to block their calls. The bad one, offered by Ernest Hollings (D.-D.C.) bans autodialers from calling either fax machines or homes.

Hollings' blunderbuss approach would not only penalize businesses and consumers that benefit from autodialers, but probably run afoul of the Constitution as well. The 1st Amendment protects the freedom to speak—even by phone and even by recording. If Congress can't outlaw indecent messages provided by "phone sex" services—as the supreme Court has ruled—it presumably has to be careful with broad prohibitions on the delivery of messages by autodialer.

A better approach is to zero in on clear abuses. A House bill wouuld ban calls to emergency lines of health care facilities, police and fire departments. It would put pagers and cellular phones off limits. And autodialers would be required to disconnect after the person called hangs up—someting not all do now.

Lawmakers should keep in mind that while recorded solicitations may be annoying to most consumers, they perform a valued function for some. It isn't too much to ask that Congress, in trying to protect the former, should also accommodate the interest of the latter.

[From the Washington Post, Nov. 19, 1991]

HOUSE VOTES TO RESTRICT CALLS BY TELEMARKETERS

(By Cindy Skrzycki)

The House of Representatives yesterday passed legislation to restrict telemarketers who dial some 38 million Americans every day with unsolicited commercial telephone calls, selling credit cards, aluminum siding, children's photographs and uncounted other products.

The bill, which passed by a voice vote, has to be reconciled with two initiatives approved by the Senate that also take aim primarily at auto-dialers, which are computers that spew prerecorded messages. Differences in the bills should be ironed out by the end of the week, said a staff member on the House telecommunications and finance subcommittee.

Once a compromise reaches the White House, however, its fate is less certain. The Bush administration has raised objections to taking away or regulating one of business's most potent and economical marketing tools.

Nevertheless, the issue of blocking unsolicited sales calls generated by humans, computerized machines or facsimile machines isn't likely to go away as millions of Americans find their dinner hours interrupted by telephone sales calls, sometimes from machines that refuse to free the line.

"When people get home from work, they deserve some peace and quiet," said Rep. Edward J. Markey (D-Mass.), sponsor of the House bill and chairman of the subcommittee on telecommunications and finance.

The House bill attempts to balance the privacy rights of individuals against the rights of businesses that may using telemarketing not to solicit but to reach customers to warn of an electrical power test or a delinquent loan.

The Senate bill, sponsored by Sen. Ernest Hollings (D-S.C.), proposes to ban all computerized calls to the home unless the party consents to receiving them. In contrast, Markey's bill would charge the Federal Communications Commission with coming up with a way to protect consumers from commercial solicitations.

The House bill does allow businesses with established relationships to call even if a name shows up on an industry "do-not-call list." Contact would stop if the consumer objected again to being called.

The House bill prescribes additional restrictions for auto-dialers: The machines would have to identify themselves and hang up as soon as possible. They would not be allowed to call emergency phone lines, or mobile or cellular phones.

Also, the House bill requires faxes used for advertising to include the identity and telephone number of the faxer. It also asks the FCC to include the identity and telephone number of the faxer. It also asks the FCC to consider banning "junk faxes."

The Hollings bill places an outright ban on unsolicited faxes unless there has been some prior consent from the consumer.

Under the Markey bill, the FCC would have about a year to explore the best way to protect the privacy of residential telephone subscribers, an approach that is also suggested by Sen. Larry Pressler (R-S.D.) in a bill that passed the Senate earlier this month.

Some of the alternatives the FCC might consider include a national electronic database of people who do not want to be called, the use of new telephone technology to block such calls, or special markings such as an asterisk in the telephone book.

Studies done by telephone companies and other organizations show that automated telemarketing, which has grown into an industry that generates $435 billion in sales, is a growing irritant to Americans who feel the telephone is invading their privacy.

[From the New York Times, Nov. 8, 1991]

SENATE VOTES DIALER BAN

WASHINGTON, NOV. 7.—The Senate unanimously approved bills today that would virtually ban the use of automated dialing machines in telephone marketing and would make it easier to block unwanted calls by live sales representatives.

The first measure, sponsored by Senator Ernest F. Hollings, Democrat of South Carolina, would make it illegal to use machines that automatically call homes and play recorded sales pitches, unless a person has given specific written or spoken permission.

A second measure, sponsored by Senator Larry Pressler, Republican of South Dakota, would instruct the Federal Communications Commission to adopt rules to help people block both live and computer-delivered sales calls.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CENTENNIAL OF BASKETBALL

BICENTENNIAL OF DC

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to, en bloc, the immediate consideration of House Joint Resolution 372, House Joint Resolution 356, just received from the House; that the joint resolutions be deemed read three times; passed en bloc; that the motion to reconsider be laid upon the table; that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolutions were deemed read three times and passed as follows:

A joint resolution (H.J. Res. 372) designating December 21, 1991, as "Basketball Centennial Day".

A joint resolution (H.J. Res. 356) designating December 1991 as "Bicentennial of the District of Columbia Month".

CAPITOL PRESERVATION COMMISSION

Mr. FORD. Mr. President, on behalf of Senator BYRD, I send to the desk a resolution, and ask for its immediate consideration, that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 240) is as follows:

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol be temporarily suspended for the sole and specific purpose of permitting the United States Capitol Preservation Commission and its designated agents to conduct activities in accordance with the purposes of the Commission on such dates and times, and in such manner as determined by the Senate Cochair of the Commission or his designee.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements to facilitate activities authorized by this resolution.

STAR PRINT OF REPORT NO. 102-213

Mr. FORD. Mr. President, I ask unanimous consent for a star print of the report of No. 102-213, the Select Committee on Indian Affairs on S. 1595.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAR PRINT OF ETHICS REPORT

Mr. FORD. Mr. President, I ask unanimous consent that there be a star print of the Ethics Committee report regarding Senator CRANSTON to reflect the changes I now send to the desk, and ask that a letter accompanying this by Annette M. Gillis be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON ETHICS,
Washington, DC, November 26, 1991.

MS. KATHLEEN ALVAREZ,
Bill Clerk, Office of the Secretary.
U.S. Senate, Washington, DC.

DEAR KATHIE: As a follow up to our telephone conversation of yesterday regarding

Senate Report 102-223 (Investigation of Senator Alan Cranston), the Committee, respectfully, request that the publication be reprinted and include the listed modifications.

1. Volumes I and II of the Committee Report should be combined and printed as one Senate report. Please do not repaginate the old Volume 2.

2. The cover contain the Together With Additional Views language as stated on the cover of the Committee's submission.

3. The Committee would like to add its Members names to the bottom of page 36 as follows.

Howell Heflin, Chairman, Warren B. Rudman, Vice Chairman, David Pryor, Member, Trent Lott, Member, Terry Sanford, Member.

4. Remove the third and fourth heading (the whole heading should be removed) lines from Volume 2. (This is Senator Helms' report which was credited to Senator Heflin when it was printed.)

5. Insert the attached cover page ahead of page one of Volume 2.

Thank you for your attention regarding this matter.

Sincerely,

ANNETTE M. GILLIS,
Chief Clerk.

COAST GUARD AUTHORIZATION ACT OF 1991

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1776.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1776) entitled "An Act to authorize for fiscal year 1992 the United States Coast Guard Budget" with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1991".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for Fiscal Year 1992, as follows:

(a) For the operation and maintenance of the Coast Guard, $2,570,000,000, of which $500,000 shall be used to implement the Nonindigeous Aquatic Nuisance Prevention and Control Act of 1990, (P.L. 101-646), and $35,000,000 shall be expended from the Boat Safety Account.

(b)(1) For the acquisition, construction, rebuilding and improvement of aids to navigation, shore and offshore facilities, vessels, sonar simulators, and aircraft, including equipment related thereto, $466,000,000, of which $29,000,000 shall be used to acquire a command and control aircraft, to remain available until expended.

(2) Funds authorized to be appropriated for the construction of a new seagoing buoy tender (WLB) may not be expended for the acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

(3)(A) Notwithstanding another provision of law, the Secretary of the Department in which the Coast Guard is operating may submit a request for reprogramming of funds to purchase, lease, or lease with option to purchase a replacement command and control aircraft for the Coast Guard during fiscal year 1992. The request shall be in accordance with the existing procedures for Congressional review of appropriations reprogramming requests. Subject to those reprogramming procedures—

(i) the Coast Guard may enter into a multiyear lease agreement for a replacement aircraft and may utilize operating expenses for a multiyear lease but not for the purchase of aircraft; and

(ii) funds may be reprogrammed, pursuant to the request, from any subaccount of the acquisition, construction, and improvements appropriation.

(B) The Coast Guard may transfer the current command and control aircraft to the vendor of a replacement aircraft in exchange for an equitable reduction in the cash price of an aircraft to be acquired, or in lieu of exchange, the current aircraft may be sold and the proceeds applied toward a purchase, lease, or lease with option to purchase.

(4) Before October 1, 1992, the Secretary of Transportation shall use funds as may be necessary, not more than $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter MACKINAW at least an additional 15 years.

(c) For research, development, test, and evaluation, $29,150,000, to remain available until expended.

(d) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(e) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $11,100,000, to remain available until expended.

(e) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $11,100,000, to remain available until expended.

(f) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(g) Of the amounts authorized for Coast Guard operations and maintenance and acquisition construction and improvement, the following amounts shall be derived from transfer from the Oil Spill Liability Fund for implementation of the Oil Pollution Act of 1990 (P.L. 101-380; 104 Stat. 484):

(1) $25,000,000 for operating expenses; and

(2) $30,000,000 to establish the National Response System under section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)), including the purchase and prepositioning of oil spill removal equipment.

(h) Of the amounts authorized for Coast Guard operations and maintenance, not more than $1,900,000 shall be used for annual obligations of membership in the International Maritime Organization for calendar year 1992, notwithstanding section 2 of the Act of September 21, 1950 (22 U.S.C 262a).

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992.

(a) As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For Fiscal Year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

SEC. 4. TRANSFER OF AUTHORITY FROM THE SECRETARY OF TRANSPORTATION TO THE SECRETARY OF THE NAVY UPON THE TRANSFER OF THE COAST GUARD TO THE NAVY.

Not later than 90 days after enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the functions, powers, and duties vested in the Secretary of Transportation and exercised through delegation to the Commandant of the Coast Guard that would be transferred to the Secretary of the Navy when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

SEC. 5. RETIREMENT OF REAR ADMIRALS.

(a) Section 290 of title 14, United States Code, is amended—

(1) in subsection (e) by striking "June 30 of" and substituting "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and substituting the following new subsections:

"(f)(1) Unless retired under another provision of law, each officer who is continued on active duty under this section shall, execpt as provided in paragraph (2), be retire on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades or rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under another provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b)(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and substituting "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

SEC. 6. ENLISTED PERSONNEL BOARDS.

(a) Section 357 of title 14, United States Code, is amended to read as follows:

"(a) Enlisted Personnel Boards shall be convened as the Commandant may prescribe to review the records of enlisted members who have twenty or more years of active military service.

"(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired on recommendtion of a Board—

"(1) because the member's performance is below the standards the Commandant prescribes; or

"(2) because of professional dereliction.

"(c) An enlisted member under review by the Board shall be—

"(1) notified in writing of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

"(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

"(5) allowed to appear before the Board and present witnesses or other documentation related to the review.

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who—

"(1) have twenty or more years of active service;

"(2) have been considered for involuntary retirement; and

"(3) it determines should be involuntarily retired.

"(f) After the Board makes its determination, each enlisted member the Commandant considers for involuntary retirement shall be—

"(1) notified by certified mail of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty from the date counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2); and

"(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2).

"(g) If the Commandant approves the Board's recommendation, the enlisted member shall be notified of the Commandant's decision and shall be retired from the service within 90 days of the notification.

"(h) An enlisted member, who has completed twenty years' service and who the Commandant has involuntarily retired under this section, shall receive retired pay.

"(i) An enlisted member voluntarily or involuntarily retired after twenty years' service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

"(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or

"(2) the member's retired pay base under section 1407 of title 10, when a member's retired pay is computed under section 423(b) of this title.

"(j) When the Secretary orders a reduction in force, enlisted personnel may be involuntarily separated from the service without the Board's action.".

(b) The catchline to section 357 of title 14, United States Code, is amended to read "357. Involuntary retirement of enlisted members.", and item 357 in the analysis to chapter 11 of title 14, United States Code, is amended to read "357. Involuntary retirement of enlisted members.".

SEC. 7. AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE.

Section 93 of title 14, United States Code, is amended by—

(1) striking the word "and" at the end of subsection (q);

(2) striking the period at the end of subsection (r) and inserting "; and"; and

(3) adding the following new subsection:

"(s) accept, under terms and conditions the Commandant establishes, the service of an individual ordered to perform community service under the order of a Federal, State, or municipal court.".

SEC. 8. HOUSING UNIT LEASE AUTHORITY.

(a)(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction or renovation of housing units, or both.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of the Massachusetts Military Reservation.

SEC. 9. AIR FACILITIES LEASE AUTHORITY.

(a)(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

SEC. 10. COAST GUARD HOUSING STUDY.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

SEC. 11. TWO-YEAR BUDGET CYCLE FOR THE COAST GUARD.

Notwithstanding another law, the President is not required to submit a two-year budget request for the Coast Guard until the President is required to submit a two-year budget request for the Department of Transportation.

SEC. 12. TRANSPORTATION OF HOUSEHOLD EFFECTS OF COAST GUARD CADETS.

Section 406(b)(2)(E) of title 17, United States Code, is amended to read as follows:

"(E) Under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy, cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with temporary or permanent station change, to transportation of baggage and household effects as provided in subparagraph (A) of this paragraph. The weight allowance for cadets and midshipmen is 350 pounds.".

SEC. 13. EMERGENCY RECALL OF RESERVISTS.

Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding another law, and for the emergency augmentation of the Regular Coast Guard forces during a serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than thirty days in any four-month period and not more than sixty days in any two-year period an organized training unit of the Coast Guard Ready Reserve, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

SEC. 14. RECALL OF RETIRED OFFICERS.

(a) Section 332(b) of title 14, United States Code, is amended by striking "1" and substituting "2".

(b) Section 332(a) of title 14, United States Code, is amended by striking "his" and substituting "that officer's" and by striking "he" and substituting "that officer".

SEC. 15. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by striking at the end "September 30, 1992", and inserting "September 30, 1994".

SEC. 16. AMENDMENT TO THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT OF 1971.

Section 4(a)(1) of the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203(a)(1)) is amended to read as follows:

"(1) every power-driven vessel of twenty meters or over in length while navigating;".

SEC. 17. NORTH CAROLINA MARITIME MUSEUM.

Notwithstanding section 3301(8) of title 46, United States Code, the GENERAL GREENE, (vessel identification number USG NP5000025661), may transport not more than 16 passengers when the North Carolina Maritime Museum operates the vessel for educational purposes.

SEC. 18. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

(a)(1) There is established a Houston-Galveston Navigation Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advice, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on matters relating to the transit of vessels and products to and from the Ports of Galveston, Houston, Texas City, and Galveston Bay. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety at these port facilities. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(B) The Committee shall consist of 18 members, who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico:

(1) Two members who are employed by the Port of Houston Authority or have been selected by the entity to represent them.

(2) Two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them.

(3) Two members from organizations that represent shipowners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas.

(4) Two members representing originations that operate tugs or barges that utilize the port facilities at Galveston, Houston, and Texas City Port Complex.

(5) Two members representing shipping companies that transport cargo from the Ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels.

(6) Two members representing those who pilot or command vessels that utilize the Ports of Galveston and Houston

(7) Two at large members who may represent a particular interest group but who utilize the post facilities at Galveston, Houston, and Texas City.

(8) One member representing labor organizations which load and unload cargo at the Ports of Galveston and Houston.

(9) One member representing licensed merchant mariners, other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston and Houston.

(10) One member representing environmental interests.

(11) One member representing the general public.

(c) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise, the Committee on matters with the jurisdiction of that agency or department.

(d) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the chairman and one of the members as the vice chairman. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in the Office of the Chairman.

(e) Terms of members appointed to the Committee shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(g) The term of members of the Committee shall begin on October 1, 1992.

SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

(a)(1) There is established a Lower Mississippi River Waterway Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on a wide range of matters regarding all facets of navigational safety related to the Lower Mississippi River. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety in the Lower Mississippi River. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give the Secretary. The Committee shall meet at the call of the Chairman, or upon request of the majority of Committee members, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) The Committee shall consist of twenty-four members who have expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways including the Gulf of Mexico.

(1) Five members representing River Port Authorities between Baton Rouge, Louisiana, and the head of passes of the Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.

(2) Two members representing vessels owners or ship owners domiciled in the State of Louisiana.

(3) Two members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the Committee.

(4) Two members representing companies which transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.

(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/Baton Rouge Steamship Pilots Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.

(6) Two at-large members who utilize water transportation facilities located in the geographical area covered by the Committee.

(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the Committee.

(8) Two members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.

(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

(10) One member representing an environmental organization.

(11) One member representing the general public.

(c) The Secretary shall appoint the members of the Committee upon recommendation after first soliciting nominations by notice in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department, who shall not be a voting member of the Committee.

(2) The Committee shall annually elect, by majority vote at its first meeting, a chairman and vice chairman from its membership. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(e) Terms of members appointed to the Committee shall be two years. The Secretary shall, not less than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular place of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 20. VESSEL REQUIREMENTS.

Section 3503 of title 46, United States Code, is amended as follows:

(1) in subsection (a), by striking "November 1, 1993" and substituting "November 1, 1998"; and

(2) in section (b)(1):

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and substituting "; and"; and

(C) by adding the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations comply with any non-combustile material requirements that the Coast Guard prescribes for non-public spaces. Coast Guard requirements shall be consistent with preservation of the historic integrity of the vessel in areas carrying or accessible to passengers or generally visible to the public.".

SEC. 21. AMENDMENT OF INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

SEC. 22. DESIGNATION OF THE BORDEAUX RAILROAD BRIDGE AS AN OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Bordeaux Railroad Bridge at mile 185.2 of the Cumberland River is deemed an unreasonable obstruction to navigation.

SEC. 23. NEW CONSTRUCTION DECLARATION.

The vessel, SEA FALCON, United States official number 606930, is deemed to have been built in the year 1990 for all purposes of subtitle II of title 46, United States Code.

SEC. 24. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and substituting "September 30, 1996".

SEC. 25 COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and substituting "1994".

SEC. 26. CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE.

(a)(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States:

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigation aids; and

(E) the United States shall have an easement of access of such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(d) For purposes of this section—

(1) "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 27. SHIP SHOAL LIGHTHOUSE TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the City of Berwick, Louisiana all rights, title, and interest of the United States in the aid to navigation structure known as the Ship Shoal Lighthouse, Louisiana.

SEC. 28. CAPE COD LIGHTHOUSE AND SANKATY HEAD LIGHT STATION.

(a)(1) Not later than six months after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Army, the Secretary of the Interior, appropriate State, local, and other governmental entities, and private preservation groups, shall develop a strategy regarding the relocation, ownership, maintenance, operation, and use of Cape Cod Lighthouse (otherwise known as "Highland Light") in North Truro, Massachusetts, and Sankaty Head Light Station in Nantucket, Massachusetts.

(2) In developing the strategy, the Secretary shall determine whether and under what conditions it would be appropriate to convey the rights, title, and interest of the United States in Cape Code Lighthouse and Sankaty Head Light Station to other Federal, State, or local government agencies or private preservation groups.

(3) In preparing the strategy with respect to Cape Code Lighthouse, the Secretary shall consult with the Director of the National Park Service to determine whether the lighthouse should become part of the National Park at Cape Cod National Seashore.

(4) Any strategy developed under this section shall be consistent with—

(A) the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws; and

(B) the goal of interpreting and preserving material culture of the United States Coast Guard.

(b) After completion of the strategy under subsection (a), the Secretary of Transportation may convey, by any appropriate means, all right, title, and interest of the United States in either or both of Cape Code Lighthouse and Sankaty Head Light Station to one or more Federal, State, or local government agencies or appropriate nonprofit private preservation groups. Any conveyance under this subsection shall be made—

(1) without payment of consideration;

(2) subject to appropriate terms and conditions as the Secretary of Transportation considers necessary; and

(3) subject to the condition that if the terms and conditions established by the Secretary are not met, the property conveyed shall revert to the United States.

SEC. 29. TRANSFER OF HECETA HEAD AND CAPE BLANCO LIGHTHOUSES.

(a)(1) the Secretary may convey by any appropriate means to the State of Oregon all right, title, and interest of the United States in and to property comprising one or both of the Heceta Head Lighthouse and the Cape Blanco Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b)(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Heceta Head Lighthouse or Cape Blanco Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head or Cape Blanco, as applicable.

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considered to be necessary to assure that—

(A) the light, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of Oregon may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as my be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) The State of Oregon shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(C) For purposes of this section the term—

(1) "Heceta Head Lighthouse" means the Coast Guard lighthouse located at Heceta Head, Oregon, including—

(A) the classical fresnel lens;

(B) the keeper's dwelling;

(C) several ancillary buildings; and

(D) such land as may be necessary to enable the State or Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon;

(2) "Cape Blanco Lighthouse" means the Coast Guard lighthouse located at Cape Blanco, Oregon, including—

(A) the classical fresnel lens;

(B) several ancillary buildings; and

(C) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation center for public benefit for the interpretation and preservation of the maritime history of Cape Blanco, Oregon; and

(3) the term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 30. CONVEYANCE OF WHITE ISLAND LIGHTHOUSE.

(a) The Secretary shall convey to the State of New Hampshire, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the White Island Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Hampshire may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Hampshire shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term "White Island Lighthouse" means the Coast Guard lighthouse located at White Island, Isles of Shoals, New Hampshire including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the State of New Hampshire to operate at that lighthouse a nonprofit center for public benefit.

SEC. 31. CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE.

(a)(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term—

(1) "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that lighthouse a nonprofit center for public benefit; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 32. OIL POLLUTION REPORT.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effect of section 1018 of the Oil Pollution Act of 1990 (P.L. 101–380; 104 Stat. 484) on the safety of vessels being used to transport oil and the capability of owners and operators to meet their legal obligations in the event of an oil spill.

SEC. 33. PASSENGER VESSEL INVESTIGATIONS.

Section 6101 of title 46, United States Code, is amended by adding at the end the following:

"(e)(1) This chapter applies to a marine casualty involving a United States citizen on a foreign passenger vessel operating south of 75 degrees north latitude, west of 35 degrees west longitude, and east of the International Date Line; or operating in the area south of 60 degrees south latitude that—

"(A) embarks or disembarks passengers in the United States; or

"(B) transports passengers traveling under any form of air and sea ticket package marketed in the United States.

"(2) When there is a marine casualty described in paragraph (1) of this subsection and an investigation is conducted, the Secretary shall ensure that the investigation—

"(A) is thorough and timely; and

"(B) produces findings and recommendations to improve safety on passenger vessels.

"(3) When there is a marine casualty described in paragraph (1) of this subsection, the Secretary may—

"(A) seek a multinational investigation of the casualty under auspices of the International Maritime Organization; or

"(B) conduct an investigation of the casualty under chapter 63 of this title.".

SEC. 34. PORTION OF SACRAMENTO RIVER BARGE CANAL DECLARED TO NOT BE NAVIGABLE WATERS OF UNITED STATES.

For purposes of bridge administration, the Sacramento River Barge Canal, which connects the Sacramento Deep Water Ship Channel with the Sacramento River in West Sacramento, Yolo County, California, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) from the eastern boundary of the Port of Sacramento to a point 1,200 feet east of the William G. Stone Lock.

SEC. 35 SENSE OF THE CONGRESS RELATING TO THE ROLE OF THE COAST GUARD IN THE PERSIAN GULF CONFLICT.

(1) members of the Coast Guard played an important role in the Persian Gulf Conflict;

(2) 950 members of the Coast Guard Reserve were called to active duty during the Persian Gulf Conflict and participated in various activities, including vessel inspection, port safety and security, and supervision of loading and unloading hazardous military cargo;

(3) members of Coast Guard Law Enforcement Detachments led or directly participated in approximately 60 percent of the 600

vessel boardings in support of maritime interception operations in the Middle East;

(4) 10 Coast Guard Law Enforcement Teams were deployed for enforcement of United Nations sanctions during the Persian Gulf Conflict;

(5) over 300 men and women in the Coast Guard Vessel Inspection Program participated in the inspection of military sealift vessels and facilitated the efficient transportation of hazardous materials; munitions, and other supplies to the combat zone;

(6) members of the Coast Guard served in the Joint Information Bureau Combat Camera and Public Affairs staffs;

(7) approximately 550 members of the Coast Guard served in port security units in the Persian Gulf area, providing port security and waterside protection for ships unloading essential military cargo;

(8) the Coast Guard Environmental Response Program headed the international Interagency Oil Pollution Response Advisory Team for cleanup efforts relating to the massive oil spill off the coasts of Kuwait and Saudi Arabia;

(9) the Coast Guard Research and Development Center developed a deployable positioning system for the Explosive Ordnance Disposal Area Search Detachment, saving the detachment time and thousands of dollars, while also increasing the effectiveness and efficiency of the minesweeping and ordnance disposal operations in the Persian Gulf area; and

(10) Coast Guard units remain in the Persian Gulf area and continue to provide essential support including both port security and law enforcement.

(b) The Congress commends the Coast Guard for the important role it played in the Persian Gulf Conflict and urges the people of the United States to recognize that role.

SEC. 36. BRIDGE ACROSS WAPPINGER CREEK, NEW YORK.

Notwithstanding any other provision of law, the railroad bridge across Wappinger Creek, mile 0.0. at New Hamburg, New York, is hereby determined to provide for the reasonable needs of navigation under the Act of March 3, 1899 (33 U.S.C. 401), section 1 of the Act of March 23, 1906 (33 U.S.C. 491), and section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)), at the closed position and need not be maintained as a movable structure.

SEC. 37. VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA.

The Secretary of Transportation, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

SEC. 38. TRANSFER OF CERTAIN PROPERTY AT FOLLY BEACH, SOUTH CAROLINA.

(A) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the Charleston County Park and Recreation Commission all rights, title, and interest of the United States in Coast Guard property located at Folly Island, Charleston County, South Carolina, described in subsection (b) subject to existing easement and restrictions of record. The transferee shall pay for all conveyance costs.

(b) The property to be transferred under subsection (a) is described as commencing at a point in the center of United States Army Observation Steel Tower (32 degrees 41 minutes 13.590 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude), and running from there due south 261.75 feet to a point at 32 degrees 41 minutes 11 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude, for a point of beginning; running from there, due east along north latitude 32 degrees 41 minutes 11 seconds 854 feet, more or less, to a point in the low water line; from there, running southerly and southwesterly along the meanderings of such low water line 4650 feet, more or less, to the intersection of such low water line with west longitude 79 degrees 53 minutes 30 seconds; from there, running due north along such longitude 3380 feet, more or less, to the intersection of such longitude with north latitude 32 degrees 41 minutes 11 seconds; from there, running due east along such latitude 1129.64 feet to the point of beginning, containing 143 acres, more or less (part high and part submerged lands); together with the 2300 volt power line, and all power line rights of way connected therewith, extending from the Government's property at the east end of Foley Island to such power lines connection with the South Carolina Power Company's power line at Folly Beach.

SEC. 39. REQUIREMENT TO REPORT ON CERTAIN POLLUTION INCIDENTS.

Section 7 of the Act to Prevent Pollution from Ships (33 U.S.C. 1906) is amended to read as follows:

"SEC. 7. (a) The master, person in charge, owner, charterer, manager, or operator of a ship involved in an incident shall report the incident in the manner prescribed by Article 8 of the Convention in accordance with regulations promulgated by the Secretary for that purpose.

"(b) The master or person in charge of—

"(1) a ship of United States registry or nationality, or operated under the authority of the United States, wherever located;

"(2) another ship while in the navigable waters of the United States, or;

"(3) a sea port or oil handling facility subject to the jurisdiction of the United States, shall report a discharge, probable discharge, or presence of oil in the manner prescribed by Article 4 of the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (adopted at London, November 30, 1990), in accordance with regulations promulgated by the Secretary for that purposes.".

SEC. 40. AMENDMENTS TO IMPLEMENT INTERNATIONAL SALVAGE CONVENTION, 1989.

(a) Section 3 of the Act of August 1, 1912 (46 App. U.S.C. 729), is amended by striking all after "fair share of the" substituting "payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.".

(b) Section 5 of the Act of August 1, 1912 (46 App. U.S.C. 731), is amended by striking "Nothing in this Act" and substituting "Nothing in sections 1, 3, and 4 of this Act and section 2304 of title 46, United States Code,".

SEC. 41. CERTIFICATE OF DOCUMENTATION FOR MAYFLOWER II.

(a) Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel MAYFLOWER II, owned by Plimoth Plantation, Inc., a corporation under the laws of Massachusetts.

(b)(1) The Secretary may exempt the vessel MAYFLOWER II from compliance with—

(A) any requirement relating to inspection or safety under title 46, United States Code; and

(B) any requirement relating to navigation under title 33, United States Code.

(2) If the Secretary exempts the vessel from any requirement under paragraph (1), the Secretary may establish an alternative requirement designed to provide for the safety of the passengers and crew of the vessel.

SEC. 42. JOHN F. LIMEHOUSE MEMORIAL BRIDGE.

Notwithstanding another law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Waterway in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

SEC. 43. OREGON OIL SPILL RESPONSE STUDY.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity take place.

SEC. 44. TRANSPORTATION SUBSIDY.

The Department of Transportation may include military personnel of the Coast Guard in any program in which the Department participates under section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991, Public Law 101–509, notwithstanding section 629(c)(2) of that Act.

SEC. 45. CHATHAM HARBOR, MASSACHUSETTS.

Not later than 30 days after the date of enactment of this Act, the Commandant of the Coast Guard shall provide to the U.S. Army Corps of Engineers New England Division for incorporation into their Feasibility Study on Improvement Dredging in Chatham Harbor, the following information:

(1) a description of the current and projected future navigational hazards in Chatham Harbor caused by shoaling in and around Aunt Lydia's Cove;

(2) the current and projected impacts, of these navigational hazards on the Coast Guard's missions, including:

(A) impacts on search and rescue responses;

(B) impacts on the area of response;

(C) types and costs of any special equipment needed to navigate the channel; and

(D) potential impacts on boater safety; and

(3) the benefits to local boaters and the Coast Guard that would result from improved navigation.

SEC. 46. JONES ACT WAIVERS FOR CERTAIN VESSELS.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) MISS LELIA, United States official number 577213.

(2) BILLFISH, United States official number 920896.

(3) MARSH GRASS III, United States official number 963616.

SEC. 47. NATIONAL MARITIME ENHANCEMENT INSTITUTES.

Section 8(e) of the Act entitled "An Act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes", approved October 13, 1989 (46 App. U.S.C. 1121–2(e)), is amended by striking "shall not exceed $100,000" and substituting "by the Secretary shall not exceed $500,000".

SEC. 48. ACQUISITION OF SPACE IN VIRGINIA.

The Secretary of Commerce shall acquire space from the Administrator of General

Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the consent of the Secretary of Commerce, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

SEC. 49. ACQUISITION OF SPACE IN ALASKA.

The Secretary of Commerce shall acquire space from the Administrator of General Services on Near Island in Kodiak, Alaska, that meets the long-term space needs of the National Oceanic and Atmospheric Administration, if the maximum annual cost of leasing the building in which the space is located is not more than $1,000,000.

SEC. 50. TRANSFER AT JUNEAU, ALASKA.

(A) Notwithstanding another provision of law, the Secretary of Transportation shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements at Auke Cape, Alaska (Lot 2 on United States Survey Number 3811 comprising 28.16 acres), located approximately 11 miles northwest of Juneau, Alaska.

(b) The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SEC. 51. STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. the report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in the efforts.

SEC. 52. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS.

(a) Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions, are declared to be nonnavigable waters of the United States.

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows, with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Central Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67, --,568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet pass the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf Park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

south 15 degrees 14 minutes 01 seconds west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.98 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,

south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,

south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,

south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,

south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,

south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,

south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,

south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,

south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,

north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,

north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,

south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,

north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and

north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said Mean High Water Line along Galveston Bay as follows;

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,

north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,

north 16 degrees 42 minutes 01 seconds west, 270.77 feet to a point,

north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,

north 11 degrees 21 minutes 01 seconds west, 732.39 feet to a point,

north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,

north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,

north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,

north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,

north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,

north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,

north 01 degree 30 minutes 23 seconds east, 222.91 feet to a point and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner,

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903,6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of and out of Pelican Island, in the city of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the City of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15, 171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch iron pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west a distance of 3,000.00 feet to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,827.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 421.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to the point of beginning, containing 3.548 acres of land, more or less.

(b) Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A–190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit 'B' of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this subsection, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the easterly boundary line of the tract and a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (commonly referred to as the "Rivers and Harbors Appropriation Act of 1899" (33 U.S.C. 401 and 403), section 404 of the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969.

(d) If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within 5 years after issuance of any permits required to be obtained under subsection (c), then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 53. DISCLOSURE REGARDING RECREATIONAL VESSEL FEE.

Section 2110(b) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(5) The Secretary shall provide to each person who pays a fee or charge under this subsection a separate document on which appears, in readily discernible print, only the following statement: 'The fees for which this document was provided was established under the Omnibus Budget Reconciliation Act of 1990. Persons paying this fee can expect no increase in the quantity, quality, or variety of services the person receives from the Coast Guard as a result of that payment.'."

SEC. 54. SENSE OF THE CONGRESS ON COAST GUARD RESCUE EFFORTS.

(a) The Congress finds that—

(1) during the month of October, Air Station Cape Cod experienced one of the most intense periods of search and rescue activities, including 51 search and rescue cases of which 27 were in the last 10 days of the month;

(2) immediately prior to the Winter storm that ravaged Cape Cod from October 28 to November 1, with average seas of 35–40 feet and winds exceeding 80 knots, coastal small boat station personnel on Cape Cod and the Islands of Nantucket and Martha's Vineyard successfully worked with the local communities and the fishing industry to secure the small coastal ports to minimize damage to vessels and property;

(3) Group Portland, Group Boston, and Group Woods Hole units suffered significant damage to coastal small boat stations, lighthouses, and other aids to navigation but this damage did not affect operational readiness and Coast Guard boats and aircraft were prepared to respond to emergencies;

(4) during the five-day period from October 28 to November 1, the Coast Guard Cutter GENETIN, Coast Guard cutter BEAR and Coast Guard helicopters stationed at Elizabeth City, North Carolina participated in five offshore rescue operations that saved 21 lives;

(5) Coast Guard flight crews operating from Elizabeth City logged 56 hours of flight time during the 72-hour-period when Hurricane Grace buffeted the North Carolina Coast;

(6) the Coast Guard performed these search and rescue operations while fulfilling other important missions including the monitoring of a sulfuric acid spill and a sensitive law enforcement operation.

(b) The Congress commends the Coast Guard units involved for their remarkable skill, performance and dedication in protecting life and property and urges the people of the United States to recognize this job well done.

SEC. 55. SENSE OF THE CONGRESS ON RECREATIONAL BOAT FEES.

(a) The Congress finds that—

(1) under section 9701 of title 31, United States Code, and section 664 of title 14, United States Code, Coast Guard user fees must be fair, based on the cost to the Coast Guard of providing services or things of value, based on the value of services or things of value provided by the Coast Guard, and based on a valid public policy or interest;

(2) the Coast Guard fee imposed upon recreational boaters under section 2110(b) of title 46, United States Code, was established under the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–1397);

(3) recreational boaters who are required to pay this fee cannot expect to receive any additional service in return for payment of the fee;

(4) recreational boaters already pay a motorboat fuel tax that contributes to the Coast Guard budget; and

(5) the fee imposed upon recreational boaters will not be directly available to the Coast Guard to increase services that would benefit recreational boaters.

(b) It is the sense of Congress that the requirement that the Coast Guard collect a fee from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately upon enactment of an offsetting receipts provision to comply with the requirements of the Omnibus Budget Reconciliation Act of 1990.

SEC. 56. COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY.

(a) In recognition of the memorandum of understanding of March 2, 1989, regarding the Cooperative Institute of Fisheries Oceanography (hereinafter in this section referred to as the "Institute"), the Institute is established within the National Oceanic and Atmospheric Administration, in partnership with Duke University and the Consolidated University of North Carolina.

(b) Amounts appropriated pursuant to subsection (b) may be used for—

(1) administration of the Institute;

(2) research conducted by the Institute; and

(3) preparation of a five-year plan for research and for development of the Institute.

(d) Within one year of the date of the enactment of this section, the Institute shall submit to the Congress and the Under Secretary of Commerce for Oceans and Atmosphere the plan developed pursuant to subsection (c)(3).

SEC. 57. NATIONAL DEFENSE RESERVE FLEET.

Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended by adding at the end the following new subsection:

"(d) READY RESERVE FORCE MANAGEMENT.—

"(1) MINIMUM REQUIREMENTS.—To ensure the readiness of vessels in the Ready Reserve Force component of the National Defense Reserve Fleet, the Secretary of Transportation shall, at a minimum—

"(A) maintain all of the vessels in a manner that will enable each vessel to be activated within a period specified in plans for mobilization of the vessels;

"(B) activate and conduct sea trials on each vessel at least once every 24 months;

"(C) maintain in an enhanced activation status those vessels that are scheduled to be activated within 5 days;

"(D) locate those vessels that are scheduled to be activated within 5 days near embarkation ports specified for those vessels; and

"(E) notwithstanding section 2109 of title 46, United States Code, have each vessel inspected by the Secretary of the department in which the Coast Guard is operating to determine if the vessel meets the safety standards that would apply under part B of subtitle II of that title if the vessel were not a public vessel.

"(2) VESSEL MANAGERS.—

"(A) ELIGIBILITY FOR CONTRACT.—A person, including a shipyard, is eligible for a contract for the management of a vessel in the Ready Reserve Force if the Secretary determines, at a minimum, that the person has—

"(i) experience in the operation of commercial-type vessels or public vessels owned by the United States Government; and

"(ii) the management capability necessary to operate, maintain, and activate the vessel at a reasonable price.

"(B) CONTRACT REQUIREMENT.—The Secretary of Transportation shall include in each contact for the management of a vessel in the Ready Reserve Force a requirement that each seaman who performs services on any vessel covered by the contract hold the license or merchant mariner's document that would be required under chapter 71 or chapter 73 of title 46, United States Code, for a seaman performing that service while operating the vessel were not a public vessel.".

Mr. FORD. I move the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SIX-MONTH EXTENSION OF THE DEFENSE PRODUCTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3919, providing for a 6-month extension of the Defense Production Act just received from the House, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF ABBEY COOKE

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 635, a bill for the relief of Abbey Cooke, and the Senate proceed to its immediate consideration; that the bill be deemed read for the third time, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF MARIA ERICA BARTSKI

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 159.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 159) entitled "An Act for the relief of Maria Erica Bartski", do pass with the following amendment:

Page 2, line 15, after "U.S.C. 1152(e)),", add the following new sentence: "No natural parent, brother, or sister, if any, of Maria Erica Bartski shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.".

Mr. FORD. I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONDEMNING SADDAM HUSSEIN

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 168, condemning Saddam Hussein for refusing to comply with U.N. Security Council Resolutions 706 and 712, just received from the House, that the concurrent resolution be agreed to, the motion to reconsider laid upon the table, and the preamble agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF VETERANS AFFAIRS CHIEF MINORITY AFFAIRS OFFICER

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3327, providing for the designation of the chief minority affairs officer in the Department of Veterans Affairs, just received from the House, that the bill be deemed read three times, passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I rise in support of the pending measure, H.R. 3327, a bill that would require the Secretary of Veterans Affairs to designate an Assistant Secretary as the Department of Veterans Affairs' Chief Minority Officer [CMAO]. The CMAO would have responsibility for assessing the effects of VA policies and activities on minority veterans, including women veterans, and the needs of minority veterans for VA benefits and services and advising the Secretary on matters relating to minority veterans. This legislation was passed by the House yesterday afternoon, November 25.

Mr. President, I applaud my esteemed colleague and committee member, Senator DANNY AKAKA, for his excellent work in ensuring that important legislation in this vein is enacted. First, he worked to have such legislation included in section 601 of S. 2100 as reported by our committee on July 19, 1990 (S. Rept. No. 101–379). Next, he ensured that it was included in section 301 of S. 869 both as reported by our committee on July 24, 1991 (S. Rept. No. 102–118), and then as passed the Senate on November 20, as a substitute for the text of H.R. 2280. Today, in light of the fact that H.R. 2280 is not being acted upon, he is assisting in obtaining Senate passage of H.R. 3327 in a most timely manner.

I also note that a similar provision has been considered by the Senate since 1989 and was originally authored by Senator AKAKA's predecessor, our beloved late colleague, Spark Matsunaga, who introduced S. 564 on March 9, 1989.

Mr. President, I believe that this measure will help to effect significant improvements in service and benefits for minority veterans and the education of VA employees about the special concerns of minority veterans. I have long been concerned about VA's efforts to reach out to minority veterans and, although outreach efforts have been made, I believe they have often been too narrowly focused and that VA at times has failed, though unintentionally, to address the many unique needs and problems of minority veterans and an integrated, systematic manner. I belive that institutionalizing concern for minority veterans at the Assistant Secretary level is a necessary step to ensuring that minority veterans have access to the full range of benefits to which they are entitled by law.

Mr. President, for a further discussion and explanation of this provision, I refer my colleagues to pages 81–85 of the committee's report accompanying S. 869.

Mr. President, in closing, I reiterate my thanks to Senator AKAKA for his role in keeping this critical matter before the Congress and VA and for gaining passage of this measure. I believe that enactment of this legislation will ensure that the issues affecting minority veterans will be addressed at levels within VA that are commensurate with their importance.

Mr. AKAKA. Mr. President, I rise to support passage of H.R. 3327, a bill that would designate an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department.

This measure is the culmination of several years of effort on the part of the late Senator Spark Matsunaga, Representative CHARLES RANGEL, and myself to ensure that the special, often unique, needs of minority veterans—including blacks, Asians, Hispanics, Native Americana—including American Indians, and Alaskan Natives, and native Hawaiians, Pacific-Islanders, and women veterans—are considered in a systematic manner at the highest policymaking levels of VA.

My colleagues may ask how enactment of this legislation will specifically benefit minorities. Well, it means that VA may at last examine why a native American veteran who lives on a reservation has virtually no opportunity of using his home loan entitlement. It may force VA to look at why Asian American veterans may suffer from post-traumatic stress disorder [PTSD] in greater degree than other veterans and why current VA mental health services are not organized either to recognize or treat effectively PTSD in this population. It may impel the Department to hire Spanish-speaking counselors to improve outreach to alienated Hispanic veterans. Or it may cause VA to provide health care services, such as obstetrics and gynecology, in VA medical centers that directly address the needs of female veterans.

There is, of course, no guarantee that VA will change its policies and practices with respect to minorities as a result of this legislation. At the very least, though, it will institutionalize concern for these veterans at the highest levels of the Department.

When Senator Matsunaga introduced his legislation first proposing the additional minority affairs function in 1989—similar legislation was simultaneously introduced in the House by Representative RANGEL, he was concerned by growing evidence that VA had closed its eyes to the fact that minorities typically underutilize services and benefits to which they are entitled. Spark believed that the problem of underutilization could be traced directly to two facts: First, that VA services and benefits—which are programmed with the needs of white, male veterans in mind—are often unsuited to the circumstances of minorities; and, second, that VA has failed to make a special effort to inform veterans of the availability of VA services and benefits.

Senator Matsunaga managed to include his minority affairs initiative in omnibus veterans legislation that the Senate approved overwhelmingly in 1989. Unfortunately, the House, which had not acted on Representative RANGEL'S bill, would not agree to the minority affairs provision and the initiative languished. In 1990, after the death of the Hawaii legislator, when I assumed both the Senator's veterans agenda and his place on the Senate Veterans' Affairs Committee, I continued to push for enactment of the minority affairs legislation. With the assistance of the chairman of the committee, Senator ALAN CRANSTON, I managed to include the provision in omnibus veterans health care legislation that the committee eventually reported; unfortunately, the provision ultimately died when the omnibus bill failed to be considered on the Senate floor.

This year, once again, I requested the assistance of Senator CRANSTON in including the minority affairs provision in the committee's major health care bill. This legislation, S. 869, was adopted by the Senate only a few days ago. Happily, this time, after having been twice approved by the Senate, the minority affairs provision was found acceptable by the House, which offered in its stead similar, companion legislation that had been promulgated for nearly 3 years by my friend and former House colleague, Representative RANGEL.

Mr. President, I am glad the long wait for this initiative to be passed is over. I cite this legislative history to point out the long, tortuous road that minorities must tread in their search for equality. One of the great unlearned lessons of racism in this country is that minorities are individuals, too, with specific problems that require specific answers. It is not enough to recognize their legal equality. We need to understand that the needs of blacks may differ from the needs of whites, that the problems of Asians may differ from those of American Indians, that the requirements of Native Alaskans may differ significantly from those of Hispanics. We need to educate the people of this Nation that we are not all cut from the same cookie cutter, that equal treatment does not necessarily mean identical treatment.

Mr. President, I believe that, if the spirit and purpose informing this legislation are properly interpreted, the Department of Veterans Affairs has before it an historic opportunity to establish the standards by which all Federal agencies address the programmatic needs of minorities. I urge VA to take full advantage of this important opportunity.

CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 77.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 77) entitled "Concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military," do pass with the following amendments:

Strike out all after the resolving clause, and insert:

That (a) the Congress—

(1) condemns the recent, indiscriminate killing of civilians by Indonesian military forces on East Timor; and

(2) urges the Government of Indonesia to bring to justice those members of the Indonesian military responsible for the killings.

(b) It is the sense of the Congress that—

(1) the provision of assistance for Indonesia under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) should be contingent on the Government of Indonesia conducting a thorough and impartial investigation of these killings and prosecuting those responsible for them;

(2) the President should seek the immediate introduction of a resolution in the United Nations General Assembly instructing the United Nations Commission on Human Rights to appoint a Human Rights Rapporteur on East Timor;

(3) the President should encourage the Government of Indonesia to facilitate the work of international human rights and humanitarian organizations seeking to monitor conditions in East Timor; and

(4) the United States should work with the United Nations and the Government of Indonesia, the Government of Portugal, and other involved parties, to develop policies to address the underlying causes of the conflict in East Timor.

Amend the preamble so as to read:

Whereas on November 12, 1991, Indonesian military forces in Dili, East Timor, opened fire on a funeral procession for a youth who had been killed by Indonesian troops on October 28, 1991, killing an estimated 75 to 100 civilians and injuring many more;

Whereas up to 300 members of the funeral procession were detained immediately after the incident and several dozen remain in detention;

Whereas Indonesian soldiers killed a New Zealand national and beat several foreign journalists who were observing the procession, including two Americans (one from the New Yorker and one from Pacific Radio;

Whereas the commander of the Indonesian Armed Forces has expressed regret about the killings, and the Government of Indonesia has established a national commission of inquiry to conduct a thorough investigation of the killings;

Whereas since the Government of Indonesia invaded East Timor in 1975 tens of thousands of East Timorese have perished as a direct results of war-related killings, famine, and disease;

Whereas international human rights organizations and the Department of State's Country Reports on Human Rights Practices for 1990 report evidence of human rights violations in East Timor by Indonesian officials, including arbitrary arrests, torture and mistreatment under detention, extrajudicial killings, and denial of the fundamental right of expression; and

Whereas the United States and Indonesia have a close bilateral relationship, and United States economic and military assistance for Indonesia exceeded $50,000,000 for fiscal year 1991: Now, therefore, be it

Mr. FORD. Mr. President, I ask unanimous consent that the Senate disagree to the amendment of the House to Senate Concurrent Resolution 77.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING REPRESENTATION OF FORMER EMPLOYEE OF THE SENATE

Mr. FORD. Mr. President, on behalf of the majority leader and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on representation by the Senate legal counsel and authorization for testimony by a former employee, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 241) To authorize testimony by and representation of former employee of the Senate in United States versus Peter MacDonald, Jr., et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, in April the Senate agreed to Senate Resolution 111, 102d Congress, authorizing a former employee, Kenneth Ballen, to testify at criminal proceedings brought by the U.S. Attorney for the District of Arizona relating to alleged corruption in connection with the sale of land to the Navajo Nation. This matter was a subject of investigation by the Special Committee on Investigations of the Senate Select Committee on Indian Affairs, which Mr. Ballen served as chief counsel, during the 100th and 101st Congresses.

Testimony from Mr. Ballen is now sought in connection with another criminal proceeding brought by the U.S. attorney in Arizona. This case concerns allegations of corruption involving Peter MacDonald, Jr., the son of the former chairman of the Navajo Tribal Council. Mr. MacDonald, was a witness before the special committee and testified under a grant of use immunity.

Counsel for the defendant in this case has requested the Senate to authorize Mr. Ballen, who is now an employee of the House of Representatives, to testify at a pretrial hearing about his communications, while chief counsel to the Senate committee, with the U.S. attorney's office concerning the receipt of immunized testimony of Mr. MacDonald.

It is appropriate, in the circumstances of this case, for the Senate to authorize testimony concerning communications between Senate staff and prosecutors about information received under a grant of use immunity. Accordingly, this resolution would authorize the former chief counsel to testify in this case. The resolution would also authorize other Senate employees from whom testimony may be necessary to testify in this case, and would provide for representation by the Senate Legal Counsel in connection with the authorized testimony in order to protect the privileges of the Senate.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

The resolution (S. Res. 241), with its preamble, is as follows:

S. RES. 241

Whereas, in the case of United States versus Peter MacDonald, Jr., et al., No. CR-91-087-PCT-EHC, pending in the United States District Court for the District of Arizona, counsel for defendant Peter MacDonald, Jr., has requested the testimony of Kenneth M. Ballen, a former employee of the Senate on the staff of the Special Committee on Investigations of the Select Committee on Indian Affairs;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Kenneth M. Ballen, and any other employee or former employee of the Senate from whom testimony may be necessary, are authorized to testify in United States versus Peter MacDonald, Jr., et al., except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Kenneth M. Ballen, and any other employee or former employee of the Senate from whom testimony may be necessary, in connection with their testimony in United States versus Peter MacDonald, Jr., et al.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ROBERT KASTENMEIER COURTHOUSE, MADISON, WI

Mr. FORD. Mr. President, I ask unanimous consent the Committee on Environment and Public Works be discharged from further consideration of H.R. 948, the bill to name the courthouse in Madison, WI, after former Congressman Robert Kastenmeier; that the Senate proceed to its immediate consideration; that the bill be deemed read for the third time; passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT W. KASTENMEIER COURTHOUSE

Mr. KOHL. Mr. President, during his 32 years as a Member of the House of Representatives, Robert W. Kastenmeier ably represented his constituents in the Second District of Wisconsin, demonstrated a deep commitment to protecting the public interest, and made unprecedented contributions to our Federal judicial system. I rise today in support of legislation that pays appropriate tribute to Bob Kastenmeier. It is a bill, which was introduced on behalf of the entire Wisconsin delegation, naming the federal courthouse in Madison the "Robert W. Kastenmeier United States Courthouse."

Throughout his career in Congress, which began in 1959, Bob Kastenmeier was a champion of civil rights and civil liberties. He was a principal architect of the Civil Rights Act of 1964 and the Voting Rights Act of 1968. In the late 1970's, he spearheaded the passage of the Civil Rights of Institutionalized Persons Act. And in the 1980's, he stood firm against former President Reagan's efforts to dismantle the Legal Services Corporation—instead pushing the Federal Government to provide legal aid to the poor. A former "Wisconsin Civil Libertarian of the Year," Bob fought for prison reform, privacy protection, and an enlightened criminal justice system.

Bob was responsible for a number of critically important measures, particularly in the intellectual property area, but he focused on judicial improvement throughout his entire career. Beginning in 1969, Bob chaired the House Judiciary Committee's subcommittee with jurisdiction over the Federal court system, where he rightfully earned his reputation as the "architect of modern court reform." Indeed, Bob led the way on virtually every major court reform measure, from streamlining the existing method of judicial discipline to revamping the bankruptcy and magistrate systems.

Most recently, Bob played a key role in developing and perfecting the Judicial Improvements Act of 1990. This measure created additional judgeships, implemented various recommendations of the Federal Courts Study Committee, established a Federal Commission to review the impeachment process and helped enhance efficiency in civil cases. Bob was also a longtime advocate of openness in the courts and he fought tirelessly to allow broadcast media to cover Federal court proceedings. Last year, his work in this area came to fruition, when the judiciary agreed to an experiment that will permit cameras and microphones into the Federal courts for the first time.

Judges from both sides of the ideological spectrum have recognized the contributions that Bob Kastenmeier has made to our system of justice. Former Chief Justice Warren Burger referred to Bob as "an outstanding supporter of the needs of the Judicial Branch." Chief Justice William Rehnquist characterized Bob as "a good friend of the judicial system." And Judge Abner Mikva accurately summed up Bob's legacy, calling him "probably the best friend the Federal judges have ever had on the Hill. Nobody up there has his knowledge, understanding, sensitivity about the Judiciary."

Bob received the American Judicature Society's 1988 Justice Award for improving the adminstration of justice. The State Bar of Wisconsin gave Bob the 1989 Public Understanding About the Law Award. Earlier this year, he received an award from the Conference of Chief Justices for his many contributions to improving State courts. Doubtlessly, he will receive many more awards—for his work on behalf of both the Judiciary and the people of Wisconisn.

Bob Kastenmeier leaves behind an extraordinary record of public service and achievement. Dedicating this Federal courthouse to Bob will, in a small way, honor a man who was a consummate lawmaker in the finest sense of the word.

TO CORRECT THE ENROLLMENT OF H.R. 2950

Mr. CHAFEE. Mr. President, I send to the desk a concurrent resolution, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 86) to correct the enrollment of H.R. 2950.

The PRESIDING OFFICER. Is there objection to the immmediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 86) was agreed to.

The concurrent resolution is as follows:

S. CON. RES. 86

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House is directed to make the following changes in the enrollment of H.R. 2950, section 1014(e)(2)—

At page 73, line 2, strike "91" and insert "81";

At page 73, line 4, strike "91" and insert "81";

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STAR PRINT—SENATE RESOLUTION 216

Mr. FORD. Mr. President, I ask unanimous consent for a star print of Senate Resolution 216 which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF EXPIRATION OF LEGISLATIVE AUTHORITY RELATING TO CONSTRUCTION OF COMMEMORATIVE WORKS ON FEDERAL LANDS IN THE DISTRICT OF COLUMBIA OR ITS ENVIRONS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 317, H.R. 3169, regarding D.C. commemorative, that the bill be read a third time, and passed, that the motion to reconsider be laid upon the table; that any statements appear at the appropriate place in the record.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOVIET NUCLEAR THREAT REDUCTION ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3807.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 3807) entitled "An Act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe", with the following amendments:

(1) In lieu of the matter proposed to be inserted by the amendment of the Senate numbered 1, insert:

TITLE II—SOVIET WEAPONS DESTRUCTION

PART A—SHORT TITLE

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

PART B—FINDINGS AND PROGRAM AUTHORITY

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(a) Findings.—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of Soviet nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among the Soviet Union, its republics, and any successor entities that is not conducive to weapons safety or to international stability; (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know-how outside of the territory of the Soviet Union, its republics, and any successor entities, that contribute to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union, its republics, and any successor entities, and (B) to assist in the prevention of weapons proliferation.

(b) EXCLUSIONS.—United States assistance in destroying nuclear and other weapons under this title may not be provided to the Soviet Union, any of its republics, or any successor entity unless the President certifies to the Congress that the proposed recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

SEC. 212. AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President, consistent with the findings stated in section 211, may establish a program as authorized in subsection (b) to assist Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C.

(b) TYPE OF PROGRAM.—The program under this section shall be limited to cooperation among the United States, the Soviet Union, its republics, and any successor entities to (1) destroy nuclear weapons, chemical weapons, and other weapons, (2) transport, store, disable, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon United States technology and United States technicians.

PART C—ADMINISTRATIVE AND FUNDING AUTHORITIES

SEC. 221. ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) FUNDING.—

(1) TRANSFER AUTHORITY.—The President may, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $400,000,000 for use in reducing the Soviet military threat under part B.

(2) LIMITATION.—Amounts for transfers under paragraph (1) may not be derived from amounts appropriated for any acitivity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed Forces, including amounts for—

(A) training activities; and

(B) depot maintenance activities.

(b) DEPARTMENT OF DEFENSE.—The Department of Defense shall serve as the executive agent for any program established under part B.

(c) REIMBURSEMENT OF OTHER AGENCIES.—The Secretary of Defense may reimburse other United States Government departments and agencies under this section for costs of participation, as directed by the President, only in a program established under part B.

(d) CHARGES AGAINST FUNDS.—The value of any material from existing stocks and inventories of the Department of Defense, or any other United States Government department or agency, that is used in providing assistance under part B to reduce the Soviet military threat may not be charged against funds available pursuant to subsection (a) to the extend that the material contributed is directed by the President to be contributed without subsequent replacement.

(e) DETERMINATION BY DIRECTOR OF OMB.—No amount may be obligated for the program under part B unless expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1992 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 222. REPAYMENT ARRANGEMENTS.

(a) REIMBURSEMENT ARRANGEMENTS.—Assistance provided under part B to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(b) NATURAL RESOURCES, ETC.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this section that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

SEC. 223. DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.

It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the President to transfer funds pursuant to this title.

PART D—REPORTING REQUIREMENTS

SEC. 231. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds for a program under part B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232. QUARTERLY REPORTS ON PROGRAM.

Not later than 30 days after the end of each quarter of fiscal years 1992 and 1993, the President shall transmit to the Congress a report on the activities to reduce the Soviet military threat carried out under part B. Each such report shall set forth, for the preceding quarter and cumulatively, the following:

(1) Amounts spent for such activities and the purposes for which they were spent.

(2) The source of the funds obligated for such activities, stated specifically by program.

(3) A description of the participation of the Department of Defense, and the participation of any other United States Government department or agency, in such activities.

(4) A description of the activities carried out under part B and the forms of assistance provided under part B.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the program under part B.

(2) In lieu of the matter proposed to be inserted by the amendment of the Senate numbered 2, insert:

TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

SEC. 301. AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) FINDINGS.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of antidemocratic forces in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union, its republics, and any successor entities.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, may during fiscal year 1992, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts sufficient funds, not to exceed $100,000,000, from funds described in paragraph (3) in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, its republics, or any successor entities—with the consent of the relevant republic government or independent successor entity—in order to address emergency conditions which may arise in such republic or successor entity, as determined by the President. As used in this subsection, the term "humanitarian assistance" does not include construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dumptrucks, generators and compressors.

(2) REPORTS BY THE SECRETARY OF STATE.—The Secretary of State shall promptly report to the President regarding any emergency conditions which may require such humanitarian assistance. The Secretary's report shall include an estimate of the extent of need for such assistance, discuss whether the consent of the relevant republic government or independent successor entity has been given for the delivery of such assistance, describe steps other nations and organizations are prepared to take in response to an emergency, and discuss the foreign policy implications, if any, of providing such assistance.

(3) SOURCE OF FUNDS.—Any funds which are transferred pursuant to this subsection shall be drawn from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code.

(4) EMERGENCY REQUIREMENTS.—The Congress designates all funds transferred pursuant to this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds shall be available for transfer pursuant to this section only if, not later than the date of enactment of the appropriations Act of joint resolution that make funds available for transfer pursuant to this section, the President, in a single designation, designates the entire amount of funds made available for such transfer by that appropriations Act of joint resolution to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) REPAYMENT ARRANGEMENTS.—

(1) REIMBURSEMENT ARRANGEMENTS.—Assistance provided under subsection (b) to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(2) NATURAL RESOURCES, ETC.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. materials received by the United States Government pursuant to this subsection that are suitable for inclusion in the Strategic Petroleum Reserve of the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

(d) DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the Secretary of Defense to transfer funds pursuant to this title.

SEC. 302. REPORTING REQUIREMENTS.

(a) PRIOR NOTICE.—Before any funds are transferred for the purposes authorized in section 301(b), the President shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(b) REPORTS TO THE CONGRESS.—Within ten days after directing the Secretary of Defense to transfer funds pursuant to section 301(b), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. This report shall at a minimum, set forth—

(1) the amount of funds transferred under this title, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the form and number of life assets planned to be used to deliver assistance pursuant to this title;

(4) the types and purpose of the cargo planned to be delivered pursuant to this title; and

(5) the locations, organizations, and political institutions to which assistance is planned to be delivered pursuant to this title.

(3) In lieu of the matter proposed to be inserted by the amendment of the Senate numbered 3, insert:

TITLE IV—ARMS CONTROL AND DISARMAMENT ACT

SEC. 401. ARMS CONTROL AND DISARMAMENT AGENCY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended—

(1) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(2) in paragraph (1) as so redesignated, by striking out "$36,000,000 for the fiscal year 1990 and $37,316,000 for the fiscal year 1991" and inserting in lieu thereof "$44,527,000 for fiscal year 1992 and $45,862,810 for fiscal year 1993"; and

(3) in paragraph (2) as so redesignated, by striking out "fiscal years 1990 and 1991" and inserting in lieu thereof "each fiscal year for which an authorization of appropriations is provided in paragraph (1)".

(b) ADMINISTRATIVE AUTHORITIES REGARDING INVESTIGATIONS.—Section 41 of that Act (22 U.S.C. 2581) is amended—

(1) by redesignating paragraphs (h) and (i) as paragraphs (i) and (j), respectively; and

(2) by inserting after paragraph (g) the following new paragraph (h):

"(h) administer oaths and take sworn statements in the course of an investigation made pursuant to the Director's responsibilities under this Act;".

(c) ACDA REVITALIZATION.—Not later than December 15, 1992, the Inspector General of the Arms Control and Disarmament Agency (who serves also as the Inspector General of the Department of State) shall submit to the President, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate a report with regard to the Agency's fulfillment of the primary functions described in section 2 of the Arms Control and Disarmament Act (22 U.S.C. 2551). Such report shall address the current ability and performance of the Agency in carrying out these functions and shall provide detailed recommendations for any changes in executive branch organization and direction needed to fulfill these primary functions. Within 60 days after submission of this report, the President shall submit the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate comments on any recommendations contained in the report dealing with executive branch organization and direction.

SEC. 402. ON-SITE INSPECTION AGENCY.

(a) RESPONSIBILITIES OF THE ON-SITE INSPECTION AGENCY.—

(1) ADDITIONAL RESPONSIBILITIES.—Section 61 of the Arms Control and Disarmament Act (22 U.S.C. 2595) is amended—

(A) by redesignationg paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) the On-Site Inspection Agency has additional responsibilities to those specified in paragraph (4), including the monitoring of nuclear tests pursuant to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the monitoring of the inspection provisions of such additional arms control agreements as the President may direct;".

(2) CONFORMING AMENDMENTS TO DEFINITIONS.—Section 64 of that Act (22 U.S.C. 2595c) is amended—

(A) by striking out "and" at the end of pargraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(C) by adding after pargraph (2) the following:

"(3) the term 'Peaceful Nuclear Explosions Treaty' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes (signed at Washington and Moscow, May 28, 1976); and

"(4) the term 'Threshold Test Ban Treaty' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapons Tests (signed at Moscow, July 3, 1974).".

(b) IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.—Title V of that Act is amended–

(1) by redesignating section 64 as section 65; and

(2) by inserting after section 63 the following:

"SEC. 64. IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.

"(a) REPORT FROM THE PRESIDENT.—Concurrent with the submission to the Congress of the request for authorization of appropriations for OSIA for fiscal year 1993, the President shall submit a report on OSIA to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Armed Services of the House of Representatives and Senate. The report shall include a review of—

"(1) the history of OSIA, including how, when, and under what auspices it was established, including the applicable texts of the relevant executive orders;

"(2) the missions and tasks assigned to OSIA to date;

"(3) any additional missions and tasks likely to be assigned to OSIA during fiscal year 1993;

"(4) the budgetary history of OSIA; and

"(5) the extent to which OSIA plays a role in arms control policy formulation and operational implementation.

"(b) REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.—Any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall also be submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and shall be subject to review by those committees.".

Mr. WARNER. Mr. President, I must lodge my strongest objections to the inclusion in the final version of H.R. 3807, the CFE implementing legislation of language attempting to confuse and complicate congressional oversight of the On-Site Inspection Agency [OSIA].

Unfortunately, the House amendment to the Senate amendment to the bill now contains a provision designed to be first step in taking congressional oversight jurisdiction over the On-Site Inspection Agency from the Committees on Armed Services and transferring that jurisdiction to the Foreign Affairs and Foreign Relations Committees. I find it most disappointing that this bill, being considered at this very late hour in this session, includes this provision without any opportunity for consideration by the Senate Armed Services Committee.

Those of us who have been interested and involved in the work of the On-Site Inspection Agency [OSIA] believed that we had reached an understanding with the House Foreign Affairs Committee that this provision would not be included in the bill. Yet the House, acting in the middle of last night, has nonetheless added this provision to this important bill.

Mr. President, this is not a new issue. Ever since the President appointed the Department of Defense as the Cabinet-level Department having responsibility for OSIA, the House Foreign Affairs Committee has been tempting to obtain jurisdiction over the agency. There have been a number of such attempts by that House Committee since 1988, all of which have been defeated.

However, the Senate is now confronted with holding up implemention of the CFE Treaty or with having to accept this House provision.

Mr. President, the On-Site Inspection Agency is a Department of Defense Agency. A large component of its activity can properly be characterized as defense logistics: marshaling personnel, aircraft, and equipment for short-notice operations at home and overseas.

OSIA uses aircraft and crews from the Military Airlift Command. Roughly three-quarters of OSIA's personnel are military officers, and the military forms the largest pool of personnel with the linguistic skills and technical background needed for this work.

Many of OSIA's permanent or seconded personnel are specailists in such fields as security, counterintelligence, or technical aspects of data collection—especially with regard to nuclear tests, for threshold Test Ban Treaty verification, and high-energy electronic systems, for portal monitoring under the INF Treaty. Specialized personnel come from the military services, national laboratories, and other agencies.

The need to obtain and coordinate the use of such specialized personnel is one reason for the current funding and oversight arrangements. Another reason is the need to ensure that OSIA inspectors report the facts without worrying about whether policymakers will like what they hear. In short, OSIA performs an execution function—not a policy function—that requires much manpower, expertise, infrastructure and support of the type that the Department of Defense is best suited to provide. the integration of OSIA in DOD makes perfect sense.

Many Government programs, particularly defense and intelligence programs, are authorized by other committees but are of interest to the Foreign Relations and Foreign Affairs Committees. Although the Armed Services Committee is the primary committee of jurisdiction, OSIA cooperates well with all interested committees. Thus, when the CFE Treaty came before the Senate Foreign Relations Committee, Maj. Gen. Robert W. Parker, the Director of OSIA, testified on the agency's preparedness to implement the treaty.

Both the On-Site Inspection Agency and the mechanisms for congressional oversight of OSIA are working excellently. There is no need to change either the organization or its congressional oversight procedures.

Yet, today, we are about to enact a provision designed to begin those changes.

Mr. President, the House amendment now being considered by the Senate will unnecessarily involve the Foreign Affairs and Foreign Relations Committees in the budget review and oversight process of OSIA. It will not contribute to the highly effective and highly successful operations of OSIA. It could contribute to confusion and inefficiency in this important agency.

Mr. President, in light of the other valuable and important features of the pending bill, I am not going to block the Senate's passage of this legislation today. However, let me make it clear that I will subsequently seek to repeal this unnecessary and counterproductive legislation.

Furthermore, let me make it clear that I am not blocking this legislation today because the proper committees of jurisdiction, namely, the Armed Services Committees will continue to exercise exclusive jurisdiction over the operation, policy, and budget authorization approval over the OSIA.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALUTE TO LLOYD "BUDDY" FLETCHER

Mr. DOLE. Mr. President, I want to take a minute before Thanksgiving to join with many others in this town in being thankful for the privilege of knowing Lloyd "Buddy" Fletcher.

Buddy passed away last month at the age of 57. He left behind a loving family, a legion of friends, admirers, and a record of service to America.

After 8 years in the U.S. Marine Corps, Buddy joined the Department of Transportation in 1968, where he soon became the driver to the Secretary of Transportation. Over the years, Buddy would serve eight Transportation Secretaries with class and professionalism that were second to none.

I crossed paths with "Buddy" when my wife Elizabeth, became Secretary of Transportation. It soon became clear to Elizabeth and myself that "Buddy" was more than a driver—he was a caring friend, and someone who was the unofficial historian of the Transportation Department.

I attended Buddy's funeral last month, and was struck by the number of men and women from all walks of life who attended. There were drivers from other Government departments who looked to "Buddy" as a mentor and role model. There were DOT employees ranging from entry-level to Transportation Secretaries. It seemed that everyone had a special memory of "Buddy"—of his love of the Redskins, his pride in his reputation as the best-dressed person at the Department, and his warm and winning personality.

Mr. President, "Buddy" Fletcher will be greatly missed by many people, including Elizabeth and myself. Our condolences go out to his wife, Carolyn, his daughters Brenda Fletcher and Katrina Newlin, and his two grandchildren.

I EXTEND MY THANKS

Mr. DOLE. Mr. President, as we close the first session of this Congress, I extend my thanks to the majority leader and the members of his staff for all of their courtesies over the past several months. I also thank the majority whip, the distinguished Senator from Kentucky, Senator FORD, and all of my colleagues on the other side for the cooperation we have had on this side during this first session of Congress.

We have not always agreed, but I think for the most part we have been agreeable, sometimes doubtful not generally agreeable.

I also thank all the members of the Senate staff, all those who work day in and day out, sometimes with very little if any recognition, doing their job whether it be inside the Chamber, or doorkeepers outside the Chamber, or someone in the gallery working for the U.S. Senate, working for the institution, and working so that we may be more productive and more effective in our work in the U.S. Senate. So to all those faithful, loyal employees of the U.S. Senate, I certainly extend my thanks, my best wishes for a happy thanksgiving and a merry Christmas to all, every one and their families.

I would also be remiss in not thanking my right hand, right arm, the distinguished Senator from Wyoming, Senator ALAN SIMPSON; members of our Republican leadership, Senator THURMOND, as I said, Senator SIMPSON, Senator COCHRAN, Senator NICKLES, Senator KASTEN, and Senator GRAMM for their help in working on many, many programs this year.

I believe overall Congress has made a good record. I think we can look at some major accomplishments, and I think we closed out with a major accomplishment in passing the transportation bill, which was a bipartisan measure and which did have the leadership of the President of the United States. That should give, I hope, many people across America confidence that there are going to be jobs, lots of jobs, all across America, in the foreseeable future.

That in itself, in my view, is a good way to cap any session of any legislature, to pass a bill that you know is going to mean a great deal not only in transportation and safety, but as far as jobs for the future of American men and women, many of whom are out of work, many are skilled, many partially skilled, many looking for work, and this will provide that opportunity.

I also thank all of my colleagues on this side of the aisle for the many courtesies extended to me over the past several months in this session and to the President of the United States. I have just talked with the President of the United States. He thanked me for my efforts and the efforts of others in the Congress. I thanked him for his leadership. I think President Bush has done an outstanding job.

Sometimes we may have differences with people who work in the White House, but I think very honestly I think I know John Sununu, based on our association a few years ago in New Hampshire, and I could be very sensitive about it. But my view is the Chief of Staff John Sununu is doing and has done an outstanding job for President Bush. There have been some minor lapses, but we all make mistakes. When you are in a position that he is in he gets more attention, I guess, than some of the rest of us. And certainly to Mr. Darman, the OMB Director, and Nick Brady, a former colleague of ours and now Secretary of the Treasury, particularly working closely with those three members of the President's official staff or official family. We have had a lot of work and a lot of issues. Certainly I have worked with other members of the President's Cabinet, but I think particularly those three have been almost weekly, sometimes daily contact, sometimes several times a day, and I certainly extend my thanks to them and to Roger Porter and to the President's chief economic adviser, Mr. Boskin, and all the others who have been working together.

I will just say as I close, I hope in December there will be efforts by both parties to find the right package, the right economic growth package that we can be certain will have some positive impact on the economy. Keep in mind it is a $5.6 trillion economy. We all have ideas on how to make it move. We want to make as certain as we can that what we do in the Congress will make a difference in the lives of the American people all across America, will pick up the economy, will create some job opportunities, will create opportunities to buy cars and homes and all the consumer goods that the American people would like to have and will lead people out of poverty and will give them a better chance in life.

So it is my hope and it is going to have to have to be a consensus, going to have to be bipartisan. The leadership is going to have to come from President Bush. We will have some time now to focus on not the political rhetoric but what can we do, what can the Democrats do, what can the Republicans do, what can we do together, what can we do working with President Bush, working with leadership across America, in the private sector, in the public sector, in organized labor, in agriculture, all across America, to get this economy moving in the right direction and moving more rapidly toward a full recovery.

So it seems to me that we have, let us see, about 8 weeks in which do do that, and I know that the adjournment resolution provides that in certain cases the majority leader and the Speaker of the House, after consultation with the minority leader of the Senate, the minority leader of the House, can call us back after 48 hours' notice, and that may happen. I am not certain of that, but in any event we have this opportunity now, in my view, to take a look, go back home, visit the people, find out how they view the various problems, whether it is health care, whether it is the economy, whether it is agriculture, whether it is unemployment, whether it is crime, whatever the problem may be.

So I conclude by wishing all of my colleagues a happy holiday season and saying that I think we have had a pretty good year. There are a lot of major pieces of legislation that we passed in this Congress, this session, first session of this Congress by a bipartisan majority. We have had our differences. We have had our differences in the gulf. We have had our differences on unemployment. We have had our differences, to some extent, on civil rights. We have had our differences on the crime bill. We have had a lot of differences. But we have had a lot of areas where there were no differences at all, and I can list a dozen or more areas where we worked together in total bipartisanship. And I think the American people appreciate that.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Kentucky.

Mr. FORD. Mr. President, first, let me say to the distinguished Republican leader I appreciate his kind words, not only for his colleagues but on this side. It has been an experience for me my first year as whip. I have survived the fire fairly well, not having been enlisted too many times. I have enjoyed working with the Republican whip. We have been straightforward with each other. We do not play games. And I have always liked it that way.

There is one thing the Republican leader said that I think is important. We have a few weeks now to look at some packages, some help to get the economy going, and I hope that when he says that the President of the United States is going to give us some leadership, he will be at the table also. We cannot do it with Representatives and Senators alone; the Executive has to be a part of that, in my opinion. If we come together as Americans, I think we can get this country going.

I look forward to that and hope that the Senator's expression of cooperation follows through as the holiday season comes. It seems a little easier to agree during holiday seasons than any other time, and I look forward to that.

HOUSE CURRENT RESOLUTION 260—PROVIDING FOR ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 260, providing for adjournment of the two Houses of Congress just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 260) providing for adjournment of the Congress to a date certain.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 1463

Mr. FORD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. MITCHELL, proposes an amendment numbered 1463.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 2, Strike the "period" and insert in lieu thereof, the following: "; and that when the Congress convenes on January 3, 1992, for the second session of the 102d Congress, the Senate shall not conduct any organizational or legislative business and when it recesses or adjourns on that day, it stand in recess or adjournment until 11:30 a.m. on Tueday, January 21, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So, the amendment (No. 1463) was agreed to.

The PRESIDING OFFICER. Without objection, the concurrent resolution, as amended, is agreed to.

So, the concurrent resolution (H. Con. Res. 260), as amended, was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ACADEMIC REPORT CARD ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of calendar No. 69, S. 2, a bill to promote achievement of national education goals and for other purposes.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. FORD. Mr. President, I move that the Senate proceed to calendar No. 69, S. 2, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 2, a bill to strengthen education for American families.

George Mitchell, Daniel K. Akaka, Paul Simon, Christopher Dodd, Pat Leahy, Jeff Bingaman, Carl Levin, Dennis DeConcini, Claiborne Pell, Paul Wellstone, Albert Gore, Jr., John Glenn, Kent Conrad, David Pryor, Harris Wofford, Wyche Fowler, Jr.

Mr. FORD. Mr. President, I withdraw the motion to proceed.

The PRESIDING OFFICER. Without objection, the motion is withdrawn.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 2136 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on a date subsequent to the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolutions:

S. 159. An act for the relief of Maria Erica Bartski;

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes;

S. 1532. An act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988;

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes;

S. 2098. An act to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration;

H.R. 525. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys and Girls Clubs of America;

H.R. 635. An act for the relief of Abby Cooke;

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia;

H.R. 948. An act to designate the U.S. Courthouse located at North Henry Street in Madison, WI, as the "Robert W. Kastenmeier United States Courthouse";

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD;

H.R. 1009. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes;

H.R. 1724. An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

H.R. 2105. An act to designate an area as the Myrtle Foester Whitmire Division of the Aransas National Wildlife Refuge;

H.R. 3012. An act to amend the Wild and Scenic Rivers Act to designating the White Clay Creek in Delaware and Pennsylvania for study and potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3029. An act to make technical corrections to agricultural laws;

H.R. 3049. An act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws;

H.R. 3169. An act to lengthen from 5 to 7 years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia and its environs;

H.R. 3245. An act to designate National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3322. An act to designate the building in St. Louis, MO, which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building";

H.R. 3327. An act to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plans for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes;

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas;

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source;

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes;

H.R. 3709. An act to waive the period of Congressional review for certain District of Columbia acts;

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with the implementation of the Treaty on Conventional Armed Forces in Europe;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

S.J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II;

H.J. Res. 157. Joint resolution making dire emergency supplemental appropriations and transfers for relief of the effects of natural disasters, and for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992, as "National Law Enforcement Training Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month"; and

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day."

Under the authority of the order of the Senate of January 3, 1991, the enrolled bills and joint resolutions were signed on December 3, 1991, during the adjournment of the Senate, by the President pro tempore [Mr. BYRD].

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on December 6, 1991, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 543. An act to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes;

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes;

S. 1193. An act to make technical amendments to various Indian laws;

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment;

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes;

H.R. 1776. An act to authorize for fiscal year 1992 the U.S. Coast Guard budget.

Under the authority of the order of the Senate of January 3, 1991, the enrolled bills were signed on December 6, 1991, during the adjournment of the Senate, by the President pro tempore [Mr. BYRD].

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on December 10, 1991, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore [Mr. HOYER] has signed the following enrolled bill:

H.R. 2950. An act to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

Under the authority of the order of the Senate of January 3, 1991, the enrolled bill was signed on December 10, 1991, during the adjournment of the Senate, by the Vice President.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that he had presented to the President of the United States the following enrolled bills and joint resolution:

On December 4, 1991:

S. 159. An act for the relief of Maria Erica Bartski;

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes;

S. 1532. An act to revise and extend the program under the Abandoned Infants Assistant Act of 1988;

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes;

S. 2098. An act to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration; and

S.J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

On December 9, 1991:

S. 543. An act to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes;

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes;

S. 1193. An act to make technical amendments to various Indian laws;

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment; and

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes.

MEASURES PLACED ON THE CALENDAR

On December 11, 1991, pursuant to the order of September 10, 1991, the Committee on Commerce, Science, and Transportation was discharged from the further consideration of the following bill; which was placed on the calendar:

S. 1088. A bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for the disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for other purposes.

REPEAL OF SECTION 618 OF THE RESOLUTION TRUST CORPORATION, REFINANCING, RESTRUCTURING AND IMPROVEMENT ACT

The text of the bill (S. 2131) to repeal section 618 of the Resolution Trust Corporation, Refinancing, Restructuring and Improvement Act of 1991, as passed by the Senate on November 27, 1991, is as follows:

S. 2131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 618 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is repealed.

SEC. 2. Subsection 12(b)(7) of Public Law 94–204, as amended, and subsection 9102(e) of Public Law 101–165, as amended, are each further amended by deleting in the appropriate place the phrase "real, personal," and substituting in lieu thereof the phrase "real, personal (including, but not limited to intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation such as financial instruments, notes, loans and bonds),".

BRONZE STAR

The text of the bill (S. 2015) to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense of Corregidor Island, the Philippines, under General Wainwright, as passed by the Senate on November 27, 1991, is as follows:

S. 2015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARD OF THE BRONZE STAR TO NAVY AND MARINE CORPS PERSONNEL WHO SERVE ON CORREGIDOR, THE PHILIPPINES, UNDER GENERAL WAINWRIGHT

(a) FINDINGS.—Congress finds:

(1) United States Army personnel under the command of General Jonathan Wainwright who fought in and were captured during the defense of Corregidor Island, the Philippines, at the outbreak of World War II were awarded the bronze star.

(2) Approximately 3,000 United States Navy and Marine Corps personnel, serving in various units under the overall command of General Wainwright, fought in the defense of Corregidor Island.

(3) These Navy and Marine Corps personnel were not awarded the bronze star pursuant to Navy policy not to award medals for gallantry to all personnel in a unit.

(4) The Navy and Marine Corps personnel demonstrated courage, endurance, and intrepidity in battle and in suffering the privations of battle, capture and internment after capture that was every bit exemplary as their Army counterparts.

(5) An award of the bronze star medal to Navy and Marine Corps personnel who served under General Wainwright in the defense of Corregidor Island provides appropriates recognition of and honor for the courage, endurance, and intrepidity of such personnel.

(b) AWARD OF BRONZE STAR MEDAL.—The President is urged and requested to require that the Secretary of an appropriate military department award the bronze star medal to each member of the United States Navy or Marine Corps who served under General Jonathan Wainwright during the defense of Corregidor Island, the Philippines, during World War II.

PHOENIX INDIAN SCHOOL

The text of the bill (S. 2034) to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property, as passed by the Senate on November 27, 1991, as follows:

S. 2034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Secretary of the Interior shall remove, at the earliest possible date, all asbestos within building and related infrastructure, including underground pipes, located on the 110 acre parcel of Federal property known as the Phoenix Indian School. The obligation of the Secretary to carry out these activities shall continue beyond the date of transfer of the Phoenix Indian School property from Federal ownership.

CORRECTING THE ENROLLMENT OF S. 543

The text of the concurrent resolution (S. Con. Res. 83) to authorize a correction in the enrollment of S. 543, as agreed to by the Senate on November 27, 1991, is as follows:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill, S. 543 the Secretary of the Senate shall make the following correction:

At the appropriate place, insert:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York and the deposits of Community National Bank and Trust Company of New York that—

(1) were deposited by a charitable organization as such term is defined by New York State law, or by a religious organization; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the currency,

shall be fully insured notwithstanding any other provisions of the Federal Deposit Insurance Act.

CORRECTING THE ENROLLMENT OF H.R. 3435

The text of the concurrent resolution (S. Con. Res. 84) to correct the enrollment of H.R. 3435, the RTC funding bill, as agreed to by the Senate on November 27, 1991, is as follows:

S. CON. RES. 84

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives is directed to make the following changes in the enrollment of H.R. 3435:

(a) Strike section 618.

(b) At the end of the Act add the following:

"Sec. . Subsection 12(b)(7)(vii) of Public Law 94-204, as amended, and subsection 9102(e) of Public Law 101-165, as amended, are each amended further by deleting in the appropriate place the phrase 'real, personal,' and substituting in lieu thereof the phrase 'real, personal (including, but not limited to intangible assets such as financial instruments, notes, loans, bonds, and licenses),'.".

CORRECTING THE ENROLLMENT OF H.R. 3531

The text of the concurrent resolution (S. Con. Res. 85) to correct a technical error in the enrollment of the bill (H.R. 3531), and for other purposes, as agreed to by the Senate on November 27, 1991, is as follows:

S. CON. RES. 85

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 3531), an Act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 8 of the bill insert a semicolon immediately after the first quotation marks.

(2) In section 5(d)(2)(C) insert quotation marks immediately before "CHAPTER 4—PATENT FEES:".

CORRECTING THE ENROLLMENT OF H.R. 2950

The text of the concurrent resolution (S. Con. Res. 86) to correct the enrollment of H.R. 2950, as agreed to by the Senate on November 27, 1991, is as follows:

S. CON. RES. 86

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House is directed to make the following changes in the enrollment of H.R. 2950, section 1014(c)(2)—strike out "91" and insert "81" both places it appears.

ADDITIONAL STATEMENTS

RETAIL DEPOSIT TAKING BY FOREIGN BANKS

• Mr. GARN. Mr. President, a number of issues have already arisen in connection with the deposit insurance legislation adopted by the Congress in the closing hours of the last session. While I have separately made a statement on many of these issues, a subject of particular concern, from both a policy and technical standpoint, is the requirement that foreign banks wishing to take retail deposits may only do so through a subsidiary rather than through insured branches.

Because of unclear legal construction, the regulators who must implement this provision and the banks who will be subject to its requirements have had considerable difficulty discerning its exact intent. In the interest of assisting their deliberations, I would like to provide a history of my involvement with this provision. My opposition to it and my intentions in achieving certain modifications to limit its impact are instructive in understanding the intent of the provision.

As a starting point, I would note that there is no obvious justification for this provision at all. The Treasury study, "Modernizing the Financial System," raised no concerns with foreign bank retail activities in the United States and made no recommendations to restrict or restructure these activities. The Federal Reserve bill, drafted as a response to the BCCI and Banco Lavoro scandals, made no recommendations in this area. Likewise, the deposit insurance reform bills introduced by the committee chairmen in the two Houses of Congress which served as bases for eventual legislation did not address this issue.

The basis reason that retail deposit taking was not an issue in the legislation was that insured deposit taking by foreign banks had never cost the taxpayers a dime. It is true that during debate on the International Banking Act in 1977, the FDIC had argued that subsidiaries rather than direct branches were administratively simpler to deal with for the Corporation. However, it is also true that the subsidiary subsidiary structure reduces depositor protection in that it tends to limit access by the FDIC to the parent bank's resources. Furthermore, it raises national treatment concerns. In the International Banking Act, it was decided to permit establishment by foreign banks either through branches or subsidiaries.

What has occurred in the meantime to alter these judgments. Clearly the foreign bank presence in the United States has grown. However, no history of losses or administrative problems arising from the operation of foreign bank branches has intervened to alter the original judgment. Furthermore, as a result of the regulatory changes in the Fed bill, foreign banks will now be subject to extensive Federal oversight including the right to terminate, expanded civil penalties, and new criminal penalties.

With this history, one might wonder how the subsidiary issue was introduced into the debate. In fact, it was Treasury that argued, in the specific circumstance of a foreign bank wishing to engage in nontraditional activities such as securities and insurance, that such a foreign bank should be required to form a U.S. holding company and a well-capitalized banking subsidiary. It was argued that since access to these new powers was going to require higher capital and closer regulation for U.S. banks, the only way to ensure similar compliance by foreign banks was to impose structural requirements. At the same time, the Administration opposed any change in structure or regulation of banks wishing only to engage in traditional banking activities.

While there was never opposition from any quarter to tougher enforcement authority for the Fed, I opposed the Treasury roll up proposal as unnecessary to achieve the objective of higher capital and closer regulation and as inconsistent with the longstanding U.S. policy of 'national treatment.' Under this standard, foreign banks had long been permitted to establish in the form of direct branches, including insured branches. In foreign markets, Treasury has long argued that foreign requirements for U.S. banks to operate through subsidiaries denied equality of competitive opportunity.

The draft committee print originally circulated to Banking Committee members adopted the Treasury roll up proposal for new powers but it went considerably farther. The print would have required foreign banks to create a U.S. subsidiary in order to engage in interstate branching. And since interstate branching might lead to greatly expanded interstate retail operations, expanded deposit insurance requirements for foreign banks were added to the interstate section of the bill.

I was successful in making the case that the proposed structural requirements were unnecessary and counterproductive to our overall banking policy. Consequently, the holding company and subsidiary requirements for expanded powers and interstate branching were dropped in favor of the approach to national treatment embodied in the International Banking Act: direct branches permitted, with the foreign bank treated as a holding company for purposes of evaluating capital and management. However, to respond to the concerns Treasury had raised with capital and regulation, I supported committee amendments requiring careful analysis and enforcement of equivalent capital for foreign banks wishing to engage in expanded activities and a study of a subsidiary requirement as the future rule for foreign bank operations.

In order to achieve agreement on my proposed modifications at markup, I agree to maintain expanded deposit insurance requirements in the committee bill as part of the interstate branching provisions for foreign banks. This included an amendment requiring any foreign bank that wished to take retail deposits below $100,000 to do so only through subsidiaries. While my agreement on this point constituted acquiescence in a mini-roll-up of existing insured branches, my agreement on this point was clearly provisional.

The proviso attached to the amendment was that, since there no compelling argument for a change in policy and the committee had not considered this proposal or its implications, the committee should develop a record on the proposal by seeking the views of the agencies involved and the affected parties so that we could make an informed judgment. Senator RIEGLE and I therefore sent identical letters to the Chairmen of the Federal Reserve Board and the FDIC, the Treasury Secretary, and various banking interest groups seeking their views on the subsidiary roll up and two other options for expanded deposit insurance requirements.

The understanding that this provision was subject to further review was reflected in the committee report on S. 543. The body of the report states that the committee's concerns with respect to deposit insurance arose to the context of "removing current Federal and State barriers to interstate banking and branching by foreign banks [that] might lead to a substantial expansion of insured deposit taking by foreign banks." The report also noted that the issue was "subject to further review" reflecting an agreement to gather further evidence. In my additional views on the international banking provisions, I noted that while the committee had rejected the Treasury roll up proposal, it was retained in the case of retail deposit taking involving a handful of banks, mostly from smaller countries, which have caused no losses to the insurance fund. I also noted that this "is an issue on which additional evidence is being gathered and which will require further consideration."

The further consideration was to be based on the recommendations of the parties to whom the committee had written. I ask that the letter sent to Alan Greenspan and responses received from the various groups and agencies be printed at the end of my statement. I will summarize them briefly. Treasury opposed the subsidiary requirement. Federal Reserve Chairman Greenspan favored "maintaining deposit insurance on foreign bank deposits on the current basis." FDIC Chairman Seidman provided a staff analysis which made a series of arguments on both sides of the issue but took no position. The Bankers' Association for Foreign Trade argued that the proposal was "unnecessary and, perhaps, unwise, and could adversely impact U.S. bank operations outside the United States." The Institute of International Bankers called the proposal "unnecessary" and noted that "the global capital of the international bank would no longer stand behind these deposits, and such a requirement would be inconsistent with the practice of U.S. banks to maintain branches in other countries." The Independent Bankers Association of America supported the proposal in the interest of protecting small depositors.

I would also note that one letter was received unsolicited from a group that was obviously paying careful attention to the legislation, the European Community. Sir Leon Brittan, vice president of the Commission of the European Communities, wrote noting that EC member states impose no structural requirements on foreign bank branches that are subject to deposit insurance plans and no such requirements are planned or necessary. He urged that we dispense with this requirement. I ask that his letter also be printed in the RECORD following my statement.

The final opinion that was sought to complete the record on this matter was that of the new FDIC Chairman William Taylor. During his confirmation hearing in the Senate Banking Committee, Senator RIEGLE asked whether the best way to ensure protection of retail depositors was the subsidiary requirement in the Senate bill. Mr. Taylor responded: "I think it helps. I think it's not an absolute assurance but it helps." In the interest of providing him an opportunity to make a more thoughtful response to this question, I wrote to Mr. Taylor after the hearing asking for his specific views on the subsidiary issue. His response, which I ask be printed after the other letters, was as follows:

> With respect to the question of whether foreign banks should be required to conduct their retail deposit activities in a subsidiary bank or be permitted to continue to conduct those activities in branches, I have no preference because substantial arguments can be made in favor of either approach.

Based on this loss history and body of opinion, it seems clear to me as the bill was taken to the Senate floor that any change in this area should be studied further and the provision should be dropped from the bill. The argument for deletion became even stronger when the possibility of foreign bank expansion through interstate branching, on which the deposit insurance proposal had been premised, was eliminated from the bill by the Ford amendment. However, because it was unclear how the interstate issue would finally be resolved in conference, the deposit insurance requirement, equivalent capital and subsidiary study provisions which had all been premised on interestate branching and broader powers were retained in the bill to ensure that the Senate was in a strong negotiating position in conference.

While the provision was maintained, the one change upon which I did insist was to limit the impact of the foreign bank retail deposit provision so that current activities were held harmless. This Senator, of course, opposed the entire notion of the subsidiary requirement as unnecessary and a denial of national treatment. But, even in the event that such a requirement were to apply in the future, I was adament that it not require any restriction or roll up of current activities. I was particularly concerned that a relative handful of banks operating insured branches, employing American citizens, and causing no loss to depositors not be put out of business without a hearing. Therefore, the final managers' amendment adopted on the floor limited the subidiary requirement of future retail deposit taking and all existing insured branches were grandfathered.

In conference, with adjournment looming, the House made clear that its parliamentary position made it impossible even to consider interstate branching or matters involving multiple committee jurisdictions like my lender liability provision or fair trade in financial services. Interstate branching was therefore dropped in conference. In my view, this eliminated even the weak justification that brought the foreign bank deposit insurance provision into the bill in the first place. I therefore argued for deletion of this vestige of the broader Senate bill from any Senate offer to the House.

That advice was not heeded and the Senate proposed adoption of the subsidiary requirement. This proposal was challenged in the closing minutes of the conference by Congressman WYLIE who cited the body of opinion against the provision. He asked his House colleagues to insist on the House position, that is, no subsidiary requirement. Unfortunately, the issue had not been carefully reviewed by those who would be directly affected by the provision, the administration had not alerted us to the trade policy implications of the provision, and many Members on the House side were apparently under the impression that the provision was not significant or that it was supported by the regulatory agencies.

A vote was taken by the House and in the fatigue of an around-the-clock session, the House receded to the Senate. I believed this was very unfortunate from an overall policy perspective but the full implications of this minor provision only became clear when it was carefully reviewed after the fact by agencies and interest groups that should have been more alert to it.

My greatest fear was never the provision's impact on foreign bank operations, of which retail deposits represent less than 1 percent, but on U.S. trade policy and efforts I have been pursuing with Chairman RIEGLE to open foreign markets such as the fair trade in financial services bill. Once the provision was carefully considered after the fact, these fears were realized.

As a result of its enactment, the United States will have too take a reservation from the obligations of the OECD Code on financial services and will have to take similar steps by amending its position on any financial services text that is part of a North American Free-Trade Agreement and Uruguay round. It may also create a violation of United States obligations under the United States-Canada Free-Trade Agreement. It may endanger future international liberalization in a sector that is critical to the future of U.S. competitiveness. Even worse, U.S. movement away from free right of establishment through branches may well trigger a rollback of market access for U.S. banks abroad.

The other problem that has become clear after a careful reading is that the provision is drafted in such a way as to threaten currently permissible activities for wholesale and limited branches of foreign banks. Unless the Fed and FDIC adopt a liberal interpretation of the language, any foreign bank branch with foreign currency deposits, clearing accounts, loan accounts, demand accounts for large corporate customers or accounts for foreign employees that are below, or fall below, $100,000 could be forced to set up a subsidiary or drop those accounts on the date of enactment.

This clearly makes no sense nor was it, I believe, the intent of the conferees. For my part, I obtained adoption of a grandfather clause specifically to limit the impact of the provision on existing activities. I protected existing insured branches which this provision was clearly intended to eliminate. I certainly did not do so with the intent that current wholesale branch activities, not even addressed by this provision, would be rolled back.

The problem with the provision are now being realized by others. I ask that a letter from the British Embassy to Chairman RIEGLE, which was forwarded to me by the Embassy, be included in the RECORD following my statement.

To address these problems, I entend to reassure the regulators that it was not our intention to restrict or roll up current lines of nonretail business. I understand that a number of House Banking conferees are doing likewise. It is my hope that the regulators will act accordingly in implementing the provision.

Looking to the future, I will support a technical correction in the next session to ensure that the provision causes no roll back or roll up of current foreign banks activities. In my view, if we are to continue efforts to liberalize trade in financial services and pursue the fair trade in financial services bill, it should be repealed.

The material follows:

COMMITTEE ON BANKING, HOUSING,
AND URBAN AFFAIRS,
Washington, DC, July 17, 1991.

Hon. ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR CHAIRMAN GREENSPAN: The Senate Banking Committee soon will be considering comprehensive legislation to reform our deposit insurance system and modernize our banking system. As part of that legislation, the Committee will consider whether the deposit insurance system as it applies to foreign banks requires reform. We are writing to obtain your views on a number of policy issues being discussed in the Committee.

We understand that under current law, foreign banks are required to participate in the deposit insurance system only for branches that take retail deposits and these are the only deposits in foreign banks covered by the system. Thus while domestic banks pay premiums on their whole domestic deposit base, foreign banks operating in this country are required to pay assessments only on deposits at a branch that takes retail deposits. At any location in this country where deposits only in excess of $100,000 are taken, a foreign bank does not pay any premiums while a U.S. bank does.

The legislative history of this provision indicates that the decision to require insurance at locations that take retail deposits was premised on concern "for the protection of the individual retail, not commercial, depositors." The insurance requirement provides a second layer of protection for retail deposits in insured branches, the primary security of which is the full resources of the foreign bank itself.

Legislation proposed by the Administration would, if enacted, give foreign banks the right to engage in banking through branches throughout the United States. This raises questions about whether we need to modify the rules on assessing premiums and extending deposit insurance coverage for deposit taking by foreign banks in order to ensure that U.S. depositors are adequately protected and U.S. banks are not disadvantaged compared to foreign competitors but foreign banks still receive national treatment.

Three possible modifications are under consideration by the Committee. One proposal being examined would charge deposit insurance assessments for all the domestic deposits taken by a foreign bank operating through branches that engages in retail deposit taking in any location in the United States. This appears to be a modest extension of current policy that would ensure identical treatment of U.S. and foreign banks as foreign banks expand through interstate branching. A second proposal is that deposit insurance coverage be extended and insurance premiums charged on all U.S. deposits taken by foreign banks even if they are solely wholesale. From the point of view of competitiveness, this would increase the cost of doing business for foreign banks and eliminate a competitive advantage they now enjoy over U.S. banks engaged in wholesale deposit taking. From the point of view of the insurance system, this would expand the liabilities of the system but also provide a new source of premiums to the Bank Insurance Fund.

A third proposal, aimed at ensuring that foreign banks taking retail deposits are effectively regulated to protect depositors, the communities from which deposits are taken and the insurance fund, would require that interstate retail deposit taking through branch networks across the United States be done only from a U.S.-chartered subsidiary. This proposal would ensure FDIC access to U.S.-based resources in the event of a foreign bank failure but could make it more difficult to rely on the resources of the foreign parent or the foreign government as lender of last resort.

These three proposals raise significant policy issues, and we would very much appreciate having your views on them. In your response, please address the impact the above suggested changes would have on the risks facing the deposit insurance system, competitive equity between foreign and domestic banks operating in the U.S. market, and how each proposal compares to the treatment accorded U.S. banks operating in other countries that sponsor deposit insurance funds.

Since we will be moving forward with legislation in the near future, we ask for your views on the above issues at your very earliest convenience.

Sincerely,

JAKE GARN,
Ranking Republican.
DONALD W. RIEGLE, Jr.,
Chairman.

DEPARTMENT OF THE TREASURY,
Washington, August 1, 1991.

Hon. JAKE GARN,
Ranking Republican, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GARN: The Treasury Department has carefully considered the proposals regarding foreign banks outlined in the letter of July 17 signed by you and Senator Riegle.

The first proposal, which is included in the proposed Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, would charge deposit insurance assessments for all the domestic deposits taken by a foreign bank through branches if it engages in retail deposit taking in any of its branches in the United States.

The Administration's bill did not propose changing the present deposit insurance scheme for foreign bank branches under which foreign bank branches taking only wholesale deposits could continue to benefit from an exemption from deposit insurance assessments. While your proposal would not be inconsistent with national treatment, it would increase the claims on the deposit insurance system; accordingly, the Administration prefers the existing approach, which is designed to protect retail depositors in those few foreign bank branches that accept retail deposits.

The second proposal would extend deposit insurance coverage and charge premiums on all U.S. deposits taken by foreign banks even if they take only wholesale deposits in their U.S. branches. We agree that assessing deposit insurance premiums on foreign bank branches would increase the cost of conducting wholesale banking business for foreign banks and eliminate a competitive advantage they now enjoy over U.S. banks engaged in wholesale deposit taking. However, the vast majority of foreign banks operating through branches take no retail deposits and would face increased costs with only limited benefits.

As you noted in your letter, such a policy would expand the liabilities of the deposit insurance system—considerably more than your first proposal. The Treasury Department is opposed to such an expansion of the deposit insurance system's liabilities at a time when exposure should clearly be reduced, therefore, we are opposed to this provision.

Your third proposal would require that interstate retail deposit taking through branch networks across the United States be done only from a U.S.-chartered subsidiary. The Treasury Department is opposed to requiring a subsidiary for foreign banks that only engage in commercial banking activity. The Administration proposed a subsidiary/holding company requirement for foreign banks seeking to engage in expanded activities.

This proposal could have the effect of discouraging foreign banks from engaging in retail deposit taking in more than one state. The result would be that foreign banks would concentrate their activity in a very few large states that allow multiple branches, such as New York or California. Small states could lose potential foreign bank retail lending activity.

In response to your final question, U.S. bank branches and subsidiaries participate in deposit insurance systems in Canada, France, Germany, and the United Kingdom. Participation is not mandatory in some of these systems and is generally less costly than in the United States. In Germany, where foreign banks' participation is optional, assessments are related to a bank's retail deposit base, which is very small for most U.S. banks. In France and the U.K., where foreign banks' participation is compulsory, assessments are charged following large pay-outs, although the U.K. also assesses an initial contribution to its fund upon authorization of the foreign bank's office. Japan does not currently assess deposits of foreign banks for its insurance system.

Thank you for seeking the Treasury Department's views on these important issues.

Sincerely,

MARY C. SOPHOS,
Assistant Secretary, Legislative Affairs.

FEDERAL RESERVE SYSTEM,
Washington, DC, July 29, 1991.

Hon. JAKE GARN,
Ranking Republican, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GARN: I am responding to your letter of July 17, 1991, requesting the views of the Federal Reserve on whether the deposit insurance system as it applies to foreign banks requires reform.

As you know, foreign banks currently pay assessments for deposit insurance on the deposits of individual U.S. branches that accept more than a de minimis level of deposits of less than $100,000 in size, known as retail deposits. The assessment is charged on all of the deposits of that branch, including wholesale deposits. Few foreign banks accept retail deposits and therefore few are insured by the Federal Deposit Insurance Corporation. Of 226 foreign banks with 374 branches in the United States, 29 foreign banks operate 58 insured branches. Those 29 foreign banks operate 22 additional uninsured branches in the United States that accept wholesale deposits. No assessment is generally charged, and no deposit insurance coverage is provided, on U.S. branches of foreign banks that accept only wholesale deposits.

In your letter you outline three possible modifications to the current approach to deposit insurance for foreign banks that are under consideration by the Senate Banking Committee. You ask that we address the impact of those possible changes on the risks facing the deposit insurance system, competitive equity between foreign and domestic banks operating in the U.S. market, and the treatment accorded U.S. banks operating in other countries that sponsor deposit insurance funds.

In general, the Federal Reserve favors maintaining deposit insurance on foreign bank deposits on the current basis. The current system, which requires deposit insurance only on branches engaging in a retail deposit business, was designed to protect individual depositors with smaller balances who presumably would not be able to assess adequately the risks of dealing with a foreign bank. It was not designed to bring the risks of all foreign bank operations in the United States, a large part of which are oriented toward international business, within the U.S. safety net.

While it is important that U.S. authorities supervise the operations of foreign banks in the United States, it should be clear to large depositors that ultimate responsibility for the safety and soundness of foreign banks rests with the home country authorities. In particular, the Federal Reserve has stressed the need to assess the financial condition of the foreign bank as a whole and the comprehensiveness of home country supervision. Imposing deposit insurance on all foreign branch business risks implicitly transferring overall responsibility for foreign branch from the home country to the United States, a burden that we believe should not be assumed.

With respect to competitive equity between foreign and domestic banks operating in the U.S. market, we are aware of no convincing evidence that the branches of foreign banks have been able to price products in the U.S. market below prices offered by domestic institutions because foreign banks do not have to pay insurance assessments. Moreover, U.S. banks may in some circumstances have lower funding costs overall because of their greater access to the large U.S. retail deposit base.

Finally, the structure of insurance coverage for deposits in branches of U.S. banks abroad varies substantially from country to country in the Group of 10 countries. In general, the systems were designed to emphasize the protection of small deposits.

I hope this response will be helpful in your deliberations.

Sincerely,

ALAN GREENSPAN.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, July 29, 1991.

Hon. JAKE GARN,
Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GARN: Thank you for your joint letter with Chairman Riegle requesting the views of the Federal Deposit Insurance Corporation on modifications of federal deposit insurance applicable to United States branches of foreign banks.

Your letter indicates that three possible modifications of the deposit insurance system as it relates to foreign banks are being considered in conjunction with proposed legislation that would enable such banks to establish branches throughout this country. We are pleased to enclose our analysis of the policy implications of the possible modifications to which you refer.

We hope that this information is helpful. If you have any further questions, please let us know.

With best wishes.

Sincerely,

L. WILLIAM SEIDMAN,
Chairman.

RESPONSE TO REQUEST BY CHAIRMAN RIEGLE AND SENATOR GARN FOR COMMENTS ON POSSIBLE MODIFICATIONS TO DEPOSIT INSURANCE APPLICABLE TO U.S. BRANCHES OF FOREIGN BANKS

Branches and agencies of foreign banks now account for about 18 percent of the total banking assets in this country, reflecting a rapid expansion in operations and growth in market share since passage of the International Banking Act of 1978. The majority of foreign banks with United States branches do not engage in domestic retail business. Most foreign banks that operate a retail deposit business in the United States do so through subsidiary banks that are chartered here. The current attractiveness of the United States market for foreign banks appears to lie in the wholesale sector.

One proposal would require that insurance coverage be extended to, and that assessments be paid on, all of the domestic deposits, both wholesale and retail, held by United States branches of foreign banks. At present, insurance extends to, and assessments are paid on, only the deposits held by those branches of a foreign bank that take domestic retail deposits. A second proposal is that deposit insurance coverage be extended to, and assessments be collected on, all domestic deposits of United States branches of a foreign bank even if none of the branches takes any domestic retail deposits.

Either of these two proposals would put foreign banks operating in the United States on a more equal footing with domestic banks—which are required to pay assessments on all of their domestic deposits, both wholesale and retail. The first proposal might not significantly increase assessment income, since foreign banks with United States branches that take domestic retail deposits could choose to cease doing so in order to avoid the cost increase.

It is difficult to predict the effect that charging assessments on the wholesale deposits of American branches of foreign banks would have on the wholesale market or to estimate the increased assessment income that could be expected. It appears that, in many cases, assessing premiums on wholesale deposits would be contrary to the treatment accorded United States banks' wholesale deposits abroad.

The first two proposals, but especially the second, could be expected to result in a significant increase in insurance coverage of foreign bank offices in the United States. In the event that either proposal is enacted, it is absolutely vital that the FDIC be provided ultimate authority to approve or deny deposit insurance.

Both proposals would expand deposit insurance protection and thus would increase potential claims on the Bank Insurance Fund, which is extremely vulnerable and is, of course, our primary concern. Supervision and regulation of branches of an entity headquartered abroad gives rise to unique problems. For example, communicating with, and achieving corrective action of problems through, a principal office located overseas would be difficult at best. There are additional risks such as potential problems in claiming assets funded by insured liabilities, since collateral assets may be located abroad.

The third proposal would require that interstate retail deposit taking by a foreign bank be done only through the offices of a subsidiary bank chartered in the United States. This requirement probably would not have a significant impact since, as indicated earlier, most foreign banks that operate a retail deposit business here do so through such a subsidiary, which is preferable both from the standpoint of supervision and in terms of managing the risk to the Bank Insurance Fund. However, such a requirement would be contrary to the treatment accorded United States banks in many countries where they are permitted to operate at retail through branch offices.

Lastly, we have been asked to comment on the payment by United States banks of deposits in foreign branches when the assets of those branches have been frozen or expropriated by a foreign government. Section 3(l) of the Federal Deposit Insurance Act, 12 U.S.C. §1813(l), defines the term "deposit" for purposes of the Act to exclude any obligation of a bank or savings association which is payable only at an office located outside the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands. Deposits which are booked and payable only at an overseas branch of an insured financial institution are not reported as deposits for assessment purposes and are not considered to be insured.

Several recent cases have held that the home office of a bank is liable for payment of overseas deposits if they could not be repaid at the foreign branch where they were made. Typical cases include Chase Manhattan Bank v. Vishipco Lines, 660 F.2d 854 (2d Cir. 1981), in which Chase was required to pay a deposit made in its Saigon branch after the branch was closed because of approaching Vietcong, and Wells Fargo Asia Ltd. v. Citibank, N.A., 110 S. Ct. 2034 (1990), in which Citibank was required to pay a deposit made in the Philippines after a Philippine government decree prevented payment from the Bank's Philippine assets.

This line of cases casts doubt on the proposition that any deposit truly may be payable only outside the United States, its territories and possessions. Because such deposits are not subject to assessments and, in all likelihood, are not regarded by either the bank or its foreign depositors as being insured, the Federal Deposit Insurance Act should make clear that such deposits are not insured. We therefore suggest enactment of the attached amendment.

FEDERAL DEPOSIT INSURANCE ACT

Subparagraph (A) of Section 3(*l*)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)(5) is amended to read:

(A) any obligation of a bank or savings association which is carried on the books and records of an office of such bank or savings association located outside of the States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands unless (i) such obligation would be a deposit if it were carried on the books and records of the bank or savings association, and payable at, an office located within the States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, and (ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of such bank or savings association located within the States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands.

BANKERS' ASSOCIATION
FOR FOREIGN TRADE,
Washington, DC, July 26, 1991.

Re foreign banks and deposit insurance.

Hon. DONALD W. RIEGLE, Jr., *Chairman*
Hon. JAKE GARN,
Ranking Republican, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE AND SENATOR GARN: On behalf of the Bankers' Association for Foreign Trade ("BAFT"), I would like to respond to your joint letter of July 17, 1991, requesting BAFT's views on three proposals to modify the application of federal deposit insurance to the operations of foreign banks in the United States.

As you know, BAFT's voting membership includes virtually all U.S. banks with significant international and trade banking operations. BAFT's U.S. members thus comprise those U.S. banks that are most active overseas and are the principal competitors of foreign banks both in the United States and abroad.

In evaluating the three proposals you presented, we have been principally guided in our analysis by the principle of national treatment toward foreign banks, a principle embodied in the International Banking Act of 1978 ("IBA"), because it promotes competitive equality in the United States and protects U.S. banks from possible retaliatory actions outside the United States.

BAFT agrees with your basic premise that legislation giving foreign banks the right to establish branches throughout the United States raises important questions about the deposit insurance coverage and assessment of such operations. There is, of course, a competitive issue, as U.S. banks will be paying deposit insurance premiums on deposits at their multistate branches, premiums that impose very substantial competitive costs. There is also the question of risks to the deposit insurance fund of insuring deposits at U.S. operations of banks based outside the United States. Finally, there is the issue of maintaining important operational or competitive options for U.S. banks outside the U.S. In this regard, any actions taken by the United States Government on the treatment of foreign banks in this market may provoke similar responses by foreign governments vis-a-vis the operations of U.S. banks outside the United States.

Evaluating your three proposals in terms of the above issues and overall consistency with national treatment, BAFT supports your first proposal, but has serious concerns with your second and third proposals.

Under your first proposal, if a foreign bank decided to take advantage of new interstate banking powers and to establish branches in more than one state, all of its branches would have to be FDIC-insured and assessed if any of such branches accepted retail deposits. We believe this position is consistent with national treatment, because even if U.S. banks accept only a small amount of retail deposits, they must pay assessments on all of their domestic deposits. If a foreign bank chooses to engage in interstate retail deposit-taking through its branches, it should be subject to the same assessment structure as U.S. banks. This proposal also guards against any confusion as to deposit insurance coverage by retail depositors, which could occur if some branches were insured and some branches were not insured. In this regard, FDIC regulations already address this issue in the intrastate context by requiring a foreign bank to insure all its branches in the same state, if any of such branches accepts retail deposits. The first proposal should also not present undue risks to the FDIC, since its current rules for insuring retail branches of foreign banks appear to have worked well. Finally, by acknowledging that foreign bank branches may engage in retail operations in the United States, this proposal allows foreign branches of U.S. banks to maintain or seek similar retail opportunities in markets abroad.

The second proposal—insuring and assessing deposits at all branches of foreign banks even if none of such offices engage in retail activity—was previously rejected by Congress in the IBA as being inconsistent with national treatment, since deposit insurance is intended to protect retail, not wholesale, customers. The FDIC also had substantial objections in 1978 to insuring strictly wholesale operations due to the risks that might be involved for the FDIC fund. We believe both of these reasons remain compelling today. Also, we are concerned that such proposal could provoke retaliation against U.S. bank wholesale operations outside the United States.

Concerning your third proposal, which would require foreign banks to conduct all retail operations through U.S. subsidiary banks, we believe such an approach is unnecessary and, perhaps, unwise, and could adversely impact U.S. bank operations outside the United States. Taking our last point first, U.S. banks would like to maintain the option, which they have or would like to have in many markets abroad, of conducting retail activities through branches or subsidiaries. A subsidiary "rule" in the United States could cause foreign governments to impose a retail subsidiary rule on U.S. bank branches outside the United States, which could deny them important competitive opportunities in existing or new foreign markets. Mandatory use of a subsidiary also appears unnecessary, since your first proposal ensures national treatment without generating such competitive risks outside the United States. In addition, to the extent U.S. rules require foreign bank activities to be conducted in subsidiary banks, the overall risk to the FDIC fund from such operations increases, since the U.S. Government ends up being responsible for the solvency regulation of such separate subsidiary. To the extent foreign banks conduct U.S. activities through branches, the ultimate solvency of such offices is the responsibility of the home country supervisor/central bank. In the current environment, it would not seem advisable to shift more solvency regulation *and* responsibility from foreign supervisors to U.S. government agencies.

We greatly appreciate this opportunity to comment and hope these views have proved useful to your legislative efforts.

Sincerely,

M. CONDEELIS,
Executive Director.

INSTITUTE OF INTERNATIONAL BANKERS,
New York, NY, July 29, 1991.

Hon. DONALD W. RIEGLE, Jr.,
Hon. JAKE GARN,
Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR CHAIRMAN RIEGLE, AND SENATOR GARN: I am writing in reply to your letter, dated July 17, 1991, in which you requested the Institute's views on three proposals to modify the deposit insurance system as it applies to international banks.

The International Banking Act of 1978 ("IBA") required federal deposit insurance for international bank branches that take retail deposits but did not mandate deposit insurance for international bank branches that take only wholesale deposits. This approach takes into account the fundamental difference between wholesale depositors and individual, retail depositors for whom federally insured deposit protection was originally designed. We believe this system for deposit insurance for international banks has worked well as it applies to the limited number of international banks that have retail branches.

Your first proposal would expand deposit insurance coverage to all U.S. deposits of an international bank with retail deposit taking branches. We acknowledge that when an international bank seeks to expand interstate through insured retail branches it should be required to insure all its branches. Imposing this requirement on those institutions which have retail branch activities, however, could disrupt ongoing operations and possibly decrease banking services to the customers they serve. We suggest that these banks be allowed to continue operating as currently permitted unless they decide to expand interstate by establishing one or more retail branches under the new authority of S. 543.

Your third proposal would require an international bank to conduct interstate retail deposit taking through a U.S. subsidiary bank. We believe such a requirement is unnecessary. Although the Federal Deposit Insurance Corporation ("FDIC") expressed a preference for an incorporated bank at the time of enactment of the IBA, we believe the FDIC has successfully supervised the insured retail branches of international banks without significant problems or losses to the system. A disadvantage of incorporation is that the global capital of the international bank would no longer stand behind these deposits, and such a requirement would be inconsistent with the practice of U.S. banks to maintain branches in other countries.

The remaining proposal, number two in your letter, would expand deposit insurance coverage to all U.S. deposits of international banks even if the bank is engaged solely in wholesale deposit taking. This approach would be a major departure from the IBA and would bring within the safety net the vast majority of international banks currently operating in the United States. Such a change in the deposit insurance system for international banks could fundamentally alter the role of the United States as a center for international banking activities. A substantial portion of wholesale banking business would likely shift to various markets outside the United States, which could have a significant adverse impact on Atlanta, Chicago, Houston, Los Angeles, Miami, New York and other major cities.

Perhaps more importantly, the expansion of the liabilities covered by FDIC should be carefully examined before extending the U.S. government guarantee to the operations in the United States of international banks from over 60 countries. As Federal Reserve Chairman Greenspan observed in a related context in testimony before your Committee, by compelling deposit insurance wholesale branch depositors would increasingly look to the U.S. safety net rather than the international bank itself in the event of problems.

We appreciate the opportunity to comment on the proposals outlined in your letter.

Very truly yours,

LAWRENCE R. UHLICK,
Executive Director and General Counsel.

INDEPENDENT BANKERS ASSOCIATION OF AMERICA,
Washington, DC, July 25, 1991.

Hon. DONALD W. RIEGLE, Jr., *Chairman,*
Hon. JAKE GARN, *Ranking Republican,*
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE AND SENATOR GARN: The Independent Bankers Association of America (IBAA) appreciates the opportunity to comment on the relationship of the deposit insurance system as it applies to foreign banks. The IBAA is the only national trade association which exclusively represents the interests of the nation's community banks.

It is the position of the IBAA that foreign banks that take deposits, wholesale *and* retail, in the United States should be required to abide by the same rules as domestic banks. It is critical that foreign banks are regulated effectively to ensure that depositors are accorded the same protection that they would receive from a domestic bank. Interstate deposit-taking should be done only through a U.S.-chartered subsidiary that is subject to the same rules and regulations as domestic banks.

With consumer confidence in the banking system at an all time low, permitting foreign banks to gather deposits from the U.S. without providing our citizens the protections that they are afforded by our banking system would only create more uncertainty. Without subjecting foreign banks doing business in this country to the same rules as domestic banks, we are concerned that the average consumer may not know that they are dealing with a foreign bank. This could place the consumer in the position of having to make an uneducated decision about their deposits.

The recent worldwide depositor crisis caused by the closure of BCCI has shown that deposit insurance is important. The *Washington Post* noted that the U.S. deposit insurance system "is part of the reason that U.S. banking regulators have been able to close about 200 banks in each of the past several years without an outcry from bank customers, while the Bank of England's action against BCCI has provoked protests from London to Hong Kong."

Assessing premiums for both wholesale and retail deposits is an important aspect of depositor protection. The wholesale deposit is considered in excess of $100,000. We believe that this figure is far too low. Retirees with, for example, $110,000 might be tempted to put their life savings or lump-sum pension payouts into the wholesale bank without understanding they are not insured. This is not acceptable.

Protection of the U.S. depositor must be the focus of this debate. Premium income generated from assessing the deposits of foreign banks may possibly be significant, but it should be considered the price a foreign bank pays to collect deposits in the United States.

We would be pleased to answer any further questions you may have. Thank you for this opportunity to share our views.

Sincerely,

DAVID BALLWEG,
President.

VICE-PRESIDENT OF THE COMMISSION,
OF THE EUROPEAN COMMUNITIES,
Brussels, September 17, 1991.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: I would like to offer my congratulations on the successful markup of the US banking reform legislation by your Committee, which obviously brings reform a step nearer to the statute book. The European Community has also noted with satisfaction that the Committee took the view that an automatic roll-up requirement of branches of foreign banks was not necessary.

There is, however, widespread concern in Europe that roll-up seems to be reintroduced by the language requiring any foreign bank with one or more insured branches to establish a subsidiary (or subsidiaries) to conduct its insured deposit taking activities. For a significant number of European banks this would amount to a requirement to convert existing branches to subsidiaries, thereby undermining the Committee's position against such a roll-up.

You may find it useful to have an overview of the position as regards deposit insurance in the European Community. I have therefore attached to this letter a summary table setting out the situation in each of the Member States.

As you will see from this table, foreign bank branches operating in the European Community are covered by existing schemes in nearly all Member States—there is no requirement in any Member State that those branches should be established as subsidiaries. The obligation to pay insurance assessments is not affected by the different types of organizational structure used by banks; and there is no reason why it should be.

We in the European Commission will shortly be putting forward proposals for a harmonized system of deposit insurance throughout the Community. There is no intention that any such scheme should require branches of foreign banks to be converted into subsidiaries. I would therefore ask you to reconsider whether such a requirement could not be dispensed with in the United States' own bank reform legislation.

As you know, the European Commission strongly supports the general open-market direction of the banking reform legislation now being shaped by Congress. I am confident that our concerns can be met without adversely affecting the positive, liberalizing features of the reform process. I shall be in Washington from 22–24 September and if there is an opportunity to discuss matters of common interest arising out of the bank reform legislation I would naturally welcome an opportunity to meet you.

I am sending a copy of this letter to Senator Garn.

LEON BRITTAN.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, November 13, 1991.

Hon. JAKE GARN,
Ranking Minority Member, Committee on Banking, Housing, and Urban Affairs, United States Senate, Washington, DC.

DEAR SENATOR GARN: Thank you for your letter of November 5, 1991 requesting the views of the Federal Deposit Insurance Corporation concerning your proposed amendment to section 305(c) of S. 543.

I support your proposed amendment. The original language of section 305(c) appears to make automatic deposit insurance coverage for retail deposits of domestic branches of foreign banks. Your proposed amendment would make clear that foreign banks must apply to the FDIC for deposit insurance covering those deposits. Your amendment therefore would require foreign banks to be subject to the same standards that apply to domestic banks and would provide the FDIC with leverage to assure that foreign bank branches are being operated in a safe and sound manner.

With respect to the question of whether foreign banks should be required to conduct their retail deposit activities in a subsidiary bank or be permitted to continue to conduct those activities in branches, I have no preference because substantial arguments can be made in favor of either approach.

I appreciate the opportunity to comment on your proposed amendment. If you have any further questions, please let me know.

Sincerely,

WILLIAM TAYLOR,
Chairman.

BRITISH EMBASSY,
Washington, DC, Dec. 12, 1991.

Hon. DONALD W. RIEGLE,
Senate Dirksen Office Bldg., Washington, DC.

DEAR SENATOR RIEGLE: We understand that the Federal Deposit Insurance Corporation Improvement Act of 1991, approved just before Congress adjourned in late November, added a new and potentially very damaging provision affecting foreign bank branches in the United States. The British Government hopes that you may be able to confirm that the new Section 214(a) will be interpreted in the way in which Congress no doubt intended so that the current arrangements for foreign bank branching in the U.S. are not disrupted.

The new Section 214(a) appears to prohibit international banks from accepting or maintaining accounts having balances of less than $100,000 except through a U.S. subsidiary. The Section has caused great concern to the foreign banking community who had understood that the change was meant only to affect the taking of insured retail deposits. Indeed, it appears that a careful reading of the new section taken in conjunction with the International Banking Act supports that interpretation. Nevertheless, it seems that on some interpretations the new section could be taken to prohibit the acceptance by wholesale branches of any deposits of less than $100,000 made by any customers of foreign banks. This would clearly be disruptive of the normal business arrangements of foreign bank branches and we are sure that it is unintended. Indeed, a reading of the House-Senate conference discussions suggests that wholesale bank branches should not be affected at all.

The British Government is concerned that the enactment of the legislation will lead to immediate, costly and unintended difficulties for the business of the foreign banking community in the United States and to normal commercial payment flows both within the U.S. and internationally. I understand that you appreciate these concerns. We should be very grateful, therefore, if steps could be taken to clarify that Section 214(a) is not intended to apply to the non-retail deposit activities of foreign bank branches.

If necessary, we hope that you will consider early legislation to put right the unintended effect of Section 214(a). In the meantime, I hope that you will join with us in urging the regulatory authorities to delay implementing changes to the existing regulatory structure.

Yours sincerely,

ROBIN RENWICK.•

INTRODUCTION OF S. 2112—LIMITING DIVERSITY OF INFORMATION SERVICES

• Mr. LOTT. Mr. President, S. 2112 is special-interest legislation of the first order, a nice little carve-out for newspaper publishers. Sponsors of S. 2112 and the newspaper publishers they seek to protect are saying that the bill is necessary to promote diversity in the information services market but their message has a hollow ring, that is, promote diversity by limiting it.

The bill would essentially reimpose the information services restriction on the Bell companies, and reverse the 5-year court process culminating in the decision to free the Bells, a process driven in large part by the compelling and persuasive public interest arguments in support of Bell Co. entry into information services.

The local Bell telephone companies serve 75 percent of the Nation's telecommunications users. During the nearly 10 years the information services restriction had been in effect there was little development of an information services market beyond large business users. In my home State of Mississippi and in many other rural areas of the country there has been little or no attempt to market these services. The implication is fairly simple and straightforward; the local telephone companies are well positioned to develop a mass market for information services and unless the Bell companies are in the information services game in a meaningful way more people than not will go without the benefit of these services. What we have in effect today, because of the irrational effects of the MFJ restrictions, is a case of the haves versus the have-nots in terms of access to information services. S. 2112 throws a smokescreen up in an attempt to blur our perception of these events and where we are in this debate.

Since the Bells were freed to enter information services they have responded energetically. Their involvement includes information product and service applications in areas of health care, small business, and education. Many of their efforts have involved cooperation or partnerships with other companies including the newspapers. The market is ripe for the next generation of information services. The American people are waiting. Rather than stand in the way, the newspaper industry should look for opportunities to capitalize on the information services revolution RCH participation will stimulate.•

COLLOQUY ON MASSACHUSETTS INTERSTATE HIGHWAY CONSTRUCTION FUNDING

• Mr. KENNEDY. Mr. President, my colleague from Massachusetts, Senator KERRY, and I engage the chairman of the Transportation Subcommittee, Senator MOYNIHAN, and the subcommittee's ranking Republican member, Senator SYMMS, in a colloquy concerning the Intermodal Surface Transportation Efficiency Act of 1991.

First, I would like to commend Senators MOYNIHAN and SYMMS for their leadership and extraordinary efforts in securing the passage of this critical transportation initiative. This act is clearly one of the most significant public works and infrastructure measures ever enacted by any Congress. It sets the course for a cleaner, more efficient, and safer transportation system as we move into the 21st century, and it will provide an enormous boost to the economy in Massachusetts and the Nation, at a time when this is so urgently needed.

Due, however, to the enormous complexities involved in writing legislation of this magnitude and the necessity for bringing this measure to the Senate floor before Congress adjourned for the year, it has come to our attention that a matter of vital importance to Massachusetts was inadvertently left out of the conference report. This matter concerns section 1020 of title I of the act concerning the period of availability for funds apportioned for Massachusetts for interstate construction.

As the distinguished chairman and ranking minority member are aware, the $2.55 billion in interstate construction funds apportioned under this bill for Massachusetts is vital for completing one of the last remaining segments of this country's Interstate Highway System, the Central Artery-Third Harbor Tunnel, located in downtown Boston. By including these funds, the conferees have recognized the importance of upgrading and improving what is now the single most dangerous and congested stretch of the entire Interstate Highway System. My understanding is that these funds were intended to be made available until expended, even though the conference agreement is not as clear as it could be on this point.

Would the chairman and ranking Republican member agree that it was the intent of the conferees to include language in section 1020 of the conference report to ensure the interstate construction funds apportioned for Massachusetts between October 1, 1991, and October 1, 1995, remain available until expended?

Mr. MOYNIHAN. Yes, it was the intent of the conferees to permit Massachusetts to retain, until expended, the interstate construction funds apportioned to it between October 1, 1991, and October 1, 1995, and I thank the Senator from Massachusetts for bringing this oversight to my attention.

Mr. SYMMS. I concur in the statement of the Senator from New York.

Mr. KERRY. Would the distinguished chairman and the ranking Republican member further agree and give assurances that the conferees will act quickly to include the requested language in a package of technical corrections?

Mr. MOYNIHAN. Yes, I can assure the Senators that we will move as expeditiously as possible to adhere to the original intent of the conferees and correct this oversight, thereby permitting Massachusetts to retain, until expended, all sums apportioned to it for interstate construction under the Intermodal Surface Transportation Efficiency Act of 1991.

Mr. SYMMS. The Senator from New York has accurately stated our intention.

Mr. KENNEDY. I thank the Senators for their remarks, and for their support on this important issue, and I again congratulate them for their achievement getting this far-reaching transportation measure enacted.

Mr. KERRY. I also would like to thank the distinguished chairman and ranking Republican member of the subcommittee for their great assistance and their leadership.•

ORLANDO, FL, MAGLEV PROJECT AND ITS INCLUSION IN THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

• Mr. GRAHAM. The Intermodal Surface Transportation Efficiency Act of 1991 includes a $97.5 million authorization for land and right-of-way acquisition and guideway construction in Orlando, FL. This authorization is in section 1107 of the bill. In light of the interest I have expressed to the Senate Committee on Environment and Public Works, I assume that this authorization is for the magnetic levitation project connecting the Orlando International Airport with the Central Florida Tourist Center at International Drive. Is that the Chairman's understanding?

Mr. BURDICK. Yes; it was the intent of the conferees that the $97.5 million authorization for Orlando, FL, be for land and right-of-way acquisition, and guideway construction for the maglev project.•

JOINT STATEMENT ON SYSTEMIC RISK EXCEPTION TO LEAST-COST RESOLUTION FDICIA

• Mr. RIEGLE. Mr. President, I introduce, for the RECORD, the following statement which has been prepared by House Banking Committee Chairman HENRY GONZALEZ, Congressman BRUCE VENTO, and myself, on the systemic risk provisions of section 141 of S. 543, the Federal Deposit Insurance Corporation Improvements Act of 1991.

THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

On November 27, 1991, the House and Senate adopted the conference report on S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991. Time did not permit filing a detailed explanation of the bill with the conference report. Accordingly, we wish to clarify the systemic risk exception in section 141.

Section 141 requires the FDIC to resolve depository institutions at the least possible long-term cost to the deposit insurance fund. Section 141 also prohibits the FDIC, after December 31, 1994, from protecting uninsured depositors or nondepositor creditors at the expense of any deposit insurance fund.

Section 141 gives the Secretary of the Treasury limited authority to make exceptions to those rules if compliance "would have serious adverse effects on economic conditions or financial stability" and assistance or other action by the FDIC would avoid or mitigate those effects. The Secretary can make exceptions only in consultation with the President, on the written recommendation of at least two-thirds of the members of the FDIC Board and two-thirds of the members of the Federal Reserve Board.

The systemic risk exception now in section 141 originated in section 220 of the Senate bill. The Senate Banking Committee's report on S. 543 described the predecessor provision as "a narrow systemic risk exception for those rare instances in which the failure of an institution could threaten the entire financial system." S. Rep. No. 167, 102d Cong., 1st Sess. 45 (1991). In the House Banking Committee's bill, section 141, relating to least-cost resolution, did not contain a systemic risk exception, but section 142, restricting advances by the Federal Reserve banks, did contain such an exemption. H. Rep. No. 157, pt. 1, 102d Cong., 1st Sess. 22–27 (1991). The conferees included the systemic risk exception in section 141, but tightened it by making a written recommendation by the FDIC Board a precondition for any systemic risk exception. The exception in section 142 of the House bill was dropped.

The systemic risk exception is not intended to perpetuate the practices commonly known as "too big to fail"; the legislation responds to and largely ends those practices. Section 141 adopts a stringent least-cost test, requiring the FDIC to evaluate alternative resolution approaches rigorously and pursue the approach with the least possible long-term cost. The FDIC is no longer free to pursue a more costly approach simply because it is less costly than liquidation, nor can the FDIC use hazy, informal cost comparisons. Section 141 also repeals the "essentiality" exception, which made even the less-than-liquidation test inapplicable to an institution that the FDIC determined to be essential to its community. Section 143 contains safeguards designed to keep discount-window lending by the Federal Reserve banks from being used not simply to cover temporary liquidity needs but as a substitute for FDIC action. Other provisions of the legislation reinforce these reforms. Section 308 and subtitle IV–A are intended to reduce systemic risk. Prompt regulatory action under section 131 applies to large and small institutions alike.

The systemic risk exception itself is narrowly drawn, with several layers of safeguards against misuse. It is intended only for those rare instances in which the failure of an institution could threaten the entire national financial system. The two Banking Committees must be notified promptly of any systemic risk determination.

Section 141—including the least-cost resolution requirement and the post-1994 prohibition against protecting uninsured depositors or nondepositor creditors—fully applies to open-bank assistance. Moreover, such assistance is permissible under the systemic risk exception only if it meets the stringent standards for that exception.•

S. 543, THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT

• Mr. GARN. Mr. President, as you know, the Federal Deposit Insurance Corporation Improvement Act is presently awaiting signature of the President. This act requires and encourages the banking agencies to pursue a variety of goals in resolving troubled institutions, and gives the Federal Deposit Insurance Corporation special responsibilities in implementing its objectives.

In specific situations, some of the goals found in the act may conflict. I want to make it clear that Congress relies on the banking agencies to exercise their best judgment in balancing those objectives.

No bank resolution strategy will please everyone; many will please no one. The President appointed, and this body confirmed, the heads and members of the boards of the bank regulatory agencies. By so doing, we expressed our confidence in their ability to make the best choices. This act should not be interpreted as preventing them from creatively and constructively fulfilling their assigned responsibilities. I believe that this is worth emphasizing in light of the difficulties the banking industry and the general economy currently face.

Mr. President, I would also like to make some comments about some of the specific provisions in the act.

Section 105 of the act permits the FDIC to borrow from certain members of the bank insurance fund. This new source of borrowing for the FDIC pertains to the FDIC's general borrowing on behalf of the bank insurance fund. It does not pertain to the FDIC's authority to enter into bank assistance transactions to resolve bank failures. This new authority is intended to be in addition to and not a limitation on the FDIC's authority under sections 11 and 13 of the Federal Deposit Insurance Act.

Section 123 of the act sets forth standards for the FDIC to follow in disposing of assets of failed institutions, including the requirement that the FDIC promote competitive bidding. This provision is intended to apply to the FDIC's liquidation operations. The FDIC's resolution transactions, in contrast, are governed by the least-cost provisions, and the FDIC's mandate is to use whatever competitive bidding and negotiation process best effectuates those provisions.

In section 131, the term "capital distribution" should be broadly construed. For example, a capital distribution should include any transaction that the appropriate Federal banking agency or the FDIC determines to be a distribution of capital.

Section 131 also requires the establishment of benchmark levels of risk-based capital and leverage limits at which depository institutions will be considered to be well capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized. Each banking agency, in consultation with the FDIC, must also establish one or more benchmark levels at which institutions are critically undercapitalized. In particular, each agency must establish a ratio of tangible equity to total assets at which an institution is critically undercapitalized.

These benchmark capital levels, which are to be established for the purpose of prompt corrective action, are not intended to supersede the capital standards specifically imposed on savings associations by FIRREA. Thus, the regulators of savings associations—the OTS and the FDIC as backup regulator and insurer—are expected to implement all of the prompt corrective action requirements of section 131 in a way that is consistent with FIRREA, which remains in force except to the extent explicitly amended by the Federal Deposit Insurance Corporation Improvement Act of 1991.

Section 131 also provides the primary Federal regulator with discretion to take other more appropriate action in lieu of appointing a receiver for an institution that is failing to meet its critical capital level, provided that the institution meets certain criteria designed to ensure its continued viability and the FDIC concurs in such decision.

In this area, it is critical that the regulator be given sufficient flexibility to consider all available alternatives that could save taxpayer money without increasing risk to the insurance fund. This measure provides significant regulatory discretion in cases where an institution is in compliance with an approved capital plan, has a sustainable upward trend in earnings, and is reducing its nonperforming assets. These criteria ensure that if a decision is made to forgo appointing a receiver for an institution that may have a realistic opportunity for recovery, the institution will not incur additional losses that would be borne by the taxpayer. Of course, it is not intended that this provision affect other provisions of this act that would provide the banking agencies additional flexibility to deal with weak institutions before they reach the critical capital level if other grounds for appointment of a conservator of receiver exist.

Section 131 also provides that a "less than satisfactory" rating with respect to assets, management, earnings, or liquidity, in the most report of examination, provides a basis for the appropriate banking agency to deem the institution to be engaging in an unsafe or unsound practice. This provision gives the regulators additional authority and does not limit the existing bases upon which the regulator can make a finding that an institution is engaging in an unsafe or unsound practice. Further, the phrase "most recent report of examination" should not be interpreted as requiring the termination of an enforcement action based solely upon the insurance of a subsequent report of examination.

Finally, section 131 includes corrective actions that the appropriate Federal banking agency must or may take, depending on the level at which the entity it regulates is capitalized. Where the board of directors and management of a depository institution or its holding company act to implement an agency directive under this section, those actions are fully consistent with and in furtherance of those persons' fiduciary duties.

Section 141 states that the FDIC, in determining the least costly resolution approach, is to use a cost evaluation based on its expected overall expenditures and payments on obligations. The FDIC must also factor in its expected return on or redemption of capital instruments that it purchases, pursuant to the sense-of-the-Congress resolution on early resolution of cases. In all instances, the requirement is that the FDIC develop the fairest and most accurate overall cost of each transaction in order best to compare alternative resolutions.

Section 141 of the act also requires the FDIC, when it provides assistance to an open institution, to make a determination with the institution's primary Federal regulator whether the institution's management has been competent and has not engaged in violations of law. That determination must be made as to former management who are retained by the assisted institution, if any. As the sense-of-the-Congress resolution on early intervention provides, members of former management as to whom the necessary determination cannot be made should ordinarily not be retained by the assisted entity.

Section 475 of the act authorizes each appropriate Federal banking agency to determine the amount of readily marketable purchased mortgage servicing rights that may be included in the capital required of the institutions it regulates, subject to certain discounting and valuation requirements. Each appropriate Federal banking agency's authority to make this determination includes the authority to define the terms contained in section 475.

Finally, Mr. President, I would like to take this opportunity to repeat comments that I made in the conference committee that reported out the Federal Deposit Insurance Corporation Improvement Act of 1991, comments that I believe will be useful in making clear the intended effect of this important provision of this legislation.

In the Senate Banking Committee, I was the sponsor of the provision that was ultimately adapted as section 471 of the act. The purpose of section 471 is to address a serious problem that has emerged since we enacted FIRREA in 1989. In FIRREA, we created the Resolution Trust Corporation and mandated it to maximize the return from the sale of the assets of failed thrift institutions. To ensure that the Resolution Trust Corporation [RTC] was able to carry out this mandate, we gave the RTC broad-ranging powers, including the power to transfer any asset of a failed institution "without any approval * * * or consent with respect to such transfer."

In order to be able to sell such assets at the best possible price, the RTC must not only be able to transfer them without obtaining any third-party consents, as FIRREA already provides, but it must also be able to provide assurance that the asset will have value in the purchasers' hands. If the asset is a contract for services, it will obviously have little or no value if the service provider is free to arbitrarily terminate the contract following its transfer. It is this issue that section 471 resolves. It establishes the right of anyone to whom the RTC sells such an asset which, as the Senate Banking

Committee report noted, may take the form of rights under contracts and membership rights in associations, service corporations, and the like to bring suit to enforce the rights that it has purchased. The provision includes one exception: When the purchaser itself has failed to comply with a material term or condition that applied to the thrift institution that originally owned the servicing rights.

I was fully cognizant, as were the conferees, of the applicability of this provision to a dispute that currently exists between Sears, Roebuck and the Visa credit card organization, which has until now refused to allow Sears to exercise Visa membership rights that it purchased from the RTC. Under this provision, Sears is entitled to enforce those rights, unless the exception that I mentioned earlier applies.

I understand that there are antitrust claims that have been asserted by Visa in pending litigation between Sears and Visa arising from this dispute. As I stated in a written colloquy with Senator METZENBAUM, which I submitted for inclusion in the CONGRESSIONAL RECORD on November 27, this provision does not prejudice any such claims, because this provision is not about antitrust claims. If Visa, or anyone in a similar position in the future, believes that it has grounds under the antitrust laws to challenge someone's acquisition of servicing rights from the Resolution Trust Corporation, that service provider continues to have whatever right it has before the enactment of this legislation to file its own lawsuit and to attempt to persuade a court of law that the acquisition of those rights was illegal. But until an appropriate court determines that the service provider's claim is valid, the purchaser is entitled to enjoy fully its rights under the service contract to enforce them. This provision makes it illegal for the service provider to simply unilaterally refuse to provide services for any reason, except in the one limited circumstance that I referred to earlier.

I hope that this makes clear the intended effect of this important provision.•

FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

• Mr. SANFORD. Mr. President, I have a few comments about an aspect of the recently passed banking bill, S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991. I was very pleased that the conference report on this bill included language that the Senate Banking Committee included at the behest of myself and the Senator from Connecticut [Mr. DODD], relating to the early resolution of troubled financial institutions. The provisions strongly encourage the regulators to make use of the authority that they have to make equity investments in, or take other steps to assist, troubled institutions so that they do not ultimately have to be closed. The provisions set forth general criteria that should be used in examining those transactions that might benefit from such action. I believe this language of encouragement to our regulators is a critical part of a new approach to bank and thrift failures.

I would like to comment on one small aspect relating to these provisions. I think some details regarding the applicability of section 11(c)(12) concerning directors liability when such early resolutions occur is warranted.

Section 11(c)(12) of the Federal Deposit Insurance Act [FDIA], as added by section 133 of this act, protects directors of depository institutions from liability to shareholders and creditors when the directors acquiesce or consent in good faith to the appointment of the FDIC or the RTC as a conservator or receiver or acquiesce to an acquisition or combination under section 38(f)(2)(A)(iii) of the FDIA. Section 38(f)(2)(A)(iii) provides that significantly undercapitalized institutions and undercapitalized institutions that have failed to submit or implement acceptable capital plans may be required to enter into supervisory acquisitions or mergers, if one or more grounds for appointment a conservator or receiver exist.

The institutions subject to sections 11(c)(12) and 38(f)(2)(A)(iii) of the FDIA are substantially similar to those eligible for early assistance under new section 13(c)(8) of the FDIA as added by section 141(e) of the act. As such, the immunity provisions of section 11(c)(12) should apply in such transactions. Indeed, the immunity provisions of section 11(c)(12) should apply to all supervisory mergers and acquisitions that include early assistance and that involve significantly undercapitalized—as well as critically undercapitalized—institutions and undercapitalized institutions that have failed to submit or implement an acceptable capital plan.

The protections afforded under this section should also apply to actions brought by indirect shareholders and creditors, such as shareholders and creditors of a holding company that controls the institution.

The immunity provisions of section 11(c)(12) also effectively protect the directors of a holding company that controls a depository institution where the directors of the institution consent or acquiesce to an action under this section. Of course, this protection would only extend to a holding company's directors with respect to any action required as a result of the consent or acquiescence under this section by the directors of its subsidiary institution. However, to the extent the directors of a holding company take action to implement an action consented or acquiesced to by the institution's directors, the actions of the holding company's directors would be fully consistent with, and in furtherance of, their fiduciary duties.

The act provides that these provisions become effective 1 year after enactment of this conference report. At that time, the provisions would provide the immunity specified in section 11(c)(12) to any actions pending on the effective date if the action was initiated on or after the date of enactment of the conference report.

Again, I am very pleased that the conference report retains the language encouraging the use of early resolution transactions and I hope that the regulators will take every advantage of these provisions to assist, where appropriate, those banks or thrifts that could be aided by equity infusions or other actions to prevent their ultimate failure.•

ANTI-SEMITISM IN UZBEKISTAN AND TADZHIKISTAN

• Mr. D'AMATO. Mr. President, the complete overhaul of the former Soviet Union, while bringing tremendous hope for the future, offers an array of potential problems. Chief amongst these problems is a rise in anti-Semitism. This is an important issue for the Senate to consider. As a result, I feel a report by the New York-based Caucasus Network would offer some insight.

The report follows:

THE REBIRTH OF ISLAM IN UZBEKISTAN AND TADZHIKISTAN: ITS IMPACT ON LOCAL JEWISH COMMUNITIES

(An On-Site Report By the Caucasus Network)

CONCLUSIONS

1. Signs of a vigorous renewal of Moslem culture and religion in Uzbekistan and Tadzhikistan are everywhere. There is increasing pressure on local officials from Islamic political and religious forces to do whatever is necessary to ensure that the republics become independent Islamic nations.

2. For reasons based in both Moslem theology and the historic relations between Moslems and Jews, the growing power of Islam is a terrifying threat to Jews in Central Asia. Jewish leaders have been ordered to support local political movements backed by the Islamic religious establishment. An alarming number of Jews have been attacked under circumstances related to anti-Semitism.

3. The general feeling, even in Uzbekistan, is that Tadzhiks are more of a threat to the Jews than are Uzbeks. However, it also is true that the Jews in the outlying towns of both republics are the most pressured, isolated, and vulnerable. They told terrible stories about actual physical violence against members of their communities and were visibly quite frightened. Some reported having been warned that if they do not convert to Islam, they will be killed.

4. Given what most people regard as the inevitable establishment of independent Moslem nations in Central Asia, ways to protect local Jews and to expedite their emigration must be considered.

REPORT

From October 2nd through October 17th, 1991, Goldie Ellman (a member of the Board of Directors of The Caucasus Network) and I went to Central Asia. We had two objectives. First, we wished to make our own on-site assessment of the growth of Islam and its impact on Jewish communities in the area. Second, we hoped to provide solutions to some of the problems people were having in emigrating to Israel and the United States, thereby hastening and facilitating their exodus from this troubled area.

We went to Tashkent, Bukhara, Samarkand (Uzbekistan) and Dushanbe (Tadzhikistan). We had arranged our schedule prior to our departure and in each city, it essentially was the same.

(a) We were met at each airport by a delegation consisting of from ten to thirty members of the local Jewish community.

(b) We addressed community meetings that were attended by hundreds of people in each city. At each meeting, a presentation on general problems relating to emigration was followed by a long and lively question-and-answer period.

(c) We held conferences attended by the leaders of each Jewish community, at which we discussed anti-Semitism and the impact of the growth of Islam on the Jews in each city. We also trained the leaders in US refugee immigration procedures and we asked questions about the functioning of the local OVIR offices.

(d) We held clinics at which we met with individuals to discuss their emigration problems and personal experiences with anti-Semitism. Both in group seminars and individually, we prepared people for their American embassy interviews and we answered questions relating to the interview packets.

In each city, we literally were mobbed by clamoring crowds of people who were desperate to emigrate (and we have the bruises to prove it). In Samarkand, the crowds were so large that the local militia, replete with floodlights and bullhorns, came to see what was happening. We addressed hundreds of people in groups and met with representatives of some two-hundred-and-fifty families to discuss their individual problems.

This report will discuss what we learned about the growth of Islam and anti-Semitism. It will neither consider procedural emigration problems nor offer suggestions as to how the Jews in Moslem republics might be protected from further anti-Semitic attacks, assisted to emigrate or, if required, rescued and evacuated to other areas. Nor will it weigh the impact of the growth of Islamic power in Central Asia on events in the Middle East or the fact that much of the Soviet nuclear arsenal is in the Central Asian republic of Kazakhstan, possibly vulnerable to take-over by Moslem forces. These crucial questions, constantly on our minds, must be considered in other forums.

TASHKENT

Islam Reborn: Of the cities we visited, Tashkent is the most European in ambience. Even so, there was substantial evidence of renewed pride in local culture. For example, the facade of the Hotel Uzbekistan sported an enormous painting of the Uzbek poet Alisher Navoi, whose anniversary was being celebrated. There were signs in Arabic script, which the vast majority of the Uzbeks cannot read because its use was banned after the revolution (in part to discourage people from reading the Koran and to divorce them from their own cultural heritage).

Because Tashkent is modern in flavor, it is not surprising that we saw fewer people there wearing traditional Moslem dress than in the other three cities. However, people told us that there recently had been an announcement that President Karimov "had ordered 400,000 pieces of Moslem clothing for Uzbeks." This was said to be part of this commitment "to further Islamic culture in Uzbekistan." We were unable to determine exactly what was meant by "Moslem clothing" in this context.

In other cities, we saw women wearing skirts over pants in bright prints and silky materials, but this was just as likely to be traditional Uzbek clothing as Moslem. We also saw men wearing baggy trousers. [It is said that Mohammed will be re-born of a man, which is why many men throughout the Moslem world wear pants with long crotches in order to "catch the baby."]

On one occasion, we saw two Uzbek men dressed entirely in white and wearing turbans and sandals. They were accompanied by a woman in a head-to-toe black veil. These men were wearing the required garb of pilgrims going to Mecca and, with the aid of a man who spoke some Uzbek, we were able to confirm that the three were on their way to Saudi Arabia.

An Independent Uzbek Nation: Many people told us about meeting of Imams of the Kokand directorate, which recently had taken place in Andizhan. At this meeting, the Imams had threatened to over-throw Karimov. In order to remain in power, Karimov was said to have been forced to swear on the Koran that Uzbekistan would become an independent Moslem nation and that he would do everything he could to ensure the resurgence of Islam. When asked, everyone confirmed that the oath Karimov been forced to take was that Uzbekistan would become an independent nation, not merely an independent republic.

One man in Dushanbe said the Imams had pressured Karimov to take this oath on the Koran, but that he had declined to do so. Everyone else said he had taken the oath. We were unable to get any newspaper articles about the meeting in Andizhan, which had taken place prior to our journey. While it is important to verify whether Karimov actually took this oath, it also is fascinating that, with the exception of the one man in Dushanbe, the universal perception among Jews living in Uzbekistan and Tadzhikistan is that he did. We repeatedly were told of this event in every city we visited.

All of the people to whom we spoke agreed that it was only a matter of time before Uzbekistan and Tadzhikistan became wholly independent Moslem nations. The only question still at issue is whether they will become democratic countries like Turkey or fundamentalist Moslem dictatorships like Iran. While they feared much more the latter possibility, no one was comfortable with the idea of living in a Moslem nation. Several people mentioned the "hostage communities" of Jews in Syria, Iran, or Iraq, as though they understood that these might mirror their own futures.

Faced with what they regarded as the likelihood that they might find themselves denizens of a Moslem nation, most of the Jews whom we met wanted to emigrate as quickly as possible. Most of those not actively preparing to leave had no first-degree relatives in America, had been precluded from emigrating to the United States under the procedures effective in October, 1989, and did not want to go to Israel. It was clear that many among them would emigrate if they could come to America.

In assessing this information, it should be remembered that the people whom we met had been "self-selected," because they knew we had come to Central Asia to discuss emigration problems. Even so, those who were refusing to emigrate, either because they perceived no danger or because they declined to go to Israel, appeared blind to events around them.

While in Central Asia, I was reminded of the day in 1965 when my parents had begged me to return home from Athens because they had heard reports of "violent political demonstrations in Constitution Square." I had looked from my hotel window down upon Constitution Square and had told my parents that I didn't see anyone demonstrating. Similarly, it occurred to us that some Jews in Central Asia are too close to what is happening there to appreciate that they are in jeopardy.

Anti-Semitic Violence: There are at least fifty thousand Jews in Tashkent, but all agree that the actual number may be far higher. The majority of Tashkent's Jews are Ashkenazim (of European origin, Russian-speaking) whose families emigrated to the area within the last fifty years. The majority of Jews in the other cities are Bukharans (of Persian origin; home tongue, Judeo-Tadzhik), descendants of Jews who have lived in Central Asia for generations.

Although CN has records of numerous incidents of anti-Semitic violence in Tashkent, the total is relatively small considering the size of the city's Jewish population. People said that in the past there had been little trouble between Uzbeks and Jews and that it had only been in recent years that tension between them and physical violence motivated by anti-Semitism had increased. This development appeared to astonish local Jews and was a source of dismay to them. Some took pains to tell us that the Tadzhiks, whom they characterized as "bad" and "mean," were much worse than the Uzbeks.

We did receive new reports of attacks upon Jews in Tashkent that obviously had been motivated by anti-Semitism. Typical was one that took place in December, 1989, during which members of a Jewish family had been brutalized in their own home by Uzbeks. The husband was beaten with a rifle butt and the attackers tried to rape the wife. Both were tied up and blankets were put over their heads. The husband suffered a fractured nose, concussion, dislocated shoulder, and cracked rib. He lost several teeth and was severely beaten about the face and body. To cover the scars on his face, he now wears a beard.

The Uzbek attackers said that their Jewish victims should "be silent, because we were not in Israel but Uzbekistan;" that "we will kill you all." It is known that this Jewish family was attacked because their neighbors were aware that they "had plans to emigrate from the U.S.S.R." Both at the trial and subsequently, the perpetrators, their friends and relatives harassed the Jewish family, said that they were sorry that they hadn't killed them, and demanded that they emigrate from Uzbekistan. The family has continued to receive threats to this day.

The trial and investigation took place in 1990 and there are indications that they were not conducted impartially because the accused were Uzbeks and the victims were Jewish. Important evidence (the original forensic report) "disappeared," as a result of which the nature of the victims' injuries were claimed to be far less serious than they actually were. Despite eyewitness identifications, two of the criminals were found to be innocent. Serious charges were dropped and shorter sentences were given. Although the three (of the original five) attackers convicted received three-year sentences, less than a year later they were freed and they have continued to torment their victims.

We saw how the attack upon this family frightened other Jews in Tashkent when we were leaving the home of people who knew the family. Our hosts were so terrified by this anti-Semitic violence that we were asked not to speak English in the hallway. The wife said that her neighbors knew that she was Jewish and that Jews could emigrate, but they "don't know we are planning to emigrate and we don't want to be attacked like [name deleted.]"

BUKHARA

Signs of the Moslem Revival: At six o'clock every morning, the amplified voice of a muezzin atop a minaret called to prayer the sleeping residents of a city still blanketed in darkness. Two years ago, this would not have been possible in Bukhara. Now people are streaming into the mosques being built throughout the city. A madrasa [Islamic college] has opened and is being attended by some 400 students. Signs written in Arabic script are everywhere. Job applications must be filled out in Uzbek. University lectures and announcements must be made in Uzbek. Countless people who do not speak Uzbek are being fired from their jobs. This is an effective form of economic discrimination against Jews and other non-Uzbek speakers, which is becoming increasingly common and about which we heard in every city.

After the revolution, the city's beautiful Moslem buildings were allowed to decay. Now, the order of the day is that Moslem heritage must be preserved. All of the old mosques and historic monuments are being restored. A new medical school named after the great Moslem scholar Avicenna has opened and his portrait adorns its facade. None of this would have been possible before.

Two or three years ago, even in the old part of Bukhara, most women of local nationality wore European clothing. Today, large numbers are wearing traditional costumes. It is to be expected that the older generation would wear such clothing. What is surprising is the number of young women, among them teenagers, who have adopted the traditional garb.

Prior to the August coup, Bukhara's residents could choose among six television stations: two from Moscow, two from Tashkent, and one each from Tadzhikistan and Turkmenistan. Now they get only three stations: one from Moscow and two from Tashkent. All of the programming on the Tashkent stations is in Uzbek, which means that Bukhara's Russian-speaking population can listen only to the one broadcast from Moscow. This was done by order of President Karimov, who said that the republic needed "Uzbek history, Uzbek language, and Uzbek culture." According to one disgruntled Bukharan Jew, Karimov also said that anyone who did not want to speak Uzbek should leave the republic.

The Jewish Community: Of the 200,000 people in Bukhara, 30% are Tadhik, 40% are Uzbek, and the rest are a mixture of nationalities, including Russian, Armenian, Tatar, and Jewish. At one time, there were about 12,000 Jews in Bukhara, some 4,000 of whom have emigrated. Several times we were told, "This used to be a Jewish street, but Tadhiks live here now"; or "This was a Jewish quarter. Now it is Uzbek."

A respectable number among Bukhara's 8,000 Jews have no current intention of emigrating. Is Bukhara's Jewish community safe? Although there have been many incidents of anti-Semitic violence, apparently some think that the answer is yes. One reason we heard often as to why Jews and Moslems get along in Bukhara is that there is food available. In other cities, the possibility of winter famines led to voiced fears among Jews that they would be blamed and that there might be pogroms.

Obviously, the people who want to emigrate do not agree that Bukhara is a safe place for Jews to live. They no longer can abide the repeated incidents of anti-Semitic violence. In Bukhara, people have been attacked on the way to and from synagogue and told, "The time will come when we will spit your blood out" and "We know that you are Jews. Get out of the Soviet Union!" Guests attending a Jewish wedding have had rocks thrown at them with notes attaching saying, "Death to the Jewish people." Dead cats have been thrown into Jewish apartments with notes saying, "The same thing will happen to you!" Jewish children have been beaten at school. Jewish women have been assaulted and told, "Zhid-Jew, go to Israel. This is not your republic." Jews have been attacked by Moslems who say that if they don't emigrate, their homes will be set afire.

One prominent member of the community said that the Uzbeks in Tashkent, Fergana, and Andizhan were "bad men," but insisted that the Uzbeks in Bukhara were different. Yet even though the city is quiet now, he and his family are emigrating because they are sure that "there will be trouble in five or ten years."

How Bukhara is Different: Why do some of Bukhara's Jews feel less threatened by the resurgence of Islam? A visit to the city provides a possible answer. The entire time that we were in Bukhara, we had the feeling that we were in the Middle East. It was not simply the signs with their Arabic lettering, the traditional costumes, the dead dogs and cats lying unattended in the street, the exotic flavor of the city. Rather, it was the behavior of the Jews of Bukhara that made us think that we no longer were in the Soviet Union.

Bukhara's Jews are isolated from the other major population centers in Uzbekistan. They are by far the most traditional and devotedly Jewish among the communities we visited. It is quite usual to find three generations living the same house, and for some twenty or thirty people to be sharing the cooking facilities in the courtyard and the one, sometimes primitive, bathroom. In their homes we found kosher food, Jewish ceremonial objects, Hebrew writing on the walls, people who ritually washed their hands and made a blessing before they ate their bread.

We noticed that many of the people spoke in soft voices and that some lowered their eyes when addressing each other. Whereas we had been mobbed in other cities, in Bukhara even large crowds of people parted quietly and respectfully to let us both walk into the synagogue. Bukhara's Jews were extremely polite. Their silence when we addressed the community was profound.

We considered whether their underplayed ways might not have been developed over generations, part of an instinctive community reaction to living amidst a Moslem majority. An example: We are in the car with a Jewish man whom we know to be of strong character. We are driving through the winding streets of the old city where the roads are wide enough for only one car to pass at a time. We turn into a narrow street and have driven about one-quarter of the way down it when another car turns into our street, coming from the opposite direction. Although we are much further into the street than the second car, our driver puts his car into reverse and backs out the way he came.

"Is there a protocol about who backs up?" I asked him.

"Uzbek," is his laconic response.

In his mind, the reasoning is obvious. The driver of the other car is Uzbek, so the Jew gives way. This was why when we were in Bukhara, we repeatedly were reminded of Yemen. The Jews of Yemen were not allowed to look Moslems in the face when talking to them. [Bukhara's Jews speak softly and sometimes with downcast eyes.] In Yemen, Jews had to step off the sidewalk into the street if a Moslem approached in the opposite direction. [Uzbeks have the unwritten right of way in Bukhara.] To call it subservience is an insult to the Jews of Bukhara. Instead, view it as a centuries-old communal response to generations of life as a detested (or at best tolerated) minority among hostile Moslems.

In his book The Jews of Islam, the respected scholar Bernard Lewis recounts occasions upon which Moslems attacked the non-believers living among them and notes that "the commonest reason by far for such outbreaks in premodern times was that the [non-believers] were not keeping their place, that they were acting arrogantly, that they were getting above themselves." This is a lesson that Bukhara's Jews appear to have learned from history.

They have developed a modus-vivendi with their Moslem neighbors that has served them in the past and, some of them apparently hope, will protect them in the perhaps precarious future. We pray that they are right. If they are wrong, then we must be prepared to rescue them as quickly as is possible.

SAMARKAND

The Jewish Community: Samarkand, a city of some five to six-hundred thousand people, owes its Moslem flavor in no small part to the architecture of the Registan, the tomb of Tamurlaine's dynasty, and other such glorious monuments. At one time, there were about fifteen thousand Jews in Samarkand. Near to half of the Jewish population already has emigrated. Of the eight to nine thousand Jews still in the city, most wish to emigrate. Unfortunately, no matter how dangerous they think their future in Smarkand may be, many refuse to consider going to Israel. They have been influenced unduly by several families that emigrated to Israel, only to return to Samarkand to live and to spread tales of their disillusionment with conditions in the Jewish homeland.

[The issue of the returning families have been raised in the context of a request that we give them financial aid. When we noted that some people are discontent no matter where they live; the people who had broached the subject of these families nodded knowingly, indicating that this might well be the case with these several families. Nevertheless, the negative impact upon aliyah of such reverse emigration must be addressed.]

People again recounted television reports that President Karimov had been forced to swear "to do all he can to make Uzbekistan a Moslem state." No one doubted that it would happen eventually and most believed it would happen soon. One woman succinctly stated the general consensus when she said: "The only question discussed on the streets here is whether the republic will go the way of Iran or Turkey. It is impossible to guess the outcome, but neither way will be good for the Jews."

Anti-Semitism: As in each of the cities we visited, we heard about newly-built mosques and growing attendance at prayer services. Again, Jews were being fired from their jobs because they did not speak Uzbek and "there is no opportunity for non-Uzbek-speaking adults to learn the language." Local schools no longer accept Jewish students "because they say that we are going to emigrate. This is a new problem for us." We also received documentation of more incidents of anti-Semitic violence in Samarkand and we learned that five of the city's Jews had been wounded fatally during anti-Semitic attacks in as many years.

"When Jews are murdered, the militia does nothing," one man said bitterly. "Even Jewish lawyers are afraid to investigate these cases."

In Samarkand was most vividly expressed another recurrent problem facing Central Asia's Jews: their growing inability to get health care. The majority of Jewish doctors have emigrated and physicians of local nationality often refuse to treat Jews or will do so only if they are paid extortionate fees ranging in the thousands of rubles.

We met the wife of a young Jew hospitalized with a fatal disease. Rather than treating him, the Uzbek staff physicians have been subjecting him to a litany of anti-Semitic slurs. Were it not for medication that his family purchases on the black market, he might already be dead. This young man and others like him are being murdered on a daily basis because they are Jewish.

What the Jewish Cemetery Revealed: On the morning that we left Samarkand, we accepted the invitation of community leaders to visit the Jewish cemetery. We went first to Ifraim's grave, his mother marching stalwartly ahead of us. He had been murdered by Uzbeks six years ago, but she still howls forlornly behind his stone. Perhaps she remembers that a witness had heard him crying "Momma" while he was tied up like an animal and stowed in the trunk of his killers' car, or that his murderers had burned his body and danced around the fire singing, "We killed a Jew!"

We paid our respects to Ifraim's memory, comforted by the knowledge that his wife and child were safe in Israel and that we were helping the rest of his family to emigrate. I didn't have anything with me from Israel, so I gave Ifraim's mother a penny to place in the ground near his grave, a little part of America so that he too might be free.

Then we were taken on a tour of Samarkand's Jewish cemetery. Bukharan Jews put portraits of the deceased on the stones erected to memorialize them. We saw faces too young to be buried and, as we passed them, we were told:

"He was murdered during his service in the Russian army."

"This is David's brother. He was sitting in front of his house when they came up to him, called him a zhid [kike], then stabbed him to death."

"This boy died because they don't like Jews in the army."

"This is the Jewish artist we told you about, who was killed by anti-Semites. His wife and children want to emigrate, but they were too frightened to come to see you."

"These boys were killed by anti-Semites in the army. So was he. And this one too."

"This is the son of the old man you didn't have time to see yesterday. He also was murdered by anti-Semites."

Goldie murmured the rhetorical question that was passing through both of our minds, "Didn't anyone in this cemetery die a natural death?"

Our hosts had been quietly insistent that we visit their city's Jewish cemetery and now we knew why. Nothing attested more eloquently to the pervasiveness of anti-Semitism than the faces of the young victims staring at us from their gravestones, reminding us that they had been murdered only because they were Jewish, daring us to forget them.

Upon reaching the six-foot tall fence that separated the Jewish cemetery from the adjacent Moslem cemetery, I muttered, "It isn't high enough."

When he heard the translation of my remark, the activist walking next to me laughed, then hugged me. He knew that I understood at last what it is like to be Jewish in Central Asia.

DUSHANBE

A History of Violence: Dushanbe's reputation had preceded it. During and since the February, 1990 demonstrations by local Moslems, Jews had been the particular targets for violent attacks motivated by anti-Semitism. CN's files contained more documented cases of anti-Semitic violence from Dushanbe than from any other city in the Caucasus or Central Asia.

Countless Jews in Dushanbe had been the victims of physical attacks by Moslems who demanded that they leave Tadzhikistan. Typical epithets included: "Go to Israel; you damned Jewish dog." "Get out or we'll burn down your house and kill your entire family." "Jews go back to Israel!" "We'll clean all Jews out of the city." "Sooner or later we will kill all Jews."

Jewish stores were burned and looted. Jews were forced out of business or were required to pay extortionate sums to Tadzhiks in order to remain open. "Evrei von" [Jews get out] was scrawled on the outer walls of Jewish homes.

Islam Militant: "There is no future for Jews here," a Jewish leader told us in Dushanbe. After seeing the physical evidence of the re-birth of Islam and hearing testimony of its impact on the Jewish community, we could not but agree.

The spiritual and temporal power of Islam in Dushanbe is growing rapidly. Mosques abound, the muezzin's call to prayer is answered by spiralling thousands. Men press their heads against the ground in the city's central square and pray during political demonstrations. Young women wear traditional clothing formerly seen only on their elders.

While some may applaud this growth of religious sensitivity in a previously atheistic republic, most would agree that this should not occur at the expense of other religions and their adherents. Unfortunately, that is what is happening in Dushanbe. A minor but practical example is that all of the few building materials to be found in the city are being funneled to the construction of a madrasa, with the result that construction of the community's new Jewish school is at a halt.

We were taken to Dushanbe's madrasa ("It is larger than Samarkand's Registan") because there were things there that the Jewish leaders wanted us to see. They pointed to the cupola atop the main building in the complex. Had tradition been followed, it would have been painted blue. But this cupola deliberately had been painted in the brilliant green hue of militant Islam. Its purpose, Jewish leaders said, "is to signify followers of the green banner of Islam; that is, to affirm Islam's might and irrepressible offensive."

The role of the Islamic clergy during the recent political unrest was recognized throughout Dushanbe. Large numbers of the men who had been encamped in the main square were believers from the countryside who had been offered by their mullahs to come to Dushanbe in order to participate in the demonstrations.

The urban Moslem religious leaders also had played their part. While at the madrasa, we were shown the hundreds of tents in the courtyard of the main building of the complex. These were the very tents that had been used by the demonstrators who had lived in the town square weeks before, proof that whatever their public political leadership, the real force behind the city-wide demonstrations had been the Islamic religious establishment.

Coercion on the Jewish Community: As Islam's power increases, the situation of the Jewish community is becoming progresssively more precarious. During the recent demonstrations, Moslem leaders called the president of the Jewish congregation to demand that the Jews come to the town square to participate in the demonstrations and publicly to pronounce their support of the Moslem cause. This they declined to do, preferring instead to walk a dangerous path of neutrality which, ultimately, is a no-win situation for them.

Before we left Dushanbe, two community leaders gave us an unsigned letter written on behalf of the city's Jews. Moments before we boarded the plane to Moscow, one turned to the other and asked, "What more have we got to lose?" With a combination of defiance and resignation, both men signed the letter.

In their appeal, these Jewish leaders discussed the impact of the rebirth of Islam on their community: "Amidst the background of Islam, anti-Semitism has quickly and easily gained force. One need only explain the overt threat and coercion on the part of the clergy toward the Rabbi, demanding active participation on the part of the Jews in a meeting in Dushanbe in October, 1991, which was convened by the Islamic clergy in support of the democrats in the coup. One of the meeting's participants, a represenative of the clergy, even openly announced a struggle with the Communists and the Jews, having been convinced that Communism is a Jewish doctrine and that all Jews are as guilty as the Communists."

"There is no active defense against the offensive of the Islamic fundamentalists, who are active opponents of the Jewish religion," the two leaders wrote. This, and their subsequent characterization of Islam as "hostile to Judaism," is accurate. According to the Koran, Jews have been "consigned to humiliation and wretchedness; they brought the wrath of God upon themselves, and this because they used to deny God's signs and kill His prophets unjustly and because they disobeyed and were transgressors." [Sura II, verse 61] Indeed, the Moslem scholar al-Jahiz has noted that although Christianity, with its Trinity, was theologically more offensive to Moslems than Judaism, Moslems still despised Jews far more than they did Christians. [see S. D. Gotein, Jews and Arabs]

To Dushanbe's Jewish leaders, "all the indicated arguments of the hostility on the part of Islam and its representatives toward Jews have convinced [us] of the danger to peaceful coexistence with Jews under an Islamic regime." For these reasons, their greatest fear is the very real possibility of "the creation of an Islamic republic with threatening consequences in general and particularly for Jews."

The leaders of this bealeaguered Jewish community described themselves and their people as "anxious Jews emerging from the circumstances motivated by fear of the fate of the establishment of Islam in Tadzhikistan that lies before us" and begged for help in emigrating as quickly as possible.

JEWISH LIFE IN OUTLYING TOWNS

The special danger posed to Jews who live outside of Central Asia's major cities is based upon several factors. The Islamic clergy has a strong hold upon Moslems in the countryside. This, plus inherent rural fundamentalism, exacerbates the traditional Moslem theologic and historic hostility to Jews. Additionally, Jews who live in outlying towns, especially those in which most members of the community already have emigrated, are far more vulnerable to anti-Semitic attacks because they are so isolated.

People from outlying towns had been notified that we would be in Central Asia and came to see us in the cities that we visited. Living in remote areas, among some of Central Asia's most vicious anti-Semites, these Jews did not have the luxury of worrying about the possibility of future anti-Semitic violence in their towns. Too many already had experienced it first-hand. Andizhan's Jews, for example, needed only to remember the events of May, 1990, during which dozens of Jewish homes had been set afire and numerous people had been injured by rioting Uzbeks. Their night of horror had been publicized in the West. What was happening to Jews in other outlying towns was less well-known.

Jews from these towns said that they were afraid to attend synagogue because so many congregants had been attacked on their way to or from services. Some reported that Moslems already were demanding that they "either convert to Islam or get out of our land." Others said that Jewish women had been told that unless they wore Moslem clothing and veils, they would be disfigured.

"I am very afraid of the increasing power of the Moslem fundamentalists in our area," said one small-town Jew. "If they come to power, not one Jew will remain alive here."

A delegation from one outlying town recounted the details of four recent murders of Jews, all under circumstances that clearly were anti-Semitic. A young man who had been threatened and insulted many times because he was Jewish was stabbed to death by local nationals, who threw his body near his home. A Jewish boy died from injuries inflicted by Moslems who purposely ran him down with their car. Two elderly Jewish sisters were tortured and murdered in their home by Moslems who have continued to threaten the Jewish community. "We will kill all Jews," they are saying. "If you want to live, you should leave, the sooner the better. If you don't, we will set fire to your houses." They have followed through on these threats by throwing Molotov cocktails through the windows of Jewish homes.

Only three months before, a member of this community had taken his life because he no longer could bear being persecuted because he was Jewish. A relative told us that he had left a note in which he had written, "I am committing suicide because I cannot stand living among people who will not let me live." Was he not yet another victim?

Many Jews who lived outside of the major cities already have fled to Israel. We were told of others who wanted to emigrate, but were too terrified even to come to see us. In some towns, only a few Jews remained. Shakhrisabz (Uzbekistan), for example, reportedly has twelve Jewish families.

Among those who were left behind in outlying towns were many who have relatives in the United States and who are waiting to be invited for interviews at the US embassy. We begged those whom we met to give us something in writing describing what their lives were like, hoping we might use their letters to convince American officials to expedite their emigration. The people from one outlying town categorically refused.

"They would kill us if they found out," a man said.

I pressed the members of this delegation to write a letter, but they were too afraid. I promised not to publish it, but only to show it to American officials. I said that they did not have to sign their names, but still they declined to write anything. When I repeated that they did not have to sign their names, then swore on the Torah that I never would reveal to anyone who they were, they finally agreed to give me a letter.

Their letter related a piteous tale of "a carefully hidden oppression of Jews, both morally and physically." They write of a demonstration that had taken place on September 27th, at which some 20,000 Moslems heard their religious leaders call for "Uzbekistan for Uzbeks * * * Jews to Jerusalem." They told of Jewish lives filled with demands from increasingly fundamentalist Moslem neighbors that they "vacate Uzbek territory" or face "pogroms and physical destruction."

In their world, Jewish businessmen are at the mercy of Uzbeks, backed by hooligans, thugs, and blackmailers who make exorbitant demands and who "threatened and even physically pressured (there were beatings and exterminations of a few people, six boot shops were burned and two watch shops were robbed) and forced all the Jewish artisans to leave their work." High level Jewish administrators have been pushed by "physical and moral pressure" out of their jobs, "so that those places may be occupied by Uzbek nationalists and Islamic believers." Prayer services are conducted in a private home because Uzbek officials will not return the synagogue (now used as a radio station) to the Jewish community, though four mosques have been returned to Moslems and many new ones are being built.

"In recent times," they wrote, "daily occurrences of insults and humiliation of Jews by Uzbek nationalists have become more common. In the streets of the town, on public transport, in the stores, markets, and so forth, as a result of all this, Jews live in fear and are forced more and more often to stay at home. Therefore, they are afraid for their lives and the lives of their friends, relatives, and children."

Theirs were the faces of men who dwelt among people who hate them. Never before had we seen grown men so frightened.

The secular leaders in Uzbekistan and Tadzhikistan, be they nominally Communist or not, are engaged in a battle for supremacy with the Islamic political/religious establishment. Everyone agrees that eventually, these republics will become independent Moslem nations. Whether they will be moderate or fundamentalist matters little to the indigenous Jewish population. An Islamic victory means almost certain disaster for the Jews.

In each city we visited, the leaders and teachers of the Jewish communities were preparing to emigrate and were urging their constituents to do the same. People repeatedly said to us, "With God's help and yours, we will get out of here." In no more poignant way could they have expressed their bleak assessment of the future of Jews in the Central Asian republics.•

APPOINTMENT OF SPECIAL COUNSEL BY THE PRESIDENT PRO TEMPORE

• Mr. BYRD. Mr. President, pursuant to the authority granted to me by Senate Resolution 202, agreed to on October 24, 1991, upon the joint recommendation of the majority and minority leaders, I appoint, effective January 2, 1992, Mr. Peter E. Fleming, Jr., a partner in the law firm of Curtis, Mallet-Prevost, Colt & Mosle with offices in New York and Washington, DC, as the Special Independent Counsel.

Mr. Fleming will conduct an investigation of any unauthorized disclosures of nonpublic confidential information from Senate documents in connection with the consideration by the Committee on the Judiciary of the nomination of Clarence Thomas to be an Associate Justice of the Supreme Court, and by the Select Committee on Ethics of matters related to Charles Keating.•

OUTSTANDING EDUCATOR

• Mr. D'AMATO. Mr. President, I pay tribute to Harriet Zimmerman who has made outstanding contributions to the lives of the Elmont Public School System in Elmont, NY.

Ms. Harriet Zimmerman has been a handicapped teacher for 23 years. She is a role model for handicapped children and a leader whose guidance has played a significant role in the enlightenment of her students.

She has devoted her life to cultivating the creativity and curiosity of children, and has held firmly to her conviction that school and world events are, of necessity, intertwined. In this regard, Ms. Zimmerman was instrumental in the exchange of massive amounts of correspondence between her third graders and American servicemen in the Persian Gulf during Operation Desert Storm. They wrote to the sailors of the U.S.S. *Midway*, the only carrier not to lose a single man or plane.

Ms. Zimmerman has received a citation from the town of Hempstead and has been on the television program "Good Morning America." It is time for us to pay tribute to a woman whose contributions and selfless giving have made a difference to her community and her country. Ms. Zimmerman, I salute you.•

RULES OF PROCEDURE FOR OFFICE OF TEMPORARY SPECIAL INDEPENDENT COUNSEL

• Mr. FORD. Mr. President, pursuant to section 6(c) of Senate Resolution 202, 102d Congress I submit for the RECORD the rules of procedure for the Office of Temporary Special Independent Counsel, which have been adopted, in accordance with the resolution, by me and by the Senator from Alaska [Mr.

STEVENS], acting jointly, in our capacities as chairman and ranking minority member of the Committee on Rules and Administration.

The rules follow:

RULES OF PROCEDURE OF THE U.S. SENATE OFFICE OF TEMPORARY SPECIAL INDEPENDENT COUNSEL (ESTABLISHED PURSUANT TO SENATE RESOLUTION 202, 102D CONGRESS)

RULE 1. SUBPOENAS

1.1 Request. The special independent counsel shall submit to the President pro tempore written requests for the authorization of subpoenas for the attendance at deposition of any witness, or for the production of any correspondence, books, papers, documents, or other records, that may be relevant to the investigation authorized by Senate Resolution 202, 102d Congress.

1.2 Authorization. The President pro tempore shall have the power to authorize, in writing or by telephone, the issuance of subpoenas upon the written request of the special independent counsel. Whenever the President pro tempore exercises the power to authorize subpoenas by telephone, the authorization shall be contemporaneously memorialized in writing.

1.3 Issuance. Upon receipt of the written authorization, or written memorialization of the telephone authorization, for the issuance of a subpoena by the President pro tempore, the Secretary of the Senate shall issue the subpoena that is the subject of the authorization. The Secretary shall keep a log, and a file, of all subpoenas that have been issued.

1.4 Service. Subpoenas may be served by any person designated by the Secretary of the Senate. All subpoenas shall be accompanied by a copy of Senate Resolution 202, 102d Congress, and these rules. Criminal or civil enforcement proceedings for a witness's failure to appear at a deposition, to testify, or to produce records shall not be initiated unless a duly authorized subpoena was served upon the witness.

RULE 2. DEPOSITIONS

2.1 Designation. The special independent counsel shall designate in writing the counsel, whether one or more in number, who will examine witnesses at each deposition. For purposes of Rule 2.3, the term "special independent counsel" includes the special independent counsel and any counsel designated by the special independent counsel to examine witnesses pursuant to this rule.

2.2 Attendance.

(a) General Rule. Unless otherwise specified, the deposition shall be in private.

(b) Counsel.

(1) Presence. Subject to the provisions of Rule 2.2(b)(2)-(4), a witness's counsel shall be permitted to be present during the witness's testimony at any deposition to advise the witness of his or her rights.

(2) Conflicts. The chairman and ranking minority member of the Committee on Rules and Administration, acting jointly, or the full Committee if the chairman and ranking minority member refer the matter to it, may rule that representation of a witness who is an officer or employee of the government by counsel from the government, or of a witness who is an officer or employee of a corporation or association by counsel from the corporation or association, or of a witness by counsel representing other witnesses, creates a conflict of interest, and that the witness shall be represented by counsel not from the government, corporation, or association or not representing other witnesses.

(3) Inability to Obtain Counsel. A witness who is unable for indigence or other reason to obtain counsel may inform the Committee on Rules and Administration at least 48 hours prior to the scheduled return on the subpoena, and the Committee will endeavor to obtain volunteer counsel for the witness. Failure to obtain counsel will not excuse the witness from complying with the subpoena.

(4) Conduct. Counsel shall behave in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by the chairman and ranking minority member of the Committee on Rules and Administration, acting jointly, or the full Committee if the chairman and ranking minority member refer the matter to it, subject counsel to disciplinary action, which may include warning, censure, or removal.

2.3 Procedures.

(a) Examination. Witnesses at depositions shall be examined upon oath administered by an individual authorized by federal or local law to administer oaths. Questions shall be propounded orally by special independent counsel.

(b) Objections. Objections by a witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify, or objects to the production of records, on the basis of privilege or other ground, special independent counsel may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection. The ruling may be sought from the chairman and ranking minority member of the Committee on Rules and Administration. The chairman and ranking minority member, acting jointly, may rule on the objection, and order the witness to answer the question, or to produce the records, if the objection is overruled, or may refer the matter to the full Committee for a ruling. Procedures leading to civil or criminal enforcement shall not be initiated unless the witness has refused to testify, or to produce records, after having been ordered to comply.

2.4 Transcripts.

An accurate electronic or stenographic record shall be kept of all testimony at depositions. If a transcript is prepared, the witness shall be furnished with a copy, or access to a copy, of the transcript for review. Upon inspecting the transcript, a witness may submit, in writing within five days, corrections to the transcript, with a statement of the reasons for the corrections, to correct errors of transcription, grammatical errors, or errors of fact. Within the same time limit, the witness shall, if a copy was provided, return the transcript, and the witness shall sign the transcript, including any changes submitted. Any corrections submitted by the witness shall be appended to the transcript. If the witness fails to sign a transcript, or to return a signed copy, the date that access to a copy, or a copy, was provided, and the failure to sign or to return it, shall be noted on the transcript. The individual who made the electronic or stenographic record shall certify on the transcript that the witness was duly sworn in his or her presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the office of special independent counsel. The special independent counsel may stipulate with the witness to changes in this procedure. Objections to errors in this procedure that might be cured if promptly presented are waived unless timely objection is made.

RULE 3. RETURN OF DOCUMENTARY SUBPOENAS

Return on subpoenas for the production of correspondence, books, papers, documents, or other records, without testimony, may be required, at other than a deposition, at the special independent counsel's offices or other place specified in the subpoena. Rulings on objections to the production of records shall be obtained in accordance with Rule 2.3(b).

RULE 4. CONFIDENTIALITY

4.1 Security. The office of special independent counsel shall operate under strict security precautions in order to maintain the secrecy of all office records.

4.2 Nondisclosure. Except as necessary for the performance of his or her duties in connection withthe investigation authorized by Senate Resolution 202, 102d Congress, and as authorized by that resolution and these rules, no personnel of the office of special independent counsel, as defined in Rule 4.5, shall disclose, in whole or in part or by way of summary, to any person, for any purpose or, unless authorized by the Senate, in connection with any proceeding, judicial or otherwise, any records or other confidential information of the office. As used in this rule, the term "records or other confidential information of the office" includes, but is not limited to, all testimony taken, including the names of witnesses testifying, and all exhibits or other materials presented or received, in depositions or otherwise, and also includes any proposed or otherwise nonpublic conclusions, views, memoranda, or report of the office of special independent counsel.

4.3 Nondisclosure Agreement. All personnel of the office of special independent counsel, as defined in Rule 4.5, shall agree in writing, as a condition of employment or agreement for the provision of services, to abide by Rule 4.2.

4.4 Violations. Any of the personnel of the office, as defined by Rule 4.5, who fails to conform to the provisions of Rule 4.2 shall be subject to disciplinary sanction, including termination of employment or agreement for the provision of services.

4.5 Definition of Office Personnel. For purposes of Rule 4, the term "personnel of the office of special independent counsel" includes the special independent counsel, any persons engaged to perform, or who perform, services on behalf of the office, the employees of the office, any detailees and consultants to the office, and any employees of the Senate who assist the office or are given access to any records of the office for reasons related to their official duties.

RULE 5. EFFECTIVENESS, PUBLICATION, AND AMENDMENT OF RULES

These rules shall be effective immediately upon adoption and shall be published in the Congressional Record. These rules may be modified, amended, or repealed by the chairman and ranking minority member of the Committee on Rules and Administration, acting jointly. Any changes in these rules shall be effective immediately upon adoption and shall be published in the Congressional Record.•

THE REPORT OF THE SELECT COMMITTEE ON ETHICS ON THE INVESTIGATION OF SENATOR ALAN CRANSTON

• Mr. RUDMAN. Mr. President, on November 20, 1991, the Senate Select Committee on Ethics presented its report on the investigation of Senator ALAN CRANSTON to the Senate. Following the committee's report, Senator CRANSTON responded to the committee's reprimand of his actions and office practices. The defenses in that response, as well as in the documents he inserted into the CONGRESSIONAL RECORD, are convoluted and misleading.

A basic review of the evidence in the committee's report and hearing record demonstrates that Senator CRANSTON was most deserving of at least a committee reprimand. The resolution adopted by the committee states that Senator CRANSTON's conduct was "improper and repugnant" and cites, as grounds for not recommending a more severe sanction, extenuating circumstances unrelated to the conduct in question.

It should be noted that the committee not only reprimanded Senator CRANSTON for his actions on behalf of Mr. Charles Keating and Lincoln Savings and Loan Association, but also for "office practices [that] further evidenced an impermissible pattern of conduct in which fundraising and official activities were substantially linked." However, I will confine these remarks to the Lincoln matter because Senator CRANSTON's defense on this is especially disturbing. He not only denies much of the conduct for which he was charged, but inaccurately portrays the nature of the charge.

Before reviewing the major defenses raised by Senator CRANSTON, I want to emphasize that the committee took every opportunity to ensure that Senator CRANSTON's due process rights were observed and his arguments given a full hearing during the various stages of the proceedings. Senator CRANSTON had a full opportunity to present his position personally in a deposition prior to the hearings, an appearance before the committee in closed session, an opening statement at the hearing, an affidavit at the close of the hearings, and several prehearing and posthearing written submissions. While he waived his right to appear for questioning at the hearings, he was represented throughout those hearings by counsel who exercised Senator CRANSTON's right to cross-examine and confront witnesses and documentary evidence.

The committee took its duties and obligation seriously and strived mightily to issue a fair decision. Senator CRANSTON's defenses were considered and given appropriate weight. His insinuation before the Senate that public pressure on committee members affected the result is ludicrous.

Turning to Senator CRANSTON's defenses, Senator CRANSTON asserts that the committee's finding of improper conduct was based on nothing more than a finding of proximity in time between legitimate contributions accepted and legitimate action taken. This assertion is a serious, and I believe deliberate, misstatement of the committee's charge and conclusions.

The committee, in its report, found that "Based on the totality of the circumstances, Senator CRANSTON engaged in an impermissible pattern of conduct in which fundraising and official actions were substantially linked." The key concept in this statement is the finding of a pattern of linkage that was in fact more than the simple concidental timing between Senator CRANSTON's actions and the contributions. The nature of these dealings was more disturbing than the timing of the events.

In my floor statement, I outlined the facts of the four major series of events that formed the basis for the committee's finding of improper linkage. I will not repeat the chronology here since they are set forth in great detail in the report, as well as my statement of November 20. I will, however, make some further comments on the committee's evaluation of the four incidents and demonstrate that Senator CRANSTON impermissibly linked contributions and official action.

With respect to each of those four series of events, there is at least one meeting or telephone call with Mr. Keating in which Senator CRANSTON both discussed Lincoln's problems with the Federal Home Loan Bank Board and solicited funds for the voter registration groups. The two separate subjects were discussed at the same time in a meeting between Senator CRANSTON and Mr. Keating on September 24, 1987, in a telephone call on November 6, 1987, and at a dinner on January 8, 1988. They were both discussed in a letter written by Senator CRANSTON to Mr. Keating on October 6, 1987, and linked by inference by Senator CRANSTON at a dinner on December 14, 1988, when the Senator greeted Mr. Keating with the comment, "ah, the mutual aid society."

The evidence also indicates that the two subjects were discussed within the confines of one meeting, or at least within the space of hours or a couple of days, when Senator CRANSTON visited the headquarters of American Continental Corp., Lincoln's parent company, on February 9 and 10, 1988, during the spring of 1989 when the bank board was proceeding to the final resolution of the Lincoln case, and during January or February of 1987 when Lincoln first sought assistance from Senator CRANSTON with respect to its dealings with the bank board. In addition, Senator CRANSTON's chief fundraiser, Ms. Joy Jacobson, linked Lincoln's problems and solicitation in two separate memos to Senator CRANSTON, one written on January 2, 1987, and one on September 6, 1987. Finally, Mr. Grogan, Lincoln's chief lobbyist, linked the subjects around March 1, 1989, when he informed Ms. Jacobson that Mr. Keating was willing to make another donation of $100,000, but could not do so while the sale of Lincoln was pending. Although there is no evidence that Senator CRANSTON was informed of this remark, he was aware that Lincoln had been solicited for an additional contribution at that time.

The Senator from California would have the Senate believe that his official actions and solicitation were only linked in time. As all my colleagues know, if the same two unrelated subjects repeatedly arise every time two individuals interact, somebody is trying to send a message that the two matters are linked. Whether Senator CRANSTON was sending the message himself, however inadvertently, or accepting a message Mr. Keating was sending and then talking official action, the result is improper conduct.

Moreover, in evaluating the totality of circumstances facing the committee, it is worth looking at both the nature of the official actions and the fundraising. First, let us look at what Senator CRANSTON did on behalf of Lincoln. The record shows that, in a span of 2 years and 2 months, Senator CRANSTON personally took action on behalf of Lincoln at least 13 times, not including the April 1987 meetings. On February 16, 1988, he discussed with bank board Chairman Wall the details of a proposed agreement between Lincoln and the agency. In the spring of 1989, he called every bank board member about the proposed sale of Lincoln, some more than once, calling one at his unlisted home number in the evening. He discussed details of the proposed sale, and told at least one bank board member that Lincoln was not being dealt with fairly by the board's Office of Regulatory Affairs. He also spoke with a bank board staff member about the sale and a regulator at another Federal agency. These contacts cannot be fairly characterized as routine status calls.

In early May 1988, in response to a call from Mr. Grogan, Senator CRANSTON's aide, Ms. Carolyn Jordan, told two high-ranking board officials that Senator CRANSTON was concerned about the board's decision to take supervisory approach and may have threatened to hold hearings. Whatever the precise wording of her message, it was sufficiently strong that the bank board officials suggested to her that Senator CRANSTON should wait until after they held discussions with Lincoln before taking any action. Ms. Jordan wrote a detailed memo to Senator CRANSTON on May 6 describing the call. Senator CRANSTON met with Chairman Wall on May 16, at which time he raised the status of the Lincoln matter. On may 20, the bank board entered into an agreement with Lincoln that most people believe favored Lincoln. The message was apparently delivered.

The committee concluded that Senator CRANSTON's contracts with the bank board on behalf of Lincoln were not, in and of themselves, improper. Nonetheless, the degree of intervention was extraordinary and far surpassed what any other Member of Congress did for Lincoln.

Senator CRANSTON states in his defense that there was sufficient basis for an inquiry into the Lincoln matter. The committee concluded that he had a reasonable basis to be concerned about the regulation of Lincoln in April 1987, based on the Atchison letter and Greenspan report. However, Senator CRANSTON had no similar justification for his intervention in 1988 and 1989 and, in fact, had evidence that should have raised doubts about Mr. Keating and Lincoln. He relies only on the outdated 1987 justification and the fact that Lincoln employed a number of Californians.

Finally, let us look at the contributions. As with the intervention on behalf of Lincoln, the committee concluded that the contributions were not, in and of themselves, improper. I will not, today, go into the $49,000 contributed to the Senator's reelection and Presidential campaigns, the $85,000 contributed to the California Democratic Party—all of which was given before 1987—or the $10,000 to Senator CRANSTON'S political action committee. I will focus only on the $100,000 solicited in February 1987 and contributed on March 3, the $250,000 solicited on September 24, 1987 and contributed on November 6, the $500,000 contributed on February 9 or 10, 1988, and the $100,000 offered but never contributed in March 1989.

These contributions were each solicited and contributed at a time when Mr. Keating was seeking assistance from Senator CRANSTON. During the entire 2-year-and-2-month period, Mr. Keating never sought action from Mr. CRANSTON when contributions were not solicited, promised, or contributed. Conversely, contributions were never sought by Senator CRANSTON except at times when Mr. Keating was seeking assistance.

While the issue before the committee was the linkage between contributions and actions, and not the nature of the contributions, the purpose and source of the contribution merit examinaiton. Mr. Keating was a conservative Republican with a history of supporting both conservative and philanthropic causes. The donations in this case did not fit in either of those categories. These contributions were solicited for and made to voter registration groups closely affiliated with Senator CRANSTON. The clearly intended use of these contributions, as well as the $85,000 contributed in 1986 to the California Democratic Party, was to increase the voter turnout among individuals likely to vote for the Democratic candidates. To what did Senator CRANSTON attribute his successful solicitation of these out-of-character donations, especially given that the solicitations were occurring precisely when Mr. Keating was requesting assistance with the Federal Home Loan Bank Board?

When one examines the totality of the circumstances—the repeated instances where contributions and official actions came up in the same conversation, the two times they were linked in memoranda, the nature of the intervention sought and secured, the absence of inquiry into the merits of the intervention, the amount and nature of the contributions, and the fact contributions and actions are always linked in time—the only reasonable conclusion is that there was a pattern of conduct in which contributions and official actions were substantially linked in time and other circumstance.

Senator CRANSTON'S characterization of the committee conclusion as just a finding of linkage in time is an effort to create the proverbial strawman, which he then tries to knock down. Unfortunately, he missed the target. His statement before the Senate that there has been "no charge that there was any other connection between the donations and actions" is inaccurate.

The Ethics Committee does not consider it improper to make inquires of agencies on behalf of individuals and to intervene on behalf of individuals when the facts merit it. Nor is the solicitation of contributions wrong under current law and practice. It is when a Senator links official actions with contributions that the committee will find improper conduct.

In this case, the fact that Senator CRANSTON'S actions were often close in proximal time to the request for or receipt of large contributions was disturbing, not solely controlling. The larger, more encompassing concern was that Senator CRANSTON, time and again, often in the same meeting, intermingled constituent matters and fundraising issues in his dealings with a constituent, and that this pattern of activity continued for a significant period of time.

Senator CRANSTON, in arguing that he was only guilty of the appearance of improper conduct and not any actual improper conduct, points to the committee's conclusion that he did not violate any law and that there was no quid pro quo; that he did not act in exchange for contributions.

Senator CRANSTON further defended himself by claiming that the committee created a new principle of improper conduct based on linkage of action and contribution, and then applied this principle ex post facto to his case. I totally reject this defense.

The committee's finding that Senator CRANSTON violated no law does not equate to a finding that he was not motivated by or did not link contributions, nor does it preclude the possibility of improper conduct. Illegality is not the same as impropriety.

There are two criminal statutes that are relevant to this matter: The bribery statute and the illegal gratuity statute. If Senator CRANSTON had acted in exchange for the contributions, that would constitute a bribe and would merit expulsion. Proving bribery requires evidence of corrupt intent, and the committee does not have evidence proving Senator CRANSTON had such.

The illegal gratuity statute, by contrast, requires proof that a Senator acted because of a personal benefit. While it is not necessary to establish corrupt intent, it is a necessary element of the crime that there has been a personal benefit. In this case, there was no personal benefit.

However, there are standards governing this institution which are not limited to the letter of the law or Senate rule. While unwritten, these are sufficiency well established in resolutions, relevant statutes, Senate disciplinary cases, and norms of the Senate, including actual conduct of individual Senators, to provide notice to Senators of their ethical obligations in conducting their activities. As Senator Stennis noted on the floor of the Senate in 1968, the Senate has recognized that the existence of rules by this body did not "replace that great body of unwritten but generally accepted standards that will, of course, continue in effect."

The Senate has repeatedly disciplined its Members for conduct that was improper, regardless of whether it violated any specific law or Senate rule or regulation. In this case, the committee spelled out the relevant standards of conduct at some length in its report on the investigation of Senator CRANSTON. To hold that standards governing improper conduct must be in writing with all the "t's" crossed and the "i's" dotted ignores the practice of the past and the necessity to continue that practice in the future to protect the integrity of the Senate.

Senator CRANSTON also asserts that the committee's action sanctions him for constituent services and fundraising practices that are the same as many other Senators. This is an especially troubling defense because, by citing the unspecified conduct of unnamed Senators, it smears every Member of this body and the institution as a whole.

Ironically, while pernicious, this defense is also difficult to take seriously inasmuch as the Senator misstated the standard of conduct against which he was judged by the committee and ignores the relevant facts. In essence, Senator CRANSTON concludes that the committee only found coincidental linkage in time between his fundraising from and official actions on behalf of Lincoln, and concedes only that he created an appearance of impropriety. It follows, therefore, that the similar practices he asserts that the other anonymous Senators engaged in also involve only linkage in time. The reality is that the committee's findings and conclusions are not limited to coincidental linkage in time, but reach to a pattern of conduct over an extended period of time which included actual linkage by the Senator himself.

Neither the Committee on Ethics, nor I personally, are aware of any situation where another Senator has engaged in the pattern of fundraising and official action that the committee found in this case. If the Senator has such evidence, he should bring it to the attention of the committee.

Senator CRANSTON's unique actions merited the committee reprimand. I recognize the Senator's fine service to this country and that he has expressed remorse for his conduct. But after listening to his presentation on November 20, I regretfully must say that the only remorse I discern in Senator CRANSTON is remorse that he has been held publicly accountable for his actions.•

CRANSTON RESPONSE TO RUDMAN STATEMENT

• Mr. CRANSTON. Mr. President, I ask that a statement released by Prof. Alan M. Dershowitz regarding Senator RUDMAN's additional statement be printed in the RECORD, along with the text of the materials I submitted to the Senate on November 20, which includes my written submission in response to the committee's February 27, 1991 resolution, dated April 22, 1991, and my written response to the Ethics Committee's November 20, 1991, resolution for committee action, dated November 20, 1991.

The material follows:

RESPONSE TO SENATOR RUDMAN

Professor Alan M. Dershowitz of Harvard University issued the following statement in response to an "additional statement" by Senator Warren Rudman:

"Senator Alan Cranston has responded fully and with documentary support to all the allegations made previously by the Senate Select Committee on Ethics and repeated personally by Senator Rudman. Senator Cranston's responses and his supporting documents appear in the Congressional Record of Nov. 20.

"I wish to add only the following brief response. It is important to reiterate that the entire Committee explicitly found that all the contributions at issue were, in and of themselves, legal and proper. The Committee also explicitly found that the constituent services performed by Senator Cranston were legal and proper, and violated no law or Senate rule in and of themselves. Even more significantly the entire Committee found that Senator Cranston received no personal benefit, and found no evidence that his actions were caused by any contributions. In other words, there was no quid pro quo.

"I hope that these findings will now put this matter to rest and that Senator Cranston can now get back to completing his distinguished 24 years of service in the U.S. Senate."

[U.S. Senate Select Committee on Ethics]

WRITTEN SUBMISSION IN RESPONSE TO THE COMMITTEE'S FEBRUARY 27, 1991, RESOLUTION

(Senator Alan Cranston, U.S. Senate,
Washington, DC, April 22, 1991)

I—INTRODUCTION AND SUMMARY OF MY WRITTEN SUBMISSION

This submission constitutes my response to the Statement and Resolution issued by the Select Committee on Ethics on February 27, 1991.

I have prepared this submission personally because, as you know, I cannot afford to continue to employ legal counsel.[1] Treatment of my prostate cancer made it impossible for me to defend myself during the public sessions of the Committee last November, December and January, and to communicate with my attorney in the way that the other four Senators who were under investigation could. I am pleased to have this opportunity to clear up certain false impressions that the hearings created and to point out inaccuracies, omissions and inappropriate inferences in the February 27, 1991 Committee documents.[2]

It is my understanding that the substantive issue is whether there is "clear and convincing evidence" of a causal connection between my official actions and donations—most of them charitable—that I collected for others.

I will show that there is *no direct evidence* of any such casual link. I will cite clear and convincing evidence that there were other causes—very legitimate causes—for my official actions.

The Resolution *infers* a casual connection from the proximity in time between the charitable donations and the official actions. Proximity in time is *not* clear and convincing evidence that the charitable donations caused my official actions. The Resolution's *inference* of a casual connection cannot survive dispassionate, reasoned analysis. It cannot be a substitute for clear and convincing evidence. The inference is particularly inappropriate and unfair given that my conduct was *not different in kind*, as I will show, from that of other Senators who have been under inquiry. The Resolution did not draw such adverse inferences against them.

In retrospect, I can see that the proximity in time between the charitable donations and the official actions could lead to an appearance of impropriety where no impropriety existed. I wish I had foreseen this development—I have always endeavored to avoid appearances or actions that could reflect adversely upon the Senate or myself.[3]

I acknowledge and I accept the consequences of an appearance of impropriety due to proximity of time.

However, since timing and appearances did not warrant institutional action in the cases of the other Senators, it should not in my case.

The Senate has never set standards *of any kind* governing the timing of contributions of any kind in relationship to legitimate constituent services. I fully recognize that if a Senator engages in conduct that is inimical to generally accepted and understood standards and values, the Senate has an obligation to find that Senator guilty of improper behavior, although his conduct does not violate a specific law or Senate Rule. There is no evidence that I engaged in any improper conduct.

Without clear and convincing evidence of actual impropriety, there is no justification for subjecting me to disciplinary action. There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate has *never* determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful donation to the Senator's campaign or to a charity the Senator supports. To do so now would be contrary to the principles of the Senate and a violation of traditional concepts of fair play by proceeding in an *ex post facto* fashion.

In every case of financial impropriety considered by the Senate through its history, the alleged misconduct was the use of public office for a Senator's *private* profit. Neither any member of my family nor I received any compensation or personally benefited in any way from these charitable contributions. I had no financial interest in Lincoln Savings, its parent, or affiliates. I received no income from it.

I will discuss the Special Counsel's proposal to extend to Senators the appearance standard in the Code of Ethics for Government Service that applies to federal judges and civil servants. The Senate has never adopted that code as an ethical standard applicable to Senators. There is no reference to it in any of the over 400 published Interpretative Rulings issued by the Senate Committee on Ethics. The Special Counsel overlooks fundamental differences between federal judges and civil servants. Federal judges and civil servants do not have to raise funds to stay in office. A judge is not expected to serve the interest of the parties before him. A Senator is expected to *represent* this constituents, and to be—and to appear to be—responsive to their legitimate needs. Senators should not be a risk of discipline for violation of an appearance standard that would prevent us from intervening on behalf of constituents, contributors and non-contributors alike, when intervention is appropriate.

I want to clarify a crucial point that apparently was not made sufficiently clear during the hearings. I refer to my charitable fund-raising activities intended to increase voter participation. More than 10 years ago, the facts about the deplorable decline in voter participation in the United States came to my attention. I was appalled. It struck me that the very essence of our democracy was at risk as fewer and fewer Americans—particularly our youth—participated in the democratic process.

I discovered that one of the reasons for the voter fall-off was our antiquated and frequently onerous registration laws, which tend to discourage voting—especially among some of our minority populations. I was determined to do something about it.

I wrote articles. I gave speeches. I introduced legislation calling for reform But until reform could take place, the only effective action I could take was to support non-partisan voter registration efforts across the country. The I.R.S. granted tax exempt status to donations for this cause. The I.R.S. regulates the donations to charitable organizations. To qualify for tax exemption, organizations must meet and continue to satisfy established criteria.

Enhancing voter participation became my personal crusade. In 1986, I directed much of my time and energy to it in addition to my Senatorial duties and my Senate reelection campaign. I increased my efforts in the 1987–1988 campaign cycle because in the 1986 election, turnout dropped so low that over 62% of the national electorate failed to vote. Both parties "lost" the election—Democrats received only 18.9% and Republicans only 17% of the eligible votes.

Volunteering my time and effort, I raised $7,610,000 for voter participation programs in 1987–88. $6,415,230—84.3% of the total—was in the form of I.R.S. approved tax-deductible charitable donations for non-partisan voter participation 501(c)(3) organizations throughout the country. Although I accepted the checks on behalf of these organizations, I

Footnotes at end of article.

had no control over how the money was to be spent. The remainder of the donations went to support efforts to raise charitable donations for I.R.S. approved nonpartisan voter participation groups.

This project required an annual operating budget of $250,000 and necessitated the establishment of America Votes (later known as USAVotes), an organization with a staff of three to five people. Two hundred sixty-four individuals, foundations, unions, associations and corporations donated to this cause. Mr. Keating was not the largest donor, nor the only donor with a pattern of multiple giving.[4]

I strongly urge the Committee to take the time to understand the differences between the charitable donations I raised from Mr. Keating to increase voter participation and the political contributions raised from Mr. Keating by the other four Senators. These charitable donations—unlike political contributions—were of no direct benefit for me. They were made after my 1986 reelection. Senate Rule 37 expressly permits Senators to engage in fund-raising for charities, and many members quite properly do so. The Committee acknowledged in its Statement that my solicitation and acceptance of charitable donations by Mr. Keating was legal and did not constitute a personal gift.

The Committee also acknowledges that political contributions are "a fact of life". Large campaign war chests are often the largest factor in winning—and keeping—a Senate seat. Mr. Keating raised and contributed more political contributions to the campaigns and P.A.C.'s of each of the other four Senators, who had direct control over these contributions, than he did to mine.

Mr. Keating was an acknowledged big giver: a big contributor in the political arena and a big donor in the charitable arena. He gave and loaned more than $44 million to Mother Teresa, Covenant house, the St. Vincent de Paul Society and anti-pornography drives. He gave and raised huge sums for political campaigns and candidates such as the $200,000 he gave to Senator Glenn's P.A.C. and $100,000 he contributed to George Bush's Team 100.

The Committee Resolution pertaining to me is in two parts: first, four "occasions" and questions related thereto about my official actions and fund-raising on behalf of charitable and related organizations; and, second, three questions concerning certain actions of Ms. Joy Jacobson, who through most of the time in question, was employed part-time by USAVotes to assist in raising charitable donations. I will examine each of these questions in detail. I will show that the Resolution is inaccurate, unfair and misleading in many of its statements with respect to these questions.

I respectfully, but urgently, request all members of the Committee to review the Resolution carefully and thoroughly in light of this submission.

When viewed fairly and impartially, the evidence regarding these charitable and related donations shows that at most there may have been some proximity of timing to official actions, and consequently perhaps bad judgment and an appearance of impropriety—but nothing more.

I will cite the evidence in the record that shows similar instances of proximity of timing between official actions and the receipt of political contributions—not charitable donations—by Senators DeConcini, Glenn and Riegle. In their cases, the Committee drew no inferences about and made no findings of any causal connections.

The Committee found that the conduct of Senators DeConcini and Riegle gave the appearance of being improper and was "attended with insensitivity and poor judgement"—but nothing more. The Committee voiced no criticism of Senator Glenn for his conduct in this respect.

There simply is no evidence establishing a difference in kind between my actions and the actions of Senators DeConcini, Glenn and Riegle—except that the money they raised was for their own political use, while the money I raised was charitable and for the use of others. It was not for my use.

Since there is no differences in kind between my actions and the actions of the others Senators, treatment of my actions should not differ in kind from treatment of their actions.

I will show that all five Senators have varying degrees of involvement concerning Lincoln Savings. In some respects, some Senators were more involved that I.

Regarding the activities of the USAVotes employee cited in the Resolution, I will show that she was not under my direct supervision. I also will show that, contrary to assertions in the Resolution, her activities were separate and distinct from my Senate office; that in at least one instance her solicitation of funds from Keating was made without my prior knowledge; that the Special Counsel drew unfair and inaccurate inferences from memoranda she wrote; that she did not repeatedly schedule and attend meetings between contributors and myself in which legislative or regulatory issues were discussed; that she did not engage in substantive discussions and never influenced, or attempted to influence, any official decision or action of my staff's or of mine; and that she did not serve as an intermediary for Messrs. Keating or Grogan but simply passed messages along occasionally when they were unable to reach me or members of my Senate staff.

I grant that some of Ms. Jacobson's activities were susceptible to creating an appearance of impropriety. Some of her memos were written carelessly, without thought to appearances. I should have realized that when I read them. But, in the press of my heavy and hectic Senate workload, I failed to do so. Some of her actions likewise could lead to false impressions. I failed to realize that at the time. I will show, however, that her testimony demonstrates that she understood very well that there must be no connection between official actions and donations, no quid pro quo. Like my own activities, her activities do not provide any evidence of a causal connection between my official actions and solicitation of donations. Certainly none of her activities can warrant that the Committee recommend institutional action against me.

I deeply regret that I failed to foresee that soliciting charitable donations close in time to official action could lead to an appearance of impropriety.

I regret that I did not constrain more closely the actions of the part-time employee of USAVotes.

I concede these errors, but these were errors in judgment, not in intent.

II—MY ANSWERS TO THE COMMITTEE'S FOUR QUESTIONS RE: POSSIBLE CAUSAL CONNECTIONS BETWEEN CHARITABLE DONATIONS AND OFFICIAL ACTIONS

Section (a)(1) of the Resolution cites four occasions when fund-raising and official actions were allegedly in "close connection". There may have been some proximity in time upon these occasions. There is no evidence of a causal connection. There is evidence to the contrary.

The following examines each occasion, quoting the question in the Resolution and then analyzing what the record shows about: first, the evidence regarding charitable and related donations; second, evidence regarding any official actions my staff or I took; and, third, evidence showing that there were indeed no cause and effect relationships between Mr. Keating's donations and my actions.

A. Paragraph (a)(1)(i)

Paragraph (a)(1)(i) states: As a result of a solicitation from Senator Cranston in early 1987, Mr. Keating, on March 3, 1987, contributed $100,000 to America Votes, a voter registration organization. This contribution was made during the period leading to Senator Cranston's participation in the April 2 and April 9 meetings with Federal Home Loan Bank Board Chairman Edwin J. Gray and the San Francisco regulators.

(i)1. *Donation:* The Resolution accurately notes that a donation was made on March 3, 1987, to America Votes. (Sp. Coun. Ex. 159). America Votes (later known as USAVotes) raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

2. *Official Action:* The Resolution is inaccurate and very misleading in stating that this donation was made during the period leading to my participation in the April 2 and April 9 meetings.

The evidence is undisputed that the donation was discussed, solicited and committed on or before February 24, 1987. (Stein Affidavit, Sp. Coun. Ex., 458, para. 14); (AC, 4/30/90, p. 119). The donation check was dated March 3, 1987. (Sp. Coun. Ex. 159). The evidence shows that I knew nothing about the proposed meetings before the second half of March, and perhaps not until the last week in March. (JG, 12/15/90, p. 88); (AC, 4/30/90, p. 119). Furthermore, the preponderance of evidence shows that the meetings first were conceived after the donation was solicited and received. (Gray, 2/23/90, p. 15; 11/29/90, p. 64); (Grogan, 12/12/90, pp. 56–58, 208); (Riegle, 1/7/91, pp. 29–32, 46–9. 51–55, 101–2, 163); (DeConcini, 1/9/91, pp. 45–6, 49, 51–2, 60–63, 199–200, 203, 209); (McCain, 1/4/91, pp. 27–21, 26, 111, 163–4); (Glenn, 1/4/91, pp. 240–47, 193).

The evidence shows that the April 2 meeting date was not set until a few days prior to the event. (Gray, 2/23/90, p. 15). The evidence shows that the second meeting on April 9 grew out of the April 2 meeting. The evidence shows that I played a very minor but proper role in the April 2 meeting. I asked why the audit was taking so long and agreed with Senator Glenn that if Mr. Keating had broken any law he should be prosecuted, but if he hadn't the regulators should get off his back. (AC, 4/30/90, pp. 131, 133); (Gray, 11/27/90, p. 51). The evidence shows that my participation in the April 9 meeting was essentially limited to sticking my head in the door for a minute. (AC, 4/30/90, p. 150); (Sp. Coun. Ex. 193).

3. *No Causal Connection:* The Committee's findings conclude that each of the five Senators had information that reasonably caused concern about the fairness of the Bank Board's examination of Lincoln and that was sufficient to justify contacting Bank Board personnel. (Committee Statement, 2/27/91, p. 1, para. 4). The Committee found that, without regard to donations or other benefits, no Senator violated any law or Senate rule by attending the April 2 and

9 meetings. (Committee Statement, 2/27/91, p. 1, para. 1).

The evidence shows that in that point in time all five of us had good reason:

To view Mr. Keating as a highly successful and respected businessman.

All five of us also knew that:

Alan Greenspan, who is now the Chairman of the Federal Reserve, had stated in his opinion that Lincoln was solvent for the foreseeable future. (Sp. Coun. Ex. 159); (AC, 4/30/90, p. 101).

Arthur Young, one of the "Big Eight" accounting firms, had found Lincoln to be in good shape and was very critical of the regulations.[5] (Sp. Coun. Ex. 161); (AC, 4/30/90, pp. 99–100).

I had several additional reasons to be concerned about the fairness of the Bank Board's examination of Lincoln:

Lincoln was a California-chartered Savings and Loan. Many thousands of its employees and depositors were my constituents. Their jobs and financial security were at risk.

I was aware—as perhaps the other Senators were not—that the Arthur Anderson firm, another of the "Big Eight" accountants, had found Lincoln to be in good shape and had grave questions about the performance of the regulators. (AC, 4/30/90, p. 102).

I previously had engaged in a confrontation with Mr. Gray, the Chairman of the Bank Board, and had the clear impression that he was incompetent. (AC, 4/30/90, pp. 106–9).

Mr. Gray had worked in public relations for a savings and loan institution in San Diego, California, before he was appointed to chair the Bank Board. I knew he had a poor reputation in the San Diego business community. (AC, 4/30/90, p. 107).

I knew that a principal newspaper in California, the Los Angeles Times, had called for Mr. Gray's resignation from the Bank Board after the General Accounting Office found he had misused $27,000 of public funds. (*Id.*; Cranston Ex. 57); (AC, 4/30/90, p. 92).

Thus the *evidence is overwhelming* that (a) I had many sound and official reasons to participate in the April meetings, where I played a very minor and proper role, and (b) the donation was solicited and received weeks before I knew of the April meetings. The preponderance of the evidence shows that the donation was solicited and received before *anyone* even conceived of the meetings.

There is no evidence—nor could there be—that I attended the April meetings because of the donation.

B. Paragraph (a)(1)(ii)

Paragraph (a)(1)(ii) states: In the fall of 1987, Senator Cranston solicited from Mr. Keating a $250,000 contribution, which was delivered to the Senator personally by Mr. Keating's employee James Grogan on November 6, 1987. When the contribution was delivered, Mr. Grogan and Senator Cranston called Mr. Keating, who asked if the Senator would contact new Federal Home Loan Bank Board Chairman M. Danny Wall about Lincoln. Senator Cranston agreed to do so, and made the call six days later.

(ii) 1. *Donation:* There was not one but two donations that were delivered on November 6, 1987. The Resolution omits any description of them, and fails to make clear that these were *not* political contributions to any campaign of mine or to my P.A.C. I received no direct political benefits from the donations.

$225,000 was in the form of a charitable donation to Forum Institute, an I.R.S. approved 501(c)(3) tax-deductible organization. Forum distributed funds to non-partisan, 501(c)(3), grass roots organizations that registered voters in approximately 20 states. (Sp. Coun. Ex. 145). I accepted the check on behalf of Forum and turned it over to Forum. I had no control over Forum or how the money was used. The independent officers and directors of Forum had that control. (Harmon Affidavit, Sp. Coun. Ex. 501, para. 13).

$25,000 was in the form of a contribution to USAVotes (formerly America Votes) to support its efforts to raise charitable donations for I.R.S. approved 501(c)(3) non-partisan registration groups. (Sp. Coun. Ex. 146).

The Resolution also fails to mention that the donations were agreed to before October 6, 1987 (Sp. Coun. Ex. 182), more than a month prior to my status inquiry call to Mr. Wall.

2. *Official Action:* My notes about the call to Mr. Wall establish that it was a status inquiry.[6] I asked if the end of the audit of Lincoln was in sight. Mr. Wall and I also discussed the personality problems between Lincoln and the San Francisco regulators. (Sp. Coun. Ex. 147). Mr. Wall's testimony confirmed this. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.). Mr. Wall also testified that I did not urge him to take any particular course of action. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.).

Furthermore, there is *no* evidence that I attempted to influence the regulatory actions of Mr. Wall *or any other* regulator at any time. Every regulator who was called as a witness or in an affidavit testified that none of his or her sections were influenced by any contact from my office or from me. (Wall Affidavit, Sp. Coun. Ex. 428, p. 6, para. 9); (Rosemary Stewart, 1/2/91, pp. 10–11, 196); (Wall, 12/4/90, pp. 104, 116, 181–2, 184, 191); (Martin, 12/3/90, p. 58; Martin Affidavit, Sp. Coun. Ex. 17, para. 11); (Gray, 11/27/90, p. 97); (Patriarca, 11/27/90, p. 147); (Black, 12/6/90, pp. 29–30); (Cranston Ex. 78, Dochow Aff. Attachments A–1 at 19–20 & A2 at 41).

3. *No Causal Connection:* It flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for anyone to donate or contribute *anything* to me in order to get me to do *anything*.[7]

The routine status call that I made to Mr. Wall on November 12 was not motivated by the personal concerns of Mr. Keating. The jobs and financial security of thousands of my California constituents were at stake. I made the call for the same reason that I attended the April 2, 1987 meeting—because I believed it was necessary and proper that I do so on behalf of my many constituents who had stakes in Lincoln.

The Resolution is incorrect in concluding that Mr. Keating asked me to contact Mr. Wall when I was on the phone with him in Mr. Grogan's presence. At best, there is conflicting testimony on this point. (AC, 4/30/90, pp. 188 & 190); (JG, 12/14/90, p. 162). I do not recall a request from Mr. Keating on November 6 that I call Mr. Wall. *Nor* do I recall that my November 12 call to Mr. Wall was the result of a request from Messrs. Keating or Grogan.

The Resolution implies that there was a causal connection between the receipt of the donations and my decision to call Mr. Wall on November 12. There is *no* evidence to support such a conclusion.

Furthermore, Mr. Grogan testified that there was never "any suggestion, either by word or by body language, or by a raised eyebrow" that my interest in Lincoln's problems was tied to Mr. Keating's support of non-profit voter registration efforts. (JG, 12/15/90, p. 132). Mr. Grogan also testified, "There was never an occasion where Mr. Keating asked Senator Cranston to do something and Senator Cranston said, 'only if you raise funds for me.' There was never an occasion where Mr. Keating said, 'If you do this for me, I will raise X amount of dollars for you.'" He testified that there was never "even the suggestion" that fund-raising and official actions were connected in any way. (JG, 12/12/90, pp. 185–8). I repeatedly have testified that there was no connection between Mr. Keating's donations and my decisions to contact the regulators regarding Lincoln. (AC, 4/30/90, p. 95).

C. Paragraph (a)(1)(iii)

Paragraph (a)(1)(iii) states: In January 1988, Mr. Keating offered to make an additional contribution and also asked Senator Cranston to set up a meeting for him with Chairman Wall. Senator Cranston did so on January 20, 1988 and Chairman Wall and Mr. Keating met eight days later. On February 10, 1988 Senator Cranston personally collected checks totaling $500,000 for voter registration groups.

(iii) 1. *Donation:* The Resolution incorrectly insinuates that (a) in January, 1988, Mr. Keating offered to make an additional charitable donation in connection with his asking me to set up a meeting for him to meet with Mr. Wall; and (b) based on my setting up the meeting, Mr. Keating made charitable donations in February. The Resolution's insinuation is unfair and inaccurate and cannot be substantiated in any way.

There is *no* clear and convincing evidence that Mr. Keating offered to make an additional donation in January, 1988.

Mr. Keating did make two charitable donations to voter registration groups on February 10, 1988 in Phoenix. The Resolution omits the fact that these were two I.R.S. approved charitable, tax-deductible donations to 501(c)(3) organizations for non-partisan, voter participation efforts. One was to Forum Institute, an organization I've already described. The other was to The Center for Participation in Democracy, that engaged in and supported non-partisan registration drives in several states. *Neither* of these two organizations, nor the use of the money, was under my control.

Regarding this period, there is considerable testimony about a dinner I attended in January with Messrs. Keating, Grogan, and others. Mr. Grogan testified that he recalls no discussion of fund-raising at the dinner. (JG, 12/14/90, p. 166; 12/13/90, p. 24 & p. 265). My son, Kim Cranston, who was present, testified that he recalls no specific offer of support by Mr. Keating. (KC, 6/28/90, p. 15). I testified similarly that (a) I did not solicit any funds at the dinner, (b) that I did not recall the discussion of any specific funds, and (c) that Mr. Keating may have indicated in a *vague* way that he would continue to support registration efforts. (AC, 4/30/90, p. 191; 10/16/90, p. 87).

Mr. Grogan testified that he was not aware of any solicitation that preceded my February 10 visit to Phoenix. (JG, 12/13/90, pp. 261–2).

My visit to Phoenix had been in the works since at least September of the previous year. (JJ, 12/3/90, pp. 164–6). Messrs. Keating and Grogan had a long standing policy of inviting members of Congress, their staffs, and others to visit Phoenix to see the Lincoln/American Continental Corporation operation first hand. Many Congressmen and staff members have visited his company in Phoenix. Mr. Grogan testified that he had invited me to visit Phoenix several times. (JG, 12/14/90, pp. 169–70; 12/15/90, pp. 119–20). I had wanted to visit to see for myself the type of operation Mr. Keating was running. (AC, 4/30/90, p. 184). This was the first time that my schedule permitted this trip. (JJ, 7/19/90, p. 167); (JG, 12/13/90, p. 17). Ergo, this trip *was totally coincidental* to the Wall/Keating meeting. It *had no connection* with the Wall/Keating meeting.

It is also equally coincidental that this trip finally occurred at the beginning of a new year, and thus coincided with the timing implicit to Ms. Jacobson's practice of seeking contributions from individuals twice in a given year—early and late. (JJ, 12/2/90, p. 161). Ms. Jacobson, in her capacity as a part-time USAVotes employee, had written me a memo dated February 4, 1988, stating that the main goal concerning Mr. Keating was to receive a charitable donation as soon as possible so that he could be asked for an additional donation in the fall. (Sp. Coun. Ex. 269). She testified that the timing of solicitations of donations was largely driven by her own timetable and that charitable giving is based on an annual cycle. (JJ, 12/3/90, pp. 176, 219).

By happenstance, this trip to Phoenix was also consistent with my practice of going to visit potential donors—rather than inviting them to visit me—to get help for the registration efforts. (AC, 10/16/90, p. 87); (JJ, 12/3/90, p. 143).

2. *Official Action:* There is no evidence that Mr. Keating committed to make a specific donation in connection with asking me to set up an appointment with Chairman Wall to see him.

The evidence shows only that Ms. Jacobson sent me a memo dated January 18, 1988 relaying a request to her from Mr. Grogan that I help schedule a meeting between Messrs. Keating and Wall. (Sp. Coun. Ex. 172).

I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be necessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I even knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

3. No Causal Effect: Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2/27/91, p. 1, para. 4).[8]

There is no evidence of a causal connection between my January 20, 1988 telephone call and the charitable donations. There is no specific evidence that there was even a solicitation of Mr. Keating or a discussion of any donation prior to the February 10, 1988 trip.[9] In fact, for six months there had been efforts to schedule a trip to Phoenix that finally occurred in February, 1988 and resulted in the receipt of charitable donations. *It is pure coincidence* that the trip finally was scheduled and the donations were received three weeks after my telephone call to Mr. Wall.

Coincidence in time and unsubstantiated inferences about proper inquiries such as my telephone call and receipt of charitable donations on a trip that had been in the making for many months cannot properly substitute for the lack of clear and convincing evidence of improper linkage, particularly where there is factual and convincing evidence that Mr. Keating did not ask me to set up a meeting in connection with a solicitation of a donation of any type.

D. Paragraph (a)(1)(iv)

Paragraph (a)(1)(iv) states: In early 1989, at the time that Senator Cranston was contacting Bank Board officials about the sale of Lincoln, he, personally or through Joy Jacobson, his chief fund-raiser, solicited another contribution. (This contribution was never made. American Continental Corporation declared bankruptcy on April 13, 1989.)

(iv) 1. *Donation:* The Resolution fails once again to point out that this was a solicitation of an I.R.S. approved 501(c)(3) charitable tax-deductible donation, the use of which I did not control. It was *not* a solicitation of political contributions for my benefit. The Resolution accurately states that this donation was never made.

The Resolution's description of Ms. Jacobson is misleading. In early 1987, she directed the fund-raising staff of the Democratic Senatorial Campaign Committee. At the time in question, early 1989 (and for more than a year before that) she was spending 50% of her time as a consultant to the Democratic Senatorial Campaign Committee; 25% as a consultant to a P.A.C. I founded (Committee for a Democratic Consensus); and 25% as a consultant under contract to USAVotes to raise charitable donations for registration efforts.

Mr. Rob Stein, the Executive Director of USAVotes, was in charge of its over-all operations. I was one of three cochairmen of USAVotes. I was not the direct supervisor of Ms. Jacobson in her capacity as a part-time employee of USAVotes, nor was I the direct supervisor of any other USAVotes employees.

There is conflicting testimony concerning who solicited Lincoln at this time. I have testified that I do not recall discussing a donation with Messrs. Keating, Grogan or anybody during this period. (AC, 10/16/90, p. 68; 5/17/90, p. 299). I do not believe such a discussion ever took place. Mr. Grogan, when asked whether anybody on my staff or I solicited a donation from him or Mr. Keating during this period, testified that Ms. Jacobson, not I discussed a donation with him. (JG, 12/14/90, pp. 179–80). Ms. Jacobson's recollection was that I solicited Mr. Keating during the period. (JJ, 12/3/90, pp. 167–8).

I believe the following shows that Ms. Jacobson initiated the solicitation and that she did so without my knowledge.

A memorandum from Joy Jacobson to me and to Rob Stein, the Executive Director of USAVotes, dated March 1, 1989, written on her home computer, shows that I did not make the solicitation and illustrates the mechanics of how the staff of USAVotes and I worked to solicit charitable donations. (Sp. Coun. Ex. 171). It was Ms. Jacobson's job to come up with the names of people, foundations and organizations which she thought would be potential donors. She would write a memorandum with the potential donors' names, suggestions as to who should contact them, and the amounts to be requested. When I reviewed it, I would look down the list for the names suggested for me. I would systematically try to call most, but not necessarily all, of the names suggested to me. When my part of the list was complete, I would hand it back with my notes about the calls to my secretary. She would report these results back to Ms. Jacobson.

There are 18 names of potential donors on the March 1, 1989 memo. My handwritten notes or my secretary's notes appear under 12 of those names—only those that were proposed as my assignments.

It is clear that Ms. Jacobson assigned herself three names on the first page: AFSCME, Dick Darling, and Charlie Keating. After Mr. Keating's name these words are typed in the memo: "Joy is talking with Jim Grogan. 100,000 wherever it's needed."

This evidence corroborates Mr. Grogan's testimony that Mr. Jacobson, not I, made this solicitation. It indicates that her memory was incorrect when she testified that I solicited Mr. Keating. It shows that on the date of the memo, March 1, 1989, she had already discussed a $100,000 donation with Mr. Grogan.

Ms. Jacobson's solicitation of Mr. Grogan is consistent with her explanation in her testimony "that the first group you go back to [at the beginning of each year is] your past donors and try to renew them." (JJ, 12/3/90, p. 161). Her solicitation of Mr. Grogan on her own is further evidenced by Ms. Jacobson's statement that "the timing of the fundraising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was." (JJ, 12/3/90, p. 176). She also stated that I never suggested to her to time any request for a donation to coincide with anything before the Bank Board or with any other event or events. (JJ, 12/3/90, pp. 175–6).

2. *Official Action:* The record shows that, working on an entirely different track from Ms. Jacobson, I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constituents of mine.

For whatever reason, none of the sales materialized. However, the concerns that motivated my calls did occur. The consequences have been catastrophic: a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

In response to the inference I point to the clear and convincing evidence that (a) I did not solicit a charitable donation, and that (b) I did not know that Ms. Jacobson had made a solicitation until I read her memo of *March 1, 1989*. Once I knew, the knowledge had no effect on my conduct.

Ms. Jacobson testified that she was not aware that Messrs. Keating or Grogan was talking to me about the sale, nor that I was being asked to do anything about it. (JJ, 7/19/90, p. 179).

There is absolutely no evidence of any causal connection between (a) Ms. Jacobson's solicitation, and (b) my telephone calls in 1989 to regulators regarding possible sales of Lincoln. Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a causal connection between a solicitation and an official action.

The *fair inference* from the record is that Ms. Jacobson was on one track following up according to her standard practice with one of the few established contributors whom she solicited personally and regularly at the beginning of each year. Meanwhile, I was on another track taking very limited official actions contacting regulators regarding the possible sale of Lincoln—actions for which there was clear and independent constituent related justification. Senator DeConcini made the same type of inquiries for similar reasons.

The foregoing analysis of each of the four "occasions" cited in the Resolution demonstrates that there is absolutely no evidence of a causal relationship between any of Mr. Keating's donations and any of my actions, and that there is overwhelming evidence to the contrary.

I remind the Committee again of Mr. Grogan's response when my attorney asked him the following question: "Was there any suggestion, either by word or by body language, or by raised eyebrow, that Senator Cranston's interest in Lincoln Savings' problems was tied to Mr. Keating's support of the non-profit voter registration efforts?" Mr. Grogan replied, "Never." (JG, 12/15/90, p. 132).

The Special Counsel has cited no evidence that Mr. Keating authorized donations only on condition that I would help him, or because I had helped him. He cited no evidence that I agreed to help only if Mr. Keating contributed.[10]

III—MY ANSWERS TO THE COMMITTEE'S THREE QUESTIONS RE: A PART-TIME EMPLOYEE OF AN ORGANIZATION THAT RAISED I.R.S APPROVED 501(C)(3) CHARITABLE DONATIONS

The Resolution raises questions in Section (a)(2) about my Senate office practices, citing three examples of activities engaged in by Ms. Jacobson, a part-time employee of USAVotes, over whom I had no real supervisory role. I have already indicated that she was *not* a member of my Senate staff. She had no substantive expertise in Banking Committee issues and did not substantively involve herself in my official Senate activities.

The words "Senate office practices" is inaccurate and misleading. Ms. Jacobson came to my office occasionally, but by no means frequently or regularly. She worked out of her home in Virginia. Unlike the practice in some Senate offices, I have never assigned major political fund-raising responsibilities to anyone serving part time or full time on my Senate staff. I have designated two Senate staff members under Rule 41, but they have done comparatively little political fund-raising. All fund-raising efforts with which I have been involved, whether political or charitable, have been the responsibility of individuals employed elsewhere—*not* in my Senate office.

Although some of Ms. Jacobson's activities are susceptible to an interpretation that they rise an *appearance* of impropriety, they do not constitute clear and convincing evidence of a causal connection between (a) my personal official actions and (b) solicitations of donations I made or of which I was aware.

A. Paragraph (a)(2)(i)

Paragraph (a)(2)(i) states: Senator Cranston's fund-raiser repeatedly scheduled and attended meetings between Senator Cranston and contributors in which legislative or regulatory issues were discussed.

The Resolution unfairly uses the word "repeatedly". Mr. Grogan met Ms. Jacobson in 1984. (JG, 12/12/90, pp. 71–73); (JJ, 12/3/90, p. 91, 7/19/90, p. 37). He testified that he would call her to schedule appointments until he became acquainted with members of my Senate staff and began to turn to them to arrange appointments. (JG, 12/12/90, p. 93).

Ms. Jacobson testified that after March, 1987, the only meetings which she was involved in arranging were for fund-raising or social purposes, not substantive purposes. (JJ, 12/3/90, p. 96). She testified that she didn't know about the April 2 and April 9 meetings until long after they occurred. (JJ, 12/3/90, p. 130). She testified that she arranged no substantive meetings during the entire two year period from April, 1987, to April, 1989, during which the other three "occasions" occurred that raise questions of causal connections. [Referred to in Paragraph (a)1 of the Resolution].

The Resolution inaccurately states that Ms. Jacobson scheduled meetings for me. The evidence shows that she had to go through my Secretary or my Administrative Assistant to place appointments on my schedule.[11] (JJ, 7/17/90, p. 76).

Ms. Jacobson's testimony differs from mine about why she attended such meetings. I have testified that Ms. Jacobson suggested to me that it would be helpful for her to be present so she would know what was going on. (AC, 4/30/90, p. 24). She testified that she was there to make sure that the charitable donor felt at home in my hectic and crowded office before I arrived or if I were called away on Senate business. (JJ, 12/3/90, pp. 86–90).

Ms. Jacobson has testified, and I confirm, that she never participated in substantive discussions in any meetings. (JJ, 12/3/90, p. 86). Moreover, Ms. Jacobson testified that she often paid no attention to the subsection discussions: "While a substantive discussion was going on, I often would get up and go make phone calls outside of the office. There's a round table that I often worked at in Senator Cranston's Whip office. While a substantive meeting was going on in another section of the same room, I would be off doing something else." (JJ, 12/3/90, p. 90).

To the best of my knowledge, Ms. Jacobson never attempted to influence an official action in any way. Neither anyone on my staff nor I made a decision of substance based on any actions by Ms. Jacobson.

B. Paragraph (a)(2)(ii)

Paragraph (a)(2)(ii) states: Senator Cranston's fund-raiser often served as the intermediary for Mr. Keating or Mr. Grogan when they could not reach the Senator or Carolyn Jordan, the Senator's banking aide.

The Resolution's use of the word "intermediary" is misleading and unfair. The record shows, as I have just indicated, that Ms. Jacobson did not engage in any substantive negotiations or take any substantive actions. She testified that she simply passed messages along occasionally when Mr. Grogan was unable to reach me or members of my Senate staff. (JJ, 12/3/90, p. 156). Ms. Jacobson testified, "It was Jim Grogan's nature to just keep dialing until he got somebody. Again, it usually had to do with something that was going to happen and he needed to get hold of somebody, whether it was Roy [Greenaway] or Alan [Cranston] or Carolyn [Jordan], and I would say, I'll pass it along." (JJ, 7/19/90, p. 168).[12] Ms. Jacobson also testified, ". . . At the beginning they always did call me. My understanding is that later on they often didn't call me, that they called Roy Greenaway [my Administrative Assistant] or they called Mary Lou [McNeely, my Secretary] directly or they just showed up at the office." (JJ, 7/19/90, p. 164).

C. Paragraph (a)(2)(iii)

Paragraph (a)(2)(iii) states: Senator Cranston received several memoranda from Ms. Jacobson which evidenced her understanding that contributors were entitled to special attention and special access to official services. Senator Cranston never told her that her understanding was incorrect, nor did he inform her that such a connection between contributions and official actions was improper.

The Special Counsel focused on one memo dated January 7, 1987. (Sp. Coun. Ex. 154.) It was written prior to *all* the specific donations referred to in the Committee's Resolution.

Ms. Jacobson did *not* state—as the Resolution indicates—that the individuals she mentioned in her January 7 memo were "entitled to special attention and special access to official services." She said the individuals expected "some kind of resolution" of pending matters. That is exactly what every constituent, whether a contributor or not, rightfully expects from their Senator. That is exactly what every constituent of mine gets, whether he is a contributor or not, to the best of my ability and my staff's ability. Note that Ms. Jacobson did not state that these individuals could rightfully expect a *favorable* resolution. She said they would expect "*some kind*" of resolution.

She explained the meaning and intent of this memo in her testimony. She testified that the individuals she mentioned, like all constituents, were entitled to a response from me as to what, if anything, I was going to do about their problems—not necessarily a positive response or resolution—but *some* response or resolution. (JJ, 7/19/90, p. 99–101; 12/3/90, pp. 204–5). They may not like the response, but they like all constituents are at least entitled to be heard and to be given a decision. That is all Ms. Jacobson advocated and that is all I ever tried to provide.

Furthermore, Ms. Jacobson testified that several individuals mentioned in her January 7 memo, including Mr. Keating, did not get the results they wanted. (JJ, 12/3/90, pp. 205–6). I understand how someone with 20/20 hindsight might question the implication of Ms. Jacobson's words, but my deeds followed the *words*, not the *implications*.

Improper inferences drawn from a memo written by someone else, not by me, *must not be accepted as a substitute* for clear and convincing evidence of causal connections between my official actions and donations.

The only other memos I am aware of from Ms. Jacobson simply passed on information or contained updates on charitable donations.

Moreover, and in fundamental fairness to Ms. Jacobson, I believe that the Resolution *unfairly implies* that she lacked understanding of proper policy regarding donations and official actions. Ms. Jacobson testified that she knew there could not and must not be a quid pro quo between official actions and donations, and that my absolute firm office practice was to have nothing to do with any potential donor who sought to link a donation to official action. (JJ, 12/3/90, pp. 223–4, 239–40).

Specifically, in relation to Lincoln, Ms. Jacobson testified that neither Messrs. Keating, Grogan nor I ever indicated that any donations were made with any understanding that I would do anything in return (JJ, 12/3/90, pp. 175–6):

Q. Did Mr. Grogan ever tell you that the contributions were made with the understanding that Senator Cranston would do anything in return?

A. Absolutely not.

Q. Did anyone whom you knew to be associated with Lincoln Savings or American Continental ever tell you that any of the contributions were made with the understanding that Senator Cranston would do something in return?

A. No.

Q. Did Senator Cranston ever say to you that he thought that the contributions which you have discussed were made with an expectation that he would act in any way on behalf of Mr. Keating, of Lincoln or American Continental?

A. No.

Q. To your knowledge, did Senator Cranston do anything for or on behalf of Lincoln Savings because Mr. Keating assisted his reelection campaign?

A. No.

Q. Did he to your knowledge do anything for or on behalf of Lincoln Savings because Mr. Keating contributed money to USA Votes, Forum Institute or the Center For Participation in Democracy?

A. No.

Q. Did Mr. Keating or anyone associated with him ever tell you that a contribution would be made after Senator Cranston made an inquiry on his behalf?

A. No.

Q. Did Senator Cranston ever tell you or suggest to you that you should time any request for contributions to coincide with anything occurring before the Bank Board?

A. No. In fact, the timing of the fund-raising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.

Q. Did Senator Cranston ever tell you to time a solicitation to Mr. Keating to coincide with any other event or events to your recollection?

A. No.[13]

The Resolution inappropriately states that Ms. Jacobson understand that donors were entitled to special access. Mr. Grogan testified that he was able to obtain my attention—in other words get access to me—before any of the charitable donations for voter registration were made by Mr. Keating. (CG, 12/15/90, p. 132)

IV—THERE ARE NO DIFFERENCES IN KIND BETWEEN MY ACTIONS AND THE ACTIONS OF SENATOR DECONCINI, SENATOR GLENN, SENATOR MCCAIN AND SENATOR RIEGLE

There are no differences of kind between my actions and the actions of the other four Senators with respect to Lincoln.

Therefore there is no justification for singling me out for disciplinary action.

The Committee Statement of February 27, 1991 contains many important findings that show both similarities and differences in the actions of the five Senators. The findings include:

1. That, when considered without regard to any donation or other benefit, actions of the other four Senators and my actions did not violate any law or Senate rule.

2. That no solicitation or acceptance of any donation by the other four Senators or myself constituted a personal gift to any one of us.

3. That the other four Senators and I had a reasonable basis for contacting FHLBB personnel.

4. That the attendance of the other four Senators and my attendance at the April 2 and April 9 meetings, when considered without regard to donations, was not improper.

5. That my post-April 9, 1987 conduct and that of Senators DeConcini and Glenn when considered without regard to donations, was not improper; and in and of itself it is not improper to contact regulators after learning of a criminal referral. (DeConcini & Glenn).[14]

6. The Committee found that it may appear improper but actually it is not improper for a Senator to engage in aggressive conduct with regulators especially after learning of a criminal referral. (DeConcini).

7. The Committee found, however, that it was poor judgment but it did not find it unethical for a Senator to arrange a lunch between Keating and Speaker Wright eight months after the Senator knew of the criminal referral. (Glenn).

8. That the solicitation and acceptance by the other four Senators and me of all donations, including those to charitable voter registration organizations, were not illegal or improper.

9. That there are no specific written standards regarding contact with federal regulators in general or on behalf of contributors in particular.

10. That it may appear improper, but the Committee did not find it improper, for a Senator to assist a constituent with regulatory problems at a time very close to when that constituent is raising funds for the Senator. (Glenn and Riegle).

11. By implication, that conduct that is not improper but gives rise to an appearance of impropriety does not warrant further Senate action. (Riegle and DeConcini).

12. That contacts of the other four Senators and my contacts with regulators regarding Lincoln did not cause the eventual failure of Lincoln or the thrift industry in general.

Clearly all five Senators had varying degrees of involvement in respect to Lincoln. Mr. Keating and his friends and associates contributed more political contributions to the campaigns and P.A.C.s of each of the other four Senators, who had direct control over these funds, than to mine. That totals:

Glenn	$252,200
McCain	110,000
DeConcini	85,000
Riegle	78,250
Cranston	59,000

Although I received less in political contributions than any of the other Senators, it appears that I received more because of the charitable donations I raised. This is misleading and can warp an objective observor's perspective. I did not receive the charitable donations. I collected them on behalf of and passed them on to 501(c)(3) charitable organizations.

The fact that when charitable donations are counted I raised more funds from Mr. Keating than any of the other Senators should be considered in several contexts:

The total amount of charitable contributions I raised from Mr. Keating is not unusual in view of his general record of giving and loaning many more than $44 million to various causes including Mother Teresa, Covenant House, the Vincent de Paul Society and anti-pornography drives.

The Special Counsel asked why Mr. Keating, whom he characterized as extremely conservative, would donate to a Democrat such as I and to causes I espoused. F.E.C. records show that Mr. Keating has contributed very large sums to both the Democratic and Republican parties and to many candidates of both parties. Mr. Grogan testified about Mr. Keating's philosophy, "I would not characterize him as a conservative Republican and he doesn't characterize himself that way. He is much more liberal on a variety of issues." (JG, 12/12/90, p. 88).[15]

Regarding charitable contributions, I also want to note that information obtained from Senate financial disclosure forms shows that many Senators are associated in some way—surely including fund-raising in some instances—with I.R.S. approved 501(c)(3) organizations. Among them are the former Majority Leader Robert C. Byrd, now President Pro Tem of the Senate (Robert C. Byrd Scholastic Recognition Fund) and Minority Leader Robert Dole (Dole Foundation for the Employment of People with Disabilities). (AC Exhibit 80).

Coincidences in time between political contributions and official actions were found in respect to three of the other Senators:

The Committee found that Senator Riegle was helping Lincoln with its regulatory problems at the same time that Mr. Keating was raising substantial political funds for him—i.e., $78,250 raised for Senator Riegle's 1988 campaign on March 24, 1987, nine days before the April 2 meeting and after Senator Riegle's apparent involvement in discussions leading to the April 2 meeting. The Committee stated that it did not condone Senator Riegle's conduct and criticized him for "insensitivity and poor judgment"—*but* the Committee did *not* conclude that this coincidence in time between Senator Riegle's fund-raising and official actions required institutional action by the full Senate. (Senate Ethics Committee Statement, 2/27/90, Riegle).

The Committee found that Mr. Keating raised $54,000 for Senator DeConcini's November, 1988, reelection, shortly before the Senator made efforts similar to mine although perhaps more "aggressive" than mine (to use the Committee's word)—to make sure the Bank Board gave appropriate consideration to the efforts to sell Lincoln.

The Committee learned that in late 1984 and early 1985 Mr. Keating and his associates made significant political contributions and raised funds for Senator's Glenn's presidential campaign debt and for his Senatorial campaign. This coincided in time with actions Senator Glenn took at the suggestion of Mr. Keating regarding the direct investment rule in December, 1984, and January, 1985. Senator Glenn testified he did not know about the contributions until the summer of 1985. (Glenn, 1/4/91, pp. 187-8, 226, 255).

The Committee did not conclude that there was any causal connection between these three coincidences of receipt by Senators Riegle, DeConcini and Glenn of these political contributions in proximity of time to their official actions. How, then, could the Committee without *any* substantiating evidence conclude that there was any causal connection between my receipt—on behalf of others—of charitable and related donations and my official actions? My case, like the cases of Senators Riegle, DeConcini and Glenn, *can only involve* questions of judgment and appearances.

I believe, too, that our actions did not differ in kind from legitimate actions of our 95 colleagues. Virtually every Senator raises funds for his campaigns and renders legitimate services to his constituents, including contributors, when they need it. I have noted previously that many Senators are active in one way or another with charitable organizations and some Senators raise very substantial money for them.

V—THERE ARE NO U.S. SENATE RULES, PRECEDENTS, OR CASES IN WHICH A SENATOR HAS BEEN DISCIPLINED FOR ASSISTANCE TO A CONSTITUENT WHEN THE SENATOR RECEIVED NO PERSONAL FINANCIAL PROFIT

If the Committee believes there should be limits on a Senator's ability to perform his official duties for a contributor based upon the timing or proximity of a donation to an official act, it may recommend that change to the full Senate and allow 100 members of this body to debate such a proposed rule.

It would be contrary to the principles of the Senate and a violation of traditional concepts to fair play to apply such a rule to me now *in what would clearly be an ex post facto fashion*.

There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate *never* has determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful contribution to the Senator's campaign or to a lawful donation to a charity that the Senator supports.

The Senate has to date rejected attempts to create Ethics Rules that would restrict the ability of its members to give their supporters the impression that they will be responsive to their needs. There is a *fundamental difference* between a Senator acting on behalf of a constituent and a Senator acting for his personal gain. It is one thing to say that a Senator should not do anything in his official capacity that appears to bring him personal gain. It is quite another to say he should not do anything in his official capacity that appears to benefit supporters or contributors. The former is a conflict of interest and a violation of public trust. The latter is not only *not* a violation of trust, but a fulfillment of it. Its appearance can seem improper only to those who distrust the system itself.

In *every* case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. The last four Senators who were disciplined by the Senate were involved in actions that resulted in *personal* gain. There has *never* been a case that has led to the disciplining of a Senator for assisting, or appearing to assist, a constituent-contributor when the Senator received no personal profit.[16]

The history of conflict of interest rules for the Senate and the House demonstrates that the evil at which all those efforts have been directed is the use of elective office for personal gain.

Senate Rule 37, the conflict of interest rule, distinguishes between personal and political benefit. It prohibits Senators and staffers from intervening with federal agencies for the purpose of furthering their financial interest or receiving compensation from a constituent. Its application is limited to agency intervention "resulting in measurable *personal* financial gain."

The Senate in 1977 rejected a proposed rule suggesting that the motive of a contributor could make a contribution improper. Senator Nelson, Chairman of a Special Committee, had proposed that Rule 35, pertaining to gifts, also should ban acceptance of anything "intended to affect the present or future performance of official duties." Senator Stevens attacked the proposal as "something no one can live up to if he is honest with himself and the American people . . . It is a standard of conduct with which one cannot comply in good faith and good conscience as a member of the U.S. Senate." Senator Nelson finally agreed, saying, "I do not think it makes sense at all, and someone who was working overtime and got tired must have written it." (pp. 144-5, Davidson Legal Counsel Report, March 1991).

The Committee acknowledges in its Statement of February 27, 1991 that the Senate presently has no specific written standards embodied in Senate rules respecting contact with Federal or independent regulatory agency officials. The Committee suggests a process for establishing such standards and states that until that is accomplished "All Senators are encouraged to use House Advisory Opinion No. 1 as a source of guidance for their actions."

House Advisory Opinion No. 1 indicates that it is proper for a member to communicate with an executive or independent agency on any matter to request information or status reports; to urge prompt consideration; arrange for interviews or appointments; express judgments; call for reconsideration of an administrative response that the member believes is not supported by established law, Federal regulation or legislative intent; or perform any other service of a similar nature in this area that is compatible with the criteria expressed in the Advisory Opinion.

The Advisory Opinion makes *absolutely no reference* to campaign contributions or charitable donations, or to the timing of campaign contributions or charitable donations solicited or received by a member who performs any of these approved and specified actions. It notes that it is a felony to seek or receive "compensation for any services rendered."

All my actions with respect to Lincoln were well within the guidelines of House Advisory Opinion No. 1.

VI—THE QUESTION OF APPEARANCES AND A SENATOR'S CONSTITUTIONAL OBLIGATION TO REPRESENT THE PUBLIC INTEREST OR THE CAUSE OF JUSTICE OR EQUITY OF HIS CONSTITUENT

Senator Sanford was quoted in the Washington Post on January 11, 1991, wondering how Members of Congress can "overcome the impression" that it *appears* improper if Members accept donations from constituents for whom they intercede.

This is a perplexing problem, since our basic obligation is to the people we represent, many of whom have supported us financially or in other ways. We must do what we think is right, not just what may appear to be right.

Senators should not be at risk of discipline for violation of an appearance standard that would prevent us from intervening on behalf of constituents when intervention is appropriate. If we act only when no one will criticize us, we will not serve the people who elected us.

The fact that a constituent is a contributor, even a recent contributor, does not make it unethical—and should not make it appear unethical—for a Senator to undertake to render him legitimate help when he needs it. The fact that a constituent is a contributor does not change his need for, nor his right to, a Senator's proper and timely help.

The Special Counsel proposes extending to Senators the appearance standard in the Code of Ethics for Government Service ("CEGS") that applies to federal judges and civil servants. The Senate *never* has adopted "CEGS" as an ethical standard applicable to Senators. CEGS never has been interpreted or applied by the Senate as a standard applicable to Senators. These is *no reference to it* in any of the over 400 published Interpretative Rulings issued by the Committee. The House has referred to it, but only in cases involving personal benefit. To apply CEGS to campaign contributions or charitable donations would be inconsistent with Senate Rules 35 and 37. The definition of a "gift" in Rule 35 specifically excludes campaign contributions. The term "compensation" under Rule 37 strictly has been limited to personal benefits.

The Special Counsel overlooks fundamental differences between federal judges and civil servants and Senators. Federal judges and civil servants do not have to raise funds to stay in office. For them, an appearance of a conflict of interest cannot relate to a campaign contribution. Presumably it will relate to personal financial gain. A judge is not expected to serve the interests of the parties before him, but to judge between them in a neutral and detached manner. He should be, and should appear to be impartial.

A Senator, on the other hand, is a servant of the constituents of his state. The Constitution requires us to *represent* our constituents. A Senator is expected to be and to appear to be responsive to the legitimate needs of his constituents, including his supporters and non-supporters alike. A Senator who attempted to function as a judge would soon be voted out of office. We also differ from federal judges and civil servants because *we are elected by the people*. We do not have life tenure. Senators *must* serve—and *must appear* to serve—the proper interests of the people who support them. If they don't their constituents won't get the help they need and deserve, and the Senators won't be reelected.

Indeed, in 1977 the Senate Ethics Committee warned that financial disclosure was preferable to specific restrictions on conduct because "it is one thing to describe cases that could pose a disturbing conflict of interest, but quite another to formulate a rule that meets the worst cases without becoming unreasonable. A rule designed to prevent a potential conflict of interest may result instead in depriving a Senator's constituents of full representation."

In 1977, the Committee stated that an excessively restrictive rule could "do harm to the legislative process" and "cut to the heart" of a Senator's function. (Davidson, 137). I submit that the adoption by the Senate of a similarly excessive standard of appearances could deprive constituents of full representation, could harm the legislative process, and could cut to the heart of a Senator's function.

VII—CONCLUSION TO MY WRITTEN SUBMISSION

The Resolution easily could give the erroneous impression to anyone not familiar with the facts that the donations referred to were all of a political nature to some campaign or P.A.C. of mine. It omits any reference to the established and undisputed fact that 85.3% of the money—totaling $725,000—that Mr. Keating donated from early 1987 through April, 1989 was in the form of I.R.S. approved 501(c)(3) tax-deductible charitable donations to organizations that were not under my control and whose use of the money was not under my control.

In addition, Mr. Keating donated $125,000 to America Votes, an organization that raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration in approximately 20 states during 1987 and 1988.

The Resolution fails to point out that *none* of Mr. Keating's donations which are being questioned during this period was in the form of a political contribution to any campaign of mine. Only $10,000 was to a federal P.A.C. that I organized.

The Resolution ignores the important fact that *all* these donations were made *after* my 1986 reelection. An expert on voting, Curtis B. Gans, who is Director of the non-partisan, non-profit, Committee for the Study of the American Electorate, testified that registration efforts in California in 1987 and 1988 that were supported by some of the funds I raised would have had "negligible impact" on my reelection campaign four years later (had I chosen to run in 1992). "I could think of no less cost-effective way of advancing one's own interest," he testified. (Affidavit of Curtis B. Gans, Cranston Exhibit 77).

Section (a)(1) of the Resolution fails to make clear that *all* the contacts I had with regulators during this time—and at all other times—were, standing alone, not only proper, as the Committee's Statement of February 27, 1991 acknowledges, but were also de minimis. The established fact is that they were all routine status inquiries, or requests that somebody see somebody, or requests that various proposed sales of Lincoln be carefully considered. The Committee fails to make clear that in *none* of the contacts I made did I ever advocate any particular action. It fails to make clear that I *never* urged the regulators to take or refrain from any particular action.

Thus the alleged improprieties that the Resolution suggests occurred arise solely because of routine, non-substantive inquiries I made on behalf of constituents that may have been in some way proximate in time to the solicitation or receipt of charitable or related donations.

I previously have noted in statements to the Committee that my actions in respect to Mr. Keating *should not be viewed as if they occurred in a vacuum.* I pointed out that my days and my nights are characterized by constant, passionate work on the great issues of our time, like war and peace, the environment and the economy, justice, and equal rights. I cited my many responsibilities during the time these events occurred, including my leadership role in the Senate as Majority Whip: my Chairmanship of the Veterans' Affairs Committee; my membership on several other committees and the Chairmanship of busy and important subcommittees; my very active role in fund-raising for other Senators and causes as well as for my campaigns; and the fact that—along with my Senate colleague from California—I represent many more constituents (30 million) than do any other Senators. Indeed, California's Senators *repressent more constituents* than any other legislator *has ever represented* in any country in the *entire history of legislative bodies.*

Constantly, I am called upon for help by my constituents. Unlike a corporation, I do not have the funds and the capacity to verify the financial status or the moral stature of each constituent who presents a problem to me. I cannot ask Dun and Bradstreet or the FBI to provide me with this information. More than 300,000 constituent requests have been handled by my staff and me in the 22 years I have been in the Senate. I deeply regret that one involving Lincoln savings has created the problem that is before us.

A casual observer of the hearings might well have obtained the false impression that I did little else over several years except deal with regulators regarding Lincoln. This is not the case. *In the almost two year period* between the April 1987 meetings and February 8, 1989, *I had only five contacts* with Federal regulators regarding Lincoln. I had no contacts at all between May 16, 1988, when Mr. Wall requested an appointment with me to discuss legislation, and February, 1989, when the sale of Lincoln came up.

In the period from February 8 through April 14, 1989, I had only five contacts with FHLBB members Wall, Martin and White regarding *three different proposals* to sell Lincoln. All contacts that I initiated were proper status inquiries. I had a legitimate basis for making them. All these contacts related to the interests of many thousands of my constituents whose jobs and financial well-being depended upon the fate of Lincoln.

I by no means responded favorably to every request by Messrs. Keating or Grogan for me to take some official action. I already have cited my refusal to push hard for the approval of a specific sale of Lincoln. Mr. Grogan in his testimony cited several examples of requests for actions that I declined to take. (JG, 12/12/90, p. 113; 12/13/90, pp. 130, 206–7, 215, 306; 12/15/90, pp. 90, 93–4, 96–8).

Besides citing many facts that contradict the causal connection theory concerning charitable donations and my official actions, I have presented a list of inaccuracies and important facts that were omitted in the Committee documents of February 27. In all fairness, these matters should be corrected in the final documents that are issued by the Committee.

A fair question to ask is: To what extent was the Committee influenced by these omissions of important facts, inaccuracies, and unwarranted implications in material put before it while reaching its conclusions announced on February 27, 1991?

I protest allegations of linkage, explicit or implicit, based merely on unsubstantiated and prejudicial inferences instead of demonstrable evidence.

I am convinced that a full and further review of the record, in light of my Submission, can only led to three conclusions:

First, there is no evidence of a causal connection between any solicitation of donation and any official action on my part.

Second, that my conduct was not materially different from that of the other four Senators involved.

Third, that whatever differences there were between that actions of the four Senators and mine they were not differences of *kind.* A fair and impartial consideration of this matter can only lead one to the conclusion that the Committee's treatment of my actions *should not differ in kind* from the treatment it accorded Senators DeConcini, Glenn, McCain and Riegle. I concede that I should have recognized that fund-raising—even for charitable donations—close in time to official actions could lead to an appearance of impropriety. It was a mistake not to have given more thought to appearances.

I concede that I should have constrained more closely the individual who was working for an organization that raised charitable contributions.

I readily concede these errors, but these were errors in judgment, not in intent.

I deeply regret them.

Without any clear and convincing evidence that any official action of mine was causally linked to any donation, however, there is no reason for the Committee to recommend institutional action in my case.

Institutional action would be a tragic event in my 22 year career in the Senate. Such action is not warranted by the events that have clouded the recent past.

I love this body and I have cherished each day I have spent in it serving the people of California.

APPENDIX I—CHARLES KEATING: HIS POLITICAL PHILOSOPHY AND HIS RECORD OF PHILANTHROPIC DONATIONS

The amounts in charitable donations I raised from Mr. Keating should not seem unusual when the Committee considers his general record of giving to and supporting philanthropic causes.

He gave between $1 million and $5 million to Mother Teresa. He donated $2 million and loaned $40 million to Covenant House in New York. He gave $1 million to the Vincent de Paul Society in Arizona. He gave untold millions to anti-pornography campaigns and other causes.

The amounts the other four Senators and I raised from Mr. Keating in political contributions also are not unusual when the Committee takes into account his general pattern of participation in the political process.

He regularly gave and raised thousands of dollars to political campaigns and candidates including $100,000 to George Bush's "Team 100" in 1988.

The Special Counsel asked several times why Mr. Keating, whom he has characterized as an extremely conservative Republican, would contribute to a Democrat such as I and to causes in which I believed.

The Special Counsel cited an invitation to a Democratic fund-raising dinner that I enclosed in a letter to Mr. Keating. (Sp. Coun. Ex. 29). The Special Counsel said he was bewildered at the notion that Mr. Keating would want to pay to go to a dinner sponsored by Pamela Harriman, the well known Democratic fund-raiser, and Governor Dukakis. The fact is that when my invitation arrived, Mr. Keating already had purchased a ticket to the event on his own. (JJ, 7/19/90, pp. 173–4).

Mr. Grogan testified as follows about Mr. Keating's philosophy: "Mr. Keating has a reputation that's not accurate of being a very conservative Republican. While he holds certain conservative Republican views, I would not characterize him as a conservative Republican and he doesn't characterize himself that way. He is much more liberal on a variety of domestic issues." (JG, 12/12/90, p. 88).

It is a matter of record that Mr. Keating has contributed to many Democrats and to many Republicans including Walter Mon-dale's Presidential campaign, the Reagan-Bush campaigns, the Democratic Senatorial Campaign Committee, the Republican National Committee, the Democratic Party of California and the Republican Party of California. F.E.C. reports covering the elections of 1984, 1986, and 1988 show that he contributed to many Democratic and Republican candidates for the Senate and the House.

APPENDIX II—MY SUGGESTED CORRECTIONS TO SEVERAL ADDITIONAL FACTUAL ERRORS IN THE COMMITTEE'S FEBRUARY 27, 1991 STATEMENT AND RESOLUTION

The Committee Statement in the section headed "Recommendation for Bi-Partisan Campaign Reform" declares that over 80% of the funds raised by the five Senators "were not disclosed funds raised . . . under the Federal Election Campaign Act. Rather, such funds were undisclosed, unregulated funds raised for independent expenditures, political party 'soft money,' and a non-federal political action committee." That statement contains two factual assertions that I believe are in error and should be corrected in the Committee's final Report.

First, no funds were raised for "independent expenditures"—funds raised independently of a campaign to help a candidate without the candidate's consent. I did not raise any. I do not believe there is any evidence that any of the other Senators raised any.

Second, I presume the reference to "political party 'soft money'" refers to the donation to the California Democratic Party. That contribution was not "undisclosed" and "unregulated". It was both disclosed and regulated in full accordance with California law.

This section of the Statement also fails to mention the category of funds that comprised most of the funds I raised: charitable donations certified as tax-deductible by the I.R.S. because they were to 501(c)(3) non-partisan organizations. This omission also should be corrected.

I did not raise any funds for a non-federal political action committee. Thus, nothing in this section as written describes my solicitations of charitable donations and related charitable donations from Mr. Keating.

FOOTNOTES

[1] Legal fees I feel obliged to cope with total more than $878,000—over $628,000 for me, and over $250,000 for others involved because of my involvement. This total amount exceeds the aggregate sum of my Senate salary for the past 10 years.

[2] I regret that I have been unable to doublecheck to insure that detail in every citation and footnote contains no error. I am confident, however, that the substance of every reference to which I have referred is accurate.

[3] That is why I have voluntarily made my tax returns public for many years. That is why I established a blind trust during my first term in the Senate. That is why I stopped accepting honoraria.

[4] (AC Exhibit 51E).

[5] William Seidman subsequently said, referring to the Arthur Young and Alan Greenspan letters, "Those two documents, I think, were pretty extraordinary for Senators to receive in terms of convincing them of the possibility that the bureaucracy was out of control. The Senators had a couple pieces of paper that could have raised questions in their minds. You have to say this on behalf of the Senators: they got a letter from a Big 8 accounting firm, the likes of which I think had never been done before in history in which the firm on the stationery said the regulators are harassing the company, treating them unfairly, et cetera." (AC, 4/30/90, p. 105).

[6] Such status inquiry calls are certainly routine for most if not all Senators. (Senate Ethics Committee, 2/27/91, p. 3, para. 1).

[7] Back in the 70's, another large corporation, Lockheed, was facing bankruptcy. Lockheed had invested millions of dollars in my state. The livelihoods of many thousands of my constituents and their families were at risk—as was the case with Lincoln Savings. I devoted far more time and effort and made many more phone calls about Lockheed's plight than I ever did about Lincoln's as I successfully endeavored to obtain a government guaranteed loan for Lockheed.

Lockheed was not a contributor to my campaigns or causes. In fact, Lockheed had contributed to my opponent in the previous election.

[8] Again, such phone calls are certainly routine for all or most Senators. The Supreme Court has noted, "The making of appointments with government agencies is a 'legitimate errand' performed by Members of Congress for constituents." (*Brewster* 408 U.S. at 512). The Supreme Court has also judicially observed that Senators may be more aggressive than any of the five of us were in dealing with the Bank Board: "Senators are constantly in touch with the Executive Branch of the Government and with administrative agencies—they may *cajole* and *exhort* with respect to the administration of a statute." (Gravel v. U.S., 408 U.S. 606, 626, 1972)

[9] It would not have been unusual for Mr. Keating to make an unsolicited donation. The record shows that in 1985, he made an unsolicited $200,000 political contribution to Senator Glenn's Political Action Committee.

[10] In December, 1990, the San Francisco Chronicle falsely accused me of trading favors for cash. When I threatened to sue the Chronicle for libel, the Chronicle published a complete Page One retraction.

[11] Ms. Jacobson's activities should be considered in the context of Senate Rule 41 that permits Senators to appoint up to three members of their staffs who may solicit and receive campaign and political contributions. Ninety-nine Senators had done so as of November, 1990. All 99 Senators appointed key staffers, including 90 Administrative Assistants, who could raise and receive contributions while simultaneously possessing the enormous power to schedule appointments; to draft, amend, advance or delay legislation; and to deal with the Executive Branch and regulatory agencies.

Thus, the Senate has ruled that there is no impropriety and no appearance of impropriety if a Senate staffer who raises funds also schedules and attends meetings where substantive matters are discussed with a constituent-contributor. It seems to me that if there is a question of appearances if a fund-raiser who is not on the Senate staff attends such meetings, there is at least an equal possibility of an appearance question when the roles are commingled.

[12] I must note a separate but relevant matter that was established during the hearings involving Bill White, who had formerly been Senator Glenn's Administrative Assistant. Mr. White subsequently left Senator Glenn's staff and proceeded to serve as Chairman and Treasurer of the John Glenn Committee, Inc. Mr. White received a letter dated June 6, 1984 from Mr. Grogan. The letter began as follows: "Dear Bill: Many thanks for arranging to meet with Bob Kielty regarding the JHG fundraiser in Phoenix. Also many thanks for coordinating with Dan Dougherty, etcetera, regarding the proposed FHLB regulation limiting direct investments by insured institutions." (Sp. Coun. Ex. 33); (Glenn, 1/4/91, pp. 225–6).

In this instance the Committee did not feel it necessary to be critical of Senator Glenn for the fact that his fund-raiser, who was not on his Senate staff, was coordinating in substantive areas.

[13] The testimony of my Banking Committee aide, Ms. Jordan, substantiates Ms. Jacobson's. The Special Counsel asked her if it was the general philosophy of my office that donors could rightfully expect some kind of resolution of the issues that they brought to her. She replied that it was the policy of our office to respond to all inquiries. There was no mechanism for keeping staffers informed of who were contributors, nor any effort to do so in any way. Ms. Jordan certainly made no inquiries about whether somebody was a contributor before she decided how to act on a particular request. Ms. Jordan testified, "It was basically our posture that we resolved everything as far as one way or another, either for or against."

The Special Counsel asked Ms. Jordan how she set priorities, how she decided which complaints got handled first and the depth. She responded, "I've never had that problem. I can't remember having a problem like that where I had to stop doing something for one person to do something for another." (CJ, 6/27/90, pp. 57–8).

[14] I have testified twice as to why I did not walk away from Lincoln's problems—and away from the problems of thousands of my California constituents—when I heard that the regulators attending the April 9 meeting had revealed that earlier on that very same day they had decided to make a criminal referral re Lincoln (without indicating that it was aimed personally at Mr. Keating). (AC, 4/30/90, pp. 180–2; 10/16/90, pp. 26–7). See also testimony of Ms. Rosemary Stewart indicating that there was no evidence of misconduct by high level management of Lincoln. (Rosemary Stewart, 1/2/91, pp. 43–7).

[15] See Appendix III for details on these points.

[16] In one case in 1873 when the Senate investigated whether Senators Harlan and Patterson had been bribed by an offer of Credit Mobilier stock at preferential rates, the Senate also considered whether Senator Harlan's conduct violated ethical standards because of a related campaign contribution. A special Senate committee apparently found that the contribution was made to influence Senator Harlan, but the Committee recommended no disciplinary action because the contribution did "not appear to have influenced his action as a Senator." (pp. 59–60, Senate Legal Counsel Memorandum to Select Committee on Ethics, March 1991).

[U.S. Senate Select Committee on Ethics]

MY WRITTEN RESPONSE TO THE ETHICS COMMITTEE'S NOVEMBER 20, 1991, RESOLUTION FOR COMMITTEE ACTION

(By Senator Alan Cranston, U.S. Senate, Washington, DC, November 20, 1991)

INTRODUCTION TO MY WRITTEN RESPONSE TO THE ETHICS COMMITTEE'S NOVEMBER 20, 1991 RESOLUTION FOR COMMITTEE ACTION (ECR)

The following constitutes my response to the details of the Resolution for Committee Action issued by the Select Committee on Ethics on November 20, 1991. There are several inaccuracies and inconsistencies that occur in this *Resolution (ECR)* that the Ethics Committee has issued.[1]

In my Written Submission of April 22, 1991, (ACS), I already had pointed out most of these inaccuracies and inconsistencies and had supplied the Ethics Committee with the relevant documented facts. Many of these facts are ignored in the Resolution. The following primarily draws upon my Written Submission (ASC) to critique the erroneous material which appears in the Resolution.

ECR 1) a) (ii)

ECR 1) *Contacts with Federal Officials Regarding Lincoln S & L*

a) That the Committee finds that Senator Alan Cranston, personally or through Senate staff, made the following contacts with federal officials regarding Lincoln Savings and Loan (Lincoln), a subsidiary of American Continental Corporation (ACC), a company associated with Mr. Charles H. Keating, Jr.:

(ii) On March 27, 1987, following a discussion with a Lincoln lobbyist, Senator Cranston's banking aide inserted material into the *Congressional Record* relating to "direct investments" by Savings and Loans, an issue of importance to Lincoln and many other Savings and Loan institutions;

This statement is a distortion of the fact regarding a *Congressional Record* statement about an amendment to the Competitive Banking Equality Act of 1987 proposed by Senator Proxmire in the manager's amendments at the last minute which would overrule all state laws on the subject of direct investment. Senator Cranston's banking aide, Carolyn Jordan testified that she discussed the matter with Senator Proxmire's staff person who said the amendment was redundant and that they were going to remove it from the bill. Jordan went to the Senate "record" room after the Senate recessed that night and saw Senator Proxmire's statement regarding the amendment, but was unsure whether the amendment had actually been

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Footnotes at end of article.

removed. Jordan testified that, "we looked at this as a State's rights issue as opposed to a direct investment issue." Jordan testified she was concerned and brought this to the attention of Senator Cranston's A.A., Roy Greenaway. Jordan testified "I did not insert [the statement myself], but I wrote the statement. . . . I gave it to our A.A. [Roy Greenaway] and he had a special assistant to sign it, and they took it to the *Congressional Record* room and that is how it was inserted." (Jordan, 12/11/90, pp. 143–4). She further testified, "It [the statement's insertion] was not done by me personally. The A.A. [Roy Greenaway] and his special assistant signed off on it, because it had to have Alan Cranston's signature on it." (Jordan, 12/11/90, p. 146).

Roy Greenaway, Senator Cranston's A.A., stated that "I am authorized to approve for inclusion in the *Congressional Record* statements which have not been personally reviewed by Senator Cranston. . . . Although I have no specific recollection . . . of approving this particular statement, I have no reason that I did not. Ms. Jordan's description of my actions with respect to this particular *Congressional Record* statement is consistent with my practice and with the office policy described in paragraph 4. . . . I am confident that I would have approved the statement for inclusion in the *Congressional Record*. . . ." (Roy Greenaway Aff., 1/14/91).

There is conflicting testimony concerning the reason for the statement's inclusion. Jordan repeatedly referred to the amendment as overturning the authority of the State of California and stated she did not talk to Grogan or anybody else at Lincoln at that time although she testified that she was aware of Lincoln's position on the issue. (Jordan 12/11/90, pp. 145, 136).

Grogan, however, testified that one of his lobbyists discovered the amendment had been slipped into the bill at the last minute and talked to Jordan about getting that removed and putting in legislative history to neutralize Senator Proxmire's statements. (Grogan, 12/14/90, pp. 146–47). Grogan, however, when confronted with Jordan's testimony stating she had acted on her own said, "I have no information that in any way makes me think that that is not absolutely the truth." (Grogan, 12/14/90, p. 149). When closely questioned, Grogan testified that whatever happened between [the Lincoln lobbyist] and Carolyn Jordan, Grogan [he was not present] and that the lobbyist had simply told him that the mission was accomplished; that they were going to get language to neutralize the Proxmire language. (Grogan, 12/13/90, p. 241).

ECR 1) a) (iii)

(iii) On April 2, 1987, Senator Cranston attended a meeting with FHLBB Chairman Edwin J. Gray and Senators Dennis DeConcini, John Glenn, and John McCain to discuss the ongoing examination of Lincoln.

ECR 1) a) (iii) omits a description of my participation in the April 2, 1987 meeting with FHLBB Chairman Edwin J. Gray and Senators DeConcini, Glenn and McCain to discuss the ongoing examination of Lincoln. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 12–15* states:

"The evidence shows that I played a very minor but proper role in the April 2 meeting. I asked why the audit was taking so long and agreed with Senator Glenn that if Mr. Keating had broken any law he should be prosecuted, but if he hadn't the regulators should get off his back. (AC, 4/30/90, pp. 131, 133); (Gray, 11/27/90, p. 51). The evidence shows that my participation in the April 9 meeting was essentially limited to sticking my head in the door for a minute. (AC, 4/30/90, p. 150); (Sp. Coun. Ex. 193).

"3. *No Causal Connection:* The Committee's findings conclude that each of the five Senators had information that reasonably caused concern about the fairness of the Bank Board's examination of Lincoln and that was sufficient to justify contacting Bank Board personnel. (Committee Statement, 2/27/91, p. 1, para. 4). The Committee found that, without regard to donations or other benefits, no Senator violated any law or Senate rule by attending the April 2 and 9 meetings. (Committee Statement, 2/27/91, p. 1, para. 1).

"The evidence shows that in that point in time all five of us had good reason:

To view Mr. Keating as a highly successful and respected businessman. "All five of us also knew that:

Alan Greenspan, who is now the Chairman of the Federal Reserve, had stated in his opinion that Lincoln was solvent for the foreseeable future. (Sp. Coun. Ex. 159); (AC, 4/30/90, p. 101).

Arthur Young, one of the "Big Eight" accounting firms, had found Lincoln to be in good shape and was very critical of the regulators.[2] (Sp. Coun. Ex. 161); (AC, 4/30/90, pp. 99–100).

"I had several additional reasons to be concerned about the fairness of the Bank Board's examination of Lincoln:

Lincoln was a California-chartered Savings and Loan. Many thousands of its employees and depositors were my constituents. Their jobs and financial security were at risk.

I was aware—as perhaps the other Senators were not—that the Arthur Anderson firm, another of the "Big Eight" accountants, had found Lincoln to be in good shape and had grave questions about the performance of the regulators. (AC, 4/30/90, p. 102).

I previously had engaged in a confrontation with Mr. Gray, the Chairman of the Bank Board, and had the clear impression that he was incompetent. (AC, 4/30/90, pp. 106–9).

Mr. Gray had worked in public relations for a savings and loan institution in San Diego, California, before he was appointed to chair the Bank Board. I knew he had a poor reputation in the San Diego business community. (AC, 4/30/90, p. 107).

I knew that a principal newspaper in California, the Los Angeles Times, had called for Mr. Gray's resignation from the Bank Board after the General Accounting Office found he had misused $27,000 of public funds. (*Id.*; Cranston Ex. 57); (AC, 4/30/90, p. 92).

"Thus the *evidence is overwhelming* that (a) I had many sound and official reasons to participate in the April meetings, where I played a very minor and proper role, and (b) the donation was solicited and received weeks before I knew of the April meetings. The preponderance of the evidence shows that the donation was solicited and received before *anyone* even conceived of the meetings.

"There is no evidence—nor could there be—that I attended the April meetings because of the donation."

ECR 1) a) (v)

(v) In July or August of 1987, Senator Cranston called M. Danny Wall, then Chairman of the FHLBB, concerning Lincoln.

Clarification of this point is necessary. Wall did testify that I called him in July or August of 1987 regarding Lincoln. Wall testified, *however*, that I simply made "the observation that he understood that there was an examination that had been underway for in excess of a year, he understood that to be unusual—which it was; and that he urged the Board to make a decision, not in any way indicating what the Board's decision should be, but that we ought to make a decision and get on with it." (Wall, 12/4/90, 19–20). I do not have any independent recollection of this contact (Taylor Submission, 1/30/91, p. 15).

ECR 1) a) (vi)

(vi) On Nov. 12, 1987, Senator Cranston called Chairman Wall and discussed Lincolns' dispute with the San Francisco FHLB regulators.

The word, "discussed", is a distortion of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 16–17*, states:

"2. *Official Action:* My notes about the call to Mr. Wall establish that it was a status inquiry.[3] I asked if the end of the audit of Lincoln was in sight. Mr. Wall and I also discussed the personality problems between Lincoln and the San Francisco regulators. (Sp. Coun. Ex. 147). Mr. Wall's testimony confirmed this. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.). Mr. Wall also testified that I did not urge him to take any particular course of action. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.).

"Furthermore, there is *no* evidence that I attempted to influence the regulatory actions of Mr. Wall *or any other* regulator at any time. Every regulator who was called as a witness or in an affidavit testified that none of his or her actions were influenced by any action from office or from me. (Wall Affidavit, Sp. Coun. Ex. 428, p. 6, para. 9); (Rosemary Stewart, 1/2/91, pp. 10–11, 196); (Wall, 12/4/90, pp. 104, 116, 181–2, 184, 191); (Martin, 12/3/90, p. 58; Martin Affidavit, Sp. Coun. Ex. 17, para. 11); (Gray, 11/27/90, p. 97); (Patriarca, 11/27/90, p. 147); (Black, 12/6/90, pp. 29–30); (Cranston Ex. 78, Dochow Aff. Attachments A–1 at 19–20 & A–2 at 41).

"3. *No Causal Connection:* It flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for anyone to donate or contribute *anything* to me in order to get me to do *anything*.[4]"

ECR 1) a) (vii)

(vii) On Jan. 20, 1988, Senator Cranston called Chairman Wall and asked him to meet with Charles Keating.

This is a distortion of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 22 states:*

"I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be ncessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I even knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

"3. *No Causal Effect:* Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2/27/91, p. 1, para. 4).[5]"

ECR 1) a) (viii)

(viii) On February 16, 1988, Senator Cranston called Chairman Wall and his notes indicate discussion of Lincoln.

There is evidence to the *contrary* regarding the subject of the call. My handwritten notes indicates a call to Wall on that date. (Cranston Ex. 173). However, in my deposition on April 30, 1990 (pp. 230–31), I replied to Special Counsel Bennett's questions regarding my notes of the 2/16/88 phone call: "I do not believe this call had anything to do with Lincoln or Keating in any way. I'm not positive of that but that is my impression from the notes."

Furthermore, there is no further reference to this call in Wall's affidavit or testimony before the Committee.

ECR 1)a)(ix)

(ix) On April 21, 1988, Senator Cranston called Chairman Wall to obtain a status report on Lincoln;

This is a *distortion* of the facts. Senator Cranston Exhibit 179 consists of my handwritten notes apparently of a phone call made on April 21, 1988 to Wall. Lincoln Savings appears to be one of several matters discussed (item 3). In my deposition on April 30, 1990 (p. 251–4), I translated the notes as follows: "April 21. I had a conversation with Wall on several matters. The notes indicate that it covered four points, only two of which related to Keating." I went on to describe the other items which involved two other institutions unrelated to Lincoln. Item three related to Lincoln and I testified that he presumed he asked Wall what was happening and Wall responded he was trying to resolve it and nothing more was said or I would have made a note. The last item related to a general FSLIC issue (recapitalization etc.) and the notes reflect that Wall had indicated that he had all views on the issue, including Keating's.

ECR 1) a) (x)

(x) On May 6, 1988, after receiving a telephone call from James Grogan, an ACC attorney, Senator Cranston's banking aide talked to FHLBB officials about the FHLBB's proposed supervisory agreement with Lincoln;

The statement is misleading and does not contain all the relevant facts. Cranston Ex. 150 is a memo from Ms. Jordan to me and Roy Greenaway, my A.A., dated May 6, 1988. It states that Ms. Jordan had received a call from Jim Grogan. Grogan told Ms. Jordan that the Board had met and decided to take enforcement action against Lincoln, including a supervisory agreement that triggered required reports to shareholders and the public, which would have an adverse effect on value of stock, etc.

Ms. Jordan's memo goes on to say that she called FHLBB and talked to Jim Boland, a special assistant to Wall and Carl Hoyle, Congressional Affairs, in a 3-way call. The memo indicates Ms. Jordan told them I was very concerned about using the supervisory approach. It describes the situation and discusses upcoming hearings in the Banking Committee on oversight of FSLIC and suggests that this issue could be raised at that time.

I stated that until I received Ms. Jordan's memo I was unaware that Grogan had called her or that Ms. Jordan had called Hoyle and told him that I was concerned about any action they proposed to take. My affidavit further states that I took no action as a result of the memorandum. (Cranston Ex. 82, p. 5). In my deposition, I said I did not recall authorizing Ms. Jordan to make these statements, but that it was consistent with my general views of the situation. (AC, 4/30/90, pp. 256–60).

ECR 1) a) (xi)

(xi) On May 16, 1988, Senator Cranston met with Chairman Wall, and Lincoln was discussed.

This point *distorts* the facts. The "discussion" was in reality a very limited status inquiry.

Initially, I did not recall discussing Lincoln at that meeting. However, after Wall testified that I had asked him when a decision would be made regarding Lincoln, I stated in my January 12, 1991 affidavit that "I recall very little about my meeting with Chairman Wall on May 16, but I believe he is correct in his testimony that when I saw him that month, we talked about a number of matters, and I inquired as to the status of the Lincoln matter. I did not complain about the Board's decision. I did not urge that the Board change or modify its decisions. I did not discuss with Mr. Wall any on going negotiations between the Bank Board and Lincoln." (Cranston Ex. 82, p. 6.).

Wall supported this statement in both his affidavit and testimony. In his affidavit, he stated, "To the best of my recollection, Senator Cranston asked when a decision would be made by the Board regarding Lincoln. The Senator did not suggest a course of action that he thought the Board should take. He repeated that he understood the examination of Lincoln was still pending and he urged that it be concluded." (Wall Aff., p. 13; 12/4/90, p. 56).

ECR 1) a) (xii)

(xii) On February 8 and 9, 1989, Senator Cranston called Chairman Wall and Federal Deposit Insurance Corporation Chairman L. William Seidman concerning the proposed sale of Lincoln and, on February 8, Senator Cranston's banking aide called an FHLBB official about Lincoln;

This statement is a *distortion* of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 27–8* states:

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

"3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured constituents of mine."

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents."

Furthermore, the report fails to clarify the nature of my banking aide's inquiry. Taylor's Post-Hearing Submission of January 30, 1991, (page 16, fn. 11) describes the call as follows: "Ms. Jordan called Mr. Dochow on February 8 to inquire about whether there was a pending application to buy Lincoln. (Cranston Ex. 78, Dochow Aff. 6). It was on this occasion that Ms. Jordan first learned that there was a dispute about whether Lincoln satisfied its net worth requirements (Jordan, 12/11/90, p. 107). Mr. Dochow testified that Ms. Jordan did not urge that the Bank Board take any particular action with respect to the sale and that he viewed Ms. Jordan's call as a proper status inquiry. (Cranston Exhibit 78 (Dochow Aff. 6)."

ECR 1) a) (xiii)

(xiii) In early April 1989, Senator Cranston called all three members of the FHLBB concerning the proposed sale of Lincoln.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 26–28 states:

"2. *Official Action:* I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of my sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

"3. *No. Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constituents of mine.

"For whatever reason, none of the sales materialized. However, the concerns that motivated my calls did occur. The consequences have been catastrophic: a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

"Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a casual connection between a solicitation and an official action."

ECR 1) c)

ECR 1) *Contacts with Federal Officials Regarding Lincoln S & L*

c) The Committee further finds that, when considered in and of themselves and without regard to any contribution or other benefit, none of Senator Cranston's aforementioned activities concerning Lincoln were illegal or improper and violated no law or Senate rule.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 52 states:

"The Resolution fails to make clear that *all* the contacts I had with regulators during this time—and at all other times—were, standing alone, not only proper, as the Committee's Statement of February 27, 1991 acknowledges, but were also de minimis. The established fact is that they were all routine status inquiries, or requests that somebody see somebody, or requests that various proposed sales of Lincoln be carefully considered. The Committee fails to make clear that in *none* of the contacts I made did I ever advocate any particular action. It fails to make clear that I *never* urged the regulators to take or refrain from any particular action.

"Thus the alleged improprieties that the Resolution suggests occurred arise solely because of routine, non-substantive inquiries I made on behalf of constituents that may have been in some way proximate in time to the solicitation or receipt of charitable or related donations."

ECR 2) a) (i)

ECR 2) *Solicitations and Contributions*

a) The Committee finds that, prior to 1987:

(i) Mr. Keating, his associates, and friends contributed a total of $49,000 to Senator Cranston's 1984 Presidential Campaign and his 1986 Senatorial Campaign;

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 40 states:

"Clearly all five Senators had varying degrees of involvement in respect to Lincoln. Mr. Keating and his friends and associates contributed more political contributions to the campaigns and P.A.C.s of each of the other four Senators, who had direct control over these funds, than to mine. The totals:

Glenn	$252,200
McCain	110,000
DeConcini	85,000
Riegle	78,250
Cranston	49,000"

ECR 2) a) (ii)

ECR 2) *Solicitations and Contributions*

a) The Committee finds that, prior to 1987:

(ii) At Senator Cranston's request, Mr. Keating also caused a contribution of $85,000 to be made by ACC to the California Democratic Party get-out-the-vote campaign in the Fall of 1986.

The resolution omits to mention the bipartisan nature of Mr. Keating's donation. I state in my deposition, "Keating did contribute $85,000 to a partisan get-out-the-vote drive conducted in 1986 in California when I was running . . . I would like to point out he also gave $80,000 to the Republican party, for a get-out-the-vote drive which was harmful to me, so that was sort of a net wash." (AC, 4/30/90, p. 40).

ECR 2) a) (iii)

(iii) At the request of Senator Cranston's chief fund raiser, Lincoln also made a $300,000 line of credit available to Senator Cranston's campaign in the fall of 1986 on an expedited basis, although this line of credit was never used.

Senator Cranston's Letter to Senator Heflin, September 12, 1991, Re Response to Bennett/Helms leak, pp. 13–14 states:

"Loans or lines of credit are often taken out on an expedited basis in the closing, crisis moments of campaigns when fears develop that there will be a fatal, last-minute shortage of the cash needed for victory.

"There was no benefit to my campaign, since the line of credit was not used.

"There was *never* any intention that this line of credit was to be for my personal use or benefit, and there is *no* evidence indicating any such intention. At the time, I was totally engaged in the closing stage of a very close election, and obviously had no time or inclination to deal with my personal finances. The Finance Director for my campaign arranged the loan. She testified that the loan was solicited by her to enable the campaign to pay for last-minute media buys, if needed, and that use of funds was to be solely upon her discretion and authority. (Jacobson, deposition H, P. 87-95. Also B.H., P. 214, footnote 850). Mr. Grogan confirmed in his testimony that Ms. Jacobson solicited the loan, that he understood it to be personal to me, but that he did not know whether ultimately that was the case. (J.G., 12/14/90, p. 138–9 & Grogan, Dep. S1, p. 134–135; Also, B.H., p. 214, footnote 850). If there was ever any discussion of making the line of credit to me personally, I was not aware of it, and that would only have been discussed because those willing to consider making loans to be used for campaign purposes prefer to make them to individuals, not to incorporated campaigns where future repayments are likely to be far more difficult to obtain. In any event, the line of credit was set up to my campaign on an arms-length, purely business-like basis, and I was *required* to make my personal property available as surety."

ECR 2) b)

b) The Committee also finds that, beginning in 1987, Senator Cranston solicited contributions from Mr. Keating for several voter registration organizations with which Senator Cranston was affiliated:

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 51 states:

"The Resolution easily could give the erroneous impression to anyone not familiar with the facts that the donations referred to were all of a political nature to some campaign or P.A.C. of mine. It omits any reference to the established and undisputed fact that 85.3% of the money—totaling $725,000—that Mr. Keating donated from early 1987 through April, 1989 was in the form of I.R.S. approved 501(c)(3) tax-deductible charitable donations to organizations that were not under my control and whose use of the money was not under my control. Furthermore, I held no position in any of these organizations, nor did I serve on any of their boards.

"In addition, Mr. Keating donated $125,000 to America Votes, an organization that raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

"The Resolution fails to point that *none* of Mr. Keating's donations which are being questioned during this period was in the form of a political contribution to any campaign of mine. Only $10,000 was to a federal P.A.C. that I organized."

ECR 2) b) (ii)

(ii) the Senator solicited $250,000 for voter registration groups on September 24, 1987, and Keating affiliated companies contributed $225,000 to the Forum Institute (a 501(c)(3) tax-exempt organization) and $25,000 to USA Votes on November 6, 1987;

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 16 & 17 states:

"1. *Donation:* . . . The Resolution fails to make clear that these were *not* political contributions to any campaign of mine or to my P.A.C. I received no direct political benefits from the donations.

"$225,000 was in the form of a charitable donation to Forum Institute, an I.R.S. approved 501(c)(3) tax-deductible organization. Forum distributed funds to non-partisan, 501(c)(3), grass roots organizations that registered voters in approximately 20 states. (Sp. Coun. Ex. 145). I accepted the check on behalf of Forum and turned it over to Forum. I had no control over Forum or how the money was used. The independent officers and directors of Forum had that control. (Harmon Affidavit, Sp. Coun. Ex. 501, para. 13).

"$25,000 was in the form of a contribution to USAVotes (formerly America Votes) to support its efforts to raise charitable donations for I.R.S. approved 501(c)(3) nonpartisan registration groups. (Sp. Coun. Ex. 146).

"The Resolution also fails to mention that the donations were agreed to before October 6, 1987 (Sp. Coun. Ex. 182), more than a month prior to my status inquiry call to Mr. Wall."

ECR 2) b) (iii)

(iii) the Senator discussed the Center for Participation in Democracy (a 501(c)(3) tax-exempt organization) with Mr. Keating on January 8, 1988, and ACC donated $400,000 to the Center for Participation in Democracy and $100,000 to the Forum Institute on February 10, 1988;

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 19–23 states:

"1. *Donation:* The Resolution incorrectly insinuates that (a) in January, 1988, Mr. Keating offered to make an additional charitable donation in connection with his asking me to set up a meeting for him to meet with Mr. Wall; and (b) based on my setting up the meeting, Mr. Keating made charitable donations in February. The Resolution's insinuation is unfair and inaccurate and cannot be substantiated in any way.

"There is *no* clear and convincing evidence that Mr. Keating offered to make an additional donation in January, 1988.

"Mr. Keating did make two charitable donations to voter registration groups on February 10, 1988 in Phoenix. The Resolution omits the fact that these were *two* I.R.S. approved charitable, tax-deductible donations to 501(c)(3) organizations for non-partisan, voter participation efforts. One was to Forum Institute, an organization I've already described. The other was to The Center for Participation in Democracy, that engaged in and supported non-partisan registration drives in several states. *Neither* of these two organizations, nor the use of the money, was under my control.

"Regarding this period, there is considerable testimony about a dinner I attended in January with Messrs. Keating, Grogan, and others. Mr. Grogan testified that he recalls no discussion of fund-raising at the dinner. (JG, 12/14/90, p. 166; 12/13/90, p. 24 & p. 265). My son, Kim Cranston, who was present, testified that he recalls no specific offer of support by Mr. Keating (KC, 6/28/90, p. 15). I testified similarly that (a) I did not solicit any funds at the dinner, (b) that I did not recall the discussion of any specific funds, and (c) Mr. Keating may have indicated in a *vague* way that he would continue to support registration efforts. (AC, 4/30/90, p. 191; 10/16/90, p. 87).

"Mr. Grogan testified that he was not aware of any solicitation that preceded my February 10 visit to Phoenix. (JG, 12/13/90, pp. 261–2).

"My visit to Phoenix had been in the works since at least September of the previous year. (JJ, 12/3/90, pp. 164–6). Messrs. Keating and Grogan had a long standing policy of inviting members of Congress, their staffs, and others to visit Phoenix to see the Lincoln/American Continental Corporation operation first hand. Many Congressmen and staff members have visited his company in Phoenix. Mr. Grogan testified that he had invited me to visit Phoenix several times. (JG, 12/14/90, pp. 169–70; 12/15/90, pp. 119–20). I had wanted to visit to see for myself the type of operation Mr. Keating was running. (AC, 4/30/90, p. 184). This was the first time that my schedule permitted this trip. (JJ, 7/19/90, p. 167); (JG, 12/13/90, p. 17). Ergo, this trip *was totally coincidental* to the Wall/Keating meeting. It *had no connection* with the Wall/Keating meeting.

"It is also equally coincidental that this trip finally occurred at the beginning of a new year, and thus coincided with the timing implicit to Ms. Jacobson's practice of seeking contributions from individuals twice in a given year—early and late. (JJ. 12/2/90, p. 161). Ms. Jacobson, in her capacity as a part-time USAVotes employee, had written me a memo dated February 4, 1988, stating that the main goal concerning Mr. Keating was to receive a charitable donation as soon as possible so that he could be asked for an additional donation in the fall. (Sp. Coun. Ex. 269). She testified that the timing of solicitations of donations was largely driven by her own timetable and that charitable giving is based on an annual cycle. (JJ, 12/3/90, pp. 176, 219).

"By happenstance, this trip to Phoenix was also consistent with my practice of going to visit potential donors—rather than inviting them to visit me—to get help for the registration efforts. (AC, 10/16/90, p. 87); (JJ, 12/3/90, p. 143).

"2. *Official Action:* There is *no evidence* that Mr. Keating committed to make a specific donation in connection with asking me to set up an appointment with Chairman Wall to see him.

"The evidence shows only that Ms. Jacobson sent me a memo dated January 18, 1988 relaying a request to her from Mr. Grogan that I help schedule a meeting between Messrs. Keating and Wall. (Sp. Coun. Ex. 172).

"I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be necessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I even knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

"3. *No Causal Effect:* Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2/27/91, p. 1, para. 4).[6]

"There is no evidence of a causal connection between my January 20, 1988 telephone call and the charitable donations. There is no specific evidence that there was even a solicitation of Mr. Keating or a discussion of any donation prior to the February 10, 1988 trip.[7] In fact, for six months there had been efforts to schedule a trip to Phoenix that finally occurred in February, 1988 and resulted in the receipt of charitable donations. *It is pure coincidence* that the trip finally was scheduled and the donations were received three weeks after my telephone call to Mr. Wall.

"Coincidence in time and unsubstantiated inferences about proper inquiries such as my telephone call and receipt of charitable donations on a trip that had been in the making for many months cannot properly substitute for the lack of clear and convincing evidence of improper linkage, particularly where there is a factual and convincing evidence that Mr. Keating *did not* ask me to set up a meeting in connection with a solicitation of a donation of any type."

ECR 2) B) (iv)

(iv) in early 1989, the Senator or his chief fund raiser discussed an additional voter registration contribution with either Keating or ACC attorney, James Grogan, but no further contributions were made to voter registration organizations.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 24–30 states:

"1. *Donation:* The Resolution fails once again to point out that this was a solicitation of an I.R.S. approved 501(c)(3) charitable tax-deductable donation, the use of which I did not control. It was *not* a solicitation of political contributions for my benefit. The Resolution accurately states that this donation was never made.

"The Resolution's description of [his chief fund raiser], Ms. Jacobson is misleading. In early 1987, she directed the fund-raising staff of the Democratic Senatorial Campaign Committee. At the time in question, early 1989 (and for more than a year before that) she was spending 50% of her time as a consultant to the Democratic Senatorial Campaign Committee; 25% as a consultant to a P.A.C. I founded (Committee for a Democratic Consensus); and 25% as a consultant under contract to USAVotes to raise charitable donations for registration efforts.

"Mr. Rob Stein, the Executive Director of USAVotes, was in charge of its over-all operations. I was one of three co-chairmen of USAVotes. I was not the direct supervisor of Ms. Jacobson in her capacity as a part-time employee of USAVotes, nor was I the direct supervisor of any other USAVotes employees.

"There is conflicting testimony concerning who solicited Lincoln at this time. I have testified that I do not recall discussing a donation with Messrs. Keating, Grogan or anybody during this period. (AC, 10/16/90, p. 68; 5/17/90, p. 299). I do not believe such a discussion ever took place. Mr. Grogan, when asked whether anybody on my staff or I solicited a donation from him or Mr. Keating during this period, testified that Ms. Jacobson, not I, discussed a donation with him. (JG, 12/14/90, pp. 179–80). Ms. Jacobson's recollection was that I solicited Mr. Keating during the period. (JJ, 12/3/90, pp. 167–8).

"I believe the following shows that Ms. Jacobson initiated the solicitation and that she did so without my knowledge.

"A memorandum from Joy Jacobson to me and to Rob Stein, the Executive Director of USAVotes, dated March 1, 1989, written on her home computer, shows that I did not make the solicitation and illustrates the mechanics of how the staff of USAVotes and I worked to solicit charitable donations. (Sp. Coun. Ex. 171). It was Ms. Jacobson's job to come up with the names of people, foundations and organizations which she thought would be potential donors. She would write a memorandum with the potential donors' names, suggestions as to who should contact them, and the amounts to be requested. When I reviewed it, I would look down the list for the names suggested for me. I would systematically try to call most, but not necessarily all, of the names suggested to me. When my part of the list was complete. I would hand it back with my notes about the calls to my secretary. She would report these results back to Ms. Jacobson.

"There are 18 names of potential donors of the March 1, 1989 memo. My handwritten notes or my secretary's notes appear under 12 of those names—only those that were proposed as my assignments.

"It is clear that Ms. Jacobson assigned herself three names on the first page: AFSCME, Dick Darling, and Charlie Keating. After Mr. Keating's name these words are typed in the memo: 'Joy is talking with Jim Grogan, 100,000 whenever it's needed.'

"This evidence corroborates Mr. Grogan's testimony that Ms. Jacobson, not I, made this solicitation. It indicates that her memory was incorrect when she testified that I solicited Mr. Keating. It shows that on the date of the memo, March 1, 1989, she had already discussed a $100,000 donation with Mr. Grogan.

"Ms. Jacobson's solicitation of Mr. Grogan is consistent with her explanation in her testimony 'that the first group you go back to [at the beginning of each year is] your past donors and try to renew them.' (JJ, 12/3/90, p. 161). Her solicitation of Mr. Grogan on her own is further evidenced by Ms. Jacobson's statement that 'the timing of the fundraising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.' (JJ, 12/3/90, p. 176). She also stated that I never suggested to her to time any request for a donation to coincide with anything before the Bank Board or with any other event or events. (JJ, 12/3/90, pp. 175–6).

"2. *Official Action:* The record shows that, working on an entirely different track from Ms. Jacobson, I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp. 327–8); (Wall, 12/4/90, p. 91).

"3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have financially injured countless constituents of mine.

"For whatever reason, none of the sales materialized. However, the concerrns that motivated my calls did occur. The consequences have been catastrophic: a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

"In response to the inference I point to the clear and convincing evidence that (a) I did not solicit a charitable donation, and that (b) I did not know that Ms. Jacobson had made a solicitation until I read her memo of *March 1, 1989*. Once I knew, the knowledge had no effect on my conduct.

"Ms. Jacobson testified that she was not aware that Messrs. Keating or Grogan was talking to me about the sale, nor that I was being asked to do anything about it. (JJ, 7/19/90, p. 179).

"*There is absolutely no evidence* of any causal connection between (a) Ms. Jacobson's solicitation, and (b) my telephone calls in 1989 to regulators regarding possible sales of Lincoln. Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a causal connection between a solicitation and an official action.

"The *fair inference* from the record is that Ms. Jacobson was on one track following up according to her standard practice with one of the few established contributors whom she solicited personally and regularly at the beginning of each year. Meanwhile, I was on another track taking very limited official actions contacting regulators regarding the possible sale of Lincoln—actions for which there was clear and independent constituent related justification. Senator DeConcini made the same type of inquiries for similar reasons.

"I remind the Committee again of Mr. Grogan's response when my attorney asked him the following question: 'Was there any suggestion, either by word or by body language, or by raised eyebrow, that Senator Cranston's interest in Lincoln Savings' problems was tied to Mr. Keating's support of the non-profit voter registration effort?' Mr. Grogan replied, 'Never.' (JG, 12/15/90, p. 132).

"The Special Counsel has cited no evidence that Mr. Keating authorized donations only on condition that I would help him, or because I had helped him. He cited no evidence that I agreed to help only if Mr. Keating contributed.[8]"

ECR 3)

ECR 3) *Linkage between Official Actions and Contributions*

The Committee finds that, in and of themselves, none of the foregoing actions of Senator Cranston violated any law or Senate Rule. The Committee further finds by clear and convincing evidence that, based upon the totality of the circumstances, Senator Cranston engaged in an impermissible pattern of conduct in which fund raising and official activities were substantially linked in connection with Mr. Keating and Lincoln.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 3 & 4 states:

"I will show that there is *no direct evidence* of any such causal link. I will cite clear and convincing evidence that there were other causes—very legitimate causes—for my official actions.

"The Resolution *infers* a causal connection from the proximity in time between the charitable donations and the official actions. Proximity in time is *not* clear and convincing evidence that the charitable donations caused my official actions. The Resolution's *inference* of a causal connection cannot survive dispassionate, reasoned analysis. It cannot be a substitute for clear and convincing evidence. The inference is particularly inappropriate and unfair given that my conduct was *not different in kind*, as I will show, from that of other Senators who have been under inquiry. The Resolution did not draw such adverse inferences against them.

"In retrospect, I can see that the proximity in time between the charitable donations and the official actions could lead to an appearance of impropriety where no impropriety existed. I wish I had foreseen this development—I have always endeavored to avoid appearances or actions that could reflect adversely upon the Senate or myself.[9]

"I acknowledge and I accept the consequences of an appearance of impropriety due to proximity of time.

"However, since timing and appearances did not warrant institutional action in the cases of the other Senators, it should not in my case.

"The Senate has never set standards *of any kind* governing the timing of contributions of any kind in relationship to legitimate constituent services. I fully recognize that if a Senator engages in conduct that is inimical to generally accepted and understood standards and values, the Senate has an obligation to find that Senator guilty of improper behavior, although his conduct does not violate a specific law or Senate Rule. There is no evidence that I engaged in any improper conduct.

"Without clear and convincing evidence of actual impropriety, there is no justification for subjecting me to disciplinary action. There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate has *never* determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful donation to the Senator's campaign or to a charity the Senator supports. To do so now would be contrary to the principles of the Senate and a violation of traditional concepts of fair play by proceeding in an *ex post facto* fashion.

"In every case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. Neither any member of my family nor I received any compensation or personally benefitted in any way from these charitable contributions. I had no financial interest in Lincoln Savings, its parent, or affiliates. I received no income from it."

ECR 3) a) (1)

ECR 3) *Linkage between Official Actions and Contributions*

The Committee finds that, in and of themselves, none of the foregoing actions of Senator Cranston violated any law or Senate Rule. The Committee further finds by clear and convincing evidence that, based upon the totality of the circumstances, Senator Cranston engaged in an impermissible pattern of conduct in which fund raising and official activities were substantially linked in connection with Mr. Keating and Lincoln.

a) From early 1987 through April 1989, Senator Cranston personally or through Senate staff contacted the FHLBB on behalf of Lincoln during a period when he was soliciting and accepting substantial contributions from Mr. Keating or his affiliates, to wit:

(i) As a result of a solicitation from Senator Cranston in early 1987, Mr. Keating contributed $100,000 to America Votes on March 3, 1987 near the time when Senator Cranston participated in the April 2 and April 9, 1987 meetings with FHLBB Chairman Edwin J. Gray and the San Francisco regulators.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 11–15 states:

"1. *Donation:* The Resolution accurately notes that a donation was made on March 3, 1987, to America Votes, (Sp. Coun. Ex. 159). America Votes (later known as USAVotes) raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, non-partisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

"2. *Official Action:* The Resolution is inaccurate and very misleading in stating that this donation was made during the period leading to my participation in the April 2 and April 9 meetings.

"The evidence is undisputed that the donation was discussed, solicited and committed on or before *February 24, 1987*. (Stein Affidavit, Sp. Coun. Ex., 458, para. 14); (AC, 4/30/90, p. 119). The donation check was dated *March 3, 1987*. (Sp. Coun. Ex. 159). The evidence shows that I knew nothing about the proposed meetings before the *second half of March*, and perhaps not until the *last week* in March. (JG, 12/15/90, p. 88); (AC 4/30/90, p. 119). Furthermore, the preponderance of evidence shows that the meetings first were conceived *after* the donation was solicited and received. (Gray, 2/23/90, p. 15; 11/29/90, p. 64); (Grogan 12/12/90, pp. 56–58, 208); (Riegle, 1/7/91, pp. 29–32, 46–9, 51–55, 101–2, 163); (DeConcini, 1/9/91, pp. 45–6, 49, 51–2, 60–63, 199–200, 203, 209); (McCain, 1/4/91, pp. 27–21, 26, 111, 163–4); (Glenn, 1/4/91, pp. 240–47, 193).

"The evidence shows that the April 2 meeting date was not set until a few days prior to the event. (Gray, 2/23/90, p. 15). The evidence shows that the second meeting on April 9 grew out of the April 2 meeting. The evidence shows that I played a very minor but proper role in the April 2 meeting. I asked why the audit was taking so long and agreed with Senator Glenn that if Mr. Keating had broken any law he should be prosecuted, but if he hadn't the regulators should get off his back. (AC, 4/30/90, pp. 131, 133); (Gray, 11/27/90. p. 51). The evidence shows that my participation in the April 9 meeting was essentially limited to sticking my head in the door for a minute. (AC, 4/30/90, p. 150); (Sp. Coun. Ex. 193).

"3. *No Causal Connection:* The Committee's findings conclude that each of the five Senators had information that reasonably caused concern about the fairness of the Bank Board's examination of Lincoln and that was sufficient to justify contacting Bank Board personnel. (Committee Statement, 2/27/91, p. 1, para. 4). The Committee found that, without regard to donations or other benefits, no Senator violated any law or Senate rule by attending the April 2 and 9 meetings. (Committee Statement, 2/27/91, p. 1, para. 1).

"The evidence shows that in that point in time all five of us had good reason:

To view Mr. Keating as a highly successful and respected businessman.

"All five of us also knew that:

Alan Greenspan, who is now the Chairman of the Federal Reserve, had stated in his opinion that Lincoln was solvent for the foreseeable future. (Sp. Coun. Ex. 159); (AC, 4/30/90, p. 101).

Arthur Young, one of the "Big Eight" accounting firms, had found Lincoln to be in good shape and was very critical of the regulators.[10] (Sp. Coun. Ex. 161); (AC, 4/30/90, pp. 99–100).

"I had several additional reasons to be concerned about the fairness of the Bank Board's examination of Lincoln:

Lincoln was a California-chartered Savings and Loan. Many thousands of its employees and depositors were my constituents. Their jobs and financial security were at risk.

I was aware—as perhaps the other Senators were not—that the Arthur Anderson firm, another of the "Big Eight" accountants, had found Lincoln to be in good shape and had grave questions about the performance of the regulators. (AC, 4/30/90, p. 102).

I previously had engaged in a confrontation with Mr. Gray, the Chairman of the Bank Board, and had the clear impression that he was incompetent. (AC, 4/30/90, pp. 106–9).

Mr. Gray had worked in public relations for a savings and loan institution in San Diego, California, before he was appointed to chair the Bank Board. I knew he had a poor reputation in the San Diego business community. (AC, 4/30/90, p. 107).

I knew that a principal newspaper in California, the Los Angeles Times, had called for Mr. Gray's resignation from the Bank Board after the General Accounting office found he had misused $27,000 of public funds. (*Id.*; Cranston Ex. 57); (AC, 4/30/90, p. 92).

"Thus the *evidence is overwhelming* that (a) I had many sound and official reasons to participate in the April meetings, where I played a very minor and proper role, and (b) the donation was solicited and received weeks before I knew of the April meetings. The preponderance of the evidence shows that the donation was solicited and received before *anyone* even conceived of the meetings.

"There is no evidence—nor could there be—that I attended the April meetings because of the donation."

ECR 3) a) (ii)

(ii) Before October 6, 1987, Senator Cranston solicited and received a commitment from Mr. Keating for contributions in the amount of $250,000 for two voter registration groups, which were delivered to the Senator personally by Mr. Keating's employee James Grogan on November 6, 1987. When the contributions were delivered, Mr. Grogan and Senator Cranston called Mr. Keating, who asked if the Senator would contact new FHLBB Chairman M. Danny Wall about Lincoln. Senator Cranston agreed to do so, and made the call six days later.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 16–19 states:

"1. *Donation:* The Resolution omits any description of the donations, and fails to make clear that these were *not* political contributions to any campaign of mine or to my P.A.C. I received no direct political benefits from the donations.

"$225,000 was in the form of a charitable donation to Forum Institute, an I.R.S. approved 501(c)(3) tax-deductible organization. Forum distributed funds to non-partisan, 501(c)(3), grass roots organizations that registered voters in approximately 20 states. (Sp. Coun. Ex. 145). I accepted the check on behalf of Forum and turned it over to Forum. I had no control over Forum or how the money was used. The independent officers and directors of Forum had that control. (Harmon Aff., Sp. Coun. Ex. 501, para. 13).

"$25,000 was in the form of a contribution to USAVotes (formerly American Votes) to support its efforts to raise charitable donations for I.R.S. approved 501(c)(3) non-partisan registration groups. (Sp. Coun. Ex. 146).

"The Resolution also fails to mention that the donations were agreed to before October 6, 1987 (Sp. Coun. Ex. 182), more than a month prior to my status inquiry call to Mr. Wall.

"2. *Official Action:* My notes about the call to Mr. Wall establish that it was a status inquiry.[11] I asked if the end of the audit of Lincoln was in sight. Mr. Wall and I also discussed the personality problems between Lincoln and the San Francisco regulators. (Sp. Coun. Ex. 147). Mr. Wall's testimony confirmed this. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.). Mr. Wall also testified that I did not urge him to take any particular course of action. (Wall Affidavit, Sp. Coun. Ex. 428, p. 12, para. 10 h.).

"Furthermore, there is *no* evidence that I attempted to influence the regulatory actions of Mr. Wall *or any other* regulator at any time. Every regulator who was called as a witness or in an affidavit testified that none of his or her actions were influenced by any contact from my office or from me. (Wall Affidavit, Sp. Coun. Ex. 428, p. 6, para. 9); (Rosemary Stewart, 1/2/91, pp. 10–11, 196); (Wall, 12/4/90, pp. 104, 116, 181–2, 184, 191); (Martin, 12/3/90, p. 58; Martin Affidavit, Sp. Coun. Ex. 17, para. 11); (Gray, 11/27/90, p. 97); (Patriarca, 11/27/90, p. 147); (Black, 12/6/90, pp. 29–30); (Cranston Ex. 78, Dochow Aff. Attachments A–1 at 19–20 & A–2 at 41).

"3. *No Causal Connection:* It flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for anyone to donate or contribute *anything* to me in order to get me to do *anything*.[12]

"The routine status call that I made to Mr. Wall on November 12 was not motivated by the personal concerns of Mr. Keating. The jobs and financial security of thousands of my California constituents were at stake. I made the call for the same reason that I attended the April 2, 1987 meeting—because I believed it was necessary and proper that I do so on behalf of my many constituents who had stakes in Lincoln.

"The Resolution is incorrect in concluding that Mr. Keating asked me to contact Mr. Wall when I was on the phone with him in Mr. Grogan's presence. At best, there is conflicting testimony on this point. (AC, 4/30/90, pp. 188 & 190); (JG, 12/14/90, p. 162). I do not recall a request from Mr. Keating on November 6 that I call Mr. Wall. *Nor* do I recall that my November 12 call to Mr. Wall was the result of a request from Messrs. Keating or Grogan.

"The Resolution implies that there was a causal connection between the receipt of the donations and my decision to call Mr. Wall on November 12. There is *no* evidence to support such a conclusion.

"Furthermore, Mr. Grogan testified that there was never 'any suggestion, either by word or by body language, or by a raised eyebrow' that my interest in Lincoln's problems was tied to Mr. Keating's support of nonprofit voter registration efforts. (JG, 12/15/90, p. 132). Mr. Grogan also testified, "There was never an occasion where Mr. Keating asked Senator Cranston to do something and Senator Cranston said, 'only if you raise funds for me.' There was never an occasion where Mr. Keating said, 'If you do this for me, I will raise X amount of dollars for you.'" He testified that there was never 'even the suggestion' that fund-raising and official actions were connected in any way. (JG, 12/12/90, pp. 185–8). I repeatedly have testified that there was no connection between Mr. Keating's donations and my decisions to contact the regulators regarding Lincoln. (AC, 4/30/90, p. 95)."

ECR 3) a) (iii)

(iii) In January 1988, Mr. Keating offered to make an additional contribution to voter registration groups affiliated with Senator Cranston and asked Senator Cranston to set up a meeting for him with Chairman Wall. Senator Cranston did so on January 20, 1988. On February 10, 1988 Senator Cranston received checks totaling $500,000 for voter registration groups.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 19–23 states:

"1. *Donation:* The Resolution incorrectly insinuates that (a) in January, 1988, Mr. Keating offered to make an additional charitable donation in connection with his asking me to set up a meeting for him to meet with Mr. Wall; and (b) based on my setting up the meeting, Mr. Keating made charitable donations in February. The Resolution's insinuation is unfair and inaccurate and cannot be substantiated in any way.

"There is *no* clear and convincing evidence that Mr. Keating offered to make an additional donation in January, 1988.

"Mr. Keating did make two charitable donations to voter registration groups on February 10, 1988 in Phoenix. The Resolution omits the fact that these were two I.R.S. approved charitable, tax-deductible donations to 501(c)(3) organizations for non-partisan, voter participation efforts. One was to Forum Institute, an organization I've already described. The other was to The Center for Participation in Democracy, that engaged in and supported non-partisan registration drives in several states. *Neither* of these two organizations, nor the use of the money, was under my control.

"Regarding this period, there is considerable testimony about a dinner I attended in January with Messrs. Keating, Grogan, and others. Mr. Grogan testified that he recalls no discussion of fund-raising at the dinner. (JG, 12/14/90, p. 166; 12/13/90, p. 24 & p. 265). My son, Kim Cranston, who was present, testified that he recalls no specific offer of support by Mr. Keating. (KC, 6/28/90, p. 15). I testified similarly that (a) I did not solicit any funds at the dinner, (b) that I did not recall the discussion of any specific funds, and (c) that Mr. Keating may have indicated in a *vague* way that he would continue to support registration efforts. (AC, 4/30/90, p. 191; 10/16/90, p. 87).

"Mr. Grogan testified that he was not aware of any solicitation that preceded my February 10 visit to Phoenix. (JG, 12/13/90, pp. 261–2).

"My visit to Phoenix had been in the works since at least September of the previous year. (JJ, 12/3/90, pp. 164–6). Messrs. Keating and Grogan had a long standing policy of inviting members of Congress, their staffs, and others to visit Phoenix to see the Lincoln/American Continental Corporation operation first hand. Many Congressmen and staff members have visited his company in Phoenix. Mr. Grogan testified that he had invited me to visit Phoenix several times. (JG, 12/14/90, pp. 169–70; 12/15/90, pp. 199–20). I had wanted to visit to see for myself the type of operation Mr. Keating was running. (AC, 4/30/90, p. 184). This was the first time that my schedule permitted this trip. (JJ, 7/19/90, p. 167); (JG, 12/13/90, p. 17). Ergo, this trip *was totally coincidental* to the Wall/Keating meeting. It *had no connection* with the Wall/Keating meeting.

"It is also equally coincidental that this trip finally occurred at the beginning of a new year, and thus coincided with the timing implicit to Ms. Jacobson's practice of seeking contributions from individuals twice in a given year—early and late. (JJ. 12/2/90, p. 161). Ms. Jacobson, in her capacity as a part-time USAVotes employee, had written me a memo dated February 4, 1988, stating that the main goal concerning Mr. Keating was to receive a charitable donation as soon as possible so that he could be asked for an additional donation in the fall. (Sp. Coun. Ex. 269). She testified that the timing of solicitations of donations was largely driven by her own timetable and that charitable giving is based on an annual cycle. (JJ, 12/3/90, pp. 176, 219).

"By happenstance, this trip to Phoenix was also consistent with my practice of going to visit potential donors—rather than inviting them to visit me—to get help for the registration efforts. (AC, 10/16/90, p. 87); (JJ, 12/3/90, p. 143).

"2. *Official Action:* There is *no evidence* that Mr. Keating committed to make a specific donation in connection with asking me to set up an appointment with Chairman Wall to see him.

"The evidence shows only that Ms. Jacobson sent me a memo dated January 18, 1988 relying a request to her from Mr. Grogan that I help schedule a meeting between Messrs. Keating and Wall. (Sp. Coun. Ex. 172).

"I have testified that I called Mr. Wall on January 20, 1988 and asked him if he would be willing to see Mr. Keating. Mr. Wall responded to me that he was willing to meet with Mr. Keating but it might not be necessary because he thought the problem between Mr. Keating and the Bank Board was being worked out. During my conversation with Mr. Wall, no commitment was made to meet, nor was a firm meeting date arranged. (AC, 4/30/90, p. 249). Mr. Wall testified that he was not sure if I had asked him to meet with Mr. Keating. (Wall Test., 12/4/90, pp. 33 & 131). There is *no evidence that I ever knew about the meeting* that did occur on January 28, 1988. I did not set it up. The arrangements must have been made by Messrs. Keating and Wall or their assistants.

"3. *No Causal Effect:* Once again, it flies in the face of logic and my personal history to suggest that a reasonable person would deem it necessary for *anyone* to make *any* donation in order to induce me to do *anything* or to *reward* me for doing it. I made the call to Mr. Wall regarding a major California business in view of apparent regulatory excesses that were amounting to harassment. The Committee has stated: (a) Senators should and do provide such constituent services; and (b) that there were sufficient reasons to contact the Bank Board regarding Lincoln. (Senate Ethics Committee Statement, 2///27/91, p. 1, para. 4).[13]

"There is no evidence of a causal connection between my January 20, 1088 telephone call and the charitable donations. There is no specific evidence that there was even a solicitation of Mr. Keating or a discussion of any donation prior to the February 10, 1988 trip.[14] In fact, for six months there had been efforts to schedule a trip to Phoenix that finally occurred in February, 1988 and resulted in the receipt of charitable donations. *It is pure coincidence* that the trip finally was scheduled and the donations were received three weeks after my telephone call to Mr. Wall.

"Coincidence in time and unsubstantiated inferences about proper inquiries such as my telephone call and receipt of charitable donations on a trip that had been in the making for many months cannot properly substitute for the lack of clear and convincing evidence of improper linkage, particularly where there is factual and convincing evidence that Mr. Keating *did not* ask me to set up a meeting in connection with a solicitation of a donation of any type."

ECR 3) a) (iv)

(iv) In early 1989, at the time that Senator Cranston was contacting Bank Board officials about the sale of Lincoln, either he or his chief fund raiser discussed another contribution from Keating or his associates. However, no further contribution was even made.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 24–29 states:

"(iv) 1. *Donation:* The Resolution fails once again to point out that this was a solicitation of an I.R.S. approved 501(c)(3) charitable tax-deductible donation, the use of which I did not control. It was *not* a solicitation of political contributions for my benefit. The Resolution accurately states that this donation was never made.

"The Resolution's description of [my "chief fund raiser"] Ms. Jacobson is misleading. In early 1987, she directed the fund-raising staff of the Democratic Senatorial Campaign Committee. At the time in question, early 1989 (and for more than a year before that) she was spending 50% of her time as a consultant to the Democratic Senatorial Campaign Committee; 25% as a consultant to a P.A.C. I founded (Committee for a Democratic Consensus); and 25% as a consultant under contract to USAVotes to raise charitable donations for registration efforts.

"Mr. Rob Stein, the Executive Director of USAVotes, was in charge of its over-all operations. I was one of three co-chairmen of USAVotes. I was not the direct supervisor of Ms. Jacobson in her capacity as a part-time employee of USAVotes, nor was I the direct supervisor of any other USAVotes employees.

"There is conflicting testimony concerning who solicited Lincoln at this time. I have testified that I do not recall discussing a donation with Messrs. Keating, Grogan or anybody during this period. (AC, 10/16/90, p. 68; 5/17/90, p. 299). I do not believe such a discussion ever took place. Mr. Grogan, when asked whether anybody on my staff or I solicited a donation from him or Mr. Keating during this period, testified that Ms. Jacobson, not I, discussed a donation with him. (JG, 12/14/90, pp. 179–80). Ms. Jacobson's recollection was that I solicited Mr. Keating during the period. (JJ, 12/3/90, pp. 167–8).

"I believe the following shows that Ms. Jacobson initiated the solicitation and that she did so without my knowledge.

"A memorandum from Joy Jacobson to me and to Rob Stein, the Executive Director of USAVotes, dated March 1, 1989, written on her home computer, shows that I did not make the solicitation and illustrates the mechanics of how the staff of USAVotes and I worked to solicit charitable donations. (Sp. Coun. Ex. 171). It was Ms. Jacobson's job to come up with the names of people, foundations and organizations which she thought would be potential donors. She would write a memorandum with the potential donors' names, suggestions as to who should contact them, and the amounts to be requested. When I reviewed it, I would look down the list for the names suggested for me. I would systematically try to call most, but not necessarily all, of the names suggested to me. When my part of the list was complete, I would hand it back with my notes about the calls to my secretary. She would report these results back to Ms. Jacobson.

"There are 18 names of potential donors on the March 1, 1989 memo. My handwritten notes or my secretary's notes appear under 12 of those names—only those that were proposed as my assignments.

"It is clear that Ms. Jacobson assigned herself three names on the first page: AFSCME, Dick Darling, and Charlie Keating. After Mr. Keating's name these words are typed in the memo: 'Joy is talking with Jim Grogan. 100,000 wherever it's needed.'

"This evidence corroborates Mr. Grogan's testimony that Ms. Jacobson, not I, made solicitation. It indicates that her memory was incorrect when she testified that I solicited Mr. Keating. It shows that on the date of the memo, March 1, 1989, she had already discussed a $100,000 donation with Mr. Grogan.

"Ms. Jacobson's solicitation of Mr. Grogan is consistent with her explanation in her testimony 'that the first group you go back to [at the beginning of each year is] your past donors and try to renew them.' (JJ, 12/3/90, p. 161). Her solicitation of Mr. Grogan on her own is further evidenced by Ms. Jacobson's statement that 'the timing of the fund-raising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.' (JJ, 12/3/90, p. 176). She also stated that I never suggested to her to time any request for a donation to coincide with anything before the Bank Board or with any other event or events. (JJ, 12/3/90, pp. 175–6).

"2. *Official Action:* The record shows that, working on an entirely different track from Ms. Jacobson, I called Chairman Wall and Bank Board Members Roger Martin and Larry White between February and April 1989 for the sole and limited purpose of urging that careful consideration be given to three different proposed sales of Lincoln.

"Both Mr. Wall and Mr. Martin testified that in none of my calls did I urge final approval of any sale, and that there was nothing improper about the nature of my calls. (Sp. Coun. Ex. 428, Wall Affidavit, para. 10h, 12); (Sp. Coun. Ex. 17, Martin Affidavit, para. 11). The Resolution fails to describe the very limited and non-advocacy nature of my calls. It also fails to note that when Messrs. Keating or Grogan asked me to push hard for the approval of a specific sale of Lincoln, I refused to do so. (AC, 5/7/90, pp.327-8); (Wall, 12/4/90, p.91).

"3. *No Causal Connection:* It is again absurd to suggest that a donation of *any* sort would be necessary to motivate me to help my California constituents. There is no evidence that I contacted the Bank Board regarding the potential sale of Lincoln because of any donation. I made the calls because a proper sale would resolve a situation that otherwise could have led to a financial catastrophe in my state, California, that would have been financially injured countless constituents of mine.

"For whatever reason, none of the sales materialized. However, the concerns that motivated my calls did occur. The consequences have been catastrophic; a cost to taxpayers presently estimated by the Resolution Trust Corporation to be $2.6 billion; tragic losses of the life savings of 23,000 Californians, mostly elderly and infirm, who bought approximately $200 million in now worthless debentures at Lincoln; and the loss of many jobs in California. The Committee correctly found that my contacts with regulators and those of the other four Senators were not the cause of the eventual failure of Lincoln or the thrift industry in general. (Committee Statement, 2/27/91, p. 1, para. 5).

"The Resolution ignores my true motivation for making the telephone calls between February and April, 1989, instead favoring the *inference* that the calls were motivated by a possible charitable donation that was never made. This inference ignores my legitimate motivation: to prevent financial damage to many of my constituents.

"In response to the inference I point to the clear and convincing evidence that (a) I did not solicit a charitable donation, and that (b) I did not know that Ms. Jacobson had made a solicitation until I read her memo of *March 1, 1989*. Once I knew, the knowledge had no effect on my conduct.

"Ms. Jacobson testified that she was not aware that Messrs. Keating or Grogan was talking to me about the sale, nor that I was being asked to do anything about it. (JJ, 7/19/90, p. 179).

"*There is absolutely no evidence* of any causal connection between (a) Ms. Jacobson's solicitation, and (b) my telephone calls in 1989 to regulators regarding possible sales of Lincoln. Here, again, unsubstantiated inferences based solely on mere coincidence of time *cannot be a substitute* for evidence of a causal connection between a solicitation and an official action.

"The *fair inference* from the record is that Ms. Jacobson was on one track following up according to her standard practice with one of the few established contributors whom she solicited personally and regularly at the beginning of each year. Meanwhile, I was on another track taking very limited official actions contacting regulators regarding the possible sale of Lincoln—actions for which there was clear and independent constituent related justification. Senator DeConcini made the same type of inquiries for similar reasons.

"The foregoing analysis of each of the four 'occasions' cited in the Resolution demonstrates that there is absolutely no evidence of a causal relationship between any of Mr. Keating's donations and any of my actions, and that there is overwhelming evidence to the contrary.

"I remind the Committee again of Mr. Grogan's response when my attorney asked him the following question: 'Was there any suggestion, either by word or by body language, or by raised eyebrow, that Senator Cranston's interest in Lincoln Savings' problems was tied to Mr. Keating's support of the non-profit voter registration efforts?' Mr. Grogan replied, 'Never.' (JG, 12/15/90, p. 132).

"The Special Counsel has cited no evidence that Mr. Keating authorized donations only on condition that I would help him, or because I had helped him. He cited no evidence that I agreed to help only if Mr. Keating contributed.[15]"

ECR 3) b) (i)

b) Senator Cranston's Senate office practices further evidenced an impermissible pattern of conduct in which fund raising and official activities were substantially linked, in that, with his knowledge, permission, at his direction, or under his supervision, Senator Cranston's fund raiser (who was not a Senate employee):

(i) Senator Cranston's fund-raiser assisted in scheduling and attended meetings in the Senator's Senate office between the Senator and contributors about legislative or regulatory issues.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 31–32 states:

"Mr. Grogan met Ms. Jacobson in 1984. (JG, 12/12/90, pp. 71–73); (JJ, 12/3/90, p. 91; 7/19/90, p.37). He testified that he would call her to schedule appointments until he became acquainted with members of my Senate staff and began to turn to them to arrange appointments. (JG, 12/12/90, p. 93).

"Ms. Jacobson testified that after March, 1987, the only meetings which she was involved in arranging were for fund-raising or social purposes, not substantive purposes. (JJ. 12/3/90. p 96). She testified that she didn't know about the April 2 and April 9 meetings until long after they occured. (JJ, 12/3/90, p. 130). She testified that she arranged *no* substantive meetings during the entire two year period from April, 1987, to April, 1989, during which the other three 'occasions' occurred that raise questions of causal connections. [Referred to in Paragraph (a) 1 of the Resolution].

"The Resolution inaccurately states that Ms. Jacobson scheduled meetings for me. The evidence shows that she had to go through my Secretary or my Administrative Assistant to place appointments on my schedule.[16] (JJ, 7/17/90, p. 76).

"Ms. Jacobson's testimony differs from mine about why she attended such meetings. I have testified that Ms. Jacobson suggested to me that it would be helpful for her to be present so she would know what was going on. (AC, 4/30/90, p. 24). She testified that she was there to make sure that the charitable donor felt at home in my hectic and crowded office before I arrived or if I were called away on Senate business. (JJ, 12/3/90, pp.86–90).

"Ms. Jacobson has testified, and I confirm, that she never participated in substantive discussions in any meetings, (JJ, 12/3/90, p. 86). Moreover, Ms. Jacobson testified that she often paid no attention to the substantive discussion: 'While a substantive discussion was going on, I often would get up and go make phone calls outside of the office. There's round table that I often worked at in Senator Cranston's Whip office. While a substantive meeting was going on in another section of the same room, I would be off doing something else.' (JJ, 12/3/90, p. 90).

"To the best of my knowledge, Ms. Jacobson never attempted to influence an official action in any way. Neither anyone on my staff not I made a decision to substance based on any actions by Ms. Jacobson.

ECR (3)(b)(ii)

(ii) Senator Cranston's fund-raiser served as an intermediary for Mr. Keating or Mr. Grogan when they could not reach the Senator or his banking aide.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), p. 33 states:

"The Resolution's use of the word 'intermediary' is misleading and unfair. The record shows, as I have just indicated, that Ms. Jacobson did not engage in any substantive negotiations or take any substantive actions. She testified that she simply passed messages along occasionally when Mr. Grogan was unable to reach me or members of my Senate staff. (JJ, 12/3/90, p. 156). Ms. Jacobson testified, 'It was Jim Grogan's nature to just keep dialing until he got somebody. Again, it usually had to do with something that was going to happen and he needed to get a hold of somebody, whether it was Roy [Greenaway] or Alan [Cranston] or Carolyn [Jordan], and I would say, I'll pass it along.' (JJ, 7/19/90, p. 168).[17] Ms. Jacobson also testified, '. . . At the beginning they always did call me. My understanding is that later on they often didn't call me, that they called Roy Greenaway [my Administrative Assistant] or they call Mary Lou [McNeely, my Secretary] directly or they just showed up at the office.'" (JJ, 7/19/90, p. 164).

ECR (3)(b)(iii)

(iii) evidenced, through written memoranda addressed to Senator Cranston, an incorrect understanding that contributors may be entitled to special attention and special *access* to official services. The incorrect understanding was never corrected by the Senator.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 34–37 states:

"The Special Counsel focused on one memo dated January 7, 1987. (Sp. Coun. Ex. 154). It was written prior to *all* the specific donations referred to in the Committee's Resolution.

"Ms. Jacobson did *not* state—as the Resolution indicates—that the individuals she mentioned in her January 7 memo were 'entitled to special attention and special access to official services.' She said the individuals expected 'some kind of resolution' of pending matters. That is exactly what every constituent, whether a contributor or not, rightfully expects from their Senator. That is exactly what every constituent of mine gets, whether he is a contributor or not, to the best of my ability and my staff's ability. Note that Ms. Jacobson did not state that these individuals could rightfully expect a favorable resolution. She said they would expect 'some kind' of resolution.

"She explained the meaning of intent of this memo in her testimony. She testified that the individuals she mentioned, like all constituents, were entitled to a response from me as to what, if anything, I was going to do about their problems—not necessarily a positive response or resolution—but *some* response or resolution. (JJ, 7/19/90, p. 99–101; 12/3/90, pp. 204–5). They may not like the response, but they like all constituents are at least entitled to be heard and to be given a decision. That is all Ms. Jacobson advocated and that is all I ever tried to provide.

"Furthermore, Ms. Jacobson testified that several individuals mentioned in her January 7 memo, including Mr. Keating, did not get the results they wanted. (JJ, 12/3/90, pp.

205–6). I understand how someone with 20/20 hindsight might question the implication of Ms. Jacobson's words, but my deeds followed the *words*, not the *implications*.

"Improper inferences drawn from a memo written by someone else, not by me, *must not be accepted as a substitute* for clear and convincing evidence of causal connections between my official actions and donations.

"The only other memos I am aware of from Ms. Jacobson simply passed on information or contained updates on charitable donations.

"Moreover, and in fundamental fairness to Ms. Jacobson, I believe that the Resolution *unfairly implies* that she lacked understanding of proper policy regarding donations and official actions. Ms. Jacobson testified that she knew there could not and must not be a quid pro quo between official actions and donations, and that my absolute firm office practice was to have nothing to do with any potential donor who sought to link a donation to official action. (JJ, 12/3/90, pp. 223–4, 239–40).

"Specifically, in relation to Lincoln, Ms. Jacobson testified that neither Messrs. Keating, Grogan nor I ever indicated that *any* donations were made with any understanding that I would do *anything* in return (JJ. 12/3/90, pp. 175–6):

Q. Did Mr. Grogan ever tell you that the contributions were made with the understanding that Senator Cranston would do anything in return?

A. Absolutely not.

Q. Did anyone whom you knew to be associated with Lincoln Savings or American Continental ever tell you that any of the contributions were made with the understanding that Senator Cranston would do something in return?

A. No.

Q. Did Senator Cranston ever say to you that he thought that the contributions which you have discussed were made with an expectation that he would act in any way on behalf of Mr. Keating, or Lincoln or American Continental?

A. No.

Q. To your knowledge, did Senator Cranston to anything for or on behalf of Lincoln Savings because Mr. Keating assisted his reelection campaign?

A. No.

Q. Did he to your knowledge do anything for or on behalf of Lincoln Savings because Mr. Keating contributed money to USA Votes, Forum Institute or the Center for Participation in Democracy?

A. No.

Q. Did Mr. Keating or anyone associated with him ever tell you that a contribution would be made after Senator Cranston made an inquiry on his behalf?

A. No.

Q. Did Senator Cranston ever tell you or suggest to you that you should time any request for contributions to coincide with anything occurring before the Bank Board?

A. No. In fact, the timing of the fund-raising was something that was driven by my finance plan. If anyone was controlling the timing, I would say I was.

Q. Did Senator Cranston ever tell you to time a solicitation to Mr. Keating to coincide with any event or events to your recollection?

A. No.[18]

"The Resolution inappropriately states that Ms. Jacobson understood that donors were entitled to special access. Mr. Grogan testified that he was able to obtain my attention—in other words get access to me—before any of the charitable donations for voter registration were made by Mr. Keating. (CG, 12/15/90, p. 132).

ECR p. 5: Be it further resolved that the Committee finds:

(1) That in connection with his conduct relating to Charles H. Keating, Jr., and Lincoln Savings and Loan Association, Senator Alan Cranston of California engaged in an impermissible pattern of conduct in which fund raising and official duties were substantially linked in that:

(a) From early 1987 through April 1989, Senator Cranston personally or through Senate staff contacted the Federal Home Loan Bank Board on behalf of Lincoln, during a period when Senator Cranston, on behalf of organizations in whose success he had a deep concern, was soliciting and accepting substantial contributions from Mr. Keating; and

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS), pp. 51–55 states:

"The Resolution easily could give the erroneous impression to anyone not familiar with the facts that the donations referred to were all of a political nature to some campaign or P.A.C. of mine. It omits any reference to the established and undisputed fact that 85.3% of the money—totaling $725,000—that Mr. Keating donated from early 1987 through April, 1989 was in the form of I.R.S. approved 501(c)(3) tax-deductible charitable donations to organizations that were not under my control and whose use of the money was not under my control.

"In addition, Mr. Keating donated $125,000 to America Votes, an organization that raised tax-deductible charitable donations for I.R.S. approved 501(c)(3) independent, nonpartisan, grass roots, voter registration organizations in approximately 20 states during 1987 and 1988.

"The Resolution fails to point out that *none* of Mr. Keating's donations which are being questioned during this period was in the form of a political contribution to any campaign of mine. Only $10,000 was to a federal P.A.C. that I organized.

"The Resolution ignores the important fact that *all* these donations were made *after* my 1986 reelection. An expert on voting, Curtis B. Gans, Director of the nonpartisan, nonprofit, Committee for the Study of the American electorate, testified that registration efforts in California in 1987 and 1988 that were supported by some of the funds I raised would have had "negligible impact" on my reelection campaign four years later (had I chosen to run in 1992). "I could think of no less cost-effective way of advancing one's own interest," he testified. (Affidavit of Curtis B. Gans, Cranston Exhibit 77).

"Section (a)(1) of the Resolution fails to make clear that *all* the contacts I had with regulators during this time—and at all other times—were standing alone, not only proper, as the Committee's Statement of February 27, 1991 acknowledges, but were also de minimis. The established fact is that they were all routine status inquiries, or requests that somebody see somebody, or requests that various proposed sales of Lincoln be carefully considered. The Committee fails to make that in *none* of the contacts I made did I ever advocate any particular action. It fails to make clear that I *never* urged the regulators to take or refrain from any particular action.

"Thus the alleged improprieties that the Resolution suggests occurred arise solely because of routine, non-substantive inquiries I made on behalf of constituents that may have been in some way proximate in time to the solicitation or receipt of charitable or related donations.

"I previously have noted in statements to the Committee that my actions in respect to Mr. Keating *should not be viewed as if they occurred in a vacuum*. I pointed out that my days and my nights are characterized by constant, passionate work on the great issues of our time, like war and peace, the environment and the economy, justice, and equal rights. I cited my many responsibilities during the time these events occurred, including my leadership role in the Senate as Majority Whip: My Chairmanship of the Veterans' Affairs Committee; my membership on several other committees and the Chairmanship of busy and important subcommittees; my very active role in fund-raising for other Senators and causes as well as for my campaigns; and the fact that—along with my Senate colleague from California—I represent many more constituents (30 million) than do any other Senators. Indeed, California's Senators *represent more constituents* than any other legislator *has ever represented* in any country in the *entire history of legislative bodies*.

"Constantly, I am called upon for help by my constituents. Unlike a corporation, I do not have the funds and the capacity to verify the financial status or the moral stature of each constituent who presents a problem to me. I cannot ask Dun and Bradstreet or the FBI to provide me with this information. More than 300,000 constituent requests have been handled by my staff and me in the 22 years I have been in the Senate. I deeply regret that one involving Lincoln Savings has created the problem that is before us.

"A casual observer of the hearings might well have obtained the false impression that I did little else over several years except deal with regulators regarding Lincoln. This is not the case. *In the almost two year period* between the April 1987 meetings and February 8, 1989, *I had only five contacts* with Federal regulators regarding Lincoln. I had no contact at all between May 16, 1988, when Mr. Wall requested an appointment with me to discuss legislation, and February, 1989, when the sale of Lincoln came up.

"In the period from February 8 through April 14, 1989, I had only five contacts with FHLBB members Wall, Martin and White regarding *three different proposals* to sell Lincoln. All contacts that I initiated were proper status inquiries. I had a legitimate basis for making them. All these contacts related to the interests of many thousands of my constituents whose jobs and financial well-being depended upon the fate of Lincoln.

"I by no means responded favorably to every request by Messrs. Keating or Grogan for me to take some official action. I already have cited my refusal to push hard for the approval of a specific sale of Lincoln. Mr. Grogan in his testimony cited several examples of requests for actions that I declined to take. (JG, 12/12/90, p. 113; 12/13/90, pp. 130, 206–7, 215, 306, 12/15/90, pp. 93–4, 96–8).

"Besides citing many facts that contradict the causal connection theory concerning charitable donations and my official actions, I have presented a list of inaccuracies and important facts that were omitted in the Committee documents of February 27. In all fairness, these matters should be corrected in the final documents that are issued by the Committee.

"A fair question to ask is: To what extent was the Committee influenced by these omissions of important facts, inaccuracies, and unwarranted implications in material put before it while reaching its conclusions announced on February 27, 1991?

"I protest allegations of linkage, explicit or implicit, based merely on unsubstantiated and prejudicial inferences instead of demonstrable evidence.

"I am convinced that a full and further review of the record, in light of my Submission, can only lead to three conclusions:

"First, there is no evidence of a causal connection between any solicitation or donation and any official action on my part.

"Second, that my conduct was not materially different from that of the other four Senators involved.

"Third, that whatever differences there were between the actions of the four Senators and mine they were not differences of *kind*. A fair and impartial consideration of this matter can only lead one to the conclusion that the Committee's treatment of my actions *should not differ in kind* from the treatment it accorded Senators DeConcini, Glenn, McCain and Riegle. I concede that I should have recognized that fund-raising—even for charitable donations—close in time to official actions could lead to an appearance of impropriety. It was a mistake not to have given more thought to appearances."

ECR p. 5: Be it further resolved that the Committee finds:

ECR 1)(b)

b) Senator Cranston's Senate office practices further evidenced an impermissible pattern of conduct in which fund raising and official activities were substantially linked.

This statement is a distortion of the facts. *Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ASC), pp. 30.55 states:*

"The Resolution raises questions . . . about my Senate office practices, citing three examples of activities engaged in by Ms. Jacobson, a part-time employee of USAVotes, over whom I had no real supervisory role. I have already indicated that she was *not* a member of my Senate staff. She had no substantive expertise in Banking Committee issues and did not substantively involve herself in my official Senate activities. The words "Senate office practices" is inaccurate and misleading. Ms. Jacobson came to my office occasionally, but by no means frequently or regularly. She worked out of her home in Virginia. Unlike the practice in some Senate offices, I have never assigned major political fund-raising responsibilities to any one serving part time to full time on my Senate staff. I have designated two Senate staff members under Rule 41, but they have done comparatively little political fund-raising. All fund-raising efforts with which I have been involved, whether political or charitable, have been the responsibility of individuals employed elsewhere—*not* in my Senate office.

"Although some of Ms. Jacobson's activities are susceptible to an interpretation that they raise an *appearance* of impropriety, they do not constitute clear and convincing evidence of a causal connection between (a) my personal official actions and (b) solicitations of donations I made or of which I was aware.

"I concede that I should have constrained more closely the individual who was working for an organization that raised charitable contributions.

"I readily concede these errors, but these were errors in judgment, not in intent.

"I deeply regret them.

"Without any clear and convincing evidence that any official action of mine was causally linked to any donation, however, there is no reason for the Committee to recommended institutional action in my case."

It is further resolved:

1) That Senator Cranston's impermissible pattern of conduct violated established norms of behavior in the Senate, and was improper conduct that reflects upon the Senate, as contemplated in Section 2(a)(1) of S. Res. 338, 88th Congress, as amended.

Senator Cranston's April 22, 1991 Written Submission to the Ethics Committee (ACS). pp. 4–5, 43–47 states:

"Since timing and appearances did not warrant institutional action in the cases of the other Senators, it should not in my case.

"The Senate have never set standards *of any kind* governing the timing of contributions of any kind in relationship to legitimate constituent services. I fully recognize that if a Senator engages in conduct that is inimical to generally accepted and understood standards and values, the Senate has an obligation to find that Senator guilty of improper behavior, although his conduct does not violate a specific law or Senate Rule. There is no evidence that I engaged in any improper conduct.

"Without clear and convincing evidence of actual impropriety, there is no justification for subjecting me to disciplinary action. There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate has *never* determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful donation to the Senator's campaign or to a charity the Senator supports. To do so now would be contrary to the principles of the Senate and a violation of traditional concepts of fair play by proceeding in an *ex post facto* fashion.

"In every case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's *private* profit. Neither any member of my family nor I received any compensation or personally benefited in any way from these charitable contributions. I had no financial interest in Lincoln Savings, its parent, or affiliates. I received no income from it.

"I will discuss the Special Counsel's proposal to extend to Senators the appearance standard in the Code of Ethics for Government Service that applies to federal judges and civil servants. The Senate has never adopted that code as an ethical standard applicable to Senators. There is no reference to it in any of the over 400 published Interpretative Rulings issued by the Select Committee on Ethics. The Special Counsel overlooks fundamental differences between federal judges and civil servants. Federal judges and civil servants do not have to raise funds to stay in office. A judge is not expected to serve the interests of the parties before him. A Senator is expected to *represent* his constituents, and to be—and to appear to be—responsive to their legitimate needs. Senators should not be at risk of discipline for violation of an appearance standard that would prevent us from intervening on behalf of constituents, contributors and non-contributions alike, when intervention is appropriate.

"The Committee did not conclude that there was any causal connection between these three coincidences of receipt by Senators Riegle, DeConcini and Glenn of these political contributions in proximity of time to their official actions. How, then, could the Committee without *any* substantiating evidence conclude that there was any causal connection between my receipt—on behalf of others—of charitable and related donations and my official actions? My case, like the cases of Senators Riegle, DeConcini and Glenn, *can only involve* questions of judgment and appearances.

"I believe, too, that our actions did not differ in kind from legitimate actions of our 95 colleagues. Virtually every Senator raises funds for his campaigns and renders legitimate services to his constituents, including contributors, when they need it. I have noted previously that many Senators are active in one way or another with charitable organizations and some Senators raise very substantial money for them.

"THERE ARE NO U.S. SENATE RULES, PRECEDENTS, OR CASES IN WHICH A SENATOR HAS BEEN DISCIPLINED FOR ASSISTANCE TO A CONSTITUENT WHEN THE SENATOR RECEIVED NO PERSONAL FINANCIAL PROFIT

"If the Committee believes there should be limits on a Senator's ability to perform his official duties for a contributor based upon the timing or proximity of a donation to an official act, it may recommend that change to the full Senate and allow all 100 members of this body to debate such a proposed rule.

"It would be contrary to the principles of the Senate and a violation of traditional concepts of fair play to apply such a rule to me now *in what would clearly be an ex post facto fashion.*

"There is *no precedent* for the Senate disciplining a Senator for actions such as mine. The Senate *never* has determined that it is an ethics violation for a Senator to engage in legitimate constituent service on behalf of a contributor because it was—or might appear to be—close in time to a lawful contribution to the Senator's campaign or to a lawful donation to a charity that the Senator supports.

"The Senate has to date rejected attempts to create Ethics Rules that would restrict the ability of its members to give their supporters the impression that they will be responsive to their needs. There is a *fundamental difference* between a Senator acting on behalf of a constituent and a Senator acting for his personal gain. It is one thing to say that a Senator should not do anything in his official capacity that appears to bring him personal gain. It is quite another to say he should not do anything in his official capacity that appears to benefit supporters or contributors. The former is a conflict of interest and a violation of public trust. The latter is not only *not* a violation of trust, but a fulfillment of it. Its appearance can seem improper only to those who distrust the system itself.

"In *every* case of financial impropriety considered by the Senate throughout its history, the alleged misconduct was the use of public office for a Senator's private profit. The last four Senators who were disciplined by the Senate were involved in actions that resulted in *personal* gain. There has *never* been a case that has led to the disciplining of a Senator for assisting, or appearing to assist, a constituent-contributor when the Senator received no personal profit.[19]

"The history of conflict of interest rules for the Senate and the House demonstrates that the evil at which all those efforts have been directed is the use of elective office for *personal* gain.

"Senate Rule 37, the conflict of interest rule, distinguishes between personal and political benefit. It prohibits Senators and staffers from intervening with federal agencies for the purpose of furthering their financial interest or receiving compensation from a constituent. Its application is limited to agency intervention 'resulting in measurable *personal* financial gain.'

"The Senate in 1977 rejected a proposed rule suggesting that the motive of a contributor could make a contribution improper. Senator Nelson, Chairman of a Special Committee, had proposed that Rule 35, pertaining to gifts, also should ban acceptance of anything "intended to affect the present or future performance of official duties." Senator Stevens attacked the proposal as 'something no one can live up to if he is honest with himself and the American people . . . It is a standard of conduct with which one cannot comply in good faith and good conscience as a member of the U.S. Senate.' Senator Nelson finally agreed, saying, 'I do not think it makes sense at all, and someone who was working overtime and got tired must have written it.' (pp. 144–5, Davidson Legal Counsel Report, March 1991).

"The Committee acknowledges in its Statement of February 27, 1991 that the Senate presently has no specific written standards embodied in Senate rules respecting contact with Federal or independent regulatory agency officials. The Committee suggests a process for establishing such standards and states that until that is accomplished, 'All Senators are encouraged to use House Advisory Opinion No. 1 as a source of guidance for their actions.'

"House Advisory Opinion No. 1 indicates that it is proper for a member to communicate with an executive or independent agency on any matter to request information or status reports; to urge prompt consideration; arrange for interviews or appointments; express judgments; call for reconsideration of an administrative response that the member believes is not supported by established law, Federal regulation or legislative intent; or perform any other service of a similar nature in this area that is compatible with the criteria expressed in the Advisory Opinion.

"The Advisory Opinion makes *absolutely no reference* to campaign contributions or charitable donations, or to the timing of campaign contributions or charitable donations solicited or received by a member who performs any of these approved and specified actions. It notes that it is a felony to seek or receive "compensation for any services rendered.

"All my actions with respect to Lincoln were well within the guidelines of House Advisory Opinion No. 1."

FOOTNOTES

[1] Many of these same inconsistencies are also in the Report of Special Counsel, Robert Bennett, that Senator Helms released to the press on August 2, 1991 in violation of the Ethics Committee rules.

[2] William Seidman subsequently said, referring to the Arthur Young and Alan Greenspan letters, "Those two documents, I think, were pretty extraordinary for Senators to receive in terms of convincing them of the possibility that the bureaucracy was out of control. The Senators had a couple pieces of paper that could have raised questions in their mind. You have to say this on behalf of the Senators: they got a letter from a Big 8 accounting firm, the likes of which I think had never been done before in history in which the firm on the stationery said the regulators are harassing the company, treating them unfairly, et cetera." (AC, 4/30/90, p. 105).

[3] Such status inquiry calls are certainly routine for most if not all Senators. (Senate Ethics Committee, 2/27/91, p. 3, para. 1).

[4] Back in the 70's, another large corporation, Lockheed, was facing bankruptcy. Lockheed had invested millions of dollars in my state. The livelihoods of many thousands of my constituents and their families were at risk—as was the case with Lincoln Savings. I devoted far more time and effort and made many more phone calls about Lockheed's plight than I ever did about Lincoln's as I successfully endeavored to obtain a government guaranteed loan for Lockheed.

Lockheed was not a contributor to my campaigns or causes. In fact, Lockheed had contributed to my opponent in the previous election.

[5] Again, such phone calls are certainly routine for all or most Senators. The Supreme Court has noted, "The making of appointments with government agencies is a 'legitimate errand' performed by Members of Congress for constituents." (*Brewster* 408 U.S. at 512). The Supreme Court has also judicially observed that Senators may be more aggressive than any of the five of us were in dealing with the Bank Board: "Senators are constantly in touch with the Executive Branch of the Government and with administrative agencies—they may *cajole* and *exhort* with respect to the administration of a statute." (Gravel v. U.S., 408 U.S. 606, 626, 1972).

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[7] It would not have been unusual for Mr. Keating to make an unsolicited donation. The record shows that in 1985, he made an unsolicited $200,000 political contribution to Senator Glenn's Political Action Committee.

[8] In December, 1990, the San Francisco Chronicle falsely accused me of trading favors for cash. When I threatened to sue the Chronicle for libel, the Chronicle published a complete Page One retraction.

[9] That is why I have voluntarily made my tax returns public for many years. That is why I established a blind trust during my first term in the Senate. That is why I stopped accepting honoraria.

[10] William Seidman subsequently said, referring to the Arthur Young and Alan Greenspan letters, "Those two documents, I think, were pretty extraordinary for Senators to receive in terms of convincing them of the possibility that the bureaucracy was out of control. The Senators had a couple pieces of paper that could have raised questions in their mind. You have to say this on behalf of the Senators: they got a letter from a Big 8 accounting firm, the likes of which I think had never been done before in history in which the firm on the stationery said the regulators are harassing the company, treating them unfairly, et cetera." (AC, 4/30/90, p. 105).

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[15] In December, 1990, the San Francisco Chronicle falsely accused me of trading favors for cash. When I threatened to sue the Chronicle for libel, the Chronicle published a complete Page One retraction.

[16] Ms. Jacobson's activities should be considered in the context of Senate Rule 41 that permits Senators to appoint up to three members of their staffs who may solicit and receive campaign and political contributions. Ninety-nine Senators had done so as of November, 1990. All 99 Senators appointed key staffers, including 90 Administrative Assistants, who could raise and receive contributions while simultaneously possessing the enormous power to schedule appointments; to draft, amend, advance or delay legislation; and to deal with the Executive Branch and regulatory agencies.

Thus, the Senate has ruled that there is no impropriety and no appearance of impropriety if a Senate staffer who raises funds also schedules and attends meetings where substantive matters are discussed with a constituent-contributor. It seems to me that if there is a question of appearances if a fund-raiser who is not on the Senate staff attends such meetings, there is at least an equal possibility of an appearance question when the roles are commingled.

[17] I must note a separate but relevant matter that was established during the hearings involving Bill White, who had formerly been Senator Glenn's Administrative Assistant. Mr. White subsequently left Senator Glenn's staff and proceeded to serve as Chairman and Treasurer of the John Glenn committee, Inc. Mr. White received a letter dated June 6, 1984 from Mr. Grogan. The letter began as follows; "Dear Bill: Many thanks for arranging to meet with Bob Kielty regarding the JHG fundraiser in Phoenix. Also many thanks for coordinating with Dan Dougherty, et cetera, regarding the proposed FHLB regulation limiting direct investments by insured institutions." (Sp. Coun. Ex. 33); (Glenn, 1/4/91, pp. 225–6).

In this instance the Committee did not feel it necessary to be critical of Senator Glenn for the fact that his fund-raiser, who was not on his Senate staff, was coordinating in substantive areas.

[18] The Testimony of my Banking Committee aide, Ms. Jordan, substantiates Ms. Jacobson's. The Special Counsel asked her if it was the general philosophy of my office that donors could rightfully expect some kind of resolution of the issues that they brought to her. She replied that it was the policy of our office to respond to all inquiries. There was no mechanism for keeping staffers informed of who were contributors, nor any effort to do so in any way. Ms. Jordan certainly made no inquiries about whether somebody was a contributor before she decided how to act on a particular request. Ms. Jordan testified, "It was basically our posture that we resolved everything as far as one way or another, either for or against."

The Special Counsel asked Ms. Jordan how she set priorities, how she decided which complaints got handled first and in depth. She responded, "I've never had that problem. I can't remember having a problem like that where I had to stop doing something for one person to do something for another." (Cj, 6/27/90, pp. 57–8).

[19] In one case in 1873 when the Senate investigated whether Senators Harlan and Patterson had been bribed by an offer of Credit Mobilier stock at preferential rates, the Senate also considered whether Senator Harlan's conduct violated ethical standards because of a related campaign contribution. A special Senate Committee apparently found that the contribution was made to influence Senator Harlan, but the Committee recommended no disciplinary action because the contribution did "not appear to have influenced his action as a Senator." (pp. 59–60, Senate Legal Counsel Memorandum to Select Committee on Ethics, March 1991).•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Steven M. Chase, a member of the staff of Senator BROWN, to participate in a program in Taiwan sponsored by the Soochow University on December 3–7, 1991.

The committee has determined that participation by Mr. Chase in this program, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Rolf Lundberg, Jr., a member of the staff of Senator PACKWOOD, to participate in a program in Mexico City sponsored by the Mexican Business Coordinating Council [CCE] on December 3–6, 1991.

The committee has determined that participation by Mr. Lundberg in this program, at the expense of CCE, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Patrick Mulloy, a member of the staff of Senator RIEGLE, to participate in a program in Korea sponsored by the Korea Institute for International Economic Policy [KIEP] on December 8–14, 1991.

The committee has determined that participation by Mr. Mulloy in this program, at the expense of KIEP is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Senator ROTH and Daniel Bob, a member of the staff of Senator ROTH, to participate in a program in Australia sponsored by the Australian Government and the United States Government on December 5–15, 1991.

The committee has determined that participation by Senator ROTH and Mr. Bob in this program, at the expense of the Australian Government and the United States Government is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Karen Robb, a member of the staff of Senator DECONCINI, to participate in a program in China sponsored by the Chinese People's Institute of Foreign Affairs on November 30 to December 15, 1991.

The committee has determined that participation by Ms. Robb in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Warren K. Erdman, a member of the staff of Senator BOND, to participate in a program in Hungary and Poland, sponsored by the American Council of Young Political Leaders [ACYPL] and the Hungarian Government, from May 27 to June 5, 1991—9 days.

The committee determined that participation by Mr. Erdman in this program, at the expense of ACYPL and the Hungarian Government, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Marie Blanco, a member of the staff of Senator INOUYE, to participate in a program in Taiwan sponsored by the Soochow University on January 12–19, 1991.

The Committee has determined that participation by Ms. Blanco in this program, at the expense of the Soochow University is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Christopher McLean, a member of the staff of Senator EXON, to participate in a program in Korea sponsored by the A-san Foundation on December 14–21, 1991.

The Committee has determined that participation by Mr. McLean in this program, at the expense of A-san Foundation is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for James Sakai, a member of the staff of Senator AKAKA, to participate in a program in Taiwan sponsored by the Soochow University on January 12–19, 1991.

The committee determined that participation by Mr. Sakai in this program, at the expense of the Soochow University is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Tim Carlsgaard, a member of the staff of Senator DECONCINI, to participate in a program in Australia, sponsored by the American Council for Young Political Leaders [ACYPL], from April 23 to May 11, 1990.

The committee has determined that participation by Mr. Carlsgaard in this program, at the expense of ACYPL, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Trina Vargo, a member of the staff of Senator KENNEDY, to participate in a program in Ireland, sponsored by the United States Senate and the Government of Ireland, from June 2–5, 1991.

The committee has determined that participation by Ms. Vargo in this program, at the expense of the United States Senate and the Government of Ireland, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Suzanne Hildick, a member of the staff of Senator HATFIELD, to participate in a program in Korea sponsored by the A-san Foundation on December 14–21, 1991.

The committee has determined that participation by Ms. Hildick in this program, at the expense of A-san Foundation is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mary A. Irace, a member of the staff of Senator SARBANES, to participate in a program in Mexico sponsored by the Mexican Business Coordinating Council, Consejo Coordinator Empresarial [CCE] on December 8–11, 1991.

The committee has determined that participation by Ms. Irace in this program, at the expense of CCE is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Dan Stanley, a member of the staff of Senator DOLE, to participate in a program in the Republic of China sponsored by the Soochow University on January 8–14, 1991.

The committee has determined that participation by Mr. Stanley in this program, at the expense of the Soochow University is in the interest of the Senate and the United States.●

HAROLD OHLENDORF

● Mr. PRYOR. Mr. President, recently a Rhodes College (Memphis) publication contained a feature article on a man who has been a visionary in his community. That man is Harold Ohlendorf of Osceola, AR.

In today's society of mass communication, where the trivial or the sensational garners the most attention, we infrequently hear about the contributions that many unassuming loyal Americans make to society and their fellow citizens.

Harold Ohlendorf is just such an individual. He has been a pillar of his community, respected by all who know him, and a man that I am proud to call my friend.

I ask that the feature article from the Rhodes College publication be printed in the RECORD at this point.

The material follows:

IN LAND-OF-OPPORTUNITY ARKANSAS OHLENDORF HAS BROUGHT INDUSTRY KNOCKING

(By Helen Watkins Norman)

Osceola, Ark., is named for a Seminole Indian chief. But the town's genesis as a bustling manufacturing center is the reflection of another leader, a chieftain of change with enough civic boosterism feathers in his cap to rival any Indian headdress.

Rhodes alumnus Harold Ohlendorf ('31), a farmer who'd rather talk industrial development than crops, has spent his adult life altering the mind-set and landscape of Eastern Arkansas. More industry, better schools, improved libraries and ample medical facilities are all part of Ohlendorf's legacy for his adopted state of Arkansas. But nowhere is that more true than in Ohlendorf's hometown of Osceola, 50 miles north of Memphis.

Osceola's economic horizon, once as flat as its cotton fields, is today abloom with industry that Ohlendorf helped secure: a Fruit of the Loom knitwear plant, a Kagan Dixon wire manufacturing facility, an American Greetings plant covering more than 2.5 million square feet. All in all, Osceola, population 9,000, has attracted 11 major industries—employing more than 5,000 workers—since Ohlendorf and a handful of city leaders decided that an influx of manufacturing was needed to diversify their heavily agricultural hometown.

Though he's quick to credit others and unreceptive to the gush of praise, Ohlendorf is, as Osceola's current Chamber of Commerce president Reed Fergus noted, "largely responsible" for the success and progressive nature of the city. "Mr. Ohlendorf has meant more to the city of Osceola than any other person I know."

Ohlendorf would no doubt shrug off such statements as hyperbole. But the evidence is convincing. In the center of town stands the Ohlendorf Civic Center. A few blocks away, at the Mississippi County Community College's satellite branch in Osceola, is the Ohlendorf Center for Economic Development. The First National Bank, on whose board he has served for more than 50 years and which he continues to lead as chairman, occupies another corner of the commercial district. And throughout the town and its outskirts rise manufacturing plants, school facilities and libraries which Ohlendorf had a hand in recruiting or improving.

His office, in an assuming flat brick building overlooking Ohlendorf Farms, overflows with plaques and mementoes from the community and corporate America, as well as a tribute to "the world's greatest grandfather," from his grandchildren. His portfolio of civic and professional achievements runs longer than a school board meeting (he served 36 years on Osceola's school district board). And his schedule of work and volunteer commitments, even as he enters his eighth decade, stays more tightly packed than a bale of his favorite fiber.

He's held appointments under six governors, serving on the Arkansas Industrial Development Commission since 1971, longer than anyone in the commission's history.

His appointment by Arkansas Gov. Orval Faubus to help establish the Arkansas Children's Colony, a facility for mentally retarded children, is the one that he talks about the most tenderly. "Arkansas was one of two states in the nation that did not have facilities for mentally retarded children. The legislature passed a law when Faubus was governor to establish the Children's Colony for these mentally handicapped young people, and Faubus asked me to serve on the original board."

With tears in his eyes, Ohlendorf described the inadequate options that previously confronted families with mentally retarded children, the heartbreak he saw in their faces. The facility that he and other members of the commission helped established was a complex of cottages where these children were taught how to survive in the outside world. It turned out to be a model facility for the rest of the nation. "The greatest satisfaction comes when you feel like you've done something for these kids," said Ohlendorf.

Ohlendorf has also "done" for other segments of the population, and his contributions have been cited by many. The Arkansas Farm Bureau, which he headed for 17 years, has honored him with a state-wide celebration of his contributions. A consortium of county and city organizations which cited his contributions to the development of industry and improvement of health care and education in the area named Feb. 4, 1972, as Ohlendorf Appreciation Day. Both Rhodes and the University of Arkansas have conferred on him honorary degrees. And the Arkansas Library Association named him Trustee of the Year in 1990.

As appreciative as citizens are today, however, it wasn't always so, at least not among his fellow farmers. A minor rift between Ohlendorf and the agricultural fraternity occurred briefly in the early 1950s when Ohlendorf—convinced that farming would not sustain the area's economy for the long run—persuaded city fathers that new industries were needed to boost Osceola's economic base.

"I took quite a lot of heat from the farmers," said Ohlendorf, whose current farm operation consists of about 10,000 acres of cotton, soybean and wheat. "[The farmers] were saying, 'you're going to take the labor off our farms . . . you're going to bring in industry and we're going to be without labor."

But Ohlendorf thought differently. The cotton picking machine was at the time in the early stages of development. International Harvester had, in fact, been doing test-research on some of its models at Ohlendorf Farms. And while many farmers disputed the machines' potential, Ohlendorf presciently regarded the mechanical cotton picker as the harbinger of a new age for his community. He foresaw the impact that the mechanical cotton picker would have on the business of farming and on the elimination of untold numbers of cotton picking jobs.

New industry, Ohlendorf reasoned, could fill the job vacuum created by a mechanical cotton picker. "We had to have something here for people to do," explained Ohlendorf, who had already seen many young people leave Osceola after World War II in search of jobs. What's more, he believed that an influx of industry would be beneficial to the farm families who needed to supplement their farm incomes with a second job.

Ohlendorf has been an effective advocate of change and of the necessity of learning to live with it. That's a lesson ingrained in him since childhood.

Born in Freeburg, Ill., Ohlendorf was the only son of Diedrich and Anna Schmitz Ohlendorf, a couple with German roots and modest means. When Ohlendorf was a young boy his father farmed in Illinois, but the family moved to Osceola when he was three and his father farmed on rented land. When World War I came along, however, his father was drafted and the family moved back to Illinois.

After the war the Ohlendorfs lived in Illinois and Indiana, where his father tried his hand at a number of different businesses: a dairy farm, a car dealership, a flour mill. "He was involved in several businesses. That's why we moved quite a lot. I went to 13 different schools before graduating from high school."

Not only did the young Harold adapt to frequent changes in venue, he learned to accept whatever odd job needed to be done to bolster the family budget.

As a boy he had a paper route in Vincennes, Ind. along the Wabash River, delivering his goods on foot with a "20 below 0" wind at his back. "I knew that was one business I didn't want to do again," he laughs. Some of the other jobs weren't much better: milking cows and delivering the milk in an old Model T for his father's dairy, cleaning the underbellies of cars with a wire brush in 100 degree heat for the family auto shop, peddling eggs for his mother who raised chickens in the backyard.

The last move of his high school years took the family to the boom state, Florida, where his father operated a small orange grove. Finally in the mid-'20s, his parents moved back to Osceola and Harold joined them after graduating from high school in Tampa.

His father bought a small parcel of land outside Osceola and Harold joined him in the fields. "I was behind a pair of mules most of the time," Ohlendorf says, recalling how tired he'd be at the end of each day. "You sure didn't need to take sleeping pills."

It was a friend of the family in Wilson, Ark. (not far from Osceola)—a Dr. Barksdale—who convinced Ohlendorf to come to Rhodes in 1927. He remained at Rhodes until he graduated in 1931, returning to the farm in the mid-'30s and taking over the family-run operation in the 1940s.

Looking back, Ohlendorf's work innovations while at college should come as no surprise. He helped pay for college with an assortment of odd jobs. He was a waiter in the campus dining hall. He held the local franchise for Davis Clothing Company, selling tailor-made suits to willing clients, few of them his classmates. He worked downtown for the public library and for an office supply firm. He spent his summers traipsing across the South in an old touring car, selling magazine subscriptions, or painting the football bleachers on campus. He even ushered at an auditorium downtown, leading operagoers and other patrons of the arts to their seats. "I got all the culture I needed," said Ohlendorf, who admits he hasn't been to the opera too often since.

Ohlendorf's budding business acumen was evident in his extracurricular affairs as well. His junior year he was business manager for the yearbook. "He was always very competent, more mature than the rest of us," said Paul Tudor Jones '32, who was yearbook editor at the time. Dr. Jones, who went on to become the senior minister at Memphis' large Idlewild Presbyterian Church, recalls Ohlendorf as a very effective business manager who always dressed in a jacket and tie.

After college and Dr. Jones's marriage to fellow Rhodes student Anna Hudson "T" Jones, the couple sometimes ran into Ohledorf. "'T' would always say," Dr. Jones laughed, "if she'd known then (back in college) the way things were going to turn our—with my becoming a minister and Harold a successful business tycoon—she certainly would have married the business manager of the yearbook rather than its editor."

Ohlendorf acquired a persistent nickname in college befitting his later advocacy of industry. It was "Rascob," the name of a noted industrialist who was, in the late 1920s, campaign manager for Franklin Delano Roosevelt in his bid for the presidency.

Ohlendorf began to describe how he earned the name "Rascob," But his attention was momentarily diverted by the view of a Barnum and Bailey Circus train barreling down the railroad tracks outside his window (trains hold a special interest for Ohlendorf who served many years on the Frisco Railroad board; an authentic Frisco train caboose currently stands on an abbreviated track, just yards from his office). "I was campaign manager for whoever it was who was running for student body president. People related the two campaigns. And the name 'Rascob' has stuck with me since," he said.

Rascob isn't the only aspect of Rhodes that followed him beyond Memphis. When Ohlendorf was married in 1934 to Frances Jones, college president Charles E. Diehl officiated at the ceremony. Frances died in 1980, and Ohlendorf has since remarried. But he and his second wife, Elvira "Bruce" Kincaid—an active townswoman and busy partner in Ohlendorf Farms—continue to maintain their Rhodes ties. The couple are sustaining members of the Charles E. Diehl Society and they visit the campus periodically. Most recently they attended Ohlendorf's 60th class reunion festivities in October. Ohlendorf also serves Rhodes as an honorary trustee.

Though his ties to Rhodes remain as solid as the campus's giant oaks, it is the dark, fertile Osceola soil where Ohlendorf's roots penetrate the deepest. In the words of Dick Prewitt, the mayor of Osceola for 20 years: "Every community needs a Harold Ohlendorf."•

TREE-MENDOUS MARYLAND

• Mr. SARBANES. Mr. President, I want to bring to the attention of my colleagues in the U.S. Senate the record of "TREE-MENDOUS MARYLAND," a 2-year-old program in my home State of Maryland. This effort was started by Governor Schaefer and the Department of Natural Resources and has a 2-year budget of $250,000. The program has raised more than $225,000 and has actually planted over 2,500,000 trees and seedlings in our State. This contrasts with the National Tree Trust, established by President Bush to reforest the Nation with 1 billion trees. Recent press reports indicate the trust has spent $1.23 million in salaries and other administrative costs, and just $350,000 in grants for groups to plant trees.

Working with the Forestry Division of the Department of Natural Resources, Wally Orlinsky, special assistant to Department Secretary Dr. Torrey Brown, acts as the program's executive director. He has modeled part of his program after the Jewish National Fund. It gives Marylanders a chance to buy trees in honor or memory of friends and loved ones. In 2 years, with no advertising, he has already had some 12,000 people purchase trees.

Marshalling departmental resources, the forestry division now gives courses to people on tree planting, creating a cadre of some 400 tree planting supervisors to date. This program is now expanding to provide instruction in tree care and maintenance, which will lead to "Maryland's Green Gorillas," an army of volunteer coordinators who will spearhead expanding efforts at tree planting, care, and maintenance.

The TREE-MENDOUS Program has allowed Marylanders to purchase trees for parks and for public open space. Maryland corporations and businesses are now involved in planting the State highway clover leaves with trees, and through the newly created Clover Leaf Foundation, flowers, as well. IKEA, Lever Brothers, Winchester Homes, Pepco, James Cassidy, Inc., Foxleigh Enterprises, Langenfelder and Sons, and Westvaco are some of the companies involved to date.

The majority of trees are seedlings. Plantings included efforts like that of the Annapolis Christian Day School plant-a-thon, whereby 600 children spent a day planting 14,000 seedlings on a multiacre tract of weeded highway land.

This past spring, April was declared "TREE-MENDOUS MONTH" in Maryland; and working with the Governor's challenge to county governments, the TREE-MENDOUS program planted 1,500,000 trees and seedlings around the State. Over 35,000 volunteers joined in over 560 projects to accomplish this task.

On December 6, the TREE-MENDOUS MARYLAND Program will be honored by "Keep America Beautiful" as the second best State/Federal environment stewardship program in the Nation.

In Maryland, our Governor and our citizens recognize our special stewardship of the Chesapeake Bay and our responsibility for our own environment. Mr. Orlinsky and his TREE-MENDOUS MARYLAND Program have harnessed these beliefs and transformed them into an active and successful endeavor to get trees planted. Maryland's program is an excellent example of how people, business, and government working together can succeed in the improvement of our lives.•

FILING OF REPORTED LEGISLATIVE AND EXECUTIVE CALENDAR BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate committees may file reported legislative and executive calendar business on Wednesday, December 11, from 11 a.m. until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, JANUARY 3, 1992, AND TUESDAY JANUARY 21, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate convenes on January 3, 1992, that the Journal of proceedings be approved to date; that the call of the calendar be waived; that no motions or resolutions come over under the rule, and that the time until 12 noon be divided between the two leaders, or their designees; that following the adjournment sine die of the first session and the convening of the second session at 12 noon, the Journal of proceedings be deemed approved to date; that the morning hour be deemed expired; and that the Senate stand in recess, according to the provisions of House Concurrent Resolution 260 until 11:30 a.m. on Tuesday, January 21, 1991.

I further ask unanimous consent that when the Senate reconvenes on January 21, 1992, following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that there be a period for the transaction of morning business not to extend beyond 12:30 p.m.; that the Senate stand in recess from 12:30 p.m. until 2:15 p.m., and that at 2:15 p.m., the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to the consideration of S. 2, the education bill, with the live quorum, pursuant to rule XXII being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIRST SESSION OF THE 102D CONGRESS

Mr. MITCHELL. Mr. President, we have completed the first session of the 102d Congress. The possibility of further action in this session remains open, but at this point it is appropriate to assess some of the actions taken to date.

No baseball game is ever over after four innings, and no football game is over at half time, so there can be no full, fair, and final evaluation of a Congress at the end of the first session. Such an evaluation can occur only after completion of the second and final session, and that will occur late next year. But we do know that this Senate in this first session of this Congress acted in important and substantial ways on many issues relevant to the concerns of Americans.

Much remains to be done, but I would like to look back briefly and suggest some of the areas where I believe significant action has occurred.

We began the year in January on an action of constitutional significance. Following a lengthy period of ambivalence and national uncertainty, the President decided in January to submit to the Congress the question of whether the Nation should be committed to war. There was a lengthy, informative debate. The President's view prevailed and a successful effort resulted in the Persian Gulf war. The constitutional significance lies in the submission by the President to the authority of the Congress with respect to that power.

Following the conflict, we took action on what I believe to be a very significant and comprehensive reform and updating of veterans legislation. It was not controversial, so it did not receive much attention, controversy being the basis by which the newsworthiness of much of what we do is judged. But I submit that little we have done in this year or perhaps in many years will have as beneficial and long lasting an effect for millions of American veterans and their families than will that comprehensive legislation enacted earlier this year in the aftermath of the Persian Gulf war.

Just recently, after months of delay caused by the President's opposition, unemployment insurance was extended for millions of Americans. It was later than we had hoped. We suffered temporary setbacks along the way as the President ignored our first bill and vetoed our second bill, but ultimately the President came to see the need for action to provide extended insurance to the millions of American families who were in desperate need and anxiety, and that provision was made.

We passed the civil rights bill. Again, it was delayed because of Presidential opposition. Again, ultimately the President reversed his position, and I commend him for those reversals because the last position taken in both the unemployment and civil rights cases was the correct one.

I am disappointed that we did not act finally on crime legislation. It was a good bill. We were prevented from proceeding to it by the vote that occurred today. I believe we will be back to it, and I believe we will enact comprehensive legislation which will deal with violent crime where it occurs and where it is prosecuted and where it is punished, and that is at the State and local level.

There has developed in recent years as a result of national political rhetoric the myth that the problem of violent crime in America can be solved by dealing with Federal criminal law.

Mr. President, I have been a prosecutor at the State level. I have been a prosecutor at the Federal level. I can say with experience and assurance that the overwhelming majority of violent crimes that occur in this country, the murders, the rapes, the robberies, the assaults, the overwhelming majority which occur at the State and local level, within the jurisdiction of State and local authorities, are prosecuted by State and local officials and punished by State and local officials.

The bill we presented today would have provided $3.2 billion to State and local officials and law enforcement offices to beef up their actions, in contrast to the President's bill, which had nothing for them. If I may extend the analogy, State and local officials are in the front line of the war against crime. Our bill would have helped them. The President's bill would have built bunkers in rear echelons, not those in the front lines. We are going to be back to the issue, and I hope we pass it.

We dealt with recapitalization of the bank insurance fund and the Resolution Trust Corporation. We ratified the Conventional Forces in Europe Treaty, a significant act for which I commend the President and the Secretary of State for the negotiation of the treaty, and I commend the Senate for ratifying the treaty.

In some respects, it has been overtaken by events. But it represents a step forward in reducing the level of arms in the armies facing each other for so long in Europe, and therefore reduced the risk of conflict in that region.

We have a lot to do when we come back next year. First and foremost must be attention to the problems of our economy—the low rate of economic growth, the low rate of job creation. We are going to have hearings in the next few weeks, and if action can be taken this year, I hope it will be. It does not now appear that will be possible.

But we have to do something to create jobs and economic growth in America for Americans. That means, first and foremost, cutting the taxes of the middle class. No more of the trickle down theory of economics, which says that the only way to help people in the middle class is first to give huge tax breaks to those at the very top of the income scale, and somehow then the benefits will trickle down to the rest of us.

The American people have been trickled on long enough. We need a middle-class tax cut, for families making $30,000, $40,000, $50,000 a year, where both husband and wife work. And that is what we are going to try to do.

We are going to try to provide incentives for first-time home buyers to try to spur home construction in our society. We need to address the credit crunch. We need to reform our systems of education and health care—an education system which is not teaching, a health care system which is not curing—and we have to reduce costs in health care, as we can with comprehensive health care reform.

We will deal early next year with the education bill. It will be the first bill that we consider when we return on January 21. We will then move to cable television legislation. I hope to give a high priority to comprehensive energy legislation early next year.

We have done a good bit. We have much more to do. We must meet our obligation to the American people, and we must address those issues that are relevant to their concerns.

In the next session of this Congress, the agenda of the Congress must be the agenda of American families. In that way we will not only act in the manner we are required to act to meet our responsibilities, we will increase the esteem in which the institution of Congress is held by the American people, and we will further increase that esteem by passing, finally, campaign finance reform legislation, now passed by both Houses, awaiting final action.

Mr. President, I want to thank all Senators for their courtesy to me, their patience and cooperation in what has been a long, at times difficult, but ultimately productive session. The Secretary of the Senate and his staff have been of immense help to me and all Senators; the Sergeant at Arms and her staff. I am very proud of the fact I have appointed the first woman Sergeant at Arms in our Senate's history. Martha Pope, in that position, has more than justified the confidence I had when I appointed her by doing a truly superb job.

The Secretary for the majority and the Secretary for the minority and their staffs in the Cloakroom have done an outstanding job, as have the floor staffs for both leaders.

Lula, Charles, Marty, Howard, and Liz serve as invaluable aides to the leadership on both sides. The Democratic Policy Committee staff has provided guidance and information to Senators. All of those who work to make the operation of the Senate possible—the restaurant staff; the elevator operators; the custodial services; the pages, who we hope have learned something in their experience; the entire staff of the Official Reporters of Debates who so patiently record the ever-increasing volume of words uttered by Senators; the new staffers in the closed captioning office, all of them deserve our gratitude.

I want to reserve special thanks to two people who have made this an especially important and meaningful effort this year: Senator WENDELL FORD, the Democratic whip, my friend and colleague, has done so much to be of assistance to me personally and to all Democratic Senators, indeed to all Senators, widely respected by Members of the Senate on both sides of the aisle, extraordinarily effective in moving legislation forward, and unique among us in the Senate, and not one to seek headlines or time on camera. I am very grateful to Senator FORD for his helpfulness and his friendship.

I want also, before I thank Senator DOLE, to thank my own staff, John Hilley, the chief of staff; Pat Sarcone, my secretary, and the many others who have been extremely helpful; members of my legislative staff, who have been very helpful, as well.

And, as inevitable when I begin to name names, I forget some. I inadvertently missed Art, on the floor staff, and I thank Art as well for his assistance.

Finally, Mr. President, I am very grateful to our Republican colleagues, and especially to their leader and my friend, Senator DOLE. Senator DOLE and I disagree often on issues, publicly and privately. We debate them openly and vigorously. But we have never had a personal disagreement. We have come to be personal friends, as well as Senators serving in a close professional relationship. I trust him implicitly. I hope he feels the same way about me.

In an institution in which the rights of the minority are not just protected, the rules are actually quite solicitous of the rights of minorities, down to a minority of one; it takes cooperation to move forward.

It takes a unique blend of cooperation and competition to move the Senate forward and produce the best policy for the Nation. We do not always succeed. But it would not have been possible to accomplish any of the things I mentioned without Senator **DOLE**'s leadership and his cooperation, where he deemed it appropriate. So I am very grateful to him.

I hope all concerned, Senator **DOLE**, the Republican Senators, Senator **FORD**, and the other Democratic Senators, the staff, and others, have a very happy Thanksgiving with their families, a good and productive break, and that we will all come back here next year renewed and ready to act in the interest of the people in whose behalf we act.

It is, for each of us Members of the Senate, a great honor to serve in the U.S. Senate, to represent our fellow citizens in a representative democracy; and our objective, our responsibility, our overriding concern must be to improve the well-being of the people we represent, and to do it in a fair and responsible manner. To that task we all commit ourselves when we return, and we express our gratitude for the honor done us by permitting us to serve here, and we hope there will be good by what we accomplish here.

THANKS TO THE MAJORITY LEADER AND STAFF

Mr. **FORD**. If the Senator will yield me 30 seconds. Let me thank the distinguished majority leader for his kind words. I appreciate them very much.

I want to thank him for his patience with me, his tolerance, as I worked my way through the first session in this position. The tolerance of the floor staff has been meaningful to me, Mr. Leader, and I hope that with this experience I can be more helpful to you and our colleagues next year, and that we do those things in the second session that will be so meaningful to those people we represent.

I am grateful to you, and I thank you sincerely.

Mr. **MITCHELL**. Mr. President, I thank my colleague. I am advised that the House has not yet acted finally on the adjournment resolution, so we must await that action. While we do, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **MICHELL**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDENT OFFICER**. Without objection, it is so ordered.

ADJOURNMENT UNTIL JANUARY 3, 1992, AT 11:55 A.M.

Mr. **MITCHELL**. Mr. President, if there are no Senators desiring to speak, I now ask unanimous consent that the Senate stand adjourned pursuant to the provisions of House Concurrent Resolution 260, until 11:55 a.m. Friday, January 3, 1992.

There being no objection, the Senate, pursuant to the provisions of House Concurrent Resolution 260, at 7:05 p.m., adjourned until Friday, January 3, 1992, at 11:55 a.m.

NOMINATIONS

Executive nominations received by the Senate November 27, 1991:

THE JUDICIARY

SONIA SOTOMAYOR, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE JOHN M. WALKER, JR., ELEVATED.

DAVID G. TRAGER, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

CONFIRMATIONS

EXECUTIVE NOMINATIONS CONFIRMED BY THE SENATE NOVEMBER 27, 1991:

DEPARTMENT OF STATE

ROBERT STEPHEN PASTORINO, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DOMINICAN REPUBLIC.

CURTIS WARREN KAMMAN, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHILE.

GEORGE FLEMING JONES, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA.

WILLIAM EDWIN RYERSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

JOHN R. DAVIS, JR., OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ROMANIA.

FREDERICK VREELAND, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

JOHN HUBERT KELLY, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FINLAND.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

JOSE E. MARTINEZ, OF TEXAS, TO BE DIRECTOR OF THE TRADE AND DEVELOPMENT PROGRAM.

INTER-AMERICAN FOUNDATION

WILLIAM KANE REILLY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1991.

EXECUTIVE OFFICE OF THE PRESIDENT

CLAIR W. BURGENER, OF CALIFORNIA, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 1991.

PANAMA CANAL COMMISSION

WILLIAM CARL, OF TEXAS, TO BE A MEMBER OF THE BOARD OF THE PANAMA CANAL COMMISSION.

JOHN J. DANILOVICH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF THE PANAMA CANAL COMMISSION.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOHN W. CRAWFORD, JR., OF MARYLAND, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 1996.

DEPARTMENT OF ENERGY

LEO P. DUFFY, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT).

DEPARTMENT OF DEFENSE

DONALD C. FRASER, OF MASSACHUSETTS, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

VICTOR H. REIS, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.

JAMES RODERICK LILLEY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ALICE M. BATCHELDER, OF OHIO, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

HAROLD R. DEMOSS, JR., OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be brigadier general

COL. GEORGE P. COLE, JR. [redacted] REGULAR AIR FORCE.

COL. ELDON W. JOERSZ, [redacted] REGULAR AIR FORCE.

ARMY

THE U.S. ARMY NATIONAL GUARD OFFICER NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADE INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

To be major general

BRIG. GEN. NATHANIEL H. ROBB, [redacted]

AIR FORCE

AIR FORCE NOMINATIONS BEGINNING CLIFTON D. DANIEL, AND ENDING JACK H. MORGAN. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

AIR FORCE NOMINATIONS BEGINNING SCOTOLIFF HECTOR A. ARROYO, AND ENDING GUNTHER A. MUELLER. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST).

AIR FORCE NOMINATIONS BEGINNING MAJ. MICHAEL T. ALLEN, [redacted] AND ENDING MAJ. EARL R. HARRISON, JR., [redacted] (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

AIR FORCE NOMINATIONS BEGINNING RONALD M. ADAMS, AND ENDING WILBUR T. WORKMAN. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

ARMY

ARMY NOMINATIONS BEGINNING CHARLES G. ABBOTT, AND ENDING DONALD J. COPLEY. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

ARMY NOMINATIONS BEGINNING JAMES D. HALLUMS, AND ENDING JOHN H. GRUBBS. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

ARMY NOMINATIONS BEGINNING BRUCE A. ADAMS, AND ENDING MARK E. ZIRKELBACH. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

NAVY

NAVY NOMINATIONS BEGINNING THOMAS H. ADAIR, AND ENDING PAUL A. YETMAR. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF OCTOBER 31, 1991, FOR COMPLETE LIST.)

NAVY NOMINATIONS BEGINNING KEVIN T. AANESTAD, AND ENDING KIMBERLY A. ZYCH. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 15, 1991, FOR COMPLETE LIST.)

FARM CREDIT ADMINISTRATION

GARY C. BYRNE, OF CALIFORNIA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD FOR THE TERM EXPIRING MAY 21, 1996.

DEPARTMENT OF AGRICULTURE

CHARLES R. HILTY, OF OHIO, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

NATIONAL MEDIATION BOARD

PATRICK J. CLEARY, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1994.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR THE TERMS INDICATED:

FOR A TERM EXPIRING SEPTEMBER 30, 1992: DAVID ALAN HESLOP, OF CALIFORNIA.

FOR A TERM EXPIRING SEPTEMBER 30, 1993: KENNETH H. BASTIAN, JR., OF TEXAS.

FOR A TERM EXPIRING SEPTEMBER 30, 1994: MARJORIE ARSHT, OF TEXAS.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

BARBARA J.H. TAYLOR, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1995.

JAMES E. LYONS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1994.

NATIONAL SCIENCE FOUNDATION

IAN M. ROSS, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR THE REMAINDER OF THE TERM EXPIRING MAY 10, 1992.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL MUSEUM SERVICES BOARD FOR THE TERMS INDICATED:

FOR A TERM EXPIRING DECEMBER 6, 1993: RUTH K. WATANABE, OF CALIFORNIA.

FOR A TERM EXPIRING DECEMBER 6, 1994: EUNICE B. WHITTLESEY, OF NEW YORK.

FOR A TERM EXPIRING DECEMBER 6, 1995: LISA A. HEMBRY, OF TEXAS.

NATIONAL COUNCIL ON DISABILITY

ANNE C. SEGGERMAN, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1993.

MARY MATTHEWS RAETHER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1994.

ANTHONY HURLBUTT FLACK, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1994.

SENATE—*Friday, January 3, 1992*

The Senate met at 11:55 a.m., pursuant to the provisions of House Concurrent Resolution 260, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. In our supplications and petitions to the Almighty, Lord of Hosts, the Senate will be led in prayer by the Chaplain, Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Where there is no vision, the people perish * * *.—Proverbs 29:18.

Eternal God, Lord of history, we open the 2d session of the 102d Congress at a time of profound crises in the Nation and the world. Somehow, Lord, grant to the Senators and their staffs a perspective on the present situation that comprehends the causes of the crises. Give them a vision for the future that is equal to the enormous task which they face. Save Your servants from self-interests which reduce perilous issues to a business as usual attitude. During the next 18 days prepare them for their immense responsibility with its demand for unprecedented greatness.

Gracious Father, thank You for the recovery of Senator DOLE. We pray for him and all the Senators, their loved ones and staffs, health and strength commensurate with the days ahead.

In the name of Jesus who leads the world by love and sacrifice. Amen.

The PRESIDENT pro tempore. The Senate will be in order.

LEADER TIME

The PRESIDENT pro tempore. Under the previous order the time until 12 o'clock noon is to be equally divided and controlled by the two leaders.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE DISTINGUISHED REPUBLICAN LEADER

Mr. MITCHELL. Mr. President, I want to welcome my colleagues back. Today's session will not include the transaction of any business. But I think I would be remiss if I did not note our pleasure at the full and swift recovery of our colleague, the distinguished Republican leader, Senator DOLE, who, as we know, was operated on during the recent break.

I know that I speak for every single Member of the Senate, Democrat and Republican alike, in saying that our prayers and thoughts have been with him, and we look forward to working with him in the coming session.

Mr. President, I now suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ADJOURNMENT SINE DIE

The PRESIDENT pro tempore. The hour provided under the Constitution for the convening of the 2d session of the 102d Congress having arrived, the 1st session of the 102d Congress is adjourned sine die.

(Whereupon, at 12 noon, the Senate adjourned sine die.)

NOMINATIONS

Executive nominations received by the Senate January 3, 1992:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN P. WALTERS, OF MICHIGAN, TO BE DEPUTY DIRECTOR FOR SUPPLY REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE STANLEY E. MORRIS, RESIGNED.

RESOLUTION TRUST CORPORATION

ALBERT V. CASEY, OF TEXAS, TO BE CHIEF EXECUTIVE OFFICER, RESOLUTION TRUST CORPORATION. (NEW POSITION.)

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HOUSE OF REPRESENTATIVES—*Friday, January 3, 1992*

The House met at 11:55 a.m.

The Chaplain, James David Ford, D.D., offered the following prayer:

The Lord bless us and keep us.

The Lord make His face shine on us and be gracious to us.

The Lord look upon us with favor and give us peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. SOLOMON] please come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

> **I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.**

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolutions on Tuesday, December 3, 1991:

H.R. 525. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America;

H.R. 635. An act for the relief of Abby Cooke;

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the eastern and western districts of Virginia;

H.R. 948. An act to designate the U.S. courthouse located at North Henry Street in Madison, WI, as the "Robert W. Kastenmeier United States Courthouse";

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD;

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes;

H.R. 1724. An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge";

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3029. An act to make technical corrections to agricultural laws;

H.R. 3049. An act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws;

H.R. 3169. An act to lengthen from 5 to 7 years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia and its environs;

H.R. 3245. An act to designate National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3322. An act to designate the building in St. Louis, Mo., which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building";

H.R. 3327. An act to amend title 38, United States Code, to provide for the designations of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the oversight board and the Resolution Trust Corporation, and for other purposes;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes;

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the Home Investment Partnerships Act for certain insular areas;

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source;

H.R. 3604. An act to direct acquisitions within the 11 point wild and scenic river, to establish the Greer Spring special management area in Missouri, and for other purposes;

H.R. 3709. An act to waive the period of congressional review for certain District of Columbia acts;

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the treaty on conventional armed forces in Europe;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, TN, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 157. Joint resolution making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, and for other urgent needs, and for incremental costs of Operation Desert Shield/Desert Storm for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992, through January 11, 1992, as "National Law Enforcement Training Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day";

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month";

S. 159. An act for the relief of Maria Erica Bartski;

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes;

S. 1532. An act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988;

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes;

S. 2098. An act to authorize the President to appoint Maj. Gen. Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration; and

S. J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

And the Speaker signed the following enrolled bills on Thursday, December 5, 1991:

H.R. 1776. An act to authorize for fiscal year 1992 the U.S. Coast Guard budget;

S. 543. An act to require the least-cost resolution of insured depository institutions, to

improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes;

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes;

S. 1193. An act to make technical amendments to various Indian laws;

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment; and

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes.

And the Speaker pro tempore signed the following enrolled bill on Monday, December 9, 1991:

H.R. 2950. An act to develop a national intermodal service transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 2, 1991.

Hon. THOMAS S. FOLEY,
The Speaker,
U.S. House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Monday, December 2, 1991 at 10:50 a.m.: That the Senate passed without amendment, H.R. 3245, H.J. Res. 356, H.J. Res. 372, H.R. 3531, H.R. 3919, H.R. 3169, H.R. 3435, H.R. 635, H.R. 3327, H.R. 948, and H. Con. Res. 168; agreed to Conference Report on H.R. 3595, and S. 543; agreed to the House amendment to S. 1891, S. 159, S. 1462 and S. 2050; agreed to House amendments to Senate amendments to H.R. 3807; agreed to House amendment to Senate amendment to H.R. 1776; agreed to House amendment to Senate amendment to House amendment to S. 1193; and disagreed to House amendments to S. Con. Res. 77.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk,
U.S. House of Representatives.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1028 AND H.R. 1916

Mr. ZELIFF. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of two measures:

H.R. 1028, the Social Security Benefits Improvement Act; and

H.R. 1916, the Long-Term Care Insurance Consumer Protection Act.

The SPEAKER. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that it will receive requests for 1-minute speeches at the beginning of the next session of the Congress.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2015. An act to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense of Corregidor Island, the Philippines, under General Wainwright; to the Committee on Armed Services.

S. 2034. An act to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED AFTER ADJOURNMENT

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

On December 3, 1991:

H.R. 525. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America;

H.R. 635. An act for the relief of Abby Cooke;

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the eastern and western districts of Virginia;

H.R. 948. An act to designate the U.S. courthouse located at North Henry Street in Madison, WI, as the "Robert W. Kastenmeier United States Courthouse";

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD;

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes;

H.R. 1724. An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge;

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3029. An act to make technical corrections to agricultural laws;

H.R. 3049. An act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws;

H.R. 3169. An act to lengthen from 5 to 7 years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia and its environs;

H.R. 3245. An act to designate National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3322. An act to designate the building in St. Louis, MO, which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building";

H.R. 3327. An act to amend title 38, United States Code, to provide for the designation of an assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue Between the Capitol and the White House, and for other purposes;

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes;

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas;

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source;

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes;

H.R. 3709. An act to waive the period of congressional review for certain District of Columbia acts;

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, TN, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 157. Joint resolution making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, and for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day"; and

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month".

On December 5, 1991:

H.R. 1776. An act to authorize for fiscal year 1992 the U.S. Coast Guard Budget.

The Speaker pro tempore signed the following enrolled bill on December 9, 1991:

H.R. 2950. An act to develop a national intermodal service transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED AFTER ADJOURNMENT

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

On December 3, 1991:

S. 159. An act for the relief of Maria Erica Bartski;

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes;

S. 1532. An act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988;

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes;

S. 2098. An act to authorize the President to appoint Maj. Gen. Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration; and

S.J. Res. 198. Joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

On December 5, 1991:

S. 543. An act to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes;

S. 1176. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes;

S. 1193. An act to make technical amendments to various Indian laws;

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment; and

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes.

SINE DIE ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the 20th amendment of the Constitution of the United States and pursuant to the provisions of House Concurrent Resolution 260, the Chair declares the 1st session of the 102d Congress adjourned sine die.

Thereupon, (at 11 o'clock and 58 minutes a.m.) pursuant to the 20th amendment of the Constitution of the United States and pursuant to the provisions of House Concurrent Resolution 260, the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2424. A communication from the President of the United States, transmitting three new and two revised deferrals of budget authority for fiscal year 1992, pursuant to 2 U.S.C. 683(a)(1) (H. Doc. No. 102–171); to the Committee on Appropriations and ordered to be printed.

2425. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the President's determination pursuant to section 553 of Public Law 101-513; to the Committee on Appropriations.

2426. A letter from the Comptroller of the Department of Defense, transmitting a report of three violations involving the improper use of appropriations which occurred in the Departments of the Army, Navy, and Air Force, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

2427. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of December 1, 1991, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 102–173); to the Committee on Appropriations and ordered to be printed.

2428. A letter from the Under Secretary of Defense, transmitting the Secretary's certification with respect to the Army's MLRS program and the AAWS–M program, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

2429. A letter from the Secretary of Housing and Urban Development, transmitting the annual report of the operations of the Federal National Mortgage Association [FNMA] and the Federal Home Loan Mortgage Corporation Association [FHLMC], pursuant to 12 U.S.C. 1723a(h); to the Committee on Banking, Finance and Urban Affairs.

2430. A letter from the Secretary of Housing and Urban Development, transmitting the interim report on the Public Housing Comprehensive Transition Demonstration Program, pursuant to 42 U.S.C. 1437f nt; to the Committee on Banking, Finance and Urban Affairs.

2431. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting notice of a guarantee loan by a financial institution acceptable to the Bank for $11.7 million to the Bank for Foreign Economic Affairs of the U.S.S.R. Moscow, pursuant to 12 U.S.C. 635(b)(3)(ii); to the Committee on Banking, Finance and Urban Affairs.

2432. A letter from the President, Oversight Board, Resolution Trust Corporation, transmitting the Board's report required by section 21A(k)(9) of the Federal Home Loan Bank Act, as added by section 102(a)(3) of the Resolution Trust Corporation Funding Act of 1991; to the Committee on Banking, Finance and Urban Affairs.

2433. A letter from the Secretary of Education, transmitting a copy of Final Resolutions for Student Assistance General Provisions—Verification, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2434. A letter from the Assistant Attorney General, Department of Justice, transmitting the annual report of the Office of Juvenile Justice and Delinquency Prevention for Fiscal Year 1990, pursuant to 42 U.S.C. 5417; to the Committee on Education and Labor.

2435. A letter from the Chairman, National Commission for Employment Policy, transmitting the annual report of the Commission, pursuant to 29 U.S.C. 1775; to the Committee on Education and Labor.

2436. A letter from the Secretary of Education, transmitting the annual report of the International Research and Studies Program; to the Committee on Education and Labor.

2437. A letter from the Acting Director of Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting the fiscal year annual report on the operations of the Office of General Counsel; to the Committee on Education and Labor.

2438. A letter from the Secretary, Department of Energy, transmitting the quarterly report on the Strategic Petroleum Reserve during the period July 1, 1991, through September 30, 1991, pursuant to 42 U.S.C. 6245(a); to the Committee on Energy and Commerce.

2439. A letter from the Acting Assistant General Counsel, Department of Energy, transmitting a notice of a meeting related to the International Energy Program to be held on November 19, 1991, at the OECD, in Paris, France; to the Committee on Energy and Commerce.

2440. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that the Commission has extended the time period for issuing a final decision in Ex Parte No. 346 (Sub-No. 14A), Rail General Exemption Authority—Miscellaneous Agricultural Commodities—Petition of G & T. Terminal Packaging Co., Inc. et al. to Revoke Conrail Exemption by 90 days to March 18, 1992, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

2441. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that the Commission has extended the time period for issuing a final decision in Docket No. 40365, "National Starch and Chemical Corporation v. The Atchison, Topeka and Santa Fe Railway Company, et al.", by 31 days to January 6, 1992, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

2442. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease renewal of defense articles to Singapore (Transmittal No. 04–92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2443. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 92-12), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2444. A letter from the Acting Director, Defense Security Assistance Agency, transmitting an addendum to the listing of all outstanding Letters of Offer to sell any major defense equipment for $1 million or more; an addendum to the listing of all Letters of Offer that were accepted, as of September 30, 1991, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

2445. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 07-91, concerning a proposed Memorandum of Understanding Cooperative Project certifying a program of cooperation in over-the-horizon radar activities with Australia, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

2446. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the fiscal year 1991 annual report on the operation of the Special Defense Acquisition Fund, pursuant to 22 U.S.C. 2795b(a); to the Committee on Foreign Affairs.

2447. A communication from the President of the United States, transmitting notification that the Libyan emergency is to continue in effect beyond January 7, 1992, pursuant to 50 U.S.C. 1622(d) (H. Doc. No. 102-172); to the Committee on Foreign Affairs and ordered to be printed.

2448. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on United States-Soviet reciprocity in matters relating to embassies, pursuant to Public Law 101-246, section 134(b) (104 Stat. 33); to the Committee on Foreign Affairs.

2449. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2450. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2451. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a report on special purpose international organizations, as required by section 176 of the fiscal year 1992-93 Department of State authorization; to the Committee on Foreign Affairs.

2452. A letter from the Chairman, U.S. Advisory Commission on Public Diplomacy, transmitting a copy of one of its short topical papers dealing with international broadcasting, information, and educational exchange matters of interest to policymakers; to the Committee on Foreign Affairs.

2453. A letter from the Director of the Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of House Joint Resolution 346, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Foreign Affairs.

2454. A letter from the Director of the Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 2100, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2455. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of S. 1745, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2456. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 3932, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2457. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 2038, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2458. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of S. 1891, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2459. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 3029, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2460. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 3575 and H.R. 1724, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2461. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 3245, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2462. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 1476, pursuant to Public Law 101-508, section 1301(a) (104 Stat. 1388-582); to the Committee on Government Operations.

2463. A letter from the Secretary of Agriculture, transmitting the semiannual report of the Inspector General for the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2464. A letter from the Secretary of Energy, transmitting the semiannual report of the Office of Inspector General covering the period April 1, 1991 to September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

2465. A letter from the Secretary of Labor, transmitting the semiannual report of the Inspector General for the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2466. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in October 1991, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2467. A letter from the Administrator, Agency for International Development, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2468. A letter from the Director, ACTION Agency, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2469. A letter from the Chairman, Board for International Broadcasting, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2470. A letter from the Corporation for Public Broadcasting, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 to September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2471. A letter from the Attorney General, Department of Justice, transmitting the semiannual report of the Inspector General for the period April 1, 1991 through September 30, 1991, and the management report for the same period, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

2472. A letter from the Farm Credit Administration, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2473. A letter from the Chairman, Federal Election Commission, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2474. A letter from the Federal Housing Finance Board, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2475. A letter from the Chairman, Federal Reserve System, transmitting the semiannual report covering activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2476. A letter from the Administrator, General Services Administration, transmitting the semiannual report on the activities of the Department's Inspector General for the period April 1, 1991, through September 30, 1991, together with a report by management, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2477. A letter from the Administrator, General Services Administration, transmitting views on H.R. 3161 "The Federal Property and Administrative Services Authorization Act of 1991"; to the Committee on Government Operations.

2478. A letter from the Public Printer, Government Printing Office, transmitting the semiannual Management Report of the Inspector General for the period April 1, 1991 through September 30, 1991, pursuant to 44 U.S.C. 3903 (102 Stat. 2531); to the Committee on Government Operations.

2479. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on compliance with the requirements of the internal accounting and administrative control system during the fiscal year ended September 30, 1991, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2480. A letter from the Chairman, National Science Board, transmitting the semiannual report of activities of the Inspector General covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2481. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by H.R. 3839 and H.R. 2521, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on Government Operations.

2482. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by House Joint Resolution 157, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on Government Operations.

2483. A letter from the Director, Office of Personnel Management, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, and management report for the same period, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2484. A letter from the Secretary of Education, transmitting the fifth semiannual report on audit follow-up, covering the period from April 1, 1991 through September 30, 1991; to the Committee on Government Operations.

2485. A letter from the Secretary of Energy, transmitting a report on compliance with the requirements of the internal accounting and administrative control system during the year ended September 30, 1991, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2486. A letter from the Chairman, Securities and Exchange Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system during the year ending September 30, 1991. pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2487. A letter from the Secretary, Smithsonian Institution, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2488. A letter from the Director, U.S. Information Agency, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2426); to the Committee on Government Operations.

2489. A letter from the Chairman, U.S. International Trade Commission, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2490. A letter from the Director, U.S. Peace Corps, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2491. A letter from the Chairman, U.S. Security Exchange Commission, transmitting the semiannual report of activities of the inspector general covering the period April 1, 1991 through September 30, 1991, and the management response report for the same period, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2492. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing bank loans to candidates and political committees, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

2493. A letter from the Chairman, Federal Election Commission, transmitting proposed forms implementing new bank loan reporting requirements, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

2494. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2495. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2496. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2497. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2498. A letter from the Secretary, Department of the Interior, transmitting a proposed plan for the use of the Fort Peck Assiniboine and Sioux Tribes' judgment funds in Docket 31–88L, before the U.S. claims court; to the Committee on Interior and Insular Affairs.

2499. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to correct an error in Public Law 100–425 relating to the reservation for the Confederated Tribes of the Grand Ronde Community of Oregon; to the Committee on Interior and Insular Affairs.

2500. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend subsection 17(j) of the Mineral Leasing Act to delete a reporting requirement; to the Committee on Interior and Insular Affairs.

2501. A letter from the National Commander, American Ex-Prisoners of War, transmitting a copy of the 1991 report and financial audit as of August 31, 1991, pursuant to 36 U.S.C. 1101(57), 1103; to the Committee on the Judiciary.

2502. A letter from the Secretary of Housing and Urban Development, transmitting the Department's second annual report on the state of fair housing; to the Committee on the Judiciary.

2503. A letter from the Chief Justice, Supreme Court of the United States, transmitting the report of the Federal Judicial Center on phase I of the study on the number and frequency of intercircuit judicial conflicts, pursuant to Public Law 101–650, section 302(a) (104 Stat. 5104); to the Committee on the Judiciary.

2504. A letter from the National Quartermaster/Adjutant, the Veterans of World War I of the U.S.A., Inc., transmitting proceedings of the 39th National Convention of the Veterans of World War I of the United States, Inc., held in Daytona Beach, FL, September 9–11, 1991, pursuant to 36 U.S.C. 776; 44 U.S.C. 1332 (H. Doc. No. 102–175); to the Committee on the Judiciary and ordered to be printed.

2505. A letter from the Chairman, U.S. Sentencing Commission, transmitting the Commission's report entitled, "The Federal Sentencing Guidelines: A Report on the Operation of the Guidelines System and Short-Term Impacts on Disparity in Sentencing, Use of Incarceration, and Prosecutorial Discretion and Plea Bargaining, Volume I"; to the Committee on the Judiciary.

2506. A letter from the Assistant Secretary for Civil Works, Department of the Army, transmitting the first annual report of the Louisiana Coast. . Wetlands Conservation and Restoration Task Force, pursuant to Public Law 101–646, section 303(a)(3) (104 Stat. 4779); to the Committee on Merchant Marine and Fisheries.

2507. A letter from the Deputy Assistant to the President for Administration, transmitting the White House personnel report for the fiscal year 1991, pursuant to 3 U.S.C. 113; to the Committee on Post Office and Civil Service.

2508. A letter from the Secretary of Transportation, transmitting the annual report of accomplishments under the Airport Improvement Program for the fiscal year 1990, pursuant to 49 U.S.C. app. 2203(b)(2); to the Committee on Public Works and Transportation.

2509. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the "1990 Assessment of Needed Publicly Owned Wastewater Treatment Facilities in the United States," commonly known as the 1990 needs survey, pursuant to 33 U.S.C. 1375(b)(1); to the Committee on Public Works and Transportation.

2510. A letter from the Acting Assistant Secretary for Management and Budget, Department of Education, transmitting a report on the general education activities conducted by 10 Federal agencies, pursuant to Public Law 101–589, section 501(a) and (502) (104 Stat. 2898); to the Committee on Science, Space, and Technology.

2511. A letter from the Director, National Legislative Commission, the American Legion, transmitting the proceedings of the 73d National Convention of the American Legion, held in Phoenix, AZ, August 29-September 5, 1991, pursuant to 36 U.S.C. 49 (H. Doc.

No. 102–174); to the Committee on Veterans' Affairs and ordered to be printed.

2512. A communication from the President of the United States, transmitting notice of his intention to designate Bulgaria to the list of beneficiary developing countries under the Generalized System of Preference [GSP], pursuant to 19 U.S.C. 2462(a) (H. Doc. No. 102–170); to the Committee on Ways and Means and ordered to be printed.

2513. A communication from the President of the United States, transmitting notification of his designation of Don E. Newquist as Chairman of the U.S. International Trade Commission, effective December 13, 1991, pursuant to 19 U.S.C. 1330(c)(1); to the Committee on Ways and Means.

2514. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting on behalf of the Secretary of State certification required under section 609(b) of Public Law 101–162, pursuant to Public Law 101–162, section 609(a)(5)(C) (103 Stat. 1038); jointly, to the Committees on Appropriations and Foreign Affairs.

2515. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting certification of waiver and justification by the Secretary of State pursuant to section 502 of Public Law 102–140; jointly, to the Committees on Appropriations and Foreign Affairs.

2516. A letter from the Executive Director, Resolution Trust Corporation, transmitting the Corporation's status report for the month of October 1991 (review of 1988–89 FSLIC assistance agreements); jointly, to the Committees on Appropriations and Banking, Finance and Urban Affairs.

2517. A letter from the Director, Office of Management and Budget, transmitting the 10th report on U.S. costs in the Persian Gulf conflict and foreign contributions to offset such costs, pursuant to Public Law 102–25, section 401 (105 Stat. 99); jointly, to the Committees on Armed Services and Foreign Affairs.

2518. A letter from the Administrator, Agency for International Development and the President and Chairman, Eximbank of the United States, transmitting the Agency's semiannual report on the amount and extension of credits under the Trade Credit Insurance Program to Costa Rica, Guatemala, Honduras, El Salvador, and Nicaragua, in fiscal year 1991, pursuant to 22 U.S.C. 2184(g); jointly, to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

2519. A letter from the Secretary of Housing and Urban Development, transmitting the 1990 annual civil rights data report on HUD program applicants and beneficiaries; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

2520. A letter from the Secretary of Health and Human Services, transmitting a report entitled "Status Report on the Implementation of the Home Health Agency Prospective Payment Demonstration," pursuant to Public Law 100–203, section 4027(c) (101 Stat. 1330–75); jointly, to the Committees on Energy and Commerce and Ways and Means.

2521. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of their letter to the OMB appealing the fiscal year 1993 allowance for the Safety Board, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

2522. A letter from the Chairperson, Northeast Interstate Low-Level Radioactive Waste Commission, transmitting the 1990 annual report of the Northeast Interstate Low-Level Radioactive Waste Commission; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

2523. A letter from the Chairman, Nuclear Waste Technical Review Board, transmitting its report on DOE's program to manage the permanent disposal of civilian spent fuel and high-level radioactive waste; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

2524. A letter from the Director, Office of Management and Budget, transmitting his certification that the amounts appropriated for the Board of International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc. are less than the amount necessary to maintain the budgeted level of operation because of exchange rate losses in the fourth quarter of fiscal year 1991, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committees on Foreign Affairs and Appropriations.

2525. A letter from the Comptroller General of the United States, transmitting the financial audit; bank insurance fund's 1990 and 1989 financial statements; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

2526. A letter from the Librarian of Congress, the Archivist of the United States, and the Public Printer, transmitting the first report to establish a national policy on permanent papers, pursuant to Public Law 101–423, section 3 (104 Stat. 913); jointly, to the Committees on Government Operations and House Administration.

2527. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation entitled, "Coastal Communities Impact Assistance Act of 1991"; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

2528. A letter from the Secretary of Energy, transmitting the 1990 annual report on low-level radioactive waste management progress; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

2529. A letter from the Director, Office of Management and Budget, transmitting a report identifying a list of accounts containing unvouchered expenditures that are potentially subject to audit by the General Accounting Office, pursuant to 31 U.S.C. 3524(b); jointly, to the Committees on Government Operations, Appropriations, and the Budget.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3512. A bill to direct the Secretary of Transportation to dispose of certain vessels in the National Defense Reserve Fleet (Rept. 102–422). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3749. A bill to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act of 1972; with an amendment (Rept. 102–423). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 12. A bill to amend the Federal Water Pollution Control Act and the Coastal Zone Management Act of 1972 to improve the quality of coastal recreation waters, and for other purposes (Rept. 102–424, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 4073. A bill to provide necessary emergency community development and housing assistance to stimulate economic growth in the United States, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BENNETT (for himself, Mr. SPENCE, and Mr. MCEWEN):

H.R. 4074. A bill to require the President to acquire by purchase or barter quantities of strategic and critical materials for inclusion in the national defense stockpile that are identified as being in inadequate supply in the stockpile; to the Committee on Armed Services.

By Mr. BURTON of Indiana:

H.R. 4075. A bill to establish domestic content requirements for motor vehicles sold or distributed in interstate commerce in the United States; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. COLEMAN of Texas:

H.R. 4076. A bill to assure an equal opportunity for a quality education for all children, and for other purposes; to the Committee on Education and Labor.

By Mrs. JOHNSON of Connecticut:

H.R. 4077. A bill to amend the Internal Revenue Code of 1986 to allow small businesses an investment tax credit for increases in investments in productive equipment; to the Committee on Ways and Means.

By Mr. KILDEE (for himself and Mr. PERKINS):

H.R. 4078. A bill to establish a national board on work force skills and to develop a comprehensive school-to-work transition program for students in the United States; to the Committee on Education and Labor.

By Mr. LAROCCO (for himself, Mr. TOWNS, Mr. AUCOIN, Mr. OWENS of Utah, Mr. DE LUGO, Mr. JOHNSON of South Dakota, Mr. MILLER of Washington, Mr. STALLINGS, Mr. HORTON, Mr. DARDEN, Mr. MCDERMOTT, Mr. CAMPBELL of Colorado, Mr. EVANS, Mr. RICHARDSON, and Mr. HOAGLAND:

H.R. 4079. A bill to amend the Wild and Scenic Rivers Act by designating the Lower Salmon River in Idaho as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WYLIE (for himself and Mr. GONZALEZ):

H.R. 4080. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for interest on loans used to purchase new passenger motor vehicles and small trucks made in the United States; to the Committee on Ways and Means.

By Mr. MCEWEN:

H.R. 4081. A bill to require that, as a condition of providing United States assistance to the former Soviet republics, such republics reimburse the United States for the cost of such assistance, and for other purposes; to the Committee on Foreign Affairs.

By Mr. PORTER (for himself and Mr. LOWERY of California):

H.R. 4082. A bill to amend Public Law 874, 81st Congress, to provide that eligible local educational agencies shall be entitled to receive certain payments under such public law, to allow the computation of payments under such law based on the amount of the per pupil expenditure for nonfederally-connected students that is derived from local sources, and for other purposes; to the Committee on Education and Labor.

By Mr. RUSSO:

H.R. 4083. A bill to make permanent the transfer to the railroad retirement account of income tax revenues attributable to the taxation of tier II railroad retirement benefits; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 4084. A bill to repeal the Military Selective Service Act; to the Committee on Armed Services.

By Mr. STUDDS:

H.R. 4085. A bill to amend the act of August 7, 1961, establishing the Cape Cod National Seashore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEVINE of California (for himself, Mr. OWENS of Utah, Mr. SENSENBRENNER, Mr. MCNULTY, Mr. LEHMAN of California, and Mr. BROOMFIELD):

H. Con. Res. 262. Concurrent resolution congratulating the President and people of Armenia for hold free democratic multiparty elections and achieving national independence and urging the President of the United States to strengthen the special relationship between the United States and Armenia; to the Committee on Foreign Affairs.

By Mr. TORRICELLI:

H. Con. Res. 263. Concurrent resolution expressing the sense of the Congress with respect to U.S. policy on the issues before the U.N. Conference on Environment and Development, and expressing the sense of the Congress that the United States should pursue with the countries of Latin America and the Caribbean a cooperative strategy to address environmental concerns in the Western Hemisphere; to the Committee on Foreign Affairs.

By Mr. MORAN:

H. Res. 322. Resolution condemning the treatment of hostages William F. Buckley, Col. William Higgins, USMC, and Peter Kilburn; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

319. By the SPEAKER: Memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to the Rail Passenger Service Act; to the Committee on Energy and Commerce.

320. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to Arrow Air crash at Gander, NF, on December 12, 1985; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. SOLOMON.

H.R. 179: Mr. STOKES.

H.R. 261: Mr. LANTOS, Mr. FOGLIETTA, Mr. CAMP, Mr. SERRANO, Mr. HAYES of Louisiana, Mr. FAWELL, Mr. HAYES of Illinois, and Mr. OLVER.

H.R. 299: Mr. HERGER.

H.R. 371: Mr. WEBER and Mr. ORTON.

H.R. 650: Mr. GEPHARDT.

H.R. 1092: Mr. KOLTER.

H.R. 1203: Mr. KOSTMAYER.

H.R. 1204: Mr. PENNY, Mr. GINGRICH, Mr. HYDE, and Mr. GILLMOR.

H.R. 1389: Ms. SNOWE.

H.R. 1502: Mr. MAVROULES, Mr. MCHUGH, Mr. HARRIS, Mr. GEREN of Texas, Mr. JOHNSTON of Florida, Mr. ROSE, Mr. COLEMAN of Texas, Mr. MAZZOLI, Mr. DAVIS, Mr. OLVER, Mr. MURTHA, Mr. KOLTER, and Mr. RINALDO.

H.R. 1618: Mrs. BENTLEY, Mr. LEHMAN of California, Mr. ARMEY, Mr. HYDE, Mr. FLAKE, Mr. WOLPE, Mr. PENNY, Mr. GINGRICH, Mr. UPTON, Mr. RITTER, Mr. ACKERMAN, Mr. SCHAEFER, Mr. SARPALIUS, Mr. BROWN, Mr. SERRANO, Mr. MCCOLLUM, Mr. MCNULTY, Mr. HEFLEY, Mr. MANTON, Mr. YOUNG of Florida, and Mr. SCHIFF.

H.R. 2083: Mr. RIGGS.

H.R. 2089: Mr. LAFALCE, and Mr. BARNARD.

H.R. 2464: Mr. DE LA GARZA, Mr. COMBEST, Mr. HALL of Texas, Mr. SARPALISU, Mr. LAUGHLIN, Mr. BUSTAMANTE, Mr. FIELDS, Mr. SMITH of Texas, and Mr. MCMILLAN of North Carolina.

H.R. 2755: Mr. SANDERS and Mr. CLEMENT.

H.R. 2883: Mr. SKAGGS.

H.R. 2945: Mr. BROWN and Mr. BENNETT.

H.R. 2966: Mr. LIPINSKI, Mr. YATES, Mr. HEFNER, Mr. STEARNS, Mr. BONIOR, Mr. GEPHARDT, Mr. RINALDO, Mr. KOLTER, Mr. STAGGERS, and Mr. VISCLOSKY.

H.R. 3081: Mr. ANDREWS of Maine.

H.R. 3098: Mr. MINETA.

H.R. 3109: Mr. JACOBS and Mr. DONNELLY.

H.R. 3138: Mr. DOWNEY.

H.R. 3360: Mr. BROWN.

H.R. 3518: Mr. HUGHES, Mr. SANGMEISTER, Mr. MCNULTY, and Mr. STARK.

H.R. 3544: Mr. ANNUNZIO, Mr. GAYDOS, Mr. KILDEE, Mr. FRANK of Massachusetts, Mr. YATES, and Mr. HAYES of Illinois.

H.R. 3669: Mr. KOSTMAYER.

H.R. 3740: Mr. BUSTAMANTE and Mr. TRAFICANT.

H.R. 3822: Mr. ARMEY and Mr. SCHIFF.

H.R. 3918: Mr. WELDON, Mr. DICKS, Mr. MAVROULES, Mr. SMITH of Florida, Mr. STARK, Mr. UPTON, Mr. MCDERMOTT, Mr. EDWARDS of California, Mr. CONYERS, Mr. VENTO, Mr. FOGLIETTA, Mr. GEJDENSON, Mr. KOLTER, Mr. WYLIE, and Mr. SERRANO.

H.R. 3994: Mrs. MORELLA and Mr. HYDE.

H.R. 4025: Mr. HORTON.

H.J. Res. 336: Mr. HOBSON, Mr. DEFAZIO, Mr. RANGEL, Mr. SKEEN, Mr. FRANKS of Connecticut, Mr. EMERSON, Mr. JEFFERSON, Mr. CLEMENT, Mr. TOWNS, Mr. SAVAGE, Mr. OWENS of Utah, Ms. NORTON, Mr. PAYNE of New Jersey, Mr. LIPINSKI, and Mr. CRAMER.

H.J. Res. 378: Mr. MCMILLEN of Maryland, Mr. GORDON, Mr. GUARINI, Mr. RANGEL, and Mr. CLEMENT.

H.J. Res. 380: Mr. HORTON, Mr. MCMILLEN of Maryland, Mr. GUARINI, Mr. MCNULTY, Mr. ALEXANDER, Mr. OWENS of Utah, Mr. LAGOMARSINO, Mr. PETRI, Mr. JEFFERSON, Mr. EMERSON, and Mr. SLATTERY.

H. Con. Res. 210: Mr. TORRICELLI and Mr. JEFFERSON.

H. Con. Res. 217: Mr. GALLEGLY, Mr. GOODLING, Mr. GILMAN, and Mr. EMERSON.

H. Con. Res. 235: Mr. FEIGHAN and Mrs. ROUKEMA.

H. Res. 205: Mrs. JOHNSON of Connecticut.

H. Res. 271: Mr. DEFAZIO, Mr. KOSTMAYER, Mr. OWENS of New York, Mr. YATES, Mr. TOWNS, Mr. JONTZ, Mr. VENTO, and Mr. MARKEY.

H. Res. 272: Mr. TRAXLER, Mr. DYMALLY, Mrs. MINK, Mr. HANSEN, Mr. YATES, Mr. TOWNS, Mr. OXLEY, Mr. APPLEGATE, and Mrs. SCHROEDER.

H. Res. 297: Mr. COUGHLIN, Mr. JONTZ, Mr. KOLTER, Mr. BONIOR, Mr. CHAPMAN, and Mr. LIVINGSTON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1028: Mr. ZELIFF.

H.R. 1916: Mr. ZELIFF.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

133. By the SPEAKER: Petition of city of Hollywood, FL, relative to the homeless; to the Committee on Banking, Finance and Urban Affairs.

134. Also, petition of County Council, County of Hawaii, Hilo, HI, relative to election workers; to the Committee on Ways and Means.

135. Also, petition of secretary of state of the State of New Jersey, Trenton, NJ, relative to a nonbinding referendum on national health care; jointly, to the Committees on Energy and Commerce and Ways and Means.